

1 IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY 1  
2 \_\_\_\_\_ )  
3 )  
3 MARILYN CLARK, et al., )  
4 )  
4 Plaintiffs, )  
5 )  
5 v. ) Case No.  
6 ) CAL 08-2332  
6 KEITH WASHINGTON, et al., )  
7 )  
7 Defendants. )  
8 \_\_\_\_\_ )  
9  
10  
11  
12 Deposition of ROBERT WHITE  
13 Greenbelt, Maryland  
14 Monday, October 27, 2008  
15 10:00 a.m.  
16  
17  
18  
19  
20 Job No: 3-139268  
21 Pages: 1-154  
22 Reported by: Tracy Obering, RPR/CSR

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20  
21  
22

1 Deposition of ROBERT WHITE, held at the 2  
2 offices of:  
3 LAD Reporting Company  
4 6301 Ivy Lane  
5 Suite 619  
6 Greenbelt, Maryland 20770  
7 (301) 474-5699  
8  
9  
10 Pursuant to notice, before Tracy Obering,  
11 Registered Professional Reporter/California Shorthand  
12 Reporter.  
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20  
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22

1 A P P E A R A N C E S (Continued) 4  
2 ON BEHALF OF THE DEFENDANT  
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16 Baltimore, Maryland 21202  
17 (410) 727-5000  
18  
19  
20  
21  
22



1 after you got out of the hospital in 2007?  
2 **A. Yes.**  
3 Q. What brought you to Washington DC in  
4 approximately 2005?  
5 **A. Well, I met a female. And she couldn't come**  
6 **to where I was, because she was taking care of her**  
7 **mother. And we was talking on the phone for a while and**  
8 **we actually wanted to be together, so I made the change**  
9 **to move from South Carolina to DC.**  
10 Q. Excuse me. I didn't mean to interrupt you.  
11 **A. And before I got to DC I told her, I said, "I**  
12 **need to be working before I come to DC." So, you know,**  
13 **I actually found a job before I even left South**  
14 **Carolina.**  
15 Q. Were you working in South Carolina before you  
16 left?  
17 **A. Yes.**  
18 Q. What were you doing there?  
19 **A. Prep cook, dishwasher.**  
20 Q. And am I correct that you worked in several  
21 different establishments in South Carolina?  
22 **A. Correct.**

1 **A. Yes. It was more than a couple of months.**  
2 Q. Was it as much as a year?  
3 **A. I don't know.**  
4 Q. Was the AmVets job a full-time job, that is 40  
5 hours a week?  
6 **A. No.**  
7 Q. How many hours a week on average did you work  
8 there?  
9 **A. 27 to 30.**  
10 Q. What was your job title?  
11 **A. Unloading trucks, cleaning up.**  
12 Q. Did you work just that one facility?  
13 **A. Yes.**  
14 Q. Is that basically a warehouse or thrift store?  
15 **A. It was a store.**  
16 Q. What were you paid for your work there?  
17 **A. \$6.20.**  
18 Q. An hour?  
19 **A. Uh-huh.**  
20 MR. WINKLEMAN: You have to say yes or no for  
21 her.  
22 THE WITNESS: Yes.

1 Q. What was the job you had lined up before you  
2 came to Washington in approximately 2005?  
3 **A. Working at a thrift store unloading trucks,**  
4 **cleaning up.**  
5 Q. Was that the AmVet store on Indian Head  
6 Highway?  
7 **A. Yes.**  
8 Q. When did you actually start working there; do  
9 you recall?  
10 **A. I can't remember what date. I arrived on a**  
11 **Saturday. I started working on a Sunday.**  
12 Q. Didn't you start working there in October  
13 2007 -- excuse me -- June 2006?  
14 **A. Could have been. I don't know. I don't**  
15 **remember.**  
16 Q. If it was June 2006, would that mean you moved  
17 to Washington DC in approximately 2006 rather than 2005?  
18 **A. Probably so.**  
19 Q. How long did you work at AmVets?  
20 **A. I don't remember. When I left there, I**  
21 **started working at Marlo's.**  
22 Q. Was it more than a couple of months at AmVets?

1 BY MR. KARP:  
2 Q. Have you ever been deposed before?  
3 I know you've given testimony before, but have  
4 you ever been in a proceeding like this before?  
5 **A. No.**  
6 Q. Although your attorney probably gave you the  
7 rules, let me just review them with you.  
8 **A. Okay.**  
9 Q. First and foremost, only one of us can talk at  
10 a time. I'll do my best not to interrupt you and I'd  
11 appreciate it if you do likewise.  
12 Secondly, the reporter can only take down  
13 accurately, verbal responses. In other words, uh-huh  
14 and huh-uh don't work. Nods and shakes of the head  
15 don't work. You have to say yes, no or whatever it is.  
16 Thirdly, if you need a break at any time, let  
17 me know and we will take it.  
18 Fourthly, if you do not understand a question,  
19 ask me to repeat it or rephrase it. If you answer the  
20 question without asking me for clarification, I will  
21 assume that you understand the question. Is all that  
22 fair?

|  |  |
|--|--|
| <p>13</p> <p>1     <b>A. It's fair.</b></p> <p>2     Q. Okay. Now, I was asking if you recall how</p> <p>3 long you worked at AmVets and I believe your answer was</p> <p>4 you don't really know.</p> <p>5         Was it as much as six months, can you tell me</p> <p>6 that?</p> <p>7     <b>A. It could have been six months.</b></p> <p>8     Q. Why did you stop working there?</p> <p>9     <b>A. The other job paid more money.</b></p> <p>10    Q. Isn't it the case that you were fired?</p> <p>11    <b>A. No.</b></p> <p>12    Q. You quit voluntarily?</p> <p>13    <b>A. Yes.</b></p> <p>14    Q. And the job you found that paid more money was</p> <p>15 what?</p> <p>16    <b>A. Helping my cousin move furniture.</b></p> <p>17    Q. Your cousin was Brandon Clark?</p> <p>18    <b>A. Yes, sir.</b></p> <p>19    Q. How is it he's related to you?</p> <p>20    <b>A. It goes down the line. I don't really know.</b></p> <p>21    Q. Do you know if he was your first cousin,</p> <p>22 second cousin, something else?</p> | <p>15</p> <p>1     Q. How did it come about that you got the job at</p> <p>2 Marlo? How did you hear about it?</p> <p>3     <b>A. My cousin's mother.</b></p> <p>4     Q. Your cousin told you that they were looking</p> <p>5 for help?</p> <p>6     <b>A. My cousin mother told me that her son needed</b></p> <p>7 <b>someone to help him, told me how much it paid and that's</b></p> <p>8 <b>how I heard about it.</b></p> <p>9     Q. What is your cousin's mother's name?</p> <p>10    <b>A. Marilyn Clark.</b></p> <p>11    Q. What did she tell you as to how much it paid?</p> <p>12    <b>A. It paid more than what I was making.</b></p> <p>13    Q. Yes, sir. How much did it pay?</p> <p>14    <b>A. \$150 a day.</b></p> <p>15    Q. Do you recall whether you went to Marlo</p> <p>16 Furniture to fill out an employment application?</p> <p>17    <b>A. No.</b></p> <p>18    Q. You don't recall or you did not do it?</p> <p>19    <b>A. I did not do it.</b></p> <p>20    Q. Did you have any contact with anybody</p> <p>21 associated with Marlo Furniture itself, other than</p> <p>22 perhaps your cousin, in connection with getting the job?</p> |
| <p>14</p> <p>1     <b>A. No.</b></p> <p>2     Q. You don't know?</p> <p>3     <b>A. No.</b></p> <p>4     Q. When you left AmVets, did you apply for</p> <p>5 unemployment?</p> <p>6     <b>A. No.</b></p> <p>7     Q. Have you ever used AmVets as a reference, an</p> <p>8 employment reference?</p> <p>9     <b>A. No.</b></p> <p>10    Q. Your counsel handed us, before we started this</p> <p>11 morning, tax returns for 2005 and 2006.</p> <p>12         Did you file a tax return for 2007?</p> <p>13    <b>A. No.</b></p> <p>14    Q. Why not?</p> <p>15    <b>A. Wasn't working.</b></p> <p>16    Q. Did you work at all for wages or salary in</p> <p>17 2007?</p> <p>18    <b>A. No.</b></p> <p>19    Q. Well, you worked for Marlo, didn't you?</p> <p>20    <b>A. Yes.</b></p> <p>21    Q. Wasn't that in 2007?</p> <p>22    <b>A. We got paid cash.</b></p>   | <p>16</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. Who did you deal with?</p> <p>3     <b>A. Mike Robinson.</b></p> <p>4     Q. What were your dealings with him in terms of</p> <p>5 getting the job?</p> <p>6     <b>A. That's how we got paid.</b></p> <p>7     Q. Right. Before you got paid, before you went</p> <p>8 to work there, did you have any dealings with him?</p> <p>9     <b>A. No.</b></p> <p>10    Q. How did you find out that Mr. Robinson</p> <p>11 existed?</p> <p>12    <b>A. Through my cousin.</b></p> <p>13    Q. What did he tell you?</p> <p>14    <b>A. This was the guy we was working under.</b></p> <p>15    Q. Is it your belief that you were employed by</p> <p>16 Marlo Furniture?</p> <p>17    <b>A. No.</b></p> <p>18    Q. Who do you believe you were employed by?</p> <p>19    <b>A. Mike Robinson.</b></p> <p>20    Q. Did Mr. Robinson have a business address?</p> <p>21    <b>A. I don't know.</b></p> <p>22    Q. Did you ever see him anywhere other than on</p>  |

