

\$607.50

IN THE CIRCUIT COURT FOR BALTIMORE CITY

STATE OF MARYLAND

\*

v.

\* CASE NOS. 199103041-46

ADNAN MASUD SYED,

\*

Defendant

\* \* \* \* \*

( TRIAL ON THE MERITS )

THURSDAY, FEBRUARY 3RD, 2000

BALTIMORE, MARYLAND

BEFORE:

THE HONORABLE WANDA KEYES HEARD, ASSOCIATE JUDGE  
(And a Jury)

APPEARANCES:

For the State:

KEVIN URICK, ESQUIRE  
KATHLEEN C. MURPHY, ESQUIRE

For the Defendant:

CRISTINA GUTIERREZ, ESQUIRE

BRENDA D. TROWBRIDGE  
OFFICIAL COURT REPORTER  
533 COURTHOUSE EAST  
111 NORTH CALVERT STREET  
BALTIMORE, MARYLAND 21202

FILED  
2000-2-3 11:15  
CLERK OF COURT

1 THURSDAY, FEBRUARY 3RD, 2000  
 2 ( P R O C E E D I N G S )  
 3 (Jury not present in courtroom).  
 4 THE CLERK: All rise. The Circuit Court for  
 5 Baltimore City, Part 9, is now in session, The Honorable  
 6 Wanda Keyes Heard presiding.  
 7 THE COURT: Please be seated. I understand  
 8 there's a motion in the Syed case that we're going to hear  
 9 before we resume. I would like to see counsel here on the  
 10 Fisher matter before I hear that motion.  
 11 (The court took up an unrelated  
 12 matter).  
 13 THE COURT: You could technically call your case.  
 14 MR. URICK: Thank you, Your Honor. This is State  
 15 of Maryland v. Adnan Syed, Cases 199103042 through 46,  
 16 Kevin Urick and Kathleen Murphy for the State.  
 17 MS. GUTIERREZ: Good morning, Your Honor.  
 18 Cristina Gutierrez on behalf of Mr. Syed, who is present  
 19 and to my right.  
 20 THE COURT: Good morning, Counsel. I understand  
 21 there's a preliminary motion, and I don't know who raised  
 22 it.  
 23 MR. URICK: No. It's just a continuation --  
 24 THE COURT: I'm assuming that it's a continuation  
 25 of yesterday's motion for the court to reconsider its

1 and possibly an hour and a half.  
 2 THE COURT: All right. And did she do a formal  
 3 assessment of any sort?  
 4 MR. URICK: She evaluated him as not needing any  
 5 further treatment. She does not keep -- at that point she  
 6 doesn't put on any assessment. She only fills out an  
 7 assessment form if she refers someone on. Because she  
 8 evaluated him as not needing any treatment at that time,  
 9 she did not fill out any paperwork on him.  
 10 THE COURT: All right. When you say that she  
 11 evaluated him, in evaluating him, did she use any written  
 12 technique or written forms?  
 13 MR. URICK: She just used her experience in doing  
 14 assessments and assessed him at that point as not needing  
 15 further follow-up.  
 16 THE COURT: Do you know what she used to base her  
 17 -- you don't know specifically which technique she used?  
 18 MR. URICK: No, but she's present outside for  
 19 voir diring on that, for that purpose.  
 20 THE COURT: All right. And were you able to  
 21 provide to counsel some information about her background?  
 22 MR. URICK: Yes. We provided a copy of her vitae  
 23 today.  
 24 THE COURT: Very well. All right. M's  
 25 Gutierrez, the court is inclined to have the witness come

1 ruling on the inadmissibility of, or the expert witness  
 2 testimony that had previously been proffered. M's  
 3 Connolly, unfortunately I do not have that folder. I would  
 4 like the order, my copy of the order.  
 5 THE CLERK: Oh, I have it right here.  
 6 THE COURT: If you have it right there, I would  
 7 appreciate it. And, also, with regard to Crews v.  
 8 Director, I have had a chance to take a look at that case.  
 9 So, if there is some information you have, some proffer  
 10 that you can do with regard to the questions that I posed  
 11 yesterday evening, I would appreciate that.  
 12 MR. URICK: Your Honor, your first question was,  
 13 how long had the witness met with the defendant. The  
 14 defendant was in the nursing area from approximately 8:00  
 15 a.m. until 1:00 p.m. She was alone with him, seeing him in  
 16 her office for what she estimates during that direct block  
 17 of time of an hour to an hour and a half.  
 18 THE COURT: That is from, I'm sorry, 8:00 a.m.?  
 19 MR. URICK: Well, he was in the nursing area from  
 20 8:00 till 1:00. Sometime after 8:00, shortly after 8:00,  
 21 she actually took him into her room, and met with him  
 22 individually for somewhere between an hour and an hour and  
 23 a half. He stayed in the nursing area till 1:00 o'clock,  
 24 when he finally left school for the day. But she was alone  
 25 with him, seeing him in her office for at least an hour,

1 in so that we can, and I say we because the court has to be  
 2 satisfied that your concerns have been met, if that is at  
 3 all possible, because likewise they are the concerns of the  
 4 court as evidenced by my opinion. Preliminarily, do you  
 5 have any questions of Mr. Urick? I mean, obviously, I  
 6 think the witness probably could best answer the questions.  
 7 Would you agree?  
 8 MS. GUTIERREZ: I certainly agree with the court.  
 9 I don't think Mr. Urick has any basis. I received this  
 10 morning at 7:41 a.m., although the fax is noted that I  
 11 would have received it at 8:42 a.m., I actually received it  
 12 at 7:41 a.m., a one-page sheet of the notes of Mr. Urick of  
 13 his conversation with Sharon [REDACTED] at 11:00 p.m. last  
 14 night. And just moments before the court took the bench, I  
 15 received a copy of a two-page of what appears to be a CV --  
 16 THE COURT: Okay.  
 17 MS. GUTIERREZ: -- as to M's [REDACTED] Judge,  
 18 basically, I don't have a copy of the court's opinion based  
 19 on my initial motion in limine, but I --  
 20 THE COURT: I'm sorry. You don't have a copy?  
 21 MS. GUTIERREZ: I don't have it with me.  
 22 THE COURT: Okay.  
 23 MS. GUTIERREZ: But my recollection in both of  
 24 the motions hearings and subsequently reading the court's  
 25 opinion, is that the court only left open a very narrow



<p style="text-align: right;">Page 5</p> <p>1 focus regarding what the court raised both at the hearing  2 and in its opinion concerned as to the, you know, not the  3 status of the witness, but the training and experience of  4 the witness. The court went into fairly great detail  5 regarding from the DSM the existence of catatonia as a  6 medical disorder with specific features, and a specific,  7 according to the DSM and according to practical experience,  8 a specific assessment that was required in order to  9 diagnose it.</p> <p>10 Of course, the difficulty here is that the faking  11 it opinion is really an opinion that there wasn't  12 catatonia, and there is no evidence at all from which to  13 infer that anyone made a diagnosis of catatonia that  14 existed prior to this witness, who would then be issuing a  15 negative opinion.</p> <p>16 My recollection of the court's leaving it open  17 would be to leave it open for additional evidence to  18 establish that this witness would be qualified, not  19 necessarily by licensing but, you know, I don't think that  20 it's enough to say that, well, somebody has familiarity  21 with the DSM. Anybody could have familiarity with the DSM  22 by reading it. That doesn't make them expert enough to  23 make a diagnosis, much less to make a negative diagnosis as  24 to a specific mental disorder, which would be catatonia.</p> <p>25 And then my recollection again is that the</p>	<p style="text-align: right;">Page 7</p> <p>1 in a forensic setting.</p> <p>2 And nothing that has been presented, I believe,  3 even comes near to allowing the State to re-open the matter  4 based on what they're saying their witness says. The notes  5 of the conversation between M's [REDACTED] and Mr. Urick, taking  6 place at 11:00 p.m. sort of list five out of the six  7 criteria listed in the DSM, and just saying whether or not,  8 in regard to catatonia, whether or not he displayed  9 anything relative to any of those five. And then a list of  10 what she calls inappropriate affect, and that was to  11 include that he started talking, that he started crying,  12 that he started making eye contact, that he started moving,  13 and he started questioning, in a wrong way.</p> <p>14 THE COURT: M's Gutierrez, what I suggest --</p> <p>15 MS. GUTIERREZ: So, in sum, I'm saying, I guess,  16 I'm objecting to even opening up the door on the issues  17 that the court decided already. This motion left open the  18 possibility that the State could revisit it if, in fact,  19 they were prepared to answer the court's questions as  20 raised in the court's memoranda outlining the questions  21 that the court had in regard to the ability of a person to  22 diagnose either catatonia or the absence thereof, or  23 malingering or the absence thereof. And that nothing so  24 far that is in the record begins to address the only avenue  25 that the court left open to revisit it.</p>
<p style="text-align: right;">Page 6</p> <p>1 limitation on the State to revisit this issue was to  2 address those specific concerns about the ability to  3 diagnose under all circumstances. And so far what I've  4 read is that M's Watts' CV indicates nothing more other  5 than what we've been told, that she holds a BS in nursing,  6 what she did. It relates specifically in each case, each  7 placement, that she worked in school-based clinics and at  8 the various hospitals. Nothing with any specific, as  9 someone who diagnosed mental illnesses accepted under any  10 format, following any format, accepted for any purpose, and  11 certainly does not articulate any reason based under that.</p> <p>12 And specifically in regard to catatonia and as to  13 malingering, which I will note, and in the court's opinion  14 to my recollection was noted, was also a listed, while not  15 a mental disorder, but was listed in the DSM, described as  16 a specific medical forensic condition that relates to the  17 forensic use of psychiatric disorders, i.e., faking  18 symptoms of a disease connected with the forensic  19 assessment. And such forensic assessments, of course,  20 would be limited to issues of competency or criminal  21 responsibility, perhaps custody, related issues where the  22 defendant has put his mental state at issue.</p> <p>23 And malingering is listed as an affect designed  24 to mimic the existence of recognized disorders that might  25 be, that would be relevant to any of those considerations</p>	<p style="text-align: right;">Page 8</p> <p>1 So, I would move -- I'm not sure how to phrase  2 it. I guess their motion is to re-open the motion in  3 limine, which they already lost, and which the court  4 granted. So, I guess my motion is to not allow for the re-  5 opening --</p> <p>6 THE COURT: Of the motion.</p> <p>7 MS. GUTIERREZ: -- of the motion in limine, I  8 guess.</p> <p>9 THE COURT: The consideration of the motion in  10 limine. First of all, I will tell you that the court's  11 concern and direction was fueled by your motion in limine.  12 You specifically said malingering, faking catatonic state  13 in your motion.</p> <p>14 MS. GUTIERREZ: Uh-huh.</p> <p>15 THE COURT: And you got that from the summary  16 that the State provided of what the witness would say, and  17 they used --</p> <p>18 MS. GUTIERREZ: Well, no, Judge. What I got that  19 from was the witness' testimony, which I objected to at the  20 first trial.</p> <p>21 THE COURT: Well, I apologize.</p> <p>22 MS. GUTIERREZ: There was no other information  23 ever provided on this witness.</p> <p>24 THE COURT: I apologize. There was attached to  25 your motion the State's amended discovery, where they</p>



1 summarized what it was --  
 2 MR. GUTIERREZ: Right, in the paragraph.  
 3 THE COURT: -- that she would say.  
 4 MS. GUTIERREZ: That's correct.  
 5 THE COURT: And that's what the motion in limine  
 6 was directed at, precluding her from testifying in that  
 7 way. As a result I responded directly on the issue of the  
 8 words used in that summary, which were catatonic and they  
 9 used the word faking. You objected to it, and argued that  
 10 those were medical and psychiatric in nature, and you  
 11 argued that this witness had not the expertise in  
 12 psychiatry or psychology or any expertise that would  
 13 qualify her to make an opinion or diagnose a specific  
 14 mental state or condition. That was in your Paragraph  
 15 Number Six.  
 16 MS. GUTIERREZ: Yes, Your Honor.  
 17 THE COURT: And then you said that she was not  
 18 qualified to offer an opinion, and then as you went  
 19 further, I then responded by using for an example the DSM's  
 20 Four as an example of why I felt that her background as  
 21 presented was not sufficient. And I concluded that unless  
 22 the State can satisfy the court that M's Watts is an expert  
 23 with the requisite medical and psychological training, or  
 24 unless the State can show sufficient additional evidence  
 25 that M's [REDACTED] has prior expertise training under DSM in

1 diagnosing individuals under the Maryland Rules 5-703 and  
 2 5-704, her testimony must be limited to those personal  
 3 observations of the defendant.  
 4 And I used 5-703 and 5-704 because the abundance  
 5 of case law provides that type of qualification that would  
 6 enable a person to make the type of opinions. And it also  
 7 talked about the gravity of why those types of opinions are  
 8 such that certain qualifications must be present with an  
 9 individual who is offering an opinion.  
 10 And so to the extent that that motion did allow,  
 11 I mean that order did allow for the court to be able to  
 12 hear or revisit this issue, I do not believe that it is  
 13 contrary to my order to open the further inquiry at this  
 14 time, and allow the State to call M's Watts for the  
 15 purposes of satisfying the court that she does in some way  
 16 hold the required expertise that the court is looking for.  
 17 I first would indicate that I'd like to have that  
 18 voir dire done. I then will, at the conclusion of which,  
 19 indicate to you whether I think she is qualified to render  
 20 the opinion that the State seeks to have admitted, and then  
 21 I'll indicate to you whether or not she should, in fact, be  
 22 permitted to testify, because at that point there will be  
 23 another issue, and that's the issue that we raised at the  
 24 end of the day. Does the prejudicial effect, and I'm  
 25 assuming that it's going to be prejudicial, what she is

1 going to have to say, outweigh the probative value or vice  
 2 versa, and whether it's, indeed, relevant. And I think  
 3 that those were the two issues that M's Gutierrez raised at  
 4 the end of the day. I think I kind of started that  
 5 discussion at the end of the day, but I just want all  
 6 counsel to be aware that just because I find that she's  
 7 qualified, does not mean I'm still going to allow her to  
 8 testify.  
 9 I'm deeply concerned. And I must emphasize, I'm  
 10 deeply concerned that we not get into an area where we have  
 11 what would normally be something that would come in by way  
 12 of testimony of a physician, not necessarily licensed in  
 13 the State of Maryland because I think that's what Crews v.  
 14 Director is directed at. Specifically whether the person  
 15 is licensed in the State of Maryland or not is not my  
 16 concern.  
 17 MS. GUTIERREZ: I understand.  
 18 THE COURT: And I have no in any way -- my order  
 19 said, because she's not a licensed psychiatrist or a  
 20 licensed psychologist or psychiatrist or a licensed  
 21 physician, that she cannot render an expert opinion.  
 22 That's what Crews talks about. Crews is talking about a  
 23 director who was not licensed in the State of Maryland, and  
 24 it said that the court does not violate or does not abuse  
 25 its discretion where the doctor, who at the time was the

1 Associate Director Chief of its Psychiatric Department, was  
 2 called to testify about an applicant's mental condition.  
 3 He was a physician, and he was certainly qualified in the  
 4 field of mental science and disease. And so whether he was  
 5 licensed to practice in the State of Maryland does not  
 6 change his scientific and medical competency. And where  
 7 the court heard about that background and expertise, and  
 8 determined that it was satisfied that he could render an  
 9 opinion whether he was licensed in the State of Maryland  
 10 was no longer relevant.  
 11 My concern is the same. I'm not concerned  
 12 whether he is licensed in the State of Maryland. I'm  
 13 concerned -- her, I'm sorry. Whether M's [REDACTED] had the  
 14 required expertise to render an opinion as to whether or  
 15 not, and now I know during the course of an hour or an hour  
 16 and a half of observing the defendant, she is able to  
 17 testify whether or not he was faking.  
 18 MS. GUTIERREZ: Well, my concern, I guess,  
 19 further -- I understand the court is essentially denying my  
 20 motion, but further --  
 21 THE COURT: Denying your motion to re-open it --  
 22 MS. GUTIERREZ: Right.  
 23 THE COURT: -- but not denying your motion in  
 24 limine because at this point I'm only reconsidering --  
 25 MS. GUTIERREZ: I do understand that, Judge, but



1 given what's been raised, and I guess these are my concerns  
2 and I will tell you where we're coming from. I am not sure  
3 and my questions may be answered by the direct of this  
4 witness, but they may not. Because the issue of whether or  
5 not she was qualified to make such an assessment, which  
6 involves making an assessment of a recognized, in both  
7 medical, for medical purposes and for forensic purposes,  
8 the diagnoses of recognized mental disorders including  
9 catatonia, and an assessment of, while it may not be a --  
10 it is not a medical disorder, but it is a recognized  
11 medical mental state, i.e., malingering. That is discussed  
12 in the DSM, that whether or not there are qualifications  
13 necessary to make that. Judge, my thinking and our  
14 argument is going to be, is that very question is and  
15 should be the subject of the ability of the opposer of a  
16 person trying to make that, of expert testimony in and of  
17 itself. And I've contacted experts to be available.  
18 There's no way until after I hear her that I can  
19 go down that path and arrange to have an expert. So, I  
20 will tell the court I may well not be prepared to go  
21 forward even after her direct voir dire or even after my  
22 voir dire, even on the first issue of whether or not she's  
23 qualified before we get to relevancy issues or prejudicial  
24 impact.  
25 THE COURT: Which is why, M's Gutierrez, I

1 indicated yesterday that they should have another witness  
2 available.  
3 MS. GUTIERREZ: Okay. I just wanted to --  
4 THE COURT: Even if I say that she can testify, I  
5 would allow you to have an expert witness present in the  
6 courtroom to listen to her testimony, because I would think  
7 if you would choose --  
8 MS. GUTIERREZ: I haven't even thought that far,  
9 Judge. I'm suggesting that I have an expert --  
10 THE COURT: Well, I would think that you would  
11 have the opportunity to have that expert present in the  
12 courtroom when his expert testifies, so that if you chose  
13 in rebuttal to offer another witness to combat, because  
14 then you will have the battle of the experts, as to whether  
15 he was faking or as to whether he was not faking. And you  
16 would be entitled to have that expert sit in the courtroom,  
17 observe the testimony, hear it, and if you chose, call that  
18 expert as an witness in the defense case, if you chose to  
19 do so. So, which is why I said, have another witness  
20 available because if it turns out that the expert witness  
21 is, if I determine that she can testify, then I would  
22 afford you that opportunity to have someone present.  
23 MS. GUTIERREZ: I appreciate that, Judge. I just  
24 wanted to make sure that we were on the same page.  
25 Secondly, I would renew the motion to deny any attempt

1 to re-open this motion in limine on grounds of due process  
2 and fundamental fairness.  
3 The history of this case has been myriad and  
4 complex, but from the defense point of view it has been  
5 non-stop surprises at the last minute, non-stop withholding  
6 of evidence thereby chaffing to the very core the notion of  
7 a defendant's due process right to be on notice, to know  
8 what the field is; what's going to come against him; where  
9 he needs to marshal his resources, spend his defense team's  
10 energy and his money to best prepare for trial. As I said,  
11 I did and I don't, I have a copy of my motion in limine,  
12 which I know was filed. I believe it was filed the first  
13 week of January. It was filed subsequent to the first  
14 trial, and the only notice we had in the first trial was, I  
15 believe it's less than a paragraph regarding M's [REDACTED] that  
16 I attached that to the initial motion and then her  
17 testimony.  
18 We had a hearing on this. We had a hearing, I  
19 believe, on the 14th of January. It is now the -- well,  
20 yesterday when this was first brought up at 4:30 in the  
21 afternoon with no prior notice to us, no attempt to, for  
22 instance, provide her CV. This is a case that is the only  
23 time in my experience where witnesses have refused to speak  
24 to me or my investigator, naming by name prosecutors and  
25 detectives who have told them not to speak to us, no prior

1 disclosures of anything, any circumstances of this  
2 interview, and as I said, I don't have the court's order.  
3 I don't remember exactly when it came out, but it certainly  
4 came out. And they were on notice that they lost this  
5 issue, but that maybe the court would hear other evidence  
6 --  
7 THE COURT: Did M's [REDACTED] testify in the first  
8 trial?  
9 MS. GUTIERREZ: M's [REDACTED], yes.  
10 THE COURT: Yes. Okay.  
11 MS. GUTIERREZ: Yes, and she testified  
12 essentially to that, you know, that he was pretending to be  
13 something and he wasn't; that it was faked.  
14 THE COURT: And you had an opportunity to cross  
15 her at that time?  
16 MS. GUTIERREZ: Well, I did cross her, yes.  
17 THE COURT: Okay.  
18 MS. GUTIERREZ: Yes.  
19 THE COURT: I just wanted to know. I didn't know  
20 what the circumstances were.  
21 MS. GUTIERREZ: Yes, and that's what I based the  
22 motion in limine on. I don't think that --  
23 THE COURT: In expectation that she would be  
24 called once again?  
25 MS. GUTIERREZ: For the same thing, and I



1 thought it was wrong then, but it came in and I crossed  
2 her, you know. And on this argument, Judge, and I make  
3 this in all seriousness. It is not a simple matter --  
4 THE COURT: I take all of your motions seriously,  
5 M's Gutierrez.  
6 MS. GUTIERREZ: It is not a simple matter to be  
7 in a complex trial where a young man's life is on the line,  
8 and at 4:30, in the middle of the trial, they have new  
9 information. Judge, I'm still reeling from the fact that  
10 I've already been through one trial and four separate  
11 hearings about statements from my client, and I get them on  
12 the eve of a second trial. But to be in the middle of  
13 trial, and be forced to spend my energy, his money, my law  
14 clerk's time, all of our energy to figure out is something  
15 bad, that we already won the issue of, where they have  
16 already had an opportunity to challenge it and they did  
17 nothing before trial till now, in the -- isn't this the  
18 third week of trial, at 4:30 on an afternoon say, oh, by  
19 the way, we're still going to try to get in M's Watts'  
20 testimony. Yes, we've had at least three weeks to deal  
21 with it. We didn't.  
22 We didn't file a motion to reconsider. We didn't  
23 bring to your attention before we even raised it the CV of  
24 a person they're trying to call as an expert. Judge,  
25 that's not the way the rules were designed. That's not the

1 notion of a defendant, who is supposed to be able to start  
2 trial knowing what he faces. There shouldn't be surprises  
3 unless they're lawful. And, Judge, I suggest that most of  
4 the law says no surprises should be lawful. The prosecutor  
5 has a duty to do justice. That means to do due process.  
6 So, on due process grounds, I would move to strike any  
7 attempt to bring a new surprise in here in the middle of  
8 the trial.  
9 The only reason they want her is to create an  
10 inference that is bad in their view, to be able to argue to  
11 the jury at a date subsequent to her disappearance, at a  
12 time before he was charged or mentioned with a crime, that  
13 he pretended to be upset. Although their motive is that he  
14 was so upset about this woman that he loved, that he killed  
15 her, but that he wasn't upset, and he was just pretending  
16 to be upset, and therefore he was malingering. Therefore,  
17 it's bad. You know, unless it wasn't bad in their view,  
18 they wouldn't be attempting to do it now. Unless it was to  
19 their advantage to try to bring in something as a surprise,  
20 they wouldn't have hid it. If it was that important, they  
21 had all the time in the world, consistent with due process,  
22 to try to convince the court that you were wrong, or that  
23 they had other things that they could bring that could  
24 challenge your ruling.  
25 They chose not to do so. And they should not be

