

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIALS DIVISION

COMMONWEALTH : OCTOBER TERM, 1997
: BILL NO. 1031 1/2
: NO. 1 - MURDER
: NO. 2 - ROBBERY
VS. : NO. 3 - CARR FIREARMS W/O LIC
: NO. 4 - CARR FIREARMS PUB ST/PL
: NO. 5 - THEFT UNL TAK/DISP
: NO. 6 - THEFT REC STOL PROPERTY
: NO. 7 - POSS INSTRU CRIME
JIMEL LAWSON : NO. 8 - CRIMINAL CONSPIRACY

COMMONWEALTH : OCTOBER TERM, 1997
: BILL NO. 1031 2/2
: NO. 1 - MURDER
: NO. 2 - ROBBERY
VS. : NO. 3 - CARR FIREARMS W/O LIC
: NO. 4 - CARR FIREARMS PUB ST/PL
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: NO. 6 - THEFT REC STOL PROPERTY
: NO. 7 - POSS INSTRU CRIME
JEHMAR GLADDEN : NO. 8 - CRIMINAL CONSPIRACY

COMMONWEALTH : JANUARY TERM, 1998
: BILL NO. 0869
: NO. 1 - MURDER
: NO. 2 - ROBBERY
VS. : NO. 3 - CARR FIREARMS W/O LIC
: NO. 4 - CARR FIREARMS PUB ST/PL
: NO. 5 - THEFT UNL TAK/DISP
: NO. 6 - THEFT REC STOL PROPERTY
: NO. 7 - POSS INSTRU CRIME
TERRENCE LEWIS : NO. 8 - CRIMINAL CONSPIRACY

JURY TRIAL

MAY 19, 1999
COURTROOM 701, CRIMINAL JUSTICE CENTER
PHILADELPHIA, PENNSYLVANIA

BEFORE: THE HONORABLE JAMES A. LINEBERGER, J.
AND A JURY

APPEARANCES:

JOHN DOYLE, ESQ.
ASSISTANT DISTRICT ATTORNEY
FOR THE COMMONWEALTH

DONALD M. PADOVA, ESQ.
FOR DEFENDANT JIMEL LAWSON

NINO V. TINARI, ESQ.
FOR DEFENDANT JEHMAR GLADDEN

THOMAS W. MOORE, JR., ESQ.
FOR DEFENDANT TERRENCE LEWIS

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I N D E X

<u>COMMONWEALTH'S EVIDENCE</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
OFF. SHAUN BUTTS				
BY MR. DOYLE	5	--	--	--
BY MR. PADOVA	--	11	--	--
BY MR. MOORE	--	17	--	--
BY MR. TINARI	--	19	--	--
OFF. CARL SAMPSON				
BY MR. DOYLE	22	--	--	--
BY MR. PADOVA	--	28	--	--
BY MR. MOORE	--	32	--	--
BY MR. TINARI	--	34	--	--
OFF. CARL RONE				
BY MR. DOYLE	41	--	--	--
BY MR. PADOVA	--	51	--	--
DR. EDWIN LIEBERMAN				
BY MR. DOYLE	54	--	--	--
BY MR. PADOVA	--	68	--	--

E X H I B I T S

<u>COMMONWEALTH</u>			
<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
C-1 THRU 69	(PREVIOUSLY MARKED)	--	70

P R O C E E D I N G S

(DISCUSSION IN ROBIN ROOM OFF THE RECORD.)

THE TIPSTAFF: MAY I BRING THE JURY IN, SIR?

THE COURT: YES.

(THE JURY ENTERED THE COURTROOM.)

THE COURT: GOOD MORNING, LADIES AND
GENTLEMEN.

THE JURY: GOOD MORNING.

THE COURT: CALL YOUR NEXT WITNESS,
COMMONWEALTH.

MR. DOYLE: THANK YOU, JUDGE.

COMMONWEALTH CALLS OFFICER SHAUN BUTTS.

POLICE OFFICER SHAUN T. BUTTS, BADGE
NO. 7026, NARCOTICS STRIKE FORCE, PHILADELPHIA
POLICE DEPARTMENT, CALLED AS A WITNESS ON BEHALF OF
THE COMMONWEALTH, HAVING BEEN DULY SWORN, WAS
EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. DOYLE:

Q. OFFICER BUTTS, GOOD MORNING.

HOW LONG HAVE YOU BEEN EMPLOYED AS A POLICE
OFFICER HERE IN PHILADELPHIA?

A. LITTLE MORE THAN FOUR YEARS.

Q. HOW LONG HAVE YOU HELD YOUR CURRENT ASSIGNMENT
WITH THE NARCOTICS STRIKE FORCE?

A. GOING ON TWO YEARS.

Q. WHAT WAS YOUR ASSIGNMENT BACK ON THE EVENING OF
AUGUST 6TH, 1996?

A. I WAS ASSIGNED TO THE 18TH DISTRICT, WHICH IS
LOCATED AT 55TH AND PINE, AS A FOOT BEAT OFFICER,
CA-136.

Q. WHAT IS CA-136?

A. CA STANDS FOR COPS AHEAD.

Q. AND WERE YOU IN UNIFORM?

A. I WAS IN UNIFORM WITH A PARTNER, OFFICER JONES.

Q. ON THAT DATE, AUGUST 6TH, 1996, LATE IN THE
EVENING, ABOUT 11:15, DID YOU TO GO A HOUSE LOCATED AT
6120 SANSOM STREET IN WEST PHILADELPHIA?

A. THAT IS CORRECT.

Q. WHY DID YOU GO TO THAT HOUSE AT 6120 SANSOM

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STREET?

A. RESPONDING TO A RADIO CALL, PERSON SHOT, PERSON WITH A GUN.

Q. DO YOU RECALL APPROXIMATELY HOW FAR YOU WERE AWAY FROM THE HOUSE IN QUESTION AT 6120 SANSOM STREET WHEN YOU GOT THAT CALL?

A. I COULD HAVE BEEN AT 60TH AND MARKET OR 60TH AND CHESTNUT. I'M NOT SURE.

Q. ABOUT HOW LONG BEFORE YOU ARRIVED AT THE HOUSE IN QUESTION DID YOU GET THE RADIO CALL?

A. MINUTES.

Q. OKAY. AND WHAT HAPPENED WHEN YOU GOT TO THE HOUSE AT 6120 SANSOM STREET?

A. I WAS MET BY A FEMALE, BLACK FEMALE. SHE SAID HER NAME WAS LENA LAWS. AT THE TIME SHE TOLD ME TO COME IN, "HE'S IN HERE, HE'S IN HERE."

Q. DESCRIBE HER EMOTIONAL CONDITION.

A. SHE WAS REAL EXCITED. SHE WAS CRYING.

Q. AND YOU MET HER AT WHAT PART OF THE HOUSE?

A. MET HER AT THE FRONT DOOR.

Q. AND AFTER SHE TOLD YOU, "HE'S IN HERE," WHAT DID YOU DO?

A. WELL, I ASKED HER, "WHO'S IN HERE? WHO'S IN HERE?" SHE STATED THAT, "HE'S IN HERE." I WAS

1 ASKING, "WHO? THE SHOOTER? WHO?" SHE SAID, "NO."

2 MR. TINARI: OBJECTION, YOUR HONOR.

3 FURTHER HEARSAY.

4 THE COURT: OVERRULED. HE ASKED HER WAS
5 THE SHOOTER IN THERE, WHICH IS A REASONABLE
6 QUESTION.
7

8 BY MR. DOYLE:

9 Q. HOW DID SHE RESPOND TO THE QUESTION?

10 A. SHE SAID, "NO. HE'S IN HERE, BERNARD'S IN
11 HERE."

12 Q. WHAT DID YOU DO WHEN YOU GOT THAT INFORMATION?

13 A. AT THAT TIME I PROCEEDED WITH CAUTION INTO WHAT
14 APPEARED TO BE THE KITCHEN AREA TO ME, AND I SAW A
15 BLACK MALE LAYING ON THE FLOOR.

16 Q. AND WHAT WAS HIS CONDITION?

17 A. HE APPEARED TO BE SHOT IN THE STOMACH. I
18 CHECKED HIS PULSE AND IT WAS NO REACTION.

19 Q. DID HE APPEAR TO YOU, AS A RESULT OF YOUR
20 EXPERIENCE, TO BE DEAD?

21 A. YES.

22 Q. AND WAS HE LYING ON THE FLOOR?

23 A. YES, HE WAS.

24 Q. WAS HE ON HIS BACK OR HIS STOMACH?

25 A. HE WAS ON HIS BACK.

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Q. WAS THAT MAN WHO WAS LYING ON HIS BACK WITH WHAT APPEARED TO BE A GUNSHOT WOUND TO THE STOMACH LATER IDENTIFIED AS THE DECEDENT IN THE CASE, HULON BERNARD HOWARD?

A. THAT'S CORRECT.

Q. DID YOU REMAIN AT THE SCENE TO GUARD THE SCENE UNTIL OTHER OFFICERS ARRIVED?

A. THAT IS CORRECT.

Q. DID YOU SPEAK TO LENA LAWS AFTER YOU OBSERVED THE DECEDENT IN THAT CONDITION?

A. THAT IS CORRECT.

Q. DID YOU WAIT FOR THE PARAMEDICS TO ARRIVE?

A. THAT IS CORRECT.

Q. ABOUT HOW LONG AFTER YOU ARRIVED AND SAW THE VICTIM IN THAT CONDITION DID THE PARAMEDICS ARRIVE AT THE SCENE?

A. A FEW MINUTES.

Q. WHEN THEY ARRIVED, DID THEY PRONOUNCE HIM DEAD?

A. THAT IS CORRECT.

Q. WAS THE BODY OF THE DECEDENT EVENTUALLY TRANSPORTED TO THE OFFICE OF THE MEDICAL EXAMINER?

A. THAT'S CORRECT.

Q. DID YOU ASK LENA LAWS WHAT HAPPENED? DID YOU ASK, AFTER THE DECEDENT HAD BEEN DECLARED DEAD BY THE

1
2 PARAMEDICS, DID YOU SPEAK AGAIN TO LENA LAWS AT THE
3 SCENE?

4 A. YES. THAT IS CORRECT.

5 Q. DID YOU ASK HER WHAT HAPPENED?

6 A. YES.

7 Q. HOW DID SHE RESPOND?

8 MR. TINARI: OBJECTION.

9 MR. PADOVA: OBJECTION.

10 MR. MOORE: OBJECTION.

11 THE COURT: OVERRULED.

12 BY MR. DOYLE:

13 Q. YOU MAY RESPOND.

14 A. AGAIN, SHE WAS EXCITED AND SHE HAS SOME TYPE OF
15 SPEECH IMPEDIMENT, SO IT WAS KIND OF HARD FOR ME TO
16 UNDERSTAND HER. SHE EXPLAINED TO ME, "MELLOW SHOT
17 HIM. MELLOW SHOT HIM. MELLOW SHOT HIM." SHE KEPT
18 SAYING THAT. I SAID, "WHO'S MELLOW? WHO'S MELLOW?
19 WHERE DID HE GO?" THEN SHE SAID, "IT WAS THREE OF
20 THEM, THREE OF THEM."

21 MR. TINARI: YOUR HONOR, I OBJECT. MAY

22 I SEE YOU AT SIDE BAR?

23 THE COURT: NO. AND YOUR OBJECTION IS
24 OVERRULED. AND IT'S AN EXCITED UTTERANCE AS AN
25 EXCEPTION TO THE HEARSAY RULE.

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BY MR. DOYLE:

Q. YOU MAY CONTINUE. THANK YOU.

A. AND BASICALLY I ASKED HER, WELL, DESCRIBE MELLOW OR DESCRIBE WHO -- WHO WAS THERE. SHE SAID IT WAS THREE GUYS, TWO OF THEM WERE DARK SKINNED, ONE WAS LIGHT SKINNED. SHE SAID MELLOW SHOT HIM. ONE HAD A SHOTGUN, MELLOW HAD A TEC-9. SHE SAID ONE GUY WENT THROUGH HER POCKETS AND ROBBED THEM, AND SHE SAID THAT THEY LEFT. AND I BELIEVE SHE STATED A CAR. I DON'T RECALL WHAT KIND OF CAR IT WAS.

Q. DID SHE SAY WHETHER ANYBODY ELSE HAD BEEN THERE AT THE TIME OF THE SHOOTING OTHER THAN HER AND THE VICTIM AND THE THREE MEN INVOLVED IN THE SHOOTING?

A. I BELIEVE SHE SAID IT WAS A MALE, OMAR, AND A FEMALE, DENISE.

Q. WERE THOSE TWO PEOPLE STILL THERE WHEN YOU GOT TO THE HOUSE AT 6120 SANSOM STREET?

A. NO.

Q. NOW, IN YOUR CAREER AS AN OFFICER HAVE YOU SEEN INDIVIDUALS UNDER THE INFLUENCE OF DRUGS?

A. YES.

Q. ON APPROXIMATELY HOW MANY OCCASIONS HAVE YOU SEEN INDIVIDUALS UNDER THE INFLUENCE OF DRUGS?

A. HUNDREDS.

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Q. WHEN YOU SPOKE TO LENA LAWS, DID SHE APPEAR TO YOU TO BE UNDER THE INFLUENCE OF ANY DRUGS?

MR. MOORE: OBJECTION.

THE COURT: OVERRULED.

BY MR. DOYLE:

Q. YOU MAY ANSWER.

A. NO.

MR. DOYLE: THANK YOU, OFFICER BUTTS.

NOTHING FURTHER.

THE COURT: CROSS.

MR. PADOVA: THANK YOU.

CROSS-EXAMINATION

BY MR. PADOVA:

Q. GOOD MORNING, OFFICER.

YOU SAID LENA LAWS DID NOT APPEAR UNDER THE INFLUENCE. WHAT DID YOU BASE THAT UPON?

A. THE QUESTION WAS, DID SHE APPEAR. SHE DIDN'T APPEAR TO ME.

Q. WELL, SHE WAS EXCITED; RIGHT?

A. YES, SHE WAS EXCITED.

Q. SHE WAS UPSET?

A. THAT IS CORRECT.

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Q. SHE WAS CRYING; RIGHT?

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A. THAT IS CORRECT.

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Q. SHE WAS HAVING A TOUGH TIME SPEAKING; CORRECT?

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A. THAT'S CORRECT.

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Q. SHE WAS SPEAKING FAST AT TIMES?

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A. I WOULDN'T SAY -- YEAH. SHE WAS TALKING FAST.

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IT WAS HARD TO UNDERSTAND HER.

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Q. THERE WERE TIMES YOU HAD TO STOP HER, SLOW HER

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DOWN, TRY TO UNDERSTAND WHAT IT WAS SHE WAS TRYING TO

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SAY?

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A. AT TIMES.

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Q. WAS ANYONE ELSE PRESENT WHEN YOU HAD THIS

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CONVERSATION WITH HER?

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A. SURE. YES.

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Q. WHO ELSE WAS THERE?

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A. I BELIEVE MY PARTNER WAS THERE. I BELIEVE IT

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WAS A SERGEANT MADDELA WAS THERE. I'M NOT SURE WHO

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ELSE WAS THERE AT THE TIME.

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Q. YOU HAD NEVER SEEN HER BEFORE; CORRECT?

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A. I'M NOT SURE. I DON'T REMEMBER SEEING HER.

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Q. YOU DIDN'T KNOW HER PERSONALLY; CORRECT?

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A. NO.

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Q. YOU DON'T REMEMBER HAVING ANY TYPE OF

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CONVERSATION WITH HER BEFORE; CORRECT?

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A. NO.

Q. SO YOU REALLY DID NOT KNOW WHETHER SHE WAS UNDER THE INFLUENCE OF ANY DRUGS?

A. AT THE TIME SHE DIDN'T APPEAR TO BE UNDER THE INFLUENCE.

Q. WELL, SHE WASN'T FALLING ASLEEP; RIGHT?

A. NO, SHE WASN'T.

Q. AND SHE WASN'T FALLING DOWN; RIGHT?

A. NO, SHE WASN'T.

Q. YOU DON'T KNOW WHETHER OR NOT SHE HAD USED DRUGS THAT DAY, DO YOU?

A. I COULDN'T TELL YOU THAT.

Q. OKAY. YOU DON'T KNOW IF SHE USED DRUGS FIVE MINUTES BEFORE YOU ARRIVED; CORRECT?

A. I COULDN'T TELL YOU THAT, EITHER.

Q. SO WHAT YOU'RE TELLING THE JURY IS, SHE JUST DIDN'T LOOK TO YOU LIKE SHE WAS UNDER THE INFLUENCE?

A. NO. I'VE SEEN PEOPLE EXCITED AND HIGH BEFORE, BUT SHE DIDN'T APPEAR TO BE THAT WAY.

Q. BUT SHE COULD HAVE BEEN HIGH AND YOU JUST DIDN'T KNOW?

A. AT THAT TIME SHE DIDN'T APPEAR TO BE HIGH --

Q. MY QUESTION, SHE COULD HAVE BEEN HIGH AND YOU DIDN'T KNOW IT?

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MR. DOYLE: OBJECTION, YOUR HONOR.
THE COURT: SUSTAINED.

