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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

STATE OF MARYLAND,

vs. Indictment No. 199103042-46

ADNAN MASUD SYED,

Defendant.

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Trial on the Merits)

Baltimore, Maryland

Friday, February 4, 2000

BEFORE:

HONORABLE WANDA KEYES HEARD, ASSOCIATE JUDGE
(and a jury)

APPEARANCES:

For the State:

KEVIN URICK, ESQ.
and
KATHLEEN C. MURPHY, ESQ.

For the Defendant:

M. CRISTINA GUTIERREZ, ESQ.

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CRIMINAL APPEALS DIVISION
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PROCEEDINGS

(Jury not present upon reconvening.)

THE CLERK: All rise. The Circuit Court for Baltimore City, Part 9, is now in session, the Honorable Wanda Keyes Heard presiding.

THE COURT: Please be seated. Good morning, everyone.

MR. URICK: Good morning, Your Honor.

MS. MURPHY: Good morning.

MS. GUTIERREZ: Good morning, Judge.

THE COURT: Are there any preliminaries, anything we need to discuss? I can tell you that my secretary is preparing a schedule for next week. It appears that I have one case almost every day of next week. In other words, one case on Tuesday, Wednesday, Thursday and Friday, which means that we should be able to get started around 10:00, 10:30, about this time each day next week. She is also including the end time for each day. It appears that there is Wednesday when I have a moot court competition that is taking place in this courtroom at 5:00. So we would have to end at 4:30, a quarter of 5:00, and she is indicating those end times. So we will have that for you and we will have it for the jury as well.

Anything else?

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MR. URICK: There are two matters this morning, Your Honor.

THE COURT: Yes.

MR. URICK: To follow up when we left off last night on Ms. Watts, I indicated I might want to come in and revisit.

THE COURT: Yes.

MR. URICK: I'm not going to, but I want to make the record clear that we object to the court's ruling, so we preserve our right to appeal. I would just like the record to reflect that we broke at 5:30 last night. I attempted to research the law, however, when I went to our library which is in this building. This building closes at 7:00. I didn't have more than a half hour to do that. I'm not conceding the point. We are still opposed and object to the court's ruling. I just wanted the record to reflect that.

THE COURT: Yes.

MR. URICK: I would point out that the statute indicates that there is a waiver if the client introduces the client's mental condition as an element of the defense. We reserve the right to revisit this in rebuttal.

THE COURT: In rebuttal, yes.

MR. URICK: Yes, you know, if he --

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THE COURT: Opens the door to that himself.

MR. URICK: Yes.

THE COURT: Yes.

MR. URICK: So that's all I want to say on that issue. The second thing is, we still will need to voir dire Juror Number Four or Alternate Number Four on Mr. Wilds.

THE COURT: I was going to suggest we do that at the luncheon recess if that's all right. It's the alternate. Is that witness going to testify this morning?

MR. URICK: It's possible.

THE COURT: All right. Then we will take a break before that witness testifies to make sure that we voir dire the juror before that witness testifies.

MR. URICK: All right.

THE COURT: In other words, in terms of how far we go this morning, if it's after lunch, we will have already spoken to Alternate Number Four because we will do it at the lunch break. If it's before lunch, we will send them to stretch their legs while we talk to Alternate Number Four.

Okay. Is that acceptable to the defense?

MS. GUTIERREZ: That's acceptable, Your Honor.

THE COURT: Okay.

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MS. GUTIERREZ: I have one other matter I brought to your clerk's attention, and I appreciate the assistance your office gave in regard to a case that was set this morning before Judge Ward.

THE COURT: Postponement court at 11:30.

MS. GUTIERREZ: That's the message I got, and I frankly don't understand why I have to be there since it's a misdemeanor case and it's already been postponed and has a new date, but that was the message, the fax message that I got from Judge Ward.

THE COURT: We'll break at 11:30 and allow you to go down and see Judge Mitchell. A few minutes before, I'll have my staff call down. Ms. [redacted] can you call down to Judge Mitchell at about 11:15 and let him know that I'm sending Ms. Gutierrez downstairs, and there will be a request from this court that he try to handle whatever that matter is so that she can return. Actually, that might be a good time to voir dire Juror Number Four after you get back.

In any event, I don't have any appointments at lunch today, no bench conferences, no bench meetings, so we should be able to move along today. I'm going to ask if there are any other preliminary matters. If not, I'll bring the jury out.

(No response.)

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THE COURT: Very well. Thank you. Bring them around.

(Brief pause.)

THE COURT: Who is the witness that you are going to be calling once the jury is assembled?

MS. MURPHY: Ms. Inez [redacted]. She is right outside. I can go and get her.

THE COURT: Yes, why don't you have her come in and have a seat in the witness box until the jury arrives.

MS. MURPHY: Okay.

MR. URICK: Could we get the court's laser pointer at this time?

THE COURT: You may borrow the court's laser pointer again.

MR. URICK: Thank you. We appreciate that, Your Honor.

(Brief pause.)

(The jury returned to the courtroom.)

THE COURT: Please be seated as you reach your respective seats. Good morning, ladies and gentlemen.

THE JURY: Good morning.

THE COURT: Once again, you are back in Part 9. We are ready to resume this trial. The State is going to be calling its next witness as soon as Ms. Murphy gets

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her easel in place there.

(Brief pause.)

MS. MURPHY: Thank you, Your Honor. At this time, the State would call Ms. [redacted].

THE COURT: Ms. [redacted], I need you to stand, please, face Mr. [redacted], who will render the oath to you. I need you to raise your right hand, Ms. [redacted].

INEZ [redacted]

a witness produced on call of the State, having first been duly sworn according to law, was examined and testified as follows:

THE CLERK: You may be seated. Please keep your voice up. State your name and your address for the record.

THE COURT: And your name is?

THE WITNESS: My name is Inez [redacted].

THE COURT: And your work address?

THE WITNESS: 1801 Woodlawn Drive, Woodlawn High School.

THE COURT: Thank you very much. You may proceed.

MS. MURPHY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. MURPHY:

Q Ms. [redacted], what is your occupation

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A I'm a teacher, and I'm also an athletic trainer.

Q And how long have you been doing that?

A Ten years.

Q Have you been at Woodlawn High School all of those ten years?

A At Woodlawn High School ten years. I have taught in Baltimore County more than ten years, but at Woodlawn High School for ten years.

Q What sort of classes do you teach?

A I teach SAT, which is scholastic aptitude testing, preparation for the SAT test itself.

Q What do your duties involve as an athletic trainer?

A My athletic duties include treatment of all athletes' injuries, and treatment prevention for athletes.

Q Do you know the victim in this case, Ms. Hae Min Lee?

A Yes, I do. Yes, I did.

Q How long have you known her?

A Since her ninth grade year.

Q Can you please describe your relationship with Ms. Lee?

A We were friends.

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Q And how did you get to know her?

A I met her, her ninth grade year, when she came to Woodlawn looking for the field hockey coach, Ms. [redacted], which wasn't at the first practice on time.

Q And your relationship progressed from there?

A Yes.

Q Would you describe Ms. Lee as a scholar athlete?

A Yes, I would.

Q What does that term mean?

A It means that you have played a sport for more than a year and you have lettered in that sport and your grade point average is, according to Baltimore County, at a certain level which is at least a 3.0 or better.

Q When you say lettered in a sport, what do you mean by that?

A When you letter in a sport, you play the sport for a complete year. Then at the end of the season we have what we call an athletic award banquet. We award the student their letter. They actually get a letter -- it's a "W" for our school, it's a "W" for Woodlawn -- and they get like a pin. Whatever sport you are playing, you get a pin for that particular sport.

Q What sport of athletics did Ms. Lee participate in?

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A She played two sports. She played field hockey and lacrosse, girls lacrosse.

Q And would you say that she excelled in those sports?

A Yes, she excelled because she had made all-county and all-metro.

Q At the time of her disappearance, had she received any special recognition as a star athlete?

A Yes, she had. The Baltimore County School Board had come out, the Athletic Department, had come out to tape her for this particular award. Whenever the student has excelled and met all the qualifications for Baltimore County, then they do a taping session which is aired on the Baltimore County Educational Network. And they came out that particular day to tape her in her uniform, and at a later point they get like a gold medal and other certificates and awards from Baltimore County.

Q Do you also know the defendant, Adnan Syed?

A Yes, I do.

Q How long have you known him?

A At least since his tenth grade year.

Q Did at some point you become aware of a relationship between Ms. Lee and Mr. Syed?

A Yes, I did.

Q Can you describe that?

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A It was a real friendly relationship.
Q Did either of them confide in you about their relationship?
A On numerous occasions.
Q Were there any problems you were aware of?
A Yes, there were.
Q Can you describe that?
A I knew because they had told me that their families were unhappy with their relationship.
Q Did they elaborate as to why?
A They were not allowed to be together, and basically what I was told was because of religious reasons.
Q Did you also become aware at some point they broke up --
A Yes.
Q -- for good?
A Supposedly.
Q Were you aware as to whether Ms. Lee was involved in any other relationships at that time?
A Yes.
Q Do you recall approximately when that was?
A It was right after she got her job at Lens Crafters at Owings Mills Mall.
Q Okay. Did the defendant ever talk to you about

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his feelings for her after she began seeing this other person?

A He just told me that it was over with, that they were friends.

Q Did you recognize Ms. Lee's car?

A Would I recognize it?

Q Have you ever seen it?

A I have been in it.

MS. MURPHY: Okay. May I approach the witness, Your Honor?

THE COURT: Yes.

BY MS. MURPHY:

Q I show you what is in evidence as State's Exhibit 12, and I will ask you to look at the two bottom photographs.

A Okay.

Q Do you recognize that vehicle?

A Yes.

Q Whose vehicle is it?

A It's Hae's car.

Q And this is the car that you personally have been in?

A Yes, I was.

Q Have you ever observed the defendant, Mr. Syed, in her car?

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A Yes, I have.

Q And to your knowledge, did he ever drive that car?

A Yes.

Q So that wasn't an unusual occurrence?

A No.

Q To your knowledge, was Mr. Syed on the track team at school?

A Yes, he was.

Q And did you have occasion to observe the students who participated on the track team?

A Yes.

Q How is it that you saw them?

A I would see them when they came either to get my keys to open up their team room because Mr. [redacted] wouldn't allow the kids to take his keys, and I had keys to all the team rooms. I would see him when he came to practice because most of the time he would come by and talk to me, or I would see him because we have a concession stand in the gym lobby also and I would see him when he would come and purchase things from the concession stand.

Q What time would track practice generally occur?

A Track practice would start after study hall, and study hall started from 2:15 to 3:00, and they had to

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be at practice at least by 3:30.

Q Did you have any sense as to the defendant's attendance at track practice?

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

BY MS. MURPHY:

Q Are you aware, Ms. [redacted], if the defendant consistently went to track practice?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

THE WITNESS: There were times that he didn't come.

BY MS. MURPHY:

Q What would happen if he didn't go to track practice?

A Unlike other sports --

MS. GUTIERREZ: Objection.

THE COURT: Sustained. Can you ask the witness or determine a foundation basis of knowledge for this information. She has not indicated any relationship to the track team or training or practice or anything related to that.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q Ms. [redacted], were you actively involved with the

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track athletes?

A I was involved with all athletes at Woodlawn High School in the capacity that I am the athletic trainer for the entire Athletic Department.

Q And how would that relate specifically to the track athletes? What would you do with them?

A I have athletes on the track team that have shin splints, and I have to do regular treatments for them. I have athletes that have pulled muscles. I usually check by to see whether or not there is an athlete that needs any type of treatment. We have training tables on both sides. There is a training table on the girls' side and there is a training table on the boys' side. So anyone who wants treatment during that day, I will check. Then I will check by all the team rooms and make sure they are locked because we had a lot of theft going on. So I will make sure, and I have to lock the team rooms up every day and make sure the locker rooms are clear.

Q So is it fair to say that you were involved one on one with most all athletes including the track athletes at Woodlawn High School?

A I think I can tell you every athlete that I have seen because a lot of times kids come in and try to get in the gym after school, and I would tell them you

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are not an athlete, you need to leave.

Q Now, in some sports, is it true there were ramifications if you missed practices?

A Some sports.

Q Is that true for track?

A No. If it was basketball and you missed a practice, you didn't play or either you didn't start.

Q How many students participated on the track team?

A Depending on the season, if it's cross-country, you may have maybe twenty. Cross-country is the long distance running, and a lot of kids don't get involved in the long distance running. If it's indoor track, that's a different sport. There are more activities involved in indoor track and you have more events. So you would have anywhere from forty-five to sixty kids. It's the same thing with outdoor track but not cross-country.

MS. MURPHY: Your Honor, at this time I would like to ask Ms. [redacted] to step down from the stand and come around to the map. I would like her to identify the location of Woodlawn High School.

THE COURT: Yes, she may do that.

MS. MURPHY: And, Ms. [redacted], if you could stand to this side so the jurors may see.

THE WITNESS: (Indicating.)

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BY MS. MURPHY:

Q I have got a sticker here with the letter "W" standing for Woodlawn High School. If you could study the map and then place that sticker at the location of the high school.

A (Indicating.)

MS. MURPHY: Thank you. You may return to the witness stand. Your Honor, if I may place a piece of tape over that sticker --

THE COURT: Yes, you may.

MS. MURPHY: -- to permanently affix it. (Indicating.) Thank you.

BY MS. MURPHY:

Q Ms. [redacted], do you recall the date of Ms. Lee's disappearance?

A The date? It was the same day that she was being taped for the Baltimore County Scholar Athlete award.

Q Did you see her that day?

A Yes, I saw her that day because she came to my classroom, and I was in the middle of teaching, and she needed to get her uniform in order to be taped for the show, which she was supposed to get the day before, and she came to my classroom and I had to give her my school keys to go unlock the room to get her uniform out.

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Q Do you recall what Ms. Lee was wearing on that day?

A A little short black skirt, light colored blouse, and some real high black heels.

Q Okay. Did she have anything on her legs?

A She had some nylon stockings, but they weren't colored stockings, they were just clear stockings.

MS. MURPHY: May I approach the witness, Your Honor?

THE COURT: Yes, you may.

BY MS. MURPHY:

Q Now, Ms. [redacted], I apologize for asking you to do this, but I'm going to ask you to examine a State's exhibit that is in evidence. Do you recognize the articles of clothing?

A Yes.

Q Were those the same clothes that Ms. Lee was wearing --

A Yes.

Q -- the day she disappeared?

A Yes.

THE COURT: Can we have the exhibit number of the item that you showed?

MS. MURPHY: Yes, Your Honor. That's State's Exhibit 12.

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THE COURT: For identification purposes, or is it in evidence?

MS. MURPHY: I'm sorry. State's Exhibit 11, which is in evidence.

THE COURT: All right. Very well.

BY MS. MURPHY:

Q Did you see her later in that day?

A Yes.

Q Tell us what happened then?

A She was also a manager for the wrestling team, and she had done that several years, and she was real good at the scoring and she traveled with the wrestling team. That particular day she came up real quickly to the concession stand and got a few items and told me she would pay for them later and said she had to get to her cousin to pick up her cousin from, I think it was middle school or elementary school, one of the two. But she said it wasn't that far and that she would be back. And I kept reminding her what time the bus was leaving because the bus had to go to Chesapeake because it was a tri-meet and they had to get there on time.

Q About what time of day was this?

A It was about 2:15, 2:20.

Q And where physically in the school did this happen?

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A In the gym lobby, and that's right in front of the gym. It's inside the gym but it's right in front.

Q And this was a concession area?

A Concession stand.

Q Did Ms. Lee wait in line at the concession stand before she spoke to you?

A No.

Q How do you know that?

A Because she went right back there and got it like she usually does, and then she usually comes back and pays you when she gets back. She was always in a hurry.

Q What time would she have to be back to go to the wrestling meet?

A The team was leaving that day at 5:00. They had a 6:30 meet. And she said, I'll be back before 5:00.

Q And how is it that you are certain she didn't come back?

A I know she didn't come back because I had to end up going with the track team to Chesapeake to score the game.

Q Was that the track team or the wrestling team?

A I mean the wrestling team.

Q Did you speak to the defendant after Ms. Lee's disappearance?

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A Yes.

Q What, if anything, did he indicate to you about their relationship around the time she disappeared?

A After she had already been found? I don't know which time.

Q At any point.

MS. GUTIERREZ: Objection.

THE COURT: One moment. May I see counsel at the bench.

(Counsel and the defendant approached the bench and the following ensued:)

THE COURT: The basis of your objection.

MS. GUTIERREZ: The broadness of it, adding at any time. You know, I don't know what this witness is going to say or any particular time that it's related to.

THE COURT: And you all have me at a distinct disadvantage because I don't know what the witness is going to say. I don't know if this witness testified the last time.

MS. MURPHY: She did.

THE COURT: You all might have an idea but I have no idea what she is going to say.

MS. GUTIERREZ: Yes.

THE COURT: And are these statements general statements that had been previously disclosed to the

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defense through the previous testimony or --

MS. MURPHY: Yes.

THE COURT: Okay. Well, again, you see, I'm at a disadvantage. I have no way of knowing what it is that the --

MS. MURPHY: Yes. What the witness will --

THE COURT: You don't have to comment.

MS. MURPHY: Okay.

THE COURT: I'm just saying, as long as you focus the witness so that we know what timeframe you are asking.

MS. MURPHY: Okay.

THE COURT: If there are several statements, that you focus the statement like before, right after, you know, or before she disappeared.

MS. MURPHY: Okay. I'll ask her the timeframe.

THE COURT: Okay.

MS. MURPHY: I'll just ask her when she had a conversation before I ask her what it actually entailed.

THE COURT: Why don't we ask her how many times have you had a conversation, when was the first conversation, and then she can tell you when was the second conversation.

MS. MURPHY: Okay.

THE COURT: That way Ms. Gutierrez, should she

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have objection, the timeframe, we will know which timeframe you are referring to before the witness even testifies. And, again, if you could direct her in that way so that at least I have an idea of what timeframe, and Ms. Gutierrez, if she has an objection, I can rule on that objection at that time.

MS. MURPHY: Okay.

THE COURT: I would appreciate that.

MS. MURPHY: Okay.

THE COURT: Thank you.

(Counsel and the defendant returned to the trial tables and the following ensued:)

THE COURT: All right. You can re-ask your last question. I'm going to ask Ms. [redacted], if you will listen closely to the question and answer the question only.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q Did there come a point where you spoke with the defendant about Ms. Lee after her disappearance?

A Yes.

Q On how many occasions did you speak with him?

A At least twice.

Q And when was the first time?

A The first time was when I asked him if he was

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going to her memorial.

Q What did he tell you?

A No.

Q Did he explain that?

A Because of the different religion.

Q And the second time, do you recall when that was?

A It was on a Friday. I had just come from picking up my daughter, and it was right in front of the loop of the school.

Q Do you recall the time period, what month?

A First of all, let me tell you what time. It had to be after 3:00 because I pick my daughter up at that time, at a quarter of 3:00, and usually to get back from John Paul to Woodlawn, it takes me about ten minutes. So it would have to have been like probably around 3:00.

Q Okay. Do you recall, was this before or after Ms. Lee's body had been discovered?

A After.

Q What did your conversation with the defendant entail at that point?

A I pulled around the loop and, as usual, he would come up to the car if he saw me, and he spoke to me. And I probably did something I probably shouldn't

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have done but I said, I just got through talking to the detective and they really have feelings about you and they think that you are guilty.

Q And what, if anything, did he say to you?

A He said, my last memories of her are bad.

Q Did he elaborate what he meant by that?

A He said, we had a fight.

Q Did he tell you what the fight was about?

A And I said -- can I tell you what I said?

MS. GUTIERREZ: Objection.

THE COURT: Overruled. All right. Ma'am, I need you, as I said to you at the outset, to listen to her question.

THE WITNESS: Okay.

THE COURT: All right. And answer her question.

THE WITNESS: Okay.

THE COURT: She may ask you then to say what you said.

THE WITNESS: Okay.

THE COURT: But she gets to ask the questions in the order she chooses to.

THE WITNESS: Okay.

THE COURT: Okay?

THE WITNESS: Okay.

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THE COURT: And Ms. Gutierrez will get to do the same.

THE WITNESS: Okay.

THE COURT: All right. And I need you to listen to her question. Her question was, what did he say, correct?

MS. MURPHY: If I may rephrase.

THE COURT: Unless you want to take that question back and ask her another question.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q What did you say? Since you initiated this conversation, what did you say next?

A Can you start again, please? I'm sorry, I'm a little bit --

THE COURT: You can start over again.

THE WITNESS: Okay.

THE COURT: You pulled up in the loop.

THE WITNESS: Right.

THE COURT: He came over to the car.

THE WITNESS: Right.

THE COURT: And you said something to him.

THE WITNESS: Right.

THE COURT: And he responded.

THE WITNESS: Right.

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THE COURT: There was a fight.

THE WITNESS: Right.

THE COURT: What was the next thing you said?

THE WITNESS: Oh, no, sweetheart, not a fight.

BY MS. MURPHY:

Q And did he respond?

A Not a fight. That's what I was going to say, not a fight, we had an argument. And I said, about what? And he said, about being my date to the prom.

Q Was there anymore conversation after that?

A My daughter talked to him for awhile because she knew him.

Q Is that the last discussion you had with Mr. Syed --

A Yes.

Q -- regarding Ms. Lee?

A Yes.

MS. MURPHY: The court's indulgence, please.

(Brief pause.)

MS. MURPHY: Your Honor, at this point I would just ask that the record reflect that the witness identified in State's Exhibit 11 the clothing that was worn by Ms. Lee at the time of the disinterment of the body as being the clothing she was wearing on the day she disappeared.

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The State has no other questions at this time.

THE COURT: Very well. Let the record reflect that that identification has been made. If you could pass me that exhibit, I would appreciate it. That's Exhibit Number 12, I believe.

MR. URICK: I believe it's 11.

MS. MURPHY: 11.

THE COURT: 11. May I have that? Thank you. And for the record, counsel, can you tell me which photograph? I'm assuming you showed the bottom right photograph.

MS. MURPHY: That's correct, Your Honor.

THE COURT: There are four photographs and the bottom right photograph was the one shown to the witness. Very well. Thank you. You may proceed, Ms. Gutierrez.

CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q Ms. [redacted], you have told us you knew Hae, correct?

A Correct.

Q And you called her a friend?

A Yes.

Q Is that correct?

A That is correct.

Q She was a student in your school?

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A That is correct.
Q And an athlete under your direction?
A That is correct.
Q And you referred to her as a friend of your's, correct?
A Correct.
Q Did you ever socialize with her outside of school?
A Yes.
Q And was that an appropriate measure of your relationship, the fact that you socialized out of school?
A Yes.
Q Your daughter that you picked up from another school, you did that everyday?
A Everyday.
Q And your daughter is how old?
A Ten.
Q All right. And your daughter knew the students that you considered to be friends; did she not?
A Yes.
Q Hae Lee was not the only student that you would classify as a friend, was she?
A That is correct.
Q And there were many students that you got close to in the course of the myriad of your duties?

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A Too many.

Q Is that correct?

A Correct.

Q And you took your job very seriously?

A Yes, I do.

Q And after school, once you got back from picking up your daughter, you, on a daily basis, had an awful lot of things to do --

A That is correct.

Q -- that concerned a large number of students?

A That is correct.

Q And concerned usually more than one sport at a time?

A That is correct.

Q It was not unusual at Woodlawn for Woodlawn to have several different sporting events both at the school and elsewhere on the same day?

A That is correct.

Q And you had to be concerned with all of the students participating in all of those events?

A That is correct.

Q And you had to sort of man and make sure that things like the lockers were secure?

A That is correct.

Q And that anyone who didn't belong there,

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student or adult, something was done about it?

A Yes. That's why I had a walkie-talkie.

Q Okay. And on that walkie-talkie, you communicated with other adults?

A Right.

Q Members that worked for the school?

A That is correct.

Q And also shared with you the responsibility for ensuring the safety of the athletes?

A That is correct.

Q And ensuring that others didn't interfere with them?

A That is correct.

Q And in addition to that, you had overall fundamental responsibility for every single athlete in every single sport --

A That is correct.

Q -- or competitive program?

A Okay.

Q That the school had in every sport or competitive program?

A But what did -- can you ask that question again?

Q No, I'll ask another.

A Okay.

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THE COURT: Ms. Gutierrez, you may ask your questions in whatever order. And it is all right, if you do not understand a question, to ask that the question be repeated --

THE WITNESS: Okay.

THE COURT: -- or to say I don't know --

THE WITNESS: Okay.

THE COURT: -- or in any way respond. All right. So what you did was the right way to handle that.

THE WITNESS: Okay.

THE COURT: Very well. You may continue.

BY MS. GUTIERREZ:

Q You knew Adnan Syed as one of the athletes that you were responsible for also; did you not?

A Yes, I did.

Q And that was back in January of 1999, his senior year; was it not?

A Yes.

Q And you had known him then at least from the time he was a sophomore?

A At least.

Q And he was also a scholar athlete; was he not?

A I have to say that I couldn't consider him, according to Baltimore County, as a scholar athlete.

Q Well, were you aware, Ms. [redacted], that his

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average was always above 3.0?

A I was aware of that when you brought that to my attention the last time, but I'm just saying according to the criteria that Baltimore County gives us, a student would not have been evaluated for scholar athlete until the completion of the season.

Q So the completion would have been after he was arrested?

A Yes.

Q And that didn't happen in 1999?

A No.

Q Correct?

A Yes.