1 allowed to change their minds in the middle of the game for  
2 the life of Adnan Syed.  
3 THE COURT: Well, Counsel, I appreciate your  
4 remarks, and I will at a later time also incorporate that  
5 in if I reach that point on the issue of whether or not the  
6 statement is unduly prejudicial, and therefore the  
7 probative value is sort of dissipated by its prejudicial  
8 effect, that it prejudices the defendant in such a way that  
9 it violates his due process rights, but also at this  
10 particular stage has presented really an unclear way for  
11 you to present your defense.  
12 At this time, though, I would like to hear M's  
13 [REDACTED], if you would call her as the witness, and have her  
14 step in. And I would note to you, M's Gutierrez, with  
15 regard to your most recent argument and, M's Murphy, you  
16 might want to note this for Mr. Urick since he's away from  
17 his desk, Maryland Rule 4-263(b)(4).  
18 MS. MURPHY: 263(b)(4)?  
19 THE COURT: Right. Reports and statements of  
20 experts to be produced before trial, which includes the sum  
21 and substance of any expert witness testimony, and also we  
22 could talk about that at some later time in any event.  
23 I need you to raise your right hand, please.  
24 Listen to Mr. White as he provides you the oath.  
25 SHARON [REDACTED]

1 a witness produced on call of the State, after having been  
2 first duly sworn was examined and testified as follows:  
3 THE CLERK: You may be seated. Please keep your  
4 voice up. State your name and your business address for  
5 the record.  
6 THE WITNESS: My name is Sharon [REDACTED] My  
7 address is [REDACTED], Ellicott City, Maryland 21042.  
8 VOIR DIRE EXAMINATION  
9 BY MR. URICK:  
10 Q Good morning, M's [REDACTED]  
11 A Good morning.  
12 Q Would it be an accurate statement of your  
13 expertise to describe it as in the identification and  
14 symptomatology of medical deviation or medical abnormality?  
15 MS. GUTIERREZ: Objection to the question. There  
16 has been no expertise established.  
17 THE COURT: Sustained. The purposes of your  
18 being called at this time, M's [REDACTED], is to familiarize  
19 this court with your background and you expertise. Both  
20 the State, and the defense and the court may ask you some  
21 questions because we're trying to get at, one, what your  
22 background and expertise entails and, two, as it  
23 specifically relates to the defendant, Mr. Syed what, if  
24 anything, you did in making any evaluation as to a mental  
25 state he may or may not have possessed at a given time, on



<p style="text-align: right;">Page 21</p> <p>1 a given date.</p> <p>2 So, as we ask you the questions, you notice that</p> <p>3 the jury is not here. It is for the court to decide with</p> <p>4 regard to a motion that's been filed, and that's why we're</p> <p>5 asking.</p> <p>6 THE WITNESS: Thank you.</p> <p>7 THE COURT: So, if you would note that the</p> <p>8 objections or whatever we're trying to do here, is for me</p> <p>9 at the bottom line. And if counsel would then, with my</p> <p>10 clarification, focus your questions in that fashion, I</p> <p>11 would appreciate it.</p> <p>12 BY MR. URICK:</p> <p>13 Q Let me first ask you about your education. What</p> <p>14 is your educational background?</p> <p>15 A I have a bachelor of science degree in nursing</p> <p>16 from the University of Maryland at Baltimore in 1974, and</p> <p>17 then I have a master's in education from Loyola College in</p> <p>18 1993. I'm a registered, professional nurse in the State of</p> <p>19 Maryland, and also a certified guidance counselor of</p> <p>20 elementary, middle and high school in the State of</p> <p>21 Maryland.</p> <p>22 Q Now, going back to your bachelor's degree from</p> <p>23 the University of Maryland, what program or what training</p> <p>24 did that consist of or require.</p> <p>25 A Well, we had to spend two years in academia, and</p>	<p style="text-align: right;">Page 23</p> <p>1 or they used to be called patients, and doing an evaluation</p> <p>2 according to the systems. We do an evaluation for their</p> <p>3 mental health. You do an evaluation for their respiratory</p> <p>4 health, cardiovascular health, orthopedic health, and go</p> <p>5 down the systems in the hope of finding a well client, but</p> <p>6 if you find a deviation in the normal behavior of the</p> <p>7 patterns, then you note the abnormality and continue from</p> <p>8 there and focus on that. That's the assessment.</p> <p>9 The referral process, if I would find a well</p> <p>10 client, nothing has to be done past that point. A</p> <p>11 professional registered nurse in the State of Maryland is</p> <p>12 allowed to do a nursing assessment and continue the process</p> <p>13 no further. If I find a deviation in the wellness of a</p> <p>14 client, then it's my legal responsibility and my ethical</p> <p>15 responsibility to refer them on to someone with more</p> <p>16 training. So, if I found someone with a suspected</p> <p>17 fracture, I would have to refer them to an orthopedic. If</p> <p>18 I found someone that was possibly pregnant, I would send</p> <p>19 them to a gynecologist or an obstetrician. If I found</p> <p>20 someone that was depressed or suicidal, I would send them</p> <p>21 immediately for psychiatric intervention.</p> <p>22 So, I would do my assessment, and depending on</p> <p>23 what I found in my assessment, then I would do the referral</p> <p>24 process.</p> <p>25 Q And what is a nursing treatment?</p>
<p style="text-align: right;">Page 22</p> <p>1 then we spent two years dividing areas of experience</p> <p>2 according to the system. So, I would go into an OB/GYN</p> <p>3 area for two months. I would go into pediatrics for two or</p> <p>4 three months. I would go into Public Health for two or</p> <p>5 three months. I would go into psychiatric nursing for two</p> <p>6 or three months, and then we would rotate through all the</p> <p>7 systems until we were competent to pass State Boards and go</p> <p>8 be registered.</p> <p>9 Q And based on that training, what professional</p> <p>10 title were you required to use?</p> <p>11 THE COURT: One moment. M's Connolly, will you</p> <p>12 step in the hallway and see what that State's Attorney</p> <p>13 wants, please. Thank you. You may continue.</p> <p>14 BY MR. URICK:</p> <p>15 Q Based on that degree, what professional title</p> <p>16 were you entitled to use?</p> <p>17 A As I've passed my State Boards in Maryland, I was</p> <p>18 a Professional Registered Nurse.</p> <p>19 Q And what does that mean?</p> <p>20 A That means I am allowed in the State of Maryland</p> <p>21 to do nursing assessments and nursing diagnoses, do nursing</p> <p>22 treatments, do nursing evaluations and do referral.</p> <p>23 Q Will you give a brief explanation for each of</p> <p>24 those terms?</p> <p>25 A Okay. A nursing assessment is taking a client,</p>	<p style="text-align: right;">Page 24</p> <p>1 A A nursing treatment is a scope of practice that's</p> <p>2 very defined in the State of Maryland, that allows me to do</p> <p>3 something to improve the wellness of a client. I can do a</p> <p>4 pustural drainage. I can do endotracheal suctioning. I</p> <p>5 can start IV's. I can do anything that is a medical</p> <p>6 nursing function that is very, very specifically described</p> <p>7 by the State Board of Maryland Nursing. I can do</p> <p>8 catheterizations, anything medical. I cannot do surgery.</p> <p>9 I cannot put in stitches, but I -- it's a big question to</p> <p>10 answer. Nurses can do many things. If you would be more</p> <p>11 specific, maybe I could address that. Maybe I don't know</p> <p>12 what you're asking.</p> <p>13 Q I was just asking for a, you know, description of</p> <p>14 what that meant at this time.</p> <p>15 THE COURT: Can I ask just for a clarification,</p> <p>16 and these things that you're describing that you do, are</p> <p>17 you doing them at the direction of a physician or are you</p> <p>18 doing them sua sponte, on your own? That is, when you say</p> <p>19 you put in a catheter or you put in an IV, are you doing so</p> <p>20 because a physician has made a diagnosis and said to you,</p> <p>21 put in a catheter, put in an IV, or do you make an</p> <p>22 assessment and then put the IV in yourself without the</p> <p>23 necessity of having a physician make a direction or join or</p> <p>24 concur with your decision?</p> <p>25 THE WITNESS: I understand that question. Thank</p>

1 you. I'm allowed, if there is a policy of procedure in  
2 place at my area of employment, that I'm allowed to proceed  
3 according to policy and procedure. In the hospital  
4 setting, in the emergency room setting, the policy and  
5 procedure would be that I would do my nursing assessment,  
6 and then I could put in the catheter or I could put in a  
7 Foley. I could do a pustular drainage. I could have a  
8 nebulizer treatment for an asthmatic, and then the policy  
9 was when that shift ended, the physician signed off on what  
10 I did. The same thing with the Baltimore County --

11 THE COURT: So, you would not have consulted with  
12 a physician --

13 THE WITNESS: No.

14 THE COURT: -- in advance?

15 THE WITNESS: No, not if there is policy and  
16 procedure in place. The same goes for the Baltimore County  
17 Board of Education. If there's policy and procedures, and  
18 there are in the clinics in the school based wellness  
19 centers, then I'm bound to only do what that allows me to  
20 do. Do pregnancy testing, do testing for Streptococcus,  
21 draw blood, send blood to the laboratory. Whatever is in  
22 the policy and procedure of that institution I am allowed  
23 to do as a professional nurse. A two-year or three-year  
24 nurse would not be allowed to do that. There's a  
25 difference with the Nursing, American Nursing Association

1 between a professional and a non-professional nurse.

2 BY MR. URICK:

3 Q Have you ever been registered or certified as a  
4 nurse?

5 A Yes. I was certified in 1974.

6 Q What does that mean, to be certified?

7 A That means I have completed a certain amount of  
8 education. Actually, I'm a registered nurse. I'm a  
9 certified guidance counselor. Excuse me. To be a  
10 registered nurse in the State of Maryland, I have to have  
11 had so many hours of education, so many hours of clinical.  
12 I had to pass State Boards. And then to keep your  
13 license, a recent addendum is that you have to have so many  
14 continuing education hours of education and training.

15 Q How did that affect your ability to perform your  
16 job?

17 A I think it kept me very abreast of adolescent  
18 issues as they evolve. When I became a nurse in 1974,  
19 certainly the climate was different than it is now in 1999,  
20 and through the educational process, and in services and  
21 continuing education units, I'm kept very abreast.

22 I then went back to school in 1991 to address the  
23 psychological, emotional, psychosocial issues that I was  
24 dealing with on a frequent basis in the school system, and  
25 got my master's and got into counseling.

1 Q Has being a registered nurse increased your  
2 rights or powers as a nurse?

3 MS. GUTIERREZ: Objection. Ask for a definition  
4 of the term.

5 THE COURT: Sustained. Can you define what --  
6 one moment, please.

7 (Brief pause).

8 THE COURT: You may go ahead.

9 BY MR. URICK:

10 Q Before I go on, let me backtrack for a minute.

11 You had mentioned nursing assessments, nursing treatments.  
12 What is a nursing diagnosis?

13 A A nursing diagnosis is something that is again  
14 very defined in the State of Maryland. After doing an  
15 assessment and finding a deviation from the norm, then you  
16 do an assessment according to the system. Again, it's my  
17 professional opinion, my professional observations, my  
18 professional interaction with the client that I form a  
19 diagnosis that I believe the client to have. But I'm very  
20 mandated by law, if there is a deviation of extreme  
21 concern, I have to refer that patient.

22 So, if I saw -- professional nurses are allowed  
23 to do home visits, and do nursing assessments, and do  
24 nursing treatments. School nurses are allowed to do  
25 assessments, evaluations and treatments. But if I find a

1 deviation where I cannot prescribe a medication or I cannot  
2 direct the patient to have another examination, an MRI or a  
3 CAT Scan or a cardiac cath, I must by law and ethics again  
4 refer that patient to someone higher up, be it a physician  
5 or a psychiatrist.

6 The Diagnostic and Statistical Manual states the  
7 role very clearly of the ability of a physician and a  
8 psychiatrist, and a social worker, and a professional  
9 registered nurse of being able to assess and diagnose.

10 Q Now, you've distinguished what a professional  
11 nurse is allowed to do as opposed to a non-professional  
12 nurse. What, if any, effect did becoming a registered  
13 nurse have on what you're allowed to do as opposed to being  
14 merely a professional nurse?

15 A If I wouldn't have been a professional registered  
16 nurse, if I would have gone through a two or three year  
17 program and not had my baccalaureate, or if I would have  
18 been a practical nurse or health aide, that's very, very  
19 limited what you can do. And you do that under the  
20 instruction of either a nurse or a physician. So, I'm very  
21 independent as a professional registered nurse. I'm very  
22 cognizant of my roles and my responsibilities of referral  
23 and what I can and can't do, but as a professional  
24 registered nurse I have more autonomy.

25 Q Now, where was your master's from, again?



1 A Loyola College in Baltimore.  
 2 Q And what was that in?  
 3 A In guidance and counseling. I went to school for  
 4 a two-year period, and along with my bachelor's in science  
 5 and nursing, a master's in education and guidance and  
 6 counseling allowed me to be certified in counseling and  
 7 guiding children through the age of 19.  
 8 Q And what sorts of areas are you allowed to  
 9 counsel students in?  
 10 A There are no limitations unless they're imposed  
 11 upon the institution. Now, the school system has imposed a  
 12 restriction. I cannot counsel on abortion. So, if a  
 13 student came in and needed that directive, I would have to  
 14 direct that person to my social worker that was on my  
 15 staff.  
 16 Q And what, if any, focus did that education have  
 17 in crisis counseling?  
 18 A That was a big component, to understand the  
 19 process that someone grieves through, and then how to help  
 20 that person through the process, and then when to feel  
 21 comfortable to make a referral or just continue seeing that  
 22 patient, that client, as a nurse.  
 23 Q Would grief counseling be part of that or would  
 24 that have been a separate area?  
 25 A No, that was part of the education. And then,

1 also, I do have an in-service, three CU's in grief and  
 2 counseling.  
 3 Q Now, what about putting together college  
 4 portfolios, would that have been covered in that education  
 5 as well?  
 6 A Yes, it would have.  
 7 Q How about substance use and abuse?  
 8 A Absolutely. I have been the Chairman of the  
 9 Baltimore Substance, Drug and Substance Abuse Program in  
 10 Baltimore County for, in each of the schools, for nine  
 11 years.  
 12 Q Now, what sorts of continuing education credits  
 13 have you had?  
 14 A Well, they're varied. I've had the grief  
 15 counseling, and I've had a communication course, and a  
 16 first responder course, and I'm certified in CPR, and I'm a  
 17 certified child birth educator. There are, after 25 years,  
 18 there are many. There are many.  
 19 Q Now, going back, you've mentioned the term "the  
 20 systems." What is meant by that?  
 21 A It's a classification used recently by the World  
 22 Health Organization that breaks up a body part into  
 23 systems, so you can do a more recognized evaluation, and  
 24 then statistically it can be documented according to  
 25 systems. So, the system theory, I believe, was begun in

1 the 1970's, where you look at someone and you again begin  
 2 at the top of the head, and you work your way down. So,  
 3 you do the mental health evaluation. You do the  
 4 cardiovascular. You do the respiratory. You do the  
 5 digestive. You do the reproductive, and then the skin and  
 6 the other sensory organs.  
 7 Q Now, based on your training and certifications  
 8 are you allowed to do nursing assessments, nursing  
 9 diagnoses, nursing treatment, nursing referrals and mental  
 10 health?  
 11 A Absolutely.  
 12 MS. GUTIERREZ: Objection as to the word allowed.  
 13 THE COURT: Overruled. But I need you to explain  
 14 when he says the word allowed, who allows you to do that?  
 15 THE WITNESS: The State of Maryland in my  
 16 licensure allows me to do a nursing assessment on the  
 17 systems of any client, not just the pediatric patients, but  
 18 the State of Maryland gives me that right to do that. And  
 19 then also within my job, the policy and procedure is that  
 20 that is part of my responsibility to do that assessment on  
 21 any student that comes in the door. So, I'm doing it on a  
 22 continually, daily basis.  
 23 Last year I saw 13,000 students at Woodlawn High  
 24 School, and that is the first system I evaluate. You  
 25 evaluate demeanor, body language, effect, and that's

1 another reason I went into guidance and counseling, to  
 2 develop tools to be able to sit and articulate. And then  
 3 you go right from there. You know, you look in the eyes,  
 4 and the nose, and the ears and the throat, and you feel the  
 5 glands, and go to cardiovascular, and you work from the  
 6 head down. But that is always done as a nursing  
 7 assessment.  
 8 BY MR. URICK:  
 9 Q Now, let me ask you about your work experience.  
 10 A Uh-huh.  
 11 Q What sorts of jobs have you had since you got  
 12 your degree in nursing?  
 13 A I graduated in 1974, and I began in an Intensive  
 14 Care Unit, and lasted there, actually it was a Neonatal  
 15 Pediatric Intensive Care Unit, and then went, after about  
 16 two years, went to -- maybe a little bit longer. I'm  
 17 horrible with times. Then went to the Pediatric Emergency  
 18 Room.  
 19 Now, pediatric has to be defined as past neonate.  
 20 So, past six weeks up through the age of 19. So, when you  
 21 say pediatric, a lot of people think, you know, seven,  
 22 eight, nine. Pediatric is through the age of 19. So, I  
 23 worked in the Emergency Room there for ten years  
 24 additionally doing other things, developing programs for  
 25 hospitals, and working, starting the Resuscitation Unit at

1 Howard County and getting helicopters, and flying sick  
2 children in and out.  
3 And then after 15 years of nursing, I went with  
4 the Board of Education for a lot of reasons, but --  
5 Q Now, during that period, prior to going with the  
6 Board of Education, were you working in a clinical setting?  
7 A Well, they called it the Pediatric Out-Patient  
8 Clinic at St. Agnes. It was a clinic. It was dealing with  
9 emergencies, though, depending on the shift you worked, and  
10 I would work the 3:30 to midnight shift or the midnight to  
11 8:00 a.m. shift. And that dealt with emergencies, where in  
12 the daytime hours, it was just a clinic. So, the answer is  
13 yes, it was a clinic.  
14 Q And during that time, if you can estimate, how  
15 much actual experience would you have had making clinical  
16 observations of clients or patients?  
17 A Again, Mr. Urick, that's what a nurse does.  
18 Every patient that I took upon as my charge, I did an  
19 evaluation on that client, and then additionally in the  
20 emergency room setting, because of the nature of the beast,  
21 I would do an assessment on the primary care provider or  
22 the parent that came in. If the child was brought in as a  
23 DOA, then, of course, I'm not doing the nursing on the  
24 child. I'm doing the nursing on the parent, because I'm  
25 dealing with somebody that --

1 Q About how many times would you have run into that  
2 particular situation?  
3 A Well, it was an emergency room, so it was always  
4 a crisis. It was always a crisis going on. How many died?  
5 When I worked at St. Agnes, less than ten percent. When I  
6 went to Howard County, and was the coordinator of the  
7 Maternal Child Health Development Program, where they  
8 brought me in because so many babies were dying in the  
9 delivery room, there had been seven or nine deaths in the  
10 year before I came to work. They had no resuscitation  
11 model or no way to transport these sick babies. So, I was  
12 dealing with that on a monthly basis. Or when a baby died,  
13 then I would do grief counseling with the parents, and  
14 finally established the program where they would transport  
15 babies out to University of Maryland or to St. Agnes, and  
16 then I left Howard County and went back to the Emergency  
17 Room.  
18 THE COURT: M's [REDACTED], the problem is, is that  
19 when you say, I did it ten percent, ten percent of a  
20 thousand, ten percent of a million, ten percent of --  
21 THE WITNESS: I'm sorry.  
22 THE COURT: -- ten, we have no way of knowing how  
23 many people. When you said that there were more babies  
24 that died, and then less babies, because you changed the  
25 systems at the hospital, more or less of what? How many

1 families did you involve in or were you part of, you know,  
2 bereavement or grief counseling? How many? How many means  
3 I need a number. If I've done it ten percent of ten, you  
4 can see how I might not have done it as many as ten percent  
5 of a thousand. So --  
6 THE WITNESS: I see, the number. In a year's  
7 time, starting in '74 when I was in Neonatal Intensive Care  
8 and babies died frequently, probably 30 a year, in '74 and  
9 '75, 30, 40.  
10 THE COURT: A year, and how many years were you  
11 there?  
12 THE WITNESS: Well, that was two years there.  
13 And then the emergency room for ten years, approximately  
14 maybe 50 a year, so 500.  
15 THE COURT: Okay.  
16 BY MR. URICK:  
17 Q And over that time, how many total patients would  
18 you have been seeing every year?  
19 THE COURT: Approximately.  
20 A 52 weeks -- not including the Board of Education,  
21 is that correct? You're asking in the hospital?  
22 Q Yes.  
23 A I would venture to say if there are 52 weeks in a  
24 year, and I worked 50 weeks, 3000.  
25 Q Per year? Thank you.

1 A Mr. Urick, that's a long time ago. I didn't  
2 track numbers. I mean, you're asking me for a good guess.  
3 Q Now, how did you become involved with the  
4 Baltimore County School system?  
5 A I had a friend in the county school system, in a  
6 different county, but I was very unhappy with what was  
7 going on in the school system, and I was working at St.  
8 Agnes, and I thought that I would have an impact on  
9 children in a pro-active setting versus a setting where I  
10 was always dealing with something happening after the fact,  
11 after a crisis. So, I thought I could be a pro-active  
12 person, and I applied with the Baltimore County Board of  
13 Education, and they offered me a lucrative position as a --  
14 I'm sorry. Go ahead.  
15 Q Please finish your question, I mean, answer.  
16 A In retrospect, I wasn't really -- in retrospect I  
17 can see why I was hired now. I have a lot of pediatric  
18 experience and emergency room experience, but I asked for a  
19 salary when I went with the Board of Education that was  
20 first denied, and that was in April or May, and then the  
21 day before the school started, at Kenwood High School, I  
22 was called by the head of the Health Services in Baltimore  
23 County and offered the salary I commanded and began the  
24 next day, and found a clientele of very, very needy kids.  
25 And then was the one responsible the following year of



1 starting the first school based clinic in Baltimore County  
2 Public Schools.

