

IN THE CIRCUIT COURT FOR BALTIMORE CITY
(PART 9)

STATE OF MARYLAND

*

v.

* CASE NO. 199103042,43,45,46

ADNAN SYED

*

Defendant

*

_____/*

BALTIMORE, MARYLAND

THURSDAY, FEBRUARY 24, 2000

(TRIAL ON THE MERITS)

BEFORE:

THE HONORABLE WANDA K. HEARD, ASSOCIATE JUDGE
(AND A JURY)

APPEARANCES:

FOR THE STATE:

KEVIN URICK, ESQUIRE
KATHLEEN C. MURPHY, ESQUIRE

FOR THE DEFENDANT:

CRISTINE GUTIERREZ, ESQUIRE

RECORDED BY: VIDEOTAPE

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BALTIMORE, MARYLAND 21202

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2000 DEC -8 AM 9:36
CIRCUIT COURT
BALTIMORE CITY
CRIMINAL DIVISION

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1 them I said so, okay?

2 The Court will take a brief recess.

3 (Whereupon, the trial was recessed at 9:42 a.m.
4 and subsequently reconvened at 9:54 a.m.)

5 (Jury present)

6 THE COURT: We're back on the record in the case
7 of State versus Adnan Syed. At this time we need to
8 reswear in the witness.

9 Will you stand, sir?

10 Whereupon,

11 SYED RAHMAN

12 was recalled as a witness at 9:54 a.m., and after having
13 been first duly affirmed, was examined and testified as
14 follows:

15 THE CLERK: You may be seated.

16 Please keep your voice up. State your name and
17 your address for the record. Name?

18 THE WITNESS: My name is Syed Rahman.

19 THE CLERK: Your address?

20 THE WITNESS: [REDACTED] Johnnycake Road, Catonsville,
21 Maryland.

22 THE COURT: I believe we were about to start with
23 cross-examination.

24 MR. URICK: Yes, just a few questions. Thank
25 you, Your Honor.

1 THE COURT: You may proceed.

2 CROSS-EXAMINATION

3 BY MR. URICK:

4 Q Good morning.

5 A Good morning, sir.

6 Q You live on Johnnycake Road, is that correct?

7 A That's right.

8 Q And the mosque is on Johnnycake Road, too, is
9 that correct?

10 A That's correct.

11 Q Now, you said the mosque is just east of Rolling
12 Road on Johnnycake, is that correct?

13 A Yeah.

14 Q And your house is just west of Rolling Road on
15 Johnnycake?

16 A Well, it's on the same road.

17 Q But Rolling Road comes between your house and the
18 mosque, is that correct?

19 A That's correct.

20 Q And at that -- along there, Johnnycake Road runs
21 parallel to I-70, doesn't it?

22 A No. It is crossing I-70. Johnnycake Road is --
23 yeah, approximately parallel, yeah.

24 Q It crosses Rolling Road but runs parallel to
25 I-70?

1 A That's correct.

2 Q Thank you.

3 And you've owned that house for how long?

4 A For approximately 11 years.

5 Q You bought it yourself?

6 A That's correct.

7 Q And you own two cars at the moment?

8 A We own two personal car, and one is the state

9 vehicle which I used for the job.

10 Q So you own two cars and you have one state-

11 provided car as well?

12 A That's correct.

13 Q So you have access to three vehicles?

14 A That's right.

15 Q And you have a phone in the house, don't you?

16 A Yeah.

17 Q And that phone's listed in your name?

18 A Yeah, it's in my name.

19 Q Do you have a cell phone of your own?

20 A Yeah.

21 Q Now, if I understood correctly, you said during

22 Ramadan you would generally get to the mosque about 7:30 to

23 7:45, and then the prayers would begin at 8, is that

24 correct?

25 A That's correct.

1 Q And the prayers would take 2½ hours?

2 A Two hours, 2½ hour, it depends.

3 Q So, in general, when you would leave the mosque,
4 it would be around 10:30?

5 A Yeah, 10:30 or quarter of 11, yeah.

6 Q When was it that you found out that your son had
7 a cell phone?

8 MS. GUTIERREZ: Objection.

9 THE COURT: Overruled.

10 BY MR. URICK:

11 Q You may answer the question.

12 A Yeah. It's probably 12th.

13 Q Pardon me?

14 A Twelfth. Twelfth of January.

15 Q And when you found out that he had a cell phone,
16 you found out that it was signed for by someone who was not
17 a family member, didn't you?

18 A Yeah, I knew it.

19 Q And that the bill went to that person's house,
20 not your house, didn't it?

21 A That's correct.

22 Q Now, your son's name is Adnan, is that correct?

23 A-D-N-A-N?

24 A Yes, sir.

25 Q It's not Adrian, A-D-R-I-A-N?

1 A No.

2 Q And his last name is spelled S-Y-E-D, is that
3 correct?

4 A That's correct.

5 Q With only one D?

6 A That's right.

7 Q There are not two D's in his last name?

8 A That's right.

9 Q Okay, thank you.

10 Now, when you were testifying about usual custom
11 of how you would go to the mosque, it would sometime vary
12 on any given day, wouldn't it?

13 A Can you say that again, please?

14 Q When you were saying your usual custom about
15 going to the mosque, that was an average, but on any given
16 day it might have been different, might it not?

17 A Well, actually, it's every time. It's, you know,
18 preferable to go to the mosque. But in Ramadan, that's a
19 very special occasion.

20 Q The Defendant, your son, basically had free use
21 of a car, didn't he?

22 A Most of the time.

23 Q He would use that to drive to school?

24 A That's correct.

25 Q He would use that to go to functions at school?

1 A That's correct.

2 Q Go to visit his friends?

3 A Yeah, it's correct.

4 Q He'd drive to the mosque in it?

5 A Oh, we drive together.

6 Q And when you were testifying about usual custom,
7 you're not making any specific testimony about any given
8 day, were you?

9 A Well, the specific day is the 14th. That is the
10 day when he led the prayers. But all the days, all the
11 days in Ramadan he had been going with me.

12 Q So it's the 14th that you've been talking about
13 specifically?

14 MS. GUTIERREZ: Objection.

15 THE WITNESS: No, it's the whole month.

16 THE COURT: Overruled.

17 MR. URICK: If I may have the Court's indulgence
18 for just a second.

19 THE COURT: Certainly.

20 (Pause)

21 MR. URICK: Thank you, Your Honor. That'd be all
22 the questions we'd have.

23 THE COURT: Very well. Witness with you.

24 REDIRECT EXAMINATION

25 BY MS. GUTIERREZ:

1 Q Mr. Rahman, just a couple questions.
2 Was your son Adnan's getting a cell phone hidden
3 from you?
4 A No, it was not hidden.
5 Q Was it done with your permission?
6 A That's correct.
7 Q Were you aware of it before he got it?
8 A Yeah.
9 Q And did you approve of him getting a cell phone?
10 A Yeah, because he needed it for his job, to be
11 called in the winter when he was needed.
12 Q Okay. Were you aware that prior to his getting a
13 cell phone he used the home phone that's in your house?
14 A That's correct.
15 Q Okay. And was he allowed to do that?
16 A Yeah.
17 Q Were you aware of any difficulty that he had with
18 his mother picking up the phone while he was on it?
19 A No, I didn't notice anything like that.
20 Q If you had known that a reason, among other
21 reasons, for him to get the cell phone was to enable girls
22 to call him, would you have given him permission?
23 A Well, I would not know who is calling him and
24 who's not.
25 Q And you knew that when you gave him permission to

1 get a cell phone?

2 A Actually, he worked during the Christmas holidays
3 and all those holidays and when he saved the money. So he
4 saved --

5 Q The money to pay for the cell phone?

6 A To pay for the cell phone, that's correct.

7 Q Okay. And you knew of that ahead of time?

8 A That's right.

9 Q And the person in whose name the cell phone was
10 gotten -- your son was how old at that time?

11 A He was 17 years and a few months.

12 Q And were you aware of who that person was?

13 A Yeah.

14 Q And is that person an adult?

15 A That's right.

16 Q And is that person then -- or was that person a
17 member of the mosque community to which you and your son
18 belong?

19 A That's correct.

20 Q Okay. And you knew all about that?

21 A That's correct.

22 Q You didn't have to go find it out?

23 A That's correct.

24 Q Okay. Now, in regard to the free use of the car
25 question, the car that Adnan had use of, did he have to

1 share it with anyone else?

2 A No, not with anyone. We would go to the mosque,
3 that's it.

4 Q Okay. And he drove back then?

5 A That's correct.

6 Q He's had his license since he was 16?

7 A That's right.

8 Q Okay. And that car was pretty much his to get
9 back and forth to school?

10 A That's right.

11 Q All right. And did you ever put any restrictions
12 on that car for his use of it?

13 A Just for his use, personal use.

14 Q Now, was the first time that you became aware of
15 any suggestion by the police that your son was involved,
16 did that occur before or after his arrest --

17 MR. URICK: Objection.

18 MS. GUTIERREZ: -- on the 28th of February?

19 THE COURT: Sustained.

20 THE WITNESS: Well, actually --

21 THE COURT: Excuse me, sir.

22 MS. GUTIERREZ: Let me ask you another question.

23 THE COURT: That objection is sustained.

24 BY MS. GUTIERREZ:

25 Q You were asked by Mr. Urick about, you know, what

1 your usual custom is in regard to Ramadan? He just asked
2 you a question about that, do you recall that?

3 A Usual custom?

4 Q Yeah. That he asked you a question about that,
5 do you recall that?

6 A Usual --

7 Q Do you recall that Mr. Urick just --

8 A Yeah, yeah.

9 Q -- asked you a question about using the term
10 usual custom during Ramadan?

11 A Yeah.

12 Q Okay. Now, on the 14th, the day that your son
13 led the prayer, at the mosque during Ramadan is there any
14 sign-in sheet?

15 A No, there's no sign-in sheet.

16 Q Do you keep any sign-in sheet of your son's
17 attendance at Ramadan?

18 A No, nobody keeps that.

19 Q Or on any other day of the year?

20 A No attendance slips.

21 Q When was the first time that you were asked to
22 try to recollect the days that included the 13th and 14th
23 of January?

24 A Well, actually, I had my, you know, calendar.
25 The calendar tells me --

1 Q No, sir, listen to my question. When was the
2 first time that you were asked to remember those days?

3 A Well, when, you know, he was arrested.

4 Q Okay. So it was after he was arrested?

5 A Yeah.

6 Q And were you home when they came to arrest him?

7 A No, I was not at home.

8 Q Okay. And were you aware of the date that he got
9 arrested?

10 MR. URICK: Objection. Way beyond the scope of
11 cross-examination.

12 THE COURT: Well, I think your objection is a
13 little late because at this point I think she's tying it
14 up.

15 So you may proceed.

16 MS. GUTIERREZ: Yes, Judge.

17 THE COURT: Overruled.

18 BY MS. GUTIERREZ:

19 Q Were you aware of the date that he was arrested?

20 A That's correct.

21 Q And what date is that?

22 A That was the 28th of February, 5:30.

23 Q So it was after that date, that was the very
24 first time that you were asked to recollect the events of
25 the Ramadan --

1 A That's right.

2 Q -- that had occurred a month and a half before

3 that?

4 A That's right.

5 Q All right. Now, you told us yesterday you

6 specifically remember the 14th.

7 A Yeah.

8 Q And why is that?

9 A Because it was a day of honor for us.

10 Q And the honor was related to?

11 A Related to leading the prayers of a few hundred

12 people.

13 Q Of Adnan leading the prayers?

14 A That's correct.

15 Q Was that a happy occasion for you?

16 A That was the happiest occasion of my life.

17 Q Okay. And so, you specifically remember that

18 day?

19 A Sure.

20 Q All right. And yesterday we went through the

21 Ramadan calendar. Let me ask you to look through it again.

22 MS. GUTIERREZ: May I approach the witness?

23 THE COURT: Yes, you may.

24 I note there are some individuals in court. I

25 want to make sure that there's no sequestration problems.

1 MS. GUTIERREZ: I don't think so.

2 THE COURT: All right, very well. Great.

3 BY MS. GUTIERREZ:

4 Q If you would take a look again through that, the
5 14th of January, if you would find that date on that
6 calendar. Do you have that?

7 A Yeah.

8 Q That's the 26th of Ramadan, is that right?

9 A That's correct.

10 Q And that would put the 14th within the last 10
11 days of Ramadan, is that right?

12 A That's correct.

13 Q And let me make sure. The last 10 days, it's not
14 that they're holier but they're more special?

15 A Yeah, they are more special.

16 Q And generally, that's why, for instance, your
17 son's leading of the prayer occurred on the 14th?

18 A Yeah.

19 Q One of the last 10 days of Ramadan?

20 A That's correct.

21 Q And you recall specifically that those last 10
22 days you went to the mosque every day?

23 A That's correct.

24 Q And if you had been able to get off, you would
25 have stayed at the mosque 24 hours?

1 A Yeah, if I were to be off from the job, yeah.

2 Q But during Ramadan, very specifically, the last

3 10 days of Ramadan 1999, did your son Adnan go with you to

4 the mosque every night for the Ramadan prayers that began

5 at 8?

6 A That is correct.

7 Q Is that correct?

8 A That's correct.

9 Q And so, he went with you on the 14th and you

10 specifically recollect an additional fact about that day,

11 right?

12 A That's right.

13 Q That he led the prayers that day, right?

14 A That's right.

15 Q He also went with you on the 15th?

16 A Yeah.

17 MR. URICK: Objection.

18 MS. GUTIERREZ: And the 16th?

19 THE WITNESS: That's correct.

20 THE COURT: Overruled.

21 BY MS. GUTIERREZ:

22 Q And he also went with you on the 13th?

23 A That's correct.

24 Q And the 12th?

25 A That's correct.

1 Q And the 11th?
2 A That's correct.
3 Q And the 10th?
4 A That's correct.
5 Q And the 9th?
6 A That's correct.
7 Q And the 8th?
8 A That's correct.
9 Q You weren't just merely testifying that he
10 usually went with you?
11 A He was every day with me.
12 Q He was with you every day?
13 A That's correct, yeah.
14 Q To go back and, after you broke the fast, to
15 return to the mosque physically?
16 A That's correct.
17 Q With you?
18 A That's correct.
19 MS. GUTIERREZ: That's all, thank you.
20 THE COURT: Very well. Any further?
21 MR. URICK: Very briefly, Your Honor, based on
22 that.
23 RE CROSS EXAMINATION
24 BY MR. URICK:
25 Q At the mosque, the prayer from 8 to roughly 10,

1 10:30 is a continuous series of prayers, is it not?

2 A That's correct.

3 Q Now, was early January of 1999 when you found out
4 that your son wanted a cell phone?

5 A Yeah, that's in January.

6 Q And he -- you say he told you he needed it for
7 work purposes, is that correct?

8 A That's correct.

9 Q Did you know that he had a pager?

10 A Yeah, he had a pager.

11 MR. URICK: Thank you. No further questions.

12 THE COURT: Thank you very much.

13 REDIRECT EXAMINATION

14 BY MS. GUTIERREZ:

15 Q Did he have that pager with your permission?

16 A Yeah, the pager was with permission but the phone
17 was better because he could receive the call and could call
18 them back right away.

19 Q And did he work at a job then when he told you he
20 needed it for his job?

21 A He need it for the job, yeah.

22 Q And did he need it for the job, as far as you
23 knew?

24 A Well, he said that if they call him what schedule
25 they want to change it from time to time, so it's easy for

1 him. More convenient.

2 Q And on the job that he worked then, was the
3 schedule changed from time to time?

4 A Well, the schedule changes from time to time.

5 Q And to your knowledge, were you aware that his
6 job needed to reach him?

7 A His job?

8 Q That his job did, in fact, need to reach him?

9 A Yeah.

10 MS. GUTIERREZ: Thank you. I have nothing
11 further.

12 May I approach the witness to retrieve the --

13 THE COURT: I believe Mr. White can get it.

14 Thank you very much.

15 Counsel, is there anything further for this
16 witness?

17 MR. URICK: No, thank you, Your Honor.

18 THE COURT: Ms. Gutierrez?

19 MS. GUTIERREZ: No, Judge. And since he's the
20 Defendant's father, we'd ask that he be allowed to remain.

21 THE COURT: He can -- well, he's released from
22 the summonses at this point because he's no longer
23 sequestered.

24 I must advise you, though, sir, you may not
25 discuss your testimony with anyone who's yet to be a

1 witness in this case, but you are welcome to remain in the
2 courtroom.

3 THE WITNESS: All right, thank you.

4 THE COURT: Very well.

5 THE COURT: Your next witness, Ms. Gutierrez.
6 You may step down.

7 (Whereupon, at 10:11 a.m., the witness was
8 excused.)

9 MS. GUTIERREZ: May I just have the monitor
10 deliver something --

11 THE COURT: Yes, you may.

12 Mr. Lewis, I would note -- Mr. Lewis, if you have
13 any difficulty, let the Court know.

14 MR. LEWIS: Thank you, Your Honor.

15 THE COURT: Very well.

16 Counsel, that was a standard subpoena where I
17 have to initial because of the time limits. So I was just
18 making sure that they were aware that my initials were on
19 it, which is required.

20 (Pause)

21 It is not a new one, it's a reissue of an old
22 one.

23 MS. GUTIERREZ: The Defense's next witness would
24 be Detective Ritz.

25 THE COURT: Detective Ritz, would you walk up to

1 the witness stand here? Remain standing and face my clerk,
2 Mr. White and raise your right hand.

3 Whereupon,

4 WILLIAM F. RITZ

5 was called as a witness at 10:13 a.m., and after having
6 been first duly sworn, was examined and testified as
7 follows:

8 THE CLERK: You may be seated.

9 MS. GUTIERREZ: Detective Ritz --

10 THE COURT: One second, Ms. Gutierrez. Let's get
11 him on the witness stand, get his name and his assignment.

12 THE WITNESS: My name is William F. Ritz. I'm a
13 detective police officer with the Baltimore City Police
14 Department. I'm currently assigned to the Homicide Unit.

15 DIRECT EXAMINATION

16 BY MS. GUTIERREZ:

17 Q Were you assigned to the Homicide --

18 THE COURT: I'm sorry. Would you spell your last
19 name, because I think we've had about five different ways,
20 including the way you spell cracker, so if you can tell us.

21 THE WITNESS: Yes, ma'am. It's R-I-T-Z.

22 THE COURT: Thank you.

23 BY MS. GUTIERREZ:

24 Q Detective Ritz, back on February 9th, 1999, were
25 you assigned to the Homicide Unit?

1 A Yes, ma'am, I was.

2 Q And at that point, back then, how long had you
3 been so assigned?

4 A I was assigned to the Homicide Unit since May of
5 1991.

6 Q May of 1991?

7 A Yes, ma'am.

8 Q All right. Now, prior to February 9th, 1999, did
9 you have any assignment relating to the investigation into
10 the death of Hey Men Lee?

11 A No, ma'am.

12 Q Okay. And on that day, did you become assigned
13 in any way to that investigation?

14 A Shortly thereafter. It was about three or four
15 days later.

16 Q Okay. Now, Detective Ritz, on the 18th of
17 February 1999, did you have occasion to participate in the
18 interviewing of Alonzo Sellers?

19 A Yes, ma'am, I did.

20 Q And was that after you had been assigned to have
21 some role in the investigation into the death of Hey Men
22 Lee?

23 A Yes, ma'am, it was.

24 Q Now, Detective Ritz, on February 9th, had you
25 gone out to the scene where Hey Men Lee's body had been

1 discovered?

2 A Yes, I did.

3 Q And on that -- and did you go in your capacity as
4 a homicide detective?

5 A Yes, ma'am.

6 Q And in -- did you have an occasion to meet
7 Mr. Sellers then?

8 A Yes, I did.

9 Q And did you speak to him then?

10 A Yes, I did.

11 Q About how it is he found the body?

12 A Yes.

13 Q On the 18th of February 1999 when you interviewed
14 Mr. Sellers, did that take place at the Homicide Unit?

15 A Yes, it did.

16 Q And were you present when he was formally advised
17 of his rights by use of a form?

18 A Yes, I was.

19 Q And that interview, was that tape recorded?

20 A Yes, it was.

21 Q And was that tape recorded on police department
22 equipment?

23 A Yes, ma'am, it was.

24 Q Okay. And subsequent to -- on the 18th, was the
25 entire interview taped?

1 A Yes, ma'am.

2 Q Subsequent to that interview, did the police
3 department have occasion to transcribe the tape of the
4 interview of the 18th?

5 A Yes, ma'am.

6 Q And was that done in the normal course of
7 business?

8 A Yes, it was.

9 MS. GUTIERREZ: May I approach the witness,
10 Your Honor?

11 THE COURT: Yes, you may.

12 MS. GUTIERREZ: Detective Ritz, I'm going to show
13 you --

14 Judge, I'm going to replace this with a clean
15 copy but it's my only copy. I'm just doing it --

16 THE COURT: Does counsel --

17 MS. GUTIERREZ: -- for foundation.

18 THE COURT: Well, let's see if counsel has it.
19 Do you have a clean copy of the Sellers --

20 MS. GUTIERREZ: The 18th.

21 THE COURT: -- that we could use to mark for
22 identification purposes? I do not believe counsel's going
23 to put that in evidence?

24 MS. GUTIERREZ: No. Just the pages, yes.

25 THE COURT: But the excerpts that -- but we first

1 have to lay the foundation, unless you waive the foundation
2 questions that would be prerequisite.

3 (Pause)

4 MR. URICK: This is which day's interview?

5 MS. GUTIERREZ: The 18th.

6 (Pause)

7 Judge, I can get a clean copy of it. I would
8 just mark this for now and replace it.

9 THE COURT: We can do that. Or if counsel would
10 compare the two and maybe we can get an agreement that the
11 items are at least the pages that they purport to be, and
12 then let the witness identify whether he listened to the
13 tape and compared the tape with the transcript. We could -
14 - unless there's a vehement objection by counsel.

15 MR. URICK: No, there's no vehement objection.

16 THE COURT: Very well. The Court is going to on
17 its own ask a couple of questions.

18 What we would normally do, Detective Ritz, as you
19 know, is to provide you with a copy of a transcript, and I
20 just have a question. Have you compared the transcript
21 with the tape of the recording of that interview on the
22 18th?

23 THE WITNESS: Yes, ma'am. I do have a clean copy
24 of the transcript in the case folder. If it would please
25 the Court, if you would like that.

1 THE COURT: Very well. That's even better.

2 MS. GUTIERREZ: Oh, that's fine. Do you have
3 that with you here?

4 THE WITNESS: Yes, ma'am.

5 MS. GUTIERREZ: Thank you. If you would go get
6 that.

7 THE COURT: You can step down and do that for us.
8 That would be wonderful, thank you.

9 (Pause)

10 Ms. Gutierrez, now, since the detective has
11 kindly facilitated this, I'm going to ask you to give him
12 your clean copy so he can return that to his case folder.

13 MS. GUTIERREZ: Yes, I will do so.

14 THE COURT: And it will remain completed.

15 Do you know what the next number would be?

16 MS. GUTIERREZ: No, Judge, I don't.

17 THE COURT: Thank you, detective.

18 THE WITNESS: You're welcome.

19 MS. GUTIERREZ: Have this marked as the next
20 Defendant's number, 17.

21 THE COURT: That will be 17 for identification
22 purposes at this time.

23 (Whereupon, the document referred
24 to as Defendant's Exhibit No. 17
25 was marked for identification.)

1 MS. GUTIERREZ: May I show him that?

2 THE COURT: Yes, you may.

3 BY MS. GUTIERREZ:

4 Q Detective Ritz, what is it that's marked as
5 Defendant's Exhibit 17?

6 A This is a transcript of the interview that was
7 conducted with Mr. Alonzo Sellers on the 18th of February
8 1999.

9 Q Okay. And was that transcript made in the
10 ordinary course of police business?

11 A Yes, ma'am, it was.

12 Q And can you tell us by looking at the last page
13 who transcribed it and when it was transcribed?

14 A If you'll bear with me one second, I think I left
15 the last page in the case folder.

16 The tape was transcribed by Ms. Jackie Taylor.

17 Q Is Ms. Jackie Taylor an employee of the Baltimore
18 City Police Department?

19 A Yes, ma'am, she is.

20 Q And is the transcribing of tapes of interviews of
21 suspects, witnesses, defendants something that she does in
22 the ordinary course of her business?

23 A Yes, it is.

24 Q Okay. And what date was it transcribed?

25 A It was transcribed on April the 1st, 1999..

1 Q And was the transcription done at your and
2 Detective McGilvery's direction?

3 A Yes, ma'am, it was.

4 Q And following the transcription which is
5 contained in your case file, did you have an occasion to
6 review it for accuracy?

7 A Yes, ma'am, I did.

8 Q Okay. And did you do that in the ordinary course
9 of business?

10 A The transcript is fairly accurate, and I say
11 that -- there are some grammar and spelling errors, but the
12 content --

13 Q In other words, some places where it's marked
14 "inaudible"?

15 A Yes, ma'am.

16 Q And having reviewed the tape, is that consistent
17 with the tape, that there are some minor portions of the
18 tape that are inaudible as to what the words are that are
19 being said?

20 A That is correct.

21 Q Okay. Now, having reviewed that, let me direct
22 your attention to page 18 of that transcript. I'm going to
23 ask you to review Defendant's Exhibit 14, if you will. And
24 if you would review that in connection with page 18 in
25 Defendant's Exhibit 17. Is that a copy of page 18 in the

1 transcript?

2 A Yes, it is.

3 Q An exact copy?

4 A Yes, it is.

5 Q Okay. And I would ask you if you would review
6 Defendant's Exhibit 12, which is a copy of page 21 of that
7 same, and if you would compare both of those things. And
8 is that an exact copy of page --

9 A Twenty-one.

10 Q -- 21 --

11 A Yes, ma'am, it is.

12 Q -- of the copy of the entire transcript that
13 was -- this one?

14 A Yes, ma'am.

15 Q And I would ask you to review Defendant's Exhibit
16 13, which is a copy of page 22 of that transcript. And is
17 that an exact copy of that page of the transcript as it
18 appears in Defendant's Exhibit 17?

19 A Yes, it is.

20 MS. GUTIERREZ: I would move into evidence
21 Defendant's Exhibit 12, 13, and 14.

22 MR. URICK: No objection at this point.

23 THE COURT: Let them be admitted.

24 (Whereupon, the documents referred
25 to as Defendant's Exhibit Nos. 12,

1 13, and 14 previously marked for
2 identification, were received into
3 evidence.

4 BY MS. GUTIERREZ:

5 Q And I'll pass this to you.

6 A Okay.

7 Q Now Detective Perez, you were present during that
8 entire recorded interview of Mr. Sellers?

9 A Yes, ma'am, I was.

10 Q And you were present when he was advised of his
11 rights?

12 A Yes, I was.

13 Q Now, detective, after you were appointed to be
14 involved in the investigation of this murder, did you have
15 occasion to receive information from other sources,
16 specifically, the Baltimore County Police Department in
17 regard to their participation in investigation into Rev. Martin Luther King's
18 being missing?

19 A Yes, ma'am.

20 Q And did you also speak to those involved
21 in Baltimore County regarding what, if any, information
22 they had?

23 A Well, I spoke with the detective in -- working
24 the Missing Person Unit. I didn't speak with the officer
25 who took the initial missing person report.

1 Detective McGilvery had spoken with him.

2 Q Okay. But you reviewed the reports of that
3 police officer, did you not?

4 A Yes, ma'am, I did.

5 Q And you were aware early on that Adnan Syed had
6 been spoken to by Officer Adcock?

7 A Yes, ma'am.

8 Q And that he had told Officer Adcock on the day
9 that he was called that he had no idea where Hey Men Lee
10 was?

11 A That is correct.

12 Q And that he had not seen her after school?

13 MR. URICK: Objection as to the form of the
14 question.

15 THE COURT: Sustained.

16 BY MS. GUTIERREZ:

17 Q And did you also have access to information
18 collected by Detective O'Shea?

19 A Well, the information that was provided to
20 Detective Adcock -- if I can just go back for a minute to
21 the last question you just asked, the information was that
22 he hadn't seen her, that he was supposed to meet up with
23 her earlier that day. He later told Detective O'Shea
24 during his interview with him that he hadn't seen her and
25 he wasn't going to meet up with her that day.

1 Q Okay. But in either the information from
2 Detective Adcock or from Detective O'Shea, the initial
3 information from Adnan Syed was that he had not seen
4 Hey Men Lee?

5 A I believe that was the follow-up information,
6 that he hadn't seen her. The initial information was
7 provided that he was going to meet up with her at after
8 school and she was going to give him a ride home after
9 track practice.

10 Q But the information also included that he didn't
11 see her that day?

12 A Right, from Detective O'Shea.

13 Q She didn't provide a ride, right?

14 A That's correct.

15 Q And that he did not see her physically at all
16 after school on the 13th?

17 A According to Detective O'Shea.

18 Q Okay. But him not seeing Hey Men Lee was also
19 according to Officer Adcock, was it not?

20 A No. I believe in Officer Adcock's report, and
21 I'd have to review it again, that Adnan had told
22 Officer Adcock that he was going to meet up with her after
23 school. She was going to give him a ride home. He had
24 waited around for a brief period of time. She didn't show
25 up, so he went on to track practice.

1 Q Okay. So the answer to my question then is yes,
2 what he told Officer Adcock --

3 MR. URICK: Objection.

4 MS. GUTIERREZ: -- involved the fact that he did
5 not actually meet up with Hey Men Lee?

6 THE COURT: Sustained.

7 BY MS. GUTIERREZ:

8 Q All right. Now, you were present when -- on
9 February 26th, did you and Detective McGilvery go to Adnan
10 Syed's home?

11 A Yes, ma'am, during the evening hours on that day.

12 Q To interview him in regard to this case?

13 A Yes, ma'am.

14 Q Okay. Prior to that day --

15 MS. GUTIERREZ: Judge, may I approach the
16 witness?

17 THE COURT: Yes, you may.

18 BY MS. GUTIERREZ:

19 Q What's been marked as Defendant's Exhibit 3 for
20 identification and ask you to look at that. Have you
21 reviewed that?

22 A Yes, ma'am, I have.

23 Q And you're familiar with that?

24 A Yes, ma'am, I am.

25 Q And is that an internal memo of the Baltimore

1 City Police Department?

2 A Yes, it is.

3 Q And is that contained also in your case file?

4 A Yes, ma'am.

5 Q And does that convey or purport to convey

6 information concerning Adnan Syed?

7 A Yes, it does.

8 Q Okay. And did you receive that information?

9 A It was given to Detective McGilvery and I later

10 learned of the information.

11 Q Okay. So you're familiar with it?

12 A Yes, ma'am.

13 Q In your role as a secondary investigator on a

14 murder, that information came to you also?

15 A That is correct.

16 Q Okay. And who notated that information?

17 A Detective McGilvery would have.

18 Q Well, he didn't write that memo?

19 A Oh, I'm sorry, I misunderstood your question.

20 Q Who wrote the memo?

21 A Detective Darryl Massey of the Homicide Unit.

22 Q And at that time he was also a detective in the

23 Homicide Unit?

24 A Yes, he was.

25 Q And what does that memo indicate the information

1 about Adnan Syed is?

2 MR. URICK: Objection.

3 THE COURT: Sustained.

4 MS. GUTIERREZ: May we approach, Judge?

5 THE COURT: Yes, you may.

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

8 THE COURT: What exhibit number?

9 MS. GUTIERREZ: It's Defendant's Exhibit 3. It
10 is an internal memo written by Detective --

11 THE COURT: It's ID, right, it's not --

12 MS. GUTIERREZ: It's ID, yes. I think I ID'ed it
13 through McGilvery, I'm not sure, but it was -- in any
14 event, it was ID'ed.

15 It's an internal memo from Detective Massey
16 relating information that relates to Adnan received via two
17 anonymous phone calls to the police department that suggest
18 that the police should look at Adnan Syed in regard to the
19 murder of Hey Men Lee. I think the phone calls are minutes
20 apart and the detective -- the detective's memo indicates
21 his belief that it was the same caller based on his
22 receiving --

23 THE COURT: The same person?

24 MS. GUTIERREZ: Yes. One was at 1519 hours, one
25 was at 1525 hours. And, Judge, I recognize that there's

1 some level of a hearsay objection here. On that issue, I
2 guess I would argue there's no way we can produce the
3 declarant since it was anonymous, according to them. It's
4 not taped. There's no way that the declarant can be
5 ascertained from the information we've received, no matter
6 what investigation we do.

7 We are maintaining our right to get this in,
8 notwithstanding any hearsay objection or double-hearsay
9 objection because it is critical to our theory of the
10 defense. The other detective has already testified, and I
11 could certainly run this detective through it, that they
12 received information about Adnan. They've already been
13 asked they received it from Detective O'Shea. That
14 information has not been explained.

15 In order to buttress our theory of defense, is
16 that the police, once having been led to Adnan through any
17 source, then fixated on him and never looked elsewhere. In
18 order to attack that theory and to dispel any speculation
19 that there was significant information about Adnan that the
20 police had, that the jury hasn't heard, we believe that it
21 is imperative in our request to introduce our theory of
22 defense, which includes that the police fixated on Adnan
23 Syed based on what's already before the jury, you know, the
24 rumors at the school among the students, speculation about
25 Adnan to establish that, in fact, they received telephone

1 calls that suggested -- well, they named Adnan by name,
2 information that suggested that Adnan should be
3 concentrated on as a suspect.

4 And so, for those reasons, because it is
5 critical -- there's no way we can get the declarant who
6 made the statements. We've had difficulty in tracking down
7 Detective Massey, who is now assigned -- I think it's
8 Northern District. It could be Northwestern. We've spoken
9 to his supervisor. I've sent -- he was on midnight but
10 then off. I've had difficulty in -- since we were told
11 last night, I spoke to his supervisor, and the night before
12 that he would be given the summons, which has been faxed to
13 him and notified and asked us to fax this sheet so that
14 he'd have recollection of it. We've been unable to serve
15 or locate or speak to Detective Massey. We have no home
16 number for him. I've asked his supervisor for it. And I
17 believe that I can finish today, but if I have to, I'll go
18 stand at Northwestern District and serve Detective Massey
19 who, for whatever reason, notwithstanding our speaking to
20 his supervisor, we've been unable to serve with a summons
21 to appear.

22 THE COURT: You're offering this for the truth of
23 the matter contained in the document or --

24 MS. GUTIERREZ: We're offering it for --

25 THE COURT: -- the truth of the fact that they

1 received phone calls --

2 MS. GUTIERREZ: And that they then acted on those
3 phone calls in terms of focusing on Adnan Syed.

4 THE COURT: Okay. And so, you're offering this
5 for the truth of what the phone caller said or the truth
6 that the result of phone calls caused the police
7 department -- what was said in the phone calls --

8 MS. GUTIERREZ: In part. To focus on Adnan Syed.

9 THE COURT: The State's position?

10 MR. URICK: Then the correct question would be
11 what, if any, action did you take as a result of the
12 information contained in this?

13 THE COURT: I believe that was the question that
14 was asked of Detective McGilvery.

15 MS. GUTIERREZ: (Shaking head affirmatively)

16 MR. URICK: That question was never asked.

17 THE COURT: Yes, it was.

18 MS. GUTIERREZ: Yes, it was.

19 THE COURT: It was asked of Detective McGilvery.

20 MS. GUTIERREZ: That's how I got it ID'ed.

21 THE COURT: When you objected to the content of
22 the exhibit, the next question was as a result of what was
23 contained in it what did you do?

24 MR. URICK: I don't remember him being asked that
25 question.

1 THE COURT: I do, and I made a note of it.

2 And, counsel, do you have that recollection?

3 MS. GUTIERREZ: I do, Judge. And I did it
4 specifically because I wanted to get this in. I'd have to
5 look on my notes --

6 THE COURT: I'd have to look in mine but --

7 MS. GUTIERREZ: But also, at that time, Judge, I
8 did anticipate the ability to get Detective Massey, a
9 member of the police department, served with a summons,
10 which is why I didn't try to take it any further then. I
11 marked it for ID to establish that Detective McGilvery got
12 it.