|   |   |
|---|---|
| <p>17</p> <p>1 the truck or on the Road?<br/>2 <b>A. At Marlo's.</b><br/>3 Q. You saw him at the store?<br/>4 <b>A. Right.</b><br/>5 Q. Did he have an office there; do you know?<br/>6 <b>A. I don't know.</b><br/>7 Q. Did you fill out any paperwork of any kind to<br/>8 get the job?<br/>9 <b>A. No.</b><br/>10 Q. How often were you paid?<br/>11 <b>A. Every day.</b><br/>12 Q. At the end of the day?<br/>13 <b>A. At the end of the day.</b><br/>14 Q. When you went back to what, the store,<br/>15 warehouse or what?<br/>16 <b>A. Warehouse.</b><br/>17 Q. When you went back to the warehouse, was<br/>18 Mr. Robinson there every day or every night?<br/>19 <b>A. Yes.</b><br/>20 Q. And he would pay you \$150 every night?<br/>21 <b>A. Well, it varies. Depends on how many</b><br/>22 <b>deliveries you made. We get paid by the deliveries.</b></p>   | <p>19</p> <p>1 <b>A. They paid some.</b><br/>2 Q. "They," being who, Marlo?<br/>3 <b>A. Marlo.</b><br/>4 Q. They paid some what?<br/>5 <b>A. Medical bills.</b><br/>6 Q. How much did they pay?<br/>7 <b>A. I don't know.</b><br/>8 Q. Did they pay some of the medical bills from<br/>9 your hospitalization at Prince George's Community<br/>10 Hospital?<br/>11 <b>A. I don't know.</b><br/>12 Q. How do you know they paid some medical bills?<br/>13 <b>A. I mean, my doctor's office where I went out in</b><br/>14 <b>South Carolina, you are not going to see them if someone</b><br/>15 <b>is not paying. So that's why I figured they was paying</b><br/>16 <b>some bills.</b><br/>17 Q. Is it the case that you assumed Marlo was<br/>18 paying bills rather than know they were paying bills?<br/>19 <b>A. Correct.</b><br/>20 Q. Why did you tell the grand jury that Marlo had<br/>21 canceled your insurance?<br/>22 <b>A. Because my doctor, when I went to get the</b></p> |
| <p>18</p> <p>1 Q. How much did you get paid per delivery?<br/>2 <b>A. I don't know.</b><br/>3 Q. How did you know whether he was paying you the<br/>4 right amount?<br/>5 <b>A. I was happy with it.</b><br/>6 Q. You just took what he gave you?<br/>7 <b>A. Yes.</b><br/>8 Q. You recall testifying before the grand jury<br/>9 that Marlo Furniture canceled your insurance?<br/>10 <b>A. Yes.</b><br/>11 Q. Is that true?<br/>12 <b>A. Yes.</b><br/>13 Q. How and when did they cancel your insurance?<br/>14 <b>A. I don't know.</b><br/>15 Q. Why did you tell the folks of the grand jury<br/>16 that Marlo did cancel your insurance?<br/>17 <b>A. Because when I needed the surgery and when I</b><br/>18 <b>went to the doctor he was like, you know, "We couldn't</b><br/>19 <b>do the surgery because you don't have any insurance.</b><br/>20 <b>Your insurance was canceled." That's how I found out</b><br/>21 <b>about that.</b><br/>22 Q. Did you ever have insurance through Marlo?</p> | <p>20</p> <p>1 <b>surgery, I couldn't get the surgery without the</b><br/>2 <b>insurance.</b><br/>3 Q. Right. But that brings me back to why you<br/>4 thought you had insurance with Marlo in the first place.<br/>5 <b>A. Because the doctor was seeing me. And he no</b><br/>6 <b>longer was seeing me after the insurance was cutoff.</b><br/>7 Q. Which doctor is this?<br/>8 <b>A. Dr. Heimberger.</b><br/>9 MR. WINKLEMAN: Heimberger,<br/>10 H-e-i-m-b-e-r-g-e-r.<br/>11 BY MR. KARP:<br/>12 Q. When did he tell you that he would no longer<br/>13 see you?<br/>14 <b>A. I don't remember.</b><br/>15 Q. Can you give me the approximate month and<br/>16 year?<br/>17 <b>A. I don't know. I don't remember.</b><br/>18 Q. How many times did you see him before he<br/>19 stopped seeing you?<br/>20 <b>A. A lot of times. I don't remember.</b><br/>21 Q. I'm not asking you for dates. I'm asking you<br/>22 how many times.</p>  |

21

1 Can you estimate how many times you saw him  
2 before he stopped seeing you?  
3 **A. I couldn't tell you that.**  
4 Q. Was it your belief you needed his service at  
5 the time he stopped seeing you? In other words, you  
6 still needed him when he stopped seeing you?  
7 **A. Correct.**  
8 Q. What did he treat you for?  
9 **A. Knee injuries.**  
10 Q. Was he your surgeon?  
11 **A. Yes, sir.**  
12 Q. When did you last see him?  
13 **A. It was this year, sometime this year.**  
14 Q. In 2008?  
15 **A. 2008.**  
16 Q. Do you recall the season? That is, was it  
17 short days, long days, warm, cool, if it's ever cool in  
18 South Carolina?  
19 **A. It was warm. Early part of the year.**  
20 Q. Did you start seeing another doctor after this  
21 individual stopped seeing you?  
22 **A. No.**

22

1 Q. Have you seen any doctors since Dr. Heimberger  
2 stopped seeing you?  
3 **A. No.**  
4 Q. Have you had any medical treatment since  
5 Dr. Heimberger stopped seeing you?  
6 **A. Vocational rehab.**  
7 Q. Have you had any medical services, other than  
8 vocational rehabilitation --  
9 **A. No.**  
10 Q. Let me finish. Since Dr. Heimberger stopped  
11 seeing you?  
12 **A. No.**  
13 Q. How long did you actually work for Marlo or  
14 Mr. Robinson?  
15 **A. I don't remember.**  
16 Q. Was it a matter of days?  
17 **A. I don't know.**  
18 Q. Was it a matter of weeks?  
19 **A. I don't know.**  
20 Q. Was it a matter of months?  
21 **A. I don't know.**  
22 Q. You don't have any idea how long you worked

23

1 for Marlo?  
2 **A. No.**  
3 Q. Just a complete mystery to you?  
4 **A. Yes.**  
5 Q. When you were paid the \$150 or whatever it  
6 was, was it always in cash?  
7 **A. Yes, sir.**  
8 Q. Were you ever paid by check --  
9 **A. No.**  
10 Q. -- or money order?  
11 **A. No.**  
12 Q. Do you know how much Brandon was paid?  
13 **A. No.**  
14 Q. Were you present when he was given money?  
15 Were you physically in his presence when Mr. Robinson  
16 handed him money?  
17 **A. Yes.**  
18 Q. Was Mr. Clark also paid in cash?  
19 **A. Yes.**  
20 Q. Did you ever ask Mr. Clark how much he got  
21 paid?  
22 **A. No.**

24

1 Q. It wasn't any interest -- of any interest to  
2 you?  
3 **A. None of my business.**  
4 Q. How long had Mr. Clark worked for Marlo  
5 Furniture?  
6 **A. I don't know.**  
7 Q. Do you know if he was employed by Marlo  
8 Furniture --  
9 **A. I don't know.**  
10 Q. You have to let me finish my question before  
11 you say, "I don't know." Okay. Is that fair?  
12 **A. Yes, sir.**  
13 Q. My question was how long had Mr. Clark worked  
14 for Marlo Furniture?  
15 **A. I don't know.**  
16 Q. Was he actually an employee of Marlo  
17 Furniture?  
18 **A. I don't know.**  
19 Q. Was he an employee of Mr. Robinson?  
20 **A. Yes.**  
21 Q. Do you know how long he worked for  
22 Mr. Robinson?

25

1     **A. No.**

2     Q. Can you give me any estimate in terms of

3 months, days, weeks, years as to how long Mr. Clark had

4 worked for Mr. Robinson?

5     **A. I don't know.**

6     Q. How long had Mr. Robinson been in the

7 Washington metropolitan area?

8     **A. I don't know.**

9     Q. Did you know Mr. Clark before you came to

10 Washington?

11    **A. No, I didn't.**

12    Q. To your knowledge, had he ever lived in South

13 Carolina when you were there?

14    **A. I don't know.**

15    Q. How did you find out he was your cousin?

16    **A. Through my fiance.**

17    Q. And her name is what?

18    **A. Deborah Simmons.**

19    Q. Is that the same woman whose cell phone you

20 had at the time of the shooting in this case?

21    **A. Correct.**

22    Q. How long has she been your fiance?

26

1     **A. Three years, four years, something like that.**

2     Q. Since roughly 2005?

3     **A. Probably before that.**

4     Q. How did it come about that she told you that

5 Brandon Clark was your cousin?

6     **A. Actually, when I came here to DC she told me**

7 **she was at a family reunion in South Carolina. And she**

8 **said the last name was Clark. And I told her I was kin**

9 **to some Clarks. And she actually called her girlfriend**

10 **up and I called my mother up and they spoke briefly on**

11 **the phone. And that's how I found out.**

12    Q. How did you meet Mr. Clark?

13    **A. He came over to Orange Street, where I was**

14 **living at.**

15    Q. You say she or he?

16    **A. She did.**

17    Q. That is your fiance?

18    **A. No. My cousin, Marilyn Clark.**

19    Q. Marilyn Clark is also your cousin?

20    **A. Yes.**

21    Q. And Marilyn Clark is Brandon Clark's mother?

22    **A. Yes.**

27

1     Q. When Marilyn Clark came over to your place

2 residence on Southeast, did she bring Brandon with her?

3     **A. No.**

4     Q. How did you meet Brandon?

5     **A. When we went over to eat dinner with them one**

6 **Sunday.**

7     Q. And that's when you met him?

8     **A. Correct.**

9     Q. Okay. Can you tell me Mr. Clark's approximate

10 height and weight as of January 2007?

11    **A. I don't know.**

12    Q. Was he bigger than you?

13    **A. Taller.**

14    Q. How tall are you?

15    **A. 6'2.**

16    Q. Was that your height in January 2007?

17    **A. Yes.**

18    Q. What was your weight then?

19    **A. 270, 280.**

20    Q. How much taller would you estimate Mr. Clark

21 was than you?

22    **A. I don't know.**

28

1     Q. Was he six inches taller than you?

2     **A. I don't know.**

3     Q. Was he one inch taller than you?

4     **A. I don't know.**

5     Q. Had you ever stood within a couple feet of

6 him?

7     **A. I don't remember.**

8     Q. Had you ever had occasion to stand next to

9 him?

10    **A. No.**

11    Q. You never stood next to him?

12    **A. No.**

13    Q. How much would you estimate he weighed?

14    **A. I don't know.**

15    Q. Didn't you give testimony before the grand

16 jury as to what his height and weight was?

17    **A. I don't remember.**

18    Q. What did you do to review for today's

19 deposition, sir, prepare for today's deposition?

20    **A. I don't understand what you are saying.**

21    Q. Did you read over any documents?

22    **A. Yes.**

29

1 Q. What did you read over?  
2 A. **Something my lawyer prepared.**  
3 Q. Was it Answers to Interrogatories?  
4 A. **Say again?**  
5 Q. Was it your Answers to Interrogatories, is  
6 that what you reviewed?  
7 A. **I don't understand what you are saying.**  
8 Q. Showing you a pleading called Plaintiff's  
9 Answers to Interrogatories that your attorney handed us  
10 right before the start of today's session. Take your  
11 time to look through it.  
12 A. **Yes.**  
13 Q. Take a look at the very last page, please.  
14 Does that last page have your signature on it?  
15 A. **Correct.**  
16 Q. When did you sign this document?  
17 A. **About 10, 15 minutes ago.**  
18 Q. Your attorney also handed me another piece of  
19 paper. This is page 12 of 12, is that your signature?  
20 A. **Yes.**  
21 Q. Did you also sign that about 10, 15 minutes  
22 ago?

