

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

3 THE DEPUTY CLERK: Please state and spell your  
4 first and last name for the record.

5 THE WITNESS: Robert White, R-o-b-e-r-t, W-h-i-t-e.

6 **DIRECT EXAMINATION**

7 BY MR. MOOMAU:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Mr. White, did you used to work as a furniture  
11 delivery person working for or delivering furniture for Marlo  
12 Furniture?

13 A. Yes, sir.

14 Q. And did you have that job on January 24, 2007?

15 A. Yes, sir.

16 Q. Did you work with anyone at that job?

17 A. Brandon Clark.

18 Q. Were you related to Brandon in any way?

19 A. He's my cousin.

20 Q. Just tell the jury a little bit about the job, how  
21 you and Brandon worked together.

22 A. Well, what we do is me and Brandon, he comes and  
23 picks me up in the morning. We go out. He usually talks to  
24 all of the customers. I usually sit in the truck until he  
25 comes back and let me know what to do. And, basically, he

1 hook up everything and I'm just like his helper. So if he  
2 hooking up something, I'm going out taking trash out or  
3 moving the next stuff up for the next stop.

4 Q. What about some of the items that you and Brandon  
5 would move in and out of homes?

6 A. Well, the beds, dressers, numerous stuff, cabinets.

7 Q. Would you ever have to take things downstairs?

8 A. Yes, sir.

9 Q. What about upstairs?

10 A. Upstairs, yes, sir.

11 Q. Who was the person that, I guess, actually employed  
12 you?

13 A. Mike Robinson.

14 Q. Did he have like a truck, a Marlo truck contract?

15 A. Yes, he had a contract with Marlo. I think he had  
16 two trucks.

17 Q. Who would load the truck in the morning?

18 A. Brandon and Mike would load the truck in the  
19 morning. Then Brandon would come by and pick me up. I would  
20 meet him on Martin Luther King Avenue, by the Popeye's, every  
21 morning at seven o'clock.

22 Q. Do you know what time -- did you ever go to the  
23 warehouse with Brandon?

24 A. The only time I go to the warehouse is when we  
25 coming back in. Because we got trash on the truck, we got

1 furniture that we bring back to the company that's being  
2 exchanged, and then either Mike will take me home or  
3 Brandon's mother will take me home.

4 Q. What hours would you normally work and what days?

5 A. I go to work at seven in the morning, when he pick  
6 me up, and sometimes it be eleven o'clock when we get back.  
7 Not every night, but some nights.

8 Q. How many deliveries would you make?

9 A. Fourteen to 15 a day.

10 Q. I want to get something out now, okay, as to what  
11 happened on January 24th. Did you end up going to the  
12 hospital that night?

13 A. Yes, sir, I did.

14 Q. What did you go to the hospital for?

15 A. Because I was shot four times.

16 Q. You know they tested your urine at the hospital?

17 A. Yes, sir.

18 Q. And you know it tested positive for cocaine.

19 A. Yes, sir.

20 Q. Did you use cocaine?

21 A. No, sir.

22 Q. Can you explain how it got in there?

23 A. I don't know.

24 Q. Now, I want to talk about January 24th. Do you  
25 remember everything about that day?

1 A. Not exactly everything, but I remember a lot.

2 Q. Is there a reason that you might not remember  
3 everything?

4 A. The time pass. It's been a year.

5 Q. Were you in a coma for a period of time, or was  
6 there a period after the 24th that you don't --

7 MR. STARR: Objection. Leading.

8 THE COURT: Sustained.

9 BY MR. MOOMAU:

10 Q. On the 24th, after that, do you remember  
11 everything?

12 A. No. No, I didn't.

13 Q. Was there a point in time that you started  
14 remembering things?

15 A. As the time go by, some things come to me and some  
16 things I just couldn't remember.

17 Q. January 24th, do you remember how many deliveries  
18 you made before the last one of the day?

19 A. Not exactly.

20 Q. How did you keep track of the deliveries or how was  
21 that kept track of?

22 A. They had a printout sheet, and we went by the  
23 printout sheet. That way we know which house to go to, the  
24 address, phone numbers, and we go down the list.

25 Q. And, Robert, were you familiar with Brandon's

1 handwriting?

2 A. Yes, sir.

3 Q. Now, this list that you're talking about, who would  
4 take care of that?

5 A. Brandon would write on the list.

6 Q. What type of things would he write on it?

7 A. Like if furniture damaged, he would write that  
8 down. If the customer got a problem with it, he would write  
9 whatever they got the problem with and then he'll call the  
10 supervisor.

11 Q. I'd like to show you what's been marked as State's  
12 Exhibit Number 6. Do you recognize that?

13 A. Yes, sir.

14 Q. Does that have a particular date on it?

15 A. January 24th.

16 Q. Now, is there some writing on there?

17 A. Yes, sir, it is.

18 Q. Whose writing do you recognize?

19 MR. STARR: Your Honor, can we approach?

20 THE WITNESS: It's Brandon's writing.

21 THE COURT: One moment, Mr. White.

22 (Counsel approached the bench and the following  
23 ensued.)

24 MR. STARR: Your Honor, I have a hearsay objection  
25 to the document and to the contents and what was supposedly

1 written by Mr. Clark.

2 THE COURT: Has he seen this document?

3 MR STARR: I have.

4 MR. MOOMAU: It's an item of physical evidence that  
5 was recovered at the scene. We're offering it for -- this  
6 was evidence that was recovered at the scene. It's the  
7 delivery manifest. He recognizes Brandon's name on it. He  
8 recognizes -- and he'll describe what it means.

9 THE COURT: What, specifically, are you saying why  
10 that would not be admissible?

11 MR. STARR: Well, it's not admissible because it  
12 was recovered from the scene. I think it's inadmissible  
13 because of hearsay. I don't know, as of yet, what it's  
14 relevant to.

15 THE COURT: Well, we'll find out, I'm assuming, by  
16 the questions, and then you can pose an objection to it. I  
17 don't know at this point what --

18 MR. STARR: You asked the question of whether we've  
19 seen this. We have. We have not known, you know, who wrote  
20 what or any of that, so.

21 THE COURT: May I see what is written there? Just  
22 so I know, is it --

23 MR. COHEN: It's 1513.

24 MR. MOOMAU: Now you got me mixed up. I thought it  
25 was 1315.

1 THE COURT: Is that on here? I just want to see  
2 what's written there, just to make sure that it's on here.  
3 It's 1513?

4 MR. COHEN: Yes.

5 MR. MOOMAU: Yes.

6 THE COURT: Well, I don't have any basis to make a  
7 decision at this point in time because I don't know what  
8 other questions are going to be asked. But your objections  
9 to this, at least at this moment, are based on hearsay  
10 grounds?

11 MR. STARR: Correct.

12 MR. MOOMAU: In response, Your Honor, he was one of  
13 the workers in the truck. I mean, it's his business record,  
14 to a degree.

15 THE COURT: Okay.

16 (Counsel returned to trial tables and the following  
17 ensued.)

18 BY MR. MOOMAU:

19 Q. Robert, looking at State's Exhibit Number 6, do you  
20 recognize any of the writing on there?

21 A. Yes.

22 Q. And what writing do you recognize?

23 A. Damage coming back, and they got a number, and  
24 that's a number we have to call our supervisor to get.

25 Q. Now, I notice on State's Exhibit Number 6 there is

1 a number of signatures on it, correct?

2 A. Correct.

3 Q. And what do those signatures indicate?

4 A. These are the signatures of the customers who  
5 signed the paper after we done hooking up the furniture and  
6 they're satisfied.

7 Q. Who was it that would deal with the customer and  
8 have them sign?

9 A. Brandon.

10 Q. Now, looking at the backside of State's Exhibit  
11 Number 6, was there a customer on there that was to be the  
12 last one for the day?

