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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

STATE OF MARYLAND,

vs. Indictment Nos. 199103042 - 46

ADNAN SYED,

Defendant.

_____/

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

Baltimore, Maryland

Friday, January 28, 2000

BEFORE:

THE HONORABLE WANDA KEYES HEARD, Associate Judge

APPEARANCES:

For the State:

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

For the defendant:

M. CHRISTINA GUTIERREZ, ESQ.

RETURN TO:

Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202
Attention: Tina Stavrou
410-576-6491
Please return by: 8-04-10

REPORTED BY:
Charles F. Madden
Official Court Reporter
[illegible] Courthouse East
Baltimore, Maryland 21202

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PROCEEDINGS

(10:18 a.m.)

(The jury was not present upon reconvening.)

THE COURT: Please be seated.

MS. GUTIERREZ: Good morning, Your Honor.

THE COURT: Good morning everyone.

MS. GUTIERREZ: I apologize for this morning, but I didn't know what I could do about it.

THE COURT: No, Ms. Gutierrez, between you and I, I have no heat, you have no water. I think we're probably in good stead, so I do understand. No apology.

MS. GUTIERREZ: You miss water when you don't have it.

THE COURT: I'll swap with you, okay?

MS. GUTIERREZ: Gladly.

THE COURT: I have the water and no heat, and I -- this morning said, if only I had heat and no water, I could deal. So, in any event, I appreciate that you're able to make it here today. Please let your staff know at your office, if you want to leave this office phone number --

MS. GUTIERREZ: I did.

THE COURT: -- information.

And that's true for you, Mr. Urick, or, you, Ms. Murphy, at any time during the course of the trial,

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if you need a return phone call or a message, I have absolutely no problem with you using this number, since this is where you are most of the time. So I have no problem with that whatsoever.

Before I bring the jury out, again I just want to reiterate scheduling. Expect to take a break for lunch at 12:30, come back at 1:30, finish the day at 4:30 today. I also will advise them if in the event that there is a snowstorm, and for some reason we are not working, that they should listen to the radio station. Other than that, are there any other preliminary matters.

MS. GUTIERREZ: Yes, Judge, I would ask that the Court instruct the jury not to read the papers. I didn't bring the front section, but in the front section of today's Sunpapers are two articles and a little blurb of the events going on in Pakistan. And the lead editorial on the editorial page is regarding the events going on in Pakistan.

That has been an ongoing thing. I would expect it to continue. There is -- are some events that are going on right now that may or may not result in some other activity, so I would expect it to continue to be front page news.

Lots of people may not read the foreign news, but the editorials themselves are generally read, and

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there's Pakistan in the headline. I think it's very prejudicial. And I certainly don't want the Court to draw attention to the Pakistani related articles, but I guess I would ask that the Court instruct the jurors not to read the papers.

THE COURT: Not to read a newspaper at all?

MS. GUTIERREZ: Right, during the pendency of this trial.

THE COURT: All right.

Mr. Urick, your position about the instruction that they should not read the paper for the rest of the trial?

MR. URICK: I am not aware of that ever having been done. The usual admonition is don't read anything that has to do with this case.

THE COURT: Well, --

MR. URICK: I think that at any given moment there are now approximately 50 wars going on around the world, so every potential source of background is in the news constantly. I don't think that there's anything unusual about the situation in Pakistan that would warrant any additional instruction from this Court.

THE COURT: All right. I think that, in keeping with your request, Ms. Gutierrez, I think I'd probably have to extend it to Newsweek and Time since

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they are a weekly publication and they usually follow whatever's in the headlines, and so is your request to include those as well?

MS. GUTIERREZ: Yes, Judge.

THE COURT: How long do you expect the case to go, just generally? Another three or four days? Five days? A week? I mean I'm trying to get a sense of how long, if I were to grant this request, how long they would --

MS. GUTIERREZ: I'd say a week and a half of trial days.

THE COURT: At this juncture, I'm not inclined to grant a request. However, what I would like to do is, if in the event there is a headline relative to any Pakistani involvement, I'll entertain your motion at that time.

Because at this point, I think only to make an instruction that they shouldn't read the newspaper at all, the curious would want to read it just to see what is was that we're trying to keep them from not seeing.

Curiosity, I think is something that I think human nature would dictate, wonder what's in there. And frankly, since the Court has not read the newspaper, and I don't normally read the newspaper, this happens to be the way I am, I'm now curious to know what it was that

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you saw in the newspaper.

So I'm using myself as a guide, and I don't know what's going on in Pakistan myself because I haven't read the newspaper.

MS. GUTIERREZ: There was a coup in Pakistan about two months ago that sort of is related to the hijacking of an Indian airline and concerns about Pakistan's control over certain nuclear weapons.

THE COURT: That's not on the headlines today?

MS. GUTIERREZ: No, it was not on the front page.

THE COURT: It was in the foreign section?

MS. GUTIERREZ: Inside, the blurb was in that part, there's a foreign news section, there's a blurb, and then the editorial was on the Pakistani situation.

THE COURT: And that is in the Sunpaper you're referring to?

MS. GUTIERREZ: Yes.

THE COURT: Okay. Very well. What I would suggest to do, I'd ask counsel to keep me advised if something of that nature moves from the back page -- what I'm going to call the back page or inside page to the headlines; that it appears to be a major story. I do watch television, so -- and I haven't seen anything really.

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MS. GUTIERREZ: There's really been nothing on television except for a handful of things in world news wrap-up that I've seen over the last two months. But it has been in the papers everyday.

THE COURT: Well, I would be willing to reconsider your request --

MS. GUTIERREZ: Okay.

THE COURT: -- in the event that it moves to the front headlines. And then at that point, I'd need to assess exactly what it is that's being reported. And I would like your view on how you believe it effects or impacts specifically your client and the trial.

But we have interviewed and voir dired this panel at length on the issue of any problems they may have as a result of his -- I think we did Middle Eastern, Asian, and Pakistani background -- oh, as well as Muslim.

And I don't believe that we would have a panel member now that would be influenced by that based on their responses or lack of response to those questions. So I'm fairly comfortable that the jurors will follow my direction as I have asked them not to read anything about this case.

And so, that at this point is my primary concern. I would say to you, though, however, I understand your concern. If this were a different

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scenario where we were dropping bombs, then perhaps that might be another issue. But at this junction, in light of the fact that that's not the case, I'm not inclined to grant your motion at this time, but I will entertain it at a later time if events change.

Also, with regard to your request of yesterday, I've reevaluated and reconsidered, and as of today, and I plan to do this each day, in an abundance of caution and to give your consideration full weight, I am not inclined, based on what I've heard so far in this case, to grant your motion for a field trip, so to speak, to Leakin Park.

So far I have not heard anything relative to the facts or circumstances of this case that would dictate it. Of course each day I'll get more facts and circumstances, and I may change my mind. But at this juncture, so that you, if you're making plans for a bus, I'm not going to grant it.

And I'd also note that I understand it's supposed to snow again, so as I see from a safety issue a field trip to Leakin Park might cause us more physical safety issues that would, in my mind, outweigh us trying to view something firsthand as opposed to through video or any other photographic technique that might be utilized to provide the same type of information for the

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jury.

So at this juncture, I'm not inclined, and again I will -- I do not take lightly any of your requests, and so for that reason each day I will let you know if I see something or hear something that would warrant a change of my mind.

And if something does happen during the course of the trial that you believe I should know about, and you could say, "See Judge, this is what I'm talking about, this is why I think we need to go to the scene," I'd ask that you raise that to the Court at that time.

MS. GUTIERREZ: Thank you, Your Honor.

THE COURT: Any other preliminary issues?

MS. MURPHY: Yes, Your Honor, I'm seeking guidance from the Court regarding Monday morning's schedule. I have a three co-defendant sentencing. There's also been a defense motion for new trial on behalf of one of those defendants.

And since the case did go to trial I'm probably the person that needs to be there, although I could arrange for coverage in a limited fashion if need be.

THE COURT: What judge is that?

MS. MURPHY: Judge Johnson.

THE COURT: All right. I'm gonna -- my Clerk, I think she probably read my mind, is going to look at my

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docket --

MS. MURPHY: Okay.

THE COURT: -- so that I can get a sense of -- I can tell you very easily, if you call WBAL TV and we're closed --

MR. URICK: I can tell the Court there's approximately eight or nine drug cases set in here for Monday morning. They're all my cases. I was gonna ask if the Court was gonna transfer them to another Court or deal with them here. If they're dealt with here, I can deal with them. If they're sent somewhere else, I'll have to get someone else to cover.

THE COURT: How did I get eight drug --

MR. URICK: Part 23 somehow got a schedule for a collateral docket. It already had a preset trial docket, so they just moved it into an available Court.

THE COURT: Okay. And I was considered available.

Okay. Then, to answer your question, you should go to whatever you need to go to because obviously, I won't be ready to start this until lunch-time, if I'm lucky.

MR. URICK: Shall we tell witnesses only to come in for the afternoon, then?

THE COURT: Why don't we wait and see if my

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Clerk or my staff has any luck in moving it. I don't think you're going to, because we have another Court down due to illness, another criminal Court.

So, and you know what, don't even try. No, because if we have one Court down due to illness -- is that Part 23?

THE CLERK: Judge Strausberg.

THE COURT: Strausberg.

MR. URICK: Part 8.

THE COURT: He's Part 8?

THE CLERK: He's Part 8, Judge.

THE COURT: Who's 23?

MR. URICK: Judge Carrion.

THE CLERK: Judge Carrion.

THE COURT: Okay. After lunch.

MS. GUTIERREZ: Okay.

THE COURT: After lunch on Monday. I mean, does it -- it doesn't make sense to even try, with eight drug cases. There's no way I can get to this before lunch.

MS. MURPHY: I'm sorry. Would the Court be willing to contact Judge Johnson and just ask him to try to do that as early as possible?

THE COURT: Yes.

MS. MURPHY: It's his collateral docket.

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THE COURT: Yes.

MS. MURPHY: And all three of these defendants also have violations of probation.

THE COURT: Yes, I will do that.

MS. MURPHY: Thank you.

THE COURT: And in light of the fact that Judge Johnson volunteered to take my docket for me during the course of this trial, and on a number of occasions he's offered, so in the event that he'll be aware of the situation.

MS. MURPHY: Thank you.

THE COURT: I'll make sure that a call is placed to Judge Johnson.

Anything else?

(No response.)

THE COURT: All right, ladies and gentlemen, if I could ask the Sheriff to go around and bring my Clerk -- my court -- my jurors, I'm sorry.

THE CLERK: Where is that?

THE COURT: If you go down, out the door, make a right, and make another right, there's a door that says "Judge Heard's Jury Room."

THE SHERIFF: Okay.

(Pause.)

MS. MURPHY: This morning may I distribute to

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the jurors their copies of the compilation exhibit?

THE COURT: Yes, and would you do that after the witness has taken the stand and identified the document?

MS. MURPHY: Sure.

THE COURT: And then just pass them around so they know what it is that they're getting.

MS. MURPHY: May I identify the document? The witness himself -- because this is a compilation of -- it's a compilation of the cell phone records which have been stipulated to --

THE COURT: All right.

MS. MURPHY: -- the first witness won't be able to identify the exhibit in its whole. He's gonna identify a portion of it, which -- then I would -- I would be seeking to mark the exhibit, the blow-up of it for the jurors' benefit.

THE COURT: All right.

MS. MURPHY: But he won't be able to --

THE COURT: Any objections? Okay. Then what we'll do is we'll have it, but I'd like them to get settled --

MS. MURPHY: Sure.

THE COURT: -- and then I'll say, Ms. Murphy's gonna distribute something that will aid her with this

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next witness, you'll tell them what it is.

MS. MURPHY: Okay.

THE COURT: Counsel, the jury's coming in.

(Pause.)

(The jury returned to the courtroom.)

THE COURT: As you're coming in, anyone that was not able to be paid this morning, can you raise your hand? Okay, good. Then it would just be for Monday, Ms. Connelly.

Please be seated. Good morning, and welcome back to part 9. We're gonna continue with this trial for today.

Now, let me give you some scheduling information. I've been informed that on Monday I have 14 cases on my morning docket. And if you can imagine, when I normally have no more than five or six, it's gonna take me quite a while to get to this case.

I'm checking with the Jury Commissioner right now, so I'm gonna advise you that you will not be required to here at the court until 1:30. I'm trying to make arrangements so that you can get paid around 1:00 so that you can, instead of reporting at 9:00 and getting paid and then sitting around all day, that you can do whatever you need to do in the morning hours, then report, be paid at 1:00 or so, and then report to my jury

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room at 1:30.

The reason being is clearly, with 14 cases, I could have you sit in that room, but it would not make much sense to do that. You are not being released from jury duty, so if your employer wants to know why you may pop your head in, it's just because of scheduling.

We have a Court that's down, a sick judge, and we are then accommodating by the rest of us doing our own dockets as well as sharing in the load. So, at some point later on this morning, I'll let you know exactly what time the Jury Commissioner will be looking for you on Monday so that you can be paid rather than having you arrive early in the morning.

The next thing is just to remind you that, in the event that we do have a severe weather condition and the courts are closed, you would find that information out by listening to WBAL, Channel 11, on television. They would announce that the courts are closed.

And in the alternative, if you don't look at television or use that particular media, if you dial 410396-3100, that's the city operator, the Baltimore City Operator. They would be able to tell you whether the courthouse is open or closed.

And if, again if the court house is closed then you would be excused. And on Tuesday I would then see

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you following the same procedure, 9:00 a.m. to Jury Commissioner, 9:30 in the jury room.

All right. We're going to proceed with this case this morning.

Counsel, I understand your first witness -- oh, very well. I'm told the Jury Commissioner's office said 12:30 to 1:30 on Monday -- 12:30 to 1:30 on Monday. You can arrive there and be paid, and then because I'm asking you to be in my jury room by 1:30, obviously, I'd ask you to make sure you get over there in time. They'll be expecting the 17 of you to arrive somewhere between 12:30 and 1:30.

All right. Ms. Murphy, I understand you have a witness this morning?

MS. MURPHY: Yes, Your Honor. At this time the State calls Young Lee.

THE COURT: Okay. If we can have Young Lee come in? Thank you.

(Pause.)

THE COURT: If you would approach the witness stand, raise your right hand, remain standing, while the Clerk gives you the oath.

Whereupon,

YOUNG LEE,

a witness produced on call of the State, having first

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been duly sworn, was examined and testified as follows:

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

THE WITNESS: My name is Young Lee, and my address is [redacted] Baltimore, Maryland 21207.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. MURPHY:

Q. Mr. Lee, good morning.

A. Good morning.

MS. MURPHY: Your Honor, at this time the State would offer into evidence State's Exhibit 31. This is a certified copy of the business record of AT&T Wireless showing the defendant's cell phone records for January 11th through 13th. We're entering this by way of stipulation.

THE COURT: All right. And that number again is?

MS. MURPHY: 31, Your Honor.

THE COURT: Exhibit 31.

Any objections?

MS. GUTIERREZ: No, Your Honor.

THE COURT: Let it be admitted under

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stipulation.

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

THE COURT: And ladies and gentlemen, during the preliminary remarks I indicated to you that on occasion there would be bits of evidence that would come in through a stipulation. What that means is that both counsel agree that this item should be admitted into evidence, so that the normal rules of identifying, authenticating an item or moving it into evidence in any other fashion do not apply.

Both counsel have agreed that it may be admitted for your consideration and so Exhibit Number 31 is admitted in that fashion. We call it a stipulation. I also understand that Ms. Murphy has some documents that she would like to identify.

Could you do that, please?

MS. MURPHY: Thank you, Your Honor.

At this time, I would like to disseminate to the jurors copies of those cell phone records for their use in taking notes as witnesses testify and identify portions of those records.

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THE COURT: All right. Very well.

MS. GUTIERREZ: May we approach the bench?

THE COURT: I think I know what you're going to say.

Ms. Murphy, you may pass them out for them to use and follow. They may not take any notes on them. They may not write on them in any way, and when that witness is through, they will have to return those exhibits to you.

Does that address your concerns?

MS. GUTIERREZ: That's part of it, but I had another issue.

THE COURT: All right. Then you can come up.

(Counsel and the defendant approached the bench, and the following ensued.)

MS. GUTIERREZ: Judge, my objection is based on Ms. Murphy has identified those as the cell phone records. They are not. They are not copies of the cell phone records.

They contain information from the cell phone records, but they have four other columns of information, and several other columns that are not from the cell phone records. They are from other records, so I think it's a misidentification.

I don't want to create a situation where Ms.

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Murphy gets up again and re-explains it, but --

THE COURT: Okay. I will clarify what it is that she's using. Counsel, the concern is that there's nothing wrong with you using a demonstrative aid, which is, in a sense, a blow-up or copy of what you're putting on the easel.

It's really so they can see better what it is that you're doing. However, you keep -- it's not in evidence, so you can't -- you can't identify what it is as such. You can't say that this contains something because in your description it is then, in a sense, putting it in the minds of the jurors that it is, in fact, what you purport it to be.

And you won't know that, and they won't know that, until after all of your witnesses have testified and identified the contents of the aid. Do you understand my meaning?

MS. MURPHY: I do, Your Honor. This was something we had addressed in our earlier correspondence, and I thought this was cleared before we had begun testimony. This entire second column cannot be provided by a single witness.

THE COURT: I understand that.

MS. MURPHY: So, --

THE COURT: There's nothing wrong with you

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having a witness identify those parts of the document that they can identify. But until it's completely filled in, so to speak, you cannot call it anything other than --

MS. MURPHY: I understand that --

THE COURT: -- the exhibit number.

MS. MURPHY: -- and I apologize, although this does incorporate in most of the cell phone record, and witnesses will be identifying the two columns that are not included.

THE COURT: That's fine.

MS. MURPHY: But my point is that what we hope to do is allow the jurors to retain this and note from the testimony the portions that are not provided because, ultimately, when we offer this exhibit, it's going to be a compilation of many witnesses' testimony.

THE COURT: I understand that, but I cannot allow the jurors to keep this document because it's not in evidence. Now, if you want to collect them, have them put their juror numbers on it, and when the next witness comes up I'll give them back the same sheet they had.

MS. MURPHY: Your Honor, I --

THE COURT: Do you follow me? Whatever notes they put on are not an accurate depiction of what you're putting on the chart, --

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MS. MURPHY: Right.

THE COURT: -- and should not replace the exhibit itself when and if it comes into evidence at some time.

MS. MURPHY: That's --

THE COURT: So I can put their number on it --

MS. MURPHY: Okay. And they can make notations.

THE COURT: Right. That would be the same practice as if you had a trial book for each of them --

MS. MURPHY: Right.

THE COURT: -- and they would be given back their own trial book.

MS. MURPHY: That's fine; that's fine.

THE COURT: But I can put their numbers on it, but they -- I can't allow it to stay with them.

MS. MURPHY: That's fine. I don't have any problem with that.

THE COURT: Okay?

MS. MURPHY: And we do intend, as witnesses testify, to fill in on our blow-up --

THE COURT: We'll let them -- they -- I will then modify my ruling. They can mark on their identified copy --

MS. MURPHY: Okay.

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THE COURT: -- but they will have to give it back when the witness finishes testifying.

MS. MURPHY: Okay.

THE COURT: And they will not be permitted to take it into the --

MS. MURPHY: That's fine. I don't have any problem with that, Your Honor.

THE COURT: Any problem with that?

MS. GUTIERREZ: No.

MR. URICK: No.

THE COURT: And again, the purpose of doing that is so that the item that actually comes into evidence is the exhibit itself.

MS. MURPHY: Okay.

THE COURT: And not something else.

MS. MURPHY: That's not a problem.

THE COURT: All right?

Very well. Thank you.

MS. MURPHY: And does the Court then have a problem with me marking on the exhibit as the witnesses testify?

THE COURT: Well, the witness is not marking on it, that's fine. Doesn't matter to me.

MS. MURPHY: Okay.

THE COURT: As long as the information

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contained is coming from the witness and not from you.

MS. MURPHY: Right.

MS. GUTIERREZ: Thank you.

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

THE COURT: Ladies and gentlemen, as Ms. Murphy gets set up, and a counsel return to their places, let me explain the procedure we're gonna follow.

Ms. Murphy has in her hands a copy of what is going to be placed on the easel. It's for your ready reference to follow along with the witness's testimony. I'd ask that when you receive this copy that you put your juror number on it somewhere in plain view.

If you're Juror Number 1, maybe in the upper right hand corner put Juror 1. If you are Alternate 1, put Alt. 1, or write out Alternate 1. If any other witness testifies and uses this exhibit that's on the easel, we will return your sheet to you so you can make little notes on it.

However, your little sheet is not the evidence. The evidence is what may be evidence on the easel. Right now it's just a demonstrative aid, it hasn't been moved into evidence. It's just been identified. But this copy is being given to you so that you can see it a little easier than looking as far as the easel, far away at the

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easel.

In order to return it to you at a later time, we need your juror number in the upper right-hand corner. And I would note that the item that you have will be referred to as Exhibit Number --

MS. MURPHY: 34, Your Honor.

THE COURT: -- 34 for identification purposes at this time only. Exhibit number 34.

All right. Now, we may proceed.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q. Mr. Lee, good morning again.

A. Good morning.

Q. I'll ask you to keep your voice up nice and loud so the jury can hear you.

A. Okay.

Q. How old are you?

A. I'm 17.

Q. And where do you attend school?

A. At Millford Mill Academy.

Q. Do you know the victim, Hae Min Lee?

A. Yes.

Q. How do you know her?

A. She's my sister.

Q. And did you live with Hae Min Lee until January

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of 1999?

A. Yes, I did.

Q. And in January of 1999, you were how old?

A. In 1999 I would be 16.

Q. And how old was your sister, Hae Min Lee?

A. 18.

Q. Who else lived with you at that point in time?

A. My grandparents, my two cousins.

Q. I'm gonna ask you to remember back to January 13th of 1999. Do you remember that day?

A. Yes.

Q. Why don't you tell us what happened that day, beginning with the time you got home from school?

A. After I got home from school, later I got a call from my cousin's school asking us to pick her up from the school. This was unusual because my sister was supposed to pick her up every day from my cousin's school.

Q. How old is your cousin?

A. I believe she was six.

Q. So she's quite young?

A. Yes.

Q. What time would your sister have normally picked her up?

A. Around three o'clock, or 3:15.

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Q. What, if anything, did you do?

A. I called my grandfather so that he can go to the school and pick her up, and the time passed. My mom met -- my grandmother called my mom that she was worried about her, and my mom told me to call her at work place to see if she was there?

Q. Where was your sister working?

A. She was working at LensCrafters in Owings Mills.

Q. And was she at LensCrafters?

A. She wasn't.

Q. Okay. Did there come a time when you or your family notified the police?

A. Yes, our mom got real worried and asked me to call the police.

Q. Do you know about what time that was?

A. Around 6:00, I believe.

Q. What, if anything, did you personally do?

A. First I called the police, then I looked around the house to look for her friends' phone numbers and such.

Q. Where did you find numbers? Where did you look?

A. First I looked in her room, then I found her diary where I got the -- where I found the phone numbers.

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Q. Okay. Did you make any calls based on the numbers you found?

A. No.

Q. Did you end up calling any of your sister's friends?

A. Yes, I did.

Q. Who did you call?

A. First I called Aisha, then I called Adnan.

Q. Okay. How did you get Adnan's phone number?

A. It was in the diary.

Q. What happened when you called him?

A. When I rang up the phone number it says, at the top, there was a phone number, at the bottom it says Don written over the sheet. So when I called the number I said I was calling Don, but after talking for a while I realized that it was Adnan.

Q. How did you realize it was Adnan?

A. I recognized his voice.

Q. What was your conversation about?

A. It was about my sister, if he knew where she was, or where she could be.

Q. And did he say whether he knew where she was?

A. No.

Q. How long do you think that conversation lasted?

A. Two or three minutes.

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Q. Did you know who Adnan was prior to that day?

A. Yes.

Q. Had you ever met him?

A. Yes.

Q. When did you meet him?

A. I first met him at my mom's store, then I met him at the mall.

Q. Were you aware that your sister had dated him?

A. Yes.

Q. Had you ever spoken with him before that day?

A. Yes, I did.

Q. Had Adnan ever called your house prior to January of 1999?

A. Yes, he did.

Q. Aside from you, are any other members of your household fluent in English?

A. No.

Q. Is it fair to say that you would normally answer the phone?

A. Uh-huh.

Q. To your knowledge, did Adnan ever call your house after that day?

A. No.

Q. Now, the person you've been describing, Adnan, is he present here today?

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A. Yes.

Q. Could you identify him for the jury, please?

A. He's sitting right over in front of me.

THE COURT: Indicating the defendant for the record.

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

THE COURT: Yes, you may.

BY MS. MURPHY:

Q. Mr. Lee, I'm showing you what's been marked for identification as State's Exhibit 1. Do you recognize this photograph?

A. Yes.

Q. What does it show?

A. It's a picture of my sister at her junior prom.

Q. Do you know when this picture was taken?

A. At the junior prom in her junior year, I don't know for sure.

Q. And is it fair to say her junior year would be 1998?

A. Yes.

Q. Is that a fair and accurate depiction of your sister?

A. Yes, it is.

MS. MURPHY: Your Honor, at this time, I'd

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offer State's Exhibit 1.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: Let it be admitted as State's 1.

(State's Exhibit No. 1, having previously been marked for identification, was received in evidence.)

BY MS. MURPHY:

Q. Mr. Lee, I'll also show you what's been marked as State's Exhibit 2. Take a look at this item and see if you recognize it?

A. It's my sister's diary.

Q. Have you ever seen this before?

A. Yes.

Q. Where did you see it?

A. In her room.

Q. Okay. Now, open the pages. Do you recognize the handwriting in this book?

A. Uh-huh.

Q. Who's is it?

A. My sister's.

Q. Okay. Had you actually read this item before today?

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A. Yes, I did.

Q. Okay. Thank you.

MS. MURPHY: Your Honor, at this time I'd offer State's Exhibit 2.

THE COURT: Any objections?

MS. GUTIERREZ: No, Your Honor.

THE COURT: All right. Let it be admitted.

(State's Exhibit No. 2, having previously been marked for identification, was received in evidence.)

BY MS. MURPHY:

Q. In fact, Mr. Lee, did there come a time when your sister found out that you read her diary?

A. Yes.

Q. She wasn't very happy about that, was she?

A. No.

Q. Mr. Lee, I'd ask you to look at a particular page that I've marked. Is this the page you've described to the jury?

A. Yes, it is.

Q. All right. And what does it depict?

A. It has the phone number and the name Don written over the paper.

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Q. Okay. Can you read the phone number out loud, please?

A. There is two area codes, there's 410, and there's 443 253-[redacted]

Q. Is that the number you called on January 13th?

A. Yes, it is.

Q. Thank you.

THE COURT: Can I ask that you put one of those little tabs -- can you put perhaps a sign up so there's no confusion? Just take a pair of scissors, just so there's no confusion. I don't want anybody to write on them.

MS. MURPHY: Put the --

THE COURT: That will leave an arrow so it's clear what page the witness is referencing.

(Pause.)

MS. MURPHY: Thank you, Your Honor.

THE COURT: Thank you.

MS. MURPHY: Thank you, Your Honor.

THE COURT: You're welcome. And could you pass that this way.

Thank you. You may continue.

MS. MURPHY: Thank you, Your Honor.

May I approach the witness again?

THE COURT: Yes, you may.

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BY MS. MURPHY:

Q. Mr. Lee, I'll show you what's in evidence as State's Exhibit 12. It has four photographs. Do you recognize -- I'll ask you to focus on the bottom two photographs. Do you recognize what's in those pictures?

A. Yes.

Q. Can you identify it, please?

A. This is my sister's car, a Nissan Sentra.

Q. Okay.

Q. I'll also show you what's been premarked as State's Exhibit 13. It shows three photographs. Can you identify what's in those photographs?

A. This is my t-shirt I used to wear.

Q. Okay. In the photograph on the left here, what area does that show?

A. It shows the driver's seat where the t-shirt is.

Q. Okay. In the driver's seat of what?

A. The driver's seat -- the edges between the bottom seat and --

Q. I mean of whose car?

A. My sister's car.

Q. Okay. Now, this t-shirt that you've identified, was it in your possession in January of 1999?

A. No, it wasn't.

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Q. Who had that shirt?

A. My sister.

Q. And how do you know that?

A. Because I had seen it when I -- when she gave me a ride to school or something.

Q. Okay. You saw it in her car?

A. Yes.

Q. Okay. Why was the shirt in her car?

A. To be used as a cloth to wipe off windshields and stuff like that.

Q. Okay. As a rag, basically?

A. Yes.

Q. Where did she keep the shirt in her car?

A. She kept it on the right side of the door, the driver's door at the bottom, where the map is placed.

Q. Okay. Now, in these photographs you can see there is something on the shirt.

A. Yes.

Q. Was that there when you last saw the shirt?

A. No, it wasn't.

Q. Aside from those markings, do these pictures fairly and accurately depict the shirt and your sister's car?

A. Yes, it does.

Q. Thank you.

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MS. MURPHY: Your Honor, at this time I would offer State's Exhibit 13.

