

IN THE CIRCUIT COURT FOR BALTIMORE CITY
(PART 9)

STATE OF MARYLAND

*

v.

*

CASE NO. 199103042, 43, 45, 46

ADNAN SYED

*

Defendant

*

/*

BALTIMORE, MARYLAND

FRIDAY, FEBRUARY 25, 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

TRANSCRIBED BY:

DELORES HAY
OFFICIAL COURT REPORTER
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BALTIMORE, MARYLAND 21202

98:6 IN 8-03007

DECEMBER

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

2 (8:41 a.m.)

3 (Jury not present)

4 THE COURT: Good morning, Officer Gilmore. And I
5 appreciate your being here so early and chipper this
6 morning.

7 Counsel, as you're getting yourselves together
8 and organized, I need to go on the record. At the end of
9 or the close of yesterday -- you can stay where you are,
10 you can keep doing what you're doing. I just want to -- I
11 think you can hear me. At the close of yesterday, we were
12 talking about jury instructions. We went off the tape
13 while we were discussing what would be the appropriate
14 theft instruction. We were talking about the requested
15 4.32. That was -- 4.32 which was either the (a), taking
16 and carrying away, or the (b), unauthorized control. And
17 then I looked at 3.32.1 and queried whether or not that
18 might even be appropriate.

19 And after careful consideration of all of those
20 things, unless the State can tell me where any value over
21 \$300 has been clearly proven, I'm inclined to grant the
22 motion. The reason I'm saying that is I looked at the rule
23 and I looked at your indictment. You claimed theft over
24 300. If we argue that it's the car, then I don't think the
25 value has been proven. If we argue that -- or even

1 possession, ownership.

2 MR. URICK: Why don't we just send the robbery
3 count, not the assaults or the theft? That would be an
4 accurate --

5 MS. GUTIERREZ: I can't hear you, Mr. Urick.

6 THE COURT: He is submitting and saying that send
7 the robbery and not the assaults or the theft, because I'm
8 inclined to grant on theft, I can tell you right now. And
9 in light of --

10 MS. GUTIERREZ: Then we would only send out the
11 robbery --

12 THE COURT: Correct.

13 MS. GUTIERREZ: -- not the other three counts?

14 THE COURT: Well, they're submitting on the other
15 two, assault in the first and assault in the second.

16 MS. GUTIERREZ: And as to the theft?

17 THE COURT: And the theft, I was about to grant
18 your motion.

19 MS. GUTIERREZ: I thought I heard that but I
20 wanted to be sure.

21 THE COURT: That's what was coming, I was going
22 to grant your motion because as I looked at the
23 instructions, I -- and I went back and looked at the
24 indictment. The indictment charges theft over 300.

25 MS. GUTIERREZ: Over 300, yes.

1 THE COURT: And even if we, we believe it's her
2 wallet that's stolen, okay, but that's not proof over 300.
3 And all her personal belongings were never totaled up to be
4 a value in excess of 300. And the car, the ownership in
5 the record, as you pointed out, Ms. Gutierrez, shows that
6 the car belonged to someone else, although someone said it
7 was her car. In the light most favorable to the State, you
8 might get over the burden, but at the end of the case, I
9 don't think that there is enough to go to the jury on that
10 theft.

11 Now, the robbery, that's another story because it
12 doesn't matter whose car it is. If it's in the possession
13 of someone else, it can be robbed.

14 MS. GUTIERREZ: Yes.

15 THE COURT: It doesn't require specific proof of
16 a value over or under. So they're agreeing.

17 I'm going to ask my law clerk to make that
18 adjustment.

19 MS. GUTIERREZ: Judge, I --

20 THE COURT: The State is submitting and -- on the
21 5 and 6, on assault in the first degree and assault in the
22 second degree, correct?

23 MR. URICK: Yes.

24 THE COURT: And does not wish those to go to the
25 jury, so those'll come out.

1 So, Ms. Gutierrez, see that? Sometimes you win a
2 battle without even --

3 MS. GUTIERREZ: That's rare, Judge.

4 THE COURT: Hey.

5 MS. GUTIERREZ: Can I produce evidence to the
6 rarity of that event?

7 Judge, I went through the instructions again
8 yesterday and I just had some questions. On our 13, the
9 witness who has pled guilty, I know we spoke about it and
10 you were going to grant it. And I modified it --

11 THE COURT: Again?

12 MS. GUTIERREZ: It's my 13.

13 THE COURT: All right. I'm looking at it.

14 MS. GUTIERREZ: It's the Pattern Jury
15 Instruction 3.12.

16 You know, I did modify it in the first line that
17 says that he has pled guilty and I know we discussed this,
18 that this would be put together with another one.

19 THE COURT: Yes.

20 MS. GUTIERREZ: But I am concerned and I guess I
21 would ask for further modification to the second line --

22 THE COURT: Thirty-one?

23 MS. GUTIERREZ: -- of -- I'm sorry, what was the
24 Court's question?

25 THE COURT: Oh, I see. Where it says the guilty

1 plea of this witness?

2 MS. GUTIERREZ: Right, right. That the
3 modification be, you know, the attempt to plead guilty,
4 because later you give the instruction about -- but I
5 didn't want the words "the guilty plea" as if it's
6 endorsing it.

7 THE COURT: Why don't we say the same thing we
8 said in the first sentence and say "the plea of guilty of
9 this witness" or "the entering of a plea"?

10 MS. GUTIERREZ: There isn't.

11 THE COURT: Well, he did enter a plea of guilty.
12 He didn't do -- complete a -- the -- what you say in the --

13 MS. GUTIERREZ: Judge, I think that's confusing.

14 THE COURT: All right. So what are you
15 suggesting?

16 MS. GUTIERREZ: Well, maybe just something --
17 the --

18 THE COURT: Why don't we say "this"?

19 MS. GUTIERREZ: This --

20 THE COURT: "Must not be considered as evidence."

21 MS. GUTIERREZ: This evidence, how about just
22 this evidence must not be considered? Because you've
23 already stated what the evidence is that Jay Wilds says he
24 pled guilty, and then there's a later instruction that
25 defines what a guilty plea is and that that didn't happen.

1 And that would not be confusing to them because that's what
2 he said, so it is in front of them as evidence.

3 THE COURT: Why don't we just say "this plea"?

4 MS. GUTIERREZ: Because I think that that's
5 misleading to an uninformed jury who's not going to --
6 they're going to hear the later instruction that it's not a
7 guilty plea. But, you know, if you're saying plea, it
8 seems to enforce that what Jay Wilds said is true, and it's
9 not. He hasn't entered a guilty plea, there isn't a guilty
10 plea. There might be an attempt to enter it.

11 THE COURT: How about "this proceeding"?

12 MS. GUTIERREZ: Well, then, Judge, then I renew
13 my --

14 THE COURT: Or "this hearing"?

15 MS. GUTIERREZ: -- my motion to get in the
16 transcript of that proceeding. At least I can then argue
17 from that with the instructions. But without that, I'm
18 powerless.

19 THE COURT: I understand your point of view.

20 MS. GUTIERREZ: My suggestion is that it say
21 "this evidence" because then it's clearly referring to the
22 evidence that Jay Wilds said, that he pled guilty. That's
23 in front of them.

24 THE COURT: All right. Ms. Murphy or Mr. Urick,
25 your position on -- looking at the second sentence, the

1 first couple of words of the instruction 13?

2 MR. URICK: Without accepting the legal
3 interpretation the Defense is pushing, the State would have
4 no objection to the Court saying this evidence should not
5 be considered.

6 MS. GUTIERREZ: And, Judge, I couldn't read my
7 own writing and I wanted to clarify as to 12, the testimony
8 of the accomplice, that the Court's giving the last three
9 paragraphs of that and not the first three paragraphs.

10 THE COURT: I'm sorry, let's slow down a little
11 bit. I'm still back at 13.

12 MS. GUTIERREZ: Okay.

13 THE COURT: Okay, this evidence must not be
14 considered as evidence of guilt against the Defendant?

15 MS. GUTIERREZ: Yes.

16 THE COURT: All right. And the next one you're
17 pointing to?

18 MS. GUTIERREZ: Is the one right before that, our
19 requested 12. I couldn't read my notes but it's my
20 understanding that you're going to give the last three
21 paragraphs of my request --

22 THE COURT: Right.

23 MS. GUTIERREZ: -- and not the first three?

24 THE COURT: Correct.

25 MS. GUTIERREZ: Okay. And I had one other

1 question. I wasn't sure whether or not we reached it, my
2 requested 30, the definition of an accessory after the
3 fact. And I just didn't remember discussing it and had a
4 notation --

5 THE COURT: We had not discussed it. The State
6 has no problem with 30, do you?

7 MR. URICK: There's no charge of accessory before
8 the fact before this jury, though. It's an irrelevant
9 instruction and may be very confusing. They wouldn't know
10 what they were being instructed for that for because it's
11 not --

12 THE COURT: I think she's asking because the
13 Defendant Wilds was charged with and was convicted of
14 accessory after the fact.

15 MS. GUTIERREZ: Right.

16 MR. URICK: It would only --

17 THE COURT: Accessory after the fact was in
18 relationship to this crime.

19 MR. URICK: It would only make sense if you tell
20 them that to be an accomplice that does not include an
21 accessory after the fact. An accessory after the fact is
22 this, this and this, because accomplice clearly, under the
23 law, has to be either an accessory before the fact or a
24 principal. It cannot be, by case law, an accessory after
25 the fact. So it only makes sense to instruct them on what

1 an accessory after the fact is if in the instruction on
2 what -- whether or not he's an accomplice you tell them an
3 accessory after the fact, as a matter of law, is not an
4 accomplice, an accessory after the fact is, and then give
5 the definition of that. That would be the only reason to
6 instruct them on what an instruction -- an accessory after
7 the fact would be.

8 THE COURT: Not necessarily. Not necessarily.

9 If the jury's convinced that he may have pled
10 guilty to accessory after the fact but they believe, based
11 on the facts presented at this trial, that he was in fact
12 an accomplice, they could consider the instruction I've
13 given as the accomplice, as to how to weigh Wilds's
14 testimony and, for their legal information, understand what
15 it was that the defendant pled guilty to, that
16 Defendant Wilds pled guilty to. So I think that both
17 instructions are definitely relevant.

18 MR. URICK: But they should be next to each
19 other. That was what I said.

20 THE COURT: Oh, yeah.

21 MR. URICK: I think that's what the Court was
22 saying, too.

23 THE COURT: Right. I don't have a problem with
24 them being next to each other.

25 MR. URICK: It should not be in the crimes

1 charged because they're not being given --

2 THE COURT: Correct. Well, I wouldn't do that.

3 I would move it to, to that particular section where I'm
4 referring to accomplice because basically if they find that
5 he's an accomplice around the time of -- when I talk about
6 the defendant pleading guilty, Defendant Wilds pleading
7 guilty to something.

8 MR. URICK: That would be fine there.

9 THE COURT: And that's where it goes.

10 I don't have a problem with that and I will put
11 that in the appropriate location. I'm going to say also in
12 your 3 point -- 3:12 he says he pled guilty to accessory
13 after the fact, a crime arising out of the same set of --

14 And then I will insert the 13, 30, then 31, then
15 14, then 32. Okay.

16 Yes, would you hand them out to counsel, please,
17 Ms. Connolly?

18 The revised verdict sheet is being given out at
19 this time.

20 Are all the jurors present now? They are?

21 THE CLERK: Yes.

22 THE COURT: Anything else, Ms. Gutierrez?

23 MS. GUTIERREZ: Yes, Judge. Yesterday I had a
24 motion in limine and the essence of that motion in limine
25 is that in light of all the circumstances of this trial,

1 particularly as it relates to Jay Wilds, the nondisclosure
2 of critical evidence, the revelation that Mr. Urick --

3 THE COURT: One moment, please.

4 Ms. Connolly, I need the verdict sheet. I need
5 to have it in front of me. Thank you.

6 All right, go ahead.

7 MS. GUTIERREZ: The disclosure, not from
8 Mr. Urick but from the witness, that Mr. Urick rendered
9 assistance to this witness in getting a lawyer, something
10 that may be seen as a crucial benefit by this jury, and the
11 fact that none of that was ever disclosed at all by
12 Mr. Urick mainly -- I'm assuming Mr. Urick is doing the
13 closing argument. If he's not, then I don't need to make
14 this motion, but if Mr. Urick is doing the closing
15 argument, then we would move in limine that Mr. Urick, the
16 one who provided the benefits, who will make the decision
17 over the deal or make the decision over truth, be precluded
18 from arguing as a result of that plea or in any way
19 relative to that plea that -- to argue the credibility of
20 the witness whose fate he's the only one in power of in
21 light of the lack of disclosure over crucial issues that
22 Mr. Syed was entitled to know ahead of time and entitled to
23 be put in a position to lawfully challenge Mr. Urick's
24 right to continue as a prosecutor and to prevent him from
25 arguing the credibility of the witness he so assisted.

1 THE COURT: Does the State wish to be heard?

2 MR. URICK: Extremely briefly, Your Honor.

3 The same facts are before the jury for the State
4 as for the Defense. The State has the same right to make
5 fair arguments based on those facts as the Defense does.

6 THE COURT: I would agree and I'm not going to
7 preclude them from arguing credibility issues, but I am
8 going to emphasize that neither the State nor the Defense
9 should attempt to argue facts not in evidence. That is,
10 Mr. Urick, if you are indeed doing the closing argument,
11 what you did specifically, you know, I didn't do this or I
12 didn't do that, would not be appropriate closing argument
13 as it relates to anything that's not in evidence in this
14 case. And I would -- to the extent that counsel's motion
15 touches on that issue, I would just remind you that that
16 would not be appropriate argument. And obviously, you know
17 that, but I'm just going to emphasize.

18 And I should let you know that I do -- I did not
19 discuss with you yesterday and I wanted go let you both
20 know I do comment on the fact that what the attorneys say
21 in closing argument is not evidence. I do that twice in my
22 closing arguments. And I also do ask them to work well and
23 play well with others. There's an instruction that I
24 tailored, which is basically an Allen charge but it's more
25 of a work well and play well with other argument.

1 And I also want to let you know is before I
2 complete all my charges I will invite you to the bench to
3 note any objections. And I also will leave a little space
4 there at the end for the work well and play well
5 instruction and also telling them and directing them that
6 the order of the instructions and the number of
7 instructions, that they should all be considered as a
8 whole.

9 I do tape record my instructions. Under the
10 Rule, I'm permitted to do that and send the tape back. The
11 tape is very well marked with bright yellow writing so it
12 cannot be mistaken as to where to play and where to stop,
13 and it is the only thing that's on there, are the
14 instructions that I've given.

15 Any other --

16 MS. GUTIERREZ: That's a good practice.

17 THE COURT: Any other preliminary matters?

18 MS. GUTIERREZ: Just to make sure -- I want to
19 make sure our motion in limine reflects a motion in limine
20 to preclude the State from calling whatever the procedure
21 is with Jay Wilds a guilty plea.

22 THE COURT: I would just indicate that if counsel
23 would like to refer to that hearing that they can -- you
24 can say the hearing where Mr. Wilds entered his plea of
25 guilty, which is what he did, or the hearing where he

1 entered his plea, I think that's -- entered his plea is the
2 appropriate phraseology. He entered --

3 MS. GUTIERREZ: Your Honor, I would object to
4 that because I think that's not the appropriate phraseology
5 and your instructions make it clear. There isn't a guilty
6 plea, and to -- all that that would do is to confuse the
7 jury. Well, he entered his plea, and there is no
8 instruction to distinguish what that is.

9 THE COURT: What would you call it? When the
10 Court asked him what is your plea --

11 MS. GUTIERREZ: Well, I think the only evidence
12 is that whatever procedure Mr. Wilds says he entered his
13 plea, but that it not be called the entry of a plea or a
14 guilty plea or the entry of a guilty plea because all that
15 does is confuse the jury, notwithstanding the Court's
16 instruction that tells them it's not a guilty plea, that
17 you need two things to get a guilty plea and there's no
18 evidence of them. There's evidence that one of those
19 things was not. And so, to tell them he entered the plea
20 because he stood up and said I intend to enter a plea of
21 guilty pursuant to the plea agreement only confuses the
22 jury and takes the bottom of the jury instruction.

23 So I don't have any objection to referring to it
24 in the same way, and that is the procedure where Jay Wilds
25 says he entered his guilty plea. I think that's a correct

1 reflection of the facts, will not confuse the jury with the
2 differentiation between the entry of a plea and what a
3 guilty plea is in light of the Court giving the jury
4 instruction that's entitled no. 31 and in light of the
5 evidence.

6 So my motion in limine is that I want to make
7 sure, so that we're not in the middle of their argument and
8 they're calling it a guilty plea or they're calling it to
9 make it seem like it's a guilty plea because I think that
10 would be the grossest unfairness to allow them to
11 capitalize on issues that, you know, they intentionally
12 misled us and I believe their intent is to intentionally
13 mislead the jury on something that the facts establish
14 otherwise.

15 THE COURT: Very well. The State's position?

16 MR. URICK: The State disagrees with the legal
17 interpretation that the Defense has pushed here. His plea
18 agreement called for him to come in and enter a plea of
19 guilty. He has done that. We've got -- it's on the
20 record. We've got the true test of that. She has tried
21 to -- the Defense argument misrepresents plea of guilty and
22 guilty plea. He has come in, he has entered his plea of
23 guilty. Whether or not it is a -- legally a guilty plea or
24 not is an irrelevant issue to present to this jury. It
25 confuses it.

1 At this point, there's a legally binding contract
2 between Mr. Wilds and the State that can be enforced both
3 ways. He has come in and he has on the record entered his
4 plea of guilty. That is a legitimate way to say what he did
5 on that day. He came in, he entered his plea of guilty on
6 the record pursuant to his plea agreement.

7 MS. GUTIERREZ: Judge, just to respond for the
8 record, there was no evidence that establishes that what
9 happened is a legally binding contract.

10 THE COURT: Ms. Gutierrez, you don't have to go
11 over it.

12 MS. GUTIERREZ: Okay.

13 THE COURT: You do not have to -- it is not
14 legally binding because there are sections of the agreement
15 that are not binding. It's like -- the law is very clear.
16 You could sign a contract for -- to pay, you know, 48
17 percent interest rate on a purchase of a car, it's not
18 legally binding because it's an illegal contract. You
19 can't -- the law provides that you can't sign away certain
20 rights. You can enter into a contract but certain rights
21 cannot be signed away, and one of those rights is the
22 Court's right to allow a defendant, in the interest of
23 justice, to withdraw his plea, regardless of what the plea
24 agreement says. And so, to that extent, it would not be
25 legally binding. But I understand Mr. Urick's argument.

1 To the extent that it's splitting hairs, I'm
2 going to follow what I know to be the law, and the law is
3 clear. A defendant is asked at arraignment to enter his
4 plea, and at that time he says guilty, not guilty, and that
5 is an entry of a plea. There is a plea hearing, a guilty
6 plea hearing that is very different than the entry of a
7 plea.

8 To the extent that you talk about Mr. Wilds's
9 entry of a plea, I have no problem. When you say guilty
10 plea, you may not say guilty plea hearing because there was
11 not a guilty plea hearing. You can say at the hearing
12 where he entered his plea, you can say that, but you cannot
13 call it a guilty plea hearing completed. In other words,
14 and I am not going to pick your words but both of you are
15 seasoned attorneys, you know what I'm talking about and you
16 know how it can be misled. And just be advised that I will
17 have already instructed them on what a guilty plea hearing
18 is. And if you refer to it in the context of a completed
19 guilty plea, you'll do so, you'll do so at your own peril
20 because they will have the opportunity to play the tape
21 back and hear very clearly the instructions of the Court
22 generally, all of them, which will include the instruction
23 as to what a guilty plea hearing is constituted under the
24 Maryland law.