BY MR. PADOVA:

Q. SHE DIDN'T TELL YOU THAT SHE HAD SMOKED SOME
CRACK SHORTLY BEFORE THE INCIDENT; CORRECT?

A. NO.

Q. SHE DIDN'T AT THE TIME TELL YOU THAT SHE SMOKED
CRACK ABOUT AN HOUR BEFORE THE INCIDENT; CORRECT?

A. NO, SHE DIDN'T.

Q. WHAT TIME DID YOU ARRIVE ON THE SCENE?

A. I BELIEVE IT WAS 11:13, 11:15.

Q. DO YOU RECALL WHAT TIME YOU RECEIVED THE CALL?

A. SHORTLY BEFORE I ARRIVED. FEW MINUTES.

Q. AND YOU ARRIVED, I'M SORRY, WHAT TIME?

A. I'M NOT A HUNDRED PERCENT SURE. 11:13 OR
11:15.

Q. YOU RECEIVED THE CALL ABOUT 11:13?

A. 11:13 OR 11:15.

Q. THE CALL CAME OVER POLICE RADIO?

A. THAT'S CORRECT.

Q. YOU WOULDN'T KNOW WHAT TIME THE CALL WAS
PLACED, WOULD YOU, OF YOUR OWN KNOWLEDGE?

A. NO.

Q. WHEN YOU ARRIVED AT THE SCENE, DID YOU OBSERVE

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THE CONDITION OF THE KITCHEN?

A. PRETTY MUCH. YES.

Q. DID YOU SEE ANYTHING IN THE NATURE OF A
CONTROLLED SUBSTANCE?

A. I DON'T RECALL.

Q. DID YOU SEE ANY DRUG PARAPHERNALIA?

A. I DON'T RECALL SEEING THAT.

Q. IF YOU HAD SEEN THAT, WOULD YOU HAVE MADE NOTE
OF IT SOMEPLACE?

A. PROBABLY WOULD. YES.

Q. YOU SAID MISS LAWS TOLD YOU THAT THERE WERE
OTHER PEOPLE THERE; CORRECT?

A. CORRECT.

Q. DID YOU ASK HER WHAT BECAME -- IF SHE KNEW WHAT
BECAME OF THOSE OTHER PEOPLE?

MR. DOYLE: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: I DON'T RECALL ASKING HER.

NO. I DON'T REMEMBER ASKING.

BY MR. PADOVA:

Q. DID YOU ASK IF SHE KNEW THE OTHER PEOPLE?

A. OTHER PEOPLE?

Q. THE TWO YOU NAMED. OMAR -- I'M SORRY. OMAR
AND DENISE?

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A. I'M SURE SHE WOULD KNOW THEM. SHE CALLED THEM BY THEIR NAMES.

Q. DID YOU ASK WHAT THEIR LAST NAMES WERE?

A. I BELIEVE I DID. SHE DIDN'T KNOW.

Q. DID SHE TELL YOU SHE KNEW WHERE ANYBODY LIVED?

A. I THINK I DID -- I DON'T REMEMBER. I DON'T BELIEVE SHE KNEW EXACTLY WHERE THEY LIVED.

Q. YOU DIDN'T SEE ANY -- STRIKE THAT.

DID SHE TELL YOU THAT SOMEONE HAD FIRED A SHOTGUN IN THE HOUSE?

A. SHE DID MAKE A STATEMENT LIKE THAT.

Q. DID YOU SEE ANY INDICATION OF THAT?

A. NO, I DID NOT.

Q. OKAY. DID YOU LOOK FOR AN INDICATION OF THAT?

A. I LOOKED. I DIDN'T SEE IT.

Q. DID SHE TELL YOU THAT SHE HAD BEEN ROBBED OR THE HOUSE HAD BEEN ROBBED EARLIER THAT DAY?

A. NO.

Q. DID SHE TELL YOU THAT THIS PERSON BY THE NAME OF MELLOW WAS IN HER HOUSE EARLIER THAT DAY WITH ANOTHER SUPPOSED GUNMAN? DID SHE TELL YOU THAT?

A. NO.

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MR. PADOVA: I HAVE NO FURTHER QUESTIONS.

OH, YES I DO.

BY MR. PADOVA:

Q. DID SHE -- NOTHING FURTHER.

THE COURT: MR. MOORE.

BY MR. MOORE:

Q. GOOD MORNING, OFFICER.

A. GOOD MORNING.

Q. OFFICER, DID LENA LAWS TELL YOU THAT AS ONE OF THE MALES WAS WALKING AWAY, HE TURNED AND SHOT THE DECEDENT IN THE STOMACH?

A. SHE SAID HE TURNED AND SHOT HIM. SHE DIDN'T SAY WHERE HE SHOT HIM AT. I DON'T RECALL HER TELLING ME WHERE HE SHOT HIM AT.

Q. IS IT THAT SHE DIDN'T SAY IT OR THAT YOU DON'T RECALL?

A. I DON'T REMEMBER, RECALL AT THIS TIME.

Q. OFFICER, YOU GAVE A STATEMENT SHORTLY AFTER THE INCIDENT; CORRECT?

A. THAT'S CORRECT.

Q. OKAY. IF I TOLD YOU THAT ON PAGE 3 OF THE STATEMENT YOU INDICATED THAT LENA LAWS TOLD YOU THAT MELLOW TURNED AROUND AND SHOT BERNARD IN THE STOMACH, YOU WOULDN'T QUARREL WITH THAT?

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A. IF I MADE THAT STATEMENT, THEN THAT'S WHAT SHE SAID.

Q. OKAY. AND HOW LONG DID YOU TALK TO MISS LAWS? HOW LONG DID YOU HAVE TO CONVERSE WITH HER, CONVERSATE?

A. TWENTY, THIRTY, THIRTY-FIVE MINUTES.

Q. DURING THAT 20 TO 30 TO 35 MINUTES DID LENA LAWS EVER MENTION ANYONE ELSE BY NAME WHO WAS ALLEGED TO HAVE BEEN INVOLVED?

A. I DON'T RECALL HER MENTIONING ANY NAMES. SHE STUCK ON THE NAME MELLOW.

Q. WELL, WHEN YOU SAY YOU DON'T RECALL, YOU REVIEWED YOUR STATEMENT THAT YOU GAVE TO THE DETECTIVE? YOU REVIEWED THAT RECENTLY; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND YOU KNOW FOR A FACT -- WELL, YOU WOULD HAVE INCLUDED THAT INFORMATION IN YOUR STATEMENT WHEN YOU GAVE YOUR STATEMENT, ISN'T THAT TRUE, AS TO WHETHER SHE INDICATED OR GAVE ANY OTHER NAME OF ANYONE ELSE WHO WAS SUPPOSED TO HAVE BEEN INVOLVED?

A. TO THE BEST OF MY KNOWLEDGE I WOULD HAVE INCLUDED THAT, IF SHE MENTIONED THEIR NAMES. I DON'T RECALL AT THIS TIME.

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Q. YOU KNOW THERE'S NO MENTION OF ANY OTHER NAME
YOUR STATEMENT?

A. YES, I DO KNOW THAT.

Q. THEN WOULD IT BE FAIR TO SAY, TO TELL THE JURY
THAT BECAUSE THERE'S NO MENTION OF ANY OTHER NAME IN
THE STATEMENT, THAT SHE DID NOT GIVE YOU ANY OTHER
NAME OF ANYONE WHO IS SAID TO HAVE BEEN INVOLVED?

A. THAT WOULD BE FAIR TO SAY. YES.

MR. MOORE: IF YOUR HONOR PLEASE, THANK
YOU. I HAVE NOTHING FURTHER.

THE COURT: MR. TINARI.

MR. TINARI: JUST BRIEFLY.

BY MR. TINARI:

Q. IN PREPARATION FOR YOUR TRIAL TESTIMONY TODAY
YOU DID REVIEW THE STATEMENT THAT YOU GAVE TO THE
DETECTIVE BACK ON AUGUST THE 7TH, 1996; ISN'T THAT
CORRECT?

A. YES. I REVIEWED IT.

Q. AND IT'S CORRECT TO SAY THAT YOU WERE GIVING TO
THE DETECTIVE THE INFORMATION THAT WAS GIVEN TO YOU BY
LENA LAWS; CORRECT?

A. THAT'S CORRECT.

Q. AND IT'S ALSO CORRECT TO SAY THAT IN THE
STATEMENT THAT YOU GAVE TO THE DETECTIVE, THE ASSIGNED

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DETECTIVE, THERE ISN'T ANY REFERENCE MADE BY YOU THAT
LENA LAWS USED ANY INITIALS CONCERNING ANY
INDIVIDUALS; IS THAT CORRECT?

A. I DON'T RECALL HER USING ANY INITIALS.

Q. IN YOUR STATEMENT THERE ISN'T ANY REFLECTION OF
ANY INITIALS BEING USED CONCERNING ANY INDIVIDUALS; IS
THAT CORRECT?

A. CORRECT.

Q. AND SHE DID GIVE YOU INFORMATION CONCERNING
DESCRIPTIONS OF INDIVIDUALS WHOM SHE SAID SHE SAW; IS
THAT CORRECT?

A. THAT'S CORRECT.

Q. AND SHE MENTIONED, DID SHE NOT, THAT THE
INDIVIDUALS' HEIGHTS WERE BETWEEN FIVE-SIX AND
FIVE-NINE, THIN BUILD --

A. CORRECT.

Q. -- BALD-HEADED --

A. CORRECT.

Q. -- 19 TO 20 YEARS OF AGE --

A. CORRECT.

Q. -- AND THAT THE TWO WERE LIGHT SKINNED OTHER
THAN MELLOW; IS THAT CORRECT? YOU HAVE THAT IN YOUR
MIND'S EYE?

A. I BELIEVE SO. YEAH.

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Q. DID SHE EVER GIVE YOU A DESCRIPTION OF OMAR AND DENISE?

A. NO.

Q. DID SHE EVER MENTION THE NAME, ANY OTHER NAME AT ALL BESIDES OMAR AND DENISE?

A. I CAN'T RECALL.

Q. DID YOU MAKE AN ATTEMPT TO DETERMINE WHERE OMAR WAS AT THAT TIME?

A. I BELIEVE I GAVE THE INFORMATION TO ANOTHER OFFICER. I'M NOT SURE, HUNDRED PERCENT SURE.

MR. TINARI: I HAVE NO FURTHER QUESTIONS.
THANK YOU.

THE COURT: MR. DOYLE.

MR. DOYLE: I HAVE NO REDIRECT,
YOUR HONOR. THANK YOU.

THE COURT: THANK YOU VERY MUCH, OFFICER.
YOU MAY STEP DOWN.

(WITNESS EXCUSED.)

THE COURT: CALL YOUR NEXT WITNESS.

MR. DOYLE: OFFICER CARL SAMPSON.

2 POLICE OFFICER CARL SAMPSON, BADGE
3 NO. 5265, CRIME SCENE UNIT, PHILADELPHIA POLICE
4 DEPARTMENT, CALLED AS A WITNESS ON BEHALF OF
5 THE COMMONWEALTH, HAVING BEEN DULY SWORN, WAS
6 EXAMINED AND TESTIFIED AS FOLLOWS:

7 -----

8 BY MR. DOYLE:

9 Q. GOOD MORNING, OFFICER SAMPSON.

10 A. GOOD MORNING.

11 Q. HOW LONG HAVE YOU BEEN A POLICE OFFICER IN
12 PHILADELPHIA?

13 A. BEEN A POLICE OFFICER FOR 16 YEARS.

14 Q. HOW LONG HAVE YOU HELD YOUR CURRENT ASSIGNMENT
15 WITH THE CRIME SCENE UNIT?

16 A. NINE YEARS.

17 Q. WHAT ARE YOUR RESPONSIBILITIES WITH THAT UNIT?

18 A. OKAY. MY RESPONSIBILITIES WITH THE CRIME SCENE
19 UNIT IS TO ASSIST THE INVESTIGATOR AND DETECTIVE IN
20 TAKING THE PHOTOGRAPHS, COLLECTING EVIDENCE, DUSTING
21 FOR PRINTS, AND IF NECESSARY, DO A SKETCH AND
22 MEASUREMENTS.

23 Q. I WANT TO DIRECT YOUR ATTENTION TO THE EARLY
24 A.M. HOURS OF AUGUST THE 7TH, 1996.

25 DID YOU GO TO A HOMICIDE CRIME SCENE AT 6120

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SANSOM STREET IN WEST PHILADELPHIA?

A. YES, I DID.

Q. DID YOU PREPARE A REPORT?

A. YES.

MR. DOYLE: AT THIS TIME I HAVE AN
EXHIBIT THAT HAS BEEN MARKED AS COMMONWEALTH
EXHIBIT C-20. A COPY HAS BEEN GIVEN TO
COUNSEL. MAY IT BE HANDED TO THE WITNESS, AND
AN EXTRA COPY FOR THE COURT, PLEASE?

(EXHIBIT SHOWN TO THE WITNESS.)

BY MR. DOYLE:

Q. OFFICER SANSOM, DO YOU RECOGNIZE WHAT HAS BEEN
MARKED AS C-20?

A. YES, I DO.

Q. WHAT IS THAT?

A. THIS IS A COPY OF MY REPORT AND WHAT I DID AT
THE CRIME SCENE.

Q. AND THAT'S THE REPORT FOR THE CRIME IN THIS
CASE AT 6120 SAMPSON STREET THAT OCCURRED ON AUGUST 6,
1996?

A. YES.

Q. WHAT TIME DID YOU ARRIVE AT THE SCENE?

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A. I ARRIVED AT THE SCENE AT 12:40 A.M.

Q. WHEN YOU ARRIVED AT THE SCENE AT THAT TIME,
WERE THERE OTHER POLICE OFFICERS THERE TO GUARD THE
SCENE?

A. YES, THERE WERE.

Q. WAS THE BODY OF THE DECEDENT STILL THERE AT THE
SCENE?

A. YES, HE WAS.

Q. WAS HE IDENTIFIED AS THE DECEDENT IN THE CASE,
HULON BERNARD HOWARD?

A. YES.

Q. WHERE WAS THE BODY OF MR. HOWARD?

A. OKAY. THE BODY WAS -- PART OF IT IN WAS IN THE
BREAKFAST ROOM AND THE OTHER PART WAS IN THE OTHER
PART OF THE KITCHEN.

Q. WAS HE DEAD AT THAT POINT?

A. YES, HE WAS.

Q. DID YOU FIND ANY SPENT AMMUNITION IN THE HOUSE?

A. YES, I DID.

Q. WHAT SPENT AMMUNITION DID YOU FIND AND WHERE?

A. OKAY. I FOUND ONE FCC. NOW, AN --

Q. GO AHEAD.

A. AN FCC IS WHAT'S KNOWN AS A FIRED CARTRIDGE
CASE. IT'S MAINLY FROM A SEMIAUTOMATIC WEAPON. WHEN

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YOU FIRE THE WEAPON, THE SHELL PROCEEDS OUTSIDE AND THE BULLET GOES TO THE TARGET THAT YOU -- THAT IT GOES TO, THAT YOU AIM TO.

Q. AND DID YOU FIND ANY OTHER SPENT AMMUNITION OTHER THAN THE NINE -- WHAT KIND OF FCC WAS THIS? WHAT KIND OF CARTRIDGE CASE?

A. .9 MILLIMETER.

Q. HOW DO YOU KNOW THE CALIBER?

A. BECAUSE YOU CAN LOOK ON THE BACK, YOU CAN SEE IT'S STAMPED .9 MILLIMETER.

Q. DID YOU FIND ANY OTHER SPENT AMMUNITION AT THE SCENE OTHER THAN THE .9 MILLIMETER CARTRIDGE CASE?

A. YES.

Q. WHAT WAS THAT?

A. IT WAS A PROJECTILE, AND THAT WAS FOUND IN THE BREAKFAST ROOM ON THE SHELF.

Q. IN LAYMAN'S TERMS, WHAT IS A PROJECTILE?

A. OKAY. A PROJECTILE IS, BASICALLY, IT'S THE REMAINING -- THE PART OF THE BULLET AFTER YOU FIRE IT FROM THE CARTRIDGE CASE, THE FIRED CARTRIDGE CASE, THAT'S A PROJECTILE.

Q. WHAT PART OF THE HOUSE DID YOU FIND THE .9 MILLIMETER FCC AND WHAT PART OF THE HOUSE DID YOU FIND THE PROJECTILE?

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A. OKAY. THE FCC, THE FIRED CARTRIDGE CASE WAS FOUND ON THE FLOOR IN THE BREAKFAST ROOM, THE PROJECTILE, THAT WAS FOUND ON THE GLASS SHELF IN THE BREAKFAST ROOM.

Q. AND THE DECEDENT WAS FOUND WHERE?

A. HE WAS FOUND -- PART OF HIM -- HE WAS, LIKE, BETWEEN THE BREAKFAST ROOM AND THE KITCHEN.

Q. WAS THE BODY OF THE DECEDENT SEARCHED TO SEE IF HE HAD A GUN OR ANY OTHER KIND OF WEAPONS?

A. YES, IT WAS.

Q. AND WERE THERE ANY WEAPONS FOUND ON HIM?

A. NO, THERE WASN'T.

Q. WAS THE HOUSE SEARCHED IN ITS ENTIRETY FOR ANY WEAPONS?

A. YES, IT WAS.

Q. WERE ANY WEAPONS FOUND IN THE HOUSE?

A. NO, IT WASN'T.

Q. WHAT DID YOU DO WITH THE TWO PIECES OF SPENT AMMUNITION THAT YOU FOUND INSIDE THE HOUSE?

A. OKAY. I -- AFTER I PHOTOGRAPHED IT, I THEN PUT IT ON A PROPERTY RECEIPT. AND A PROPERTY RECEIPT HAS A DISTINCTIVE NUMBER FOR THE CHAIN OF EVIDENCE.