THE COURT: Any objections?

MS. GUTIERREZ: No.

THE COURT: Let is be admitted.

(State's Exhibit No. 13, having previously been marked for identification, was received in evidence.)

THE COURT: Can you tell me how many photographs that are on that exhibit?

MS. MURPHY: Three photographs, Your Honor.

THE COURT: All right. For the record, let the record reflect that the Exhibit is a cluster of three photographs.

BY MS. MURPHY:

Q. Mr. Lee, was there a time when your family lived in California?

A. Yes.

Q. When was that?

A. It was when I was in eighth grade, so it would have been around '97.

Q. And who were you living with in California?

A. I lived with my sister, my mom, and her fiance.

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Q. How long did you stay in California?

A. A few months.

Q. And when you say "fiance," are you referring to your mother's fiance?

A. Yes.

Q. And when did you return to Maryland?

A. It wasn't that long, it was quick. We were there for, like, few months and came back.

Q. Did your sister ever discuss with you or your family returning to California?

A. No, she didn't.

Q. Is that something you felt she may have done?

MS. GUTIERREZ: Objection.

THE COURT: Sustained as to formed. You may restate the question or lay a foundation for his knowledge.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q. Were either you or your sister particularly close with the gentleman you were living with in California?

A. No, we weren't.

Q. Is there any reason, to your knowledge, that your sister would have returned to that area?

MS. GUTIERREZ: Objection.

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THE COURT: Overruled.

THE WITNESS: No, she wouldn't have.

BY MS. MURPHY:

Q. Mr. Lee, did you ever see your sister again?

A. No.

Q. Did there come a time in February when you learned what happened to your sister?

A. Yes.

Q. Can you tell us what happened?

A. I was --

MS. GUTIERREZ: Objection.

THE COURT: Sustained. You cannot answer the question. The question is general in nature, and so, therefore, your way of finding out an answer could mean you could tell us anything, so I've sustained it. That means you can't answer and the attorney may ask -- reask the question.

BY MS. MURPHY:

Q. Who informed you of what happened to your sister?

A. Well, my uncle did.

Q. And how did your uncle know?

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

BY MS. MURPHY:

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Q. If you know --

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

BY MS. MURPHY:

Q. Can you describe that day?

A. I was --

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

MS. MURPHY: Well, Your Honor, I was asking the witness for his personal experience.

THE COURT: But you haven't identified a time period. You just said "describe that day." That was your question.

BY MS. MURPHY:

Q. Was that a school day?

A. Yes, it was.

Q. At what point in the day did you learn what happened?

A. It was around the afternoon.

Q. When you got home?

A. Yes.

Q. Who was at the house?

A. All my family members, my mom, my uncle, and my grandparents.

Q. Can you describe what happened when you got

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home?

A. I got home and everybody was crying. I didn't know what happened. My uncle came up to me and told me.

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

MS. MURPHY: I have no other questions, Your Honor. Thank you. Oh. I'm sorry, Your Honor.

THE COURT: That's all right.

MS. MURPHY: After making a big point of passing this out --

THE COURT: I was going to say, we have an exhibit in front of us.

MS. MURPHY: May I approach the witness?

THE COURT: You may.

BY MS. MURPHY:

Q. Mr. Lee, I'll show you what's been marked for identification as State's Exhibit 34. I'll ask you to take a look at this document and see if you recognize anything on that document?

A. I recognize my phone number.

Q. Where do you see your phone number?

A. At the bottom.

Q. Can you identify it by the call number shown in the first column?

A. Call Number 33 and 34.

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Q. And those are the numbers of your home residence?

A. Yes.

Q. Thank you.

MS. MURPHY: May I mark the exhibit, Your Honor?

THE COURT: Yes, you may, but I need your assistance. Can you state what line you were referring to? The call number is 33 and 34; is that right?

BY MS. MURPHY:

Q. Is that correct, Mr. Lee?

A. Yes, 33 and 34.

Q. Can you read the number aloud?

A. 410 602-[redacted].

MS. MURPHY: Thank you.

(Pause.)

THE COURT: For the record, Ms. Murphy has noted the same location on her exhibit number, 34, the call spaces is 33 and 34 at the bottom of the exhibit. She's done so with -- is that green highlighter or --

MS. MURPHY: A green marker, Your Honor.

THE COURT: A green marker. Very well. Any further questions, Ms. Murphy?

MS. MURPHY: No, Your Honor. Thank you.

THE COURT: Witness with you, Ms.Gutierrez?

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MS. GUTIERREZ: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q. Mr. Lee, did your sister have a cell phone?

A. No, she didn't.

Q. To your knowledge, she didn't?

A. She didn't.

Q. And did she have a pager?

A. Well, she used to.

Q. She used to have a pager?

A. Yes.

Q. And that would be how her friends would reach her?

A. Yes.

Q. You observed that?

A. Yes.

Q. You knew that?

A. Uh-huh.

Q. And, sir, let me ask you about this number. Did you receive that phone call that's indicated that you've identified was made to your number at either 12:01 or 12:35 in the morning?

A. No.

Q. No. And your sister did receive phone calls at her home, did she not?

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A. Yes, she did.

Q. And many of them would come in late at night, would they not?

A. Well, they used to, but my grandmother spoke to her about it, now it was like --

Q. And then it sort of stopped?

A. Yes.

Q. Okay. Now, you said, Mr. Lee, you recognized Adnan's voice?

A. Yes.

Q. Okay. And that's because you heard his voice on a regular basis because he would call regularly to speak to your sister?

A. Yes.

Q. And, when he would call, your sister would speak to him, would she not?

A. Yes.

Q. And you were aware of what their relationship was, were you not?

A. Yes, I was.

Q. The picture that you identified, Mr. Lee, was of your sister at an event that you referred to as the junior prom; is that correct?

A. Yes.

Q. That was the junior prom at Woodlawn Senior

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High School, was it not?

A. Yes.

Q. And your sister attended that junior prom because you saw her leave, did you not?

A. Yes.

Q. And she didn't get dressed at your house, though, did she?

A. I believe she did.

Q. Do you recall that she, in fact, got dressed at her friend's house?

A. I don't know that.

Q. Okay. You didn't attend --

A. No.

Q. -- the junior prom; correct?

A. No.

Q. You were aware that she attended that junior prom, and, in fact, had pictures taken of her with a date, are you not?

A. Yes.

Q. She had pictures wearing that same beautiful blue dress; did she not?

A. Yes, yes.

Q. And her date for that junior prom was Adnan Syed?

A. I don't know.

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Q. Well, you've seen the pictures of her and Adnan at that junior prom, have you not?

A. I think I did.

Q. Okay. Well, Mr. Lee, starting back at the junior prom day, whenever that occurred, in the Spring of 1998, you were aware that your sister maintained a relationship as a girlfriend/boyfriend with Adnan Syed?

A. Yes.

Q. And during that entire period, there were lots of times when he called at the house?

A. Yes.

Q. And that she spoke to him?

A. Uh-huh.

Q. And you are aware, now, her sister got her license, I believe, in September of 1998?

A. I'm not so sure?

Q. Okay. Just a couple of months before she disappeared?

A. Yes.

Q. Okay. And that you were aware that, in addition to phone calls between the two of them, that they saw each other?

A. Yes.

Q. And that they went to school together?

A. Yes.

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Q. And that they shared the bulk of their classes together?

A. I didn't know that.

Q. Okay. And you were aware, however, that they considered each other very special?

A. Yes.

Q. Okay. And you mother was aware of that?

A. I believe.

Q. You believe so?

A. Yes.

Q. But you're not sure?

A. No.

Q. That's not something you and your mother discussed?

A. We didn't discuss it.

Q. Okay. And where you met Adnan was at the store that your family owns and works; is that correct?

A. Yes.

Q. And he came there with your sister?

A. No. He came alone.

Q. Alone. Okay. To the place that's your family's store?

A. Yes.

Q. But you knew who he was, did you not?

A. Yes.

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Q. Okay. Because you had previously met him?
A. Yeah.
Q. Correct?
A. Uh-huh.
Q. At the mall? Is that the Owings Mills Mall?
A. Yes.
Q. And, in fact, Owings Mills Mall is where your sister works part-time at LensCrafters, is it not?
A. Yes.
Q. That particular LensCrafters?
A. Yes.
Q. Now, your cousin that lived with you that your sister picked up every day, went to what school?
A. Camfield.
Q. Okay. And Camfield is not that far from Woodlawn, is it?
A. Well, I guess it's kind of pretty far.
Q. How long would it take your sister to get from Woodlawn to Camfield Elementary to pick up her cousin?
A. Probably like 15 to 20 minutes, I guess.
Q. Okay. And she did that every day, did she not?
A. Yes.
Q. Your cousin, who was then about six years old, depended upon her, did she not?
A. Yes, she did.

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Q. And your family depended upon her to do that once she got her license and her car; correct?

A. Yes.

Q. And, in addition, so her schedule in the afternoon right after school was constant, at least five days a week; was it not?

A. Yes.

Q. And your sister was a very popular girl, was she not?

A. I believe so.

Q. She had lots of friends, did she not?

A. Yes, she did.

Q. Many of those you knew by voice because they called?

A. Yes.

Q. And because you heard her speak of their names?

A. Yes.

Q. And among those friends was an Aisha [redacted]

A. Yes.

Q. And among those friends was a Rebecca [redacted]

A. Not that I know of.

Q. Okay. Do you -- did you meet her friends?

A. I have met Aisha and Debbie.

Q. And Debbie. You never heard her speak of a woman by the name of Stephanie [redacted], did you?

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A. I do remember a first name Stephanie.

Q. A first name Stephanie. And what about a Jay? Was that somebody who was one of her friends?

A. No, it wasn't.

Q. You never heard her mention the name Jay?

A. No.

Q. Or Jay Wilds?

A. No.

Q. Now, Mr. Lee, you spoke about the time that you were in California with your family. You said that's when you were in the eighth grade?

A. Yes.

Q. Okay. And what grade are you in now?

A. I am in 11th.

Q. 11th grade. So that was three years ago; is that correct?

A. Yes.

Q. So that would have been the year that's '97 to '98, or '96 to '97? I'm not trying to confuse you, Mr. Lee.

A. Okay.

Q. Did you attend the eighth grade in California?

A. Yes.

Q. The entire year?

A. No.

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Q. Just part of the year?
A. Yes.
Q. In fact, it was only the first part of the year, was it not, the fall and beginning into the winter; is that correct?
A. Yes.
Q. And then you and your family returned from California back to Maryland; is that correct?
A. Yes.
Q. And that was because your mother's relationship with her fiance changed?
A. Yes.
Q. Isn't that correct?
A. Yes.
Q. That was your mother's decision?
A. Yes.
Q. Now, Mr. Lee, you described that the man who was her fiance was not someone with whom you had a particularly close relationship?
A. Yes.
Q. Is that correct?
A. Yes.
Q. Your sister, however, had a closer relationship with him than did you, did she not?
A. Well, I can't really say.

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Q. She didn't speak about that with you, did she?
A. No.
Q. The issue of the relationship with this man who was your mother's fiance was not the topic of a lot of conversion, was it?
A. No.
Q. And neither you nor your sister objected to her relationship with this man?
A. Well, we -- we just went along with it.
Q. That was up to your mother; correct?
A. Yes.
Q. And if your mother was going to marry this fellow, that would have been fine with you?
A. Yes.
Q. Correct?
A. Yes.
Q. Even if it would have meant you stayed in California?
A. Yes.
Q. Is that correct?
A. Yes.
Q. And your sister, were you aware that she referred to this man to others as her dad?
A. I didn't know that.
Q. You weren't aware of that. Now, Mr. Lee, when

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you came back with your sister and your mother from California, did your mother maintain a relationship with her fiance?

A. Excuse me?

Q. Did she -- did your mother --

A. Yes.

Q. -- maintain a relationship with your fiance?

A. I believe she broke it up.

Q. Okay. And so once you got back to Baltimore, there really wasn't an active relationship that you could observe?

A. Yes.

Q. And you no longer expected your mother to marry this man?

A. Yes.

Q. And to your knowledge she didn't have any continuing contact with him?

A. Yes.

Q. Would you be surprised, Mr. Lee, if, in fact, your sister maintained a relationship with that man?

A. I would be surprised.

Q. You would be surprised. Because that was not something that you discussed with your sister?

A. Yes.

Q. Okay. Now, Mr. Lee, when you came back from

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California, your sister resumed her studies at Woodlawn; correct?

A. Yes.

Q. She had been there prior to going to California; correct?

A. Yes.

Q. And your sister was a very bright young woman, was she not?

A. Yes, she was.

Q. She got very good grades, did she not?

A. Yes.

Q. And in addition to being a good student academically, she was an athlete at the school, was she not?

A. Yes, she was.

Q. She played a couple of different sports, did she not?

A. Yes.

Q. And in addition to playing those sports she managed other athletic teams to assist her classmates?

A. Yes.

Q. She, in fact, managed the wrestling team?

A. Yes.

Q. And she played, I believe, field hockey?

A. Yes.

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Q. And she also played?

A. Lacrosse.

Q. Lacrosse. And she enjoyed her athletic activities, did she not?

A. Yes, she did.

Q. And she was a star athlete, was she not?

A. Yes, she was.

Q. She got lots of recognition both for academics and for her athletics, did she not?

A. Yes, she did.

Q. And, in fact, she was instrumental in pulling together enough teammates in order to ensure the formation of a field hockey team?

A. I didn't know about that?

Q. You didn't know about that. Now, you spoke, Mr. Lee, that you had read her diary prior to her disappearance on January 13th; is that correct?

A. Yes.

Q. You didn't read her diary because she allowed you to read her diary?

A. No.

Q. You read it on your own?

A. Yes.

Q. And she found out that you read it?

A. Yes.

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Q. You didn't go up and tell her and confess that you had read it; right?

A. Oh, no.

Q. She independently found out that you read it and she got very upset?

A. Yes.

Q. Okay. And from her diary you knew that there were lots of things that she was keeping from you and your mother, did you not?

A. Well, she didn't give a lot of depth.

Q. Well, the depth and activity in her relationship with Mr. Syed?

A. Yes.

Q. Okay. And now, prior to your reading her diary, were you -- did you or your mother or anyone in your family express any objection to her having a relationship with this man?

A. Um --

THE COURT: For the record, "this man is"?

MS. GUTIERREZ: Meaning Adnan Syed.

THE WITNESS: So, prior --

BY MS. GUTIERREZ:

Q. Yes, prior to your reading her diary -- now, you read her diary prior to her disappearance; correct?

A. Yes.

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Q. And was it during this early part of the school year or before that?

A. I don't recall.

Q. Okay. But some time before her disappearance?

A. Yes.

Q. Prior to the time when you read her diary, had you or anyone from your family expressed to her any objection to her having a relationship with Adnan Syed?

A. Yes, because --

Q. Well, just, first of all, let me ask you a question.

A. Yes.

Q. Who was it that expressed an objection?

A. It was my mom and --

Q. Your mother. And I assume, sir, when your mother speaks to your sister, or spoke to your sister, she spoke in her native tongue?

A. Yes.

Q. Okay. And what language is that?

A. Korean.

Q. Korean. And when she speaks to you; your mother, that is, she speaks in Korean; correct?

A. Yes.

Q. Both you and your sister leaned Korean from birth; is that correct?

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A. Yes.

Q. You were both born in Korea?

A. Yes.

Q. And how old were you when you immigrated here?

A. I was second grade.

Q. Okay. So you learned English following your immigration here?

A. Yes.

Q. Okay. Through school?

A. Yes.

Q. But your mother still spoke to you and your sister in Korean; is that correct?

A. Yes.

Q. So it was your mother that registered an objection to her having a relationship with Adnan?

A. Yes.

Q. Now, Adnan was not your sister's first boyfriend, was he?

A. Not that I know of.

Q. She had had a prior boyfriend even while she was in California, did she not?

A. She -- I don't know.

Q. And she had had other boyfriends, to your knowledge, after she returned here?

A. Yes.

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Q. You knew that she had boyfriends but they weren't people that you were close to; is that correct?

A. Yes.

Q. Now, the shirt that you identified -- well, first of all, the car that you identified was a new car to Hae shortly after she got her license?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And she then drove to school every day, did she not?

A. Yes, she did.

Q. Your house where you and your sister and your grandparents, your two cousins, and your mother resided, is located how far from Woodlawn?

A. Almost same distance.

Q. Okay. So 15 to 20 minutes?

A. Yes.

Q. All right. And where she worked in Owings Mills Mall, she worked on a regular basis, did she not?

A. Yes.

Q. Starting shortly after she got her car?

A. Yes.

Q. And so she would drive herself to work from wherever she was?

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A. Yes.
Q. And she worked a regular number of hours?
A. Uh-huh.
Q. Is that right?
A. Yes.
Q. And that included early evening hours until the store closed?
A. Yes.
Q. And also included on weekends?
A. Yes.
Q. And sometimes included holidays when she did not have school; is that correct?
A. I don't recall.
Q. Okay. But you do recall, sir, that her schedule was something that she always knew ahead of time?
A. Yes.
Q. But that there were things that she did every single day --
A. Yes.
Q. -- and that she did them regularly?
A. Yes.
Q. And they included her going to school?
A. Yes.
Q. And attending school every day; correct?

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A. Yes.

Q. Attending and participating in whatever athletic events that took up her time?

A. Yes.

Q. Correct?

A. Yes.

Q. Picking up her cousin?

A. Yes.

Q. And when she picked up her cousin, that meant picking her up and then taking her --

A. Home.

Q. -- to your home?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And your home, sir, is closer to Camfield Elementary than is Woodlawn; is that correct?

A. Yes.

Q. And then, if she had to work or do something else for school, she would then drive herself?

A. Yes.

Q. And she would drive herself home from work?

A. Yes.

Q. Correct?

A. Yes.

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Q. And that remained her schedule which was pretty predictable, although not always the same --

A. Yes.

Q. -- every day?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Because she didn't work every day; is that correct?

A. Yes.

Q. And she didn't -- she had friends that you knew of by name because she mentioned them or because you met, that she spent a great deal of time with?

A. Yes.

Q. And you were aware that she did overnights at some of her friends?

A. Yes.

Q. Isn't that correct? And your mother was always concerned about where she would be?

A. Yes.

Q. As she was always concerned about where you would be; correct?

A. Yes.

Q. There were rules as to what you could do and when you could do them?

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A. Yes.

Q. And there were rules for her imposed once she got that car?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And, like most teenagers, your sister had little disagreements with your mother on a regular basis about what she was allowed to do?

A. Yes.

Q. And where she was allowed to be?

A. Yes.

Q. And to whom she was allowed to have relationships with?

A. Well, not that, really.

Q. Not really?

A. No.

Q. Were you a participant in your sister's disagreements with her mother?

A. No, I was not.

Q. No. Okay. Now, on the day that --

THE COURT: One moment.

(Pause.)

BY MS. GUTIERREZ:

Q. On the day, sir, that you understood that your

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sister didn't pick up your cousin, --

A. Uh-huh.

Q. -- you were the one that was designated to call and talk to the police because of your fluency in English?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And you, sir, told the police everything that you knew that you thought could be important?

A. Yes.

Q. Because you were worried about your sister; correct?

A. Yes.

Q. And you went to her diary to see if there would be anything in her diary that might lead you to know where she was?

A. Well, I was just looking for the phone number.

Q. Okay. And the only phone number in her diary was the page that had the phone number on the top that you've identified?

A. Yes.

Q. Isn't that correct?

A. Yes.

Q. And because the page had the words "Don"

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written on it, you made the assumption that that phone number was related to Don?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And Don is the name of a person that you know of, of Donald Cliendienst?

A. Yes.

Q. Is it not?

A. Yes.

Q. And that is a person that you met?

A. Well, I didn't met him.

Q. But you've seen him?

A. Yes.

Q. Yes. At the mall?

A. Yes.

Q. At the mall, at the Lenscrafters; correct?

A. Yes.

Q. On the day that you were looking through the diary and you discovered this number, you knew that Don Cliendienst was the new boy in your sister's life.

A. Yes.

Q. Is that correct?

A. Yes.

Q. And that had been a decision, to your

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knowledge, made by your sister; correct?

A. She --

Q. That this was her new boyfriend?

A. Yes.

Q. She made that decision; right?

A. Yes.

Q. She didn't consult with you as to making it?

A. No.

Q. Did it? But that was a very new relationship, was it not?

A. Yes.

Q. And new meaning, literally, in a matter of weeks?

A. I can't -- I don't know.

Q. Okay. Now, did there come a time when your sister announced anything about this Donald Cliendienst?

A. Well, I believe my mom -- my sister had spoken to my mom about it.

Q. To your mom about it?

A. Yes.

Q. To sort of announce that she was done with one boyfriend and now she was having another?

A. Yes.

Q. 'Cause your mother wanted to know what was going on in her life; correct?

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A. Yes.

Q. And you were aware, sir, were you not, that there were evenings that she spent with Donald Cliendienst?

A. Yes.

Q. And that there were occasions in which she spent the night?

A. Spent the night?

Q. At Donald Cliendienst's house?

A. I don't --

Q. Spending the night with a boy would not have been allowed by your mother.

A. Yes.

Q. Would it have?

A. No.

Q. No. That would not be appropriate behavior.

A. Yes.

Q. Would it? Would you be surprised to know that her friends thought, based on what she had said before, that when she disappeared that where she probably was, was at Donald Cliendienst's house?

MS. MURPHY: Objection.

THE COURT: Overruled. As to form of question, overruled.

Yes or not? Would you be surprised to know?

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THE WITNESS: Would I be surprised to know as --

BY MS. GUTIERREZ:

Q. That that's what her friends thought?

A. Well, my mom thought that.

Q. And your mom thought that; right?

A. Yes.

Q. Because relationships had been the subject of much disagreement between your mom and your sister?

A. Yes.

Q. The new relationship with Donald Cliendienst; right?

A. Yes.

Q. And the old relationship with Adnan?

A. Yes.

Q. And her previous relationships?

A. I don't know.

Q. You don't know. Now, when you -- the diary, after you found the number, you called the number believing it was Don; right?

A. Yes.

Q. Did you ever speak to Don that day once you discovered that that number wasn't Don?

A. No.

Q. Even though he was then your -- he was your

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sister's then boyfriend?

A. Yes.

Q. You never reached him that night?

A. No.

Q. And you didn't speak to him the day after?

A. No.

Q. And you didn't speak to him the day after that?

A. Well, we went -- me and mom went into the work place to visit him.

Q. To visit him at Lenscrafters?

A. Yes.

Q. Because you were concerned about the whereabouts of your sister; correct?

A. And my mom.

Q. Her body -- I mean, and your family, --

A. Yes.

Q. -- you were concerned; is that correct?

A. Yes.

Q. And you had no -- now, Don didn't call you on the 13th in the evening --

A. No.

Q. -- did he? Even though your sister, on the 13th, was scheduled to work; was she not?

A. I believe so.

Q. At six o'clock?

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A. Yes.
Q. She would have worked from 6:00 tilL close?
A. Yes.
Q. Isn't that right?
A. Yes.
Q. You got a call from Lenscrafters later; correct?
A. I -- I remember calling them, but --
Q. You called them to find out if she had shown up; is that correct?
A. Yes.
Q. Then you were informed she did not?
A. Yes.
Q. But you didn't get a call from this person who was her then boyfriend?
A. No.
Q. No. Okay. Now, in reading the diary, sir, did you -- before you read the diary, did you ever become aware of anything that's alleged to have happened at the homecoming dance at Woodlawn?
A. Um, no.
Q. Were you and your sister close in terms of confiding in each other?
A. We kind of were.
Q. Okay. And were you aware of all of her

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activities from her?

A. Most of them.

Q. Were you aware that she had attended the homecoming dance?

A. Yes.

Q. And were you aware that she attended it together with, as the date of Adnan Syed?

A. No. I didn't know that.

Q. You didn't know that. And were you aware, sir, that something may have happened at the homecoming dance?

A. No.

Q. No. And after the homecoming dance, your sister did not confide in you as to any event there?

A. No.

Q. Or that anything that may have happened?

A. No.

Q. Or indicate to you that she was upset in any way?

A. No.

Q. Did she consult with you or confide with you before she stopped being girlfriend/boyfriend with Adnan?

A. No.

Q. And began being girlfriend/boyfriend with this person, Donald Cliendienst?

A. No.

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Q. No. Did she seek your advice at all as to what she should do?

A. No.

Q. Did she tell you the day that the breakup occurred?

A. No.

Q. Did she ever confide in you as to whose idea it was?

A. No.

Q. So, to your knowledge, you don't know who broke up with whom?

A. Yes.

Q. Do you?

A. No.

Q. At least not from your sister.

A. Yes.

Q. Is that correct? Now, you said you recognized the diary, the writing because you're familiar with your sister's writing; is that correct?

A. Yes.

Q. Were you aware that your sister was a prolific note writer, that she wrote a lot of notes and cards to her friends?

A. Yes.

Q. And were you aware that among the recipients of

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her notes and cards, a large number of them was Adnan Syed?

A. Yes.

Q. And you knew that from her?

A. Uh, no. I read it. There was some notes in her bookbag.

Q. There were some notes in her book bag.

A. Uh-huh.

Q. Some of which she had read -- she had written herself?

A. Yes.

Q. To Adnan?

A. Yes.

Q. Would it be fair to characterize the notes that you read as sort of mushy, lovey-dovey?

A. Yes.

Q. Yes. And, also in her book bag were lots of notes and cards from Adnan to her?

A. I don't really remember but --

Q. Were you ever asked to identify anything else other than her diary?

A. No.

Q. Were you ever asked to identify the handwriting in notes told to you that were found elsewhere?

A. Well, I wasn't told there was notes found.

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Q. And you were not asked to identify her handwriting?

A. Yes.

Q. Correct? Now, Mr. Lee, did your sister have a computer?

A. Yes.

Q. And did she use that regularly?

A. Yes.

Q. She typed pretty well, didn't she?

A. Yes.

Q. In fact, she used her computer to do most of her homework, did she not?

A. Yes.

Q. And in addition, she kept lots of entries on that computer, did she not?

A. No. She saved it on disks.

Q. Did you -- she'd save them on the disks and take them out; correct?

A. Yes.

Q. And part of the reason for that was because she wanted them private?

A. Yes.

Q. Yes. From you?

A. Yes.

Q. Okay. And that was the subject between you and

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your sister; correct?

A. Yes.

Q. The computer that she used was available to you?

A. Yes.

Q. And you also did your homework?

A. Yes.

Q. After her disappearance, did anyone seize the computer?

A. Yes.

Q. Yes. And the police seized it?

A. Yes.

Q. Correct? And that was with the permission of your family, was it not?

A. Yes, it was.

Q. Okay. Mr. Lee, in regard to the car, you described this striped shirt of the pictures of?

A. Yes.

Q. Now, would it be fair to say that in January 1999, that that shirt is not something that you really ever thought about?

A. Well, there was one incident where I got angry at my sister for taking a shirt.

Q. For taking the shirt and using it as a rag?

A. Yes.

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Q. Because you liked that shirt; right?
A. No. But --
Q. But after, was it an appropriate rag?
A. Yes.
Q. Okay. And did you wear it anymore?
A. No.
Q. And after you discovered your sister using it as a rag you never wore it again, did you?
A. No.
Q. You didn't take it back from her, did you?
A. No.
Q. And it was kept in the side well of the driver's seat?
A. Yes.
Q. The place where you said the map was always kept?
A. Yes.
Q. The map that you're referring to, she had a map book, did she not?
A. Yes, she did.
Q. Of the greater Baltimore area?
A. Yes.
Q. Is that correct?
A. Yes.
Q. And she got that and kept that in her car so

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that she would always know where she was going?

A. Yes.

Q. And she would use the map, would she not?

A. I guess so.

Q. And it was always in her car, was it not?

A. Yes, it was.

Q. Now, the pictures of the car that you saw, sir, the ones at night, you couldn't see inside the car, could you?

A. No.

Q. And you were never asked to come down and look at the car, were you?

A. Well, I was called to pick up the car.

Q. Pick up the car. That means after the police were finished with it?

A. Yes.

Q. Correct?

A. Yes.

Q. After they had looked at it, and examined it, and analyzed anything in there; correct?

A. Yes.

Q. But before that call came, was there ever a time when you were asked to come down and identify anything in her car?

A. No.

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Q. Now, in the morning, did your sister take you to school every day?

A. No, she didn't take me to school.

Q. She never took you to school, did she?

A. Sometimes, if I missed the bus.

Q. Once in a while?

A. Yes.

Q. You'd have to request. But as a normal activity during the day, she did not?

A. No.

Q. Is that correct?

A. Yes.

Q. And because of her schedule that was so demanding, you didn't normally ride in her car every day, did you?

A. Well, after school.

Q. But often you would be in it?

A. Yes.

Q. And you would see the condition of her car, would you not?

A. Yes.

Q. And she would keep things in her car, would she not?

A. Yes.

Q. She'd keep her athletic equipment?

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A. Yes.

