923-00
31 of 35

IN THE CIRCUIT COURT FOR BALTIMORE CITY
(PART 9)

STATE OF MARYLAND *

v. * CASE NO. 199103042,43,45,46

ADNAN SYED *

Defendant *

_____/*

BALTIMORE, MARYLAND
WEDNESDAY, FEBRUARY 23, 2000

(TRIAL ON THE MERITS)

BEFORE:
THE HONORABLE WANDA K. HEARD, ASSOCIATE JUDGE

(AND A JURY)

APPEARANCES:
FOR THE STATE:
KEVIN URICK, ESQUIRE
KATHLEEN C. MURPHY, ESQUIRE

FOR THE DEFENDANT:
CRISTINA GUTIERREZ, ESQUIRE

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

RECORDED BY: VIDEOTAPE

TRANSCRIBED BY: DELORES HAY
OFFICIAL COURT REPORTER
517 COURTHOUSE EAST
111 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202

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TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the matter of the State of Maryland v. Adnan Syed, Case Numbers 199103042,43,45,46, heard on February 22, 2000, were recorded by means of videotape.

I do hereby certify that the aforegoing pages constitute the official transcript of said videotaped proceedings to the best of my ability in a complete and accurate manner.

In witness whereof, I have hereunto subscribed my name this [illegible] day of September 2000.

Delores Hay, Official Court Reporter

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PROCEEDINGS

(10:01 a.m.)

(Jury present)

Whereupon,

[redacted] S[redacted]

was recalled as a witness at 10:01 a.m., and after having been first duly sworn, was examined and testified as follows:

THE COURT: One moment. Ms. Gutierrez, my understanding is the equipment was not running. I need you to have -- I apologize for the inconvenience.

MS. GUTIERREZ: That's all right.

THE COURT: Can you start over?

MS. GUTIERREZ: Yes.

Mr. Sellers, I'm going to start over and ask you the same questions. Yesterday --

THE COURT: One second.

Just for the record, let the record reflect that Mr. S[redacted] took the oath. He raised his right hand in the presence of all in this courtroom, was sworn in and duly took the oath. At the time he did so, the recording device was not on, but let the record reflect that the oath was properly taken in the presence of everyone.

MS. GUTIERREZ: Thank you, Your Honor.

THE COURT: Indicated his name's [redacted] S[redacted].

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Had been previously sworn in yesterday.

You may proceed.

MS. GUTIERREZ: Thank you.

CONTINUATION OF DIRECT EXAMINATION

BY MS. GUTIERREZ:

Q Mr. S[redacted] I'm directing your attention back to January 13th, 1999, all right?

MR. URICK: Objection.

THE COURT: Sustained.

Restate your question.

BY MS. GUTIERREZ:

Q Mr. S[redacted] first I'd like to direct your attention back to January 13th, 1999.

MR. URICK: Objection.

THE COURT: You're not going into anything we discussed at the bench, are you?

MS. GUTIERREZ: No, Judge.

THE COURT: Okay. Very well.

I think you're going to have to be a little bit more specific so that this witness will know that. I think that's the meaning of Mr. Urick's objection.

MR. URICK: She's -- I believe we're talking about February 9th.

THE COURT: February 9th and not January 9th?

MS. GUTIERREZ: No, Judge. Oh, I'm sorry.

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THE COURT: Okay.

BY MS. GUTIERREZ:

Q Mr. Sellers, I'd like to direct your attention to February 9th, 1999, do you recall that day?

A Not really, but I --

Q We spoke about that day yesterday, did we not?

A Yes, yes.

Q Okay. There was a day, whether or not you recall the exact date, wherein you found a body or what you thought to be a body --

A Right.

Q -- inside Leakin Park, is that correct?

A Correct.

Q That's the day I'd like to direct your attention to.

A Right.

Q Yesterday you told us that you left your work at lunchtime to drive home to get a plane, is that correct?

A Yes, correct.

Q Now, when you got home, having driven through Leakin Park, there were several people at your home?

A Two.

Q Okay. And that was your stepson Tyrone?

A Yes.

Q And his girlfriend?

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A Yes.
Q And does she have a name?
A I don't remember her name.
Q You don't remember at all.
A He has so many friends.
Q But you spoke to them?
A Yes.
Q They physically saw you?
A Yes.
Q You actually entered your house, is that correct?
A Correct.
Q And you were in your house for how long?
A I'm not sure, maybe 15 minutes.
Q Fifteen minutes. And during that time, before you left, you didn't eat lunch, right?
A No.
Q Is that right?
A Right.
Q Okay. And when you left or as you were leaving, you grabbed something to drink from your refrigerator?
A Yes, I did.
Q And that was?
A It was a beer.
Q A beer. And how many ounces was that beer?
A Twenty-two.

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Q A 22 ounce of beer, and the brand name was?
A Budweiser.
Q A Budweiser. And you drank that to drink on your way back?
A Yes, I did.
Q Okay. And is there anything else you took from your home?
A A tool.
Q A tool. And was that tool the plane?
A Yes, it was.
Q Okay. And that was a plane that you had needed to shave down a door?
A Yes.
Q And the door was located where?
A In the gym.
Q In the gym?
A Yes.
Q And you had previously been given a work order to do that?
A Yes.
Q Okay. And by a door, I want to make sure that we're referring to the same thing. Do you mean a door by which you walk through?
A Yes, that is a door.
Q Not a window?

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A We don't have wooden windows there. It's a door.
Q Okay. And your work order said a door?
A I'm quite sure it did.
Q Okay. And what you were intending to use the plane on was a door?
A Yes.
Q Okay. And the reason for going home was to get that plane, not to get lunch?
A Right.
Q Because you still had lunch down at your work, is that right?
A Exactly, right.
Q So you grabbed a beer, and did you open it?
A Yes, I did.
Q And did you start to drink it?
A Yes, I drank it.
Q And did you return to school using the same route --
A Yes.
Q -- that you'd used to come out to your home?
A Yes.
Q Okay. And that's -- to you, is it not?
A Yes.
Q It's a pretty direct way to get back to around near Coppin, is it not?

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A That's right.

Q Okay. And that was not the first day that you had ever used that?

A No.

Q Okay. Now, while you were driving through Leaking Park, at some point you stopped -- you were driving a truck?

A Yes.

Q All right. And at some point you stopped?

A Yes.

Q And you parked your vehicle?

A Yes, I did.

Q Okay.

MS. GUTIERREZ: May I approach, Your Honor?

THE COURT: Yes, you may.

MS. GUTIERREZ: Thank you.

BY MS. GUTIERREZ:

Q I'm going to show you, Mr. S[redacted], what's been marked as State's Exhibit 9 and ask you to look at that. If you would just look at the picture to yourself.

If you would look at the picture up in the left-hand corner, is that where you pulled your car off?

A Um-hum.

Q Is that a yes?

A Yes.

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Q Okay. Now, Mr. S[redacted] you pulled your car off to that location shown on State's Exhibit 9 for what purpose?

A It was a truck, not a car.

Q Pardon?

A It was my truck. I didn't have a car, I had my truck.

Q I'm sorry. You pulled your truck off to that location that you've identified for what purpose?

A I had to use the rest room.

Q Now, was there a rest room located there?

A I'm just using that frame (sic). Okay, I had to go to the bathroom.

Q Well, it's all right to say it.

What was your purpose in pulling the car off?

A I just explained that I had to use the rest room.

Q Okay. Now, people use the rest room for various purposes. What was your specific purpose? What did you have to do --

A I had to urinate.

Q -- that caused you -- pardon?

A I had to urinate.

Q To urinate. And there is no rest room or any gas station or any light structure there, is there?

A No, it's not.

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Q Pardon?
A No, it's not.
Q Okay. And, sir, had you -- how much of your beer had you finished?
A Probably maybe half, I'm not sure.
Q Okay. And because you had drunken that in the car on your way back --
A Yes.
Q -- to what would have been your lunchtime then, right?
A Right.
Q Now, sir, did you run into much traffic on the way, before you decided to stop?
A I'm not sure. I don't know. I don't know.
Q You don't remember if there was much traffic?
A No, I don't remember.
Q When you pulled your truck off the road, did you actually pull into that space outlined?
THE COURT: Ms. Gutierrez, one moment, please. One moment, please.
Officer, could you come up?
(Off-the-record discussion not pertaining to this matter.)
Ms. Gutierrez, I'm going to have to interrupt you for a second. I apologize again. I know my scheduling has

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been very difficult, but I do have a matter I need to resolve.

Ladies and gentlemen, I'm going to let you walk back to the jury room just for a few moments. I promise you, it's not going to be anymore than 10 minutes. Ask that you -- if you want to use the facilities, do so. We're going to sit straight through then until about 12:15.

Leave your notepads face-down. Do not discuss the testimony of Mr. S[redacted]

Mr. S[redacted] you remain seated where you are. You do not have to leave. We're just going to take a brief recess, just a very brief recess.

Ladies and gentlemen, I'm going to ask that you go with Mr. White.

Mr. White, if you'd walk the jurors over.

(Whereupon, at 10:11 a.m., the jury was excused.)

Counsel, you may stay in the vicinity, you do not have to move. What we're about to do will take only just a few moments.

And, Ms. Gutierrez, you're welcome to stay or if you'd like to step out for a moment, you're welcome to do that as well.

(Whereupon, at 10:11 a.m., the trial was recessed and subsequently reconvened at 10:25 a.m.)

(Jury present)

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THE COURT: Ladies and gentlemen, thank you very much.

Mr. S[redacted], I'll remind you you're still under oath.

BY MS. GUTIERREZ:

Q Mr. S[redacted] when you pulled your car off the road, did you back it into that space?

A Excuse me?

Q When you pulled your truck off the road, you had to back it into that space?

A Yes.

Q And the reason was because of the urgency of needing to urinate?

A Yes.

Q And you had --

THE COURT: On moment. We need Mr. S[redacted] to speak up. The jurors cannot hear you. And I'd ask that -- pretend you're talking to the lamp that's in the back of the room. See that lamp on the wall?

THE WITNESS: Um-hum.

THE COURT: Pretend that's the person you're talking to. If you do that or if you turn and speak directly to the jurors, perhaps that will help them. But they can't hear you, and that means as long as they can't hear you, every time I see their little hands go up over

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there, I'm going to ask you to repeat what you just said, and you're going to get tired of that. So if you would keep your voice up, lean forward.

And, ladies and gentlemen of the jury, if you can't hear him, just raise your hand, and I'll make him repeat what he's just said. Very well.

Ms. Gutierrez, you may continue.

BY MS. GUTIERREZ:

Q So, Mr. S[redacted] you had to back your truck into where it was that you parked?

A Yes, I did.

Q And at that time, were there any people there?

A No.

Q And were there any cars going by?

A Yeah. Probably was, yeah.

Q But you don't know?

A Cars go by every day. I guess so.

Q At that exact moment that you pulled your truck in, were there cars going by on Franklintown Road?

A Yes.

Q Now, you have a bathroom at your house?

A Yes.

Q But you didn't use it?

A No.

Q And from the time you got into your truck, which

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is parked at your house on Gilmore to where you pulled over your truck is a distance just under three miles, isn't it?

A Yes.

Q Okay. And you didn't make any detours?

A No.

Q You didn't go off and go someplace else?

A No.

Q You went right down Dogwood Road, right into the park?

A That's the way I traveled.

Q Okay. And during that time, you had drunk about half of the 22 ounces of beer?

A Yes, I did.

Q While you were driving?

A Yeah.

Q Okay. Now, when you pulled in, did you urinate right there as you pulled your truck off the side of the road?

A No, no.

Q You went a good distance back?

A Yes, I did.

Q Was there a pathway?

A I don't think so, I'm not sure.

Q You had to move things, like the thorns, out of the way in order to continue back?

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A I guess so, yeah.

Q Well, is it I guess so or is it a yes or no?

A Yes. Yes.

Q You did. It wasn't easy to travel back beyond where you parked your truck, was it?

A I'm not sure. I don't remember.

Q Well, Mr. S[redacted] eventually you got to a place where there's a log?

A Yes, right.

Q Okay. And that log was not visible from where you parked your truck, was it?

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

Q Well, sir, the log wasn't your destination, was it?

A I had no destination.

Q You just wanted to get back so that people couldn't see you?

A Exactly.

MR. URICK: Objection. As to the form of the question.

THE COURT: I understand.

Sustained as to the leading nature of the question.

BY MS. GUTIERREZ:

Q Why did you want to go back so far off the road?

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A So no one wouldn't see me.

Q So no one could see you?

A Right.

Q In fact, that's exactly the words that you used to describe it to the police when they asked you the same question?

A I guess so. I don't remember. It's been a while.

Q You don't remember when you spoke to the police?

A I remember I spoke to the police. I don't remember -- it's been a while since then.

Q Okay. Now, Mr. S[redacted] when you didn't want people to see you, were you concerned about them or were you concerned about yourself?

MR. URICK: Objection.

THE COURT: Overruled.

You may answer.

THE WITNESS: I was concerned about myself.

BY MS. GUTIERREZ:

Q About yourself?

A Um-hum.

Q About your own sense of privacy?

A Right.

MR. URICK: Objection.

MS. GUTIERREZ: Did you want people --

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THE COURT: Wait, wait, wait. Slow down.

The objection is sustained and, counsel, I'm going to ask that you not lead this witness. This is your witness.

BY MS. GUTIERREZ:

Q What were you concerned about, Mr. S[redacted]

A Privacy.

Q Privacy. And whose privacy was that?

A I guess that's mine's.

Q And what is it that you didn't want people to see?

MR. URICK: Objection.

THE COURT: Overruled.

THE WITNESS: I guess urinating.

BY MS. GUTIERREZ:

Q Yourself urinating?

A Right.

Q So you are pretty far back. How far of a distance was that?

A I don't remember.

Q You don't remember?

A No, I don't.

Q But it was pretty far?

A I guess.

Q Okay. And you got to this place where there was

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a tree?

A Yeah.

Q And, sir, did you urinate?

A No, I did not.

Q The tree that I'm speaking about, was it dead or alive?

A It was the fallen, fallen tree. The fallen tree you're talking about?

Q The fallen tree. And so, was it upright or laying on the ground?

A Well, it was fallen, I guess it was laying down.

Q Okay. And on what side of the tree were you, the side closest to the street or the side farthest away from the street?

A I can't answer that one. I don't remember.

THE COURT: I'm sorry, I can't hear you.

THE WITNESS: I can't answer. I don't remember.

BY MS. GUTIERREZ:

Q You don't remember which side you were on?

A On the tree side?

Q Yes.

A I was on the right side.

Q Well, now, sir, if I'm asking you -- did you get to that tree going back into the woods directly by walking from where you parked your truck?

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A Say that again. I'm sorry.
Q You pulled in and parked your truck at that location that you identified in the picture, right?
A Right.
Q And that location is right next to the road?
A Yeah.
Q And is that road Franklintown Road?
A Yes, it is.
Q Okay. From that point, you got out of your truck?
A Yeah.
Q And you walked back into the woods far enough to run into this fallen tree?
A I guess, yeah.
Q Okay. Now, picture yourself there. There's a side of the tree while it's laying down that's closest to the road, to where you were parked, and then there's the other side of the tree that is farthest away from where you parked your truck.
A I don't know. I don't remember.
Q You don't know if there are two sides of the tree?
A Two -- I don't understand your question.
Q When you got to the tree, were you walking alongside the tree?

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A I was beside the tree.

Q Beside the tree. And the side that you were on was the side of the tree that was closest to where you parked your --

A I don't know. I guess it was, I'm not sure. I don't know.

Q Did you step over the tree?

A Yes, I did.

Q Okay. So, and did you urinate?

A No, I did not.

Q And it was while you were stepping over the tree that you saw something?

A When I started to urinate, that's when I thought I seen something and I -- that stopped me from urinating and --

Q There was something --

THE COURT: Wait, wait, Ms. Gutierrez. I can't hear his answer because you're cutting it off by your question.

You said I started to urinate, and then I didn't hear anything else.

THE WITNESS: I said I started to urinate. I stopped because when I looked down, what I seen, what I thought I may seen, and that made me stop from, you know --

BY MS. GUTIERREZ:

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Q And what you thought you might have seen was what?

A I thought I might have seen a body.

Q Okay. Let me go back. Did you not urinate or did you start to urinate and actually urinate some --

A I started to --

Q -- and then --

MR. URICK: Objection.

THE COURT: Okay. Ms. Gutierrez is entitled to ask you a question. And if you start answering before she stops, you will not be answering her question, you will be answering what you think her question is going to be and not her question. So you must let her finish her question before you answer.

And, Ms. Gutierrez, before you ask the next question, let the witness stop talking. That way, we get both the question and the answer.

Understood, Mr. S[redacted]

THE WITNESS: Yes.

THE COURT: Understood, Ms. Gutierrez?

MS. GUTIERREZ: Yes, Judge.

THE COURT: Very well.

BY MS. GUTIERREZ:

Q All right, Mr. S[redacted], my question was before you stepped over the log, had you actually started to

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urinate and then stopped or had you not begun to urinate at all?

A No, I did not start to urinate.

Q You did not start to urinate?

A I mean -- no, I did not. No, I did not.

Q Okay. Now, when you saw what you saw, was it on the other side of the tree that you were stepping over or was it --

THE WITNESS: Yes, it was. Excuse me, I'm sorry.

BY MS. GUTIERREZ:

Q It was on the other side from where you came from, is that right?

A Yes.

Q And what you saw was what?

A What I thought it was a body.

Q You thought it was a body?

A Um-hum.

Q And did it appear to be the outlines of a body?

A No, not until I seen what looked like a foot was sticking up.

Q You saw a foot?

A Um-hum.

Q And you saw something else, didn't you?

A Yeah. It looked like the head.

Q Hair?

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A The hair, right, exactly.

Q Did you see the head or was it the hair?

A Just hair.

Q It was hair, okay.

And after you saw that, did you do anything to investigate whether or not it really was a body?

A No. I left out there quickly.

Q You left out there?

A I left quickly because I was, you know, frightened and --

Q Because?

A I was frightened, scared.

Q You were frightened of what you thought you saw?

A Yes.

Q Now, sir, did you take a stick and investigate?

A No.

Q Not at all?

A Not really. I don't think so.

Q You just left quickly. Did you return to your truck?

A Of course.

Q And you pulled your truck out of there?

A Yes.

Q And did you return to Coppin State College?

A Yes.

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Q Now, sir, you're familiar with that area, are you not?

A Yes.

Q And right past where you stopped, about 760 feet, was a cut off to a road by the name of Winands Road, is there not?

A I don't know the name of the road. It's a --

Q But there is a road?

A Yes, it is.

Q About 800 feet from where you were?

A I believe so, yeah.

Q Okay. And that road, whether or not you're familiar with its name, ends up winding around and crosses Edmondson Avenue, does it not?

A I don't know.

Q Okay. The direction from whence you came from your house, right before you actually enter the park there are about four bars, are there not?

A Excuse me, say that question again.

Q The direction that you came from your house, once you entered Dogwood --

A Yes.

Q -- and you went into the park, right before you actually enter the park there are about four bars, are there not?

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A I don't know how many they are. I know there is a bar -- couple of bars there.

Q There's a bunch of bars, are there not?

A Yeah.

Q Okay. And you are familiar with Edmondson Avenue?

A Yes, I am.

Q It's a major thoroughfare?

A Yes.

Q With lots of businesses?

A I guess. Houses, I don't --

Q Including gas stations?

A I guess, yes.

Q And you're familiar with a road by the name of Cook's Lane that intersects with Edmondson Avenue?

A I guess so, yeah.

Q And Cook's Lane runs down almost parallel to that Winands Road, the road that runs off of Franklintown, the name that you don't know which?

A Okay, if you say so.

Q And there's a gas station or a Royal Farms store right before Cook's Lane turns into Security Boulevard, isn't there?

A I don't recall.

Q Anyway, you continued down Franklintown Road,

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correct?

A Yes, right.

Q You ended up at or near North Avenue?

A Yes.

Q And you parked in your regular parking place at Coppin State College?

A Well, somewhere around in the parking area, parking lot, yeah.

Q It was Lot D, wasn't it?

A I guess it is, yeah.

Q Well, you guess; does that mean yes?

A Yes.

Q That's where you always park?

A I mean, if you know it's Lot D, I guess so.

Q Well, did you use Lot D back then?

A If that's where -- I'm not sure which lot -- what it's called but --

Q You parked on the regular lot?

A Yes, where I usually park at.

Q When you worked at Coppin, you had a regular place to park?

A Yes.

Q As a maintenance worker?

A Right, right.

Q Okay. And from -- before you got to that lot,

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did you stop and call the police?

A No. I went to the Coppin Police.

Q No, sir, my question was before you got to that parking lot did you stop and call the police?

MR. URICK: Objection.

THE COURT: Overruled.

Did you stop and call the police before you got to the parking lot?

THE WITNESS: No. I went to the Coppin Police. I went to the police, I went --

BY MS. GUTIERREZ:

Q And on the way down you didn't stop and call the police?

A No, I did not.

Q And did you flag down a police officer?

A No.

Q Did you go to a police station?

A There's no police station on North Avenue that I know of.

Q Not on Edmondson Avenue?

A I don't know if it's one on Edmondson Avenue or not.

Q So, sir, is it your answer that you didn't go to the police station because you didn't know where it was?

MR. URICK: Objection.

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THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Mr. Sellers, when you got to the lot, you then returned to the building where you worked?

A No. I think I went to the police station at Coppin State Police.

Q The Coppin Police station, is that right?

A Um-hum.

Q And that's someplace different from where you were?

A Yes.

Q Okay. And at that police station, did you make a call to the Baltimore City Police?

A No. I had them to call.

Q You had the police at the Coppin State Police station call?

A Yes.

Q And who was that person?

A The police chief.

Q That was Chief Collins?

A Yes, right.

Q Okay. Now, sir, is it your testimony that that happened right away? You parked your truck in whatever lot you usually park it and then you went right to the Coppin State Police and you had them call?

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A Yes, I did.

Q Nothing happened in between?

A Not that I remember, no.

Q Well, sir, don't you remember telling the police that you went to the police station but it was to ask where a specific officer was?

A Excuse me?

Q Don't you remember telling the police that you went to the police station but your purpose was to ask where a specific Coppin State Police officer was?

A Oh, yes, I did. Yes, right.

Q That specific Coppin State Police officer's name was George --

A George.

Q -- Anderson?

A Yes, right.

Q Anderson. So now, does that help refresh your recollection?

A Yes. It was George Anderson.

Q So when you -- and you did that, didn't you?

A Yes, I told George Anderson.

Q You went to the police station and you asked where George Anderson was --

A Right.

Q -- is that right?

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A Yes.

Q You didn't tell them about what you thought you saw in Leakin Park, did you?

A No. I told George Anderson.

Q Okay. But first, you had to find George Anderson, right?

A Yes, I did.

Q And --

A Because see, he wasn't really the police officer. I wanted to find a police officer.

Q You wanted to find -- but you asked where George Anderson was, right?

A Yes, I did.

Q He was a police officer that you knew?

A Well, I mean, I work at Coppin, he works out at Coppin. We all know each other.

Q So the answer to my question is yes, you knew him?

A Yes, by work --

Q Okay. And you went to that police station and at that time you didn't tell them that you had just come from Leakin Park where you had seen what you thought was a body, did you?

A Yes, I did.

Q Yes, you did?

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A You asked me did I tell him?

Q No, sir. At that time, when you first got to that police station, did you tell them what you had just seen or thought you had seen?

A You just asked me the question I asked --

THE COURT: Mr. Sellers, you don't get to ask questions, you get to answer.

THE WITNESS: I did not tell him. I asked for George Anderson. I asked for where George is.

BY MS. GUTIERREZ:

Q Where George was?

A Exactly.

Q A guy that you knew?

A Because he was working at the time.

Q Okay. And you got information from them as to where he was --

A Yes, I did.

Q -- didn't you?

A Right.

Q And he was not close to where you were at that police station, was he?

A Not, not right there, no. He was down on the corner.

Q The corner being North Avenue and?

A Warwick.

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Q And Warwick, is that right?
A Right.
Q And you went down to where he was, did you not?
A Yes, I did.
Q And did you have a conversation with him?
A Yes, I had a conversation with him.
Q And you told him, the man you knew, what you had seen?
A What I thought I may have seen, yes, I did.
Q Is that right?
A Yes. And he told me to go to the police -- the head of the police department.
Q Chief Collins?
A Chief Collins, right.
Q Is that right? And you knew that before you heard that from him, didn't you?
A I knew what?
Q That Chief Collins was the head of the department?
A Yes, I did.
Q Yes. And you didn't need to go search out George Anderson to find out who was the head of the police department at Coppin.
MR. URICK: Objection.
THE COURT: Sustained.

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THE WITNESS: He did not know where --

MS. GUTIERREZ: Mr. S[redacted]--

THE COURT: Mr. S[redacted] you don't have to answer that.

Next question.

BY MS. GUTIERREZ:

Q Mr. S[redacted] so George Anderson told you to go speak to Chief Collins, is that right?

A Yes.

Q And you went and spoke to Chief Collins?

A Yes.

Q And where his office is is not at the police station that you asked for directions to locate George Anderson?

A No.

Q And it's in a different building?

A Yes, it is.

Q And it's in a different building than you worked, right?

A Right.

Q And the name of the building where you work is -- is that the Frances Merker (phon. sp.)?

A Yes, it is.

Q Okay. And the name of the building where Chief Collins is is where?

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A It's the same building.
Q Okay. Now, in the very same building that you work?
A Um-hum.
Q Is that right?
A Yes.
Q The same building you report to work every day?
A Yes.
Q Back then anyway, right?
A Right, right.
Q And where you would get your work orders, right?
A Yeah.
Q And you knew before Mr. Anderson to go to Chief Collins that Chief Collins' office was in your building, didn't you?
A Yes, but he didn't know he was there or not, so I went to him because Chief Collins went --
Q Well, before you wasn't --
A I don't think he was there.
THE COURT: Mr. S[redacted] --
THE WITNESS: I'm sorry.
THE COURT: -- you're adding all the stuff that you want us to know, but that's not your job. Your job is just to answer the question that is asked.
THE WITNESS: Okay.

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THE COURT: Do you understand?

THE WITNESS: Yes, I do.

THE COURT: If you want to add to your question because you -- I mean your answer because you don't think it's complete, you can do that, but you're to answer the question, all right?

THE WITNESS: Okay.

THE COURT: Now, the question is?

BY MS. GUTIERREZ:

Q Now, Mr. S[redacted] your purpose in going to find George was not to find out whether or not Chief Collins was in, was it?

A Well, I didn't know -- at that time, I just had to go find a police officer. I didn't know who to go to first. I went to tell him.

Q So it didn't matter to you that it was George, it could have been any police officer?

MR. URICK: Objection.

THE COURT: Overruled.

It didn't matter who it was?

THE WITNESS: Oh, no, it didn't matter, no.

BY MS. GUTIERREZ:

Q It didn't matter.

So you really didn't have to --

A But -- I'm sorry.

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THE COURT: One minute.

But?

THE WITNESS: But he was the only one working at the time. He was on duty at the time, so he was the only one I could go to.

BY MS. GUTIERREZ:

Q So you asked for him because you were told that he was the only one on duty?

A I know their work hours.

Q So you already knew that he was on duty?

A Yes, I did.

Q This man George Anderson that you knew, is that right?

A Right, um-hum.

Q But in between the time of getting information about where he was you didn't go back to the Frances Murphy building to find out if the chief was there, did you?

A No, I did not.

Q When you were told where George Anderson was, you were told that he was at that location at the intersection of Warwick and North Avenue, investigating an accident --

A Yes.

Q -- were you not?

A Right.

Q And when you got down there, that's exactly what

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he was doing, was he not?

A Yes.

Q Investigating an accident, right?

A Well, I don't think he was investigating, he was doing, like, road work or whatever, letting people go by.

Q Directing traffic?

A Directing traffic, yes.

Q Around the accident?

A Right.

Q That blocked the intersection?

A Yes.

Q He was pretty busy, wasn't he?

A Not really. When I got down there, he was ready to leave. He was leaving, I think.

Q And so, you asked him was Chief Collins in?

A Right. Yes, I did.

Q Okay. He told you go see Chief Collins?

A Yes, he did.

Q The man that you already knew, his office and where it was located?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Now, Mr. S[redacted], you then went to see Chief Collins?

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A Yes, I went to see him.

Q And how long did all this take?

A I'm not sure. I don't know. It happened so fast.

Q Sir, you had been the one that thought that what you saw on the far side of that tree was a body?

A Yes, right.

Q And you weren't sure but you pretty strongly thought that?

A Yeah. In a way, yeah.

Q And having been at that location, sir, where the body was was not an easy location to find, was it?

A I mean, you could find -- I don't know. If you're just walking to get back in the woods to do your business, I guess you can find it, yeah.

Q So if anybody else happened to be walking in that exact place at the park there, then they would have found the body?

A Yes.

MR. URICK: Objection.

MS. GUTIERREZ: Would that --

THE COURT: Overruled.

BY MS. GUTIERREZ:

Q Would that have been easily?

A Yes, because a lot of people do fishing there.

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Q Okay. And back then on February 9th, was there anybody fishing back there?

A Oh, I didn't see anybody fishing, not that day.

Q Did you see --

THE COURT: I'm sorry, I couldn't hear the end of that.

THE WITNESS: No one was fishing that day that I seen anybody back there that day, no.

BY MS. GUTIERREZ:

Q Certainly not in February?

A Hmmm.

Q Is that a yes or a no?

A I guess not.

Q Now, so you went and you found Chief Collins, right?