30

1 A. **No.**  
2 Q. When did you sign that document?  
3 A. **I don't remember.**  
4 Q. I'm going to show you, from my pleading file,  
5 another pleading. These are your answers to Keith  
6 Washington's interrogatories. And as you'll see, the  
7 last page of this one, Page 10, is not signed. Excuse  
8 me. I'm showing you the wrong one.  
9 I'm showing you your Answers to  
10 Interrogatories and the last page of this one is Page 12  
11 of 12, it is not signed.  
12 Is this a copy of a document you reviewed in  
13 preparation for today's deposition?  
14 A. **What am I looking at?**  
15 Q. These are the Answers to Interrogatories --  
16 your answers to Keith Washington's interrogatories.  
17 You've already told us that you reviewed your  
18 answers to Prince George's County interrogatories. I'm  
19 asking you whether the document that is in front of you  
20 is one of the documents that you reviewed in preparation  
21 for today's deposition?  
22 A. **I don't remember.**

31

1 Q. Are you able to read and write, sir?  
2 A. **Yes, sir.**  
3 Q. Read out loud, if you would please, your  
4 answer to interrogatory number 1, beginning at the  
5 bottom of page 1.  
6 A. **Robert White, January 23rd, 1971.**  
7 **251-33-5642. My present address, 161 Olivia Road,**  
8 **Andrews, South Carolina 29510. Prior address 475 Orange**  
9 **Street, Southeast.**  
10 Q. Okay. Did you review anything other than your  
11 answers to Prince George's County's interrogatories in  
12 preparation for today's deposition?  
13 A. **I don't remember.**  
14 Q. Why would you not remember what you reviewed  
15 in preparation for today's deposition?  
16 A. **I don't remember. If I did, I don't remember.**  
17 Q. When did you start preparing for today's  
18 deposition?  
19 A. **You got me lost.**  
20 Q. Why? You came up yesterday for today's  
21 deposition; is that correct?  
22 A. **Correct.**

32

1 Q. Did you meet with your lawyer when you came  
2 up?  
3 A. **Yes, I did.**  
4 Q. You reviewed some documents with him; is that  
5 correct?  
6 A. **From what you got right there.**  
7 Q. Sir?  
8 A. **The ones you got right there.**  
9 Q. Are you referring to what I'm pointing at,  
10 your answers to Prince George's County's  
11 interrogatories?  
12 A. **Yes.**  
13 Q. Did you review any other documents?  
14 A. **No.**  
15 Q. Did you review your grand jury testimony?  
16 A. **Yes, I did.**  
17 Q. When did you last review your grand jury  
18 testimony?  
19 A. **Couple minutes ago, before I came in here.**  
20 Q. Did you review your testimony in --  
21 A. **No, I did not.**  
22 Q. You are going to have to let me finish my



|  |  |
|--|--|
| <p>1 question, unless you can read my mind.<br/>2 Did you read the testimony you gave in the<br/>3 circuit court of Prince George's County in Keith<br/>4 Washington's trial?<br/>5 <b>A. No.</b><br/>6 Q. Other than your answers to Prince George's<br/>7 County's interrogatories and grand jury testimony, did<br/>8 you review anything else from the time you came back to<br/>9 the Washington metropolitan area for today's deposition?<br/>10 <b>A. No.</b><br/>11 Q. When you reviewed your grand jury testimony,<br/>12 did you notice the testimony you gave concerning your<br/>13 recollection of Brandon Clark's height and weight?<br/>14 <b>A. No.</b><br/>15 Q. How long did you spend reviewing your grand<br/>16 jury testimony since you came back to this area for the<br/>17 deposition?<br/>18 <b>A. I didn't.</b><br/>19 Q. You didn't what?<br/>20 <b>A. The grand jury -- I read the statement. I</b><br/>21 <b>misunderstand what you said.</b><br/>22 Q. All right. You read the three or four page</p> | <p>33<br/>1 Q. Did you see that before you testified in Upper<br/>2 Marlboro in the criminal case?<br/>3 <b>A. No.</b><br/>4 Q. When did you see it?<br/>5 <b>A. They sent me a copy. Somebody sent me a copy</b><br/>6 <b>of it.</b><br/>7 Q. Did they send you a copy of it before you gave<br/>8 testimony in the Circuit Court for Prince George's<br/>9 County?<br/>10 <b>A. I don't remember.</b><br/>11 Q. Do you know if you had reviewed your grand<br/>12 jury testimony before you gave testimony in the Circuit<br/>13 Court for Prince George's County?<br/>14 <b>A. I don't remember.</b><br/>15 Q. How did it come about that you prepared<br/>16 Deposition Exhibit 1?<br/>17 <b>A. This?</b><br/>18 Q. Yes, sir.<br/>19 <b>A. When I was in the hospital.</b><br/>20 Q. What happened?<br/>21 <b>A. When I was able to speak, you know, my mother</b><br/>22 <b>and them couldn't come in and see me. So I wanted</b></p> |
| <p>34<br/>1 statement --<br/>2 <b>A. Correct.</b><br/>3 Q. -- that you prepared with the assistance of<br/>4 your attorney a few weeks after the incident?<br/>5 <b>A. Say that again.</b><br/>6 Q. The statement that you reviewed is the one<br/>7 that you prepared with the assistance of your attorney a<br/>8 few weeks after the incident?<br/>9 <b>A. Correct.</b><br/>10 <b>(Deposition Exhibit Number 1</b><br/>11 <b>was marked for identification)</b><br/>12 <b>BY MR. KARP:</b><br/>13 Q. I'm showing you what has been marked as<br/>14 Deposition Exhibit 1.<br/>15 Is that the statement you reviewed?<br/>16 <b>A. Yes.</b><br/>17 Q. Have you ever seen your grand jury testimony?<br/>18 I'm shifting on you now. I'm not talking<br/>19 about this. I'm talking about the transcript of the<br/>20 testimony you gave in front of the grand jury.<br/>21 Have you ever seen that?<br/>22 <b>A. Yes.</b></p>   | <p>35<br/>1 <b>somebody to know what happened. So me and my lawyer, we</b><br/>2 <b>prepared this.</b><br/>3 Q. How did you prepare it? What was your role in<br/>4 preparing it?<br/>5 <b>A. I told him the best that I could remember.</b><br/>6 Q. And am I correct that then a document was<br/>7 typed up and given to you?<br/>8 <b>A. Correct.</b><br/>9 Q. And that document is what you have in front of<br/>10 you?<br/>11 <b>A. Correct.</b><br/>12 Q. Was there a draft, that is, a document that<br/>13 you changed or somebody changed before you finally<br/>14 signed it, before this one was prepared?<br/>15 <b>A. I don't know.</b><br/>16 Q. Did you read this one over before you signed<br/>17 it?<br/>18 <b>A. Yes, I did.</b><br/>19 Q. Were you still in the hospital when you read<br/>20 it?<br/>21 <b>A. Yes, I did.</b><br/>22 Q. You also reviewed this document before you</p>                              |

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1 gave testimony in the Circuit Court for Prince George's  
2 County in the criminal trial; correct?  
3 **A. Correct.**  
4 Q. Have you ever made any changes or corrections  
5 to that document?  
6 **A. Yes.**  
7 Q. When did you make changes or corrections to  
8 Deposition Exhibit 1?  
9 **A. Words going to come up different. I'm not**  
10 **going to say the same thing that I said on this right**  
11 **here, word for word.**  
12 Q. I understand that, but I'm asking you whether  
13 you ever made any changes to the document?  
14 **A. To the story?**  
15 Q. I'm not talking about the story. I'm talking  
16 about the document.  
17 **A. No.**  
18 Q. Let me make sure it's clear.  
19 Did you or, to your knowledge, anybody else  
20 ever make any changes to the document after you signed  
21 it?  
22 **A. No.**

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1 Q. Is the story, as you put it, in that document  
2 true and correct as best you know?  
3 **A. Yes, sir.**  
4 Q. And you are telling me that if you were to  
5 tell me the story again, some of the words would change,  
6 but the basic meaning would be the same?  
7 **A. Be the same.**  
8 Q. Okay. I asked you in interrogatory number 21,  
9 I'll be happy to let you look at it if you'd like, about  
10 your claim for lost salary or wages.  
11 And this was your answer:  
12 "At the time of the incident I was  
13 being paid based on how many deliveries  
14 I made per day. This average amount was  
15 \$90 per day. I was working approximately  
16 five days a week. I was working there  
17 for two weeks."  
18 And then you move on to talking about  
19 something else. Is the information I just read to you  
20 accurate?  
21 **A. It's there, yes.**  
22 Q. All right. You told me at the beginning of

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1 the deposition that it was your recollection that you  
2 made about \$150 a day.  
3 **A. Yes.**  
4 Q. Which is the case, \$90 or \$150 or something  
5 else?  
6 **A. It could have been less, more. The pay**  
7 **changes. Depends on how much deliveries you made.**  
8 Q. Do you know what the phrase, "average amount"  
9 means?  
10 **A. Yes.**  
11 Q. What does that mean?  
12 **A. That's the most you make.**  
13 Q. You believe average amount means the most you  
14 make?  
15 **A. Yes.**  
16 Q. Okay. Then if you said in Answers to  
17 Interrogatory that the most you made was \$90 a day, why  
18 did you tell me at the beginning of this deposition that  
19 sometimes you made \$150 a day?  
20 **A. That was the best of my knowledge.**  
21 Q. This answer to interrogatory also says that  
22 you were working there, that is for Robinson or Marlo,

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1 for two weeks; is that accurate?  
2 **A. Could have been, it's there.**  
3 Q. How did it get there? Excuse me. I'll  
4 withdraw that.  
5 You read these Answers to Interrogatories  
6 before you signed them; is that correct?  
7 **A. Correct.**  
8 Q. And they were true and correct to the best of  
9 your knowledge, information and belief when you signed  
10 them; is that correct?  
11 **A. Correct.**  
12 Q. All right. Why was it that you believed you  
13 worked there for two weeks when you signed these  
14 answers, or you prepared these Answers to  
15 Interrogatories, several months ago?  
16 **A. It was the best of my knowledge that that's**  
17 **how long I've been there.**  
18 Q. Well --  
19 **A. I don't remember.**  
20 Q. Did somebody tell you you'd been working there  
21 for two weeks?  
22 **A. I don't know.**

