

Defendant's motion in limine to instruct jurors not to read any newspapers for the duration of the trial (denied)

Defendant's motion in limine to restrict the testimony of Hope Schab

STATE'S WITNESSES

YOUNG LEE

Direct Examination by Ms. Murphy

Cross-Examination by Ms. Gutierrez

GRANT GRAHAM

Direct Examination by Mr. Urick

Cross-Examination by Ms. Gutierrez

Redirect Examination by Mr. Urick

Recross-Examination by Ms. Gutierrez

HOPE SCHAB

Direct Examination by Mr. Urick

Cross-Examination by Ms. Gutierrez

WILLIAM C. RODRIGUEZ, III

Direct Examination by Mr. Urick

Cross-Examination by Ms. Gutierrez

NISHA [REDACTED]

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IDENTIFIED IN EVIDENCE

31	18
1	31
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P R O C E E D I N G S

(10:18 a.m.)

(The jury was not present upon reconvening.)

THE COURT: Please be seated.

MS. GUTIERREZ: Good morning, Your Honor.

THE COURT: Good morning everyone.

MS. GUTIERREZ: I apologize for this morning, but I didn't know what I could do about it.

THE COURT: No, Ms. Gutierrez, between you and I, I have no heat, you have no water. I think we're probably in good stead, so I do understand. No apology.

MS. GUTIERREZ: You miss water when you don't have it.

THE COURT: I'll swap with you, okay?

MS. GUTIERREZ: Gladly.

THE COURT: I have the water and no heat, and I -- this morning said, if only I had heat and no water, I could deal. So, in any event, I appreciate that you're able to make it here today. Please let your staff know at your office, if you want to leave this office phone number --

MS. GUTIERREZ: I did.

THE COURT: -- information.

And that's true for you, Mr. Urick, or, you, Ms. Murphy, at any time during the course of the trial,

1 if you need a return phone call or a message, I have
2 absolutely no problem with you using this number, since
3 this is where you are most of the time. So I have no
4 problem with that whatsoever.

5 Before I bring the jury out, again I just want
6 to reiterate scheduling. Expect to take a break for
7 lunch at 12:30, come back at 1:30, finish the day at 4:30
8 today. I also will advise them if in the event that
9 there is a snowstorm, and for some reason we are not
10 working, that they should listen to the radio station.
11 Other than that, are there any other preliminary matters.

12 MS. GUTIERREZ: Yes, Judge, I would ask that
13 the Court instruct the jury not to read the papers. I
14 didn't bring the front section, but in the front section
15 of today's Sunpapers are two articles and a little blurb
16 of the events going on in Pakistan. And the lead
17 editorial on the editorial page is regarding the events
18 going on in Pakistan.

19 That has been an ongoing thing. I would expect
20 it to continue. There is -- are some events that are
21 going on right now that may or may not result in some
22 other activity, so I would expect it to continue to be
23 front page news.

24 Lots of people may not read the foreign news,
25 but the editorials themselves are generally read, and

there's Pakistan in the headline. I think it's very prejudicial. And I certainly don't want the Court to draw attention to the Pakistani related articles, but I guess I would ask that the Court instruct the jurors not to read the papers.

THE COURT: Not to read a newspaper at all?

MS. GUTIERREZ: Right, during the pendency of this trial.

THE COURT: All right.

Mr. Urick, your position about the instruction that they should not read the paper for the rest of the trial?

MR. URICK: I am not aware of that ever having been done. The usual admonition is don't read anything that has to do with this case.

THE COURT: Well, --

MR. URICK: I think that at any given moment there are now approximately 50 wars going on around the world, so every potential source of background is in the news constantly. I don't think that there's anything unusual about the situation in Pakistan that would warrant any additional instruction from this Court.

THE COURT: All right. I think that, in keeping with your request, Ms. Gutierrez, I think I'd probably have to extend it to Newsweek and Time since

1 they are a weekly publication and they usually follow
2 whatever's in the headlines, and so is your request to
3 include those as well?

4 MS. GUTIERREZ: Yes, Judge.

5 THE COURT: How long do you expect the case to
6 go, just generally? Another three or four days? Five
7 days? A week? I mean I'm trying to get a sense of how
8 long, if I were to grant this request, how long they
9 would --

10 MS. GUTIERREZ: I'd say a week and a half of
11 trial days.

12 THE COURT: At this juncture, I'm not inclined
13 to grant a request. However, what I would like to do is,
14 if in the event there is a headline relative to any
15 Pakistani involvement, I'll entertain your motion at that
16 time.

17 Because at this point, I think only to make an
18 instruction that they shouldn't read the newspaper at
19 all, the curious would want to read it just to see what
20 is was that we're trying to keep them from not seeing.

21 Curiosity, I think is something that I think
22 human nature would dictate, wonder what's in there. And
23 frankly, since the Court has not read the newspaper, and
24 I don't normally read the newspaper, this happens to be
25 the way I am, I'm now curious to know what it was that

1 you saw in the newspaper.

2 So I'm using myself as a guide, and I don't
3 know what's going on in Pakistan myself because I haven't
4 read the newspaper.

5 MS. GUTIERREZ: There was a coup in Pakistan
6 about two months ago that sort of is related to the
7 hijacking of an Indian airline and concerns about
8 Pakistan's control over certain nuclear weapons.

9 THE COURT: That's not on the headlines today?

10 MS. GUTIERREZ: No, it was not on the front
11 page.

12 THE COURT: It was in the foreign section?

13 MS. GUTIERREZ: Inside, the blurb was in that
14 part, there's a foreign news section, there's a blurb,
15 and then the editorial was on the Pakistani situation.

16 THE COURT: And that is in the Sunpaper you're
17 referring to?

18 MS. GUTIERREZ: Yes.

19 THE COURT: Okay. Very well. What I would
20 suggest to do, I'd ask counsel to keep me advised if
21 something of that nature moves from the back page -- what
22 I'm going to call the back page or inside page to the
23 headlines; that it appears to be a major story. I do
24 watch television, so -- and I haven't seen anything
25 really.

1 MS. GUTIERREZ: There's really been nothing on
2 television except for a handful of things in world news
3 wrap-up that I've seen over the last two months. But it
4 has been in the papers everyday.

5 THE COURT: Well, I would be willing to
6 reconsider your request --

7 MS. GUTIERREZ: Okay.

8 THE COURT: -- in the event that it moves to
9 the front headlines. And then at that point, I'd need to
10 assess exactly what it is that's being reported. And I
11 would like your view on how you believe it effects or
12 impacts specifically your client and the trial.

13 But we have interviewed and voir dired this
14 panel at length on the issue of any problems they may
15 have as a result of his -- I think we did Middle Eastern,
16 Asian, and Pakistani background -- oh, as well as Muslim.

17 And I don't believe that we would have a panel
18 member now that would be influenced by that based on
19 their responses or lack of response to those questions.
20 So I'm fairly comfortable that the jurors will follow my
21 direction as I have asked them not to read anything about
22 this case.

23 And so, that at this point is my primary
24 concern. I would say to you, though, however, I
25 understand your concern. If this were a different

1 scenario where we were dropping bombs, then perhaps that
2 might be another issue. But at this junction, in light
3 of the fact that that's not the case, I'm not inclined to
4 grant your motion at this time, but I will entertain it
5 at a later time if events change.

6 Also, with regard to your request of yesterday,
7 I've reevaluated and reconsidered, and as of today, and I
8 plan to do this each day, in an abundance of caution and
9 to give your consideration full weight, I am not
10 inclined, based on what I've heard so far in this case,
11 to grant your motion for a field trip, so to speak, to
12 Leakin Park.

13 So far I have not heard anything relative to
14 the facts or circumstances of this case that would
15 dictate it. Of course each day I'll get more facts and
16 circumstances, and I may change my mind. But at this
17 juncture, so that you, if you're making plans for a bus,
18 I'm not going to grant it.

19 And I'd also note that I understand it's
20 supposed to snow again, so as I see from a safety issue a
21 field trip to Leakin Park might cause us more physical
22 safety issues that would, in my mind, outweigh us trying
23 to view something firsthand as opposed to through video
24 or any other photographic technique that might be
25 utilized to provide the same type of information for the

1 jury.

2 So at this juncture, I'm not inclined, and
3 again I will -- I do not take lightly any of your
4 requests, and so for that reason each day I will let you
5 know if I see something or hear something that would
6 warrant a change of my mind.

7 And if something does happen during the course
8 of the trial that you believe I should know about, and
9 you could say, "See Judge, this is what I'm talking
10 about, this is why I think we need to go to the scene,"
11 I'd ask that you raise that to the Court at that time.

12 MS. GUTIERREZ: Thank you, Your Honor.

13 THE COURT: Any other preliminary issues?

14 MS. MURPHY: Yes, Your Honor, I'm seeking
15 guidance from the Court regarding Monday morning's
16 schedule. I have a three co-defendant sentencing.
17 There's also been a defense motion for new trial on
18 behalf of one of those defendants.

19 And since the case did go to trial I'm probably
20 the person that needs to be there, although I could
21 arrange for coverage in a limited fashion if need be.

22 THE COURT: What judge is that?

23 MS. MURPHY: Judge Johnson.

24 THE COURT: All right. I'm gonna -- my Clerk,
25 I think she probably read my mind, is going to look at my

1 docket --

2 MS. MURPHY: Okay.

3 THE COURT: -- so that I can get a sense of --
4 I can tell you very easily, if you call WBAL TV and we're
5 closed --

6 MR. URICK: I can tell the Court there's
7 approximately eight or nine drug cases set in here for
8 Monday morning. They're all my cases. I was gonna ask
9 if the Court was gonna transfer them to another Court or
10 deal with them here. If they're dealt with here, I can
11 deal with them. If they're sent somewhere else, I'll
12 have to get someone else to cover.

13 THE COURT: How did I get eight drug --

14 MR. URICK: Part 23 somehow got a schedule for
15 a collateral docket. It already had a preset trial
16 docket, so they just moved it into an available Court.

17 THE COURT: Okay. And I was considered
18 available.

19 Okay. Then, to answer your question, you
20 should go to whatever you need to go to because
21 obviously, I won't be ready to start this until lunch-
22 time, if I'm lucky.

23 MR. URICK: Shall we tell witnesses only to
24 come in for the afternoon, then?

25 THE COURT: Why don't we wait and see if my

1 Clerk or my staff has any luck in moving it. I don't
2 think you're going to, because we have another Court down
3 due to illness, another criminal Court.

4 So, and you know what, don't even try. No,
5 because if we have one Court down due to illness -- is
6 that Part 23?

7 THE CLERK: Judge Strausberg.

8 THE COURT: Strausberg.

9 MR. URICK: Part 8.

10 THE COURT: He's Part 8?

11 THE CLERK: He's Part 8, Judge.

12 THE COURT: Who's 23?

13 MR. URICK: Judge Carrion.

14 THE CLERK: Judge Carrion.

15 THE COURT: Okay. After lunch.

16 MS. GUTIERREZ: Okay.

17 THE COURT: After lunch on Monday. I mean,
18 does it -- it doesn't make sense to even try, with eight
19 drug cases. There's no way I can get to this before
20 lunch.

21 MS. MURPHY: I'm sorry. Would the Court be
22 willing to contact Judge Johnson and just ask him to try
23 to do that as early as possible?

24 THE COURT: Yes.

25 MS. MURPHY: It's his collateral docket.

1 THE COURT: Yes.

2 MS. MURPHY: And all three of these defendants
3 also have violations of probation.

4 THE COURT: Yes, I will do that.

5 MS. MURPHY: Thank you.

6 THE COURT: And in light of the fact that Judge
7 Johnson volunteered to take my docket for me during the
8 course of this trial, and on a number of occasions he's
9 offered, so in the event that he'll be aware of the
10 situation.

11 MS. MURPHY: Thank you.

12 THE COURT: I'll make sure that a call is
13 placed to Judge Johnson.

14 Anything else?

15 (No response.)

16 THE COURT: All right, ladies and gentlemen, if
17 I could ask the Sheriff to go around and bring my Clerk
18 -- my court -- my jurors, I'm sorry.

19 THE CLERK: Where is that?

20 THE COURT: If you go down, out the door, make
21 a right, and make another right, there's a door that says
22 "Judge Heard's Jury Room."

23 THE SHERIFF: Okay.

24 (Pause.)

25 MS. MURPHY: This morning may I distribute to

1 the jurors their copies of the compilation exhibit?

2 THE COURT: Yes, and would you do that after
3 the witness has taken the stand and identified the
4 document?

5 MS. MURPHY: Sure.

6 THE COURT: And then just pass them around so
7 they know what it is that they're getting.

8 MS. MURPHY: May I identify the document? The
9 witness himself -- because this is a compilation of --
10 it's a compilation of the cell phone records which have
11 been stipulated to --

12 THE COURT: All right.

13 MS. MURPHY: -- the first witness won't be able
14 to identify the exhibit in its whole. He's gonna
15 identify a portion of it, which -- then I would -- I
16 would be seeking to mark the exhibit, the blow-up of it
17 for the jurors' benefit.

18 THE COURT: All right.

19 MS. MURPHY: But he won't be able to --

20 THE COURT: Any objections? Okay. Then what
21 we'll do is we'll have it, but I'd like them to get
22 settled --

23 MS. MURPHY: Sure.

24 THE COURT: -- and then I'll say, Ms. Murphy's
25 gonna distribute something that will aid her with this

1 next witness, you'll tell them what it is.

2 MS. MURPHY: Okay.

3 THE COURT: Counsel, the jury's coming in.

4 (Pause.)

5 (The jury returned to the courtroom.)

6 THE COURT: As you're coming in, anyone that
7 was not able to be paid this morning, can you raise your
8 hand? Okay, good. Then it would just be for Monday, Ms.
9 Connelly.

10 Please be seated. Good morning, and welcome
11 back to part 9. We're gonna continue with this trial for
12 today.

13 Now, let me give you some scheduling
14 information. I've been informed that on Monday I have 14
15 cases on my morning docket. And if you can imagine, when
16 I normally have no more than five or six, it's gonna take
17 me quite a while to get to this case.

18 I'm checking with the Jury Commissioner right
19 now, so I'm gonna advise you that you will not be
20 required to here at the court until 1:30. I'm trying to
21 make arrangements so that you can get paid around 1:00 so
22 that you can, instead of reporting at 9:00 and getting
23 paid and then sitting around all day, that you can do
24 whatever you need to do in the morning hours, then
25 report, be paid at 1:00 or so, and then report to my jury

1 room at 1:30.

2 The reason being is clearly, with 14 cases, I
3 could have you sit in that room, but it would not make
4 much sense to do that. You are not being released from
5 jury duty, so if your employer wants to know why you may
6 pop your head in, it's just because of scheduling.

7 We have a Court that's down, a sick judge, and
8 we are then accommodating by the rest of us doing our own
9 dockets as well as sharing in the load. So, at some
10 point later on this morning, I'll let you know exactly
11 what time the Jury Commissioner will be looking for you
12 on Monday so that you can be paid rather than having you
13 arrive early in the morning.

14 The next thing is just to remind you that, in
15 the event that we do have a severe weather condition and
16 the courts are closed, you would find that information
17 out by listening to WBAL, Channel 11, on television.
18 They would announce that the courts are closed.

19 And in the alternative, if you don't look at
20 television or use that particular media, if you dial
21 410396-3100, that's the city operator, the Baltimore City
22 Operator. They would be able to tell you whether the
23 courthouse is open or closed.

24 And if, again if the court house is closed then
25 you would be excused. And on Tuesday I would then see

1 you following the same procedure, 9:00 a.m. to Jury
2 Commissioner, 9:30 in the jury room.

3 All right. We're going to proceed with this
4 case this morning.

5 Counsel, I understand your first witness -- oh,
6 very well. I'm told the Jury Commissioner's office said
7 12:30 to 1:30 on Monday -- 12:30 to 1:30 on Monday. You
8 can arrive there and be paid, and then because I'm asking
9 you to be in my jury room by 1:30, obviously, I'd ask you
10 to make sure you get over there in time. They'll be
11 expecting the 17 of you to arrive somewhere between 12:30
12 and 1:30.

13 All right. Ms. Murphy, I understand you have a
14 witness this morning?

15 MS. MURPHY: Yes, Your Honor. At this time the
16 State calls Young Lee.

17 THE COURT: Okay. If we can have Young Lee
18 come in? Thank you.

19 (Pause.)

20 THE COURT: If you would approach the witness
21 stand, raise your right hand, remain standing, while the
22 Clerk gives you the oath.

23 Whereupon,

24 YOUNG LEE,

25 a witness produced on call of the State, having first

1 been duly sworn, was examined and testified as follows:

2 THE CLERK: You may be seated. Please keep
3 your voice up, state your name and address for the
4 record?

5 THE WITNESS: My name is Young Lee, and my
6 address is [REDACTED] Baltimore, Maryland
7 21207.

8 THE COURT: All right.

9 DIRECT EXAMINATION

10 BY MR. MURPHY:

11 Q. Mr. Lee, good morning.

12 A. Good morning.

13 MS. MURPHY: Your Honor, at this time the State
14 would offer into evidence State's Exhibit 31. This is a
15 certified copy of the business record of AT&T Wireless
16 showing the defendant's cell phone records for January
17 11th through 13th. We're entering this by way of
18 stipulation.