3 Q How did you get that started?

4 A I identified the needs. I did tracking. I did a  
5 needs assessment. I spent a year in the health suite  
6 dealing with kids, dealing with faculty, parents, and  
7 identifying needs that weren't being met in the community,  
8 and then I approached everybody that I could, the Director  
9 of Franklin Square Hospital, the Director of Baltimore  
10 County Public Schools, who was Dr. DuBell at the time. I  
11 approached the Health Department and got monies. Traveled  
12 down to Delaware and modelled a program they had, and  
13 presented it to the Board of Education, and lo and behold,  
14 it was approved.

15 Q And when the clinic was started, what was your  
16 position there?

17 A I was the manager of the school based clinic.

18 Q And what duties did you have as a result of being  
19 the manager?

20 A I had a staff, a pediatric nurse practitioner, or  
21 a physician, a social worker, a Baltimore County Public  
22 Health Nurse. I had a third-party billing clerk, and I was  
23 responsible for coordinating their efforts to address the  
24 needs of the students that I had first done my nursing  
25 assessment on, and then needed to refer to some other

1 source besides a professional registered nurse. And I did  
2 that for four years at Kenwood High School, and five years  
3 at Woodlawn High School.

4 Q And who supervised these professionals in your  
5 clinic?

6 A I did. I was the manager.

7 Q During your time there, on an average basis, how  
8 many students would you guess you saw every year?

9 A Oh, I know, because we have to keep statistics.  
10 I started out seeing well over 10,000. Last year I saw  
11 13,000. Where I am this year, I'm already up to almost  
12 9,000, and it's only January. We have to turn in monthly  
13 reports. So, I saw anywhere -- the smallest number would  
14 probably be 10,000 and the greatest number would be 15 in a  
15 ten-month period, a six-hour day.

16 THE COURT: When you say you saw them, what does  
17 that mean?

18 THE WITNESS: I had to do a nursing assessment on  
19 them. A client will come in the door, and present with a  
20 problem or with what they perceive is a problem, and then I  
21 have to start my nursing assessment, again working head to  
22 toe. When I find a problem, then I would stop and further  
23 assess that problem, and decide at the end of my  
24 evaluation, my assessment if that person needed any other  
25 medical intervention, if I needed to refer them then to

1 someone that dealt with STD's or someone that dealt with,  
2 needed a prescription for chronic -- maybe an ear infection  
3 or somebody that was pregnant, or somebody that was  
4 depressed.

5 So, I would do a nursing assessment on each child  
6 that came in, and then refer them or send them back to  
7 class depending if they were well. It was a comprehensive  
8 clinic where any need was met. So, if it was not within  
9 the policy of the Baltimore County Board of Education for  
10 me to treat or to assist with, such as abortion, I could  
11 refer them to the social worker, who was not a Board of  
12 Education employee, who was indeed a Health Department  
13 employee, that within their parameter could do that. The  
14 social worker could drive the student and have an abortion  
15 at Hillcrest, or the pediatrician could give a shot of  
16 penicillin because a kid had Trichomonas or syphilis. And  
17 they would have everything done right there in the school.

18 THE COURT: Do you have anything you record these  
19 assessments on?

20 THE WITNESS: I do. The Baltimore County Board  
21 of Education has a student sign-in log. Whenever a nurse  
22 has done a nursing assessment and has to refer that student  
23 on for further influence, or presents with an illness, then  
24 it's documented. If the student comes in and presents as  
25 needs a menstrual pad or needs a band-aid or just wants to

1 talk, or wants to talk about going into nursing, or wants  
2 to talk about breaking up with their boyfriend or their  
3 girlfriend, or they have been abused, that's a good for  
4 instance, we're very, very limited by law -- well, I'm  
5 sorry -- by policy what we are allowed to write in the  
6 student's record. We cannot write in the student's record,  
7 student examined by nurse, 12 belt marks, lacerations,  
8 referred to 911, DSS involved, because that trail follows  
9 them. We're very, very limited what we write that's not --  
10 it's called SOAP, Subjective Observation Assessment and  
11 Planning.

12 So, a lot of the issues that we didn't record  
13 were not recorded on purpose, so that record wouldn't  
14 follow the student, and they were only usually with the  
15 psychosocial entities versus the physical entities that are  
16 very quantitative, that you can say fever; you can say  
17 blood pressure; you can say temperature. We're not allowed  
18 to write rule out depression; appears to be suicidal; refer  
19 for child abuse; anorexic. Any label that's going to  
20 follow that student, we don't document.

21 THE COURT: You do not record an assessment of  
22 those natures anywhere? You don't write down that they  
23 came in?

24 THE WITNESS: I would write down if it had to be  
25 referred on. If a student came in, as last week there was

1 a child abuse. I made no documentation at all, and there  
2 is still no documentation at all, that this child had 24  
3 belt marks on her body. What my documentation did say then  
4 the following Tuesday, that the girl came in and presented  
5 with another physical complaint, and I documented on that  
6 student for that. But, no, I did not document that this  
7 child was physically abused by her father. It's not  
8 documented anywhere.

9 So, you can pick up a chart, and it's very  
10 benign. Where in a hospital the saying is if it's not  
11 written, it's not done, that's their policy and it's too a  
12 pro-active, a litigious policy, but in Baltimore County,  
13 one of our main concerns is that this record follows  
14 students from school, to school, to school, to school. We  
15 even purge our records in Baltimore County. If a parent  
16 has signed for a check-list to be done by a pediatrician  
17 because the child is hyperactive, before that chart goes  
18 on, we purge anything and shred it.

19 We have a specific guideline of what we're  
20 allowed to write and document on the chart, and emotional  
21 concerns are not documented unless it becomes an illness  
22 that needs to be treated, and then you go into  
23 documentation.

24 THE COURT: Very well. I'm sorry I interrupted,  
25 but I needed to focus.

1 THE WITNESS: Did that clear it?

2 THE COURT: Yes, it did. Thank you.

3 BY MR. URICK:

4 Q During your time with the Baltimore County  
5 Schools on an annual basis if you can estimate, how much of  
6 your, or how many people would you see where you would  
7 engage in grief or crisis counseling?

8 A Maybe 500 a year, and that was one of the  
9 precipitations, too, for me to go back and get my master's  
10 in guidance and counseling. I wanted to make sure I was  
11 doing it right. About 500, just in grief counseling.  
12 Counseling is a whole different issue, because part of my  
13 assessment is to guide and counsel. So, that was 13,000.

14 Q What is the Diagnostic Statistical Manual?

15 A It's a tool that identifies deviations of mental  
16 wellness, mental health that's put out by the World Health  
17 Organization and the American Psychiatric Institution, and  
18 it's supported by the federal government with Medicaid  
19 reimbursement. It's a classification of any abnormality of  
20 the mental functioning of the client.

21 Q Does the Manual contain any statement of who it's  
22 intended to be used by?

23 A Yes, it does.

24 Q Would you please read it for the court?

25 MS. GUTIERREZ: Would you identify specifically

1 where she's reading from?

2 THE WITNESS: I'm reading from the Diagnostic and  
3 Statistical Manual of Mental Disorders, Fourth Edition.

4 BY MR. URICK:

5 Q Is that the most recent edition?

6 A That's the most recent edition as we speak. One  
7 is due out in the year 2000. And on page 15, the second  
8 paragraph, the second sentence, and it states: "It is used  
9 by psychiatrists, other physicians, psychologists, social  
10 workers, nurses, occupational rehabilitation therapists,  
11 counselors and other health and mental health  
12 professionals."

13 Q What is the purpose of those DSM's?

14 A To make classification easier, to gather  
15 statistics worldwide, to identify accepted diseases in the  
16 profession, and symptoms that would suggest what axis to  
17 place the illness on. It's according to axis, Axis One,  
18 Two, Three, Four or possibly Five, and it's a method by  
19 which professionals in the healthcare industry identify and  
20 document according to code, a specific code, what the  
21 illness is and then it's billed that way also. So, if  
22 something was billed to your insurance company, or to the  
23 Medicaid, it would be billed as a diagnosis of 298.53 if  
24 you had a Five Axis, or 1 point, according to what you  
25 found, what you assessed.

1 Q Are you legally entitled or legally allowed to

2 make an assessment under the DSM and then bill according to  
3 the schedules?

4 A Yes, and --

5 MS. GUTIERREZ: Objection.

6 THE COURT: Sustained as to whether she is  
7 legally. If she could just tell me whether or not she uses  
8 DSM for that will be sufficient.

9 THE WITNESS: Yes. All the schools in Baltimore  
10 County that have clinics use the DSM. Nurses are trained  
11 in identifying, labeling and then billing. As of two or  
12 three years ago, we finally added a new department in the  
13 Board of Education, third-party billing clerks, because it  
14 was just exhausting, the hours after the day, four or five  
15 hours spent to get reimbursement, about money, about  
16 insurance.

17 BY MR. URICK:

18 Q What is catatonia?

19 A Catatonia is a description. It's a symptom.  
20 It's not an illness. It's not a diagnosis. It's not a  
21 neurosis. It's not a psychosis. It's a symptom, just as  
22 you would say hyper -- well, no, edema, swelling, is not a  
23 diagnosis; it's a symptom. When you have edema, when you  
24 have swelling, you find out, then you go through the  
25 systems and find out why you have swelling.



<p style="text-align: right;">Page 45</p> <p>1 Catatonia is a description of the physical  2 state -- well, not just the physical -- of the state that  3 the person presents, is almost in a few, is almost very,  4 very withdrawn. There are five classifications or five  5 definitions of what catatonia involves in the DSM or in the  6 ICDM-9, and you have to have at least two of those symptoms  7 present to call it a catatonic state. One is that you were  8 very, very withdrawn, in a stupor. That's one symptom that  9 you would identify along with another symptom to  10 corroborate a catatonic state.  11 The second one might be a really agitated state.  12 The third one is that they're usually mute. They don't  13 talk. The fourth one is if they're not mute, that they're  14 very, it's called agrapheia (ph.) where they repeat  15 everything that I would say they would parrot, and then the  16 other one is called, it's a strange name, negativism, where  17 you have to actually have the person move with you. You  18 have to actually move the person to have them move, because  19 they just stand there in a state of stupor.  20 I think that is the best definition I can give  21 for catatonia. It's a state of stupor.  22 Q Have you ever had occasion to make assessments of  23 catatonia?  24 A Always.  25 Q What is schizophrenic catatonia?</p>	<p style="text-align: right;">Page 47</p> <p>1 Q Yes.  2 A A half dozen.  3 Q Now, what is situational catatonia?  4 A Well, there can be two different situational  5 catatonias, Mr. Urick. One is called a medial catatonia  6 that is caused by maybe a brain tumor or an automobile  7 accident or some marked brain impairment. Then there's  8 another one that is just a short-lived catatonia type  9 behavior. It's not a psychosis. It's a neurosis that is  10 defined as lasting at least one day, 24 hours, but not  11 lasting more than one month or 31 days.  12 THE COURT: One moment, please. Counsel, I note  13 that it is 12:40. I'd like to know if you would have any  14 objection to me excusing the jurors to go to lunch without  15 having them come in here?  16 MR. URICK: No.  17 MS. GUTIERREZ: No.  18 THE COURT: Ask them to return at 2:00 o'clock.  19 All right. Would you ask the jurors to go to lunch, M's  20 Connolly. Just instruct them that they should go to lunch  21 and return by 2:00 o'clock.  22 MS. GUTIERREZ: Judge, I want to advise you that  23 with reference to my other responsibilities, I did set up a  24 telephone conference with two judges in Puerto Rico --  25 THE COURT: We're going to stop.</p>
<p style="text-align: right;">Page 46</p> <p>1 A That's a psychoses. That's a psychoses that  2 along with the symptoms of schizophrenia, which are very,  3 very involved, also have the features of a catatonic state  4 where they're mute or they parrot, or they're very, very  5 negativism, or there's also something very, very specific  6 to the posturing, that they don't move unless they're led  7 or if you pick up an arm, it doesn't go down. So, it's an  8 additional classification to schizophrenia. Schizophrenia  9 and then you also have these symptoms of catatonia.  10 So, you can have paranoid schizophrenics. You  11 can have catatonic schizophrenics, and it's the  12 schizophrenic that has the symptoms of a true catatonic  13 stupor.  14 Q Have you ever had occasion to in a clinical  15 setting observe and make assessments of schizophrenic  16 catatonics?  17 A Yes. One of my first patients was a 20 year old  18 young man that was a catatonic schizophrenic. He, without  19 saying the name, he cut off his penis in an LSD flashback,  20 and when I saw him a year later, was still in a catatonic  21 state.  22 Q And about how many schizophrenic catatonics would  23 you have made assessments of over the years or suspected  24 catatonics, schizophrenic catatonics?  25 A Over my 25 years of nursing?</p>	<p style="text-align: right;">Page 48</p> <p>1 MS. GUTIERREZ: -- at 1:00 o'clock.  2 THE COURT: We're going to stop.  3 MS. GUTIERREZ: It takes me about five minutes to  4 walk up the street.  5 THE COURT: Actually, we're going to stop about  6 right now because I have a bench conference in five  7 minutes, and if I'm not there --  8 MS. GUTIERREZ: I mean, if I have to, I can  9 change it, but I'll need to make some arrangement.  10 THE COURT: No, it's not necessary because I'm  11 going to the bench conference. But I am going to ask  12 that --  13 MS. GUTIERREZ: It will be more interesting than  14 this.  15 THE COURT: Well, I'm going to go, and I'm going  16 to ask that we recess at this point, allowing you to  17 continue your question of this witness after lunch. We  18 are going to come back at 2:00 o'clock, at which time we'll  19 continue.  20 I would ask that while you're on the witness  21 stand that you not talk to anybody about your testimony,  22 the State or the defense, and that you return at 2:00  23 o'clock, and we'll resume questioning with regard to the  24 motion at that time.  25 Any other preliminary things before I go?</p>

<p style="text-align: right;">Page 49</p> <p>1 MS. GUTIERREZ: No, Your Honor.</p> <p>2 MR. URICK: No, I don't think so, Your Honor.</p> <p>3 THE COURT: All right. Just so you know, I did</p> <p>4 get a letter this morning from Alternate Number 4, who said</p> <p>5 --</p> <p>6 MS. GUTIERREZ: From 4?</p> <p>7 THE COURT: Alternate 4, who says, "Yesterday I</p> <p>8 asked myself if the surname of a potential witness was</p> <p>9 common or not. I know superficially, but friendly, a Tony</p> <p>10 Wilds. I know of no relation to Jay Wilds," and it's</p> <p>11 spelled two different ways, W-i-l-d-s, and W-i-l-d-e-s.</p> <p>12 "But it occurred to me that the name might not be common."</p> <p>13 So, I guess what she's saying or he's saying is</p> <p>14 that she's trying to determine whether Jay Wilds is related</p> <p>15 to a Tony Wilds, who she happens to know.</p> <p>16 MS. GUTIERREZ: That he is Alternate Number 4?</p> <p>17 THE COURT: Number 4, Alternate Number 4. It</p> <p>18 says Alternate Number 4 on this letter. I'm going to put</p> <p>19 both of the juror notes, the one from yesterday about</p> <p>20 Number 6 and --</p> <p>21 MS. GUTIERREZ: In light of that question, Judge,</p> <p>22 I would make a request that we determine --</p> <p>23 THE COURT: We will have to voir dire.</p> <p>24 MS. GUTIERREZ: That the State's Attorney --</p> <p>25 well, so that we don't ruin the juror if we don't have to,</p>	<p style="text-align: right;">Page 51</p> <p>1 THE COURT: Please be seated. Yes, you may</p> <p>2 return to the witness stand.</p> <p>3 (The witness, SHARON █████ resumed the</p> <p>4 witness stand).</p> <p>5 MS. GUTIERREZ: Judge, I apologize for being</p> <p>6 late, but I did call.</p> <p>7 THE COURT: It's quite all right. And I called,</p> <p>8 and that's all I needed, was a head's up.</p> <p>9 MS. GUTIERREZ: Thank you, Judge.</p> <p>10 THE COURT: I want to remind you, M's █████, that</p> <p>11 you are still under oath.</p> <p>12 MS. GUTIERREZ: Judge before we continue with the</p> <p>13 testimony, I would at this time raise what I believe to be</p> <p>14 my client's privilege under 9-109.1, in light of the fact</p> <p>15 that the State is attempting to qualify this witness as an</p> <p>16 expert, although she hasn't defined herself as such, as</p> <p>17 someone treating --</p> <p>18 THE COURT: I'm sorry. 9 dash?</p> <p>19 MS. GUTIERREZ: I think it's 9-109.1 or 9.10.</p> <p>20 THE COURT: Of the Maryland Rules?</p> <p>21 MS. GUTIERREZ: No.</p> <p>22 THE COURT: Or Courts and Judicial Proceedings</p> <p>23 or --</p> <p>24 MS. GUTIERREZ: It would be in Courts and</p> <p>25 Judicial Proceedings, and it is, I believe it's only been</p>
<p style="text-align: right;">Page 50</p> <p>1 it's fairly easy to determine by the State asking its</p> <p>2 witness, or determining does he have a family member,</p> <p>3 brother, father, whatever, anybody named Tony Wilds,</p> <p>4 because it just may --</p> <p>5 THE COURT: Yes, and that's actually what my</p> <p>6 suggestion was going to be.</p> <p>7 MS. GUTIERREZ: Thank you, Judge.</p> <p>8 MR. URICK: I will do my best to obtain that</p> <p>9 information.</p> <p>10 THE COURT: Would you do that, and then if that</p> <p>11 doesn't work, we'll do it the other way around and ask the</p> <p>12 witness. We don't know if the person is related, but if</p> <p>13 they are related, would that in any way interfere with your</p> <p>14 ability to be fair and impartial. And, as I said, it's</p> <p>15 Alternate Number 4, so it's not like it's a member of the</p> <p>16 panel.</p> <p>17 MS. GUTIERREZ: Right.</p> <p>18 THE COURT: All right. M's Watts, you're excused</p> <p>19 to go to lunch, and ask that you come back at 2:00 o'clock.</p> <p>20 The court stands in recess until 2:00 o'clock.</p> <p>21 THE CLERK: All rise.</p> <p>22 (LUNCHEON RECESS).</p> <p>23 <u>AFTERNOON SESSION</u></p> <p>24 (Jury not present upon resuming).</p> <p>25 THE CLERK: All rise.</p>	<p style="text-align: right;">Page 52</p> <p>1 enacted -- I only have 9-109. It's only been enacted maybe</p> <p>2 two years. But it now recognizes in the same manner that</p> <p>3 it recognizes, you know, privileges between psychologists</p> <p>4 and defines patients, it now recognizes privileges in</p> <p>5 regard to mental health, other mental health professionals</p> <p>6 and nurses, who are acting in that capacity. That's</p> <p>7 exactly why I was on the phone with my expert.</p> <p>8 Based on the testimony that we've heard, he was,</p> <p>9 and I believe that the basis of the privilege was the</p> <p>10 recognition of an existent common law privilege for medical</p> <p>11 care providers, that I believe should include nurses, who</p> <p>12 are rendering medical treatment.</p> <p>13 She has defined that she has seen him. He was</p> <p>14 brought to her attention in regard to what other medical</p> <p>15 personnel described to her as symptoms needing her</p> <p>16 immediate attention. She was the school nurse. She was in</p> <p>17 charge that day. Whatever it is she did that day was in</p> <p>18 that capacity and in no other. And, therefore, her</p> <p>19 relationship with him absent circumstances where he,</p> <p>20 himself, has put his mental or physical condition at issue</p> <p>21 in this case, which he has not, there exists a privilege</p> <p>22 based on her testimony. And I would assert that privilege</p> <p>23 on Adnan Syed's behalf now to prevent any relinquishment of</p> <p>24 that privilege, any violation, any testimony regarding</p> <p>25 anything that she learned from him, from his words or his</p>



1 actions would be included in the privileged nature of any  
2 communication of any kind conveyed by him to her during any  
3 time that she has discussed, and would move to strike any  
4 already listened to testimony that has been made in  
5 violation of that privilege.

6 THE COURT: I'll hear from the State, and I have  
7 in front of me Courts and Judicial Proceedings Article 9-  
8 109.1, which is communications between client and  
9 psychiatric mental health nurse specialist. And it defines  
10 psychiatric mental health nurse specialist as a registered  
11 nurse, who has a master's degree in psychiatric mental  
12 health nursing or has a bachelor's degree in nursing and a  
13 master's degree in a mental health field, or is certified  
14 as a clinical specialist in psychiatric and mental health  
15 nursing by the American Nurses Association or by a body  
16 approved by the Board of Nursing.

17 There is a description of what the privilege  
18 entails, and according to my reading is applicable in any  
19 civil or criminal proceeding, and the only place that the  
20 client cannot waive his right is if the proceeding involves  
21 criminal charges of child abuse, neglect or an  
22 investigation thereof.

23 So, I'll hear from the State.

24 MR. URICK: May I take a look at that, please?

25 THE COURT: Certainly. And at this time, since

1 this is a legal argument, I'm going to ask M's [REDACTED] if you  
2 will have a seat out in the hallway.

3 (The witness was excused and left the  
4 courtroom).

5 THE COURT: The court notes that I believe given  
6 the position of the defense, if the court finds that such  
7 privilege exists, it would really make our discussions  
8 about this witness' qualifications moot, because we  
9 wouldn't get into whether she's qualified to do an  
10 assessment or not if we find that she is one of those  
11 individuals for which a privileged communication exists.

12 (Brief pause).

13 THE COURT: It's 109.1, right?

14 MS. GUTIERREZ: Right.

15 (Brief pause).

16 THE COURT: Counsel, would you kindly return my  
17 book to me?

18 MR. URICK: Let me have it just a second to write  
19 something down.

20 THE COURT: Certainly.

21 (Brief pause).

22 THE COURT: All right, Counsel. I'll hear from  
23 you.

24 MR. URICK: Thank you, Your Honor. After having  
25 had a chance through the court's courtesy to examine the

1 statute, the State would point out that the defendant does  
2 not meet the definition of client as contained within the  
3 statute, and the witness does not fall within the  
4 definition of a psychiatric mental health nursing  
5 specialist.

6 What you're seeing there would be --

7 THE COURT: What about as a professional  
8 counselor?

9 MR. URICK: It says a professional mental health  
10 counselor. That --

11 THE COURT: No, it doesn't. It says psychiatric  
12 mental health nurse specialist or a professional counselor  
13 regarding the diagnosis or treatment of the individual's  
14 mental or emotional disorders.

15 MR. URICK: She is not a specialist who could fit  
16 that definition.

17 THE COURT: She's not a certified, licensed  
18 counselor under the Health Occupations Article?

19 MR. URICK: I do not believe she is. If you want  
20 to bring her in and ask her, I think she would confirm  
21 that.