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1 Q. You testified before the grand jury that you'd  
2 been working there for three or four weeks, did you not?  
3 **A. I could have said that.**  
4 Q. You saw that when you reviewed your grand jury  
5 testimony before testifying in Circuit Court for Prince  
6 George's County, did you not?  
7 **A. I don't remember.**  
8 Q. Was that also, to the best of your knowledge,  
9 at the time you said it?  
10 **A. Yes, sir.**  
11 Q. Now, you told me a little bit ago that you  
12 have not had medical treatment for a while, but you have  
13 had vocational rehabilitation?  
14 **A. Correct.**  
15 Q. How many times would you estimate you've been  
16 to vocational rehabilitation folks?  
17 **A. I stayed there a total of a month, four weeks.**  
18 **Came home on the weekend.**  
19 Q. What was the name of that facility?  
20 **A. South Carolina Vocational Rehab.**  
21 Q. And you spent the night there during the week?  
22 **A. From Monday to Friday.**

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1 Q. When did you last spend the night there?  
2 **A. September, October. October the 7th.**  
3 Q. Of this year or last year?  
4 **A. This year.**  
5 Q. Are you scheduled to go back?  
6 **A. Well, what I do is, they sent me to a center.**  
7 **And what I do now is they are referring me to my**  
8 **counselor, which is in my hometown, where I live at.**  
9 **And I'm scheduled to go back to her next week.**  
10 Q. Okay. Am I correct that at this vocational  
11 rehabilitation facility they exercise you, give you  
12 exercises, see how much you can lift, how much you can  
13 bend, how far you can walk, things like that?  
14 **A. Correct.**  
15 Q. Do you know who is paying for that?  
16 **A. The state is, I guess. I don't know.**  
17 Q. Do you have any private healthcare provider, a  
18 doctor?  
19 **A. No.**  
20 Q. Did you in January 2007?  
21 **A. No.**  
22 Q. How was your state of health in January 2007?

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1 **A. Fine.**  
2 Q. Did you have any physical limitations or  
3 restrictions of any kind?  
4 **A. No.**  
5 Q. Well, I see your -- what is it, your right  
6 hand is somewhat contracted.  
7 Was that the case in January 2007?  
8 **A. Yes.**  
9 Q. The hand incident injury has nothing to do  
10 with the shooting; is that correct?  
11 **A. Correct.**  
12 Q. How long have you had that?  
13 **A. Since 1992.**  
14 Q. What happened in 1992?  
15 **A. Car accident.**  
16 Q. Didn't you give testimony in front of the  
17 grand jury that you've had that right hand injury since  
18 1995?  
19 **A. No.**  
20 Q. I understand that you are a registered sex  
21 offender in South Carolina; is that correct?  
22 **A. Correct.**

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1 Q. You are also registered in the District of  
2 Columbia?  
3 **A. Correct.**  
4 Q. When did you register in the District of  
5 Columbia?  
6 **A. When I arrived up here.**  
7 Q. How soon after you arrived?  
8 **A. Like three or four days.**  
9 Q. Did you register in the State of Maryland?  
10 **A. No.**  
11 Q. Why not?  
12 **MR. WINKLEMAN: Objection.**  
13 **THE WITNESS: I wasn't living in Maryland.**  
14 **From my understanding, when I got out of prison, it was**  
15 **to register where you live. No one told me about**  
16 **registering where you work. No one told me about that.**  
17 **They never told me that in South Carolina.**  
18 **So when I left South Carolina, I told her that**  
19 **I was coming here. She sent paperwork here. Took like**  
20 **months for the lady to get the paperwork here. But once**  
21 **she got it straightened out, she called me back and we**  
22 **did it then.**

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| <p>45</p> <p>1 She never told me about -- she knew where I<br/>2 was working at. She never told me about I had to<br/>3 register in Maryland. So I didn't know anything about<br/>4 that.<br/>5 BY MR. KARP:<br/>6 Q. Who is the lady you are referring to?<br/>7 A. Ms. Stokes -- Ms. Gray. What's her first<br/>8 name? I know one of them was Yolanda Stokes. And the<br/>9 other one was -- her last name was Gray. I don't<br/>10 remember. Stephanie Gray.<br/>11 Q. Who did they work for?<br/>12 A. The courthouse.<br/>13 Q. In South Carolina?<br/>14 A. In DC.<br/>15 Q. When you moved to Washington, were you on<br/>16 probation?<br/>17 A. No.<br/>18 Q. When was your probation over?<br/>19 A. I had no probation.<br/>20 Q. How long did you serve in jail for the sex<br/>21 crime offense?<br/>22 A. I did 10 years.</p> | <p>47</p> <p>1 object, you still answer unless I tell you not to. So I<br/>2 will object for the record, but please keep answering<br/>3 his questions.<br/>4 THE WITNESS: Say again?<br/>5 BY MR. KARP:<br/>6 Q. Tell me what happened that led to your being<br/>7 convicted.<br/>8 A. There was an ex-girlfriend. She got angry.<br/>9 She called the police. They came and picked me up. And<br/>10 it went from there.<br/>11 Q. What did she allege you did?<br/>12 A. Tried to have sex with her.<br/>13 Q. Have you been arrested since you returned to<br/>14 South Carolina after this shooting in January 2007?<br/>15 MR. WINKLEMAN: Objection.<br/>16 THE WITNESS: Yes.<br/>17 BY MR. KARP:<br/>18 Q. When were you arrested?<br/>19 A. In the month of February.<br/>20 Q. February of what year?<br/>21 A. 2008.<br/>22 Q. How many times have you been arrested since</p> |
| <p>46</p> <p>1 Q. You were sentenced to 15 years; is that<br/>2 correct?<br/>3 A. Right.<br/>4 Q. How did it happen you were released after 10?<br/>5 A. Good behavior, time was up. I maxed it out.<br/>6 Q. And you were not on probation or parole once<br/>7 you were released?<br/>8 A. No.<br/>9 Q. You were released in about 2004, you say?<br/>10 A. June 1st, 2004.<br/>11 Q. What was the crime that you were actually<br/>12 convicted of that sent you to jail for 10 years?<br/>13 MR. WINKLEMAN: Objection. Go ahead.<br/>14 THE WITNESS: Attempted.<br/>15 BY MR. KARP:<br/>16 Q. Attempted what?<br/>17 A. Sexual assault.<br/>18 Q. What were the circumstances, please.<br/>19 MR. WINKLEMAN: Objection.<br/>20 BY MR. KARP:<br/>21 Q. Tell me what occurred.<br/>22 MR. WINKLEMAN: For purposes of today, when I</p>     | <p>48</p> <p>1 you returned --<br/>2 A. Just that one time.<br/>3 Q. Let me finish the question.<br/>4 How many times have you been arrested since<br/>5 you returned to South Carolina after the January 2007<br/>6 shooting?<br/>7 MR. WINKLEMAN: Objection.<br/>8 THE WITNESS: Just that one time.<br/>9 BY MR. KARP:<br/>10 Q. It's your recollection that it was in February<br/>11 2008?<br/>12 A. Yes, sir.<br/>13 Q. What was the charge?<br/>14 MR. WINKLEMAN: Objection.<br/>15 BY MR. KARP:<br/>16 Q. What was the Charge?<br/>17 A. CDV. Criminal domestic violence.<br/>18 Q. Have you been to court on that?<br/>19 A. Going to court on it now.<br/>20 Q. When are you scheduled for court?<br/>21 A. Actually, it was for two weeks, but I had<br/>22 this. I can't be two places at one time, so I went and</p>  |

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1 talked to the solicitor and he released me for this.  
2 Q. Is it your testimony then that you are due  
3 back in about two weeks for the domestic --  
4 **A. Next month.**  
5 MR. WINKLEMAN: You got to let him finish. I  
6 know it gets conversational, but let him finish. Thank  
7 you.  
8 BY MR. KARP:  
9 Q. Go ahead. When are you due back to face  
10 charges in South Carolina?  
11 MR. WINKLEMAN: Objection.  
12 THE WITNESS: Whenever they send me a paper.  
13 And they will notify me when I have to come back.  
14 BY MR. KARP:  
15 Q. Isn't it the case that you were arrested in  
16 July of 2008 and not February 2008 on the charge you  
17 just mentioned?  
18 **A. It could have been, I honestly don't remember.**  
19 **A lot of things I forget.**  
20 Q. Why do you forget things?  
21 **A. I don't know.**  
22 Q. Well, don't take this the wrong way. Some

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1 people have good memories; some people don't.  
2 Do you believe you have any mental  
3 difficulties that keep you from remembering things  
4 accurately?  
5 **A. I don't know.**  
6 Q. Have you ever been diagnosed as having any  
7 memory problems?  
8 **A. I never went and got checked.**  
9 Q. You ever been diagnosed as having mental or  
10 emotional problems?  
11 **A. I haven't got checked.**  
12 Q. You were evaluated for mental and emotional  
13 issues when you were in jail in South Carolina, weren't  
14 you?  
15 **A. No.**  
16 Q. Have you ever been treated by a psychiatrist  
17 or a psychologist, as far as you know?  
18 **A. No.**  
19 Q. How old are you at the present time?  
20 **A. 37.**  
21 Q. Have you ever used illegal drugs in the last  
22 15 years?

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1 MR. WINKLEMAN: Objection.  
2 BY MR. KARP:  
3 Q. In other words, since your 22nd birthday,  
4 let's do it this way, you ever used illegal drugs?  
5 **A. Yes.**  
6 Q. What illegal drugs did you use?  
7 MR. WINKLEMAN: Objection.  
8 THE WITNESS: Marijuana.  
9 BY MR. KARP:  
10 Q. When did you last use marijuana?  
11 MR. WINKLEMAN: Objection.  
12 THE WITNESS: That's been a long time.  
13 BY MR. KARP:  
14 Q. Do your best.  
15 **A. I don't know. It's been a long time. I would**  
16 **say 1993, '94.**  
17 Q. Have you ever used any illegal substances  
18 since you last used marijuana?  
19 MR. WINKLEMAN: Objection.  
20 THE WITNESS: No.  
21 BY MR. KARP:  
22 Q. You are aware that you tested positive for

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1 cocaine? You are nodding your head, you know what I'm  
2 going to say before I say it.  
3 You're aware that you tested positive for  
4 cocaine when you were taken to the hospital after the  
5 shooting?  
6 **A. Yes.**  
7 Q. That was discussed at great length in the  
8 criminal trial?  
9 **A. Yes.**  
10 Q. You were asked then whether you had any  
11 explanation for why you tested positive; do you remember  
12 that?  
13 **A. Yes.**  
14 Q. And you testified that you had no idea; do you  
15 remember that?  
16 **A. Yes.**  
17 Q. Is that still the case?  
18 **A. Yes.**  
19 Q. You have no idea?  
20 **A. No idea.**  
21 Q. Have you ever used cocaine?  
22 MR. WINKLEMAN: Objection.