13 THE COURT: All right. So she's offering it,
14 really, for the truth of the matter asserted, as well as
15 that being truth by the caller and statement, causing the
16 police to do a certain thing as a result of what they
17 received in the calls. And the State's position is that
18 they can get it in through someone else, and what else?

19 MR. URICK: That it's hearsay. That the proper
20 way to deal with it is ask the question what, if anything,
21 did you do as a result of this, and that's the line of
22 questioning --

23 THE COURT: All right. The Court's going to
24 sustain the objection. However, I will allow you to ask
25 the questions that you did of McGilvery: As a result of

1 information contained in this document, what did you do?
2 As a result of something that -- did you receive calls?
3 You can get that it. And then as a result of the calls
4 that you received, what did you do? Did you receive any
5 other calls or was it brought to your attention? Were
6 there any other calls as a result of those calls, what did
7 you do? But I will not let you put in the content of the
8 calls through this witness.

9 MS. GUTIERREZ: Okay. Well, then, Judge, I'm
10 going to ask for the Court's assistance. Obviously,
11 Detective Massey is available. We just haven't been
12 able -- I will need another summons and I'll send my
13 investigator out to literally sit at the district and wait
14 for Detective Massey, although I'd anticipate finishing my
15 defense early afternoon.

16 THE COURT: Do you have any way to contact
17 Detective Massey?

18 MS. GUTIERREZ: That I would then need till
19 tomorrow to get --

20 MR. URICK: If he's not working right now, I
21 could only call his shift commander and ask them to call.

22 THE COURT: All right. Would you assist the
23 Court in doing that? Calling the shift commander and
24 asking Detective Massey to be here?

25 MR. URICK: I don't believe Detective Massey

1 could do anything further to get the content in.

2 THE COURT: But that's not, that's not -- that
3 isn't my request.

4 MR. URICK: Okay.

5 THE COURT: The Defense has a right to have a
6 witness here. Now, if it turns out that she is not able to
7 accomplish what she wants to accomplish after the witness
8 gets here, that's another issue. But the fact that she's
9 asking for assistance in getting the witness here --

10 MR. URICK: I'll be happy to --

11 THE COURT: Do you follow what I'm saying?

12 MR. URICK: -- assist the Court. I think we
13 would need a brief recess to do that.

14 THE COURT: All right. Why don't I do this?

15 Mr. White, will you call my chambers and ask my
16 secretary to give Detective Massey a call?

17 He's at what district?

18 MS. GUTIERREZ: I think he's at Northern.

19 MR. URICK: Detective Ritz might know a better
20 person who could get a message to Detective Massey.

21 THE COURT: Detective Ritz, could you step up
22 here for just one moment, please?

23 You wouldn't happen to know how the Court could
24 get in contact with Detective Massey?

25 THE WITNESS: We would still have his pager

1 number. I can call to the office and they can call his new
2 assignment.

3 THE COURT: Is there a number that you could
4 give?

5 THE WITNESS: Sure.

6 THE COURT: Do you have Mr. Lewis here?

7 MS. GUTIERREZ: No, but he's due back. He went
8 to deliver that.

9 THE WITNESS: Just a call to Homicide Unit,
10 somebody should be able to look his name up in -- card file
11 and have a pager number for him possibly.

12 THE COURT: All right. And the number would be?

13 THE WITNESS: 396-2100.

14 THE COURT: 396-2100.

15 THE WITNESS: That's the number to the Homicide
16 Unit.

17 THE COURT: The Homicide Unit. Ask them to page
18 Detective Massey.

19 THE WITNESS: They'll give you his new
20 assignment --

21 MS. GUTIERREZ: Do you know if it's at Northern?
22 Wasn't it Northern District?

23 THE WITNESS: I believe so.

24 THE COURT: All right. Mr. White, I'm going to
25 ask you to call my chambers, give my secretary this number,

1 and ask her to page Detective Darryl Massey.

2 MR. URICK: If they can, ask them to call him at
3 home, too, because if he worked midnight and he's sleeping,
4 he might not have his pager.

5 THE COURT: Page or call at home and have him
6 call the Court, and my question is, from the Court, when
7 can he be here. Okay? Thank you.

8 Thank you very much for your assistance.

9 THE WITNESS: You're welcome.

10 THE COURT: Now, that's the best that I can do,
11 Ms. Gutierrez.

12 MS. GUTIERREZ: Okay. So I can go ahead and ask
13 him those questions about this?

14 THE COURT: And I will let you know, I will let
15 you know that I'm doing this in the best interest of
16 justice and also to accommodate you, but I'm going to
17 restate that doesn't assume --

18 MS. GUTIERREZ: I understand, you have a rule --

19 THE COURT: All right. I just -- look, I do
20 every --

21 MS. GUTIERREZ: I've learned.

22 THE COURT: That's right, I'm supposed to make
23 sure that you get all the tools. If you can't build a
24 house, you can't build a house. If you can build a house,
25 there you go.

1 MS. GUTIERREZ: Okay. Thank you, Judge.

2 MR. URICK: Thank you.

3 THE COURT: Very well.

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

6 MS. GUTIERREZ: May I approach the witness again,
7 Your Honor?

8 THE COURT: Yes, you may.

9 BY MS. GUTIERREZ:

10 Q Again, if you would just take a look at
11 Defendant's Exhibit 3, Detective Ritz, did you receive the
12 information contained --

13 A I couldn't hear the last part of your question.

14 Q Did you receive the information contained in that
15 memo?

16 A Yes, ma'am, I did.

17 Q And is that an internal police department memo?

18 A Yes, it is.

19 Q Okay. And is there anything unusual about that
20 memo relaying information to you in regard to an
21 investigation that you were investigating?

22 A Unusual in the sense of just relaying the
23 information?

24 Q Yes.

25 A No.

1 Q And, sir, that memo is dated -- the information
2 contained in the memo was received on what date?

3 A On February the 12th, 1999.

4 Q And the body of Hey Men Lee was discovered on
5 what date?

6 A February the 9th, 1999.

7 Q As a result of receiving that memo, what, if any,
8 action did you take -- what, if any action, did you take?

9 A The action taken was trying to identify the
10 caller, and this was done by telephone -- the memo.
11 Detective Massey, when he took the information, also had
12 the call traced and --

13 Q He had it what?

14 A Activated call trace.

15 Q Call traced, okay.

16 A When the call came into the Homicide Unit --
17 after -- he was unable to get any information as a result
18 of doing that. The call -- he obtained was out of the
19 area.

20 Q Meaning the phone was outside of the area?

21 A Yes. If I can explain a little bit about call
22 trace, if you're calling from a cell phone, you would not
23 be able to get that number. If you're calling from a
24 public telephone, you would not be able to get that number.
25 The only way that --

1 Q And if you tried to trace it --

2 A If you tried to trace the call from where it
3 originated. The only way you can get the call is from a
4 hard line or a public telephone or a residence phone or a
5 business phone.

6 Q Okay. And was the identity of the caller known
7 before call trace was initiated?

8 A No.

9 Q Following your receipt of that information --
10 well, prior to the 12th, was Adnan Syed listed as a
11 suspect?

12 A No, he was not.

13 Q And subsequent to February 12th, was Adnan Syed
14 listed as a suspect?

15 A No, he was not.

16 Q And did you or Detective McGilverly take any
17 action in regard to the information received in that memo?

18 A Yes, ma'am.

19 Q And what action did you take?

20 A I had gone to the crisscross directory and looked
21 up the telephone number area code 410-203-0522, and I
22 believe it came --

23 Q And whose line was that?

24 A It came back to a Yassar Hussein (phon. sp.), I
25 believe, on Charlow (phon. sp.) Court out in Baltimore County.

1 Q And was that person a student at Woodlawn?

2 A No, he was not.

3 Q And was that person's name mentioned, of the
4 unable to be identified caller, in the memo?

5 A No, it was not.

6 Q And as a result of receiving that information,
7 what did you do?

8 A Contacted -- I believe his first name is Yassar.
9 In the memo, it's stated Baser, B-A-S-E-R. We contacted
10 him at the telephone number, introduced myself to him, and
11 told him we were investigating a homicide, that we would
12 like to speak with him. I believe we went out to a Pizza
13 Hut located near his home and met with him there.

14 Q And you spoke to him?

15 A That is correct.

16 Q And did the subject of your speaking to him
17 include the name of Adnan Syed?

18 A Yes, it did.

19 Q Okay. And were you ever able to identify the
20 person who made the call that was recorded in the memo?

21 A No, we were not.

22 Q And, in fact, is there more than one call that's
23 identified?

24 A There are actually two calls in the memo. After
25 the caller hangs up the first time, he subsequently calls

1 back to the office.

2 Okay. And in regard to the identity of the
3 caller, was there any information in the memo relayed
4 that might help you identify who it was that called?

5 A Detective Massey had indicated that the voice
6 sounded that of an African male, 18 to 21 years of age.

7 Q African male?

8 A Yes.

9 Q And what was the age?

10 A Eighteen to 21 years of age.

11 MR. URICK: Your Honor, the State is going to
12 withdraw its objection to the entry of this exhibit.

13 THE COURT: Very well.

14 Counsel, if you'd like to move that into evidence
15 at this time, you may do so.

16 MS. GUTIERREZ: I would move it into evidence.

17 THE COURT: Let it be admitted.

18 (Whereupon, the document referred
19 to as Defendant's Exhibit No. 1,
20 previously marked for
21 identification, was received into
22 evidence.)

23 THE CLERK: She's trying to track him down. He
24 say he's in insurance training.

25 THE COURT: All right. Would you call back and

1 tell her to please call back and say his appearance is
2 not -- Thank you very much, Mr. White, and also thank my
3 staff.

4 Your next question.

5 BY MS. GUTIERREZ:

6 Q Now, after that date, you then had an occasion to
7 go on February 26th to the home of Adnan Syed?

8 A Yes, ma'am.

9 Q And his father was present?

10 A Yes, he was.

11 Q And did you ask him questions?

12 A His father?

13 Q No, Mr. Syed.

14 A Yes, we did.

15 Q And did he answer your questions?

16 A Yes, he did.

17 Q And two days later, were you present with Adnan
18 Syed was arrested?

19 A Yes, ma'am, I was.

20 Q At his home?

21 A That is correct.

22 Q Was Detective McGilvery also present?

23 A Yes, he was.

24 Q And at that time, he was advised of what's called
25 his rights, his Miranda rights?

1 A Not at the time while at the house. He was
2 subsequently transported down to the Homicide --

3 Q Down to Homicide, and that was pursuant to the
4 arrest?

5 A That is correct.

6 Q Okay. And at that time, Mr. Syed indicated that
7 he had no involvement in the murder of Hey Men Lee?

8 A That is correct.

9 Q Okay. And -- oh, Detective Ritz, you had an
10 occasion to interact with a man by the name of Jay Wilds?

11 A Yes, ma'am, I did.

12 Q And Jay Wilds was -- and were you present during
13 his interviews?

14 A Yes, I was.

15 Q Okay. And those interviews took place on the
16 28th of February?

17 A Yes, ma'am.

18 Q And on the 15th of March?

19 A That is correct.

20 Q And also on the 13th of April?

21 A That is correct.

22 Q In addition to those dates, did you have occasion
23 to ride around with Mr. Wilds?

24 A Yes, I did.

25 Q And that took place on the 18th?

1 A I believe that's the correct date.

2 Q Is that correct?

3 Now, prior to the 18th of March had you ridden
4 around or been shown places by Mr. Wilds?

5 A Yes.

6 Q And did that include the location of Hey Men
7 Lee's car?

8 A Yes, it did.

9 Q And was her car physically where he said it would
10 be?

11 A Yes, it was.

12 Q And did you ask him if he had seen the car from
13 the time that he says it was put there up until the time
14 that you spoke to him on the 28th of February?

15 A Yes, I did.

16 Q And did he indicate to you that he had been back
17 to see if the car was there?

18 A Since the car was parked there originally, he had
19 not returned to the location to see if it was there.

20 Q That's what he told you?

21 A I believe so.

22 Q Okay. Now, Detective Ritz, and did you make
23 notes of -- did he also take you to a location initially,
24 on the 28th, that he says the trunk was popped on the car
25 in which he then had a 5- to 10-second look at the body of

1 Hey Men Lee?

2 A That is correct.

3 Q Is that correct?

4 And he physically took you to a location close in
5 proximity to the intersection of Edmondson Avenue?

6 MR. URICK: Objection as to the form of the
7 question.

8 THE COURT: Sustain the objection at this time.

9 BY MS. GUTIERREZ:

10 Q Did he take you to a location?

11 A Yes, ma'am, he did.

12 Q Where he said the -- was?

13 A Yes, he did.

14 Q And where was that location?

15 A I don't recall the exact hundred block but it was
16 on Edmondson Avenue, once you come off -- near Poplar Grove
17 Street.

18 Q Near Poplar Grove Street?

19 A Yes, ma'am.

20 Q And that intersection is pretty heavily peopled
21 and automobile traffic intersection?

22 A Yes, it is.

23 Q And is that intersection known as a strip?

24 A I've never heard that particular intersection be
25 referred to it until I had spoke with Mr. Wilds, and he

1 referred to it as a strip.

2 Q But you had heard the term strip before?

3 A No.

4 Q Except from him?

5 A That is correct.

6 Q But you heard that term from him that night, on
7 the 28th of February?

8 A That is correct.

9 Q And what did you understand that term to mean?

10 A Well, he explained it to me. It's an area where
11 people loiter about, selling narcotics.

12 Q Selling narcotics?

13 A Right. It's a --

14 Q Illegal narcotics?

15 A That is correct.

16 Q Okay. And he used that term -- did he use that
17 term in a statement to you on the 28th?

18 A Yes, he did.

19 Q Okay. And when he used it, was he referring to
20 places where --

21 MR. URICK: Objection.

22 MS. GUTIERREZ: -- illegal narcotics were being
23 sold?

24 THE COURT: Sustained.

25 BY MS. GUTIERREZ:

1 Q And that's the location where he took you to show
2 where the trunk pop was?

3 A Yes, ma'am.

4 Q Detective Ritz, after arresting Adnan Syed at his
5 house, did you have an occasion to return to his house
6 pursuant to your investigation? After the 28th?

7 A Yes.

8 Q Okay. And was that pursuant to any kind of court
9 order?

10 A I can't recall.

11 Q Well, sir, were you present when his house was
12 searched?

13 A Yes. That was on the 28th.

14 Q Okay. His house?

15 A Yes. We had executed a search and seizure
16 warrant that morning.

17 Q And you were present on that occasion?

18 A Yes, ma'am, I was.

19 Q And did you and Detective McGilvery give
20 direction to the officers that actually conducted the
21 search?

22 A Yes, ma'am.

23 Q As to what to take?

24 A Yes, ma'am.

25 Q As to what to seize?

1 A Yes, ma'am.

2 Q As to what to look for?

3 A That is correct.

4 Q Were shoes and boots that belonged to Adnan --

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

6 question.

7 THE COURT: Sustained.

8 BY MS. GUTIERREZ:

9 Q In regard to any clothing articles, what was

10 seized?

11 MR. URICK: Objection. Same objection.

12 THE COURT: Overruled. What was seized is not a

13 leading question.

14 You may answer that, if you know.

15 THE WITNESS: I believe a pair of brown boots and

16 a pair of pants.

17 BY MS. GUTIERREZ:

18 Q Brown boots?

19 A Yes, ma'am.

20 Q Okay. And were those boots and the pants taken

21 at the direction of you or Detective McGilvery?

22 A Yes, ma'am.

23 Q And was the seizure of those items based on

24 information you had received from Jay Wilds?

25 A I'm not sure if the information came from Jay

1 Wilds or Jennifer Pusitari (phon. sp.). The clothing
2 description and articles that we were looking for came from
3 interviews subsequent to obtaining the search and seizure
4 warrant. I can't recall which interview that those
5 articles were provided.

6 Q You were present when Jen Pusitari was
7 interviewed?

8 A Yes, ma'am.

9 Q And from your understanding, based on that
10 interview, was Jennifer Pusitari present during any events
11 that -- of Hey Men Lee?

12 A Not in the -- those events that you had described
13 but an event subsequent to that where she later met up with
14 the Defendant and Jay Wilds at a parking lot.

15 Q And you were also present during the interviews
16 of Jay Wilds concerning the same events?

17 A Yes, ma'am, I was.

18 Q And Jennifer Pusitari said she met up with the
19 Defendant where?

20 A On Westview Mall shopping center parking lot.

21 Q That's --

22 A Yes, it is.

23 Q Okay. And the purpose of her being at that
24 location was to do what?

25 A To pick up Mr. Wilds.

1 Q And you were present when Mr. Wilds spoke about
2 Jennifer Pusitari picking him up?

3 A Yes, ma'am.

4 Q And did he say he was --

5 MR. URICK: Objection as to the form of the
6 question.

7 THE COURT: Sustained.

8 This is your witness, Ms. Gutierrez.

9 BY MS. GUTIERREZ:

10 Q In any event, the information about the boots and
11 the clothing came from Jay Wilds and/or Jennifer Pusitari?

12 MR. URICK: Objection.

13 THE COURT: Sustained.

14 MS. GUTIERREZ: I have nothing further of this
15 witness.

16 THE COURT: Thank you very much, Ms. Gutierrez.

17 Any questions?

18 MR. URICK: Yes, thank you, Your Honor.

19 CROSS-EXAMINATION

20 MR. URICK: At this time, I would request that
21 the Defense Exhibit be given to the witness and it be
22 published to the jury by the witness reading it, with the
23 Court's permission.

24 THE COURT: Certainly. You may do it that way.

25 MR. URICK: Mr. Clerk, will you give that to the

1 witness, please?

2 THE CLERK: Which one, No. 3?

3 THE COURT: I believe it's 15, is it not?

4 MS. GUTIERREZ: Seventeen, Judge.

5 MR. URICK: Three.

6 THE COURT: Three.

7 MS. GUTIERREZ: Oh, 3, right. Correct.

8 THE COURT: Exhibit 3?

9 MR. URICK: Yes, this is the exhibit.

10 THE COURT: Detective, we'll need you to read the

11 entire thing since we're publishing it. Everything that's

12 on that page needs to be read.

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: From top to bottom.

15 THE WITNESS: The memo is dated 12 February 1999.

16 It's from Detective Darryl Massey to Detective Greg

17 McGilvery. It's in reference to possibly pertaining to

18 Hey Men Lee investigation, H-99-030.

19 Sir, on February 12th, 1999, approximately

20 1519 hours, your writer received a call from

21 anonymous called (Asian male, 18 to 20 years

22 old) who advised your investigators should

23 concentrate on the victim's boyfriend (Adnan

24 Syed, Asian male, 17 years of age) as a

25 suspect in the murder. The caller further

1 advised that the boyfriend has taken the
2 victim to Leakin Park on past occasions for
3 sexual encounter. Prior to concluding the
4 phone interview, the caller further stated
5 that the victim broke off the relationship
6 with her boyfriend about a week before she
7 was reported missing.

8 At this point, the caller terminated the
9 conversation. Simultaneously, your writer
10 activated Star 57 on extension 2100. The
11 recording informed your writer the service
12 was not available due to the caller not
13 being in the service area.

14 On February 12th, 1999, approximately 1525
15 hours, the above anonymous person called the
16 Homicide Unit. This time the caller
17 remembered that a year ago the suspect
18 informed a friend of his (Baser Ali, Asian
19 male, 17) if he ever hurt his girlfriend he
20 would drive her car into a lake. The caller
21 stated the suspect's friend attends
22 Centennial High School in Columbia,
23 Maryland, and his home phone number is area
24 code 410-203-0522. Again Star 57 was
25 activated. The recording stated the service

1 was not available due to the caller not
2 being in the service area.

3 Respectfully, Darryl Massey.

4 THE COURT: Thank you.

5 BY MR. URICK:

6 Q And you looked that number up in a crisscross
7 directory, is that correct?

8 A That is correct.

9 Q And that number came back listed to who?

10 A I believe it was -- the last name of the family
11 was Hussein, 35 I believe it was 09 Charlow Court out in --
12 it wasn't Baltimore County, it was Howard County, I
13 believe.

14 Q And you are aware that that is the home address
15 of Yassar Ali?

16 A Yes, sir, I am.

17 MS. GUTIERREZ: Objection.

18 THE COURT: Overruled.

19 MS. GUTIERREZ: Wasn't established, any home
20 address of anybody. He's only established the listing to
21 the name.

22 THE COURT: Overruled.

23 BY MR. URICK:

24 Q And that Yassar Ali is a friend of the Defendant,
25 is that correct?

1 A Yes, sir.

2 Q You may give that back to the clerk, if you will.

3 MS. GUTIERREZ: If he would keep it. I'm going
4 to --

5 BY MR. URICK:

6 Q And you're aware that Yassar Ali is not a
7 Woodlawn High School student, is that correct?

8 A That is correct.

9 Q And that he knows him from the mosque, is that
10 correct?

11 A Yes, sir.

12 Q And you're also aware that Yassar Ali's phone
13 records appear on the Defendant's cell phone? Calls?

14 A Yes, sir.

15 Q Now, you were asked about the search and seizure
16 warrant that you served at the Defendant's house. Pursuant
17 to that warrant, you seized certain items because the
18 warrant allowed you to, is that not correct?

19 A That is correct.

20 Q However, in searching the Defendant's bedroom,
21 you also found other items that you could not seize because
22 they were not allowed by the warrant, is that correct?

23 MS. GUTIERREZ: Objection.

24 THE COURT: Sustained.

25 BY MR. URICK:

1 Q What, if any, items did you find in the
2 Defendant's bedroom that you did not seize?

3 MS. GUTIERREZ: Objection.

4 THE COURT: Sustained.

5 BY MR. URICK:

6 Q Now, Defense counsel asked you about the -- Jay
7 Wilds taking you to the spot on Edmondson Avenue. You
8 later got a statement from him that indicated that, in
9 fact, that incident took place somewhere else, did you not?

10 A That is correct. It was in the second interview,
11 I believe.

12 Q And during that interview, you questioned
13 Mr. Wilds about why the first statement did not contain
14 certain information that the second one did, did you not?

15 A Yes. We were clarifying the inconsistencies.

16 Q And why did he tell you that there were
17 inconsistencies?

18 A He was trying to protect his friends.

19 MS. GUTIERREZ: I'm going to object.

20 THE COURT: I'm going to sustain the objection --

21 MR. URICK: May we approach?

22 THE COURT: -- to the question that was posed.

23 I'll sustain the objection to the question as posed. You
24 may be able to restate your question.

25 BY MR. URICK:

1 Q Do you recall what Mr. Wilds' answer was?
2 MS. GUTIERREZ: Objection. Well --
3 THE COURT: Overruled.
4 MS. GUTIERREZ: -- not to that question.
5 THE WITNESS: I can't recall verbatim. I could
6 probably paraphrase it, that he didn't want to get other --
7 MS. GUTIERREZ: Objection. Move to strike.
8 THE COURT: Overruled.
9 Your recollection in paraphrasing, you may do
10 that.
11 THE WITNESS: There were some people that --
12 MS. GUTIERREZ: Objection.
13 THE COURT: Your objection is being overruled as
14 to what this witness heard from Mr. Wilds. The objection
15 is sustained as to anything else, unless counsel wants to
16 lay a foundation for any opinion or indication or
17 conclusions that the witness may have drawn from what
18 Mr. Wilds told him.
19 MR. URICK: I'm just asking the witness at this
20 time as to what Mr. Wilds said.
21 THE COURT: Very well.
22 MS. GUTIERREZ: I'd still note our objection and
23 ask for a continuing objection to the hearsay nature of him
24 repeating Jay Wilds.
25 THE COURT: Understood. Overruled.

1 If the witness can answer the question, you may
2 answer it.

3 THE WITNESS: One of the inconsistencies that we
4 clarified was the location where they first saw the body of
5 Hey Men Lee. He originally told me and Detective McGilvery
6 it was on Edmondson Avenue. In his follow-up statement, he
7 said the first time that he saw the body and described it
8 in great detail was on the parking lot of Best Buy out in
9 Security Boulevard area.

10 He stated the reason that he did not -- wasn't
11 truthful with us at the beginning was that he thought they
12 had surveillance cameras on the outside of the building and
13 didn't want to get caught or involved in it.

14 He knew that the Defendant would get caught
15 eventually and he didn't want to get involved in it. He
16 was trying to dissociate himself from the parking lot in
17 that regards.

18 The other inconsistencies were being at someone
19 else's house. Because of some narcotics activity --

20 MS. GUTIERREZ: I'm going to object. It's beyond
21 the scope of the question.

22 THE COURT: I think counsel can ask another
23 question, if you want to draw anymore information. So I'll
24 sustain the objection at this point.

25 BY MR. URICK:

1 Q Did you ask him about other inconsistencies?

2 MS. GUTIERREZ: Objection. It's beyond the scope
3 of cross -- direct.

4 THE COURT: Overruled as to that one question,
5 did you ask him about other inconsistencies? And this is
6 cross.

7 THE WITNESS: Yes, I did.

8 BY MR. URICK:

9 Q Do you recall what his answers were?

10 MS. GUTIERREZ: Objection.

11 THE COURT: If I can have the question, I'll know
12 whether I'm going to sustain it or overrule it.

13 BY MR. URICK:

14 Q Do you recall what Mr. Wilds' answer to those
15 questions were?

16 MS. GUTIERREZ: Objection.

17 THE COURT: Sustained as to the general nature of
18 that question. If you could be more specific.

19 BY MR. URICK:

20 Q Do you recall what his explanations for the
21 inconsistencies were?

22 MS. GUTIERREZ: Objection.

23 THE COURT: Sustained.

24 As to which inconsistencies are you referring?

25 All of them? Some of them? Certain ones?

1 BY MR. URICK:

2 Q Do you recall what his explanations were for not
3 naming certain names or not admitting to being at certain
4 places in the first statement?

5 MS. GUTIERREZ: Objection.

6 THE COURT: Overruled.

7 MS. GUTIERREZ: That's clearly beyond the scope.

8 THE COURT: Overruled.

9 THE WITNESS: Yes, I do.

10 THE COURT: You may answer that.

11 BY MR. URICK:

12 Q What did Mr. Wilds tell you?

13 A It was because of --

14 MS. GUTIERREZ: Objection. May I note a
15 continuing objection?

16 THE COURT: Yes, you may.

17 You may answer the question.

18 THE WITNESS: Because of illegal narcotics
19 activity.

20 BY MR. URICK:

21 Q And did you ask him about -- for explanations of
22 why certain names were not named in the first statement?

23 MS. GUTIERREZ: Objection.

24 THE COURT: Overruled.

25 THE WITNESS: Yes.

1 BY MR. URICK:

2 Q Do you recall what his answer was?

3 MS. GUTIERREZ: Continuing objection to this,
4 too.

5 THE COURT: It's noted for the record.

6 You may answer.

7 THE WITNESS: I can't recall exactly what his
8 response was to that question.

9 BY MR. URICK:

10 Q Can you paraphrase what his answer was?

11 MS. GUTIERREZ: Objection.

12 THE COURT: Sustained.

13 BY MR. URICK:

14 Q Is that a document contained in your files that
15 would help you refresh your memory at this time?

16 A Yes, there is.

17 MR. URICK: May I ask the witness to find that
18 and look at it to refresh his memory at this time?

19 THE COURT: Yes, you may. And I note
20 Ms. Gutierrez' objection for the record.

21 MS. GUTIERREZ: If I could have that document
22 identified, and I will object to that.

23 THE COURT: It's noted.

24 Detective, if you want to bring those up and sit
25 them next to you so that they're a little closer, you're

1 welcome to do that. It's a little easier, I think.

2 (Pause)

3 THE WITNESS: I believe I've found it,
4 Your Honor.

5 MS. GUTIERREZ: Can I find out what the witness
6 is --

7 THE COURT: Absolutely.

8 MS. GUTIERREZ: -- looking to so that I can enter
9 an objection before we have any questions?

10 THE COURT: Absolutely.

11 If you could tell us what item you're looking at,
12 detective.

13 THE WITNESS: I believe it starts on page 49.

14 MS. GUTIERREZ: Of which interview?

15 THE WITNESS: This would be the second interview.

16 MS. GUTIERREZ: The one on the 15th of March?

17 THE COURT: Counsel, you're going to have to have
18 the item --

19 THE WITNESS: Yes, ma'am.

20 THE COURT: -- that he's referring to marked for
21 identification purpose so the record reflects what it was
22 that the witness utilized to refresh his recollection. I
23 don't know if that item is already in evidence. It may be,
24 I don't know.

25 Mr. White, perhaps you could note your list. Is

1 there a statement?

2 MS. GUTIERREZ: Where are you looking?

3 MR. URICK: Mr. Clerk, did you find a -- I don't
4 think there has been one. If you could put a new State's
5 number on this.

6 For identification purposes, this'll be State's
7 Exhibit 47.

8 THE COURT: Exhibit 47 for identification.

9 (Whereupon, the document referred
10 to as State's Exhibit No. 47 was
11 marked for identification.)

12 MS. GUTIERREZ: And is that the statement of
13 March 15th?

14 THE WITNESS: Yes, it is.

15 BY MR. URICK:

16 Q And, Detective Ritz, you said you were starting
17 on page 49?

18 A Let me retract that. I believe it starts on
19 page 56. There was something else I was referring to on
20 page 49.

21 THE COURT: Just for the record, Mr. Urick, do
22 you want to lay the foundation for the witness's use of the
23 item formally so the record reflects --

24 BY MR. URICK:

25 Q Detective Ritz, isn't it correct that this is a

1 taped statement taken from one Jay Wilds on March 15th,
2 1999?

3 A Yes, sir, it is.

4 Q And that it was transcribed by a Homicide
5 Department stenographer, is that correct?

6 A Yes, it was.

7 Q And have you had -- were you present at the
8 interview?

9 A Yes, sir, I was.

10 Q And have you had a chance to review the
11 transcript?

12 A Yes, sir, I have.

13 Q And other than minor spelling and grammatical
14 errors, is it a fair and accurate representation of the
15 interview that took place that was taped?

16 A Yes, sir, it is.

17 Q Have you had a chance to read through the
18 exhibit?

19 A Yes, sir.

20 Q And is your memory refreshed at this time as to
21 why he told you he didn't name certain names in the first
22 interview?

23 A Excuse me a second, let me find that part.

24 Q Specifically, I'd refer you to page 59 and ask
25 you to read that and see if that refreshes your memory.

1 A Yes, sir.

2 Q And why did he tell you he didn't name names?

3 A That he didn't want to get those people involved.

4 Q Thank you.

5 Now, Defense counsel asked you about the several

6 interviews that were conducted with Alonzo Sellers, do you

7 recall those questions?

8 A Yes, sir.

9 Q Isn't it a fact that initially he was treated as

10 a suspect?

11 A Yes, sir, he was. Well --

12 Q And he was investigated thoroughly as a result of

13 that, is that correct?

14 A If I can go back just for a minute, initially --

15 MS. GUTIERREZ: Objection.

16 THE COURT: You have to answer the question as

17 asked, and if you're not able to do that or you need to add

18 to it once you've answered the question, you may do that.

19 His question was isn't it a fact that Mr. Sellers was

20 treated as a suspect? That was the question.

21 THE WITNESS: No.

22 THE COURT: No. The answer is no?

23 THE WITNESS: That is correct.

24 THE COURT: Next question.

25 BY MR. URICK:

1 Q Did he come to be investigated as a suspect?

2 A Later that evening.

3 Q And was he investigated thoroughly?

4 A Yes, sir, he was.

5 MS. GUTIERREZ: Objection.

6 THE COURT: Overruled.

7 BY MR. URICK:

8 Q And as a result of that investigation, was he
9 eliminated as a suspect?

10 A Yes, sir, he was.

11 Q Now, Defense counsel asked you about things that
12 the Defendant told you. Is it your practice as a homicide
13 detective to listen to someone and take what they tell you
14 as the truth, without examining -- seeing whether or not
15 you can corroborate it through other evidence?

16 A No.

17 MR. URICK: No further questions. Thank you.

18 THE COURT: Any redirect?

19 MS. GUTIERREZ: Yes.

20 REDIRECT EXAMINATION

21 BY MS. GUTIERREZ:

22 Q Detective, would you look at page 59 --

23 A Yes, ma'am.

24 Q -- the page you used to refresh your recollection
25 as to why Jay Wilds didn't mention all these names the

1 first time?

2 A Yes, ma'am.

3 Q Do you recall that?

4 Right below, you essentially refreshed your
5 recollection with the question of Detective McGilvery,
6 after having said that he had left out certain names and
7 asked him why was that, and Jay Wilds said, "I didn't want
8 them to be involved."

9 A Yes, ma'am.

10 Q Is that what Jay Wilds said?

11 A That is correct.

12 Q And Detective McGilvery repeated his answer,
13 didn't he?

14 A Yes.

15 Q And then Jay Wilds said, "I didn't, I didn't,
16 yeah, I didn't want her to be questioned by the police and
17 all that stuff." Isn't that right?

18 A That is correct.

19 Q Okay. And that's from the same page of the
20 interview that you were just asked about to refresh your
21 recollection?

22 A Yes, ma'am, page 59.

23 Q I'm going to show you -- or ask you to look at
24 what I will have marked as Defendant's Exhibit --

25 MS. GUTIERREZ: Is this 18?

1 THE CLERK: Yes.

2 (Whereupon, the document referred
3 to as Defendant's Exhibit No. 18
4 was marked for identification.)

5 BY MS. GUTIERREZ:

6 Q -- 18 for identification, where I've highlighted
7 exactly that portion that I just read to you. And if you
8 would compare it with the transcript of the interview that
9 you did with Jay Wilds.

10 A It would be a fair and accurate representation.

11 Q Of exactly what you were reading there?

12 A That is correct.

13 Q And the part that I've highlighted is exactly
14 that part that I've read to you?

15 A Yes, ma'am.

16 Q Thank you.

17 MS. GUTIERREZ: I would move Defendant's
18 Exhibit 18, that's been marked for identification --

19 MR. URICK: No objection.

20 MS. GUTIERREZ: -- into evidence.

21 THE COURT: Let it be admitted.

22 (Whereupon, the document referred
23 to as Defendant's Exhibit No. 18
24 was received into evidence.)

25 BY MS. GUTIERREZ:

1 Q Now, detective, you were asked about
2 inconsistencies?

3 A Yes, ma'am.

4 Q That's a word that you and Detective McGilvery
5 used back on -- with Jay Wilds, isn't that correct?

6 A Yes, ma'am.

7 Q And inconsistencies -- in its scope things that
8 were actually lies?

9 MR. URICK: Objection as to the form of the
10 question.

11 THE COURT: Sustained.

12 BY MS. GUTIERREZ:

13 Q Was it inconsistencies a word that you and
14 Detective McGilvery used with Jay Wilds?

15 MR. URICK: Objection.

16 THE COURT: Sustained.

17 BY MS. GUTIERREZ:

18 Q I'm going to ask you to refer to the first page
19 that you've told us you were looking at, and that was
20 page 49 of that same interview, the interview that took
21 place on March 15th?

22 A Yes, ma'am.

23 Q Okay. And that part refers to essentially the
24 fact that Jay Wilds tells you that he knew about this ahead
25 of time --

1 MR. URICK: Objection.

2 THE COURT: Sustained.

3 MS. GUTIERREZ: -- meaning Adnan was going to
4 kill Hey and that he communicated that to Jennifer Pusitari
5 whom he had not mentioned before?

6 THE COURT: Ms. Gutierrez, the objection is
7 sustained and it is as to the form of the question since
8 these are leading questions and this is still your witness.

9 BY MS. GUTIERREZ:

10 Q Detective Ritz, you first referred us to the
11 part, to refresh your recollection, to page 49?

12 A Yes, ma'am.

13 Q Okay. And that's of the March 15th interview?

14 A Yes, it is.

15 Q Is that correct?

16 A Yes, ma'am.

17 Q And in -- on page 49 at the bottom of the page,
18 what are you questioning Jay Wilds about at that juncture?

19 A About after receiving this information from Adnan
20 that he had planned on killing Hey Lee that morning --

21 Q Meaning Adnan had planned on killing, right?

22 A Yes. There was a discussion inside his vehicle on
23 the morning of her disappearance.

24 Q Which was the 13th?

25 A Of January, that is correct.

1 Q And?

2 A And I questioned Mr. Wilds as to why he was
3 reluctant or did not report that information to the police,
4 which may have saved Hey Lee's life that day.