22 MS. GUTIERREZ: Judge, we have provided the  
23 Maryland State Department of Ed. record of certification  
24 that she is listed as a certified Advanced Professional  
25 Guidance Counselor Three. That is currently in effect from

1 July 1st, 1993 up until July 1st, 2003.

2 THE COURT: If I may have one moment. I have in  
3 front of me the Health Gen. Article. And although M's  
4 Gutierrez seemed to hit the nail on the head, but she's  
5 listed as a professional counselor, that means she's  
6 certified by the State as such.

7 MS. GUTIERREZ: And I have a copy of the Maryland  
8 State Department of Ed., and I ask that that be marked as  
9 Defendant's next number. I guess it's the first number on  
10 this motion.

11 MS. MURPHY: Can we see that, please?

12 MR. URICK: I've got a copy.

13 MS. GUTIERREZ: You faxed that to me.

14 MS. MURPHY: I'm sorry. I didn't know what it  
15 was.

16 THE COURT: Well, why don't we do this. Before  
17 you pass it to counsel, just let me take a look at it.

18 MS. GUTIERREZ: They do have a copy of it.

19 MS. MURPHY: I didn't know it was the same thing  
20 we had, Your Honor.

21 THE COURT: Thank you. Okay. And I can tell you  
22 that specific reference under 9-109.1 is in reference to  
23 professional counselor means an individual who is  
24 certified, licensed or exempt from licensure as a counselor  
25 under Title 17 of the Health Occupations Article. This is

<p style="text-align: right;">Page 57</p> <p>1 Health Gen. I do actually need Health Occupations. Sorry.</p> <p>2 I did say Health Gen. This is 16. 17 will be -- the</p> <p>3 Health Occupations Article 17-101 defines certified</p> <p>4 professional counselor, and it has the certificate</p> <p>5 definition basically outlining the definition as someone</p> <p>6 who receives a certificate, which M's Watts clearly has.</p> <p>7 Counseling means to assist in any family, individual or</p> <p>8 group counseling, to understand intra-personal and intra-</p> <p>9 professional problems, to define goals, decisions, plan a</p> <p>10 course reflecting needs, interests, abilities, personal,</p> <p>11 social and emotional educational and vocational</p> <p>12 development, encouraging family therapy. It includes the</p> <p>13 certificate that she talked about she had for drug and</p> <p>14 alcohol counseling.</p> <p>15 It appears that she, based on what I heard just</p> <p>16 is direct, she falls squarely under the Health Occupations</p> <p>17 Article where her position of professional counselor is</p> <p>18 defined. And it would appear also that the definition</p> <p>19 section has not changed very much, although there is a</p> <p>20 supplement section.</p> <p>21 Give this to the State's Attorney, and share that</p> <p>22 also with M's Gutierrez, who may have already seen it. But</p> <p>23 it appears that she falls squarely under this section.</p> <p>24 What it does is offer to her in that particular profession</p> <p>25 a requirement that she be licensed or receive a</p>	<p style="text-align: right;">Page 59</p> <p>1 certification by the Board of Ed.</p> <p>2 THE COURT: There's an exemption for certain</p> <p>3 individuals.</p> <p>4 MS. GUTIERREZ: Yes.</p> <p>5 THE COURT: Why don't we inquire.</p> <p>6 (The witness, SHARON [REDACTED], resumed the</p> <p>7 witness stand).</p> <p>8 THE COURT: M's [REDACTED], the court has a couple of</p> <p>9 questions for you, and when I'm done, if counsel needs to</p> <p>10 ask additional questions, I encourage you to feel free to</p> <p>11 do so.</p> <p>12 Under your description of your profession, are</p> <p>13 you classified as a professional counselor?</p> <p>14 THE WITNESS: I am a professional counselor. I'm</p> <p>15 not sitting in that position at this time. I have that</p> <p>16 classification.</p> <p>17 THE COURT: You do have that classification</p> <p>18 through the State of Maryland?</p> <p>19 THE WITNESS: Through the State. It should be in</p> <p>20 with my resume.</p> <p>21 THE COURT: You are licensed by --</p> <p>22 THE WITNESS: I'm certified by.</p> <p>23 THE COURT: You're certified by the State Board</p> <p>24 of Examiners of Professional Counselors?</p> <p>25 THE WITNESS: Yes, I am.</p>
<p style="text-align: right;">Page 58</p> <p>1 certificate. And in doing so, it entitles her to some</p> <p>2 privilege as would be extended to a psychiatrist or</p> <p>3 psychologist.</p> <p>4 MR. URICK: However, I would point the court to</p> <p>5 Subsection (d). Board means the State Board of Examiners</p> <p>6 of Professional Counselors. I do not believe that she's</p> <p>7 certified by that Board. She's certified by the Department</p> <p>8 of Education, which is a different agency. And under this</p> <p>9 certificate means a certificate issued by the Board, that</p> <p>10 is the State Board of Examiners of Professional Counselors.</p> <p>11 This is issued by the State of Maryland, Department of</p> <p>12 Education. She's a certified guidance counselor in the</p> <p>13 educational system. It's a different board that issued</p> <p>14 this.</p> <p>15 THE COURT: Do you know whether she holds a</p> <p>16 certificate by the State Board of Examiners of Professional</p> <p>17 Counselors?</p> <p>18 MR. URICK: If I could step in the hall, I could</p> <p>19 find out.</p> <p>20 THE COURT: Why don't we have her step in?</p> <p>21 MS. GUTIERREZ: Judge, I would also urge that</p> <p>22 under this title and under the reference under the</p> <p>23 privileges, that this witness also falls into a counselor.</p> <p>24 She is not required to be licensed or certified as that</p> <p>25 last catch-all given what she does and given her</p>	<p style="text-align: right;">Page 60</p> <p>1 THE COURT: As well as the Maryland State</p> <p>2 Department of Education?</p> <p>3 THE WITNESS: That's correct.</p> <p>4 THE COURT: Two different certificates or</p> <p>5 licensing, or one and the same, or do you know?</p> <p>6 THE WITNESS: I know that what I handed today is</p> <p>7 my certification with the State of Maryland.</p> <p>8 THE COURT: Okay. And do you know if you hold</p> <p>9 any other certification?</p> <p>10 THE WITNESS: With Guidance and Counseling? No,</p> <p>11 not with Guidance and Counseling.</p> <p>12 THE COURT: Are you familiar with any privilege</p> <p>13 that you're entitled to assert in your role as a counselor?</p> <p>14 THE WITNESS: I do not have any privilege, to my</p> <p>15 knowledge, as a counselor or as a professional registered</p> <p>16 nurse. I'm not --</p> <p>17 THE COURT: Privileged communication.</p> <p>18 THE WITNESS: Yes.</p> <p>19 THE COURT: I mean, if a young person were to</p> <p>20 tell you something, do you have a privilege that you can</p> <p>21 assert and not disclose that information?</p> <p>22 THE WITNESS: The only privilege I'm allowed by</p> <p>23 Maryland State law has to deal with child abuse, has to</p> <p>24 deal with someone going to hurt themselves or if they're</p> <p>25 going to hurt someone else.</p>



<p style="text-align: right;">Page 61</p> <p>1 THE COURT: It's your understanding that you have</p> <p>2 some privilege that you can assert in child abuse</p> <p>3 situations?</p> <p>4 THE WITNESS: When I -- I'm sorry. I</p> <p>5 misunderstood your question. When I speak to a student, I</p> <p>6 will tell them that I can keep everything confidential</p> <p>7 except for child abuse, except for if they're going to hurt</p> <p>8 someone else or if they're going to hurt themselves. I'm</p> <p>9 sorry. I misunderstood.</p> <p>10 THE COURT: So, you believe you do have this</p> <p>11 privilege that you can keep privileged communications to</p> <p>12 yourself with the exception of child abuse and where the</p> <p>13 child may hurt herself, him or herself.</p> <p>14 THE WITNESS: I offer the client that privilege.</p> <p>15 I don't think I'm bound by that privilege. I conferred</p> <p>16 with the Board of Education's attorney before taking this</p> <p>17 stand, and I did not have nurse/student privilege.</p> <p>18 THE COURT: I understand.</p> <p>19 MS. GUTIERREZ: Object and move to strike that</p> <p>20 last remark.</p> <p>21 THE COURT: Well, it's just me.</p> <p>22 MS. GUTIERREZ: I understand, but for --</p> <p>23 THE COURT: And I'm not really paying attention</p> <p>24 to the witness' interpretation of the law.</p> <p>25 MS. GUTIERREZ: Right.</p>	<p style="text-align: right;">Page 63</p> <p>1 haven't applied for any counseling certification because I</p> <p>2 don't have the role as a school counselor. So, the answer</p> <p>3 is no.</p> <p>4 Q In January of 1999 --</p> <p>5 A Yes.</p> <p>6 Q -- and February of 1999. were you acting as a</p> <p>7 professional counselor?</p> <p>8 A My job in February or January of 1999 was the</p> <p>9 manager of a wellness center. In that job I did counseling</p> <p>10 and guidance. That was not my title. That was not on my</p> <p>11 name badge. That was not on my door. The name on my door</p> <p>12 and on my name badge, my job description, was the Manager</p> <p>13 of the wellness center.</p> <p>14 THE COURT: M's Watts --</p> <p>15 THE WITNESS: I don't know what he's --</p> <p>16 THE COURT: I understand that. Why don't I just</p> <p>17 ask you a straight question. On the day that Adnan Syed</p> <p>18 presented himself at your nurse's office --</p> <p>19 THE WITNESS: Right.</p> <p>20 THE COURT: -- you were doing bereavement</p> <p>21 counseling, weren't you?</p> <p>22 THE WITNESS: Yes. I was part of the crisis</p> <p>23 team.</p> <p>24 THE COURT: And you were using your skills as a</p> <p>25 professional counselor to assist --</p>
<p style="text-align: right;">Page 62</p> <p>1 THE COURT: Nor am I interested in her</p> <p>2 understanding as to what her privilege extends to.</p> <p>3 MS. GUTIERREZ: Okay.</p> <p>4 THE COURT: But I'm on a fact-finding mission --</p> <p>5 MS. GUTIERREZ: I understand.</p> <p>6 THE COURT: -- as to what it is she does, what</p> <p>7 position she holds, what degrees and certifications she</p> <p>8 has, and where she factually falls. And I am not in any</p> <p>9 way inferring that any lawyer for the Department of</p> <p>10 Education or otherwise, that their opinion as to what she</p> <p>11 is, is binding on this court. I'm more interested in</p> <p>12 understanding her qualifications and her background and</p> <p>13 training as it relates to the defense's position at this</p> <p>14 juncture.</p> <p>15 With that said, does the State have any questions</p> <p>16 of the witness merely on the 9-109.1 issue?</p> <p>17 MR. URICK: Yes. Thank you, Your Honor.</p> <p>18 <u>CONTINUED VOIR DIRE EXAMINATION</u></p> <p>19 <u>BY MR. URICK:</u></p> <p>20 Q Are you familiar with the State Board of</p> <p>21 Examiners of Professional Counselors?</p> <p>22 A I know it's a body that exists.</p> <p>23 Q Have you ever applied to them for certification?</p> <p>24 A I applied for certification from the Maryland</p> <p>25 State Department of Education in '93, and since then I</p>	<p style="text-align: right;">Page 64</p> <p>1 THE WITNESS: That's right.</p> <p>2 THE COURT: -- any of the kids, young people --</p> <p>3 THE WITNESS: Yes.</p> <p>4 THE COURT: -- teachers, whomever, that presented</p> <p>5 themselves at your nurse's office.</p> <p>6 THE WITNESS: Yes. That's correct.</p> <p>7 THE COURT: And you were using all of the</p> <p>8 background training at your disposal for that?</p> <p>9 THE WITNESS: Yes.</p> <p>10 THE COURT: Specifically your master's degree in</p> <p>11 counseling.</p> <p>12 THE WITNESS: Yes.</p> <p>13 THE COURT: Right?</p> <p>14 THE WITNESS: Specifically, yes.</p> <p>15 THE COURT: All right. Any questions from the</p> <p>16 State with regard to my specific response or concern to the</p> <p>17 defense's issue under the 9-109.1 issue?</p> <p>18 <u>BY MR. URICK:</u></p> <p>19 Q And in doing that counseling, were you doing so</p> <p>20 pursuant to the authority conferred by this certification?</p> <p>21 MS. GUTIERREZ: Objection.</p> <p>22 THE COURT: You can answer the question. It's</p> <p>23 overruled.</p> <p>24 THE WITNESS: Yes.</p> <p>25 MR. URICK: Okay. Thank you. I have no further</p>

1 questions of the witness.

2 THE COURT: Do you have any questions? Do you,  
3 M's Gutierrez?

4 MS. GUTIERREZ: No, I do not.

5 THE COURT: Thank you very much. I need you to  
6 step out in the hallway for one moment.

7 (The witness left the courtroom).

8 THE COURT: Unless you can tell me how suddenly  
9 on one hand she has the qualifications to do a psychiatric  
10 assessment and therefore she would have a -- he would, he,  
11 the defendant, would have a privilege under the mental  
12 health issue of 9-109.1, or in the alternative that she  
13 wasn't acting as a mental health or in any relationship  
14 mental health type position, but rather was a professional  
15 counselor, I think under any stretch of the imagination the  
16 defendant has a privilege, which he is asserting at this  
17 time.

18 And so if you could tell me how you can get past  
19 that, I'd love to hear it.

20 MR. URICK: I would refer the court back to the  
21 statute. And statutory construction generally you start  
22 with the plain interpretation of the language. The plain  
23 thrust here is a privilege for someone who has been  
24 diagnosed and is seeking treatment from a specialized  
25 professional. And it defines what a specialized

1 professional is. That is, a mental health counselor is  
2 someone who can actually give mental health treatment as  
3 defined under Health Occupation, certified by the Board of  
4 Professional Counselors.

5 This particular witness is not that type of  
6 professional. She has an expertise. She is a  
7 professional. She does not, is not one of those  
8 specialized providers under that statute allowed to give  
9 treatment to someone who has been diagnosed with that  
10 condition.

11 The statute sets up a confidential situation for  
12 someone who has been diagnosed with a mental condition to  
13 actually seek treatment with a privilege, to be able to  
14 provide the information necessary for that treatment. That  
15 is not the case here. This defendant was not diagnosed  
16 with a mental health condition. In fact, her preliminary  
17 assessment, which she makes and then would refer him to  
18 someone who is the specialist that would fall within that,  
19 who could give that type of treatment, was that there was  
20 no such condition here. It stopped there. He has no  
21 condition. Therefore, there was no --

22 THE COURT: But the statute says the client means  
23 an individual who communicates to or receives services from  
24 a professional counselor regarding the diagnosis or  
25 treatment of the individual's mental or emotional disorder.

1 So, he presents himself. She does an assessment using her  
2 professional ability, and decides in her diagnosis that,  
3 let's say in the best case scenario, that he's faking. She  
4 has seen him, because he has gone to her. She has used her  
5 professional counseling, and she has made a diagnosis.

6 Now, the statute says, unless otherwise provided  
7 in any judicial, legislative or administrative proceeding,  
8 a client or a client's authorized representative has a  
9 privilege to refuse to disclose, and to prevent a witness  
10 from disclosing communications related to diagnosis or  
11 treatment of the client's mental or emotional disorder.

12 MR. URICK: If I may address that, that language  
13 presumes that the disorder is present, and the client is  
14 seeking treatment for it, and it is designed to protect  
15 communications within that.

16 THE COURT: It's talking about a diagnosis and  
17 assessment. A diagnosis under the DSM-4 of malingering is  
18 a diagnosis. A diagnosis of faking, malingering is a  
19 diagnosis that she's making, and you're asking her to  
20 render an opinion that he was faking based on some  
21 diagnosis assessment evaluation that she is making, and you  
22 are saying that it requires her specific training and  
23 expertise to be able to tell the court and the jury this.

24 So, on one hand you can't say she has the  
25 specific training, and then in the next instance say she

1 doesn't have the training. You can't have your cake and  
2 eat it, too. She either has the training and expertise,  
3 and if she does, then there's a right to a privilege that  
4 she and Mr. Syed can assert, or she doesn't have the  
5 training and expertise, and then we're back to the point of  
6 whether or not I let her testify because she doesn't have  
7 the training. But you can't say she does, and then shift  
8 gears and say she doesn't.

9 MR. URICK: However, this statute sets up only a  
10 very limited situation. It specifically defines which  
11 persons that privilege applies to. She does not fit that  
12 definition. And it just struck me as well. It does not  
13 protect -- there's no privilege for her observations of  
14 behavior. There's no protection from her opinion. It only  
15 protects communications, things that the client may have  
16 said.

17 I believe she can testify fully to observed  
18 symptoms as long as she doesn't get into communications.  
19 And I believe that she can give or render an opinion based  
20 on those observed behavioral manifestations. The statute  
21 only protects, presents a privilege for communications  
22 between the client and the healthcare provider. It does not  
23 give any privilege for non-disclosure of observed behavior  
24 and an opinion based on that behavior.

25 THE COURT: Before the defense responds, first,



1 I'm inclined to disallow any testimony from this witness  
2 based on your assertion of a privilege under 9-109.1, for  
3 any conversations and communications made by Mr. Syed,  
4 between M's [REDACTED], during the one and a half hours that he  
5 was in her office. However, any observations made outside  
6 of her office, like in the hallway or in the waiting room  
7 where other people were present, I find that that would not  
8 be privileged in that other individuals were present, and  
9 could see and hear anything he would have said. But  
10 anything that he said to her once he entered that office  
11 for the one and a half hours, this court is going to  
12 disallow.

13 MS. GUTIERREZ: And observations during --

14 THE COURT: And observations.

15 MS. GUTIERREZ: Okay. Then I have --

16 THE COURT: I don't care what happened in that  
17 room.

18 MS. GUTIERREZ: Then I have nothing else.

19 THE COURT: Whether he stood there, cried,  
20 shouted, jumped up and down, screamed, pulled his hair out,  
21 I don't care what happened in that room. It's privileged.  
22 You asserted the privilege, and this court is finding that  
23 under the statute and my understanding of her background  
24 and training that even if she doesn't arguably have that  
25 privilege, that Mr. Syed could have believed that she did.

1 I often tell them I will keep your confidence on everything  
2 but child abuse.

3 Well, you can't keep a confidence unless you have  
4 a privilege to claim, and she obviously is under some  
5 belief that she may have, has this privilege. But  
6 regardless of what she believes, my interpretation of her  
7 background and my understanding of her background causes me  
8 to believe that she falls squarely under that section.

9 MR. URICK: If I may ask a question to get  
10 clarification?

11 THE COURT: Uh-huh.

12 MR. URICK: Is it the court's ruling that she can  
13 describe any observation of any behavior or statement that  
14 was made in the presence, when there was some other person  
15 besides herself present?

16 THE COURT: I don't want to get into a game of  
17 semantics with the State, so let me make it clear. If he  
18 was in a room with her for an hour and a half being  
19 counseled and there happened to be another healthcare  
20 provider present, I include that counseling session as  
21 privileged communications. If you're talking about  
22 something that may have occurred in a lobby area or an  
23 outer office where other individuals were present, she may  
24 talk about her observations in that setting.

25 MR. URICK: If there is a sufficient basis of

1 And for that reason, anything she said, he said to her in  
2 that room could have been believed by him to be in  
3 confidence, and for that reason, I will not allow it.

4 If the witness will testify as to her  
5 observations before he entered that room, I will allow any  
6 of those observations. Now, do you want to be heard, M's  
7 Gutierrez?

8 MS. GUTIERREZ: No, Your Honor. I don't think I  
9 need to be.

10 THE COURT: Very well. Anything further with  
11 regard to this witness? I'd like to get down to hearing  
12 some testimony before the day actually gets completely past  
13 us.

14 I understand the State doesn't agree with me. I  
15 note your objection for the record, but I think that under  
16 Defense Exhibit Number 1, and all the information I've  
17 heard so far just in the direct voir dire of this witness,  
18 I am satisfied that this statute would apply to her, and  
19 her privilege and her training. And I would also note for  
20 the record there were things that were discussed, for  
21 example, the privilege in privacy that a child might have  
22 at a certain age that wanted an abortion, and there are a  
23 number of other entities. In fact, she took great caution  
24 to say that the only exception that she has is an incidence  
25 of child abuse, which is legislated by law. But she said,

1 facts from those sorts of observations, would you consider  
2 whether or not she can state an opinion based on those  
3 observations?

4 THE COURT: I would have to have her voir dire  
5 on that issue, because I don't know what she's going to say  
6 she saw or what observations she had. She has already told  
7 us she did not make a formal assessment. She had already  
8 told us that she has not written down anything. So, in an  
9 abundance of caution, I would be concerned with any  
10 opportunity that she may have to observe the defendant, and  
11 that's why I initially asked you how long did she have to  
12 observe him and under what circumstances.

13 Do you know the answer to the question as to how  
14 long other than the hour and a half in her office?

15 MR. URICK: No. I would have to inquire of the  
16 witness as to that. So, in order to proceed with the  
17 trial, I will call some other witness. And perhaps if  
18 there's anything there, that we revisit it in the morning.

19 THE COURT: Why don't we do this. I have another  
20 matter that I wish to take, and I'm going to allow you to  
21 take a break, and you can go out and talk to her. I'm  
22 going to give you permission to speak to the witness. We  
23 have not taken testimony from her.