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| <p>53</p> <p>1 THE WITNESS: No, sir.</p> <p>2 BY MR. KARP:</p> <p>3 Q. When did you first hire an attorney or when</p> <p>4 did somebody first hire an attorney for you after the</p> <p>5 shooting in January?</p> <p>6 A. <b>I don't even remember.</b></p> <p>7 Q. How did you find out you had an attorney?</p> <p>8 A. <b>I seen this guy came in.</b></p> <p>9 Q. Mr. WINKLEMAN walked into the hospital room?</p> <p>10 A. <b>Yes.</b></p> <p>11 Q. And that's the first time you knew you had a</p> <p>12 lawyer?</p> <p>13 A. <b>Yes.</b></p> <p>14 Q. When is the first time you knew that you were</p> <p>15 a plaintiff in a civil lawsuit against Keith Washington</p> <p>16 and Prince George's County?</p> <p>17 A. <b>I don't remember.</b></p> <p>18 Q. Do you recall how you found out?</p> <p>19 A. <b>Rephrase that again.</b></p> <p>20 Q. Sure. Do you remember how you found out that</p> <p>21 you are a plaintiff in a civil lawsuit?</p> <p>22 A. <b>Actually, I don't remember how I did.</b></p>  | <p>55</p> <p>1 Q. Am I correct that no police officer</p> <p>2 interviewed you before you gave the statement that's in</p> <p>3 front of you marked Defendant's Exhibit 1?</p> <p>4 A. <b>Correct.</b></p> <p>5 Q. After you gave that statement, did any police</p> <p>6 officer interview you?</p> <p>7 A. <b>I don't remember.</b></p> <p>8 Q. After you gave that statement, did any</p> <p>9 representative of the State's Attorney's Office, in</p> <p>10 other words, a civilian and not a police officer,</p> <p>11 interview you?</p> <p>12 A. <b>Correct.</b></p> <p>13 Q. You were interviewed before you gave grand</p> <p>14 jury testimony; correct?</p> <p>15 A. <b>Correct.</b></p> <p>16 Q. And you were interviewed before you testified</p> <p>17 in the Circuit Court for Prince George's County;</p> <p>18 correct?</p> <p>19 A. <b>Correct.</b></p> <p>20 Q. Do you recall who interviewed you before you</p> <p>21 gave grand jury testimony?</p> <p>22 A. <b>Mr. Ivy and Mr. Wright.</b></p>  |
| <p>54</p> <p>1 Q. At the time you gave testimony in the criminal</p> <p>2 trial, you were aware that you were going to be a</p> <p>3 plaintiff; is that correct?</p> <p>4 A. <b>I don't remember.</b></p> <p>5 Q. At the time you gave testimony, you were aware</p> <p>6 that an attorney had submitted Notice of an intent to</p> <p>7 file a lawsuit on your behalf, were you not?</p> <p>8 A. <b>I don't remember.</b></p> <p>9 Q. Do you remember being asked questions about</p> <p>10 the Notice of Claim in the criminal court trial?</p> <p>11 A. <b>Yes.</b></p> <p>12 Q. Do you remember testifying that you were aware</p> <p>13 that a Notice of Claim had been submitted on your</p> <p>14 behalf?</p> <p>15 A. <b>I don't remember that.</b></p> <p>16 Q. Is it your recollection that your testimony</p> <p>17 was, you didn't know anything about it?</p> <p>18 A. <b>Yes.</b></p> <p>19 Q. Were you ever interviewed by the Prince</p> <p>20 George's County Police in connection with the January</p> <p>21 2007 shooting?</p> <p>22 A. <b>I don't remember.</b></p> | <p>56</p> <p>1 Q. W-r-i-g-h-t?</p> <p>2 A. <b>Correct. And I don't remember the other guy's</b></p> <p>3 <b>name.</b></p> <p>4 Q. Who interviewed you before you were -- before</p> <p>5 you testified in criminal trial?</p> <p>6 In other words, other than the interview you</p> <p>7 just mentioned by Mr. Ivy and Mr. Write, who interviewed</p> <p>8 you next before you gave testimony in the circuit court</p> <p>9 criminal trial?</p> <p>10 A. <b>No one.</b></p> <p>11 Q. You just told me that you were interviewed</p> <p>12 before you gave testimony in the circuit court.</p> <p>13 A. <b>You said not those three that I just named.</b></p> <p>14 Q. Did those three people interview you again</p> <p>15 before you gave testimony in criminal court?</p> <p>16 A. <b>You are losing me.</b></p> <p>17 Q. How many times were you interviewed by people</p> <p>18 associated with the State's Attorney's Office?</p> <p>19 A. <b>One time, I think.</b></p> <p>20 Q. Did you ever have any physical contact with</p> <p>21 Keith Washington?</p> <p>22 A. <b>No.</b></p> |

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1 Q. In other words, did any part of your body  
2 touch his body at any time?  
3 A. **Not to my knowledge.**  
4 Q. Did any part of his clothing touch any part of  
5 your clothing at any time?  
6 A. **Not to my knowledge.**  
7 Q. Did anything that he was holding or touching  
8 come into contact with any part of your person or  
9 clothing?  
10 A. **Not to my knowledge.**  
11 Q. Was there any contact, as far as you know,  
12 between Keith Washington and Brandon Clark?  
13 A. **I don't know.**  
14 Q. You don't know or you don't recall or --  
15 A. **Repeat that question again.**  
16 Q. Sure. Was there any physical contact between  
17 Keith Washington and Brandon Clark?  
18 A. **Yes. When he pushed Brandon.**  
19 Q. How many times did he push him?  
20 A. **Two or three times.**  
21 Q. Other than the two or three pushes, was there  
22 any physical contact that you are aware of between Keith

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1 Washington and Brandon Clark?  
2 A. **No.**  
3 Q. Other than the pushes that you just mentioned,  
4 was there any contact, as far as you are aware, between  
5 any object that Keith Washington was holding or wearing,  
6 and any part of Mr. Clark's body or any object or  
7 clothing he was wearing or holding?  
8 A. **I don't know.**  
9 Q. Do you remember what day of the week this  
10 incident was?  
11 A. **What?**  
12 Q. Do you remember what day of the week the  
13 shooting was?  
14 A. **It was on a Wednesday. My birthday was the**  
15 **23rd and went to work. I was off that day. That was on**  
16 **a Tuesday. Went to work the next day and got shot.**  
17 Q. Did you celebrate your birthday?  
18 A. **I didn't get to eat any cake. Some of my**  
19 **friends at the thrift store bought me a cake. I never**  
20 **got a chance to eat any -- cake and ice cream.**  
21 Q. You weren't still working at the thrift store;  
22 right?

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1 A. **Correct. But I was there that day, you know,**  
2 **visiting friends. And they bought me a few presents,**  
3 **bought me a cake, some ice cream. And me and my friend,**  
4 **we went home.**  
5 Q. You mean after you got the cake and ice cream  
6 that you didn't eat, you and somebody else went back to  
7 your house?  
8 A. **Yes. Me and my girlfriend.**  
9 Q. That's Miss Simmons?  
10 A. **Yes.**  
11 Q. I'm switching gears on you. Is the February  
12 2008 domestic charge you're facing, does that involve  
13 Ms. Simmons?  
14 MR. WINKLEMAN: Objection.  
15 THE WITNESS: No.  
16 BY MR. KARP:  
17 Q. Who is the alleged victim?  
18 A. **Miss Pressberry.**  
19 Q. First name, please.  
20 A. **Keisha.**  
21 Q. Is she a relation?  
22 A. **No.**

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1 Q. What time did you start work on the day of the  
2 shooting?  
3 A. **About 7:00 o'clock that morning. I met him**  
4 **where I always meet him at. And got in the truck and we**  
5 **went on to work.**  
6 Q. "Him" being Brandon Clark?  
7 A. **Brandon.**  
8 Q. Where did you meet him?  
9 A. **At the Popeye's on Martin Luther King Avenue.**  
10 Q. Was Mr. Clark driving the Marlo truck?  
11 A. **Yes, sir.**  
12 Q. Was it already loaded when he picked you up?  
13 A. **Yes, sir.**  
14 Q. Is it loaded the previous night or first thing  
15 in the morning?  
16 A. **I don't know.**  
17 Q. You didn't take part in loading; is that  
18 right?  
19 A. **Correct.**  
20 Q. Your job was to help unload at different  
21 customer's houses?  
22 A. **Yes. And when we get back to Marlo's, the**

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1 furniture that we exchange, we take that off the truck  
2 and dump the trash off the truck.  
3 Q. How did you all know where to go for  
4 deliveries?  
5 A. They have a printout, computer printout.  
6 Q. Is that something Mr. Clark had or did you  
7 have it?  
8 A. That's something he had.  
9 Q. Do you know where he got it from?  
10 A. No.  
11 Q. Did he have such a printout every day?  
12 A. Every day.  
13 Q. How many days a week did you work with him?  
14 A. Five days.  
15 Q. Monday through Friday?  
16 A. No. Probably six days. I don't know if we  
17 had one day off or two days off, but we worked Sunday,  
18 Monday. We worked -- I think we worked the rest of the  
19 week. The day we had off I think was Tuesday, if I'm  
20 not mistaken.  
21 Q. You believe you worked every day but Tuesday?  
22 A. Maybe Monday or Tuesday, I don't know. I

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1 don't remember.  
2 Q. But you would work Saturday and Sunday?  
3 A. Correct.  
4 Q. Okay. How many deliveries did you make on a  
5 regular basis per day?  
6 A. Probably 10.  
7 Q. What's the most deliveries you made in a  
8 single day?  
9 A. 14.  
10 Q. Do you remember how many deliveries you made  
11 on the day of the shooting?  
12 A. I don't remember.  
13 Q. The delivery to Officer Washington's house was  
14 your last delivery of the day; is that right?  
15 A. Correct.  
16 Q. Did anything unusual, different from the  
17 ordinary happen during the course of that day?  
18 A. Yes. We had one instance where we had dog  
19 doo-doo all over our clothes. So we actually had to  
20 take those clothes off. That was like the first stop,  
21 but nothing out of the ordinary, you know. We pulling  
22 boxes off the truck and putting them on the ground. You

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1 might get that, but nothing else.  
2 Q. So you got doo-doo on you by putting a box in  
3 it and then picking up the box?  
4 A. No. We take the box off the truck. That's  
5 about the only thing that happened that morning.  
6 Q. Well, where was the dog doo-doo?  
7 A. Outside. We was taking some boxes off the  
8 truck. We set them on the ground and we was carrying  
9 them in the house.  
10 And Brandon looked at me and he's like, "Man,  
11 what's that on your sweater?" I'm looking and I start  
12 smelling something.  
13 So I was like, "Man, don't laugh at me because  
14 you got some on you too." It was kind of funny, you  
15 know.  
16 Q. Did you have to go somewhere to change?  
17 A. No. We just took the top layers off.  
18 Q. All right. How were you dressed on that day,  
19 after you took the top layer off?  
20 A. I still had a sweater on. I had a hoody, a  
21 hat. So I took the sweater off, because it was messed  
22 up. My pants wasn't messed up. So I just took the

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1 sweater off and put it in the back of the truck. And  
2 Brandon did the same.  
3 Q. How was he dressed?  
4 A. I don't remember.  
5 Q. Going back to how you were dressed, you had a  
6 hoody on, a sweater. After you took off the sweater,  
7 you still had the hoody?  
8 A. I still had the sweater.  
9 Q. You still had the sweater?  
10 A. Right.  
11 Q. You took off the hoody?  
12 A. Right.  
13 Q. That's the one that had the dog stuff on it?  
14 A. Right.  
15 Q. What color was your sweater; do you remember?  
16 A. Blue.  
17 Q. What kind of pants were you wearing?  
18 A. I don't remember.  
19 Q. Were you wearing a hat or a cap?  
20 A. I had a skully.  
21 Q. And what was on your feet? What kind of  
22 shoes?