19 THE COURT: All right. And that number again
20 is?

21 MS. MURPHY: 31, Your Honor.

22 THE COURT: Exhibit 31.

23 Any objections?

24 MS. GUTIERREZ: No, Your Honor.

25 THE COURT: Let it be admitted under

1 stipulation.

2 (State's Exhibit No. 31,
3 having previously been
4 marked for identifi-
5 cation, was received in
6 evidence.)

7 THE COURT: And ladies and gentlemen, during
8 the preliminary remarks I indicated to you that on
9 occasion there would be bits of evidence that would come
10 in through a stipulation. What that means is that both
11 counsel agree that this item should be admitted into
12 evidence, so that the normal rules of identifying,
13 authenticating an item or moving it into evidence in any
14 other fashion do not apply.

15 Both counsel have agreed that it may be
16 admitted for your consideration and so Exhibit Number 31
17 is admitted in that fashion. We call it a stipulation.
18 I also understand that Ms. Murphy has some documents that
19 she would like to identify.

20 Could you do that, please?

21 MS. MURPHY: Thank you, Your Honor.

22 At this time, I would like to disseminate to
23 the jurors copies of those cell phone records for their
24 use in taking notes as witnesses testify and identify
25 portions of those records.

1 THE COURT: All right. Very well.

2 MS. GUTIERREZ: May we approach the bench?

3 THE COURT: I think I know what you're going to
4 say.

5 Ms. Murphy, you may pass them out for them to
6 use and follow. They may not take any notes on them.
7 They may not write on them in any way, and when that
8 witness is through, they will have to return those
9 exhibits to you.

10 Does that address your concerns?

11 MS. GUTIERREZ: That's part of it, but I had
12 another issue.

13 THE COURT: All right. Then you can come up.

14 (Counsel and the defendant approached the
15 bench, and the following ensued.)

16 MS. GUTIERREZ: Judge, my objection is based on
17 Ms. Murphy has identified those as the cell phone
18 records. They are not. They are not copies of the cell
19 phone records.

20 They contain information from the cell phone
21 records, but they have four other columns of information,
22 and several other columns that are not from the cell
23 phone records. They are from other records, so I think
24 it's a misidentification.

25 I don't want to create a situation where Ms.

1 Murphy gets up again and re-explains it, but --

2 THE COURT: Okay. I will clarify what it is
3 that she's using. Counsel, the concern is that there's
4 nothing wrong with you using a demonstrative aid, which
5 is, in a sense, a blow-up or copy of what you're putting
6 on the easel.

7 It's really so they can see better what it is
8 that you're doing. However, you keep -- it's not in
9 evidence, so you can't -- you can't identify what it is
10 as such. You can't say that this contains something
11 because in your description it is then, in a sense,
12 putting it in the minds of the jurors that it is, in
13 fact, what you purport it to be.

14 And you won't know that, and they won't know
15 that, until after all of your witnesses have testified
16 and identified the contents of the aid. Do you
17 understand my meaning?

18 MS. MURPHY: I do, Your Honor. This was
19 something we had addressed in our earlier correspondence,
20 and I thought this was cleared before we had begun
21 testimony. This entire second column cannot be provided
22 by a single witness.

23 THE COURT: I understand that.

24 MS. MURPHY: So, --

25 THE COURT: There's nothing wrong with you

1 having a witness identify those parts of the document
2 that they can identify. But until it's completely filled
3 in, so to speak, you cannot call it anything other than -
4 -

5 MS. MURPHY: I understand that --

6 THE COURT: -- the exhibit number.

7 MS. MURPHY: -- and I apologize, although this
8 does incorporate in most of the cell phone record, and
9 witnesses will be identifying the two columns that are
10 not included.

11 THE COURT: That's fine.

12 MS. MURPHY: But my point is that what we hope
13 to do is allow the jurors to retain this and note from
14 the testimony the portions that are not provided because,
15 ultimately, when we offer this exhibit, it's going to be
16 a compilation of many witnesses' testimony.

17 THE COURT: I understand that, but I cannot
18 allow the jurors to keep this document because it's not
19 in evidence. Now, if you want to collect them, have them
20 put their juror numbers on it, and when the next witness
21 comes up I'll give them back the same sheet they had.

22 MS. MURPHY: Your Honor, I --

23 THE COURT: Do you follow me? Whatever notes
24 they put on are not an accurate depiction of what you're
25 putting on the chart, --

1 MS. MURPHY: Right.

2 THE COURT: -- and should not replace the
3 exhibit itself when and if it comes into evidence at some
4 time.

5 MS. MURPHY: That's --

6 THE COURT: So I can put their number on it --

7 MS. MURPHY: Okay. And they can make
8 notations.

9 THE COURT: Right. That would be the same
10 practice as if you had a trial book for each of them --

11 MS. MURPHY: Right.

12 THE COURT: -- and they would be given back
13 their own trial book.

14 MS. MURPHY: That's fine; that's fine.

15 THE COURT: But I can put their numbers on it,
16 but they -- I can't allow it to stay with them.

17 MS. MURPHY: That's fine. I don't have any
18 problem with that.

19 THE COURT: Okay?

20 MS. MURPHY: And we do intend, as witnesses
21 testify, to fill in on our blow-up --

22 THE COURT: We'll let them -- they -- I will
23 then modify my ruling. They can mark on their identified
24 copy --

25 MS. MURPHY: Okay.

1 THE COURT: -- but they will have to give it
2 back when the witness finishes testifying.

3 MS. MURPHY: Okay.

4 THE COURT: And they will not be permitted to
5 take it into the --

6 MS. MURPHY: That's fine. I don't have any
7 problem with that, Your Honor.

8 THE COURT: Any problem with that?

9 MS. GUTIERREZ: No.

10 MR. URICK: No.

11 THE COURT: And again, the purpose of doing
12 that is so that the item that actually comes into
13 evidence is the exhibit itself.

14 MS. MURPHY: Okay.

15 THE COURT: And not something else.

16 MS. MURPHY: That's not a problem.

17 THE COURT: All right?

18 Very well. Thank you.

19 MS. MURPHY: And does the Court then have a
20 problem with me marking on the exhibit as the witnesses
21 testify?

22 THE COURT: Well, the witness is not marking on
23 it, that's fine. Doesn't matter to me.

24 MS. MURPHY: Okay.

25 THE COURT: As long as the information

1 contained is coming from the witness and not from you.

2 MS. MURPHY: Right.

3 MS. GUTIERREZ: Thank you.

4 (Counsel and the defendant returned to the
5 trial tables, and the following ensued.)

6 THE COURT: Ladies and gentlemen, as Ms. Murphy
7 gets set up, and a counsel return to their places, let me
8 explain the procedure we're gonna follow.

9 Ms. Murphy has in her hands a copy of what is
10 going to be placed on the easel. It's for your ready
11 reference to follow along with the witness's testimony.
12 I'd ask that when you receive this copy that you put your
13 juror number on it somewhere in plain view.

14 If you're Juror Number 1, maybe in the upper
15 right hand corner put Juror 1. If you are Alternate 1,
16 put Alt. 1, or write out Alternate 1. If any other
17 witness testifies and uses this exhibit that's on the
18 easel, we will return your sheet to you so you can make
19 little notes on it.

20 However, your little sheet is not the evidence.
21 The evidence is what may be evidence on the easel. Right
22 now it's just a demonstrative aid, it hasn't been moved
23 into evidence. It's just been identified. But this copy
24 is being given to you so that you can see it a little
25 easier than looking as far as the easel, far away at the

1 easel.

2 In order to return it to you at a later time,
3 we need your juror number in the upper right-hand corner.
4 And I would note that the item that you have will be
5 referred to as Exhibit Number --

6 MS. MURPHY: 34, Your Honor.

7 THE COURT: -- 34 for identification purposes
8 at this time only. Exhibit number 34.

9 All right. Now, we may proceed.

10 MS. MURPHY: Thank you, Your Honor.

11 BY MS. MURPHY:

12 Q. Mr. Lee, good morning again.

13 A. Good morning.

14 Q. I'll ask you to keep your voice up nice and
15 loud so the jury can hear you.

16 A. Okay.

17 Q. How old are you?

18 A. I'm 17.

19 Q. And where do you attend school?

20 A. At Millford Mill Academy.

21 Q. Do you know the victim, Hae Min Lee?

22 A. Yes.

23 Q. How do you know her?

24 A. She's my sister.

25 Q. And did you live with Hae Min Lee until January

1 of 1999?

2 A. Yes, I did.

3 Q. And in January of 1999, you were how old?

4 A. In 1999 I would be 16.

5 Q. And how old was your sister, Hae Min Lee?

6 A. 18.

7 Q. Who else lived with you at that point in time?

8 A. My grandparents, my two cousins.

9 Q. I'm gonna ask you to remember back to January
10 13th of 1999. Do you remember that day?

11 A. Yes.

12 Q. Why don't you tell us what happened that day,
13 beginning with the time you got home from school?

14 A. After I got home from school, later I got a
15 call from my cousin's school asking us to pick her up
16 from the school. This was unusual because my sister was
17 supposed to pick her up every day from my cousin's
18 school.

19 Q. How old is your cousin?

20 A. I believe she was six.

21 Q. So she's quite young?

22 A. Yes.

23 Q. What time would your sister have normally
24 picked her up?

25 A. Around three o'clock, or 3:15.

1 Q. What, if anything, did you do?

2 A. I called my grandfather so that he can go to
3 the school and pick her up, and the time passed. My mom
4 met -- my grandmother called my mom that she was worried
5 about her, and my mom told me to call her at work place
6 to see if she was there?

7 Q. Where was your sister working?

8 A. She was working at LensCrafters in Owings
9 Mills.

10 Q. And was she at LensCrafters?

11 A. She wasn't.

12 Q. Okay. Did there come a time when you or your
13 family notified the police?

14 A. Yes, our mom got real worried and asked me to
15 call the police.

16 Q. Do you know about what time that was?

17 A. Around 6:00, I believe.

18 Q. What, if anything, did you personally do?

19 A. First I called the police, then I looked around
20 the house to look for her friends' phone numbers and
21 such.

22 Q. Where did you find numbers? Where did you
23 look?

24 A. First I looked in her room, then I found her
25 diary where I got the -- where I found the phone numbers.

1 Q. Okay. Did you make any calls based on the
2 numbers you found?

3 A. No.

4 Q. Did you end up calling any of your sister's
5 friends?

6 A. Yes, I did.

7 Q. Who did you call?

8 A. First I called Aisha, then I called Adnan.

9 Q. Okay. How did you get Adnan's phone number?

10 A. It was in the diary.

11 Q. What happened when you called him?

12 A. When I rang up the phone number it says, at the
13 top, there was a phone number, at the bottom it says Don
14 written over the sheet. So when I called the number I
15 said I was calling Don, but after talking for a while I
16 realized that it was Adnan.

17 Q. How did you realize it was Adnan?

18 A. I recognized his voice.

19 Q. What was your conversation about?

20 A. It was about my sister, if he knew where she
21 was, or where she could be.

22 Q. And did he say whether he knew where she was?

23 A. No.

24 Q. How long do you think that conversation lasted?

25 A. Two or three minutes.

1 Q. Did you know who Adnan was prior to that day?
2 A. Yes.
3 Q. Had you ever met him?
4 A. Yes.
5 Q. When did you meet him?
6 A. I first met him at my mom's store, then I met
7 him at the mall.
8 Q. Were you aware that your sister had dated him?
9 A. Yes.
10 Q. Had you ever spoken with him before that day?
11 A. Yes, I did.
12 Q. Had Adnan ever called your house prior to
13 January of 1999?
14 A. Yes, he did.
15 Q. Aside from you, are any other members of your
16 household fluent in English?
17 A. No.
18 Q. Is it fair to say that you would normally
19 answer the phone?
20 A. Uh-huh.
21 Q. To your knowledge, did Adnan ever call your
22 house after that day?
23 A. No.
24 Q. Now, the person you've been describing, Adnan,
25 is he present here today?

1 A. Yes.

2 Q. Could you identify him for the jury, please?

3 A. He's sitting right over in front of me.

4 THE COURT: Indicating the defendant for the

5 record.

6 MS. MURPHY: Thank you, Your Honor. May I

7 approach the witness?

8 THE COURT: Yes, you may.

9 BY MS. MURPHY:

10 Q. Mr. Lee, I'm showing you what's been marked for

11 identification as State's Exhibit 1. Do you recognize

12 this photograph?

13 A. Yes.

14 Q. What does it show?

15 A. It's a picture of my sister at her junior prom.

16 Q. Do you know when this picture was taken?

17 A. At the junior prom in her junior year, I don't

18 know for sure.

19 Q. And is it fair to say her junior year would be

20 1998?

21 A. Yes.

22 Q. Is that a fair and accurate depiction of your

23 sister?

24 A. Yes, it is.

25 MS. MURPHY: Your Honor, at this time, I'd

1 offer State's Exhibit 1.

2 THE COURT: Any objection?

3 MS. GUTIERREZ: No, Your Honor.

4 THE COURT: Let it be admitted as State's 1.

5 (State's Exhibit No. 1,

6 having previously been

7 marked for identifica-

8 tion, was received in

9 evidence.)

10 BY MS. MURPHY:

11 Q. Mr. Lee, I'll also show you what's been marked

12 as State's Exhibit 2. Take a look at this item and see

13 if you recognize it?

14 A. It's my sister's diary.

15 Q. Have you ever seen this before?

16 A. Yes.

17 Q. Where did you see it?

18 A. In her room.

19 Q. Okay. Now, open the pages. Do you recognize

20 the handwriting in this book?

21 A. Uh-huh.

22 Q. Who's is it?

23 A. My sister's.

24 Q. Okay. Had you actually read this item before

25 today?

1 A. Yes, I did.

2 Q. Okay. Thank you.

3 MS. MURPHY: Your Honor, at this time I'd offer
4 State's Exhibit 2.

5 THE COURT: Any objections?

6 MS. GUTIERREZ: No, Your Honor.

7 THE COURT: All right. Let it be admitted.

8 (State's Exhibit No. 2,
9 having previously been
10 marked for identifica-
11 tion, was received in
12 evidence.)

13 BY MS. MURPHY:

14 Q. In fact, Mr. Lee, did there come a time when
15 your sister found out that you read her diary?

16 A. Yes.

17 Q. She wasn't very happy about that, was she?

18 A. No.

19 Q. Mr. Lee, I'd ask you to look at a particular
20 page that I've marked. Is this the page you've described
21 to the jury?

22 A. Yes, it is.

23 Q. All right. And what does it depict?

24 A. It has the phone number and the name Don
25 written over the paper.

1 Q. Okay. Can you read the phone number out loud,
2 please?

3 A. There is two area codes, there's 410, and
4 there's 443 253- [REDACTED]

5 Q. Is that the number you called on January 13th?

6 A. Yes, it is.

7 Q. Thank you.

8 THE COURT: Can I ask that you put one of those
9 little tabs -- can you put perhaps a sign up so there's
10 no confusion? Just take a pair of scissors, just so
11 there's no confusion. I don't want anybody to write on
12 them.

13 MS. MURPHY: Put the --

14 THE COURT: That will leave an arrow so it's
15 clear what page the witness is referencing.

16 (Pause.)

17 MS. MURPHY: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MS. MURPHY: Thank you, Your Honor.

20 THE COURT: You're welcome. And could you pass
21 that this way.

22 Thank you. You may continue.

23 MS. MURPHY: Thank you, Your Honor.

24 May I approach the witness again?

25 THE COURT: Yes, you may.

1 BY MS. MURPHY:

2 Q. Mr. Lee, I'll show you what's in evidence as
3 State's Exhibit 12. It has four photographs. Do you
4 recognize -- I'll ask you to focus on the bottom two
5 photographs. Do you recognize what's in those pictures?

6 A. Yes.

7 Q. Can you identify it, please?

8 A. This is my sister's car, a Nissan Sentra.

9 Q. Okay.

10 Q. I'll also show you what's been premarked as
11 State's Exhibit 13. It shows three photographs. Can you
12 identify what's in those photographs?

13 A. This is my t-shirt I used to wear.

14 Q. Okay. In the photograph on the left here, what
15 area does that show?

16 A. It shows the driver's seat where the t-shirt
17 is.

18 Q. Okay. In the driver's seat of what?

19 A. The driver's seat -- the edges between the
20 bottom seat and --

21 Q. I mean of whose car?

22 A. My sister's car.

23 Q. Okay. Now, this t-shirt that you've
24 identified, was it in your possession in January of 1999?

25 A. No, it wasn't.

1 Q. Who had that shirt?

2 A. My sister.

3 Q. And how do you know that?

4 A. Because I had seen it when I -- when she gave
5 me a ride to school or something.

6 Q. Okay. You saw it in her car?

7 A. Yes.

8 Q. Okay. Why was the shirt in her car?

9 A. To be used as a cloth to wipe off windshields
10 and stuff like that.

11 Q. Okay. As a rag, basically?

12 A. Yes.

13 Q. Where did she keep the shirt in her car?

14 A. She kept it on the right side of the door, the
15 driver's door at the bottom, where the map is placed.

16 Q. Okay. Now, in these photographs you can see
17 there is something on the shirt.

18 A. Yes.

19 Q. Was that there when you last saw the shirt?

20 A. No, it wasn't.

21 Q. Aside from those markings, do these pictures
22 fairly and accurately depict the shirt and your sister's
23 car?

24 A. Yes, it does.

25 Q. Thank you.

1 MS. MURPHY: Your Honor, at this time I would
2 offer State's Exhibit 13.

3 THE COURT: Any objections?

4 MS. GUTIERREZ: No.

5 THE COURT: Let is be admitted.

6 (State's Exhibit No. 13,
7 having previously been
8 marked for identifica-
9 tion, was received in
10 evidence.)