Q. She'd keep school things and school books; correct?

A. Yes.

Q. And she'd keep lots of her note cards, would she not?

A. Note cards for the school.

Q. And often she would keep her diary in her car; would she not?

A. I didn't see.

Q. When she drove to school --

THE COURT: I'm sorry. What was you answer?

THE WITNESS: I didn't see it.

THE COURT: Okay. Go ahead.

BY MS. GUTIERREZ:

Q. When she drove to school, you didn't see her go?

A. No.

Q. You were aware, however, that she parked on the school lot?

A. I believe so.

Q. Okay. And, sir, did she -- was she a neatnik about her car?

A. Well, the times I drove with her the car was messy.

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Q. The car was generally messy, was it not?
A. Yes.
Q. She kept all the stuff that she'd need for her very busy life in there?
A. Yes.
Q. And you were aware that in addition that her friends would be in her car?
A. Yes.
Q. You would see them sometimes, would you not?
A. Not really.
Q. Was you sister someone who, on a regular basis, had her friends come to her house?
A. No.
Q. No. She was more the person that would go to her friends' houses, would she not?
A. Yes.
Q. They would not normally come to your house?
A. Yes.
Q. Okay.
MS. GUTIERREZ: I have nothing further.
THE COURT: Any cross?
MS. MURPHY: No thank you, Your Honor.
THE COURT: Redirect. May this witness be excused?
MS. MURPHY: Yes, Your Honor.

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THE COURT: Ms. Gutierrez, excused?

MS. GUTIERREZ: Yes, Your Honor.

THE COURT: Released from subpoenas, summonses?

MS. MURPHY: Yes.

THE COURT: Very well.

You're excused, sir.

THE WITNESS: Okay.

(The witness was excused.)

THE COURT: Your next witness?

MR. URICK: With the Court's permission I'm gonna line up the next three.

THE COURT: In that this witness is a family member, you have no objection that he remains in the courtroom?

MS. GUTIERREZ: No, Your Honor.

THE COURT: Mr. Lee, you may -- you are welcome to remain in the courtroom if you would like.

MR. LEE: Okay.

THE COURT:

MS. SHEPHERD: Since you will not be called as a witness again in this case.

MR. LEE: Okay.

(Pause.)

THE COURT: I normally would take a break after being on the bench for about an hour to allow you to

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stretch your legs and use the facilities. By a show of hands, anyone that would like us to do that, please raise your hand and we will do that. Otherwise, we will continue until 12:30.

(No response.)

THE COURT: Okay, I see no hands, we'll continue till 12:30.

THE COURT: Sir, I need you to stand. Raise your right hand.

Whereupon,

GRANT DELACAMP GRAHAM,

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

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

THE WITNESS: My name is Grant Delacamp Graham, Sr.

THE CLERK: Address?

THE WITNESS: Address?

THE CLERK: Uh-huh.

THE WITNESS: [redacted], Germantown, Maryland.

DIRECT EXAMINATION:

BY MR. URICK:

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Q. Good afternoon. What is your title?

A. I'm the Chief of Forensic Trace Materials Analysis of the office of the Armed Forces Medical Examiner.

Q. All right. If you would speak up a little bit louder please so that the -- lean forward and speak into the microphone?

A. Yes. I am the Chief of Forensic Trace Materials Analysis for the Office of the Armed Forces Medical Examiner.

Q. What does that mean? What do you do?

A. It means I supervise and manage the forensic laboratory for the office of the Armed Forces Medical Examiner, as well as I conduct forensic examinations and analyses, and assist with processing crime scenes.

Q. And when you assist in processing a crime scene, what are you doing?

A. I am searching the crime scene looking for evidence, gathering evidence, things of that nature.

Q. And how long have you been doing this?

A. I've been doing this for about three years.

Q. Now, drawing your attention back to February 9th of 1999, did you have occasion to be in Baltimore City?

A. Yes, I did.

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Q. And what brought you to the City that day?

A. A phone call from Dr. William Rodriguez, who was my supervisor. We were called out to assist with recovering some remains.

Q. And did you respond to Leakin Park in Baltimore City?

A. We actually responded to the Medical Examiner's Office here in Baltimore where we were escorted by a detective out to Leakin Park.

Q. And when you got there what, if anything, did you observe?

A. When I got to the scene, I observed a partially buried body of a female.

Q. And what, if anything, did you do at that point?

A. Well, following standard procedure, we suited up in some light tie-back suits to keep contamination of the scene -- or to eliminate contamination of the scene, and then we proceeded to look over the area and recover the remains.

Q. And were you -- while that was going on were you responsible for examining the scene for any possible evidence?

A. Yes, I was.

Q. And what did you do in order to do that?

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A. Well, first of all, we looked around the general area. I used what's called a "Wood's Lamp." It uses ultraviolet light, kind of like a black light that you can buy in a store. And I used that light to scan over the area of the remains prior to removing any of the dirt to see if I could find any type of trace evidence.

Q. And did you find anything?

A. Yes, I did. I found one fiber that was foreign to the remains that we recovered.

Q. And what, if anything, happened next?

A. Then we removed the soil and leaves that were covering the remains, photographed the scene, removed the remains from the area from which it lay, and then I processed the soil of the area where the remains were lying underneath the body as well for any evidence that may have been left there.

Q. And what, if anything, did you find?

A. I found one more fiber that was foreign to the remains?

(Pause.)

MR. URICK: Just, at this time, I'd enter pursuant to stipulation State's Exhibit 4 which are the two actual fibers that were recovered, and State's Exhibit 5 which is the trace analysis done by the Baltimore City Police Department of those two fibers.

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THE COURT: They're being entered by way of stipulation?

MR. URICK: Yes.

MS. GUTIERREZ: Yes, Your Honor.

THE COURT: Without objection? Let them be admitted.

And for the record I would indicate to the jurors that again, items that are being admitted into evidence for your consideration by agreement of the parties, which means that they're required authenticity and other related would not be necessary; is that correct Ms. Gutierrez?

MS. GUTIERREZ: Yes, Your Honor.

THE COURT: All right. Very well.

(State's Exhibit Nos. 4 and 5, previously marked for identification, were received in evidence.)

THE COURT: Just for my information, is also the chain of custody being stipulated as well?

MS. GUTIERREZ: As to those items that were stipulated to, yes.

THE COURT: Okay. Very well.

MR. URICK: May I have the Court's permission to approach the witness?

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THE COURT: Yes, you may.

BY MR. URICK:

Q. At this time I'd ask you to examine what have been marked for identification purposes as State's Exhibits 9, 10, and 11. If you'd take a few seconds and look at those?

A. Okay.

(Pause.)

BY MR. URICK:

Q. Have you had a chance to examine the exhibits?

A. Yes, I have.

Q. Can you identify those?

A. Those are photographs from the scene.

Q. Start with the -- if you look on the back, you'll see a red sticker with numbers on it. Start with the one that says Number 9. And, can you identify those photographs on State's Exhibit 9?

A. Yes. this is a photograph, the first photograph on the upper left is a photograph of the roadway that's adjacent to the side of the road or the wooded area where the remains were discovered. And then there's some photos of some of the vehicles parked next to that area.

Q. Drawing your attention to the top row of the far right, what, if anything, can you see in the trees in

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the background?

A. I can see what appears to be some people standing off in the distance, probably about 35, 30 yards.

Q. And is that approximately where you saw the body?

A. Yes.

Q. And do those five photographs fairly and accurately depict the scene as seen from the roadway at that location?

A. Yes, they do.

MR. URICK: I would offer at this time into evidence State's Exhibit Number 9.

THE COURT: Any objection?

MS. GUTIERREZ: No.

THE COURT: Let it be admitted as State's Exhibit Number 5 for the record, a composite --

MR. URICK: Number 9.

THE COURT: Number 9, I'm sorry. And for the record the composite has five photographs.

(State's Exhibit No. 9 having previously been marked for identification, was received in evidence.)

THE COURT: You may continue.

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BY MR. URICK:

Q. And are you looking at State's Exhibit 10 now?

A. Yes, I am.

Q. And can you identify those photographs?

A. Those are photographs of the immediate crime scene.

Q. And what, if anything, do they show?

A. They show a fallen -- fallen tree. And then adjacent to the fallen tree, it shows the remains of the victim.

Q. And do those fairly -- fairly and accurately describe the scene on the date in question?

A. Yes, they do.

MR. URICK: I would offer at this time State's Exhibit 10 into evidence, a composite of four photographs.

THE COURT: Okay.

Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: State's 5 -- I'm sorry -- State's 10, a composite of three photos.

Mr. White, may I see that exhibit when you're done?

(State's Exhibit No. 10, having previously been

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marked for identification, was received in evidence.)

THE COURT: You may continue.

BY MR. URICK:

Q. And looking at State's Exhibit 11, can you identify the four photographs on that exhibit?

A. Yes, I can.

Q. And what, if anything, do they depict?

A. They depict the remains of the victim during various stages of the recovery process.

Q. And do they fairly and accurately depict the recovery of the body?

A. Yes, they do.

Q. And there's a hand in the upper left one. Do you have any idea who that might have been?

A. Yes, that's Dr. Rodriguez.

Q. And you said those photographs fairly and accurately depict the scene?

A. Yes.

MR. URICK: I would offer into evidence at this time State's Exhibit 11, a composite of four photographs.

THE COURT: Any objection?

MS. GUTIERREZ: No, Your Honor.

THE COURT: Let that be admitted as State's

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Number 11, four photographs.

(State's Exhibit No. 11, having previously been marked for identification, was received in evidence.)

(Pause.)

MR. URICK: Witness with the defense.

CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q. Mr. Graham, you work for the Armed Forces; correct?

A. Yes, I do.

Q. You're a civilian employee or a member of the Armed Forces?

A. I am active duty Air Force.

Q. Okay. And you and Dr. -- Dr. Rodriguez also works for the Armed Forces Medical Unit, does he not?

A. Yes, he does.

Q. And you and Dr. Rodriguez were called in specifically because of your expertise with dealing with, in your words, remains of unknown age; is that correct?

A. Not necessarily the remains of unknown age, no.

Q. Well, sir, on that day did you have anything to do with your getting called -- I need to see that Exhibit -- your getting called to Baltimore?

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A. Yes.

Q. Did you request to get called to Baltimore?

A. No.

Q. Okay. And were you the person that found these remains?

A. No, I was not the person that found them.

Q. Were you given information before you got there about the circumstances under which those remains were discovered?

A. I cannot recall if I was given information about that.

Q. It would not have been unusual for you to have received or not received such information, would it have?

A. No, it's not unusual.

Q. And, sir, did you request any information as to the discovery of these remains before you went out there?

A. Yes.

Q. And were you given all information that you requested?

A. I cannot recall the questions that I asked, nor can I recall the information that I was given, so I cannot say that.

Q. Did you write a report?

A. No, I did not.

Q. Is that unusual?

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A. No, it is not.

Q. That you did not write a report? Mr. Graham, I'm showing you what's in evidence as State's Exhibit Number 9. On the far left it shows the roadway by which you got to the location; is that correct, where the remains were?

A. Yes.

Q. Okay. That's the photograph in the far left corner; is that correct?

A. Yes.

Q. And you see crime tape in the picture, do you not?

A. I see yellow tape of some type, yes.

Q. Okay. I'm now gonna show you State's Exhibit 11 and 10, sir. Do either -- are either -- are any of the pictures on either of those exhibits visible from the vantage point of the photograph in State's Exhibit 9, if you would look? State's Exhibit 11 are the photos of the body before and during the removal?

A. I'm not sure whether I understand.

Q. Okay. Well, let me -- answer my question first. On State's Exhibit 11 shows the photographs of the body before and during removal by you and Dr. Rodriguez, does it not?

A. This exhibit here and this exhibit here does,

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yes.

Q. This one? Does that show -- excuse me -- photographs of the body? Yes or no?

A. yes.

Q. Is what is depicted in State's Exhibit 11 visible from where the crime scene tape appears in State's Exhibit 9?

A. No, it is not.

Q. And in State's Exhibit 10, at one -- one of the photographs, the photograph in the left corner, the top left corner shows a dead tree or dead log?

A. It shows a log laying on the ground, yes.

Q. All right. And that log, sir, in length is in excess of 50 feet; is it not?

A. I cannot recall the length.

Q. Were you aware that it was in excess of 50 feet?

A. I'm not aware that it is in excess of 50 feet or --

Q. Did you see the log?

THE COURT: Whoa. Can we let him finish.

MS. GUTIERREZ: I'm sorry.

THE COURT: Did you say, "I was not aware it was in excess of 50 feet"?

THE WITNESS: I'm not aware of how long the log

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is at all. I know that it's a very -- it's long, but I'm not aware of exactly how long it is.

THE COURT: Next question.

BY MS. MURPHY:

Q. Sir, in regard to the body that's shown on State's Exhibit Number 11, was the body on the side of the log closest to the road from whence you came or furthest away?

A. It was on the opposite side.

Q. Okay. And beyond the log, then you would find the body; correct?

A. Yes, immediately on the opposite side of the log.

Q. Now, before disinterring this body, you, because you were called in for your forensic expertise, examined the ground around, did you not?

A. Yes, I did.

Q. You walked around, did you not?

A. I walked around the scene, yes.

Q. Okay. And you noticed and observed the terrain there, did you not?

A. Yes, I did.

Q. Beyond the body is a stream that curves; is it not?

A. There's a stream. I'm not sure whether or not

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is curves.

Q. Okay. And the stream, sir, from what you observed, could you observe evidence that the stream has, in the past, overflowed its banks?

A. No, I cannot recall --

Q. Did you make any --

MS. MURPHY: Objection.

BY MS. GUTIERREZ:

Q. -- notations regarding that?

THE COURT: Ms. Gutierrez, I need your assistance in letting the witness finish.

MS. GUTIERREZ: Okay. I'm sorry.

THE COURT: Because remember Mr. Madden here has to repeat the witness's answer and then your question. So if you could just pause a moment after the witness has answered, that will be helpful to the Court, and I'm sure the stenographer, as well.

Thank you.

BY MS. GUTIERREZ:

Q. And I don't remember what the question was, but your answer was you don't recall whether or not there was evidence of the stream having overflowed its banks?

A. That is correct.

Q. Okay. Now, you didn't write a report that day; correct?

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A. No.

Q. And you never wrote a report after that day; is that correct?

A. No.

Q. Your purpose in being there was to offer your assistance in terms of disinterring the body and looking for any trace evidence that might be there; is that correct?

A. That is correct.

Q. And trace evidence would include fibers such as you've described; correct?

A. Yes.

Q. And trace evidence can also include all other kinds of evidence including, for instance, soil?

A. Yes, it can.

Q. It can include hair?

A. Yes, it can.

Q. It can include other items that might be found?

A. Yes, it can.

Q. Now, you, sir, used the term on the items, the fibers that you recovered, the two, one before the body was disinterred, and once afterwards as elements that were foreign; is that correct?

A. Yes.

Q. Meaning they didn't match the remains, they

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didn't come from the remains?

A. They appeared not to have come from the remains.

Q. And that was in your expert opinion; is that correct?

A. It was based on what I saw at the crime scene.

Q. Okay. And based on your determination that they appeared to be foreign, they're foreignness to the body had significance to you in regard to collecting those elements; isn't that correct?

A. Can you rephrase the question, please?

Q. The fact that they were foreign to the body, meaning not appearing to come from the body, made those two fibers significant to you, did they not?

A. It made them worthy of being collected, yes.

Q. Okay. And you collected them, did you not?

A. Yes, I did.

Q. And you carefully preserved them and marked them; correct?

A. I collected them and handed them over immediately to the crime scene technicians from the Police Department.

Q. From Baltimore City?

A. Yes.

Q. Is that correct? And, sir, you were never

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asked to observe them again?

A. No, I was not.

Q. Or examine them?

A. No, I was not.

Q. Or conduct any analysis on them?

A. No, I was not.

Q. Now, sir, the body that's depicted in the pictures had to be disinterred from that which was on top of it, did it not?

A. Yes, it did.

Q. And did --

A. The body was partially buried. There were parts of the body that were exposed.

Q. Okay. But it had to be disinterred, including the removal of dirt and leaves; is that correct?

A. Yes, that's correct.

Q. And did you ever see the collection of dirt and leaves?

A. I don't understand what you mean.

Q. Did you collect any dirt and leaves?

A. Yes. I did collect some soil.

Q. And did you hand those over? Did you hand that soil over to the Baltimore City crime lab?

A. Yes, I did.

Q. Okay. And that was your looking for any

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evidence that might be helpful to determine how this body got in the position that you observed it; is that correct?

A. That is correct.

Q. Okay. Now, sir, getting to this tree or log, the length of which you don't recall -- well, sir, on -- let me digress here. On State's Exhibit 9, several of the pictures show a log in front of what is commonly referred to as "Jersey walls," concrete walls that block off an area. Do you see that log?

A. The one that you're pointing to, yes, I do.

Q. Okay. And, sir, the log behind which this body you assisted in the disinterrment of and the collection of trace evidence, was that log bigger or smaller than the log that's depicted in the pictures on State's Exhibit 9?

A. I would say probably in circumference, smaller in circumference, but longer in length.

Q. A lot longer, or just a little bit?

A. I can't recall whether it would be a lot or a little bit.

Q. Sir, from the pictures that you are looking at in State's Exhibit 9, can you see, from any vantage point, the log shown on State's Exhibit 10 beyond which the remains were located?

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A. May I take a look at the pictures again?
Q. Yes.
A. Thank you.
(Pause.)
THE WITNESS: In these pictures, no, I cannot.
BY MS. GUTIERREZ:
Q. No, and those pictures are taken from the roadway looking directly back into the park, are they not?
A. They're looking into portions of the park from the roadway, yes.
Q. You, sir -- you testified that you thought it was a distance of 30 to 35 yards?
A. Yes.
Q. And that distance was from the roadway to where it is that the body which you assisted in the disinterrment of was located?
A. Yes.
Q. Were you aware, sir, that the actual measurement as measured by a surveyor called to the site was 127 feet?
A. No, I was not.
Q. Would that surprise you in any way?
A. No. 30 or 35 yards is pretty much approximately the same distance, give or take a few feet?

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Q. Okay. Now, sir, in regard to the State's Exhibit 11 that shows the body, the picture in the lower right-hand corner shows the body on what appears to be a sheet of some materials on which the body is now spread. Do you see that?

A. Yes, I do.

Q. That sheet -- well, incidentally, do you remember what that material way?

A. Yes, it is a type of a bag that's used by the Medical Examiner's Office of plastic type, probably a vinyl bag that's used to place bodies for transport to the Medical Examiner's Office.

Q. So that wasn't in the hole, or the place where this body was buried?

A. No, it was not?

Q. That was brought from elsewhere and placed there, and then the body was placed on that?

A. Yes, ma'am.

Q. And it was after that that you then examined the area underneath the body from where you first saw it?

A. Yes.

Q. And underneath the body is where you found the second fiber; is that correct?

A. It was not underneath the body, it was in the area where the remains had been placed. After we removed

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the body, it was on the ground. It was not underneath the body. It was on the ground where the body had laid before.

Q. So the body you that removed on this plastic sheet had been on top of the ground that you then examined; is that correct?

A. Yes.

Q. So it would appear, from your own observation, that the fiber that you removed had, in fact, laid under where the body that you observed first was?

A. That is where I found it.

Q. Okay. And you were careful to ensure that nobody else around interfered with your and Dr. Rodriguez's examination of the body or the collection of evidence?

A. While we were present at the scene, that is true.

Q. And there were others who were present at that scene, were there not?

A. Yes, there were.

Q. There were detectives from the local police department?

A. Yes, there were.

Q. There were people from the local Medical Examiner's Office?

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A. I'm not sure about that.

Q. Okay. And there were --

A. Excuse me.

Q. -- people from the Mobile Crime Lab of Baltimore City to which you handed items that you collected?

A. Yes.

Q. And there were other police officers, correct?

A. Yes.

Q. Now, going back, Mr. Graham, to State's Exhibit 9, where the Jersey walls and the log are in the pictures which are shown in all of the pictures from different angles where the crime scene tape is, is that from where you entered the park to get to where the body was located behind the log?

A. As I recall, we entered through this area right here, this open area between the two Jersey walls.

Q. Where the crime tape is stretched; is that correct?

A. Yes.

Q. And from that vantage point, sir, is there a pathway that is delineated between that point and where the body was found?

A. As in a walking-type path?

Q. Any type of path?

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A. I do not recall a walking-type path, no.

Q. Okay. Is the terrain solid and even from that point back to where the body was found?

A. No, it is -- if you're referring to being level?

Q. Yes.

A. No, it was not level.

Q. It was not level, and that meant that it was -- sometimes the terrain was higher than when you first entered?

A. It was -- in places it was a little bit higher, maybe a foot, and in places maybe a little bit lower. It was uneven terrain.

Q. These pictures show clearly the logs inside the first set of Jersey walls, do they not?

THE COURT: And for the record, you're looking at the --

MS. GUTIERREZ: State's is -- still same, State's Exhibit 9.

THE COURT: And you're looking at all the photos, or just --

MS. GUTIERREZ: All the photos.

THE COURT: Okay. Very well, State's Exhibit Number --

MS. GUTIERREZ: The logs are --

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THE COURT: 10.

MS. GUTIERREZ: -- inside the Jersey walls, are they not?

THE COURT: 9, excuse me. State's Exhibit 10 -- 9.

THE WITNESS: There appears to be two logs inside -- in between two sets of Jersey walls.

BY MS. GUTIERREZ:

Q. Okay. And then, so that those logs are inside there; is that correct?

A. Inside?

Q. Inside the Jersey walls?

A. In between the two set of Jersey walls.

Q. Okay. So there's Jersey walls, then in the pictures you see the crime scene tape stretched across; correct?

A. Yes.

Q. And back behind those Jersey walls are another set of Jersey walls; is that correct?

A. There's one set of Jersey walls adjacent to the road, and then there's another set of Jersey walls beyond that.

Q. Inside of that?

A. Yes.

Q. Is that correct? Further away from the road;

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is that correct?

A. Yes.

Q. More inside the park than the first set of Jersey walls?

A. Yes.

Q. If you would look at the photograph on the lower left side, sir, after the Jersey walls it shows a rusted guard rail, does it not?

A. Yes, it does.

Q. And underneath the guard rail it shows items of plainly visible debris or trash, does it not?

A. Yes.

Q. That was not the only place where there was visible debris or trash, was it?

A. No.

Q. Back where you disinterred this body on the far side of the tree, in fact, was other debris and trash, was there not?

A. Yes.

Q. Did you collect any of that?

A. No, I did not.

Q. Did you, sir, observe back there in the tree any light source, artificial light source of any kind, of any size?

A. We used artificial light sources such as in

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flood lights because --

Q. You brought them?

A. Yes.

Q. Okay.

A. Well, I did not bring them, the police did.

Q. And you utilized them, but it was clearly apparent that those light sources had been brought to the scene; isn't that correct?

A. Yes.

Q. That they were not indigenous to that particular place; is that correct?

A. Yes, that is correct.

Q. And you didn't observe any other light source back there? A lamp post? A light stuck up on a tree? Any source of light or electricity back there?

A. No, there was not.

Q. Okay. Now, sir, on State's Exhibit 10, it shows all four are pictures with the exception of the one that shows a portion of the tree, of the body, which you call the remains, before they were disinterred; is that correct?

A. Yes.

Q. That's how the body, the remains, appeared to you when you first approached this scene, did they not?

A. Yes.

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Q. Okay.

A. Excuse me.

Q. And, sir, at the time, because you don't recall what information you asked for or what information you were given, you had no idea of how long that body had been there, did you?

A. No, I did not.

Q. And there's no snow or ice that appears on the ground, does it?

A. No.

Q. And there are no facial features readily apparent, are there?

A. No.

Q. And you, sir, not knowing how and under what circumstances the body was discovered, nor by whom, had no idea of who, if anyone else, other than the discoverer of these remains had touched the body or altered that scene, did you?

A. I did not know if anyone had touched the body, or altered the scene, to include the person who discovered the remains.

Q. Right.

A. I didn't know if the discoverer had touched the body or not, either.

Q. Okay. And that includes whether or not they

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had pushed off any of the soil that covered the entire body?

A. Let me rephrase my last answer. I could tell that something had touched the remains prior to my arrival.

Q. Uh-huh.

A. Upon looking at the remains, the victim had been wearing, or was wearing nylon stockings, and I could see that there were scratch marks on the stockings that are torn through the stockings onto the skin, such as a dog or a raccoon or something kind of pawing curiously at what was there. And you could see the scratch marks --

Q. Okay.

A. -- on her. So something had touched the remains.

Q. And that was from your own observations --

THE COURT: I'm sorry.

Go on. Something had touched?

THE WITNESS: Touched or scratched. You could see, like, claw marks --

THE COURT: Okay.

THE WITNESS: -- that had cut through the nylon stockings and kind of scratched the skin beneath.

THE COURT: Okay.

BY MS. GUTIERREZ:

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Q. You couldn't see that, sir, until you started to disinter the body, however; correct?

A. No.

Q. Okay. Because the stockings, or the skin where the stockings covered near the abdomen or any part near was not readily visible when you first came upon this scene, was it?

A. It was visible when I looked at the scene without removing any dirt or leaves. A portion of the remains were exposed and they were not covered, and those exposed portions of the remains is what I looked at. And that is where I saw the apparent claw marks or scratch marks.

Q. Okay. And did you make a note of that observation?

A. I made a mental note and I informed the detectives and Dr. Rodriguez of what I had observed.

Q. Of that. Now, sir, the tree that we've been talking about, the tree that the body was right beyond, as it appears there, did you have to cross that tree to get to the body?

A. Yes, I did. I stepped over it.

Q. Okay. And to step over it, it -- was there a certain point you picked to step over it?

A. It was a point that I was instructed to step

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over it by the detectives that were on the scene.

Q. So the detectives led the way from where the Jersey walls and back to where the log is and the body beyond it?

A. Yes.

Q. Okay. Sir, were you ever called upon to conduct any other part of an investigation into the discovery of these remains after February 9th?

A. I returned to the scene the following morning.

Q. The 10th of February?

A. Yes.

Q. Okay. And by that time the body was already removed?

A. Yes.

Q. Did you collect any other trace evidence from that day?

A. No, I did not.

Q. And were you ever asked to conduct any analysis on any item that you or Dr. Rodriguez collected that day?

A. No, I was not.

MS. GUTIERREZ: I have nothing further.

THE COURT: Any redirect?

MR. URICK: Just one question, Your Honor.

REDIRECT EXAMINATION

BY MR. URICK:

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Q. That crime scene is one that can be clearly and fairly depicted through the photographs that were taken, is it not?

MS. GUTIERREZ: Objection.

THE WITNESS: Yes, it is.

THE COURT: Overruled.

BY MR. URICK:

Q. You may answer the question?

A. Yes.

MR. URICK: Nothing else. Thank you.

RECROSS EXAMINATION

BY MS. GUTIERREZ:

Q. Mr. Graham, how is it that you know that a crime was committed at the scene in anything these photographs depict?

MR. URICK: Objection.

THE COURT: Overruled.

THE WITNESS: I do not know that a crime was committed on the scene, however, it is commonly referred to as a "crime scene."

BY MS. GUTIERREZ:

Q. So you were just using the common reference of others to answer Mr. Urick's question?

A. I was not using the common reference of others, I was using a reference that is used within the

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profession of law enforcement and criminalistics as a crime scene. A scene where the body is recovered anywhere is referred to as a crime scene. A crime can have many different scenes depending upon how it occurs.

Q. So, Mr. Graham, from your own knowledge or observation you have no idea of whether or not a crime occurred there, do you?

A. That is correct.

Q. You weren't asked to, and you could not, from your own observations, indicate when and under what circumstances that body was placed where you observed it on February 9th?

A. No, I cannot.

Q. Nor by whom, or if it was more than one person?

A. That is correct.

Q. Okay. And you were never asked at any other time to conduct any analysis on this scene at all; is that correct?

A. Other than to remove the remains, process the scene itself, no, I was not.

Q. Okay. And you were never asked, nor did you ever write a report of your observations?

A. No.

Q. Thank you.

THE COURT: Any other redirect?

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MR. URICK: No, thank you.

THE COURT: May this witness be excused?

MR. URICK: Yes.

MS. GUTIERREZ: Yes.

THE COURT: May this witness be excused and removed from any need to return through a subpoena?

MS. GUTIERREZ: Yes.

MR. URICK: Yes.

THE COURT: Very well. Sir, you are free to go at this time.

(The witness was excused.)

MR. URICK: The State will call Hope Schab at this time.

THE COURT: All right.

MS. GUTIERREZ: Is Hope Schab the French teacher?

MS. MURPHY: Uh-huh.

MS. GUTIERREZ: May we approach the bench?

THE COURT: Yes.

(Counsel and the defendant approached the bench, and the following ensued.)

THE COURT: Okay. What I need you to do, is if you would have your client step on this side?