Q. WHAT WAS THE NUMBER OF THE PROPERTY RECEIPT THAT YOU PUT THE TWO PIECES OF SPENT AMMUNITION THAT

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YOU FOUND IN THE HOUSE?

A. OKAY. THAT NUMBER IS 2053744.

MR. DOYLE: AT THIS TIME I HAVE AN
EXHIBIT WHICH HAS BEEN MARKED FOR THE PURPOSES
OF IDENTIFICATION AS C-25. IT HAS BEEN SHOWN
TO COUNSEL. MAY IT BE SHOWN TO THE WITNESS,
PLEASE?

(EXHIBIT SHOWN TO THE WITNESS.)

BY MR. DOYLE:

Q. OFFICER SAMPSON, DO YOU RECOGNIZE WHAT HAS BEEN
MARKED AS C-25?

A. YES, I DO.

Q. WHAT IS THAT, SIR?

A. THIS IS THE FCC THAT WAS FOUND ON THE FLOOR IN
THE BREAKFAST ROOM.

Q. IS IT ALSO THE OTHER PIECE OF AMMUNITION THAT
WAS FOUND IN THERE?

A. YES, IT IS.

Q. AND THAT WAS FOUND IN THE BREAKFAST ROOM OF THE
HOUSE IN THIS CASE, 6120 SANSOM STREET?

A. THAT'S CORRECT.

Q. WHAT WAS DONE WITH THOSE TWO PIECES OF

1
2 AMMUNITION AFTER THEY WERE PUT ON THE PROPERTY
3 RECEIPT?

4 A. OKAY. THEY WERE SENT TO WHAT'S KNOWN AS FIU,
5 THE FIREARMS IDENTIFICATION UNIT.

6 MR. DOYLE: THANK YOU. NOTHING FURTHER.

7 THE COURT: CROSS.

8 -----

9 CROSS-EXAMINATION

10 -----

11 BY MR. PADOVA:

12 Q. OFFICER, DID YOU MEASURE THE DIMENSIONS?

13 A. YES, I DID.

14 Q. WHAT'S THE -- YOU REFER TO THE BREAKFAST ROOM.

15 WHAT'S THE DIMENSIONS OF THE BREAKFAST ROOM?

16 A. OKAY. THE BREAKFAST ROOM, THAT'S EIGHT FEET
17 NINE INCHES, AND THE LENGTH OF -- IN WIDTH, AND THE
18 LENGTH OF IT IS APPROXIMATELY 11 FEET.

19 Q. NOW, IN THAT BREAKFAST ROOM THERE'S A
20 REFRIGERATOR; CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND SOME TYPE OF CART, A TABLE, CHAIRS,
23 CABINETS; CORRECT?

24 A. THAT'S CORRECT. YES.

25 Q. AND THAT OBVIOUSLY TAKES UP SOME OF THOSE

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DIMENSIONS; IS THAT CORRECT?

A. THAT'S CORRECT. YES.

Q. NOW, THE DOORWAY, DID YOU TAKE THE DOORWAY,
DIMENSIONS OF THE DOORWAY?

A. YEAH, I DID.

Q. WHAT WAS THE DIMENSIONS OF THE DOORWAY?

A. THE DOOR WAS TWO FEET FIVE INCHES.

Q. IN OTHER WORDS, WHEN ONE'S WALKING INTO
THE HOUSE, YOU WALK THROUGH THE DINING ROOM AND YOU
WALK THROUGH THAT DOORWAY; CORRECT?

A. YES.

Q. OKAY. AND THEN YOU GO INTO THE BREAKFAST ROOM?

A. WELL, IF YOU'RE WALKING -- YOU SAY WALKING
THROUGH THE HOUSE FROM WHERE?

Q. FROM THE FRONT DOOR.

A. WHEN YOU'RE WALKING IN THE FRONT DOOR, IT'S THE
LIVING ROOM, FROM THE LIVING ROOM THEN THERE'S THE
BREAKFAST ROOM?

Q. YOU INDICATED -- YOU DREW IN A DINING ROOM?

A. YES.

THE COURT: ARE THE TERMS BREAKFAST ROOM
AND DINING ROOM BEING USED SYNONYMOUSLY HERE,
OR IS THERE A ROOM ONE MIGHT CALL A BREAKFAST
ROOM CONTIGUOUS TO WHAT MIGHT BE CALLED A

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DINING ROOM, CONTIGUOUS TO WHAT MIGHT BE CALLED
A KITCHEN?

BY MR. PADOVA:

Q. COULD YOU DESCRIBE THE ROOMS YOU WALK THROUGH
FROM THE FRONT DOOR?

A. OKAY. WHEN I CAME THROUGH THE FRONT DOOR,
THERE'S THE LIVING ROOM, THEN FROM THE LIVING ROOM
THERE'S THE DINING ROOM, AND THEN FROM THE DINING ROOM
THERE'S THE BREAKFAST ROOM, AND THEN AFTER THE
BREAKFAST ROOM THERE'S THE KITCHEN.

Q. SO WALKING THROUGH THE DINING ROOM INTO THE
BREAKFAST ROOM, THAT'S THE DOORWAY THAT YOU DESCRIBED
AS BEING TWO FEET BY SOMETHING?

A. TWO FEET FIVE INCHES.

Q. OKAY. AND MR. HOWARD'S BODY, PART OF HIS BODY
WAS IN THAT DOORWAY; CORRECT?

A. NO. IT WAS -- YES. IT WAS BETWEEN THE
BREAKFAST ROOM AND THE DINING ROOM. CORRECT.

Q. CORRECT. IT WAS BETWEEN THE BREAKFAST ROOM AND
THE KITCHEN.

Q. SO YOU HAD TO WALK ALL THE WAY THROUGH THE
BREAKFAST ROOM?

A. THAT'S CORRECT.

Q. THE CARTRIDGE CASING THAT YOU FOUND, WHERE WAS

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THAT IN RELATION TO THE BODY?

A. OKAY. THE CARTRIDGE CASE, THAT WAS FOUND IN THE BREAKFAST ROOM, ON THE FLOOR IN THE BREAKFAST ROOM.

Q. HOW FAR FROM THE DOORWAY WHERE YOU FOUND MR. HULON -- MR. HOWARD?

A. OKAY. IT WAS FOUR FEET FOUR INCHES SOUTH OF THE NORTH WALL, AND FIVE FEET THREE INCHES WEST OF THE EAST WALL.

Q. OKAY. SO THAT WOULD BE MORE INTO THE BREAKFAST ROOM AS OPPOSED TO THE KITCHEN?

A. THAT'S CORRECT.

Q. THE FIRED CARTRIDGE -- I'M SORRY. THE PROJECTILE, DID YOU LOCATE THE PROJECTILE?

A. YES, I DID.

Q. AND THE PROJECTILE WAS FOUND WHERE?

A. THAT WAS FOUND IN THE BREAKFAST ROOM, WHAT'S KNOWN AS THE GLASS SHELF IN THE BREAKFAST ROOM.

Q. HOW FAR OFF THE FLOOR?

A. OKAY. IT WAS TWO FEET TWO INCHES FROM THE FLOOR.

MR. PADOVA: I HAVE NOTHING FURTHER.

MR. MOORE: MAY I, YOUR HONOR?

THE COURT: YES.

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BY MR. MOORE:

Q. GOOD MORNING, OFFICER SAMPSON.

A. GOOD MORNING.

Q. OFFICER SAMPSON, WHEN YOU REPORT TO A CRIME SCENE TO PERFORM YOUR FUNCTIONS, YOU DO SO AT THE DIRECTION OF AN ASSIGNED DETECTIVE; IS THAT CORRECT?

A. OKAY. WE CONCUR (SIC) WITH ONE ANOTHER AT THE CRIME SCENE.

Q. WHEN YOU SAY "CONCUR," MY UNDERSTANDING HAS ALWAYS BEEN THE DETECTIVE PRETTY MUCH TELLS YOU WHAT HE OR SHE NEEDS, WHAT THINGS HE OR SHE --

A. HE DIRECTS THE SCENE BUT HE ALSO GETS MY ADVICE AS WELL.

Q. OKAY. AND IN THIS CASE WHEN YOU REPORTED TO THE SCENE, WAS THERE AN ASSIGNED DETECTIVE AT THAT LOCATION?

A. YES, IT WAS.

Q. AND WHO IS THAT, SIR?

A. DETECTIVE HUGHES.

Q. AND YOU CONFERRED WITH HIM, GAVE HIM YOUR ADVICE, AND HE TOLD YOU WHAT HE THOUGHT HE NEEDED IN TERMS OF HIS INVESTIGATION; IS THAT CORRECT?

A. ONCE AGAIN, YES. BUT ALSO I IN TURN -- HE GOT -- HE HAD MY INPUT AS FAR AS THE PHOTOGRAPHS AND

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AS FAR AS DOING THE SCENE, PROCESSING THE CRIME SCENE.

Q. YOU'RE KIND OF, LIKE, EQUAL PARTNERS?

A. THAT'S CORRECT.

Q. AND DURING THIS PARTNERSHIP BETWEEN YOU AND THE DETECTIVE, DID EITHER, BOTH OF YOU DETERMINE THAT SOMEBODY SHOULD MAYBE DUST FOR FINGERPRINTS, SEE IF YOU HAD ANY FINGERPRINT EVIDENCE IN EITHER THE LIVING ROOM, DINING ROOM, BREAKFAST ROOM, OR KITCHEN?

A. THE TABLE IN THE DINING ROOM WAS DUSTED, BUT THERE WAS NO SIGN OF ANY TYPE OF PRINTS.

Q. YOU DID THAT?

A. YES.

Q. OKAY. WHAT ABOUT OTHER PLACES WITHIN THE FIRST FLOOR? DID THE DETECTIVE SUGGEST TO YOU THAT YOU DUST FOR PRINTS?

A. NO, HE DID NOT.

A. DID YOU TAKE IT UPON YOURSELF TO DUST FOR PRINTS ANYWHERE OTHER THAN THE KITCHEN TABLE?

A. NO, I DID NOT.

Q. NOW, WHEN YOU REPORT TO THE CRIME SCENE, YOU HAVE A -- DO YOU OBTAIN A BRIEF DESCRIPTION OR BRIEF INFORMATION OF WHAT'S SUPPOSED TO HAVE HAPPENED AND USE THAT INFORMATION TO DETERMINE WHAT IT IS THAT YOU SHOULD DO?

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A. YES, I DO.

Q. OKAY. SO YOU WERE AWARE THAT THE PERPETRATOR OR PERPETRATORS WORE NO GLOVES? YOU KNEW THAT; RIGHT?

A. NO, I DID NOT.

Q. YOU DIDN'T KNOW THAT?

A. NO.

Q. THE DETECTIVE, IN YOUR CONSULTATION OR PARTNERSHIP WITH HIM, NO ONE EVER TOLD YOU THAT?

A. NO, HE DID NOT.

Q. HAD YOU KNOWN THAT, YOU THINK YOU MIGHT HAVE TESTED ELSEWHERE IN THE HOUSE TO SEE IF THERE WERE ANY EVIDENCE OF FINGERPRINTS?

MR. DOYLE: OBJECTION, YOUR HONOR.

THE COURT: SUSTAINED.

MR. MOORE: YOUR HONOR, I HAVE NO FURTHER QUESTIONS.

THE COURT: THANK YOU.

MR. TINARI: JUST BRIEFLY, YOUR HONOR.

BY MR. TINARI:

Q. OFFICER, YOU WENT INTO THE KITCHEN AREA DURING THE TIME PERIOD THAT YOU WERE CONDUCTING YOUR INVESTIGATION; IS THAT CORRECT?

A. THAT'S CORRECT. I DID.

Q. DID YOU SEE ANY SIGNS OF A SHOTGUN BLAST?

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A. NO.

Q. DID YOU AT ANY TIME TAKE THE OPPORTUNITY TO LOOK AT THE CEILING, EITHER IN THE BREAKFAST ROOM OR IN THE KITCHEN?

A. YES, I DID.

Q. AND THERE WAS NO SIGN OF ANY TYPE OF SHOTGUN PELLETS IN THE CEILING; IS THAT CORRECT?

A. NO, THERE WASN'T.

Q. AND IT'S ALSO CORRECT TO SAY THAT DURING THE COURSE OF YOUR INVESTIGATION YOU CAME UPON A PIECE OF EVIDENCE THAT YOU PLACED ON A PROPERTY RECEIPT OTHER THAN THAT WHICH YOU'VE JUST MENTIONED?

A. THAT'S CORRECT.

Q. AND THAT WOULD BE WHAT YOU DESCRIBED AS AN ANTENNA?

A. THAT'S CORRECT.

Q. THAT WOULD BE A CAR ANTENNA -- OR STRIKE THAT. WOULD THAT BE AN ANTENNA THAT YOU CAME TO THE CONCLUSION WOULD BE USED FOR SOME SORT OF RADIO OR ELECTRONIC ITEM?

A. THAT'S CORRECT.

Q. AND WHAT WAS THE LENGTH OF THAT ANTENNA?

A. AT THE TIME -- AT THIS TIME I DON'T HAVE THE EXACT MEASUREMENTS, THE LENGTH OF IT.

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Q. WAS IT METAL?

A. YES. IT WAS METAL.

Q. SILVER?

A. YES.

Q. AND DURING THE COURSE OF YOUR INVESTIGATION AND WHAT YOU'RE DOING, I ASSUME THAT THE AREA WHERE YOU ARE CONDUCTING YOUR INVESTIGATION IS PROTECTED SO THAT THERE WOULD BE NO CONTAMINATION OF THE EVIDENCE; CORRECT?

A. THAT'S CORRECT.

Q. SO PICKING UP THE ANTENNA, YOU WOULD USE TWEEZERS, OR SOMETHING, SO THERE WOULD BE NO CONTAMINATION OF THAT EVIDENCE?

A. THAT'S CORRECT. PROCEDURE FOR THE CRIME SCENE UNIT IS TO USE GLOVES AT ALL TIMES.

Q. DID YOU, SIR, ASCERTAIN WHETHER OR NOT THERE WAS BLOOD ON THAT ANTENNA?

A. I SUBMITTED IT TO THE CRIMINALISTICS LAB AND THEY IN TURN WILL LOOK TO SEE IF THERE'S ANY TYPE OF BLOOD ON IT.

Q. ARE YOU AWARE IF THERE WAS ANY BLOOD AS A RESULT OF SENDING IT TO THE LABORATORY?

A. I DO GET THE RESULTS AS TO WHETHER IT'S POSITIVE OR NEGATIVE AS FAR AS BLOOD.

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Q. AND THAT PARTICULAR ITEM YOU DIDN'T DUST FOR LATENT PRINTS, DID YOU?

A. NO, I DID NOT.

Q. AND THE DOOR LEADING TO THAT HOUSE, THERE'S A STORM DOOR, IS THAT CORRECT, AND THEN THERE'S A WOODEN DOOR?

A. THAT'S CORRECT.

Q. THE STORM DOOR IS METAL; ISN'T THAT CORRECT?

A. THAT'S CORRECT.

Q. THAT DOOR WAS NOT IN ANY WAY DUSTED TO DETERMINE WHETHER ANYBODY'S PRINTS EXISTED; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. IT'S ALSO CORRECT TO SAY THAT YOU SPENT APPROXIMATELY SEVERAL HOURS IN THE HOUSE?

A. APPROXIMATELY AROUND TWO HOURS.

Q. YOU EVEN PRODUCED A SKETCH OF THE DOWNSTAIRS LIVING ROOM AREA?

A. THAT'S CORRECT, I DID.

Q. IT'S ALSO CORRECT TO SAY THAT YOU DID NOT HAVE OCCASION TO SEE A LENA LAWS WHILE YOU WERE THERE; IS THAT CORRECT?

A. WOULD YOU REPEAT THAT AGAIN?

Q. DID YOU NOT SEE A LENA LAWS WHILE YOU WERE

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CONDUCTING YOUR INVESTIGATION; IS THAT CORRECT?

A. NO, I DID NOT.

Q. THE CASING THAT WAS OBTAINED BY YOU, WAS THAT SENT TO THE LABORATORY TO ASCERTAIN THE SIZE AND -- THE MAKE AND THE CALIBER?

A. YES, IT WAS.

Q. WAS IT ALSO SENT THERE FOR PURPOSES OF ASCERTAINING WHETHER OR NOT THERE WOULD BE ANY TYPE OF LATENT PRINTS ON IT?

A. NO. THAT WOULD BE MY RESPONSIBILITY AS FAR AS DOING LATENT EXAMINATION ON THE FCC.

Q. WERE YOU ABLE TO ASCERTAIN HOW LONG THAT PARTICULAR -- STRIKE THAT.

WOULD YOU BE ABLE TO ASCERTAIN HOW LONG THAT PARTICULAR CASING WAS IN THAT PARTICULAR HOUSE JUST BY LOOKING AT IT?

A. NO, I WOULD NOT.

Q. LIKewise WITH THE PROJECTILE, YOU WOULD NOT BE ABLE TO ASCERTAIN HOW LONG THAT PROJECTILE HAD BEEN IN THAT LOCATION JUST MERELY LOOKING AT IT; IS THAT CORRECT?

A. NO, I WOULD NOT.

Q. AND IT'S ALSO CORRECT TO SAY THAT IN TERMS OF THESE ITEMS THAT WERE FOUND, WERE YOU ABLE TO MAKE ANY

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DETERMINATION -- WITHDRAW THAT PARTICULAR QUESTION.

BESIDES THE ANTENNA, WAS THERE ANY OTHER ITEMS THAT WERE RECOVERED AT THE SCENE BY YOU?

