

1 P R O C E E D I N G S

2 (10:01 a.m.)

3 (Jury present)

4 Whereupon,

5 [REDACTED] S [REDACTED]
6 was recalled as a witness at 10:01 a.m., and after having
7 been first duly sworn, was examined and testified as
8 follows:

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

12 MS. GUTIERREZ: That's all right.

13 THE COURT: Can you start over?

14 MS. GUTIERREZ: Yes.

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

17 THE COURT: One second.

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

24 MS. GUTIERREZ: Thank you, Your Honor.

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

1 Had been previously sworn in yesterday.

2 You may proceed.

3 MS. GUTIERREZ: Thank you.

4 CONTINUATION OF DIRECT EXAMINATION

5 BY MS. GUTIERREZ:

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

8 MR. URICK: Objection.

9 THE COURT: Sustained.

10 Restate your question.

11 BY MS. GUTIERREZ:

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

14 MR. URICK: Objection.

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

17 MS. GUTIERREZ: No, Judge.

18 THE COURT: Okay. Very well.

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

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

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

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

1 THE COURT: Okay.

2 BY MS. GUTIERREZ:

3 Q Mr. [REDACTED], I'd like to direct your attention to

4 February 9th, 1999, do you recall that day?

5 A Not really, but I --

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

7 A Yes, yes.

8 Q Okay. There was a day, whether or not you recall

9 the exact date, wherein you found a body or what you

10 thought to be a body --

11 A Right.

12 Q -- inside Leakin Park, is that correct?

13 A Correct.

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

15 to.

16 A Right.

17 Q Yesterday you told us that you left your work at

18 lunchtime to drive home to get a plane, is that correct?

19 A Yes, correct.

20 Q Now, when you got home, having driven through

21 Leakin Park, there were several people at your home?

22 A Two.

23 Q Okay. And that was your stepson Tyrone?

24 A Yes.

25 Q And his girlfriend?

1 A Yes.

2 Q And does she have a name?

3 A I don't remember her name.

4 Q You don't remember at all.

5 A He has so many friends.

6 Q But you spoke to them?

7 A Yes.

8 Q They physically saw you?

9 A Yes.

10 Q You actually entered your house, is that correct?

11 A Correct.

12 Q And you were in your house for how long?

13 A I'm not sure, maybe 15 minutes.

14 Q Fifteen minutes. And during that time, before

15 you left, you didn't eat lunch, right?

16 A No.

17 Q Is that right?

18 A Right.

19 Q Okay. And when you left or as you were leaving,

20 you grabbed something to drink from your refrigerator?

21 A Yes, I did.

22 Q And that was?

23 A It was a beer.

24 Q A beer. And how many ounces was that beer?

25 A Twenty-two.

1 Q A 22 ounce of beer, and the brand name was?
2 A Budweiser.
3 Q A Budweiser. And you drank that to drink on your
4 way back?
5 A Yes, I did.
6 Q Okay. And is there anything else you took from
7 your home?
8 A A tool.
9 Q A tool. And was that tool the plane?
10 A Yes, it was.
11 Q Okay. And that was a plane that you had needed
12 to shave down a door?
13 A Yes.
14 Q And the door was located where?
15 A In the gym.
16 Q In the gym?
17 A Yes.
18 Q And you had previously been given a work order to
19 do that?
20 A Yes.
21 Q Okay. And by a door, I want to make sure that
22 we're referring to the same thing. Do you mean a door by
23 which you walk through?
24 A Yes, that is a door.
25 Q Not a window?

1 A We don't have wooden windows there. It's a door.
2 Q Okay. And your work order said a door?
3 A I'm quite sure it did.
4 Q Okay. And what you were intending to use the
5 plane on was a door?
6 A Yes.
7 Q Okay. And the reason for going home was to get
8 that plane, not to get lunch?
9 A Right.
10 Q Because you still had lunch down at your work, is
11 that right?
12 A Exactly, right.
13 Q So you grabbed a beer, and did you open it?
14 A Yes, I did.
15 Q And did you start to drink it?
16 A Yes, I drank it.
17 Q And did you return to school using the same
18 route --
19 A Yes.
20 Q -- that you'd used to come out to your home?
21 A Yes.
22 Q Okay. And that's -- to you, is it not?
23 A Yes.
24 Q It's a pretty direct way to get back to around
25 near Coppin, is it not?

1 A That's right.

2 Q Okay. And that was not the first day that you

3 had ever used that?

4 A No.

5 Q Okay. Now, while you were driving through

6 Leaking Park, at some point you stopped -- you were driving

7 a truck?

8 A Yes.

9 Q All right. And at some point you stopped?

10 A Yes.

11 Q And you parked your vehicle?

12 A Yes, I did.

13 Q Okay.

14 MS. GUTIERREZ: May I approach, Your Honor?

15 THE COURT: Yes, you may.

16 MS. GUTIERREZ: Thank you.

17 BY MS. GUTIERREZ:

18 Q I'm going to show you, Mr. S██████, what's been

19 marked as State's Exhibit 9 and ask you to look at that.

20 If you would just look at the picture to yourself.

21 If you would look at the picture up in the left-

22 hand corner, is that where you pulled your car off?

23 A Um-hum.

24 Q Is that a yes?

25 A Yes.

1 Q Okay. Now, Mr. S[REDACTED] you pulled your car off
2 to that location shown on State's Exhibit 9 for what
3 purpose?
4 A It was a truck, not a car.
5 Q Pardon?
6 A It was my truck. I didn't have a car, I had my
7 truck.
8 Q I'm sorry. You pulled your truck off to that
9 location that you've identified for what purpose?
10 A I had to use the rest room.
11 Q Now, was there a rest room located there?
12 A I'm just using that frame (sic). Okay, I had to
13 go to the bathroom.
14 Q Well, it's all right to say it.
15 What was your purpose in pulling the car off?
16 A I just explained that I had to use the rest room.
17 Q Okay. Now, people use the rest room for various
18 purposes. What was your specific purpose? What did you
19 have to do --
20 A I had to urinate.
21 Q -- that caused you -- pardon?
22 A I had to urinate.
23 Q To urinate. And there is no rest room or any gas
24 station or any light structure there, is there?
25 A No, it's not.

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

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

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

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

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

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

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

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

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

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

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

25 (Jury present)

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

3 Mr. S [REDACTED], I'll remind you you're still under
4 oath.

5 BY MS. GUTIERREZ:

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

8 A Excuse me?

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

11 A Yes.

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

14 A Yes.

15 Q And you had --

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

20 THE WITNESS: Um-hum.

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

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

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

7 Ms. Gutierrez, you may continue.

8 BY MS. GUTIERREZ:

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

11 A Yes, I did.

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

13 A No.

14 Q And were there any cars going by?

15 A Yeah. Probably was, yeah.

16 Q But you don't know?

17 A Cars go by every day. I guess so.

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

20 A Yes.

21 Q Now, you have a bathroom at your house?

22 A Yes.

23 Q But you didn't use it?

24 A No.

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

1 is parked at your house on Gilmore to where you pulled over
2 your truck is a distance just under three miles, isn't it?
3 A Yes.
4 Q Okay. And you didn't make any detours?
5 A No.
6 Q You didn't go off and go someplace else?
7 A No.
8 Q You went right down Dogwood Road, right into the
9 park?
10 A That's the way I traveled.
11 Q Okay. And during that time, you had drunk about
12 half of the 22 ounces of beer?
13 A Yes, I did.
14 Q While you were driving?
15 A Yeah.
16 Q Okay. Now, when you pulled in, did you urinate
17 right there as you pulled your truck off the side of the
18 road?
19 A No, no.
20 Q You went a good distance back?
21 A Yes, I did.
22 Q Was there a pathway?
23 A I don't think so, I'm not sure.
24 Q You had to move things, like the thorns, out of
25 the way in order to continue back?