5 Q And if you would review your question that
6 appears at the middle of the page, does it mention Jennifer
7 Pusitari?

8 MR. URICK: Objection.

9 THE COURT: Overruled as a foundation question.
10 Does it mention Jennifer Pusitari's name?

11 THE WITNESS: It mentions Jennifer, and I am
12 referring to Jennifer Pusitari.

13 BY MS. GUTIERREZ:

14 Q Pusitari. And is the mention related to what you
15 just spoke about, that Mr. Wilds had previous knowledge
16 of the planned death of Hey Men Lee?

17 A Yes, ma'am.

18 Q And had, in fact, Mr. Wilds told you previously
19 that he had told -- that he had relayed any information
20 about Adnan's plan to kill Hey Men Lee to Jennifer
21 Pusitari?

22 A He stated that he didn't take it seriously,
23 although he had been told that -- of Adnan's plans to kill
24 Hey Lee.

25 Q He told who?

1 A Adnan had told Jay Wilds. However, he didn't
2 take it seriously.

3 Q The question was -- did that relaying of
4 information that Jay Wilds told you at any point, that he
5 had relayed that information to Jennifer Pusitari?

6 MR. URICK: Objection.

7 THE COURT: Overruled.

8 THE WITNESS: Yes.

9 BY MS. GUTIERREZ:

10 Q Yes. And that was one of the inconsistencies?

11 A Reading through this to find the inconsistencies,
12 that was something that stuck out in my mind as he was
13 being questioned, why didn't he notify the police.

14 Q Okay. And --

15 A But I think the inconsistencies start on page 56.

16 Q On the -- you mean the questioning about the
17 inconsistencies?

18 A Yes, ma'am.

19 Q On the 15th, you had already spoken to Jay Wilds,
20 starting at 1 or starting sometime after midnight on
21 February 28th?

22 A Yes, ma'am.

23 Q You had spoken to him before the tape recorder
24 was turned on?

25 A Yes, ma'am.

1 Q And then you had spoken to him at length while
2 the tape recorder was turned on?

3 A That is correct.

4 Q And this on March 15th was another time to
5 interview him, correct?

6 A That is correct.

7 Q But you had already spoken to Jen Pusitari, had
8 you not?

9 A Yes, ma'am.

10 Q And some of the inconsistencies that you were
11 confronting Jay Wilds about on March 15th, the second tape
12 recorded interview, related the inconsistencies as to what
13 he said with what she had said, was it not?

14 A Well, the interview was going over everything,
15 from start to finish, and then addressing the
16 inconsistencies during that statement.

17 Q Okay. And that included addressing not only
18 inconsistencies between what he said himself but between
19 what he said and what she said?

20 MR. URICK: Objection.

21 THE COURT: Sustained.

22 BY MS. GUTIERREZ:

23 Q At that time that you interviewed him on the
24 15th, the taped interview which you are referring to to
25 refresh your recollection to answer Mr. Urick's question,

1 had Jen Pusitari indicated to you that she had prior
2 knowledge of the plan to kill Hey Men Lee?

3 MR. URICK: Objection.

4 THE COURT: Sustained.

5 BY MS. GUTIERREZ:

6 Q Other than interviewing Jen Pusitari on the 27th
7 of January, had you spoken to her after that date and taken
8 any kind of tape recorded statement?

9 A You said January 27th?

10 Q I'm sorry, February 27th.

11 Do you recall that you spoke to Jen Pusitari on
12 the 27th?

13 A Yes, ma'am.

14 Q Okay. And took a tape recorded interview?

15 A Yes, ma'am.

16 Q And that was at Homicide?

17 A That is correct.

18 Q After that date, did you take any other tape
19 recorded statements from Jen Pusitari?

20 A No.

21 Q Okay. And did you ever go back to her about
22 inconsistencies in what she said?

23 A Yes, ma'am.

24 Q But you didn't tape record any interview?

25 A Jennifer -- well, we didn't tape record that, no.

1 Q And did you ever ask her as to whether or not Jay
2 Wilds had told her ahead of time that Adnan was planning to
3 kill Hey Men Lee?

4 A Yes, sir -- I mean, yes, ma'am, I did.

5 Q And that was at an unrecorded interview?

6 A Yes.

7 Q Okay.

8 A And it may have been addressed -- it was --
9 interviews. It wouldn't have been addressed on the initial
10 interview with her because we hadn't spoke with Jay yet.

11 Q And other than the -- because then there wouldn't
12 have been any inconsistency, right?

13 MR. URICK: Objection.

14 THE COURT: Overruled.

15 THE WITNESS: That is correct.

16 BY MS. GUTIERREZ:

17 Q Okay. And the only interview that you tape
18 recorded was on the 27th of February --

19 A Yes, ma'am.

20 Q -- with Jen Pusitari?

21 A That is correct.

22 Q And that was an interview to which she brought a
23 lawyer?

24 A Yes, ma'am.

25 Q Thank you.

1 One of the inconsistencies that you asked him
2 about, as indicated on page 49 which we've identified, was
3 why he didn't do anything with his knowledge, meaning Jay?

4 A Yes, ma'am.

5 Q Is that correct?

6 And he responded to all your questions, did he
7 not?

8 A Yes, he did.

9 Q And the one that -- he first told you that --

10 MR. URICK: Objection.

11 MS. GUTIERREZ: -- occurred --

12 THE COURT: Can I get the question?

13 MS. GUTIERREZ: The trunk pop that occurred at a
14 place he identified as a strip near Edmondson and Poplar
15 Grove?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Sustained.

18 BY MS. GUTIERREZ:

19 Q I'd refer you now to page 56. You specifically
20 advised -- McGilvery did, that they had the tape -- that
21 you all had the taped interview of February 28th, did you
22 not?

23 A Yes, ma'am.

24 Q Okay. And Detective McGilvery said there were a
25 lot of inconsistencies, did he not?

1 A Yes, ma'am.

2 Q And then Detective McGilvery says, "And to start
3 with, you indicated that you didn't know before Adnan
4 killing Hey, you didn't have any idea," correct?

5 A That is correct.

6 Q And Detective McGilvery said, "But then that's
7 wrong," is that correct?

8 A That is correct.

9 Q And the wrong was -- Detective McGilvery said,
10 "Well, you did have knowledge, right?"

11 A Yes.

12 Q And then began questions that involved other
13 inconsistencies, is that correct?

14 A Yes, ma'am.

15 Q And those are inconsistencies that were also
16 wrong, is that correct?

17 A That is correct.

18 Q Okay. And by wrong, did that mean untrue?

19 A I think some of the inconsistencies in Mr. Wilds'
20 statement was he didn't remember or he couldn't remember at
21 that particular time. Some of the inconsistencies, as far
22 as why he didn't tell us about other people and the
23 location where he first seen the car, we were able to
24 clarify those, and he explained why he said what he did and
25 also why he didn't notify the police.

1 Q And in regard to the inconsistency about where
2 the trunk pop took place?

3 A That is correct.

4 Q Okay. That wasn't something that he didn't
5 remember and, therefore, made up a different location, was
6 it?

7 A No.

8 Q He offered an explanation as to why he had told
9 you a place that didn't happen?

10 A That is correct.

11 Q And his explanation was that the videos on the
12 Best Buy lot show something and he didn't want to be
13 involved, right?

14 A Bear with me one second.

15 That is correct.

16 Q Is that correct?

17 A Yes, ma'am.

18 Q And he had told you up until that point that all
19 he had done at that location -- this is his second story --
20 was to walk over to the car and view the apparent dead body
21 of Hey Men Lee, correct?

22 A Well, he did other things on the parking lot. He
23 became involved in a brief confrontation with Adnan because
24 he couldn't believe what he was peering into when he looked
25 into the trunk or couldn't believe what he saw.

1 Q None of that information indicated that, from
2 what he told you, that he had anything to do with causing
3 the death of the body in the car, correct?

4 A That's correct.

5 Q And that at that time -- at the time that he was
6 at Best Buy, at the time the video would have been filming,
7 he had never said that he had done anything criminal?

8 A He knew that he had done something wrong.

9 Q My question was had he told you that he had done
10 anything criminal?

11 MR. URICK: Objection.

12 THE COURT: Sustained.

13 BY MS. GUTIERREZ:

14 Q Had he described any criminal activity related to
15 anything?

16 MR. URICK: Objection.

17 THE COURT: Sustained.

18 BY MS. GUTIERREZ:

19 Q In fact, exactly what he said when he was asked
20 by Detective McGilvery --

21 MR. URICK: Objection.

22 MS. GUTIERREZ: -- and I'll refer you to page 58
23 o that statement.

24 THE COURT: Ms. Gutierrez, if you're going to
25 read the statement, you'll be leading the witness, and that

1 objection is going to be sustained. If you want to ask him
2 what it was that was said or if you want to do it the other
3 way around --

4 BY MS. GUTIERREZ:

5 Q Was Mr. Wilds asked about why he lied about the
6 location from Edmondson Avenue to Best Buy, using that term
7 lie?

8 A Yes, ma'am.

9 Q Okay. And what exactly was Mr. Wilds asked?

10 A Detective McGilvery had asked him "Why would you
11 lie about the location?"

12 Q Okay. And you're reading from?

13 A Page 58, middle of the page.

14 Q And is that fifth or sixth line down?

15 A It's the ninth line down.

16 Q Oh, okay. Before asking that question,
17 Detective McGilvery had asked it before, had he not?

18 A Yes.

19 Q Okay. And that's six lines down?

20 A On the fifth line, as you said before. I'm
21 sorry.

22 Q And was the word lie in Detective McGilvery's
23 question?

24 A Yes, it was.

25 Q Okay. And in the second lie question, how did

1 Mr. Wilds answer?
2 A "Because I'm associated with it."
3 Q With it?
4 A With it.
5 Q And that was Wilds' answer to the question about
6 why?
7 A Yes.
8 Q And you were present during this?
9 A Yes, ma'am, I was.
10 Q Okay. And the transcript of this that you're
11 referring to was made in the ordinary course of business?
12 A Yes, it was.
13 Q And as Mr. Urick asked you, you reviewed this for
14 accuracy when it was made?
15 A Yes, ma'am.
16 Q And it was made by an employee of the Baltimore
17 City Police Department?
18 A Yes, Ms. Jackie Taylor.
19 Q And it is an accurate transcription of the
20 recording that was made?
21 A Other than the spelling errors and the grammar.
22 Q So the minor --
23 A Yes. The context is true and accurate.
24 Q And the answer that Jay Wilds provides, as you
25 read it to us, "Because I'm associated, I'm associated with

1 it," are there no spelling or grammatical errors, are
2 there?

3 A No, ma'am.

4 MS. GUTIERREZ: I would like to have this page
5 marked as Defense Exhibit 19.

6 (Whereupon, the document referred
7 to as Defendant's Exhibit No. 19
8 was marked for identification.)

9 MS. GUTIERREZ: May I approach the witness?

10 THE COURT: Yes, you may.

11 BY MS. GUTIERREZ:

12 Q I'd ask you to review this, Detective Ritz, with
13 your copy that --

14 Have you had a chance to review it?

15 A Yes, ma'am.

16 Q And is what I've handed you an exact copy of --

17 A Yes, it is.

18 Q And that's a true and accurate representation of
19 the transcript at page 58, the statement that Jay Wilds
20 made on March the 15th, 1999?

21 A Yes, it is.

22 MS. GUTIERREZ: I would move Defendant's
23 Exhibit 19 into evidence.

24 MR. URICK: Objection.

25 THE COURT: May I see the exhibit?

1 (Pause)

2 The objection is sustained.

3 Thank you.

4 BY MS. GUTIERREZ:

5 Q Did Mr. Wilds tell you in either of the
6 interviews about his transaction -- any transactions
7 involving illegal narcotics?

8 MR. URICK: Objection.

9 THE COURT: Can you repeat the question, please?

10 MS. GUTIERREZ: Did Mr. Wilds, in any of his
11 interviews, tell you about any of his transactions
12 involving illegal narcotics?

13 THE COURT: Sustained.

14 MS. GUTIERREZ: I have nothing further.

15 THE COURT: Thank you, Ms. Gutierrez.

16 Any recross? Re-recross?

17 MR. URICK: Just extremely briefly.

18 RECROSS EXAMINATION

19 BY MR. URICK:

20 Q What did you take Mr. Wilds to mean when he said
21 "I'm associated with it"?

22 MS. GUTIERREZ: Objection.

23 THE COURT: Sustained.

24 BY MR. URICK:

25 Q Did Mr. Wilds explain to you what he meant by

1 "associated"?

2 MS. GUTIERREZ: Objection.

3 THE COURT: Overruled.

4 Yes or no?

5 THE WITNESS: Yes.

6 BY MR. URICK:

7 Q Do you recall what his explanation was?

8 MS. GUTIERREZ: Objection.

9 THE COURT: Overruled.

10 THE WITNESS: Yes.

11 BY MR. URICK:

12 Q What was his explanation?

13 MS. GUTIERREZ: Objection. May I have a
14 continuing objection?

15 THE COURT: Yes, you may.

16 Overruled.

17 THE WITNESS: His association was with helping
18 Adnan dispose of the body, following Adnan as Adnan is
19 driving Hey Lee's vehicle from the Best Buy parking lot to
20 different locations and finally the burial site out in
21 Leakin Park. That was what he was referring to as his
22 association.

23 BY MR. URICK:

24 Q And you personally spoke to Jay Wilds, like you
25 personally spoke to Jennifer Pusitari, like you personally

1 spoke with Christine -- is that correct?

2 A That is correct.

3 Q Would it be fair to describe them as suburban
4 Woodlawn teenagers who were scared?

5 MS. GUTIERREZ: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 MR. URICK: No further questions?

9 THE COURT: Any further questions, Ms. Gutierrez?

10 MS. GUTIERREZ: Yes. If I may look at the last
11 exhibit.

12 REDIRECT EXAMINATION

13 BY MS. GUTIERREZ:

14 Q If you would again review page 58.

15 A Yes, ma'am.

16 Q The question before Mr. Wilds answer "Because I'm
17 associated with it" --

18 MR. URICK: Objection. Beyond the scope of the
19 recross.

20 MS. GUTIERREZ: -- was what question?

21 THE COURT: The question before the question?

22 MS. GUTIERREZ: No. The question to which
23 Mr. Wilds answered that line that you were just asked about
24 by Mr. Urick was what?

25 MR. URICK: Objection. Beyond the scope of the

1 recross.

2 THE COURT: Well, I don't have the exhibit in
3 front of me, so may I see the exhibit? And, Ms. Gutierrez,
4 if you could approximate the line that you're referring to?

5 MS. GUTIERREZ: It's sort of in the middle.

6 THE COURT: In the middle?

7 (Pause)

8 The objection is sustained.

9 BY MS. GUTIERREZ:

10 Q Were there any follow-up questions,
11 Detective Ritz, when he said "I'm associated with it"?

12 MR. URICK: Objection.

13 THE COURT: I believe I sustained the previous
14 question when the State asked to explain what associated
15 meant pursuant to the Defense objection. And so, I'm going
16 to be consistent and sustain this objection as to what was
17 meant, but if Detective Ritz can recall exactly what the
18 witness said he may tell us that.

19 THE WITNESS: Would you repeat the question
20 again? I'm sorry.

21 THE COURT: Do you understand my ruling,
22 Ms. Gutierrez?

23 MS. GUTIERREZ: I really don't, Judge.

24 THE COURT: The Court has sustained any
25 description of what Mr. Wilds meant by the word association

1 because of where we are in the case and the previous
2 questions and testimony. So therefore, the State was not
3 allowed to ask the question --

4 MS. GUTIERREZ: Okay. Let me try to --

5 THE COURT: -- to describe what association
6 meant. And now the Defense is being precluded from doing
7 that.

8 BY MS. GUTIERREZ:

9 Q On page 58 where Mr. Wilds answer "I'm associated
10 with it" appears --

11 A Yes, ma'am.

12 Q -- in regard to page 58, the questions that led
13 to that answer were related to the location of what?

14 MR. URICK: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: To where the murder had taken
17 place.

18 BY MS. GUTIERREZ:

19 Q Okay. And that was Best Buy?

20 A Yes, ma'am.

21 Q And this was -- did you ever receive any evidence
22 to suggest that burial took place at Best Buy?

23 A No.

24 Q No. And did you ever receive any information
25 that anything else related to the killing and burial of Hey

1 Lee took place at Best Buy?

2 A I'm not sure I'm understand the question because
3 it's two parts here.

4 Q From any source, including Mr. Wilds' later
5 statements, did you ever receive any information that any
6 other part of the killing or burial or anything that took
7 place between the killing and the burial actually took
8 place at Best Buy?

9 A The only thing that took place on the parking lot
10 of Best Buy was the murder of Hey Lee.

11 Q Of Hey Men Lee?

12 A Hey Men Lee, that's correct.

13 Q And Jay Wilds, to your knowledge, was he present
14 during the murder of Hey Men Lee?

15 A No, he was not.

16 Q The only time he saw the evidence of the murder
17 was at Best Buy?

18 A That is correct.

19 Q Did you ever receive any information from Jay
20 Wilds that indicated that he did anything other than look
21 at the body for 5 to 10 minutes in regard to the proximity
22 to Hey Men Lee's body? Five to 10 seconds?

23 A Are you talking about during the -- from the
24 initial murder to the burial or just at the homicide --

25 Q I'm just talking about at Best Buy.

1 A That was all he did, other than getting into an
2 argument with the Defendant.

3 Q Okay.

4 MS. GUTIERREZ: I would again move page 58 into
5 evidence.

6 MR. URICK: Objection.

7 THE COURT: Since parts of that exhibit are
8 not -- have not been testified to, the objection will be
9 sustained.

10 MS. GUTIERREZ: Well, then I would move that the
11 relevant part in and I could certainly redact the exhibit.

12 THE COURT: It's consistent with the witness's
13 testimony, as I've reviewed the exhibit. And therefore,
14 since the sum and substance of what is contained, the
15 admissible part has already been testified to, the
16 objection will be sustained.

17 MS. GUTIERREZ: I have no further questions.

18 THE COURT: Very well.

19 MR. URICK: Nothing from the State. Thank you,
20 Your Honor.

21 THE COURT: Thank you very much, detective, you
22 may step down.

23 May this detective be excused?

24 MS. GUTIERREZ: Yes, Your Honor.

25 THE COURT: And released from summonses,

1 Ms. Gutierrez?

2 MS. GUTIERREZ: Yes, Your Honor.

3 THE COURT: Mr. Urick?

4 MR. URICK: I don't --

5 THE COURT: You're not sure?

6 MR. URICK: I'm not sure. I just like to keep
7 him under --

8 THE COURT: All right. Detective, you are still
9 a sequestered witness then. You may not remain in the
10 courtroom and you need to just be aware you may be
11 recalled, so please be on alert status or in contact with
12 either my chambers or the State's Attorney's Office in the
13 event that we are looking for you to call you as a witness.
14 The State --

15 Do you want him to call your office, Mr. Urick,
16 or --

17 MR. URICK: I can get a hold of him on short
18 notice.

19 THE COURT: Very well. Very well.

20 (Whereupon, at 11:43 a.m., the witness was
21 excused.)

22 THE COURT: All right, your next witness,
23 Ms. Gutierrez?

24 MS. GUTIERREZ: Judge, can we take a short break
25 now? I know I have several witnesses but I'm not sure of

1 people's requirements.

2 THE COURT: Well, that might be an ideal time to
3 do that. I note that it is 11:30-ish and I do plan to go
4 on till about 12:15, like we did yesterday. I have
5 contacted Jury Commissioner and, with Mr. White's help,
6 they are going to be looking for you again today at about
7 12:15, where you will be paid and then you will go over --
8 unless you have already been there. You have not, correct?
9 Some of you have been over and some of you have not, is
10 that it?

11 For those of you who have not, they are available
12 at 12:15.

13 And so, we will take a brief recess now. If
14 you'll go with the deputy sheriff. And as you exit, I'll
15 remind you to leave your notepads face-down, not to discuss
16 the testimony of Detective Ritz or any other witness. You
17 have not heard all the witnesses and you have not been
18 instructed as to the law, nor have you heard closing
19 argument of counsel. It would be inappropriate to discuss
20 this case among yourselves or with anyone else.

21 Please go with Deputy Sheriff Church, and when
22 we're ready for you, we will have you walked back.

23 (Whereupon, at 11:44 a.m., the jury was excused.)

24 THE COURT: I would allow you to take a recess,
25 counsel, as well.

1 (Whereupon, the trial was recessed at 11:44 a.m.
2 and subsequently reconvened at 11:55 a.m.)

3 (Jury not present)

4 THE COURT: Please be seated.

5 MS. GUTIERREZ: Judge, the subpoena that I asked
6 you to sign did get served, and that witness will be here
7 the first witness after lunch.

8 THE COURT: Very well.

9 MS. GUTIERREZ: So we'll be fine.

10 THE COURT: Is the deputy sheriff out there?

11 Mr. Buddemeyer, please step up, please. I think
12 you're the next witness.

13 MR. DAVIS: Yes, ma'am. Thank you.

14 THE COURT: Just come on around and have a seat
15 for a moment, until we can get the jury back.

16 MS. GUTIERREZ: Do you have a copy of the
17 records, Mr. Davis?

18 THE COURT: I'm sorry, your last name is?

19 MR. DAVIS: Davis, Andrew Davis.

20 THE COURT: Davis. I don't know why I wanted to
21 call you Buddemeyer.

22 MR. DAVIS: That's okay. I answer to all kinds
23 of things these days. Thank you.

24 (Pause)

25 (Whereupon, at 11:58 a.m., the jury returned to

1 the courtroom.)

2 THE COURT: Mr. Davis, I need you to raise your
3 right hand when you get a moment.

4 Whereupon,

5 ANDREW DAVIS

6 was recalled as a witness at 11:59 a.m., and after having
7 been first duly sworn, was further examined and testified
8 as follows:

9 THE CLERK: You may be seated.

10 THE WITNESS: Thank you.

11 THE CLERK: You're welcome.

12 MS. GUTIERREZ: Judge, I'd like to approach the
13 witness.

14 THE COURT: Certainly. Let him state his name and
15 his --

16 MS. GUTIERREZ: -- as Defendant's Exhibit No.
17 20 -- authenticity -- stipulated to.

18 (Whereupon, the document referred
19 to as Defendant's Exhibit No. 20
20 was marked for identification.)

21 THE COURT: For the record, ladies and gentlemen,
22 there are some records that have been stipulated to by
23 counsel.

24 Ms. Gutierrez, the jurors have been asked to
25 raise their hand when they cannot hear, and what you just

1 said, they are signaling they could not hear.

2 MR. URICK: We only stipulate to authenticity,
3 not to --

4 THE COURT: I understand that, the authenticity
5 of the records. That's what she said and that's what I was
6 attempting to repeat for the benefit of the juror who
7 raised his hand and indicated he could not hear.

8 That's Exhibit No. 20, correct?

9 MS. GUTIERREZ: Yes.

10 THE COURT: Very well.

11 MS. GUTIERREZ: Mr. Davis --

12 THE CLERK: Excuse me. Let me get his name and
13 his --

14 MS. GUTIERREZ: Oh, I'm sorry.

15 Recalling Andrew Davis.

16 THE WITNESS: Yes, ma'am, my name is Andrew
17 Davis. My address is 207 East Redwood Street, Suite 703,
18 Baltimore, Maryland 21202. Employed as a private
19 investigator.

20 DIRECT EXAMINATION

21 BY MS. GUTIERREZ:

22 Q Mr. Davis, just if you can, were you employed as
23 a private investigator in the defense of Adnan Syed?

24 A Yes, ma'am, that's correct.

25 MS. GUTIERREZ: May I approach the witness?

1 THE COURT: Yes, you may.

2 BY MS. GUTIERREZ:

3 Q Mr. Davis, I'm going to show you what's been
4 marked as Defendant's Exhibit 20 and ask if you've seen
5 them and you know what they are?

6 A Yes, ma'am, I have and, yes, ma'am, I do.

7 Q What are they?

8 MR. URICK: Objection.

9 THE COURT: I'm going to need to see what it is
10 that the witness has. Mr. White can assist.

11 (Pause)

12 Counsel, and when you say what are they, you're
13 asking as to all the items that are attached as Exhibit
14 No. 20 for identification?

15 MS. GUTIERREZ: Yes, Judge. The generic term for
16 what they are.

17 THE COURT: You may answer the what are they
18 question, if you know, if that --

19 That question is overruled.

20 THE WITNESS: Yes, ma'am. These are discovery
21 that has been provided to the Defense by the State, and
22 what they actually are are bank records from Hey Men Lee.

23 BY MS. GUTIERREZ:

24 Q And do they cover the use of an ATM card
25 associated and given to Hey Men Lee?

1 A Yes, ma'am.

2 Q I'd like to direct your attention to where I put
3 the little pink sticky, and if you would locate the date of
4 1/13, 1999.

5 A Yes, ma'am, I have it.

6 Q And do those records indicate that Hey Men Lee
7 used her ATM card on that date?

8 A Yes, ma'am, they do.

9 Q And where does it indicate -- what do those
10 records reveal --

11 MR. URICK: We're withdrawing the objection to
12 the admission of the document.

13 MS. GUTIERREZ: -- as to her use of the ATM card
14 on that date, the 13th of January 1999?

15 THE COURT: You may answer.

16 THE WITNESS: Thank you.

17 It states that this card was used for a purchase
18 of \$1.71 at Crown, 11902940 Baltimore, Maryland.

19 BY MS. GUTIERREZ:

20 Q Okay. And did you have occasion to determine
21 where the Crown, that number, is located?

22 A Yes, ma'am.

23 Q And where is that Crown located?

24 A That group of numbers actually indicates that
25 it's Crown No. 29, and Crown No. 29 is located at the

1 intersection of Harford Road and Northern Parkway in
2 Baltimore, Maryland.

3 Q And are you familiar with that intersection,
4 Harford Road and Northern Parkway?

5 A Yes, ma'am.

6 Q And where is that located? Is that in Baltimore
7 City?

8 A Yes, ma'am, it is.

9 Q And where is that location in relationship to the
10 Woodlawn area of Baltimore County?

11 A It's not close to Woodlawn. I wouldn't say it's
12 on the opposite side of the city but it's pretty far on the
13 way to the opposite side of the city.

14 Q Okay. And did you have an occasion to visit that
15 particular property?

16 A Yes, ma'am.

17 Q And do the bank records indicate what time the
18 use of the ATM card was? What time it occurred?

19 A This printout from NationsBank does not indicate
20 the time that the card was used.

21 Q Okay. In your visiting that particular Crown,
22 did you determine whether or not someone could use the ATM
23 outside, like at the pump?

24 A Yes, ma'am, I did determine that.

25 Q And can you do that at that Crown?

1 A No, ma'am, you can't.

2 Q What is required to use an ATM at that specific
3 location?

4 A You actually have to present the card to cashier
5 in person.

6 Q Okay. And is that inside as opposed to
7 outside --

8 A Yes, ma'am.

9 Q -- the Crown building?

10 A Yes, ma'am.

11 Q Okay. And did you determine whether or not
12 records would have been made indicating the time of that
13 purchase?

14 A Yes, ma'am. Crown is obligated to maintain its
15 records for a period of one year after a purchase was made.

16 Q Did you determine whether -- were you ever -- did
17 you attempt to locate those records?

18 A Yes, ma'am, I did.

19 Q And were the Crown people helpful in assisting
20 you in doing that?

21 A Yes, ma'am. The owners, yes, ma'am.

22 Q Were you able to locate the records that would
23 indicate that that ATM that's indicated on the bank records
24 was used at that time?

25 A No, ma'am.

1 Q And was that because they didn't exist?

2 A That's correct.

3 Q And did they -- did you determine whether or not
4 they ever existed?

5 A Yes, ma'am.

6 Q And what did you so determine?

7 A Those records existed up to as late as October of
8 1999. The records were actually kept at the owner's
9 residence, Jeff Weelis (phon. sp.), in his garage. He has
10 three Rottweilers, and they tore the garage apart one day
11 and destroyed all the records that he had kept in this
12 garage and were since thrown away, as late as October of
13 last year.

14 Q Okay. By October, you mean just a couple months
15 ago, October?

16 A Yes, ma'am.

17 Q And did you determine that in the records that
18 had been destroyed would have been records that relate to
19 January 13th?

20 A Yes, ma'am, that's correct.

21 Q From speaking to the owner and visiting the
22 Crown, did you determine what was bought that was
23 covered --

24 MR. URICK: Objection.

25 MS. GUTIERREZ: -- by the \$1.71 entry for the use

1 of the ATM card?

2 THE COURT: Sustained as to that question.

3 BY MS. GUTIERREZ:

4 Q Did you determine if the records would have
5 revealed a purchase -- what the purchase was that was
6 represented by the \$1.71 entry on the ATM records?

7 MR. URICK: Objection.

8 THE COURT: Overruled.

9 Yes or no? Not what was purchased but yes, you
10 were able to and the records would have, or no, the records
11 would not.

12 THE WITNESS: The answer is yes.

13 BY MS. GUTIERREZ:

14 Q And in regard to that information, would that --
15 did you determine whether or not that information, meaning
16 what the purchase would have been, would have been
17 contained in the same records that you sought to obtain
18 that would indicate the time of the sale?

19 MR. URICK: Objection.

20 THE COURT: I believe it's been asked and
21 answered now. He's just said yes.

22 MS. GUTIERREZ: No, Judge, this is as to what the
23 purchase was. I've asked him about -- the records that
24 would indicate the time of the sale and neglected then to
25 ask did he determine whether or not those very same records

1 would have indicated the purchase.

2 THE COURT: Very well.

3 Yes or no, and don't say what the item was or
4 what you were told.

5 THE WITNESS: Yes, ma'am.

6 Yes.

7 BY MS. GUTIERREZ:

8 Q Yes. Okay. Those were the same records that
9 were destroyed sometime in October of 1999?

10 A That's correct.

11 Q Is it your understanding that those same records
12 would have been available, meaning to determine the
13 purchase of the sale all the way up to October of 1999?

14 A That's correct.

15 MS. GUTIERREZ: I would move Defendant's
16 Exhibit 20 into evidence.

17 THE COURT: Any objection?

18 MR. URICK: No objection.

19 THE COURT: Let it be admitted.

20 (Whereupon, the document referred
21 to as Defendant's Exhibit No. 20
22 was received into evidence.)

23 MS. GUTIERREZ: I have no further questions at
24 this time.

25 THE COURT: Any questions?

1 MR. URICK: Yes.

2 CROSS-EXAMINATION

3 BY MR. URICK:

4 Q Good afternoon, Mr. Davis.

5 A Hi, Mr. Urick.

6 Q Now, the column --

7 MR. URICK: Could the witness see the exhibit
8 again that he was just looking at, please?

9 THE WITNESS: Thank you.

10 BY MR. URICK:

11 Q Do you have a credit card of your own?

12 A A credit card? Yes, sir.

13 Q Now, you see the far left column, that says "Date
14 Posted," does it not?

15 A Yes, sir.

16 Q Now, date posted is not the same thing as date
17 transacted, is it?

18 MS. GUTIERREZ: Objection.

19 THE COURT: Overruled.

20 If you know.

21 THE WITNESS: I do know because I spent numerous
22 hours with Crown receipts and had this fully explained to
23 me, so I can answer your question.

24 BY MR. URICK:

25 Q Go ahead.

1 A On this purchase date, that would -- the 13th
2 would, in fact, be the date that purchase was made.
3 Because of the procedure that Crown uses to batch out, they
4 do four batches a day which -- in that time period, which
5 would allow them to show what actual purchases were made
6 that day and then actually send the batch through to the
7 credit card company.

8 Q Now, you're aware that Ms. Lee -- well, this is a
9 24-hour Crown, correct?

10 A Yes, sir.

11 Q And you're aware that Ms. Lee was dating a Donald
12 Kleindenst (phon. sp.), correct?

13 A Was dating Donald Kleindenst?

14 Q Yeah.

15 A Yes, sir.

16 Q And if the night before she had been with him and
17 was coming home, she might have stopped at this Crown place
18 at 12:05, 12:30, to get a soda, is that correct?

19 MS. GUTIERREZ: Objection.

20 THE COURT: Sustained as to what might have
21 happened.

22 BY MR. URICK:

23 Q And the records show that there are absolutely no
24 transactions on this ATM card after January 13th, is that
25 correct?

1 A The next date here posted is 1/27.

2 Q That's the monthly maintenance fee?

3 A And I was going to explain that. That's what is
4 presented here, yes, sir.

5 Q So there is no use of that ATM card after this
6 purchase of \$1.71 that was made on -- sometime on January
7 13th? Absolutely no other transactions on that ATM card?

8 A Just the monthly maintenance.

9 MR. URICK: Okay, thank you.

10 THE COURT: Thank you very much.

11 MS. GUTIERREZ: Nothing further.

12 THE COURT: May this witness be excused?

13 MS. GUTIERREZ: Yes, Judge, he may.

14 THE COURT: May this witness be released?

15 MS. GUTIERREZ: Yes, yes.

16 THE COURT: And counsel?

17 MR. URICK: No, we have no further questions of
18 him.

19 THE COURT: Very well.

20 Mr. Davis, you're released from summons and if
21 you would like to remain in the courtroom, you may. You
22 may not discuss your testimony with anyone who is yet to be
23 a witness in this case.

24 THE WITNESS: Yes, ma'am. Thank you.

25 (Whereupon, at 12:11 p.m., the witness was

1 excused.)

2 THE COURT: Your next witness, Ms. Gutierrez.

3 MS. GUTIERREZ: Judge, I do have some witnesses.
4 They are going to be lengthy. In light of the fact that
5 you're going to -- I think it might be appropriate to not
6 start them.

7 THE COURT: We'll take a lunch break now. Please
8 understand that we will be back by 1:15.

9 MS. GUTIERREZ: That's fine.

10 THE COURT: Very well.

11 MS. GUTIERREZ: That's fine.

12 THE COURT: Ladies and gentlemen, it's a few
13 minutes after 2 -- I'm sorry, after 12. They'll be looking
14 for you in Jury Assembly, and that'll give them 15 or so
15 minutes, so why don't we say 1:30? That gives you enough
16 time to get over there, get paid, and still have an hour
17 for lunch. One-thirty, I'll give you till 1:30, but I'm
18 giving counsel till 1:15 because you don't have to go to
19 the Jury Commissioner's office.

20 MS. GUTIERREZ: I wish.

21 THE COURT: All right. So if counsel could be
22 back at 1:15 and the jurors will be back at 1:30, we will
23 resume this case.

24 I'm going to ask you once again to leave your
25 notepads face-down and not to discuss the testimony of

1 anyone you've heard today or any other day, not to discuss
2 it amongst yourselves or with anyone else. You have not
3 heard all the evidence and you've not heard all the
4 witnesses, nor have you heard closing argument or been
5 instructed as to the law.

6 I'd ask you to go to lunch now and return by
7 1:30, at which time we will resume this matter. Have a
8 wonderful lunch and I'll see you back at 1:30.

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

11 ooOoo

12 AFTERNOON SESSION (1:48 p.m.)

13 (Jury not present)

14 MS. GUTIERREZ: Mr. Chaudry, would you take the
15 stand?

16 (Whereupon, at 1:49 p.m., the jury returned to
17 the courtroom.)

18 MS. GUTIERREZ: The Defense would call Saad
19 Chaudry to the stand.

20 THE COURT: Mr. Chaudry, will you please stand?

21 This is Mr. White. Raise your right hand,
22 please, and listen to what he has to say.

23 Whereupon,

24 SAAD CHAUDRY

25 was called as a witness at 1:50 p.m., and after having been

1 first duly affirmed, was examined and testified as follows:

2 THE CLERK: Take a seat. Please keep your voice
3 up. State your name for the record.

4 THE WITNESS: Saad Chaudry.

5 THE CLERK: Spell your first and last name for
6 the record.

7 THE WITNESS: First name is Saad, S-A-A-D, last
8 name's Chaudry, C-H-A-U-D-R-Y.

9 THE CLERK: State your address for the record.

10 THE WITNESS: [REDACTED] Valley Drive,
11 Catonsville, Maryland 21228.

12 THE COURT: Witness with you, Ms. Gutierrez.

13 MS. GUTIERREZ: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MS. GUTIERREZ:

16 Q Mr. Chaudry, are you currently a student?

17 A Yes, I am.

18 Q Where is that?

19 A At Catonsville Community College.

20 Q And what year are you in?

21 A This is my freshman year.

22 Q And what are you studying?

23 A I'm in the Honors Program but right now it's just
24 general courses.

25 Q All right. Now, Mr. Chaudry, let me direct your

1 attention back to the school year that would have begun in
2 September of 1998 and run through May of 1999. Were you a
3 student then?