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1 **A. Some Jordan's, if I'm not mistaken, because**  
2 **I'm missing them. Blue and white Jordan's.**  
3 Q. And you have no recollection as to what  
4 Brandon was wearing?  
5 **A. I don't remember.**  
6 Q. What time would you estimate you and Brandon  
7 arrived at the Washington house?  
8 **A. It was probably little after 7:00, I don't**  
9 **remember.**  
10 Q. P.M?  
11 **A. P.M.**  
12 Q. Did you speak with anybody in the Washington  
13 house before you got there?  
14 **A. Yes. We actually called him and asked him,**  
15 **you know, to turn the light on or if he'll be standing**  
16 **outside and we will arrive. He was outside.**  
17 Q. My question was: Did you -- did you  
18 personally speak with anybody in the Washington house  
19 before you arrived?  
20 **A. No.**  
21 Q. When you say, "we called," you mean Brandon  
22 called?

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1 **A. Yes.**  
2 Q. Brandon, did he use your phone?  
3 **A. Yes.**  
4 Q. And that's the phone that was actually  
5 Ms. Simmons' phone?  
6 **A. Right.**  
7 Q. Did you hear his side of the conversation?  
8 **A. No.**  
9 Q. How do you know what was said then?  
10 **A. From say, from what?**  
11 Q. Well, if you didn't hear Brandon's side of the  
12 conversation -- let me start over again.  
13 Where were you when the call was made to the  
14 Washington house?  
15 **A. In the truck. I actually dialed the number**  
16 **and he talked to him.**  
17 Q. Did you hear what Brandon said?  
18 **A. Yes. I heard what Brandon said.**  
19 Q. You didn't hear what the people in the  
20 Washington house said?  
21 **A. No.**  
22 Q. What did Brandon say?

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1 **A. He asked him, could he be standing outside and**  
2 **turn the light on. And when we arrived, he was standing**  
3 **outside. I sit in the truck. Brandon got out.**  
4 Q. You say "he" was outside. Do you mean --  
5 **A. Mr. Washington, he was outside.**  
6 Q. This is the person who ultimately shot you;  
7 correct?  
8 **A. Correct.**  
9 Q. Where did Brandon park?  
10 **A. I don't remember. It was -- I don't know. In**  
11 **the front.**  
12 Q. Was it in a driveway or the street?  
13 **A. I can't even tell you.**  
14 Q. Is it the case that you sat in the truck and  
15 Brandon got out?  
16 **A. Correct.**  
17 Q. And it's your testimony that Mr. Washington  
18 was already outside when you pulled up?  
19 **A. Correct.**  
20 Q. Where was he outside, street, sidewalk,  
21 driveway, someplace else?  
22 **A. Standing on -- in his yard.**

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1 Q. Did he have a porch on his house; do you  
2 remember?  
3 **A. I don't remember. It was dark.**  
4 Q. Excuse me. I'm sorry?  
5 **A. It was dark.**  
6 Q. Did he have a light on? Was there a light on  
7 the house?  
8 **A. I don't remember.**  
9 Q. Was there a street lamp that illuminated the  
10 house?  
11 **A. I don't remember that either.**  
12 Q. Was anybody with Mr. Washington as he stood in  
13 his yard?  
14 **A. No.**  
15 Q. Did he move from the time you first saw him  
16 when you pulled up and the time Brandon got out of the  
17 truck?  
18 That is, did Mr. Washington move between the  
19 time you first saw him and the time Brandon got out of  
20 the truck?  
21 **A. I don't remember.**  
22 Q. What happened when Brandon got out of the

69

1 truck?

2 **A. Brandon went and spoke to him. I don't know**

3 **the conversation, what they had, because I was in the**

4 **truck. Brandon comes back to the truck and he said the**

5 **guy looking for a fight. I told him to get into the**

6 **truck, let's take the stuff back and let him come down**

7 **there and get it. I was ready to get off. I was tired,**

8 **cold.**

9 Q. How long did Brandon appear to speak with

10 Mr. Washington?

11 **A. For a few seconds.**

12 Q. And they spoke in the yard?

13 **A. Yes.**

14 Q. Can you give me an estimate as to how far away

15 you were from them when they were speaking?

16 **A. I don't know.**

17 Q. Were the windows of your truck rolled up?

18 **A. Yes.**

19 Q. Am I correct that you believe they spoke, from

20 the motion of their bodies it looked like they were

21 communicating with each other?

22 **A. They was actually talking to each other,**

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1 **saying something to each other. And Brandon turn away**

2 **and walked back to the truck.**

3 Q. I think I just asked you this, but tell me

4 again, how long did they appear to talk to each other?

5 **A. Well, I don't know. For a few seconds.**

6 Q. Did Officer Washington move? Did he make any

7 gestures with his hands or his body during this

8 conversation?

9 **A. I really wasn't paying attention.**

10 Q. What were you doing?

11 **A. Sitting in the truck waiting on him to come**

12 **back to the truck and tell me what to do.**

13 Q. Well, you were looking at him, weren't you?

14 **A. Not really. I don't remember. All I know is**

15 **he came back to the truck and said the man was looking**

16 **for a fight.**

17 **And I told him, "Get back in the truck and**

18 **let's take this stuff back to the company."**

19 **He told me he couldn't do that. And he asked**

20 **to use the phone again. So he called our supervisor**

21 **before we went in the house.**

22 **Our supervisor was supposed to call us back**

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1 **and give us a confirmation number, that way we could**

2 **have left. Brandon didn't want to wait on the**

3 **confirmation number.**

4 **So he was like, "Come on, man. Let's go do**

5 **this. Ain't going to take such and such amount of**

6 **time." And we end up going in the house.**

7 Q. Before that night, had you ever been involved

8 in an incident for Marlo or Mr. Robinson or with Brandon

9 in which a customer refused a delivery?

10 **A. No.**

11 Q. Before that night, had you ever been involved

12 in an incident with Marlo, Robinson or Brandon in which

13 a customer was apparently unhappy or upset?

14 **A. I don't remember. If they did, they ain't**

15 **told me about it.**

16 Q. I'm asking you based on your own recollection

17 as to what occurred.

18 **A. No.**

19 Q. Take a look at Deposition Exhibit 1, that

20 statement right in front of you.

21 **A. This?**

22 Q. Yes. And read the first sentence of the

72

1 second paragraph, please.

2 **A. "When we arrived, Brandon went in to meet the**

3 **customer."**

4 Q. Actually, what it says, "When we arrived,

5 Brandon went inside to meet the customer."

6 **A. Okay.**

7 Q. Is that right?

8 Now, you told me that they met and talked in

9 the yard?

10 **A. Yes.**

11 Q. Which is the case?

12 **A. They was talking in the yard.**

13 Q. So the statement, "That when we arrived,

14 Brandon went inside to meet the customer," is

15 incorrect?

16 **A. Yes.**

17 Q. Is that correct?

18 **A. Correct.**

19 Q. Why did you sign this statement if it was

20 incorrect?

21 **A. Well, some people -- the way it was wrote up,**

22 **that was the best of my knowledge at the time --**

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1 Q. What happened --

2 A. -- **when I signed that.**

3 Q. I'm sorry. What happened after you signed it

4 to change your recollection?

5 A. **Say that again.**

6 Q. What happened after you signed the statement

7 to change your recollection.

8 In other words, why did you say it one way

9 here and then later, such as just now, say something

10 different?

11 A. **Really, it's not different. You know, from my**

12 **recollection, this statement right here is to the best**

13 **of my knowledge.**

14 **When I was in the hospital I gave it to him,**

15 **the best of my knowledge. I signed it. And it say when**

16 **we arrived he went in, you know, it's not definitely**

17 **saying he went in the house. He could have went in the**

18 **yard.**

19 Q. The word "inside" doesn't mean inside a

20 structure to you?

21 A. **Okay. He could have went inside of the man's**

22 **yard. It didn't say "house."**

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1 Q. But it didn't say "yard," does it?

2 A. **No. It don't say "yard" either.**

3 Q. When is it you first remembered that Officer

4 Washington was already outside when you first got there?

5 A. **When we arrived.**

6 Q. Listen to my question.

7 When did you first remember that Officer

8 Washington was outside by the time you arrived as

9 opposed to being someplace else?

10 A. **I don't know.**

11 Q. Now, read the next two sentences, please, out

12 loud.

13 A. **"I waited in the truck. Brandon came out the**

14 **house with the customer who was dressed in plain**

15 **clothes. Brandon came" --**

16 Q. That's two sentences. I'm going to stop you

17 there.

18 You wrote, "Brandon came out of the house with

19 the customer." Is that the way it occurred?

20 A. **It's there.**

21 Q. I understand it's there. We're both looking

22 at it. My question is: Is that the way it occurred?

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1 A. **No.**

2 Q. What happened, according to what you've just

3 told me, is that Brandon didn't come out of the house,

4 he came out of the yard?

5 A. **Right.**

6 Q. Now, did Brandon give you any additional

7 information about what Officer Washington's apparent

8 problem was other than that he wanted to fight?

9 A. **I asked him and he was like, "Because we're**

10 **late." That's what he said, that's what Brandon said.**

11 Q. Did Brandon give you any more -- let me say it

12 differently.