Q You are aware that he lettered in football in the fall of that same school year, in the fall of 1998?

A He received a varsity letter.

Q Okay. So the answer to my question is yes?

A Yes.

Q You were aware that he lettered --

A Uh-huh.

Q -- in football at Woodlawn that very same school year?

A Yes.

Q Okay. And did you consider Adnan to be a friend?

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A Yes.

Q Did you socialize with him outside of school?

A Yes.

Q And you were aware of the relationship between Hae Min Lee and Adnan Syed; were you not?

A Yes.

Q And you were aware that that relationship was more than just friends at school?

A Yes.

Q You were aware that they were girlfriend and boyfriend with each other; were you not?

A Yes.

Q And you became aware of that, when they became girlfriend and boyfriend, the previous spring around the time of the junior prom?

A Yes.

Q And you were aware of some of the ups and downs of their relationship; were you not?

A Yes.

Q You were aware before they even began to talk to you that there were difficulties, that neither family really knew or approved of the relationship; were you not?

A Well, no, not before they talked to me about it.

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Q And they talked to you because you were very open with them as a teacher; were you not?

A Yes.

Q It's not unusual for students to come and bring any issues or problems they had to you and ask for your input; was it?

A No, it wasn't.

Q And there was nothing unusual about Hae and/or Adnan doing that?

A No.

Q And they both actually came to you at different times; did they not?

A Yes.

Q And everytime you spoke to them, they were essentially, although they had different perspectives, bringing the same information to your attention; were they not?

A Basically, yes.

Q And what they said about their relationship and their feelings about each other was consistent as between one and the other; was it not?

A Can you re-ask that?

Q What Hae said was consistent with what Adnan said; was it not?

A Yes.

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Q And what Adnan said was consistent with what Hae said; was it not?

A Yes.

Q These young people were agonized over their families' reaction to the relationship; were they not?

A Yes.

Q And they were agonized that the religious differences might tear them apart?

A Yes.

Q And there were times when they took breaks from each other; was there not?

A (No response.)

Q From the relationship?

A Yes.

Q And you were aware that even throughout those times, from the beginning of their relationship, that they were friendly and loving to each other?

A Yes.

Q And you were aware from each of them by the fall of 1998, that they were continuing in the relationship?

A Yes.

Q Notwithstanding their parents' objections?

A Right.

Q And notwithstanding their religious

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differences?

A Correct.

Q And that they continued to be very loving to each other?

A Yes.

Q You were aware of the incident that occurred at the homecoming dance; were you not?

A Yes.

Q And that dance occurred, I believe, in late October --

A Yes.

Q -- of 1998?

A That is correct.

Q And that the incident involved the two of them and Adnan Syed's parents?

A That is correct.

Q And you were aware that subsequent to homecoming, that the two of them continued to see each other?

A (No response.)

Q Are you not?

THE COURT: She's thinking.

THE WITNESS: I'm thinking. I'm trying to think, because after the homecoming dance, I didn't basically see them together.

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BY MS. GUTIERREZ:

Q So you weren't aware of whether or not they were still together after that time?

A No.

Q So as far as you were concerned, your two friends could have split then and never been girlfriend and boyfriend after that?

A Boyfriend and girlfriend, yes; but still friends, yes, because they would tell me that they were still talking to each other but they weren't allowed to be seen together.

Q To be seen together --

A Right.

Q -- or to pursue the relationship that they both appeared to you, from your conversations with each of them, to be committed to?

A Right.

Q And so it could very well be possible that they didn't consider themselves girlfriend and boyfriend as far back as late October, 1998?

A No, not then.

Q Not then?

A Because they were still seeing each other then because we had football games and I remember Hae actually going to the football games and standing on the sideline

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at the football games.

Q At the football games --

A Yes.

Q -- in which Adnan played?

A Adnan was on the team.

Q Adnan was on the Woodlawn team, right?

A Right.

Q And so he played as a football player?

A In some games.

Q In some games. And you were aware, when you were aware that Hae was there, that she was there to celebrate her boyfriend?

A Correct.

Q And you were made aware of that by both her sayings and by her actions, correct?

A That's correct.

Q So to the best of your recollection, notwithstanding the incident at homecoming, they remained girlfriend and boyfriend after that event?

A Yes.

Q All right. And because of your teaching, you would be in the school proper, not the gym, during the day; would you not?

A I only teach one class.

Q All right. Would it be unusual for you to see

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them in the rest of the school?

A No, it wouldn't.

Q And would you see them sometimes on a daily basis?

A Yes, I would.

Q And did they always appear to be friendly and caring about each other?

A Yes.

Q And was that true even during times when you were aware from each of them that they were most pained about their relationship?

A Yes.

Q And, Ms. [redacted], did you ever give them advice about their relationship?

A Yes.

Q Did you ever tell them that perhaps they shouldn't see each other and let it go?

A Yes.

Q And you told them that on more than one occasion; did you not?

A A lot of times.

Q A lot of times?

A Right.

Q And they listened to you; did they not?

A No.

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Q They didn't stop their relationship, right?
A No.
Q Even though it pained them?
A Yes.
Q And even though it seemed to pain the people around them?
A That is correct.
Q Is that correct?
A Yes.
Q And was there ever a time when you ever heard either of them trash each other verbally?
A No.
Q Blame the other for what was the source of their pain?
A No.
Q From either of them --
A No.
Q -- toward the other?
A No.
Q Okay. And you were aware that others were aware of their relationship; were you not?
A Yes, I was.
Q And that included teachers?
A Yes.
Q And that included teachers that knew both of

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them?

A Yes.

Q And to whom they had also spoken with?

A Yes.

Q And sought advice?

A I don't know if they sought advice but I knew that --

Q That they had brought at least their issues to other adults in the school?

A Yes.

Q And you were also aware that others who followed the track of this relationship were a number of students?

A Yes.

Q And that number of students include other scholars, other athletes, and other scholar athletes?

A And non-scholar athletes.

Q And non-scholar athletes.

A Okay.

Q Right?

A Yes.

Q Other students?

A Other students.

Q Is that correct?

A Yes.

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Q And other students would speak openly about their relationship; would they not?

A Yes.

Q Adnan, as far as you knew, was a popular young man in his class; was he not?

A Yes, he was.

Q But that before he hooked up with Hae Min Lee, that he had not dated, and that was known?

A Yes.

Q He was viewed as a very attractive young man before then?

A Yes.

Q Was he not?

A Yes, he was.

Q And that there were many girls who were interested in him who did not hook up with him as a girlfriend because of his faith?

A Yes.

Q That his commitment to his Muslim religion was known and respected by other students?

A Yes.

Q Was it not?

A Uh-huh, yes.

Q And that his hooking up with Hae Min Lee was sort of a surprise to everybody; was it not?

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A A big surprise.
Q Because he had been so adamant that dating was something that he wouldn't do because his religion didn't allow it; is that correct?
A Well, it was never told to me that that's why he didn't do it, but I mean --
Q But you understood that?
A Yes.
Q Did you not?
A Yes.
Q Not just from him but from others, correct?
A Yes.
Q And on the basis of your knowledge of him, you had never known him to date anyone before he went out with Hae Min Lee, had you?
A That is correct.
Q And you were aware that he was a Muslim; were you not?
A Yes.
Q And there were other Muslims at the school?
A Yes.
Q Were there not?
A Yes.
Q And you became aware that the Muslim religion, the religion of Islam, forbade those students to do

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certain things that other students did?

A That is correct.

Q You were aware that other Muslim students also, like Adnan, violated their religious tenents and dated others; were you not?

A No, I don't know of any other Muslims that dated.

Q So your experience was that the Muslims at school didn't date?

A I don't know that they don't date, but I'm saying that I know that they hang with other kids at school but there are certain kids that when I talk to them, that are Muslims, that just point blank come up to me and say I wish I could do this but I can't, you know.

Q Because of their religion?

A Right.

Q And you respected that; did you not?

A Yes.

Q And other students at the school seemed to respect their Muslim colleagues and their decisions; did they not?

A Yes.

Q And no other interfaith couple at that time sought your confidence as a teacher and an adult about their relationship; did they?

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A No.
Q Okay. Now, you used the words that they both confided in you. Do you recall that?
A They both talked to me.
Q Okay. But you chose the word confided; did you not?
A I don't remember.
Q Okay. Well, they spoke freely to you; didn't they?
A That I remember you saying, yes.
Q They spoke to you, each of them, about what was in their heart for the other; did they not?
A Yes.
Q And they sought you out; did they not?
A Yes.
Q And each of them appeared to know that the other also sought you out; did they not?
A They knew it.
Q They knew it, right?
A Uh-huh.
Q And they didn't appear to be hiding things from you; did they?
A No.
Q And, in fact, you got the distinct sense that they shared with you things that neither of them could

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share with others?

A A lot of things.

Q And that they couldn't share those things with their own families?

A That is correct.

Q And that they were pained by the secrecy?

A I don't know if they were pained by it, but I know that they told me things that happened or supposedly happened that nobody else should know.

Q Well, they were not happy that their families were unhappy with them about this relationship; were they?

A I think Adnan talked to me about his mother and father not being happy about it. But Hae, on the other hand, she was different, and if Hae --

Q Hae wasn't a Muslim, right?

A No. And if she wanted to do something, she did it.

Q She did whatever she wanted to do?

A Yes.

Q She was a pretty determined young woman; was she not?

A Yes.

Q She was not somebody that you would call shy or laid back?

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A No.
Q Hae spoke her mind?
A Yes.
Q Did she not?
A Yes.
Q To whomever?
A Yes.
Q If Hae felt something was going on, she would go up to that person; would she not?
A I think so.
Q If she felt strongly about it?
A I think so.
Q And Hae felt very strongly about people's conduct; did she not?
A I don't know if I can answer that about conduct.
Q Was Hae a person you would describe as a particularly popular girl?
A Very popular.
Q And was she well-liked?
A Very well-liked.
Q Was she resented by anyone?
A Not that I know of.
Q Was she thought to be stuck up at all?
A Not at all.

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Q And was she aware of her popularity?
A Yes.
Q And did she take it seriously?
A I don't know how --
Q Did she appear to have any --
MS. MURPHY: Objection.
THE COURT: Objection to the previous question or the next question?
MS. MURPHY: No. I believe that she was still speaking when she --
MS. GUTIERREZ: She answered the question, I don't know.
THE COURT: Were you finished with the question?
(No response.)
THE COURT: Were you finished answering Ms. Gutierrez's question?
THE WITNESS: I'm saying I didn't know. What I was saying, I don't know that she objected to being popular, and I was going to say because that just was her and the way that she behaved, and she just did stuff for people all the time. So I don't know if she objected to it. I think she liked it.
THE COURT: Okay. When you are --
MS. GUTIERREZ: I will ask another question,

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Judge.

THE COURT: One moment, please. When you are asked to respond to a question, what we need you to do is respond to the best of your knowledge and belief. If it's something you are guessing at --

THE WITNESS: I said that I didn't know.

THE COURT: And that's all that we need you to say, is I don't know.

THE WITNESS: Okay.

THE COURT: That's a fine response.

THE WITNESS: Okay.

THE COURT: If you know the answer, then you indicate the answer.

THE WITNESS: Uh-huh.

THE COURT: If you can't answer the question, you can say I can't answer the question.

THE WITNESS: Okay.

THE COURT: Now, with regard to your objection, it's overruled. The answer was, I don't know.

MS. GUTIERREZ: Thank you, Your Honor.

THE COURT: Your next question, Ms. Gutierrez.

BY MS.GUTIERREZ:

Q Ms. [redacted], you just said that Hae dissed other people; did you not?

A I didn't say she dissed them.

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Q Well, then I misheard. What is it you said? What did she do to other people?

A (No response.)

Q Oh, did stuff with other people.

A Yes.

Q Okay. Then was she fairly interactive with other students?

A Yes.

Q And other students appeared to freely interact with her?

A Yes.

Q Were you aware of a Woodlawn student by the name of Jay Wilds?

A Yes.

Q And did you know him from his matriculation at school?

A As far as him graduating from Woodlawn High School and going to Woodlawn High School, yes.

Q Okay. And was he a scholar to your knowledge?

A No, he was not a scholar athlete.

Q Was he an athlete?

A Yes, he was.

Q In what sports did he play?

A He played boys lacrosse and soccer.

Q Okay. And was he someone you considered to be

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a friend?

A No.

Q Did you socialize with him outside the school?

A No.

Q And was Jay Wilds ever in your observance appearing to be a close friend of Hae Min Lee?

A I have never seen them together.

Q And have you seen him up at school since the time that he graduated?

A Yes.

Q Often?

A No.

Q Did you ever inquire as to what his purpose was for being up there?

A Well, I didn't have to ask him because --

Q You knew.

A I knew.

Q And that was because his girlfriend was up there?

A That is correct.

Q And that is Stephanie?

A Yes.

Q And was Stephanie a scholar?

A Yes, she was.

Q And was she an athlete?

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A Yes, she was.
Q And when you would see Jay Wilds up there, where would he be?
A Well, if he came to the building before 2:15, I didn't let him in.
Q Because he wouldn't have been allowed?
A No.
Q Because he was not a student?
A No.
Q And he had no legitimate purpose --
A No.
Q -- for being in or on the grounds, correct?
A That is correct.
Q But after school closed, sometimes he would be around?
A That is correct.
Q Did you know him to drive Stephanie's car?
A Yes.
Q And did you know him to borrow other students' cars?
A The only person's car I have seen him drive is Stephanie's car --
Q Did you --
A -- and his.
Q Did you see him interact with other students?

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A Yes.

Q And did you ever see him interact with Hae Min Lee?

A No.

Q And how long were you aware that Stephanie and Jay were girlfriend and boyfriend?

A For a long time.

Q And were you aware that that relationship began before either of them attended Woodlawn?

A No.

Q And were you aware that there was also parental disapproval of that relationship by Stephanie's parents?

MS. MURPHY: Objection. I think we are way beyond the scope, Your Honor.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q You answered the prosecutor's question about did you become aware when they broke up for good, and you used the term supposedly. Do you recall that?

A Yes.

Q And that was because you had seen them break up before, correct?

A Not break up. I have seen them after they told me that they weren't supposed to see each other anymore.

Q But they still continued to see each other,

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right?

A Yes.

Q And they still continued to be girlfriend and boyfriend?

A They told me they were friends.

Q Okay. So there had become a time when, as far as what you knew, they were not girlfriend and boyfriend but they were still friends?

A Correct.

Q And they both verbally articulated a commitment to that?

A Can you restate that again, please?

Q Did both of them verbally, did they both state that, that they were committed to being friends with each other?

A That they were friends.

Q And from your observations, did they appear to be friends --

A Yes.

Q -- after that time period?

A Yes.

Q And Adnan participated as a member of the track team; did he not?

A Yes, he did.

Q And the track team, that was the indoor track

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team; was it not?

A That is correct.

Q And that did not include cross-country, did it?

A No.

Q And the indoor track team, was the next period of meets, including practices and meets, in the middle of January, 1999?

A Yes.

Q And at the same time track was going on, wrestling was going on, correct?

A That is correct.

Q That's the athletic team that Hae Lee managed; is that correct?

A That is correct.

Q And in addition to track and wrestling, basketball was going on; was it not?

A Yes, it was.

Q Basketball for girls?

A Yes.

Q And basketball for boys?

A Yes.

Q Teams that traveled and played other schools, correct?

A Yes.

Q And basketball programs that pitted students

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against each other?

A I don't understand that question.

Q I'll ask another question. And in addition to track and wrestling and girl's and boy's basketball, were there other athletic teams that were in season?

A Yes.

Q And what were those?

A Bowling, that's it.

Q And how many athlete students would you estimate were involved in the middle of January, on January 13th, in all of those various programs?

A Bowling, I think probably around twenty-six, but they wouldn't have been involved in any part of the building because bowling goes to a bowling lane on Security Boulevard to bowl. So they wouldn't even be involved.

Q Okay. But I didn't ask you that. I just need to know the numbers.

A I'm just trying to say numbers. Then the next sport would have been boy's basketball, fifteen, and that's varsity. Boys JV basketball, twenty-two. Girls varsity basketball, about twenty. Girls JV basketball, about fifteen.

Q Okay. And, in fact, on that particular day, January 13th, was also a girl's varsity meet; was there

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not?

A Basketball.

Q Basketball?

A Yes.

Q And that meet took place somewhere else; did it not?

A That is correct.

Q But when there is a meet elsewhere, the team goes as a group; does it not?

A That is correct.

Q And they leave the school as a group, correct?

A That is correct, most times.

Q Most times.

A Unless there is permission to travel from their parents --

Q Separately.

A -- separately.

Q Okay. But at most meets, the team travels together; do they not?

A That is correct.

Q And that means that the team has to meet at the school, congregate together, and then they get on a bus?

A That is correct.

Q And you, of course, are in charge of supervising all of that; are you not?

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A Basically, I usually go on the bus before the team leaves. We do a head count to see if everybody is there that should be on the bus, and then, you know, wish them good luck.

Q That's part of your supervision, isn't it?

A Yes.

Q And that meet, that varsity girl's meet, took place where, if you recall?

A It wasn't a meet. That's a basketball game.

Q Oh, I'm sorry.

A A meet is a track meet.

Q Okay. A game.

A Yes.

Q A meet is for track and a game is for basketball?

A Uh-huh.

Q Okay. And where did that take place?

A I don't remember.

Q Okay. But you are aware and you do remember that there was one, right?

A I don't remember.

Q Okay. Now, the wrestling meet you said was elsewhere and, therefore, the team would have gotten together and organized to leave. Is it a wrestling team?

A A wrestling team.

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Q Okay. Would have gotten together and congregated before leaving together at about 5:00?

A That is correct.

Q Because the meet was scheduled to be at 6:30?

A Because the match would have been scheduled for 7:30.

Q The match. Okay. And that's because of where the Chesapeake location was --

A That is correct.

Q -- and the distance from Woodlawn to there?

A Forty-five minutes.

Q And it was not unusual to have athletic events scheduled that late, was it?

A No.

Q Okay. And part of Hae Min Lee's responsibilities would have been to accompany the wrestling team to their --

A Match.

Q -- match; is that correct?

A That is correct.

Q And she ordinarily did that; did she not?

A That is correct.

Q But on that day, you have told us she never got back in time, correct?

A That is correct.

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Q And that it was a surprise to you?

A Yes.

Q And that you had to alter your plans to accompany the wrestling team to their match forty-five minutes away?

A That is correct.

Q There were times when Hae Min Lee didn't accompany the wresting team; were there not?

A Not that I am aware of because I never had to travel before.

Q Okay. So it was unusual that she didn't come back?

A That is correct.

Q Hae Min Lee, in your knowledge, was a young girl to her word; was she not?

A That is correct.

Q If she said she was going to be there, she was going to be there?

A That is correct.

Q And you expected that from her?

A I expected it.

Q Now, you became aware shortly after that match or the next day that she had also not shown up at places her family expected her to show up?

A That is correct.

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Q And you became aware that there was a missing person's report filed in this case; did you not?

A Not shortly after, not directly right after that.

Q But at some point you became aware; did you not?

A At some point, yes.

Q And you knew that the Baltimore County police were looking for Hae Min Lee; were they not?

A Yes, I was.

Q And you were aware that everyone at Woodlawn knew that Hae Min Lee was missing?

A Yes.

Q And that it was the subject of talk from every corner; was it not?

A Yes.

Q Teachers?

A Yes.

Q Students?

A Yes.

Q Employees of the school?

A I don't know about that.

Q Well, you were aware that everybody was trying to remember the last they knew of Hae?

A I was aware of her teachers knowing and being

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aware that she was missing, and student friends of her's were aware that she was missing.

Q And you became aware that Adnan was one of those students who became aware --

A Yes.

Q -- that she was missing?

A Yes.

Q And during the course of time after her disappearance, you were spoken to by the police; were you not?

A Yes, I was.

Q You were spoken to by them on the phone?

A No.

Q In person?

A In person.

Q And you were spoken to by them in person by Detective O'Shea who was in charge of the investigation?

A He was one of the detectives.

Q And do you recall speaking to Detective O'Shea on February the 1st?

A I don't remember the date.

Q Do you recall Detective O'Shea coming to your home?

A To my home?

Q Yes.

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A I don't remember him coming to my house.
Q He came to the school?
A Oh, he came to the school.
Q And you were aware that he was coming; were you not?
A I was told after he got there that he wanted to see me.
Q Okay. Because you had information about Hae Lee's activities on the last day that she had been seen, correct?
A That is correct.
Q And Detective O'Shea took notes of his conversation with you; did he not?
A Yes.
Q You didn't object to that, did you?
A No, I didn't.
Q You knew that he was seeking the most accurate information that he could gain from persons who may have been the last to see Hae Min Lee, correct?
A Yes.
Q And would it be fair to say, Ms. [redacted], that your memory of the events of January 13th were far clearer and better back on February 1st, 1999 than they are today?
A Probably.

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Q And there is nothing unusual about that; is there?

A I don't think so.

Q Back then, would you agree that it would be fair to say that you had thought about that day, the 13th, before Detective O'Shea spoke with you on February the 1st?

A I don't understand that question.

Q Well, when you first heard Hae was missing, did you not try to recall the events of the 13th?

A No. When I heard she was missing, I think, and I even said to the detectives, I wonder where this child is now.

Q Okay. And so you did think about it; did you not?

A I guess.

Q And you thought about it on more than one occasion; did you not?

A Yes.

Q You became aware of others, particularly teachers, who were also concerned with her because they spoke about it in that interim period; did they not?

A Yes.

Q Now, on February 1st, 1999, do you recall telling Detective O'Shea about your last conversation

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with Hae Min Lee?

A I probably told him about her coming and getting my keys and going to get her uniform.

Q So the answer to my question is yes?

A I think so, yes.

Q You told him?

A Yes.

Q And that would have been normal; would it have not?

A Yes.

Q If he had asked you questions about Hae Min Lee and that day, you would have readily answered him; would you have not?

A Yes.

Q You weren't hiding anything from him, were you?

A No.

Q There was nothing that happened that you didn't want him to know?

A No.

Q You wanted to help in any way with information that might lead them to discover where she was?

A Yes.

Q The thought that you said crossed your mind was I wonder where that child is; isn't that correct?

A Yes.

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Q And do you recall that what you told Detective O'Shea, that on the 13th of January, 1999, that Hae was upset?

A Yes.

A And do you recall telling Detective O'Shea that Hae told you that she, meaning Hae, was having problems at home?

A Yes.

Q And do you recall telling Detective O'Shea that Hae also said she wanted to contact her father in California?

A Yes, in San Diego.

Q Is that correct?

A Uh-huh.

Q And Hae was upset that day; was she not?

A I don't know if it was that day, but I said the last thing I remember, I mean conversation-wise with her, was that she was upset and she talked about getting in touch with her father in San Diego if he was in the country.

Q And this was on February 1st that you told Detective O'Shea these things?

A I don't know what day it was I talked to him.

Q Well, whatever day, did you talk to him more than once?

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A Yes.
Q At the school?
A Yes.
Q On one day that you spoke to him at the school, you did tell him those things?
A Yes.
Q That Hae was upset?
A Yes.
Q That she was having problems at home?
A Yes.
Q And that she wanted to contact her father in California?
A That is correct.
Q And would you be surprised if Detective O'Shea wrote down that that conversation occurred on February the 1st?
A Whatever day, I wouldn't remember.
Q Okay. And you would expect Detective O'Shea, based on your interaction with him, to have accurately recorded his conversation with you; would you have not?
A Yes.
Q He appeared genuinely interested in obtaining any information that might help him locate Hae Min Lee?
A Yes.
Q And you, of course, have already told us your

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interest was in being as forthcoming as you could?

A Yes.

Q And would you be surprised if Detective O'Shea wrote down that those things -- her being upset, her having problems at home, and her wanting to contact her father -- took place in the conversation that you had with her on 1/13/99?

A I don't remember.

Q You don't?

A No.

Q Okay.

A But I know at some point I did tell him that.

Q Okay. And you would have expected Detective O'Shea to have accurately recorded his notes of that conversation; would you not?

A I don't know. I guess he would, yes.

Q I mean, you wouldn't have expected Detective O'Shea to change the dates about what you said?

A No.

MS. MURPHY: Objection.

THE COURT: Overruled.

BY MS. GUTIERREZ:

Q And/or to mess up and say you said something happened on some other date?

A All I remember is that I told him that these

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events had happened, and I don't know exactly what date because I talked to him a lot of times and I don't remember exactly when I told him.

Q Okay. And Hae did tell you those things, correct?

A That is correct.

Q And you observed her to be upset at the time of telling?

A She didn't appear upset. She just told me that she was going to do these things.

Q Well, do you recall telling Detective O'Shea that Hae was upset?

A She said there are things that are upsetting me, I need to get in touch with my father, and I'm having problems.

Q And the problems were at home?

A Yes.

Q And you believed her when she told you she was upset, didn't you?

A Yes, I believed her.

Q You didn't disbelieve her and think she was making it up?

A No.

Q And it wasn't a surprise to hear that she was having problems at home, was it?

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A No.

Q It was a period of time where she was having problems at home; was it not?

A Yes.

Q All right. Now, you also told Detective O'Shea all about Hae Lee's athletic endeavors; did you not?

A Yes, I think I did.

Q And that included telling him that Hae was a manager for the wrestling team; did it not?

A Yes.

Q And you, of course, told him about the wrestling match that was scheduled for later that evening that she didn't show up to?

A I don't know if I told him or not.

Q Well, her failure to appear for a scheduled wrestling match you have told us was an unusual event?

