

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Orangeburg County

Honorable Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GEORGE MOSES,

APPELLANT

APPELLATE CASE NO 2020-000093

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

CASE NO. 06-GS-38-2067
06-GS-38-2068

STATE OF SOUTH CAROLINA

versus

GEORGE MOSES,

DEFENDANT

)
)
) TRANSCRIPT OF RECORD
)
)
) DATE:
)
) FEBRUARY 9, 2009
)

BEFORE:

HONORABLE JAMES C. WILLIAMS, JR., PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DON SORENSON, ESQUIRE
CHARLIE JOHNSON, ESQUIRE

ASSISTANT SOLICITORS

FOR THE STATE

DOUG MELLARD, ESQUIRE
MARGARET HINDS, ESQUIRE

PUBLIC DEFENDERS

FOR THE DEFENDANT

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TRANSCRIPT. (ALL OTHER EXHIBITS WERE RETAINED BY THE
CLERK OF COURT.)

1 DATE:

2 FEBRUARY 9, 2009

3 (The following takes place
4 in camera.)

5 (State's Exhibits One and Two,
6 Rights forms,
7 marked for identification.)

8 (State's Exhibit Three,
9 Statement of Defendant,
10 marked for identification.)

11 (State's Exhibits Four through Sixteen,
12 Photographs,
13 marked for identification.)

14 THE COURT: ALRIGHT, SIR.

15 SOLICITOR SORENSON: IF IT PLEASE
16 THE COURT, YOUR HONOR.

17 THE COURT: YES, SIR.

18 SOLICITOR SORENSON: AT THIS TIME
19 THE STATE WOULD BE CALLING THE CASE OF THE STATE VERSUS
20 GEORGE MOSES, TWO INDICTMENTS, 2006-GS-38-2067 AND 2068,
21 CHARGING HIM WITH ONE COUNT OF ARMED ROBBERY AND ONE
22 COUNT OF MURDER. AT THIS TIME THE STATE, YOUR HONOR, IS
23 PREPARED TO GO FORWARD. WE DO HAVE A COUPLE OF PRETRIAL
24 MATTERS THAT NEED TO BE ADDRESSED.

25 THE COURT: ALRIGHT, WHAT'S THE

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FIRST ONE?

SOLICITOR SORENSON: YOUR HONOR, WE
HAVE A MATTER DEALING WITH THE INDICTMENT, BUT I WOULD
LIKE TO POSSIBLY ALSO, I HAVE A JACKSON V. DENNO
HEARING. ONE OF OUR OFFICERS IS ON CRUTCHES, HE'S HAD
SURGERY, I WOULD LIKE TO GET THAT DONE SO HE CAN GET OUT
OF HERE.

THE COURT: ALRIGHT, CALL YOUR
WITNESS.

SOLICITOR SORENSON: THE STATE CALLS
LIEUTENANT JAMES SHUMPERT.

THE COURT: PUT YOUR LEFT HAND ON
THE BIBLE AND RAISE YOUR RIGHT.
(Whereupon, James SHUMPERT
is duly sworn.)

THE COURT: ALRIGHT. HAVE A SEAT.
(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. Headers on testimony
pages and hard page breaks between testimony are now
required by the Court. See next ensuing page for
sequential continuation of record.)

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

10

DIRECT EXAMINATION, IN CAMERA, OF JAMES SHUMPERT
BY SOLICITOR SORENSON:

Q. LIEUTENANT, WOULD YOU PLEASE STATE YOUR NAME FOR
THE RECORD?

A. JAMES SHUMPERT.

Q. ALRIGHT. AND IF YOU WOULD, TELL THE COURT WHERE
IT IS THAT YOU ARE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
OFFICE?

A. ALMOST TEN YEARS.

Q. ALRIGHT, AND HOW LONG HAVE YOU BEEN IN LAW
ENFORCEMENT ALTOGETHER?

A. APPROXIMATELY TWELVE YEARS.

Q. AND WHAT, IF YOU WOULD, TELL THE COURT WHAT YOUR
CURRENT DUTIES AND RESPONSIBILITIES ARE THERE?

A. I'M AN INVESTIGATOR FOR THE CRIMINAL INVESTIGATION
DIVISION OF THE SHERIFF'S OFFICE.

Q. OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT
CAPACITY?

A. GOING ON THREE YEARS.

Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY, IF I
COULD, TURNING YOUR ATTENTION BACK TO THE MORNING
OF SEPTEMBER TWENTY-NINTH OF TWO THOUSAND AND SIX,
DID YOU HAVE AN OPPORTUNITY TO ASSIST IN THE

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

11

1 INVESTIGATION CONCERNING THE DEATH OF HARRY
2 LIVINGSTON?

3 A. I DID.

4 Q. OKAY. AND DID YOU RESPOND THAT MORNING OUT TO THE
5 INCIDENT LOCATION ON AULTMAN STREET?

6 A. YES, SIR, I DID.

7 Q. AND THAT MORNING, LIEUTENANT, HAD Y'ALL LEARNED AT
8 SOME POINT IN TIME THAT MORNING AS YOUR
9 INVESTIGATION PROGRESSED THE NAME OF A PERSON WHO
10 WAS ALLEGEDLY LAST SEEN WITH THE VICTIM?

11 A. YES, WE DID.

12 Q. OKAY. AND WHAT WAS THAT NAME THAT Y'ALL LEARNED?

13 A. GEORGE MOSES.

14 Q. OKAY. AND THAT WOULD BE THE DEFENDANT, MR. MOSES?

15 A. CORRECT, UH HUH.

16 Q. AND DID Y'ALL HAVE AN OPPORTUNITY TO THEN LOCATE
17 HIM THAT MORNING, SEPTEMBER TWENTY-NINTH OF TWO
18 THOUSAND AND SIX?

19 A. YES.

20 Q. AND WHERE WAS IT THAT HE WAS LOCATED AT?

21 A. I BELIEVE HE WAS LOCATED AT WORK BY SERGEANT
22 KRAFT, AT THE SOUTH CAROLINA STATE UNIVERSITY.

23 Q. OKAY, AT S.C.STATE?

24 A. UH HUH.

25 Q. AND WHAT WAS THEN DONE WITH HIM WHEN HE WAS FOUND

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

12

1 AT S. C. STATE?

2 A. HE WAS BROUGHT BACK TO THE COMPLEX.

3 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY THEN TO
4 SPEAK TO MR. MOSES THAT MORNING?

5 A. I DID.

6 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO ADVISE
7 HIM OF HIS MIRANDA WARNINGS?

8 A. I DID.

9 Q. OKAY. AND I'M SHOWING YOU WHAT'S BEEN MARKED AS
10 STATE'S EXHIBIT ONE FOR ID PURPOSES, DO YOU
11 RECOGNIZE THAT DOCUMENT?

12 A. YES, SIR.

13 Q. OKAY. AND WHAT IS THAT DOCUMENT?

14 A. THIS IS ADVISEMENT OF MR. GEORGE MOSES'S RIGHTS.

15 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO GO OVER
16 WITH HIM THAT MORNING THE ADVICE OF RIGHTS FORM?

17 A. YES, I DID.

18 Q. OKAY. AND IF YOU WOULD, KIND OF GO THROUGH THAT
19 FOR THE COURT HOW YOU WENT THROUGH IT WITH MR.
20 MOSES THAT MORNING?

21 A. OKAY. BASICALLY, I READ EACH LINE TO HIM,
22 STARTING OFF WITH THE FIRST ONE. IT SAYS, "YOU
23 HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY
24 CAN BE USED AGAINST YOU IN COURT," WHICH HE
25 INITIALED, G.M. ON NUMBER TWO LINE, "YOU HAVE THE

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

13

1 RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK
2 YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING
3 QUESTIONING," WHICH IE INITIALED, G.M., AND LINE
4 THREE, "IF YOU CAN'T AFFORD A LAWYER ONE WILL BE
5 APPOINTED FOR YOU BEFORE ANY QUESTIONS IF YOU
6 WISH," WHICH HE ALSO INITIALED G.M. ON LINE THREE.
7 LINE FOUR, "IF YOU DECIDE TO ANSWER QUESTIONS
8 WITHOUT A LAWYER PRESENT YOU WILL STILL HAVE THE
9 RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME,"
10 WHICH IS LINE FOUR, HE INITIALED, G.M. LINE FIVE,
11 "YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT
12 ANYTIME UNTIL YOU TALK TO A LAWYER," WHICH HE
13 INITIALED, G.M.

14 Q. OKAY. AND WHAT DOES IT INDICATE UNDER THAT?

15 A. WELL, UNDER THAT IT SAYS, "I UNDERSTAND MY
16 RIGHTS." HE SIGNED HIS NAME, HIS SIGNATURE,
17 GEORGE MOSES.

18 Q. OKAY. AND WHAT TIME WAS IT THAT YOU WENT OVER
19 THIS WITH HIM THAT MORNING?

20 A. NINE:TWENTY.

21 Q. NINE:TWENTY IN THE MORNING?

22 A. YES, SIR.

23 Q. OKAY. AND DID HE APPEAR TO UNDERSTAND YOU AS HE
24 WENT OVER THOSE RIGHTS WITH YOU?

25 A. YES, SIR.

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

14

1 Q. AND YOU INDICATED HE INITIALED AFTER EACH ONE OF
2 THOSE RIGHTS?

3 A. HE DID.

4 Q. AND THAT'S HIS SIGNATURE INDICATING THAT HE
5 UNDERSTOOD HIS RIGHTS?

6 A. YES, SIR, IT IS.

7 Q. OKAY. AND THEN IS THERE A BOTTOM SECTION TO THAT
8 FORM ALSO?

9 A. YES, SIR.

10 Q. AND WHAT IS THAT BOTTOM SECTION?

11 A. THE BOTTOM PORTION OF THE ADVISEMENT OF RIGHTS IS
12 A WAIVER OF RIGHTS, WHICH WE WENT OVER AS WELL,
13 AND IT STATES, "I HAVE READ THIS STATEMENT OF MY
14 RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM
15 WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS.
16 I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND
17 AND KNOW WHAT I AM DOING. NO PROMISE OR THREATS
18 HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF
19 ANY KIND HAS BEEN USED AGAINST ME." WHICH HE ALSO
20 SIGNED AT THE BOTTOM.

21 Q. OKAY. AND DID YOU THREATEN HIM IN ANY WAY - - -

22 A. NO, I DID NOT.

23 Q. --- TO GET HIM TO TALK TO YOU? DID YOU MAKE HIM
24 ANY PROMISES?

25 A. NO.

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

15

1 Q. COERCE HIM IN ANY WAY?

2 A. NO, SIR.

3 Q. DID HE APPEAR TO BE FREELY AND VOLUNTARILY SIGNING
4 THAT FORM?

5 A. YES, SIR.

6 Q. OKAY. WHO WITNESSED THAT SIGNATURE?

7 A. AT THE TIME LIEUTENANT TODD WILLIAMS.

8 Q. ALRIGHT, AND WHO ELSE?

9 A. MYSELF.

10 Q. THE TWO OF Y'ALL? ALRIGHT, AND DID HE THEN GIVE
11 YOU A STATEMENT AT THAT POINT IN TIME?

12 A. HE GAVE A VERBAL STATEMENT, NOT A WRITTEN
13 STATEMENT.

14 Q. SO, HE DID NOTHING IN WRITING. IF YOU WOULD, TELL
15 THE COURT WHAT -- I ASSUMED THAT YOU TOLD MR.
16 MOSES WHAT IT WAS THAT Y'ALL WANTED TO QUESTION
17 HIM ABOUT?

18 A. WE DID.

19 Q. OKAY. AND WHAT, WHAT, IF ANY, INFORMATION DID HE
20 THEN PROVIDE TO YOU AT THAT POINT IN TIME
21 REGARDING THE HOMICIDE OF HARRY LIVINGSTON?

22 A. OKAY. I BEG YOUR PARDON ONE SECOND HERE.
23 BASICALLY, ME AND MR., LIEUTENANT WILLIAMS SPOKE
24 WITH MR. MOSES IN REFERENCE TO THE DEATH OF THE
25 VICTIM. LIKE I STATED, I MIRANDIZED HIM, AND HE

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

16

1 STATED THAT HE DID NOT KNOW ANYTHING INITIALLY,
2 AND THEN RESCINDED THAT STATEMENT. HE STATED THAT
3 HE WAS AT HOME BUT HE WAS LOOKING FOR GEORGE
4 ROBINSON, WHICH IS THE VICTIM'S ROOMMATE. HE
5 WENT, HE WENT ON TO SAY - - -

6 MR. MELLARD: YOUR HONOR, I'M GOING
7 TO OBJECT. YOU KNOW, I UNDERSTAND HE MIGHT BE
8 REFRESHING HIS RECOLLECTION BUT COULD WE GET HIM TO
9 TESTIFY FROM MEMORY, AND THEN IF HE NEEDS TO REFRESH HIS
10 RECOLLECTION HE CAN DO SO.

11 THE COURT: IS THIS THE ORAL
12 STATEMENT?

13 A. THIS IS THE ORAL STATEMENT, YES, SIR.

14 THE COURT: ALRIGHT, WELL, YOU READ
15 THE STATEMENT AND THEN TESTIFY WITHOUT READING IT. JUST
16 READ IT TO YOURSELF RIGHT NOW AND THEN TELL US WHAT HE
17 SAID.

18 A. OKAY. THANK YOU, SIR. WHAT HE WAS SAYING IS THAT
19 HE WENT TO MR., THE DECEASED'S RESIDENCE TO BUY
20 SOME DRUGS WITH SOME IMPORTANT PEOPLE. HE SAID HE
21 WAS THERE WITH MS. YVETTE, HE TALKED WITH HER, HE
22 LEFT, HE WENT BACK HOME, AND HIS GIRLFRIEND WAS
23 MAD WITH HIM FOR BEING OUT SO LATE AT THE
24 RESIDENCE, HIS RESIDENCE.

25 Q. OKAY. AND INITIALLY YOU TESTIFIED TO THIS

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

17

1 ALREADY, BUT INITIALLY HE TOLD YOU THAT HE DIDN'T
2 KNOW ANYTHING ABOUT IT, - - -

3 A. RIGHT, CORRECT.

4 Q. --- IS THAT THE FIRST THING, AND THEN HE KIND OF
5 WENT ON FROM THERE?

6 A. CORRECT.

7 Q. OKAY, AND I GUESS CHANGED THAT STORY SO TO SPEAK?

8 A. RIGHT.

9 Q. OKAY. AND HE HAD INDICATED THAT HE WAS THERE TO
10 BUY SOME DRUGS FROM THE VICTIM?

11 A. YES, SIR.

12 Q. OKAY. NOW, DID HE AT THAT POINT IN TIME INDICATE
13 TO YOU WHETHER HE HAD DONE ANYTHING TO THE VICTIM?

14 A. NO, HE DID NOT.

15 Q. OKAY. IN FACT, WHAT DID HE TELL YOU SPECIFICALLY
16 ABOUT WHEN HE LEFT?

17 A. BASICALLY WHAT HE SAID, WHEN HE LEFT THE VICTIM
18 WAS FINE AND WELL, AND HE WENT HOME AND GOT INTO
19 AN ARGUMENT WITH HIS GIRLFRIEND FOR STAYING OUT SO
20 LATE AT NIGHT.

21 Q. OKAY. AND DID HE TELL YOU AT THAT TIME WHAT
22 CLOTHING HE WAS WEARING THE NIGHT BEFORE?

23 A. HE DID, BUT I'D HAVE TO REFER TO MY NOTES. SHORTS
24 AND A T-SHIRT.

25 Q. SHORTS AND A T-SHIRT. ALRIGHT. NOW, AT THAT

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

18

1 POINT IN TIME DID THAT CONCLUDE YOUR TALKING WITH
2 MR. MOSES THAT MORNING?

3 A. YES, SIR, IT DID.

4 Q. AT THE SHERIFF'S OFFICE, IS THAT CORRECT?

5 A. CORRECT.

6 Q. OKAY. NOW, THE FOLLOWING DAY DID YOU HAVE AN
7 OPPORTUNITY TO FURTHER TALK TO MR. MOSES?

8 A. YES, WE DID.

9 Q. THAT WOULD BE SEPTEMBER THIRTIETH?

10 A. YES, SIR.

11 Q. OKAY. WAS HE IN CUSTODY AT THAT POINT IN TIME?

12 A. YES, SIR, HE WAS.

13 Q. ALRIGHT, AND DID YOU HAVE AN OPPORTUNITY TO RE-
14 ADVISE HIM OF HIS RIGHTS?

15 A. YES, SIR, I DID.

16 Q. ALRIGHT, I SHOW YOU STATE'S EXHIBIT NUMBER TWO, IS
17 THAT THE FORM YOU USED WITH HIM THAT SECOND DAY,
18 ON SEPTEMBER THIRTIETH?

19 A. YES, IT IS.

20 Q. OKAY. AND WHAT TIME WAS THAT THAT YOU WENT OVER
21 HIS RIGHTS WITH HIM ON SEPTEMBER THIRTIETH?

22 A. ELEVEN:THIRTY A.M.

23 Q. OKAY. AND IS THE RIGHTS FORM THAT'S ESSENTIALLY
24 THE EXACT SAME FORM AS WAS USED THE DAY BEFORE?

25 A. THE SAME FORM, CORRECT.

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

19

1 Q. AND DID HE YET AGAIN INITIAL AFTER EACH OF THOSE
2 RIGHTS?

3 A. ONE THROUGH FIVE, HE INITIALED, G.M.

4 Q. DID MR. MOSES SIGN INDICATING THAT HE UNDERSTOOD
5 THOSE RIGHTS?

6 A. YES, HE DID.

7 Q. OKAY. AND DID -- YET AGAIN, DID YOU GO OVER THAT
8 WAIVER OF RIGHTS SECTION WITH HIM?

9 A. I DID.

10 Q. AND DID MR. MOSES SIGN THAT, AFTER THAT WAIVER OF
11 RIGHTS SECTION, INDICATING THAT HE WISHED TO TALK?

12 A. HE DID.

13 Q. OKAY. AND WHO WAS IT THAT WITNESSED FOR THAT
14 SECOND STATEMENT THAT WITNESSED HIM SIGNING THE
15 WAIVER OF RIGHTS PORTION?

16 A. INVESTIGATOR RODRIGUEZ AND MYSELF.

17 Q. AND DID Y'ALL THEN HAVE AN OPPORTUNITY -- WELL,
18 LET ME ASK YOU THIS, AT ANY POINT IN TIME DID YOU
19 OR DEPUTY RODRIGUEZ IN YOUR PRESENCE, DID Y'ALL
20 MAKE ANY THREATS TO MR. MOSES?

21 A. NO, WE DID NOT.

22 Q. DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO
23 YOU?

24 A. NO, SIR, WE DID NOT.

25 Q. COERCE HIM IN ANY WAY TO GET HIM TO TALK TO YOU?

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

20

1 A. WE DID NOT.

2 Q. AND DID HE THEN PROVIDE A STATEMENT TO Y'ALL THAT
3 MORNING?

4 A. HE DID.

5 Q. AND WERE YOU PRESENT FOR THAT WHOLE STATEMENT?

6 A. YES, SIR, I WAS.

7 Q. OKAY. AND WAS THAT ACTUALLY A WRITTEN STATEMENT
8 OR AN ORAL STATEMENT?

9 A. IT WAS A WRITTEN STATEMENT.

10 Q. OKAY. AND WHO -- LET ME SHOW YOU STATE'S EXHIBIT
11 NUMBER THREE FOR ID AND ASK IF YOU RECOGNIZE THAT
12 ITEM?

13 A. 'YES, SIR, THAT'S THE STATEMENT.

14 Q. OKAY. IS THAT THE STATEMENT THAT WAS TAKEN FROM
15 MR. MOSES THAT MORNING, SEPTEMBER THIRTIETH OF TWO
16 THOUSAND SIX?

17 A. CORRECT, YES, SIR.

18 Q. AND WHO, WHOSE HANDWRITING IS THAT THREE PAGE
19 STATEMENT IN?

20 A. INVESTIGATOR RODRIGUEZ.

21 Q. OKAY. WHO'S WORDS WERE THEY THAT WERE WRITTEN
22 DOWN ON THAT PIECE OF PAPER?

23 A. MR. MOSES'S.

24 Q. OKAY. AND WERE YOU PRESENT WHILE HE WAS TELLING
25 Y'ALL WHAT HAPPENED AND INVESTIGATOR RODRIGUEZ WAS

DIRECT, IN CAMERA, JAMES SHUMPERT
BY SOLICITOR SORENSON

21

1 THEN PUTTING IT DOWN INTO THAT STATEMENT FORM?

2 A. CORRECT, YES, SIR.

3 Q. AND AFTER THAT OCCURRED WAS MR. MOSES GIVEN AN
4 OPPORTUNITY TO GO OVER THAT THREE PAGE STATEMENT
5 FORM?

6 A. HE WAS.

7 Q. OKAY. AND DID HE, IN FACT, DO THAT?

8 A. HE DID.

9 Q. ALRIGHT. AND DID HE THEN SIGN THAT STATEMENT
10 AFTERWARDS?

11 A. YES, SIR, HE SIGNED IN THE BACK.

12 Q. OKAY. IT'S ON THE BOTTOM OF PAGE THREE?

13 A. PAGE THREE.

14 Q. AND YET AGAIN, WHILE THAT STATEMENT WAS BEING
15 TAKEN FROM HIM WAS HE BEING THREATENED OR PROMISED
16 ANYTHING OR COERCED IN ANY WAY TO GET HIM TO TALK
17 TO YOU?

18 A. NO, HE WAS NOT.

19 SOLICITOR SORENSON: I BEG THE
20 COURT'S INDULGENCE. THAT WOULD BE ALL I WOULD HAVE FROM
21 THIS WITNESS, YOUR HONOR.

22 THE COURT: CROSS-EXAM.

23 (NOTE: Blank lines on this page do not indicate any
24 part of record has been omitted. See next ensuing page
25 for sequential continuation of record.)

CROSS, IN CAMERA - JAMES SHUMPERT
BY MR. MELLARD

22

CROSS-EXAMINATION, IN CAMERA, OF JAMES SHUMPERT

BY MR. MELLARD:

Q. ALRIGHT, LET'S TALK ABOUT SEPTEMBER TWENTY-NINTH,
OKAY?

A. OKAY.

Q. ALRIGHT. NOW, YOU SAID TODD WILLIAMS WAS PRESENT
WITH YOU WHEN, WHEN MR. MOSES, WHEN YOU WERE
TALKING TO MR. MOSES, TODD WILLIAMS WAS PRESENT?

A. FOR THE VERBAL WORD?

Q. YES, SEPTEMBER TWENTY-NINTH, CORRECT?

A. CORRECT.

Q. OKAY. WHO ELSE WAS PRESENT WITH YOU?

A. THAT'S ALL I REMEMBER AT THIS TIME.

Q. OKAY. JUST YOU AND TODD WILLIAMS. NOW, ARE THOSE
YOUR NOTES THAT YOU WERE READING, I BELIEVE?

A. YES.

Q. OKAY. AND WHAT'S, WHAT WERE YOU READING FROM?

A. MY CASE NOTES THAT, THROUGHOUT THE INVESTIGATION
WE KEEP NOTES ON EVERYTHING WE DO, AND THROUGHOUT
MY CASE NOTES.

Q. AND WAS THIS KIND OF, LET ME JUST SHOW YOU WHAT, I
GUESS IT'S SOME COMPUTER NOTES THAT'S NARROWED TO
NUMBER FIVE.

SOLICITOR SORENSON: IT SHOULD BE
PAGE FOUR THAT HE WAS LOOKING AT.

CROSS, IN CAMERA - JAMES SHUMPERT
BY MR. MELLARD

23

1 Q. RIGHT. IS THAT KIND OF WHAT YOU WERE LOOKING AT?

2 A. YES, SIR.

3 Q. OKAY. THAT'S WHAT YOU WERE KIND OF READING TO THE
4 COURT?

5 A. CORRECT, UH HUH.

6 Q. OKAY. ALRIGHT, AND THIS STATEMENT WAS TAKEN ON
7 SEPTEMBER TWENTY-NINTH, CORRECT?

8 A. THE STATEMENT?

9 Q. I'M TALKING ABOUT THE VERBAL, THE VERBAL.

10 A. THE VERBAL, WHEN WE SPOKE WITH HIM, CORRECT.

11 Q. WHEN YOU SPOKE. OKAY. ALRIGHT, NOW YOUR NOTES
12 INDICATE RIGHT HERE, SEE RIGHT THERE, THAT IT'S
13 SEPTEMBER THIRTIETH?

14 A. CORRECT.

15 Q. OKAY. THAT'S THE DAY AFTER. SO, YOU MADE THESE
16 NOTES THE DAY AFTER?

17 A. NO, SEE, WHEN WE TYPE THIS STUFF IN THE COMPUTER,
18 I MEAN, THAT'S WHAT, THE COMPUTER KEEPS THE TIME
19 WHEN YOU TYPE IN YOUR NOTES.

20 Q. ALRIGHT, SO IF I TYPE IT IN TODAY, IT WOULD BE
21 TWO:TWENTY-FIVE ON FEBRUARY NINTH, IF THAT'S WHAT
22 TIME IT IS AND THAT'S WHAT DAY IT IS?

23 A. YES, SIR.

24 Q. OKAY. SO, IF I SEE A SEPTEMBER THIRTIETH UP HERE
25 AT THE TOP, YOU WOULD HAVE HAD TO TYPE IT IN ON

CROSS, IN CAMERA - JAMES SHUMPERT
BY MR. MELLARD

24

1 SEPTEMBER THIRTIETH?

2 A. MORE THAN LIKELY, YES.

3 Q. OKAY. AND THAT'S THE DAY AFTER YOU SAY THESE
4 STATEMENTS WERE GIVEN?

5 A. NO, HE GAVE THE VERBAL ON THE TWENTY-NINTH WHEN WE
6 TALKED TO HIM.

7 Q. I'M TALKING ABOUT YOUR NOTES.

8 A. RIGHT, SO, THAT'S WHEN I TYPED IN MY NOTES. SO,
9 WHEN WE TAKE, WHEN WE DO INTERVIEWS - - -

10 Q. RIGHT.

11 A. --- WE DON'T GO STRAIGHT TO THE COMPUTER AND WRITE
12 EVERYTHING AT THAT TIME. YOU JUST WRITE DOWN WHAT
13 THEY TELL YOU AT THE TIME AND THEN YOU GO IN AND
14 PLACE IT IN THE COMPUTER. SO, IF IT'S ON THE
15 THIRTIETH, THAT'S WHEN I TYPED IT IN.

16 Q. OKAY. SO, YOU WOULD HAVE SOME WRITTEN NOTES?

17 A. I MEAN, WHATEVER IS IN MY CASE FILE, THAT'S WHAT I
18 PUT IN THERE.

19 Q. SO, YOU WOULD HAVE SOME WRITTEN NOTES THAT BACK UP
20 WHAT'S HERE ON SEPTEMBER THIRTIETH?

21 A. WHAT I TYPED IN HERE, ONCE AGAIN, IS WHAT I
22 RECOLLECT WHEN I SPOKE WITH HIM, WHEN ME AND THE
23 LIEUTENANT SPOKE WITH HIM. NOW, IF I HAVE NOTES
24 IT WOULD BE IN THE CASE FILE.

25 Q. OKAY. BUT TO YOUR KNOWLEDGE YOU DON'T HAVE NOTES

CROSS, IN CAMERA - JAMES SHUMPERT
BY MR. MELLARD

25

1 IN THE CASE FILE?

2 A. IF THEY'RE NOT IN HERE THEY'RE NOT IN HERE.

3 Q. ALRIGHT.

4 MR. MELLARD: THAT'S ALL WE'VE GOT.

5 THE COURT: ANYTHING ELSE?

6 SOLICITOR SORENSON: NO, SIR.

7 THE COURT: YOU CAN STEP DOWN.

8 WITNESS: THANK YOU, SIR.

9 SOLICITOR SORENSON; THE STATE WOULD
10 CALL DEPUTY RODRIGUEZ.

11 THE COURT: COME AROUND, PLEASE,
12 SIR. PLACE YOUR LEFT HAND ON THE BIBLE, PLEASE, AND
13 RAISE YOUR RIGHT.

14 (Whereupon, Roman E. Rodriguez
15 is duly sworn.)

16 THE COURT: HAVE A SEAT, PLEASE,
17 SIR, AND STATE YOUR FULL NAME.

18 WITNESS: DEPUTY ROMAN E. RODRIGUEZ.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

DIRECT, IN CAMERA - ROMAN E. RODRIGUEZ
BY SOLICITOR SORENSON

26

DIRECT EXAMINATION, IN CAMERA, OF ROMAN E. RODRIGUEZ
BY SOLICITOR SORENSON:

Q. DEPUTY RODRIGUEZ, IF YOU WOULD, TELL US WHERE IT
IS THAT YOU ARE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
OFFICE?

A. SINCE NINETEEN NINETY-EIGHT.

Q. OKAY. AND BACK IN SEPTEMBER OF TWO THOUSAND AND
SIX, WHAT CAPACITY WERE YOU WORKING AT THAT TIME?

A. INVESTIGATIONS.

Q. OKAY. AND YOU ARE BACK OUT ON THE ROAD RIGHT NOW?

A. RIGHT.

Q. WELL, TURNING YOUR ATTENTION IF I COULD, SIR, BACK
TO SEPTEMBER THIRTIETH OF TWO THOUSAND AND SIX,
WERE YOU INVOLVED IN THE INVESTIGATION OF THE
DEATH OF HARRY LIVINGSTON?

A. YES, I WAS.

Q. AND AS PART OF THAT INVOLVEMENT WERE YOU INVOLVED
IN TAKING A STATEMENT FROM THE DEFENDANT IN THIS
CASE, GEORGE MOSES, THE MORNING OF SEPTEMBER
THIRTIETH, TWO THOUSAND AND SIX?

A. YES, SIR, I WAS.

Q. AND SHOWING YOU STATE'S EXHIBIT NUMBER, LET ME
SHOW YOU NUMBER TWO FIRST, WERE YOU PRESENT WHEN

DIRECT, IN CAMERA - ROMAN E. RODRIGUEZ
BY SOLICITOR SORENSON

27

1 THAT ADVICE OF RIGHTS FORM WAS GONE OVER WITH MR.
2 MOSES BY LIEUTENANT SHUMPERT?

3 A. YES, I WAS.

4 Q. OKAY. AND IN FACT, IS THAT YOUR SIGNATURE DOWN AT
5 THE BOTTOM WITNESSING THAT?

6 A. YES, IT IS.

7 Q. ALRIGHT. AND DID YOU AT ANY POINT IN TIME, DEPUTY,
8 MAKE ANY THREATS OR PROMISES TOWARDS MR. MOSES TO
9 GET HIM TO TALK TO Y'ALL?

10 A. NO, I DIDN'T.

11 Q. DID HE APPEAR TO BE FREELY AND VOLUNTARILY TALKING
12 WITH Y'ALL?

13 A. YES.

14 Q. OKAY. AND WERE YOU THEN INVOLVED IN TAKING
15 STATE'S EXHIBIT NUMBER THREE, THAT STATEMENT, WERE
16 YOU INVOLVED IN THEN TAKING THAT STATEMENT FROM
17 THE DEFENDANT IN THIS CASE?

18 A. YES, I DID.

19 Q. AND IN FACT, WHOSE HANDWRITING IS THAT THREE PAGE
20 STATEMENT IN?

21 A. IT'S IN MY HANDWRITING.

22 Q. OKAY. AND HOW COME -- TELL THE COURT HOW COME
23 THAT STATEMENT IS IN YOUR HANDWRITING?

24 A. I OFFERED THE DEFENDANT IF HE WANTED TO WRITE A
25 STATEMENT AND HE REQUESTED I WRITE THE STATEMENT

DIRECT, IN CAMERA - ROMAN E. RODRIGUEZ
BY SOLICITOR SORENSON

28

1 FOR HIM.

2 Q. OKAY. AND IN FACT, DID YOU THEN NOTE THAT IN THE
3 FIRST COUPLE OF LINES OF THAT STATEMENT?

4 A. YES, I DID.

5 Q. SO, THIS THREE PAGE STATEMENT, JUST SO I'M CLEAR,
6 WHOSE WORDS ARE THESE THAT ARE WRITTEN DOWN ON
7 THIS PAGE STATEMENT?

8 A. THAT'S THE DEFENDANT'S WORDS.

9 Q. OKAY. SO, YOU WERE WRITING THAT AS HE WAS TELLING
10 YOU WHAT HAPPENED?

11 A. RIGHT, I EXPLAINED IT IN THE FIRST PARAGRAPH OF
12 THE STATEMENT THAT I WAS WRITING IT, "I, GEORGE
13 NAPOLEON MOSES, ALLOWING ROMAN RODRIGUEZ OF THE
14 ORANGEBURG COUNTY SHERIFF'S OFFICE TO WRITE THIS
15 STATEMENT FOR ME. THE HANDWRITING IS NOT MINE BUT
16 THE WORDS ARE." AND I HAD HIM TO INITIAL AT THE
17 END OF THAT.

18 Q. SO, THAT'S HIS INITIALS, THAT G.M. THERE?

19 A. THAT'S HIS INITIALS.

20 Q. IN PARENTHESIS? OKAY. WHEN YOU WERE DONE TAKING
21 THIS STATEMENT DID YOU THEN GIVE MR. MOSES AN
22 OPPORTUNITY TO READ BACK OVER IT?

23 A. YES, I GAVE MR. MOSES THE STATEMENT AND AFTER HE
24 READ OVER IT I GOT HIM TO SIGN TO THE BACK OF IT.

25 Q. AND DID HE, IN FACT, DO THAT ON THE THIRD PAGE?

DIRECT, IN CAMERA - ROMAN E. RODRIGUEZ
BY SOLICITOR SORENSON

29

1 A. YES, HE DID.

2 Q. AND Y'ALL DRAW A LINE, I GUESS, WHERE IT WAS DONE,
3 AND GET HIM TO INITIAL ABOVE AND BELOW THE LINE?

4 A. YES, WE DID.

5 Q. OKAY. AND THEN, WHAT DOES IT SAY RIGHT ABOVE
6 WHERE MR. MOSES SIGNED?

7 A. "I HAVE READ ALL OF THE ABOVE THOROUGHLY. I HAVE
8 MADE THE NECESSARY CORRECTIONS AND INITIALED EACH
9 TO MAKE THIS A FACTUAL AND COMPLETE
10 REPRESENTATION."

11 Q. AND HE SIGNED THAT, AND THAT WAS THEN WITNESSED BY
12 YOURSELF AND LIEUTENANT SHUMPERT?

13 A. THAT'S CORRECT.

14 SOLICITOR SORENSON: YOUR HONOR, I'M
15 NOT SURE IF YOU WANT US TO PUBLISH THIS, I MEAN, I DON'T
16 WANT TO WASTE TIME TO HAVE HIM JUST TO READ IT.

17 THE COURT: NO.

18 SOLICITOR SORENSON: THAT WOULD BE
19 ALL I'D HAVE, YOUR HONOR.

20 THE COURT: CROSS-EXAM.

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22 part of record has been omitted. Headers on testimony
23 pages and hard page breaks between testimony are now
24 required by the Court. See next ensuing page for
25 sequential continuation of record.)

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

30

CROSS-EXAMINATION, IN CAMERA, OF ROMAN RODRIGUEZ

BY MR. MELLARD:

Q. ALRIGHT, SO MY UNDERSTANDING, ON SEPTEMBER
THIRTIETH YOU AND SHUMPERT WERE IN THE ROOM?

A. THAT'S CORRECT.

Q. OKAY. NOBODY ELSE WAS IN THE ROOM?

A. JUST THE BOTH OF US, THAT'S RIGHT.

Q. OKAY. AND YOU ADVISED THE DEFENDANT OF HIS RIGHT,
OR SHUMPERT ADVISED THE DEFENDANT?

A. SHUMPERT.

Q. OKAY. AND YOU WERE THERE WHEN THAT WAS DONE?

A. THAT'S CORRECT.

Q. OKAY. AND THEN, I BELIEVE A WRITTEN STATEMENT WAS
GIVEN, AND I THINK THEY MARKED IT HERE. THAT'S
THE ONE?

A. YES.

Q. OKAY. AND I SUPPOSE YOU -- YOU SAID THAT YOU WERE
THE ONE WHO WROTE, YOU WROTE THIS?

A. THAT'S CORRECT.

Q. OKAY. SO, MR. MOSES DIDN'T WRITE WHAT'S ON PAGE
ONE?

A. NO.

Q. HE DIDN'T WRITE WHAT'S ON PAGE TWO, AND HE DIDN'T
WRITE WHAT'S ON PAGE THREE, YOU WROTE ALL THAT?

A. YES, I DID.

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

31

1 Q. OKAY. AND I SUPPOSE SHUMPERT WAS THERE?

2 A. YES, HE WAS THERE.

3 Q. OKAY. NOW, I SEE THAT HE WAS GIVEN HIS RIGHTS AT
4 THE, I GUESS IT'S THE LAW ENFORCEMENT COMPLEX, IS
5 THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. ALRIGHT, AND THAT WAS ON SEPTEMBER THIRTIETH OF O-
8 SIX? WAIT A MINUTE, I'LL SHOW IT TO YOU.
9 SEPTEMBER THIRTIETH OF O-SIX?

10 A. THAT'S CORRECT, YES.

11 Q. AT ELEVEN O'CLOCK?

12 A. YES.

13 Q. ELEVEN O'CLOCK, A.M.?

14 A. YES.

15 Q. OKAY. AND SO, MY UNDERSTANDING IS, YOU GIVE
16 SOMEBODY THEIR RIGHTS AND THEN YOU ASK THEM
17 QUESTION AND THEN THEY TELL YOU AND YOU'RE WRITING
18 THIS STUFF DOWN, - - -

19 A. RIGHT.

20 Q. --- IS THAT CORRECT? OKAY. DO YOU TALK TO THEM
21 BEFORE THEY'RE GIVEN THEIR RIGHTS?

22 A. WELL, BEFORE WE -- BEFORE WE GO OVER ANYTHING
23 WE'LL GO AHEAD AND READ THEM THEIR RIGHTS FIRST, -

24 - -

25 Q. OKAY.

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

32

1 A. --- AND MAKE SURE HE INITIALS AND UNDERSTANDS, AND
2 MAKE SURE HE INITIALS SAYING THAT HE UNDERSTANDS
3 WHAT HIS RIGHTS ARE.

4 Q. OKAY. SO, YOU WOULDN'T TALK TO HIM BEFOREHAND?

5 A. OH, NO, WE MAKE SURE WE GET THEM THE STATEMENT
6 BEFORE WE TALK TO THEM.

7 Q. OKAY. SO ANYTHING THAT HE'S TELLING YOU IT WOULD
8 BE, YOU WOULD BE HEARING IT FOR THE FIRST TIME?

9 A. THAT'S CORRECT.

10 Q. OKAY. NOW, I SEE ON THIS STATEMENT THAT THE TIME
11 IS ELEVEN:FORTY-THREE?

12 A. UH HUH, THAT'S CORRECT.

13 Q. OKAY. NOW, THAT'S WHEN HE STARTED GIVING THE
14 STATEMENT OR THAT'S WHEN HE FINISHED GIVING THE
15 STATEMENT?

16 A. FROM THAT TIME I BELIEVE THAT'S WHEN HE STARTED.

17 Q. THAT'S WHEN HE STARTED. SO, WHAT HAPPENED IN THE
18 INTERIM? YOU GIVE HIM HIS RIGHTS AT
19 ELEVEN:THIRTY, AND THEN ELEVEN:FORTY-THREE YOU
20 START WRITING THIS. SO, WHAT HAPPENED IN THE
21 INTERIM?

22 A. IN THIRTEEN MINUTES, I DON'T KNOW IF WE WERE
23 GETTING THE PAPERWORK TOGETHER, AND, BUT YOU KNOW,
24 WITHIN THAT TIME, THAT'S ALL WE DID. I MEAN, WE
25 DIDN'T QUESTION HIM OR ANYTHING BEFORE THAT

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

33

1 THIRTEEN MINUTE SPAN, IF THE TIME IS CORRECT, YOU
2 KNOW, SO FAR AS THE TWENTY AND THE THIRTEEN
3 MINUTES.

4 Q. WELL, WHY WOULDN'T THE TIME BE CORRECT?

5 A. I'M JUST SAYING, BETWEEN THAT THIRTEEN MINUTES I
6 DON'T KNOW EXACTLY WHAT WE DID. WE WERE THERE
7 WITH HIM BUT WE MADE SURE WE ADVISED HIM OF HIS
8 RIGHTS, AND THEN IN THE PROCESS OF LISTENING TO
9 HIM AND GIVING THE STATEMENT. I THINK AFTER HE DID
10 THAT WE TALKED, AFTER HE WAS ADVISED OF HIS RIGHTS
11 WE TALKED, AND THEN AFTER WE TALKED I BEGAN
12 WRITING THE STATEMENT FOR HIM, WITHIN THAT TIME
13 PERIOD.

14 Q. OKAY. AND HOW LONG DID IT TAKE YOU TO WRITE THAT
15 STATEMENT?

16 A. MAYBE TEN MINUTES, FIFTEEN MINUTES, - - -

17 Q. TEN MINUTES, FIFTEEN MINUTES?

18 A. --- SOMETHING LIKE THAT, OR TWENTY.

19 Q. AND YOU WROTE THIS VERBATIM AS HE WAS TALKING?

20 A. RIGHT, AS HE WAS TALKING I WOULD WRITE DOWN WHAT
21 HE WAS SAYING, WHAT HE WAS TELLING ME.

22 Q. ON THIS SHEET OF PAPER RIGHT HERE?

23 A. ON THAT SHEET OF PAPER.

24 Q. OKAY. AND YOU'RE PRETTY SURE THAT THIS IS EXACTLY
25 WHAT HE SAID?

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

34

1 A. THAT'S EXACTLY WHAT HE SAID.

2 Q. WORD FOR WORD?

3 A. WORD FOR WORD.

4 Q. OKAY. SO, IF HE'S TALKING AND YOU'RE WRITING - -
5 -

6 A. RIGHT.

7 Q. --- YOU WOULD BE ABLE TO KEEP UP WITH HIM?

8 A. WELL, IF HE'S GOING TOO FAST I'LL TELL HIM TO HOLD
9 UP, AND TO MAKE SURE I GOT IT, AND WRITE IT DOWN.

10 Q. AND DID YOU TELL HIM TO HOLD UP?

11 A. IF HE WAS GOING TOO FAST, YES, I DID, TO MAKE SURE
12 I HAD EVERYTHING THE WAY HE SAID HE WAS TELLING
13 ME.

14 Q. ALRIGHT. AND YOU'RE SURE YOU TOLD HIM TO HOLD UP
15 IN THIS CASE?

16 A. WELL, IF I WAS, IF HE WAS GOING TOO -- SOMETIME
17 WHEN THEY'RE GIVING THE STATEMENT IF THEY'RE GOING
18 AHEAD OF THEMSELVES I'LL SAY, WAIT SO I CAN MAKE
19 SURE I WRITE DOWN EXACTLY WHAT HE'S TELLING ME.

20 Q. I'VE GOT YOU, I MEAN, SO GENERALLY, IF SOMEBODY
21 WAS GOING A LITTLE QUICK YOU WOULD TELL THEM, YOU
22 KNOW, SLOW DOWN.

23 A. YES.

24 Q. WELL, WHAT ABOUT IN THIS CASE, DO YOU KNOW IF YOU
25 TOLD HIM TO SLOW DOWN?

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

35

1 A. WELL, I TELL HIM WHEN I'M GETTING STATEMENTS, AND
2 ESPECIALLY IN THIS CASE IF I COULD RECALL, I CAN'T
3 REMEMBER, BUT I MEAN, I'LL JUST GO AHEAD AND WRITE
4 EXACTLY WHAT THEY'RE TELLING ME, AND I'LL MAKE
5 SURE, YOU KNOW, IF THEY'RE GOING TOO FAST, I WANT
6 TO MAKE SURE I HAVE EXACTLY WHAT HE SAYS.

7 Q. NOW, DID Y'ALL TAPE RECORD ANY OF THIS?

8 A. I DON'T BELIEVE WE DID, NO.

9 Q. DID Y'ALL HAVE A TAPE RECORDER THERE?

10 A. I DON'T RECALL WE DID.

11 Q. THE SHERIFF'S DEPARTMENT DOESN'T HAVE A TAPE
12 RECORDER TO YOUR KNOWLEDGE?

13 A. I'M PRETTY SURE WE HAVE A TAPE RECORDER BUT WE
14 DIDN'T USE A TAPE RECORDER.

15 Q. HOW COME?

16 A. WE JUST DIDN'T USE IT.

17 Q. WHY DIDN'T YOU LET HIM WRITE HIS OWN STATEMENT?

18 A. HE DIDN'T WANT TO WRITE THE STATEMENT, HE ASKED ME
19 TO WRITE IT FOR HIM.

20 Q. DO YOU KNOW IF HE CAN READ AND WRITE?

21 A. YES, I DID, I ASKED HIM COULD HE READ AND WRITE.

22 Q. OKAY. AND SO, WHAT DID HE SAY?

23 A. HE SAID HE COULD.

24 Q. ALRIGHT. ONE SECOND. ONE MORE QUESTION, IS THIS
25 THE ORIGINAL STATEMENT? I BELIEVE THAT'S A COPY,

CROSS, IN CAMERA - ROMAN RODRIGUEZ
BY MR. MELLARD

36

1 ISN'T IT?

2 A. THIS SHOULD BE THE ORIGINAL STATEMENT HERE.

3 Q. THAT'S THE ORIGINAL STATEMENT IN YOUR HANDWRITING?

4 A. YES.

5 THE COURT: THANK YOU, SIR -- IS
6 THAT IT?

7 MR. MELLARD: OH, THAT'S IT FOR
8 CROSS, YES, SIR.

9 THE COURT: ANY REDIRECT?

10 SOLICITOR SORENSON: NO, SIR.

11 THE COURT: THANK YOU, SIR, YOU CAN
12 STEP DOWN.

13 ANY FURTHER WITNESSES FROM THE
14 STATE?

15 SOLICITOR SORENSON: NO, YOUR HONOR.

16 THE COURT: ANY WITNESSES OR
17 EVIDENCE FROM THE DEFENSE?

18 MR. MELLARD: WE'D CALL GEORGE MOSES
19 TO THE STAND.

20 THE COURT: COME AROUND, MR. MOSES.
21 MR. MOSES, IF YOU COULD PUT YOUR LEFT HAND ON THE BIBLE
22 THE BEST YOU CAN.

23 (Whereupon, George Moses
24 is duly sworn.)

25 THE COURT: ALRIGHT, SIR, HAVE A

1 SEAT RIGHT UP THERE, PLEASE, SIR.

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3 part of record has been omitted. Headers on testimony
4 pages and hard page breaks between testimony are now
5 required by the Court. See next ensuing page for
6 sequential continuation of record.)

DIRECT, IN CAMERA - GEORGE MOSES BY MR. MELLARD

38

DIRECT EXAMINATION, IN CAMERA, OF GEORGE MOSES

BY MR. MELLARD:

Q. ALRIGHT, MR. MOSES, I WANT TO TALK TO YOU ABOUT
THE STATEMENT YOU GAVE TO THE POLICE.

A. UH HUH.

Q. OKAY. AND I WANT TO TALK TO YOU ABOUT THE
STATEMENT THAT WE JUST TALKED ABOUT, THE SEPTEMBER
THIRTIETH, TWO THOUSAND SIX, WRITTEN STATEMENT.

A. OKAY.

Q. ALRIGHT. WHERE WERE YOU AT WHEN THIS STATEMENT
WAS SUPPOSEDLY GIVEN?

A. IN A TRAILER BEHIND THE LAW ENFORCEMENT COMPLEX.

Q. ALRIGHT. AND WHAT WERE YOU WEARING?

A. THE SAME OLD ORANGE UNIFORM SUCH AS THIS AND ALL
THIS JEWELRY, BLACK BOX, AND HANDCUFFS, LEG IRONS.

Q. ALRIGHT, SO YOUR HANDS WERE CUFFED AND YOUR LEGS
WERE CUFFED?

A. YES, SIR.

Q. ALRIGHT. AND WHO TOOK YOU TO THIS PLACE?

A. MR. SHUMPERT.

Q. ALRIGHT. AND HOW LONG HAD YOU BEEN IN JAIL?

A. OVERNIGHT.

Q. ALRIGHT. AND WHEN YOU GAVE THIS WRITTEN STATEMENT
HAD YOU BEEN CHARGED WITH ANYTHING YET?

A. NO, I HADN'T.

DIRECT, IN CAMERA - GEORGE MOSES BY MR. MELLARD

39

1 Q. OKAY. DID RODRIGUEZ OR SHUMPERT TELL YOU WHY THEY
2 WERE QUESTIONING YOU?

3 A. YEAH, THEY DID.

4 Q. OKAY. AND WHAT DID THEY TELL YOU?

5 A. THEY SAID IT WAS IN REFERENCE TO HARRY LIVINGSTON.

6 Q. OKAY, AND WHAT DID THEY SAY?

7 A. IT WAS IN REFERENCE TO HIM. NOTHING, THEY JUST,
8 WELL, THEY SAID, WHEN THEY FIRST STARTED, OFFICER
9 RODRIGUEZ SAID THAT THEY HAD BEEN TO THE
10 RESIDENCE, THEY HAD LOOKED OVER EVERYTHING AND
11 THEY SAW WHERE IT WASN'T, THE GUY WASN'T MURDERED
12 BUT HE HAD A HEART ATTACK OR SOMETHING LIKE THAT,
13 AND THEY KNOW I WAS THERE AND THEY WANTED TO KNOW
14 WHAT WAS HAPPENING, I WASN'T GOING TO BE CHARGED
15 WITH MURDER OR ANYTHING LIKE THAT BECAUSE THEY
16 KNOW HE WASN'T, YOU KNOW WHAT I'M SAYING, HE HEART
17 ATTACK OR SOMETHING LIKE THAT. SO, - - -

18 Q. SO, YOUR UNDERSTANDING FROM THE POLICE WAS THAT
19 THIS WAS NOT A MURDER INVESTIGATION?

20 A. RIGHT.

21 Q. THAT HE HAD HAD A HEART ATTACK?

22 A. RIGHT.

23 Q. AND THAT YOU WERE THE LAST PERSON THAT SAW HIM, OR
24 THEY THOUGHT YOU HAD SAW HIM?

25 A. RIGHT.

1 Q. OKAY. AND WHO TOLD YOU THAT?

2 A. OFFICER RODRIGUEZ.

3 Q. OKAY. DID HE TELL YOU ANYTHING ELSE BESIDES THAT?

4 A. NOTHING BUT OTHER THAN THE FACT I WASN'T GOING TO
5 BE CHARGED WITH MURDER, THEY WASN'T CHARGING ME
6 WITH MURDER.

7 Q. OKAY. AND WHO WROTE THE STATEMENT?

8 A. OFFICER RODRIGUEZ.

9 Q. ALRIGHT. DID YOU ASK TO WRITE THE STATEMENT
10 YOURSELF?

11 A. YES.

12 Q. OKAY. AND WHO WAS IN THE ROOM WHEN YOU ASKED TO
13 DO THAT?

14 A. NO ONE BUT ME AND OFFICER RODRIGUEZ.

15 Q. WHERE WAS SHUMPERT AT?

16 A. HIM AND DETECTIVE BAMBERG WENT AROUND THE OTHER
17 PART OF THE JAIL TO QUESTION SOME OTHER WITNESSES
18 WHO HAD CAME INTO THE JAIL AT THAT TIME.

19 Q. SO, THE ONLY PERSON IN THE ROOM WAS OFFICER
20 RODRIGUEZ?

21 A. JUST OFFICER RODRIGUEZ AND MYSELF.

22 Q. ALRIGHT. AND WHY WEREN'T YOU ALLOWED TO WRITE THE
23 STATEMENT?

24 A. WELL, I ASKED HIM TO TAKE THESE OFF AND HE SAID HE
25 DIDN'T HAVE A KEY, YOU KNOW, IT WAS ONE RIGHT NEXT

DIRECT, IN CAMERA - GEORGE MOSES BY MR. MELLARD

41

1 DOOR, OR WHATEVER, HE SAID HE JUST DIDN'T HAVE A
2 KEY FOR THE BLACK BOX AND HE COULDN'T TAKE IT OFF.

3 Q. ALRIGHT, DID -- OKAY, SO RODRIGUEZ WROTE THE
4 STATEMENT FOR YOU?

5 A. YES.

6 Q. ALRIGHT. DID HE LET YOU PROOFREAD THE STATEMENT?

7 A. HE, HE GAVE IT TO ME AND ASKED ME TO PROOFREAD IT
8 AT THAT TIME. I DIDN'T HAVE MY GLASSES WITH ME, I
9 WEAR READING GLASSES AND THE ROOM WAS KIND OF, THE
10 LIGHT IN THERE WASN'T THAT BRIGHT AND I REALLY
11 COULDN'T READ WHAT WAS ON THERE BECAUSE I DIDN'T
12 HAVE MY GLASSES.

13 Q. OKAY.

14 A. SO, I ASKED HIM AT THAT TIME, ARE YOU SURE THAT
15 YOU WROTE EVERYTHING DOWN THAT I GOT, - - -

16 Q. UH HUH.

17 A. --- AND HE WAS, YEAH, I GOT EVERYTHING THAT YOU
18 WROTE DOWN, I'LL MAKE SURE, YOU KNOW, SO I
19 WOULDN'T PUT NOTHING IN THERE THAT AIN'T SUPPOSED
20 TO BE IN THERE.

21 Q. ALRIGHT. WERE YOU THREATENED BY ANYBODY?

22 A. NO, THEY NEVER THREATENED ME.

23 Q. OKAY. DID HE PROMISE YOU ANYTHING?

24 A. NOTHING OTHER THAN THE FACT THAT I WOULDN'T BE
25 CHARGED WITH MURDER. THEY DIDN'T KNOW WHAT THEY

1 WERE GOING TO CHARGE ME WITH, YOU KNOW, OTHER THAN
2 THAT, NO.

3 Q. OKAY. DID YOU ASK FOR A LAWYER?

4 A. YES, I DID.

5 Q. ALRIGHT. AND WHO DID YOU ASK FOR A LAWYER?

6 A. OFFICER SHUMPERT.

7 Q. ALRIGHT.

8 A. AND ALSO, I ASKED FOR THE WHOLE CREW, HIM, BAMBERG
9 AND SHUMPERT WERE IN THERE THAT MORNING BEFORE
10 THEY INITIALLY STARTED QUESTIONING ME THAT DAY
11 BEFORE WAS WHEN THEY ARRESTED ME, AND I ASKED ALL
12 OF THEM, I DIDN'T GIVE A STATEMENT TO ANYONE, I
13 ASKED ALL OF THEM COULD I HAVE A LAWYER FIRST, AND
14 THEY ALL DENIED ME TO HAVE A LAWYER. THEY
15 CONTINUED, ONE WOULD QUESTION ME ONE AFTER
16 ANOTHER. WHEN I CONTINUED TO ASK FOR A LAWYER
17 THAT'S WHEN THEY TOOK ME TO THE COUNTY JAIL. BUT
18 ON THAT MORNING I PARTICULARLY ASKED THEM WHEN I
19 CAME IN THERE, WHERE IS THE LAWYER AT THAT I ASKED
20 FOR?

21 Q. THAT WAS SEPTEMBER THIRTIETH?

22 A. YES, SIR, AND THAT'S WHEN HE TOLD ME, YOU DON'T
23 NEED YOUR LAWYER BECAUSE WE'RE NOT GOING TO CHARGE
24 YOU WITH MURDER OR ANYTHING, WE'RE JUST TRYING TO
25 HELP YOU.

DIRECT, IN CAMERA - GEORGE MOSES BY MR. MELLARD

43

1 Q. ALRIGHT.

2 MR. MELLARD: NO MORE QUESTION, YOUR
3 HONOR.

4 THE COURT: REDIRECT -- I'M SORRY,
5 CROSS-EXAM.

6 SOLICITOR SORENSON: COULD I SEE
7 THAT?

8 THE COURT: YES, SIR.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

44

CROSS-EXAMINATION, IN CAMERA, OF GEORGE MOSES

BY SOLICITOR SORENSON:

Q. YOU CAN READ AND WRITE, IS THAT CORRECT, MR.
MOSES?

A. YES, SIR.

Q. SEPTEMBER TWENTY-NINTH, THE MORNING THEY PICKED
YOU UP OVER AT YOUR JOB AT S. C. STATE, AND THEY
BROUGHT YOU OVER TO THE LAW ENFORCEMENT COMPLEX?

A. YES.

Q. OKAY. AND DO YOU RECALL GOING OVER STATE'S
EXHIBIT NUMBER ONE WITH THEM THAT MORNING?

A. YES.

Q. OKAY. AND THOSE ARE YOUR INITIALS AFTER EACH OF
THESE RIGHTS HERE, IS THAT CORRECT?

A. RIGHT.

Q. THAT'S YOUR SIGNATURE INDICATING THAT YOU
UNDERSTOOD THOSE RIGHTS?

A. RIGHT.

Q. YOUR SIGNATURE AT THE BOTTOM HERE INDICATING THAT
YOU WANTED TO WAIVE THOSE RIGHTS AND TALK, IS THAT
CORRECT?

A. YES, SIR.

Q. AND YOU SIGNED THEM, RIGHT?

A. YES.

Q. OKAY. AND THEY DIDN'T THREATEN YOU OR DO ANYTHING

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

45

1 TO YOU THAT MORNING, RIGHT?

2 A. NO, THEY DIDN'T.

3 Q. THEY DIDN'T PROMISE YOU ANYTHING, AND YOU'RE NOT
4 ALLEGING THAT ON THE TWENTY-NINTH, THAT FIRST
5 MORNING, THEY MADE ANY PROMISES TO YOU?

6 A. NO.

7 Q. DID ANYTHING TO YOU TO GET YOU TO TALK, YOU FREELY
8 AND VOLUNTARILY TALKED TO THEM THAT MORNING?

9 A. RIGHT.

10 Q. OKAY. AND THAT'S WHEN YOU TOLD THEM INITIALLY
11 THAT YOU, YOUR FIRST STORY WAS THAT YOU DIDN'T
12 KNOW ANYTHING ABOUT WHAT HAPPENED, IS THAT
13 CORRECT?

14 A. INITIALLY AFTER I SIGNED THAT THERE I WASN'T, I
15 WASN'T QUESTIONED, THEY DIDN'T, WHEN THEY FIRST
16 LOCKED ME UP OR BROUGHT ME TO THE POLICE STATION
17 NO ONE TOLD ME WHY I WAS BEING ARRESTED OR WHY I
18 WAS BROUGHT IN. IT WAS OFFICER KRAFT THAT BROUGHT
19 ME IN, HE DIDN'T TELL ME ANYTHING. WHEN I GOT TO
20 THE POLICE STATION THAT'S WHEN OFFICER SHUMPERT
21 BEGAN TO QUESTION ME, HE ASKED ME WHERE MY
22 CLOTHING WAS, AND THEN HE IMMEDIATELY ASKED ME
23 WOULD I GO TO MY HOUSE AND SHOW THEM WHERE THE
24 CLOTHING WAS. THAT'S WHEN WE WENT TO MY HOUSE AND
25 I SHOWED THEM WHERE THE CLOTHING WAS.

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

46

1 Q. OKAY. SO, DID YOU TELL THEM THAT MORNING THAT YOU
2 DIDN'T KNOW ANYTHING ABOUT WHAT HAD HAPPENED AT
3 HARRY'S HOUSE?

4 A. YEAH, I DIDN'T KNOW ANYTHING ABOUT IT.

5 Q. OKAY. AND THEN DID YOU THEN LATER ON CHANGE THAT
6 AND TELL THEM THAT YOU HAD BEEN OVER THERE BUYING
7 DRUGS BUT HAD LEFT, WHEN YOU LEFT HARRY WAS ALIVE
8 AND WELL?

9 A. NOT AT THAT TIME, NO, NOT THAT DAY THERE, NOT THE
10 TWENTY-NINTH.

11 Q. YOU DIDN'T TELL THEM THAT THAT MORNING AT ALL ON
12 THE TWENTY-NINTH?

13 A. I DIDN'T TELL THEM ANYTHING ABOUT WHERE I WAS OR
14 WHAT I WAS DOING ON THE TWENTY-NINTH.

15 Q. OKAY.

16 A. AND THEY NEVER TOLD ME WHAT I WAS BEING ARRESTED
17 FOR, SO I DIDN'T HAVE AN OPPORTUNITY TO.

18 Q. OKAY. SO, IT'S YOUR STORY THAT THAT DAY, THAT
19 FIRST DAY, ON THE TWENTY-NINTH, YOU HAD NO IDEA
20 WHY YOU WERE EVEN IN JAIL?

21 A. RIGHT.

22 Q. AND NO EARTHLY IDEA WHAT WAS GOING ON?

23 A. RIGHT, UNTIL AFTER WE LEFT MY HOUSE, OFFICER
24 SHUMPERT THEN TOLD ME WHAT I WAS BEING ARRESTED
25 FOR. THEN I KNEW WHAT THE SITUATION WAS.

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

47

1 Q. OKAY. DID YOU THEN TELL THEM THAT YOU HAD BEEN TO
2 HARRY'S HOUSE THAT MORNING?

3 A. NO, SIR, I THEN IMMEDIATELY ASKED THEM COULD I
4 HAVE A LAWYER.

5 Q. OKAY. NOW, THE FOLLOWING DAY, ON THE THIRTIETH,
6 YOU RECALL STATE'S EXHIBIT NUMBER TWO, IS THAT
7 CORRECT?

8 A. RIGHT.

9 Q. ALRIGHT. AND YET AGAIN, THOSE ARE YOUR INITIALS
10 OVER NEXT TO THE NUMBERS ONE THROUGH FIVE, RIGHT?

11 A. CORRECT.

12 Q. SO, THEY WENT OVER THOSE RIGHTS WITH YOU AGAIN?

13 A. CORRECT.

14 Q. YOU INITIALED EACH OF THOSE RIGHTS?

15 A. UH HUH.

16 Q. SIGNED, AND THAT'S YOUR SIGNATURE INDICATING THAT
17 YOU UNDERSTAND THOSE RIGHTS, RIGHT?

18 A. CORRECT.

19 Q. YOU UNDERSTOOD WHAT THEY WERE GOING OVER WITH YOU,
20 RIGHT?

21 A. UH HUH.

22 Q. I MEAN, YOU, THIS WASN'T THE FIRST TIME YOU'VE
23 EVER BEEN ARRESTED BEFORE AND HAD YOUR RIGHTS READ
24 TO YOU, RIGHT?

25 A. CORRECT.

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

48

1 Q. ALRIGHT. AND THEN THEY WENT OVER THE WAIVER OF
2 RIGHTS SECTION WITH YOU ALSO, IS THAT CORRECT?

3 A. UH HUH.

4 Q. AND THAT'S YOUR SIGNATURE?

5 A. CORRECT.

6 Q. INDICATING THAT YOU UNDERSTOOD THOSE RIGHTS AND
7 WERE WILLING TO WAIVE THOSE RIGHTS, AND NOBODY HAD
8 MADE ANY, MADE ANY PROMISES OR THREATS AND NO
9 PRESSURE OR COERCION HAS BEEN MADE AGAINST ME,
10 THAT'S YOUR SIGNATURE, RIGHT?

11 A. THAT'S RIGHT.

12 Q. NOW, IT'S YOUR TESTIMONY FROM DIRECT THAT THEN
13 STATE'S EXHIBIT NUMBER THREE, THE STATEMENT THAT
14 WAS GIVEN, ARE YOU TELLING ME YOU'VE NEVER HAD A
15 CHANCE TO READ THIS?

16 A. I READ IT NOW BUT THAT MORNING I DIDN'T READ IT.

17 Q. YOU DIDN'T READ IT THAT MORNING?

18 A. NO, I JUST SIGNED IT.

19 Q. ALRIGHT. BUT IT'S YOUR TESTIMONY THAT YOU WANTED
20 TO WRITE IT YOURSELF, IS THAT CORRECT?

21 A. YES, SIR.

22 Q. LET ME ASK YOU THIS, DO YOU REMEMBER GOING OVER
23 THE FIRST SEVERAL LINES HERE WHERE IT SAYS, "I,
24 GEORGE NAPOLEON MOSES, IS ALLOWING ROMAN RODRIGUEZ
25 OF THE ORANGEBURG COUNTY SHERIFF'S OFFICE TO WRITE

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

49

1 THIS STATEMENT FOR ME. THE HANDWRITING IS NOT
2 MINE BUT THE WORDS ARE." THAT'S YOUR INITIALS
3 RIGHT AFTER THAT, RIGHT?

4 A. YES, IT IS.

5 Q. AND YOU PLACED THOSE INITIALS THERE, IS THAT
6 CORRECT?

7 A. YES, I DID.

8 Q. OKAY. AND THEN ULTIMATELY AT THE END OF THIS YOU
9 HAD A CHANCE TO INITIAL AT THE END OF THE
10 STATEMENT, IS THAT CORRECT, THEY PUT A LINE JUST
11 SO NOBODY COULD GO BACK AND ADD ANYTHING, IS THAT
12 CORRECT?

13 A. UH HUH.

14 Q. AND THAT'S YOUR INITIALS?

15 A. UH HUH.

16 Q. AND YOU SIGNED IT, RIGHT?

17 A. YES, I DID.

18 Q. OKAY. AND WHAT DOES IT SAY RIGHT ABOVE THAT? "I
19 HAVE READ THE ABOVE THOROUGHLY, I HAVE MADE THE
20 NECESSARY CORRECTIONS AND INITIALED EACH TO MAKE
21 THIS A FACTUAL AND COMPLETE REPRESENTATION." YOU
22 SIGNED THAT, IS THAT CORRECT?

23 A. UH HUH.

24 Q. AND YOU SAT DOWN AND HAD A CONVERSATION WITH
25 DETECTIVE RODRIGUEZ THAT MORNING WHEN HE WAS

CROSS, IN CAMERA - GEORGE MOSES
BY SOLICITOR SORENSON

50

1 WRITING OUT WHAT YOU WERE TELLING HIM, IS THAT
2 CORRECT?

3 A. UH HUH.

4 Q. OKAY. AND THAT'S WHAT THIS THREE PAGE STATEMENT
5 ENDED UP, AFTER THAT CONVERSATION WITH THEM, IS
6 THAT CORRECT?

7 A. THAT'S IT.

8 Q. AND HE WASN'T THREATENING YOU AT ANY POINT IN
9 TIME, AND HE WASN'T YELLING AT YOU OR ANYTHING?

10 A. I WAS IN EFFECT THEY WAS SAYING I WASN'T GOING TO
11 BE CHARGED WITH IT, AND THEY KNOW THAT I DIDN'T DO
12 ANYTHING AS FAR AS MURDERING THIS MAN OR ANYTHING
13 LIKE THAT. OTHER THAN THAT, NO.

14 Q. OKAY. ARE YOU TELLING ME THEY TOLD YOU THAT HE
15 JUST DIED OF A HEART ATTACK AND IT WASN'T EVEN A
16 MURDER INVESTIGATION?

17 A. THAT'S WHAT HE TOLD ME.

18 Q. AND WHO WAS IN THE ROOM THERE WHEN YOU GAVE,
19 PROVIDED THIS STATEMENT THAT DETECTIVE RODRIGUEZ
20 WAS WRITING DOWN FOR YOU?

21 A. NOBODY BUT OFFICER RODRIGUEZ AND MYSELF.

22 Q. SO, LIEUTENANT SHUMPERT WASN'T PRESENT FOR THAT?

23 A. NO, SIR.

24 Q. THAT'S HIS SIGNATURE WITNESSING IT, IS THAT
25 CORRECT?

1 A. AFTER OFFICER RODRIGUEZ WROTE THIS STATEMENT, ME
2 AND HIM WENT OVER IT, THEN OFFICER SHUMPERT AND
3 MS. BAMBERG CAME BACK FROM WHEREVER THEY WAS IN
4 THE OTHER PART OF THE JAIL, AND THAT'S WHEN THEY,
5 HE SIGNED THAT WITNESSING THAT FORM.

6 Q. OKAY. AND THAT'S AFTER THE TWO OF Y'ALL, AND YOU
7 JUST TESTIFIED, AFTER Y'ALL WENT OVER THE
8 STATEMENT?

9 A. YEAH.

10 Q. OKAY.

11 SOLICITOR SORENSON: I BEG THE
12 COURT'S INDULGENCE. NOTHING ELSE, YOUR HONOR.

13 THE COURT: LET ME SEE THE EXHIBITS.
14 REDIRECT?

15 MR. MELLARD: WE HAVE NOTHING
16 FURTHER.

17 THE COURT: YOU CAN STEP DOWN, MR.
18 MOSES.

19 ANY OTHER WITNESS OR TESTIMONY OR
20 EVIDENCE FROM THE DEFENSE?

21 MR. MELLARD: NO, SIR.

22 THE COURT: AND THIS IS YOUR MOTION
23 TO SUPPRESS. I'LL BE GLAD TO HEAR YOU, AND THEN I'LL
24 HEAR THE STATE AND THEN I'LL HEAR YOU IN RESPONSE.

25 MR. MELLARD: YES, SIR. THERE'S TWO

1 THINGS YOU'VE GOT TO DETERMINE: FIRST OF ALL, WHETHER
2 THE STATEMENT WAS GIVEN BY THE DEFENDANT AND WHETHER IT
3 WAS FREELY AND VOLUNTARILY GIVEN. LOOKING AT THE
4 SEPTEMBER TWENTY-NINTH STATEMENT, FIRST OF ALL, MR.
5 MOSES SAID HE NEVER GAVE THE STATEMENT THAT WE HEARD.
6 AND SECOND OF ALL, SHUMPERT TESTIFIED THAT HE DIDN'T
7 EVEN WRITE THIS STUFF DOWN FOR MORE THAN A DAY. THIS
8 STATEMENT WAS ALLEGEDLY GIVEN ON SEPTEMBER TWENTY-NINTH,
9 HIS NOTES SAY SEPTEMBER THIRTIETH, SO WE'RE LOOKING AT
10 MAYBE TWENTY-FOUR HOURS, MAYBE MORE, MAYBE A LITTLE
11 LESS, GOING BY. HE HAS NO NOTES ABOUT WHAT IT IS, HE'S
12 JUST GOING OFF ON WHAT HIS MEMORY IS. SO, I WOULD SAY
13 THAT, NUMBER ONE, THERE'S NO STATEMENT, NO EVIDENCE THAT
14 GEORGE MOSES GAVE THIS STATEMENT; AND NUMBER TWO, THAT
15 EVEN IF IT WAS GIVEN THERE'S NO WAY YOU CAN SAY THIS IS
16 AN ACCURATE STATEMENT OF WHAT WAS GIVEN. SO, AS FAR AS
17 THE SEPTEMBER TWENTY-NINTH STATEMENT, I WOULD SAY THAT
18 NEEDS TO BE SUPPRESSED. IT'S NOT ACCURATE AND THERE'S
19 NO EVIDENCE THAT GEORGE MOSES ACTUALLY GAVE THAT
20 STATEMENT. THERE'S NO NOTES OR ANYTHING FROM THE
21 OFFICER.

22 AS FAR AS THE SEPTEMBER THIRTIETH
23 STATEMENT, WE HAVE TESTIMONY FROM MR. MOSES THAT HE
24 ASKED FOR A LAWYER, HE WASN'T ALLOWED TO HAVE A LAWYER,
25 HE WASN'T ALLOWED TO WRITE THE STATEMENT HIMSELF EVEN

1 THOUGH HE SAYS HE WANTED TO. HE DIDN'T READ THE
2 STATEMENT, HE COULDN'T HE SAYS BECAUSE HE DIDN'T HAVE
3 THE EYE GLASSES. THE OFFICERS TOLD HIM HE WOULDN'T BE
4 CHARGED WITH ANYTHING, THEY TOLD HIM THAT THEY WERE JUST
5 INVESTIGATING A HEART ATTACK. THEY TOLD HIM IT WASN'T
6 A MURDER INVESTIGATION. AND ONLY RODRIGUEZ WAS THERE.
7 THE VERY PERSON THAT WROTE THE STATEMENT IS THE ONLY ONE
8 THAT WAS ACTUALLY THERE. SO, WE WOULD SAY THAT, AGAIN,
9 THE STATEMENT WAS NOT FREELY AND VOLUNTARILY GIVEN.

10 SO, FOR THAT, FOR THOSE GROUNDS, WE
11 WOULD SAY THAT THAT STATEMENT ALSO NEEDS TO BE
12 SUPPRESSED.

13 THE COURT: MR. SORENSON.

14 SOLICITOR SORENSON: THANK YOU, MAY
15 IT PLEASE THE COURT. YOUR HONOR, AS TO THE FIRST, THE
16 FIRST NINE/TWENTY-NINE, THE ORAL STATEMENT, I WOULD
17 SUBMIT TO YOU THAT, YOU KNOW, WHAT MR. MELLARD IS
18 ARGUING BASICALLY JUST GOES TOWARDS THE WEIGHT AND
19 THAT'S SOMETHING THAT ULTIMATELY THE JURY WOULD HAVE TO
20 DETERMINE. ALSO, I THINK, BY THE PREPONDERANCE OF THE
21 EVIDENCE WE HAVE PROVEN THAT MR. MOSES GAVE, DID, IN
22 FACT, GIVE THAT ORAL STATEMENT THAT MORNING, JUST FROM
23 LIEUTENANT SHUMPERT'S TESTIMONY. I MEAN, HE TESTIFIED
24 THAT HE ADVISED HIM OF HIS RIGHTS, THAT HE WAIVED THOSE
25 RIGHTS THAT MORNING, UNDERSTOOD THEM AND WAIVED THEM,

1 AND THEN HAD PROVIDED WHAT HE DOCUMENTED TO THE COURT
2 AS AN ORAL STATEMENT WHICH HE THEN, WHETHER IT WAS LATER
3 ON THAT NIGHT OR THE FOLLOWING DAY, DOCUMENTED IN HIS
4 NOTES, AND SO THERE IS DOCUMENTATION OF THAT. THOSE
5 POINTS MR. MELLARD BRINGS OUT ARE ALL THINGS THAT HE
6 COULD CROSS-EXAMINE LIEUTENANT SHUMPERT ON. ULTIMATELY,
7 AS YOUR HONOR KNOWS, THE JURY WILL HAVE TO MAKE THAT
8 FINAL DETERMINATION. BUT I THINK AT THIS POINT IN TIME
9 WE'VE CARRIED OUR BURDEN AS TO THAT FIRST ORAL STATEMENT
10 ON NINE/TWENTY-NINE, THAT HE WAS ADVISED OF HIS RIGHTS,
11 WAIVED THOSE RIGHTS, AND GAVE THAT STATEMENT.

12 AS TO THE SECOND STATEMENT ON
13 NINE/THIRTY, YOUR HONOR, I MEAN, THE SAME THING. I MEAN,
14 YOU HAVE AN ADVICE OF RIGHTS FORM WHICH EVEN THIS
15 DEFENDANT ADMITS THAT HE WENT OVER, WAS GONE OVER WITH
16 HIM, HE INITIALED AFTER EACH OF THOSE RIGHTS, SIGNED
17 INDICATING THAT HE UNDERSTOOD HIS RIGHTS, AND SIGNED
18 INDICATING THAT HE WISHED TO WAIVE HIS RIGHTS.

19 THEN WE HAVE A WRITTEN STATEMENT
20 THAT HE INITIALED AFTER THE FIRST PORTION INDICATING
21 THAT HE WISHED DETECTIVE RODRIGUEZ TO WRITE THE
22 STATEMENT FOR HIM, AND THEN IN HIS OWN TESTIMONY HE
23 INDICATED THAT AFTER THEY WERE DONE HE WENT OVER THE
24 STATEMENT WITH DETECTIVE RODRIGUEZ AND SIGNED IT. I
25 MEAN, I THINK, I MEAN, CLEARLY WE'VE PROVEN, MET OUR

1 BURDEN AS FAR AS YET AGAIN, HIM BEING ADVISED OF HIS
2 RIGHTS, WAIVING THOSE RIGHTS, AND FREELY AND VOLUNTARILY
3 GIVING A STATEMENT. AND THE THINGS THAT MR. MELLARD
4 BRINGS UP ARE THINGS THAT GO TOWARDS WHAT WEIGHT IT
5 SHOULD BE GIVEN. I MEAN, ULTIMATELY IT'S A
6 DETERMINATION THAT THE JURY HAS TO MAKE AS TO WHAT
7 WEIGHT THEY WANT TO GIVE TO THOSE STATEMENTS.

8 THE COURT: RESPONSE, MR. MELLARD?

9 MR. MELLARD: AT LEAST AS FAR AS THE
10 SEPTEMBER TWENTY-NINTH STATEMENT, THERE'S AN ISSUE OF
11 WHETHER OR NOT IT WAS EVEN GIVEN BY THE DEFENDANT. THE
12 DEFENDANT SAYS IT WAS NOT, AND AGAIN, THEY DON'T HAVE
13 ANY NOTES. IT'S JUST GOING ON WHAT RECOLLECTION A DAY
14 AFTER THAT. SO, WE WOULD SAY AT LEAST AS FAR AS THE
15 SEPTEMBER TWENTY-NINTH STATEMENT, THERE'S NOT EVEN ANY
16 EVIDENCE THAT HE GAVE THAT STATEMENT.

17 THE COURT: ALRIGHT, WELL, THE
18 EVIDENCE IS THAT THE OFFICER TESTIFIED HE GAVE IT. I
19 MEAN, THAT'S SOME EVIDENCE FOR THE JURY TO WEIGH, AND
20 ULTIMATELY IT WILL BE FOR THE JURY TO DECIDE WHETHER HE
21 MADE EACH OF THESE STATEMENTS AND IF HE MADE EACH ONE OF
22 THEM WHETHER EACH ONE OF THEM WAS MADE FREELY,
23 VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY. AND OF
24 COURSE, I'LL INSTRUCT THE JURY IF THEY FIND THAT HE
25 DIDN'T MAKE THEM THEY WOULDN'T CONSIDER THEM. IF THEY

1 FIND THEY WEREN'T MADE FREELY AND VOLUNTARILY THEY
2 WOULDN'T CONSIDER THEM.

3 IN REGARD TO THE FIRST STATEMENT,
4 WELL, THE DEFENDANT DENIED MAKING IT, SO OBVIOUSLY,
5 THERE'S NO TESTIMONY HE WAS PROMISED ANYTHING OR
6 THREATENED IN ORDER TO MAKE IT. THE OFFICER TESTIFIED
7 HE WASN'T PROMISED ANYTHING OR THREATENED ANYTHING. HE
8 TESTIFIED HE SEEMED TO UNDERSTAND THE QUESTIONS AND HE
9 ANSWERED THEM. AND SO, THERE'S SIMPLY NO EVIDENCE THAT
10 IT WASN'T ANYTHING BUT FREELY AND VOLUNTARILY MADE AS
11 FAR AS THE FIRST STATEMENT IS CONCERNED, FROM THE
12 STATE'S SIDE. NOW, THE JURY WILL HAVE TO DECIDE WHETHER
13 HE MADE IT OR NOT, THAT'S A QUESTION OF CREDIBILITY OR
14 BELIEVABILITY OF THE WITNESSES. AND HE WAS ALSO, AS I
15 SAID, GIVEN THE MIRANDA RIGHTS, HE SIGNED THE DOCUMENT,
16 AND HE ADMITTED SIGNING THE DOCUMENT, I THINK HE DID, ON
17 THE TWENTY-NINTH STATEMENT, DIDN'T HE? HE ADMITTED
18 SIGNING THAT WAIVER OF RIGHTS.

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: SO, HE WAS GIVEN THOSE
21 RIGHTS AND APPEARED TO UNDERSTAND THEM AND SIGNED THAT
22 WAIVER. SO, I FIND THAT STATEMENT IS ADMISSIBLE.

23 THE SECOND STATEMENT, HE ALSO SIGNED
24 THE RIGHTS, HAD THE FORM, HE ADMITTED HE DID THAT, AND
25 THEN THE ONLY THING HE SAID WAS THAT HE DIDN'T READ THE

1 STATEMENT. HE DIDN'T, REALLY NEVER TESTIFIED THAT IT
2 WASN'T AN ACCURATE STATEMENT AS IT EXISTED HERE TODAY I
3 DON'T THINK. HE DIDN'T DENY GIVING THE STATEMENT, HE
4 JUST SAID THAT HE WAS PROMISED THAT HE WOULDN'T BE
5 CHARGED WITH MURDER, THEY THOUGHT IT WAS A HEART ATTACK.
6 WELL, EVEN IF THE OFFICER TOLD HIM THAT AND THEN HE TOLD
7 HIM THAT HE HAD STABBED THE MAN, IT WOULD BE
8 UNREASONABLE IN BOTH, AND IRRATIONAL FOR THE DEFENDANT
9 TO THINK HE WASN'T GOING TO BE CHARGED AFTER HE ADMITTED
10 HIS INVOLVEMENT IN THE CRIME. UNDER THOSE CIRCUMSTANCES
11 HE COULD HAVE NOT RELIED ON ANY -- IF THE OFFICER MADE
12 THAT STATEMENT HE COULDN'T HAVE RELIED ON IT. SO, I
13 FIND THAT THAT STATEMENT WAS MADE AFTER HE WAS GIVEN HIS
14 RIGHTS, HE WAS NOT PROMISED ANYTHING, HE WAS NOT
15 THREATENED IN ANY WAY WHATSOEVER. HE HAD BEEN GIVEN HIS
16 RIGHTS, HE SIGNED THE STATEMENT AS HE WAS GIVEN, AS TO
17 EACH OF THE FIVE COMPONENTS OF THE RIGHTS AND HE SIGNED
18 THE STATEMENT THAT HE UNDERSTOOD THOSE RIGHTS AND WANTED
19 TO ANSWER QUESTIONS. SO, I FIND THAT THIS STATEMENT
20 ALSO WAS FREELY, VOLUNTARILY, KNOWINGLY AND
21 INTELLIGENTLY GIVEN AFTER HE WAS ADVISED OF HIS RIGHTS
22 AND WAIVED THOSE RIGHTS.

23 AND SO, I FIND THAT BOTH STATEMENTS
24 WOULD BE ADMITTED INTO EVIDENCE, IT WOULD BE UP TO THE
25 JURY TO DETERMINE WHAT, IF ANY, WEIGHT THAT THEY WOULD

1 BE GIVEN.

2 ALRIGHT, WHAT ARE THE OTHER PRETRIAL
3 MATTERS?

4 SOLICITOR SORENSON: YOUR HONOR, THE
5 NEXT ONE -- DO YOU HAVE THE INDICTMENTS UP THERE BY ANY
6 CHANCE?

7 THE COURT: I DO NOT.

8 SOLICITOR SORENSON: ALRIGHT, LET ME
9 HAND UP TO YOU JUST CERTIFIED COPIES OF THEM FOR RIGHT
10 NOW.

11 THE COURT: OH, I HAVE A QUESTION.
12 APPARENTLY, AN OFFICER BY THE NAME OF TODD WILLIAMS WAS
13 PRESENT WITH MR. SHUMPERT WHEN THE ORAL STATEMENT WAS
14 GIVEN.

15 SOLICITOR SORENSON: THAT'S MY
16 UNDERSTANDING.

17 THE COURT: I ASSUME YOU'RE TALKING
18 ABOUT MY BROTHER.

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: WELL, THE RULES ARE THAT
21 IF MY BROTHER IS A MATERIAL WITNESS IN A CASE THAT I
22 MUST RECUSE MYSELF. NOW, IF YOU'RE GOING TO MAKE THAT
23 ASSERTION YOU NEED TO MAKE IT RIGHT NOW.

24 SOLICITOR SORENSON: GIVE ME A
25 SECOND, YOUR HONOR.

1 THE COURT: DO YOU HAVE ANY
2 INTENTION OF CALLING HIM?

3 SOLICITOR SORENSON: NO, SIR.

4 THE COURT: WHEN DID Y'ALL FIRST
5 LEARN THAT HE WAS PRESENT?

6 MR. MELLARD: ABOUT TEN MINUTES AGO.

7 SOLICITOR SORENSON: IT'S IN HIS
8 NOTES, YOUR HONOR. I MEAN, I'M NOT SAYING THAT -- I
9 MEAN, IT'S NOT SOMETHING WE'VE BEEN HIDING FROM THEM,
10 IT'S IN LIEUTENANT SHUMPERT'S NOTES.

11 THE COURT: DO YOU HAVE ANY REASON
12 TO THINK THAT ANYTHING HE WOULD SAY WOULD BE MATERIAL TO
13 YOUR DEFENSE IN THIS CASE?

14 MR. MELLARD: ARE YOU TALKING ABOUT
15 OFFICER - - -

16 THE COURT: I'M TALKING ABOUT TODD.

17 MR. MELLARD: TODD? NO, SIR, I
18 DON'T.

19 THE COURT: OKAY. BEFORE I WOULD
20 RECUSE MYSELF I WOULD REQUIRE YOU TO GET HIM UP HERE,
21 HAVE HIM TESTIFY, AND I WOULD HAVE TO CONCLUDE THAT HE'S
22 A MATERIAL WITNESS. NOW, IF THERE WERE SOME EVIDENCE
23 THAT HE WAS A MATERIAL WITNESS I WOULDN'T BE SO HARD ON
24 THAT ISSUE, BUT FROM WHAT I UNDERSTAND HE WAS JUST
25 THERE, AND WILL NOT BE CALLED ON TO TESTIFY. HE DID NOT

1 SIGN ANY PAPERS, HIS NAME DOES NOT EVEN NEED TO APPEAR
2 BEFORE THE JURY, AND IF IT DID HE PROBABLY WOULDN'T KNOW
3 HIM ANYHOW.

4 MR. MELLARD: THE ONLY THING THAT HE
5 SIGNS IS, HE SIGNS THAT FIRST ADVICE OF RIGHTS FORM.

6 THE COURT: OH, HE DID?

7 MR. MELLARD: YES, SIR.

8 THE COURT: OKAY. ALRIGHT. WELL, I
9 DON'T THINK THAT MAKES HIM A MATERIAL WITNESS, BUT IF
10 YOU THINK OTHERWISE THEN WE NEED TO GET HIM UP HERE AND
11 HAVE HIM TESTIFY. IF YOU'VE GOT SOME REASON, I MEAN,
12 THERE'S NO USE TO GO THROUGH THAT UNLESS YOU'VE GOT SOME
13 REASON TO THINK THAT HE WOULD BE A MATERIAL WITNESS.

14 MR. MELLARD: I THINK OUT OF AN
15 ABUNDANCE OF CAUTION I'D LIKE HIM HERE TO TESTIFY.

16 THE COURT: WELL, YOU'D BETTER GET
17 HIM BECAUSE THAT'S YOUR JOB.

18 MR. MELLARD: OKAY.

19 THE COURT: BUT IT SHOULD HAVE BEEN
20 DONE A LONG TIME AGO AND NOT TODAY, IF YOU HAD SOME
21 REASON TO THINK HE WAS A MATERIAL WITNESS.

22 ALRIGHT, WHAT ABOUT THESE
23 INDICTMENTS?

24 SOLICITOR SORENSON: YOUR HONOR, AS
25 TO -- WE WOULD HAVE - - -

1 THE COURT: I MEAN, THIS CASE HAS
2 BEEN SET FOR TRIAL FOR WEEKS AND WEEKS, I KNOW OF MY OWN
3 PERSONAL KNOWLEDGE.

4 ALRIGHT, SIR, GO AHEAD.

5 SOLICITOR SORENSON: YOUR HONOR, WE
6 HAVE A MOTION REGARDING THE MURDER INDICTMENT, TO AMEND
7 SOME LANGUAGE IN THERE. DOES YOUR HONOR HAVE IT IN
8 FRONT OF YOU WHERE - - -

9 THE COURT: I DO.

10 SOLICITOR SORENSON: --- ALRIGHT,
11 WHERE IT INDICATES, I CAN JUST PUBLISH IT, "THAT GEORGE
12 NAPOLEON MOSES DID, IN ORANGEBURG COUNTY, ON OR ABOUT
13 SEPTEMBER TWENTY-NINTH, TWO THOUSAND AND SIX, WITH
14 MALICE AFORETHOUGHT, KILL ONE HARRY LIVINGSTON." AND
15 THIS IS THE PART THAT NEEDS TO BE, OUR MOTION WOULD BE
16 TO AMEND, "BY MEANS OF STABBING THE VICTIM WITH A KNIFE,
17 AND SAID VICTIM DID DIE AS A PROXIMATE RESULT THEREOF."
18 AND THEN IT REFERENCES THE STATUTE. YOUR HONOR, IN
19 REVIEWING, IN TALKING TO THE PATHOLOGIST AND REVIEWING
20 THE AUTOPSY REPORT, WHILE THE VICTIM WAS STABBED
21 MULTIPLE TIMES, IT WAS ACTUALLY BLUNT FORCE TRAUMA TO
22 HIS HEAD THAT CAUSED, THAT WAS ACTUALLY THE FATAL BLOWS,
23 AND WE WOULD BE SEEKING THE AMEND THE INDICTMENT TO ADD
24 IN THE LANGUAGE, "AND/OR BLUNT FORCE TRAUMA TO THE HEAD"
25 AFTER THE, "BY MEANS OF STABBING THE VICTIM WITH A

1 KNIFE." OUR POSITION WOULD BE, YOUR HONOR, THAT THAT
2 WOULD BE PERMISSIBLE UNDER, WHAT IS IT, THE STATUTE THAT
3 DEALS WITH AMENDING INDICTMENTS, SEVENTEEN, DASH,
4 NINETEEN, DASH, ONE HUNDRED, THAT BASICALLY SAYS THAT IT
5 WOULD BE -- JUST ONE SECOND -- THE STATUTE SAYS,
6 "AMENDMENTS OF INDICTMENTS," AND WE WOULD BE DEALING
7 WITH SUBSECTION D, "ON THE TRIAL OF ANY CASE THERE SHALL
8 APPEAR TO BE ANY VARIANCE BETWEEN THE ALLEGATIONS OF THE
9 INDICTMENT AND THE EVIDENCE OFFERED IN PROOF THEREOF,
10 THE COURT BEFORE WHICH THE TRIAL SHALL BE HAD MAY AMEND
11 THE INDICTMENT IF SUCH AMENDMENT DOES NOT CHANGE THE
12 NATURE OF THE OFFENSE CHARGED." AND IT WOULD BE MY
13 POSITION THAT PUTTING THAT ADDITIONAL LANGUAGE IN THERE
14 DOES NOT CHANGE THE NATURE OF THE OFFENSE, IT'S STILL A
15 MURDER CHARGE, IT DOESN'T CHANGE THE PENALTY, IT DOESN'T
16 CHANGE THE ELEMENTS OR ANYTHING LIKE THAT. I MEAN, MOST
17 OF THE CASES THAT DEAL WITH THIS DEAL WITH, YOU KNOW,
18 ACTUALLY CHANGING THE OFFENSE CHARGED, I MEAN, TO
19 WHETHER IT WOULD BE A DIFFERENT DEGREE OF CSC OR
20 CHANGING THE AGGRAVATING CIRCUMSTANCES IN A BURGLARY, OR
21 SOMETHING OF THOSE NATURES. I MEAN, IN THIS WE'RE NOT
22 DOING ANYTHING, IT'S NOT CHANGING ANY OF THE ELEMENTS
23 THAT THE STATE HAS TO PROVE. AND IT GOES, FURTHERMORE
24 IT GOES ON TO SAY, "AFTER SUCH AMENDMENT THE TRIAL SHALL
25 PROCEED IN ALL RESPECTS UNLESS SUCH AMENDMENT SHALL

1 OPERATE AS A SURPRISE TO THE DEFENDANT, IN WHICH CASE
2 THEY WOULD BE ENTITLED TO A CONTINUANCE." IT WOULD BE
3 MY POSITION, YOUR HONOR, AS I SAID, THIS HAS ALL BEEN
4 DOCUMENTED IN THE AUTOPSY REPORT WHICH THEY HAVE A COPY
5 OF. I ALSO KNOW THEY HAVE TALKED TO THE PATHOLOGIST SO
6 I ASSUME FROM THEM TALKING TO HER THEY WOULD HAVE
7 LEARNED THAT JUST LIKE I DO WHEN I TALK TO ONE ALSO.

8 THE COURT: ALRIGHT, MR. MELLARD.

9 MR. MELLARD: YES, SIR. STATE
10 VERSUS GUTHRY, WHAT THAT SAYS IS, THE APPROPRIATE
11 ANALYSIS IS WHETHER THE AMENDMENT CHANGES THE NATURE OF
12 THE OFFENSE, NOT WHETHER THE AMENDMENT SURPRISED OR
13 PREJUDICED THE DEFENDANT. SO, I DON'T THINK THE
14 SURPRISE ELEMENT IS REALLY WHAT MATTERS HERE. WHAT THE
15 COURT NEEDS TO FOCUS ON IS WHETHER OR NOT THIS AMENDMENT
16 IS GOING TO CHANGE THE NATURE OF THE OFFENSE. NOW, WHAT
17 WE HAVE HERE IS AN INDICTMENT THAT SAYS THAT THE
18 DEFENDANT KILLED, I MEAN, KILLED HARRY LIVINGSTON BY
19 MEANS OF STABBING HIM WITH A KNIFE AND THAT THE VICTIM
20 DIED AS A PROXIMATE RESULT THEREOF. THIS INDICTMENT WAS
21 TAKEN TO THE GRAND JURY IN DECEMBER OF O-SIX, THAT'S
22 ABOUT TWO AND A HALF MONTHS AFTER THE ALLEGED INCIDENT,
23 AND THIS IS AFTER LAW ENFORCEMENT HAD RECEIVED THE
24 RESULTS OF THE AUTOPSY REPORT. I BELIEVE THEY GOT THAT
25 IN OCTOBER OF O-SIX. SO, THEY KNEW WHAT THE AUTOPSY

1 SAID, THEY TOOK IT, ACTUALLY, THERE WAS ANOTHER
2 SOLICITOR INVOLVED, BUT THAT SOLICITOR TOOK IT TO THE
3 GRAND JURY, AND BASED ON WHAT THE GRAND JURY DETERMINED,
4 THEY DETERMINED THAT THE CAUSE OF DEATH WAS STABBING. IN
5 EFFECT, THEY RULED OUT ANY OTHER CAUSE OF DEATH. THAT'S
6 BASED ON WHAT THEY HEARD.

7 NOW, THERE ARE CASES OUT THERE, LIKE
8 THE SOLICITOR SAID, THAT SAY THAT YOU CAN'T CHANGE THE
9 NATURE OF THE OFFENSE. STATE VERSUS LYNCH, THE
10 DEFENDANT IS INDICTED FOR BURGLARY, FIRST, THE
11 AGGRAVATING CIRCUMSTANCES BEING THAT THE OFFENSE
12 OCCURRED AT NIGHT TIME. NOW, THE SOLICITORS WANTED TO
13 CHANGE THAT, THEY WANTED TO CHANGE, STRIKE OUT THE NIGHT
14 TIME THING AND PUT IN THE AGGRAVATING CIRCUMSTANCE WAS
15 THAT IT CAUSED PHYSICAL INJURY. NOW, THE COURT
16 DETERMINED THAT CHANGED THE NATURE OF THE OFFENSE, THE
17 SAME THING AS IF THEY WANTED TO ADD OTHER THINGS. IF
18 THEY WANTED TO ADD -- THAT HE WAS STABBED, AND THEN THEY
19 WANTED TO ADD THAT IT WAS DUE TO SOME SORT OF OTHER
20 INJURY, THE COURTS HAVE DETERMINED AT LEAST IN THE CASE,
21 THE BURGLARY CASES, THAT ADDING THINGS CHANGES THE
22 NATURE OF THE OFFENSE. SO, TO CHANGE THE INDICTMENT
23 FROM, THE VICTIM WAS STABBED, AND THAT THE STABBING WAS
24 THE PROXIMATE RESULT OF DEATH, TO ANYTHING ELSE WOULD,
25 UNDER THE CASES THAT I'VE SEEN AT LEAST, CHANGE THE

1 NATURE OF THE OFFENSE.

2 AND ONE OTHER THING, SECTION
3 SEVENTEEN, DASH, NINETEEN, DASH, THIRTY, SAYS THAT IN
4 ORDER TO HAVE A MURDER INDICTMENT BE SUFFICIENT YOU'VE
5 GOT TO SET FORTH A TIME AND PLACE AND ALSO TO SET FORTH
6 THE MANNER IN WHICH THE DEATH OF THE DECEDENT WAS
7 CAUSED. IN THIS CASE THEY'RE SAYING IT WAS A STABBING.
8 THEY WANT TO CHANGE IT, AND THAT CHANGES THE NATURE OF
9 THE OFFENSE, AND WE WOULD SAY THAT THEY SHOULD NOT BE
10 ALLOWED TO AMEND.

11 THE COURT: ANYTHING ELSE YOU WANT
12 TO ADD?

13 SOLICITOR SORENSON: JUST, YOUR
14 HONOR, JUST IF I COULD DISTINGUISH, HE HAD TALKED ABOUT
15 STATE VERSUS LYNCH DEALING WITH A BURGLARY CASE. WELL,
16 IN THAT CASE SPECIFICALLY THE STATE WAS ASKING THEM TO
17 CHANGE AN ELEMENT, I MEANA, BECAUSE WHETHER IT HAPPENED
18 IN HOURS OF DARKNESS OR WHETHER THE PERSON HAD TWO PRIOR
19 CONVICTIONS, THAT'S AN ELEMENT THE STATE HAS TO PROVE.
20 IN THIS CASE I SUBMIT TO YOU THAT, I MEAN, ELEMENTS FOR
21 MURDER ARE THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
22 AFORETHOUGHT. THAT'S THE ELEMENTS OF MURDER, THAT
23 HASN'T CHANGED.

24 THE COURT: ANYTHING ELSE?

25 MR. MELLARD: YES, SIR. IF YOU

1 CHANGE THE NATURE OF THE OFFENSE, IF YOU CHANGE IT FROM
2 THE KILLING WAS BY STABBING, RIGHT NOW WE GO TO TRIAL
3 TOMORROW, KILLING BY STABBING, WE WIN. AND THIS IS AN
4 ADD A LOT CASE. I DON'T THINK THE COURT NEEDS TO
5 OVERTURN WHAT THE GRAND JURY DID. IF THEY WANT TO SEND
6 IT BACK TO THE GRAND JURY THAT'S ONE THING. BUT WE'RE
7 DEALING WITH AN ADD A LOT CASE THAT IF WE GO ON THE
8 THEORY THAT IF KILLING WAS BY STABBING WE CAN WIN, NO
9 DOUBT ABOUT IT. SO, I WOULD SAY THAT IF THIS, IF
10 ANYTHING NEEDS TO BE DONE, FIRST OF ALL, I DON'T THINK
11 IT OUGHT TO BE AMENDED, BUT IF YOU FEEL LIKE IT NEEDS TO
12 BE CHANGED THEY NEED TO GO BACK TO THE GRAND JURY ON
13 THIS THING.

14 THE COURT: WELL, YOU KNOW, AN
15 INDICTMENT IS SUFFICIENT IF IT ADVISES THE DEFENDANT OF
16 WHAT HE'S GOT TO DEFEND HIMSELF FOR AND IT ADVISES THE
17 COURT OF WHAT HE'S GOT TO BE SENTENCED FOR, AND IT WOULD
18 PROVIDE A BAR UPON CONVICTION OR ACQUITTAL. NOW, IF HE
19 WENT TO TRIAL ON THIS INDICTMENT AND WAS ACQUITTED, DO
20 YOU THINK HE COULD BE TRIED AGAIN, IF THEY DO ANOTHER
21 INDICTMENT THAT SAYS, HE KILLED HIM BY BEATING HIM IN
22 THE HEAD?

23 MR. MELLARD: NO, SIR.

24 THE COURT: I DON'T EITHER. SO, I
25 DON'T THINK THE CHANGES THE NATURE OF THE OFFENSE. I

1 CERTAINLY, IN THE BURGLARY CASES THAT YOU CITED, THEY
2 CHANGED THE AGGRAVATING CIRCUMSTANCES, WHICH CHANGED THE
3 ELEMENTS OF THE OFFENSE. THE OFFENCE OF MURDER IS
4 KILLING -- THE DEFINITION OF MURDER IS THE KILLING OF
5 ONE HUMAN BEING BY ANOTHER HUMAN BEING WITH MALICE
6 AFORETHOUGHT. IT DOESN'T TALK ABOUT HOW IT'S GOT TO BE
7 DONE, THAT'S NOT AN ELEMENT, HOW IT'S DONE IS NOT AN
8 ELEMENT. NOW, YOU SAID YOU'VE GOT A CASE THAT SAYS,
9 SURPRISE, AND ALL OF THAT STUFF DOESN'T MATTER, BUT YOU
10 DO ADMIT THAT YOU KNEW A LONG TIME AGO, ONCE YOU
11 REVIEWED THE AUTOPSY REPORT THAT THE ACTUAL CAUSE OF
12 DEATH WAS THE BEATING RATHER THAN THE STABBING, YOU DID
13 KNOW THAT, DIDN'T YOU?

14 MR. MELLARD: WE KNEW THAT, WE
15 TALKED TO THE PATHOLOGIST, YES, SIR.

16 THE COURT: OKAY. ALRIGHT, NOW,
17 WHETHER IT'S RELEVANT OR NOT, CAN YOU SHOW ME ANY
18 PREJUDICE IN YOUR DEFENSE OF THIS CASE AS TO WHETHER THE
19 ACTUAL CAUSE OF DEATH WAS THE BEATING OR THE STABBING?

20 MR. MELLARD: IF THEY TRY TO PROVE
21 THAT IT'S A STABBING, WE'RE GOING TO WIN.

22 THE COURT: THAT'S NOT WHAT I ASKED
23 YOU. I ASKED YOU IF I ALLOW THE AMENDMENT CAN YOU SHOW
24 ME ANY PREJUDICE TO YOUR CLIENT AND YOUR DEFENSE OF THIS
25 CASE? AS AN OFFICER OF THE COURT, SINCE YOU KNEW IT,

1 AND WE'RE JUST TALKING ABOUT THE MANNER OF KILLING HIM,
2 NOT THE FACT THAT HE KILLED HIM, CAN YOU TELL ME
3 ANYTHING THAT WOULD BE PREJUDICIAL OR HARMFUL OR
4 DETRIMENTAL TO YOUR DEFENSE OF THE CASE?