25 MS. GUTIERREZ: Judge, in light of the State's

1 argument, I would request a further instruction that takes
2 that appropriate paragraph from the Rule, that defines what
3 a guilty plea is in the language of the Rule.

4 THE COURT: The State's position?

5 MR. URICK: That the instruction as already
6 crafted and accepted by the Court fully covers the issue.

7 THE COURT: Ms. Gutierrez --

8 MS. GUTIERREZ: Yes, Judge.

9 THE COURT: -- with regard to your instruction
10 no. 31, your choice, I'll read the instruction as written
11 or I will read 4-242.

12 MS. GUTIERREZ: Judge, that's truly a Hobson's
13 choice.

14 THE COURT: 4-242 defines what a permitted plea
15 is. A defendant may plead not guilty, guilty or, with
16 consent of the Court, nolo contendere, and the Court may
17 accept a plea of guilty only after it determines, upon
18 examination of the defendant on the record in open court,
19 conducted by the Court, the State's Attorney, the attorney
20 for the defendant or a combination thereof, that the
21 defendant is pleading guilty voluntarily, with an
22 understanding of the nature of the charge and the
23 consequence of the plea and that there's a factual basis
24 for the plea.

25 MS. GUTIERREZ: Well, Judge, having fought so

1 hard for 31 and having been the only time I've persuaded
2 the Court, I'm certainly unwilling to give it up. All I'm
3 asking to do is to insert right after the words Maryland
4 Rule 242, you know, a definition of what that is. That's
5 what you just read. It's three sentences long.

6 THE COURT: I will do that. I will insert what I
7 just read.

8 All right, if we could have our jurors, please.

9 MS. GUTIERREZ: Judge, will you give me time
10 because I need to marshal some of the same evidence after
11 their opening?

12 THE COURT: Yes.

13 MS. GUTIERREZ: Okay.

14 THE COURT: Will you bring them in, please?
15 Thank you.

16 MS. MURPHY: Your Honor, just so you're aware,
17 the State is ready at this point so we don't need to take a
18 break or excuse the jury, unless the Court wants to.

19 THE COURT: I am going to go right into
20 instruction and then --

21 MS. MURPHY: Thank you.

22 THE COURT: -- into the charge -- into the
23 closing arguments.

24 For the record, this is going to be instructions
25 on the State of Maryland versus Adnan Syed in the Circuit

1 Court for Baltimore City under Case No. 199103042 through
2 46. The instructions being given on February 25th of the
3 year 2000.

4 (Pause)

5 Evidently, there's a question that the jurors
6 have and they're writing down the question.

7 (Pause)

8 Evidently, someone came into the jury room this
9 morning. The note says, "We were concerned about a matter.
10 A guy came into the jury room without introducing himself
11 or letting us know who he was, even after asked. The man
12 finally stated that he was with Maintenance, stood on the
13 wall for about five minutes and left. This made the jurors
14 feel uncomfortable." And they are giving me this note.

15 I have no idea who this person was. The only
16 thing I can do is inquire as to what the person looked
17 like, how the individual was dressed. I have no idea.

18 Anybody have any suggestions?

19 MS. GUTIERREZ: We would request you not further
20 make it bigger than it is but perhaps reassure the jury and
21 instruct them to, you know, draw no inference, that it was
22 unfortunate, you'll deal with it, but for them to put that
23 out of their mind and that --

24 THE COURT: The State would agree?

25 MR. URICK: Yeah. We -- they do do maintenance

1 early in the morning. It may have been completely
2 legitimate, but it doesn't sound like there was anything
3 that would interfere with their ability to deliberate.

4 THE COURT: Please direct the sheriff to contact
5 Lt. Matthews and ask for additional detail to be posted
6 outside the jury room to assure that no one goes in or out
7 of that jury room unless they're one of my jurors. And you
8 can indicate that we're not sure how the jury was tampered
9 with or at all, but that we want that done.

10 All right, if I can have my law clerk bring the
11 jury in, I'd appreciate it. As they come out, I will
12 advise them that they should note that a sheriff has been
13 posted outside of their jury room.

14 (Pause)

15 Mr. White, would you put that in the court file,
16 please?

17 (Pause)

18 Can you go out and find out what is going on? Go
19 out to the jury room and find out what's -- because it's
20 just across the hall, it shouldn't take --

21 MS. GUTIERREZ: God forbid, they have another
22 question.

23 (Pause)

24 THE SHERIFF: They're on their way, Your Honor.
25 Some of them are indisposed at the moment.

1 THE COURT: Oh, I see.

2 (Whereupon, at 9:20 a.m., the jury entered the
3 courtroom.)

4 THE COURT: Ladies and gentlemen, good morning.

5 THE JURY: Good morning.

6 THE COURT: At this time, it's my duty to
7 instruct you as to the law in this case. Before I do that,
8 I need to advise you that I've received your note and from
9 hence on there will be a sheriff assigned, sitting outside
10 of your door to assure that no one that is inappropriate or
11 if they are in fact a janitor, they have their little badge
12 or whatever and can come in and adjust the heat or whatever
13 the case may be. But there will be someone sitting outside
14 of your door while you're deliberating and as you come and
15 go from lunch.

16 THE COURT'S INSTRUCTIONS

17 THE COURT: This is the opportunity I have to
18 discuss with you what the law is, and it is binding on you.
19 For your convenience, I am tape recording those
20 instructions, and that will go back in the jury room with
21 you at the time that you go back to deliberate.

22 At this time I need to advise you that these are
23 the instructions as to the law that you are to utilize in
24 arriving at your verdict. At any time that you hear these
25 instructions as to the law, that is binding on you, but any

1 reference that I may make to the facts are not binding on
2 you and only are advisory. It is your duty to decide the
3 facts and to apply the law to those facts.

4 Opening statements and closing arguments of the
5 lawyers is not evidence. Attorneys are sworn as officers
6 of the court but they are not witnesses. They are
7 advocates for their positions and their parties. The
8 statements they make are intended to help you understand
9 the evidence and to apply the law. Therefore, if your
10 memory of the evidence differs in any way from anything the
11 lawyers say during their closing argument or during the
12 course of this trial, you must use your own memory or your
13 collective memory in reaching the decision.

14 I might note that your memory of the evidence
15 also controls over what I may say or I may refer to in
16 these instructions. As I said, you are the sole
17 determiners of what the facts are in this case.

18 Now, you must consider and decide this case
19 fairly and impartially and you should not be swayed by
20 public opinion or prejudice as to any party. You should
21 not be swayed by sympathy or prejudice. You should not
22 even consider these matters.

23 Now, what is evidence? Well, evidence was what
24 you heard on the witness stand, the testimony of witnesses;
25 physical evidence and exhibits that were admitted into

1 evidence, and you saw them by way of stipulations and by
2 way of the little items that received blue or red stickies
3 and then you heard them moved into evidence. And those
4 items will go back in the jury room with you.

5 In evaluating the evidence, you should consider
6 it in the light of your own experiences. You may draw any
7 reasonable inferences or conclusions from the evidence that
8 you believe should be justified by your common sense and
9 your everyday experiences.

10 The following things are not evidence and you
11 should not consider them and you should not give any weight
12 to them in your consideration. The charging document is
13 not evidence. Anything that was inadmissible or stricken,
14 as I directed you during the course of the trial, is not
15 evidence. Questions and objections of the attorneys are
16 not evidence. I advised you at the outset that there would
17 be times when they would say things and we would discuss
18 whether something should come in or out or in evidence.
19 What was said by the Court to the attorneys in their
20 discussion of that is not evidence.

21 The charging document in this case is the formal
22 method of accusing the Defendant of a crime. It is not
23 evidence and it should not be used in any way to create any
24 inference of guilt. Inadmissible stricken items should not
25 be considered by you either and you must disregard any

1 questions that I did not permit the witness to answer and
2 you must not speculate as to any possible answers. If
3 after an answer was given I ruled that the question should
4 be stricken or the answer stricken, you must disregard both
5 the question and the answer in your deliberations.

6 Now, during the trial, I don't think I commented
7 on any evidence but I did question a witness or two at
8 times when I couldn't hear, at times when you signaled that
9 you couldn't hear, at times when I wasn't sure what the
10 witness was saying or it wasn't clear. You should not draw
11 any inferences or conclusions from my comments or
12 questions, either as to the merits of the case or as to my
13 views regarding the witness.

14 Opening statements and closing arguments, again,
15 of the lawyers are not evidence in this case. The
16 statements that you will hear, though, in closing arguments
17 will apply the evidence and the law and it is your memory
18 that must prevail. You must rely on that at all times and
19 it is your collective memory that is most important.

20 Now, there are two types of evidence, direct and
21 circumstantial evidence, that the jury has to utilize in
22 properly attempting to find the truth as to the facts of
23 this case. One is direct evidence, and that's the
24 testimony of an eyewitness, for example. The other is
25 indirect or circumstantial evidence, and that's the proof

1 of a chain of circumstances that tends to prove or disprove
2 the existence or nonexistence of certain facts. The law
3 doesn't distinguish between the weight to be given to
4 either direct or circumstantial evidence. No greater
5 degree of certainty is required of circumstantial evidence
6 than of direct evidence. In reaching a verdict, you should
7 weigh all of the evidence presented, whether it's direct or
8 circumstantial. You may not convict the Defendant unless
9 you find the evidence, when considered as a whole,
10 establishes guilt beyond a reasonable doubt.

11 Now, what is reasonable doubt? Well, in our law,
12 the Defendant in this case is presumed to be innocent of
13 all charges against him. That presumption remains with him
14 throughout every stage of this trial and is not overcome
15 unless you are convinced beyond a reasonable doubt that the
16 Defendant is guilty. The State has the burden of proving
17 the guilty of the Defendant beyond a reasonable doubt.

18 Now, some of you may have served as jurors in
19 civil cases, where you were told that it is only necessary
20 to prove that a fact is more likely true than not true, a
21 slight tipping of the scales. Well, in criminal cases, the
22 State's proof is more powerful than that. It must be
23 beyond a reasonable doubt and this burden remains with the
24 State throughout the trial. The Defendant is not required
25 to prove his innocence. However, the State is not required

1 to prove guilt beyond all possible doubt or to a
2 mathematical certainty. Nor is the State required to
3 negate every conceivable circumstance of guilt or every
4 conceivable circumstance of innocence.

5 A reasonable doubt is a doubt founded upon
6 reason. It is not a fanciful doubt, a whimsical doubt or a
7 capricious doubt. Proof beyond a reasonable doubt requires
8 proof as one would convince you of the truth of a fact to
9 the extent that you would be willing to act upon that
10 belief, without reservation, in an important matter in your
11 own personal business or affairs. However, if you are not
12 satisfied of the Defendant's guilt to that extent, then
13 reasonable doubt exists and the Defendant must be found not
14 guilty.

15 If, after your consideration of the evidence, you
16 are firmly convinced that the Defendant is guilty of the
17 crimes with which he is charged, then you must find him
18 guilty. If, on the other hand, you think that there is a
19 real possibility that he is not guilty, you must give him
20 the benefit of the doubt and find him not guilty. In
21 weighing the evidence and making a determination, you
22 should consider the quality of all of the evidence,
23 regardless of who called the witness or who introduced the
24 exhibit. The test is not which side brings in the greater
25 number of witnesses or which produced the quantity or the

1 greater quantity of evidence, but which witnesses and which
2 evidence appeals to your mind as being the most accurate
3 and the most trustworthy.

4 Now, there have been several stipulations of fact
5 and certain items were admitted where there was a
6 stipulation as to the authenticity, that is, the item was
7 real. And the State and the Defense agreed that those
8 items should come into evidence. It means that they have
9 agreed and they are admitted as a stipulation together for
10 your consideration.

11 As you go back, you will be receiving the verdict
12 sheet, and on the verdict sheet you will see a number of
13 charges. You must consider each of the charges
14 individually. You must consider the evidence as it relates
15 to each of the charges individually and separately. And
16 before you may note any verdict whatsoever in considering
17 those charges, you must have unanimous verdict as to each
18 individual response. Only if your verdict on that
19 particular charge is unanimous may you note it. It must be
20 that you all agree in order to enter a verdict on the
21 verdict sheet.

22 I'm going to read it to you at this time. The
23 verdict sheet says State of Maryland versus Adnan Syed in
24 the Circuit Court for Baltimore City under the Case
25 No. 199103042, as to 1, Count 1, charging first degree

1 murder of Hey Men Lee, how do you find the Defendant, Adnan
2 Syed, not guilty, and there's a line for your response,
3 guilty, and there's a line for your response. If your
4 answer to question no. 1 is not guilty, go to question
5 no. 2. If your answer is guilty, go to question no. 3.

6 Question no. 2, charging the Defendant with
7 second degree murder of Hey Men Lee, how do you find the
8 Defendant, Adnan Syed, not guilty, and there's a line for
9 your response, guilty, and there's a line for your
10 response.

11 No. 3, under Case No. 199103043, as to Count 1
12 charging kidnapping by fraudulently carrying Hey Men Lee
13 within the State, how do you find the Defendant, Adnan
14 Syed, not guilty, and there's a line for your response,
15 guilty, and there's a line for your response.

16 Under Case No. 199103045, No. 4, as to Count 1
17 charging robbery of Hey Men Lee, how do you find the
18 Defendant, Adnan Syed, not guilty, and there's a line for
19 your response, guilty, and there's a line for your
20 response.

21 Case No. 199103046, question 5, as to the charge
22 of false imprisonment by deception of Hey Men Lee, how do
23 you find the Defendant, Adnan Syed, not guilty, and there's
24 a line for your response, guilty, and there's a line for
25 your response.

1 There's a line for the signature of the
2 foreperson and a place for the forelady to date the verdict
3 sheet. And as I indicated, before any notation can be made
4 as to any line, you all must agree. That is, your verdict
5 must be unanimous and you must consider each individual
6 count separately.

7 Now, you are the sole judges of whether or not a
8 witness in this case should be believed. In making this
9 decision, you may apply your own common sense and everyday
10 experiences. In determining whether a witness should be
11 believed, you should carefully judge all the testimony and
12 evidence and the circumstances under which that witness
13 testified. You should consider the following factors: The
14 witness's behavior on the stand and the manner of
15 testifying. Did the witness appear to be telling the
16 truth? The witness's opportunity to see and to hear the
17 things that they testified about. The accuracy of the
18 witness's memory. Did the witness have a motive not to
19 tell the truth? Does the witness have an interest in the
20 outcome of the case? Was the witness's testimony
21 consistent? And was the witness's testimony supported or
22 contradicted by evidence that you believe? Whether and to
23 the extent to which the witness's testimony differed in
24 court from statements made by the witness on a previous
25 occasion.

1 You need not believe any witness, even if the
2 witness's testimony is uncontradicted. You may believe
3 all, part or none of the testimony of any witness.

4 Now, there was expert witness testimony given in
5 this case. An expert is a witness who has special training
6 or expertise in a given field. You should give expert
7 testimony the weight and value you believe it should have.
8 You are not required to accept any expert opinion. You
9 should consider an expert's opinion together with all other
10 evidence in the case.

11 The weight of the evidence, as I've indicated
12 previously, does not depend on the number of witnesses on
13 either side. You may find that the testimony of a smaller
14 number of witnesses for one side is more believable than
15 the testimony of a greater number of witnesses on the other
16 side.

17 The Defendant, Mr. Syed, has an absolute
18 constitutional right not to testify. The fact that
19 Mr. Syed did not testify must not be held against him. It
20 is not to be considered by you in any way, or even
21 discussed by you.

22 The mere presence of a person at the time and
23 place of the commission of an offense is not by itself
24 sufficient to establish his guilt but may be considered
25 with all the other surrounding circumstances. Evidence has

1 been presented at this case that the Defendant was not
2 there when the crime was committed. You should consider
3 this evidence along with all other evidence in the case.
4 Thus, in order to convict the Defendant, the State must
5 prove beyond a reasonable doubt that the crime was
6 committed and that the Defendant committed it.

7 You've also heard testimony from a witness, Jay
8 Wilds, who may have been an accomplice. An accomplice is
9 one who knowingly and voluntarily cooperated with, aided,
10 advised or encouraged another person in the commission of a
11 crime. If you are not convinced that Jay Wilds was an
12 accomplice, you should treat that testimony as you would
13 treat the testimony of any other witness. On the other
14 hand, if you are convinced that Jay Wilds was an
15 accomplice, then you must decide whether that testimony was
16 corroborated before you may consider it. The Defendant
17 cannot be convicted solely on the uncorroborated testimony
18 of an accomplice. However, only slight corroboration is
19 required. This means there must be some evidence in
20 addition to the testimony tending to show either that, one,
21 the Defendant committed the crime charged or, two, that the
22 Defendant was with others who committed the crime at the
23 time and place that the crime was committed.

24 If you find that the testimony of Jay Wilds has
25 been corroborated, it should be considered with caution and

1 given weight -- given such weight as you believe it
2 deserves. If you find that Jay Wilds was an accomplice but
3 that his testimony has not been corroborated, you must
4 disregard it and you may not consider it as evidence
5 against the Defendant. Remember, the Defendant cannot be
6 convicted solely on the uncorroborated testimony of an
7 accomplice.

8 You have also heard that Jay Wilds says he has
9 pled guilty to accessory after the fact, a crime arising
10 out of the same set of events of which the Defendant is now
11 on trial. This must not be considered as evidence of guilt
12 against the Defendant, Mr. Syed. You may consider the
13 guilt of the witness in deciding whether the witness is
14 telling the truth but for no other purpose.

15 An accessory after the fact is a person who, with
16 knowledge that a crime has been committed, assists the
17 offender with the intent to hinder or prevent the
18 offender's arrest, prosecution or trial. In order to
19 convict the Defendant, the State must prove that the crime
20 of -- a particular crime has been committed and that the
21 Defendant knew that the crime had been committed, and that
22 is for the person pleading guilty of accessory after the
23 fact, the Defendant gave assistance to that person who
24 committed the crime and that the Defendant did so with the
25 intent to hinder or prevent that person's arrest,

1 prosecution or trial.

2 The completion of Jay Wilds's guilty plea and
3 sentencing hearing has been postponed until after the
4 proceeding -- this proceeding. Despite the fact that Jay
5 Wilds has referred to his agreement with the State as a
6 guilty plea or a truth agreement, this agreement does not
7 contain the necessary statement of facts and is not yet a
8 guilty plea under Maryland law. Maryland Rule 4-242
9 states:

10 A defendant may plead not guilty, guilty or,
11 with consent of the Court, nolo contendere.
12 The Court may accept a plea of guilty only
13 after it determines, upon examination of the
14 defendant on the record, in open court,
15 conducted by the Court, the state's
16 attorney, the attorney for the defendant or
17 any combination thereof, that, one, the
18 defendant is pleading voluntarily, with an
19 understanding of the nature of the charge
20 and the consequences of the plea, and, two
21 that there is a factual basis for the plea.

22 You may have heard testimony of a witness, and
23 that is Mr. Wilds, who testifies for the State as a result
24 of a plea agreement. You should consider this testimony
25 with caution because the testimony may have been colored by

1 going to define it for you and then I'm going to read you
2 some additional instructions which also refer to the legal
3 terminology of intent. Reading the definition now will
4 assist you later as well.

5 Intent is a state of mind and ordinarily cannot
6 be proven directly because there is no way of looking into
7 a person's mind. Therefore, a defendant's intent may be
8 shown by surrounding circumstances. In determining the
9 Defendant's intent, you may consider the Defendant's acts
10 and statements, as well as the surrounding circumstances.
11 Further, you may but are not required to infer a person
12 ordinarily intends the natural and probable consequences of
13 his acts.