11 THE COURT: Can you tell me how many
12 photographs that are on that exhibit?

13 MS. MURPHY: Three photographs, Your Honor.

14 THE COURT: All right. For the record, let the
15 record reflect that the Exhibit is a cluster of three
16 photographs.

17 BY MS. MURPHY:

18 Q. Mr. Lee, was there a time when your family
19 lived in California?

20 A. Yes.

21 Q. When was that?

22 A. It was when I was in eighth grade, so it would
23 have been around '97.

24 Q. And who were you living with in California?

25 A. I lived with my sister, my mom, and her fiance.

1 Q. How long did you stay in California?

2 A. A few months.

3 Q. And when you say "fiance," are you referring to
4 your mother's fiance?

5 A. Yes.

6 Q. And when did you return to Maryland?

7 A. It wasn't that long, it was quick. We were
8 there for, like, few months and came back.

9 Q. Did your sister ever discuss with you or your
10 family returning to California?

11 A. No, she didn't.

12 Q. Is that something you felt she may have done?

13 MS. GUTIERREZ: Objection.

14 THE COURT: Sustained as to formed. You may
15 restate the question or lay a foundation for his
16 knowledge.

17 MS. MURPHY: Thank you, Your Honor.

18 BY MS. MURPHY:

19 Q. Were either you or your sister particularly
20 close with the gentleman you were living with in
21 California?

22 A. No, we weren't.

23 Q. Is there any reason, to your knowledge, that
24 your sister would have returned to that area?

25 MS. GUTIERREZ: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: No, she wouldn't have.

3 BY MS. MURPHY:

4 Q. Mr. Lee, did you ever see your sister again?

5 A. No.

6 Q. Did there come a time in February when you
7 learned what happened to your sister?

8 A. Yes.

9 Q. Can you tell us what happened?

10 A. I was --

11 MS. GUTIERREZ: Objection.

12 THE COURT: Sustained. You cannot answer the
13 question. The question is general in nature, and so,
14 therefore, your way of finding out an answer could mean
15 you could tell us anything, so I've sustained it. That
16 means you can't answer and the attorney may ask -- reask
17 the question.

18 BY MS. MURPHY:

19 Q. Who informed you of what happened to your
20 sister?

21 A. Well, my uncle did.

22 Q. And how did your uncle know?

23 MS. GUTIERREZ: Objection.

24 THE COURT: Sustained.

25 BY MS. MURPHY:

1 Q. If you know --

2 MS. GUTIERREZ: Objection.

3 THE COURT: Sustained.

4 BY MS. MURPHY:

5 Q. Can you describe that day?

6 A. I was --

7 MS. GUTIERREZ: Objection.

8 THE COURT: Sustained.

9 MS. MURPHY: Well, Your Honor, I was asking the

10 witness for his personal experience.

11 THE COURT: But you haven't identified a time

12 period. You just said "describe that day." That was

13 your question.

14 BY MS. MURPHY:

15 Q. Was that a school day?

16 A. Yes, it was.

17 Q. At what point in the day did you learn what

18 happened?

19 A. It was around the afternoon.

20 Q. When you got home?

21 A. Yes.

22 Q. Who was at the house?

23 A. All my family members, my mom, my uncle, and my

24 grandparents.

25 Q. Can you describe what happened when you got

1 home?

2 A. I got home and everybody was crying. I didn't
3 know what happened. My uncle came up to me and told me.

4 MS. GUTIERREZ: Objection.

5 THE COURT: Sustained.

6 MS. MURPHY: I have no other questions, Your
7 Honor. Thank you. Oh. I'm sorry, Your Honor.

8 THE COURT: That's all right.

9 MS. MURPHY: After making a big point of
10 passing this out --

11 THE COURT: I was going to say, we have an
12 exhibit in front of us.

13 MS. MURPHY: May I approach the witness?

14 THE COURT: You may.

15 BY MS. MURPHY:

16 Q. Mr. Lee, I'll show you what's been marked for
17 identification as State's Exhibit 34. I'll ask you to
18 take a look at this document and see if you recognize
19 anything on that document?

20 A. I recognize my phone number.

21 Q. Where do you see your phone number?

22 A. At the bottom.

23 Q. Can you identify it by the call number shown in
24 the first column?

25 A. Call Number 33 and 34.

1 Q. And those are the numbers of your home
2 residence?

3 A. Yes.

4 Q. Thank you.

5 MS. MURPHY: May I mark the exhibit, Your
6 Honor?

7 THE COURT: Yes, you may, but I need your
8 assistance. Can you state what line you were referring
9 to? The call number is 33 and 34; is that right?

10 BY MS. MURPHY:

11 Q. Is that correct, Mr. Lee?

12 A. Yes, 33 and 34.

13 Q. Can you read the number aloud?

14 A. 410 602-[REDACTED].

15 MS. MURPHY: Thank you.

16 (Pause.)

17 THE COURT: For the record, Ms. Murphy has
18 noted the same location on her exhibit number, 34, the
19 call spaces is 33 and 34 at the bottom of the exhibit.
20 She's done so with -- is that green highlighter or --

21 MS. MURPHY: A green marker, Your Honor.

22 THE COURT: A green marker. Very well. Any
23 further questions, Ms. Murphy?

24 MS. MURPHY: No, Your Honor. Thank you.

25 THE COURT: Witness with you, Ms. Gutierrez?

1 MS. GUTIERREZ: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. GUTIERREZ:

4 Q. Mr. Lee, did your sister have a cell phone?

5 A. No, she didn't.

6 Q. To your knowledge, she didn't?

7 A. She didn't.

8 Q. And did she have a pager?

9 A. Well, she used to.

10 Q. She used to have a pager?

11 A. Yes.

12 Q. And that would be how her friends would reach
13 her?

14 A. Yes.

15 Q. You observed that?

16 A. Yes.

17 Q. You knew that?

18 A. Uh-huh.

19 Q. And, sir, let me ask you about this number.

20 Did you receive that phone call that's indicated that
21 you've identified was made to your number at either 12:01
22 or 12:35 in the morning?

23 A. No.

24 Q. No. And your sister did receive phone calls at
25 her home, did she not?

1 A. Yes, she did.

2 Q. And many of them would come in late at night,
3 would they not?

4 A. Well, they used to, but my grandmother spoke to
5 her about it, now it was like --

6 Q. And then it sort of stopped?

7 A. Yes.

8 Q. Okay. Now, you said, Mr. Lee, you recognized
9 Adnan's voice?

10 A. Yes.

11 Q. Okay. And that's because you heard his voice
12 on a regular basis because he would call regularly to
13 speak to your sister?

14 A. Yes.

15 Q. And, when he would call, your sister would
16 speak to him, would she not?

17 A. Yes.

18 Q. And you were aware of what their relationship
19 was, were you not?

20 A. Yes, I was.

21 Q. The picture that you identified, Mr. Lee, was
22 of your sister at an event that you referred to as the
23 junior prom; is that correct?

24 A. Yes.

25 Q. That was the junior prom at Woodlawn Senior

1 High School, was it not?

2 A. Yes.

3 Q. And your sister attended that junior prom
4 because you saw her leave, did you not?

5 A. Yes.

6 Q. And she didn't get dressed at your house,
7 though, did she?

8 A. I believe she did.

9 Q. Do you recall that she, in fact, got dressed at
10 her friend's house?

11 A. I don't know that.

12 Q. Okay. You didn't attend --

13 A. No.

14 Q. -- the junior prom; correct?

15 A. No.

16 Q. You were aware that she attended that junior
17 prom, and, in fact, had pictures taken of her with a
18 date, are you not?

19 A. Yes.

20 Q. She had pictures wearing that same beautiful
21 blue dress; did she not?

22 A. Yes, yes.

23 Q. And her date for that junior prom was Adnan
24 Syed?

25 A. I don't know.

1 Q. Well, you've seen the pictures of her and Adnan
2 at that junior prom, have you not?

3 A. I think I did.

4 Q. Okay. Well, Mr. Lee, starting back at the
5 junior prom day, whenever that occurred, in the Spring of
6 1998, you were aware that your sister maintained a
7 relationship as a girlfriend/boyfriend with Adnan Syed?

8 A. Yes.

9 Q. And during that entire period, there were lots
10 of times when he called at the house?

11 A. Yes.

12 Q. And that she spoke to him?

13 A. Uh-huh.

14 Q. And you are aware, now, her sister got her
15 license, I believe, in September of 1998?

16 A. I'm not so sure?

17 Q. Okay. Just a couple of months before she
18 disappeared?

19 A. Yes.

20 Q. Okay. And that you were aware that, in
21 addition to phone calls between the two of them, that
22 they saw each other?

23 A. Yes.

24 Q. And that they went to school together?

25 A. Yes.

1 Q. And that they shared the bulk of their classes
2 together?

3 A. I didn't know that.

4 Q. Okay. And you were aware, however, that they
5 considered each other very special?

6 A. Yes.

7 Q. Okay. And your mother was aware of that?

8 A. I believe.

9 Q. You believe so?

10 A. Yes.

11 Q. But you're not sure?

12 A. No.

13 Q. That's not something you and your mother
14 discussed?

15 A. We didn't discuss it.

16 Q. Okay. And where you met Adnan was at the store
17 that your family owns and works; is that correct?

18 A. Yes.

19 Q. And he came there with your sister?

20 A. No. He came alone.

21 Q. Alone. Okay. To the place that's your
22 family's store?

23 A. Yes.

24 Q. But you knew who he was, did you not?

25 A. Yes.

1 Q. Okay. Because you had previously met him?

2 A. Yeah.

3 Q. Correct?

4 A. Uh-huh.

5 Q. At the mall? Is that the Owings Mills Mall?

6 A. Yes.

7 Q. And, in fact, Owings Mills Mall is where your

8 sister works part-time at LensCrafters, is it not?

9 A. Yes.

10 Q. That particular LensCrafters?

11 A. Yes.

12 Q. Now, your cousin that lived with you that your

13 sister picked up every day, went to what school?

14 A. Camfield.

15 Q. Okay. And Camfield is not that far from

16 Woodlawn, is it?

17 A. Well, I guess it's kind of pretty far.

18 Q. How long would it take your sister to get from

19 Woodlawn to Camfield Elementary to pick up her cousin?

20 A. Probably like 15 to 20 minutes, I guess.

21 Q. Okay. And she did that every day, did she not?

22 A. Yes.

23 Q. Your cousin, who was then about six years old,

24 depended upon her, did she not?

25 A. Yes, she did.

1 Q. And your family depended upon her to do that
2 once she got her license and her car; correct?

3 A. Yes.

4 Q. And, in addition, so her schedule in the
5 afternoon right after school was constant, at least five
6 days a week; was it not?

7 A. Yes.

8 Q. And your sister was a very popular girl, was
9 she not?

10 A. I believe so.

11 Q. She had lots of friends, did she not?

12 A. Yes, she did.

13 Q. Many of those you knew by voice because they
14 called?

15 A. Yes.

16 Q. And because you heard her speak of their names?

17 A. Yes.

18 Q. And among those friends was an Aisha [REDACTED]

19 A. Yes.

20 Q. And among those friends was a Rebecca [REDACTED]

21 A. Not that I know of.

22 Q. Okay. Do you -- did you meet her friends?

23 A. I have met Aisha and Debbie.

24 Q. And Debbie. You never heard her speak of a
25 woman by the name of Stephanie [REDACTED], did you?

1 A. I do remember a first name Stephanie.

2 Q. A first name Stephanie. And what about a Jay?

3 Was that somebody who was one of her friends?

4 A. No, it wasn't.

5 Q. You never heard her mention the name Jay?

6 A. No.

7 Q. Or Jay Wilds?

8 A. No.

9 Q. Now, Mr. Lee, you spoke about the time that you

10 were in California with your family. You said that's

11 when you were in the eighth grade?

12 A. Yes.

13 Q. Okay. And what grade are you in now?

14 A. I am in 11th.

15 Q. 11th grade. So that was three years ago; is

16 that correct?

17 A. Yes.

18 Q. So that would have been the year that's '97 to

19 '98, or '96 to '97? I'm not trying to confuse you, Mr.

20 Lee.

21 A. Okay.

22 Q. Did you attend the eighth grade in California?

23 A. Yes.

24 Q. The entire year?

25 A. No.

1 Q. Just part of the year?

2 A. Yes.

3 Q. In fact, it was only the first part of the
4 year, was it not, the fall and beginning into the winter;
5 is that correct?

6 A. Yes.

7 Q. And then you and your family returned from
8 California back to Maryland; is that correct?

9 A. Yes.

10 Q. And that was because your mother's relationship
11 with her fiance changed?

12 A. Yes.

13 Q. Isn't that correct?

14 A. Yes.

15 Q. That was your mother's decision?

16 A. Yes.

17 Q. Now, Mr. Lee, you described that the man who
18 was her fiance was not someone with whom you had a
19 particularly close relationship?

20 A. Yes.

21 Q. Is that correct?

22 A. Yes.

23 Q. Your sister, however, had a closer relationship
24 with him than did you, did she not?

25 A. Well, I can't really say.

1 Q. She didn't speak about that with you, did she?

2 A. No.

3 Q. The issue of the relationship with this man who
4 was your mother's fiance was not the topic of a lot of
5 conversation, was it?

6 A. No.

7 Q. And neither you nor your sister objected to her
8 relationship with this man?

9 A. Well, we -- we just went along with it.

10 Q. That was up to your mother; correct?

11 A. Yes.

12 Q. And if your mother was going to marry this
13 fellow, that would have been fine with you?

14 A. Yes.

15 Q. Correct?

16 A. Yes.

17 Q. Even if it would have meant you stayed in
18 California?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. And your sister, were you aware that she
23 referred to this man to others as her dad?

24 A. I didn't know that.

25 Q. You weren't aware of that. Now, Mr. Lee, when

1 you came back with your sister and your mother from
2 California, did your mother maintain a relationship with
3 her fiance?

4 A. Excuse me?

5 Q. Did she -- did your mother --

6 A. Yes.

7 Q. -- maintain a relationship with your fiance?

8 A. I believe she broke it up.

9 Q. Okay. And so once you got back to Baltimore,
10 there really wasn't an active relationship that you could
11 observe?

12 A. Yes.

13 Q. And you no longer expected your mother to marry
14 this man?

15 A. Yes.

16 Q. And to your knowledge she didn't have any
17 continuing contact with him?

18 A. Yes.

19 Q. Would you be surprised, Mr. Lee, if, in fact,
20 your sister maintained a relationship with that man?

21 A. I would be surprised.

22 Q. You would be surprised. Because that was not
23 something that you discussed with your sister?

24 A. Yes.

25 Q. Okay. Now, Mr. Lee, when you came back from

1 California, your sister resumed her studies at Woodlawn;
2 correct?

3 A. Yes.

4 Q. She had been there prior to going to
5 California; correct?

6 A. Yes.

7 Q. And your sister was a very bright young woman,
8 was she not?

9 A. Yes, she was.

10 Q. She got very good grades, did she not?

11 A. Yes.

12 Q. And in addition to being a good student
13 academically, she was an athlete at the school, was she
14 not?

15 A. Yes, she was.

16 Q. She played a couple of different sports, did
17 she not?

18 A. Yes.

19 Q. And in addition to playing those sports she
20 managed other athletic teams to assist her classmates?

21 A. Yes.

22 Q. She, in fact, managed the wrestling team?

23 A. Yes.

24 Q. And she played, I believe, field hockey?

25 A. Yes.

1 Q. And she also played?

2 A. Lacrosse.

3 Q. Lacrosse. And she enjoyed her athletic
4 activities, did she not?

5 A. Yes, she did.

6 Q. And she was a star athlete, was she not?

7 A. Yes, she was.

8 Q. She got lots of recognition both for academics
9 and for her athletics, did she not?

10 A. Yes, she did.

11 Q. And, in fact, she was instrumental in pulling
12 together enough teammates in order to ensure the
13 formation of a field hockey team?

14 A. I didn't know about that?

15 Q. You didn't know about that. Now, you spoke,
16 Mr. Lee, that you had read her diary prior to her
17 disappearance on January 13th; is that correct?

18 A. Yes.

19 Q. You didn't read her diary because she allowed
20 you to read her diary?

21 A. No.

22 Q. You read it on your own?

23 A. Yes.

24 Q. And she found out that you read it?

25 A. Yes.

1 Q. You didn't go up and tell her and confess that
2 you had read it; right?

3 A. Oh, no.

4 Q. She independently found out that you read it
5 and she got very upset?

6 A. Yes.

7 Q. Okay. And from her diary you knew that there
8 were lots of things that she was keeping from you and
9 your mother, did you not?