A. THERE WAS A RED STAIN SAMPLE THAT WAS TAKEN FROM THE KITCHEN FLOOR.

Q. BY THE WAY, ON THE BULLET SPECIMEN THAT YOU FOUND WERE YOU ABLE TO ASCERTAIN THERE WAS ANY BLOOD ON IT JUST BY LOOKING AT IT?

A. I DIDN'T SEE ANY. NO.

Q. LIKewise -- STRIKE THAT. WITHDRAW THAT QUESTION.

WERE THERE ANY ITEMS OTHER THAN THE RED STAIN, ANY OTHER ITEMS THAT YOU OBTAINED FOR EVIDENTIARY PURPOSES?

A. NO.

Q. WERE THERE ANY CIGAR BUTTS, CIGARETTE BUTTS, ANYTHING OF THAT NATURE, THAT WAS OBTAINED BY YOU?

A. NO, THERE WASN'T.

Q. WERE YOU ABLE -- DID YOU OBSERVE CIGARETTE BUTTS IN ANY ASHTRAYS ON THE TABLE WHEN YOU WERE CONDUCTING YOUR INVESTIGATION?

A. I DIDN'T SEE ANY CIGARETTE BUTTS.

MR. TINARI: THANK YOU VERY MUCH,
OFFICER. I HAVE NO FURTHER QUESTIONS.

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THE COURT: REDIRECT.

MR. DOYLE: NO, YOUR HONOR. THANK YOU.

THE COURT: THANK YOU VERY MUCH, SIR.

YOU MAY STEP DOWN.

THE WITNESS: THANK YOU.

(WITNESS EXCUSED.)

THE COURT: CALL YOUR NEXT WITNESS.

MR. DOYLE: YOUR HONOR, MAY I HAVE A
SHORT RECESS BEFORE I CALL MY FINAL WITNESS?

THE COURT: BEG PARDON?

MR. DOYLE: MAY I HAVE A SHORT RECESS
BEFORE I CALL MY FINAL WITNESS, JUST GO OUT AND
SPEAK TO HIM FOR A MOMENT?

THE COURT: GIVE THE JURY A COMFORT
BREAK, MR. FULLER.

THE TIPSTAFF: EVERYONE PLEASE REMAIN
SEATED UNTIL THE JURY LEAVES THE ROOM.

THE COURT: YOU MAY, MR. DOYLE.

(THE JURY LEFT THE COURTROOM.)

(SHORT BREAK TAKEN.)

(THE JURY ENTERED THE COURTROOM.)

POLICE OFFICER CARL RONE, BADGE NO. 2252,
FIREARMS IDENTIFICATION UNIT, PHILADELPHIA
POLICE DEPARTMENT, CALLED AS A WITNESS ON
BEHALF OF THE COMMONWEALTH, HAVING BEEN DULY
SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. DOYLE:

Q. OFFICER RONE, HOW LONG HAVE YOU BEEN A POLICE
OFFICER IN PHILADELPHIA?

A. FOURTEEN YEARS.

Q. HOW LONG HAVE YOU BEEN ASSIGNED TO THE FIREARMS
IDENTIFICATION UNIT?

A. NINE AND A HALF YEARS.

Q. WHAT ARE YOUR RESPONSIBILITIES WITH THAT UNIT?

A. AS A MEMBER OF THE FIREARMS IDENTIFICATION UNIT
WE'RE RESPONSIBLE FOR PROCESSING ALL THE
FIREARMS-RELATED EVIDENCE, EITHER CONFISCATED, OR
TURNED IN TO THE PHILADELPHIA POLICE. THAT INCLUDES
BB GUNS, WATER GUNS, RIFLES, PISTOLS, HANDGUNS,
SHOTGUNS, AND, IN ADDITION, COMPONENTS OF AMMUNITION,

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2 WHICH WOULD BE FIRED CARTRIDGE CASES, BULLET
3 SPECIMENS. ANYTHING HAVING TO DO WITH A FIREARM IS
4 DONE AT OUR LABORATORY. WE RESTORE SERIAL NUMBERS,
5 DETERMINE MAKE, MODEL, CALIBER, AND ORIGIN OF THE
6 FIREARM.

7 Q. WHAT PARTICULAR TRAINING, EDUCATION, AND
8 EXPERIENCE HAVE YOU HAD TO QUALIFY YOU FOR THIS
9 ASSIGNMENT?

10 A. I COMPLETED A THREE YEAR IN-SERVICE TRAINING
11 PROGRAM AT THE LABORATORY AT WHICH TIME I HAD TO
12 DETERMINE MAKE, MODEL, CALIBER, LEARNED TO RESTORE
13 SERIAL NUMBERS, MAKE MICROSCOPIC COMPARISONS, WHERE I
14 WOULD TAKE QUESTIONED BULLET SPECIMENS AND COMPARED
15 THEM MICROSCOPICALLY TO A FIREARM. THAT'S DONE
16 THROUGH A PROCESS WHERE I WOULD SHOOT THE FIREARM INTO
17 A TANK OF WATER. IT'S LIKE A SMALL SWIMMING POOL THAT
18 WE HAVE.

19 WHAT IT DOES, IT PUTS NO MARKS ON IT EXCEPT THE
20 ONES THAT COME FROM THE FACTORY AS IT'S PRODUCED
21 DURING THE MANUFACTURING PROCESS. AND I CAN COMPARE
22 THEM ON A COMPARISON MICROSCOPE BACK UPSTAIRS IN THE
23 LABORATORY.

24 I'VE ALSO RECEIVED TRAINING FROM THE MILITARY
25 AT FORT DIX, THE F.B.I., AND ATF. I'VE VISITED

1
2 SEVERAL MAJOR MANUFACTURING PLANTS, WHERE I'VE SEEN
3 FIREARMS MADE FROM THE RAW BLOCK OF STEEL TO A FIREARM
4 WHERE A FIREARM IS READY TO BE TEST FIRED, SOME OF
5 WHICH ARE WINCHESTER, RUGER, MARLIN, COLT, BERETTA,
6 SMITH AND WESSON.

7 WHAT THAT DOES IS ALLOW ME TO SEE HOW
8 MANUFACTURERS PUT A GUN TOGETHER. AND FOR ALL THE
9 MICROSCOPIC IMPERFECTIONS THAT I LOOK FOR LATER ON, I
10 KNOW EXACTLY HOW THEY ARRIVE ON THE GUN BECAUSE I'VE
11 SEEN THE WHOLE MANUFACTURING PROCESS.

12 I'M ALSO A CERTIFIED ARMORER FOR SMITH AND
13 WESSON, COLT, AND BERETTA AND RUGER.

14 Q. HAVE YOU EVER BEEN QUALIFIED IN ANY COURTS
15 OF LAW AS AN EXPERT IN YOUR FIELD?

16 A. YES, I HAVE.

17 Q. WHAT COURTS AND APPROXIMATELY HOW MANY TIMES?

18 A. APPROXIMATELY A HUNDRED AND NINETY-SOMETHING
19 TIMES, FEDERAL COURT, COMMON PLEAS COURT.

20 MR. DOYLE: I OFFER THE WITNESS AS AN
21 EXPERT AT THIS TIME.

22 THE COURT: ANY QUESTIONS ON HIS
23 EXPERTISE, GENTLEMEN?

24 MR. PADOVA: NO, YOUR HONOR.

25 MR. MOORE: NO, YOUR HONOR.

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MR. TINARI: NO, YOUR HONOR.

THE COURT: LADIES AND GENTLEMEN, THIS POLICE OFFICER IS BEING CALLED AS AN EXPERT, IS ONE OF THE REASONS THE COMMONWEALTH IS GIVING YOU HIS BACKGROUND. NORMALLY, A WITNESS MAY ONLY TESTIFY AS TO WHAT HE OR SHE HAS PERCEIVED AND MAY NOT RENDER AN OPINION BASED ON A HYPOTHETICAL. AN EXCEPTION IS THE, QUOTE, SO-CALLED EXPERT WITNESS, WHO IS AN INDIVIDUAL WHO BY TRAINING AND/OR EXPERIENCE HAS RECEIVED SOME SPECIAL SKILL IN A PROFESSION OR A CALLING AND BY -- BASED ON THIS SPECIAL SKILL THE LAW WILL PERMIT THAT INDIVIDUAL TO RENDER AN OPINION BASED ON A HYPOTHETICAL.

COMMONWEALTH IS CALLING TWO. I WILL NOT GIVE YOU THIS AGAIN WHEN THEY CALL DR. LIEBERMAN. BUT THEY'RE BOTH CALLED AS EXPERTS. THEY'RE GOING TO BE CALLED TO RENDER OPINIONS BASED ON THEIR EXPERTISE.

CARRY ON.

BY MR. DOYLE:

Q. OFFICER RONE, DID YOU ANALYZE TWO PIECES OF SPENT AMMUNITION RECOVERED BY THE CRIME SCENE UNIT IN THE EARLY A.M. HOURS OF AUGUST THE 6TH INTO AUGUST THE

1
2 7TH, 1996, THAT THEY RECOVERED AT A HOMICIDE CRIME
3 SCENE AT 6120 SANSOM STREET IN WEST PHILADELPHIA?

4 A. YES, I DID.

5 Q. DID YOU PREPARE A REPORT?

6 A. YES, I DID.

7 MR. DOYLE: MAY THE WITNESS BE SHOWN WHAT
8 HAS BEEN MARKED AS C-23? ALL COUNSEL HAVE A
9 COPY. I HAVE AN EXTRA COPY FOR THE COURT AS
10 WELL.

11 -----

12 (EXHIBIT SHOWN TO THE WITNESS.)

13 -----

14 BY MR. DOYLE:

15 Q. OFFICER RONE, DO YOU RECOGNIZE WHAT HAS BEEN
16 MARKED AS C-23?

17 A. YES. IT'S A COPY OF THE REPORT I PREPARED IN
18 THE INCIDENT.

19 MR. DOYLE: MAY THE WITNESS BE SHOWN WHAT
20 HAS BEEN MARKED FOR IDENTIFICATION AS C-25?

21 -----

22 (EXHIBIT SHOWN TO THE WITNESS.)

23 -----

24 BY MR. DOYLE:

25 Q. OFFICER RONE, DO YOU RECOGNIZE WHAT HAS BEEN

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MARKED AS C-25?

A. YES. IT'S THE ENVELOPE CONTAINING ONE BULLET SPECIMEN, ONE FIRED CARTRIDGE CASE IN THIS INCIDENT.

Q. AND DID YOU ANALYZE EACH OF THOSE TWO PIECES OF SPENT AMMUNITION?

A. YES, I DID.

Q. WHAT DID YOUR ANALYSIS CONCLUDE?

A. ITEM 1 IS A .9 MILLIMETER FCC. IT'S MARKED FCC-1 BY ME, BECAUSE IT'S THE FIRST ONE I RECEIVED, THE CALIBER, AGAIN, IS .9 MILLIMETER, HEAD STAMPED GECO.

ITEM 2 WAS A .9 MILLIMETER BULLET SPECIMEN (INDICATING), WEIGHS APPROXIMATELY 124.3 GRAINS. IT WAS A FULL METAL JACKET. IT HAD LANDS AND GROOVES WHICH IS A SERIES OF SPIRALS INSIDE THE BARREL OF THE FIREARM TO GIVE THE BULLET STABILITY IN FLIGHT. IN THIS CASE THE FIREARM THAT FIRED THESE HAD SIX LANDS AND GROOVES AND A RIGHT-HAND DIRECTION, AND THEY WERE TRANSFERRED TO THE BULLET, AND THE BULLET HAD SIX LANDS AND GROOVES AND RIGHT-HAND DIRECTION. AS I SAY, IT WAS FLATTENED AND DISTORTED, HAD FOREIGN MARKS AND THE BASE EDGE WAS OUT OF ROUND.

Q. HAD EACH OF THESE TWO PIECES OF AMMUNITION BEEN FIRED?

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A. YES.

Q. COULD YOU TELL -- DO YOU HAVE AN OPINION AS TO WHAT KIND OF GUN THEY HAD BEEN FIRED FROM?

A. IT WAS A GUN CHAMBERED IN A .9 MILLIMETER LUGAR.

Q. WHAT IS THE DIFFERENCE, IF ANY, WITH THE OPERATION OF A REVOLVER AND SEMIAUTOMATIC HANDGUN?

A. I HAVE A PICTURE THAT WILL HELP ME EXPLAIN IT.

Q. FINE.

A. START OFF WITH A SEMIAUTOMATIC (INDICATING). THE DIFFERENCE IN A SEMIAUTOMATIC, WHAT YOU HAVE IS A MAGAZINE FULL OF CARTRIDGES, WOULD BE SIMILAR TO THIS. IT WOULD BE INSERTED UP INTO THE MAGAZINE WELL -- I'M SORRY, COUNSEL -- BE INSERTED INTO THE MAGAZINE WELL LIKE THIS AT THIS TOP PORTION HERE (INDICATING), WHICH WOULD BE -- THE SLIDE IS PULLED REARWARD. IT WOULD ACTUALLY SLIDE OVER TOP OF THIS. AS IT WENT BACK FORWARD, IT WOULD STRIP A CARTRIDGE OFF IN THIS MANNER AND PLACE IT RIGHT HERE IN THE CHAMBER (INDICATING)

NOW, AT THIS POINT THE GUN'S READY TO BE FIRED. YOU WOULD EITHER THROW THE SAFETY, IF IT HAD A SAFETY, OR JUST PULL THE TRIGGER. ONCE YOU PULL THE TRIGGER, IT WOULD STRIKE THE COMPOUND HERE INSIDE THE PRIMER. IT'S LIKE A LITTLE VIOLENT EXPLOSION THAT HAPPENS

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2 HERE. IT THEN SENDS A SPARK THAT IGNITES THE POWDER
3 INSIDE, TURNS IT INTO GAS. AS THE PRESSURE BUILDS,
4 CARTRIDGE LOCKED INTO THE CHAMBER IS GOING TO DO ONE
5 OF TWO THINGS. PROPEL THE BULLET OUT, AT THE SAME
6 TIME THE PRESSURE FROM THE BULLET GOING FORWARD CAUSES
7 A REVERSE REACTION. IT SLAMS UP AGAINST THE BREECH
8 FACE, WHICH IS THE REAR PORTION RIGHT HERE, AND DRIVES
9 THE SLIDE REARWARD, AT WHICH TIME THE SLIDE WILL SLIDE
10 OVER THERE AGAIN AND PICK UP ANOTHER ROUND. THAT'S A
11 SEMIAUTOMATIC.

12 THE DIFFERENCE HERE, AS IT COMES REARWARD,
13 THERE'S AN EXTRACTOR THAT HOOKS AROUND THE RIM OF THE
14 CASE. AS IT GETS BACK SO FAR, HITS THE EJECTOR, SMALL
15 PIECE THAT KICKS IT OUT OF THE GUN AND THROWS IT OUT
16 ON THE SIDEWALK. YOU SEE IT ALL THE TIME ON
17 TELEVISION. THEY COME FLYING OUT OF THE SIDE OF THE
18 FIREARM. THOSE ARE SEMIAUTOMATICS.

19 WITH THE REVOLVER, WHAT YOU HAVE IS A ROTATING
20 CYLINDER (INDICATING). YOU HAVE THIS CYLINDER RIGHT
21 HERE. IT CONTAINS ANYWHERE FROM FOUR, FIVE, SEVEN,
22 EIGHT, MAYBE NINE CARTRIDGES. EVERY TIME YOU PULL THE
23 TRIGGER, THE CYLINDER WILL ROTATE IN A CLOCKWISE OR
24 COUNTERCLOCKWISE MOTION, DEPENDING WHO MANUFACTURED
25 THE GUN. WHAT HAPPENS, THE SAME THING. THE CARTRIDGE

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2 LINES UP -- THE CHAMBER WILL LINE UP WITH THE BARREL.
3 WHEN THE TRIGGER IS PULLED, THE HAMMER WILL FALL AND
4 DROP ON THE PRIMER, AND YOU HAVE THE SAME EXPLOSION.
5 WHAT HAPPENS, THOUGH, WHEN YOU PULL THE TRIGGER AGAIN,
6 THE CYLINDER ROTATES AND TURNS AWAY FROM THE HAMMER
7 BRINGING UP ANOTHER CARTRIDGE IN POSITION TO BE FIRED.

8 THE BIGGEST DIFFERENCE IS WITH THIS, THESE
9 CARTRIDGES, ONCE THE BULLETS WERE ALL FIRED, IT WOULD
10 ACTUALLY SIT IN THIS CHAMBER, IN THE CYLINDER, AND
11 STAY THERE. IF YOU DROPPED THE GUN ON THE FLOOR THERE
12 AND LEFT IT THERE SIX YEARS, SIX YEARS LATER, ALL THE
13 CARTRIDGES WILL BE IN THERE, UNLESS SOMEBODY MANUALLY
14 TOOK THEM OUT. YOU HAVE TO TAKE THEM OUT MANUALLY,
15 SOMEONE HAS TO, IN ORDER FOR CARTRIDGE CASES TO GET
16 OUT. THAT'S THE BIGGEST DIFFERENCE.

17 Q. IN THE CASE OF A SEMIAUTOMATIC, THE CARTRIDGE
18 IS EXPELLED?

19 A. THAT'S CORRECT. IT IS THROWN OUT OF THE GUN.

20 Q. ARE THESE TWO PIECES OF SPENT AMMUNITION
21 CONSISTENT WITH HAVING BEEN FIRED FROM THE SAME GUN?

22 A. THERE'S NO -- THERE'S SOME EXPERIMENTATION IN
23 MATCHING A BULLET BACK TO A FIRED CARTRIDGE CASE, BUT
24 NOTHING DEFINITE YET. THERE'S A FEW PEOPLE IN THE
25 FIELD THAT PLAYED WITH IT, BUT THERE'S NO DEFINITIVE

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WORD YET ON DOING THAT.