1 A I guess so, yeah.

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

3 A Yes. Yes.

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

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

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

9 A Yes, right.

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

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

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

15 A I had no destination.

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

18 A Exactly.

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

21 THE COURT: I understand.

22 Sustained as to the leading nature of the
23 question.

24 BY MS. GUTIERREZ:

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

1 A So no one wouldn't see me.
2 Q So no one could see you?
3 A Right.
4 Q In fact, that's exactly the words that you used
5 to describe it to the police when they asked you the same
6 question?
7 A I guess so. I don't remember. It's been a
8 while.
9 Q You don't remember when you spoke to the police?
10 A I remember I spoke to the police. I don't
11 remember -- it's been a while since then.
12 Q Okay. Now, Mr. S [REDACTED] when you didn't want
13 people to see you, were you concerned about them or were
14 you concerned about yourself?
15 MR. URICK: Objection.
16 THE COURT: Overruled.
17 You may answer.
18 THE WITNESS: I was concerned about myself.
19 BY MS. GUTIERREZ:
20 Q About yourself?
21 A Um-hum.
22 Q About your own sense of privacy?
23 A Right.
24 MR. URICK: Objection.
25 MS. GUTIERREZ: Did you want people --

1 THE COURT: Wait, wait, wait. Slow down.
2 The objection is sustained and, counsel, I'm
3 going to ask that you not lead this witness. This is your
4 witness.
5 BY MS. GUTIERREZ:
6 Q What were you concerned about, Mr. S [REDACTED]
7 A Privacy.
8 Q Privacy. And whose privacy was that?
9 A I guess that's mine's.
10 Q And what is it that you didn't want people to
11 see?
12 MR. URICK: Objection.
13 THE COURT: Overruled.
14 THE WITNESS: I guess urinating.
15 BY MS. GUTIERREZ:
16 Q Yourself urinating?
17 A Right.
18 Q So you are pretty far back. How far of a
19 distance was that?
20 A I don't remember.
21 Q You don't remember?
22 A No, I don't.
23 Q But it was pretty far?
24 A I guess.
25 Q Okay. And you got to this place where there was

1 a tree?

2 A Yeah.

3 Q And, sir, did you urinate?

4 A No, I did not.

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

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

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

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

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

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

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

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

18 BY MS. GUTIERREZ:

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

20 A On the tree side?

21 Q Yes.

22 A I was on the right side.

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

1 A Say that again. I'm sorry.

2 Q You pulled in and parked your truck at that

3 location that you identified in the picture, right?

4 A Right.

5 Q And that location is right next to the road?

6 A Yeah.

7 Q And is that road Franklinton Road?

8 A Yes, it is.

9 Q Okay. From that point, you got out of your

10 truck?

11 A Yeah.

12 Q And you walked back into the woods far enough to

13 run into this fallen tree?

14 A I guess, yeah.

15 Q Okay. Now, picture yourself there. There's a

16 side of the tree while it's laying down that's closest to

17 the road, to where you were parked, and then there's the

18 other side of the tree that is farthest away from where you

19 parked your truck.

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

21 Q You don't know if there are two sides of the

22 tree?

23 A Two -- I don't understand your question.

24 Q When you got to the tree, were you walking

25 alongside the tree?

1 A I was beside the tree.

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

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

7 Q Did you step over the tree?

8 A Yes, I did.

9 Q Okay. So, and did you urinate?

10 A No, I did not.

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

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

16 Q There was something --

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

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

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

25 BY MS. GUTIERREZ:

1 Q And what you thought you might have seen was
2 what?
3 A I thought I might have seen a body.
4 Q Okay. Let me go back. Did you not urinate or
5 did you start to urinate and actually urinate some --
6 A I started to --
7 Q -- and then --
8 MR. URICK: Objection.
9 THE COURT: Okay. Ms. Gutierrez is entitled to
10 ask you a question. And if you start answering before she
11 stops, you will not be answering her question, you will be
12 answering what you think her question is going to be and
13 not her question. So you must let her finish her question
14 before you answer.
15 And, Ms. Gutierrez, before you ask the next
16 question, let the witness stop talking. That way, we get
17 both the question and the answer.
18 Understood, Mr. S [REDACTED]
19 THE WITNESS: Yes.
20 THE COURT: Understood, Ms. Gutierrez?
21 MS. GUTIERREZ: Yes, Judge.
22 THE COURT: Very well.
23 BY MS. GUTIERREZ:
24 Q All right, Mr. S [REDACTED], my question was before
25 you stepped over the log, had you actually started to

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

3 A No, I did not start to urinate.

4 Q You did not start to urinate?

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

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

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

10 BY MS. GUTIERREZ:

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

13 A Yes.

14 Q And what you saw was what?

15 A What I thought it was a body.

16 Q You thought it was a body?

17 A Um-hum.

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

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

21 Q You saw a foot?

22 A Um-hum.

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

24 A Yeah. It looked like the head.

25 Q Hair?

1 A The hair, right, exactly.

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

3 A Just hair.

4 Q It was hair, okay.

5 And after you saw that, did you do anything to

6 investigate whether or not it really was a body?

7 A No. I left out there quickly.

8 Q You left out there?

9 A I left quickly because I was, you know,

10 frightened and --

11 Q Because?

12 A I was frightened, scared.

13 Q You were frightened of what you thought you saw?

14 A Yes.

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

16 A No.

17 Q Not at all?

18 A Not really. I don't think so.

19 Q You just left quickly. Did you return to your

20 truck?

21 A Of course.

22 Q And you pulled your truck out of there?

23 A Yes.

24 Q And did you return to Coppin State College?

25 A Yes.

1 Q Now, sir, you're familiar with that area, are you
2 not?
3 A Yes.
4 Q And right past where you stopped, about 760 feet,
5 was a cut off to a road by the name of Winands Road, is
6 there not?
7 A I don't know the name of the road. It's a --
8 Q But there is a road?
9 A Yes, it is.
10 Q About 800 feet from where you were?
11 A I believe so, yeah.
12 Q Okay. And that road, whether or not you're
13 familiar with its name, ends up winding around and crosses
14 Edmondson Avenue, does it not?
15 A I don't know.
16 Q Okay. The direction from whence you came from
17 your house, right before you actually enter the park there
18 are about four bars, are there not?
19 A Excuse me, say that question again.
20 Q The direction that you came from your house, once
21 you entered Dogwood --
22 A Yes.
23 Q -- and you went into the park, right before you
24 actually enter the park there are about four bars, are
25 there not?