14 The definition of murder and first -- first
15 degree murder and second degree murder. The Defendant is
16 charged with the crime of murder and includes both first
17 and second degree murder. First degree murder is defined
18 as the intentional killing of another person with
19 willfulness, deliberation, and premeditation. In order to
20 convict the Defendant of first degree murder, the State
21 must prove that the conduct of the Defendant caused the
22 death of the victim, Ms. Lee, and that the killing was
23 willful, deliberate, and premeditated.

24 Willful means that the Defendant actually
25 intended to kill the victim. Deliberate means that the

1 Defendant was conscious of the intent to kill.
2 Premeditated means that the Defendant thought about killing
3 and that there was enough time before killing, though it
4 may have only been brief, for the Defendant to consider the
5 decision whether or not to kill and enough time to weigh
6 the reasons for and against the choice. The premeditated
7 killing -- intent to kill must be formed before the
8 killing.

9 Second degree murder is defined as the killing of
10 another person with either the intent to kill or the intent
11 to inflict such serious bodily harm that death would be the
12 likely result. Second degree murder does not require
13 premeditation or deliberation. In order to convict the
14 Defendant of second degree murder, the State must prove
15 that the conduct of the Defendant caused the death of the
16 victim, Ms. Lee, and that the Defendant engaged in the
17 deadly conduct either with the intent to kill or with the
18 intent to inflict such serious bodily harm that death would
19 likely be the result.

20 The next charge that you will be asked to
21 consider is kidnapping, kidnapping by fraudulently
22 carrying, and it is defined as the confinement or detention
23 of a person against the person's will, accomplished by
24 deception, coupled with the movement of the person from one
25 place to another with the intent to carry or conceal. In

1 order to convict the Defendant of kidnapping, the
2 Defendant -- sorry, the State must prove that the
3 Defendant, Mr. Syed, confined or detained Ms. Lee against
4 her will; that the Defendant used deception to accomplish
5 the confinement or detention; that the Defendant was --
6 that the Defendant moved the victim, Ms. Lee, from one
7 place to another; and that the Defendant moved Ms. Lee with
8 the intent to carry or conceal her.

9 You're also asked to consider the charge of
10 robbery and it is defined as the taking and carrying away
11 of property from someone else, from her presence or
12 control, by force or threat of force with the intent to
13 steal the property. In order to convict the Defendant of
14 robbery, the State must prove that the Defendant took the
15 property from Ms. Lee, either in her presence or under her
16 control, and that the Defendant took the property by force
17 or threat of force, and that the Defendant intended to
18 steal the property and deprive the property of -- to the
19 victim permanently.

20 And lastly, you're asked to consider false
21 imprisonment by deception. The Defendant is charged with
22 the crime of false imprisonment and it is defined as the
23 confinement or detention of a person against that person's
24 will, accomplished by deception. In order to convict the
25 Defendant of false imprisonment, the State must prove that

1 the Defendant, Mr. Syed, confined or detained the victim,
2 Ms. Lee; that Ms. Lee was confined or detained against her
3 will; and that the confinement or detention was
4 accomplished by deception.

5 As I indicated, your verdict must be the
6 considered judgment of each of you. In order to reach the
7 verdict, all of you must agree and your verdict must be
8 unanimous. You must consult with one another and
9 deliberate with a view towards reaching an agreement if you
10 cannot do so without violence to your individual judgment.
11 Each of you must decide the case for yourself but do so
12 only after impartial consideration of the evidence with
13 your fellow jurors.

14 During deliberation, do not hesitate to reexamine
15 your own views. You should change your opinion if you are
16 convinced you are wrong, but do not consider -- do not
17 surrender your honest belief as to the weight or effect of
18 the evidence only because of an opinion of your fellow
19 jurors or for the mere purpose of reaching a verdict.

20 Counsel, may I see you at the bench?

21 (Counsel and the Defendant approached the bench
22 and the following ensued.)

23 THE COURT: Any exceptions to the instructions
24 I've given?

25 MR. URICK: Your Honor, I think -- I didn't hear

1 you give the -- evidence consciousness of guilt
2 instruction. I didn't hear the motive instruction.

3 THE COURT: And the motive instruction.

4 I did not give the motive and -- evidence, I did
5 not give that. These are Defense 21 and Defense 23. I
6 will give those.

7 Any other instructions you either take exception
8 to or you want to bring to my attention because I didn't
9 give it?

10 MS. GUTIERREZ: Yes, Judge. As to 21, I object
11 to the Court's failure to give our requested instruction
12 which I would consider, since there is evidence there that
13 Jay Wilds, who is a defendant in a related case out of
14 these same findings, has -- of concealing evidence and we
15 request it again.

16 We would again object to the instruction on
17 second degree -- and suggest that. As to -- I don't know
18 if the Court's regular reasonable doubt instruction --
19 well, the Court said to the jury, and it was right after --
20 what you said to them is some of you may have served in a
21 civil case and then you make the differentiation. I don't
22 know what the Court meant to say, but what you said was the
23 State's proof is more powerful than that. I was waiting
24 for the, you know, the proof -- the requirement that the
25 proof or the burden is more powerful. But it struck me and

1 I wrote it down as the Court said it. I thought that that
2 unfairly could be construed by the jurors as a comment on
3 the proof there, not as a proper instruction as to what it
4 is, the difference in the burden. And in fact, it
5 underscores the rest of what the Court read out, that --
6 describes the difference in the burden between a civil
7 case --

8 THE COURT: What I -- the State's must be --

9 MS. GUTIERREZ: You left that out and that's --

10 THE COURT: I did not say must be?

11 MS. GUTIERREZ: You didn't say must be, you said
12 State's proof is more powerful than that. So I'd ask that
13 you --

14 THE COURT: Okay. Is that your recollection?

15 MR. URICK: I can't remember.

16 MS. GUTIERREZ: -- read that.

17 THE COURT: I'll read that again then.

18 MS. GUTIERREZ: Okay. And that's it, I think.

19 THE COURT: And I'll reread the State has the
20 burden of proving guilt beyond a reasonable doubt --

21 MS. GUTIERREZ: Yes.

22 THE COURT: -- the State's proof must be more
23 powerful than -- more likely true than not true.

24 MS. GUTIERREZ: Yes.

25 THE COURT: It must be beyond -- okay, I'll do

1 that. I want to make sure the record's clear.

2 MS. GUTIERREZ: Thank you, Judge.

3 THE COURT: Anything else?

4 MS. GUTIERREZ: No.

5 THE COURT: Anything else?

6 MS. MURPHY: No.

7 MR. URICK: No.

8 THE COURT: Thank you.

9 (Counsel and the Defendant returned to trial
10 tables and the following ensued.)

11 THE COURT: Ladies and gentlemen, as I conclude,
12 I do want to just make sure that I did not misstate myself
13 when I was talking about the burden and reasonable doubt.
14 The State does have the burden of proving the guilt of the
15 Defendant beyond a reasonable doubt. In criminal cases,
16 the State's proof must be more powerful than just more
17 likely true than not true. It's more powerful than just a
18 slight tipping of the scales. That is, the State's burden
19 of proving their case has to be more powerful than just a
20 slight tipping of the scales. It is and must be beyond a
21 reasonable doubt, and this burden remains with the State
22 throughout the trial. The Defendant is not required to
23 prove his innocence.

24 You heard testimony that the Defendant may have
25 concealed evidence in this case. Concealment of or

1 destruction of evidence is not enough by itself to
2 establish guilt but may be considered as evidence of guilt.
3 Concealment or destruction of evidence may be motivated by
4 a variety of factors, some of which are fully consistent
5 with innocence.

6 You must first decide whether the Defendant
7 concealed evidence in this case. If you find that the
8 Defendant concealed evidence in this case, then you must
9 decide whether that conduct shows a consciousness of guilt.

10 Motive is not an element of any of the crimes
11 charged and need not be shown. However, you may consider
12 the motive or lack of motive as a circumstance in this
13 case. Presence of motive may be evidence of guilt.
14 Absence of guilt may suggest innocence. You should give
15 the presence or absence of motive, as the case may be, the
16 weight you believe that it deserves.

17 Now, neither the order of the instructions that
18 I've given or the number of the instructions on any
19 position have any particular significance or relevance.
20 You are to consider the instructions and construe them as a
21 whole in order to arrive at their true meaning and you
22 should not select any sentence, single sentence or any
23 single instruction and base your verdict solely on that.

24 The attitude and conduct of jurors at the outset
25 of deliberations is a matter of considerable import to this

1 Court. It is rarely a sign of a good juror to go back upon
2 entering the jury room and make an emphatic expression of
3 his or her opinion and announce to stand determined for a
4 particular verdict. Your verdict should arrive only after
5 careful consideration and thoughtful deliberation with one
6 another, and it may be helpful to listen and to consult one
7 another and discuss the evidence and the deductions that
8 may be drawn from that evidence and information freely and
9 fairly, in a sincere effort to arrive at a just verdict.
10 This does not mean that any juror is required to yield an
11 honest conviction after such consultation or deliberation.
12 Remember, you are not partisans or advocates, but jurors.

13 The final test of the quality of your service
14 will lie in the verdict which you return to the Court, not
15 in any opinion you may have as you go back to retire. Have
16 in your mind that you will make a definite contribution to
17 efficient, judicial administration if you arrive at a just
18 and proper verdict in this case. To this end, the Court
19 reminds you that in your deliberations in the jury room
20 there can be no triumph except the ascertainment and
21 declaration of the truth.

22 As you reach a verdict, or you may have questions
23 on your way in deliberations, please note those questions
24 on a piece of paper, as you have done throughout the trial.
25 Knock on the door and the sheriff will bring the question

1 to me. I will gather the lawyers and we will determine how
2 we're going to answer. We may decide to answer your
3 question in writing, as I have done on occasion, or we may
4 decide to bring you into the courtroom and answer the
5 question in that fashion.

6 However, if you have a verdict, you may press the
7 buzzer, but do not give the verdict sheet to anyone. Your
8 verdict must be announced in this courtroom. Just indicate
9 to the clerk that you have a verdict.

10 Madam Forelady, bring the verdict sheet back to
11 this courtroom and, upon arriving, Mr. White will say to
12 all of you have the members of the jury agreed upon a
13 verdict, and all of you should say yes. And then he will
14 ask the foreperson to stand.

15 And, Madam Forelady, you'll be asked to stand.
16 Mr. White will read each question and you will note the
17 response that you had indicated and noted on the verdict
18 sheet, that being the unanimous response that you all have
19 agreed to note.

20 At this time I'm going to ask for your undivided
21 attention as the attorneys come and provide to you their
22 closing argument. As you hear their closing argument,
23 please be reminded that what they say in this argument is
24 not evidence.

25 First you will hear from the State and then you

1 will hear from the Defense. And because the State has the
2 burden of proof, they have a second opportunity to address
3 you. They're being given an hour and a half.

4 And I'm going to ask counsel if you would require
5 or ask for a heads up at the end of a particular amount of
6 time, I'd like you to let me know. If I do not hear from
7 you, when you have 20 minutes left, I will indicate that
8 you have 20 minutes left.

9 At your please, you may begin.

10 MS. MURPHY: Thank you, Your Honor.

11 Your Honor, at this time we would ask that the
12 jurors receive their copies of State's Exhibit 34. I
13 understand Mr. White's not here at the moment but we would
14 like them to be able to review their own copies.

15 THE COURT: Mr. Sheriff, if you could hand me the
16 item that's clipped. You see on your right-hand side there
17 is -- yes. All right. And if you would hand those to the
18 gentleman on the front row or the lady on the end.

19 Just take the one that's yours and pass the rest
20 back.

21 And, Ms. Murphy, when you're ready to proceed,
22 just let me know. Would you like a 20-minute warning?

23 MS. MURPHY: No, thank you, Your Honor.

24 THE COURT: All right. Very well.

25 CLOSING ARGUMENT BY MS. MURPHY

1 MS. MURPHY: May it please the Court, counsel,
2 Madam Forelady, ladies and gentlemen.

3 "How can she treat me like this?" The words of
4 this Defendant to Jay Wilds regarding Hey Lee, as if she
5 deserved to die. "No one treats me like this." What does
6 that mean? What exactly did Hey Lee do to him? She fell
7 in love with him.

8 When you read these diary entries, you'll sense
9 the joy and the excitement that she had about her
10 relationship with this Defendant. Entry after entry,
11 details of the wonderful things they did together. Sure,
12 they had their ups and downs, as in all relationships.
13 This is what people do, we have relationships, we have ups
14 and downs. And as people do, they broke up, more than
15 once. They got back together, they broke up again. And
16 then, as people do, Hey Lee met someone else, Don Kleindas.
17 And at that point, it became readily apparent to everyone,
18 including the Defendant, she wasn't coming back. It
19 happens all the time.

20 So why then did he tell Jay Wilds "No one treats
21 me like this"? What is it that this Defendant saw on
22 January 13th when he looked at Hey Lee? He saw the hours
23 they spent talking on the phone in hushed voices so their
24 parents couldn't hear. He saw all the things they did
25 together. He saw a woman who made him do things he never

1 thought about doing before He saw the poems that he wrote.
2 He saw him give her a flower in class, in front of the
3 whole class. He saw that they openly discussed marriage
4 and that this was known to their friends, and even their
5 teachers. He saw his parents standing at the window of the
6 Homecoming Dance. He saw his mother raise her voice at Hey
7 Lee in front of his classmates. "Look what you're doing to
8 our family." He saw the pain in his mother's face because
9 she knew they were together. He saw Hey Lee falling in
10 love with someone else and he saw himself, in the end,
11 standing there with nothing to show for it but a guilty
12 conscience and a pack of lies in which he cloaked himself.

13 That is what he saw on January 13th. That is
14 what he saw when he put his hands around her neck and
15 squeezed, literally, the life from her. He felt strong,
16 almost superhuman. He felt the little bone in her throat
17 pop and still he continued to hold her there 10 seconds, 15
18 long seconds, and it was done. So ended the life of Hey
19 Men Lee, a beautiful young woman, a scholar, an athlete, a
20 friend, a daughter, a sister.

21 It was humiliating, what she did to him. Make no
22 mistake about it, ladies and gentlemen, this was not a
23 crime about love, this was a crime about pride.

24 There is no doubt, ladies and gentlemen, this was
25 a murder. Hey Lee strangled to death on January 13th,

1 1999. She was buried in Leakin Park. She was killed in
2 her own car. These are facts that we know from all the
3 evidence in the case.

4 We know this is a murder. You heard from
5 Dr. Corell (phon. sp.), the medical examiner. She told you
6 in great detail why we know that Hey Lee was strangled.
7 And we know more than that. She was strangled by someone's
8 bare hands, with the Defendant's bare hands. Dr. Corell
9 told you about the bruised muscles in her neck, about the
10 tiny blood vessels in her eyes that burst, about the bone,
11 the hyoid bone in her throat. It was broken by the force
12 of human hands. She told you all these things.

13 We know that this occurred in Hey Lee's car. We
14 know this because the Defendant told Jay Wilds that's where
15 he did it, but we know much more about it. Think again
16 about Dr. Corell's testimony and what this autopsy report
17 tells you. We know that Hey Lee was a passenger in the
18 car. The Defendant told Jay Wilds that as she struggled,
19 as she tried to get away, she kicked the wiper lever. You
20 saw a video showing this wiper lever, how it dangled from
21 the steering column on the car. That was consistent with
22 what Jay Wilds said. In order for Hey Lee to kick this
23 wiper lever, we know she was in that passenger seat.

24 Dr. Corell told you about bruises on the right
25 side of her head. Think about it. She struggled, she's

1 pushing to get away, and her head is pushing against the
2 window next to her. We know she was in the car, the very
3 car that was used to take her body to Leakin Park.

4 Consider the other evidence, the map in the car,
5 the map with the palm print of this Defendant and the
6 single page that's ripped from this map, sitting in the
7 back seat of that car. She was in Leakin Park in the very
8 car where she was murdered.

9 Consider also the photographs. Does this look
10 like the trunk of a teenager's car? No. She had sports
11 equipment, she had other things that were all moved to the
12 back seat, and you can see that in the pictures, because
13 her body was put in this trunk by this Defendant. This was
14 the car used to take her to Leakin Park and it's the car in
15 which she was killed.

16 If this weren't true, why hide the car? Why take
17 it to a place where it's not likely to be found for quite
18 some time, and it was not. Consider also the testimony
19 about the T-shirt in the car. Yung Lee told you he
20 recognized this shirt. It had been his and he knew that
21 his sister had used it as a rag in her car and she kept it
22 stuffed in the map pocket next to the driver's seat.

23 Remember when Dr. Corell told you about a process
24 called pulmonary edema? This occurs when a person dies and
25 a foamy blood comes from their nose or their mouth. She

1 said it happens right after death. She said it can happen
2 spontaneously or it can happen when the body is moved. And
3 you can bet when blood came from the nose or mouth of Hey
4 Lee that this Defendant took great care to wipe that blood
5 to keep it from getting on him.

6 The blood on the T-shirt is Hey Lee's.
7 Dr. Corell told you that blood appeared to be consistent
8 with the very process she described. Consider the
9 placement of the T-shirt, crumpled in the driver's seat, as
10 if it had been sat on. After he wiped the blood from her
11 nose and mouth, he discarded it on the seat. Perhaps he
12 used it again later to wipe the steering wheel. He tossed
13 it away without another thought.

14 We know also that Hey was killed on January 13th,
15 the day she disappeared, the last day she was seen by her
16 family and friends. We know this because Jay Wilds says it
17 and we know it for so many other reasons.

18 Consider again the autopsy, what Dr. Corell told
19 you, and what Dr. Rodriguez and MSgt. Ram (phon. sp.), the
20 experts who were called in to help disinter her body. What
21 did they tell you? The state of her body was consistent
22 with having been in that grave for several weeks. And more
23 than that. Remember the testimony of Mrs. Inez Butler-
24 Hendricks from Woodlawn High School. She remembers talking
25 to Hey that day. Hey was very excited about being taped

1 for a local news show. She recalls in great detail how Hey
2 came running into the concession area at 2:15, right after
3 class. She was in such a rush that she didn't even pay for
4 the snack that she got because she knew she was coming
5 back. She had to go to the wrestling match, and Ms. Butler
6 told you, with no hesitation, that these were in fact the
7 clothes that Hey Lee was wearing on January 13th. She was
8 wearing a skirt and light jacket and top. She wanted to
9 look nice for the taping. She was wearing hose, hose that
10 Jay Wilds remembers seeing on her body, the taupe colored
11 hose, the hose that were scratched and torn because her
12 body had been in there long enough for animals to begin
13 digging away at it.

14 Remember her bank records. There is not a single
15 moment of activity on those records after January 13th. Up
16 through January 13th, were there any significant
17 withdrawals that would enable her to take a trip or go
18 somewhere? No. A couple dollars here, a couple dollars
19 there. On January 13th, \$1.71, enough for Hey to stop and
20 get a soda or a snack on her way home from her boyfriend
21 Don's house sometime after midnight. There's not a single
22 transaction after that. We know she was killed that day.

23 Consider her diary. Every entry in January is
24 about Don and happy she is about her new relationship.
25 Although she mentions it prior, because she was having

1 trouble with her mother's rules, which is not unusual for
2 teenagers, she doesn't mention it once in any of the
3 January entries. She was planning to go somewhere but she
4 didn't take her diary. And the very last entry,
5 January 12th, 1999.

6 And most importantly, ladies and gentlemen,
7 consider what we know about Hey Lee. She's a bright girl,
8 she's a busy girl. And on January 13th, 1999, she had lots
9 of things to do. What does her schedule that day tell us?
10 We know she was in class at 2:15. Ayisha [REDACTED] had that
11 class with her, and so did the Defendant. Ayisha [REDACTED]
12 told you that at the end of class at 2:15 Hey was talking
13 to the Defendant. We know she immediately went to the gym
14 area because that's where Inez Butler him. They told you
15 in great detail about their encounter.