4 A Yes, I was.

5 Q Where?

6 A At Mount Hebron High School.

7 Q And where is Mount Hebron High School located?

8 A In Ellicott City.

9 Q All right. And did you -- your home address
10 currently is located where?

11 A In Catonsville, Maryland.

12 Q In Catonsville. And did you live there last
13 year?

14 A At the end of last year, I moved to Catonsville.

15 Q All right. Now, Mr. Chaudry, let me direct your
16 attention back to the school year again, beginning in
17 September of '98, ending through May of '1999. Were you a
18 member of any religious faith?

19 A Yes.

20 Q And what faith was that?

21 A I'm Muslim.

22 Q You're Muslim. And did you practice at any
23 particular mosque that you practiced your faith or were a
24 member of?

25 A The mosque I attended was the Al Ragman Mosque.

1 Q And does it have another name?

2 A It's located on Johnnycake. Islamic Society of

3 Baltimore.

4 Q Okay. And where is it located?

5 A On Johnnycake Road.

6 Q And how long have you been a member of that

7 mosque?

8 A About four years.

9 Q And is your family a member of that mosque?

10 A Yes.

11 Q All right. Now, through that mosque, did you

12 come to know one Adnan Syed?

13 A Yes, I have.

14 Q Could you tell us how that came about?

15 A I met him the summer before my freshman year of

16 high school and I just met him at the basketball courts

17 outside of the mosque.

18 Q Okay. Now, is he your age?

19 A Yes, he is.

20 Q From the time that you met him, at some point

21 afterward, did you develop a relationship with him?

22 A Yes.

23 Q And how would you describe that relationship?

24 A Good friends.

25 Q All right. Now, how often did you have an

1 occasion to see him at the mosque?

2 A At times, it would be almost every other day but
3 sometimes it would be weekly.

4 Q Sometimes it would be weekly. And what would,
5 what would that depend upon?

6 A Whether we had school or not. In the summer, I'd
7 be there almost every day or every other day, but during
8 school, most likely, it was a weekly basis.

9 Q As between yourself and Adnan Syed, who was at
10 the mosque more often?

11 A Adnan.

12 Q And to your awareness, how close to the mosque
13 did he live?

14 A Less than a mile. He was very close.

15 Q Okay. And, Mr. Chaudry, did your -- the rest of
16 your family belong to the mosque?

17 A Yes.

18 Q And did the rest of Adnan's family belong to the
19 mosque?

20 A Yes, as far as I know.

21 Q What are the obligations of Muslims or the
22 encouragement of Muslims in regard to ordinary days of the
23 year and praying?

24 A The Muslims pray at least five times a day.

25 Q And is it required that the praying take place at

1 a specific location?

2 A No, it's not.

3 Q And is the mosque open to accommodate Muslims
4 coming to the mosque to pray?

5 A Yes, it is.

6 Q And does that include students such as yourself
7 who would still be in high school?

8 A Yes.

9 Q And are you encouraged to pray five times a day?

10 A Yes, I am.

11 Q And is there any tenet of the faith that requires
12 you to go to the mosque to pray?

13 A Nothing that requires me to go to the mosque to
14 pray.

15 Q But it urges you to do so?

16 A Yes.

17 Q All right. Now, during the regular year in
18 regard to attendance at the mosque for prayer in the
19 evening, were you a better attender or was Adnan?

20 A Adnan.

21 Q Okay. And how did you know that?

22 A Well, one of the ways I met him was going to the
23 mosque. You know, almost every time I went, which was
24 occasionally, he would be there. So that's how I met him.

25 Q Did you also speak to him about that? About

1 going to the mosque and --

2 A Not really. I just knew that he was there. I
3 didn't speak to him about it.

4 Q In addition to the mosque -- is that located
5 inside a building?

6 A Yes, it is.

7 Q Okay. And are there other activities that
8 involved, particularly, young men of high school age on the
9 mosque property?

10 A Yes. There's basketball courts there where a lot
11 of young men get together and play.

12 Q Okay. And is there a -- anything akin to what
13 Christians might call a Sunday School for young people?

14 A To some extent. They have, like, youth groups,
15 things like that.

16 Q Youth groups?

17 A Yeah.

18 Q Do they have different groups for girls and boys?

19 A Yes.

20 Q Okay. And did you participate in any of those?

21 A No, not really.

22 Q Did Adnan participate in those?

23 A More than I have -- more than I did, you know, to
24 what I thought.

25 Q Okay. Let me direct your attention to

1 approximately December of -- January, both of this year,
2 last year, and all other years in which you've belonged to
3 the mosque. Is there a special Holy Month in Islam?

4 A Yes.

5 Q What is that called?

6 A Ramadan.

7 Q And when does that occur?

8 A Every year it's a little different, just slightly
9 off because of the Islamic calendar, but last year it
10 occurred during December or January. Around January
11 sometime, I'm not really too sure.

12 Q And although it may vary from year to year, is it
13 predicted according to events of the calendar?

14 A Yeah.

15 Q I'm going to show you, Mr. Chaudry, something
16 that's been admitted into evidence as Defendant's
17 Exhibit 5. Could you take a look at that?

18 A Yeah, I know what it is.

19 Q And having looked at that, can you identify what
20 that was?

21 A Yeah. This is a calendar for the month of
22 Ramadan.

23 Q For what year?

24 A Well, the Islamic year is 1419 but --

25 Q But the A.D. year?

1 A Is 1998-1999, December and January.

2 Q Okay. And does that reflect the exact dates of
3 Ramadan?

4 A Yes, it does.

5 Q Now, Mr. Chaudry, during Ramadan, what if any
6 other obligations are imposed on Muslims?

7 A They're obligated to fast.

8 Q To fast, and what does fasting mean?

9 A Fasting is withstaining (sic) from food or drink
10 or, like, backbiting, lying, you know. Basically, you
11 restrain yourself from any, like, any, like -- I don't
12 know, like bad deeds or like bad things you could during
13 that time.

14 Q And fasting, when is it to occur?

15 A During the day, from sunrise to sunset.

16 Q Sunrise to sunset. And are there special other
17 obligations in regard to prayer?

18 A During the evenings, during each day of Ramadan,
19 they have, I guess, a congregation that they -- most of the
20 men -- most people come and pray in the evenings.

21 Q More on days outside of Ramadan?

22 A Yes, that's right.

23 Q Okay. And is there anything special or
24 proscribed about the prayers?

25 A They're supposed to be more meaningful and, you

1 know, it's best to go if you can go, because a lot of
2 people do attend.

3 Q Go to the mosque?

4 A Yeah.

5 Q Okay. And are there any occasions during the
6 month of Ramadan in which members of the community are
7 invited to lead the community in prayers?

8 A Yes.

9 Q And is there any honor associated with being
10 asked to lead the prayers?

11 A Yes, there is.

12 Q And what is that?

13 A Usually, the person that leads the prayers in an
14 honorable person in that, like, he has the respect of the
15 other members to follow behind him while he's leading.

16 Q During Ramadan of last year, which began in late
17 December of 1998, is that right?

18 A Yes.

19 Q And went through late January 1999, during that
20 period of time, was there any occasion that you became
21 aware of where Adnan led the prayers?

22 A Yes.

23 Q How did you become aware of that?

24 A I heard it through Adnan and through other
25 members of the community.

1 Q Okay. And were you present on the day that he
2 led the prayers?

3 A No, I was not.

4 Q Was there anything unusual about that?

5 A No, not really. I was -- I try to attend as much
6 as I can but it was off and on.

7 Q During that period of time, during December and
8 January, you were a full-time high school student?

9 A Yes.

10 Q And the high school student that you -- the high
11 school you attended was actually in Howard County?

12 A Yes, that's correct.

13 Q In driving distance, how long is that from the
14 mosque?

15 A About 10 miles.

16 Q All right. And during that time period,
17 specifically, in addition to your full-time duties at
18 school, did you participate in any extracurricular
19 activities?

20 A Yes. I played basketball.

21 Q You played basketball?

22 A Yeah.

23 Q And for whom did you play basketball?

24 A Mount Hebron High School.

25 Q And what did that require in regard to your time

1 and when?

2 A Every day we'd either have a game or practice
3 which would either -- would last about two, three hours.

4 Q And were some of those games located at places
5 other than Mount Hebron?

6 A Yes.

7 Q Did you fast during that Ramadan?

8 A Yes.

9 Q And did that impact on your basketball playing?

10 A To some extent, but most of the games were played
11 after sunset, so I was able to eat and drink.

12 Q So you would fast, then break the fast?

13 A Yeah, I was able to break it.

14 Q And then -- sir, were there -- did you ever not
15 fast?

16 A Yes.

17 Q Okay. And on days that you didn't fast did you
18 have to seek dispensation from anyone?

19 A No.

20 Q From your parents?

21 A No.

22 Q From elders at the mosque?

23 A No.

24 Q Or any other Muslim?

25 A No.

1 Q From the Creator?

2 A Well, I mean, I really didn't think of it like
3 that, but just a day I didn't fast for like -- it was my --
4 you know, it was like my business if I fasted or not, so I
5 didn't really discuss it.

6 Q Your business as to whether or not you, as a
7 young Muslim, follow what you're encouraged to do?

8 A Yeah.

9 Q And not anybody else's?

10 A Yes.

11 Q And if you did not follow that encouragement, was
12 there any other person alive anywhere who you would be
13 required to seek permission of --

14 A No.

15 Q -- for not following something such as fasting?

16 A No.

17 Q Or the requirement of praying?

18 A No.

19 Q When you couldn't make the prayers, particularly
20 at night, did you pray elsewhere?

21 A Yes.

22 MR. URICK: Objection as to the form of the
23 question.

24 THE COURT: Sustained.

25 BY MS. GUTIERREZ:

1 Q When you could not make prayers, as encouraged by
2 your religion, at the mosque, what did you do?

3 A I prayed at home.

4 Q And was that your custom?

5 A Yes.

6 Q And is praying at home acceptable in your
7 religion?

8 MR. URICK: Objection.

9 THE WITNESS: Yes, it is.

10 THE COURT: Sustained.

11 BY MS. GUTIERREZ:

12 Q Now, sir, let me direct your attention back again
13 to Ramadan of last year. Did you have occasion to see
14 Mr. Syed?

15 A Yes.

16 Q And was he your friend?

17 A Yes, he was.

18 Q And did that include the whole time period of
19 December-January, December '98-January '99?

20 A Yes.

21 Q And how was it that you had occasion to see him?

22 A Usually, on weekends or Friday nights we'd hang
23 out.

24 Q What would you do when you would hang out?

25 A Chill at his place, he'd come over to my house.

1 We'd go out, go to movies, get something to eat. Nothing
2 too much.

3 Q According to the Islamic faith, is there any
4 encouragement on behavior in regard to young people dating?

5 A Yes, there is.

6 Q And what is that?

7 A The encouragement is to not date and to separate
8 yourself from -- if you're a young man, to separate
9 yourself from young women.

10 Q And if you're a young girl?

11 A The same. Separate yourself from young men.

12 Q And is there any encouragement in regard to
13 premarital sex between young men and women?

14 A Yes, there is.

15 Q And what is that?

16 A Not to do it.

17 Q Not to have any premarital sex?

18 A Yes.

19 Q And to again direct your attention back to the
20 school year beginning in September of 1998 through May of
21 1999, did you become aware of whether or not your friend
22 Adnan Syed was dating a young woman?

23 A Yes.

24 Q And how did you become aware of that?

25 A He told me.

1 Q And did you come across what the young woman's
2 name was?

3 A Her name was Hey.

4 Q And did you meet her?

5 A Yes.

6 Q On how many occasions did you meet her?

7 A I met her once.

8 Q In regard to you, did Adnan, after having told
9 you about it, even hide the fact that he was dating her?

10 MR. URICK: Objection.

11 THE COURT: Sustained.

12 BY MS. GUTIERREZ:

13 Q On the occasion that you met her, what was that?

14 A I met her at the Woodlawn Spring Musical.

15 Q All right. And was that a school function?

16 A Yes, it was.

17 Q And was that a function in which Adnan did any
18 performance?

19 A No, he did not.

20 Q And was there anybody that you knew that was
21 doing a performance at that function?

22 A She was.

23 Q Who is the she?

24 A Hey.

25 Q Okay. And was that the occasion in which you met

1 her?

2 A Yes.

3 Q And why -- you never attended Woodlawn, did you?

4 A No.

5 Q Okay. And why is it or how is it that you came
6 to be there?

7 A I came with Adnan.

8 Q Okay. And had he invited you?

9 A Yes.

10 Q And did you know of his relationship with Hey and
11 dating prior to that event?

12 MR. URICK: Objection.

13 THE COURT: Overruled.

14 Did you know about the relation prior to that,
15 yes or no?

16 THE WITNESS: I think the relationship was just
17 starting then.

18 BY MS. GUTIERREZ:

19 Q And did you continue to receive information about
20 that relationship?

21 A Yes.

22 Q From whom?

23 A Adnan.

24 Q Okay. And was it a regular topic of
25 conversation?

1 A To some extent. Yeah, occasionally we'd talk
2 about it.

3 Q Prior to your receiving information about his
4 dating relationship with Hey Men Lee, had you ever known
5 him to date anyone else?

6 A Yes.

7 Q And when had that occurred?

8 A He would date other girls but it wasn't like,
9 like regularly. Like, he didn't have a girlfriend, but I
10 know him for dating girls.

11 Q Do you know when that occurred?

12 A Not a precise date but, I mean, before he met
13 her, like, just occasionally -- I mean, every weekend or
14 so. I don't know.

15 Q Did you become aware of any time in which Adnan
16 and Hey Men Lee stopped dating?

17 A From what I heard, it was after Homecoming,
18 Woodlawn's Homecoming.

19 Q And when would that have been, if you know?

20 A About the fall of 1998.

21 Q And after you heard about that -- and from whom
22 did you hear about that breakup?

23 A Adnan.

24 Q And after you heard about that breakup, did there
25 come a time when you got further information about their

1 relationship?

2 A Not really, no.

3 Q Did you ever hear from any source that they were

4 back again dating?

5 A Later on, from Adnan I did.

6 Q Okay. And after you heard that they were back

7 again dating, did you ever hear further that they again

8 stopped dating?

9 A Yes, I did.

10 Q And from whom did you get that information?

11 A Adnan.

12 Q And if you know, can you tell us when that was

13 when they stopped dating?

14 A The second time?

15 Q Yes.

16 A That was, I guess, around Christmastime,

17 somewhere around there.

18 Q Before Christmastime?

19 A I'm not really sure. Just around it.

20 Q Just to make sure, Mr. Chaudry, is Christmas an

21 event that Muslims celebrate?

22 A No.

23 Q Is Christmas an event that is marked in any way

24 on the Islamic calendar?

25 A Not that I'm aware of.

1 Q Now, Mr. Chaudry, when you heard that Adnan had
2 broken up for the second time, from whom did you hear that?
3 A Adnan.
4 Q And at the time that he told you, what was his
5 demeanor, in what you could observe?
6 A He was pretty laid back. He just told me that
7 they broke up, and I wasn't too surprised.
8 Q And why was that?
9 A Because Adnan was showing interest in other
10 girls.
11 Q And how did you know that?
12 A From him. He told me that he had met some other
13 girls.
14 Q And what else did you become aware of? Did you
15 know any of the girls?
16 A Yeah. He told me he met this one girl and he
17 even went to visit her at --
18 Q And was that?
19 A Her name's Angeli.
20 Q Angeli, and where is it that Angeli lived?
21 A She is near Philadelphia at college, at Bryn Mawr
22 Q Bryn Mawr College?
23 A Yes.
24 Q And to your knowledge, did Adnan share that
25 information with Hey Men Lee prior to the breakup?

1 A No.

2 Q Did that surprise you?

3 A No.

4 Q And were there any other girls that you were
5 aware of?

6 A I knew Adnan had met, you know, a few girls but
7 not that -- you know, not too much. I didn't ask him too
8 much about it.

9 Q Now, in the entire time, from the time that you
10 heard that Hey Men Lee and Adnan began dating, were you
11 aware that that was against the advice of the Muslim
12 religion?

13 A Yes.

14 Q As a result of being so aware, did you tell
15 anybody?

16 A No.

17 Q Did you report him to anybody?

18 A No.

19 Q Did you chastise him?

20 A No.

21 Q Why not?

22 A It was pretty common.

23 Q What do you mean by that?

24 A A lot of young Muslim men date, so it wasn't, you
25 know, anything special to me. It wasn't anything --

1 Q Even though they're not supposed to?

2 A Yeah, that's right.

3 Q And does nobody report them?

4 A Not that I know of, no.

5 Q And is there any punishment that is meted out for

6 a young man who chooses to date against his religion?

7 A . Not that I know of.

8 Q And when you say it's common, it's common among

9 whom?

10 A Among young men at our -- in our community

11 center, in our community.

12 Q At your mosque?

13 A Yes.

14 Q The one off of Johnnycake Road?

15 A Yes, that's right.

16 Q Are the adults in the mosque aware of how common

17 it is?

18 A To some extent, maybe, but it seems like they

19 turn -- you know, they don't know too much.

20 Q Is their state of ignorance of all that a state

21 of ignorance that is encouraged by the young people?

22 A Yeah.

23 Q Do the young men that you're aware of that date

24 against the encouragement of their faith, do they date

25 young women from the mosque community?

1 A Some of them do but most of them don't, I don't
2 think.
3 Q And why is that?
4 A Well, as far as, like, from my family, it's --
5 like, my sisters were a lot sheltered than I was.
6 Q Is that common in your community?
7 A Yes, I think it is.
8 Q Okay. So who do they date, if not --
9 A Usually, non-Muslim girls.
10 Q Non-Muslim girls?
11 A Yes, that's right.
12 Q From other communities?
13 A Yes.
14 Q Okay. Did you become aware if Adnan, after his
15 breakup with Hey, increased interest in other young women?
16 A Yes.
17 Q And what communities did those young women come
18 from?
19 A They were Indian but they weren't Muslim.
20 Q They were not Muslim?
21 A Yeah.
22 Q What religion were they?
23 A I believe they were Hindu but I'm not --
24 Q Hindu?
25 A Yeah.

1 Q And are you aware of any proscriptions, meaning
2 any edicts, that prohibit dating among Hindu young women?

3 A From having friends from that culture and from
4 that religion, it's also not looked upon to be good,
5 either.

6 Q Similar to the Muslim community?

7 A Yes, that's right.

8 Q But in your experience, do the young people of
9 the Hindu community also greatly ignore that?

10 A Yes.

11 MR. URICK: Objection.

12 THE COURT: Overruled.

13 BY MS. GUTIERREZ:

14 Q During that period of time, Mr. Chaudry, were you
15 dating?

16 A Yes, I was.

17 Q And were you dating -- when you were dating, were
18 you fully aware that that was behavior that at least was
19 not encouraged by your community?

20 A Yes.

21 MR. URICK: Objection.

22 THE COURT: Sustained.

23 BY MS. GUTIERREZ:

24 Q And was your dating -- did you ever bring your
25 dating to the attention of your parents?

1 MR. URICK: Objection.

2 THE COURT: Sustained.

3 BY MS. GUTIERREZ:

4 Q Sir, let me direct your attention to early
5 January 1999.

6 MS. GUTIERREZ: Could I see the --

7 May I approach the witness, Your Honor?

8 THE COURT: Yes, you may.

9 BY MS. GUTIERREZ:

10 Q Mr. Chaudry, I'm going to show you what's in
11 evidence as State's Exhibit 30 -- could you tell us what
12 that is?

13 A A cellular phone.

14 Q And what kind of cellular phone is it?

15 A A Nokia.

16 Q Did you become aware of whether or not -- during
17 the time that you knew him, did Adnan Syed ever have a
18 cellular phone?

19 A Yes.

20 Q Did he always have a cellular phone or did there
21 come a time where he got one?

22 A There came a time where he got one.

23 Q And were you aware of that time when it happened?

24 A I'm not sure of exact dates but it was his senior
25 year.

1 Q Okay, but were you aware of when -- the point in
2 time when he got it, whether you remember the date or not?

3 A Oh, yes.

4 Q Okay. And do you recognize that cell phone to be
5 any specific cell phone?

6 A Yes. It's about the same type as mine.

7 Q Okay. And what, if any, relationship -- is there
8 any similarity between the type of cell phone you had and
9 the type of cell phone Adnan had?

10 A Yes. It's basically the same phone, except mine
11 has a flip cover on it.

12 Q Okay. Instead of the leather cover that just
13 shows through the numbers --

14 A Yes, that's right.

15 Q -- that's on that phone?

16 And when you became aware of Adnan getting a cell
17 phone, did you have his cell phone number?

18 A Yes.

19 Q And did you reach him on that cell phone?

20 A Yes.

21 Q And in reaching him, did that occur with his
22 consent?

23 A Yes.

24 Q At the time, did you have a cell phone number?

25 A No.

1 Q Okay. Did you subsequently get one?

2 A Yes.

3 Q Being familiar with the model number, is there a
4 feature on that cell phone that stores the numbers that you
5 want stored?

6 MR. URICK: Objection.

7 THE COURT: May I see counsel at the bench?

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

10 THE COURT: Your objection?

11 MR. URICK: There's been no testimony from this
12 witness that he's familiar with that model number. He said
13 he has a Nokia himself that's got a flip-up. He said it's
14 similar. That has nothing to do with the model type or
15 number.

16 MS. GUTIERREZ: Judge, I spent a little more time
17 with it, I've laid the foundation. It is exactly the same
18 phone. The only difference is the cover. And I will ask
19 the witness questions to establish it's the cover. It
20 contains no features -- that the features of this phone and
21 his phone are the same, that the features of his phone and
22 Adnan's phone, which he's previously examined, but there's
23 nothing in this phone to tell that it's exactly Adnan's
24 phone, but that the features are the same, to establish his
25 familiarity and then to describe a feature that can be

1 exercised if this phone were on and which he knew to be a
2 feature on Adnan's phone that stores -- is capable of
3 storing numbers that one dials and then be scrolled down to
4 locate any other numbers that one has stored as being
5 dialed numbers or numbers desired to be dialed.

6 THE COURT: Anything else that you want to say
7 about this?

8 MR. URICK: No.

9 THE COURT: Okay. Assuming that the witness can
10 testify that the numbers can be stored and scrolled down to
11 recover or retrieve the numbers, what relevance does that
12 have?

13 MS. GUTIERREZ: Well, the -- that he knows that
14 Adnan's phone has that. And the testimony in regard to the
15 cell phone is only intended to put a location on the phone
16 and cannot establish who had the phone in one's hand. I
17 believe the evidence has established the relationships
18 between Adnan and the persons at the numbers that appear in
19 the chart for the 13th as being people who had his cell
20 phone number, he had theirs, he had ways to reach them,
21 they called him, he called them, to establish that if those
22 phone numbers were in -- which, of course, you can't since
23 the cell phone has been turned off since Mr. Syed's arrest
24 and the seizure of the phone by the police, but that this
25 witness knows, for instance, that his own number was in

1 there and that all someone had to do is to push the button
2 that caused all the numbers to be scrolled down and then
3 push a single button that would then cause any number that
4 one identified in that scrolled portion to be dialed, to
5 show what I believe has been made relevant since there is
6 no testimony other than from Jay Wilds, who specifically
7 said that he dialed certain numbers, that there are only
8 numbers that the only evidence before the jury is that
9 those numbers were dialed at specific times and they
10 triggered specific cell tower locations. But there is no
11 testimony as to who had the cell phone in their hand during
12 the dialing of most of those numbers, absent from Jay
13 Wilds, and --

14 THE COURT: Is there any -- you're not disputing
15 the Exhibit No. 34 that lists --

16 MS. GUTIERREZ: The list?

17 THE COURT: -- all the phone calls that were
18 made?

19 MS. GUTIERREZ: No.

20 THE COURT: And so, in fact --

21 MS. GUTIERREZ: But that list doesn't establish
22 who dialed the numbers. Other evidence --

23 THE COURT: Mr. Chaudry is not going to be able
24 to do that for you.

25 MS. GUTIERREZ: No, no, but Mr. Chaudry can

1 establish on this phone, which he knows of and which his
2 number was once there, was capable of speed dialing numbers
3 and that that feature of the phone is simple to operate and
4 simple to discover. It involves the pushing of one button
5 and then another button to actually actuate (sic) the call
6 to the number. And I believe from that information, we can
7 certainly establish enough to argue that anyone who's
8 admittedly having the phone in their hand could well be the
9 dialer of the numbers that are established in 34 since all
10 those are people who had his cell phone number, he had
11 theirs, were in contact with him, were good friends of his
12 and --

13 Right, right.

14 And none of those people, when asked,
15 specifically recall speaking to him that day or the date in
16 which, although they acknowledge they talked to him on
17 other occasions, and that then puts into evidence,
18 certainly --

19 THE COURT: What you're getting at is merely the
20 assumption that the numbers that he would have known --

21 MS. GUTIERREZ: But because they were dialed --

22 THE COURT: -- the numbers themselves wouldn't
23 have had to be punched in by the person who was holding the
24 phone?

25 MS. GUTIERREZ: That's right.

1 THE COURT: I understand.

2 MS. GUTIERREZ: And that, therefore, those cell
3 phone calls could have been dialed by Jay Wilds or anyone
4 else --

5 THE COURT: Understood.

6 MS. GUTIERREZ: -- who had that cell phone in
7 their hands.

8 THE COURT: Understood. I would ask that you ask
9 the witness a question, just generally, is he familiar with
10 how the phone works --

11 MS. GUTIERREZ: Okay.

12 THE COURT: -- with regard to speed dialing or
13 calling without punching in numbers. And if so, to tell
14 the jurors how it works, if you could get to that.

15 MS. GUTIERREZ: That's fine.

16 THE COURT: And that will be --

17 MS. GUTIERREZ: That would draw the immediate
18 objection --

19 THE COURT: Well, no, but that will be a non --

20 MS. GUTIERREZ: But yes, yes.

21 THE COURT: That's a nonleading question and it
22 will allow the witness to answer the question.

23 Your objection is overruled.

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

1 BY MS. GUTIERREZ:

2 Q Mr. Chaudry, you were describing the similarities
3 between that phone -- do you still have it in your hand?

4 A Yes.

5 Q -- and the cell phone that you ultimately got?

6 A Um-hum.

7 Q Okay. And you said yours had a flip cover?

8 A Yeah.

9 Q Did the flip cover have anything at all to do
10 with the operation of the phone?

11 A The only thing that it had to do is if the phone
12 rang, instead of hitting talk, I just have to open the
13 flip.

14 Q And that would activate your receipt of the call?

15 A Yes.

16 Q Are you familiar with the operation of the phone
17 in your hand?

18 A Yes.

19 Q And is that the same model that you had?

20 A Yes.

21 Q And is that the same model that Adnan Syed had?

22 A Yes.

23 Q And being familiar with the operation of the
24 phone, is there a mechanism for storing numbers in the
25 phone?

1 A There's a directory.

2 Q Okay. And how is that directory activated?

3 A There's a scroll feature. It's --

4 Q Are you saying the word scroll?

5 A Scroll, yeah. It just arrows up or down, and you

6 can --

7 Q Okay.

8 A -- get into the directory.

9 Q And if you -- does that involve pushing a button?

10 A Yes.

11 Q And if someone puts numbers inside the directory,

12 then you activate it by doing what?

13 A Hitting the down button or the up button.

14 Q Okay. And once you arrive at a number and locate

15 a number, are you familiar with then what happens to dial

16 that number that's been scrolled onto?

17 A If the number is in front -- if you've scrolled

18 down to a number and you see it, all you have to do is hit

19 talk and it automatically calls that number.

20 Q And is talk a one-button --

21 A Yes.

22 Q -- command?

23 And once you hit talk, does the number that

24 appears on the scroll, does that have to be punched in?

25 A No.

1 Q And if you hit talk, what happens?
2 A It automatically calls the number.
3 Q What's the it?
4 A The phone.
5 Q The phone automatically calls the number?
6 A Yes.
7 Q And what number would it automatically call?
8 MR. URICK: Objection.
9 THE COURT: Overruled.
10 You can answer.
11 THE WITNESS: Okay. It calls the number that was
12 on the screen that you scrolled down to.
13 BY MS. GUTIERREZ:
14 Q Okay. And is putting numbers in that directory
15 that can be scrolled, is that something that has to be done
16 all at once?
17 MR. URICK: Objection.
18 THE COURT: Sustained.
19 BY MS. GUTIERREZ:
20 Q Are you familiar with how the directory works?
21 A Yes.
22 Q Is one required to make a single entry of
23 numbers?
24 A Yes.
25 Q Are you allowed to add new numbers to that

1 directory?

2 A Yes.

3 Q And are you allowed to delete numbers from that

4 directory?

5 MR. URICK: Objection.

6 THE COURT: Sustained.

7 Mr. Chaudry, how does the phone work as it

8 relates to phone numbers you want to call of people you

9 know or people who have called you in the past?

10 THE WITNESS: Just by these arrow buttons, you

11 need to go up, and when you go up it goes up to -- it

12 starts at Z and then it goes backwards in alphabet or down.

13 And it basically gives a name and the person's phone number

14 with the name -- if you go down, it starts with a A,

15 whoever's name start with A, B, whatever, and it goes down.

16 And all you have to do is -- when you see the person that

17 you're looking for, you see their name, you see their

18 phone, and if you want to call them you can hit talk and it

19 will call them automatically.

20 BY MS. GUTIERREZ:

21 Q And you wouldn't have to dial a phone number?

22 MR. URICK: Objection.

23 THE COURT: Sustained.

24 BY MS. GUTIERREZ:

25 Q Is there -- on your phone, do you have such a

1 directory?

2 A Yes, I do.

3 Q And a scroll feature?

4 A Yes, I do.

5 Q And to your knowledge, did Adnan's phone have
6 such a directory?

7 A Yes.

8 Q And a scroll feature?

9 A Yes.

10 Q And on your phone, are you familiar -- if you
11 gave me your phone, could I activate that directory
12 feature --

13 MR. URICK: Objection.

14 MS. GUTIERREZ: -- and scroll?

15 THE COURT: Sustained.

16 BY MS. GUTIERREZ:

17 Q Let me just direct your attention, because I'm
18 not sure I asked this question, Mr. Chaudry. After you
19 became aware of the breakup between Hey Men Lee and Adnan
20 were the holidays, the Christmas holidays that we spoke of?

21 MR. URICK: Objection.

22 THE COURT: Sustained.

23 BY MS. GUTIERREZ:

24 Q Directing your attention to the time, whenever it
25 was, before Christmas that Hey and Adnan broke up, after

1 that time, did you attend any social functions with Adnan
2 outside of the mosque?

3 A Yes.

4 Q And did you attend any parties that may have been
5 related to holidays that you don't celebrate as a Muslim?

6 MR. URICK: Objection.

7 THE COURT: Could we put a time frame after
8 that --

9 BY MS. GUTIERREZ:

10 Q After that, up until the New Year's?

11 A Yes.

12 Q Yes. And were those parties which both young men
13 and young women attended?

14 A Yes.

15 Q And did you ever become aware of Adnan meeting
16 any young women at any of those parties?

17 MR. URICK: Objection.

18 THE COURT: Sustained.

19 BY MS. GUTIERREZ:

20 Q After the breakup, you became aware of when Adnan
21 got the cell phone?

22 MR. URICK: Objection.

23 THE COURT: I believe we've been over this and
24 described the phone and how it works.

25 MS. GUTIERREZ: I'm now tieing it together,

1 Judge.

2 THE COURT: All right. Your next question.

3 Right now it's sustained. If you can ask another question.

4 BY MS. GUTIERREZ:

5 Q After you became aware of Adnan having a cell
6 phone, did you have any conversations with him as to why he
7 got it?

8 A No.

9 Q Okay. Why did you get your cell phone?

10 MR. URICK: Objection.

11 THE COURT: Sustained.

12 BY MS. GUTIERREZ:

13 Q And did you ever become aware of any difficulties
14 that Adnan had with talking to girls on his home phone?

15 MR. URICK: Objection.

16 THE COURT: Overruled.

17 You may answer that.

18 THE WITNESS: Adnan had trouble talking to girls
19 at home.

20 BY MS. GUTIERREZ:

21 Q And where did you get that -- had trouble talking
22 to girls?

23 A On the phone.

24 Q On the phone --

25 A At home.

1 Q -- and where did you get that information from?

2 A From Adnan.

3 Q Okay. And did you ever become aware from him of
4 the reasons why he got the cell phone?

5 MR. URICK: Objection.

6 THE COURT: Sustained.

7 MS. GUTIERREZ: Nothing further.

8 THE COURT: Thank you very much.

9 Any cross-examination?

10 MR. URICK: Yes, thank you.

11 Good afternoon, Mr. Chaudry.

12 THE COURT: Mr. Chaudry, a few questions.

13 You may proceed.

14 CROSS-EXAMINATION

15 BY MR. URICK:

16 Q Would you like a glass of water?

17 A No, I'm fine, thank you.

18 Q Now, you just testified that the Defendant told
19 you that he had trouble talking on the home phone to girls,
20 correct?

21 A Yes.

22 Q But it's also your testimony that from the time
23 he began dating Hey Men Lee, which was sometime in the
24 spring of 1998, through December of 1998 he had no cell
25 phone, correct?

1 A No. For some time that he was dating Hey Men
2 Lee, he didn't have a cell phone.

3 Q And it wasn't till after the second breakup with
4 her that he actually got a cell phone, correct?

5 A I don't remember the exact date he got the cell
6 phone, but I do know that while he was going out with Hey,
7 for some time, he did not have a cell phone.

8 Q Now, you appeared before the Grand Jury on
9 April 2nd --

10 MS. GUTIERREZ: Objection.

11 MR. URICK: -- April 5th, April 6th, and
12 April 7th, correct?

13 THE COURT: Sustained.

14 BY MR. URICK:

15 Q Do you have any recollection of seeing the
16 Defendant on January 13th?

17 A No.

18 Q Is it a fact the Defendant told you that his
19 parents came to the Homecoming Dance?

20 MS. GUTIERREZ: Objection. Beyond the scope.

21 THE COURT: Overruled.

22 And you can answer that yes or no.

23 THE WITNESS: Yes.

24 BY MR. URICK:

25 Q And is it a fact that he told you that Hey broke

1 up with him because she thought that she was interfering
2 with -- coming between him and his family?

3 A Yes.

4 Q And you've testified on direct that within Islam
5 premarital dating is generally not accepted, didn't you?

6 A That's right.

7 Q All right. And the Defendant told you that he
8 was dating, is that correct?

9 A Yes.

10 Q And also on direct, you testified that premarital
11 sex is generally not accepted within Islam, isn't that
12 correct?

13 A That's right.

14 Q And he had told you that he had had sex, hadn't
15 he?

16 A Yes.

17 Q Where did he tell you he would have sex?

18 A He'd tell me mostly -- like, if I were to ask, he
19 said in the car, in his car.

20 Q Did he ever tell you that it was in parking lots?

21 A No.

22 Q Do you recall having testified on a previous
23 occasion that the Defendant may have mentioned the Best Buy
24 parking lot but that you weren't positive?

25 A Yes.

1 Q And that he had told you that he had sex in cars
2 and in hotel rooms and that was with Hey?

3 A Yes.

4 Q Did you ever have conversations with the
5 Defendant about where Hey Men Lee may have gone when she
6 was missing?

7 MS. GUTIERREZ: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: Yes.

10 BY MR. URICK:

11 Q And do you recall him telling you that she may
12 have gone to California to be with her real father?

13 A Yes.

14 Q Have you ever known the Defendant to smoke
15 marijuana?

16 A Yes.

17 Q Have you ever known him to drink alcohol?

18 A Yes.

19 Q And you've actually seen him do both?

20 MS. GUTIERREZ: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: Yes.

23 BY MR. URICK:

24 Q And it was your testimony on direct about the
25 older, more devout Muslim community that they don't know

1 too much about the actions of the younger males, is that
2 correct?