MS. GUTIERREZ: Uh-huh.

THE COURT: Your client step on this side.

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MS. GUTIERREZ: Over here?

THE COURT: Yes.

MS. GUTIERREZ: Okay.

THE COURT: Thank you.

MS. GUTIERREZ: Judge, I guess I would move in limine, Hope Schab is, to my recollection, a French teacher, and she testified at the last trial about a number of things. But the purpose, I believe, in them calling Hope Schab was to create an inference of evil by having her testify --

THE COURT: A character witness of sorts?

MS. GUTIERREZ: No. Well, what she described and what she was asked to describe was the fact that Hae Min Lee worked for her part-time as some kind of aid, student-teacher aid, and would be in her classroom during times when there were not other students on a regular basis.

THE COURT: Okay. One moment. Why don't we just do it the other way around? Because, as I said before, to get into what happened the last time was --

MS. GUTIERREZ: Well, it's my in limine now.

THE COURT: I know, but based on what I prefer to do is ask the State why they are offering it.

MS. GUTIERREZ: Oh, okay. That's fine.

THE COURT: And once they tell me --

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MS. GUTIERREZ: Yeah.

THE COURT: -- then you can --

MS. GUTIERREZ: Okay.

THE COURT: -- it sounds like --

MS. GUTIERREZ: That's fine.

THE COURT: -- the same thing --

MS. GUTIERREZ: Okay.

THE COURT: -- then you can go into objection.

MR. URICK: Because she has direct observations of the defendant, he came in and had a conversation with her, which was rather revelatory of his mental state, his concerns about how his relationship with her was being affected. She --

THE COURT: When?

MR. URICK: This was approximately December, I believe.

THE COURT: Before the murder?

MR. URICK: Yes.

MS. GUTIERREZ: Yeah.

THE COURT: And when you say how the relationship was going, are you offering her as a motive witness?

MR. URICK: As -- yeah, that would be tangential to motive. It's laying the foundation through several witnesses of the conflict of the defendant was

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experiencing, how it was affecting their relationship over time, how it led to the various breakups, and I believe the reason it ultimately led to the murder.

THE COURT: Okay. And -- I'm sorry.

MR. URICK: And also this defendant actively confronted her one time and accused her of working with the investigation that was investigating her disappearance.

THE COURT: And you're offering her just to say that the defendant confronted her to say what? In other words, I'm trying to understand the relevance of any confrontation that the defendant may have made with this witness as to this case?

MR. URICK: She was aiding the Baltimore County detectives in getting information around the school. The defendant confronted her about that on one occasion.

THE COURT: You mean information about the defendant around the school?

MR. URICK: About Hae's disappearance and also the defendant, specifically about his actions and whereabouts on the day in question.

THE COURT: On the day in question?

MR. URICK: Yes.

THE COURT: And she had information about his behavior and whereabouts on the date in question?

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MR. URICK: She was helping --

THE COURT: The date of the murder --

MR. URICK: She was helping the County detectives gather that information from various individuals throughout the school.

THE COURT: My question is does she have any personal knowledge about the defendant's whereabouts or knowledge of those whereabouts on the day of the murder, or before the murder, or proximity of the murder? Does she have personal knowledge?

MR. URICK: Not on the day of the disappearance, I believe.

THE COURT: So her personal knowledge only goes to the relationship between the victim and the defendant?

MR. URICK: Yes. And also his actions when he found out that she was aiding the detectives in investigating the disappearance.

THE COURT: As it relates to him?

MR. URICK: Yes.

THE COURT: Is she gonna testify that she confronted him, believing he was the murderer and said something?

MR. URICK: No, he came up and confronted her.

THE COURT: All right.

Ms. Gutierrez, in light of what --

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MS. GUTIERREZ: Well, Judge, that's news to me.

THE COURT: Okay. Well, --

MS. GUTIERREZ: Okay. All of that's news to me.

THE COURT: Well, --

MS. GUTIERREZ: This is new stuff.

THE COURT: Ms. --

MS. GUTIERREZ: This isn't what she testified to before.

THE COURT: Well -- well, regardless --

MS. GUTIERREZ: In response to that, I would certainly argue I think relevance keeps it out.

THE COURT: Why don't we just stop right here.

Ladies and gentlemen, it appears that I'm gonna spend a little time with counsel on this next issue, and rather than have you sit and then send you to lunch in ten minutes, I'll send you to lunch and talk to counsel.

So at this time, I'm gonna ask that you leave your note pads face down. I'm also gonna ask that you pass to Mr. White that second sheet of paper because, at this time, you do not need it for this witness; is that not correct?

All right. So you'll get that back at any time in the future we have a witness who will be utilizing that large exhibit 34 that's been marked for

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identification purposes.

I must remind you during the luncheon recess that you should not read anything about this case, you should not look at the news or the media, and you should not discuss this case amongst yourselves or with anyone else.

I ask that you return to that jury room around the corner no later than 1:30. You're welcome to go get your lunch if you'd like and bring it back. I know it's cold out, although the sun is shining.

And if you opt to do that and you find that door's locked, just knock on my chambers door, which is right around the corner this way. And I want to say this way, just across from the elevators there's a door, has my name on it, someone should be there to unlock the jury room if you find that it is locked before 1:30.

Have a good lunch. I'll see you after lunch. And please try to be prompt. We will try to do the same.

The witness that is on the witness stand, I'm gonna ask you to remain just for one moment.

(The jury left the room.)

(Pause.)

THE COURT: For the record, I also noticed that there are a couple of witnesses who have elected to remain. I must admonish you that all the witnesses in

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this case, even though you are excused, are under sequestration.

What that means is you cannot discuss what takes place in the courtroom. If you were to talk to someone who has not yet testified, you would eliminate them, effectively, from their ability to testify at all.

And that would include any detectives involved in this case. You cannot discuss your testimony with them, or with anyone else. But you are welcome to remain in the courtroom during the course of the trial as you are now excused and will not be called back again.

The rest of you can indicate also that this -- yes. Yes.

(Pause.)

THE COURT: And for all of you that are waiting, you are welcome to stay. I'm gonna hear from counsel.

Why don't you step back on your motion. Ask the witness if she'll stay.

MS. GUTIERREZ: I asked that she step outside?

THE COURT: I -- give me a chance. Ask that she step out in the hallway just for a few moments.

MS. SCHAB: Am I allowed to use the rest room?

THE COURT: Yes, you may.

THE WITNESS: Thank you.

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THE COURT: Do you know where it is?

MS SCHAB: No, I don't.

THE COURT: I believe you will have to go down the hall --

MS. GUTIERREZ: To the right.

THE COURT: Is it one -- then pass the Coke machines on the right.

MS SCHAB: Thank you.

THE COURT: All right.

MR. URICK: Your Honor, if I may just supplement what I said at the bench. There is one other item that this particular witness can testify to. She got a list of questions from Detective O'Shea of the Baltimore County Police Department that she passed on to Debbie [redacted] to answer.

Ms. [redacted] will testify that she put those answers -- those questions in her day planner. During the course of the day, she loaned that day planner to this defendant. When she got it back those questions were missing. So there's another piece of personal -- string of evidence that comes out of this particular witness.

THE COURT: And were the questions answered?

MR. URICK: No. They disappeared before Ms. [redacted] could answer them.

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THE COURT: All right.

Ms. Gutierrez, your objection?

MS. GUTIERREZ: Well, Judge, all of that is new information to us and was not asked of this witness at the first trial, so that wasn't the basis of my objection.

THE COURT: I'm not gonna hold the State to try AND

MS. GUTIERREZ: No, I'm not --

THE COURT: I'm not going to hold you to the same --

MS. GUTIERREZ: That wasn't my -- my, really the, if I could, the basis of my motion in limine was to avoid what had occurred at the first trial that related to this witness's being asked about an event that occurred at an unspecified time except it clearly had occurred before January 13th during which my client, she says, appeared during this particular period of time during the school day that wasn't identified, or in the morning, to meet Hae Lee in her classroom while Hae Lee would be assigned there to do her, whatever her work was.

She was, like, and aid to this French teacher. And that she testified that that occurred on a regular basis over a long period of time, but that there was a particular day in which Adnan Syed showed up, and during

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that time period Hae Lee did not show up and called her on the phone to tell her that, "Don't let on to Adnan" -- first finding out if Adnan was there waiting for her, and for the teacher not to let on to Adnan that it was Hae on the phone.

And I guess I would move in limine to prevent that for a number of reasons; one, relevance, the only inference is to present that Hae was hiding from, or hiding her presence from Adnan, no explanation, just no relevance in terms of time, date, or place to the events starting on January 13th and beyond at all -- highly prejudicial, purposefully prejudicial, with only the inference of a bad thing. No good inferences that come out of that, and that was the purpose of my motion.

As to these other things that they're now talking about, as I said, they are all news to us. So they aren't contained in any disclosure, they were not asked of this witness at the first trial, so my instinctive reaction is, you know, basically, relevance to testify to thing; number one, that occurred, either the ones that are alleged to have occurred after, for instance, to allow this witness to testify that she heard something from a witness who has not testified regarding an inference that Adnan intentionally did something; i.e., stole questions about himself inadvertently given,

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in order to stymie the investigation?

Number one, they're hearsay objections to begin with. The inferences are impermissible, they are not relevant 'cause they cannot be placed in time. They are subsequent actions of the defendant, and I haven't heard enough, I believe that it's also asking for hearsay of my client at a subsequent date.

As to other events that were discussed regarding any other conversation with my client, again, I've heard nothing that pinpoints a relevancy connection to these time and events. The one conversation Mr. Urick referred to, he said was in December. He's established -- he's attempting to establish, I believe, that the relationship between Mr. Syed and Ms. Lee ended prior to January 1st, 1999. And --

THE COURT: The evidence is then being derived, I understand, from this witness, occurring sometime in December of 1998, the month prior to her murder?

MS. GUTIERREZ: That's what I heard. Yes.

THE COURT: Okay.

MS. GUTIERREZ: Yes. And so for all of those reasons we would object to those things and move in limine regarding this witness's ability to testify as I said, and again, my objection in limine regarding some unspecified date, and a phone call with the victim that,

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as we know, only consisted of the victim saying, "Don't let him know I'm on the phone," you know, which is a bad inference, but not tied to any specific thing, certainly doesn't go to the victim's state of mind is not here.

And without more I don't believe that there's enough to take them to a place --

THE COURT: Okay.

MS. GUTIERREZ: -- where her state of mind might be relevant, that we're not even close there.

THE COURT: I am hearing from the State that there's some relevance issue. I'm hearing from the State that there's some, I'm gonna call it "quasi-404-B," motive kind of, sort of.

But I'm not clear exactly what that is, even, Mr. Urick, with your explanation, however vague it was at the bench, I'm not really sure where you're going with this witness. But I'm gonna tell you that at this moment I'm not gonna rule on Ms. Gutierrez's objection because I don't know where you're going.

But I'm gonna tell you this. I'm gonna scrutinize the questions that you pose. And I may, at any time during the course of those questions, ask you to clarify or reiterate or explain where you're going.

Because as we sit here, I see a very vague connection with motive, and very vague connection with

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relevance. And I'm inclined to grant her motion, but I'm gonna give you the benefit of the doubt at this moment, 'cause I certainly haven't heard the witness testify, nor do I know what you know.

But if I'm not convinced very early in your questioning, I'm gonna have you come to the bench and ask you to proffer what she is going to say. I don't mean a vague statement, I mean what is she gonna say.

Because I don't find a conversation saying, "Don't tell him I'm on the phone," or "don't tell him where I am" a month before the murder, as particularly so relevant that it would outweigh the prejudicial effect that the jury might misuse that and believe that it meant any more than that. Unless there's another set of circumstances showing something more than just an occasion when the victim is on the phone saying, "Don't tell him where I am," "Don't tell him that I'm on the phone."

So I don't know your witness's statement, I don't know what she knows, I don't know what circumstances, but I would ask that you make the connection, make it clear to the Court very early on by your questions to this witness so that it becomes abundantly clear.

Otherwise, I will; one, grant the motion; or

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two, if they answer and it's still vague, I will entertain a motion to strike that part from the testimony, and give the curative instruction to the jury indicating it has no relevance. And so, at this juncture, that's the way I'm going to proceed.

Also I'd ask you to be mindful of the fact that this witness is, I understand, will be treated as a lay witness. And so there's not expertise conclusion that I would expect that you would try to draw from this witness, other than her observations, what she saw, what she did, what she knows -- not what someone else told her, not what someone else presented to her, but what she knows.

She knows they were fighting, fine. She saw it, fine. Somebody told her that they were fighting, I'm not gonna allow that. I'd ask that you be mindful of my concern, that whatever she has to say be relevant.

Go directly to your issue of motive, and be done in a fashion that does not go off on a tangent or bring in any other collateral materials that will not be relevant or may not necessarily go directly to the heart of the issue that you'd like to bring out through this witness.

With that said, we're gonna stand in recess until 1:30. I'd ask counsel to be back by 1:25 so that

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we can resume.

I'd ask also, Ms. Connelly, if you tell the witness that she's excused and that she should return at 1:25 so that she's available.

She has not yet been sworn, and so, Ms. Gutierrez, I'm informing the State while you're here, that he can direct his witness during the break that there has been a limit placed on her, because I do not want her blurting out things that, what other people said --

MS. MURPHY: That's fine.

THE COURT: -- as part of her testimony.

MS. MURPHY: Okay.

THE COURT: This Court stands in recess then until 1:30.

THE CLERK: All rise.

(A luncheon recess was taken at 12:33 p.m.)

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AFTERNOON SESSION

(2:02 p.m.)

(The jury was present upon reconvening.)

THE COURT: At this time, I'd like the State to call the next witness.

MR. URICK: Thank you.

(Pause.)

THE COURT: Please remain standing, listen to Mr. White as he gives you the oath.

Whereupon,

HOPE SCHAB,

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

THE CLERK: You may be seated.

Please keep your voice up, state your name for the record?

THE WITNESS: My name is Hope Schab.

THE CLERK: Spell your last name for the record?

THE WITNESS: S-C-H-A-B.

THE CLERK: And state your address for the record.

THE WITNESS: [redacted] Baltimore, Maryland 21207.

DIRECT EXAMINATION

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BY MR. URICK:

Q. Good afternoon, Ms. Schab.

A. Good afternoon.

Q. Where are you employed?

A. Woodlawn Senior High School.

Q. And what do you do there?

A. I'm a French teacher.

Q. And how long have you been employed there?

A. Five years.

Q. And do you know the defendant, Adnan Syed?

A. I do.

Q. And how long have you known the defendant?

A. I suppose four years.

Q. And how have you known him?

A. He was one of my student's boyfriends. I did not teach him.

Q. And did you know Hae Min Lee?

A. I did.

Q. And how did you know her?

A. She was a student of mine.

Q. And in what class -- what classes did she take with you?

A. French 2 and 4, 5.

Q. Now, drawing your attention to the Fall of 1998, the Spring of 1999, which would have been Hae Min

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Lee's senior year, what, if any, contact were you having with her that year?

A. Hae was unable to take my upper level course, she wanted to be my intern so she could spend some time with me and learn independently with me. So, every day from 7:30 until 9:15 she would come to me and we would either do French or she would help me with my grades and things of that nature.

Q. And when you say she would come to you, where would she come?

A. To room 309, my classroom.

Q. And what, if anything, else were you doing during that time period?

A. We were just doing a lot of computer work, and just discussing -- she was sort of a friend, as well.

Q. And how many people would be in the room during that time period?

A. There would usually be Hae and myself and the Department Chair, Mr. Chris Parker.

Q. Okay, now. What, if any, personal experience have you had with cross-cultural dating?

A. I am Roman Catholic, and I have dated -- my last four boyfriends have been Jewish.

MS. GUTIERREZ: Objection. Move to strike.

THE COURT: The objection is gonna be

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sustained. I'm gonna move to strike the question and the answer at this time, and, let me see counsel at the bench.

(Counsel and the defendant approached the bench, and the following ensued.)

THE COURT: First of all, what I asked you for during the break for lunch, what it was that this witness was going to testify to, you did not in any way indicate that you were offering this witness in any way as an expert or providing any information on "cross-cultural dating." And now we are going to --

MR. URICK: It's not --

THE COURT: -- her experience with cross-cultural dating, which is not anything that you proffered to the Court. So I'd like to know where you're going with this?

MR. URICK: I'm not qualifying her as per any expertise, I'm just putting that down as an explanation why both the defendant and Ms. Lee would discuss their relationship with her.

THE COURT: Assuming for the sake of this discussion that the two of them spent a lot of time discussing their relationship, their personal relationships, what relevance does that have?

MR. URICK: It goes to the motive of the

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defendant, that there was a conflict between them that was caused by his religious beliefs. This defendant discussed that with this witness. She can talk about what he told her. She can --

THE COURT: Yes, but that's not what you asked her. You asked her about her questions and conversation with the victim.

MR. URICK: My next question was, did you have occasion -- my very next question would be did you have occasion to discuss both with Ms. Lee and the defendant their relationship. And then I'll get into the specific incidents.

THE COURT: And the specific incidents cover what time period?

MR. URICK: The time of the breakup or the breakup after the homecoming dance of the time of Halloween.

THE COURT: When?

MR. URICK: Which would be probably around Halloween and November -- October, November.

THE COURT: October and November of '98?

MR. URICK: Yes. This is a case where the motivation is a very complex human interaction that took place between two people over a period of about four to six months.

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THE COURT: Preceding the murder?

MR. URICK: Yes. And this is when, at the homecoming dance, the breakup at Halloween, the get together, the second breakup, all come as a package that developed what the conflict was, what this defendant's motivation was.

THE COURT: Your objection for the record?

MS. GUTIERREZ: Well, Judge, one, I think it's irrelevant; number two, I think it's highly prejudicial. Just because the defendant may have opened his mouth over a period of four to six months prior to this murder doesn't make what she says he said admissible to show anything.

The tenuousness, for instance, establishing that the development of the motive took four to six months, their own evidence that they've already put in indicates that they were still an item -- the diary of Hae Min Lee -- that they were still an item far into the third week of December, a period long past the time period that he's speaking of.

And so for that reason and relevance and prejudice, I would object to this witness attempting to testify to anything that my client said or anything regarding -- you know, unless he says, of course -- and they're not proffering that -- that he says, "I'm going

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to kill her," which he clearly didn't.

But absent that, I would argue that what he says is not admissible, it's hearsay, it's not necessarily an admission. Anything that he said doesn't make -- Mr. Urick said hasn't made it out to be an admission. It's like, well, it sort of goes to motive, that sort of developed over four to six months, doesn't make it so. So, --

THE COURT: I'm gonna allow the State to inquire as to the relationship that this witness was aware of based on conversations that she had directly with the defendant or directly with the victim in a period of time preceding the murder.

However, I'm gonna allow the defense to have free reign to inquire as to the limitations of that knowledge, any restrictions that that knowledge may have had, to including right up to the time of the murder.

And I would also remind you that it is to be her personal knowledge and not based on information she had received from other sources. So when her sentence starts off with some other person other than the defendant, the victim said such and such, or we all knew, that will be not permitted.

MR. URICK: I'm sorry. Did you say she can't say anything the victim told her?

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THE COURT: She can tell you -- she can say what the victim said, she can say what the defendant said as to their relationship. But beyond that --

MS. GUTIERREZ: At any time period prior to her disappearance?

THE COURT: The period of time on or about, as you've indicated, October, November, December in 1998. However, I will not allow anything other than what conversations she had with the witness, victim or the defendant. Other than that, not a we knew, what we all knew, what we all heard. That will not be permitted. And again, I will allow the defense on cross to inquire to the extent that that information will have limitations.

MR. URICK: Thank you.

MS. GUTIERREZ: We would note an objection.

THE COURT: All right.

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

THE COURT: Now, you may reask your last question or your next question in line with the Court's ruling.

MR. URICK: Thank you.

BY MR. URICK:

Q. Drawing your attention to the Fall of 1998,

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about the time of the homecoming dance into the Halloween holidays, did you have occasion to discuss their relationship with the victim, Hae Min Lee, and the defendant, Adnan Syed?

A. Yes, I did.

Q. What, if anything, --

MS. GUTIERREZ: May I have a continuing objection to this whole line of questions?

THE COURT: Yes.

MS. GUTIERREZ: Thank you.

BY MR. URICK:

Q. What, if anything, did Hae Min Lee tell you?

A. There had been an argument --

MS. GUTIERREZ: I'm gonna object to the form of the question that allows her any answer.

THE COURT: With regard to the line of questioning that I've already instructed that we will have some limitations, I would like you to direct the witness to a specific period of time and the specific type of information you require. She's already testified that they met on a regular occasion, so I would ask that you limit or at least control your witness in the type of inquiry that you are making so that it's not open ended.

BY MR. URICK:

Q. Drawing your attention to the period of about

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the homecoming dance through the Halloween holiday;

A. Yes.

Q. -- that is, October, November, that period of the Fall year, what, if any, concerns did Hae Min Lee express to you concerning her relationship with Adnan Syed?

MS. GUTIERREZ: Objection, and ask for a continuing objection.

THE COURT: I understand. Let the record note the continuing objection. It is overruled, you may answer the question.

THE WITNESS: Thank you.

There had been an incident at the homecoming dance, an argument --

MS. GUTIERREZ: Objection. Unless it's based on personal knowledge.

THE COURT: We're instructing that you can tell us what someone said to you, that someone being the victim. But you can't tell us --

THE WITNESS: I can't -- yeah, I'm not understanding.

THE COURT: Do you know who the victim is in the case, Ms. Lee?

THE WITNESS: Yes, I do. I just don't understand --

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THE COURT: Okay. Then listen to what I'm saying to you.

THE WITNESS: Sure.

THE COURT: You may tell us what she said to you.

THE WITNESS: Okay.

THE COURT: But you may not tell us what someone else said. So when you say there had been an incident, I need you to say --

THE WITNESS: It's not first-hand experience, I understand that.

THE COURT: Did Ms. Lee tell you that there had been an incident?

THE WITNESS: Yes, she did.

THE COURT: All right. Well, that's how you need to testify.

THE WITNESS: Okay.

THE COURT: That she said --

THE WITNESS: I understand.

THE COURT: -- whatever it was that she said.

THE WITNESS: Ms. Lee had said that there was a dispute between the parents of Adnan Syed and herself at the homecoming dance. And then, after that, that weekend, they had both come back.

Ms. Lee said to me that there was a problem in

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their relationship due to their interfaith -- to their interfaith relationship. The fact that they were different religions, is what I'm trying to say.

THE COURT: Your next question?

BY MR. URICK:

Q. What, if anything else, did she tell you?

MS. GUTIERREZ: Objection. Form of the question.

THE COURT: Sustained.

BY MR. URICK:

Q. What, if -- what, if any, concerns did she express as to possible effects that that aspect was having on their relationship?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

THE WITNESS: Ms. Lee was wondering and asking me for counsel and my opinion as to what one should do if he or she were in an interfaith relationship, and was the faith more important or was the love more important.

BY MR. URICK:

Q. Did there come a time -- drawing your attention to about that same period between the homecoming/Halloween holiday, that you had occasion, or a morning when Ms. Lee did not show up but the defendant showed up and you had an occasion to speak to him?

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MS. GUTIERREZ: Objection.

THE COURT: Overruled.

MR. URICK: You may answer the question.

THE COURT: Yes or no.

THE WITNESS: Yes.

THE COURT: Next question.

BY MR. URICK:

Q. Where were you at that time?

A. I was in room 309, my classroom.

Q. About what time did this occur?

A. Probably about eight o'clock in the morning.

Q. And who, if anyone, was with you in the room?

MS. GUTIERREZ: Objection.

THE COURT: Can we place a time frame on when we're talking about? This is the Fall of '98 as well?

MR. URICK: Yes, drawing you to the period between homecoming and Halloween.

THE WITNESS: In the first week of November.

THE COURT: Overruled.

You may answer the question.

BY MR. URICK:

Q. Who, if anyone, was in the room with you?

A. Adnan Syed and myself.

Q. When did he appear?

A. Eight o'clock, around there.

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Q. How did you first notice him?

A. He came into my classroom looking for Hae and waited for her there.

Q. And, just dealing now with what he was doing, what did he do?

A. He was in the far corner of the classroom looking out the window, and was also asking questions along the line of what should one do if they are in love with someone who is not their religion.

Q. And did he express any concerns about that aspect of the relationship to you that day?

A. Yes.

Q. What were those concerns?

A. Should one -- should one break up over this, or is love strong enough that it can overcome everything. What will happen down the road if, you know, you were to marry someone of a different faith.

Q. What was he doing while he was asking these questions?

A. He was sitting on the last desk in the last row looking out the window waiting for Hae, asking questions to me.

Q. And about how long did the two of you talk?

A. About maybe 20 minutes.

Q. While you were talking with him, what, if

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anything, unusual occurred?

A. The phone rang in my classroom.

MS. GUTIERREZ: Objection.

THE COURT: Based on the responses that this witness has already given, and also based on the previous objection before the luncheon recess, the Court's going sustain this objection and also the line of questioning on where you're going.

BY MR. URICK:

Q. Do you recall any further discussion with the defendant that day of those aspects of their relationship?

MS. GUTIERREZ: Objection, for all the previous articulated reasons and because that date has not been established.

THE COURT: In the Fall of 1998, the State is asking you on that particular day you're recounted to the jury, any additional conversations that you may have had with the defendant, and the objection's overruled.

THE WITNESS: Just the same -- the same con -- the continuing conversation from that morning.

BY MR. URICK:

Q. Now, moving forward, do you remember the day that Hae Min Lee disappeared?

A. Yes.

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Q. Did you have occasion to speak with her that day?

A. I don't recall.

Q. Did you have occasion to speak with her within about a week of that time?

A. Absolutely.

Q. What, if anything, was she telling you at that time concerning her relationship or relationships?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

THE WITNESS: She had begun dating someone else.

BY MR. URICK:

Q. And what, if anything, did she tell you about her -- the status of her relationship with the defendant?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

THE WITNESS: It was over, the relationship.

BY MR. URICK:

Q. On the day she disappeared, when was the last time you saw her?

A. I don't recall seeing her that day. I don't know that I saw her that day. I may have but I don't remember.

Q. When did you become aware that she had

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disappeared?

A. The -- the weekend or, I suppose, the Monday afterwards. Her friends had come to me and said --

MS. GUTIERREZ: Objection.

THE COURT: Sustained. You can't tell us what anyone else said.

THE WITNESS: Okay.

THE COURT: The asked question was when did you discover, and you discovered it the weekend after, is that what your testimony is?

THE WITNESS: Uh-huh.

THE COURT: To the extent that the witness can testify as to when she got the information, that part of the answer is admissible to you. As to who told her and what they said, that is not admissible, and that portion of her response will be stricken at this time.

You may continue.

BY MR. URICK:

Q. After Hae's disappearance, did there come a time when you became actively involved in aiding the Baltimore County detectives in their investigation of her disappearance?

A. Yes.

Q. What, if anything, did you do?

MS. GUTIERREZ: Objection.

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THE COURT: "What, if anything, did you do?" That is sustained.

BY MR. URICK:

Q. What did you do to aid that investigation?

A. I was in contact with the detective, and he would ask me to ask certain teachers because they weren't cooperating necessarily to the full extent, if Adnan was in class on a certain day, if he was at track practice.

If -- I had to get in touch with some of her girlfriends so that they could -- I could ask them questions that he was interested in, and then have them call him back.

Q. Did there come a time when you passed on some questions?

A. I'm sorry?

Q. Did there come a time when you passed on some questions?

A. Yes.

Q. Who did you give those questions to?

A. Deborah [redacted]

Q. Did you have occasion to look at the questions?

A. I wrote the questions myself.

Q. What were those questions?

A. If Hae and Adnan had a special place they went to, a park or any place like that. I just remember

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writing that one specifically, I don't -- there were approximately four or five that I had written down and given it Deborah [redacted], which she placed inside her agenda book.

MS. GUTIERREZ: Objection. Move to strike the last part of her answer.

THE COURT: Overruled if, and only if, did you see her --

THE WITNESS: I saw her place them.

THE COURT: Overruled. Next question.

BY MR. URICK:

Q. Did there come a time when you had occasion to speak with the defendant about your aid of the missing persons investigation by the Baltimore County detectives?

A. Yes.

MS. GUTIERREZ: Objection. For all the previous cited reasons.

THE COURT: Overruled.

BY MR. URICK:

Q. When did that occur?

MS. GUTIERREZ: We have a continuing objection on this line of questioning.

THE COURT: Objection is noted for the record. Continuing objection is also noted to this entire line of questioning --

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MS. GUTIERREZ: Thank you.

THE COURT: -- by the State.

You may continue.

BY MR. URICK:

Q. When did that occur, if you can recall?

A. During the time I was working with the Baltimore County detectives.

Q. Would this have been before the body was found?

A. Yes. She was a missing person at that time.

Q. Where were you -- where were you when this incident occurred?

A. In my classroom.

Q. How did it begin?

A. Mr. Syed came into my classroom and just asked if I was asking teachers about him, questions about him, which I stated yes, that everyone was being questioned at this time, which we all were. And he just said to me that he would appreciate it if I didn't do that because his parents didn't know everything that went on in his life.