5 MR. MELLARD: NO, SIR.

6 THE COURT: WELL, THANK YOU FOR
7 BEING HONEST. I'M GOING TO ALLOW THE AMENDMENT. AND OF
8 COURSE, THIS IS SOMETHING ELSE THE STATE SHOULD HAVE
9 CAUGHT A LONG TIME AGO.

10 MR. MELLARD: COULD THE COURT PLEASE
11 NOTE OUR OBJECTION?

12 THE COURT: YES, SIR, I UNDERSTAND
13 THAT, I DIDN'T, YOU'RE NOT AGREEING TO IT BY ANSWERING
14 MY QUESTION. I UNDERSTAND THAT, YOU STILL VIGOROUSLY
15 OBJECT TO THE AMENDMENT, BUT I THINK UNDER THE
16 CIRCUMSTANCES IT'S PROPER AND I'M GOING TO ALLOW IT.

17 ANY OTHER PRETRIAL MATTERS?

18 SOLICITOR SORENSON: YOUR HONOR, AT
19 SOME POINT IN TIME WE MAY NEED TO DISCUSS SOME OF THE
20 PHOTOGRAPHS.

21 THE COURT: ALRIGHT, WELL, WE'VE GOT
22 SOME OTHER MATTERS TO DO AND I SEE WE'VE GOT SOME OTHER
23 LAWYERS TO DO, SO WE CAN DISCUSS THAT IN CHAMBERS. I'LL
24 LOOK AT THEM BASICALLY.

25 AND MR. MELLARD, I WILL GIVE YOU THE

1 PHONE NUMBERS THAT I HAVE FOR MY BROTHER. I HAVEN'T
2 TALKED WITH HIM IN SEVERAL WEEKS, BUT I'VE GOT HIS CELL
3 PHONE AND HIS HOME PHONE, NOT ON THE RECORD, I'LL GIVE
4 YOU THOSE IN A MINUTE AND THEN YOU CAN -- MAYBE YOU CAN
5 SATISFY YOURSELF BY TELEPHONE. IF NOT, I DON'T HAVE ANY
6 IDEA WHAT HIS WORK SCHEDULE IS OR ANYTHING, HE WORKS OUT
7 OF ST. GEORGE FOR DNR NOW. BUT I'LL BE GLAD TO GIVE YOU
8 THOSE PHONE NUMBERS, THAT'S THE EASIEST WAY FOR YOU TO
9 GET HIM, HE'LL THINK IT'S ME CALLING, AND I'M SURE HE'LL
10 ANSWER.

11 ALRIGHT, WE'LL TAKE A SHORT BREAK,
12 AND I'LL, IF I NEED TO SEE ANYBODY IN CHAMBERS I WILL,
13 AND IF YOU'VE GOT SOME PLEAS READY WE'LL TAKE CARE OF
14 THEM.

15 (Recess for the day on this case.)

16 DATE:

17 FEBRUARY 10, 2009

18 (Whereupon, the following
19 takes place in open court.)

20 THE COURT: SOLICITOR, CALL YOUR
21 CASE.

22 SOLICITOR SORENSON: AT THIS TIME
23 THE STATE CALLS THE STATE OF SOUTH CAROLINA VERSUS
24 GEORGE MOSES ON TWO INDICTMENTS, INDICTMENT NUMBER 2006-
25 GS-38-2067 AND 2068, CHARGING MR. MOSES WITH ONE COUNT

1 OF ARMED ROBBERY AND ONE COUNT OF MURDER.

2 THE COURT: ALRIGHT. MR. MELLARD,
3 YOU REPRESENT MR. MOSES, YOU AND MS. HINDS?

4 MR. MELLARD: YES, SIR.

5 THE COURT: ARE YOU READY FOR TRIAL?

6 MR. MELLARD: YES, SIR.

7 THE COURT: ALRIGHT, YOU CAN HAVE A
8 SEAT.

9 LADIES AND GENTLEMEN, THE STATE HAS
10 CALLED A CASE AGAINST MR. GEORGE NAPOLEON MOSES. MR.
11 MOSES IS CHARGED WITH TWO COUNTS IN THESE TWO
12 INDICTMENTS. I'M GOING TO READ YOU THESE INDICTMENTS SO
13 THAT YOU WILL KNOW WHAT THE CHARGES ARE. THESE
14 INDICTMENTS ARE NOT EVIDENCE, THESE INDICTMENTS ARE
15 SIMPLY DOCUMENTS DRAWN UP BY THE STATE OF SOUTH CAROLINA
16 TO ADVISE MR. MOSES OF THE CHARGES THAT HE IS FACING SO
17 HE CAN PREPARE A PROPER DEFENSE TO THOSE CHARGES.

18 TO THE CHARGES CONTAINED IN THESE
19 INDICTMENTS HE HAS PLED NOT GUILTY. THAT PLACES THE
20 BURDEN ON THE STATE TO PROVE HIM GUILTY BEYOND A
21 REASONABLE DOUBT. A PERSON CHARGED WITH A CRIMINAL
22 OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE
23 HIMSELF INNOCENT, THE BURDEN IS ALWAYS ON THE STATE TO
24 PROVE HIM GUILTY.

25 BOTH THE STATE, LADIES AND

1 GENTLEMEN, AND THE DEFENDANT IN THIS CASE ARE ENTITLED
2 TO WHAT WE CALL A FAIR AND IMPARTIAL JURY. WHAT WE MEAN
3 BY THAT IN THE LAW IS A JURY WHICH CAN REACH ITS
4 DECISION BASED SOLELY UPON THE EVIDENCE AND THE
5 TESTIMONY THAT YOU HEAR IN THIS COURTROOM, A JURY THAT
6 WOULD NOT BE INFLUENCED BY ANY MATTERS THEY'VE OUTSIDE
7 THE COURTROOM ABOUT THIS CASE OR SOME OTHER CASE OR
8 WOULD NOT BE INFLUENCED BY SOME EXPERIENCE THEY MIGHT
9 HAVE HAD THAT BEAR ON THEIR DECISION IN THIS CASE. AND
10 SO, THAT IS THE REASON I HAVE A NUMBER OF QUESTIONS TO
11 ASK YOU. IT IS VERY IMPORTANT THAT YOU RESPOND TO THESE
12 QUESTIONS. AGAIN, IF IT IS OF A PERSONAL OR PRIVATE
13 NATURE THAT YOU WOULD PREFER NOT TO SHARE WITH EVERYONE
14 YOU MAY COME FORWARD AND SPEAK WITH ME, BUT PLEASE DO
15 NOT WITHHOLD ANY INFORMATION THAT MIGHT BE REQUIRED BY
16 ANY OF THESE QUESTIONS. IF YOU ARE NOT SURE WHETHER YOU
17 SHOULD DIVULGE INFORMATION YOU DO THAT AND LET ME DECIDE
18 WHETHER IT'S SIGNIFICANT OR NOT.

19 FIRST, LADIES AND GENTLEMEN, I'M
20 GOING TO READ YOU THE INDICTMENTS SO THAT YOU WILL KNOW
21 WHAT THE CHARGES ARE.

22 INDICTMENT 2006-GS-38-2067 CHARGES
23 MR. MOSES WITH ARMED ROBBERY. THE ALLEGATIONS MADE BY
24 THE STATE ARE THAT ON OR ABOUT SEPTEMBER TWENTY-NINTH,
25 TWO THOUSAND AND SIX, MR. MOSES COMMITTED ROBBERY BY

1 FELONIOUSLY OR WRONGFULLY TAKING FROM THE PERSON OR
2 PRESENCE OF THE VICTIM, MR. HARRY LIVINGSTON, BY MEANS
3 OF FORCE OR INTIMIDATION GOODS OR MONIES OF MR.
4 LIVINGSTON, AND PRIMARILY MONEY, WITH THE INTENT TO
5 PERMANENTLY DEPRIVE MR. LIVINGSTON OF THAT MONEY WHILE
6 HE WAS ARMED WITH A DEADLY WEAPON, AND HE IS CHARGED
7 WITH ARMED ROBBERY.

8 THE SECOND INDICTMENT, LADIES AND
9 GENTLEMEN, IS INDICTMENT NUMBER 2068, AND THIS CHARGES
10 MR. MOSES WITH THE CRIME OF MURDER. THE ALLEGATIONS ARE
11 THAT IN ORANGEBURG COUNTY ON OR ABOUT SEPTEMBER TWENTY-
12 NINTH, TWO THOUSAND AND SIX, WITH MALICE AFORETHOUGHT,
13 MR. MOSES KILLED ONE HARRY LIVINGSTON BY MEANS OF
14 STABBING MR. LIVINGSTON WITH A KNIFE AND/OR BLUNT FORCE
15 TRAUMA TO THE HEAD, AND THAT THE VICTIM, MR. LIVINGSTON,
16 DIED AS A RESULT OF THOSE INJURIES.

17 NOW, AS I SAID, LADIES AND
18 GENTLEMEN, THESE INDICTMENTS THAT I READ ARE NOT
19 EVIDENCE, THEY ARE SIMPLY NOTICE DOCUMENTS SO THAT MR.
20 MOSES KNOWS THE CHARGES HE IS BEING CHARGED WITH.

21 FIRST, MR. MOSES, WOULD YOU STAND,
22 PLEASE, AND FACE THE JURY SO THEY CAN IDENTIFY YOU?

23 LADIES AND GENTLEMEN, THIS IS MR.
24 GEORGE NAPOLEON MOSES.

25 THANK YOU, MR. MOSES, YOU MAY BE

1 SEATED.

2 IS THERE ANY MEMBER OF THE JURY
3 PANEL RELATED BY BLOOD, CONNECTED BY MARRIAGE, CLOSE
4 PERSONAL FRIEND, HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH
5 MR. MOSES? IF YOU KNOW MR. MOSES IN ANY CAPACITY
6 WHATSOEVER WOULD YOU PLEASE STAND.

7 (Negative response from jury panel.)

8 THE COURT: LADIES AND GENTLEMEN,
9 MR. MOSES IS BEING REPRESENTED BY MR. MELLARD AND MS.
10 HINDS, OF THE PUBLIC DEFENDERS OFFICE, WHO JUST STOOD
11 BEFORE YOU. IS THERE ANY MEMBER OF THE JURY PANEL WHO
12 IS RELATED BY BLOOD, CONNECTED BY MARRIAGE, CLOSE
13 PERSONAL FRIEND, HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH
14 MR. MELLARD OR MS. HINDS OR ANY OTHER MEMBERS OF THE
15 PUBLIC DEFENDERS STAFF? IF SO, WOULD YOU PLEASE STAND.

16 (Negative response from jury panel.)

17 THE COURT: LADIES AND GENTLEMEN,
18 THE CASE IS BEING PROSECUTED BY MR. DON SORENSON AND MR.
19 CHARLIE JOHNSON.

20 WOULD YOU TWO STAND? THIS IS MR.
21 SORENSON ON MY RIGHT, YOUR LEFT. MR. CHARLIE JOHNSON ON
22 MY LEFT, YOUR RIGHT. THANK YOU. THEY ARE MEMBERS OF
23 THE SOLICITOR'S OFFICE HERE IN ORANGEBURG COUNTY. IS
24 ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD, CONNECTED
25 BY MARRIAGE, CLOSE PERSONAL FRIEND, HAVE ANY KNOWLEDGE

1 OR ACQUAINTANCE WITH EITHER MR. SORENSON OR MR. JOHNSON?
2 IF YOU ARE NOW OR HAVE EVER BEEN REPRESENTED BY EITHER
3 OF THESE ATTORNEYS OR ANY OTHER ATTORNEYS IN THE
4 SOLICITOR'S OFFICE, WOULD YOU PLEASE STAND.

5 (Affirmative response from jury panel.)

6 THE COURT: YES, MA'AM, YOUR NAME,
7 PLEASE?

8 JUROR GLIVENS: MY NAME IS ASHLEY
9 GIVENS.

10 THE COURT: DO YOU REMEMBER YOUR
11 NUMBER?

12 JUROR GLIVENS: NO, SIR, I DON'T
13 REMEMBER MY NUMBER.

14 THE COURT: ALRIGHT, MS. GLIVENS?

15 JUROR GLIVENS: I KNOW MR. JOHNSON,
16 I SEE HIM ON A REGULAR BASIS, I WORK AT SOUTH CAROLINA
17 COMMUNITY BANK.

18 THE COURT: ALRIGHT.

19 JUROR GLIVENS: I DON'T KNOW IF
20 THAT'S RELEVANT OR NOT.

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

23 JUROR GLIVENS: NO, SIR.

24 THE COURT: THANK YOU, MA'AM, YOU
25 ARE QUALIFIED TO SERVE.

1 ANYONE ELSE?

2 (Negative response from jury panel.)

3 THE COURT: NOW, LADIES AND
4 GENTLEMEN, I'M GOING TO READ YOU A LIST OF SOME OTHER
5 INDIVIDUALS WHO MAY TESTIFY IN THIS CASE. IT'S A RATHER
6 LENGTHY LIST, [REDACTED] NAMES. IF YOU KNOW ANY OF
7 THESE INDIVIDUALS I WOULD ASK THAT YOU STAND WHEN I CALL
8 THEIR NAMES. PLEASE DON'T WAIT UNTIL I GET TO THE END
9 OF THIS LIST, BUT THEY MAY OR MAY NOT TESTIFY DEPENDENT
10 ON HOW THINGS WORK OUT, I'M SURE, BUT IF YOU KNOW ANY OF
11 THEM WOULD YOU PLEASE STAND. AT LEAST SEVERAL OF THESE
12 WITNESSES ARE PRESENT IN THE COURTROOM AND I WOULD ASK
13 THAT THEY STAND WHEN I CALL THEIR NAME. MOST OF THEM
14 WILL NOT BE HERE BECAUSE WE'RE NOT READY FOR THEM TO
15 TESTIFY YET, BUT SEVERAL ARE, SO IF THEY ARE I WOULD ASK
16 THAT THEY STAND. THE FIRST WITNESSES, LADIES AND
17 GENTLEMEN, ARE ALL FROM THE ORANGEBURG COUNTY SHERIFF'S
18 OFFICE. FIRST, LIEUTENANT JAMES SHUMPERT. LIEUTENANT
19 RHONDA BAMBERG. THEY ARE NOT PRESENT. SERGEANT ANTHONY
20 KRAFT, HE'S ALSO NOT PRESENT. INVESTIGATOR ROMAN
21 RODRIGUEZ, WHO IS PRESENT, HE IS STANDING. THANK YOU,
22 SIR, YOU MAY BE SEATED.

23 (Affirmative response from jury panel.)

24 THE COURT: YES, SIR, YOUR NAME AND
25 NUMBER, PLEASE?

1 JUROR POWELL: NUMBER ONE FIFTY
2 FIVE, AND MAY I APPROACH, YOUR HONOR?

3 THE COURT: YES, SIR, COME ON DOWN.
4 YOUR NAME AND NUMBER, PLEASE?

5 JUROR EDWARDS: MICHAEL EDWARDS,
6 JUROR NUMBER FORTY-SEVEN.

7 THE COURT: YES, SIR, YOU KNOW
8 INVESTIGATOR RODRIGUEZ?

9 JUROR EDWARDS: YES, SIR, I DO.

10 THE COURT: HOW DO YOU KNOW HIM?

11 JUROR EDWARDS: WE PREVIOUSLY WORKED
12 TOGETHER WITH THE ORANGEBURG DEPARTMENT OF PUBLIC
13 SAFETY.

14 THE COURT: ALRIGHT, AND WOULD THAT
15 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
16 JUROR IN THIS CASE?

17 JUROR EDWARDS: NO, SIR, I DON'T
18 BELIEVE SO.

19 THE COURT: THANK YOU, SIR, YOU ARE
20 QUALIFIED TO SERVE..

21 (Whereupon, Juror Powell
22 approaches the bench.)

23 THE COURT: MR. POWELL IS EXCUSED
24 FROM SERVICE ON THIS CASE BECAUSE OF -- WELL, I JUST
25 EXCUSED HIM.

1 ADDITIONAL WITNESSES, LADIES AND
2 GENTLEMEN, -- YOU CAN'T -- MR. POWELL. STOP HIM, I
3 DIDN'T EXCUSE HIM FROM THE COURTROOM. YOU CALL BACK
4 AFTER SIX O'CLOCK, THE NUMBER THAT YOU HAVE TO SEE IF
5 YOU, WHEN WE'LL NEED YOU BACK. ALRIGHT, SIR?

6 JUROR POWELL: ALRIGHT, SIR.

7 THE COURT: ALRIGHT. OTHER
8 WITNESSES POSSIBLE FROM THE SHERIFF'S OFFICE, LIEUTENANT
9 LACRA JENKINS. LACRA JENKINS, IT'S LACRA, I THINK.
10 ALRIGHT, AND HE WAS JUST STANDING BEFORE YOU, LADIES AND
11 GENTLEMEN. DEPUTY HOYT JAMESON. LIEUTENANT GERALD
12 CARTER, AND DEPUTY ALLEN HUNTER.

13 (Negative response from jury panel.)

14 THE COURT: ALRIGHT, LADIES AND
15 GENTLEMEN, THE NEXT SEVERAL WITNESSES ARE FROM THE STATE
16 LAW ENFORCEMENT DIVISION COMMONLY CALLED SLED. THEY
17 WILL NOT BE IN THE COURTROOM I'M SURE. AGENT ROD GREEN.
18 DR. LAURA MILLS. BETTY BUTLER. SHEREE BROWN.

19 (Negative response from jury panel.)

20 THE COURT: FROM THE NEWBERRY
21 PATHOLOGY OFFICE IN NEWBERRY, SOUTH CAROLINA, LADIES AND
22 GENTLEMEN, DR. JANET ROSS, WHO IS A PATHOLOGIST, DR.
23 JANET ROSS.

24 (Negative response from jury panel.)

25 THE COURT: FROM THE CORONER'S

1 OFFICE, LADIES AND GENTLEMEN, MR. STANLEY CALDWELL.

2 (Negative response from jury panel.)

3 THE COURT: AND OTHER WITNESSES WHO
4 MAY TESTIFY, AND THEY MAY BE IN THE COURTROOM. IF THEY
5 ARE I WOULD ASK THAT THEY STAND. MS. PATRICIA OWENS.
6 YVETTE LINGUARD. JOHN GLYMPH. LINDA GAHNI. JEFFREY
7 CONNER. LLOYD BOWMAN. MAGGIE BAKER. AND BARNEY
8 LIVINGSTON.

9 (Negative response from jury panel.)

10 THE COURT: LADIES AND GENTLEMEN, IS
11 THERE ANY MEMBER OF THE JURY PANEL EITHER NOW OR IN THE
12 PAST BEEN EMPLOYED BY ANY CIVILIAN OR MILITARY OR ANY
13 TYPE OF LAW ENFORCEMENT AGENCY, OR IF YOU HAVE A CLOSE
14 FAMILY MEMBER OR CLOSE FRIEND WHO HAS BEEN OR IS
15 EMPLOYED WITH ANY LAW ENFORCEMENT AGENCY, WOULD YOU
16 PLEASE STAND.

17 (Affirmative response from jury panel.)

18 THE COURT: ALRIGHT, I NEED YOUR
19 NAME AND YOUR NUMBER, AND TELL ME, JUST ANSWER THE
20 QUESTION, MAKE THE RESPONSE. YES, MA'AM?

21 JUROR JARGO: I DON'T KNOW THE
22 NUMBER. NINETY-FOUR.

23 THE COURT: THIRTY-FOUR?

24 JUROR JARGO: NINETY-FOUR.

25 THE COURT: NINETY-FOUR.

1 JUROR JARGO: AND MY SON WAS AN
2 OFFICER.

3 THE COURT: ALRIGHT, IS HE STILL AN
4 OFFICER?

5 JUROR JARGO: NO, NOT NOW.

6 THE COURT: WHERE WAS HE AN OFFICER?

7 JUROR JARGO: HE WAS IN ALLENDALE.

8 THE COURT: ALLENDALE?

9 JUROR JARGO: UH HUH.

10 THE COURT: AND WOULD THAT AFFECT
11 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
12 CASE?

13 JUROR JARGO: HUH UH, NO.

14 THE COURT: THANK YOU, MA'AM.

15 YES, MA'AM, IN THE WHITE BLOUSE?

16 JUROR BARRAK: I'M TINA BARRAK,
17 JUROR NUMBER TWELVE. I HAVE A BROTHER-IN-LAW, TRACY
18 BARRAK, FROM BAMBERG, WHO IS NOW ON DISABILITY WITH THE
19 SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

20 THE COURT: ALRIGHT, AND WOULD THAT
21 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
22 THIS CASE?

23 JUROR BARRAK: NO, YOUR HONOR.

24 THE COURT: THANK YOU, MA'AM.

25 YES, MA'AM?

1 JUROR MURPH: NUMBER ONE TWENTY-
2 SEVEN, JENNIFER MURPH. I AM FRIENDS WITH SHERIFF LARRY
3 WILLIAMS, HAVE BEEN FOR FIFTEEN YEARS.

4 THE COURT: AND WOULD THAT AFFECT
5 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
6 CASE?

7 JUROR MURPH: I DO NOT BELIEVE SO.

8 THE COURT: WELL, ARE YOU PRETTY
9 CERTAIN OF THAT?

10 JUROR MURPH: I'M PRETTY CERTAIN.

11 THE COURT: ALRIGHT.

12 YES, SIR? I'M JUST GOING ACROSS
13 THIS WAY. YES, SIR?

14 JUROR WEST: LEROY WEST. JUDGE
15 GIVENS IS MY FIRST COUSIN.

16 THE COURT: MAGISTRATE JUDGE?

17 JUROR WEST: YES.

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

20 JUROR WEST: NO, SIR.

21 THE COURT: THANK YOU, SIR.

22 YES, SIR?

23 JUROR DIETIKER: DAVE DIETIKER,
24 JUROR NUMBER FORTY-THREE, MY FATHER WAS A DEPUTY SHERIFF
25 FOR JACKSON COUNTY, MISSOURI. HE'S PASSED AWAY NOW.

1 THE COURT: AND WOULD THAT AFFECT
2 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
3 CASE?

4 JUROR DIETIKER: NO, SIR.

5 THE COURT: THANK YOU, SIR.

6 YES, MA'AM?

7 JUROR BURGESS: NUMBER TWENTY-NINE,
8 DETRO'VON BURGESS. MY COUSIN, ELANDA JOHNSON, WORKS
9 DOWN THERE AT PUBLIC SAFETY.

10 THE COURT: ALRIGHT. IN ORANGEBURG?

11 JUROR BURGESS: UH HUH.

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

14 JUROR BURGESS: NO, SIR.

15 THE COURT: THANK YOU, MA'AM.

16 YES, SIR, WITH THE PURPLE SWEATER.

17 JUROR ROMANSTINE: MICHAEL
18 ROMANSTINE, ONE FORTY-EIGHT. MY BROTHER IS A DETECTIVE
19 WITH THE DEPARTMENT OF PUBLIC SAFETY IN ORANGEBURG.

20 THE COURT: WOULD THAT AFFECT YOUR
21 ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

22 JUROR ROMANSTINE: NO, SIR.

23 THE COURT: YOU SAY, IT WOULD?

24 JUROR ROMANSTINE: NO, SIR.

25 THE COURT: OH, NO, SIR. GOOD,

1 THANK YOU, SIR, YOU ARE QUALIFIED TO SERVE.

2 YES, SIR?

3 JUROR EDWARDS: MICHAEL EDWARDS,
4 JUROR NUMBER FORTY-SEVEN. AS I'VE INDICATED TO THE COURT
5 PREVIOUSLY I WAS EMPLOYED WITH ORANGEBURG PUBLIC SAFETY.

6 THE COURT: ALRIGHT. AND WOULD THAT
7 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
8 THIS CASE?

9 JUROR EDWARDS: NO, SIR.

10 THE COURT: THANK YOU, SIR.

11 YES, MA'AM?

12 JUROR EDWARDS: SUSAN EDWARDS, JUROR
13 NUMBER FIFTY-ONE. MY SON-IN-LAW, MICHAEL FOREY, IS
14 CURRENTLY A POLICE OFFICER WITH PUBLIC SAFETY IN
15 ORANGEBURG.

16 THE COURT: AND WOULD THAT AFFECT
17 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

18 JUROR EDWARDS: NO, SIR.

19 THE COURT: THANK YOU, MA'AM.

20 YES, SIR?

21 JUROR FANNING: MY NAME IS ROBERT
22 FANNING, I DON'T KNOW MY NUMBER. MY SON-IN-LAW IS WITH
23 THE BOWMAN POLICE DEPARTMENT.

24 THE COURT: AND WOULD THAT AFFECT
25 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

1 JUROR FANNING: NO, IT WOULD NOT.

2 THE COURT: ALRIGHT, THANK YOU, SIR.

3 I THINK THAT'S IT.

4 IS THERE ANY MEMBER OF THE JURY
5 PANEL OR A CLOSE MEMBER OF YOUR FAMILY EVER BEEN
6 EMPLOYED BY ANY TYPE OF PROSECUTORIAL AGENCY, SUCH AS
7 THE SOLICITOR'S OFFICE, THE ATTORNEY GENERAL'S OFFICE,
8 ANY MILITARY PROSECUTOR? IF YOU OR A CLOSE FAMILY MEMBER
9 OR A CLOSE FRIEND HAVE EVER BEEN SO EMPLOYED WOULD YOU
10 PLEASE STAND.

11 (Negative response from jury panel.)

12 THE COURT: LADIES AND GENTLEMEN,
13 HAS ANY MEMBER OF THE JURY PANEL EVER BEEN THE VICTIM OF
14 A VIOLENT CRIME, A SERIOUS CRIME SUCH AS MURDER, ARMED
15 ROBBERY OR ANY TYPE OF VIOLENT ASSAULT? IF YOU OR A
16 CLOSE MEMBER OF YOUR FAMILY HAS BEEN A VICTIM OR HAS
17 EVER BEEN ACCUSED OF SUCH A CRIME WOULD YOU PLEASE
18 STAND.

19 (Negative response from jury panel.)

20 THE COURT: IS ANY MEMBER OF THE
21 JURY PANEL OR A MEMBER OF YOUR FAMILY OR CLOSE FRIEND A
22 MEMBER OF OR CONTRIBUTOR TO ANY ORGANIZATION SUCH AS
23 MADD, SADD, CAVE, CADRA OR SIMILAR ORGANIZATIONS WHICH
24 HAVE THEIR GOAL THE PROMOTION OF VICTIM'S RIGHTS OR LAW
25 ENFORCEMENT? IF SO, WOULD YOU PLEASE STAND.

1 (Affirmative response from jury panel.)

2 THE COURT: YES, MA'AM, YOUR NAME
3 AND NUMBER?

4 JUROR JACKSON: SUSAN JACKSON, AND
5 I DON'T REMEMBER MY NUMBER, BUT I -- I DON'T REMEMBER MY
6 NUMBER. I SUPPORT MOTHERS AGAINST DRUNK DRIVERS.

7 THE COURT: AND WHAT WAS YOUR NAME?

8 JUROR JACKSON: SUSAN JACKSON.

9 MR. MELLARD: NUMBER EIGHTY-EIGHT.

10 THE COURT: NUMBER EIGHTY-EIGHT.
11 WOULD THAT AFFECT YOUR ABILITY TO BE A FAIR AND
12 IMPARTIAL JUROR IN THIS CASE?

13 JUROR JACKSON: NO, SIR.

14 THE COURT: THANK YOU, MA'AM, YOU
15 ARE QUALIFIED TO SERVE.

16 LADIES AND GENTLEMEN, THE VICTIM IN
17 THIS CASE WAS MR. HARRY LIVINGSTON. IS ANY MEMBER OF
18 THE JURY PANEL RELATED BY BLOOD, CONNECTED BY MARRIAGE,
19 HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH MR. HARRY
20 LIVINGSTON? IF SO, WOULD YOU PLEASE STAND.

21 (Negative response from jury panel.)

22 THE COURT: LADIES AND GENTLEMEN,
23 THIS CASE MAY INVOLVE SOME TESTIMONY OF THE USE OF
24 ALCOHOL AND/OR ILLEGAL DRUGS. IF YOU ARE SO UNALTERABLY
25 OPPOSED TO THE USE OF ALCOHOL OR ILLEGAL DRUGS THAT THAT

1 WOULD CLOUD YOUR JUDGEMENT, IF THAT WOULD MAKE IT
2 DIFFICULT FOR YOU TO WEIGH THE EVIDENCE IN THIS CASE AND
3 FOLLOW MY INSTRUCTIONS ON THE LAW, THEN I NEED YOU TO
4 STAND AND SHARE THAT WITH ME.

5 (Negative response from jury panel.)

6 THE COURT: LADIES AND GENTLEMEN, I
7 TOLD YOU ABOUT AS MUCH AS I KNOW ABOUT THE CASE. IT IS
8 ALLEGED TO HAVE OCCURRED HERE IN ORANGEBURG COUNTY,
9 SOUTH CAROLINA, ON OR ABOUT SEPTEMBER TWENTY-NINTH, TWO
10 THOUSAND AND SIX. MR. MOSES IS ACCUSED OF COMMITTING
11 ARMED ROBBERY ON MR. HARRY LIVINGSTON AND THEN STABBING
12 HIM AND STRIKING HIM ABOUT THE HEAD CAUSING HIS DEATH.
13 I'M SURE THIS WAS PROBABLY IN THE NEWSPAPER WHEN IT
14 OCCURRED BACK IN TWO THOUSAND AND SIX, I DON'T REMEMBER
15 IT MYSELF BUT IT PROBABLY WAS. IF YOU HAVE ANY
16 KNOWLEDGE ABOUT THIS CASE FROM ANY SOURCE WHATSOEVER,
17 WHETHER THAT WOULD BE THE BARBER SHOP, THE BEAUTY SHOP,
18 THE NEWSPAPER, T.V., FILING STATION, SOME FRIEND, ANY
19 KNOWLEDGE WHATSOEVER ABOUT THIS CASE AND THIS ALLEGED
20 CRIME WOULD YOU PLEASE STAND AT THIS TIME.

21 (Negative response from jury panel.)

22 THE COURT: IS THERE ANYTHING ABOUT,
23 DOES ANY MEMBER OF THE JURY PANEL KNOW OF ANY REASON WHY
24 YOU COULD NOT GIVE BOTH THE STATE AND THE DEFENDANT IN
25 THIS CASE A FAIR AND IMPARTIAL TRIAL? AND THAT MEANS

1 THAT YOU WOULD MAKE YOUR DECISION BASED SOLELY ON THE
2 TESTIMONY AND THE EVIDENCE YOU HEAR IN THIS COURTROOM,
3 YOU WOULD NOT BE INFLUENCED BY ANYTHING OUTSIDE OF THIS
4 COURTROOM, AND YOU WOULD FOLLOW MY INSTRUCTIONS TO YOU
5 ON THE LAW, EVEN IF YOU DON'T AGREE WITH THE LAW,
6 BECAUSE IT'S YOUR DUTY TO PUT ASIDE YOUR OPINION ABOUT
7 THE LAW AND FOLLOW THE LAW AS I WOULD GIVE IT TO YOU.
8 SO, IF ANY MEMBER OF THE JURY PANEL KNOWS OF ANY REASON
9 WHATSOEVER THAT YOU THINK YOU COULD NOT GIVE BOTH THE
10 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL, OR
11 IF YOU NEED TO SPEAK WITH ME PRIVATELY ABOUT ANY OF THE
12 MATTERS I HAVE ALREADY ASKED, OR HAVE NOT ASKED THAT
13 MIGHT INFLUENCE YOU, WOULD YOU PLEASE COME FORWARD AT
14 THIS TIME.

15 (Negative response from jury panel.)

16 THE COURT: ANYTHING ELSE FROM THE
17 STATE?

18 SOLICITOR SORENSON: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. MELLARD: NO, SIR.

21 THE COURT: DO YOU EXCEPT TO ONE OF
22 THEM I DIDN'T ASK, NUMBER FOURTEEN, OR - - -

23 MR. MELLARD: I WOULD TAKE EXCEPTION
24 TO THAT, YOUR HONOR.

25 THE COURT: ALRIGHT, I'LL GIVE THE

1 COURT A COPY OF THAT LATER.

2 ALRIGHT, LADIES AND GENTLEMEN,
3 ASSUMING OUR COMPUTER IS WORKING. IS IT? FIFTEEN
4 MINUTES? OKAY, WE'RE GOING TO TAKE ABOUT A FIFTEEN
5 MINUTE BREAK BEFORE WE SELECT THE JURY IN THIS CASE.
6 WHEN YOU COME BACK IN, AND YOU DON'T HAVE TO LEAVE. IN
7 FACT, THERE'S NOT MUCH PLACE TO GO, REALLY, BUT THEY
8 NEED ABOUT FIFTEEN MINUTES TO PRINT US OUT A JURY LIST,
9 AND WHEN WE COME BACK IN THIS COMPUTER WILL GENERATE A
10 RANDOM LIST AND WE'LL CALL THE FIRST NAME ON THAT LIST
11 AND ASK YOU TO COME FORWARD AND STAND RIGHT UP HERE BY
12 THIS PODIUM, TURN AROUND AND LOOK AT THE BACK BACK THERE
13 WHILE THE LAWYERS GET ONE MORE LOOK AT YOU. AS I SAID,
14 WE HAVE A JURY OF TWELVE PEOPLE, BUT BOTH THE STATE AND
15 THE DEFENSE HAVE A RIGHT TO EXCUSE A CERTAIN NUMBER OF
16 PEOPLE FROM SERVING ON THE JURY. AND THEY CAN DO THIS
17 FOR ANY REASON WHATSOEVER, THEY DO NOT HAVE TO GIVE ANY
18 REASON, BUT THEY NEED TO GET ONE LAST LOOK AT YOU BEFORE
19 THEY MAKE THAT DECISION. SO, DON'T BE NERVOUS, I'VE
20 NEVER LOST A JUROR, IN TEN AND A HALF YEARS I'VE NEVER
21 LOST A JUROR, AND WE'RE NOT GOING TO START THAT TODAY.
22 YOU'LL JUST BE A LITTLE BIT SELF-CONSCIOUS, I'M SURE, AS
23 EVERYBODY IS GIVING YOU THE ONCE OVER, BUT IT WON'T LAST
24 VERY LONG. SO, WE'RE GOING TAKE ABOUT FIFTEEN MINUTES.
25 PLEASE BE -- IF YOU LEAVE PLEASE BE BACK IN THE JURY

1 ROOM BY TWENTY-FIVE MINUTES AFTER ELEVEN.

2 IF YOU GET READY EARLIER LET ME
3 KNOW, I'LL BE IN THE BACK.

4 WE'LL BE IN RECESS A FEW MINUTES.

5 (Recess)

6 THE COURT: ALRIGHT, IS THE STATE
7 READY TO STRIKE?

8 SOLICITOR SORENSON: YES, YOUR
9 HONOR.

10 THE COURT: IS DEFENSE READY?

11 MR. MELLARD: YES, SIR.

12 THE COURT: ALRIGHT, MR. CLERK, YOU
13 CAN PROCEED. IT'S FIVE AND FIVE -- FIVE AND TEN.

14 CLERK: STARTING WITH NUMBER
15 NINETEEN, THOMAS BETSILL.

16 THE COURT: COME ON DOWN, MR.
17 BETSILL, IF YOU'LL JUST COME ALL THE WAY AROUND AND
18 RIGHT DOWN THERE AT THE FRONT, AND JUST KIND OF TURN
19 AROUND AND LOOK AT THAT DOOR. THANK YOU, SIR.

20 CLERK: WHAT SAYS THE STATE?

21 SOLICITOR SORENSON: PLEASE PRESENT
22 MR. BETSILL.

23 CLERK: AND WHAT SAYS THE DEFENSE?

24 MR. MELLARD: PLEASE SEAT THE JUROR.

25 CLERK: YOU MAY BE SEATED IN THE

1 JURY BOX, MR. BETSILL.

2 NUMBER ONE FIFTY-FIVE, MARY SELLERS.

3 WHAT SAYS THE STATE?

4 SOLICITOR SORENSON: PLEASE PRESENT
5 MS. SELLERS.

6 CLERK: WHAT SAYS THE DEFENSE?

7 MR. MELLARD: PLEASE SEAT THE JUROR.

8 CLERK: OKAY. YOU MAY BE SEATED IN
9 THE JURY BOX, MS. SELLERS.

10 NUMBER ONE FIFTY-ONE, HENRY SALLEY.

11 WHAT SAYS THE STATE?

12 SOLICITOR SORENSON: PLEASE PRESENT
13 MR. SALLEY.

14 CLERK: WHAT SAYS THE DEFENSE?

15 MR. MELLARD: PLEASE SEAT THE JUROR.

16 CLERK: YOU MAY BE SEATED, MR.
17 SALLEY.

18 ONE EIGHTY-FIVE, MONICA WASHINGTON.

19 WHAT SAYS THE STATE?

20 SOLICITOR SORENSON: PLEASE PRESENT
21 MS. WASHINGTON.

22 CLERK: AND WHAT SAYS THE DEFENSE?

23 MR. MELLARD: PLEASE SEAT MS.
24 WASHINGTON.

25 CLERK: YOU MAY BE SEATED, MS.

1 WASHINGTON, IN THE JURY BOX.

2 NUMBER SIXTY-FIVE, DONOVAN GAFFNEY.

3 WHAT SAYS THE STATE?

4 SOLICITOR SORENSON: PLEASE PRESENT

5 MR. GAFFNEY.

6 CLERK: WHAT SAYS THE DEFENSE?

7 MR. MELLARD: PLEASE EXCUSE MR.

8 GAFFNEY.

9 CLERK: YOU MAY RETURN TO YOUR SEAT,

10 MR. GAFFNEY.

11 ONE NINETY, LEROY WEST. WHAT SAYS

12 THE STATE?

13 SOLICITOR SORENSON: PLEASE PRESENT

14 MR. WEST.

15 CLERK: WHAT SAYS THE DEFENSE?

16 MR. MELLARD: PLEASE EXCUSE MR. WEST.

17 CLERK: YOU MAY RETURN TO YOUR SEAT,

18 MR. WEST.

19 FORTY-ONE, BRIAN DAVIS. WHAT SAYS

20 THE STATE?

21 SOLICITOR SORENSON: PLEASE PRESENT

22 MR. DAVIS.

23 CLERK: WHAT SAYS THE DEFENSE?

24 MR. MELLARD: PLEASE SEAT MR. DAVIS.

25 CLERK: YOU MAY BE SEATED IN THE

1 JURY BOX, MR. DAVIS.

2 NUMBER EIGHTY-SIX, TAMMI CALLAHAN.
3 WHAT SAYS THE STATE?

4 SOLICITOR SORENSON: PLEASE EXCUSE
5 MS. CALLAHAN.

6 CLERK: YOU MAY RETURN TO YOUR SEAT,
7 MS. CALLAHAN.

8 ONE THIRTY-FOUR, DARRELL POUGH.
9 WHAT SAYS THE STATE?

10 SOLICITOR SORENSON: PLEASE PRESENT
11 MR. POUGH.

12 CLERK: WHAT SAYS THE DEFENSE?

13 MR. MELLARD: PLEASE SEAT MR. POUGH.

14 CLERK: YOU MAY BE SEATED IN THE
15 JURY BOX, MR. POUGH.

16 NUMBER FIFTY-TWO, JAMES FANNING.
17 WHAT SAYS THE STATE?

18 SOLICITOR SORENSON: PLEASE PRESENT
19 MR. FANNING.

20 CLERK: WHAT SAYS THE DEFENSE?

21 MR. MELLARD: PLEASE EXCUSE MR.
22 FANNING.

23 CLERK: YOU MAY RETURN TO YOUR SEAT,
24 MR. FANNING.

25 NUMBER TWO, AUDREY AIKEN. WHAT SAYS

1 THE STATE?

2 SOLICITOR SORENSON: PLEASE PRESENT
3 MS. AIKEN.

4 CLERK: WHAT SAYS THE DEFENSE?

5 MR. MELLARD: PLEASE SEAT MS. AIKEN.

6 CLERK: YOU MAY BE SEATED IN THE JURY
7 BOX, MS. AIKEN.

8 NUMBER NINETY-ONE, JONATHAN JAMISON.
9 WHAT SAYS THE STATE?

10 SOLICITOR SORENSON: PLEASE EXCUSE
11 MR. JAMISON.

12 CLERK: YOU MAY RETURN TO YOUR SEAT,
13 MR. JAMISON.

14 NUMBER TWENTY-SEVEN, EMMA BROWN.
15 WHAT SAYS THE STATE?

16 SOLICITOR SORENSON: PLEASE PRESENT
17 MS. BROWN.

18 CLERK: WHAT SAYS THE DEFENSE?

19 MR. MELLARD: PLEASE SEAT MS. BROWN.

20 CLERK: YOU MAY BE SEATED IN THE
21 JURY BOX, MS. BROWN.

22 NUMBER EIGHTY-THREE, TANGELA HOOK.
23 WHAT SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE PRESENT
25 MS. HOOK.

1 CLERK: WHAT SAYS THE DEFENSE?

2 MR. MELLARD: PLEASE SEAT MS. HOOK.

3 CLERK: YOU MAY BE SEATED IN THE
4 JURY BOX, MS. HOOK.

5 ONE FORTY-EIGHT, MICHAEL ROMANSTINE.
6 WHAT SAYS THE STATE?

7 SOLICITOR SORENSON: PLEASE PRESENT
8 MR. ROMANSTINE.

9 CLERK: WHAT SAYS THE DEFENSE?

10 MR. MELLARD: PLEASE EXCUSE MR.
11 ROMANSTINE.

12 CLERK: YOU MAY RETURN TO YOUR SEAT,
13 MR. ROMANSTINE.

14 ONE FORTY-TWO, LORRAINE RICKENBAKER.
15 WHAT SAYS THE STATE?

16 SOLICITOR SORENSON: PLEASE PRESENT
17 MS. RICKENBAKER.

18 CLERK: WHAT SAYS THE DEFENSE?

19 MR. MELLARD: PLEASE EXCUSE MS.
20 RICKENBAKER.

21 CLERK: YOU MAY RETURN TO YOUR SEAT,
22 MS. RICKENBAKER.

23 NUMBER SEVENTY-SEVEN, JOHN GREEN.
24 WHAT SAYS THE STATE?

25 SOLICITOR SORENSON: PLEASE PRESENT

1 MR. GREEN.

2 CLERK: WHAT SAYS THE DEFENSE?

3 MR. MELLARD: PLEASE SEAT MR. GREEN.

4 CLERK: YOU MAY BE SEATED IN THE
5 JURY BOX, MR. GREEN.

6 ONE SEVENTY-TWO, ELLEN SUTTON. WHAT
7 SAYS THE STATE?

8 SOLICITOR SORENSON: PLEASE PRESENT
9 MS. SUTTON.

10 CLERK: WHAT SAYS THE DEFENSE?

11 MR. MELLARD: PLEASE SEAT MS.
12 SUTTON.

13 CLERK: YOU MAY BE SEATED IN THE JURY
14 BOX, MS. SUTTON.

15 NUMBER THREE, EMMA ASBURY. WHAT
16 SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE PRESENT
18 MS. ASBURY.

19 CLERK: WHAT SAYS THE DEFENSE?

20 MR. MELLARD: YOU MAY BE SEATED, MS.
21 ASBURY.

22 THE COURT: ALRIGHT, GIVE US TWO
23 ALTERNATES, THE STRIKES WILL BE ONE AND TWO FOR EACH.

24 CLERK: NUMBER SEVEN, TARZIE
25 BACKMAN. WHAT SAYS THE STATE?

1 SOLICITOR SORENSON: PLEASE PRESENT
2 MS. BACKMAN.

3 CLERK: WHAT SAYS THE DEFENSE?

4 MR. MELLARD: PLEASE SEAT MS.
5 BACKMAN.

6 CLERK: YOU MAY BE SEATED IN THE JURY
7 BOX, MS. BACKMAN.

8 NUMBER EIGHTY-FIVE, BETH HOWARD.
9 WHAT SAYS THE STATE?

10 SOLICITOR SORENSON: PLEASE PRESENT
11 MS. HOWARD.

12 CLERK: WHAT SAYS THE DEFENSE?

13 MR. MELLARD: PLEASE EXCUSE MS.
14 HOWARD.

15 CLERK: YOU MAY RETURN TO YOUR SEAT,
16 MS. HOWARD.

17 NUMBER FORTY, ANNETTE DAVIS. WHAT
18 SAYS THE STATE?

19 SOLICITOR SORENSON: PLEASE EXCUSE
20 MS. DAVIS.

21 CLERK: YOU MAY RETURN TO YOUR SEAT,
22 MS. DAVIS.

23 NUMBER FORTY-THREE, DAVID DIETIKER.
24 WHAT SAYS THE STATE?

25 SOLICITOR SORENSON: PLEASE PRESENT

1 THE JUROR.

2 CLERK: WHAT SAYS THE DEFENSE?

3 MR. MELLARD: PLEASE EXCUSE MR.
4 DIETIKER.

5 CLERK: YOU MAY RETURN TO YOUR SEAT,
6 MR. DIETIKER.

7 NUMBER FIFTY-THREE, ROBERT FANNING.
8 WHAT SAYS THE STATE?

9 SOLICITOR SORENSON: PLEASE PRESENT
10 MR. FANNING.

11 CLERK: WHAT SAYS THE DEFENSE?

12 MR. MELLARD: PLEASE SEAT MR.
13 FANNING.

14 CLERK: YOU MAY BE SEATED, MR.
15 FANNING.

16 THE COURT: ANY MATTERS REGARDING
17 JURY SELECTION FROM THE STATE?

18 SOLICITOR SORENSON: I BEG THE
19 COURT'S INDULGENCE FOR ONE SECOND, YOUR HONOR.

20 THE COURT: ALRIGHT, SIR.

21 SOLICITOR SORENSON: YOUR HONOR, I
22 WOULD HAVE A MOTION.

23 THE COURT: SIR?

24 SOLICITOR SORENSON: I WOULD HAVE A
25 MOTION, YOUR HONOR, YES, SIR.

1 THE COURT: YOU DO HAVE?

2 SOLICITOR SORENSON: YES, SIR.

3 THE COURT: ALRIGHT, LADIES AND
4 GENTLEMEN WHO ARE SEATED ON THIS JURY, PLEASE RETIRE TO
5 THE JURY ROOM. PLEASE DO NOT TALK ABOUT THIS CASE.
6 WE'VE GOT A MATTER OF LAW WE NEED TO TAKE UP, BUT DO NOT
7 DISCUSS THIS CASE. AND IT WILL PROBABLY TAKE US A HALF
8 HOUR OR MAYBE A LITTLE LONGER, I'M NOT SURE, BUT YOU
9 RETIRE TO YOUR JURY ROOM, BUT DO NOT TALK ABOUT THIS
10 CASE. SO, FOLLOW MR. RICHARDSON OUT.

11 (Whereupon, the jury
12 leaves the courtroom and the
13 following takes place out of the
14 presence of the jury.)

15 THE COURT: LADIES AND GENTLEMEN WHO
16 WERE NOT SELECTED ON THIS JURY, AS I SAID, WE HAVE A
17 MATTER OF LAW THAT WE NEED TO TAKE UP. WE NEED TO DO
18 THAT OUTSIDE OF YOUR PRESENCE, BUT WE'RE GOING TO TAKE
19 THE COURT REPORTER IN THE BACK BECAUSE WE DON'T HAVE
20 ANYWHERE ELSE TO SEND YOU. IF I SEND YOU OUT YOU'LL
21 HAVE TO STAND OUT THERE IN THE HALL. WE DON'T EVEN HAVE
22 ENOUGH CHAIRS FOR YOU OUT THERE. SO, YOU JUST MAKE
23 YOURSELF COMFORTABLE AND WE'LL BE BACK AS SOON AS WE
24 CAN. WE WILL RETIRE TO CHAMBERS AND TAKE UP THE MOTION.
25 (Whereupon, the following

1 takes place in chambers.)

2 THE COURT: ALRIGHT, SOLICITOR, I'LL
3 HEAR YOUR MOTION.

4 SOLICITOR SORENSON: MAY IT PLEASE
5 THE COURT, YOUR HONOR, I HAVE A MOTION AS TO TWO OF THE
6 STRIKES EXERCISED BY THE DEFENSE, THE FIRST ONE BEING
7 JUROR SIXTY-FIVE, MR. GAFFNEY, HE'S A WHITE MALE, AND
8 THE OTHER ONE I WOULD HAVE AN OBJECTION TO WOULD BE
9 NUMBER FIFTY-TWO, MR. FANNING. THE OTHER THREE JURORS
10 I DO NOT HAVE A QUARREL WITH. THEY WERE A BLACK MALE,
11 A BLACK FEMALE, AND MR. ROMANSTINE'S BROTHER IS A
12 DETECTIVE.

13 THE COURT: ALRIGHT. I THINK HE'S
14 LAID OUT A PRIMA FACIE CASE, SO I WILL HEAR YOU.

15 MR. MELLARD: WELL, SIXTY-FIVE, WHAT
16 I HAVE, YOUR HONOR, IS THAT HE'S THE LEAD COMPUTER
17 OPERATOR AT TRIDENT REGIONAL MEDICAL CENTER, AND I
18 FIGURED THAT WORKING AT TRIDENT REGIONAL MEDICAL CENTER
19 HE WOULD SEE A LOT OF THINGS THAT, YOU KNOW, AS FAR AS
20 THE MEDICAL STUFF. YOU KNOW, HE WOULD HEAR THINGS, A
21 LOT OF PEOPLE GET RAPED AND THEY GO THERE, THEY GET
22 MURDERED AND THEY GO THERE, AND I JUST THINK HE HAS
23 KNOWLEDGE, WHETHER OR NOT HE'S A NURSE OR WHATEVER, JUST
24 BY BEING THERE, JUST BY TALKING TO PEOPLE, I THINK HE
25 WOULD HAVE KNOWLEDGE. SO, THAT'S WHY I DIDN'T WANT HIM.

1 THE COURT: ALRIGHT, WHAT ABOUT - -

2 -

3 MR. MELLARD: THE OTHER GUY, NUMBER
4 FIFTY-TWO, I'VE GOT HE WORKS - - -

5 MS. HINDS: HE WORKS AT SAVANNAH
6 RIVER SITE AND MIGHT HAVE AN EXTENSIVE BACKGROUND, THE
7 EX-HUSBAND WORKS FOR THE SITE, I'VE SOCIALLY MINGLED
8 WITH ALL KINDS OF PEOPLE FROM THE SAVANNAH RIVER SITE,
9 THEY ARE SO RIGHT WING IT ISN'T EVEN FUNNY. I DO NOT
10 THINK THAT HE COULD GIVE MR. MOSES A FAIR TRIAL.

11 THE COURT: ALRIGHT, MR. SORENSON.

12 SOLICITOR SORENSON: YOUR HONOR, AS
13 TO THE FIRST ONE, MR. GAFFNEY IS A COMPUTER OPERATOR AT
14 THE HOSPITAL. I MEAN, I UNDERSTAND THAT. I MEAN,
15 GRANTED, THERE ARE NO OTHER COMPUTER OPERATORS THAT WERE
16 SAT ON THE JURY SO I CAN'T, I CAN'T, I CAN'T POINT THAT
17 OUT TO THE COURT, BUT I JUST THINK THAT THAT, YOU KNOW,
18 IS JUST - - -

19 THE COURT: WHAT HAVE YOU GOT FOR AN
20 OCCUPATION ON MARY SELLERS?

21 MR. MELLARD: I'VE GOT SHE'S IN
22 HOUSEKEEPING.

23 THE COURT: HOUSEKEEPING WHERE?

24 MR. MELLARD: HOLIDAY INN,
25 SUMMERVILLE.

1 THE COURT: YES, SIR.

2 SOLICITOR SORENSON: IF YOU'RE
3 TALKING ABOUT LABOR THAT WAS STRUCK, I MEAN, THAT'S A -
4 - -

5 THE MELLARD: ALRIGHT, AND THE NEXT
6 GUY - - -

7 SOLICITOR SORENSON: IT WAS A STATE
8 AGENCY THAT MADE, YOU KNOW, YOU SEE ALL KINDS OF THINGS
9 THAT YOU WOULDN'T HAPPEN TO SEE, BUT I MEAN.

10 MR. MELLARD: THE NEXT ONE IS ONE
11 EIGHTY-FIVE, A STUDENT AT O-C TECH, FORTY-ONE.

12 SOLICITOR SORENSON: AS FAR AS, YOUR
13 HONOR, MR. SALLEY, NUMBER ONE FIFTY-ONE, HE'S A
14 COMPLIANCE OFFICER WITH THE DEPARTMENT OF LABOR, SO I
15 THINK THAT WOULD BE SOMEBODY THAT WOULD SEE, YOU KNOW,
16 CRIMINAL INFRACTIONS AND THINGS OF THAT NATURE. I MEAN,
17 THEY DIDN'T SEEM TO HAVE A PROBLEM WITH HIM, HE'S A
18 BLACK MALE.

19 MR. MELLARD: HE DON'T WORK AT A
20 HOSPITAL.

21 MS. HINDS: DEPARTMENT OF LABOR.

22 MR. MELLARD: YEAH, I MEAN,
23 DEPARTMENT OF LABOR, I MEAN, IT'S, I DON'T THINK THEY
24 SEE A LOT OF CRIMES AT THE DEPARTMENT OF LABOR.

25 MS. HINDS: I MEAN, THEY DON'T HAVE

1 A MINIMUM WAGE.

2 MR. MELLARD: WHITE COLLARED CRIMES
3 OR SOMETHING LIKE THAT.

4 SOLICITOR SORENSON: AND A COMPUTER
5 PERSON AT THE HOSPITAL DOES? I MEAN, HE'S NOT A NURSE,
6 NOT A DOCTOR, I MEAN, WE'RE TALKING ABOUT SOMEBODY THAT
7 WORKS ON THEIR COMPUTER SYSTEMS.

8 MR. MELLARD: SOMEBODY THAT IS IN
9 THE HOSPITAL, INTERACTS WITH PEOPLE IN THE HOSPITAL.

10 SOLICITOR SORENSON: AND THEY SAT,
11 LET'S SEE, JUROR NUMBER TWO, LET'S SEE WHAT DOES. SHE
12 WORKS FOR HEALTH CARE, THE HEALTH CARE CENTER, MS. AIKEN
13 DOES.

14 THE COURT: WHO DOES?

15 SOLICITOR SORENSON: AUDREY AIKEN.

16 MR. MELLARD: SHE WORKS AT ST.
17 GEORGE HEALTH CARE CENTER, SHE'S A FLOOR TECH. THAT'S
18 NOT A HOSPITAL.

19 MS. HINDS: THAT'S LIKE A
20 CONVALESCENT HOME, - - -

21 MR. MELLARD: RIGHT.

22 MS. HINDS: SHE'S BASICALLY AN AID.

23 MR. MELLARD: RIGHT.

24 SOLICITOR SORENSON: AND NUMBER
25 TWENTY-SEVEN, ALL I'VE GOT IS, SHE'S RETIRED, A WIDOW,

1 ACTUALLY, IT'S A LADY, I THINK, SHE'S A RETIRED WIDOW.
2 EIGHTY-THREE IS CUSTOMER SERVICE FOR
3 VERIZON.

4 SEVENTY-SEVEN, RETIRED, GOLDKIST.
5 I'M NOT REALLY SURE WHAT THAT IS, I THINK IT'S LIKE A
6 DRINK OR SOMETHING.

7 MS. HINDS: NO, THAT'S A COMPANY.

8 MR. MELLARD: OH, IT'S A COMPANY?
9 MAYBE THAT WAS SUNKIST I WAS THINKING ABOUT.

10 THE COURT: WHAT HAVE YOU GOT FOR
11 ONE FORTY-TWO?

12 MR. MELLARD: SHE WAS JUST ON
13 DISABILITY, THAT'S ALL SHE SAID.

14 SOLICITOR SORENSON: BASICALLY, - -
15 -

16 COURT REPORTER: I'M SORRY, I CAN'T
17 HEAR YOU.

18 SOLICITOR SORENSON: I SAID, THEY
19 STRUCK HER, MS. RICKENBAKER.

20 MR. MELLARD: RIGHT. AND ONE
21 SEVENTY-TWO IS THE HOUSEWIFE THAT SOLD AVON.

22 AND THEN, NUMBER THREE IS ANOTHER
23 HOUSEKEEPER AT HAMPTON INN IN SANTEE. I MEAN, - - -

24 NUMBER SEVEN DROVE A SCHOOL BUS AS
25 AN ALTERNATE.

1 AND THEN, FIFTY-THREE WORKS FOR SOME
2 KIND OF UPHOLSTERING COMPANY.

3 I MEAN, THE ONLY PERSON WE STRUCK
4 WAS TRMC. AND THERE'S OTHER PEOPLE THAT WERE ON THERE
5 FROM TRMC BUT WE DIDN'T GET A CHANCE TO STRIKE THEM.

6 THE COURT: AND MR. FANNING IS A
7 RIGHT WINGER?

8 MR. MELLARD: YES, SIR.

9 THE COURT: AND HE WORKS AT SAVANNAH
10 RIVER SITE?

11 SOLICITOR SORENSON: SO, THEY'RE
12 SAYING - - -

13 MS. HINDS: FROM MY PERSONAL
14 EXPERIENCE, I SOCIALIZE WITH TONS OF PEOPLE FROM
15 SAVANNAH RIVER PLANT, AND MOST OF THEM THINK MPR IS A
16 COMMUNIST RADIO BROADCAST, AND YES, THEY'RE VERY, TEND
17 TO BE VERY CONSERVATIVE. THEY'RE THE PEOPLE THAT I, AT
18 A DINNER PARTY, OR GOING -- I DON'T KNOW HOW YOU CAN
19 REPRESENT THOSE PEOPLE.

20 SOLICITOR SORENSON: SO, THEREFORE,
21 I MEAN, IF I -- I CAN STRIKE SOMEBODY FOR WHERE THEY
22 LIVE AND SAY THEY'RE TOO LIBERAL? I MEAN, I CAN'T DO
23 THAT, I MEAN, I CAN'T, IF A JURY LIVES IN A CERTAIN
24 NEIGHBORHOOD, I MEAN, I CAN'T USE THAT AS A BASIS TO
25 STRIKE THEM, I MEAN, IF THEY'RE TOO, I MEAN, THEY LIVE,

1 YOU KNOW, OVER ON STATE AVENUE, I MEAN, THEY'RE TOO
2 LIBERAL.

3 MS. HINDS: YOU'RE ASKING ME FOR A
4 REASON OTHER THAN RACE, AND I'M TELLING YOU THAT'S
5 EXACTLY WHAT MY REASON WAS. AND YES, I THINK I CAN.

6 THE COURT: WELL, I HAD A CASE WHERE
7 A YOUNG MAN STRUCK ALL THE JURORS FROM IRMO BECAUSE HE
8 LIVED IN IRMO AND HE KNEW THEY WERE ALL CONSERVATIVE
9 FOLKS. AND I DID NOT ALLOW THAT STRIKE, AND I GOT
10 UPHELD ON APPEAL. SO, TELL ME HOW THAT'S DIFFERENT? IF
11 YOU CHARACTERIZE EVERYBODY FOR BEING CONSERVATIVE
12 BECAUSE YOU LIVE THERE, AND YOU CATEGORIZE EVERYBODY
13 FROM WESTINGHOUSE THAT WORKS AT SAVANNAH RIVER SITE AS
14 BEING CONSERVATIVE BECAUSE YOU'VE MET SOME OF THEM AT A
15 PARTY, TELL ME HOW THAT'S DIFFERENT?

16 MS. HINDS: I THINK THE DIFFERENCE
17 IS, IT'S NOT JUST, IT'S, IT'S, THE LEVEL AT WHICH HE'S
18 AT SAVANNAH RIVER SITE, THE FACT THAT HE WORKS OUT
19 THERE, I JUST DO THINK IT'S DIFFERENT. THE PEOPLE THAT
20 WORK AT SAVANNAH RIVER SITE TEND TO BE CONSERVATIVE. WE
21 STRUCK BLACK PEOPLE. IT WASN'T BECAUSE HE WAS WHITE. IF
22 THERE HAD BEEN A BLACK PERSON FROM SAVANNAH RIVER I
23 PROBABLY WOULD HAVE STRUCK THEM, TOO. IT HAS TO DO WITH
24 HIS EMPLOYMENT AND THE MIND SET.

25 SOLICITOR SORENSON: AND I JUST

1 DON'T THINK, JUDGE, WE CAN GET AWAY WITH DOING THAT, YOU
2 KNOW, IF YOU FLIP FLOP THAT, I COULDN'T GET AWAY WITH
3 ANYTHING LIKE THAT.

4 THE COURT: ALRIGHT, GIVE ME A
5 COUPLE OF MINUTES. HAND ME MY BLACK NOTEBOOK FROM OUT
6 THERE.

7 (Court's Exhibits One through Four
8 marked and filed.)

9 (Whereupon, the following
10 takes place in open court.)

11 THE COURT: THANK YOU VERY MUCH, YOU
12 MAY BE SEATED.

13 ALRIGHT, THE STATE'S MOTION IS
14 DENIED. I'LL PUT THE REASONS ON THE RECORD LATER.

15 ANYTHING ELSE?

16 SOLICITOR SORENSON: NO, SIR.

17 THE COURT: ALRIGHT, LADIES AND
18 GENTLEMEN, IF YOU WERE NOT SELECTED ON THIS JURY I'M
19 GOING TO EXCUSE YOU AT THIS TIME. WE ANTICIPATE THAT
20 THIS CASE MIGHT TAKE SEVERAL DAYS, BUT I CAN ASSURE YOU
21 THAT NOTHING IS EVER CERTAIN. AND SO, WE MAY VERY WELL
22 NEED YOU BACK HERE AT NINE O'CLOCK IN THE MORNING. SO,
23 I WANT YOU TO CALL IN THE CALL BACK NUMBER AFTER SIX
24 O'CLOCK. DOES EVERYBODY HAVE THE CALL IN NUMBER? IF
25 YOU DON'T SOMEBODY WILL GIVE IT TO YOU WHEN YOU LEAVE.

1 PLEASE DON'T LEAVE WITHOUT IT. BUT YOU CALL THAT NUMBER
2 AFTER SIX O'CLOCK THIS AFTERNOON AND FOLLOW WHATEVER
3 INSTRUCTIONS YOU FIND ON THAT MACHINE. NOW, WE ONLY
4 HAVE ONE MACHINE, IT WILL ONLY ANSWER ONE AT THE TIME.
5 SO JUST BE PATIENT, YOU CAN CALL ANYTIME TONIGHT FOR
6 WHATEVER MESSAGE IS THERE. IT MAY SAY, BE HERE AT
7 NINE:THIRTY IN THE MORNING, IT MAY SAY, CALL BACK
8 TOMORROW AFTER SIX.. I DON'T KNOW, IF I KNEW NOW I'D
9 TELL YOU, BUT I JUST DON'T KNOW. BUT WE NEED YOU TO DO
10 THAT SO WE CAN BE CERTAIN IF WE DO NEED ANOTHER JURY
11 TOMORROW THAT WE'LL HAVE YOU. SO, YOU ARE EXCUSED AT
12 THIS TIME.

13 AS TO THE MOTION, I FIND THAT THE
14 DEFENDANT DID STATE RACIALLY NEUTRAL REASONS, WHEN THEY
15 DETERMINED THAT THEY HAD SEATED SIMILAR SITUATED JURORS,
16 AS THE TWO THAT WERE STRUCK, AND THE REASONS DON'T HAVE
17 TO MAKE GOOD SENSE, THEY DON'T HAVE TO BE INTELLIGENT
18 REASONS, JUST RACIALLY NEUTRAL REASONS. I THINK THE
19 DISTINGUISHING FACTOR BETWEEN THE IRMO EXAMPLE THAT I
20 GAVE IS THAT IT'S COMMON KNOWLEDGE THAT ABOUT NINETY PER
21 CENT OR MORE OF THE PEOPLE WHO LIVE IN IRMO ARE WHITE.
22 IF YOU STRIKE SOMEBODY FROM IRMO YOU'RE ALMOST CERTAINLY
23 GOING TO BE STRIKING A WHITE PERSON. THAT DOESN'T EXIST
24 WITH THE SAVANNAH RIVER SITE. SO, ANYHOW, THAT MOTION
25 IS DENIED.

1 ANY OTHER PRETRIAL MOTIONS BEFORE WE
2 BRING IN THE JURY?

3 MR. MELLARD: YEAH, I WOULD RENEW MY
4 OBJECTION TO THE AMENDMENT OF THE INDICTMENT.

5 THE COURT: ALRIGHT, SIR, I OVERRULE
6 THAT OBJECTION. AND THE STATE HAS PRESENTED AN
7 INDICTMENT, AND I HAVE AMENDED THE ORIGINAL INDICTMENT
8 BY INSERTING THE WORDS -- LET ME FIND IT. I'M MISSING
9 ONE INDICTMENT. WELL, THE STATE HAS PREPARED AN
10 INDICTMENT, JUST REPRINTED THE INDICTMENT WITH THE
11 AMENDMENT IN IT, RATHER THAN USING THE ONE, SUBMITTING
12 THE ONE TO THE JURY WHICH HAS THE AMENDMENT PLACED IN IT
13 IN INK, AND THE STATE PROPOSES TO SEND THE REPRINTED
14 INDICTMENT TO THE JURY.

15 MR. MELLARD: YOUR HONOR, WE WOULD
16 ASK THAT YOU SEND THE AMENDED INDICTMENT TO THE JURY.

17 THE COURT: WELL, I'LL TAKE UP THAT
18 BEFORE I SEND IT TO THE JURY.

19 OKAY, NOW, ONE OTHER THING,
20 YESTERDAY THERE WAS A QUESTION ABOUT A WITNESS, TODD
21 WILLIAMS, AND I GAVE YOU HIS PHONE NUMBERS SO YOU COULD
22 CHECK TO DETERMINE IF YOU THOUGHT THERE WAS ANY CHANCE
23 HE WOULD BE A MATERIAL WITNESS IN THE CASE WHICH WOULD
24 REQUIRE MY RECUSAL, AND WERE YOU ABLE TO MAKE THAT
25 CONTACT?

1 MR. MELLARD: I CHECKED WITH HIM
2 YESTERDAY AFTERNOON. I SPOKE WITH HIM, SPOKE WITH THE
3 SOLICITORS. I DON'T BELIEVE HE IS GOING TO BE CALLED IN
4 THIS CASE, SO I DON'T THINK HE'S GOING TO BE A MATERIAL
5 WITNESS.

6 THE COURT: ALRIGHT. ANYTHING ELSE,
7 THEN, BEFORE I BRING IN THE JURY?

8 SOLICITOR SORENSON: NO, SIR.

9 THE COURT: HAVE YOU GOT A WITNESS
10 YOU WANT TO TAKE OR JUST DO THE OPENINGS?

11 SOLICITOR SORENSON: I DON'T KNOW.

12 THE COURT: WHO IS YOUR FIRST
13 WITNESS?

14 SOLICITOR SORENSON: HE'S OUT IN THE
15 HALLWAY, YOUR HONOR.

16 SOLICITOR JOHNSON: HE'S IN THE
17 HALLWAY.

18 THE COURT: WHO IS IT?

19 SOLICITOR SORENSON: MR. BOWMAN,
20 LLOYD BOWMAN.

21 THE COURT: HOW LONG IS IT GOING TO
22 BE?

23 MR. JOHNSON: IT SHOULDN'T BE VERY
24 LONG, YOUR HONOR, MAYBE FIVE MINUTES FOR MR. BOWMAN.

25 THE COURT: AND WHO IS YOUR SECOND

1 ONE?

2 SOLICITOR SORENSON: LIEUTENANT
3 JENKINS.

4 THE COURT: HOW LONG IS HE GOING TO
5 BE?

6 SOLICITOR SORENSON: PROBABLY A
7 LITTLE MORE THAN FIVE MINUTES BUT NOT A WHOLE LOT.
8 THEY'RE BOTH PRETTY SHORT.

9 THE COURT: WELL, LET'S -- OF
10 COURSE, I DON'T ANTICIPATE ANY LENGTHY OPENINGS.

11 BRING IN THE JURY.
12 YOU CAN SWEAR THEM. DO YOU WANT TO
13 SWEAR THEM?

14 CLERK: I CAN, I DON'T PARTICULARLY
15 NEED TO, BUT IF YOU WANT ME TO, I'LL SWEAR THEM.

16 THE COURT: SURE, YEAH.

17 (Whereupon, the jury enters
18 the courtroom.)

19 THE COURT: ALRIGHT, LADIES AND
20 GENTLEMEN, PLEASE STAND SO THE CLERK CAN GIVE YOU THE
21 JUROR'S OATH. SO, WOULD Y'ALL PLEASE STAND AT THIS TIME
22 AND RAISE YOUR RIGHT HAND.

23 ALRIGHT, MR. EDMOND.

24 (Whereupon, the jury is duly
25 sworn and impaneled.)

1 CLERK: THANK YOU.

2 THE COURT: ALRIGHT, LADIES AND
3 GENTLEMEN, LET ME GIVE YOU A FEW PRELIMINARY
4 INSTRUCTIONS. I DON'T KNOW IF ANY OF Y'ALL HAVE EVER
5 SERVED ON A JURY OR NOT. YOU KNOW, WE ALL GET TO BE
6 EXPERTS IN T.V. LAW. WELL, LET ME TELL YOU, T.V. LAW
7 DOESN'T HAVE ANY REAL RELATIONSHIP TO WHAT'S REALLY
8 GOING ON. THIS IS THE REAL THING HERE TODAY, AND THESE
9 PROGRAMS LIKE C.S.I. AND DRAGNET AND THOSE OTHER LAWYER
10 PROGRAMS, THEY REALLY DON'T HAVE MUCH BASIS IN REALITY.
11 SOMEBODY SITS DOWN AND DECIDES WHAT THE OUTCOME IS GOING
12 TO BE AND THEN THEY WRITE A SCRIPT. WE DON'T HAVE THAT
13 HERE, WE HAVE THE SCRIPT WRITTEN AND YOU HAVE TO DECIDE
14 WHAT THE OUTCOME IS.

15 THE STATE, AS I SAID, HAS THE BURDEN
16 OF PROVING MR. MOSES GUILTY BEYOND A REASONABLE DOUBT,
17 AND IF THE STATE DOESN'T MEET THAT BURDEN IT WOULD BE
18 YOUR DUTY TO FIND HIM NOT GUILTY. BUT BY THE SAME
19 TOKEN, IF THE STATE DOES MEET THAT BURDEN IT'S YOUR DUTY
20 TO FIND HIM GUILTY. AND EACH OF YOU HAS ASSURED ME THAT
21 YOU WILL BE A FAIR AND UNBIASED, IMPARTIAL JUROR, AND
22 YOU WILL BASE YOUR DECISION BASED SOLELY ON THE
23 TESTIMONY AND THE EVIDENCE YOU HEAR IN THE CASE.

24 NOW, BECAUSE THE STATE HAS THE
25 BURDEN THEY GO FIRST, AND SO, IN A FEW MINUTES WE'RE

1 GOING TO HAVE THE OPENING STATEMENTS. THEY WILL BE
2 RELATIVELY BRIEF, THEY'LL JUST KIND OF SHOW YOU, TELL
3 YOU WHAT THEY THINK THE EVIDENCE IS GOING TO SHOW, GIVE
4 YOU A BRIEF OUTLINE OR ROADMAP OF THE CASE. THE STATE
5 GOES FIRST AND THEN THE DEFENDANT. THEN THE STATE WILL
6 PUT UP ITS CASE, AND THEY'LL DO THIS BY CALLING
7 WITNESSES, AND I'M SURE THEY'LL HAVE SOME EXHIBITS TO BE
8 INTRODUCED. AND ONCE THEY FINISH THE DEFENDANT HAS AN
9 OPPORTUNITY TO PUT UP A DEFENSE OR TO TESTIFY, BUT AS I
10 TOLD YOU EARLIER, HE DOES NOT HAVE TO PROVE ANYTHING.
11 HE DOES NOT HAVE TO TESTIFY, HE DOES NOT HAVE TO OFFER
12 ANY WITNESSES, BECAUSE HE DOESN'T HAVE ANYTHING TO
13 PROVE. BUT IF HE CHOOSES TO DO SO, THEN HE WOULD DO
14 THAT AFTER THE STATE FINISHES WITH THEIR CASE.

15 THEN WHEN YOU'VE HEARD ALL THE
16 EVIDENCE THAT YOU'RE GOING TO HEAR THE ATTORNEYS WILL
17 COME BACK TO YOU AND THEY'LL MAKE THEIR CLOSING
18 ARGUMENTS IN THE CASE. THEY'LL TRY TO PERSUADE YOU TO
19 SEE THE FACTS IN THIS CASE IN FAVOR OF THEIR RESPECTIVE
20 POSITIONS IN THE CASE. YOU ARE THE JUDGES OF THE FACTS.
21 IF THE WAS A WRECK CASE THAT HAPPENED AT A TRAFFIC
22 CIRCLE, I MEAN, A TRAFFIC LIGHT IT WOULD BE UP FOR YOU
23 TO DETERMINE WHO HAD THE GREEN LIGHT AND WHO HAD THE RED
24 LIGHT. THAT'S A QUESTION OF FACT. I'M THE JUDGE OF THE
25 LAW, I WOULD TELL YOU WHAT YOU ALREADY KNOW ABOUT A

1 TRAFFIC LIGHT IS, IF YOU HAVE THE GREEN LIGHT YOU CAN
2 GO, IF YOU HAVE THE RED LIGHT YOU HAVE TO YIELD THE
3 RIGHT OF WAY. BUT THE LAW IS NOT QUITE THAT SIMPLE IN
4 A MURDER CASE, AND SO I'LL CHARGE YOU ON THE LAW, AND
5 I'M THE JUDGE OF THE LAW. BUT YOU ARE THE JUDGE OF THE
6 FACTS, YOU DETERMINE WHAT THE TRUTH IS. AND SO, THE
7 ATTORNEYS WILL TRY TO PERSUADE YOU TO SEE THOSE FACTS IN
8 FAVOR OF THEIR RESPECTIVE POSITIONS.

9 ONCE THEY'VE DONE THAT THEN I WILL
10 CHARGE YOU ON THE LAW, I WILL TELL YOU WHAT THE LAW IN
11 SOUTH CAROLINA THAT MIGHT APPLY TO THE FACTS IN THIS
12 CASE, DEPENDING UPON WHAT YOU FIND THE FACTS IN THIS
13 CASE TO BE, AND THEN YOU CAN BEGIN YOUR DELIBERATIONS.

14 NOW, WHILE IT IS IMPORTANT THAT YOU
15 BASE YOUR CONSIDERATION ONLY ON THE TESTIMONY AND
16 EVIDENCE YOU HEAR IN THE COURTROOM AND MY INSTRUCTIONS
17 TO YOU ON THE LAW, THE LAW ALSO PROVIDES THAT YOU MUST
18 CONSIDER ALL OF THE TESTIMONY, THE FIRST WITNESS, THE
19 LAST WITNESS. YOU MUST CONSIDER THE OPENING STATEMENTS
20 AND THE CLOSING STATEMENTS, ALTHOUGH THEY ARE NOT
21 EVIDENCE BUT YOU WOULD CONSIDER WHAT THE LAWYERS TELL
22 YOU IN THOSE STATEMENTS, AND YOU MUST CONSIDER MY
23 INSTRUCTIONS TO YOU ON THE LAW. AND SO, UNTIL YOU HAVE
24 ALL OF THAT INFORMATION YOU DO NOT HAVE EVERYTHING YOU
25 NEED TO START MAKING UP YOUR MIND OR MAKING A DECISION

1 IN THIS CASE. NOW, IF YOU START TALKING WITH EACH OTHER
2 ABOUT THE CASE AFTER THE FIRST OR SECOND WITNESS, OR THE
3 THIRD WITNESS YOU'RE GOING TO START FORMING AN OPINION,
4 AND IT WOULD BE WRONG FOR YOU TO DO THAT. IT'S LIKE BAKING
5 A CAKE, YOU KNOW, IF YOU PUT THE CAKE IN THE OVEN BEFORE
6 YOU PUT THE LAST INGREDIENT IN IT, IT'S GOING TO NOT
7 WORK. YOU'VE GOT TO HAVE EVERYTHING TOGETHER BEFORE YOU
8 CAN START TO BAKE THAT CAKE. YOU'VE GOT TO HAVE ALL THE
9 INFORMATION IN THIS CASE BEFORE YOU CAN EVEN START
10 MAKING YOUR DECISION IN THIS CASE. SO, I ASK YOU NOT TO
11 TALK ABOUT THE CASE, NOT BETWEEN YOURSELVES, AS YOU
12 MIGHT BE IN THE JURY ROOM, WHEN YOU GO HOME OR GO OUT TO
13 EAT FOR LUNCH DO NOT TALK ABOUT THE CASE WITH SOMEBODY.
14 YOU COULD RUN INTO SOMEBODY THAT WOULD OFFER THEIR
15 OPINION ABOUT THE CASE VERY QUICKLY. YOU MIGHT EVEN RUN
16 INTO SOMEBODY WHO KNOWS SOMETHING ABOUT THE CASE, I
17 MEAN, STRANGER THINGS HAVE HAPPENED. AND IF YOU
18 RECEIVED INFORMATION ABOUT THIS CASE OUTSIDE OF THE
19 COURTROOM YOU WOULD BE DISQUALIFIED TO SERVE AS A JUROR.
20 IF YOU LET SOMEBODY ELSE TALK WITH YOU ABOUT THE CASE
21 AND TELL YOU WHAT THEY THINK ABOUT THE CASE OR WHAT THEY
22 READ IN THE NEWSPAPER ABOUT THE CASE YOU WOULD NOT BE
23 QUALIFIED TO CONTINUE TO SERVE AS A JUROR. EASY TO
24 PREVENT THAT PROBLEM, WE JUST DON'T TALK ABOUT THE CASE.
25 YOU WILL HAVE PLENTY OF TIME TO TALK ABOUT IT ONCE YOU

1 BEGIN YOUR DELIBERATIONS. SO, REMEMBER THAT, PLEASE.

2 SO, THE ATTORNEYS ARE GOING TO MAKE
3 THEIR OPENING STATEMENTS AND WE MIGHT A COUPLE OF SHORT
4 WITNESSES BEFORE LUNCH, AND THEN WE'LL BE TAKING OUR
5 LUNCH BREAK, AND WE'LL TRY TO RUN UNTIL TO AROUND FIVE
6 OR FIVE:THIRTY, WHATEVER IS A GOOD BREAKING TIME AT THAT
7 POINT IN TIME. I'LL TRY TO GIVE YOU A BREAK MID-
8 AFTERNOON, IF YOU NEED A BREAK BEFORE I DO JUST RAISE
9 YOUR HAND, LIKE IN SCHOOL, AND WE'LL SLOW DOWN.
10 SOMETIME WE GET TO ROLLING AND I DON'T EVER THINK ABOUT
11 THE JURY SITTING OVER THERE NEEDING A BREAK. I DON'T
12 MEAN TO DO THAT BUT SOMETIME I JUST DON'T THINK ABOUT
13 IT. SOMETIME THE COURT REPORTER HAS TO JUMP UP AND SAY,
14 I NEED A BREAK, YOU KNOW. SO, DON'T HESITATE TO DO THAT
15 IF YOU NEED A BREAK BEFORE I DO.

16 ALRIGHT, MR. SORENSON, OR MR.
17 JOHNSON.

18 SOLICITOR JOHNSON: THANK YOU, YOUR
19 HONOR, MAY IT PLEASE THE COURT.

20 THE COURT: YES, SIR.

21 OPENING STATEMENT BY SOLICITOR JOHNSON

22 GOOD MORNING, LADIES AND GENTLEMEN.
23 MY NAME IS CHARLES JOHNSON, I'M ASSISTANT SOLICITOR HERE
24 IN THE FIRST CIRCUIT, AND AS WAS SAID BEFORE, THIS IS
25 DON SORENSON. IT IS OUR RESPONSIBILITY TO BRING THIS

1 CASE REPRESENTING THE STATE TO YOU TODAY. THE CASE THAT
2 YOU HAVE BEEN ASKED TO BE A JURY ON IS THE CASE OF THE
3 STATE OF SOUTH CAROLINA VERSUS GEORGE MOSES. GEORGE
4 MOSES IS CHARGED WITH MURDER, HE'S CHARGED WITH ARMED
5 ROBBERY.

6 MURDER IS AN UNLAWFUL TAKING OF A
7 LIFE BY MALICE AFORETHOUGHT. ROBBERY IS THE TAKING FROM
8 ANOTHER WITH THE USE OF A WEAPON.

9 NOW, THE CASE THAT CALLS MR. MOSES
10 TO BE CHARGED WITH THIS IS THAT ON SEPTEMBER THE TWENTY-
11 NINTH, IN THE EARLY MORNING HOURS, MR. HARRY LIVINGSTON,
12 THE VICTIM IN THIS CASE, WHICH HIS FAMILY IS SITTING
13 HERE BEHIND US, WAS FOUND IN HIS TRAILER IN ORANGEBURG
14 DEAD. HE WAS BRUTALLY STABBED AND BEATEN VICIOUSLY TO
15 DEATH. THE ORANGEBURG COUNTY POLICE DEPARTMENT,
16 REPRESENTED BY THE OFFICERS HERE, INVESTIGATED THE CASE.
17 AS A RESULT OF THEIR INVESTIGATION, IN TALKING TO
18 WITNESSES, EVIDENCE, AS WELL AS PUTTING ALL THE FACTS
19 TOGETHER, CAME TO THE CONCLUSION THAT THAT WAS DONE BY
20 GEORGE MOSES, AND THAT'S WHY WE'RE HERE TODAY. IT IS
21 OUR RESPONSIBILITY TO PROVE, IT'S THE BURDEN OF THE
22 STATE TO PROVE BEYOND A REASONABLE DOUBT THAT GEORGE
23 MOSES COMMITTED THIS CRIME. YOU, AS THE JURY, WOULD BE
24 THE JUDGE OF THAT PROOF, TO MAKE A DETERMINATION AS TO
25 WHETHER OR NOT WE HAVE MET OUR BURDEN.

1 IF AFTER LOOKING AT ALL THE EVIDENCE
2 THAT WE'RE GOING TO PRESENT TO YOU, YOU COME TO THE
3 CONCLUSION THAT WE HAVE MET THAT BURDEN, THEN YOUR A
4 MANDATED BY YOUR OATH THAT YOU TOOK THAT YOU HAVE TO
5 FIND GEORGE MOSES GUILTY OF MURDER. IF AFTER LOOKING AT
6 THE EVIDENCE YOU FIND THAT WE HAVE NOT MET OUR BURDEN,
7 THEN YOU ARE OBLIGATED BY THAT SAME OATH TO FIND MR.
8 GEORGE MOSES NOT GUILTY. IT IS VERY IMPORTANT THAT YOU
9 TAKE YOUR TIME, LOOK AT ALL THE EVIDENCE, MAKE AN
10 ASSESSMENT OF THE TRUTH, MAKE AN ASSESSMENT OF THE
11 FACTS, MAKE AN ASSESSMENT OF THE PHYSICAL EVIDENCE THAT
12 YOU WILL SEE. BUT ONCE AGAIN, IF AT THE END OF MAKING
13 THOSE ASSESSMENTS YOU HAVE THE BELIEF BEYOND A
14 REASONABLE DOUBT THAT GEORGE MOSES COMMITTED THOSE
15 CRIMES, THEN IT IS YOUR RESPONSIBILITY, YOUR CIVIC
16 RESPONSIBILITY TO FIND HIM GUILTY.

17 NOW, LET ME TELL YOU A FEW THINGS
18 ABOUT THE CASE. SEPTEMBER TWENTY-NINTH, ROUGHLY AROUND
19 FIVE, FIVE:THIRTY THAT MORNING, A.M., AN INDIVIDUAL
20 WHICH YOU WILL MEET, THE STATE WILL PRESENT WITNESSES,
21 WHERE THERE IS A WITNESS THAT, BY THE NAME OF MR. LLOYD
22 BOWMAN, MR. LLOYD BOWMAN ALONG WITH ANOTHER INDIVIDUAL
23 WENT TO HARRY LIVINGSTON'S HOUSE TO SEE HIM. THE OTHER
24 INDIVIDUAL APPARENTLY WAS ON HER WAY TO THE BUS STATION
25 TO CATCH THE BUS AND SHE WANTED TO STOP BY MR.

1 LIVINGSTON'S HOUSE. WHEN THEY ARRIVED AT THE HOUSE THEY
2 FOUND, THEY WAS NOT ABLE TO GET INSIDE. MR. BOWMAN
3 LOOKED THROUGH THE WINDOW AND HE SAW MR. LIVINGSTON
4 LYING ON THE FLOOR OF HIS KITCHEN ON HIS BACK, FACE UP,
5 LIFELESS. THEY THEN LEFT AND WENT TO MR. BOWMAN'S
6 BROTHER'S HOUSE WHICH WAS A FEW MINUTES AWAY, AT WHICH
7 TIME THEY NOTIFIED THE POLICE AND THEY RETURNED BACK TO
8 THE HOUSE.

9 THE POLICE ARRIVED ROUGHLY A SHORT
10 TIME AFTER THAT AND THE INVESTIGATION WAS STARTED.
11 DURING THE INVESTIGATION THEY TALKED TO A NUMBER OF
12 INDIVIDUALS. ONE OF THEM WAS YVETTE LINGUARD WHO WOULD
13 ALSO TESTIFY BEFORE YOU. HER TESTIMONY IS THAT SOMETIME
14 AROUND ELEVEN O'CLOCK TO TWO:THIRTY SHE WAS AT -- ELEVEN
15 O'CLOCK OF SEPTEMBER THE TWENTY-EIGHTH, THAT EVENING, TO
16 TWO:THIRTY A.M., ON SEPTEMBER THE TWENTY-NINTH, THAT SHE
17 WAS PRESENT AT HARRY LIVINGSTON'S HOUSE, AND THAT SHE
18 WAS THERE ALONG WITH GEORGE MOSES AND HARRY LIVINGSTON,
19 THEREBY PUTTING GEORGE MOSES AT THE HOUSE.

20 WE HAVE A NUMBER OF INDIVIDUALS, TWO
21 OTHER INDIVIDUALS WHO CAME TO PICK UP MS. LINGUARD AND
22 TOOK HER HOME AROUND TWO:THIRTY. THEY ALSO WOULD
23 TESTIFY THAT WHEN THEY LEFT THE HOUSE THE ONLY TWO
24 PEOPLE LEFT AT THE HOUSE WAS HARRY LIVINGSTON AND GEORGE
25 MOSES, THEREBY MAKING GEORGE MOSES THE LAST PERSON TO BE

1 SEEN WITH THE VICTIM IN THIS CASE.

2 WE ALSO, THE STATE ALSO INTENDS TO
3 PRESENT WITNESSES THAT WOULD THEN STATE THAT
4 APPROXIMATELY AROUND THREE:FIFTEEN, THREE:THIRTY, RIGHT
5 AROUND THREE O'CLOCK, THAT THEY SAW GEORGE MOSES'S CAR
6 LOCATED AT A MR. JEFFREY CONNER'S HOUSE WHICH IS NOT TO
7 FAR AWAY FROM HARRY LIVINGSTON'S HOUSE. THE POLICE
8 FOLLOWED THAT LEAD TO JEFFREY CONNER, AND JEFFREY CONNER
9 THEN INFORMED THE POLICE THAT HARRY LIVINGSTON DID COME
10 TO HIS HOUSE, HARRY LIVINGSTON CHANGED CLOTHES, ASKED TO
11 BORROW SOME CLOTHES FROM MR. CONNER. THEY ACTUALLY USED
12 DRUGS FOR A FEW MINUTES OR FOR A SHORT PERIOD OF TIME
13 TOGETHER AND THAT THEN GEORGE MOSES LEFT AND WENT HOME
14 SOMETIME AROUND FOUR O'CLOCK, BETWEEN FOUR AND FIVE
15 O'CLOCK.

16 THE POLICE THEN CANVASSED THE AREA
17 OF JEFFREY CONNER'S HOME WHERE THE STATE INTENDS TO SHOW
18 EVIDENCE THAT A PAIR OF SHORTS, BLUE DUNGAREE TYPE
19 SHORTS WAS FOUND STUFFED IN THE OUTSIDE, IN THE STEPS,
20 IN A HOLE WITHIN THE STEPS IN THE BACK OF THE HOUSE.
21 THOSE PANTS WAS THEN RECOVERED BY THE POLICE AND WE
22 INTEND TO SHOW EVIDENCE THAT THOSE PANTS THEN HAD DNA
23 EVIDENCE FOUND ON THOSE PANTS OF BLOOD STAINS ON THE
24 PANTS, AND THE DNA BELONGED TO THE VICTIM, HARRY
25 LIVINGSTON.

THE POLICE QUESTIONED GEORGE MOSES.

GEORGE MOSES GAVE CONFLICTING TESTIMONY INITIALLY AND HE WAS ARRESTED. AFTER FINDING THE EVIDENCE OF THE PANTS AND THE BLOOD AND THE TESTIMONY OF MR. CONNER, THE POLICE RETURNED, TALKED TO GEORGE MOSES AGAIN, AND FINALLY THE STATE WAS ABLE TO RECEIVE A CONFESSION FROM MR. MOSES, FOR WHICH HE CONFESSED ON BEING PRESENT, HE CONFESSED ON ATTEMPTING TO GET DRUGS FROM MR. LIVINGSTON, AND AS A RESULT OF THAT DISAGREEMENT, THAT HE WAS NOT ALLOWED TO TAKE THE DRUGS, AND THAT HE FOUGHT MR. LIVINGSTON, HE BEAT MR. LIVINGSTON, AND HE LEFT MR. LIVINGSTON LYING THERE ON THE FLOOR LIFELESS.

AS A RESULT THE STATE BELIEVES THAT IT HAS SUFFICIENT EVIDENCE TO BRING THESE CHARGES FORTH, AND WE BELIEVE THAT IF YOU LOOK AT THIS EVIDENCE, THAT AT THE END OF LOOKING AT THIS EVIDENCE THAT YOU ALSO WILL FIND BEYOND A REASONABLE DOUBT THAT GEORGE MOSES IS GUILTY OF KILLING HARRY LIVINGSTON. ALL WE ASK IS THAT YOU TAKE YOUR TIME, LOOK AT THE EVIDENCE, GIVE IT IT'S JUST DUE, BUT IF AFTER LOOKING AT THE EVIDENCE WE BELIEVE THAT YOU WILL BE AS FIRMLY CONVINCED AS THE STATE IS THAT GEORGE MOSES, ON SEPTEMBER THE TWENTY-NINTH, SOMETIME BETWEEN THE HOURS OF TWO:THIRTY AND FOUR O'CLOCK A.M., KILLED HARRY LIVINGSTON, BRUTALLY AND VICIOUSLY, AND ENDED HIS LIFE. HE WAS FIFTY-SEVEN YEARS

1 OLD, HE WAS NOT OUT IN THE STREETS ANYWHERE, HE WAS NOT
2 AT A CLUB, HE WAS NOT DOWN ON THE CORNER, HE WAS IN
3 HOUSE, WHERE WE BELIEVE THAT A PERSON SHOULD BE SAFE,
4 AND HE WAS KILLED WITHIN HIS HOUSE. THAT CANNOT BE
5 ALLOWED, THAT SHOULD NOT BE ALLOWED. AND IF THE
6 EVIDENCE THAT WE PRESENT TO YOU, AS WE BELIEVE IT WILL,
7 INDICATES THAT HE IS GUILTY BEYOND A REASONABLE DOUBT,
8 THEN IT IS OUR BELIEF THAT YOU, UNDER YOUR OATH, MUST
9 FIND HIM GUILTY OF MURDER AND ARMED ROBBERY.

10 THANK YOU.

11 THE COURT: THANK YOU, SIR.

12 MS. HINDS.

13 OPENING STATEMENT BY MS. HINDS

14 I'M PEGGY HINDS, AND THIS IS DOUG
15 MELLARD, AND THE BOTH OF US REPRESENT GEORGE MOSES. AND
16 HE SITS THERE TODAY, AS HE HAS BEEN SINCE THE ACCUSATION
17 WAS FIRST MADE, AN INNOCENT MAN. HE IS PRESUMED
18 INNOCENT. THAT IS A VERY IMPORTANT PART OF AMERICAN
19 JUSTICE AND OF AMERICAN LAW. IT'S THE BACKBONE OF THIS
20 COUNTRY THAT WHEN A MAN IS ACCUSED OF SOMETHING HE MUST
21 BE PRESUMED INNOCENT. SO, HE SITS THERE INNOCENT UNTIL
22 AND UNLESS AND UNTIL AT THE END OF YOUR DELIBERATIONS
23 THAT YOU CAN ALL AGREE THAT THE STATE HAS MET THE BURDEN
24 THAT MR. JOHNSON HAS JUST SPOKEN TO YOU ABOUT AND THE
25 JUDGE HAS SPOKEN TO YOU ABOUT, BECAUSE IT IS THE BURDEN

1 OF THE STATE, THEY MUST BE THE ONES TO PROVE TO ALL OF
2 YOU, TO CONVINCE YOU BEYOND THAT REASONABLE DOUBT THAT
3 MR. MOSES DID DO WHAT HE IS ACCUSED OF.

4 NOW, YOU HEARD THE JUDGE READ TO YOU
5 TWO INDICTMENTS, BUT THAT'S AN ACCUSATION, LADIES AND
6 GENTLEMEN, ALL IT IS IS AN ACCUSATION AT THIS POINT. IT
7 IS A PIECE OF PAPER, AND THE WEIGHT OF THAT PAPER IS
8 WHAT THE WEIGHT OF THAT EVIDENCE IS. IT IS NOT EVIDENCE,
9 IT IS SIMPLY SOMEBODY SAYING THAT MR. MOSES DID
10 SOMETHING, NO PROOF WHATSOEVER AT THIS POINT.

11 WE WOULD ASK YOU, -- AND I'M IN
12 AGREEMENT WITH MR. JOHNSON, PLEASE LISTEN CAREFULLY, AND
13 I KNOW YOU WILL, TO ALL THE DETAILS IN THIS CASE, BUT
14 I'M GOING TO TAKE IT A STEP FURTHER, I'M GOING TO ASK
15 YOU IN ADDITION TO LISTENING TO THE DETAILS, PLEASE
16 LISTEN TO WHAT IS LEFT OUT, BECAUSE SOMETIMES OMISSIONS
17 CAN BE JUST AS IMPORTANT AS THE STUFF THAT YOU ARE
18 PRESENTED.

19 I WOULD ASK YOU TO WITHHOLD
20 JUDGEMENT UNTIL ALL OF THE TESTIMONY IS IN. YOU'RE
21 GOING TO HEAR TESTIMONY FROM THIS WITNESS STAND, AS THE
22 JUDGE STATED, THERE ARE GOING TO BE EXHIBITS, BUT YOU
23 MUST WITHHOLD JUDGEMENT UNTIL EVERYTHING IS BEFORE
24 Y'ALL. AND THERE'S A REASON FOR THAT. I'M REMINDED OF
25 A FABLE YOU MIGHT REMEMBER FROM SCHOOL BACK WHEN YOU

1 WERE LITTLE. IT WAS SET IN INDIA AND IT HAD TO DO WITH
2 SEVERAL BLIND MEN WHO WERE TRYING TO LEARN MORE ABOUT
3 THE NATURE OF THE ELEPHANT. AND SO, THE FIRST BLIND MAN
4 GOES UP TO THE ELEPHANT AND HE FEELS THE ELEPHANT'S
5 SIDE, AND HE SAID, AH, AN ELEPHANT IS LIKE A WALL. AND
6 THE SECOND BLIND MAN GOES UP AND HE TOUCHES THE
7 ELEPHANT'S TUSKS, AND HE SAYS, NO, YOU'RE WRONG, THE
8 ELEPHANT IS LIKE A SPEAR. THE NEXT MAN GOES UP, HE
9 TOUCHES THE LEG, HIS DETERMINATION IS, THE ELEPHANT IS
10 LIKE A TREE. THE NEXT ONE TOUCHES AN EAR, HE SAYS, NO,
11 YOU'RE ALL WRONG, THE ELEPHANT IS LIKE A FAN. FINALLY,
12 THE LAST ONE GOES UP AND TOUCHES THE ELEPHANT'S TRUNK,
13 AND HE SAYS, NO, NO, NO, THE ELEPHANT IS LIKE A SNAKE.
14 WE ALL KNOW FROM THAT FABLE THAT THEY WERE ALL WRONG.
15 WHY? BECAUSE THEY DIDN'T HAVE THE BIG PICTURE. I'M
16 ASKING YOU TO WAIT, AGAIN, TO WITHHOLD YOUR JUDGEMENT
17 AND NOT TO MAKE ANY PRECONCEIVED NOTIONS UNTIL YOU HAVE
18 THAT BIG PICTURE AND YOU CAN DETERMINE THAT.

19 MR. MOSES SITS OVER THERE, AS I
20 SAID, PRESUMED INNOCENT AND TELLING YOU HE IS NOT GUILTY
21 OF WHAT HE'S BEEN ACCUSED OF. I WOULD ASK YOU TO, WE
22 UNDERSTAND THAT HE'S BEEN CHARGED WITH THE MOST SERIOUS
23 THING YOU CAN BE CHARGED WITH, HE'S CHARGED WITH MURDER.
24 BUT DON'T CONFUSE, PLEASE, THE SERIOUSNESS OF THE CRIME
25 AND AUTOMATICALLY EQUATE THAT WITH GUILT, BECAUSE THAT'S

1 NOT HOW IT WORKS. IT'S A TRAGEDY FOR HIS FAMILY, WE DO
2 NOT DIMINISH THAT LOSS, BUT WE SUBMIT THAT ONCE YOU HEAR
3 ALL THE EVIDENCE AND ONCE EVERYTHING IS IN AND YOU BEGIN
4 YOUR DELIBERATIONS, THAT YOU WILL RETURN A VERDICT THAT
5 SAYS THE TRUTH, AND WE THINK YOU WILL FIND GEORGE MOSES
6 NOT GUILTY.

7 THANK YOU.

8 THE COURT: THANK YOU, MA'AM.

9 COUNSELOR, YOU MAY CALL YOUR FIRST
10 WITNESS.

11 SOLICITOR JOHNSON: THANK YOU, YOUR
12 HONOR, IF IT PLEASE THE COURT. YOUR HONOR, THE STATE
13 CALLS LLOYD BOWMAN.

14 THE COURT: COME ON DOWN THIS WAY,
15 MR. BOWMAN, RIGHT AROUND OVER HERE. DO YOU SEE THAT
16 BIBLE? IF YOU'D PLACE YOUR LEFT HAND ON THE BIBLE,
17 PLEASE, AND RAISE YOUR RIGHT.

18 (Whereupon, Lloyd DeWitt Bowman
19 is duly sworn.)

20 THE COURT: THANK YOU, SIR. PLEASE
21 HAVE A SEAT THERE AND STATE YOUR FULL NAME FOR US,
22 PLEASE SIR.

23 WITNESS: LLOYD DEWITT BOWMAN.

24 THE COURT: THANK YOU, SIR.

25 ALRIGHT, COUNSELOR.

SOLICITOR JOHNSON: THANK YOU, YOUR

HONOR.

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DIRECT - LLOYD D. BOWMAN BY SOL. JOHNSON

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DIRECT EXAMINATION OF LLOYD D. BOWMAN

BY SOLICITOR JOHNSON:

Q. MR. BOWMAN, GOOD MORNING TO YOU.

A. GOOD MORNING.

Q. MR. BOWMAN, DO YOU LIVE HERE IN ORANGEBURG?

A. YES, I DO.

Q. HOW LONG HAVE YOU LIVED THERE?

A. PRACTICALLY ALL OF MY LIFE.

Q. HOW OLD ARE YOU NOW?

A. FIFTY-NINE.

Q. ARE YOU EMPLOYED?

A. NO, RETIRED.

Q. YOU'RE RETIRED?

A. YES.

Q. AND WHAT ARE YOU RETIRED FROM?

A. TEACHING SCHOOL.

Q. TEACHING SCHOOL. AND WHAT SCHOOL DO YOU TEACH AT?

A. DENMARK-OLAR.

Q. AND HOW LONG DID YOU TEACH THERE?

A. ALMOST THIRTY YEARS.

Q. NOW, I'M GOING TO TAKE YOU BACK TO SEPTEMBER
TWENTY-NINTH OF TWO THOUSAND AND SIX.

A. YES, SIR.

Q. DO YOU REMEMBER THAT DAY?

A. YES, I DO.

DIRECT - LLOYD D. BOWMAN BY SOL. JOHNSON

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1 Q. OKAY. WE TALKING IN THE EARLY MORNING HOURS.

2 A. YES.

3 Q. AS RELATED TO MR. HARRY LIVINGSTON.

4 A. YES.

5 Q. COULD YOU PLEASE TELL ME WHERE WERE YOU THAT
6 MORNING OF SEPTEMBER THE TWENTY-NINTH, TWO
7 THOUSAND AND SIX, SOMETIME AROUND, I GUESS, FOUR
8 OR FIVE O'CLOCK IN THE MORNING?

9 A. WELL, I WAS TAKING MY FRIEND, MAGGIE BAKER, TO THE
10 BUS STATION.

11 Q. WELL, BEFORE YOU GO ON, COULD I JUST ASK YOU TO
12 SPEAK UP, BECAUSE NEEDS TO HEAR YOU, OKAY?

13 A. I WAS TAKING MY FRIEND, MAGGIE BAKER, TO THE BUS
14 STATION. AND INSTEAD OF GOING THERE SHE WANTED TO
15 GO BY HER FRIEND'S HOUSE, HARRY'S HOUSE. SO, I
16 DID, AND SO - - -

17 Q. SO YOU TOOK HER BY MR. LIVINGSTON'S?

18 A. I TOOK HER BY HARRY'S HOUSE, RIGHT.

19 Q. AND ABOUT WHAT TIME WAS THAT?

20 A. IT WAS SOMETHING AFTER FIVE, SHORTLY AFTER FIVE
21 O'CLOCK.

22 Q. OKAY. AND WHY WERE YOU UP SO EARLY, BECAUSE SHE
23 WAS GOING TO - - -

24 A. YEAH, SHE HAD CALLED ME, MAGGIE BAKER HAD CALLED
25 ME AND ASKED ME WOULD I TAKE HER TO THE BUS

DIRECT - LLOYD D. BOWMAN BY SOL. JOHNSON

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1 STATION.