A What I'm saying is, I don't remember exactly the conversation I had with him totally detail-wise. I know that at some points I told him about her not showing up. I do remember that.

Q My question was, you have already told us -- is it still true -- that her failure to show up for a wrestling match as the manager was an unusual event?

A That was unusual.

Q And it caused you to alter your plans?

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A Yes.

MS. MURPHY: Objection.

THE COURT: Overruled.

BY MS. GUTIERREZ:

Q And the fact that it was unusual and that it caused you to alter your plans is one of the things that would have committed that fact to your memory; was it not?

A Yes.

Q Do you recall telling Detective O'Shea that Hae told you on that day, the 13th, 1999, that she would not be at the match?

A No.

Q And would you be surprised to know that Detective O'Shea, who interviewed you and took notes during that interview, on more than one occasion wrote in his report that on that day, February 1st, that you said to him that Hae told you that she would not be at the match on the 13th?

A I don't know.

Q You didn't lie to Detective O'Shea, did you?

A No, I did not.

Q And you didn't attempt to conceal anything to protect anybody, did you?

A No.

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Q Woodlawn High School is situated and faces Woodlawn Drive; does it not?

A Yes, it does.

Q At one end of the school from its situation, Woodlawn Drive crosses Security Boulevard; does it not?

A Woodlawn Drive does.

Q And at the other end, going the other direction, Woodlawn Drive crosses a road by the name of Dogwood Road; does it not?

A That is correct.

Q And Dogwood Road is a sort of meandering just two lane road; is it not?

A Yes.

Q And Dogwood Road continues -- let me get my directions right -- continues eastward; does it not?

A Yes.

Q And it continues until the time it enters Baltimore City; does it not?

A Dogwood Road?

Q Yes.

A I don't know if it goes -- I'm trying to think. I think it changes into something else.

Q It changes into Franklintown Road; does it not?

A Okay.

MS. MURPHY: Objection.

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THE COURT: Overruled. Do you know what the name of the street is?

THE WITNESS: No, I don't know. I know it changes.

THE COURT: Okay. Then what you have to say is I don't know. Okay?

THE WITNESS: Okay.

THE COURT: So the objection is sustained. As the witness has indicated, she does not know what the street turn into.

BY MS. GUTIERREZ:

Q Are you familiar with a road named Franklintown Road?

A No.

Q And are you familiar with a section of Dogwood Road that contains several bars, one of which is the Mill Rays Tavern?

A No.

Q Are you aware of the bars that are on Dogwood Road directly below Woodlawn Drive?

A No. I know there are probably some over there but I mean I don't usually go that way.

THE COURT: Ms. Gutierrez, I'm going to ask that we pause here. I note that it's 11:30. I know my clock is about five minutes fast, which may be a good

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thing, at least in light of that I think there is another court where you must go.

MS. GUTIERREZ: Yes.

THE COURT: So we are just going to take a break. It will be a good time to allow the jurors to stretch their legs a little bit. I'm going to ask the deputy sheriff if she will kindly walk the jurors around to the jury room and see that they are secured in that location. I believe the door may be locked. Mr. [redacted] has a key.

Ladies and gentlemen, if you will go with the sheriff at this time. Please leave your notepads face down on your chairs. We are going to take a break for about fifteen minutes and allow counsel to handle some other matters, and then we will have you come back. We will go again until 12:30 when we will take our luncheon recess. As you go out, be reminded not to discuss the testimony, either what you have heard today or anything else.

Alternate Number Four, if you will just remain for a moment. The rest of you may go with the sheriff. Thank you.

(The jury was excused from the courtroom.)

THE COURT: Okay. You can come around. There is a microphone down there. I just need you to get to a

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microphone, that's all.

ALTERNATE NUMBER FOUR: Okay.

THE COURT: You may go to lunch as well. I must advise you that you are a witness sequestered. You may not discuss your testimony with anyone. You can stretch your legs for about fifteen minutes, and then I'll ask that you have a seat on the bench outside and we will let you know when we are going to resume.

THE WITNESS: Okay.

(The witness was excused from the courtroom.)

MR. URICK: Excuse me. Are you asking her to come back before we break for lunch?

THE COURT: Yes. She is going to sit outside for a few minutes.

MR. URICK: Okay.

THE COURT: Alternate Number Four, I just wanted to just touch base with you. You gave us a letter that said, "Yesterday I asked myself if the surname of the potential witness was common or not. I know superficially but socially a T[redacted]. I know of no relation to Jay Wilds, but it occurred to me that the name might not be common."

My question to you is, if there was a relationship between T[redacted] and Jay Wilds, would that in any way interfere with your ability to be fair and

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impartial when it came down to assessing this testimony of Jay Wilds?

ALTERNATE JUROR NUMBER FOUR: I believe I can listen accurately, but it's possible I might feel uncomfortable.

THE COURT: When you say that you might feel uncomfortable, I mean is there something about your knowledge of --

ALTERNATE JUROR NUMBER FOUR: Well, I mean there is like -- well, I know a T[redacted]. So there are two scenarios. So like if I happen to see a T[redacted] outside, you know, that would -- you know, I might make this connection.

THE COURT: The association.

ALTERNATE JUROR NUMBER FOUR: The association.

THE COURT: Assuming you made the association that T[redacted], in your view, is related to Jay Wilds, you wouldn't know what that relationship is. Is that what you are telling me?

ALTERNATE JUROR NUMBER FOUR: I might --

THE COURT: You wouldn't know if that is his brother or his son or --

ALTERNATE JUROR NUMBER FOUR: I might infer there is some relationship without knowing what it is.

THE COURT: Okay.

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ALTERNATE JUROR NUMBER FOUR: I do not remember having -- I am not familiar with the name Jay Wilds. I do not remember meeting a Jay Wilds. I do know superficially, socially, a T[redacted].

THE COURT: Okay. Again, I would ask, the fact that you know this T[redacted] -- let's say he does show up and he is sitting in the audience, and so then now you can make the association that Jay Wilds has some relationship to T[redacted] -- would that in any way interfere with your ability to be fair and impartial, weighing the credibility of Jay Wilds, listening to the testimony, weighing it with all other testimony, and the law as I instruct you, which I will instruct you later on as to the credibility of witnesses, how to assess them?

ALTERNATE JUROR NUMBER FOUR: I believe I can listen closely and make a fair judgment. However, while I'm saying that, you know, I'm also saying that I may feel uncomfortable. You know, I can't really -- you know what I'm saying.

THE COURT: Okay. Why don't you come --

ALTERNATE JUROR NUMBER FOUR: I'm making that distinction but --

THE COURT: I don't know why you are saying that. I need you to come up to the bench because perhaps there is something that we need to talk to you about that

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is not within the hearing of the general public because I would like to know what your uncomfortability is. You are using the word, I'm uncomfortable, and I need to know what you mean by that. So if you will step up.

Counsel, you are welcome to step up.

(Counsel, the defendant, and Alternate Juror Number Four, approached the bench and the following ensued:)

THE COURT: The microphones are here (indicating). I have to make a judgment.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: I cannot get in your mind unless you tell me what you mean when you say I feel uncomfortable. What is it that you mean?

ALTERNATE JUROR NUMBER FOUR: Well, I'm saying I may feel uncomfortable.

THE COURT: You may feel uncomfortable.

ALTERNATE JUROR NUMBER FOUR: Okay. I guess what I mean is that if I perceive a possible relationship, then I will be aware of that, and I would be aware of being in a situation and making some judgment in a serious matter about someone possibly connected to someone I know.

THE COURT: Okay. And does that mean that the person that you know -- I can't -- I don't know what your

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relationship with T[redacted] is.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: But let me give you a for example.

ALTERNATE JUROR NUMBER FOUR: Okay.

THE COURT: Let's say -- I have the name Keyes, and it's a very unusual spelling. It's K-E-Y-E-S. If you were to meet another Keyes in Baltimore City, there is a very likelihood that she is or he is related to me because of the way it's spelled. If I saw a juror out here and I recognized the spelling was K-E-Y-E-S, even though I did not know that person, I personally did not recognize that person, I would inquire whether or not that person's mother or relative or husband was someone who was, in fact, related to me.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: Then my next question would be, the fact that it was there, does it affect me in any way at all, the fact that I'm a judge and my maiden name is K-E-Y-E-S, and this juror has the same spelling. I can't get into your head to know whether or not your knowledge of T[redacted] --

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: -- through a possible relationship with a witness who is going to testify, is one that would interfere? It's okay if you know the person. That's not

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the problem.

ALTERNATE JUROR NUMBER FOUR: Uh-huh.

THE COURT: The knowledge of a person isn't the problem.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: It's whether or not the fact of that knowledge would interfere with your ability to be fair and impartial to the state and the defense. The knowledge. It could be your next door neighbor's sister. But if you know that relationship but it doesn't affect you, it does not affect your ability to be fair and impartial, then that's okay. There are people who know Ms. Gutierrez and who know Mr. Urick who come up and say I know them both but it doesn't interfere with my ability to be fair and impartial. Judge, I know you, but it doesn't interfere with my ability to be fair and impartial and to listen to the -- it isn't that you must know no one --

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: -- that you must have no contact, you must be sort of in the blind. The issue is not that. It's whether or not, if there is a relationship, does it interfere with your ability to be fair and impartial. I can't get in your head --

ALTERNATE JUROR NUMBER FOUR: Right.

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THE COURT: -- to know what that relationship is.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: Because as we are speaking, we are not able to tell you whether T[redacted] is related to Jay Wilds.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: If they are related -- the worst case scenario is that they are related. If they are not related, it's irrelevant.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: But if they are related, would that interfere with your ability to be fair and impartial in this case?

ALTERNATE JUROR NUMBER FOUR: I would say that -- can I make a qualified answer?

THE COURT: Yes, yes, please do.

ALTERNATE JUROR NUMBER FOUR: Since I take seriously the duty of a juror to be fair and impartial --

THE COURT: Yes.

ALTERNATE JUROR NUMBER FOUR: -- I believe I could listen accurately and be fair and impartial.

THE COURT: Okay. Because you would not let whatever that relationship might be --

ALTERNATE JUROR NUMBER FOUR: Right.

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THE COURT: -- influence your weighing of the credibility of the witness?

ALTERNATE JUROR NUMBER FOUR: Because I have internalized the importance of that duty.

THE COURT: Very well. I appreciate your being honest with me, and I appreciate your response. I want you to know, I'm not angry with you. I know I raise my voice and I wave my hands a lot, but that just happens to be my way.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: It's very important to me that we make sure that this question was asked of you.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: And then I try to figure out the best I can.

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: Okay. Ms. Gutierrez may have a few followup questions based on my questions.

MS. GUTIERREZ: Yes, only because I think it might answer if we know a little bit more about T[redacted].

THE COURT: Sure.

MS. GUTIERREZ: What race he is, where he lives, if he knows, because we may be able to just cut through --

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ALTERNATE JUROR NUMBER FOUR: T[redacted] lives in Mount Vernon. He is of caucasion background.

THE COURT: Okay.

MR. URICK: No followup questions.

THE COURT: All right.

MS. GUTIERREZ: No followup.

THE COURT: All right. Thank you very much.

MR. URICK: Thank you.

MS. GUTIERREZ: Thank you.

THE COURT: All right. I think we can answer your question. Is T[redacted] --

MS. GUTIERREZ: No, Jay Wilds.

THE COURT: Is Jay Wilds, the witness, African-American?

MS. GUTIERREZ: African-American.

ALTERNATE JUROR NUMBER FOUR: Okay.

THE COURT: Well, not necessarily.

ALTERNATE JUROR NUMBER FOUR: Yes.

THE COURT: Not necessarily, you know, because in this day and age --

ALTERNATE JUROR NUMBER FOUR: Right.

THE COURT: -- they could be related, they could be foster brothers, they could be anything.

ALTERNATE JUROR NUMBER FOUR: True.

THE COURT: But in any event, now we have

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answered your question to some degree. Any followup, Mr. Urick?

MR. URICK: No followup.

MS. GUTIERREZ: No.

THE COURT: Okay. Any other questions you have of the court?

ALTERNATE JUROR NUMBER FOUR: No.

THE COURT: Very well. In a few minutes, we will bring you --

ALTERNATE JUROR NUMBER FOUR: Can I go?

THE COURT: Yes, you may. You can't leave for good but you can go back with the other jurors.

ALTERNATE JUROR NUMBER FOUR: Yes.

THE COURT: Thank you.

(Alternate Juror Number Four was excused from the courtroom.)

THE COURT: And they are expecting you downstairs.

MS. GUTIERREZ: Okay. I will go right now.

THE COURT: All right. Very well.

MS. GUTIERREZ: Thank you.

(Counsel and the defendant returned to the trial tables and the following ensued:)

MR. URICK: Would the court anticipate getting to another witness before lunch?

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THE COURT: Oh, yes. I don't think Ms. Gutierrez is going to find that she is down there very long. I think she is going to go downstairs and find that she is just there for a few moments and she will be permitted to return.

MS. MURPHY: We haven't finished with Ms. [redacted] at this point.

THE COURT: I know.

MS. MURPHY: Okay.

THE COURT: I said, I don't believe Ms. Gutierrez is going to find that she is downstairs very long. I think she is going to find that she is going to be permitted to come back.

MS. MURPHY: Should we have an additional witness beyond Ms. [redacted]?

THE COURT: No, I wouldn't think so.

MS. MURPHY: Okay.

THE COURT: I would think that probably by the time Ms. Gutierrez returns, we will have enough time to perhaps finish with Ms. [redacted] and then take a luncheon recess.

MS. MURPHY: Okay.

THE COURT: Okay.

MS. MURPHY: Thank you, Your Honor.

THE COURT: Okay. If Officer [redacted] will

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leave the defendant here, because I don't expect us to be very long, and we will resume as soon as Ms. Gutierrez returns. This court stands in recess.

THE CLERK: All rise. This court now stands in recess.

(Brief recess.)

-o0o-

(Jury not present upon reconvening.)

THE CLERK: All rise. The Circuit Court for Baltimore City, Part 9, resumes in session, the Honorable Wanda Keyes Heard presiding.

THE COURT: Please be seated. I'm going to ask that the witness come back in, and if the sheriff wouldn't mind going around and getting our jurors, I would appreciate it. Thank you. Just ask Ms. [redacted] to come back in.

(Brief pause.)

(The jury returned to the courtroom.)

THE COURT: Ladies and gentlemen, we have moved the chairs away from the radiator. We understand it is extremely hot for those that are sitting on the back row. We would also ask, if there is any room, if you can move your chairs down a little bit, that would be appreciated. If you can move your chairs down just a little bit to allow us to move Juror Number Two's chair away from the

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radiator.

(Brief pause.)

THE COURT: Thank you very much. We know we are squeezing you in there, but it's been uncomfortable for that juror. Okay. Hopefully, that will be a little more comfortable for you. Now, my next question is going to be, can you see? Can you see Ms. [redacted]?

THE JURY: Yes.

THE COURT: All right. Thank you very much. Okay. We hope that will be a little better for you. At this point, we are going to resume the testimony of Ms. [redacted]. I'm going to remind you, Ms. [redacted], you are still under oath.

INEZ [redacted]

the witness on the stand at the time of the recess, resumed the stand and, having been reminded she was still under oath, was examined and testified further as follows:

THE COURT: Ms. Gutierrez, witness with you.

MS. GUTIERREZ: Thank you, Your Honor. Ms. [redacted], I do have a couple more questions.

CROSS-EXAMINATION (Continuing)

BY MS. GUTIERREZ:

Q You described the clothing that you recall that Hae Min Lee had on, on the 13th, the last time that you

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saw her, correct?

A Correct.

Q And she had on what you described as very high high-heels?

A Yes.

Q And she had on stockings that you used the word to describe, they were colorless, they were not colored?

A Right, they were clear.

Q They were clear stockings?

A Yes.

Q Okay. No color to the stockings themselves?

A Right.

Q No color that would alter the color of the appearance of her legs?

A Correct.

Q You would not have described those stockings as being the color of toast; would you have?

A Toast, no.

Q No.

A They blended in with her skin tone.

Q With her skin tone?

A Yes.

Q And that was readily apparent to you; was it not?

A Uh-huh.

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Q All right. Now, you also said that you recalled speaking to Adnan on at least two occasions after her disappearance, correct?

A Correct.

Q And one of the occasions was where you had a conversation with him about what you termed to be the memorial?

A Correct.

Q You were aware that, in fact, there was a funeral for Hae Lee after her body was discovered, correct?

A No, I didn't understand what was going on because we had bought like cards and things to send, and we knew that because her parents didn't speak English, I didn't know how to send them and who to send them to. So we didn't know what type of ceremony. The only way that we found out was that a couple of the students who were her closest friends were able to go to her house and find out what was going on.

Q And that included what would be called a funeral, correct?

A I guess that's what it was.

Q Okay. And you became aware of that later on, correct?

A After I was told.

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Q In addition to the funeral, there was a memorial service at the school; was there not?
A Yes, there was.
Q And that memorial took place after her body was discovered, correct?
A Correct.
Q In fact, it took place in March; did it not?
A Yes.
Q After Adnan Syed was arrested for this?
A That is correct.
Q Isn't that correct?
A That is correct.
Q So he could not have attended the memorial given to her, correct?
A That is correct.
Q All right. Now, do you recall when Hae Lee's body was identified?
A Today?
Q No, no, just do you recall when her body was identified?
A I'm saying I didn't understand the question. I'm saying that --
Q Do you --
MS. MURPHY: Objection.
THE COURT: That's all right.

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THE WITNESS: I'm saying --

THE COURT: Excuse me.

THE WITNESS: I'm sorry.

THE COURT: Ms. [redacted], just relax.

THE WITNESS: Okay.

THE COURT: If you don't understand the question, then that's your answer.

THE WITNESS: Okay.

THE COURT: I do not understand the question.

THE WITNESS: Okay.

MS. GUTIERREZ: I'll ask another one.

BY MS. GUTIERREZ:

Q You recall that Hae Min Lee disappeared on the 13th, correct?

A That is correct.

Q And that nobody knew her whereabouts until the time when her body was discovered, correct?

A That is correct.

Q And that there came a point when that body was identified to be Hae Min Lee's?

A That is correct.

Q Correct?

A That is correct.

Q And you recall that on that day or right after that day, that the fact that the body was Hae Min Lee's

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was the big event at Woodlawn?

A Yes.

Q And do you recall that among others that there were many of Hae Min Lee's friends, including Adnan, who disputed at first that, oh, no, they had to be wrong, that couldn't have been Hae Min Lee's body?

A I don't --

Q Do you recall that, yes or no?

A Yes.

Q Okay. Now, Ms. [redacted], you described yourself as friends with Adnan; did you not?

A Yes.

Q And the friendship was developed during the course of while he was a student from his sophomore year, correct?

A Yes.

Q And you would describe your relationship with him, how you interacted, as one that was friendly?

A Yes.

Q And Adnan discussed things with you that had nothing to do with Hae Min Lee; did he not?

A Yes.

Q And he discussed his own athletic involvement, didn't he?

A Yes.

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Q And his family?
A Yes.
Q And his religion?
A Yes.
Q And his other friends?
A Yes.
Q And other activities in his life?
A Yes.
Q You were aware, were you not, that he also had his own car?
A Yes.
Q And that he drove to school every day?
A Yes.
Q And that students who drove to school parked in a designated parking place; did they not?
A Most of the time.
Q And that students such as seniors often times have free periods during the day; do they not?
A That is correct.
Q And that often times during those free periods, seniors would go to their cars on the parking lot?
A Yes.
Q And that there was nothing unusual about that, was there?
A No.

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Q And that after they finished whatever it was they did in their cars, they would return for whatever was the next class?

A Yes.

Q You were aware, were you not, that during the school year of 1998/1999, both in the fall semester and after the school resumed after the Christmas holidays, that Hae Min Lee and Adnan shared several classes a day?

A I wasn't aware of that.

Q All right. And when you spoke to Hae Min Lee on the 13th at the concession stand, Hae Min Lee was alone; isn't that correct?

A That is correct.

Q And as we have already discussed, what Detective O'Shea wrote down was that she was upset about her family problems; was she not?

A Yes.

Q And that that's what she described to you, correct?

A Yes.

Q Adnan wasn't with her then, was he?

A No.

Q And he wasn't around the concession stand, was he?

A No.

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Q And you said you became aware of his attendance at track practice because you were always concerned about everybody who participated in the athletic programs, correct?

A That is correct.

Q You were aware that the coach of the indoor track team is a man by the name of Sye; is it not?

A Yes.

Q And you were aware that Coach Sye did not keep a roster that the track athletes have to sign in every day?

A That is correct.

Q And that he didn't keep track of himself who attended on any given day?

A That is correct.

Q And you were aware, were you not, track practice didn't begin on the 13th, did it?

A I don't know exactly when it began.

Q Well, it began before that day, didn't it?

A Yes.

Q The 13th wasn't the first day of track practice, was it?

A No, it wasn't.

Q In fact, the track team had already had several meets by the middle of January; had they not?

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A They had.

Q And they continued to have meets after January 13th; did they not?

A Yes, they did.

Q And you were aware that Adnan won and medaled in his events at several meets; were you not?

A I wasn't aware. I knew he had received ribbons but I wasn't aware that he had received a medal.

Q Okay. And would it surprise you to know that he, in fact, did medal?

A No.

Q He was a serious athlete; was he not?

A I don't know.

Q Well, in your experience as in charge of all this, Ms. [redacted], would you agree that athletes who perform well are generally not only those with talent but the discipline to practice?

A That is correct.

Q And in every sport, there are consequences for athletes, although they may differ as to whether or not they get to participate in meets if they don't practice; are there not?

A In some sports.

Q And you were not aware of any consequence for track athletes?

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A No.

Q All right. Now, would it be fair to say, Ms. [redacted], that the track athletes who participate and win their events, whether they get ribbons or medals, are more likely to be the athletes who participate by being disciplined and practice their athletic ability?

A I don't understand that.

Q Well, athletes perform better when they practice; do they not?

A Yes. I understand that, yes.

Q There are consequences for missing practices, because common experience as the Athletic Director shows you that practice matters to performance; does it not?

A Well, it wouldn't be the Athletic Director that would show me.

Q You know that in your own experience; do you not?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Does the athletic program at Woodlawn require athletes who perform for any team in the school to practice?

A Yes.

Q And as a matter of course, are athletes allowed

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to routinely miss practices without some consequence, whether or not you know what it is?

THE COURT: Ms. Gutierrez, I think we have been over this several times.

MS. GUTIERREZ: Okay. I'll move on, Judge.

THE COURT: Thank you.

BY MS. GUTIERREZ:

Q Ms. [redacted] Hae Lee didn't mention Adnan on the 13th when you saw her?

A No.

Q Did she?

A No.

Q She didn't mention any fight with him?

A No.

Q She didn't mention any plans to meet him?

A No.

Q Or that he was going to hook up with her in her car?

A No.

Q What she told you was that -- today you remembered -- that she was going to pick up someone and that she would be back, correct?

A Correct.

Q But what you told Detective O'Shea that he wrote down was that she had no plans to come back,

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correct?

A I don't remember.

MS. GUTIERREZ: Thank you. Nothing further.

THE COURT: Any redirect of Ms. [redacted]?

MS. MURPHY: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. MURPHY:

Q Ms. [redacted], would you use the word disciplined with reference to the defendant's participation in track?

A Not that I am aware of.

Q Do you recall a conversation you had with the defendant after Ms. Lee's disappearance regarding his participation in track?

A Yes.

Q What were the details of that conversation?

A I only asked why I hadn't seen him at practice. I said, I haven't seen you in a while, where have you been, and he said he had been upset.

Q Now, when you saw Ms. Lee the morning of the 13th, is it fair to say she was fairly excited about being taped as a scholar athlete?

A Very excited.

Q Was she happy about this?

A Yes, very happy.

Q Did she seem upset at that point?

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A No.

Q And when you saw her at the concession stand at 2:15, how did she appear to you then?

A Still happy.

MS. MURPHY: I have no other questions, Your Honor.

THE COURT: Very well. Any other questions, Ms. Gutierrez?

MS. GUTIERREZ: Yes.

RECROSS-EXAMINATION

BY MS. GUTIERREZ:

Q In regard to when you said after her disappearance, when he told you that he had been upset, it didn't appear unusual to you that the friend of Hae Min Lee, that you also knew to be her friend from her, was upset at her disappearance?

MS. MURPHY: Objection.

MS. GUTIERREZ: Did it?

THE COURT: Can you repeat that question, please, for the court?

BY MS. GUTIERREZ:

Q You were asked and you answered a question, regarding your conversation with Adnan after the disappearance of Hae Min Lee, regarding why he had not been at track practice. Do you recall that?

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MS. MURPHY: Objection.

THE COURT: Sustained, technically.

BY MS. GUTIERREZ:

Q Did you have a conversation with Adnan subsequent to Hae Min Lee's disappearance regarding his participation in track practice, as you just testified, yes or no?

A Yes.

Q And in that conversation, what you just told us was that he told you out of his own mouth that he had been upset?

A Yes.

Q That wasn't a surprise to you, was it?

A No.

Q Everyone who was close to Hae Min Lee was upset about her disappearance; were they not?

A Yes.

Q And as far as you knew on the 13th, based on what you had been told by both Hae and Adnan, that they were still very close friends?

A Yes.

Q And that they were committed to being close friends?

A Yes.

MS. GUTIERREZ: Thank you.

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THE COURT: Anything further from the State?

MS. MURPHY: No, Your Honor.

THE COURT: Anything further from Ms. Gutierrez?