Q. How many people were in the room with you at the time?

A. I believe Debbie [redacted] was there, but I'm not positive. I know it wasn't just the two of us.

Q. How far did the defendant stand from you when

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he said all this?

A. I was behind my desk and he was in front of my desk.

Q. And how close to the desk would he have been?

A. Two feet away.

MR. URICK: If I may have the Court's indulgence for just a second?

THE COURT: Yes, you may.

(Pause.)

MR. URICK: Witness with the defense.

THE COURT: Ms. Gutierrez, at your leisure.

CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q. Ms. Schwab, your faith is Roman Catholic?

A. My name is Ms. Schab, please.

Q. Your faith is Roman Catholic?

A. Yes, it is.

Q. And as a Roman Catholic are you forbidden upon pain of any consequence from dating anyone who's not Roman Catholic?

A. No.

Q. And are you forbidden to have sex unless you are married, with someone of the Catholic faith or any faith?

A. Of any faith.

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Q. Not any faith. And are you, as a Roman Catholic, forbidden to have any relationship outside of marriage?

A. Are you referring to dating?

Q. Any relationship outside of marriage? Yes. Dating?

A. No, you may date.

Q. You may date. And that's your understanding of what limits your faith puts on you?

A. Yes.

Q. And you consider yourself to be a practicing Catholic?

A. Yes, I do.

Q. So it is your understanding that the Roman Catholic religion permits dating?

A. Yes, ma'am.

Q. Of anyone of any faith; correct?

A. Yes.

Q. And what about sex? Does it permit sex from individuals dating or otherwise of any religion, Roman Catholic or any other religion outside of marriage?

A. We are not to have sex before --

Q. You are not to have sex; is that correct? And, you are familiar, even though you are Roman Catholic, with other religions in the world, are you not?

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A. Yes, I am.

Q. And the disallowance of premarital sex between persons of any faith dating is not an unusual one, is it?

A. No.

Q. And what faith was Ms. Lee, your friend?

A. I believe she was Baptist, but I'm not sure of that.

Q. But you're not sure of her faith?

A. No, I'm not.

Q. Thank you.

MS. GUTIERREZ: I have nothing else.

THE COURT: Any cross -- I mean, any re-direct in light of the cross?

MR. URICK: No, no further questions.

THE COURT: Very well. May this witness be excused?

MR. URICK: Yes.

THE COURT: May this witness be excused?

MS. GUTIERREZ: Yes, I didn't summons her.

THE COURT: Can I release?

MS. GUTIERREZ: Yes, I didn't summons her.

THE WITNESS: Okay. Thank you.

THE COURT: On second thought?

MR. URICK: I was just -- didn't you tell me that you got a letter from the defense that they were not

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excusing you?

MS. GUTIERREZ: Objection.

THE COURT: Mr. Urick, I asked the question of counsel. I asked the question of you. Counsel has indicated. There's no need to have any further discussion because at this point on the record, counsel has indicated that not only does she not need her, but she's released from any requirements of this Court to be here. So, she is released.

MR. URICK: Thank you, Your Honor.

THE COURT: In fact, if you would like to remain in the courtroom, you're welcome to do so because you're no longer a witness that is sequestered. But I must advise you that you may not discuss your testimony with anyone who's currently in the courtroom that is a witness, or anyone that's to be a witness in the future. Do you understand?

THE WITNESS: I understand.

THE COURT: Very well.

(The witness was excused.)

(Pause.)

THE COURT: I need you to remain standing, sir. Raise your right hand, listen to Mr. White as he administers the oath.

Whereupon,

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WILLIAM C. RODRIGUEZ, III,

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

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

THE WITNESS: Dr. William C. Rodriguez, III. That's R-O-D-R-I-G-U-E-Z.

THE COURT: Witness with you, Mr. Urick.

MR. URICK: Your Honor, if I may have a moment of the Court's time, I would ask that the three photograph exhibits be published to the jury at this time to familiarize them with them so that this witness can discuss what was going on.

THE COURT: Very well. Any objections to that process being followed?

MS. GUTIERREZ: No, Judge.

THE COURT: These items are already in evidence; is that not correct?

MR. URICK: Yes, they are.

THE COURT: And they are 9, 10, and 11; correct?

MR. URICK: Yes.

THE COURT: If you would take the first set and pass them to the jury fore -- yeah, that would be

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perfect. Juror Number 7, and then the last set, pass it to the foreperson, unless you have some issue about the order?

MR. URICK: No. Do you want me to --

THE COURT: Yes. Just saves a little bit of time. Thank you.

(Pause.)

THE COURT: I have a scheduling issue. You know, you don't need to come up. I'm just gonna tell you what it is. Tuesday, believe it or not, I have 24 cases, but I have requested my secretary to inquire as to whether or not any or all of these matters may be either advanced, postponed, or they may be directed -- be directed specifically to a judge for trial.

And I'm asking that they go postponement court on Monday, if that is possible. So I'm letting you know this in advance so that you're aware that on Tuesday.

MS. GUTIERREZ: What date is Tuesday?

THE COURT: That's Tuesday, 1st. I am going to start or restart this in the same fashion as I indicated I would handle my -- because it just doesn't make any sense to do it any differently. If I'm fortunate, we'll get rid of either or most of those matters on Tuesday. If I'm not, it'll give me time to dispose of them.

(Pause.)

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BY MR. URICK:

Q. Good afternoon, Dr. Rodriguez.

A. Good afternoon.

Q. Where are you employed?

A. I am employed at the Armed Forces Institute of Pathology in Washington, D.C.

Q. I'd like to ask you to lean forward a little, if you would. Just speak into the microphone --

A. Okay.

Q. -- and speak loudly so the jury can hear you.

A. The Armed Forces Institute of Pathology, which is located in Washington, D.C,, at the grounds of the Walter Reed Medical Center.

Q. And how long have you been employed there?

A. I've been there a little over ten years.

Q. And what are you -- what do you do there?

A. I primarily hold a distinguished scientist post where I serve in the office of the Armed Forces Medical Examiner as the Chief Deputy Medical Examiner for Special Investigations.

Q. And what, if any, expertise do you exercise in that position?

A. My expertise is in forensic anthropology for which position I served as the Chief Anthropologist.

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Q. What is forensic anthropology?

A. Forensic anthropology is basically the study of the human body and skeleton for forensic purposes, of the identification of very decomposed or skeletal remains leading to the identification and identification of various types of pathology that are skeletal in nature and looking at recovery and post mortem analytical determination.

Q. Where do these investigations take you?

A. I have traveled throughout the United States and throughout the world conducting investigations.

MR. URICK: Would the defense stipulate to this witness' expertise as a forensic anthropologist?

MS. GUTIERREZ: Certainly we would.

THE COURT: Let him be admitted then as a forensic expert -- excuse me, a forensic anthropologist expert.

Ladies and gentlemen, on occasion we have individuals that will qualify as an expert. At the conclusion of this case, I will give you information as to the law on how you should regard his testimony but for now, he is accepted as an expert and may render opinion as such.

You may proceed.

MR. URICK: Thank you, Your Honor.

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BY MR. URICK:

Q. Dr. Rodriguez, drawing your attention back to February 9th of 1999, did you have occasion to respond to Baltimore?

A. Yes. I was called by the Baltimore Homicide detectives and asked if I would bring myself and another team member out to assist in the recovery of some remains that had been found.

Q. And upon getting that request what, if anything, did you do?

A. I contacted Master Sergeant Graham, who is my assistant in the laboratory, had him put together some equipment, and then we met in Mt. Airy and then by car transported ourselves to the scene for the examination.

Q. And by the scene, do you recall where it was you went?

A. It was in Leakin Park.

Q. And upon your arrival, what, if anything, did you observe?

A. Basically saw, of course, all the police officers. We could see some barrier tape that had been set about there in the woods and equipment that he had set up for the recovery.

MR. URICK: If I may approach the witness at this time?

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THE COURT: Yes, you may.

BY MR. URICK:

Q. I'm going to show you what's already in evidence as State's Exhibit 9, 10, and 11. And for right now I'd like you just to take a few moments and look at the top one which is State's Exhibit Number 9?

A. Yes.

Q. Can you identify those photographs?

A. Yes. These are photographs toward the road-side, directly outside the initial scene.

Q. And do they fairly and accurately depict the scene on the date in question?

A. Yes, they do.

Q. Now, if you'd look up on the top row, the third photograph across, the one on the far -- where your left hand is. If you'd take a few seconds, do you notice anything back among the trees?

A. You can see a very large log that is lying down.

Q. Further back, if you would?

A. And you can see, actually, some in this picture, some of the detectives and people involved there at the scene.

Q. And they're standing around where the grave site was?

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A. That's correct.

Q. Did you have occasion to go back to the grave site?

A. Yes, I did.

Q. What, if anything, did you observe there?

A. Basically, went back into this wooded area, and made our way back, saw the large log or dead tree that was positioned there on the ground. And on the opposite side facing away from the roadway, on the log, was evidence of remains of a body.

Q. And did you have occasion at that point to examine what you were seeing?

A. Yes, we did. We conducted a thorough examination initially, setting up a secondary barrier around the area, tying it off. Then Master Sergeant Graham and I changed into tie-back suits, taped our boots, and then began our examination, basically, going around the very peripheral area and working our way in, looking at any disturbance in the soil and surrounding vegetation close into the body.

And as we worked our way, got to the remains, actually, began to examine what we could see of the remains that were exposed above the soil and leaf debris.

From there we conducted alternate light examination using a hand-held alternate light device to

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look for trace evidence, followed up by a ultraviolet light source also to look for trace evidence.

Q. Based on your examination of the parts of the body that were exposed, what, if anything, did you notice?

A. There was clear evidence that the remains had been exposed by animal activity. Leaf and material detritus that had covered that area of body near the log, there was evidence that the animals had actually scratched away at the body and actually had put some paw or scratch marks superficially on the clothing of the body in attempt to uncover it.

Q. If you would put that top series of photographs in the back and look at the one right underneath it, which is State's Exhibit 10? Take a few seconds to examine that, if you would?

A. I have.

Q. Can you identify those photographs?

A. Yes. This is at the scene, here, where we have the large log that is downed in the woods, and we have three other photographs showing different angle views of the side of the log where we have partial exposure of the body that is lying parallel to the log here, in which we can see some exposure of the body here at the head area where we see some dark --

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Q. If you could hold one for just a second.

MR. URICK: Could I have the Court's permission to have the witness leave the stand and come over close to the jury --

THE COURT: Yes.

MR. URICK: -- so that they can see the photographs?

THE COURT: Yes. And if you'd like, that easel has clips at the top, and you're welcome to move the easel in place and utilize the clips. I believe we may even have a ruler or something you could use as a pointer, if you would like.

(Pause.)

BY MR. URICK:

Q. If you would, Doctor, please, starting with the top left and then going through the top row and then down to the bottom left going through there, please describe what is evident in those photographs?

A. In here we can see is the large tree that is downed here. We can see it has a lot of fungi, algae growth.

THE COURT: Okay. I cannot see what you're going, and the defendant cannot see what you're doing, so if you move the -- that'll work.

Can all of the jurors see at this point?

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Very well. You may continue.

THE WITNESS: Here, again, we see the log and we see the body which is partially exposed in there lying parallel to the log. Here down toward the head, here at the feet, we can see the head with some dark hair exposed, a portion of the body here and here, which are exposed.

Here we see another shot, again, here we have the log. Here we have the body laying longitudinally against the log. We can see a portion of the leg exposed here.

And here we have the head, with a portion of the very dark hair exposed here, and here we have, basically, a closeup of this photograph again, with the log, here you can see the head with the dark hair, and again, portions of the body that have been exposed.

BY MR. URICK:

Q. If you would, please, take the top set of photographs down and spend a few seconds looking at the ones that should be right underneath it, State's Exhibit 11?

A. Okay, I've reviewed those.

Q. Can you identify those photographs?

A. Yes. This is later in time, after we began our initial examination of the remains and began to excavate

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them from the subsurface deposit here.

THE COURT: One moment, sir.

I need you to assist him. Can you -- is it possible to move that easel back just a little bit? Thank you. All right.

And, Ms. Gutierrez, you're welcome to stand there, or, if you would like, you may go around to the other side where you'll be able to see, I think, a little better.

Mr. Syed, can you see, at this point?

MR. SYED: May I lean over?

THE COURT: Yes, you may.

All right. Now you may continue, and I apologize. I know this is a small courtroom, but we've made do in the past. So, you may continue.

THE WITNESS: Well, here we see in this photograph a number of the leaf debris has been brushed away. We can see we're beginning some excavation to trowel out around the body producing its outline.

You can see the leg here bent at the knee. Here over in this photograph you're beginning to see some clothing, again, the head and the dark hair, exposure of a portion of the body.

And here this is after the body has been exposed. Now, you can see a portion of the face and

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bloody fluids around the area of the mouth and nose.

The hand here exposed, and here, after the body has been very carefully troweled, the body was simply flipped over in front of the actual site into the body bag.

BY MR. URICK:

Q. What, if any, factors affect decomposition in an outdoor setting like that with a body buried like that?

A. There are many, many factors that involve the decomposition of a body in an outdoor environment. You have temperature, of course, one of the primary factors, that the colder it is temperature-wise, the process of decomposition occurs at a slower rate with the decrease in temperature.

Likewise, if the temperatures are very warm, a body decomposes very rapidly. Moisture, certainly, moisture allows the body to undergo decomposition where as a very dry environment, that lack of moisture causes the body to not decompose as fast, and a very dry environment, of course, going to the mummification of the tissues to actually dry out.

When a body, for example here, that we have in contact on a soil floor or substrate versus something like a carpet or indoors, basically, you have an outdoor

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environment where you do have quite a bit of moisture, and this adds, in very cool environments, to keep the body very cool, and provide moisture to allow this decompositional process to undergo a fairly slow rate.

Q. Did you have occasion to look at the body as it was disinterred?

A. Yes, I did.

Q. What, if anything, did you note about the decomposition of the body itself?

A. One that I noted was that the body was in a fairly good state of preservation. It did have some shrinkage of the tissues, which you can somewhat see in the hands, this blanching and shrivelling that you can see.

And there was very extensive mold and fungi growth. You can see here on this area of the face this white material, there was a lot of mold and fungi over many surfaces of the tissue.

Q. And what, if anything, does the fungi tell you?

A. Typically, fungi growth occurs in a fairly moist environment, which we certainly have here, and in very cool weather conditions. The presence of large patches of mold and fungi is an indicator that there has been a lengthy post mortem interval or period of time since death.

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Q. Did you notice any insect damage at that time?

A. No, there was no evidence of any type of significant insect damage.

Q. Would you have expected to find anything like that at that time of year?

A. No, because of the very cool weather, most of the insects, particularly blowflies, they are only active at above 55 degrees Fahrenheit. And many of the other insects, such as carrion beetles that actually feed on the tissue of a body are inactive at this time of year.

Q. Now, based on your expertise and training, and the state of decomposition as you observed it on the day that the body was disinterred, would that be consistent with the victim having vanished, been killed, and buried on the 13th of January?

A. Yes, that would be.

Q. Thank you. You may return to the stand at this time.

(Pause.)

MR. URICK: If I may have the Court's indulgence for just a second?

(Pause.)

BY MR. URICK:

Q. Dr. Rodriguez, do these photographs show the areas where the animal activity occurred?

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A. Yes.

MR. URICK: Could I have the witness come back and show us on the photographs where that damage is evident?

THE COURT: Yes.

Please return to the easel area.

MR. URICK: Using the ones that are up there or the other set, whichever would be easier.

THE WITNESS: You can see right here in the areas of the knee that you have, basically, pantyhose material that has been somewhat frayed or torn.

We have some material here, up along the foot you can see some of the soft tissue. The foot is actually exposed, and we have portions of the pantyhose material. And up here, along here, closer to the hip area, you can see that we have some exposure of some of the soft tissue where animals have, basically, raked their paw across trying to get at the remains.

MR. URICK: Thank you.

THE COURT: May the witness return to the witness box?

MR. URICK: Yes, please.

THE COURT: Thank you.

MR. URICK: Witness with the defense.

CROSS-EXAMINATION

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BY MS. GUTIERREZ:

Q. Dr. Rodriguez, you were asked by Mr. Urick was what you observed in the body, both when you first got there and after your very careful disinterrment of that body, that what you saw was that -- was that consistent with death occurring on the 13th of January; do you recall that?

A. Yes.

Q. And you answered yes, that it was; correct?

A. That's correct.

Q. You are not rendering an opinion that death occurred on the 13th, are you?

A. No, ma'am.

Q. And you have never been asked to do that, have you?

A. No, ma'am.

Q. And after the careful disinterrment of this young woman's body, you were not asked to perform the subsequent autopsy?

A. No, ma'am.

Q. Or to determine the cause of death?

A. No, ma'am.

Q. Or to determine, in any way, the time of death?

A. I was asked to look and make a determination at the scene of the approximate time that that body had been

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there based on decomposition.

Q. And that was based on what you observed; is that correct?

A. That's correct.

Q. After that day, the 9th of February, did you do anything else in regard to this body?

A. Yes. I was present during the initial examination the following day.

Q. The following day on the 10th?

A. Yes, ma'am.

Q. And after that, did you do anything else?

A. No, ma'am.

Q. Did you ever check the temperature chart of the time, including the highs and lows of temperature, between January 13th and February 9th?

A. I did do a backdate temperature over the Internet.

Q. Okay. And you are aware -- you actually live in Washington, or between Washington and Baltimore?

A. That's correct.

Q. Okay. So you were familiar that it had been on a pretty -- a particular number of days in that time period that was a pretty strong and deep cold snap?

A. That's correct.

Q. And that there had been snow? And so, you were

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told, you didn't understand the significance of the 13th of January date, did you?

A. No.

Q. You were just given that information; is that correct?

A. An approximation.

Q. And, in your opinion, it is consistent with the appearance of the body, that she could have died on the 13th; correct?

A. That's correct.

Q. It is also -- it would be equally as consistent that she could have died on the 12th of January, would it not?

A. It's very possible.

Q. And the same likelihood of consistency that her death could have occurred on the 14th?

A. It's possible.

Q. Or even the 15th?

A. Yes. There's the --

Q. Or even the 16th?

A. -- time frame --

Q. There's a --

A. -- that we're dealing with just approximations.

Q. And that's the best that you can do --

A. Scientifically. Yes, ma'am.

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Q. -- notwithstanding all the science; is that correct?

A. That's correct.

Q. And so you have never been asked to determine an exact time or date of death?

A. No, ma'am.

Q. So, you can't tell us how long that body had been dead?

A. That is correct.

Q. Correct? And you can't tell us how and under what circumstances it died?

A. No, ma'am.

Q. And you were never asked to do that?

A. That's correct.

Q. Correct? Now, the -- you discussed at length, Dr. Rodriguez, what you call the clear evidence of animal activity that you then pointed out to us?

A. Yes, ma'am.

Q. The fact that it appears, in your expert opinion, to be animal activity, is related to your expertise of examining bodies, is it not?

A. That's correct.

Q. Most of us lay people, were we to examine a body, wouldn't be able to tell that it was an animal that did that?

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A. It's doubtful.

Q. And your expertise, you are a pathologist --

A. An anthropologist.

Q. -- not just an anthro --

A. No, I'm just an anthropologist.

Q. -- anthropologist?

A. I'm an anthropologist.

Q. You're not a medical doctor?

A. No, ma'am.

Q. You do not hold a medical degree?

A. No, ma'am.

Q. You do not hold the expertise to examine, as a doctor, as an -- to conduct a pathology of the study of a body that's presented to you?

A. Not of soft tissue, pathology.

Q. Okay. And -- and you were not at -- you were present during the one that was conducted in this case; right?

A. That's correct.

Q. And that was conducted by the Medical Examiner, who is a medical doctor, pathologist, in Baltimore?

A. That's correct.

Q. Is that correct? And that was conducted the day after the removal of this body; is that correct?

A. That's correct.

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Q. The person you brought with you, Master Sergeant Graham, was brought for his expertise to try to collect any trace evidence or other evidence that might be important?

A. That's correct.

Q. Is that correct? And by "important," meaning any evidence that might be collected that should not be disturbed in the disinterrment of this body that might be able to tell us something about the circumstances of this body's death?

A. That's correct.

Q. Is that correct?

A. That's correct.

Q. And that's why you took so long with him to disinter the body, you didn't just dig it up?

A. That's correct.

Q. You examined it? Right? You examined it under different light sources?

A. That's correct.

Q. Things that would make visible things that might not be visible to the naked eye?

A. That's correct.

Q. And to very carefully disinter, like moving away from the body the dirt and the leaves that covered it in some places completely?

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A. That's correct.

Q. And to make sure that if there was evidence there that was foreign to the body or to the soil that you could visualize it and collect it?

A. That is correct.

Q. And the collection of it was also done with the same kind of care, was it not?

A. That is correct.

Q. Okay. Oh. I was asking you about the animal activity. The evidence of animal activity that you observed on the clothing and this body clearly all occurred post death; did it not?

A. Yes, ma'am.

Q. And you could tell that from your own experience; could you not?

A. That's correct.

Q. Although that's not something that most of us could tell?

A. No, ma'am.

Q. Is that correct?

A. That's correct.

Q. And you also spoke about the rate of decomposition. And let me make sure because -- that I have it straight. Because it was cold and had at least some moisture there because of the soil and the leaves

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over the body, it decomposed at a lower rate --

A. A slower rate.

Q. -- a slower rate than if it had been hotter and dryer; --

A. That's correct.

Q. -- is that correct?

A. That is correct.

Q. And so, it was a pretty well preserved body for being dead however long it had been dead; --

A. That is correct.

Q. -- is that correct? And decomposition is a biological process; is it not?

A. That is correct.

Q. That the body goes through after death, that alters the biological composition of what you see?

A. That is correct.

Q. And you described that? You could see it if you knew evidence of the decomposition in the hands once they became visible?

A. That's correct.

Q. Because decomposition alters the substance, the feel, the look, the space that skin takes up, does it not?

A. Yes.

Q. And decomposition alters the fluids in the

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body, does it not?

A. That's correct.

Q. And sometimes decomposition creates fluid?

A. It can, yes.

Q. It can. In fact, it can create fluids that come out of the orifices of the body?

A. That is correct.

Q. And there is things that happen in decomposition that affect the skin on the body, do they not?

A. That's correct.

Q. There's slippage of the skin, is it not?

A. That is correct.

Q. The skin doesn't remain the intact covering of the body once the body's dead.

A. That's correct.

Q. Is that correct? And all of those are normal biological processes?

A. Yes.

Q. That occur to everybody no matter what the circumstances of death were; is that correct?

A. That is correct.

Q. And occur to everybody, regardless of what the temperature is, just at a different rate?

A. That's correct.

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Q. Is that correct?

A. Yes.

Q. All right. And, so that there are changes like, for instance, you were asked to describe what appeared to be fluid on the face; is that correct?

A. That's correct.

Q. That fluid could very well be from decomposition, could it not?

A. Yes, it's referred to as post-mortem purging.

Q. Okay. And that's exactly what that fluid on that body appeared to be, did it not?

A. Yes, it did.

Q. There were no obvious signs of injury, you know, like a dismemberment of a body part or knife wound, that you observed, were there?

A. No, ma'am.

Q. And having attended the autopsy the -- the pathological examination of the body the next morning at the pathologist's office, in fact, that pathological review revealed that there weren't any other injuries that were visible to this body?

A. I believe that was their findings.

Q. That meaning there wasn't any obvious injury, no knife wounds, no wounds that had obvious holes or tears in the body?

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A. That's correct.

Q. Is that correct? Then, that what you observed to be -- that appeared to be fluid from the face or the head, in fact, was not the result of a pre-death injury?

A. It appeared just to be purging.

Q. Purging, which was a process that would occur after death?

A. That's correct.

Q. And purging is not a process that would occur immediately after death, would it?

A. It's a process that, it's, again, variable in time on decomposition, but basically is the result of the gaseous buildup as a result of decomposition.

Q. Of what's inside of you?

A. And basically, any fluids, they can be from injury, or just a pulling of fluids from the decompositional process. They have to go somewhere under these gaseous pressures, and typically, they are extruded out through the nose, the mouth, or the anus.

Q. Okay. And because you describe it as a process, it occurs over a period of time; is that correct?

A. That's correct.

Q. And, like all other decomposition processes, in a cold environment such as you observed on February 9th,

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that process, over time, at this point, would have taken a longer time than a shorter time?

A. That's correct.

Q. Is that correct?

A. That's correct.

Q. Okay. The -- you were asked that, in the picture if you look really far back, you could see detectives or others; --

A. That's correct.

Q. -- is that correct?

A. Yes, ma'am.

Q. If you were the body that you disinterred that day, from the position of the body, could you see to the road?

A. If you were in the exact position of the body, no.

Q. No, because that body was hidden first by -- there along the log, against which it was nestled; is that correct?

A. Yes; that's correct.

Q. They had to climb over that log to get to this partially interred body, if that's the correct term?

A. Or would walk around the log.

Q. Or walk around the log; is that correct? That log was in excess of 50 feet, was it not?

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A. I didn't exactly measure it, but it was very big.

Q. It's a very long log, so in order to get to -- and the body, while not quite in the middle, was more in the middle than at either end, was it not?

A. It appeared to be, yes.

Q. So to get to the body, one would have had to climb over the log; correct?

A. Correct.

Q. Or go around the end of a very long log on either end?

A. That's correct.

Q. Is that correct? You were told, when you were requested by the detectives to come and assist them, that a body had been found; correct?

A. That's correct.

Q. So you were expecting to find a body in what you were shown, were you not?

A. Yes.

Q. It was not readily apparent to be a body, or to be a human body, if you didn't know anything about it, was it?

A. It would be hard to say.

Q. To tell? You could tell that there might be things sticking out that may be body parts, but you

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couldn't tell that it was a body?

A. Not until you really looked at it close, you could make out the foot, and the hair.

Q. And then make out other things?

A. It was very well camouflaged.

Q. Very well. Okay. You wouldn't just stumble over that body where it was?

A. I think an average person walking over it wouldn't see it.

Q. Okay. Thank you.

MS. GUTIERREZ: I have nothing further.

THE COURT: Any redirect?

MR. URICK: No, thank you, Your Honor.

THE COURT: May this witness be excused?

MR. URICK: Yes.

MS. GUTIERREZ: Yes.

THE COURT: May this witness be released from any summonses or appearances?

You are excused at this time, and you are free to go. I must advise you that all the witnesses have been sequestered, which means you cannot discuss your testimony with anyone else who may be a witness in this case or has been a witness in this case. But you are welcome to remain in the courtroom if you would like. Your testimony is now concluded.

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THE WITNESS: Thank you, Your Honor.

THE COURT: Thank you.

(The witness was excused.)

THE COURT: Your next witness?

(Pause.)

THE COURT: Please raise your right hand. Listen to Mr. White as he provides you with the oath.

Whereupon,

NISHA [redacted]

a witness produced on call of the State, having first been duly sworn, 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 WITNESS: My name is Nisha [redacted]

THE CLERK: Address?

THE WITNESS: [redacted] Silver Spring, Maryland 20906.

THE COURT: You are welcome to rest your coat, if you would like, or if you're comfortable the way you are you may remain like that.

THE WITNESS: Thanks.

THE COURT: Witness with you.

MR. URICK: Thank you, Your Honor. With the Court's permission, I'd ask the Clerk at this time to

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hand back to the jurors their individual copies, or working copies of State's Exhibit 34 for identification.

THE COURT: Ladies and gentlemen, you're receiving your papers -- there are your juror numbers noted at the top.

(Pause.)

MR. URICK: If the Court please, at this time I'd like to approach the witness?

THE COURT: Yes, you may.

DIRECT EXAMINATION

BY MR. URICK:

Q. Ms. Tanna, I'm just, for now putting down in front of you what's been marked -- it's a copy of what's been marked for identification purposes as State's Exhibit 34.

Do you know the defendant?

A. Yes.

Q. How do you know the defendant?

A. We met through mutual friends at a New Year's party.

Q. And was that New Year's Eve, 1999?

A. Yes.

Q. So it would have been December 31st of 1998 into January 1st of 1999?

A. Yes.

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Q. And did you become friends with him at that time?

A. Yeah. We met and we pretty much became friends, I guess.

Q. Did you exchange phone numbers?

A. Yes.

Q. Did you have occasion to speak with him on the phone?

A. Yes.

Q. How would you come to speak to him?

A. He would call me up most of the time, and we would just talk about school and just ask how each other were.

Q. Did there come a time when he got a cell phone of his own?

A. Yes.

Q. And do you recall when that was?

A. I think it was sometime in January.

Q. Okay. Now, I'd like you to look at what's before you, the Exhibit, and if you notice in the left-hand column it says "call" and then there are a bunch of numbers going down, 1 to 34. Starting at the bottom, if you would, look at number 25?