A I did what?

Q You went and found Chief Collins?

A Yes, I did.

Q And he was in?

A Yes, George told me he was in. George had called -- excuse me. George had called the office to see if he was in and he told me he's there, so go up there and talk to Chief Collins.

Q And when you were at the police station and you asked for Chief Collins, did you ask them to see if

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Chief Collins was in?

A Did I ask who? Oh, no, no, no.

Q No. And ask them to call up his office and see if he was there?

A No, I didn't.

Q And you didn't tell them anything about why it is you needed George?

A No.

Q Okay. Now, you went to see Chief Collins and you told them what you've told us?

A Yes.

Q About having to urinate badly and, because of your privacy, going back into the woods --

A Yes.

Q -- and seeing what you thought was a body, is that right?

A That's right.

Q And did you give them a location of where the body was?

A No.

Q And it was Chief Collins that called the police --

A Yes.

Q -- of Baltimore City --

A Right.

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Q -- is that right?
A Yes.
Q And what time was that?
A I don't remember.
Q Well, how long after you had seen this thing that you thought was a body?
A Maybe they got there maybe a couple hours after that, I'm not sure. I don't, I don't remember.
Q A couple hours.
A I don't know.
Q A good bit of time?
A I don't know. I don't remember. I don't recall.
Q Okay. Now, Mr. S[redacted], you were there when Chief Collins called the police?
A Yes.
Q And shortly after that time, did a police officer come get you?
A Yes, I think -- yeah.
Q And --
THE COURT: I'm sorry, what did you say?
THE WITNESS: I believe it was two of them.
BY MS. GUTIERREZ:
Q Two police officers came and they physically got you, right?
A Physically?

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Q You then went with them?
A Yes, I went with them.
Q Okay. And you rode in their car?
A Yes, I did.
Q And you were taken back to that pull-off place where you had backed in your --
A Yes, I took them back to the place.
Q -- your truck, is that right?
A Yes. I took them back there.
Q And they needed you to show them what it was that you said you had seen, is that right?
A Right, right.
Q And so, you had to take them back the same way, is that right?
A Well, actually, I couldn't find it. We had to walk around and look for it, and then I finally seen where it was at and I called them over.
Q It was real hard to find, even though you had already been there once, right?
A Yes, it was.
Q Okay. And it took a while, walking around through the trees and the thorns and the brush, didn't it --
A Right. Yes, it did.
Q -- before you could locate the exact place where

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you had thought you had seen --

A Yes, it did.

Q -- a body --

A Right.

Q -- is that right?

A Yes.

Q And how much time did that take?

A I don't recall.

Q Were either of those two police officers Detective McGiver (phon. sp.)?

A I believe that's the name.

Q Okay. And so, he was there searching with you to find the place that you had a difficult time finding the second time?

A It was several people there, yeah.

Q Okay. But one of them was Detective McGiver?

A Yeah.

Q And while you were out there, you had an occasion to speak to Detective McGiver, did you not?

A Maybe. I don't remember. I don't recall.

Q Well, Detective McGiver asked you lots of questions, as did another police officer, about what you were doing there, didn't they?

A Probably. Maybe. Yeah.

Q And how you happened to be right then and there

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at that --

A Oh, yes. They have to ask those questions.

Q -- parking pad?

THE COURT: I'm sorry, I didn't understand a word you said.

THE WITNESS: I said yes, I answered those questions, yes.

BY MS. GUTIERREZ:

Q Okay. They asked you a lot of questions, right?

A Yes, they did.

Q And most of them concerned what were you doing there on Franklintown Road in the middle of the day, didn't it?

A Yes.

Q And why you happened to be at a location that even you had the -- a hard time finding the second time --

A Right.

Q -- is that right?

A Um-hum.

Q And you answered all their questions, didn't you?

A Yes, I did.

Q You told them about leaving Coppin?

A Yes, I did.

Q And do you recall that you told them that your purpose in leaving Coppin was to go to lunch?

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A What, leaving out Coppin?
Q Yeah.
A Yes.
Q Because you didn't tell them about the plane, did you?
A Did I tell who?
Q The police officers --
A Oh, yes, I did tell them. Yeah.
Q -- that were asking you questions.
A Yes, I told them.
Q But later on you told them, right?
MR. URICK: Objection.
THE WITNESS: No, I told them. When they asked the question, I told them, I guess.
THE COURT: Overruled.
BY MS. GUTIERREZ:
Q On that day --
A Yes.
Q -- on the 9th of February?
A Right, right.
Q You don't recall that you didn't tell them that and they asked you about it later, why didn't you tell them about the plane?
MR. URICK: Objection.
THE WITNESS: I'm sorry, they did ask me.

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MS. GUTIERREZ: I'm asking you just about the 9th of February.

THE COURT: Overruled.

And the questions about the 9th of February, you may continue with the question.

Let her finish her question and then you can answer.

BY MS. GUTIERREZ:

Q So, Mr. S[redacted] it is your recollection that you told them on February 9th about the plane?

A I believe so. I'm not sure. I'm sorry, I'm not sure. I guess I did.

Q You're not sure whether you told them?

A I mean, they asked me a bunch of questions. I remember answering that question.

Q Well, sir, do you recall that after February 9th when you showed them where this body was and you answered their questions that you were then taken down to the Homicide Unit?

A Yes, I was.

Q And they asked you a lot more questions?

A Yes.

Q And you answered their questions?

A Yes.

Q And before you answered their questions, sir, you

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were given what's been marked as Defendant's Exhibit 10. You were given that sheet of paper to fill in and to sign, were you not?

A Yes.

Q And down below on that sheet of paper, you've signed your name twice, have you not?

A Yes.

Q And in addition to giving it to you, they asked you questions to make sure that they were satisfied that you could read it, did they not?

A Yes.

Q And you assured them that you could read it, didn't you?

A Oh, yes. I had my glasses then.

Q They had to actually lend you glasses?

A No. I had my glasses.

Q Okay. You had to put your reading glasses on?

A Yes.

Q And you read it in front of them, didn't you?

A Yes.

Q And you assured them that you could actually --

A Right.

Q But in addition, they asked you each of these questions to make sure that you understood what they meant, didn't they?

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A Yeah.

Q And then they had you initial at the end of each question?

A I think so, yeah.

Q And your initials appear at the end of each of the five questions, don't they?

A Yes.

Q And you made those initials, didn't you?

A They look like it, yes, yes.

Q Back on February 9?

A Yes.

Q At the Homicide Unit?

A Yeah.

Q And you were there because they had taken you there?

A Excuse me?

Q You were down there at the Homicide Unit because they had taken you there?

A Yes. They asked me to come.

Q And you went with them, right?

A Yes, I did.

Q And the questions that you were asked here is that they told you you didn't have to talk to them?

A Right. Yes, exactly.

Q You were told you could remain silent?

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A Yes.
Q That anything you said could be used against you?
A I don't remember them saying that, though.
Q Well, if you would look down on that form and read to yourself question 2.
THE COURT: Mr. S[redacted] do you require your glasses?
THE WITNESS: Yes, I do.
THE COURT: Do you have them with you?
THE WITNESS: I don't, no.
THE COURT: You do not have them?
THE WITNESS: No. I lost my glasses.
BY MS. GUTIERREZ:
Q So you can't read 2?
A Yes, I could read if I could see it.
Q So your glasses help you?
A Yes, it does, yes.
Q Can you not see it without your glasses?
A It's like a blur because it's too small.
Q But, sir, you could recognize your initials at the end of 2, couldn't you?
A It looks like it, yeah.
Q And you could identify the signature at the bottom of that page?
A It looks like it, yeah.

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Q And in addition to advising you that you had the right to remain silent, they advised you that anything you said -- that you say, right, may be used against you in a court of law, didn't they?

A I don't think they said that. I'm not sure about that.

Q You don't recall that?

A I don't recall, no.

Q But what was on the paper was what you understood that night?

A I believe so.

Q And that's why you signed and initialed?

A I guess so.

Q Okay. And another thing that they advised you is that you had the right to talk to a lawyer at any time before they questioned you, before answering any questions or during the questioning, didn't they?

A I don't know because I kept telling them to call my lawyer, and they never got in touch with my lawyer. So I don't know.

Q So while they questioned you, you wanted a lawyer?

A No, no. Not at the time, no, I did not.

Q But you kept telling them to call your lawyer?

A Well, because they kept me there so long, I was

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like, I mean, what are you doing, you know? I said --

Q There was a point in time when you asked for a lawyer?

A No, not -- no, I did not. See, I went there a couple of days later. They kept coming to my job.

Q I haven't gotten to that yet. We're still on the 9th of February.

A Not that day. No, not that day. No.

Q Okay. So that evening you never asked for a lawyer?

A No.

Q You never gave them your lawyer's name?

A I don't recall. Maybe I --

Q You don't recall whether or not they told you you had a right to a lawyer?

A I don't recall that, no.

Q Okay. They told you that if at any time you agreed to answer questions that you could stop it after that, didn't they?

A I don't recall, I'm sorry.

Q You don't recall?

A No.

Q Do you recall any of the rights that they explained to you before you signed this paper?

A No, I don't.

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Q But you did sign this paper?
A Yes, just to get out of there.
Q That is your signature?
A I'm sorry.
Q That is your signature?
A I guess it is.
THE COURT: I'm sorry, one moment.
What was your last answer? She asked you if it was your signature, and you mumbled something. I could not understand a word.
THE WITNESS: I said I guess it is.
THE COURT: You guess it is?
THE WITNESS: Yes. Yeah, I guess so.
BY MS. GUTIERREZ:
Q Well, sir, do you have some doubt as to whether or not this is your signature?
A It probably is if you say it is.
THE COURT: Well, it doesn't work that way. The attorney doesn't testify. You're the one that took an oath. You raised your hand. We don't want you to guess at things.
THE WITNESS: It looks like it. I mean, my -- I'm sorry.
THE COURT: Mr. S[redacted] we don't want you to guess at your answers. We want you to say -- you say it

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looks like your signature, is that right?

THE WITNESS: Yes, right.

THE COURT: All right. And you can see that much of that paper to see that that is your signature?

THE WITNESS: The way it's -- I write, yes, I think I can.

THE COURT: You think it is?

THE WITNESS: Yes.

THE COURT: But do you have any doubt that that might not be your signature, that it might be someone else's signature?

THE WITNESS: I shouldn't have any doubt. I don't think nobody else would sign it.

THE COURT: I'm sorry, I can't hear you.

THE WITNESS: I don't have no doubt. I don't think nobody else would put my signature on there?

THE COURT: So do you -- you can see that much of it to see that?

THE WITNESS: Yes, I do. Yes.

THE COURT: Okay. And the initials that are indicated, can you see, can you see that much of that document to see that?

THE WITNESS: Yes, it look like my initial.

THE COURT: And that looks like your initials in various places?

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THE WITNESS: Yes.

THE COURT: All right.

Now, counsel's moving that exhibit into evidence at this time?

MS. GUTIERREZ: Yes, Judge, I would move Defendant's Exhibit 10 into evidence.

THE COURT: Any objection?

MR. URICK: No.

THE COURT: Let it be admitted.

(Whereupon, the document referred to as Defendant's Exhibit No. 10, previously marked for identification, was received into evidence.)

BY MS. GUTIERREZ:

Q Mr. S[redacted] just so that there's no mistake about this, I'm going to give you a blank piece of paper and ask you to sign your signature the way that you normally sign it.

And below that, if you could put how you would put your initials.

Thank you.

MS. GUTIERREZ: I would move at this time Defendant's Exhibit 11, I would move that into evidence.

THE COURT: Any objection?

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MR. URICK: No.

THE COURT: Let it be admitted as Defendant's 11.

(Whereupon, the document referred to as Defendant's Exhibit No. 11 was marked for identification and received into evidence.)

BY MS. GUTIERREZ:

Q Now, sir, after you were asked to sign that explanation of rights much later on February 9th, down at the Homicide Unit, you agreed to speak to them, did you not?

A Yes.

Q And Detective McGiver was there?

A I believe so.

Q Okay. And Detective Ritz, was he there, also?

A I don't remember his name, no.

Q But another detective was there?

A Yes.

Q All right. And at the time that you spoke to them, they asked your permission to turn on a tape recorder, didn't they?

A After they asked me questions before.

Q So first, they asked you questions before there was a tape recorder, right?

A Right, yeah.

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Q Then they gave you the explanation of rights, didn't they?

A I believe so.

Q Then they asked you other questions while the tape recorder was on?

A Yes.

Q Okay. And you were aware that the tape recorder was recording both the questions that were being asked and the answers that you gave?

A Yeah.

Q Okay. And that was with your consent?

A Yes.

Q And the things that they asked you about concerned how you had come across this thing that you thought was a body, wasn't it?

A Yes.

Q And you answered all of their questions, didn't you?

A Yes.

Q They weren't particularly happy with your answers, though, were they?

MR. URICK: Objection.

THE COURT: Sustained.

You don't have to answer that.

BY MS. GUTIERREZ:

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Q And, sir, after that -- and how long did they question you?

A I don't remember. It was a while.

Q It was long?

A Um-hum.

Q More than an hour?

A I'm sure.

Q Pardon?

A Yes.

Q Yes. More than two hours?

A I guess. I'm not sure.

Q At some point, you were allowed to go home?

A Yes.

Q Did they take you?

A Yes.

Q And what time did you --

A Well, excuse me, they took me back to my truck, where I work at.

Q Which you had left at Coppin, right?

A Coppin State College, right.

Q And what time did you get back there?

A I don't recall. I know it was nighttime, so I don't remember what time it was.

Q It was pretty late, wasn't it?

A I think it was.

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Q Now, sir, after that date, did they ask to speak to you again?

A I think so.

Q That night, on the 9th, had they taken your fingerprints?

A No.

Q Or your photograph?

A No.

Q Had they asked you to pluck hair from your head?

A No.

Q Or to give blood?

A No.

Q And had they asked you about any other names?

A No.

Q Or whether you knew anybody?

A No.

Q And so, after that night, you were asked again to come down, were you not?

A I think so, yeah.

Q They came and got you from Coppin, didn't they?

A Right, yes.

Q And the next time they did that after the 9th was on the 18th of February?

A I'm not sure with the dates.

Q And you had to go down to Homicide again, did you

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not?

A I think so, yeah.

Q And you had to answer questions again, did you not?

A The same questions, yes.

Q And they advised you again of your rights?

A I don't remember that, no.

Q And, sir --

A No, they did not, not at that time.

Q And on that day, on the 18th, did the they turn on a tape recorder?

A I'm not sure. I'm sorry.

Q And after the 18th -- and how long were you down there that day?

A I don't think it was that long, I'm not --

Q Now, sir, you said the same questions that they had asked you earlier. Did they ask you any different questions?

A No. It was the same questions.

Q And you gave the exact same answers?

A I believe so, yes.

Q And after the 18th, they once again came to get you at Coppin State College?

A I'm not sure. I mean, I guess so. I'm not sure about the dates, I'm sorry.

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Q Well, do you recall that on the 24th of February that they came and picked you up at Coppin State College?

A I know they picked me up but I'm not sure what date.

Q Well, did the police ever pick you up and take you anywhere else but to the Homicide Unit?

A No, that's it. Just asking questions.

Q Every time they picked you up, they took you there?

A Yes. I agreed to help them, yes.

Q Okay. Do you recall that they picked you up on the 24th of February and took you down there and asked you the same questions again?

A I'm not sure what date. I guess it might've been the 24th. I'm not sure of the date.

Q But you recall the third time?

A I recall, yes, but I'm not sure of the date.

Q You just don't remember --

THE COURT: I'm sorry. You recall but what?

THE WITNESS: I'm not sure of the date they -- I went down with them.

BY MS. GUTIERREZ:

Q Okay. So it could have been the 24th or it could have been some other date, but you don't recall what it was?

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A The date, I don't recall the date.

Q Okay. But you do recall that you went down to Homicide on three occasions?

A I believe it was, yes.

Q Okay. Now, sir, you recall that at the time that you began -- when they clicked the tape recorder on they asked you about the reason that you told them why you left Coppin on February 9th, remember?

A Yes.

Q And your testimony today is that you left to get the plane, even though it was also lunchtime?

A Right.

Q Because you needed the plane to plane down the door?

A Yes.

Q That had been given to you in a work order, is that correct?

A Yes.

Q Okay. Now, do you recall, sir, that Detective Ritz asked you why --

THE COURT: Ms. Gutierrez, while you're looking for that question from Detective Ritz, keep looking, can I see counsel at the bench? Not you, the other counsel.

(Off-the-record discussion not pertaining to this matter.)

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THE COURT: Ms. Gutierrez, have you located the area?

MS. GUTIERREZ: Yes, Judge, thank you.

BY MS. GUTIERREZ:

Q Mr. S[redacted] you recall that after you spoke with them, after the tape recorder was turned on on February 9th, that Detective Ritz asked you questions about what you had said when you had spoken to him out in Leakin Park?

A I believe so, yes.

Q Yes. And one of the questions that Detective Ritz asked you, he first reminded you that when were, referring to yourself and him, "were standing back near the body, I asked you when you went home -- or why did you go home, and you stated to me that you went home to have lunch, that you were on your lunch break." And you answered, "Yes."

A I don't think so. I don't remember that.

Q You don't remember that?

A No. I went home for lunch.

Q No, sir, do you recall that Detective --

A Not to have lunch, home for lunch.

Q -- Ritz reminded you and asked you questions that you had told him out at Leakin Park, before you got down to the Homicide Unit, that your purpose was that you were

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going home to have lunch?

A I don't think so. I told him I went home at lunch.

Q Okay. So you don't recall that Detective Ritz asked you that?

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

Q And you don't recall that you told him that your purpose in going home was lunch?

A No. I told him that my purpose for going home at lunch, I had to pick up a plane for a door.

Q So, sir, it's your testimony that you told Detective Ritz, while the tape recorder was on, that your -- I mean you told Detective Ritz out at Leakin Park that your purpose in going home was to get this plane?

A I guess so. I guess I did.

Q Now, sir, do you recall that Detective Ritz further asked you "Ah, and during that time you did not indicate that you'd gone home to retrieve any type of tool for work, you just stated that you'd gone home to have lunch. Ah, you didn't make any mention of having a 22-ounce beer, a Budweiser, or taking that beer back into your vehicle, consuming it while on your way to work, ah?" And you answered, "Yes."

A About the beer?

Q Well, sir, he asked you a question that referred

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both to the beer and to your stated reason for going home in the middle of the day, did he not?

A What was the question again?

Q Detective Ritz: "Ah, and during that time you did not indicate that you had gone home to retrieve any type of tool for work, you just stated that you'd gone home to have lunch. Ah, you didn't make any mention about having a 22-ounce beer, a Budweiser, or taking that beer back in your own vehicle, consuming it while you were on your way back to work, ah?"

THE COURT: And the question, Ms. Gutierrez?

BY MS. GUTIERREZ:

Q Do you recall Detective Ritz asking you that question?

A No, I don't.

Q Do you recall then, while the recorder was on, at the Homicide Unit in the evening of February 9th, answering him "Yes"?

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

Q Do you recall that you further answered him, suggesting that you didn't tell him about the beer because that's kind of illegal --

A Right, I remember that.

Q -- is that right?

A Yes.

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Q But do you recall that you never disputed to him that you had told him that you were going home for lunch?

A I guess he probably never asked me. I'm not sure.

Q And, sir, you weren't going home for lunch, were you?

A No. I was going home on my lunch break.

MS. GUTIERREZ: I'd like to have page 21 of the transcript of Mr. [redacted] statement marked for identification.

(Whereupon, the document referred to as Defendant's Exhibit No. 12 was marked for identification.)

MS. GUTIERREZ: I would move Defendant's 12 into evidence.

THE COURT: Any objection?

MR. URICK: Objection.

THE COURT: Sustained.

(Pause)

BY MS. GUTIERREZ:

Q Sir, were you ever asked to produce the plane?

A I don't think so, no.

Q And at that point, on February 9th, it was in your car -- in your truck?

A Yes, in my truck.

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Q But you were never asked to produce it?
A No, I don't think nobody asked me that.
Q And you never gave it to them?
A I don't think I had to. They didn't ask for it.
Q And at the time that -- they never asked for it?
A No.
Q If they had asked for it, you would have given it to them?
A I guess if they would have asked for it.
Q At the time that you left your truck in order -- because of the urgency to urinate, did you take the Budweiser can with you?
A No. It was not a Budweiser can.
Q Pardon?
A No. It was not a Budweiser can.
Q It was a bottle?
A Twenty-two-ounce, yes, it was.
Q Did you take that with you?
A Where?
Q When you went back in the woods --
A No.
Q -- to urinate?
So that was still in your car?
A In my truck.
Q And did the -- in the truck. Did the police take

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that on February 9th?

A No.

Q Did they ever ask you to produce it?

A No, they did not.

Q Did you ever produce it?

A No. I threw it out the window.

Q You threw it out the window after you got back in the truck?

A Right.

Q While you were on the way back to Coppin?

A Back to Coppin, yes, I did.

Q So you continued drinking the rest of it?

A No. I threw it out.

Q You just threw the rest of it out?

A Yes, I did.

Q Now, sir, do you recall being asked about the beer and how much you consumed back on February 9th --

A No, I don't recall.

Q You don't recall that?

A No.

Q Do you recall being asked by Detective Ritz how much of the 22-ounce beer had you consumed?

A I don't remember.

Q Do you recall answering, "I think it was almost empty"?

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A It could have been, I'm not sure.

Q So your recollection today is that you could have drunk more than the half of it that you've told us about today?

A I don't remember. Could have.

Q And you don't recall answering Detective Ritz that the beer was almost empty?

A I might have, if you've got it down there. I don't know.

Q On the third -- so you may have answered him that --

A I may have.

Q -- but you're not sure?

MS. GUTIERREZ: Have this marked as the Defendant's next exhibit, page 22 of the statement of Alonzo Sellers.

(Whereupon, the document referred to as Defendant's Exhibit No. 13 was marked for identification.)

MS. GUTIERREZ: I would move this into evidence.

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Okay. Now, Mr. S[redacted] do you recall Detective McGiver asking you questions to ascertain exactly

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which side of the tree that you were on?

A I guess -- I'm not sure. It's been a while now.

Q Do you recall that Detective McGiver asked you which tree -- "which side of the tree were you on? Was it the side of the tree that was closest to the water or the side of the tree that was closest to the street?" Do you recall him asking you that question?

A I don't remember, no, I don't.

Q You don't remember the question?

A No, I don't remember the question.

Q So you wouldn't recall that you answered, "To the street"?

A I probably did. I don't know the --

Q You probably did?

A Yeah.

Q To the best of your recollection, you were on the side of the tree that was closest to the street on February 9, were you not?

A I guess it was, I'm not sure.

Q Now, sir, on that day, the only people's names that came up were of your stepson and his girlfriend?

A Yes, I believe.

Q Whose name you don't remember now but you knew back then?

A Yes.

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Q Okay. And did they ever ask you if you knew a person by the name of Jay Wilds?

A No, no.

Q Did they ever ask you if you knew a person by the name of Jen Cusitara (phon. sp.)?

A No.

Q In between February 9th and the first time -- it would be the second time that they brought you back down to ask questions, did they ever come to collect your fingerprints?

A No.

Q Or take your picture?

A No.

Q Or pluck your hair?

A You asked me that question before. No.

Q No, I'm talking specifically between the 9th and the day that you secondly talked to them.

A No.

Q Did they ever come to your house and seek any of that?

A No.

Q Did they ever ask you to give up your blood?

A No.

Q Did they ever take any of your clothes?

A No.

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Q Did they ever seize your truck?
A No.
Q Did they ever ask you to have some technician come look at your truck?
A No.
Q Or to turn over your truck for a little bit of time so that they could process it?
A No.
Q And during the second time that you went down and the third time, did they ever do any of those things?
A No.
Q They never came to your job to ask you to do any of them?
A No.
Q They never came to your house to ask you to do any of them?
A No.
Q And you never gave up any of those things?
A No. The only thing they asked me, to take a lie detector.
Q And they gave you that, didn't they?
MR. URICK: Objection.
THE COURT: Sustained.
Mr. Sellers, I'm going to ask you again, and I don't know if you're having difficulty understanding, when

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you're asked to answer the question that is asked, not to volunteer anything, just answer the question.

Ladies and gentlemen, I'm going to ask that you strike any reference that Mr. S[redacted] had made to a lie detector test, which is not relevant in this proceeding. And I'm hoping that Mr. S[redacted] will continue to listen to the question, wait till the question is finished being asked, and then answer only the question.

Ms. Gutierrez, I'm going to ask that you also allow the witness to finish his answer before you ask the next question.

BY MS. GUTIERREZ:

Q Mr. S[redacted] did they ask you to take any other tests or perform anything?

A No.

Q Okay. After the third time that you went down, did they do any of those things, ask for your blood, your fingerprints, your photo, your hair?

A No.

Q After the third time that you went down, did they ever come back and ask you any other questions?

A No.

Q Were you ever asked if you knew a person by the name of Jay Wilds?

A I'm not sure, I'm sorry.

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Q They could have?
A They could have, yeah.
Q Were you ever asked if you knew a person by the name of Jen Fustiri (phon. sp.)?
A No, I don't think so.
Q Were you ever asked if you knew a person by the name of Adnan Syed?
A No, I don't think so.
Q Were you ever asked if you knew Hey Men Lee?
A No.
Q Did you know Hey Men Lee?
A No.
Q Now, after the third time -- now, the third time that they came they didn't use a recorder, did they?
A I don't recall, I'm sorry.
Q But they asked you the same questions each time?
A Yes.
Q And you gave them the same answers each time?
A Yes.
Q All three occasions?
A I guess so, yes.
Q Do you recall that after you spoke to them at the scene where the body was and you came back and the tape recorder was on they asked you about what it was that you did after you returned to Coppin?

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A Excuse me?

Q Do you recall that one of the things they asked you about was to describe what you did after you came back to Coppin from Leakin Park?

A I think so, yeah.

Q Is that right?

A I guess so.

Q Well, is that -- you're guessing --

A I guess. Yes, I guess.

Q But they asked you about all that?

A They asked a lot of questions.

Q And one of the things --

THE COURT: Wait a minute. They asked a lot of questions, that's all I heard.

THE WITNESS: I'm sorry. They asked a lot of questions. I don't remember all the questions they asked.

THE COURT: Well, when she asks you a question, we don't want you to guess. If you don't recall, say I don't recall.

THE WITNESS: Okay.

THE COURT: If you don't remember, say I don't remember. If you don't understand her question, ask her to repeat her question. If you can understand the question, answer the question.

THE WITNESS: Okay.

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THE COURT: Thank you.

BY MS. GUTIERREZ:

Q Sir, do you recall that you told us yesterday that you'd gotten this work order to shave down the door, is that right?

A Yes,

Q A door, as distinguished as a window, is that right?

A Yes.

Q Okay. And that on the 9th you went home for the explicit purpose of getting a plane so that you could shave down the door that you had a work order on, is that correct?

MR. URICK: Objection.

THE WITNESS: Yes.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q And so, did you tell us yesterday that because there had been a work order and somebody was expecting something to be fixed that wasn't exactly urgent, urgent, but it needed to be done that day?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Sir, do you recall being asked about what you did

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when you returned -- you were working on it but couldn't complete it because you didn't have a plane?

MR. URICK: Objection.

THE COURT: Sustained.

We've been through this.

BY MS. GUTIERREZ:

Q Did you need a plane to complete the work order?

MR. URICK: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Now, sir, do you recall being asked by Detective McGilvery, after you spoke to Chief Collins about what had occurred, to describe where you went?

A Yes.

Q And do you recall describing for him that since you were working upstairs before you left, related to the work order, that you went back upstairs to work on the window?

A I believe so.

Q That's what you told him?

A Okay.

Q Well, that's a question, sir, is that what you told him?

A I don't recall, I'm sorry.

Q Well, when you said I believe so, what is it that

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you meant?

A I mean what you have on the paper. I'm not sure.

Q You haven't been asked to review the transcript, right?

A No.

Q Of what was said?

A No.

Q But you are aware that what you said on the 9th, later that evening, was recorded?

A I probably was aware then, yes.

Q By a tape recorder? The whole time that you spoke to them after the tape recorder was turned on?

THE COURT: The question is --

THE WITNESS: Oh, yes.

THE COURT: -- was it recorded, Mr. S[redacted] Do you remember?

THE WITNESS: I don't remember that. I'm sorry, I don't remember.

THE COURT: Well, then say I don't remember. And then she'll ask you another question. If you don't answer, if you just look at her, that's not an answer, so we don't know what to do. And Ms. Gutierrez is asking another question and hopes that you'll answer one of them.

THE WITNESS: Okay.

THE COURT: Okay?

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THE WITNESS: Right.

THE COURT: Thank you.

(Whereupon, the document referred to as Defendant's Exhibit No. 14 was marked for identification.)

MS. GUTIERREZ: Your Honor, I've had page 18 of the transcript marked as Defendant's Exhibit 14. I would now move, since he doesn't recall --

THE COURT: May I have -- may I see counsel at the bench, please?

And if you would pass the three exhibits that counsel's just offered.

(Whereupon, counsel and the Defendant approached the bench and the following ensued.)

THE COURT: You're offering them because he indicated that he doesn't recall making these statements, is that --

MS. GUTIERREZ: Well, it's hard to -- sort of, and that's why I think I'm entitled to. He halfway agrees that it was recorded and then, you know, and then he answers with like well, I guess so.

THE COURT: And your objection is?

MR. URICK: There's no basis for admission of those.

THE COURT: Because?