3 MS. GUTIERREZ: Objection.

4 THE COURT: Overruled.

5 If you can answer that.

6 THE WITNESS: Yes.

7 BY MR. URICK:

8 Q And all these things were things that the
9 Defendant kept from his father, is that correct?

10 A That I'm aware of, yes.

11 Q His father would not have approved, would he?

12 MS. GUTIERREZ: Objection.

13 THE COURT: Sustained.

14 BY MR. URICK:

15 Q Did the Defendant ever talk to you about how his
16 father viewed premarital sex, dating, smoking marijuana?

17 MS. GUTIERREZ: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: No.

20 BY MR. URICK:

21 Q Do you know who got the Defendant his phone?

22 A As far as I know, Mr. Ahmad helped him get the
23 phone.

24 Q Do you know his correct name or his full name?

25 A Mallah Ahmed.

1 Q And who is that?

2 A That was his acquaintance, his, like, mentor, I
3 guess. He was a teacher, an Islamic mentor at our mosque.

4 Q And did you ever have the occasion to see the two
5 of them together?

6 MS. GUTIERREZ: Objection.

7 THE COURT: Sustained.

8 MR. URICK: May I have State's Exhibit 34, the --

9 THE COURT: I believe that has got a letter next
10 to it, 34-something. C?

11 MR. URICK: Exhibit 34-C for identification.

12 THE COURT: Yes.

13 MR. URICK: And may I approach the witness and
14 have him look at that?

15 BY MR. URICK:

16 Q Now, please examine line no. 2 there.

17 In the second column, there's a number, 410-
18 869-9498, do you recognize that number?

19 A Yes, I do.

20 Q Whose number is that?

21 A That's mine.

22 Q And that shows that the call was placed on 10:29
23 and 40 seconds p.m. This is at the top, on January 13th,
24 1999, and the length of the call was 18 seconds.

25 A Yes.

1 Q Do you recall receiving a telephone call from the
2 Defendant on January 13th?

3 A No, I do not recall receiving it.

4 Q But that is your number?

5 A That's right.

6 Q Do you recall when and where the Defendant told
7 you that Hey Men Lee was missing?

8 MS. GUTIERREZ: Objection.

9 THE COURT: Overruled.

10 THE WITNESS: When, I guess it was sometime in
11 January. Where, no, I'm not --

12 BY MR. URICK:

13 Q Was that conversation relayed to you in person?

14 MS. GUTIERREZ: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: He was speaking to me and he just
17 brought it up: Did you know that she's been missing for a
18 little while?

19 BY MR. URICK:

20 Q And was that while you were physically with him?

21 A Yes, that's right.

22 MR. URICK: Thank you, Your Honor.

23 THE COURT: Thank you, Mr. Urick.

24 Anything further, Ms. Gutierrez?

25 REDIRECT EXAMINATION

1 BY MS. GUTIERREZ:

2 Q At the time, Mr. Chaudry, that you learned from
3 your friend Adnan Syed that Hey Men Lee was missing, were
4 she and Adnan broken up or together?

5 A As far as I knew, they were broken up.

6 Q And how long, if you recall, had they been broken
7 up?

8 A I'm not sure exactly but it had been some time,
9 maybe a week, couple weeks, I don't know.

10 Q The information that you said you learned from
11 him in your conversation with him, meaning Adnan, that she
12 may be in California with her father?

13 A Yes.

14 Q Did you know the origin of that information?

15 A Well, I asked him where do you think she might
16 be, and that's one of the reasons he said.

17 Q And did you know where he had gotten that
18 information?

19 MR. URICK: Objection.

20 THE COURT: Sustained as to that question as
21 asked.

22 BY MS. GUTIERREZ:

23 Q Do you know a person by the name of Deborah
24 Warren?

25 A No.

1 Q Do you know any of his friends from Woodlawn High
2 School?

3 A Of Adnan's?

4 Q Yes.

5 A Yes.

6 Q And had you ever attended social occasions with
7 friends of his from Woodlawn with him?

8 A Yes.

9 Q Yes. Okay, and you had never met a person by the
10 name of Deborah Warren?

11 A I don't remember her.

12 Q At the time that you had the conversation with
13 him about the dad in California, did you know that Hey Men
14 Lee's father was in Korea?

15 MR. URICK: Objection.

16 THE COURT: Sustained.

17 BY MS. GUTIERREZ:

18 Q And, sir, in regard to -- Mr. Urick asked you
19 about smoking marijuana and drinking alcohol, is that an
20 activity that you've engaged in?

21 A No.

22 Q Are those activities that other Muslim young men
23 in your mosque have engaged in?

24 MR. URICK: Objection.

25 THE COURT: Sustained.

1 MS. GUTIERREZ: Nothing further.

2 THE COURT: Thank you.

3 MR. URICK: I have one follow-up question in
4 regards to that.

5 THE COURT: Yes, Mr. Urick.

6 RECROSS-EXAMINATION

7 BY MR. URICK:

8 Q Ms. Gutierrez asked you about friends of the
9 Defendant from Woodlawn High School that you had met. Did
10 you ever meet a somewhat tall, skinny, African American by
11 the name of Jay?

12 A Yes.

13 Q How did you meet him?

14 A I met him once at a party, at a birthday party,
15 some girl's birthday party.

16 Q Who introduced you to him?

17 A Adnan did.

18 Q And he introduced him as what?

19 A Jay. He said -- I asked him who that was and he
20 brought him over and introduced us.

21 Q Thank you.

22 THE COURT: Anything further?

23 MS. GUTIERREZ: No.

24 THE COURT: Very well. May this witness be
25 excused?

1 MS. GUTIERREZ: Yes.

2 MR. URICK: Yes.

3 THE COURT: May he be released from the summons?

4 MR. URICK: Yes.

5 MS. GUTIERREZ: Yes.

6 THE COURT: Sir, you are now released from the
7 summons, which means you're free to go. I must advise you
8 you cannot discuss your testimony with anyone who will be a
9 witness in this case, but if you'd like to remain in the
10 courtroom, you're welcome to do that, do you understand?

11 THE WITNESS: All right.

12 THE COURT: With that, you're free to go.

13 THE WITNESS: Okay, thank you.

14 (Whereupon, at 2:44 p.m., the witness was
15 excused.)

16 THE COURT: Your next witness?

17 MS. GUTIERREZ: The Defense would call Saad Patel
18 to the stand.

19 THE COURT: Step up, please. Raise your right
20 hand, please, and listen to Mr. White, this gentleman right
21 here.

22 Whereupon,

23 SAAD PATEL

24 was called as a witness at 2:44 p.m., and after having been
25 first duly sworn, was examined and testified as follows:

1 THE CLERK: Please keep your voice up. State
2 your name for the record.

3 THE WITNESS: I'm Saad Patel.

4 THE CLERK: Spell your first and last name for
5 the record.

6 THE WITNESS: First name S-A-A-D, last name
7 Patel, P-A-T-E-L.

8 THE CLERK: State your address for the record.

9 THE WITNESS: [REDACTED] Springs Court,
10 Baltimore, Maryland 21228.

11 THE COURT: Witness with you, Ms. Gutierrez.

12 MS. GUTIERREZ: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. GUTIERREZ:

15 Q Mr. Patel, first of all, how old are you?

16 A I'm 18 years old.

17 Q Okay. Now, Mr. Patel, Randolph Spring Court,
18 what neighborhood is that located in?

19 A That's in the Woodbridge area.

20 Q Okay. Now, Mr. Patel, let me direct your
21 attention to last year, but first of all, are you currently
22 a student?

23 A Yeah. I'm a college student --

24 Q Where?

25 A -- at Towson University.

1 Q Okay. And what are you studying?

2 A I'm just taking gen. ed. classes right now.

3 Q Okay. And so, you're in your freshman year?

4 A Freshman year.

5 Q And that freshman year started in September of

6 1999?

7 A Yes, ma'am.

8 Q Let me direct your attention back to September of

9 1998 through May of 1999, last school year.

10 A Okay.

11 Q Were you a student then?

12 A Yes, I was.

13 Q And where were you a student?

14 A At Woodlawn High School.

15 Q And what program were you in?

16 A I was in the Magnet Program.

17 Q And is that also known as the Gifted and

18 Talented?

19 A Yes, ma'am.

20 Q All right. And how long were you in that

21 program?

22 A Since my freshman year in high school.

23 Q And while you were there, did you know a student

24 by the name of Hey Men Lee?

25 A Yes, I did.

1 Q How did you know her?

2 A She was in a few of my classes and just knew --

3 Q At Woodlawn?

4 A At Woodlawn.

5 Q Did you know her before Woodlawn?

6 A No, I didn't.

7 Q How would you characterize your relationship with

8 her?

9 A We were just friends. Whenever I saw her, I'd

10 just say hey, what's up.

11 Q Had you ever socialized with her?

12 A No. I mean, not off school.

13 Q Now off of school, but in school?

14 A Yeah. Just joke around now and then.

15 Q All right. And did you know back then, last

16 year, a person by the name of Adnan Syed?

17 A Yes, I --

18 Q Could you identify him?

19 A Right there (pointing).

20 Q Sitting next to me?

21 A Yes, ma'am.

22 Q All right. And how is it that you knew him?

23 A I've known him since birth.

24 Q Since birth?

25 A Since birth.

1 Q And how is it that you've known him?

2 A Through my parents. I guess my parents know his

3 parents, so that's how I met him.

4 Q And is there any other connection between your

5 family and his?

6 A Through the community, I guess. That's it.

7 Q And what community are you talking about?

8 A Our mosque.

9 Q The mosque. And what mosque is that?

10 A The mosque on Johnnycake Road.

11 Q And what kind of mosque -- what faith is that?

12 A Oh, it's for the Muslim faith, where people --

13 Q Have you been a member of that mosque since your

14 birth?

15 A Yes, I have.

16 Q And do all the members of your family belong to

17 that mosque?

18 A Yes, ma'am.

19 Q And as a result of you belonging to the mosque,

20 you attend what are called prayers there?

21 A Yes, I do. I attend.

22 Q And do you participate in other activities for

23 young people?

24 A Yes, I do.

25 Q And does Adnan Syed belong there?

1 A Yeah, he belongs there.

2 Q And does he participate in the prayers?

3 A Yes, he did.

4 Q And does he participate in other activities of

5 the mosque?

6 A Yes, he did.

7 Q And do other members of his family also so

8 participate?

9 A Yes, they do.

10 Q How is it you know that?

11 A I know his parents. How do I know -- oh, I know

12 his parents through him and through my parents.

13 Q Have you physically seeing Adnan Syed regularly

14 praying at the mosque?

15 A I didn't go that often, but whenever I went, I

16 saw him there.

17 Q Okay. So he was there every time you went?

18 A Most of the time, yeah, he was there.

19 Q But you didn't go all the time?

20 A I didn't go all the time. No, I didn't.

21 Q Was there anything wrong with that, your not

22 going all the time?

23 A I mean, it's recommended that I go. I can also

24 pray at home.

25 Q Okay. And do you do so?

1 A Oh, I pray.

2 Q Okay. Now, Mr. Patel, directing your attention
3 back to that school year, in school, how would you
4 characterize your relationship with Adnan Syed?

5 A We're -- we played sports together.

6 Q What sport did you play?

7 A Senior year?

8 Q Um-hum.

9 A We played football together and we used to go to
10 practice together. And basically, whenever I saw him in
11 the hallways, you know, just say hey, what's happening?

12 Q What kind of a athlete at football was he?

13 A He was a pretty good athlete.

14 Q And what kind of student was he?

15 A He was a very good student.

16 Q And were you also a good athlete?

17 A Yeah, I was a good athlete. Yes, I was.

18 Q And a good student?

19 A Yes.

20 Q Okay. Now, Mr. Patel, would you have called him
21 a friend?

22 A Yeah, he was a pretty good friend.

23 Q As a friend, did you see him outside of school?

24 A Yeah, sometimes.

25 Q Other than the mosque activities, did you see

1 him?

2 A Yeah. We went out a couple times.

3 Q And where did you go?

4 A The movies or went to a basketball game.

5 Q All right. Now, sir, did you become aware from
6 any source of a relationship between Hey Men Lee and Adnan
7 Syed?

8 A He told me about it himself.

9 Q Okay. And did you observe that relationship?

10 A I mean, I saw -- I saw them and stuff but it
11 wasn't a big deal to me.

12 Q It wasn't a big deal, the fact that they were
13 having a relationship?

14 A Not to me.

15 Q Okay. Now, sir, just -- back then, you were
16 still a Muslim?

17 A Yes, I was.

18 Q And you still prayed, as required?

19 A Yes, I did.

20 Q And you considered yourself an active Muslim?

21 A Yes, I did.

22 Q Were you aware that the Muslim faith does not
23 encourage people, young people to date each other?

24 A Yes, they don't encourage it.

25 Q Okay. And do you encourage that the Muslim faith

1 doesn't encourage young people to have sex with each other
2 prior to marriage under any circumstance?

3 A Yes, I know about that.

4 Q When you became aware from him that they had a
5 relationship, what did you understand their relationship to
6 be?

7 A I thought they were just going out and having
8 fun, I guess.

9 Q Dating?

10 A Dating.

11 Q Was it dating, from what you were told?

12 A From what I saw, that's what I assumed.

13 Q Dating as a girlfriend and a boyfriend?

14 A Boyfriend, yes.

15 Q Okay. And did you ever discuss with Adnan or
16 receive information from any other source that told you
17 whether or not they had sex?

18 A No one else told but I -- I asked him once. I
19 was just like, you know, what's going on and --

20 Q And did he answer you?

21 A Yeah, he told me. Yes.

22 Q And did he indicate whether or not he was having
23 sex with Hey Men Lee?

24 A Yes.

25 Q And what did he tell you?

1 A That's it, he was having sex. He didn't go into
2 detail or nothing. That was that, you know.

3 Q Okay. As a result of your finding out that
4 information, did you report Adnan to anyone?

5 A Did I -- excuse me?

6 Q Did you report him to anyone?

7 A No, I didn't.

8 Q For dating against the Muslim religion?

9 A No. I didn't tell no one.

10 Q Or for having sex with a woman to whom he was not
11 married?

12 A No, didn't report that to anyone.

13 Q Is there any procedure for you, as a Muslim, to
14 report that kind of activity?

15 A There is no procedure. I mean, it's between him
16 and --

17 Q Okay. Now, from the time that you learned that
18 he was having this relationship, did you become aware of
19 any ups or downs in that relationship?

20 A I wasn't aware of any. I didn't really -- I used
21 to just ask him, like, how's she doing, stuff like that.
22 That's it.

23 Q Were the ups and downs of their relationship, if
24 there were any, was that important to you?

25 A I mean, he's a friend so I cared about him, but

1 if there were, I mean, it would have been important to me,
2 but I wasn't really --

3 Q Did you become aware of a break up in the
4 relationship?

5 A Yeah, I was aware.

6 MS. MURPHY: Objection.

7 THE COURT: Sustained

8 BY MS. GUTIERREZ:

9 Q Did you ever become aware of whether or not there
10 were ups or downs in their relationship?

11 MS. MURPHY: Objection.

12 THE COURT: Sustained.

13 BY MS. GUTIERREZ:

14 Q And, sir, what else did Adnan tell you about the
15 relationship?

16 A I used to just ask him, like, what's going on and
17 how's -- how are they doing, basically.

18 Q And what would he ever tell you?

19 A He would just be honest with me. He's like
20 everything's fine, you know. We're just going out and
21 stuff like that, basically.

22 Q Did there ever come a time when he told you
23 something different, that everything wasn't fine?

24 MS. GUTIERREZ: Objection.

25 THE COURT: Overruled.

1 THE WITNESS: Not that I remember.

2 BY MS. GUTIERREZ:

3 Q Let me direct your attention to that same school
4 year, the period of time from the 20th of December through
5 the end of January. Did that time period have any
6 significance to you as a Muslim?

7 A The 20th of December to the end of January?

8 Q Yes.

9 A I think Ramadan started --

10 Q Could you tell us in your own words what Ramadan
11 is?

12 A It's when Muslims fast, they fast during that
13 month.

14 Q Is it a special month?

15 A It's a special month, yes.

16 Q What does the fasting require?

17 A You don't eat from dawn till dusk and you
18 shouldn't eat, drink, smoke, shouldn't do any bad things.

19 Q And, sir, during Ramadan, are there special
20 prayers that are said?

21 A Yeah. At nighttime, they have extra prayers and
22 you just go there and pray.

23 Q And during that month, do more Muslims go to the
24 mosque to pray?

25 A Yes, more Muslims come.

1 Q Is your attendance at the mosque greater or
2 lesser than at other times of the year during Ramadan?

3 A During that month, I come more often. I go more.

4 Q And during that time, did you ever become aware
5 of a time in which Adnan led the prayers for the mosque?

6 A I didn't go to the mosque that day but I heard it
7 from a lot of people there. They're talking about it
8 because it's like a big thing when you have someone your
9 age lead prayers there. And they're like, oh, he led --

10 Q Why is it such a big thing for a young person to
11 lead prayers?

12 A Because usually, like, the adults lead prayers,
13 and he's -- and other kids lead prayers, but I guess for
14 him it was, like, someone I know and it was kind of cool,
15 you know.

16 Q Did you talk to Adnan about that?

17 A Yeah. He told me about it. He was, like, were
18 you there? And I was just, like -- I was, like, no I
19 wasn't there.

20 Q When he told you about it, how was he?

21 A He was excited about it. You know, he was --

22 Q Do you remember the day that that was?

23 A The day he led prayers?

24 Q Yes.

25 A I don't remember the day but I think it was the

1 26th of Ramadan, which is about -- which is -- it was like
2 13th or 14th or 12th or something. February 12th or 13th.

3 Q Okay. Whatever the 26th, around that day of
4 Ramadan?

5 A Yes.

6 MS. GUTIERREZ: May I approach the witness again,
7 Your Honor?

8 THE COURT: Yes, you may.

9 MS. GUTIERREZ: If I could have the calendar
10 again, Mr. White. Thank you.

11 BY MS. GUTIERREZ:

12 Q If you could take a look at this and tell us what
13 that is.

14 A This is a calendar of -- the Islamic calendar.

15 Q And for what year is it? Not in Islamic terms
16 but in our terms?

17 A December '98-January '99.

18 Q And does that include the month of Ramadan?

19 A Yes, it does.

20 Q Does it identify the dates of Ramadan?

21 A Yes, it does.

22 Q I'm not sure, did you say the 26th day of
23 Ramadan --

24 A It was the 26th and the night of the 27th. It's
25 kind of --

1 Q Okay. And what day in our calendar would that --

2 A I think it was the night of the 14th,

3 January 14th.

4 Q That's what month?

5 A January.

6 Q January 14th?

7 A Yes.

8 Q Not January 13th?

9 A No.

10 Q January 14th, and what year would that be?

11 A 1999.

12 Q Mr. Patel, were you in contact with Adnan?

13 A I saw him at school and at the mosque when I
14 went.

15 Q Okay. And you -- speak to him outside of school?

16 A Yeah.

17 Q And to your knowledge, especially when you spoke
18 with him about the day that he led prayers, knowing that it
19 was such an honor -- is leading prayers something that one
20 must practice to do?

21 MS. MURPHY: Objection.

22 THE COURT: Overruled.

23 If you know, do you have to practice to do that?

24 THE WITNESS: You have to pray but you don't have
25 to practice. But it's recommended that you do.

1 BY MS. GUTIERREZ:

2 Q And why is that?

3 A Because it's your faith and you should, I guess,
4 learn how to pray, learn how to lead prayers.

5 Q Okay. And prayers that are led for the faithful
6 during Ramadan are in what language?

7 A Excuse me?

8 Q The prayers that are led for the faithful during
9 Ramadan are in what language?

10 A Arabic.

11 Q Arabic?

12 A Yes.

13 Q And is that a language that you're aware of that
14 Adnan Syed speaks?

15 A He doesn't speak Arabic but --

16 Q Do you?

17 A No, I don't.

18 Q Is that a language that's spoken among the
19 faithful at your mosque?

20 A People speak it but not everyone.

21 Q But not Adnan?

22 A Not Adnan, no, not that I'm aware of.

23 Q Was there ever a time when -- in your
24 relationship with Adnan that he hid his relationship with
25 Hey from you?

1 A No.

2 Q Did you ever become aware of a time when Adnan
3 and Hey were broken up?

4 A Yeah, I knew that.

5 Q And when did that happen and how did you learn of
6 it?

7 A He told me they had broken up, but I don't
8 remember when it was at all.

9 Q In relationship to Ramadan, do you have any idea?

10 MS. MURPHY: Objection.

11 THE COURT: Sustained. He said he did not know
12 when it was.

13 BY MS. GUTIERREZ:

14 Q Whenever that period of time was, after that
15 period of time, did you ever become aware of Adnan dating
16 any other girl?

17 A I knew -- yeah, he told me that he was seeing
18 someone else.

19 Q And knowing that you were aware that that was not
20 an approved behavior for a young Muslim, did you tell
21 anybody else of that?

22 A No, I didn't.

23 Q And did you become aware of when Adnan got a cell
24 phone?

25 A Yes.

1 Q And did you receive his cell phone number?
2 A Yes.
3 Q And did he reach you -- did you ever reach him on
4 his cell phone?
5 A I don't -- I called him once but I didn't get in
6 contact with him. It was right when he got it, so --
7 Q Okay. Right when he got the cell phone?
8 A Right when he got it, yeah.
9 Q But you actually got a cell phone from what
10 source?
11 A He gave it to me, he gave me his number.
12 Q Were you aware of a girl by the name of Nisha
13 Tanna (phon. sp.)?
14 A By what name?
15 Q By the name of -- a young girl by the name of
16 Nisha Tanna?
17 A Yeah, I heard about her.
18 Q How did you hear about her?
19 A He -- I think Adnan told me about her. I think
20 she was from Rockville.
21 Q Okay. And what is it that he told you about her?
22 A He just told me that he met her, he met a girl
23 named Isha. That's about it.
24 Q Are you aware of whether or not he was pursuing
25 her as a girlfriend?

1 A I assumed that because why else would he bring
2 her up, you know? So --

3 Q And did you become aware of a girl by the name of
4 Angeli?

5 A Yeah, I heard about her, too.

6 Q How did you hear about her?

7 A He told me about her.

8 Q And what context was that -- in what context was
9 that?

10 A He just told me that he met a girl who was from
11 Philly, from Philadelphia.

12 Q From Philadelphia?

13 Were you aware of whether or not she was a
14 college student?

15 A No, I didn't know about all -- I didn't know
16 about that at the time.

17 Q At the time.

18 Did you ever understand him to be
19 girlfriend/boyfriend with her?

20 A I knew they were seeing each other but they could
21 have been friends, I don't know.

22 Q During any of this time, Mr. Patel, were you
23 aware of whether or not Adnan's parents were aware of his
24 relationship with any young girl?

25 A I don't know.

1 Q And did you attend social events at Woodlawn High
2 School?

3 A Not really.

4 Q Did you attend the Homecoming Dance?

5 A No, I didn't go to that.

6 Q Did you ever hear about the events of that dance
7 from Adnan?

8 A Yes, he told me about it.

9 Q And were you aware that his parents came up to
10 Homecoming?

11 A Yes.

12 Q And prior to that, were you aware of whether or
13 not his parents approved of his dating?

14 A I don't know. I don't know.

15 Q Did you ever, ever become aware of information
16 that his parents actually approved of his dating Hey Men
17 Lee at any time during their relationship?

18 MS. MURPHY: Objection.

19 THE COURT: Sustained.

20 BY MS. GUTIERREZ:

21 Q During Ramadan of last year, you said you
22 attended the mosque more often than you had other times?

23 A Yes.

24 Q And the attendance, did that include the evening
25 prayer?

1 MS. MURPHY: Objection.
2 THE COURT: Sustained.
3 BY MS. GUTIERREZ:
4 Q What did your attendance at the mosque consist of
5 during Ramadan?
6 MS. MURPHY: Objection.
7 THE COURT: Sustained.
8 BY MS. GUTIERREZ:
9 Q What time of night was the evening prayer?
10 MS. MURPHY: Objection.
11 THE COURT: Sustained.
12 BY MS. GUTIERREZ:
13 Q Did you ever see Adnan at the evening prayer?
14 A Yes.
15 Q Okay. How regularly?
16 A Well, when I went there, I used to see him and
17 other guys up there, so --
18 Q And was that at the time of the evening prayer?
19 A Yes.
20 MS. MURPHY: Objection.
21 MS. GUTIERREZ: And what was he doing on
22 occasions that you saw him at the evening prayer?
23 MS. MURPHY: Objection.
24 THE COURT: Overruled.
25 THE WITNESS: When I saw him there, he was

1 praying, and I guess we just talked.

2 MS. GUTIERREZ: I have no further questions.

3 THE COURT: Thank you.

4 Any questions?

5 MS. MURPHY: Just briefly, Your Honor.

6 THE COURT: Very well.

7 CROSS-EXAMINATION

8 BY MS. MURPHY:

9 Q Mr. Patel, good afternoon.

10 A Hi.

11 Q Now, your testimony is you weren't there on the
12 14th of January when the Defendant led the prayers?

13 A Yes.

14 Q And you didn't go on the 13th?

15 A The day before he led prayers?

16 Q Right.

17 A I may have.

18 Q You don't remember?

19 A I don't remember.

20 Q The 12th?

21 A I probably was there because I'm there more often
22 during Ramadan. I was there -- so I went almost every day
23 during the month of Ramadan but I didn't go the day he led
24 prayers and a few other days before.

25 Q So that's the only day you definitely know you

1 weren't there, was the day he led prayers?

2 A I may have been there but I wasn't there when he
3 led the prayers.

4 Q Oh, okay.

5 But the rest of it's pretty hard to remember? I
6 mean, this is a year later.

7 A You could say that.

8 Q Well, are you saying that?

9 A Yes, I am.

10 Q And it's not something remarkable if you don't
11 go, right?

12 A It's recommended that you do go but --

13 Q But you can pray at home?

14 A You can pray at home but during this month you
15 should go.

16 Q But you didn't?

17 A I did except for that day -- I mean that time.

18 Q But some nights you didn't?

19 A Yeah, I missed some nights here and there.

20 Q Did you get in trouble?

21 A I didn't get in trouble, but my parents told me
22 to go.

23 Q Okay. But it wasn't anything earth-shattering
24 that you didn't happen to go on those nights?

25 A No.

1 Q Now, the Defendant told you about a girl named
2 Isha?

3 A Yes.

4 Q And the Defendant told you about a girl named
5 Angeli?

6 A Angeli, yes.

7 Q Is there anything you know about -- you didn't
8 meet these girls personally?

9 A I never met them.

10 Q You only know about them from what the Defendant
11 told you?

12 A Yes.

13 Q And you never actually saw him with these girls?

14 A No.

15 Q Now, you told us a little bit about Ramadan and
16 you said during that time you shouldn't eat, drink, smoke
17 while you're fasting?

18 A Yes.

19 Q That would include marijuana, I'm assuming?

20 A Yes.

21 Q You shouldn't -- and isn't it true that you
22 shouldn't think bad thoughts during Ramadan?

23 A You shouldn't but you're a human being. You
24 know, what can you do? You try not to but --

25 Q But you're encouraged not to?

1 A You're encouraged not to.

2 Q Right. And you shouldn't lie?

3 A You shouldn't lie.

4 Q You shouldn't deceive people?

5 A No.

6 MS. MURPHY: No other questions, Your Honor.

7 THE COURT: Thank you.

8 Any redirect?

9 REDIRECT EXAMINATION

10 BY MS. GUTIERREZ:

11 Q On the days of the year other than Ramadan, are
12 you allowed to lie?

13 A Not --

14 MS. MURPHY: Objection.

15 THE COURT: Sustained.

16 BY MS. GUTIERREZ:

17 Q You said generally, in answer to Ms. Murphy's
18 question, that you were there during Ramadan?

19 A Yes, I was.

20 Q But you remember specifically you weren't there
21 on the 14th? Or you weren't there on the day that he led
22 the prayers?

23 A I wasn't there when he led the prayers.

24 Q When he led the prayers. So you might have
25 actually been at the mosque but not actually praying --

1 A Yes.

2 Q -- or able to listen to him?

3 A Yes.

4 Q But generally, otherwise, you were there every
5 day of Ramadan?

6 A Most of the time I was there.

7 Q Because it was recommended?

8 A It was recommended.

9 Q And every time you were there, was Adnan there?

10 MS. MURPHY: Objection as to form.

11 THE COURT: Overruled.

12 Do you recall?

13 THE WITNESS: Yes. He was there most of the
14 time. Most of the time he was there.

15 BY MS. GUTIERREZ:

16 Q Much more than you?

17 A Oh, he was there more than I was.

18 MS. GUTIERREZ: Thank you. I have nothing
19 further.

20 THE COURT: Anything further, Ms. Murphy?

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

22 THE COURT: May this witness be excused,
23 Ms. Gutierrez?

24 MS. GUTIERREZ: Yes, Your Honor.

25 THE COURT: May he be released from the summonses?

1 MS. GUTIERREZ: Yes.

2 THE COURT: Ms. Murphy?

3 MS. MURPHY: Yes, Your Honor.

4 THE COURT: All right, sir, you are free to go.

5 You may not discuss your testimony with anyone who is yet
6 to be a witness in this case. However, since you've been
7 released from the summonses as a sequestered witness, you
8 may remain in the courtroom since you will not be called
9 again.

10 THE WITNESS: Thank you.

11 THE COURT: You're welcome.

12 (Whereupon, at 3:08 p.m., the witness was
13 excused.)

14 MS. GUTIERREZ: Our next witness would be
15 Mr. Patel.

16 THE COURT: Sir, step all the way up here to the
17 witness stand. When you reach, I'd like you to direct your
18 attention to my courtroom clerk, raise your right hand, and
19 listen to what he has to say.

20 Whereupon,

21 MAQBOOL PATEL

22 was called as a witness at 3:08 p.m., and after having been
23 first duly sworn, was examined and testified as follows:

24 THE CLERK: You may be seated.

25 Keep your voice up, state your name for the

1 record.

2 THE WITNESS: My name is Maqbool, M-A-Q-B-O-O-L.
3 My last name is Patel, P-A-T-E-L.

4 THE CLERK: And state your address for the
5 record.

6 THE WITNESS: [REDACTED] Springs Court, 21228.

7 DIRECT EXAMINATION

8 BY MS. GUTIERREZ:

9 Q Mr. Patel, what is your religious faith?

10 A I can't hear you.

11 Q What is your faith, your religious faith?

12 A Islam.

13 Q Okay. And were you born a Muslim?

14 A I was born Muslim.

15 Q As a result of your faith, are you affiliated
16 with any mosque?

17 A Yes.

18 Q And what mosque is that?

19 A Islamic Society of Baltimore.

20 Q And where is that located?

21 A That's 6631 Johnnycake Road.

22 Q Through that mosque, have you ever met Adnan
23 Syed?

24 A Yes, many --

25 Q And how has that happened?

1 A -- many times.
2 I know the family for almost two decades now.
3 Q For almost two decades?
4 A Um-hum.
5 Q And have you known him since his birth?
6 A Yes.
7 Q Has he been raised in that mosque?
8 A Yes.
9 Q And have you seen him so raised?
10 A Yes.
11 Q Now, sir, let me direct your attention to the
12 whole month of Ramadan last year, that began in December of
13 1998 and continued through January 1999.
14 MS. GUTIERREZ: May I approach the witness,
15 Your Honor?
16 THE COURT: Yes, you may.
17 BY MS. GUTIERREZ:
18 Q First, let me have you look at Defendant's
19 Exhibit 5, and, if you would, does that calendar accurately
20 reflect the start and the end of the Holy Month of Ramadan?
21 A I believe so, yes.
22 Q And in the Muslim faith, could you tell us
23 basically what happens during Ramadan --
24 A During the month of Ramadan?
25 Q Yes.

1 A Well, you normally fast during the day, and we
2 have a special prayer -- prayers at night.

3 Q And special prayers include what?

4 A Special prayers include breaking our fast. It is
5 prayers, and then there's a break for a rest and there's
6 additional prayers in addition to our normal prayers at
7 night.

8 Q And by the normal prayers at night, is there a
9 special service that occurs?

10 A Yes.

11 Q And what time do those night prayers start?

12 A Normally, we arrange it between 7:45 and 8:00.

13 Q That's --

14 A That's starting 7:45 --

15 Q 7:45 or 8:00 in the evening?

16 A Yeah, it starts.

17 Q And that follows -- I want to make sure I'm
18 clear, that there's a rest?

19 A There is a rest between sunset time and that
20 time.

21 Q Oh, okay. And during that rest period, nothing's
22 happening at the mosque?

23 A People talk, socialize.

24 Q Socialize, but there's not any prayers or
25 anything --

1 A No.

2 Q -- that are led?

3 During the nightly prayers, are there other

4 activities in which people give talks or lead prayers?

5 A Yes. We encourage our youth to give a talk,

6 especially before and after the prayers.

7 Q By youth, what are you referring to?

8 A People, you know, anywhere from 12 to 22, 25, or

9 anybody who wants to participate.

10 Q And why do you encourage your young people to so

11 get involved?

12 A To give them the opportunity to learn.

13 Q Is there any honor associated with a member of

14 the mosque, whether adult or young, being asked to lead the

15 prayers or give a talk?

16 A Generally, it's a pride for the family.

17 Q It's pride?

18 A They feel much good that their children do it.

19 Q For the family, is it a happy occasion when

20 someone is asked to lead the prayers?

21 A I would say very happy for the family.

22 Q Okay. Now, in regard to the young people, have

23 you -- you've personally known Adnan Syed since he was

24 born?

25 A Yes.

1 Q And is he one to generally -- outside of Ramadan,
2 are Muslims -- is it recommended that they go to the mosque
3 on a daily basis to pray?

4 A The mosque is normally open for five times daily
5 prayers. Most people show up either early in the morning
6 and late in the afternoon, after either come back from the
7 school or come back from work.

8 Q Okay. And it's just -- is it just that the
9 prayers are different during Ramadan?

10 A The prayers are not different, there are just
11 additional prayers.

12 Q There are additional prayers?

13 A Um-hum.

14 Q And during that period of time, are faithful
15 Muslims recommended to pray the same five times a day?

16 A Right.

17 Q Is participation by the Muslims who belong to the
18 mosque in regard to praying at the mosque greater during
19 Ramadan?

20 A Yes.

21 Q And why is that?

22 A It is, it is a part of the belief and stated in
23 the Holy Book.

24 Q Okay. And what is the Holy Book.

25 A Koran.

1 Q Koran. And are the prayers that are recited by
2 the faithful directly from the Koran?

3 A Not the prayers by themselves, but fasting is
4 prescribed in the Koran itself and additional prayers are
5 recommended.

6 Q Directing your attention -- and is that an
7 accurate calendar of Ramadan that you've looked at?

8 A To the best of my knowledge, yes.

9 Q That indicates -- is there anything additional
10 recommended or required of the Muslim faith during the last
11 10 days of Ramadan?

12 A The last 10 days are -- from the spiritual point
13 of view, it's considered more rewarding.

14 Q More rewarding?

15 A Yes.

16 Q To do prayer?

17 A To do additional prayers --

18 Q Okay. And what --

19 A -- and, you know, some people opt to awake all
20 night.

21 Q Okay. Meaning -- do they stay at the mosque all
22 night?

23 A Some people opt to do that.

24 Q To try to use the terms holier, are the last 10
25 days holier than the first 20 days of Ramadan?

1 A I would say.

2 Q Okay. Now, directing your attention back to

3 Ramadan last year, do you recall that?

4 A Yes.

5 Q Okay. And, sir, back then you knew Adnan Syed?

6 A Yes.

7 Q And you knew his family?

8 A Yes.

9 Q Is Adnan Syed someone you saw during Ramadan?

10 A Yes.

11 Q And when and where would you see him?

12 A Normally, the Prayer Hall.

13 Q And is that during the night prayers that we've

14 discussed?

15 A I would say yes.

16 Q In whose company would he be?

17 A The young people of his age.

18 Q And did you see his father there?

19 A Yes.

20 Q Was his father someone who attended the mosque to

21 pray on a nightly basis?