A. Okay.

Q. Look across the entire line?

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A. Okay.

Q. Do you identi-- do you recognize that number?

A. Yes.

Q. Who's number is that?

A. That is my number.

Q. And would you please read it for the record?

A. 301 603[redacted].

Q. And if you go across to the next line of type, there's a blank space, then there's a black space. At the top of the column it says "call time," what is indicated there?

A. 3:32 and 45 seconds.

THE COURT: Just a moment, please.

Deputy Sheriff, can you go in the hallway and ask individuals to keep their voices down, and if there's a sign there, turn it so that they can see that there's a court in session.

Thank you.

BY MR. URICK:

Q. And in the next line it says "duration," do you notice a time of duration?

A. Yes, two minutes and 22 seconds.

Q. And that phone number, is that a cell phone or a residence phone?

A. It's a residence phone.

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MR. URICK: With the Court's permission, I'm going to go to the exhibit that's posted in the right hand side.

THE COURT: You may.

BY MR. URICK:

Q. Your last name is spelled [redacted]

A. Yes.

Q. That was line 25?

(Pause.)

Q. Who's line was this?

A. It's my phone line.

Q. Is this a private line for yourself at that residence?

A. Yes.

Q. Now, going up to line 7?

A. Okay.

Q. Look across that line. Do you recognize that number?

A. Yes.

Q. And who's number is that?

A. That is mine.

Q. And, for the record, would you read it again?

A. 301 603-[redacted].

Q. And the time -- the call time for that call was?

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A. Nine minutes and one second. And --

Q. Those are hours, minutes, and seconds.

A. Nine minutes --

Q. That's time, not minutes.

A. Oh, okay. So it's one minute and 46, 'cause there's a --

Q. It's p.m. It's an hour, it's a time.

MS. GUTIERREZ: Objection --

THE WITNESS: Oh, okay.

THE COURT: -- to the State's Attorney testifying?

THE COURT: Sustained.

BY MR. URICK:

Q. Please look at it again to read the time that that call occurred?

A. 9:01.

Q. And the next block, which is the time duration, would you please read further --

A. Okay.

Q. -- and tell what that duration was?

A. It's one minute and 24 seconds.

MR. URICK: With the Court's permission, I will now, again, write "[redacted] household" into the block on line 7?

THE COURT: Any objections?

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MS. GUTIERREZ: No, Your Honor.

(Pause.)

BY MR. URICK:

Q. Now, please go up again to the line four and look across that line?

A. Okay.

Q. Do you recognize that number?

A. Yes.

Q. And who's number is that?

A. Mine.

Q. And for the record, please read it again?

A. 301 603-[redacted].

Q. Now, go across to the next block of type, please read the time that the call occurred?

A. 9:57.

Q. And in the next block, the duration of the call?

A. 24 seconds.

MR. URICK: And with the Court's permission, I will now write "Tanna residence" again on line 4.

THE COURT: Any objection to that?

MS. GUTIERREZ: No, Your Honor.

(Pause.)

BY MR. URICK:

Q. Now, did there ever come a time when the

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defendant called you and put a person he identified as Jay on the line?

A. Yes.

Q. Please tell the ladies and gentlemen of the jury what that call consisted of?

A. Basically, Jay had asked him to come to an adult video store that he worked at.

Q. No, don't -- tell us what the defendant told you? Tell us the content of the call?

A. Okay. He just asked me how I was doing?

Q. When you say "he," who do you mean?

A. Adnan.

Q. Okay.

A. And then he put his phone -- put his friend Jay on the line, and he basically asked the same question.

Q. And he described him as his friend Jay?

A. Yes.

Q. Do you have any independent recollection of when that call occurred?

A. I can't remember the exact date.

Q. And about how long did that call take?

A. I would say, like, a minute or so.

Q. Okay. Now, --

A. It was not that long.

Q. -- drawing your attention back to the exhibit,

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line 25, which was a call -- do you recall about what time of day that that call occurred?

A. The one on -- yeah, I think it was in the evening time.

Q. Now, that call, line 25, is it possible that that could have been that telephone call?

MS. GUTIERREZ: Objection.

THE COURT: Sustained as to form of the question. At this point, I don't know what "that" is, and so if you could just clarify your question to the witness. Are you -- when you say "that," are you referring to the call listed on line 25, or are you asking the witness to talk about the conversation she just relayed to the jury?

BY MR. URICK:

Q. Relating back to the conversation with the defendant where he put the person named Jay on the phone, is it possible that line 25 could have been that telephone call?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

You can answer the question.

THE WITNESS: Okay. I'm not sure, I can't really recall that particular day, but maybe.

MR. URICK: Thank you.

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Witness with the defense.

CROSS EXAMINATION

BY MS. GUTIERREZ:

Q. Ms. [redacted], you met Adnan Syed at a New's Year party; correct?

A. Yes.

Q. And he was there to party just like you were, was he not?

A. Yes.

Q. And you had not met him before; correct?

A. Yes.

Q. It was not a party isolated just for those of the Muslim faith, was it?

A. No.

Q. You are not of the Muslim faith are you?

A. No.

Q. You're of a different religion than Islam?

A. Yes.

Q. And your religion is?

A. Hinduism.

Q. Okay. And you were aware at the party that Adnan liked you?

A. Yes.

Q. And you liked him, did you not?

A. Yes.

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Q. And the who attended the party were all of your mutual ages, were they not?

A. Yes.

Q. And you went to that party because of a friend of yours?

A. Yes.

Q. Then it was not Adnan who gave the party; right?

A. No.

Q. It wasn't at his house?

A. No.

Q. It was a some other young person's place, or was it at a place other than a house?

A. It was a place other than a house.

Q. And attending at the party were how many young people?

A. Hundreds, I'd say.

Q. Okay. And in the midst of that -- and it was a pretty festive occasion?

A. Yes.

Q. It was noisy?

A. Yes.

Q. Was there drinking?

A. Yes.

Q. Was there dancing?

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A. Yes.

Q. And almost all of the attendees at the party were participating in all of those things?

A. Yes.

Q. Is that right? And in that atmosphere, Adnan Syed caught your eye, did he not?

A. Yes.

Q. And you caught his eye, did you not?

A. Yes.

Q. And you spent the bulk of the party on New Year's Eve, 1999 together, did you not?

A. Yes, we did.

Q. At the party, and before the party ended you exchanged personal information?

A. Yes.

Q. That included your phone number; correct?

A. Yes.

Q. And you got his phone number?

A. Yes.

Q. At the time on New Year's Eve, he didn't have a call phone?

A. No.

Q. Right? But after that time, for the next two weeks, the two of you sort of kept in contact with each other, did you not?

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A. Yes.

Q. Mostly he called you?

A. Yes.

Q. And you encouraged him to call you, did you not?

A. Yes.

Q. And sometimes he called you more than once a day, did he not?

A. Yes.

Q. And when you would -- you would take his calls if you could, could you not?

A. Yes.

Q. Because you liked him?

A. Yes.

Q. And he expressed a continuing interest in you; is that correct?

A. Yes.

Q. And the times that you would talk on the phone, you would talk and share information about each other to each other?

A. Yes.

Q. Would you not? What you did; is that correct?

A. Yes.

Q. And what was going on in your school lives?

A. Yes.

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Q. And what your plans were for the next days; is that correct?

A. Yes.

Q. All normal stuff; right?

A. Yes.

Q. Would you describe that two-week time as sort of the two of you getting to know each other?

A. Yes.

Q. And you were open to that, were you not?

A. Yes, I was.

Q. You were open to him as more than just somebody you met at a party?

A. Yes.

Q. You were open to him as a possible boyfriend?

A. Yes.

Q. Correct? And you sensed that he was interested in you?

A. Yes.

Q. And you didn't discourage that, did you?

A. No.

Q. In fact, you encouraged that, didn't you?

A. Yes.

Q. You liked him, didn't you?

A. Yes.

Q. And it was obvious he liked you?

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A. Yes.

Q. Did you grill him about his prior relationships?

A. No.

Q. Did you allow him to grill you about any prior relationship you may have had?

A. No.

Q. Now, that number, the 603-[redacted], if Adnan Syed called it, you're the only one he'd be looking to talk to, wouldn't he?

A. Yes.

Q. Okay. Now, the call that you were asked where somebody else got on the phone, that call occurred at that number; is that correct?

A. Yes.

Q. Now, did other people call on that number?

A. Yes.

Q. Okay. For you?

A. Yes.

Q. For other members of your family?

A. Sometimes.

Q. Sometimes. But mostly that number is for you, is it not?

A. Yes.

Q. You're the one that answers it?

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A. Yes.

Q. And do you have an answering machine or a voice mail?

A. No, not for that number.

Q. Not for that number. But if somebody was to answer, generally it would be for you; is that correct?

A. Yes.

Q. Okay. And in the two weeks from the New Year's party, you had talked to Adnan sometimes every day for a couple days in a row?

A. Yes.

Q. And sometimes you talked to him more than once a day?

A. Yes.

Q. And often you talked to him late at night?

A. Yes.

Q. And during that time period you had learned that he was a Muslim?

A. Yes.

Q. And you were -- that wasn't a surprise to you, was it?

A. No.

Q. There were other Muslims at the party, were there not?

A. Yes.

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Q. You associate with other Muslims, do you not?
A. Yes, of course.
Q. Both girls and boys; is that correct?
A. Yes.
Q. And was the fact that he was a Muslim ever an issue for you during that two-week period of time where you're sort of trying it out?
A. No, of course not.
Q. And did that ever come up as a topic of conversation from you?
A. No.
Q. Did it ever come up as a topic of conversation from Mr. Syed?
A. No.
Q. Okay. Did you see each other during that time?
A. We saw each other once at another party.
Q. Okay. And that was after the first, so in that two week period of time, or almost two weeks to the 13th, you saw him an additional time?
A. I saw him in February.
Q. Okay. So that was after this date?
A. Yes.
Q. So in the first two weeks mostly you got to know each other by phone?
A. Yes.

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Q. Okay. And that was not something you discouraged?

A. No.

Q. And you said mostly he called you, but some of the times you called him; is that correct?

A. No, actually I didn't call him just because it was long distance.

Q. Okay. But you didn't refuse his calls?

A. No.

Q. And you didn't discourage him from calling?

A. No.

Q. And after this day, the 13th, you actually saw him?

A. Yes.

Q. And you knew that you were going to see him, did you not?

A. Yes, I did.

Q. And that was an okay thing with you, seeing him again?

A. Yes.

Q. And after this date, you continued to explore whether or not you and he might have a relationship?

A. Yes, maybe.

Q. And during that time, you got to know each other better and became more solid friends?

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A. Yes.

Q. Is that correct? And, at no point did you ever discourage his phone calls?

A. No.

Q. No. Now, the time that you said the per -- put a person named Jay, your belief was that that was at the video store?

A. Yes.

Q. That they, meaning Adnan and Jay, were at the video store; is that correct?

A. Yes.

Q. You had never been in that video store?

A. No.

Q. You didn't know what kind of video it was?

A. No.

Q. But your understanding was that Jay worked there?

A. Yes.

Q. Yes. And that was the information relayed to you; is that correct?

A. Yes.

Q. And that when the person named Jay -- now, you never met him, did you?

A. No.

Q. And later, after this day, the 13th, you never

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met him, did you?

A. No.

Q. And you wouldn't recognize him today?

A. No.

Q. And you wouldn't recognize his voice?

A. No.

Q. Okay. And you knew, did you not, or did you, that Jay was not a current classmate of Adnan?

A. I didn't know anything about that.

Q. You didn't know anything about it. And, frankly, you weren't interested in Jay, were you?

A. No.

Q. Did you really care who he was?

A. Not really.

Q. Or what he was to Adnan?

A. No.

Q. And did you speak to him long?

A. Did I what?

Q. Speak to him long?

A. No.

Q. That time. And was there anything significant to note in that conversation?

A. No.

Q. And you don't recall when that conversation took place?

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A. No.

Q. So it could have been the 13th or it could have been any other day from the New Year's party all the way up until Mr. Syed's arrest on February 28th?

A. Yes.

Q. Is that right?

MS. GUTIERREZ: Thank you. I have nothing further.

THE COURT: Any redirect?

MR. URICK: Extremely brief.

REDIRECT EXAMINATION

BY MR. URICK:

Q. Did the defendant ever invite you to call him at his house?

A. No.

Q. Did he tell you why not?

MS. GUTIERREZ: Objection. Assumes that there has to be a reason.

THE COURT: I understand, I understand. There -- first of all, the objection is sustained.

You can reword the question if you'd like and perhaps lay a foundation for its admissibility.

BY MR. URICK:

Q. What, if any, instructions did he give you as to how to contact him?

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A. Excuse me? I'm sorry?

Q. What, if any, instructions did he give you as to how to contact him?

A. He did give me his pager number. He didn't give me his house number.

Q. Did he ever give any explanation why he didn't give his house number?

MS. GUTIERREZ: Objection.

THE COURT: Overruled.

THE WITNESS: Well, later on, he did say that his parents were a little strict about having girls call, but he did give me his house number, but I never did call him.

MR. URICK: No further -- nothing else, thank you.

RECROSS-EXAMINATION

BY MS. GUTIERREZ:

Q. And did you ever reach him on his pager?

A. No.

Q. Okay. And that was your choice?

A. Yes.

Q. There wasn't a reason not to use the pager?

A. No.

Q. So if you had wanted to reach him on the available number he gave you, you could have?

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A. I could have.

Q. Okay. And when he got his cell phone, he gave you his call phone number, did he not?

A. Yes, he did.

Q. Okay. And did you choose to reach him on the cell phone?

A. No.

Q. For the most part, the contact came from him to you?

A. Yes.

Q. But that was okay with you?

A. Yes.

Q. You were interested in him?

A. Yes.

Q. And you liked that he called you?

A. Yes.

MS. GUTIERREZ: Thank you. Nothing further.

THE COURT: Anything further?

MR. URICK: No, thank you. The witness may be excused from the State.

THE COURT: All right.

And from the defense, may this witness be excused?

MS. GUTIERREZ: Yes, she may.

THE COURT: You are excused at this time. I

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must admonish you that you are a sequestered witness, you should have no conversations with anyone about what you've already testified, but if you would like to remain in the courtroom, you're welcome to do that.

THE WITNESS: Okay. Thank you.

THE COURT: You are welcome.

(The witness was excused.)

THE COURT: Your next witness?

(Pause.)

THE COURT: Please remain standing, raise your right hand. Listen to Mr. White as he provides you the oath.

Whereupon,

Crystal [redacted] (mistranscribed, this is Krista)

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

THE CLERK: You may be seated.

THE WITNESS: Thank you.

THE CLERK: You're welcome. Please keep your voice up, state your name and address for the record?

THE WITNESS: Crystal [redacted]

[redacted] Randallstown, Maryland.

DIRECT EXAMINATION

BY MR. URICK:

Q. Good afternoon, Ms. Meyers. Do you know the

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defendant?

A. Yes.

Q. How do you know him?

A. As a friend.

Q. And how long have you known him?

A. For about four years now, since the beginning of high school.

Q. And when would you say you started thinking of him as a friend?

A. Probably more so this year than all the other years as getting to know him better.

Q. When you say "this year," you mean --

A. Our senior year of high school, which would have been '98 to '99.

Q. Where did you attend school?

A. Woodlawn High School.

Q. And what type of school is Woodlawn?

A. Well, it's a regular high school, and it's also a magnate school for math, science, and pre-engineering.

Q. And what program were you in?

A. The magnate program.

Q. And did you have classes with the defendant?

A. Yes, I did.

Q. And did you know Hae Min Lee?

A. Yes.

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Q. How long had you known her?

A. About the same length of time, the four years that she had been in high school.

Q. And did you have classes with her as well?

A. Yes, a few.

Q. As you and the defendant became friends, would you converse together?

A. Yes.

Q. Would you exchange telephone calls?

A. Yes.

Q. Now, drawing your attention to January of 1999, --

A. Uh-huh.

Q. -- please describe what your daily schedule was on a school day?

A. Usually I would get up around 5:30, 6:00 in the morning, and I'd go to school. I'd be in school usually around 7:30. I'd arrive. And I had two classes in the morning and would leave school around 10:30, 10:45, every day. And I'd leave school and usually either go home and eat lunch or go directly to work, and I usually worked from either 12:00 to 4:00, or 1:00 to 5:00.

Q. Drawing your attention to January 13th of 1999, do you remember that day?

A. Vaguely, yes.

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Q. Did you attend school in the morning as was your usual practice?

A. Yes.

Q. And did you see the defendant that morning?

A. Yea. He's in my first period photography class that day.

Q. And did you speak to him on that date?

A. Yes.

Q. What, if anything, did he say to you?

A. I believe that that day he arrived at school on time, which was rather unusual for him 'cause he was usually late. And he said that he didn't have his car for whatever reason and then he had to go pick it up after school and that Hae was supposed to go take him to get his car.

But I don't remember if it was from his brother or from the shop.

Q. Now, did you go to work that day?

A. Yes.

Q. And how late would you have worked that day?

A. Till five o'clock.

Q. Did there come a time when you received a call from Aisha [redacted]

A. Yes. During the afternoon, she called me to let me know that Hae's grandmother and grandfather and

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brother and mother had been calling her asking if she knew where Hae was, because they had -- she didn't pick up her cousin from school and she didn't come home that day.

Q. Where would you have been when you received that call?

A. Probably at work 'cause Aisha would usually call me between the hours of 4:00 and 5:00 just to say Hi when she got home.

Q. And what, if anything, did you do after you received that call?

A. I know that, later on in the evening after I had spoken with her again, I'd called Adnan to let him know, or to ask if Hae had taken him to get his car or not.

Q. When you say you called Adnan, how did you call him?

A. On his cell phone.

Q. And if you would, there's that sheet of paper in front of you which is a copy of State's Exhibit for identification 34?

A. Okay.

Q. And there's a cellular phone number at the top, 443 253-[redacted]

A. Yes.

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Q. Do you recall if that's the number you called?
A. Yes, that is.
Q. Did you get the defendant?
A. The first time that I tried, no, I did not. I received his voice mail.
Q. And what, if anything, did you do?
A. I left a message just asking him to call me when he got a chance.
Q. Okay. Now, I'd like you to look at line 17?
A. Okay.
Q. Look across that line? You'll notice that's right above line 8. It's line 17, read across all the way through the telephone number. Do you recognize that number?
A. Yeah, that's my home phone number.
Q. And would you read it for the record, please?
A. 410 922-[redacted].
Q. And across to the first block of text that's in the column that gives you the time of the call, would you please read the time?
A. 5:38 and 42 seconds.
Q. And in the next column there's a duration of call, would you please read the duration?
A. Two seconds.
MR. URICK: With the Court's permission, I will

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now write in line 17 -- is this number your residence number?

THE WITNESS: It's my personal line at my residence.

MR. URICK: I will now write "Meyer's residence" across line 17.

THE COURT: Any objections?

MS. GUTIERREZ: No, Your Honor.

(Pause.)

BY MR. URICK:

Q. Now, did you ever talk to him on that day?

A. Yeah, I did. I finally reached him later on that evening sometime after nine o'clock.

Q. And how many times did you speak to him that evening, if you recall?

A. I believe twice.

Q. Do you recall what was said in those conversations?

A. I know that when I spoke with him, he was in his car. And I told him about the fact that Aisha had called and said that Hae had been missing. And he just commented that that was strange, out of the ordinary.

Q. And did he indicate anything else?

A. No, just that he was in his vehicle at the time.

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Q. Did he indicate having talked to anyone else about that subject?

A. I know that he had said that -- I don't know if it was that day or later on, that the police did call him on his cell phone to see if he knew her whereabouts.

Q. And did he tell you when that call occurred?

A. No.

Q. Did he tell you what the subject matter of that conversation was?

A. Just that the detectives wanted to know if he knew where she was or not.

Q. Now, I'd like you to look up at lines 5 and 6?

A. Okay.

Q. And look across both those lines at the number called?

A. Uh-huh.

Q. Do you recognize that number?

A. That's, again, my home line at my residence.

Q. And just for the record, would you read that again, please?

A. 410 922-[redacted].

Q. Now, on line 6, would you please first read the time of the call and then the duration of the call?

A. 9:03 and 47 seconds p.m., and it lasted five minutes and 28 seconds.

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Q. And the line above it, line 5?

A. 9:10 and 42 seconds, p.m., lasting eight minutes an 41 seconds.

MR. URICK: At this time, with the Court's permission, I'll write "Meyer's residence" on both those lines.

THE COURT: Objection?

MS. GUTIERREZ: No, Your Honor.

(Pause.)

BY MR. URICK:

Q. Now, drawing your attention back to line 17, the two-second duration call?

A. Yes.

Q. Do you recall a hang-up call, receiving a hang up call?

A. That night, not in particular. I know that one day that week I did receive a hang-up call from his cell phone, but I don't know if it was particularly that day or not.

Q. Drawing your attention now to the time after Hae Lee's body was found and she was identified, the day that the Crisis Intervention Team appeared at Baltimore -- at Woodlawn High School?

A. Yes.

Q. Did you go with the group of friends that went

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to Aisha Pittman's house that night?

A. It was the night before the Crisis Intervention Team was at our school, but, yes.

Q. And was the defendant there that night?

A. Yes, he was.

Q. And how did he get home that night?

A. I drove him home.

Q. And where did you let him off?

A. At the church parking lot across the street from his residence.

Q. Why didn't you take him to his residence?

A. Because he requested that I drop him off across the street.

Q. Did he explain why?

A. Usually because his parents didn't approve of him speaking with girls, especially out of his ethnic background. So it would have been better for him had I dropped him off across the street so that they wouldn't have seen who drove him home.

MR. URICK: Witness with the defense.

CROSS EXAMINATION

BY MS. GUTIERREZ:

Q. The -- that night that you're describing, the night of the Crisis Intervention, a lot of Hae Min Lee's friends gathered at Aisha [redacted]s house, did they not?

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A. Actually, I believe it was Adnan, Aisha, Stephanie, and I.

Q. Okay.

A. There was only four of us.

Q. And Stephanie is Stephanie [redacted]?

A. Yes.

Q. And Aisha [redacted] and yourself, and Adnan all matriculated in the magnate program at Woodlawn?

A. Yes.

Q. And you had all known each other for at least the duration of the three years before; --

A. Correct.

Q. -- is that correct?

A. Yes.

Q. And, Ms. Meyers, you considered yourself a good friend of Hae Min Lee, --

A. Yes.

Q. -- did you not?

A. Yes.

Q. You saw her regularly?

A. Yes.

Q. You spoke to her regularly? You went with her places?

A. Yes.

Q. And you shared confidences both ways with her?

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A. Yes.

Q. And you considered yourself, at least that senior year, a pretty good friend to Adnan Syed?

A. That is correct.

Q. And you did the same thing, you spoke to him, you saw him daily?

A. Yes.

Q. You shared classes and you shared confidences with him back and forth?

A. Yes.

Q. You were aware when your good friend Hae Min Lee and your good friend Adnan Syed became an item, were you not?

A. Yes.

Q. The previous spring?

A. Correct.

Q. Is that correct?

A. Yes.

Q. And out of the whole group of all of you who shared classes, everybody knew that, did they not?

A. Yes.

Q. And prior to the time when they became an item as a girlfriend and boyfriend, everyone in the class knew that Adnan Syed was a Muslim, did they not?

A. They did.

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Q. And that he didn't, or he had not dated?

A. Correct.

Q. And he hadn't dated, not just because his parents didn't approve of it, but because his religion didn't encourage that; is that correct?

A. Correct.

Q. And all of you all just sort of accepted that, did you not?

A. Yes.

Q. Nobody bugged him and tried to line him up dates, did they?

A. No.

Q. And after he and your other good friend, Hae Min Lee, got together, everyone was aware that they were now girlfriend/boyfriend, were they not?

A. They were.

Q. But you were all still aware that Adnan Syed's parents did not approve of that?

A. Yes.

Q. And, now, you were never intimate with Adnan, were you?

A. No.

Q. You were never girlfriend to him being a boyfriend; right?

A. Correct.

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Q. But you knew that the ban on women would extend even if all you did was to drive him home and drop him off?

A. Correct.

Q. In view of what you understood his parents' view to be?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And you understood that Adnan, from the time in the Spring of 1998, all the way through his relationship with Hae Min Lee, that he was essentially defying his parents' approval?

A. Yes.

Q. Okay? And so when he asked you to drop him off up the street, down the street, around the corner, you did that knowing that he was concealing this relationship from his parents?

A. Yes.

Q. But the relationship was never concealed from anybody else?

A. No.

Q. Not from any of Hae Min Lee's friends?

A. No.

Q. Not from his other friends?

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A. No.

Q. And not from school teachers?

A. No.

Q. Everybody knew about it?

A. Yes.

Q. Didn't they?

A. Yes.

Q. And everybody accepted it for whatever it was?

A. Yes.

Q. You were aware of the ups and downs in the relationship?

A. Correct.

Q. And, because you were a friend of Hae Min Lee's, you got it from both of them, did you not?

A. Yes.

Q. They were both thinking people, were they not?

A. They were.

Q. They clearly expressed their love for each other?

A. Yes.

Q. And they were not hesitant to do that in front of others?

A. Correct.

Q. To be physically affectionate with each other?

A. Yes.

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Q. And all of you knew from both of them the various ups and downs of their relationship that included some times off?

A. Yes.

Q. And those times off would sometimes last for a day or two?

A. Yeah, or a week.

Q. A week, maybe. Okay. And then they would rush back together; is that correct?

A. Yes.

Q. And you observed them to continue throughout those ups and downs to be very loving and concerned about each other?

A. Correct.

Q. You understood from both of them that they both thought about the things that caused them difficulty?

A. Yes.

Q. And that the only thing that really caused them difficulty was the fact that Adnan, as a Muslim, was not supposed to have any relationship with anyone unless he was married to her?

A. Yes. I know that that was a big part of it, yes.

Q. Okay. And they were both very open about that?

A. Yes.

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Q. But they continued to maintain the relationship?

A. That's correct.

Q. All Spring?

A. Yes.

Q. And all Summer?

A. Yes.

Q. And all Fall?

A. Yes.

Q. Even though there were ups and downs?

A. Correct.

Q. Sometimes one took a break, and sometimes the other took a break?

A. Yes.

Q. Is that correct?

A. Right.

Q. All right. Now, you were aware that in mid to late December --

A. Uh-huh.

Q. -- that they broke up and it appeared to be, whatever the word final meant?

A. Correct.

Q. Is that correct?

A. Yes.

Q. And you saw each of them on a daily basis after

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that date, did you not?

A. Yes.

Q. And that was in school?

A. Yes.

Q. And out of school?

A. Correct.

Q. And you understood that this so-called breakup, whatever it was, was hard for both of them?

A. Yes.

Q. And they both talked about their pain?

A. Yes.

Q. You were aware, however, that they spoke to each other on a daily basis?

A. Yeah, they were still friends.

Q. Okay. And their friendship was readily apparent to all who knew them.

A. Yes.

Q. Is that correct?

A. Correct.

Q. Neither of them appeared bitter, they appeared sad, but not bitter --

A. Yes.

Q. -- about the relationship; is that correct?

A. Correct.

Q. And you observed that Hae Min Lee was trying to

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build another relationship?

A. Yes.

Q. And with a person she worked with; --

A. Yes.

Q. -- is that correct?

A. Correct.

Q. But that she was having a hard time putting aside her feelings for Adnan?

A. I wouldn't go so far as to say that. I know that she had difficulty deciding whether or not to break up with him, and she did work through it.

Q. Then she worked through it?

A. Right.

Q. And she shared some of that with you; correct?

A. Yes.

Q. And you shared some of it from the other side with Adnan; correct?

A. Correct. Yes.

Q. You observed Adnan during this period past the breakup; is that correct?

A. Yes.

Q. And did you ever observe him to appear to be bitter?

A. Not bitter, no. Sad, yes.

Q. And did -- sad. Sad about the breakup?

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A. Yes.

Q. Is that correct? And sad about the loss of the love?

A. Yes.

Q. But you never heard from him or observed bitterness from him toward Hae?

A. No.

Q. From him you observed on a daily basis an expression of love?

A. Correct.

Q. Okay. And he was not shy about expressing that?

A. No.

Q. Even though you had heard from him and observed the pain that it caused him to go against his parents' approval?

A. Correct.

Q. Did you, Ms. [redacted]-- well, let me ask you this. You knew when Adnan got a phone, a cell phone, did you not?

A. Correct.

Q. Prior to that he had a pager, did he not?

A. Yes, he did.

Q. And that a pager was the way in which all of his friends normally got hold of him?

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A. Right.

Q. Including Hae?

A. Yes.

Q. And you were aware that even after the breakup, Hae continued to page Adnan and give him messages of love?

A. Yes.

Q. Reassuring him of her love for him?

A. Correct.

Q. And that he continued to talk to her about his feelings, including his own feelings of sadness?

A. Yes.

Q. Now, Ms. [redacted], did you attend, as a member of the senior class, the homecoming dance that occurred, I think it was Halloween weekend in the Fall of 1998?