16 We know that she left immediately to pick up her
17 young cousins who were just in elementary school. By 3:00,
18 it was known to her family that she had not done this.
19 Ladies and gentlemen, Hey Lee was dead in 20 to 25 minutes
20 from when she left school. And we know that she was dead
21 because she was supposed to return to Woodlawn High School
22 and travel with the rest of the team. We know this didn't
23 happen because Ms. Inez Butler, who remembers so well
24 seeing Hey that afternoon, had to go in Hey's place with
25 the rest of the team because she didn't show up.

1 Take a good look at State's Exhibit 19. This is
2 a note addressed to Don in Hey's car. We know she wrote
3 this the day she died. "Hey Cutie, Sorry I couldn't stay.
4 I have to go to a wrestling match at Randallstown High but
5 I promise to page you as soon as I get home, okay? Till
6 then, take care and drive safely. Always, Hey. P.S.: The
7 interview went well and I promise to tape it so you can see
8 me, as many and as often as you want."

9 She refers to things we know she had to do that
10 day: the taping, the taped interview, the wrestling match
11 at Randallstown. Maybe she intended to put it on his car,
12 we don't know. She never had a chance to do it.

13 And the most important, the most telling example
14 regarding how we know this was the day she was murdered
15 came from her brother, Yung Lee, through the fact that this
16 Defendant never called her house again.

17 Judge Heard told you about the charges you're
18 being asked to consider in this case and described to you
19 the verdict sheet which you'll be discussing. There's a
20 number of counts there, and I'll spend just a few moments
21 discussing the facts of this case with respect to those
22 counts.

23 You've been asked to discuss the crimes of false
24 imprisonment and kidnapping. They're very similar in that
25 they both involve confining a person by deception. How

1 does that relate to this case? Hey Lee was confined to her
2 car by the deception of this Defendant. What did he do to
3 deceive her? He told her he needed a ride. He said his
4 car was in the shop and he needed a ride. We know this is
5 true because his own friend, Krista [REDACTED] saw him first
6 period and he said Hey's got to take me to get my car.

7 Hey's own friends told you Hey's the kind of
8 person that would help him out, even though they were
9 broken up. He told her his car was in the shop to get her
10 in her own car, which he often drove, as all the witnesses
11 told you. He got her in that car to get her to Best Buy,
12 to kill her. He confined her there. An additional element
13 for kidnapping is that he got to move from one place to
14 another. False imprisonment and kidnapping.

15 You've been asked to consider robbery. Robbery
16 is the taking of property by force with the intent to
17 deprive that person. The force used on Hey Lee is clear in
18 this case: he strangled her. And at that point he took
19 her car. He took it several places that afternoon. He
20 ultimately hid it. He hid it from family, he hid it from
21 the employees in a place nobody would find it for quite
22 some time.

23 The first count on your verdict sheet is the
24 count of first degree murder. First degree murder is the
25 willful, deliberate, and premeditated killing of another

1 person. Willful means you intended to do it. It's clear,
2 ladies and gentlemen, if you strangle someone you intend to
3 kill them. That's not hard.

4 Deliberate means you're aware of your intent.
5 Dr. Corell told you it takes 10 to 15 seconds. It took
6 physical strength to strangle Hey Lee. The Defendant was
7 aware of what he was doing and what he intended to do when
8 he strangled her. Was it premeditated? Had he thought
9 about it? Of course he had. Consider the facts. He is
10 the one that called Jay Wilds the night before. He's the
11 one that called Jay Wilds that morning. He gave the car
12 and the phone to Jay Wilds. He told Hey his car was in the
13 shop. He drove her home. And even if you're not sure
14 about all of those facts, consider this: Under the law, it
15 takes only an instant to premeditate. The instant, for
16 example, in cocking a gun. It takes up to 15 seconds to
17 strangle someone. Was this premeditated? Clearly it was.

18 Let's talk for a while about Jay Wilds because,
19 clearly, this case hinges on his testimony. At the very
20 beginning of the case, Mr. Urick asked you when you hear
21 Jay Wilds think to yourself, why him? Why is he the one in
22 this position? Well, think about it. Do you really
23 believe that the Defendant could go to one of his
24 upstanding magnet school, honor student friends or a friend
25 from the mosque to assist him with this act? Of course

1 not.

2 He needed someone who behaved a little more
3 dangerously than those people. He needed someone who took
4 risks. After all, Jay was the one that they get to buy
5 marijuana. Jay was the one who worked in the porn store.
6 Jay wasn't a magnet student. Jay wasn't in college. The
7 Defendant thinks that Jay Wilds had more to lose. The
8 Defendant hopes that you will look at Jay Wilds and say I
9 don't believe him. That is why the Defendant chose Jay
10 Wilds, because if something went wrong, the Defendant could
11 point the finger at Jay Wilds, and that is why Jay Wilds
12 sat here before you.

13 You don't have to like Jay Wilds or like what he
14 did to know that he's telling the truth. You had an
15 opportunity to watch him, not only hear him but watch him,
16 as he sat here and testified. And remember, as he sat here
17 and he recounted specific details of that day, remember the
18 look on his face as he was asked to recall that moment in
19 the Best Buy parking lot when he saw the body of Hey Lee.
20 The look on his face, an expression that told you he wasn't
21 looking at anything in this courtroom, he was seeing again
22 the body of a dead woman, something he'd never seen before
23 and something he told you is going to stay with him
24 forever.

25 You know he knows what happened. But more

1 importantly, you know he was with the Defendant on
2 January 13th. How do you know that? Let's look at the
3 cell phone records. You heard from a young woman by the
4 name of Neisha [REDACTED] (phon. sp.). Neisha [REDACTED] does not
5 know Jay Wilds; Jay Wilds does not know Neisha [REDACTED] She
6 is a young woman who met the Defendant at a party on New
7 Year's Day. She lives in Silver Spring.

8 There is a phone call to Neisha [REDACTED] on the --
9 Friday at 3:22 p.m. Neisha [REDACTED] told you she does
10 remember a call when the Defendant called her and said,
11 "Say hi to my friend Jay." Jay Wilds told you about the
12 exact same call as they're driving from I-70 parking lot
13 where they left Hey's car. Jay tells you yeah, and then he
14 called some girl in Silver Spring and he asked me to say hi
15 to her. Jay Wilds and Neisha [REDACTED] don't know each other.
16 Neisha [REDACTED] told you they were together.

17 . You heard also from [REDACTED]. [REDACTED]
18 [REDACTED] was at University of Maryland at Baltimore all day,
19 at a conference. She came home to her apartment around
20 5:30 that afternoon and sometime after 6 -- and she knows
21 this because she watches "Judge Judy" -- the Defendant and
22 Jay come to her apartment together. She remembers this
23 because she doesn't know the Defendant, and he's acting
24 shady, he's acting strange. What does he do when he comes
25 to her apartment? He slumps over on the floor and hides

1 his face. This is memorable to her. [REDACTED] [REDACTED] told
2 you that the Defendant and Jay Wilds were together.

3 Jennifer Pusitari told you that after she
4 received that page from Jay to pick him up, she goes to
5 Westview Mall to meet Jay. Who pulls up but the Defendant,
6 driving his car with Jay Wilds in it. Jennifer Pusitari
7 told you the Defendant was with Jay Wilds.

8 Jay Wilds was sincere. You heard a lot of
9 questions and a lot of testimony about the inconsistencies
10 of his statements, and I'm sure you're going to hear a lot
11 more. Jay Wilds never once told you that he didn't lie to
12 the police. He was honest with you. Yeah, I did it, and
13 he gave you the reasons why. Why didn't he call the
14 police? Jay Wilds said, number one, my house was dirty.
15 They knew I had marijuana there. I didn't want to do that
16 to my mother and grandmother. And he also said look at me,
17 look at who I am. Do you actually think the police are
18 going to believe me? The same reason the Defendant picks
19 Jay to be here. No, Jay said, that wasn't going to work.

20 And why did he not tell the police on at least
21 two occasions the full story? Why? Because he wanted to
22 protect people he knew. He wanted to leave Jen Pusitari
23 out. He wanted to leave [REDACTED] [REDACTED] out. He wanted to
24 leave out the fact that the Best Buy parking lot was the
25 place where the Defendant and Hey Lee had sex. He didn't

1 leave himself out of those statements. He tried to leave
2 out other people.

3 The most important thing for you to remember
4 about Jay Wilds' testimony is that it does not stand alone.
5 It is corroborated, it is supported by what the witnesses
6 say, by what the physical evidence says, and by what those
7 cell phone records say.

8 So let's talk about cell phones. We all got
9 quite a lesson in cell phone technology, the AT&T wireless
10 system. You heard from an AT&T engineer, Mr. Abromowitz
11 (phon. sp.), whose name I won't continue to say because I
12 can't pronounce it, but you heard from the engineer who
13 told you basically a cell phone calls a cell site, a cell
14 tower, which, in turn, talks to a switch, and that enables
15 the conversation to take place. Pretty simple.

16 He also told you that the phone picks the cell
17 tower based on signal strength in the area. He told you,
18 too, that this map shows you -- these bright colors each
19 represent areas in which a given tower's signal strength is
20 strongest. And in these areas, the cell phone is going to
21 talk to the given tower.

22 He explained that each cell tower has three
23 sides: an A side at the top, a B side going clockwise, and
24 a C side on the western side. A, B, and C. And when a
25 call is originated, that is, when a call is made or

1 received by a cell phone, the particular cell tower and
2 particular side, the A, B or C, is recorded in the billing
3 records, and that is where these records come from.

4 Now, the Defense may suggest to you that we don't
5 even know if this phone was operable on January 13th.
6 Consider Abe Abromowitz, the AT&T engineer, told you that
7 the Nokia 6160 is the best cell phone to use in the AT&T
8 system. Use your common sense, ladies and gentlemen. In
9 one day alone this cell phone made 34 calls in the course
10 of 10 hours. Some of them lasted a couple of seconds, some
11 of them lasted eight minutes -- and you've heard from the
12 witnesses who talked to people on this phone. Did any of
13 them say they had a problem hearing? No. Did any of them
14 say they were cut off? No. In fact, call no. 5, Krista
15 [REDACTED] remembers that the Defendant called her again that
16 evening. Does that look like the track record of a phone
17 that's not working properly? No.

18 And you heard also that the AT&T engineer made
19 some test calls. He went to locations, locations provided
20 by the witnesses in this case and made phone calls to see
21 if, in fact, the testimony added up to the cell records.
22 And what he told you was that although he didn't recreate
23 all the conditions of January 13th, that the Nokia 6160
24 operates in exactly the same way -- equally was the word he
25 used -- as the equipment he was using.

1 What we wanted to know with those tests were, for
2 example, if Jay Wilds said that the Defendant answered his
3 phone in Leakin Park, was that true? If [REDACTED] [REDACTED]
4 said he answered the phone at her apartment down by UMBC,
5 was that true? Well, ladies and gentlemen, the cell phone
6 records support what those witnesses say and the witnesses
7 support what those cell phone records say. There's no way
8 around it.

9 The Defense may try to suggest to you that this
10 system doesn't work and there's no rhyme or reason for this
11 pattern of phone calls. That's not so, there is a rhyme
12 and there is a reason. Think about it. The witnesses
13 could not have known what cell site they were in when they
14 were making calls and they certainly couldn't control that.
15 They were probably unaware that the calls were even being
16 recorded in this fashion. Do you think Jay Wilds, when
17 confronted with these phone calls, said oh, L608C, I better
18 put [REDACTED] [REDACTED] house into this? No. The witnesses
19 can't control it and they weren't aware of it, and that's
20 why you can't get around this evidence, ladies and
21 gentlemen.

22 Now, you've been sitting here patiently for six
23 weeks. You don't need me to tell you that. Consider the
24 witnesses in this case. When you go back in that jury
25 room, not one of you are going to remember every detail of

1 this case in precisely the same way, what date someone
2 testified, what specifically they said. You will rely on
3 your collective memories. You each will remember what is
4 important to you and you will use that to fit in what each
5 other remembers. The same holds true for the witnesses in
6 this case.

7 Remember that January 13th, for these witnesses,
8 was not any special day at the time. They had no idea that
9 day that over a year later they were going to be asked to
10 sit here and testify in a murder trial. The first time any
11 of them were even asked to remember that day was weeks,
12 maybe months later, but people remember what is important
13 to them. And again, consider Ms. Inez Butler; she
14 remembers talking to Hey immediately after class, 2:15,
15 because she remembers Hey left in a hurry and Hey didn't
16 come back. And that had an impact on her because she had
17 to travel to the wrestling match. People remember what is
18 important to them.

19 And just as you will rely on your collective
20 memories, in this case it is the collective evidence.
21 Consider it all and consider what makes sense.

22 Now let's take a closer look at all the evidence
23 in light of these cell phone records. Jay Wilds told you
24 he remembers around 10:30 in the morning he gets a call
25 from the Defendant, saying I'm going to come get you, let's

1 was talking to Hey Lee at that point in time and Inez
2 Butler sees Hey as she rushes out of school, grabs her
3 snack, and heads out the door. Ladies and gentlemen, she's
4 dead within 20 minutes.

5 2:36 p.m. the Defendant calls Jay Wilds, come get
6 me at Best Buy. Jay Wilds is at the home of Jennifer
7 Pusitari at this point, and the records are clear. Call
8 no. 28 occurs in the cell area covered by L651B. This is
9 the area that the AT&T engineer told you covers Jennifer
10 Pusitari's house --

11 So Jay drives to the Best Buy, and it is there
12 that the Defendant, for the first time, opens his trunk and
13 shows Jay Wilds the body of Hey Lee. By 3 p.m., by 3 p.m.,
14 her family knows she hasn't picked up her cousins.

15 The Defendant gets Jay to follow him to the I-70
16 parking lot where they leave Hey's car, and they then head
17 back towards Woodlawn from the park and ride together.
18 It's at that point, at 3:32 p.m., that the Defendant calls
19 Neisha [REDACTED] in Silver Spring. She says hello to Jay. We
20 know they are together at that point in time. That call
21 lasts for 2 minutes and 22 seconds. Jay Wilds doesn't know
22 Neisha [REDACTED] and Neisha [REDACTED] told you this is her own
23 private line, nobody answers that line but her, and the
24 Defendant is the only one who knows her. This occurs in
25 the coverage area of L651C, the pink area, which would be

1 consistent if they were heading back towards Woodlawn from
2 the I-70 parking lot.

3 Now, at some point in this time frame we know
4 that the Defendant goes to track practice. He tells Jay
5 Wilds I need to be seen. So Jay Wilds takes him to track
6 practice. In the meantime, Jay Wilds goes out to Forest
7 Park looking for marijuana. He makes a phone call to
8 Jennifer Pusitari at that point in time, 4:12 p.m. We know
9 that that call at 4:12 p.m. was in the coverage area of
10 L689C. You see 689 on the top right, the dark brown area
11 on the left side is C. That covers the Forest Park area.
12 That makes sense with what Jay Wilds is telling you.

13 Now, we also know in the meantime the Lee family,
14 Hey Lee's family, has called Ayisha [REDACTED] They've begun
15 calling her friends to see if anyone knows where she is.
16 Ayisha [REDACTED] told you she called Krista [REDACTED] a friend
17 of the Defendant who testified. Krista [REDACTED] was at work
18 that day. Krista then calls and leaves a message -- Krista
19 told you I called the Defendant to see if he had, in fact,
20 gotten a ride from Hey. She leaves -- she remembers this.
21 She leaves a message on his voice mail.

22 At some point in time, the Defendant calls Jay,
23 come get me from track practice. 5:13 p.m., you see that -
24 - of calls that the AT&T engineer described to you. Call
25 no. 18 and 19, this shows he was checking his voice mail.

1 And what is the very next call? 5:38 p.m. he calls Krista
2 [REDACTED] Perhaps she wasn't home from work yet, she doesn't
3 believe she was. It was a very short call. But he
4 returned that call. We know he has the phone.

5 After the Defendant picks -- I'm sorry. After
6 Jay Wilds picks the Defendant up, they get high and they
7 head over to [REDACTED] [REDACTED] house. [REDACTED] remembers a
8 conference until 5:30 that day. She gets home and she sits
9 down to watch "Judge Judy," and it's at that point, she
10 remembers, that the Defendant and Jay Wilds come to her
11 apartment and they're acting so strange.

12 Now, [REDACTED] [REDACTED] house, Gateway Terrace,
13 down by UMBC, and Mr. Abromowitz put a little circular
14 sticky here on the block where she lives. He also told you
15 that there are two very strong sites, depending where in
16 the block you are, L608C and L655A. Now, look closely at
17 calls 14, 15, and 16. Notice that the cell sites
18 correspond exactly to what he told you, L608C, L655A.
19 Remember the testimony of three witnesses when you consider
20 these three calls. At that time frame, between 6 and 6:30,
21 three witnesses told you about calls they know of to that
22 cell phone.

23 Consider Yung Lee, Hey's brother, opens the
24 diary, thinks he's calling Don because on a page scribbled
25 over and over with Don's name is a cell phone number. He

1 suddenly realizes it's not Don he's called, it's the
2 Defendant, whose voice he knows because he's called their
3 home before. He asked if he knows where his sister is.
4 What's the Defendant's response? Why don't you try her new
5 boyfriend?

6 Remember too that [REDACTED] heard the Defendant
7 answer a call while he was in her apartment, and what she
8 heard concerned her. He said the police want to talk to
9 me, what should I do? And a third person, Officer Adcock,
10 from the Baltimore County Police who began to investigate
11 this as a missing person, he calls the number because Yung
12 Lee has given it to him. He calls the number and talks to
13 the Defendant on the cell phone. All three of those calls
14 are consistent with those calls that came into [REDACTED]
15 [REDACTED] house.

16 And interestingly enough, after the Defendant has
17 this conversation, you know, the police want to talk to me,
18 he jumps up, leaves the apartment. And what's the next
19 thing he goes to do? He goes to get rid of the body. Now
20 you know by that phone call that somebody else, somebody
21 who hasn't told you from the witness stand, somebody else
22 knows about this because he sought their counsel, sought
23 their advice in that crucial phone call. And the next
24 thing he does is goes to get rid of the body, and who does
25 he call? 6:59 p.m., he calls his best friend Yassar [REDACTED]

1 Isn't it ironic that that is the name that comes up in
2 connection with the anonymous phone call to the police as
3 to who might know something about this?

4 We know that at this point the Defendant and Jay
5 Wilds go to the I-70 park and ride to get Hey's car, with
6 her body still in it. At that point, they go to McDonald's
7 where they meet up. And you can remember that because Jay
8 says yeah, I even thought about leaving at this point in
9 time but then he showed up.

10 The call at 6:59 and the call at 7:00 both occur
11 in the Woodlawn area, which would be consistent with them
12 being near that McDonald's, L651A.

13 Prior to going to Leakin Park, Jay remembers that
14 the Defendant was taking him home and at that point he
15 basically threatened him, said, you know, I know about you
16 and what you do, and got Jay Wilds to agree to go along
17 while he gets rid of the body. They get shovels from Jay
18 Wilds' house. They meet up at the McDonald's and Jay
19 follows the Defendant to Leakin Park.