10 A. Well, she didn't give a lot of depth.

11 Q. Well, the depth and activity in her
12 relationship with Mr. Syed?

13 A. Yes.

14 Q. Okay. And now, prior to your reading her
15 diary, were you -- did you or your mother or anyone in
16 your family express any objection to her having a
17 relationship with this man?

18 A. Um --

19 THE COURT: For the record, "this man is"?

20 MS. GUTIERREZ: Meaning Adnan Syed.

21 THE WITNESS: So, prior --

22 BY MS. GUTIERREZ:

23 Q. Yes, prior to your reading her diary -- now,
24 you read her diary prior to her disappearance; correct?

25 A. Yes.

1 Q. And was it during this early part of the school
2 year or before that?

3 A. I don't recall.

4 Q. Okay. But some time before her disappearance?

5 A. Yes.

6 Q. Prior to the time when you read her diary, had
7 you or anyone from your family expressed to her any
8 objection to her having a relationship with Adnan Syed?

9 A. Yes, because --

10 Q. Well, just, first of all, let me ask you a
11 question.

12 A. Yes.

13 Q. Who was it that expressed an objection?

14 A. It was my mom and --

15 Q. Your mother. And I assume, sir, when your
16 mother speaks to your sister, or spoke to your sister,
17 she spoke in her native tongue?

18 A. Yes.

19 Q. Okay. And what language is that?

20 A. Korean.

21 Q. Korean. And when she speaks to you; your
22 mother, that is, she speaks in Korean; correct?

23 A. Yes.

24 Q. Both you and your sister learned Korean from
25 birth; is that correct?

1 A. Yes.

2 Q. You were both born in Korea?

3 A. Yes.

4 Q. And how old were you when you immigrated here?

5 A. I was second grade.

6 Q. Okay. So you learned English following your
7 immigration here?

8 A. Yes.

9 Q. Okay. Through school?

10 A. Yes.

11 Q. But your mother still spoke to you and your
12 sister in Korean; is that correct?

13 A. Yes.

14 Q. So it was your mother that registered an
15 objection to her having a relationship with Adnan?

16 A. Yes.

17 Q. Now, Adnan was not your sister's first
18 boyfriend, was he?

19 A. Not that I know of.

20 Q. She had had a prior boyfriend even while she
21 was in California, did she not?

22 A. She -- I don't know.

23 Q. And she had had other boyfriends, to your
24 knowledge, after she returned here?

25 A. Yes.

1 Q. You knew that she had boyfriends but they
2 weren't people that you were close to; is that correct?

3 A. Yes.

4 Q. Now, the shirt that you identified -- well,
5 first of all, the car that you identified was a new car
6 to Hae shortly after she got her license?

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. And she then drove to school every day, did she
11 not?

12 A. Yes, she did.

13 Q. Your house where you and your sister and your
14 grandparents, your two cousins, and your mother resided,
15 is located how far from Woodlawn?

16 A. Almost same distance.

17 Q. Okay. So 15 to 20 minutes?

18 A. Yes.

19 Q. All right. And where she worked in Owings
20 Mills Mall, she worked on a regular basis, did she not?

21 A. Yes.

22 Q. Starting shortly after she got her car?

23 A. Yes.

24 Q. And so she would drive herself to work from
25 wherever she was?

1 A. Yes.

2 Q. And she worked a regular number of hours?

3 A. Uh-huh.

4 Q. Is that right?

5 A. Yes.

6 Q. And that included early evening hours until the
7 store closed?

8 A. Yes.

9 Q. And also included on weekends?

10 A. Yes.

11 Q. And sometimes included holidays when she did
12 not have school; is that correct?

13 A. I don't recall.

14 Q. Okay. But you do recall, sir, that her
15 schedule was something that she always knew ahead of
16 time?

17 A. Yes.

18 Q. But that there were things that she did every
19 single day --

20 A. Yes.

21 Q. -- and that she did them regularly?

22 A. Yes.

23 Q. And they included her going to school?

24 A. Yes.

25 Q. And attending school every day; correct?

1 A. Yes.

2 Q. Attending and participating in whatever
3 athletic events that took up her time?

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. Picking up her cousin?

8 A. Yes.

9 Q. And when she picked up her cousin, that meant
10 picking her up and then taking her --

11 A. Home.

12 Q. -- to your home?

13 A. Yes.

14 Q. Is that correct?

15 A. Yes.

16 Q. And your home, sir, is closer to Camfield
17 Elementary than is Woodlawn; is that correct?

18 A. Yes.

19 Q. And then, if she had to work or do something
20 else for school, she would then drive herself?

21 A. Yes.

22 Q. And she would drive herself home from work?

23 A. Yes.

24 Q. Correct?

25 A. Yes.

1 Q. And that remained her schedule which was pretty
2 predictable, although not always the same --

3 A. Yes.

4 Q. -- every day?

5 A. Yes.

6 Q. Is that correct?

7 A. Yes.

8 Q. Because she didn't work every day; is that
9 correct?

10 A. Yes.

11 Q. And she didn't -- she had friends that you knew
12 of by name because she mentioned them or because you met,
13 that she spent a great deal of time with?

14 A. Yes.

15 Q. And you were aware that she did overnights at
16 some of her friends?

17 A. Yes.

18 Q. Isn't that correct? And your mother was always
19 concerned about where she would be?

20 A. Yes.

21 Q. As she was always concerned about where you
22 would be; correct?

23 A. Yes.

24 Q. There were rules as to what you could do and
25 when you could do them?

1 written on it, you made the assumption that that phone
2 number was related to Don?

3 A. Yes.

4 Q. Is that correct?

5 A. Yes.

6 Q. And Don is the name of a person that you know
7 of, of Donald Cliendienst?

8 A. Yes.

9 Q. Is it not?

10 A. Yes.

11 Q. And that is a person that you met?

12 A. Well, I didn't met him.

13 Q. But you've seen him?

14 A. Yes.

15 Q. Yes. At the mall?

16 A. Yes.

17 Q. At the mall, at the Lenscrafters; correct?

18 A. Yes.

19 Q. On the day that you were looking through the
20 diary and you discovered this number, you knew that Don
21 Cliendienst was the new boy in your sister's life.

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. And that had been a decision, to your

1 knowledge, made by your sister; correct?

2 A. She --

3 Q. That this was her new boyfriend?

4 A. Yes.

5 Q. She made that decision; right?

6 A. Yes.

7 Q. She didn't consult with you as to making it?

8 A. No.

9 Q. Did it? But that was a very new relationship,
10 was it not?

11 A. Yes.

12 Q. And new meaning, literally, in a matter of
13 weeks?

14 A. I can't -- I don't know.

15 Q. Okay. Now, did there come a time when your
16 sister announced anything about this Donald Cliendienst?

17 A. Well, I believe my mom -- my sister had spoken
18 to my mom about it.

19 Q. To your mom about it?

20 A. Yes.

21 Q. To sort of announce that she was done with one
22 boyfriend and now she was having another?

23 A. Yes.

24 Q. 'Cause your mother wanted to know what was
25 going on in her life; correct?

1 A. Yes.

2 Q. And you were aware, sir, were you not, that
3 there were evenings that she spent with Donald
4 Cliendienst?

5 A. Yes.

6 Q. And that there were occasions in which she
7 spent the night?

8 A. Spent the night?

9 Q. At Donald Cliendienst's house?

10 A. I don't --

11 Q. Spending the night with a boy would not have
12 been allowed by your mother.

13 A. Yes.

14 Q. Would it have?

15 A. No.

16 Q. No. That would not be appropriate behavior.

17 A. Yes.

18 Q. Would it? Would you be surprised to know that
19 her friends thought, based on what she had said before,
20 that when she disappeared that where she probably was,
21 was at Donald Cliendienst's house?

22 MS. MURPHY: Objection.

23 THE COURT: Overruled. As to form of question,
24 overruled.

25 Yes or not? Would you be surprised to know?

1 THE WITNESS: Would I be surprised to know as
2 --
3 BY MS. GUTIERREZ:
4 Q. That that's what her friends thought?
5 A. Well, my mom thought that.
6 Q. And your mom thought that; right?
7 A. Yes.
8 Q. Because relationships had been the subject of
9 much disagreement between your mom and your sister?
10 A. Yes.
11 Q. The new relationship with Donald Cliendienst;
12 right?
13 A. Yes.
14 Q. And the old relationship with Adnan?
15 A. Yes.
16 Q. And her previous relationships?
17 A. I don't know.
18 Q. You don't know. Now, when you -- the diary,
19 after you found the number, you called the number
20 believing it was Don; right?
21 A. Yes.
22 Q. Did you ever speak to Don that day once you
23 discovered that that number wasn't Don?
24 A. No.
25 Q. Even though he was then your -- he was your

1 sister's then boyfriend?

2 A. Yes.

3 Q. You never reached him that night?

4 A. No.

5 Q. And you didn't speak to him the day after?

6 A. No.

7 Q. And you didn't speak to him the day after that?

8 A. Well, we went -- me and mom went into the work
9 place to visit him.

10 Q. To visit him at Lenscrafters?

11 A. Yes.

12 Q. Because you were concerned about the
13 whereabouts of your sister; correct?

14 A. And my mom.

15 Q. Her body -- I mean, and your family, --

16 A. Yes.

17 Q. -- you were concerned; is that correct?

18 A. Yes.

19 Q. And you had no -- now, Don didn't call you on
20 the 13th in the evening --

21 A. No.

22 Q. -- did he? Even though your sister, on the
23 13th, was scheduled to work; was she not?

24 A. I believe so.

25 Q. At six o'clock?

1 A. Yes.

2 Q. She would have worked from 6:00 till close?

3 A. Yes.

4 Q. Isn't that right?

5 A. Yes.

6 Q. You got a call from Lenscrafters later;

7 correct?

8 A. I -- I remember calling them, but --

9 Q. You called them to find out if she had shown

10 up; is that correct?

11 A. Yes.

12 Q. Then you were informed she did not?

13 A. Yes.

14 Q. But you didn't get a call from this person who

15 was her then boyfriend?

16 A. No.

17 Q. No. Okay. Now, in reading the diary, sir, did

18 you -- before you read the diary, did you ever become

19 aware of anything that's alleged to have happened at the

20 homecoming dance at Woodlawn?

21 A. Um, no.

22 Q. Were you and your sister close in terms of

23 confiding in each other?

24 A. We kind of were.

25 Q. Okay. And were you aware of all of her

1 activities from her?

2 A. Most of them.

3 Q. Were you aware that she had attended the
4 homecoming dance?

5 A. Yes.

6 Q. And were you aware that she attended it
7 together with, as the date of Adnan Syed?

8 A. No. I didn't know that.

9 Q. You didn't know that. And were you aware, sir,
10 that something may have happened at the homecoming dance?

11 A. No.

12 Q. No. And after the homecoming dance, your
13 sister did not confide in you as to any event there?

14 A. No.

15 Q. Or that anything that may have happened?

16 A. No.

17 Q. Or indicate to you that she was upset in any
18 way?

19 A. No.

20 Q. Did she consult with you or confide with you
21 before she stopped being girlfriend/boyfriend with Adnan?

22 A. No.

23 Q. And began being girlfriend/boyfriend with this
24 person, Donald Cliendienst?

25 A. No.

1 Q. No. Did she seek your advice at all as to what
2 she should do?

3 A. No.

4 Q. Did she tell you the day that the breakup
5 occurred?

6 A. No.

7 Q. Did she ever confide in you as to whose idea it
8 was?

9 A. No.

10 Q. So, to your knowledge, you don't know who broke
11 up with whom?

12 A. Yes.

13 Q. Do you?

14 A. No.

15 Q. At least not from your sister.

16 A. Yes.

17 Q. Is that correct? Now, you said you recognized
18 the diary, the writing because you're familiar with your
19 sister's writing; is that correct?

20 A. Yes.

21 Q. Were you aware that your sister was a prolific
22 note writer, that she wrote a lot of notes and cards to
23 her friends?

24 A. Yes.

25 Q. And were you aware that among the recipients of

1 her notes and cards, a large number of them was Adnan
2 Syed?

3 A. Yes.

4 Q. And you knew that from her?

5 A. Uh, no. I read it. There was some notes in
6 her bookbag.

7 Q. There were some notes in her book bag.

8 A. Uh-huh.

9 Q. Some of which she had read -- she had written
10 herself?

11 A. Yes.

12 Q. To Adnan?

13 A. Yes.

14 Q. Would it be fair to characterize the notes that
15 you read as sort of mushy, lovey-dovey?

16 A. Yes.

17 Q. Yes. And, also in her book bag were lots of
18 notes and cards from Adnan to her?

19 A. I don't really remember but --

20 Q. Were you ever asked to identify anything else
21 other than her diary?

22 A. No.

23 Q. Were you ever asked to identify the handwriting
24 in notes told to you that were found elsewhere?

25 A. Well, I wasn't told there was notes found.

1 Q. And you were not asked to identify her
2 handwriting?

3 A. Yes.

4 Q. Correct? Now, Mr. Lee, did your sister have a
5 computer?

6 A. Yes.

7 Q. And did she use that regularly?

8 A. Yes.

9 Q. She typed pretty well, didn't she?

10 A. Yes.

11 Q. In fact, she used her computer to do most of
12 her homework, did she not?

13 A. Yes.

14 Q. And in addition, she kept lots of entries on
15 that computer, did she not?

16 A. No. She saved it on disks.

17 Q. Did you -- she'd save them on the disks and
18 take them out; correct?

19 A. Yes.

20 Q. And part of the reason for that was because she
21 wanted them private?

22 A. Yes.

23 Q. Yes. From you?

24 A. Yes.

25 Q. Okay. And that was the subject between you and

1 your sister; correct?

2 A. Yes.

3 Q. The computer that she used was available to
4 you?

5 A. Yes.

6 Q. And you also did your homework?

7 A. Yes.

8 Q. After her disappearance, did anyone seize the
9 computer?

10 A. Yes.

11 Q. Yes. And the police seized it?

12 A. Yes.

13 Q. Correct? And that was with the permission of
14 your family, was it not?

15 A. Yes, it was.

16 Q. Okay. Mr. Lee, in regard to the car, you
17 described this striped shirt of the pictures of?

18 A. Yes.

19 Q. Now, would it be fair to say that in January
20 1999, that that shirt is not something that you really
21 ever thought about?

22 A. Well, there was one incident where I got angry
23 at my sister for taking a shirt.

24 Q. For taking the shirt and using it as a rag?

25 A. Yes.

1 Q. Because you liked that shirt; right?

2 A. No. But --

3 Q. But after, was it an appropriate rag?

4 A. Yes.

5 Q. Okay. And did you wear it anymore?

6 A. No.

7 Q. And after you discovered your sister using it

8 as a rag you never wore it again, did you?

9 A. No.

10 Q. You didn't take it back from her, did you?

11 A. No.

12 Q. And it was kept in the side well of the

13 driver's seat?

14 A. Yes.

15 Q. The place where you said the map was always

16 kept?

17 A. Yes.

18 Q. The map that you're referring to, she had a map

19 book, did she not?

20 A. Yes, she did.

21 Q. Of the greater Baltimore area?

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. And she got that and kept that in her car so

1 that she would always know where she was going?

2 A. Yes.

3 Q. And she would use the map, would she not?

4 A. I guess so.

5 Q. And it was always in her car, was it not?

6 A. Yes, it was.

7 Q. Now, the pictures of the car that you saw, sir,

8 the ones at night, you couldn't see inside the car, could

9 you?

10 A. No.

11 Q. And you were never asked to come down and look

12 at the car, were you?

13 A. Well, I was called to pick up the car.

14 Q. Pick up the car. That means after the police

15 were finished with it?

16 A. Yes.

17 Q. Correct?

18 A. Yes.

19 Q. After they had looked at it, and examined it,

20 and analyzed anything in there; correct?

21 A. Yes.

22 Q. But before that call came, was there ever a

23 time when you were asked to come down and identify

24 anything in her car?

25 A. No.

1 Q. Now, in the morning, did your sister take you
2 to school every day?

3 A. No, she didn't take me to school.

4 Q. She never took you to school, did she?

5 A. Sometimes, if I missed the bus.

6 Q. Once in a while?

7 A. Yes.

8 Q. You'd have to request. But as a normal
9 activity during the day, she did not?

10 A. No.

11 Q. Is that correct?

12 A. Yes.

13 Q. And because of her schedule that was so
14 demanding, you didn't normally ride in her car every day,
15 did you?

16 A. Well, after school.

17 Q. But often you would be in it?

18 A. Yes.

19 Q. And you would see the condition of her car,
20 would you not?

21 A. Yes.

22 Q. And she would keep things in her car, would she
23 not?

24 A. Yes.

25 Q. She'd keep her athletic equipment?

1 A. Yes.

2 Q. She'd keep school things and school books;
3 correct?

4 A. Yes.

5 Q. And she'd keep lots of her note cards, would
6 she not?

7 A. Note cards for the school.

8 Q. And often she would keep her diary in her car;
9 would she not?

10 A. I didn't see.

11 Q. When she drove to school --

12 THE COURT: I'm sorry. What was your answer?

13 THE WITNESS: I didn't see it.

14 THE COURT: Okay. Go ahead.

15 BY MS. GUTIERREZ:

16 Q. When she drove to school, you didn't see her
17 go?

18 A. No.

19 Q. You were aware, however, that she parked on the
20 school lot?

21 A. I believe so.

22 Q. Okay. And, sir, did she -- was she a neatnik
23 about her car?

24 A. Well, the times I drove with her the car was
25 messy.

1 Q. The car was generally messy, was it not?
2 A. Yes.
3 Q. She kept all the stuff that she'd need for her
4 very busy life in there?
5 A. Yes.
6 Q. And you were aware that in addition that her
7 friends would be in her car?
8 A. Yes.
9 Q. You would see them sometimes, would you not?
10 A. Not really.
11 Q. Was your sister someone who, on a regular basis,
12 had her friends come to her house?
13 A. No.
14 Q. No. She was more the person that would go to
15 her friends' houses, would she not?
16 A. Yes.
17 Q. They would not normally come to your house?
18 A. Yes.
19 Q. Okay.
20 MS. GUTIERREZ: I have nothing further.
21 THE COURT: Any cross?
22 MS. MURPHY: No thank you, Your Honor.
23 THE COURT: Redirect. May this witness be
24 excused?
25 MS. MURPHY: Yes, Your Honor.