13 A. Yes.

14 Q. And which one is that?

15 A. Keith Washington.

16 Q. And what were you delivering there?

17 A. A set of bed railings.

18 Q. This exhibit, State's Exhibit Number 6, is it an  
19 accurate manifest and list of the deliveries you were to make  
20 that day?

21 A. Correct.

22 MR. MOOMAU: Your Honor, the State would move for  
23 the admission of State's Exhibit Number 6.

24 MR. STARR: No objection.

25 THE COURT: Six, admitted without objection, State.



1 (State's Exhibit No. 6, previously  
2 marked for identification, was  
3 received in evidence.)

4 BY MR. MOOMAU:

5 Q. Robert, on January 24th, do you remember,  
6 approximately, the time it was that you arrived to do the  
7 last delivery?

8 A. I'm not sure what time it was. It was late.

9 Q. Who was driving the truck?

10 A. Brandon was.

11 Q. What happened when you arrived at Shellford Lane?

12 A. Well, before we got to that lane, we actually  
13 called the customer to see if he was home, because it was  
14 getting dark or dark, and we asked him could he either come  
15 outside or turn a light on; we wasn't far away from his  
16 house. When we arrived, the customer was standing outside.  
17 Brandon gets out of the truck, goes out to talk to the  
18 customer, comes back and says --

19 MR STARR: Your Honor, I object to the narrative  
20 here.

21 THE COURT: I believe the witness can explain it as  
22 he wishes.

23 BY MR. MOOMAU:

24 Q. Continue as to when Brandon got out of the truck.

25 A. Brandon gets out of the truck, goes up to talk to

1 the customer, comes back and said, "The guy's looking for a  
2 fight." I said, "Brandon, let's go. Well, let's just  
3 leave." He said we couldn't do that; we have to call our  
4 supervisor.

5 Q. Without going into anything else that Brandon  
6 said --

7 A. Right.

8 Q. -- who was the supervisor?

9 A. Mike Robinson.

10 Q. Did anybody call him?

11 A. Yes, sir, he did.

12 Q. Who called him?

13 A. Brandon called him.

14 Q. Did he use a cell phone?

15 A. Yes, he did.

16 Q. Whose cell phone did he use?

17 A. It was mine.

18 Q. I'd like to show you what has been marked as  
19 State's Exhibit Number 5. Was that cell phone in your name?

20 A. No, it wasn't.

21 Q. Whose name was it in?

22 A. It was in my fiance's name.

23 Q. What was her name?

24 A. Deborah Simmons.

25 Q. I would like to show you what's been admitted as

1 State's Exhibit Number 5. It's a three-page document. Look  
2 through it and see if you recognize it.

3 A. Yes, I do.

4 Q. What is that?

5 A. This is my phone record.

6 Q. What date is that for?

7 A. 11-13-07. Okay. The whole sheet say January 24th,  
8 2007.

9 MR. MOOMAU: Your Honor, I move to admit as State's  
10 Exhibit Number 5.

11 MR. STARR: No objection.

12 THE COURT: State's 5 admitted without objection.

13 (State's Exhibit No. 5, previously  
14 marked for identification, was  
15 received in evidence.)

16 BY MR. MOOMAU:

17 Q. After you make the call to Michael Robinson, you  
18 all eventually deliver the item into the house?

19 A. Yes, sir, we did.

20 Q. How big of a box was it?

21 A. It was a nice size box. It wasn't too big. It was  
22 a nice size box.

23 Q. Who carried it into the house?

24 A. We both carried it. I grabbed one end; he grabbed  
25 the other end.

1 Q. Did you meet with any person inside or outside the  
2 house?

3 A. He was outside. Mr. Washington was outside.

4 Q. That person you're referring to as Mr. Washington,  
5 is he in the courtroom?

6 A. Yes, sir.

7 Q. Can you just point to him and describe the clothing  
8 that he has on?

9 A. He has on a suit with a burgundy tie.

10 MR. MOOMAU: Your Honor, can the record reflect the  
11 witness has identified the defendant?

12 THE COURT: The record will so reflect.

13 BY MR. MOOMAU:

14 Q. What happened when you went inside?

15 A. When we went inside, he direct us to a bedroom  
16 upstairs. I was walking first, in front of Brandon. Brandon  
17 was walking behind me. He was behind Brandon, and he  
18 directed us to a bedroom upstairs. We went in, we set the  
19 rails down, and then Mr. Washington started arguing with  
20 Brandon.

21 Q. And what was Mr. Washington arguing with Brandon  
22 about?

23 A. Because, I guess, we got to his house late, and he  
24 was upset because he was waiting to his house all day.

25 Q. Go ahead and tell us what happened.

1           A.    So Brandon kneeled down -- I'm standing on the  
2 other side, close to the railing, Brandon at the bed, and he  
3 ask Mr. Washington why you disassemble your bed, and he  
4 said -- this was his words -- "Motherfucker, are you telling  
5 me what to do in my house?" I said, "Brandon, do you know  
6 Mr. Washington?" Brandon said no.

7                    So it was a few seconds later he pushed Brandon and  
8 told Brandon to get the fuck out of his house. I said,  
9 "Brandon, I think we should go." Brandon said, "No, just let  
10 me do my job. It's only going to take ten minutes."

11                   Brandon kneeling again -- he's still kneeling.  
12 Mr. Washington pushed him again, "Get the fuck out of my  
13 house," and the third time he pushed him, he pushed him until  
14 he was actually laying on his side. Brandon jump up. I told  
15 Brandon, "That's it; we out of here." I stepped between both  
16 of them, Mr. Washington and Brandon, Brandon going back out  
17 the door with his hands up. I got my back to Mr. Washington,  
18 and all I heard was shots after we got out of the room. He  
19 said, "I know how to get you the fuck out my house."

20           Q.    After you heard the shots, what did you do; what  
21 did you see?

22           A.    Brandon was going back towards the stairs, and I  
23 grabbed Brandon to keep him from falling down the stairs.  
24 After I laid him down -- could I show the jury?

25                   MR. MOOMAU: Can the witness get up from the stand,

1 Your Honor?

2 MR. STARR: No objection.

3 THE COURT: Please.

4 THE WITNESS: This is the room. Brandon is coming  
5 back. The stairs is here.

6 MR. MOOMAU: May I have this marked?

7 THE DEPUTY CLERK: State's Exhibit 7 marked for  
8 identification.

9 (State's Exhibit No. 7 was  
10 marked for identification.)

11 MR STARR: Can we approach on that exhibit?

12 THE COURT: On the exhibit?

13 MR. STARR: Yes.

14 THE COURT: Certainly.

15 (Counsel approached the bench and the following  
16 ensued.)

17 MR. STARR: The issue with the exhibit is this. It  
18 contains crime scene officer's -- you know, the little yellow  
19 numbers that they use to mark evidence, and it shows  
20 bloodstains on the exhibit too.

21 Now, what those things do, particularly the  
22 bloodstains, it leads the witness -- I mean, on this point  
23 he's being asked to testify about the location of where  
24 things happened inside of the house, and to show him the  
25 crime scene sort of may process it -- with blood on the

1 carpet, shows him where these things happened.

2 I mean it's known in the case -- there's already  
3 been testimony in the trial of where he was laying and where  
4 Mr. Clark was laying, and to show him the bloodstained carpet  
5 with the crime scene workers' tabs on there -- I don't know  
6 how many of them there are, but there's at least five of them  
7 visible where the scene has been marked up, and I think that  
8 that leads the witness, especially when the reason the  
9 diagram is being used is so that he can testify to orient the  
10 jury to where things happened.

11 MR. MOOMAU: Your Honor, he's not going to be  
12 testifying about any of the crime scene. He's just going to  
13 be testifying as to the structure where he was at and so he  
14 can explain his testimony, and that's all it's being used  
15 for.