22 A Yeah, he's pretty regular.

23 Q And did his -- when his father came to the

24 mosque, did he bring Adnan, if you know?

25 A I cannot recall that because I see most of the

1 people in the mosque itself.

2 Q Okay. But you can't recall any specific day?

3 A As soon as they get out of the car, I will --
4 different people take different routes.

5 Q In regard to -- did there come a day when Adnan
6 gave a talk or led a prayer?

7 A Yes.

8 Q And do you recall that day?

9 A Reason I recall it, that most of the arrangements
10 are made through me, the list --

11 Q Through you?

12 A Right. Those people, you know, normally -- one
13 of the person who's in charge will make the recommendation
14 and we will --

15 Q That's one of your jobs?

16 A Yes.

17 Q For the mosque?

18 A Yes.

19 Q Okay. And were you physically present when Adnan
20 did so?

21 A I have seen him talking in them mosque.

22 Q Okay. And was that an occasion -- was that a
23 good or bad occasion for his family, if you know?

24 A It's an excellent occasion for the family and the
25 community.

1 Q And why is it such a good occasion for his
2 family?

3 A See, normally, prayers are derived from the Koran
4 itself and --

5 Q Which is considered the Holy Book in --

6 A It's considered the Holy Book.

7 Q For Muslims?

8 A For the Muslims, yeah.

9 And then normally, the talk is given based on
10 that. So, you know, they are really prepared to talk from
11 the Book itself.

12 Q Is there some significance to a younger person,
13 such as 17, being afforded the opportunity to do so?

14 A Yes. The mosque always tries -- try to do that,
15 the younger people should be to --

16 Q And why is that?

17 A So that they know and they have a knowledge
18 because there is no other place to gain such knowledge.

19 Q Okay. And you remember that occasion?

20 A Yes.

21 Q And that occasion occurred on what date?

22 A I cannot say. What it is, is every night I am
23 there.

24 Q Oh, okay. So you recall the occasion but not
25 specific --

1 A I recall the occasion that he was there.

2 Q Okay, but -- and generally, during Ramadan that
3 began on December 20th, 1998, and ended in late January
4 1999, did Adnan attend regularly with his father?

5 A I would say yes.

6 Q Now, being familiar with Adnan all of his life,
7 what language does he speak?

8 A Normally, all of our children, including him,
9 tend to speak English.

10 Q Okay. And are you aware whether or not English
11 was his first language?

12 A First language is, I believe -- see, that's the
13 reason -- he originally come from a region where the Pashtu
14 was being spoken.

15 Q And that would have been the Pakistani language
16 of his parents?

17 A One of the Pakistani languages.

18 Q Are you aware of whether or not Adnan speaks
19 Arabic?

20 A I don't believe he can speak Arabic.

21 Q Is the Koran written in Arabic?

22 A Right. He can read it but --

23 Q Now, Mr Patel, are you familiar with the tenets
24 of the Islamic faith in regard to whether or not young
25 people are allowed to date each other or date others of the

1 opposite sex prior to a marriage?

2 A Premarital mating is actually not encouraged
3 unless -- it's not encouraged unless there is a pure
4 intention of getting married.

5 Q Okay. So under Muslim faith, one must have an
6 intent of marriage --

7 A Um-hum.

8 Q -- or else the young sexes shouldn't really --

9 A They should not --

10 Q -- have a relationship?

11 A That's correct.

12 Q And when you use the term not encouraged, could
13 you explain to us what you mean by that?

14 A Like I said, the concept of dating that we see
15 here, or these days anyway, that is not encouraged, means
16 we don't ask our youngsters to go out and meet, you know,
17 in public two opposite sexes independently.

18 Q Are young people, whether or not they are dating,
19 encouraged to have sex with each other?

20 A Say it again, please?

21 Q Are they -- I don't want to make the double
22 negative. Are they encouraged to have sex with each other?
23 Is that something that's allowed?

24 A No.

25 Q No. And is it the same way of encouraging young

1 A No.

2 Q No. And is it the same way of encouraging young
3 people as it is in regard to not encouraging dating?

4 A Like I say, the concept of dating does not exist
5 is Islamic teaching.

6 Q Okay.

7 A Unless, unless you have intent to get married to
8 that person.

9 Q Now, what happens when young people don't listen
10 to not being encouraged to date?

11 A Normally, young people are not really exposed to
12 that situation, but the consultation of advice begins from
13 the family and then, if the family opt, they get the mosque
14 involved to counsel or advise the children.

15 Q In regard to -- you said the consultation of the
16 family, what does that mean? Is there punishment for
17 ignoring the encouragement?

18 A The one thing you must understand, that we are
19 living in a society where, even by the law, that we cannot
20 really punish the child. So there is no physical or any
21 other punishment, other than strongly advising them.

22 Q Once they break the encouragement or do something
23 wrong, are they banished from a community?

24 MR. URICK: Objection.

25 THE COURT: Sustained.

1 BY MS. GUTIERREZ:

2 Q Is there any punishment extracted on young
3 Muslims who may not live up to these things that they are
4 encouraged to do or not to do?

5 MR. URICK: Objection.

6 THE COURT: Sustained

7 BY MS. GUTIERREZ:

8 Q Was there ever any action in the mosque
9 community, at the Islamic Society of Baltimore, ever taken
10 against Adnan Syed for dating, though he was not encouraged
11 to do so?

12 A I was not aware of the situation.

13 Q And if you had become aware, would there ever
14 have been any action taken against him?

15 A No.

16 MR. URICK: Objection

17 THE COURT: Sustained.

18 BY MS. GUTIERREZ:

19 Q Is there any sign-in sheet for Muslims who belong
20 to the mosque to document their presence?

21 A No.

22 Q And did you become aware of when Adnan Syed was
23 arrested?

24 A Yes, later.

25 Q And was it before or after that time that you

1 A The arrest was made, I believe, after I see him
2 in Ramadan.

3 MS. GUTIERREZ: Thank you. Nothing further.

4 THE COURT: Thank you.

5 Any questions? Mr. Urick, is there any --

6 MR. URICK: Thank you, Your Honor, extremely
7 briefly.

8 CROSS-EXAMINATION

9 BY MR. URICK:

10 Q Good afternoon, Mr. Patel.

11 A Good afternoon, sir.

12 Q Are you the father of the young man that was in
13 here a moment ago?

14 A Yes.

15 Q Now, you just testified that the Defendant speaks
16 Pashtu, is that correct?

17 A Right. I mean, I believe so. That's the
18 region -- I mean, the family is originally from there. And
19 he might be able to speak some Pashtu. Whether he does
20 normally or not, I do not know.

21 Q Are you a Pashtu speaker, yourself?

22 A No.

23 Q His family is Pashtu-speaking?

24 A Yes. And they also speak Urdu as a second
25 language.

1 MR. URICK: No further questions. Thank you,
2 Your Honor.

3 THE COURT: Thank you.

4 You may step down. Let me advise you -- one
5 moment.

6 Ms. Gutierrez, are you going to need him again?

7 MS. GUTIERREZ: No, Judge, he's released.

8 THE COURT: May he be released from the summons?

9 MS. GUTIERREZ: Yes.

10 MR. URICK: Nothing further.

11 THE COURT: Released from the summons?

12 Sir, you may step down. You are a sequestered
13 witness. What that means is you may not discuss your
14 testimony with anyone who is yet to be a witness. However,
15 since you've been released from the summons, you may remain
16 in the courtroom, if you would like, or you're free to go
17 at this time.

18 THE WITNESS: Thank you.

19 (Whereupon, at 3:25 p.m., the witness was
20 excused.)

21 THE COURT: Your next witness, Ms. Gutierrez.

22 MS. GUTIERREZ: My next witness would be
23 Ms. Bettye Stuckey.

24 Ms. Stuckey, if you'll go up and take the stand.

25 THE COURT: Walk all the way up here,

1 Ms. Stuckey, and I need you to turn and face the clerk of
2 the Court, raise your right hand, and listen to what he has
3 to say.

4 Whereupon,

5 BETTYE M. STUCKEY

6 was called as a witness at 3:25 p.m., and after having been
7 first duly sworn, was examined and testified as follows:

8 THE CLERK: You may be seated.

9 Please keep your voice up, state your name and
10 your address for the record.

11 THE WITNESS: Bettye Stuckey, 2301 British (phon.
12 sp.) Avenue, Baltimore, Maryland.

13 DIRECT EXAMINATION

14 BY MS. GUTIERREZ:

15 Q Ms. Stuckey, what is your profession?

16 A I'm a guidance counselor at Woodlawn High School.

17 Q And last year, the school year that began in
18 September of 1998 and ended in May or June of 1999, were
19 you a guidance counselor at Woodlawn?

20 A Yes, I was.

21 Q And quickly, could you tell us what are your
22 duties as a guidance counselor?

23 A As a guidance counselor, I was responsible for
24 certain letters of the alphabet, A and B, and the entire
25 Magnet Program counseling for that year.

1 Q Okay. And could you tell us briefly what the
2 Magnet Program is?

3 A All right. The Magnet Program puts a special
4 focus on preengineering and student-conducted research, and
5 students have a very rigorous academic program that they go
6 through for the four years.

7 Q Okay. And as a guidance counselor, you were then
8 the guidance counselor for all the students of the Magnet
9 Program?

10 A Yes.

11 Q In that capacity, Ms. Stuckey, did you come into
12 contact and come to know one Adnan Syed?

13 A Yes..

14 Q And when did you first meet him?

15 A I met Adnan in his junior year. I met him before
16 the senior year.

17 Q Okay. And was he in the Magnet Program?

18 A He was in the Magnet Program at that time.

19 Q And what kind of student was he?

20 A Adnan was one of those bright, enthusiastic, I
21 would say, delightful young men.

22 Q Okay. And how much contact did you have with him
23 in his junior year?

24 A I had limited contact in junior year but a lot of
25 contact in senior year.

1 Q And why was -- what was the reason for that?

2 A I was not his counselor but I was the coordinator
3 for the AP, Advanced Placement Program, and that's -- and
4 the PSAT, so I got to meet him through those particular
5 testing situations.

6 Q Was he assigned to Advanced Placement credit
7 courses?

8 A He was in Advanced Placement courses.

9 Q Okay. And how often would you have contact with
10 him during his senior year?

11 A Frequent contact. Adnan -- may I go on?

12 Q Yes, please.

13 A Adnan would come in -- he was assisting one of
14 our gentlemen in the guidance area who works with the
15 programming, and Adnan would come and sit with me at times
16 and talk when he didn't have a lot of responsibilities.
17 And I learned a lot -- just about him as a person at that
18 time, which enabled me to write his recommendation from
19 knowing about him later on.

20 Q Was writing recommendations an ordinary part of
21 your duties as a guidance counselor?

22 A Yes.

23 Q And what were those recommendations when you so
24 wrote them based on?

25 A They were based on personal contact with the

1 student, personal interview with the student, talking with
2 them, comments from the teachers or coaches, whomever they
3 were involved with at the school.

4 Q Directing your attention to January of 1999, was
5 that a busy time for seniors in regard to college?

6 A Very much so.

7 Q Why is that?

8 A Because we have to finalize all of the
9 preparations, transcripts, recommendations, things of that
10 nature. We want to get everything in.

11 Q Were there deadlines for students' applications
12 for college?

13 A There were deadlines, and sometimes the deadline
14 may have been met but a recommendation was needed to
15 accompany that at a later date.

16 Q Okay. And, Ms. Stuckey, during that time, was
17 Adnan Syed in your view, in your experience with him, a
18 college-bound senior?

19 A Yes.

20 Q And did he require -- did you have occasion to
21 become involved with his applications for school?

22 A Yes.

23 Q And let me direct your attention to January 13th,
24 1999, do you recall that date?

25 A I do not exactly recall that date because there

1 are so many days in January that were so busy.

2 Q Okay. And did you have an occasion to print out
3 a recommendation for Adnan Syed and sign it on that day?

4 MS. MURPHY: Objection.

5 THE COURT: If you recall.

6 THE WITNESS: I recall printing out a
7 recommendation for him in January, in the second week of
8 January. I don't know if that was exactly the 13th but I
9 do remember printing that out for him.

10 MS. GUTIERREZ: May I approach the witness,
11 Your Honor?

12 THE COURT: Yes, you may.

13 BY MS. GUTIERREZ:

14 Q I'm going to show you what's been previously
15 marked as Defendant's Exhibit 21, Ms. Stuckey. Could you
16 take a look at that?

17 A Yes.

18 Q And is that your signature --

19 A This is my signature.

20 Q -- that appears on the second page?

21 A This is my signature.

22 Q Is there a date that you dated underneath your
23 signature?

24 A That's my date.

25 Q And what date is there?

1 A It's 1/13/99.

2 Q And on the front page of Defendant's Exhibit 21

3 is a title --

4 A It's a recommendation for Adnan Syed.

5 Q And in order for Adnan Syed to get this, did he

6 come to see you on the 13th?

7 A He came to see me on the 13th. If he has this in

8 his hand and I dated it on the date that he came to see me.

9 Q Okay. And do you recall actually seeing him that

10 day?

11 A Yes. I remember that we did have a meeting, as I

12 said, about the second week of -- because I kept a log and

13 we did have a meeting and we talked about supporting his

14 recommendation -- supporting his application, rather, for

15 the University of Maryland with a recommendation at that

16 time.

17 Q And were you aware on the date that you did this

18 recommendation that he was actively pursuing college --

19 A Yes, I was.

20 Q At more than one institution?

21 A Yes, I was.

22 Q Okay. And did you draft this recommendation from

23 your own personal knowledge?

24 A Yes, I did.

25 Q And did you yourself draft the words?

1 A Yes.

2 Q And did you know the things that are contained in
3 this recommendation about Adnan Syed?

4 A I knew the things from school, from talking
5 personally with the sponsors of the activities. I was
6 talking personally with teachers. And also, some of the
7 things that I knew about his relationship with the students
8 and teachers, I knew that from observations and --

9 Q From observing him --

10 A Yes.

11 MS. GUTIERREZ: I would move Defendant's
12 Exhibit 21 into evidence.

13 THE COURT: Any objection?

14 MS. MURPHY: Yes, Your Honor.

15 THE COURT: May I see the document?

16 (Pause)

17 Overruled. Let it be admitted.

18 (Whereupon, the document referred
19 to as Defendant's Exhibit No. 21,
20 previously marked for
21 identification, was received into
22 evidence.)

23 MS. GUTIERREZ: May I have that published by
24 asking her to read it --

25 THE COURT: That'll be fine.

1 BY MS. GUTIERREZ:

2 Q Could you read that recommendation for us, Ms.
3 Stuckey?

4 THE COURT: Ms. Stuckey, I need you to read every
5 item on the page since it's being published to the jury.
6 Normally, the jurors would have it in their hands. So that
7 means you've got to read every little thing, including any
8 dates, numbers, whatever, that appears on that page and on
9 the next page as well.

10 THE WITNESS: Woodlawn High School, 1801 Woodlawn
11 Drive, Baltimore, Maryland 21207.
12 Recommendation for Adnan Syed. As a student
13 in our challenging Magnet Program for
14 Preengineering and Student-Conducted
15 Research, Adnan Syed has had many rich
16 educational experiences, not only in the
17 classroom but also in the community, serving
18 as a tutor for elementary school students
19 and working on research projects with
20 mentors in mathematical and scientific
21 fields. Whatever his assignment, Adnan
22 strives for excellence at all times. His
23 teachers remark that he's a bright,
24 conscientious, and hard-working student who
25 approaches his studies with sobriety. He

1 accepts criticism well and works to improve
2 any area under consideration. His classroom
3 contributions, verbal and written, reveal an
4 analytical mind and a highly perceptive
5 young man. Although his course work is
6 paramount to him, Adnan has found time to
7 participate in a number of activities at
8 school and in the community that require
9 time and dedication and reflect his special
10 interests. An avid member of our MESA team,
11 he participated in building a solar vehicle
12 that won sixth place in national competition
13 in Topeka, Kansas, last spring.
14 Furthermore, he works diligently on projects
15 sponsored by the National Honor Society,
16 such as food and clothes drives, and on
17 various committees for the Multicultural
18 Club. In the community, he is an effective
19 youth coordinator for Islamic functions at
20 his mosque. He also volunteers at the local
21 Woodlawn Fire Department where he has EMT
22 mentors from whom he is learning new and
23 useful skills. Adnan enjoys an excellent
24 rapport with his peers and teachers who
25 represent a diversified cultural background.

1 His warm, friendly manner, linked with his
2 general interest in the welfare of others,
3 have been definite assets in establishing
4 his interpersonal relationships. This is a
5 fine young man whose academic record, fine
6 character, and strong commitment to his
7 educational goals make him an excellent
8 candidate for admission to the University of
9 Maryland College Park.

10 And signed, "Sincerely, Bettye M. Stuckey,
11 Chairperson, Guidance and Counseling Office, 410-887-1311,"
12 And because I wrote these with our secretary, I always
13 dated them. After our secretary would write them, I date
14 them on the date that I gave it to the student, 01/13/99.

15 BY MS. GUTIERREZ:

16 Q Ms. Stuckey, thank you. I'll take that back.

17 Ms. Stuckey, as a guidance counselor at Woodlawn,
18 are you aware of the various racial classifications
19 students are --

20 A I believe I am.

21 Q And is that by a lettered or numbered system?

22 A It's by number.

23 Q And the numbers, they go through 1 to -- what
24 number?

25 A Up until six.

1 Q Up until six.
2 A Six.
3 Q And do you know what number corresponds to what
4 category?
5 A I believe I do.
6 Q Okay. And what is Category 1?
7 A Category 1 is American Indian.
8 Q And Category 2?
9 A Asian.
10 Q And Category 3?
11 A African American.
12 Q And Category 4?
13 A White.
14 Q And Category 5?
15 A Hispanic.
16 Q And Category 6?
17 A Multicultural.
18 Q Now, were you aware of what racial category was
19 assigned to Adnan Syed?
20 A Two.
21 Q Two. And that category again is?
22 A Asian.
23 Q And did you know a student by the name of Hey Men
24 Lee?
25 A I did not really know Hey Men Lee, I knew of her.

1 Lee?

2 A I did not really know Hey Men Lee, I knew of her.

3 Q Okay. Did you know her physically, what she
4 looked like?

5 A Yes.

6 Q And what racial category was assigned to her?

7 A Two, also.

8 Q Asia?

9 A Asian.

10 Q The same racial category assigned to Adnan?

11 A Yes.

12 MS GUTIERREZ: I have no further questions of
13 this witness.

14 THE COURT: Thank you.

15 Any witness -- any questions of the witness?

16 MS. MURPHY: Court's indulgence, please.

17 THE COURT: Um-hum.

18 MS. MURPHY: Just briefly, Your Honor, thank you.

19 CROSS-EXAMINATION

20 BY MS. MURPHY:

21 Q Good afternoon, Ms. Stuckey.

22 A Good afternoon.

23 Q You've testified and read your recommendation, in
24 part, regarding the Defendant's study habits and his
25 performance in school, and you've also mentioned his

1 dedication to sports and other activities. Did you become
2 aware after January of 1999 that some of his teachers were
3 becoming concerned about his performance?

4 A After the January -- after January.

5 Q That his grades began to fall?

6 A After January.

7 Q And you're aware that his English teacher,
8 Ms. Effron (phon. sp.), actually had to call his home
9 because of her concern?

10 A I'm aware of that, yes.

11 Q And this was all after January of 1999?

12 A After January 13th, right, yes.

13 Q Were you also aware that his attendance in track
14 decreased at that time as well?

15 A I'm not aware of that.

16 Q And that he -- this was discussed with the
17 Defendant by Ms. Butler?

18 A I'm not aware of that.

19 Q So in spite of your recommendation, you are aware
20 that these things happened after January?

21 A After I wrote the recommendation perhaps. I'm
22 not aware of some of the things that you mentioned but I am
23 aware of some of them, but this was after the
24 recommendation.

25 MS. MURPHY: Nothing further, Your Honor.

1 MS. GUTIERREZ: Yes.

2 REDIRECT EXAMINATION

3 BY MS. GUTIERREZ:

4 Q Yes, did you become aware that subsequent to your
5 recommendation -- and that recommendation was to the
6 University of Maryland College Park, is that right?

7 A Yes.

8 Q That you subsequently wrote a similar
9 recommendation for the Honors Program at UMBC?

10 A Yes, I did.

11 Q Okay. And did you become aware that subsequent
12 to each of those recommendations that Adnan Syed got
13 accepted at College Park?

14 A That was -- yes, and that's --

15 THE COURT: You have to answer. When you nod --

16 THE WITNESS: I'm sorry.

17 THE COURT: -- that does not record anything.

18 THE WITNESS: Yes.

19 BY MS. GUTIERREZ:

20 Q Did you become aware that he got accepted?

21 A Yes.

22 Q And that he got accepted at the Honors Program at
23 UMBC?

24 A Yes.

25 I'm very sorry. I didn't mean to nod.

1 A Yes.
2 I'm very sorry. I didn't mean to nod.
3 Yes.
4 Q That's all right.
5 And are you aware that after a senior is accepted
6 at college that they really don't have to work as hard as
7 before?
8 MS. MURPHY: Objection.
9 THE COURT: Sustained.
10 MS. GUTIERREZ: Nothing further.
11 THE COURT: Thank you very much, Ms. Gutierrez.
12 Anything further, Ms. Murphy?
13 MS. MURPHY: Nothing, Your Honor.
14 THE COURT: At this time, can I release
15 Ms. Stuckey from the summons?
16 MS. GUTIERREZ: Yes, Judge.
17 THE COURT: Ms. Stuckey, you are a sequestered
18 witness. You may not discuss your testimony with anyone
19 who is yet to be a witness. However, because you have been
20 released from the summons, you are welcome to remain in the
21 courtroom. At this time you're free to go.
22 THE WITNESS: Thank you.
23 (Whereupon, at 3:40 p.m., the witness was
24 excused.)
25 THE COURT: Your next witness, Ms. Gutierrez.

1 MS. GUTIERREZ: One moment.

2 (Pause)

3 The Defense rests, Your Honor.

4 THE COURT: Very well.

5 At this juncture, we're going to allow the jurors
6 to take a stretch. I will hear from counsel during the
7 break as to our scheduling, and we'll have the jurors come
8 back shortly.

9 Ladies and gentlemen, I'm going to ask that you
10 go with -- Deputy Church is at the door. I ask that you
11 leave the notepads face-down. You haven't heard closing
12 argument, you haven't heard the law. Although the Defense
13 has rested, the case is not yet over and -- it's almost
14 over but it's not quite, so it would not be appropriate for
15 you to discuss the case yet, either amongst yourselves or
16 with anyone else.

17 I'm going to allow you to take a stretch break
18 because when you come back expect to be seated for another
19 two hours. That is, we're going to go to 5:30 today. At
20 this time, I'm going to ask Deputy Church to take you to
21 the jury room. Please leave your notepads face-down. And
22 I'll see you in about 10 minutes. I'll have you walked
23 back. Or so. Don't hold me to 10 minutes, maybe 15.

24 (Whereupon, at 3:41 p.m., the jury was excused.)

25 MR. URICK: May we have five minutes at this

1 your client, on the record, to make a selection.

2 MS. GUTIERREZ: Oh, that's right, Judge.

3 I just want to make sure everything I have moved

4 in is --

5 THE COURT: Certainly.

6 MS. GUTIERREZ: I want to make sure that there's

7 no --

8 (Pause)

9 Judge, I've whited out that one, but I have to
10 make another copy because it does appear on --

11 I'll advise him now, Judge.

12 THE COURT: Yes, please.

13 MS. GUTIERREZ: Mr. Syed, would you stand?

14 As we previously discussed and as you've been
15 advised, you have an absolute right to remain silent; you
16 cannot be compelled to take the witness stand. And if you
17 do not elect to take the witness stand and we ask the jury,
18 and we've discussed this, the Judge will tell the jury, if
19 we ask her to, that they can't draw what the law calls any
20 inference of guilt, meaning they can't decide that you're
21 guilty merely because you elected to remain silent, do you
22 understand that?

23 THE DEFENDANT: Yes, ma'am.

24 MS. GUTIERREZ: That she will tell them that they
25 can't hold your silence against you in any way because that

1 you have an absolute right to remain silent, do you
2 understand that?

3 THE DEFENDANT: Yes, ma'am.

4 MS. GUTIERREZ: If you choose to give up that
5 right, as you've previously been advised, you can become a
6 witness like all other witnesses, subject to cross-
7 examination and impeachment by the State's Attorney, do you
8 understand that?

9 THE DEFENDANT: Yes, ma'am.

10 MS. GUTIERREZ: Have you and I had an opportunity
11 to adequately discuss whether you should remain silent or
12 take the stand?

13 THE DEFENDANT: Yes, ma'am.

14 MS. GUTIERREZ: And do you have any questions of
15 me of that election?

16 THE DEFENDANT: No, ma'am.

17 MS. GUTIERREZ: All right. You understand that
18 we've put on all the witnesses that we've discussed
19 already?

20 THE DEFENDANT: Yes, ma'am.

21 MS. GUTIERREZ: Okay. And if you were to have an
22 opportunity to testify, it would have to occur now. Are
23 you prepared to make your election?

24 THE DEFENDANT: Yes, ma'am.

25 MS. GUTIERREZ: And is your election to testify

1 or to remain silent?

2 THE DEFENDANT: To remain silent.

3 MS. GUTIERREZ: Thank you. Do you have any
4 questions about making that election?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Thank you very much, Ms. Gutierrez.

7 At this time, at the close of the Defense case,
8 it would be a normal time for counsel to make the
9 appropriate motions and --

10 MS. GUTIERREZ: Yes, Judge.

11 THE COURT: I would allow you to take the five-
12 minute break --

13 MS. GUTIERREZ: Yes, I need to locate --

14 THE COURT: -- so you can organize things.

15 I would be asking, assuming -- and I haven't
16 heard the arguments yet, so I haven't made a decision, but
17 assuming any of the motions are denied which resulted in
18 any cases moving forward or any of the counts moving
19 forward, is the State going to have any rebuttal?

20 MR. URICK: No, Your Honor.

21 THE COURT: Very well. Then I need counsel to be
22 prepared to for two things. First, I will hear argument
23 from both sides as to motions, first from the Defense and
24 then from the State.

25 Upon my return, I am going to excuse the jurors

1 because we are going to have a charging conference from now
2 until 5:30. I will pull out the Pattern rules. Starting
3 with the State's requested voir dire, we will go through
4 them.

5 And then, Ms. Gutierrez, we will go through any
6 others that are normally given. And, Ms. Gutierrez, you
7 are a very experienced lawyer, so I know that we can do
8 that by reference to the Pattern instructions.

9 MS. GUTIERREZ: Yes, Judge.

10 THE COURT: I'm going to direct my law clerk to
11 bring up an extra copy of the Pattern Instructions --

12 MS. GUTIERREZ: That will help.

13 THE COURT: -- so that you'll be able to have
14 them handy to look through. And I will ask that counsel be
15 prepared to do that.

16 I have asked both counsel to fashion an
17 instruction as to two things: the expert witness -- I
18 think there was some discussion about maybe having one --
19 and also, and more importantly, Jay Wilds.

20 Has the State done that, yes or no?

21 MR. URICK: As to --

22 THE COURT: Jay Wilds.

23 MR. URICK: Yes.

24 THE COURT: You've done that?

25 MR. URICK: As to --

1 THE COURT: And it's attached to the materials
2 you've already given me?

3 MR. URICK: Yes. It's --

4 THE COURT: And has the Defense done that yet?

5 MS. GUTIERREZ: Yes, Judge, as to Jay Wilds.

6 THE COURT: Okay. And you have that handy with
7 you?

8 MS. GUTIERREZ: Yes, Judge.

9 THE COURT: Mr. Lewis has it? Terrific.

10 MS. GUTIERREZ: Yeah, he probably does.

11 THE COURT: Luckily for Mr. Lewis.

12 MS. GUTIERREZ: If there are any errors, you have
13 to blame Mr. Lewis, because I haven't had time to --

14 THE COURT: That's all right. I'll look past
15 typos.

16 All right, so I'll let you have your five-minute
17 recess.

18 MS. GUTIERREZ: I didn't draft up a jury
19 instruction on expert witnesses because I think that --

20 THE COURT: I have one and we can work with the
21 Pattern. I'm just kind of -- sort of preparing you for the
22 fact that I'm going to be asking about it.

23 And there is an item that you wanted copied. If
24 you could give that to my law clerk, the one that you
25 whited out, I think you said, and you wanted to replace

1 the --

2 MS. GUTIERREZ: Yes. Yes, it's Defendant's
3 Exhibit --

4 THE COURT: And, Ms. Gutierrez, I need to also
5 advise you, and you can tell Mr. Lewis, maybe he can help
6 you or you can use the phone in chambers if necessary, we
7 are going to start at 8:30 tomorrow morning. So whatever
8 phone calls you've got to make or you may need to do before
9 the end of the day, I'm advising you that we're going to
10 come back and we are starting at 8:30, prompt.

11 MS. GUTIERREZ: That's fine.

12 THE COURT: Okay. Now, the Court stands in
13 recess for about 10 minutes.

14 (Whereupon, at 3:48 p.m., the trial was recessed
15 and subsequently reconvened at 4:06 p.m.)

16 (Jury not present)

17 THE COURT: Please be seated.

18 Ms. Gutierrez, I would ask as you argue your
19 motion for judgment of acquittal if you wouldn't mind
20 tracking the --

21 MS. GUTIERREZ: The numbers?

22 THE COURT: -- the numbers, paragraphs -- or at
23 least the counts and case numbers.

24 MS. GUTIERREZ: I'm going to follow it by the
25 verdict sheet which I think is correct.

1 THE COURT: That will work fine. Which is as
2 good as anything.

3 MS. GUTIERREZ: And assuming that the State is
4 still pressing all of them, Judge, I would generally --

5 THE COURT: Well, let's ask them first, are you
6 pressing all of the counts?

7 MR. URICK: All of the ones that -- motion for a
8 judgment of acquittal, yes.

9 THE COURT: Very well.

10 MS. GUTIERREZ: I would renew, generally, my
11 motion for judgment of acquittal, ask the Court to -- I
12 think remembers my arguments on the issues. I only want to
13 be heard briefly but ask the Court to incorporate the
14 previous arguments that I've made. I don't --

15 THE COURT: I would only ask that as you do it,
16 as you -- just tell me the numbers. I'm not as good a
17 note-taker, typist as I am anything else, but I am
18 listening to you and I really want to make sure that, as to
19 each of your arguments, I separate them accordingly.

20 MS. GUTIERREZ: Okay. As to the indictment
21 ending in 42, which is the murder indictment, Judge, I
22 don't need to be heard in regard to Count 1.

23 As to Count 2, Judge, in the light of all of the
24 evidence now, there is no evidence that would suggest
25 second degree murder, either as a second degree murder

1 resulting from a mitigator of first degree murder or as to
2 any other second degree murder, including depraved
3 indifference or heat of passion or anything else. So our
4 argument is under the light of all the evidence now, that
5 the only count that should survive under the murder
6 indictment, 42, is the first count, which is first degree
7 murder, that it would be inappropriate -- there is no
8 evidence suggesting second degree murder.

9 As to the indictment ending in 43, which is the
10 kidnapping --

11 THE COURT: Which is Count 43?

12 MS. GUTIERREZ: Which is to -- as I understand
13 it, it's Count 3 that survived.

14 THE COURT: Okay, wait a minute.

15 MS. GUTIERREZ: Count 4 was --

16 THE COURT: Give me -- the case ending in 043,
17 correct?

18 MS. GUTIERREZ: Yes.

19 THE COURT: And that is the fraudulently --

20 MS. GUTIERREZ: Kidnapping --

21 THE COURT: -- carrying away?

22 MS. GUTIERREZ: Right. Kidnapping by force or
23 fraudulently carrying. I believe we've all referred to it
24 as kidnapping by deception.

25 You know, here are in the light of all the

1 evidence and, yes, they want to try to say that, but the
2 only evidence from which they can argue is the evidence
3 that comes from Jay Wilds. And all Jay Wilds says is what
4 Adnan said, not what he did. There is no evidence of
5 anything anybody did to establish that she was kidnapped.
6 And in fact, there is contrary evidence before the Court,
7 that has not been impeached, that there would have been no
8 deception that anyone who knew Hey or knew the facts or
9 knew their relationship, that anyone would have expected
10 there to have had to have been deception in order for her
11 to have allowed Adnan Syed in her car, either initially or
12 to remain there. And the only evidence of kidnapping by
13 deception is what Jay Wilds says Adnan said, not what Jay
14 Wilds said he did.

15 And the only evidence in regard to kidnapping was
16 something that Adnan Syed is alleged by Jay Wilds to have
17 said before Jay Wilds left him in the early afternoon of
18 January 13th, what he was going to do to get in her car,
19 that -- if you believe that might have involved deception.
20 But there is no evidence establishing that's what he did
21 or, subsequent to Jay Wilds leaving him, that in fact that
22 that's what he did. There's no evidence that supports or
23 corroborates any argument that he did what he said he was
24 going to do. And in fact, there's contrary evidence before
25 the Court, so we would move for motion of a judgment of

1 acquittal as to Count 1 in 43, because to do otherwise
2 would allow the State to invite speculation by the jury in
3 a critical element.

4 As to the indictment ending in 45, which is
5 robbery, as I understand it, all of the counts survived the
6 first motion. I would ask the Court to reconsider our
7 arguments now in light of all of the evidence, not in the
8 light most favorable to the State.

9 Specifically, as to robbery, it is our
10 maintenance that there is a requirement of intent to
11 permanently deprive and there is no evidence that suggests
12 that, even if you believe Jay Wilds that it was Adnan's
13 decision. Where it was parked was a public area,
14 locatable, perhaps with effort, but not in and of itself
15 indicative of an intent to permanently deprive the owner.

16 As to the second and third count --

17 THE COURT: The car that we're talking about is
18 the car --

19 MS. GUTIERREZ: Was the car of the victim.

20 THE COURT: That the property is the car?

21 MS. GUTIERREZ: Yes.

22 THE COURT: Not the property contained therein?

23 MS. GUTIERREZ: Yes, yes.

24 Well, to the extent that property is contained
25 therein, then the same argument applies.

1 As to the evidence of the struggle in the car
2 and, you know, by reason of the signal that the Court used
3 to sort of substantiate keeping in Counts 6 and 7, assault
4 in the first and second degree, now, in light of all the
5 evidence, Judge, there is no evidence on the body -- in
6 fact, there's evidence to the contrary -- no evidence of
7 any injury on her leg or any portion of her body that may
8 have been hit, may have been injured as a result of a
9 struggle whatsoever.

10 There's no evidence, in fact, that the signal
11 wasn't in the condition in which it was seen more than a
12 month after it had been released from police custody, under
13 unknown control or controlled by unknown persons, when that
14 signal had been in whatever condition it was found to be at
15 that much later date.

16 And there is no evidence that, in fact, she was
17 assaulted other than the murder, whatever assault took
18 place. And if that's true, then that's a lesser included
19 offense as to the murder in the indictment and not as to a
20 separate lesser included offense as to robbery. I mean,
21 robbery is the sort of theft plus assault. And so, this
22 indictment does not charge assault as a lesser included of
23 murder, it charges assault as a lesser included of robbery,
24 and there is no evidence from which to establish that.

25 As to felony theft, again we would argue there's

1 no establishment of who the owner was. They didn't attempt
2 to do that. We believe that that's an element. There's no
3 establishing the value of the car. You can't establish
4 value by inference. You need evidence to establish the
5 elements of the crime. And in fact, from their very own
6 witnesses and ours, there is un rebutted evidence that Adnan
7 Syed had permission to drive the car, to be in the car, had
8 driven it, was always in lawful possession of it all the
9 times that he had it, which were numerous.