2 Q. OKAY.

3 A. THAT WAS WHY.

4 Q. SO, YOU ARRIVED AT THE HOUSE SOMETIME AROUND FIVE
5 OR SOMETIME, A SHORT TIME AFTER THAT?

6 A. RIGHT.

7 Q. WHAT DID YOU DO ONCE YOU GOT THERE?

8 A. SO, I GOT OUT OF MY TRUCK AND I KNOCKED ON THE
9 DOOR, IN FACT, BOTH DOORS. ONE DOOR HERE BUT
10 ANOTHER DOOR A LITTLE FARTHER DOWN.

11 Q. WELL, LET ME ASK YOU, - - -

12 A. SO, IT'S NOT THE FIRST.

13 Q. --- IS THIS A TRAILER OR A HOUSE?

14 A. A TRAILER.

15 Q. OKAY.

16 A. SO, I KNOCK ON BOTH, NO ONE ANSWERED, SO I OPENED
17 THE SCREEN DOOR, AND THEY HAD A WINDOW IN THE
18 DOOR. SO, I PEEPED THROUGH THE WINDOW AND THERE I
19 SAW MR. HARRY LYING OVER THERE ON THE FLOOR.

20 Q. WAS HE MOVING?

21 A. NO.

22 Q. DID HE SHOW ANY SIGNS OF LIFE?

23 A. NO. I SAW THE TABLE WAS UPSIDE DOWN, THE CHAIRS
24 WAS OVER, TOO, AND I SAW HIM LYING ON THE FLOOR.
25 SO, I KIND OF KNEW SOMETHING WAS WRONG AT THAT

1 POINT.

2 Q. WHAT DID YOU DO THEN?

3 A. I WENT BACK AND I GOT MAGGIE AND I CALLED HER, AND
4 SHE SAW THE SAME THING I SAW.

5 Q. WHAT DID YOU DO THEN?

6 A. THEN WE DECIDED, I DIDN'T KNOW IF HE WAS DEAD OR
7 NOT. SO, WE WENT AND SAW HIS BROTHER.

8 Q. ALRIGHT. WHY DIDN'T YOU TRY TO GO INSIDE, WAS THE
9 DOOR LOCKED?

10 A. YEAH, THE DOOR WAS LOCKED. I THINK IT WAS LOCKED,
11 YES.

12 Q. BUT DID YOU MAKE AN ATTEMPT, WHY DIDN'T YOU CALL
13 THE POLICE FROM THERE?

14 A. WELL, WE ALL THOUGHT ABOUT IT AND SAID, WELL, THE
15 MAN IS NOT, WE DON'T KNOW IF THE MAN IS DEAD OR
16 NOT. SO, OF COURSE, THE MAN LOOKED LIKE HE WAS
17 DEAD BUT, YOU KNOW, WE WEREN'T SURE ABOUT THAT.
18 SO WE DECIDED TO GO AND TELL HIS BROTHER.

19 Q. HOW FAR DOES THE BROTHER LIVE FROM MR. LIVINGSTON?

20 A. ABOUT FIVE OR SIX MILES OR SOMETHING LIKE THAT.

21 Q. OKAY. SO, YOU WENT TO THE BROTHER'S HOUSE?

22 A. YEAH.

23 Q. AND WHAT IS HIS BROTHER'S NAME?

24 A. BARNEY.

25 Q. BARNEY?

DIRECT - LLOYD D. BOWMAN BY SOL. JOHNSON

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1 A. RIGHT.

2 Q. AND WHEN YOU ARRIVED WAS BARNEY THERE?

3 A. YES, HE WAS THERE.

4 Q. AND WHAT DID YOU DO THEN?

5 A. AND WE TOLD HIM WHAT, WHAT WE SAW. AND SO, AT
6 THAT POINT HE CALLED THE SHERIFF'S DEPARTMENT AT
7 THAT POINT.

8 Q. WHAT DID YOU THEN DO?

9 A. WE WENT BACK, AND THEN WE HAD TO WRITE DOWN TO THE
10 OFFICER WHAT HAD HAPPENED AND EVERYTHING. SO, WE
11 DID THAT.

12 Q. AND YOU GAVE A STATEMENT TO THE POLICE OFFICER?

13 A. YES.

14 Q. AND THAT WAS YOUR FULL INVOLVEMENT IN THE MATTER?

15 A. MY FULL INVOLVEMENT IN THE WHOLE MATTER.

16 Q. DID YOU GIVE THEM A FULL STATEMENT AND DID YOU
17 TELL THEM THE TRUTH?

18 A. I TOLD THEM THE TRUTH.

19 Q. DID YOU HAVE ANYTHING TO DO WITH HARRY
20 LIVINGSTON'S DEATH?

21 A. NO, SIR, NO, NO, HUH UH, HUH UH.

22 Q. AND YOU TOLD THE POLICE EVERYTHING?

23 A. I TOLD THEM EVERYTHING I SAW AND WHAT I DID.

24 SOLICITOR JOHNSON: I HAVE NO OTHER
25 QUESTIONS, YOUR HONOR.

THE COURT: CROSS-EXAM.

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CROSS - LLOYD D. BOWMAN BY MR. MELLARD

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CROSS-EXAMINATION OF LLOYD D. BOWMAN

BY MR. MELLARD:

Q. YOU CALL HIM, MR. HARRY, ARE YOU FRIENDS WITH HIM,
WERE YOU FRIENDS WITH HIM?

A. I KNOW OF -- YES, I KNOW HARRY.

Q. OKAY.

A. I CAN'T SAY I'M A FRIEND OF HIS, I KNOW HIM,
THOUGH.

Q. RIGHT. AND HOW DID YOU KNOW HARRY?

A. THROUGH BARNEY, HIS BROTHER.

Q. ALRIGHT. AND HOW, WHAT WAS YOUR RELATIONSHIP WITH
HARRY?

A. JUST A FRIEND.

Q. JUST A FRIEND?

A. AN ACQUAINTANCE AS YOU CAN CALL IT, AN
ACQUAINTANCE, I JUST KNEW OF HIM.

Q. A FRIEND OR AN ACQUAINTANCE. ALRIGHT, SO IT'S MY
UNDERSTANDING THAT YOU AND I GUESS A MAGGIE BAKER
WERE ON THE WAY TO THE BUS STATION?

A. YEAH.

Q. OKAY. AND THIS IS ON SEPTEMBER TWENTY-NINTH, TWO
THOUSAND SIX?

A. YEAH, I THINK IT WAS.

Q. ABOUT FIVE IN THE MORNING?

A. YEAH, ABOUT FIVE OR A LITTLE AFTER FIVE, I CAN'T

1 REALLY SAY.

2 Q. SO, Y'ALL WERE GOING TO VISIT HARRY?

3 A. SHE WANTED TO GO BY HARRY'S HOUSE. NOW, SO, I
4 SAID, OKAY, I'LL - - -

5 Q. OKAY. HAVE YOU ALWAYS, HAVE YOU VISITED AT FIVE
6 O'CLOCK IN THE MORNING BEFORE?

7 A. NO.

8 Q. NO?

9 A. HUH UH.

10 Q. OKAY. SO, YOU GET TO THE HOUSE, AND I GUESS YOU
11 SEE YOUR FRIEND, HARRY, LYING ON THE FLOOR, IS
12 THAT WHAT YOU SAID?

13 A. YES.

14 Q. AND INSTEAD OF CALLING AN AMBULANCE OR THE POLICE
15 YOU, I BELIEVE YOU SAID YOU AND MAGGIE DROVE TO
16 HIS BROTHER'S HOUSE?

17 A. HIS BROTHER'S HOUSE, YES.

18 Q. OKAY. YOU NEVER WENT IN THE HOUSE?

19 A. NO.

20 Q. YOU NEVER CHECKED ON HARRY LIVINGSTON?

21 A. NO.

22 Q. OKAY. YOU JUST LEFT YOUR FRIEND, HARRY, LYING ON
23 THE FLOOR OF HIS HOME AND DROVE TO BOWMAN?

24 A. RIGHT. BECAUSE HE LOOKED DEAD. YOU KNOW, I SAW A
25 LITTLE SOMETHING OUT OF HIS BACK AND A LITTLE RED

CROSS - LLOYD D. BOWMAN BY MR. MELLARD

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1 SOMETHING OUT OF HIS BACK, AND SO HE HAD LOOKED
2 DEAD, REALLY.

3 Q. BUT YOU DIDN'T WANT TO CHECK ON HIM?

4 A. I COULDN'T GET INSIDE OF THE HOUSE NO WAY, THE
5 DOOR WAS LOCKED.

6 Q. YOU SAID YOU THOUGHT THE DOOR WAS LOCKED.

7 A. YEAH, I THOUGHT IT WAS LOCKED.

8 Q. DID YOU TRY THE DOOR?

9 A. NO, I DIDN'T TRY THE DOOR.

10 Q. ALRIGHT. WHEN YOU RETURNED TO THE HOUSE AFTER
11 DRIVING TO HIS BROTHER'S HOUSE, WERE THE POLICE
12 ALREADY THERE?

13 A. I THINK THEY WERE THERE, A FEW OF THEM WAS THERE
14 STANDING AT THE DOOR, AND I BELIEVE THEY HAD SEEN
15 WHAT I SAW.

16 Q. ALRIGHT. AND SO, IT'S YOUR TESTIMONY THAT YOU
17 NEVER WENT IN THE HOUSE?

18 A. NO, I DIDN'T GO IN THE HOUSE.

19 Q. AND MAGGIE NEVER WENT IN THE HOUSE?

20 A. HUH UH.

21 MR. MELLARD: ALRIGHT, THANK YOU.

22 THE COURT: REDIRECT?

23 SOLICITOR JOHNSON: I HAVE NO
24 REDIRECT, YOUR HONOR.

25 THE COURT: THANK YOU, MR. BOWMAN,

1 YOU CAN STEP DOWN.

2 WITNESS: ALRIGHT.

3 THE COURT: ANY OBJECTION TO
4 EXCUSING THIS WITNESS?

5 SOLICITOR JOHNSON: I HAVE NO
6 OBJECTION, YOUR HONOR.

7 THE COURT: YOU MAY BE EXCUSED.

8 WHO'S YOUR NEXT WITNESS?

9 SOLICITOR SORENSON: I CALL
10 LIEUTENANT LACRA WILLIAMS.

11 THE COURT: COME AROUND, PLEASE,
12 SIR.

13 SOLICITOR SORENSON: OR JENKINS.

14 THE COURT: PLACE YOUR LEFT HAND ON
15 THE BIBLE AND RAISE YOUR RIGHT, PLEASE.

16 (Whereupon, LACRA Jenkins
17 is duly sworn.)

18 THE COURT: THANK YOU, SIR. HAVE A
19 SEAT THERE AND STATE YOUR FULL NAME FOR US, PLEASE, SIR.

20 WITNESS: LIEUTENANT LACRA JENKINS.

21 (NOTE: Blank lines on this page do not indicate any
22 part of record has been omitted. Headers on testimony
23 pages and hard page breaks between testimony are now
24 required by the Court. See next ensuing page for
25 sequential continuation of record.)

DIRECT - LACRA JENKINS BY SOL. SORENSON

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DIRECT EXAMINATION OF LACRA JENKINS

BY SOLICITOR SORENSON:

Q. AND LIEUTENANT JENKINS, IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS THAT YOU'RE EMPLOYED?

A. I'M CURRENTLY EMPLOYED WITH THE ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S OFFICE?

A. I'VE BEEN EMPLOYED WITH THE SHERIFF'S OFFICE NOW FOR EIGHT YEARS.

Q. OKAY. AND WHAT, WOULD YOU TELL US WHAT YOUR CURRENT DUTIES AND ALL ARE THERE?

A. I'M IN A SUPERVISORY ROLE AS LIEUTENANT OVER DELTA SHIFT. WE RESPOND TO INCIDENTS THROUGHOUT THE COUNTY, CRIMINAL, CIVIL, I DO INVESTIGATIONS ON BURGLARIES, ASSAULTS, THEFTS AND ANY OTHER CRIMINAL ACTIVITIES.

Q. OKAY. AND TURNING YOUR ATTENTION, IF I COULD, BACK TO THE MORNING OF SEPTEMBER TWENTY-NINTH OF TWO THOUSAND SIX, WERE YOU EMPLOYED IN THAT CAPACITY BACK THEN, SIR?

A. YES, I WAS.

Q. ALRIGHT. AND IF YOU WOULD, DID YOU HAVE AN OPPORTUNITY TO RESPOND TO AN INCIDENT AT TWO [REDACTED] AULTMAN STREET THAT MORNING?

1 A. YES, I DID, MR. SOLICITOR.

2 Q. AND WHERE IS ALTMAN STREET LOCATED AT?

3 A. ALTMAN STREET IS A ROAD OFF OF ROWESVILLE ROAD IN
4 ORANGEBURG COUNTY RIGHT BEHIND THE HIGHWAY
5 DEPARTMENT.

6 Q. OKAY. SO THAT ADDRESS AT [REDACTED] [REDACTED] ALTMAN
7 STREET, THAT'S HERE IN ORANGEBURG COUNTY?

8 A. YES, IT IS, SIR.

9 Q. OKAY, AND IF YOU WOULD, TELL THE JURY WHAT WAS THE
10 NATURE OF THAT CALL THAT YOU WERE DISPATCHED TO
11 THAT MORNING?

12 A. ON SEPTEMBER TWENTY-NINTH, TWO THOUSAND AND SIX WE
13 RESPONDED TO [REDACTED] [REDACTED] AULTMAN STREET IN
14 REFERENCE TO A COMPLAINT IN REFERENCE TO A MALE
15 SUBJECT LYING ON THE FLOOR IN THE KITCHEN AREA OF
16 HIS RESIDENCE.

17 Q. OKAY. AND WERE YOU THE ONLY OFFICER THAT
18 RESPONDED THAT MORNING TO THAT, TO THAT LOCATION,
19 SIR?

20 A. NO, SIR, I WASN'T.

21 Q. WHO WERE OTHER OFFICERS THAT RESPONDED?

22 A. AT THAT POINT IN TIME I HAD A CORPORAL IRA JAMES
23 AND ALSO A DEPUTY HOYT JAMISON THAT RESPONDED WITH
24 ME.

25 Q. OKAY. ARE EITHER ONE OF THEM STILL WITH THE

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 SHERIFF'S OFFICE?

2 A. NO, SIR, THEY'RE NOT.

3 Q. OKAY. IN FACT, CORPORAL JAMES IS ACTUALLY
4 OVERSEAS, IS THAT CORRECT?

5 A. THAT'S CORRECT, SIR.

6 Q. AND WHO WAS THE COMPLAINANT, DO YOU KNOW WHO THAT
7 CALL CAME IN FROM, GETTING Y'ALL TO RESPOND OUT TO
8 THAT AULTMAN STREET ADDRESS?

9 A. YES, SIR, THE COMPLAINANT WAS A MR. LLOYD - - -

10 MR. MELLARD: OBJECTION. MAY WE
11 APPROACH?

12 (Whereupon, a bench conference
13 is held out of the hearing of
14 the jury and court reporter.)

15 Q. Y'ALL WERE DISPATCHED OUT THERE THAT MORNING?

16 A. YES, WE WAS, SIR.

17 Q. ARE YOU AWARE OF WHO PLACED THE NINE ONE ONE CALL
18 IN TO, WHO THE COMPLAINANT WAS?

19 MR. MELLARD: OBJECTION.

20 THE COURT: HE ASKED HIM DID HE
21 KNOW, HE DIDN'T ASK HIM WHO. DO YOU UNDERSTAND THE
22 DIFFERENCE?

23 A. YES, I DO, YOUR HONOR.

24 THE COURT: DO YOU KNOW?

25 A. YOUR HONOR, WE WERE ADVISED THAT IT WAS MR. - - -

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 THE COURT: NO, I DIDN'T ASK YOU
2 THAT. I DON'T WANT A NAME, I WANT TO KNOW IF YOU KNOW,
3 OF YOUR OWN PERSONAL KNOWLEDGE WHO MADE THE CALL?

4 A. YES, SIR.

5 THE COURT: OF YOUR OWN KNOWLEDGE OR
6 DID SOMEBODY TELL YOU?

7 A. INFORMATION I WAS GIVEN THROUGH OUR DISPATCHER.

8 THE COURT: WELL, I SUSTAIN THE
9 OBJECTION.

10 Q. WHAT TIME WERE Y'ALL DISPATCHED THAT MORNING, SIR?

11 A. WE RECEIVED THE COMPLAINT AT FIVE:FIFTY A.M.

12 Q. FIVE:FIFTY IN THE MORNING?

13 A. YES, SIR.

14 Q. OKAY. AND WHAT TIME WAS SOMEBODY FROM YOUR AGENCY
15 ON THE SCENE THERE THAT MORNING?

16 A. OUR ARRIVAL TIME WAS AT FIVE:FIFTY, IT DIDN'T BUT
17 MERE SECONDS TO GET THERE.

18 Q. OKAY. WERE YOU, DO YOU REMEMBER, WERE YOU THE
19 FIRST OFFICER THERE, BECAUSE YOU HAD INDICATED
20 CORPORAL JAMES AND DEPUTY JAMISON ALSO, DO YOU
21 REMEMBER WHO GOT THERE FIRST AND WHEN YOU ARRIVED?

22 A. WE ALL ARRIVED IN REFERENCE TO ABOUT THE SAME TIME
23 FRAME.

24 Q. OKAY. SO, YOU ALL PULLED UP ABOUT THE SAME TIME?

25 A. YES, SIR.

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 Q. WHAT, IF YOU WOULD, DESCRIBE, DESCRIBE WHAT THE
2 SCENE WAS WHEN YOU GOT THERE THAT MORNING?

3 A. UPON OUR ARRIVAL WE DISCOVERED [REDACTED]
4 AULTMAN TO BE A SMALL SINGLE WIDE LIGHT IN COLOR
5 TRAILER.

6 Q. ALRIGHT. LET ME SHOW YOU STATE'S EXHIBIT NUMBER
7 FOUR, DO YOU RECOGNIZE THAT, WHAT'S DEPICTED IN
8 THAT PHOTOGRAPH?

9 A. I DO, SIR.

10 Q. IS THAT [REDACTED] AULTMAN STREET?

11 A. IT IS, SIR.

12 SOLICITOR SORENSON: YOUR HONOR, AT
13 THIS TIME WE'D OFFER STATE'S FOUR INTO EVIDENCE.

14 MR. MELLARD: NO OBJECTION.

15 THE COURT: WITHOUT OBJECTION IT'S
16 ADMITTED AS STATE'S FOUR.

17 COURT REPORTER: STATE'S FOUR.

18 (State's Exhibit Four
19 marked and filed.)

20 Q. SO, AND IS THAT THE CONDITION THE TRAILER WAS IN
21 WHEN YOU ARRIVED THAT MORNING?

22 A. IT IS, SIR.

23 Q. OKAY. AND IF YOU WOULD, TELL THE JURY WHAT YOU
24 DID THEN WHEN Y'ALL GOT AT THE SCENE THAT MORNING?

25 A. UPON ARRIVING ON THE SCENE WE, WE LOCATED THE

1 RESIDENCE AND WENT TO THE DOORS. WE WERE ABLE TO
2 MAKE ENTRY THROUGH THE FRONT DOOR WHICH HAD A
3 GLASS SCREEN BUT IT ALSO HAD A SOLID DOOR WHICH
4 WAS UNSECURED.

5 Q. IS THAT IT RIGHT THERE, THAT DOOR?

6 A. IT IS, SIR.

7 Q. OKAY. SO, WHEN YOU GOT THERE IT WAS UNSECURED, IN
8 OTHER WORDS, UNLOCKED?

9 A. YES, SIR.

10 Q. WAS IT CLOSED?

11 A. IT WAS CLOSED BUT IT WAS UNSECURED.

12 Q. AND DO YOU RECALL AT THAT POINT IN TIME, WERE
13 THERE ANY OTHER INDIVIDUALS BESIDES THE VICTIM,
14 WERE THERE ANY OTHER INDIVIDUALS THAT WERE EITHER
15 AT THE TRAILER WHEN YOU GOT THERE OR ARRIVED KIND
16 OF AS YOU WERE GETTING THERE?

17 A. MR. BOWMAN, AND ALSO MR. BARNEY LIVINGSTON WHO
18 LIVES IN THE AREA SHORTLY ARRIVED, AFTER WE
19 ARRIVED THERE.

20 Q. SO, THE TWO OF THEM PULLED UP?

21 A. YES, SIR.

22 Q. ALRIGHT. AND IF YOU WOULD, DESCRIBE, DID Y'ALL
23 THEN HAVE AN OPPORTUNITY TO GO INSIDE THE TRAILER?

24 A. YES, WE, WE DO, SIR.

25 Q. OKAY. AND DESCRIBE, IF YOU WOULD, FOR THE JURY

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 WHAT THE INSIDE OF THE TRAILER, WHAT YOU
2 ENCOUNTERED WHEN YOU WENT INSIDE?

3 A. YES, SIR, WE LOCATED A BLACK MALE LYING ON THE
4 RIGHT SIDE KITCHEN AREA ON THE FLOOR OF THE
5 RESIDENCE. THE KITCHEN WAS IN SHAMBLES. WE HAD
6 SEVERAL BROKEN OBJECTS AS FAR AS A TABLE, A CHAIR.
7 THE SUBJECT HAD SEVERAL LACERATIONS TO HIS FACE.
8 THERE WAS NUMEROUS BLOOD COMING FROM THE VICTIM,
9 AND WE ALSO OBSERVED THAT HIS CLOTHING WAS COVERED
10 IN BLOOD, AND WE ALSO OBSERVED A LARGE ROTTWEILER
11 INSIDE OF THE RESIDENCE.

12 Q. OKAY. AND ROTTWEILER IS A DOG?

13 A. YES, SIR.

14 Q. OKAY. WHAT, BEFORE I GO BACK TO THIS OTHER STUFF,
15 WHAT DID Y'ALL DO, DID Y'ALL DO SOMETHING WITH
16 THAT DOG AT THAT POINT IN TIME OR - - -

17 A. AT THAT POINT IN TIME WE WERE ABLE TO GET THE DOG
18 OUT FOR MR. BARNEY LIVINGSTON TO SECURE THE
19 ANIMAL.

20 Q. OKAY. AND DO YOU KNOW WHAT RELATION BARNEY
21 LIVINGSTON IS TO THE VICTIM IN THIS CASE, HARRY
22 LIVINGSTON?

23 A. HIS BROTHER.

24 Q. SO, HE WAS ABLE TO SECURE AND REMOVE THE DOG FROM
25 THE SCENE?

1 A. YES, SIR.

2 Q. OKAY. AND WHAT, DID YOU HAVE AN OPPORTUNITY TO
3 OBSERVE THAT ROTTWEILER OUT THERE THAT MORNING?

4 A. I DID.

5 Q. OKAY. AND DESCRIBE FOR THE -- YOU SAID IT WAS A
6 LARGE ROTTWEILER, DESCRIBE FOR THE JURY OTHERWISE,
7 HOW WAS THE DOG ACTING?

8 A. THE DOG WAS VERY DOCILE TOWARDS THE OFFICERS, BUT
9 WE DID HAVE THE BROTHER TO SECURE THE ANIMAL WHILE
10 WE SECURED THE REST OF THE RESIDENCE.

11 Q. DID YOU SEE ANY INJURIES TO THE DOG?

12 A. NO, I DID NOT, SIR.

13 Q. DID THE DOG APPEAR TO BE BLEEDING OR ANYTHING?

14 A. NO, SIR, I DID NOT.

15 Q. OKAY. DID HE APPEAR TO HAVE ANY BLOOD ON HIS FACE
16 OR ANYWHERE, ANYTHING OF THAT NATURE?

17 A. NO, SIR.

18 Q. NOW, YOU HAD INDICATED -- ALRIGHT, THE KITCHEN
19 AREA, WHEN YOU WENT IN THIS DOOR HERE, WHEN YOU
20 WENT IN THAT DOOR OF THE TRAILER WHERE WAS THE
21 KITCHEN LOCATED, AS YOU GO THROUGH THE DOOR?

22 A. IT IS LOCATED ON YOUR RIGHT HAND SIDE.

23 Q. OKAY. AND FROM THAT, FROM THAT DOORWAY WERE YOU
24 ABLE TO SEE INTO THE KITCHEN AREA FROM THE
25 DOORWAY?

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 A. YES, SIR, YOU ARE.

2 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SIX,
3 DO YOU RECOGNIZE THAT PICTURE, SIR?

4 A. I DO.

5 Q. AND WHAT DOES THAT PICTURE DEPICT?

6 A. THE PICTURE DEPICTS WHAT WE SAW THAT MORNING, A
7 BLACK MALE SUBJECT LAYING IN THE KITCHEN AREA WITH
8 SEVERAL OBJECTS BROKEN AROUND HIM, WITH WHAT
9 APPEARED TO BE BLOOD ON HIS CLOTHING.

10 Q. OKAY. AND WHERE WOULD THAT PICTURE BE TAKEN FROM
11 KIND OF IN RELATION TO, WHERE WOULD YOU BE
12 STANDING IN THE TRAILER?

13 A. FROM THE FRONT DOORWAY.

14 SOLICITOR MELLARD: YOUR HONOR, AT
15 THIS TIME WE'D OFFER STATE'S NUMBER SIX.

16 MR. MELLARD: NO OBJECTION.

17 THE COURT: ADMITTED WITHOUT
18 OBJECTION.

19 (State's Exhibit Six
20 marked and filed.)

21 Q. NOW, THIS IS KIND OF STANDING, LOOKING INTO THE,
22 KIND OF STANDING RIGHT INSIDE THIS DOORWAY HERE?

23 A. IT WOULD BE, SIR.

24 Q. OKAY. NOW, WOULD THESE DEPICT THEN THE -- YOU
25 INDICATED THE FURNITURE OVERTURNED IN THE KITCHEN,

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 AND ALSO AN INDIVIDUAL LYING ON THE FLOOR, IS THAT
2 CORRECT?

3 A. YES, SIR.

4 Q. AT THAT POINT IN TIME, LIEUTENANT, DID Y'ALL, WHAT
5 DID Y'ALL DO THEN?

6 A. AT THAT POINT IN TIME WE NOTIFIED DISPATCH TO HAVE
7 A MEDICAL PERSONNEL RESPOND TO THE SCENE TO ASSESS
8 WHETHER OR NOT THE VICTIM WAS EXPIRED OR STILL
9 LIVING.

10 Q. OKAY. AND DID EMS RESPOND OUT THERE?

11 A. YES, THEY DID.

12 Q. OKAY. AND WAS, DID Y'ALL LEARN THAT WAS THAT WAS
13 IN THE KITCHEN?

14 A. AT THAT POINT IN TIME WE DID GET PRELIMINARY
15 INFORMATION THAT IT WAS A MR. HARRY LIVINGSTON.

16 Q. OKAY. AND WHAT, WHEN EMS ARRIVED WHAT WAS MR.
17 LIVINGSTON'S CONDITION?

18 A. EMS RESPONDED AND ADVISED THAT MR. LIVINGSTON HAD
19 EXPIRED.

20 Q. THAT'S SOMETHING YOU COULD KIND OF TELL ON YOUR
21 OWN JUST FROM OBSERVING HIM, OR - - -

22 A. NO, SIR, I WASN'T ABLE TO TELL THAT ON MY OWN DUE
23 TO, THEY WOULD HAVE ADDITIONAL EQUIPMENT THAT THEY
24 WOULD USE FOR VITAL SIGNS.

25 Q. I'VE GOT YOU. WAS THERE ANYBODY ELSE INSIDE THE

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 TRAILER WHEN YOU GOT THERE?

2 A. NO, THERE WAS NO ONE ELSE. WE DID A SECURE OF THE
3 SCENE AND I DID NOT FIND ANY OTHER PERSON OR
4 VICTIM INSIDE THE RESIDENCE.

5 Q. AT THAT POINT IN TIME, SIR, AFTER EMS CAME OUT AND
6 Y'ALL HAD SECURED THE SCENE, WHAT DID Y'ALL THEN
7 DO?

8 A. AT WHICH POINT WE DID WHAT WE CALL PRETTY MUCH A
9 SCENE SECURE, ALL PERSONS ARE PROHIBITED FROM
10 COMING WITHIN THE VICINITY OF THE RESIDENCE, AND
11 WE NOTIFY OUR SHIFT SUPERVISOR WHICH WOULD BE A
12 CAPTAIN WHO NOTIFIES THE INVESTIGATORS TO RESPOND
13 TO THE SCENE IN REFERENCE TO A SUSPICIOUS DEATH.

14 Q. OKAY. AND DID YOU THEN DO ANYTHING ELSE AS FAR
15 AS, YOU KNOW, ATTEMPTING TO COLLECT ANY EVIDENCE
16 OR ANYTHING LIKE THAT INSIDE THE SCENE?

17 A. NO, SIR, I DID NOT.

18 Q. OKAY. WOULD ANY OF THE OTHER OFFICERS THAT
19 RESPONDED INITIALLY WITH YOU HAVE BEEN INVOLVED IN
20 DOING ANYTHING INSIDE THE SCENE?

21 A. NO, SIR, THEY WERE NOT.

22 Q. IN OTHER WORDS, BUT SECURING IT Y'ALL BASICALLY
23 BACKED OUT, CLOSED OFF THE TRAILER SO NOBODY COULD
24 GET THERE UNTIL IT WAS TURNED OVER TO YOUR
25 SUPERVISORS AND THE INVESTIGATORS?

DIRECT - LACRA JENKINS BY SOL. SORENSON

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1 A. THAT'S CORRECT.

2 Q. AND THAT WAS DONE THAT MORNING, SIR?

3 A. IT WAS, SIR.

4 Q. AND WERE YOU INVOLVED, LIEUTENANT IN INTERVIEWING
5 ANY WITNESSES OUT THERE OR ANYTHING LIKE THAT, OR
6 IS THAT ALSO TURNED OVER TO THE INVESTIGATORS?

7 A. THAT WAS TURNED OVER TO THE INVESTIGATORS. WE HELD
8 EVERYONE THAT WAS ON THE SCENE UNTIL THE
9 INVESTIGATORS ARRIVED.

10 SOLICITOR SORENSON: THANK YOU,
11 LIEUTENANT, PLEASE ANSWER ANY QUESTIONS THAT MR. MELLARD
12 MAY HAVE FOR YOU.

13 THE COURT: CROSS-EXAM.

14 (NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
16 pages and hard page breaks between testimony are now
17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

CROSS - LACRA JENKINS BY MR. MELLARD

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CROSS-EXAMINATION OF LACRA JENKINS

BY MR. MELLARD:

Q. YOU HAVE NO FIRST HAND KNOWLEDGE OF WHO KILLED MR.
LIVINGSTON, DO YOU?

A. I DO NOT, SIR.

MR. MELLARD: OKAY, THANK YOU.

THE COURT: ANY REDIRECT?

SOLICITOR SORENSON: NO, SIR.

THE COURT: THANK YOU, SIR, YOU MAY
STEP DOWN.

LADIES AND GENTLEMEN, WE WILL STOP
HERE FOR LUNCH AND WE'LL START BACK AT TWO:THIRTY. WHEN
YOU COME BACK AFTER LUNCH PLEASE DO NOT COME INTO THE
COURTROOM BUT WALK ON DOWN THE HALL AND COME IN THAT
HALL. IN FACT, THE BAILIFF WILL TAKE YOU OUT THAT WAY
SO THAT YOU CAN SEE HOW YOU CAN COME BACK INTO THE JURY
ROOM WITHOUT COMING THROUGH THE COURTROOM.

PLEASE DON'T TALK WITH ANYONE ABOUT
THE CASE, WE'LL SEE YOU AT TWO:THIRTY.

THANK YOU VERY MUCH, YOU ARE
EXCUSED.

(Whereupon, the jury leaves
the courtroom and the following
takes place out of the presence
of the jury.)

1 THE COURT: WOULD YOU PULL THAT DOOR
2 SHUT, PLEASE, MA'AM, MS. BACKMAN?

3 BAILIFF: OKAY.

4 THE COURT: THANK YOU.

5 ANY MATTERS BEFORE WE BREAK FOR
6 LUNCH?

7 SOLICITOR SORENSON: NOTHING FROM
8 THE STATE, YOUR HONOR.

9 MR. MELLARD: NOTHING FROM THE
10 DEFENSE, YOUR HONOR.

11 THE COURT: ALRIGHT. HAVE YOU GOT
12 ALL OF YOUR EXHIBITS MARKED? IF YOU HAVEN'T, BE BACK
13 ABOUT FIFTEEN MINUTES EARLY. MS. WALKER WILL BE HERE
14 AND YOU CAN GET THE REST OF THEM MARKED.

15 SOLICITOR SORENSON: I'D JUST LIKE
16 TO PUT ON THE RECORD, YOUR HONOR, WE -- YESTERDAY I
17 SHOWED SOME PHOTOGRAPHS TO THE DEFENSE THAT WE MARKED AS
18 STATE'S EXHIBITS FOUR THROUGH SIXTEEN, AND I DON'T
19 BELIEVE THEY HAD ANY OBJECTION TO THOSE PHOTOGRAPHS.

20 THE COURT: ARE THEY ADMITTED
21 WITHOUT OBJECTION?

22 MS. HINDS: YES, SIR.

23 THE COURT: FOUR THROUGH SIXTEEN.
24 THAT'S -- WAIT A MINUTE, WE'VE ALREADY HAD AN EXHIBIT
25 FOUR.

1 SOLICITOR SORENSON: WELL, FOUR AND
2 SIX WERE TWO OF THEM, I MEAN, I JUST - - -

3 THE COURT: OH, OKAY. IN ADDITION,
4 I'M GOING TO HAND TO THE COURT REPORTER AT THIS TIME THE
5 SECOND PAGE FROM YOUR REQUEST TO CHARGE WHICH CONTAINS
6 REQUEST NUMBER FOURTEEN WHICH I DENIED. I THINK THAT'S
7 COVERED IN MY QUESTION AS TO WHETHER THEY CAN FOLLOW MY
8 INSTRUCTIONS ON THE LAW, AND I'LL COVER THAT AGAIN IF I
9 CHARGE SELF-DEFENSE. I DON'T KNOW WHAT THE EVIDENCE IS,
10 BUT I THINK YOU WOULD BE PROTECTED. BUT I THINK THAT
11 WILL BE COURT'S FIVE.

12 (State's Exhibits Five
13 and Seven through
14 Sixteen marked and filed.)

15 (Court's Exhibit Five marked and filed.)

16 THE COURT: ALRIGHT, WE'LL BE IN
17 RECESS UNTIL TWO:THIRTY.

18 (Recess)

19 THE COURT: IS THE STATE READY?

20 SOLICITOR SORENSON: MAY WE APPROACH
21 JUST REAL BRIEFLY AS TO SCHEDULING AND STUFF?

22 THE COURT: SURE, BUT WE DON'T HAVE
23 THE JURY.

24 (Whereupon, a bench conference
25 is held out of the hearing of

1 the court reporter.)

2 THE COURT: ALRIGHT, BRING THE JURY
3 IN.

4 (Whereupon, the jury enters
5 the courtroom.)

6 BAILIFF: YOUR HONOR, ALL OF THE
7 JURORS ARE IN THE JURY BOX.

8 THE COURT: THANK YOU, SIR.

9 GOOD AFTERNOON, LADIES AND
10 GENTLEMEN, I TRUST YOU HAD A GOOD LUNCH AND DIDN'T EAT
11 TOO MUCH LIKE I DID, BUT WE'RE READY TO GET STARTED
12 AGAIN.

13 COUNSELOR, YOU MAY CALL YOUR
14 WITNESS.

15 SOLICITOR SORENSON: THE STATE CALLS
16 AGENT ROD GREEN.

17 THE COURT: COME AROUND, MR. GREEN,
18 YOU'LL SEE ON THAT BENCH RIGHT THERE, THAT RAIL A BIBLE.
19 IF YOU'LL PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE
20 YOUR RIGHT.

21 (Whereupon, Roderick Green
22 is duly sworn.)

23 THE COURT: THANK YOU, SIR, HAVE A
24 STATE AND STATE YOUR FULL NAME FOR US, PLEASE.

25 WITNESS: MY NAME IS RODERICK GREEN.

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THE COURT: ALRIGHT, COUNSELOR.

SOLICITOR SORENSON: THANK YOU, YOUR
HONOR.

(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. Headers on testimony
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required by the Court. See next ensuing page for
sequential continuation of record.)

DIRECT - RODERICK GREEN BY SOL.SORENSEN

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DIRECT EXAMINATION OF RODERICK GREEN

BY SOLICITOR SORENSON:

Q. AGENT GREEN, IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS THAT YOU'RE EMPLOYED?

A. I'M EMPLOYED WITH SLED, SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

Q. AND HOW LONG HAVE YOU WORKED WITH SLED?

A. I'VE BEEN WITH SLED FOR NINE YEARS.

Q. OKAY. AND WHAT ARE YOUR CURRENT, WHERE ARE YOU CURRENTLY ASSIGNED WITHIN SLED AT THIS TIME?

A. I'M CURRENTLY ASSIGNED IN THE MIDLANDS REGION AS AN INVESTIGATOR.

Q. OKAY. AND BACK IN SEPTEMBER OF TWO THOUSAND SIX IN WHAT CAPACITY WERE YOU EMPLOYED AT THAT TIME WITH SLED?

A. IN TWO THOUSAND SIX I WORKED IN THE CRIME SCENE UNIT.

Q. OKAY. AND IF YOU WOULD, TELL THE JURY A LITTLE BIT, FIRST OF ALL, HOW LONG, HOW LONG DID YOU WORK IN THAT UNIT OUT AT SLED?

A. I WORKED IN THAT UNIT FOR THE FIRST SEVEN YEARS FROM TWO THOUSAND UNTIL TWO THOUSAND SEVEN AS A CRIME SCENE INVESTIGATOR. WE RESPONDED TO CRIME SCENES TO HELP PROCESS SCENES. WE ALSO DID LAB WORK WHERE WE DID FINGERPRINT ANALYSIS, WE DID

DIRECT - RODERICK GREEN BY SOL.SORENSEN

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1 FOOTWEAR ANALYSIS, BLOOD SPATTER INTERPRETATION,
2 AND ALSO CRIME SCENE RECONSTRUCTION.

3 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO COME
4 TESTIFY IN COURT AS A RESULT OF YOUR NOT ONLY
5 PROCESSING SCENES BUT SOME OF THE ANALYSIS THAT
6 YOU'VE DONE BACK AT SLED IN THE PAST?

7 A. YES, I'VE TESTIFIED IN STATE COURT FOR CRIME
8 SCENE, FINGERPRINTS, FOOTWEAR, TIRE WEAR, ALSO
9 BLOOD SPATTER INTERPRETATION, AND I'VE ALSO
10 TESTIFIED IN FEDERAL COURT AS A CRIME SCENE AND A
11 FINGERPRINT EXPERT.

12 Q. OKAY. HOW MANY TIMES HAVE YOU BEEN QUALIFIED AS
13 AN EXPERT IN THE FIELD OF FINGERPRINT
14 IDENTIFICATION?

15 A. I'VE BEEN QUALIFIED IN FINGERPRINT IDENTIFICATION
16 AT LEAST FIFTEEN TIMES.

17 Q. OKAY. AND HOW ABOUT BLOOD SPATTER ANALYSIS?

18 A. I'VE TESTIFIED AS AN EXPERT IN BLOOD SPATTERS
19 TWICE.

20 Q. TWICE.

21 SOLICITOR SORENSON: YOUR HONOR,
22 WE'D OFFER HIM AS AN EXPERT IN THOSE FIELDS.

23 THE COURT: IN WHAT FIELDS?

24 SOLICITOR SORENSON: FINGERPRINT
25 ANALYSIS AND BLOOD SPATTER ANALYSIS.

DIRECT - RODERICK GREEN BY SOL.SORENSEN

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1 THE COURT: ALRIGHT. MR. MELLARD,
2 DO YOU WISH TO DO ANY VOIR DIRE?

3 MR. MELLARD: YES, SIR, I WOULD.

4 (NOTE: Blank lines on this page do not indicate any
5 part of record has been omitted. Headers on testimony
6 pages and hard page breaks between testimony are now
7 required by the Court. See next ensuing page for
8 sequential continuation of record.)

CROSS - RODERICK GREEN BY MR. MELLARD

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CROSS-EXAMINATION OF RODERICK GREEN

BY MR. MELLARD:

Q. YOU SAID YOU WERE QUALIFIED AS AN EXPERT TWICE, OR
YOU'VE TESTIFIED TWICE IN BLOOD SPATTER?

A. BLOOD STAIN PATTERN ANALYSIS.

Q. OKAY. WHAT'S YOUR, WHAT'S YOUR TRAINING THAT?

A. I'VE ATTENDED A, WE HAVE TRAINING WITHIN SLED.
THAT'S, WE TAKE ON THAT TRAINING LIKE THE THIRD OR
FOURTH YEAR IN THE UNIT. ONCE I COMPLETED THAT
TRAINING I WAS SIGNED OFF, AND THEN I'VE ALSO
TAKEN A FORTY HOUR COURSE BY THE NATIONAL SCIENCE
FOUNDATION, NATIONAL FORENSIC ACADEMY THROUGH THE
UNIVERSITY OF TENNESSEE, WHICH IS A FORTY HOUR
COURSE THAT WAS GIVEN IN COLUMBIA, SOUTH CAROLINA.

Q. AND THAT WAS GIVEN, YOU SAID, THROUGH THE
UNIVERSITY OF TENNESSEE?

A. YES.

Q. ALRIGHT, NOW, HOW FAR -- DO YOU HAVE AN ADVANCED
DEGREE?

A. I HAVE A BACHELOR OF SCIENCE DEGREE.

Q. OKAY, AND WHAT IS THAT IN?

A. IN GEOLOGY FROM FURMAN UNIVERSITY.

Q. IN GEOLOGY?

A. YES.

Q. DO YOU HAVE ANY MEDICAL TRAINING?

1 A. NO.

2 Q. AND YOU'VE ONLY TESTIFIED TWO TIMES, IS THAT
3 CORRECT?

4 A. FOR BLOOD STAIN PATTERN ANALYSIS.

5 Q. FOR BLOOD -- ONE SECOND.

6 MR. MELLARD: THAT'S ALL THE
7 QUESTIONS I WOULD HAVE. I DON'T THINK HE, I WOULD SAY
8 THAT HE'S NOT QUALIFIED IN THE AREA OF BLOOD SPATTER,
9 BASED ON THE FACT THAT HE DOESN'T HAVE THE, FIRST OF
10 ALL, HE DOESN'T HAVE THE EXPERIENCE, AND ALSO I DON'T
11 SEE WHERE HE HAD TRAINING, A FORTY HOUR COURSE, I DON'T
12 THINK THAT GIVES HIM ENOUGH TRAINING TO BE AN EXPERT.

13 THE COURT: ALRIGHT. WELL, I FIND
14 THAT HE'S QUALIFIED TO TESTIFY AS AN EXPERT IN THE FIELD
15 OF FINGERPRINT ANALYSIS AND BLOOD SPATTER ANALYSIS.

16 NOW, LADIES AND GENTLEMEN, LET ME
17 TELL YOU WHAT THAT MEANS. ORDINARILY A WITNESS CANNOT
18 GIVE YOU AN OPINION. ORDINARILY A WITNESS CAN ONLY TELL
19 YOU WHAT THEY KNOW OF THEIR OWN FIRST HAND KNOWLEDGE AND
20 EXPERIENCE. BUT CERTAIN PERSONS BECAUSE OF THAT
21 EXPERIENCE, THAT KNOWLEDGE, THEIR TRAINING, THEIR
22 EDUCATION, THEIR BACKGROUND, CAN BE ALLOWED TO GIVE YOU
23 AN OPINION AS TO MATTERS WITHIN THAT AREA OF EXPERTISE.
24 WE CHOOSE TO CALL THOSE PEOPLE EXPERT WITNESSES. IT'S
25 UP TO THE COURT TO DETERMINE WHETHER HE'S QUALIFIED TO

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1 TESTIFY AS AN EXPERT AND GIVE YOU AN OPINION. I FIND
2 THAT HE IS SO QUALIFIED. IT'S UP TO YOU WHETHER YOU
3 BELIEVE HIS OPINION OR NOT. YOU DON'T HAVE TO TAKE IT
4 JUST BECAUSE HE SAID IT AS THE GOSPEL TRUTH. I'LL TELL
5 YOU LATER ON THAT YOU JUDGE THE CREDIBILITY OR THE
6 BELIEVABILITY OF ALL WITNESSES IN THIS CASE, EVERYBODY
7 WHO TESTIFIES. IT'S UP TO YOU TO DECIDE WHETHER YOU
8 BELIEVE THEM OR NOT. BUT I FIND THAT HE'S QUALIFIED TO
9 TESTIFY AS AN EXPERT WITNESS.

10 ALRIGHT, YOU MAY PROCEED.

11 SOLICITOR SORENSON: THANK YOU, YOUR
12 HONOR.

13 (NOTE: Blank lines on this page do not indicate any
14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

DIRECT - RODERICK GREEN BY SOL. SORENSON

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DIRECT EXAMINATION OF RODERICK GREEN

BY SOLICITOR SORENSON CONTINUES:

Q. AGENT GREEN, AS PART OF YOUR DUTIES WHEN YOU WORKED IN THE CRIME SCENE DEPARTMENT AT STATE LAW ENFORCEMENT DIVISION, DID YOU OFTEN, WERE YOU OFTEN CALLED OUT TO ASSIST OTHER AGENCIES AROUND THE STATE AT THAT TIME IN PROCESSING CRIME SCENES?

A. YES.

Q. OKAY. AND SPECIFICALLY IN THIS MATTER DID YOU HAVE AN OCCASION TO GET CALLED OUT TO ASSIST IN PROCESSING A CRIME SCENE HERE IN ORANGEBURG BACK ON SEPTEMBER TWENTY-NINTH OF TWO THOUSAND AND SIX?

A. YES.

Q. ALRIGHT, IF YOU WOULD, TELL THE JURY WHEN WERE YOU NOTIFIED THAT YOU NEEDED TO RESPOND HERE?

A. ON THE TWENTY-NINTH WE WERE CALLED AT APPROXIMATELY SEVEN A.M. TO RESPOND TO A CRIME SCENE IN ORANGEBURG.

Q. OKAY. DO YOU RECALL WHAT TIME IT WAS THAT YOU ARRIVED HERE THAT MORNING, THEN?

A. WE ARRIVED AT THE SCENE AT APPROXIMATELY NINE:THIRTY THAT MORNING.

Q. OKAY, AND YOU SAID, WE, NOW WAS THERE ANOTHER AGENT THAT ASSISTED YOU?

A. YES. WE NORMALLY TAKE TWO AGENTS TO PROCESS A

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 CRIME SCENE. I HAD AGENT JAMIE SEALS WITH ME THAT
2 MORNING.

3 Q. OKAY. AND WERE YOU KIND OF THE LEAD OUT OF THE
4 TWO OF Y'ALL ON THIS CASE?

5 A. THAT'S CORRECT.

6 Q. OKAY. AND WHERE IS THAT YOU WERE CALLED OUT TO,
7 DO YOU RECALL THE ADDRESS THAT YOU WERE CALLED OUT
8 TO THAT MORNING?

9 A. YES. THE ADDRESS WAS [REDACTED] AULTMAN DRIVE
10 IN ORANGEBURG.

11 Q. HERE IN ORANGEBURG? AND I'M SHOWING YOU STATE'S
12 EXHIBIT NUMBER FOUR, IS THAT THE TRAILER THAT YOU
13 RESPONDED TO THAT MORNING?

14 A. YES, THAT'S A PHOTOGRAPH OF IT.

15 Q. OKAY. AND IF YOU WOULD, WERE YOU AWARE OF THE
16 NATURE OF THE CALL OR WHAT YOU WERE RESPONDING TO
17 WHEN YOU WERE IN ROUTE THAT MORNING?

18 A. YES. WE WERE TOLD IT WOULD BE A DEATH
19 INVESTIGATION.

20 Q. AND IF YOU WOULD, DESCRIBE THE SCENE AT THAT
21 TRAILER WHEN YOU ARRIVED AROUND NINE:THIRTY OR SO
22 THAT MORNING?

23 A. I ARRIVED AT THE SCENE, THERE WAS DEPUTIES ALREADY
24 THERE, THE SCENE WAS SECURE, AND THEY WERE WAITING
25 ON US.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. OKAY. SO, AND BY THE SCENE BEING SECURED,
2 DESCRIBE, TELL THE JURY WHAT YOU MEAN BY THAT?

3 A. THEY, THE AREA WAS ROPED OFF AND A DEPUTY WAS
4 SITTING OUTSIDE TO MAKE SURE THAT NO ONE, NO ONE
5 ELSE ENTERED THE SCENE UNTIL WE ARRIVED THERE.

6 Q. SO, WHEN YOU GOT THERE THAT MORNING WAS THERE
7 ANYBODY, WAS THERE ANYBODY INSIDE THE TRAILER
8 BESIDES THE VICTIM?

9 A. NO. NO ONE WAS INSIDE THE TRAILER.

10 Q. AND IF YOU WOULD, DESCRIBE THEN WHEN YOU HAD AN
11 OPPORTUNITY THEN TO ENTER INSIDE THAT TRAILER,
12 DESCRIBE FOR THE JURY IF YOU WOULD THE SCENE THAT
13 YOU CAME UPON?

14 A. WE ENTERED THE FRONT DOOR OF THE TRAILER. THE
15 KITCHEN IS, SITS TO THE RIGHT OF THE FRONT DOOR.
16 FROM THE FRONT DOOR YOU COULD SEE THE VICTIM LYING
17 ON HIS BACK, HEAD SORT OF TOWARDS THE LIVING ROOM.

18 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SIX, DOES
19 THAT KIND OF ILLUSTRATE THAT?

20 A. YES.

21 SOLICITOR SORENSON: COULD I HAVE
22 HIM STEP DOWN, YOUR HONOR, PERMISSION TO HAVE HIM STEP
23 DOWN?

24 THE COURT: YES, SIR, THAT WILL BE
25 FINE.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. SO THAT YOU CAN KIND OF, AS I GO THROUGH THESE
2 PHOTOGRAPHS WITH YOU, IF YOU WILL KIND OF HOLD
3 THEM UP AND KIND OF SHOW THE JURY WHAT YOU'RE
4 TALKING?

5 A. THIS IS, THIS IS THE FRONT DOOR. THIS IS A
6 PHOTOGRAPH SORT OF COMING THROUGH THE DOOR.
7 THROUGH THE FRONT DOOR YOU CAN SEE THE KNOB OF THE
8 DOOR HERE, AND THIS IS THE KITCHEN THAT SITS TO
9 THE RIGHT, AND YOU'VE GOT A WALL HERE. RIGHT ON
10 THE OTHER SIDE OF THAT WALL THERE WAS THE VICTIM
11 IN THE KITCHEN LYING, HERE IS THE VICTIM LYING ON
12 HIS BACK IN THE KITCHEN, AND YOU CAN SEE THE
13 KITCHEN WAS SORT OF IN SHAMBLES, THE TABLE AND THE
14 CHAIRS OVER.

15 Q. ALRIGHT. I'M SHOWING YOU STATE'S EXHIBIT NUMBER,
16 I THINK THAT'S NUMBER NINE, IF YOU WILL HOLD THAT
17 REAL QUICK, AND ALSO NUMBER SEVEN, DO YOU
18 RECOGNIZE THOSE PHOTOGRAPHS?

19 A. YES. THIS IS A CLOSER PHOTOGRAPH OF THE VICTIM
20 INSIDE OF THE KITCHEN, AND THIS IS A PHOTOGRAPH OF
21 THE AREA ONCE WE MOVED THE VICTIM, IT JUST HAS
22 SOME CHAIR PIECES THERE AND A KNIFE. YOU CAN SEE
23 THE BLOOD WHERE THE VICTIM WAS LAYING.

24 Q. ALRIGHT. YOU'VE INDICATED THOSE PIECES OF CHAIR
25 AND THAT KNIFE, DID YOU COLLECT THOSE ITEMS?

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 A. YES. WE COLLECTED THOSE ITEMS.

2 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
3 EIGHTEEN, DO YOU RECOGNIZE THAT ITEM?

4 A. YES. THIS IS THE KNIFE IN THE PHOTOGRAPH THAT WE
5 FOUND UNDER THE VICTIM.

6 Q. I'M NOT SURE IF - - -

7 SOLICITOR SORENSON: DO YOU HAVE ANY
8 OBJECTION TO ANY OF THESE?

9 MR. MELLARD: NO OBJECTION.

10 SOLICITOR SORENSON: WE'D OFFER
11 STATE'S EIGHTEEN, YOUR HONOR.

12 THE COURT: ALRIGHT.

13 (State's Exhibit Eighteen
14 marked and filed.)

15 Q. AND YOU COLLECTED THAT, THEN?

16 A. YES.

17 Q. AND AS YOU'VE INDICATED, THERE ARE A COUPLE OF
18 PIECES OF BROKEN, OF A BROKEN CHAIR ALSO?

19 A. YES.

20 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER NINETEEN,
21 ARE THOSE THOSE ITEMS?

22 A. YES, THESE ARE THE PIECES OF THE BROKEN CHAIR, AND
23 WE ALSO COLLECTED THOSE ITEMS.

24 SOLICITOR SORENSON: WE'D OFFER
25 STATE'S NINETEEN.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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MR. MELLARD: NO OBJECTION.

(State's Exhibit Nineteen
marked and filed.)

Q. AND WAS THERE A CORRESPONDING CHAIR IN THAT
KITCHEN THAT APPEARED TO HAVE THE BACK TWO PIECES
BROKEN OUT OF IT?

A. YES, THERE WAS A CHAIR BROKEN.

Q. IS THAT DEPICTED IN, DOES THAT ACTUALLY SHOW THE
CHAIR RIGHT THERE?

A. WELL, YEAH, THIS IS A CHAIR ALSO CLOSE TO THE
VICTIM AND IT HAD BEEN BROKEN.

Q. WELL, WHAT ABOUT, WAS THERE A KITCHEN TABLE INSIDE
THE KITCHEN?

A. YES.

Q. AND WHERE WAS THAT, HOW WAS THAT, WHAT WAS THE
CONDITION OF THAT TABLE WHEN YOU GOT THERE?

A. I BELIEVE THE TABLE WAS OVERTURNED, I'D HAVE TO
SEE THE PHOTOGRAPH.

Q. IS THAT SHOWING UP IN THE RIGHT HAND CORNER OF
THAT?

A. YES, IN THE RIGHT HAND CORNER, THAT'S THE TABLE
TOP, AS THE TABLE IS OVERTURNED IN THE KITCHEN.

Q. OKAY. NOW, YOU DESCRIBED, IF YOU WOULD, DESCRIBE
FOR THE JURY WHAT CONDITION THE VICTIM WAS IN
THEN, WHEN YOU GOT AROUND TO HIM?

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 A. THE VICTIM WAS LAYING FACE UP ON HIS BACK. HE WAS
2 DECEASED, BRUISES ABOUT HIS FACE, HEAD, AND THERE
3 WOUNDS AROUND HIS CHEST AND STOMACH AREA.

4 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER EIGHT,
5 DOES THAT DEPICT HIM, HOW YOU FOUND HIM THAT
6 MORNING?

7 A. YES.

8 Q. OKAY. IF YOU COULD, KIND OF SHOW THAT TO THE JURY?

9 A. A PHOTOGRAPH OF THE VICTIM CLOSE UP.

10 Q. THAT WALL THAT HIS HEAD IS LOCATED UP AGAINST
11 THERE, WHERE WAS THAT WALL, WAS THAT AN OUTSIDE,
12 AN EXTERIOR WALL TO THE TRAILER OR - - -

13 A. THIS WALL HERE IS ACTUALLY AN INTERIOR WALL, IT
14 SEPARATES THE KITCHEN FROM THE LIVING ROOM.

15 Q. NOW, WHAT IF ANYTHING DO YOU NOT ON THAT WALL
16 BEHIND THE VICTIM'S HEAD, WHAT IF ANY SIGNIFICANCE
17 IS THAT, DOES THAT HAVE?

18 A. THERE IS, THERE IS A LOT OF BLOOD AROUND THE
19 VICTIM'S HEAD, AND THERE IS SOME BLOOD SPATTER ON
20 THE WALL AROUND HIS HEAD.

21 Q. OKAY. AND WHAT SIGNIFICANCE, IF ANY, WOULD THAT
22 BLOOD SPATTER THAT'S ON THE WALL NEAR HIS HEAD
23 HAVE?

24 A. WELL, HERE YOU HAVE AN OPEN SOURCE OF BLOOD WHICH
25 IS THE VICTIM'S, AND IN ORDER FOR, IN ORDER TO GET

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 BLOOD SPATTER AROUND THAT AREA THERE'S SOME AMOUNT
2 OF FORCE BEING APPLIED TO THAT VICTIM'S HEAD. IT'S
3 EITHER, HIS HEAD IS PROBABLY COMING IN CONTACT
4 WITH THAT WALL, LIKE, YOU KNOW, SOME AMOUNT OF
5 FORCE, AND THAT FORCE PROJECTS THE BLOOD AWAY FROM
6 HIS HEAD, AND IT IS DEPOSITED ON THAT WALL.

7 Q. CONSISTENT WITH HIM BEING STRUCK WHILE HE IS ON
8 THE GROUND?

9 A. WELL, IT'S, IT'S, IT CAN BE INDICATIVE OF A
10 STRUGGLE GOING ON. THERE'S, HE'S NOT JUST LAYING
11 THERE STILL, HE'S MOVING AND HE'S COMING IN
12 CONTACT WITH THAT WALL WITH SOME FORCE. IT TAKES
13 SOME AMOUNT OF FORCE FOR THAT TO HAPPEN.

14 Q. AND THAT WOULD HAVE TO BE AFTER THERE WAS SOME,
15 ALREADY SOME INJURY TO HIS HEAD?

16 A. RIGHT, THAT'S AFTER THE INJURY TO HIS HEAD.

17 Q. OKAY. NOW, DID YOU, BESIDES THE BLOOD THAT YOU
18 DESCRIBED FINDING IN THE KITCHEN AREA WAS THERE
19 ANY BLOOD FOUND IN THE LIVING ROOM AREA THAT WAS
20 KIND OF ADJACENT TO THAT KITCHEN?

21 A. YES, THERE IS, ON THAT WALL THAT SEPARATES THE
22 KITCHEN AND THE LIVING ROOM WE ALSO FOUND SOME
23 BLOOD SPATTER ON THE LIVING ROOM SIDE ABOUT, ABOVE
24 A CHAIR THERE.

25 Q. OKAY. AND HOW ABOUT ON -- I'LL COME BACK TO THAT

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 IN A SECOND, BUT HOW ABOUT, WAS THERE A LIGHT
2 SWITCH ALSO IN THAT ROOM?

3 A. RIGHT. INSIDE OF THE LIVING ROOM, RIGHT NEXT TO
4 THE DOOR THERE'S A LIGHT SWITCH. WE FOUND, WE
5 FOUND SOME BLOOD STAINS ON THAT, ON THE LIGHT
6 SWITCH ITSELF. AND THESE ARE TRANSFER STAINS
7 MEANING THAT SOME BLOODY, SOMETHING WITH BLOOD ON
8 IT CAME IN CONTACT WITH THE LIGHT SWITCH.

9 Q. OKAY. AND DID YOU COLLECT ANY SAMPLES OF ANY OF
10 THAT BLOOD TO BE SUBMITTED FOR FURTHER ANALYSIS?

11 A. YES, WE TOOK SWABS OF THAT BLOOD TO BE ANALYZED BY
12 SLED.

13 Q. THANK YOU, YOU CAN HAVE A SEAT, PLEASE. NOW, DID
14 YOU HAVE AN OPPORTUNITY TO SEARCH THE VICTIM TO
15 SEE IF THERE WAS ANY ITEMS ON THE VICTIM OF ANY
16 SIGNIFICANCE?

17 A. WE, WE TOOK PHOTOGRAPHS OF THE VICTIM, WE ALSO
18 ROLLED HIM OVER, CHECKED HIS POCKETS, THAT SORT OF
19 THAT.

20 Q. WAS ANYTHING FOUND IN HIS POCKETS?

21 A. IN ONE OF HIS REAR POCKETS WE FOUND A CONTAINER, I
22 BELIEVE IT WAS SOME TYPE OF TOBACCO CONTAINER, HAD
23 A SMALL AMOUNT OF COCAINE IN IT, OR WHAT I
24 BELIEVED TO BE COCAINE.

25 Q. HOW ABOUT, WAS THERE ANY MONEY FOUND IN HIS

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 POCKETS, ANY DOLLAR BILLS OR BILLS OF ANY NATURE,
2 IF YOU RECALL?

3 A. I DON'T, I DIDN'T, I DON'T RECALL ANY MONEY BEING
4 FOUND.

5 Q. YOU DIDN'T COLLECT ANY MONEY?

6 A. I DIDN'T COLLECT ANY.

7 Q. DID YOU HAVE AN OPPORTUNITY, AGENT, LATER ON THAT
8 AFTERNOON, STILL ON SEPTEMBER TWENTY-NINTH, TWO
9 THOUSAND AND SIX, TO BE CALLED OUT TO ANOTHER,
10 ANOTHER RESIDENCE HERE IN ORANGEBURG?

11 A. YES.

12 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
13 THIRTEEN, DO YOU RECOGNIZE THAT PHOTOGRAPH?

14 A. YES, THIS IS A PHOTOGRAPH OF THE HOUSE THAT WE
15 WERE CALLED TO, AND ALSO RESPONDED TO.

16 Q. DO YOU RECALL THE ADDRESS OF THAT HOUSE?

17 A. I BELIEVE IT WAS [REDACTED] MYERS.

18 Q. OKAY.

19 A. I DON'T REMEMBER IF IT WAS AVENUE OR STREET.

20 Q. ALRIGHT, DO YOU REMEMBER WHOSE HOUSE THAT WAS, OR
21 DID YOU KNOW, FROM YOUR DOCUMENTATION AS TO WHOSE
22 RESIDENCE THAT WAS?

23 A. NO, I UNDERSTOOD IT TO BE A FRIEND OF A SUSPECT IN
24 THE CASE.

25 Q. OKAY. WERE THERE OTHER OFFICERS WITH THE

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 SHERIFF'S OFFICE THAT WERE ALREADY ON THE SCENE
2 THERE WHEN YOU GOT THERE?

3 A. YES.

4 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO HAVE ANY
5 ITEMS OF POTENTIAL EVIDENTIARY VALUE POINTED OUT
6 TO YOU AT THAT LOCATION ON MYERS ROAD?

7 A. YES, THERE WERE SOME BLOODY SHORTS FOUND BY ONE OF
8 THE INVESTIGATORS AT ORANGEBURG, AND WHEN I
9 ARRIVED HE SHOWED ME WHERE THOSE WERE.

10 Q. OKAY. WHO WAS THAT THAT HAD TOLD YOU THEY FOUND
11 THEM AND SHOWED YOU WHERE THEY WERE?

12 A. INVESTIGATOR SHUMPERT WITH THE ORANGEBURG COUNTY
13 SHERIFF'S OFFICE.

14 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY THEN TO
15 PHOTOGRAPH THOSE SHORTS IN THAT LOCATION THAT WAS
16 POINTED OUT TO YOU?

17 A. YES, I PHOTOGRAPHED THEM HOW WE FOUND THEM BEFORE
18 WE COLLECTED THE SHORTS.

19 MR. MELLARD: COULD I SEE THAT
20 PICTURE?

21 SOLICITOR SORENSON: UH HUH.

22 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWELVE,
23 DOES THAT DEPICT WHERE THOSE SHORTS WERE POINTED
24 OUT TO YOU?

25 A. YES. THIS IS THE BACK PORCH OF THAT HOUSE.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. YOU CAN STEP DOWN IF YOU WANT TO, AGENT. THAT'S
2 AROUND BEHIND, AROUND BEHIND THIS HOUSE THAT'S
3 DEPICTED IN STATE'S THIRTEEN?

4 A. YES, THAT'S THE FRONT OF THE HOUSE, THIS IS THE
5 SORT OF BACK STEPS OF THE HOUSE, AND THESE ARE THE
6 BLOODY SHORTS WHERE THEY WERE POINTED OUT TO US.

7 Q. AND WHERE, WHERE WAS IT INDICATED TO YOU THAT THEY
8 HAD BEEN LOCATED?

9 A. IT WAS INDICATED TO US THAT THESE SHORTS WERE
10 FOUND STUFFED INSIDE OF THAT, THAT HOLE IN THE
11 STEPS.

12 Q. OKAY. DID YOU THEN HAVE AN OPPORTUNITY TO THEN
13 PHOTOGRAPH THOSE SHORTS, KIND OF, I GUESS, KIND OF
14 ON BOTH SIDES TO SOME DEGREE, THAT'S STATE'S
15 FOURTEEN AND FIFTEEN?

16 A. YES. THIS IS A CLOSE PHOTOGRAPH OF THE SHORTS,
17 YOU CAN SEE THE BLOOD STAINS ON IT. THIS IS WHERE
18 WE PUT THE SHORTS OVER IT AND PHOTOGRAPHED IT
19 AGAIN. YOU CAN ALSO SEE SOME MORE BLOOD STAINS.

20 Q. OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER
21 TWENTY-ONE, AND I'M NOT GOING TO TAKE THESE OUT
22 RIGHT NOW, BUT - - -

23 A. OKAY.

24 Q. --- ARE THOSE THE SHORTS THAT WERE FOUND AT
25 [REDACTED] MYERS ROAD AND COLLECTED BY

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 YOU?

2 A. RIGHT. THESE ARE THE SHORTS.

3 SOLICITOR SORENSON: AND I'D OFFER
4 STATE'S TWENTY-ONE INTO EVIDENCE.

5 THE COURT: ANY OBJECTION?

6 MR. MELLARD: ONE SECOND. NO
7 OBJECTION, YOUR HONOR.

8 THE COURT: ADMITTED WITHOUT
9 OBJECTION.

10 (State's Exhibit Twenty-one
11 marked and filed.)

12 SOLICITOR SORENSON: THANK YOU.

13 Q. DID YOU, IN SEARCHING THAT HOUSE THEN, AGENT
14 GREEN, FIND ANY OTHER ITEMS INSIDE THERE THAT
15 LOOKED TO POSSIBLY HOLD SOME EVIDENTIARY VALUE?

16 A. YES. WHILE GOING THROUGH THE HOUSE WE ALSO FOUND
17 A PAY STUB THAT BELONGED TO THE SUSPECT IN THIS
18 CASE.

19 Q. OKAY. LET ME SHOW YOU STATE'S EXHIBIT NUMBER
20 SIXTEEN, WHAT'S DEPICTED IN THAT PHOTOGRAPH?

21 A. THIS IS A PHOTOGRAPH OF THE PAY STUB HERE, IT WAS
22 FOUND IN THE LIVING ROOM OF THAT HOME.

23 Q. OKAY. OF THAT HOUSE ON MYERS ROAD THAT WE'VE BEEN
24 TALKING ABOUT?

25 A. YES.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. THE SAME HOUSE WHERE THE SHORTS WERE FOUND AT?

2 A. YES.

3 Q. OKAY. DID YOU HAVE AN OPPORTUNITY THEN TO COLLECT
4 THAT ITEM?

5 A. YES, WE COLLECTED IT.

6 SOLICITOR SORENSON: I'D OFFER
7 STATE'S EXHIBIT TWENTY INTO EVIDENCE.

8 THE COURT: ANY OBJECTION?

9 MR. MELLARD: NO OBJECTION.

10 THE COURT: ADMITTED WITHOUT
11 OBJECTION. THAT'S STATE'S NUMBER WHAT?

12 SOLICITOR SORENSON: NUMBER TWENTY,
13 YOUR HONOR.

14 THE COURT: NUMBER TWENTY.

15 (State's Exhibit Twenty
16 marked and filed.)

17 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY, IS
18 THAT THAT ITEM THEN THAT'S DEPICTED IN STATE'S
19 EXHIBIT NUMBER SIXTEEN HERE?

20 A. YES, THIS IS THAT ITEM.

21 Q. OKAY. AND WHO IS THAT, IF YOU WOULD JUST FOR THE
22 JURY, WHO IS THAT A PAY STUB BELONGING TO?

23 A. THE NAME AT THE TOP LEFT CORNER HERE SAYS, GEORGE
24 MOSES.

25 Q. OKAY. AND DOES THIS PAY STUB HAVE A WEEK ENDING

1 DATE ON IT ALSO - - -

2 A. YES.

3 Q. --- OF WHEN THAT PAY PERIOD ENDED?

4 A. IT SAYS, "WEEK ENDING DATE OF SEPTEMBER TWENTY-
5 SECOND, O-SIX.

6 Q. SO, THAT WOULD HAVE BEEN SEVEN DAYS BEFORE YOU
7 COLLECTED THIS OUT THERE AT THAT HOUSE?

8 A. THAT'S CORRECT.

9 Q. OKAY, YOU CAN HAVE A SEAT BACK UP THERE. LET ME
10 ASK YOU, DID YOU HAVE AN OPPORTUNITY LATER ON THAT
11 DAY TO RESPOND TO THE LAW ENFORCEMENT COMPLEX IN
12 REFERENCE TO A VEHICLE THAT HAD BEEN TOWED THERE?

13 A. YES.

14 Q. I SHOW YOU STATE'S EXHIBIT NUMBER SEVENTEEN, IS
15 THAT A PHOTO OF THE VEHICLE THAT YOU PROCESSED
16 THAT AFTERNOON?

17 A. YES.

18 SOLICITOR SORENSON: YOUR HONOR, AT
19 THIS TIME WE'D OFFER STATE'S SEVENTEEN, I BELIEVE
20 WITHOUT OBJECTION?

21 MR. MELLARD: NO OBJECTION.

22 THE COURT: WITHOUT OBJECTION.

23 (State's Exhibit Seventeen
24 marked and filed.)

25 Q. AND THAT IS A FORD CONTOUR, I BELIEVE, IS THAT

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 RIGHT?

2 A. YES.

3 Q. OKAY. ALRIGHT, NOW, WERE YOU ABLE TO FIND ANY --
4 TELL THE JURY FIRST OF ALL HOW YOU WENT ABOUT
5 PROCESSING THAT VEHICLE?

6 A. WE PROCESSED, WE BASICALLY DOCUMENTED THE VEHICLE
7 AND THEN WE MOSTLY USE A PHOTOGRAPHER. THEN WE
8 PHOTOGRAPH THE INSIDE AND OUTSIDE OF THE VEHICLE,
9 AND WE PROCESS THE VEHICLE USING A CHEMICAL CALLED
10 L.C.V., AND WE WERE LOOKING FOR BLOOD INSIDE OF
11 THE VEHICLE.

12 Q. OKAY. AND IF YOU WOULD, DESCRIBE FOR THE JURY WHAT
13 THAT L.C.V. IS, I MEAN, WHAT DOES IT DO?

14 A. WHENEVER BLOOD IS SOMETIMES NOT VISIBLE BY YOUR
15 EYE WE'LL USE A STAINING AGENT, AND L.C.V. IS ONE
16 OF THOSE AGENTS. IT WILL, IF IT COMES IN -- IT'S
17 A CLEAR LIQUID BUT IF IT COMES IN CONTACT WITH
18 BLOOD IT WILL TURN PURPLE. SO, WE WOULD SPRAY
19 THAT LIQUID AROUND THE VEHICLE LOOKING FOR ANY
20 BLOOD THAT WEREN'T VISIBLE BY THE EYE.

21 Q. WELL, LET ME FIRST OF ALL ASK YOU, DID YOU SEE
22 ANYTHING JUST WHEN YOU INITIALLY DID YOUR KIND OF
23 VISUAL INSPECTION DID YOU SEE ANYTHING THAT JUMPED
24 OUT AT YOU THAT MIGHT BE BLOOD INSIDE THAT VEHICLE
25 INITIALLY?

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 A. NO, I DIDN'T NOTICE ANY BLOOD IN THE VEHICLE.

2 Q. THEN, AFTER SPRAYING IT WITH THAT L.C.V. WERE
3 THERE ANY AREAS THAT JUMPED OUT AS POSSIBLE SPOTS
4 THAT COULD BE BLOOD INSIDE THAT CAR?

5 A. THERE WAS AN AREA OR TWO ON THE PASSENGER'S SIDE,
6 PASSENGER DOOR OF THE VEHICLE IN THE INSIDE THAT
7 TESTED POSITIVE, SO WE COLLECTED THOSE STAINS.

8 Q. OKAY. SO YOU JUST, IS THAT A SWAB OR SOMETHING
9 THAT YOU USE?

10 A. YES, WE JUST, WE USE A SWAB, WE WET IT AND THEN WE
11 COLLECT IT, LET IT DRY, AND THEN SUBMIT IT TO THE
12 DNA LAB.

13 Q. OKAY. AND I THINK THE LAST THING I WANT TO KIND
14 OF TOUCH ON WITH YOU, AGENT GREEN, IS, THE ITEMS
15 THAT YOU COLLECTED, FIRST OF ALL, THE SHORTS,
16 STATE'S EXHIBIT NUMBER TWENTY-ONE, WHAT DID YOU DO
17 WITH THESE ITEMS, WITH THIS PAIR OF SHORTS?

18 A. THOSE, THE PAIR OF SHORTS WERE SENT TO -- WERE
19 SEALED, SENT TO SLED TO BE PROCESSED IN OUR
20 PROCESSING DEPARTMENT, AND THE BLOOD OR ANYTHING
21 THEY COLLECTED WILL GO TO DNA.

22 Q. OKAY. SO, THEY WERE SEALED AND THEN SENT TO
23 EVIDENCE PROCESSING, IS THAT THE NAME OF THE
24 DEPARTMENT?

25 A. YES.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. ALRIGHT. HOW ABOUT THE SWABS THAT YOU TOOK,
2 WHETHER THE SWABS FROM THE HOUSE OR FROM THE
3 VEHICLE, WHAT WERE DONE WITH THEM?

4 A. THE SWABS WERE SEALED BY MYSELF, PUT INTO A
5 CONTAINER, AND ALSO SENT TO THE SLED LAB, AND
6 THOSE WOULD HAVE WENT TO THE DNA LAB.

7 Q. OKAY. YET AGAIN, IS THERE PROCEDURES IN PLACE TO
8 MAKE SURE, AS FAR AS SEALING THOSE ITEMS, TO MAKE
9 SURE THAT THEY DON'T GET CONTAMINATED BY OUTSIDE
10 SOURCES?

11 A. YES, WE, WE LET THE SWABS DRY OUT, AND THEN I PUT
12 THEM INSIDE OF A CONTAINER OR ENVELOPE AND SEAL
13 THEM WITH A SEALING TAPE AND INITIAL THOSE TO MAKE
14 SURE THEY ARE SOUND.

15 Q. OKAY. SO, THAT WAY, I GUESS THE PERSON THEN THAT
16 WOULD BE IN CHARGE OF ANALYZING THAT WOULD BE ABLE
17 TO SEE THAT IT WAS SUBMITTED AND SEALED BY YOU AND
18 HADN'T BEEN TAMPERED WITH IN BETWEEN?

19 A. THAT'S CORRECT.

20 Q. ALRIGHT. HOW ABOUT THE KNIFE AND THE PIECES OF
21 CHAIR THAT YOU COLLECTED FROM THE KITCHEN AREA,
22 WHAT IF ANYTHING DID YOU DO WITH THEM?

23 A. I PROCESSED BOTH OF THOSE ITEMS FOR ANY
24 FINGERPRINT EVIDENCE, BUT BEFORE THE KNIFE WAS
25 PROCESSED FOR FINGERPRINTS I SWABBED IT, SWABBED

1 BLOOD ON IT AND SENT THAT TO DNA. THEN I
2 PROCESSED BOTH ITEMS FOR ANY FINGERPRINT EVIDENCE
3 THAT MIGHT BE PRESENT.

4 Q. OKAY. AND THOSE SWABS FROM THE KNIFE THEN YOU DID
5 THE SAME THING AS FAR AS SEALING THEM AND SENDING
6 THEM ON TO THE DNA DEPARTMENT?

7 A. CORRECT. I WILL SEAL, I SEALED THOSE SWABS AND
8 THEN HAD THEM TRANSFERRED TO THE DNA DEPARTMENT.

9 Q. NOW, YOU INDICATED THAT YOU THEN PROCESSED, AFTER
10 DOING THAT PROCESS, THE CHAIR PIECES AND THE KNIFE
11 FOR FINGERPRINTS?

12 A. YES.

13 Q. OKAY. FIRST OF ALL, EXPLAIN TO THE JURY JUST
14 BRIEFLY HOW THAT, HOW THAT'S DONE?

15 A. OKAY. FINGERPRINTS ARE -- FINGERPRINTS LEFT ON AN
16 ITEM ARE GENERALLY IN THE FORM OF MOISTURE FROM
17 YOUR HANDS. SO, THE WAY I PROCESS THOSE IS BY
18 USING A FINE BLACK POWDER. WHEN THAT POWDER IS
19 APPLIED TO AN AREA IF THERE IS MOISTURE THERE FROM
20 A FINGERPRINT THE BLACK POWDER WILL STICK TO IT
21 AND THEN IT BECOMES, THE FINGERPRINT WILL BECOME
22 VISIBLE. AND IF IT'S VISIBLE WE THEN WOULD EITHER
23 PHOTOGRAPH IT OR LIFT IT WITH LIFTING TAPE SO IT
24 CAN BE ANALYZED AS FAR AS WHO, WHO LEFT THOSE
25 FINGERPRINTS.

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 Q. WELL, LET ME ASK YOU THIS, EVERY TIME YOU TOUCH AN
2 ITEM DO YOU ALWAYS LEAVE A FINGERPRINT BEHIND THAT
3 CAN THEN BE FOUND AND LIFTED?

4 A. EVEN THOUGH YOUR HANDS COME IN TOUCH WITH
5 SOMETHING YOU DON'T ALWAYS LEAVE FINGERPRINTS.
6 THERE IS A LOT OF VARIABLES INVOLVED. FIRST OF
7 ALL, THE CONDITION OF YOUR HANDS, THERE HAS TO BE
8 SOME TYPE OF MOISTURE THERE ON YOUR HANDS. SOME
9 PEOPLE HAVE DRY HANDS OR YOUR HAND HAD ALREADY
10 COME IN CONTACT WITH SOMETHING THAT REMOVED THAT
11 MOISTURE. ALSO, THE SURFACE, YOU NEED A SMOOTH, A
12 NICE SMOOTH SURFACE USUALLY TO CARRY A
13 FINGERPRINT, AND ALSO, YOU'VE GOT VARIABLES AS FAR
14 AS THE TEMPERATURE, TOO MUCH HEAT WILL CAUSE A
15 FINGERPRINT TO GO AWAY, AND ALSO, IT COULD BE TOO
16 COLD TO LEAVE A FINGERPRINT. SO, EVERY TIME YOUR
17 HANDS COME IN TOUCH WITH SOMETHING YOU DON'T
18 ALWAYS LEAVE A PRINT.

19 Q. DID YOU HAVE AN OPPORTUNITY THEN TO PROCESS, OR AS
20 YOU INDICATED THOSE PIECES OF THE BACK OF THE
21 CHAIR THAT YOU BROUGHT IN AND ALSO THE KNIFE?

22 A. YES, I PROCESSED BOTH OF THOSE ITEMS FOR
23 FINGERPRINTS.

24 Q. AND WERE YOU ABLE TO GET ANY FINGERPRINTS OFF OF
25 ANY OF THOSE THREE ITEMS, THE TWO PIECES OF CHAIR

DIRECT - RODERICK GREEN BY SOL. SORENSON

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1 OR THE KNIFE, ANY FINGERPRINTS THAT WERE OF USE TO
2 BE ABLE TO TRY TO IDENTIFY TO A KNOWN PERSON?

3 A. NO.

4 Q. IS THAT UNUSUAL?

5 A. IT'S, IT'S NOT UNUSUAL TO PROCESS ITEMS AND NOT
6 FIND A FINGERPRINT, JUST BECAUSE OF ALL THOSE
7 VARIABLES INVOLVED. SOMETIMES YOU FIND THEM AND
8 SOMETIMES YOU DON'T.

9 SOLICITOR SORENSON: THANK YOU,
10 AGENT GREEN, PLEASE ANSWER ANY QUESTIONS MR. MELLARD MAY
11 HAVE.

12 MR. MELLARD: I'VE JUST GOT A COUPLE
13 OF QUESTIONS.

14 (NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
16 pages and hard page breaks between testimony are now
17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

CROSS - RODERICK GREEN BY MR. MELLARD

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CROSS-EXAMINATION OF RODERICK GREEN

BY MR. MELLARD:

Q. WHEN YOU WENT TO MR. LIVINGSTON'S HOUSE YOU FOUND
COCAINE IN HIS POCKET, I BELIEVE YOU TESTIFIED?

A. YES, SIR.

Q. OKAY. AND ISN'T IT TRUE THAT YOU FOUND MARIJUANA
ON THE KITCHEN FLOOR?

A. YES.

Q. OKAY.

MR. MELLARD: NO MORE QUESTIONS.

THE COURT: REDIRECT?

SOLICITOR SORENSON: NO, SIR.

THE COURT: THANK YOU, SIR, YOU MAY
STEP DOWN. YOU MAY BE EXCUSED, THANK YOU FOR COMING
DOWN.

WITNESS: THANK YOU.

THE COURT: NEXT WITNESS.

SOLICITOR JOHNSON: YOUR HONOR, THE
STATE CALLS YVETTE LINGUARD.

SHE SHOULD BE OUTSIDE, YVETTE
LINGUARD.

(Whereupon, the witness enters
the courtroom.)

THE COURT: COME ON DOWN, PLEASE,
MA'AM, RIGHT OVER HERE. YOU'LL SEE A BIBLE RIGHT THERE,

1 PLACE YOUR LEFT HAND ON THAT BIBLE, PLEASE, AND RAISE
2 YOUR RIGHT.

3 (Whereupon, Yvette Denise LINGUARD
4 is duly sworn.)

5 THE COURT: THANK YOU, MA'AM, HAVE
6 A SEAT RIGHT THERE AND STATE YOUR FULL NAME FOR US AND
7 SPELL YOUR LAST NAME, PLEASE.

8 WITNESS: YVETTE DENISE LINGUARD, L-
9 I-N-G-U-A-R-D.

10 THE COURT: THANK YOU, MA'AM.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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DIRECT EXAMINATION OF YVETTE D. LINGUARD

BY SOLICITOR JOHNSON:

Q. GOOD AFTERNOON, MS. LINGUARD.

A. GOOD AFTERNOON.

Q. MS. LINGUARD, DO YOU PRESENTLY LIVE HERE IN
ORANGEBURG?

A. YES, I DO.

Q. WERE YOU RAISED HERE?

A. YES, ALL MY LIFE.

Q. ALL OF YOUR LIFE?

A. UH HUH.

Q. LET ME TAKE YOU BACK TO -- WELL, FIRST OF ALL, ARE
YOU MARRIED?

A. YES, I'M MARRIED.

Q. ANY KIDS?

A. YES, FOUR.

Q. ARE YOU PRESENTLY EMPLOYED?

A. NO, HOUSEWIFE.

Q. NOW, I'M GOING TO TAKE YOU BACK TO SEPTEMBER THE
TWENTY-EIGHT, OF TWO THOUSAND AND SIX, DO YOU
REMEMBER THAT DAY?

A. YES, I REMEMBER.

Q. NOW, I'M GOING TO ASK YOU TO SPEAK UP BECAUSE THE
JURY NEEDS TO HEAR YOU.

A. OKAY.

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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1 Q. AND I'LL ASK YOU TO SPEAK CLEARLY SO THEY CAN
2 UNDERSTAND, OKAY?

3 A. UH HUH.

4 Q. NOW, IN THE LATE EVENING OF SEPTEMBER THE TWENTY-
5 EIGHTH, TWO THOUSAND SIX, DID YOU HAVE THE
6 OCCASION TO GO TO HARRY LIVINGSTON'S HOUSE?

7 A. THAT DAY?

8 Q. THAT DAY OR EVENING, OR WHEN DID YOU GO?

9 A. YEAH, LATE THAT EVENING.

10 Q. LATE THAT EVENING?

11 A. UH HUH.

12 Q. ABOUT WHAT TIME DID YOU GO THERE?

13 A. BETWEEN ELEVEN:THIRTY AND TWELVE.

14 Q. BETWEEN ELEVEN:THIRTY AND TWELVE?

15 A. UH HUH.

16 Q. WHAT CAUSED YOU TO GO THERE?

17 A. I CAUGHT A RIDE TO THE STORE WITH A FRIEND, GEORGE
18 ROBINSON, AND HE GOT STOPPED BY A HIGHWAY
19 PATROLMAN, AND HE HAD AN UNPAID TICKET, SO THEY
20 TOOK HIM IN, ON A WARRANT.

21 Q. NOW, WHAT'S THE RELATIONSHIP TO -- NOW, THAT'S NOT
22 GEORGE MOSES BUT GEORGE ROBINSON?

23 A. UH HUH.

24 Q. WHAT RELATIONSHIP DID GEORGE ROBINSON HAVE TO
25 HARRY LIVINGSTON?

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

183

1 A. THEY WERE HOUSE MATES.

2 Q. THEY WERE ROOMMATES?

3 A. ROOMMATES, RIGHT.

4 Q. OKAY. AND COULD YOU PLEASE GO OVER THAT AGAIN, SO
5 YOU WERE WITH GEORGE ROBINSON?

6 A. RIGHT.

7 Q. EARLIER THAT EVENING?

8 A. WELL, AT THAT POINT, YES.

9 Q. AND - - -

10 A. OR EARLIER THAT EVENING, YES.

11 Q. AND WHAT HAPPENED?

12 A. HE GOT STOPPED, SO, AT THE FOUR WAY STOP BETWEEN
13 RUSSELL AND MAGNOLIA, AND HE PULLED INTO THE GAS
14 STATION. THE HIGHWAY PATROLMAN RAN HIS TAGS OR
15 WHATEVER, AND WHATEVER CAME UP ON HIM WAS BASED ON
16 A WARRANT SO THEY TOOK HIM IN.

17 Q. AND THEN WHAT HAPPENED TO YOU?

18 A. WELL, I WAS LEFT OUT THERE WITH THE CAR, AND HE
19 GAVE ME HIS KEYS AND SOME MONEY THAT HE HAD IN HIS
20 POCKET.

21 Q. WHAT DID YOU DO THEN?

22 A. I CALLED MY AUNT.

23 Q. WHAT'S YOUR AUNT'S NAME?

24 A. PATRICIA OWENS.

25 Q. AND WHAT DID YOU TELL HER?

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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1 A. I TOLD HER WHAT HAPPENED, AND SHE GAVE ME A RIDE
2 TO THE TRAILER, BECAUSE I HAD TO GIVE THE MONEY TO
3 HARRY, AND ALSO THE KEYS.

4 Q. SO, SHE GAVE YOU A RIDE TO HARRY LIVINGSTON'S
5 HOUSE?

6 A. YES.

7 Q. ABOUT WHAT TIME DID YOU ARRIVE?

8 A. BETWEEN ELEVEN:THIRTY AND TWELVE I WOULD SAY.

9 Q. ELEVEN:THIRTY AND TWELVE P.M., THAT EVENING?

10 A. RIGHT.

11 Q. SO, IT WAS NIGHT WHEN YOU ARRIVED THERE?

12 A. YES, UH HUH.

13 Q. WHEN YOU ARRIVED AT THE TRAILER WHO WAS THERE?

14 A. NOBODY BUT HARRY.

15 Q. DID YOU KNOW HARRY BEFORE?

16 A. YES.

17 Q. WERE YOU GOOD FRIENDS?

18 A. WE WERE GOOD FRIENDS.

19 Q. HOW LONG HAD YOU KNOWN HARRY?

20 A. I WOULD SAY AT LEAST TWELVE, BETWEEN FIFTEEN TO
21 TWELVE YEARS.

22 Q. SO, YOU HAD BEEN TO THE TRAILER MANY TIMES BEFORE?

23 A. YES.

24 Q. NOW, DID YOU STAY AT THE TRAILER, I MEAN, DID YOU
25 STAY THERE?

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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1 A. I WAITED, YES, ON BARNEY. HE WAS SUPPOSED TO BE
2 COMING TO BRING SOME DOG FOOD, AND I WANTED TO
3 GIVE HIM THE MONEY OR TELL HIM ABOUT THE INCIDENT,
4 OR WHAT NOT, BECAUSE IT WASN'T ANYBODY ELSE TO GET
5 IN TOUCH WITH.

6 Q. OKAY. SO, BARNEY IS WHO?

7 A. HARRY'S BROTHER.

8 Q. SO, YOU WERE WAITING AT HARRY'S TRAILER FOR BARNEY
9 TO ARRIVE?

10 A. RIGHT.

11 Q. NOW, WHAT HAPPENED TO YOUR AUNT?

12 A. WELL, SHE WAITED WITH ME IN THE BEGINNING, AND SHE
13 DECIDED TO LEAVE. SHE LEFT BECAUSE SHE HAD
14 SOMEBODY WITH HER, - - -

15 Q. RIGHT.

16 A. --- AND THEY HAD THEIR OWN, THEY HAD SOMETHING TO
17 DO, I DIDN'T ASK WHAT. SO, SHE LEFT.

18 Q. WHO WAS WITH HER?

19 A. JOHN GLYMPH.

20 Q. OKAY. SO, YOU STAYED AT THE TRAILER?

21 A. I STAYED.

22 Q. AND IT WAS, AND WHO WAS LEFT AT THE TRAILER AFTER
23 PATRICIA OWENS AND JOHN GLYMPH LEFT?

24 A. WELL, JUST ME AND HARRY.

25 Q. AT SOME TIME DID ANYBODY ELSE ARRIVE?

1 A. AT SOME POINT IN TIME GEORGE MOSES CAME.

2 Q. NOW, WAS THIS BEFORE TWELVE, AFTER TWELVE?

3 A. WELL, BEFORE HE GOT THERE THE MAN, THE GENTLEMAN
4 ACROSS THE STREET - - -

5 Q. YES.

6 A. --- HE CAME, HE SAT FOR A MINUTE.

7 Q. BUT DID HE LEAVE OR - - -

8 A. HE LEFT, YES. AND RIGHT, SHORTLY AFTER THAT HE
9 CAME.

10 Q. AND WHEN YOU SAY, HE, WHO ARE YOU REFERRING TO?

11 A. GEORGE MOSES.

12 Q. DO YOU KNOW GEORGE MOSES?

13 A. YES, I DO.

14 Q. HOW LONG HAVE YOU KNOWN GEORGE MOSES?

15 A. I DON'T KNOW, I DON'T KNOW HOW LONG HIM AND MY MOM
16 WAS TOGETHER, SO MAYBE ABOUT FOUR OR FIVE YEARS I
17 GUESS.

18 Q. SO, HE USED TO DATE YOUR MOM?

19 A. UH HUH.

20 Q. NOW, DID HE ARRIVE BEFORE TWELVE, AFTER TWELVE,
21 CAN YOU GIVE ME A REASONABLE TIME FRAME?

22 A. IT WAS AFTER TWELVE.

23 Q. SOMETIME AFTER TWELVE?

24 A. RIGHT.

25 Q. AND HE STAYED THERE AT THE HOUSE WITH YOU?

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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1 A. HE STAYED, YEAH.

2 Q. I MEAN, BUT HE WAS THERE, AND WHO WAS AT THE HOUSE
3 WHEN HE ARRIVED?

4 A. JUST HARRY AND MYSELF.

5 Q. NOW, DID ANYBODY ELSE ARRIVE BETWEEN THAT TIME AND
6 THE TIME THAT YOU LEFT?

7 A. NOT THAT I REMEMBER.

8 Q. OKAY. ABOUT WHAT TIME DID YOU LEAVE?

9 A. I LEFT BETWEEN, I'D SAY ONE:THIRTY OR TWO:THIRTY,
10 IN BETWEEN THAT TIME.

11 Q. AND HOW DID YOU LEAVE?

12 A. MY AUNT.

13 Q. WHEN YOU SAY, YOUR AUNT, WHO WAS THAT?

14 A. PAT, SHE RETURNED TO PICK ME UP.

15 Q. PATRICIA OWENS?

16 A. UH HUH.

17 Q. WAS ANYBODY WITH HER WHEN SHE CAME BACK?

18 A. JOHN GLYMPH.

19 Q. DID THEY COME INSIDE?

20 A. SHE CAME INSIDE, HE DIDN'T.

21 Q. SHE CAME INSIDE?

22 A. UH HUH.

23 Q. SO, SHE ALSO SAW GEORGE MOSES THERE?

24 A. YES.

25 Q. NOW, SO DID YOU, SO WHEN YOU LEFT WHO WAS STILL

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

188

1 THERE AT THE HOUSE?

2 A. GEORGE WAS STILL THERE.

3 Q. GEORGE AND HARRY?

4 A. UH HUH.

5 Q. WAS HARRY LIVINGSTON ALIVE WHEN YOU LEFT?

6 A. YES.

7 Q. WAS HE INJURED?

8 A. NO, HE WASN'T.

9 Q. DID YOU NOTICE ANYTHING OUT OF THE ORDINARY?

10 A. NO.

11 Q. AND THE LAST PERSON THAT YOU SAW THERE WITH HARRY
12 LIVINGSTON WAS GEORGE MOSES?

13 A. WAS GEORGE MOSES.

14 Q. IS THERE ANY DOUBT IN YOUR MIND?

15 A. NO, NO DOUBT.

16 Q. WHEN DID YOU THEN FIND OUT OR HEAR ANYTHING ELSE
17 ABOUT SOMETHING HAPPENING TO HARRY LIVINGSTON?

18 A. WHEN MS. JESSIE CALLED ME, WHICH WAS ABOUT - - -

19 Q. WHEN YOU SAY, MS. JESSIE, WHO - - -

20 A. MS. JESSIE LIVINGSTON, BARNEY'S WIFE.

21 Q. SO, THAT WAS, BARNEY IS GEORGE'S BROTHER, I MEAN,
22 - - -

23 A. BARNEY IS HARRY'S BROTHER.

24 Q. --- BARNEY IS HARRY'S BROTHER.

25 A. RIGHT.

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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1 Q. AND THAT WAS HIS WIFE THAT CALLED YOU?

2 A. YES, SIR.

3 Q. OKAY. AND THAT'S WHEN YOU FOUND OUT ABOUT HARRY
4 LIVINGSTON?

5 A. YES, SIR.

6 Q. WHAT DID YOU THEN DO?

7 A. I WAS IN SHOCK, I THOUGHT IT WAS A JOKE, I
8 COULDN'T BELIEVE IT. I DIDN'T EVEN KNOW IT WAS
9 HER. SO, - - -

10 Q. BEFORE YOU GO FURTHER, ABOUT WHAT TIME DID SHE
11 CALL YOU?

12 A. IT HAD TO BE AROUND FIVE:THIRTY, SIX:THIRTY.

13 Q. IN THE MORNING?

14 A. YES.

15 Q. SO, THAT WOULD BE ON SEPTEMBER THE TWENTY-NINTH?

16 A. RIGHT.

17 Q. AND WHAT DID YOU DO THEN?

18 MR. MELLARD: OBJECTION, YOUR HONOR,
19 RELEVANCE?

20 THE COURT: OVERRULED.

21 A. I CALLED TO TRY TO FIND A RIDE. THAT'S, THE FIRST
22 PERSON I CALLED WAS MY AUNT AGAIN. BUT SHE WAS
23 UNAVAILABLE TO GO, SO I CALLED GEORGE'S BROTHER,
24 GEORGE ROBINSON'S BROTHER, AND I COULDN'T GET IN
25 TOUCH WITH HIM EITHER. AND THEN HE CALLED ME BACK

1 AND CALLED HIS SISTER, SO THAT'S HOW I GOT OVER
2 THERE.

3 Q. GOT OVER WHERE?

4 A. TO THE TRAILER.

5 Q. SO, YOU WENT TO THE TRAILER THAT MORNING?

6 A. THAT MORNING.

7 Q. IS THAT WHEN YOU THEN CAME IN CONTACT WITH THE
8 POLICE?

9 A. YES.

10 Q. AND DID YOU GIVE THEM A FULL STATEMENT AS YOU HAVE
11 DESCRIBED TODAY?

12 A. YES, I DID.

13 Q. WAS IT A WRITTEN STATEMENT?

14 A. THEY WROTE IT FOR ME, I COULDN'T WRITE.

15 Q. BUT YOU'VE WENT OVER THAT STATEMENT SINCE THEN?

16 A. YES.

17 Q. AND BASICALLY THE STATEMENT STATES WHAT - - -

18 A. YES.

19 Q. --- YOU'VE JUST DESCRIBED A FEW MINUTES AGO, IS
20 THAT CORRECT?

21 A. YES, SIR.

22 Q. AND YOU TOLD THAT HONESTLY AND TRUTHFULLY?

23 A. HONESTLY AND TRUTHFULLY.

24 Q. WHO WAS THE LAST PERSON THAT YOU SAW ALIVE, WHO
25 WAS THE LAST PERSON THAT YOU SAW WITH HARRY

DIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

191

1 LIVINGSTON WHEN YOU LEFT HARRY LIVINGSTON'S HOUSE?

2 A. GEORGE MOSES.

3 Q. WAS ANYBODY ELSE THERE?

4 A. NOBODY ELSE I SAW.

5 Q. AND THE NEXT TIME YOU WENT TO HARRY LIVINGSTON'S
6 HOUSE WAS HE ALIVE?

7 A. NO, HE WASN'T.

8 SOLICITOR JOHNSON: I HAVE NO OTHER
9 QUESTIONS.

10 THE COURT: CROSS-EXAM.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

CROSS - YVETTE D. LINGUARD BY MR. MELLARD

192

CROSS-EXAMINATION OF YVETTE D. LINGUARD

BY MR. MELLARD:

Q. HOW LONG HAVE YOU BEEN MARRIED?

A. NINETEEN YEARS.

Q. NINETEEN YEARS? HOW OLD ARE YOUR KIDS?

A. NINETEEN, SEVENTEEN, FIFTEEN AND FOURTEEN.

Q. OKAY. AND ON SEPTEMBER TWENTY-EIGHTH, TWO
THOUSAND AND SIX, YOU WERE WITH GEORGE ROBINSON?

A. YES.

Q. AND THAT WAS AT NIGHT?

A. YES.

Q. AROUND TEN:THIRTY AT NIGHT?

A. REALLY ABOUT TEN:THIRTY.

Q. AND HE WAS A FRIEND OF YOURS?

A. YES, HE WAS.

Q. WHERE WAS YOUR HUSBAND AND KIDS?

A. MY HUSBAND WAS IN ATLANTA.

Q. OKAY. AND WHERE WERE YOUR CHILDREN?

A. MY CHILDREN WERE HOME.

Q. OKAY. SO, THERE WAS A, I GUESS IF THEY WERE
SEVENTEEN YEARS OLD THEY WOULD BE, WHAT, ABOUT
THREE YEARS AGO, WOULD HAVE BEEN FOURTEEN,
FIFTEEN?

A. NO, SIR.

Q. HOW OLD WERE YOUR KIDS BACK THEN?

CROSS - YVETTE D. LINGUARD BY MR. MELLARD

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1 A. HE'S NINETEEN, THAT'S THREE YEARS AGO.

2 Q. OKAY. AND WHAT ABOUT THE SEVENTEEN YEAR OLD?

3 A. HE WAS HOME.

4 Q. OKAY. AND THE FIFTEEN YEAR OLD?

5 A. ALL MY CHILDREN WERE HOME.

6 Q. OKAY. AND THE FOURTEEN YEAR OLD?

7 A. ALL WERE HOME.

8 Q. OKAY. AND WHO ELSE WAS AT THAT HOME?

9 A. NOBODY ELSE.

10 Q. OKAY. NOW, SO YOUR KIDS ARE AT HOME, YOU'RE OUT
11 WITH THIS GEORGE ROBINSON, AND I BELIEVE HE WAS A
12 FRIEND OF YOURS?

13 A. YES, SIR.

14 Q. HE WAS YOUR BOY FRIEND, WASN'T HE?

15 A. I CAN'T SAY HE WAS MY BOY FRIEND, HE WAS A FRIEND.

16 Q. OKAY. WELL, LET ME PUT IT TO YOU AS DELICATELY AS
17 POSSIBLE, ANYTHING OTHER THAN FRIENDSHIP GOING ON
18 BETWEEN YOU AND GEORGE?