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MR. URICK: He has not denied making the statements, his only statement is I can't recollect it. That has not been authenticated as, it has not been authenticated as a prior recollection recorded. There's been no foundation under any basis for the admission of these exhibits.

THE COURT: I would agree that the only thing missing, the only thing missing, the only thing missing is him seeing the statement and at least asking him that.

MS. GUTIERREZ: I thought I asked him in the beginning. I don't think he's ever seen the statement, which is why I didn't bother --

THE COURT: The date that it was taken?

MS. GUTIERREZ: Right. It was recorded.

THE COURT: Was he asked to sign it?

MS. GUTIERREZ: No, Judge, it's a -- and we got this from them. They made this statement from the recording. We've never heard the recording, all we've ever gotten is the transcript prepared by either their office or the police department. It was not prepared on the same day, he didn't sign it, there was no indication, and I thought he answered -- I asked that question yesterday.

THE COURT: Which is why you were planning on calling Ritz?

MS. GUTIERREZ: No, Judge. I was if I had to. I

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have other reasons that I would call Ritz. And certainly, I could call either Ritz or McGilvery, both of who are still listed.

THE COURT: Well, what's missing is a foundation question, as far as I'm concerned, to the admissibility of this. I think you've covered everything under 5-613. He's been confronted with the statement.

MR. URICK: He has not been asked to look at it. If he looks at it and reviews it, then he can be asked now do you recall making that statement.

MS. GUTIERREZ: Judge, I disagree with that. I read him the exact words --

THE COURT: Well, under 612, under 612, a writing used to refresh a recollection, the witness looks at it. Under 613, the statement, if it was written, does not have to be shown to the witness. It says does not.

> The party examining a witness about a prior written or oral statement made by the witness need not show it to the witness or disclose its content at the time, provided that before the end of the examination the statement, if written, is disclosed to the witness and the parties or, if the statement is oral, the contents of the statement and the circumstances under which it was made,

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including the persons to whom it was made, are disclosed to the witness and the witness is given an opportunity to explain or deny it.

Now, everything seems to be there, except I'm not satisfied that it has been properly -- a foundation for it --

MS. GUTIERREZ: The only thing is that this is the only thing that we were given. There's no indication on it as to who did the transcriptions. I don't know that information. I assume that the police did it because they did everything else, but I'm not --

THE COURT: Detective Litz can do that because he's present, he's one of the speakers.

MS. GUTIERREZ: Yes, that's fine.

THE COURT: Which is why I said at this point the only thing that's missing is a foundation question because, frankly, counsel, I don't know where you got this from. And as the Court --

MS. GUTIERREZ: Well, I'm telling you, as an officer of the Court, Mr. Urick gave it to me.

THE COURT: I understand that. I can see that they've been left out of what appears to be a transcript of [redacted]S[redacted]

MS. GUTIERREZ: Yes.

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THE COURT: However, I don't know who transcribed it and I don't know if it's an accurate transcription. But Detective Ritz might be able to do that.

MS. GUTIERREZ: Right. Okay, I'll call him.

THE COURT: With that being the only thing missing, as far as I'm concerned, although I will not allow its admission now because Mr. Urick is raising foundation --

MS. GUTIERREZ: I'll bring in Mr. --

THE COURT: However, I think it will come in once that foundation has been achieved.

MR. URICK: I believe there still has to be a relevance admission. I think that's why it has to be actually shown to the witness. And if the claim is it's a prior inconsistent statement, he has to be given an opportunity to explain it. That was part of the foundation thing that I -- I think he has to be -- he actually has to be shown the document and allowed to read it. And if their claim is it's a prior inconsistent statement --

THE COURT: Well, I read the rule, too. This is not -- it is -- there are two rules, and it says "need not." I figure the legislature had a reason for putting "need not" in there. And they're telling me that --

MS. GUTIERREZ: The other thing, Judge, I didn't show it to him because he had already established he had

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difficulty reading, whether that's true or not.

THE COURT: Correct.

MS. GUTIERREZ: I didn't want to go off and have him --

MR. URICK: Provided that prior to the end of the testimony. It does not have to be shown to him initially but it has to be --

THE COURT: Keep reading, Mr. Urick. I just read it to you, but keep reading. It just says deny or explain, it doesn't say he has to see it and read it and say I read it and it's not what I said.

Counsel is reading the item to the witness. He doesn't have his glasses. He's already said he can't read small print. Counsel is reading the item to him. He's saying he doesn't recall or I don't remember or if that's what the paper says then that's what I said. And to the extent that what she's reading is not being recollected by this witness, I think, to the extent that the foundation is sought by the Defense, Detective Ritz may be the one to close the loophole that we're missing.

And I find that there are some items that are going to have to be redacted, however, from the exhibits, Exhibit 14. You're going to have to get some white-out or something. But other than that, I will allow these excerpts to be admitted, over your objection, assuming

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that -- but not at this time. And I remind you that they're still marked for identification purposes.

MS. GUTIERREZ: Yes. And I'll leave them here.

Judge, I didn't look at this. I'll make a white-out and then have another copy marked because, otherwise, you'll see the white-out.

THE COURT: In fact, I have no problem with your making that change at the time you move its admission. And Mr. White may be able to assist you. Sometimes they have --

MS. GUTIERREZ: Right. Okay, I'll --

MS. MURPHY: Also, Your Honor, in addition to the notes in that margin, some of the words are circled.

THE COURT: Well --

MS. GUTIERREZ: There's four words.

THE COURT: -- work on the ones that are circled.

MS. GUTIERREZ: I can run up to my office. I may have a clean copy, I'm just not --

THE COURT: If you don't --

MS. GUTIERREZ: -- sure.

THE COURT: -- have a clean copy, the Court does not -- is in any way any problem. That was the area that you read to the witness?

MS. GUTIERREZ: Yes.

THE COURT: And your specific concern is that his

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explanation of what he did is different than what appears in his statement.

MS. GUTIERREZ: Yes.

THE COURT: All right. So I'm going to give --

MS. GUTIERREZ: Judge, while we're up here --

I'm going to hand this to Mr. White.

THE COURT: By the way, this was the note I received during the course of Mr. S[redacted]s -- put that in the Court file.

And for the record, that is the reason I asked Mr. S[redacted] to speak up when I could not hear him, when he mumbles. The jurors sent me a note saying they could not understand him, and I was asking that he do so.

MS. GUTIERREZ: Judge, I guess I have two things. I'm just about finished with Mr. S[redacted]. I would like to bring to the Court's attention, based on his answers, I believe I've met the Court's test in regard to going on. He testified that -- and his statement reveals he said the same thing, and that it was for his privacy, for his own privacy, not other people's, to protect himself, and that that was the reason he went so far back. I would now like to ask him about the one prior conviction that the Court has indicated would fall squarely in that.

THE COURT: I'll hear from the State. Do you think that the door's open. Ms. Murphy?

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MS. MURPHY: Your Honor, I think the door is not open. Ms. Gutierrez was the first person to use the word privacy and she led him up to the door. And he didn't open it. He said that he -- the only thing he --

MS. GUTIERREZ: If the Court can excuse me, I want to bring up the statement because that's the word privacy came from.

THE COURT: Okay. I don't have a problem with her use of that word.

MS. GUTIERREZ: In fact, asking --

MS. MURPHY: I'm sorry, I didn't finish my argument Your Honor.

THE COURT: That's all right.

MS. MURPHY: He stated that he wanted privacy for the purpose of urination, not for keeping himself -- his penis or any other body part private, from public view. And for that reason, the door is not open.

THE COURT: Ms. Gutierrez, I would tend to agree with counsel, unless you can make an argument.

The word privacy I'm not concerned with. The word privacy per se is not what I'm concerned about. What I'm concerned about, as I indicated to you, a specific thing, a specific thing that would be different from merely an indecent exposure. He specifically said, when you asked him about his privacy, he said I was concerned about

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someone seeing me urinating. He used that word. He's not convicted of urinating in public.

MS. GUTIERREZ: No, Judge.

THE COURT: Had he had a conviction for urinating in public and you wanted to use that, then I might have another view. His conviction is for indecent exposure and that could mean that he ran around naked and people saw his rear end --

MS. GUTIERREZ: And that's exactly what happened.

THE COURT: Wait a minute. -- or that they saw his penis or he was with a woman in a car and some part of their bodies was -- you know, were exposed, because I know that you can be charged with -- if that's involved. I've seen cases of that sort.

In this particular case, he specifically said urinating, and the indecent exposure factual scenario that you gave the Court does not involve the urination of this witness. It involves the exposure of his body but not his body as it is performing a specific act of urination.

MS. GUTIERREZ: I can go back and ask him. I specifically didn't. I thought it was apparent in absence -- and I guess there are circumstances, but normally men urinate through their penis, the exposure of which would be the basis for an indecent exposure. Now --

THE COURT: Not necessarily. Not necessarily.

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MS. GUTIERREZ: But it can be. And in fact --

THE COURT: He could be urinating in public in such a fashion that his penis is not exposed.

MS. GUTIERREZ: Well, Judge, I can go back and ask him all that. I just -- I assumed it wasn't necessary and we didn't have to get gross about it. I'm prepared to do that --

THE COURT: I understand.

MS. GUTIERREZ: -- and fight for this point because I think that, you know, this isn't the speculative situation that Ricketts or Pruett talked about. We know what the conviction was for and we know that it involved the exposure of the penis, seen by a police officer --

THE COURT: In public.

MS. GUTIERREZ: -- in public. And, Judge, I don't believe that it's -- and I agree with the Court that if it were urinating in public, you know, we wouldn't even have to argue. But given that the actual conviction of this witness, you know, is for indecent exposure, which involves the exposure of his penis --

MS. MURPHY: I would ask that counsel keep her voice down.

MS. GUTIERREZ: -- and may also involve the exposure of other body parts, but it did involve his penis, and I think it's a fair inference from what he said,

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without getting gross, establishing that, you know, what he didn't want to be seen was his penis.

THE COURT: I understand, counsel. I --

MS. GUTIERREZ: I didn't --

THE COURT: -- note your objection for the record. And I think you've argued this thoroughly. In fact, I know you disagree with me --

MS. GUTIERREZ: So even if I get him to answer those questions, that he --

THE COURT: I think he's already answered the questions.

MS. GUTIERREZ: -- sought to hide his penis through which he was going to urinate, the Court would still rule the same?

THE COURT: He's already answered the question, and he said he was concerned for his privacy, through your question and the initiation of the word privacy, but his answer, his answer was I was urinating, went back in the woods to do my business. And that's different, doing his business --

MS. GUTIERREZ: No, I'm just going to -- I'm just asking --

THE COURT: -- is different --

MS. GUTIERREZ: -- is it worth it to me to attempt to get back there or is the Court ruling, saying

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even if I got back there and got him to admit he used his penis and that's what his concern was, the Court's ruling would be the same? I don't want to waste time. If that's the Court's ruling --

THE COURT: Well, Ms. -- that is my --

MS. GUTIERREZ: -- then I won't even attempt.

THE COURT: That is my ruling. However, clearly, if you attempted to go back there would be objections and it would be sustained --

MS. GUTIERREZ: Okay. I don't want to --

THE COURT: -- because I think you've done it. And I would say I think you made a good attempt at it. I have no problem with the fashion in which you went after him. At one point, I thought he was going to make a remark, but he didn't. He, in fact, used the word I was urinating, I wanted to go back there in the woods so that I could urinate, and that doesn't open the door, as far as I'm concerned. I think you made a good attempt.

MS. GUTIERREZ: All right, I get it, I get it.

THE COURT: All right.

MS. GUTIERREZ: Judge, this is the juncture -- he -- and it was not in response to my question that he volunteered the lie detector test.

THE COURT: I understand that. That's not your fault.

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MS. GUTIERREZ: No, but, you know, I am concerned --

THE COURT: And I've attempted to keep him close to the question.

MS. GUTIERREZ: I guess I would ask for a further curative instruction, you know, that they can't infer anything from it, that he volunteered that. They can't infer that it was given, that it had anything to do -- what the results were, anything. Because, otherwise, what is left hanging -- particularly since the first lie detector that he received says deceptive, it doesn't say inconclusive. They gave a second lie detector test on the one he had already flunked, but his first lie detector results say deceptive. And so, since it came up, we didn't ask for it, we're prepared to get it all in if that's a proper thing, that it was deceptive, and what that means and how improper it would have been to give the second lie detector test to somebody who had already flunked one within the space of less than two weeks. And I've had an expert on call in the event that that comes up, an expert in polygraphs by the name of Robert Brizentine (phon. sp.). But in -- because it's come out, you know, there is the possible inference that the jury -- because the Court jumped right in and said disregard that, that there's some importance to the lie detector test, particularly in light

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of the proximity to them when they stopped speaking to Mr. S[redacted] and turned their attention to Adnan Syed, that it would be improper to allow this jury to make any inference that he passed that lie detector, which, in fact, he did not, and -- or that it has any relevance whatsoever.

So even though I'd ask for a curative instruction to the jury that goes into they heard that, that was not proper, it wasn't in response to a thing, you can infer nothing from it, not the truth of what he said, that it existed, that there was any result, and that even if it existed it had anything to do with anything regarding any action taken against [redacted] S[redacted] or against Mr. Syed.

THE COURT: The State?

MS. MURPHY: Well, Your Honor, I think the Court had adequately covered this, both in opening statements when counsel brought this up and told the jury that Mr. S[redacted] flunked the test and --

MS. GUTIERREZ: Which he did.

MS. MURPHY: -- now when Mr. S[redacted] made the remark, the Court has told the jury that it's not relevant. I think any further instruction is going to cause undue focus to this issue, particularly after it was stated in opening arguments that he flunked this test.

THE COURT: The Court is satisfied that the jury has been instructed, and I jumped on it immediately for the

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very reason of making sure that it wasn't given any weight. And also, I did it in the context of, as I have been doing throughout Mr. S[redacted] testimony, reminding him to listen to the question and answer only the question and to keep his voice up, and I believe that's a proper way.

To now talk about it again, I think, would further emphasize it beyond and give it relevance when, in fact, it has no relevance on this proceeding. So I understand your concern but I think I addressed that.

Anything further?

MS. MURPHY: No, thank you.

MS. GUTIERREZ: No. I'm finished with Mr. Sellers.

THE COURT: Okay. If you want to just -- do you have a wind-up question?

MS. GUTIERREZ: No, I'll just --

THE COURT: Okay. All right. Any cross-examination?

MR. URICK: Extremely brief.

THE COURT: All right, why don't you do that?

MS. MURPHY: Your Honor, at 9:30 this morning Ms. Gutierrez indicated she needs additional evidence which is across the street in our office.

MS. GUTIERREZ: That's all right. I have another short witness that I'll call first --

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MS. MURPHY: Okay. I just thought there may be a need for a break, but --

MS. GUTIERREZ: -- and then call --

MS. MURPHY: -- apparently that's not --

MR. URICK: Are you talking about --

MS. GUTIERREZ: Pardon?

MR. URICK: Who are you calling first?

MS. GUTIERREZ: Coach Sye.

THE COURT: We only have 40 minutes, really, before we'll take a break, 30 to 40.

MS. GUTIERREZ: Right. That's why I thought I'd put on Coach Sye.

THE COURT: And if we can do that cross-examination, then the next witness, and then we'll break. And then during the luncheon recess you can get whatever evidence you need.

MS. MURPHY: Thank you, Your Honor.

MS. GUTIERREZ: Thank you.

(Whereupon, counsel and the Defendant returned to trial tables and the following ensued.)

MS. GUTIERREZ: I'm finished with Mr. S[redacted] Judge.

THE COURT: Thank you, Ms. Gutierrez.

Any cross-examination?

MR. URICK: Yes, extremely briefly.

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CROSS-EXAMINATION

BY MR. URICK:

Q Mr. S[redacted], are you married?

A Yes, I am.

Q Do you have a mortgage?

A Yes, I do.

Q Is your job paying you while you're here?

MS. GUTIERREZ: Objection.

THE WITNESS: No, they're not.

THE COURT: Wait a moment, slow down.

Objection to the do you have a mortgage question?

MS. GUTIERREZ: Yes.

THE COURT: Sustained.

Next question.

BY MR. URICK:

Q Is your job paying you while you're testifying here?

A No.

MS. GUTIERREZ: Objection.

THE COURT: Sustained.

MR. URICK: No further questions.

THE COURT: Thank you.

Mr. S[redacted], listen closely as I ask them this question.

Ms. Gutierrez, may I release Mr. S[redacted]

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MS. GUTIERREZ: Yes, Judge.

MR. URICK: Yes.

THE COURT: He does not have to come back? He's released from the summons?

MS. GUTIERREZ: Yes, Judge.

THE COURT: Mr. S[redacted], you may go. You may also go downstairs and my office will give you a letter or note if you need something for your employer, all right? Take my card so you know where my office door is, all right?

(Whereupon, at 11:45 a.m., the witness was excused.)

THE COURT: The next witness, please.

MS. GUTIERREZ: The Defense would call Michael Sye.

THE COURT: Mr. Sye, if you would step all the way up --

No, Mr. Sellers, you're free to go. It's the next witness.

Step all the way up, sir, over here to the witness stand. And if you would remove your jacket, you're welcome to put that on the back of the chair or lay it on the table next to you. I need you to raise your right hand and listen to Mr. White.

Whereupon,

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MICHAEL SYE

was called as a witness at 11:46 a.m., and after having been first duly sworn, was examined and testified as follows:

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

THE WITNESS: My name is Michael Sye. My address is 26 Ridgemoor Road, Apartment C, Baltimore, Maryland.

DIRECT EXAMINATION

BY MS. GUTIERREZ:

Q Mr. Sye, let me direct your attention back to January and February 1999. Back at that time, were you employed?

A Excuse me?

Q Were you employed?

A Yes.

Q And where were you employed?

A I work for the Epilepsy Association of Maryland.

Q Okay. And in addition to that -- what did you do for them?

A I do counseling.

Q And in addition to that employment, did you have other employment?

A Yes. I was the head track coach at Woodlawn High School.

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Q Okay. Track coach?
A Yes.
Q Did that include indoor and outdoor?
A It included indoor and outdoor season.
Q And in January and February 1999, was that in season for either indoor or outdoor track?
A Yes. It was in season for indoor track.
Q For indoor track. And when did the season for indoor track start?
A It started early November.
Q Okay. And when would it end?
A Late February.
Q All right. In relationship to that job where you were coach of the indoor track team, did you come to know someone by the name of Adnan Syed?
A Yes.
Q And could you point him out for us?
A (Pointing)
Q And how did you come to know him?
A He was a member of the track team.
Q Okay. And as a member of the track team, did he actually run certain races?
A Yes.
Q And did his participation in the track team start at the beginning of the season?

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A Yes.

Q Are you aware, Mr. Sye, of how it is that -- was this the first year that he had ever participated in indoor track?

A Yes, it is.

Q Were you aware, sir, of how it was that Adnan participated in track?

A I had saw him a couple time son the football field.

Q Perform?

A Yeah, I saw him run in sprints for the team.

Q Okay. Was he a member of the football team?

A Yes, he was.

Q And were you aware of that?

A Yes, I was.

Q And as a result of seeing him perform, is there any action that you took?

A Well, I had -- a couple of my runners had also told me about him and thought that he would be a good addition to the team, so they kind of went over to him and talked to him and tried to persuade to come out for the team.

Q So you tried to convince him to come out?

A Yes.

Q And did he do so?

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A Yes, he did.

Q And did he participate as a member of the indoor track team from the beginning of the season?

A Yes, he did.

Q Were there meets that took place between your track team and other schools' track teams?

A Yes.

Q And did they start taking place in November?

A Yes -- no. Early December.

Q Early December?

A Early December.

Q And throughout all of December?

A Yes, throughout December.

Q And January?

A Yes.

Q And February?

A Yes.

Q All right. Now, sir, did Adnan Syed participate in those track meets?

A Yes, he did.

Q And how did he perform?

A He performed fairly well.

Q Did he medal or win his events in some of the meets?

A Yes, some of the meets he did place.

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Q Okay. Now, let me direct your attention -- as to track practices, did they take place?

A Yes, they did.

Q And when and where did they take place?

A Practice was every day after school, after their study hall, from --

Q And what time would that be?

A Approximately 4:00 to 5:30, 6.

Q And was that a regular time every day?

A Regular time every day.

Q Okay. And were members of the track team expected to be at practice?

A Everyone was expected to be at practice.

Q To be at practice?

A Yes.

Q And did you take roll of people who came to practice?

A Not a physical actual, written roll, more of a mental roll.

Q Just a mental --

A Yes.

Q Okay. You sort of knew -- did you sort of know when there would be track team participants who didn't come regularly?

A Yes.

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Q Okay. And what, if any, action did you take against people who didn't bother to come to practice?

A Well, those who didn't bother to come to practice, you know, it usually started with a warning and then I would sit them down for the next meet, if that was necessary.

Q They weren't allowed to participate in the meets?

A Yeah.

Q And even though you didn't take a formal roll, was there anyplace that track team members had to go to sign in to show that they were there at practice?

A Well, they were -- all the athletes had to go to study hall right after school.

Q And that was at a specific place?

A Yes.

Q Okay. And -- but you didn't have anyplace for them to sign in once they came over to track practice?

A No.

Q Okay. Now, back in November, December, January, and February, Adnan was a regular member of the track team?

A November, December, and January, yes.

Q Okay. And did he regularly come to practice?

A Yes, for the most part.

Q Sir, you're aware that Woodlawn had a couple dozen Muslim students?

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A Was I aware that the school had? Yes.
Q Yes.
A Yes.
Q And are you aware of the Muslim religious month of Ramadan?
A Yes.
Q And that during Ramadan, Muslims, the tenets of their faith suggests that they should fast from daybreak to after, I guess after sundown?
A Yes.
Q Okay. Now, did you come -- ever come to know whether Adnan Syed was a Muslim?
A Yes, I did.
Q And did you know about Ramadan back then?
A Yes.
Q And were you aware that Ramadan started in mid-December of 1998 and went through -- or late December of 1998 and went through to the end of January 1999?
A Well, I didn't know really about December but I knew during the month of January.
Q Okay. How did you know about that?
A One day we were at practice and Adnan was there, and we had a lengthy conversation. I knew that he was fasting for his religion, and he just sat down and explained to me the whole purpose of it.

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Q Was there any treatment that was extended in regard to whether or not athletes had to actually practice during the time that they were fasting?

A No.

Q So did they have to practice, even though they were fasting?

A No. He knew -- we talked about it and, as long as he came to practice, he was exempt from the actual practice.

Q From actually running the course?

A Actually running, yeah.

Q And was that related to the effects of fasting on the body?

A Yes.

Q Okay. And was that accommodation extended to Adnan?

A Yes, it was.

Q And was Adnan one who came regularly to practice?

A Yes.

Q And did he come even when he was fasting?

A Yes.

Q And were there times when he came when he was fasting that he did not actually run?

A Excuse me, what was that again?

Q I don't know what to call it. That he came while

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he was fasting, he came to practice, but he didn't actually --

A Yes.

Q -- do anything?

A Yes.

Q And was that acceptable to you?

A Yes, it was.

Q Was Adnan the type of participant on your track team whose absence on a regular basis you would have noticed?

A Yes.

Q Did you view him as a serious athlete?

A Yes, I viewed him as a serious athlete.

Q And he was arrested on February 28th, before the end of the track season?

A February 28th?

Q Yeah. That's the date he was arrested.

A Okay. The track season was over by them.

Q Would he have medaled -- or would he have received a varsity letter for his participation in track had he not been arrested?

A Yes.

Q And when you had observed him at an earlier occasion participate as a football player, would you have described him as a disciplined athlete?

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A From what I viewed, yes.

Q Okay. You based your decision -- coming out for the track team based on what you had observed of his athletic performance?

A Yes.

Q Were you aware of what kind of student he was academically?

A Yes.

Q And what kind of student was that?

A I mean, he was a very good student.

Q And were you aware, sir, from your observation of him as to whether or not, in his interaction with teammates, he would be described as a popular student?

A He seemed to get along with all the kids on the track team.

Q Did the kids on the track team seem to get along with him?

A Yes.

Q Was he an extrovert or introvert?

A I would say extrovert.

Q An extrovert. In how he interacted with his teammates?

A Yes.

Q Okay. And, sir, did you know a student at Woodlawn during that same year by the name of Hey Men Lee?

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A I didn't really know her, I just knew of her.

THE COURT: Can you lean forward and speak into the mike?

THE WITNESS: I really didn't know her, I just knew of her.

BY MS. GUTIERREZ:

Q You knew of her?

A Yes.

Q Did you know what she looked physically -- like physically?

A Yes.

Q And did you become aware that she and Adnan Syed were girlfriend and boyfriend for some part of that time?

A No, not really.

Q That didn't ever come up?

A No.

Q Did you ever see her at track practice?

A Never saw her at track practice. I did see them in the hall maybe --

Q In the halls of the school?

A Yes.

Q And that school is Woodlawn?

A Yes.

Q And you saw them together?

A Yes.

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Q And when you saw them together, were they affectionate with each other?

A No, just talking.

Q Just talking. Okay.

And you didn't coach her?

A No, I didn't.

Q Thank you. Mr. Urick might have some questions.

THE COURT: Thank you.

Witness with you --

MR. URICK: Extremely briefly, Your Honor.

THE COURT: -- Mr. Urick.

CROSS-EXAMINATION

BY MR. URICK:

Q Good morning.

A Good morning.

Q You spoke to the police detectives at least on one occasion, did you not?

A Yes.

Q And at that time, they were asking you about specific attendance of the Defendant as to January 11th, January 12th, and January 13th, do you recall being asked about that?

A Yes.

Q And do you remember telling them that you have no way of recalling whether or not he was actually there on

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any specific day?

A Yes, I said that.

Q Thank you. No other questions.

THE COURT: Anything further? Any redirect?

REDIRECT EXAMINATION

BY MS. GUTIERREZ:

Q The police came to Woodlawn?

A Yes.

Q And you were aware that Adnan had been arrested?

A Yes.

Q Were you at that time aware of the disappearance of Hey Men Lee on or about January 13th?

A No.

Q You tried to answer them as best you could?

A Yes.

Q Is what you told them that you couldn't recall whether or not Adnan was there?

A I told them I had no written records of whether he was there or whether he was not there.

Q And that's what they were asking, weren't they?

A Yes.

Q Whether or not you had any documentation that would prove that he was there on those specific days?

A Yeah. They wanted to know if I had any documentation.

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Q Okay. And didn't they tell you that they got the information that he was at track practice from him?

A From who?

Q From Adnan?

A Yes, yes.

Q And what they were looking for was not whether you remembered whether or not he was there but whether you had documented his presence?

A Yeah.

Q And you explained to them that you didn't document anybody's presence?

MR. URICK: Objection as to the form of the questions.

THE COURT: All right. Overruled.

You may answer the question. Do you understand the question?

THE WITNESS: Could you repeat it, please?

BY MS. GUTIERREZ:

Q What you explained to them was that you didn't document anybody's presence?

A Yeah, I didn't document anybody's presence.

Q Not only Adnan's but any member of the team?

A Right. I just took a mental note of who was there, who wasn't there.

Q Did they inquire as to whether or not he

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regularly attended practice?

A I believe so.

Q And you told them the same thing you told us today?

A Yes.

Q Did they inquire about his performance?

A I believe so.

Q And you told them the same thing you've told us today?

A Yes.

Q Thank you.

MS. GUTIERREZ: Nothing further.

THE COURT: Anything further from Mr. Urick?

MR. URICK: If I may have a quick discussion for just a second.

THE COURT: Certainly.

(Pause)

MR. URICK: Thank you. Nothing further.

THE COURT: Thank you.

Coach Sye, you are excused at this time.

Released from summons, Ms. Gutierrez?

MS. GUTIERREZ: Yes, Judge.

THE COURT: Mr. Urick?

MR. URICK: Yes.

THE COURT: You may go. Thank you very much,

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sir.

(Whereupon, at 11:59 a.m., the witness was excused.)

MS. GUTIERREZ: Can I just check and see who's out here?

THE COURT: Certainly.

(Pause)

MS. GUTIERREZ: May we approach the bench?

THE COURT: Certainly.

(Whereupon, counsel and the Defendant approached the bench and the following ensued.)

MS. GUTIERREZ: Judge, I only have three witnesses left. I think they're going to take --

THE COURT: They're going to be long?

MS. GUTIERREZ: -- some time. And there's one witness from out of town that I really need to -- she has to catch a flight back tonight, so I want to put her on. I don't want anything that would make that take longer, so --

THE COURT: Can we start with her and get at least maybe 20 minutes of her in?

MS. GUTIERREZ: Well, except she's the witness and the main purpose of her is the book that we need to get from them.

THE COURT: From across the street? All right. And there's nothing else short that you can --

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MS. GUTIERREZ: Well, I guess I could. I could certainly start her and I have a copy of the book that I could start questioning her about and then substitute the --

THE COURT: That's fine.

MS. GUTIERREZ: If we get that far. That'd be fine because then that would ensure that we'd finish with her.

THE COURT: At least we'll get something started with her. Thank you.

(Whereupon, counsel and the Defendant returned to trial tables and the following ensued.)

THE COURT: Ladies and gentlemen, just so you know, the Jury Assembly Room will be looking for you. We're going to take a recess for lunch about 12:15 and you'll go over and they'll be expecting you at that time.

MS. GUTIERREZ: The Defense would call Rebecca Walker to the stand.

THE COURT: Ms. Walker, please step all the way up to the witness stand, all the way here, over here to the right-hand side where you see the mike and the chair. And I need you to face Mr. White, raise your right hand. No, ma'am, face Mr. White, raise your right hand, and listen to what he has to say.