Q. ARE THESE TWO PIECES OF SPENT AMMUNITION,
CONSISTENT WITH HAVING BEEN SHOT FROM THE SAME GUN AND
THE SAME CALIBER?

A. THEY BOTH WILL FUNCTION IN A GUN THAT'S
CHAMBERED IN A .9 MILLIMETER FIREARM.

Q. WHAT KIND OF GUN IS A TEC-9?

A. I SHOULD HAVE A PICTURE, IF YOU WANT.

Q. YES.

A. A TEC-9 IS A .9 MILLIMETER HANDGUN,
TECHNICALLY. WHAT YOU HAVE IS A MAGAZINE HERE JUST
LIKE THE ONE I SHOWED YOU. I'M SORRY, COUNSEL.
MAGAZINE HERE, PISTOL GRIP HERE, THE BOLT AND FIRING
PIN LIE IN HERE (INDICATING). YOU PULL THE HANDLE
WHICH IS ON THE SIDE REARWARD, AND IT WOULD PICK UP A
CARTRIDGE AND SLIDE IT IN THE CHAMBER. WHEN YOU PULL
THE TRIGGER, PROPEL THE BULLET, EXPEL THE FIRED
CARTRIDGE CASE, AS I EXPLAINED TO YOU.

THE BIGGEST DIFFERENCE, MOST OF THE TEC-9'S
HAVE EXTENDED MAGAZINES. YOU CAN GET ANYWHERE FROM 20
TO 30 CARTRIDGES IN THE MAGAZINE. DEPENDS WHAT
MAGAZINE COMES WITH IT AT THE TIME.

Q. SO THE TEC-9 IS A SEMIAUTOMATIC HANDGUN?

A. THE TEC-9 IS A SEMIAUTOMATIC HANDGUN THAT

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CHAMBERS .9 MILLIMETER.

Q. ARE THESE TWO AMMUNITIONS CONSISTENT WITH BEING FIRED FROM A TEC-9 HANDGUN?

A. YES.

MR. DOYLE: THANK YOU. I HAVE NOTHING FURTHER.

THE COURT: CROSS, MR. PADOVA.

CROSS-EXAMINATION

BY MR. PADOVA:

Q. ON THE TEC-9, WHAT'S THE TRIGGER PULL?

A. I NEVER -- WELL, I DON'T REMEMBER THE WEIGHT OF ANY THAT I'VE TESTED, AND I'D HAVE TO ACTUALLY HAVE THE FIREARM ITSELF TO CHECK AND DO A TRIGGER PULL TEST.

Q. COULD YOU EXPLAIN WHAT A TRIGGER PULL IS?

A. SURE. I'LL USE MY REVOLVER JUST SO THEY CAN SEE.

THIS LITTLE PIECE INSIDE THE CIRCLE HERE IS THE TRIGGER, ACTUALLY WHERE YOU PUT YOUR FINGER. A TRIGGER PULL IS THE AMOUNT OF PRESSURE THAT IT TAKES TO ACTUALLY PULL THE TRIGGER. WHAT WE DO WOULD BE SIMILAR IF YOU TOOK -- PLACED THE GUN UPRIGHT AND HUNG

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2 FIVE POUNDS OF SUGAR, REGULAR SUGAR THAT YOU GET OUT
3 OF THE ACME, OR WHATEVER, YOU HUNG IT THERE, IF IT WAS
4 GOING TO SET THE GUN OFF, IT WOULD PULL THE TRIGGER
5 DOWN. IF IT DOESN'T, THAT WOULD MEAN FIVE POUNDS OF
6 SUGAR ISN'T HEAVY ENOUGH. YOU WOULD THEN ADD ANOTHER
7 POUND. IF SIX POUNDS DID IT, THAT WOULD BE SIX POUNDS
8 OF PRESSURE. IF THAT DIDN'T WORK, YOU WOULD CONTINUE
9 ON UNTIL YOU GOT TO THE POINT, MAYBE TEN POUNDS OF
10 SUGAR HANGING ON THE TRIGGER, THAT WOULD SET THE GUN
11 OFF. THEN YOUR TRIGGER PRESSURE WOULD BE TEN POUNDS,
12 TAKES TEN POUNDS OF ENERGY TO PULL THE TRIGGER AND
13 MAKE IT WORK.

14 Q. SO TRIGGER PULL VARIES?

15 A. FROM WEAPON TO WEAPON AND DEPENDS ON WHO
16 MANUFACTURED IT. ALSO DEPENDS HOW OFTEN THE GUN HAS
17 BEEN FIRED.

18 Q. AND SOME TRIGGER PULLS, OBVIOUSLY, WOULD TAKE A
19 VERY LIGHT AMOUNT OF FORCE TO PULL A TRIGGER? I'M
20 SAYING VERY LIGHT. THAT'S RELATIVE.

21 A. YES. PEOPLE CALL IT LIGHTNING TRIGGER. BUT
22 WITHOUT THE GUN, YOU REALLY CAN'T TELL.

23 Q. ARE THERE DIFFERENT TYPES OF SAFETIES FOR A
24 TEC-9?

25 A. THEY VARY FROM MODEL TO MODEL. AND THIS

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2 PICTURE, I'M SORRY, IS NOT VERY GOOD (INDICATING),
3 WHERE THE BOLT IS HERE, THERE WAS A SAFETY THAT WON'T
4 ALLOW IT TO BE PULLED BACK. IF YOU PUSH THIS KNOB IN,
5 THAT'S THE ONLY EXTERNAL SAFETY THAT'S ON THERE. THAT
6 WILL ONLY STOP YOU FROM ACTUATING THE BULLET.

7 MR. PADOVA: I HAVE NO FURTHER QUESTIONS.

8 THE COURT: MR. MOORE.

9 MR. MOORE: GOOD AFTERNOON, OFFICER RONE.

10 THE WITNESS: GOOD AFTERNOON.

11 MR. MOORE: YOUR HONOR, THANK YOU. I
12 HAVE NO QUESTION OF THE OFFICER.

13 MR. TINARI: NO QUESTIONS, YOUR HONOR.
14 THANK YOU.

15 THE COURT: THANK YOU, OFFICER RONE. YOU
16 MAY STEP DOWN, SIR.

17 -----

18 (WITNESS EXCUSED.)

19 -----

20 (DISCUSSION IN ROBIN ROOM CONCLUDED.)

21 -----

22 THE COURT CALL YOUR NEXT WITNESS,
23 COMMONWEALTH.

24 MR. DOYLE: COMMONWEALTH CALLS DR. EDWIN
25 LIEBERMAN.

EDWIN LIEBERMAN, M.D., ASSISTANT MEDICAL EXAMINER, CITY OF PHILADELPHIA, CALLED AS A WITNESS ON BEHALF OF THE COMMONWEALTH, HAVING BEEN DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

THE COURT: CARRY ON, COMMONWEALTH.

MR. DOYLE: THANK YOU, DOCTOR. THANK YOU, JUDGE.

DIRECT EXAMINATION

BY MR. DOYLE:

Q. DR. LIEBERMAN, HOW LONG HAVE YOU BEEN AN ASSISTANT MEDICAL EXAMINER IN PHILADELPHIA?

A. SINCE JULY 1ST, 1990.

Q. WHAT ARE YOUR RESPONSIBILITIES AS AN ASSISTANT MEDICAL EXAMINER?

A. TO DETERMINE THE CAUSE AND MANNER OF DEATH.

Q. WHAT PARTICULAR TRAINING, EDUCATION, AND EXPERIENCE HAVE YOU HAD TO QUALIFY YOU FOR THE POSITION THAT YOU NOW HOLD AS ASSISTANT MEDICAL EXAMINER?

A. FIRST I GRADUATED FROM MEDICAL SCHOOL. I THEN

1
2 ATTENDED TWO YEARS OF TRAINING IN INTERNAL MEDICINE.
3 I THEN CHANGED FROM INTERNAL MEDICINE TO A BRANCH OF
4 MEDICINE CALLED PATHOLOGY. THAT'S HERE AT HAHNEMANN
5 UNIVERSITY HOSPITAL. I COMPLETED FOUR YEARS OF
6 TRAINING IN PATHOLOGY, THE LAST 16 MONTHS OF WHICH I
7 WAS CHIEF RESIDENT, AND THAT IS AN INDIVIDUAL WHO IS
8 RESPONSIBLE FOR TRAINING THE NEW PEOPLE COMING IN AND
9 LEARNING THE ASPECTS OF PATHOLOGY FROM THE STAFF
10 PATHOLOGIST AT THE HOSPITAL.

11 WHEN I FINISHED MY TRAINING AT HAHNEMANN
12 HOSPITAL, I THEN RETURNED TO MIAMI, FLORIDA WHERE I
13 HAD BEEN RAISED. WHILE IN MIAMI I WAS IN THE MEDICAL
14 EXAMINER'S OFFICE THERE AS AN ASSOCIATE MEDICAL
15 EXAMINER FOR ONE YEAR. DURING THAT YEAR I PERFORMED
16 262 AUTOPSIES AND ANOTHER HUNDRED POSTMORTEM
17 EXAMINATIONS.

18 UPON MY CONCLUSION OF THE TRAINING PROGRAM
19 THERE I RETURNED TO PHILADELPHIA, NOW AS AN ASSISTANT
20 MEDICAL EXAMINER. THAT'S JULY 1ST, 1990. EACH AND
21 EVERY YEAR SINCE THEN I PERFORMED BETWEEN 300 AND 500
22 AUTOPSIES. SO THE GRAND TOTAL NOW IS SOMEWHERE AROUND
23 3,000 TO 5,000.

24 Q. WHAT IS PATHOLOGY?

25 A. PATHOLOGY IS A BRANCH OF MEDICINE. THERE ARE

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2 NUMEROUS SPECIALTIES AND SUBSPECIALTIES IN MEDICINE,
3 ONES YOU MIGHT BE FAMILIAR WITH IS A SURGEON, A
4 GENERAL INTERNIST, FAMILY PRACTITIONER. PATHOLOGY IS A
5 BRANCH OF MEDICINE THAT DEALS WITH THE RECOGNITION AND
6 INTERPRETATION OF WHAT NATURAL DISEASE IS.

7 FOR EXAMPLE, IF YOU HAD A LUMP ON YOUR ARM AND
8 WENT TO YOUR PRIVATE DOCTOR, HE MIGHT TAKE THAT LUMP
9 OR A PORTION. WHERE DOES THAT PIECE OF YOU THEN GO?
10 IT GOES TO A PATHOLOGIST WHOSE JOB IT IS TO DETERMINE
11 WHETHER IT IS CANCER OR SOMETHING BENIGN. AND IF IT'S
12 BENIGN, IT'S SOMETHING THAT YOUR DOCTOR CAN THEN
13 INSTITUTE TREATMENT.

14 Q. WHAT IS FORENSIC PATHOLOGY?

15 A. FORENSIC PATHOLOGY IS A BRANCH OR SUBSPECIALTY
16 OF PATHOLOGY, FORENSIC PATHOLOGY DEALS WITH
17 RECOGNITION AND INTERPRETATION OF WHAT INJURIES ARE
18 AND WHAT CAUSED THEM.

19 Q. DO YOU HAVE A MEDICAL LICENSE HERE IN
20 PENNSYLVANIA TO PRACTICE MEDICINE?

21 A. YES, I DO.

22 Q. DO YOU HAVE A LICENSE TO PRACTICE MEDICINE IN
23 ANY OTHER STATE?

24 A. I DO.

25 Q. HOW MANY OTHER STATES AND WHAT STATES?

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A. FLORIDA.

Q. THE AUTOPSIES THAT YOU PERRFORMED IN YOUR CAREER, APPROXIMATELY HOW MANY AUTOPSIES HAVE YOU PERFORMED THAT INVOLVE DEATH BY GUNSHOT WOUND?

A. CERTAINLY THE MAJORITY OF THE HOMICIDES, ABOUT 90 PERCENT OF THEM. SO THAT'S ABOUT 90 A YEAR FOR NINE YEARS.

Q. HAVE YOU EVER BEEN QUALIFIED IN COURTS OF LAW AS AN EXPERT IN YOUR FIELD?

A. YES.

Q. WHAT COURTS AND APPROXIMATELY HOW MANY TIMES HAVE YOU BEEN SO QUALIFIED AS AN EXPERT IN PATHOLOGY?

A. EACH AND EVERY TIME I'VE TESTIFIED, I'VE BEEN QUALIFIED AS AN EXPERT AND I'VE TESTIFIED HERE IN PHILADELPHIA WELL OVER 200 TIMES, PROBABLY A DOZEN TO A DOZEN AND A HALF TIMES IN SURROUNDING COUNTIES, LEHIGH, MONTGOMERY, AND BUCKS COUNTY, AND ABOUT TEN TO TWELVE TIMES IN MIAMI.

MR. DOYLE: AT THIS TIME I OFFER THE DOCTOR AS AN EXPERT IN THE FIELD OF FORENSIC PATHOLOGY.

THE COURT: ANY QUESTIONS OF THE DOCTOR ON EXPERTISE?

MR. TINARI: I HAVE NONE.

1 DR. EDWIN LIEBERMAN - DIRECT

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2 MR. MOORE: I HAVE NONE.

3 MRL PADOVA: NONE, YOUR HONOR.

4 THE COURT: IN ANTICIPATION OF
5 DR. LIEBERMAN'S ARRIVAL, I TOLD YOU HE WOULD BE
6 CALLED AS AN EXPERT AND HE MAY GIVE AN OPINION
7 AND HIS REASON FOR DOING SO BASED ON A
8 HYPOTHETICAL.

9 CARRY ON, COMMONWEALTH.

10 MR. DOYLE: THANK YOU, JUDGE.

11 BY MR. DOYLE:

12 Q. DR. LIEBERMAN, ON THE MORNING OF AUGUST THE
13 7TH, 1996, DID YOU PERFORM AN AUTOPSY ON THE BODY OF
14 THE DECEDENT IN THE CASE, HULON BERNARD HOWARD?

15 A. NO. I SUPERVISED THE AUTOPSY. THE AUTOPSY WAS
16 ACTUALLY PERFORMED BY DR. SAGID, S-A-G-I-D, K -- I'M
17 SORRY -- Q-A-I-S-E-R.

18 Q. WERE YOU THERE WHEN THE AUTOPSY WAS PERFORMED?

19 A. YES, I WAS.

20 Q. IS IT CUSTOMARY IN THIS PRACTICE OF YOUR
21 PROFESSION TO OBSERVE AND TO SUPERVISE THE AUTOPSY OF
22 ANOTHER PATHOLOGIST AND TO TESTIFY AS AN EXPERT AS TO
23 FINDINGS?

24 A. YES.

25 Q. WAS A REPORT PREPARED IN THIS CASE?

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A. YES, IT WAS.

MR. DOYLE: YOUR HONOR, AT THIS TIME I
HAVE AN EXHIBIT THAT HAS BEEN MARKED FOR THE
PURPOSE OF IDENTIFICATION C-22. MAY IT BE
SHOWN TO THE WITNESS? ALL COUNSEL HAVE A COPY
AND I HAVE AN EXTRA COPY FOR THE COURT.

(EXHIBIT SHOWN TO THE WITNESS.)

BY MR. DOYLE:

Q. DR. LIEBERMAN, DO YOU RECOGNIZE THE EXHIBIT
MARKED AS C-22?

A. YES, I DO.

Q. WHAT IS THAT, PLEASE?

A. IT IS THE AUTOPSY AND TOXICOLOGY REPORT WHICH
WAS GENERATED IN CONJUNCTION WITH THE EXAMINATION OF
MR. HOWARD'S REMAINS.

Q. AS A RESULT OF THIS AUTOPSY DO YOU HAVE AN
OPINION TO A REASONABLE DEGREE OF MEDICAL CERTAINTY AS
TO THE CAUSE AND THE MANNER OF DEATH OF THE DECEDENT,
MR. HOWARD'S DEATH?

A. YES.

Q. WHAT IS THAT OPINION?

A. MR. HOWARD DIED AS A RESULT OF A GUNSHOT WOUND

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OF HIS BACK AND THE MANNER OF DEATH IS HOMICIDE.

Q. DOES YOUR REPORT INDICATE THE DATE, THE TIME, AND THE LOCATION THAT MR. HOWARD WAS OFFICIALLY PRONOUNCED DEAD BY A REPRESENTATIVE OF THE MEDICAL EXAMINER'S OFFICE?

A. YES, IT DOES.

Q. AND WHAT IS THE DATE, TIME, AND THE LOCATION?

A. MR. HOWARD WAS PRONOUNCED ON AUGUST THE 7TH, 1996, AT 12:45 IN THE MORNING INSIDE 6120 SANSOM STREET.

Q. DOES THE REPORT INDICATE MR. HOWARD'S AGE AT THE TIME OF HIS DEATH?

A. FIFTY-SEVEN.

Q. AND HIS HEIGHT AND WEIGHT?

A. FIVE-FOUR AND 172 POUNDS.

Q. WHO IDENTIFIED THE BODY OF MR. HOWARD IN THE MEDICAL EXAMINER'S OFFICE?

A. TWO BROTHERS, THEODORE AND NORMAN.

Q. DO YOU HAVE AN OPINION TO A REASONABLE DEGREE OF MEDICAL CERTAINTY HOW FAR THE BARREL OF THE GUN WAS FROM MR. HOWARD'S BACK AT THE TIME THAT IT WAS FIRED?