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

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

4 A Yeah.

5 Q Okay. And you are familiar with Edmondson
6 Avenue?

7 A Yes, I am.

8 Q It's a major thoroughfare?

9 A Yes.

10 Q With lots of businesses?

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

12 Q Including gas stations?

13 A I guess, yes.

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

16 A I guess so, yeah.

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

20 A Okay, if you say so.

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

24 A I don't recall.

25 Q Anyway, you continued down Franklinton Road,

1 correct?

2 A Yes, right.

3 Q You ended up at or near North Avenue?

4 A Yes.

5 Q And you parked in your regular parking place at

6 Coppin State College?

7 A Well, somewhere around in the parking area,

8 parking lot, yeah.

9 Q It was Lot D, wasn't it?

10 A I guess it is, yeah.

11 Q Well, you guess; does that mean yes?

12 A Yes.

13 Q That's where you always park?

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

15 Q Well, did you use Lot D back then?

16 A If that's where -- I'm not sure which lot -- what

17 it's called but --

18 Q You parked on the regular lot?

19 A Yes, where I usually park at.

20 Q When you worked at Coppin, you had a regular

21 place to park?

22 A Yes.

23 Q As a maintenance worker?

24 A Right, right.

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

1 did you stop and call the police?

2 A No. I went to the Coppin Police.

3 Q No, sir, my question was before you got to that

4 parking lot did you stop and call the police?

5 MR. URICK: Objection.

6 THE COURT: Overruled.

7 Did you stop and call the police before you got

8 to the parking lot?

9 THE WITNESS: No. I went to the Coppin Police.

10 I went to the police, I went --

11 BY MS. GUTIERREZ:

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

13 police?

14 A No, I did not.

15 Q And did you flag down a police officer?

16 A No.

17 Q Did you go to a police station?

18 A There's no police station on North Avenue that I

19 know of.

20 Q Not on Edmondson Avenue?

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

22 not.

23 Q So, sir, is it your answer that you didn't go to

24 the police station because you didn't know where it was?

25 MR. URICK: Objection.

1 THE COURT: Sustained.
2 BY MS. GUTIERREZ:
3 Q Mr. Sellers, when you got to the lot, you then
4 returned to the building where you worked?
5 A No. I think I went to the police station at
6 Coppin State Police.
7 Q The Coppin Police station, is that right?
8 A Um-hum.
9 Q And that's someplace different from where you
10 were?
11 A Yes.
12 Q Okay. And at that police station, did you make a
13 call to the Baltimore City Police?
14 A No. I had them to call.
15 Q You had the police at the Coppin State Police
16 station call?
17 A Yes.
18 Q And who was that person?
19 A The police chief.
20 Q That was Chief Collins?
21 A Yes, right.
22 Q Okay. Now, sir, is it your testimony that that
23 happened right away? You parked your truck in whatever lot
24 you usually park it and then you went right to the Coppin
25 State Police and you had them call?

1 A Yes, I did.

2 Q Nothing happened in between?

3 A Not that I remember, no.

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

7 A Excuse me?

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

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

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

14 A George.

15 Q -- Anderson?

16 A Yes, right.

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

19 A Yes. It was George Anderson.

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

21 A Yes, I told George Anderson.

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

24 A Right.

25 Q -- is that right?

1 A Yes.

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

4 A No. I told George Anderson.

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

7 A Yes, I did.

8 Q And --

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

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

13 A Yes, I did.

14 Q He was a police officer that you knew?

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

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

19 A Yes, by work --

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

24 A Yes, I did.

25 Q Yes, you did?

1 A You asked me did I tell him?
2 Q No, sir. At that time, when you first got to
3 that police station, did you tell them what you had just
4 seen or thought you had seen?
5 A You just asked me the question I asked --
6 THE COURT: Mr. S [REDACTED], you don't get to ask
7 questions, you get to answer.
8 THE WITNESS: I did not tell him. I asked for
9 George Anderson. I asked for where George is.
10 BY MS. GUTIERREZ:
11 Q Where George was?
12 A Exactly.
13 Q A guy that you knew?
14 A Because he was working at the time.
15 Q Okay. And you got information from them as to
16 where he was --
17 A Yes, I did.
18 Q -- didn't you?
19 A Right.
20 Q And he was not close to where you were at that
21 police station, was he?
22 A Not, not right there, no. He was down on the
23 corner.
24 Q The corner being North Avenue and?
25 A Warwick.

1 Q And Warwick, is that right?
2 A Right.
3 Q And you went down to where he was, did you not?
4 A Yes, I did.
5 Q And did you have a conversation with him?
6 A Yes, I had a conversation with him.
7 Q And you told him, the man you knew, what you had
8 seen?
9 A What I thought I may have seen, yes, I did.
10 Q Is that right?
11 A Yes. And he told me to go to the police -- the
12 head of the police department.
13 Q Chief Collins?
14 A Chief Collins, right.
15 Q Is that right? And you knew that before you
16 heard that from him, didn't you?
17 A I knew what?
18 Q That Chief Collins was the head of the
19 department?
20 A Yes, I did.
21 Q Yes. And you didn't need to go search out George
22 Anderson to find out who was the head of the police
23 department at Coppin.
24 MR. URICK: Objection.
25 THE COURT: Sustained.

1 THE WITNESS: He did not know where --
2 MS. GUTIERREZ: Mr. S[REDACTED] --
3 THE COURT: Mr. S[REDACTED] you don't have to answer
4 that.
5 Next question.
6 BY MS. GUTIERREZ:
7 Q Mr. S[REDACTED] so George Anderson told you to go
8 speak to Chief Collins, is that right?
9 A Yes.
10 Q And you went and spoke to Chief Collins?
11 A Yes.
12 Q And where his office is is not at the police
13 station that you asked for directions to locate George
14 Anderson?
15 A No.
16 Q And it's in a different building?
17 A Yes, it is.
18 Q And it's in a different building than you worked,
19 right?
20 A Right.
21 Q And the name of the building where you work is --
22 is that the Frances Merker (phon. sp.)?
23 A Yes, it is.
24 Q Okay. And the name of the building where Chief
25 Collins is is where?

1 A It's the same building.
2 Q Okay. Now, in the very same building that you
3 work?
4 A Um-hum.
5 Q Is that right?
6 A Yes.
7 Q The same building you report to work every day?
8 A Yes.
9 Q Back then anyway, right?
10 A Right, right.
11 Q And where you would get your work orders, right?
12 A Yeah.
13 Q And you knew before Mr. Anderson to go to
14 Chief Collins that Chief Collins' office was in your
15 building, didn't you?
16 A Yes, but he didn't know he was there or not, so I
17 went to him because Chief Collins went --
18 Q Well, before you wasn't --
19 A I don't think he was there.
20 THE COURT: Mr. S [REDACTED] --
21 THE WITNESS: I'm sorry.
22 THE COURT: -- you're adding all the stuff that
23 you want us to know, but that's not your job. Your job is
24 just to answer the question that is asked.
25 THE WITNESS: Okay.