19 A. WE WERE FRIENDS.

20 Q. FRIENDS WITH BENEFITS, FRIENDS, JUST GOOD CLOSE
21 FRIENDS?

22 A. I, HOW CAN I -- WELL, FRIEND OF A FRIEND.

23 SOLICITOR JOHNSON: YOUR HONOR, - -

24 -

25 THE COURT: WAIT A MINUTE, MA'AM.

1 SOLICITOR JOHNSON: YOUR HONOR,
2 OBJECTION, IT'S BEEN ASKED AND ANSWERED. SHE SAID THEY
3 WERE FRIENDS.

4 MR. MELLARD: IT'S BEEN ANSWERED
5 VERY VAGUELY.

6 THE COURT: WELL, WHAT IS THE
7 RELEVANCE OF HER RELATIONSHIP WITH THIS OTHER MAN?

8 MR. MELLARD: WELL, I WANTED - - -

9 THE COURT: DOES IT HAVE SOMETHING
10 TO DO WITH THE CASE?

11 MR. MELLARD: WELL, SHE'S SAYING
12 THAT SHE'S JUST KIND OF A FRIEND WITH HIM, I MEAN, I
13 WANT TO GET INTO THIS RELATIONSHIP. SHE'S MARRIED, SHE
14 HAS KIDS, I WANT TO KNOW WHAT HER - - -

15 A. YEAH, I CAUGHT A - - -

16 THE COURT: WAIT A MINUTE, MA'AM.

17 A. EXCUSE ME. OKAY.

18 THE COURT: WELL, WHAT DOES THIS
19 HAVE TO DO WITH THIS CASE?

20 MR. MELLARD: WELL, LET ME MOVE ON,
21 THEN.

22 Q. ALRIGHT. GEORGE ROBINSON IS ALSO A DRUG DEALER,
23 ISN'T THAT CORRECT?

24 SOLICITOR JOHNSON: YOUR HONOR,
25 OBJECTION.

1 THE COURT: IF SHE KNOWS THE ANSWER
2 TO THAT QUESTION SHE CAN ANSWER IT.

3 A. I'VE HEARD THAT HE DOES THAT, YES.

4 Q. YOU'VE HEARD THAT HE DOES THAT?

5 A. YEAH, HE DOES, HE SELLS DRUGS.

6 Q. AND SO, YOU WERE WITH HIM ON SEPTEMBER TWENTY-
7 EIGHTH?

8 A. YES.

9 Q. OKAY. AND HE GETS PICKED UP BY THE POLICE?

10 A. YES, SIR, HE DID.

11 Q. OKAY. AND THAT'S AT A BP STATION?

12 A. UH HUH.

13 Q. AND THEN YOU CALL UP YOUR AUNT PATRICIA?

14 A. YES, I DID.

15 Q. AND INSTEAD OF GOING HOME YOU GET AUNT PATRICIA TO
16 TAKE YOU TO GEORGE ROBINSON'S HOUSE?

17 A. RIGHT.

18 Q. OKAY. AND THAT WOULD BE THE PERSON YOU JUST SAID
19 SELLS DRUGS?

20 A. MY AUNT?

21 Q. NO, NOT YOUR AUNT, GEORGE ROBINSON SELLS DRUGS?

22 A. WELL, HE, I CAN'T TELL YOU HE WAS SELLING DRUGS AT
23 THAT TIME, I CAN'T, YOU KNOW, I DON'T KNOW.

24 Q. OKAY. SO, YOU GO TO THIS HOUSE, AND YOU SAID
25 THAT, AND AUNT PATRICIA EVER BEEN THERE BEFORE?

1 A. YES.

2 Q. OKAY. AND I BELIEVE YOU TOLD THE POLICE THAT YOU
3 HAD YOUR AUNT PATRICIA DRIVE YOU THERE BECAUSE YOU
4 WANTED TO TELL HIM THAT GEORGE HAD BEEN ARRESTED?

5 A. NO, HE GAVE ME HIS THINGS.

6 Q. HE GAVE YOU HIS THINGS?

7 A. RIGHT, TO DROP OFF TO THE HOUSE. SO, I HAD TO
8 TAKE -- HE ASKED THEM TO DROP ME BY THERE, TO GIVE
9 THEM TO HARRY.

10 Q. ALRIGHT. AND WHEN YOU GOT TO THE HOUSE I SUPPOSE
11 YOU TOLD HARRY LIVINGSTON ABOUT GEORGE BEING
12 ARRESTED?

13 A. YES, I DID.

14 Q. AND YOU GAVE HIM THE THINGS?

15 A. YES.

16 Q. OKAY. AND YOU GOT THERE AROUND ELEVEN:THIRTY,
17 TWELVE O'CLOCK AT NIGHT?

18 A. YES.

19 Q. OKAY. AND I BELIEVE YOU STAYED UNTIL YOU SAID
20 AROUND MAYBE TWO O'CLOCK, TWO:THIRTY, SOMETHING
21 LIKE THAT?

22 A. YES.

23 Q. SO, YOU STAYED THERE FOR ABOUT THREE AND A HALF
24 HOURS?

25 A. YES, SIR.

CROSS - YVETTE D. LINGUARD BY MR. MELLARD

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1 Q. OKAY. AND SOMETIME DURING THIS THREE AND A HALF
2 HOURS I BELIEVE YOUR STATEMENT TO THE POLICE SAYS
3 THAT A FELLOW BY THE NAME OF IKE DROPPED BY?

4 A. YEAH, HE WAS THE FIRST PERSON THAT CAME THROUGH.

5 Q. OKAY. DID IKE, WHAT TIME DID HE DROP BY?

6 A. I DON'T KNOW, WHEN I FIRST GOT THERE I WOULD SAY.

7 Q. AROUND ELEVEN:THIRTY OR TWELVE O'CLOCK?

8 A. YES.

9 Q. OKAY. AND DID IKE BUY ANY DRUGS WHILE YOU WERE
10 THERE?

11 A. NO, NO ONE BOUGHT ANY DRUGS IN MY PRESENCE.

12 Q. OKAY. DID HE USE ANY DRUGS WHILE YOU WERE THERE?

13 A. I, NO, NO ONE USED ANY DRUGS.

14 Q. OKAY. YOU DIDN'T USE ANY DRUGS WHILE YOU WERE
15 THERE?

16 A. NO, SIR, I DIDN'T.

17 Q. OKAY. YOU WERE THERE THREE AND HALF HOUSE IN THIS
18 HOUSE?

19 A. YES, I WAS.

20 Q. AND IT'S YOUR TESTIMONY YOU DIDN'T USE ANY DRUGS?

21 A. THERE WERE NO DRUGS THERE THAT I KNOW OF.

22 Q. REALLY, NO DRUGS IN THAT HOUSE THAT YOU KNOW OF?

23 A. THAT I KNOW OF.

24 Q. OKAY. AND THEN YOU SAID GEORGE MOSES CAME TO THE
25 HOUSE?

1 A. YES.

2 Q. OKAY. AND I BELIEVE YOU ALSO SAID YOUR AUNT
3 PATRICIA CAME BACK TO THE HOUSE AROUND TWO:THIRTY?

4 A. YES, SHE DID.

5 Q. AND A FELLOW BY THE NAME OF JOHN GLYMPH, I GUESS
6 THAT'S HIS NAME?

7 A. YES, SIR.

8 Q. AND HE CAME TO THE HOUSE, TOO?

9 A. UH HUH.

10 Q. AND THEN YOU LEFT THE HOUSE AROUND TWO:THIRTY IN
11 THE MORNING, IS THAT ABOUT RIGHT?

12 A. YES, SIR, UH HUH.

13 Q. OKAY. YOU DIDN'T FORGET SOMETHING AND GO BACK
14 AROUND TWO:FORTY-FIVE OR ANYTHING, DID YOU?

15 A. I DIDN'T HAVE ANY TRANSPORTATION.

16 Q. OKAY. YOU DIDN'T GO BACK AT THREE O'CLOCK IN THE
17 MORNING?

18 A. NO, I HAD NO NEED TO.

19 Q. YOU DIDN'T GO BACK AT FOUR O'CLOCK IN THE MORNING?

20 A. NO, SIR.

21 Q. OKAY. SO, YOU DON'T KNOW IF ANYONE ELSE CAME TO
22 THE HOUSE AFTER YOU LEFT, DO YOU?

23 A. NO.

24 Q. OKAY.

25 MR. MELLARD: THANK YOU.

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THE COURT: REDIRECT?

SOLICITOR JOHNSON: YES, YOUR HONOR.

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REDIRECT - YVETTE D. LINGUARD BY SOL. JOHNSON

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REDIRECT EXAMINATION OF YVETTE D. LINGUARD

BY SOLICITOR JOHNSON:

Q. MS. LINGUARD, - - -

A. YES.

Q. WHAT WAS THE THINGS THAT YOU TOOK TO THE HOUSE?

A. THE MONEY THAT HE HAD IN HIS POCKET AND SOME KEYS
AND HIS CELL PHONE.

Q. HOW MUCH, DO YOU REMEMBER HOW MUCH MONEY IT WAS?

A. A HUNDRED AND FORTY-SEVEN DOLLARS.

Q. AND WHAT DID YOU DO WITH THAT MONEY?

A. I LEFT IT WITH HARRY.

Q. YOU LEFT IT THERE WITH HARRY?

A. UH HUH.

THE COURT: PLEASE SAY YES OR NO.

A. YES, SIR. YES.

THE COURT: THIS LADY HAS TO WRITE
IT DOWN, AND IT'S HARD TO WRITE DOWN - - -

SOLICITOR JOHNSON: ONE MINUTE,
YOUR HONOR.

THE COURT: YES, SIR.

Q. WHAT TYPE OF CLOTHES DID GEORGE MOSES HAVE ON?

A. A WHITE T-SHIRT WITH SOME WRITING ON IT REFERRING
TO MONEY AND SOME BLUE SHORTS.

Q. SOME BLUE SHORTS?

A. UH HUH.

1 SOLICITOR JOHNSON: I HAVE NOTHING
2 ELSE, YOUR HONOR.

3 THE COURT: RE-CROSS?

4 MR. MELLARD: NOTHING ELSE, YOUR
5 HONOR.

6 THE COURT: THANK YOU, MA'AM, YOU
7 MAY STEP DOWN. THANK YOU FOR COMING.

8 NEXT WITNESS, PLEASE.

9 SOLICITOR SORENSON: THE STATE CALLS
10 PATRICIA OWENS.

11 THE COURT: PATRICIA OWENS IS IN THE
12 HALL PROBABLY?

13 SOLICITOR SORENSON: SHE IS.

14 (Whereupon, the witness
15 enters the courtroom.)

16 THE COURT: COME ON DOWN THIS WAY,
17 PLEASE, MA'AM, RIGHT OVER THIS WAY. YOU SEE THE BIBLE,
18 IF YOU WILL PLACE YOUR LEFT HAND ON THE BIBLE, PLEASE,
19 AND RAISE YOUR RIGHT.

20 (Whereupon, Patricia Owens
21 is duly sworn.)

22 THE COURT: THANK YOU, MA'AM,
23 PLEASE HAVE A SEAT RIGHT THERE AND STATE YOUR FULL NAME
24 FOR US.

25 WITNESS: MY NAME IS PATRICIA OWENS.

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THE COURT: THANK YOU, MA'AM.

ALRIGHT, COUNSELOR.

SOLICITOR SORENSON: THANK YOU, YOUR
HONOR.

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part of record has been omitted. Headers on testimony
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DIRECT - PATRICIA OWENS BY SOL. SORENSON

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DIRECT EXAMINATION OF PATRICIA OWENS

BY SOLICITOR SORENSON:

Q. MS. OWENS, DO YOU LIVE HERE IN ORANGEBURG?

A. YES, I DO.

Q. AND HOW LONG HAVE YOU LIVED IN ORANGEBURG?

A. MOST OF MY LIFE.

Q. OKAY. AND WHAT DO YOU DO FOR A LIVING?

A. I'M A RETIRED EDUCATOR.

Q. OKAY. AND HOW LONG WERE YOU IN EDUCATION?

A. ABOUT NINE, TEN YEARS.

Q. AND YOU JUST RECENTLY RETIRED?

A. IN THE LAST TWO OR THREE YEARS.

Q. AND MS. LINGUARD, YVETTE LINGUARD THAT JUST
TESTIFIED, DO YOU KNOW HER?

A. YES.

Q. HOW DO YOU KNOW HER?

A. SHE'S MY NIECE.

Q. SHE'S YOUR SISTER'S DAUGHTER?

A. SHE'S MY SISTER'S DAUGHTER.

Q. AND HOW ABOUT THE DEFENDANT, MR. MOSES, DO YOU
KNOW GEORGE MOSES?

A. YES, I DO.

Q. HOW DO YOU KNOW MR. MOSES?

A. HE DATED AND LIVED WITH MY SISTER FOR A PERIOD OF
TIME.

DIRECT - PATRICIA OWENS BY SOL. SORENSON

204

1 Q. AND WHAT'S YOUR SISTER'S NAME?

2 A. LINDA GAHNI.

3 Q. OKAY. AND THAT'S YVETTE'S MOTHER ALSO, THE SAME
4 SISTER?

5 A. YES, UH HUH.

6 Q. OKAY. AND HOW LONG HAVE YOU KNOWN MR. MOSES?

7 A. OH, I KNOW, DON'T KNOW, A FEW YEARS.

8 Q. HOW LONG DID THE TWO OF THEM LIVE TOGETHER?

9 A. MAYBE A YEAR, TWO YEARS, I'M NOT SURE.

10 Q. HOW ABOUT THE VICTIM IN THIS CASE, HARRY
11 LIVINGSTON, DID YOU KNOW, DID YOU KNOW HARRY?

12 A. YEAH.

13 Q. AND HOW DID YOU KNOW HARRY?

14 A. I KNOW HARRY FROM THE GARAGE OVER ON WOODBINE,
15 THEY HAD A SHOP OVER THERE AND I HAD THEM SERVICE
16 MY CAR ON SEVERAL OCCASIONS.

17 Q. DID HARRY WORK THERE OR HIS FAMILY OWNED IT OR - -
18 -

19 A. HIS BROTHER OWNED IT AND HE WAS OVER THERE.

20 Q. SO, HOW LONG HAD YOU KNOWN HARRY BEFORE HE WAS
21 KILLED?

22 A. SEVERAL YEARS.

23 Q. I'M GOING TO TURN YOUR ATTENTION, IF I COULD, MS.
24 OWENS, BACK TO THE EVENING OF SEPTEMBER TWENTY-
25 EIGHTH OF TWO THOUSAND AND SIX, KIND OF INTO THE

DIRECT - PATRICIA OWENS BY SOL. SORENSON

205

1 EARLY MORNING HOURS OF THE TWENTY-NINTH, DO YOU
2 RECALL WHAT YOU WERE DOING THAT EVENING?

3 A. SITTING IN MY DEN WITH MY MOM LOOKING AT T.V.

4 Q. OKAY. AND DID THERE COME AN OCCASION WHEN YOU GOT
5 A PHONE CALL FROM YOUR NIECE, YVETTE?

6 A. YEAH, YVETTE CALLED.

7 Q. OKAY. AND AS A RESULT OF THAT PHONE CALL WHAT DID
8 YOU THEN GO TO?

9 A. I WENT TO THE HESS STATION AT THE CORNER OF SIX O
10 ONE AND CHESTNUT.

11 Q. OKAY. AND WHY DID YOU DO THAT?

12 A. BECAUSE YVETTE SAID THAT SHE NEEDED A RIDE.
13 GEORGE HAD BEEN TAKEN INTO CUSTODY AND SHE DIDN'T
14 WANT TO MOVE HIS CAR. SO, SHE NEEDED A RIDE.

15 Q. AND GEORGE, NOT THAT GEORGE?

16 A. NOT THAT GEORGE, GEORGE ROBINSON.

17 Q. OKAY. AND WHO IS GEORGE ROBINSON?

18 A. GEORGE ROBINSON AND HARRY WERE HOUSE MATES.

19 Q. OKAY. SO, THEY LIVED TOGETHER AT THAT TRAILER IN
20 STATE'S EXHIBIT NUMBER FOUR?

21 A. YES.

22 Q. OKAY. AND WHAT THEN, WHEN YOU WENT AND PICKED UP
23 YOUR NIECE WHERE DID YOU THEN TAKE HER?

24 A. I TOOK HER TO THAT TRAILER.

25 Q. OKAY. AND DID YOU GO IN WHEN YOU GOT THERE WITH

1 HER?

2 A. YEAH, I WENT IN WITH HER BECAUSE I WASN'T SURE
3 WHAT SHE HAD PLANNED TO DO, WHETHER SHE WAS GOING
4 TO STAY OR WHETHER SHE WAS JUST GOING TO GIVE SOME
5 INFORMATION TO HARRY REGARDING WHAT HAD HAPPENED
6 WITH GEORGE ROBINSON AND THEN LEAVE.

7 Q. OKAY. AND WHAT DID SHE END UP DOING?

8 A. SHE ENDED UP STAYING AND I ENDED UP LEAVING.

9 Q. OKAY. NOW, WHEN YOU LEFT HER THERE AT THAT
10 TRAILER WHO WAS IN THAT TRAILER WHEN YOU LEFT?

11 A. HARRY AND YVETTE.

12 Q. OKAY. WHAT DID YOU THEN GO DO?

13 A. I WENT AND PICKED UP A FRIEND OF MIND AND WE HUNG
14 OUT FOR A WHILE UNTIL ABOUT TWO, TWO:THIRTY IN THE
15 MORNING.

16 Q. OKAY. AND HAD YOU MADE PLANS TO GO BACK AND GET
17 YVETTE OR - - -

18 A. YES, THE UNDERSTANDING WAS THAT I WOULD GO BACK
19 AND GET HER.

20 Q. DID SHE CALL YOU WHEN SHE WAS READY TO BE PICKED
21 UP OR DID Y'ALL, THAT'S JUST ANYTIME?

22 A. NO, IT WAS JUST THAT WHENEVER I GOT THROUGH DOING
23 WHAT I WOULD DO I WOULD PICK HER BACK UP.

24 Q. AND WHO WAS THAT THAT YOU WERE WITH THEN IN THAT
25 KIND OF - - -

DIRECT - PATRICIA OWENS BY SOL. SORENSON

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1 A. JOHN GLYMPH.

2 Q. IS HE A MALE FRIEND OF YOURS?

3 A. YEAH, A MALE FRIEND OF MINE. WE WERE DATING AT
4 THE TIME.

5 Q. AND DO YOU KNOW APPROXIMATELY WHAT TIME IT WAS
6 THAT YOU THEN GOT BACK TO PICK YVETTE UP AT
7 HARRY'S TRAILER?

8 A. IT WAS BETWEEN TWO AND TWO:THIRTY.

9 Q. OKAY. AND DID YOU THEN GO IN WHEN YOU GOT THERE?

10 A. YEAH, I KNOCKED ON THE DOOR AND I WENT IN TO SEE
11 IF SHE WAS READY TO GO.

12 Q. OKAY. AND LET ME ASK YOU THIS, WHEN YOU HAD
13 DROPPED YVETTE OFF AT THE TRAILER EARLIER IN THE
14 EVENING, WERE THERE ANY VEHICLES, ANY CARS THERE?

15 A. NO.

16 Q. OKAY. DID HARRY HAVE A CAR?

17 A. NO.

18 Q. WHEN YOU GOT BACK THEN AT ABOUT TWO:THIRTY IN THE
19 MORNING, TWO TO TWO:THIRTY IN THE MORNING, WERE
20 THERE ANY CARS THERE THEN WHEN YOU GOT BACK?

21 A. THERE WAS ANOTHER CAR THERE.

22 Q. OKAY. AND DO YOU KNOW WHOSE CAR THAT WAS OR DID
23 YOU INITIALLY RECOGNIZE THE CAR WHEN YOU GOT
24 THERE?

25 A. I DID NOT INITIALLY RECOGNIZE IT, NO.

1 Q. WHAT, WHAT, DO YOU RECALL WHAT THE CAR LOOKED
2 LIKE?

3 A. IT WAS A SMALL CAR, GOLD OR BEIGE IN COLOR.

4 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER SEVENTEEN,
5 IS THAT CONSISTENT WITH THE CAR THAT YOU SAW THEN,
6 THAT MORNING?

7 A. IT COULD BE, YES.

8 Q. I MEAN, A SMALL, THAT TYPE OF VEHICLE?

9 A. YEAH.

10 Q. DID YOU THEN HAVE AN OPPORTUNITY WHEN YOU GOT BACK
11 OVER TO HARRY'S BETWEEN TWO AND TWO:THIRTY IN THE
12 MORNING, TO GO INSIDE?

13 A. YES.

14 Q. OKAY. AND IF YOU WOULD, TELL THE JURY WHO, IF
15 ANYBODY, WAS INSIDE WHEN YOU WENT INSIDE?

16 A. HARRY WAS INSIDE, YVETTE WAS INSIDE, AND GEORGE.

17 Q. WHERE WAS HARRY AT?

18 A. HARRY WAS SITTING IN A RECLINER.

19 Q. IN WHAT ROOM?

20 A. IN THE LIVING ROOM. THE TWO ROOMS SORT OF RUN
21 TOGETHER.

22 Q. IS THAT THE ROOM WHEN YOU WALKED IN - - -

23 A. IT WAS TO THE LEFT.

24 Q. --- WHEN YOU WALKED IN THAT DOOR YOU KIND OF HAVE,
25 ALMOST - - -

DIRECT - PATRICIA OWENS BY SOL. SORENSON

209

1 A. RIGHT.

2 Q. --- OPEN RIGHT INTO THE KITCHEN TO YOUR RIGHT AND
3 THE LIVING ROOM RIGHT TO YOUR LEFT?

4 A. YES.

5 Q. AND HE WAS SITTING THERE, AND THEN YOU SAID WHO
6 ELSE WAS IN THE HOUSE?

7 A. YVETTE AND GEORGE.

8 Q. OKAY. AND GEORGE NOW BEING - - -

9 A. GEORGE MOSES.

10 Q. --- THE DEFENDANT?

11 A. YES.

12 Q. AND WHERE WERE THEY AT?

13 A. HE WAS SITTING AT THE TABLE, AND YVETTE WAS
14 SITTING AT THE TABLE.

15 Q. OKAY. WHAT TABLE WAS THAT?

16 A. THAT WAS THE KITCHEN TABLE.

17 Q. THE KITCHEN TABLE?

18 A. WHICH WAS TO THE RIGHT.

19 Q. AND WHAT, WHEN YOU CAME INTO THAT HOUSE THAT
20 MORNING AT TWO:THIRTY, BETWEEN TWO AND TWO:THIRTY
21 IN THE MORNING WHAT CONDITION WAS THAT KITCHEN
22 AREA IN?

23 A. IT WAS IN A NORMAL, I MEAN, WELL, YOU KNOW, THERE
24 WAS NOTHING OUT OF PLACE THAT I SAW.

25 Q. THE CHAIRS WERE NOT KNOCKED OVER?

DIRECT - PATRICIA OWENS BY SOL. SORENSON

210

1 A. NO.

2 Q. I MEAN, IF THEY WERE SITTING AT THE TABLE I GUESS
3 THE TABLE WAS UPRIGHT, WASN'T KNOCKED OVER?

4 A. YEAH, THE TABLE WAS UPRIGHT, THE CHAIRS WERE
5 UPRIGHT.

6 Q. STUFF ALL OVER THE FLOOR THAT YOU RECALL?

7 A. NO.

8 Q. NOW, DID YOU HAVE A CHANCE AT THAT TIME, DID YOU
9 STAY AROUND AND HANG OUT OR WERE YOU JUST THERE
10 BASICALLY TO PICK UP YVETTE?

11 A. I STOOD IN THE DOORWAY AND WHILE I WAS WAITING FOR
12 YVETTE TO FINISH UP HER MEETING WITH HARRY I STOOD
13 IN THE DOORWAY.

14 Q. AND DID YOU HAVE ANY CONVERSATION WITH EITHER
15 HARRY OR MR. MOSES?

16 A. I SPOKE TO HARRY, HE WAS IN THE RECLINER. I SPOKE
17 TO GEORGE, WE LIGHT TALKED ABOUT WHAT WAS GOING
18 ON. I THINK I MENTIONED SOMETHING TO THE EFFECT
19 THAT SINCE I HAD SEEN HIM HE HAD GAINED SOME
20 WEIGHT, SOMETHING LIKE THAT, JUST LIGHT
21 CONVERSATION.

22 Q. OKAY. WHAT CONDITION WAS HARRY LIVINGSTON IN THEN
23 WHEN YOU LEFT THAT MORNING, I MEAN, WERE THERE ANY
24 INJURIES THAT YOU OBSERVED ON HIM?

25 A. NO. I DIDN'T SEE ANYTHING OUT OF THE ORDINARY.

DIRECT - PATRICIA OWENS BY SOL. SORENSON

211

1 Q. ANY INJURIES TO HIS FACE?

2 A. NO.

3 Q. OR BLEEDING ANYWHERE THAT YOU SAW?

4 A. NO.

5 Q. SO, APPROXIMATELY WHAT TIME WAS IT THAT YOU LEFT
6 THAT TRAILER THAT MORNING?

7 A. IT MUST HAVE BEEN VERY CLOSE TO TWO:THIRTY, IT WAS
8 JUST A SHORT PERIOD OF TIME I WAS THERE.

9 Q. AND YVETTE LEFT WITH YOU WHEN YOU LEFT?

10 A. YES, YVETTE LEFT WITH ME.

11 Q. SO, WHEN THE TWO OF Y'ALL THEN LEFT AND GOT BACK
12 AND WAS JOHN, WAS JOHN WITH YOU?

13 A. JOHN WAS WITH US. WE LEFT, I DROPPED YVETTE OFF
14 AT HER HOUSE WHICH IS ROOSEVELT GARDENS, I DROPPED
15 JOHN OFF WHERE HE LIVED, AND I WENT ON HOME.

16 Q. WHEN YOU LEFT THAT TRAILER, THEN, WHO DID YOU
17 LEAVE INSIDE THAT TRAILER WHEN THE THREE OF Y'ALL
18 LEFT?

19 A. I LEFT HARRY AND GEORGE.

20 Q. ALRIGHT. AND WHEN DID YOU LEARN THAT SOMETHING
21 HAD HAPPENED TO HARRY?

22 A. EARLY THAT MORNING ABOUT SIX, SEVEN, I'M NOT SURE
23 OF THE TIME, I GOT A CALL FROM MY NIECE, YVETTE.

24 Q. DID YOU ULTIMATELY END UP GOING INTO THE SHERIFF'S
25 OFFICE AND GIVING THEM A STATEMENT?

DIRECT - PATRICIA OWENS BY SOL. SORENSON

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1 A. LATER ON THAT DAY, YES.

2 Q. OKAY. WHO CAME WITH YOU WHEN YOU WENT DOWN TO
3 GIVE THAT STATEMENT?

4 A. MY SISTER -- WELL, ORIGINALLY WHEN I WENT TO MAKE
5 THE FIRST STATEMENT JOHN GLYMPH AND I BOTH WENT TO
6 MAKE STATEMENTS.

7 Q. DID THEY HAVE YOU, DID YOU END UP COMING BACK A
8 SECOND TIME?

9 A. YES.

10 Q. OKAY. AND WHO WAS WITH YOU THAT SECOND TIME THAT
11 MORNING WHEN YOU WENT BACK?

12 A. MY SISTER WAS WITH ME WHEN I WENT BACK THE SECOND
13 TIME.

14 Q. AND THAT WAS LINDA?

15 A. LINDA.

16 SOLICITOR SORENSON: I BEG THE
17 COURT'S INDULGENCE. THAT WOULD BE ALL I WOULD HAVE, MS.
18 OWENS, PLEASE ANSWER ANY QUESTIONS THAT MR. MELLARD MAY
19 HAVE.

20 THE COURT: MR. MELLARD.

21 (NOTE: Blank lines on this page do not indicate any
22 part of record has been omitted. Headers on testimony
23 pages and hard page breaks between testimony are now
24 required by the Court. See next ensuing page for
25 sequential continuation of record.)

CROSS - PATRICIA OWENS BY MR. MELLARD

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CROSS-EXAMINATION OF PATRICIA OWENS

BY MR. MELLARD:

Q. I SEE IN YOUR STATEMENT HERE THAT YOU TOLD POLICE
YOU TALKED WITH GEORGE AND HE SAID HE WAS WAITING
ON A GUY?

A. YEAH.

Q. WHAT WAS YOUR UNDERSTANDING OF WHY HE WAS THERE?

A. THAT WAS, I DON'T EVEN KNOW HOW THAT TRANSPIRED
DURING THE COURSE OF THE CONVERSATION, BUT I DO
RECALL HIM JUST SAYING THAT HE WAS WAITING ON A
GUY.

Q. YOU DON'T REMEMBER WHAT GUY HE WAS WAITING ON?

A. HE DIDN'T STATE WHAT GUY HE WAS WAITING ON.

Q. OKAY. NOW, I UNDERSTAND YOU GOT THERE AROUND
TWO:THIRTY, THE SECOND TIME YOU GOT THERE,
TWO:THIRTY IN THE MORNING, SOMEWHERE AROUND THERE?

A. WELL, BETWEEN TWO AND TWO:THIRTY, SOMETHING LIKE
THAT.

Q. BETWEEN TWO AND TWO:THIRTY. OKAY, AND THEN IT'S
MY UNDERSTANDING YOU LEFT WITH YVETTE AND JOHN?

A. RIGHT.

Q. AND THEN I THINK YOU DROPPED YVETTE OFF AND YOU
DROPPED JOHN OFF?

A. RIGHT.

Q. WHERE DID YOU GO AFTER THAT?

CROSS - PATRICIA OWENS BY MR. MELLARD

214

1 A. I WENT HOME.

2 Q. OKAY. DID YOU GO BACK TO THE HOUSE ANYTIME, I'M
3 TALKING ABOUT HARRY LIVINGSTON'S HOUSE, DID YOU GO
4 BACK TO HIS HOUSE AT THREE O'CLOCK?

5 A. HUH UH.

6 Q. FOUR O'CLOCK IN THE MORNING?

7 A. HUH UH.

8 Q. FIVE O'CLOCK IN THE MORNING?

9 A. HUH UH.

10 Q. OKAY. SO, YOU DON'T HAVE ANY IDEA WHETHER OR NOT
11 SOMEBODY ELSE CAME TO THAT HOUSE AFTER YOU LEFT?

12 A. NO.

13 MR. MELLARD: THANK YOU.

14 THE COURT: REDIRECT?

15 SOLICITOR SORENSON: NO, YOUR HONOR.

16 THE COURT: THANK YOU, MA'AM, YOU
17 MAY STEP DOWN. THANK YOU FOR COMING.

18 WITNESS: THANK YOU.

19 THE COURT: NEXT WITNESS?

20 SOLICITOR SORENSON: JEFFREY CONNER.

21 THE COURT: DEPUTY HUNTER?

22 SOLICITOR SORENSON: CONNER, JEFFREY
23 CONNER.

24 THE COURT: CONNER?

25 (Whereupon, witness enters

1 the courtroom.)

2 THE COURT: COME ON DOWN, MR.
3 CONNER, RIGHT OVER HERE. MR. CONNER, WOULD YOU PLACE
4 YOUR LEFT HAND ON THAT BIBLE AND RAISE YOUR RIGHT,
5 PLEASE.

6 (Whereupon, Jeffrey Conner
7 is duly sworn.)

8 THE COURT: THANK YOU, SIR, HAVE A
9 SEAT RIGHT THERE AND STATE YOUR FULL NAME FOR US.

10 WITNESS: JEFFREY CONNER.

11 THE COURT: THANK YOU, SIR.

12 ALRIGHT, MR. SORENSON.

13 SOLICITOR SORENSON: THANK YOU, YOUR
14 HONOR.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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DIRECT EXAMINATION OF JEFFREY CONNER

BY SOLICITOR SORENSON:

Q. MR. CONNER, IF YOU WOULD, TELL US HOW OLD ARE YOU?

A. FORTY-FIVE.

Q. AND DO YOU LIVE HERE IN ORANGEBURG?

A. YES.

Q. DID YOU GROW UP HERE?

A. YES.

Q. WHERE DID YOU GO TO HIGH SCHOOL?

A. ORANGEBURG-WILKERSON.

Q. OKAY. LET ME ASK YOU, DO YOU KNOW THE DEFENDANT
IN THIS CASE, GEORGE MOSES?

A. YES.

Q. HOW DO YOU KNOW MR. MOSES?

A. SOMEBODY HE WAS DATING AND SOMEBODY I WAS DATING
WERE CLOSE FRIENDS AND WE MET LIKE THAT, AND KIND
OF CLICKED IT OFF.

Q. THE TWO OF Y'ALL USED TO HANG OUT TOGETHER A LOT?

A. YEAH.

Q. AND BACK IN SEPTEMBER OF TWO THOUSAND AND SIX, YOU
KNOW, TWO AND A HALF YEARS AGO, WERE Y'ALL PRETTY
CLOSE BACK THEN?

A. YEAH.

Q. DID YOU SEE EACH OTHER QUITE FREQUENTLY?

A. PRETTY MUCH DAILY.

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 Q. PRETTY MUCH DAILY? HOW ABOUT THE VICTIM IN THIS
2 CASE, HARRY LIVINGSTON, DID YOU KNOW HARRY?

3 A. NO.

4 Q. DID YOU KNOW HARRY'S BROTHER, BARNEY?

5 A. YEAH, HE WAS A CUSTOMER AT MY CAR WASH WHEN I USED
6 TO RUN THE CAR WASH, BARNEY WAS.

7 Q. OKAY. BUT YOU DIDN'T KNOW HARRY THEN, RIGHT?

8 A. NO.

9 Q. OKAY. NOW, BACK IN SEPTEMBER OF TWO THOUSAND AND
10 SIX, WHERE WERE YOU LIVING AT AT THAT TIME,
11 JEFFREY?

12 A. [REDACTED] MYERS ROAD.

13 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTEEN,
14 WAS THAT THE HOUSE YOU WERE LIVING IN?

15 A. YEAH, THAT'S THE LITTLE HOUSE.

16 Q. ALRIGHT. AND WHOSE HOUSE WAS THAT THAT YOU WERE
17 LIVING IN BACK IN SEPTEMBER OF O-SIX?

18 A. MY AUNT OWNED THE PROPERTY THERE, MY AUNT ROSE
19 FREDERICK.

20 Q. OKAY. AND AT THAT TIME WAS THERE ANYBODY ELSE
21 LIVING WITH YOU IN SEPTEMBER OF TWO THOUSAND AND
22 SIX?

23 A. NO.

24 Q. YOU WERE ALL BY YOURSELF?

25 A. YEAH.

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 Q. I'M GOING TO TURN YOUR ATTENTION BACK TO THE EARLY
2 MORNING HOURS OF SEPTEMBER TWENTY-NINTH, IN THE
3 YEAR, TWO THOUSAND AND SIX, DO YOU REMEMBER WHAT
4 YOU WERE DOING EARLY THAT MORNING?

5 A. HOW EARLY?

6 Q. LIKE, THREE O'CLOCK OR SO, SOMEWHERE IN THAT
7 RANGE?

8 A. SLEEPING.

9 Q. SLEEPING. WHERE WERE YOU SLEEPING AT?

10 A. ON THE COUCH RIGHT THERE BY THE FRONT DOOR.

11 Q. OKAY. SO, YOU WERE SLEEPING ON THE COUCH BY THIS
12 FRONT DOOR RIGHT HERE? THAT'S THE FRONT DOOR,
13 RIGHT?

14 A. YES.

15 Q. OKAY. AND WHAT, IF ANYTHING, HAPPENED THAT WOKE
16 YOU UP THAT MORNING?

17 A. I GOT A SENSE OF A SHADOW MOVING AND I THOUGHT IT
18 WAS A TREE OUTSIDE, AND I SAT THERE AND LOOKED AT
19 IT FOR A WHILE. THEN IT START TO LOOK LIKE A
20 PERSON. SO, I LOOKED OUT THE DOOR.

21 Q. OKAY. DO YOU KNOW ABOUT WHAT TIME IT WAS THAT
22 THAT HAPPENED?

23 A. IT WAS ABOUT THREE O'CLOCK.

24 Q. ABOUT THREE O'CLOCK. ALRIGHT, AND SO WHEN YOU
25 LOOKED OUTSIDE WHAT DID YOU SEE OUTSIDE?

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 A. I SAW GEORGE AND HE WAS GOING THROUGH SOME SURPLUS
2 GEAR I HAD ON THE PORCH.

3 Q. OKAY, GEORGE BEING THE DEFENDANT, MR. MOSES?

4 A. YES.

5 Q. OKAY. WAS THERE ANYBODY ELSE OUTSIDE WITH HIM?

6 A. NO.

7 Q. OKAY. DID Y'ALL HAVE SOME CONVERSATION WITH HIM
8 AT THAT POINT IN TIME?

9 A. YEAH, I CRACKED THE DOOR, AND HE SAID, I DIDN'T
10 MEAN TO WAKE YOU UP, I JUST NEED TO GET SOME OF
11 THIS STUFF HERE, I'M ABOUT TO GO ON A MISSION.
12 I'LL COME BACK IN A LITTLE BIT AND WE'LL DO
13 SOMETHING. I CLOSED THE DOOR BACK AND LAY BACK
14 DOWN.

15 Q. HE SAID THAT HE JUST NEEDED TO GET SOMETHING, HE
16 WAS GOING ON A MISSION?

17 A. YEAH.

18 Q. AND HE'LL BE RIGHT BACK?

19 A. HE SAID HE'D BE BACK IN ABOUT FORTY-FIVE MINUTES
20 IF I RECOLLECT CORRECTLY.

21 Q. OKAY. DO YOU REMEMBER WHAT HE WAS WEARING AT THAT
22 POINT IN TIME?

23 A. I DIDN'T SEE IT TO REMEMBER IT. HE WAS STANDING
24 OUT ON THE GROUND, I JUST SAW HIS HEAD.

25 Q. OKAY. SO, YOU COULD JUST SEE HIM FROM HIS HEAD UP

1 PRETTY MUCH, HIS NECK UP?

2 A. YEAH.

3 Q. OKAY. ANY DOUBT THAT THAT WAS GEORGE MOSES YOU
4 WERE TALKING ABOUT?

5 A. NO.

6 Q. ALRIGHT. AND HE TOLD YOU HE WAS GETTING READY --
7 THAT HE NEEDED TO GET SOMETHING AND HE WAS GOING
8 ON A MISSION. DO YOU HAVE ANY IDEA WHAT HE WAS
9 TALKING ABOUT?

10 A. NO.

11 Q. OKAY. WHAT, SO YOU SAID YOU WENT BACK IN AND LAY
12 DOWN?

13 A. YEAH.

14 Q. OKAY. AND DID YOU SEE MR. MOSES AGAIN THAT
15 MORNING?

16 A. YEAH.

17 Q. OKAY. AND TELL THE JURY HOW MUCH LONGER AFTER
18 THAT, SEEING HIM THAT FIRST TIME DID THAT HAPPEN?

19 A. ABOUT FORTY-FIVE MINUTES LATER HE CAME BACK.

20 Q. OKAY. AND WHAT HAPPENED WHEN HE CAME BACK?

21 A. HE CAME IN AND SAID, WELL, I WAS STILL ASLEEP, BUT
22 HE JUST KNOCKED AND PUSHED THE DOOR OPEN BECAUSE I
23 WAS EXPECTING HIM. HE WALKED BY ME AND SAID HE
24 HAD TO GO USE THE BATH ROOM.

25 Q. ALRIGHT. AND WHERE IS THE BATH ROOM LOCATED IN

DIRECT - JEFFREY CONNER BY SOL. SORENSON

221

1 THAT HOUSE?

2 A. THE OPPOSITE END OF THE FRONT, THE BACK.

3 Q. ALL THE WAY AT THE BACK, AND IS THERE A DOOR AT
4 THE BACK THERE?

5 A. YEAH.

6 Q. LET ME SHOW YOU, JEFFREY, IF I COULD, STATE'S
7 EXHIBIT NUMBER TWELVE, DO YOU RECOGNIZE THAT
8 PHOTOGRAPH?

9 A. THAT'S THE BACK OF THE HOUSE.

10 Q. OKAY. IS THAT THE BACK DOOR WHERE MY FINGER IS
11 RIGHT THERE? WHERE MY FINGER IS, IS THAT THE BACK
12 DOOR?

13 A. ARE YOU TALKING ABOUT THE HOLE?

14 Q. YES, SIR.

15 A. THAT'S WHERE A DOOR WOULD BE.

16 Q. YES, SIR, THAT'S WHERE A DOOR WOULD BE, RIGHT?

17 A. YEAH.

18 Q. OKAY. AND WHERE IS THE BATH ROOM DOOR, THEN, IN
19 RELATION TO THAT OPEN BACK DOOR?

20 A. THAT BACK DOOR IS OPEN, IT OPENS ONTO THE BATH
21 ROOM DOOR.

22 Q. SO, THE BATH ROOM - - -

23 A. YOU CAN'T HAVE BOTH OF THEM AT THE SAME TIME.

24 Q. I'VE GOT YOU. SO, THE BATH ROOM IS RIGHT, I GUESS
25 WHAT I'M TRYING TO GET AT, THE BATH ROOM IS RIGHT

1 AT THE BACK OF THE HOUSE, IS THAT RIGHT, RIGHT AT
2 THAT BACK DOOR?

3 A. YEAH.

4 Q. OKAY. NOW, BACK IN SEPTEMBER OF TWO THOUSAND AND
5 SIX, WAS YOUR BATH ROOM, WAS THERE RUNNING WATER
6 IN THAT HOUSE?

7 A. I DON'T THINK SO.

8 Q. WAS THERE ELECTRICITY IN THE HOUSE?

9 A. NO.

10 Q. DO YOU HAVE ANY IDEA WHAT MR. MOSES DID WHEN HE
11 WENT TO THE BACK OF THE HOUSE, WHEN HE SAID HE WAS
12 GOING TO THE BATH ROOM AND WENT TO THE BACK OF THE
13 HOUSE?

14 A. I JUST ASSUMED HE WENT TO THE BATH ROOM.

15 Q. THE TOILET WASN'T WORKING, RIGHT?

16 A. I CAN'T RECALL WHETHER IT WAS WORKING OR NOT
17 BECAUSE THE WATER WAS ON FOR A WHILE AFTER THE
18 ELECTRICITY WENT OFF, I CAN'T RECALL.

19 Q. OKAY. SO, THE TOILET COULD HAVE BEEN WORKING?

20 A. IT COULD HAVE, I DON'T RECALL.

21 Q. WELL, HOW LONG WAS HE BACK IN THE BACK OF THAT
22 HOUSE?

23 A. ABOUT FIVE MINUTES, I RECKON.

24 Q. ALRIGHT. AND THEN WHERE, DID HE COME BACK UP
25 FRONT OR DID YOU GO CHECK ON HIM OR HOW, WHAT

DIRECT - JEFFREY CONNER BY SOL. SORENSON

223

1 HAPPENED NEXT?

2 A. HE CAME BACK AROUND AFTER A FEW MINUTES.

3 Q. OKAY, AFTER ABOUT FIVE MINUTES OR SO, AND WHAT,
4 TELL THE JURY, ANYTHING OUT OF THE ORDINARY WHEN
5 HE CAME BACK UP TO THE FRONT WHERE YOU WERE ON
6 THE COUCH?

7 A. YEAH, HE ASKED TO BORROW A PAIR OF JEANS, HE HAD
8 ON HIS BOXER SHORTS.

9 Q. HE HAD ON BOXER SHORTS? SO, HE DIDN'T HAVE ON ANY
10 PANTS OR SHORTS OR ANYTHING, JUST HIS BOXERS?

11 A. YEAH, HE HAD ON, I THINK A SHIRT.

12 Q. WHAT KIND, DID HE HAVE ON HIS SHIRT AND HIS
13 BOXERS?

14 A. YEAH.

15 Q. AND HE WASN'T WEARING PANTS OR JEANS OR ANYTHING
16 LIKE THAT AT THAT TIME?

17 A. HE DIDN'T HAVE ON PANTS WHEN HE CAME FROM BACK
18 THERE.

19 Q. OKAY. AND YOU SAID I BELIEVE A SECOND AGO THAT HE
20 ASKED YOU IF HE COULD BORROW A PAIR OF YOUR PANTS?

21 A. BORROW A PAIR OF JEANS, YEAH.

22 Q. A PAIR OF JEANS. AND DID YOU LET HIM BORROW A
23 PAIR OF JEANS?

24 A. YEAH.

25 Q. DID YOU ASK HIM WHY?

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 A. NO.

2 Q. ALRIGHT. WHAT DID Y'ALL DO THEN? LET ME ASK YOU
3 THIS, WHAT DO YOU REMEMBER ABOUT THE T-SHIRT HE
4 WAS WEARING, ANYTHING?

5 A. ALL I CAN RECOLLECT, IT WAS WHITE AND IT HAD SOME
6 KIND OF GLITTERY DOLLAR SIGNS OR SOMETHING ON IT,
7 BECAUSE IT WAS DARK IN THE HOUSE AND I WASN'T
8 PARTICULARLY CONCERNED ABOUT ANYTHING BUT SLEEP.

9 Q. I'VE GOT YOU. WELL, DID HE LEAVE THEN AFTER HE
10 BORROWED A PAIR OF JEANS FROM YOU?

11 A. NO, WE SAT DOWN AND ROLLED UP A COUPLE OF
12 CIGARETTE COOLEYS.

13 Q. OKAY.

14 A. AND SMOKED THEM.

15 Q. OKAY. AND YOU'RE GOING TO HAVE TO HELP ME OUT
16 HERE, JEFFREY, WHAT'S A COOLEY?

17 A. A COOLEY IS A PARTICULAR CIGARETTE, AND YOU DUMPED
18 SOME OF THE TOBACCO OUT AND YOU REPLACE IT WITH
19 SOME COCAINE AND FIRE IT UP AND SMOKE IT. IT GIVES
20 YOU A LITTLE RUSH.

21 Q. AND THAT'S WHAT THE TWO OF Y'ALL DID THEN THAT
22 MORNING?

23 A. WE SMOKED UP SOME COOLEYS.

24 Q. AND WHERE -- THE COCAINE TO PUT INSIDE THOSE
25 CIGARETTES, WHERE DID THAT COME FROM?

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 A. HE PUT IT IN THERE, I GUESS, I DON'T KNOW WHERE,
2 HE HAD IT.

3 Q. SO, IT WASN'T SOMETHING THAT YOU HAD, IT WAS
4 SOMETHING THAT MR. MOSES PROVIDED?

5 A. YEAH.

6 Q. HOW LONG DID HE STAY AT YOUR HOUSE THEN?

7 A. FROM THE TIME HE CAME IN TO THE TIME HE WENT OUT?

8 Q. UH HUH.

9 A. ABOUT FIFTEEN OR TWENTY MINUTES.

10 Q. HOW WAS HE ACTING WHILE HE WAS THERE?

11 A. HE WAS QUIET AND STILL KIND OF ACTING LIKE HE WAS
12 PARANOID, THAT'S HOW HE ACT WHEN HE GET ON COKE,
13 QUIET WITH HIS EYES WIDE OPEN.

14 Q. DO YOU THINK HE HAD BEEN DOING DRUGS BEFORE HE GOT
15 TO YOUR HOUSE, TOO, OR WAS THAT JUST FROM WHAT HE
16 WAS DOING WITH YOU?

17 MR. MELLARD: OBJECTION, YOUR HONOR.

18 THE COURT: HE CAN TESTIFY TO WHAT
19 HE OBSERVED.

20 Q. WHEN YOU MADE THOSE OBSERVATIONS WAS THAT BEFORE
21 THE TWO OF Y'ALL SMOKED THE CIGARETTES WITH THE
22 COCAINE OR WAS THAT AFTER YOU HAD SMOKED THE
23 CIGARETTES WITH THE COCAINE, OR THROUGHOUT THE
24 WHOLE TIME?

25 A. WHILE WE WAS SMOKING, BECAUSE HE SIT DOWN AND HE

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 SNIFFED SOME, TOO.

2 Q. NOW, DID YOU SEE ANY INJURIES ON THE DEFENDANT, ON
3 MR. MOSES?

4 A. NO, I DID NOT.

5 Q. DID YOU SEE HIM BLEEDING ANYWHERE?

6 A. NO, I DID NOT.

7 Q. YOU DIDN'T SEE ANY CUTS OR ANYTHING OF THAT
8 NATURE?

9 A. NO, I DID NOT.

10 Q. WAS HE COMPLAINING TO YOU OF ANY INJURIES?

11 A. NO, HE WAS NOT.

12 Q. DID HE TELL YOU WHERE HE HAD BEEN EARLIER IN THE
13 NIGHT?

14 A. NO, HE DID NOT.

15 Q. DID HE TELL YOU WHAT THE MISSION WAS THAT HE HAD
16 GONE ON IN THE INTERIM THERE BETWEEN THOSE TWO
17 VISITS TO YOUR HOUSE?

18 A. NO, HE DID NOT.

19 Q. NOW, YOU SAID THAT HE LEFT AFTER BEING THERE FROM
20 FIFTEEN TO TWENTY MINUTES, IS THAT CORRECT?

21 A. YES. HE SAID HE HAD TO GO TO WORK IN THE MORNING,
22 HE TOLD ME HE'S SEE ME TOMORROW.

23 Q. ALRIGHT. AND DID YOU GO BACK TO BED, AND GO BACK
24 TO SLEEP?

25 A. I AIN'T NEVER GET UP OFF IT, YEAH.

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 Q. YOU WERE ON THE COUCH THE WHOLE TIME.

2 A. (Witness nods head.)

3 THE COURT: PLEASE SAY YES OR NO
4 BECAUSE THE LADY'S GOT TO WRITE IT DOWN. SEE, WHEN YOU
5 NOD YOUR HEAD SHE CAN'T WRITE THAT DOWN.

6 A. YES, SIR.

7 Q. WAS THERE A TIME LATER ON THAT DAY, THEN,
8 SEPTEMBER THE TWENTY-NINTH, WHEN THE SHERIFF'S
9 OFFICE CAME OUT TO YOUR HOUSE?

10 A. YES.

11 Q. OKAY. AND DID YOU MEET WITH THEM THAT DAY?

12 A. YEAH.

13 Q. DID YOU GIVE THEM A STATEMENT ABOUT WHAT HAD
14 HAPPENED THE NIGHT BEFORE?

15 A. YEAH.

16 Q. ALRIGHT. DID YOU, IN FACT, SIGN A CONSENT TO
17 SEARCH FORM TO LET THEM SEARCH YOUR HOUSE?

18 A. YES.

19 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER -- I THINK
20 I KIND OF SHOWED YOU THIS EARLIER, BUT STATE'S
21 EXHIBIT NUMBER TWELVE, DO YOU HAVE ANY IDEA WHERE
22 THOSE SHORTS CAME FROM THAT WERE FOUND IN YOUR
23 BACK PORCH THERE IN THE BRICK?

24 A. NO, I DON'T.

25 Q. DID YOU PUT THEM THERE?

DIRECT - JEFFREY CONNER BY SOL. SORENSON

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1 A. NO, I DID NOT.

2 Q. HOW ABOUT THIS PAY STUB BELONGING TO MR. MOSES
3 THAT WAS FOUND INSIDE YOUR LIVING ROOM, DID YOU
4 PUT THAT THERE?

5 A. NO, I DID NOT.

6 Q. DO YOU HAVE ANY IDEA HOW THAT GOT THERE?

7 A. IT WAS JUST A PAY STUB, IT WAS NOT THE CHECK PART,
8 I GUESS HE JUST SET IT AROUND AS A PIECE OF PAPER.

9 Q. THE PAY STUB PART?

10 A. I GUESS SO.

11 Q. NOW, DID MR. MOSES HAVE A CAR THAT HE WAS DRIVING
12 BACK THEN?

13 A. HE WAS DRIVING A CAR.

14 Q. WHAT CAR, WHAT TYPE OF CAR WAS HE DRIVING?

15 A. A TAN FORD CONTOUR.

16 Q. I SHOW YOU STATE'S EXHIBIT NUMBER SEVENTEEN, IS
17 THAT THE CAR HE WAS DRIVING?

18 A. YES.

19 Q. DID HE HAVE IT THAT NIGHT WHEN HE WAS AT YOUR
20 HOUSE?

21 A. WHEN I OPENED THE DOOR THE FIRST TIME HE DID.

22 Q. OKAY. YOU DIDN'T GO OUT THE SECOND TIME, RIGHT?

23 A. NO.

24 SOLICITOR SORENSON: THANK YOU, MR.
25 CONNER, PLEASE ANSWER ANY QUESTIONS THAT MR. MELLARD

1 MIGHT HAVE.

2 THE COURT: CROSS-EXAM.

3 MR. MELLARD: NO QUESTIONS, YOUR
4 HONOR.

5 THE COURT: THANK YOU, SIR, YOU CAN
6 STEP DOWN. YOU'RE FREE TO LEAVE. THANK YOU FOR COMING.
7 CALL YOUR NEXT WITNESS.

8 SOLICITOR SORENSON: CAN WE TAKE
9 JUST A FIVE MINUTE BREAK, YOUR HONOR?

10 THE COURT: ALRIGHT. LADIES AND
11 GENTLEMEN, WE'LL TAKE A SHORT BREAK AT THIS TIME.
12 PLEASE RETIRE TO THE JURY ROOM, PLEASE DO NOT TALK ABOUT
13 THE CASE.

14 (Whereupon, the jury retires
15 to the jury room.)

16 (Recess)

17 THE COURT: IS THE STATE READY TO
18 PROCEED?

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: DEFENSE?

21 MR. MELLARD: NO, SIR.

22 THE COURT: THE DEFENSE IS OBVIOUSLY
23 NOT READY.

24 ALRIGHT, IS THE DEFENSE READY?

25 MR. MELLARD: WE'RE READY, YOUR

1 HONOR.

2 THE COURT: BRING IN THE JURY,
3 PLEASE.

4 (Whereupon, the jury
5 enters the courtroom.)

6 THE COURT: ALRIGHT, WE HAVE ALL OF
7 OUR JURY, YOU MAY PROCEED.

8 SOLICITOR SORENSON: THE STATE CALLS
9 STANLEY CALDWELL.

10 THE COURT: COME AROUND, MR.
11 CALDWELL. IF YOU WOULD, PLACE YOUR LEFT HAND ON THE
12 BIBLE RIGHT THERE, PLEASE, SIR, AND RAISE YOUR RIGHT.
13 (Whereupon, Stanley B. Caldwell
14 is duly sworn.)

15 THE COURT: THANK YOU, SIR. HAVE A
16 SEAT RIGHT THERE AND STATE YOUR FULL NAME FOR US,
17 PLEASE.

18 WITNESS: OKAY. MY NAME IS STANLEY
19 B. CALDWELL, C-A-L-D-W-E-L-L.

20 THE COURT: THANK YOU, SIR.

21 (NOTE: Blank lines on this page do not indicate any
22 part of record has been omitted. Headers on testimony
23 pages and hard page breaks between testimony are now
24 required by the Court. See next ensuing page for
25 sequential continuation of record.)

DIRECT - STANLEY B. CALDWELL BY SOL. SORENSON

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DIRECT EXAMINATION OF STANLEY B. CALDWELL

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, MR. CALDWELL.

A. GOOD AFTERNOON.

Q. WILL YOU PLEASE TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED?

A. I'M A DEPUTY CORONER FOR ORANGEBURG COUNTY.

Q. OKAY. AND HOW LONG HAVE YOU HELD THAT POSITION?

A. TEN YEARS.

Q. OKAY. AND IF YOU WOULD, JUST KIND OF BRIEFLY
DESCRIBE FOR THE JURY WHAT YOUR DUTIES ENTAIL AS A
DEPUTY CORONER HERE IN ORANGEBURG COUNTY?

A. WE RESPOND TO ALL DEATHS, NATURAL, HOMICIDE,
TRAFFIC FATALITIES AND SO ON LIKE THAT, AND OUR
JOB IS TO DETERMINE THE CAUSE AND MANNER OF DEATH.
AND WE TRANSPORT BODIES, IF THERE'S GOING TO BE AN
AUTOPSY WE TRANSPORT THE BODIES FROM THE COUNTY
MORGUE TO NEWBERRY FOR AUTOPSY.

Q. AND IS THAT WHERE ORANGEBURG COUNTY USES NEWBERRY
PATHOLOGIST ASSOCIATES TO HANDLE ANY AUTOPSIES
THAT ARE, FOR DEATHS THAT OCCUR HERE IN ORANGEBURG
COUNTY?

A. YES.

Q. AND TURNING BACK TO SEPTEMBER TWENTY-NINTH OF TWO
THOUSAND AND SIX, WAS THAT DONE IN THIS CASE, WAS

1 THE BODY OF HARRY LIVINGSTON TRANSPORTED TO
2 NEWBERRY PATHOLOGY ASSOCIATES FOR AN AUTOPSY?

3 A. YES.

4 Q. AS PART OF YOUR DUTIES WITH THE CORONER'S OFFICE
5 DOES THAT ALSO ENTAIL YOU PICKING UP ITEMS FROM
6 THE PATHOLOGIST AND THEN TAKING THOSE OUT TO STATE
7 LAW ENFORCEMENT DIVISION FOR ANALYSIS?

8 A. YES.

9 Q. AND WHAT ITEMS TYPICALLY ARE YOU ASKED TO PICK UP
10 AND TAKE OUT TO SLED?

11 A. WE TAKE TOXICOLOGY, WHICH WOULD INCLUDE BLOOD
12 SAMPLES, DNA, PLUS IT MIGHT BE CLOTHING, AND YOU
13 KNOW, EVIDENCE, PHYSICAL EVIDENCE, WE WILL TAKE
14 THAT TO SLED AND LOG IT IN AT THEIR PROPERTY
15 EVIDENCE OFFICE.

16 Q. AND SPECIFICALLY IN THIS CASE DID YOU HAVE AN
17 OPPORTUNITY, SIR, TO RESPOND OUT TO NEWBERRY
18 PATHOLOGIST ASSOCIATES AND PICK UP TWO BLOOD
19 STANDARDS THAT HAD BEEN TAKEN FROM THE VICTIM,
20 HARRY LIVINGSTON, AT HIS AUTOPSY?

21 A. YES.

22 Q. OKAY. AND WHERE WERE THOSE TWO BLOOD SAMPLES TO
23 BE TAKEN TO?

24 A. TO SLED.

25 Q. AND WHAT WERE THEIR PURPOSES?

DIRECT - STANLEY B. CALDWELL BY SOL. SORENSON

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1 A. OH, TO BE ANALYZED AND TO BE HELD. ONCE THE
2 AUTOPSY IS COMPLETED THEY PACKAGE IT, THEY PACKAGE
3 THE EVIDENCE AND THEN IT'S TRANSPORTED FROM THEIR
4 OFFICE TO SLED, AND THAT'S WHERE IT'S ANALYZED AT.

5 Q. OKAY. SO, WHEN YOU PICKED UP THOSE TWO BLOOD
6 STANDARDS FROM NEWBERRY, HOW WERE -- WERE THEY
7 SEALED?

8 A. YES.

9 Q. WERE THEY NOTED SO YOU COULD IDENTIFY WHO THEY
10 BELONGED TO?

11 A. YES.

12 Q. AND WOULD THAT HAVE BEEN SOMETHING YOU WOULD --
13 WOULD YOU VERIFY THAT BEFORE YOU TOOK POSSESSION
14 OF THOSE ITEMS?

15 A. YES.

16 Q. AND DID YOU DO THAT IN THIS CASE?

17 A. YES, I DID.

18 Q. OKAY. AND THEN, THERE WAS TWO BLOOD STANDARDS,
19 THEN THAT WERE TAKEN OUT TO SLED, WERE THEY TAKEN
20 OUT THERE ALSO WITH OTHER SAMPLES OF OTHER BODILY
21 FLUIDS AND STUFF ALSO?

22 A. YES.

23 Q. AND WHAT DEPARTMENT OUT AT SLED WERE THOSE TWO
24 BLOOD STANDARDS THEN KIND OF TAPPED TO GO TO?

25 A. WELL, ONCE I TURN IT IN TO THE EVIDENCE INTAKE

DIRECT - STANLEY B. CALDWELL BY SOL. SORENSON

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1 THEN THEY SLIDE IT TO THE PROPER LAB.

2 Q. OKAY. AND IS THERE SOME PAPERWORK THAT YOU HAVE
3 THERE THAT YOU USE WHEN YOU SUBMIT SOMETHING TO
4 SLED?

5 A. YES.

6 Q. OKAY. AND WHAT ITEM NUMBERS WERE THOSE TWO BLOOD
7 STAINS GIVEN WHEN YOU GOT THEM OUT TO STATE LAW
8 ENFORCEMENT DIVISION?

9 A. OKAY. ITEM ELEVEN AND ITEM NINETEEN.

10 Q. OKAY. AND WHAT IS THE DESCRIPTION OF ITEM ELEVEN?

11 A. BLOOD TOXICOLOGY, HARRY LIVINGSTON.

12 Q. OKAY. AND WHAT ABOUT ITEM NUMBER NINETEEN?

13 A. NUMBER NINETEEN IS BLOOD STANDARD, HARRY
14 LIVINGSTON, DNA ANALYSIS.

15 Q. OKAY. SO THERE'S ONE TO GO TO TOXICOLOGY AND ONE
16 TO DNA AS YOU INDICATED EARLIER?

17 A. RIGHT.

18 Q. NOW, WHEN YOU HAD THOSE TWO BLOOD SAMPLES IN YOUR
19 POSSESSION DID YOU TAMPER WITH THEM IN ANY WAY?

20 A. NO, I DIDN'T.

21 Q. DID YOU OPEN THEM?

22 A. NO.

23 Q. OKAY. SO, WHEN YOU THEN DROPPED OFF, WHEN WERE
24 THEY DROPPED OFF AT THE STATE LAW ENFORCEMENT
25 DIVISION?

DIRECT - STANLEY B. CALDWELL BY SOL. SORENSON

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1 A. I WOULD SAY OCTOBER NINTH, TWO THOUSAND SIX, AT
2 TEN:THIRTY A.M.

3 Q. DO YOU KNOW IF THAT WAS THE SAME DAY YOU PICKED
4 THEM UP FROM NEWBERRY?

5 A. YES.

6 Q. OKAY. AND WERE THEY THEN IN THE SAME CONDITION AS
7 WHEN YOU RECEIVED THEM FROM NEWBERRY AS WHEN YOU
8 DROPPED THEM OFF AT STATE LAW ENFORCEMENT
9 DIVISION?

10 A. YES.

11 Q. OKAY. AND WHEN YOU DROP SOMETHING OFF AT SLED HOW
12 IS, HOW DOES THAT TAKE PLACE, WHAT DO YOU DO?
13 WHAT DO YOU DO WITH THOSE ITEMS WHEN YOU GET THEM
14 THERE?

15 A. OH, OKAY.

16 Q. DO THEY PUT THEM IN SOME OTHER PACKAGING OR - - -

17 A. RIGHT, WHAT THEY DO, THEY REPACKAGE IT, THEY PUT
18 THEM, SLED PUTS THEM IN THEIR PLASTIC BAGS AND
19 SEALS THEM. I INITIAL IT, I SIGN OFF ON IT AND
20 DATE IT, AND I PUT MY INITIALS ON IT AFTER IT'S
21 BEEN SEALED.

22 Q. COULD SOMEBODY THEN THAT CAME, THAT THEN CAME INTO
23 THEIR POSSESSION AFTER THAT BE ABLE TO TELL IF IT
24 HAD BEEN OPENED AFTER YOU HAD SEALED IT?

25 A. YES.

DIRECT - STANLEY B. CALDWELL BY SOL. SORENSON

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1 SOLICITOR SORENSON: THANK YOU, MR.
2 CALDWELL, PLEASE ANSWER ANY QUESTIONS MR. MELLARD MAY
3 HAVE.

4 THE COURT: CROSS-EXAM.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

CROSS - STANLEY B. CALDWELL BY MR. MELLARD

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CROSS-EXAMINATION OF STANLEY B. CALDWELL

BY MR. MELLARD:

Q. ALL YOU DID WAS TRANSPORT THESE ITEMS?

A. THAT'S CORRECT, SIR.

MR. MELLARD: OKAY. NO MORE
QUESTIONS.

THE COURT: REDIRECT?

SOLICITOR SORENSON: NO, SIR.

THE COURT: THANK YOU, SIR, YOU CAN
STEP DOWN, AND YOU CAN BE EXCUSED. THANK YOU FOR
COMING.

WITNESS: THANK YOU.

SOLICITOR SORENSON: THAT'S ALL, I
MEAN MY NEXT WITNESS - - -

THE COURT: ALRIGHT, LADIES AND
GENTLEMEN, WE'RE GOING TO STOP A LITTLE EARLY TODAY.
WE'LL START BACK AT NINE:THIRTY IN THE MORNING. SO,
PLEASE BE BACK IN THE JURY ROOM AT NINE:THIRTY, PLEASE
DO NOT TALK ABOUT THE CASE, AND WE'LL SEE YOU IN THE
MORNING. THANK YOU VERY MUCH, YOU ARE EXCUSED. PLEASE
DON'T HANG AROUND THIS COURTHOUSE NOW, AND DON'T COME
EARLY IN THE MORNING AND HANG AROUND EITHER, YOU JUST
COME AT NINE:THIRTY AND GO RIGHT ON INTO THAT JURY ROOM.
(Whereupon, the jury leaves
the courtroom for the day

1 and the following takes
2 place outside of the presence
3 of the jury.)

4 BAILIFF: YOUR HONOR, ALL OF THE
5 JURORS ARE OUT OF THE COURTROOM.

6 THE COURT: ALRIGHT, THANK YOU, SIR.
7 ANYTHING BEFORE WE RECESS?

8 SOLICITOR SORENSON: DO YOU WANT TO
9 PULL UP HIS RECORD NOW OR - - -

10 THE COURT: YEAH, WE'LL DO THAT.

11 SOLICITOR SORENSON: LOOKING THROUGH
12 HIS RAP SHEET, YOUR HONOR, ON MR. MOSES, HE HAS, IT
13 LOOKS LIKE HE WAS INITIALLY CONVICTED, HE'S GOT A BUNCH
14 OF STUFF IN THE STATE OF NEW YORK, IT'S ALL FROM THE
15 EARLY TO MID-SEVENTIES, SO I DON'T THINK WE WILL GO INTO
16 THAT.

17 THE COURT: ALRIGHT.

18 SOLICITOR SORENSON: THAT'S SOME
19 THIRTY, THIRTY-FIVE YEARS AGO. HE HAS GOT SOME, A
20 NINETEEN EIGHTY CONVICTION FOR MURDER WHICH WAS
21 OVERTURNED, AND IT LOOKS LIKE HE PLED TO VOLUNTARY
22 MANSLAUGHTER I BELIEVE IN OCTOBER OF NINETEEN NINETY-
23 ONE. HE HAS GOT A POSSESSION OF CONTRABAND.

24 THE COURT: WHAT WAS THE SENTENCE?

25 SOLICITOR SORENSON: I WANT TO SAY

1 -- IT WAS ELEVEN YEARS.

2 THE COURT: WAS THAT TIME SERVED?

3 SOLICITOR SORENSON: YEAH, CREDIT
4 FOR TIME SERVED, AND SENTENCE BACKDATED TO
5 EIGHT/ONE/EIGHTY. SO, - - -

6 THE COURT: SO, THAT'S BEYOND THE
7 TIME.

8 SOLICITOR SORENSON: I'M GUESSING HE
9 PRETTY MUCH MAXED THAT OUT AT THAT POINT IN TIME.

10 THE COURT: SO, THAT'S BEYOND THE
11 TEN YEARS.

12 SOLICITOR SORENSON: HE HAS GOT I
13 THINK A CONTRABAND CHARGE FROM WHEN HE WAS IN PRISONS IN
14 NINETEEN EIGHTY-EIGHT. HE'S GOT A POSSESSION OF CRACK
15 COCAINE CONVICTION ON MARCH THE NINTH OF NINETEEN
16 NINETY-NINE, AND A TRANSPORTING A CHILD OUTSIDE OF THE
17 STATE, VIOLATING A CUSTODY ORDER FROM SEPTEMBER OF TWO
18 THOUSAND, WHICH HE RECEIVED A THREE YEAR SENTENCE
19 SUSPENDED UPON TWO YEARS OF PROBATION.

20 THE COURT: IN SEPTEMBER OF TWO
21 THOUSAND?

22 SOLICITOR SORENSON: IN SEPTEMBER OF
23 TWO THOUSAND, YES, SIR. AND THAT WOULD BE ALL. HE'S
24 GOT A COUPLE MAGISTRATE COURT OFFENSES ON HERE BUT NO
25 DISPOSITIONS, BUT NONE OF THEM I DON'T THINK WOULD BE

1 ADMISSIBLE ANYWAY.

2 THE COURT: MR. MELLARD.

3 MR. MELLARD: YES, SIR. THIS IS AN
4 LWOP CASE. THE PROBATIVE VALUES OF THESE OFFENSES, I
5 MEAN, THE PREJUDICE - - -

6 THE COURT: WELL, TAKE THEM ONE AT A
7 TIME. I'M NOT GOING TO ALLOW THE DRUG IN, THERE'S NO
8 USED EVEN ARGUING ABOUT THAT. I DON'T EVER DO THAT - -
9 -

10 MR. MELLARD: ALRIGHT, SIR. AS FAR
11 AS THE CUSTODY - - -

12 THE COURT: - - - THERE IS NO
13 PROBATIVE VALUE.

14 MR. MELLARD: RIGHT. AS FAR AS THE
15 CUSTODY, I THINK VIOLATING A CUSTODY ORDER, I FAIL TO
16 SEE WHAT PROBATIVE VALUE THAT HAS. AND IF IT HAD ANY
17 PROBATIVE VALUE THE PREJUDICIAL EFFECT OF IT WOULD
18 OBVIOUSLY OUTWEIGH THE PROBATIVE VALUE. LET'S SAY THAT
19 THE CUSTODY THING, THAT WOULD, THE CHILD CUSTODY, I
20 REALLY DON'T SEE ANY PROBATIVE VALUE WHATSOEVER ON THAT.

21 THE COURT: WELL, IT'S A COURT ORDER
22 THAT HE VIOLATED, THAT SHOWS A CERTAIN AMOUNT OF
23 DISRESPECT OR LACK OF RESPECT FOR THE COURT.

24 MR. MELLARD: BUT WE'RE DEALING WITH
25 A CHILD HERE, I MEAN, WE DON'T KNOW THE CIRCUMSTANCES, -

1 - -

2 THE COURT: I DON'T THINK - - -

3 MR. MELLARD: --- I UNDERSTAND IT'S
4 A CONVICTION, BUT THIS MAN'S ON TRIAL FOR HIS LIFE HERE,
5 AND I THINK THAT, YOU KNOW, I REALLY DON'T SEE THE
6 PROBATIVE VALUE OF IT. I MEAN, IT JUST MEANS HE'S MAYBE
7 NOT A GREAT DAD OR SOMETHING OR WHATEVER, BUT - - -

8 MS. HINDS: WE DON'T KNOW THE
9 CIRCUMSTANCES.

10 MR. MELLARD: --- YEAH, AND LIKE I
11 SAID, WE JUST DON'T KNOW THE CIRCUMSTANCES. I JUST
12 DON'T SEE THE PROBATIVE VALUE OF THIS THING.

13 THE COURT: I DON'T THINK IT
14 MATTERS, THE CIRCUMSTANCES, WHAT MATTERS IS THAT HE
15 VIOLATED A COURT ORDER. I'LL LET YOU KNOW TOMORROW - -
16 -

17 MR. MELLARD: OKAY.

18 THE COURT: --- WHETHER I'LL LET
19 THAT ONE IN. I THINK IT'S CLEARLY ADMISSIBLE.

20 MR. MELLARD: AS FAR AS THE MURDER,
21 IT WAS OVERTURNED, AND - - -

22 THE COURT: THERE'S NOTHING ELSE
23 THAT HE TOLD ME THAT WE EVEN COULD THINK ABOUT. SO, THE
24 ONLY ONE IS THAT TRANSPORTING A CHILD, AND I'LL SLEEP ON
25 IT.

1 MR. MELLARD: ALRIGHT.

2 THE COURT: ANYTHING ELSE?

3 SOLICITOR SORENSON: I DON'T THINK
4 SO, JUDGE.

5 THE COURT: ARE YOU GOING -- WHAT
6 TIME DO YOU ANTICIPATE FINISHING YOUR CASE TOMORROW?

7 SOLICITOR SORENSON: LUNCHTIME.

8 THE COURT: BY LUNCHTIME?

9 SOLICITOR SORENSON: YES, SIR.

10 THE COURT: WELL, Y'ALL NEED TO BE
11 READY TO ROLL WITH WHATEVER YOU'VE GOT SO WE WON'T HAVE
12 ANY DEAD TIME IF WE CAN HELP IT.

13 ALRIGHT, COURT'S IN RECESS UNTIL
14 NINE:THIRTY.

15 (Recess for the day.)

16 DATE:

17 FEBRUARY 11, 2009.

18 THE COURT: IS THE STATE READY TO
19 PROCEED?

20 SOLICITOR SORENSON: THE STATE'S
21 READY.

22 THE COURT: IS THE DEFENSE READY?

23 MR. MELLARD: YES, YOUR HONOR.

24 THE COURT: ALRIGHT, BRING THE JURY
25 IN.

1 (Whereupon, the jury enters
2 the courtroom and the following
3 takes place in the presence
4 of the jury.)

5 BAILIFF: YOUR HONOR, ALL OF THE
6 JURORS ARE IN THE JURY BOX.

7 THE COURT: THANK YOU, SIR.

8 LADIES AND GENTLEMEN, I ASKED YOU
9 NOT TO TALK ABOUT THE CASE WITH ANYONE, AND I HAD
10 EXPLAINED TO YOU YESTERDAY WHY WE DIDN'T WANT YOU
11 TALKING ABOUT THE CASE WITH ANYONE OR TRYING TO FIND OUT
12 ANYTHING ABOUT THE CASE. I FORGOT TO MENTION TO YOU
13 SPECIFICALLY NOT TO REFER TO ANY NEWSPAPER ARTICLES
14 ABOUT THE CASE. THERE IS A FRONT PAGE ARTICLE ON THE
15 ORANGEBURG TIMES AND DEMOCRAT THIS MORNING ABOUT THIS
16 CASE. DID ANY OF YOU SEE THAT ARTICLE? IF YOU DID,
17 PLEASE RAISE YOUR RIGHT HAND.

18 (Negative response from jury panel.)

19 THE COURT: ANYBODY? NOBODY SAW THE
20 NEWSPAPER?

21 (Negative response from jury panel.)

22 THE COURT: OKAY. I'M SURE THE
23 TIMES AND DEMOCRAT IS DISAPPOINTED, BUT I'M VERY HAPPY.
24 I'M VERY HAPPY, BECAUSE IT WOULD BE VERY -- IF YOU DID,
25 I JUST NEED TO KNOW ABOUT. BUT NOBODY HAS SEEN THE

1 PAPER?

2 (Negative response from jury panel.)

3 THE COURT: OKAY. ANYTHING ELSE
4 FROM THE DEFENSE?

5 MR. MELLARD: YES, SIR. WE WOULD
6 JUST FOR THE RECORD - - -

7 THE COURT: WAIT, JUST WAIT A
8 MINUTE. ALRIGHT, LADIES AND GENTLEMEN, I'M SORRY, I
9 NEED TO TAKE UP THIS MATTER OUTSIDE OF YOUR PRESENCE.
10 IT'S A MATTER OF LAW, AS I TOLD YOU, SO PLEASE RETIRE TO
11 THE JURY ROOM.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place outside the presence
15 of the jury.)

16 THE COURT: ALRIGHT, SIR, I'LL BE
17 GLAD TO HEAR YOU, MR. MELLARD.

18 MR. MELLARD: YES, SIR, WE'D MOVE
19 FOR A MISTRIAL. YOUR HONOR, THE WHOLE, THE HEADLINE IN
20 ITSELF IS INADMISSIBLE EVIDENCE, AND THERE'S, IT'S RIGHT
21 OUTSIDE THE COURTHOUSE AS YOU WALK IN THE DOOR THEY'VE
22 GOT THAT LITTLE DISPENSER THERE. I KNOW YOU'VE ASK THEM
23 IF THEY HAVE READ IT, I'M NOT SO SURE THEY HAVEN'T HEARD
24 ABOUT IT OR TALKED ABOUT IT.

25 THE COURT: LET ME SEE THE PAPER.

1 (Court's Exhibit Six
2 marked and filed.)

3 THE COURT: OKAY. IT'S BEEN MARKED
4 AS A COURT'S EXHIBIT.

5 MR. MELLARD: YES, SIR.

6 THE COURT: I DON'T KNOW ANYTHING I
7 CAN DO EXCEPT ASK THEM IF THEY'VE READ, IF THEY'VE SEEN,
8 I ASKED THEM IF THEY SAW IT - - -

9 MR. MELLARD: YES, SIR.

10 THE COURT: --- I THINK, RATHER THAN
11 READ IT, I ASKED IF ANY OF THEM HAD SEEN IT.

12 MR. MELLARD: RIGHT. BUT I WOULD
13 ASK THAT YOU ASK THEM AT LEAST IF THEY HAVE HEARD ABOUT
14 IT OR IF SOMEBODY HAS SPOKEN TO THEM ABOUT IT.

15 THE COURT: WELL, I'LL DO THAT, I
16 DON'T MIND DOING THAT.

17 MR. MELLARD: AND I WOULD MOVE FOR
18 A MISTRIAL.

19 THE COURT: BUT, I MEAN, I -- WITH
20 ALL DUE RESPECT TO THE NEWSPAPERS, YOU KNOW, IT'S NOT
21 UNUSUAL TO FIND A BUNCHY OF PEOPLE LIKE THIS THAT DON'T
22 READ THE NEWSPAPERS OR DON'T READ IT UNTIL THEY GET HOME
23 AT NIGHT. I MEAN, NEWSPAPERS ARE NOT NEARLY AS WIDELY
24 READ AS A LOT OF PEOPLE THINK THEY ARE. I REGRET THAT
25 I DIDN'T CAUTION THEM, BUT I'LL BE GLAD TO ASK THEM IF

1 ANYBODY HAS TOLD THEM WHAT WAS IN IT, I'LL BE GLAD TO DO
2 THAT. SO, BRING THEM ON BACK AND -- HAVE YOU GOT YOUR
3 WITNESS READY?

4 SOLICITOR SORENSON: YES, SIR.

5 THE COURT: OKAY.

6 (Whereupon, the jury enters
7 the courtroom and the following
8 takes place in the presence of
9 the jury.)

10 THE COURT: LADIES AND GENTLEMEN, I
11 HAVE ANOTHER QUESTION OR SO TO ASK YOU. Y'ALL TOLD ME
12 YOU HAD NOT SEEN THE ORANGEBURG PAPER, AND I CERTAINLY
13 ACCEPT THAT. DID ANYBODY TELL YOU WHAT WAS IN THE
14 PAPER?

15 (Negative response from jury panel.)

16 THE COURT: ALL SAY, NO. I MEAN,
17 HAS ANYBODY TRIED TO MAKE ANY ATTEMPT TO DISCUSS THIS
18 CASE WITH YOU SINCE YOU LEFT HERE YESTERDAY? IF YOU'VE
19 HAD ANY INFORMATION ABOUT THIS CASE WHATSOEVER FROM ANY
20 SOURCE WHATSOEVER, EVEN IF IT WAS ACCIDENTAL OR
21 INADVERTENT, ANY INFORMATION ABOUT THE CASE SINCE
22 YESTERDAY WOULD YOU PLEASE RAISE YOUR HAND.

23 (Negative response from jury panel.)

24 THE COURT: ALRIGHT, I'M SATISFIED
25 EVERYTHING IS FINE.

1 NOW, IT GOES WITHOUT SAYING, DON'T
2 READ THE NEWSPAPER. I MEAN, IF YOU HAVE A NEIGHBOR WHO
3 SUBSCRIBES, OR YOU SUBSCRIBE TO IT, DO NOT EVEN LOOK AT
4 IT. THE NEWSPAPER HAS EVERY RIGHT TO BE HERE AND REPORT
5 WHAT GOES ON IN THIS COURTROOM, BUT AS I TOLD YOU, YOU
6 ARE NOT TO BE EXPOSED TO ANYTHING EXCEPT WHAT COMES OUT
7 AS TESTIMONY OR WHAT THE LAWYERS SAY, ONLY WHAT GOES ON
8 IN THIS COURTROOM, BECAUSE I CAN CONTROL THAT. AND
9 THERE ARE CERTAIN RULES THAT WE HAVE THAT WE ALL HAVE TO
10 PLAY BY IN COURT. THE NEWSPAPER DOESN'T HAVE TO PLAY BY
11 THOSE RULES, AND I'M NOT BEING CRITICAL OF THE
12 NEWSPAPER, I'M JUST SAYING WE JUST DON'T WANT ANYBODY
13 EXPOSED TO THAT. SO, PLEASE REMEMBER THAT.

14 ALRIGHT, SIR, CALL YOUR NEXT
15 WITNESS.

16 MR. MELLARD: YOUR HONOR, WE'VE GOT
17 ONE MORE ISSUE TO TAKE UP THAT WE JUST LEARNED. MAY WE
18 APPROACH?

19 THE COURT: YES, SIR.
20 (Whereupon, a bench conference
21 is held out of the hearing of
22 the jury and court reporter.)

23 THE COURT: LADIES AND GENTLEMEN,
24 STEP TO YOUR JURY ROOM JUST A MINUTE, I NEED TO TAKE UP
25 ANOTHER MATTER OF LAW WHICH DOES NOT CONCERN YOU. SO,

1 PLEASE STEP TO YOUR JURY ROOM, PLEASE DO NOT TALK ABOUT
2 THE CASE.

3
4 THE COURT: SIR, WOULD YOU WAIT JUST
5 A MINUTE? JUST HAVE A SEAT RIGHT THERE, YES, SIR.
6 EVERYBODY ELSE LEAVE.

7 (Whereupon, the jury retires
8 to the jury room and the following
9 takes place outside the presence
10 of the jury.)

11 THE COURT: WHAT'S YOUR NAME, SIR?

12 JUROR DAVIS: BRIAN DAVIS.

13 THE COURT: MR. DAVIS. MR. MOSES,
14 THE DEFENDANT IN THIS CASE, SAYS THAT HE BELIEVES YOU
15 SAW HIM OR HE SAW YOU WHEN HE WAS LEAVING THE COURTHOUSE
16 YESTERDAY.

17 JUROR DAVIS: I WAS WAITING FOR MY
18 RIDE.

19 THE COURT: THAT'S FINE, NO PROBLEM
20 WITH THAT AT ALL. YOU HAVEN'T DONE ANYTHING WRONG AT
21 ALL. BUT HE WAS IN HIS JAIL SUIT, I THINK. SO, YOU
22 SEE, HE'S DRESSED UP IN HERE TODAY, PROBABLY MOST OF THE
23 JURY DOESN'T REALIZE HE'S BEING HELD IN JAIL. BUT YOU
24 SAW HIM IN HIS JAIL SUIT, SO YOU KNOW HE'S BEING HELD IN
25 JAIL. WOULD THAT AFFECT YOUR DECISION IN THIS CASE IN

1 ANY WAY WHATSOEVER?

2 JUROR DAVIS: NO, SIR.

3 THE COURT: THE FACT THAT HE'S IN
4 JAIL AND NOT WALKING THE STREET FREE?

5 JUROR DAVIS: NO, SIR.

6 THE COURT: YOU CAN FORGET ABOUT
7 THAT? BECAUSE THAT CERTAINLY HAVE ANY BEARING, IT
8 DOESN'T MEAN, IT DOESN'T HAVE ANY BEARING ON HIS GUILT
9 WHATSOEVER. DO YOU UNDERSTAND THAT?

10 JUROR DAVIS: YES, SIR.

11 THE COURT: SO, YOU CAN STILL GIVE
12 HIM A FAIR TRIAL?

13 JUROR DAVIS: YES, SIR.

14 THE COURT: ALRIGHT, SIR. HOW ABOUT
15 STEP -- YOU DIDN'T MENTION THAT TO ANY OF THE JURORS,
16 DID YOU?

17 JUROR DAVIS: NO, SIR.

18 THE COURT: ALRIGHT, SIR, HOW ABOUT
19 STEP ON BACK THERE WITH THE REST OF THEM AND DON'T TELL
20 THEM WHAT WE TALKED ABOUT, JUST TELL THEM THAT'S BETWEEN
21 ME AND YOU. AND WE'LL BE GETTING STARTED IN JUST A
22 MINUTE. THANK YOU, SIR. AND YOU DIDN'T NOTHING WRONG,
23 NO, NOTHING WHATSOEVER, SO I DON'T WANT YOU TO THINK YOU
24 DID. I JUST NEEDED TO ASK THAT QUESTION.

25 JUROR DAVIS: YES, SIR.

1 THE COURT: ALRIGHT, SIR, JUST STEP
2 BACK THERE WITH THE REST OF THE JURY AND WE'LL BE
3 GETTING READY TO START IN JUST A MINUTE.

4 (Whereupon, Juror Brian Davis
5 retires to the jury room and
6 the following takes place out
7 of the presence of the jury.)

8 THE COURT: ALRIGHT, ANYTHING, MR.
9 MELLARD?

10 MR. MELLARD: NO, SIR.

11 THE COURT: AND THAT WAS THE JUROR
12 WE WERE TALKING ABOUT, RIGHT?

13 MR. MELLARD: YES, SIR.

14 THE COURT: AND THE DEFENDANT IS
15 INDICATING THAT WAS HIM. SO, YOU'RE SATISFIED WITH HIM?
16 BECAUSE WE'VE GOT TWO ALTERNATES BACK THERE.

17 MR. MELLARD: I'M SATISFIED, YES.

18 MS. HINDS: YES, WE JUST WANTED TO
19 MAKE SURE, YOUR HONOR.

20 THE COURT: ALRIGHT, I THINK
21 EVERYTHING IS STRAIGHT.

22 NOW, IS THERE ANYTHING ELSE BEFORE
23 I BRING THE JURY OUT FOR THE THIRD TIME?

24 MR. MELLARD: NO, SIR.

25 THE COURT: ALRIGHT, WE'LL TRY TO

1 PREVENT THESE IN THE FUTURE.

2 ALRIGHT, YOU CAN BRING THE JURY
3 BACK.

4 (Whereupon, the jury enters
5 the courtroom and the following
6 takes place in the presence
7 of the jury.)

8 THE COURT: LADIES AND GENTLEMEN,
9 I'M SORRY FOR ALL THE CONFUSION. WE ARE READY TO ROLL
10 NOW, EVERYTHING IS FINE.

11 ALRIGHT, SIR, YOU MAY CALL YOUR
12 WITNESS.

13 SOLICITOR SORENSON: THANK YOU, MAY
14 IT PLEASE COURT. THE STATE CALLS DR. JANICE ROSS.

15 THE COURT: COME AROUND, PLEASE,
16 MA'AM, I BELIEVE YOU'VE BEEN HERE BEFORE MAYBE?

17 DR. ROSS: YES, SIR.

18 THE COURT: SAY HI TO SEXTON. GOOD,
19 GIVE HIM MY REGARDS.

20 PLACE YOUR LEFT HAND ON THE BIBLE
21 AND RAISE YOUR RIGHT.

22 (Whereupon, Dr. Janice Edwards Ross
23 is duly sworn.)

24 THE COURT: THANK YOU, MA'AM, HAVE
25 A SEAT AND STATE YOUR FULL NAME, PLEASE.

1 WITNESS: JANICE EDWARDS ROSS.

2 THE COURT: ALRIGHT, COUNSELOR.

3 SOLICITOR SORENSON: THANK YOU, YOUR
4 HONOR.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted.)

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DIRECT EXAMINATION OF DR. JANICE E. ROSS

BY SOLICITOR SORENSON:

Q. GOOD MORNING, DR. ROSS.

A. GOOD MORNING.

Q. IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS
THAT YOU'RE EMPLOYED?

A. IN NEWBERRY, SOUTH CAROLINA, WITH NEWBERRY
PATHOLOGY ASSOCIATES.

Q. AND WHAT DO YOU DO, WHAT DO YOU DO FOR A LIVING?

A. WE, I AM A PATHOLOGIST, I DO HOSPITAL PATHOLOGY
AND WE DO AUTOPSIES FOR CORONERS.

Q. OKAY. AND IF YOU WOULD, JUST TELL THE JURY IF YOU
WOULD JUST BRIEFLY KIND OF YOUR EDUCATIONAL
BACKGROUND?

A. YES. I GOT A BACHELORS DEGREE FROM THE UNIVERSITY
OF SOUTH CAROLINA. I STARTED MEDICAL SCHOOL IN
CHARLESTON AT MUSC AND FINISHED MEDICAL SCHOOL IN
SYRACUSE, NEW YORK, AT UPSTATE MEDICAL CENTER
WHERE I GOT MY M.D. DEGREE. I THEN DID FURTHER
TRAINING IN THE FIELD OF PATHOLOGY WHICH IS THE
STUDY OF DISEASES. AND I AM BOARD CERTIFIED IN
THREE AREAS OF PATHOLOGY INCLUDING FORENSIC
PATHOLOGY.

Q. ALRIGHT, NOW, ARE YOU LICENSED TO PRACTICE
MEDICINE HERE IN SOUTH CAROLINA?

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1 A. YES.

2 Q. AND IF YOU WOULD, JUST KIND OF THEN, YOUR POST
3 EDUCATION, KIND OF TELL THE JURY A LITTLE BIT
4 ABOUT YOUR WORK HISTORY SINCE YOU GOT OUT OF
5 MEDICAL SCHOOL?

6 A. I'VE BEEN A CORONER FOR A COUNTY IN CENTRAL NEW
7 YORK, I'VE BEEN A MEDICAL EXAMINER, ASSISTANT
8 MEDICAL EXAMINER, AND I'VE DONE AUTOPSIES FOR
9 CORONERS FOR A PERIOD OF TWO YEARS. I'VE DONE OVER
10 FIVE THOUSAND AUTOPSIES.

11 Q. AND HAVE YOU HAD AN OPPORTUNITY OVER THE YEARS,
12 THEN, DR. ROSS, TO COME AND TESTIFY IN COURT ABOUT
13 YOUR FINDINGS IN SOME OF THOSE AUTOPSIES THAT YOU
14 PERFORMED?

15 A. YES.

16 Q. AND DO YOU HAVE ANY IDEA ABOUT HOW MANY TIMES
17 YOU'VE TESTIFIED?

18 A. IN SOUTH CAROLINA SINCE TWO THOUSAND AND EIGHT,
19 OVER SIXTY TIMES.

20 Q. OKAY. HAVE YOU BEEN QUALIFIED ON THOSE OCCASIONS
21 IN THE FIELD OF FORENSIC PATHOLOGY?

22 A. YES.

23 SOLICITOR SORENSON: YOUR HONOR, AT
24 THIS TIME WE'D OFFER DR. ROSS AS AN EXPERT IN THAT
25 FIELD, FORENSIC PATHOLOGY.

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1 MR. MELLARD: NO OBJECTION, YOUR
2 HONOR.

3 THE COURT: ALRIGHT, I FIND THAT
4 SHE'S QUALIFIED AS AN EXPERT IN THE FIELD OF FORENSIC
5 PATHOLOGY. AND I'M SURE IN A FEW MINUTES SHE'LL TELL
6 YOU WHAT THAT IS. AND THAT, THE SAME RESULT YESTERDAY,
7 LADIES AND GENTLEMEN, THAT SHE CAN GIVE YOU AN OPINION
8 ABOUT MATTERS WHICH ARE IN HER AREA OF EXPERTISE.

9 ALRIGHT, MR. SORENSON.

10 SOLICITOR SORENSON: THANK YOU, YOUR
11 HONOR.

12 Q. ALRIGHT, YOU HAD TOLD THE JURY A FEW MOMENTS AGO
13 THAT THE FIELD OF PATHOLOGY INVOLVES THE STUDY OF
14 DISEASES?

15 A. YES.

16 Q. ALRIGHT. AND A SUB-FIELD OF THAT, FORENSIC
17 PATHOLOGY?

18 A. YES.

19 Q. AND COULD YOU TELL THE JURY WHAT FORENSIC
20 PATHOLOGY CONSISTS OF?

21 A. YES, FIRST OF ALL, A PATHOLOGIST LEARNS HOW TO USE
22 LABORATORY WORK AND BLOOD WORK AND LEARNS HOW TO
23 LOOK AT TISSUE FROM SURGERY TO IDENTIFY TUMORS OR
24 CANCERS OR ANEMIAS OR DIFFERENT TYPES OF
25 INFECTIONS. WE ALSO LEARN IN THE FIELD OF

1 PATHOLOGY HOW TO DO AN AUTOPSY. A FORENSIC
2 PATHOLOGIST IS A SUB-SPECIALIST WHO, FORENSIC
3 MEANS LEGAL, SO, WE USE THE MEDICAL INFORMATION OF
4 PATHOLOGY TO IDENTIFY LEGAL PROBLEMS AND IDENTIFY
5 CAUSES OF DEATH FROM HOMICIDES, SUICIDES,
6 ACCIDENTS, RAPES, THAT KIND OF THING.

7 Q. AND YOU'VE REFERENCED THE TERM, AUTOPSY, SEVERAL
8 TIMES. IF YOU WOULD, TELL THE JURY WHAT AN
9 AUTOPSY CONSISTS OF?

10 A. YES. AN AUTOPSY CONSISTS OF LOOKING AT THE
11 DECEASED, THE PERSON EXTERNALLY AND INTERNALLY IN
12 A METHODICAL MANNER IN IDENTIFYING PATTERNS OF
13 INJURY OR ANY KIND OF EVIDENCE OF MEDICAL DISEASE
14 SO WE CAN TRY TO FIND OUT THE CAUSE OF DEATH OF A
15 PERSON.

16 Q. OKAY. AND SPECIFICALLY IN THIS CASE, DR. ROSS,
17 DID YOU PERFORM AN AUTOPSY ON HARRY LIVINGSTON?

18 A. YES.

19 Q. OKAY. AND WHEN AND WHERE WAS THAT, WAS THAT
20 AUTOPSY PERFORMED?

21 A. IT WAS SEPTEMBER TWENTY-NINTH, TWO THOUSAND SIX,
22 IN THE MORGUE AT NEWBERRY COUNTY MEMORIAL
23 HOSPITAL.

24 Q. AND WERE YOU GIVEN ANY, ANY CLINICAL HISTORY
25 BEFORE YOU PERFORMED THAT AUTOPSY WITH REGARDS TO

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1 WHAT HAD HAPPENED TO MR. LIVINGSTON?

2 A. YES. THE CORONER, DAVID FARR, ACTUALLY CAME WITH
3 THE BODY TO THE AUTOPSY AND HE JUST GAVE US SOME
4 IDEAS THAT THE VICTIM APPARENTLY HAD BEEN STABBED
5 AND BEATEN AT HIS RESIDENCE.

6 Q. OKAY. ALRIGHT, AND DID YOU THEN HAVE AN
7 OPPORTUNITY TO, AS YOU SAID, TO PERFORM THAT
8 AUTOPSY TO BEGIN BY KIND DOING A GENERAL EXTERNAL
9 EXAMINATION OF MR. LIVINGSTON?

10 A. YES.

11 Q. OKAY. AND ARE YOU AWARE OF HOW OLD MR. LIVINGSTON
12 WAS WHEN HE DIED?

13 A. IT'S STATED TO BE FIFTY-SEVEN.

14 Q. AND HOW ABOUT, IS PART OF THAT GENERAL
15 EXAMINATION, DETERMINING A HEIGHT AND WEIGHT?

16 A. YES.

17 Q. AND WHAT WAS MR. LIVINGSTON'S HEIGHT AND WEIGHT?

18 A. WE MEASURED HIM AT FIVE FEET SIX INCHES IN HEIGHT,
19 AND HIS WEIGHT IS AN ESTIMATION, WE DON'T HAVE A
20 SCALE IN THE MORGUE, WE ESTIMATED AT LEAST A
21 HUNDRED AND SIXTY POUNDS.

22 Q. AND HOW WAS HE, HOW DID HE PRESENT TO YOU AT THE
23 AUTOPSY, WAS HE CLOTHED WHEN HE ARRIVED THERE?

24 A. HE HAD A SHORT SLEEVE WHITE UNDERSHIRT ON AND A
25 PAIR OF BLUE PANTS, YES.

1 Q. OKAY. AND HOW ABOUT, DO YOU HAVE ANY ITEMS THAT
2 WERE IN HIS POCKETS?

3 A. YES.

4 Q. WHAT WERE THOSE ITEMS THAT WERE IN HIS POCKETS?

5 A. HE HAD A BOX CUTTER, A SMALL FOLDING POCKET KNIFE,
6 A YELLOW LIGHTER, THREE NAPKINS AND EIGHTY-ONE
7 CENTS.

8 Q. ALRIGHT. IF YOU WOULD, THEN, TELL THE JURY HOW YOU
9 WENT ABOUT THEN DOING YOUR KIND OF, YOUR OVERALL
10 KIND OF INITIAL EXAMINATION OF MR. LIVINGSTON?

11 A. YES, WE JUST LOOK EXTERNALLY, TAKE PHOTOGRAPHS OF
12 THE BODY CLOTHED AND UNCLOTHED. WE LOOKED AT THE
13 CLOTHING THEMSELVES AND FOUND SOME HOLES IN SHIRT
14 OVERLYING STAB WOUNDS. THEN WE DO AN EXTERNAL
15 EXAM OF THE SKIN, AGAIN TO IDENTIFY PATTERS OF
16 INJURY, AND WE FOUND EVIDENCE OF A BEATING ABOUT
17 THE FACE AND OTHERWISE FOUR STAB WOUNDS.

18 Q. OKAY. AND DID YOU THEN DOCUMENT ALL OF THOSE IN
19 YOUR NOTES?

20 A. YES.

21 Q. AND I'LL SHOW YOU A COUPLE OF PHOTOGRAPHS,
22 SPECIFICALLY, STATE'S EXHIBITS NUMBER EIGHT AND
23 TEN, WOULD THOSE HELP YOU WITH THE JURY AS FAR AS
24 KIND OF ILLUSTRATING TO THEM THE INJURIES THAT YOU
25 OBSERVED ON MR. LIVINGSTON?

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1 A. YES.

2 SOLICITOR SORENSON: YOUR HONOR, I
3 BELIEVE THESE ARE BOTH IN EVIDENCE, BUT -- EIGHT AND
4 TEN?

5 THE COURT: NO OBJECTION?

6 MR. MELLARD: I THINK THEY'RE IN.

7 THE COURT: THAT'S IN, THEY'RE
8 ALREADY ADMITTED, AREN'T THEY?

9 SOLICITOR SORENSON: I'M PRETTY SURE
10 THEY'RE ALREADY IN.

11 THE COURT: ALRIGHT.

12 COURT REPORTER: YEAH.

13 SOLICITOR SORENSON: PERMISSION FOR
14 DR. ROSS TO STEP DOWN?

15 THE COURT: YES, THAT'S FINE.

16 Q. I GIVE YOU, I START I GUESS AT STATE'S EXHIBIT
17 NUMBER TEN, IS THAT A PHOTOGRAPH THAT WAS TAKEN AT
18 THE AUTOPSY, DR. ROSS?

19 A. YES.

20 Q. OKAY. AND IF YOU COULD KIND OF, AND DO YOU WANT
21 ME TO HOLD IT UP, OR DO YOU WANT TO HOLD IT OR HOW
22 DO YOU WANT TO - - -

23 A. THAT'S FINE.

24 Q. IF YOU COULD JUST KIND OF GO THROUGH FOR THE JURY
25 AND KIND OF EXPLAIN TO THEM WHAT THEY'RE SEEING,

1 WHAT INJURIES ARE DOCUMENTED ON THAT PHOTOGRAPH?

2 A. YES. WE HAD MULTIPLE INJURIES AROUND THE FACE.
3 YOU CAN SEE A LACERATION OF THE MID, OR FOREHEAD
4 JUST TO THE RIGHT OF MIDLINE. ANOTHER LACERATION
5 ABOVE THE RIGHT EYEBROW. THERE ARE SEVERAL
6 LACERATIONS IN THE LEFT EYEBROW. THERE'S A LARGE
7 LACERATION ACROSS THE BRIDGE OF THE NOSE. THERE'S
8 BLACK AND BLUE EYE WITH CONTUSION OR BRUISING. AN
9 ABRASION WHICH IS A SCRAPE OF THE FACE IN THE SKIN
10 OVER THE LEFT CHEEK. THERE IS A LACERATION OF THE
11 LOWER LIP, AND ACTUALLY IT'S FROM A TOOTH GOING
12 THROUGH IT. IT'S A LITTLE BIT DIFFICULT TO SEE,
13 IT'S A LITTLE BIT OF A LACERATION ON THE EDGE OF
14 THE RIGHT LIP. THERE ARE VISIBLE THREE STAB
15 WOUNDS IN THIS PHOTOGRAPH HERE IN THE LEFT SIDE,
16 ONE, TWO, THREE. THERE IS BRUISING IN THE INNER
17 ACCESS OF THE LEFT UPPER ARM.

18 Q. OKAY. HOW ABOUT AS FAR AS HIS NOSE, DID YOU MAKE
19 ANY DETERMINATION AS TO INJURIES TO HIS NOSE?

20 A. THERE'S A LACERATION ACROSS THE BRIDGE OF HIS
21 NOSE, AND I FELT FRACTURE UNDERNEATH THERE.

22 Q. ALRIGHT. AND YOU INDICATED THE THREE STAB WOUNDS
23 ON THERE?

24 A. YES.

25 Q. ALRIGHT. AND WAS THERE ANY OTHER STAB WOUNDS THAT

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1 YOU WERE ABLE TO DOCUMENT ON MR. LIVINGSTON?

2 A. THERE WAS ANOTHER STAB WOUND IN THE RIGHT ABDOMEN.

3 Q. OKAY. I SHOW YOU STATE'S EXHIBIT NUMBER EIGHT,
4 AND THAT'S A CRIME SCENE PHOTO THAT'S ALREADY IN
5 EVIDENCE. DOES THAT SHOW THAT FOURTH STAB WOUND
6 THERE?

7 A. YES, IT'S RIGHT HERE.

8 Q. OKAY. YOU CAN HAVE A SEAT. ALRIGHT, WHAT -- LET
9 ME SHOW YOU JUST BRIEFLY STATE'S EXHIBIT NUMBER
10 ELEVEN. IS THAT A PHOTOGRAPH OF THE T-SHIRT THAT
11 MR. LIVINGSTON WAS WEARING?

12 A. YES.

13 Q. OKAY. AND DOES THAT SHOW THE ACTUAL, THE FOUR
14 STAB WOUNDS ON IT?

15 A. YES.

16 Q. OKAY. AND THAT'S, I GUESS A LITTLE KIND OF PURPLE
17 ARROWS?

18 A. THERE ARE ARROWS TO THOSE, YES.

19 Q. WE TALKED ABOUT ALL THE TRAUMA TO, LET'S KIND OF
20 START WITH THE TRAUMA TO THE FACE AND HEAD AREA.
21 DO YOU HAVE AN OPINION, DR. ROSS, AS TO WHAT
22 CAUSED THAT TRAUMA TO MR. LIVINGSTON'S HEAD AND
23 FACE AREA?