MS. GUTIERREZ: Yes, Judge, I did forget one question.

THE COURT: Certainly.

BY MS. GUTIERREZ:

Q I have asked you before, you were aware that he is a Muslim, correct?

A Yes.

MS. MURPHY: Objection.

THE COURT: Sustained.

MS. GUTIERREZ: I think I can tie it up, Judge.

THE COURT: All right. Very well.

BY MS. GUTIERREZ:

Q And you were aware that that period of time after her disappearance was during the month of Ramadan, a holy month for Muslims; were you not?

A I don't know. I don't remember. I don't recall that.

Q Well, you are aware of Ramadan; are you not?

A Yes, I am.

MS. MURPHY: Objection.

THE COURT: Overruled.

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BY MS. GUTIERREZ:

Q And you are aware --

THE COURT: Well, wait a minute, Ms. Gutierrez. She has indicated that she doesn't know. So I am going to sustain any further questioning on that particular point.

MS. GUTIERREZ: Okay.

BY MS. GUTIERREZ:

Q You are aware, are you not, that the Athletic Department of Woodlawn concerning all sports excludes the responsibility to attend practices for all sports for Muslim students who are fasting during Ramadan; are you not?

A No, I'm not.

A Okay. Are you aware that the coach of the track team excused his athletes if they were fasting because of the tremendous physical exertion that track practice requires?

A No, I wasn't aware of that.

MS. GUTIERREZ: Thank you.

THE COURT: Very well. Anything further from the State at this juncture?

MS. MURPHY: No, Your Honor.

THE COURT: And Ms. Gutierrez?

MS. GUTIERREZ: No, Your Honor.

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THE COURT: May we release this witness from the summonses or subpoena? Ms. Gutierrez?

MS. GUTIERREZ: Yes, Your Honor, she is released.

THE COURT: Ms. Murphy?

MS. MURPHY: Nothing further from the State, Your Honor.

THE COURT: You are now released from your summonses, but I must advise you of two things. First, you are still a sequestered witness. When I say sequestered, that is you cannot discuss your testimony with any other witness that may yet be called to testify in this case. So it would be in your best interests not to discuss your testimony with anyone.

However, because you are released from the summonses, if you would like, you may remain in the courtroom because your testimony will no longer be needed and you will not be called back.

Do you understand?

THE WITNESS: Uh-huh.

THE COURT: Then at this point, you are free to go.

THE WITNESS: Thank you.

THE COURT: Very well. We are going to take a recess for lunch at this time. I note that it is 12:30.

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I will expect that we will start this case back at about 1:45, so I am going to give the jurors until 1:45. I ask counsel to be back by 1:45, so that perhaps we can actually get started by 2:00.

Ladies and gentlemen, I'm going to ask that you leave your notepads face down on your chair. Mr. [redacted] will secure them. Do not discuss the testimony that you have heard today amongst yourselves or with anyone else. You are free to go to lunch. If you would like, you can sit in the jury room.

Okay. You are free to go at this time and I will see you back at 1:45 and we will resume court at 2:00.

(The jury was excused from the courtroom.)

THE COURT: Counsel, before you leave, this is a schedule I want you to view.

MR. URICK: Okay.

MS. GUTIERREZ: Thank you.

THE COURT: Thank you. The court stands in recess.

THE CLERK: All rise. This court will now take it's luncheon recess.

(Whereupon, at 12:31 p.m., a luncheon recess was taken.)

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AFTERNOON SESSION

(2:10 p.m.)

(Jury not present upon reconvening.)

THE CLERK: All rise. The Circuit Court for Baltimore City, Part 9, will now resume in session, the Honorable Wanda Keyes Heard presiding.

THE COURT: You may be seated. I understand that we are going to wait for a few moments to have the jury come around and Ms. Gutierrez to return. The next witness that you are going to be calling is --

MR. URICK: Is Jay Wilds.

THE COURT: Jay Wilds.

MR. URICK: Should I have him come in and sit on the stand?

THE COURT: Yes, that would be good. That way he will already be here.

(Brief pause.)

THE COURT: Mr. Wilds, just have a seat there. When the jury comes out, we will have you stand and be sworn. Okay?

MR. WILDS: Yes.

THE COURT: Thank you.

(Brief pause.)

THE COURT: Also, with regard to the schedule that I handed out, do counsel have any objection if I

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make copies of that for the jury.

MR. URICK: No.

MS. GUTIERREZ: No, Judge, I think that would be helpful to the jury.

THE COURT: All right.

MS. GUTIERREZ: I would like, before the jurors get in, in regard to this witness, I would ask that the court advise the witness -- the mistrial occurred during this witness' testimony -- that any reference to anything prior should be at a prior occasion, that there be no reference to --

THE COURT: Right. Ms. [redacted] kind of bordered on that a little bit.

MS. GUTIERREZ: Right.

THE COURT: But I don't think it was clear from anything she said.

MS. GUTIERREZ: That's why I did not -- I thought it would make it worse if I did.

THE COURT: That's a good idea.

MS. GUTIERREZ: But this witness I am concerned about.

THE COURT: Mr. Wilds, would you step up to the bench, please.

(Whereupon, Mr. Jay Wilds approached the bench and the following ensued:)

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THE COURT: Mr. Wilds, you cannot make any mention at anytime during the trial that there was another trial.

MR. WILDS: Okay.

THE COURT: Do you understand what I'm saying?

MR. WILDS: Yes.

THE COURT: Pretend this is the first trial.

MR. WILDS: Yes, ma'am.

THE COURT: Okay. They can't know there was another one.

MR. WILDS: Okay.

THE COURT: Thank you.

(Whereupon, Mr. Jay Wilds returned to the witness chair and the following ensued:)

(Brief pause.)

(The jury returned to the courtroom.)

THE COURT: Just have a seat for just one moment, Mr. Wilds. Can I see counsel at the bench for one second.

(Counsel and the defendant approached the bench and the following ensued:)

THE COURT: Okay. First things first. I was just informed by my sheriff that the defendant made a comment to the witness as the witness approached the stand indicating that he was pathetic. I want to advise

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Mr. Syed in your presence that up until now he has been perfect. He has conducted himself in a gentlemanly manner. I am going to advise you now, don't spoil it now. Whatever self-control you need to exhibit, continue to do it to the end of this trial. You are presenting yourself in a manner that is appropriate in this courtroom, and you don't want me to have to say anything to you.

Do you understand?

THE DEFENDANT: Yes.

THE COURT: Very well. I am not saying your client did or did not do it.

MS. GUTIERREZ: I understand.

THE COURT: But I am advising you, and I know you don't want your client to do anything inappropriate in front of the jury.

MS. GUTIERREZ: No.

THE COURT: And I am letting the State know because I want to make sure that the witness understands that his safety is not in any way in jeopardy when he testifies in this courtroom because I don't allow that to happen. Whether that be for a defense witness or for a State witness, we will not have that here. We all know this. We have been through this before. The sheriff doesn't know, but Deputy Church was aware, and so he

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handled it accordingly. So now this sheriff knows, and I'm sure she will make sure she sits in a way that she is alert to what may occur.

I just want everybody to know. Okay. We will continue as we have been going.

MR. URICK: I believe at this point I would be entitled to question the witness about any statements the defendant made to him today in the courtroom.

THE COURT: I will not allow you to use any statements that he may have made today in the courtroom. I will not allow it. We are not going to have last minute additions. We will not have that. If it was a statement that was made or uttered to that witness, I will not allow that witness to testify as to what was said. That witness, as a defendant, is represented by counsel and I am not going to allow it. I'm not going to allow it.

Now, you can take your exception for the record, but I am not going to allow that.

MR. URICK: I would for this reason, that this witness is not a State agent. It was a voluntary statement to a non-State witness.

THE COURT: I understand.

MR. URICK: Or non-State agent.

THE COURT: I understand. The sheriff also

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heard it, and for the record, if the sheriff heard the remark, then the sheriff could be called as a witness. But at this juncture, the court is not going to allow the sheriff to do anything other than to let me know, as I have indicated to you, what was said to the witness.

Okay. I just would like you to go ahead and try your case. You have got a case, try your case.

MR. URICK: Just to make the record, the second point would be the relevance because it would relate to a threat that he made to the witness while he was trying to testify.

THE COURT: Well, that might be something that you might bring up if the door is opened by the defense. That's a wholly different issue. But as the case stands right now, we don't have that.

MR. URICK: Thank you.

THE COURT: Unless you would like me to inquire of the witness outside the presence of the jury as to whether or not any statement that he may or may not have heard -- I don't even know if the witness heard what was said. For all I know, the witness didn't hear anything. I don't know, I haven't inquired of him. The only thing I do know is the sheriff heard it.

So if you would like me to inquire of the witness as to whether the witness heard anything, I will

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be happy to do that.

MR. URICK: No, Your Honor.

THE COURT: But the point I'm trying to make is, we are trying to try a case based on your case and based on the defense. As long as this is a small courtroom, we are going to have situations where we are in close quarters. So we are going to provide safety and security for everyone.

Okay. Let's proceed. Thank you.

(Counsel and the defendant returned to the trial tables and the following ensued:)

THE COURT: Mr. Urick, if you will call the name of your witness, please, for the record.

MR. URICK: Thank you, Your Honor. The State calls Jay Wilds at this time.

JAY W. WILDS

a witness produced on call of the State, having first been duly sworn according to law, was examined and testified as follows:

THE CLERK: You may be seated. Please keep your voice up and state your name and your address for the record.

THE WITNESS: Jay W. Wilds. I live at [redacted]

[redacted]

I'm sorry.

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THE COURT: One moment, Mr. Wilds. We are distributing something to the jury. Once that's done, Mr. Urick will have some questions for you.

THE WITNESS: Yes, ma'am.

DIRECT EXAMINATION

BY MR. URICK:

Q Good afternoon, Mr. Wilds. How old are you?

A Twenty.

Q And where did you attend high school?

A Woodlawn High.

Q And what years did you attend there?

A '94 through '98.

Q How many years?

A Four years.

Q And when did you graduate?

A '98.

Q And what sort of school is Woodlawn?

A It's a high school, but it's also a guidance school.

Q And which program were you in?

A I was enrolled in the regular program at Woodlawn.

Q Who do you currently live with?

A My mother.

Q Any other family members?

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A No, sir.
Q How long has it been like that?
A About six years.
Q And how are you supported right now?
A I'm employed. I'm a concrete construction worker.
Q And how long would you have been supporting yourself?
A Completely?
Q Yes.
A Since eighteen.
Q Did you know Hae Min Lee?
A Yes, I had a Biology class with her.
Q And when was that?
A I believe my junior year.
Q And do you know the defendant in this case?
A Yes.
Q And when did you first meet the defendant?
A We were introduced to each other in middle school through mutual friends but I didn't formally meet her until high school.
Q About what time?
A My senior year.
Q And what class was he in, in relation to yours?
A He was in none of my classes.

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Q I mean what year was he in, in relation to yours?

A Oh, he was a year beneath me, the class of '99.

Q And when in the school year, senior year, would you have met him?

A Towards the end.

Q And how did you come to meet him?

A He was a friend of my girlfriend. She told me we should hang out.

Q And did you come to start doing things with the defendant?

A I believe me and him went to one dance, me, him and Stephanie. I took him to buy marijuana once. That was about it.

Q When was that?

A I would have to say about a week after we were introduced I took him.

Q Your senior year?

A Yes, I'm sorry.

Q Okay. Once your senior year ended, did you have any further contact with him?

A No. Up until their senior year, no.

Q And how did you start having contact with him again?

A Again, through Stephanie.

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Q And was this after the school year started?
A Yes.
Q And when would this have been?
A It was the beginning of winter, so December, November, December.
Q And what sort of contact were you having with him at that time?
A The same, casual. He would give me a lift somewhere or me and him and Stephanie would go somewhere together.
Q And did you do any other things together?
A Again, I went and purchased marijuana for him.
Q About how many times have you purchased marijuana for the defendant?
A Twice.
Q Now, what is your involvement with marijuana?
A I used to smoke regularly. I get tested at my job now. Other than that, I sold some. I haven't grown it. That's about it.
Q When you say you sold some, what do you mean by that?
A Friends, people who asked me could I get it for them. I purchased it for them or purchased a large amount and then disbursed it to them.
Q And when did you first start doing this?

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A Probably the tenth grade, I needed lacrosse equipment.

Q And about how often would you buy marijuana for other people?

A Two to three times a week.

Q Now, drawing your attention to -- well, before I get to that, did you consider the defendant a friend?

A An acquaintance.

Q Now, drawing your attention to January 12th of 1999, what if any significance in your life does the date January 12th have?

A It's my birthday.

Q Did you have occasion that day to hear from the defendant?

A Yes, in the evening. I returned in I believe it was about ten something. I received a phone call and he just asked me what I had been doing. I told him I was out partying earlier and I was kind of tired. He asked me what I was doing tomorrow and I told him nothing.

Q What if anything else did he say?

A That was it.

(State's Exhibit No. 31(a) was marked for purposes of identification.)

(Brief pause.)

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MS. GUTIERREZ: This is entered as a separate page.

MR. URICK: I xeroxed the original.

MS. GUTIERREZ: Okay.

BY MR. URICK:

Q I am now going to show you what has been marked for identification as State's Exhibit 31(a). This is a xerox of a page out of Exhibit 31 that's already in evidence. At this time, I would like you to look at the bottom of the page. You will see that there is blocks of information there, and the last one has the information call date, 1/12/1999, and then there is a block of ten lines of numbers below there.

Look at line number ten.

A Yes.

Q Can you read that line?

A [redacted].

Q And do you recognize that number?

A Yes.

Q Whose number is that?

A That was my former home number.

Q At this time I'm going to ask the witness to use this highlight pen to highlight that line.

A (Indicating.)

MR. URICK: We will offer as State's Exhibit

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31(a) the xerox exhibit from 31.

THE COURT: Any objection?

MS. GUTIERREZ: No objection.

THE COURT: Let it be admitted.

(State's Exhibit No. 31(a), previously marked for identification, was received in evidence.)

(Brief pause.)

(State's Exhibit No. 34 was marked for purposes of identification.)

MR. URICK: May I approach the witness again?

THE COURT: Yes, you may.

BY MR. URICK:

Q At this time I'm handing the witness a copy of what has been marked for identification purposes as State's Exhibit 34. Now I would like to draw your attention to January the 13th of 1999. What if any significance does the date January 13th have in your life?

A It's my girlfriend's birthday.

Q When you say your girlfriend, who are you referring to?

A Stephanie [redacted].

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Q Now, where were you in the morning?

A I was home.

Q Did there come a time when you heard from the defendant?

A Yes.

Q About when was that, if you can recall?

A I believe it was about 10:30.

Q Now, I would like you to look at the exhibit I put before you. If you would, look three lines up from the bottom, the line that is marked line thirty-two.

A Yes.

Q Do you recognize that number?

A Yes, that's my home phone number again.

Q And will you read it for the record, please?

A [redacted]

Q And for the record, if you will go across, would you please read the next two lines which are the call time and the duration of the call?

A 10:45 a.m., and twenty-eight seconds.

MR. URICK: At this time, with the court's permission, I'm going to write "Wilds residence" on line thirty-two in the blank space.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: You may do that as well.

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MR. URICK: (Indicating.)

BY MR. URICK:

Q What did that conversation consist of?

A Again, what were my plans for the day, what was I doing, and that he would be there in an hour to pick me up.

Q To pick you up. What if any plans did you make?

A I had told him that I had to go to the mall to go shopping to pick up Stephanie a present for her birthday.

Q And what if anything did he say when you told him that?

A I'll give you a lift.

Q And did there come a time when you saw him?

A Yes.

Q And about what time was that?

A It was about an hour later.

Q And how did he meet up with you?

A He knocked at my door. I believe I had just been showering and getting dressed. It wasn't very long after that he showed up. We both got in his car and left for Security Mall.

Q When you say "his car", what are you referring to?

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A An Accord. I don't remember what year it was.
Q Had you seen him driving that car before?
A Yes. It was a tan Accord.
Q He arrives at your door. What occurs next?
A Nothing. We both exit my house and get into his vehicle and proceed up Roland Road to the Security Square Mall.
Q And what if anything happens there?
A At the mall?
Q Yes.
A Just shopping for my girlfriend's present and some stuff like that.
Q About how long were you at the mall?
A Probably about an hour and fifteen minutes.
THE COURT: One moment, please. If you have a cellphone, a pager, a beeper or anything of the like in this courtroom, please turn it off immediately. Thank you. My apologies.
MS. GUTIERREZ: I'm sorry, I didn't hear the witness' answer, if he answered.
BY MR. URICK:
Q About how long were you shopping?
A About an hour and fifteen minutes.
Q When you finished shopping, what if anything occurred?

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A We left the school. No, I'm sorry, we left for school. He said he had to get back, that his lunch was ending. I took him back. On the way back to the school, he was like I need you to do me a favor. If you need my car, can you pick me up, and I said sure. I wasn't finished shopping. I dropped him off at the back of the school. He walked up the steps and went back to class.

Q What if anything did he tell you?

A Earlier on the way to the mall we were discussing relationships. I was telling him how I felt about Stephanie and how our relationship was going, and he was telling me how he felt about Hae and how his relationship was going.

Q What did he tell you?

A He just said that it wasn't going good, how could she treat him like that, someone who supposedly loved him. He seemed pretty hurt about it. I didn't sense any anger.

Q What if anything else did he tell you at that time?

A How she made him mad, and he was like, well, I'm going to kill that bitch, but it wasn't like in terms of or in the context, the situation, and I didn't take it as a --

Q You didn't finish your answer.

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A I'm sorry. In the context of the conversation we were having, he said I was going to kill that bitch, and I didn't ask him who, I figured he was referring to Hae, and that was what he said and then he went on more about, you know, people and interactions and love and things of that sort.

Q And about how long did this conversation last?

A It lasted from Route 40 and Roland Road to the stoplight at Johnnycake and Roland Road. So I would say probably about a five minute drive.

Q And what if anything occurred next?

A After I dropped him off at the school?

Q You drop him off at the school and then what happens?

A I leave there and go to my -- actually --

Q When you drop him off --

A I'm sorry.

Q -- and you start to leave, what if any property of his do you have at this time?

A He leaves his cellphone with me because he says he is going to give me a call when he needs me to come get him.

Q Okay. Now, I would like you to look at line thirty-one.

A Yes.

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Q And thirty above it.
A Yes.
Q Examine those two lines if you will.
A Yes.
Q Do you recognize those numbers?
A Yes.
Q Whose numbers are those?
A Jenn [redacted].
Q And what type of number were these?
A Pardon me.
Q What type of number were they?
A Oh, that's her telephone number, [redacted].
Q It's what number?
A I'm sorry, it's her telephone number.
Q That's her home residence?
A Yes, her residence.
Q Will you read the entire number for the record?
A [redacted].
Q And that's on both lines thirty-one and thirty; is that correct?
A Yes.
MR. URICK: With the court's permission, at this time I'm going to write "[redacted] residence" on both of those lines.
THE COURT: Any objection?

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MS. GUTIERREZ: No.

THE COURT: You may do that.

MR. URICK: (Indicating.)

BY MR. URICK:

Q Who is Jenn [redacted]?

A She is a friend of mine.

Q How long have you known her?

A Probably about six years now.

Q And what sort of friend is she?

A She's a very close friend of mine.

Q Now, if you will look across that line, line thirty-one, do you see the time of the call?

A Yes.

Q And what time is that?

A 12:07.

Q Do you remember making this call?

A Yes, I do. I believe on my way, as I left the school, I was going to their house, and I used the phone to call to see if they were home on the way there.

Q And what if any response did you get?

A I believe that Jenn's brother Mark had picked up the phone and told me that she wasn't home but I could come over there anyway.

Q Now, line thirty, if you look across there, do you see the time there?

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A Yes.

Q And what time is that?

A 12:41.

Q Do you remember making that call?

A I do not recall making that call but me and Mark did leave out, so we may have called back to the house to see if Jenn was home.

Q Okay. Now, did there come a time when you went over to the house?

A Yes.

Q And what if anything did you do there?

A We entered, me and Mark, and we both went down to the basement. We started playing Play Station probably for about a half an hour. I asked him if he would like to come to the mall with me, I hadn't finished shopping yet, and he said sure. Right before we left, I received a phone call on the cellphone. It was Adnan and he was asking me where I was. I told him I was at Jenn's playing video games. I asked him if he was ready yet and he said no. We left and we went to the mall. I did the rest of my shopping. We came back to Jenn's house and went back down to the basement. I believe Jenn called on the telephone when we returned home, and soon after I got another call on the cellphone. This time he was asking me like had I had it turned off or something like that or

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something, was it on, and I told him yes, it had been on. I sat at Jenn's and I played video games.

Q And did there come a time when Jenn came home?

A Yes.

Q And did there come a time when you left?

A Yes.

Q And where did you go when you left?

A Well, in his last phone call, he was like I need you to come get me at like 3:45 or something like that he told me, and I was like all right, cool. I waited until then and there was no phone call, so I was going to my friend Jeff's house.

Q And on the way there, what if anything happened?

A Jeff wasn't home. As I was leaving his street, I received a phone call. It was Adnan. He asked me to come and get him from Best Buy.

Q Where were you at that time?

A I was turning. I was going to make a right onto, I believe it was Craigmont, but instead I made a left.

Q And where did you go?

A To Best Buy.

Q And what if anything -- which Best Buy was that?

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A The one at Security Boulevard and Woodlawn.

Q Now, when you got there, what if anything did you see?

A I saw Mr. Syed standing by the payphone. He had on a pair of red gloves. He just kind of looked at me and instructed me to drive over to the side of the building. I drove over to the side of the building. He was walking and told me to park the car next to a gray Sentra. I got out of the car. I walked towards him and I lit a cigarette. He kept asking me, was I ready for this, was I ready for this. Honestly, I thought he was going to open the trunk and have some pounds in there. He opened the trunk and Hae Min Lee was dead in the trunk.

Q Had you ever seen that car before?

A Once.

Q Did you know whose car it was?

A Vaguely, not.

Q Where had you seen the car?

A At school.

Q When he pops the trunk open, what if anything do you do?

A I took a step back, I dropped my cigarette, and just kind of stared for a second. He didn't keep the trunk open, he closed it. It was five or ten seconds.

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It wasn't very long at all he had the trunk open.

Q What if anything did he say?

A He told me to follow him. He got in Hae's car

Q What if anything did you tell him when he said that?

A Nothing. I just got in his car and followed him.

Q Why did you follow him?

A I don't know. I was dismayed, confused. I don't know why I followed him. I'm sorry. At that time it was confusion, shock.

Q What car were you driving?

A His car.

Q What car was he driving?

A Hae Min Lee's car.

Q And did you start driving?

A Yes.

Q Where did you go?

A I followed him to the 70 Park and Ride.

Q When you say the I70 Park and Ride, what do you mean?

A It's at the end of Security Boulevard and Cooks Lane. It's where 70 ends.

Q And what if anything did you do there at the I70 Park and Ride?

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A I parked and I waited for him. He went in her trunk. He took something out. It was a black bag. He moved some stuff around from the back seat to the trunk. Then I got out of his car and got in the passenger side and he began driving his car then.

Q I would like to take you back for a moment to the Best Buy parking lot. When he popped the trunk open, did you recognize the person in the trunk?

A Not at first, no. They were like laying face down.

Q How do you know who it was?

A I could see her hair and the complexion of the skin. I could tell it was a girl. It was Hae's build, you know what I mean, and clothes I had seen Hae in before. It was her car. That's how I determined it was her.

Q Did there appear to be any movement about the body?

A Not at all.

Q Was there any complexion to the face or to the skin?

A The skin was blue. I couldn't quite see her face but her skin was blue. Like the side of her neck was blue. I could see like that part of her face.

Q Now, going to the I70 parking lot, what if

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anything did the defendant do with the car, Hae Min Lee's car?

A He just parked it. Like I said, he rummaged through the back a little bit and got a couple articles. I believe one was his gym bag. He brought them back and put them in his trunk. He got in his car and he started driving.

Q And when you say started driving, did he say anything at that time?

A At that time?

Q Yes.

A Oh, I had -- no, he didn't say nothing at that time. He had asked me, just like picking up in a lost conversation, oh, you want to go buy some weed, and I was like whatever, you know, fine. We went down Cooks Lane. We were on our way to Mr. [redacted]'s house.

Q Who is Mr. [redacted]?

A He was a guy I bought marijuana from a whole lot, a friend of mine I worked with at UPS and stuff like that.

Q Okay. Hold on for a second, if you would, please. Look at line twenty-six on the exhibit again. Do you recognize that number?

A Line twenty-six?

Q Yes.

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A Yes, that's Jenn [redacted]'s number again.
Q And do you see the time of that call?
A Yes.
Q Please read it. Well, please read her number for the record first.
A [redacted].
Q And do you notice the time of the call?
A Yes.
Q What is the time?
A 3:21.
Q And the length of the call?
A Forty-two seconds.
Q Do you remember making that call?
A I believe so, to ask her if he was on or if he was home, one of the two, meaning if he had marijuana.
Q Whose number was line twenty-six again?
A That's Jenn [redacted]'s.
Q Oh.
A I was calling her, hey is "P" on, do you know if "P" is on again, do you know if he is home?
Q Okay.
A And she said I don't know.
Q This was after you had dropped off the car at the Park and Ride?
A Yes.

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MR. URICK: At this time, with the court's permission, I'm going to write "[redacted] residence" on line twenty-six.

THE COURT: Any objection?

MS. GUTIERREZ: No.