13 Did Brandon tell you what Officer Washington

14 said or did that led Brandon to conclude that Officer

15 Washington wanted to fight?

16 A. **No.**

17 Q. He just said he wanted to fight?

18 A. **He said, "This guy wanted to fight that we**

19 **came here late." He said he was waiting on us ever**

20 **since 1:00 o'clock. We were supposed to be in his house**

21 **ever since 1:00 o'clock.**

22 Q. You didn't have specific arrival times on that

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1 delivery sheet, did you?

2 A. **We went from whatever name was on the front --**

3 **the top and we worked our way down to the bottom.**

4 Q. Did the sheet say, "I am supposed to be at

5 this house at this time, this house at this time?"

6 A. **I never read that on there.**

7 Q. So do you know why Officer Washington thought

8 you all were supposed to be there at 1:00 o'clock?

9 A. **I don't know.**

10 Q. Was Brandon sitting in the truck when he told

11 you that this guy is looking for a fight?

12 A. **No.**

13 Q. Where was he standing?

14 A. **He came to the truck door.**

15 Q. Was your truck door opened or close?

16 A. **He opened the truck door.**

17 Q. Did he open your truck door or his truck door?

18 A. **His truck door.**

19 Q. So he stood outside the driver's door and

20 said, "This man is looking for a fight?"

21 A. **Yes.**

22 Q. Why did you tell him, that is Brandon, that

77

1 you should just leave?

2 **A. What?**

3 Q. Why did you tell Brandon that you should just

4 leave?

5 **A. Because he said the guy was looking for a**

6 **fight and I wasn't looking for no fight, so why not just**

7 **leave. I don't know what happened between the**

8 **conversation between them two.**

9 **When he came back to the truck he said, "The**

10 **guy want to fight."**

11 **I said, "Get in the truck. Let's just take**

12 **this stuff back to the company. Let him go down to the**

13 **company." And he said we couldn't do that, so he called**

14 **the supervisor.**

15 Q. That's when he asked to use your phone?

16 **A. Right.**

17 Q. And am I correct that you heard Brandon

18 talking on the phone?

19 **A. Yes. He talked to Mike.**

20 Q. You didn't hear anything on the other end of

21 the phone?

22 **A. No.**

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1 Q. What did you hear Brandon say to Mike?

2 **A. He told him that the guy wanted to fight. And**

3 **he said, Mike said he would call him back with a**

4 **confirmation number.**

5 Q. How do you know that?

6 **A. That's what Brandon told me.**

7 Q. Didn't you previously give testimony that

8 Brandon was not able to reach Mike. He wasn't able to

9 talk to him on the phone?

10 **A. He talked to Mike.**

11 Q. Question is: Didn't you previously give

12 testimony that he was not able to talk to Mike and that

13 he just left a message?

14 **A. No.**

15 Q. You didn't say that in front of the grand

16 jury?

17 **A. I don't remember.**

18 Q. You didn't say that in the criminal trial?

19 **A. I don't remember.**

20 Q. How long did that conversation last as best

21 you can recall?

22 **A. I don't know.**

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1 Q. Do you have any estimate?

2 **A. No.**

3 Q. Where was Officer Washington while that

4 conversation was going on?

5 **A. He was still outside.**

6 Q. Still standing in his yard?

7 **A. Yes.**

8 Q. Still in basically the same position?

9 **A. Yes.**

10 Q. How far away would you estimate he was at that

11 point?

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

13 Q. You state in this statement, in the same

14 paragraph you were reading, that the customer who was

15 visibly angry was standing close by; is that correct?

16 **A. Yes**

17 Q. What fashion was the customer visibly angry?

18 **A. I don't know. He wanted to fight.**

19 Q. You said "visibly angry," which means to me

20 that you saw with your eyes that he was saying or he was

21 doing something --

22 **A. I don't remember.**

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1 Q. Let me finish the question. When you say

2 "visibly angry," it would suggest, that implies you saw

3 something that suggested to you that he was angry. And

4 I'm asking you what it is that you saw that suggested to

5 you that he was angry?

6 **A. He was upset.**

7 Q. How do you know he was upset?

8 **A. Because he said we was late.**

9 Q. Putting aside what Brandon told you?

10 **A. Okay.**

11 Q. Put aside that.

12 **A. All right.**

13 Q. What did Officer Washington say or do that led

14 you to conclude that he was angry while Brandon was

15 speaking with Mike Robinson on the telephone outside?

16 **A. From what Brandon told me.**

17 Q. Put that aside.

18 **A. I can't put that aside.**

19 Q. Was there anything other than what Brandon --

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

21 Q. Let me finish the question.

22 Was there anything other than what Brandon

|  |   |
|--|---|
| <p>81</p> <p>1 told you that led you to conclude that Officer<br/>2 Washington was visibly angry?<br/>3 <b>A. I don't remember.</b><br/>4 Q. What happened when that conversation between<br/>5 Brandon and Mr. Robinson was over, what happened next?<br/>6 <b>A. We waited a few minutes and Brandon said, you</b><br/>7 <b>know, "Come on. Let's go take the rails in."</b><br/>8 <b>So I got out of the truck and I went to the</b><br/>9 <b>back of the truck and unload the rails. And we took the</b><br/>10 <b>rails inside the house. He directed us to the bedroom</b><br/>11 <b>that he wanted to go into.</b><br/>12 <b>And I'm more like Brandon's helper. Brandon</b><br/>13 <b>puts everything together. And while he's putting it</b><br/>14 <b>together, I'm taking the trash out and getting the truck</b><br/>15 <b>right. And after, if I finish doing all that, I'll come</b><br/>16 <b>back in and I'll help him, you know. But he usually put</b><br/>17 <b>everything together.</b><br/>18 Q. Was Officer Washington still outside when you<br/>19 and Brandon unloaded the truck with the rails?<br/>20 <b>A. Mr. Washington was here. Brandon was here. I</b><br/>21 <b>was here.</b><br/>22 Q. Pointing at the table doesn't tell me where he</p> | <p>83</p> <p>1 door there is a set of stairs going up?<br/>2 <b>A. Correct.</b><br/>3 Q. Who went up the stairs first?<br/>4 <b>A. Brandon did.</b><br/>5 Q. Who went up the stairs second?<br/>6 <b>A. I did.</b><br/>7 Q. Officer Washington followed you up the stairs?<br/>8 <b>A. Correct.</b><br/>9 Q. Was there any conversation between the time<br/>10 you took the bed rails out of the truck and the time the<br/>11 two and then the three of you started up the stairs?<br/>12 Was there any discussion among or between you?<br/>13 <b>A. I don't think so.</b><br/>14 MR. KARP: Let's take a quick break.<br/>15 (Pause in proceedings)<br/>16 (Deposition Exhibit 2 was<br/>17 marked for identification)<br/>18 BY MR. KARP:<br/>19 Q. I'm handing you, sir, what has been marked as<br/>20 Exhibit 2. This is a poor photocopy of a picture, but<br/>21 can you tell me what it shows.<br/>22 <b>A. It shows the door, then the stairs.</b></p>                 |
| <p>82</p> <p>1 was. Was he still outside --<br/>2 <b>A. He was in the bedroom.</b><br/>3 Q. You have to let me finish the question.<br/>4 Was Officer Washington still outside at the<br/>5 time you and Brandon were unloading the truck?<br/>6 <b>A. Yes.</b><br/>7 Q. Was he still in the yard where he was before?<br/>8 <b>A. I couldn't say.</b><br/>9 Q. Both you and Brandon carried in the box with<br/>10 the bed rails; is that correct?<br/>11 <b>A. Right.</b><br/>12 Q. Who entered the house first --<br/>13 <b>A. Brandon did.</b><br/>14 Q. Let me finish.<br/>15 Who entered the house first, you, Brandon or<br/>16 Officer Washington?<br/>17 <b>A. Brandon did. And then me and Mr. Washington</b><br/>18 <b>was behind me.</b><br/>19 Q. You all entered through the front door; is<br/>20 that correct?<br/>21 <b>A. Correct.</b><br/>22 Q. And am I correct that just inside the front</p>   | <p>84</p> <p>1 Q. This is a picture of a piece of the first<br/>2 floor of the house you entered with the bed rails; is<br/>3 that right?<br/>4 <b>A. It could have been. I don't remember.</b><br/>5 Q. Well, looking at this picture, the door is to<br/>6 the right and stairs are directly in front of the door<br/>7 to the left; is that correct?<br/>8 <b>A. Right.</b><br/>9 Q. Does this look more or less like the<br/>10 entranceway and the stairs that you and Mr. Clark went<br/>11 up?<br/>12 <b>A. I don't know. It could have been.</b><br/>13 Q. You haven't been back in the house since the<br/>14 day of the shooting; is that right?<br/>15 <b>A. What house?</b><br/>16 Q. Any house, Washington's house?<br/>17 <b>A. No.</b><br/>18 Q. I'll just tell you if it makes any difference,<br/>19 these are all pictures taken by the Prince George's<br/>20 County Police Department.<br/>21 (Deposition Exhibit 3 was<br/>22 marked for identification)</p> |

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1 BY MR. KARP:  
2 Q. Deposition Exhibit 3 was the view you saw as  
3 you were going up the stairs; is that correct?  
4 A. Correct.  
5 Q. And according to this picture, after the first  
6 flight of stairs goes up straight, you need to take a  
7 left to continue up the stairs. Is that how you  
8 remember it?  
9 A. Correct.  
10 Q. And I think you said you were in front?  
11 A. No.  
12 Q. I am sorry. You were at the back of the box  
13 of rails?  
14 A. Right.  
15 Q. Brandon was in front?  
16 A. Right.  
17 Q. There appear to be a number of doors at the  
18 top of the stairs on this picture.  
19 Am I correct that the bedroom you entered with  
20 the rails is the one to the left as you look at the  
21 picture?  
22 A. Here.

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1 Q. So you are pointing to the one on the left?  
2 A. Correct.  
3 Q. Is that the door you went in?  
4 A. Correct.  
5 (Deposition Exhibit 4 was  
6 marked for identification)  
7 BY MR. KARP:  
8 Q. Would you agree with me that Deposition  
9 Exhibit 4 is a view of the same portion of the hallway,  
10 or the house rather, taken from higher up on the stairs?  
11 In other words, the second flight of the  
12 stairs looking into the room where you and Brandon took  
13 the bed rails?  
14 A. Correct.  
15 Q. What happened when you got inside the room  
16 with the bed rails?  
17 A. Put the rails down. We opened the box.  
18 Brandon kneeled down and begin to take the bed apart.  
19 Q. Let me stop you right there, please.  
20 Had the customer said anything other than what  
21 you've already told me up to that point?  
22 A. Not to my knowledge. I don't remember.