A. IT WAS IN DIRECT CONTACT WITH HIS CLOTHING AND HIS BACK.

Q. HOW DO YOU MAKE THAT DETERMINATION?

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2 A. WHEN LOOKING AT GUNSHOT WOUNDS, THEY COME IN
3 VARIOUS DESCRIPTIONS. TO BEGIN, YOU HAVE GUNSHOT
4 WOUNDS IN WHICH THE BULLET ENTERS THE BODY BUT NOT
5 DOES NOT LEAVE THE BODY. THAT'S A PENETRATING GUNSHOT
6 WOUND. SO THERE'S A BULLET STILL IN THE BODY
7 SOMEWHERE.

8 THE OTHER TYPE OF GUNSHOT WOUND IS WHAT WE CALL
9 A PERFORATING GUNSHOT WOUND, THAT IS, WHERE THE BULLET
10 GOES INTO THE BODY AND THEN LEAVES THE BODY. WITHIN
11 THOSE TWO TYPES OF GUNSHOT WOUNDS YOU CAN THEN FURTHER
12 CLASSIFY GUNSHOT WOUNDS BY RANGE OF FIRE, AND THOSE
13 WOULD BE CONTACT, CLOSE RANGE, AND DISTANT RANGE.

14 IN A CONTACT GUNSHOT WOUND, THE MUZZLE,
15 BUSINESS END, IS IN DIRECT CONTACT WITH THE BODY OR
16 THE CLOTHING, AS IN THIS CASE. IN THE CASE OF A
17 CONTACT GUNSHOT WOUND THE BULLET CAN GO INTO THE BODY,
18 THEN EXIT OR STAY BEHIND, BUT THE CHARACTERISTICS OF
19 THE WOUND, ENTRY WOUND WHERE THE BULLET ENTERS THE
20 BODY IS SUCH THAT IT IS UNMISTAKABLE, AND THAT IS, YOU
21 HAVE THE ROUND OR OVAL DEFECT IN THE CENTER. THAT'S
22 WHERE THE BULLET ACTUALLY ENTERS THE BODY.

23 SURROUNDING THIS CAN BE TISSUE WHICH IS SEARED
24 FROM THE FLAME, THE BURNING GUNPOWDER WHICH COMES OUT
25 OF THE BUSINESS END, AS WELL AS THE BODY ALSO HAS

1
2 BLACK POWDERY MATERIAL IN THE DEPTH OF THE WOUND
3 CALLED SOOT, COMPLETELY BURNED GUNPOWDER, WHICH IS
4 COMING OUT THE MUZZLE OF THE GUN IN ADDITION TO THE
5 BULLET, IN ADDITION TO WHICH, IF IT'S THROUGH
6 CLOTHING, THE CLOTHING WILL HAVE SOME OF THESE
7 FEATURES ON THEM. THE CLOTHING TENDS TO GET A BIG
8 BLOW-OUT DEFECT IN IT WHERE THE GUN WAS BECAUSE OF ALL
9 THE GAS AND THE BURNING PARTICLES OF POWDER, AND YOU
10 STILL HAVE THE CHARACTERISTIC MARKS ON THE BODY OF A
11 CONTACT GUNSHOT WOUND.

12 IF WE THEN STEP BACK FROM A GUN THAT'S DIRECTLY
13 IN CONTACT, YOU WOULDN'T SEE THE SEARING NECESSARILY
14 BECAUSE THAT FLAME ONLY COMES OUT A VERY SHORT
15 DISTANCE. YOU MIGHT SEE SOOT AROUND IT, THE SOOT
16 BEING SIMILAR TO WHEN YOU STRIKE A MATCH, THE SMOKE
17 THAT GOES UP IN THE AIR, THAT'S SOOT, THAT WOULD BE
18 AROUND THE GUNSHOT WOUND, AND THEN YOU WOULD ALSO HAVE
19 SOMETHING WE CALL STIPPLE ON THE BODY, AND THAT IS
20 CAUSED BY THE BURNING PARTICLES OF GUNPOWDER STRIKING
21 THE SKIN. THAT WAS NOT PRESENT IN THE CASE. IT
22 WASN'T AROUND THE WOUND. IT WAS ALL INSIDE OF THE
23 WOUND.

24 THEN WE HAVE THE DISTANT RANGE GUNSHOT WOUND IN
25 WHICH YOU NEITHER SEE THE ABRASION OR SCRAPING FROM

1
2 THIS GUN, THE SEARING, SOOT THAT WAS IN THE WOUND, NOR
3 WOULD YOU SEE SOOT OR STIPPLE AROUND THE WOUND. THAT
4 WOULD MEAN THE MUZZLE OF THE GUN IS TWO AND A HALF TO
5 THREE FEET OR FURTHER AWAY.

6 Q. WOULD YOU PLEASE DESCRIBE TO THE JURY EXACTLY
7 THE SPOT THAT THIS BULLET ENTERED THE BACK OF
8 MR. HOWARD, THE PATH IT TOOK AND WHERE IT EXITED?

9 THE WITNESS: YOUR HONOR, MAY I STAND FOR
10 A MOMENT?

11 THE COURT: YES.

12 THE WITNESS: THANK YOU.

13 IN DESCRIBING WOUNDS, SINCE WE'RE NOT
14 PRESENT AS MEDICAL EXAMINERS AT THE SCENE OF
15 DEATH, WE DESCRIBE ALL WOUNDS WITH THE BODY IN
16 WHAT WE CALL THE ANATOMIC POSITION, THAT IS,
17 STANDING ERECT, FEET TOGETHER, TOES POINTING
18 FORWARD, HANDS AT YOUR SIDE, PALMS FACING
19 FORWARD, AND THE HEAD LEVEL TO THE GROUND.

20 NOW, WITH THAT IN MIND, AND THE FACT THAT
21 MR. HOWARD WAS FIVE FEET FOUR INCHES TALL, THIS
22 GUNSHOT WOUND WAS TO THE SMALL OF HIS BACK IN
23 THE MIDLINE, RIGHT NEAR THE SPINE. THAT'S
24 RIGHT IN THE MIDDLE OF YOUR BODY. AND THIS
25 BULLET WAS -- I'M SORRY. THE WOUND ITSELF WAS

1
2 24-1/2 INCHES BELOW THE TOP OF HIS HEAD. SO IF
3 YOU HAD SOMEBODY WHO WAS FIVE-FOUR AND TOOK A
4 RULER AND MEASURE 24-1/2 INCHES DOWN FROM THE
5 TOP OF THE HEAD ALONG THE BACK RIGHT ACROSS THE
6 SPINAL COLUMN, RIGHT DOWN THAT SPINAL COLUMN,
7 THAT'S EXACTLY WHERE THIS ENTRY WAS IN THE
8 SMALL OF HIS BACK.

9 THIS BULLET HAS THEN ENTERED INTO HIS
10 ABDOMINAL CAVITY AND PIERCED LOOPS OF BOWEL AS
11 WELL AS THE DISC THAT HOLDS THE BOWEL TO YOUR
12 BACK, AND A MAJOR BLOOD VESSEL CALLED THE
13 COMMON ILIAC ARTERY. YOUR AORTA, WHICH IS THE
14 LARGEST BLOOD VESSEL IN YOUR BODY, CONNECTS
15 DIRECTLY TO YOUR HEART, THEN HAS LITTLE
16 BRANCHES THAT COME OFF TO SUPPLY BLOOD TO YOUR
17 ARMS AND FINGERTIPS UP TO YOUR HEAD AND ALL THE
18 WAY DOWN YOUR BODY, AS WELL AS THE INTERNAL
19 ORGANS. WHEN IT REACHES THE END IN THE
20 TAILBONE, IT SPLITS INTO TWO. IT'S CALLED A
21 COMMON ILIAC ON THE LEFT SIDE, AND THIS HAS
22 GONE THROUGH THE COMMON ILIAC VESSEL.

23 SO IT'S A LARGE BLOOD VESSEL, ARTERY, AND
24 CAUSED A LOT OF BLEEDING. AND WHAT WE FOUND
25 INSIDE WAS A LITER AND A HALF. THAT'S ABOUT A

1
2 QUART AND A HALF, LITTLE MORE THAN A QUART AND
3 A HALF OF BLOOD INSIDE HIS BELLY WHERE IT
4 SHOULDN'T BE BECAUSE OF THE INJURY TO HIS BLOOD
5 VESSEL. THEN FROM THERE IT'S GONE THROUGH HIS
6 ABDOMINAL WALL, THE FRONT, NEAR HIS BELLY, JUST
7 TO THE LEFT OF HIS BELLY BUTTON. SO THIS
8 BULLET IS GOING FROM MR. HOWARD'S SMALL OF HIS
9 BACK TO JUST TO THE LEFT SIDE OF HIS BELLY
10 BUTTON. AND AT THE LEFT SIDE OF HIS BELLY
11 BUTTON IS AN EXIT WOUND. THAT EXIT WOUND WAS
12 26 INCHES BELOW THE TOP OF HIS HEAD.

13 BY MR. DOYLE:

14 Q. WHAT WAS THE DIRECTION OF THE BULLET PATH ONCE
15 IT ENTERED THE BODY?

16 A. WITH THE BODY IN ANATOMIC POSITION, IT'S MOVING
17 FROM MR. HOWARD'S BACK TO HIS FRONT, SO IT'S GOING
18 FORWARD AND IT'S GOING SLIGHTLY LEFTWARD. REMEMBER
19 IT'S IN THE MIDDLE OF THE BACK AND IT'S COMING OUT
20 JUST TO THE LEFT OF HIS BELLY BUTTON.

21 Q. GOING UP, DOWN, OR STRAIGHT?

22 A. IT IS GOING ACTUALLY SLIGHTLY DOWNWARD.

23 Q. OKAY. NOW, WAS A TOXICOLOGICAL ANALYSIS DONE?

24 A. YES.

25 Q. WHAT IS THAT?

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A. TOXICOLOGY LITERALLY MEANS THE STUDY OF POISONS. AS IT RELATES IN TODAY'S WORLD, IT'S A SCIENCE BRANCH THAT DEALS WITH THE FINDING OR LOOKING FOR POISON, DRUGS, FOR EXAMPLE, COMMON STREET DRUGS, PRESCRIBABLE DRUGS THAT A DOCTOR MIGHT WRITE FOR YOU FOR WHATEVER CONDITION YOU MIGHT HAVE, AS WELL AS ALCOHOL.

Q. WAS ANY ALCOHOL FOUND IN THE SYSTEM OF MR. HULON BERNARD HOWARD?

A. NO. NONE AT ALL.

Q. HOW ABOUT ANY DRUGS?

A. YES.

Q. WHAT DRUG?

A. HE HAD COCAINE AND ITS BREAKDOWN PRODUCT, BENZOYLECGONINE, B.E. FOR SHORT.

Q. IS THERE ANY WAY YOU CAN QUANTIFY THAT?

A. COCAINE, IT SHOULD NEVER BE FOUND IN ANYBODY. IT'S AN ILLICIT DRUG. THE AMOUNT THAT IS PRESENT IN MR. HOWARD'S BODY, IT'S NOT A REAL HIGH LEVEL AND IT'S NOT A REAL LOW LEVEL. SOMEWHERE IN THAT MIDDLE RANGE.

Q. CAN YOU TELL -- DO YOU HAVE AN OPINION AS TO HOW RECENTLY HE HAD CONSUMED THIS COCAINE THAT WAS FOUND IN HIS BLOOD?

A. MOST DRUGS HAVE A PROPERTY CALLED A HALF LIFE.

1
2 MANY OF YOU MAY TAKE ANTIBIOTICS. YOU KNOW YOU HAVE
3 TO TAKE ANTIBIOTICS MORE THAN ONCE A DAY, AND THIS IS
4 TO KEEP A STEADY LEVEL IN YOUR SYSTEM AND THAT IS
5 BECAUSE OF A HALF LIFE. IN THE CASE OF COCAINE, ITS
6 HALF LIFE IS APPROXIMATELY A HALF HOUR TO AN HOUR.
7 AND A HALF LIFE MEANS THIS.

8 IF I START OUT AND I SAY I HAVE FOUR BALLOONS
9 IN A HALF LIFE OF AN HOUR, AT THE END OF AN HOUR HALF
10 MY BALLOONS IS GONE. AT THE END OF THE ANOTHER HOUR
11 I'M DOWN TO HAVE OF WHAT I'VE GOT, SO I'M DOWN TO ONE
12 BALLOON, SO ON AND SO FORTH. SIXTEEN TO THIRTY-TWO
13 HALF LIFES, DRUG'S NOT DETECTIBLE. SO HE'S CONSUMED
14 THE DRUG WITHIN THE LAST 36 HOURS OR SO.

15 Q. IS THERE ANY WAY TO BE MORE SPECIFIC, MORE
16 DETAILED OR SPECIFIC THAN THAT? JUST ANY TIME IN THE
17 LAST 36 HOURS BEFORE HE DIED?

18 A. THAT'S CORRECT.

19 Q. OKAY. EXACTLY HOW DID THIS GUNSHOT WOUND KILL
20 MR. HOWARD? COULD YOU JUST INDICATE THE EFFECT THAT
21 IT HAD ON HIS BODY WHEN THE BULLET ENTERED HIS BACK?

22 A. SINCE THE BULLET HAS PASSED THROUGH LOOPS OF
23 BOWEL AND SUPPORTING TISSUE AND SINCE YOUR BODY IS
24 SUPPLIED WITH BLOOD, YOU START TO LOSE BLOOD FROM THAT
25 IMMEDIATELY. THOSE ARE GENERALLY VERY SMALL BLOOD

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2 VESSELS. BUT ONCE IT PASSES THROUGH THE COMMON ILIAC,
3 ONE OF THE LARGEST BLOOD VESSELS IN YOUR BODY, HE'S
4 GOING TO START TO LOSE BLOOD VERY QUICKLY INTO HIS
5 ABDOMINAL CAVITY. IT WILL THEN SEEP OUT, DEPENDING
6 WHAT POSITION HE'S IN, WHETHER HE'S FACE DOWN, SEEP
7 OUT THROUGH THIS EXIT ON HIS BACK, WOUND IN HIS BACK,
8 IN ADDITION TO WHICH, BECAUSE IN AUTOPSY WE FOUND MORE
9 THAN A QUART AND A HALF OF BLOOD IN HIS ABDOMEN, AND
10 MOST PEOPLE HAVE ABOUT FIVE QUARTS OF BLOOD IN THEIR
11 BODY, SO HE'S LOST A SIGNIFICANT AMOUNT, TWENTY
12 PERCENT OR MORE IN HIS BLOODSTREAM, BLOOD VOLUME, INTO
13 HIS ABDOMINAL CAVITY, AND THE REST HAS LEAKED OUT,
14 WHAT HAPPENS IS, YOU BEGIN TO GET SWEATY, HEART RACES,
15 YOU LOSE CONSCIOUSNESS, AND YOU ULTIMATELY DIE.

16 MR. DOYLE: THANK YOU. I HAVE NOTHING
17 FURTHER.

18 THE COURT: MR. PADOVA.

19 -----

20 CROSS-EXAMINATION

21 -----

22 BY MR. PADOVA:

23 Q. DOCTOR, GOOD AFTERNOON, SIR.

24 A. GOOD AFTERNOON.

25 Q. JUST BRIEFLY. DID THE BULLET PASS THROUGH

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OTHER THAN -- OTHER THAN THE LARGE VEIN THAT YOU DESCRIBE, DID IT PASS THROUGH A VITAL ORGAN?

A. THE ARTERY.

Q. OTHER THAN THE ARTERY?

A. IT HAS HIT LOOPS OF BOWEL. WHEN BOWEL CONTENT GOES INTO YOUR BODY, THAT IN AND OF ITSELF CAN CAUSE DEATH. HERE DEATH WAS MORE RAPID BECAUSE OF THE LOSS OF BLOOD.

Q. SO IT WAS THE LOSS OF BLOOD THAT RESULTED IN DEATH?

A. THAT'S CORRECT. YES.

Q. YOU COULDN'T TELL, COULD YOU, DOCTOR, WHETHER OR NOT THE DECEASED WAS MOVING AT THE TIME OF THE FIRING?

A. NO.

Q. ALL YOU CAN TELL US IS THAT THE BARREL END WAS IN CONTACT WITH THE CLOTHING OF THE DECEASED?

A. THE MUZZLE WAS IN DIRECT CONTACT WITH THE SHIRT WHICH HE WAS WEARING, AND HENCE, DIRECTLY IN CONTACT WITH HIS BODY, THE SMALL OF HIS BACK.

Q. SO YOU COULDN'T TELL WHETHER OR NOT --

MR. PADOVA: YOU ANSWERED MY QUESTION.

YOU DON'T KNOW WHETHER OR NOT THE BODY WAS --

MR. HOWARD WAS MOVING AT THE TIME.

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MR. DOYLE: YOUR HONOR, WITH THE
ADMISSION, THE COMMONWEALTH RESTS.

THE COURT: LADIES AND GENTLEMEN, A
SIGNIFICANT STEP HAS BEEN TAKEN IN THIS REGARD,
IN REGARDS TO THIS TRIAL. COMMONWEALTH HAS
INTRODUCED ALL OF THE EVIDENCE IT PLANS TO
INTRODUCE IN ITS CASE IN CHIEF. THE NEXT STEP,
YOU MIGHT RECALL, IS FOR DEFENSE, IF IT ELECTS
TO DO SO, TO INTRODUCE EVIDENCE, CALL
WITNESSES, ET CETERA, OR THEY MAY VERY WELL
REST. WHATEVER THEY'RE GOING TO DO, WE'LL DO
IT AFTER LUNCH.