20 At this point in time Jay Wilds knows he's not
21 going to meet Jennifer as they had previously arranged. So
22 at 7:00 he pages Jennifer Pusitari. He leaves that
23 confusing message that she tells you about. Jay Wilds and
24 the Defendant go to Leakin Park -- time. And the next
25 phone call, calls 10 and 11, are crucial. Jay Wilds tells

1 you that as they're entering the park, preparing to bury
2 the body of Hey Lee, Jennifer Pusitari returns that call.
3 She returns the call because the message is confusing. She
4 knows the cell phone number because it's on her Caller ID,
5 so she calls the cell phone. Jay doesn't answer. Jennifer
6 tells you someone else answered and said Jay's busy right
7 now, he'll call you back. Jay Wilds spoke to the
8 detective -- I'm sorry. Jennifer Pusitari spoke to the
9 detectives before Jay Wilds did, yet Jay Wilds tells you
10 about the exact same phone call: While we were there,
11 Jennifer called; the Defendant told her I was busy. That
12 call, ladies and gentlemen, at 7:09 or 7:16 p.m., occurred
13 in the cell phone area covered by Leakin Park. That call
14 is consistent with everything the witnesses told you.

15 The next two calls, calls 8 and 9, you'll see are
16 to Jennifer Pusitari's pager. They're both short calls and
17 they're within literally seconds of each other. They occur
18 in two cell site areas, L653A and L653C, which would be
19 consistent if they were coming in from Leakin Park, from A
20 to C, heading back towards Woodlawn, heading towards
21 Westview Mall where Jennifer meets Jay.

22 Every call from that point on are to friends of
23 the Defendant exclusively: Neisha [REDACTED] Krista [REDACTED]
24 again Krista [REDACTED] again Neisha [REDACTED] Yassar [REDACTED] who
25 didn't even go to Woodlawn High School, ladies and

1 gentlemen, he doesn't even know most of these people who
2 testified, and Mr. Chaudry

3 Judge Heard instructed you that you can consider
4 a number of things, including the Defendant's actions, what
5 he said and did. Well, let's talk about that. What did
6 Adnan say? Let's think back. He told Krista [REDACTED] in
7 first period that Hey was taking him to get his car, that
8 he needed a ride. Well, we know that that was a deception,
9 something he fabricated. It was a pretext to get into her
10 car because he gave his car to Jay Wilds.

11 He told Officer Adcock that Hey was supposed to
12 give him a ride. That's consistent with what Krista [REDACTED]
13 said. But later on, he changed his story. He told
14 Detective O'Shea from the Baltimore County Missing Persons
15 Unit, this was about a week or so later, that he had his
16 own car and he didn't need a ride and, therefore,
17 Officer Adcock must have been incorrect. Well, we know
18 this conversation with Officer Adcock occurred because he
19 told Ayisha [REDACTED] and Krista [REDACTED] that the police had
20 called him on his cell phone. He can't have it both ways.

21 Let's consider what else did Adnan say? We've
22 heard testimony from of witnesses. Remember -- Shah (phon.
23 sp.), the French teacher, and Debbie [REDACTED] a close friend
24 of both the Defendant and Hey Lee? They told you how the
25 detectives came to the school on more than one occasion,

1 both the missing persons detectives and homicide
2 detectives, and they did their best to try to help, to try
3 to answer questions, to try to find anything out about what
4 happened to Hey and where she might be.

5 Did you hear that about the Defendant? This was
6 his girlfriend, the love of his life, who supposedly is
7 still his very good friend. No, that's not what you heard.
8 What you heard instead was -- Shah testifying that the
9 Defendant came to her and said I'd appreciate it if you
10 don't ask questions about me. Well, what was his reason?
11 His reason was because his parents didn't know everything
12 about his dating Hey. This woman who had been so central
13 to his life just a month before, let alone weeks before,
14 and he's more concerned about his parents finding out about
15 this relationship with her.

16 And you've heard testimony from several of his
17 friends that say oh, all the young men at the mosque date
18 women, that this is no big deal. Then why is that his
19 concern at this point in time, when she's missing, when she
20 could be hurt, when she could be in trouble, when she could
21 be dead?

22 He told -- excuse me. You also heard from Debbie
23 [REDACTED] that -- Shah had given her some kind of questions to
24 try to find answers to. They were in her planner. And
25 when she lent that planner to the Defendant, guess what

1 disappeared? Those questions.

2 Remember that the Defendant told Inez Butler that
3 his memories of Hey were bad, that he and Hey had had a
4 fight about her going to the prom. We know that Hey was in
5 love with Don Kleindas at this point. She wasn't thinking
6 about going to the prom with the Defendant. In fact, the
7 very night before she died, at 12:01 and 12:35 a.m., he's
8 calling her house. What is she doing? She's writing in
9 her diary.

10 We know she usually wrote in her diary late at
11 night. She'd probably just got back from Don's house.

12 MS. GUTIERREZ: Objection.

13 MS. MURPHY: She's writing --

14 THE COURT: Overruled.

15 MS. MURPHY: -- "I love you, Don. I think I have
16 found my soul mate. I love you so much." This is what
17 she's thinking about when he's calling her.

18 Now, you've heard a lot of testimony that this
19 Defendant, he is a popular guy, he's attractive, he didn't
20 have any problem making friends or attracting other women.
21 But nice people do bad things all the time. Consider how
22 he acted towards the investigation of the woman who was so
23 central to his life. Is that consistent with what you've
24 heard about him?

25 Consider what he did for Jay Wilds. He's the one

1 who called Jay, both the night before and the morning of.
2 He's the one who gave his car and his phone to Jay Wilds.
3 He's the one who tried to give himself an alibi: yeah, I
4 need to get to track practice because I need to get seen.
5 I don't care what you do, Jay.

6 He's the one who jumped up immediately to go bury
7 the body after the police call. It was him, not Jay. And
8 he's the one who's going to come before you today and point
9 the finger at Jay Wilds. No, ladies and gentlemen, nice
10 people do bad things all the time. What Adnan Syed said
11 and what he did is not at all consistent with the wonderful
12 things they want you to believe.

13 When he points the finger at Jay Wilds, we ask
14 you to ask yourselves a very important question. From all
15 the facts in this case, you can ask yourselves what do we
16 know about who killed Hey Lee. We know that Hey Lee knew
17 the person who killed her. We know this because she was
18 surprised. She was in her own car, ladies and gentlemen.
19 Whoever did this had to be someone she knew, someone who
20 could sit close enough to her to strangle her without her
21 suspecting a thing. She knew the person who killed her.

22 Not only did she know this person, ladies and
23 gentlemen, she cared about this person. You heard how busy
24 she was that afternoon. She had places to be, she had
25 things to do. For her to take time to give anyone a ride,

1 she had to have cared about him enough, and you know from
2 the witnesses that she did. She'd given him a ride just
3 two days prior. It's in her diary. That's the kind of
4 person Hey was. She cared about him enough to pick him up
5 that day and he knew it.

6 You know that she trusted the person who killed
7 her. She would not have gotten into the car, she wouldn't
8 have let someone drive her car if she suspected a thing.
9 She trusted the person who killed her.

10 You know that this person was present at Woodlawn
11 High School because there is only a small window of
12 opportunity -- the opportunity is the key word -- for this
13 person to get in her car. She had to leave Woodlawn High
14 School and drive immediately to the elementary school to
15 pick up her cousins. That person had the opportunity at
16 Woodlawn High School to stop her and get in her car.

17 And we know too that this person had access to
18 her car. She was killed in her car. Ladies and gentlemen,
19 you know from all the witnesses the Defendant clearly had
20 access to her car. He drove it on a regular basis, all the
21 witnesses told you that. More importantly, her car is
22 covered in his fingerprints, not just in the common areas,
23 in the trunk, in the glove box, in the back seat, in a map
24 in the back seat that just happened to have a page ripped
25 out that leads you to Leakin Park. He clearly had access

1 to her car, he clearly was in her car and he knew that if
2 he didn't act quickly she would be missed.

3 He knew she had to pick up her cousins. He knew
4 she had to be places, so he knew he had to take her
5 immediately to Best Buy and do what he set out to do, and
6 that was to kill her.

7 Most importantly, ladies and gentlemen, the
8 person who killed Hey Lee had a reason to do it. He had a
9 motive.

10 Strangulation is an extremely personal crime. To
11 put your bare hands around the neck of a person you know,
12 let alone care about, and squeeze the living life out of
13 them, to look into their face and watch them die is
14 extremely personal. You have to want that person dead, you
15 have a reason. It's not the task of someone who can shoot
16 a gun from 20 feet away, it's extremely personal. And
17 remember what he said: How could she treat me like that?
18 It's what she did that made him want her dead.

19 Hey Lee wrote in her diary May 11th, 1998, "When
20 I look into his eyes, I know that he loves me. I really
21 love him." And again, September 8th, 1999, Hey Lee writes
22 in her diary. "I don't know what I would do without him.
23 He is the sweetest person I have ever met. When life is
24 hard, all I have to do is look into his eyes. Then it'll
25 all be better." Imagine the disbelief and the terror when

1 she looked into those eyes on January 13th, those same eyes
2 that she writes so politely about in her diary, with one
3 purpose: to kill her.

4 And what was it she tried to say at that point in
5 time? The words she tried to get out? I'm sorry. How
6 could she treat me that way?

7 Thank you, ladies and gentlemen.

8 Thank you, Your Honor. Mr. Urick is reminding
9 me --

10 Ladies and gentlemen, it's clear, this all adds
11 up. There's only one person who fits the description and
12 that's the Defendant, Adnan Syed.

13 THE COURT: Thank you, Ms. Murphy.

14 Ms. Gutierrez, you asked for a brief break to
15 arrange the courtroom --

16 MS. GUTIERREZ: Yes, Judge.

17 THE COURT: -- for you.

18 Please, ladies and gentlemen, I'm going to have
19 the sheriff walk you just over to the jury room. Leave
20 your notepads face down and other items face down. Do not
21 discuss anything yet. We'll bring you back in probably
22 under 10 minutes. We're just going to let you stretch your
23 legs, let Ms. Gutierrez get organized, and we're going to
24 come right back and continue.

25 Ladies and gentlemen, this Court is going to take

1 a brief recess.

2 MS. GUTIERREZ: Judge, before you go --

3 (Brief recess)

4 (Jury not present)

5 THE COURT: Ms. Gutierrez, you indicated that you
6 had some issue that you wanted to discuss before you
7 arranged your exhibits?

8 MS. GUTIERREZ: Yes, Judge. What I would ask is
9 a reinstruction of the jury as to the Defendant's -- that
10 they can draw no inference from his silence. Ms. Murphy
11 made two specific references that I believe were absolutely
12 unmistakable references to his not taking the stand. They
13 both occurred before 11:00, one at 10:40 by this clock, one
14 at 10:55. She said twice "someone who didn't testify from
15 the witness stand." The context in which she was talking,
16 it was unmistakable that the only someone that she could
17 have been referring to was, was Adnan Syed.

18 Since to comment on the Defendant's absolute
19 right to remain silent negatively inferring that there's
20 something wrong because he didn't take the stand even
21 though their witness's did, Judge, I believe is so
22 prejudicial that it is outrageous. And in light of all of
23 that, what I would ask of the Court right now is that it
24 reinstruct the jury on the Defendant's right to remain
25 silent, that they cannot draw any inference from that.

1 THE COURT: Response from the State?

2 MS. MURPHY: Your Honor, that is not the context
3 in which that statement was made at all. The context was
4 in the sense that the Defendant was talking to someone on
5 the phone, and the words I used were that he was seeking
6 counsel, seeking advice from someone who knew what
7 happened, someone who didn't testify. That was the
8 context, it was not at all related to the Defendant's
9 testifying or not, and I think that was clear in the way it
10 was presented to the jury.

11 THE COURT: Anything further, Ms. Gutierrez?

12 MS. GUTIERREZ: On another issue, Judge.

13 THE COURT: All right. On that issue, my
14 recollection is that Ms. Murphy did not make specific
15 reference that the Defendant did not testify but, rather,
16 in the context that she's indicated.

17 I believe that the jurors have been instructed
18 that they can't even consider the Defendant's failure to
19 instruct (sic) and I'm not going to reemphasize or direct
20 any further attention to that issue. I don't believe that
21 it was presented to the jury in that fashion. And clearly,
22 there will be no argument on that issue. The only thing
23 the jurors will have is my instruction where I specifically
24 direct them that they may not even consider his failure to
25 testify.

1 Your next issue, Ms. Gutierrez?

2 MS. GUTIERREZ: Judge, while I was out, I had to
3 use the facilities and there was a ladies' room right next
4 door. I remained there specifically because I observed the
5 mother of Ms. Lee who, understandably, was close to
6 hysteria, was in the stall and crying loudly enough that it
7 drew my attention.

8 I did note that she started to do that and,
9 although that may be understandable, Judge, she contained
10 herself throughout the bulk of the State's attorney's
11 argument. And what I observed and heard in the ladies'
12 room concerns me that I would ask for either the Court to
13 instruct her or she be placed back far enough that if she
14 is that close to being upset and such to send her in a
15 stall in the ladies' room, crying uncontrollably, is not a
16 circumstance that we should have to endure during our
17 close.

18 THE COURT: I will tell you that I don't want to
19 hear from the State on this. Ms. Lee has conducted herself
20 in an admirable fashion throughout the length of this
21 trial. When asked to move and adjust herself when we were
22 in a smaller courtroom, she did so. Today, I did not
23 observe her do anything in this courtroom inappropriately.
24 And I would add --

25 MS. GUTIERREZ: -- didn't do anything in the

1 courtroom.

2 THE COURT: I understand. And I would add that
3 the sheriff accompanied this jury to the jury room. They
4 do not use the public facilities. They are not in the
5 public facilities, they are kept separate and apart from
6 the public facilities and would have no way of knowing what
7 went on in the ladies' room, what Ms. Lee may or may not
8 have done in the privacy of a stall in a public bathroom.

9 I would emphasize that she understands. I have
10 had communication made to her through the State's
11 Attorney's Office and through the Bereavement Movement
12 counsel the importance that she not in any way demonstrate
13 anything, to the best of her ability, that would in any way
14 interfere with justice being served in this courtroom. And
15 I would note again that her conduct has been admirable, as
16 your client's conduct has been admirable and the family of
17 the Defendant.

18 So at this juncture, I am not asking any
19 spectator, including Ms. Lee, to move.

20 MS. GUTIERREZ: I think my purpose has been
21 accomplished, whether the Court intended to do so. And as
22 the Court knows, my job as an advocate is to protect this
23 trial even during the time -- and I never meant to suggest
24 and I did not suggest that the jury had any access to that.
25 I asked for the Court's intervention and I believe I've

1 accomplished that to avoid something happening from this
2 point forward since, obviously and understandably, she is
3 upset. And my fear is that given how upset her level was
4 then --

5 THE COURT: I understand, Ms. Gutierrez.

6 MS. GUTIERREZ: -- that that would only continue.

7 THE COURT: And just for the record and for the
8 public, Ms. Gutierrez is making an excellent point. Her
9 point is that during closing argument she may decide to say
10 things that may be sensitive or uncomfortable for
11 spectators. And to the extent they have an inappropriate
12 contact or effect on a jury could result in a motion being
13 made for a mistrial, and that is something that this Court
14 does not want and has done everything in its power to guard
15 against.

16 So to the extent that anything may be said or
17 done in a way that you feel uncomfortable, the door is to
18 your immediate right and you're welcome to use it at any
19 time. If you remain, I would ask that you keep yourself
20 under control and in the manner in which would be
21 appropriate demeanor and decorum for this courtroom.

22 Ms. Gutierrez, is there anything the Court can do
23 to assist you in organizing? Mr. White's available.

24 MS. GUTIERREZ: I just need a minute, Judge. I
25 stayed there for the reason I said, so I didn't get

1 around --

2 THE COURT: Very well. And as you're organizing
3 your papers, are you requesting a warning?

4 MS. GUTIERREZ: Judge, I would ask that Mr. Lewis
5 be allowed to sit at the trial table.

6 THE COURT: Mr. Lewis, please come.

7 MS. GUTIERREZ: And he's going to hold up sheets
8 to remind me.

9 (Pause)

10 THE COURT: Just for scheduling, at the close of
11 Ms. Gutierrez's closing argument, the State will have 30
12 minutes for rebuttal. I note that an hour has been used.
13 And then I will send the jurors to lunch.

14 Deliberation will take place in my jury room on
15 the third floor, so I will be returning Judge Gordy his
16 courtroom, as he's accommodated us to this point. That is
17 where my chambers is, that's where deliberation will take
18 place, rather than up here on this floor.

19 Very well. If you would bring our jury back,
20 please. Thank you.

21 (Pause)

22 (Whereupon, at 11:23 a.m., the jury returned to
23 the courtroom.)

24 THE COURT: Ladies and gentlemen, at this time
25 you will hear closing argument from the Defense, from

1 Ms. Gutierrez.

2 CLOSING ARGUMENT BY MS. GUTIERREZ

3 MS. GUTIERREZ: As you've become aware in the six
4 weeks -- this is the only time that you will hear from me.
5 And as I sit down, they get to get up again and say
6 whatever they can to rebutt --

7 The Judge talked in instructions this morning
8 about the kind of criminal justice system we have. It is
9 unlike any other system in the world. In many places not
10 in this city, not in this state, not in this country. The
11 minute that Detectives McGilvery and Ritz made the decision
12 back on the 28th of February to arrest the presumed
13 innocent teenager, that would have been it -- no one going
14 back to question why did you make that decision. And they
15 made that decision, they stuck to it and disregarded
16 anything else.

17 On February 12th Detective Massey got phone calls
18 from two anonymous callers -- you haven't seen
19 Detective Massey, so you don't know what -- but he wrote
20 down that the anonymous phone caller, two calls, was an
21 Asian male, 18 to 21 years old -- an Asian designation in
22 two places, as you've heard from this stand, as diverse as
23 Korea all the way up over to Pakistan -- the most populous
24 places in the world. Now, you didn't hear evidence --
25 sound different -- and that there are those who carry that

1 as a cultural background --

2 Now, Detective Massey could tell over the phone
3 the Asianness of a person who would not give up their name.
4 And you heard from others the same information, that this
5 caller anonymously related, unwilling to be identified, and
6 that was oh, you should concentrate on the victim's --

7 The caller advised that the boyfriend had taken
8 the victim to Leakin Park -- sexual -- and there's not a
9 single -- to establish that. Her friends were asked before
10 they came in this courtroom and in this courtroom if you
11 knew -- did you tell us. Not a single one -- and you can
12 well imagine that they -- Detectives McGilvery and Ritz
13 having focused on Adnan Syed for whatever reason, you may,
14 because you know in your hearts if there was anything out
15 there to support what they said, to connect in any way
16 Adnan Syed with what happened to Hey Men Lee -- and if that
17 was good, you would have heard about it, and you didn't.

18 Between the 12th and the 20th -- and you've heard
19 from more than one source, from the teachers, from -- from
20 her good friends, Becky [REDACTED] Debbie [REDACTED] and Ayisha
21 [REDACTED] -- what happened to Hey Men Lee -- Debbie [REDACTED]
22 admitted that she's the one that started, based on
23 something Hey Men Lee had said to her on another occasion,
24 that where she was going was out to see her father. Her
25 father isn't in California -- he's in Korea.

1 Everyone speculated -- one of the closest friends
2 to this wonderful young woman describes Adnan Syed as
3 repeating the stories and believing the things and -- just
4 like everyone else. At first he -- like all of us, that
5 she had just gone to Don's house. Maybe she was -- he then
6 became concerned. He acted just like --

7 Detectives McGilvery and Ritz got an arrest
8 warrant, as Detective McGilvery said on the stand, in the
9 early morning hours based on what Jay Wilds said. And
10 although you heard uncontradicted, out of the mouth of Jay
11 Wilds, that he lied to him and to Detective Ritz before
12 that tape recorder went on in the middle of the night on
13 February 28th and after it was one. And he lied to them
14 about many, many things, even when they asked him --
15 inconsistencies that they acknowledge were lies. It wasn't
16 just that things didn't match up, they were lies. They
17 called them lies. Jay Wilds called them lies. On the 15th
18 of March, on the 18th of March, on the 13th of April, every
19 single time lies, never -- but they never came back and --
20 out of bed in the very early morning hours and charged him
21 on the word of someone who later said lies.