THE COURT: You may do so.

MR. URICK: (Indicating.)

BY MR. URICK:

Q Now, if you look up a line, please look at that line?

A Yes.

Q Do you recognize that number?

A No, I do not.

Q Do you remember the defendant making any phone calls?

A Yes.

Q What if any phone call did he make?

A To a young lady, I believe somewhere in Silver Spring.

Q And what did you hear him say?

A Small chat. He actually asked me did I want to talk to her. I may have said hello but nothing more.

Q Did you get on the phone?

A Yes, that's what I say, for a brief instance, hello, my name is Jay, and gave him the phone back. I

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didn't really feel like talking.

Q Do you remember where you were at that time?

A Forest Park Avenue.

Q And where were you going at that time?

A To buy marijuana. [redacted] was not home.

Q Okay. Now, if you look up a line to line twenty-four, do you recognize that number?

A No, I do not. Oh, yes, I do, I'm sorry. Yes, this is Phil [redacted]'s phone number.

Q And who is Phil [redacted]?

A He is a friend of mine. For a long time I have known him.

Q And please read that for the record?

A [redacted].

Q And what type of number is that?

A Long distance. It's Frederick County.

Q Is it a residence?

A Yes.

Q And do you see the time of the call?

A Yes.

Q And please read that?

A 3:32 p.m.

Q I believe you have dropped down a line.

A I'm sorry.

Q Follow across line twenty-four.

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A 3:48 p.m. I'm sorry.
Q And the length of the call?
A A minute and twenty-five seconds.
Q How does he spell his last name?
A I'm not sure.
Q Pronounce it again.
A [redacted].
MR. URICK: With the court's permission, at this time I'll write "[redacted] residence" in the blank line for line twenty-four.
THE COURT: Line twenty-four. Any objection?
MS. GUTIERREZ: No, Your Honor.
THE COURT: Very well. You may do so.
MR. URICK: (Indicating.)
BY MR. URICK:
Q Do you remember that call?
A Honestly, sir, I do not.
Q And please look up at line twenty-three.
A Yes.
Q Do you recognize that number?
A Yes.
Q Whose number is that?
A I believe that is Mr. [redacted]'s old phone number at his residence.
Q Will you read that for the record, please?

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A [redacted].

Q And please read the time of the call?

A 3:59 p.m.

Q And the length of the call?

A Twenty-five seconds.

Q And his last name was [redacted]?

A Yes.

MR. URICK: With the court's permission, I'm going to write "[redacted]residence" on that line at this time.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: You may do so. That's line twenty-three; is that correct?

MR. URICK: Line twenty-three. (Indicating.)

BY MR. URICK:

Q What was the purpose of that call?

A To see if Patrick was home.

Q For what reason?

A To buy marijuana.

Q Was he home?

A No, he was not.

Q What if anything did you do at that point?

A That's when we drove up to Forest Park Avenue.

Q And what did you do there?

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A We purchased marijuana.

Q When you say we, who do you mean?

A Me and Mr. Syed.

Q And where did the money come from to purchase that?

A I believe I had five bucks and Mr. Syed had fifteen.

Q Now, during the time that you are riding around looking for marijuana, what if any conversation did you have with the defendant?

A He didn't say much else except it's done, not at that time.

Q What if anything did you say to him?

A Yeah. Nothing really, just yeah.

Q Why not?

A I didn't know what to say to him right then. I didn't know how he was going to react to me.

Q Now, if you will, look at line twenty-two. Do you recognize that number?

A Yes.

Q Whose number is that?

A Ms. [redacted].

Q And what is the time of the call?

A 4:12 p.m.

Q And the length of the call?

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A Twenty-eight seconds.

MR. URICK: With the court's permission, I'm going to write "[redacted] residence" in the blank on line twenty-two.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: You may do so.

MR. URICK: (Indicating.)

BY MR. URICK:

Q Do you remember that telephone call?

A Vaguely.

Q What was it about?

A I think it was asking if Ms. [redacted] was home.

MS. GUTIERREZ: I'm sorry, I didn't hear the witness.

THE WITNESS: I believe it was asking if Ms. [redacted] was home.

BY MR. URICK:

Q Who is Ms. [redacted]?

A C[redacted]. She is a mutual friend of me and Jenn's.

Q Do you remember where you were when that call was made?

A No, I do not.

Q After you purchased the marijuana, and you

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purchased it where again?

A In Forest Park.

Q Where did you go after that?

A We turned and I believe at this time he wanted to get back to track practice because he said he needed to be seen. This is when we started to talk a little bit. I don't know, he said to me it kind of hurt him but not really, and when someone treats him like that, they deserve to die. How can you treat somebody like that, that you are supposed to love? And then, all knowing is Allah.

Q Did he explain what he meant by that?

A No. And then his last statement was mother-fuckers think they are hard, I killed somebody with my bare hands. That's what he said to me. Then he got out of the car.

Q Did he describe the act at all?

A Yes. He said that he thought she was trying to say something to him like apologize or say she was sorry, and that she had kicked off the turn signal in the car, and he was worried about her scratching him on the face or something like that he was saying. But other than that, that was all of the actual act.

Q Did he say why he might be worried if he got scratched on the face?

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A Forensics.

Q Do you know what sort of jobs the defendant had?

A He was a medic, an EMT, Emergency Medical Technician.

Q Now, when you were having this conversation, where were you?

A We were traveling towards Woodlawn High School from Forest Park.

Q And what if anything happened next?

A I believe we stopped somewhere to buy a blunt.

Q What is a blunt?

A I'm sorry. It's a cigar that you empty and use for smoking marijuana.

Q And what did you do at that point?

A He didn't want to smoke with me, so he got out of the car and I left and went to Ms. [redacted]'s house. But before he left the car, he received a phone call or placed a phone call. It was in Arabic. I don't know who he was talking to. I don't know what it entailed. I believe it was his mother, I'm not sure.

Q And when you say he got out of the car, where were you at that time?

A I was in the passenger seat in front of Woodlawn High.

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Q And what if anything did he say he was going to do?

A Go to practice and give me a call when he was through.

Q And what did you do at that point?

A I left and I went to Ms. [redacted]'s house.

Q And what if anything did you do after that?

A I smoked marijuana and I just sat there debating what I should do basically.

Q And what if anything happened next?

A It was real short, maybe like half an hour, I received a phone call from him saying he was at school. I went there, I retrieved him, and then I came right back to Ms. [redacted]'s house.

Q And who if anyone was with you?

A Pardon me.

Q Who if anyone was with you?

A At Ms. [redacted]'s house?

Q Yes.

A Ms. [redacted] and her boyfriend at the time, Jeff.

Q And where was the defendant?

A He was with me but he laid down and like went to sleep on the floor as soon as we got there.

Q And what if anything happened?

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A We smoked a little more. He received a phone call from Hae's parents asking if he knew where she was. He told them he didn't know where she was.

Q Did you hear his conversation?

A Yes.

Q What did he say?

A He just told them no, I haven't seen Hae, I don't know where she is, try her new boyfriend. Then Hae's cousin or someone had called back but it was the wrong number. They thought it was the new boyfriend's number and it was his cellphone number or something like that.

Q Did any other calls come in?

A Uh-huh. He received a phone call from a police officer who was asking about Hae. He was like I don't know where Hae is. Towards the end of the conversation with the cop, he was walking out though, so I didn't catch the end of the conversation with him.

Q When you say walking out, you mean walking out of what?

A The apartment, down the steps.

Q Where does Ms. [redacted] live?

A [redacted], off of [redacted] Avenue or, I'm sorry, in between [redacted] Avenue and [redacted].

Q And describe when you got inside the apartment,

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where did everyone sit down?

A In the living room.

Q Describe the living room.

A It's a very small living room, a television in the center, a table off to the right. We rarely sit at the dinner table. There are two chairs that sit on the wall. There is one that sits off to the right and a bed that sits off to the left.

Q And where was everybody seated, if you recall?

A Like around the television in a circle.

Q And where was the defendant?

A Back to my left laying down.

Q By this time, had he smoked marijuana with you?

A I think a small amount.

Q And about how long did you stay at Ms. [redacted]'s?

A Twenty, twenty-five minutes.

Q Now, when you say he had the conversation with the officer and he was on his way out, how did he come to leave?

A Pardon me.

Q You said you didn't hear the last of the conversation --

A Right.

Q -- because he went out the door. How did he

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come to leave?

A He was talking to the police officer and he was motioning I'm leaving.

Q What happened outside the apartment?

A He got outside the apartment and took his gloves off and threw them in the -- well, actually they were still in his pocket -- he threw them in the dumpster and told me we have to go, we have to go.

Q What if anything did you say?

A I didn't say anything. I got in the car.

Q Why?

A Fear at this point, the police were involved.

Q After you got in the car, what if anything did the two of you do?

A He started driving me home actually. We got to my house, we reached my porch, and then he stopped me and he was like you have got to help me get rid of Hae, and I looked at him like he was crazy. And he told me that he knew what I did, he knew how I did it, and --

Q What did he mean by that?

A I took it as an inference to my drug dealings. I was living in my grandmother's house and I didn't want to get her in trouble. He grabbed two shovels and put them in the back seat of his car. I got in his car with him.

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Q Why?

A What would the cops say if I go to them and I tell them, hey, you know, me, Mr. Wilds, who you beat up in the last week, knows where a dead girl is in the back of a car, and I don't know why or who killed her, you know. No, that wouldn't work.

Q After you got in the car with him, what did the two of you do?

A We went to the 70 Park and Ride. He exited the vehicle and got in her vehicle. He intructed me to wait for him at the McDonald's on Security Boulevard next to our school. I went there and I waited for him. I was thinking that I could just drive away with his car right there, but then just as soon as I thought about that, he had pulled up and instructed me to follow him.

Q He had pulled up in whose car?

A Hae Min Lee's car. I followed him. We drove for a while, maybe like forty-five minutes, meandering -- he didn't really seem like he knew where he was going -- up through Dogwood Road and all back behind the Social Security and stuff like that until we got down to Leakin Park. Then he kind of slowed down and looked off to the left, and then he kept driving. Then he made a right and went up this hill to where some houses were, parked the car, and said that was good enough. Then he got in the

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vehicle with me and instructed me to drive back down the hill.

Q Now, I would like you to look at line twelve. Have you had a chance to examine that line?

A Yes.

Q Do you recognize that number?

A Yes.

Q Whose number is that?

A That's Ms. [redacted]'s old pager number.

Q And please look across and tell us the time of the call?

A Seven o'clock, seven and twenty-one seconds.

Q And the length of the call?

A Twenty-three seconds.

MR. URICK: With the court's permission, I'm going to write "[redacted] pager" on line twelve.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: You may do so. That is line twelve?

MR. URICK: Yes. (Indicating.)

BY MR. URICK:

Q Do you remember that page?

A Yes.

Q What were you doing?

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A I was sitting, waiting for Adnan to come back up the hill when I placed that page.

Q Now, look at line thirteen there.

A Yes.

Q Do you recognize that number?

A No.

Q Okay. Why did you page Jenn [redacted]?

A I was supposed to meet her at 7:00 and I was going to be late.

Q And did there come a time when Adnan returned?

A Yes, there did come a time when Adnan returned.

Q What happens next?

A Okay. It was out of sequence. When we parked the vehicles, we both went down to like a pulloff where he had slowed down before. We moved about fifty yards at the most back into the woods and he said stop, that's good enough, and started digging.

Q How did you get down there, which car?

A His vehicle.

Q And when you pulled off, what if anything did you take into the woods with you?

A Pardon me.

Q When you pulled off and parked the vehicle, what if anything did you take back into the woods with you?

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A Shovels.

Q About what time of night was this?

A About 7:00 because, like I said, I had paged Jenn and while we were digging, she had called back, and he just told her he was busy now and hung up the phone. We dug for a little bit and he said that's good enough. We took the shovels --

Q What was the light like?

A It was pretty dark but the moon was out, and I remember there was little bits of snow on the ground. So you could see a little bit. It wasn't too bad. So we walked back through the woods back to his car. He opened the passenger side to put the shovels in. Then he like started getting dry heaves and stuff. He didn't say nothing. He just got back in the car. I drove back up the hill. I parked behind Hae's car. He asked me for like five to ten minutes, he was like I don't think I'm going to be able to get her out by myself, I think I need your help. I told him I wasn't doing it.

Q Let me take you back for a moment. Did both of you dig?

A Yes.

Q Why did you dig?

A I don't know, I guess I just thought he would go through with his threat. It was my grandmother's

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house and I didn't want to get her in any kind of trouble. If it was my house, it would have been different.

Q Now, let me take you back to the point where the two cars are together again. What did the two of you do?

A Like I said, he asked me to help him. I wouldn't. I sat in his car. He drove her car down the hill and he was gone for a real long time. He came back up the hill, got back in his car and he said we have got to bury her. We drove down the hill. We parked back in the spot. We went back in the woods. She was laying kind of twisted face down. On the way back in the woods, I had seen a blue coat on the ground. I asked him whose it was, and he just picked it up and threw it back in the woods. Then he started to throw dirt on her head. I tried but the stuff started to get to me, so I sat down on a log that was real close and smoked a cigarette.

Q What was he doing?

A He was burying her.

Q Now, if you will look on the exhibit, lines ten and eleven, there are two incoming calls. While you were back there either digging the hole or burying the body, do you remember him receiving another phone call?

A Yes, but I don't know who it was.

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Q What if any language did he use when he spoke?
MS. GUTIERREZ: Objection.
THE COURT: What if any kind of language was he using when he spoke?
MR. URICK: Yes.
THE COURT: Sustained.
BY MR. URICK:
Q Did he speak in English?
A Parts.
MS. GUTIERREZ: Objection.
THE WITNESS: I'm sorry.
THE COURT: Overruled.
THE WITNESS: Parts.
BY MR. URICK:
Q And the other parts, did you know?
A I assume it was Arabic. I mean, I'm not a linguist.
Q You are sitting there smoking a cigarette. What happens next?
A (No response.)
Q What if anything happened next? While you are sitting there smoking a cigarette, what is going on?
A He is putting dirt on her. He picks up the other shovel and says come on, let's go. He puts both the shovels back in the car. We drive back up the hill.

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He asks me, do I want to drive Ms. Lee's car. I told him no. He gets back in Ms. Lee's car and he starts up, and the way we were going, I'm thinking he is looking for a strip.

Q What do you mean by a strip?

A A place to buy drugs. And he just drove around for a while, drove around for a while.

Q What direction did he drive or what roads, if you know?

A I know we traveled towards the city on Route 40 and some of the back streets. We cut north and south, up and down roads. He pulled into like this alcove in the back of a whole lot of apartments. He parked the car and came back to his vehicle. At that time, I told him just flat out to take me home. He started driving me home. We went up 40.

Q Now, if you would at this point, look at line nine and also line eight?

A Yes.

Q Do you recognize that number?

A Yes.

Q And it's the same number on both lines?

A Yes.

Q Whose number is that?

A Ms. [redacted]'s pager number.

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Q Please read it for the record.

A [redacted].

Q Now, when you say pager, is this a voice mail pager or a number punched in pager?

A I believe that one also had voice mail.

Q Okay. Now, on line nine, please look at the time.

A 8:04 p.m.

Q And the length of the call?

A Thirty-two seconds.

Q And the one above it, please read the time.

A 8:05, and the length was thirteen seconds.

MR. URICK: With the court's permission, at this time I'm going to write "[redacted] pager" on both lines eight and nine.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: You may do so, line number eight and line number nine.

MR. URICK: (Indicating.) Pardon me. I inadvertently started to write "residence". I had to black it out. I'm going to write "pager" above the blacked out section.

BY MR. URICK:

Q Do you remember those pages?

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A Yes, sir.

Q Why were you paging Ms. [redacted]?

A I wanted her to retrieve me from, I believe at first it was a mall, and then the second time it was my house.

Q And do you remember where you were when you made those pages?

A Going up 40 in Adnan's car.

Q What if anything was he saying at this time?

A He didn't say too much. He just said it kind of makes him feel better and then again it doesn't.

Q What did he mean by that?

A Killing Hae.

Q As you are driving up Route 40, where did you go?

A He stopped at Westview Mall. He drove around to the back of the mall towards the banking end. He was flipping through her wallet. I don't think he was really looking for money or anything like that.

Q When you say "her wallet", what do you mean?

A Hae's wallet.

Q When had you first seen that?

A That was the first time I had seen it.

Q Where did he get it?

A I believe he brought it back with the

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possessions he brought out of her car at the parking lot.

Q He is flipping through it. What if anything does he do?

A He just shows me her prom picture and just pssst. That's all he says. He doesn't say anything, he just goes pssst, and he chucks the rest of the stuff into the trash can, into the dumpster.

Q What if anything did you do next?

A I told him to pull over out back of Value City. I took both of my shovels. They were mine but I just chucked them, threw them.

Q What if anything did you do next?

A I believe I told him to take me around to the front of the mall. I think I might have paged Jenn from there again but I can't quite remember. I believe he took me home. I may have paged Jenn from the front of the mall but I believe he took me home. I got to my house and I was in my house for maybe five minutes. I instantaneously changed all my clothes and put them all in a bag.

Q Why did you put them in a bag?

A Just because I figured they would have dirt on them or whatever, you know what I mean, from what I had done.

Q And what significance would dirt have had?

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A It would have tied me in. It could have placed me wherever. I didn't want to have anything to do with it.

Q What if anything happened next?

A My mother kept trying to talk to me. I was real agitated. I just left real quick. I got into Jenn's car and I told Jenn to drive back around to the shovels. I was getting real panicky like, paranoid. She drives back around to the shovels. I wipe both the shovels down with the sleeve of my coat. I take the coat that I wipe them down with and I put it in the bag.

Q Why did you wipe down the shovels?

A Fingerprints, or at least mine. And we both, we got back in the car and we drive to Super Fresh. We went to go buy a pack of blunts, Mexicale Slims. While she is in the store buying the blunts, I get out of the car, I go around back and I throw my clothes in the dumpster. We leave there and I believe we go to Ms. [redacted]'s house. We spend the rest of the evening there. That night when I had first got in the car, I told Jenn, just because of who I am and how people see me, that if anything happens to me, for her to be the one person, even if I'm in jail, to know that I didn't kill Hae Min Lee. That was the first thing I told her when I saw her that night.

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Q What if anything else did you tell her?

A Nothing else. I didn't tell her anything like details or nothing like that. I just told her that. I don't think she really believed me at first. That was all that was spoke of it for the rest of the evening.

Q Now, you went back to Ms. [redacted]'s. What did you do after you left there?

A I went home and went to sleep.

Q Did there come a time when you visited your girlfriend that night?

A Yes.

MS. GUTIERREZ: Objection, leading.

THE COURT: Overruled.

THE WITNESS: There was. I believe it was right after Jenn had picked me up. I had taken her her birthday presents, but I didn't stay. It was her birthday but I was real rattled and shaken. I don't know, I just kind of gave her her stuff. I didn't even come up to the house. I stood on the curb, gave her her stuff and a hug, and I left.

BY MR. URICK:

Q About what time did you get home that night?

A Eleven something.

Q Now, after that night, did you ever speak to the defendant again?

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A Once.

Q When did that occur?

A Maybe once or twice. The first occasion was about two days later. I had my girlfriend's car. I had driven it to work. Mr. Syed had given her a lift to my house and as she was getting out of the car, he said to me, you know me and Stephanie are friends, you know we go to school together, and he just smiled. I kind of took that as if he could hurt her whenever he felt like it. And I get back in the house and Stephanie had told me that they had just come from College Park.

MS. GUTIERREZ: Objection.

THE COURT: Sustained as to what Stephanie told him.

THE WITNESS: I'm sorry.

BY MR. URICK:

Q Did you have any further contact with the defendant after that?

A I believe once more. He came into my store where I worked.

Q What type of store was that?

A An adult video store.

Q And what did you do there?

A I was a clerk. I rented videos and handed out quarters.

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Q About how long did you work there?
A About two months.
Q Why did you work in a pornography store?
A It was the graveyard shift, 11:00 to 7:00.
Q Why did you work there?
A That was the time I worked. I worked at F&M during the day, and it was the graveyard shift. I got there and got paid $7.50 to sit behind the counter.
Q He came to that store?
A Yes.
Q Do you remember about when this occurred?
A No, all I remember is that he was in his EMT uniform and his partner was with him. All he asked me was what the cops asked me. That was it.
Q Had the police spoken to you at that time?
A No, they hadn't talked to me yet. He asked me if the cops asked me anything and that was it.
Q Did you tell Stephanie anything?
A No.
Q Did you warn her?
A Yes, that was one thing, she didn't question me. I just told her I didn't want her around him, I didn't want her to go anywhere with him, I didn't want her to be alone with him.
Q Why?

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A Because he could harm her.

(Brief pause.)

(State's Exhibit No. 35 was marked for purposes of identification.)

MR. URICK: If I may approach the witness at this time, I'm going to show him what has been marked for identification as State's Exhibit 35.

THE COURT: Yes, you may.

BY MR. URICK:

Q Take a few moments and look at that, if you would, please, and examine each page.

A Okay.

THE COURT: One moment.

(Brief pause.)

THE COURT: You may continue.

BY MR. URICK:

Q Have you had a chance to examine the exhibit?

A Yes.

Q Can you identify that exhibit?

A Yes.

Q What is that exhibit?

A It's the agreement I signed.

Q And that's the plea agreement you entered into when you pled guilty to accessory in this murder?

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A Yes.

Q And what is your understanding of how your honesty affects this agreement?

A Well, if I tell any kind of lie, it voids it and it's no good. It's a truth agreement, and that's about it, a cap. As long as I tell the truth, I can only get a certain amount of years.

MR. URICK: I would offer, as State's Exhibit 35, the witness' plea agreement.

THE COURT: Any objection?

MS. GUTIERREZ: No.

THE COURT: Let it be admitted.

(State's Exhibit No. 35, previously marked for identification, was received in evidence.)

MR. URICK: May I have the court's indulgence for just a moment?

THE COURT: Yes, you may.

(Brief pause.)

BY MR. URICK:

Q If you would, please, look at that exhibit again. Do you see line seventeen?

A Yes.

Q Do you recognize that number?

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A No.

Q The times that you and the defendant were riding around together, where was the cellphone?

A In his possession.

Q Now, did you kill Hae Min Lee?

A No, I did not.

Q Were you present when Hae Min Lee was killed?

A No, I was not.

Q Why didn't you just at anytime during the course of the evening just drive or walk away?

A Fear, shock, those are my only two reasons. Well, ignorance.

MR. URICK: Witness with the defense.

THE COURT: Witness with you, Ms. Gutierrez.

MS. GUTIERREZ: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q First of all, Mr. Wilds, let's speak about this plea agreement. I'm sorry, I thought you had it. Can I have it, please. Thank you. State's Exhibit 35, which is in evidence, you have reviewed that before today, have you not?

A Yes, ma'am.

Q It's your signature that appears on each and every page, does it not?

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A Yes, ma'am.
Q It's typewritten, is it not?
A Yes, ma'am.
Q And on the last page, your lawyer's signature appears, does it not?
A Yes, ma'am.
Q Your signature appears?
A Yes, ma'am.
Q And Mr. Urick's signature appears; isn't that correct?
A Yes, ma'am.
Q And all three of those signatures are dated 9/7/99, correct?
A Yes, ma'am.
Q Now, one of the things that you were asked and you answered this morning was about being in jail. Do you remember that?
A No, ma'am, I do not.
Q You haven't been in jail on this offense, have you?
A No, ma'am, I have not.
Q Not before the 7th of September, 1999, right?
A No, ma'am.
Q And not after?
A No, ma'am.

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Q And you are not in jail now, are you?
A No, ma'am.
Q And you really don't expect to be in jail, do you?
A I cannot foresee that. I don't know what's going to happen.
Q State's Exhibit 35 is titled "Agreement"; is it not?
A Yes, ma'am.
Q And in that agreement, you agreed to plead guilty to the crime of an accessory after the fact, correct?
A Yes, ma'am.
Q To the murder of Hae Min Lee, correct?
A Yes, ma'am.
Q In this agreement, every page of which you initialed, there is not a single word concerning the facts of the crime that you agree to enter a guilty plea on, correct?
A Yes, ma'am.
Q Not a single word about the facts, correct?
A Pardon me.
Q Not a single word about the facts.
A Of the case?
Q Of the case.

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A Yes, ma'am.

Q There is not a single word in here, right?

A (No response.)

Q Right?

A I have answered that question, yes, ma'am.

Q So that's a yes?

A Yes, ma'am.

Q And there is not a single word about what it is you are accused of doing, correct?

A Oh, no, there is a word of that.

Q And where is that? Would you look at that and show me where a single word of facts concerning what you are accused of doing appears, sir? Is it on page one?

A Oh, I'm sorry.

MR. URICK: The State would ask that unless Ms. Gutierrez is showing the witness an exhibit that she not hover over him.

THE COURT: I have no objection, Ms. Gutierrez, if you stand next to the witness. I have no problem with that.

MS. GUTIERREZ: Thank you.

THE COURT: But I would ask that you lower your voice because I think that we all can hear you.

MS. GUTIERREZ: Thank you, Judge.

THE COURT: You may proceed.

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BY MS. GUTIERREZ:

Q It's not on page one, is it?

A No, ma'am.

Q And it's not anywhere on page two, is it?

A No, ma'am.

Q And it's not anywhere on page three, is it?

A The facts?

Q The facts.

A No, ma'am.

Q Anywhere, the facts?

A (No response.)

Q Anywhere, the facts?