SO I CAUTION YOU TO KEEP AN OPEN MIND, DO
NOT DISCUSS THIS CASE WITH ANYONE, DO NOT
CONSUME ANY ALCOHOLIC BEVERAGES DURING THE
LUNCH HOUR. ENJOY YOUR LUNCH. I'LL SEE YOU AT
QUARTER OF TWO.

THE TIPSTAFF: EVERYONE PLEASE REMAIN
SEATED UNTIL THE JURY LEAVES THE ROOM.

LADIES AND GENTLEMEN, WATCH YOUR STEP,
PLEASE.

(THE JURY LEFT THE COURTROOM.)

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THE COURT: GENTLEMEN, YOU HAVE A MOTION?

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MR. TINARI: YES, YOUR HONOR.

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MR. PADOVA: YOUR HONOR, RESPECTFULLY,

6

I'M GOING TO ASK THE COURT TO GRANT A JUDGMENT
OF ACQUITTAL HERE AS TO MURDER OF THE FIRST

7

DEGREE, ASK THE COURT TO HOLD IT NO HIGHER THAN

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MURDER IN THE SECOND DEGREE. IF BELIEVED, IN

9

THE LIGHT MOST FAVORABLE TO THE COMMONWEALTH,

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IT'S MY SUGGESTION THAT THERE HAS BEEN NO

11

SHOWING OF PREMEDITATION IN THE CASE. EVEN

12

LOOKING AT THE CIRCUMSTANCES OF THE GUNSHOT AND

13

THE GUNSHOT WOUND, IT'S MY ARGUMENT THAT THE

14

COMMONWEALTH HAS FAILED TO MEET ITS BURDEN TO

15

SHOW THAT THAT TYPE OF WOUND SHOWS A DELIBERATE

16

INTENT TO KILL, AND IT'S MY REQUEST THAT THIS

17

CASE BE HELD NO HIGHER THAN MURDER OF THE

18

SECOND DEGREE.

19

THE COURT: DENIED.

20

MR. MOORE.

21

MR. MOORE: YOUR HONOR, I MOVE FOR

22

JUDGMENT OF ACQUITTAL, AND MY ARGUMENT WOULD BE

23

THAT --

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THE COURT: JUDGMENT OF ACQUITTAL ON

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MR. MOORE: AS TO THE CHARGE OF MURDER IN THE FIRST DEGREE.

THE COURT: ALL RIGHT.

MR. MOORE: THERE'S BEEN NO EVIDENCE, YOUR HONOR, TO SHOW MY CLIENT SHARED THE SPECIFIC INTENT TO KILL WITH THE PERSON ALLEGED TO HAVE DONE THE KILLING. IN FACT, THE EVIDENCE IS DIRECTLY CONTRARY TO THAT, BECAUSE ALLEGEDLY WHEN THE SHOT WAS FIRED, MY CLIENT IS ALLEGED TO HAVE CALLED THE CO-DEFENDANT A DICKHEAD, SUGGESTING THAT HE DID NOT SHARE THE SPECIFIC INTENT TO EVEN INJURE, CERTAINLY NOT TO KILL, THE DECEDENT IN THE CASE. SO AS TO MY CLIENT, JUDGE, IT SHOULD RISE NO HIGHER, EVEN AT THE PRIMA FACIE STAGE, NO HIGHER THAN MURDER OF THE SECOND DEGREE.

THE COURT: DENIED.

MR. TINARI: YOUR HONOR, ON BEHALF OF MR. GLADDEN, WE MOVE FOR JUDGMENT OF ACQUITTAL, FIRST DEGREE MURDER. AND MAY WE INCORPORATE THE ARGUMENTS MADE BY MR. MOORE REGARDING THE REASONS WHY A JUDGMENT OF ACQUITTAL SHOULD BE GRANTED. THERE IS ONE ADDITIONAL FACTOR THAT I SUGGEST THAT THE COURT SHOULD TAKE INTO

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2 CONSIDERATION. MR. GLADDEN DID NOT HAVE A
3 WEAPON AT THE TIME THAT THERE WAS ENTRY INTO
4 THE HOUSE. SECONDLY, AT BEST WHAT WE HAVE IS
5 ENTRANCE, AN UNLAWFUL TAKING. I ALSO SUGGEST,
6 YOUR HONOR, THAT THERE IS NO SHARED INTENT,
7 THERE IS NO EVIDENCE AT ALL THAT THERE WAS AN
8 AGREEMENT AMONG ANY OF THEM, EITHER BY WORDS OR
9 BY CONDUCT OR BY ANY OTHER TYPE OF EVIDENCE,
10 THAT WOULD SUGGEST THAT MR. GLADDEN WAS IN
11 CONCERT WITH ANY OTHER INDIVIDUAL FOR THE SOLE
12 PURPOSE OF EFFECTUATING A KILLING. SO THERE'S
13 NO SHARED INTENT. THERE ARE NO CIRCUMSTANCES,
14 THAT WOULD, EVEN CIRCUMSTANTIAL, THAT WOULD IN
15 ANY WAY RISE TO THE DEGREE NECESSARY, EVEN AT
16 THIS STAGE, NECESSARY BY THE COMMONWEALTH.

17 I ALSO SUGGEST TO YOUR HONOR IF THE
18 ENTIRE PURPOSE WAS TO TAKE MONEY, THAT ONCE THE
19 ROBBERY IS COMPLETED, THEN THERE CANNOT BE
20 ATTRIBUTION AS TO A KILLING TO THE INDIVIDUALS
21 WHO PARTOOK OF THE ROBBERY. IF IT'S COMPLETED,
22 THEN IT CANNOT BE FELONY MURDER.

23 I URGE THE COURT TO GRANT A JUDGMENT OF
24 ACQUITTAL AS TO FIRST DEGREE, CONSIDER THAT
25 THIS MERELY MAY HAVE BEEN A ROBBERY COMPLETED

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BEFORE THE KILLING OCCURRED, NOT DURING THE PERPETRATION OF THE KILLING WAS THE ROBBERY OCCURRING, YOUR HONOR.

THE COURT: DENIED.

YOUR ARGUMENTS MAY BE SOMEWHAT COMPELLING TO THE JURY, BUT CIRCUMSTANTIAL EVIDENCE WOULD SUGGEST THAT THEY MAY NOT.

I'M BREAKING FOR LUNCH.

THE COURT: WHAT ARE WE GOING TO DO THIS AFTERNOON?

(DISCUSSION OFF THE RECORD.)

MR. TINARI: ON BEHALF OF MR. GLADDEN, IF I MAY GO FIRST, STIPULATION BETWEEN THE COMMONWEALTH AND THE DEFENSE, CERTAIN CHARACTER WITNESSES WOULD HAVE BEEN CALLED. I HAVE GIVEN THE NAMES AND THE RELATIONSHIP TO THE DEFENDANT, AND IT WOULD ONLY BE FOR A SPECIFIC PURPOSE, AND THAT IS FOR NONVIOLENT AND PEACEFUL CHARACTERISTICS.

THE COURT: ALL RIGHT.

MR. TINARI: SO THAT WOULD BE WHAT I WOULD PRESENT TO THE JURY AT THAT TIME.

1
2 IN TERMS OF WHETHER THE DEFENDANT WILL
3 TAKE THE STAND, MY CLIENT HAS INFORMED ME THAT
4 HE WANTS TO CONTEMPLATE THAT DURING THE COURSE
5 OF THE LUNCH HOUR. IN THE EVENT THAT HE
6 DECIDES NOT TO, I ASSUME THAT THE COURT WILL
7 CONDUCT A PROPER COLLOQUY, IF HE TAKES THE
8 STAND.

9 THE COURT: SURE.

10 MR. PADOVA: YOUR HONOR, IF I MAY, AS TO
11 MR. LAWSON, MY SUGGESTION, THAT HE NOT BE
12 COLLOQUIED UNTIL AFTER LUNCH. HOWEVER, WE DID
13 DISCUSS IT. I DO NOT BELIEVE THAT MR. LAWSON
14 IS GOING TO TESTIFY.

15 THE COURT: ALL RIGHT. I WILL NOT DO
16 THAT UNTIL AFTER LUNCH ANYWAY. BUT I WANT YOU
17 GENTLEMEN TO START THINKING ABOUT IT SO I CAN
18 GET SOME IDEA AS TO HOW I'M TO PROCEED WITH THE
19 REMAINDER OF THIS CASE.

20 ARE YOU CALLING ANY WITNESSES?

21 MR. PADOVA: I AM NOT. OKAY. IF I JUST
22 MAY ADDRESS THAT.

23 WHAT I WOULD ASK THE COURT TO CONTEMPLATE
24 IS GIVING AN INSTRUCTION -- IT'S MY
25 UNDERSTANDING THAT ONE OR TWO OF THE

1
2 CO-DEFENDANTS WILL OFFER CHARACTER TESTIMONY.
3 MY CLIENT WILL NOT. BECAUSE THIS IS A JOINT
4 TRIAL, I WOULD ASK THE COURT TO FORMULATE AN
5 INSTRUCTION OR PROVIDE AN INSTRUCTION TO THE
6 JURY CAUTIONING THEM TO JUDGE EACH INDIVIDUAL
7 ON THE EVIDENCE PRESENTED HERE AND NOT TO -- SO
8 AS NOT TO PREJUDICE MY CLIENT.

9 THE COURT: I'LL DO THAT.

10 MR. PADOVA: THANK YOU, SIR.

11 THE COURT: I WILL CONTINUE TO
12 REEMPHASIZE THE FACT THAT THEY ARE HERE ON
13 TRIAL SEPARATELY AND THE EVIDENCE MUST BE
14 EVALUATED AGAINST EACH SEPARATELY.

15 WHAT'S YOUR PLEASURE, MR. MOORE?

16 MR. MOORE: YOUR HONOR, I'M SORRY. I
17 WAS -- I THINKING, I'M IN THE SAME POSITION AS
18 MR. PADOVA. CONFERRING WITH MY CLIENT, FOR THE
19 LAST TIME HOPEFULLY, REGARDING WHETHER HE PLANS
20 TO TESTIFY. I EXPECT NOT.

21 THE COURT: DOES HE PLAN TO CALL ANY
22 WITNESSES.

23 MR. MOORE: STIPULATION TO CHARACTER,
24 YOUR HONOR.

25 THE COURT: SO FOR ALL INTENTS AND

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PURPOSES WE'RE GOING TO FINISH THIS TRIAL THIS AFTERNOON. SOMETHING I DIDN'T KNOW THIS MORNING. AND IF WE FINISH IT THIS MORNING, OR THIS AFTERNOON, WE WILL CLOSE THE FIRST THING TOMORROW MORNING. FAIR ENOUGH?

MR. MOORE: THAT'S FINE, YOUR HONOR.

MR. TINARI: YES, YOUR HONOR.

MR. PADOVA: YES, YOUR HONOR.

THE COURT: WE'LL CHARGE, AND WE'LL GET THE JURY DELIBERATING PROBABLY SOMETIME SHORTLY AFTER LUNCH.

MR. PADOVA: THE GOVERNMENT HAS PRESENTED US WITH A COPY OF A PROPOSED POINT FOR CHARGE.

THE COURT: ON WHAT? WE'LL TALK ABOUT THAT TOMORROW MORNING. BUT IT'S ON WHAT SUBJECT? WHAT ISSUE?

MR. PADOVA: NO LEGAL RIGHT TO RESORT TO VIOLENCE TO COLLECT A DEBT.

THE COURT: I'LL TAKE A LOOK AT THAT AS I TAKE A LOOK AT ANYTHING ELSE THAT YOU MIGHT HAVE.

MR. PADOVA: THANK YOU.

THE COURT: IF YOU HAVE ANY OTHER POINTS YOU THINK THAT A SEASONED JUDGE AND LAWYER,

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2 DEFENSE LAWYER, AND PROSECUTOR WOULD NOT
3 ANTICIPATE, I WANT IT. THIS LAW IS A LEARNING
4 PROCESS.

5 RIGHT, MR. DOYLE?

6 MR. DOYLE: AS ARE OUR SUGGESTIONS TO THE
7 COURT. THEY'RE LEARNING SUGGESTIONS.

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9 (LUNCHEON RECESS)

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AFTERNOON SESSION

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4 THE COURT: BRING IN THE JURY. HOLD IT A
5 MINUTE.

6 WHAT ARE YOU GOING TO DO?

7 MR. PADOVA: YOUR HONOR, I BELIEVE THE
8 DEFENSE IS GOING TO REST, BUT I WOULD LIKE TO
9 PUT SOMETHING ON THE RECORD.

10 THE COURT: YOU HAVE THE FLOOR.

11 MR. PADOVA: CAN WE SEE THE COURT ON THE
12 RECORD AT SIDE BAR?

13 THE COURT: YES.

14 -----

15 (DISCUSSION IN ROBIN ROOM AS FOLLOWS:)

16 -----

17 THE COURT: YES, MR. PADOVA.

18 MR. PADOVA: YOUR HONOR, MY CLIENT IS NOT
19 GOING TO TESTIFY. I BELIEVE THAT, HOWEVER, HE
20 WANTS ME TO CALL A WITNESS TO THE STAND TO TRY
21 TO SHOW SOMETHING THAT, AS A MATTER OF
22 STRATEGY, I DON'T THINK CAN BE DONE. AS A
23 MATTER OF STRATEGY, IT'S MY OPINION TO MY
24 CLIENT THAT IT WILL NOT HELP HIM IN HIS CASE
25 AND VERY WELL MAY OPEN UP SOME OTHER AREAS.

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MR. MOORE: SO THAT'S WHERE MY CLIENT GOT
THE IDEA.

THE COURT: HOLD IT A MINUTE. OFF THE
RECORD FOR A MINUTE.

(DISCUSSION OFF THE RECORD.)

(DISCUSSION IN ROBIN ROOM CONCLUDED.)

MR. PADOVA: YES, YOUR HONOR. I WOULD
ASK THE COURT TO COLLOQUY MY CLIENT. WE'VE HAD
EXTENSIVE DISCUSSIONS. I'VE HAD EXTENSIVE
DISCUSSIONS WITH MY CLIENT ABOUT A NUMBER OF
POTENTIAL WITNESSES. FOLLOWING OUR DISCUSSIONS
I BELIEVE IT IS MY CLIENT'S INTENTION TO FOLLOW
MY STRATEGIC ADVICE AT THIS POINT.

THE COURT: HE DOES PLAN TO FOLLOW OR --

MR. PADOVA: HE DOES. AND HE DOES NOT
INTEND TO HAVE ME CALL ANY WITNESSES IN HIS
BEHALF. I ALSO BELIEVE THAT HE WILL NOT
TESTIFY.

THE COURT: VERY WELL. ASK HIM TO RISE.
SWEAR HIM IN, MR. FULLER.

THE TIPSTAFF: YES, SIR.

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JIMEL LAWSON, 5721 NASSAU ROAD,
PHILADELPHIA, PENNSYLVANIA, 19131, WAS DULY
SWORN.

THE COURT: MR. LAWSON, YOU'VE HEARD YOUR
LAWYER, MR. PADOVA, INDICATE TO THIS COURT THAT
YOU DO NOT PLAN TO TAKE THE STAND TO TESTIFY IN
YOUR OWN BEHALF; AM I CORRECT?

DEFENDANT LAWSON: YES.

THE COURT: YOU KNOW THAT YOU HAVE AN
ABSOLUTE RIGHT TO TAKE THE STAND?

DEFENDANT LAWSON: YES.

THE COURT: HAS ANYONE PROMISED YOU
ANYTHING OR FORCED YOU IN ANY WAY TO GIVE UP
YOUR RIGHT TO TAKE THE STAND?

DEFENDANT LAWSON: NO.

THE COURT: YOU UNDERSTAND THAT I WILL
TELL THIS JURY THE FACT THAT YOU DID NOT TAKE
THE STAND CANNOT BE HELD AGAINST YOU, YOU
UNDERSTAND, AND I'LL TELL THEM THAT, AND I'LL
ALSO TELL THEM IT'S THE RIGHT OF ANY DEFENDANT
IN ANY TRIAL IN ANYPLACE IN THE UNITED STATES
TO REMAIN SILENT AND THE COMMONWEALTH HAS THE
BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A

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REASONABLE DOUBT. YOU UNDERSTAND THAT?

DEFENDANT LAWSON: YES.

THE COURT: ARE THERE ANY WITNESSES YOU WISH TO CALL THAT YOU TOLD YOUR LAWYER ABOUT THAT WERE NOT CALLED?

DEFENDANT LAWSON: NO.

THE COURT: ARE YOU SATISFIED WITH YOUR LAWYER'S REPRESENTATION?

DEFENDANT LAWSON: YES.

THE COURT: THANK YOU VERY MUCH.

MR. MOORE.

MR. MOORE: YOUR HONOR, MY CLIENT HAS INDICATED THAT HE DOESN'T WISH TO TESTIFY, AND I'D ASK HE BRIEFLY BE COLLOQUIED.

THE COURT: VERY WELL. SWEAR HIM IN, MR. FULLER.

TERRENCE LEWIS, 2647 NORTH MYRTLEWOOD STREET, PHILADELPHIA, PENNSYLVANIA, 19132, WAS DULY SWORN.