16 THE COURT: Overruled.

17 MR. COHEN: It's our understanding that Mr. White  
18 is going to do a physical rendition of what he alleges  
19 happened that evening. We would ask that, if he does that,  
20 that we get a description given as he's moving, on the  
21 record, so that we can -- I assume Mr. Moomau is going to do  
22 that anyway.

23 THE COURT: Who are you suggesting give that  
24 description?

25 MR. STARR: Usually the person examining the

1 witness.

2 MR. COHEN: I thought he would do it on the record  
3 anyway, Your Honor.

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

6 BY MR. MOOMAU:

7 Q. Mr. White, I want to show you an item that's been  
8 marked as State's Exhibit Number 7. Without going into the  
9 yellow markers or anything, does the picture and what is  
10 shown in State's Exhibit Number 7 appear to be familiar to  
11 you? Do you recognize it?

12 A. Some of it.

13 Q. What does this appear to be to you?

14 A. The area where we got shot.

15 Q. As far as the layout, the walls, the floor, the  
16 stairs, the banister, is that an accurate depiction of your  
17 memory of the location?

18 A. It looks about right.

19 MR. MOOMAU: Your Honor, the State would move for  
20 the admission of State's Exhibit Number 7.

21 MR. STARR: Same objection.

22 THE COURT: Seven is admitted.

23 (State's Exhibit No. 7, previously  
24 marked for identification, was  
25 received in evidence.)



1 BY MR. MOOMAU:

2 Q. Mr. White, would this help you in explaining to the  
3 jury the location where it happened?

4 A. Yes.

5 (The witness steps down from the witness stand.)

6 BY MR. MOOMAU:

7 Q. Mr. White, just standing in a position where  
8 everyone on the jury can see you -- and if you need to move  
9 to show the jury how you were located and situated, just go  
10 ahead.

11 A. I think this is the room that we was in, right  
12 here, if I'm not mistaken. And when Brandon was walking  
13 backwards, I see him going towards the stairs, and then when  
14 I heard the shots, I just seen him coming back, so I just  
15 caught him and I came down to like here, to lay him down so  
16 he won't fall down the stairs. I laid him down. I asked  
17 him, I said, "Brandon, where is the cell phone," because he  
18 had my cell phone in his pocket.

19 This is how I did this. I'm on the second or the  
20 third step. I had to lay him down, and as I ask him where  
21 the cell phone at, when I turned around, I heard more shots.  
22 Then I realized I was hit.

23 Q. And where were you shot on your body?

24 A. In the chest, in the stomach.

25 Q. And what did you do -- go ahead.

1 A. I was hit here and here.

2 Q. Now, are any of those bullets still in your body?

3 A. Yes, sir.

4 Q. Which ones?

5 A. The one in my side right here and one in my cheek.

6 Q. The one in your side, which wound is it from?

7 A. The chest wound.

8 Q. And you said your cheek. You mean your rear check?

9 A. Right.

10 Q. What bullet wound is that from?

11 A. From the stomach.

12 Q. Now, what did you do after you had been shot?

13 A. I didn't want to go down the stairs --

14 Q. Try to use the pointer so everyone --

15 A. I didn't want to go down the stairs because he  
16 already shot me. So I moved up, to move away from Brandon,  
17 and I came down here and I laid down here, down on this side.  
18 Mr. Washington went back in his room. I got back up because  
19 I knew I needed help. When I got back up, he comes out of  
20 his room and he said, "Motherfucker, didn't I told you to  
21 stay down," and he start shooting again. That's when I  
22 realized I was hit in the knee. I went down.

23 Q. You went down. Then what happened?

24 A. We laid there screaming, asking him to help us, to  
25 call somebody, and he said he wasn't calling nobody.

1 Q. You can go back to the stand. What's the next  
2 thing you remember after that?

3 A. It was a while after that. I don't know how much  
4 time. It was a while, and then he finally got on the phone  
5 and he called -- he made a call and the conversation went  
6 like this: "These two guys just busted in my house and beat  
7 me up and I shot both of them. They in here laying down,  
8 bleeding all over my carpet."

9 Q. What happened after that?

10 A. A while after that a cop arrived. He came in.  
11 Brandon was closest to the stairs, so when he came in, he  
12 just rushed in, slammed Brandon to the floor, put handcuffs  
13 on him. Mr. Washington, he was kicking him, and I said to  
14 myself I don't believe this right here; I don't believe this  
15 is about to go down like this right here. And I knew I was  
16 next, so I just closed my eyes. For how long, I don't know.

17 Q. And why did you close your eyes, Robert?

18 A. Because I was playing dead because I didn't want to  
19 get beat up like Brandon was.

20 Q. What happened after that?

21 A. A little while after that, when I did open my eyes,  
22 I remember a guy standing in front of me, and I opened my  
23 eyes and I look up and I grabbed his leg, and the guy said,  
24 "What are you doing in this house?" I said, "Don't you see  
25 that big furniture truck sitting outside," and I said, "We

1 furniture delivery guys." And I asked him, I said, "Man,  
2 could you get them handcuffs off of Brandon?"

3 And a while after that the paramedics came in.  
4 They went to Brandon first. One guy came to me and he asked  
5 me where was I hurt, and I tell him I don't know; all I know  
6 is I got a hole in my shirt right here and I said I can feel  
7 something in my stomach. And he cut my shirt off me and told  
8 the rest of the paramedics come over here; this guy got a  
9 chest wound. They took me out first and that was the last  
10 thing I remember.

11 Q. When you were laying there, you said you had your  
12 eyes closed. At anytime did anyone touch you?

13 A. I feel someone nudge me in my side, and I could  
14 feel like a hand going over my face. But to actually touch  
15 my face, I don't know. They didn't touch my face, but I feel  
16 somebody nudge me in my side.

17 Q. Why didn't you open your eyes at that point?

18 A. I was scared.

19 Q. Do you remember anything about being transported to  
20 the hospital?

21 A. I remember they -- the paramedics asked for two  
22 choppers, and I remember being in a chopper and that's the  
23 last thing I remember. When I woke up and actually had some  
24 recollection, I was in a baby ward at a hospital.

25 Q. What hospital were you at?

1 A. Prince George's County.

2 Q. At some point did you learn that Brandon had died?

3 MR. STARR: Objection. Relevance.

4 THE COURT: Overruled.

5 BY MR. MOOMAU:

6 Q. You can answer that.

7 A. Well, I was watching TV. Because I was --

8 THE COURT: Sir, just yes or no, please.

9 THE WITNESS: Yes.

10 BY MR. MOOMAU:

11 Q. Where were you at when you learned that?

12 A. I was in my room watching TV, and it came across  
13 the screen that one of the furniture delivery guys --

14 MR. STARR: Objection.

15 THE COURT: Sustained, please.

16 BY MR. MOOMAU:

17 Q. That's enough.

18 MR. MOOMAU: I need to mark these, Your Honor.

19 THE DEPUTY CLERK: State's Exhibits 8 and 9 marked  
20 for identification.

21 (State's Exhibit Nos. 8 and 9 were  
22 marked for identification.)

23 BY MR. MOOMAU:

24 Q. Robert, I'd like to show you two items marked for  
25 identification as State's Exhibits 8 and 9. Do you recognize

1 these?

2 A. Yes, sir.

3 Q. What are they?

4 A. These are the clothes that I had on.

5 Q. Those are photographs of the clothes?

6 A. Right.

7 MR. MOOMAU: Move for admission of State's Exhibit  
8 Numbers 8 and 9.

9 MR. STARR: No objection.

10 THE COURT: Eight and nine admitted without  
11 objection.

12 (State's Exhibit Nos. 8 and 9,  
13 previously marked for  
14 identification, were received in  
15 evidence.)

16 BY MR. MOOMAU:

17 Q. Robert, did you know that the defendant in this  
18 case, Mr. Washington, when you went there, did you know he  
19 was a police officer?