1 THE COURT: Do you understand?
2 THE WITNESS: Yes, I do.
3 THE COURT: If you want to add to your question
4 because you -- I mean your answer because you don't think
5 it's complete, you can do that, but you're to answer the
6 question, all right?
7 THE WITNESS: Okay.
8 THE COURT: Now, the question is?
9 BY MS. GUTIERREZ:
10 Q Now, Mr. S [REDACTED] your purpose in going to find
11 George was not to find out whether or not Chief Collins was
12 in, was it?
13 A Well, I didn't know -- at that time, I just had
14 to go find a police officer. I didn't know who to go to
15 first. I went to tell him.
16 Q So it didn't matter to you that it was George, it
17 could have been any police officer?
18 MR. URICK: Objection.
19 THE COURT: Overruled.
20 It didn't matter who it was?
21 THE WITNESS: Oh, no, it didn't matter, no.
22 BY MS. GUTIERREZ:
23 Q It didn't matter.
24 So you really didn't have to --
25 A But -- I'm sorry.

1 THE COURT: One minute.

2 But?

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

6 BY MS. GUTIERREZ:

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

9 A I know their work hours.

10 Q So you already knew that he was on duty?

11 A Yes, I did.

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

14 A Right, um-hum.

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

18 A No, I did not.

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

22 A Yes.

23 Q -- were you not?

24 A Right.

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

1 he was doing, was he not?
2 A Yes.
3 Q Investigating an accident, right?
4 A Well, I don't think he was investigating, he was
5 doing, like, road work or whatever, letting people go by.
6 Q Directing traffic?
7 A Directing traffic, yes.
8 Q Around the accident?
9 A Right.
10 Q That blocked the intersection?
11 A Yes.
12 Q He was pretty busy, wasn't he?
13 A Not really. When I got down there, he was ready
14 to leave. He was leaving, I think.
15 Q And so, you asked him was Chief Collins in?
16 A Right. Yes, I did.
17 Q Okay. He told you go see Chief Collins?
18 A Yes, he did.
19 Q The man that you already knew, his office and
20 where it was located?
21 MR. URICK: Objection.
22 THE COURT: Sustained.
23 BY MS. GUTIERREZ:
24 Q Now, Mr. S██████, you then went to see
25 Chief Collins?

1 A Yes, I went to see him.

2 Q And how long did all this take?

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

4 fast.

5 Q Sir, you had been the one that thought that what

6 you saw on the far side of that tree was a body?

7 A Yes, right.

8 Q And you weren't sure but you pretty strongly

9 thought that?

10 A Yeah. In a way, yeah.

11 Q And having been at that location, sir, where the

12 body was was not an easy location to find, was it?

13 A I mean, you could find -- I don't know. If

14 you're just walking to get back in the woods to do your

15 business, I guess you can find it, yeah.

16 Q So if anybody else happened to be walking in that

17 exact place at the park there, then they would have found

18 the body?

19 A Yes.

20 MR. URICK: Objection.

21 MS. GUTIERREZ: Would that --

22 THE COURT: Overruled.

23 BY MS. GUTIERREZ:

24 Q Would that have been easily?

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

1 Q Okay. And back then on February 9th, was there
2 anybody fishing back there?
3 A Oh, I didn't see anybody fishing, not that day.
4 Q Did you see --
5 THE COURT: I'm sorry, I couldn't hear the end of
6 that.
7 THE WITNESS: No one was fishing that day that I
8 seen anybody back there that day, no.
9 BY MS. GUTIERREZ:
10 Q Certainly not in February?
11 A Hmmm.
12 Q Is that a yes or a no?
13 A I guess not.
14 Q Now, so you went and you found Chief Collins,
15 right?
16 A I did what?
17 Q You went and found Chief Collins?
18 A Yes, I did.
19 Q And he was in?
20 A Yes, George told me he was in. George had
21 called -- excuse me. George had called the office to see
22 if he was in and he told me he's there, so go up there and
23 talk to Chief Collins.
24 Q And when you were at the police station and you
25 asked for Chief Collins, did you ask them to see if

1 Chief Collins was in?

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

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

5 A No, I didn't.

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

8 A No.

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

11 A Yes.

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

14 A Yes.

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

17 A That's right.

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

20 A No.

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

23 A Yes.

24 Q -- of Baltimore City --

25 A Right.

1 Q -- is that right?
2 A Yes.
3 Q And what time was that?
4 A I don't remember.
5 Q Well, how long after you had seen this thing that
6 you thought was a body?
7 A Maybe they got there maybe a couple hours after
8 that, I'm not sure. I don't, I don't remember.
9 Q A couple hours.
10 A I don't know.
11 Q A good bit of time?
12 A I don't know. I don't remember. I don't recall.
13 Q Okay. Now, Mr. S [REDACTED] you were there when
14 Chief Collins called the police?
15 A Yes.
16 Q And shortly after that time, did a police officer
17 come get you?
18 A Yes, I think -- yeah.
19 Q And --
20 THE COURT: I'm sorry, what did you say?
21 THE WITNESS: I believe it was two of them.
22 BY MS. GUTIERREZ:
23 Q Two police officers came and they physically got
24 you, right?
25 A Physically?

1 Q You then went with them?

2 A Yes, I went with them.

3 Q Okay. And you rode in their car?

4 A Yes, I did.

5 Q And you were taken back to that pull-off place

6 where you had backed in your --

7 A Yes, I took them back to the place.

8 Q -- your truck, is that right?

9 A Yes. I took them back there.

10 Q And they needed you to show them what it was that

11 you said you had seen, is that right?

12 A Right, right.

13 Q And so, you had to take them back the same way,

14 is that right?

15 A Well, actually, I couldn't find it. We had to

16 walk around and look for it, and then I finally seen where

17 it was at and I called them over.

18 Q It was real hard to find, even though you had

19 already been there once, right?

20 A Yes, it was.

21 Q Okay. And it took a while, walking around

22 through the trees and the thorns and the brush, didn't

23 it --

24 A Right. Yes, it did.

25 Q -- before you could locate the exact place where

1 you had thought you had seen --
2 A Yes, it did.
3 Q -- a body --
4 A Right.
5 Q -- is that right?
6 A Yes.
7 Q And how much time did that take?
8 A I don't recall.
9 Q Were either of those two police officers
10 Detective McGiver (phon. sp.)?
11 A I believe that's the name.
12 Q Okay. And so, he was there searching with you to
13 find the place that you had a difficult time finding the
14 second time?
15 A It was several people there, yeah.
16 Q Okay. But one of them was Detective McGiver?
17 A Yeah.
18 Q And while you were out there, you had an occasion
19 to speak to Detective McGiver, did you not?
20 A Maybe. I don't remember. I don't recall.
21 Q Well, Detective McGiver asked you lots of
22 questions, as did another police officer, about what you
23 were doing there, didn't they?
24 A Probably. Maybe. Yeah.
25 Q And how you happened to be right then and there

1 at that --

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

3 Q -- parking pad?

4 THE COURT: I'm sorry, I didn't understand a word

5 you said.