THE COURT: MR. LEWIS, ACCORDING TO MR. MOORE, YOUR ATTORNEY, YOU DO NOT WISH TO TAKE THE STAND IN YOUR OWN BEHALF; IS THAT

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CORRECT?

DEFENDANT LEWIS: YES, SIR.

THE COURT: AS I TOLD YOUR FRIEND TO THE LEFT, YOU HAVE AN ABSOLUTE RIGHT TO REMAIN SILENT. AND, AS YOU KNOW, I TOLD EVERYONE WHO WAS LISTENING SINCE THIS TRIAL STARTED THE DEFENDANT HAS NO OBLIGATION TO PROVE HIS INNOCENCE, THERE'S A PRESUMPTION OF INNOCENCE THAT REMAINS WITH YOU THROUGHOUT THE TRIAL, AND THAT THE COMMONWEALTH HAS A NEVER-SHIFTING BURDEN, WHICH MEANS THAT THE COMMONWEALTH MUST ALWAYS COME FORWARD WITH EVIDENCE TO CONVINCING THE JURY OF YOUR GUILT.

YOU UNDERSTAND THAT?

DEFENDANT LEWIS: YES, SIR.

THE COURT: YOU KNOW I WILL ALSO TELL THE JURY THAT THEY MAY NOT HOLD IT AGAINST YOU THAT YOU DID NOT TAKE THE STAND.

MY QUESTION TO YOU IS, DID ANYONE PROMISE YOU ANYTHING OR FORCE YOU IN ANY WAY TO GET YOU TO GIVE UP YOUR RIGHT?

DEFENDANT LEWIS: NOT AT ALL, SIR.

THE COURT: ARE THERE ANY WITNESSES THAT YOU WISHED TO BE CALLED THAT WERE NOT CALLED?

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DEFENDANT LEWIS: NO, SIR.

THE COURT: ARE SATISFIED WITH
MR. MOORE'S REPRESENTATION?

DEFENDANT LEWIS: YES, SIR.

THE COURT: THANK YOU VERY MUCH.

MR. TINARI, WHAT'S YOUR PLEASURE?

MR. TINARI: YES. ON BEHALF OF
MR. GLADDEN, HE WILL NOT TAKE STAND. WE
REQUEST THAT YOUR HONOR COLLOQUIZE HIM. BUT
FOR CHARACTER WITNESSES, HE WILL HAVE NO OTHER
WITNESSES.

THE COURT: STAND UP.

SWEAR HIM IN, PLEASE.

JEHMAR GLADDEN, 931 NORTH 63RD STREET,
APARTMENT C-1, PHILADELPHIA, PENNSYLVANIA,
19151 WAS DULY SWORN.

THE COURT: MR. GLADDEN, YOU HEARD
MR. TINARI TELL THIS COURT THAT YOU DO NOT PLAN
TO TAKE THE STAND; IS THAT CORRECT?

DEFENDANT GLADDEN: YES, SIR.

THE COURT: ARE YOU DOING THAT OF YOUR
OWN FREE WILL?

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DEFENDANT GLADDEN: YES, SIR.

THE COURT: HAS ANYONE PROMISED YOU ANYTHING TO GIVE UP YOUR RIGHT TO TAKE THE STAND?

DEFENDANT GLADDEN: NO, SIR.

THE COURT: YOU UNDERSTAND YOU HAVE AN ABSOLUTE RIGHT TO TAKE THE STAND?

DEFENDANT GLADDEN: YES, SIR.

THE COURT: YOU UNDERSTAND THAT I WILL TELL THE JURY THAT YOU HAVE NO OBLIGATION TO TAKE THE STAND?

DEFENDANT GLADDEN: YES, SIR.

THE COURT: THAT THEY MAY NOT HOLD THAT AGAINST YOU?

DEFENDANT GLADDEN: YES, SIR.

THE COURT: DO YOU HAVE ANY WITNESSES YOU WISHED TO BE CALLED THAT WERE NOT CALLED?

DEFENDANT GLADDEN: ONLY CHARACTER WITNESSES, SIR.

THE COURT: WITH THE EXCEPTION THERE'S A STIPULATION TO CHARACTER WITNESSES MR. TINARI HAD SAID, ANY ALIBI WITNESSES OR FACT WITNESSES OR ANYONE OUT THERE THAT YOU TOLD MR. TINARI HE SHOULD CALL THAT WERE NOT CALLED?

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DEFENDANT GLADDEN: NO, SIR.

THE COURT: ARE YOU SATISFIED WITH HIS REPRESENTATION?

DEFENDANT GLADDEN: YES, SIR.

THE COURT: THANK YOU VERY MUCH.

ALL RIGHT. HERE'S WHAT I'D LIKE TO DO, GENTLEMEN, IS THE WAY WE PROCEEDED ALL DAY. YOU START, COMMONWEALTH. YOU REST, AND YOU REST, MR. MOORE, AND YOU, MR. TINARI, ENTER THE EVIDENCE ON THE CHARACTER TESTIMONY.

YOU HAVE SOME, ALSO?

MR. MOORE: I DO, YOUR HONOR.

THE COURT: ALL RIGHT. OKAY. AND JUST AS YOU BEGIN TO DO THAT, YOU WILL SAY STIPULATE, AND THEN I'LL EXPLAIN TO THE JURY WHAT A STIPULATION IS. ALL RIGHT.

MR. PADOVA: IT'S THE INSTRUCTION THAT WE TALKED ABOUT EARLIER.

THE COURT: WHICH ONE?

MR. PADOVA: INSTRUCTION TO WEIGH THE EVIDENCE INDIVIDUALLY.

THE COURT: OH, WE'RE GOING TO DO THAT WHEN I GIVE THEM THEIR INSTRUCTIONS ON THE LAW. WHY WOULD YOU WANT ME TO DO THAT NOW? I'VE

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BEEN DOING IT THROUGHOUT THE TRIAL.

MR. PADOVA: WE'LL WAIT. OKAY.

THE COURT: I WILL GIVE IT TO THEM WHEN I BEGIN TO GIVE THEM THEIR INSTRUCTIONS ON THE LAW. I WILL GIVE THEM SPECIFICALLY HOW IT APPLIES TO EACH DEFENDANT SEPARATELY AND WILL ALSO GO ON TO POINT OUT THE COLLECTIVE ASPECTS THEREOF. AND I'LL USE AN OLD SOUTHERN EXPRESSION, EACH TUB MUST SIT ON ITS OWN BOTTOM.

(THE JURY ENTERED THE COURTROOM.)

THE COURT: LADIES AND GENTLEMEN, BEFORE WE GET INTO THE CASE, THERE IS A LEGAL TERM THAT I WANT TO INTRODUCE YOU TO AND IT'S CALLED STIPULATION OF FACT.

IN MY EARLIER INSTRUCTIONS I TOLD YOU THAT STATEMENTS MADE BY COUNSEL DID NOT CONSTITUTE EVIDENCE AND ARE NOT BINDING ON YOU. THERE'S AN EXCEPTION TO THIS. THE STIPULATION. THAT IS ONE WHERE THERE IS AN AGREEMENT BETWEEN COUNSEL FOR BOTH SIDES THAT IF AN IDENTIFIABLE WITNESS WERE CALLED, THAT WITNESS WOULD GIVE

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2 YOU CERTAIN INFORMATION. WE CALL THAT A
3 STIPULATION. IN THIS ASPECT OF THIS TRIAL
4 THERE WILL BE AT LEAST ONE OR MORE
5 STIPULATIONS. SO YOU SHOULD LISTEN TO THE
6 STIPULATION AS PRESENTED BY THE LAWYERS AS
7 THOUGH IT EMANATED FROM THE IDENTIFIABLE
8 WITNESS NAMED. GOT IT?

9 THE JURY: (NODDING HEADS.)

10 THE COURT: MR. PADOVA, WHAT'S YOUR
11 PLEASURE, SIR?

12 MR. PADOVA: YOUR HONOR, MR. LAWSON
13 RESTS.

14 THE COURT: ALL RIGHT. LADIES AND
15 GENTLEMEN, MR. LAWSON HAS RESTED, WHICH MEANS
16 THAT YOU WILL NOT HEAR ANY EVIDENCE FROM
17 MR. LAWSON. I REMIND YOU AGAIN, AND I'LL
18 CONTINUE TO DO SO THROUGHOUT THE TRIAL, THAT A
19 DEFENDANT IN A CRIMINAL CASE HAS NO OBLIGATION
20 TO PROVE HIS INNOCENCE. HE MAY CALL WITNESSES,
21 OR NOT. SHOULD HE EXERCISE ONE OF THOSE
22 OPTIONS OR BOTH, THEN YOU MAY NOT HOLD THAT
23 AGAINST HIM. AND THAT'S MY INSTRUCTION NOW
24 AND IT WILL CONTINUE TO BE THROUGHOUT THE
25 TRIAL.

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MR. MOORE, WHAT'S YOUR PLEASURE?

MR. MOORE: YOUR HONOR, ON BEHALF OF
TERRANCE LEWIS, I HAVE A STIPULATION I WOULD
LIKE TO READ INTO THE RECORD.

THE COURT: ALL RIGHT. THIS IS AN
AGREEMENT BETWEEN THE COMMONWEALTH AND THE
DEFENSE IN THE CASE.

ALL RIGHT, MR. MOORE.

MR. MOORE: THANK YOU.

LADIES AND GENTLEMEN OF THE JURY, THERE'S
BEEN AN STIPULATION BY AND BETWEEN COUNSEL FOR
THE COMMONWEALTH AND TERRENCE LEWIS THAT THE
FOLLOWING PEOPLE WHOSE NAMES I'LL READ OFF TO
YOU, AND I'LL ASK THEM TO STAND, IF THEY WERE
CALLED TO TESTIFY TODAY, THEY WOULD TESTIFY
THAT THEY KNOW THE DEFENDANT, TERRENCE LEWIS,
THAT THEY KNOW PEOPLE IN THE COMMUNITY
FAMILIAR WITH HIS REPUTATION, THAT AMONG THOSE
PEOPLE FROM HIS COMMUNITY WHO ARE FAMILIAR WITH
HIS REPUTATION, IT IS FOR BEING A PEACEFUL,
LAW-ABIDING CITIZEN.

MAY I, YOUR HONOR?

THE COURT: YES.

MR. MOORE: DEBORAH CURRY, WHO'S SAID TO

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RESIDE IN THE 500 BLOCK OF GENEVA. SHE IS A
FRIEND OF THE DEFENDANT AND HIS FAMILY.

BARBARA HAINEY, WHO RESIDES ON WEST
WOODCREST AVENUE.

MR. MOORE: YOUR HONOR, I BELIEVE SOME OF
THESE PEOPLE WERE HERE EARLIER, MAY HAVE HAD TO
LEAVE.

THE COURT: YOU MAY BE SEATED NOW, MA'AM.
ONCE THEY CALL THE PERSON, IF THE PERSON CALLED
IS HERE, THAT PERSON SHOULD BE NUDGED AND ASKED
TO STAND UP, IF THEY CAN'T HEAR ME.

MR. MOORE: MARK CURRY. HE'S ON HIS WAY.
HE'S ALSO A FRIEND OF THE DEFENDANT AND HIS
FAMILY.

DEBORAH HAWKS, WHO LIVES ON SPRUCE
STREET, A COUSIN OF THE DEFENDANT.

PATRICIA CURRY LIVES ON SPRUCE STREET, A
FRIEND OF THE FAMILY AND OF THE DEFENDANT.

THERESA WITHERS, LIVES ON NORTH
MYRTLEWOOD STREET, THE DEFENDANT'S AUNT.

BARBARA WATERS LIVES ON WEST UPLAND
STREET, THE DEFENDANT'S GRANDMOTHER.

DENISE WATERS LIVES ON WEST UPLAND
STREET, THE DEFENDANT'S MOTHER.

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2 AL COHEN, WHO LIVES ON RINGGOLD STREET, A
3 FRIEND OF THE DEFENDANT AND HIS FAMILY.

4 MARJORIE WATERS, WHO LIVES ON LANCASTER
5 AVENUE, THE DEFENDANT'S AUNT.

6 BAMBI BOYKIN, THE DEFENDANT'S FIANCEE AND
7 MOTHER OF HIS SON.

8 AND REVEREND MALLORY, WHO RESIDES IN THE
9 5500 OF SPRUCE STREET, THE DEFENDANT'S PASTOR.

10 YOUR HONOR, WITH THE ADMISSION OF THAT
11 EVIDENCE, DEFENSE ON BEHALF OF TERRENCE LEWIS
12 WOULD REST.

13 THE COURT: HOLD IT JUST A MINUTE.

14 SO STIPULATED THAT IF THESE INDIVIDUALS
15 WERE CALLED, THEY WOULD TESTIFY THAT THESE
16 INDIVIDUALS KNOW HIM IN THE COMMUNITY, KNOW OF
17 HIM BEING PEACEFUL AND LAW-ABIDING?

18 MR. DOYLE: I STIPULATE THAT THEY WOULD
19 SO TESTIFY.

20 MR. MOORE: AND WITH THAT, WE WOULD REST,
21 YOUR HONOR.

22 THE COURT: VERY WELL.

23 LADIES AND GENTLEMEN, YOU'VE HEARD ALL
24 THE EVIDENCE THAT'S TO BE PRESENTED BY THIS
25 DEFENDANT IN THIS PARTICULAR CASE.

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MR. TINARI.

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MR. TINARI: THANK YOU, YOUR HONOR.

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THERE IS ALSO A STIPULATION BETWEEN THE

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COMMONWEALTH'S ATTORNEY AND COUNSEL FOR

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MR. GLADDEN, AND THAT STIPULATION IS THAT THERE

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WOULD BE CERTAIN PEOPLE THAT WOULD BE CALLED

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AND HAVE KNOWN MR. GLADDEN AND AMONG THOSE

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PEOPLE WHO KNOW HIM, THEY KNOW OTHER PEOPLE,

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AND THAT HE ENJOYS A REPUTATION OF AN -- AN

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EXCELLENT ONE AS TO BEING A PEACEFUL PERSON AND

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A NONVIOLENT PERSON.

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AND THOSE PERSONS WHO WOULD BE CALLED, I

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BELIEVE, ARE IN THE COURTROOM. A SONIA

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GLADDEN. WOULD YOU PLEASE RISE. DEBBIE PRIOR,

16

TANISHA MARTIN, WHO IS THE FIANCEE AND THE

17

MOTHER OF THE DAUGHTER OF MR. GLADDEN, SALLY

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JACKSON, AND KAREEMA NOONAN, AND MRS. SCOTT.

19

WOULD YOU PLEASE RISE?

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WITH THAT, YOUR HONOR, IF THE STIPULATION

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IS SO ACCEPTED, THE DEFENSE RESTS.

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THE COURT: SO STIPULATED, COUNSEL?

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MR. DOYLE: I STIPULATE THOSE WITNESSES

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WOULD SO TESTIFY.

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THE COURT: VERY WELL. LADIES AND

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2 GENTLEMEN, YOU'VE HEARD ALL OF THE EVIDENCE
3 THAT THE DEFENSE PLANS TO INTRODUCE IN THIS
4 CASE. THE NEXT STEP IN THE TRIAL IS FOR
5 COUNSEL FOR THE DEFENDANTS TO GIVE YOU THEIR
6 CLOSING ARGUMENTS. AND IN VIEW OF THE HOUR,
7 THE CLOSING ARGUMENTS WOULD RUN FAIRLY CLOSE TO
8 6 OR 6:30, AND SINCE I AM IN A RELATIVELY GOOD
9 MOOD, I'M GOING TO LET YOU GO EARLY TODAY AND
10 WE'LL START THE CLOSING ARGUMENTS TOMORROW.
11 HOPEFULLY WE CAN GET ALL THREE OF THE CLOSING
12 ARGUMENTS IN BEFORE LUNCH, AND I'LL GIVE YOU
13 YOUR INSTRUCTIONS ON THE LAW FOLLOWING THE
14 LUNCH HOUR TOMORROW. YOU'LL BE ASLEEP WHEN I'M
15 TALKING, PROBABLY, BUT I CAUTION YOU AGAIN TO
16 KEEP AN OPEN MIND, DO NOT DISCUSS THIS CASE,
17 EVEN AMONG YOURSELVES. YOU WILL NOT BE IN A
18 POSITION TO DISCUSS THIS CASE INTELLIGENTLY
19 UNTIL AFTER YOU'VE HEARD MY INSTRUCTIONS ON THE
20 LAW. ENJOY YOUR EVENING, AND YOU'RE EXCUSED
21 FOR THE DAY.

22 THE TIPSTAFF: WATCH YOUR STEP, PLEASE.

23 (THE JURY LEFT THE COURTROOM.)

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25 MR. MOORE: YOUR HONOR, THERE'S A

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SEPARATION ORDER OF MY CLIENT BASED ON EARLIER
DISCUSSIONS. SINCE THEY ARE FRUITLESS, I WOULD
ASK THAT THE SEPARATION ORDER BE DISSOLVED.

THE COURT: MR. PERKINS.

THE COURT CLERK: YES, SIR.

THE COURT: CAN WE ACCOMPLISH THAT?

THE COURT CLERK: YES, SIR.

(COURT ADJOURNED)

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CERTIFICATE

I HEREBY CERTIFY THAT THE PROCEEDINGS AND TESTIMONY TAKEN BY AND BEFORE ME ARE CONTAINED FULLY AND ACCURATELY IN THE NOTES OF TESTIMONY, AND THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE SAME.

Bonnie Smith

BONNIE SMITH
COURT REPORTER

July 2, 1999

DATE