24 Counsel, I'm directing that either, M's Gutierrez  
25 or Mr. Urick, if you choose to speak to M's [REDACTED] during



1 the break, you're welcome to do so. If M's [REDACTED] does not  
2 want to speak to you, M's Gutierrez, obviously I can't  
3 force her to.  
4 MS. GUTIERREZ: I understand.  
5 THE COURT: But you can ask her if she would like  
6 to speak to you. And I'm going to also ask that my jurors  
7 come in because, ladies and gentlemen, we have kept them  
8 locked in a room, and they don't know what's going on. So,  
9 before we take the break, I'm going to ask the jurors to  
10 come in. And then I'm going to ask you to send Mr. Syed  
11 back, and get Mr. Fisher.  
12 (Brief pause).  
13 (The jurors returned to the courtroom).  
14 THE COURT: You don't have to go all the way in  
15 the box. If you will just come in for a moment, just come  
16 in so I can see everyone. Just come on in. Squeeze in so  
17 I can see everyone. There's an old saying, the best laid  
18 plans of mice and men. We have not been able to proceed  
19 this morning because we have some preliminary matters that  
20 we have been taking up, and it's requiring a little more  
21 time than we expected. Hence you've been locked in that  
22 room wondering what are we doing. And so I'm letting you  
23 know that I'm going to ask that -- we do need some more  
24 time. We are going to get to you.  
25 What we're going to do is have you go back, and

1 in a few moments Deputy Church is going to come back and  
2 allow you, if you would like, to go get a cup of coffee,  
3 stretch your legs, a cup of tea or whatever you need, and  
4 bring it back to the jury room. And we will allow you to  
5 do that. We are going to have you come out to hear some  
6 testimony today, but it is just taking us a little while.  
7 And I just wanted to let you know that we really are here,  
8 and we really are working and trying to get to the point  
9 where we can bring you all in, but it's taking us a little  
10 longer than we expected.  
11 If you will just bear with us, we're doing the  
12 best we can. And at this time, I am going to ask you to go  
13 back to the jury room. You can collect your coats, and  
14 then the deputy will tell you when you can go out. You  
15 might be able to catch the canteen even. It's 3:00  
16 o'clock. They might still be there, to grab something  
17 quick. Otherwise you will have to -- you're shaking your  
18 head no. They're gone. All right.  
19 In any event, you would have, when you go out,  
20 you have until 3:30, thirty minutes, to stretch your legs,  
21 walk around, and then come back. All right. Ladies and  
22 gentlemen, thank you very much for your time and your  
23 patience.  
24 THE JURORS: Thank you.  
25 (The jurors were excused from the

1 courtroom).  
2 THE COURT: Now, Deputy Church, if you would go  
3 with them and stand by until -- thank you. Deputy Church  
4 is going to go stand by the door and insure that they don't  
5 leave. And if you would take Mr. Syed back.  
6 MR. URICK: Your Honor, before you take him away,  
7 I just bring to the court's attention on the other matter  
8 of a Tony Wilds, the witness, Jay Wilds, does have a  
9 relative by that name. So, we would request that you voir  
10 dire the alternate.  
11 THE COURT: Okay. I'll remember to do that.  
12 MR. URICK: Should we return at 3:30?  
13 THE COURT: Yes, 3:30. Give yourself a stretch.  
14 Talk to M's [REDACTED]  
15 (The court took up an unrelated  
16 matter).  
17 (Jury not present in courtroom upon  
18 resuming).  
19 THE CLERK: All rise.  
20 THE DEPUTY: Do you need the jury?  
21 THE COURT: I think we're going to need the jury,  
22 but we're going to see. I'm not sure. Have a seat. Where  
23 are we in this case at this point? Are we going to be  
24 calling another witness in the light of the court's --  
25 MR. URICK: Calling a new witness.

1 THE COURT: A new witness?  
2 MR. URICK: Yes.  
3 THE COURT: All right. And that witness' name  
4 is?  
5 MR. URICK: Yaser [REDACTED]  
6 THE COURT: Can you have Mr. Yaser [REDACTED] come in,  
7 and also Deputy Church, if you could go around and get our  
8 jurors.  
9 MS. GUTIERREZ: Can I just seek clarification so  
10 I don't spend any more energy? Does that mean we are  
11 closed on the matter of Sharon Watts or does the State  
12 intend to seek another opportunity?  
13 THE COURT: Why don't you have a seat for a  
14 second?  
15 Do you want to tell me?  
16 MR. URICK: We will try to see if the statute is  
17 Shepardized --  
18 THE COURT: You will try again. You are going to  
19 see if you can come up with some law for me?  
20 MR. URICK: Yes.  
21 THE COURT: Very well. M's Gutierrez, at this  
22 juncture --  
23 MS. GUTIERREZ: Well, Judge, I at least will ask  
24 that there be a limit on it.  
25 THE COURT: Tomorrow morning at 9:00 o'clock, I'd



1 like to meet with counsel to discuss this issue.  
 2 MS. GUTIERREZ: Can we make it about ten after?  
 3 I can't drop my daughter off until ten of 9:00 in  
 4 Latherville.  
 5 THE COURT: Actually, we don't even have to make  
 6 it that close. I'll do my case that I have set for 9:00  
 7 o'clock. And the first matter we'll handle in the morning  
 8 will be the issue of whether or not there will be an  
 9 ongoing, going back and forth on this issue.  
 10 MS. GUTIERREZ: All right.  
 11 THE COURT: Because I truly believe that defense  
 12 counsel has the right to know whether one way or another  
 13 she should expect the testimony. So, if you have any cases  
 14 that you want to present, I'll see them or hear about them  
 15 tomorrow at 10:00 o'clock, because at 10:00 o'clock  
 16 tomorrow, I am going to make a final ruling for this case  
 17 with the issue of M's Watts. I think the defense is  
 18 entitled to know one way or another whether that is  
 19 something that they need to prepare for.  
 20 MS. GUTIERREZ: Thank you, Your Honor.  
 21 THE COURT: All right. The jury is on its way.  
 22 And while the jury is coming, when they all get in and sit  
 23 down, we need you to stand up and be sworn in. Okay? Just  
 24 have a seat there.  
 25 (Jurors present in courtroom).

1 THE COURT: Thank you, Mr. White. See, we  
 2 actually do lock them away, and no one reads them, and then  
 3 Mr. White puts them back out your chair. Very well. And  
 4 you may be seated as you reach your seats.  
 5 Ladies and gentlemen of the jury, I want to thank  
 6 you for your time and your patience. We're going to  
 7 proceed. As I had told you earlier in the week, we are  
 8 going to go till 5:30, and do you need a pencil or a pen?  
 9 Is that why I see a hand? Could you pass this -- if you  
 10 don't mind passing that down the line. Thank you.  
 11 Well, Mr. White, in the past you're usually  
 12 pretty good about that, and this could be the one time, the  
 13 one time that you didn't get them exactly right.  
 14 All right. Ladies and gentlemen, we are going to  
 15 continue with this trial. Again, I want to thank you for  
 16 your time and your patience. And if you will raise your  
 17 right hand, sir, and listen to Mr. White as he provides you  
 18 with the oath.  
 19 YASER [REDACTED]  
 20 a witness produced on call of the State, after having been  
 21 first duly sworn, was examined and testified as follows:  
 22 THE CLERK: You may be seated. Please keep your  
 23 voice up, and state your name for the record.  
 24 THE WITNESS: Yaser [REDACTED].  
 25 THE CLERK: Spell your first and last name for

1 the record.  
 2 THE WITNESS: Y-a-s-e-r [REDACTED]  
 3 THE CLERK: And state your address for the  
 4 record.  
 5 THE WITNESS: [REDACTED] Ellicott City,  
 6 Maryland 21042.  
 7 DIRECT EXAMINATION  
 8 BY MR. URICK:  
 9 Q Good afternoon, Mr. [REDACTED].  
 10 A Good afternoon.  
 11 Q Do you know the defendant?  
 12 A Yes.  
 13 Q How long have you known him?  
 14 A Seven or eight years.  
 15 Q How would you describe your relationship with the  
 16 defendant?  
 17 A He's a best friend.  
 18 MR. URICK: If I may approach the witness at this  
 19 time?  
 20 THE COURT: Yes, you may.  
 21 (State's Exhibit Number 34, listing of  
 22 calls, marked for identification).  
 23 BY MR. URICK:  
 24 Q Mr. Ali, I am now going to show you a copy of  
 25 what's been marked for identification purposes as State's

1 Exhibit 34. Would you ever communicate with the defendant?  
 2 A Yes.  
 3 Q What sort of phones did he have, if you know?  
 4 A What sort of phones?  
 5 Q Yes.  
 6 A He had a cellphone.  
 7 Q Do you remember its number?  
 8 A Not now, but at the time I'm sure I did know the  
 9 number.  
 10 Q Now, I'd like you to look at the top of this  
 11 sheet. Do you see name of the service user --  
 12 A Yes.  
 13 Q -- for this cellphone number? Now, if you would,  
 14 starting at the top and going down, look at line 13.  
 15 A Uh-huh.  
 16 Q Have you found line 13?  
 17 A Yeah.  
 18 Q And there's a number beside, in the every next  
 19 row after the call, Number 13. Can you identify that  
 20 number?  
 21 A That number is my number.  
 22 Q And when you say your number, is it a residence  
 23 number or a cellphone number?  
 24 A My cellphone number.  
 25 Q Would you read that for the record, please?

1 A Sure. Number 13, 410-340-████ call --  
 2 Q Did the -- I'm sorry. Did I cut you off? Were  
 3 you saying something else?  
 4 A I was going to read the call time.  
 5 Q Okay. The time of the call was?  
 6 A 6:59 p.m.  
 7 Q And the duration?  
 8 A 27 seconds.  
 9 Q Do you see above, it says that these are the  
 10 calls made on January 13th of 1999. Do you have any  
 11 independent recollection of receiving a call on your  
 12 cellphone at 6:50 --  
 13 A 9.  
 14 Q -- 9 on January 13th?  
 15 A No.  
 16 Q Do you have any independent recollection of where  
 17 you might have been at that time on January 13th?  
 18 A Yeah. Either home, either sleeping or doing  
 19 homework, or I could have been at the Mosque, going to the  
 20 Mosque.  
 21 Q What, if anything, would have been going on at  
 22 the Mosque at that time?  
 23 A There would be tarawee prayers.  
 24 Q And those are?  
 25 A And those are prayers that you do at the month of

1 Ramadan.  
 2 MR. URICK: With the court's permission, at this  
 3 time on Line 13 in the blank space, I'm going to write in  
 4 Yaser █████'s cellphone.  
 5 THE COURT: Any objection, M's Gutierrez?  
 6 MR. GUTIERREZ: No, Your Honor.  
 7 BY MR. URICK:  
 8 Q What were the dates of Ramadan back in '98 and  
 9 '99 if you remember?  
 10 A It was during the winter, somewhere in December  
 11 and January.  
 12 Q Does it have a set number of days each year?  
 13 A 29 to 31 days.  
 14 Q Now, if you would, look at line 3.  
 15 A Uh-huh. Yes.  
 16 Q Have you found line 3?  
 17 A Yeah.  
 18 Q Do you recognize that number?  
 19 A Yeah, that's my number.  
 20 Q And will you read it for the record, again?  
 21 A 410-340-████ Call time?  
 22 Q And what -- yes. What time did it occur?  
 23 A 10:00, what time -- yeah, 10:00 o'clock to 10:02,  
 24 44 seconds, and call duration was six seconds.  
 25 MR. URICK: At this time, with the court's

1 permission, on line 3 in the blank space, I'm going to  
 2 write in Yaser █████'s cellphone.  
 3 THE COURT: Any objection?  
 4 MS. GUTIERREZ: No, Your Honor.  
 5 THE COURT: You may do that.  
 6 BY MR. URICK:  
 7 Q Did you attend the same school as the defendant?  
 8 A No, I did not.  
 9 Q Where did you attend school?  
 10 A Centennial High School.  
 11 Q Where would you normally socialize or meet with  
 12 the defendant?  
 13 A At the Mosque or, if not, his house or my house.  
 14 Q Did know Hac Min Lee?  
 15 A Known her as Adnan's ex.  
 16 Q And how did you learn about her?  
 17 A Adnan had told me about her.  
 18 Q What did he tell you?  
 19 A That that was his girlfriend.  
 20 Q Did you ever personally meet her?  
 21 A Yes, I did.  
 22 Q When did that occur?  
 23 A It was in the summer. I'm not sure when. Maybe  
 24 in the middle, middle of the summer, July, about --  
 25 Q Where did you --

1 A -- two years ago. The summer, not the past  
 2 summer, but the summer before.  
 3 Q And where did you come to meet her?  
 4 A I had met, we had gone out to eat. It was a  
 5 Chinese restaurant near Security Mall.  
 6 Q What is your understanding of the view of dating  
 7 in Islam?  
 8 MS. GUTIERREZ: Objection. There has been no  
 9 foundation laid.  
 10 THE COURT: Sustained as to the question as posed  
 11 at this juncture, but you may lay a foundation.  
 12 BY MR. URICK:  
 13 Q What religion do you practice?  
 14 A Islam.  
 15 Q And how long have you been practicing that?  
 16 A Ever since I could think properly and --  
 17 Q Ever since --  
 18 A -- was wise enough to make any decisions.  
 19 THE COURT: I'm sorry? I could not hear what you  
 20 said. Ever since you?  
 21 A Were wise to enough make any decision.  
 22 Q And how would you describe your own practice of  
 23 the religion?  
 24 A I have strong faith in it, but I'm not, I don't  
 25 follow too much.



<p style="text-align: right;">Page 85</p> <p>1 Q Now, when you say ever since you were able to</p> <p>2 make wise decisions, about what age would you be talking</p> <p>3 about there?</p> <p>4 A Ever since I had an understanding. I guess</p> <p>5 around seven years old, eight years of age.</p> <p>6 Q And how have you studied Islam?</p> <p>7 A Through Sunday School, parents.</p> <p>8 Q Do you attend Sunday School regularly?</p> <p>9 A Yeah, when I was younger.</p> <p>10 Q Do you attend religious services regularly?</p> <p>11 A Yeah.</p> <p>12 Q Do you observe religious occasions faithfully?</p> <p>13 A Yes.</p> <p>14 Q What is your understanding of the view of dating</p> <p>15 within Islam?</p> <p>16 A It's not agreed.</p> <p>17 Q Can you explain what you meant by that?</p> <p>18 A It's not allowed.</p> <p>19 Q Did the defendant ever say anything to you about</p> <p>20 how his parents viewed or might have viewed his dating Hae</p> <p>21 Min Lee?</p> <p>22 A Yeah.</p> <p>23 Q What did he tell you?</p> <p>24 A They didn't accept it.</p> <p>25 Q Did that cause any problems for him?</p>	<p style="text-align: right;">Page 87</p> <p>1 THE COURT: Certainly.</p> <p>2 <u>BY MR. URICK:</u></p> <p>3 Q You said that the defendant said his parents did</p> <p>4 not accept his dating. Did the defendant tell you how he</p> <p>5 dealt with his parents concerning that issue?</p> <p>6 A Yeah.</p> <p>7 Q What did he do?</p> <p>8 A He hid it.</p> <p>9 Q Now, did you know Jay Wilds?</p> <p>10 A I knew of him.</p> <p>11 Q And how did you know of him?</p> <p>12 A I heard him, you know, being talked about,</p> <p>13 because a couple of my other friends are friends with him,</p> <p>14 too, and I knew Adnan was friends with him.</p> <p>15 Q How did you know Adnan was friends with him?</p> <p>16 A Because I've heard his name.</p> <p>17 Q Did Adnan ever discuss Jay Wilds?</p> <p>18 A No.</p> <p>19 Q Did you ever meet Jay Wilds personally?</p> <p>20 A I've met him. It was a while back though.</p> <p>21 Q To your knowledge, did the defendant ever call</p> <p>22 Jay Wilds?</p> <p>23 A Like within my presence?</p> <p>24 Q Either in your presence or say he called him</p> <p>25 recently?</p>
<p style="text-align: right;">Page 86</p> <p>1 A Yeah.</p> <p>2 Q What were those?</p> <p>3 A Just about how much he could see her. She wasn't</p> <p>4 allowed to call his house.</p> <p>5 Q What is your understanding of the view in Islam</p> <p>6 of premarital sex?</p> <p>7 A It's prohibited.</p> <p>8 Q Would members of the congregation discuss that</p> <p>9 fact at Sunday School or at religious services?</p> <p>10 A Yeah. There were a few that would.</p> <p>11 Q Were you ever present when it was being discussed</p> <p>12 and the defendant was there?</p> <p>13 A I don't think I was.</p> <p>14 Q Did you ever have occasion to ask him whether he</p> <p>15 engaged in premarital sex?</p> <p>16 A No, I never asked him.</p> <p>17 Q Did he ever tell you whether or not he did?</p> <p>18 A Yeah.</p> <p>19 Q And what did he tell you?</p> <p>20 A That he had.</p> <p>21 Q Did he express any concerns about how that might</p> <p>22 conflict with his religion?</p> <p>23 A Um, I can't, really --</p> <p>24 MR. URICK: If I may have the court's indulgence</p> <p>25 for just a second?</p>	<p style="text-align: right;">Page 88</p> <p>1 A No.</p> <p>2 Q Did Jay Wilds ever call the defendant while the</p> <p>3 defendant was in your presence?</p> <p>4 A No.</p> <p>5 Q Would Jay Wilds have ever called you?</p> <p>6 A No.</p> <p>7 Q Did the defendant ever tell you that his</p> <p>8 relationship with Hae Min Lee had ended?</p> <p>9 A Yeah.</p> <p>10 Q Did he tell you why that --</p> <p>11 A Yeah. Just because it was being too much of a</p> <p>12 problem for him hiding it from his parents. So, I mean, it</p> <p>13 was like a kind of a mutual understanding that they</p> <p>14 couldn't go on, because I believe Hae's parents didn't know</p> <p>15 about the relationship either.</p> <p>16 Q I would like you to look at line two on that</p> <p>17 document. By any chance do you recognize that telephone</p> <p>18 number?</p> <p>19 A No.</p> <p>20 Q How about line one?</p> <p>21 A No.</p> <p>22 MR. URICK: Witness with the defense.</p> <p>23 <u>CROSS EXAMINATION</u></p> <p>24 <u>BY MS. GUTIERREZ:</u></p> <p>25 Q Mr. Ali, you've been Adnan Syed's best friend for</p>

- 1 more than seven years?
- 2 A Yeah.
- 3 Q And that's, you met him through the Mosque to
- 4 which both of your families belong. Is that correct?
- 5 A Correct.
- 6 Q That's the Islamic Society of Baltimore?
- 7 A Correct.
- 8 Q Located on Rolling Road in Baltimore County?
- 9 A Correct.
- 10 Q And that Society has a Mosque. The Mosque is a
- 11 physical space.
- 12 A Correct.
- 13 Q Is that right? And the physical space that's
- 14 called the Mosque is where prayer services are heard or
- 15 people come to pray. Is that correct?
- 16 A Correct.
- 17 Q As a group, not just as individuals?
- 18 A Correct.
- 19 Q And according to Islam, the religion of Islam,
- 20 the faithful pray in a certain way five times a day?
- 21 A Correct.
- 22 Q And those times are prescribed by the Koran as
- 23 occurring at specific, designated times related to sunrise
- 24 and sunset?
- 25 A Correct.

- 1 Q During the high point of the sun in the day?
- 2 A Correct.
- 3 Q And there are proscriptions for how those who
- 4 follow Islam must follow in their praying, including their
- 5 position, their physical position?
- 6 A Correct.
- 7 Q And the direction in which they face?
- 8 A Correct.
- 9 Q And the words that they say to be the prayer that
- 10 they're required to recite. Is that correct?
- 11 A Correct.
- 12 Q And the Mosque is therefore open seven days a
- 13 week, is it not?
- 14 A Correct.
- 15 Q And many of the faithful members of the Mosque,
- 16 when they are able, actually come to the Mosque several
- 17 times a day.
- 18 A Correct.
- 19 Q If a faithful Moslem cannot get to the Mosque,
- 20 they are required to pray wherever they are. Is that
- 21 correct?
- 22 A Correct.
- 23 Q And to follow the proscriptions about the form of
- 24 the prayer.
- 25 A Correct.

- 1 Q And their position.
- 2 A Correct.
- 3 Q And the direction in which they face.
- 4 A Correct.
- 5 Q So, a faithful Moslem is required to follow those
- 6 proscriptions whether or not they're able to join with
- 7 fellow Moslems to do so. Correct.
- 8 A Correct.
- 9 Q And in Islam, in the Mosque, there are spaces
- 10 that are designated for men and women, are there not?
- 11 A Correct.
- 12 Q Okay. And those are followed through, are they
- 13 not?
- 14 A Correct.
- 15 Q And there is what you call the Sunday School, is
- 16 a school -- oh, in addition to the building that contains
- 17 the Mosque, there are other things contained in or around
- 18 and near the building, are there not?
- 19 A Correct.
- 20 Q There's a school now at that Mosque, is there
- 21 not?
- 22 A Correct.
- 23 Q It's a separate part of the building, correct?
- 24 A Correct.
- 25 Q And now goes up, I believe, to fourth grade or

- 1 fifth grade?
- 2 A Somewhere around there. I'm not too sure.
- 3 Q Somewhere around there. And that that building,
- 4 that school functions as a regular certified school. Is
- 5 that correct?
- 6 A Correct.
- 7 Q And the children that go to that school are sons
- 8 and daughters of members of the Mosque.
- 9 A Correct.
- 10 Q And, in addition, the Mosque has many places for
- 11 there to be activities for the young people of the
- 12 community. Isn't that correct?
- 13 A Correct.
- 14 Q There's lots of areas both inside and outside the
- 15 building that are designated for, encourage sports
- 16 activities, are there not?
- 17 A Correct.
- 18 Q There are baseball, I mean basketball courts. Is
- 19 that correct?
- 20 A Correct.
- 21 Q And fields of play?
- 22 A Correct.
- 23 Q And there are lots of activities that are
- 24 sponsored on a regular and seasonal basis that involve all
- 25 the young people of the Mosque.