6 THE WITNESS: I said yes, I answered those

7 questions, yes.

8 BY MS. GUTIERREZ:

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

10 A Yes, they did.

11 Q And most of them concerned what were you doing

12 there on Franklinton Road in the middle of the day, didn't

13 it?

14 A Yes.

15 Q And why you happened to be at a location that

16 even you had the -- a hard time finding the second time --

17 A Right.

18 Q -- is that right?

19 A Um-hum.

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

21 A Yes, I did.

22 Q You told them about leaving Coppin?

23 A Yes, I did.

24 Q And do you recall that you told them that your

25 purpose in leaving Coppin was to go to lunch?

1 A What, leaving out Coppin?
2 Q Yeah.
3 A Yes.
4 Q Because you didn't tell them about the plane, did
5 you?
6 A Did I tell who?
7 Q The police officers --
8 A Oh, yes, I did tell them. Yeah.
9 Q -- that were asking you questions.
10 A Yes, I told them.
11 Q But later on you told them, right?
12 MR. URICK: Objection.
13 THE WITNESS: No, I told them. When they asked
14 the question, I told them, I guess.
15 THE COURT: Overruled.
16 BY MS. GUTIERREZ:
17 Q On that day --
18 A Yes.
19 Q -- on the 9th of February?
20 A Right, right.
21 Q You don't recall that you didn't tell them that
22 and they asked you about it later, why didn't you tell them
23 about the plane?
24 MR. URICK: Objection.
25 THE WITNESS: I'm sorry, they did ask me.

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

3 THE COURT: Overruled.

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

6 Let her finish her question and then you can
7 answer.

8 BY MS. GUTIERREZ:

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

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

13 Q You're not sure whether you told them?

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

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

20 A Yes, I was.

21 Q And they asked you a lot more questions?

22 A Yes.

23 Q And you answered their questions?

24 A Yes.

25 Q And before you answered their questions, sir, you

1 were given what's been marked as Defendant's Exhibit 10.
2 You were given that sheet of paper to fill in and to sign,
3 were you not?
4 A Yes.
5 Q And down below on that sheet of paper, you've
6 signed your name twice, have you not?
7 A Yes.
8 Q And in addition to giving it to you, they asked
9 you questions to make sure that they were satisfied that
10 you could read it, did they not?
11 A Yes.
12 Q And you assured them that you could read it,
13 didn't you?
14 A Oh, yes. I had my glasses then.
15 Q They had to actually lend you glasses?
16 A No. I had my glasses.
17 Q Okay. You had to put your reading glasses on?
18 A Yes.
19 Q And you read it in front of them, didn't you?
20 A Yes.
21 Q And you assured them that you could actually --
22 A Right.
23 Q But in addition, they asked you each of these
24 questions to make sure that you understood what they meant,
25 didn't they?

1 A Yeah.

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

3 question?

4 A I think so, yeah.

5 Q And your initials appear at the end of each of

6 the five questions, don't they?

7 A Yes.

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

9 A They look like it, yes, yes.

10 Q Back on February 9?

11 A Yes.

12 Q At the Homicide Unit?

13 A Yeah.

14 Q And you were there because they had taken you

15 there?

16 A Excuse me?

17 Q You were down there at the Homicide Unit because

18 they had taken you there?

19 A Yes. They asked me to come.

20 Q And you went with them, right?

21 A Yes, I did.

22 Q And the questions that you were asked here is

23 that they told you you didn't have to talk to them?

24 A Right. Yes, exactly.

25 Q You were told you could remain silent?

1 A Yes.

2 Q That anything you said could be used against you?

3 A I don't remember them saying that, though.

4 Q Well, if you would look down on that form and

5 read to yourself question 2.

6 THE COURT: Mr. S [REDACTED] do you require your

7 glasses?

8 THE WITNESS: Yes, I do.

9 THE COURT: Do you have them with you?

10 THE WITNESS: I don't, no.

11 THE COURT: You do not have them?

12 THE WITNESS: No. I lost my glasses.

13 BY MS. GUTIERREZ:

14 Q So you can't read 2?

15 A Yes, I could read if I could see it.

16 Q So your glasses help you?

17 A Yes, it does, yes.

18 Q Can you not see it without your glasses?

19 A It's like a blur because it's too small.

20 Q But, sir, you could recognize your initials at

21 the end of 2, couldn't you?

22 A It looks like it, yeah.

23 Q And you could identify the signature at the

24 bottom of that page?

25 A It looks like it, yeah.

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

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

7 Q You don't recall that?

8 A I don't recall, no.

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

11 A I believe so.

12 Q And that's why you signed and initialed?

13 A I guess so.

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

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

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

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

24 Q But you kept telling them to call your lawyer?

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

1 like, I mean, what are you doing, you know? I said --
2 Q There was a point in time when you asked for a
3 lawyer?
4 A No, not -- no, I did not. See, I went there a
5 couple of days later. They kept coming to my job.
6 Q I haven't gotten to that yet. We're still on the
7 9th of February.
8 A Not that day. No, not that day. No.
9 Q Okay. So that evening you never asked for a
10 lawyer?
11 A No.
12 Q You never gave them your lawyer's name?
13 A I don't recall. Maybe I --
14 Q You don't recall whether or not they told you you
15 had a right to a lawyer?
16 A I don't recall that, no.
17 Q Okay. They told you that if at any time you
18 agreed to answer questions that you could stop it after
19 that, didn't they?
20 A I don't recall, I'm sorry.
21 Q You don't recall?
22 A No.
23 Q Do you recall any of the rights that they
24 explained to you before you signed this paper?
25 A No, I don't.

1 Q But you did sign this paper?
2 A Yes, just to get out of there.
3 Q That is your signature?
4 A I'm sorry.
5 Q That is your signature?
6 A I guess it is.
7 THE COURT: I'm sorry, one moment.
8 What was your last answer? She asked you if it
9 was your signature, and you mumbled something. I could not
10 understand a word.
11 THE WITNESS: I said I guess it is.
12 THE COURT: You guess it is?
13 THE WITNESS: Yes. Yeah, I guess so.
14 BY MS. GUTIERREZ:
15 Q Well, sir, do you have some doubt as to whether
16 or not this is your signature?
17 A It probably is if you say it is.
18 THE COURT: Well, it doesn't work that way. The
19 attorney doesn't testify. You're the one that took an
20 oath. You raised your hand. We don't want you to guess at
21 things.
22 THE WITNESS: It looks like it. I mean, my --
23 I'm sorry.
24 THE COURT: Mr. S [REDACTED] we don't want you to
25 guess at your answers. We want you to say -- you say it

1 looks like your signature, is that right?

2 THE WITNESS: Yes, right.

3 THE COURT: All right. And you can see that much

4 of that paper to see that that is your signature?