Whereupon,

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REBECCA WALKER

was called as a witness at 12:02 p.m., and after having been first duly sworn, was examined and testified as follows:

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

THE WITNESS: Rebecca Walker, [redacted]

DIRECT EXAMINATION

BY MS. GUTIERREZ:

Q And is that -- that's in Baltimore County?

A Yes.

Q And that's -- is that your parents' address?

A That's my permanent address, yes.

Q Do you currently reside there?

A No, I do not.

Q Where do you currently reside?

A [redacted] Milwaukee, Wisconsin.

Q And what are you doing in Wisconsin?

A I am attending Marquette University.

Q Okay. And what year are you now?

A I'm a freshman.

Q So you started this past September?

A Yes.

Q Last school yea, that would have begun September

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1998 and ended with May 1999, were you a student at Marquette?

A No.

Q Were you a student anywhere?

A I was a student at Woodlawn High School.

Q Okay. And is that located in Baltimore County?

A Yes.

Q And had you been a student at that high school for four years?

A Yes.

Q And during the course of your matriculating at Woodlawn, did you know a student by the name of Hey Men Lee?

A Yes, I did.

Q How did you come to know her?

A I met her in my classes in my freshman year.

Q In your freshman year. And starting in your freshman year, what was your relationship with Hey Men Lee?

A We were very good friends.

Q Did you ever use the term best friends to describe your relationship with her?

A Yes. In my senior year I would have.

Q And at the time you became aware of her disappearance, on or about January 13th, 1999?

You have to answer with words, not shaking your

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head.

A Yes.

Q Okay. And at that time, how would you describe your relationship with her?

A She was one of my best friends.

Q Okay. And through your relationship with her, did you learn of her romantic involvement with Adnan Syed?

A Yes.

Q And Adnan Syed, did you know him before you learned of her involvement with him?

A Yes.

Q And how is it that you knew him?

A I met him in about second grade.

Q And you all went to the same elementary school together?

A Yes.

Q And the same middle school together?

A Yes.

Q And how would you describe your relationship before you got to Woodlawn?

A Before I got to Woodlawn?

Q Yes.

A He was one of my best friends.

Q And after you got to Woodlawn?

A One of my best friends.

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Q Okay. And now?
A Still one of my best friends.
Q All right. Now, Ms. Walker, when you heard about Hey Men Lee's romantic involvement with Adnan, when was that?
A About May of my junior year in high school.
Q And was that near an occasion of the junior prom for your class?
A Yes.
Q Did you attend that prom?
A Yes, I did.
Q Did you see Adnan and Hey Men Lee there?
A Yes.
Q And do you know a student by the name of Stephanie McPherson?
A Yes.
Q And did you also know her in elementary school?
A Yes, I did.
Q And also in middle school?
A Yes.
Q And all through high school?
A Yes.
Q In regard to the three of you, were you all in the same magnet program?
A Yes.

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Q And everybody was a very good student in that program?

A Yes.

Q During elementary and middle school, were you aware what, if any, relationship existed between Stephanie McPherson and Adnan Syed?

A They were friends.

Q They were friends?

A Yes.

Q And did that friendship continue, to your observation, once they went to high school?

A Yes.

Q Now, with Stephanie McPherson, how would you describe your relationship with her?

A She is one of my very good friends.

Q And what was her relationship to Hey Men Lee, if you know?

A They were friends but I'm really not sure how close they were.

Q Did your very good friendship with Hey Men Lee mean that you saw her outside of school?

A Yes.

Q And did that include spending the night at your house or her house?

A My house a few times.

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Q But never her house?
A Right.
Q Okay. And did that include spending the night with her and other girls?
A Yes.
Q And did that include Ayisha (phon. sp.) Pittman?
A Yes.
Q Did that ever include Stephanie McPherson?
A No.
Q So would it be fair to say that, although she was considered a friend, she was certainly not a close friend like you and they were?
MS. MURPHY: Objection.
THE COURT: Sustained.
BY MS. GUTIERREZ:
Q Now, after the junior prom, did you become aware of what, if any, relationship Hey Men Lee and Adnan had?
A Yes.
Q And from whom did you get that information?
A From both Adnan and Hey and other friends as well.
Q So both Adnan and Hey spoke to you about their relationship with each other?
A Yes.
Q And how did Hey Men Lee describe her relationship

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with Adnan?

A They were very close. She liked him a lot and she trusted him and likes to spend time with him.

Q And how did he describe his relationship with her?

A He had the same feelings towards her, and it seemed like he would do anything for her.

Q Did either or both of them use the word love to describe how they felt about each other?

A I think so but I'm really not sure.

Q Did you, Ms. Walker, ever become aware of Adnan --

A Yes.

Q And what was his religion?

A Muslim.

Q And how did you become aware of that?

A I'm not sure. I had just known it since --

Q And had you always known that?

A Yeah.

Q Okay. And to your observation, from the time that you had known him, was he a practicing Muslim --

A Yes.

Q -- as you understand that term?

A Yes.

Q Yes. And did he celebrate Muslim holidays?

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A Yes.

Q And appear to conform outwardly to the Muslim tenets?

A Yes.

Q Did you become aware at any time that the Islam religion at least discouraged, if not forbade, dating?

A Yes.

Q Did you learn that from him?

A Yes.

Q Prior to May of 1999 -- May of 1998, at the time of the junior prom, had you observed whether or not Adnan had ever dated anyone, any other girl?

A I'm not sure.

Q Did you know whether or not -- had he told you whether or not he dated any other girl?

MS. MURPHY: Objection.

THE COURT: Overruled.

Did he tell you?

THE WITNESS: I don't recall him telling me, no.

BY MS. GUTIERREZ:

Q Okay. And if he had told you that, would that have been a surprise to hear that, based on what you had observed of him?

MS. MURPHY: Objection.

THE COURT: Sustained.

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BY MS. GUTIERREZ:

Q After you became aware -- did they attend the junior prom together?

A Yes, they did.

Q Do you know how that happened?

A I believe he asked her sometime -- a few weeks beforehand.

Q And did you have any understanding as to whether or not the junior prom would be considered a date?

A I would have considered it a date, yes.

Q And did you consider it a date back then?

A Yes.

Q And after that date of the junior prom, did you become whether or not the dating continued?

A Yes, they were dating.

Q And did you get that information from both Adnan and Hey?

A Yes.

Q And did you observe them together?

A Yes.

Q And did you observe them in school?

A Yes.

Q Did you also observe them out of school?

A Yes, I did.

Q Did you observe them at any time when they were

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physically affectionate toward each other?

A Yes.

Q And did that physical affection, did it include touching each other?

A Yes.

Q Did it include holding hands?

A Yes.

MS. MURPHY: Objection as to the form of the questions.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Did you ever observe them kissing?

A Yes.

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q At Woodlawn, other than hearing it from them, did you hear confirmation of the dating relationship from any other source?

A I --

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q After the junior prom, did you initiate conversation with Hey Men Lee about the extent of her

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relationship with Adnan?

A I don't recall.

Q You don't recall whether you initiated it?

A Right.

Q Do you recall that you had conversations --

A Yes.

Q -- with her?

A Yes.

Q And was the subject of those conversations her relationship with Adnan?

MS. MURPHY: Objection.

THE COURT: Sustained.

When you hear me say sustained, you don't answer, okay? That means the question is not permissible.

And the objection is to the leading nature. This is your witness, Ms. Gutierrez.

BY MS. GUTIERREZ:

Q Did you become aware at any time after the junior prom that there was a period of time when they ceased dating?

A Yes. I believe it was in November of our senior year.

Q It was in November?

A I believe so.

Q Okay. And were you aware or made aware, just

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from your own observations or being told by anyone, what caused the cessation of dating?

A To my understanding, it was just that it was very difficult for both of them with family relationships and they -- it was very stressful on both of them.

Q And by family relationships, was it --

A Apparently, Adnan had a hard time because it wasn't really -- he wasn't really supposed to be in that type of relationship and --

Q Because of his family?

A Family and religion, yes.

Q Family and religion.

Is -- was that issue something that you spoke to Adnan about?

A Occasionally.

Q Occasionally. And had he expressed the same thing?

A Yes.

Q And by family issues, what else are you referring to?

A That it was just hard because he knew his parents wouldn't approve and he didn't want to disobey them and --

Q He didn't want to disobey his parents?

A Right.

Q Were you aware of any family issues for Hey Men

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Lee?

A She had mentioned just having kind of a stressful relationship at times with some of her family members.

Q And who were those family members?

A I'm not sure.

Q Did they include her mother?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Do you know what religion, if any, Hey Men Lee was?

A I believe she was Christian but I am not sure.

MS. MURPHY: Your Honor, I'm sorry, I'm having a lot of trouble hearing.

THE COURT: You'll have to repeat your answer, and I'll ask you to keep your voice up.

THE WITNESS: I believe she was Christian but I'm not sure.

BY MS. GUTIERREZ:

Q Did you ever become aware of whether or not her religion, if it was Christian, created any issues in regard to her dating Adnan?

A I don't believe it.

Q And that was never brought to your attention?

A No.

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Q When you said in November -- you were talking about the time you became aware that they ceased dating. Up until that time, would you have observed and believed them to be girlfriend and boyfriend?

A Yes.

Q And did you know whether or not they had been sexually intimate with each other?

A Yes.

Q And from whom did you know that?

A Hey.

Q Okay. And up until that time, had you observed them -- in November, that was the beginning of the fall of your senior year?

A Yes.

Q And did you observe Hey and Adnan almost on a daily basis at Woodlawn?

A Yes.

Q And how they interacted with each other?

A Yes.

Q And that was in addition to speaking with them?

A Yes.

Q And did you speak to them in school?

A Yes.

Q And did you speak to them outside of school?

A Yes, I did.

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MS. MURPHY: Objection as to form.

THE COURT: Yes. I'm going to sustain the objection and remind counsel this is your witness.

BY MS. GUTIERREZ:

Q Well, did you speak to them anywhere?

A Yes, I did.

Q And where was that?

A At parties, at restaurants, whenever we went out together, at school.

Q At the parties or restaurants or any occasion where you spoke to them outside of school, would you describe what initiated those occasions?

A We were all friends and we all just went out together.

Q And was that on a regular basis?

A Yes.

Q And on those occasions where they both were present, did you have an opportunity to observe their interaction with each other?

A Yes, I did.

Q Would you describe that interaction?

A They were very affectionate. They were always holding hands, occasionally would kiss each other, lots of talking.

Q To each other?

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A Yes.
Q In addition to those of you who might be around?
A Yes.
Q Did -- by their actions, did they appear to hold themselves out to be a couple?
A Yes.
Q And did you ever become aware of other times --
A Not that I know of.
Q And when you noticed them being affectionate at occasions where there were others, yourself included, was their affection for each other such that it sort of cut them off from others who were there?
A I don't think so, no.
Q Not from what you observed?
A Right.
Q And were there ever -- other than the issue that you became aware of with both of them that centered around Adnan's religion, were there any other issues that you became aware of from talking to either of them or observing either of them that interfered with their relationship?
A Sometime during late fall or early winter of my senior year, Hey met somebody at her work that she thought was attractive and --
Q Did that person have a name?
A Don.

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Q Don? And had you ever met that person?
A No, not formally. I had seen him once but --
Q Were you aware that she didn't start working -- well, she worked -- the work that you're referring to was what?
A At Lenscrafters.
Q And where was that physically located?
A In Owings Mills Mall.
Q And were you aware of the date that she started working?
A No.
Q Now, in late October there was an affair at school, that was the Homecoming Game?
A Yes.
Q Did you attend it?
A Yes, I did.
Q And was Hey physically present?
A Yes, she was.
Q And did she have a date?
A Yes.
Q And who was that date?
A Adnan.
Q Did you see him there?
A Yes, I did.
Q Did you see her there?

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A Yes.

Q And how were they together on that date?

A When I got there, everyone was in the parking lot. And apparently, Adnan's parents had found out that he was there, and he wasn't supposed to be there. And they came and wanted him to leave.

Q They, meaning his parents?

A Yes.

Q And all of that information was told to you?

A Yes.

Q By?

A By Hey and Ayisha Pittman.

Q And who?

A Ayisha Pittman.

Q Ayisha Pittman.

Ayisha Pittman was another student in her senior year?

A Yes.

Q Who was a very good friend of Hey's?

A Yes.

Q And a very good friend of yours?

A Yes.

Q Okay. When you were told that, was everybody outside?

A Yes.

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Q And was the dance over?
A No. It was during the middle of the dance. All our friends were just outside.
Q Was Hey upset --
A Yes.
Q -- that his parents had come?
A Yes, she was.
Q And had she indicated she had spoken to his parents?
A Not at that time, no.
Q She didn't?
And did she express to you that Adnan had left?
MS. MURPHY: Objection.
THE COURT: Sustained.
MS. GUTIERREZ: I'll rephrase it.
BY MS. GUTIERREZ:
Q Was Adnan there when you spoke to Hey about what had happened before you got there?
A Yes.
Q Okay. Were you aware of whether or not she was there when his parents came?
A No.
Q Did he express to you what had happened?
A No, he didn't.
Q As a result of whatever happened pr what you were

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Note:

Pages 133 is missing.

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Note:

Pages 133 was missing from the files sent to /u/stop_saying_right, who filed for, and paid for the missing pages.

The reason why these same pages of testimony are missing from the UndisclosedWiki is that they get their documents from us, not from Undisclosed, or anyone on Adnan's defense team.

A Yes.

Q Okay. And to your knowledge, when you discovered that the relationship stopped, had there been any alteration in those pressures or issues?

A I am not sure.

Q Okay. Did -- you heard about that Adnan did not want to disobey his parents?

A Correct.

Q From him?

A Yes.

Q And did you have any information from Adnan as to what his religious practices meant to him?

A Yes.

Q Had you discussed that with him?

A Occasionally, yes.

Q And in regard to your previous answer, that you viewed this as stressful for both of them, had Adnan expressed exactly how that stress impacted on him?

A Yes.

Q Now, Hey was not a Muslim, correct?

A Correct.

Q To your knowledge, was she precluded by any family tradition, cultural tradition from dating?

MS. MURPHY: Objection.

THE COURT: Sustained.

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BY MS. GUTIERREZ:

Q Had she expressed any other reason for the stress other than the conflict with Adnan's relationship -- with Adnan's religion?

A Just how that stress affected him and, in turn, affected the relationship.

Q And were you aware of whether or not Hey Men Lee was open about the relationship with her family, based on what she told you?

MS. MURPHY: Objection.

THE COURT: Sustained.

And I think at this point we're going to take a break. I know you have additional questions for Ms. Walker.

Ms. Walker, let me advise you that you're a witness on the witness stand, which means you cannot discuss your testimony with anyone. You can't talk about your testimony with Ms. Gutierrez or with the State's Attorney.

We're going to take a luncheon recess and I'm going to advise you that you need to be back in that chair no later than 1:45. No later than 1:45. No later. So if you come in before that, that's fine, all right?

Ladies and gentlemen of the jury, I'm going to advise you that I'm going to recess until 1:45. You are

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welcome to have lunch and if you can be back at 1:45, if you can keep that close tabs. We're going to try to resume this case at 1:45. I'd like to do that and then work until 5:30 today, in hopes that we can try to get a lot done today. I know we didn't get much done yesterday.

So, ladies and gentlemen, I'm going to ask that you leave your notepads face-down on your chairs, that you not discuss the testimony of Ms. Walker or anyone else, either amongst yourselves or with anyone else, that you go to lunch and return at 1:45. Now, I say 1:45 because the Jury Assembly office is looking for you right now. So it shouldn't take you long because they're looking for you right now. And when you're done, it should give you an hour to have lunch.

Please go with Deputy Church.

I'm going to ask Mr. White if you could just call the Jury Assembly Room --

THE CLERK: I just called.

THE COURT: They just called?

THE CLERK: I just called.

THE COURT: Oh, you did?

And they're looking for you, so, ladies and gentlemen, if you'll go there directly.

(Whereupon, at 12:26 p.m., the jury was excused.)

THE COURT: And, Ms. Walker, just as soon as they

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file out, you're free to go. And just come back and have a seat in that chair after lunch.

All right, ladies and gentlemen, this Court stands in recess until 1:45.

(Whereupon, at 12:26 p.m., the trial was recessed.)

ooOoo

AFTERNOON SESSION (2:09 p.m.)

(Jury not present)

THE COURT: All right, I understand there's a matter that counsel would like to -- let me make sure we're back on the record. Yes, we are. Very well.

MR. URICK: Yes, Your Honor. The State previously made a motion in limine concerning Elizabeth Julian which the Court has not addressed yet. She is sitting on the bench outside. It might save her sitting around if we got a ruling.

THE COURT: Is she the next witness, Ms. Gutierrez?

MS. GUTIERREZ: Yes, Judge, but I'd like to finish one witness before I deal with matters about another witness.

THE COURT: Is there any reason why we have to take it up now?

MR. URICK: It would save her possibly sitting

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around till, you know -- if the Court was going to grant it, then she could leave.

THE COURT: Yeah. Well, at this point, I see it as a little after 2. I'd like to start back with the testimony, finish up this witness, then we can take up the issue of the next witness. I understand that Ms. Julian's been around but, unfortunately, she was here yesterday as well. I'd like to deal with that. I understand this Defense witness does have a plane to catch, and we could all get her out, I think that would be also -- I try to accommodate witnesses where I can.

So if we could have Ms. Walker return.

MR. URICK: Thank you.

THE COURT: And I'll remember that there is a motion in limine precluding -- you're asking that the testimony be precluded, correct?

MR. URICK: Yes.

THE COURT: And if I could have the jury brought back in. Thank you very much, Mr. Sheriff.

(Pause)

(Whereupon, at 2:12 p.m., the jury returned to the courtroom.)

THE COURT: Welcome back, ladies and gentlemen. We're going to continue with the testimony of Ms. Walker.

Ms. Gutierrez, the witness is with you.

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MS. GUTIERREZ: Yes, Your Honor.

CONTINUED DIRECT EXAMINATION OF REBECCA WALKER

BY MS. GUTIERREZ:

Q Ms. Walker, this morning we got up to a period of time when you became aware that they broke up, sometime in November?

A Yes.

Q And that was in the fall of your senior year?

A Yes.

Q Okay. At the time that they broke up, did you hear that from both of them?

A Yes, I did.

Q And after their break up, did you see both of them?

A Yes.

Q How often?

A Just the same as before.

Q Did you have any conversations with either or both of them concerning the break up?

A A few.

Q And after you learned of the break up, from your observations, what was their relationship to each other after the November break up?

A They were very good friends.

Q And did you see that with -- from your own

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observation?

A Yes, I did.

Q And did you hear anything related to their continuing friendship from either or both of them?

MS. MURPHY: Objection.

THE COURT: Overruled.

THE WITNESS: Both of them, yes.

BY MS. GUTIERREZ:

Q Okay. And after that time period, did there come a time when they got back together again?

A To my understanding, they had, yes.

Q And did you observe them after the time that you understood them to be back together again?

A Yes.

Q And after that time, did you have conversations with either of them about what was their them relationship?

A Yes, I did.

Q And what was -- and with whom?

A Both of them.

Q Okay. And with Hey, what was -- how did she describe the relationship with Adnan after they got back together again, after they had broken up in November?

A They were still close but it was -- I don't think that it was the same as it had been before the break up.

Q All right. Prior to that time, the time being

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after they got back together again after having broken up -- are you with me? Had they described, either of them, their relationship in terms of going on forever?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Had they described the projected longevity of their relationship at all to you?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q And from your observations before they broke up, did you have any opinion regarding whether the relationship between them would last?

MS. MURPHY: Objection.

THE COURT: Sustained.

Based on what you observed as their friend, did you think their relationship would last?

THE WITNESS: I wasn't sure at the time.

BY MS. GUTIERREZ:

Q And was your hesitancy or not being sure in any way related to the differences in their religion?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

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Q After the got back together again, did they continue to appear the same way as you've described, as friends and as -- together again for some period of time?

A Yes.

Q And after that period of time, did -- and did you continue to relate to them, both inside and outside school?

A Yes, I did.

Q And did you continue to converse with both of them?

A Yes.

Q Okay. Separately and together?

A Yes.

Q Okay. And did there come another time when they altered the status of their relationship, to your knowledge?

A Yes.

Q And when did that happen?

A I believe that it was early December.

Q Early December?

A I believe so.

Q And would that have been before the Christmas break for school?

A Yes, it was.

Q And did the Christmas break for school occur actually before Christmas?

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A Yes.

Q Okay. And at that time, did you discuss with either or both of them as to the reasons for the relationship breaking up?

A I don't recall.

Q Okay. And did you continue to see and observe them?

A Yes, I did.

Q And what, if anything, was the status of their friendship, meaning their nonintimate involvement as girlfriend/boyfriend from what you observed after the early December break up?

A They still talked to each other on the phone, still went out in groups with all of us.

Q They -- would that include them doing all the same things they'd done before?

A For the most part, yes.

Q And did -- in any of your conversations with either of them, did they express their feelings about the other to you?

A Yes.

Q And how was that expressed, Ms. Walker?

A They both stated that they still cared very much about the other one.

Q Was that consistent with your own observations?

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A Yes.

Q At the time that you learned of what, to your knowledge, was their second break up -- well, let me backtrack. Between the first time you knew that they broke up in November and they got back together, how long were they back together again before the break up in early December, if you know?

A I believe it was only maybe a few weeks but I don't really --

Q Okay. Not a long period of time?

A No.

Q All right. Now, after they broke up the second time, in early December, based on your observations and their talks with you, did you have an opinion as to whether or not this was going to be the real break up?

A I wasn't sure.

Q Okay. And that was based on everything that you knew of them?

A Yes.

Q But after that time period, did there ever come a time when you observed hostility from either of them toward the other?

A No.

Q And did you ever hear any of them express any hostility toward the other?

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A No.

Q And did you observe either of them be concerned about the other during that time period after the second break up?

A I'm not sure what you mean by concerned.

Q Concerned about how the other was doing.

A Yes.

Q Handling the breakup?

A Yes.

Q And is that a topic that they both discussed with you?

A Yes, to an extent.

Q How would you characterize Hey's attitude about the breakup in December?

A She wanted to make sure that they would still be good friends.

Q And how would you describe Adnan's attitude toward the breakup?

A He felt the same way.

Q Okay. Both of them expressed that to you orally?

A Yes.

Q Then over the Christmas break -- and that started right before Christmas?

A Yes, it did.

Q And ended right after New Year's of that -- of

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the next year?

A Correct.

Q The year 1999. Did you have an occasion to see Hey Men Lee?

A Yes.

Q And did you also have occasion to see Adnan?

A Yes.

Q Okay. And there was nothing about either of those things, that you saw them both?

A No.

Q All right. And during that time period, did you become aware that Hey Men Lee was going to act on her interest in this boy whose name you knew of as Don?

A Yes.

Q And did you become aware that her first date with Don was on January 1st or 2nd, 1999?

A I knew of that, yes.

Q Okay. And you knew of that from what source?

A I believe Ayisha Pittman and Hey had both talked to me about it.

Q Okay. And did you become aware of whether or not Adnan was aware that Hey was beginning to date a boy whom she was interested in?

A To my knowledge, he did know.

Q He did know?

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A Yes.

Q Okay. And do you know the source of his knowledge?

A No, I don't.

MS. MURPHY: Objection.

MS. GUTIERREZ: And did you --

THE COURT: One moment.

Objection to the question did you know the source of his knowledge? Overruled.

Next question.

BY MS. GUTIERREZ:

Q You answered --

A No.

THE COURT: She said no.

BY MS. GUTIERREZ:

Q And did you ever become aware of whether or not Adnan had met Don?

A To my knowledge, he hadn't met him, but I remember we had both seen him at the same time.

Q Okay. And at the time that you saw him, he was in the company of Hey Men Lee?

A Yes.

Q Yes, okay. Now, after that date, did you -- after the time when you became aware of them breaking up in early December, did you ever notice a difference in their

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attitude toward each other in regard to a desire to remain friends?

A No.

Q And did you ever hear of such a difference?

A No.

Q After they broke up, did you become aware of the fact that Adnan got a cell phone?

A Yes.

Q And were you given that cell phone number?

A Yes.

Q Prior to him getting a cell phone, had you ever visited his house?

A I had been outside of his house but never inside.

Q But not inside?

A Correct.

Q And you had known him and called him close friends since you were in second grade?

A Yes.

Q Okay. Had he been to your house?

A Yes.

Q Did you find it unusual that you had never been inside his house?

A Not particularly.

Q And the lack of finding that unusual, was that based on your knowledge of his family customs and his

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religious customs?

A I guess so, yes.

Q Did you resent at all that you hadn't been inside of his house?

A Not at all.

Q Okay. But he had been inside your house and met your family?

A Yes.

Q Your parents?

A Yes.

Q They all knew him by name?

A Yes.

Q Okay. And it was not unusual for him to come visit you at your house?

A No.

Q Did you become aware at any time before he got his cell phone as to any difficulties friends, including yourself, might have reaching him at his home phone?

A Yes.

Q Okay. And had you experienced those difficulties?

A Yes, I had.

Q And had you ever tried to call his house and felt uncomfortable or felt his uncomfortableness in your conversing with him on his phone?

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A I'm really not sure.

Q Okay. At any time after the breakup, did you become aware that he was interested in some other girls?

A No.

Q Were you aware that he spoke to other girls regularly?

A Yes.

Q And that other girls, different than -- I mean, I know you're another girl but there was never any romantic relationship between you and Adnan, was there?

A No.

Q Okay. But other girls with whom he might have some interest in dating is what I'm talking about. Did you become aware of that?

A I -- to my understanding, I thought that he was talking to other girls like that, yes.

Q For that purpose --

A Yes.

Q -- of dating, of having a girlfriend/boyfriend relationship?

A Yes.

Q And to your knowledge, his religion, Islam, would prevent a relationship with any girl outside of marriage?

A Yes.

Q Whether they were Muslim or not?

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A Yes.

Q Whether they were Asian or not?

A Yes.

Q Okay. And so, you were aware, were you not, of his interest in other girls, that that interest would -- might engender some of the same issues that he had experienced with Hey?

A Yes.

Q Okay. And knowing that, you did become aware, though, that he was pursuing other interest in girls his age?

MS. MURPHY: Objection.

THE COURT: Sustained as to that question, as phrased.

BY MS. GUTIERREZ:

Q And were there any of these girls that you became aware of, were there any that you knew?

A No.

Q Now, let me ask you, I think right next to you is what's been marked as Defendant's Exhibit --

THE CLERK: Fifteen.

BY MS. GUTIERREZ:

Q -- 15. If you would pick that up and look at that. First of all, Ms. Walker, could you identify that for us?

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A Yes. This is a notebook that was given to me as a birthday present a long time ago.

Q A long time ago. So you own the notebook?

A Yes.

Q And did there come a time when you were asked to make some writings in that notebook?

A I was not asked to.

Q Did there come a time when you did?

A Yes.

Q And did you -- did those writings concern Adnan and Hey?

A Yes.

Q And did -- and you did make such writings?

A Yes, I did.

Q And was that after the discovery of Hey's body?

A Yes.

Q Then did -- was there any event that happened that precipitated your doing such writing?

A Just the knowledge of what had happened to her and just the fact that everyone was trying to figure out for themselves what might have happened.

Q What happened. And did this occasion happen after Adnan had been charged?

A No.

Q It occurred before Adnan had been charged?

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A Yes.
Q And that notebook that I have just handed to you, has that been in your custody since then?
A No.
Q Where has it been, if you know?
A I'm not really sure.
Q In whose custody has it been, if you know?
A I don't --
MS. MURPHY: Objection.
THE COURT: Overruled.
Do you know where it's been?
THE WITNESS: No.
BY MS. GUTIERREZ:
Q Do you know who's had it?
A No.
Q Who did you give it to, if anyone?
A I gave it to a detective and somebody --
Q Is that Detective McGilvery?
A I really am not sure.
Q Okay. And was the detective a Baltimore City Police detective?
A I believe so, yes.
Q And did that detective have anything to do with the investigation into the death of Hey Men Lee?
A Yes.

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Q And why is it that you gave it to him or how is it that that came about?

A When I was interviewed about the case, he asked if I had ever written anything down about their relationship or concerning either of them.

Q Had he already asked you about the relationship?

A Yes.

Q And had you already given him your answers?

A Yes.

Q Okay. And when you spoke to him back then -- now, this was after Adnan was arrested when you're speaking to him?

A Yes.

Q And this was after Hey's body had been already discovered?

A Yes.

Q Okay. And at that point, how did you describe the relationship?

A I described the relationship as I described it today. They were together for a pretty long time and then they were just very good friends.

Q And had you described that, to your knowledge, they had broken up before Christmas, in December?

A Yes.

Q And that they had remained friends even past that

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time?

A Yes.

Q Okay. And were those some of the questions that they asked you?

A Yes.

Q All right. And how is it that -- and they then asked you if you had ever written any of that down?

A Yes.

Q And you described to them that you had?

A Yes.

Q In this book that's been identified as Defendant's Exhibit 15?

A Yes.

Q And were you asked -- and did they ask you if what you had written down mirrored what you had just told them?

MS. MURPHY: Objection as to form.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Did they ask you what it was that you had written down?

A Yes.

Q And did they ask you how it is that you had come to write it down?

A I believe they did.

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Q Okay. Now, did they ask you any questions about Adnan's reactions to Hey's being missing --

MS. MURPHY: Objection.

MS. GUTIERREZ: -- before her body was found?