A No, ma'am.

Q And it's not anywhere on page four either, is it?

A No, ma'am.

Q The day after you signed this agreement, you appeared before a judge, did you not?

A Yes, ma'am.

MR. URICK: Objection.

BY MS. GUTIERREZ:

Q And Mr. Urick was there, was he not?

THE COURT: Overruled as to this question.

BY MS. GUTIERREZ:

Q Mr. Urick was there, was he not?

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A Yes, ma'am.

Q And your lawyer was there, was she not?

A Yes, ma'am.

Q And you raised your hand much like you raised today to a court reporter and swore to tell the truth?

A No, ma'am, I did not.

Q You did not?

A No, ma'am.

THE COURT: One moment. One moment, Ms. Gutierrez. I'm going to ask the jury -- if we could just stop for just one second, Ms. Gutierrez.

MS. GUTIERREZ: Sure.

THE COURT: And I'm going to ask, please be advised -- the lady who is in the hat, you may come back and have a seat. Come back and have a seat. What is occurring right now is that there are a number of people that would like to observe this trial. I have absolutely no objection to individuals coming in. However, if you have been here for more than an hour and you are not a family member, I'm going to ask that you go outside and have a seat for an hour so that other individuals in the hall that would like to come in may do so.

When I say family member, I mean either that you are a family member of the defense or a family member of the victim, and you may remain. If you are a

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spectator, I'm just asking that you go out in the hallway for an hour to allow individuals in the hallway who would like to come in to sit for an hour, and then you will be permitted to come back in. I'm not going to play time keeper. I'm just going to ask that if you have been here -- the lady in the hat just walked in a little while ago which is why I asked her to have a seat. But if you have been here for more than an hour, I'm going to ask you to do that. I'm doing this in a friendly way. I'm not going to ask my staff to keep time.

Ms. Gutierrez, you may continue with your questioning.

MS. GUTIERREZ: Thank you, Your Honor.

BY MS. GUTIERREZ:

Q Mr. Wilds, I was asking you that on September the 8th, the very day after you signed this agreement in the presence of your lawyer and Mr. Urick, you appeared before a judge, did you not?

A Yes, ma'am.

Q And you appeared in a courtroom much like today, did yo not?

A Yes, ma'am.

Q And you were sworn in and took an oath to tell the truth, did you not?

A No, ma'am.

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Q Your recollection is that when you appeared in front of that judge you didn't have to take an oath?

A No, he just told me that I --

MR. URICK: Objection.

THE WITNESS: I'm sorry.

THE COURT: Sustained as to the question as to whether he took an oath.

BY MS. GUTIERREZ:

Q Did you swear to tell the truth?

A Pardon me.

Q Do you understand what the truth is, sir?

A In which --

Q I'm only asking about September 8th, the day after you signed this agreement.

A No, ma'am, I was not asked to swear to tell the truth.

Q You were not asked to swear to tell the truth. Today you remember being asked to tell the truth?

A Yes, ma'am.

Q And you know what an oath is?

A Yes, ma'am.

Q And you would have us believe that you know what the truth is, would you not?

MR. URICK: Objection.

THE COURT: Sustained.

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BY MS. GUTIERREZ:

Q Now, Mr. Wilds, this is your lawyer?

A Pardon me.

Q This is your lawyer?

A Yes, ma'am.

MR. URICK: Objection.

THE COURT: Overruled.

BY MS. GUTIERREZ:

Q Okay. And that was the same lawyer that appeared with you at that earlier occasion, correct?

A Yes, ma'am.

Q And you remember the day after when you appeared in front of the Judge? It was in this very building, was it not?

A I don't remember whether it was east or west but, yes, here.

Q And you are familiar with the east and west buildings, are you not?

A Yes.

MR. URICK: Objection.

THE COURT: Overruled.

BY MS. GUTIERREZ:

Q Okay. And on the day after you signed this that you appeared in front of the judge, you were asked a lot of questions, were you not?

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A No, ma'am.
Q You don't recall answering questions posed to you directly by the judge?
A Not a lot.
Q Not a lot?
A No, ma'am.
MR. URICK: Objection.
THE COURT: Overruled.
BY MS. GUTIERREZ:
Q Whatever ones he asked you, you answered, did you not?
A Yes, ma'am.
Q And your lawyer was right next to you, was she not?
A Yes, ma'am.
Q And you could have consulted with her at any moment, could you have not?
A Yes, ma'am.
Q But you did not?
A No, ma'am.
Q You had some questions of the judge, however, did you not?
A Yes, ma'am.
Q And he answered your questions, did he not?
A Yes, ma'am.

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Q But once again, just like the day before, there was not a single word spoken by anyone regarding the facts of your involvement in the crime which you were asked about by the judge that day, correct?

A Could you rephrase your question, please?

Q Well, you know what I'm talking about when I am saying facts about your involvement?

A Yes.

Q Is that right?

A Yes.

Q You understand because it has been explained to you what an accessory after the fact is; has it not?

A Yes.

Q You understand that if you did nothing that there would be no crime, correct?

A Yes, ma'am.

Q But that your agreement to plead guilty is premised on the facts of --

MR. URICK: Objection.

THE COURT: Sustained. One moment. I'm going to ask that we take a brief recess. First, I note that it is 3:30. I'm going to give the jurors a chance to stretch their legs. Two, I'm going to ask counsel to remain and ask the witness to remain where they are.

Ladies and gentlemen, I'm interrupting Ms.

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Gutierrez only because I suspect she is going to go on for a little while; are you not?

MS. GUTIERREZ: Yes.

THE COURT: And before she starts getting into anything other than the plea agreement, I would like to have a chance to have you be prepared to sit for at least the next hour to hour and a half because we are going to go til 5:00 today. I think that was our agreement.

Ladies and gentlemen, do not discuss the testimony that you have heard so far. Leave the notepads face down.

Counsel, are you going to need them to refer to the handouts that they have?

MS. GUTIERREZ: No, Judge.

THE COURT: All right. You can pass the handouts up to Mr. [redacted], and if you need it back --

MS. GUTIERREZ: Well, actually, Judge, that's untrue, I will later.

THE COURT: All right.

MS. GUTIERREZ: I'm not sure I can get to it today, but I think I will.

THE COURT: All right. You can still pass it up for right now. When you need it, we will have it passed back to you. Ladies and gentlemen, please be advised that, as I said, you are not to discuss the

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testimony with anyone, not amongst yourselves or with anyone else.

Also, we will attempt to get the adjustment made to the heater to try to cool it off in here a little bit, and perhaps set up a fan. I take it you all are as warm as I am.

THE JURY: Yes.

THE COURT: All right. Very well. We will do that. If you will go with Ms. [redacted], she will walk you around to the jury room at this time.

(The jury was excused from the courtroom.)

(Brief pause.)

THE COURT: Counsel, Mr. Wilds' attorney, I'm going to ask that you step out in the hallway at this time. You are on the witness stand. You cannot discuss your testimony with anyone. However, if at any time you need to talk to your attorney about your testimony, you are free to do that. I'm going to advise you at this time, however, do not --

MS. GUTIERREZ: Judge, I will object to that. I believe that that --

THE COURT: Do not discuss -- do you understand that he is on the witness stand?

MS. BENAROYA: Yes, ma'am, I understand what is going on.

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THE COURT: Okay. And if he is going to ask to speak to his lawyer, he must do so while he is on the witness stand or at some time when I can say he can.

MS. BENAROYA: I understand.

THE COURT: I see you are whispering to him. I need to advise you not to discuss the testimony, his testimony or anything you are doing with him. However, Mr. Wilds, if you want to talk to her, you need to first get permission from me. Do you understand?

THE WITNESS: Yes, Your Honor.

MS. BENAROYA: He had asked me for a cigarette, Your Honor.

THE COURT: Okay. All right. You can ask her for a cigarette, but you can't smoke a cigarette in this building.

THE WITNESS: I understand.

THE COURT: Okay. But you can go out in the hallway and if she is sitting next to you, that's fine, but if you want to talk to her about your rights or this case, you must first ask me because I need to be advised that you are doing that.

Do you understand?

THE WITNESS: Yes, ma'am.

THE COURT: Very well. You may go out in the hallway.

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MS. BENAROYA: Thank you, Your Honor.

THE COURT: Now, Ms. Gutierrez.

MS. GUTIERREZ: That's all.

THE COURT: No, no, no, your clerks may remain in the courtroom.

MS. GUTIERREZ: Yes.

THE COURT: I need you to tell me who they are. So far, the only one I know who has been identified is the gentleman in the blue shirt.

MS. GUTIERREZ: That's Mr. [redacted]. He's a third year law student. He is my law clerk.

THE COURT: I know.

MS. GUTIERREZ: And the woman that was sitting next to him, who I believe is now outside to the restroom, is Kaliope [redacted], and she is also a third year law student.

THE COURT: Okay. She may remain.

MS. GUTIERREZ: And I have asked them both, because they have worked on the chart, to assist me.

THE COURT: That's fine. But as I said, the only one I knew about was the gentleman in the blue shirt.

MS. GUTIERREZ: And I did clear that with the guard, not this gentleman, but the previous guard, to make sure that that was --

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THE COURT: That's fine. And does the State have any individuals such as law clerks who might need to remain?

MS. MURPHY: No, Your Honor.

THE COURT: Okay. There was a gentleman who was here for sometime.

MS. MURPHY: He is just an interested party, Your Honor.

THE COURT: Okay. Very well. Now, with regard to my concern, I have no problem with spectators. This is my courtroom. There is plenty of room for the victim's family, the defendant's family and other spectators to observe this case. But I need to advise the spectators that if you have been here for more than an hour and you are asked to step out in the hall, it is because there is a family member that wishes to come in and observe the trial. So I will ask, if you are a spectator, that you do that. Then at sometime that I am advised that there is a bigger courtroom available, then we will move to a bigger courtroom. But until that occurs, we will continue here.

I also ask that if you have a coat or a jacket on, that you hang that up because it's very warm in here, and it also would make room for others to sit down. If you have bundles, you can put them under you. There is

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space. And I'm going to set up some fans during the break so it can cool us off a little bit and maybe crack the windows. Then I'll bring the jury back. And I want everyone to know, we will try to make this as comfortable for everyone as possible.

I also advise you, those of you who are spectators, please do not make it necessary for me to tell a spectator, a non-family member, to leave for an hour because I will do that if there is a family member in the hallway that would like to observe this trial. Again, if you leave, it doesn't mean you are leaving forever. It just means that for an hour or so, you will sit in the hall. Then after an hour, you will be able to come back in.

All right. I'm not going to go into any more detail as to what I mean, I think everyone in this courtroom understands exactly what I mean. We are all adults. We are all mature adults. I would ask that you honor my request. If I'm able to locate a larger courtroom, I will do so.

Now, at this moment, this court stands in recess for the next ten minutes.

MS. GUTIERREZ: Ten minutes?

THE COURT: Yes.

THE CLERK: All rise. This court stands in

recess for ten minutes.

(Brief recess.)

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(Jury present upon reconvening.)

THE CLERK: All rise. This court now resumes in session.

THE COURT: Please be seated. Counsel, ladies and gentlemen, I did just speak to the Judge-In-Charge of Criminal. There is not another courtroom availiable for me. All the judges are working, and there are no courtrooms. The one that is available will not hold a panel of this size. So, therefore, we are going to be here.

I'm going to ask once again that the witnesses and spectators please mind the court's -- I'll say this again -- mind the court's order that if you are in the courtroom and you are not a relative of the victim or the defendant, that you stay for an hour and then leave and give someone in the hallway who may be a family member the opportunity to come in and watch this case. If you are asked by the sheriff to step out in the hallway and you refuse, I will recess and you could find yourself in contempt of this court's order because I have asked nicely for you to cooperate.

I will also tell you that the exception to this

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rule would be staff of Ms. Gutierrez and staff of Mr. Urick and Ms. Murphy, and, in this case, the attorney for Mr. Wilds. Okay. You may remain. Other than that and the family, as I have indicated, those spectators at this point that have not been in this courtroom for an hour are welcome to remain.

MR. URICK: May counsel approach?

THE COURT: Yes.

MS. BENAROYA: That would include me, Your Honor, because this concerns a matter that involves me.

MS. GUTIERREZ: Judge, I would object to that. May we approach as counsel first?

THE COURT: Yes. Well, first of all, I'm going to ask counsel to approach that are in this case. The other attorney that is present, you may have a seat, and I'll see whether or not you are needed at the bench.

(Counsel and the defendant approached the bench and the following ensued:)

THE COURT: Okay. Please tell me what the problem or issue is. Do you know what the problem or issue is?

MR. URICK: Ms. Benaroya informed us that Ms. Gutierrez has issued a subpoena for her, and since there is a sequestration motion, she would have to stay out of the courtroom, but she is the attorney for Mr. Wilds. So

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I wanted to bring that to the court's attention. She might want to make a motion to quash.

THE COURT: Okay. And the purpose of the service of the subpoena for the defense?

MS. GUTIERREZ: She may or may not become a witness, but if she becomes a witness, it would not involve anything regarding --

THE COURT: Anything her client is --

MS. GUTIERREZ: Right. It would involve other things that are not privileged certainly regarding her client but would not concern, that would not be a violation of the sequestration order in regard to what, if anything, she would be asked, if she were called as a witness subsequent to his testifying.

THE COURT: So you are saying that you have no objection to her remaining in the courtroom --

MS. GUTIERREZ: No, I don't.

THE COURT: -- during the course of Mr. Wilds' testimony.

MS. GUTIERREZ: Correct.

THE COURT: Okay. Is there any other problem?

MS. MURPHY: Your Honor, there are two non-family members who the State feels need to be present in the courtroom.

THE COURT: Okay.

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MS. MURPHY: One is Doctor Kim. He is providing interpretation for the family members who do not speak English.

THE COURT: Okay.

MS. MURPHY: The other is Detonya [redacted]. She is a representative from the Bereavement Center of the State's Attorney's Office.

THE COURT: Okay.

MS. MURPHY: Both are here with the victim's family but they are not immediate family members, and I would ask that they be allowed to stay in the courtroom.

THE COURT: Okay.

MS. GUTIERREZ: Well, Judge, I will note that two or three of the benches only have three people on them, and three of the other benches have four people on them, so that we should be able to accommodate two extra people without any difficulty.

THE COURT: Okay.

MS. MURPHY: They are all seated. They are all here.

THE COURT: All witnesses are now seated?

MS. MURPHY: No, the victim's family members and the two people that I just mentioned.

MS. GUTIERREZ: Oh, those two people are already seated?

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MS. MURPHY: Yes.

MS. GUTIERREZ: Oh, okay.

THE COURT: Okay.

MS. MURPHY: But I just ask that they not be subject to the one hour rule.

THE COURT: How am I supposed to know who they are? By the way, I'll be doing the trial. So do you want to tell the sheriff or my law clerk who they are.

MS. MURPHY: Sure.

THE COURT: So that I would know who they are.

MS. MURPHY: That's fine, Your Honor.

THE COURT: Can you tell me what they have on? Can you identify them in some way?

MS. MURPHY: Doctor Kim is wearing a gray suit. He is seated with the family of the victim.

THE COURT: Okay.

MS. MURPHY: And Detonya [redacted] is to the right of the victim's brother.

THE COURT: Okay.

MS. MURPHY: And she has an --

THE COURT: Yes, I know who she is. I know who she is. Okay.

SHERIFF: Who are you saying?

THE COURT: The black woman in the back row, she can remain.

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SHERIFF: Okay.

THE COURT: And the gentleman in the blue shirt in the middle, the older, Korean I guess, gentleman.

MS. MURPHY: Yes.

MS. GUTIERREZ: In the gray suit.

THE COURT: Sitting with the mother and I guess the father of the victim.

SHERIFF: Okay.

THE COURT: He can remain.

SHERIFF: Okay.

MS. MURPHY: Everyone else in that row is part of the victim's family.

THE COURT: Okay. Why don't we do it the other way around. Who in this courtroom is not either a family member of the defendant or a family member of the victim, and if you could just turn around and look around and tell me who is not.

MS. MURPHY: Mr. Y[redacted], his mother, and the victim's grandfather are all seated in the back row.

THE COURT: That's not what I asked you, Ms. Murphy.

MS. MURPHY: Aside from them --

THE COURT: I'm asking you who in this courtroom do you see that is not?

MS. MURPHY: Your Honor, aside from those

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people and the two people I have identified, I don't know who the rest of them are.

THE COURT: Okay. Those are the people that you now.

MS. MURPHY: Right.

THE COURT: Okay.

MS. MURPHY: There are five people that are associated with the family of the victim.

THE COURT: Okay. Very well. What about to my left on the front row behind Ms. Gutierrez' staff?

MS. MURPHY: I believe they are not with the victim's family.

THE COURT: Ms. Gutierrez, do you know?

MS. GUTIERREZ: I don't know who they are except for the young white gentleman who drew my attention at the break. He is a pre-law student from Hopkins who is fulfilling a requirement to observe court proceedings and he is covering this trial.

THE COURT: Well, there are a whole lot of other court proceedings in this building. That's why I can't get this trial moved to another courtroom.

MS. GUTIERREZ: In any event, he was directed here by his law professor, Stephen [redacted], who is the Public Defender. I don't personally know him but I asked him who he was because I didn't.

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THE COURT: Mr. Syed, on the front row to the left, are they friends of yours?

MS. GUTIERREZ: Do you know who they are?

THE DEFENDANT: Yes.

THE COURT: They are?

THE DEFENDANT: Yes.

MS. GUTIERREZ: Do you know who they are?

THE DEFENDANT: Yes.

THE COURT: Okay.

MS. GUTIERREZ: Are they members of the mosque?

THE DEFENDANT: Yes.

MS. GUTIERREZ: Yes.

THE COURT: Are they your immediate family members?

THE DEFENDANT: No.

MS. GUTIERREZ: No.

THE COURT: Okay. Very well.

MS. GUTIERREZ: And on the other row, there are five young gentlemen, and in the corner.

THE COURT: Yes, okay.

MS. GUTIERREZ: One gentleman is his brother. He has been here.

THE COURT: There is an easy way to resolve that. The three gentlemen on that row can be moved in and out.

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MS. GUTIERREZ: Okay.

THE COURT: Ms. [redacted], will you come up here for just one moment.

MS. GUTIERREZ: So do we have any others who are outside?

MS. MURPHY: We do.

MS. GUTIERREZ: Oh, we have other people outside?

MS. MURPHY: Yes.

MS. GUTIERREZ: Who are family members?

MS. MURPHY: No, I don't believe so, not yet, but my concern is that we don't.

THE COURT: Ms. [redacted], if you would step up.

MS. [redacted]: Yes, Your Honor.

THE COURT: Ms. [redacted], do you know how many people are in the hallway at this time?

MS. [redacted]: I think there are about three.

THE COURT: Three?

MS. [redacted]: Yes.

THE COURT: Okay. On the row closest to you by the door are non-family members, non-members of either the defendant or the victim's family, and they have been in the courtroom.

MS. [redacted]: Yes.

THE COURT: You can ask them to step out in the

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hallway for an hour. Then the other three people who are in the hallway that have not been in, they can come in then.

MS. [redacted]: Well, I think the three people in the hallway have been in before.

THE COURT: Oh, all right.

MS. MURPHY: Yes.

THE COURT: Okay. Well, in the event that anyone leaves, we want to keep moving them.

MS. [redacted]: Okay.

THE COURT: Okay. Are we set?

MS. MURPHY: That's fine.

MS. GUTIERREZ: Yes, Judge.

THE COURT: Thank you.

(Counsel and the defendant returned to the trial tables and the following ensued:)

THE COURT: Counsel, you are permitted to remain. Now we are going to proceed. I think it has cooled off a little bit in here. We have made some arrangements and the Administrative Office is now looking for a bigger courtroom for us. Until they find one, let's proceed.

MS. GUTIERREZ: Judge, we need a witness.

THE COURT: Oh, that would be a good idea, wouldn't it?

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MS. GUTIERREZ: I might do better without one.

THE COURT: All right. You may take the stand, sir. Mr. Wilds, I'm going to remind you that you are still under oath. If at anytime during the course of your testimony you would like to stop and speak to your attorney, feel free to let me know that and you will be able to do that.

Please have a seat, sir. I would like you to state your name one more time for the record.

THE WITNESS: Jay W. Wilds. I'm sorry.

THE COURT: And, Ms. Gutierrez, the mike is now in front of you.

MS. GUTIERREZ: Yes.

THE COURT: If you would project. Before I asked you not to speak up, but now I'm going to ask you to speak up so that it will reach the mike.

MS. GUTIERREZ: I'll do my best, Judge.

THE COURT: One moment. Mr. Wilds, state your name again?

THE WITNESS: Jay W. Wilds.

THE COURT: Very well.

CROSS-EXAMINATION (Continuing)

BY MS. GUTIERREZ:

Q Mr. Wilds, before we broke, we were talking about this plea agreement. Do you recall that?

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A Yes, ma'am.

Q And after you identified, after Mr. Urick's question, he asked you about the time, and he used the words "when you pled guilty". Do you recall that?

A Yes, ma'am.

Q Okay. And you answered because you did recall that, correct?

A Yes, ma'am.

Q And the time that you were referring to when you pled guilty was the same occasion the day after you signed this plea agreement that you appeared before the judge?

A Yes, ma'am.

Q Together with your lawyer?

A Yes, ma'am.

Q And together with Mr. Urick; is that correct?

A Yes, ma'am.

Q And that's the occasion that you don't recall that you took an oath, correct?

A Yes, ma'am.

Q But you do recall that the judge asked you, in your words, some questions; is that correct?

A Yes, ma'am.

Q And that there was nothing ever asked or said about the facts concerning your involvement in any crime?

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A I'm sorry.
Q Do you recall that occasion?
THE COURT: Do you not understand the question?
THE WITNESS: I do not.
THE COURT: If you do not understand the question, say I do not understand the question. All right?
THE WITNESS: Yes, ma'am.
THE COURT: Very well.
BY MS. GUTIERREZ:
Q You understand what I mean when I use the term facts, do you not?
A Yes, ma'am.
Q And you understand what I mean when I use the term "your involvment", do you not?
A Yes, ma'am.
Q And this plea agreement, which you signed in the presence of your lawyer, calls for you to admit your involvement in a crime, does it not?
A Yes, ma'am.
Q And that crime that you have agreed to an involvement in is an accessory after the fact to the murder of Hae Min Lee; is it not?
A Correct.
Q And you understood that when you signed this,

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did you not?

A Yes, ma'am.

Q Your lawyer fully explained it to you, did she not?

A Yes, ma'am.

Q But on the following day when you appeared in front of the judge on this very matter, there was no mention of any of the facts that concerned your involvement to the crime of accessory after the fact to the murder of Hae Min Lee, was there?

A No, ma'am.

Q Mr. Urick didn't get up and describe what your involvement was, did he?

A No, ma'am.

Q And what you did on that day was not a guilty plea, was it?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Well, Mr. Wilds, your lawyer explained that to enter the guilty plea, the judge had to ask you questions under oath, did she not?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

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Q Well, Mr. Wilds, you are aware that the proceeding the following day didn't mean that you pled guilty?

MR. URICK: Objection.

THE COURT: Sustained.

MS. GUTIERREZ: May we approach the bench?

THE COURT: Yes, you may approach the bench.

(Counsel and the defendant approached the bench and the following ensued:)

MS. GUTIERREZ: Judge, I maintain that where these questions go is to establish that, in fact, this witness has not entered --

THE COURT: You need to keep your voice down.

MS. GUTIERREZ: Oh, I'm sorry. This witness has not entered a guilty plea.

THE COURT: I understand. The problem I'm having with your question is, you are asking this witness for a legal term of art. You and I know what a guilty plea is.

MS. GUTIERREZ: Except that he answered the question. Mr. Urick asked him that question, when you pled guilty. I'm asking him a question in the exact same phraseology.

THE COURT: Please keep your voice down.

MS. GUTIERREZ: He answered that question. He

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understood it when Mr. Urick asked him. I'm asking him for his understanding of it.

THE COURT: One moment. One moment. Ms. Murphy, are you going to be talking or is Mr. Urick going to be talking?

MS. MURPHY: I believe Mr. Urick will be speaking, Your Honor.

THE COURT: Okay.

MS. MURPHY: I was conferring with him.

THE COURT: I understand that. Excuse me.

Ladies and gentlemen, I'm going to ask that you go back to the jury room. I'm going to ask that while you are there, that you not discuss the testimony, nor discuss anything else. I'm going to ask that you leave your notepads face down on your chair. I ask that you go with Ms. [redacted] at this time. Then at such time that I am able to bring you back, I will do so.

(The jury was excused from the courtroom.)

(Brief pause.)

THE COURT: Mr. Wilds, I'm going to ask you to step out in the hallway, please. Do not discuss your testimony with anyone. I ask that you not have any conversation with your attorney about this case without first asking me or letting me know in advance that you are requesting to talk with your attorney.

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THE WITNESS: Yes, ma'am.

(Whereupon, the witness was excused from the courtroom.)

THE COURT: Counsel, you can step back, please.

(Counsel and the defendant returned to the trial tables and the following ensued:)

THE COURT: Now, first and foremost, if at anytime during the time you are at a bench conference you are of the opinion that either counsel is speaking too loudly, address that concern to me. I do not appreciate your making remarks on the record that you believe that she is talking or he is talking or whatever too loudly. If you have a concern about that, then you need to draw that attention to me, and I will make a determination whether or not I believe the person is speaking loudly. If I think they are, I will ask them to whisper. If I do not believe that they are then whispering quietly enough, I will then advise them of that fact. And if necessary, as I have just done, I will ask the jury to step outside.