24 A. AT LEAST TWO OF THOSE LACERATIONS, THE ONE IN THE
25 MID-FOREHEAD AND THE ONE ACROSS THE BRIDGE OF THE

1 NOSE, WAS A STRAIGHT LACERATION WITH BRUISE,
2 ABRASIONS ON THE SIDES OF THE LACERATION
3 INDICATING TO ME THAT IT WAS SOME KIND OF ROD
4 SHAPED INSTRUMENT, A ROD, THE EDGE OF A CHAIR,
5 SOMETHING THAT WOULD GIVE YOU A STRAIGHT LINE AND
6 KIND OF SOMEWHAT STRAIGHT OBJECT. THE CONTUSION
7 AROUND THE EYE AND THE BLOW TO THE LOWER LIP THAT
8 CAUSED THE TOOTH TO GO THROUGH IT COULD HAVE BEEN
9 FROM A FIST. THERE ARE NO OTHER PATTERNS THAT
10 WERE IDENTIFIED.

11 Q. OKAY. I'M GOING TO GO BACK IN A LITTLE WHILE TO
12 KIND OF YOUR INTERNAL EXAMINATION OF MR.
13 LIVINGSTON AS FAR AS THE HEAD INJURIES GO, BUT AS
14 FAR AS THE INJURIES TO THE TORSO THAT YOU TALKED
15 ABOUT BEFORE, THE FOUR STAB WOUNDS, - - -

16 A. YES.

17 Q. --- WHAT ARE THOSE CONSISTENT WITH?

18 A. THE ONE IN THE ABDOMEN DIDN'T HIT ANY VITAL ORGAN
19 IN THE ABDOMEN, IT BARELY WENT THROUGH IT, THROUGH
20 THE WALL OF THE ABDOMEN. THE ONES IN THE BACK,
21 THERE WERE THREE, MOST ON THE SIDE AND GOING
22 TOWARDS THE BACK, ONE OF THOSE WENT INTO THE LEFT
23 CHEST BUT DID NOT HIT THE LUNGS, BUT IT DID CAUSE
24 A LITTLE BLEEDING FROM BLOOD VESSELS THAT ARE
25 BETWEEN THE RIBS WHERE THE KNIFE WENT THROUGH.

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1 Q. AND THOSE ARE ALL CONSISTENT WITH A KNIFE, I
2 GUESS, THAT TYPE OF - - -

3 A. YES.

4 Q. OKAY. SO, AS TO THE FOUR STAB WOUNDS, WERE ANY OF
5 THEM FATAL?

6 A. NO.

7 Q. ALRIGHT, NOW, YOU HAD SHOWN SOME CONTUSIONS UP ON
8 MR. LIVINGSTON'S UPPER KIND OF LEFT ARM, UP IN
9 THIS AREA?

10 A. YES.

11 Q. WHAT ARE -- FIRST OF ALL, WHAT IS A CONTUSION?

12 A. A BRUISE.

13 Q. AND WHAT ARE THOSE CONSISTENT WITH?

14 A. THERE'S NO SPECIFIC PATTERN. IT COULD BE HOLDING
15 FROM A HAND. THERE WERE SOME OTHER ABRASIONS ON
16 THE BACKS OF THE FINGERS, KNUCKLES OF BOTH HANDS,
17 ON THE BACK OF THE RIGHT FOREARM AND ON THE FRONT
18 OF THE LEFT -- THE BACK OF THE RIGHT FOREARM AND
19 THE FRONT OF THE RIGHT FOREARM?

20 A. WHAT ARE THOSE INJURIES TO THE FINGERS AND THE
21 WRIST AREA, WHAT ARE THEY CONSISTENT WITH?

22 A. WE SAY THEY'RE CONSISTENT WITH DEFENSE WOUNDS.
23 SOMEONE, HERE IN THE AREAS WHERE SOMEONE IS TRYING
24 TO DEFEND THEMSELVES.

25 Q. ALRIGHT. HOW ABOUT TO HIS LOWER EXTREMITIES, HIS

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1 LEGS OR FEET OR ANKLES, ANY INJURIES NOTED IN THAT
2 AREA OF MR. LIVINGSTON'S BODY?

3 A. THERE WERE TWO ABRASIONS ON THE FRONT OF THE RIGHT
4 ANKLE AREA.

5 Q. AND AN ABRASION WOULD BE JUST KIND OF A SCRAPE,
6 THAT TYPE OF - - -

7 A. YES.

8 Q. AND ANY OTHER INJURIES BESIDES THE STAB WOUNDS IN
9 HIS TORSO OR CHEST AREA?

10 A. NO. THERE WAS A -- WELL, IT'S A VERY SUPERFICIAL
11 ABRASION IN THE UPPER MID CHEST THAT WAS KIND OF
12 PATTERNED, IT HAD A LITTLE ARCH TO IT, AND THAT
13 COULD HAVE BEEN FROM, IF HE WAS WEARING A
14 NECKLACE, FOR INSTANCE, IF THAT GOT HIT AGAINST
15 THE SKIN, OR IT COULD BE THE END OF AN OBJECT THAT
16 HE MAY HAVE BEEN BEATEN WITH.

17 Q. HE DIDN'T HAVE A NECKLACE ON HIM WHEN HE PRESENTED
18 TO YOU AT THE MORGUE, DID HE?

19 A. NOT AT THE MORGUE, NO.

20 Q. ALRIGHT, NOW, SO AFTER YOU HAD DONE PERFORMING
21 THAT EXTERNAL EXAMINATION AND DOCUMENTING ALL OF
22 THOSE INJURIES, WHAT'S THE NEXT STEP THAT YOU THEN
23 WOULD HAVE WENT THROUGH AS FAR AS THE AUTOPSY
24 GOES?

25 A. THEN WE OPEN UP THE BODY AND LOOK AT EACH

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1 INDIVIDUAL ORGAN TO IDENTIFY ANY INJURIES OR
2 NATURAL DISEASE OF THE ORGANS.

3 Q. AND STARTING WITH, WOULD YOU HAVE DONE THAT IN MR.
4 LIVINGSTON'S HEAD AREA?

5 A. YES.

6 Q. OKAY. AND WHAT WERE YOUR FINDINGS WHEN YOU
7 PERFORMED THAT INTERNAL EXAMINATION THERE?

8 A. HE HAD WHAT WE CALL SUB-ARACHNOID BLEEDING AROUND
9 THE BRAIN. THE BRAIN IS COVERED WITH A VERY THIN
10 MEMBRANE, IT'S KIND OF LIKE SARAN WRAP, THAT'S
11 CALLED THE ARACHNOID MEMBRANE, AND THERE WAS A
12 LITTLE BIT OF BLEEDING BETWEEN THE BRAIN AND THAT
13 MEMBRANE.

14 Q. OKAY. AND IS THAT NORMAL?

15 A. NO.

16 Q. OKAY. AND WHAT WOULD CAUSE THAT SUB-ARACHNOID
17 BLEEDING, WHAT WOULD CAUSE THAT TO HAPPEN?

18 A. IT'S LACERATIONS OF LITTLE VESSELS. IN A BEATING,
19 FOR INSTANCE, YOUR BRAIN IS IN A CLOSED SPACE, AND
20 WHEN THE HEAD GOES BACK AND FORTH THE BRAIN GOES,
21 KIND OF LAGS BEHIND WITH IT, AND WHEN IT PULLS, IT
22 CAN PULL SOME BLOOD VESSELS AND TEAR THOSE. SO,
23 THERE'S SOME BLEEDING UNDERNEATH THAT MEMBRANE.

24 Q. OKAY. AND WHAT, WHAT ULTIMATELY WOULD HAPPEN
25 WHEN, IF YOU, IF THAT HAD HAPPENED FROM A BEATING

1 TO THE HEAD AREA, FROM BLUNT FORCE BLEEDING TO THE
2 HEAD AREA, IF THERE WAS THAT TEARING OF THOSE
3 BLOOD VESSELS AND THEN THAT SUB-ARACHNOID
4 BLEEDING, WHAT WOULD THEN RESULT FROM THAT?

5 A. THE BLEEDING JUST CAUSES AN INCREASED AMOUNT OF
6 FLUID OR MATERIAL INSIDE THE SKULL. THE SKULL
7 AGAIN IS HARD, IT'S JUST A CLOSED SPACE, IT
8 DOESN'T EXPAND WHEN YOU PUT MORE IN IT. SO, IF
9 YOU'RE PUTTING MORE VOLUME IN THE BRAIN, AROUND
10 THE BRAIN, THE BLOOD, THEN IT CAUSES A LOT OF
11 SWELLING, AND IT CAUSES THE BRAIN TO BE PUSHED
12 DOWN AGAINST WHERE THE SPINAL CORD COMES OUT, AND
13 THAT PRESSES AGAINST THE VITAL AREAS OF THE BRAIN
14 THAT HELP US TO BREATHE AND OUR HEART TO GO, AREAS
15 THAT THE BRAIN, WHERE THE BRAIN TELLS OUR HEART TO
16 BEAT AND OUR LUNGS TO BREATHE.

17 Q. OKAY. AND WHAT THEN WOULD HAVE HAPPENED IN MR.
18 LIVINGSTON'S CASE, THEN?

19 A. WITH THAT SWELLING OF THE BRAIN HE WOULD HAVE
20 PROBABLY BEEN UNCONSCIOUS WITHIN SECONDS, BUT HE
21 WOULD HAVE DIED FROM FAILURE TO BE ABLE TO BREATHE
22 WITHIN MINUTES, AND GUESSTIMATION, FIVE TO TEN
23 MINUTES.

24 Q. SO, HE WOULD HAVE BEEN UNCONSCIOUS WITHIN SECONDS
25 OF THE BEATING TO THE HEAD THAT CAUSED THAT SUB-

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 ARACHNOID BLEEDING?

2 A. YES.

3 Q. OKAY. AND THEN WOULD HAVE DIED, YOU SAID, WITHIN
4 FIVE TO TEN MINUTES?

5 A. YES.

6 Q. AND THAT WOULD HAVE BEEN AFTER THE BEATING TO THE
7 HEAD AREA, IS THAT CORRECT?

8 A. YES.

9 Q. IS THERE ANY WAY TO TELL AS FAR AS THE STAB WOUNDS
10 THAT OCCURRED TO HIS BODY WHETHER THEY OCCURRED
11 PRE OR AFTER THE BEATING TO HIS HEAD?

12 A. IT'S VERY DIFFICULT TO TELL. THERE IS, THERE WAS
13 SOME BLEEDING CAUSED BY THE STAB WOUNDS INDICATING
14 THAT THE BLOOD WAS STILL CIRCULATION, WHICH, IT'S
15 DIFFICULT TO TELL WHAT THE SEQUENCE WAS.

16 Q. OKAY. AND BY THE FACT THAT THE BLOOD WAS STILL
17 CIRCULATING THAT MEANT THAT HIS HEART WAS STILL
18 PUMPING, SO HE WAS STILL ALIVE WHEN HE WAS
19 STABBED?

20 A. YES.

21 Q. BUT THEY COULD HAVE OCCURRED EITHER PRIOR TO THE
22 BEATING OR WITHIN THAT FIVE TO TEN MINUTE PERIOD
23 AFTER THE BEATING BEFORE HE DIED, IS THAT CORRECT?

24 A. YES.

25 Q. NOW, AS PART OF AN AUTOPSY, DR. ROSS, DO Y'ALL

1 ALSO THEN COLLECT CERTAIN SAMPLES OF DIFFERENT
2 ORGANS AND ALSO BLOOD, BLOOD STANDARDS?

3 A. YES.

4 Q. OKAY. AND WAS THAT DONE IN THIS CASE?

5 A. YES.

6 Q. SPECIFICALLY, DO YOU COLLECT A BLOOD STANDARD TO
7 BE SENT TO STATE LAW ENFORCEMENT DIVISION FOR
8 TOXICOLOGY TESTS?

9 A. YES.

10 Q. AND ALSO IF NEEDED FOR DNA ANALYSIS?

11 A. YES.

12 Q. AND THAT WAS DONE IN MR. LIVINGSTON'S CASE?

13 A. YES.

14 Q. AND HOW, HOW IS THAT, HOW ARE THEY PACKAGED OR
15 SEALED, OR WHAT STEPS ARE TAKEN TO PRESERVE I
16 GUESS THE INTEGRITY OF THOSE STANDARDS?

17 A. I ASSIST IN DRAWING THE BLOOD AND THE FLUIDS
18 MYSELF, AND THEN I, WE LABEL THEM WITH WHAT IT IS.
19 I INITIAL THOSE, AND THOSE TUBES ARE SEALED IN A
20 PLASTIC BAG, SIGNED FOR, AND IN THIS CASE DAVID
21 FARR, THE DEPUTY CORONER, TOOK THOSE FLUIDS FROM
22 US.

23 Q. DAVID CALDWELL, OR STANLEY CALDWELL?

24 A. DAVID FARR SIGNED THIS.

25 Q. THAT'S WHO DELIVERED INITIALLY TO THE - - -

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 A. THAT'S WHO WE GAVE THE TAX TO.

2 Q. OKAY. ALRIGHT.

3 A. AND THAT'S TAKEN TO SLED.

4 Q. OKAY. LET ME ASK YOU, AS FAR AS THE TOXICOLOGY
5 RESULTS FROM STATE LAW ENFORCEMENT DIVISION,
6 THAT'S SOMETHING THAT COMES BACK TO YOU THEN?

7 A. YES.

8 Q. AND DID YOU RECEIVE THEM BACK IN THIS CASE?

9 A. YES.

10 Q. WHAT WERE THE RESULTS OF MR. LIVINGSTON'S
11 TOXICOLOGY STANDARDS?

12 A. HE HAD SOME SMALL AMOUNT OF COCAINE IN HIM AS WELL
13 AS ONE OF THE BYPRODUCTS OF COCAINE.

14 Q. AND WHAT, IF ANYTHING, DOES THAT TELL YOU OF THE
15 RESULTS?

16 A. IT TELLS ME THAT HE USED COCAINE CLOSE TO THE TIME
17 OF DEATH.

18 Q. DO THOSE FINDINGS HAVE ANY, ANY INFLUENCE ON YOUR
19 ULTIMATE FINDINGS AS TO A CAUSE OF DEATH FOR MR.
20 LIVINGSTON?

21 A. NO.

22 Q. LET ME ASK YOU, I THINK I HAD ASKED YOU THIS, BUT
23 ANY OF THE WOUNDS THAT YOU DOCUMENT, WHETHER THE
24 STAB WOUNDS OR THE TRAUMA THAT APPEARED TO BE
25 POSTMORTEM OR AFTER MR. LIVINGSTON HAD DIED THAT

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 YOU CAN TELL?

2 A. THEY'RE ALL WHAT WE CALL PERI-MORTAL, THEY'RE
3 AROUND THE TIME OF DEATH, AT LEAST.

4 Q. OKAY. AND DR. ROSS, ULTIMATELY, DID YOU, WERE YOU
5 ABLE TO FORM AN OPINION WITHIN A REASONABLE DEGREE
6 OF MEDICAL CERTAINTY AS TO THE CAUSE OF DEATH OF
7 MR. LIVINGSTON?

8 A. YES.

9 Q. AND WHAT, TELL THE JURY WHAT THAT OPINION IS?

10 A. IT'S ACUTE RESPIRATORY INSUFFICIENCY, IN OTHER
11 WORDS, NOT BEING ABLE TO BREATHE, DUE TO THE BLUNT
12 HEAD TRAUMA DUE TO THE BEATING.

13 Q. AND AS YOU TESTIFIED EARLIER, THAT WOULD HAVE
14 RESULTED IN HIS DEATH WITHIN FIVE TO TEN MINUTES
15 AFTER THAT BEATING OCCURRED?

16 A. YES.

17 SOLICITOR SORENSON: THANK YOU, DR.
18 ROSS, PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

19 THE COURT: MR. MELLARD.

20 (NOTE: Blank lines on this page do not indicate any
21 part of record has been omitted. Headers on testimony
22 pages and hard page breaks between testimony are now
23 required by the Court. See next ensuing page for
24 sequential continuation of record.)

CROSS - DR. JANICE E. ROSS BY MR. MELLARD

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CROSS-EXAMINATION OF DR. JANICE E. ROSS

BY MR. MELLARD:

Q. ALRIGHT, LET ME JUST SEE IF I UNDERSTAND THIS,
NOW, YOU CONDUCTED HARRY LIVINGSTON'S AUTOPSY ON
SEPTEMBER TWENTY-NINTH?

A. YES.

Q. OKAY. AND THAT WAS AROUND ONE O'CLOCK IN THE
AFTERNOON?

A. YES.

Q. OKAY. AND YOU EXAMINED, I GUESS, THE BODY, YOU
DID IT ONE TIME, YOU EXAMINED THE BODY ONE TIME?

A. YES.

Q. OKAY. THE WAY I UNDERSTAND IT IS, THE CORONER
BROUGHT THE BODY TO YOU, YOU EXAMINED IT, AND THEN
YOU GAVE THE BODY BACK TO THE CORONER?

A. YES.

Q. OKAY. AND THEN YOU ISSUED A REPORT?

A. YES.

Q. OKAY. AND THE REPORT SHOWS THAT THERE WERE KNIFE
WOUNDS?

A. YES.

Q. ALRIGHT. AND THE REPORT INDICATES THAT THE KNIFE
WOUNDS WERE NONFATAL?

A. CORRECT.

Q. IN OTHER WORDS, THE KNIFE DIDN'T CAUSE THE DEATH?

1 A. CORRECT.

2 Q. ALRIGHT. IN OTHER WORDS, SOMEBODY COULD HAVE BEEN
3 STABBED LIKE MR. LIVINGSTON, LIKE YOU SAY HE WAS
4 STABBED, AND THEY COULD HAVE JUST WALKED AWAY?

5 A. YES.

6 Q. OKAY. NOW, YOUR REPORT INDICATES THAT IN YOUR
7 OPINION HARRY LIVINGSTON DIED OF BLUNT TRAUMA TO
8 THE HEAD?

9 A. YES.

10 Q. OKAY. YOUR FINDINGS DON'T INDICATE WHETHER GEORGE
11 MOSES WAS PRESENT WHEN THE BLUNT TRAUMA OCCURRED
12 TO THE HEAD?

13 A. CORRECT.

14 Q. ALRIGHT. AND YOUR FINDINGS DO NOT INDICATE
15 WHETHER GEORGE MOSES CAUSED THE BLUNT TRAUMA TO
16 THE HEAD?

17 A. CORRECT.

18 Q. ALRIGHT. YOUR REPORT DOESN'T INDICATE WHO CAUSED
19 THE BLUNT TRAUMA TO THE HEAD?

20 A. CORRECT.

21 Q. ALRIGHT. AND I BELIEVE YOU ALSO FOUND THAT HARRY
22 LIVINGSTON HAD NINETY-FIVE PER CENT OCCLUSION TO
23 THE LEFT ARTERY?

24 A. YES, ONE OF THE CORONARY ARTERIES OF THE HEART.

25 Q. AND I GUESS, IN SIMPLE TERMS, THAT MEANS HE HAD

CROSS - DR. JANICE E. ROSS BY MR. MELLARD

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1 CLOGGED ARTERIES?

2 A. YES.

3 Q. OKAY. AND HIS LEFT ARTERY WAS NINETY-FIVE PER
4 CENT CLOGGED?

5 A. YES.

6 Q. OKAY. AND THAT'S, NINETY-FIVE PER CENT, THAT'S
7 PRETTY CLOGGED?

8 A. YES, IT IS.

9 Q. OKAY. AND I BELIEVE YOU ALSO FOUND THAT THE RIGHT
10 ARTERY WAS FORTY PER CENT CLOGGED?

11 A. YES.

12 Q. OKAY. AND I BELIEVE THERE'S A TOXICOLOGY REPORT
13 WHICH FOUND COCAINE IN HIS SYSTEM?

14 A. YES.

15 Q. AND YOU SAID THERE'S ALSO SOME KIND OF OFF SHOOT
16 OF COCAINE, WHAT WOULD THAT BE?

17 A. WHEN YOU USE COCAINE THE PARENT COCAINE IS
18 MEASURED AS COCAINE, BUT IT'S VERY QUICKLY BROKEN
19 DOWN IN THE BODY TO A SUBSTANCE CALLED BENDAL
20 ECTAMINE, B.E., IF YOU WANT TO, - - -

21 Q. OKAY.

22 A. --- WHICH IS A METABOLIC BYPRODUCT OF COCAINE.

23 Q. ALRIGHT. SO YOU'D MEASURE, I GUESS YOU'D MEASURE
24 WHAT WAS STILL COCAINE AND THEN IT WOULD ALSO BE A
25 MEASUREMENT OF WHAT THE BODY HAD TURNED IT INTO, I

1 GUESS?

2 A. YES.

3 Q. ALRIGHT. AND YOU'VE REVIEWED THAT REPORT?

4 A. YES.

5 Q. THE TOXICOLOGY REPORT. AND IT'S MY UNDERSTANDING
6 THAT THE REPORT SHOWS THAT HE WAS USING COCAINE
7 PRIOR TO HIS DEATH?

8 A. YES.

9 Q. AND YOU HAD SAID THAT WAS LIKE I GUESS WITHIN AN
10 HOUR OF HIS DEATH?

11 A. YES.

12 Q. OKAY. NOW, CLOGGED ARTERIES, THEY CAN LEAD TO A
13 HEART ATTACK, CAN'T THEY?

14 A. YES, THEY CAN.

15 Q. OKAY. AND THEY CAN LEAD TO A STROKE?

16 A. YES.

17 Q. OKAY. AND COCAINE CAN CAUSE A HEART ATTACK, TOO,
18 CAN'T IT?

19 A. YES.

20 Q. OKAY. NOW, YOU SAID THERE WAS A LACERATION TO HIS
21 FOREHEAD AND NOSE, AND YOU SAID THAT IT MAY BE THE
22 EDGE OF A CHAIR?

23 A. SOMETHING THAT'S ROD SHAPED.

24 Q. OKAY. SO, THE TRAUMA TO THE HEAD COULD HAVE BEEN
25 SOMEBODY FALLING INTO A CHAIR?

CROSS - DR. JANICE E. ROSS BY MR. MELLARD

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1 A. YES.

2 Q. OKAY. AND YOU SAID THAT THE STAB WOUNDS MAY NOT
3 HAVE OCCURRED AT THE SAME TIME AS THE HEAD TRAUMA?

4 A. WITHIN MINUTES, YES.

5 Q. AND WHAT DO YOU BASE THAT ON?

6 A. THERE IS SOME HEMORRHAGE STILL THERE, - - -

7 Q. UH HUH.

8 A. --- SO THE HEART WAS STILL BEATING. AFTER THE
9 BEATING TO THE HEAD HE WOULD HAVE BEEN DEAD WITHIN
10 FIVE TO TEN MINUTES.

11 Q. OKAY. SO, WHAT DOES THAT MEAN AS FAR AS THE STAB
12 WOUNDS?

13 A. THE STAB WOUNDS VERY LIKELY OCCURRED AT THE SAME
14 TIME AS THE BEATING OR RIGHT AROUND THE BEATING.

15 Q. AND YOU'RE SURE OF THAT?

16 A. WELL, WITHIN - - -

17 Q. AN HOUR?

18 A. WELL, I'D SAY AN HOUR MIGHT BE TOO MUCH. THERE
19 WAS ONLY A HUNDRED AND FIFTY CCS OF BLOOD FROM THE
20 STAB WOUND THAT WENT INTO THE CHEST, AND I THINK -
21 - -

22 Q. WOULD YOU SAY THIRTY MINUTES?

23 A. PROBABLY LESS. IT'S HARD TO SAY EXACTLY.

24 Q. YOU CAN'T SAY EXACTLY?

25 A. BETWEEN MINUTES, MINUTES BETWEEN THEM.

CROSS - DR. JANICE E. ROSS BY MR. MELLARD

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1 Q. ALRIGHT. THANK YOU.

2 THE COURT: REDIRECT?

3 SOLICITOR SORENSON: A FEW THINGS,
4 YOUR HONOR, JUST ON ONE OF THOSE LAST POINTS THERE.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

REDIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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REDIRECT EXAMINATION OF DR. JANICE E. ROSS

BY SOLICITOR SORENSON:

Q. ARE YOU TRYING TO SAY ABOUT THE ONE STAB WOUND
THAT ACTUALLY PENETRATED THE CHEST CAVITY?

A. YES.

Q. YOU FOUND HOW MANY CCS OF BLOOD IN HIS CHEST?

A. A HUNDRED AND FIFTY CCS.

Q. IS THAT A LOT TO FIND OUR IS THAT - - -

A. IT'S NOT A LOT, IF YOU CUT A BLOOD VESSEL.

Q. SO, WHAT DOES THAT TELL YOU AS FAR AS THE TIME
FRAME, THEN, AS FAR AS HOW, HOW MUCH PRIOR TO HIM
ULTIMATELY STOPPING, HIS HEART STOPPING BEATING
THAT THOSE STAB WOUNDS WOULD HAVE OCCURRED?

A. IT'S MORE LIKELY THAT THE STABBING WAS WITHIN
MINUTES. THE ONLY THING I -- SOMETIMES BLOOD
VESSELS WHEN THEY'RE CUT WILL CLAMP SHUT, YOU
KNOW, GO INTO A SPASM. SO, AGAIN, IT'S DIFFICULT,
BUT I WOULDN'T EXPECT IT TO OCCUR MORE THAN, I
DON'T KNOW, TEN OR FIFTEEN MINUTES OUTSIDE OF THE
- - -

Q. SO, IF HE HAD BEEN STABBED AN HOUR BEFORE HE WAS
BEAT ABOUT THE HEAD WOULD YOU EXPECT THERE TO BE A
LOT MORE BLOOD IN HIS CHEST CAVITY?

A. YES.

Q. ALRIGHT, NOW, MR. MELLARD HAD ASKED YOU ABOUT MR.

REDIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 LIVINGSTON'S HEART CONDITION, THE FACT THAT BOTH,
2 TWO OF HIS CORONARY ARTERIES WERE CLOGGED?

3 A. YES.

4 Q. DID THAT CONTRIBUTE TO HIS DEATH ON SEPTEMBER
5 TWENTY-NINTH, TWO THOUSAND AND SIX?

6 A. THAT, THERE WAS NO EVIDENCE OF AN ACUTE HEART
7 ATTACK. THERE MAY, YOU KNOW, HE MAY HAVE DIED
8 SOONER THAN SOMEBODY, SOONER WITH THAT KIND OF
9 INJURY TO THE HEAD THAN SOMEONE WITH A TOTALLY
10 NORMAL HEART BEAT.

11 Q. OKAY. SO, THERE'S NO EVIDENCE THAT HE HAD A HEART
12 ATTACK, WAS THERE?

13 A. CORRECT.

14 Q. NO EVIDENCE THAT HE HAD HAD A STROKE?

15 A. CORRECT.

16 Q. AND MR. MELLARD HAD ASKED YOU ON, DR. ROSS, HAD
17 ASKED YOU ABOUT WHETHER THE INJURIES TO MR.
18 LIVINGSTON'S HEAD COULD HAVE BEEN CAUSED FROM
19 FALLING AND HITTING A CHAIR?

20 A. YES.

21 Q. HOW MANY TIMES WOULD HE HAVE HAD TO HAVE FALLEN
22 AND HIT A CHAIR TO HAVE HAD ALL THAT INJURY TO HIS
23 HEAD?

24 A. PROBABLY AT LEAST SIX, AND HE WOULD HAVE TO HAVE
25 BEEN PRETTY HARD HIT.

REDIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 Q. SO, HE WOULD HAVE HAD TO FALLEN, HIT THE CHAIR,
2 GOTTEN UP, FALLEN, I MEAN, AT LEAST SIX TIMES?

3 A. YES.

4 SOLICITOR SORENSON: THANK YOU, DR.
5 ROSS.

6 THE COURT: YES, SIR, RECROSS.

7 (NOTE: Blank lines on this page do not indicate any
8 part of record has been omitted. Headers on testimony
9 pages and hard page breaks between testimony are now
10 required by the Court. See next ensuing page for
11 sequential continuation of record.)

RECROSS - DR. JANICE E. ROSS BY MR. MELLARD

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RECROSS-EXAMINATION OF DR. JANICE E. ROSS

BY MR. MELLARD:

Q. CAN YOU TELL ME WHICH OF THESE INJURIES CAUSED HIS
DEATH, TO HIS HEAD?

A. I CAN'T TELL.

Q. YOU CAN'T TELL? AND CAN YOU TELL ME WHICH OF
THESE INJURIES WERE CAUSED BY THE CHAIR?

A. AT LEAST ONE ON THE FOREHEAD, ONE ACROSS THE
BRIDGE OF THE NOSE, ONE OVER THE LEFT EYE BROWN,
ONE OVER THE RIGHT ABOVE THE RIGHT EYE BROW.

Q. OKAY. YOU DON'T KNOW FOR SURE THAT IT WAS A
CHAIR?

A. CORRECT.

Q. OKAY. YOU'RE JUST TAKING A GUESS ON THAT?

A. SOMETHING ROD SHAPED.

MR. MELLARD: OKAY. THAT'S ALL.

THE COURT: ANYTHING ELSE?

SOLICITOR SORENSON: NO, SIR.

THE COURT: ALRIGHT, THANK YOU, DR.
ROSS, FOR COMING, YOU MAY BE EXCUSED.

WITNESS: THANK YOU.

THE COURT: YOU MAY CALL YOUR NEXT
WITNESS.

SOLICITOR JOHNSON: YOUR HONOR, THE
STATE CALLS LINDA GAHNI.

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1 THE COURT: COME ON DOWN, PLEASE,
2 MA'AM, RIGHT ON DOWN HERE. PLACE YOUR LEFT HAND ON THE
3 BIBLE, PLEASE, AND RAISE YOUR RIGHT.

4 (Whereupon, Linda Owens Y. Gahni
5 is duly sworn.)

6 THE COURT: THANK YOU, MA'AM, PLEASE
7 HAVE A SEAT AND STATE YOUR FULL NAME AND SPELL YOUR LAST
8 NAME FOR US.

9 WITNESS: MY NAME IS LINDA OWENS Y.
10 GAHNI, G-A-H-N I.

11 THE COURT: G-A-H-N-N-I?

12 WITNESS: YES, SIR.

13 THE COURT: ALRIGHT, THANK YOU,
14 MA'AM.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

DIRECT - LINDA OWENS Y. GAHNI BY SOL. JOHNSON

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DIRECT EXAMINATION OF LINDA OWENS Y. GAHNI

BY SOLICITOR JOHNSON:

Q. GOOD MORNING, MS. GAHNI.

A. GOOD MORNING.

Q. MS. GAHNI, I'M GOING TO ASK YOU TO SPEAK UP SO THE JURY CAN HEAR YOU, AND DO YOU PRESENTLY LIVE IN ORANGEBURG?

A. I'M IN THE PROCESS OF MOVING TO COLUMBIA.

Q. BACK ON SEPTEMBER THE TWENTY-NINTH OF TWO THOUSAND AND SIX WERE YOU LIVING IN ORANGEBURG?

A. OH, YES, SIR.

Q. ON THE EARLY MORNING OF SEPTEMBER TWENTY-NINTH OF TWO THOUSAND AND SIX DID YOU HAPPEN TO, WHERE WERE YOU SOMETIME AROUND, I GUESS, THREE OR FOUR O'CLOCK THAT MORNING?

A. I WAS OUT, AND IN THE PROCESS OF GOING HOME.

Q. OKAY. NOW, YOU WERE QUESTIONED BY THE POLICE CONCERNING THE CASE OF MR. GEORGE MOSES, IS THAT CORRECT?

A. I MADE A STATEMENT ON LAST WEEK.

Q. TO THE POLICE?

A. RIGHT.

Q. BUT YOU DID GIVE A, YOU DID TALK TO THE POLICE BACK IN TWO THOUSAND SIX, IS THAT CORRECT?

MR. MELLARD: YOUR HONOR, WE HAVE A

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 MATTER WE NEED TO TALK TO THE COURT ABOUT.

2 THE COURT: ALRIGHT. LADIES AND
3 GENTLEMEN, PLEASE STEP OUT TO THE JURY ROOM A MINUTE.
4 PLEASE DO NOT TALK ABOUT THE CASE.

5 (Whereupon, the jury retires
6 to the jury room and the following
7 takes place out of the presence
8 of the jury.)

9 THE COURT: ALRIGHT, THE JURY IS
10 OUT.

11 MR. MELLARD: WE JUST NEED TO
12 CLARIFY SOMETHING. SO FAR WE HAVE NO STATEMENT FROM
13 LINDA GAHNI. SHE JUST TESTIFIED SHE GAVE A STATEMENT
14 LAST WEEK TO THE POLICE. IF IT'S A WRITTEN WE WANT IT
15 TURNED OVER TO US.

16 SOLICITOR JOHNSON: THERE'S NO
17 WRITTEN STATEMENT, YOUR HONOR, I CAN CLARIFY THAT IF I
18 BE ALLOWED TO ASK HER.

19 THE COURT: WELL JUST TELL US?

20 SOLICITOR JOHNSON: WE MET WITH HER
21 LAST WEEK TO DISCUSS THE CASE. THERE'S NO WRITTEN
22 STATEMENT.

23 MR. MELLARD: AND SHE DIDN'T GIVE A
24 STATEMENT TO THE POLICE?

25 SOLICITOR JOHNSON: NO.

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 THE COURT: WELL, SHE GAVE A -- I
2 MEAN, WHAT HE SAID WAS, SHE GAVE A STATEMENT BUT NOT A
3 WRITTEN STATEMENT.

4 SOLICITOR JOHNSON: RIGHT.

5 MR. MELLARD: RIGHT, I'M JUST
6 SAYING, SHE DIDN'T GIVE A STATEMENT TO THE POLICE, SHE
7 GAVE A STATEMENT TO THE POLICE, SHE GAVE A STATEMENT TO
8 THE SOLICITOR'S OFFICE, I GUESS.

9 SOLICITOR JOHNSON: RIGHT, WE MET
10 WITH HER LAST WEEK.

11 THE COURT: OKAY.

12 MR. MELLARD: I MEAN, I'M SURE IT'S
13 WALTER SHE'S THINKING ABOUT.

14 SOLICITOR JOHNSON: YES. AND WALTER
15 WAS THE ONLY PERSON THAT CONTACTED HER. NOBODY FROM THE
16 POLICE DEPARTMENT CONTACTED HER.

17 MR. MELLARD: OKAY.

18 THE COURT: ANYTHING ELSE?

19 MR. MELLARD: WE'D LIKE TO KNOW WHAT
20 THAT STATEMENT WAS.

21 SOLICITOR JOHNSON: YOUR HONOR, THE
22 STATEMENT WAS, WE JUST ASKED HER, WE JUST WENT BACK OVER
23 HER TESTIMONY FOR TODAY. THAT'S WHAT THE STATEMENT WAS.

24 THE COURT: WELL, I MEAN, WHAT'S ALL
25 THIS ABOUT? YOU DON'T HAVE A RIGHT TO KNOW WHAT HER

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 STATEMENT, I DON'T THINK.

2 MR. MELLARD: ONLY IF SHE GAVE IT TO
3 THE POLICE I WOULD LIKE TO AT LEAST BE ABLE TO QUESTION
4 HER. IF SHE GAVE IT TO THE SOLICITOR'S OFFICE THAT'S -
5 - -

6 THE COURT: I DON'T THINK IT
7 MATTERS, I MEAN, ARE YOU CLAIMING -- EXPLAIN TO ME WHAT
8 RIGHT YOU HAVE TO KNOW WHAT HER STATEMENT WAS?

9 MR. MELLARD: WHAT I WANT TO KNOW
10 IS, IF SHE GAVE IT THE POLICE OFFICER THEY SHOULD HAVE
11 NOTES ON IT, AND THOSE NOTES SHOULD HAVE BEEN TURNED
12 OVER TO US, AND - - -

13 THE COURT: WHY SHOULD THOSE NOTES
14 HAVE BEEN TURNED OVER TO YOU?

15 MR. MELLARD: BECAUSE THEY WOULD BE
16 PART OF THE DISCOVERY IN THIS CASE, YOUR HONOR.

17 THE COURT: NOT BY LAW, IT MAY BE BY
18 VOLUNTARY, I MEAN, THEY MIGHT HAVE VOLUNTEERED TO TURN
19 THEM OVER BUT I DON'T THINK YOU HAVE A RIGHT TO HAVE
20 THOSE NOTES UNTIL THE PERSON WHO'S MADE THOSE NOTES
21 WOULD TESTIFY. THERE'S NO REQUIREMENT THAT THEY TURN
22 OVER ANY STATEMENT I DON'T THINK EXCEPT THE STATEMENT OF
23 THE DEFENDANT. ISN'T THAT RIGHT, UNDER RULE FIVE?

24 MR. MELLARD: WELL, I WOULD HAVE TO
25 GO BACK AND DOUBLE CHECK THE RULE.

DIRECT - LINDA OWENS V. GAHNI BY SOL. JOHNSON

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1 SOLICITOR SORENSON: I MEAN, ONCE
2 SHE TESTIFIES, THEN IF WE HAD A STATEMENT THEN THEY
3 WOULD BE ENTITLED TO IT. NOT ONLY IS IT A MATTER OF
4 COURSE TYPICALLY TURNED - - -

5 THE COURT: IF THEY HAD SOME NOTES.

6 SOLICITOR SORENSON: --- THIS STUFF
7 OVER TO YOU, BUT I MEAN, - - -

8 THE COURT: FORGET ABOUT, DON'T USE
9 THE WORD, STATEMENT, BECAUSE A STATEMENT CAN BE ORAL OR
10 WRITTEN. SO, UNLESS YOU SAY WRITTEN STATEMENT OR ORAL
11 STATEMENT, DON'T USE THE WORD STATEMENT. IF THERE WAS
12 SOME NOTES THAT THE WITNESS HAD, THEN YOU COULD QUESTION
13 THAT WITNESS ABOUT THE NOTES. IF THE POLICE MADE NOTES
14 AND THE POLICE WASN'T TESTIFYING I'M NOT SURE YOU HAVE
15 A RIGHT TO QUESTION THE POLICE ABOUT THE NOTES. IF SHE
16 MADE SOME EXCULPATORY STATEMENT YOU WOULD CERTAINLY HAVE
17 A RIGHT TO KNOW THAT.

18 MR. MELLARD: THEY'RE SAYING IT WAS
19 MADE TO THE SOLICITOR'S OFFICE. IF THAT'S WHAT THEY'RE
20 SAYING THEN THAT'S WHAT THEY'RE SAYING. I JUST WANTED TO
21 MAKE SURE IT WASN'T MADE TO THE LAW ENFORCEMENT.

22 SOLICITOR SORENSON: WE CAN ASK HER,
23 BUT AS FAR AS I KNOW WE'RE THE ONLY - - -

24 THE COURT: THAT'S WHAT I UNDERSTOOD
25 HIM TO SAY, THAT SHE - - -

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 SOLICITOR SORENSON: WE'RE THE
2 PEOPLE THAT TALKED TO HER LAST WEEK.

3 THE COURT: THEY HAD TALKED WITH HER
4 IN PREPARATION FOR TRIAL. ALRIGHT, ANYTHING ELSE?

5 MR. MELLARD: NO, SIR.

6 THE COURT: OKAY. BRING THE JURY
7 BACK.

8 MA'AM, YOU NEVER GAVE A WRITTEN
9 STATEMENT TO ANYBODY EVER?

10 A. NO, I DIDN'T.

11 THE COURT: NOT LATELY OR A LONG
12 TIME AGO?

13 A. NO, ONLY TO THE SOLICITOR.

14 THE COURT: ALRIGHT.

15 (Whereupon, the jury enters
16 the courtroom and the following
17 takes place in the presence
18 of the jury.)

19 BAILIFF: YOUR HONOR, THE JURORS
20 SAID THEY ARE HAVING TROUBLE HEARING THE WITNESS.

21 THE COURT: OKAY. MA'AM, I'M SORRY,
22 BUT WE JUST GOT A BRAND NEW REMODELED COURTROOM AND THEY
23 HAVEN'T COME BACK IN TO PUT IN A P.A. SYSTEM YET, SO WE
24 DON'T HAVE ANY MICROPHONE TO GIVE YOU. WE'RE JUST GOING
25 TO HAVE TO ASK YOU TO TALK A LITTLE BIT LOUDER. COULD

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 YOU DO THAT, PLEASE?

2 A. THANK YOU, YOUR HONOR.

3 THE COURT: THE LAST LADY OVER
4 THERE, JUST KIND OF PRETEND SHE'S HARD OF HEARING. I'M
5 SURE SHE'S NOT, BUT JUST PRETEND SHE IS, AND SHE NEEDS
6 TO HEAR EVERYTHING YOU SAY.

7 Q. THANK YOU.

8 THE COURT: ALRIGHT, THANK YOU,
9 MA'AM.

10 ALRIGHT, COUNSELOR. COUNSELOR, YOU
11 MIGHT MOVE THAT WAY AND SHE'LL BE LOOKING A LITTLE BIT
12 MORE -- IT'S NATURAL TO LOOK AT THE PERSON YOU'RE
13 TALKING TO, BUT YOU REALLY NEED TO BE LOOKING AT THE
14 JURY WHEN YOU ANSWER THE QUESTIONS AND THAT WILL HELP
15 THEM TO UNDERSTAND.

16 A. OKAY.

17 THE COURT: ALRIGHT.

18 Q. LINDA, LET'S GO BACK. JANUARY TWENTY-NINTH, TWO
19 THOUSAND SIX, APPROXIMATELY THREE, FOUR IN THE
20 MORNING, WERE YOU HOME AT THAT TIME?

21 A. NO, I WAS OUT. I WAS ON MY WAY COMING HOME.

22 Q. OKAY. ON YOUR WAY HOME -- ON YOUR WAY HOME DID
23 YOU NOTICE ANYTHING PECULIAR, OR DID YOU PAY
24 ATTENTION TO ANYTHING?

25 A. NO. I MEAN, WELL, ARE YOU SAYING JANUARY?

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 Q. I'M SORRY, FORGIVE ME.

2 A. IS THAT CORRECT?

3 Q. SEPTEMBER TWENTY-NINTH - - -

4 A. OKAY.

5 Q. --- TWO THOUSAND AND SIX.

6 A. YES.

7 Q. YOU WERE OUT THAT NIGHT, IS THAT CORRECT?

8 A. YES, I WAS.

9 Q. ON YOUR WAY HOME YOU LATER -- DO YOU REMEMBER
10 LATER TALKING TO THE POLICE CONCERNING THIS CASE?

11 A. I WENT UP WITH MY SISTER WHO THEY WANTED TO TALK
12 WITH, AND I JUST MADE THE STATEMENT THAT, WELL, I
13 SAID THAT I REMEMBERED SEEING MR. MOSES' CAR
14 PARKED ON MYERS ROAD.

15 Q. AND WHERE DID YOU, AND THAT WAS ON -- YOU SAID,
16 AND WHAT DATE DID YOU SEE GEORGE -- IS THAT GEORGE
17 MOSES THERE?

18 A. YES, IT IS.

19 Q. DO YOU KNOW GEORGE MOSES?

20 A. YES, I DO.

21 Q. HOW DO YOU KNOW GEORGE MOSES?

22 A. WE LIVED TOGETHER FOR A PERIOD OF TIME.

23 Q. NOW, YOU RECOGNIZED HIS CAR?

24 A. YES, I FELT MORE THAN SURE IT WAS HIS CAR.

25 Q. WHAT DATE DID YOU SEE HIS CAR AND WHAT TIME?

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 A. IT MUST HAVE BEEN BETWEEN TWO, THREE, THREE OR
2 FOUR, ABOUT, BETWEEN TWO AND THREE IN THE MORNING.

3 Q. AND - - -

4 A. THE EXACT DATE I CAN'T TELL YO.

5 Q. WOULD THAT HAVE BEEN ON THE MORNING OF SEPTEMBER
6 TWENTY-NINTH, TWO THOUSAND AND SIX?

7 A. YES.

8 Q. AND WHERE DID YOU SEE HIS CAR AT?

9 A. PARKED ON THE MYERS ROAD AT A FRIEND'S HOUSE.

10 Q. AND WHAT FRIEND'S HOUSE WAS THAT?

11 A. JEFFREY CONNER.

12 Q. SO, YOU SAW GEORGE MOSES' CAR - - -

13 A. WELL, YES, I - - -

14 Q. --- WHAT YOU THOUGHT TO BE HIS CAR?

15 A. THANK YOU, YES.

16 Q. AT APPROXIMATELY THREE O'CLOCK IN THE MORNING?

17 A. BETWEEN TWO AND THREE.

18 Q. AT JEFFREY CONNER'S HOUSE, IS THAT CORRECT?

19 A. YES.

20 Q. AND YOU MADE THE POLICE AWARE OF THAT?

21 A. WELL, I MADE A STATEMENT, THEY, YOU KNOW, I MEAN I
22 JUST -- I WAS SHOCKED FROM HEARING WHAT HAPPENED
23 AND I JUST SAID, WELL, OH, I JUST -- I SAW HIS CAR
24 PARKED, YOU KNOW, THERE, BUT NO ONE REALLY, I
25 NEVER MADE A STATEMENT TO ANYONE, IT JUST CAME OUT

DIRECT - LINDA OWENS Y.GAHNI BY SOL. JOHNSON

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1 AND PEOPLE HEARD ME, AND THAT'S WHY I'M HERE I
2 GUESS.

3 Q. SO, IT WASN'T A WRITTEN STATEMENT?

4 A. NO.

5 Q. DO YOU REMEMBER WHAT OFFICER YOU MADE THAT
6 STATEMENT TO?

7 A. I HAVE NO IDEA, NO, THAT'S BEEN SO LONG AGO, NO, I
8 REALLY DON'T.

9 Q. AND PRIOR TO -- ONE MOMENT.

10 SOLICITOR JOHNSON: ONE MOMENT, YOUR
11 HONOR. I HAVE NO FURTHER QUESTIONS.

12 THE COURT: CROSS-EXAM.

13 (NOTE: Blank lines on this page do not indicate any
14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

CROSS - LINDA OWENS Y. GAHNI BY MR. MELLARD

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CROSS-EXAMINATION OF LINDA OWENS Y. GAHNI

BY MR. MELLARD:

Q. ALRIGHT, SEPTEMBER TWENTY-NINTH, YOU SAID YOU WERE
OUT?

A. YES.

Q. OKAY. AND I GUESS YOU WERE OUT SOMEWHERE AROUND
TWO O'CLOCK OR THREE O'CLOCK IN THE MORNING?

A. RIGHT, UH HUH.

Q. OKAY.

A. I WAS ON MY WAY HOME.

Q. ALRIGHT. AND YOU SAY YOU SAW GEORGE MOSES' CAR?

A. WHAT I THOUGHT, YES.

Q. WHAT YOU THOUGHT, YOU'RE NOT A HUNDRED PER CENT
SURE OF THAT?

A. WELL, I FEEL MORE COMFORTABLE IT WAS HIS CAR
BECAUSE OF WHERE THE CAR WAS AT.

Q. OKAY, BUT YOU'RE NOT A HUNDRED PER CENT SURE?

A. WELL, I DIDN'T ACTUALLY SEE HIM.

Q. OKAY. SO, YOU DIDN'T SEE GEORGE MOSES?

A. NOT, NO.

Q. OKAY. WERE YOU OVER AT HARRY LIVINGSTON'S HOUSE
THAT NIGHT?

A. NO, I WASN'T.

Q. OKAY. SO YOU DIDN'T SEE GEORGE MOSES OVER AT
HARRY LIVINGSTON'S HOUSE?

CROSS - LINDA OWENS Y, GAHNI BY MR. MELLARD

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1 A. NO, I DIDN'T.

2 Q. AND YOU HAVE NO KNOWLEDGE OF WHAT WENT ON AT HARRY
3 LIVINGSTON'S HOUSE?

4 A. NOT UNTIL THE NEXT MORNING.

5 MR. MELLARD: OKAY, THANK YOU.

6 THE COURT: REDIRECT?

7 SOLICITOR JOHNSON: JUST ONE, YOUR
8 HONOR.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

REDIRECT - LINDA OWENS Y. GAHNI BY SOL. JOHNSON

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REDIRECT EXAMINATION OF LINDA OWENS Y. GAHNI

BY SOLICITOR JOHNSON:

Q. I HAVE STATE EXHIBIT SEVENTEEN THAT'S PREVIOUSLY
BEEN ADMITTED. DOES THIS APPEAR TO BE THE CAR
THAT YOU SAW THAT NIGHT?

A. YES, UH HUH. YES.

Q. THAT YOU RECOGNIZED AS BEING GEORGE MOSES' CAR,
THE CARE THAT HE WAS DRIVING?

A. THE CAR THAT HE WAS DRIVING.

Q. AND THAT'S THE CAR YOU SAW THAT NIGHT AT THREE
O'CLOCK?

A. YES, WELL, I WOULD KNOW THE CAR, I'D SEEN THE CAR
SEVERAL TIMES.

Q. DOES THIS APPEAR TO BE IT?

A. YES, IT APPEARS TO BE.

SOLICITOR JOHNSON: NO OTHER
QUESTIONS, YOUR HONOR.

THE COURT: RECROSS?

MR. MELLARD: NOTHING ELSE.

THE COURT: THANK YOU, MA'AM, YOU
MAY BE EXCUSED. THANK YOU FOR COMING.

WITNESS: THANK YOU.

SOLICITOR SORENSON: THE STATE CALLS
SHEREE BROWN.

THE COURT: ALRIGHT. COME AROUND,

1 MS. BROWN, RIGHT OVER HERE TO THE LEFT, YOU'LL SEE A
2 BIBLE THERE, PLACE YOUR LEFT HAND ON THAT BIBLE AND
3 RAISE YOUR RIGHT.

4 (Whereupon, Sheree Brown
5 is duly sworn.)

6 THE COURT: THANK YOU, MA'AM. YOU
7 MAY BE SEATED.

8 ALRIGHT, MR. SORENSON.

9 SOLICITOR SORENSON: THANK YOU, MAY
10 IT PLEASE THE COURT.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

DIRECT - SHEREE BROWN BY SOL. SORENSON

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DIRECT EXAMINATION OF SHEREE BROWN

BY SOLICITOR SORENSON:

Q. GOOD MORNING, MS. BROWN.

A. GOOD MORNING.

Q. IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS
THAT YOU'RE EMPLOYED?

A. SOUTH CAROLINA LAW ENFORCEMENT DIVISION, ALSO
KNOWN AS SLED.

Q. ALSO KNOWN AS SLED?

A. YES.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED AT SLED?

A. FOURTEEN AND A HALF YEARS.

Q. ALRIGHT. AND WHERE, WHAT DEPARTMENT DO YOU WORK
IN IN SLED?

A. I'M CURRENT EMPLOYED IN THE DNA DEPARTMENT.

Q. OKAY. AND HOW LONG HAVE YOU WORKED IN THE DNA
DEPARTMENT?

A. ELEVEN YEARS.

Q. ELEVEN YEARS. AND IF YOU WOULD JUST TELL THE JURY
A LITTLE BIT ABOUT WHAT YOUR DUTIES ARE IN THE DNA
DEPARTMENT?

A. ONE OF THE DUTIES I HAVE IN THE DEPARTMENT IS
COLLECT EVIDENCE FROM OUR EVIDENCE LOG IN WHEN
IT'S SUBMITTED BY ANY AGENCIES, POLICE AGENCIES
THROUGHOUT THE STATE, AND ASSIGN IT TO BE WORKED

DIRECT - SHEREE BROWN BY SOL. SORENSON

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1 AS A DNA CASE.

2 Q. OKAY. ARE THERE TIMES, -- AND WHAT EXACTLY IS
3 YOUR OFFICIAL TITLE?

4 A. I'M A FORENSIC TECHNICIAN WITHIN THE DNA
5 DEPARTMENT.

6 Q. AND ARE THERE TIMES WHEN SOME ITEMS, OR CERTAIN
7 ITEMS THAT MIGHT BE SUBMITTED BY A LAW ENFORCEMENT
8 AGENCY AROUND THE STATE WHERE YOU HAVE SOME ROLE
9 IN POSSIBLY DOING SOMETHING WIT THOSE ITEMS?

10 A. YES.

11 Q. OKAY. AND SPECIFICALLY, AS I TURN YOUR ATTENTION
12 BACK TO THIS CASE INVOLVING THE VICTIM, HARRY
13 LIVINGSTON, WERE YOU INVOLVED IN PROCESSING ONE OF
14 THE ITEMS INVOLVED IN THIS CASE?

15 A. YES.

16 Q. OKAY. AND SPECIFICALLY, I BELIEVE, ITEM NINETEEN
17 IS WHAT I WOULD LIKE TO REFER TO, WHAT WAS ITEM
18 NINETEEN?

19 A. IT WAS AN AUTOPSY SAMPLE FROM HARRY LIVINGSTON.

20 Q. OKAY, AND BY AUTOPSY SAMPLE, OF WHAT, I MEAN, WHAT

21 - - -

22 A. OF BLOOD STANDARD.

23 Q. OF BLOOD STANDARD. AND WHO WAS THAT SUBMITTED TO
24 YOUR AGENCY BY?

25 A. THE DEPUTY CORONER OF ORANGEBURG COUNTY.

DIRECT - SHEREE BROWN BY SOL. SORENSON

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1 Q. OKAY. AND WHAT WAS HIS NAME?

2 A. STANLEY B. CALDWELL.

3 Q. AND DO YOU HAVE SOME, SOME KIND OF INTERNAL NOTES
4 THAT YOU'RE REFERRING TO TO HELP REFRESH YOUR
5 MEMORY ON SOME OF THIS STUFF?

6 A. YES, IT'S CALLED CHAIN OF CUSTODY, I PRINTED IT
7 OUT SO I COULD REFRESH MY MEMORY OF WHAT HAPPENED
8 ON THAT PARTICULAR DAY.

9 Q. AND THAT ITEM NINETEEN, DID THAT ITEM ULTIMATELY
10 COME INTO YOUR POSSESSION?

11 A. YES, IT DID.

12 Q. OKAY. AND WHAT DAY WAS THAT THAT YOU GOT IT?

13 A. I TOOK POSSESSION OF IT ON OCTOBER THE NINTH OF O-
14 SIX.

15 Q. AND IS THAT THE SAME DAY THAT IT WAS SUBMITTED OUT
16 THERE BY DEPUTY CORONER CALDWELL?

17 A. YES.

18 Q. OKAY. AND WHAT CONDITION -- FIRST OF ALL, WHAT
19 WOULD THAT HAVE BEEN, I MEAN, YOU'VE INDICATED IT
20 WAS AN AUTOPSY PACKET CONTAINING A BLOOD STANDARD
21 OF HARRY LIVING, WOULD THAT HAVE BEEN A TUBE OF
22 BLOOD OR WHAT?

23 A. MOST OF THE TIME IT'S IN A PURPLE TOP TUBE.

24 Q. OKAY. CALLED A LAVENDER TOP TUBE, I GUESS?

25 A. YES.

DIRECT - SHEREE BROWN BY SOL. SORENSON

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1 Q. ALRIGHT. AND WHAT CONDITION -- WHEN YOU GOT THAT
2 ITEM NINETEEN, WHAT WOULD IT HAVE BEEN IN, OR WAS
3 IT IN?

4 A. IT WAS IN A HEAT SEALED POUCH, AND IF IT HAD BEEN
5 SOMETHING I WOULD HAVE NOTED IN OUR COMPUTER THAT
6 SOMETHING WAS WRONG. SINCE THERE ARE NO NOTES,
7 EVERYTHING WAS PACKAGED CORRECTLY.

8 Q. OKAY. SO THAT LAVENDER TOP TUBE WAS HEAT SEALED
9 IN A PLASTIC ENVELOPE?

10 A. YES.

11 Q. OKAY. AND IF THERE HAD BEEN SOME TAMPERING TO
12 THAT ENVELOPE OR TO THE VIAL OF BLOOD INSIDE WOULD
13 YOU HAVE DONE SOMETHING?

14 A. I WOULD HAVE MADE A NOTE OF IT AND TALKED TO MY
15 SUPERVISOR ABOUT WHAT TO, THE NEXT STEP TO DO.

16 Q. OKAY. AND WAS THAT DONE IN THIS CASE?

17 A. NO, THERE WAS NOTHING WRONG WITH IT AND IT WAS IN
18 MY POSSESSION.

19 Q. OKAY. WHAT DID YOU THEN DO WITH THAT TUBE OF
20 BLOOD THAT HAD BEEN TAKEN AT THE AUTOPSY OF MR.
21 LIVINGSTON?

22 A. AT THE TIME THAT THE CASE CAME INTO SLED IT COULD
23 NOT BE ASSIGNED SO I HAD TO STABILIZE THE BLOOD,
24 AND I HAD TO TAKE IT FROM A LIQUID FORM INTO A DRY
25 FORM, SO IT WAS JUST PRESERVED, - - -

1 Q. OKAY.

2 A. --- DNA, WHEN YOU PRESERVE IT, IT STAYS LONGER IN
3 A DRY FORM THAN A LIQUID FORM.

4 Q. OKAY. AND DESCRIBE FOR THE JURY HOW YOU GO ABOUT
5 THEN DOING THAT, TURNING THAT, TAKING THAT LIQUID
6 TUBE OF BLOOD AND PRESERVING IT IN THE DRY STATE?

7 A. MOST OF THE TIME THE TUBE COMES WITH A LABEL WITH
8 THE PERSON'S NAME ON IT. SO, I TAKE IT OFF THE
9 TUBE AND THEN MIX IT UP ON A ROTATOR, AND THEN
10 ONCE IT'S GOT BACK INTO SOLUTION, BECAUSE IF IT'S
11 JUST BEEN SITTING IT HAS TWO LAYERS, SO I MIX IT
12 UP, AND THEN IT WAS POURED ONTO A PIECE OF FILTER
13 PAPER.

14 Q. OKAY. AND DO YOU THEN LET THAT FILTER PAPER DRY?

15 A. YES, AND ON THAT FILTER PAPER IS THE NAME AND
16 NUMBER, THE CASE NUMBER THAT CAME WITH THE TUBE OF
17 BLOOD.

18 Q. AND THAT WAS DONE IN THIS CASE?

19 A. YES.

20 Q. OKAY. AND THEN, AFTER THAT, AFTER THAT FILTER
21 PAPER THEN WITH THAT BLOOD SAMPLE DRIED ON IT,
22 WHAT WOULD YOU THEN DO WITH THAT PIECE OF FILTER
23 PAPER?

24 A. IT WAS JUST PUT INTO A STORAGE BIN TO SEE IF WE
25 COULD GET SOME MORE EVIDENCE TO COMPARE THIS TUBE

DIRECT - SHEREE BROWN BY SOL. SORENSON

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1 WITH.

2 Q. OKAY. AND IS IT JUST PUT LOOSE IN A STORAGE BIN,
3 JUST THAT PIECE OF FILTER PAPER?

4 A. NO, IT'S PUT BACK IN THE HEAT SEALED POUCH THAT
5 THE ORIGINAL LIQUID BLOOD STANDARD CAME IN.

6 Q. OKAY. AND IS IT THEN SEALED AGAIN?

7 A. YES.

8 Q. OKAY. AND DO YOU TAKE ANY STEPS TO DOCUMENT, I
9 MEAN, WHO SEALED THAT, WHO RESEALED IT?

10 A. YEAH, ON THE HEAT SEAL, AFTER I CUT IT OPEN AND I
11 HEAT SEAL IT AGAIN, MY NAME, MY INITIALS AND THE
12 DATE THAT I SEALED IT IS ACROSS THE HEAT SEAL OF
13 THE HEAT SEALED POUCH.

14 Q. OKAY. SO, IF SOMEBODY THEN, SUBSEQUENT, I MEAN,
15 YOU KNOW, THE NEXT DAY, NEXT WEEK, NEXT YEAR, GOT
16 THAT HEAT SEALED POUCH WOULD THEY BE ABLE TO TELL
17 IF IT HAD BEEN TAMPERED WITH SINCE THE TIME WHEN
18 YOU SEALED IT?

19 A. YES.

20 Q. OKAY. AND WHAT THEN AFTER YOU DID THAT, AFTER YOU
21 RESEALED THAT BACK IN THE HEAT SEALED POUCH, WHAT
22 DID YOU THEN DO WITH THAT ITEM?

23 A. IT WAS JUST PUT IN A STORAGE BIN AND FROM THERE IT
24 WENT THROUGH SEVERAL PLACES AND THEN IT ENDED UP
25 BACK AT SLED.

DIRECT - SHEREE BROWN BY SOL. SORENSON

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1 Q. OKAY. ALRIGHT. AND IT ULTIMATELY ENDED UP BACK
2 IN THE DNA DEPARTMENT - - -

3 A. THE DNA DEPARTMENT, YES.

4 Q. --- WITH THE DNA ANALYST THAT WAS ASSIGNED TO THE
5 CASE?

6 A. YES.

7 SOLICITOR SORENSON: ALRIGHT, THANK
8 YOU, MS. BROWN, PLEASE ANSWER ANY QUESTIONS THAT THE
9 DEFENSE MAY HAVE.

10 THE COURT: MR. MELLARD?

11 MR. MELLARD: NO QUESTIONS, YOUR
12 HONOR.

13 THE COURT: THANK YOU, MA'AM, YOU
14 MAY STEP DOWN, YOU MAY BE EXCUSED.

15 SOLICITOR SORENSON: THE STATE CALLS
16 BETTY BUTLER.

17 THE COURT: GOOD MORNING. IF YOU
18 WILL PUT YOUR LEFT HAND ON THAT BIBLE AND RAISE YOUR
19 RIGHT.

20 (Whereupon, Betty Butler
21 is duly sworn.)

22 THE COURT: THANK YOU, MA'AM, PLEASE
23 HAVE A SEAT AND STATE YOUR FULL NAME.

24 WITNESS: BETTY BUTLER.

25 THE COURT: THANK YOU.

DIRECT - BETTY BUTLER BY SOL. SORENSON

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DIRECT EXAMINATION OF BETTY BUTLER

BY SOLICITOR SORENSON:

Q. GOOD MORNING, MS. BUTLER.

A. GOOD MORNING.

Q. IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS
THAT YOU'RE EMPLOYED

A. I'M EMPLOYED WITH THE SOUTH CAROLINA STATE LAW
ENFORCEMENT DIVISION ALSO KNOWN AS SLED.

Q. ALRIGHT. AND HOW LONG HAVE YOU WORKED FOR SLED?

A. TWELVE AND A HALF YEARS.

Q. ALRIGHT. AND WHAT DEPARTMENT ARE YOU CURRENTLY
ASSIGNED TO OUT THERE?

A. WELL, RIGHT NOW I'M ASSIGNED IN THE DNA DEPARTMENT
IN THE EVIDENCE PROCESSING UNIT.

Q. OKAY. AND HOW LONG HAVE YOU BEEN ASSIGNED TO THAT
UNIT OUT AT SLED?

A. TWO AND A HALF YEARS.

Q. SO, BACK IN THE EARLY PART OF TWO THOUSAND AND SIX
I GUESS YOU WOULD HAVE BEEN THERE AT THAT POINT IN
TIME?

A. YES, I WAS.

Q. AND I WANT TO SPECIFICALLY TURN YOUR ATTENTION TO
OUR CASE HERE WITH THE VICTIM, MR. HARRY
LIVINGSTON. DID YOU HAVE AN OCCASION TO -- WELL,
FIRST OF ALL TELL THE JURY JUST BRIEFLY, IN THE

1 EVIDENCE PROCESSING PORTION OF THE DNA DEPARTMENT,
2 TELL THE JURY WHAT YOUR DUTIES ARE COMPRISED OF?

3 A. AS AN EVIDENCE, AS A FORENSIC TECHNICIAN IN THE
4 EVIDENCE PROCESSING UNIT WE DO A PRESUMPTIVE TEST
5 FOR BLOOD AND SEMEN, WE LOOK FOR HAIRS, FIBERS,
6 BODY FLUIDS, GLASS, OR SKIN CELLS.

7 Q. SO, IF SOMEBODY WILL SUBMIT A PIECE OF EVIDENCE
8 WHETHER IT BE CLOTHING OR A WEAPON OR SOMETHING OF
9 THAT NATURE AND YOU'RE KIND OF THE PERSON, THE
10 INITIAL PERSON THAT LOOKS AT THOSE ITEMS TO
11 DETERMINE IF ANY OF THOSE THINGS THAT YOU TALKED
12 ABOUT ARE PRESENT?

13 A. YES, I DO.

14 Q. OKAY. AND SPECIFICALLY IN THIS CASE DID YOU HAVE
15 AN OPPORTUNITY TO EXAMINE WHAT I BELIEVE HAS BEEN
16 MARKED AS YOUR ITEM NUMBER EIGHT, A PAIR OF BLUE
17 JEAN SHORTS?

18 A. YES, I HAVE.

19 Q. OKAY. AND LET ME SHOW WHAT'S NOW OUR ITEM TWENTY-
20 ONE, AND I'VE GOT -- BEAR WITH ME ONE SECOND, I'VE
21 GOT SOME GLOVES THAT I WANT YOU TO USE. OKAY, YOU
22 DON'T NEED TO HOLD THEM UP, I JUST WANTED YOU TO
23 TAKE A LOOK AT THEM, IS THAT YOUR ITEM NUMBER
24 EIGHT THAT YOU HAD AN OPPORTUNITY TO PROCESS OUT
25 AT STATE LAW ENFORCEMENT DIVISION?

DIRECT - BETTY BUTLER BY SOL. SORENSON

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1 A. YES, THIS IS MY ITEM EIGHT BECAUSE ON EACH ITEM WE
2 HAVE TO HAVE AN ITEM NUMBER ON EVERY PIECE OF
3 EVIDENCE. THIS IS MY EIGHT POINT ZERO, THIS IS MY
4 INITIALS, AND THIS IS THE LAB NUMBER FOR TRACKING.

5 Q. OKAY. AND THAT LAB NUMBER I GUESS MATCHES UP WITH
6 THE REPORT THAT YOU ULTIMATELY THEN ISSUED IN THIS
7 CASE?

8 A. YES, IT'S L O SIX ONE THREE FIVE SEVEN ONE, AND
9 THAT'S THE LAB NUMBER.

10 Q. OKAY. NOW, THAT, THOSE PAIR OF SHORTS, YOUR ITEM
11 EIGHT, OR FOR COURT PURPOSES, ITEM TWENTY-ONE,
12 WHAT CONDITION WOULD THEY HAVE BEEN IN WHEN YOU
13 RECEIVED THEM OUT AT SLED?

14 A. THIS SAME CONDITION EXCEPT FOR CUTTING.

15 Q. OKAY. WOULD THEY, HOW WERE THEY PACKAGED?

16 A. THEY WERE PACKAGED BY THEMSELVES IN, AS OUR ITEM,
17 IN A BAG OR A BOX, IN THAT BOX.

18 Q. OKAY. DID YOU HAVE AN OPPORTUNITY BEFORE YOU
19 OPENED THAT ITEM AND BEGAN TO ANALYZE IT TO CHECK
20 AND MAKE SURE THAT IT HADN'T BEEN TAMPERED WITH
21 FROM THE TIME IT WAS SUBMITTED TO YOUR AGENCY?

22 A. YES, I HAVE.

23 Q. AND YOU DID THAT IN THIS CASE?

24 A. YES, I DID, AND IT WASN'T TAMPERED WITH.

25 Q. OKAY. ALRIGHT, NOW, IF YOU WOULD, TELL THE JURY

1 THEN WHEN YOU THEN KIND OF BEGAN LOOKING AT THOSE
2 SHORTS, WHAT TEST DID YOU PERFORM ON THOSE SHORTS?

3 A. THE REQUEST FOR THE SHORTS WAS FOR A PRESUMPTIVE
4 TEST FOR BLOOD. I DID A VISUAL -- OPENED THE BOX
5 AND I DID A VISUAL EXAMINATION.

6 Q. YOU CAN STEP DOWN IF YOU'D LIKE.

7 A. WHEN I GOT THIS, BECAUSE IT WAS, THE TEST WAS FOR
8 BLOOD, I DID A VISUAL EXAMINATION ON THE FRONT AND
9 THE BACK, AND I DECIDED TO GET A REPRESENTATIVE OF
10 -- I DID A TEST WHERE, WE DO A CHEMICAL TEST, IF
11 IT'S A TEST FOR BLOOD IT WOULD TURN PINK, BUT IN
12 THIS CASE THIS AREA, MY AREA EIGHT POINT ONE, I
13 DID A PRESUMPTIVE TEST FOR BLOOD AND IT TURNED
14 PINK, SO I CUT THAT AREA OUT AND MARKED IT EIGHT
15 POINT ONE. ON THE BACK I DID THE SAME THING, THE
16 CHEMICAL TEST HAD TURNED PINK, I CUT THIS AREA OUT
17 AND MARKED IT EIGHT POINT TWO. I PUT IT INTO A
18 HEAT SEALED POUCH ENVELOPE, INITIALED AND DATED
19 AND THEN PUT IT IN THE HEAT SEALED POUCH AND I
20 INITIALED AND I DATE THE SEAL.

21 Q. LET ME SHOW YOU THIS ITEM, AND I'M GOING TO KIND
22 OF OPEN THIS HERE IN YOUR PRESENCE, OKAY?

23 A. OKAY.

24 Q. YOU INDICATED AS TO THAT EIGHT POINT ONE AND EIGHT
25 POINT TWO, THAT YOU THEN PUT THOSE CUTTINGS INTO

DIRECT - BETTY BUTLER BY SOL. SORENSON

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1 KIND OF LITTLE POUCHES AND THEN ULTIMATELY SEALED
2 THEM IN A HEAT SEALED POUCH?

3 A. YES, I DID, AND THIS IS THE ITEM EIGHT POINT ONE,
4 WITH THE LAB NUMBER FOR TRACKING, THE PRESUMPTIVE
5 CUTS, BLOOD CUTTING FROM THE BLUE JEANS WITH MY
6 INITIALS AND THE DATE. AND THE SAME THING FOR
7 EIGHT POINT TWO.

8 Q. OKAY. SO, THOSE ARE THE TWO CUTTINGS THAT YOU
9 TOOK FROM THOSE PAIR OF SHORTS, BASICALLY THE TWO
10 AREAS THAT WERE MISSING WHEN YOU HELD UP THAT PAIR
11 OF SHORTS?

12 A. YES.

13 SOLICITOR SORENSON: YOUR HONOR, AT
14 THIS TIME WE'D OFFER THESE TWO CUTTINGS INTO EVIDENCE.

15 THE COURT: ANY OBJECTION?

16 MR. MELLARD: NO OBJECTION.

17 THE COURT: ADMITTED WITHOUT
18 OBJECTION AS STATE'S NUMBER?

19 COURT REPORTER: THEY'LL BE, THERE'S
20 TWO OF THEM SO - - -

21 SOLICITOR SORENSON: [REDACTED] AND
22 [REDACTED] I THINK?

23 COURT REPORTER: YES. JUST A
24 MINUTE. STATE'S [REDACTED] AND [REDACTED].
25 (State's Exhibits [REDACTED] and

1 [REDACTED] marked and filed.)

2 Q. ALRIGHT, LET ME JUST -- STATE'S EXHIBIT NUMBER
3 [REDACTED] THAT'S THE EIGHT POINT ONE, IS THAT
4 CORRECT?

5 A. YES, THAT IS EIGHT POINT ONE.

6 Q. IF I COULD GET YOU JUST TO KIND OF OPEN THAT UP
7 AND JUST KIND OF VERIFY THAT THAT'S GOT THE RIGHT
8 CUTTING INSIDE OF IT. JUST KIND OF HOLD THAT UP.
9 THAT'S THE CUTTING - - -

10 A. THE REASON WHY THIS IS THE CUTTING, WE ALWAYS MARK
11 THE CUTTING EIGHT POINT ONE, THAT GOES ALONG WITH
12 THAT ENVELOPE AND THE ITEM NUMBER.

13 Q. AND THAT'S THE CUTTING FROM THE FRONT OF THE
14 SHORTS I BELIEVE IS EIGHT POINT ONE, IS THAT
15 CORRECT?

16 A. YES, IT WAS.

17 Q. AND ITEM TWENTY-THREE, IF I COULD GET YOU TO DO
18 THE SAME THING WITH THAT?

19 A. THE CUTTING IS MARKED EIGHT POINT TWO, THE
20 ENVELOPE EIGHT POINT TWO, AND ITEM NUMBER EIGHT
21 POINT TWO.

22 Q. AND THAT CAME FROM WHERE ON THE SHORTS, THEN?

23 A. AND THIS CAME FROM THE BACK OF THE SHORTS.

24 Q. OKAY. AND I BELIEVE YOU HAD TESTIFIED EARLIER
25 THAT AFTER YOU HAD DONE MAKING THOSE CUTTINGS YOU

DIRECT - BETTY BUTLER BY SOL. SORENSON

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1 THEN SEALED THEM IN THESE ENVELOPES, I GUESS
2 INITIALED THE ENVELOPES WITH YOUR INITIALS RIGHT
3 ACROSS THE - - -

4 A. INITIALS AND DATE.

5 Q. OKAY. AND THEY WERE THEN SENT I GUESS FOR FURTHER
6 ANALYSIS?

7 A. YES, THEY WERE.

8 Q. OKAY. AND I SEE ANOTHER SET OF INITIALS
9 UNDERNEATH HERE, WHOSE INITIALS WAS THAT, L.M.,
10 THEN?

11 A. THAT'S THE - - -

12 Q. AND WHO IS THAT?

13 A. LAURA MILLS.

14 Q. AND OTHER THAN DOING THAT INITIAL KIND OF THAT
15 PRESUMPTIVE TEST ON THE JEANS LOOKING FOR POSSIBLE
16 BLOOD, AND THEN TAKING THE CUTTINGS, DID YOU
17 TAMPER WITH THOSE CUTTINGS IN ANY OTHER WAY?

18 A. NO, I DID NOT.

19 Q. OKAY.

20 SOLICITOR SORENSON: THANK YOU, MS.
21 BUTLER, PLEASE ANSWER ANY QUESTIONS THAT DEFENSE MAY
22 HAVE.

23 THE COURT: CROSS-EXAM.

24 MR. MELLARD: NO QUESTIONS, YOUR
25 HONOR.

1 THE COURT: THANK YOU, MA'AM, YOU
2 MAY STEP DOWN, THANK YOU FOR COMING.

3 NEXT WITNESS, PLEASE.

4 SOLICITOR SORENSON: THE STATE CALLS
5 DR. LAURA MILLS.

6 THE COURT: GOOD MORNING. IF YOU
7 WOULD PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR
8 RIGHT.

9 (Whereupon, Dr. Laura Mills
10 is duly sworn.)

11 THE COURT: THANK YOU, MA'AM, HAVE
12 A SEAT AND STATE YOUR FULL NAME, PLEASE.

13 WITNESS: MY NAME IS LAURA MILLS.

14 (NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
16 pages and hard page breaks between testimony are now
17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

DIRECT - DR. LAURA MILLS BY SOL. SORENSON

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DIRECT EXAMINATION OF DR. LAURA MILLS

BY SOLICITOR SORENSON:

Q. GOOD MORNING.

A. GOOD MORNING.

Q. IF YOU COULD, TELL THE JURY A LITTLE BIT FIRST OF ALL ABOUT WHERE YOU'RE EMPLOYED.

A. I'M EMPLOYED AT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, WHICH IS MORE COMMONLY REFERRED TO AS SLED.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED AT SLED?

A. I'VE BEEN EMPLOYED AT SLED SINCE SEPTEMBER OF TWO THOUSAND AND FOUR.

Q. OKAY. AND WHAT DEPARTMENT ARE YOU CURRENTLY EMPLOYED IN?

A. I'M IN THE DNA DEPARTMENT AT SLED.

Q. ALRIGHT. AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT DEPARTMENT?

A. I'VE BEEN EMPLOYED IN THE DNA DEPARTMENT SINCE SEPTEMBER OF TWO THOUSAND AND FOUR.

Q. IS THAT PRETTY MUCH WHEN YOU WERE HIRED, THAT'S WHAT YOU WERE HIRED FOR, TO WORK IN THE DNA DEPARTMENT?

A. YES, IT WAS.

Q. OKAY. AND IF YOU WOULD, GO THROUGH AND GIVE YOUR EDUCATIONAL BACKGROUND FOR THE JURY?

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1 A. I HAVE A BACHELOR'S DEGREE IN CHEMISTRY WHICH I
2 OBTAINED FROM CLEMSON UNIVERSITY. I ALSO HAVE A
3 PHD DEGREE IN BASIC PHARMACEUTICAL SCIENCES WHICH
4 I RECEIVED FROM THE UNIVERSITY OF SOUTH CAROLINA.
5 AFTER COMPLETION OF THESE DEGREES I WORKED FOR
6 APPROXIMATELY ONE YEAR DOING A POST DOCTORAL
7 APPOINTMENT AT THE UNIVERSITY OF SOUTH CAROLINA IN
8 THE FIELD OF BIOLOGY.

9 Q. OKAY. AND WHEN DID THAT OCCUR?

10 A. THAT OCCURRED, I GRADUATED IN TWO THOUSAND AND
11 THREE, AND FROM TWO THOUSAND AND THREE UNTIL I
12 STARTED WORK AT SLED I WORKED IN THE BIOLOGY LAB
13 AT THE UNIVERSITY OF SOUTH CAROLINA.

14 Q. OKAY. AND IF YOU WOULD, DR. MILLS, PLEASE TELL
15 THE JURY A LITTLE BIT ABOUT YOUR, WHAT TRAINING
16 YOU'VE HAD, THEN, AS A DNA ANALYST AT SLED?

17 A. SURE. ONCE I BECAME EMPLOYED AT SLED WE'RE
18 REQUIRED TO TRAIN UNDER A COURT QUALIFIED DNA
19 ANALYST. I DID THIS FOR APPROXIMATELY ONE YEAR. I
20 WITNESSED MY SUPERIOR IN COURT. I SHADOWED HIM IN
21 THE LABORATORY DOING CASE WORK, HIS CASE WORK FOR
22 HIM WITH HIS DIRECTIVE GUIDANCE. DURING THE TIME
23 THAT I WAS EMPLOYED AT SLED FOR THE ONE YEAR OF
24 TRAINING I ALSO ATTENDED NUMEROUS WORK SHOPS IN
25 DIFFERENT STATES ACROSS THE COUNTRY. WE'RE ALSO

DIRECT - DR. LAURA MILLS BY SOL. SORENSON

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1 REQUIRED EVERY YEAR TO HAVE SOME FORM OF EXTERNAL
2 TRAINING WHICH I HAVE HAD MULTIPLE TRAINING
3 OUTSIDE OF THE LAB SINCE I'VE BEEN EMPLOYED AT
4 SLED. I'M ALSO REQUIRED EVERY YEAR TO TAKE A
5 PROFICIENCY TESTS, SEVERAL PROFICIENCY TESTS
6 MEANING THAT I GET A CASE IN THAT I HAVE TO
7 ANSWER, I HAVE TO GET THE CORRECT DNA PROFILE AND
8 THE CORRECT RESULT OR I AM REMOVED FROM THE
9 POSITION AND HAVE TO HAVE SOME REMEDIAL TRAINING.
10 I HAVE NOT HAD THAT HAPPEN TO ME SINCE I'VE BEEN
11 EMPLOYED AT SLED.

12 Q. OKAY. AND HAVE YOU HAD AN OPPORTUNITY THEN, DR.
13 MILLS, AS A RESULT OF THE TESTS THAT YOU'VE
14 PERFORMED OUT AT SLED TO COME AND TESTIFY BEFORE
15 ABOUT YOUR RESULTS?

16 A. YES, I HAVE.

17 Q. ALRIGHT. AND YOU'VE BEEN QUALIFIED AS AN EXPERT
18 ON THOSE OCCASIONS?

19 A. YES, I HAVE.

20 Q. AND HOW MANY TIMES HAVE YOU TESTIFIED AND BEEN
21 QUALIFIED AS AN EXPERT IN DNA ANALYSIS?

22 A. I'VE BEEN QUALIFIED APPROXIMATELY FOURTEEN TIMES.

23 SOLICITOR SORENSON: YOUR HONOR, AT
24 THIS TIME WE'D OFFER DR. MILLS AS AN EXPERT IN THE FIELD
25 OF DNA ANALYSIS.

DIRECT - DR. LAURA MILLS BY SOL. SORENSON

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1 MS. HINDS: NO OBJECTION, YOUR
2 HONOR.

3 THE COURT: I FIND THAT SHE'S SO
4 QUALIFIED.

5 Q. ALRIGHT, DR. MILLS, IF YOU COULD, I GUESS
6 INITIALLY JUST DESCRIBE FOR THE JURY A LITTLE BIT
7 HOW YOUR, THE DNA LAB OUT AT SLED IS KIND OF SET
8 UP AS FAR AS, YOU KNOW, SUPERVISORS AND CHECKS AND
9 BALANCES AND THINGS OF THAT NATURE THAT YOU HAVE
10 IN PLACE?

11 A. OKAY. WELL, CURRENTLY I THE DNA DEPARTMENT WE
12 HAVE TWO, TWO DIFFERENT DIVISIONS. OUR CASE WORK
13 SIDE OF THE DNA DEPARTMENT HAS ONE SUPERVISOR,
14 IT'S A LIEUTENANT'S POSITION. UNDERNEATH HER WE
15 HAVE SEVERAL WHAT WE CALL TEAM LEADERS. THESE
16 TEAM LEADERS ARE RESPONSIBLE FOR THE DAY TO DAY
17 OPERATIONS OF THE LAB AND TO MAKE SURE THAT THE
18 EMPLOYEES ARE PERFORMING THEIR JOBS CORRECTLY AND
19 THAT ANY PROBLEMS THAT ARISE THAT WE ARE ABLE TO
20 TALK WITH THEM AND GET THEM SETTLED QUICKLY.

21 Q. AND WHEN YOU HAVE A CASE THAT COMES IN, SAY, FROM
22 AN AGENCY AROUND THE STATE AND YOU, YOU PERFORM
23 YOUR DNA ANALYSIS ON THAT, ARE THERE CHECKS AND
24 BALANCES IN PLACE THAT THAT, THAT YOUR WORK HAS TO
25 GO THROUGH BEFORE YOU'RE ALLOWED TO ISSUE A REPORT

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1 BACK TO THAT AGENCY ABOUT YOUR RESULTS?

2 A. YES.

3 Q. OKAY, TELL THE JURY ABOUT WHAT THOSE ARE?

4 A. WELL, ONCE WE RECEIVE A CASE IN THE LABORATORY THE
5 FIRST THING THAT WE DO IS, WE LOOK AT THE HEAT
6 SEAL POUCH WHICH YOU'VE HEARD A LITTLE BIT ABOUT,
7 WE HAVE TO MAKE SURE THAT THERE IS NO EVIDENCE OF
8 TAMPERING OF ANY SORT ON ANY OF THE PACKAGING. IF
9 THERE IS WE IMMEDIATELY STOP CASE WORK AND NOTIFY
10 OUR SUPERIORS. ONCE WE ARE ASSURED THAT THERE IS
11 NO TAMPERING WITH THE EVIDENCE AND NOTHING SEEMS
12 TO BE WRONG WE THEN PROCEED WITH THE DNA ANALYSIS
13 AND SEROLOGY TESTING OF THE EVIDENCE. ONCE WE
14 HAVE GONE THROUGH ALL OF THE PROCESSES IN THE LAB
15 AND ARRIVE AT A SCIENTIFIC CONCLUSION WE THEN
16 WRITE A REPORT. THIS REPORT IS THEN REVIEWED BY
17 ANOTHER COURT QUALIFIED ANALYST TO CHECK FOR ANY
18 DISCREPANCIES OR TO CHECK FOR ANY MISTAKES THAT
19 MIGHT BE IN THE REPORT. THEN THE REVIEW IS
20 CARRIED ONE STEP FURTHER AND WE HAVE A TEAM LEADER
21 OR A LIEUTENANT ACTUALLY LOOKS AT THE REPORT AS A
22 SECOND READER TO INSURE THAT NOTHING IS OUT OF
23 PLACE AND THAT THE REPORTS ARE CORRECTLY ISSUED.

24 Q. NOW, IF YOU COULD, DR. MILLS, EXPLAIN TO THE JURY
25 JUST A LITTLE BIT, WHAT IS DNA, FIRST OF ALL?

DIRECT - DR. LAURA MILLS BY SOL. SORENSON

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1 A. SURE DNA STANDS FOR DEOXYRIBONUCLEIC ACID. IT'S A
2 CHEMICAL THAT'S FOUND IN VIRTUALLY EVERY CELL OF
3 THE HUMAN BODY, AND MOST EVERYONE'S DNA IS EXACTLY
4 BECAUSE IT ALL CODES FOR THE SAME THING, AS WE ALL
5 NEED TWO ARMS AND TWO LEGS, BUT THERE'S A SMALL
6 PORTION OF THE DNA THAT DIFFERS FROM INDIVIDUAL TO
7 INDIVIDUAL, AND THAT'S WHAT MAKES EVERYBODY UNIQUE
8 FROM ONE ANOTHER WITH THE EXCEPTION OF IDENTICAL
9 TWINS. SO WE, AS FORENSIC SCIENTISTS, USE THIS
10 SMALL PORTION OF THE DNA THAT DIFFERS FROM ONE
11 INDIVIDUAL TO ANOTHER INDIVIDUAL TO ACTUALLY
12 DEVELOP WHAT IS KNOWN AS A DNA PROFILE. IT IS VERY
13 UNIQUE AND VERY SPECIFIC TO ONE PERSON WITH THE
14 EXCLUSION OF IDENTICAL TWINS.

15 Q. AND LET ME ASK YOU THIS, IF YOU -- WHAT SORT OF
16 ITEMS DO YOU TYPICALLY THEN RECEIVE OUT THERE AT
17 SLED FOR YOU TO ATTEMPT TO DO DNA ANALYSIS ON?

18 A. WE RECEIVE VIRTUALLY ANY TYPE OF ITEM THAT YOU CAN
19 THINK OF, WE'VE RECEIVED BONES, CLOTHING, BED
20 SHEETS, TISSUE, WE GET A LOT OF RAPE KITS IN, WE
21 GET SWABS FROM CARS, FROM OBJECTS, BLOODY
22 CLOTHING, ANYTHING THAT HAS A POSSIBILITY OF
23 HAVING SOME SORT OF BODY FLUID PRESENT ON IT, WE
24 GET IT.

25 Q. OKAY. SO, THEREFORE, IF YOU HAVE AN ITEM THAT HAS

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1 BLOOD ON IT, I MEAN, THAT'S SOMETHING THAT YOU
2 THEN ATTEMPT TO DEVELOP A DNA PROFILE FROM THAT
3 ITEM THAT IS SUBMITTED TO YOU, LET'S SAY THE, LIKE
4 IN THIS CASE, AN ITEM OF CLOTHING?

5 A. CORRECT. ONCE WE DETERMINE THAT THERE IS A BODY
6 FLUID PRESENT ON A PARTICULAR ITEM WE ARE THEN
7 ABLE TO TRY TO DEVELOP A DNA PROFILE WHICH WILL
8 TELL US WHO LEFT THAT SPECIFIC DNA ON THAT ITEM.

9 Q. OKAY. SO, IF YOU HAD, LET'S SAY AN ITEM OF
10 CLOTHING WITH SOME BLOOD ON IT YOU COULD THEN TAKE
11 A SAMPLE OF YOUR BLOOD AND A SAMPLE OF MY BLOOD,
12 DO DNA PROFILES ON YOUR BLOOD, MY BLOOD, AND THEN
13 THE SAMPLE FROM THE CLOTHING AND SEE IF EITHER ONE
14 OF US MATCH THAT?

15 A. THAT'S CORRECT. DEVELOPING A DNA PROFILE FROM,
16 SAY, MY BLOOD OR MY SALIVA IS NO DIFFERENT THAN
17 THE PROCEDURES WE USE FOR DEVELOPING A DNA PROFILE
18 FROM EVIDENCE. IT'S JUST WE KNOW WHEN WE DEVELOP
19 THE PROFILE FROM SOMEBODY'S BLOOD OR SALIVA WE CAN
20 SAY WITHOUT A DOUBT, THIS PROFILE BELONGS TO THIS
21 PERSON. THEN WHEN WE DEVELOP THE DNA PROFILE FROM
22 THE EVIDENCE WE LOOK AT THEM AND COMPARE THEM
23 TOGETHER TO SAY, YES, THIS PROFILE IS THE SAME AS
24 THIS PERSON, OR NO, THIS PROFILE DOESN'T MATCH
25 THIS PERSON, SO THIS PERSON COULD NOT HAVE LEFT

1 THAT BLOOD, OR THIS PERSON DID LEAVE THAT BLOOD.

2 Q. SO, AS A RESULT OF THAT YOU ULTIMATELY CAN EITHER,
3 CAN POTENTIALLY INCLUDE A SUSPECT OR POSSIBLY EVEN
4 EXCLUDE A SUSPECT THROUGH DNA ANALYSIS?

5 A. THAT'S CORRECT, YES.

6 Q. NOW, IF YOU HAVE AN ITEM OF, LET'S SAY CLOTHING OR
7 A WEAPON OR SOMETHING OF THAT NATURE, IS THERE ANY
8 WAY TO DATE WHEN, LIKE, BLOOD WAS LEFT ON AN ITEM?

9 A. NO, UNFORTUNATELY WE ARE ABLE TO TELL WHO LEFT
10 THAT BIOLOGICAL FLUID, BUT CURRENTLY THERE ARE NO
11 METHODS TO DETERMINE HOW LONG THAT FLUID HAD BEEN
12 PRESENT ON THAT PARTICULAR ITEM.

13 Q. OKAY. NOW, I WANT TO TURN YOUR ATTENTION IF I
14 COULD, DR. MILLS, TO THE CASE THAT WE'RE HERE
15 ABOUT TODAY INVOLVING THE VICTIM, HARRY
16 LIVINGSTON. DID YOU RECEIVE SEVERAL ITEMS OUT AT
17 SLED IN THE DNA DEPARTMENT FOR YOUR, FOR YOU TO DO
18 DNA ANALYSIS ON?

19 A. YES, I DID.

20 Q. OKAY. AND I WANT TO JUST GO THROUGH JUST THE KIND
21 OF A HANDFUL I WANT YOU TO TALK TO THE JURY ABOUT.
22 DID YOU RECEIVE TWO SWABS OFF OF A KNIFE, I
23 BELIEVE IT'S YOUR ITEMS THREE POINT ONE AND THREE
24 POINT TWO?

25 A. YES. THREE POINT ONE IS A SWAB FROM THE BLADE OF

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1 A KNIFE, AND THREE POINT TWO IS A SWAB FROM THE
2 HANDLE OF A KNIFE.

3 Q. OKAY. AND THEN DID YOU RECEIVE A SWAB, ITEM FOUR,
4 A SWAB FROM A LIGHT SWITCH?

5 A. YES, I DID. OUR ITEM NUMBER FOUR IS A SWAB FROM
6 THE LIGHT SWITCH NEXT TO AN EXIT DOOR.

7 Q. OKAY. AND THEN DID YOU RECEIVE ITEMS FROM SWABS
8 TAKEN FROM THE PASSENGER SIDE DOOR OF A VEHICLE?

9 A. YES, I DID. THAT WOULD BE ITEMS SIX, WHICH WAS A
10 SWAB FROM THE PASSENGER DOOR HANDLE OF THE
11 VEHICLE, AND ITEM SEVEN WAS A SWAB FROM THE
12 PASSENGER DOOR HANDLE BELOW THE WINDOW OF A
13 VEHICLE.

14 Q. OKAY. AND THEN, DID YOU RECEIVE THE TWO CUTTINGS
15 THAT MS. BUTLER JUST TESTIFIED TO THE JURY ABOUT,
16 STATE'S EXHIBITS TWENTY-TWO AND TWENTY-THREE,
17 WHICH IS YOUR ITEMS EIGHT POINT ONE AND EIGHT
18 POINT TWO?

19 A. YES, I DID.

20 Q. OKAY. THEN ADDITIONALLY, DID YOU HAVE AN
21 OPPORTUNITY TO RECEIVE A BLOOD STANDARD FROM THE
22 VICTIM, HARRY LIVINGSTON?

23 A. YES, I DID. THAT WOULD HAVE BEEN OUR ITEM NUMBER
24 NINETEEN, WHICH WE SAY IS A BLOOD STANDARD FROM
25 HARRY LIVINGSTON.

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1 Q. OKAY. AND ADDITIONALLY, DID YOU GET SOME SORT OF
2 STANDARD FROM THE DEFENDANT IN THIS CASE, GEORGE
3 MOSES?

4 A. YES. LATER ON AFTER I HAD DONE THE DNA ANALYSIS I
5 DID, IN FACT, RECEIVE OUR ITEM NUMBER TWENTY,
6 WHICH WAS AN ORAL SWAB FROM GEORGE MOSES. THERE'S
7 NO DIFFERENCE BETWEEN AN ORAL SWAB AND A BLOOD
8 STANDARD, THEY'RE BOTH CALLED STANDARDS. IT
9 DOESN'T MATTER WHETHER IT'S A SWAB FROM SOMEBODY'S
10 SALIVA OR FROM THEIR BLOOD.

11 Q. SO, IF YOU TOOK MY BLOOD AND TOOK SALIVA AND DID
12 DNA ON BOTH THEY'D BE IDENTICAL?

13 A. THEY SHOULD BE THE SAME, YES.

14 Q. DID YOU THEN HAVE AN OPPORTUNITY, DR. MILLS, TO
15 ATTEMPT TO TEST ALL OF THOSE ITEMS WE JUST WENT
16 THROUGH AND SEE IF YOU COULD DEVELOP A DNA PROFILE
17 OFF OF EACH OF THOSE ITEMS?

18 A. YES, I DID.

19 Q. OKAY. IF I COULD JUST KIND OF GO THROUGH THEM ONE
20 AT A TIME, FIRST OF ALL, WERE YOU ABLE TO DEVELOP
21 A DNA PROFILE FOR THE VICTIM, HARRY LIVINGSTON?

22 A. YES, I WAS.

23 Q. AND THEN WERE YOU ABLE TO DEVELOP A DNA PROFILE
24 FOR THE DEFENDANT, GEORGE MOSES?

25 A. YES, I WAS.

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1 Q. OKAY. ALRIGHT, NOW, LET'S START WITH YOUR ITEM
2 THREE POINT ONE, THE SWAB FROM THE KNIFE BLADE,
3 WERE YOU ABLE TO, IN YOUR ANALYSIS OF THAT, --
4 WELL, FIRST OF ALL, WAS THERE ANY BLOOD FOUND ON
5 THAT KNIFE BLADE?

6 A. THERE WAS, OUR PRESUMPTIVE TEST FOR BLOOD CAME
7 BACK NEGATIVE SO I DID NOT ATTEMPT TO EXTRACT A
8 DNA PROFILE FROM THIS PARTICULAR SWAB.

9 Q. OKAY. ALRIGHT, AND THEN THERE'S THE SWAB THREE
10 POINT TWO WHICH WAS FROM THE HANDLE OF THE KNIFE,
11 IS THAT CORRECT?

12 A. THAT IS CORRECT, YES.

13 Q. AND WERE YOU ABLE TO, DID THERE APPEAR TO BE ANY
14 BLOOD ON THE HANDLE OF THAT KNIFE?

15 A. YES, OUR PRESUMPTIVE TEST CAME BACK POSITIVE
16 MEANING THAT THERE WAS AN INDICATION OF BLOOD
17 PRESENT ON THIS ITEM, SO I DID TRY TO GET A DNA
18 PROFILE OFF OF THIS ITEM.

19 Q. OKAY. AND WERE YOU ABLE THEN TO COMPARE THAT DNA
20 PROFILE -- TELL THE JURY WHAT YOUR RESULTS WERE OF
21 GETTING THAT DNA PROFILE FROM THAT KNIFE HANDLE?

22 A. THE DNA PROFILE DEVELOPED FROM THE KNIFE HANDLE
23 ACTUALLY CAME BACK AS A MIXTURE. AND A MIXTURE
24 MEANS THAT THERE'S MORE THAN ONE PERSON THAT'S
25 PRESENT ON THIS PARTICULAR ITEM. MY COMPARISON

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1 SHOWED THAT HARRY LIVINGSTON COULD NOT BE EXCLUDED
2 AS BEING ONE OF THE POSSIBLE CONTRIBUTORS TO THIS
3 MIXTURE. THIS MEANS THAT THERE'S A -- YES, HE WAS
4 IN FACT PRESENT ON THIS PARTICULAR ITEM.

5 Q. NOW, BY THE DNA AND THAT MIXTURE YOU TALKED ABOUT,
6 NOW IS THAT A MIXTURE OF TWO DIFFERENT PEOPLE'S
7 BLOODS OR JUST TWO PEOPLE'S DNA?

8 A. WE KNOW THAT THERE WAS BLOOD INDICATED ON THIS
9 ITEM. SINCE IT'S A MIXTURE OF TWO PEOPLE WE'RE
10 NOT ABLE TO SAY IT'S BLOOD MIXED WITH SKIN CELLS
11 OR IT'S TWO PEOPLE'S BLOOD, WE'RE NOT ABLE TO TELL
12 THAT, WE JUST KNOW THAT IT'S SOMEBODY'S BLOOD
13 THAT'S PRESENT ON THAT ITEM AND IT'S A MIXTURE OF
14 TWO PEOPLE.

15 Q. OKAY. AND HOW ABOUT, AS FAR AS THE DEFENDANT,
16 GEORGE MOSES, WERE YOU ABLE TO ATTRIBUTE TO THAT
17 MIXTURE AT ALL OR - - -

18 A. GEORGE MOSES WAS ACTUALLY EXCLUDED AS BEING A
19 CONTRIBUTOR TO THIS MIXTURE, SO HIS DNA WAS NOT
20 PRESENT ON THIS PARTICULAR ITEM.

21 Q. NOW, AS FAR AS HANDLING A KNIFE, I MEAN, ARE YOU
22 GOING TO LEAVE DNA BEHIND EVERY TIME THAT YOU HOLD
23 THE KNIFE?

24 A. YOU MAY NOT LEAVE DNA BEHIND EVERY TIME OR ENOUGH
25 THAT WE'RE ABLE TO DEVELOP A PROFILE FROM, BUT

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1 IT'S NOT UNCOMMON FOR US TO GET PROFILES OFF OF
2 OBJECTS THAT ARE TOUCHED, SUCH AS DOOR KNOBS OR
3 FIXTURES OR SILVERWARE, SOMETHING OF THAT NATURE
4 THAT IS VERY COMMONLY TOUCHED.

5 Q. BY THE FACT THAT YOU CAN'T DATE IT, I MEAN, THAT
6 OTHER PERSON'S DNA, DO YOU HAVE ANY IDEA WHEN THAT
7 WAS LEFT ON THE KNIFE?

8 A. NO, I DON'T, IT COULD HAVE BEEN THERE FOR WEEKS,
9 IT COULD HAVE BEEN THERE FOR A MONTH, WE HAVE NO
10 WAY TO DATE THAT DNA BEING ON THAT PARTICULAR
11 ITEM.

12 Q. OKAY. AND THEN, HOW ABOUT ITEM FOUR, THE SWAB
13 FROM THE LIGHT SWITCH?

14 A. ITEM FOUR ALSO CAME BACK AS POSITIVE FOR AN
15 INDICATION OF BLOOD, MEANING THAT THERE WAS BLOOD
16 INDICATED ON THAT PARTICULAR ITEM. AGAIN, THE DNA
17 PROFILE THAT I DEVELOPED FROM THIS ITEM IS A
18 MIXTURE OF AT LEAST TWO PEOPLE, AND ON THIS
19 PARTICULAR MIXTURE I WAS ABLE TO SAY THAT THERE WA
20 A MAJOR CONTRIBUTOR. IN LOOKING AT OUR DNA PROFILE
21 THAT MEANS THAT I CAN PULL ONE PERSON OUT AS BEING
22 THE SOLE SOURCE OF THAT DNA, AND THERE'S SOMEBODY
23 ELSE'S DNA THAT'S PRESENCE BUT IN LESS QUANTITY.
24 THE MAJOR CONTRIBUTOR MEANS THERE'S MORE OF THAT
25 PERSON'S DNA ON THIS PARTICULAR ITEM THAN SOMEBODY

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1 ELSE'S. THE MAJOR CONTRIBUTOR TO THIS MIXTURE WAS
2 AN UNIDENTIFIED MALE INDIVIDUAL, AND I COULD NOT
3 MAKE A STATEMENT AS TO WHETHER OR NOT HARRY
4 LIVINGSTON COULD HAVE BEEN THE MINOR CONTRIBUTOR
5 TO THE MIXTURE.

6 Q. AND YET AGAIN, A LIGHT SWITCH, IS THAT SOMETHING
7 THAT YOU WOULD EXPECT TO FIND, I MEAN, AN ITEM
8 THAT I GUESS WOULD BE TOUCHED BY A LOT OF PEOPLE?

9 A. YES.

10 Q. OKAY. AND WOULD IT BE UNUSUAL TO FIND A MIXTURE
11 OFF OF A SWAB OFF OF A LIGHT SWITCH?

12 A. NO, IT WOULD NOT BE UNUSUAL TO FIND MIXTURES OFF
13 OF ANYTHING THAT IS VERY COMMONLY TOUCHED BY MORE
14 THAN ONE INDIVIDUAL.

15 Q. OKAY. AND YET AGAIN, THIS WITH THE OTHER MIXTURE,
16 THAT'S NOT NECESSARILY A MIXTURE OF LIKE TWO
17 PEOPLE'S BLOODS, IT JUST COULD BE SKIN CELLS FROM
18 WHEN SOMEBODY HAD TOUCHED THE LIGHT SWITCH MIXED
19 WITH SOMEBODY'S BLOOD, IS THAT CORRECT?

20 A. THAT'S CORRECT, WE'RE NOT ABLE TO TELL WHAT PERSON
21 LEFT WHICH BODY FLUID.

22 Q. OKAY. NOW, ITEMS SIX AND SEVEN, THE TWO SWABS
23 TAKEN FROM THE VEHICLE, WERE YOU ABLE TO DEVELOP A
24 DNA PROFILE OFF OF THOSE TWO ITEMS?