5 THE WITNESS: The way it's -- I write, yes, I

6 think I can.

7 THE COURT: You think it is?

8 THE WITNESS: Yes.

9 THE COURT: But do you have any doubt that that

10 might not be your signature, that it might be someone

11 else's signature?

12 THE WITNESS: I shouldn't have any doubt. I

13 don't think nobody else would sign it.

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

15 THE WITNESS: I don't have no doubt. I don't

16 think nobody else would put my signature on there?

17 THE COURT: So do you -- you can see that much of

18 it to see that?

19 THE WITNESS: Yes, I do. Yes.

20 THE COURT: Okay. And the initials that are

21 indicated, can you see, can you see that much of that

22 document to see that?

23 THE WITNESS: Yes, it look like my initial.

24 THE COURT: And that looks like your initials in

25 various places?

1 THE WITNESS: Yes.

2 THE COURT: All right.

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

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

7 THE COURT: Any objection?

8 MR. URICK: No.

9 THE COURT: Let it be admitted.

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

15 BY MS. GUTIERREZ:

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

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

22 Thank you.

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

25 THE COURT: Any objection?

1 MR. URICK: No.

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

3 (Whereupon, the document referred

4 to as Defendant's Exhibit No. 11

5 was marked for identification and

6 received into evidence.)

7 BY MS. GUTIERREZ:

8 Q Now, sir, after you were asked to sign that

9 explanation of rights much later on February 9th, down at

10 the Homicide Unit, you agreed to speak to them, did you

11 not?

12 A Yes.

13 Q And Detective McGiver was there?

14 A I believe so.

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

16 A I don't remember his name, no.

17 Q But another detective was there?

18 A Yes.

19 Q All right. And at the time that you spoke to

20 them, they asked your permission to turn on a tape

21 recorder, didn't they?

22 A After they asked me questions before.

23 Q So first, they asked you questions before there

24 was a tape recorder, right?

25 A Right, yeah.

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

3 A I believe so.

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

6 A Yes.

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

10 A Yeah.

11 Q Okay. And that was with your consent?

12 A Yes.

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

16 A Yes.

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

19 A Yes.

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

22 MR. URICK: Objection.

23 THE COURT: Sustained.

24 You don't have to answer that.

25 BY MS. GUTIERREZ:

1 Q And, sir, after that -- and how long did they
2 question you?
3 A I don't remember. It was a while.
4 Q It was long?
5 A Um-hum.
6 Q More than an hour?
7 A I'm sure.
8 Q Pardon?
9 A Yes.
10 Q Yes. More than two hours?
11 A I guess. I'm not sure.
12 Q At some point, you were allowed to go home?
13 A Yes.
14 Q Did they take you?
15 A Yes.
16 Q And what time did you --
17 A Well, excuse me, they took me back to my truck,
18 where I work at.
19 Q Which you had left at Coppin, right?
20 A Coppin State College, right.
21 Q And what time did you get back there?
22 A I don't recall. I know it was nighttime, so I
23 don't remember what time it was.
24 Q It was pretty late, wasn't it?
25 A I think it was.

1 Q Now, sir, after that date, did they ask to speak
2 to you again?
3 A I think so.
4 Q That night, on the 9th, had they taken your
5 fingerprints?
6 A No.
7 Q Or your photograph?
8 A No.
9 Q Had they asked you to pluck hair from your head?
10 A No.
11 Q Or to give blood?
12 A No.
13 Q And had they asked you about any other names?
14 A No.
15 Q Or whether you knew anybody?
16 A No.
17 Q And so, after that night, you were asked again to
18 come down, were you not?
19 A I think so, yeah.
20 Q They came and got you from Coppin, didn't they?
21 A Right, yes.
22 Q And the next time they did that after the 9th was
23 on the 18th of February?
24 A I'm not sure with the dates.
25 Q And you had to go down to Homicide again, did you

1 not?

2 A I think so, yeah.

3 Q And you had to answer questions again, did you

4 not?

5 A The same questions, yes.

6 Q And they advised you again of your rights?

7 A I don't remember that, no.

8 Q And, sir --

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

10 Q And on that day, on the 18th, did the they turn

11 on a tape recorder?

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

13 Q And after the 18th -- and how long were you down

14 there that day?

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

16 Q Now, sir, you said the same questions that they

17 had asked you earlier. Did they ask you any different

18 questions?

19 A No. It was the same questions.

20 Q And you gave the exact same answers?

21 A I believe so, yes.

22 Q And after the 18th, they once again came to get

23 you at Coppin State College?

24 A I'm not sure. I mean, I guess so. I'm not sure

25 about the dates, I'm sorry.

1 Q Well, do you recall that on the 24th of February
2 that they came and picked you up at Coppin State College?
3 A I know they picked me up but I'm not sure what
4 date.
5 Q Well, did the police ever pick you up and take
6 you anywhere else but to the Homicide Unit?
7 A No, that's it. Just asking questions.
8 Q Every time they picked you up, they took you
9 there?
10 A Yes. I agreed to help them, yes.
11 Q Okay. Do you recall that they picked you up on
12 the 24th of February and took you down there and asked you
13 the same questions again?
14 A I'm not sure what date. I guess it might've been
15 the 24th. I'm not sure of the date.
16 Q But you recall the third time?
17 A I recall, yes, but I'm not sure of the date.
18 Q You just don't remember --
19 THE COURT: I'm sorry. You recall but what?
20 THE WITNESS: I'm not sure of the date they -- I
21 went down with them.
22 BY MS. GUTIERREZ:
23 Q Okay. So it could have been the 24th or it could
24 have been some other date, but you don't recall what it
25 was?

1 A The date, I don't recall the date.
2 Q Okay. But you do recall that you went down to
3 Homicide on three occasions?
4 A I believe it was, yes.
5 Q Okay. Now, sir, you recall that at the time that
6 you began -- when they clicked the tape recorder on they
7 asked you about the reason that you told them why you left
8 Coppin on February 9th, remember?
9 A Yes.
10 Q And your testimony today is that you left to get
11 the plane, even though it was also lunchtime?
12 A Right.
13 Q Because you needed the plane to plane down the
14 door?
15 A Yes.
16 Q That had been given to you in a work order, is
17 that correct?
18 A Yes.
19 Q Okay. Now, do you recall, sir, that
20 Detective Ritz asked you why --
21 THE COURT: Ms. Gutierrez, while you're looking
22 for that question from Detective Ritz, keep looking, can I
23 see counsel at the bench? Not you, the other counsel.
24 (Off-the-record discussion not pertaining to this
25 matter.)