20 A. I never seen this man before.

21 Q. At any point did you learn he was a police officer  
22 that night?

23 A. When that other cop came in and he said, he was  
24 like they didn't know I was a police officer.

25 Q. Did you have any idea that he was carrying a gun?

1 A. No.

2 Q. Did you have any type of weapon on you?

3 A. No, I didn't.

4 Q. Now, on that day did you see -- did you ever see  
5 Brandon with any type of weapon, a knife or a gun on him?

6 A. No.

7 Q. Robert, as far as the delivery, were you all on  
8 time or late that day?

9 A. I couldn't really say because I don't know what  
10 time we usually -- I mean we go down the list and, when we  
11 leave one customer house, we call our supervisor and let them  
12 know that we just left one house and we going to the next  
13 house. Then we'll call the customer. I don't know exactly  
14 what time we supposed to be in and out of somebody's house,  
15 because you might have somebody getting 14 pieces of  
16 furniture, like a whole bedroom set or four or five beds in  
17 their house.

18 Q. That night when you were in the hallway or  
19 upstairs, did you know how many times Brandon had been shot?

20 A. No.

21 Q. You had mentioned what Mr. Washington had said on  
22 the phone. Have you ever heard the 911 call?

23 A. I don't remember.

24 Q. In this case did you give a sample of your saliva?

25 A. Yes, sir, I did.

1 Q. That was just something they did with a Q-tip  
2 inside your mouth?

3 A. Well, they came in and they cut my fingernails and  
4 they swabbed my mouth on one occasion. On another occasion  
5 they took hair samples.

6 MR. MOOMAU: That's all the questions I have on  
7 direct. Thank you.

8 MR. STARR: May we approach, Your Honor, on a very  
9 brief matter?

10 THE COURT: Sure.

11 (Counsel approached the bench and the following  
12 ensued.)

13 MR. STARR: I have a pressing -- you don't have to  
14 write this down, I don't think. I have a pressing need to  
15 use the bathroom.

16 THE COURT: No objection. How about we take a five  
17 minute recess so the jury can do the same thing. You want me  
18 to do that so they can stretch their legs too?

19 MR. MOOMAU: Yes, that will be great.

20 THE COURT: Ladies and gentlemen, we're going to  
21 take a ten-minute break so you can stretch your legs, use the  
22 restrooms, before we continue.

23 (At 2:45 p.m. a brief recess was taken.)

24 MR. MOOMAU: Your Honor, I forgot a couple of  
25 questions. May I be permitted to ask the witness a couple



1 more questions?

2 THE COURT: Yes.

3 THE COURT: Let's bring the jury back in.

4 (The jury returned to the courtroom at 2:55 p.m.)

5 MR. MOOMAU: Thank you, Your Honor.

6 BY MR. MOOMAU:

7 Q. Just a couple more questions, Robert. I noticed  
8 that when you were testifying, especially when you were  
9 handling the delivery paper, you weren't opening your right  
10 fist. Was that injury there before?

11 A. Yes.

12 Q. Just hold your hand up. Can you open your hand?  
13 How did that happen?

14 A. A car accident in 1992.

15 Q. Robert, at anytime, to your knowledge, did you  
16 touch the gun that Mr. Washington used to shoot you?

17 A. No.

18 MR. MOOMAU: That's all the questions I have.

19 **CROSS-EXAMINATION**

20 BY MR. STARR:

21 Q. Now, Mr. White, Brandon Clark was your cousin,  
22 correct?

23 A. Yes.

24 Q. In fact, it was Mr. Clark that got you the job  
25 working for Marlo, correct?

1 A. Yes.

2 Q. He had been working there for a long time before  
3 you started working there, correct?

4 A. Correct.

5 Q. Now, on January 24th, when you were inside of  
6 Mr. Washington's house, isn't it true that you went into his  
7 daughter's bedroom?

8 A. No.

9 Q. Mr. White, did you ever, at any point while you  
10 were inside Mr. Washington's house, touch him?

11 A. No.

12 Q. You never struck him?

13 A. No.

14 Q. At anytime while you were inside Mr. Washington's  
15 house with your cousin Brandon, did you ever -- did Brandon  
16 ever strike him?

17 A. No.

18 Q. And your testimony would also be that Brandon never  
19 touched him, correct?

20 A. Correct.

21 Q. Let me ask you this. Mr. White, was there any  
22 fight, physical, between you, Mr. Clark and Mr. Washington  
23 before the two of you were shot?

24 A. No, there wasn't.

25 Q. No fight whatsoever?

1 A. No.

2 Q. Now, when you testified when Mr. Moomau was asking  
3 you questions, you said that Mr. Washington at some point  
4 pushed Brandon Clark, correct?

5 A. Correct.

6 Q. And is it your testimony that prior to that, prior  
7 to Mr. Washington pushing Brandon Clark, there had been no  
8 physical contact between you and Mr. Washington or between  
9 Mr. Clark and Mr. Washington?

10 A. Correct.

11 Q. Was there any argument?

12 A. Yes, when we first got there.

13 Q. Okay. And the argument was what you described when  
14 you said that Mr. Washington had said "Motherfucker, are you  
15 going to tell me what to do in my house;" is that what you're  
16 talking about?

17 A. Yes.

18 Q. And your testimony is that, in response to that,  
19 there was no argument on the other side from Mr. Clark,  
20 correct?

21 A. No.

22 Q. And no argument from you, correct?

23 A. Correct.

24 Q. Now, you wrote a statement about this incident,  
25 correct?

1 A. Correct.

2 Q. And you released that statement to the media,  
3 correct?

4 A. Correct.

5 Q. And when you released that statement about this  
6 case to the media, that was before you had spoken and told  
7 the police about the incident, correct?

8 MR. MOOMAU: Objection.

9 THE COURT: Approach the bench.

10 (Counsel approached the bench and the following  
11 ensued.)

12 THE COURT: Grounds?

13 MR. MOOMAU: I'm just afraid they're going to start  
14 getting into this talking to police.

15 THE COURT: Well, what are your grounds?

16 MR. MOOMAU: The timing of it doesn't matter.

17 Withdrawn. Never mind.

18 THE COURT: Hold on. I'm trying to understand.

19 MR. MOOMAU: He said before -- never mind. They  
20 can ask him.

21 (Counsel returned to trial tables and the following  
22 ensued.)

23 BY MR. STARR:

24 Q. Mr. White, you released your statement to the media  
25 before you had told your story to the police, right?

1 A. Correct.

2 Q. And you released your statement to the media in  
3 about the third week of February of 2007, correct?

4 A. I don't know.

5 Q. Well, you would agree that you released your  
6 statement to the media approximately three weeks after the  
7 shooting incident, right?

8 A. I can't really say.

9 Q. Now, in your media statement you describe the  
10 incident, the shooting incident, correct?

11 A. Correct.

12 Q. And nowhere in your media statement did you say  
13 that Mr. Washington had said to you and Mr. Clark  
14 "Motherfucker, are you going to tell me what to do in my  
15 house," correct?

16 A. That's incorrect.

17 Q. It's in here?

18 MR. STARR: May I approach the witness?

19 THE COURT: Please.

20 THE DEPUTY CLERK: Defense Exhibit Number 1 marked  
21 for identification.

22 (Defense Exhibit No. 1 was  
23 marked for identification.)

24 BY MR. STARR:

25 Q. Now, I'm going to ask you to take a look at the

1 media statement and tell me if it contains those words,  
2 "Motherfucker, are you going to tell me what to do in my  
3 house." Are you finished?

4 A. Yeah.

5 Q. Now, those words don't appear in the statement; do  
6 they?

7 A. Correct.

8 Q. Now, Mr. White, you drafted this media statement,  
9 and it would be fair to say that this was the first sort of  
10 public version of these events you had given, correct?