<p style="text-align: right;">Page 93</p> <p>1 A Correct.</p> <p>2 Q And, now, Sunday School, it's called Sunday</p> <p>3 School just because it happens to be held on Sunday,</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And at the Sunday School, young people of</p> <p>7 different ages are grouped together, are they not?</p> <p>8 A Correct.</p> <p>9 Q And during the Sunday School, they learn about</p> <p>10 the tenets of Islam, do they not?</p> <p>11 A Correct.</p> <p>12 Q What beliefs are held?</p> <p>13 A Correct.</p> <p>14 Q And what behavior is expected?</p> <p>15 A Correct.</p> <p>16 Q And what are the correct and proper things for</p> <p>17 Moslems practicing their faith are expected to do.</p> <p>18 A Correct.</p> <p>19 Q And how they are to behave.</p> <p>20 A Correct.</p> <p>21 Q Is that correct?</p> <p>22 A Yes.</p> <p>23 Q And one attends Sunday School on a regular basis</p> <p>24 from about the age of seven or eight, correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 95</p> <p>1 correct.</p> <p>2 A Correct.</p> <p>3 Q And sometimes that could mean going to the Mosqu</p> <p>4 once a day?</p> <p>5 A Correct.</p> <p>6 Q Okay. Not always, but it could, could it not?</p> <p>7 A Yes.</p> <p>8 Q Because there are always services at sundown and</p> <p>9 then late at night. Is that correct?</p> <p>10 A Yes.</p> <p>11 Q And in between those services, there are other</p> <p>12 things that go on at the Mosque, are there not? People</p> <p>13 socialize?</p> <p>14 A Yes.</p> <p>15 Q People discuss their faith?</p> <p>16 A Yes.</p> <p>17 Q People discuss things other than their faith?</p> <p>18 A Yes.</p> <p>19 Q Sometimes there are speakers on certain aspects</p> <p>20 of Islam.</p> <p>21 A Correct.</p> <p>22 Q And on certain aspects of the culture?</p> <p>23 A Correct.</p> <p>24 Q Is the Mosque membership limited to those who</p> <p>25 hold the Islamic faith, who are of Pakistani descent?</p>
<p style="text-align: right;">Page 94</p> <p>1 Q All the way up to and through young adulthood.</p> <p>2 Is that correct?</p> <p>3 A Correct.</p> <p>4 Q You don't attend it now?</p> <p>5 A No.</p> <p>6 Q Correct?</p> <p>7 A Correct.</p> <p>8 Q But up until the time you were in high school,</p> <p>9 you attended Sunday School, did you not?</p> <p>10 A Correct.</p> <p>11 Q And you attended with other similarly aged young</p> <p>12 Moslems.</p> <p>13 A Correct.</p> <p>14 Q And Sunday School, was that divided into boys and</p> <p>15 girls?</p> <p>16 A At a younger age it wasn't, but at older age,</p> <p>17 yeah, it was.</p> <p>18 Q So, as girls and boys became or approached</p> <p>19 teenagehood, they were separated by sex, were they not?</p> <p>20 A Correct.</p> <p>21 Q And that's part of the tenet of the Islamic</p> <p>22 faith.</p> <p>23 A Correct.</p> <p>24 Q Is it not? And in addition to attending Sunday</p> <p>25 School, you said you attended services regularly. Is that</p>	<p style="text-align: right;">Page 96</p> <p>1 A No.</p> <p>2 Q There are those who are not of Pakistani descent,</p> <p>3 whose families also belong to the Mosque.</p> <p>4 A Correct.</p> <p>5 Q The only criteria for membership is an embracing</p> <p>6 of the Islamic faith. Is that correct?</p> <p>7 A Correct.</p> <p>8 Q In addition to Sunday School, there are</p> <p>9 activities in the Mosque that are religious in nature that</p> <p>10 involve the young people.</p> <p>11 A Yes.</p> <p>12 Q Do they not? The specific, I don't quite</p> <p>13 remember the name, but like young men's groups, are there</p> <p>14 not?</p> <p>15 A Correct.</p> <p>16 Q And the young men's groups receive a lot of</p> <p>17 attention from the adults in the Mosque, who extend</p> <p>18 themselves to try to talk about things with the young men.</p> <p>19 A Correct.</p> <p>20 Q And how their lives should be faced and dealt</p> <p>21 with in the face of young Moslems living out in the world.</p> <p>22 A Correct.</p> <p>23 Q Among people who are not of the Islamic faith.</p> <p>24 A Correct.</p> <p>25 Q Who may not understand the tenets of Islam.</p>

<p style="text-align: right;">Page 97</p> <p>1 A Correct.</p> <p>2 Q And under circumstances where sometimes it is</p> <p>3 hard to live up to what they are taught in regard to their</p> <p>4 beliefs.</p> <p>5 A Correct.</p> <p>6 Q And in regard to their ability to interact with</p> <p>7 non-Moslems they interact with by necessity, such as in</p> <p>8 school. Is that correct?</p> <p>9 A Correct.</p> <p>10 Q And those groupings, the young men's group</p> <p>11 sometimes meets in addition to the Sunday School?</p> <p>12 A Correct.</p> <p>13 Q And you participate in them, did you not?</p> <p>14 A Correct.</p> <p>15 Q And your best friend, Adnan, he participated in</p> <p>16 them, did he not?</p> <p>17 A Correct.</p> <p>18 Q And he participated in Sunday School, did he not?</p> <p>19 A Correct.</p> <p>20 Q And in those groupings whenever the young men</p> <p>21 would meet, one of the things that they would talk about,</p> <p>22 whether it was from your own experience or just</p> <p>23 intellectually, was how do young men of your age live your</p> <p>24 lives around a culture whose beliefs do not coincide with</p> <p>25 the beliefs of Islam. Isn't that correct?</p>	<p style="text-align: right;">Page 99</p> <p>1 Q And you were clear, were you not -- you, meaning</p> <p>2 not just you, but Adnan and the other young men, that none</p> <p>3 of your parents would approve of dating.</p> <p>4 A Yes.</p> <p>5 Q Isn't that correct?</p> <p>6 A Yes.</p> <p>7 Q You got that from your parents?</p> <p>8 A Yes.</p> <p>9 Q And you got that from all other adults in the</p> <p>10 Mosque.</p> <p>11 A Yes.</p> <p>12 Q Regular Moslems --</p> <p>13 A Correct.</p> <p>14 Q -- and also specially trained ones.</p> <p>15 A Correct.</p> <p>16 Q Okay. Like specific teachers of Islam.</p> <p>17 A Correct.</p> <p>18 Q And the writings of Islam, is that correct?</p> <p>19 A Yes.</p> <p>20 Q And that was reinforced a great deal, was it not?</p> <p>21 A Yes.</p> <p>22 Q You, as a young person, and your best friend,</p> <p>23 Adnan, as a young person, were encouraged to spend time and</p> <p>24 become friends with each other, were you not?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 A Correct.</p> <p>2 Q The issue of dating, for instance, would be a</p> <p>3 subject of discussion for you young men?</p> <p>4 A Correct.</p> <p>5 Q Within the Mosque.</p> <p>6 A Correct.</p> <p>7 Q With adults?</p> <p>8 A Yeah.</p> <p>9 Q And with each other.</p> <p>10 A Yes.</p> <p>11 Q Is that correct? And it would be talked about</p> <p>12 regularly and continually. Is that correct?</p> <p>13 A Yeah.</p> <p>14 Q And you participated in those discussions, did</p> <p>15 you not?</p> <p>16 A Yes.</p> <p>17 Q And Adnan participated in those discussions, did</p> <p>18 he not?</p> <p>19 A Yes.</p> <p>20 Q And there were never, there was never a dispute</p> <p>21 that it was okay to date, right?</p> <p>22 A Yes.</p> <p>23 Q It was always understood by the young men that,</p> <p>24 in fact, it was not okay to date, correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q And, in fact, many of you did so?</p> <p>2 A Yes.</p> <p>3 Q And you saw each other very regularly, sometimes</p> <p>4 every day?</p> <p>5 A Yes.</p> <p>6 Q And sometimes seeing each other every day would</p> <p>7 involve the two of you and others of like age praying</p> <p>8 together?</p> <p>9 A Yes.</p> <p>10 Q And discussing tenets of faith?</p> <p>11 A Yes.</p> <p>12 Q And discussing things that had nothing to do with</p> <p>13 being a Moslem.</p> <p>14 A Yes.</p> <p>15 Q Is that right? You were encouraged to spend as</p> <p>16 much time as you could on the property and the grounds of</p> <p>17 the Mosque, were you not?</p> <p>18 A Yes.</p> <p>19 Q And to engage in any activity that would be</p> <p>20 offered to encourage you all to interact as much as</p> <p>21 possible as members of the community. Is that correct?</p> <p>22 A Yes.</p> <p>23 Q And when you were on the property of the Mosque,</p> <p>24 the adults of the Mosque would interact with all of you.</p> <p>25 Is that correct?</p>



Page 101	Page 103
<p>1 A Yes.</p> <p>2 Q And that's mostly where you saw your best friend,</p> <p>3 Adnan Syed?</p> <p>4 A Correct.</p> <p>5 Q Is that correct? Now, knowing that you both</p> <p>6 understood that the tenets of your faith said that dating</p> <p>7 was wrong -- Correct?</p> <p>8 A Correct.</p> <p>9 Q There was never a time when anybody said, well,</p> <p>10 it's okay as long as somebody doesn't know it, right?</p> <p>11 A Correct.</p> <p>12 Q Nevertheless, it would be fair to say that most</p> <p>13 young men in that Mosque dated, would it not?</p> <p>14 A Yes.</p> <p>15 Q You dated, didn't you?</p> <p>16 A Yes.</p> <p>17 Q Okay. And you still do, don't you?</p> <p>18 A Here and there.</p> <p>19 Q And do you tell your parents about it?</p> <p>20 A No.</p> <p>21 Q Do you tell the Emons (ph.) or the religious</p> <p>22 leaders of the Mosque that that's what you're doing?</p> <p>23 A No.</p> <p>24 Q You know that it's wrong, don't you?</p> <p>25 A Yes.</p>	<p>1 A Correct.</p> <p>2 Q That sort of signifies that this is a good union</p> <p>3 that will go forward in the future.</p> <p>4 A Correct.</p> <p>5 Q And that a family will be raised within the</p> <p>6 Moslem faith.</p> <p>7 A Correct.</p> <p>8 Q Within Islam, correct?</p> <p>9 A Correct.</p> <p>10 Q You were never told otherwise, were you?</p> <p>11 A No.</p> <p>12 Q And you never heard anybody else express</p> <p>13 otherwise.</p> <p>14 A No.</p> <p>15 Q But you chose to date anyway.</p> <p>16 A Correct.</p> <p>17 Q Did you tell your parents what you were doing?</p> <p>18 A No.</p> <p>19 Q Was it agreed among the young men that one way to</p> <p>20 do that, to date girls, was to do it secretly?</p> <p>21 A Correct.</p> <p>22 Q And that that sort of cut down on the friction.</p> <p>23 A Yes.</p> <p>24 Q There was, however, on a regular basis friction</p> <p>25 among your friends including Adnan, and any of their</p>
Page 102	Page 104
<p>1 Q And you all tell each other, though, don't you?</p> <p>2 A Correct.</p> <p>3 Q Okay. And that's okay, isn't it?</p> <p>4 A Correct.</p> <p>5 Q But there's never an illusion that you think that</p> <p>6 it's okay to do it, is it?</p> <p>7 A Correct.</p> <p>8 Q You know that it's against the faith that you've</p> <p>9 embraced.</p> <p>10 A Correct.</p> <p>11 Q Is that correct? And you know that your parents</p> <p>12 would not approve of your dating.</p> <p>13 A Correct.</p> <p>14 Q Any girl, right?</p> <p>15 A Correct.</p> <p>16 Q No matter what faith she is, right?</p> <p>17 A Correct.</p> <p>18 Q The ban on dating is that young people shouldn't</p> <p>19 have any relationship with each other, of the opposite sex,</p> <p>20 until they're ready to make a commitment to a marriage and</p> <p>21 a union within the faith, correct?</p> <p>22 A Correct.</p> <p>23 Q Is that correct, then, that mating, marriage</p> <p>24 should be a family affair that involves approval from both</p> <p>25 families?</p>	<p>1 parents.</p> <p>2 A No.</p> <p>3 Q About dating.</p> <p>4 A Oh! Yeah.</p> <p>5 Q Only about dating, is that correct?</p> <p>6 A About dating.</p> <p>7 Q And that periodically parents would get, like any</p> <p>8 parents, who saw a child go against the tenets of their</p> <p>9 faith, upset with their children.</p> <p>10 A Correct.</p> <p>11 Q Did your parents ever find out that you've dated</p> <p>12 in the past?</p> <p>13 A Um, they've got an inkling.</p> <p>14 Q They've got an inkling, but you're pretty good at</p> <p>15 hiding it?</p> <p>16 A Kind of.</p> <p>17 Q Okay. And have a cellphone, do you not?</p> <p>18 A Correct.</p> <p>19 Q That sort of makes talking to the girls outside</p> <p>20 this span a whole lot easier, doesn't it?</p> <p>21 A Yes.</p> <p>22 Q Don't most of the young men of the Mosque have</p> <p>23 cellphones?</p> <p>24 A Yes.</p> <p>25 Q And is not the main reason for cellphones, is</p>

Page 105	Page 107
<p>1 that it makes communicating with girls of whatever faith</p> <p>2 far easier than if the girls had to call at the home where</p> <p>3 a parent might answer?</p> <p>4 A Yes.</p> <p>5 Q The ban on premarital sex -- well, you understood</p> <p>6 when Adnan became interested in a girl.</p> <p>7 A Yes.</p> <p>8 Q He told you about it?</p> <p>9 A Yes.</p> <p>10 Q You were his best friend.</p> <p>11 A Yes.</p> <p>12 Q He didn't hide it from you.</p> <p>13 A Yes.</p> <p>14 Q You understood, though, that he was hiding it</p> <p>15 from his parents?</p> <p>16 A Yes.</p> <p>17 Q And from other adult members of the Mosque. Is</p> <p>18 that right?</p> <p>19 A Correct.</p> <p>20 Q And you, of course, wouldn't break faith with</p> <p>21 him, would you?</p> <p>22 A No.</p> <p>23 Q Did you chastise him for going against his faith?</p> <p>24 A No.</p> <p>25 Q Did you remind him, and say, Best Friend, you</p>	<p>1 considered themselves faithful Moslems?</p> <p>2 A Yes.</p> <p>3 Q And even though they were counseled all the time</p> <p>4 to not break the ban.</p> <p>5 A Correct.</p> <p>6 Q Is that correct? And, sir, you were asked about</p> <p>7 Ramadan. That's the holy month for the Islamic faith, is</p> <p>8 it not?</p> <p>9 A Yes.</p> <p>10 Q It runs, according to a calendar, and generally</p> <p>11 it falls from about the middle of December to the middle of</p> <p>12 January.</p> <p>13 A Yes.</p> <p>14 Q But it runs according to a calendar so the</p> <p>15 starting date and ending date might end or begin on a</p> <p>16 slightly different date each year. Is that correct?</p> <p>17 A Yeah.</p> <p>18 Q Last year's Ramadan, which in the Ramadan and</p> <p>19 Islamic calendar, that wasn't the year 1998 or 1999, right?</p> <p>20 A Yes.</p> <p>21 Q It's a different year.</p> <p>22 A Yes.</p> <p>23 Q Is that correct? According to the Arabic Islamic</p> <p>24 calendar, is that correct?</p> <p>25 A Correct.</p>
Page 106	Page 108
<p>1 know, you're not supposed to do that?</p> <p>2 A No.</p> <p>3 Q Did you ever advise him not to do it?</p> <p>4 A No.</p> <p>5 Q Did you ever tell anybody?</p> <p>6 A No.</p> <p>7 Q Did you help him hide it?</p> <p>8 A No.</p> <p>9 Q Were you ever asked to help him hide it?</p> <p>10 A No.</p> <p>11 Q Did you understand -- did you understand from</p> <p>12 your conversations with him that he continually had to hid</p> <p>13 it all the time?</p> <p>14 A Yes.</p> <p>15 Q Okay. And was that a problem for you?</p> <p>16 A No.</p> <p>17 Q To your knowledge, were you and Adnan the only</p> <p>18 young men of the Mosque who broke the ban on dating?</p> <p>19 A No.</p> <p>20 Q And was it more ordinary that the young men would</p> <p>21 actually be dating than they would not be?</p> <p>22 A More.</p> <p>23 Q More?</p> <p>24 A A lot of them dated.</p> <p>25 Q Oh! A lot of young men dated even though they</p>	<p>1 Q And in Ramadan, one of the things that happens</p> <p>2 for the faithful of Islam is that they are called to pray</p> <p>3 more often.</p> <p>4 A Correct.</p> <p>5 Q And to make special prayers.</p> <p>6 A Correct.</p> <p>7 Q And to fast from sunup till sundown every day for</p> <p>8 the whole fasting month. Is that correct?</p> <p>9 A Correct.</p> <p>10 Q And the fasting is meant as discipline, is it</p> <p>11 not?</p> <p>12 A Correct.</p> <p>13 Q And it's to remind the faithful and to bring them</p> <p>14 together more often to try to make their covenant with</p> <p>15 faith deeper. Is that correct?</p> <p>16 A Correct.</p> <p>17 Q And during that month, the Mosque plans special</p> <p>18 activities, does it not?</p> <p>19 A Yes.</p> <p>20 Q And one of the activities that it plans around</p> <p>21 the Mosque are opportunities for the young people to lead</p> <p>22 prayers.</p> <p>23 A Correct.</p> <p>24 Q Special prayers, is that correct?</p> <p>25 A Correct.</p>



1 Q That happens several times a month, does it not?  
 2 A Correct.  
 3 Q Last year the ending date of Ramadan, I believe,  
 4 was the 17th of January, was it not?  
 5 A Somewhere around that date.  
 6 Q Somewhere around then?  
 7 A Yes.  
 8 Q And do you recall, sir, that on the 14th of  
 9 January, which was a Thursday, that there was a special  
 10 prayer that was led by a group of young people?  
 11 A There was a prayer led, yeah.  
 12 Q And do you recall that your best friend, Adnan  
 13 Syed, participated in that prayer?  
 14 A Yes, he did lead a prayer.  
 15 Q He led the prayer. And leading the prayer is a,  
 16 I don't the right word. It's a great honor, is it not?  
 17 A Yes.  
 18 Q And the young people practice to make sure that  
 19 they lead the prayer correct.  
 20 A Correct.  
 21 Q It's not just memorizing the prayer, is it?  
 22 A Correct.  
 23 Q It's understanding the prayer, is it not?  
 24 A Yes.  
 25 Q And leading the people with fervor and passion,

1 late April of 1998, did it not?  
 2 A Yes.  
 3 Q You were aware that he took her to his junior  
 4 prom.  
 5 A Yes.  
 6 Q And prior to then, even though you didn't attend  
 7 the same school, you had interacted with and met some of  
 8 his friends from his public school, had you not?  
 9 A No, I really never met his other friends.  
 10 Q Okay. Had you ever met Stephanie?  
 11 A I had met her at a mall once.  
 12 Q Okay. And you had heard her name often, had you  
 13 not?  
 14 A Yes.  
 15 Q And she was a non-Moslem.  
 16 A Correct.  
 17 Q And she was an African-American?  
 18 A Correct.  
 19 Q Not an Asian, not a Pakistani, correct?  
 20 A Correct.  
 21 Q You were aware for a long period of time that  
 22 Stephanie, a girl, and Adnan were best friends --  
 23 A Correct.  
 24 Q -- in their school, correct?  
 25 A Correct.

1 isn't that correct?  
 2 A Yes.  
 3 Q And you young people, when you're asked to do  
 4 that, you practice, do you not?  
 5 A Yes.  
 6 Q During Ramadan, not just because it's required by  
 7 Islam, but because it's encouraged by the community, the  
 8 young people are at church more often than at any other  
 9 time.  
 10 A Correct.  
 11 Q Isn't that correct? Both praying and meeting,  
 12 isn't that correct?  
 13 A Yes.  
 14 Q Just like the rest of the members of the  
 15 community are at the Mosque more often, is that correct?  
 16 A Yes.  
 17 Q And, sir, do you recall that during that time  
 18 like other Ramadans, you see your best friend more often at  
 19 the Mosque than at any other time?  
 20 A Yes.  
 21 Q Now, you became aware when he acquired a  
 22 relationship or initiated or had a relationship with this  
 23 young woman by the name of Hae Min Lee?  
 24 A Yes.  
 25 Q And that occurred sometime in the spring of 1998,

1 Q You knew that because you were his Mosque best  
 2 friend, correct?  
 3 A Yes.  
 4 Q And that kind of relationship, they weren't  
 5 girlfriend and boyfriend, just friends, that was okay, was  
 6 it not?  
 7 A Yes.  
 8 Q And young people were allowed to socialize in  
 9 groups, not in couples, correct?  
 10 A Correct.  
 11 Q And they were allowed to socialize as long as  
 12 there was nothing of a sexual or intimate nature going on  
 13 with members of the opposite sex, were they not?  
 14 A Correct.  
 15 Q The ban was on dating, right?  
 16 A Correct.  
 17 Q And then there was the ban on any type of  
 18 premarital sex, correct?  
 19 A Correct.  
 20 Q Because within Islam, sex is reserved for married  
 21 couples with a commitment to establishing an Islamic  
 22 family.  
 23 A Correct.  
 24 Q Correct? But socializing with members of the  
 25 opposite sex was not banned in any way.

1 A Um --  
 2 Q As long as it was under certain circumstances --  
 3 A Yeah.  
 4 Q -- where there wasn't any sex or any intimacy,  
 5 right?  
 6 A Correct.  
 7 Q So, groups of young people that included boys and  
 8 girls, that was okay.  
 9 A Correct.  
 10 Q Is that right, as long as people didn't pair off?  
 11 A Yes.  
 12 Q You know other young people in the Mosque who  
 13 attend your school?  
 14 A Um --  
 15 Q Are there any that attend your school? It's  
 16 actually in Columbia, is it?  
 17 A Ellicott City.  
 18 Q In Ellicott City. Are there any members of your  
 19 school who are also members of the Mosque?  
 20 A No.  
 21 Q Are there any members of the Mosque that come  
 22 from schools other than Woodlawn?  
 23 A Yes.  
 24 Q And as among those young people, are the  
 25 practices the same that, at least the young men you know,

1 that they date?  
 2 A Yes.  
 3 Q Okay. And is the practice the same as you've  
 4 described, that more of them date?  
 5 A Yes.  
 6 Q Than don't date?  
 7 A Yes.  
 8 Q And would it be fair to say that in order to  
 9 maintain it, that all of those young men from the Mosque,  
 10 who date against the ban on dating, do so having to hid it  
 11 from everybody?  
 12 A Correct.  
 13 Q Or at least adults.  
 14 A Yeah.  
 15 Q Okay. And would it be fair to say that they  
 16 don't hide it from each other?  
 17 A Yeah.  
 18 Q Okay. It was in the summer that you met Hae Min  
 19 Lee when the three of you went to a Chinese restaurant in  
 20 Security Mall.  
 21 A Yes.  
 22 Q Is that correct?  
 23 A Yes, it was by there.  
 24 Q Was there any hiding of --  
 25 THE COURT: What was that? I'm sorry.

1 THE WITNESS: It was by the Security Mall.  
 2 THE COURT: Okay.  
 3 BY MS. GUTIERREZ:  
 4 Q Okay. Not inside but nearby there.  
 5 A Yes.  
 6 Q Was there any hiding of the relationship from  
 7 Adnan? Did he hide the relationship to you?  
 8 A When we were at the restaurant, I mean, we  
 9 weren't hiding, or he wasn't hiding because there was no  
 10 one around.  
 11 Q Okay. But to you?  
 12 A Was he hiding that he was going out?  
 13 Q Yes.  
 14 A No.  
 15 Q Did he present her to you as his girlfriend?  
 16 A Yes.  
 17 Q And when you met her, did you know that the two  
 18 of them had engaged in premarital sex?  
 19 A I don't know if I was aware at that time.  
 20 Q At some point --  
 21 A Yes.  
 22 Q -- you did become aware. Is that correct?  
 23 A Yes. Correct.  
 24 Q And that's because your best friend, Adnan, told  
 25 you that that's what he did?

1 A Correct.  
 2 Q And so the hiding never included him hiding the  
 3 nature of this relationship with this young woman to you?  
 4 A Yes.  
 5 Q And she didn't hide the nature of the  
 6 relationship while you were with her at the Chinese  
 7 Restaurant, did she?  
 8 A Yes. She didn't hide it.  
 9 Q They presented themselves to the world as  
 10 girlfriend and boyfriend, did they not?  
 11 A Yeah.  
 12 Q And for a long time you were aware that they were  
 13 still girlfriend and boyfriend.  
 14 A Correct.  
 15 Q You were aware that the hiding exacted a toll on  
 16 Adnan, were you not?  
 17 A Yes.  
 18 Q That it bothered him to have to go against his  
 19 parents.  
 20 A Yes.  
 21 Q And that it bothered him that they were pained by  
 22 it.  
 23 A Yes.  
 24 Q And that it bothered him to go against his faith.  
 25 A Correct.