1 THE COURT: Ms. Gutierrez, excused?
2 MS. GUTIERREZ: Yes, Your Honor.
3 THE COURT: Released from subpoenas, summonses?
4 MS. MURPHY: Yes.
5 THE COURT: Very well.
6 You're excused, sir.
7 THE WITNESS: Okay.
8 (The witness was excused.)
9 THE COURT: Your next witness?
10 MR. URICK: With the Court's permission I'm
11 gonna line up the next three.
12 THE COURT: In that this witness is a family
13 member, you have no objection that he remains in the
14 courtroom?
15 MS. GUTIERREZ: No, Your Honor.
16 THE COURT: Mr. Lee, you may -- you are welcome
17 to remain in the courtroom if you would like.
18 MR. LEE: Okay.
19 THE COURT:
20 MS. SHEPHERD: Since you will not be called as
21 a witness again in this case.
22 MR. LEE: Okay.
23 (Pause.)
24 THE COURT: I normally would take a break after
25 being on the bench for about an hour to allow you to

1 stretch your legs and use the facilities. By a show of
2 hands, anyone that would like us to do that, please raise
3 your hand and we will do that. Otherwise, we will
4 continue until 12:30.

5 (No response.)

6 THE COURT: Okay, I see no hands, we'll
7 continue till 12:30.

8 THE COURT: Sir, I need you to stand. Raise
9 your right hand.

10 Whereupon,

11 GRANT DELACAMP GRAHAM,

12 a witness produced on call of the State, having first
13 been duly sworn, was examined and testified as follows:

14 THE CLERK: You may be seated. Please keep
15 your voice up, state your name and address for the
16 record?

17 THE WITNESS: My name is Grant Delacamp Graham,
18 Sr.

19 THE CLERK: Address?

20 THE WITNESS: Address?

21 THE CLERK: Uh-huh.

22 THE WITNESS: [REDACTED],
23 Germantown, Maryland.

24 DIRECT EXAMINATION:

25 BY MR. URICK:

1 Q. Good afternoon. What is your title?

2 A. I'm the Chief of Forensic Trace Materials
3 Analysis of the office of the Armed Forces Medical
4 Examiner.

5 Q. All right. If you would speak up a little bit
6 louder please so that the -- lean forward and speak into
7 the microphone?

8 A. Yes. I am the Chief of Forensic Trace
9 Materials Analysis for the Office of the Armed Forces
10 Medical Examiner.

11 Q. What does that mean? What do you do?

12 A. It means I supervise and manage the forensic
13 laboratory for the office of the Armed Forces Medical
14 Examiner, as well as I conduct forensic examinations and
15 analyses, and assist with processing crime scenes.

16 Q. And when you assist in processing a crime
17 scene, what are you doing?

18 A. I am searching the crime scene looking for
19 evidence, gathering evidence, things of that nature.

20 Q. And how long have you been doing this?

21 A. I've been doing this for about three years.

22 Q. Now, drawing your attention back to February
23 9th of 1999, did you have occasion to be in Baltimore
24 City?

25 A. Yes, I did.

1 Q. And what brought you to the City that day?

2 A. A phone call from Dr. William Rodriguez, who
3 was my supervisor. We were called out to assist with
4 recovering some remains.

5 Q. And did you respond to Leakin Park in Baltimore
6 City?

7 A. We actually responded to the Medical Examiner's
8 Office here in Baltimore where we were escorted by a
9 detective out to Leakin Park.

10 Q. And when you got there what, if anything, did
11 you observe?

12 A. When I got to the scene, I observed a partially
13 buried body of a female.

14 Q. And what, if anything, did you do at that
15 point?

16 A. Well, following standard procedure, we suited
17 up in some light tie-back suits to keep contamination of
18 the scene -- or to eliminate contamination of the scene,
19 and then we proceeded to look over the area and recover
20 the remains.

21 Q. And were you -- while that was going on were
22 you responsible for examining the scene for any possible
23 evidence?

24 A. Yes, I was.

25 Q. And what did you do in order to do that?

1 A. Well, first of all, we looked around the
2 general area. I used what's called a "Wood's Lamp." It
3 uses ultraviolet light, kind of like a black light that
4 you can buy in a store. And I used that light to scan
5 over the area of the remains prior to removing any of the
6 dirt to see if I could find any type of trace evidence.

7 Q. And did you find anything?

8 A. Yes, I did. I found one fiber that was foreign
9 to the remains that we recovered.

10 Q. And what, if anything, happened next?

11 A. Then we removed the soil and leaves that were
12 covering the remains, photographed the scene, removed the
13 remains from the area from which it lay, and then I
14 processed the soil of the area where the remains were
15 lying underneath the body as well for any evidence that
16 may have been left there.

17 Q. And what, if anything, did you find?

18 A. I found one more fiber that was foreign to the
19 remains?

20 (Pause.)

21 MR. URICK: Just, at this time, I'd enter
22 pursuant to stipulation State's Exhibit 4 which are the
23 two actual fibers that were recovered, and State's
24 Exhibit 5 which is the trace analysis done by the
25 Baltimore City Police Department of those two fibers.

1 THE COURT: They're being entered by way of
2 stipulation?

3 MR. URICK: Yes.

4 MS. GUTIERREZ: Yes, Your Honor.

5 THE COURT: Without objection? Let them be
6 admitted.

7 And for the record I would indicate to the
8 jurors that again, items that are being admitted into
9 evidence for your consideration by agreement of the
10 parties, which means that they're required authenticity
11 and other related would not be necessary; is that correct
12 Ms. Gutierrez?

13 MS. GUTIERREZ: Yes, Your Honor.

14 THE COURT: All right. Very well.

15 (State's Exhibit Nos. 4 and
16 5, previously marked for
17 identification, were
18 received in evidence.)

19 THE COURT: Just for my information, is also
20 the chain of custody being stipulated as well?

21 MS. GUTIERREZ: As to those items that were
22 stipulated to, yes.

23 THE COURT: Okay. Very well.

24 MR. URICK: May I have the Court's permission
25 to approach the witness?

1 THE COURT: Yes, you may.

2 BY MR. URICK:

3 Q. At this time I'd ask you to examine what have
4 been marked for identification purposes as State's
5 Exhibits 9, 10, and 11. If you'd take a few seconds and
6 look at those?

7 A. Okay.

8 (Pause.)

9 BY MR. URICK:

10 Q. Have you had a chance to examine the exhibits?

11 A. Yes, I have.

12 Q. Can you identify those?

13 A. Those are photographs from the scene.

14 Q. Start with the -- if you look on the back,
15 you'll see a red sticker with numbers on it. Start with
16 the one that says Number 9. And, can you identify those
17 photographs on State's Exhibit 9?

18 A. Yes. this is a photograph, the first
19 photograph on the upper left is a photograph of the
20 roadway that's adjacent to the side of the road or the
21 wooded area where the remains were discovered. And then
22 there's some photos of some of the vehicles parked next
23 to that area.

24 Q. Drawing your attention to the top row of the
25 far right, what, if anything, can you see in the trees in

1 the background?

2 A. I can see what appears to be some people
3 standing off in the distance, probably about 35, 30
4 yards.

5 Q. And is that approximately where you saw the
6 body?

7 A. Yes.

8 Q. And do those five photographs fairly and
9 accurately depict the scene as seen from the roadway at
10 that location?

11 A. Yes, they do.

12 MR. URICK: I would offer at this time into
13 evidence State's Exhibit Number 9.

14 THE COURT: Any objection?

15 MS. GUTIERREZ: No.

16 THE COURT: Let it be admitted as State's
17 Exhibit Number 5 for the record, a composite --

18 MR. URICK: Number 9.

19 THE COURT: Number 9, I'm sorry. And for the
20 record the composite has five photographs.

21 (State's Exhibit No. 9
22 having previously been
23 marked for identification,
24 was received in evidence.)

25 THE COURT: You may continue.

1 BY MR. URICK:

2 Q. And are you looking at State's Exhibit 10 now?

3 A. Yes, I am.

4 Q. And can you identify those photographs?

5 A. Those are photographs of the immediate crime
6 scene.

7 Q. And what, if anything, do they show?

8 A. They show a fallen -- fallen tree. And then
9 adjacent to the fallen tree, it shows the remains of the
10 victim.

11 Q. And do those fairly -- fairly and accurately
12 describe the scene on the date in question?

13 A. Yes, they do.

14 MR. URICK: I would offer at this time State's
15 Exhibit 10 into evidence, a composite of four
16 photographs.

17 THE COURT: Okay.

18 Any objection?

19 MS. GUTIERREZ: No, Your Honor.

20 THE COURT: State's 5 -- I'm sorry -- State's
21 10, a composite of three photos.

22 Mr. White, may I see that exhibit when you're
23 done?

24 (State's Exhibit No. 10,
25 having previously been

1 marked for identifica-
2 tion, was received in
3 evidence.)

4 THE COURT: You may continue.

5 BY MR. URICK:

6 Q. And looking at State's Exhibit 11, can you
7 identify the four photographs on that exhibit?

8 A. Yes, I can.

9 Q. And what, if anything, do they depict?

10 A. They depict the remains of the victim during
11 various stages of the recovery process.

12 Q. And do they fairly and accurately depict the
13 recovery of the body?

14 A. Yes, they do.

15 Q. And there's a hand in the upper left one. Do
16 you have any idea who that might have been?

17 A. Yes, that's Dr. Rodriguez.

18 Q. And you said those photographs fairly and
19 accurately depict the scene?

20 A. Yes.

21 MR. URICK: I would offer into evidence at this
22 time State's Exhibit 11, a composite of four photographs.

23 THE COURT: Any objection?

24 MS. GUTIERREZ: No, Your Honor.

25 THE COURT: Let that be admitted as State's

1 Number 11, four photographs.

2 (State's Exhibit No. 11,
3 having previously been
4 marked for identification,
5 was received in evidence.)

6 (Pause.)

7 MR. URICK: Witness with the defense.

8 CROSS-EXAMINATION

9 BY MS. GUTIERREZ:

10 Q. Mr. Graham, you work for the Armed Forces;
11 correct?

12 A. Yes, I do.

13 Q. You're a civilian employee or a member of the
14 Armed Forces?

15 A. I am active duty Air Force.

16 Q. Okay. And you and Dr. -- Dr. Rodriguez also
17 works for the Armed Forces Medical Unit, does he not?

18 A. Yes, he does.

19 Q. And you and Dr. Rodriguez were called in
20 specifically because of your expertise with dealing with,
21 in your words, remains of unknown age; is that correct?

22 A. Not necessarily the remains of unknown age, no.

23 Q. Well, sir, on that day did you have anything to
24 do with your getting called -- I need to see that Exhibit
25 -- your getting called to Baltimore?

1 A. Yes.

2 Q. Did you request to get called to Baltimore?

3 A. No.

4 Q. Okay. And were you the person that found these
5 remains?

6 A. No, I was not the person that found them.

7 Q. Were you given information before you got there
8 about the circumstances under which those remains were
9 discovered?

10 A. I cannot recall if I was given information
11 about that.

12 Q. It would not have been unusual for you to have
13 received or not received such information, would it have?

14 A. No, it's not unusual.

15 Q. And, sir, did you request any information as to
16 the discovery of these remains before you went out there?

17 A. Yes.

18 Q. And were you given all information that you
19 requested?

20 A. I cannot recall the questions that I asked, nor
21 can I recall the information that I was given, so I
22 cannot say that.

23 Q. Did you write a report?

24 A. No, I did not.

25 Q. Is that unusual?

1 A. No, it is not.

2 Q. That you did not write a report? Mr. Graham,
3 I'm showing you what's in evidence as State's Exhibit
4 Number 9. On the far left it shows the roadway by which
5 you got to the location; is that correct, where the
6 remains were?

7 A. Yes.

8 Q. Okay. That's the photograph in the far left
9 corner; is that correct?

10 A. Yes.

11 Q. And you see crime tape in the picture, do you
12 not?

13 A. I see yellow tape of some type, yes.

14 Q. Okay. I'm now gonna show you State's Exhibit
15 11 and 10, sir. Do either -- are either -- are any of
16 the pictures on either of those exhibits visible from the
17 vantage point of the photograph in State's Exhibit 9, if
18 you would look? State's Exhibit 11 are the photos of the
19 body before and during the removal?

20 A. I'm not sure whether I understand.

21 Q. Okay. Well, let me -- answer my question
22 first. On State's Exhibit 11 shows the photographs of
23 the body before and during removal by you and Dr.
24 Rodriguez, does it not?

25 A. This exhibit here and this exhibit here does,

1 yes.

2 Q. This one? Does that show -- excuse me --
3 photographs of the body? Yes or no?

4 A. yes.

5 Q. Is what is depicted in State's Exhibit 11
6 visible from where the crime scene tape appears in
7 State's Exhibit 9?

8 A. No, it is not.

9 Q. And in State's Exhibit 10, at one -- one of the
10 photographs, the photograph in the left corner, the top
11 left corner shows a dead tree or dead log?

12 A. It shows a log laying on the ground, yes.

13 Q. All right. And that log, sir, in length is in
14 excess of 50 feet; is it not?

15 A. I cannot recall the length.

16 Q. Were you aware that it was in excess of 50
17 feet?

18 A. I'm not aware that it is in excess of 50 feet
19 or --

20 Q. Did you see the log?

21 THE COURT: Whoa. Can we let him finish.

22 MS. GUTIERREZ: I'm sorry.

23 THE COURT: Did you say, "I was not aware it
24 was in excess of 50 feet"?

25 THE WITNESS: I'm not aware of how long the log

1 is at all. I know that it's a very -- it's long, but I'm
2 not aware of exactly how long it is.

3 THE COURT: Next question.

4 BY MS. MURPHY:

5 Q. Sir, in regard to the body that's shown on
6 State's Exhibit Number 11, was the body on the side of
7 the log closest to the road from whence you came or
8 furthest away?

9 A. It was on the opposite side.

10 Q. Okay. And beyond the log, then you would find
11 the body; correct?

12 A. Yes, immediately on the opposite side of the
13 log.

14 Q. Now, before disinterring this body, you,
15 because you were called in for your forensic expertise,
16 examined the ground around, did you not?

17 A. Yes, I did.

18 Q. You walked around, did you not?

19 A. I walked around the scene, yes.

20 Q. Okay. And you noticed and observed the terrain
21 there, did you not?

22 A. Yes, I did.

23 Q. Beyond the body is a stream that curves; is it
24 not?

25 A. There's a stream. I'm not sure whether or not

1 is curves.

2 Q. Okay. And the stream, sir, from what you
3 observed, could you observe evidence that the stream has,
4 in the past, overflowed its banks?

5 A. No, I cannot recall --

6 Q. Did you make any --

7 MS. MURPHY: Objection.

8 BY MS. GUTIERREZ:

9 Q. -- notations regarding that?

10 THE COURT: Ms. Gutierrez, I need your
11 assistance in letting the witness finish.

12 MS. GUTIERREZ: Okay. I'm sorry.

13 THE COURT: Because remember Mr. Madden here
14 has to repeat the witness's answer and then your
15 question. So if you could just pause a moment after the
16 witness has answered, that will be helpful to the Court,
17 and I'm sure the stenographer, as well.

18 Thank you.

19 BY MS. GUTIERREZ:

20 Q. And I don't remember what the question was, but
21 your answer was you don't recall whether or not there was
22 evidence of the stream having overflowed its banks?

23 A. That is correct.

24 Q. Okay. Now, you didn't write a report that day;
25 correct?

1 A. No.

2 Q. And you never wrote a report after that day; is
3 that correct?

4 A. No.

5 Q. Your purpose in being there was to offer your
6 assistance in terms of disinterring the body and looking
7 for any trace evidence that might be there; is that
8 correct?

9 A. That is correct.

10 Q. And trace evidence would include fibers such as
11 you've described; correct?

12 A. Yes.

13 Q. And trace evidence can also include all other
14 kinds of evidence including, for instance, soil?

15 A. Yes, it can.

16 Q. It can include hair?

17 A. Yes, it can.

18 Q. It can include other items that might be found?

19 A. Yes, it can.

20 Q. Now, you, sir, used the term on the items, the
21 fibers that you recovered, the two, one before the body
22 was disinterred, and once afterwards as elements that
23 were foreign; is that correct?