11 A. Right.

12 Q. And you drafted this statement along with an  
13 attorney that you had hired, correct?

14 A. Correct.

15 Q. And you had hired the attorney while you were still  
16 in the hospital, correct?

17 MR. MOOMAU: Objection.

18 THE COURT: Approach the bench, please.

19 (Counsel approached the bench and the following  
20 ensued.)

21 MR. MOOMAU: Whether he has an attorney is of no  
22 relevance.

23 THE COURT: What are your grounds?

24 MR. MOOMAU: Relevance.

25 THE COURT: And what are you proffering?

1 MR. STARR: Here's what I'm proffering. Mr. White  
2 hired civil counsel, not criminal counsel, while he was in  
3 the hospital and gave notice of his intent to sue based on  
4 this incident on January 31st.

5 THE COURT: And you cross-examine him about the  
6 civil suit itself. What does the relevance of the order have  
7 to do with that? I've already made a ruling that you'll be  
8 able to cross-examine him for bias on the civil suit.

9 MR. STARR: Because the timing of it and the fact  
10 that, frankly -- the timing of the civil suit, the timing of  
11 when he decided and expressed an interest to file a civil  
12 suit is what's relevant, and that's what the case law clearly  
13 says --

14 THE COURT: Say that again.

15 MR. STARR: The timing of when he decided to file a  
16 civil suit is what's relevant, because that shows when the  
17 bias attached.

18 THE COURT: And I would indicate to you that you  
19 will have the opportunity to cross-examine him on the civil  
20 lawsuit and ask him the question, when did you -- you don't  
21 have to go into the lawyer. What relevance does that have to  
22 your line of questioning, if I'm permitting you to  
23 cross-examine him about the lawsuit? Because, number one,  
24 it's beyond the scope of direct examination by far.

25 MR. STARR: The lawsuit?

1 THE COURT: Your questioning.

2 MR. STARR: Your Honor, it's bias about what is  
3 motivating --

4 THE COURT: Not whether or not he has a lawyer. I  
5 said you are permitted to cross-examine him about the  
6 lawsuit. That's clear. I've already made a ruling on that.

7 MR. STARR: What I'm saying is this. The decision  
8 to retain civil counsel demonstrates that there was, at that  
9 moment, a bias. That's how you affix the bias.

10 THE COURT: Why don't you ask him the date he hired  
11 the lawyer.

12 MR. STARR: What's that?

13 THE COURT: Get a date he hired a lawyer.

14 MR. MOOMAU: I object to that. He can ask him  
15 about the lawsuit. I mean that's the bias.

16 THE COURT: Do you have any other reason for that  
17 question, other than what you're saying?

18 MR STARR: Well, it goes to the statement, I mean  
19 that --

20 THE COURT: What statement?

21 MR. STARR: The media statement that he released;  
22 in fact, that he drafted that with civil counsel is relevant.

23 THE COURT: Okay. Overruled.

24 (Counsel returned to trial tables and the following  
25 ensued.)



1 BY MR. STARR:

2 Q. Now, Mr. White, the lawyer that we're talking  
3 about, the lawyer that you drafted your media statement with,  
4 you hired that lawyer for purposes of filing a lawsuit based  
5 on this incident, correct?

6 A. No.

7 Q. Well, that lawyer has filed a lawsuit on your  
8 behalf based on this incident, correct?

9 A. I don't know. I haven't seen anything.

10 Q. Wait a minute. Is it your testimony that you do  
11 not know that you are currently the plaintiff in a lawsuit  
12 against Keith Washington and Prince George's County based on  
13 this incident?

14 A. No, I don't. I haven't seen any paperwork about  
15 that.

16 THE DEPUTY CLERK: Defense Exhibit 2 marked for  
17 identification.

18 (Defense Exhibit No. 2 was  
19 marked for identification.)

20 BY MR. STARR:

21 Q. Now, Mr. White, I'm going to show you what's been  
22 marked for identification purposes at this point as Defense  
23 Exhibit Number 2. Is it your testimony that you've never  
24 seen this before?

25 A. Never seen it.

1 Q. Do you see where your name appears on the front  
2 page, Robert White?

3 A. Yes, I do.

4 Q. Do you see an address there, 161 Olivia Road?

5 MR. MOOMAU: Objection.

6 THE COURT: He's said he could recognize his name.

7 BY MR. STARR:

8 Q. Do you see an address there?

9 A. Correct.

10 Q. Do you recognize that address?

11 A. Yes.

12 Q. Who lives at that address?

13 A. I do.

14 Q. And underneath of your name and address it says  
15 plaintiffs, correct?

16 A. Correct.

17 Q. And this has a stamp on it, Clerk of the Court,  
18 correct?

19 A. Correct.

20 Q. It says January 24th, correct?

21 A. Correct.

22 Q. 1:51 p.m., correct?

23 A. Correct.

24 Q. And your testimony is that you've never seen this  
25 before in your life?

1 A. I never seen it before.

2 MR. MOOMAU: Objection.

3 THE COURT: Overruled.

4 BY MR. STARR:

5 Q. And your testimony is also that you are unaware

6 that you have filed a lawsuit; is that your testimony?

7 A. Yes.

8 Q. Okay. Well, Mr. White, isn't it true that, through  
9 your lawyer, you gave notice to Prince George's County on  
10 January 31st of 2007 of your intent to file a lawsuit based  
11 on the shooting incident?

12 A. I don't know anything about it.

13 THE DEPUTY CLERK: Defense Exhibit Number 3 marked  
14 for identification.

15 (Defense Exhibit No. 3 was  
16 marked for identification.)

17 BY MR. STARR:

18 Q. Now, Mr. White, I'm going to show you what's been  
19 marked as Defense Exhibit 3 for identification, and this  
20 document has a signature of a man named Michael Winkelman at  
21 the bottom, correct?

22 A. Correct.

23 Q. That's your lawyer, correct?

24 A. Correct.

25 Q. Now, the date on the document is January 31st of

1 2007, correct?

2 A. Correct.

3 Q. And it says regarding Mr. Brandon Clark and  
4 Mr. Robert White, correct?

5 A. Correct.

6 Q. Date of incident, January 24th, 2007, correct?

7 A. Correct.

8 Q. Location, Shellford Lane, Accokeek, Maryland,  
9 correct?

10 A. Correct.

11 Q. Now, the document goes on to say the incident that  
12 gives rise to this notice --

13 MR. MOOMAU: Objection.

14 THE COURT: I don't know what it says. Can I see  
15 it first?

16 MR. STARR: Yes.

17 (Counsel approached the bench and the following  
18 ensued.)

19 MR. MOOMAU: If the witness isn't familiar with it  
20 and he hasn't seen it, how can it come in? He's already said  
21 he's not familiar with it.

22 THE COURT: I think counsel can ask him if he was  
23 aware that his attorney filed a lawsuit, making those  
24 representations. That he can answer yes or no.

25 MR. MOOMAU: Okay.

1 (Counsel returned to trial tables and the following  
2 ensued.)

3 BY MR. STARR:

4 Q. Mr. White, returning to Defense Exhibit 3 for  
5 identification, the letter that has your lawyer's signature  
6 on it, I just want to ask you about this sentence. Does it  
7 say "the incident that gives rise to this notice occurred on  
8 the evening of January 24, 2007, when Messrs. Clark and White  
9 were delivering furniture to the home of Keith Washington, a  
10 member of the Prince George's County Police Department;" does  
11 it say that?

12 A. Yes, sir.

13 Q. And your testimony is that you have no idea that  
14 that notice of intent to sue was provided on your behalf in  
15 this case?

16 A. I haven't seen that before.

17 Q. Well, you are aware, Mr. White, that a lawyer hired  
18 by you had given notice, on January 31st of 2007, of an  
19 intent to sue based on this shooting incident; weren't you?