1 Q And you were also aware that the young lady, Hae  
2 Min Lee, was hiding their relationship from her parents.  
3 A Correct.  
4 Q And you were aware from your conversations with  
5 Adnan that that bothered her, too.  
6 A Correct.  
7 Q You were aware that the two of them discussed at  
8 length the issues of their loving each other.  
9 A Correct.  
10 Q And he told you that he loved her, did he not?  
11 A Um, he liked her a lot, but I don't think he  
12 loved her.  
13 Q He liked her a lot. He felt very strongly about  
14 the relationship, did he not?  
15 A Yes.  
16 Q Even though it caused him pain?  
17 A Yes.  
18 Q You were aware that what things that caused him  
19 pain were issues that he and Hae discussed a lot.  
20 A Yes.  
21 Q And that their pain time starting in the summer  
22 when they took breaks from each other.  
23 A Yes.  
24 Q To try to see how strong their love was or their  
25 like.

1 A Yes.  
2 Q To try to test the relationship as young people.  
3 A Yes.  
4 Q And your friend, Adnan, was just past 17 then?  
5 A Yes.  
6 Q And you are how old?  
7 A I'm 18.  
8 Q So, a year ago, you were also 17?  
9 A Correct.  
10 Q And by then you became aware that there then  
11 became a pattern where they were together, and then they  
12 would break up for a little while.  
13 A Correct.  
14 Q Now, you don't attend Woodlawn, correct?  
15 A Correct.  
16 Q And so you would not have ordinarily attended  
17 school dances.  
18 A No.  
19 Q You didn't attend the junior prom.  
20 A No.  
21 Q And you didn't attend the Homecoming Dance, did  
22 you?  
23 A No.  
24 Q Did you become aware that Adnan's parents went to  
25 retrieve him from the Homecoming Dance?

1 A Correct.  
2 Q And is that that because he told you about it?  
3 A Yes.  
4 Q And did he tell you that when his parents came,  
5 his mother asked to speak to Hae Min Lee?  
6 A Um, I --  
7 Q He didn't get into all the details?  
8 A Yeah.  
9 Q Did you understand from what he told you that he  
10 left willingly with his parents?  
11 A Yes.  
12 Q And did you understand from what he told you that  
13 as soon as he got home, shortly thereafter he snuck out and  
14 bicycled his way back?  
15 A Um, I believe he did.  
16 Q And that he finished the dance with Hae Min Lee?  
17 A Yeah.  
18 Q Who waited there for him to return?  
19 A Yes.  
20 Q Did you understand from your conversations with  
21 him that he did that to try to spare his parents some of  
22 the pain?  
23 A Yes.  
24 Q To not rub their noses into the relationship that  
25 he had chosen to commit some of his energy to?

1 A Correct.  
2 Q In mid-December did you become aware that he and  
3 Hae Min Lee mutually broke up?  
4 A Yes.  
5 Q And that they both then began to live different  
6 lives?  
7 A Correct.  
8 Q Did you understand that it had nothing to do with  
9 Adnan's decision-making, whether it was right or wrong  
10 under any analysis, as to whether or not to engage in a  
11 relationship, but that he and her, Hae, were unwilling to  
12 continue to go through the pain caused by hiding from both  
13 sets of families?  
14 A Correct.  
15 Q Did you understand from him that Hae Min Lee also  
16 hid her relationship with him, Adnan, from her family?  
17 A Correct.  
18 Q Okay. And after, did you learn all this from  
19 Adnan?  
20 A Yeah.  
21 Q Okay. You never independently talked to Hae?  
22 A No.  
23 Q After the break-up, after mid-December, were you  
24 aware that Adnan was interested in other girls?  
25 A Yeah.

1 Q How did you know that?  
 2 A He had talked about other girls.  
 3 Q Okay. And, in fact, he went to other places, did  
 4 he not?  
 5 A Yes.  
 6 Q Places that the purpose of going there, there  
 7 would be girls there.  
 8 A Correct.  
 9 Q Is that right?  
 10 A Correct.  
 11 Q You and he went to some, did you not?  
 12 A Um, we had gone to some.  
 13 Q Okay. And were you aware that he was responding  
 14 to other girls by the turn of the year, at New Year's?  
 15 A I wasn't with him on New Year's.  
 16 Q You were not with him on New Year's?  
 17 A Yeah.  
 18 Q Or New Year's Eve?  
 19 A Yeah.  
 20 Q Were you aware that he attended a big party at  
 21 Scarlett Place?  
 22 A Yeah.  
 23 Q And were you aware in advance that that party was  
 24 going to happen?  
 25 A Yeah.

1 Q That party was not restricted to Moslem youth,  
 2 was it?  
 3 A No.  
 4 Q There were youth of every faith?  
 5 A Yes.  
 6 Q And every race?  
 7 A Yes.  
 8 Q And from all corners of Maryland.  
 9 A Yes.  
 10 Q And were you aware that he met a girl he was  
 11 interested in pursuing?  
 12 A Yes.  
 13 Q And that there were other girls that he was  
 14 interested in pursuing.  
 15 A Yes.  
 16 Q You were aware that Hae Min Lee was his very  
 17 first dating experience, were you not?  
 18 A Yes.  
 19 Q And that having premarital sex with her was his  
 20 very first sexual experience.  
 21 A Yes.  
 22 Q And he told you that, did he not?  
 23 A Yes.  
 24 Q And you weren't surprised by that, were you?  
 25 A Um --

1 Q That he told you these things?  
 2 A Oh, no, no.  
 3 Q You shared similar things about yourself with  
 4 him?  
 5 A Correct.  
 6 Q Okay. As most best friends do.  
 7 A Correct.  
 8 Q And you became aware that -- you understood he  
 9 cared about Hae, did you not?  
 10 A Yes.  
 11 Q He made you aware that the decision to break up  
 12 was a mutual one?  
 13 A Yes.  
 14 Q He was pained by it, was he not?  
 15 A Yes.  
 16 Q He was committed, however, to remaining friends  
 17 with Hae Min Lee?  
 18 A Yes.  
 19 Q And to your knowledge did he continue to do so?  
 20 A Yes.  
 21 Q Okay. Now, you told us, Mr. ■■■, that you  
 22 have no recollection of phone calls that you've been asked  
 23 to identify the numbers of. Is that right?  
 24 A Yes.  
 25 Q The first time that you were asked to recall any

1 phone conversation, did that occur near January 13th?  
 2 A Yeah, I'm guessing so, because it says these  
 3 calls were made on January 13th.  
 4 Q That's what the paper tells you, right?  
 5 A Yes.  
 6 Q But you don't know that?  
 7 A Yeah.  
 8 Q Did somebody ask you on the 14th, the day after,  
 9 did you make this phone call?  
 10 A No.  
 11 Q And it was months before you were asked to  
 12 identify your number, was it not?  
 13 A Yes.  
 14 Q The police came to speak to you because your  
 15 number appeared here. Is that correct?  
 16 A Yes.  
 17 Q Of your cellphone number, is that correct?  
 18 A Correct.  
 19 Q That you had and used for a similar reason, that  
 20 is to facilitate communication with girls, correct?  
 21 A Correct.  
 22 Q Now, to your knowledge, Mr. ■■■, you were not the  
 23 only person with Adnan Syed's cellphone number, were you?  
 24 A Correct. I wasn't the only person.  
 25 Q No. You knew that others, your mutual friends



1 from the Mosque, had his cellphone number.  
 2 A Yes.  
 3 Q Did you not?  
 4 A Correct.  
 5 Q And that was a regular way for you all to  
 6 communicate, correct?  
 7 A Correct.  
 8 Q The first cellphone call that you were asked to  
 9 identify, Number 13, sir, that lasted 27 seconds. Is that  
 10 correct?  
 11 A Correct.  
 12 Q You don't recall speaking to Adnan.  
 13 A No. Sometimes when you call, when you're on the  
 14 phone, when the bell is ringing, that's also --  
 15 Q Okay. So, this 27 seconds phone call could have  
 16 been to your number but you never actually spoke to him.  
 17 A Correct.  
 18 Q Is that correct?  
 19 A Correct.  
 20 Q His cellphone could have been used by somebody  
 21 else.  
 22 A Correct.  
 23 Q And you have no recollection of actually speaking  
 24 to him?  
 25 A Correct.

1 Q Or where you were whenever it is he called?  
 2 A Correct.  
 3 Q And the six-second phone call, you also have no  
 4 recollection of.  
 5 A Correct.  
 6 Q And the six-second call to your number could have  
 7 been one in which you never even got to answer.  
 8 A Correct.  
 9 Q A place where you didn't have your cellphone on,  
 10 but it was ringing.  
 11 A Correct.  
 12 Q And it wasn't answered.  
 13 A Correct.  
 14 Q Or when you were on the phone doing something  
 15 else.  
 16 A Correct.  
 17 Q Then you also don't remember?  
 18 A Correct.  
 19 Q But, again, it wasn't answered at all?  
 20 A Correct.  
 21 Q Do you have a voice mail on your cellphone?  
 22 A Yes, I do.  
 23 Q So, if somebody is not able to reach you or you  
 24 are busy on the phone, it then skirts over?  
 25 A Yeah.

1 Q And someone can leave a message for you that you  
 2 can later retrieve.  
 3 A Yes.  
 4 Q And you have no independent recollection of  
 5 speaking to him on that day?  
 6 A Yes.  
 7 Q You were aware back then, in January, that your  
 8 best friend, Adnan Syed, was a member of the track team of  
 9 Woodlawn Senior High, were you not?  
 10 A Correct.  
 11 Q And that he attended track practice in January  
 12 every day.  
 13 A Correct.  
 14 Q At Woodlawn.  
 15 A Correct.  
 16 Q And you were aware, as his best friend, that in  
 17 February and earlier in January that, in fact, at track  
 18 meets representing his school, that he won gold medals in  
 19 the races he ran?  
 20 A Correct.  
 21 Q He was a good track runner, was he not?  
 22 A Yes.  
 23 Q He was disciplined about what he did, was he not?  
 24 A Yes.  
 25 Q He was proud of his achievements, was he not?

1 A Yes.  
 2 Q And you knew that from talking to him?  
 3 A Yes.  
 4 Q And you also knew that from talking -- there were  
 5 other Moslem young men, who were members of the Mosque, who  
 6 also attended Woodlawn?  
 7 A Correct.  
 8 Q So, you got information about your best friend  
 9 corroborated and verified by others who also knew from  
 10 their own personal knowledge.  
 11 A Correct.  
 12 Q And you never heard from any of those members  
 13 anything that contradicted anything that Adnan told you  
 14 about his relationship with Hae.  
 15 A No.  
 16 Q Or about his commitment to track.  
 17 A No.  
 18 Q You knew, in fact --  
 19 THE REPORTER: Keep your voice up.  
 20 THE WITNESS: Thank you.  
 21 BY MS. GUTIERREZ:  
 22 Q You knew, in fact, that he was a good student,  
 23 did you not?  
 24 A Yes, I did.  
 25 Q And other information corroborated that to you,

<p style="text-align: right;">Page 129</p> <p>1 did it not?</p> <p>2 A Yes.</p> <p>3 Q You've answered my question, Mr. [REDACTED], that you</p> <p>4 have previously had girlfriends?</p> <p>5 A Yes.</p> <p>6 Q And you currently have a girlfriend?</p> <p>7 A No.</p> <p>8 Q Do you engage in premarital sex?</p> <p>9 A No.</p> <p>10 Q Have you ever?</p> <p>11 A No.</p> <p>12 Q And have you -- is that because of your Islamic</p> <p>13 faith?</p> <p>14 A Um, no.</p> <p>15 Q Did you, Mr. [REDACTED], condemn your friend because he</p> <p>16 violated his Islamic tenets of faith?</p> <p>17 A No.</p> <p>18 Q Did you encourage him not to have sex once he</p> <p>19 told you he was?</p> <p>20 A No.</p> <p>21 Q Did he tell you, and did you ever know, where he</p> <p>22 and Hae had sex?</p> <p>23 A No.</p> <p>24 Q And did you inquire of him those details?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 131</p> <p>1 A Um, that he was not that good of a person.</p> <p>2 Q Okay. And that's the information that was</p> <p>3 conveyed to you from more than one source, was it not?</p> <p>4 A Yeah.</p> <p>5 Q It was conveyed to you that one of the reasons</p> <p>6 that Jay Wilds was known to several of these young people</p> <p>7 who were Moslems, was because he readily and easily</p> <p>8 provided dope for them.</p> <p>9 A Yeah.</p> <p>10 Q And using any kind of dope, in any form, is also</p> <p>11 against the Islamic faith, is it not?</p> <p>12 A Yes.</p> <p>13 Q Using anything to desecrate the body, including</p> <p>14 alcohol, is against the Islamic faith, is it not?</p> <p>15 A Correct.</p> <p>16 Q Many of the young men, however, on occasion</p> <p>17 imbibe and drink alcohol, do they not?</p> <p>18 A Correct.</p> <p>19 Q And attend parties where alcohol is served.</p> <p>20 correct?</p> <p>21 A Correct.</p> <p>22 Q Even though that's in violation of their faith.</p> <p>23 A Correct.</p> <p>24 Q Is that correct? And many of the young Moslem</p> <p>25 men have also been known on occasion to smoke marijuana, to</p>
<p style="text-align: right;">Page 130</p> <p>1 Q Were you shocked by Adnan's confession to you?</p> <p>2 A Just kind of, that we're all growing up. That's</p> <p>3 about it.</p> <p>4 Q You're growing up. Deciding, having the</p> <p>5 wherewithal to make a decision --</p> <p>6 A Yes.</p> <p>7 Q -- as to whether or not you would have sex or not</p> <p>8 was a sign in and of itself of the fact that you were</p> <p>9 getting older.</p> <p>10 A Correct.</p> <p>11 Q And more mature.</p> <p>12 A Correct.</p> <p>13 Q One of the main tenets of Islamic faith is that</p> <p>14 it leaves individuals, to use one of the words that you</p> <p>15 used in the beginning, the freedom to make their own wise</p> <p>16 choices.</p> <p>17 A Yes.</p> <p>18 Q And that's in spite of the tenets that might</p> <p>19 encourage them to make other choices.</p> <p>20 A Correct.</p> <p>21 Q Is that correct? And that's the Islamic faith</p> <p>22 and practice of it that you know, is it not?</p> <p>23 A Yes.</p> <p>24 Q The Jay Wilds that you heard of, did you know any</p> <p>25 personal information about him?</p>	<p style="text-align: right;">Page 132</p> <p>1 smoke dope?</p> <p>2 A Correct.</p> <p>3 Q Even though that also is not only a violation of</p> <p>4 American law, and the law of this State, but a violation of</p> <p>5 Islamic tenets. Is that correct?</p> <p>6 A Yes.</p> <p>7 Q But on occasion some Moslem young people are</p> <p>8 known to have imbibed in that.</p> <p>9 A Yes.</p> <p>10 Q And the things that you had heard led you to</p> <p>11 understand that Jay Wilds in regard to the young Moslems at</p> <p>12 Woodlawn was the person that they went to, to supply them</p> <p>13 things that they didn't know how to get.</p> <p>14 A Correct.</p> <p>15 Q Like marijuana?</p> <p>16 A Correct.</p> <p>17 Q Like other forms of drugs?</p> <p>18 A Correct.</p> <p>19 Q And like alcohol?</p> <p>20 A Correct.</p> <p>21 Q You never interacted with Jay Wilds.</p> <p>22 A No.</p> <p>23 Q And what you heard mostly about him was that he</p> <p>24 was not a good person.</p> <p>25 A Correct.</p>



1 MS. GUTIERREZ: No further questions. Thank you,  
2 M. Ali.  
3 THE COURT: Any re-direct?  
4 MR. URICK: Yes. Thank you.  
5 RE-DIRECT EXAMINATION  
6 BY MR. URICK:  
7 Q And you've heard the defendant call Jay Wilds a  
8 friend, haven't you?  
9 A Um, I might have, yeah.  
10 Q Are you aware of whether or not the defendant  
11 smokes marijuana?  
12 A Um, yes.  
13 MS. GUTIERREZ: Objection.  
14 THE COURT: Overruled.  
15 BY MR. URICK:  
16 Q You can answer that question.  
17 A Yes.  
18 Q How are you aware of that?  
19 A I had heard about it.  
20 Q Do you have a friend named Tiab?  
21 A Who?  
22 Q Tiab. I'm not certain that the spelling is  
23 correct, T-i-a-b. Tiab. Tiab:  
24 A Oh, Tiab. Yeah.  
25 Q Have you ever seen the defendant at Tiab's house?

1 relevance and prejudice.  
2 THE COURT: I think you've opened the defendant's  
3 character, opened wide by the questions on cross. You can  
4 ask the question.  
5 (Counsel and defendant returned to trial  
6 tables).  
7 THE COURT: I ask it to be a little more specific  
8 and direct the witness.  
9 BY MR. URICK:  
10 Q What, if anything, was going on at Tiab's house  
11 at that occasion?  
12 THE COURT: That's not specific enough. So, why  
13 don't we just go right to the chase. M's Gutierrez was  
14 asking a lot of questions about marijuana. The question  
15 is, at Mr. Tiab's --  
16 MR. URICK: Tiab.  
17 MS. GUTIERREZ: Tiab.  
18 THE COURT: -- Tiab's house, did you ever see the  
19 defendant smoking marijuana?  
20 THE WITNESS: Yes.  
21 THE COURT: Next question.  
22 BY MR. URICK:  
23 Q Were you aware that before he was dating Hae Min  
24 Lee, the defendant had a relationship with a woman with a  
25 six-year old child?

1 A Yes.  
2 Q What, if anything, did you see him do there?  
3 MS. GUTIERREZ: Objection.  
4 THE COURT: Sustained. Are you going to lay a  
5 foundation, so I'll know where you're going with this.  
6 MR. URICK: What was going on at --  
7 THE COURT: What, if anything, did you ever see  
8 him do there. I have at that point no idea where you're  
9 going with it. Some of which he may have been doing is  
10 admissible, and some of which is totally irrelevant. So,  
11 if you would just give me a foundation or you can come to  
12 the bench and proffer where you're going.  
13 MR. URICK: Sure.  
14 THE COURT: Come on up.  
15 (Counsel and defendant approached the bench,  
16 and the following ensued:)  
17 THE COURT: Okay.  
18 MR. URICK: I'll proffer that the witness saw the  
19 defendant smoking marijuana at that place.  
20 THE COURT: Okay. And what relevance does that  
21 have to do with the charges?  
22 MR. URICK: It's a follow-up to the other  
23 questions.  
24 THE COURT: Okay.  
25 MS. GUTIERREZ: I'm going to object based on

1 MS. GUTIERREZ: Objection.  
2 THE COURT: Overruled. Did you know of a prior  
3 relationship of the defendant involving a six-year old  
4 child and woman who had a six-year old child?  
5 THE WITNESS: No.  
6 THE COURT: Next question.  
7 THE REPORTER: Speak up.  
8 THE WITNESS: No.  
9 BY MR. URICK:  
10 Q When was it your understanding that the defendant  
11 started dating Hae Min Lee?  
12 A Um, it was during my junior year, during the prom  
13 time, which is late spring, I guess.  
14 Q And what is your understanding as to the time  
15 that they broke up?  
16 A Last year, and during the winter, but they had  
17 previous break-ups.  
18 Q If you recall, when did the defendant get his  
19 cellphone?  
20 A During the wintertime.  
21 Q And how did you come to know that he had gotten a  
22 cellphone?  
23 A He had called me and told me when he was giving  
24 his new number.  
25 Q And how often would he call you on a -- say

1 through the month of January, how often would he call you  
 2 on a daily basis?  
 3 A Here and there, just about as much as any other  
 4 person, not like continuous, you know, every hour or  
 5 anything. Just like once maybe every day, once every two  
 6 days, something like that.  
 7 Q Now, on January 13th, you mentioned a name for a  
 8 prayer. What was that name again?  
 9 A Tarawee, but that's every night during Ramadan.  
 10 Q When does the Mosque open for that?  
 11 A The Mosque is open all day.  
 12 Q When would those prayers begin for -- or what  
 13 would be the routine for someone who is observing those?  
 14 A It would be around 7:30. They would start  
 15 around 7:30.  
 16 Q And what would someone do?  
 17 A Just go there and pray.  
 18 Q And describe physically how they would do this.  
 19 A It's like a regular prayer, and they would have  
 20 to do it for about two and a half hours, two or three  
 21 hours. Just like regular praying, but you do them in sets  
 22 of two, about 20.  
 23 Q And what sort of physical positions would people  
 24 be in?  
 25 A The normal routine of prayers.

1 Q Could you describe that, please?  
 2 A Sure. First you start off holding your hands.  
 3 Then you go down, bending over, and then you go down,  
 4 kneeling on the ground, and then you get back up and do  
 5 that again for how many ever, regardless of how many times  
 6 you have to do it for.  
 7 Q And that particular set of prayers during Ramadan  
 8 would take about two and a half hours to complete?  
 9 A Yeah, around that time.  
 10 Q Would everybody be doing this in the same room?  
 11 A Yeah.  
 12 Q Would anyone be interrupting their prayer to use  
 13 their cellphone?  
 14 A No.  
 15 Q Would anybody be answering their cellphone while  
 16 they were doing their prayers?  
 17 A No.  
 18 Q Now, what was your understanding of the  
 19 defendant's athletic ability?  
 20 A Excuse me?  
 21 Q What is your understanding of the defendant's  
 22 athletic ability?  
 23 A He's a good runner.  
 24 Q How would you describe his strength?  
 25 A I just knew him as stronger than me.

1 Q About how tall are you?  
 2 A Five foot seven.  
 3 Q And how tall is the defendant in relation to you?  
 4 A About three inches taller, six, five-eleven, six,  
 5 around there.  
 6 Q Are you aware of any jobs the defendant ever had?  
 7 A Yeah.  
 8 MS. GUTIERREZ: Objection.  
 9 THE COURT: Overruled.  
 10 BY MR. URICK:  
 11 Q How was he employed?  
 12 A He had done telemarketing, and he had also done  
 13 emergency medical technician.  
 14 Q And how long had he done that?  
 15 A I think about a couple of months. I'm not too  
 16 sure how long.  
 17 Q Were you aware of how Adnan's actual, own parents  
 18 felt about his, the possibility of him just socializing  
 19 with females?  
 20 MS. GUTIERREZ: I'm sorry. I missed the last  
 21 part of the question.  
 22 THE COURT: Please repeat your last question.  
 23 BY MR. URICK:  
 24 Q Were you aware of the defendant's parents' views  
 25 of the possibility of him just merely socializing with

1 females?  
 2 A Um, I didn't think they agreed.  
 3 Q So, for the defendant, it would not have been  
 4 okay to be with a large group of friends that included  
 5 females?  
 6 A It depends what they're -- it depends on what  
 7 they were doing.  
 8 Q Say, if they got together after school.  
 9 A Not really.  
 10 Q Did there ever come a time when the defendant was  
 11 the subject of a sermon at the Mosque?  
 12 MS. GUTIERREZ: Objection.  
 13 THE COURT: I'll allow the question if you can  
 14 put a timeframe on it.  
 15 BY MR. URICK:  
 16 Q During the time that the defendant was dating Hae  
 17 Min Lee, did there ever come a time when there was a sermon  
 18 at the Mosque when the defendant was the subject of it?  
 19 A No.  
 20 MS. GUTIERREZ: Objection.  
 21 THE COURT: Overruled.  
 22 BY MR. URICK:  
 23 Q In terms of his relationship with his parents and  
 24 his religion, the defendant would have had to sacrifice a  
 25 lot to have had the relationship with Hae Min Lee, wouldn't



1 he?