24 A. Yes.

25 Q. Meaning they didn't match the remains, they

1 didn't come from the remains?

2 A. They appeared not to have come from the
3 remains.

4 Q. And that was in your expert opinion; is that
5 correct?

6 A. It was based on what I saw at the crime scene.

7 Q. Okay. And based on your determination that
8 they appeared to be foreign, they're foreignness to the
9 body had significance to you in regard to collecting
10 those elements; isn't that correct?

11 A. Can you rephrase the question, please?

12 Q. The fact that they were foreign to the body,
13 meaning not appearing to come from the body, made those
14 two fibers significant to you, did they not?

15 A. It made them worthy of being collected, yes.

16 Q. Okay. And you collected them, did you not?

17 A. Yes, I did.

18 Q. And you carefully preserved them and marked
19 them; correct?

20 A. I collected them and handed them over
21 immediately to the crime scene technicians from the
22 Police Department.

23 Q. From Baltimore City?

24 A. Yes.

25 Q. Is that correct? And, sir, you were never

1 asked to observe them again?

2 A. No, I was not.

3 Q. Or examine them?

4 A. No, I was not.

5 Q. Or conduct any analysis on them?

6 A. No, I was not.

7 Q. Now, sir, the body that's depicted in the
8 pictures had to be disinterred from that which was on top
9 of it, did it not?

10 A. Yes, it did.

11 Q. And did --

12 A. The body was partially buried. There were
13 parts of the body that were exposed.

14 Q. Okay. But it had to be disinterred, including
15 the removal of dirt and leaves; is that correct?

16 A. Yes, that's correct.

17 Q. And did you ever see the collection of dirt and
18 leaves?

19 A. I don't understand what you mean.

20 Q. Did you collect any dirt and leaves?

21 A. Yes. I did collect some soil.

22 Q. And did you hand those over? Did you hand that
23 soil over to the Baltimore City crime lab?

24 A. Yes, I did.

25 Q. Okay. And that was your looking for any

1 evidence that might be helpful to determine how this body
2 got in the position that you observed it; is that
3 correct?

4 A. That is correct.

5 Q. Okay. Now, sir, getting to this tree or log,
6 the length of which you don't recall -- well, sir, on --
7 let me digress here. On State's Exhibit 9, several of
8 the pictures show a log in front of what is commonly
9 referred to as "Jersey walls," concrete walls that block
10 off an area. Do you see that log?

11 A. The one that you're pointing to, yes, I do.

12 Q. Okay. And, sir, the log behind which this body
13 you assisted in the disinterment of and the collection
14 of trace evidence, was that log bigger or smaller than
15 the log that's depicted in the pictures on State's
16 Exhibit 9?

17 A. I would say probably in circumference, smaller
18 in circumference, but longer in length.

19 Q. A lot longer, or just a little bit?

20 A. I can't recall whether it would be a lot or a
21 little bit.

22 Q. Sir, from the pictures that you are looking at
23 in State's Exhibit 9, can you see, from any vantage
24 point, the log shown on State's Exhibit 10 beyond which
25 the remains were located?

1 A. May I take a look at the pictures again?

2 Q. Yes.

3 A. Thank you.

4 (Pause.)

5 THE WITNESS: In these pictures, no, I cannot.

6 BY MS. GUTIERREZ:

7 Q. No, and those pictures are taken from the

8 roadway looking directly back into the park, are they

9 not?

10 A. They're looking into portions of the park from

11 the roadway, yes.

12 Q. You, sir -- you testified that you thought it

13 was a distance of 30 to 35 yards?

14 A. Yes.

15 Q. And that distance was from the roadway to where

16 it is that the body which you assisted in the

17 disinterrment of was located?

18 A. Yes.

19 Q. Were you aware, sir, that the actual

20 measurement as measured by a surveyor called to the site

21 was 127 feet?

22 A. No, I was not.

23 Q. Would that surprise you in any way?

24 A. No. 30 or 35 yards is pretty much

25 approximately the same distance, give or take a few feet?

1 Q. Okay. Now, sir, in regard to the State's
2 Exhibit 11 that shows the body, the picture in the lower
3 right-hand corner shows the body on what appears to be a
4 sheet of some materials on which the body is now spread.
5 Do you see that?

6 A. Yes, I do.

7 Q. That sheet -- well, incidentally, do you
8 remember what that material was?

9 A. Yes, it is a type of a bag that's used by the
10 Medical Examiner's Office of plastic type, probably a
11 vinyl bag that's used to place bodies for transport to
12 the Medical Examiner's Office.

13 Q. So that wasn't in the hole, or the place where
14 this body was buried?

15 A. No, it was not?

16 Q. That was brought from elsewhere and placed
17 there, and then the body was placed on that?

18 A. Yes, ma'am.

19 Q. And it was after that that you then examined
20 the area underneath the body from where you first saw it?

21 A. Yes.

22 Q. And underneath the body is where you found the
23 second fiber; is that correct?

24 A. It was not underneath the body, it was in the
25 area where the remains had been placed. After we removed

1 the body, it was on the ground. It was not underneath
2 the body. It was on the ground where the body had laid
3 before.

4 Q. So the body you that removed on this plastic
5 sheet had been on top of the ground that you then
6 examined; is that correct?

7 A. Yes.

8 Q. So it would appear, from your own observation,
9 that the fiber that you removed had, in fact, laid under
10 where the body that you observed first was?

11 A. That is where I found it.

12 Q. Okay. And you were careful to ensure that
13 nobody else around interfered with your and Dr.
14 Rodriguez's examination of the body or the collection of
15 evidence?

16 A. While we were present at the scene, that is
17 true.

18 Q. And there were others who were present at that
19 scene, were there not?

20 A. Yes, there were.

21 Q. There were detectives from the local police
22 department?

23 A. Yes, there were.

24 Q. There were people from the local Medical
25 Examiner's Office?

1 A. I'm not sure about that.

2 Q. Okay. And there were --

3 A. Excuse me.

4 Q. -- people from the Mobile Crime Lab of

5 Baltimore City to which you handed items that you

6 collected?

7 A. Yes.

8 Q. And there were other police officers, correct?

9 A. Yes.

10 Q. Now, going back, Mr. Graham, to State's Exhibit

11 9, where the Jersey walls and the log are in the pictures

12 which are shown in all of the pictures from different

13 angles where the crime scene tape is, is that from where

14 you entered the park to get to where the body was located

15 behind the log?

16 A. As I recall, we entered through this area right

17 here, this open area between the two Jersey walls.

18 Q. Where the crime tape is stretched; is that

19 correct?

20 A. Yes.

21 Q. And from that vantage point, sir, is there a

22 pathway that is delineated between that point and where

23 the body was found?

24 A. As in a walking-type path?

25 Q. Any type of path?

1 A. I do not recall a walking-type path, no.

2 Q. Okay. Is the terrain solid and even from that

3 point back to where the body was found?

4 A. No, it is -- if you're referring to being

5 level?

6 Q. Yes.

7 A. No, it was not level.

8 Q. It was not level, and that meant that it was --

9 sometimes the terrain was higher than when you first

10 entered?

11 A. It was -- in places it was a little bit higher,

12 maybe a foot, and in places maybe a little bit lower. It

13 was uneven terrain.

14 Q. These pictures show clearly the logs inside the

15 first set of Jersey walls, do they not?

16 THE COURT: And for the record, you're looking

17 at the --

18 MS. GUTIERREZ: State's is -- still same,

19 State's Exhibit 9.

20 THE COURT: And you're looking at all the

21 photos, or just --

22 MS. GUTIERREZ: All the photos.

23 THE COURT: Okay. Very well, State's Exhibit

24 Number --

25 MS. GUTIERREZ: The logs are --

1 THE COURT: 10.

2 MS. GUTIERREZ: -- inside the Jersey walls, are
3 they not?

4 THE COURT: 9, excuse me. State's Exhibit 10
5 -- 9.

6 THE WITNESS: There appears to be two logs
7 inside -- in between two sets of Jersey walls.

8 BY MS. GUTIERREZ:

9 Q. Okay. And then, so that those logs are inside
10 there; is that correct?

11 A. Inside?

12 Q. Inside the Jersey walls?

13 A. In between the two set of Jersey walls.

14 Q. Okay. So there's Jersey walls, then in the
15 pictures you see the crime scene tape stretched across;
16 correct?

17 A. Yes.

18 Q. And back behind those Jersey walls are another
19 set of Jersey walls; is that correct?

20 A. There's one set of Jersey walls adjacent to the
21 road, and then there's another set of Jersey walls beyond
22 that.

23 Q. Inside of that?

24 A. Yes.

25 Q. Is that correct? Further away from the road;

1 is that correct?

2 A. Yes.

3 Q. More inside the park than the first set of
4 Jersey walls?

5 A. Yes.

6 Q. If you would look at the photograph on the
7 lower left side, sir, after the Jersey walls it shows a
8 rusted guard rail, does it not?

9 A. Yes, it does.

10 Q. And underneath the guard rail it shows items of
11 plainly visible debris or trash, does it not?

12 A. Yes.

13 Q. That was not the only place where there was
14 visible debris or trash, was it?

15 A. No.

16 Q. Back where you disinterred this body on the far
17 side of the tree, in fact, was other debris and trash,
18 was there not?

19 A. Yes.

20 Q. Did you collect any of that?

21 A. No, I did not.

22 Q. Did you, sir, observe back there in the tree
23 any light source, artificial light source of any kind, of
24 any size?

25 A. We used artificial light sources such as in

1 flood lights because --

2 Q. You brought them?

3 A. Yes.

4 Q. Okay.

5 A. Well, I did not bring them, the police did.

6 Q. And you utilized them, but it was clearly

7 apparent that those light sources had been brought to the

8 scene; isn't that correct?

9 A. Yes.

10 Q. That they were not indigenous to that

11 particular place; is that correct?

12 A. Yes, that is correct.

13 Q. And you didn't observe any other light source

14 back there? A lamp post? A light stuck up on a tree?

15 Any source of light or electricity back there?

16 A. No, there was not.

17 Q. Okay. Now, sir, on State's Exhibit 10, it

18 shows all four are pictures with the exception of the one

19 that shows a portion of the tree, of the body, which you

20 call the remains, before they were disinterred; is that

21 correct?

22 A. Yes.

23 Q. That's how the body, the remains, appeared to

24 you when you first approached this scene, did they not?

25 A. Yes.

1 Q. Okay.

2 A. Excuse me.

3 Q. And, sir, at the time, because you don't recall
4 what information you asked for or what information you
5 were given, you had no idea of how long that body had
6 been there, did you?

7 A. No, I did not.

8 Q. And there's no snow or ice that appears on the
9 ground, does it?

10 A. No.

11 Q. And there are no facial features readily
12 apparent, are there?

13 A. No.

14 Q. And you, sir, not knowing how and under what
15 circumstances the body was discovered, nor by whom, had
16 no idea of who, if anyone else, other than the discoverer
17 of these remains had touched the body or altered that
18 scene, did you?

19 A. I did not know if anyone had touched the body,
20 or altered the scene, to include the person who
21 discovered the remains.

22 Q. Right.

23 A. I didn't know if the discoverer had touched the
24 body or not, either.

25 Q. Okay. And that includes whether or not they

1 had pushed off any of the soil that covered the entire
2 body?

3 A. Let me rephrase my last answer. I could tell
4 that something had touched the remains prior to my
5 arrival.

6 Q. Uh-huh.

7 A. Upon looking at the remains, the victim had
8 been wearing, or was wearing nylon stockings, and I could
9 see that there were scratch marks on the stockings that
10 are torn through the stockings onto the skin, such as a
11 dog or a raccoon or something kind of pawing curiously at
12 what was there. And you could see the scratch marks --

13 Q. Okay.

14 A. -- on her. So something had touched the
15 remains.

16 Q. And that was from your own observations --

17 THE COURT: I'm sorry.

18 Go on. Something had touched?

19 THE WITNESS: Touched or scratched. You could
20 see, like, claw marks --

21 THE COURT: Okay.

22 THE WITNESS: -- that had cut through the nylon
23 stockings and kind of scratched the skin beneath.

24 THE COURT: Okay.

25 BY MS. GUTIERREZ:

1 Q. You couldn't see that, sir, until you started
2 to disinter the body, however; correct?

3 A. No.

4 Q. Okay. Because the stockings, or the skin where
5 the stockings covered near the abdomen or any part near
6 was not readily visible when you first came upon this
7 scene, was it?

8 A. It was visible when I looked at the scene
9 without removing any dirt or leaves. A portion of the
10 remains were exposed and they were not covered, and those
11 exposed portions of the remains is what I looked at. And
12 that is where I saw the apparent claw marks or scratch
13 marks.

14 Q. Okay. And did you make a note of that
15 observation?

16 A. I made a mental note and I informed the
17 detectives and Dr. Rodriguez of what I had observed.

18 Q. Of that. Now, sir, the tree that we've been
19 talking about, the tree that the body was right beyond,
20 as it appears there, did you have to cross that tree to
21 get to the body?

22 A. Yes, I did. I stepped over it.

23 Q. Okay. And to step over it, it -- was there a
24 certain point you picked to step over it?

25 A. It was a point that I was instructed to step

1 over it by the detectives that were on the scene.

2 Q. So the detectives led the way from where the
3 Jersey walls and back to where the log is and the body
4 beyond it?

5 A. Yes.

6 Q. Okay. Sir, were you ever called upon to
7 conduct any other part of an investigation into the
8 discovery of these remains after February 9th?

9 A. I returned to the scene the following morning.

10 Q. The 10th of February?

11 A. Yes.

12 Q. Okay. And by that time the body was already
13 removed?

14 A. Yes.

15 Q. Did you collect any other trace evidence from
16 that day?

17 A. No, I did not.

18 Q. And were you ever asked to conduct any analysis
19 on any item that you or Dr. Rodriguez collected that day?

20 A. No, I was not.

21 MS. GUTIERREZ: I have nothing further.

22 THE COURT: Any redirect?

23 MR. URICK: Just one question, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. URICK:

1 Q. That crime scene is one that can be clearly and
2 fairly depicted through the photographs that were taken,
3 is it not?

4 MS. GUTIERREZ: Objection.

5 THE WITNESS: Yes, it is.

6 THE COURT: Overruled.

7 BY MR. URICK:

8 Q. You may answer the question?

9 A. Yes.

10 MR. URICK: Nothing else. Thank you.

11 RE CROSS EXAMINATION

12 BY MS. GUTIERREZ:

13 Q. Mr. Graham, how is it that you know that a
14 crime was committed at the scene in anything these
15 photographs depict?

16 MR. URICK: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: I do not know that a crime was
19 committed on the scene, however, it is commonly referred
20 to as a "crime scene."

21 BY MS. GUTIERREZ:

22 Q. So you were just using the common reference of
23 others to answer Mr. Urick's question?

24 A. I was not using the common reference of others,
25 I was using a reference that is used within the

1 profession of law enforcement and criminalistics as a
2 crime scene. A scene where the body is recovered
3 anywhere is referred to as a crime scene. A crime can
4 have many different scenes depending upon how it occurs.

5 Q. So, Mr. Graham, from your own knowledge or
6 observation you have no idea of whether or not a crime
7 occurred there, do you?

8 A. That is correct.

9 Q. You weren't asked to, and you could not, from
10 your own observations, indicate when and under what
11 circumstances that body was placed where you observed it
12 on February 9th?

13 A. No, I cannot.

14 Q. Nor by whom, or if it was more than one person?

15 A. That is correct.

16 Q. Okay. And you were never asked at any other
17 time to conduct any analysis on this scene at all; is
18 that correct?

19 A. Other than to remove the remains, process the
20 scene itself, no, I was not.

21 Q. Okay. And you were never asked, nor did you
22 ever write a report of your observations?

23 A. No.

24 Q. Thank you.

25 THE COURT: Any other redirect?

1 MR. URICK: No, thank you.

2 THE COURT: May this witness be excused?

3 MR. URICK: Yes.

4 MS. GUTIERREZ: Yes.

5 THE COURT: May this witness be excused and
6 removed from any need to return through a subpoena?

7 MS. GUTIERREZ: Yes.

8 MR. URICK: Yes.

9 THE COURT: Very well. Sir, you are free to go
10 at this time.

11 (The witness was excused.)

12 MR. URICK: The State will call Hope Schab at
13 this time.

14 THE COURT: All right.

15 MS. GUTIERREZ: Is Hope Schab the French
16 teacher?

17 MS. MURPHY: Uh-huh.

18 MS. GUTIERREZ: May we approach the bench?

19 THE COURT: Yes.

20 (Counsel and the defendant approached the
21 bench, and the following ensued.)

22 THE COURT: Okay. What I need you to do, is if
23 you would have your client step on this side?

24 MS. GUTIERREZ: Uh-huh.

25 THE COURT: Your client step on this side.

1 MS. GUTIERREZ: Over here?

2 THE COURT: Yes.

3 MS. GUTIERREZ: Okay.

4 THE COURT: Thank you.

5 MS. GUTIERREZ: Judge, I guess I would move in
6 limine, Hope Schab is, to my recollection, a French
7 teacher, and she testified at the last trial about a
8 number of things. But the purpose, I believe, in them
9 calling Hope Schab was to create an inference of evil by
10 having her testify --

11 THE COURT: A character witness of sorts?

12 MS. GUTIERREZ: No. Well, what she described
13 and what she was asked to describe was the fact that Hae
14 Min Lee worked for her part-time as some kind of aid,
15 student-teacher aid, and would be in her classroom during
16 times when there were not other students on a regular
17 basis.