20 A. I don't even know where I was January 31st.

21 Q. You don't know where you were?

22 A. Of what year?

23 Q. 2007.

24 A. I don't even know where I was.

25 Q. Well, the shooting happened on January 24th of

1 2007.

2 A. Correct.

3 Q. Were you still in the hospital; do you know?

4 A. Yes, I was.

5 Q. So you are aware that a lawyer on your behalf, on  
6 that day, January 31, 2007, gave notice to P. G. County of  
7 your intent to file a lawsuit based on the shooting incident,  
8 right?

9 A. I don't know nothing about it.

10 Q. Have you -- you don't know anything about a lawsuit  
11 that's been filed by you?

12 MR. MOOMAU: Objection.

13 THE COURT: That's what he said. Sustained.

14 BY MR. STARR:

15 Q. But you have spoken to that attorney,  
16 Mr. Winkelman, correct?

17 A. Correct.

18 Q. And that is your attorney, correct?

19 A. Correct.

20 Q. Now, when Mr. Moomau was asking you questions, you  
21 talked about where you were at the time that you were shot by  
22 Mr. Washington. Do you remember talking about that?

23 A. Say that again.

24 Q. Do you remember saying, when the State was asking  
25 you questions, that you were on either the second or third

1 step when you were shot?

2 A. Correct.

3 Q. And when you say the second or third step, you mean  
4 the second or third step going down from the top floor,  
5 correct?

6 A. At the top.

7 Q. Yes, the second or third step from the top floor.

8 A. Right.

9 Q. From the floor where the master bedroom was where  
10 you took the bed rails.

11 A. Correct.

12 Q. And at the time that you were shot, Mr. White, and  
13 you were on that second or third step, according to you,  
14 where was Mr. Washington?

15 A. I couldn't really say.

16 Q. So you don't know where Mr. Washington was when he  
17 shot you and you were on that second or third step?

18 A. Not exactly.

19 Q. Well --

20 MR. STARR: One moment, Your Honor. I have to  
21 locate a document.

22 THE COURT: Certainly; that's fine.

23 BY MR. STARR:

24 Q. Mr. White, you testified in the grand jury about  
25 this case, correct?

1 A. Yes, I did.

2 Q. And that was in June of 2007, correct?

3 A. Correct.

4 MR. STARR: And I'm on, Mr. Moomau, page 33,  
5 beginning at line 22.

6 BY MR. STARR:

7 Q. Now, when you testified in the grand jury, weren't  
8 you asked the following questions and didn't you give the  
9 following answers?

10 "Question" -- this is from a juror at line 22.

11 "Was Mr. Washington in his bedroom when he shot you?

12 "Answer: When he shot me he was standing in front  
13 of his bedroom door, and I was, like, on the second step."

14 Do you remember being asked that question and  
15 giving that answer?

16 A. I don't think so.

17 THE DEPUTY CLERK: Defense Exhibit 4 marked for  
18 identification.

19 (Defense Exhibit No. 4 was  
20 marked for identification.)

21 BY MR. STARR:

22 Q. Now, Mr. White, I'm showing you what's been marked  
23 Defense Exhibit 4 for identification, and I just want to  
24 direct your attention to page 2. Do you see your name there,  
25 Robert White?



1 A. Yes, sir.

2 Q. Having been first duly sworn, was examined and  
3 testified as follows. Do you see that?

4 A. Correct.

5 Q. Do you see where you are asked a question here on  
6 line 17 on page two, "Can you please state your name for the  
7 reporter sitting right in front of you," and your answer is  
8 "Robert White." Do you see that?

9 A. Correct.

10 Q. Taking your attention to page 33 at line 22. Does  
11 it say, "A Juror: Was Mr. Washington in his bedroom when he  
12 shot you?

13 "The Witness: When he shot me he was standing in  
14 front of his bedroom door and I was on, like, the second  
15 step." Does it say that?

16 A. Correct.

17 Q. And that's what you said, correct?

18 A. Correct.

19 Q. So you said to the grand jury that Mr. Washington  
20 was standing in front of the bedroom door when he shot you,  
21 correct?

22 A. Correct.

23 Q. Now, when Mr. Moomau was asking you questions, he  
24 asked you questions about what it is that you did after you  
25 were shot. Do you remember that?

1 A. Correct.

2 Q. And you said that you walked upstairs, onto that  
3 second floor, correct?

4 A. Correct.

5 Q. And what you ended up doing when you got  
6 upstairs -- this is your testimony; tell me if I'm correct --  
7 is that you walked down that hallway and laid up against the  
8 wall or a door at the end of the hallway, correct?

9 A. I walked down there and laid down.

10 Q. But you walked down that hallway, correct?

11 A. Correct.

12 Q. You did not walk down the stairs and out of the  
13 house, correct?

14 A. Correct.

15 Q. And the -- you'll agree that the place where you  
16 ended up laying down is at the end of that hallway on that  
17 top floor, correct?

18 A. Correct.

19 Q. On this day, Mr. White, you'd been working since  
20 about 7 a.m.?

21 A. Correct.

22 Q. And this incident happened sometime after 7 p.m.?

23 A. I don't know. I don't know what time it was. I  
24 don't remember.

25 Q. Can you estimate what time it happened?

1 A. I don't know. Around about that time. It was just  
2 getting dark.

3 Q. It was just getting dark?

4 A. Right.

5 Q. But are you saying it was around 7:30 p.m.?

6 A. Got to be around -- I don't know.

7 Q. Well, this was your last delivery, correct?

8 A. Correct.

9 Q. And you wanted to go home, correct?

10 A. Correct.

11 Q. And you were very tired, correct?

12 A. Yes.

13 Q. And, in fact, those feelings, last delivery, having  
14 been at work since about 7 a.m., tired, had you agitated,  
15 correct?

16 A. No.

17 Q. Not at all?

18 A. Not at all.

19 Q. Do you remember making the delivery on that day to  
20 a Mr. Baker?

21 A. I don't remember.

22 Q. Now I'll ask you some questions, Mr. White, about  
23 where everyone was positioned at the time that you say the  
24 shooting happened. Where was Mr. Clark and where were you in  
25 relation to Mr. Clark when Mr. Clark was shot. You're saying

1 that Mr. Clark was shot first, correct?

2 A. Correct.

3 Q. Where were you when he was shot?

4 A. Outside of the bedroom.

5 Q. Where was Mr. Clark?

6 A. Outside the bedroom.

7 Q. And you said that he had been walking backwards,  
8 with his hands up in a surrender position?

9 A. Correct.

10 Q. And you also said that when he fired the shots,  
11 Mr. Washington said, "I know how to get you the fuck out of  
12 my house." Was that your testimony?

13 A. Correct.

14 Q. And your testimony is that at the time that  
15 Mr. Washington fired the shots, you and Mr. Clark were  
16 walking out of the house, correct?

17 A. Correct.

18 Q. Now, when Mr. Clark was walking out of the room,  
19 according to you, backwards, with his hand in the surrender  
20 position, had you -- were you facing him?

21 A. Facing who?

22 Q. Mr. Clark?

23 A. Correct.

24 Q. But you had walked out in front of Mr. Clark,  
25 correct?

1 A. I was in between both of them.

2 Q. Your testimony is that you were in between  
3 Mr. Clark and Mr. Washington?

4 A. Correct.

5 Q. So just to make sure I understand it correctly,  
6 Mr. Clark is walking out of the room with his hands up in a  
7 surrender position and you're facing Mr. Clark, correct?

8 A. Correct.

9 Q. And Mr. Washington is behind you, correct?

10 A. Somewhere. I don't know.

11 Q. You don't know where he was?

12 A. I don't know where he was.

13 Q. Well, you testified about this in the grand jury  
14 about where everyone was positioned, correct?

15 A. Correct.

16 MR. STARR: I'm at page 9, line 4, Mr. Moomau.

17 BY MR. STARR:

18 Q. And at one point in the grand jury you said, "He  
19 got his hands up, walking backwards, and I'm in front of him  
20 and all I heard was shots. So I see him falling, so I caught  
21 him and I laid on top of him. I laid on top of him." Do you  
22 recall saying that in the grand jury?