Ms. Gutierrez, I will hear from you with regard to your concern?

MS. GUTIERREZ: Judge, my notes reflect that the exact words, after asking Mr. Wilds to identify the plea agreement, of the question posed to this witness in direct were the words "when you pled guilty" and there

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was a followup question to that. This witness readily answered that. What I am seeking to get out and what I think I am entitled to for two reasons, this witness has been presented to this jury as not only a witness who has entered a plea agreement which then makes that the subject of impeachment, what the agreement was, how much it was limited to, whatever. But he has now been presented in direct as a witness who has pled guilty. In terminology, this witness has acceded he understands because he freely answered those questions, and there were four of them following that about the when he pled guilty.

In fact, this witness has not entered a guilty plea. I don't have a copy of my rules but I did review this before.

THE COURT: Was it an Alford plea?

MS. GUTIERREZ: No, Judge, it was a proceeding, a most remarkable proceeding, and I have sent for the transcript. There is a video transcript available but I believe that that is still with the court reporter. That was the subject of another motion before the previous trial that shows that on September 8th Mr. Urick, who appears in the video, Ms. Benaroya, and Mr. Jay Wilds appeared on an undocketed matter before Judge McCurdy, and that at that proceeding Mr. Wilds was purported to

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enter a guilty plea.

However, the proceeding only indicates that Judge McCurdy asked him what we generally refer to as the litany in a guilty plea, does he know what he is giving up. All the questions are asked by Judge McCurdy. Mr. Wilds answered. There were two questions to which Mr. Wilds had a question directly to Judge McCurdy about something that he asked. Then at the space and time when under the rules, in order to constitute a guilty plea, the statement of facts would have been read, Judge McCurdy turned to Mr. Urick and Mr. Urick said something to the effect of there will be no statement of facts, at which point the clerk intervened and asked Judge McCurdy, because of course the clerk had already recorded it as a guilty plea, and both she and Judge McCurdy realized, well, it wasn't a guilty plea because there is no statement of facts, and all we have done is a litany and there is no finding, there can be no verdict, it isn't a guilty plea, and there was a discussion about what to call it on the court file since there was no statement of facts.

I believe that the rules define what a guilty plea is, and, frankly, Judge, I can't quite remember where it is, but the rule specifically says a guilty plea is constituted when, you know, there is an oath

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administered, the person is advised what we generally, you know, refer to as the litany, whether it's given, and that can actually be given by the judge, the prosecutor, or the defense attorney, to which the defendant purporting to enter the guilty plea is properly advised of all the consequences and what constitutional and statutory rights they are giving up by so entering. There has to be a finding by a judge that that portion, i.e. the defendant understanding the consequences of a guilty plea, is made freely and voluntarily, and that then there are sufficient statement of facts on the record that the judge can make a finding upon which to base a plea.

Absent any single one of those statutory requirements, there is no such thing as a guilty plea. If the court went and pulled the file, they would discover that disposition in this case isn't marked because they haven't even reached disposition. It's a continued hearing. But there has been no finding other than on the litany that was given to the defendant, and not a single word of facts upon which any court could have based a finding that there are sufficient facts to base a plea.

THE COURT: So you are saying that it wasn't a guilty plea?

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MS. GUTIERREZ: That's right.

THE COURT: If it was --

MS. GUTIERREZ: And I believe that that is subject to impeachment now since this witness has intentionally been presented to this jury for their purposes as a man who believes he has not only entered into a plea agreement but he has already entered a guilty plea, and that's false, and that goes to his understanding of what he has done, what he has admitted to, what the consequences are. He could very well challenge where I'm going if his lawyer would tell him the truth, would tell him --

MR. URICK: Objection.

MS. GUTIERREZ: -- that plea is worthless, it's not a plea, it's not binding. There has been no finding of facts.

THE COURT: But, Ms. Gutierrez, isn't it a fact that the purpose of your questions is to determine whether or not he has any bias, motive, interest in testifying one way or another based on promises he believes that he has, not whether --

MS. GUTIERREZ: Yes, sir, and I plan to get there.

THE COURT: Wait a minute. Not whether, in fact, they are promises, whether or not they are, in

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fact, promises that will be kept to him, but whether or not they are influencing his testimony today. So in that regard, it really doesn't matter whether they called it a guilty plea or not but, rather, whether or not you have the latitude to inquire into any promises that have been made.

MS. GUTIERREZ: Well, that's why I asked the questions in exactly the words --

THE COURT: That he stated, yes.

MS. GUTIERREZ: -- that he was asked to challenge his understanding and what it meant.

THE COURT: I understand, Ms. Gutierrez. Why don't we do this. Why don't we ask the State what they call it because, as you have indicated, it would help you inquire --

MS. GUTIERREZ: I will cite you the rule, 4-242.

THE COURT: 242?

MS. GUTIERREZ: Yes.

THE COURT: It would help you in terms of asking your questions if you knew it was a formal guilty plea proceeding because, as you have indicated, the witness should have been placed under oath. If it wasn't a formal guilty plea proceeding but some other proceeding whereby they may have just recorded the signing of a plea

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agreement --

MS. GUTIERREZ: They did not, Judge.

THE COURT: Well, I'm just saying. I don't know what it was because I haven't had the benefit of viewing the video as you have.

MS. GUTIERREZ: Well, I'm telling you as an officer of the court what the video shows.

THE COURT: Okay. Why don't we ask the State what they want to call it and whether or not there needs to be some correction about the use of the term guilty plea when asking or inquiring of this witness what it is that they did. Mr. Urick, can you answer the court's question?

MR. URICK: In simple legal terms, Your Honor, when a person comes into court and enters his plea, he enters his plea. This witness pled guilty. He pled guilty under oath. It was made clear to him that he was entering a guilty plea, that it would be a binding plea. He was explained the procedures that would complete the procedure at disposition. It was made clear to him that those procedures were binding, that they could be done without his presence, in his absence. Everything was explained to him, you know, and he pled guilty, and it was recorded that he pled guilty on that occasion.

THE COURT: Okay. And so you are saying that

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it was a plea under, as we say, 4-242, which is the guilty plea litany?

MR. URICK: Yes.

THE COURT: Very well. There is your answer.

MS. GUTIERREZ: Judge, I will note that 242(c) says a court may accept a plea of guilty only after, and it then goes on to cite a one, that the defendant is pleading guilty voluntarily with an understanding of the nature of the charge and the consequences of the plea and, two, that there is a factual basis for the plea. If you go back up in the first sentence, the court must determine by the construction of the exact sentence that both one and two exist.

I will tell you that --

THE COURT: Ms. Gutierrez, you are arguing Mr. Wilds' point on appeal of his guilty plea. If, by some reason, Judge McCurdy did not follow the 4-242 litany, that's for another day and another court to decide.

MS. GUTIERREZ: Well, Judge, my point for our impeachment is not limited to one kind of attack. If this witness believes he has entered a guilty plea that is binding, and our position is that he may not know whether or not it's binding or not, and he has stated and presented himself to this jury as a man who has already pled guilty and admitted through facts his own

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involvement. That's not true. There are no facts that have had to be determined.

We believe that is critical to the defense to challenge the credibility of this witness.

THE COURT: Ms. Gutierrez, may I make a suggestion then, in light of your argument, that we will do the following: I will allow you to inquire as to what this witness recalls being done during his guilty plea proceeding. That is, he has already said he wasn't under oath, and anything else that you would like to draw out. Then in the instructions to the jury, I will be happy to advise the jury what a guilty plea is under the rules. And if you would like to structure an instruction --

MS. GUTIERREZ: I will do so.

THE COURT: -- that would outline what a guilty plea is, and then we can utilize it in that fashion, because I think what you are trying to do is, at this juncture, argue the law mixed with a witness who may not know that certain procedures under 2-242 may or may not have been followed.

MS. GUTIERREZ: And I do understand the court's point, Judge, but I will point out that's why I was so careful --

THE COURT: I understand.

MS. GUTIERREZ: -- to phrase the questions in

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the exact words that this witness has already answered that he indicates he understands. So I believe the court is in error --

THE COURT: One moment.

MS. GUTIERREZ: -- ruling that we are mixing facts.

THE COURT: One moment. I asked previously that if you have a phone, a cell phone or a pager, that you turn it off. Whoever's cell phone just went off, leave the courtroom. Out. I'm not going to ask again that you follow the rules of this court. If you have got a pager, a cell phone, turn it off.

MS. GUTIERREZ: And I guess I'm asking for the court's guidance because my next series of questions are related to the questions that followed that. And, again, using the exact words that he has already answered questions, that his understanding is that if he tells a lie, it voids it. It voids his belief that he is protected as under the guilty plea that he has already testified to he believes exists.

THE COURT: Ms. Gutierrez, he doesn't know that, and that's just it.

MS. GUTIERREZ: Except he was allowed to be asked that and answered that, and we should be allowed to challenge the credibility of his answers on direct.

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THE COURT: You will.

MS. GUTIERREZ: Well, I guess --

THE COURT: You will.

MS. GUTIERREZ: -- that's what I'm asking the corut.

THE COURT: You will be able to do that, and that's exactly what the court's instruction --

MS. GUTIERREZ: As to these questions.

THE COURT: And you will get to do that because as to these questions --

MS. GUTIERREZ: Most respectfully, Judge --

THE COURT: -- you will be able to argue it.

MS. GUTIERREZ: -- I appreciate, you know, and I will fashion an instruction. But an instruction does not supplant the viable method, the only approved method for a defendant to challenge the credibility of his main accuser, and that is to be subject to cross-examination as to anything.

THE COURT: I just said you could do it. I just said you could.

MS. GUTIERREZ: Well, Judge, you just said I could do it --

THE COURT: I'm saying yes.

MS. GUTIERREZ: -- through the instructions.

THE COURT: No. I said yes, that you can

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question.

MS. GUTIERREZ: I can answer those exact questions --

THE COURT: You can ask.

MS. GUTIERREZ: -- in the same --

THE COURT: You can ask.

MS. GUTIERREZ: All right. It's late, Judge.

THE COURT: Yes.

MS. GUTIERREZ: Okay.

THE COURT: Yes.

MS. GUTIERREZ: That's fine. I'll take it. I'll take it.

THE COURT: Yes, you can ask him if the questions, what you know to be a Rule 11 litany --

MS. GUTIERREZ: Right.

THE COURT: -- a Rule 242 litany --

MS. GUTIERREZ: Right.

THE COURT: -- if those questions were asked you, yes, you may ask the witness. You can even ask him again, you know, and I won't sustain the objection again to were you under oath.

MS. GUTIERREZ: Right.

THE COURT: Yes, you may do that.

MS. GUTIERREZ: Okay.

THE COURT: And then also if you would like to

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fashion an instruction that goes to what normally under 242 should be done in a guilty plea as an issue directed at credibility of a witness, because in order for the jury to assess his credibility, they need to know under the law what should have been asked, and they would not know unless you fashion an instruction.

So, yes, and yes. I don't know how better to tell you. I am giving you what you are asking for.

MS. GUTIERREZ: Okay. I'll take it. Thanks, Judge.

THE COURT: Well, you're welcome. Now, if we can have the jury come back in, we will continue with this case. I know that the State may not agree but the court's concern is that if this witness believes that he was engaged in a guilty plea and that, as a result of that guilty plea, that this promise is binding in some fashion and that is directing his testimony, the defense has a right to inquire as to the basis for that belief. And if for some reason it is a faulty belief, then the jury is entitled to hear what it is that may have happened during a guilty plea that this witness does not either recall or may have forgotten or was not done, and opens him up to a challenge to his credibility.

For that reason, I will allow the defense to inquire.

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MS. GUTIERREZ: Thank you, Your Honor. Since the jury isn't here, but while we are waiting for them, I guess I would ask for the court's guidance. Obviously I can't finish my cross of this witness today.

THE COURT: I know.

MS. GUTIERREZ: Are you still going to stop at 5:00?

THE COURT: I am.

MS. GUTIERREZ: I will try to structure it so I finish pieces together.

THE COURT: Right.

MS. GUTIERREZ: Okay.

THE COURT: I am going to stop at 5:00, and you can piece it the way you would like to be the most cohesive. I know that we have to stop somewhere.

(Brief pause.)

(The jury returned to the courtroom.)

THE COURT: All right. Ladies and gentlemen, as you are finding your seat, we are going to proceed with the testimony of Mr. Wilds.

Ms. [redacted], if you can ask Mr. Wilds to return to the courtroom.

(Brief pause.)

THE COURT: Sir, please take the stand. I'll remind you that you are still under oath. Have a seat.

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Ms. Gutierrez, witness with you.

MS. GUTIERREZ: Thank you, Your Honor.

CROSS-EXAMINATION (Continuing)

BY MS. GUTIERREZ:

Q Mr. Wilds, again talking about what you have called the plea agreement, okay?

A Yes, ma'am.

Q That's the same agreement that you have called the truth agreement, correct?

A Yes, ma'am.

Q It would be fair to say that you believe that you are protected, that you can only get a certain amount of time as long as you don't tell a lie; is that correct?

A Yes, ma'am.

Q But the day after you entered into this so-called truth agreement, you went in front of a judge, correct?

A Yes, ma'am.

Q And it's your recollection that you didn't have to take an oath to tell the truth, correct?

A Yes, ma'am.

Q But that judge asked you some questions, did he not?

A Yes, ma'am.

Q And he asked you those questions in the

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presence of your lawyer, did he not?

A Yes, ma'am.

Q And in fact he reminded you that since you had a lawyer, that if you had any concerns, you could consult with your lawyer before answering any of those questions, did he not?

A Yes, ma'am.

Q And you answered him, did you not?

A Yes, ma'am.

Q And you answered his questions about did you understand what you were doing there, correct?

A Pardon me.

Q He asked you if you understood why you were there, did he not?

A Yes.

Q And you answered him that you did, did you not?

A Yes.

Q That you were attempting to enter a plea of guilty pursuant to your truth agreement of the day before, correct?

A Pursuant? I'm not understanding pursuant. I'm sorry.

Q Well, on September the 7th, you entered into by signing this agreement, State's Exhibit 35; is that right?

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A Yes.

Q The four pages that you have initialed; is that correct?

A Yes.

Q And this agreement requires your agreement to cooperate in a certain way, does it not?

A Yes, ma'am.

Q And it requires that you testify, does it not?

A Yes, ma'am.

Q At any trial or proceeding that Mr. Urick decides is important, does it not?

A I don't know who decides, but yes, ma'am.

Q Well, you don't get to decide, correct?

A Correct.

Q The State's Attorney's Office gets to decide, correct?

A Correct.

Q And that is laid right out in this so-called truth agreement, is it not?

A Yes, ma'am.

Q And you initialed that and you signed it, did you not?

A Yes, ma'am.

Q And you had a lawyer before you did it, did you not?

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A Yes, ma'am.

Q And she of course told you that you were agreeing to testify at any proceeding you were asked, did she not?

A No, ma'am.

Q You understood that, did you not?

A Yes, ma'am.

Q You initialed the page that says that, right?

A Yes, ma'am.

Q Even though your lawyer didn't talk to you about that particular clause, correct?

A It was understood, ma'am.

Q Well, it not only was understood, the agreement says it, does it not?

A Yes, ma'am.

Q It says that you agree to make yourself available as needed, does it not?

A Yes, ma'am.

Q And that you are responsible for making sure the State knows how to find you?

A Correct.

Q Since you are not in jail, at their pleasure, right?

A Correct.

Q You have to let them know where you are all the

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time, correct?

A Yes.

Q And then you have to come anytime that they want you, right?

A Yes, ma'am.

Q And you understood that?

A Yes, ma'am.

Q Did you not?

A Yes, ma'am.

Q Further, to cooperate, you said that you would tender a guilty plea at sometime in the future to the count of an accessory after the fact to the murder of Hae Min Lee; isn't that correct?

A Yes, ma'am.

Q And you understood what that meant, did you not?

A Yes, ma'am.

Q Correct?

A Yes, ma'am.

Q In fact, your plea agreement says that you fully understand the maximum penalties and fines for that charge, does it not?

A Yes, ma'am.

Q You signed and initialed on that third page, did you not?

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A Yes, ma'am.

Q And the full maximum penalty that you faced as an accessory after the fact is?

A I believe it was five years, ma'am.

Q Five years. And that was explained to you, was it not?

A Yes, ma'am.

Q And an accessory after the fact, you understood in part based on conversations with your lawyer, did you not, that an accessory after the fact is held to a lesser standard in regard to punishment than an actual murderer, did you not?

MR. URICK: Objection.

THE COURT: I'll sustain as to the legal understanding.

BY MS. GUTIERREZ:

Q Well, you understood that an actual murderer is subject to far more than five years, did you not?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q You also understood that you specifically agreed to testify at any trial where you were asked that concerned Adnan Syed, did you not?

A Yes, ma'am.

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Q That was part of your agreement, was it not?
A Yes, ma'am.
Q And you were asked by Judge McCurdy the day after you signed this agreement if you understood the terms of your plea agreement, were you not?
A Yes, ma'am.
Q And that you had signed on to do so; is that correct?
A Yes, ma'am.
Q And that you understood that there would be both a guilty plea and a disposition sometime far in the future; isn't that correct?
A Yes, ma'am.
Q After your testimony, correct?
A After I fulfilled my obligation, yes.
Q And who decided whether or not you fulfilled your obligation, sir?
A The State.
Q The State, Mr. Urick; is that right?
A Yes, ma'am.
Q So if you testified and Mr. Urick was satisfied with it, then that would meet the terms of their obligation under this, correct?
A Incorrect.
Q Correct?

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A Incorrect.

Q Incorrect. So if you testified and Mr. Urick was satisfied with your testimony, would you expect them to meet their obligations under this plea agreement?

A No, ma'am, that is also incorrect.

Q My question called for a yes or no.

A No, ma'am.

Q So the answer to my question is no?

THE COURT: Ms. Gutierrez, please move on. I think he said that is not correct. Next question.

BY MS. GUTIERREZ:

Q Now, were there any circumstances outlined in the plea agreement that gave you some assurance of whether or not Mr. Urick would meet his obligations?

A Yes.

Q And did you feel clear about understanding what they were?

A Yes.

Q And was that understanding only that you would tell the truth?

A Yes, ma'am.

Q Okay. And when Judge McCurdy was questioning you about this plea agreement, you didn't have to take an oath to tell the truth, right?

A No, ma'am, I did not.

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Q It was up to you whether or not you told the truth, right?

MR. URICK: Objection.

THE COURT: Overruled. Did you believe at the time that you made this thing that you are telling us about that it was up to you to decide whether to tell the truth or not?

THE WITNESS: Yes, ma'am.

BY MS. GUTIERREZ:

Q Okay. And your being in charge of deciding whether to tell the truth was not a new experience for you, was it?

A May I ask a question?

Q No, sir, you may not.

A I'm sorry.

THE COURT: No, no, no, no, no, if you do not understand her question --

THE WITNESS: I do not understand.

THE COURT: -- then you can say I don't understand. If you don't hear it, you can say will you repeat your question.

THE WITNESS: I do not understand.

THE COURT: Okay.

BY MS. GUTIERREZ:

Q Sir, my question is your being in charge of

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whether or not you tell the truth is not a new experience for you, is it?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Mr. Wilds, prior to signing on September the 7th this truth agreement, had you had to take an oath in regard to these matters before?

A No, ma'am, I did not.

Q You had spoken to the police on at least three occasions, had you not?

A Yes, ma'am.

Q And on at least two of those occasions, they tape recorded what you said, did they not?

A Yes, ma'am.

Q And you were aware of that, were you not?

A Yes, ma'am.

Q The very first occasion you were asked to speak and your statement was tape recorded started at 1:30 a.m. on February 28th, did it not?

A Yes, ma'am.

Q That's 1:30 in the middle of the night, is it not?

A Yes, ma'am.

Q And you weren't down at the police station

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voluntarily, were you?

A No, ma'am.

Q And there was no court clerk or judge in the room, was there?

A No, ma'am.

Q And nobody administered an oath to you, did they?

A No, ma'am.

Q And you weren't there of your own volition, were you?

A No, ma'am.

Q You were brought there, were you not?

A Yes, ma'am.

Q You were picked up by the police, were you not?

A Yes, ma'am.

Q And you were brought in the middle of the night to the Homicide Unit, were you not?

A Yes, ma'am.

Q And no one, including any of the detectives, administered an oath and asked you to swear to tell the truth, did they?

A No, ma'am.

Q And you didn't, did you?

A No, ma'am.

Q No. And in fact during that first statement,

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during the time it was being recorded, there came a time when you asked them to turn off the recorder, did you not? Was there not such a time?

A I believe so.

Q And that was your doing, was it not?

A Yes, ma'am.

Q They didn't suggest to you that that was something you should do, was it?

A No.

Q And you are --

A Oh, I'm sorry.

Q -- deciding not --

THE COURT: One moment. What were you about to say?

THE WITNESS: Yes, they did tell me I could stop at any time I liked.

BY MS. GUTIERREZ:

Q And you took advantage of that, didn't you?

A Yes, ma'am.

Q And stopping meant turning off that recorder that was recording what you said, correct?

A Yes, ma'am.

Q And at the time, you knew you were lying to the police, did you not?

A Yes, ma'am.

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Q But they didn't know it, did they?
A I do not believe so.
Q You were in charge of whether or not you told the truth, correct?
A Yes, ma'am.
Q No one else was, right?
A Correct.
Q And on that occasion when you were in charge of whether or not you told the truth, you lied, did you not?
A Yes, ma'am.
Q You lied about a number of things, did you not?
A Yes, ma'am.
Q And being hauled down by the police not of your own calling in the middle of the night was not a surprise to you, was it?
A Yes, ma'am, it was.
Q Well, on this February 27th -- February 28th was a Sunday, was it not?
A I do not recall.
Q Okay. Well, sir, do you recall that on February 27th your good friend, Jenn [redacted], also appeared in the same office of the Baltimore City Police Department on Fayette Street?
A Yes, ma'am.
Q You were aware of that, were you not?

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A Yes, ma'am.

Q You were aware of that before it happened, weren't you?

A No, ma'am, I was not.

Q Well, you recall, sir, that you had a conversation with your very good friend, Jenn [redacted], about what was going to be covered in her conversation with the police the day before on February 26th, which was a Friday? You recall that, do you not?

A No, ma'am.

Q You recall that Jenn [redacted] came to you panicked because the police wanted to talk to her. Do you recall that?

A Yes, ma'am, I do.

Q And that happened on February 26th, did it not?

A She came to me and stated that the police wanted to talk to her, yes.

Q And you understood that she had said minimal things to the police, did you not?

A No, I did not.

Q You were aware because she told you what she said, did she not?

A No, she did not.

Q She discussed with you whether she should speak to them again, did she not?

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A Yes.

Q And you were aware of what the police wanted to talk to her about, correct?

A Yes.

Q Now, you were aware, as you have told us, you had been with Jenn [redacted] sometime around that time, correct?

A Yes.

Q And you had spoken to her on those days, had you not?

A Yes.

Q And sometime before she spoke to the police when you became aware they wanted to speak to her, you conversed with her actually about that, did you not?

A Yes, ma'am.

Q And you did so at her request, correct?

A I believe so.

Q And you were aware, before she appeared at the very same place you were hauled down to the next evening, that she had chosen to talk to the police, were you not?

A No, ma'am, I was not.

Q You were aware what she was going to say, were you not?

A No, ma'am, I was not.

Q And you were aware that she appeared on

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February 27 with a lawyer, were you not?

A No, ma'am, I was not.

Q And with her mother?

A No, ma'am. I'm sorry.

Q And you were aware that she was going to discuss all the things that occurred on January 13 --

A Yes, ma'am.

Q -- that involved you and her --

A Yes, ma'am.

Q -- on the phone --

A Yes, ma'am.

Q -- and in person --

A Yes, ma'am,

Q -- where you went --

A Yes, ma'am.

Q -- what you did --

A Yes, ma'am.

Q -- and what time things occurred?

A Yes, ma'am.

Q And you knew that before she opened her mouth down at the Baltimore City police headquarters?

A I'm sorry, I didn't understand the last part of your question.

Q You knew that before she appeared, did you not?

A Knew what?

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Q What she was going to talk about.
A No, ma'am, I did not.
Q After she appeared, your very good friend spoke to you, did she not?
A Yes.
Q On the phone?
A No.
Q In person?
A Yes, ma'am.
Q About what she had been asked?
A Yes, ma'am.
Q And about what she had said?
A Yes, ma'am.
Q And you engaged willingly in that conversation with her, did you not?
A Yes, ma'am.
Q Now, afterwards on the night of the 27th -- and you knew that she had mentioned your name, did you not?
A Yes, ma'am.
Q As a person who knew more than she --
A Yes, ma'am.
Q -- concerning the death and burial of Hae Min Lee, correct?
A Yes, ma'am.
Q You knew that Jenn did not present herself as

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someone who was present when Hae Min Lee died, correct?

A To the best of my knowledge, yes.

Q To the best of your knowledge?

A I don't know exactly what she told the police.

Q Well, you spoke to her about it, did you not?

A Not in that detail, no.

Q Your very good friend tells you after she spoke to the police about a matter that intimately concerned you but she didn't tell you all the detail?

A No, ma'am, she did not.

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q After you spoke to Jenn [redacted] in person about these events, did you go to the police?

A No, ma'am.

Q Not the night of the 27th?

A No, ma'am.

Q And not the day of the 28th?

A No, ma'am. I was at work the night of the 27th and I was at work the day of the 28th.