10 And as to case ending in 46, which is the false
11 imprisonment, again it's by deception. It's akin, I
12 believe, Judge, to the same count charged in 43, which is
13 the kidnapping by deception. And again, certainly there's
14 some aspect of false imprisonment, you know, if the jury
15 believes Jay Wilds and finds him guilty of murder. But
16 this is specific false imprisonment by deception and, once
17 again, although Jay Wilds says that Adnan said that's what
18 he was going to do, that's what Adnan said not what he did,
19 there's no evidence from Jay Wilds or from any other
20 source -- of course, there's no other source after having
21 spoken to Adnan about this other than Jay Wilds -- of
22 meeting the element of any deception on the part of Adnan
23 that actually happened. And so, to send that to the jury
24 would invite speculation that Jay Wilds said that Adnan
25 said that's how he was going to get her in the car. Jay

1 Wilds never said that Adnan said afterwards that that's how
2 he got her in the car. So once again, that's only evidence
3 of what he said, not what he did. And again, sending that
4 to the jury would invite them to speculate as to critical
5 elements of the crimes charged.

6 THE COURT: Thank you.

7 All right, I'll hear from the State with regard
8 to -- it appears counsel is directing her attention --

9 And I take it you would submit on the other
10 arguments and incorporate herein by reference your previous
11 arguments, Ms. Gutierrez?

12 MS. GUTIERREZ: Yes, Judge. I intended to say
13 that.

14 THE COURT: Very well.

15 MS. GUTIERREZ: And other than second degree
16 which, of course, really didn't come up yesterday, but --

17 THE COURT: Which you had argued, I believe, at
18 length.

19 MS. GUTIERREZ: Yes.

20 THE COURT: Very well. I'll do that and consider
21 those arguments here with a different shifting of the
22 burden.

23 And I'll hear from the State as to each of the
24 counts. And again, I would ask that you, if you would,
25 follow the verdict sheet that you have.

1 MR. URICK: Thank you, Your Honor.

2 Before I do that, was it your intent to excuse
3 the jury?

4 THE COURT: No. It was my intent to hear from
5 your argument and then I'll let you know what I decide to
6 do. It has a lot to do with how long you're going to be.

7 MR. URICK: I would incorporate all my arguments
8 at the motion for judgment of acquittal. I'll try not to
9 needlessly repeat things I said then but I can't
10 necessarily remember everything I said. So if I do, I
11 apologize.

12 As to first degree murder, there is, as I noted
13 then, ample evidence of intent. The method of the murder,
14 strangulation, takes time. The way it was planned, the way
15 it was a trap, the way that various things, including the
16 obtaining of the cell phone, which was a necessary element
17 for the crime to have been committed in the way it was, all
18 these are evidence of premeditation. Hence, first degree
19 murder.

20 As to second degree murder, that's just a
21 specific intent to kill. It does not need to show
22 premeditation. The intent to kill is you've got statements
23 of the Defendant, you've got the method of death.
24 Strangulation is not something that occurs easily or by
25 accident, it requires an exertion of will over a period of

1 time. And you also have evidence that this Defendant had
2 medical training and would have known exactly what he was
3 doing. Hence, the intent can be shown here because he had
4 the knowledge of what the consequences of that act would be
5 and could actually determine what the consequences would
6 be.

7 As to kidnapping by fraudulently carrying away,
8 there is more than just the evidence of Jay Wilds. There's
9 the testimony of Krista Meyers who had a morning class, who
10 testified the Defendant told her that his car was in the
11 shop and that he had asked Hey for a ride home after
12 school. Ayisha Pittman testified to the same, that the
13 Defendant had told her that his car was in the shop and
14 that he was asking Hey for a ride home. So you've got --

15 THE COURT: How is that kidnapping if he asked
16 her for a ride home and she agreed to give him a ride home?
17 Counsel for the Defense is arguing that the victim
18 voluntarily allowed the Defendant to get into her vehicle
19 and that she was not forced to do that and that this was
20 not something that was deceiving her and that she knew he
21 was asking for a ride. He hadn't concealed himself in the
22 back seat where she couldn't see him or hidden himself away
23 in the trunk of her car but, rather, that from the evidence
24 she knowingly allowed him to get in the car. And why isn't
25 that obvious and not in any way deceitful or fraudulent?

1 MR. URICK: Because the method of obtaining the
2 consent used deception. He lied to her about the true
3 facts of the matter. That deception was a pretext to
4 obtain her consent. That is, he received the consent by
5 way of deception. That, under the case law, is sufficient
6 for an alternative means of proving kidnapping to the means
7 of force because deception overcomes one's will just as
8 much as force does. Therefore, it is kidnapping by
9 deception, that the lie as to the true reasons why he
10 needed a ride was a deception. That deception was a
11 pretext to obtain her consent. He obtained the consent by
12 deception. Therefore, that is kidnapping under the case
13 law and under the Pattern Jury Instruction as currently
14 written.

15 THE COURT: I'm sorry, the last part of what you
16 said?

17 MR. URICK: The Pattern Jury Instruction, as
18 currently written, contains kidnapping by force or
19 deception.

20 THE COURT: All right. And the pertinent part of
21 that instruction?

22 MR. URICK: I'm just noting that it includes
23 deception as one of the alternative bases for a ruling that
24 kidnapping has occurred or --

25 THE COURT: And the facts of this case that

1 present a deception are?

2 MR. URICK: The fact that he gave a story to the
3 victim to induce her consent that was false. He told her
4 his car was in the shop and he needed -- therefore, he
5 needed a ride home after school.

6 MS. GUTIERREZ: Judge, I would remind the Court
7 there's no evidence whatsoever about Mr. Syed's car or it's
8 operability or nonoperability on or at the date in
9 question.

10 MR. URICK: The testimony of Ayisha Pittman and
11 Krista Meyers to that effect.

12 MS. GUTIERREZ: Not as to the car.

13 MR. URICK: They've all testified the Defendant
14 told them --

15 THE COURT: Well, Ms. Gutierrez, you know,
16 unfortunately, you know, we let you make your best
17 argument, and he's making his best argument. And I'm
18 appreciating that you're pointing out the facts that you
19 don't believe are in the record, but I've got to listen to
20 his version. And then in a moment, I'm going to ask you to
21 respond since it's your motion for judgment of acquittal.
22 So if you'll let him make his pitch, I'll listen to what
23 you have to say in response.

24 MS. GUTIERREZ: All right, Judge.

25 THE COURT: But I'm asking counsel to

1 specifically direct me to facts that show the deception.

2 MR. URICK: Both Ayisha Pittman and Krista Meyers
3 testified as to what the Defendant told them as to why
4 that -- in fact, he had asked Hey for a ride home after
5 school, that both of them testified that he told them that
6 his car was in the shop, although I think Krista Meyers
7 phrased it he said either his brother had his car or it was
8 in the shop, I can't remember which of the two it was. But
9 Ayisha Pittman was quite clear that the Defendant had told
10 her that the car was in the shop, that was why he needed a
11 ride home from Hey.

12 That request from the Defendant was a lie.
13 Therefore, it was a deception. Therefore, he induced a
14 consent by means of deception that overcame -- that, in
15 effect, negated her ability to give a voluntary consent
16 because she was consenting to something that was a false
17 statement of facts.

18 THE COURT: So the State's position is that the
19 evidence shows beyond a reasonable doubt or could be
20 inferred by the trier of fact sufficient for me to send it
21 to the jury that the following threat of activity occurred?
22 That he told Krista Meyers and Ayisha that he was going to
23 do this, that he asked Hey for a ride, that she agreed to
24 give him a ride, and that the ride home resulted in them
25 going to his house?

1 MR. URICK: To the Best Buy parking lot.

2 THE COURT: To the Best Buy parking lot for the
3 purposes of --

4 MR. URICK: Killing her.

5 THE COURT: -- killing her. So once they get to
6 the Best Buy parking lot, you're saying that the evidence
7 in your case shows that that's where she was killed?

8 MR. URICK: Yes.

9 THE COURT: And that the kidnapping occurred from
10 the high school to the Best Buy parking lot?

11 MR. URICK: To the point of death, to the place
12 where the murder occurred.

13 THE COURT: And that he got her there by
14 deception?

15 MR. URICK: He kidnapped her. He kidnapped her,
16 that's how he got her there. And the particular kidnapping
17 was effected by means of deception.

18 THE COURT: And she didn't go there voluntarily?

19 MR. URICK: Not when it was induced by deception.

20 THE COURT: It was his intent, even if they were
21 to have sex in that parking lot or if the intent was to --
22 what if the facts are -- that the trier of fact would find
23 that the travel from the high school to the Best Buy was
24 for the purposes of them engaging in sexual activity on the
25 parking lot, as they had done on previous occasions, which

1 is in evidence, and that once there they had a fight, and
2 that resulted in the fight that broke the signal bar and
3 then she was killed? What do you say then with regard to
4 the kidnapping count?

5 MR. URICK: The kidnapping charge and the murder
6 charge are distinct charges. They're not related to each
7 other.

8 THE COURT: I'm asking about the kidnapping.

9 MR. URICK: That's why I'm addressing it this
10 way.

11 It's not the charge that he did kidnap her with
12 the intent of killing her, it's just that he did kidnap her
13 by means of deception. It is the travel itself which is
14 the kidnapping. If they find that they agreed to go there
15 to have sex, then there could be no kidnapping because
16 there'd be no deception. But if they find that they
17 went -- that they traveled in that car because the
18 Defendant told a lie and that lie was that he needed a ride
19 to get his car because it was in the shop or his brother
20 had it, then you would have a carrying of someone by
21 deception. That deception would overcome their will.

22 THE COURT: And the State's position is that
23 there's sufficient evidence for a jury or trier of facts to
24 find that inference?

25 MR. URICK: Yes.

1 THE COURT: All right. With regard to the
2 robbery?

3 MR. URICK: And it's also consistent with what he
4 told Jay.

5 THE COURT: And with regard to the robbery?

6 MR. URICK: As to robbery, the taking away with
7 the intent to permanently deprive, you've got evidence that
8 he took personal property, he threw it away in various
9 dumpsters, that he secreted the car in a place in downtown
10 Baltimore. That is, he hid the car. That is sufficient
11 evidence for an inference of an intent to permanently
12 deprive the owner, let alone to say the fact that he killed
13 the owner -- and I would say there's evidence of that
14 because Yung Lee testified, when asked, do you recognize
15 this car, his answer was that's Hey's car. And he
16 testified that was Hey's property in the car. The way it
17 was secreted, the way it was hidden, hiding something,
18 secreting it is traditional evidence of an intent to
19 permanently deprive someone of that property.

20 THE COURT: And the assaults related, counsel has
21 said that there's assault one and assault two.

22 MR. URICK: You've got the evidence of the
23 bruising on the side of the head, the sign of the struggle
24 through the damage to the car, and you've got recorded
25 statements that are significantly corroborated by that

1 evidence.

2 THE COURT: Very well.

3 Now, Ms. Gutierrez, now that you know the State's
4 position -- the facts, I'll hear from you.

5 MS. GUTIERREZ: Judge, the only thing I wanted to
6 argue is, you know, this is how I understand it. The
7 deception that they are alleging is -- the basis of the
8 deception element for the kidnapping is that what he's
9 allegedly said to Krista Meyers and Ayisha Pittman, and we
10 dispute that's what Ayisha Pittman said. The record speaks
11 for itself. But Krista Meyers said that and Ayisha Pittman
12 did not. But if that's the deception, then all of the
13 evidence is in, is that he said that he was going to ask
14 Hey Men Lee for a ride because his car was in the shop.
15 There is no evidence that has any bearing on whether that
16 was true or false. There's no evidence about his car and
17 its condition on that day or whether or not it was in the
18 shop when he told Krista Meyers that that's what he was
19 going to do. And at that juncture when he told her is the
20 only thing that has any bearing on whether or not that was
21 deceptive. And they brought in no evidence to show that
22 early in the morning when Krista Meyers says that's what he
23 said to her whether or not his car was in the shop or not.

24 THE COURT: Well, I mean, Ms. Gutierrez,
25 obviously, if it's a lie, and assuming that it is a lie, it

1 wouldn't matter if the car was in the shop or not. If the
2 car was truly in the shop and he said it, he still could
3 have used the fact that the car was in the shop to get into
4 her car. And if the car wasn't in the shop --

5 MS. GUTIERREZ: Well, true, but if their only
6 theory is that that's the deception, then there has to be
7 evidence from which a reasonable jury can infer from one to
8 another to establish an element. And so, it does become
9 important --

10 THE COURT: Or a series of facts from which an
11 inference could be drawn.

12 MS. GUTIERREZ: Reasonably drawn.

13 THE COURT: That's right.

14 MS. GUTIERREZ: But if the first fact is an early
15 morning statement made to a witness that his car is in the
16 shop, if that's from which you then infer deception, and
17 whether or not that's her statement is true or false,
18 certainly is part of the element of defining whether or
19 not -- otherwise, how can it be inferred? How can it be
20 reasonable inferences from a series of facts? There is no
21 evidence before this jury as to his car or its status at
22 the time that he spoke -- of anything at the time that he
23 spoke to Krista Meyers, which was early in the morning.

24 I don't have anything to respond as to the
25 robbery other than, again, you know, the brother said that.

1 But then they put in evidence to establish the ownership of
2 the car and that establishes it ain't Hey Men Lee. And
3 that evidence is -- Judge, it's the registration for the
4 car, the pictures of it, matches the tag number. It
5 matches. So the evidence is that the owner of the car is
6 not Hey Men Lee.

7 THE COURT: Well, I think the very argument that
8 you both are presenting is the reason why these counts have
9 to go to the jury. I mean, that's just, that's just the
10 idea, is that depending on how you view the facts and apply
11 those facts to the law determines how you see each of the
12 counts. And at this juncture, there are a lot of facts
13 from which someone could draw -- a number and a series of
14 determining factors and evidence, and in weighing that
15 evidence determine beyond a reasonable doubt and to a moral
16 certainty whether or not the Defendant is guilty of these
17 offenses or that the State has failed to meet that burden.
18 But the assessment and the weighing of that evidence and as
19 it applies to the law has to be done through the jury.

20 So with regard to 042, as to regard to first
21 degree murder, I deny your motion. As to 042, as to second
22 degree murder, I deny your motion because again, depending
23 how the evidence is viewed, they might believe that the
24 evidence shows premeditation or they may believe that it
25 didn't.

1 As to 043, kidnapping by fraudulent carrying,
2 Count 1, I also find that the -- and was that Count 1? I
3 just want to make sure I have the counts correct.

4 MS. GUTIERREZ: Which number?

5 THE COURT: 043, kidnapping by fraudulently
6 carrying, that's Count 1 of that indictment, correct, and
7 not Count 2?

8 MS. GUTIERREZ: Yes, that's what I have.

9 THE COURT: All right. And so, I deny your
10 motion as to that.

11 Under 045, robbery, assault in the first degree,
12 assault in the second degree, and felony theft, as to each
13 and every one of those, I think that the facts are there.
14 Depending on how the trier of the facts views them and
15 applies the law, who they believe, the credibility of the
16 witnesses, who they believe in terms of the application of
17 those facts and circumstances to the law will determine
18 whether or not they find that the State has met its burden
19 beyond a reasonable doubt. Those issues have got to go to
20 the jury.

21 And as to 046, false imprisonment -- let me make
22 sure I have that -- by deception, I still have that as an
23 open count, correct? And counsel did not argue that, but
24 the facts appear --

25 MS. GUTIERREZ: I did at first.

1 THE COURT: Well, you argued it as first in the
2 context of the kidnapping.

3 MS. GUTIERREZ: Right.

4 THE COURT: As to 046 count, I think again the
5 facts are such that either they believe that the kidnapping
6 and false imprisonment deception occurred between the high
7 school and a parking lot or they don't. If they believe
8 the series of facts and weigh the credibility and apply it,
9 then they will. And if they don't, they won't. But then
10 after they determine what the facts are, they've got to
11 decide whether the State has met its burden as to those
12 elements beyond a reasonable doubt and to a moral
13 certainty. And I think that because the trier of fact must
14 make that weighing and must make the determination, 046
15 must also go to the jury as to Count 2 charging false
16 imprisonment by deception, and I so find.

17 At this time, I am going to provide counsel with,
18 and ask that you pull out -- that's what we had discussed
19 the other day. And I'm going to ask that you review that
20 for any typos that you might find.

21 Also, I'm going to ask that you pull out, if you
22 have handy, the State's suggested voir dire. And while
23 you're doing that, I'm going to have the jurors come in.
24 I'm going to excuse them until tomorrow morning at 8:30, at
25 which time I will do the following. At 8:30, we will have

1 instruction by the Court, which I expect will take about 45
2 minutes, maybe 50 minutes. Then we'll have closing
3 argument by counsel. And then, depending on what time we
4 finish that, they'll either go to lunch or they will --

5 MS. GUTIERREZ: Start.

6 THE COURT: -- start deliberating and then go to
7 lunch.

8 I'm advised that my one remaining -- or my case
9 dockets for tomorrow morning have been taken by another
10 judge, so I will not have a docket in the morning. I'll be
11 able to use this time to resolve this case. So that's my
12 plan at this time.

13 And if my law clerk would be so kind to bring the
14 jurors in.

15 MS. GUTIERREZ: Judge, before you do that, is the
16 Court willing to discuss the 8:30 time at all?

17 THE COURT: No. I'm not going to discuss it.

18 MS. GUTIERREZ: Then I'm not going to bother.

19 THE COURT: At this time it's -- well, the Court
20 has bent over backwards and this time we're going to
21 accommodate me because I do have a vacation that I had
22 planned more than four months ago, and I know that I might
23 not be able to take it.

24 MS. GUTIERREZ: I've already mentioned --

25 THE COURT: So this time we're going to

1 accommodate the Court and we're going to start at 8:30,
2 with the hope that we'll be able to get this resolved.

3 (Whereupon, at 4:36 p.m., the jury returned to
4 the courtroom.)

5 THE COURT: Ladies and gentlemen, I want to give
6 you an idea of what we're about to do. We're almost done
7 with this case. The Court has some matters that I must
8 take up with the attorneys. Following that, we will have
9 instruction by the Court to you on the law. That takes
10 about 40 minutes maybe a little longer. Following that,
11 closing argument by each attorney. Each attorney will have
12 an hour and a half. They may use all or part of that time.
13 Because this case has gone on for six weeks, they may use
14 all of it or they may use some of it, but they have an hour
15 and a half.

16 For that reason -- it is now 4:30 and I'm not
17 going to do that tonight. I'm going to talk with counsel,
18 get everything else ready. But tomorrow morning I'm going
19 to instruct you.

20 Now, I'm up first in the morning. That is, I
21 talk to you first as to the law, and I'm going to do
22 something unusual. I think we may have done this once
23 before. I'm going to start at 8:30. I've gotten another
24 judge to handle my docket, so I have nothing else but this
25 case. And we will start with my instruction to you on the

1 law at 8:30, followed by closing argument by the State and
2 then the Defense. Following that, there will be an
3 opportunity for deliberation in this case. That will be
4 the sequence of events.

5 I'm going to ask that, obviously, you not go to
6 the Jury Commissioner's Office at 8:00 because they won't
7 be there but, rather, that you come to our jury room at
8 8:30. Now, I know this may be inconvenient to your
9 schedules and I've already been told that it maybe
10 inconvenient. I'm just going to ask that you do what you
11 can to make adjustments to your calendars and schedules
12 this one last time so that you can be here at 8:30. I
13 would truly like to get started promptly at 8:30 and I'm
14 going to be here, right here, and I'm going to be very
15 unhappy if those of you that have been part of this case
16 are not here at 8:30. Because if we do that, as you can
17 see from the time that we need to use before the case can
18 even be given to you, we might be able to finish that in
19 the morning, so that maybe by lunchtime the case will be
20 with you for deliberation. That's my plan; that's what I'd
21 like to do.

22 In the meantime tonight, once again, you cannot
23 discuss what you've heard. You have now heard all of the
24 evidence but you have not heard the law and you have not
25 heard closing argument. So therefore, it would be

1 inappropriate to make up your mind, to come to a decision
2 without hearing from me as to what the law is, without
3 hearing from counsel as to what their argument is, and
4 without discussing amongst yourself the evidence and the
5 law. That would be inappropriate to do that before you've
6 done all of what I've described.

7 So as you go today, one last time, you're going
8 to leave your notepads face-down on your chair. You're
9 going to go and return here tomorrow at 8:30. If you
10 arrive at the front doors and they in any way try to stop
11 you from coming in, you tell them that you've been ordered
12 to return by Judge Heard who's going to take the bench
13 early, at 8:30. I will have my staff call down and advise
14 them that you will be coming up early.

15 The sheriff will have already unlocked the door,
16 and you should not have any difficulty getting into
17 chambers -- into your jury room.

18 I at this time would then excuse you for the
19 evening and ask that you have a pleasant journey home, and
20 I will see you tomorrow morning at 8:30 sharp.

21 (Whereupon, at 4:41 p.m., the jury was excused.)

22 THE COURT: All right, counsel, with regard to
23 the State's requested jury instructions, what I intend to
24 do is to start with those instructions that I normally
25 give. And as they've already been instructions provided as

1 on a list, if the Defense challenges or disagrees with my
2 giving that instruction, I'd ask that you note that as I go
3 through them.

4 The binding nature of the instruction is a
5 standard instruction I normally give in following the
6 McPowell (phon. sp.) jury instruction. I will give that.
7 Any objection?

8 MS. GUTIERREZ: No, Your Honor.

9 THE COURT: Okay. Skip down to 2.04,
10 impartiality of consideration, that's State's requested
11 no. 5, that's a standard instruction I normally give. Any
12 objection?

13 MS. GUTIERREZ: No, Your Honor.

14 THE COURT: 3.0, State's 6, is a standard
15 instruction I normally give. Any objection?

16 MS. GUTIERREZ: No, Your Honor.

17 THE COURT: 3.01 is direct or circumstantial
18 evidence, also a standard instruction. That's State's 7.
19 Any objection?

20 MS. GUTIERREZ: No.

21 THE COURT: 2.02, reasonable doubt, I normally
22 give is a standard instruction I normally give, with one
23 caveat. My reasonable doubt --

24 MS. GUTIERREZ: I'm sorry, Judge, what number is
25 that?

1 THE COURT: It is the Defense -- I'm sorry, the
2 State's requested 3, Maryland Pattern Jury Instruction on
3 reasonable doubt 2.02, 2.02.

4 MS. GUTIERREZ: Oh, I see. Okay, yes.

5 THE COURT: See it? No. 3?

6 MS. GUTIERREZ: Yes.

7 THE COURT: I normally give the Pattern
8 Instruction with one caveat. I depart from it in that in
9 the middle of the instruction I emphasize that -- and I'll
10 read exactly what I say:

11 Some of you may have served as jurors in
12 civil cases where you were told that it is
13 only necessary to prove that a fact is more
14 likely true than not true. In criminal
15 cases, the State's proof must be more
16 powerful than that. It must be beyond a
17 reasonable doubt. This burden remains with
18 the State throughout the trial. The
19 Defendant is not required to prove his
20 innocence. However, the State is not
21 required to prove guilt beyond all possible
22 doubt or to a mathematical certainty, nor is
23 the State required to negate every
24 conceivable circumstance of guilt.
25 Proof beyond a reasonable doubt is proof

1 that leaves you very firmly convinced.

2 And then I follow the rest of the instruction.

3 What it does is it emphasizes that this is not a civil case
4 and reiterates that it's not just the tipping of the scales
5 but proof more powerful than that..

6 Any objection?

7 MS. GUTIERREZ: No, Your Honor.

8 MR. URICK: No.

9 THE COURT: Okay. I just want to make sure I
10 have that.

11 Okay. I normally give 3.02, which is the State's
12 8, where there's a stipulation of facts.

13 Ms. Collin, I need the sticky pads that normally
14 are here. If you have a strip or pile of them, I'd
15 appreciate it.

16 Okay, with regard to the stipulations of fact, I
17 believe there was stipulation as to the authenticity of a
18 couple of exhibits. Correct me if I'm wrong. Are there
19 any instructions -- any items of evidence that were
20 stipulated to by both counsel?

21 MR. URICK: The Defendant's cell phone records.

22 THE COURT: The cell phone records, okay.

23 MS. GUTIERREZ: The cell phone records and her
24 bank records.

25 THE COURT: Her bank records? That authenticity

1 was stipulated to?

2 MS. GUTIERREZ: Right.

3 THE COURT: I don't believe that the records
4 themselves --

5 MR. URICK: The various chains of custody, too,
6 of evidence was stipulated to.

7 THE COURT: All right. Any objections to me
8 indicating what -- or defining what stipulated evidence is,
9 as I did at the time the items were admitted, but just to
10 reiterate what is a stipulation?

11 MS. GUTIERREZ: No, Judge.

12 THE COURT: Okay. Then I'll leave that in.

13 All right. There are no depositions, that's
14 no. 7.

15 I don't believe I took judicial notice of
16 anything.

17 I'm not sending any dismissed charges, so there's
18 nothing to talk about there.

19 All right.

20 MR. URICK: Just in case they get curious,
21 though, on the verdict sheet, under the Indictment
22 199103046, you never told them there were two counts of
23 false imprisonment. Maybe on the verdict sheet we should
24 just change it, how do you find as to Count 1, false
25 imprisonment by deception. That way, they won't be

1 confused.

2 THE COURT: You're looking for 046?

3 MR. URICK: Yes.

4 THE COURT: Under Count 2?

5 MR. URICK: Yeah. Could we just change it as to
6 Count 1?

7 THE COURT: Just say as to the charge --

8 MR. URICK: Yeah.

9 THE COURT: -- as to the charge --

10 MR. URICK: That would be fine, too.

11 THE COURT: -- of. Any objection to that? All
12 we're doing is on the verdict sheet, under 046, instead of
13 it reading "As to Count 2, charging false imprisonment by
14 deception," it would just say "As to the charge of false
15 imprisonment."

16 MS. GUTIERREZ: "Of false imprisonment," that's
17 fine.

18 THE COURT: So there's no reference to a count
19 that's not there.

20 MS. GUTIERREZ: That's fine. No objection.

21 THE COURT: All right. Ms. Collie, don't take
22 that away yet, but just note that that's going to have to
23 be a correction.

24 All right, 3.06, determining individually, the
25 charges individually, which is State's no. 9, I normally

1 give that. You have no objection?

2 MS. GUTIERREZ: No, Judge.

3 THE COURT: All right. Credibility of witnesses
4 is not listed under 3.10. Let me see.

5 MR. URICK: That was a mistake on my part. I
6 meant to include it as a requested instruction.

7 THE COURT: That's an instruction I normally
8 would give. Ms. Gutierrez, 3.10 reads as follows:

9 You are the sole judges of whether a witness
10 should be believed. In making a decision,
11 apply your common sense and everyday
12 experiences. In determining whether a
13 witness should be believed, you should
14 carefully judge all the testimony, evidence,
15 and circumstances under which a witness has
16 testified. You should consider the
17 witness's behavior on the stand and the
18 way --

19 MS. GUTIERREZ: Judge, I have that, and that's
20 one of the ones that I requested from the Pattern Jury,
21 so --

22 THE COURT: I will give that instruction.

23 All right, 3.14, which is expert --

24 MS. GUTIERREZ: Expert witnesses?

25 THE COURT: Um-hum. Any objection?

1 MS. GUTIERREZ: No, Judge. Again, that's a --

2 THE COURT: An instruction --

3 MS. GUTIERREZ: -- one that I've requested.

4 THE COURT: That's State's no. 11.

5 And the next one I give is State's no. 12, which
6 is 3.16, number of witnesses, standard instruction I give.

7 MS. GUTIERREZ: Yes, Judge, I believe that also
8 I've requested that.

9 THE COURT: 3.17, at this point I would normally
10 give the instruction failure of the Defendant to testify.
11 That's what I normally would do. Are you requesting that
12 instruction?

13 MS. GUTIERREZ: Yes, Judge, we are.

14 THE COURT: I will give that.

15 MS. GUTIERREZ: That's my no. 17.

16 THE COURT: Okay. 3.18, statement of the
17 Defendant, this is where the Defendant has provided a
18 statement and 18 -- I don't know if you're familiar with
19 it.

20 MS. GUTIERREZ: Well, Judge, I am, and I actually
21 put it in my request but I was --

22 THE COURT: You've changed your mind?

23 MS. GUTIERREZ: Well, I was concerned when I put
24 it in because I think that, you know, there isn't an issue
25 of voluntariness and, generally, that's when that Pattern

1 Jury Instruction applies. The bulk of that Pattern goes to
2 tell the jury the issues that are solely related to
3 voluntariness.

4 THE COURT: Right.

5 MS. GUTIERREZ: All the statements of Mr. Syed's
6 have been brought before the jury. The ones that weren't
7 brought by them we brought out. There isn't any issue of
8 voluntariness or custodial -- I think that although it
9 appears to be appropriate that in this case it would lead
10 to greater confusion by the jury. So I'd withdraw my
11 request and object to the Court giving it.

12 THE COURT: All right. I tend to agree with
13 Ms. Gutierrez.

14 The State doesn't have any problem with that, do
15 you?

16 MR. URICK: No. We think it's an inappropriate
17 instruction, unless it's an incriminating confession.

18 THE COURT: Well, it wouldn't always have to be
19 an incriminating, it could be a good statement for the
20 Defense.

21 MR. URICK: I think there is a statement --

22 THE COURT: But in any event, the voluntariness
23 of it is the issue and whether or not it was one where it
24 was a challenge. But in any event --

25 MR. URICK: -- Your Honor.

1 THE COURT: -- you're correct as to whether it is
2 appropriate, and I think -- I note that -- then you're
3 withdrawing 3.18. All right.

4 Going back to my list, and I'm working off my
5 list, and the order that I'm giving it to you is the order
6 in which I'll be giving it to the jurors as opposed to
7 following the order that the State or the Defense has
8 provided.

9 Impeachment by prior conviction, which is not, in
10 itself, relevant --

11 MS. GUTIERREZ: Is that -- anybody?

12 THE COURT: That's -- I don't think we had
13 anybody that had a prior conviction.

14 MS. GUTIERREZ: I don't either.

15 THE COURT: The convictions of Mr. Sellers did
16 not come in, so I don't think that that will be relevant
17 and would not be appropriate.

18 Moving on to any identification issues, and I
19 don't think we have any.

20 MS. GUTIERREZ: I don't believe so.

21 THE COURT: Although, have you looked at 3.30?
22 I'll read it to you while you're looking. And normally --

23 MS. GUTIERREZ: It's 3.0?

24 THE COURT: It's normally a different type of
25 case, but I'll read you the instruction. The instruction

1 says:

2 The burden is on the State to prove beyond a
3 reasonable doubt that the offense was
4 committed and that the Defendant was the
5 person who committed it. You have heard
6 evidence regarding the identification of the
7 Defendant as the person who committed the
8 crime. In this connection, you should
9 consider the witness's opportunity to
10 observe the criminal act of the person
11 committing it, including the length of time
12 the witness had to observe the person
13 committing the crime, the witness's state of
14 mind and any other circumstance surrounding
15 the event. You should also consider the
16 witness's certainty or lack of certainty,
17 the accuracy of any prior description, and
18 the witness's credibility or lack of
19 credibility, as well as any other factor
20 surrounding the identification.

21 You have heard a witness identifying the
22 Defendant by, and I would proffer it might be Jay Wilds,
23 and I'm not suggesting that this particular instruction
24 verbatim, but it may be a starting place for fashioning
25 that instruction that I was referring to before.

1 It is for you to determine the reliability
2 of any identification and to give it the
3 weight you believe it deserves.

4 Identification of the Defendant by a single
5 witness as the person who committed the
6 crime, if believed beyond a reasonable
7 doubt, can be enough to convict the
8 Defendant. However, you must examine the
9 identification of the Defendant with great
10 care.

11 Now, I know that you --

12 MS. GUTIERREZ: Judge, we looked at that and,
13 obviously, there are pieces of it that we really like. And
14 if the Court's open, maybe we'll cut and paste it, but I
15 think it is essentially an identification instruction and
16 that's not really the issue here.

17 THE COURT: Agreed.

18 MS. GUTIERREZ: It's not did Jay Wilds select the
19 right person, it's do you believe Jay Wilds at all. That's
20 from us. So -- and because I think it's mostly on
21 identification, we decline to request it and would object
22 to it now.

23 MR. URICK: The State concurs.

24 THE COURT: Very well. I just wanted to make
25 sure I ran it by you.

1 Okay. We're now at the proof of intent under
2 3.31, which is, what, 13's requested instruction by the
3 State?

4 MS. GUTIERREZ: We've also requested it as our
5 22.

6 THE COURT: Very well. And as to 3.32, motive --

7 MS. GUTIERREZ: Which is the motive? Yes, we've
8 also requested it.

9 THE COURT: Very well. That's a normal
10 instruction I would give. That's 14.

11 And I do have 5.0 stuck in here. Did you request
12 5.0, which is the alibi? Kind of, sort of.

13 MS. GUTIERREZ: I think we did, Judge. It's on
14 the second to last page, our 29. Yes, the 5.0 alibi
15 instruction.

16 THE COURT: Any objection by the State?

17 MR. URICK: No.

18 THE COURT: No?

19 All right, I will give that instruction as well.
20 Let me get back to it.

21 All right. Unanimous verdict I give as part
22 of -- and it's mixed in back at 2.0, which is 2.03.

23 MS. GUTIERREZ: Right.

24 THE COURT: And I give it twice. I give it once
25 when I talk about what the burden is, but then I also read

1 to the jurors the verdict sheet. I read to them each --
2 what it says and then I read not guilty, a place for your
3 response; guilty, a place for your response. I read each
4 one. And then at the end, I say you must indicate your
5 responses on each line and you must do so unanimously.
6 That is, you all must agree before any response can be
7 noted. So they hear it twice, reminding them that it is a
8 unanimous verdict. So that is given.

9 Now, with that said, were there any stipulations
10 of fact that we did not -- we already talked about that. I
11 think we covered that.

12 Jurors to deliberate, I haven't gotten to that
13 yet but I give that in a moment.

14 All right. I separate out, counsel, the standard
15 instructions before I give the substantive ones, and once
16 I've read them the jury verdict sheet and all others, then
17 I talk about the substantive elements. But before I do
18 that, I would do the jury's duty to deliberate following
19 the substantive. In other words, I do the substantive
20 instructions and then the next instruction would be the
21 jury's duty to deliberate, which is --

22 MS. GUTIERREZ: That's the Pattern 2.01?

23 THE COURT: 2.01.

24 MS. GUTIERREZ: Yes, okay.

25 THE COURT: So why don't we depart from that

1 right now and go to the substantive counts? And before I
2 do that, I'm just going to go back to Defendant's jury
3 instructions up to this point. Binding nature, we agree.

4 MS. GUTIERREZ: Right.

5 THE COURT: The jury's duty to deliberate, I
6 agree. Presumption is agree. Unanimous verdict, agree.
7 And impartiality, agree. What constitutes evidence, agree.
8 Direct or circumstantial, agree. Stipulated evidence,
9 agree. Dismissal or considering the counts that are there
10 individually, agree. Credibility of witnesses, agree.
11 3.11, which is the testimony of an accomplice --

12 MS. GUTIERREZ: And we've modified that.

13 THE COURT: And before I get to the substantive
14 counts, I want to look at that.

15 3.12, which is witness who has pled.

16 MS. GUTIERREZ: Yes.

17 THE COURT: 3.13, witness promised leniency. And
18 we already covered 3.14, expert testimony; 3.17, failure of
19 Defendant to testify, number of witnesses, those two we've
20 already discussed.

21 MS. GUTIERREZ: Yes.

22 THE COURT: 1.9, we have not discussed prior
23 statements yet, evidence of good character, concealment.
24 Proof of intent, your no. 22, we discussed. Motive we
25 discussed, we're going to give. And false imprisonment is

1 substantive. And it looks like the rest are substantive,
2 with the exception of 5.0, which I already said I'd give.

3 All right. It looks like we've cleared out all
4 of the preliminaries and what's left are the accomplice
5 related, Jay Wilds's instruction and the related
6 instruction with regard to that witness, and then the
7 substantive. So let's start with --

8 MS. GUTIERREZ: And then we have some additional,
9 --

10 THE COURT: Okay. Let me --

11 MS. GUTIERREZ: -- on the last page.

12 THE COURT: Okay. Let me first get to -- let me
13 look at both the State's and the Defense's instructions as
14 they appear to relate to Jay Wilds.

15 First, looking at testimony of accomplice,
16 Defense 12, and I would think -- it appears that you're
17 tracking the language of 3.11.