23 A. Correct.

24 MR. STARR: Now page 21, Mr. Moomau, at line 11.

25 BY MR. STARR:

1 Q. Do you recall being asked the following question,  
2 giving the following answer in the grand jury:

3 "Question: Do you want to explain anything based  
4 on what he asked you? Do you want to explain more about  
5 that?

6 "Answer: I could. What I'm saying was when  
7 Brandon went out of the room backwards, I'm behind him. I  
8 don't know if he was all the way out of the room or in the  
9 room because I didn't really look back at him. I was trying  
10 to get me and Brandon out of there before anything escalated,  
11 you know, because that was our last stop. I was tired. I  
12 was ready to go home and all I heard was the shots."

13 Did you say that?

14 A. I don't remember.

15 Q. I'm going to show you again, Mr. White, what's been  
16 marked for identification purposes at this point as Defense  
17 Exhibit 4. I'm going to ask you to tell me if I'm reading  
18 this correctly. Page 21, line 11.

19 "Question: Do you want to explain anything based  
20 on what he asked you? Do you want to explain more about  
21 that?

22 "Answer: I could. What I'm saying was, when  
23 Brandon went out of the room backwards, I'm behind him. I  
24 don't know if he was all the way out of the room or in the  
25 room because I didn't really look back at him."

1 Did you say that?

2 A. Yes, I did.

3 Q. So when you testified in the grand jury, you said  
4 that you didn't know where Brandon was because you didn't  
5 look back at him, correct?

6 A. No.

7 Q. You didn't say that?

8 A. Yes, I said that, but that's not how it is.

9 Q. So what you said in the grand jury was not true; is  
10 that your testimony?

11 A. No, you misunderstood what I said.

12 Q. Okay. Well, I read the words correctly; didn't I?

13 A. Yes.

14 Q. But what you're saying today is that you were on  
15 the second or third step going down and that you were facing  
16 Mr. Clark, correct?

17 A. Correct.

18 Q. So Mr. Clark would have been on the steps going  
19 down in front of you?

20 A. No.

21 Q. No?

22 A. No.

23 Q. Okay. Okay. Now, you talked a little bit about a  
24 phone call that -- well, first of all, you said that you and  
25 Mr. Clark were asking Mr. Washington to call for help and

1 that he refused. You said that, right?

2 A. Correct.

3 Q. Wasn't it true, Mr. White, that Mr. Washington  
4 called 911 right in front of you?

5 A. I don't know who he was talking to on the phone.

6 Q. But you heard him talking on the phone, correct?

7 A. Correct.

8 Q. And so he was talking on the phone in front of you,  
9 correct?

10 A. He was in his bedroom talking one time, and then  
11 the other time he was on the phone with somebody. I don't  
12 know who it was.

13 Q. And you said that when you heard him talking on the  
14 phone, Mr. Washington said, "These guys busted up in here,"  
15 correct?

16 A. Correct.

17 Q. Isn't it true that when he was talking on the phone  
18 in front of you, Mr. Washington said that the people in his  
19 house were furniture deliverymen?

20 A. I don't remember.

21 Q. Okay. Well, you know that when Mr. Washington made  
22 this phone call in front of you, he asked for an ambulance to  
23 come, correct?

24 A. I don't remember.

25 Q. Mr. White, when you released your media statement,



1 you talked about this 911 call, or the call that you say you  
2 heard, in the media statement, correct?

3 A. Correct.

4 Q. And you said there that you also heard  
5 Mr. Washington say on the phone that they had hit him with a  
6 pipe, correct?

7 A. Correct.

8 Q. Is it your testimony that you heard that?

9 A. Correct.

10 Q. Now, when you testified in the grand jury, you also  
11 talked about the 911 call, correct, or the call you heard?

12 A. Correct.

13 Q. And there you said you heard Mr. Washington say on  
14 the phone that one of the guys was dead. Did you say that?

15 A. I don't remember.

16 Q. Mr. White, I'm going to show you -- this is Defense  
17 Exhibit 4 for identification purposes, and do you see that  
18 there on page 2 it says "Robert White"?

19 A. Correct.

20 MR. STARR: Now I'm on page 10 at line 23,

21 Mr. Moomau.

22 BY MR. STARR:

23 Q. Tell me if this paper says this. "So he called  
24 somebody on the phone. I heard part of the conversation. He  
25 called somebody on the phone. He said two guys just busted

1 up my house, beat me up with a pipe. I shot both of them.  
2 One of them is dead, bleeding out nose and mouth." Does it  
3 say that?

4 A. Correct.

5 Q. And you said that in grand jury, correct?

6 A. Correct.

7 Q. Now, is that true?

8 A. Yes.

9 Q. So your testimony is that you heard Mr. Washington  
10 on the phone say that one of the two men that he shot was  
11 dead?

12 A. Correct.

13 Q. Mr. White, you were convicted in 1993 in South  
14 Carolina of grand larceny, correct?

15 A. I don't know if it was 1993, but I did.

16 Q. What's that?

17 A. I don't know if it was 1993, but I did.

18 Q. You do have a grand larceny conviction from South  
19 Carolina; do you agree?

20 A. Yes.

21 Q. And you were convicted in 1995 in South Carolina of  
22 receiving stolen goods, correct?

23 A. No, I don't remember that.

24 Q. Are you denying that one?

25 MR. MOOMAU: Objection. Not denied.

1 THE COURT: His testimony was he didn't remember  
2 that one.

3 BY MR. STARR:

4 Q. Now, in 1995 in South Carolina you were convicted  
5 of first degree burglary, correct?

6 A. Correct.

7 Q. Now, one of the things that happened while you were  
8 testifying in the grand jury is that you were asked questions  
9 about your prior criminal convictions, right?

10 A. Correct.

11 Q. And the way that it happened is you were asked,  
12 Mr. White, you were convicted of this; you were convicted of  
13 that, and then you were answering to each one, correct?

14 A. Correct.

15 Q. And you were then asked in the grand jury, after  
16 you were questioned about your convictions, you were asked,  
17 question -- this is page 25. He read off some of the crimes  
18 that you were accused of. "Are there any others that weren't  
19 mentioned," and your answer was no, correct?

20 A. Correct.

21 Q. Now, isn't it true that when you were asked the  
22 series of questions before that, about your record, the first  
23 degree burglary had not been mentioned, correct?

24 A. I don't know.

25 Q. Mr. White, I'm going to show you -- this is Defense

1 Exhibit 4 for identification purposes. I'm going to ask you  
2 to read from page 14, line 14. Do you see that?

3 A. Uh-huh.

4 Q. To page 16 at line 6. Can you do that for me?

5 THE COURT: Mr. White, Mr. Starr means read that to  
6 yourself.

7 MR. STARR: Yes.

8 THE WITNESS: Okay.

9 BY MR. STARR:

10 Q. Are you there yet, line 6?

11 A. Uh-huh.

12 Q. Now, in that series of questions you were not asked  
13 about the first degree burglary, correct?

14 A. Correct.

15 Q. And when you were asked later, by one of the grand  
16 jurors, whether you had listed all your convictions, you said  
17 that you had, correct?

18 A. Correct.

19 Q. And that was false, correct?

20 A. Correct.

21 Q. Now, these bed rails that you were delivering, you  
22 agree with me that the bed rails were never taken out of  
23 their box, correct?

24 A. That's right.

25 Q. Did you say in the grand jury the bed rails had

1 been taken out of the box?

2 A. No.

3 Q. Did you say in grand jury "we took the rails out"?

4 A. I don't remember that.

5 Q. I'll show you what's been marked Defense Exhibit 4  
6 for identification purposes. I'm on page 8, line 13. Now,  
7 this document says "Robert White," correct?