25 A. NO, I WASN'T. WHEN I WENT THROUGH THE PROCEDURES

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1 TO EXTRACT, WHICH MEANS YOU'RE PULLING THE DNA OUT
2 OF THAT PARTICULAR SWAB, THERE WASN'T ENOUGH DNA
3 ON THOSE PARTICULAR SWABS FOR ME TO CARRY THROUGH
4 AND GET A DNA PROFILE FROM. SO, I STOPPED WHEN I
5 REALIZED THAT THERE WAS A VERY, VERY LOW LEVEL OF
6 DNA PRESENT ON THESE ITEMS. SO, I WAS NOT ABLE TO
7 GET A PROFILE FROM THESE TWO PARTICULAR ITEMS.

8 Q. OKAY. AND WERE YOU ABLE TO EVEN TELL IF THAT WAS
9 BLOOD ON THOSE TWO SWABS OR - - -

10 A. I WASN'T. ON THESE PARTICULAR ITEMS THE SWAB HAD
11 BEEN TREATED WITH SOMETHING KNOWN AS LIQUID
12 CRYSTAL VIOLET, AND IT TURNED THE SWAB A VERY
13 INTENSE PURPLE COLOR, AND BECAUSE WE USE A COLOR
14 CHANGE REACTION IN THE LAB TO NOTE IF BLOOD IS
15 PRESENT OR NOT IT TURNS IT KIND OF A PINK COLOR,
16 IT WASN'T, THE TEST THAT WE USE FOR BLOOD WAS
17 INCLUSIVE, BECAUSE I COULDN'T SEE THAT PINK COLOR
18 CHANGE BECAUSE THE PURPLE WAS MASKING THE COLOR
19 CHANGE.

20 Q. AND THAT SUBSTANCE YOU JUST REFERRED TO IS THAT
21 COMMONLY REFERRED TO AS LCD?

22 A. YES, IT IS.

23 Q. ALRIGHT. NOW, LASTLY, THE TWO CUTTINGS FROM THE
24 BLUE JEAN SHORTS, ITEMS EIGHT POINT ONE AND EIGHT
25 POINT TWO, - - -

1 A. YES.

2 Q. --- WERE YOU ABLE TO DEVELOP A DNA PROFILE FROM
3 THOSE ITEMS?

4 A. YES, I WAS, AND ON EIGHT POINT ONE AND EIGHT POINT
5 TWO BLOOD WAS INDICATED ON BOTH OF THESE ITEMS,
6 AND I GOT A SINGLE SOURCE PROFILE OFF OF BOTH OF
7 THESE ITEMS, MEANING ONLY ONE PERSON'S DNA WAS ON
8 THESE PARTICULAR CUTTINGS. AND THE DNA PROFILE
9 DEVELOPED FROM ITEMS EIGHT POINT ONE AND EIGHT
10 POINT TWO, WHICH WERE THE CUTTINGS FROM THE BLUE
11 JEANS MATCHES THE DNA PROFILE OF HARRY LIVINGSTON.

12 Q. OKAY. SO, THAT, AND LET ME -- FIRST OF ALL, WHEN
13 YOU HAVE - - -

14 A. OH, I'VE GOT SOME.

15 Q. OH, YOU'VE GOT SOME TOO? LET ME GET YOU ON ITEM,
16 INITIALLY HERE ON ITEM EIGHT POINT ONE, TO OPEN
17 THAT ITEM UP.

18 A. I DO RECOGNIZE THIS ITEM BECAUSE IT'S GOT MY
19 INITIALS AND IT'S GOT THE DATE, MEANING THAT I HAD
20 POSSESSION OF IT AT ONE TIME.

21 Q. OKAY. NOW, DO YOU RECEIVE LIKE IN THAT CASE A
22 CUTTING FROM A PAIR OF BLUE JEAN SHORTS, TELL THE
23 JURY, HOW DO YOU GO ABOUT DEVELOPING A DNA PROFILE
24 FROM POTENTIALLY A PIECE OF CLOTHING?

25 A. OKAY. WELL, WHAT WE DO IS, THERE IS, THE CUTTING

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1 IS RATHER LARGE. WHAT WE DO IS, WE JUST TAKE A
2 VERY SMALL CUTTING OF THIS, IT DOESN'T - - -

3 Q. CAN YOU KIND OF OPEN IT UP AND KIND OF SHOW - - -

4 A. YOU CAN ACTUALLY SEE WHERE MS. BUTLER MADE THE
5 LARGER CUTTING, AND YOU CAN ACTUALLY SEE WHERE I
6 WENT IN AND MADE A SMALLER CUTTING. WE DON'T NEED
7 A LARGE PIECE OF CLOTHING IF IT HAS BLOOD ON IT TO
8 GET A DNA PROFILE FROM, SO WHAT I DO IS, I MAKE A
9 SMALL CUTTING FROM, LET'S SAY, THESE BLUE JEAN
10 SHORTS. I PUT IT IN A TUBE, AND IN THIS TUBE I'LL
11 ADD A VARIETY OF DIFFERENT SOLUTIONS OR LIQUIDS TO
12 THIS PARTICULAR ITEM, AND THEN WE'LL SEND THE
13 CUTTING THROUGH AN INSTRUMENT, AND THIS INSTRUMENT
14 WILL THEN EXTRACT THE DNA, WHICH MEANS PULL THE
15 DNA OUT OF THIS ITEM WHILE LEAVING ALL THE OTHER
16 COMPONENTS OF BLOOD, THE PROTEINS AND ALL THE
17 OTHER COMPONENTS OF BLOOD MINUS THE DNA BEHIND.
18 AND SO, WHAT WE END UP WITH IS A TUBE CONTAINING
19 DNA THAT'S IN A LIQUID FORM, IT'S IN A SOLUTION.
20 ONCE THE DNA IS IN THIS LIQUID FORM WE'VE GOT TO
21 TELL IF THERE'S ENOUGH DNA TO GET A PROFILE FROM,
22 SO WE SEND IT THROUGH ANOTHER INSTRUMENT. ONCE I
23 DETERMINE THAT, YES, THERE IS ENOUGH AMOUNT OF DNA
24 PRESENT ON THIS ITEM I THEN WILL TAKE A SMALL
25 QUANTITY OF THIS SOLUTION AND WE'LL PUT IT ON A

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1 MACHINE THAT'S KIND OF LIKE A FANCY COPIER, IT'S
2 CALLED A PCR MACHINE, YOU MAY HAVE HEARD OF IT
3 BEFORE, AND ESSENTIALLY WHAT IT DOES IS, IT TAKES
4 JUST A FEW MOLECULES OF DNA AND ESSENTIALLY COPIES
5 THEM, MILLIONS AND MILLIONS AND MILLIONS OF TIMES.
6 AND WHAT WE END OF UP, AFTER THIS INSTRUMENT IS,
7 THE DNA PROFILE THAT WE DEVELOP FROM THIS, AND
8 WE'LL PUT IT ONTO ANOTHER MACHINE THAT WE USE SOME
9 SOFTWARE TO HELP GUIDE US, AND IT WILL ULTIMATELY
10 END UP WITH A DNA PROFILE. NOW, A DNA PROFILE, IF
11 YOU LOOK AT IT JUST AS IF, IT JUST LOOKS LIKE A
12 STRING OF NUMBERS, AND WE CAN CORRESPOND THOSE
13 NUMBERS BACK TO THE SPECIFIC PARTS OF THE DNA THAT
14 WE'RE LOOKING AT.

15 Q. OKAY. AFTER DOING THAT WITH THOSE TWO CUTTINGS
16 OFF OF EIGHT POINT ONE AND EIGHT POINT TWO, YOU
17 TESTIFIED THAT THEY ENDED UP MATCHING THE VICTIM,
18 HARRY LIVINGSTON'S PROFILE?

19 A. THAT IS CORRECT. BOTH PROFILES OFF OF EIGHT POINT
20 ONE AND EIGHT POINT TWO MATCHED THE DNA PROFILE OF
21 HARRY LIVINGSTON.

22 Q. OKAY. AND WERE YOU ABLE TO KIND OF GO THROUGH AND
23 GENERATE A PROBABILITY OF FINDING ANOTHER PERSON
24 THAT WOULD HAVE THAT SAME DNA PROFILE THAT WOULD
25 ALSO POTENTIALLY MATCH THOSE CUTTINGS?

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1 A. YES. THE PROBABILITY OF RANDOMLY SELECTING AN
2 UNRELATED INDIVIDUAL HAVING A DNA PROFILE MATCHING
3 THESE ITEMS IS APPROXIMATELY ONE IN SIX POINT FOUR
4 QUADRILLIONS. AND WHAT MEANS IF I WAS JUST TO GO
5 OUT TO THE ENTIRE WORLD'S POPULATION AND RANDOMLY
6 PULL SOMEBODY OUT OF THAT POPULATION, THERE'S A
7 PROBABILITY OF THAT PERSON HAVING THE DNA PROFILE
8 IS ONE IN SIX POINT FOUR QUADRILLIONS.

9 Q. DO YOU HAVE ANY IDEA HOW MANY PEOPLE THERE ARE ON
10 THE PLANET RIGHT NOW?

11 A. APPROXIMATELY SEVEN BILLION I BELIEVE.

12 Q. ALRIGHT, SO A QUADRILLION IS SIX MORE ZEROS THAN
13 THAT, I GUESS?

14 A. IT'S HIGHER THAN THE WORLD'S POPULATION, SO I
15 WOULD NOT EXPECT TO SEE THAT PROFILE AGAIN.

16 Q. OKAY. DO YOU HAVE AN OPINION, THEN, DR. MILLS, AS
17 TO WHOSE BLOOD WAS FOUND ON THESE TWO CUTTINGS
18 THAT WERE TAKEN AND TESTED AT SLED?

19 A. YES, MY OPINION IS THAT IT'S HARRY LIVINGSTON'S
20 BLOOD.

21 SOLICITOR SORENSON: I BEG THE
22 COURT'S INDULGENCE.

23 THANK YOU, DR. MILLS, PLEASE ANSWER
24 ANY QUESTIONS THAT MS. HINDS MAY HAVE.

25 THE COURT: LET'S TAKE A LITTLE

1 BREAK, IS THAT OKAY?

2 LADIES AND GENTLEMEN, WE'LL TAKE OUR
3 MORNING AT THIS TIME. PLEASE RETIRE TO YOUR JURY ROOM.
4 PLEASE DO NOT TALK ABOUT THE CASE. PLEASE RETIRE TO THE
5 JURY ROOM.

6 MA'AM, YOU CAN STEP DOWN BUT DO NOT
7 TALK TO ANYONE.

8 (Whereupon, the jury retires
9 to the jury room.)

10 (Recess)

11 (Whereupon, the following
12 takes place out of the presence
13 of the jury.)

14 THE COURT: ALRIGHT, MA'AM, YOU CAN
15 TAKE A SEAT BACK IN THE WITNESS STAND.

16 OKAY, BRING IN THE JURY, PLEASE,
17 SIR.

18 BAILIFF: YOUR HONOR, ALL OF THE
19 JURORS ARE SEATED IN THE JURY BOX.

20 (Whereupon, the following
21 takes place in the presence of
22 the jury.)

23 THE COURT: ALRIGHT, MS. HINDS, YOU
24 MAY PROCEED.

25 MS. HINDS: THANK YOU, YOUR HONOR.

CROSS - DR. LAURA MILLS BY MS. HINDS

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CROSS-EXAMINATION OF DR. LAURA MILLS

BY MS. HINDS:

Q. YOU'VE BEEN VERY INSTRUCTIVE, DR. MILLS, I HAVE JUST A FEW MORE QUESTIONS. MY UNDERSTANDING, AND PLEASE CORRECT ME IF I'M WRONG, I KNOW VERY LITTLE ABOUT THIS, BUT THERE'S SIXTEEN TARGETED GENES, IS THAT WHAT YOU LOOK AT, THAT HAVE REPEATS IN THE MIDDLE, IS THAT KIND OF THE BASIC IDEA?

A. WELL, THIS PARTICULAR KIT THAT WE'RE USING RIGHT NOW, IT'S SIXTEEN DIFFERENT SPOTS ALONG THE DNA. AS I SAID, YOU KNOW, ALMOST EVERYBODY'S DNA IS THE SAME, BUT THESE PARTICULAR SPOTS ON THE DNA, AND THEY'RE CALLED, ONE OF THEM IS CALLED DAS ELEVEN SEVENTY-NINE, THAT JUST CORRESPONDS TO THE LOCATION ON THE DNA WHERE THIS, AS YOU SAID, THE REPEAT, REPEAT UNIT IS FOUND, WHAT A REPEAT UNIT IS, IT'S JUST A SMALL PORTION OF THE DNA, YOU HAVE FOUR BASES THAT MAKE UP THE DNA, AND A STRING OF THESE BASES, THESE FOUR UNITS THAT ARE REPEATED OVER AND OVER AND OVER AND OVER, AND SO, AT THIS PARTICULAR SPOT ONE PERSON MAY HAVE THIS REPEAT UNIT SIXTEEN TIMES, ONE PERSON MAY HAVE IT EIGHT TIMES. AND SO, THAT'S WHERE YOU GET THE NUMBER THAT CORRESPONDS TO THE DNA PROFILE.

Q. OKAY. AND THE PCA ATTEMPTS TO AMPLIFY OR AS YOU

1 SAID, COPY THE SIXTEEN TARGETED GENES FOR EACH
2 SAMPLE?

3 A. RIGHT. WHAT PCR DOES IS, YOU CAN START WITH A
4 VERY SMALL AMOUNT OF DNA, AND ESSENTIALLY PCR, IT
5 STANDS FOR PRELIMINARY CHAIN REACTION, WHAT IT
6 DOES IS THAT IT ESSENTIALLY TAKES THIS VERY SMALL
7 AMOUNT OF DNA AND JUST COPIES IT. SO, YOU START
8 OFF WITH, YOU KNOW, JUST A COUPLE OF COPIES OF THE
9 DNA, AND YOU END UP WITH MILLIONS AND MILLIONS AND
10 MILLIONS OF COPIES OF THE IDENTICAL DNA THAT YOU
11 PUT IN. IT DOES CHANGE THE DNA, IT DOESN'T GIVE
12 YOU SOMETHING THAT YOU DIDN'T HAVE TO START WITH,
13 IT'S JUST, WE REFER TO IT AS A FANCY COPY MACHINE.

14 Q. KIND OF LIKE A FANCY XEROX?

15 A. EXACTLY.

16 Q. OKAY. AND JUST TO REITERATE, I BELIEVE YOU SAID
17 THAT THE STANDARD TAKEN FROM MR. MOSES WAS AN ORAL
18 SWAB, CORRECT?

19 A. THAT'S CORRECT. IT WAS, AN ORAL SWAB IS COMMONLY
20 JUST A STERILE COTTON SWAB THAT'S SWABBED ALONG
21 THE INSIDE OF THE PERSON'S CHEEK IN THE GUM AREA,
22 AND THAT'S WHAT WE'LL USE INSTEAD OF A BLOOD
23 STANDARD. IT'S A LOT LESS INVASIVE, IT'S A LOT
24 EASIER TO TAKE AN ORAL SWAB THAN HAVING TO TAKE
25 SOMEBODY TO THE HOSPITAL TO DRAW BLOOD.

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1 Q. BUT IN TERMS OF YOUR ANALYSIS THERE WOULD BE NO
2 DIFFERENCE FROM A BLOOD SAMPLE, CORRECT?

3 A. NO, THERE WOULDN'T.

4 Q. DO YOU WEAR GLOVES WHEN YOU WORK IN THE DNA LAB?

5 A. ABSOLUTELY. I ALWAYS WEAR GLOVES AND A LAB COAT
6 WHEN I'M HANDLING EVIDENCE.

7 Q. AND DO YOU DO THAT BECAUSE BY YOUR TOUCHING IT, IT
8 COULD POTENTIALLY CONTAMINATE THAT EVIDENCE?

9 A. WE DO IT FIRST OF ALL TO SAFEGUARD US, WE DON'T
10 ALWAYS KNOW WHAT WE'RE DEALING WITH, WE'RE DEALING
11 WITH BLOOD, SEMEN, SALIVA, SKIN CELLS WHICH, OF
12 COURSE, CORRESPONDS TO HIV, AIDS, HEPATITIS, ANY
13 NUMBER OF DISEASES. SO, WE DO IT TO PROTECT THE
14 INTEGRITY OF THE EVIDENCE AS WELL AS US. WE, OF
15 COURSE DON'T WANT TO BE EXPOSED TO ANYTHING THAT
16 COULD POTENTIALLY HARM US. WE ALSO DO IT TO
17 INSURE THAT NOTHING FROM OUR TOUCHING IT OR US
18 HANDLING IT COULD IN ANY WAY AFFECT WHAT'S ON THAT
19 SWAB, THAT WHAT WE GET ON THAT SWAB WAS WHAT WAS,
20 IN FACT, ON THAT SWAB, THAT WE DIDN'T INTRODUCE
21 SOMETHING SWAB FOREIGN TO THAT SWAB.

22 Q. BECAUSE THE TECHNOLOGY IS SO SENSITIVE THAT EVEN A
23 FEW SKIN CELLS COULD MAKE A DIFFERENCE, CORRECT?

24 A. THAT IS CORRECT. IT'S AN EXTREMELY SENSITIVE
25 THING.

1 Q. OKAY. YOU TESTED SEVERAL ITEMS, ONE WAS THE
2 KNIFE, OR THE HANDLE OF THE KNIFE?

3 A. WELL, I DIDN'T ACTUALLY TEST THE KNIFE HANDLE, I
4 RECEIVED A SWAB FROM THE HANDLE.

5 Q. OKAY, BUT YOU TESTED THAT SWAB?

6 A. I TESTED THE SWAB, YES.

7 Q. OKAY. AND EVEN WITH THE SENSITIVITY OF THAT
8 TECHNOLOGY, MR. MOSES' DNA WAS NOT FOUND ON THE
9 KNIFE HANDLE, IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. OKAY. YOUR REPORT INDICATES THAT MR. LIVINGSTON'S
12 DNA WAS FOUND ON THE KNIFE HANDLE, IS THAT
13 CORRECT?

14 A. THAT'S CORRECT, YES.

15 Q. OKAY. YOU ALSO TESTED MATERIAL FROM THE LIGHT
16 SWITCH AND YOU OBTAINED A SAMPLE THAT SAID THAT
17 MANY PEOPLE'S DNA WAS ON THAT LIGHT SWITCH,
18 CORRECT?

19 A. WHAT I SAID WAS THAT THE DNA PROFILE I GOT FROM
20 THIS WAS A MIXTURE OF AT LEAST TWO PEOPLE, MEANING
21 THAT TWO PEOPLE WERE DEFINITELY THERE. YOU KNOW,
22 I DON'T KNOW THERE'S A THIRD OR FOURTH PERSON, BUT
23 WE KNOW THAT THERE ARE AT LEAST TWO PEOPLE THERE.

24 Q. OKAY. AND DO YOU KNOW IF THEY'RE MALE OR FEMALE?

25 A. ON THE LIGHT SWITCH WE KNOW THAT ONE OF THE

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1 INDIVIDUALS WAS, IN FACT, A MALE INDIVIDUAL. WITH
2 MINOR CONTRIBUTORS SOMETIMES IT'S HARD TO TELL IF
3 IT'S A MALE OR A FEMALE.

4 Q. OKAY.

5 A. SO, ON THIS PARTICULAR CASE, NO.

6 Q. BUT MR. MOSES' DNA WAS NOT FOUND ON THAT, CORRECT?

7 A. NO, IT WASN'T.

8 Q. OKAY. YOU ALSO TESTED, I THINK, A SAMPLE FROM A
9 DRESSER, A SWAB THAT WAS TAKEN FROM A DRESSER?

10 A. YES, WHICH WAS OUR ITEM FIVE, IT WAS LABELED, A
11 SWAB FROM DRESSER IN MASTER BEDROOM.

12 Q. OKAY. AND AN UNKNOWN FEMALE CONTRIBUTOR WAS FOUND
13 ON THAT DRESSER, CORRECT?

14 A. THAT IS CORRECT, IT WAS A FEMALE PERSON I
15 DEVELOPED FROM THAT.

16 Q. OKAY. NOW, MR. LIVINGSTON'S DNA WAS FOUND ON THE
17 BLOOD STAINS ON THE JEANS, CORRECT?

18 A. THAT IS CORRECT.

19 Q. OKAY. BUT THE DNA RESULTS DON'T INDICATE HOW THAT
20 BLOOD GOT THERE?

21 A. NO.

22 Q. OR WHEN IT GOT THERE, CORRECT?

23 A. THAT IS CORRECT.

24 Q. IT COULD HAVE BEEN THERE AN HOUR, IT COULD HAVE
25 BEEN THERE DAYS, IT COULD HAVE BEEN THERE WEEKS,

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1 IT COULD HAVE BEEN ANY AMOUNT OF TIME?

2 A. THAT'S CORRECT. AND YOU KNOW, A LOT OF THE STAIN
3 ON CLOTHING, YOU KNOW, WE CAN GET DNA FROM IT
4 MONTHS AND YEARS LATER, BUT IT'S GOING TO DEPEND
5 ON WHERE THAT PARTICULAR OBJECT WAS STORED OR
6 WHERE IT HAD BEEN IN THE MONTHS PREVIOUS TO ME
7 RECEIVING THE EVIDENCE. IF IT WAS, SAY, OUTSIDE
8 WHERE IT'S RAINING, YOU'VE GOT HEAT, YOU'VE GOT
9 COLD, IT'S GOING TO DEGRADE THAT DNA, VERSUS ME
10 CUTTING MYSELF AND TOUCHING THIS, MY BLOOD'S GOING
11 TO BE IN A VERY CONTROLLED ENVIRONMENT, IT'S NOT
12 GOING TO BE EXPOSED TO SUNLIGHT IN THIS ROOM, OR
13 THE ELEMENTS OF THE OUTSIDE CONDITIONS, SO I'D
14 EXPECT, YOU KNOW, WEEKS OR YEARS LATER THAT I
15 COULD STILL GET THE PROFILE FROM SOMETHING LEFT
16 INDOORS VERSUS SOMETHING LEFT OUTDOORS.

17 Q. BUT YOU CAN'T DATE THE BLOOD ON THE JEANS?

18 A. NO, I CAN'T.

19 Q. OKAY. AND THE DNA RESULTS DON'T GIVE YOU ANY
20 INDICATION OF UNDER WHAT THE CIRCUMSTANCES THE
21 BLOOD GOT ON THE JEANS, CORRECT?

22 A. THAT'S CORRECT.

23 Q. OKAY. CAN YOU TELL ME WHAT A WEAR AREA IS?

24 A. I'M SORRY?

25 Q. A WEAR AREA.

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1 A. A WEAR AREA?

2 Q. YEAH. WHEN YOU GO TO TEST SOMETHING, SOMETIMES
3 ARE YOU ASKED TO TEST A WEAR AREA OF AN ITEM? FOR
4 INSTANCE, A - - -

5 A. OH, I'M SORRY, YES, I UNDERSTAND WHAT YOU'RE
6 ASKING. LIKE, A LOCATION LIKE MY COLLAR OR THE
7 WAISTBAND OF MY PANTS WOULD BE WHAT WE WOULD REFER
8 TO IN THE LAB AS SWABS FOR OWNERSHIP.

9 Q. OKAY. IT'S KIND OF WHERE CLOTHING WOULD COME IN
10 CONTACT WITH SOMEBODY'S SKIN, BASICALLY, CORRECT?

11 A. THAT'S RIGHT. COMMONLY IN THE LAB AS YOU SAY,
12 WHAT WE WOULD DO IS, THE COLLAR AREAS OF A SHIRT,
13 WAISTBAND OF PANTS, OR UNDERGARMENT THAT WOULD
14 COMMONLY MAYBE RUB UP AGAINST THE SKIN AND SLUFF
15 OFF MORE SKIN CELLS SO WE'D HAVE A BETTER CHANCE
16 OF GETTING A PROFILE FROM THOSE PARTICULAR AREAS
17 OF A GARMENT.

18 Q. OKAY. WERE YOU ASKED TO TEST THE WEAR AREA ON THE
19 JEANS?

20 A. ON THIS PARTICULAR CASE, THERE WAS A SWAB FROM THE
21 POCKET OF BLUE JEAN SHORTS IF THAT'S WHAT YOU'RE
22 REFERRING TO, OR EIGHT POINT THREE, WHICH I DID
23 NOT TEST.

24 Q. OKAY. BECAUSE YOU JUST TEST WHAT YOU'RE TOLD TO
25 TEST, IS THAT CORRECT?

1 A. WELL, WE, AT THE PRESENT TIME JUST KIND OF, WE CAN
2 DECIDE WHAT EVIDENCE IS MOST PROBATIVE TO THE
3 CASE. WE CAN DO THAT BY OURSELVES OR A LOT OF
4 TIMES WE'LL TALK WITH THE INVESTIGATORS OR THE
5 SOLICITORS IN A CASE, BUT IT'S NOT POSSIBLE TO DO
6 EVERY PIECE OF EVIDENCE IN EVERY CASE THAT WE
7 HAVE, IT JUST, WE DON'T HAVE THE MANPOWER, WE
8 DON'T HAVE THE FUNDS TO DO IT. WE DO THE PIECES
9 OF EVIDENCE THAT ARE PROBATIVE AND ONCE WE HAVE
10 LINKED A PARTICULAR SUBJECT TO AN ITEM WE DON'T
11 FEEL THAT IT'S NECESSARY TO KEEP DOING MORE ITEMS,
12 MORE ADDITIONAL ITEMS, IT'S JUST TOO INEFFICIENT
13 IN OUR LAB, WE DON'T HAVE THE STAFF OR THE FUNDS
14 TO DO THAT.

15 Q. IN THIS PARTICULAR CASE YOU DON'T HAVE ANY DNA
16 EVIDENCE INDICATING WHO WORE THE JEANS, IS THAT
17 CORRECT?

18 A. NO, I JUST HAVE THE CUTTINGS FROM THE BLUE JEAN
19 SHORTS WHICH HAD THE BLOOD ON THEM.

20 Q. OR WHEN THEY WERE WORN, CORRECT?

21 A. THAT'S CORRECT.

22 Q. OKAY. DO YOU HAVE A COPY OF YOUR DNA REPORT?

23 A. I DO.

24 Q. I WOULD REFER TO PAGE TWO PLUS THREE.

25 A. I ACTUALLY HAVE THREE REPORTS SO YOU'LL HAVE TO

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1 TELL ME - - -

2 Q. OKAY. THE ONE, THE LAST ONE WHICH I BELIEVE IS
3 DATED JANUARY TWENTY-SECOND, TWO THOUSAND AND
4 NINE?

5 A. OKAY. AND PAGE?

6 Q. ON PAGE TWO.

7 A. PAGE TWO. OKAY.

8 Q. COULD YOU READ TO THE JURY THE BOLD STATEMENT
9 ABOVE WHERE IT SAYS, NO, WHERE IT SAYS, STARTS
10 WITH GEORGE MOSES?

11 A. "GEORGE MOSES IS EXCLUDED AS BEING A CONTRIBUTOR
12 TO THE DNA FOUND ON ANY OF THE EVIDENTIARY ITEMS
13 SUBMITTED."

14 Q. OKAY. SO, HIS DNA DOES NOT APPEAR ON ANY OF THE
15 EVIDENTIARY ITEMS?

16 A. NONE OF THE ITEMS THAT I GOT A DNA PROFILE FROM,
17 HE WAS NOT ON ANY OF THOSE ITEMS.

18 Q. AND ONE LAST QUESTION, I BELIEVE YOU TESTIFIED
19 THAT YOU WERE GIVEN SWABS THAT WERE TAKEN FROM THE
20 VEHICLE, I THINK IT WAS NUMBER SIX AND SEVEN?

21 A. YES. SIX WAS A SWAB FROM THE PASSENGER DOOR
22 HANDLE OF THE VEHICLE, AND SEVEN WAS A SWAB FROM
23 THE PASSENGER DOOR BELOW THE WINDOW OF THE
24 VEHICLE.

25 Q. AND YOU WERE NOT ABLE TO GET A PROFILE, IS THAT

1 CORRECT?

2 A. NO, I WASN'T.

3 Q. OKAY. AS A MATTER OF FACT, YOU COULDN'T EVEN
4 TELL IF IT WAS BLOOD OR NOT, CORRECT?

5 A. THAT'S CORRECT.

6 Q. OKAY.

7 MS. HINDS: NO FURTHER QUESTIONS.

8 THANK YOU.

9 THE COURT: REDIRECT?

10 SOLICITOR SORENSON: NOTHING, YOUR
11 HONOR.

12 THE COURT: THANK YOU, MA'AM, YOU
13 MAY STEP DOWN, YOU MAY BE EXCUSED. THANK YOU FOR
14 COMING.

15 WITNESS: THANK YOU.

16 THE COURT: YOU MAY CALL YOUR NEXT
17 WITNESS.

18 SOLICITOR JOHNSON: YOUR HONOR, THE
19 STATE CALLS LIEUTENANT JAMES SHUMPERT.

20 THE COURT: COME AROUND, SIR. WOULD
21 YOU PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR
22 RIGHT.

23 (Whereupon, James Shumpert
24 is duly sworn.)

25 THE COURT: THANK YOU, SIR, HAVE A

1 SEAT AND STATE YOUR FULL NAME, PLEASE.

2 WITNESS: MY NAME IS JAMES SHUMPERT.

3 (NOTE: Blank lines on this page do not indicate any
4 part of record has been omitted. Headers on testimony
5 pages and hard page breaks between testimony are now
6 required by the Court. See next ensuing page for
7 sequential continuation of record.)

DIRECT - JAMES SHUMPERT BY SOL. JOHNSON

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DIRECT EXAMINATION OF JAMES SHUMPERT

BY SOLICITOR JOHNSON:

Q. LIEUTENANT SHUMPERT, ARE YOU EMPLOYED AT THE
PRESENT TIME?

A. YES, I AM.

Q. WHERE ARE YOU EMPLOYED?

A. WITH THE ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. HOW LONG HAVE YOU BEEN EMPLOYED WITH THEM?

A. APPROXIMATELY TEN YEARS.

Q. ON SEPTEMBER THE TWENTY-NINTH OF TWO THOUSAND SIX,
WERE YOU EMPLOYED WITH THE ORANGEBURG COUNTY
SHERIFF'S DEPARTMENT?

A. YES, I WAS.

Q. IN WHAT CAPACITY WERE YOU EMPLOYED AT THAT TIME?

A. INVESTIGATOR.

Q. DID YOU HAVE THE OPPORTUNITY TO BE AN INVESTIGATOR
IN THE CASE THAT WE'RE HERE FOR TODAY CONCERNING
GEORGE MOSES?

A. YES, I WAS.

Q. IS IT FAIR TO SAY THAT YOU WERE ONE OF THE LEAD
INVESTIGATORS IN THE CASE?

A. I WAS ASSISTING THE LEAD INVESTIGATOR.

Q. WHAT TIME DID YOU FIRST BECOME AWARE OF THIS CASE?

A. I RECEIVED A CALL ABOUT FIVE:FORTY-FIVE IN THE
MORNING OF THAT MORNING, AND I GOT THERE AROUND

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1 SIX O'CLOCK IN THE MORNING, AT TWO TWENTY-TWO
2 AULTMAN STREET.

3 Q. AND IS IT [REDACTED], YOU SAID?

4 A. CORRECT.

5 Q. AULTMAN STREET. IS THAT LOCATED IN ORANGEBURG?

6 A. YES, IT IS.

7 Q. IN THE COUNTY OF, IN ORANGEBURG COUNTY?

8 A. YES, IT IS.

9 Q. NOW, WHAT DID YOU FIRST OBSERVE WHEN YOU ARRIVED?

10 A. ONCE I ARRIVED ON THE SCENE THERE WERE SOME PEOPLE
11 STANDING OUT IN THE YARD. I BELIEVE THERE WERE
12 SOME OFFICERS OUT THERE BUT I HAD LINKED UP WITH
13 INVESTIGATOR COLSOM, WHICH WAS MCCREY AT THE TIME.
14 WE WENT TO THE FRONT DOOR AND WE SAW THE DECEASED
15 LAYING ON THE FLOOR AND AT THAT TIME WE DECIDED TO
16 JUST BACK OUT OF THE RESIDENCE BECAUSE WE DIDN'T
17 WANT TO, IF THERE WAS ANY EVIDENCE TO BE COLLECTED
18 WE DIDN'T WANT TO DAMAGE IT OR ANYTHING, SO WE
19 JUST SHUT THE TRAILER OFF.

20 Q. OKAY. SO, YOU WEREN'T THE FIRST OFFICER ON THE
21 SCENE?

22 A. NO, I WAS NOT.

23 Q. BUT YOU WERE CALLED THERE AS THE INVESTIGATOR OF
24 THE CRIME ITSELF?

25 A. CORRECT.

DIRECT - JAMES SHUMPERT BY SOL. JOHNSON

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1 Q. NOW, WHAT DID YOU DO NEXT?

2 A. AFTER THAT WE WENT THROUGH OUR INITIAL PROTOCOL,
3 CALLED THE LIEUTENANT, THE SUPERVISOR THAT WAS ON
4 CALL, AND AT THAT POINT WE CALLED SLED TO COLLECT
5 EVIDENCE. AND THEN WHILE SLED WAS IN COLLECTING
6 EVIDENCE, ME, INVESTIGATOR MCCREY, AND MORE
7 INVESTIGATORS SHOWED UP ON THE SCENE, AND WE
8 STARTED TAKING STATEMENTS OF INDIVIDUALS WHO WAS
9 IN THE YARD.

10 Q. DID YOU HAPPEN TO TAKE A STATEMENT FROM LLOYD
11 BOWMAN?

12 A. YES, I DID.

13 Q. AND WHAT DID HE TELL YOU?

14 A. BASICALLY, MR. BOWMAN, MR. LLOYD SAID THAT HE - -
15 -

16 MR. MELLARD: OBJECTION, YOUR HONOR.

17 SOLICITOR JOHNSON: YOUR HONOR, I
18 APOLOGIZE.

19 Q. YOU CANNOT STATE WHAT HE SAID. BUT LET ME CHANGE
20 MY QUESTION.

21 A. UH HUH.

22 Q. AS A RESULT OF THAT, TALKING TO MR. BOWMAN, DID
23 YOU DEVELOP A SUSPECT -- WELL, FROM MR. BOWMAN,
24 WHAT INFORMATION DID YOU OBTAIN FROM MR. BOWMAN?

25 A. THE ONLY INFORMATION I OBTAINED FROM MR. BOWMAN,

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1 THAT HE WAS THE ORIGINATOR OF THE CALL, THAT HE
2 FOUND MR. LIVINGSTON AND THOUGHT HE WAS DECEASED.

3 Q. OKAY. AND WHAT DID YOU DO NEXT?

4 A. THROUGH OUR INVESTIGATION WE KEPT TALKING TO OTHER
5 WITNESSES THAT WAS OUT THERE, PEOPLE, AND FROM
6 THAT INFORMATION THAT WE GAINED, OBTAINED FROM
7 THIS WITNESSES WE DETERMINED THAT MR. MOSES WAS
8 THE LAST GUY TO BE WITH MR. LIVINGSTON.

9 Q. WHAT DID YOU THEN DO?

10 A. AT THAT POINT I CONFERRED WITH THE REST OF THE
11 INVESTIGATORS AND THEY FOUND OUT THAT MR. MOSES
12 WAS AT WORK AT SOUTH CAROLINA STATE UNIVERSITY.
13 TWO INVESTIGATORS WENT UP THERE, RETRIEVED HIM
14 FROM HIS JOB, AND BROUGHT HIM BACK TO FIFTEEN
15 TWENTY ELLIS AVENUE, THE COMPLEX.

16 Q. NOW, AT FIFTEEN TWENTY ELLIS AVENUE, DID YOU THEN
17 HAVE AN OPPORTUNITY TO TALK TO MR. MOSES?

18 A. YES, I DID.

19 Q. DID YOU READ HIM HIS RIGHTS?

20 A. I DID.

21 Q. HOW DID YOU GIVE HIM HIS RIGHTS, DID YOU GIVE IT
22 TO HIM VERBATIM OR DID YOU HAVE A WRITTEN RIGHTS
23 FORM OR SOMETHING THAT YOU DID?

24 A. WELL, WE'VE GOT A FORM THAT WE GO BY THAT WE READ
25 THE ADVISEMENT OF RIGHTS OFF THE FORM. AND AS WE

1 READ THEM WE GO OVER WITH THEM AND HAVE THEM
2 INITIAL BESIDE EACH ONE OF THEIR RIGHTS.

3 Q. I HAVE WHAT'S BEEN PREVIOUSLY MARKED STATE'S
4 EXHIBIT NUMBER ONE, DO YOU RECOGNIZE THAT?

5 A. YES, I DO.

6 Q. WHAT IS THAT?

7 A. THIS IS MR. MOSES' ADVISEMENT OF RIGHTS.

8 Q. IS THAT THE FORM THAT YOU ADVISED MR. MOSES HIS
9 RIGHTS?

10 A. YES, IT IS.

11 Q. WILL YOU PLEASE GO OVER THAT FORM, OR READ WHAT
12 THE FORM SAYS, PLEASE?

13 A. OKAY, BASICALLY, WHAT IT SAYS IS, IT SAYS, "THESE
14 ARE YOUR RIGHTS. PLEASE READ CAREFULLY." IT STARTS
15 OFF WITH, "BEFORE WE ASK YOU ANY QUESTIONS YOU
16 MUST UNDERSTAND YOUR RIGHTS. PLEASE INITIAL BESIDE
17 EACH." I WENT THROUGH NUMBER ONE AND SAID, "YOU
18 HAVE THE RIGHT TO REMAIN SILENT, ANYTHING YOU SAY
19 CAN BE USED AGAINST YOU IN COURT," WHICH HE
20 INITIAL G.M. I WENT DOWN TO NUMBER TWO, "YOU HAVE
21 THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE
22 ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING
23 QUESTIONING." HE INITIALED NUMBER TWO AS WELL.
24 DOWN ON NUMBER THREE IT SAYS, "IF YOU CAN'T AFFORD
25 A LAWYER ONE WILL BE APPOINTED FOR YOU BEFORE ANY

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1 QUESTIONS IF YOU WISH." HE INITIALED, G.M.
2 NUMBER FOUR IT SAYS, "IF YOU DECIDE TO ANSWER
3 QUESTIONS WITHOUT A LAWYER PRESENT YOU STILL HAVE
4 THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME."
5 NUMBER FOUR HE INITIAL G.M. AS WELL. AND THE
6 FIFTH AND FINAL ONE, IT SAYS, "YOU ALSO HAVE THE
7 RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL
8 YOU TALK TO A LAWYER." HE INITIALED G.M. RIGHT
9 HERE, AND THEN AT THE VERY BOTTOM IT SAYS, "I
10 UNDERSTAND MY RIGHTS." HE SIGNED HIS NAME, GEORGE
11 MOSES.

12 Q. NOW, ALSO ON THAT FORM, IS YOUR SIGNATURE ON IT
13 ANYWHERE?

14 A. YES, IT IS, RIGHT HERE, AS TO WITNESS.

15 Q. THERE IS ALSO A SECOND SIGNATURE ON IT BELOW IT,
16 DO YOU RECOGNIZE THAT SIGNATURE?

17 A. YES, SIR.

18 Q. AND WHOSE SIGNATURE IS THAT?

19 A. IT WAS AND INVESTIGATOR THAT, INVESTIGATOR
20 WILLIAMS.

21 Q. OKAY. NOW, THERE IS ALSO ANOTHER CAPTION OR
22 PARAGRAPH BELOW THAT?

23 A. YES.

24 Q. WHAT DOES THAT SAY?

25 A. THIS PART OF THE FORM THAT IF AN INDIVIDUAL WANTS

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1 TO TALK WITH US WE HAVE TO ADVISE THEM OF THEIR
2 RIGHTS AGAIN, A DIFFERENT SET OF RIGHTS, WHICH IT
3 STATES, "I HAVE READ THIS STATEMENT OF MY RIGHTS
4 AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING
5 TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT
6 WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW
7 WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN
8 MADE TO ME, AND NO PRESSURE OR COERCION OF ANY
9 KIND HAS BEEN USED AGAINST ME." WHICH HE SIGNED
10 AT THE BOTTOM OF THAT AS WELL, GEORGE MOSES.

11 Q. AND HE DID SIGN THAT AND YOU WITNESSED THAT?

12 A. HE DID.

13 SOLICITOR JOHNSON: YOUR HONOR, I'D
14 LIKE TO ENTER THIS AS STATE'S EXHIBIT NUMBER ONE.

15 MR. MELLARD: NO OBJECTION, YOUR
16 HONOR.

17 THE COURT: SUBJECT TO THE EARLIER
18 OBJECTIONS MADE?

19 MR. MELLARD: RIGHT.

20 THE COURT: IT'S ADMITTED.

21 (State's Exhibit One
22 marked and filed.)

23 Q. ABOUT WHAT TIME DID YOU ACTUALLY TAKE THE
24 STATEMENT, OR HAVE HIM TO SIGN THAT FORM?

25 A. THAT WAS ABOUT NINE:TWENTY A.M., IN THE MORNING

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1 WHERE I WROTE RIGHT HERE.

2 Q. AND WHAT WAS THE DATE OF THAT?

3 A. SEPTEMBER TWENTY-NINTH, TWO THOUSAND SIX.

4 Q. SO, THAT WAS THE MORNING OF THE CRIME?

5 A. THE MORNING, YES, IT WAS.

6 Q. NOW, DID HE THEN TALK TO YOU?

7 A. WELL, HE GAVE, HE TALKED WITH US, HE DIDN'T, HE
8 JUST VERBALLY TALK WITH US.

9 Q. HE DIDN'T GIVE YOU A WRITTEN STATEMENT?

10 A. NO, HE DID NOT.

11 Q. WHAT DID HE SAY?

12 A. BASICALLY, INITIALLY HE SAID THAT HE WASN'T AWARE
13 OF ANYTHING I WAS TALKING ABOUT, AND THEN HE
14 RESCINDED ON THAT AND HE CAME BACK AND SAID THAT
15 HE WENT TO THE TRAILER BUT HE WAS WITH, TOOK SOME
16 IMPORTANT PEOPLE TO THE TRAILER, BUT HE DIDN'T
17 WANT TO GET THEM INTO ANY TROUBLE. HE WENT THERE
18 TO PURCHASE NARCOTICS. HE LEFT, WENT HOME, AND
19 HIM AND HIS GIRLFRIEND GOT INTO AN ARGUMENT FOR
20 HIM BEING OUT SO LATE AT NIGHT.

21 Q. NOW, DID HE AT SOME TIME LATER CHANGE THAT
22 STATEMENT TO YOU?

23 A. YES, HE DID.

24 Q. WHAT DID HE SAY THEN? NOW, THE TIME PERIOD WAS IT

25 - - -

1 A. IT WAS A DAY LATER.

2 Q. IT WAS A DAY LATER?

3 A. YES, HE CHANGED HIS STATEMENT.

4 Q. WELL, I'M ASKING, DURING THAT PARTICULAR
5 INTERVIEW, WAS THAT THE ONLY STATEMENT THAT HE
6 GAVE DURING THAT TIME?

7 A. THAT'S A VERBAL STATEMENT, LIKE I SAID, AT FIRST.

8 Q. RIGHT.

9 A. INITIALLY HE STARTED OUT SAYING THAT HE DIDN'T
10 KNOW, HAVE ANY IDEA WHAT I WAS TALKING ABOUT, AND
11 THEN HE LATER CHANGED AND LIKE I JUST SAID, HE
12 WENT TO, TOOK SOME IMPORTANT PEOPLE THERE, AND
13 WHEN HE LEFT THERE MR. LIVINGSTON WAS FINE AND
14 WELL.

15 Q. OKAY. SO, WHAT DID YOU DO THEN?

16 A. WELL, AT THAT POINT I ASKED HIM WHAT WAS HE
17 WEARING THAT NIGHT, AND HE TOLD ME HE WAS WEARING
18 A T-SHIRT AND SOME SHORTS. SO, ME AND ANOTHER
19 INVESTIGATOR, WE ESCORTED MR. MOSES OUT TO HIS
20 RESIDENCE. HE GAVE US A T-SHIRT AND SHORTS THAT HE
21 ALLEGEDLY WAS WEARING THAT NIGHT, AND WE COLLECTED
22 IT AND BROUGHT IT BACK TO THE OFFICE.

23 Q. WHAT DID YOU DO THEN?

24 A. AFTER GETTING THE EVIDENCE -- LET ME REFER TO MY
25 NOTES ONE SECOND. WELL, MS. OWENS, WE WAS - - -

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1 Q. THAT WOULD BE PATRICIAN OWENS?

2 A. PATRICIA OWENS. WE WERE AT THE COMPLEX AND WE
3 SPOKE, ME AND LIEUTENANT - - -

4 Q. WHEN YOU SAY COMPLEX, WHAT COMPLEX ARE YOU
5 REFERRING TO?

6 A. FIFTEEN TWENTY ELLIS AVENUE, THE LAW ENFORCEMENT
7 COMPLEX, I'M SORRY.

8 Q. OKAY.

9 A. MS. OWENS WAS COMING DOWN SO WE COULD INTERVIEW
10 HER, BUT SHE COME WITH ANOTHER YOUNG LADY WITH HER
11 BY THE NAME OF MS. GAHNI, AND MS. GAHNI STATED,
12 SAID - - -

13 MR. MELLARD: OBJECTION.

14 Q. YOU CAN'T SAY WHAT SHE SAID.

15 A. OKAY. DURING THE INTERVIEW OF MS. PATRICIA OWENS
16 IN THE PRESENCE OF MS. GAHNI WE LEARNED THAT MR.
17 MOSES, THE VERBAL STATEMENT THAT HE GAVE ME WAS
18 INCORRECT, AND THAT, WE LEARNED THAT HIS VEHICLE
19 WAS ANOTHER PLACE WHERE HE SAID - - -

20 MR. MELLARD: OBJECTION, THAT'S
21 HEARSAY.

22 THE COURT: IT IS.

23 SOLICITOR JOHNSON: SHE'S ALREADY
24 TESTIFIED TO THAT, YOUR HONOR.

25 THE COURT: SHE TESTIFIED TO IT?

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1 SOLICITOR JOHNSON: YES.

2 THE COURT: THAT WOULDN'T CHANGE
3 THAT, BUT THERE WOULD BE NO HARM. I OVERRULE YOUR
4 OBJECTION.

5 Q. SO, AS A RESULT OF THAT DID YOU DEVELOP ANOTHER
6 LEAD IN THE CASE?

7 A. WE DID.

8 Q. AND WHERE, THAT PARTICULAR LEAD, WHERE DID IT LEAD
9 YOU TO?

10 A. AFTER INTERVIEWING THOSE TWO INDIVIDUALS WE WENT
11 TO MR. JEFFREY CONNER'S HOUSE, ME AND ANOTHER
12 INDIVIDUAL WENT AND PICKED UP MR. CONNER AND
13 BROUGHT HIM BACK TO THE LAW ENFORCEMENT COMPLEX.
14 WE INTERVIEW HIM THERE, AND WE TOOK A STATEMENT
15 FROM HIM AS WELL.

16 Q. OKAY. AND IN THAT STATEMENT WHAT EVIDENCE DID YOU
17 RECEIVE INTO EVIDENCE FROM MR. CONNER THAT LED YOU
18 FURTHER IN THE CASE, WHAT EVIDENCE DID YOU COLLECT
19 FROM THAT STATEMENT?

20 MR. MELLARD: OBJECTION, YOUR HONOR,
21 TO HEARSAY, IF HE'S TESTIFYING TO WHAT - - -

22 THE COURT: WELL, COME UP HERE.
23 WHAT DON'T YOU JUST ASK HIM WHAT HE DID NEXT? CAN'T YOU
24 ACCOMPLISH THE SAME THING? I MEAN, CAN YOU?

25 SOLICITOR JOHNSON: YES, I CAN, YOUR

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1 HONOR.

2 THE COURT: ALRIGHT, DO IT THAT WAY,
3 AND IT'S NOT OBJECTIONABLE.

4 Q. WHAT DID YOU DO NEXT?

5 A. AFTER INTERVIEWING MR. CONNER WE TOOK MR. CONNER
6 BACK TO HIS RESIDENCE. WE ASKED HIM COULD WE
7 SEARCH HIS RESIDENCE, AND WE HAVE A FORM, WHICH IS
8 A CONSENT TO SEARCH, YOU KNOW, TO GIVE US
9 PERMISSION TO LOOK THROUGH THE RESIDENCE. ME AND
10 THE OTHER INVESTIGATOR, WE WENT THROUGH THE HOUSE,
11 IT'S LIKE A SMALL DWELLING, WE WENT THROUGH AND WE
12 SEARCHED AND LOCATED, I LOCATED A PAIR OF PANTS
13 OUTSIDE, STUCK IN A BLOCK.

14 Q. OKAY. LET'S GET BACK TO THAT. WHERE DID YOU
15 LOCATE -- YOU SEARCHED THE HOUSE?

16 A. CORRECT.

17 Q. INSIDE THE HOUSE, DID YOU FIND ANYTHING WITHIN THE
18 HOUSE?

19 A. NO, I DID NOT.

20 Q. WHAT DID YOU DO THEN?

21 A. WELL, THE INFORMATION I HAD GOT FROM MR. CONNER, I
22 DECIDED TO SEARCH THE OUTSIDE OF THE HOUSE. SO, I
23 WENT OUTSIDE, WENT DOWN THE STEPS, AND I LOOKED
24 AROUND, YOU KNOW, THROUGH SOME TRASH, AND WHEN I
25 WAS COMING BACK I LOOKED AT THE STEPS, THEY'RE

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1 LIKE BLOCK STEPS, AND THEY HAD AN OPENING IN THEM.
2 AND I SAW SOMETHING STUCK IN THE BLOCK STEPS, AND
3 I PULLED THEM OUT AND IT WAS A PAIR OF JEANS.

4 Q. I HAVE WHAT'S BEEN PREVIOUSLY MARKED STATE'S
5 EXHIBIT - - -

6 SOLICITOR JOHNSON: YOUR HONOR, IS
7 IT POSSIBLE THAT HE COULD STEP DOWN?

8 THE COURT: YES, SIR.

9 Q. WELL, CAN YOU STEP DOWN? I HAVE WHAT'S BEEN
10 PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER THIRTEEN.
11 DO YOU RECOGNIZE THAT?

12 A. YES, THIS IS MR. CONNER'S HOUSE, WHAT USED TO BE
13 MR. CONNER'S HOUSE.

14 Q. AND THAT'S THE FRONT OF THE HOUSE?

15 A. THAT'S THE FRONT OF THE HOUSE.

16 Q. NOW, IS THAT THE LOCATION THAT YOU WENT TO?

17 A. YES, IT IS.

18 Q. I NOW HAVE WHAT'S BEEN PREVIOUSLY MARKED STATE'S
19 EXHIBIT NUMBER TWELVE. DO YOU RECOGNIZE THAT?

20 A. YES, THIS IS THE BLOCK THAT I FOUND THE PANTS, AND
21 I PULLED THE PANTS OUT OF THE OPENING OF THE HOLE
22 FROM RIGHT HERE.

23 Q. IS THAT, WHERE IS THAT LOCATED AT THE HOUSE?

24 A. IN THE BACK OF THE HOUSE, AT JEFFREY CONNER'S
25 HOUSE.

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1 Q. OKAY. NOW, THAT'S, WHAT'S LAYING ON TOP OF, WHAT
2 IS THAT LAYING ON TOP OF THE STEPS?

3 A. A PAIR OF BLUE JEANS.

4 Q. ARE THOSE THE JEANS THAT YOU FOUND, OR DO THEY
5 APPEAR TO BE THE JEANS THAT YOU FOUND?

6 A. THOSE APPEAR TO BE THE JEANS I FOUND.

7 Q. NOW, WHERE DID YOU FIND THEM?

8 A. STUFFED IN THE CINDER BLOCK RIGHT HERE.

9 Q. IN THAT HOLE IN THE CINDER BLOCK THERE?

10 A. YES.

11 SOLICITOR JOHNSON: YOUR HONOR,
12 COULD I PUBLISH THIS TO THE JURY?

13 THE COURT: YES, SIR.

14 Q. AND IT WAS FOUND IN THE HOLE IN THE CINDER BLOCK?

15 A. YES, IT WAS.

16 Q. WHAT DID YOU DO?

17 A. AT THAT TIME I SAW THE -- ONCE I PULLED THE JEANS
18 OUT I NOTICED THAT THEY HAD A REDDISH COLOR ON
19 THEM. SO, AT THAT TIME I CALLED FOR MY LIEUTENANT
20 AND THEN WE CALLED SLED TO COME COLLECT THE
21 EVIDENCE.

22 Q. ALRIGHT. NOW, I ALSO HAVE WHAT HAS BEEN
23 PREVIOUSLY MARKED AS STATE'S EXHIBIT NUMBERS
24 FOURTEEN AND FIFTEEN, WOULD YOU PLEASE TAKE A LOOK
25 AT THOSE?

1 A. THE SAME PANTS I PULLED OUT THE BLOCK.

2 Q. AND WOULD YOU PLEASE DESCRIBE TO THE JURY WHAT
3 THAT IS?

4 A. THESE ARE THE PANTS THAT I PULLED OUT OF THE
5 BLOCK. INSTEAD OF STUFFING THEM BACK IN THE BLOCK
6 I JUST LEFT THEM ON TOP OF THE BLOCK. BUT ONCE
7 SLED CAME AND COLLECTED THE EVIDENCE THEY TOOK THE
8 PICTURES AS I HAD LEFT THEM ON TOP OF THE STEPS.

9 Q. OKAY. NOW, LET'S CLARIFY, THEY ARE NOT PANTS,
10 WHAT ARE THEY?

11 A. BLUE JEANS.

12 Q. BLUE JEANS. ARE THEY SHORTS?

13 A. THEY'RE SHORTS.

14 Q. OKAY. SO, THEY WASN'T LONG PANTS?

15 A. NO, THEY WASN'T LONG PANTS.

16 Q. THEY WERE SHORTS?

17 A. THEY WERE SHORTS.

18 Q. OKAY. SO, WHEN YOU SAID, JEANS, DID YOU MEAN
19 SHORTS?

20 A. SHORTS, I MEAN, I CALL ALL JEANS JEANS.

21 SOLICITOR JOHNSON: YOUR HONOR, I'D
22 LIKE TO PUBLISH THIS TO THE JURY AS WELL.

23 THE COURT: ALRIGHT.

24 Q. YOU CAN SIT BACK DOWN. WHAT DID YOU DO NEXT?

25 A. AS I STATED, ONCE I FOUND THE JEANS I LEFT THEM ON

DIRECT - JAMES SHUMPERT BY SOL. JOHNSON

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1 TOP OF THE BLOCK, BUT I CALLED, LIKE, MY
2 LIEUTENANT AND THEN WE CALLED SLED BECAUSE THEY
3 WAS OUT PROCESSING SOMETHING ELSE I BELIEVE AT
4 THAT TIME. THEY CAME OVER, THEY PHOTOGRAPHED, AND
5 THEY COLLECTED THE EVIDENCE.

6 Q. OKAY. THEN WHAT DID YOU DO?

7 A. I WENT BACK TO THE OFFICE AND WE START WORKING ON
8 OUR CASE FILE, AND WE WENT HOME FOR THE REST OF
9 THE DAY.

10 Q. OKAY. NOW, THE FOLLOWING DAY DID YOU HAVE THE
11 OPPORTUNITY TO THEN INTERVIEW MR. GEORGE MOSES
12 AGAIN?

13 A. I DID.

14 Q. ABOUT WHAT TIME WAS THAT, DO YOU REMEMBER? LET ME
15 - - -

16 A. PROBABLY ABOUT ELEVEN:THIRTY, ELEVEN:FORTY ON THE
17 NEXT DAY, I BELIEVE.

18 Q. OKAY. AT THAT TIME DID YOU ALSO GIVE HIM HIS
19 RIGHTS AT THAT TIME?

20 A. I DID, I READ THEM AGAIN TO HIM.

21 Q. DID YOU READ THEM AGAIN, AND DID YOU ALSO GIVE HIM
22 A WRITTEN STATEMENT AS YOU DID BEFORE?

23 A. EXCUSE ME?

24 Q. DID YOU ALSO DO A WRITTEN, HAVE A WRITTEN FORM AS
25 YOU DID BEFORE?

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1 A. YES, I DID.

2 Q. I HAVE WHAT'S BEEN PREVIOUSLY MARKED AS STATE'S
3 EXHIBIT NUMBER TWO, DO YOU RECOGNIZE THAT?

4 A. YES, SIR.

5 Q. WHAT IS THAT?

6 A. THE SAME AS THE DAY BEFORE, HIS ADVISEMENT OF
7 RIGHTS, I GAVE THEM TO HIM THE VERY NEXT DAY.

8 Q. AND WHAT'S THE DATE THAT YOU GAVE THAT TO HIM?

9 A. SEPTEMBER THIRTIETH, ELEVEN:THIRTY IN THE MORNING.

10 Q. ELEVEN:THIRTY IN THE MORNING?

11 A. UH HUH.

12 Q. WILL YOU PLEASE READ THAT TO THE JURY?

13 A. BASICALLY WHAT IT SAYS, IT SAYS THE SAME AS I READ
14 BEFORE, IT SAYS, "YOU HAVE A RIGHT TO REMAIN
15 SILENT - - -

16 MR. MELLARD: I OBJECT, YOUR HONOR,
17 IT'S NOT BEEN INTO EVIDENCE.

18 THE COURT: WHAT, COME ON UP HERE.

19 (Whereupon, a bench conference
20 is held out of the hearing of
21 the jury and court reporter.)

22 THE COURT: I OVERRULE YOUR
23 OBJECTION.

24 Q. IS THAT THE FORM THAT YOU GAVE HIM?

25 A. YES, IT IS.

DIRECT - JAMES SHUMPERT BY SOL. JOHNSON

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1 Q. AND IS THAT THE FORM THAT HE SIGNED, IS HIS
2 SIGNATURE ON IT?

3 A. YES, IT IS, RIGHT HERE, AND ALSO RIGHT HERE.

4 SOLICITOR JOHNSON: YOUR HONOR, I
5 OFFER THIS IN EVIDENCE AS STATE'S EXHIBIT NUMBER TWO.

6 MR. MELLARD: AND WE'D RENEW OUR
7 PREVIOUS OBJECTION, YOUR HONOR.

8 THE COURT: SUBJECT TO YOUR SAME
9 OBJECTIONS WHICH WERE HEARD AND OVERRULED, I ALLOW
10 ADMISSION OF IT.

11 THE COURT: WAIT A MINUTE, MR. --
12 I'VE GOT TO MARK IT. STATE'S TWO.

13 (State's Exhibit Two
14 marked and filed.)

15 SOLICITOR JOHNSON: STATE'S TWO.

16 Q. NOW, WILL YOU PLEASE GO OVER THAT WITH THE JURY AS
17 WELL.

18 A. OKAY. ONCE AGAIN, IT STATES THE SAME, "YOU HAVE
19 THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN
20 BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT
21 TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU
22 ANY QUESTIONS AND HAVE HIM WITH YOU DURING
23 QUESTIONING. IF YOU CAN'T AFFORD A LAWYER ONE
24 WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING
25 IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS

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1 WITHOUT A LAWYER PRESENT YOU STILL WOULD HAVE THE
2 RIGHT TO STOP ANSWERING AT ANYTIME. YOU ALSO HAVE
3 THE RIGHT TO STOP ANSWERING AT ANYTIME UNTIL YOU
4 TALK TO A LAWYER." AND EACH ONE OF THESE, ONE
5 THROUGH FIVE, WHICH HE INITIALED ONE THROUGH FIVE,
6 AND THEN HE SIGNED RIGHT HERE STATING THAT HE
7 UNDERSTOOD HIS RIGHTS.

8 Q. DID HE ALSO, DID YOU ALSO GO OVER THE WAIVER PART?

9 A. I DID.

10 Q. WOULD YOU PLEASE READ THAT TO THE JURY AGAIN?

11 A. OKAY. ONCE AGAIN IT STATES THAT, "I HAVE READ THE
12 STATEMENT OF MY RIGHTS, I UNDERSTAND WHAT MY
13 RIGHTS ARE, AND I AM WILLING TO MAKE A STATEMENT
14 AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT
15 THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING.
16 NO PROMISE OR THREATS HAVE BEEN MADE TO ME, AND NO
17 PRESSURE OR COERCION OF ANY KIND HAS BEEN USED
18 AGAINST ME." WHICH HE SIGNED AGAIN AND I
19 WITNESSED IT AND ANOTHER INVESTIGATOR WITNESSED AS
20 WELL.

21 Q. AND THAT WAS DONE AT ELEVEN:THIRTY A.M. ON - - -

22 A. ELEVEN:THIRTY A.M. ON THE THIRTIETH.

23 Q. OKAY. AT THAT TIME DID HE THEN AGREE TO GIVE YOU
24 -- DID YOU TALK TO HIM AFTER THAT, AFTER READING
25 HIM HIS RIGHTS?

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1 A. YES, WE DID.

2 Q. DID HE THEN AGREE TO TALK TO YOU?

3 A. HE DID.

4 Q. AND DID HE THEN AGREE TO GIVE ANOTHER STATEMENT TO
5 YOU?

6 A. HE DID.

7 Q. NOW, AT THIS TIME WAS IT A WRITTEN STATEMENT THAT
8 WAS GIVEN TO YOU?

9 A. IT WAS A WRITTEN STATEMENT.

10 Q. I HAVE WHAT'S BEEN PREVIOUSLY MARKED AS STATE'S
11 EXHIBIT NUMBER THREE, WILL YOU TAKE A LOOK AT
12 THAT? DO YOU RECOGNIZE THAT?

13 A. YES, SIR.

14 Q. WHAT IS THAT?

15 A. THIS IS THE WRITTEN STATEMENT THAT HE GAVE US THE
16 SECOND TIME.

17 Q. NOW, DID, WERE YOU PRESENT AT THE TIME HE GAVE
18 THAT STATEMENT?

19 A. I WAS.

20 Q. AND DID YOU, DO YOU HAVE YOUR SIGNATURE ON THAT
21 STATEMENT ANYWHERE?

22 A. I DO.

23 Q. WHERE IS IT LOCATED?

24 A. IT'S ON THE THIRD PAGE, RIGHT HERE, WHERE IT SAYS,
25 WITNESS, UNDER HIS NAME, SIGNED RIGHT HERE.

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1 Q. NOW, DID HE WRITE THAT STATEMENT HIMSELF?

2 A. NO, HE DID NOT.

3 Q. WHO WROTE THAT STATEMENT?

4 A. INVESTIGATOR RODRIGUEZ.

5 Q. BUT YOU WERE PRESENT DURING THE WHOLE TIME OF HIS
6 STATEMENT?

7 A. I WAS.

8 SOLICITOR JOHNSON: ONE MOMENT, YOUR
9 HONOR.

10 Q. AT ANYTIME DURING THE GIVING OF THIS STATEMENT WAS
11 HE THREATENED, COERCED OR PLOTTED OR PROMISED
12 ANYTHING IN ORDER TO GET THIS STATEMENT OUT OF
13 HIM?

14 A. NO, HE WASN'T.

15 Q. DID HE GIVE THIS FREELY AND VOLUNTARILY?

16 A. HE DID.

17 SOLICITOR JOHNSON: I HAVE NO OTHER
18 QUESTIONS.

19 THE COURT: CROSS-EXAM.

20 MR. MELLARD: NO QUESTIONS, YOUR
21 HONOR.

22 THE COURT: THANK YOU, SIR, YOU MAY
23 STEP DOWN.

24 WITNESS: THANK YOU, SIR.

25 THE COURT: NEXT WITNESS.

1 SOLICITOR SORENSON: THE STATE CALLS
2 DEPUTY ROMAN RODRIGUEZ.

3 THE COURT: COME AROUND, SIR. PLACE
4 YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT.
5 (Whereupon, Roman E. Rodriguez
6 is duly sworn.)

7 THE COURT; THANK YOU, SIR, HAVE A
8 SEAT RIGHT THERE AND STATE YOUR FULL NAME, PLEASE.

9 WITNESS: DEPUTY ROMAN E. RODRIGUEZ.
10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

DIRECT - ROMAN E. RODRIGUEZ BY SOL. SORENSON

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DIRECT EXAMINATION OF ROMAN E. RODRIGUEZ

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, DEPUTY RODRIGUEZ.

A. GOOD AFTERNOON, SIR.

Q. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED.

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND WHAT ARE YOU CURRENTLY DOING WITH THE
SHERIFF'S OFFICE?

A. RIGHT NOW I'M ON FIELD SERVICES.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. SINCE NINETEEN NINETY-SEVEN.

Q. OKAY. AND BACK IN SEPTEMBER OF TWO THOUSAND AND
SIX IN WHAT CAPACITY WERE YOU EMPLOYED AT THAT
TIME?

A. I WAS IN MAJOR CRIMES AND INVESTIGATIONS.

Q. OKAY. AND WERE YOU ONE OF THE INVESTIGATORS THAT
WERE ASSIGNED THE MORNING OF SEPTEMBER TWENTY-
NINTH, TWO THOUSAND SIX, WITH REGARDS TO THE
HOMICIDE OF HARRY LIVINGSTON?

A. YES, I WAS.

Q. OKAY. AND SPECIFICALLY, I WANT TO TURN YOUR
ATTENTION TO THE FOLLOWING MORNING, DEPUTY
RODRIGUEZ, WERE YOU INVOLVED IN THE TAKING OF A
STATEMENT FROM MR. MOSES, THE DEFENDANT IN THIS

DIRECT - ROMAN E. RODRIGUEZ BY SOL. SORENSON

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1 CASE, GEORGE MOSES, ON THE MORNING OF SEPTEMBER
2 THIRTIETH, TWO THOUSAND SIX?

3 A. YES, I WAS.

4 Q. AND THE JURY'S ALREADY HAD THIS KIND OF GONE OVER
5 WITH THEM, BUT LET ME SHOW YOU STATE'S EXHIBIT
6 NUMBER TWO, DO YOU RECOGNIZE THAT ADVICE OF RIGHTS
7 FORM?

8 A. YES, I DO.

9 Q. ALRIGHT. AND THAT'S JUST A STANDARD FORM THAT'S
10 USED AT THE SHERIFF'S OFFICE?

11 A. THAT'S CORRECT.

12 Q. AND WERE YOU PRESENT THAT MORNING WHEN THE
13 DEFENDANT, GEORGE MOSES, WAS READ HIS MIRANDA
14 WARNINGS THAT MORNING OF SEPTEMBER THIRTIETH?

15 A. YES, I WAS.

16 Q. AND, IN FACT, IS YOUR SIGNATURE NOTED DOWN AT THE
17 BOTTOM AS ONE OF THE WITNESSES?

18 A. THAT'S CORRECT.

19 Q. ALONG WITH WHOSE?

20 A. INVESTIGATOR SHUMPERT'S.

21 Q. AND WERE YOU PRESENT WHILE ALL THESE RIGHTS WERE
22 GONE OVER WITH MR. MOSES THAT MORNING?

23 A. YES, I WAS.

24 Q. OKAY. AND DID EITHER YOU OR INVESTIGATOR SHUMPERT
25 IN YOUR PRESENCE, EITHER ONE OF YOU THREATENED MR.

DIRECT - ROMAN E. RODRIGUEZ BY SOL. SORENSON

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1 MOSES TO GET HIM TO TALK TO YOU?

2 A. NO, WE DID NOT.

3 Q. PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?

4 A. NO PROMISES.

5 Q. COERCE HIM IN ANY WAY?

6 A. NO, WE DIDN'T.

7 Q. DID HE APPEAR TO UNDERSTAND THOSE RIGHTS THAT WERE
8 GONE OVER WITH HIM THAT MORNING BY LIEUTENANT
9 SHUMPERT?

10 A. YES, HE DID.

11 Q. IN FACT, HIS SIGNATURE IS NOTED ON HERE AS HAVING
12 UNDERSTOOD THEM, IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. ALRIGHT. AND WERE YOU PRESENT WHEN THAT WAIVER OF
15 RIGHTS SECTION WAS GONE OVER WITH HIM?

16 A. YES, I WAS.

17 Q. AND DID HE APPEAR TO, IN YOUR ESTIMATION TO
18 UNDERSTAND WHAT HE WAS WAIVING, AND WAS HE WILLING
19 TO TALK TO Y'ALL?

20 A. YES, THAT'S CORRECT.

21 Q. OKAY. NOW, WERE YOU PRESENT WHEN MR. MOSES THAT
22 MORNING THEN -- AND WHAT TIME IS NOTED ON THIS
23 ADVICE OF RIGHTS FORM?

24 A. ELEVEN:THIRTY A.M.

25 Q. AND THAT'S SEPTEMBER THIRTIETH?

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1 A. SEPTEMBER THIRTIETH.

2 Q. WERE YOU PRESENT THEN WHEN MR. MOSES GAVE A
3 STATEMENT TO Y'ALL THAT MORNING?

4 A. YES, I WAS.

5 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
6 THREE, DO YOU RECOGNIZE THAT ITEM?

7 A. YES, I DO.

8 Q. OKAY. AND IS THAT A STATEMENT THAT WAS TAKEN FROM
9 MR. MOSES THAT MORNING OF SEPTEMBER THIRTIETH, TWO
10 THOUSAND AND SIX?

11 A. YES, IT WAS, IT IS.

12 Q. AND WHAT TIME WAS THAT STATEMENT TAKEN FROM HIM?

13 A. THE STATEMENT WAS ACTUALLY TAKEN AFTER I CAME IN
14 AT ELEVEN:FORTY-THREE A.M., THE SAME DAY.

15 Q. OKAY. SO, ABOUT THIRTEEN MINUTES AFTER Y'ALL
16 STARTED GOING OVER HIS RIGHTS WITH HIM Y'ALL THEN
17 BEGAN TAKING A WRITTEN STATEMENT FROM HIM?

18 A. THAT'S CORRECT.

19 Q. OKAY. AND TELL THE JURY, HOW DID Y'ALL GO ABOUT
20 TAKING A STATEMENT FROM HIM THAT MORNING?

21 A. WELL, AFTER WE ADVISED HIM OF HIS RIGHTS, WE WENT
22 OVER THAT WITH HIM, MADE SURE HE UNDERSTOOD THAT,
23 WE GOT HIM TO INITIAL IT TO STATE THAT HE
24 UNDERSTOOD IT. THEN AFTER HE GOT FINISHED DOING
25 THAT PART, THE SECOND PART, I SPOKE TO HIM ABOUT

1 WHAT HE WANTED TO TALK ABOUT, THIS INCIDENT THAT
2 OCCURRED AT [REDACTED] AULTMAN STREET. AFTER
3 HE TOLD ME ABOUT IT THEN I BEGAN, OFFERED HIM TO
4 GIVE A STATEMENT, HE WANTED ME TO WRITE THE
5 STATEMENT FOR HIM.

6 Q. OKAY. WERE YOU AWARE THAT HE HAD BEEN SPOKEN TO
7 THE DAY BEFORE BY LIEUTENANT SHUMPERT?

8 A. NOT AT THAT TIME, NO, I WASN'T.

9 Q. OKAY. SO, YOU HAD NO IDEA WHAT HE HAD, MAY OR MAY
10 NOT HAVE SAID UP TO THAT POINT IN TIME, PRIOR TO
11 THAT MORNING?

12 A. THAT'S CORRECT.

13 Q. OKAY. NOW, THAT STATEMENT, I BELIEVE IT'S A THREE
14 PAGE STATEMENT, IS THAT CORRECT?

15 A. THAT'S CORRECT.

16 Q. NOW, WHOSE HANDWRITING IS THAT STATEMENT IN?

17 A. THE HANDWRITING IS IN MY HANDWRITING.

18 Q. OKAY. AND WHY IS THAT THE HANDWRITING, IF IT'S
19 MR. MOSES'S STATEMENT, WHY IS IT IN YOUR
20 HANDWRITING?

21 A. WELL, I OFFERED MR. MOSES TO GO AHEAD AND WRITE
22 THE STATEMENT AFTER WE TALKED WITH HIM, BUT HE
23 TOLD ME HE'D RATHER ME, HE WANTED ME TO WRITE THE
24 STATEMENT FOR HIM.

25 Q. OKAY. AND DO YOU TYPICALLY WHEN TAKING A

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1 STATEMENT FROM EITHER A SUSPECT OR A WITNESS, EVEN
2 GIVE THEM THAT OPTION?

3 A. YES, I DO.

4 Q. OKAY. AND THEN, DID YOU, IN FACT, THEN TAKE A
5 STATEMENT FROM HIM THAT MORNING?

6 A. I DID.

7 Q. OKAY. AND IS THAT WHAT'S CONTAINED IN STATE'S
8 EXHIBIT NUMBER THREE?

9 A. YES, IT IS.

10 SOLICITOR SORENSON: YOUR HONOR, AT
11 THIS TIME WE'D OFFER STATE'S EXHIBIT NUMBER THREE INTO
12 EVIDENCE.

13 MR. MELLARD: SUBJECT TO MY PREVIOUS
14 OBJECTIONS, YOUR HONOR.

15 THE COURT: SUBJECT TO THE PRIOR
16 OBJECTIONS WHICH WERE OVERRULED, THE STATEMENT IS
17 ADMITTED.

18 SOLICITOR SORENSON: THANK YOU, YOUR
19 HONOR.

20 COURT REPORTER: HAND IT TO ME.
21 STATE'S THREE.

22 (State's Exhibit Three
23 marked and filed.)

24 Q. ALRIGHT, NOW, DID YOU ASCERTAIN THAT MORNING FROM
25 MR. MOSES WHETHER HE COULD READ AND WRITE?

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1 A. YES, I DID.

2 Q. OKAY. AND DID HE INDICATE THAT HE COULD?

3 A. YES, HE INDICATED HE THAT HE COULD.

4 Q. NOW, THAT MORNING, SO WHEN YOU TOOK A STATEMENT
5 FROM HIM, YOU INDICATED THAT HE INITIALLY KIND OF
6 TOLD YOU WHAT HAD HAPPENED?

7 A. THAT'S CORRECT.

8 Q. AND THEN YOU BEGAN WRITING THAT OUT AS HE WAS
9 TELLING YOU?

10 A. RIGHT. AT FIRST WE SPOKE ABOUT IT AFTER WE WENT
11 OVER THE RIGHTS ADVISEMENT, AND THEN AFTER WE
12 SPOKE ABOUT IT THEN WE WENT OVER IT AGAIN AND I
13 STARTED TAKING NOTES.

14 Q. OKAY. SO, HE PRETTY MUCH TOLD YOU INITIALLY WHAT
15 WAS IN THAT STATEMENT?

16 A. THAT'S CORRECT.

17 Q. AND THEN WENT BACK AND YOU KIND OF THEN WROTE IT
18 DOWN AS HE WAS TELLING YOU?

19 A. RIGHT, AGAIN.

20 Q. ALRIGHT. NOW, AT THE VERY BEGINNING OF THAT, THE
21 TOP PORTION HAS, I GUESS, SOME OF HIS, HIS
22 ADDRESS, AND VITAL INFORMATION, PHONE NUMBER, DATE
23 OF BIRTH, AND STUFF OF THAT NATURE, IS THAT
24 CORRECT?

25 A. THAT'S CORRECT.

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1 Q. OKAY. AND THEN, THE NEXT PART, WHAT IS THE NEXT
2 PORTION OF THAT STATEMENT AFTER THAT?

3 A. WELL, THE NEXT PORTION OF THAT IS, DO YOU WANT ME
4 TO READ IT?

5 Q. YES, SIR, YES, SIR.

6 A. IT SAYS, "I UNDERSTAND" THIS IS WHAT I GAVE TO
7 HIM. "I UNDERSTAND MY RIGHTS AND HAVE INITIALED
8 EACH. I HAVE BEEN ADVISED OF MY RIGHTS BY" MYSELF,
9 "ROMAN RODRIGUEZ OF THE ORANGEBURG COUNTY
10 SHERIFF'S OFFICE AND WISH TO MAKE THE FOLLOWING
11 STATEMENT."

12 Q. OKAY. AND THEN THE FIRST INITIAL PART OF IT, IF
13 YOU COULD JUST READ THE FIRST FOUR LINES, WHAT'S
14 THE FIRST FOUR LINES THAT YOU WROTE ON THAT
15 STATEMENT, DEPUTY?

16 A. OKAY. SINCE HE WANTED ME TO GO AHEAD AND WRITE
17 THE STATEMENT FOR HIM, ANYTIME I DO THAT I'LL GO
18 AHEAD AND WRITE OUT, OR ESPECIALLY THIS CASE HERE,
19 I HAVE, "I, GEORGE NAPOLEON MOSES, IS ALLOWING
20 ROMAN RODRIGUEZ OF THE ORANGEBURG COUNTY SHERIFF'S
21 OFFICE TO WRITE THIS STATEMENT FOR ME. THE
22 HANDWRITING IS NOT MINE BUT THE WORDS ARE." AND
23 AFTER WE DID THAT, I WOULD GET HIM TO AHEAD AND
24 INITIAL IT THAT HE'S AWARE AFTER HE READ IT AND HE
25 KNOWS WHAT'S THERE.

1 Q. OKAY. AND DID HE, IN FACT, INITIALLY IT?

2 A. YES, HE DID.

3 Q. OR WHAT ARE THE INITIALS THAT ARE IN PARENTHESIS
4 AFTER THOSE FOUR LINES?

5 A. THAT'S CORRECT, HIS INITIALS, HE PUT HIS INITIALS.

6 Q. SO, IT'S G.M.?

7 A. G.M.

8 Q. OKAY. AND AFTER THAT, IS THAT WHERE THE ACTUAL
9 STATEMENT PART, THEN, WHAT HE TOLD YOU THAT
10 MORNING THEN BEGINS?

11 A. THAT'S CORRECT.

12 Q. IF I COULD GET YOU NOW, AND I KNOW THIS MAY TAKE A
13 LITTLE WHILE BUT AT LEAST IT'S IN YOUR HANDWRITING
14 SO YOU CAN READ IT. IF YOU COULD, PUBLISH THAT TO
15 THE JURY, PLEASE, THE STATEMENT THAT MR. MOSES
16 GAVE YOU THAT MORNING.

17 A. OKAY. IT SAID, "ON FRIDAY MORNING, AT AROUND
18 TWO:THIRTY A.M., I DROVE TO HARRY LIVINGSTON'S
19 RESIDENCE TO GET SOME, TO GET COCAINE FROM HIM. I
20 WENT THERE TO SEE HARRY'S HOUSE MATE, GEORGE, BUT
21 WHEN I GOT TO THE HOUSE YVETTE AND HARRY TOLD ME
22 THAT HE WAS NOT HOME BUT HE WOULD BE BACK IN A
23 LITTLE WHILE. SO, I WAITED IN THE HOUSE WITH
24 THEM." HE WAITED IN THE HOUSE WITH THEM. "AT
25 AROUND TWO:THIRTY A.M. PATRICIA OWENS AND JOHN

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1 GLYMPH CAME TO THE HOUSE AND PICKED YVETTE UP.
2 SHE LEFT WITH THEM AT AROUND TWO:THIRTY A.M. WHILE
3 ME AND HARRY LIVINGSTON WAS IN THE HOUSE. I TOLD
4 HIM THAT I NEED TO GET SOME COCAINE. HARRY THEN
5 TOLD ME THAT HE ONLY HAS THREE BAGS OF COCAINE, SO
6 I TOLD HIM TO LET ME HAVE THE THREE BAGS OF
7 COCAINE AND I WAS GOING TO GIVE HIM SOME CRACK
8 COCAINE. SO, WHEN HE DID NOT AGREE WITH ME TO
9 TRADE FOR THE COCAINE I TOLD HIM TO LET ME HAVE
10 THE THREE BAGS OF COCAINE AND I WILL BRING HIM
11 BACK FIFTY DOLLARS. I ALSO TOLD HIM THAT I WOULD
12 GIVE HIM A DIME, WHICH IS TEN DOLLARS WORTH OF
13 CRACK COCAINE. SO, I TOLD ME THAT I WOULD" I
14 TOLD HIM, BUT I MADE A MISTAKE AND PUT ME THERE.
15 "SO I TOLD HIM THAT I WOULD BE RIGHT BACK. SO, I
16 WAS WALKING TOWARDS THE FRONT DOOR. HE CALLED HIS
17 DOG ON ME AND TOLD ME NOT TO LEAVE WITH THE DRUGS.
18 SO, I TOLD HIM NOT TO ALLOW HIS DOG TO ATTACK ME.
19 SO, WHILE I WAS STANDING IN THE KITCHEN I GRABBED
20 THE KNIFE AND TOLD HIM TO GET HIS DOG AWAY FROM
21 ME. SO, WHILE HIS DOG WAS BARKING AT ME HARRY HAD
22 A LITTLE - - -

23 MR. MELLARD: OBJECTION, YOUR HONOR,
24 COULD HE READ WHAT'S WRITTEN THE WAY IT'S WRITTEN,
25 PLEASE.

1 THE COURT: YES, SIR.

2 A. OKAY. I'M SORRY. "HARRY HAD A STICK IN HIS HAND
3 THREATENING TO HIT ME WITH IT, SO I THEN GRABBED
4 THE STICK AND STABBED HARRY ON THE SIDE OF HIS
5 BODY NEAR HIS STOMACH. THEN WE STARTED FIGHTING.
6 SO THE DOG THEN ATTACKED ME AND THE DOG WAS
7 PULLING ON THE STICK THAT ME AND HARRY WERE
8 HOLDING. WE THEN FELL OVER THE KITCHEN TABLE. SO
9 WHILE WE WERE STILL FIGHTING WITH EACH OTHER I
10 THINK THAT I STABBED HIM AGAIN. ALSO, WHILE WE
11 WERE FIGHTING HIS DOG WAS BITING MY SHOES AND
12 LEGS. WE THEN FELL OVER THE KITCHEN TABLE AND - -

13 -

14 MR. MELLARD: COULD HE READ IT
15 ACCURATELY?

16 THE COURT: READ IT VERBATIM.

17 A. OKAY. WE THEN FELL OVER THE TABLE, AND ENDED UP
18 ON THE KITCHEN FLOOR. WHILE WE WERE ON THE FLOOR
19 WE KEPT TELLING HIS DOG TO STOP ATTACKING ME. SO,
20 I KEPT PUNCHING HIM IN THE FACE AND TELLING HIM TO
21 TELL HIS DOG TO STOP ATTACKING ME. THEN HARRY
22 PASSED OUT. SO, I GOT UP. I THEN SAW A PLASTIC
23 BAG THAT HARRY HAD DROPPED. IT HAD FIFTY DOLLARS
24 IN IT. SO I PICKED IT UP AND RAN OUT OF THE HOUSE.
25 WHEN I LEFT THE HOUSE I SAW BLOOD ON MY CLOTHES SO

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1 I DROVE TO JEFFREY CONNER'S HOME. WHILE THERE I
2 GOT A PAIR OF PANTS FROM HIM SO I COULD WEAR IT.
3 MYSELF AND JEFFREY THEN GOT HIGH TOGETHER. THE
4 SHORT PANTS THAT I WAS WEARING I HID IT BETWEEN
5 THE BLOCK STEPS AND THEN DROVE HOME. SO, WHEN I
6 GOT HOME I NOTICED SOME BLOOD SPOTS ON MY SHIRT SO
7 I TOOK IT OFF AND BURNED IT IN A TRASH BARREL THAT
8 WAS IN MY YARD. SO, I THEN WENT INTO THE HOUSE
9 AND WATCHED TELEVISION. I THEN HELPED MY KIDS GET
10 READY FOR SCHOOL. I THEN WENT TO WORK AT SOUTH
11 CAROLINA STATE COLLEGE. I HOPED THAT HE WAS STILL
12 LIVING, I DIDN'T WANT TO KILL HIM. LATER ON THAT
13 DAY, AFTER THE SHERIFF'S OFFICE PICKED ME UP FROM
14 WORK I LEARNED THAT I HAD KILLED HARRY LIVINGSTON.
15 THE KNIFE THAT I USED I LEFT IT ON THE KITCHEN
16 FLOOR IN HARRY'S HOUSE. THE STICK THAT HARRY HAD
17 WAS A BROWN IN COLOR STICK."

18 Q. AND AFTER YOU FINISHED, HE FINISHED TELLING YOU,
19 AND YET AGAIN, THOSE WORDS THAT ARE ON THAT
20 STATEMENT ARE WHOSE WORDS?

21 A. THOSE ARE HARRY'S, I MEAN, I'M SORRY, THE
22 DEFENDANT, MOSES' WORDS.

23 Q. OKAY. SO, AFTER YOU FINISHED WRITING WHAT HE WAS
24 TELLING YOU DID YOU GIVE HIM AN OPPORTUNITY TO
25 READ OVER THAT STATEMENT?

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1 A. YES, I DID. I LET HIM READ OVER THE STATEMENT AND
2 MAKE SURE IT WAS ACCURATE THE WAY HE TOLD ME.

3 Q. OKAY. AND ANYTHING THAT HE WANTED TO ADD TO IT AT
4 THAT POINT IN TIME?

5 A. NO, HE DIDN'T.

6 Q. OKAY. AND WHAT DID YOU THEN DO AT KIND OF THE END
7 OF THE STATEMENT, ARE THERE SOME BLANK LINES THAT
8 ARE LEFT OVER?

9 A. SINCE THERE WAS NOTHING ELSE HE WANTED TO ADD I
10 JUST WENT ON AND DREW A LINE WHERE THE BLANK
11 SPACES WERE, I DREW A LINE AND TOLD HIM TO INITIAL
12 IT, SHOWING THAT THAT'S ALL THAT HE WROTE, OR
13 THAT'S ALL THAT HE GAVE ME.

14 Q. OKAY. AND HE DID THAT, SO YET AGAIN, ARE HIS
15 INITIALS G.M. ABOVE AND BELOW THAT LINE?

16 A. THAT'S CORRECT.

17 Q. OKAY. AND WHERE IS IT, IS THERE A TYPED PORTION
18 THAT KIND OF FOLLOWS THAT?

19 A. YES. RIGHT UNDER THAT LINE HERE IT SAYS THAT, "I
20 HAVE READ THE ABOVE THOROUGHLY, I HAVE MADE THE
21 NECESSARY CORRECTIONS AND INITIALED EACH TO MAKE
22 THIS A FACTUAL AND COMPLETE REPRESENTATION."

23 Q. AND AFTER THAT PORTION, WHO SIGNED THAT AFTER
24 THAT?

25 A. HE SIGNED, IT'S THE SIGNATURE OF THE DEFENDANT,

DIRECT - ROMAN E. RODRIGUEZ BY SOL. SORENSON

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1 MR. MOSES' SIGNATURE.

2 Q. HE MEANING MR. MOSES? AND WAS THAT WITNESSED BY
3 SOMEBODY?

4 A. MYSELF AND INVESTIGATOR SHUMPERT.

5 Q. NOW, AT ANY POINT IN TIME, DEPUTY RODRIGUEZ, WHILE
6 YOU WERE TAKING THIS STATEMENT FROM HIM THAT
7 MORNING, WERE EITHER YOU OR LIEUTENANT SHUMPERT,
8 DID YOU THREATEN MR. MOSES?

9 A. NO, NO, WE DID NOT.

10 Q. DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO
11 YOU?

12 A. NO PROMISES.

13 Q. DID YOU IN ANY WAY COERCE HIM TO GET HIM TO TALK
14 TO YOU?

15 A. NO, WE DID NOT.

16 Q. DID HE APPEAR TO BE FREELY AND VOLUNTARILY TALKING
17 TO YOU?

18 A. THAT'S CORRECT, HE WAS.

19 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF
20 ANYTHING WHEN YOU WERE TALKING TO HIM THAT
21 MORNING?

22 A. NO, HE WASN'T.

23 SOLICITOR SORENSON: I BEG THE
24 COURT'S INDULGENCE.

25 Q. DID YOU NOTICE WHEN YOU TALKED TO HIM THAT MORNING

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1 ANY INJURIES THAT YOU NOTICED TO MR. MOSES?

2 A. NO, I DIDN'T.

3 Q. ANY CUTS ON HIS HANDS OR ANY INJURIES TO HIS FACE
4 OR ANYTHING CONSISTENT WITH A DOG ATTACKING HIM?

5 A. NO, I DIDN'T SEE ANYTHING.

6 SOLICITOR SORENSON: THANK YOU,
7 DEPUTY.

8 THE COURT: CROSS-EXAM.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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CROSS-EXAMINATION OF ROMAN E. RODRIGUEZ

BY MR. MELLARD:

Q. IT'S YOUR TESTIMONY THAT THE STATEMENT THAT YOU
JUST READ IS HIS OWN WORDS, - - -

A. THAT'S CORRECT.

Q. --- VERBATIM?

A. THAT'S CORRECT.

Q. AND YOU DIDN'T ADD ANYTHING, YOU DIDN'T CHANGE ANY
WORDS?

A. I DID NOT CHANGE ANYTHING.

Q. OKAY. SO, WHEN HE SAYS IN THE LAST SENTENCE, THE
STICK THAT HARRY HAD WAS A BROWN IN COLOR STICK,
HE TOLD YOU, HEY, HE HAD A STICK, HARRY HAD A
BROWN IN COLOR STICK, THAT'S THE EXACT PHRASE THAT
HE USED?

A. HE SAID THAT THE STICK THAT HARRY HAD WAS A BROWN
IN COLOR STICK.

Q. AND THOSE ARE HIS EXACT WORDS?

A. THOSE ARE HIS EXACT WORDS.

Q. BROWN IN COLOR?

A. BROWN IN COLOR.

Q. ALRIGHT. NOW, WHEN YOU GIVE A, WHEN YOU, WHAT IF
SOMEBODY GIVES A STATEMENT, YOU KIND OF DO WHAT
THEY DO ON T.V., YOU GIVE THEM THEIR RIGHTS,
RIGHT, YOU GIVE THEM THEIR MIRANDA RIGHTS?

1 A. THAT'S CORRECT.

2 Q. OKAY. AND YOU DO THAT BECAUSE YOU WANT A PERSON
3 TO GIVE A STATEMENT FREELY AND VOLUNTARILY?

4 A. I WANT TO MAKE SURE THAT, WE HAVE TO MAKE SURE
5 THAT HE UNDERSTANDS HIS RIGHTS, SO WE HAVE TO MAKE
6 SURE THAT WE GIVE THAT TO HIM FIRST AND GO OVER
7 THAT WITH HIM.

8 Q. RIGHT. AND YOU WOULD NEVER THINK ABOUT FORCING
9 ANYBODY TO GIVE A STATEMENT?

10 A. NO, I WOULD NOT FORCE ANYONE TO GIVE A STATEMENT.

11 Q. YOU WOULDN'T EVER THINK ABOUT TRICKING ANYBODY
12 INTO GIVING A STATEMENT?

13 A. NO, I DIDN'T TRICK ANYBODY.

14 Q. YOU WOULDN'T EVER LIE TO SOMEONE TO GET THEM TO
15 GIVE A STATEMENT?

16 A. NO, I WOULD NEVER DO THAT.

17 Q. YOU WOULD NEVER TELL ANYBODY THAT LAW ENFORCEMENT
18 WOULD GO EASY ON HIM IF HE GAVE A STATEMENT?

19 A. NO, NO PROMISES, NO, I DIDN'T TELL THEM ANYTHING.

20 Q. ALRIGHT, NEVER FALSIFY A STATEMENT OF A PERSON?

21 A. NEVER FALSIFIED A STATEMENT, NO.

22 Q. IT WOULD BE IN YOUR, WHATEVER HE SAID YOU WOULD
23 WRITE IT DOWN VERBATIM?

24 A. THAT'S CORRECT.

25 Q. ALRIGHT. AND BECAUSE YOU WANT THAT STATEMENT TO

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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1 BE IN THAT PERSON'S OWN WORDS?

2 A. I WANT IT TO BE EXACTLY THE WAY HE TOLD IT.

3 Q. YOU WANT IT TO BE ACCURATE?

4 A. I WANT IT TO BE ACCURATE.

5 Q. OKAY. AND YOU SEE THAT REPORTER THERE, SHE'S
6 TAKING DOWN WHAT WE SAY, CORRECT?

7 A. CORRECT.

8 Q. AND WHEN YOU TAKE DOWN WHAT'S SAID ON THE JOB YOU
9 DO THAT, TOO, YOU SAID YOU TOOK DOWN HIS
10 STATEMENT?

11 A. THAT'S CORRECT.

12 Q. ALRIGHT. AND YOU DID THAT BECAUSE YOU WANTED IT
13 TO BE ACCURATE?

14 A. THAT'S CORRECT.

15 Q. OKAY. AND YOU SEE ALL THESE MICROPHONES AROUND
16 HERE, THE COURT REPORTER HAS A TAPE RECORDER, TOO.

17 A. YES.

18 Q. ALRIGHT. AND THE TAPE RECORDER WOULD BE ACCURATE
19 ALSO, WOULDN'T IT?

20 A. THAT'S CORRECT.

21 Q. SO, SHE'S TAKING NOTES, SHE'S ALSO TAPING THIS
22 THING. NOW, WOULDN'T IT BE IMPORTANT WHEN
23 SOMEBODY'S GIVING A CONFESSION TO A CRIME THAT YOU
24 WOULD WANT TO TAPE RECORD THIS CONVERSATION? I
25 MEAN, THAT YOU WAY YOU COULD JUST COME IN HERE,

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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1 PLAY THE TAPE, AND THEY COULD HEAR WHAT THAT
2 PERSON WAS SAYING.

3 A. WE DIDN'T USE A TAPE RECORDER, WE JUST GOT A
4 STATEMENT FROM HIM.

5 Q. Y'ALL DON'T HAVE A TAPE RECORDER AT THE SHERIFF'S
6 OFFICE?

7 A. I'M SURE WE HAVE A TAPE RECORDER BUT WE DIDN'T USE
8 ONE AT THE TIME.

9 Q. AND YOU DIDN'T USE IT BECAUSE WHY? YOU SAID YOU
10 WANTED THIS TO BE ACCURATE, SO WHY DIDN'T YOU USE
11 A TAPE RECORDER?

12 A. WELL, NORMALLY WE JUST TAKE A STATEMENT, NORMALLY
13 I WOULD GIVE SOMEONE A FORM, THEY COULD GO AHEAD
14 AND WRITE THE STATEMENT THEMSELVES.

15 Q. WELL, BUT THEY DIDN'T WRITE IT THEMSELVES THIS
16 TIME, THAT'S THE WHOLE POINT. YOU WROTE THE
17 STATEMENT YOURSELF. HE GAVE -- YOU SAID THAT HE
18 WAS IN THE ROOM WITH YOU, AND YOU SAID HE COULD
19 READ AND WRITE, - - -

20 A. THAT'S CORRECT.

21 Q. --- BUT HE DIDN'T WRITE THE STATEMENT, YOU WROTE
22 THE STATEMENT.

23 A. RIGHT, BECAUSE HE WANTED ME TO WRITE THE STATEMENT
24 FOR HIM.

25 Q. DO PEOPLE WHO ARE CHARGED WITH CRIMES NORMALLY

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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1 WANT THE POLICE TO WRITE STATEMENTS FOR THEM?

2 A. SOMETIMES THEY WOULD EITHER WRITE THE STATEMENT
3 THEMSELVES OR THEY WOULD JUST ASK ME TO WRITE THE
4 STATEMENT, SO I WRITE THE STATEMENT FOR THEM.

5 Q. SO, HE COULD HAVE WROTE THE STATEMENT HIMSELF?

6 A. YES, HE COULD HAVE WROTE THE STATEMENT HIMSELF.

7 Q. AND YOU COULD HAVE SAID, MR. MOSES, HERE IS THE
8 STATEMENT, IF YOU WANT TO GIVE A STATEMENT, WRITE
9 IT YOURSELF?

10 A. THAT'S WHAT I DID, I OFFERED TO GIVE HIM THE
11 STATEMENT SO HE COULD GO AHEAD AND WRITE THE
12 STATEMENT.

13 Q. AND YOU'RE TESTIFYING THAT HE, WHAT, THAT HE
14 DIDN'T WANT TO WRITE IT?

15 A. YES, HE TOLD ME HE WOULD RATHER IF I WRITE THE
16 STATEMENT FOR HIM.

17 Q. NOW, WHEN HE WAS IN THAT ROOM HE WAS CHAINED UP?

18 A. HE HAD, I THINK, LEG IRONS ON IF I CAN RECALL. I
19 REMEMBER HE HAD LEG IRONS ON.

20 Q. DO YOU KNOW IF HE HAD HAND IRONS ON? IN FACT, HE
21 DID HAVE THE HAND IRONS ON, DIDN'T HE?

22 A. I, I - - -

23 SOLICITOR SORENSON: OBJECTION, YOUR
24 HONOR, HE CAN'T TESTIFY, HE CAN ASK HIM A QUESTION.

25 THE COURT: SIR?

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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1 SOLICITOR SORENSON: HE CAN'T
2 TESTIFY IF - - -

3 MR. MELLARD: THIS IS CROSS, THIS IS
4 CROSS-EXAMINATION, YOUR HONOR.

5 THE COURT: YOU CAN ASK HIM A
6 QUESTION, YES, SIR, YOU CAN'T TESTIFY. GO AHEAD.

7 A. I DON'T, I DON'T THINK HE HAD HAND CUFFS ON,
8 BECAUSE NORMALLY WHEN WE GO AHEAD AND GET YOU TO
9 WRITE A STATEMENT, IF YOU WANT TO WRITE WE'LL TAKE
10 THE HANDCUFFS OFF BUT WE WILL LEAVE THE LEG IRONS
11 ON.

12 Q. SO, HE DIDN'T WRITE WHAT'S ON PAGE ONE OF THAT
13 STATEMENT?

14 A. NO, HE DID NOT.

15 Q. AND HE DIDN'T WRITE WHAT'S ON PAGE TWO OF THAT
16 STATEMENT?

17 A. NO, HE DID NOT.

18 Q. AND HE DIDN'T WRITE WHAT'S ON PAGE THREE OF THAT
19 STATEMENT?

20 A. NO, HE DID NOT.

21 Q. OKAY. NOW, -- LET'S SEE -- ONE SECOND. YOU, YOU
22 WERE WITH HIM ON SEPTEMBER THIRTIETH, WEREN'T YOU?

23 A. YES.

24 Q. TWO THOUSAND SIX? AND HE DID NOT LOOK EXACTLY
25 WHAT HE LOOKS LIKE NOW, DOES HE? IN FACT, HE

CROSS- ROMAN E. RODRIGUEZ BY MR. MELLARD

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1 WEIGHED ABOUT A HUNDRED AND EIGHTY POUNDS AT THE
2 TIME, CORRECT?

3 A. WELL, I DON'T KNOW THE EXACT WEIGHT, BUT - - -

4 Q. HE'S PUT ON SOME WEIGHT SINCE THEN?

5 A. I'M NOT SURE, I CAN'T SAY, I'M NOT SURE ABOUT HIS
6 WEIGHT.

7 MR. MELLARD: NO MORE QUESTIONS.

8 THE COURT: REDIRECT?

9 SOLICITOR SORENSON: JUST BRIEFLY.

10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

REDIRECT - ROMAN E. RODRIGUEZ BY SOL. SORENSON

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REDIRECT EXAMINATION OF ROMAN E. RODRIGUEZ

BY SOLICITOR SORENSON:

Q. HAVE YOU GOT THE STATEMENT THERE?

A. YES, SIR.

Q. YOU GAVE MR. MOSES A CHANCE TO, FIRST OF ALL TO
WRITE THIS IF HE CHOSE TO?

A. THAT'S CORRECT.

Q. DID YOU GIVE HIM AN OPPORTUNITY TO REVIEW THIS
AFTER YOU HAD WRITTEN IT OUT?

A. YES, WE HAVE TO MAKE SURE THEY REVIEW IT AND
UNDERSTAND.

Q. OKAY. AND YET AGAIN, WHOSE SIGNATURE IS THAT
INDICATING THAT HE'S READ THE FOLLOWING AS THE
TRUE AND ACCURATE COPY OF WHAT HE HAD TOLD YOU?

A. THE DEFENDANT, GEORGE MOSES.

SOLICITOR SORENSON: I HAVE NOTHING
FURTHER, YOUR HONOR.

THE COURT: RE CROSS?

MR. MELLARD: NO MORE QUESTIONS,
YOUR HONOR.

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

CALL YOUR NEXT WITNESS.

SOLICITOR SORENSON: I BEG THE
COURT'S INDULGENCE FOR A SECOND.

1 THE COURT: YES, SIR.

2 SOLICITOR SORENSON: THAT WOULD BE
3 ALL WE'D HAVE, YOUR HONOR, WE'D REST.

4 THE COURT: ALRIGHT, LADIES AND
5 GENTLEMEN, THE STATE HAS RESTED. THAT MEANS THAT'S ALL
6 THE TESTIMONY YOU'RE GOING TO HEAR FROM THE STATE AT
7 THIS TIME. WE NEED TO TAKE UP A MATTER OF LAW SO I'M
8 GOING TO ASK YOU TO STEP TO YOUR JURY ROOM A FEW
9 MINUTES, IT WON'T BE TOO LONG I DON'T THINK THIS TIME,
10 BUT PLEASE DO NOT TALK ABOUT THE CASE. PLEASE STEP TO
11 THE JURY ROOM.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: ANY MOTIONS?