MS. MURPHY: As to form.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q What other things did they ask you questions about?

A They asked me about my relationship with both of them.

Q Meaning? Who is the both of them you're referring to?

A Adnan and Hey.

Q And Hey, okay.

A Yes.

Q What else?

A And they asked me what his reaction was and what he talked to me about when she was missing and before we --

Q Meaning Hey?

A Yes.

Q Her is the Hey?

A Yes.

Q Okay. And what did you tell them?

A I told them about conversations that I had had

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with Adnan concerning Hey's being missing and the fact that he had been very, very upset about it.

Q About what?

A About Hey being missing.

And that on several occasions our conversations had led to him crying and just being very, very upset.

Q Being very upset about Hey's being missing?

A Yes.

Q Did -- when Hey was first missing, when did you find out about it?

A I had seen her on January 13th in school, and then that night I had talked to Ayisha Pittman, and she said that a detective had called her house looking for Hey. And it was -- I didn't see her after that and --

Q And did you have any idea where Hey was?

A No, I didn't.

Q And were you aware that she had spoken to Deborah Warren at about 3:00?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Do you know Deborah Warren?

A Yes, I do.

Q And how would you describe her relationship to Hey back on January 13th?

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A They were friends.
Q Friends?
A Yes.
Q And you saw Hey during class that day, January 13th?
A Yes, I did.
Q Did you see her at any time after 2:15 when class got out?
A I saw her a few seconds after class let out, yes.
Q And had you spoken with her about what her plans were for that day?
A Yes, ma'am, I did.
Q And what was -- what were her plans, according to her?
A She just said that she had to be somewhere after school. She didn't tell me where she was going but she said she had to leave.
Q And then did you see her leave?
A I saw her heading towards the door but I did not see her actually leave.
Q And would that door have led to where her car was parked?
A Yes.
Q And were you familiar with her car?
A Yes.

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Q Had you been inside of it before?
A Yes, I had.
Q To your knowledge, had Adnan been inside of it?
A Yes.
Q How often?
A Very often.
Q And the times that you were aware that he was inside her car, was that with her permission?
A Yes.
Q Meaning Hey's permission?
A Yes.
Q Had you ever seen him drive her car?
A Yes.
Q And the times in which you had seen him, was that also with her permission?
A Yes.
Q In the days after Hey's disappearance, did you ever become aware that Debbie Warren, her friend, had seen her at about 3 p.m.?
MS. MURPHY: Objection.
THE COURT: Sustained as to the question, unless it's personal knowledge. Had she ever become aware?
BY MS. GUTIERREZ:
Q Well, I'm asking did you ever -- was it ever made known to you that Debbie Warren had seen Hey after you had

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on the 13th?

A No.

Q And did you ever become aware that Hey may have had plans to see Don?

MS. MURPHY: Objection.

THE COURT: Answer this question with a yes or no, and then that's it.

THE WITNESS: No.

BY MS. GUTIERREZ:

Q Okay. Now, directing your attention back to the time when you spoke to the detectives, is one of the -- you were telling us the things that he asked you about Adnan's reaction to Hey's being missing.

A Yes.

Q Do you recall that he asked you what it was that Adnan expressed he was thinking in the first couple days after Hey's being missing?

MS. MURPHY: Objection as to form.

THE COURT: I understand. I'm going to sustain the question and --

BY MS. GUTIERREZ:

Q What questions did the detective ask you in asking you to describe what Adnan's reaction to Hey's being missing were? Do you follow that question?

A Yes.

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Q Okay. Can you answer that?
A He asked me how his reaction had changed over time of his knowledge of --
Q And did you describe that?
A Yes.
Q Had his reaction changed over time?
A Yes.
Q What was his initial reaction, as you knew it? And by his, we're referring to Adnan --
A Right.
Q -- right?
A Yes.
Q Okay. Can you answer that?
A He was -- we were all trying to figure out where she -- where Hey might be.
Q And by we all, who are you referring to?
A Adnan, myself, and all the rest of our close friends.
Q Okay. Close of friends of Hey's?
A Yes.
Q Okay. And did those include mostly the close friends from Woodlawn?
A Yes.
Q Okay. And what was it that you were trying to figure out?

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A We thought that she had probably just been kind of stressed out and maybe she had gone to visit her father or maybe she was staying with Don. We --

Q Don, the boy from her work that she had been interested in?

A Yes.

Q And had just had her first date with just a couple weeks before, that Don?

A Yes.

Q Okay. And when you used the word we, did that include Adnan?

A Yes.

MS. MURPHY: Objection.

THE COURT: The objection is sustained.

I'm going to direct the witness -- I need your assistance in answering the question that's being asked of you and ask that you not talk about what we -- when you're asked what did you do or what did Mr. Syed do, that you answer the question that's being posed to you, and that will help us stay on track.

Your objection is sustained.

BY MS. GUTIERREZ:

Q Ms. Walker, when you used the term we, who were you including by that?

A Adnan and myself and several other close friends.

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Q And who were their names?
A Ayisha Pittman, Crystal Meyers, Laura Estrada. There were probably some more but I'm not sure.
Q And Hey's father that you were all thinking she may have gone to was located where, if you know?
A I believe that he was living in California.
Q What was that belief based on?
A That was based on what Hey had told me.
Q And after that first belief, did Adnan ever express other beliefs as to Hey's whereabouts?
A Not specifically, no.
Q And in regard to his reaction, did their questions include asking for any information other than where he thought she might have been?
A They asked how -- if his attitude had changed.
Q His attitude toward what?
A Toward everything.
Q Okay. And what did the everything include?
A School, friends, just life in general.
Q And did you answer that question?
A Yes.
Q And had it?
A Yes, it had.
Q And could you describe for us what you described for them?

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A Within those first few days, he was a little nervous about where she might be but he talked with myself and several other people and decided basically that she was okay and she would be back in school the next time that we had school.

And then as the time went on, he got more and more upset, and I had many more conversations with him about where she could be, why she hadn't returned.

Q During those conversations, did Adnan ever express his feelings about Hey?

A Yes.

Q And what were those feelings?

A That he cared a lot about her and didn't want anything to have happened to her.

Q And during any of those conversations, did that expression of his feeling -- about his feelings about Hey, were they any different than the feelings he had expressed before the date of her disappearance?

A He just expressed them more. He was more passionate about those feelings.

Q In the first week or so after she disappeared, were there events that the group of you all, the friends from Woodlawn, had as a group in which you got together?

A Yes.

Q And were there any birthday parties that occurred

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during that time?

A Yes.

Q Whose birthday party?

A Krista Meyers.

Q And did you attend that birthday party?

A Yes, I did.

Q Did Adnan attend?

A Yes, he did.

Q Who were the others who attended?

A Ayisha Pittman, Debbie Warren, Stephanie McPherson, Jay Wilds.

Q Now, is Jay Wilds someone that you knew?

A Yes.

Q How is it you knew him?

A I had some classes with him when I was in seventh grade.

Q When you were back in middle school?

A Yes.

Q Was he someone back then you would have described as a friend?

A Back then would I? Yes.

Q When you were in middle school.

A Yes.

Q And did you continue to know him when you went to Woodlawn?

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A Yes.
Q Was he in the same year as you or another year?
A He was a year ahead of me.
Q Okay. And did you continue to know him?
A Yes.
Q Did you share classes with him?
A I don't think so.
Q Okay. And then did you ever seek him to spend time with?
MS. MURPHY: Objection as to form.
THE COURT: Sustained.
BY MS. GUTIERREZ:
Q How is it -- did you continue to spend time with him after you got to Woodlawn?
A Yes.
Q And how is it that that happened?
A Basically, because I was friends with Stephanie and --
Q Stephanie McPherson?
A Yes.
Q Okay. And why did your friendship with her cause you to spend time with Jay?
A Stephanie and Jay were in a pretty serious relationship.
Q Okay. And you knew that from your own

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observations?

A Yes.

Q So there were -- were there occasions where you saw Jay exclusively because he was Stephanie's boyfriend?

A Yes.

Q And in regard to that party for Krista Meyers, did the subject of Hey's disappearance come up?

A Yes, it did.

Q And why was that?

A Because I had expected her to be there and Adnan expected her to be there. She had told everyone that she was coming and she wasn't there.

Q And Krista Meyers was her very good friend?

A Yes.

Q Is that why you expected her to be there?

A Yes.

Q And what impact did it have once every -- did there come a time when everybody realized Hey wasn't showing up?

A Yes.

Q And did that have any impact on all of you all?

A Yes, it did.

Q What, if anything, was that?

A I just became more concerned and --

Q About Hey?

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A Yes. And in my opinion, the other friends that were there were also more concerned, and we had talked about that at the party.

Q And did that include Adnan?

A Yes, it did.

Q Did he come to the party with a date?

A No.

Q And was that unusual?

A No.

Q Did everybody come with a date?

A No.

Q Let me direct you back to the day that Hey disappeared; that was the 13th of January?

A Yes.

Q Do you recall what day of the week that was?

A A Wednesday.

Q A Wednesday. And do you recall whether or not there was school on Thursday and Friday?

A There was no school on Thursday or Friday.

Q And why not?

A Because there were snow and ice storms.

Q Okay. And did those snow and ice storms start on the evening of the 13th?

A I don't recall.

Q But there was a sufficient impact such that

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school didn't occur for the next two days?

A Yes.

Q And did any -- did you get together with any of your friends on the 14th or 15th?

A The 15th was Krista's birthday party.

Q And where was that to be located or where did that happen?

A It was at the Liberty Road Volunteer Firehouse.

Q Okay. Now, had -- at the time that you spoke to the detective from the Police Department of Baltimore City, did you speak to him down here or somewhere else?

A I spoke to him at school.

Q At Woodlawn High School?

A Yes.

Q He came to see you?

A Yes.

Q And did you know that he was coming?

A I knew he was there but I didn't know he was going to be talking to me.

Q Okay. And do you know why it is he came to see you specifically?

A No.

Q Were you aware that he was up there and spoke to other students?

A Yes.

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MS. MURPHY: Objection.

BY MS. GUTIERREZ:

Q How did you become aware of that?

THE COURT: Overruled.

You may answer.

THE WITNESS: Just everyone was talking about the fact that there was a detective there talking to people.

BY MS. GUTIERREZ:

Q Okay. And the people that he spoke to, did that include Stephanie McPherson?

A I believe so.

Q Okay. And at that time, was Jay Wilds -- did he go to school there?

A No, he didn't.

Q Was he up there often?

A Yes, he was.

Q And were you aware of whether or not Jay Wilds owned his own car?

A He did not.

Q He did not own his own car.

Were you aware of whether or not he borrowed cars from others?

A Yes.

Q And did you know that of your own personal knowledge?

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A Yes.

Q And did you know whether or not Jay Wilds was involved with any other girl?

A I was not aware of that, no.

Q And were you aware of whether or not his girlfriend Stephanie was aware of whether or not he was involved with any other girl?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Did you -- were you aware when Stephanie McPherson's birthday was?

A Yes.

Q And what day is that?

A January 13th.

Q And was there a party for her?

A No.

Q How would you have described your relationship with Jay on January 13th, 1999?

A I wouldn't have considered him a good friend but I had known him long enough and had enough mutual friends to sometimes see him outside of, outside of Woodlawn.

Q Would it -- okay.

Now, when you were asked to describe Adnan's reaction after Hey's being missing, you described the first

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reaction through the change after Krista's party, did there come a point in time when there was a further change in Adnan's reaction after Hey was missing?

A Yes.

Q And when did that happen?

A It was continuous. As time went on, he became more and more upset and more and more concerned and more depressed.

Q And did he express all of that to you?

A Yes, he did.

Q Did you also observe that, even when he didn't express that?

A Yes.

Q And were there any other ways, other than what he said, in which you could tell that he was getting more and more upset?

A Yes.

Q And how were those? What were those ways?

A His performance in classes. He had stopped talking in class as much. He just seemed like he was always preoccupied.

Q Preoccupied?

A Yes.

Q And did he express to you or did you have occasion to ask him what he was preoccupied with?

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A I just assumed that it was because of Hey.
Q And that was based on your knowledge of him?
A Yes.
Q And was it also based on your conversations with him?
A Yes.
Q Now, the other things the detectives asked you to describe when you spoke with them at school following the identification of Hey's body was the end of the relationship between Hey and Adnan?
A Yes.
Q And did you describe how they were to each other as of January 13th, 1999?
A Yes.
Q And how was that?
A In my opinion, they were very good friends.
Q To each other?
A Yes.
Q Okay. And is that what you told the detectives?
A Yes, it was.
Q And did they ask you any other questions about -- for instance, did they ask you whether or not there appeared to be any bitterness from either side over the breakup?
A Yes.

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Q And what did you answer them?
A I told them that there wasn't.
Q And what did you base that on?
A Just my observations and my conversations with both of them.
Q Had you ever heard either of them express anything that sounded to you like bitterness at all?
A No.
Q Toward each other?
A No.
Q Or toward the fact that they appeared to be finally breaking up their relationship?
A No.
Q And had either of them ever expressed, after the breakup of the relationship, any anger at the other over the breakup?
A No.
Q Had you heard it expressed from either of them, either of them blaming the other for the breakup of their relationship?
A No.
Q Now, prior to the 13th of January 1999, did Hey Men Lee have a cell phone?
A I don't recall.
Q And did she have a pager?

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A Yes, she did.

Q And were you aware of how that pager was used, if at all, to enable communications between Adnan and Hey?

A I know that Adnan paged her occasionally. And other than that, I'm not sure.

Q And were you aware of whether or not before Adnan got his cell phone, which number he gave to you, as to whether or not he had a pager?

A He did.

Q He did. And had you ever utilized that?

A I believe I had.

Q Were you aware of whether or not Hey had used his pager to page messages to him?

A Yes.

Q And did you ever become aware what those messages were?

A She paged him with messages like I love you, I miss you.

Q And did that continue to happen after they broke up?

A Yes.

Q And I wasn't sure that I asked the right question, but you were aware that Adnan knew who this person Don was?

A Yes.

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Q And that he had physically seen him?
A Yes.
Q Do you recall that you mentioned that Hey, to your knowledge, had told Adnan all about that?
MS. MURPHY: Objection.
THE COURT: Sustained.
BY MS. GUTIERREZ:
Q Could you turn to the page I've marked in Defendant's Exhibit 15 and go to the third page of writing, Ms. Walker? A page entitled "End of Relationship," do you see that page?
A Yes, I do.
Q If you go down to the bottom and read, starting from four lines up, if you would read that to yourself.
Have you read that?
A Yes.
Q Now, this is the entries that you made after Hey's disappearance, is that correct?
A Yes.
Q And these are in your handwriting?
A Yes.
Q And this is from this book that ultimately you turned over to the detective whose name you don't know?
A Yes.
Q But that was from Baltimore City?

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A Yes.

Q And did you turn this over at his request?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q At the bottom of that page, is your recollection refreshed regarding what information you knew about whether or not Hey had told Adnan about Don?

MS. MURPHY: Objection.

THE COURT: May I see the exhibit? The item that's being used to refresh the witness's recollection?

(Pause)

The objection is sustained.

BY MS. GUTIERREZ:

Q Having --

MS. GUTIERREZ: I'm not sure what my last question was that you sustained, Judge, to try to rephrase it.

THE COURT: The question was whether or not the item that she was asked to read refreshes her recollection as to what Adnan or Mr. Syed told her that Hey had told him --

MS. GUTIERREZ: Thank you.

THE COURT: -- about Don.

MS. GUTIERREZ: Thank you.

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BY MS. GUTIERREZ:

Q Ms. Walker, on this journal that you wrote that described the end of the relationship, did you describe whether or not Adnan knew about Don?

A Yes.

Q And did you write that Adnan knew about Don from the beginning. Hey told him about the guy from work and his car, the party, and other outings with him and others from work?

A Yes.

Q Is that right?

And that's what you wrote back before the detectives questioned you, is that right?

A Yes.

Q And at the time that you wrote this was during the time when Hey was still missing?

A I believe so, yes.

Q And every was, including yourself, was trying to figure out what was going on?

A Yes.

Q During the time that you wrote this, did Adnan's appearance or reaction or conversations regarding Hey take any dramatic change?

A Just that he expressed how much he missed her.

Q Missed Hey?

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A Yes.

Q And nothing different from what you've described already?

A No.

Q To your knowledge, did he appear to remain committed to friendship with her?

A Yes.

Q Even during the time when he thought she had taken off with her new boyfriend?

A Yes.

Q And even during the time when he thought she had run away to be with her father in California?

A Yes.

Q Was there ever a time during that period of time when you thought that he had stopped caring about her?

A No.

Q Was there ever a time during that time period when he said or did anything that led you to believe that he knew where she was and wasn't telling?

A No.

Q Okay. In this journal that you wrote during that time, you wrote a page on Adnan's character?

A Yes.

Q And why was that?

A Because I knew that it was coming into question,

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so --

Q It was coming into question by whom?

A People that were trying to find out what had happened to her.

Q To Hey?

A To Hey, yes.

Q So Adnan had come into the question among a group of kids at Woodlawn?

A Not students, no.

Q But others?

A Yes.

Q Who questioned their relationship?

A Yes.

Q And whether or not they had truly been broken up?

A Yes.

Q And whether or not Adnan, her ex-boyfriend, could be responsible for her being missing?

A Yes.

Q You weren't one of the people that --

A No.

Q -- thought that?

A No.

Q And was the fact that you weren't one of the people that thought that some of the reason why you committed in writing your thoughts about Adnan's character?

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A Yes.

Q Okay. And what you wrote about his character back then, before this became an issue and before you were asked by the police, was that you described Adnan as being laid back --

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q And did you on that page describe his character?

MS. MURPHY: Objection.

THE COURT: Overruled.

Did you on the page describe his character?

THE WITNESS: Yes.

BY MS. GUTIERREZ:

Q Did you ever -- if you would --

MS. GUTIERREZ: Could we give the exhibit back to the witness?

BY MS. GUTIERREZ:

Q If you would take a look at the first page, where it says "Adnan's Character," and read it to yourself, and let me know when you have read it.

A Okay.

Q And having read that, did you use any word to describe any negative character trait concerning Adnan?

A No.

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Q And at the point in time -- you ultimately gave this to the detective?

A Yes.

Q And were you there when he read it?

A No, I was not.

Q Were you ever asked any other questions about what was in your notebook, Defendant's Exhibit 15?

MS. MURPHY: Objection.

THE COURT: Do you --

MS. GUTIERREZ: After that day?

THE COURT: Restate the question.

BY MS. GUTIERREZ:

Q After the -- you gave it to him at the time that you spoke to him at school or at a later date?

THE COURT: Gave who?

MS. GUTIERREZ: Gave the detective whose name she doesn't remember, that spoke to you at Woodlawn.

THE WITNESS: I gave it to him at a later date.

BY MS. GUTIERREZ:

Q You gave it to him at a later date?

A Yes.

Q And was that at his request or your just forwarding it?

MS. MURPHY: Objection.

THE COURT: Counsel, are you laying a foundation

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to another question?

MS. GUTIERREZ: Well, I thought so, Judge, but I'm kind of lost now, so I'm not sure. Let me see if I can get back to the beginning.

BY MS. GUTIERREZ:

Q You spoke with the detective on some date at Woodlawn, is that right?

A Yes.

Q And that date was after Hey's body was found and identified?

A Yes.

Q And that date was after Adnan was arrested?

A I don't recall.

Q At the time that you gave the detective the book, had you already spoken to him about it on the day that he had spoken to you while you were at Woodlawn?

A Yes.

Q So the detective knew of its existence but he hadn't seen it yet?

A Yes.

Q On that date, had he asked for it?

A Yes.

Q And had you agreed to give it to him?

A Yes.

Q And you just didn't have it with you on that

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date?

A Right.

Q If you had had it with you, would you have given it to him then when he asked?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q After he asked for it, did you cause it to be given to him?

A Yes.

Q All right. And after -- and did you speak to him again?

MS. MURPHY: Objection as to form.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Were you ever asked any questions about Adnan and his relationship with Hey and Adnan's reaction after the breakup after the date that you've described that you spoke to him?

A No.

THE COURT: After the date that he spoke to the detective?

MS. GUTIERREZ: To the detective, yes.

THE WITNESS: No.

BY MS. GUTIERREZ:

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Q After that date? Ever?
A No.
Q And after -- now, you gave this to someone?
A Yes.
Q Okay. And who did you give it to?
A It was the same detective that I had talked to.
Q Okay. And after you gave him this, did you have any conversation with him at that time over what this contained?
A No.
Q And after that date, were you ever spoken to again by that detective or any other detective concerning anything related to Hey?
A No more detectives, no.
Q Were you ever called up and asked to explain the entries that you had made that included nothing negative about Adnan's character?
MS. MURPHY: Objection.
THE COURT: Sustained.
BY MS. GUTIERREZ:
Q Were you ever asked, called up by the detectives or personally seen by them and asked any other questions about Adnan's relationship with Hey?
MS. MURPHY: Objection.
THE COURT: Sustained.

this page courtesy of /u/stop_say_right in response to requests for missing pages.

And, counsel, you should move on. The witness has said no more detectives, she said. So it doesn't matter what question, her answer was I saw no more detectives.

MS. GUTIERREZ: Well, that's not my point. May we approach the bench?

THE COURT: No, if it's relative to questions involving any other detectives. That objection has been sustained.

MS. GUTIERREZ: That's not what it's relevant to.

THE COURT: Very well. Then I'll have you come up.

(Whereupon, counsel and the Defendant approached the bench and the following ensued.)

MS. GUTIERREZ: Judge, this diary --

Could I have that for a minute?

THE COURT: I think it's a journal, is it not?

MS. GUTIERREZ: Well, yeah. It's not labeled a diary. Yes, it's -- this journal was provided to us in discovery and it was many months thereafter, three-plus months, before we could get any information as to who wrote it. Both detectives said different names and then suggested they had no idea whose it was or how they got it. It took us a lot of energy and it was by happenstance that we discovered who was the author of that diary.

this page courtesy of Wisp - say - right in response to requests for missing pages.

Now, Judge, our theory of defense is certainly complex, but one of the facets of the defense is that there has been from the beginning willful ignoring of evidence that challenged in any way their perception that this was a relationship that had just broken up and that Adnan had been motivated by recent feelings, not, not ones that had been long simmering, but feelings that had been ignited based on their view that he was possessive of Hey and that he resented Hey's suddenly ending the relationship and that was the basis of his motivation for killing her.

Our belief and part of our defense is to establish that, notwithstanding the existence of other evidence that might have challenged what they sought, they willfully ignored evidence of Adnan's good character, evidence of information that went against their view of what their relationship was when it broke up, what reason it was for, and how they had acted toward each other, all of which information would have disproved their theory.

THE COURT: Ms. Gutierrez, I have no problem with any of that. That's argument.

MS. GUTIERREZ: Okay. Well, the only reason I'm asking -- well, I can't argue it if I can't get it in.

MS. MURPHY: Your Honor, I'm sorry, I'd ask that counsel keep her voice down.

THE COURT: I understand.

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MS. GUTIERREZ: All I'm trying to do is to lay a predicate foundation to establish this, and I believe that the questions I'm asking are to establish that it's a prior recorded statement at a time when there was no motive to lie, that expressed exactly the same sentiments that --

THE COURT: Ms. Gutierrez --

MS. GUTIERREZ: -- were expressed to the --

THE COURT: -- I have no problem with that. I think you're misunderstanding my objection.

MS. GUTIERREZ: Well, I am. That's why I'm asking to come up. But I'm not asking it to get it in -- I'm only asking those questions as foundation question because, given my experience, what I'm allowed to get in or not, I didn't believe I had come close to laying --

THE COURT: Well, absolutely. You --

MS. GUTIERREZ: -- the foundation, so --

THE COURT: The problem was you had asked -- you asked the same question three times and you were about to start a series of questions where the witness had said on her own -- in response to your question, she responded --

MS. GUTIERREZ: To the police.

THE COURT: -- no detectives had come to me after that at all. She said no detectives came. Had she not said that, then if you were to ask what has come to -- the Court's become familiar with, followed questions to nail

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down that there had been no subsequent contact with detectives, then all of those questions would be appropriate. But the witness volunteered no detectives whatsoever. And once she said that, then all those questions about no detectives came to see you afterwards, no detectives at any time, all those questions are not cumulative. You're reasking the same thing.

MS. GUTIERREZ: Well, they are, but I was asking the question, I thought, broken down to make sure that all bases were covered, such as she didn't get a phone call, they didn't call her and ask her. That's a different question than did they come to see her to ask the same question.

But again, I guess I'm proffering to the Court I was only asking those questions -- and maybe they were repetitive, but now I'm trying to build a foundation to get this into evidence and that's the sole reason that I'm asking --

THE COURT: Do you have any objection to this coming into evidence?

MS. MURPHY: No. No.

THE COURT: Why don't we just move it in?

MS. GUTIERREZ: That's fine. I'll do that, Judge.

MS. MURPHY: Do you have any problem?

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MR. URICK: (Shakes head negatively)

THE COURT: See how easy --

MS. GUTIERREZ: Nothing's been easy in this case.

THE COURT: Well, we try. You know, sometimes we try.

(Whereupon, counsel and the Defendant returned to trial tables and the following ensued.)

THE COURT: So since there is no objection -- counsel, you want --

MS. GUTIERREZ: Your Honor, I would move Defendant's Exhibit 15, what's been marked as 15 for ID, into evidence.

THE COURT: All right. And there's no objection. Let it be admitted.

(Whereupon, the document referred to as Defendant's Exhibit No. 15, previously marked for identification, was received into evidence.)

MS. GUTIERREZ: No further questions.

THE COURT: All right. Any cross?

MS. MURPHY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. MURPHY:

Q Good afternoon, Ms. Walker.

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Ms. Walker, you testified that you would know Hey's car?

A Yes.

Q And you saw her drive it frequently?

A Yes.

Q She usually drove that car to school?

A Yes, she did.

Q The Defendant also had a car?

A Yes.

Q It was a tan Honda? Tan or beige Honda?

A Yes.

Q Did he regularly drive that car to school?

A Yes.

Q But there were some days when he did not?

A Correct.

Q And it was not unusual for Hey to give the Defendant a ride on those days?

A Correct.

Q And in fact, in your words, the Defendant was always in her car?

A Yes.

Q One habit that you've described is that Hey would often take the Defendant from the back of the school around to the front?

A Yes.

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MS. GUTIERREZ: Objection. Fact not in evidence.

THE COURT: Overruled.

BY MS. MURPHY:

Q The cars are parked in back of the school?

A Student parking, yes.

Q Student parking is in back.

And if students had practices or what not, they would often move their cars or perhaps run errands and then come back?

MS. GUTIERREZ: Objection, form of question.

THE COURT: Overruled.

Is that a yes?

THE WITNESS: Yes.

THE COURT: All right. Very well.

BY MS. MURPHY:

Q And even on these occasions, it wouldn't be unusual for the Defendant to be driving Hey's car?

A Yes.

Q Yes, it would not be unusual?

A Yes, it would not be unusual.

Q Now, in your journal that's been admitted into evidence, you mention on the second page that if Hey wanted space at a certain time Adnan said no questions asked, do you recall that?

A Yes.

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Q This issue of Hey needing space, that was an issue in their relationship, wasn't it?

A I can recall just a few instances where that was an issue, yes.

Q Okay. But there was an issue?

A Yes.

Q It's fair to say that Hey was a little more independent?

A I guess you could say that.

Q And at least on one occasion, at least, she complained that the Defendant could be a little possessive?

A She had never complained of him being possessive to me, no.

Q But you do know that she wanted space from him?

A On one occasion I was aware of that, yes.

Q And on those occasions, Hey would want space and then she would change her mind at some point?

A Yes.

Q And then she'd be back with the Defendant?

A Yes.

Q And the first breakup that you described, that didn't last long?

A Correct.

Q A couple of days?

A Something like that, yeah.

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Q And on that occasion, it was Hey that changed her mind?

A I believe so, yes.

Q And in your testimony on direct examination, you even said the final breakup you weren't sure?

A Right.

Q Because no one knew if Hey would once again change her mind?

A Right.

Q She trusted the Defendant?

A Yes.

Q They were still very close, as you stated?

A Yes.

Q And you testified that even after they were broken up she continued to call him, to page him?

A Yes.

Q She would give him rides?

A Yes.

Q And this is when they were clearly broken up?

A Yes.

Q Now, you've testified that the Defendant has described to you problems he had at home?

A Yes.

Q He's told you how he has trouble sometimes getting calls from girls?

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A Yes.
Q He told you that his mother would even listen to his conversations?
A Yes.
Q And you were aware of all that?
A Yes.
Q So at some point in time he got a cell phone?
A Um-hum.
Q Do you recall that that was approximately two days prior to Hey disappearing?
A I didn't recall when it was, no.
Q Is that consistent with your memory, that he got the cell phone in January?
A Yes.
Q Right about the same time that Hey disappeared?
A I thought that he had gotten it a few weeks before but I'm not sure.
Q But if the records indicated that he got them a day or two before, you wouldn't disagree with that?
A No.
Q You talked with the Defendant about that time period when Hey disappeared?
A Yes.
Q And the Defendant actually told you that Hey had called him that night before she disappeared?

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A Yes.

Q The Defendant told you that Hey wanted to know from him if he thought they'd ever get back together?

A Yes.

Q And the Defendant told you that he was the one who said I don't think so?

A He didn't actually say that. He said something like he wasn't sure but he thought that their relationship was fine the way it was right then.

Q But it's not your memory that the Defendant told you that he actually called Hey?

A I don't remember what he -- whether he said he called her or she called him.