1 THE COURT: Ms. Gutierrez, have you located the
2 area?
3 MS. GUTIERREZ: Yes, Judge, thank you.
4 BY MS. GUTIERREZ:
5 Q Mr. S [REDACTED] you recall that after you spoke with
6 them, after the tape recorder was turned on on
7 February 9th, that Detective Ritz asked you questions about
8 what you had said when you had spoken to him out in Leakin
9 Park?
10 A I believe so, yes.
11 Q Yes. And one of the questions that
12 Detective Ritz asked you, he first reminded you that when
13 were, referring to yourself and him, "were standing back
14 near the body, I asked you when you went home -- or why did
15 you go home, and you stated to me that you went home to
16 have lunch, that you were on your lunch break." And you
17 answered, "Yes."
18 A I don't think so. I don't remember that.
19 Q You don't remember that?
20 A No. I went home for lunch.
21 Q No, sir, do you recall that Detective --
22 A Not to have lunch, home for lunch.
23 Q -- Ritz reminded you and asked you questions that
24 you had told him out at Leakin Park, before you got down to
25 the Homicide Unit, that your purpose was that you were

1 going home to have lunch?

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

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

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

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

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

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

15 A I guess so. I guess I did.

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

24 A About the beer?

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

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

3 A What was the question again?

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

11 THE COURT: And the question, Ms. Gutierrez?

12 BY MS. GUTIERREZ:

13 Q Do you recall Detective Ritz asking you that
14 question?

15 A No, I don't.

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

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

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

23 A Right, I remember that.

24 Q -- is that right?

25 A Yes.

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

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

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

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

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

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

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

16 THE COURT: Any objection?

17 MR. URICK: Objection.

18 THE COURT: Sustained.

19 (Pause)

20 BY MS. GUTIERREZ:

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

22 A I don't think so, no.

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

25 A Yes, in my truck.

1 Q But you were never asked to produce it?
2 A No, I don't think nobody asked me that.
3 Q And you never gave it to them?
4 A I don't think I had to. They didn't ask for it.
5 Q And at the time that -- they never asked for it?
6 A No.
7 Q If they had asked for it, you would have given it
8 to them?
9 A I guess if they would have asked for it.
10 Q At the time that you left your truck in order --
11 because of the urgency to urinate, did you take the
12 Budweiser can with you?
13 A No. It was not a Budweiser can.
14 Q Pardon?
15 A No. It was not a Budweiser can.
16 Q It was a bottle?
17 A Twenty-two-ounce, yes, it was.
18 Q Did you take that with you?
19 A Where?
20 Q When you went back in the woods --
21 A No.
22 Q -- to urinate?
23 So that was still in your car?
24 A In my truck.
25 Q And did the -- in the truck. Did the police take

1 that on February 9th?

2 A No.

3 Q Did they ever ask you to produce it?

4 A No, they did not.

5 Q Did you ever produce it?

6 A No. I threw it out the window.

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

8 the truck?

9 A Right.

10 Q While you were on the way back to Coppin?

11 A Back to Coppin, yes, I did.

12 Q So you continued drinking the rest of it?

13 A No. I threw it out.

14 Q You just threw the rest of it out?

15 A Yes, I did.

16 Q Now, sir, do you recall being asked about the

17 beer and how much you consumed back on February 9th --

18 A No, I don't recall.

19 Q You don't recall that?

20 A No.

21 Q Do you recall being asked by Detective Ritz how

22 much of the 22-ounce beer had you consumed?

23 A I don't remember.

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

25 empty"?

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

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

5 A I don't remember. Could have.

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

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

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

12 A I may have.

13 Q -- but you're not sure?

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

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

20 MS. GUTIERREZ: I would move this into evidence.

21 MR. URICK: Objection.

22 THE COURT: Sustained.

23 BY MS. GUTIERREZ:

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

1 which side of the tree that you were on?

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

3 Q Do you recall that Detective McGiver asked you

4 which tree -- "which side of the tree were you on? Was it

5 the side of the tree that was closest to the water or the

6 side of the tree that was closest to the street?" Do you

7 recall him asking you that question?

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

9 Q You don't remember the question?

10 A No, I don't remember the question.

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

12 street"?

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

14 Q You probably did?

15 A Yeah.

16 Q To the best of your recollection, you were on the

17 side of the tree that was closest to the street on

18 February 9, were you not?

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

20 Q Now, sir, on that day, the only people's names

21 that came up were of your stepson and his girlfriend?

22 A Yes, I believe.

23 Q Whose name you don't remember now but you knew

24 back then?

25 A Yes.

1 Q Okay. And did they ever ask you if you knew a
2 person by the name of Jay Wilds?
3 A No, no.
4 Q Did they ever ask you if you knew a person by the
5 name of Jen Cusitara (phon. sp.)?
6 A No.
7 Q In between February 9th and the first time -- it
8 would be the second time that they brought you back down to
9 ask questions, did they ever come to collect your
10 fingerprints?
11 A No.
12 Q Or take your picture?
13 A No.
14 Q Or pluck your hair?
15 A You asked me that question before. No.
16 Q No, I'm talking specifically between the 9th and
17 the day that you secondly talked to them.
18 A No.
19 Q Did they ever come to your house and seek any of
20 that?
21 A No.
22 Q Did they ever ask you to give up your blood?
23 A No.
24 Q Did they ever take any of your clothes?
25 A No.

1 Q Did they ever seize your truck?
2 A No.
3 Q Did they ever ask you to have some technician
4 come look at your truck?
5 A No.
6 Q Or to turn over your truck for a little bit of
7 time so that they could process it?
8 A No.
9 Q And during the second time that you went down and
10 the third time, did they ever do any of those things?
11 A No.
12 Q They never came to your job to ask you to do any
13 of them?
14 A No.
15 Q They never came to your house to ask you to do
16 any of them?
17 A No.
18 Q And you never gave up any of those things?
19 A No. The only thing they asked me, to take a lie
20 detector.
21 Q And they gave you that, didn't they?
22 MR. URICK: Objection.
23 THE COURT: Sustained.
24 Mr. S [REDACTED], I'm going to ask you again, and I
25 don't know if you're having difficulty understanding, when

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

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

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

12 BY MS. GUTIERREZ:

13 Q Mr. S██████ did they ask you to take any other
14 tests or perform anything?

15 A No.

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

19 A No.

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

22 A No.

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

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

1 Q They could have?
2 A They could have, yeah.
3 Q Were you ever asked if you knew a person by the
4 name of Jen Fustiri (phon. sp.)?
5 A No, I don't think so.
6 Q Were you ever asked if you knew a person by the
7 name of Adnan Syed?
8 A No, I don't think so.
9 Q Were you ever asked if you knew Hey Men Lee?
10 A No.
11 Q Did you know Hey Men Lee?
12 A No.
13 Q Now, after the third time -- now, the third time
14 that they came they didn't use a recorder, did they?
15 A I don't recall, I'm sorry.
16 Q But they asked you the same questions each time?
17 A Yes.
18 Q And you gave them the same answers each time?
19 A Yes.
20 Q All three occasions?
21 A I guess so, yes.
22 Q Do you recall that after you spoke to them at the
23 scene where the body was and you came back and the tape
24 recorder was on they asked you about what it was that you
25 did after you returned to Coppin?