18 MS. GUTIERREZ: Yes, Judge. Any additions are in
19 the italics.

20 THE COURT: Okay. Any objection from the State.

21 MR. URICK: Yes. That incorrectly states the
22 law.

23 THE COURT: All right. So we'll give that. No
24 objection you're saying?

25 MR. URICK: No. Objection. It incorrectly

1 states the law. For an accomplice -- to give the first
2 one, the A, testimony of an accomplice, it has to be a
3 accessory before the fact or a principal. A does not
4 include an accessory after the fact.

5 If there's an argument about that, then it's B,
6 you have heard testimony -- and this is what's given on the
7 second page, up at the top. You have heard testimony from
8 Jay Wilds, who may have been an accomplice. Then it
9 properly identifies what an accomplice actually is: One
10 who knowingly and voluntarily cooperated with, aided,
11 advised or encouraged another person in the commission of a
12 crime. That's the definition of an accomplice. If there's
13 one that's to be given, it should be the B one, if they
14 find he meets that definition.

15 THE COURT: B starts at you have heard testimony
16 from Jay Wilds, which is on the next page, who may have
17 been an accomplice. I would suggest to Ms. Gutierrez that
18 everything from the second page, you have heard the
19 testimony of Jay Wilds, who may have been an accomplice --

20 MS. GUTIERREZ: You mean at the top? Yes. Okay.

21 THE COURT: All of that to the end, which
22 encompasses the first paragraph --

23 MS. GUTIERREZ: Of the --

24 THE COURT: -- and second in pertinent part.

25 MS. GUTIERREZ: Yes.

1 THE COURT: If you look at the last paragraph,
2 your last paragraph, if you find the testimony of Jay
3 Wilds -- should be considered with caution, da, da, da, da,
4 da, which is basically what is said in the--

5 MS. GUTIERREZ: Okay. So you're taking out the
6 first three paragraphs?

7 THE COURT: The first three paragraphs go.

8 MS. GUTIERREZ: But leaving in the last three
9 paragraphs?

10 THE COURT: Yes.

11 Any objection?

12 MS. GUTIERREZ: Well --

13 THE COURT: Defines what an accomplice is.

14 MS. GUTIERREZ: If you give me a minute, yeah, I
15 think it does.

16 THE COURT: Yeah, it does, in the first -- send
17 sentence.

18 MS. GUTIERREZ: And it deals with the
19 corroboration. Is that where -- okay, that's in the last
20 paragraph.

21 THE COURT: See the, the --

22 MS. GUTIERREZ: Yes, you're right.

23 THE COURT: -- you have heard the testimony from
24 Jay Wilds, who --

25 MS. GUTIERREZ: No, that's fine.

1 THE COURT: An accomplice is one who knowingly
2 and voluntarily cooperated with, aided, advised, blah,
3 blah, blah.

4 MS. GUTIERREZ: Yes. That would be fine, Judge.

5 THE COURT: Okay. All right.

6 All right, we're moving on the Defense 3.12,
7 witness who has pled guilty.

8 MS. GUTIERREZ: Yes. Judge, we have another, we
9 have another at the very end, instruction regarding
10 pleading guilty because --

11 THE COURT: What number is that?

12 MS. GUTIERREZ: Thirty-one, our jury
13 instruction 31. It's on the last page. And --

14 THE COURT: Okay. Let me look at the first one
15 first and then -- because I think they look a little --
16 they're slightly different.

17 You've heard testimony that Jay Wilds says he has
18 pled guilty to a crime arising out of the same events for
19 which the Defendant is now on trial. The guilty plea of
20 this witness must not be considered as evidence of guilt
21 against the Defendant. You may consider the guilt of the
22 witness in deciding whether the witness is telling the
23 truth but for no other purpose.

24 That's instruction 3.12 with only Jay Wilds's
25 name being inserted?

1 MS. GUTIERREZ: That's correct, Your Honor. We
2 would ask that --

3 THE COURT: And then -- wait a minute. And then
4 31 you get from Fletcher v. State?

5 MS. GUTIERREZ: Yes, Judge.

6 THE COURT: The completion of Jay Wilds's
7 guilty --

8 MS. GUTIERREZ: Well, parts of it we get from
9 Fletcher.

10 THE COURT: The completion of Jay Wilds's guilty
11 plea, the sentencing hearing, has been postponed until
12 after this proceeding. Despite the fact that Jay Wilds has
13 referred to this agreement with the State as a guilty plea,
14 this agreement does not contain the necessary statement of
15 facts and is not yet a guilty plea under Maryland law.

16 The fact that Jay Wilds's sentencing hearing has
17 been postponed until after this trial and this proceeding
18 may have a bearing on his credibility.

19 I think that's an excellent instruction.

20 You don't have any problem with that, do you?

21 MR. URICK: Actually, the second sentence I think
22 is irrelevant, though.

23 THE COURT: Well, I think it is very relevant. I
24 think that was the issue that I indicated to counsel that
25 it could have bearing on it, because the plea agreement

1 says that the determination of whether or not he gets the
2 deal, he's been completely truthful, is at the satisfaction
3 of the State. And so, as a result, that has bearing on his
4 credibility. And so, I think it's an excellent instruction
5 and I will give both 13 and 31.

6 MS. GUTIERREZ: Thank you, Judge. Our only
7 request is that they be given together. So although we
8 tried to make it in the 3.12 --

9 THE COURT: You want me to cut and paste, is that
10 it?

11 MS. GUTIERREZ: Well, no, just that they be given
12 together with each other, so it's real clear. We say that
13 he says he has pled guilty but --

14 THE COURT: That's cutting and pasting. I mean,
15 I need scissors. Anybody here?

16 MS. GUTIERREZ: You want me to go in and find
17 some scissors?

18 THE COURT: Looks like I've got some.

19 If I could have a pair of scissors or something
20 that I can move this instruction around a little bit,
21 unless you have a disk with you, by any chance.

22 MS. GUTIERREZ: I don't but he might.

23 MR. LEWIS: I don't have it on me, Your Honor.

24 THE COURT: That's all right. No, that's all
25 right.

1 MS. GUTIERREZ: If you want us to do that before
2 tomorrow morning, we can do that.

3 THE COURT: No, no, no. It's not necessary. But
4 just for future reference, this Judge loves --

5 MS. GUTIERREZ: Mr. Lewis was dissing me for my
6 being so low on the technologically astute level.

7 THE COURT: Well, Ms. Gutierrez, it's --

8 MS. GUTIERREZ: I received punishment from him
9 for that.

10 THE COURT: It's your loss.

11 MS. GUTIERREZ: I'm trying.

12 THE COURT: It's your loss.

13 MS. GUTIERREZ: I'm trying.

14 THE COURT: You'd be amazed at what things can
15 happen and how quickly we can operate if all I had to do
16 was to block it and move the instruction over. Amazing.

17 MS. GUTIERREZ: I know how to do that, I just
18 don't know how to print it or make anything happen. I'm
19 too old, Judge.

20 THE COURT: How about some tape? A paper clip?

21 All right, I will give the two instructions
22 together.

23 Perfect. Thank you.

24 MS. GUTIERREZ: Judge, in regard to our requested
25 14, we would ask that the Court then give that instruction

1 after, which we haven't modified. It's a Pattern. That
2 the Court give that instruction, the witness promised
3 leniency, after those two instructions that we just spoke
4 of.

5 THE COURT: And you have no objection to that? I
6 mean, in light of the facts and circumstances of this case,
7 3.13 would be appropriate?

8 MR. URICK: We, on one of our add-on ones, added
9 an extra paragraph to that.

10 THE COURT: What number is that?

11 MR. URICK: State's jury instruction no. 22.

12 THE COURT: Twenty-two? Yes. Twenty-two is you
13 may consider, is the first paragraph. The second
14 paragraph --

15 Do you have State's 22 in front of you,
16 Ms. Gutierrez?

17 MS. GUTIERREZ: I do, Judge.

18 THE COURT: The relevant inquiry into the
19 witness's state of mind or what the witness understood he
20 or she would receive for this understanding, that is
21 relevant to the issue of bias.

22 MS. GUTIERREZ: Judge, we would object to that.
23 I don't believe that that's a correct formulation of the
24 law, particularly as to Ebb. That's right out of Ebb. It
25 is not appropriate to establish this inquiry --

1 THE COURT: I'm going to stick to the Pattern.

2 MS. GUTIERREZ: And I think the Pattern clearly
3 covers it.

4 THE COURT: I'm going to stick to the Pattern,
5 3.13. I'm not going to give anymore or any less. I'm
6 going to stick to the Pattern. I'm not going to get
7 into -- I think the Pattern clearly indicates you may
8 consider the testimony of a witness who testifies for the
9 State as a result of a plea agreement. However, you should
10 consider such testimony with caution because the testimony
11 may have been colored by a desire to gain leniency or
12 freedom or a benefit by testifying against the Defendant.

13 All right. Now, we are at prior statements,
14 Defense 19. You have heard testimony that Jay Wilds and
15 Jennifer Pusitari made statements before trial, out of the
16 presence, blah, blah, blah, blah.

17 Any objection to --

18 MS. GUTIERREZ: I guess I would add, Judge --

19 THE COURT: -- Defense 19?

20 MS. GUTIERREZ: -- that if we're going to put the
21 names in that -- I forgot at this time that Alonzo Sellers
22 should also --

23 THE COURT: Well, why don't we just say you have
24 heard testimony of witnesses who made statements?

25 MR. URICK: That would be acceptable to the

1 State.

2 MS. GUTIERREZ: Judge, our request is that you
3 put in the names of the three who have made statements.
4 This has been a long trial and -- because we think that
5 this is important, that the impact of it may be well lost
6 on a jury if it just says witnesses.

7 THE COURT: All right. I note your disagreement
8 but I'm just going to say witnesses who made statements
9 because I -- there are McGilvery and -- I mean, they may
10 find that some of those statements were different. During
11 your cross, a couple times, you know, there was some, you
12 know -- and the guy who --

13 MS. GUTIERREZ: There was no cross as to their
14 statements.

15 THE COURT: The guy -- let me give an example.
16 There was cross as to what McGilvery may have said or done
17 with regard to looking for evidence, whether he followed
18 through with the Baltimore County officers. I mean --

19 MS. GUTIERREZ: But those don't -- they didn't
20 involve statements that McGilvery may have made. There is
21 no statement of McGilvery.

22 THE COURT: Didn't you say or didn't you inquire
23 as to what the officers said to Jay Wilds with regard to an
24 attorney?

25 MS. GUTIERREZ: Yes, but that question came up as

1 a result of what Jay Wilds said. That's an issue of
2 credibility as to Jay Wilds. They denied -- and there was
3 no prior statement.

4 THE COURT: Unless you believe Jay Wilds, what he
5 said --

6 MS. GUTIERREZ: And if you do --

7 THE COURT: -- McGilvery, that he didn't --

8 MS. GUTIERREZ: I understand that, but that's a
9 question of credibility, that's not an issue of a prior
10 statement --

11 THE COURT: True.

12 MS. GUTIERREZ: -- made by McGilvery, and that's
13 why I don't think it's appropriate that it's his. The only
14 persons for which there were prior statements that there
15 was an attempt to impeach by use of the prior statements
16 were Jay Wilds, Jennifer Pusitari, and Alonzo Sellers.
17 There were lots of prior statements by other witnesses.
18 They never came up as prior statements to be used by
19 anyone, for any purpose. And so, they're not the subject
20 of this instruction.

21 THE COURT: The State's position? You want the
22 names or not?

23 MR. URICK: We think it's appropriate just to say
24 you've heard from witnesses.

25 THE COURT: I think so, too. And to the extent I

1 don't like commenting on the evidence or what witnesses to
2 bring anybody's attention --

3 MS. GUTIERREZ: We'll just note an objection.

4 THE COURT: Very well.

5 Your instruction no. 20, 3.20, evidence of
6 Defendant's good character, the State has no objection, do
7 you? Okay.

8 I'll give that instruction.

9 And 3.26, concealment or destruction of evidence
10 as consciousness of guilt?

11 MS. GUTIERREZ: Judge, that one's not marked, but
12 we did modify it if you --

13 THE COURT: I see where the italics is.

14 Does the State have any objection to that
15 instruction as written? And if so --

16 MR. URICK: Yes. We would object to the third
17 paragraph.

18 THE COURT: I think that that's irrelevant
19 because if he were a codefendant and charged, then his
20 consciousness of guilt would be relevant, but it doesn't go
21 to his consciousness of guilt as much as it may go to his
22 credibility, his reason to try to protect himself, or any
23 other fashion. But I think that the issue of the
24 concealment or destruction of evidence as consciousness of
25 guilt -- the consciousness of guilt issue has to go to the

1 Defendant and not to anyone else.

2 MS. GUTIERREZ: Judge, I'd just like to be heard.

3 It is our entire defense --

4 THE COURT: Certainly.

5 MS. GUTIERREZ: -- theory to make Jay Wilds the
6 person who committed this crime, and I believe that that
7 makes it relevant. We've spent our time doing that. I
8 spent five days cross-examining Jay Wilds with all the ways
9 in which he acted guilty and describing the ways, in fact,
10 in which he acted with consciousness of guilty by
11 concealing evidence.

12 Evidence of such concealment by the Defendant is
13 not before the jury, with the exception of what Jay Wilds
14 says, and Jay Wilds was impeached in regard to specific
15 acts that went to concealing evidence that he admits was
16 relevant. His clothes, his boots, his outer coat, his
17 shovels, wiping shovels to conceal evidence, as he said
18 both in his statement and on cross, to conceal evidence of
19 his involvement, his assessment, any evidence that might be
20 on him.

21 And so, it certainly goes to his credibility,
22 too, but in this case, and given that he's alleged to have
23 at least attempted to plead guilty to an accessory to this
24 crime, which is a crime, this incident, and he concealed
25 evidence of that which would connect him to that crime,

1 Judge, we believe it is not only relevant, it's the core of
2 the instruction as to consciousness of guilt.

3 THE COURT: But not consciousness of his guilt,
4 but consciousness of his involvement in a crime which goes
5 to his credibility. In other words, given that sentence,
6 wouldn't you rather have it maybe tucked into the
7 credibility section?

8 MS. GUTIERREZ: Well, I want it tucked in there,
9 too, Judge, but if our theory of defense is that he should
10 be in the position where the Defendant is, then his
11 consciousness of guilt that arises out of the circumstances
12 that the Pattern Jury Instructions recognize are ordinary
13 and they should be considered as consciousness of guilt.

14 So to deprive us of the ability in instructions
15 to have the person that we are prepared to name, we have
16 named, we've essentially accused him of it, we intend to
17 accuse him of it in front of the jury, deprives us of means
18 to bring forth our theory of defense in an appropriate
19 relevant way. He is charged. He has a plea agreement.
20 There's a beginning of an attempt to make a guilty plea for
21 an accessoryship after the fact to these very crimes.
22 There is evidence that he has admitted to that would be
23 appropriate relevant evidence if he were the defendant.

24 THE COURT: And that's the operative point: if
25 he were the defendant. You know, that's --

1 MS. GUTIERREZ: Judge, our theory of defense is
2 to make him a defendant, to charge that he acted like a
3 defendant. And so, if there is to be an instruction as to
4 consciousness of guilt, then we're clearly, in order to get
5 our theory across, entitled to throw at the person we
6 think, and there is evidence to support that, should be the
7 defendant, that he acted in a way that were he to be the
8 defendant it would be considered consciousness of guilt.

9 THE COURT: And don't you have that instruction
10 right now? In other words, there's nothing precluding --

11 MS. GUTIERREZ: No, Judge, that's the credibility
12 instruction.

13 THE COURT: No, no, no.

14 MS. GUTIERREZ: And I can argue that.

15 THE COURT: No, no, no.

16 MS. GUTIERREZ: That there's no instruction that
17 says --

18 THE COURT: The 3.26 instruction, the 3.26
19 instruction says you must first find that the defendant
20 concealed evidence in this case. If you find that the
21 Defendant concealed evidence in this case, then you must
22 decide whether -- consciousness of guilt. Why --

23 MS. GUTIERREZ: That's all related to the
24 Defendant.

25 THE COURT: Correct. And the argument you just

1 made, if Jay Wilds were the defendant, the evidence in this
2 case shows the very things that would be consciousness of
3 guilt.

4 MS. GUTIERREZ: But, Judge, that's an argument,
5 and I'm always entitled to make an argument. And of course
6 I can make an argument. But the purpose of instructions is
7 to fairly instruct the jury in a way that this Court must
8 know -- they listen to you better than they're going to
9 listen to me.

10 THE COURT: I don't know that.

11 MS. GUTIERREZ: Well, the --

12 THE COURT: And you know --

13 MS. GUTIERREZ: That's the reason you get to
14 instruct them --

15 THE COURT: And, Ms. Gutierrez, you know and I
16 know --

17 MS. GUTIERREZ: -- and I'm bound to them.

18 THE COURT: -- they don't listen to the judge a
19 lot of times. You and I know --

20 MS. GUTIERREZ: Judge, we would request --

21 THE COURT: Hopefully, they do.

22 MS. GUTIERREZ: -- and I believe it is a correct
23 statement of the law.

24 THE COURT: True.

25 MS. GUTIERREZ: And that to get an instruction of

1 consciousness of guilt is a tremendous instruction that I
2 believe has relevance to the jury, in addition to what else
3 I'm going to get on credibility issues. And we would
4 object.

5 THE COURT: All right. The State's position?

6 MR. URICK: The Pattern Jury Instruction should
7 be given as written.

8 THE COURT: I agree with you. I think the
9 Pattern Jury Instruction should be given. However, if
10 counsel wants to argue and does argue that if Mr. Wilds
11 were charged that the Court's instruction as to
12 consciousness of guilt shows and blah, blah, blah, however
13 you want to formulate that argument, that is a permissible
14 argument. There shall be no objection to that argument and
15 it will be allowed because it is appropriate.

16 MS. GUTIERREZ: I'm going to make it.

17 THE COURT: Well, I figured you would, but I
18 figured I'd let you know and say it so that when you do
19 make the argument there will be no objection, because I
20 think that is an appropriate argument. And I will give the
21 first two paragraphs, as you've requested, under 3.26.

22 Okay, we're getting there.

23 Now, at this point, it looks like the only thing
24 we have left are the substantive.

25 MS. GUTIERREZ: Well, we still have our 32.

1 THE COURT: Let me see that, 32.

2 MS. GUTIERREZ: It's on the very last page.

3 THE COURT: You heard evidence that Jay Wilds'
4 lawyer was provided with the assistance of Kevin Urick at
5 no cost. This was a benefit that Jay Wilds received as
6 part of his bargain with the State. You may consider this
7 in the same way you consider the bargain itself. As to
8 what -- if any, existed on Jay Wilds --

9 Any objection to that instruction?

10 MR. URICK: Yes. It's not a statement of law,
11 it's an inference of fact that could be argued from the
12 evidence that was presented to the jury.

13 THE COURT: Do you have an instruction with
14 regard to the witnesses -- is it your 25 that you're
15 offering?

16 MR. URICK: No, it was 22, the second part of it,
17 the relevant inquiry. That was -- you said to look at the
18 case law and, based on the law, present a statement of law.

19 THE COURT: Which one?

20 MR. URICK: State's 22, which is the witness
21 promised leniency. You said you wouldn't give the second
22 part of it.

23 THE COURT: No, I'm not inclined to give that.
24 Nineteen, I -- we just talked about consciousness of guilt.
25 I kind of like your instruction, Ms. Gutierrez,

1 and I kind of don't.

2 MR. URICK: The State's position, it's a comment
3 on the evidence, it's not an instruction of law.

4 THE COURT: I know. That's why I say I kind of
5 like the instruction and I kind of don't, so let's play
6 with it.

7 MS. GUTIERREZ: I'll work on it, Judge.

8 THE COURT: You've heard that Jay Wilds's
9 lawyer --

10 MS. GUTIERREZ: If the Court could perhaps tell
11 me what it is that gives the Court trouble, maybe I can --

12 THE COURT: The conclusion that I'm reading into
13 the statement that the lawyer was provided with the
14 assistance of Kevin Urick at no cost.

15 MS. GUTIERREZ: Well -- take that directly --

16 THE COURT: No, I, I -- you've heard evidence
17 that Jay Wilds's lawyer was provided with the assistance of
18 Kevin Urick. You have heard evidence that Jay Wilds's
19 lawyer --

20 MR. URICK: Instruction 3.13, witness promised
21 leniency, includes the language of benefit. Whether or not
22 there was a benefit is an argument to be inferred from the
23 evidence and argued for the jury.

24 THE COURT: No, but I think the concern is that
25 your -- the instruction does not --

1 MR. URICK: That's why I added on the second
2 paragraph, which goes to the witness's state of mind. Then
3 you argue the witness perceived this as a benefit.
4 Therefore, you should take that into account. That would
5 be argument that could follow from the instruction.

6 THE COURT: All right. Looking at Defense 14,
7 and in consideration of Defense --

8 MS. GUTIERREZ: Our no. 14?

9 THE COURT: Yes. And in consideration of your
10 32, how about the following: You have heard evidence that
11 Jay Wilds's lawyer was present at the State's Attorney's
12 Office at the request of the State. You may consider the
13 testimony of a witness who testifies for the State as a
14 result of a plea agreement. However, you should consider
15 such testimony with caution because the testimony may have
16 been colored by a desire to gain leniency, freedom or some
17 benefit --

18 MS. GUTIERREZ: Why is the Court striking the
19 financial benefit from --

20 THE COURT: Such --

21 MS. GUTIERREZ: -- the Pattern?

22 THE COURT: I was going to say such -- I was
23 going to be specific. Or some benefit, such as an
24 attorney. I thought it couldn't be any clearer than that,
25 but if you'd rather have financial benefit -- by testifying

1 against the Defendant. You may consider this in the same
2 way you might consider the bargain itself as to what
3 pressure, if any, existed on Jay Wilds when he testified in
4 this case.

5 MS. GUTIERREZ: Could the Court read the last
6 sentence again?

7 THE COURT: It's your last sentence of 32.

8 MS. GUTIERREZ: Okay. I appreciate the Court's
9 effort, Judge, but I guess we would object because I
10 believe that certainly we attempted to prove that there was
11 pay. We were unable to prove that. But prior to that, my
12 belief is that this Court is clearly persuaded that
13 providing a lawyer that otherwise Mr. Wilds would not have,
14 and at that point all we knew was it was pro bono, was a
15 benefit.

16 THE COURT: Could have been a benefit if the
17 witness had testified -- if Ms. Bennett-Royal had testified
18 that Mr. Urick convinced her to accept this case and that
19 when she walked in the door she had already decided to
20 represent Jay Wilds as a request of the State or because
21 the State asked her to or because of something the State
22 had done to work out some deal, either by payment, directly
23 or indirectly, none of that occurred. She said that she
24 accepted him only after talking to him and independently
25 deciding that he needed her assistance and only if it was

1 on a pro bono basis.

2 MS. GUTIERREZ: So is the Court making a finding
3 that it's not a benefit that he had her in his office?

4 THE COURT: No, I'm not. No, I'm not. What I'm
5 saying is --

6 MS. GUTIERREZ: I'm not trying to take it further
7 than it is, Judge. I understand I have a --

8 THE COURT: No, what I'm saying is the jury needs
9 to be advised that if they believe, based on his testimony,
10 that there was a benefit to him, I'm allowing any
11 inferences that you want to argue that this attorney was a
12 benefit.

13 MS. GUTIERREZ: My complaint, Judge, is that if
14 you phrase it that way you suggest to the jury that it may
15 not be a benefit, and I don't --

16 THE COURT: That's correct.

17 MS. GUTIERREZ: And see, I think that that's not
18 fair. It is unrebutted that that lawyer was in his office
19 because he arranged it. There is no other evidence to
20 suggest that miraculously Ina Bennett-Royal was behind his
21 door.

22 THE COURT: No doubt.

23 MS. GUTIERREZ: That's unrebutted.

24 THE COURT: That's unrebutted.

25 MS. GUTIERREZ: So to suggest -- and if the

1 Court's not saying that it's not a benefit that it occurred
2 because of him, then, clearly, we're in a different place.
3 But I can't imagine that the Court would say so. And if it
4 is a benefit, then it is not a correct statement, even if
5 it's a limited benefit, that is, having a lawyer there so
6 if he decides and if she decides aha, they get together,
7 that's a benefit that ordinarily this witness wouldn't
8 have.

9 THE COURT: Does it mean that the benefit
10 attached at the time Mr. Urick made the call? Because the
11 witness, the witness, Mr. Wilds, said that he had not
12 decided that he wanted the lawyer.

13 MS. GUTIERREZ: And I understand that, Judge.

14 THE COURT: So the benefit is not --

15 MS. GUTIERREZ: And that affects how what impact
16 the benefit would have. But that's not where we are. He
17 did accept this lawyer. The only reason the lawyer was up
18 for his acceptance was because of the assistance of
19 Mr. Urick, and there's no evidence that says,
20 notwithstanding his -- to the otherwise, that he had
21 requested a lawyer.

22 THE COURT: And that's just the point,
23 Ms. Gutierrez. The State takes the position --

24 MS. GUTIERREZ: Well, Judge, the way it was
25 modified --

1 THE COURT: -- that it wasn't a -- that's why I'm
2 modifying it, because it is a conclusion of fact.

3 MS. GUTIERREZ: No, Judge, I believe that --

4 THE COURT: I'm not going to tell the jury --

5 MS. GUTIERREZ: -- the Court is supplanting the
6 jury and making a finding that not only is unwarranted,
7 it's violative of all due process to suggest to the jury
8 from the Court it is making a fact determination of
9 ultimate fact that, ladies and gentlemen, it may not be a
10 benefit and for -- the unrebutted evidence that establishes
11 that the only reason it was at issue such that if this
12 witness accepted it, then it could have affected what he
13 tells you since it is a benefit.

14 THE COURT: If the jury --

15 MS. GUTIERREZ: It is an unfair supplantation --

16 THE COURT: If the jury finds --

17 MS. GUTIERREZ: -- of their right to decide it.

18 THE COURT: If the jury finds that it's a
19 benefit, that the jury believes that the circumstances were
20 such, you argued the fishiness of the scenario and they
21 believe that was a --

22 MS. GUTIERREZ: Well, I'm going to argue that.

23 THE COURT: Okay. And they believe that it was a
24 benefit, then they should be instructed as to how to use
25 that benefit in weighing the witness's credibility.

1 MS. GUTIERREZ: Well, Judge, you know --

2 THE COURT: And if they find that they don't
3 believe it was a benefit, that they believe that Mr. Wilds
4 had the opportunity of not picking a lawyer, that it was
5 not a setup and that Mr. Wilds said he didn't feel fishy
6 after talking to Judge McCurdy, then it doesn't and it
7 can't and it isn't a benefit. But it's up to the trier of
8 fact to apply the facts as they find them to the law. And
9 if they find it's a benefit, then they need to be
10 instructed how to -- what to do with that. If they find
11 it's not a benefit, they also need to be instructed as to
12 what to do with the rest of the plea agreement.

13 MS. GUTIERREZ: Except, Judge, by your
14 modifications, then you have made a ruling of law that it's
15 not a benefit.

16 THE COURT: How? In what words?

17 MS. GUTIERREZ: By saying that. By putting it
18 up, by suggesting to the jury it's not a benefit, ladies
19 and gentlemen of the jury, it's up to you to decide whether
20 or not it's a benefit. And that's not appropriate for this
21 Court to do when it is unrebutted --

22 THE COURT: It's your own sentence,
23 Ms. Gutierrez.

24 MS. GUTIERREZ: -- that's a benefit.

25 THE COURT: It's your instruction.

1 MS. GUTIERREZ: But you're modifying it.

2 THE COURT: What modification do you object to?

3 MS. GUTIERREZ: My instruction says this was a
4 benefit, getting a lawyer with the assistance of Kevin
5 Urick was a benefit that he received. So that's not what
6 your instruction says, you've taken out that.

7 THE COURT: And you're making a fact finding that
8 it is a benefit, are you not?

9 MS. GUTIERREZ: Judge, I believe, as often and as
10 with such passion we debated this issue, that this Court
11 found not what the extent of the benefit was, but that
12 providing a lawyer that this witness could not have gotten
13 on his own, the assistance of setting up the opportunity
14 for that to happen was a benefit. And before this jury,
15 there is no contrary evidence to suggest, to even suggest
16 that it's not a benefit. So no, Judge, it's not my making
17 a fact, there are no facts from which this jury can infer
18 from this record that it's not a benefit. You've taken
19 away everything else regarding an issue from us. Don't
20 take away the facts that are undisputed in front of this
21 jury and attempt to take our request and turn it around by
22 suggesting to the jury that what they saw and heard may
23 well be in dispute. It's not. And that's not in any way
24 my -- substituting my judgment. There is nothing else to
25 suggest otherwise. It is a benefit, that's a matter of

1 law. They should have told us because it was a benefit.
2 You agreed to that and then told us well, now no harm, no
3 foul. Judge, this is the foul. We keep complaining about
4 it. You have no right to take it away from us absent
5 evidence that would support such an inference otherwise.

6 THE COURT: Mr. Urick?

7 MR. URICK: As the case law, it's the state of
8 mind of the witness who testified. The jury has the
9 evidence of the witness who testified, it's up to them to
10 draw a conclusion what the -- what that evidence shows.

11 I believe that the instruction as read by the
12 Court a minute ago would be correct.

13 THE COURT: As they say, Ms. Gutierrez, you said
14 you weren't going to give up. You've moved me a little.
15 This is the, this is the instruction that I'm going to
16 give.

17 MS. GUTIERREZ: Okay.

18 THE COURT: I'm going to give the following
19 instruction under -- I'll give -- in this order. I'll give
20 your 13, then your 31 --

21 MS. GUTIERREZ: Wait a minute. Give me a chance
22 to -- okay, my 13, right.

23 THE COURT: Then your 31.

24 MS. GUTIERREZ: And then 31.

25 THE COURT: All right. Then your 14 --

1 MS. GUTIERREZ: Right.

2 THE COURT: -- in total, including financial
3 benefit.

4 MS. GUTIERREZ: Right.

5 THE COURT: Then I'm going to give your 31 with
6 the following adjustments. If you find that Jay Wilds's
7 lawyer was provided with the assistance of the State at no
8 cost, this was a benefit that Jay Wilds received as part of
9 his bargain with the State. You may consider this in the
10 same way you may consider the bargain itself as to the plea
11 agreement itself, as to what pressure, if any, existed on
12 Jay Wilds when he testified in this case.

13 MS. GUTIERREZ: Okay.

14 THE COURT: Any objection to that?

15 MS. GUTIERREZ: I'll take that -- Judge.

16 THE COURT: I know the State notes an objection,
17 do you?

18 MR. URICK: We'll note it but --

19 THE COURT: Noted for the record.

20 All right. One thing about this Court is I
21 listen. I don't always make up my mind and I listen and I
22 hope you remember that. I don't have a problem with an
23 advocate who wants to make a point but sometimes it really
24 is helpful to decide when you want to fight, you know. If
25 you fight every battle, sometimes you win a lot of battles

1 and lose the war.

2 MS. GUTIERREZ: I understand that, Judge.

3 THE COURT: And on this one, I think this is
4 appropriate under the facts and circumstance of this case.

5 All right. Moving right along then, expert
6 testimony we talked about. We already talked about 19.
7 We're now left with -- and we already talked about 20 --

8 MS. GUTIERREZ: Yes.

9 THE COURT: -- and we've talked about 21 with
10 paragraph 22, including false imprisonment and the like.
11 We're now down to the substantive instructions, and I'm
12 going to start with homicide.

13 MR. URICK: Well, before we do that, the State
14 had a couple. State's No. 25 --

15 THE COURT: Witness intimidation as consciousness
16 of guilt?

17 MR. URICK: Yes.

18 THE COURT: What -- this is the State's 25?
19 You've heard that the Defendant attempted to intimidate
20 witnesses in this case? I didn't hear any testimony to
21 that.

22 MS. GUTIERREZ: Right.

23 THE COURT: Did you?

24 MR. URICK: I think that's an inference that
25 could be drawn, that the Defendant approached Hope Chad

1 with the intent to intimidate her when he confronted her
2 about helping the Baltimore County missing persons
3 investigation, asked her not to do that, that that could
4 constitute witness intimidation.

5 THE COURT: Ms. Gutierrez, you don't want to be
6 heard on that, right?

7 MS. GUTIERREZ: No, Judge.

8 THE COURT: Very well.

9 I'm not going to give that instruction. I think
10 that's going to confuse the jury. It certainly is
11 confusing the Court. Had I heard something else, I would
12 give that instruction. There's not an account about
13 witness intimidation or obstruction of justice or -- I
14 really think that will send them into an area that will
15 confuse them. I don't want to send them off on that, so
16 I'm not going to give that instruction.

17 All right. Now let's go back to the murder
18 count, the homicide, 4.17. 4.17 is homicide first degree,
19 premeditated, and second degree, specific intent, no
20 justification or mitigation generated.

21 I assume that the instruction you want is (a)?

22 MS. GUTIERREZ: Yes, Judge.

23 THE COURT: And (b), is that correct? From the
24 State?

25 MR. URICK: Yes. We want the first degree and

1 second degree. Let me just see if --

2 THE COURT: Under 4.17, and that's the one I'll
3 give, 4.17. I'll give that. And that is State's 15.

4 4.19 is the next one that the State requests,
5 which is kidnapping by deception. Let me get to that.
6 Now, let's see. My law clerk actually drafted one to
7 include some of the actual --

8 Ms. Connolly, you had a kidnapping instruction
9 that you had drafted with information, highlighted it in
10 pink.

11 THE LAW CLERK: That was just the statute.

12 THE COURT: Yeah, that's what I want. You took
13 it out of here?

14 THE LAW CLERK: No, no, no. I just copied that
15 out of --

16 THE COURT: All right. I'm going to follow
17 then -- 4.19, kidnapping. Looks like -- is everyone
18 looking at 4.19? There's 1, 2, 3, and --

19 MS. GUTIERREZ: On kidnap, yes.

20 THE COURT: -- 4. All right, so 1; then 2, with
21 deception; then 3; and then 4. Okay?

22 MS. GUTIERREZ: Yes.

23 THE COURT: Very well. False imprisonment by
24 deception, 4.13.

25 MS. GUTIERREZ: Yes.

1 THE COURT: I just want to make sure I get to it
2 and, and that would be 1, 2, and 3, with deception.

3 MS. GUTIERREZ: Yes.

4 THE COURT: Okay.

5 MS. GUTIERREZ: And in the body of that, the
6 Court will strike out the force or threat of force?

7 THE COURT: Correct.

8 MS. GUTIERREZ: That's fine.

9 THE COURT: Just go with deception. All right.
10 So that's State's 17.

11 State's 18, robbery, 4.28. And under 4.28,
12 robbery, the Defendant took the property from the victim or
13 from her presence and control. The Defendant took the
14 property by force or threat of force and that the Defendant
15 intended to steal the property and deprive the victim of
16 the property permanently. 4.28, robbery.

17 And first degree assault, which is at 4.01.1.
18 First degree assault and second degree assault. And this
19 one, I have to read 4.01 first which is the second degree
20 assault, which is on the previous page at 4.01, because
21 then it defines intent to -- actually, intent to frighten
22 is not what you want, correct? You want the --

23 MR. URICK: The battery part.

24 THE COURT: -- the battery at (c), assault is
25 causing offensive contact. So I'll read 401 -- 4.01(c) and

1 then 4.01.1, okay? Any objection?

2 Hearing none.

3 And last but not least, theft at 3.32 -- I'm

4 sorry, 4.32. 4.32. You're requesting (a) or (b)?

5 MR. URICK: (a).

6 THE COURT: Taking and carrying away? Are you
7 sure about that?

8 MS. GUTIERREZ: Judge.

9 THE COURT: Yes?

10 MS. GUTIERREZ: I would object to your --

11 (Whereupon, at 5:51 p.m., the tape ended.)

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1 TRANSCRIBER'S CERTIFICATE

2 This is to certify that the proceedings in the
3 matter of the State of Maryland v. Adnan Syed, Case Numbers
4 199103042,43,45,46, heard on February 24, 2000, were
5 recorded by means of videotape.

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

10 In witness whereof, I have hereunto
11 subscribed my name this 7th day of December 2000.

12
13
14 Delores Hay

15 Delores Hay, Official Court Reporter
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