22 They tried to cover and said well --
23 Detective McGilvery -- remember the events that happened
24 better. But he admitted -- the State would say and what
25 they admit that what he lied about were not just little

1 inconsistencies --

2 Let's start with -- the only thing we know is
3 that Hey Men Lee -- was killed, that it occurred by
4 strangulation and it could have taken place in as little as
5 10 seconds, that there were no other injuries on her body
6 other than -- a bruise right on -- no other predeath
7 injuries. None. No bruising.

8 And you heard from Dr. Corell what the body would
9 have shown, and you can certainly trust Dr. Corell because
10 it is her business, took every ounce of care to try to
11 discover anything from the body that she was autopsying
12 that might help tell anything about the manner in which
13 she -- Dr. Corell was so careful about what's fact, what
14 she could opine about. She never ventured to even guess at
15 when she died -- in the grave and when she was found on the
16 14th of January, the 15th, 16th, 17th, 18th, 19th, and
17 stopped the last day of January. All she was willing to
18 say is what the facts told her, and those facts told her --
19 she wouldn't even venture to say was that person in the
20 front, in the back, on the side. She wouldn't even say
21 that because she doesn't -- she only --

22 Dr. Corell doesn't say that it's likely she died
23 on the 13th. What she says is she was clearly dead and in
24 that grave for a while. And so, the only fact that we know
25 is that. She was dead. She died of strangulation. And

1 Dr. Corell said the belief is that -- her opinion is that
2 it was likely manual because of the absence of anything
3 else that would suggest a rope, a wire, a ligature that
4 helped strangle her that -- Dr. Corell wasn't even asked
5 that the people who were first put on to speculate as to
6 what they now ask you to do, to speculate. They didn't
7 dare ask Dr. Corell a question based on the bruising that
8 she described -- did she have an opinion as to where
9 that -- did it occur because she hit her head on a window.

10 You have no evidence to suggest that she wasn't
11 driving -- in the driver's seat -- even come in contact
12 with -- that Ms. Murphy asked you to consider. The only
13 fact you have is that she was killed sometime before the
14 body was placed in the -- probably a good -- January 13th -
15 - is a lot of days.

16 Dr. Corell -- that she was in her car. The only
17 witness that suggests any version at all was what Jay Wilds
18 says Adnan said. Jay Wilds, who tells his very, very good
19 friend Jennifer Pusitari that Jay knew ahead of time -- was
20 planning to kill his girlfriend on -- but he says that
21 Adnan would tell him to do this -- other than Jay, there is
22 nothing. There's nothing in the car that told you -- they
23 tried to recover any evidence at all. You can trust them.
24 They did, they tore it apart. They discovered nothing from
25 which you can even speculate that -- in the car.

1 Dr. Corell couldn't even speculate, and didn't attempt to,
2 as to whether or not she was sitting down or standing up or
3 lying down at the time, the less than 10 seconds or so
4 needed to -- nothing inside the car -- to ask Dr. Corell
5 about the pulmonary edema, but Dr. Corell said on the stand
6 when they asked is that it may occur. Dr. Corell, who did
7 the autopsy, never identified pulmonary edema. She never
8 said she saw it on this body.

9 Mr. Bianca (phon. sp.) who fancies himself a --
10 said that stain on the bottom of her shirt looked like
11 nasal mucous to me. But the -- didn't test it, didn't
12 establish what it was, didn't establish whether it was what
13 they thought it was. Nowhere in Dr. Corell's autopsy does
14 she state that she found any such thing. All the time
15 spent on the -- guess as to what -- there's no other trace
16 evidence to suggest that what happened was in the car.

17 There is -- for you to believe after -- that what
18 Jay Wilds ultimately said -- Jay Wilds says that he lied to
19 protect his friends. Although they talk -- because if he
20 spoke the truth, the only thing -- is the five-second --
21 that's all he did, was look, after the murder. And surely,
22 that didn't endanger his friends -- but if -- 10 seconds
23 when that something -- evidence from Best Buy -- his
24 reasons for protecting his friends. What Detectives
25 McGilvery and Ritz heard from Jen Pusitari is she had been

1 reminded, she brought it up to her very, very good friend,
2 oh, there's a camera at Best Buy. And after that, he
3 didn't say Best Buy and he didn't say -- near Edmondson and
4 Poplar Grove, a very popular drug trafficking strip in this
5 city.

6 Jay Wilds was asked by them what his relationship
7 with Adnan was, and he said -- he was an acquaintance, not
8 someone that he even now describes as he'd want to protect,
9 whose involvement he would want to hide -- he says -- his
10 friend Jen is that he had nothing to do with Adnan
11 concerning Hey Lee's murder.

12 Even after -- and that lie was not just saying on
13 the 28th of February Jay Wilds named Adnan, claimed Adnan
14 said he did nothing. Jay Wilds was the one that
15 afterwards -- without hesitation -- and Detective McGilvery
16 acknowledged that in the questioning Jay Wilds admitted as
17 soon as -- as late as four days, on the 24th, four days
18 between the midnight interrogation he had been to visit the
19 car -- had done nothing and had committed no crime -- and
20 after that he drove -- by his own admission, was a place
21 he's come to -- and he said to you all the reason he did
22 that was that he wanted to take them, the police, who up
23 until then, as he told you, they didn't know why. He did,
24 but they didn't know -- he wanted to take them to a place
25 that they would be uncomfortable in. So he took them and

1 he showed them the spot where he described to them -- strip
2 that is always occupied by 10 -- 1,001, 1,002, 1,003,
3 1,004, 1,005, 1,006, 1,007, 1,008, 1,009, 1,010 --

4 It is not, as Detective McGilvery -- he admitted
5 he lied and he says -- where they were uncomfortable --
6 deals drugs and he's got -- or something like that. He
7 only did it to please people. But Jay Wilds told you, he
8 said he was forced to admit he dealt drugs, illegal drugs,
9 marijuana on an at least two or three times a week basis.
10 He was familiar with drug strips. Imagine how sweet it was
11 for him to tell -- to the biggest strip in West Baltimore,
12 Edmondson Avenue and Poplar Grove -- a place they would be
13 uncomfortable. They don't care what -- and in doing that,
14 the focused, based on the word of people that -- anonymous
15 accusations or speculations -- everywhere.

16 She was a popular girl in addition to being
17 really smart and a really good athlete. Although there
18 were some -- but because of that disappearance when she was
19 expected to be there, a very popular girl in and of
20 herself, led to everybody speculating --

21 Becky [REDACTED] told you being the best friend of
22 hey and being a very good friend with a boy she had called
23 friend since second grade, she wrote these things in her
24 journal to try to answer truly what was this all about. If
25 I think about it, what was their relationship, how were

1 they with each other? How did he act, among the whispers
2 around her? He's supposed to be her boyfriend. Let's see
3 what he has to say.

4 He is sure that nobody else ever, whoever they
5 are, were ever sat in a chair, at a table, in a courtroom
6 like this and asked and put to the test as a defendant in
7 the murder of Hey Men Lee. Not even -- unusual
8 circumstances. Donald Kleindas was her current boyfriend.
9 He was -- as to his whereabouts on the 12th. Ms. Murphy
10 dares to ask you to speculate as to whether or not Hey Men
11 Lee spent the night at his house in Harford County the
12 night before, but they didn't even ask him that.
13 Detectives McGilvery and Ritz, they never asked him
14 anything, never asked to account for his whereabouts, the
15 last time he saw her -- a map of West Baltimore, and West
16 Baltimore -- it doesn't take rocket science to know that
17 the Crown station that allows people to use ATMs, not
18 credit cards, as they suggested, but ATMs to make
19 purchases, but only if they come inside, that is located --
20 isn't on the way to any part of Harford County. Any part
21 of it. Northern Parkway and Harford Road is in the city,
22 that's evidence -- it's in the City. To get from West
23 Baltimore, whatever way you go, you don't go farther down
24 in the City, you go out. You go up and then over to
25 Harford County or you go over 695 and then -- it's 11 miles

1 from -- now they're telling you that you should speculate
2 that perhaps she spent the night with her new boyfriend, a
3 two-week old boyfriend --

4 To explain away the bank records that establish
5 that Hey Men Lee -- on January 14th. They try to argue
6 from their records that -- they didn't even bring you this.
7 They didn't pay attention to it. It didn't matter to them.
8 Detective McGilvery and Ritz did nothing.

9 What evidence you have before you is that the
10 records -- when this entry was made, at what time of day.
11 The thing that could have clearly established that she
12 signed for whatever purchase added up to 1.71 and that it
13 was the owner of the ATM card that used it on 1/14, 1999,
14 might have been -- even though -- the man on whose
15 testimony they based charging -- they never looked at them.
16 They had these. And they'll say that this is in April they
17 got the records. Assistant State's Attorney, Homicide
18 Division, Courthouse East, here, this building. And look
19 at the entry that says January 14th, 1.71. Or find out
20 what's -- where is that Crown? Maybe somebody saw her.
21 And at the same time -- did nothing -- sent to them.

22 They also ignored the evidence -- there are two
23 things about what -- said. She said on that day I saw Hey
24 Men Lee and I saw her about 3:00 and what she told me
25 was -- to see Don at the mall -- they didn't ask Don

1 because they had already fixated their sights on this guy.
2 A horrible murder, the finding of a body in Leakin Park, as
3 our city struggles with a black eye of 300-plus murders a
4 year. Oh, my god, another one -- so having fixated, they
5 ignore --

6 They tried to think about -- didn't bother to ask
7 their expert -- back in January -- certainly didn't --
8 because they knew it wasn't supported by the evidence. And
9 perhaps on the 28th of February when they arrested Adnan
10 they figured that what Jay told them would bear out, that
11 they'd find the evidence that matched what he said. So the
12 first thing they did was -- that same day they searched his
13 house, top to bottom. And what did they seize? Among many
14 other things, his boots, his -- his clothing, according to
15 Jen. It couldn't be according to Jen because Jay says --
16 paged Jen from and then Jen picked me up from home. So
17 according to Jay, upon whom they base the arrest warrant,
18 Jen never would have seen Adnan, never would have seen what
19 he wore. But Jen, of course, doesn't say that. Jen says
20 oh, no, he -- at Westview, at Value City and waited there,
21 and got there before him and I picked him up from there,
22 and Jay got out of the car and I saw Adnan.

23 They knew on the 28th somebody -- Jen had spoken
24 to them on the 27th, after she had gone to visit her
25 boyfriend. And she told them -- after speaking with her

1 boyfriend, she told them on the 26th I can't speak to you,
2 I have to go see my boyfriend -- and she -- and she told
3 them the next day when she, who says she knew nothing, did
4 nothing, saw nothing except what Jay told her, she lied to
5 the police. And she says because I lied to the police I
6 went and got a lawyer. She sure acted like someone who was
7 not --

8 After the 28th when they searched his house, they
9 seized everything -- he heard from -- anything that would
10 show anything or might connect him to the murder, to the
11 car, to anything. They took his car apart, taking the
12 lining out of the trunk, and they found nothing --

13 This is a map that does show Leakin Park -- it
14 also shows all the way over to Druid Hill Park and the City
15 on the other side. It clearly is the page 34 that's missing
16 from here. There's nothing -- and there's no evidence from
17 Jay, the only person on who they're relying, that anybody
18 needed a map to find Leakin Park. There was a reason we
19 went to the trouble to establish, even when people made it
20 difficult, that Dogwood Road, clearly on the map, is the
21 same road that becomes Franklin Town. And as Mr. Davis
22 pointed out, if you were familiar with the area you could
23 know there's Woodlawn High School, right there, off the
24 same road, within minutes. Nobody needed a map to find to
25 find Leakin Park or Franklin Town Road. And the

1. fingerprint is on the outside, not on the page. Another
2 dead-end of nonfact that invites you to speculate based on
3 exclusively Jay Wilds' story.

4 Jay Wilds never mentioned a map. He mentions at
5 various times meandering and wandering around West
6 Baltimore, mentions speaking about another place --
7 mentions following -- he never saw it. He says he never
8 saw -- doesn't describe activity that would involve a map.

9 Her brother says she used the map. It was in her
10 car. Half of you probably have the exact same thing.
11 Mr. Abromowitz said maps are how you find places you don't
12 know where they are. No surprise he's got the exact same
13 map that covers the exact same area as did Hey Men Lee.

14 On the 9th of February, Detectives McGilvery and
15 Ritz -- came after it. But on the 9th, under
16 circumstances -- both Detective McGilvery and Detective
17 Ritz happened to get out to the scene. Mr. Buddemeyer, who
18 clearly told you no, you could not have seen this body, you
19 could not have seen the log from the road. And yeah, it
20 was winter, but you still had to push away everything to
21 get back there. And hey, by the way, I was looking for the
22 body. It was part of my job to measure from the body to
23 the road. In order to get a good rationale, I had to find
24 the body. And he was looking for it and couldn't find it.

25 Jay Wilds, on the 9th of February, had decided

1 you don't need to be an expert -- he tried to fudge, it's
2 his signature. He signed that signature right in front of
3 you. It appears on both the explanation of rights -- the
4 form that you heard Detective McGilverly, they didn't do to
5 everybody. They only did it to people whom they suspected
6 of -- he signed it and he spoke to them. And what he told
7 you surely, they didn't know why they subjected him to
8 other things, including other interviews -- four days. The
9 same day Jay Wilds is out checking to see whether the car
10 he says he never got in, didn't do anything with, was still
11 there. Four days.

12 And based on what Jay Wilds said, they came in
13 the middle of the night -- Adnan Syed. And -- even if you
14 can get past his story that his urge to urinate is so
15 great, 2.9 miles from his house, right off Dogwood Road,
16 right off of where Dogwood Road intersects with Woodlawn,
17 on which is Woodlawn High School. He had to urinate so bad
18 and he was so concerned, as he said, about this privacy and
19 not being seen that he walked into the woods, 127 feet --
20 him sign this -- we never heard and you can't speculate.
21 But the one thing you can assume, if there was something
22 else there that would hurt Adnan --

23 ██████ Se ██████ was never asked a single question
24 about where was he on the 13th or the 14th or the 15th or
25 any of the days that Hey Men Lee could have been killed and

1 buried -- and as he testified, very unknowingly, planing a
2 door is among the most ordinary of tasks a maintenance
3 department for a university whose many building are old, is
4 something that's -- but his excuse for being there was to
5 get a plane. They didn't make him produce or examine, and
6 his explanation certainly didn't convince them of
7 anything -- but because they were fixated by those -- they
8 just advised him but they didn't ask him any questions. So
9 they had put aside Donald Kleindas without asking a
10 question, without asking -- and as I said, it's not just --
11 it's their opinion she disappeared that day, while no facts
12 establish for you that she died -- or that she was buried
13 that day. That's the guessing part. They want you to
14 focus on that and say, as they said in the very
15 beginning --

16 The cell phone. These numbers were on the bill.
17 They keep saying the address. They make up a column as if
18 the address told you something. Mr. Abromowitz, whatever
19 expertise he has in anything, told you -- all he can tell
20 you is what the coverage area is supposed to be, that if
21 you make a phone call right here, it's supposed to connect
22 with the nearest cell tower before it triggers the switch.
23 Well, what he told is that's what it's supposed to cover.
24 But the phones and the quality of the phones operate
25 differently as to what signal they trip, what switch that's

1 called. And he told you more. He told you that -- that he
2 did -- 9, 10 months after he's called in, arrested, and
3 charged with murder on the word of a many they know now
4 lied. They did a test. They kept calling. They did an
5 origination test. It's making a telephone call. There's
6 nothing scientific about it. And when he made those
7 telephone calls that she told him to make at the locations
8 she said, what he said to us -- they didn't -- she said --
9 cell phone records -- trigger a cell site -- 651C. The
10 cell tower is supposed to be in the middle. It's the only
11 purpose for the colors. So 651, one of these is C and all
12 that can tell you is that someone in the area whose cell
13 phone was supposed to be -- but Abe Abromowitz tells us
14 well, a call made at Rolling Road and I-70 placed, a
15 Ms. Murphy decided was important, triggers either L651, I
16 think it's the C here, or L698A. So instead of being able
17 to tell us if it worked right, if the phone's quality --
18 then the cell phone that made the call would be there.
19 Now, now it would be here or here because, in order to be
20 here, it would have triggered -- trigger the cell tower
21 that's right there, where A, B, and C of 698 meet. And
22 certainly --

23 They had this cell phone but in fall of 1999
24 Mr. Murphy didn't think it was important enough that if she
25 were going to do a test that's supposed to tell us

1 something that it might be important to do the test since
2 her own expert says it is the quality of the phone -- Adnan
3 Syed had been in jail for 9 or 10 months. Nobody looked at
4 it again. Nobody asked a single question in doing a test
5 that was fair and truthful. And so, they give you a test
6 that tells you -- they can't tell you in whose hand the
7 phone was located. What they suggest to you is the only
8 thing you know are when Jay Wilds could have said in his
9 hands. You know from the records the times these calls
10 were made, either to his cell phone, this one, or from it.

11 Ms. Murphy focuses on, the Tina residence, the
12 young -- non-Muslim -- who met Adnan at a party on Scarlet
13 Place, right down the street, and likes the attention that
14 a handsome young boy is playing with her -- this phone --
15 as technologic as you get, has on it the scroll system --
16 anybody could make that call. But more important, the
17 only -- is Jay Wilds -- this most important call is to
18 Ms. Murphy, go the [REDACTED] residence in Montgomery County,
19 took place at 3:32. Now, according to Jay Wilds, he's --
20 and Adnan -- well, I'll call you around 3:30 -- Jay
21 testified how he didn't call at 3:30. 3:30 came and went,
22 so he got in his car and he started to go, and Jen
23 Pusitari -- so according to -- Jay Wilds -- he was in the
24 car that night --

25 Every single site that Mr. Abromowitz read off,

1 and I remind you when I asked him, I read from his
2 results -- is either 654A and C or -- it's hard to see.
3 This is -- 654A or 651B. Even with this test, under the
4 circumstances totally controlled by them, he can't tell us
5 anything about --

6 Even up to the 24th of February, notwithstanding
7 the two separate taped interviews with [REDACTED] S [REDACTED] in
8 which he was read his rights -- they still had trouble with
9 his description of what -- they still had trouble with his
10 description to explain why -- they asked him about why
11 would he walk -- why would he lie and not tell them -- if
12 you recall, I read to you -- Detective Ritz was asking him
13 about the tool and about 20 ounces of beer, why didn't you
14 tell me back then? This is a man who said he was so
15 overcome with the need to urinate on a stretch of road that
16 is established for you is not well traveled, it's through a
17 park -- have an urgent need to urinate in a place that is -
18 - near the opening of the door on a truck they say backed
19 into that side of the road, the same side the tree was on,
20 so the door would -- what was the reason it took this man
21 127 feet, a distance -- and if it were such a surprise --
22 the same ones that had him sign -- and if it were as
23 innocent as all that, why -- Edmondson Avenue which turns
24 into Baltimore National Pike, which I am sure you must know
25 from your common sense has dozens and dozens of phone

1 booths in a location that he knew when he left was not a
2 location he was -- and called the police and said oh, by
3 the way, I found what I think looks like a body. It is --
4 but he didn't do it. And he didn't go right in and go
5 within the same building he worked. He went clear across
6 the campus after -- not calling the police on his own, not
7 going to his supervisor, going up and asking where's -- and
8 of course, ultimately -- back to the scene.