1 A Excuse me?

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

5 A I think so, yeah.

6 Q Is that right?

7 A I guess so.

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

9 A I guess. Yes, I guess.

10 Q But they asked you about all that?

11 A They asked a lot of questions.

12 Q And one of the things --

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

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

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

20 THE WITNESS: Okay.

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

25 THE WITNESS: Okay.

1 THE COURT: Thank you.

2 BY MS. GUTIERREZ:

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

6 A Yes,

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

9 A Yes.

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

14 MR. URICK: Objection.

15 THE WITNESS: Yes.

16 THE COURT: Sustained.

17 BY MS. GUTIERREZ:

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

22 MR. URICK: Objection.

23 THE COURT: Sustained.

24 BY MS. GUTIERREZ:

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

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

3 MR. URICK: Objection.

4 THE COURT: Sustained.

5 We've been through this.

6 BY MS. GUTIERREZ:

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

8 MR. URICK: Objection.

9 THE COURT: Sustained.

10 BY MS. GUTIERREZ:

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

14 A Yes.

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

19 A I believe so.

20 Q That's what you told him?

21 A Okay.

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

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

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

1 you meant?

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

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

4 right?

5 A No.

6 Q Of what was said?

7 A No.

8 Q But you are aware that what you said on the 9th,

9 later that evening, was recorded?

10 A I probably was aware then, yes.

11 Q By a tape recorder? The whole time that you

12 spoke to them after the tape recorder was turned on?

13 THE COURT: The question is --

14 THE WITNESS: Oh, yes.

15 THE COURT: -- was it recorded, Mr. S [REDACTED] Do

16 you remember?

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

18 I don't remember.

19 THE COURT: Well, then say I don't remember. And

20 then she'll ask you another question. If you don't answer,

21 if you just look at her, that's not an answer, so we don't

22 know what to do. And Ms. Gutierrez is asking another

23 question and hopes that you'll answer one of them.

24 THE WITNESS: Okay.

25 THE COURT: Okay?

1 THE WITNESS: Right.

2 THE COURT: Thank you.

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

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

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

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

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

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

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

22 THE COURT: And your objection is?

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

25 THE COURT: Because?

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

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

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

13 THE COURT: The date that it was taken?

14 MS. GUTIERREZ: Right. It was recorded.

15 THE COURT: Was he asked to sign it?

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

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

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

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

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

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

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

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

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

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

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

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

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

15 MS. GUTIERREZ: Yes, that's fine.

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

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

22 THE COURT: I understand that. I can see that
23 they've been left out of what appears to be a transcript of

24 [REDACTED] S [REDACTED]

25 MS. GUTIERREZ: Yes.

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

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

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

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

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

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

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

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

1 difficulty reading, whether that's true or not.

2 THE COURT: Correct.

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

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

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

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

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

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

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

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

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

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

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

14 THE COURT: Well --

15 MS. GUTIERREZ: There's four words.

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

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

19 THE COURT: If you don't --

20 MS. GUTIERREZ: -- sure.

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

24 MS. GUTIERREZ: Yes.

25 THE COURT: And your specific concern is that his

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

3 MS. GUTIERREZ: Yes.

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

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

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

7 THE COURT: By the way, this was the note I
8 received during the course of Mr. S█████'s -- put that in
9 the Court file.

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

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

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

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

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

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

10 MS. GUTIERREZ: In fact, asking --

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

13 THE COURT: That's all right.

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

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

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

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

3 MS. GUTIERREZ: No, Judge.

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

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

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

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

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

25 THE COURT: Not necessarily. Not necessarily.

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

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

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

8 THE COURT: I understand.

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

14 THE COURT: In public.

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

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

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

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

3 THE COURT: I understand, counsel. I --

4 MS. GUTIERREZ: I didn't --

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

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

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

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

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

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

23 THE COURT: -- is different --

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

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

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

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

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

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

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

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

20 THE COURT: All right.

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

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

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

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

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

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

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

13 THE COURT: The State?

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

18 MS. GUTIERREZ: Which he did.

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

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

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

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

10 Anything further?

11 MS. MURPHY: No, thank you.

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

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

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

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

19 MR. URICK: Extremely brief.

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

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

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

1 MS. MURPHY: Okay. I just thought there may be a
2 need for a break, but --
3 MS. GUTIERREZ: -- and then call --
4 MS. MURPHY: -- apparently that's not --
5 MR. URICK: Are you talking about --
6 MS. GUTIERREZ: Pardon?
7 MR. URICK: Who are you calling first?
8 MS. GUTIERREZ: Coach [REDACTED].
9 THE COURT: We only have 40 minutes, really,
10 before we'll take a break, 30 to 40.
11 MS. GUTIERREZ: Right. That's why I thought I'd
12 put on Coach Sye.
13 THE COURT: And if we can do that cross-
14 examination, then the next witness, and then we'll break.
15 And then during the luncheon recess you can get whatever
16 evidence you need.
17 MS. MURPHY: Thank you, Your Honor.
18 MS. GUTIERREZ: Thank you.
19 (Whereupon, counsel and the Defendant returned to
20 trial tables and the following ensued.)
21 MS. GUTIERREZ: I'm finished with Mr. S [REDACTED]
22 Judge.
23 THE COURT: Thank you, Ms. Gutierrez.
24 Any cross-examination?
25 MR. URICK: Yes, extremely briefly.

1 CROSS-EXAMINATION
2 BY MR. URICK:
3 Q Mr. S [REDACTED], are you married?
4 A Yes, I am.
5 Q Do you have a mortgage?
6 A Yes, I do.
7 Q Is your job paying you while you're here?
8 MS. GUTIERREZ: Objection.
9 THE WITNESS: No, they're not.
10 THE COURT: Wait a moment, slow down.
11 Objection to the do you have a mortgage question?
12 MS. GUTIERREZ: Yes.
13 THE COURT: Sustained.
14 Next question.
15 BY MR. URICK:
16 Q Is your job paying you while you're testifying
17 here?
18 A No.
19 MS. GUTIERREZ: Objection.
20 THE COURT: Sustained.
21 MR. URICK: No further questions.
22 THE COURT: Thank you.
23 Mr. S [REDACTED], listen closely as I ask them this
24 question.
25 Ms. Gutierrez, may I release Mr. S [REDACTED]

1 MS. GUTIERREZ: Yes, Judge.
2 MR. URICK: Yes.
3 THE COURT: He does not have to come back? He's
4 released from the summons?
5 MS. GUTIERREZ: Yes, Judge.
6 THE COURT: Mr. S [REDACTED], you may go. You may
7 also go downstairs and my office will give you a letter or
8 note if you need something for your employer, all right?
9 Take my card so you know where my office door is, all
10 right?
11 (Whereupon, at 11:45 a.m., the witness was
12 excused.)
13 THE COURT: The next witness, please.
14 MS. GUTIERREZ: The Defense would call Michael
15 [REDACTED].
16 THE COURT: Mr. [REDACTED], if you would step all the
17 way up --
18 No, Mr. S [REDACTED], you're free to go. It's the
19 next witness.
20 Step all the way up, sir, over here to the
21 witness stand. And if you would remove your jacket, you're
22 welcome to put that on the back of the chair or lay it on
23 the table next to you. I need you to raise your right hand
24 and listen to Mr. White.
25 Whereupon,