Q The Defendant didn't tell you that he called Hey twice the night before she disappeared?

A No.

Q The Defendant didn't tell you he called her at 12:01, midnight, one minute after midnight?

A No.

Q He didn't tell you that he called her at 12:35?

A No.

Q The Defendant didn't tell you that he had a fight with Hey?

A No.

Q The Defendant didn't tell you that they disagreed

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about whether she would be his date for the prom?

A No.

Q The Defendant didn't tell you that he wanted her to be his date?

A No.

Q But he did at some point in time talk to you about the prom and who his date would be?

A Yes.

Q And you've written about that in your journal, have you not?

A Yes.

Q Do you recall that?

THE COURT: Do you recall that?

THE WITNESS: Yes.

BY MS. MURPHY:

Q The Defendant told you he wanted to be able to go to senior prom with a beautiful date?

A Yes.

Q And he told you that he wanted the chance to make Hey jealous?

A He said that he wanted -- he cared so much for her and he knew they couldn't be together, so he wanted the chance -- he wanted her to be around to have the chance to make her a little bit jealous.

Q Now, when Hey disappeared, you've testified,

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there was a lot of discussion about where she could have gone?

A Yes.

Q And that included a suggestion that possibly she went to California?

A Yes.

Q Now, it's your recollection that the Defendant is the one who suggested that, is that right?

A No.

Q I'd ask you to look at your journal, and I believe it's the fourth page of writing, and the title of that page is "Adnan's Reaction To Hey Missing"?

A Yes.

Q About midway down, if you could read the sentence beginning with "Still tried to figure out where she was," and on through the completion of that sentence.

A "Maybe she had gone to California to see her dad."

Q And what's the next sentence?

A "He mentioned that she had said something about if things got really bad she'd just go to her dad's."

Q The Defendant also discussed with you the pressures that he felt concerning his dating Hey and his religion?

A Yes.

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Q He told you at one point about a conversation he'd had with someone at the mosque regarding dating?

A Yes.

Q What he told you was that this person told him that for him to date somebody like this he should marry the person, is that right?

A I believe so.

Q Now, you've talked about Hey calling and paging Adnan on a regular basis, even after they broke up?

A Yes.

Q That made it hard for the Defendant to move on, did it not?

A Yeah, I would think so.

Q It was confusing for him to be getting calls from her when they were broken up?

A Yes.

Q And in his words to you, he thought if he tried to be friends with her that might be the only way he could move on?

A Yes.

Q Also in your testimony, you were asked about other problems in their relationship. You're aware that Hey met and began dating Don?

A Yes.

Q That January 1st was their first date?

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A Yes.

Q You're aware that in those first couple weeks of January Hey was really excited about this new relationship, wasn't she?

A Yes.

Q It was very apparent, was it not?

A Yes, it was.

Q Not only did she tell the Defendant about it, but she told all of her friends, as well as teachers?

A Yes.

Q This was the first guy that she'd gotten serious about since she'd met the Defendant, is it not?

A Yes.

Q She didn't date anyone else during November and December?

A I don't think so.

Q Or the entire time she'd been with the Defendant?

A That's correct.

Q In fact, she was so preoccupied with her relationship with Don that she would actually sit and daydream, would she not?

A She would, yes.

Q And you've described in your journal the very day she disappeared, January 13th, how she was daydreaming at lunch?

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A Yes.

Q What do you remember about that?

A We were sitting together at lunch, and there were probably about -- between 8 and 10 people at the table. And everyone was focusing their attention on Stephanie McPherson because it was her birthday and she had gotten some gifts. And Hey was just sitting next to me and she wasn't talking at all. And I turned to her and asked her if she was okay, and she kind of smiled a little bit and she said, "Oh, I'm just thinking about Don."

Q She clearly was happy about this new relationship, wasn't she?

A Yes.

Q Now, you said that no one asked you to write this journal, is that right?

A Right.

Q Something that you thought would be important?

A Yes.

Q And you began writing this, you said, at a time when it became clear that the Defendant's involvement was being called into question?

A Yes.

Q In fact, most of what you've written is about the Defendant, is that fair to say?

A I guess so.

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Q In the very first page, the first thing you wanted to write in this journal is entitled "Adnan's Character."

A I'm not sure that that was the first thing I wrote but it is on the first page.

Q This was a tough time for you, was it not?

A Yes, it was.

Q A very close friend had been murdered?

A Yes.

Q And another very close friend was being charged with it?

A Yes.

Q You began writing these things, you said, at the time when the Defendant's involvement was questioned?

A Yes.

MS. MURPHY: Nothing further, Your Honor.

THE COURT: Very well.

Any redirect?

REDIRECT EXAMINATION

BY MS. GUTIERREZ:

Q After the second breakup, in December when they remained friends, was Adnan still in her car?

THE COURT: I'm sorry?

BY MS. GUTIERREZ:

Q Was Adnan still in Hey's car?

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A Yes.

Q And were you aware that whenever Hey had difficulties with her car she would call Adnan?

A I'm not sure about that.

Q Were you aware that, in fact, on New Year's Eve day, on the 31st when the car -- when she had some problems driving that she called Adnan to see about the car and come pick her up?

A I'm not sure about that.

Q Based on what you knew of how they had professed their continuing friendship to you and you had observed them, would that be a surprise to you?

A No.

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q And after their breakup, based on what you saw and what you observed before the breakup, would Adnan Syed have had to use subterfuge to get in her car?

A No.

Q Or to get a ride from her?

A No.

Q Or even to borrow her car?

A No.

Q Much less to get inside of her car?

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A No.

Q Now, you were asked about the writings that you made about speaking to Hey Men Lee on the 13th. Was Hey Men Lee a talkative person?

A Very.

Q If she was happy, did all of you friends know about it?

A Yes.

Q Not just from what you observed but from what she said?

A Yes.

Q And if she was sad, did you know about it?

A Yes.

Q Again, from what she said in addition to what you observed?

A Mainly, because she was less talkative.

Q And throughout the time that you knew -- after she and Adnan got together in the spring of 1998, did she speak to you on a regular basis about the ups and downs that caused the stress in her relationship with Adnan?

A Sometimes, yes.

Q Okay. Well, let me ask it this way: Was there anything unusual about her sharing when something was going on with that relationship?

A No.

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Q Whether it be good or bad?

A Correct.

Q Okay. And before -- and you saw her on the 13th and you wrote this much closer to the 13th than it is today?

A Yes.

Q At a time when you were trying to recollect, to the best of your ability, anything you remembered about her?

A Yes.

Q Right?

And did you write anything about anything she said about any fight she had with Adnan --

A No.

Q -- the night before?

A No.

Q Is there anything that she had said to you before the 13th that would indicate to you that she didn't want Adnan calling her?

A No.

Q Or that she had stopped paging him with her messages of love?

A No.

Q And is there entry that you have in your recollection of your last conversations with her while you

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were at school with her on the 13th that indicated that she said to you anything about any fight or difficulty or stress, new stress in the friendship with Adnan?

A No.

Q And based on what you knew and observed and had heard from each of them, would there have been anything unusual about them calling each other?

A No.

Q In regard to calling, the difficulty with calling Adnan was if you called his house?

A Yes.

Q Were there any restrictions that you ever put on Adnan calling your house?

A No.

Q And did he do so?

A Yes.

Q And to your knowledge, were there any restrictions put on Adnan calling Hey's house when they were together or whether they were not together?

A No.

Q And to your knowledge, did they continue, even after they broke up, the habit of speaking to each other every night?

A I wasn't sure if it was every night but often, yes.

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Q Just about?

During that period of time, you described they were both trying to move on from the boyfriend/girlfriend aspect of their relationship --

A Yes.

Q -- while they were maintaining a friendship --

A Yes.

Q -- is that right?

From your observation and conversations with Adnan Syed after that date, did he appear to be moving on?

A He was trying to, yes.

Q Okay. And that included his sort of going out there and being interested in other young women?

A Yes.

Q Rebecca, are you a Muslim?

A No.

Q And do you believe that young people, that it's okay for them to date each other?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Did you ever, to your friend Adnan, express a judgment over his dating Hey Men Lee?

MS. MURPHY: Objection.

THE COURT: Sustained.

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BY MS. GUTIERREZ:

Q After they broke up, did you ever express a judgment to him that indicated that it was a good thing now that he wasn't violating his religious tenets?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q And Ms. Murphy asked you well, he was the first guy, Don was the first guy that she had seen since she had broken up, is that right?

A I believe so, yes.

Q The time that she had been broken up, according to you, was early December?

A I believe so.

Q And the first date she had with this guy was January the 1st, is that right?

A Yes, I think so.

Q A period of no more than two weeks to three weeks after her breakup?

A I think so, yes.

Q Okay. And in regard to your discussion when asked about Adnan's comment about going to the prom, was there a sophomore prom? Was the junior prom the first big dance for those in your class?

A Yes.

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Q Okay. And had there been other dances?
A Yes.
Q And had Adnan ever gone to those dances?
A I really don't recall.
Q And to your knowledge, had he ever gone to a dance and taken a date?
A I don't know.
Q Prior to his going to the junior prom with Hey, had he appeared, based on what you observed and based on what he said to you, appeared to be honoring the Islam tenet that he not date young women?
A Yes.
Q Would Adnan, back then and anytime after going to the junior prom with Hey, have had difficulty in getting a date?
A No.
Q Would he have had any difficulty in getting a beautiful date?
A No.
Q Had other girls expressed interest in Adnan?
A Yes.
Q Was he seen as desirable?
A Yes.
Q Among the young women your age?
A Yes.

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Q In your class?
A Yes.
Q And had other girls made an effort to get his attention?
A Yes.
Q Notwithstanding their knowledge that up until that point he didn't date because he was a Muslim?
A Yes.
Q They still went after him?
A Yes.
Q And the prom that Ms. Murphy asked you about, that would have been the senior prom that you're referring to in your conversations with Adnan about wanting to take her to the prom?
A Yes.
Q The prom would have been the senior prom?
A Correct.
Q And that would have occurred in May of the year 1999?
A Yes.
Q Five months after January?
A Yes.
Q Okay. And once again, at any time on the 13th when you saw Hey, did she ever mention a change in heart about Adnan?

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A No.

Q Did she ever say anything to you that indicated to you that she no longer wanted to be his friend?

A No.

Q Now, Hey Men Lee was always aware during all of this time period that you were also friends with Adnan?

A Yes.

Q That you considered him a very good friend?

A Yes.

Q And that you had known him since you guys were in grade school?

A Yes.

Q And that you had always considered him to be a very good friend?

A Yes.

Q And did she ever mention to you that maybe you better talk to your friend, he's not quite over it?

MS. MURPHY: Objection as to form.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Were you ever asked if you knew what happened to Hey Men Lee's pager?

A No.

Q And did you have any knowledge what happened to her pager?

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A No.

Q The last time that you saw her, to your knowledge, did she still have and use her pager?

MS. MURPHY: Objection as to scope.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q You were asked about conversations that were relayed to you by Adnan about conversations that he had had with members of his mosque?

A Yes.

Q And you were asked about the conversation, well, then you should marry her, do you remember that?

A Yes.

Q Were you aware that Adnan and Hey had spoken of marriage?

A I don't know.

Q Would it surprise you to know that they did?

A No.

Q And the lack of surprise, what would that be based on?

A Because they were very, very close and they had such a serious relationship.

Q And had they spoken of the future?

A I don't know.

Q Other than -- the conversation that was relayed

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to you by Adnan, was that with an adult or somebody else his age, if you know?

A I don't know.

Q Were you aware that there were teachers at the school who spoke about the relationship between Adnan and Hey?

A I don't know.

Q Did you ever speak to any of the teachers?

A (No verbal response)

Q Are you familiar with the name of Ms. Savick (phon. sp.), a 10th grade English teacher?

A Yes.

Q And were you aware that Ms. Savick had -- criticize isn't quite the word but close to criticized Hey --

MS. MURPHY: Objection.

MS. GUTIERREZ: -- for making Adnan betray his religion?

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Did you ever become aware that Ms. Savick had had conversations with Hey Men Lee about her relationship with Adnan Syed?

MS. MURPHY: Objection.

THE COURT: Sustained.

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BY MS. GUTIERREZ:

Q Would it have been unusual for Hey, based on your knowledge, to -- I already asked if it would have been unusual for him to call her. Would it have been unusual for her to call him, Hey call Adnan, after they broke up?

MS. MURPHY: Objection.

THE COURT: Sustained.

BY MS. GUTIERREZ:

Q Were you ever asked by the detective who spoke to you, either on that date you described he came to the school or on any other subsequent occasion, to describe Jay Wilds' character?

MS. MURPHY: Objection as to scope.

THE COURT: Sustained.

MS. GUTIERREZ: I have nothing further.

THE COURT: Anything further?

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

THE COURT: May this witness be excused, Ms. Gutierrez?

MS. GUTIERREZ: Yes, she may go.

THE COURT: Ms. Murphy?

MS. MURPHY: Yes, Your Honor.

THE COURT: Thank you very much.

You may be excused, Ms. Parker. I must advise you that you cannot discuss -- Walker -- you may not

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discuss your testimony with anyone who has yet to be a witness in this case. But in all other respects you're free to go.

(Whereupon, at 3:37 p.m., the witness was excused.)

MS. GUTIERREZ: Judge, we have a matter to bring up before the next witness, and I need a very quick break, so perhaps it would be a good time to take a quick break and then I can bring the next witness in.

THE COURT: I told the jury I wasn't going to let them take a break but I guess I can let them stretch their legs and --

MS. GUTIERREZ: Well, we've got to take a break for the next witness.

THE COURT: -- use the facilities and -- I won't be that mean, so --

Deputy Church, will you walk our jurors around?

Ladies and gentlemen, leave your notepads face-down. Do not discuss the testimony of Ms. Walker or any other witnesses while you're on this stretch break. We'll bring you back in just a few moments.

(Whereupon, at 3:37 p.m., the jury was excused.)

THE COURT: Counsel, you're free to use the facilities as well during the stretch break. And I'm going to take just a five-minute recess for Ms. Gutierrez to also

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stretch but I will come back to hear the other matter before the jurors return.

(Whereupon, at 3:38 p.m., the trial was recessed and subsequently reconvened at 3:53 p.m.)

(Jury not present)

THE COURT: Counsel, I understand that there is a motion in limine. But before we get to that, I think perhaps the easiest way to deal with it with regard to the testimony of Ms. Julian is if Defense would just proffer where Ms. Julian's going to --

MS. GUTIERREZ: Well, Judge, I guess I object to doing that until I know what the motion in limine is about, since they haven't told me that, or what it's based on or what the theory is. I think I'm entitled to know that before I have to proffer what my witness is going to say.

THE COURT: Well, counsel has already indicated that he is objecting to the testimony of Ms. Julian, period.

Is that right?

MR. URICK: That's correct.

THE COURT: And so, in order for me to know whether or not there's any reason to even entertain the motion, if you would -- you don't have to tell me everything she's going to say but if you'd just give me a ball park.

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MS. GUTIERREZ: Judge, I'm just asking for notice of what the objection is. In my book, saying you object isn't enough to establish a foundation. I think, as an advocate, I'm entitled to know what the basis of the objection is before I'm asked to do something that's extraordinary, which is to reveal what my witnesses are going to say before they say it.

THE COURT: Well, counsel, the Court is asking you to proffer where the witness is going to go. I don't need all the specifics, but if you could just give me a ball park -- is it a character witness? Is it a fact witness? I mean, for starters, if you'd just give me that.

MS. GUTIERREZ: I don't know how to characterize it, Judge. I'll try to tell you in the fewest words that I know how.

The -- Jay Wilds is a central witness in this case. Part of our theory is to attack now -- we didn't know this ahead of time, and this Court has already ruled, I believe, that, certainly, providing a lawyer to Jay Wilds was a benefit and we should have been apprised of that ahead of time. You've ruled as well. You know now no harm, no foul, so go ahead on.

Since we believe that the providing of a lawyer is an extraordinary benefit, something that doesn't ordinarily happen, by being provided by the prosecutor of

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the witness that attacking that benefit for what it is, an unusual event, an extraordinary benefit, and, Judge, we intend to argue that to the jury. The purpose of -- Jay Wilds has testified that he asked for a lawyer but he wasn't provided one, or he asked for help to get a lawyer by Detectives McGilvery and Ritz on the 28th in the first tape recorded statement but that he was never provided one. In fact, that was his explanation for what appears on the tape, that he asked them to turn the tape recorder off, that was his purpose. Detective McGilvery denied that any such thing took place and that he would have stopped the questioning if, in fact, he had asked for one.

So in light of that -- now, as to that issue, since we only learned about it in trial, we've attempted to call Mr. Urick, which the Court denied, saying that we had other sources if the Court deemed it to be relevant. We've attempted to call Ms. Bennett-Royo. The Court's deemed that that's too collateral, even though she could testify as to the benefits. And so, we are attempting to call Ms. Julian in her capacity, not as an expert as to this but as to -- in her capacity as being the public defender that covers the City of Baltimore. That would cover the representation of any indigent defendant who was charged with a crime as to the ordinary representation of those who ask for it.

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THE COURT: Ms. Gutierrez, isn't the testimony that Mr. Wilds said that he called the Public Defender's Office and they said that they couldn't represent --

MS. GUTIERREZ: He wasn't charged.

THE COURT: Right. They could not represent him unless he was charged.

MS. GUTIERREZ: And he wasn't charged then.

THE COURT: Okay. But at that juncture, there was no testimony by Mr. Wilds that he ever tried to call the Public Defender's Office again, is that right?

MS. GUTIERREZ: No, we did ask him that. Yes, and he didn't, because he came down on the same day that he entered the plea and a lawyer was provided to him by a prosecutor.

THE COURT: That wasn't what the testimony was. The testimony was, and Ms. Bennett-Royo confirmed, at the time she came to the offices of the State's Attorney, upon the questioning both by the Court, by you, and by Mr. Urick, was that she came here, she had not decided whether she was going to accept Mr. Wilds as a client. And Mr. Wilds testified that he had not decided that he was going to accept Ms. Bennett-Royo as his attorney, so that --

MS. GUTIERREZ: At the beginning of the day.

THE COURT: Correct.

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MS. GUTIERREZ: That's fine.

THE COURT: But to say that the State provided the lawyer assumes that Mr. Wilds had no say in the decision. And through your own questions --

MS. GUTIERREZ: No, Judge, I don't mean to say that.

THE COURT: -- he had a choice.

MS. GUTIERREZ: And I don't think that I assumed that and I don't think that's what the testimony says, that he had no question. But if that's not splitting hairs, I don't know what it is, because then that precludes us from getting in front of the jury what we believe is absolutely relevant in order for them to assess what we believe we're entitled to argue was a benefit of the bargain.

THE COURT: Which is?

MS. GUTIERREZ: And that is to get a lawyer, provided free of charge, introduced to them by Mr. Urick, who's not a public defender, who isn't in the business of representing people or arranging their representation. It's the only way we know that we can attack what this benefit was and how it should be considered in regard to what the jury will know and how to put into context the bargain, the so-called bargain that includes the benefit of being provided a free lawyer.

The evidence does stand. No discussion about

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fee. No fee to Mr. Wilds. He says he understood that based on what Mr. Urick said that this lawyer, Ms. Bennett-Royo, would be free to him, that that's part of the benefit. To contrast that with what is the ordinary event of providing, either by prosecutor or by a cop or by a person who gets notice of their being charged, and he called them at a time he wasn't charged. And according to him, he had no notice that he would be charged because he only learned about that the night before he was brought down, so-called to meet his lawyer, although he wasn't told that. He was told he was going to be charged, and the next thing that happened is that Mr. Urick introduced him to someone who was a very good defense lawyer, who was going to do it pro bono, and then he met her.

To say that Mr. Urick was not the cause of his being introduced to the lawyer that he may well have decided to accept or not -- but to try to allow them to paint the picture that he had nothing to do about it is to allow him to stand up, which he's repeated more than a dozen times, oh, he's just a prosecutor, he's an officer of the court, the guy had a fundamental right to a lawyer and I just happened to provide it, is to absolutely deprive us of any ability to challenge the meaning of the benefit of that bargain that included getting a free lawyer who's not a public defender, who isn't in the business, that is

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outside the constraints of ordinarily how every other single person in the City of Baltimore who would ask for a lawyer, who would be deemed eligible, not able to pay for a lawyer --

THE COURT: Ms. Gutierrez, only --

MS. GUTIERREZ: -- would be provided a lawyer.

THE COURT: -- provided a lawyer if they called the public defender. If they called the public defender, Ms. Julian could tell you all about how that procedure works.

MS. GUTIERREZ: That's all I want to get in. If a person who is deemed to be --

THE COURT: But he didn't call the public defender.

MS. GUTIERREZ: Judge, but that's not the point.

THE COURT: It is because it's not relevant. Had he called the public defender --

MS. GUTIERREZ: So the Court's ruling that the rareness of the fact that a prosecutor provides a free lawyer to a defendant he is charging with and causing to plead guilty, that is his only witness in a murder trial is not relevant to attacking --

THE COURT: That's not what I said.

MS. GUTIERREZ: -- the benefit of the bargain? Well, that's what I'm asking.

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THE COURT: That's not what I said.

MS. GUTIERREZ: Because I'm not clear that the Court understands why we think it's relevant.

THE COURT: I understand exactly why you think it's relevant.

MS. GUTIERREZ: And is the Court ruling that it's not relevant to that issue?

THE COURT: I understand that your statement in your mind is relevant, but that is not the Court's recollection of the facts of this case, nor is it the Court's reason for disallowing and being concerned that you proffer to me some reason why Ms. Julian's testimony would be relevant to this case. The Public Defender's Office was never representing the Defendant.

MS. GUTIERREZ: I understand that, Judge, but --

THE COURT: And there is a whole host of ways you can get counsel --

MS. GUTIERREZ: -- if I asked her --

THE COURT: You would agree with me, Ms. Gutierrez, there are a whole host of ways that a defendant can get counsel in this state, in this city?

MS. GUTIERREZ: Judge, the point that I believe that we're entitled to make, whatever host of ways that are, that there's never been an occasion, ever in this jurisdiction, where a person entitled to be represented by

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a free lawyer, whether or not they were ever so qualified, is provided a lawyer by the prosecutor that's prosecuting him.

THE COURT: And you believe Ms. Julian knows this?

MS. GUTIERREZ: No, Judge, but what I believe that what Ms. Julian's testimony will be, picking up on what Jay Wilds' testimony was, that if there were a person, assuming he would be qualified as indigent, and I would have her explain that, had called at a time they were not charged with a crime and they were told that they couldn't be represented because they weren't charged, would that have been a correct statement of her office's power. Yes. And if they had called, there would come a time when that same person who could not be represented because they hadn't been charged had become charged, would they then, if they qualified for the public defender, then be eligible to be represented.

And then I wanted to ask her questions that go to is there a duty public defender on duty 365 days a year? And is the existence of that duty public defender made known to the prosecutor's office? Yes. And is the existence of that duty public defender made known to the State's Attorney's Office? And are there occasions when she, as the public defender, gets calls from prosecutors,

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from Courts, from Judges, I mean from police people --

THE COURT: Ms. Gutierrez, let me --

MS. GUTIERREZ: -- requesting a public defender?

THE COURT: -- let me cut right to the chase. I understand exactly why you want to call Ms. Julian. You are concerned and want the opportunity to argue to the jury that what the State's Attorney's Office did by calling in a lawyer outside of this jurisdiction, Baltimore City, was to hide, effectively hide several things. Hide the existence of an attorney by not using the public defender; hide the existence of the deal; hide the plea agreement by not entering a statement of facts at the time that the guilty plea was entered; hide the existence of the plea itself, the actual plea litany, by the manner in which that folder, as we all have come to know a guilty plea being done in a certain fashion; hide the discussions that followed between McCurdy and the Defendant or that Mr. Wilds, the Defendant at the time, when he wasn't sure if he wanted a lawyer --

MS. GUTIERREZ: Which --

THE COURT: -- having the lawyer, let's say, handy; having been solely invited to the State's Attorney's Office at a time when the State had made up its mind and decided to charge Mr. Wilds and it just so happened that this sole attorney was sitting, waiting for the Defendant Wilds to arrive.

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MS. GUTIERREZ: Well, Judge --
THE COURT: So, I mean --
MS. GUTIERREZ: -- it's not that. That's something --
THE COURT: -- I think what you want to argue --
MS. GUTIERREZ: Yes, I want to argue those things, but I don't intend to argue those things from this --
THE COURT: I understand.
MS. GUTIERREZ: -- witness.
THE COURT: I understand. But in total, that whole --
MS. GUTIERREZ: Much of what you've articulated is not in the record because you've refused to allow us to put it in the record.
THE COURT: That's exactly correct.
MS. GUTIERREZ: So we can't argue that.
But in any event, even those things that I want to argue, I'm not intending to argue any of them through this witness. I believe as part of the benefit of the deal providing a free lawyer, if it's a benefit of the deal, then we're entitled to explore what that benefit was, how rare it was, how extraordinary it was. These are not lawyers. They may know of their own personal knowledge that, of course, it is an outrageous, unusual event that a

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prosecutor provides the lawyer, but they may not know that. And if we're not entitled to attack each piece of the deal, having been restricted as we believe absolutely you have done to us to properly put on our defense, and now we're not even being allowed -- there's no other way but to argue it from what's there and what is in the record that we've been allowed to put in from the only available sources, particularly since we got into this trial with both arms behind our back because they didn't tell us the benefit and you have ruled no matter, you know it now, do with it what you can. Well, now we can't do anything with it.

This witness can't tell us, Mr. Wilds, how rare it is. He has no basis to know that. He has said things that I believe lay a predicate, that if he had called afterwards and he were deemed indigent he would have easily been given a public defender.

THE COURT: Maybe he didn't want one.

MS. GUTIERREZ: Even if -- that's not the issue, Judge --

THE COURT: Did he have one?

MS. GUTIERREZ: -- who he wanted. We can't pretend at this juncture that this magic lawyer appeared from the sky and he just happened to pick her. She didn't just happen to appear in Mr. Urick's office; he chose for her to be there. He intended for her to represent him.

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Did he have a right to refuse? Well, maybe, but that doesn't affect what --

THE COURT: What did he say, though? Do you recall what he said?

MS. GUTIERREZ: What who said?

THE COURT: Mr. Wilds said about his decision to choose Ms. Bennett-Royo.

MS. GUTIERREZ: He said he did so.

THE COURT: But didn't he say that he believed he had a choice?

MS. GUTIERREZ: Judge, he said something akin to believing that it was his choice. I believe --

THE COURT: He said it was his choice.

MS. GUTIERREZ: I believe, though, that the circumstances were such that it is a viable, reasonable inference that doesn't support his belief. And his belief, Judge, over what the benefit of the bargain is does not proscribe our ability to challenge that benefit.

Now, if this Court is prepared to rule that him providing Ms. Bennett-Royo at that moment to be the lawyer he picked is not a benefit, Judge, then do so, and I'll make my record and go on. But I understood that you understood that if he did anything to provide the lawyer, whether or not he paid her is a separate issue, but to provide a free lawyer to a defendant whom he's about to

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charge and negotiate a plea to a crime as a benefit, then it's open season for us to attack what really that benefit is, where that benefit falls in line with all other benefits in life, so that the jury can make -- the only people that can make the ultimate decision, was this such a benefit, given other benefits of that deal which made Mr. Urick the ultimate arbiter of truth and compliance with the deal? Was that benefit such that it impacted on what Jay Wilds says, that it impacts on his veracity, that it impacts on his bias, that it impacts on whatever pressures there may be to tell the truth, and for this jury to then assess the truth as he said it, and that includes his truth as to the deal?

Judge, the possibility isn't just did he tell the truth or didn't he tell the truth about that specific issue. It's if he told the truth, was it because he knew it? If he didn't tell the truth, was it because his deal makes him not tell the truth? Because if that's the truth that the jury finds, then, of course, it impacts on the ultimate issue: Was the deal something, in some way, however small, part of what impacted on him to say what he did? To impact on his veracity?

Now, if this Court is prepared to find that the circumstances of Mr. Urick happening to have a lawyer fall from the sky, in his sky, that he then introduces as hey,

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here's a lawyer you may want to pick, isn't part of the benefit he offered Jay Wilds, then, Judge, please do so and make that a finding. And then we don't get there, then we have another record to make. Then the rest of your rulings make sense to me. But my belief is that you found otherwise, and the reason that they should have told us about it ahead of time was because, of course, what the deal is, every element of the deal, every part of any benefit that Mr. Wilds derived in his head, certainly. But, Judge, also it's out of his head because he could choose to lie about what the benefits are.

THE COURT: Unfortunately, you have before this Court two witnesses who do not state what you believe the deal or benefit was, Mr. Wilds and Ms. Bennett-Royo. Both of them are not supporting your position that the benefit --

MS. GUTIERREZ: Judge, they are.

THE COURT: Well, if you listen to the testimony --

MS. GUTIERREZ: Neither of them are saying that they picked out each other. Both of them are saying they got into that room and being introduced. Then, Judge, I'll live with that as the benefit because I think that's a benefit. Having a lawyer or more than one lawyer from which he can pick, particularly when it's not the ordinary

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way, either he, in his capacity, or any lawyer in any capacity goes about obtaining a lawyer for someone they are prosecuting and about to negotiate a plea, I'll live with that as the benefit. And they both say that was a benefit. They got into that room by his action. They both say that. They didn't just happen to be there. It was not a situation -- Ms. Bennett-Royo said precisely that same thing. She didn't just happen to be in his office for any purpose and then was dragged in. Hey, will you be his lawyer? And even if that were so, which isn't so, Judge, it would still be a benefit if he's afforded a lawyer that otherwise he wouldn't get.