9 Just like Mr. Buddemeyer told you, that body
10 couldn't have been found easily, even when you're looking
11 for it.

12 [REDACTED] S [REDACTED] will never be charged. He's never
13 even been asked, never went down -- was there another
14 anonymous call, if there was evidence that shifted it to
15 them, he knew it was already there because on the 26th,
16 which is Friday, remember -- that's how they got to Jen
17 Pusitari. Something turned them toward Adnan Syed and,
18 once turned, they never turned away. They never even asked
19 the questions to --

20 In -- don't have a system of -- we don't pick the
21 jurors who are charged by judges to act as referees. We
22 don't allow subjects charged by the police to have lawyers
23 who have a role -- I stand up here because I have a role.
24 You take an oath to listen to the evidence and to listen to
25 me -- Detective McGilvery decides that he believes the

1 anonymous call from an Asian male, whoever that is.

2 Are there others -- the experts and the evidence
3 tells you that you don't -- it is clear that Hey Men Lee --
4 comes after the -- likely that whatever it was that
5 happened that led to her death -- maybe she did run away
6 and then come back, maybe -- maybe Jay Wilds did have this
7 car -- he's borrowed lots of people's cars. Maybe Hey Men
8 Lee stopped Jay Wilds in her very good friend's car and
9 then something happened -- and that it really didn't cause
10 any other injury -- anything else is pure speculation.

11 One of the instructions the Judge told you was
12 that you couldn't draw any inference of guilt because Adnan
13 Syed didn't -- and the Judge told you that -- much is made
14 of this issue of him correcting what Officer Adcock says he
15 said. Remember Officer Adcock, he didn't know him, he
16 didn't describe the voice he spoke to as an Asian young
17 male. He didn't know who he was speaking to. But the
18 bottom line is when Adnan spoke to Detective O'Shea, he
19 said -- I didn't get her to give me a ride. All of that
20 overlooks that in both times he never says he saw her after
21 school. Whether he asked her for a ride, he said -- and
22 she didn't --

23 The same effect to Officer -- Detective O'Shea.
24 And at the earliest opportunity, all of you know that you
25 remember things if there's a reason. We might remember

1 things or birthdays or children's birthdays, some special
2 event, something that triggers -- the more time that
3 passes, the less we remember about the events. At every
4 opportunity -- over the phone, when they left the call with
5 his mother he returned the call. He answered every
6 question they had and at the earliest opportunity he says I
7 was at track practice. I saw her. No, you're wrong about
8 the car, but I didn't see her after school. Then I went to
9 track practice.

10 At some point they asked the coach, and the Coach
11 Sye said the same thing, I don't keep roll. But he wasn't
12 asked until after, after he was arrested to look back six
13 weeks. This trial has been going on for six weeks -- do
14 you remember everything about the first day of trial? Do
15 you remember what you had for dinner? Do you remember --
16 who you saw during -- you might have remembered if you --
17 maybe you -- use your available brain space for what's
18 important and memorable to us.

19 Debbie [REDACTED] Hey Men Lee's very good friend who
20 certainly was interested in finding out where she was;
21 Debbie [REDACTED] the one that says she started the rumor
22 about California, she says when she was first asked did you
23 see Adnan, he was on his way to track practice. That's
24 what she remembered. Well, Coach Sye said -- which he knew
25 about because they had spoken, and that was an unusual

1 conversation. Of course he remembered it. A student
2 explaining to him a holy feast of a religion -- he
3 remembered explaining, remembered understanding it, and
4 knew that he attended -- he was a good athlete. He sought
5 him out. Of course -- how well -- and at the earliest
6 opportunity afterwards -- six weeks later from January 14th
7 he said the same thing -- based on that --

8 And even though Debbie [REDACTED] said he went to
9 track practice, Coach Sye says track practice -- no later
10 than 4 to 5 or 5:30 -- and Jay Wilds says oh -- because he
11 said I have to be seen --

12 You heard from Adnan -- statement that's helpful
13 to him. It's dated September 14th, eight months after he's
14 charged -- says the same things.

15 One of the instructions the Judge gave you, and
16 this is in evidence, was that while motive may not be -- of
17 the crime -- go through the verdict sheet. This is an all
18 or nothing case -- up with some guilty pleas, Count -- it
19 truly is an all or nothing case. If you believe Jay Wilds
20 with the force required under law to meet the highest
21 burden our system imposes -- false imprisonment -- he's not
22 required to even -- he could have sat there, smiling -- by
23 way of cross-examination if we chose. At every
24 opportunity, he answered every single question, even those
25 related to -- in front of his father Detective McGilvery

1 says well -- I knew he didn't want his father to know --

2 And please read this carefully and start out by
3 looking for any entry close in time to the end of October,
4 Homecoming Dance -- there is not a single description of
5 any kind of negative. The one entry where she used the
6 word possessive, she then says no -- the only instance of
7 jealousy that she describes is her own when she goes up to
8 visit him at football practice -- another girl sitting on
9 his lap -- she talks about her own jealousy. But this
10 diary is about -- from her words --

11 There is a principle in life most of us learn.
12 That's why our parents never -- try to teach us to -- the
13 principles that most of us act in accordance with how we
14 always -- most of us act in accordance with what we've been
15 taught, simple little manners. Your parents raise you in a
16 certain way, and I hope you notice the family's in the
17 courtroom. This has been consistent with everything --
18 speak to the Judge out of your presence, without fanfare --
19 and waits till I go, as I'm sure his mother and father have
20 taught him every day of his life.

21 And when we're up there at the bench and we have
22 to stop down, he steps aside to let me go -- treat with
23 respect --

24 Every word about Adnan in this -- she blames
25 herself. There is never an entry that's just well, he's

1 stronger you should go away because you're making -- he
2 never does anything to do that. Jay Wilds -- suggests --
3 such a surprise. How dare she treat me that way. What
4 way? If you read the diary, it's consistent with what her
5 best friend says, that they broke up at about the end of
6 the first week or so of December. Everything else you've
7 heard from teachers and students says the same thing, which
8 would mean that on January 13th they would have been broken
9 up for a month and a week. Not a surprise. All of those
10 who know him describe both -- but particularly -- remained
11 good friends. You'll see in her diary that she may have --
12 everything you've been told establishes that this was --
13 not the break up and not her being interested in someone,
14 although according to her she didn't -- and according to --
15 no date, no sex, no kissing, no --

16 Every word that you've heard, including about
17 how -- did he want his parents to know? No. Did he run
18 right up and tell them? Did he make it a big conflict?
19 No. But his parents did the remarkable thing of going to
20 Halloween because his mother could smell it. His mother
21 just knew and they went out to do what they consider -- he
22 left. And his father told you that. They asked him to go,
23 he obeyed. And his father says exactly -- but knowing that
24 his parents came up in a public place, asked him to leave
25 with them, he did so rather than subject them to --

1 We're not here to decide if he was a good Muslim.
2 Islam is not the only religion in the world that forbids
3 dating and certainly isn't the only religion in the world
4 that says no sex before marriage. And it certainly --
5 parents who exercise their right -- I'm a Catholic not
6 because I chose it. I was born in Catholicism, my parents
7 chose it. If you're a Methodist, it is likely that's how
8 you got there. They're no different in many ways. They're
9 no different -- so that --

10 Ms. Murphy made much of Inez Butler, a very
11 dedicated teacher and molder of human lives -- Ms. Butler
12 on the stand described in detail -- except Ms. Butler back
13 then on the 24th -- 25th of January, less than two weeks
14 from when she was first asked by the Baltimore County
15 Police detective involved in this -- she said then that she
16 knew Hey wasn't. Now -- correction this, But then when
17 asked about the closest point in time, she says -- Hey
18 wasn't coming back, consistent with Debbie [REDACTED] asked
19 about the same time, what was her last conversation with
20 Hey and Hey said -- my new soul mate. Inside of two weeks,
21 first date to soul mate -- fall in love and never felt such
22 things and feel them deeper than any human being. There
23 are lots of teenagers who love -- names of family for some
24 lone -- cultural financial -- that has prevented young or
25 can prevent.

1 But back then when she talked about -- according
2 to those who saw her that night, the first time they're
3 asked to remember is that she was on her way to see -- may
4 you assume? No. The Judge told you you can't assume even
5 though you want to, even though they tell you to. That's
6 not -- that's not what the law allows you to do.

7 Where was she killed? Was it in the car?
8 Certainly, we know she died and we know that she died -- of
9 the strangulation and that she had been buried -- and
10 remember that Detective McGilvery -- find the body in the
11 ground, you want somebody with experience of old bodies,
12 long-buried bodies, an anthropologist, and he described
13 carefully disinterring the body that Mr. Buddemeyer, the
14 surveyor, couldn't find -- and he describe disinterring
15 that body -- any piece of evidence from one body, in the
16 same way as Dr. Corell did all that she did. Anything from
17 her body, from her clothing that might help. And what they
18 recovered from that body were lots of hairs, and those
19 hairs, as Technician -- told you, at least two hairs out of
20 all the hairs that were there, many which weren't suitable
21 for comparison, although they were hoping to belong to
22 Adnan, were excluded as belonging to Adnan. Hair found on
23 her body, underneath the ground of the carefully hidden
24 grave -- looking for evidence, did they have significance?
25 You bet -- why, if the man that they've charged and they

1 want you to believe is an accessory after the fact to this
2 murder -- put his name under suspect in December of 1999,
3 11 months after this crime, 10 months after they've charged
4 a man and taken his liberty, why did they pick Jay Wilds?
5 December 22nd -- so-called activity of charging him while
6 intending to plead him to -- on September the 7th, 1999.

7 Somebody's hair that wasn't -- and wasn't
8 Adnan's, but came from a real live -- not him. Did they
9 ever test [REDACTED] S [REDACTED] hair? Did the person who buried
10 that body have a greater chance of losing hair without
11 knowing it -- told you that. Of course. You don't need to
12 be a technician to know that. Do those hairs have
13 significance now? Absolutely. Were they ever compared to
14 anything else? Absolutely not. Once again, anything --
15 they disregarded.

16 Is the Ramadan calendar important -- from the
17 list of witnesses. There are many more who would have said
18 the same thing. You only asked me six weeks later, I can't
19 remember a specific date, but -- he was the one Muslim to
20 be honored by letting him lead the prayer, whether he
21 wanted to or not or whether or not -- every single -- he
22 acted in the mosque as a responsible human being. He
23 wanted to do it. It was an honor and privilege. And
24 during Ramadan, our holy month, he was always there,
25 always, and we noticed --

1 You are left with -- and that is the testimony of.
2 Jay Wilds -- his very good friend Jen Pusitari described it
3 by saying -- as I said, Jen never sat in that chair and
4 never -- who acted weird? Who acted like they had
5 something to hide? Who acted like they had something to
6 hide about the death of Hey Men Lee? He lied about every
7 fundamental detail. Every single -- where it took place.
8 The excuses he gives don't wash -- to protect his friend
9 Jen Pusitari who did nothing, although she acted -- why did
10 he need to lie about where things took place? How is it
11 that Jay Wilds remembers details, ladies and gentlemen, in
12 that 10 seconds that -- the color of her stockings. Who
13 notices the color of her stockings? They were taupe.
14 Recognized her, though she was laying face down. Described
15 blue of her lips, although they weren't in his view.
16 Described clothes that he says he recognized because he saw
17 them before, on another time, the woman he barely knows.
18 And then who -- evidence.

19 One of the instructions you got was consciousness
20 of guilt. I ask you to listen to that because that applies
21 to Jay Wilds. Although he's not a defendant here and never
22 will be, he is a defendant. And people act the way they've
23 always acted. They lie once, generally they'll lie again.
24 You never know with Jay, that's what his best friend says.
25 And I asked what did you mean by that. You never know what

1 he'll say, what he'll do. She was so concerned about how
2 he acted before he left her house, at a time -- and his
3 jacket and folded them and dumped them, threw them away,
4 although he would never -- that might have shown -- after
5 all, who picks out the parking lot --

6 THE COURT: Ms. Gutierrez, you have a minute to
7 wind up.

8 MS. GUTIERREZ: Thank you, Judge.

9 I have to sit down now -- say what I wish to
10 say -- but when you took this charge, you took -- I hope
11 what I've said has been helpful to you. If it's not, it is
12 up to you as a juror to answer those questions.

13 He is charged on the word of -- only you can send
14 him home.

15 THE COURT: Thank you, Ms. Gutierrez.

16 Any rebuttal on behalf of the State?

17 MR. URICK: Yes, Your Honor. If I may have a
18 minute to set up. May Ms. Murphy be excused for about 30
19 seconds?

20 THE COURT: Yes, she may.

21 MR. URICK: Thank you.

22 THE COURT: As you're setting up, Mr. Urick --

23 Ladies and gentlemen, when Mr. Urick concludes
24 with the State's rebuttal, we will break for lunch and then
25 we'll allow you to resume.

1 (Pause)

2 Ladies and gentlemen, while Mr. Urick is setting
3 up, we're going to take a recess. I'm going to ask you to
4 go with the sheriff who's going to walk you around to the
5 jury room. You're not going to be there long, so don't
6 expect to get comfortable. Just be there for five minutes
7 and -- or so, and then we'll walk you right back. So go
8 with Mr. -- the sheriff at this time. Leave your notepads
9 face down. We're almost completed. Mr. Urick will have
10 his rebuttal, then I'll allow you to go to lunch.

11 As you're going out, do not discuss the testimony
12 of the closing arguments till we're at the very end.

13 (Whereupon, at 12:59 p.m., the jury was excused.)

14 THE COURT: Officer, I'm advised that the
15 Defendant needs to use the rest room, so as soon as you can
16 return him to this courtroom, will you advise me you're
17 back? And we'll be able to resume.

18 I note that -- I don't know if it helps you but
19 DOC is on this floor. I don't know if that helps you.

20 This Court will take a brief recess.

21 (Whereupon, at 1:00 p.m., the trial was recessed
22 and subsequently reconvened at 1:06 p.m.)

23 (Jury not present)

24 THE COURT: Please be seated.

25 While my law clerk is bringing the jury back out,

1 be advised that we will taken a luncheon recess right
2 after. And I will advise the jury to return to Room 337 .

3 MS. GUTIERREZ: So they'll get their lunch and
4 then --

5 THE COURT: Right. They'll get their lunch and
6 they'll go to 337. Once they are assembled in that room, I
7 will -- and all are present, I'll ask the forelady to count
8 all heads, we will have them ring a buzzer. And Mr. White
9 will be bringing them the evidence, so before you leave,
10 counsel --

11 MS. GUTIERREZ: We'll go through the evidence.

12 THE COURT: -- make sure you go through all the
13 items that are to go back with them. And I will ask that
14 you also leave a phone number where you may be reached --

15 MS. GUTIERREZ: Yes, Judge.

16 THE COURT: -- in the event there are any
17 questions or in the event there is a verdict.

18 MR. URICK: The State has no objection to the
19 clerk telling them when they can begin deliberating. I
20 don't know if you plan to bring them out and have all
21 parties present or not, but the State --

22 THE COURT: No. I just said I would not be doing
23 that. I will instruct them accordingly.

24 MR. URICK: Thank you.

25 (Whereupon, at 1:08 p.m., the jury returned to

1 the courtroom.)

2 THE COURT: Mr. Urick, at your leasure.

3 MR. URICK: Thank you, Your Honor.

4 REBUTTAL ARGUMENT BY MR. URICK

5 MR. URICK: May it please the Court, counsel,
6 Madam Forelady, ladies and gentlemen of the jury, good
7 afternoon.

8 THE JURY: Good afternoon.

9 MR. URICK: At the beginning of this trial, I
10 thanked you for your presence and I thank you again, and I
11 thank you for the patience and time that you have devoted
12 to this.

13 The Judge instructed you on the law. The Judge
14 told you that comments of counsel, the arguments of counsel
15 are not evidence and she told you what evidence is.
16 Evidence is when people sit in this chair and talk to you.
17 That's primarily most of the evidence that you have been
18 given.

19 It is also supplementary, various documents and
20 exhibits that have been allowed to be prepared, presented,
21 and given to you. The Judge told you you are the sole
22 deciders of what the facts are. It isn't what I tell you,
23 what Ms. Gutierrez tells you, it's what you remember the
24 witness having said and using common sense to interpret it.
25 It's also your determination what to believe and what not

1 to believe. That's your decision.

2 The Judge told you something else that's very
3 important, though. She told you about direct and
4 circumstantial evidence, direct being something that
5 somebody actually saw at the moment that it was happening.
6 That is direct evidence. The person who saw that can tell
7 you I saw this. That's direct evidence.

8 Circumstantial evidence is inferences that you
9 can draw from a set of facts. A common example that's
10 often used is it's a wintry day, a fresh snow has fallen.
11 You get up early in the morning, you bake a pie, it's a hot
12 pie, you set it on the windowsill to cool. You come back
13 15 minutes later, the pie is gone. You look out your
14 window and you notice footprints in the snow. Those
15 footprints come from your neighbor's front porch and go
16 back to the neighbor's front porch. At that point you have
17 some circumstances that you can draw inferences from.
18 Based on that, you would probably say it's reasonable to
19 infer that the neighbor came over and took the pie.

20 Now, if you knew as well that that neighbor had a
21 sweet tooth for that particular type of pie, that would be
22 even more evidence that would convince you that you are
23 right. But that is a circumstantial inference based on
24 facts, and the Judge told you that evidence is both direct
25 and circumstantial and that the law makes no difference

1 between it as to weight or importance. Some -- common
2 sense because you may have heard the old saying oh, that's
3 just circumstantial, you shouldn't take that into account.
4 That is not how the law looks at it. You are allowed to
5 draw inferences from facts.

6 And let me give you an example of a type of
7 inference that you can draw from this case. The Defense
8 told you that nothing puts the cell phone between roughly
9 12:40 and 9:00 into the Defendant's hands --

10 MS. GUTIERREZ: Objection. That's not what I
11 argued.

12 THE COURT: Overruled.

13 MR. URICK: -- other than the testimony of Jay
14 Wilds. Now, there is some other evidence that puts that
15 cell phone into the Defendant's hands. It's the pattern of
16 calls: Krista [REDACTED] told you about leaving a message on
17 the Defendant's voice mail. You see at 5:14 that voice
18 mail is checked. Somebody got into the voice mail to hear
19 the message that was left on the voice mail. The very next
20 call is to the [REDACTED] residence, Krista [REDACTED] residence.

21 Before that, there was a call to Neisha [REDACTED]
22 residence. There's a call to Yassar [REDACTED] residence in
23 this period. All of these are friends of the Defendant.

24 The Defense said you have to speculate that the
25 Defendant made these. You do not have to speculate, you

1 can draw a reasonable inference from these facts, combined
2 with the facts that the people who are called in that
3 period are exactly the same people who are called after
4 9:00. Krista [REDACTED] is called, Neisha [REDACTED] is called,
5 Yassar Ali is called. These are not a random pattern of
6 calls, these are deliberately made calls to contact a
7 particular person. There is a repetition to the pattern
8 that repeats after 9:00, at which time Krista [REDACTED] --
9 testified as to the two calls that she got. She remembers
10 talking to the Defendant, that he told her he had talked to
11 the Baltimore County Police and that at the time he was
12 calling her he was in his car. This is at 9:03 and 9:10.
13 Neisha [REDACTED] is called at 9:01. That is a pattern of
14 facts from which you can draw an inference. You can draw
15 another inference from that as well. The Defendant was not
16 at the mosque.

17 Everyone told you that the prayer session at the
18 mosque was from 8 till 10, it was 2 hours long and it was a
19 continuous prayer. He is not at the mosque. The cell
20 phone proves he's not at the mosque. That's an inference
21 that you can draw from that circumstantial evidence, and
22 circumstantial evidence is just as valid for you to act on
23 as direct evidence of someone saying I saw him parked on
24 such and such street at such and such time. You make
25 reasonable inferences. This is not speculation, this is

1 inferences based on evidence, making reasonable
2 conclusions.

3 The Defense wants you to think that the State is
4 required to talk to every single person, to look at every
5 little thing. And what do they tell you that the State
6 overlooked? They showed you Rebecca [REDACTED] journal. Of
7 course, they got it from the State in the first place.