18 THE COURT: Okay. One moment. Why don't we
19 just do it the other way around? Because, as I said
20 before, to get into what happened the last time was --

21 MS. GUTIERREZ: Well, it's my in limine now.

22 THE COURT: I know, but based on what I prefer
23 to do is ask the State why they are offering it.

24 MS. GUTIERREZ: Oh, okay. That's fine.

25 THE COURT: And once they tell me --

1 MS. GUTIERREZ: Yeah.

2 THE COURT: -- then you can --

3 MS. GUTIERREZ: Okay.

4 THE COURT: -- it sounds like --

5 MS. GUTIERREZ: That's fine.

6 THE COURT: -- the same thing --

7 MS. GUTIERREZ: Okay.

8 THE COURT: -- then you can go into objection.

9 MR. URICK: Because she has direct observations

10 of the defendant, he came in and had a conversation with

11 her, which was rather revelatory of his mental state, his

12 concerns about how his relationship with her was being

13 affected. She --

14 THE COURT: When?

15 MR. URICK: This was approximately December, I

16 believe.

17 THE COURT: Before the murder?

18 MR. URICK: Yes.

19 MS. GUTIERREZ: Yeah.

20 THE COURT: And when you say how the

21 relationship was going, are you offering her as a motive

22 witness?

23 MR. URICK: As -- yeah, that would be

24 tangential to motive. It's laying the foundation through

25 several witnesses of the conflict of the defendant was

1 experiencing, how it was affecting their relationship
2 over time, how it led to the various breakups, and I
3 believe the reason it ultimately led to the murder.

4 THE COURT: Okay. And -- I'm sorry.

5 MR. URICK: And also this defendant actively
6 confronted her one time and accused her of working with
7 the investigation that was investigating her
8 disappearance.

9 THE COURT: And you're offering her just to say
10 that the defendant confronted her to say what? In other
11 words, I'm trying to understand the relevance of any
12 confrontation that the defendant may have made with this
13 witness as to this case?

14 MR. URICK: She was aiding the Baltimore County
15 detectives in getting information around the school. The
16 defendant confronted her about that on one occasion.

17 THE COURT: You mean information about the
18 defendant around the school?

19 MR. URICK: About Hae's disappearance and also
20 the defendant, specifically about his actions and
21 whereabouts on the day in question.

22 THE COURT: On the day in question?

23 MR. URICK: Yes.

24 THE COURT: And she had information about his
25 behavior and whereabouts on the date in question?

1 MR. URICK: She was helping --

2 THE COURT: The date of the murder --

3 MR. URICK: She was helping the County
4 detectives gather that information from various
5 individuals throughout the school.

6 THE COURT: My question is does she have any
7 personal knowledge about the defendant's whereabouts or
8 knowledge of those whereabouts on the day of the murder,
9 or before the murder, or proximity of the murder? Does
10 she have personal knowledge?

11 MR. URICK: Not on the day of the
12 disappearance, I believe.

13 THE COURT: So her personal knowledge only goes
14 to the relationship between the victim and the defendant?

15 MR. URICK: Yes. And also his actions when he
16 found out that she was aiding the detectives in
17 investigating the disappearance.

18 THE COURT: As it relates to him?

19 MR. URICK: Yes.

20 THE COURT: Is she gonna testify that she
21 confronted him, believing he was the murderer and said
22 something?

23 MR. URICK: No, he came up and confronted her.

24 THE COURT: All right.

25 Ms. Gutierrez, in light of what --

1 MS. GUTIERREZ: Well, Judge, that's news to me.

2 THE COURT: Okay. Well, --

3 MS. GUTIERREZ: Okay. All of that's news to
4 me.

5 THE COURT: Well, --

6 MS. GUTIERREZ: This is new stuff.

7 THE COURT: Ms. --

8 MS. GUTIERREZ: This isn't what she testified
9 to before.

10 THE COURT: Well -- well, regardless --

11 MS. GUTIERREZ: In response to that, I would
12 certainly argue I think relevance keeps it out.

13 THE COURT: Why don't we just stop right here.

14 Ladies and gentlemen, it appears that I'm gonna
15 spend a little time with counsel on this next issue, and
16 rather than have you sit and then send you to lunch in
17 ten minutes, I'll send you to lunch and talk to counsel.

18 So at this time, I'm gonna ask that you leave
19 your note pads face down. I'm also gonna ask that you
20 pass to Mr. White that second sheet of paper because, at
21 this time, you do not need it for this witness; is that
22 not correct?

23 All right. So you'll get that back at any time
24 in the future we have a witness who will be utilizing
25 that large exhibit 34 that's been marked for

1 identification purposes.

2 I must remind you during the luncheon recess
3 that you should not read anything about this case, you
4 should not look at the news or the media, and you should
5 not discuss this case amongst yourselves or with anyone
6 else.

7 I ask that you return to that jury room around
8 the corner no later than 1:30. You're welcome to go get
9 your lunch if you'd like and bring it back. I know it's
10 cold out, although the sun is shining.

11 And if you opt to do that and you find that
12 door's locked, just knock on my chambers door, which is
13 right around the corner this way. And I want to say this
14 way, just across from the elevators there's a door, has
15 my name on it, someone should be there to unlock the jury
16 room if you find that it is locked before 1:30.

17 Have a good lunch. I'll see you after lunch.
18 And please try to be prompt. We will try to do the same.

19 The witness that is on the witness stand, I'm
20 gonna ask you to remain just for one moment.

21 (The jury left the room.)

22 (Pause.)

23 THE COURT: For the record, I also noticed that
24 there are a couple of witnesses who have elected to
25 remain. I must admonish you that all the witnesses in

1 this case, even though you are excused, are under
2 sequestration.

3 What that means is you cannot discuss what
4 takes place in the courtroom. If you were to talk to
5 someone who has not yet testified, you would eliminate
6 them, effectively, from their ability to testify at all.

7 And that would include any detectives involved
8 in this case. You cannot discuss your testimony with
9 them, or with anyone else. But you are welcome to remain
10 in the courtroom during the course of the trial as you
11 are now excused and will not be called back again.

12 The rest of you can indicate also that this --
13 yes. Yes.

14 (Pause.)

15 THE COURT: And for all of you that are
16 waiting, you are welcome to stay. I'm gonna hear from
17 counsel.

18 Why don't you step back on your motion. Ask
19 the witness if she'll stay.

20 MS. GUTIERREZ: I asked that she step outside?

21 THE COURT: I -- give me a chance. Ask that
22 she step out in the hallway just for a few moments.

23 MS. SCHAB: Am I allowed to use the rest room?

24 THE COURT: Yes, you may.

25 THE WITNESS: Thank you.

1 THE COURT: Do you know where it is?

2 MS SCHAB: No, I don't.

3 THE COURT: I believe you will have to go down
4 the hall --

5 MS. GUTIERREZ: To the right.

6 THE COURT: Is it one -- then pass the Coke
7 machines on the right.

8 MS SCHAB: Thank you.

9 THE COURT: All right.

10 MR. URICK: Your Honor, if I may just
11 supplement what I said at the bench. There is one other
12 item that this particular witness can testify to. She
13 got a list of questions from Detective O'Shea of the
14 Baltimore County Police Department that she passed on to
15 Debbie [REDACTED] to answer.

16 Ms. [REDACTED] will testify that she put those
17 answers -- those questions in her day planner. During
18 the course of the day, she loaned that day planner to
19 this defendant. When she got it back those questions
20 were missing. So there's another piece of personal --
21 string of evidence that comes out of this particular
22 witness.

23 THE COURT: And were the questions answered?

24 MR. URICK: No. They disappeared before Ms.
25 [REDACTED] could answer them.

1 THE COURT: All right.

2 Ms. Gutierrez, your objection?

3 MS. GUTIERREZ: Well, Judge, all of that is new
4 information to us and was not asked of this witness at
5 the first trial, so that wasn't the basis of my
6 objection.

7 THE COURT: I'm not gonna hold the State to try
8 AND

9 MS. GUTIERREZ: No, I'm not --

10 THE COURT: I'm not going to hold you to the
11 same --

12 MS. GUTIERREZ: That wasn't my -- my, really
13 the, if I could, the basis of my motion in limine was to
14 avoid what had occurred at the first trial that related
15 to this witness's being asked about an event that
16 occurred at an unspecified time except it clearly had
17 occurred before January 13th during which my client, she
18 says, appeared during this particular period of time
19 during the school day that wasn't identified, or in the
20 morning, to meet Hae Lee in her classroom while Hae Lee
21 would be assigned there to do her, whatever her work was.

22 She was, like, an aid to this French teacher.
23 And that she testified that that occurred on a regular
24 basis over a long period of time, but that there was a
25 particular day in which Adnan Syed showed up, and during

1 that time period Hae Lee did not show up and called her
2 on the phone to tell her that, "Don't let on to Adnan" --
3 first finding out if Adnan was there waiting for her, and
4 for the teacher not to let on to Adnan that it was Hae on
5 the phone.

6 And I guess I would move in limine to prevent
7 that for a number of reasons; one, relevance, the only
8 inference is to present that Hae was hiding from, or
9 hiding her presence from Adnan, no explanation, just no
10 relevance in terms of time, date, or place to the events
11 starting on January 13th and beyond at all -- highly
12 prejudicial, purposefully prejudicial, with only the
13 inference of a bad thing. No good inferences that come
14 out of that, and that was the purpose of my motion.

15 As to these other things that they're now
16 talking about, as I said, they are all news to us. So
17 they aren't contained in any disclosure, they were not
18 asked of this witness at the first trial, so my
19 instinctive reaction is, you know, basically, relevance
20 to testify to thing; number one, that occurred, either
21 the ones that are alleged to have occurred after, for
22 instance, to allow this witness to testify that she heard
23 something from a witness who has not testified regarding
24 an inference that Adnan intentionally did something;
25 i.e., stole questions about himself inadvertently given,

1 in order to stymie the investigation?

2 Number one, they're hearsay objections to begin
3 with. The inferences are impermissible, they are not
4 relevant 'cause they cannot be placed in time. They are
5 subsequent actions of the defendant, and I haven't heard
6 enough, I believe that it's also asking for hearsay of my
7 client at a subsequent date.

8 As to other events that were discussed
9 regarding any other conversation with my client, again,
10 I've heard nothing that pinpoints a relevancy connection
11 to these time and events. The one conversation Mr. Urick
12 referred to, he said was in December. He's established
13 -- he's attempting to establish, I believe, that the
14 relationship between Mr. Syed and Ms. Lee ended prior to
15 January 1st, 1999. And --

16 THE COURT: The evidence is then being derived,
17 I understand, from this witness, occurring sometime in
18 December of 1998, the month prior to her murder?

19 MS. GUTIERREZ: That's what I heard. Yes.

20 THE COURT: Okay.

21 MS. GUTIERREZ: Yes. And so for all of those
22 reasons we would object to those things and move in
23 limine regarding this witness's ability to testify as I
24 said, and again, my objection in limine regarding some
25 unspecified date, and a phone call with the victim that,

1 as we know, only consisted of the victim saying, "Don't
2 let him know I'm on the phone," you know, which is a bad
3 inference, but not tied to any specific thing, certainly
4 doesn't go to the victim's state of mind is not here.

5 And without more I don't believe that there's
6 enough to take them to a place --

7 THE COURT: Okay.

8 MS. GUTIERREZ: -- where her state of mind
9 might be relevant, that we're not even close there.

10 THE COURT: I am hearing from the State that
11 there's some relevance issue. I'm hearing from the State
12 that there's some, I'm gonna call it "quasi-404-B,"
13 motive kind of, sort of.

14 But I'm not clear exactly what that is, even,
15 Mr. Urick, with your explanation, however vague it was at
16 the bench, I'm not really sure where you're going with
17 this witness. But I'm gonna tell you that at this moment
18 I'm not gonna rule on Ms. Gutierrez's objection because I
19 don't know where you're going.

20 But I'm gonna tell you this. I'm gonna
21 scrutinize the questions that you pose. And I may, at
22 any time during the course of those questions, ask you to
23 clarify or reiterate or explain where you're going.

24 Because as we sit here, I see a very vague
25 connection with motive, and very vague connection with

1 relevance. And I'm inclined to grant her motion, but I'm
2 gonna give you the benefit of the doubt at this moment,
3 'cause I certainly haven't heard the witness testify, nor
4 do I know what you know.

5 But if I'm not convinced very early in your
6 questioning, I'm gonna have you come to the bench and ask
7 you to proffer what she is going to say. I don't mean a
8 vague statement, I mean what is she gonna say.

9 Because I don't find a conversation saying,
10 "Don't tell him I'm on the phone," or "don't tell him
11 where I am" a month before the murder, as particularly so
12 relevant that it would outweigh the prejudicial effect
13 that the jury might misuse that and believe that it meant
14 any more than that. Unless there's another set of
15 circumstances showing something more than just an
16 occasion when the victim is on the phone saying, "Don't
17 tell him where I am," "Don't tell him that I'm on the
18 phone."

19 So I don't know your witness's statement, I
20 don't know what she knows, I don't know what
21 circumstances, but I would ask that you make the
22 connection, make it clear to the Court very early on by
23 your questions to this witness so that it becomes
24 abundantly clear.

25 Otherwise, I will; one, grant the motion; or

1 two, if they answer and it's still vague, I will
2 entertain a motion to strike that part from the
3 testimony, and give the curative instruction to the jury
4 indicating it has no relevance. And so, at this
5 juncture, that's the way I'm going to proceed.

6 Also I'd ask you to be mindful of the fact that
7 this witness is, I understand, will be treated as a lay
8 witness. And so there's not expertise conclusion that I
9 would expect that you would try to draw from this
10 witness, other than her observations, what she saw, what
11 she did, what she knows -- not what someone else told
12 her, not what someone else presented to her, but what she
13 knows.

14 She knows they were fighting, fine. She saw
15 it, fine. Somebody told her that they were fighting, I'm
16 not gonna allow that. I'd ask that you be mindful of my
17 concern, that whatever she has to say be relevant.

18 Go directly to your issue of motive, and be
19 done in a fashion that does not go off on a tangent or
20 bring in any other collateral materials that will not be
21 relevant or may not necessarily go directly to the heart
22 of the issue that you'd like to bring out through this
23 witness.

24 With that said, we're gonna stand in recess
25 until 1:30. I'd ask counsel to be back by 1:25 so that

1 we can resume.

2 I'd ask also, Ms. Connelly, if you tell the
3 witness that she's excused and that she should return at
4 1:25 so that she's available.

5 She has not yet been sworn, and so, Ms.
6 Gutierrez, I'm informing the State while you're here,
7 that he can direct his witness during the break that
8 there has been a limit placed on her, because I do not
9 want her blurting out things that, what other people said
10 --

11 MS. MURPHY: That's fine.

12 THE COURT: -- as part of her testimony.

13 MS. MURPHY: Okay.

14 THE COURT: This Court stands in recess then
15 until 1:30.

16 THE CLERK: All rise.

17 (A luncheon recess was taken at 12:33 p.m.)

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A F T E R N O O N S E S S I O N

(2:02 p.m.)

(The jury was present upon reconvening.)

THE COURT: At this time, I'd like the State to call the next witness.

MR. URICK: Thank you.

(Pause.)

THE COURT: Please remain standing, listen to Mr. White as he gives you the oath.

Whereupon,

HOPE SCHAB,

a witness produced on call of the State, having first been duly sworn, was examined and testified as follows:

THE CLERK: You may be seated.

Please keep your voice up, state your name for the record?

THE WITNESS: My name is Hope Schab.

THE CLERK: Spell your last name for the record?

THE WITNESS: S-C-H-A-B.

THE CLERK: And state your address for the record.

THE WITNESS: [REDACTED] Baltimore, Maryland 21207.

DIRECT EXAMINATION

1 BY MR. URICK:

2 Q. Good afternoon, Ms. Schab.

3 A. Good afternoon.

4 Q. Where are you employed?

5 A. Woodlawn Senior High School.

6 Q. And what do you do there?

7 A. I'm a French teacher.

8 Q. And how long have you been employed there?

9 A. Five years.

10 Q. And do you know the defendant, Adnan Syed?

11 A. I do.

12 Q. And how long have you known the defendant?

13 A. I suppose four years.

14 Q. And how have you known him?

15 A. He was one of my student's boyfriends. I did

16 not teach him.

17 Q. And did you know Hae Min Lee?

18 A. I did.

19 Q. And how did you know her?

20 A. She was a student of mine.

21 Q. And in what class -- what classes did she take

22 with you?

23 A. French 2 and 4, 5.

24 Q. Now, drawing your attention to the Fall of

25 1998, the Spring of 1999, which would have been Hae Min

1 Lee's senior year, what, if any, contact were you having
2 with her that year?

3 A. Hae was unable to take my upper level course,
4 she wanted to be my intern so she could spend some time
5 with me and learn independently with me. So, every day
6 from 7:30 until 9:15 she would come to me and we would
7 either do French or she would help me with my grades and
8 things of that nature.