THE COURT: So to get back to what you say Ms. Julian is going to testify to --

MS. GUTIERREZ: That's all I want to ask her. She knows nothing about this case, although I would ask her --

THE COURT: She's prepared to say that it is not a common practice in this jurisdiction for a prosecutor to have a lawyer and she is familiar with that --

MS. GUTIERREZ: For a prosecutor --

THE COURT: To have a lawyer for another defendant?

MS. GUTIERREZ: To provide a lawyer for a defendant.

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THE COURT: To provide a lawyer.

Well, not provide --

MS. GUTIERREZ: That there is a policy that the State's Attorney Office and the police department are made aware of duty lawyers that are on duty 24 hours a day to respond to anything --

THE COURT: And for those that are not --

MS. GUTIERREZ: And in addition, she has received calls from Judges, from prosecutors whenever unforeseen circumstances arise, such as this, when a plea -- you know, when a prosecutor says look, I'm trying to work out a plea, I need to have him represented. And she would then describe they're qualified, if the public defender deems them qualified, i.e., eligible for a public defender, they would then appoint a lawyer, and that she's not aware of any list employed by prosecutors, by Judges, by police.

THE COURT: But how would she know whether the prosecutors, whether it be the U.S. Attorney's Office or the State's Attorney's Office, have a list of names of lawyers that they call who have agreed to do --

MS. GUTIERREZ: All I can ask her is --

THE COURT: -- pro bono work?

MS. GUTIERREZ: -- is she aware of it and is she aware of any circumstance in which prosecutors provide the lawyers for those that are about to plead guilty.

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I know there's a limit to the amount I can get from her, Judge, but I'm boxed in with nowhere to go and with nowhere to challenge, and part of that is because of the willful nondisclosure of it which you've held is no foul. The last place I can get is a little tiny bit, and we're asking, in light of our right to present a theory, that you give us that little bit now that you've taken everything else away.

THE COURT: Thank you, Ms. Gutierrez.

The State's response now that you know more particulars about the reason why Ms. Julian is going to be called.

MR. URICK: One, that's there's no relevance to the testimony. If there is any relevance, it is on such a collateral issue that it should be excluded under Rule 5-403 as --

THE COURT: Well, wait a minute, Mr. Urick. Isn't it a fact that the relevance is of your own making? Isn't it the fact that if there is any relevance at all that it is of the State's making? That had you followed a -- let's call it a common practice in obtaining a lawyer for a defendant, had you contacted the Public Defender's Officer and asked them for representation, either by the duty attorney or by a paneled lawyer if they felt there was a conflict, if you had done that, had you contacted the

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Administrative Judge or the Judge in charge of criminal and asked them to assist you in having a lawyer for the defendant who you decided or who decided wanted to consider this plea agreement, had you done that and followed the procedure that would be commonplace in this jurisdiction, we wouldn't even have this issue?

MR. URICK: Mr. Wilds testified to his contacting the Public Defender's Office and their response was if you're not charged we can't represent you. If asked, Ms. Julian would say that if a person is not yet charged they cannot represent them. They can't even make the determination whether they --

THE COURT: Well, Mr. Urick, how convenient was that? You knew that the defendant, Mr. Wilds, had not been charged, but you also happened to have, just happened to have a defense attorney in your office on the day you charged.

MR. URICK: If asked, I would proffer Ms. Bennett-Royo would have testified I only asked her to come to talk to Mr. Wilds so that he would have an understanding of what was going on, so he could make an informed decision what he wanted to do next.

THE COURT: And how far in advance did you do that? That day? That morning? Two weeks? One week? Seven days?

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MR. URICK: I'm sorry if I don't understand.

THE COURT: How far in advance of the day that Mr. Wilds was asked to review the plea agreement did you contact Ms. Bennett-Royo?

MR. URICK: I don't know an exact time. It was around that time. She came in to talk to him. We -- if he had said anything -- it was his decision that day to enter a plea, so we made up the charging documents that day. If he had said, after discussion with her, I want to think about this, I want to go talk to the public defender, I want to do this, he would have -- that's exactly what would have been done.

It was not our intention that he was going to be charged that day. We were beginning plea discussions. We wanted him to be informed so he could make an informed decision about how he wanted to proceed.

THE COURT: You would agree that that was an unusual occurrence?

MR. URICK: It is a fact that our system does not adequately help people in his situation.

THE COURT: You would agree that it's an unusual occurrence?

MR. URICK: No. I believe Mr. Joy (phon. sp.) would have testified it's usual. That's why I brought him in that day. He's been asked by state's attorneys, judges,

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public defenders to come in to talk to people about their rights so they will know them. He's been asked by state's attorneys to do that. I had asked him that day. He's been asked by other state's attorneys in other situations involving plea discussions, involving Fifth Amendment situations where someone's going to be called for a -- as a potential witness at trial and they need to be advised of their rights. He would say on at least 10 or 11 occasions he, as a pro bono service to the profession, has come in on request of state's attorneys, public defenders, judges to advise someone of their rights. It is not an unusual one.

There is a -- still a class of people whose rights are not protected by our system as it stands now.

THE COURT: We're getting off --

MS. GUTIERREZ: Judge, I will note for the record I did have an opportunity to speak to Mr. Joy, and the only circumstances under which Mr. Joy has ever done that are two specific periods of time that -- I don't know if they preceded the Court's being on the bench, but where the prosecutor's office and/or the Courts opened up additional courts for which there was no funding for public defenders to staff those courts. And because of that, the Public Defender's Office declined to staff those courts. That is, represent people that were going to get assigned to two additional drug courts. And as a result of that, there was

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an effort. That was initiated by the Judiciary to draft in a number of private lawyers to fill the need until the funding of additional public defenders could, in fact, be squared away, which was, in fact, squared away.

That Mr. Joy would have testified he recalled the tremendous debate over whether public -- private lawyers should do that for policy considerations within the MCDA, which is an organization, the Maryland Criminal Defense Attorney Association. But both Mr. Joy and I do that.

But, Judge, even if Mr. Joy could say otherwise, even if Mr. Joy's whole practice was to wait around to get a call from Mr. Urick or some other prosecutor, under any circumstances, doesn't resolve the issues that we've raised.

THE COURT: Well, I think you're absolutely right, it doesn't resolve the issues, and I think the issues that we're discussing right now are for another day and another proceeding. It has nothing to do with Mr. Syed because I don't find that asking Ms. Julian any questions about what could have happened, what might have happened, what should have happened on a day that did not occur because Mr. Wilds did not choose to utilize the Office of the Public Defender -- he did not choose to do that, that was his decision. He's testified already about his decision and why he made it and was cross-examined at

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length about why he did that. And in an attempt to ensure that there wasn't anything further that needed to be said or would be appropriate for the jury to hear, the Court allowed the questioning of Ms. Bennett-Royo to determine whether or not there were any facts to support the position that -- and initially, it was as if the State had paid for Mr. Wilds's lawyer, at least that was the impression or the aura that was surrounding this possible agreement/deal/benefit. But, under oath, Ms. Bennett-Royo had indicated that that was not the case, that she was not paid, that she was a pro bono lawyer, that she had done the same thing that counsel has proffered Mr. Joy has done. In the past, she said that she had represented individuals and that if she decided it would be appropriate. She had not decided she was going to represent him ipso facto, but said under oath that she had not decided it and that it was only after talking with him that she decided to represent him. And clearly, that was what her testimony was.

For Ms. Julian, who had no contact with Mr. Wilds, to come in and talk about what could have, should have, might have happened had Mr. Wilds decided to make application to the Public Defender's Office is not relevant to this proceeding because he did not decide to do that. In fact, he decided not to do that by his decision to take the attorney that he interviewed, he questioned,

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and decided that he wanted. And to have Ms. Julian come in serves no purpose in the interest of justice or a furtherance of this case. And so, for that reason, Ms. Julian will not be permitted to testify unless she has some personal knowledge about this case or some relevant testimony other than what you've already proffered to this Court.

And I would also note for the record that you are well within developing your theory, but whatever theory you develop, I still have the discretion to determine whether the information is relevant to this proceeding.

MS. GUTIERREZ: I understand, Judge.

THE COURT: And you can disagree and you can note the record, as you have.

MS. GUTIERREZ: You know that I'll do it.

THE COURT: And so, I respect your argument --

MS. GUTIERREZ: I would ask for some guidance --

THE COURT: -- and your right to make your argument, as I'm sure you respect my right --

MS. GUTIERREZ: And as the Court knows, I'm --

THE COURT: -- to disagree.

MS. GUTIERREZ: -- working on a jury instruction --

THE COURT: Very well.

MS. GUTIERREZ: -- to that and I will

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certainly -- however, Judge, we still believe that the rareness, the exact question that you just asked Mr. Urick, is relevant, the rareness of it. And frankly, Judge, I'm out of options, even though you've told me that I haven't suffered from not knowing this information before. I'm here to tell you I'm suffering, and you're supposed to be the referee. Is there any evidence that I'm going to get over the relevance issue? Can I call Ms. Jessamy who could certainly testify to the rareness of her prosecutors providing a lawyer for defendants who the prosecutors are going to enter into a plea agreement for a charge? May I call Mr. Urick's boss? May I call his boss's boss? Because, Judge, if that is relevant, and it wasn't relevant, gosh, Judge, I wouldn't have asked them?

THE COURT: No. I think it's relevant perhaps to a different proceeding, and that's why the Court made the inquiry. However, I do not believe it's relevant to this proceeding.

MS. GUTIERREZ: Any evidence regarding the rareness of the action he took to cause Ms. Bennett-Royo to be there, to miraculously intercept a potential pro bono client --

THE COURT: Sometimes --

MS. GUTIERREZ: -- that's what we want to prove. So I don't want to --

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THE COURT: Sometimes things are relevant --
MS. GUTIERREZ: -- waste any more time --
THE COURT: -- sometimes things can
MS. GUTIERREZ: -- if that's the Court's ruling.
THE COURT: Well, sometimes things can be relevant, but may be excluded if the probative value is substantially outweighed by the danger of --
MS. GUTIERREZ: Okay, Judge, then I'm asking --
THE COURT: -- unfairness or prejudice, and I --
MS. GUTIERREZ: -- for a ruling --
THE COURT: -- have ruled --
MS. GUTIERREZ: -- before I issue -- will the Court issue a subpoena for Pat Jessamy, the State's Attorney for Baltimore City, who would know whether or not that is a rare or nonrare event of her prosecutors enabling and providing for an opportunity for a person about to be charged?
THE COURT: Why don't I state it very clearly? Whether or not the prosecutor having a defense attorney in his office through which a defendant might decide or not to decide to utilize the pro bono services of that lawyer, and that lawyer deciding to or not to represent that defendant, and that circumstance being rare or not might be relevant, but I am finding is going to be excluded because I find that the probative value is substantially outweighed by

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confusing the issues and misleading the jury. It also is needless presentation of what I find to be cumulative evidence. You have the facts in front of you which you can argue in closing.

MS. GUTIERREZ: Does the Court --

THE COURT: You have the fact that Mr. Urick was there. You have the fact that Mr. Wilds decided at the same time that he was presented with the plea agreement. You have the fact that he read through that and Ms. Bennett-Royo was there. She was available. He decided, after talking to her and meeting with her, for whatever reason, to have her as his lawyer. You have before the jury all of that information which you can argue whatever inferences you want to argue are established by that evidence. You can argue that that's a benefit. You have the plea agreement which talks about the role of the state's attorney. You have the fact that it's signed by Mr. Urick and you can argue all the clauses that allow the State to do whatever the State could do if they don't like the way Mr. Wilds testified, and all the things that are contained.

All of that evidence you currently have before you by the witnesses who have testified. If you want to argue that, you are well within your right to argue that in closing, but you're not going to bring in collateral

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witnesses who don't have any personal knowledge to add to those facts, who have never talked to Mr. Wilds on this issue, nor Ms. Bennett-Royo on this issue, who have no firsthand knowledge.

And, in fact, whether this be rare or not, I find that even if it's relevant that it's rare, the evidence may be used improperly by this jury. So that the inferences stand as what they are and they can be argued by you or by the State or by both of you.

MS. GUTIERREZ: I understand that the Court is then going to allow me to argue the rareness of Mr. Urick's activity --

THE COURT: No.

MS. GUTIERREZ: -- in argument?

THE COURT: The fact of his activity, what he did and what inferences may be drawn from the fact of the plea agreement that says he has all sorts of control and it's based on what the witness says. And if you want to argue that the circumstances are such that the credibility of this witness has a lot to do with how the State is viewing it.

MS. GUTIERREZ: Is the Court making a finding that this is not a rare event?

THE COURT: No, I'm not.

MS. GUTIERREZ: But the Court's not going to

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allow me to argue the rareness of it?

THE COURT: Does Ms. Julian know whether it is rare?

MS. GUTIERREZ: Ms. Julian can give testimony that bears on whether or not it's rare. We are making rareness an issue and we believe that we can have a witness that gives credible testimony from her position and her knowledge of the representation of persons charged with crime in Baltimore City that bear on whether or not this is an ordinary or a rare event, and that's all we're attempting to get out of her.

THE COURT: Okay. The issue --

MS. GUTIERREZ: And I would like to know because I'm not sure the record accurately reflects, we are in the sixth week of trial, we are on the second day of the Defense case, after the State has spent six weeks presenting their case. We expect our defense to be completed, at the very latest, by the end of the week and hopefully by tomorrow. And that we believe in light of that short amount of time that the Court can anticipate that this would not extend the information before the jury to longer than five minutes.

THE COURT: All right. Mr. Urick or Ms. Murphy, on the issue of rareness -- the other issue that you addressed was on the benefit. Now the issue is on the

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issue of rareness, that Ms. Julian is prepared to talk about rareness.

Is that correct?

MS. GUTIERREZ: Yes, Judge. Well, she's prepared to offer evidence in response to my questions that have bearing on whether or not Mr. Urick's actions are rare or not rare.

THE COURT: Okay.

MR. URICK: I don't believe she would have any personal knowledge that she could make that opinion from. I would point out that if asked would the Public Defender's Office represent someone who has not been charged she would respond no. The question then becomes how would she know how someone who's not been charged obtains counsel.

THE COURT: And even if she knew?

MR. URICK: What relevance would it have other than being a very collateral issue? What was important is the state of mind of the witness. Mr. Wilds has testified as to what he knew. It's his perception. There's even case law to the effect.

Whether a bargain was made, offered or not is irrelevant, it's what the particular witness believed was the case. We'd be getting so far on a collateral issue to bring in Ms. Julian, whether or not she could -- even qualifying her to state whether or not she could make an

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opinion would just lead to confusion, prejudice. It would be a collateral issue very, very far from the main issues that this jury have to decide.

THE COURT: Very well.

In order to assist counsel, let me make myself clear. Any witness that talks about the rareness of the procedure used in obtaining a lawyer that was present in the State's Attorney's Office and available to a defendant is not going to be admitted in this case, it will be excluded under 5-403.

MS. GUTIERREZ: Then I won't waste the time calling her.

THE COURT: And if, if the --

MS. GUTIERREZ: But I would note for the record there are many witnesses, including Ms. Jessamy, at least three superiors of Mr. Urick's, and other prosecutors who would be available to testify to that, but I won't waste the Court's time attempting to call them if that's going to be the Court's answer.

THE COURT: That is the Court's response.

Your next witness, Ms. Gutierrez.

MS. GUTIERREZ: Yeah, can I just go and check to see if he's outside?

THE COURT: Yes.

(Pause)

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MS. GUTIERREZ: My next witness is here, Judge. My next witness, the Defendant's father, is present, Mr. Ahmad. Should I have him take the --

THE COURT: Yes. Will you have him step up?

And I would, just for the record, understand that the State has an objection because the Defendant's father has been in the courtroom during various parts of the procedures and some of the witness testimony.

Your objection is overruled.

MR. URICK: Thank you.

MS. GUTIERREZ: I would note for the record he's not been in this trial.

THE COURT: It doesn't matter, Ms. Gutierrez. I just overruled the objection.

You may step up, sir, please.

And if Deputy Church could get my jury back, I really would appreciate it. Thank you.

So we're going to need to render --

MS. GUTIERREZ: I forgot to tell Ms. Julian. I'll go tell her.

THE COURT: Can I speak to the witness about the oath while you're --

MS. GUTIERREZ: Yes, Judge.

THE COURT: I just want to let you know that there will be an oath. I don't know if there's any problem

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with your taking the oath, but we'll ask you to swear or -- declare or affirm, not swear under oath.

THE WITNESS: Thank you.

THE COURT: That'll be the question, declare or affirm.

That's correct, Mr. White?

THE CLERK: That's correct.

THE COURT: Very well.

Ms. Gutierrez, can you give me an idea about how many more witnesses the Defense would have? You don't have to tell me who they are but if you could give me an idea of the number.

MS. GUTIERREZ: I have three here today in addition to Mr. Rahman. Judge, we haven't quite decided. I think there are 11 others, but they're all fairly short.

THE COURT: Okay.

(Whereupon, at 4:37 p.m., the jury returned to the courtroom.)

THE COURT: Tomorrow, I only have one case.

MS. GUTIERREZ: Okay. So we can start --

The Defense would call the Defendant's father, Masood Rahman, to the stand.

I'm not sure I'm pronouncing your name correct, sir. Is it Rahman?

MR. RAHMAN: Yes, that's correct.

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THE COURT: Sir, I need you to stand, raise your right hand, and listen to Mr. White.

Whereupon,

SYED RAHMAN

was called as a witness at 4:38 p.m., and after having been duly affirmed, was examined and testified as follows:

THE CLERK: Please keep your voice up. State your name and your address for the record. Your name?

THE WITNESS: My name is Syed Masood Rahman.

DIRECT EXAMINATION

BY MS. GUTIERREZ:

Q And your son is who?

A My son is Adnan M. Syed.

Q Okay. And that's because of the way names are formulated in your native culture?

A Yeah, that's right.

Q And, sir, where were you born?

A I was born in Pakistan.

Q And when did you come to this country?

A I came to this country as a qualified, experienced civil engineer --

Q Okay, when?

A -- in 1971.

Q Okay. And in 1971, were you married?

A No, not then.

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Q Did you have any children?
A No.
Q Did you get married after you were here?
A Yeah. I was here and then went back and got married over there.
Q You got married in Pakistan?
A Yeah, and brought my wife here.
Q Okay. And is your wife present here?
A Yes, that's right.
Q Could you just point her out so that we know?
A Yeah, that's --
Q Sir, what was your first native language?
A The first native language is Pushto.
Q Pushto, that begins with a P?
A P-U-S-H-T-O.
Q Okay. And in Pakistan, are there more than one language?
A That's right.
Q Is there?
A Yes, ma'am.
Q Do you speak any other Pakistani language?
A Yeah, I speak apart from the Urdu.
Q Urdu?
A That's right.
Q That begins with a -- it's U-R-D-U?

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A U-R-D-U.
Q Okay. And you also speak that?
A Yeah, I speak that.
Q What languages, if any, does your wife speak?
A Me and my wife, we speak Pushto only.
Q Okay. And did you know English before you emigrated here in 1971?
A That's right. I start learning English in fifth grade.
Q In fifth grade, back in Pakistan?
A Back in Pakistan, that's right.
Q So before you came here, you spoke two Pakistani languages and English?
A That's true.
Q All right. After you returned to Pakistan and you got married, did you come again back to this country?
A Yeah, I came back.
Q And when was that?
A It was in '74.
Q And since '74, have you been -- remained a permanent resident of this country?
A I have -- I'm a naturalized citizen of this country.
Q Okay. Now you're a naturalized citizen?
A I was in seventies naturalized citizen.

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Q And did your wife become a naturalized citizen?
A She is actually qualified but we didn't submit the paper yet.
Q But she hasn't sent in the papers. All right.
A Not yet.
Q Mr. Rahman, let me direct your attention. Did there come a time subsequent to your marriage to your wife where you had children?
A No.
Q Did you have children?
A Yeah, yeah.
Q Okay. And who are those children?
A One is Tanvir.
Q Tanvir?
A Tanvir.
Q And that's your eldest son?
A Eldest.
Q And is -- can you point him out in this courtroom?
A Yes. That's Tanvir (indicating).
Q The person sitting next to your wife?
A That's right.
Q All right. And how old is Tanvir now?
A He is 22.
Q All right. And do you have another son?

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A Yes. That's Adnan.
Q That's Adnan. Is he sitting to my right?
A Yeah.
Q Okay. And do you have another son?
A Yeah.
Q And what's his name?
A His name is Usef.
Q Okay. Since the time that you've been married and you had children, what language, if any, have your children been taught?
A The children, they only speak English now.
Q Okay. And they were all born in this country?
A They were born and raised in this country.
Q Okay. And so, all of them are native born Americans?
A That's right.
Q Okay. And is the only language that they speak at home, is that English?
A That's right.
Q And the language that you and your wife speak, if you are not speaking to your children, is?
A Pushto.
Q Pushto.
Now, sir, you are a Muslim?
A That's right.

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Q And have you been a Muslim all your life?
A Yeah, that's right.
Q Were you born a Muslim?
A That's right.
Q Then when you came to this country, did you affiliate with a Muslim community?
A There were not many people then.
Q Okay. Did you come to belong to a Muslim community?
A No.
Q Do you belong to a mosque?
A Right now?
Q Yes.
A Yeah. I was not then because there were not enough number of people, but now I do.
Q You mean when you first came to this country?
A Yeah.
Q Did there come a time when there were sufficient numbers of Muslims from Pakistan to form a community?
A Yeah.
Q Okay. And when that time came, did you join that community?
A Yeah.
Q Okay. And is there currently a mosque?
A That's right.

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Q That is not all but primarily Pakistani Muslims?
A No. There are from all over the world.
Q From all over the world, okay.
And that mosque, does it have a name?
A Yeah.
Q And what is its name?
A Al Raqma (phon. sp.).
Q Okay. And where is -- does it have another name in English?
A In English, they call it The New Islamic Society of Baltimore.
Q Okay. And where is it located?
A It's [redacted] Road.
Q Okay. And is that near the intersection of Johnnycake and Rolling Road?
A That's correct.
Q Okay. And you live, sir, where?
A I live at -- just a walking distance from there.
Q From there?
A Yeah.
Q Do you live on [redacted] Road?
A [redacted] Road.
Q And is that also near the intersection of Johnnycake and Rolling Road?
A That's right. Yeah, [redacted] Road.

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Q Okay. Now, that mosque, I don't mean to ask a lot of questions but the way that Islamic faith is practiced, does that require praying a certain number of times a day?

A Yeah.

Q And saying certain kind of prayers?

A Yeah. Everybody supposed to pray five times a day.

Q And are the times of the prayers prescribed?

A The times of the prayers have gone from like dawn to sunset, one prayer.

Q And is that all year long?

A That's all year long.

Q Is there an Islamic calendar different from the calendar that's followed in this country?

A That's right.

Q The Gregorian calendar?

A Yeah.

Q Is that right?

A Yeah.

Q Is their year still 365 days a year?

A Yeah, 365 days.

Q Okay. And is the prayer schedule, the five times a day, does that exist all year long?

A All year long.

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Q Are there special days, holy days, more important religious days in the faith of Islam?

A Yeah. It's Juma prayers on Friday, congregation --

Q That's every Friday?

A Every Friday.

Q Okay. And those prayers, are they -- are you supposed to say a certain prayer?

A Well, it's the same prayer that it has got when it is sermon.

Q Okay. And are there other special days of Islam?

A Well, the could be when the fasting get finished, that's one day. And then after 2½ months, it's another day.

Q Is there a special month is Islamic religion?

A Yeah. That is --

Q And what is that called?

A That is the month of Ramadan.

Q Ramadan. Is that spelled R-A-M-A-D-A-N?

A That's right.

Q Ramadan?

A That's right.

Q And does that month fall the same time every year?

A No. It goes by the moon.

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Q It goes by the moon, with the whole moon, lunar cycle?

A That's right.

Q So it could be a little different days every year?

A That's correct.

Q Okay. And what is so special about Ramadan?

A The special is from dawn to dust (sic). No food.

Q Okay. Is dawn something different than sunrise?

A Yeah, that's different.

Q Okay. And is that also prescribed by the calendar?

A That's right.

Q Okay. And what is supposed to happen between dawn and dusk?

A Not to eat and drink; not to have sex, even with the wife; not to talk bad things, like fighting; not to do any wrong thing which the individual can feel that my creator will be displeased with me.

Q Now, sir, during Ramadan, the not to eat or drink, is that considered complete fasting?

A That's right.

Q And what is the purpose of that in the Islamic faith?

A The purpose is to -- that one should be trained

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to sacrifice his or her wish and will over the will of the creator.

Q For the will of the creator?

A Yes.

Q And that creator has a name in the faith?

A Yeah.

Q And what is that name?

A That's a very personal name with no masculine or feminine, no gender, nothing, and that's Allah.

Q And that is supposed to be the person, according to Islamic faith, that created all life?

A Creator for the whole entire universe.

Q Okay. Now, is there a figure in Islam that is called Allah?

A No figure.

Q I mean, is there a person that's referred to as Allah?

A Well, actually, Allah, the creator, is beyond comprehension of a human being who have been created from a drop of seed.

Q Okay. And the fasting that's prescribed during Ramadan, is that to go on seven days a week?

A Yeah, seven days a week.

Q And during Ramadan, in addition to the fasting, are there special prayers or feasts or happenings at the

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mosque?

A Yeah. The special prayers is starting at 8:00.

Q Eight o'clock at night?

A At night.

Q Would that be before or after the fast is broken?

A The fast is broken just at the sunset.

Q And what time of day would that normally be?

A The sunset would vary a minute or two every day, like 5:05. Another day would be 5:06, 5:07, something like that.

Q Thank you.

(Whereupon, the document referred to as Defendant's Exhibit No. 5 was marked for identification.)

MS. GUTIERREZ: And I'm going to show the witness what's been marked as Defendant's Exhibit 5.

BY MS. GUTIERREZ:

Q Could you first tell us what that is?

A Yeah. This is the calendar, the Ramadan 1403 After Hizrah (phon. sp.).

Q Okay. And what is 1403 A.H. --

A A.H. is --

Q -- in relationship to our calendar?

A Yeah. This relates to December 1998 and January 1999.

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Q That would be last year's Ramadan?
A That's right.
Q Okay. Now, sir, on this calendar, does it distinguish what the first day of Ramadan was?
A The first day of Ramadan was Sunday, that is the --
Q Can you indicate what that date would be in an A.D. calendar?
A In A.D. calendar, it should be December 20th.
Q Okay. And does it indicate the time that the fast begins?
A Yeah. The fasting starts at 6:01.
Q Okay, because that's the designation of dawn?
A That's right.
Q So on this calendar, first, it indicates that you start the fast, is that right?
A That's right.
Q And you're to begin the fast right before dawn?
A Just before dawn.
Q Okay. And it tells you when dawn is on that day, is that right?
A That's right.
Q And the first day of Ramadan last year, in December of 1998, would have been December the 20th, if you look at your calendar? The first day would have been?

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A The first day was December 20th.
Q Okay. And does it also indicate the time for sunrise?
A Yeah. The sunrise is --
Q Is that a later time than dawn?
A That's 7:22.
Q Okay. On that day, on the 20th of December?
A 7:22.
Q Okay. And does it list a time, according to the Ramadan calendar, that's called afternoon?
A Yeah. That's the time of the prayer -- prayer, 12:03.
Q So that's one of the prayer times --
A One of the prayer --
Q -- that's prescribed, is that right?
A Yeah.
Q And does it also list a time for sunset?
A Yeah. The sunset is 4:51.
Q And is that the time that fast is broken?
A That's right.
Q Okay. And then does it also list a time for night?
A Beg your pardon?
Q If you look at the calendar, does it list a time for night?

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A Yeah, for the night.

Q Above those designations that we've just gone through, start fast, dawn, sunrise, noon, afternoon, sunset, and night, do those designations appear in another language above them?

A Yeah. It's Isha (phon. sp.).

Q Isha?

A That's right.

Q And if you know, where is that language from?

A It actually is -- every scripture has been revealed in a certain language.

Q Okay. But that's a language that the Muslims recognize?

A That's the language of the Holy Koran.

Q The Holy Koran, okay.

And, sir, what you've described as during Ramadan and the mandatory fast, would that take place right before dawn, which is the second column, and end right after sunset?

A That's right.

Q Okay. Now, the fast means no food and no water?

A No food, no water, but all activities are to be controlled.

Q Okay. That means physical activity that you would do?

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A Physical. Yeah, everything.
Q Would that include athletics?
A No, no, no. I mean -- activities.
Q Oh, okay. And but that would include sex?
A That's right.
Q Faithful Muslims are not supposed to have sex during Ramadan fast time?
A Even with their own wife.
Q Okay, right. And now, the breaking of the fast is what? What happens when one breaks --
A Break fast, that is completion of the fast, taking a sip of water or anything that will break the fast.
Q Okay. And after breaking the fast, do you then have a regular meal?
A That's right. We have the prayers and then the regular meal.
Q And after that, is that when the 8:00 prayer happens?
A Yeah. Eight o'clock, yes.
Q Now, if you would just take a minute and look down through this and tell us what the ending date of, of Ramadan in January of 1999 was.
A Yeah, the ending date, the last fasting day was Monday. That was the 30th day.
Q The 30th day on what calendar?

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A The day of Ramadan. Ramadan.

Q Ramadan. Okay.

And what date would it have been in our calendar?

A It's January 18th.