A. No, I did not.

Q. No. Did you attend the Junior Prom the year before?

A. Yes, I did.

Q. Okay. Now, you were aware when Adnan got arrested and accused of this crime?

A. Yes.

Q. Has -- you continued to maintain your friendship with him?

A. Yes.

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Q. Have you continued to speak with him?

A. Yes.

Q. How often?

A. Over the summer, usually every day. Now, probably at least once a week.

Q. At least once a week, even now?

A. Yes.

Q. And that's by telephone?

A. Yes.

Q. And in addition to telephone, do you write to him?

A. Yes.

Q. And how often do you do that?

A. Usually when I don't hear from him for the week, I'll sit down and write him a letter.

Q. Do you still consider him to be your good friend?

A. Yes.

Q. Have you ever been to Adnan's home where he resides with two brothers and his parents?

A. No.

Q. To you knowledge, has any of the grouping of you all from the magnate program ever been inside his home?

A. Not to my knowledge.

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Q. Okay. And that doesn't surprise you, does it?
A. No.
Q. Okay. Now, are there other Muslims in the magnate group?
A. Yes, there are.
Q. Okay. And you are, while not a scholar, familiar with some of how Islam works?
A. Yes.
Q. Are you not?
A. Yes.
Q. And you have had conversations with Adnan regarding the pain and sadness of challenging the tenants of his own religion?
A. Correct.
Q. Have you not?
A. Yes.
Q. And has Adnan always appeared to you to be a thoughtful person about his actions?
A. Very much so.
Q. After the breakup, that you were aware of, between Hae Min Lee and Adnan, were you aware that he was exploring other female relationships?
A. Yes.
Q. Did he share that information with you?
A. Yes.

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Q. Did you find that odd?

A. No.

Q. That he was going to enter into another relationship that was also going to be or invite his parents' disapproval?

A. No.

Q. Not at all?

A. No.

Q. The -- you were speaking about the day before the Crisis Intervention, Aisha [redacted] her relationship to Hae Min Lee was what?

A. Her best friend.

Q. Okay. And there's a person in your class by the name of Rebecca [redacted]?

A. Yes.

Q. And what was her relationship with Hae Min Lee?

A. She was another one of her best friends.

Q. Her best friend. And there's a person by the name of Debbie [redacted]

A. Uh-huh.

Q. Is -- and who was she in relationship to Hae Min Lee?

A. I know that she was a close friend of Hae.

Q. But not a best friend?

A. Not as much as Aisha, but I know that she was

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close to her.

Q. Okay. And not as much as Rebecca?

A. Correct.

Q. All right. There's another person who's name you mentioned, Stephanie. Is that Stephanie [redacted]?

A. Yes.

Q. And you've known Stephanie [redacted] since your beginning at Woodlawn?

A. Yes.

Q. Did you go to the same middle school as Adnan?

A. No, I didn't.

Q. Or as Stephanie?

A. No.

Q. Or as Aisha?

A. No.

Q. So you met all of them when you all started as ninth graders?

A. Correct.

Q. And all of you were in the Gifted and Talented program?

A. Yes.

Q. And so you shared classes with all of them throughout your high school career?

A. Correct.

Q. At least one, if not more classes a day?

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A. Yes.

Q. Is that correct? Now, you were on this program when you left at the regular time every day in the morning; is that correct?

A. At 10:00 --

Q. Back -- back in January of 1999?

A. Yes.

Q. And then you then worked and you got credit for that, did you not? That was sort of part of what you did?

A. No, I didn't get any school credit for it because I had finished my graduation requirements as is, so it was just of free will.

Q. Okay. So you were doing that of your own free will, but you did it five days a week?

A. Yes.

Q. The only time that you were required to be in school was in the morning?

A. Correct.

Q. All right. Now, did you know a person by the name of Jay Wilds?

A. Oh, yes.

Q. And how is it that you knew him?

A. As being the boyfriend of Stephanie [redacted]

Q. Okay. And Stephanie [redacted] relationship

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to Hae Min Lee?

A. I believe that they were acquaintances. I didn't see them very much so as friends, but they knew each other.

Q. They knew each other because they matriculated in the same Gifted and Talented?

A. Correct.

Q. And were you aware of Stephanie [redacted] relationship with Adnan?

A. Yes.

Q. What was that?

A. I believe she called herself his best friend.

Q. Stephanie McPherson described herself as Adnan Syed's best friend?

A. Yes.

Q. And from what you observed, did that appear to be true?

A. For the most part.

Q. And did you ever observe Adnan speaking about his best friend, Stephanie?

A. Yes.

Q. And did they interact in a way that seemed appropriate for best friends?

A. Yes.

Q. Was there ever any intimate sexual relationship

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between Stephanie [redacted] and Adnan to your knowledge, or to your observation?

A. Not to my knowledge, no.

Q. And the -- in regard to Stephanie's relationship with Jay Wilds, was there any other avenue on which you had a relationship with Jay?

A. No.

Q. Were you aware that Jay Wilds provided dope for the kids, some of the kids at Woodlawn?

A. I know that he was involved in that through --

Q. Okay. And was that common knowledge?

THE COURT: Excuse me.

"I know he was involved in that through?

THE WITNESS: Through -- usually, how people talk in high school, knowing that he was avid in the usage of drugs.

THE COURT: Okay.

Your next question?

BY MS. GUTIERREZ:

Q. Was it evident that one could get drugs if one wanted from Jay?

A. If they wanted to, yes.

Q. Okay. And was there any other avenue of relationship that you ever had with Jay?

A. No, never.

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Q. Was there any avenue that you were aware of from any source including from Hae herself that led you to believe that she had any independent relationship with Jay Wilds?

A. No.

MS. GUTIERREZ: Okay. Thank you. Nothing further.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. URICK:

Q. These new relationship that the defendant was forming, he kept them from his parents, too, did he not?

A. Correct.

Q. Now, when you were ever with Hae Min Lee, did she have a pager?

A. Yes, she did.

Q. Would you ever notice her receiving pages from the defendant?

A. When I was with her, a few times, yes.

Q. Enough to be noticeable?

A. Yes.

MR. URICK: Nothing further.

THE COURT: Anything further?

RECROSS-EXAMINATION?

BY MS. GUTIERREZ:

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Q. Was there anything unusual about her receiving pages from her boyfriend?

A. No.

Q. Or from someone even after she was no longer a girlfriend to considered him to be a good friend?

A. No.

Q. Did most of the kids at the school have a pager and/or a cell phone?

A. Yes.

Q. There was nothing unusual about that at all?

A. No.

MS. GUTIERREZ: Thank you. Nothing further.

THE COURT: All right. May this witness be excused, Mr. Urick?

MR. URICK: Yes.

MS. GUTIERREZ: Yes.

THE COURT: May this -- Okay. Very well. And again, is this witness gonna be released from --

One moment.

MS. MURPHY: She can be released.

THE COURT: Very well. You're released from subpoenas. Let me advise that you are a sequestered witness. You may not discuss your testimony with anyone else; That is, anyone that's testified already, or anyone who is scheduled to testify.

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THE WITNESS: Okay.

THE COURT: I will also advise you you're welcome to sit in the courtroom if you would like, or, at this time, you're free to go.

THE WITNESS: All right. Thank you.

(The witness was excused.)

THE COURT: Your next witness, Mr. Urick.

And before we do that, ladies and gentlemen, I note that it's a few minutes before 4:00. Normally we take a break. You've been sitting her for almost two hours. By a show of hands, if you'd like to take a break to walk back to the jury room, please raise your hand? We'll take a walk. Otherwise, we'll just keep going on.

Would anyone like to take a break, stretch your legs? Okay? Just raise your hand, it's not a big deal, we normally take a break.

A JUROR: Can we stand for a minute?

THE COURT: Yeah, you're welcome to stand up, stretch your legs. Otherwise, we'll keep going, and as we go, as I said, we're gonna stop at 4:30 today. Let me know if there's a problem.

The next witness may come in.

Ma'am, for a moment I'm just gonna ask you to sit down. My jury's standing up and stretching their legs.

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r. Madden, would you like a break? Are you

r. White, are you okay?

Pause.)

HE COURT: I'd like you to stand, raise your face Mr. White as he gives you the oath.

AISHA TINEA [redacted]

roduced on call of the State, having first worn, was examined and testified as follows:

HE CLERK: You may be seated. Please keep up, state your name and your address for the

HE WITNESS: Aisha Tinea [redacted]

Catonsville, Maryland.

DIRECT EXAMINATION

Y MS. MURPHY:

s. [redacted], good afternoon. Could you please he ladies and gentlemen what is your age?

.

d where are you currently attending school?

orge Washington University.

d what course of study do you plan to pursue

'm in pre-med, and I'm double majoring in

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biology and psychology?

Q. Now, did you attend Woodlawn High School?

A. Yes.

Q. And while you were there, you were in the magnate program?

A. Yes.

Q. In the Gifted and Talented program?

A. Yes.

Q. Do you know the defendant, Adnan Syed?

A. Yes.

Q. How do you know him?

A. A person in my class.

Q. How long have you known him?

A. Since sometime in elementary school. I'm not exactly for sure when.

Q. How about the victim in this case, Ms. Hae Min Lee. Did you know her as well?

A. Yes.

Q. How long did you know her?

A. Since the ninth grade.

Q. Can you describe your relationship with Ms. Lee? Can you characterize what type of relationship you had with her?

A. She was my best friend.

Q. Were you also aware of the relationship between

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Ms. Lee and Mr. Syed?

A. Yes.

Q. When did you first become aware of that relationship?

A. I can't tell you an exact date, but around whenever it started. I don't know exactly when.

Q. Okay. Do you recall how long they dated?

A. For about -- I'd say about ten months or so.

Q. During the course of their relationship, did you become aware of breakups that occurred?

A. Yes.

Q. Do you recall one specific incident that occurred around Halloween of 1998?

A. Yes.

Q. What do you remember about that?

A. Just that things weren't working out and they broke up.

Q. Was there a trip that was planned, which you attended and which Ms. Lee, as well as the defendant, were scheduled to attend, as well?

A. Yes.

Q. What was that?

A. We were going to Adventure World for Hallowscream.

Q. And when was that trip?

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A. I believe it was on Halloween day, so October 31st.

Q. Did Ms. Lee attend?

A. No.

Q. What happened and why did she not go?

A. She said something about she wasn't allowed to go and her mom didn't want her out of the house, and she, I think, might have had to go to work. I'm not for sure exactly.

Q. And was that about the time that Ms. Lee and the defendant broke up?

A. It was a little after that.

Q. Did you become aware of a time when they broke up for good?

A. Yes.

Q. Approximately when was that?

A. Mid to late November.

Q. Whose decision was that?

A. With that one I'm not completely, for sure, whose decision it was.

Q. Did Hae Min Lee indicate to you why they broke up?

A. Yes.

Q. What did she say?

A. Part of the reason was that their parents

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didn't know about it, and she didn't like sneaking around.

Q. I'm gonna ask you to remember back to the homecoming dance of 1998. When would that have occurred?

A. I think it was sometime in October, towards the end. I don't know the exact date.

Q. Did you attend that dance?

A. Yes.

Q. Do you recall any particular incident occurring involving the defendant's parents?

A. Yes.

Q. What happened?

A. Adnan's parents showed up, and I don't know what exactly -- everything involved with it was, but it's something about they were looking for Hae or something. I'm not exactly for sure.

Q. Did Hae ever discuss with you how she felt about that incident?

A. Briefly, yes.

Q. And what did she say?

MS. GUTIERREZ: Objection.

THE COURT: Sustained, unless you are able to lay a foundation.

MS. MURPHY: I'll move on, Your Honor.

THE COURT: Uh-huh.

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BY MS. MURPHY:

Q. Ms. [redacted] in the Fall of 1998, you had classes with the defendant?

A. Uh-huh.

Q. What class or classes did you have with him?

A. A couple; probably English, Social Studies, and Health. I think my magnate research class.

Q. When you had classes with the defendant, would it be uncommon for you all to exchange notes occasionally?

A. No.

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

THE COURT: Yes, you may.

BY MS. MURPHY:

Q. Ms. [redacted] I'm showing you what's been marked for identification as State's Exhibit 38. I'd ask you to observe both the front and back of that page and let us know if you recognize it?

A. Yes, I do.

Q. Okay. Looking first at the first page, which is marked with exhibit tag, can you describe what is on that page?

A. It's a letter from Hae to Adnan talking about something with when they broke up.

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Q. Okay. And you recognize Ms. Lee's handwriting?

A. Yes.

Q. And on the reverse side, what -- describe what is on that page?

A. It was a little note in between me and Adnan had drawn in class, I guess. And my handwriting's in pencil, his is in ink.

Q. Okay. You recognize both your handwriting and Mr. Syed's handwriting?

A. Uh-huh.

MS. MURPHY: Your Honor, I would ask that State's Exhibit 38 be moved at this time?

THE COURT: Any objection?

MS. GUTIERREZ: I would object.

THE COURT: All right. May I see the exhibit?

(Pause.)

THE COURT: For the record, I note your objection.

I ask that you indicate a time frame, and, if you're able to do that through this witness, the exhibit will be admitted.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q. Ms. [redacted], based on your review of this exhibit, can you -- do you have an idea of when this note

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was written?

A. It was sometime early in November after the Adventure World trip.

Q. Thank you.

MS. MURPHY: Your Honor, I'd ask at this time the exhibit be admitted.

MS. GUTIERREZ: Same objection, and renew the objection. Prejudicial.

THE COURT: There's two parts of handwriting on it. There's one on the front, there's handwriting on the back. The witness has testified as to when she wrote on the back, and are you saying you wrote on the back in November?

THE WITNESS: Yes.

THE COURT: Okay. Do you know when the front page of that was written? Of if there's anything in that that would indicate to you the time frame, based on your knowledge of the relationship between the parties?

THE WITNESS: This was also written in the beginning of November, sometime after the Adventure World trip.

THE COURT: And how do you know that?

THE WITNESS: Content of the letter.

THE COURT: Very well. It'll be admitted over objection.

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(State's Exhibit No. 38, having previously been marked for identification, was received in evidence.)

MS. MURPHY: Thank you, Your Honor. Your Honor, I would ask to publish this letter to the jurors by way of Ms. [redacted] reading first the front side and then the back side?

THE COURT: Any objection? I know you have an objection to the --

MS. GUTIERREZ: Only to the --

THE COURT: I understand that you have an objection --

MS. GUTIERREZ: -- document.

THE COURT: -- to the document. That's preserved. Do you have any objection to the process of her reading it as opposed to passing it along the jurors and having them read it?

MS. GUTIERREZ: I do. I'd prefer the jurors read it.

THE COURT: I'm gonna allow the witness to read the exhibit.

One caveat: You may not read anything that is not visible to your eye. You may not decide what

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something says if it is not clearly written.

If you cannot make it out because it's not clearly written, you are to say "and something is there." Do you follow me?

THE WITNESS: Uh-huh.

THE COURT: You may proceed.

MS. MURPHY: Your Honor, if I may first.

BY MS. MURPHY:

Q. Ms. [redacted], when was this note exchanged between you and the defendant? What's -- during what period of time of day?

A. Based on something written on it, I'm guessing Health class?

Q. Okay. If you would please read the first page?

A. "Okay. Here it goes. I'm really getting annoyed that this situation is going the way it is. At first I kind of wanted to make this easy for me and for you.

"You know people break up all the time. Your life is not going to end. You'll move on and I'll move on. But apparently you don't respect me enough to accept my decision.

"I really couldn't give damn about whatever you want to say. With the way things have been since 7:45 am this morning, now I'm more certain that I'm making the

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right choice.

The more fuss you make, the more I'm determined to do what I gotta do. I really don't think I can be in a relationship like we had, not between us, but mostly about the stuff around us.

I seriously did expect you to accept, although not understand. I'll be busy today, tomorrow, and probably till Thursday."

THE COURT: Is there something that you cannot read?

THE WITNESS: There is.

THE COURT: Then say, "There's something I cannot read."

THE WITNESS: There's something I can't read. "Other things to do. I better not give you any hope that we'll get back together. I really don't see that happening, especially now.

I never wanted to end like this, so hostile and cold, but I really don't know what to do. Hate me if you will, but you should remember that I could never hate you."

Signed "Hae."

BY MS. MURPHY:

Q. Now, are there other notations on that first page?

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A. Yes.
Q. Is the first in pencil or in pen?
A. Pencil.
Q. And that would be your writing?
A. Yes.
Q. What does it say?
A. "No I messages."
Q. What does that mean?
A. In Health class we learned something about I messages, and when you're mad at someone you shouldn't say, "You make me mad." You should say, "I feel bad when you do this," so that it's not as harsh.
Q. And you wrote that for what reason?
A. I think when I saw this letter it was in Health class and I wrote it as a joke.
Q. And what is the next notation on that -- on that page?
A. It's in pen, and it's Adnan's handwriting, and it says, "Huh, that's a ghetto," and it says "eye."
Q. Okay. Now if you can turn to the second page, and when you read for the jury this page, indicate whether what you are reading is written in pencil or in pen?
A. Okay. The first thing is in pen, it says, "I'm going to kill," then in pencil it says, "Here's the

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thing, Hae's pregnant," and I can't read what it says after that.

Then in pen it say, "You should ask her to make a list of all her symptoms and compare it with the list on the overhead." Then in pencil it says, "Yeah, let me ask her 'are your breasts tender.'" And then something written in pen but scratched out.

And then in pencil it says, "Maybe she was pregnant, she had an abortion on Saturday while we went to Adventure World." In pen it says, "Her clumsy self probably tripped and fell on the way to the clinic and caused an abortion."

In pencil it says, "You would never think she's pregnant, and every time I do anything with a guy I think I am." In pen it says, "Whenever you kiss a guy, you probably think you're pregnant. She's scheduled for sonograms and she's still in denial." And then in pencil, it says, "Not that bad for me, for her, hell yeah."

Q. What subject matter were you studying in Health class at that point?

A. Pregnancy.

Q. Did you have any personal belief or knowledge that Ms. Lee was pregnant at the time you made these remarks?

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A. No.

Q. Ms. [redacted] --

THE COURT: One moment.

And again, for the record, your remarks are written in pencil?

THE WITNESS: Uh-huh.

THE COURT: You may continue.

MS. MURPHY: Thank you, Your Honor.

BY MS. MURPHY:

Q. Ms. Pittman, did you at some point become aware that Ms. Lee began a relationship with a Donald Clinedienst?

A. Yes.

Q. When did you become aware of that?

A. Beginning of -- well, a little bit -- the very end of December.

Q. Had you ever met Mr. Clinedienst?

A. Yes.

Q. How did you meet him?

A. She worked in LensCrafters. I would drop by her store. I met him once or twice then.

Q. Was he an employee there, or was he visiting Ms. Lee, also?

A. He was an employee there.

Q. Are you aware of her first date with Mr.

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Clinedienst?

A. Yes.

Q. Do you know when that was?

A. Not exactly. It was either right before New Year's Eve or right after, like, the day before or the day after.

Q. Did Ms. Lee express to you how she felt about this new relationship?

A. Yes.

Q. What did she say?

A. She was just really excited about it.

Q. Ms. [redacted] I'm gonna ask you now to remember back to the day that Ms. Lee disappeared. Had you seen her in school that day?

A. Yes.

Q. What was the last point you saw her that day?

A. Right at the end of the school day at 2:15 in Psychology class.

Q. Was she with anyone else at that point?

A. At the time she was talking to Adnan.

Q. How did you find out that Ms. Lee was missing?

A. Later that day her mom called my house and asked if I knew where she was.

Q. Did you discuss that with anyone else that afternoon?

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A. Yes. I think -- I know I did, but I don't remember what time. I know I talked to Crysta about it some time in the day.

Q. And did police or detectives ever call you?

A. Yes. After her mom called me, a police officer called.

Q. And why did that officer call you?

A. He called saying that she was supposed to pick up her little cousin from day care or something, that she hadn't, if I knew where she was.

Q. Did there also come a time that you learned that Ms. Lee's body had been discovered?

A. Yes.

Q. How did you find out?

A. Her brother called me.

Q. Did you see the defendant that day or anytime thereabouts?

A. Yes. He came to my house that night.

Q. Was he the only person who came to your house?

A. No, also Crista and Stephanie.

Q. Did you go to school the next day?

A. Yes.

Q. What was going on at school that day?

A. There were Intervention Crisis people talking to us, and every -- most of my friends left halfway

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through the day.

Q. Did you also leave?

A. Yes.

Q. Did the defendant attend school that day?

A. Yes.

MS. MURPHY: With the Court's indulgence, please?

THE COURT: Yes.

(Pause.)

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

THE COURT: Yes, you may.

BY MS. MURPHY:

Q. Ms. Pittman, again, looking at State's Exhibit 38 which is now in evidence, I'm asking you to focus on the first line of the second page?

A. Okay.

Q. Can you read that line for the jurors?

A. It says, "I'm going to kill."

Q. Do you have any personal recollection of seeing that line on the particular day you've described?

A. No.

Q. Thank you.

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

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CROSS-EXAMINATION

BY MS. GUTIERREZ:

Q. Ms. [redacted], the letter that you read is clearly a letter from handwriting that you recognize from your best friend as addressed to Adnan, a person in your words you attended classes with, outlining the breakup of the relationship and her disapproval of his inability to accept her breaking up; is it not?

A. Yes.

Q. You got this letter from the person to whom it was addressed; right?

A. Yes.

Q. The person who had been involved with your best friend; correct?

A. Yes.

Q. He shared it with you in the middle of Health class; correct?

A. Yes.

Q. And the topic of that Health class was pregnancy, was it not?

A. It was.

Q. And then on the back of this letter, your best friend expressing her dismay at her then ex-boyfriend, you and he have a sort of little riff about whether or not Hae, your best friend, his ex-girlfriend, might be

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pregnant; is that correct?

A. Yes.

Q. It's sort of a joke, is it not? You're dissing your best friend in your handwriting, are you not?

A. I am.

Q. And he's dissing her, is he not? And you did that in school --

THE COURT: Wait, wait. Can I have a moment? You can't just nod your head.

THE WITNESS: Okay.

THE COURT: Because this gentlemen over here is a stenographer. He must repeat what you've said.

THE WITNESS: Okay.

THE COURT: When you nod there's nothing. Okay?

THE WITNESS: Okay.

THE COURT: So if you would answer yes or no when Ms. Gutierrez asks you a question.

THE WITNESS: Okay.

THE COURT: I apologize for interrupting --

MS. GUTIERREZ: That's all right. Thank you Judge.

THE COURT: -- but I wanted the record to be clear.

BY MS. GUTIERREZ:

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Q. And you engaged in this little riff in the middle of class; is that correct?

A. Yes.

Q. Now, you knew that at some point, in fact, it appears to be days after the missed Adventure World trip, missed by Hae but not by Adnan, that she broke up with him; correct?

A. Correct.

Q. And then her intent, based on not just that letter, but what you knew from your best friend was to break up forever, was it not?

A. Correct.

Q. But forever didn't turn out to be forever, did it?

A. No.

Q. Forever never turned out to be forever on a number of occasions with your best friend Hae and her ability to decide to remain in a relationship that had some difficulties?

A. Correct.

Q. Okay. She broke up with him or took recesses from him on a regular basis; isn't that correct?

A. Not on a regular basis. I only know of two occasions.

Q. Okay. On two occasions, and this is a

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relationship that you said, at its longest, lasted about ten months; is that correct:

A. Correct.

Q. You said, Ms. [redacted] you don't remember when it began but you do recall that it began at or about Junior Prom in the Spring of 1998; is that correct?

A. Yeah.

Q. They went to the Junior Prom together, didn't they?

A. Yes.

Q. They got fixed up or suggested that they do that by somebody other than themselves, did they not?

A. Not that I know of.

Q. You weren't aware of that?

A. No.

Q. You weren't aware of how they happened to have a date with each other to attend the Junior Prom?

A. No.

Q. No. Now, this best friend, Hae Min Lee, had been your best friend for how long?

A. Since tenth grade.

Q. Okay. You talked to her on a daily basis, did you not?

A. Correct.

Q. Not just in school but outside of school;

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correct?

A. Correct.

Q. You visited her at her home?

A. Yes.

Q. And she visited you at yours?

A. Yes.

Q. You spent a lot of time with her, did you not?

A. Yes.

Q. And because of her relationship with Adnan, you ended up becoming closer to Adnan just 'cause she sort of pulled you all together; isn't that correct?

A. Correct.

Q. That Adventure World trip that she chose to miss because, in your words, "Her mother wouldn't allow it, she wasn't allowed to go, her mother objected," Adnan, in fact, attended, did he not?

A. Correct.

Q. There was nothing unusual about that, was there?

A. No.

Q. A lot of social events occurred where a number of your classmates who were not girlfriend or boyfriend with each other would go do things together; correct?

A. Correct.

Q. That would include movies; correct?

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A. Yes.

Q. Going to each other's houses?

A. Yes.

Q. Having snowball fights?

A. Yes.

Q. Any number of social activities; is that correct?

A. Yes.

Q. The group didn't necessarily socialize just by locked up groupings of two who happened to be girlfriend and boyfriend at any given moment; is that correct?

A. Yes.

Q. So, now, your best friend shared with you her ups and downs in her relationship with Adnan, did she not?

A. She did.

Q. You were aware that she kept a diary, weren't you?

A. Yes.

Q. She shared that diary with you, did she not?

A. Only on one or two occasions.

Q. Okay. And on those occasions you read the entries, did you not?

A. Yes.

Q. For the bulk of the time, from the time of the

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beginning of her relationship all the way through the beginning of January, most of the diary entries concerned her concerns about her love for Adnan and the conflicts with him and his family because his religion forbade their relationship, did they not?

A. From what I remember, some of them were. How many were, I don't know.

Q. The ones you read were, weren't they?

A. Some.

Q. Okay. For the bulk of that time period, whether Adnan and Hae were on and off was really determined by Hae, was it not?

A. Yes.

Q. And any of the times when Hae took a break from the relationship, whether she declared it to be forever or not, Adnan, whom you saw five days a week and shared classes with, continued to live, did he not?

A. Yes.

Q. And he continued to interact with your grouping of friends, did he not?

A. Yes.

Q. He didn't break his relationships even when Hae sort of put him out there and said, "No more," did he?

A. No.

Q. And he continued to speak with you, did he not?

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A. Yes.

Q. And with all of his other high school friends?

A. Yes.

Q. And you have heard that, did you not?

A. Yes.

Q. And the bulk of you all in the magnate program knew each other far better than the rest of the 1700 students at Woodlawn, did you not?

A. Yes.

Q. And for the most part, you consider yourself friends, but there would be qualitative differences as to who was with who; is that correct?

A. Yes.

Q. Hae's best friends were yourself; correct?

A. Yes.

Q. And then there was a woman by the name of Rebecca Walker?

A. Yes.

Q. Is that correct? And among other friends was a woman by the name of Debbie [redacted]

A. Yes.

Q. Debbie [redacted] would consider herself the best friend of Hae, would she not?

A. Yes.

Q. But Hae might not necessarily consider Debbie

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[redacted] her best friend?

A. No.

Q. No. Is that correct?

A. Yes.

Q. Meaning -- the no meaning Hae didn't consider Debbie [redacted] her best friend; correct?

A. Correct.

Q. Yes. Okay. And there were lots of others. Another classmate was a woman by the name of Stephanie [redacted], was there not?

A. Yes.

Q. And Stephanie [redacted] prior to Hae's and Adnan's hooking up, was the best friend of Adnan, was she not?

A. As far as I know, yes.

Q. And you observed that in the -- almost at that point, three and a half years you had observed Adnan; correct?

A. Correct.

Q. You didn't go to middle school with Adnan, did you?

A. For two years, but not --

Q. Okay. So you knew him before then; correct?

A. Yes.

Q. But Adnan was never a close personal friend?

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A. No.

Q. And you never spent time with him, really, on any regular basis until your best friend Hae became his girlfriend?

A. Correct.

Q. Is that correct? Okay. Now, you said you became aware of the breakup was the question you were asked. You became aware of one occasion regarding Halloween in the Fall of 1998; do you recall that?

A. Yes.

Q. Now, Halloween day is the day that you recall was the Adventure World trip --

A. Yes.

Q. -- that you attended?

A. Yes.

Q. And that Adnan attended?

A. Yes.

Q. And prior to Halloween, prior to that was this homecoming dance; correct?

A. Yes.

Q. And you attended that dance, did you not?

A. Yes.

Q. With a date?

A. No.

Q. Did you -- did your best friend attend?

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A. Yes.

Q. And did she attend with a date?

A. Yes.

Q. That date was --

A. Adnan.

Q. -- Adnan, --

A. Yes.

Q. -- was it not? And at that point they were going strong; correct?

A. Yes.

Q. Even though they had had some recesses in the relationship; correct?

A. I didn't know of any recesses at the time.

Q. Were you aware that she refers to the word "recess" in describing breaks in her relationship with Adnan? "Her" meaning Hae? Were you aware of that?