9 Q. And when you say she would come to you, where
10 would she come?

11 A. To room 309, my classroom.

12 Q. And what, if anything, else were you doing
13 during that time period?

14 A. We were just doing a lot of computer work, and
15 just discussing -- she was sort of a friend, as well.

16 Q. And how many people would be in the room during
17 that time period?

18 A. There would usually be Hae and myself and the
19 Department Chair, Mr. Chris Parker.

20 Q. Okay, now. What, if any, personal experience
21 have you had with cross-cultural dating?

22 A. I am Roman Catholic, and I have dated -- my
23 last four boyfriends have been Jewish.

24 MS. GUTIERREZ: Objection. Move to strike.

25 THE COURT: The objection is gonna be

1 sustained. I'm gonna move to strike the question and the
2 answer at this time, and, let me see counsel at the
3 bench.

4 (Counsel and the defendant approached the
5 bench, and the following ensued.)

6 THE COURT: First of all, what I asked you for
7 during the break for lunch, what it was that this witness
8 was going to testify to, you did not in any way indicate
9 that you were offering this witness in any way as an
10 expert or providing any information on "cross-cultural
11 dating." And now we are going to --

12 MR. URICK: It's not --

13 THE COURT: -- her experience with cross-
14 cultural dating, which is not anything that you proffered
15 to the Court. So I'd like to know where you're going
16 with this?

17 MR. URICK: I'm not qualifying her as per any
18 expertise, I'm just putting that down as an explanation
19 why both the defendant and Ms. Lee would discuss their
20 relationship with her.

21 THE COURT: Assuming for the sake of this
22 discussion that the two of them spent a lot of time
23 discussing their relationship, their personal
24 relationships, what relevance does that have?

25 MR. URICK: It goes to the motive of the

1 defendant, that there was a conflict between them that
2 was caused by his religious beliefs. This defendant
3 discussed that with this witness. She can talk about
4 what he told her. She can --

5 THE COURT: Yes, but that's not what you asked
6 her. You asked her about her questions and conversation
7 with the victim.

8 MR. URICK: My next question was, did you have
9 occasion -- my very next question would be did you have
10 occasion to discuss both with Ms. Lee and the defendant
11 their relationship. And then I'll get into the specific
12 incidents.

13 THE COURT: And the specific incidents cover
14 what time period?

15 MR. URICK: The time of the breakup or the
16 breakup after the homecoming dance of the time of
17 Halloween.

18 THE COURT: When?

19 MR. URICK: Which would be probably around
20 Halloween and November -- October, November.

21 THE COURT: October and November of '98?

22 MR. URICK: Yes. This is a case where the
23 motivation is a very complex human interaction that took
24 place between two people over a period of about four to
25 six months.

1 THE COURT: Preceding the murder?

2 MR. URICK: Yes. And this is when, at the
3 homecoming dance, the breakup at Halloween, the get
4 together, the second breakup, all come as a package that
5 developed what the conflict was, what this defendant's
6 motivation was.

7 THE COURT: Your objection for the record?

8 MS. GUTIERREZ: Well, Judge, one, I think it's
9 irrelevant; number two, I think it's highly prejudicial.
10 Just because the defendant may have opened his mouth over
11 a period of four to six months prior to this murder
12 doesn't make what she says he said admissible to show
13 anything.

14 The tenuousness, for instance, establishing
15 that the development of the motive took four to six
16 months, their own evidence that they've already put in
17 indicates that they were still an item -- the diary of
18 Hae Min Lee -- that they were still an item far into the
19 third week of December, a period long past the time
20 period that he's speaking of.

21 And so for that reason and relevance and
22 prejudice, I would object to this witness attempting to
23 testify to anything that my client said or anything
24 regarding -- you know, unless he says, of course -- and
25 they're not proffering that -- that he says, "I'm going

1 to kill her," which he clearly didn't.

2 But absent that, I would argue that what he
3 says is not admissible, it's hearsay, it's not
4 necessarily an admission. Anything that he said doesn't
5 make -- Mr. Urick said hasn't made it out to be an
6 admission. It's like, well, it sort of goes to motive,
7 that sort of developed over four to six months, doesn't
8 make it so. So, --

9 THE COURT: I'm gonna allow the State to
10 inquire as to the relationship that this witness was
11 aware of based on conversations that she had directly
12 with the defendant or directly with the victim in a
13 period of time preceding the murder.

14 However, I'm gonna allow the defense to have
15 free reign to inquire as to the limitations of that
16 knowledge, any restrictions that that knowledge may have
17 had, to including right up to the time of the murder.

18 And I would also remind you that it is to be
19 her personal knowledge and not based on information she
20 had received from other sources. So when her sentence
21 starts off with some other person other than the
22 defendant, the victim said such and such, or we all knew,
23 that will be not permitted.

24 MR. URICK: I'm sorry. Did you say she can't
25 say anything the victim told her?

1 THE COURT: She can tell you -- she can say
2 what the victim said, she can say what the defendant said
3 as to their relationship. But beyond that --

4 MS. GUTIERREZ: At any time period prior to her
5 disappearance?

6 THE COURT: The period of time on or about, as
7 you've indicated, October, November, December in 1998.
8 However, I will not allow anything other than what
9 conversations she had with the witness, victim or the
10 defendant. Other than that, not a we knew, what we all
11 knew, what we all heard. That will not be permitted.
12 And again, I will allow the defense on cross to inquire
13 to the extent that that information will have
14 limitations.

15 MR. URICK: Thank you.

16 MS. GUTIERREZ: We would note an objection.

17 THE COURT: All right.

18 (Counsel and the defendant returned to the
19 trial tables, and the following ensued.)

20 THE COURT: Now, you may reask your last
21 question or your next question in line with the Court's
22 ruling.

23 MR. URICK: Thank you.

24 BY MR. URICK:

25 Q. Drawing your attention to the Fall of 1998,

1 about the time of the homecoming dance into the Halloween
2 holidays, did you have occasion to discuss their
3 relationship with the victim, Hae Min Lee, and the
4 defendant, Adnan Syed?

5 A. Yes, I did.

6 Q. What, if anything, --

7 MS. GUTIERREZ: May I have a continuing
8 objection to this whole line of questions?

9 THE COURT: Yes.

10 MS. GUTIERREZ: Thank you.

11 BY MR. URICK:

12 Q. What, if anything, did Hae Min Lee tell you?

13 A. There had been an argument --

14 MS. GUTIERREZ: I'm gonna object to the form of
15 the question that allows her any answer.

16 THE COURT: With regard to the line of
17 questioning that I've already instructed that we will
18 have some limitations, I would like you to direct the
19 witness to a specific period of time and the specific
20 type of information you require. She's already testified
21 that they met on a regular occasion, so I would ask that
22 you limit or at least control your witness in the type of
23 inquiry that you are making so that it's not open ended.

24 BY MR. URICK:

25 Q. Drawing your attention to the period of about

1 the homecoming dance through the Halloween holiday;

2 A. Yes.

3 Q. -- that is, October, November, that period of
4 the Fall year, what, if any, concerns did Hae Min Lee
5 express to you concerning her relationship with Adnan
6 Syed?

7 MS. GUTIERREZ: Objection, and ask for a
8 continuing objection.

9 THE COURT: I understand. Let the record note
10 the continuing objection. It is overruled, you may
11 answer the question.

12 THE WITNESS: Thank you.

13 There had been an incident at the homecoming
14 dance, an argument --

15 MS. GUTIERREZ: Objection. Unless it's based
16 on personal knowledge.

17 THE COURT: We're instructing that you can tell
18 us what someone said to you, that someone being the
19 victim. But you can't tell us --

20 THE WITNESS: I can't -- yeah, I'm not
21 understanding.

22 THE COURT: Do you know who the victim is in
23 the case, Ms. Lee?

24 THE WITNESS: Yes, I do. I just don't
25 understand --

1 THE COURT: Okay. Then listen to what I'm
2 saying to you.

3 THE WITNESS: Sure.

4 THE COURT: You may tell us what she said to
5 you.

6 THE WITNESS: Okay.

7 THE COURT: But you may not tell us what
8 someone else said. So when you say there had been an
9 incident, I need you to say --

10 THE WITNESS: It's not first-hand experience, I
11 understand that.

12 THE COURT: Did Ms. Lee tell you that there had
13 been an incident?

14 THE WITNESS: Yes, she did.

15 THE COURT: All right. Well, that's how you
16 need to testify.

17 THE WITNESS: Okay.

18 THE COURT: That she said --

19 THE WITNESS: I understand.

20 THE COURT: -- whatever it was that she said.

21 THE WITNESS: Ms. Lee had said that there was a
22 dispute between the parents of Adnan Syed and herself at
23 the homecoming dance. And then, after that, that
24 weekend, they had both come back.

25 Ms. Lee said to me that there was a problem in

1 their relationship due to their interfaith -- to their
2 interfaith relationship. The fact that they were
3 different religions, is what I'm trying to say.

4 THE COURT: Your next question?

5 BY MR. URICK:

6 Q. What, if anything else, did she tell you?

7 MS. GUTIERREZ: Objection. Form of the
8 question.

9 THE COURT: Sustained.

10 BY MR. URICK:

11 Q. What, if -- what, if any, concerns did she
12 express as to possible effects that that aspect was
13 having on their relationship?

14 MS. GUTIERREZ: Objection.

15 THE COURT: Overruled.

16 THE WITNESS: Ms. Lee was wondering and asking
17 me for counsel and my opinion as to what one should do if
18 he or she were in an interfaith relationship, and was the
19 faith more important or was the love more important.

20 BY MR. URICK:

21 Q. Did there come a time -- drawing your attention
22 to about that same period between the
23 homecoming/Halloween holiday, that you had occasion, or a
24 morning when Ms. Lee did not show up but the defendant
25 showed up and you had an occasion to speak to him?

1 MS. GUTIERREZ: Objection.

2 THE COURT: Overruled.

3 MR. URICK: You may answer the question.

4 THE COURT: Yes or no.

5 THE WITNESS: Yes.

6 THE COURT: Next question.

7 BY MR. URICK:

8 Q. Where were you at that time?

9 A. I was in room 309, my classroom.

10 Q. About what time did this occur?

11 A. Probably about eight o'clock in the morning.

12 Q. And who, if anyone, was with you in the room?

13 MS. GUTIERREZ: Objection.

14 THE COURT: Can we place a time frame on when

15 we're talking about? This is the Fall of '98 as well?

16 MR. URICK: Yes, drawing you to the period

17 between homecoming and Halloween.

18 THE WITNESS: In the first week of November.

19 THE COURT: Overruled.

20 You may answer the question.

21 BY MR. URICK:

22 Q. Who, if anyone, was in the room with you?

23 A. Adnan Syed and myself.

24 Q. When did he appear?

25 A. Eight o'clock, around there.

1 Q. How did you first notice him?

2 A. He came into my classroom looking for Hae and
3 waited for her there.

4 Q. And, just dealing now with what he was doing,
5 what did he do?

6 A. He was in the far corner of the classroom
7 looking out the window, and was also asking questions
8 along the line of what should one do if they are in love
9 with someone who is not their religion.

10 Q. And did he express any concerns about that
11 aspect of the relationship to you that day?

12 A. Yes.

13 Q. What were those concerns?

14 A. Should one -- should one break up over this, or
15 is love strong enough that it can overcome everything.
16 What will happen down the road if, you know, you were to
17 marry someone of a different faith.

18 Q. What was he doing while he was asking these
19 questions?

20 A. He was sitting on the last desk in the last row
21 looking out the window waiting for Hae, asking questions
22 to me.

23 Q. And about how long did the two of you talk?

24 A. About maybe 20 minutes.

25 Q. While you were talking with him, what, if

1 disappeared?

2 A. The -- the weekend or, I suppose, the Monday
3 afterwards. Her friends had come to me and said --

4 MS. GUTIERREZ: Objection.

5 THE COURT: Sustained. You can't tell us what
6 anyone else said.

7 THE WITNESS: Okay.

8 THE COURT: The asked question was when did you
9 discover, and you discovered it the weekend after, is
10 that what your testimony is?

11 THE WITNESS: Uh-huh.

12 THE COURT: To the extent that the witness can
13 testify as to when she got the information, that part of
14 the answer is admissible to you. As to who told her and
15 what they said, that is not admissible, and that portion
16 of her response will be stricken at this time.

17 You may continue.

18 BY MR. URICK:

19 Q. After Hae's disappearance, did there come a
20 time when you became actively involved in aiding the
21 Baltimore County detectives in their investigation of her
22 disappearance?

23 A. Yes.

24 Q. What, if anything, did you do?

25 MS. GUTIERREZ: Objection.

1 THE COURT: "What, if anything, did you do?"

2 That is sustained.

3 BY MR. URICK:

4 Q. What did you do to aid that investigation?

5 A. I was in contact with the detective, and he
6 would ask me to ask certain teachers because they weren't
7 cooperating necessarily to the full extent, if Adnan was
8 in class on a certain day, if he was at track practice.

9 If -- I had to get in touch with some of her
10 girlfriends so that they could -- I could ask them
11 questions that he was interested in, and then have them
12 call him back.

13 Q. Did there come a time when you passed on some
14 questions?

15 A. I'm sorry?

16 Q. Did there come a time when you passed on some
17 questions?

18 A. Yes.

19 Q. Who did you give those questions to?

20 A. Deborah [REDACTED]

21 Q. Did you have occasion to look at the questions?

22 A. I wrote the questions myself.

23 Q. What were those questions?

24 A. If Hae and Adnan had a special place they went
25 to, a park or any place like that. I just remember

1 writing that one specifically, I don't -- there were
2 approximately four or five that I had written down and
3 given it Deborah [REDACTED], which she placed inside her
4 agenda book.

5 MS. GUTIERREZ: Objection. Move to strike the
6 last part of her answer.

7 THE COURT: Overruled if, and only if, did you
8 see her --

9 THE WITNESS: I saw her place them.

10 THE COURT: Overruled. Next question.

11 BY MR. URICK:

12 Q. Did there come a time when you had occasion to
13 speak with the defendant about your aid of the missing
14 persons investigation by the Baltimore County detectives?

15 A. Yes.

16 MS. GUTIERREZ: Objection. For all the
17 previous cited reasons.

18 THE COURT: Overruled.

19 BY MR. URICK:

20 Q. When did that occur?

21 MS. GUTIERREZ: We have a continuing objection
22 on this line of questioning.

23 THE COURT: Objection is noted for the record.
24 Continuing objection is also noted to this entire line of
25 questioning --

1 MS. GUTIERREZ: Thank you.

2 THE COURT: -- by the State.

3 You may continue.

4 BY MR. URICK:

5 Q. When did that occur, if you can recall?

6 A. During the time I was working with the

7 Baltimore County detectives.

8 Q. Would this have been before the body was found?

9 A. Yes. She was a missing person at that time.

10 Q. Where were you -- where were you when this
11 incident occurred?

12 A. In my classroom.

13 Q. How did it begin?

14 A. Mr. Syed came into my classroom and just asked
15 if I was asking teachers about him, questions about him,
16 which I stated yes, that everyone was being questioned at
17 this time, which we all were. And he just said to me
18 that he would appreciate it if I didn't do that because
19 his parents didn't know everything that went on in his
20 life.

21 Q. How many people were in the room with you at
22 the time?

23 A. I believe Debbie [REDACTED] was there, but I'm not
24 positive. I know it wasn't just the two of us.

25 Q. How far did the defendant stand from you when

1 he said all this?

2 A. I was behind my desk and he was in front of my
3 desk.

4 Q. And how close to the desk would he have been?

5 A. Two feet away.

6 MR. URICK: If I may have the Court's
7 indulgence for just a second?

8 THE COURT: Yes, you may.

9 (Pause.)

10 MR. URICK: Witness with the defense.

11 THE COURT: Ms. Gutierrez, at your leisure.

12 CROSS-EXAMINATION

13 BY MS. GUTIERREZ:

14 Q. Ms. Schwab, your faith is Roman Catholic?

15 A. My name is Ms. Schab, please.

16 Q. Your faith is Roman Catholic?

17 A. Yes, it is.

18 Q. And as a Roman Catholic are you forbidden upon
19 pain of any consequence from dating anyone who's not
20 Roman Catholic?

21 A. No.

22 Q. And are you forbidden to have sex unless you
23 are married, with someone of the Catholic faith or any
24 faith?

25 A. Of any faith.

1 Q. Not any faith. And are you, as a Roman
2 Catholic, forbidden to have any relationship outside of
3 marriage?

4 A. Are you referring to dating?

5 Q. Any relationship outside of marriage? Yes.
6 Dating?

7 A. No, you may date.

8 Q. You may date. And that's your understanding of
9 what limits your faith puts on you?

10 A. Yes.

11 Q. And you consider yourself to be a practicing
12 Catholic?

13 A. Yes, I do.

14 Q. So it is your understanding that the Roman
15 Catholic religion permits dating?

16 A. Yes, ma'am.

17 Q. Of anyone of any faith; correct?

18 A. Yes.

19 Q. And what about sex? Does it permit sex from
20 individuals dating or otherwise of any religion, Roman
21 Catholic or any other religion outside of marriage?

22 A. We are not to have sex before --

23 Q. You are not to have sex; is that correct? And,
24 you are familiar, even though you are Roman Catholic,
25 with other religions in the world, are you not?