Q Okay. Now, is there any special significance to the last -- and does this calendar indicate what the times were for all of those categories, start fast, dawn, sunrise, noon, afternoon, sunset, and night --

A That's right.

Q -- occur for each of the 30 days of Ramadan?

A That's correct.

Q Is Ramadan always 30 days?

A It is either 29 days or 30 days.

Q And that, again, depends upon the moon?

A It depends upon the sighting of the moon.

Q The sighting of the moon?

A That's right.

Q Okay. Now, sir, the last 10 days of Ramadan, form day 20 to day 30, does that have any special significance?

A From 10 to 20?

Q Right. From the 20th day of Ramadan to the 30th day, which would be the last 10 days of Ramadan, is there any special significance to those last 10 days?

A Yeah. The last 10 days, yeah. It's --

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Q What is that significance?
A The significance is that if one wants to stay in the mosque 24 hours.
Q You mean around the clock?
A Around the clock, for self-restraint.
Q Okay. And is that encouraged?
A That is encouragement towards righteousness.
Q Okay. And do people participate in that?
A Pardon?
Q Do people participate in that?
A Well, actually, it's something optional.
Q Okay. I understand it's optional and all, but do people choose to do that, to stay at the mosque around the clock.
A Yeah. If somebody wants to, yeah.
Q Okay. Have you done that before, sir?
A Yeah, I have done that the previous years.
Q Do you usually do that?
A Yeah, if I can get off days from the job.
Q From your job. Okay. So it depends upon whether or not you're able to do it?
A That's right.
Q If you have a choice, you choose to do it?
A Yeah. If I get time, then I'll do it.
Q Are there occasions during Ramadan where special

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prayers are led by members of the mosque?

A Yeah. These are the prayers from 8:00 till 10, 10:30, depends.

Q Is it considered any kind of honor for a member of the mosque to be asked to lead the prayers?

A Right. Yeah. It is a very great honor that an individual is asked to lead 3- to 400 people in prayers.

Q In prayer?

A That's right.

Q Particularly during the holy month of Ramadan?

A That's right.

Q Is holy a word that would be used to describe Ramadan?

A Yeah.

Q Okay. And, sir, during Ramadan, in light of the fact that it's an honor, are young people participants in the prayers and the activities of the church?

A Yeah. Young peoples are encouraged.

Q And encouraged to participate?

A That's right.

Q With their elders?

A That's right.

Q Okay. And are there occasions where young people lead the prayers during Ramadan?

A Yeah.

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Q Okay. Sir, let me direct your attention to the calendar that you have. It would be the 25th day of Ramadan. What date is that?

A That was Friday.

Q Okay. But also, if you look at the 25th day --

A The 25th day of Ramadan, that's Wednesday.

Q Okay, that's a Wednesday?

A That's right.

Q And what day would that be in our calendar?

A In this calendar, yeah, that's 25th of Ramadan is Wednesday.

Q No. And what date would it be in the A.D. calendar?

A It is the 13th of January.

Q Thirteenth of January. And does it tell you what the start fast time is?

A Yeah. It's -- the starting time is 5:56.

Q And that's because dawn is what time?

A Dawn -- no, the dawn actually, on this day, 13, it starts 6:06.

Q Okay. The fast has to start before the dawn.

A Just before the dawn, yeah.

Q And what time does the calendar indicate would be the break fast?

A 5:09.

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Q And what time does it indicate -- because that's sunset, is that right?

A Yeah, that's the sunset time, 5:09.

Q So one would have to fast all the way --

A That's right.

Q -- until-- and then break it after sunset occurs, is that right?

A That is correct.

Q All right. Now, the day that we're looking at, the 25th day of Ramadan, is that one of the last 10 days of Ramadan?

A Yeah, that's right.

Q Now, directing your attention, sir, back to Ramadan of last year, was there an occasion around that date that your son Adnan led a prayer in the mosque?

A Yeah. He -- on Thursday.

Q On Thursday? What date?

A That is 14 January.

Q The 14th of January?

A January. He led the congregation in prayers.

Q And that year would be 1999?

A That's right.

Q Okay. Was that an important occasion for Adnan?

A Yeah. It was very important because we could see that he has developed confidence enough and he knows to

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lead -- how to lead the prayer.

Q Was that an important occasion for you?

A It was --

Q Why?

A -- very happy and important occasion for us.

Q Why? He's the one leading the prayer.

A Because he was leading the prayers.

Q Okay. But why was that important to you?

A Well, that's what we have been teaching him and, you know, taking care of him, it's worth it.

Q Did you consider it an honor that he was invited to lead the prayers?

A Of course.

Q And were you present when he led those prayers?

A Yeah.

Q And was that, in fact, a happy occasion for you?

A That's right.

Q In order to lead the prayers, did that involve practice?

A Yeah, it needs quite a bit of practice to commit to memory, because the person will be reading from the memory.

Q And say the prayers and lead the fellow members of the mosque in prayers from memory of specific prayers?

A Yes, specific prayers from the Holy Koran.

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Q They don't make up -- right. They don't make up their own prayers?
A No, they cannot.
Q They have to read the prayers that are dictated in the Koran?
A Exactly.
Q And the Koran is written not in English?
A That's correct.
Q Okay. And not -- it's not written in the language that your son speaks?
A No way.
Q Is Arabic a language that your son has ever learned?
A The Koran is actually revealed in Arabic.
Q Okay. And is he trained to pronunciate that?
A Yeah. It is hard, how to pronunciate it, because it is to be pronunciated correctly.
Q Do the Muslims at your mosque speak Arabic to each other?
A Well, if they belong to countries which are from -- and --
Q That speak Arabic themselves?
A -- countries, yes.
Q And do those countries include Pakistan?
A Yeah, but -- yeah, those countries. In Pakistan,

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you know, they don't speak --

Q Okay. Is Arabic a language that you've ever spoken to any of your children at home?

A We don't know how to speak it, so --

Q Okay. Now, the practice that's required to lead the prayers, does that occur before the day that the person leads the prayers?

A Well, he would have to give quite a bit of time to prepare himself.

Q Now, prior to the 14th, did you know that your son had been selected to lead the prayers on the 14th?

A Yeah.

Q And did you ever become aware of whether or not he practiced to lead those prayers?

A Yeah, because he is going -- he has been going with me.

Q Because he has been going to you where?

A To the mosque.

Q And is that during Ramadan of last year?

A That's correct.

Q And what was the normal practice of you and he in regard to meeting the Ramadan obligation?

A Can you say that again, please?

Q Yes. What was -- did you and your son Adnan have a regular practice --

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A Yeah.

Q -- as required, to meeting the Ramadan --

A Regular practice, I will ask him if he has committed to memory; are the one he committed to memory, still he remembers it and he revised it. And we go together to the mosque.

Q You go together where?

A To the mosque.

Q And what -- in the daytime -- and back then in December and January, did Adnan have a job?

A We never let him have any job. Before, he did one job. That was in -- when he was in 12th grade.

Q When he was?

A When he was in 12th grade.

Q Okay. And was that before Ramadan or after Ramadan?

A I'm not sure about that.

Q Okay. And that job was what?

A That was -- he said that it's concerning -- he wanted to go into medicine, so he says it's like ambulancing.

Q You don't sound like you really approved of him working.

A Beg your pardon?

Q You don't sound like you approved of him working?

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A No, actually we did not.
Q And why not?
A Because we wanted him to give -- his top priority, number one, is his studies.
Q To your knowledge, was he a good student?
A Yeah.
Q Okay. But you wanted him to devote all of his energy to that?
A And because he was top 5 percent student of the class.
Q Now, sir, again going back to Ramadan, beginning on December 20th, 1998, through January 18th, 1999, you were starting to tell us that you would go to the mosque.
A That's right.
Q And what time would that be?
A I ordinarily would go before 8:00.
Q Okay. And how much before 8:00?
A Well, it depends. Maybe 7:30, quarter to 8 or things like that.
Q Would you appear in the mosque close in time to the time when you would break your fast?
A Beg your pardon?
Q Would you go to the mosque at any time that was close in time to the time that you would break your fast?
A We could, but mostly -- sometimes at mosque and

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sometimes at home.

Q Okay. On the times that you went to the mosque to break the fast, how would you break it?

A We just take sip of water or some dates, that's it.

Q Okay. And then after -- so you break the fast with very little to go in your stomach?

A That's right.

Q Just sometimes water?

A Yeah, water.

Q And after you broke your fast and on the days that you did it at the mosque, would you then remain there until the 8:00 prayers or would you go home?

A Well, actually, we tried to go home so that we could have meals, have a little bit rest and them come back.

Q Okay. So you'd break your fast with just a little bit, then you'd go home to have a meal?

A That's right.

Q Okay. Now, who would you go to the mosque with on the days that you would go?

A Well, I will definitely take Adnan with me.

Q Okay. And did sometimes your other son, Tanvir, go?

A He may accompany us, he may not.

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Q Okay. And your younger son?

A Sometimes he would go with us and sometimes he say I feel sleepy, so we let him go.

Q And your younger son is much younger. How old is he?

A Right now, he's about 11 years old.

Q How old is he?

A Eleven years.

Q Eleven. Okay.

Now, sir, back on that time, on the days that you didn't go to the mosque during Ramadan to break fast, would you break it at home?

A That's right.

Q Then would you break it in the same way, with just some water and dates or something?

A That's right.

Q All right. And would you still then have a meal?

A That's right.

Q Now, you had raised all your sons as Muslims?

A Yeah.

Q And did you expect them to fast?

A That's right.

Q Is that right?

A Yes.

Q And to your knowledge, did they fast?

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A Yeah, sure, because I experience looking at their face and eyes. I could say that whether this person was fasting the whole day or not.

Q Okay. And you checked to see if they were fasting?

A Yeah.

Q And did your checking relate to your concern about the purposes of Ramadan and the fasting as discipline?

A Yeah.

Q Is that right?

A Yeah.

Q And from your checking them, did you believe that your son Adnan fasted during Ramadan?

A Yeah.

Q And did you believe your son Tanvir fasted during Ramadan?

A That's correct.

Q Were they required to go to the mosque to pray or could they pray elsewhere?

A They could pray anywhere, but it's preferable.

Q It's preferable, but it's allowable to pray elsewhere if you're somewhere else when prayer time comes?

A Anywhere on earth.

Q Okay. Sir, you have actually been here the last

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couple days, waiting to testify?

A Yeah.

Q And has that run into prayer time?

A Yeah.

Q And have you prayed actually here in the courthouse?

A Yeah, I did.

Q Is that an acceptable way to meet your obligation as a Muslim?

A That's correct.

Q Now, sir, did Ramadan this year just end?

A Yeah. It was 10 days after the last year.

Q I'm sorry, it was 10 days after?

A Yeah, there is a difference of 10 days.

Q Between year to year?

A Between year before.

Q Okay. So it didn't start on the 20th of December, it started on the 30th of December?

A No, it's before that.

Q Before. Oh, it goes the other way?

A Yeah.

Q Okay. So Ramadan actually finished in December?

A No, it was in probably January.

Q Okay, in January.

And did it follow the same pattern this year as

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it has followed before?

A Yeah.

Q Okay. Now, let me direct your attention back again on the 14th. January 14th is the day that your son led the prayer?

A Yeah.

Q And how often before that did he have to practice?

A Well, it take him three or four days to practice sometime.

Q Okay. And were those the three or four days before he had to lead the prayer?

A Before his turn comes, yeah.

Q Okay. And did the practice take place at the mosque or at some other place?

A He could practice it at home or he could practice at the mosque.

Q And where did he -- did you become aware of him practicing?

A Well, actually, when I asked him have you committed to memory and he said yeah, I have revised and I have committed to memory something new, too.

Q Okay. Did the practice -- was it okay for him to practice someplace other than the mosque?

A Yeah, he can do it.

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Q Okay. As long as he memorized and had the pronunciations of the prayer correctly?

A That's right.

Q Okay. Now, in the last 10 days of Ramadan that ended in January 1999, did you spend the nights around the clock at the mosque?

A No.

Q Any of that time did you?

A No, because I did not have enough days off from the job and I had to go every day to the job, so I couldn't afford to spend the night.

Q So during that last 10 days, did you also go to the mosque?

A Yeah.

Q And did you always make the 8:00 prayer?

A That's correct.

Q And did your son Adnan go with you?

A That's correct.

Q And was that your normal practice?

A That's correct.

Q Now, sir, how many families are members of the mosque?

A More than 500 families.

Q More than?

A 500.

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Q 500 families?
A Yeah.
Q So that would involve an actual total of over 1,000 people?
A That's right.
Q Okay. Might be 1500, almost 2,000 people?
A At times.
Q Do more people come to the mosque to pray during Ramadan --
A Yeah.
Q -- than other times?
A That's correct.
Q All right. And did you require your sons to go with you to pray during Ramadan?
A Yeah, I asked them to go.
Q Did you -- well, now, you asked them. Does that mean that they were expected to go?
A Well, when we ask them, they are, yes, they are expected to go with us there.
Q They're expected to do what you ask?
A That's right.
Q Because you are the father?
A That's right.
Q And do they normally do what you ask?
A Beg your pardon?

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Q Do they normally do what you ask?

A In most cases.

Q Okay. And did they go with you on a daily basis to the mosque to pray for evening prayer together with you?

A Yeah, that's correct.

Q And did that include Adnan?

A Yeah.

Q Okay. And, sir, was there a young people's group at the mosque?

A Of all ages, from five years up.

Q Was there any special group of young men or teenage men or young adult men?

A Yeah, there are groups that students strike, you know.

Q Were there things other than the prayer activities inside the mosque that were available for the young people to do?

A Yeah. They've got basketball and they've got -- they can go for football game, for so many games.

Q Okay. On the mosque property itself?

A On the mosque property or as a group somewhere else.

Q Did you observe Adnan interacting with other young men, Muslims his age, whose families also interact -- whose families also belong to the mosque?

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A Yeah.

Q And at the evening prayer that began at about 8:00, did it take a specific amount of time?

A Yeah, it takes about maybe 2 to 2½ hours.

Q Two to 2½ hours?

So what time would you normally leave the mosque?

A Well, it depends, but maybe about 10:30 or so.

Q Okay. Was it possible for your sons to leave before you did?

A No, he won't.

Q He wouldn't?

A He won't.

Q Because it would displease you?

A Because he would say that well, my father is here, I will stay here.

Q And he'll stay?

A That's right.

Q Now, Adnan had use of a car, for the most part, himself?

A We had just the one car at that time.

Q As a family, you just had one car?

A No. We had two cars but the other car will be taken by the rest of the family.

Q I'm sorry, the other car would be?

A The other car, either my wife and my other son,

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they may take it.

Q Would use it, okay. So he had to share the one other car?

A Yeah.

Q And who did Adnan had to share that car with?

A Yeah, for the prayers, with me.

Q With whom?

A With me.

Q With you?

A Yeah.

Q Okay. So when you would go to the mosque, having broken the fast from home, would you and he travel together?

A Yeah.

Q Okay. Was it possible for your son to sneak out early, without you?

A I haven't noticed it.

Q You hadn't noticed that?

A No. If he wants to go --

Q Would that be something significant to you?

A Well, actually, he would say that I have to take care of school work or such things and he would go.

Q Okay. There might be other mosque activities that took him away from prayer?

A Well, actually, after completing the prayers.

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Q Okay. All right, now, Mr. --

MS. GUTIERREZ: I'm going to move in now Defense Exhibit --

If you could help me out, what number?

THE CLERK: Five.

MS. GUTIERREZ: No, the calendar.

THE CLERK: Five.

MS. GUTIERREZ: Oh, it's 5? Oh.

I would move this into evidence.

THE COURT: Any objection?

MR. URICK: No objection.

THE COURT: Very well. It's admitted.

(Whereupon, the document referred to as Defendant's Exhibit No. 5 was received into evidence.)

BY MS. GUTIERREZ:

Q All right. Now, Mr. Rahman, let me direct your attention to your son being at Woodlawn High School. He has always gone to public school?

A Yeah.

Q And has he always been a good student?

A He has been top student, 5 percent, till -- to eighth grade.

Q Okay. Since eighth grade?

A Since eighth grade.

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Q Okay. Now, let me direct your attention -- someone under your religion Adnan's age or around his age, is he permitted to date, according to the religion?

A No.

Q And is dating something that you would find -- you understand what I mean when I say date?

A Yeah.

Q Okay. Dating, having a social relationship with a young woman his age?

A Yeah. That's not encouraged.

Q That's not encouraged.

And if a young man of his age is found to have violated that, even though he was not encouraged to do so, what do you do about it?

A Well, when it comes to that, they are classmates, you know.

Q There are?

A Classmates in the same class, boys and girls. So if they want to go out, they can discuss their studies or games or things like that.

Q So there are innocent ways that girls and boys are --

A That's right.

Q -- permitted to interact?

A That's right.

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Q They're just not allowed to date each other as a girlfriend and boyfriend?

A That's right.

Q If a young person doesn't follow the encouragement of the community or their parents and dates anyway, what are the consequences to that behavior?

A Well, they will be counseled and they will be encouraged to do the right things.

Q And who would do the counseling and the encouragement?

A Mostly, the parents will do it.

Q And is there any other resource that the parents have to turn to?

A Well, they turn to -- there are some righteous people in the community --

Q In the mosque?

A In the mosque.

Q Other Muslims?

A Other Muslins.

Q Elders?

A Elders, yeah.

Q Okay. And what would they do?

A They would try to counsel them and encourage them to do the right things.

Q To do the right thing?

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A That's right.
Q According to Islamic faith?
A That's right.
Q Meaning that they should stop dating?
A That's right.
Q Now, sir, let me direct your attention to the fall of 1998. In October, did you have occasion to become aware that perhaps your son Adnan might be dating someone?
A Well, actually, at that time, I'm not sure about that.
Q You weren't sure of it but did you receive information that led you to question whether or not he was dating somebody?
A Yeah. I had been questioning it but, actually, if they are classmates, it's kind of hard to detect whether they're boyfriend or girlfriend or they're just friends.
Q Once you became aware that maybe that existed, what action did you take?
A Well, if we know such thing, we will encourage them towards the good deed, the righteous deeds.
Q Meaning -- would that mean to stop dating, if that's what he was doing?
A That's right, yeah.
Q Okay. And it didn't matter whom a young person was dating, it's that all dating was out, no matter who it

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was?

A It doesn't make any difference.

Q Right. Okay. But they were still allowed to have interaction with people of the opposite sex, as long as it wasn't as a girlfriend or boyfriend --

A That's correct.

Q -- is that correct?

A That's correct.

Q And did you have occasion to counsel your son Adnan about what the righteous way was?

A Well, that is to give his, you know, priority number one to his studies. And whenever he feel like getting married, he can get married anytime.

Q Okay. And was he encouraged to marry the girl that he might be dating?

A Actually, I'm not sure about that.

Q Well, did you encourage him to do that?

A Well, actually, it's now allowed with the Book of the Scriptures to marry them and they can keep their own religion.

Q Okay. I understand that, but did there come a time when you asked Adnan was he dating some girl?

A Yeah, we asked him.

Q And did he tell you that he was?

A Yeah, he was.

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Q Yes. And was that easy for him to tell you?
A Well, it was hard, but he has to tell me the truth.
Q And after he told you, did you then counsel him?
A Yeah.
Q Did you take any other action against him?
A Well, encourage him. You know, most of, you know, counseling and encourage.
Q Did you throw him out of the house?
A No.
Q Did you ask him to leave your home?
A No. That would not resolve the problem.
Q Okay. And did you take away his car?
A No, we didn't.
Q Did you beat him?
A No.
Q Did you inflict any other physical punishment?
A Nothing, no.
Q Or the loss of any other privilege?
A No.
Q Why not?
A Because I believe that if he is treated otherwise it would influence him better than punishing him like that.
Q Is that the way of Islam, as you've been taught it?

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A Yeah. Islam encourages.
Q Encourages.
A Encourages.
Q They don't force?
A Well, to force something that would get a complete establishment.
Q Now, did there come a time when you and your wife went up to Woodlawn High School at a time when you believed that Adnan was at a dance with a girl?
A Yeah. Adnan has been telling me when it will be this -- function in the school and he --
Q Did he generally tell you when he had some function at school?
A Yeah. He told me that he has got a function in the school, so I did not ask him when he was detained. But we allowed him to attend the school functions.
Q And did there come a time when you became concerned that that might not be an appropriate function --
A Yeah.
Q Is that why you and your wife went up?
A We went to check on what's going on.
Q When you got up there, did you ask for him to be brought to you?
A I'm not sure about that.
Q Okay. Was there -- did you speak to him?

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A To Adnan?
Q While you were up there?
A Yeah.
Q Okay. And was this at nighttime?
A Yeah, it was night.
Q And did it turn out to be a dance?
A Yeah.
Q In your view, was it appropriate that he be there?
A Well, that he should be home at that time.
Q Okay. So it wasn't appropriate that he be up there at a dance?
A That's right.
Q Because that was not an approved function?
A No, we would not allow those things to happen.
Q You wouldn't allow them. And by you, do you mean Muslims of your mosque?
A Yeah, that's right.
Q Okay. Under the tenets of Islam --
A No, we would not allow them to do this.
Q Okay. And did there come a time when you or your wife asked to meet a girl?
A To meet the girl?
Q While you were up at that dance, to meet a girl?
A I can't recollect.

this page courtesy of truestop_say_right in response to requests for missing pages.

Q Okay. Well, were you present when your wife met a girl by the name of Hey Men Lee?

A Yeah. There was a girl, she saw a girl.

Q Okay. And did she speak to your wife?

A I was a little away. I'm not sure.

Q You didn't hear what they said?

A No.

Q But you were aware of this girl by the name of Hey Men Lee?

A Yeah, That's right.

Q And were you at that time concerned as to whether or not your son Adnan was having an improper relationship with her?

A We didn't know about that.

Q You didn't know whether or not it existed?

A We didn't know whether it existed or it does not.

Q But at that time, did you suspect it?

A No. I'm not sure about that.

Q Did you then leave the dance?

A Yeah, we left.

Q And did you ask your son to go with you?

A Yeah.

Q And did he comply with that?

A Yeah.

Q And did he go home?

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A Then he came back.
Q He came back to the dance?
A Yeah.
Q Was that okay with you?
A Well, that's the way he chose, to come back.
Q That's what he chose to do. Would that have been your choice?
A No.
Q Did you do anything to stop him --
A Well, actually --
Q -- from coming back to --
A Yeah. On the next day, you know, we --
Q No, on that night. On that night --
A No, not on that night.
Q And why not? Couldn't you have ordered him to stay home and not go back to the dance?
A We got him home and then he went back.
Q And then he went back. And that was against your wishes?
A Yes.
Q But you were aware of it?
A That's right.
Q Did you regard that as his choice?
A Yeah.
Q Okay. And why didn't you do anything more to

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stop him from going back?

A Well, actually, we couldn't do more than that at that particular time.

Q Okay. What is the belief --

MR. URICK: Objection. I don't think the answer was finished.

THE COURT: I'm sorry, sir, your answer was? Why didn't you do anything more? Your answer was?

THE WITNESS: Well, that night when he went back, then we did not go back to bring him home because we thought that tomorrow we would make him understand.

THE COURT: Okay, that tomorrow -- you need to speak up louder so they can hear you, because I can hear you but I don't know that the jurors can.

THE WITNESS: All right.

MS. GUTIERREZ: When you used the term make --

THE COURT: I'm sorry, would you finish your answer so that they can hear it?

THE WITNESS: Beg your pardon?

THE COURT: See, when you turn your head to me, your mouth goes away from the mike.

THE WITNESS: Yeah.

THE COURT: And although I hear what you just said, I don't know that the jurors heard what you just said.

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THE WITNESS: Yeah.

THE COURT: And they're shaking their head. They didn't hear you.

THE WITNESS: Actually, that night he went back, so we did not go back to bring him home. Rather, we decided that if he comes home, then tomorrow we will talk to him and tell him that you are not supposed to go back there.

BY MS. GUTIERREZ:

Q In Islam, Mr. Rahman, is there a theory about what the relationship is between a faithful Muslim and God?

A Well, the basic understanding is that the creator has created the human being from a sperm, has the power to know, has the power to see, has the power to hear the individual. So thie is a matter strictly, in a way, between the creation and the creator.

Q Okay. Meaning between each individual and the creator?

A And Allah, that's right.

Q And is that -- does that bear any relationship to why you didn't take immediate punishment on Adnan?

A Well, sometimes to punish a child, it's better to treat him nicely and that could repair and that could, you know, done good to him.

Q There came a time when Adnan admitted his

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relationship with his young woman, Hey Men Lee?

A Yeah, that's right.

Q And at that time, you made him very aware that that was not appropriate?

A That's right.

Q Is that right?

A That's right.

Q And did you demand that he break off the relationship?

A Well, actually, we told him, you know, that that's not correct way to do things.

Q Okay. So you told him what was the correct way and not the correct way, but did you order him to break off his relationship once he admitted that there was one?

A Well, actually, these are such things which cannot be ordered because they cannot be implemented then.

Q Okay. But he knew very well where you stood?

A That's correct.

Q As to what was appropriate and not?

A That's correct.

Q And did you -- other than counseling him orally and reminding him what was appropriate, did you ever taken any action against him because he admitted this relationship?

A Well, actually, we told him that you aren't

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supposed to do that and if -- you know, things like that will make us very much unhappy and you don't want to see that.

Q Did there come a time when he advised you that he had broken the relationship -- or the relationship had been broken off?

A Well, actually, he said that these are classmates and we are the magnet students, so we exchanges notes and consult each other on different problems.

Q Okay. And at that time when he said that, were you aware that he got a cell phone?

A Yeah.

Q And were you aware of what his purpose was?

A Well, actually, when he worked and, you know, for a while and he had some money, so he wanted to buy a cell phone.

Q And that was okay with you?

A Yeah.

Q Were you aware that he used the cell phone to keep in touch with girls?

A Well, actually, when it comes to phone and cell phone, it's hard to check, you know, who --

Q Okay. So you didn't become aware of that?

A It's almost impossible to be aware of.

Q Okay. If that were confirmed to you, would you

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kick him out?

A Well, if that was confirmed, we will take the phone away. You know, it's --

Q Okay, because that would be an improper purpose --

A That's right.

Q -- for the phone?

A That's right.

Q But you wouldn't kick him out of your house?

A Not nothing --

Q Or kick him out of your family?

A No, because it would not resolve the problem.

MS. GUTIERREZ: I'm finished with questions, Judge.

Thank you, sir. Mr. Urick may have some questions for you.

THE COURT: Sir, do you have questions and, if so, about how long do you expect to be, approximately?

MR. URICK: I'd say no longer than 15 minutes, probably less than that.

THE COURT: All right. And then probably redirect.

So why don't we do this. It's 5:25, we'll recess for today and then we'll come back tomorrow.

I need to advise you that I have one case on my

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docket, so I'm going to do the same thing we did today. I'm going to start off with this case

Ladies and gentlemen, first I'm going to ask you, by a show of hands, did you have any difficulty getting paid when I sent you over today? Very well.

I'm going to follow that same procedure again because I find that that might be the best way, especially with only one case on the docket for tomorrow.

Let me advise you that tomorrow, instead of going to the Jury Commissioner's Office first, ask that you come here and be assembled by 9:30. Whatever is going to happen, I'm going to take this case first and then let them work out the other case. I'm going to take the continued case, this case, as soon as all parties are assembled.

I ask that you leave your notepads face-down. I ask that you not discuss the testimony that you've heard today or any other testimony, either amongst yourselves or with anyone else and ask that you be assembled tomorrow no later than 9:30. We will start this case and, again, as we did today, I will recess around 12:15-ish, allow you to go across. We'll take a luncheon recess and then resume.

I have no other scheduled hearings or appointments or meetings at lunchtime, so we should be able to move pretty much like we did today.

I'm going to ask counsel to be prepared to work

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like we did today. I know it's unusual to work till 5:30 but I'm going to continue to do it this in hopes that we can resolve this case.

Ladies and gentlemen, I want to thank you again. I know I thank you often but I just want you to know your continued patience is appreciated by this Court. Your continued promptness is appreciated by this Court. If I don't say it, don't think that I don't notice; I do notice and I do appreciate it.

And so, I'd ask that you have a safe journey home and I will see you tomorrow.

(Whereupon, at 5:34 p.m., the jury was excused.)

THE COURT: Sir, I must advise you that you are still a witness and I must ask that you return tomorrow at 9:30.

THE WITNESS: All right.

THE COURT: Once you arrive, you are welcome to come right in and take the witness stand, have a seat, because you will be the first witness. And I must tell you, you cannot discuss your testimony with anyone. You can't talk to Ms. Gutierrez and you can't talk to the State's attorneys because you're a witness on the witness stand. And you can't talk to anyone who might be called as a witness who has not yet testified, okay? You might know of someone who might be going to be a witness, you can't

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talk to them about your testimony. Do you understand?

THE WITNESS: All right.

THE COURT: I'll see you tomorrow at 9:30.

THE WITNESS: Thank you very much.

THE COURT: And you're free to go for the evening. Thank you.

Ladies and gentlemen, this Court stands in recess until 9:30 tomorrow morning.

(Whereupon, at 5:35 p.m., the trial was adjourned.)

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TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the matter of the State of Maryland v. Adnan Syed, Case Numbers 199103042,43,45,46, heard on February 23, 2000, were recorded by means of videotape.

I do hereby certify that the aforegoing pages constitute the official transcript of said videotaped proceedings to the best of my ability in a complete and accurate manner.

In witness whereof, I have hereunto subscribed my name this____day of September 2000.

_____

Delores Hay, Official Court Reporter

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