8 A. Correct.

9 Q. And line 13, it says -- okay, let's go up a little  
10 higher to line 9. "When we got in the house, we went  
11 upstairs. Brandon kneeled down. I kneeled down. Brandon  
12 was closest to the door. Mr. Washington was on the side of  
13 him. I was at the far right. We took the rails out and he  
14 was upset already." Doesn't it say that?

15 A. Yes.

16 Q. And that's what you said in the grand jury,  
17 correct?

18 A. Correct.

19 Q. But you agree that the rails were never taken out,  
20 correct?

21 A. Not out of the box.

22 Q. Now, Mr. Moomau asked you some questions about  
23 you -- let me ask you this. You're 6'2", correct?

24 A. Correct.

25 Q. And you weigh 280 pounds?

1 A. Correct.

2 Q. And that's what you weighed on January 24 of 2007?

3 A. About that.

4 Q. Your cousin Mr. Clark was 6'7", correct?

5 A. I don't know.

6 Q. You agree he was bigger than you, correct?

7 A. Taller.

8 Q. He was taller than you? You also agree he was  
9 heavier than you, correct?

10 A. I don't know.

11 Q. Well, let me ask you this. Isn't it true that  
12 Brandon Clark was 6'7" and weighed 330 pounds?

13 A. No.

14 Q. That's not true?

15 MR. MOOMAU: Objection.

16 THE COURT: Overruled.

17 BY MR. STARR:

18 Q. That's not true?

19 A. No.

20 Q. Now, Mr. Moomau asked you some questions about a  
21 cheek swab that was done. You said they pulled some head  
22 hairs; is that correct?

23 A. Correct.

24 Q. And you know that the purpose of that was to get a  
25 sample of your DNA, correct?

1 A. Correct.

2 Q. And you know, Mr. White, that your DNA was on  
3 Mr. Washington's gun, correct?

4 A. Correct.

5 Q. Can you explain how it ended up there?

6 A. I don't know.

7 Q. You never touched him?

8 A. Nope.

9 Q. And there was no fight between you and  
10 Mr. Washington?

11 A. No, there wasn't.

12 Q. At the time that you were shot, you were close  
13 enough to grab the gun, correct?

14 A. I don't know.

15 Q. You don't know?

16 A. No.

17 Q. You were asked some questions about Mr. Clark's  
18 stuttering. Do you remember that?

19 A. Who?

20 Q. Mr. Clark, Brandon Clark.

21 A. Okay. Yes.

22 Q. You remember that?

23 A. Correct.

24 Q. And you indicated that he did stutter, correct?

25 A. Correct.

1 Q. Now, based on the interactions that you saw between  
2 Mr. Clark and Mr. Washington, nothing took place that made  
3 you believe that Mr. Washington couldn't understand  
4 Mr. Clark, correct?

5 A. Correct.

6 Q. In fact, as far as you can tell, Mr. Washington  
7 understood everything Mr. Clark said, correct?

8 A. Correct.

9 Q. Now, Mr. Moomau asked you some questions about  
10 cocaine. Do you recall those questions?

11 A. Correct.

12 Q. And you were asked questions in the grand jury  
13 about cocaine, correct?

14 A. Correct.

15 MR. STARR: Page 14, line 19, Mr. Moomau.

16 BY MR. STARR:

17 Q. You were asked the following questions and you gave  
18 the following answers:

19 "Question: And on the blood test I showed you from  
20 Prince George's Hospital, it had a lot of drugs listed. It  
21 said negative for this drug, negative for that drug. By the  
22 word 'cocaine,' it said positive, correct?

23 "Answer: Yes, it did.

24 "Question: Which means they found cocaine in your  
25 system via a blood test.



1 "Answer: Yes, sir.

2 "Question: Were you doing cocaine that day?

3 "Answer: No, sir.

4 "Question: Were you doing cocaine at anytime" --

5 MR. MOOMAU: Objection. He's reading the question.

6 I'm waiting for a question of the witness.

7 THE COURT: He's reading it to him, and then he's  
8 going to ask him if he remembers.

9 BY MR. STARR:

10 Q. I think where I was, Mr. White, was, "Question:  
11 Were you doing cocaine that day?

12 "Answer: No, sir, I wasn't.

13 "Question: Were you doing cocaine at anytime  
14 leading up to that day?

15 "Answer: No, sir.

16 "Question: How did cocaine end up in your system?

17 "Answer: That's a question I can't answer. I  
18 can't answer that. I can't answer that. I mean I don't  
19 know.

20 "Question: But you saw the blood test for cocaine.

21 "Answer: Yes, I did.

22 "Question: Have you ever used cocaine?

23 "Answer: No."

24 Were you asked those questions and did you give  
25 those answers?

1 A. Yes.

2 Q. Then you were asked by a grand juror -- this is at  
3 page 30, line 8, question from a juror: "The reports show  
4 there was cocaine in your system.

5 "The Witness: Yes. I never did cocaine.

6 "Question: That was my question. Did you ever do  
7 it?

8 "The Witness: Never did it. I don't know how it  
9 got in there. I can't explain it."

10 Now, you were asked those questions as well and you  
11 gave those answers as well, correct?

12 A. Correct.

13 Q. Now, Mr. White, you've been made aware that, after  
14 you were shot, there was a drug test --

15 MR. STARR: May I have this marked, please?

16 THE DEPUTY CLERK: Defense Exhibit 5 marked for  
17 identification.

18 (Defense Exhibit No. 5 was  
19 marked for identification.)

20 BY MR. STARR:

21 Q. You'd been made aware that, after you were shot and  
22 taken to the hospital, a drug test was conducted on your  
23 urine, correct?

24 A. Correct.

25 Q. You've been told that, right?

1 A. Yes.

2 Q. And I'm going to show you this document that is  
3 Defense Exhibit Number 5 for identification purposes. Now,  
4 tell me if I'm reading this correctly. It says admitted 24  
5 January '07, correct?

6 A. Correct.

7 Q. And it has patient name, Robert White, correct?

8 A. Correct.

9 Q. And it says 36 years of age, correct?

10 A. Correct.

11 Q. That was your age at the time, correct?

12 A. Correct.

13 Q. And you see here where it says cocaine?

14 A. Correct.

15 Q. Underneath of the word cocaine, it says "POS,"  
16 correct?

17 A. Correct.

18 Q. Have you ever used cocaine?

19 A. No.

20 MR. STARR: No more questions.

21 THE COURT: Any redirect, Mr. Moomau?

22 MR. MOOMAU: Yes, Your Honor.

23 **REDIRECT EXAMINATION**

24 BY MR. MOOMAU:

25 Q. Mr. White, I'm showing you Defense Exhibit Number 5

1 that was the toxicology report from the hospital that  
2 Mr. Starr was going over with you. Can you read the language  
3 that is right underneath the test results.

4 A. "Treatment, this is a screen test which is not to  
5 be used" -- "not intended for legal purposes."

6 MR STARR: Objection. Your Honor, may we approach?

7 THE COURT: Mr. White, we have to interrupt you for  
8 a moment.

9 (Counsel approached the bench and the following  
10 ensued.)

11 THE COURT: Did you have him read from that  
12 document?

13 MR. STARR: I did, Your Honor, but I don't know  
14 that that makes --

15 THE COURT: Are you going to move for the admission  
16 of the document?

17 MR. STARR: We may or may not. I don't know.

18 MR. MOOMAU: Well, he's already read one thing off  
19 of it. I believe he can certainly read something else.

20 MR. STARR: The disclaimer.

21 THE COURT: Well, that was already said in opening  
22 statement as well.

23 MR. STARR: Well, it was objectionable then too.

24 THE COURT: You didn't object.

25 MR STARR: But that doesn't waive any right to have