17 MR. MELLARD: YES, SIR. AT THIS
18 TIME WE'D MOVE FOR A DIRECTED VERDICT. FIRST OF ALL,
19 HE'S CHARGED WITH ARMED ROBBERY. THERE'S A RULE IN
20 STATE VERSUS OSBORNE, IT BASICALLY IS CALLED THE
21 CORROBORATION RULE, AND WHAT THAT MEANS IS, A CONVICTION
22 CAN'T BE HAD ON THE CONFESSION OF A DEFENDANT UNLESS
23 THEY ARE CORROBORATED BY PROOF OF, CORPUS DELICTI. IN
24 THIS CASE HE'S CHARGED WITH STEALING MONEY FROM THE
25 VICTIM. THERE'S BEEN NO PROOF WHATSOEVER THAT ANY MONEY

1 WAS TAKEN FROM THIS VICTIM, NONE WHATSOEVER. THE ONLY
2 THING THEY'VE GOT IS THAT CONFESSION THAT WAS, THAT WAS
3 JUST PUT INTO EVIDENCE BY THE STATE. THERE'S NO
4 EVIDENCE THAT HARRY LIVINGSTON HAD A FIFTY DOLLAR BILL
5 ON HIM OR FIFTY DOLLARS ON HIM. THERE'S NO EVIDENCE
6 THAT SHOWED THAT HARRY LIVINGSTON HAD THIS MONEY IN A
7 PLASTIC BAG. THERE'S NO EVIDENCE THAT THIS FIFTY
8 DOLLARS WAS TAKEN FROM HARRY LIVINGSTON. I MEAN,
9 THERE'S NO EVIDENCE THAT THE DEFENDANT TOOK THE PROPERTY
10 AND THERE'S NO EVIDENCE OF A ROBBERY AT ALL, I MEAN,
11 NONE WHATSOEVER, NO EVIDENCE. SO, WE WOULD SAY AS FAR
12 AS ARMED ROBBERY WE ARE ENTITLED TO A DIRECTED VERDICT
13 ON THAT.

14 THE COURT: ALRIGHT. MR. SORENSON.

15 SOLICITOR SORENSON: MAY IT PLEASE
16 THE COURT, YOUR HONOR. IT'S OUR POSITION THAT, THAT,
17 WELL, FIRST OF ALL, IN HIS STATEMENT HE INDICATES THAT
18 HE TOOK MONEY OFF OF THE VICTIM AFTER HE HAD STABBED HIM
19 AND ASSAULTED HIM. ADDITIONALLY, WE'VE PUT UP EVIDENCE
20 FROM, I BELIEVE IT WAS YVETTE LINGUARD THAT SHE HAD,
21 JUST RIGHT BEFORE SHE HAD LEFT, HAD LEFT THE VICTIM WITH
22 A HUNDRED AND FORTY-SEVEN DOLLARS. THERE WAS NO MONEY
23 FOUND ON OR AROUND THE VICTIM WHEN THEY PROCESSED THE
24 SCENE OR WHEN HIS BODY WAS TRANSPORTED TO THE MORGUE. SO
25 I THINK THAT WOULD BE CIRCUMSTANTIAL EVIDENCE THAT THAT

1 - - -

2 THE COURT: WELL, I REMEMBER THE
3 TESTIMONY THAT HE HAD A HUNDRED AND FORTY-SEVEN DOLLARS,
4 BUT THAT WAS THE GUY, THAT WAS THE GUY THAT WAS DRIVING
5 THE CAR, HAD A HUNDRED AND FORTY-SEVEN DOLLARS, RIGHT?

6 SOLICITOR SORENSON: SHE TESTIFIED
7 THAT SHE GAVE, THAT THE REASON WHY SHE WANTED TO GO TO
8 HARRY'S, THE VICTIM'S TRAILER, WAS TO LEAVE THAT MONEY
9 AND CELL PHONE AND ITEMS, AND SHE TESTIFIED THAT SHE
10 LEFT A HUNDRED AND FORTY-SEVEN DOLLARS WITH THE VICTIM.

11 THE COURT: OKAY. AND I REMEMBER
12 THAT TESTIMONY. AND THEN, I DON'T REMEMBER SPECIFICALLY
13 TESTIMONY ABOUT WHAT THEY FOUND ON THE BODY.

14 SOLICITOR SORENSON: AGENT GREEN
15 TESTIFIED THAT HE DID NOT FIND ANY MONEY ON OR AROUND
16 THE VICTIM'S BODY. AND THEN AT THE AUTOPSY THEY
17 TESTIFIED THAT, DR. ROSS, THAT HE HAD EIGHTY-ONE CENTS
18 IN HIS POCKET.

19 THE COURT: ALRIGHT, SIR.

20 MR. MELLARD: MS. LINGUARD TESTIFIED
21 THAT SHE LEFT AT TWO:THIRTY, SHE SAID SHE DIDN'T GO
22 BACK. EVEN IF THERE WAS MONEY GIVEN TO HIM, HE COULD
23 HAVE GONE IN THE BEDROOM AND PUT IT IN A DRAWER.

24 THE COURT: WELL, THAT'S, THAT'S,
25 YOU'RE RIGHT, CERTAINLY, BUT THAT GOES TO THE WEIGHT OF

1 THE EVIDENCE, NOT THE EXISTENCE OF THE EVIDENCE. SO, I
2 THINK THERE'S SUFFICIENT EVIDENCE THAT THE JURY CAN
3 INFER THAT THERE WAS AN ARMED ROBBERY. HE TESTIFIED HE
4 WAS, I MEAN, HE WAS STABBED WITH A KNIFE. THE KNIFE WAS
5 FOUND THERE RIGHT AT THE LOCATION.

6 SOLICITOR SORENSON: UNDERNEATH THE
7 VICTIM'S BODY.

8 THE COURT: UNDER HIS BODY. I THINK
9 THAT'S SUFFICIENT EVIDENCE FOR THE JURY TO CONCLUDE THAT
10 THERE WAS AN ARMED ROBBERY. SO, I WOULD DENY THAT
11 MOTION.

12 MR. MELLARD: AND WE'D ALSO MOVE FOR
13 A DIRECTED VERDICT ON THE MURDER INDICTMENT. WE WOULD
14 SAY THAT THERE'S NO EVIDENCE THAT HE KILLED THE VICTIM.
15 HIS DNA WAS NOT FOUND ANYWHERE IN THAT HOUSE, AND SO WE
16 WOULD SAY THAT THERE'S NO EVIDENCE OF ANY MALICE SO THEY
17 CAN'T LINK HIM AS THE PERSON DOING IT. IT WASN'T ON THE
18 KNIFE OR ANYTHING. SO, WE WOULD SAY THAT, WE'VE MOVE
19 FOR A DIRECTED VERDICT ON THAT GROUND, TOO.

20 THE COURT: WELL, WE KNOW HE WAS
21 DEAD BECAUSE THEY FOUND HIS BODY THERE. WE KNOW HE WAS
22 KILLED BECAUSE OF THE CAUSE OF DEATH, IT WAS TESTIFIED.
23 WE CAN PUT MR. MOSES THERE SHORTLY BEFORE THE TIME OF
24 DEATH. SO, I THINK THAT'S SUFFICIENT RIGHT THERE,
25 WITHOUT HIS STATEMENT. OF COURSE, THE STATE HAS PROVED

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1 THE CORPUS DELICTI WITHOUT ANY QUESTION, WITHOUT HIS
2 STATEMENT. BUT HIS STATEMENT CERTAINLY IMPLICATES HIM
3 WITH A KNIFE. THE STATEMENT SAYS THAT HE PASSED OUT I
4 THINK, OR WAS UNCONSCIOUS, I DON'T REMEMBER EXACTLY THE
5 WORDS HE USED. SO, I THINK THERE'S SUFFICIENT EVIDENCE
6 THERE, TAKING EVERYTHING IN THE LIGHT MOST FAVORABLE TO
7 THE STATE. SO, I WOULD DENY THAT MOTION.

8 MR. MELLARD: THAT'S ALL OUR
9 MOTIONS, YOUR HONOR.

10 THE COURT: ALRIGHT. MR. MOSES,
11 WOULD YOU STAND, PLEASE?

12 (NOTE: Blank lines on this page do not indicate any
13 part of record has been omitted. Headers on testimony
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15 required by the Court. See next ensuing page for
16 sequential continuation of record.)

EXAM, IN CAMERA - GEORGE MOSES BY THE COURT

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EXAMINATION, IN CAMERA, OF GEORGE MOSES

BY THE COURT:

Q. MR. MOSES, THE STATE HAS FINISHED PUTTING UP THEIR CASE. YOU HAVE AN OPPORTUNITY NOW TO TESTIFY IF YOU WOULD LIKE TO TESTIFY. YOU CAN ALSO, THROUGH YOUR LAWYERS, CALL OTHER WITNESSES IF YOU HAVE ANY WITNESSES THAT YOU WANT TO TESTIFY ON YOUR BEHALF. YOU DO NOT HAVE TO TESTIFY, YOU DO NOT HAVE TO CALL WITNESSES. IF YOU CHOOSE TO TESTIFY I WILL NOT ALLOW THE STATE TO BRING OUT THE FACT THAT YOU WERE CHARGED WITH VIOLATING A COURT ORDER IN REGARD TO THAT CHILD, I DON'T THINK THERE'S MUCH PROBATIVE VALUE TO THAT, I DON'T KNOW HOW MUCH PREJUDICE IT IS, BUT ANYHOW, I WOULDN'T ALLOW THAT. BUT THEY CAN CROSS-EXAMINE YOU JUST LIKE OTHER WITNESSES ARE CROSS-EXAMINED, I'M SURE YOU UNDERSTAND THAT, IF YOU CHOOSE TO TESTIFY. IF YOU CHOOSE NOT TO TESTIFY I WILL TELL THE JURY THAT THAT IS THE EXERCISE OF YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT, AND THAT THEY CANNOT HOLD THAT AGAINST YOU IN ANY WAY WHATSOEVER. THEY CANNOT CONCLUDE OR INFER THAT YOUR FAILURE TO TESTIFY IS SOME EVIDENCE OF YOUR GUILT, AND I'LL EXPLAIN THAT VERY CAREFULLY TO THE JURY. DO YOU UNDERSTAND YOUR RIGHT TO TESTIFY?

EXAM, IN CAMERA - GEORGE MOSES BY THE COURT

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1 A. YES, SIR.

2 Q. AND DO YOU UNDERSTAND YOUR RIGHT NOT TO TESTIFY?

3 A. YES, SIR.

4 Q. AND HAVE YOU DISCUSSED THOSE RIGHTS WITH YOUR
5 ATTORNEYS?

6 A. NOT YET, NO, I HAVEN'T.

7 Q. WELL, I'LL GIVE YOU TIME, YOU'VE GOT PLENTY OF
8 TIME TO DISCUSS THAT WITH THEM, AND YOU SHOULD
9 HEAR VERY PATIENTLY WHAT THEY HAVE TO SAY. BUT
10 THE FINAL DECISION AS TO WHETHER YOU SHOULD
11 TESTIFY OR NOT SHOULD NOT BE THEIR DECISION, IT
12 SHOULD BE YOUR DECISION. YOU HEAR THEIR ADVICE,
13 BUT FINALLY YOU HAVE TO MAKE THAT DECISION
14 YOURSELF. DO YOU UNDERSTAND THAT?

15 A. YES, SIR.

16 THE COURT: ALRIGHT, SIR. I THINK
17 THAT PLEA'S ON FOR ONE:FORTY-FIVE? I'M JUST TRYING TO
18 DECIDE WHETHER TO BRING THE JURY BACK BEFORE IN THE
19 MORNING.

20 MR. MELLARD: CAN WE APPROACH AT
21 THIS TIME?

22 THE COURT: YES, SIR.

23 (Whereupon, a bench conference
24 is held out of the hearing
25 of the court reporter.)

1 THE COURT: ALRIGHT, BRING THE JURY
2 IN, PLEASE.

3 (Whereupon, the jury enters
4 the courtroom and the following
5 takes place in the presence
6 of the jury.)

7 BAILIFF: YOUR HONOR, ALL OF THE
8 JURORS ARE IN THE JURY BOX.

9 THE COURT: LADIES AND GENTLEMEN,
10 I'VE BEEN TALKING WITH THE LAWYERS ABOUT OUR PLANS.
11 WE'VE DECIDED IT'S BEST FOR US TO TAKE OUR LUNCH BREAK
12 AT THIS TIME. WE HAVE A MATTER SCHEDULED TO DO AT
13 ONE:FORTY-FIVE THAT'S BEEN SCHEDULED FOR SOME WEEKS.
14 SOMETIME WE HAVE TO SCHEDULE THINGS WELL IN ADVANCE AND
15 WE NEVER KNOW EXACTLY WHAT WE'RE GOING TO BE DOING IN
16 COURT. WE HARDLY KNEW YESTERDAY WHAT WE WERE GOING TO
17 BE DOING TODAY, MUCH LESS A COUPLE OF WEEKS AGO, TRYING
18 TO PLAN. AND SO, WE'RE NOT GOING TO NEED YOU BACK UNTIL
19 AROUND THREE O'CLOCK. I KNOW THAT'S A LONG LUNCH HOUR,
20 AND MOST OF YOU WON'T EAT THAT MUCH, BUT IF YOU'LL BE
21 BACK IN THE JURY ROOM BY THREE O'CLOCK.

22 NOW, I WOULD ASK YOU, IF YOU COME
23 BACK EARLY COME STRAIGHT INTO THAT JURY ROOM. DON'T
24 COME INTO THE COURTROOM, DON'T HANG AROUND OUT THERE IN
25 THE HALL. WE'RE GOING TO BE DOING SOME OTHER MATTERS IN

1 HERE WHICH YOU DON'T NEED TO, YOU'RE NOT INVOLVED IN AT
2 ALL. SO I WANT YOU TO GO STRAIGHT TO THAT JURY ROOM. I
3 WOULD PREFER THAT YOU DON'T COME BACK UNTIL CLOSE TO
4 THREE O'CLOCK, BUT IF YOU DO GO STRAIGHT INTO THAT JURY
5 ROOM, DON'T COME IN THE COURTROOM, PLEASE. AND PLEASE
6 REMEMBER, DON'T TALK ABOUT THE CASE. DON'T GO FINDING
7 A NEWSPAPER AND READING THAT ARTICLE. DON'T TALK WITH
8 ANYBODY ABOUT THE CASE, AND IF ANYBODY TRIES TO TALK
9 WITH YOU ABOUT THE CASE YOU LET ME KNOW THAT THE MINUTE
10 YOU GET BACK AFTER LUNCH.

11 THANK YOU VERY MUCH, AND I THANK YOU
12 FOR YOUR PATIENCE, AND WE'LL SEE YOU AT THREE O'CLOCK.

13 (Whereupon, the jury leaves
14 the courtroom and the following
15 takes place out of the presence
16 of the jury.)

17 (NOTE: Blank lines on this page do not indicate any
18 part of record has been omitted. Headers on testimony
19 pages and hard page breaks between testimony are now
20 required by the Court. See next ensuing page for
21 sequential continuation of record.)

EXAM, IN CAMERA, OF GEORGE MOSES BY THE COURT

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EXAMINATION, IN CAMERA, OF GEORGE MOSES

BY THE COURT CONTINUES:

Q. MR. MOSES, HAVE YOU HAD AN OPPORTUNITY TO DISCUSS
WITH YOUR ATTORNEYS WHETHER OR NOT YOU WILL
TESTIFY?

A. YES, SIR.

Q. AND HAVE YOU REACHED A DECISION?

A. YES, I HAVE.

Q. AND WHAT IS YOUR DECISION?

A. I WILL TESTIFY.

Q. YOU WILL TESTIFY. IS THAT YOUR DECISION?

A. YES, SIR.

Q. HAS ANYBODY PRESSURED YOU OR TRIED TO FORCE YOU TO
MAKE THAT DECISION AGAINST YOUR WILL?

A. NO, SIR.

Q. THAT'S WHAT YOU WANT TO DO?

A. YES, SIR.

THE COURT: ALRIGHT, SIR, WE'LL HAVE
THE JURY HERE, I HOPE WE'LL BE READY TO GO AT THREE
O'CLOCK, AND WE'LL BE READY TO ROLL. THANK YOU VERY
MUCH.

ANYTHING BEFORE WE RECESS?

SOLICITOR SORENSON: NO, SIR.

THE COURT: ALRIGHT, THE COURT, IN
THIS CASE, IS IN RECESS UNTIL THREE O'CLOCK. THE COURT

1 IS IN RECESS UNTIL ONE:FORTY-FIVE.

2 (Recess)

3 THE COURT: IS THE STATE READY?

4 SOLICITOR SORENSON: THE STATE'S
5 READY.

6 THE COURT: IS THE DEFENSE READY?

7 MR. MELLARD: YES, SIR.

8 THE COURT: ALRIGHT, BRING IN THE
9 JURY.

10 (Whereupon, the jury enters
11 the courtroom and the following
12 takes place in the presence of
13 the jury.)

14 BAILIFF: YOUR HONOR, THE JURY IS IN
15 THE JURY BOX.

16 THE COURT: THANK YOU, SIR.

17 ALRIGHT, LADIES AND GENTLEMEN, AS I
18 TOLD YOU BEFORE WE LEFT FOR LUNCH, THE STATE HAS
19 FINISHED THEIR CASE AND NOW THE DEFENDANT HAS AN
20 OPPORTUNITY TO PUT UP ANY DEFENSE THEY CHOOSE TO DO SO.

21 ALRIGHT, MR. MELLARD, MS. HINDS?

22 MS. HINDS: YOUR HONOR, THE DEFENSE
23 WOULD CALL GEORGE MOSES.

24 THE COURT: ALRIGHT, COME AROUND,
25 MR. MOSES. YOU'LL SEE THAT BIBLE RIGHT ON THE END

1 THERE, IF YOU WILL PLACE YOUR LEFT HAND ON THE BIBLE AND
2 RAISE YOUR RIGHT.

3 (Whereupon, George Napoleon Moses
4 is duly sworn.)

5 THE COURT: ALRIGHT, SIR, HAVE A
6 SEAT RIGHT THERE, PLEASE, MR. MOSES.

7 ALRIGHT, MS. HINDS, YOU MAY
8 PROCEED.

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10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

DIRECT - GEORGE N. MOSES BY MS. HINDS

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DIRECT EXAMINATION OF GEORGE N. MOSES

BY MS. HINDS:

Q. LET'S GO BACK TO SEPTEMBER OF TWO THOUSAND AND SIX, MR. MOSES. FIRST OFF, LET ME GET SOME INFORMATION FROM YOU. HOW TALL ARE YOU?

A. I'M ABOUT FIVE-ELEVEN.

Q. OKAY, YOU NEED TO SPEAK UP SO ALL THE JURY MEMBERS CAN HEAR YOU, OKAY?

A. I'M FIVE-ELEVEN.

Q. OKAY.

THE COURT: I THINK BOTH OF YOU NEED TO SPEAK UP.

Q. HOW MUCH DO YOU WEIGH?

A. RIGHT NOW I WEIGHT APPROXIMATELY TWO HUNDRED AND SIXTY-FIVE POUNDS.

Q. OKAY. WAS THAT YOUR WEIGHT BACK IN SEPTEMBER OF TWO THOUSAND AND SIX?

A. NO, IT WASN'T.

Q. WHAT DID YOU WEIGH THEN?

A. AT THAT TIME I WEIGHED APPROXIMATELY A HUNDRED AND SEVENTY POUNDS, A HUNDRED AND SEVENTY-FIVE POUNDS.

Q. OKAY. DID YOU GO TO HARRY LIVINGSTON'S HOUSE ON SEPTEMBER TWENTY-NINTH OF TWO THOUSAND AND SIX?

A. YES, I DID.

Q. OKAY. WHAT TIME DID YOU GO THERE?

DIRECT - GEORGE N. MOSES BY MS. HINDS

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1 A. APPROXIMATELY TWO:THIRTY, TWO:THIRTY -- ACTUALLY
2 ONE:FORTY-FIVE, BETWEEN ONE:FORTY-FIVE AND TWO
3 O'CLOCK.

4 Q. OKAY. WHY DID YOU GO THERE?

5 A. TO SEE GEORGE ROBINSON, I WANTED TO PURCHASE SOME
6 COCAINE FROM HIM.

7 Q. OKAY. AND WHO IS GEORGE ROBINSON?

8 A. HE LIVED IN THE HOUSE.

9 Q. IN WHAT HOUSE?

10 A. IN THE TRAILER THAT I WENT TO WHERE HARRY LIVED
11 AT.

12 Q. OKAY. SO, THEY WERE ROOMMATES?

13 A. YES.

14 Q. OKAY. HAD YOU PURCHASED COCAINE FROM GEORGE
15 ROBINSON BEFORE?

16 A. YES.

17 Q. OKAY. HAD YOU EVER PURCHASED FROM HARRY
18 LIVINGSTON?

19 A. YES.

20 Q. WAS IT POWDER COCAINE OR CRACK COCAINE?

21 A. ALWAYS POWDER COCAINE FROM BOTH OF THEM.

22 Q. OKAY. ABOUT HOW MANY TIMES WOULD YOU SAY?

23 A. OVER FIVE OR SIX YEAR PERIOD I KNEW THEM MAYBE A
24 HUNDRED TIMES BETWEEN THE BOTH OF THEM.

25 Q. SO, WOULD IT BE FAIR TO SAY THAT THAT HOUSE WAS A

DIRECT - GEORGE N. MOSES BY MS. HINDS

401

1 DRUG HOUSE?

2 A. YES.

3 Q. DID ANYBODY ELSE SELL DRUGS OUT OF THAT HOUSE TO
4 YOUR KNOWLEDGE?

5 A. THERE WAS ONE OTHER INDIVIDUAL THAT WAS THERE WITH
6 THEM MOST OF THE TIME, HARRY'S BROTHER, BARNEY
7 LIVINGSTON.

8 Q. OKAY. TO YOUR KNOWLEDGE, DID MR. LIVINGSTON DO
9 DRUGS HIMSELF?

10 A. YES.

11 Q. AND WHAT DID HE DO?

12 A. HARRY SMOKED CRACK.

13 Q. OKAY. LET'S TALK ABOUT WHAT HAPPENED AFTER YOU
14 GOT TO MR. LIVINGSTON'S HOUSE. I ASSUME YOU
15 KNOCKED ON THE DOOR?

16 A. YES.

17 Q. WHO ANSWERED?

18 A. HARRY.

19 Q. WAS ANYONE ELSE AT THE HOUSE WHEN YOU ARRIVED?

20 A. YES, YVETTE WAS THERE.

21 Q. AND WHERE WAS SHE AT?

22 A. SHE WAS SITTING IN THE KITCHEN, TO THE TABLE.

23 Q. AND WHAT WAS SHE DOING WHEN YOU GOT THERE?

24 A. PLAYING CARDS, AND SHE HAD AN OPEN BAG OF COCAINE
25 ON THE TABLE THAT SHE WAS USING.

1 Q. AND JUST SO THE JURY KNOWS, WHO IS YVETTE
2 LINGUARD?

3 A. SHE IS THE DAUGHTER OF MY EX-GIRLFRIEND.

4 Q. OKAY. AND DOES SHE HAVE A RELATIONSHIP WITH MR.
5 ROBINSON?

6 A. YES, SHE DOES.

7 Q. AND WHAT WOULD THAT BE?

8 A. BOYFRIEND AND GIRLFRIEND.

9 Q. OKAY. SO, HAD YOU EVER SEEN HER AT HARRY
10 LIVINGSTON'S PLACE BEFORE?

11 A. YEAH, SEVERAL TIMES.

12 Q. HAD YOU EVER SEEN HER DO DRUGS BEFORE?

13 A. YES.

14 Q. OKAY. DO YOU KNOW WHERE SHE GOT THE DRUGS FROM?

15 A. NOT THAT NIGHT, NO, I DON'T KNOW, BUT SHE HAD THEM
16 WHEN I ARRIVED.

17 Q. OKAY. WHAT DID YOU DO NEXT?

18 A. I ATTEMPT TO ASK THEM WHERE GEORGE WAS, AND BOTH
19 OF THEM RESPONDED BY SAYING HE HAD WENT SOMEWHERE
20 AND HE WILL BE BACK SHORTLY, IN TEN OR FIFTEEN
21 MINUTES.

22 Q. OKAY. WHAT DID YOU DO THEN?

23 A. I TOLD THEM I'D SIT DOWN AND JUST WAIT FOR HIM. I
24 SAT DOWN AT THE TABLE WITH YVETTE.

25 Q. AND WHERE WAS MR. LIVINGSTON AT THIS TIME?

DIRECT - GEORGE N. MOSES BY MS. HINDS

403

1 A. HE WENT INTO THE LIVING ROOM AND SAT ON A CHAIR IN
2 THE LIVING ROOM.

3 Q. OKAY. SO, IN THE HOUSE THERE'S YOU, THERE'S MS.
4 LINGUARD, AND THERE'S MR. LIVINGSTON?

5 A. RIGHT, AND HIS ROTTWEILER, HIS DOG.

6 Q. OKAY. HE HAD A DOG?

7 A. YES.

8 Q. OKAY. CAN YOU DESCRIBE THE DOG?

9 A. IT WAS A ROTTWEILER DOG.

10 Q. A SMALL DOG, A BIG DOG?

11 A. IT WAS A BIG DOG.

12 Q. WHERE WAS THE DOG LOCATED?

13 A. WHEN I WENT IN IT WAS IN THE LIVING ROOM, BUT THE
14 DOG HAD FREE REIGN OF THE HOUSE, HE WOULD JUST GO
15 WHEREVER HE WANTED TO.

16 Q. OKAY. DID YOU HAVE ANY PROBLEMS WITH THE DOG AT
17 THAT TIME?

18 A. NOT AT THAT TIME, NO.

19 Q. OKAY. HAD YOU EVER SEEN THE DOG BEFORE?

20 A. YES, EVERY TIME I GO THERE THE DOG WAS ALWAYS
21 THERE.

22 Q. WHOSE DOG WAS IT?

23 A. IT WAS HARRY'S DOG.

24 Q. OKAY. DO YOU KNOW IF THAT DOG WAS TRAINED?

25 A. YES, IT WAS.

DIRECT - GEORGE N. MOSES BY MS. HINDS

404

1 Q. AND DO YOU KNOW WHOSE COMMANDS IT LISTENED TO?

2 A. HARRY'S.

3 Q. AND WHAT DID YOU DO WHILE YOU WAITED?

4 A. I JUST SAT TO THE KITCHEN TABLE AND HAD SMALL
5 CONVERSATION WITH YVETTE LINGUARD.

6 Q. OKAY. HAD YOU EVER GONE THERE AND JUST SAT AROUND
7 AND TALKED BEFORE?

8 A. NO, NEVER, BEFORE I MIGHT HAVE HAD TO WAIT TWO OR
9 THREE MINUTES WHILE THEY DEALT WITH SOMEONE ELSE,
10 BUT NEVER JUST TO SIT AND HAVE TO WAIT FOR ONE OF
11 THEM TO COME, NOT IT WAS THE FIRST TIME I HAD DONE
12 THAT.

13 Q. OKAY. DID ANYONE ELSE COME TO THE HOUSE WHILE YOU
14 WERE WAITING?

15 A. YEAH, THERE WAS ONE LADY WHO CAME IN AND HAD SOME
16 DEALINGS WITH HARRY BUT I COULDN'T SEE WHAT THEY
17 WERE DOING, THEY WERE IN THE LIVING ROOM, AND THEN
18 SHE LEFT.

19 Q. OKAY. HOW LONG DID YVETTE STAY?

20 A. SHE LEFT AT ABOUT TWO:THIRTY, BECAUSE WE WAS THERE
21 ABOUT MAYBE THIRTY, THIRTY-FIVE MINUTES TOGETHER.

22 Q. OKAY. AND HOW DID SHE LEAVE?

23 A. HER SISTER, OR HER AUNT CAME TO PICK HER UP, PAT,
24 AND HER BOYFRIEND, JOHN GLYMPH, CAME THERE AND
25 PICKED HER UP.

DIRECT - GEORGE N. MOSES BY MS. HINDS

405

1 Q. WOULD THAT BE PAT OWENS?

2 A. YES.

3 Q. AND JOHN GLYMPH?

4 A. YES.

5 Q. OKAY. HAD YOU EVER SEEN HER AT HARRY'S HOUSE
6 BEFORE?

7 A. PAT?

8 Q. UH HUH.

9 A. NO, I HAD NEVER SEEN HER THERE BEFORE.

10 Q. OKAY. DO YOU REMEMBER WHAT TIME YVETTE LEFT?

11 A. IT WAS PROBABLY ABOUT TWO:THIRTY, TWO:THIRTY-FIVE,
12 SOMETHING LIKE THAT.

13 Q. AND WHO WAS LEFT IN THE HOUSE WHEN SHE LEFT?

14 A. NOBODY BUT ME AND HARRY LIVINGSTON AND HIS DOG.

15 Q. OKAY. AND WHAT HAPPENED NEXT?

16 A. WELL, I SAT THERE FOR ANOTHER COUPLE OF MINUTES
17 AND I ASKED HARRY THEN WAS HE SURE GEORGE WAS
18 GOING TO COME BACK, BECAUSE IT WAS GETTING KIND OF
19 LATE, AND I KNEW I HAD TO GET HOME. THAT'S WHEN
20 HARRY INFORMED ME THAT HE EXPECTED HIM ANYTIME
21 SOON, HE WAS SURPRISED HE WASN'T BACK YET.

22 Q. OKAY. AT ANY POINT DID YOU AND HARRY LIVINGSTON
23 TALK ABOUT A DRUG TRANSACTION?

24 A. YES.

25 Q. OKAY. TELL ME WHAT YOU TALKED ABOUT?

DIRECT - GEORGE N. MOSES BY MS. HINDS

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1 A. WHEN I WAS SITTING THERE FOR A FEW MINUTES AND
2 HARRY SAID HE SHOULD BE BACK, AND HE SAID, WELL,
3 I'VE GOT A LITTLE SOMETHING, YOU CAN GO AHEAD AND
4 GET WHAT I'VE GOT, IF YOU'VE GOT SOME CRACK
5 COCAINE WE CAN MAKE A TRADE, THE CRACK FOR THE
6 POWDER.

7 Q. OKAY.

8 A. THAT'S WHEN I ASKED HIM, I SAID, SHOW ME WHAT
9 YOU'VE GOT, AND HE SHOWED ME THE THREE BAGS HE
10 GOT, HE GAVE ME THE THREE BAGS THAT HE GAVE ME,
11 AND I GAVE HIM, EXCHANGED THE CRACK COCAINE FOR
12 THE BAGS OF COCAINE HE GAVE ME.

13 Q. OKAY. CAN YOU EXPLAIN TO THE JURY THE DIFFERENCE
14 BETWEEN POWDER COCAINE AND CRACK COCAINE?

15 A. POWDER COCAINE IS JUST WHAT IT IS, IT'S POWDER YOU
16 SNIFF IT OR YOU PUT IT ON CIGARETTES OR SOMETHING
17 OF THAT NATURE. ROCKS, CRACK COCAINE, THEY'RE
18 ROCKS THAT YOU HAVE TO PUT IN A PIPE AND USE TO
19 SMOKE IT.

20 Q. AND CAN YOU TELL ME APPROXIMATELY WHAT WOULD, THE
21 KIND OF BAG THAT YOU'RE TALKING ABOUT, WHAT WOULD
22 THE WEIGHT BE?

23 A. PROBABLY ABOUT ZERO POINT TWO TO ZERO POINT THREE
24 GRAM.

25 Q. OKAY. AND YOU SPECIFICALLY WENT THAT NIGHT TO BUY

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1 FROM MR. ROBINSON, CORRECT?

2 A. YES.

3 Q. WHY HIM?

4 A. BECAUSE HE WAS, I WAS USED TO DEALING WITH HIM,
5 AND EVERY TIME I GO, HIS BAGS WOULD ALWAYS BE THE
6 SAME. I'VE DEALT WITH OTHER PEOPLE, SOMETIME THEY
7 BE DIFFERENT, AND WITH HARRY'S PARTICULARLY HIS
8 BAGS WOULD BE SMALLER THAN GEORGE'S BAGS WERE
9 SOMETIMES, SO I PARTICULAR ALWAYS GO WHEN I GO
10 THERE I ASKED TO SPEAK WITH GEORGE.

11 Q. OKAY. BUT HE WASN'T THERE THAT NIGHT?

12 A. NO.

13 Q. OKAY. AT SOME POINT YOU AND MR. LIVINGSTON GOT
14 INTO SOME KIND OF ALTERCATION, IS THAT RIGHT?

15 A. YES.

16 Q. TELL ME ABOUT IT.

17 A. AFTER WE MADE THE EXCHANGE FOR THE CRACK AND THE
18 POWDER MR. LIVINGSTON SAID THAT HE WASN'T
19 SATISFIED WITH WHAT I HAD GIVEN HIM, AND HE
20 STARTED DEMANDING MORE CRACK COCAINE FROM ME FOR
21 WHAT HE HAD GIVEN ME, FOR THE POWDER. WHEN I
22 SAID, NO, HE BECAME UPSET AND CALLED -- I
23 ATTEMPTED TO LEAVE THE RESIDENCE, AND HE CALLED
24 HIS DOG, AND THEY BOTH BLOCKED MY PATH FROM
25 LEAVING, FROM GOING OUT THE DOOR. AND THAT'S WHEN,

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1 HE PICKED UP A STICK AND STARTED THREATENING ME
2 AND ASSAULTING ME WITH HIM AND THE DOG, DEMANDING
3 I GIVE HIM MORE CRACK COCAINE.

4 Q. AND DID YOU GIVE IT TO HIM?

5 A. NO, I DIDN'T, I REFUSED TO GIVE IT TO HIM.

6 Q. AND THEN WHAT HAPPENED?

7 A. THEN MR. LIVINGSTON HIT ME WITH THE STICK SEVERAL
8 TIMES AND BACKED ME INTO A CORNER, AND AS HE WAS
9 DOING THAT THE DOG WAS BECOMING WAS REALLY
10 AGGRESSIVE LIKE TRYING TO ATTACK ME, TRYING TO
11 COME AROUND THE CHAIRS AND STUFF TO BITE ME. SO,
12 AT THAT TIME I PICKED UP A KNIFE THAT WAS ON THE
13 COUNTER IN THE KITCHEN, AND I WAS JUST SWINGING
14 THE KNIFE AT MR., AT THE DOG TO TRY TO KEEP THE
15 DOG AWAY FROM ME. AND MR. LIVINGSTON WAS
16 CONTINUING TO HIT ME WITH THE STICK. AND FROM
17 THEN, HE HIT ME ON MY ARM ONE TIME AND I DROPPED
18 THE KNIFE. AND I DIDN'T HAVE ANYTHING ELSE TO
19 PROTECT MYSELF SO I GRABBED A HOLD OF MR.
20 LIVINGSTON, HARRY, AND I WAS TRYING TO GET THE
21 STICK AWAY FROM HIM. THAT'S WHEN WE FELL OVER THE
22 CHAIR AND THE KITCHEN TABLE AND ALL THAT STUFF
23 THAT WAS IN THE KITCHEN, WE JUST FELL HARD TO THE
24 FLOOR. AT THAT TIME I JUST TOOK THE STICK FROM
25 MR. LIVINGSTON AND AFTER I TOOK THE STICK I WAS

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1 ATTEMPTING TO STILL LEAVE THE RESIDENCE BUT THE
2 DOG WAS BLOCKING THE DOOR, I WAS TRAPPED BEHIND
3 THE CHAIR AND I WAS STILL TRYING TO GET OUT. SO,
4 MR. LIVINGSTON GRABBED A HOLD OF MY LEG AND WAS
5 HOLLERING, KILL HIM, BOWSER, KILL HIM, KILL HIM.
6 AND WHILE HE WAS HOLLERING THAT, I WAS, TURN LOOSE
7 MY LEG, TURN LOOSE MY LEG, BUT HE WOULDN'T TURN
8 LOOSE. I JUST TOOK THE STICK AND I HIT HIM A
9 COUPLE OF TIMES AND HE JUST LET GO OF MY LEG. AND
10 THEN I CONCENTRATE ON HIS DOG AND GOT ANOTHER
11 CHAIR THAT WAS STANDING TO THE SIDE AND I USED
12 THAT AS A SHIELD, AND THE OTHER TWO CHAIRS THAT
13 WAS ON THE FLOOR AND THE STICK, AND BACKED THE DOG
14 UP A LITTLE BIT AND THEN JUST EXITED THE RESIDENCE
15 AND LEFT.

16 Q. OKAY. SO, LET'S BACK UP FOR A MINUTE, SO DURING
17 THIS ALTERCATION WITH MR. LIVINGSTON THE STATE
18 SAYS THAT YOU STABBED HIM SEVERAL TIMES. DO YOU
19 REMEMBER STABBING HIM?

20 A. I DON'T REMEMBER STABBING MR. LIVINGSTON DIRECTLY,
21 I NEVER TRIED TO STAB HIM, I WAS JUST SWINGING AT
22 THE DOG PRIMARILY, BUT MAN, WE WAS SO CLOSE, AND
23 HE MIGHT HAVE GOT STUCK SEVERAL TIMES WITH THE
24 KNIFE WHILE I WAS SWINGING. I WAS SCARED, AND I
25 WAS JUST ACTING ON ADRENALIN, I WAS JUST SWINGING

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1 THE KNIFE TRYING TO KEEP THE DOG AWAY FROM ME, AND
2 HE MIGHT HAVE GOT STABBED IN THAT ALTERCATION. I
3 NEVER REMEMBER DIRECTLY JUST STABBING HIM, NO.

4 Q. OKAY. AND DURING THE FIGHT DID YOU HIT MR.
5 LIVINGSTON?

6 A. YES.

7 Q. OKAY. AND DID YOU BELIEVE YOU WERE ACTING IN
8 SELF-DEFENSE WHEN YOU - - -

9 A. YES, I DID.

10 Q. --- YOU STABBED, WHEN YOU ALLEGEDLY STABBED HIM?

11 A. YES.

12 Q. AND WHEN YOU HIT HIM?

13 A. YES.

14 Q. OKAY. NOW, IF I UNDERSTAND THIS CORRECTLY, YOU
15 WERE GOING TO GIVE YOU CRACK COCAINE AND HE WAS
16 GOING TO GIVE YOU POWDER, CORRECT?

17 A. RIGHT. WE DID MAKE THAT EXCHANGE.

18 Q. AND IT WAS SUPPOSED TO BE AN EVEN EXCHANGE?

19 A. RIGHT.

20 Q. HOW MUCH COCAINE DID HE GIVE YOU?

21 A. HE GAVE ME THREE BAGS.

22 Q. AND HOW MUCH CRACK DID YOU GIVE HIM?

23 A. I GAVE HIM APPROXIMATELY FIFTY TO SIXTY DOLLARS
24 WORTH.

25 Q. OKAY. DID YOU CONSIDER THAT AN EVEN TRADE?

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411

1 A. YES.

2 Q. WHAT ABOUT HIM?

3 A. AT THE TIME, YES, WHEN HE TOOK WHAT I GAVE HIM AND
4 HE PUT SOME IN HIS LITTLE PIPE THAT HE HAD, AND AS
5 I WAS STANDING THERE FIXING TO LEAVE, HE WAS
6 HAPPY, UNTIL I GOT READY TO LEAVE.

7 Q. OKAY. AND IT'S AT THAT POINT THAT THE ALTERCATION
8 BEGAN?

9 A. YES.

10 Q. OKAY. DID YOU OFFER TO GIVE MR. LIVINGSTON MONEY
11 TO CHANGE THE DEAL?

12 A. YES, I DID, AND WHEN HE INITIALLY PICKED UP THE
13 STICK AND BACKED ME INTO THE CORNER WITH THE DOG,
14 IN ORDER TO TRY TO, YOU KNOW WHAT I'M SAYING, MAKE
15 THE DEAL EVEN, SATISFY HIM I OFFERED TO GIVE HIM
16 MONEY, I PULLED SOME MONEY OUT OF MY POCKET, AND
17 WENT, TAKE THIS. AND HE SLAPPED IT OUT OF MY
18 HAND, HE SAID HE DIDN'T WANT THAT, HE WANTED THE
19 CRACK COCAINE.

20 Q. OKAY. AND DO YOU REMEMBER HOW MUCH MONEY IT WAS?

21 A. I DIDN'T REALIZE HOW MUCH IT WAS UNTIL LATER ON,
22 BUT IT WAS TWENTY-FIVE DOLLARS.

23 Q. OKAY. I BELIEVE IN THE STATEMENT THERE'S A
24 MENTION OF FIFTY DOLLARS IN A PLASTIC BAG.

25 A. THAT'S SOMETHING THAT OFFICER RODRIGUEZ INCLUDED

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1 INTO THE STATEMENT WHEN HE WROTE THAT STATEMENT,
2 ABOUT FIFTY DOLLARS. I TOLD HIM I PICKED MY MONEY
3 UP OFF THE FLOOR OF THE HOUSE WHEN I LEFT.

4 Q. OKAY. AND HOW DID IT GET ON THE FLOOR AGAIN?

5 A. MR. LIVINGSTON SLAPPED IT OUT OF MY HAND.

6 Q. OKAY. AT THAT POINT DID YOU TRY TO LEAVE THE
7 HOUSE?

8 A. AT WHICH POINT, WHEN?

9 Q. AFTER YOU WERE ABLE TO GET AWAY FROM THE DOG - - -

10 A. YES.

11 Q. --- WELL, ACTUALLY, AT THIS POINT DURING THE
12 MISUNDERSTANDING OR WHATEVER ABOUT THE DRUGS, WERE
13 YOU TRYING TO LEAVE THE HOUSE?

14 A. YES, 'MA'AM.

15 Q. OKAY. DID HE LET YOU LEAVE?

16 A. NO, HE DIDN'T.

17 Q. OKAY. DID YOU TRY TO AVOID GETTING INTO THE FIGHT
18 WITH HIM?

19 A. YES, I DID, BY OFFERING HIM THE MONEY AND THEN
20 JUST BY TALKING, I ASKED HIM NOT TO DO THIS, YOU
21 DON'T HAVE TO DO THIS, MAYBE I'LL HAVE SOMETHING
22 LATER ON WHEN I FINISHED DOING WHAT I WAS DOING
23 WITH WHAT I HAD THEN I WOULD MAYBE COME BACK AND
24 I'D GIVE HIM SOMETHING LATER.

25 Q. OKAY. BUT YOU DIDN'T START THE FIGHT, DID YOU?

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413

1 A. NO, MA'AM, I DIDN'T.

2 Q. AND YOU DIDN'T THREATEN HIM?

3 A. NO, I DIDN'T.

4 Q. YOU DIDN'T CURSE HIM?

5 A. NO, I DIDN'T.

6 Q. YOU DIDN'T THROW THE FIRST PUNCH?

7 A. NO, I DIDN'T.

8 Q. NOW, AS YOU WERE TRYING TO LEAVE IT WAS MR., IT'S
9 YOUR TESTIMONY THAT MR. LIVINGSTON BECAME
10 AGGRESSIVE, IS THAT CORRECT?

11 A. YES.

12 Q. DID HE PUSH YOU?

13 A. YES, WHEN HE PICKED UP THE STICK, HE INITIALLY HIT
14 ME ON THE ARM AND THEN HE PUSHED ME JUST BACK INTO
15 THE KITCHEN, YOU'RE GOING TO GIVE ME WHAT I WANT
16 BEFORE YOU GO ANYWHERE, OR YOU'RE NOT GOING
17 ANYWHERE.

18 Q. HOW BIG WAS THE STICK?

19 A. IT WAS, MAYBE ABOUT FIFTEEN, SIXTEEN INCHES MAYBE,
20 SOMETHING LIKE THAT.

21 Q. OKAY. AND I BELIEVE YOU DID TELL THE POLICE THAT
22 HE HAD A STICK, CORRECT?

23 A. YES, MA'AM.

24 Q. OKAY, DID THEY ASK YOU TO DESCRIBE IT?

25 A. YES, THEY DID.

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414

1 Q. AND HOW DID YOU DESCRIBE IT?

2 A. IT WAS JUST, AT THE TIME IT WAS JUST A STICK, AND
3 THEN THEY ASKED ME WAS IT A DARK STICK, A LIGHT
4 STICK, AND I SAID IT WAS LIGHT COLORED STICK.

5 Q. OKAY. AND HE TOUCHED YOU WITH THAT STICK?

6 A. YES, HE HIT ME SEVERAL TIMES WITH THE STICK.

7 Q. HE HIT YOU. WHEN HE WAS HITTING YOU WHAT WERE YOU
8 DOING?

9 A. I WAS BLOCKING THE SWINGS TRYING TO DEFEND MYSELF
10 AGAINST HIM FROM HITTING ME WITH THE STICK, AND
11 FROM THE DOG TRYING TO GET AROUND THE CHAIRS AND
12 THE TABLE AND GET AT ME.

13 Q. OKAY. AND IT WAS YOUR TESTIMONY THAT MR.
14 LIVINGSTON ACTUALLY COMMANDED THE DOG TO ATTACK
15 YOU, IS THAT CORRECT?

16 A. YES, HE DID.

17 Q. AND BEFORE THAT THE DOG HAD NOT BEEN BOTHERING
18 YOU?

19 A. NO.

20 Q. OKAY. DID YOU BELIEVE YOU WERE IN DANGER?

21 A. YES, I DID.

22 Q. DID YOU THINK HE WAS GOING TO HURT YOU?

23 A. YES, I DID.

24 Q. DID YOU THINK THE DOG WAS GOING TO HURT YOU?

25 A. DEFINITELY, YES, I DID.

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1 Q. OKAY. AND DID HE, IN FACT, TRY TO HURT YOU?

2 A. YES, HE DID.

3 Q. OKAY. WOULD YOU, WOULD YOU SAY THAT YOU DID
4 EVERYTHING YOU COULD TO AVOID GETTING INTO A
5 FIGHT?

6 A. YES, MA'AM, I DID EVERYTHING.

7 Q. WAS THERE ANY WAY YOU COULD HAVE GOTTEN OUT OF
8 THERE WITHOUT RESORTING TO SOME KIND OF VIOLENCE?

9 A. NO, I DIDN'T, I TRIED, HE WAS, THE ONLY WAY, I WAS
10 BETWEEN HIM AND THE DOG.

11 Q. AND IT WASN'T YOUR KNIFE TO BEGIN WITH, WAS IT?

12 A. NO.

13 Q. OKAY. DO YOU KNOW WHOSE KNIFE IT WAS?

14 A. I DON'T HAVE NO IDEA, IT WAS JUST ON THE COUNTER
15 IN THE KITCHEN.

16 Q. OKAY. WHEN YOU WENT THERE ON SEPTEMBER TWENTY-
17 NINTH, TWO THOUSAND AND SIX, DID YOU HAVE ANY
18 WEAPONS OF ANY KIND ON YOU?

19 A. NO, I DIDN'T.

20 Q. OKAY. DID YOU HIT HARRY?

21 A. ONLY AFTER HE ASSAULTED ME, YES.

22 Q. OKAY. DID YOU GO THERE INTENDING TO GET INTO A
23 FIGHT WITH HIM?

24 A. NO, I DIDN'T.

25 Q. DID YOU GO THERE INTENDING TO STAB HIM?

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1 A. NO, I DIDN'T.

2 Q. TO HIT HIM?

3 A. NO.

4 Q. OKAY. TO DO HARM TO ANYBODY?

5 A. NO, MA'AM, NOT ANYONE.

6 Q. OKAY. WAS THERE ANY PLOT IN YOUR MIND TO STEAL
7 THE DRUGS FROM HIM?

8 A. NO, IT WASN'T. I HAD JUST BEEN RECENTLY PAID THAT
9 SAME EVENING, I HAD JUST CASHED MY CHECK ABOUT
10 FIVE HOURS, SIX HOURS BEFORE THAT OF FIVE HUNDRED
11 AND SOMETHING DOLLARS, I HAD NO REASON TO GO THERE
12 AND TRY TO STEAL THREE BAGS OF COCAINE FROM HIM,
13 ALL THE TIMES I BOUGHT FROM THEM NUMEROUS TIMES, I
14 NEVER HAD ANY PROBLEMS OUT OF, ESPECIALLY GEORGE
15 WHEN I'D GO THERE AND DEAL WITH HIM. USUALLY I
16 DEALT WITH HIM, I NEVER HAD ANY PROBLEMS OUT OF
17 HIM OVER THAT.

18 Q. WHAT HAPPENED TO THE POWDER COCAINE?

19 A. I INITIALLY BOUGHT IT TO RESELL TO SOMEONE, AND
20 THAT'S WHAT I DID THE NEXT MORNING.

21 Q. OKAY. AND WHAT HAPPENED TO THE CRACK COCAINE?

22 A. IT WAS TOGETHER, THE CRACK AND THE POWDER WAS TO
23 GO TOGETHER.

24 Q. OKAY. WHEN YOU LEFT THE HOUSE WAS MR. LIVINGSTON
25 STILL ALIVE?

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417

1 A. TO THE BEST OF MY KNOWLEDGE, YES, HE WAS STILL
2 ALIVE.

3 Q. WHERE WAS HE AT?

4 A. HE WAS IN THE KITCHEN LYING ON THE FLOOR.

5 Q. WAS HE CLOSE TO THE WALL?

6 A. HE WAS CLOSE TO ONE WALL, A DIVIDER WALL HE WAS
7 CLOSE TO, THE OTHER WALL MAYBE ABOUT TWO, THREE
8 FEET FROM THE FAR WALL.

9 Q. WAS HE CONSCIOUS OR UNCONSCIOUS?

10 A. FROM MY KNOWLEDGE HE WAS STILL CONSCIOUS, HE WAS
11 LOOKING AT ME AND HE WAS BREATHING.

12 Q. WAS HE ON HIS BACK OR ON HIS SIDE OR HOW - - -

13 A. HE WAS ON HIS BACK WHEN I WAS GOING OUT THE DOOR,
14 I REMEMBER, WHEN I WENT BACK, LOOKED BACK TO PICK
15 UP THE MONEY IT SAW HIM SITTING ON THE FLOOR. HE
16 WAS ATTEMPTING TO, IT LOOKED LIKE HE WAS GOING TO
17 ROLL OVER TRYING TO GET UP.

18 Q. DID HE SAY ANYTHING TO YOU?

19 A. NO, HE DIDN'T SAY ANYTHING.

20 Q. DO YOU REMEMBER WHERE THE KNIFE WAS AT?

21 A. NO.

22 Q. AFTER THE ALTERCATION WITH MR. LIVINGSTON DID YOU
23 GO INTO ANY OTHER PART OF THE HOUSE?

24 A. NO, I DIDN'T.

25 Q. DID YOU GO IN THE BEDROOM?

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418

1 A. NO.

2 Q. DID YOU GO IN THE BATHROOM?

3 A. NO.

4 Q. DID YOU CUT ON ANY LIGHTS?

5 A. NO.

6 Q. DID YOU TOUCH ANY LIGHTS OR LIGHT SWITCHES?

7 A. NO, I DIDN'T TOUCH ANYTHING.

8 Q. OKAY. WHICH DOOR DID YOU LEAVE OUT OF?

9 A. THE ONE RIGHT IN THE KITCHEN AREA, BETWEEN THE
10 KITCHEN AND THE LIVING ROOM AREA, THE FRONT DOOR,
11 I GUESS.

12 Q. WERE YOU INJURED AS A RESULT OF YOUR FIGHT WITH
13 MR. LIVINGSTON?

14 A. YES, I WAS, I HAD SOME BRUISES TO MY LEG,
15 SCRATCHES ON MY LEGS AND, WHERE THE DOG HAD TRIED
16 TO BIT ME, AND ON MY ARMS.

17 Q. DID YOU TELL THE POLICE ABOUT THAT?

18 A. YES, MA'AM, I DID, AND THEY ACTUALLY TOOK PICTURES
19 OF ME THAT NEXT MORNING WHEN I WAS AT THE POLICE
20 STATION.

21 Q. ALRIGHT, LET'S TALK ABOUT WHEN YOU LEFT MR.
22 LIVINGSTON'S HOUSE. DO YOU KNOW WHAT TIME THAT
23 WAS, ABOUT?

24 A. IT HAD TO BE CLOSE TO THREE, MAYBE TEN TO THREE, A
25 QUARTER TO THREE, SOMEWHERE CLOSE TO THREE

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419

1 O'CLOCK, I'M NOT EXACTLY SURE WHAT TIME IT WAS, IT
2 WAS CLOSE TO THREE O'CLOCK.

3 Q. AND WHERE DID YOU GO WHEN YOU LEFT THERE?

4 A. I WAS GOING TO GO HOME, BUT I STOPPED AT JEFFREY
5 CONNER'S HOUSE.

6 Q. HOW DID YOU GET THERE?

7 A. I WAS DRIVING A CAR.

8 Q. WHY DID YOU GO THERE?

9 A. BECAUSE WHEN I WAS DRIVING, WHEN I LEFT, INITIALLY
10 LEFT MR. LIVINGSTON'S HOUSE AND I WAS IN THE CAR I
11 FELT THIS BLOOD ON MY PANTS, AND I LOOKED AT MY
12 HAND AND IT WAS BLOOD ALL ON MY HANDS, SO I
13 ASSUMED HE DID, I WANTED TO CHECK MYSELF, HAVING
14 THIS INDIVIDUAL BLOOD ON ME, I THOUGHT AT FIRST IT
15 WAS MY BLOOD, AND THEN MAYBE IT WAS SOME OF HIS
16 BLOOD. SO, I SAID, I JUST WANT TO GET THIS BLOOD
17 OFF ME. SO, I STOPPED BY MR. CONNER'S, I KNOW
18 THAT HE KEPT SOME SURPLUS CLOTHES IN HIS FRONT
19 YARD. I'D BE THERE ALMOST EVERY DAY, SO I WAS
20 GOING TO STOP THERE AND GET A PAIR OF THOSE PANTS
21 AND TAKE MINE OFF AND JUST CONTINUE ON HOME.

22 Q. OKAY. AND WHAT DID YOU DO WHEN YOU GOT TO MR.
23 CONNER'S HOUSE.

24 A. I STARTED LOOKING THROUGH THE STUFF ON THE
25 OUTSIDE, AND IT WAS KIND OF DARK, I REALLY

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420

1 COULDN'T TELL THE SIZE, I JUST TOOK A PAIR, AND I
2 KNOW HE DIDN'T HAVE ANY RUNNING WATER OR LIGHTS
3 AND ELECTRICITY IN HIS HOUSE, SO I WENT DOWN THE
4 STREET TO THE CAR WASH WHERE A LIGHT WAS, AND I
5 LOOKED AT MYSELF TO SEE WHETHER I WAS BLEEDING OR
6 WHERE WAS THIS BLOOD COMING FROM ON ME. I KNOW IT
7 WAS JUST ON MY PANTS, I WASN'T REALLY BLEEDING
8 THAT BAD, IT WAS JUST A COUPLE OF SCRATCHES, BUT I
9 SAID, I JUST NEED TO TAKE THIS PANTS OFF ME, BUT
10 THE ONES I TOOK FROM MR. CONNER'S HOUSE THEY
11 DIDN'T FIT. SO, THAT'S WHEN I RETURNED BACK TO
12 MR. CONNER'S HOUSE.

13 Q. OKAY. WHY WERE YOU CONCERNED ABOUT GETTING THE
14 PANTS OFF?

15 A. OBVIOUS MEDICAL REASONS, IF IT WAS SOMEBODY ELSE'S
16 BLOOD HE COULD HAVE HAD AIDS OR SOME OTHER KIND OF
17 DISEASE, AND WITH THE OPEN SCRATCHES AND SORES
18 THAT WAS ON MY BODY I WAS CONCERNED THAT MAYBE I
19 CONTRACT SOME OF THOSE, SO - - -

20 Q. OKAY. I THINK YOU JUST TESTIFIED THAT MR. CONNER
21 DIDN'T HAVE ELECTRICITY, AND HE DIDN'T HAVE WATER,
22 IS THAT CORRECT?

23 A. NO, MA'AM, HE DIDN'T.

24 Q. OKAY. DID HE HAVE A BATHROOM FACILITY?

25 A. HE HAD A BATHROOM IN THERE BUT IT WASN'T HOOKED

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421

1 UP.

2 Q. OKAY. WAS IT, DID ANYBODY USE THAT BATHROOM
3 THOUGH, EVEN THOUGH IT WASN'T HOOKED UP?

4 A. WE WOULD USE IT, AND WHAT HE WOULD DO IN THE
5 DAYTIME HE WOULD GO DOWN TO THE CAR WASH AND HE
6 WOULD FILL UP A TRASH CAN WITH WATER AND KEEP IT
7 SITTING NEAR THE BATHROOM DOOR, SO WE USED THE
8 BATHROOM, WE WOULD JUST THEN POUR THE WATER INTO
9 THE TOILET AND IT WOULD FLUSH.

10 Q. ALRIGHT, AFTER YOU GOT THE PANTS FROM MR. CONNER'S
11 HOUSE WHAT DID YOU DO?

12 A. THEN I JUST SAT DOWN AND I ROLLED A CIGARETTE UP
13 AND I ASKED HIM DID HE WANT TO GET HIGH, AND WE
14 SMOKED ABOUT HALF OF IT, AND HE WAS LIKE HE WAS
15 READY TO GO TO SLEEP, AND I SAID, WELL, YOU LOOK
16 TIRED SO YOU JUST GO AHEAD AND I'LL SEE YOU
17 TOMORROW. I GOT IN MY CAR AND I WENT HOME.

18 Q. ALRIGHT. LET'S BACK UP FOR A MINUTE. YOU
19 ACTUALLY WENT TO MR. CONNER'S HOUSE TWICE,
20 CORRECT?

21 A. YES.

22 Q. OKAY. YOU ACTUALLY LEFT ONCE AND CAME BACK,
23 CORRECT?

24 A. YES.

25 Q. DID YOU SAY ANYTHING TO MR. CONNER THE FIRST TIME

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422

1 ABOUT GOING ON A MISSION?

2 A. YES, I DID, WHEN HE CAME OUT THE DOOR I WAS OUT
3 THERE CHECKING THE PANTS, AND HE WAS, YOU KNOW,
4 WHAT'S UP, MAN, HOW YOU DOING, OR JUST, WELL,
5 WHAT'S UP? AND I SAID, IT AIN'T NOTHING, LOOK,
6 I'LL BE BACK IN A FEW MINUTES, I'M GOING ON A
7 MISSION, I'LL BE BACK IN A FEW MINUTES. AND
8 THAT'S WHEN I WENT DOWN THE STREET TO THE CAR
9 WASH.

10 Q. AND WHAT DID YOU MEAN BY A MISSION?

11 A. JUST GOING TO THE CAR WASH. ME AND MR. CONNER --
12 ACTUALLY, I GOT THE WORDS FROM MR. CONNER, WE JUST
13 USE IT, IT MEANS GOING SOMEWHERE, YOU KNOW, YOU
14 CAN BE GOING ON A MISSION TO GO SEE A GIRL, YOU
15 CAN BE GOING ON A MISSION TO THE GROCERY STORE,
16 YOU CAN BE GOING ON A MISSION TO THE LIQUOR STORE,
17 YOU CAN BE GOING ON A MISSION OF ANY, JUST
18 ANYWHERE, IT'S JUST A MATTER OF JUST SAYING YOU'RE
19 GOING SOMEWHERE.

20 Q. SO, YOUR INITIAL PANTS DIDN'T FIT, IS THAT
21 CORRECT?

22 A. RIGHT.

23 Q. AND WHAT DID YOU DO THEN?

24 A. I JUST TOOK THOSE OFF AND I WENT BACK TO MR.
25 CONNER'S HOUSE AND I WENT IN, THAT'S WHEN I WENT

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423

1 IN INITIALLY, I WENT INSIDE AND WENT IN THE
2 BATHROOM, AND I USED THE BATHROOM AND I TOOK THOSE
3 PANTS OFF AND I CAME BACK OUT AND ASKED HIM IF I
4 COULD BORROW A PAIR OF HIS PANTS.

5 Q. OKAY. AND ABOUT HOW LONG WERE YOU AT MR. CONNER'S
6 HOUSE?

7 A. ALTOGETHER IT MIGHT HAVE TOOK MAYBE FIFTEEN,
8 TWENTY MINUTES AT TOPS.

9 Q. OKAY. AND WHAT DID YOU DO WHEN YOU LEFT MR.
10 CONNER'S HOUSE?

11 A. I WENT DIRECTLY HOME.

12 Q. AND WHAT DID YOU WITH THE PAIR OF PANTS YOU HAD
13 ON?

14 A. I DIDN'T WANT TO LEAVE THEM IN MR. CONNER'S HOUSE,
15 AGAIN BECAUSE IF THERE WAS BLOOD ON THEM IT MIGHT
16 HAVE BEEN SOMEBODY ELSE'S BLOOD, AND I THOUGH THAT
17 WOULD BE JUST RUDE OR NASTY JUST TO LEAVE A PAIR
18 OF BLOODY PANTS LAYING AROUND SOMEBODY'S HOUSE, SO
19 I JUST TOOK THEM OUTSIDE, AND HE DIDN'T HAVE A
20 TRASH CAN, SO I JUST STUCK THEM IN THE SIDE OF THE
21 PORCH RIGHT THERE, AND I SAID, I'LL WOULD JUST
22 COME BACK AND DISPOSE OF THEM TOMORROW OR
23 SOMETHING. I INITIALLY WANTED TO THROW THEM AWAY
24 BUT HE DON'T HAVE A TRASH, HE DIDN'T HAVE A TRASH
25 CAN OUTSIDE.

1 Q. OKAY. AND THEN YOU WENT HOME?

2 A. YES.

3 Q. OKAY. AND WHAT DID YOU DO WHEN YOU WENT HOME?

4 A. I LOOKED AT MYSELF, INITIALLY I WENT IN THE
5 BATHROOM AND I CONTINUED TO CHECK MYSELF AGAIN
6 BECAUSE I HAD A BETTER LIGHT AT MY HOUSE. ONCE I
7 GOT INSIDE THE BATHROOM I TOOK MY SHIRT OFF AND I
8 NOTICED SOME SPECS OF BLOOD WAS ON IT, SO, I TOOK
9 THAT SHIRT AND WE WERE BURNING TRASH OUTSIDE IN
10 THE YARD THAT EVENING, I JUST THREW IT IN THAT
11 BARREL, AND WENT INSIDE AND SAT BESIDE THE BED
12 WITH MY GIRLFRIEND, SHE GOT MAD AT ME, SHE LEFT
13 THE HOUSE BECAUSE I CAME IN SO LATE. AND SO, SHE
14 CAME BACK AND WE TALKED FOR A FEW MINUTES, AND I
15 WENT TO SLEEP, GOT UP THE NEXT MORNING, GOT MY
16 KIDS READY FOR SCHOOL, AND I WENT TO WORK.

17 Q. AND YOU WORK WHERE?

18 A. AT THE TIME, SOUTH CAROLINA STATE, IN THE
19 CAFETERIA.

20 Q. OKAY. WHEN DID YOU LEARN THAT MR. LIVINGSTON HAD
21 DIED?

22 A. I ACTUALLY LEARNED THAT HE ACTUALLY DIED THE NEXT
23 DAY AFTER OFFICER SHUMPERT WAS AT MY HOUSE WHEN WE
24 WERE GOING IN ROUTE BACK TO THE POLICE STATION.

25 Q. OKAY, SO IT WAS OFFICER SHUMPERT WHO TOLD YOU?

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1 A. YES.

2 Q. OKAY. WHEN YOU LEFT MR. LIVINGSTON'S HOUSE DID
3 YOU THINK HE WAS SERIOUSLY HURT?

4 A. I CAN'T, I'M NOT SURE, I DIDN'T THINK HE WAS HURT,
5 I MEAN, I JUST HIT HIM A COUPLE OF TIMES, I DIDN'T
6 KNOW THAT I HAD STABBED HIM, OR THAT HE HAD BEEN
7 STABBED.

8 Q. OKAY.

9 A. AND I JUST FIGURED I HIT HIM WITH THE STICK AND I
10 DIDN'T THINK THAT THAT HURT HIM THAT BAD.

11 Q. ALRIGHT, TELL ME ABOUT THE FIRST STATEMENT THAT
12 YOU GAVE?

13 A. WELL, THE FIRST ONE, IT WAS JUST, OFFICER SHUMPERT
14 BEGAN, WHEN HE GOT ME TO THE STATION, OFFICER
15 KRAFT BROUGHT ME THERE. OFFICER SHUMPERT CAME IN
16 AND WAS ASKING ME JUST INITIALLY WHERE WERE THE
17 CLOTHES I HAD ON THAT EVENING, AND NOBODY --
18 AGAIN, NOBODY HAD TOLD ME WHY I WAS BEING ARRESTED
19 OR WHY I WAS AT THE POLICE STATION, SO I WAS BEING
20 KIND OF VAGUE AND I WAS ASKING THEM WHAT IT'S
21 ABOUT, BUT THEY WOULDN'T TELL ME.

22 Q. SO, HE DIDN'T, HE DIDN'T TELL YOU RIGHT AWAY, IS
23 THAT CORRECT?

24 A. NO. SO THEN I JUST SAID, WELL, THE CLOTHES AT MY
25 HOUSE. SO, THAT'S WHEN THE OFFICER SAID, WELL,

1 COME ON, LET'S GO TO YOUR HOUSE, AND WE WENT TO MY
2 HOUSE. AND WHEN I GAVE HIM THE CLOTHES, I JUST
3 GAVE HIM SOME CLOTHES AT THE TIME. THEY STILL
4 AGAIN WOULDN'T TELL ME WHAT THE SITUATION WAS
5 ABOUT, SO I JUST GAVE THEM SOME CLOTHES. AND THEN
6 WHEN WE GOT BACK IN THE CAR AND WAS IN ROUTE BACK
7 TO THE STATION, THEN HE ASKED ME, YOU KNOW THIS IS
8 AN INVESTIGATION CONCERNING THE HOMICIDE OF HARRY
9 LIVINGSTON. I WAS, HOMICIDE, WHAT ARE YOU TALKING
10 ABOUT? AND THAT'S WHEN HE SAID, WELL, YOU KNOW,
11 HARRY IS DEAD. I SAID, I AIN'T KNOW NOTHING ABOUT
12 THE MAN BEING DEAD, BUT I AIN'T WANT TO TALK TO
13 YOU NO MORE RIGHT NOW. JUST LET ME GET A LAWYER,
14 I DON'T WANT TO HAVE NO MORE CONVERSATION WITH YOU
15 OR NONE OF THE OTHER OFFICERS, I JUST WANT A
16 LAWYER. BECAUSE THEY NEVER TOLD ME HE WAS DEAD.

17 Q. OKAY. AND AT THAT POINT DID OFFICER SHUMPERT STOP
18 QUESTIONING YOU?

19 A. YES, HE DID.

20 Q. OKAY. DID ANYBODY ELSE TRY TO QUESTION YOU?

21 A. YES, OFFICER KRAFT AND LIEUTENANT BAMBERG LATER ON
22 THAT AFTERNOON, AND I TOLD THEM THE SAME RESPONSE,
23 THE SAME WAY TO THEM, THAT I WANTED AN ATTORNEY, I
24 DIDN'T WANT TO TALK TO ANYBODY.

25 Q. OKAY. DID THEY EVER TELL YOU ABOUT MR.

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1 LIVINGSTON'S MEDICAL CONDITION?

2 A. NO, THEY DIDN'T, EXCEPT FOR THE NEXT DAY I FOUND
3 OUT ABOUT IT WHEN THEY STARTED QUESTIONING ME THE
4 SECOND TIME.

5 Q. OKAY. ALRIGHT, TELL ME ABOUT THE SECOND DAY, THE
6 SECOND TIME?

7 Q. WELL, THE SECOND DAY MR. SHUMPERT CAME OVER AND HE
8 SIGNED ME OUT OF THE COUNTY JAIL, TOOK ME OVER TO
9 THE SHERIFF'S OFFICE. MS. BAMBERG AND MR.
10 RODRIGUEZ WERE IN THE SMALL ROOM IN THERE. OFFICER
11 RODRIGUEZ INTRODUCED HIMSELF, SAID HE WAS LEAD
12 INVESTIGATOR OF THE CASE, THEY WANTED TO ASK ME
13 SOME QUESTIONS CONCERNING HARRY LIVINGSTON, THAT
14 HE HAD DONE HIS INVESTIGATION, HE HAD BEEN TO THE
15 HOUSE AND HE KNOWED THERE HAD BEEN A BIG STRUGGLE
16 IN THERE, A BIG FIGHT, AND THEY HAD GOT THE
17 PRELIMINARY MEDICAL STUFF FROM HIM, IT LOOKED LIKE
18 HE HAD A HEART ATTACK OR SOMETHING, BUT HE HAD
19 SOME BRUISES AND STUFF ON HIM THAT WE WAS JUST
20 CONCERNED ABOUT. SO, THAT'S WHEN I SAID, WELL,
21 YOU KNOW, SIMPLY I DIDN'T WANT TO BE CHARGED WITH
22 THE MURDER OF THIS MAN, SO I SAID, MY BEST
23 INTEREST IS TO JUST TELL THEM, ME AND HIM WAS IN A
24 LITTLE FIGHT AND THAT WAS IT. SO, THAT'S WHEN I
25 BEGAN TO TELL THEM WHAT HAPPENED WITH ME AND MR.

1 LIVINGSTON AT THE HOUSE THAT EVENING.

2 Q. AND YOU AGREED TO GIVE A STATEMENT?

3 A. YES.

4 Q. OKAY. AND WHAT DID YOU TELL THEM?

5 A. EXACTLY, THE SAME AS I TOLD YOU A FEW MINUTES AGO,
6 THAT I WAS THERE AND ME AND MR. LIVINGSTON MADE A
7 TRADE OF THE CRACK COCAINE FOR THE COCAINE, AND HE
8 THEN BECAME DISSATISFIED WITH WHAT I GAVE HIM AND
9 STARTED DEMANDING MORE, AND WHEN I REFUSED THAT HE
10 ATTACKED ME, AND WITH THE DOG, AND I DEFENDED
11 MYSELF AGAINST THE BOTH OF THEM, THAT I HIT MR.
12 LIVINGSTON A FEW TIMES WITH A STICK AND THEN I
13 LEFT.

14 Q. AND WHO TOOK THE STATEMENT FROM YOU ON THE SECOND
15 DAY?

16 A. OFFICER RODRIGUEZ.

17 Q. OKAY. DESCRIBE HOW THAT STATEMENT WAS TAKEN?

18 A. WELL, AGAIN, WE SAT THERE AND WE TALKED FOR A FEW
19 MINUTES. HE SAID, WELL, ARE YOU WILLING TO GIVE A
20 STATEMENT? I SAID, SURE I WILL WRITE A STATEMENT.
21 SO, I ASKED HIM TO TAKE THE BLACK BOX OFF ME, AND
22 HE COME UNDER THE COUNTER AND - - -

23 Q. OKAY. STOP JUST A MINUTE. EXPLAIN TO THE JURORS
24 WHAT THE BLACK BOX MEANS.

25 A. A BLACK BOX IS AN APPARATUS, ACTUALLY A BLACK BOX

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1 ABOUT THIS WIDE HERE, IT HAS A LITTLE HOLE IN THE
2 MIDDLE. WHEN THEY PUT THE HANDCUFFS ON YOU THEY
3 PUT THE BLACK BOX OVER IT SO THEY CAN SECURE A
4 CHAIN AROUND YOUR WAIST, AND THEY SECURE YOUR
5 HANDS IN FRONT OF YOU LIKE THIS SO YOU CAN'T MOVE.
6 YOU HAVE TO, YOU ALWAYS STAY STATIONARY LIKE THIS.

7 Q. IT WOULD MAKE IT VERY DIFFICULT TO WRITE, WOULDN'T
8 IT?

9 A. YES.

10 Q. OKAY. ALRIGHT. SO, THEY BROUGHT YOU OVER TO TALK
11 TO YOU ABOUT A STATEMENT?

12 A. UH HUH.

13 Q. AND YOU HAD THE BLACK BOX ON?

14 A. YES.

15 Q. AND THEN WHAT?

16 A. AND THEN, AGAIN, THEY WERE QUESTIONING, WHEN I
17 AGREED TO GIVE THEM A STATEMENT I ASKED OFFICER
18 RODRIGUEZ TO TAKE THE BLACK BOX OFF AND I'D WRITE
19 THE STATEMENT MYSELF. HE SAID, WELL, WE DON'T
20 HAVE A KEY. WELL, I SAID, THEY'VE GOT ONE RIGHT
21 OVER AT THE JAIL, OR WHATEVER. HE SAID, NO, I
22 CAN'T GO OVER THERE AND GET IT, OR WHATEVER. AND
23 I'LL JUST TELL YOU WHAT, I'LL WRITE THE STATEMENT
24 FOR YOU, I'LL MAKE SURE THAT I WRITE EVERYTHING
25 THAT YOU SAY, NOTHING, YOU KNOW, CHANGES WHAT YOU

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1 SAY NOW. AND AT THE TIME I JUST AGREED TO IT.

2 Q. OKAY. AND SO, IT WASN'T YOUR SUGGESTION THAT HE
3 WRITE THE STATEMENT FOR YOU?

4 A. NO, IT WAS HIS SUGGESTION THAT HE WRITE THE
5 STATEMENT.

6 Q. OKAY. JUST IN SUMMARY, DID YOU FEEL THAT NIGHT
7 THAT YOUR LIFE WAS IN DANGER?

8 A. YES, I DID.

9 Q. AND DO YOU FEEL THAT YOU ACTED IN SELF DEFENSE?

10 A. YES. EVERYTHING I DID WAS IN SELF DEFENSE.

11 Q. OKAY.

12 MS. HINDS: NO FURTHER QUESTIONS,
13 PLEASE ANSWER ANY QUESTIONS THEY MAY HAVE.

14 THE COURT: CROSS-EXAM.

15 SOLICITOR SORENSON: MAY IT PLEASE
16 THE COURT.

17 THE COURT: YES, SIR.

18 (NOTE: Blank lines on this page do not indicate any
19 part of record has been omitted. Headers on testimony
20 pages and hard page breaks between testimony are now
21 required by the Court. See next ensuing page for
22 sequential continuation of record.)

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CROSS-EXAMINATION OF GEORGE N. MOSES

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, MR. MOSES.

A. GOOD AFTERNOON.

Q. THERE ARE A FEW THINGS I WANT TO GO OVER WITH YOU.
ALRIGHT, SO IT'S YOUR TESTIMONY THAT BACK -- I'LL
START BACK FROM WHERE YOU STARTED WITH MS. HINDS -
- THAT BACK IN SEPTEMBER OF TWO THOUSAND AND SIX,
YOU WERE ABOUT NINETY POUNDS LIGHTER THAN YOU ARE
NOW?

A. YES.

Q. BUT YOU'RE FIVE FOOT ELEVEN?

A. YES.

Q. AND YOU WERE OBVIOUSLY FIVE FOOT ELEVEN BACK THEN,
RIGHT?

A. YES.

Q. AND YOU WOULD AGREE THAT YOU WERE BIGGER THAN
HARRY?

A. MAYBE.

Q. YOU'RE TALLER THAN HIM, RIGHT?

A. YES, I WAS DEFINITELY TALLER THAN HIM.

Q. ABOUT SEVERAL INCHES? AND IT'S YOUR TESTIMONY
THAT YOU WENT OVER TO THE TRAILER THAT NIGHT
BETWEEN ONE:FORTY-FIVE AND TWO A.M IN THE MORNING?

A. YES.

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1 Q. IS THAT CORRECT? FOR THE PURPOSE OF GOING TO BUY
2 DRUGS FROM HARRY'S ROOMMATE, GEORGE?

3 A. RIGHT.

4 Q. ALRIGHT. AND WHEN YOU GOT THERE YVETTE WAS THERE,
5 RIGHT?

6 A. YES.

7 Q. LET ME ASK YOU, DID YOU SEE YVETTE GIVE HARRY
8 MONEY THAT NIGHT?

9 A. NO, I DIDN'T.

10 Q. NO DOUBT ABOUT IT, THOUGH, THAT WHEN MS. OWENS
11 CAME AND PICKED YVETTE UP AND THEN LEFT, THAT IT
12 WAS JUST YOU AND THE VICTIM IN THE TRAILER, RIGHT?

13 A. RIGHT, AND THE DOG.

14 Q. NOBODY ELSE THERE?

15 A. AND THE DOG.

16 Q. AND THE DOG. NO OTHER PEOPLE THERE, IS THAT
17 CORRECT?

18 A. NO.

19 Q. ALRIGHT. AND AS TO THAT DOG, I MEAN, YOU HAD BEEN
20 OVER, I BELIEVE YOU TESTIFIED, TO THAT TRAILER, I
21 MEAN, HUNDREDS OF TIMES, RIGHT?

22 A. YES.

23 Q. ALRIGHT. AND HAD NEVER HAD ANY PROBLEM WITH THAT
24 DOG BEFORE, RIGHT?

25 A. NO. I WAS ACTUALLY AFRAID OF THE DOG, ANYTIME

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1 THAT I WENT IN THERE WAS ALWAYS SOMEONE BETWEEN ME
2 AND THE DOG, OR ELSE I NEVER WENT IN AND STAYED
3 FOR ANY EXTENDED TIME, MAYBE TWO OR THREE MINUTES
4 AT TOPS.

5 Q. OKAY. BUT YOU'D NEVER HAD ANY PROBLEM WITH THE
6 DOG BEFORE?

7 A. NO.

8 Q. I MEAN, THE DOG HAD NEVER BARKED AT YOU, GROWLED
9 AT YOU, BIT YOU OR ANYTHING LIKE THAT?

10 A. IT HAD GROWLED AT ME SEVERAL TIMES, I JUST
11 MENTIONED, WHEN I WOULD LEAVE ESPECIALLY OUT THE
12 BACK DOOR AND THE DOG WAS OUTSIDE BY ITSELF, EVERY
13 TIME I WOULD GO OUT THE BACK DOOR IT WOULD JUMP UP
14 AND GROWL.

15 Q. JUST SO I'M SURE, THE DOOR THAT EVERYBODY WAS
16 USING TO THAT TRAILER IS THAT DOOR RIGHT THERE, IS
17 THAT CORRECT?

18 A. THEY USED THAT DOOR, THAT'S THE DOOR I USED THAT
19 NIGHT, YES.

20 Q. OKAY.

21 A. BUT IT'S ANOTHER DOOR DOWN FARTHER.

22 Q. ANOTHER DOOR FARTHER DOWN THIS WAY, RIGHT?

23 A. YES.

24 Q. ALRIGHT. BUT THIS IS THE DOOR THAT EVERYBODY WAS
25 COMING IN AND OUT OF - - -

1 A. RIGHT.

2 Q. --- THAT KIND OF OPENS INTO THE KITCHEN AND THE
3 LIVING ROOM?

4 A. YES.

5 Q. SO, IT'S YOUR TESTIMONY THAT YOU DID NOT AT ANY
6 POINT IN TIME THAT NIGHT TAKE ANY MONEY FROM THE
7 VICTIM?

8 A. NO, I DIDN'T.

9 Q. OKAY. ALRIGHT, AND YVETTE ENDED UP LEAVING ABOUT
10 TWO:THIRTY IN THE MORNING?

11 A. YES.

12 Q. OKAY. AND WERE YOU, DID YOU HAVE A WATCH WHERE
13 YOU WERE KEEPING TRACK OF TIME OR - - -

14 A. NO, IT WAS A CLOCK THAT WAS SITTING ON THE COUNTER
15 RIGHT BY, ON THE STAND RIGHT BY THE T.V. IN THE
16 LIVING ROOM. AND FROM WHERE I WAS SITTING I COULD
17 SEE THIS CLOCK.

18 Q. OKAY. AND HOW LONG HAD YOU BEEN THERE BEFORE
19 YVETTE LEFT?

20 A. PROBABLY ABOUT THIRTY TO THIRTY-FIVE MINUTES
21 PROBABLY.

22 Q. OKAY. AND HAD YOU HAD ANY CONVERSATION UP UNTIL
23 THAT POINT IN TIME ABOUT YOU PURCHASING ANY DRUGS
24 FROM HARRY?

25 A. NO.

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1 Q. ALRIGHT. SO, ALL THAT TOOK PLACE AFTER YVETTE
2 LEFT, WHEN IT WAS JUST THE TWO OF Y'ALL THERE?

3 A. YES.

4 Q. SO, THERE WOULD BE NO WITNESSES TO THAT
5 CONVERSATION?

6 A. NO.

7 Q. OKAY. AND LET ME MAKE SURE I UNDERSTAND THIS,
8 Y'ALL TALKED ABOUT YOU TRADING HIM BASICALLY FIFTY
9 OR SIXTY DOLLARS WORTH OF CRACK COCAINE FOR FIFTY
10 OR SIXTY DOLLARS WORTH OF POWDER COCAINE?

11 A. YES.

12 Q. IS THAT CORRECT?

13 A. YES.

14 Q. AND I ASSUME THAT'S BECAUSE YOUR PREFERENCE IS
15 POWDER COCAINE?

16 A. YES.

17 Q. OKAY. WELL, WHERE DID YOU GET THE CRACK COCAINE
18 FROM, THEN, TO BE TRADING - - -

19 A. FROM ANOTHER, FROM ANOTHER PERSON.

20 Q. DID YOU BUY IT FROM SOMEBODY ELSE?

21 A. YES.

22 Q. WELL, IF YOU DON'T USE CRACK COCAINE WHY WOULD YOU
23 HAVE BOUGHT CRACK COCAINE FROM SOMEBODY ELSE?

24 A. I BUY IT TO RESELL IT.

25 Q. OKAY. SO, YOU SELL CRACK COCAINE TO OTHER PEOPLE

1 BESIDES JUST WHEN YOU'RE TRADING IT FOR POWDER
2 COCAINE?

3 A. WELL, WHAT I WAS DOING THAT EVENING, THERE ARE
4 PEOPLE THAT I KNOW THAT DON'T LIKE GOING TO STREET
5 CORNERS OR TO DRUG DEALERS' HOUSE TO BUY COCAINE
6 THEIRSELF. SO, WHAT THEY WILL DO IS, THEY WILL
7 CALL ME AND I'LL GO PICK IT UP FOR THEM AND I WILL
8 CHARGE THEM MORE THAN THAT I SPENT FOR IT.

9 Q. OKAY. SO, YOU'RE KIND OF LIKE THE MIDDLE MAN, I
10 GUESS?

11 A. PRETTY MUCH, YEAH.

12 Q. ALRIGHT. AND IT'S YOUR TESTIMONY THAT THE TWO OF
13 Y'ALL HAD SOME CONVERSATION ONCE AGAIN ABOUT
14 EXCHANGING THIS CRACK COCAINE FOR POWDER COCAINE.
15 DID Y'ALL ACTUALLY MAKE THAT EXCHANGE?

16 A. YES, WE DID.

17 Q. SO YOU, THEN, HAD THE POWDER COCAINE ON YOU?

18 A. RIGHT.

19 Q. AND HARRY THEN HAD THE CRACK COCAINE ON HIM?

20 A. RIGHT.

21 Q. OKAY. AND IT'S YOUR TESTIMONY THAT AT SOME POINT
22 IN TIME THEN HE BECAME DISSATISFIED WITH THAT
23 TRADE?

24 A. YES.

25 Q. OKAY. SO, IT'S YOUR TESTIMONY THAT HE LIKED TO

1 SMOKE CRACK COCAINE?

2 A. RIGHT.

3 Q. I MEAN, DID HE SAY WHY HE WAS NOT HAPPY WITH THAT,
4 WITH THE DEAL Y'ALL HAD WORKED OUT?

5 A. WELL, FROM WHAT I COULD GATHER, REMEMBERING THE
6 CONVERSATION, THE FACT THAT ONCE I GAVE IT TO HIM,
7 WHAT HE WANTED ME TO DO WAS TO GIVE HIM CRACK
8 COCAINE AT A WHOLESALE FOR WHAT HE WAS TRADING ME
9 THAT WOULD BE SOLD FOR A RETAIL VALUE. HE WAS
10 GIVING ME THREE BAGS OF COCAINE THAT SOLD FOR
11 TWENTY DOLLARS A PIECE RETAIL, AND HE WANTED ME TO
12 GIVE HIM WHOLESALE SIXTY DOLLARS WORTH OF CRACK
13 COCAINE WHICH WOULD HAVE PROBABLY BEEN TWICE THE
14 AMOUNT THAT I GAVE HIM ON THE EVEN TRADE.

15 Q. OKAY. ALRIGHT. I'M NOT ENTIRELY SURE I FOLLOW
16 THAT, BUT ALRIGHT. NOW, WHERE WAS ALL THIS TAKING
17 PLACE?

18 A. WE WERE IN THE KITCHEN.

19 Q. ALRIGHT. NOW, YOU WERE SITTING AT THE KITCHEN
20 TABLE?

21 A. YES.

22 Q. WERE YOU SITTING DOWN OR WERE YOU STANDING UP OR
23 JUST - - -

24 A. WE WAS SITTING DOWN.

25 Q. YOU WERE SITTING DOWN AT THE TABLE. ALRIGHT. AND

1 IT'S YOUR TESTIMONY NOW THAT YOU AT SOME POINT IN
2 TIME THEN DECIDED THAT YOU, THE DEAL WAS DONE AND
3 YOU WERE LEAVING, RIGHT?

4 A. RIGHT.

5 Q. OKAY. SO YOU GET UP TO LEAVE?

6 A. YES.

7 Q. OKAY. AND HOW DOES, I MEAN, WHERE IS HARRY AT,
8 NOW?

9 A. THE WAY THE TABLE WAS SITTING UP IN -- HE WAS
10 SITTING ON THIS SIDE OF THE TABLE, THE LONG SIDE,
11 AND I WAS SITTING ON THE SHORT SIDE OF THE TABLE.
12 AND WHEN I GOT UP TO LEAVE HE JUST JUMPED UP AND
13 HE STOOD RIGHT THERE IN FRONT OF THE DOOR.

14 Q. IN FRONT OF THE DOOR, THE DOOR LEADING OUT OF THE
15 KITCHEN OR THE DOOR LEADING OUT OF THE TRAILER?

16 A. THE DOOR LEADING OUT OF THE TRAILER. IT'S RIGHT
17 THERE IN THE KITCHEN. THE KITCHEN IS SO SMALL, IF
18 YOU'RE STANDING RIGHT THERE, THE DOOR IS RIGHT
19 THERE.

20 Q. ALRIGHT. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
21 SIX, HAVE YOU SEEN THAT PHOTOGRAPH BEFORE, SIR?

22 A. YES.

23 Q. ALRIGHT. AND THAT'S THE PICTURE THAT'S TAKEN FROM
24 STANDING IN THE DOORWAY - - -

25 A. UH HUH.

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1 Q. --- INTO THE KITCHEN, RIGHT?

2 A. RIGHT.

3 Q. ALRIGHT. SO, HARRY HAD COME ALL THE WAY OVER HERE
4 AND WAS STANDING, BLOCKING THIS DOOR?

5 A. NO, HE WAS STANDING APPROXIMATELY IN THE AREA
6 RIGHT IN HERE, IN THIS AREA RIGHT IN HERE.

7 Q. SO, KIND OF IN BETWEEN THE KITCHEN AND THE LIVING
8 ROOM?

9 A. YEAH.

10 Q. THAT KIND OF OPENING THERE?

11 A. YES, THAT LEADS RIGHT TO THE DOORWAY.

12 Q. OKAY. AND IT'S YOUR TESTIMONY THAT HE STOOD UP
13 AND HE PICKED UP A FIFTEEN OR SIXTEEN INCH LONG
14 STICK?

15 A. YES, SIR, IT WAS, HE GOT OFF OF THE BAKERS RACK
16 THAT WAS RIGHT THERE ON THAT WALL.

17 Q. ALRIGHT, AND BY STICK YOU MEAN JUST, I MEAN, LIKE
18 A, LIKE A - - -

19 A. IT'S LIKE AN AXE HANDLE, HALF OF AN AXE HANDLE.

20 Q. OKAY. SO, I MEAN, YOU'RE TALKING, THAT LONG,
21 RIGHT?

22 A. LIKE THAT LONG.

23 Q. I MEAN, LIKE A BROOM STICK SIZE OR - - -

24 A. IT WAS LIKE A HANDLE SIZE FOR AN AXE, IT'S LARGER
25 THAN A BROOM STICK, ABOUT THE HANDLE SIZE OF AN

1 AXE HANDLE.

2 Q. OKAY. I MEAN, BUT IT DIDN'T HAVE AN AXE ON IT,
3 RIGHT?

4 A. NO, IT WAS JUST THE SHORT NUB END PART OF IT.

5 Q. OKAY. AND HE SAID THAT HE -- YOU'RE SAYING NOW
6 THAT HE BLOCKED YOUR, YOUR EXIT AND WAS DEMANDING
7 YOU TO GIVE HIM THE COCAINE BACK?

8 A. NO, HE WAS DEMANDING I GIVE HIM MORE CRACK
9 COCAINE. HE NEVER ASKED FOR THE COCAINE BACK, HE
10 JUST DEMANDED I GIVE HIM MORE CRACK COCAINE.

11 Q. OKAY. SO, HE WANTED MORE CRACK COCAINE?

12 A. YES.

13 Q. ALRIGHT. AND IT'S YOUR TESTIMONY THAT HE AT THAT
14 POINT IN TIME BEGAN TO HIT YOU WITH THE STICK?

15 A. RIGHT.

16 Q. AND WHERE WAS HE HITTING YOU?

17 A. ABOUT THE ARM AREA. HE WAS TRYING TO HIT ME, IT
18 LOOKED LIKE IN THE HEAD AND FACE, BUT I WAS
19 BLOCKING THE BLOWS AND HE WAS HITTING ME ON THE
20 ARM AREA.

21 Q. OKAY. AND IT'S YOUR TESTIMONY THAT YOU, YOU ENDED
22 UP WITH INJURIES AS A RESULT OF THAT UNDER YOUR
23 WRIST OR HAND?

24 A. YES, WITH BRUISES ON MY ARMS.

25 Q. OKAY. ALRIGHT, NOW, WHERE -- SO, YOU ARE IN THE

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1 KITCHEN?

2 A. YES.

3 Q. OKAY. AND WHERE WAS THE KNIFE THAT YOU PICKED UP?

4 A. IT WAS ON THE KITCHEN COUNTER.

5 Q. IS THAT THE KNIFE YOU PICKED UP?

6 A. I'M NOT SURE. LET ME SEE? I'M NOT SURE. IT
7 HAPPENED SO FAST, I PICKED THE KNIFE UP AND I
8 BARELY HAD IT MY HANDS ALL OF SIXTY SECONDS.

9 Q. ALRIGHT. BUT YOU ENDED UP, I MEAN, YOU'RE SAYING
10 NOW THAT YOU SWUNG THE KNIFE SEVERAL TIMES?

11 A. YES.

12 Q. ALRIGHT. WHO WERE YOU SWINGING AT? THAT'S WHY
13 I'M A LITTLE CONFUSED. NOW, ARE YOU SWINGING AT
14 THE DOG OR AT HARRY?

15 A. AT BOTH OF THEM REALLY.

16 Q. OKAY. WELL, DID YOU CUT THE DOG?

17 A. I'M NOT SURE, I DON'T KNOW, I WAS JUST SWINGING.

18 Q. OKAY. AND YOU SAY THAT YOU DON'T KNOW IF YOU CUT
19 THE VICTIM EITHER, RIGHT?

20 A. NO, I DON'T.

21 Q. OKAY. AND IT'S YOUR TESTIMONY THAT YOU WERE
22 SWINGING, YOU WERE NEVER STABBING?

23 A. SWINGING LIKE THIS, TRYING TO KEEP THEM BOTH, LIKE
24 THIS, BOTH OF Y'ALL JUST GET BACK FROM ME, LIKE
25 THAT.

1 Q. OKAY. ALRIGHT. AND THEN YOU ENDED UP, ULTIMATELY
2 ENDED UP FALLING DOWN AND INTO THE KITCHEN WITH
3 HARRY?

4 A. YES.

5 Q. OKAY. AND I GUESS, I THINK I CAUGHT THIS, YOU
6 ACTUALLY FELL ONTO THE CHAIRS AND THE TABLE?

7 A. YES.

8 Q. ALRIGHT. AND WHAT DID YOU END UP HITTING HIM
9 WITH, THEN?

10 A. THE STICK, THAT I EVENTUALLY TOOK FROM OUT OF HIS
11 HAND.

12 Q. OKAY. SO, YOU MANAGED TO GET THE STICK AWAY FROM
13 HIM?

14 A. YES.

15 Q. ALRIGHT. SO, YOU NOW HAD THE KNIFE AND THE STICK?

16 A. NO, SIR, I DROPPED, I DROPPED THE KNIFE WHEN HE
17 HIT MY ARM AND KNOCKED THE KNIFE OUT OF MY HAND
18 BEFORE I GRABBED HIM IN AN ATTEMPT TO GET THE
19 STICK FROM HIM.

20 Q. WHERE DID THE STICK END UP?

21 A. WHEN I LEFT I STILL HAD THE STICK IN MY HAND, I
22 THREW IT OUT OF THE CAR WINDOW WHEN I WAS GOING
23 DOWN THE ROAD.

24 Q. SO, YOU TOOK THE STICK WITH YOU?

25 A. YES, I USED IT AGAIN TO GET OUT THE DOOR, KEEP THE

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1 DOG AT BAY, KEEP HIM OFF ME.

2 Q. OKAY. I'VE GOT YOU. AND I'M GOING TO GET TO THAT
3 IN A SECOND, BUT, ALRIGHT, SO YOU, THE TWO OF
4 Y'ALL END UP FALLING, AND AT THAT POINT IN TIME
5 HARRY IS UNARMED, RIGHT? I MEAN, YOU'VE TAKEN THE
6 STICK AWAY FROM HIM, RIGHT?

7 A. YES.

8 Q. ALRIGHT. SO, HE IS UNARMED?

9 A. BESIDES THE DOG, YES.

10 Q. OKAY. AND WHAT'S THE DOG DOING?

11 A. THE DOG IS TRYING TO GET AROUND THE TWO CHAIRS
12 THAT WAS SITTING, BLOCKING THE ENTRANCE, OR HAD
13 FALLEN OVER INTO THE KITCHEN, HE WAS TRYING TO GET
14 AROUND THEM TO GET AT ME.

15 Q. OKAY. AND WHAT'S, HE IS A PRETTY BIG DOG, YOU
16 SAID, RIGHT?

17 A. YES.

18 Q. ALRIGHT. BUT THE DOG NEVER REALLY GOT YOU, DID
19 IT?

20 A. YES, IT DID. SEVERAL TIMES HE HAD GRABBED ME BY
21 MY SHOES AND HAD MY SHORTS ONE TIME.

22 Q. OKAY. I MEAN, HE DIDN'T DRAW BLOOD, DID HE?

23 A. NO.

24 Q. OKAY. I MEAN, SO YOU'RE TELLING ME THAT - - -

25 A. EXCEPT FROM SCRATCHING ME, HE NEVER REALLY BIT ME

1 AND, LIKE, TOOK A CHUNK OUT OF ME AND NOTHING LIKE
2 THAT, BUT THERE WERE TEETH MARKS, WHERE I ASSUMED
3 TO BE TEETH MARKS AND SCRATCHES ON MY LEGS.

4 Q. SO, YOU'RE TELLING ME YOU GOT INTO A FIGHT WITH A
5 LARGE ROTTWEILER INSIDE THIS SMALL TRAILER, AND
6 YOU WERE NOT BITTEN?

7 A. NOT SERIOUSLY, NO.

8 Q. AND THE DOG WASN'T INJURED EITHER, WAS IT?

9 A. I DON'T KNOW.

10 Q. WELL, I MEAN, YOU SAW THE DOG, DIDN'T YOU?

11 A. I DIDN'T CHECK THE DOG FOR INJURIES, SIR, WHEN I
12 WAS JUST SWINGING AT THE DOG I DON'T KNOW WHETHER
13 HE HAD INJURIES. THE DOG WAS BLACK, I COULDN'T
14 TELL WHETHER HE WAS BLEEDING OR HAD CUTS OR
15 SCRATCHES OR ANYTHING ON HIM, I DIDN'T KNOW.

16 Q. ALRIGHT. WELL, YOU DON'T DISPUTE THE FACT THAT, I
17 MEAN, WITNESSES HAVE TESTIFIED THAT THE DOG DIDN'T
18 HAVE ANY INJURIES, RIGHT?

19 A. I DON'T REMEMBER ANYBODY TESTIFYING THE DOG DIDN'T
20 HAVE ANY INJURIES, NO, I DON'T REMEMBER ANYBODY
21 TESTIFYING TO THAT.

22 Q. SO, YOU DON'T REMEMBER LIEUTENANT JENKINS
23 TESTIFYING ABOUT THAT YESTERDAY?

24 A. I REMEMBER HIM TESTIFYING BUT I DON'T REMEMBER HIM
25 SAYING WHETHER OR NOT THE DOG HAD INJURIES OR NOT.

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1 Q. OKAY. ALRIGHT. NOW, TELL ME THEN, WHAT ENDED UP
2 HAPPENING AFTER THAT, AFTER YOU GOT THE STICK OUT
3 OF HARRY'S HANDS, WHAT DID YOU DO THEN?

4 A. I STOOD UP AND I WAS ATTEMPTING TO LEAVE THE
5 RESIDENCE. I TURNED, AND I WAS FACING TO GO OUT
6 THE RESIDENCE, AND THE CHAIRS WERE LAYING ON THE
7 FLOOR THAT HAD FELL DOWN AND BLOCKING THE WAY.
8 AND I PICKED UP THE OTHER CHAIR TO TRY AND PUSH
9 THE DOG BACK INTO THE LIVING ROOM AREA. AND
10 THAT'S WHEN HARRY GRABBED MY LEG AND HE WAS
11 HOLDING ONTO MY LEG, TELLING HIM, KILL HIM,
12 BOWZER, OR BOOZER, OR WHATEVER THE DOG'S NAME WAS,
13 KILL HIM, KILL HIM. THAT'S WHEN I HIT HIM SEVERAL
14 TIMES WITH THE STICK.

15 Q. THAT'S WHEN YOU HIT HARRY SEVERAL TIMES WITH THE
16 STICK?

17 A. YES.

18 Q. BUT HARRY WASN'T ARMED AT THAT POINT IN TIME,
19 RIGHT?

20 A. NO.

21 Q. OKAY. AND WHERE DID YOU HIT HIM WITH THE STICK?

22 A. IT WAS ABOUT HIS ARMS AND HIS HEAD AREA.

23 Q. HOW MANY TIMES DO YOU THINK YOU HIT HIM IN THE
24 HEAD?

25 A. I MIGHT HAVE HIT HIM TWO, THREE TIMES MAYBE, MAYBE

1 FOUR TIMES.

2 Q. AND THAT WAS ALL WITH THE STICK?

3 A. YES.

4 Q. DID YOU EVER HIT HIM WITH YOUR FIST IN THE FACT?

5 A. ONLY WHEN WE WERE ON THE GROUND, AND I WAS
6 ATTEMPTING TO TAKE THE STICK FROM HIM, MAYBE ONCE
7 WHILE WE WERE STANDING UP, DURING THE INITIAL
8 CONFRONTATION.

9 Q. I SEE. AND WHERE IN THE FACE DID YOU HIT HIM, DO
10 YOU KNOW?

11 A. I DON'T KNOW FOR SURE EXACTLY WHERE THE BLOWS WERE
12 LANDING, I WAS JUST SWINGING AT HIM, AND I WAS
13 TRYING TO CONCENTRATE ON THAT DOG ALSO.

14 Q. ALRIGHT. AND SO, AT THAT POINT IN TIME, AFTER YOU
15 TESTIFIED THAT YOU HIT, HIT THE VICTIM SEVERAL
16 TIMES TO GET HIM TO LET GO OF YOUR LEG, YOU THEN
17 WENT ABOUT TRYING TO GET OUT OF, OUT OF THE HOUSE?

18 A. YES, SIR.

19 Q. ALRIGHT. AND TELL THE JURY HOW YOU WENT ABOUT
20 DOING THAT AGAIN?

21 A. AGAIN, THE CHAIRS, THERE WERE TWO CHAIRS THAT WAS
22 ON THE FLOOR THAT WAS SEPARATING ME FROM THE DOOR
23 AND THE DOG, AND I PUSHED THOSE WITH MY FEET, AND
24 I HAD ONE IN MY HAND, AND I JUST KEPT SWINGING AT
25 THE DOG AND PUSHING HIM BACK. AND I DIDN'T HAVE

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1 TO GO BACK MAYBE ABOUT TWO FEET AND I WAS RIGHT
2 THERE TO THE DOOR. AND I OPENED THE DOOR AND I
3 JUST PICKED UP THE MONEY THAT WAS THE FLOOR THAT I
4 HAD DROPPED, AND THEN LEFT, CLOSED THE DOOR.

5 Q. SO, LET ME GET THIS RIGHT, SO YOU'VE STILL GOT THE
6 STICK IN YOUR HAND, RIGHT?

7 A. UH HUH.

8 Q. ARE YOU RIGHT HANDED?

9 A. YES, SIR.

10 Q. YOU'VE GOT THE STICK IN YOUR RIGHT HAND OR LEFT
11 HAND?

12 A. IN THE RIGHT HAND.

13 Q. ALRIGHT. AND SO, IT'S YOUR TESTIMONY THAT YOU
14 PICKED UP ONE OF THE CHAIRS?

15 A. YES.

16 Q. ALRIGHT. AND USED THAT KIND OF LIKE, ALMOST LIKE
17 KIND OF A LION TAMER TYPE DEAL, I GUESS, RIGHT?

18 A. YEAH.

19 Q. SO, YOU'RE USING THE CHAIR AND THE STICK TO BACK,
20 TO BACK THE DOG UP?

21 A. YES.

22 Q. OKAY. SO, YOU BACK THE DOG UP, I GUESS, ALL THE
23 WAY UNTIL YOU GET TO THE DOOR?

24 A. YES.

25 Q. ALRIGHT. AND WHEN DO YOU PICK UP YOUR MONEY?

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1 A. RIGHT, IT WAS RIGHT IN THE DOOR.

2 Q. SO, WHEN YOU DROPPED THE MONEY -- AND WHEN DID YOU
3 DROP THE MONEY?

4 A. I DIDN'T DROP IT, WHEN HE SLAPPED IT OUT OF MY
5 HAND INITIALLY WHEN THE, WHEN IT FIRST STARTED.

6 Q. OKAY. AND IT ALL STARTED IN THE KITCHEN, RIGHT?

7 A. YES.

8 Q. OKAY. SO, THAT MONEY, IS IT IN THE KITCHEN OR IS
9 IT AT THE DOOR HERE? THAT'S WHAT I DON'T
10 UNDERSTAND.

11 A. THE MONEY IS LAYING RIGHT IN HERE.

12 Q. OKAY. SO, YOU PICKED IT UP KIND OF ON THE WAY TO
13 THE DOOR?

14 A. ON THE WAY OUT, WHEN I WAS BACKING OUT OF THE
15 DOOR, I WAS BACKING OUT THE DOOR AND I WAS TRYING
16 TO CLOSE THE DOOR TO KEEP THE DOG FROM BEING ABLE
17 TO COME OUT TO CHASE BEHIND ME, I WAS CLOSING THE
18 DOOR. AND WHEN I WAS CLOSING THE DOOR I LOOKED
19 DOWN AND I SAW THE MONEY AND I JUST PICKED IT UP.