2 MS. GUTIERREZ: Objection.

3 THE COURT: Overruled. Would the defendant have

4 to sacrifice a lot to have the relationship with Hae Min

5 Lee?

6 THE WITNESS: A little. What do you mean by

7 sacrifice a lot? The most sacrificing, I think, that was

8 put in, I guess, was time.

9 BY MR. URICK:

10 Q What about respect from his parents?

11 A He hid it from them, so, I mean, if he was

12 caught, which he was found and, you know, his parents did

13 become aware of it, I mean that's what he sacrificed. I

14 guess, he had the respect.

15 Q Well, how did you feel when you were hiding the

16 occasional dating you did from your parents?

17 A I had guilt.

18 Q And you never had as long or as deep a

19 relationship as the defendant did, did you?

20 MS. GUTIERREZ: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: It was long. It was six months, I

23 guess.

24 BY MR. URICK:

25 Q Did you ever have a physically close relationship

1 A Yeah.

2 Q You still dated her, did you not?

3 A Yeah.

4 Q On a regular basis.

5 A Correct.

6 Q You still continued to hide it from your parents?

7 A Correct.

8 Q And from other Islamic adults?

9 A Correct.

10 Q And from anyone who might bring it to your

11 parents' attention.

12 A Correct.

13 Q It wasn't enough to stop you from doing what you

14 decided you wanted to do.

15 A Correct.

16 Q And I assume based on your answers, Mr. [REDACTED], that

17 it would be fair to say that you cared about this girl?

18 A Yeah.

19 Q To some extent?

20 A Yeah.

21 Q Now, you understood from Adnan himself that his

22 parents didn't agree with him socializing much less dating

23 Hae Min Lee.

24 A Correct.

25 Q But that he did it anyway.

1 as he had?

2 MS. GUTIERREZ: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: No.

5 MR. URICK: Thank you, Your Honor.

6 RE-CROSS EXAMINATION

7 BY MS. GUTIERREZ:

8 Q Mr. [REDACTED], you've described that during the course

9 of your long relationship that you felt guilty for doing

10 it?

11 A Yeah.

12 Q And that guilt was occasioned, at least in some

13 respect, because you knew it was against your faith?

14 A Yeah.

15 Q And that it was against your parents' desires?

16 A Correct.

17 Q And that you were hiding it, concealing it. Is

18 that correct?

19 A Correct.

20 Q But your guilt was not enough to make you stop

21 seeing the girl that you saw for at least six months, was

22 it?

23 A Correct. I just felt bad about it. I mean, I

24 didn't stop, no.

25 Q But you still saw her, didn't you?

1 A Correct.

2 Q For a long period of time.

3 A Correct.

4 Q And under any occasion where he wasn't concerned

5 about his parents seeing it, that he didn't hide the

6 relationship.

7 A Correct.

8 Q And that everybody else other than his parents

9 seemed to know that the relationship existed.

10 A Correct.

11 Q And that it was a deep one.

12 A Correct.

13 Q And that it was an exclusive one.

14 A Correct.

15 Q And it was one in which both participants

16 discussed religion and its tenets.

17 A Correct.

18 Q With each other.

19 A Correct.

20 Q And with others.

21 A Correct.

22 Q And that even though he knew his parents didn't

23 agree, Adnan continued in this relationship.

24 A Correct.

25 Q And he did it anyway.

<p style="text-align: right;">Page 145</p> <p>1 A Correct.</p> <p>2 Q And even when his parents didn't agree with him</p> <p>3 socializing with just females, that Adnan was a very</p> <p>4 popular young man.</p> <p>5 A Correct.</p> <p>6 Q Among Moslems and non-Moslems.</p> <p>7 A Correct.</p> <p>8 Q Among girls and boys.</p> <p>9 A Correct.</p> <p>10 Q And he continued to socialize even though he knew</p> <p>11 his parents didn't agree.</p> <p>12 A Yes.</p> <p>13 Q Mr. Ali, they don't give sermons at the Mosque,</p> <p>14 do they?</p> <p>15 A No.</p> <p>16 Q Sermons are not an Islamic term, are they?</p> <p>17 A No.</p> <p>18 Q There aren't priests that give sermons to the</p> <p>19 Islamic faithful who come to pray.</p> <p>20 A No.</p> <p>21 Q And in regard to Ramadan or any other time that</p> <p>22 the faithful come to pray, people aren't required to come</p> <p>23 at a specific time or be barred?</p> <p>24 A Correct.</p> <p>25 Q In fact, people because of lots of things,</p>	<p style="text-align: right;">Page 147</p> <p>1 Mosque?</p> <p>2 A Yes.</p> <p>3 Q And during Ramadan, most of them attend almost on</p> <p>4 a daily basis.</p> <p>5 A Correct.</p> <p>6 Q To pray.</p> <p>7 A Correct.</p> <p>8 Q That if all of them attended, they might all be</p> <p>9 praying at a different pace.</p> <p>10 A Correct.</p> <p>11 Q And praying a different prayer.</p> <p>12 A Correct.</p> <p>13 Q And holding themselves in a different physical</p> <p>14 posture.</p> <p>15 A Correct.</p> <p>16 Q Because they would be at a different place in the</p> <p>17 prayers.</p> <p>18 A Correct.</p> <p>19 Q And none of that is frowned upon, is it?</p> <p>20 A No.</p> <p>21 Q If the faithful can't get there at exactly the</p> <p>22 start of the evening prayer, they are encouraged to come as</p> <p>23 soon as they can, are they not?</p> <p>24 A Yes.</p> <p>25 Q And if they can't be there for the whole time, or</p>
<p style="text-align: right;">Page 146</p> <p>1 including their own work schedules or their family</p> <p>2 schedules, come in and out of the Mosque during the</p> <p>3 appropriate broad time category?</p> <p>4 A Correct.</p> <p>5 Q And so people would arrive even after a whole</p> <p>6 other group of people has been there and already started</p> <p>7 praying.</p> <p>8 A Correct.</p> <p>9 Q And that lots of times people are praying, and</p> <p>10 they join the prayers as they're going on.</p> <p>11 A Correct.</p> <p>12 Q And sometimes people pray themselves at their own</p> <p>13 pace.</p> <p>14 A Correct.</p> <p>15 Q Even though other Moslems are praying together at</p> <p>16 a different pace.</p> <p>17 A Correct.</p> <p>18 Q And prayer, because depending upon what prayer</p> <p>19 you do and how many repetitions you do of it, requires</p> <p>20 different postures that change throughout the prayer.</p> <p>21 A Correct.</p> <p>22 Q And from prayer to prayer.</p> <p>23 A Correct.</p> <p>24 Q And so within the Mosque -- and incidentally,</p> <p>25 there are about a thousand families that belong to this</p>	<p style="text-align: right;">Page 148</p> <p>1 conduct the whole prayer, they are encouraged to come as</p> <p>2 often and for as long as they can, can they not?</p> <p>3 A Yes.</p> <p>4 Q And, in fact, they do, do they not?</p> <p>5 A Yes.</p> <p>6 Q There's nothing unusual about faithful Moslems</p> <p>7 coming in and out of the Mosque all around and near prayer</p> <p>8 time.</p> <p>9 A Correct.</p> <p>10 Q And for some to stay for the whole time.</p> <p>11 A Correct.</p> <p>12 Q And some to stay for a little bit and then leave.</p> <p>13 A Correct.</p> <p>14 Q And that is not seen not only during Ramadan but</p> <p>15 any other time as being disruptive to the remaining</p> <p>16 faithful?</p> <p>17 A No.</p> <p>18 Q The faithful encourage each other to be there</p> <p>19 however long they can.</p> <p>20 A Yes.</p> <p>21 Q And under whatever circumstances they can.</p> <p>22 A Correct.</p> <p>23 MS. GUTIERREZ: Thank you. Nothing further.</p> <p>24 MR. URICK: Just briefly.</p> <p>25 <u>RE-DIRECT EXAMINATION</u></p>

1 BY MR. URICK:

2 Q Was the defendant's relationship with Hae Min Lee  
3 ever the subject of discussion, either formal or informal,  
4 within the Mosque?

5 MS. GUTIERREZ: Objection.

6 THE COURT: Overruled. Yes or no, was it the  
7 subject of discussion to your knowledge?

8 THE WITNESS: No.

9 THE COURT: Next question.

10 BY MR. URICK:

11 Q Now, what is your understanding of the penalty in  
12 a society ruled by Islamic rules --

13 MS. GUTIERREZ: Objection.

14 Q -- for premarital sex?

15 THE COURT: Overruled.

16 MS. GUTIERREZ: Judge, may we approach the bench?

17 THE COURT: No, you may not, and I understand and  
18 not your objection for the record.

19 MS. GUTIERREZ: Thank you.

20 THE COURT: The door to this line of questioning  
21 is open. You may ask the question again.

22 BY MR. URICK:

23 Q What is your understanding of the penalty within  
24 a country ruled by Islamic law for premarital sex?

25 THE COURT: Now that objection is sustained,

1 because that was not your first question. Your first  
2 question was, what is the penalty within the religion.  
3 Now, the second question is, in a country. And you have  
4 not laid a foundation that this witness knows what a  
5 penalty is in a country. So, until you lay that  
6 foundation, that question is sustained.

7 BY MR. URICK:

8 Q What is your understanding of the penalty within  
9 the Islamic religion for premarital sex?

10 A That is not allowed.

11 Q What would be the penalty for it?

12 A We actually say that should be taken care of by  
13 God. It's not for us to discuss or, you know, chastise.

14 Q Have you studied countries ruled by Islamic laws?

15 MS. GUTIERREZ: Objection.

16 THE COURT: Sustained.

17 BY MR. URICK:

18 Q Had the defendant ever told you that Hae Min Lee  
19 had started dating another man?

20 A No.

21 MR. URICK: No further questions.

22 RE-CROSS EXAMINATION

23 BY MS. GUTIERREZ:

24 Q Was Hae Min Lee ever your concern, Mr. [REDACTED]?

25 A No.

1 Q And when you answered the question about the  
2 penalty in the religion, would it be a fair statement to  
3 say that in Islam, in the religion, that the faithful  
4 Islamics believe that judgment is for God, between God and  
5 a faithful Moslem?

6 A Yes.

7 Q And that other Moslems have nothing to do with  
8 rendering judgment?

9 A Yes.

10 Q Or imposing any sanctions?

11 A Yes.

12 MS. GUTIERREZ: Okay. Thank you.

13 THE COURT: Anything further?

14 MS. GUTIERREZ: No, Your Honor. Thank you.

15 MR. URICK: No. Thank you, Your Honor.

16 THE COURT: May this witness be excused from the  
17 State?

18 MR. URICK: Yes.

19 THE COURT: And excused from the defense?

20 MS. GUTIERREZ: Yes.

21 THE COURT: May this witness be released from  
22 subpoenas?

23 MS. GUTIERREZ: Yes.

24 THE COURT: At this time, I must advise you that  
25 you may not discuss your testimony with anyone who has yet

1 to testify in this case, who may be a witness, but you are  
2 released from the summons at this time. So, you would be  
3 free to go, but because you are a sequestered witness, you  
4 can't discuss it with anyone who has yet to testify, but  
5 you're welcome to sit in the court because they have  
6 released you from your summons. Do you understand?

7 THE WITNESS: Yes.

8 THE COURT: You are free to go at this time.

9 Thank you very much. I know that there is an exhibit that  
10 is still on the witness table, and I'd ask counsel -- thank  
11 you very much. Please pass that forward.

12 I note that it is now 5:30, and we are going to  
13 recess for the day. I understand from my clerk that we  
14 have one case on the docket for tomorrow, is that correct,  
15 Mr. White?

16 THE CLERK: Yes, one case.

17 THE COURT: One case, which means that hopefully  
18 we will get started somewhere between quarter of 9:00,  
19 quarter of 10:00 and 10:00 o'clock. So, I'm going to ask  
20 you to tomorrow to go to the Jury Commissioner's office  
21 between 9:00 and 9:30 and be paid. And then I'm going to  
22 ask that you be in the jury room no later than 9:30. As  
23 soon as I'm finished my docket of one case, I will ask that  
24 you come out so we can resume this case.

25 And I advise you for tomorrow evening, we will



1 recess between 4:30 and 5:00 o'clock. We will not work any  
2 later than 5:00 tomorrow.

3 I would ask that you not discuss the testimony  
4 that you've heard today, the little bit that you did hear,  
5 with anyone at home or any other testimony that you've  
6 heard the course of this trial. And anyone means amongst  
7 yourselves, or with your family or friends. I ask that you  
8 now leave your notepad face-down on your chairs. Have a  
9 safe journey home, and I will see you tomorrow.

10 (The jurors were excused and left the  
11 courtroom).

12 MS. GUTIERREZ: Mr. Urick, who are you next  
13 witnesses going to be?

14 THE COURT: The court would like to know how many  
15 witnesses that you now have remaining. I know you told me  
16 eight to ten.

17 MS. GUTIERREZ: Ten. Is that right?

18 MR. URICK: I believe there's at least seven.

19 MS. GUTIERREZ: Okay.

20 THE COURT: Tomorrow's scheduling. I have one  
21 case, and I expect to try to take the issue of any  
22 additional information challenges, case law, as well as to  
23 Mr. Watts at 10:00 o'clock. If you have something, I would  
24 like it in my office before I go on the bench, not a few  
25 minutes before, but in enough time for me to read whatever

1 cases. If you want to call my office or chambers tonight,  
2 and leave a message on my answering machine so that when I  
3 come in, in the morning, I know what cases you're going to  
4 cite I would greatly appreciate that.

5 Next, I would like to tell you that tomorrow I  
6 have no appointments, which means we should be able to move  
7 very well or, hopefully, very well. We will recess between  
8 12:30 and a quarter of 1:00 to allow Mr. Gutierrez to go to  
9 her 1:00 o'clock meeting, resume about 2:00 o'clock, and  
10 then go until 4:30 or 5:00 o'clock. And when I say 4:30 or  
11 5:00 o'clock because if we have a witness on the stand at  
12 4:30 we could finish up with that witness. We won't call a  
13 new witness at that juncture. The idea being that I'd like  
14 to try and get as much done as possible.

15 MS. GUTIERREZ: And then we're not sitting at all  
16 on Monday?

17 THE COURT: We're not sitting, cannot sit on  
18 Monday. I have been placed as the Civil Chambers Judge,  
19 and I have hearings every thirty minutes on Monday. I also  
20 have a docket Monday morning of criminal matters. So, as a  
21 consequence, I will not be sitting in this case on Monday.  
22 You have Monday off. I will be sitting again on Tuesday,  
23 Wednesday and Thursday of next week, doing as I've done  
24 each day, my docket in the morning, and then trying to --  
25 if you call my chambers on Monday, I can tell you how many

1 cases.

2 MS. GUTIERREZ: As to what time we'll start on  
3 Tuesday?

4 THE COURT: So that you would know what time on  
5 Tuesday. At this point, we don't have a docket for Tuesday  
6 yet, do we?

7 MR. WHITE: Not yet.

8 THE COURT: No. So, I don't know what the docket  
9 looks like for Tuesday, but if you call my chambers on  
10 Monday, my secretary will tell you. And, you know, use  
11 your best judgment. If I have one case, you'll know that  
12 we pretty much will be able to get started by 10:00. If  
13 she tells you I have five cases, figure that the court is  
14 going to be sending a message to you, because I will call  
15 you on Monday, to tell you what time. But if you want to  
16 get a sense in the morning, what it looks, we will be able  
17 to tell that way.

18 Any other matters that you wish to discuss?

19 MS. GUTIERREZ: No, Judge. We would just ask for  
20 notice of who the next witnesses are so that we can  
21 prepare.

22 MR. URICK: Right now we've got Butler, Vinson  
23 and Warren lined up.

24 MS. GUTIERREZ: I'm sorry. Butler, Vinson --

25 THE REPORTER: I can't hear you.

1 MS. GUTIERREZ: I'm sorry.

2 MR. URICK: Inez [REDACTED]. She's actually seated  
3 out in the hallway right now. Kristi [REDACTED]. Debbie  
4 [REDACTED]. And possibly depending on how those three go, we  
5 have also got Jen Pusateri, Jay Wilds, Abe Aronowitz and  
6 Greg MacGilvary, although I don't believe we will get to  
7 MacGilvary tomorrow.

8 THE COURT: All right. MacGilvary is also one of  
9 the witnesses that's on call.

10 MS. MURPHY: Yes.

11 THE COURT: And if I'm not mistaken, what was the  
12 date that he indicated that he was --

13 MS. GUTIERREZ: No. MacGilvary is here. It's --

14 MR. URICK: He has canceled his plans.

15 MS. GUTIERREZ: -- Ritz that went away --

16 THE COURT: Ritz has gone, and he's due back --

17 MS. GUTIERREZ: -- and he's back on the 16th,  
18 which would be Wednesday.

19 THE COURT: Right. Okay.

20 MS. GUTIERREZ: The reason, Judge, I just have,  
21 we have two witnesses who are out of town that we have to  
22 make plane reservations for.

23 THE COURT: As soon as we know?

24 MS. GUTIERREZ: Right.

25 THE COURT: I think you probably will be in good

1 stand to know by Tuesday.

2 MS. GUTIERREZ: Yeah. The only problem, as the  
3 court knows, is making plane reservations like a day before  
4 or two days before costs a fortune, and we're trying to  
5 sort of go against the odds to avoid thousand dollars plus  
6 plane fares. So, obviously, if we can't, we can't, but --

7 THE COURT: I can't -- I'm trying as best as I  
8 can to give you a gauge. I tried --

9 MS. GUTIERREZ: Is there anything else on the  
10 court's schedule for the rest of the week that might  
11 interfere and drag it out?

12 THE COURT: Next week?

13 MS. GUTIERREZ: It looks like to me that even  
14 though we miss Monday, that they will likely, or they  
15 should be finished by Thursday at the latest, but if I --

16 THE COURT: I can ask my -- unfortunately, I  
17 can't ask.

18 MS. GUTIERREZ: Well, maybe we can find out  
19 tomorrow.

20 THE COURT: I can do that tomorrow. I'll ask to  
21 see if we can get a docket at least for next week.

22 MS. GUTIERREZ: Right. Okay. That would help.

23 THE COURT: If we can get the docket for next  
24 week, that might give us an indication. And I have my  
25 calendar for next week, so I certainly can tell you what

1 court mandated meetings or other matters that I have. I  
2 can tell you I didn't attend the bench meeting today. I  
3 mean, I have tried to adjust my calendar the best that I  
4 can, but I also have asked to try to be relieved of the  
5 civil chambers duty. I started trying to do that as early  
6 as the end of last week, and was told that that would not  
7 happen. You notice that my law clerk has not been here,  
8 and that is because she has been preparing for that. So, I  
9 have at least, I believe, eight matters set for that Monday  
10 in intervals of every 30 minutes. So, there is no way that  
11 I can do a jury trial. There's not even any sense to even  
12 try.

13 All right. Ladies and gentlemen --

14 MR. URICK: If I may just --

15 THE COURT: Yes?

16 MR. URICK: I know Greg MacGilvary is not  
17 available tomorrow. I have not contacted the other  
18 witnesses, so far I don't know their availability, so I  
19 really can't say for definite my schedule. However,  
20 possible witnesses tomorrow are Inez [REDACTED], Debbie [REDACTED],  
21 Kristi [REDACTED], Jay Wilds, Abe Aronowitz, Jennifer Pusateri.

22 THE COURT: Okay. I mean, obviously, it would be  
23 wonderful if you were able to get through all those  
24 witnesses, but at this point, well, you know, we'll see how  
25 things go. The court would let you know that I appreciate

1 your flexibility. I have observed your coming back when  
2 I've asked you, and as you can see I am usually doing  
3 something. I try to give you high signs, to tell you to go  
4 get some coffee or tea or whatever, but I just want you to  
5 know that I'm doing the best I can do to move this case,  
6 and I just would appreciate your continued cooperation.

7 And I also want you to know that in no way should  
8 you ever feel slighted in making a motion or making  
9 argument. I appreciate your argument. I do listen to what  
10 you have to say. I take to heart any law you cite, any  
11 case law you cite, and to the extent that you can give me a  
12 heads up in advance, it is very helpful, and that's why I  
13 say that my answering machine is on in the evening. If you  
14 anticipate making an argument, and want to leave at least a  
15 heads up of the case law on the machine, it will allow me  
16 at least to look at the case, and read it in advance of  
17 being on the bench.

18 And with that said, this court will stand in  
19 recess until tomorrow at 9:30.

20 THE CLERK: All rise. This court is now in  
21 recess until 9:30 a.m. tomorrow morning.

23 ( CONCLUSION OF PROCEEDINGS )

24 \* \* \* \* \*

2 REPORTER'S CERTIFICATE

3  
4 I, Brenda D. Trowbridge, an Official Court  
5 Reporter of the Circuit Court for Baltimore City, do hereby  
6 certify that I recorded the proceedings in the matter of  
7 State of Maryland v. Adnan Masud Syed, Case Numbers  
8 199103042-46, on Thursday, February 3rd, 2000.

9 I further certify that the foregoing pages  
10 constitute the official transcript as transcribed under my  
11 direction in a complete and accurate manner.

12 In witness whereof, I have hereunto set my hand  
13 this 20<sup>th</sup> day of February, 2000.

14  
15 *Brenda D. Trowbridge*

16 BRENDA D. TROWBRIDGE, OFFICIAL COURT REPORTER



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I N D E X3 WITNESSPAGE4 SHARON WATTS

5 Voir Dire Examination by Mr. Urick 20

6 Continued Voir Direct Examination

7 by Mr. Urick 62

8 YASER ALI

9 Direct Examination by Mr. Urick 79

10 Cross Examination by M's Gutierrez 88

11 Re-Direct Examination by Mr. Urick 133

12 Re-Cross Examination by M's Gutierrez 142

13 Re-Direct Examination by Mr. Urick 148

14 Re-Cross Examination by M's Gutierrez 150

15

16

17

18 State's Exhibit No. 34 Listing of call for ID 79

19

20

21

22

23

24

161