Q And, sir, it was your testimony that you were surprised when the police arrived to take you downtown?

A Yes, ma'am.

Q Is that correct?

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A Yes, ma'am.

Q Notwithstanding your conversation with your good friend, Jenn [redacted]?

A Pardon me.

Q Notwithstanding the fact of your conversation with your good friend, Jenn Pusateri?

A Right. Correct, I'm sorry.

Q When the police spoke to you in the middle of the night of February 28th, they told you that they had already spoken with Jenn, did they not?

A Yes, ma'am.

Q And they told you what she told them, did they not?

A Yes, ma'am.

Q And they told you that she knew everything that she knew from you?

A That is correct, yes.

Q They told you that, didn't they?

A Yes, ma'am.

Q And they then asked you questions based on what she told them; isn't that correct?

A Yes, ma'am.

Q Now, the first thing that you told them was that you didn't have anything to do with anything; isn't that correct?

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A Yes, ma'am.

Q You told them you didn't do anything to assist anyone in anything, did you not?

A Yes, ma'am.

Q That you didn't help transport a body, correct?

A Yes, ma'am.

Q And that you didn't help bury a body?

A Yes, ma'am.

Q And you didn't help coverup any evidence concerning anything that may have been done to the body, correct?

A Yes, ma'am.

Q Now, you were asked, Mr. Wilds, about State's Exhibit 34, and you identified numbers as belonging to your good friend, Jennifer [redacted], correct?

A On which line?

Q Well, you identified numbers --

A Oh, yes, I'm sorry.

Q -- in the plural, did you not?

A Yes.

Q Some were lines that were land lines directly to her home, were they not?

A Yes, ma'am.

Q That number, which is [redacted] --

A Yes, ma'am.

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Q -- that's Jenn [redacted]'s personal phone, is it not?

A No, it's her family's phone, but it's at her residence, yes.

Q And it's not in her room?

A She has a phone in her room, yes.

Q Okay. And is that that number?

A It's not her personal line, no.

Q That's your understanding, correct?

A That's my understanding.

Q And, in addition, she has a pager number, correct?

A Yes.

Q And the numbers that you identified on these as belonging to her, you were the person who called her, were you not?

A Who paged her?

Q Or called her.

A Yes, yes, I did.

Q Okay. Mr. Adnan Syed, as you call him, Mr. Syed would not have been calling your very good friend, would he have?

A No, ma'am.

Q And so if there were calls made to any of the numbers, the pager or the actual phone number in the

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residence of Jenn [redacted], that were made on the cellphone identified as [redacted], when they were made, that cellphone was in your hands, was it not?

A No, we received incoming calls from Jenn when I was not in possession of the phone.

Q Well, let me ask you again, Mr. Wilds, so we don't waste time.

A I'm sorry.

Q You identified the number one line -- well, the number on line twenty-two, [redacted], that is in fact Jenn [redacted]'s number, is it not?

A Yes, ma'am.

Q And if you read across the line, as you did, it indicates that that phone call was made at 4:12:01 p.m; is that correct?

A Yes, ma'am.

Q And the number, [redacted], is in the column that indicates what number was called, does it not?

A Correct.

Q The column says "Dialed Number", does it not?

A Correct.

Q And the column clearly means the number dialed from the cellular phone that is also listed at the top, correct?

A Correct.

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Q So your understanding of this chart, incidentally, which you have seen before, have you not?

A Yes.

Q And you were prepared to be asked questions on, were you not?

A Yes.

Q This information isn't a surprise to you, is it?

A No, ma'am.

Q And that number is the land line to Jennifer [redacted], is it not?

A Yes.

Q Just like the line on twenty-six, that line is the land line of Jennifer [redacted], is it not?

A Yes.

Q And line twenty-two, which talks about the phone call to her land number in her residence, sir, that was made by you, was it not?

A I believe so.

Q For twenty-eight seconds, was it not?

A I believe so.

Q And the phone call was made at 4:12 p.m, was it not?

A Yes, ma'am.

Q And then there is a column consistent with that

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line, line twenty-two, that indicates what this cell site was, is it not?

A Yes, ma'am.

Q And the cell site then has an address that goes with it, does it not?

A Yes, ma'am.

Q And that address where the cellphone tower is alleged to be is 2121 Windguard Lane, is it not?

A Yes, ma'am. Excuse me, Your Honor. Could you ask her to stop yelling in my ear, please?

THE COURT: Yes, I will ask her, and, Ms. Gutierrez, I think it might be helpful if you move back to where you were only because, as we talked about before, it gets kind of crowded by that door.

MS. GUTIERREZ: I know, Judge. I was --

THE COURT: That's all right. And if you want, I believe the witness has the exhibit.

THE WITNESS: Yes, ma'am.

MS. GUTIERREZ: Okay. That's fine.

THE COURT: And we can just have him look down and find the location that you are referring to.

MS. GUTIERREZ: I did forget, and I would ask that copies of that exhibit be turned back to the jurors at this time --

THE COURT: All right.

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MS. GUTIERREZ: -- since they didn't have them.

THE COURT: I can tell you --

MS. GUTIERREZ: I'm just going to finish these two lines.

THE COURT: I will allow you to finish that. I'm going to ask Mr [redacted] to pass that back out so that the ladies and gentlemen of the jury will have their sheet in front of them. Now, is it line twenty-one that you're looking at?

MS. GUTIERREZ: It's line twenty-two.

THE COURT: It's line twenty-two that counsel is referring to. Now, while Mr [redacted] is handing those out, ladies and gentlemen, I must advise you, as I said before, if you are sitting and watching this case, you cannot read and you must turn your pagers and cellphones off. If you wish to read or do anything like that, you must go out in the hallway to do that. If you want to talk on your cellphone or leave that on, you must go out in the hallway to do that. And if one of you would like to come back here, you're welcome to do that at this time before Ms. Gutierrez resumes.

BY MS. GUTIERREZ:

Q Mr. Wilds, if you would review your copy of that exhibit, if you would look down on the line below, line twenty-three --

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A Yes, ma'am.

Q -- that number is the number of your associate or friend, Mr. [redacted], is it not?

A Correct.

Q And that is a phone call that you made, is it not?

A Yes, ma'am.

Q You made it in an attempt to get dope, did you not?

A I don't use dope, ma'am.

Q Back then you made it in an attempt to track down dope, did you not?

A I have never used dope, ma'am.

Q You made it to track down marijuana?

A Yes, ma'am.

Q Okay. And you intended to use it that day, did you not?

A Yes, ma'am.

Q And when that phone call was made at 3:59:48, for twenty-five seconds, it indicates that the cellphone used, the number [redacted], triggered cell site L651A, did it not?

A Yes.

Q And that the address of that cell site was 1500 Woodlawn Drive, did it not?

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A Yes, ma'am.

Q 1500 Woodlawn Drive is in the very same hundred block that Woodlawn High School is located, is it not?

A Yes, ma'am.

Q And, incidentally, Woodlawn High School, where it's located on Woodlawn Drive, at the one end of Woodlawn Drive one would run into the street of Security Boulevard, would one not?

A Yes, ma'am.

Q And at the other end would run into a road known as Dogwood Road, would one not?

A No, ma'am, Woodlawn turns into --

Q I didn't say turns into.

A I'm sorry.

Q I questioned whether or not --

A No, ma'am.

Q -- at the other end, that Woodlawn Drive runs into a road by the name of Dogwood?

A No, ma'am.

Q Are you familiar with Dogwood?

A Vaguely.

Q Vaguely, sir?

A Yes, ma'am.

Q You are aware that Dogwood Road turns into, at the city line, a road by the name of Franklintown, are

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you not?

A No, ma'am, I am not.

Q You are aware that Franklintown Road runs through the city proper down to a location nearby Edmondson Avenue and Poplar Grove, are you not?

A No, ma'am, I am not.

Q And that in its course, it goes through the park?

A Yes, ma'am, I do know it goes through the park.

Q And that Franklintown Road is the name of the road that you have described to us you were present at with Adnan Syed on January 13?

A I'm sorry, I didn't --

THE COURT: The question is, do you know that the road that you were on --

THE WITNESS: Oh, no, I do not.

THE COURT: -- that you have described was Franklintown Road? Did you know that?

THE WITNESS: No, ma'am, I did not.

THE COURT: Next question.

BY MS. GUTIERREZ:

Q Now, sir, you live up past Rolling Road?

A Not presently. I used to, yes.

Q Not presently. Well, back then you did, correct?

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A Yes.

Q And you lived there throughout your high school matriculation at Woodlawn, did you not?

A Yes, ma'am.

Q That's why you were in the Catchman area, for Woodlawn, correct?

A Yes, ma'am.

Q And, sir, you are aware, both from your experiences as you have recounted them to us and your own knowledge, that the point and place that you have described where the body of Hae Min Lee was buried is about five minutes down Dogwood Road into Franklintown Road, are you not?

A No, ma'am, I am not.

Q Sir, turn your attention to line twenty-four.

A Yes, ma'am.

Q And that number, Mr. [redacted] --

A Yes, ma'am.

Q -- you made that call, did you not?

A Yes, ma'am.

Q Nobody else made that call, did they?

A No, ma'am, they did not.

Q And that was also on what you have told us was your search for that day to obtain marijuana; isn't that correct?

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A No, ma'am, it is not.

Q All right. Well, Mr. [redacted] is your friend, is he not?

A Yes, ma'am.

Q He is not someone Adnan Syed would be calling?

A No, ma'am.

Q Is he?

A No, ma'am.

Q And there is no question but that that cellphone was in your hands at 3:48 p.m; isn't that correct?

A Yes, ma'am.

Q And that conversation, if you go across, was a minute and twenty-five seconds?

A Yes, ma'am.

Q And that the cellphone at the time it was being used triggered a cell site numbered and lettered L651A, did it not?

A Yes, ma'am.

Q That's the same cell site as call number twenty-three, correct?

A Yes, ma'am.

Q And --

A No, ma'am, it's not. I'm sorry.

Q The cell site listed in the column that

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attaches to --

A Yes, ma'am, I'm sorry.

Q -- phone call number --

A I'm sorry, yes, ma'am.

Q -- twenty-four, sir, so there is no dispute, was made from cell site L651A, was it not?

A Correct.

Q And cellphone call number twenty-two -- I'm sorry, if you go up from twenty-four to twenty-three --

MR. URICK: Objection.

THE COURT: Sustained. Counsel, at this point I do not believe the items that you are requesting information on from this witness are in evidence. If you wish them to be admitted into evidence, you may do so at this time. I just want to make sure that it's clear that exhibit has not been offered into evidence. Has it?

MR. URICK: No, it hasn't.

MS. GUTIERREZ: No, Judge. It's my understanding it's going to be. There is no dispute.

THE COURT: Okay.

MS. GUTIERREZ: We have stipulated to it. So I would be very surprised to draw an objection now.

THE COURT: Well, there is no objection from the State actually. The court is inquiring as to whether or not the items in the last column are subject to a

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stipulation or some agreement from some material that has been received from someplace?

MR. URICK: I believe the defense refused to stipulate to that.

THE COURT: All right.

MR. URICK: And this witness has no basis of knowledge about these, so he can't qualify them.

THE COURT: I understand. Ms. Gutierrez, you may use that form in any way, but I would note for the record those items that you are asking the witness to read into the record, the court is going to accept them then as evidence since you are asking them as part of your question.

MS. GUTIERREZ: That's fine.

THE COURT: And if you don't want them in, then I would ask --

MS. GUTIERREZ: No, that's fine.

THE COURT: -- that you not ask that part or --

MS. GUTIERREZ: Thank you, Your Honor.

THE COURT: -- portion of the question. Very well, you may continue.

MS. GUTIERREZ: All right.

BY MS. GUTIERREZ:

Q Mr. Wilds, again, on call number twenty-two, twenty-three, the cell site is L651A, is it not?

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A Yes, on call twenty-three.
Q On call number twenty-four the cell site listed is L651A, is it not?
A Yes, ma'am.
Q And the call site for cellphone call number twenty-five is L651C, is it not?
A Yes, ma'am.
Q And the same cell site for twenty-six, is it not?
A Yes, ma'am.
Q And twenty-seven is L651C, correct?
A Yes, ma'am.
Q The same as twenty-six, correct?
A Yes, ma'am.
Q The same as twenty-five, correct?
A Yes, ma'am.
Q But not the same as twenty-four or twenty-three, correct?
A No, ma'am.
Q And cellphone call number twenty-eight lists an even different cell site, does it it?
A Yes, ma'am.
Q It's L651B, is it not?
A Yes, ma'am.
Q And yet the address on call number twenty-eight

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is 1500 Woodlawn, is it not?

MR. URICK: Objection.

THE COURT: Overruled. If the witness can read the exhibit and counsel wants to admit the evidence in that fashion and wants the witness to read that, the court will accept it as evidence and that portion of this exhibit will be in evidence.

Is that understood?

MR. URICK: Yes, ma'am.

THE COURT: Very well. You may proceed. Can you answer the question? Obviously you are reading from the exhibit.

THE WITNESS: Yes.

BY MS. GUTIERREZ:

Q And the address is 1500 Woodlawn, is it not?

A Yes, ma'am.

Q And that's for the cell site that ends with the letter "B", correct?

A Yes, ma'am.

Q Cellphone call number twenty-seven also lists the same address, 1500 Woodlawn, does it not?

A Yes, ma'am.

Q And item number twenty-six, which lists the same cell site number as twenty-seven and twenty-five, also lists the same address, does it not?

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A Yes, ma'am.

Q Okay. And the call above that, call number twenty-five, also lists 1500 Woodlawn, does it not?

A Above it, twenty-four?

Q Yes, sir.

A Yes, ma'am.

Q And cellphone call number twenty-three also lists the same address, does it not?

A Yes, ma'am.

Q And if you bump up to cell call item number twelve, that lists the cell site of L651A, does it not?

A Yes, ma'am.

Q And that also lists 1500 Woodlawn Drive, does it not?

A Yes, ma'am.

Q And that's the line, line twelve, that refers to the time that [redacted], Jenn[redacted]'s pager number was called by the cellphone [redacted], correct?

A Yes, ma'am.

Q The pager number call that we have established you made; isn't that correct?

A Yes, ma'am.

Q And the address of the cell site is 1500 Woodlawn, correct?

A Yes, ma'am.

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Q And the next phone call, item number thirteen, about which you have not been asked, lists the same cell site, doesn't it?

A Yes, ma'am.

Q And lists the same address, doesn't it?

A Yes, ma'am.

Q And that phone call appears to be less than a minute before you paged your friend, Jenn [redacted]?

A Yes.

Q Is that correct?

A Yes.

MS. GUTIERREZ: Judge, I think this is a good place to stop.

THE COURT: Very well. Ladies and gentlemen, I'm going to ask you to pass that page back up to Mr. [redacted]. That will be secured and given back to you on our next day together.

Mr. Wilds, I'm going to advise you in just a moment what you are to do, if you will just give us one moment.

THE WITNESS: Okay.

THE COURT: Ladies and gentlemen, we are going to recess for the day. What I have in my hand is a schedule for next week which will tell you what time we are going to start and like we were doing each day, this

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is more as a weekly idea of where we are going to go for the week. It is not to mean that we will use the entire week, but in the event we do, it gives you an indication of each day.

I'm going to hand them out to you, but I must tell you that we are not sitting on Monday. On Monday, I still have a criminal docket and I also have the civil docket as I indicated to you before with hearings every thirty minutes. So it makes no sense to try to have you come in with the other matters set every thirty minutes. So what I'm going to do is hand these out to you. Counsel already have a copy.

Okay. If you will take them in the back row and pass them down. Okay. Thank you. In the event for some strange reason we were to have snow over the weekend or on Monday, you have the numbers to call -- that is my chambers -- or you can listen to WBAL, Channel 11, and that will indicate for you what the status of this courthouse is.

Please also be advised that over the weekend your friends and family might want to talk to you about this case. You may not discuss this case with anyone, either amongst yourselves or with anyone else. You may also understand and understand clearly that during the course of this trial and over the weekend, you should not

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go to the scene or attempt to visit the scene, listen to the radio, the media, or read anything in the newspaper about this case. If you happen to see it, you should immediately put it away or turn the channel, the station, whatever the case may be.

I am also going to advise you to leave your notepads face down on your chairs. They will be secured over the weekend and returned on, as you can see, Tuesday morning. I have been advised that my docket is very light next week and I only have one case. If you will note on that schedule, pretty much we will be able to get started every day between 9:45 and 10:00, after I dispose of the one matter, and then we will proceed with each day.

You will also note that some days we end at 5:00 and some days we end at 4:30. That has to do with what is going on after hours either in this courtroom or if I have obligations where I must appear as part of my job.

So I advise you that you should go now with Ms. [redacted], who is over by the door. Have a safe journey home and a pleasant weekend. I will see each and every one of you on Tuesday.

Now, Juror Number Six had an inquiry or question with regard to Friday; is that correct?

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JUROR NUMBER SIX: Yes.

THE COURT: All right. If you would just stay a moment.

JUROR NUMBER SIX: Okay.

(Brief pause.)

(The jury was excused from the courtroom.)

THE COURT: Okay. Counsel, I am just going to ask the juror a few questions with regard to her schedule on Friday.

MS. GUTIERREZ: Right.

THE COURT: Mr. Wilds, you are free to go at this time. Let me advise you, you are a witness. You may not discuss your testimony with anyone. At this juncture, you may not discuss your testimony with your attorney. Again, unless you need to speak to her, you have got to ask me first before you can talk to her about your testimony. Over the weekend, do not discuss your testimony with anyone, either anyone who will be a witness in this case or anyone who may be a witness in this case in the future, or with counsel for the State or the defense.

If you have a question -- will you please have a seat for one moment -- then I will be happy to answer any question you may have. Mr. Wilds, you may go at this point.

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THE WITNESS: Thank you, Your Honor.

THE COURT: Now, you must be back on Tuesday, at 9:30.

THE WITNESS: Yes, ma'am.

THE COURT: Okay.

THE WITNESS: Yes, ma'am.

THE COURT: Tuesday, at 9:30.

THE WITNESS: Yes, ma'am.

THE COURT: Okay. Now, you have indicated that you have some travel plans for Friday, the 11th.

JUROR NUMBER SIX: Yes.

THE COURT: Can you tell me whether or not you are scheduled to leave by airplane or train or bus or are you driving?

JUROR NUMBER SIX: It's by bus.

THE COURT: Okay. And is it a scheduled time of departure on Friday?

JUROR NUMBER SIX: Yes, it is.

THE COURT: What time?

JUROR NUMBER SIX: It's 6:00 in the morning.

THE COURT: That's a.m?

JUROR NUMBER SIX: Yes.

THE COURT: And you will return on the 13th?

JUROR NUMBER SIX: Yes.

THE COURT: Okay. We are aware of that

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situation and we are going to try to work around that schedule to the best that we can. We will advise you if we are unable to do that.

JUROR NUMBER SIX: Okay.

THE COURT: All right?

JUROR NUMBER SIX: All right.

THE COURT: Does that answer your question?

JUROR NUMBER SIX: Yes, it does.

THE COURT: Very well. You may go.

JUROR NUMBER SIX: Thank you.

THE COURT: We will see you on Tuesday.

JUROR NUMBER SIX: All right. Thank you.

(Whereupon, the juror was excused from the courtroom.)

THE COURT: Okay. And now counsel has a question.

MS. BENAROYA: Yes, Your Honor.

THE COURT: I need you to come up to the bench. Is it regarding your witness or client?

MS. BENAROYA: Your Honor, I represent him on a pro bono basis.

THE COURT: I understand. One moment. Counsel, I will see you at the bench.

MS. BENAROYA: Okay. This is --

THE COURT: No, no, no, you need to wait a

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moment because if you need to speak to me, counsel needs to be present because I am not going to talk to you without them being present.

MS. BENAROYA: Okay.

(Counsel and the defendant approached the bench and the following ensued:)

THE COURT: Okay. Now, please identify yourself for the record.

MS. BENAROYA: Okay. For the record, Anne Benaroya.

THE COURT: Keep your voice down.

MS. BENAROYA: Anne Benaroya. That's B-E-N-A-R-O-Y-A. I am pro bono counsel for Jay Wilds. My question to the court is purely straight forward. As I have mentioned, Mr. Wilds is my client on a pro bono basis. I have put a great deal of time and resources into the case. I provide him with transportation to and from court. There has been an unserved subpoena that Ms. Gutierrez -- this was before the other case, the first case was tried. I received a call from a process server. I live in Rockville. The process server contacted me and said he had a subpoena to serve me. I said, well, that's fine. Well, I never got it. So I am unserved.

What I need to know is, do I need to respond to this subpoena? Shall I file a motion to quash in

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writing? I called Ms. Gutierrez and asked her why she subpoenaed me, and she didn't wish to discuss it with me. Because I'm doing this on a pro bono basis -- I do have many other obligations -- I'm asking the court how to deal with this? Shall I file a motion to quash? Maybe Ms. Gutierrez --

THE COURT: I'm not going to advise you how to deal with it, but I can tell you that if you do receive a subpoena, you will be under order of this court to be here. If you have any problem appearing, you can write the court and inquire or request that I deal with your request in some form or fashion. But if the defense does subpoena you, and you receive a subpoena to be here --

MS. BENAROYA: Okay. I'm not served as of now.

THE COURT: Counsel, if you have other clients or other matters, I would be happy to work around your schedule. But the defense, if they choose to call you, may call you in the defense. Well, you are still in the State's case.

MS. BENAROYA: Yes.

THE COURT: So I can tell you that between now and probably the middle of next week, you will probably not be called. However, your client is still on the witness stand and will remain on the witness stand on Tuesday, that is starting Tuesday at 9:30.

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MS. BENAROYA: Yes, I'll be bringing him to court.

THE COURT: So as a result of bringing him to court, you may be served.

MS. BENAROYA: Yes, that's right.

THE COURT: And if you are served and it is causing you some scheduling conflict with other cases or proceedings, then I need to have you write me and indicate what they are so that we can work around your schedule.

MS. BENAROYA: Okay. That was all I needed to know.

THE COURT: Fine. Any problem with that, Ms. Gutierrez?

MS. GUTIERREZ: No.

THE COURT: And Ms. Gutierrez has been kind enough, and so has Mr. Urick, that at which time she has determined that she does no longer need a witness, as you have been hearing, we have been excusing witnesses and releasing them from summonses as the case may be. So I will ask that that happen, as you have done I think with one of the doctors or police officers actually --

MS. GUTIERREZ: Yes.

THE COURT: -- who indicated that he had a conflict, and we worked around that as well.

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MR. URICK: Thank you, Your Honor.

THE COURT: But I will be back on Monday. Staff, I will see you on Monday at 9:30. There is a schedule of the hearings. You can check with my staff.

THE CLERK: I have the schedule, Your Honor.

THE COURT: You have got the schedule. Very well. We stand in recess then until Monday at 9:30.

THE CLERK: All rise.

(Whereupon, at 5:20 p.m., the trial recessed.)

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REPORTER'S CERTIFICATE

I, Brenda [redacted], an Official Court Reporter of the Circuit Court for Baltimore City, do hereby certify that I stenographically recorded the proceedings in the matter of State of Maryland vs. Adnan Masud Syed, in the Circuit Court for Baltimore City, Indictment Nos. 1991032042-46, on February 4, 2000, before the Honorable Wanda Keyes Heard, Judge (and a jury).

I further certify that the page numbers one through 257 constitute the official transcript of the proceedings as transcribed under my supervision from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this 10th day of March, 2001.



Brenda [redacted]

Official Court Reporter

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MS. BENAROYA: Okay. Very good. Thank you.

THE COURT: All right.

MS. BENAROYA: That's all I needed.

THE COURT: Very well. Anything further?

(No response.)

THE COURT: Okay. Thank you.

(Counsel and the defendant returned to the trial tables and the following ensued:)

THE COURT: Okay. Then Tuesday at 9:30. • Yes, I see you are taking a deep breath. Is there a problem?

MR. URICK: Well, just so everyone is aware, I have got a witness scheduled for Tuesday who is scheduled to be out of town Wednesday, Thursday, and Friday. I may, if Ms. Gutierrez goes into the afternoon, I may ask to take him out of order and interrupt the cross-examination and put him on so I can get him off.

MS. GUTIERREZ: Who is that witness?

MR. URICK: Abe [redacted]. I will get the spelling to you later.

THE COURT: And I can give you a list of all the witnesses from the voir dire.

COURT REPORTER: Thank you.

THE COURT: Okay.

MS. GUTIERREZ: Judge, I have no objection to taking a witness out of turn. I do have an objection to

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interrupting Mr. Wilds' testimony again. You know, he is the main witness.

THE COURT: Yes.

MS. GUTIERREZ: I don't know how long my cross is going to take.

THE COURT: I'm not going to limit your cross.

MS. GUTIERREZ: What I would suggest, what I would be open to, is if on Tuesday morning if he would rather put that witness on out of turn before we start back with Mr. Wilds, I wouldn't object to that.

MR. URICK: That would be fine.

MS. GUTIERREZ: You know, so that we then don't interrupt Mr. Wilds a second time.

THE COURT: Obviously, if Ms. Gutierrez is acquiescing to that procedure --

MR. URICK: That's fine.

THE COURT: That's why I advised her of the time, so that she could take her cross in chunks, which she has done. So if you would like to do that on Tuesday morning, you can do that as well.

MR. URICK: Thank you.

THE COURT: All right. Anything else?

(No response.)

THE COURT: You all have a good weekend. I'll see you on Tuesday.

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