20 Q. OKAY. SO, YOU PICKED IT UP WITH THE SAME HAND
21 THAT YOU HAD THE STICK WITH?

22 A. YES.

23 Q. ALRIGHT. AND THEN I GUESS YOU DROPPED -- YOU KEPT
24 THE STICK RIGHT BY -- YOU DIDN'T TAKE THE CHAIR
25 WITH YOU, DID YOU?

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1 A. NO, I LEFT THE CHAIR THERE. THAT'S WHAT I USED TO
2 BLOCK THE DOG -- ONCE THE DOOR -- ONCE YOU OPEN
3 THE DOOR, THE DOOR OPENS UP ENOUGH WHERE IN THAT
4 PARTICULAR AREA RIGHT THERE WHERE THE DOG WAS THEN
5 IN THE LIVING ROOM, AND YOU HAVE A BARRIER BETWEEN
6 THE DOG, THE LIVING ROOM AND THE KITCHEN.

7 SOLICITOR SORENSON: I NEED THIS
8 PICTURE MARKED, YOUR HONOR.

9 COURT REPORTER: STATE'S TWENTY-
10 FOUR, ID.
11 (State's Exhibit Twenty-four,
12 Photograph,
13 marked for identification.)

14 SOLICITOR SORENSON: THANK YOU.

15 Q. LET ME SHOW YOU THIS STATE'S EXHIBIT NUMBER
16 TWENTY-FOUR AND SEE IF THIS KIND OF HELPS, HELPS
17 TO ILLUSTRATE WHAT YOU'RE TALKING ABOUT, HOW THE
18 DOOR OPENS UP IN?

19 A. RIGHT, IT OPENS UP RIGHT THERE AND IT COMES,
20 BECAUSE THE CHAIR THAT I DROPPED WAS RIGHT IN
21 HERE.

22 Q. OKAY. SO, THAT'S, SO, THAT'S HOW THAT BASICALLY
23 LOOKING INTO THE LIVING ROOM KIND OF FROM THE,
24 ALMOST FROM THE EDGE OF THE KITCHEN, RIGHT?

25 A. RIGHT.

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1 SOLICITOR SORENSON; YOUR HONOR, AT
2 THIS TIME WE'D OFFER STATE'S TWENTY-FOUR.

3 THE COURT: ANY OBJECTION?

4 THE COURT: ADMITTED WITHOUT
5 OBJECTION, STATE'S TWENTY-FOUR.

6 (State's Exhibit Twenty-four
7 marked and filed.)

8 Q. ALRIGHT. SO, YOU SAID YOU DROPPED THE CHAIR KIND
9 OF RIGHT AT THE DOORWAY THERE?

10 A. YES.

11 Q. AND THEN TOOK THE, BACKED ON OUT THE DOOR?

12 A. RIGHT.

13 Q. SO, YOU STILL HAD THE STICK, YOU'VE NOW GOT YOUR
14 MONEY, YOU SAY, AND YOU'RE OUT THE DOOR AND TO
15 YOUR CAR, RIGHT?

16 A. RIGHT.

17 Q. OKAY. AND JUST SO WE'RE, JUST SO WE'RE CORRECT,
18 THAT'S THE CAR YOU WERE DRIVING, RIGHT?

19 A. YES, SIR.

20 Q. THAT LITTLE BEIGE FORD CONTOUR?

21 A. UH HUH.

22 Q. AND THAT CAR WAS PARKED AT THAT TRAILER THAT
23 NIGHT, RIGHT?

24 A. YES.

25 Q. OKAY. AND THEN FROM THERE YOU WENT OVER TO

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1 JEFFREY CONNER'S HOUSE, RIGHT?

2 A. RIGHT.

3 Q. ALRIGHT. AND NO DOUBT ABOUT IT, YOU WERE KIND OF
4 ROUTING AROUND OUT ON HIS FRONT PORCH AT ABOUT
5 THREE OR SO IN THE MORNING, RIGHT?

6 A. CORRECT.

7 Q. AND HE CAME OUTSIDE TO SEE WHAT WAS GOING ON?

8 A. UH HUH.

9 Q. ALRIGHT. AND THAT'S WHEN YOU TELL HIM THAT YOU'RE
10 GETTING READY TO GO ON A MISSION, RIGHT?

11 A. RIGHT.

12 Q. ALRIGHT. AND THAT MISSION YOU WERE GOING ON
13 WASN'T TO GO BY DRUGS, WAS IT?

14 A. NO, IT WAS JUST TO DOWN THE STREET TO THE CAR
15 WASH.

16 Q. OKAY. ALRIGHT, AND SO YOU WENT DOWN THE STREET TO
17 THE CAR WASH, AND OBVIOUSLY, YOU FOUND OUT THAT,
18 WHEN YOU GOT DOWN THERE THAT YOU -- LET ME PULL
19 OUT THESE SHORTS HERE -- YOU HAD QUITE A BIT OF
20 BLOOD ON YOU, DIDN'T YOU?

21 A. I WENT OUTSIDE AND COULDN'T SEE THE SHORTS.

22 Q. YOU SAW THAT KNIFE, DIDN'T YOU?

23 A. IT WASN'T, AGAIN, IT WAS DARK OUTSIDE AND I REALLY
24 COULDN'T TELL HOW MUCH BLOOD ON THEM, I JUST KNEW
25 THERE WAS SOME BLOOD ON THEM. YOU COULD SAY IT

1 WAS A LOT, YEAH.

2 Q. I THOUGHT THAT'S WHY YOU WENT DOWN TO THE CAR
3 WASH, BECAUSE THERE WAS LIGHTS DOWN THERE?

4 A. IT WAS, BUT IT'S STILL DARK OUTSIDE, AND I
5 COULDN'T SEE BEHIND ME OR ANYTHING LIKE THAT, ALL
6 I SAW WAS THE BLOOD THAT WAS ON MY LEG.

7 Q. BLOOD ON THE BACK OF THE SHORTS, RIGHT?

8 A. UH UH.

9 Q. AND THERE'S BLOOD ALL OVER, ALL OVER THE FRONT
10 RIGHT LEG, RIGHT?

11 A. UH HUH.

12 Q. RIGHT. SO, HOW DID THAT GET THERE?

13 A. AS I TOLD YOU, WHEN I TOOK THE STICK FROM HARRY,
14 AS I WAS ATTEMPTING TO LEAVE THE TRAILER, HE SAT
15 UP AND HE WAS HOLDING MY LEG, HE HAD HIS HEAD
16 RIGHT THERE AGAINST MY LEG ON MY SHORTS.

17 Q. BUT YOU HADN'T HIT HIM IN THE HEAD WITH THE STICK
18 YET BY THAT POINT IN TIME, HAD YOU?

19 A. WE HAD DONE FOUGHT, WE FELL TO THE FLOOR, HE HAD
20 BLOOD ON HIS FACE THEN, I PUNCHED HIM SEVERAL
21 TIMES, I DON'T KNOW WHETHER HE GOT THE BLOOD, WHEN
22 HE STARTED BLEEDING, WHEN HE STARTED MOST OF HIS
23 BLEEDING, BUT HE WAS BLEEDING THEN.

24 Q. ALRIGHT. IT'S YOUR TESTIMONY, SIR, THAT YOU, YOU
25 DIDN'T YOU HAD HURT HIM THAT BAD, RIGHT?

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1 A. YES, SIR.

2 Q. AND YOU DIDN'T THINK THAT WAS HURTING HIM?

3 A. AT THE TIME I DIDN'T LOOK AT HIM, I WASN'T TRYING
4 TO SEE HOW BAD HE WAS HURT, ALL I KNOW IS I WAS IN
5 THERE SCARED THAT HIM AND HIS DOG WAS GOING TO
6 HURT ME OR TRY TO KILL ME, AND I WAS JUST TRYING
7 TO PROTECT MYSELF. I WASN'T CONCERNED WITH HOW
8 HARD I WAS HITTING HIM OR HOW BAD HE WAS HURT,
9 REALLY.

10 Q. SO, YOU GO DOWN TO THE CAR WASH, AND OBVIOUSLY, AT
11 THAT POINT IN TIME YOU NOTICE THAT YOU'VE GOT
12 BLOOD ALL OVER YOUR SHORTS, RIGHT?

13 A. YES.

14 Q. ALRIGHT. AND THE PANTS THAT YOU HAD TAKEN FROM
15 MR. CONNER'S HOUSE DIDN'T FIT?

16 A. RIGHT.

17 Q. OKAY. SO, YOU THEN GO BACK TO MR. CONNER'S AND I
18 ASSUME YOU'RE STILL WEARING THE SHORTS, RIGHT?

19 A. YES.

20 Q. OKAY. YOU GO BACK AND THAT'S WHEN YOU GO IN AND
21 YOU END UP TAKING THEM OFF AND PUT THEM IN THE
22 HOLE IN THE BRICKS BACK THERE, RIGHT?

23 A. YES.

24 Q. NO DOUBT ABOUT IT, THAT'S WHERE YOU PUT THESE
25 SHORTS?

1 A. RIGHT.

2 Q. OKAY. AND YOU SAID YOU PUT THEM THERE BECAUSE YOU
3 WERE CONCERNED ABOUT THAT IT WASN'T VERY POLITE,
4 I'M NOT SURE THAT'S THE WORDS YOU USED BUT
5 SOMETHING SIMILAR TO THAT, TO LEAVE A PAIR OF
6 BLOODY SHORTS LAYING AROUND HIS HOUSE, RIGHT?

7 A. RIGHT.

8 Q. SO, YOU INSTEAD THOUGHT IT WAS POLITE TO GO SHOVE
9 THEM IN THE BRICKS ON HIS BACK PORCH?

10 A. WELL, I SAID WHEN I WENT OUTSIDE WITH THE SHORTS,
11 I TOOK THEM OUTSIDE TO FIND A TRASH CAN AND THROW
12 THEM IN THE TRASH. BUT I DIDN'T SEE A TRASH CAN
13 SO WHEN I TURNED BACK AROUND TO GO IN THE HOUSE I
14 SAW THE HOLE, I JUST SAT THEM RIGHT, PUT THEM IN
15 THE HOLE.

16 Q. AND, OF COURSE, YOU KNEW THEY HAD BLOOD ALL OVER
17 THEM FROM SOMEBODY YOU HAD JUST BEATING, IS THAT
18 CORRECT?

19 A. I KNEW THE SHORTS HAD BLOOD ON THEM, YES.

20 Q. AND IT'S YOUR TESTIMONY THAT THE TWO OF Y'ALL THEN
21 -- AND I ASSUME, AND MAYBE I ASSUME WRONG, BUT YOU
22 HAD THIS, YOUR PAY STUB IN YOUR SHORTS POCKET?

23 A. YES, SIR.

24 Q. ALRIGHT. SO, YOU TOOK IT OUT BECAUSE YOU DIDN'T
25 WANT TO LEAVE THAT BEHIND WITH THE INCRIMINATING

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1 EVIDENCE, RIGHT?

2 A. I TOOK EVERYTHING OUT.

3 Q. IN THE SHORTS?

4 A. YES.

5 Q. AND YOU ENDED UP LEAVING IT SITTING AT HIS HOUSE,
6 AT JEFFREY'S HOUSE?

7 A. UH HUH.

8 Q. DID YOU FORGET IT, I ASSUME, WHEN YOU LEFT LATER
9 THAT NIGHT?

10 A. YEAH, WE WAS JUST SITTING THERE.

11 Q. AND YOU ENDED UP BORROWING A PAIR OF JEANS FROM
12 HIM?

13 A. YES.

14 Q. AND WE HEARD TESTIMONY FROM HIM THE OTHER DAY THAT
15 Y'ALL SAT AND -- YESTERDAY, YOU SAT, AND THE TERM
16 HE USED WAS COOLIES?

17 A. YES.

18 Q. OKAY. AND WHAT, EXPLAIN TO US AGAIN WHAT A COOLIE
19 IS?

20 A. YOU TAKE A LITTLE BIT OF TOBACCO OUT OF A
21 CIGARETTE AND YOU PUT THE POWDER COCAINE IN IT AND
22 MIX IT WITH THE TOBACCO AND YOU SMOKE IT, LIKE
23 THAT.

24 Q. ALRIGHT. HOW MANY OF THEM DID YOU SMOKE, THEN,
25 WHEN YOU GOT BACK TO HIS HOUSE?

1 A. JUST PROBABLY HALF OF ONE.

2 Q. AND DO YOU RECALL, WERE YOU KIND OF PARANOID
3 ACTING WHEN YOU GOT BACK THERE THAT NIGHT?

4 A. I DON'T CONSIDER MYSELF BEING PARANOID, BUT THAT'S
5 WHAT HE SAID, I WASN'T PARANOID.

6 Q. AND THE FOLLOWING MORNING -- WHAT TIME DID YOU GET
7 HOME?

8 A. PROBABLY ABOUT THREE:THIRTY, SOMETHING TO FOUR.

9 Q. AND YOU HAD TO GO TO WORK THE NEXT MORNING?

10 A. YES.

11 Q. OKAY. AND THEY CAME AND PICKED YOU UP AND BROUGHT
12 YOU DOWN TO THE LAW ENFORCEMENT COMPLEX, IS THAT
13 CORRECT?

14 A. RIGHT.

15 Q. ALRIGHT. AND YOU, DO YOU REMEMBER THEM GOING OVER
16 STATE'S EXHIBIT NUMBER ONE, GOING OVER YOUR RIGHTS
17 WITH YOU, RIGHT?

18 A. YES.

19 Q. AND THAT'S YOUR INITIALS AFTER EACH OF THOSE
20 RIGHTS?

21 A. YES, IT IS.

22 Q. YOU PUT THEM ON THERE, RIGHT?

23 A. YES, I DID.

24 Q. AND YOU UNDERSTOOD WHAT THEY WERE GOING OVER WITH
25 YOU?

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1 A. EXACTLY.

2 Q. SIGNED YOUR NAME, THAT'S YOUR SIGNATURE, RIGHT?

3 A. YES.

4 Q. WENT OVER THIS WAIVER OF RIGHTS PORTION?

5 A. RIGHT.

6 Q. SIGNED THAT INDICATING THAT YOU DIDN'T MIND
7 TALKING TO THEM, RIGHT?

8 A. RIGHT.

9 Q. OKAY. AND THAT FIRST DAY, ON THE TWENTY-NINTH, I
10 MEAN, LIEUTENANT SHUMPERT DIDN'T, I MEAN, HE
11 WASN'T THREATENING YOU, WAS HE?

12 A. NO.

13 Q. BUT AT THAT POINT IN TIME YOU TOLD THEM INITIALLY
14 THAT YOU DIDN'T KNOW WHAT HE WAS TALKING ABOUT?

15 A. RIGHT. DIDN'T ANYBODY EVER TOLD ME WHAT I WAS
16 BEING ARRESTED FOR.

17 Q. AND THEN YOU ULTIMATELY CHANGED THAT TO TELLING
18 HIM THAT YOU HAD GONE OVER TO HARRY'S THAT NIGHT
19 BUT YOU DIDN'T DO ANYTHING TO HIM, WHEN YOU LEFT
20 HIM HE WAS FINED?

21 A. NO, I TOLD HIM I DIDN'T WANT TO TALK TO HIM ABOUT,
22 I DIDN'T WANT TO TALK TO HIM ANYMORE, I DIDN'T
23 KNOW ANYTHING ABOUT WHAT WAS GOING ON.

24 Q. OKAY, SO YOU DENY TELLING LIEUTENANT SHUMPERT THAT
25 WHEN YOU, THAT YOU HAD GONE OVER TO HARRY'S

1 TRAILER TO BUY SOME DRUGS BUT WHEN YOU LEFT HIM, I
2 MEAN, YOU HADN'T DONE ANYTHING TO HIM?

3 A. I DIDN'T TELL HIM THAT THAT NIGHT, NO, I DIDN'T,
4 THAT DAY.

5 Q. SO, HE'S MAKING THAT UP, I GUESS?

6 MR. MELLARD: YOUR HONOR, MAY WE
7 APPROACH?

8 THE COURT: YES, SIR.

9 (Whereupon, a bench conference
10 is held out of the hearing
11 of the jury and court reporter.)

12 Q. NOW YOU, MR. MOSES, HAD AN OPPORTUNITY THEN THE
13 FOLLOWING DAY TO, TO ONCE AGAIN BE QUESTIONED BY
14 LAW ENFORCEMENT, IS THAT CORRECT?

15 A. YES.

16 Q. OKAY. AND SO, THE FOLLOWING DAY WOULD THEN BE
17 SEPTEMBER THIRTIETH, AND ONCE AGAIN THEY OVER ONE
18 OF THESE ADVICE OF RIGHTS FORMS WITH YOU?

19 A. YES, THEY DID.

20 Q. CORRECT? AND YOU, JUST LIKE YOU HAD DONE THE DAY
21 BEFORE, I MEAN, INITIALED AFTER EACH OF THE
22 RIGHTS?

23 A. YES, I DID. BUT ONE THING ABOUT THAT FORM, YOU
24 WILL NOTICE ON THERE, IT ALSO SAYS ON THERE THAT I
25 COULD STOP QUESTIONS, OR STOP THEM FROM

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1 QUESTIONING ME AT ANYTIME AND REQUEST THE
2 ASSISTANCE OF A LAWYER. WHEN HE INITIALLY TOLD ME
3 THAT I WAS BEING QUESTIONED OR WAS GOING TO BE
4 CHARGED WITH HARRY LIVINGSTON'S, THE HOMICIDE OF
5 HARRY LIVINGSTON, WHEN I FOUND OUT THAT THAT WAS
6 THE SITUATION THEY HAD ME FOR THAT'S WHEN I ASKED
7 THEM NOT TO BE QUESTIONING ME ANYMORE, I DIDN'T
8 WANT TO TALK TO ANYBODY, I WANTED A LAWYER. BUT I
9 ALSO THOUGHT THAT I HAD THAT RIGHT ALSO, BECAUSE
10 IT SAYS ON THERE IN REGARDS TO, THERE'S NO
11 SIGNATURE TO DO THAT IF YOU REQUEST THAT. BUT
12 THAT'S WHAT I REQUESTED FROM THEM.

13 Q. OKAY. I UNDERSTAND, I UNDERSTAND, WE'LL GET TO
14 THAT IN A SECOND. BUT WHEN THEY FIRST WENT OVER
15 THIS FORM WITH YOU, I MEAN, YOU INITIALED EACH OF
16 THESE RIGHTS?

17 A. UH HUH.

18 Q. AND YET AGAIN SIGNED LIKE YOU UNDERSTOOD THEM -- -
19 -

20 A. YES, SIR.

21 Q. --- JUST LIKE THE SAME THING THEY WENT OVER WITH
22 YOU THE DAY BEFORE, RIGHT?

23 A. UH HUH.

24 Q. AND THEY WENT OVER THE WAIVER OF RIGHTS SECTION
25 AGAIN AND YOU SIGNED THAT?

1 A. UH HUH.

2 Q. OKAY. AND AT THAT POINT IN TIME YOU, YOU THEN
3 TOLD THEM WHAT HAPPENED, RIGHT?

4 A. YES.

5 Q. ALRIGHT. AND THIS THREE PAGE STATEMENT THAT
6 YOU'RE, YOU KNOW, MAKING -- YOU KNOW, THAT DEPUTY
7 RODRIGUEZ WROTE, I MEAN, THAT'S PRETTY SIMILAR TO
8 WHAT YOU'VE TESTIFIED TO THE JURY ABOUT TODAY,
9 RIGHT?

10 A. UH HUH.

11 Q. OKAY. SO, I MEAN, YOU'VE HAD A CHANCE TO REVIEW
12 THIS, RIGHT?

13 A. YES, NOW, YES.

14 Q. ALRIGHT. ARE THESE YOUR WORDS OR WAS HE JUST
15 MAKING THIS STUFF UP?

16 A. SOME OF THE STUFF IN HERE HE WROTE IT THE WAY HE
17 SAW IT, AND ABOUT THE FIFTY DOLLARS, HE INCLUDED
18 THAT IN THERE.

19 Q. OKAY. SO, HE JUST CHOSE TO PUT THAT IN THERE, BUT
20 OTHER THAN THAT, I MEAN, THAT'S REALLY - - -

21 A. BASICALLY, - - -

22 Q. --- ABOUT THE ONLY - - -

23 A. --- BASICALLY PRETTY MUCH, YEAH, WHAT I TOLD HIM.

24 Q. --- ABOUT THE ONLY INCONSISTENCY THAT YOU SAW IN
25 HERE WAS HIM PUTTING IN THERE THAT YOU TOOK THE

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1 VICTIM'S FIFTY DOLLARS OFF OF HIM, RIGHT?

2 A. RIGHT. AND THEN, THE INITIAL PART ABOUT WHY WE
3 ACTUALLY, THE DRUGS, WHAT THE DRUG TRANSACTION
4 WAS.

5 Q. OKAY. ALRIGHT. SO, DEPUTY RODRIGUEZ MUST HAVE
6 JUST BEEN MAKING THAT STUFF UP, I MEAN, IF YOU
7 DIDN'T TELL HIM?

8 A. HE WROTE IT AS HE HEARD IT IN HIS HEAD. I DIDN'T I
9 DIDN'T, THAT'S NOT THE WAY IT HAPPENED, THAT'S NOT
10 THE WAY I WAS TELLING HIM ABOUT IT.

11 Q. SO, YOU NEVER TOLD HIM THAT EITHER?

12 A. NO, NOT THE WAY HE WROTE IT IN THAT STATEMENT, NO.

13 Q. OKAY. AND IT'S YOUR TESTIMONY, SIR, YOUR STORY
14 THAT YOU FELT LIKE YOU HAD NO OTHER CHOICE BUT TO
15 BEAT AND STAB HARRY LIVINGSTON, THAT WAS THE ONLY
16 WAY YOU WERE GOING TO GET OUT OF THAT TRAILER?

17 A. AS I SAID, INITIALLY, I DIDN'T KNOW AT THE TIME
18 THAT I WAS STABBING HARRY LIVINGSTON, I HAD NO
19 INTENTIONS OF STABBING HIM, I JUST PICKED UP THE
20 KNIFE TO PROTECT MYSELF FROM HIM AND HIS DOG. AS
21 FAR AS BEATING HIM, THAT WAS THE ONLY WAY I COULD
22 GET HIM OFF MY LEG TO KEEP FROM HIS DOG ATTACKING
23 ME, YES.

24 Q. AND YOU DON'T DISPUTE THE FACT THAT HE HAD FOUR
25 STAB WOUNDS, RIGHT, THREE OF THEM UNDERNEATH, KIND

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1 OF BACK UNDER HIS ARM HERE?

2 A. UH HUH.

3 Q. AND ONE IN HIS ABDOMEN, RIGHT?

4 A. THAT'S WHAT'S ON THE PICTURE, THAT'S WHAT THEY SAY
5 IT IS, THAT'S WHAT IT IS.

6 Q. AND WHEN HE WAS ON THE FLOOR GRABBING ONTO YOUR
7 LEG AND YOU WERE BEATING HIM WITH THAT STICK,
8 WHERE WERE Y'ALL AT?

9 A. WE WERE STILL IN THE KITCHEN.

10 Q. I MEAN, WHERE IN THE KITCHEN?

11 A. PROBABLY ABOUT IN THE MIDDLE OF THE FLOOR, CLOSE
12 TO WHERE HE WAS FOUND LAYING AT.

13 Q. WAS HIS HEAD UP AGAINST THE WALL WHERE HE WAS
14 ULTIMATELY FOUND, OR WAS HE IN THE MIDDLE OF THE
15 KITCHEN?

16 A. NOT WHEN HE WAS HOLDING MY LEG, WE WAS PROBABLY
17 ABOUT IN THE MIDDLE OF THE KITCHEN.

18 Q. DID YOU EVER HIT HIM WHILE HIS HEAD WAS LEANING UP
19 AGAINST THE WALL?

20 A. NOT THAT I RECALL, NO.

21 SOLICITOR SORENSON: I BEG THE
22 COURT'S INDULGENCE.

23 Q. LET ME ASK YOU THIS, I MEAN, IF YOU DIDN'T THINK
24 YOU HAD DONE ANYTHING WRONG, WHY DIDN'T YOU JUST
25 GO HOME AFTERWARDS, I MEAN, WHY DID YOU HAVE TO

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1 STOP SOMEWHERE AND HIDE THE EVIDENCE FROM THE
2 CRIME?

3 A. AGAIN, I HAD THE BLOOD ON ME, AND HAVING, BEING A
4 COOK I'VE HAD TRAINING IN BLOOD AND TRANSFERRING
5 OF BLOOD ON YOU IN OPEN WOUNDS, AND LIKE I SAID,
6 THE DOG WAS SCRATCHING ME, HE WAS BITING ON MY
7 LEGS, I WASN'T SURE WHETHER I HAD OPEN WOUNDS, AND
8 I DIDN'T WANT TO BE RIDING AROUND HAVING THIS
9 BLOOD ON ME FROM SOMEBODY ELSE AND THEN I CATCH
10 SOMETHING FROM HIS BLOOD ON ME.

11 Q. AND YOU TOOK THE TIME TO GO BY MR. CONNER'S HOUSE
12 AND GO ROUTING THROUGH ALL THE CLOTHES ON THE
13 FRONT PORCH. YOU DIDN'T CHANGE OUT OF THE SHORTS
14 THERE, DID YOU?

15 A. ON THE PORCH?

16 Q. WELL, JUST IN HIS FRONT YARD, I MEAN, THERE'S NO
17 LIGHTS ON THERE SO IT WASN'T LIKE ANYBODY WAS
18 GOING TO SEE YOU IN YOUR BOXERS, RIGHT?

19 A. I GUESS NOT, I JUST DIDN'T DO THAT, I TOOK THEM
20 DOWN THE STREET, I WANTED TO SEE WHAT WAS GOING
21 ON.

22 Q. I THOUGHT YOU WERE IN SUCH A RUSH TO GET THE
23 SHORTS OFF?

24 A. SEE WHERE THE BLOOD, SEE WHERE THE BLOOD -- I WAS,
25 BUT I STILL WANTED TO SEE WHERE THE BLOOD WAS

1 COMING FROM.

2 Q. NEEDLESS TO SAY - - -

3 A. AGAIN, WE WERE RIGHT THERE ON A MAIN STREET. IF I
4 HAD TOOK MY PANTS OFF RIGHT THERE A POLICE OFFICER
5 WOULD RIDE BY, AND I'M GETTING ARRESTED FOR
6 INDECENT EXPOSURE OUT IN THE PUBLIC.

7 Q. WELL, YOU COULD HAVE GONE INTO MR. CONNER'S HOUSE
8 AND CHANGED, RIGHT? THAT'S ULTIMATELY WHAT YOU
9 ENDED UP DOING.

10 A. HE DIDN'T HAVE ANY LIGHTS.

11 Q. THAT'S ULTIMATELY WHAT YOU - - -

12 A. I COULDN'T SEE, I COULDN'T SEE IN HIS HOUSE. IF HE
13 HAD LIGHTS IN HIS HOUSE WHEN I WENT THERE
14 INITIALLY I WOULD HAVE TOOK THE PANTS AND I WOULD
15 HAVE WENT IN THE HOUSE AND CHANGED, BUT HE DIDN'T
16 HAVE ANY LIGHTS, SO I COULDN'T SEE MYSELF, THE
17 SHORTS, HIM OR NOTHING ELSE.

18 Q. DID YOU TELL MR. CONNER WHAT YOU HAD DONE THAT
19 NIGHT?

20 A. AS FAR AS BEING AT HARRY'S HOUSE, NO, WE NEVER
21 TALKED ABOUT THAT.

22 Q. DID YOU TELL YOUR GIRLFRIEND, IS THAT WHAT YOU
23 WERE ARGUING ABOUT WHEN YOU GOT HOME?

24 A. NO, I NEVER, ME AND HER NEVER DISCUSSED THAT. AS
25 FAR AS I WAS CONCERNED IT WAS JUST A FIGHT WITH A

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1 GUY, IT WASN'T NO, NOTHING ELSE.

2 Q. JUST A LITTLE FIGHT, I BELIEVE THAT WAS YOUR TERM
3 ON DIRECT, - - -

4 A. YES.

5 Q. --- JUST A LITTLE FIGHT, RIGHT?

6 SOLICITOR SORENSON: THAT'S ALL I
7 WOULD HAVE.

8 THE COURT: REDIRECT?

9 MR. MELLARD: NO, SIR.

10 MS. HINDS: NO, SIR.

11 THE COURT: THANK YOU, SIR, YOU MAY
12 STEP DOWN.

13 YOU MAY CALL YOUR NEXT WITNESS.

14 MS. HINDS: THE DEFENSE RESTS.

15 THE COURT: THE DEFENSE HAS RESTED.

16 ANYTHING IN REPLY?

17 SOLICITOR JOHNSON: NO, SIR.

18 THE COURT: ALRIGHT, LADIES AND
19 GENTLEMEN, YOU HAVE HEARD ALL OF THE TESTIMONY AND THE
20 EVIDENCE THAT YOU'RE GOING TO HEAR IN THIS CASE. IT
21 REMAINS NOW FOR THE ATTORNEYS TO CHARGE YOU ON THE LAW,
22 I MEAN THE ATTORNEYS TO MAKE THEIR CLOSING ARGUMENTS TO
23 YOU, AND THEN I WILL CHARGE YOU ON THE LAW, AND THEN YOU
24 CAN BEGIN YOUR DELIBERATIONS. IF WE TRY TO DO THAT
25 TODAY IT'S GOING TO BE ABOUT SEVEN:THIRTY OR EIGHT

1 O'CLOCK BEFORE YOU CAN START YOUR DELIBERATIONS, SO
2 OBVIOUSLY, WE'RE NOT GOING TO DO THAT TODAY. WE'RE
3 GOING TO COME BACK IN THE MORNING AT NINE:THIRTY, WE'LL
4 HAVE PLENTY OF TIME TO DO WHAT WE NEED TO DO AT THAT
5 TIME.

6 PLEASE DO NOT TALK ABOUT THE CASE.
7 PLEASE DO NOT LOOK AT ANY NEWSPAPERS OR ANY TELEVISION
8 NEWS REPORTS, BECAUSE THESE DAYS, YOU KNOW, THE LOCAL
9 PAPER CAN PUT IT ON THE INTERNET AND THEY MIGHT PICK IT
10 UP IN COLUMBIA, I DON'T KNOW. SO, JUST DON'T TAKE A
11 CHANCE. OKAY? AND TOMORROW AFTERNOON, OR WHENEVER WE
12 FINISH THIS CASE YOU CAN GO BACK AND LOOK AT ANYTHING
13 YOU WANT TO LOOK AT, BUT LET'S JUST DON'T EXPOSE
14 YOURSELF TO ANYTHING BETWEEN NOW AND TOMORROW, AND WE'LL
15 SEE YOU AT NINE:THIRTY IN THE MORNING. AND PLEASE COME
16 STRAIGHT TO THE JURY ROOM. THANK YOU VERY MUCH, YOU ARE
17 EXCUSED.

18 (Whereupon, the jury leaves
19 the courtroom and the following
20 takes place out of the presence
21 of the jury.)

22 THE COURT: ALRIGHT. ANY MOTIONS?

23 MR. MELLARD: YES, SIR, AT THIS TIME
24 WE'D RENEW OUR MOTION FOR A DIRECTED VERDICT. IT WOULD
25 BE OUR CONTENTION UNDER THE CORROBORATION RULE THAT

1 THERE'S STILL NO EVIDENCE OF ARMED ROBBERY. AND WE
2 WOULD ALSO SAY THAT THEY HAVEN'T PROVED THE ELEMENTS OF
3 MURDER.

4 THE COURT: ALRIGHT, SIR, I DENY
5 BOTH MOTIONS ON THE GROUNDS I STATED EARLIER. I THINK
6 THERE'S SUFFICIENT TO SUBMIT IT TO THE JURY FOR THEIR
7 DETERMINATION.

8 ANY PARTICULAR REQUESTS TO CHARGE?

9 MR. MELLARD: I THINK WE'LL HAVE
10 THAT TOMORROW MORNING FOR YOU, JUDGE.

11 THE COURT: WELL, I NEED IT BEFORE
12 TOMORROW MORNING. NOW, IF YOU WANT TO TAKE THIRTY
13 MINUTES OR SOMETHING AND COME INTO CHAMBERS AND TALK
14 ABOUT IT, THAT'S FINE, BUT I NEED IT BEFORE IN THE
15 MORNING.

16 MR. MELLARD: OKAY.

17 THE COURT: ALRIGHT, THEN, WE'LL BE
18 IN RECESS UNTIL NINE:THIRTY IN THE MORNING.

19 BAILIFF: YOUR HONOR, A JUROR WANTS
20 TO SPEAK TO YOU.

21 THE COURT: ALRIGHT, SIR.

22 (Whereupon, Juror Washington
23 approaches the bench
24 off the record and then
25 leaves the courtroom.)

1 THE COURT: JUROR MONICA WASHINGTON,
2 SHE'S JUROR NUMBER FOUR -- NO, SHE'S JUROR NUMBER ONE
3 HUNDRED EIGHTY-FIVE. SHE REPORTED THAT SHE WAS
4 UNEMPLOYED. SHE TELLS ME THAT SHE GOT A CALL TODAY
5 SAYING THAT SHE CAN GET A JOB INTERVIEW TOMORROW, AND
6 THAT'S THE ONLY TIME THEY CAN GIVE HER A JOB INTERVIEW.
7 SHE WANTS TO BE EXCUSED TOMORROW. WHAT'S THE STATE'S
8 POSITION?

9 SOLICITOR SORENSON: GIVEN THE
10 ECONOMIC TIMES, YOUR HONOR, I THINK THAT, I DON'T KNOW
11 OF ANY OBJECTION. WE HAVE TWO ALTERNATES.

12 THE COURT: WHAT ABOUT THE DEFENSE?

13 MR. MELLARD: DID SHE SAY WHAT TIME
14 HER INTERVIEW WAS TOMORROW, JUDGE?

15 THE COURT: I DIDN'T ASK HER, NO.
16 ASK HER WHAT TIME HER INTERVIEW IS? BUT, I MEAN, THAT'S
17 NOT GOING TO REALLY HELP, BECAUSE, I MEAN, YOU TELL ME
18 WHAT TIME THEY'RE GOING TO BE THROUGH TOMORROW AND THEN
19 I'LL KNOW WHAT TIME, WHETHER THAT'S A CONFLICT OR NOT.

20 BAILIFF: SHE SAID IT'S SIX:THIRTY
21 IN THE MORNING, AT A.Y.P.

22 MR. MELLARD: SHE SHOULD BE BACK BY
23 NINE:THIRTY, I WOULD SAY.

24 THE COURT: WELL, ALRIGHT, I'M GOING
25 TO TELL HER TO TRY TO BE BACK BY NINE:THIRTY, BUT IF SHE

1 GETS TIED UP THEN I'M GOING TO EXCUSE HER. THAT'S THE
2 ONLY WAY I KNOW TO DO IT, BECAUSE I WOULD NOT KEEP HER
3 FROM THAT JOB INTERVIEW, I MEAN, LIKE I SAY, IT'S HARD
4 TO FIND JOBS.

5 ASK HER TO COME BACK IN HERE.

6 (Whereupon, Juror Washington
7 enters the courtroom.)

8 THE COURT: MS. WASHINGTON, YOU SAID
9 YOUR JOB INTERVIEW IS AT SIX:THIRTY IN THE MORNING?

10 JUROR WASHINGTON: YES.

11 THE COURT: ALRIGHT, YOU GO ON TO
12 THAT JOB INTERVIEW. IF YOU CAN GET THAT THROUGH AND
13 FINISH WITH IT, COME ON BACK HERE BY NINE:THIRTY.

14 JUROR WASHINGTON: OKAY.

15 THE COURT: IF YOU DON'T, JUST -- DO
16 YOU HAVE A NUMBER FOR THE CLERK'S OFFICE, DO YOU HAVE
17 THAT NUMBER THEY GAVE YOU TO CALL BACK? WELL, YOU CAN'T
18 USE THAT ONE. I NEED A SHEET OF PAPER. I'M GOING TO
19 GIVE HER THE NUMBER TO MY CHAMBERS. IF YOU'RE NOT ABLE
20 TO MAKE IT BACK AT NINE:THIRTY TO SERVE ON THE JURY,
21 THEN YOU CALL THAT NUMBER WHEN YOU DO GET OUT, AND
22 SOMEBODY WILL ANSWER OR YOU'LL GET A MACHINE. YOU JUST
23 TELL THEM WHAT TIME YOU LEFT. BUT I WANT YOU TO GO TO
24 YOUR INTERVIEW AND FINISH YOUR INTERVIEW, BUT IF YOU CAN
25 MAKE IT BACK WE WANT YOU TO SERVE ON THE JURY.

1 JUROR WASHINGTON: OKAY.

2 THE COURT: BUT IF YOU CAN'T YOU
3 CALL AND TELL US WHAT TIME SO WE WON'T BE LOOKING FOR
4 YOU.

5 JUROR WASHINGTON: OKAY, THANK YOU.

6 THE COURT: ALRIGHT, THANK YOU,
7 MA'AM.

8 (Whereupon, Juror Washington
9 leaves the courtroom.)

10 THE COURT: ANYTHING ELSE, THEN,
11 BEFORE WE RECESS FOR THE EVENING?

12 MR. MELLARD: AND WE'RE GOING TO
13 TRY TO GET TOGETHER AND TALK ABOUT THE CHARGES?

14 THE COURT: YEAH, I'LL BE IN MY
15 CHAMBERS IF YOU WANT TO TALK ABOUT THE CHARGES, I CAN'T
16 WAIT UNTIL IN THE MORNING TO DO THAT. WE CAN PUT
17 EVERYTHING ON THE RECORD IN THE MORNING, BUT WE NEED TO
18 TALK ABOUT THAT TONIGHT.

19 (Recess for the day.)

20 DATE:

21 FEBRUARY 12, 2009

22 THE COURT: ALRIGHT, MR. SORENSON,
23 I'LL BE GLAD TO HEAR YOU.

24 SOLICITOR SORENSON: MAY IT PLEASE
25 THE COURT, WE BRIEFLY BROUGHT THIS UP YESTERDAY AND THEN

1 KIND OF REALIZED, WE NEVER REALLY -- I KNOW THEY HAD
2 SAID THEY HAD OBJECTED TO IT, BUT WE NEVER REALLY
3 DISCUSSED IT ANY FURTHER, BUT WE WOULD ASK YOUR HONOR
4 THAT YOU CHARGE THE LESSER INCLUDED OFFENSE OF VOLUNTARY
5 MANSLAUGHTER. I THINK IN LOOKING AT ALL THE FACTS, I
6 MEAN, THAT THERE IS EVIDENCE THAT WOULD SUPPORT THAT
7 CHARGE JUST BASED, IF NOTHING ELSE, ON THE DEFENDANT'S
8 STATEMENT. I MEAN, IN HIS STATEMENT HE INDICATES THAT
9 HE WAS ATTEMPTING, THAT HE WAS WALKING TOWARDS THE FRONT
10 DOOR, "HE CALLED HIS DOG ON ME AND TOLD ME NOT TO LEAVE
11 WITH THE DRUGS. I TOLD HIM NOT TO ALLOW HIS DOG TO
12 ATTACK ME. I STAYED IN THE KITCHEN AND I GRABBED THE
13 KNIFE AND TOLD HIM TO GET HIS DOG AWAY. HARRY HAD A
14 STICK IN HIS HAND THREATENING TO HIT ME WITH IT, SO I
15 GRABBED THE STICK AND STABBED HARRY IN THE SIDE OF HIS
16 BODY NEAR HIS STOMACH." I MEAN, I THINK THE JURY COULD
17 FIND THAT THAT PORTION OF THE DEFENDANT'S STATEMENT
18 WOULD SUPPORT A CHARGE OF VOLUNTARY MANSLAUGHTER, WOULD
19 SUPPORT AN UNLAWFUL KILLING WITHOUT MALICE IN A SUDDEN
20 HEAT OF PASSION BASED ON SUFFICIENT LEGAL PROVOCATION.
21 I THINK THEY CAN, I MEAN, THE PRESENCE OF THE DOG AND
22 THE VICTIM AT SOME POINT IN TIME PICKING UP A STICK
23 COULD BE SUFFICIENT LEGAL PROVOCATION THAT WOULDN'T RISE
24 TO THE LEVEL OF SELF-DEFENSE, I MEAN, WHERE HE WAS NOT
25 IN EMINENT FEAR OF LOSING HIS LIFE OR SERIOUS BODILY

1 INJURY.

2 THE COURT: MR. MELLARD OR MS.
3 HINDS?

4 MR. MELLARD: YES, SIR, WE WOULD
5 OBVIOUSLY SAY THAT THE EVIDENCE DOES NOT SUPPORT THAT
6 CHARGE. THE HEAT OF PASSION WITH SUFFICIENT LEGAL
7 PROVOCATION, IT HAS TO BE SUCH THAT WOULD RENDER THE
8 MIND OF AN ORDINARY PERSON INCAPABLE OF COOL REFLECTION
9 AND PRODUCE WHAT ACCORDING TO HUMAN EXPERIENCE MAY BE
10 CALLED AN UNCONTROLLED IMPULSE TO DO VIOLENCE. IN OTHER
11 WORDS, IT MUST DEPRIVE SOMEONE OF THE POWER OF SELF-
12 CONTROL. AND UNDER THESE FACTS, THAT'S JUST NOT
13 PRESENT. I MEAN, SOMEBODY PICKING UP A STICK OR CALLING
14 A DOG IS NOT GOING TO RENDER THE MIND OF AN ORDINARY
15 PERSON INCAPABLE OF COOL REFLECTION, IT'S JUST NOT GOING
16 TO DO IT. SO, BASICALLY WHAT HE SAID IS, THERE WAS A
17 DOG AND THERE WAS A STICK. AND UNDER ORDINARY PERSON
18 STANDARD, THAT'S JUST NOT GOING TO RENDER SOMEBODY WITH
19 THIS UNCONTROLLED IMPULSE TO DO VIOLENCE. SO, WE WOULD
20 SAY THAT A VOLUNTARY MANSLAUGHTER CHARGE IS JUST NOT
21 APPROPRIATE IN THIS CASE.

22 THE COURT: WELL, I DON'T KNOW IF
23 I'M AN ORDINARY MAN OR NOT BUT IF SOMEBODY SICS A DOG ON
24 ME I CAN'T THINK OF ANYTHING MUCH MORE FRIGHTENING THAN
25 THAT. OF COURSE, AS SOMEBODY SAID, HE'D HAVE TO BITE ME

1 IN THE BUTT BECAUSE I'D BE RUNNING AS HARD AS I COULD
2 GO. BUT I MEAN, IT'S HARD TO SAY THAT THREATENING
3 SOMEBODY WITH A STICK AND A DOG IS NOT PROVOCATION.

4 MR. MELLARD: WELL, I MEAN, I THINK
5 YOU SAID YOU WOULD RUN, AND - - -

6 THE COURT: WELL, THAT'S UP TO THE
7 JURY TO DECIDE. IF THEY BELIEVE HE SHOULD HAVE RUN
8 THEY'RE GOING TO FIND HIM NOT GUILTY, BECAUSE THE SELF
9 DEFENSE WOULD APPLY TO THE MANSLAUGHTER CHARGE AS WELL
10 AS THE MURDER CHARGE. I'M GOING TO CHARGE IT, I THINK
11 THE FACTS JUSTIFY IT UNDER THE CIRCUMSTANCES IN THIS
12 PARTICULAR CASE.

13 MR. MELLARD: PLEASE JUST NOT OUR
14 OBJECTION.

15 THE COURT: YES, SIR, I CERTAINLY
16 DO.

17 ANYTHING ELSE BEFORE WE BRING IN THE
18 JURY?

19 SOLICITOR SORENSON: DID SHE SHOW
20 UP? I KNOW WE WERE SHORT THE ONE YOUNG LADY THAT HAD THE
21 INTERVIEW.

22 THE COURT: SHE CALLED AND SAID THEY
23 HAD PUT HER TO WORK. SHE CALLED AND TALKED TO MY CLERK
24 AND SAID THAT THEY HAD INTERVIEWED HER THIS MORNING AND
25 THEY PUT HER TO WORK, AND SHE'S ALREADY WORKING, SO,

1 SHE'S STILL THERE AT THE PLANT, RIGHT?

2 LAW CLERK: YES, SIR.

3 SOLICITOR SORENSON: WE DO NEED ONE
4 MORE, WE HAVE ONE MORE THING TO DISCUSS WITH YOU.

5 THE COURT: YES, SIR.

6 SOLICITOR SORENSON: COULD WE
7 APPROACH?

8 THE COURT: SURE.

9 (Whereupon, a bench conference
10 is held outside the hearing
11 of the court reporter.)

12 THE COURT: THE STATE HAS PREPARED
13 A, JUST REPRINTED THE INDICTMENT, ON INDICTMENT 2006-
14 2068, THE INDICTMENT FOR MURDER. THE ORIGINAL
15 INDICTMENT SAID "THAT GEORGE NAPOLEON MOSES DID, IN
16 ORANGEBURG COUNTY, ON SEPTEMBER TWENTY-NINTH, TWO
17 THOUSAND AND SIX, WITH MALICE AFORETHOUGHT, KILL ONE
18 HARRY LIVINGSTON BY MEANS OF STABBING THE VICTIM WITH A
19 KNIFE AND THE VICTIM DIED AS A PROXIMATE RESULT
20 THEREOF." I ALLOWED AN AMENDMENT, OVER YOUR OBJECTIONS,
21 YOU'RE FULLY PROTECTED ON THAT, TO, SO THAT THE
22 INDICTMENT NOW WOULD SAY, "KILLED ONE HARRY LIVINGSTON
23 BY MEANS OF STABBING THE VICTIM WITH A KNIFE AND/OR
24 BLUNT FORCE TRAUMA TO THE HEAD." WE ADDED TO IT,
25 "AND/OR BLUNT FORCE TRAUMA TO THE HEAD." I DID THAT ON

1 MOTION OF THE STATE, FINDING THAT IT DOES NOT CHANGE THE
2 NATURE OF THE OFFENSE. THE DEFENSE VERY STRONGLY
3 OBJECTED TO THAT, AND YOUR OBJECTION, AS I SAID, IS IN
4 THE RECORD, YOU'RE PROTECTED ON THAT ISSUE. AND I HAVE
5 ADDED THOSE WORDS IN INK AND INITIALED THEM TO THE
6 ORIGINAL INDICTMENT. THE STATE HAS PREPARED AN
7 ADDITIONAL, OR REPRINTED THE INDICTMENT WITH THOSE WORDS
8 PRINTED ON THE FACT OF THE INDICTMENT RATHER THAN
9 WRITTEN IN BY HAND, AND THE STATE OBJECTS TO ME USING
10 THAT, SENDING THAT SECOND, WHICH IS THE INDICTMENT AS
11 AMENDED, TO THE JURY. NOW, WHAT ARE YOUR REASONS?

12 MR. MELLARD: WELL, FIRST OF ALL,
13 THE DEFENSE WOULD OBJECT TO YOU SENDING THE NEW COPY, I
14 BELIEVE YOU SAID, THE STATE, SO IT'S ACTUALLY OUR
15 OBJECTION, YOUR HONOR.

16 THE COURT: YEAH, WELL -- DID I SAY,
17 THE STATE?

18 MR. MELLARD: YES, SIR.

19 THE COURT: ALRIGHT, NO, IT'S THE
20 DEFENSE.

21 MR. MELLARD: YES, SIR. I WOULD SAY
22 THAT THAT FIRST DOCUMENT, THE ONE THAT THE CORRECTIONS
23 ARE MADE ON, THAT'S THE ONE THAT WENT TO THE GRAND JURY,
24 THAT'S THE ONE THAT THE GRAND JURY HAS DETERMINED,
25 THAT'S THE ONE YOU HAVE AMENDED. THE OTHER DOCUMENT

1 DOES NOT SHOW ANYTHING ABOUT IT GOING TO A GRAND JURY,
2 IT SHOWS NOTHING. SO, I WOULD SAY THAT WE NEED TO SEND
3 THE ONE THAT'S BEEN TO THE GRAND JURY THAT YOU HAVE
4 AMENDED, THAT SHOWS THE AMENDMENT, AND THAT ONE IS THE
5 ONE THAT WAS PROPERLY PRESENTED TO THE GRAND JURY AND
6 AMENDED BY THIS COURT, OVER OUR OBJECTION. SO, I WOULD
7 SAY THAT'S THE ONE YOU NEED TO SEND, NOT THE ONE THAT
8 HASN'T BEEN TO THE GRAND JURY, IT HASN'T BEEN HEARD BY
9 ANYTHING.

10 THE COURT: AND YOUR ONLY REASON IS
11 THAT THE ORIGINAL ONE HAS BEEN TO THE GRAND JURY.
12 BECAUSE IT DIDN'T GO TO THE GRAND JURY LIKE IT IS NOW,
13 BECAUSE I'VE WRITTEN ON IT - - -

14 MR. MELLARD: THAT'S CORRECT, WELL,
15 THE COURT'S AMENDED IT.

16 THE COURT: --- THE AMENDMENT.

17 MR. MELLARD: YES, SIR, YES, SIR.
18 IT WAS AMENDED.

19 THE COURT: WHAT'S THE STATE'S
20 POSITION?

21 SOLICITOR SORENSON: I MEAN, YOUR
22 HONOR, OUR POSITION IS, I MEAN, YOU KNOW, THEY INDICATED
23 UP AT THE SIDE BAR THAT THEY'RE NOT, THEY'RE NOT SEEKING
24 TO HAVE, YOU KNOW, THE JURY GET INVOLVED WITH THAT
25 BECAUSE THAT'S NOT IN THEIR PROVINCE, BUT I CAN'T SEE

1 WHAT OTHER REASON WHY THEY WOULD INSIST ON THAT AMENDED,
2 WHERE YOU HAND WROTE IT IN, GOING TO THE JURY, OTHER
3 THAN TRYING TO SOMEHOW CREATE SOME SORT OF CONFUSION
4 WITH THE JURY. I DON'T THINK THAT IT'S GOT, TRUE
5 BILLED, STAMPED ON IT OR NOT. I MEAN, THAT'S NOT WITHIN
6 THE PROVINCE OF THE JURY TO DECIDE, OR TO EVEN BE
7 WEIGHING THAT. AS I SAID UP AT THE SIDE BAR, I MEAN, IF
8 THIS WAS A DISTRIBUTION OF CRACK, THIRD OFFENSE, THAT WE
9 WERE TRYING, AND WE HAD LISTED IN THERE THE TWO PRIOR
10 DATES OF THE OTHER OFFENSES, I MEAN, THEY WOULD BE
11 SCREAMING UP AND DOWN TO HAVE A CLEANED UP COPY REDONE
12 WITHOUT THOSE TWO PRIOR DATES PUT IN THERE TO SEND BACK
13 TO THE JURY. SO, I JUST DON'T SEE HOW, I MEAN, THE ONLY
14 REASON I CAN SEE THAT THEY WANT THE OTHER IS JUST
15 HOPING THAT THAT SOMEHOW THROWS SOME MORE CONFUSION IN
16 WITH THE JURY, AND I JUST DON'T THINK THAT'S PROPER.

17 THE COURT: WELL, I THINK IT COULD
18 ONLY LEAD TO THE JURY THE QUESTION AS TO WHY THAT WAS
19 WRITTEN IN, WHICH IS NOT AN ISSUE FOR THE JURY.

20 MR. MELLARD: NO, IT'S NOT, AND
21 WE'RE NOT SAYING THAT IT IS.

22 THE COURT: AND SO, I THINK THAT
23 WOULD UNNECESSARILY CONFUSE THE JURY, THEY WOULD START
24 TALKING ABOUT, WELL, WHY IS THIS WRITTEN IN? IF THAT'S
25 AN ERROR I MADE IT NOT THE JURY, IT'S NOT SOMETHING FOR

1 THE JURY TO CONSIDER, IT'S A LEGAL QUESTION, THE
2 APPELLATE CAN REVIEW THAT. I SEE NO SENSE IN SENDING
3 THAT TO THE JURY JUST GIVING THEM ANOTHER ISSUE TO TALK
4 ABOUT BACK THERE WHEN THEY'VE GOT PLENTY TO TALK ABOUT
5 PROPERLY. SO, I'M GOING TO SEND IN THE CORRECTED COPY
6 OF THE INDICTMENT.

7 MR. MELLARD: COULD YOU JUST NOTE
8 FOR THE RECORD THAT WE, AS FAR AS ANY WAIVERS OF THE
9 GRAND JURY, WE DO NOT WAIVE ANY RIGHT TO - - -

10 THE COURT: I UNDERSTAND THAT AND
11 YOU ARE FULLY PROTECTED ON YOUR OBJECTION TO ME AMENDING
12 THE INDICTMENT AND SENDING THE AMENDED VERSION WHICH HAS
13 NOT BEEN TO THE GRAND JURY, THE PIECE OF PAPER HAS NOT
14 BEEN TO THE GRAND JURY. I THINK YOU'RE FULLY PROTECTED
15 IN THE RECORD. AND OF COURSE, ALL OF THESE DOCUMENTS
16 WILL BE IN THE RECORD, SO THE APPELLATE COURT WILL HAVE
17 THE DOCUMENTS THEMSELVES, THEY WILL BE ABLE TO REVIEW
18 THOSE.

19 ALRIGHT, ANYTHING ELSE?

20 SOLICITOR SORENSON: NO, SIR.
21 WHICH, HOW DO YOU GO ABOUT SEATING AN ALTERNATE? YOU
22 KNOW, WHICH ONE - - -

23 THE COURT: WELL, GENERALLY WE SEAT
24 THE NEXT ALTERNATE THAT WAS SELECTED. IS THAT
25 SATISFACTORY? I THINK THAT WAS THE LADY?

1 MS. HINDS: YES, SIR.

2 SOLICITOR SORENSON: YES, SIR.

3 THE COURT: ANY PROBLEM WITH THAT
4 WITH THE STATE?

5 SOLICITOR SORENSON: NO, SIR.

6 THE COURT: WITH THE DEFENSE?

7 MR. MELLARD: NO, SIR.

8 THE COURT: ALRIGHT, THAT'S MRS.
9 BACKMAN, I DON'T I KNOW WHAT NUMBER SHE IS, I'VE GOT IT
10 UP HERE SOMEWHERE. SHE IS MS. TARZIE M. BACKMAN, JUROR
11 NUMBER SEVEN.

12 ALRIGHT, BRING ALL THE JURORS OUT.

13 MR. MELLARD: ONE SECOND, YOUR
14 HONOR.

15 THE COURT: YES, SIR. WAIT A
16 MINUTE, WAIT A MINUTE. ARE WE READY NOW?

17 MS. HINDS: YES, SIR.

18 SOLICITOR SORENSON: DO YOU SELECT
19 A FOREPERSON NOW OR DO YOU DO THAT IN THE END, OR WHAT,
20 IF YOU HAVEN'T DONE IT YET? I DON'T KNOW. I CAN'T
21 REMEMBER WHAT YOUR PROCEDURE WAS FOR THAT.

22 THE COURT: I'M GOING TO APPOINT
23 HENRY SALLEY FOREPERSON.

24 ALRIGHT, BRING THE JURY OUT.

25 I DON'T USUALLY DO IT UNTIL I GET

1 READY TO CHARGE THEM, OR SOMETIME EVEN AFTER I CHARGE
2 THEM. THERE'S NO REASON FOR ME TO DO IT. I DON'T WANT
3 HIM TO BE NERVOUS DURING Y'ALL'S CLOSING, HE MIGHT NOT
4 LISTEN.

5 WHAT NUMBER WAS THAT JUROR? DO Y'ALL
6 REMEMBER THE NUMBER OF THE - - -

7 LAW CLERK: MONICA WASHINGTON. AS
8 FAR AS HER NUMBER, I DON'T REMEMBER THAT.

9 THE COURT: NUMBER FOUR, I'VE GOT IT
10 DOWN HERE SOME PLACE, ONE EIGHTY-FIVE.

11 (Whereupon, the jury enters
12 the courtroom and the following
13 takes place in the presence
14 of the jury.)

15 BAILIFF: YOUR HONOR, ALL OF THE
16 JURORS ARE SEATED IN THE JURY BOX.

17 THE COURT: GOOD MORNING, LADIES AND
18 GENTLEMEN. MS. BACKMAN, YOU CAN HAVE A SEAT RIGHT IN
19 THAT CORNER RIGHT THERE, THAT'S YOU. MS. WASHINGTON
20 TOLD ME YESTERDAY AS Y'ALL WERE LEAVING THAT SHE HAD
21 BEEN GRANTED A JOB INTERVIEW THIS MORNING AT SIX:THIRTY,
22 AND SO, I TOLD HER TO LET US KNOW IMMEDIATELY IF SHE
23 COULD GET, YOU KNOW, HAVE THE INTERVIEW AND COME BACK,
24 FINE. SHE CALLED BACK AND SAID SHE HAD HAD THE
25 INTERVIEW, THEY HAD OFFERED HER A JOB, THEY'VE TOLD HER

1 SHE COULD GO TO WORK RIGHT THEN, AND AS HARD AS JOBS ARE
2 TO FIND, YOU KNOW, SHE'S GONE TO WORK WITH OUR BLESSING.
3 SO, THAT'S WHY SHE'S NOT HERE. SO, MS. BACKMAN, YOU ARE
4 NO LONGER AN ALTERNATE, YOU ARE ON THE JURY NOW, AND
5 THAT'S THE REASON. THERE'S NO SIGNIFICANCE LEGALLY
6 WHATSOEVER. THAT'S WHY WE HAVE ALTERNATES.

7 NOW, LADIES AND GENTLEMEN, YOU'VE
8 HEARD ALL OF THE TESTIMONY AND THE EVIDENCE THAT YOU'RE
9 GOING TO HEAR IN THE CASE. THE ATTORNEYS NOW ARE GOING
10 TO COME TO YOU AND MAKE THEIR CLOSING ARGUMENTS. THE
11 STATE WILL ARGUE FIRST, AND THEN THE DEFENSE, AND THEN
12 STATE WILL HAVE AN OPPORTUNITY TO REPLY TO THE DEFENSE'S
13 ARGUMENT, AS I SAID, THE REASON BECAUSE THE STATE HAS
14 THE BURDEN OF PROOF IN THIS CASE.

15 NOW, WHAT THE ATTORNEYS TELL YOU IN
16 THEIR ARGUMENTS IS NOT EVIDENCE. THE EVIDENCE IS WHAT
17 TESTIMONY YOU HEARD FROM THAT WITNESS SEAT RIGHT THERE
18 AND THE EXHIBITS THAT HAVE BEEN INTRODUCED, AND YOU WILL
19 HAVE THOSE EXHIBITS WITH YOU IN THE JURY ROOM. BUT WHAT
20 THE ATTORNEYS TELL YOU IS IMPORTANT. THEY HAVE A GOOD
21 GRASP OF THE FACTS OF THE CASE, THEY'VE OBVIOUSLY BEEN
22 WORKING WITH THE CASE A LONG TIME, THEY ARE VERY
23 FAMILIAR WITH IT. THEY ALSO KNOW THE LAW THAT APPLIES
24 TO THIS CASE. AND SO, WHAT THEY TELL YOU MIGHT HELP YOU
25 UNDERSTAND SOME OF THE THINGS, MIGHT ANSWER SOME

1 QUESTIONS THAT YOU'VE HAD. SO, PLEASE GIVE THEM YOUR
2 ATTENTION AS THEY ADDRESS YOU AT THIS TIME, AND ONCE WE
3 HAVE THAT THEN I'LL CHARGE YOU IN THE LAW, AND THEN YOU
4 CAN BEGIN YOUR DELIBERATIONS.

5 ALRIGHT, MR. SORENSON.

6 SOLICITOR SORENSON: MAY IT PLEASE
7 THE COURT, YOUR HONOR.

8 THE COURT: YES, SIR.

9 CLOSING ARGUMENT BY SOLICITOR SORENSON

10 GOOD MORNING, LADIES AND GENTLEMEN.
11 I WANT TO START OFF BY THANKING YOU NOT ONLY ON BEHALF
12 OF THE STATE OF SOUTH CAROLINA AND THE ORANGEBURG
13 SHERIFF'S OFFICE, BUT MOST IMPORTANTLY, ON BEHALF OF THE
14 FAMILY AND FRIENDS OF FIFTY-SEVEN YEAR OLD HARRY
15 LIVINGSTON. I KNOW THIS ISN'T AN EASY TASK THAT YOU'VE
16 BEEN ENTAILED WITH THIS WEEK, BUT WE APPRECIATE YOUR
17 ATTENTIVENESS THAT YOU'VE GIVEN TO NOT ONLY THE LAWYERS
18 BUT ALSO THE WITNESSES THAT HAVE COME TO TESTIFY BEFORE
19 YOU THE LAST SEVERAL DAYS, AND I'M SURE THE ATTENTION
20 THAT YOU'RE GOING TO GIVE ME AND MS. HINDS THIS MORNING.

21 I'M GOING TO START OFF, LADIES AND
22 GENTLEMEN, JUST BY TELLING YOU JUST BRIEFLY A LITTLE BIT
23 ABOUT WHAT YOU'RE GOING TO HEAR OVER THE NEXT HOUR OR
24 SO. I'M GOING TO START OFF BY TAKING JUST A SHORT BIT OF
25 YOUR TIME AND TALKING TO YOU A LITTLE BIT ABOUT THE LAW

1 IN THIS CASE. I'LL GO OVER A LITTLE BIT ABOUT THE
2 CHARGES AGAINST MR. MOSES, AND SOME OF THE OTHER LEGAL
3 CONCEPTS. BUT ULTIMATELY, JUDGE WILLIAMS, WHEN ME AND
4 MS. HINDS ARE DONE, IS GOING TO CHARGE YOU ON THE LAW,
5 BUT IT HELPS FOR YOU TO HAVE KIND OF A LITTLE BIT OF AN
6 IDEA ABOUT WHAT SOME OF THAT STUFF IS WHILE YOU'RE
7 LISTENING TO OUR CLOSING ARGUMENTS. OKAY. AFTER I'M
8 DONE TELLING YOU, TAKING NO MORE THAN ABOUT FIVE OR TEN
9 MINUTES OF YOUR TIME TALKING ABOUT THE LAW MS. HINDS IS
10 GOING TO HAVE AN OPPORTUNITY TO COME UP BEFORE YOU AND
11 ARGUE TO YOU WHAT SHE FEELS THE FACTS SHOW. OKAY. AND
12 THE ONE THING I ASK, LADIES AND GENTLEMEN, IS -- WELL,
13 THERE'S TWO THINGS, I MEAN, TO GIVE HER YOUR ATTENTION,
14 BUT ALSO PLEASE KEEP AN OPEN MIND AND GIVE ME AN
15 OPPORTUNITY THEN WHEN SHE IS DONE TO COME BACK BEFORE
16 YOU AND PRESENT TO YOU WHAT I SUBMIT ARE THE FACTS THAT
17 HAVE BEEN PRESENTED FROM THIS WITNESS STAND, PROOF, AND
18 THAT IS THAT GEORGE MOSES IS GUILTY OF MURDER, HE'S
19 GUILTY OF ARMED ROBBERY BACK ON SEPTEMBER NINTH OF TWO
20 THOUSAND AND SIX.

21 NOW, AS YOU'VE HEARD AT THE OUTSET
22 OF THIS CASE, MR. MOSES IS CHARGED WITH TWO CRIMES, THE
23 FIRST ONE BEING ARMED ROBBERY. AND ARMED ROBBERY IS
24 VERY SIMPLY THE TAKING OF PROPERTY FROM ANOTHER PERSON
25 OR THEIR PRESENCE WHILE ARMED WITH A DEADLY WEAPON, IN

1 THIS CASE A KNIFE. OKAY. VERY SIMPLY, IT'S STEALING
2 SOMETHING FROM ANOTHER PERSON THROUGH FORCE OR
3 INTIMIDATION WHILE ARMED WITH A DEADLY WEAPON. THERE'S
4 NOT MUCH ISSUE IN THAT, AND I'M GOING TO TALK TO YOU A
5 LITTLE BIT ABOUT HOW THE FACTS, LATER ON WHEN I HAVE AN
6 OPPORTUNITY TO COME BACK BEFORE YOU, WHY THE FACTS
7 SUPPORT THE FACT THAT MR. MOSES IS GUILTY OF ARMED
8 ROBBERY. I'LL TAKE A LITTLE MORE TIME, HOWEVER, TALKING
9 TO YOU ABOUT THE OTHER CHARGE.

10 AS YOU'VE HEARD, MR. MOSES HAS BEEN
11 CHARGED, INDICTED BY THE ORANGEBURG GRAND JURY FOR ONE
12 COUNT OF MURDER. MURDER IS VERY SIMPLY THE MOST SERIOUS
13 CRIME WE HAVE IN OUR BOOKS, BUT IT HAS POSSIBLY THE
14 SIMPLEST, SHORTEST DEFINITION. MURDER IS VERY SIMPLY
15 THE UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE
16 AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. OKAY.
17 MALICE. MALICE IS HATRED, ILL WILL OR HOSTILITY TOWARDS
18 ANOTHER PERSON. IT'S THE INTENTIONAL DOING OF A
19 WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE, THE INTENT TO
20 INFLECT AN INJURY ON A PERSON. THE AFORETHOUGHT PART,
21 THE AFORETHOUGHT IS THE OPPOSITE OF AN AFTERTHOUGHT.
22 SO, WHAT AFORETHOUGHT MEANS IS THAT THAT MALICE HAD TO
23 HAVE EXISTED AT THE TIME THE FATAL BLOW WAS STRUCK. IT
24 NEED NOT EXIST FOR ANY PARTICULAR AMOUNT OF TIME, HE
25 DIDN'T HAVE TO HAVE MALICE IN HIS HEART WHEN HE WENT

1 OVER TO THE TRAILER THAT NIGHT. AS LONG AS THAT MALICE
2 EXISTED AT THE TIME HE WAS STRIKING THOSE FATAL BLOWS HE
3 WOULD BE GUILTY OF MURDER.

4 AND THE SECOND PART OF THIS IS,
5 EITHER EXPRESSED OR INFERRED. VERY SIMPLY, EXPRESSED
6 MALICE WOULD BE A SITUATION WHERE YOU HAD SOMEBODY SAY,
7 I'M GOING TO KILL YOU, THAT'S EXPRESS MALICE. THEY HAVE
8 EXPRESSED TO YOU THE MALICE IN THEIR HEART.

9 INFERRED OR IMPLIED MALICE, HOWEVER,
10 YOU, THE JURY, CAN FIND, CAN INFER IT FROM THE
11 DEFENDANT'S CONDUCT. THIS CASE HAS ACTIONS SHOWING THE
12 TOTAL DISREGARD FOR HUMAN LIFE, THE REPETITIVE STABBING
13 AND BEATING OF HARRY LIVINGSTON LEAVING HIM TO DIE ON
14 THAT KITCHEN FLOOR, YOU CAN INFER MALICE FROM THOSE
15 ACTIONS OF MR. MOSES. THE USE OF A DEADLY WEAPON, IN
16 THIS CASE A KNIFE AND ULTIMATELY SOME SORT OF STICK OR
17 ROD INSTRUMENT. OR IF ONE INTENTIONALLY KILLS ANOTHER
18 DURING THE COMMISSION OF A FELONY, DURING THE COMMISSION
19 OF TRYING TO STEAL SOMETHING FROM MR. LIVINGSTON,
20 WHETHER IT BE MONEY OR DRUGS. THOSE ARE THINGS THAT YOU
21 CAN USE TO INFER MALICE.

22 AND AS YOU'RE HEAR, LADIES AND
23 GENTLEMEN, THE JUDGE IS ALSO GOING TO CHARGE YOU,
24 THERE'S CERTAIN OFFENSES THAT HAVE SOMETHING CALLED
25 LESSER OFFENSES, OR LESSER INCLUDED OFFENSES. AND

1 ULTIMATELY, LADIES AND GENTLEMEN, ON THAT MURDER
2 INDICTMENT YOU'RE GOING TO HAVE THREE POTENTIAL
3 VERDICTS. YOU CAN FIND MR. MOSES GUILTY OF MURDER, YOU
4 CAN FIND MR. MOSES GUILTY OF THE LESSER OFFENSE OF
5 VOLUNTARY MANSLAUGHTER, WHICH I'M GOING TO TALK TO YOU
6 ABOUT IN A SECOND, OR IF YOU FIND THAT WE HAVE NOT MET
7 OUR BURDEN OF PROOF AND HAVE NOT PROVED TO YOU BEYOND A
8 REASONABLE DOUBT HIS GUILT, THEN YOU'D HAVE TO FIND HIM
9 NOT GUILTY.

10 NOW, THE LESSER OFFENSE OF VOLUNTARY
11 MANSLAUGHTER, THE DEFINITION OF THAT IS ALSO AN UNLAWFUL
12 KILLING OF ANOTHER, BUT WITHOUT MALICE, IN THE SUDDEN
13 HEAT OF PASSION UPON SUFFICIENT LEGAL PROVOCATION. IF
14 YOU FIND, LADIES AND GENTLEMEN, THAT THIS STORY, THIS
15 STORY THAT HE GAVE TO THE POLICE ON SEPTEMBER THIRTIETH
16 THAT MORNING, TWO THOUSAND SIX, IF YOU FIND THAT WHEN HE
17 SAYS THAT THIS IS TRUTHFUL, WHICH I'M GOING TO ARGUE TO
18 YOU LATER ON WHY YOU SHOULD FIND THIS NOT CREDIBLE, BUT
19 YOU MAY FIND THEN THAT THAT SUFFICIENT LEGAL PROVOCATION
20 EXISTED WHICH WOULD LESSEN IT FROM MURDER DOWN TO
21 MANSLAUGHTER.

22 SO, ONCE AGAIN, ON THE MURDER CHARGE
23 YOU'RE GOING TO HAVE THREE POTENTIAL VERDICTS, AND THE
24 JUDGE IS GOING TO EXPLAIN THIS TO YOU A LITTLE BIT AT
25 THE CLOSE OF THIS, BUT YOU CAN FIND HIM GUILTY OF

1 MURDER, GUILTY OF THE LESSER OFFENSE OF VOLUNTARY
2 MANSLAUGHTER, OR NOT GUILTY.

3 NOW AS I INDICATED A SECOND AGO, AS
4 YOU WERE TOLD, MR. JOHNSON TOLD YOU IN HIS OPENING
5 STATEMENT TO YOU, THE BURDEN IN ANY CRIMINAL CASE,
6 WHETHER IT'S A MURDER CASE OR WHETHER YOU'RE DOWN IN
7 TRAFFIC COURT TRYING A RECKLESS DRIVING CASE, THE BURDEN
8 OF PROOF RESTS ON THE STATE OF SOUTH CAROLINA, AND
9 THAT'S HOW IT SHOULD BE IN OUR COUNTRY. IT'S WHAT MAKES
10 OUR LEGAL SYSTEM SO GREAT. THE BURDEN RESTS ON THE
11 STATE TO COME IN HERE AND PROVE TO YOU BEYOND A
12 REASONABLE DOUBT HIS GUILT, AND THAT'S A BURDEN THAT WE
13 WELCOME.

14 VERY SIMPLY, BEYOND A REASONABLE
15 DOUBT, YOU NOTICE IT DOESN'T SAY, BEYOND ANY DOUBT, IT
16 DOESN'T SAY BEYOND ANY SHADOW OF A DOUBT, ANY POSSIBLE
17 DOUBT, IT'S BEYOND A REASONABLE DOUBT. AND WHAT THAT
18 MEANS IS, WHEN YOU GET BACK TO THAT JURY ROOM AND YOU
19 LOOK AT ALL THE EVIDENCE THAT'S BEEN PRESENTED TO YOU
20 OVER THE LAST THREE DAYS, IF YOU FIND, IF YOU FIND THAT
21 YOU ARE FIRMLY CONVINCED OF THAT MAN'S GUILT, THAT THAT
22 MAN BRUTALLY, MALICIOUSLY KILLED HARRY LIVINGSTON, AND
23 THEN TOOK HIS PROPERTY, THEN YOU HAVE A DUTY UNDER YOUR
24 OATH TO FIND HIM GUILTY, TO FIND HIM GUILTY. BY THE SAME
25 TOKEN, IF YOU FIND THAT WE HAVE NOT CARRIED THAT BURDEN,

1 THEN YOU HAVE A DUTY TO FIND HIM NOT GUILTY.

2 NOW, THE JUDGE IS ALSO GOING TO
3 CHARGE YOU ON SOMETHING ELSE CALLED SELF DEFENSE, SELF
4 DEFENSE. AND I WANTED TO GO OVER THIS JUST KIND A
5 LITTLE BRIEFLY WITH YOU JUST SO YOU HAVE SOME IDEA. I'M
6 GOING TO TALK A LOT MORE ABOUT IT WHEN I GO OVER THE
7 FACTS WITH YOU LATER ON, BUT ESSENTIALLY, IT'S FOUR
8 ELEMENTS OF SELF DEFENSE. AND JUST LIKE ANYTHING ELSE,
9 THE BURDEN IS ON US TO PROVE TO YOU BEYOND A REASONABLE
10 DOUBT HIS GUILT. ALRIGHT, THE FOUR ELEMENTS HAVE TO
11 EXIST FOR SELF DEFENSE TO EXIST, THOUGH, OR, FIRST OF
12 ALL, THE DEFENDANT, MR. MOSES, HAS TO BE WITHOUT FAULT
13 IN BRINGING ON THE DIFFICULTY. IN OTHER WORDS, YOU HAVE
14 TO HAVE CLEAN HANDS. YOU CAN'T START THE PROBLEM AND
15 THEN SUDDENLY CLAIM SELF DEFENSE, THEN SUDDENLY BE THE
16 ONE TO CLAIM SELF DEFENSE.

17 SECONDLY, YOU MUST HAVE ACTUALLY
18 BELIEVED YOU WERE IN EMINENT DANGER, I MEAN OF
19 SUSTAINING SERIOUS BODILY INJURY OR LOSING YOUR LIFE,
20 OR, THERE'S ANOTHER PART OF THIS HERE, OR ACTUALLY HAVE
21 BEEN IN EMINENT DANGER. YOU MUST HAVE ACTUALLY
22 BELIEVED.

23 NUMBER THREE, A REASONABLY PRUDENT
24 PERSON, THAT MEANS A REASONABLE, AVERAGE, ORDINARY
25 PERSON MUST HAVE ENTERTAINED THAT SAME BELIEF, HAD THAT

1 SAME BELIEF, THAT THEY WERE IN DANGER OF SUSTAINING
2 SERIOUS BODILY INJURY OR LOSING THEIR LIFE, BEFORE YOU
3 CAN STRIKE THE FATAL BLOW, OR IN THIS CASE, BLOWS THAT
4 WAS STRUCK IN THIS CASE.

5 AND LASTLY, MR. MOSES MUST TO HAVE
6 HAD NO OTHER PROBABLE MEANS OF AVOIDING HAVING TO STRIKE
7 THAT FATAL BLOW. IN OTHER WORDS, IF HE COULD HAVE
8 GOTTEN OUT OF THAT TRAILER, IF YOU TAKE WHAT HE SAYS IS
9 THE TRUTH, IF YOU FIND THAT HE COULD HAVE GOTTEN OUT OF
10 THAT TRAILER, AND WE'VE PROVEN TO YOU BEYOND A
11 REASONABLE DOUBT THAT HE HAD ANOTHER MEANS OF AVOIDING
12 STRIKING THOSE FATAL BLOWS, STABBING MR. LIVINGSTON FOUR
13 TIMES, AND BEATING HIM REPEATEDLY ABOUT THE HEAD, CHEST
14 AND ARMS, THEN YOU MUST FIND HIM GUILTY, BECAUSE SELF
15 DEFENSE DOESN'T APPLY, IT DOESN'T APPLY.

16 LADIES AND GENTLEMEN, JUST AS HIS
17 HONOR TOLD YOU A FEW MOMENTS AGO, HE IS THE JUDGE OF THE
18 LAW, HE IS THE JUDGE OF THE LAW, AND HE IS GOING TO GET
19 UP AFTER WE'RE DONE, AS I TOLD YOU, AND CHARGE YOU ON
20 THE LAW OF THE CASE. HE'S GOING TO GO OVER A LOT OF WHAT
21 I'VE JUST GONE OVER WITH YOU. AND ONE CAVEAT I WANT TO
22 SAY, IF HE WERE TO HAPPEN TO SAY SOMETHING, AND I DON'T
23 THINK IT'S GOING TO HAPPEN, BUT IF HE HAPPENS TO CHARGE
24 YOU SOMETHING DIFFERENT THAN WHAT I JUST TOLD YOU, YOU
25 TAKE THE LAW ACCORDING TO JUDGE WILLIAMS, OKAY, BECAUSE

1 THAT'S HIS ROLE IN THIS COURTROOM. BUT JUST LIKE HE'S
2 THE JUDGE OF THE LAW, THE TWELVE OF YOU, LADIES AND
3 GENTLEMEN, ARE ALSO JUDGES. YOU'RE THE JUDGES OF THE
4 FACTS. YOU SEE, WHEN WE'RE DONE YOU'RE GOING TO HAVE AN
5 OPPORTUNITY TO GO BACK INTO THAT JURY ROOM AND WEIGH THE
6 EVIDENCE AND JUDGE THE CREDIBILITY, IN OTHER WORDS, THE
7 BELIEVABILITY OF ALL OF THE WITNESSES AND EVIDENCE THAT
8 HAS BEEN PRESENTED TO YOU, AND ULTIMATELY, THEN, IT'S
9 GOING TO BE YOUR TASK TO REACH A VERDICT IN THIS CASE,
10 EACH A VERDICT IN THIS CASE. I WANT TO TALK TO YOU JUST
11 A COUPLE OF SECONDS HERE, AND I'M JUST ABOUT DONE, ABOUT
12 CREDIBILITY.

13 LIKE I SAID, YOU AS BEING JUDGES OF
14 THE FACTS, YOU ARE ALSO GOING TO BE, THEN, JUDGES OF THE
15 CREDIBILITY OF THE WITNESSES. YOU MAY ASK YOURSELF, I
16 MEAN, HOW ON EARTH DID I END UP IN THIS POSITION HERE
17 THIS WEEK? FROM THIS PAST WEEK, YOU HAD NO EARTHLY IDEA
18 THAT THIS IS WHAT YOU WERE GOING TO BE SPENDING YOUR
19 WEEK DOING. I SUBMIT TO YOU, LADIES AND GENTLEMEN,
20 THERE ARE NO BETTER TWELVE PEOPLE IN ORANGEBURG COUNTY
21 THAN THE TWELVE OF YOU TO DECIDE THIS CASE TODAY, TO
22 DECIDE THIS CASE TODAY. THIS IS SOMETHING, WHETHER YOU
23 KNOW IT OR NOT, YOU'VE BEEN TRAINED FOR AND PREPARING
24 FOR ALL YOUR LIVES. EVERY DAY YOU HAVE TO JUDGE PEOPLE,
25 HAVE TO JUDGE WHETHER THEY ARE TELLING YOU THE TRUTH OR

1 NOT, WHETHER THEY ARE BELIEVABLE, WHETHER YOU'RE DEALING
2 WITH YOUR COWORKERS, YOUR SPOUSES, YOUR CHILDREN,
3 FRIENDS, FAMILY. IT'S SOMETHING YOU'VE DONE EVERY DAY OF
4 YOUR LIFE. SO WHAT YOU HAVE TO DO HERE TODAY IS NO
5 DIFFERENT THAN THAT. SOME OF THE FACTORS THAT YOU NEED
6 TO LOOK AT IS, WHAT WAS THE Demeanor OF THE WITNESS ON
7 THE STAND? DID THEY APPEAR TO BE FORTHRIGHT WITH YOU OR
8 HESITANT IN THEIR ANSWERS? IS THE WITNESS'S TESTIMONY
9 CONSISTENT WITH ITSELF, AND ALSO WITH OTHER WITNESSES'
10 TESTIMONY? WAS IT CORROBORATED BY OTHER WITNESSES'
11 TESTIMONY OR THE EVIDENCE THAT WAS PRESENTED? AND
12 THAT'S IMPORTANT, THAT'S IMPORTANT. DID THEY HAVE SOME
13 BIAS OR PREJUDICE, OR SOME MOTIVE OR REASON NOT TO COME
14 IN HERE AND TELL YOU THE TRUTH ABOUT WHAT THEY OBSERVED
15 OR WHAT HAPPENED BACK ON SEPTEMBER TWENTY-NINTH, TWO
16 THOUSAND AND SIX?

17 AND ONE LAST THING, LADIES AND
18 GENTLEMEN, IN ALL CRIMINAL CASES THE DEFENDANT HAS NO
19 BURDEN, HE COULD SIT THERE AND NOT DO A SINGLE THING.
20 HE DOESN'T HAVE TO, THE LAWYERS DON'T HAVE TO ASK A
21 SINGLE QUESTION, THEY DON'T HAVE TO GET UP HERE AND GIVE
22 AN OPENING STATEMENT, THEY DON'T HAVE TO GIVE A CLOSING
23 STATEMENT. HE CAN'T BE FORCED TO TAKE THE STAND AND
24 TESTIFY. AS I SAID, THE BURDEN IS ON US. BUT LADIES
25 AND GENTLEMEN, THE MINUTE HE GETS ON THAT WITNESS STAND

1 AND PLACES HIS HAND ON THAT BIBLE AND TAKES AN OATH TO
2 TELL YOU THE TRUTH HE BECOMES JUST LIKE EVERY OTHER
3 WITNESS THAT CAME BEFORE YOU. YOU JUDGE HIM WITH THE
4 SAME AMOUNT OF SCRUTINY THAT I EXPECT YOU TO JUDGE EVERY
5 OTHER WITNESS THAT TAKES THAT STAND. AND I'M GOING TO
6 TALK TO YOU IN A LITTLE WHILE WHEN I HAVE A CHANCE TO
7 COME BACK BEFORE YOU ABOUT WHY I SUBMIT TO YOU, GEORGE
8 MOSES IS NOT CREDIBLE.

9 NOW, LADIES AND GENTLEMEN, ONE LAST
10 THING I WANT TO LEAVE YOU WITH, AT THE CLOSE OUR
11 ARGUMENTS AND THE CLOSE OF THE JUDGE'S CHARGE ON THE LAW
12 YOU'RE GOING TO HAVE AN OPPORTUNITY TO GO BACK TO YOUR
13 JURY ROOM AND DELIBERATE AND REACH A VERDICT. THE WORD,
14 VERDICT, COMES FROM THE LATIN WORD, VEREDICTO, WHICH
15 MEANS, TO SPEAK THE TRUTH, SPEAK THE TRUTH. THAT'S ALL
16 WE ASK OF YOU, LADIES AND GENTLEMEN, IS THAT YOU RETURN
17 A VERDICT THAT SPEAKS THE TRUTH ABOUT WHAT HAPPENED BACK
18 ON SEPTEMBER TWENTY-NINTH, TWO THOUSAND AND SIX. AND I
19 SUBMIT TO YOU, THE ONLY TRUTHFUL VERDICT, WHEN YOU LOOK
20 AT ALL THE EVIDENCE IN THIS CASE, IS THAT THAT MAN,
21 GEORGE MOSES, IS GUILTY OF BRUTALLY MURDERING HARRY
22 LIVINGSTON AND ROBBING HIM.

23 THANK YOU.

24 THE COURT: MS. HINDS.

25 MS. HINDS: THANK YOU, YOUR HONOR.

1 SOLICITOR SORENSON: DO YOU WANT
2 THIS MOVED ANYWHERE?

3 MS. HINDS: NO, I'LL JUST SPEAK FROM
4 HERE. THAT'S FINE.

5 CLOSING ARGUMENT BY MS. HINDS

6 GOOD MORNING, LADIES AND GENTLEMEN.
7 WE'RE HERE THIS MORNING, AND I APPRECIATE, I TOLD YOU A
8 FEW DAYS AGO TO PLEASE WAIT AND WITHHOLD JUDGMENT UNTIL
9 YOU'VE HAD THE BIG PICTURE. AND WE'VE BEEN THROUGH ALL
10 THE TESTIMONY AND NOW IT'S TIME FOR YOUR DELIBERATIONS
11 WHEN WE'RE FINISHED HERE TODAY.

12 LET'S GO THROUGH SOME OF THAT
13 EVIDENCE. THE FIRST WITNESS THAT WAS PUT UP WAS MR.
14 LLOYD BENSON. I BELIEVE -- AND IF I TELL YOU ANYTHING
15 THAT YOU DON'T REMEMBER, YOU GO BY YOUR OWN
16 RECOLLECTION, AND JUST AS THE SOLICITOR STATED, IF THE
17 JUDGE IN TELLING YOU THE LAW TELLS YOU SOMETHING
18 DIFFERENT YOU MUST LISTEN TO THE JUDGE. MR. BENSON
19 TESTIFIED THAT HE WAS GIVING MS. BAKER A RIDE. SHE
20 NEEDED A RIDE TO THE BUS STATION THAT MORNING AT FIVE
21 O'CLOCK, AND ON THE WAY SHE DECIDED THAT SHE WANTED TO
22 STOP BY MR. LIVINGSTON'S HOUSE. A LITTLE UNUSUAL,
23 USUALLY, I WOULD THINK THAT IF SOMEBODY WAS GOING TO THE
24 BUS STATION THEY WOULD HAVE A BUS TIME THAT THEY WERE
25 TRYING TO MEET, ESPECIALLY LEAVING SO EARLY IN THE

1 MORNING. BUT BE THAT AS IT MAY, THEY WENT OVER TO MR.
2 LIVINGSTON'S HOUSE. MR. BENSON, OR MR. BOWMAN, EXCUSE
3 ME, HAD SAID HE WAS NEVER THERE BEFORE, HE WAS JUST
4 GIVING MS. BAKER A RIDE. THEY STOPPED BY THERE, THEY
5 WERE THE ONES WHO FIRST LOOKED IN AND UNFORTUNATELY SAW
6 MR. LIVINGSTON OBVIOUSLY IN DISTRESS. HOWEVER, THEY
7 DON'T CALL THE COPS, LADIES AND GENTLEMEN. THEY SEE
8 THIS MAN, THEY PEEP THROUGH THE DOOR, THEY SEE THIS MAN
9 LYING ON THE FLOOR, AND INSTEAD OF CALLING LAW
10 ENFORCEMENT OR CALLING AN AMBULANCE OR CALLING TO GET
11 AID THEY GET IN THE CAR AND THEY DRIVE TO MR.
12 LIVINGSTON'S BROTHER'S HOUSE. ASK YOURSELVES WHY
13 SOMEBODY WOULD REACT IN THAT WAY? I SUBMIT TO YOU THAT
14 THEY WANTED TO GET TO MR. LIVINGSTON'S BROTHER TO LET
15 HIM KNOW OBVIOUSLY BUT ALSO BECAUSE THEY WERE AFRAID OF
16 MAYBE WHAT THE POLICE WOULD FIND IF THEY WENT IN THAT
17 HOUSE FIRST. MR. BOWMAN WAS NOT PRESENT AT THE TIME OF
18 THE INCIDENT, HE HAS NO PERSONAL KNOWLEDGE OF WHAT
19 HAPPENED THAT NIGHT, THAT WAS THE EXTENT OF HIS
20 TESTIMONY.

21 THE NEXT WITNESS THAT THEY PRESENTED
22 WAS LACRA JENKINS, THAT WAS ONE OF THE OFFICERS THAT WAS
23 FIRST ON THE SCENE, OR ONE OF THE FIRST ON THE SCENE.
24 IF YOU REMEMBER, HIS TESTIMONY WAS THAT WHEN HE GOT
25 THERE THEIR JOB WAS TO SECURE THE SCENE. HE TESTIFIED

1 THAT THE DOOR WAS CLOSED BUT NOT LOCKED. HE ALSO
2 CONFIRMED THAT THERE WAS A LARGE ROTTWEILER DOG THERE.
3 HIS TESTIMONY WAS THAT IT WAS DOCILE AT THAT POINT IN
4 TIME, AND, BUT THERE WAS A LARGE ROTTWEILER DOG THAT
5 THEY ACTUALLY HAD TO GET MR. LIVINGSTON'S BROTHER TO
6 REMOVE FROM THE PREMISES AND TAKE CARE OF. WELL, HE MAY
7 HAVE BEEN DOCILE THAT DAY, BUT THAT DOES NOT MEAN THAT
8 THAT DOG WAS DOCILE ON SEPTEMBER TWENTY-NINTH OF O-SIX.
9 THERE WAS NOBODY THERE TO GIVE HIM ANY KIND OF COMMAND
10 TO HURT ANYBODY. THERE WAS NO REASON FOR THAT DOG NOT
11 TO BE DOCILE AROUND THE POLICE. I THINK MR. JENKINS
12 ALSO TESTIFIED THAT HE WASN'T AWARE OF ANY INJURIES TO
13 THE DOG. IF YOU REMEMBER MR. MOSES'S TESTIMONY, HE
14 DIDN'T KNOW IF HE ACTUALLY HIT THE DOG WITH THE KNIFE OR
15 NOT, HE JUST KNEW HE WAS TRYING TO KEEP THAT DOG AWAY
16 FROM HIM. SO, THAT IS CONSISTENT. AGAIN, MR. JENKINS
17 ARRIVED AFTER THIS HAD ALL TAKEN PLACE, HE HAD NO FIRST
18 HAND KNOWLEDGE OF WHAT HAPPENED THAT NIGHT, HE WAS
19 SIMPLY DOING HIS JOB, RESPONDING TO THE SCENE.

20 THE NEXT WITNESS THAT YOU WERE ABLE
21 TO HEAR FROM WAS RODERICK GREEN. HE DOES CONFIRM THAT
22 WHEN HE ARRIVED THE KITCHEN AREA, OR THE HOUSE IN
23 GENERAL WAS KIND OF IN SHAMBLES. THAT'S ALSO CONSISTENT
24 WITH MR. MOSES'S TESTIMONY THAT THERE HAD BEEN AN
25 ALTERCATION, THAT THEY HAD FALLEN OVER THE TABLE AND

1 CHAIRS. MR. GREEN SAID THAT HE COLLECTED THE PIECES,
2 THE CHAIR PIECES, AND YOU'LL GET TO SEE THOSE IN
3 EVIDENCE. HIS TESTIMONY WAS ALSO THAT THERE WAS NO
4 FINGERPRINTS ON THEM, THERE WAS NO DNA COLLECTED FROM
5 THOSE PIECES, NOTHING TO LINK THEM AS WEAPONS OR IN ANY
6 WAY AS HAVING STRUCK MR. LIVINGSTON. IF YOU REMEMBER,
7 MR. GREEN WAS ALSO THE EXPERT IN SPATTER. HE TESTIFIED
8 THAT SOME AMOUNT OF FORCE HAD TO HAVE BEEN APPLY TO THE
9 VICTIM'S HEAD COMING INTO CONTACT WITH THE WALL, AND
10 THAT'S HOW THE SPATTER GOT THERE. HE WAS ASKED
11 SPECIFICALLY, IS THAT CONSISTENT WITH BEING STRUCK? AND
12 HE SAID, IT COULD BE ALSO OF A STRUGGLE. AGAIN, THAT'S
13 CONSISTENT WITH MR. MOSES'S VERSION OF WHAT HAPPENED
14 THAT NIGHT. MR. GREEN TESTIFIED AS TO SWABBING THE
15 LIGHT SWITCH BECAUSE THEY THOUGHT THAT THEY HAD DETECTED
16 BLOOD. WE'RE GOING TO GET BACK TO THAT WHEN I TALK
17 ABOUT DR. MILLS'S TESTIMONY. MR. GREEN ALSO TESTIFIED
18 THAT THEY FOUND COCAINE ON MR. LIVINGSTON, I BELIEVE IN
19 HIS POCKET, THAT THEY ALSO COLLECTED -- EXCUSE ME --
20 THEY ALSO COLLECTED OTHER EVIDENCE AT THAT POINT IN
21 TIME. THEY COLLECTED LATER, WHEN THEY GO TO MR.
22 CONNER'S HOUSE, THEY ACTUALLY COLLECTED A PAY STUB, AND
23 YOU'LL SEE THAT IN EVIDENCE. THAT'S CONSISTENT WITH THE
24 TRUTH THAT MR. MOSES WAS A GAINFULLY EMPLOYED MAN, HE
25 WORKED AT SOUTH CAROLINA STATE UNIVERSITY. THE PAY STUB

1 WAS AS RECENT AS THE WEEK BEFORE THEN. HE HAD NO REASON
2 TO GO ROB SOMEBODY IN THE MIDDLE OF THE NIGHT. THEY
3 ALSO COLLECTED A SWAB FROM MR. MOSES'S CAR, I THINK
4 INITIALLY THEY THOUGHT THAT PERHAPS IT WAS BLOOD. WE'LL
5 GET BACK TO THAT AGAIN WITH DR. MILLS'S TESTIMONY. BUT
6 THERE WERE NO PRINTS FOUND ON THE CHAIR, NO PRINTS FOUND
7 ON THE KNIFE, BUT WHAT THEY DID FIND WAS MARIJUANA ON
8 THE FLOOR AND COCAINE IN MR. LIVINGSTON'S POCKET.
9 AGAIN, MR. GREEN HAD NO FIRST HAND KNOWLEDGE OF WHAT
10 HAPPENED. HE WAS NOT THERE, HE SIMPLY CAME IN
11 AFTERWARDS, DOING HIS JOB, COLLECTING EVIDENCE.

12 THE NEXT WITNESS THAT WE HAD WAS
13 YVETTE LINGUARD. SHE TESTIFIED THAT SHE GOT TO MR.
14 LIVINGSTON'S SOMEWHERE AROUND ELEVEN:THIRTY, TWELVE
15 O'CLOCK THAT NIGHT. SHE ALSO TESTIFIED THAT BEFORE MR.
16 MOSES ARRIVED THAT THERE WAS ANOTHER GUY THAT CAME, SOME
17 GUY FROM ACROSS THE STREET. AND SHE TESTIFIED THAT SHE
18 STAYED THERE AND ULTIMATELY LEFT ABOUT, SOMEWHERE
19 BETWEEN ONE:THIRTY AND TWO:THIRTY; THAT NOTHING UNUSUAL
20 WAS GOING ON, THAT SHE DID NOT NOTICE ANY ANIMOSITY
21 BETWEEN MR. LIVINGSTON AND MR. MOSES. BASICALLY, THEY
22 WERE SITTING AROUND. AGAIN, SHE HAS NO FIRST KNOWLEDGE
23 OF WHAT HAPPENED AFTER THAT. HER TESTIMONY IS, MR.
24 LIVINGSTON WAS FINE WHEN SHE LEFT, MR. MOSES WAS FINE,
25 THEY WERE SIMPLY SITTING IN THE TRAILER. SHE ADMITTED

1 TO YOU THAT HER BOYFRIEND AND MR. LIVINGSTON'S ROOMMATE,
2 GEORGE ROBINSON, SELLS DRUGS. SHE ALSO TOLD YOU,
3 ALTHOUGH THEY WERE NOT INVOLVED IN, OR NOT WITNESS TO
4 ANYTHING, BUT THAT AT SOME PAT OWENS CAME THERE WITH
5 JOHN GLYMPH, I BELIEVE THAT WAS HER RIDE WHEN SHE
6 ULTIMATELY LEFT, BUT THEY WERE AT THE TRAILER THAT
7 EVENING ALSO. SHE DOESN'T KNOW WHO MIGHT HAVE COME OR
8 GONE AFTER SHE LEFT, BUT WE KNOW THERE WERE A LOT OF
9 PEOPLE IN AND OUT OF THAT HOUSE OVER THE SPAN OF SEVERAL
10 HOURS THAT NIGHT. AGAIN, SHE HAD NO FIRST HAND
11 KNOWLEDGE OF WHAT MAY HAVE HAPPENED THAT NIGHT. SHE DID
12 SAY THAT SHE LEFT THE HUNDRED AND FORTY-SEVEN DOLLARS,
13 THE KEYS AND THE CELL PHONE, I BELIEVE, THAT BELONGED TO
14 GEORGE ROBINSON, THAT SHE LEFT THEM WITH MR. LIVINGSTON.
15 SHE DIDN'T SAY WHAT HE DID WITH THEM. THAT WAS NOT HIS
16 MONEY, IT WASN'T HIS KEYS, IT WASN'T HIS CELL PHONE.
17 IT'S NOT OUT OF THE ORDINARY TO THINK THAT HE WOULD HAVE
18 GONE AND MAYBE PUT THEM IN MR. ROBINSON'S ROOM. IT IS
19 A LITTLE ILLOGICAL TO THINK THAT HE WOULD HAVE PUT THE
20 HUNDRED AND FORTY-SEVEN DOLLARS IN HIS OWN POCKET, IT
21 WASN'T HIS STUFF.

22 THE NEXT WITNESS THAT WE HAD WAS
23 PATRICIA, PAT OWENS. SHE WAS THE ONE THAT TOOK YVETTE
24 LINGUARD TO MR. LIVINGSTON'S HOUSE, AND SHE'S ALSO THE
25 ONE THAT RETURNED TO PICK HER UP. AGAIN, SHE TESTIFIED

1 THAT YVETTE'S THERE, THAT MR. MOSES IS THERE, AND THAT
2 MR. LIVINGSTON IS THERE. SHE WAITS FOR YVETTE TO FINISH
3 HER MEETING, I'M NOT SURE EXACTLY WHAT THAT MEANT. SHE
4 HAD BEEN THERE SEVERAL HOURS AT THAT POINT IN TIME, SHE
5 HAD BEEN THERE, YOU KNOW, FROM ELEVEN OR ELEVEN:THIRTY,
6 BUT SHE DID CONFIRM WHAT MR. MOSES TOLD YOU, THAT HE WAS
7 WAITING ON A GUY. SHE DIDN'T KNOW WHO IT WAS, BUT AS WE
8 KNOW, HE WAS WAITING ON GEORGE ROBINSON. SHE -- AGAIN,
9 SHE DOES NOT KNOW IF ANYBODY ELSE CAME TO THAT RESIDENCE
10 AFTER SHE LEFT WITH YVETTE LINGUARD.

11 THE NEXT WITNESS WE HAD WAS JEFFREY
12 CONNER. HE'S A FRIEND OF MR. MOSES, SOMEBODY WHO HE
13 SAID HE SAW BACK THEN ON A REGULAR, DAILY BASIS. HIS
14 TESTIMONY WAS THAT AT ABOUT THREE O'CLOCK THAT MR. MOSES
15 COMES, SAID HE NEEDED SOMETHING AND WAS GOING ON A
16 MISSION. MR. CONNER DOESN'T KNOW WHAT THAT MISSION WAS.
17 HE WAS VERY FORTHRIGHT IN THAT, HE SAID HE DIDN'T KNOW
18 ONE WAY OR THE OTHER WHAT THAT MEANT. BUT HE DID SAY
19 THAT MR. MOSES CAME BACK IN JUST A LITTLE BIT, AND,
20 WHICH IS CONSISTENT WITH MR. MOSES'S TESTIMONY. HE SAID
21 HE GOT THERE, THERE WAS NO LIGHT, THERE WAS NO RUNNING
22 WATER. HE GOES DOWN TO THE CAR WASH, HE RETURNS SHORTLY
23 THEREAFTER. EXCUSE ME. THE STATE WANTS YOU TO BELIEVE
24 THAT THE MISSION WAS SOMEHOW TO GO AND DO BODILY HARM TO
25 MR. LIVINGSTON. GIVEN THE SEQUENCE OF EVENTS THAT WOULD

1 HAVE ALREADY, THE ALTERCATION AT THE TRAILER WOULD HAVE
2 ALREADY HAPPENED, THAT WOULDN'T HAVE BEEN THE MISSION HE
3 WAS GOING ON, IF THAT WAS. YOU HEARD MR. MOSES'S
4 TESTIMONY THAT THAT MISSION IS JUST A SLANG TERM, IT
5 MEANS TO GO DO SOMETHING, I WANT TO GO ON A MISSION TO
6 GO TO THE STORE. BUT CERTAINLY, THERE WAS NO MURDEROUS
7 INTENT OR MURDEROUS UNDERTONE TO THAT PARTICULAR CHOICE
8 OF PHRASE.

9 THE NEXT WITNESS THAT THE STATE
10 PRODUCED WAS DR. ROSS. SHE TESTIFIED THAT MR.
11 LIVINGSTON WAS ABOUT FIVE FOOT SIX. SHE ESTIMATED HIS
12 WEIGHT TO BE ABOUT A HUNDRED AND SIXTY POUNDS, ALTHOUGH
13 SHE TOLD YOU THAT THERE WASN'T A SCALE THERE, IT WAS AN
14 ESTIMATE. SHE TESTIFIED ABOUT THE LACERATIONS AND THE
15 ABRASIONS AND THE STAB WOUNDS, WHICH I WILL REMIND YOU
16 WERE DEFINITELY NOT FATAL. SHE TESTIFIED ABOUT THE TWO
17 LACERATIONS TO THE FOREHEAD AND NOSE. SHE SAID THAT
18 PROBABLY WAS CAUSED BY A ROD SHAPED INSTRUMENT. THEN
19 SHE TALKED A LITTLE BIT ABOUT THE EDGE OF THE CHAIR, BUT
20 THE EDGE OF THE CHAIR IS A STRAIGHT LINE, LADIES AND
21 GENTLEMEN, IT'S NOT ROD SHAPED. SHE TALKED ABOUT THE
22 CONTUSIONS TO THE EYES AND LIPS, SHE SAID THAT COULD
23 HAVE BEEN WITH A FIST. AGAIN, THAT'S CONSISTENT WITH
24 MR. MOSES TELLING YOU THAT HE WAS TRYING TO GET HIM TO
25 DROP THE STICK, HE WAS TRYING TO GET HIM AWAY FROM HIM.