A. No.

Q. Did she share all with you as her best friend?

A. For the most part, yes.

Q. Did she share the fact that she was sexually active with Adnan?

A. Yes.

Q. And you were aware, were you not, because she was your best friend, that Adnan was not her first relationship?

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A. Yes.

Q. And not her first intimate relationship?

A. Yes.

Q. And from your point of view, did you believe that she shared everything with you?

A. Yes.

Q. Okay. And, but you were not aware that she ever used the term "recesses" to describe breaks in their relationship?

A. No.

Q. No. Now, in regard to the Halloween -- did the homecoming dance, you saw Adnan there, did you not?

A. Yes.

Q. You became aware that Adnan's parents came up to the dance to look for him, did you not?

A. Yes.

Q. And you became aware that they found him?

A. Uh-huh. Yes.

Q. Right?

A. Yes.

Q. And that they essentially chastised him or reminded him that as a Muslim boy he shouldn't be there?

A. Yes.

Q. You became aware of that, did you not?

A. Yes.

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Q. And that they asked, or somehow somebody asked on their behalf, they wanted to speak to Hae Min Lee?

A. Yes.

Q. Is that correct? And that someone, his mother or his father, actually spoke to her; correct?

A. Not that I know of.

Q. Okay. You weren't aware of that?

A. No.

Q. You were aware that Adnan's parents left?

A. Yes.

Q. It was unusual for parents who weren't acting as chaperons to sort of come up to the dance, wasn't it?

A. Yes, yes.

Q. It was an unusual event, was it not?

A. Yes, it was.

Q. The fact that it happened sort of spread through the group of students there, did it not?

A. Yes.

Q. Everybody knew that there was something happening while it was happening?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And it was sort of titillating to everybody, was it not?

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A. Yes.

Q. Everyone, not just you, her best friend, knew that Hae Lee had had an intimate relationship at the time of the Homecoming Dance in the early Fall of 1998 with Adnan, a boy that everyone knew didn't have relationships with girls, did they not?

A. Yes.

Q. Everybody knew it?

A. Yes.

Q. Students?

A. Yes.

Q. All teachers?

A. Not all of them.

Q. Hae didn't hide it from anyone in school, did she?

A. No.

Q. And she didn't hide it from any of her closest friends; is that correct?

A. Right.

Q. And in school, if one observed Hae Lee and Adnan together, one could conclude from the observation that they were girlfriend and boyfriend, could they not?

A. Correct.

Q. From how they treated each other; correct?

A. Yes.

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Q. How they spoke to each other? How they touched each other? Is that correct?

A. Correct.

Q. And how they exhibited their love; correct?

A. Correct.

Q. And that was readily apparent to anyone who observed them on any kind of regular basis, was it not?

A. Yes.

Q. And during that period of time -- now, you knew Adnan from prior to getting to Woodlawn, you were aware that he was a Muslim, were you not?

A. Yes.

Q. And you were aware that, as a Muslim, that he didn't date, were you not?

A. Yes.

Q. Most others in your class dated at a certain time, did they not?

A. Yes.

Q. At least by the time they got to Woodlawn and were in high school?

A. For the most part, yes.

Q. That they dated members of the opposite sex?

A. Yes.

Q. And out of the group of you in the magnate program, it would be fair to describe that group as

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diverse as to race, would it not?

A. Yes.

Q. And diverse as to religion, would it not?

A. Yes.

Q. And diverse as to any kind of cultural or ethnic background?

A. Yes.

Q. And there were not rules that precluded some of you from dating others, were there?

A. No.

Q. And many of the whole group dated within the group, did they not?

A. Not many, but, yes.

Q. Okay. It wasn't unusual for people to date within their home group, was it?

A. No.

Q. And there was never a time, from the time of the Junior Prom, when your best friend and Adnan got together, that it wasn't apparent to those who saw them in school what was the status of their relationship, was it?

A. No.

Q. And during that period of time, you were aware that Adnan kept this hidden from his parents?

A. Yes.

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Q. That was a source of great sadness to your best friend, was it not?

A. Yes.

Q. And you were aware that that was a source of great sadness and anguish to Adnan?

A. Yes.

Q. You got that from him, did you not?

A. I could have. I don't remember the exact conversation.

Q. And you got it from her, did you not?

A. Yes.

Q. And there was nothing hidden about this anguish eating up these two young people who professed their love openly?

A. No.

Q. Nothing. Now, after November -- at the Homecoming Dance, were you aware that, in fact, Adnan left with his parents?

A. Yes.

Q. And were you aware that he came back?

A. No.

Q. You weren't aware of that?

A. No.

Q. And you weren't aware that he actually reunited that very night, even though he left to please his

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parents, with Hae?

A. I know that they ended up seeing each other later that night, but I didn't know whether it was because he came back to the dance or they saw each other later.

Q. Later the same night of the Homecoming Dance, you're aware from your own personal knowledge, that Adnan and Hae hooked back up?

A. Correct.

Q. And their hooking up would have been a violation of all that you knew of that would earn the continued disapproval of his parents who had been moved sufficiently to come get their son from the Homecoming Dance?

A. Correct.

Q. And after the Homecoming Dance, even though there was at least a little break, Hae and Adnan hooked back up again, --

A. Yes.

Q. -- did they not? They continued to be boyfriend and girlfriend, did they not?

A. Yes.

Q. There came another time, and that time, to you knowledge, occurred before the year 1999; correct?

A. Correct

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Q. And do you recall when? Any date? Any time frame of when there became another break up between Adnan and Hae?

A. Mid to late December, before winter break.

Q. Okay. Before winter break? Before Christmas?

A. Yes.

Q. And you are aware that, as a practicing Muslim, Christmas had no significance for Adnan; correct?

A. Correct.

Q. And your best friend, Hae Lee, was she a practicing person of any religion?

A. I don't know if she -- what do you mean by "practicing"?

Q. Did she practice her religion on a regular basis?

A. On a regular basis, no, but she celebrated holidays like Christmas.

Q. She celebrated holidays. Is it -- do you know what religion your best friend was?

A. No.

Q. Do you know what -- do you know if she belonged to a church or a similar-type institution?

A. No. I remember her saying something that she was Christian but her grandmother was in different religions and, therefore, it created some conflict so she

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didn't practice anything.

Q. So she practiced no religion?

A. Yes.

Q. But she observed what appeared to be Christian holidays?

A. Yes.

Q. Such as Christmas?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And did you, on your best friend's behalf, ever initiate any discussion with the person who was in your class by the name of Adnan Syed?

A. Can you repeat that?

Q. Did you, as her best friend, ever initiate any discussion about these issues or their relationship, with Adnan, who shared classes with you?

A. Did I ever initiate? I could have. I don't know of any specific incidents.

Q. You don't recall any specific incidents?

A. No.

Q. But you do recall speaking to him about the relationship?

A. Yes.

Q. Much the same way you did in the letter that

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you read us?

A. Yes.

Q. Sometimes it was riffing, was it not?

A. Yes.

Q. Making jokes?

A. Yes.

Q. Treating things lightly?

A. Yes.

Q. And sometimes that occurred whether they were together or whether they were apart?

A. Correct.

Q. According to this letter, and according to your testimony, they would have been apart during the time that you riffed on the possibility of her being pregnant?

A. Yes.

Q. Was there ever an actual pregnancy scare?

A. Yes.

Q. Of Hae?

A. Yes.

Q. Regarding Hae being made pregnant by Adnan or by someone else?

A. By Adnan.

Q. By Adnan. And had that scare done anything to Hae that you observed?

A. No.

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Q. Did that impact at all on whether or not they remained together?

A. No.

Q. Was Adnan, to your knowledge, made aware of that scare?

A. I'm not for sure.

Q. Okay. And you don't remember -- you're not for sure as to whether or not he was made aware?

A. I don't remember.

Q. Would you have expected to be made aware of that information by your best friend?

A. Yes.

Q. This time you riffed on a pregnancy; correct?

A. Yes.

Q. You weren't talking about a real pregnancy?

A. No.

Q. Or a real concern by your best friend; is that correct?

A. Yes.

Q. This, the back of that exhibit, was a joke, was it not?

A. Correct.

Q. It wasn't meant to be real, was it?

A. No.

Q. And you never had any real conversation with

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Adnan about your best friend's real scare about a possible pregnancy, did you?

A. Not that I can recall.

Q. Okay. During any of the time that you spoke -- and I assume -- now, when you went to Adventure World, who else went with you and Adnan?

A. Christa and Lorna.

Q. Christa [redacted]

A. Yes.

Q. And who?

A. Lorna [redacted]

Q. Lorna. And was that a pleasant occasion?

A. Yes.

Q. And did you speak to him during that outing?

A. Yes.

Q. Did you speak to him about the breakup with Hae Min Lee?

A. It wasn't a breakup at that time.

Q. Well, I thought that you recalled, and you told us and you testified, you recalled a breakup shortly after Halloween; --

A. Yes.

Q. -- is that correct?

A. Yes, after the trip.

Q. Okay. After the trip came the breakup?

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A. Yes.

Q. At any time after then did you speak to him about that breakup?

A. Yes.

Q. And did you sense his sadness over it?

A. Yes.

Q. And was he able to express those emotions to you?

A. Yes.

Q. And did he ever express to you any -- not anger or emotion, but a desire to hurt the woman that he loved after she broke up with him?

A. No.

Q. Never. And if he had, you certainly would have done something about it, would you have not?

A. Yes.

Q. To protect your best friend?

A. Yes.

Q. Is that correct? Now, after -- I was gonna ask you. There's another woman that you've identified, and I'm not sure if I asked you that you knew was best friends with Adnan by the name of Stephanie [redacted]

A. Uh-huh.

Q. Is she somebody you would describe as a good friend?

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A. Of mine?

Q. Yes?

A. No.

Q. And is she someone you would describe as a good friend of Hae Min Lee's?

A. No.

Q. No. And there wasn't any animosity, was there?

A. No.

Q. And you understood from your own observations participating in the same magnate program that Stephanie had continued to be the best friend to Adnan since when they were in middle school?

A. Yes.

Q. You were aware that Stephanie had a boyfriend outside the group of magnate students, were you not?

A. Yes.

Q. And you knew that person, did you not?

A. Yes.

Q. His name was Jay Wilds, was is not?

A. Yes.

Q. And you didn't consider Jay Wilds a close personal friend, did you?

A. No.

Q. And your best friend, Hae Min Lee, didn't consider him a close personal friend did she?

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A. No.

Q. He was not somebody who was totally welcome open arms into things that you and your friends did, did they?

A. No.

Q. But he was present often because of his relationship with Stephanie [redacted], was he not?

A. Yes.

Q. He was also present because he supplied dope to students at Woodlawn?

A. Not that I knew of.

Q. You didn't arrange to get any dope from Jay?

A. No.

Q. You had no relationship with him about those things?

MS. MURPHY: Your Honor, I'm gonna object at this point.

THE COURT: Overruled.

MS. MURPHY: This is beyond the scope.

THE COURT: Overruled.

You may continue.

BY MS. GUTIERREZ:

Q. Did you become aware from any source that that's what he did?

A. No.

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Q. Or that others got their dope from him?
A. No.
Q. Were you aware whether or not he owned his own car?
A. No.
Q. Did you ever become aware that he borrowed, not only the car of his girlfriend, but of other students up at Woodlawn on a regular and repeated basis?
A. Yes.
Q. Okay. And that's 'cause you could observe that, could you not?
A. Yes.
Q. And other students talked about it, did they not?
A. Yes.
Q. At the time you saw nothing particularly untoward about that, did you?
A. No.
Q. About them lending this guy, who was somebody's boyfriend, their car?
A. No.
Q. Now, you became aware when your best friend got her license to drive, did you not?
A. Yes.
Q. That was in the early Fall of 1998?

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A. Yes.

Q. And that shortly after she got her license, her family acquired a car for her, did they not?

A. Yes.

Q. And that thereafter she then drove every day to school?

A. Yes.

Q. And drove herself to her work?

A. Yes.

Q. And you were aware of her athletic activities, were you not?

A. Yes.

Q. And that among the athletic activities that she participated in was field hockey?

A. Yes.

Q. And if you could, Ms. [redacted] did you engage in athletics?

A. Yes.

Q. What time of year is field hockey?

A. Fall.

Q. Fall. And she participated in the development of the field -- women's field hockey team, did she not?

A. Yes, but not senior year.

Q. Not senior year. And you were aware that she also played other sports?

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A. Yes.

Q. Among them was lacrosse?

A. Yes.

Q. And lacrosse is a Spring sport?

A. Yes.

Q. And did she participate in lacrosse prior to her senior year?

A. Yes.

Q. Okay. And in addition to those sports, did she engage in any others?

A. Not playing, but she managed the wrestling.

Q. Okay. She managed wrestling, and wrestling was a boy's sport?

A. Yes.

Q. And by managing it, she sort of had to be there at all their practices?

A. No.

Q. Then she had to be there when they went to games?

A. About half of them.

Q. She should have been there?

A. Yes.

Q. Or she was expected to be there the bulk of what that team did, did she not?

A. Yes.

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Q. 'Cause that was part of her responsibility?
A. Yes.
Q. Isn't that correct? And in addition to all those activities, you are aware of, of what a good student she was, were you not?
A. Yes.
Q. And she regularly attended school?
A. Yes.
Q. And she also worked part time at LensCrafters?
A. Yes.
Q. Did that include night time employment?
A. Yes.
Q. And Saturday and Sunday employment sometimes?
A. Yes.
Q. And she lived on a fairly regular tight schedule just to meet all of her obligations; isn't that correct?
A. Yes.
Q. You were aware for her periods of time after school ended, -- now let me get this straight -- the 2:15 end time, is that when school ends?
A. Yes.
Q. Is that for everyone?
A. Yes.
Q. Every student in the school ends school at

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2:15?

A. Well, some people have early dismissal, but generally, yes.

Q. Generally. And after 2:15, were you aware, in the Fall of 1998, how often Hae Min Lee and Adnan would see each other?

A. Occasionally.

Q. Occasionally?

A. Yes.

Q. On a weekly basis, how do you translate that?

A. Maybe twice a week.

Q. Did you view, based on your observations or what your best friend told you, as this relationship being serious?

A. Yes.

Q. Was Hae Min Lee in love with Adnan?

A. Yes.

Q. Based on your observations or your conversations with either him or with your best friend, did he appear to be in love with her?

A. Yes.

Q. Okay. And you -- you considered it a serious relationship; correct?

A. Yes.

Q. Were you aware that they saw each other

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regularly after school in the Fall of 1998?

A. What would you define as "regularly"?

Q. More than twice a week?

A. No.

Q. No. And would that surprise you to learn that?

A. No.

Q. No. Not because you would not be surprised that your friend, Hae Min Lee, perhaps did not share everything about everything with you?

A. Can you rephrase that?

Q. No, I'll just ask another question. Ms. Pittman, when, in the early weeks of the first of this year, you said you were not sure of the date or time when she began, Hae began to pursue a new relationship, do you recall that?

A. Yes.

Q. But it was either late in '98, --

A. Yes.

Q. -- the end of December, or the first couple days of January; correct?

A. Yes.

Q. Were you aware that their first date occurred on January 1st, 1999?

A. I don't -- I don't think I -- if I knew that would be the first date, but I knew there was one

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occurring then.

Q. Okay. Would it surprise you to learn that it occurred on January 1st, 1999?

A. No.

Q. Were you aware, from your own personal knowledge or based on your conversations with Hae Min Lee, that she was interested in moving on from Adnan?

A. Yes.

Q. Were you aware that she had some difficulty with her own emotions about that?

A. Yes.

Q. That she still struggled, even as she began to try to find a new relationship, with her own feelings about Adnan?

A. Yes.

Q. That she referred to him, and considered him to be her soul mate in life?

A. No. I wasn't aware of that.

Q. You weren't aware of that?

A. No.

Q. And would that surprise you that she referred to him that way?

A. Yes.

Q. Had you ever heard her refer to other boys in her life as the soul mate?

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A. No.
Q. Would you describe her as an expressive person?
A. To a certain extent, yes.
Q. Did she show some of her feelings?
A. Yes.
Q. And did she speak about them readily?
A. Yes.
Q. If she was upset, one would know it?
A. Sometimes, not all the time.
Q. Whether -- not all the time?
A. Yes.
Q. But sometimes?
A. Yes.
Q. Okay.
THE COURT: Ms. Gutierrez, I note that it's quarter of five. I'd indicated that we were going to stop at 4:30, which is all right. I'm not trying to rush you.
MS. GUTIERREZ: I think I'm just about finished. If I can just have a chance to check my notes to make sure --
THE COURT: Oh, very well. I'm not going to rush you in any way.
MS. GUTIERREZ: Yes, so, I think I covered everything.

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THE COURT: We can continue this on our next day?

(Pause.)

BY MS. GUTIERREZ:

Q. You say you were asked that you remember seeing Hae talking to Adnan at 2:15 on January 13th?

A. Yes.

Q. There was nothing unusual about that, was there?

A. No.

Q. Even after they broke up?

A. No.

Q. Even though you don't recall which one did the actual broke up this last time?

A. Yeah.

Q. They still talked to each other?

A. Yes.

Q. They still saw each other?

A. Yes.

Q. And they still considered each other friends?

A. Yes.

Q. And you got that both from your best friend, Hae Min Lee?

A. Yes.

Q. And you got it from Adnan?

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A. Yes.

Q. Who you still considered to see -- you saw almost every day in class?

A. Yes.

Q. Okay.

MS. GUTIERREZ: Thank you. I have no further questions.

THE COURT: Any redirect at all?

MS. MURPHY: No, Your Honor.

THE COURT: Very well. May this witness be excused?

MS. MURPHY: Yes.

THE COURT: You do not require her to return? Is that right, Ms. Gutierrez?

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

THE COURT: Mr. Urick?

MR. URICK: No, Your Honor.

THE COURT: Let me advise you that you are a subpoenaed witness but you're now being released from that subpoena. You are a sequestered witness. What that means is that you cannot discuss your testimony with anyone.

THE WITNESS: Okay.

THE COURT: Nor can you discuss it with anyone that may be a witness to come; that is, if you were to

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talk to them they may not be permitted to testify. You are also welcome to sit in the courtroom during the remaining course of this trial. Do you understand?

THE WITNESS: Okay.

THE COURT: Thank you very much. You may be excused.

(The witness was excused.)

THE COURT: Ladies and gentlemen, we are going to recess court for today. Let me advise you that I've been told that we're expecting a snowstorm on Sunday so, therefore, I'm gonna ask that you be alert as you are passing that copy of Exhibit 34 forward to Mr. White. He will keep it and will fold it and keep them secured. No one will read those items. They will be kept locked away with the other items of evidence, as will your note pads, because you're gonna leave them face down on your chair.

Mr. White will secure them as well with the other evidence in this case. He's gonna place them back on your chair later on at the next proceeding.

Please also be advised that over the weekend you're not to read any newspaper, radio, television, or do any other thing that would provide you information by way of the media about this case.

I also admonish you that you should not discuss this case with anyone, including your family members, who

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I'm sure want to know all about what you've been doing. But you must advise them that it would be inappropriate, not proper at all for you to discuss the testimony you've heard, the evidence in this case, or anything about this case to anyone, whether it be your family members, another witness, another person, counsel, or anyone else.

If anyone should try to approach you to talk to you about this case, please advise the Court upon your return on Monday. And on Monday, assuming there is no snow, I'm gonna ask that you follow the procedure that I asked you; that is, you do not have to be here at nine o'clock, but rather somewhere between 12:30 and, you know, 1:15-ish.

If you should go to the Jury Commissioner's Office, they will be there prepared to pay you for Monday, and you shall go to my Jury Room here on this floor and wait. At about 1:30, we will be resuming this trial.

And I say at about 1:30 because what I'm gonna try to do is break for 12:30 with the docket and resume this case at 1:30, quarter of 2:00.

Madam Forelady, I'll ask that you count heads, and one of my staff members will come and check and see if all 17 of you have arrived safely on Monday.

I wish you all a very pleasant and safe journey

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home, and a good weekend, and hopefully, I'll see you back on Monday.

If not, on Tuesday morning at nine o'clock, follow the regular procedure; that is, 9:00 to 9:30, go be paid. I understand that I've been able to resolve my docket for Tuesday, and so, therefore, I'm available both Tuesday and Wednesday. We should have a pretty open days for trial testimony, so we should be able to move the case along during those days.

At this time, ladies and gentlemen, have a pleasant weekend, and I'll see you, hopefully, on Monday.

(The jury left the courtroom.)

THE COURT: May I see that? Where did this come from?

MR. URICK: Detective Bill Ritz.

(Pause.)

THE COURT: It looks like I have a scheduling issue. Were copies of this letter provided to everyone?

MS. GUTIERREZ: Just now, Judge.

THE COURT: I see it says "cc" but I just it just now myself. It appears that Detective Ritz is currently under subpoena?

MS. GUTIERREZ: Yes.

(Pause.)

THE COURT: All right. This subpoena was

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issued by the defense. Has the State requested Mr. -- I'm sorry, Detective Ritz to testify in this case?

MR. URICK: No, Your Honor. Neither in the first trial or this trial.

THE COURT: All right. And Mr. --

(Pause.)

THE COURT: All right. With regard to the notation of a letter from Detective Ritz requesting that I release him from his requirements under the subpoena, which is why I generally note. First I will note that this letter's an acknowledgement that he has, in fact, received the subpoena. Secondly, I would note that I have an inquiry that the State will not be needing the witness; is that correct?

MR. URICK: That is correct, Your Honor.

THE COURT: Defense, do you believe you'll be needing this witness?

MS. GUTIERREZ: Judge, I did, and I will note for the record --

THE COURT: Okay. No, no. Wait. Cause we don't have to have a fight about this. I just want to know --

MS. GUTIERREZ: I don't know. I am willing to look at whether or not Detective McGilvery --

THE COURT: Can come.

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MS. GUTIERREZ: -- can satisfy all of them. I don't know that off the top of my head.

THE COURT: Fine.

MS. GUTIERREZ: You know, it --

THE COURT: He's under sub --

MS. GUTIERREZ: He may or may not.

THE COURT: He's under subpoena, he will be expected to be available with the following caveat: In the event that by Tuesday we're not able to reach him --

MS. GUTIERREZ: I'll certainly try to do this by Monday, to let you know.

THE COURT: -- then we will recess until he's available. And then we'll come back and finish the case. So, as far as I'm concerned, this is not an issue. I'd ask Ms. Gutierrez that if you determine between now and Tuesday that you will not be needing Detective Ritz, if you would let the Court know --

MS. GUTIERREZ: Yes, I will.

THE COURT: -- so that he may be advised.

If he is advised that he's not needed, no problem. If you advise me that he will be needed, that at the point in time when we need his testimony, we will recess. So that you will have more than enough time to call him.

MS. GUTIERREZ: Well, the only thing I know,

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Judge, I don't -- certainly it can, particularly with the weather, but I don't think that any of us anticipate this trial going up until and including the 16th, which would mean a lengthy delay for the sole purpose of presenting a defense witness.

That presents some great difficulties for a defendant to choose, you know, to cut up his defense to unfairly highlight certain things than others that I believe are not fair and not consistent with due process.

THE COURT: Ms. Gutierrez, I am not going to give in to your strategy, tactical or otherwise, nor am I going to get into how the defense chooses to put on a case, what witnesses to call, whether to call any, all, none. I will not get involved in that.

You've issued a subpoena for a witness, and you heard me say that I accept this as acknowledgement that that witness has received that subpoena. And I will ensure that your witness is available to testify, and if that means we recess the case until he has returned to the continental United States, that's what we will do. If you choose to call him first, last, or you decide not to call him at all, that is up to you.

MS. GUTIERREZ: No, but --

THE COURT: You've issued the subpoena.

MS. GUTIERREZ: -- the reality is that, you

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know, there is no chance of reaching the defense prior to midnight on the second, so our only choice is that the Court has left us is no choice, and so you are impacting on --

THE COURT: That's not true, Ms. Gutierrez --

MS. GUTIERREZ: -- waiting two weeks potentially before calling a defense witness, out of turn, unrelated to a cohesive defense.

THE COURT: Well, Ms. Gutierrez, if I recall, you have about 25 to 30 defense witnesses listed.

MS. GUTIERREZ: That's correct, Your Honor. But --

THE COURT: And so, as far --

MS. GUTIERREZ: -- we're not required to put any of them on --

THE COURT: That's right.

MS. GUTIERREZ: -- and we may not.

THE COURT: That's -- and I -- that's why I said --

MS. GUTIERREZ: Detective Ritz and McGilvery's testimony goes to the only available way to get in certain information about which the lack of disclosure we have complained repeatedly. This is based on disclosure. They were both served with summonses --

THE COURT: I don't require you to tell me the

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reasons for your calling them.

MS. GUTIERREZ: -- to appear as defense witnesses in the middle of the last trial.

THE COURT: I do not require you telling me why.

MS. GUTIERREZ: And that was done that because they insisted. They wouldn't even agree to stay around, although Mr. Urick had them there every day, insisted that the only way they would respond is if we served them with summonses, so we did.

THE COURT: I don't require you to tell me the reason why you're calling them at this time. Nor do I require your telling me what order you want to call them. I'm just ensuring for you that you have subpoenaed this witness. I will not release him from that subpoena.

However, I will accommodate a prearranged travel that is going to occur sometime between February 2nd, and the 16th. You have a copy of that letter. I will afford him the same opportunity I would you or anyone else, if there were some scheduling issue that came up.

I'm advising you that I will, if necessary, break in this trial until that witness is available. If you decide that that is your next witness and you do not wish to call him out of turn, we will recess till he

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returns.

If you decide that at that point in trial you would like to call him or some other witness, you are welcome to do that. But I will let you know that I accept this as his receipt of the summons, as acknowledgement of his duty to be present, and I will advise him that upon his return he should let the Court know.

Now, at some point, we may finish the case but for this witness, or it may be that we use that time to go over jury instructions, or in any other way make effective use of the time when the witness is not available. But at this juncture, on a day when a snowstorm is due, when I don't even have any idea if we're gonna be sitting for the first three days of the week at all, I'm letting you know that I will honor your subpoena, the Court will honor it to the extent that this witness will be made available to you, so that he's available for your defense.

All right? Are there any other matters before we break for the weekend?

MR. URICK: Detective Ritz is present if you want to advise him?

THE COURT: Very well. Detective Ritz, I need to advise you that I have received your letter, I have

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first acknowledged that you have received the summons, so, therefore, you must honor that summons with the exception that you are leaving the United States on February 2nd?

MR. RITZ: Yes, Your Honor.

THE COURT: Do you know what time you're scheduled to depart?

MR. RITZ: I believe it's 6:45 a.m.

THE COURT: All right. Upon your return, I'd ask that you check in with the Court on February 16th when you return.

MR. RITZ: The Court will be closed at that time, Your Honor.

THE COURT: Well, the next work day. But my law clerk, or no. Mr. White, will you please give the detective my business card? It's right there. You can still call the Court --

MR. RITZ: Yes, ma'am.

THE COURT: -- and leave a message on my answering machine that you have returned. I would advise you that you need to check with us on February 1st to see whether or not we're gonna recess or how we're gonna handle your absence.

MR. RITZ: Yes, Your Honor.

THE COURT: We may not be finished this trial,

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I do not know where we will be. And I'd also ask that upon your return that you check with WBAL television to see whether or not the court is open due to the snowstorm.

But you are free to go on this trip that you have planned, that these arrangements have been made prior to your receipt of the summons. According to this you received that summons on January 10th -- I'm sorry --

MR. RITZ: That's correct.

THE COURT: -- on January 10th, 2000, and you are under subpoena, but you will be permitted to leave and travel the period of time from February 2nd to the 16th. However, you need to advise the Court upon your return. Do you understand?

MR. RITZ: Yes.

THE COURT: You have any questions about what I've just said?

MR. RITZ: No, Your Honor.

THE COURT: Very well. And I thank you for advising the Court of your scheduling thing, and we will do our best to accommodate you in the following way that I've indicated.

MR. RITZ: Thank you very much, Your Honor.

THE COURT: All right. Very well.

Okay now, this Court will stand in recess, and

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as I said, please keep in mind, WBAL, Channel 11 will advise you if this Court is closed. And I'd ask Mr. White, if you would place this in the Court file? Thank you.

(The trial recessed at five o'clock, p.m.)

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REPORTER'S CERTIFICATE

I, Charles F. Madden, an Official Court Reporter of the Circuit Court for Baltimore City, do hereby certify that the proceedings in the matter of State of Maryland versus Adnan Syed, Case Numbers 199103042-46, in the Circuit Court for Baltimore City, on January 28, 2000, before the Honorable Wanda Keys Heard, Associate Judge (and a jury.) were recorded by videotape.

I further certify that the page numbers 1 through 301 constitute the official transcript of the proceedings as transcribed by me from said videotape to the within typewritten matter to the best of my ability.

In Witness Whereof, I have affixed my signature this 18th day of April, 2001.

_____
Charles F. Madden
Official Court Reporter

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