8 MS. GUTIERREZ: Objection.

9 THE COURT: Overruled.

10 MR. URICK: And what's the very first entry in
11 that journal? Adnan's character. She testified as to what
12 she was doing. She was a very close friend who was writing
13 a defense of her friend. That is the purpose of that
14 journal. We talked to her about it and we got it. Is that
15 evidence that we have to act on, that one of her friends is
16 trying to defend her? Is that something that was
17 overlooked?

18 The Defense then says well, there was this ATM
19 transaction on January 13th, they could have gone out and
20 talked to the manager, could have done all these other
21 things, that they overlooked all this other stuff. Now,
22 what they are doing is saying don't look at the evidence
23 they actually have, which are all the fingerprint analyses
24 that were done, all of which eliminate any suspect other
25 than the Defendant. Other than the victim's, his

1 fingerprints are the only ones found in the car. That is a
2 circumstance that you can make an inference from. The fact
3 that it's on the book, that the page from the Leakin Park
4 map was torn out is another fact that you can draw an
5 inference from.

6 You've got the hair analyses. And remember what
7 Mr. Bianca told you about his analysis. He told you not
8 that the analysis excluded the Defendant as a suspect but
9 he told you that he could not state that there was a match
10 here because there were not enough of the characteristics
11 that they look to to be able to say there's a match here.

12 MS. GUTIERREZ: Objection. That was not Bianca's
13 testimony.

14 THE COURT: Overruled. And the jury's been
15 instructed that what the attorneys say is not evidence.
16 It's their collective recollection as to what the evidence
17 is.

18 You may proceed, Mr. Urick.

19 MR. URICK: And Mr. Bianca told you that one of
20 these characteristics is pigment color of the hair and he
21 told you that the Defendant's hair pigmentation and color
22 was unique. He told you those hairs had the same unique
23 pigment coloration as the Defendant's hairs but there were
24 not enough of the total criteria to say as a conclusion
25 there was a match.

1 The Defense says that the State did a search of
2 the Defendant's house and didn't get anything that connects
3 him to the crime. Well, State's Exhibit 38 is the letter
4 that we had read in court from Hey Men Lee telling the
5 Defendant, apparently after the first break up, this is
6 over. And on the back of it was the back and forth, cold,
7 sarcastic conversation between the Defendant and Ayisha
8 [REDACTED] about whether or not Ms. Lee had had an abortion.
9 But significantly, there's another communication on here.
10 At the top of the page, identified in the Defendant's
11 handwriting, unrelated to anything else in the letter that
12 says, "I'm going to kill."

13 The Defense says the State didn't test suspects.
14 We got Don [REDACTED] work records showing that he was at
15 work till 6:00 the day of the 13th. His alibi is ironclad.

16 MS. GUTIERREZ: Objection.

17 THE COURT: Overruled.

18 MR. URICK: The Defense says that on
19 February 24th the Defendant was arrested solely because of
20 the testimony of Jay Wilds.

21 MS. GUTIERREZ: Objection. He wasn't arrested on
22 the 24th.

23 THE COURT: Overruled, counsel.

24 MR. URICK: The 28th I think it was.

25 The day he was arrested, think back to what

1 Detective McGilvery told you. They had subpoenaed the
2 Defendant's cell phone records. These records were the
3 evidence that led them to Jennifer Pusitari as they began
4 seeing where these calls -- where the phones that were
5 called were located. They got an address for this
6 residence, they went there, they found Jennifer Pusitari.
7 So they had two pieces of evidence: they had the cell
8 phone records, they had the statement from Ms. Pusitari
9 before they ever got to Jay Wilds. And all of this was
10 derived from the Defendant's cell phone records. That is a
11 circumstantial fact that you can draw a reasonable
12 inference from.

13 But we have something else. We have the business
14 records of that cell phone, and guess what these records
15 show. That the service was taken out by somebody who's not
16 a family member by the name of Mallal Akmed; that the
17 service user, his name is Adrian, A-D-R-I-A-N, Syedd,
18 S-Y-E-D-D. That's not the Defendant's name. Remember,
19 this was a stipulated fact. It's uncontested, these are
20 the Defendant's cell phone records. They're not even in
21 his name. That's a circumstantial fact that you can draw
22 any reasonable inference that you want to.

23 And when was this service taken out?
24 January 11th, two days before the murder. Well, the
25 Defense had people say well, he needed to talk to girls.

1 He went with Hey Men Lee from the spring of 1998 till
2 December of 1999 without a cell phone. He had no problems
3 in that relationship. They say well, he needed it for
4 work. He had been working for four months. And as what?
5 An emergency medical technician who's trained in how to
6 save lives. He had been able to work satisfactorily for
7 months without a cell phone. He had a pager if they needed
8 to contact him, he had a home phone.

9 But the Defense says well, the State just wants
10 you to speculate. No, there is evidence and that evidence
11 is what you should derive your conclusion from. And the
12 fact that it is circumstantial you can use just as much as
13 if it were direct. The law makes no distinction between
14 the two.

15 As to the cell phone, Mr. Abromowitz testified as
16 to the functioning of the system as a test to see -- if the
17 witness said the phone was at a particular place and we
18 have a cell phone record, can we test it somehow to see if
19 the system operates that way. He said yes. He said I can
20 go to the same spot and see what signal the phone
21 originates. And he told you it's the phone that selects
22 the cell tower because it latches onto or identifies the
23 strongest signal that it can.

24 Well, once we did that, when he went to the
25 Gateway Terrace location where [REDACTED] Vincent lives, he found

1 that there were two almost identical strength signals,
2 either one of which a cell phone could originate a call
3 through and that those were cells 608C and 605A. And lo
4 and behold, three calls in the time period that two
5 different witnesses put them at that location, both of
6 those sites originate calls out of this cell phone.

7 The Defense tells you well, they can't place you
8 specifically within any place by this. Absolutely true,
9 but look at 7:09 and 7:16, 689B, which is the Leakin Park
10 coverage area. There's a witness who says they were in
11 Leakin Park. If the cell coverage area comes back as that
12 that includes Leakin Park, that is reasonable
13 circumstantial evidence that you can use to say they were
14 in Leakin Park. You've got it two ways: through the cell
15 phone records, through the witness testimony. The two mesh
16 together. And notice again that cell phone is nowhere near
17 the mosque, which would be at the corner of Johnnycake and
18 Rolling Road, which is over here, which is right near the
19 Defendant's house, too. That cell phone is way downtown at
20 689B. That's another inference from which you can say the
21 Defendant was not at the mosque.

22 And immediately following that are the two calls
23 in the 653A and C areas that would be consistent with a car
24 on Edmondson Avenue, moving back towards Woodlawn, and
25 those are at 8:04, 8:05. That cell phone is not at the

1 mosque, the Defendant is not at the mosque. He called his
2 friend Yassar Ali at 6:59 p.m. He is not at the mosque.
3 You've got intermeshing circumstantial evidence greater
4 than any witness testimony.

5 But you've got something else in this case. The
6 Defense says that it was this anonymous tip that made the
7 police fixate on the Defendant. Well, you notice what they
8 overlook is that it's clear, if you look at that anonymous
9 tip, it didn't come out of the Woodlawn community, it came
10 out of the Muslim community because it contains information
11 that only people in the Muslim community could have known,
12 such as Yassar Ali's phone number, which is the same one
13 that's on the records and also had his name, although the
14 person who took it thought it was a V instead of a Y, so he
15 wrote down Vassar instead of Yassar.

16 And they want to say there is this anonymous tip
17 that made the police fixate on the Defendant. Well,
18 Ms. Murphy told you about certain things: opportunity,
19 motive. Why do people become suspects? Why are they
20 investigated? Because they might have a motive, they might
21 have an opportunity, they may have a means. It does not
22 take brilliant police deduction when you have a suspicious
23 death to start investigating people who were close to that
24 individual. If a female is killed, husbands and boyfriends
25 become prime initial suspects. And if you find one that

1 has possibly a motive because he's a disgruntled former
2 boyfriend, then you will look a little bit closer.

3 This was not a fixation from the police because
4 there was some anonymous tip that may have put a ring
5 through their nose --

6 MS. GUTIERREZ: Objection.

7 MR. URICK: -- and then follow. They were doing
8 what a reasonable person would do, which is all they're
9 required to do. They are investigating reasonably based on
10 motive, based on opportunity, based on means. They
11 investigated, they got the cell phone records, they caught
12 the witnesses, they get the cell phone records, Jen
13 Pusitari, Jay Wilds, they get the car of the victim. They
14 then arrest the Defendant.

15 And there's something else that tells you that
16 this was the Defendant, and Ms. Murphy touched on that.
17 It's the way the crime was committed. This was an
18 intensely personal crime. It took maybe 15 seconds.

19 Now, the Defense told you it's fantastic that Jay
20 Wilds could look in the trunk of a car for 10 seconds and
21 see taupe stockings and identify Hey Lee. No, it's not.
22 Not when you're in a very heightened, traumatic situation.
23 If you've ever stepped into the street and seen a car
24 coming for you, your life flashes before your eyes. When
25 you're in that type of situation, time seems to take

1 forever because you are intensely focused on what's
2 happening. You pick up details that you normally don't pay
3 attention to.

4 It took 15 seconds, by the way, to kill Hey Men
5 Lee. Have you ever thought about how much you can think
6 about in 15 seconds? And the person who did this had a lot
7 to think about because this was an intentional, deliberate
8 killing.

9 Thank you.

10 THE COURT: Thank you.

11 Ladies and gentlemen, at this time I'm going to
12 excuse you for lunch, but before I do so I have to do
13 something else. The alternates are going to be excused at
14 this time, and I must tell you at this time I'm doing so
15 with my great thanks and appreciation. You have served for
16 the last six weeks as jurors. You've come faithfully each
17 day, you've arrived on time and promptly, you've been
18 attentive. And we had no way of knowing whether or not we
19 would need you or not. As you know, we started out with
20 more alternates. So it was highly possible that your
21 assistance would have been needed.

22 But at this time, because when the jurors return,
23 they will begin deliberation, I must excuse you because
24 only 12 can go into the jury room and deliberate in this
25 matter. So at this time Mr. White and Ms. Connolly are

1 going to walk you to the door. What they have in their
2 hands are work slips for you and what they have are
3 verification of your jury service and a letter from me with
4 my thanks, indicating that you have served the citizens of
5 Baltimore dutifully and your required jury service is now
6 over. You have completed one trial. As they say, one
7 trial or one day, and in this case it was one trial.

8 Thank you very much. You are welcome to take
9 your notepads, your notes with you. You can tear them up,
10 you can keep them as souvenirs. You can do anything that
11 you would like with them.

12 I will tell you that the attorneys sometime like
13 to talk to those alternates that have been excused. It's
14 our absolute right to speak with them if you want or not
15 speak with them if you don't want, because at this time you
16 are free to go.

17 If you have not been paid, the jury commissioner
18 is awaiting you.

19 Now, ladies and gentlemen of the jury, I'm going
20 to advise you this time you can take your notes with you,
21 and I'd ask that you do that. This time I'm going to
22 advise you that when you go to the jury room to deliberate
23 after lunch you may discuss the testimony and you may
24 discuss your notes once all 12 of you are present. You may
25 not -- yes, you may take your notes with you, and that

1 includes the Xerox page that you have where you may written
2 your handwritten notes as there was testimony. Those are
3 your notes.

4 Now, I must ask that when you arrive in the jury
5 room --

6 Madam Forelady, when you 12 of you are present,
7 if you will press the buzzer, that will be the signal to me
8 in my chamber that you've begun deliberation. And that
9 will also be the signal for Mr. White to bring you all of
10 the evidence. That is, you cannot have all the evidence or
11 begin deliberations until all are present.

12 And so, at this time I'm going to remind you that
13 you will go to lunch. You will go and be paid first. The
14 Jury Commissioner is awaiting you for that. And then you
15 may go to lunch. Following lunch, you should report to the
16 original jury room because I have to give, give --
17 downstairs at 337. That door will be unlocked and there
18 will be a sheriff sitting outside that door that you've
19 indicated you'd like to make sure that no one else is
20 around. And so, we will make sure that that occurs and the
21 sheriff will stay there outside of the door for your needs
22 or anything that you may need to ensure that no one is
23 outside the door or in the room when you're starting your
24 deliberations.

25 And if you need us, remember, if you need to send

1 a message, write it on the notepad, press the button, and
2 we will retrieve the note. If you have a verdict, don't
3 give that to anyone. Press the button and we'll retrieve
4 you and have you brought back in the courtroom and we'll
5 take your verdict from the courtroom. And again, we'll use
6 the courtroom downstairs, which is my real courtroom.

7 At this time I must advise you that the
8 Commissioner is waiting, so go there first. And you should
9 be back from lunch no later than 2:30. If you want to
10 bring your lunch back with you, you're welcome to do that
11 and eat lunch in that room. But you should be back in that
12 jury room no later than 2:30, and I'll be looking for the
13 buzzer to ring when all 12 of you are present.

14 At this present, you may go with Ms. Connolly to
15 collect your belongings and then go along to the Jury
16 Commissioner to be paid and then to lunch.

17 (Whereupon, at 1:34 p.m., the jury was excused.)

18 THE COURT: This Court will stand in recess then
19 until we hear something from the jurors.

20 Ms. Gutierrez, Ms. Murphy, Mr. Urick, a note
21 indicating what phone number, where you can be reached and
22 return in no more than 10 minutes to the courthouse.
23 Before anything happens in terms of any verdicts, I want to
24 thank the Defense and the Prosecution for the professional
25 way you've conducted yourselves in my courtroom. I greatly

1 appreciate the professionalism but, more importantly, your
2 punctuality and time and attention. So regardless of the
3 verdict, I want you to know that I appreciate it and I look
4 forward to having you all back in my courtroom on another
5 occasion.

6 This Court will stand in recess then.

7 (Whereupon, at 1:35 p.m., the trial was recessed
8 and subsequently reconvened at 4:25 p.m.)

9 THE COURT: Counsel, I received notification that
10 the jury has a verdict and, unfortunately, we were advised
11 that there was no courtroom clerk, stenographer available
12 in my courtroom, so we're back here. And with the number
13 of spectators, probably a good thing in light of the fact
14 that I have such a small courtroom.

15 All the jurors have been moved up to this jury
16 room and my law clerk will have them out in a moment.

17 (Pause)

18 (Whereupon, at 4:27, the jury returned to the
19 courtroom.)

20 THE COURT: Ladies and gentlemen, you may be
21 seated.

22 Mr. White, will you proceed?

23 THE CLERK: Members of the jury, have you agreed
24 upon a verdict?

25 THE JURY: Yes.

1 THE CLERK: Who shall say for you?
2 THE JURY: Juror 1.
3 THE CLERK: Madam Foreperson, please stand.
4 Madam Foreperson, as to the case of State of
5 Maryland versus Adnan Syed, Cases No. 199103042, 43, 46, as
6 to Case No. 199103042, question 1 as to Count 1, charge of
7 first degree murder of Hey Men Lee, how do you find the
8 Defendant Adnan Syed, not guilty or guilty?
9 THE FOREPERSON: Guilty.
10 THE CLERK: Case No. 199103043, question 3 as to
11 Count 1, charge of kidnapping by fraudulently carrying
12 Hey Men Lee within the State, how do you find the Defendant
13 Adnan Syed, not guilty or guilty?
14 THE FOREPERSON: Guilty.
15 THE CLERK: As to Case No. 199103045, question
16 no. 4 as to Count 1, charge of robbery of Hey Men Lee, how
17 do you find the Defendant Adnan Syed, not guilty or guilty?
18 THE FOREPERSON: Guilty.
19 THE CLERK: Case No. 199103046, question no. 5,
20 as to the charge of false imprisonment by deception of
21 Hey Men Lee, how do you find the Defendant Adnan Syed, not
22 guilty or guilty?
23 THE FOREPERSON: Guilty.
24 THE CLERK: Is there a request to poll the jury?
25 MS. GUTIERREZ: Yes.

1 THE CLERK: Madam Foreperson, have a seat.
2 Juror No. 2, you heard the verdict, is your
3 verdict the same?
4 JUROR NO. 2: Yes.
5 THE CLERK: Juror No. 3, is your verdict the
6 same?
7 JUROR NO. 3: Yes.
8 THE CLERK: Juror No. 4, is your verdict the
9 same?
10 JUROR NO. 4: Yes.
11 THE CLERK: Juror No. 5, is your verdict the
12 same?
13 JUROR NO. 5: Yes.
14 THE CLERK: Juror No. 6, is your verdict the
15 same?
16 JUROR NO. 6: Yes.
17 THE CLERK: Juror No. 7, is your verdict the
18 same?
19 JUROR NO. 7: Yes.
20 THE CLERK: Juror No. 8, is your verdict the
21 same?
22 JUROR NO. 8: Yes.
23 THE CLERK: Juror No. 9, is your verdict the
24 same?
25 JUROR NO. 9: (No audible response)

1 THE CLERK: Juror No. 10, is your verdict the
2 same?

3 JUROR NO. 10: Yes.

4 THE CLERK: Juror No. 11, is your verdict the
5 same?

6 JUROR NO. 11: Yes.

7 THE CLERK: Juror No. 12, is your verdict the
8 same?

9 JUROR NO. 12: Yes.

10 THE CLERK: Members of the jury, hearken to the
11 verdict as the Court has recorded it. As to Case No.
12 199103042, as to Count 1, charge of first degree murder,
13 you find the Defendant guilty; as to Case No. 199103043, as
14 to Count 1, charge of kidnapping, you find the Defendant
15 guilty; as to Case No. 199103045, Count 1, charge of
16 robbery, you find the Defendant guilty; as to Case
17 No. 199103046, false imprisonment, you find the Defendant
18 guilty, and so say you all? If so, please say I do.

19 THE JURY: I do.

20 THE COURT: Ladies and gentlemen, I want to thank
21 you for your time. If you'll just remain seated for one
22 moment, I do want to address you in just a moment.

23 Counsel, there having been a guilty finding as to
24 the counts that were sent to the jury, at this time is
25 there a request by the Defense with regard to any

1 presentence investigation that you require and a date that
2 this case or this matter should be set for sentencing?

3 MS. GUTIERREZ: Judge, I don't believe that
4 there's a need for a PSI. We won't -- if the Court wants
5 one. We would like a date certain in about 30 days for
6 sentencing.

7 THE COURT: I have several dates available.
8 Today being the 25th, April 5th would give you just over 30
9 days.

10 MS. GUTIERREZ: I think that's fine.

11 THE COURT: Is that agreeable to the State?

12 MR. URICK: That will be fine. Thank you,
13 Your Honor.

14 THE COURT: All right. This case will be set in
15 for sentencing on April 5th.

16 Anything further? Obviously, your client's been
17 detained and will remain so.

18 At this time I thank you all for your diligence
19 and time. This case will be set in then for April 5th,
20 sentencing at 9:30 a.m. That'll be in Part 9 and that will
21 be downstairs in my courtroom.

22 Ladies and gentlemen of the jury, I'd ask that
23 you remain seated while we clear the courtroom. I
24 understand there are some individuals that will be walking
25 out. We'd like them to leave first. If you will stay

1 where you are and remain seated.

2 This Court will stand in recess then.

3 (Whereupon, at 4:32 p.m., the trial was
4 concluded.)

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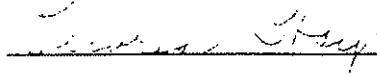
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TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the matter of the State of Maryland v. Adnan Syed, Case Numbers 199103042,43,45,46, heard on February 25, 2000, were recorded by means of videotape.

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

In witness whereof, I have hereunto subscribed my name this 24 day of December 2000.



Delores Hay, Official Court Reporter