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1 Q. Up to that point were you aware of whether  
2 there was anybody else in the house?  
3 A. Yes.  
4 Q. Who else was in the house and how did you know  
5 it?  
6 A. His wife was in there.  
7 Q. How did you know that?  
8 A. When we first entered the door, I got like to  
9 the top stairs. She came out and he told her to go back  
10 downstairs. He said, "Don't come up here."  
11 Q. You said the top stair, you mean the top stair  
12 shown in Exhibit 4?  
13 A. Going up the stairs, maybe like right here.  
14 Q. Show me where you're pointing.  
15 A. Right on this tier.  
16 Q. You are talking about the landing between the  
17 first piece of the stairs and the second piece of the  
18 stairs?  
19 A. Right. Right.  
20 Q. Okay. And that's a reference to Deposition  
21 Exhibit 3.  
22 Where did she come from?

88

1 A. I don't know. Some part of the house. He  
2 told her to go back. Don't come up there.  
3 Q. Did she say anything else?  
4 Did she say anything? Excuse me.  
5 A. No.  
6 Q. She just came out of wherever she was and the  
7 customer said, "Don't come up here"?  
8 A. Right.  
9 Q. Do you recall anything about his tone of voice  
10 or facial expressions or anything else when he said,  
11 "Don't come up here"?  
12 A. No.  
13 Q. What did she say in response?  
14 A. She didn't say anything.  
15 Q. So up to this point, you never heard her say a  
16 word?  
17 A. No.  
18 Q. And the only thing you heard the customer say  
19 up to this point is, "Don't come up here"?  
20 A. Correct.  
21 Q. The rails were in a box?  
22 A. Correct.

89

1 (Deposition Exhibit 5 was  
2 marked for identification)  
3 BY MR. KARP:  
4 Q. Showing you what's been marked Exhibit 5.  
5 Is that a poor copy of a photograph of the box  
6 that had the bed rails in it?  
7 A. Correct.  
8 Q. Now, this box does not appear to be open to  
9 me. Is it open or not?  
10 A. It's not.  
11 Q. But you told me you all had opened it?  
12 A. He kneeled down to open the box.  
13 Q. Did he get it open?  
14 A. Well, he started taking -- we actually didn't  
15 open the box. He kneeled down to open the box, but he  
16 didn't open the box because he had the bed. The bed  
17 wasn't disassembled yet. So not to get the pieces mixed  
18 up together, so he had to take the bed down.  
19 Q. "He" being who?  
20 A. Brandon.  
21 Q. Okay.  
22 A. And he asked Mr. Washington why he didn't

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1 disassemble the bed. And that just like put gas on the  
2 fire.  
3 He told him, he was like, "You are trying to  
4 tell me what to do in my F-ing house?" And he's like,  
5 "Get the 'F' out of my house."  
6 MR. KARP: Let's mark another document --  
7 another picture.  
8 (Deposition Exhibit 6 was  
9 marked for identification)  
10 BY MR. KARP:  
11 Q. Showing you what's been marked as Deposition  
12 Exhibit 6.  
13 If we assume this is an accurate sketch of the  
14 upstairs, I'm not asking you whether it was or not. But  
15 if we assume it was and if we assume that the object  
16 labeled "bed rail box" right here is the box that we saw  
17 in Deposition Exhibit 5, am I correct that there was a  
18 bed in that room sort of opposite, the opposite wall  
19 from where the box was?  
20 A. Yes. If that's the bed.  
21 Q. You remember there being a bed there?  
22 A. Yes.

91

1 Q. Was that bed made up?  
2 A. That bed was made up.  
3 Q. Is that the only bed that was in the room?  
4 A. It's the only one I seen in there.  
5 Q. Now, going back to Exhibit 5, the picture of  
6 the box. Can you tell me where Brandon was when he  
7 started to open it?  
8 In other words, was he at one end or the  
9 other?  
10 A. I don't remember that box being right there.  
11 Q. Where do you remember it?  
12 And if you could point on Exhibit 6 as to  
13 where you remember it, that would be helpful.  
14 A. I couldn't tell you.  
15 Q. What you are telling me is you don't remember  
16 where in the room the box was; is that correct?  
17 A. Correct.  
18 Q. Can you tell me at the time Brandon started to  
19 open the box, who was nearer the door to the bedroom,  
20 you or him?  
21 A. He was.  
22 Q. Do you remember where you were?

92

1 A. I was here. Brandon was here. Mr. Washington  
2 was here.  
3 Q. Let's articulate this, so we know what we're  
4 looking at a few months from now.  
5 On Exhibit 6, you were indicating that Brandon  
6 was on the -- near the end of the box, farthest away  
7 from the door. You were near the end of the box closest  
8 to the door. And Officer Washington was between the bed  
9 and the wall nearest the door?  
10 A. Say that again.  
11 Q. Officer Washington was between the bed and the  
12 wall nearest to the door; is that correct?  
13 A. Correct.  
14 Q. Okay. Did you have an understanding as to why  
15 you were delivering bed rails?  
16 A. No.  
17 Q. Did you have an understanding as to whether  
18 you were supposed to be taking something away from the  
19 house?  
20 A. Exchanging old bed rails -- I mean, new bed  
21 rails for the old bed rails.  
22 Q. Had you done that before?

93

1     **A. Yes.**  
2     Q. In the times you've done that before, was the  
3 bed that you were going to take the rails from always  
4 disassembled already when you got there?  
5     **A. Yes.**  
6     Q. When Brandon started to open the box of bed  
7 rails, what was the position of his body? Was he  
8 standing? Was he kneeling?  
9     **A. He was kneeling.**  
10    Q. Was he using any kind of an implement or a  
11 tool to open the box, box cutter or anything?  
12    **A. No.**  
13    Q. How was the box secured? Is there something  
14 around it that needs to be cut in order to open the box?  
15    **A. Tape.**  
16    Q. Just what, Scotch tape?  
17    **A. Yes.**  
18    Q. Something you could tear off without a tool?  
19    **A. Tape or either tacks or something like that,**  
20 **but you can actually just pull it open.**  
21    Q. When you say "tacks," you referring to  
22 staples?

94

1     **A. Staples.**  
2     Q. So the first thing that happened after the bed  
3 rails were put down and Brandon began to open the box  
4 was Brandon Clark asking why the old bed rails had not  
5 been --  
6     **A. Correct.**  
7     Q. -- already disassembled?  
8     **A. Correct.**  
9     Q. And tell me, as best you recall, precisely  
10 what Brandon said.  
11    **A. He asked him why he didn't disassemble the**  
12 **bed. Mr. Washington words was, "You're telling me what**  
13 **to do in my F-ing house?"**  
14    Q. These are the first words you heard from  
15 Officer Washington after he told his wife not to come  
16 upstairs?  
17    **A. No.**  
18    Q. Okay. What did --  
19    **A. When we got in there -- we got in there, we**  
20 **set the box down and that's when everything erupted.**  
21    Q. What are the first words that Officer  
22 Washington said inside that bedroom?

95

1     **A. He told Brandon to get the "F" out of his**  
2 **house.**  
3     Q. He said, "Get the 'F' out of my house," before  
4 he said, "Are you telling me what to do in my own  
5 house?"  
6     **A. Correct.**  
7     Q. Start over again.  
8     Brandon walks into the room first with his end  
9 of the bed rails. You walk into the room second with  
10 your end of the bed rails; is that correct?  
11    **A. Correct.**  
12    Q. Officer Washington then walks in behind you;  
13 is that correct?  
14    **A. Correct.**  
15    Q. You and Brandon set the bed rails down?  
16    **A. Correct.**  
17    Q. What's the very next thing that happened after  
18 you set the bed rails down?  
19    **A. That's when he started up. He was like, "I**  
20 **want you out of" --**  
21    Q. Tell me what he said. Telling me that he  
22 started up, doesn't give me any useful information. You

96

1 have to tell me what he did and what he said.  
2     **A. He said he wanted Brandon out of his F-ing**  
3 **house.**  
4     Q. Stop you right there. You are going to get to  
5 tell the whole story, but I need to hear it in order.  
6     So the very first thing that was said after  
7 you all put down the bed rails was Officer Washington  
8 said, "Get the fuck out of my house?"  
9     **A. He told Brandon.**  
10    Q. How do you know he was talking to Brandon?  
11    **A. Because he told me he wasn't talking to me.**  
12 **He said, "Big guy, I'm not talking to you. I'm talking**  
13 **to this."**  
14    Q. Did he say, "Get the fuck out of my house,"  
15 before he said, "Big guy, I'm not talking to you. I'm  
16 talking to this?"  
17    **A. He said it to Brandon. He wasn't talking to**  
18 **me. He said he wasn't talking to me. And I told**  
19 **Brandon, I said, "Let's go."**  
20     Brandon laughed it off. Brandon laughed at  
21 him. He got real mad after Brandon laughed at him. And  
22 that's when he start pushing him.



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1 Q. I didn't ask you about any of that. I'm  
2 trying to get the sequence here. And every time you  
3 tell me, you add something, which is okay. But that  
4 means I got to go back.  
5 A. Okay.  
6 Q. You put down the bed rails. Officer  
7 Washington says to Brandon, "Get the fuck out of my  
8 house?"  
9 A. Correct.  
10 Q. You knew he was talking to Brandon, because he  
11 was looking at Brandon; is that right?  
12 A. Correct.  
13 Q. And then he said something to you?  
14 A. Correct.  
15 Q. And what he said to you was, "I'm not talking  
16 to you. I'm talking to the big guy;" is that right?  
17 A. Correct.  
18 Q. Did you say anything to Officer Washington  
19 before he said, "I'm not talking to you"?  
20 A. No.  
21 Q. Do you know why Officer Washington thought  
22 that perhaps you thought he was talking to you?

98

1 A. No.  
2 Q. When he said to Brandon, "Get the fuck out of  
3 my house," was he looking at you and Brandon or just at  
4 Brandon?  
5 A. At Brandon.  
6 Q. And you didn't say anything at that point?  
7 A. No, because I didn't know what was going on.  
8 Q. So it's your testimony that after Officer  
9 Washington said, "Get the fuck out of my house," the  
10 next thing that happened was him telling you that he  
11 wasn't talking to you?  
12 A. Correct.  
13 Q. Out of the blue?  
14 A. Correct.  
15 Q. Did you say anything when he said he wasn't  
16 talking to you?  
17 A. Yes. I talked to Brandon. I didn't say  
18 anything to him. I said, "Brandon, let's get out of  
19 here. Get up. Let's go."  
20 Q. Up to this point, did Brandon say anything in  
21 the bedroom other than, "How come you don't have the bed  
22 rails disassembled?"

99

1 A. No. He just laughed at him.  
2 Q. He laughed at him when he said, "Get the fuck  
3 out of my house"?  
4 A. Yes.  
5 Q. Was he kneeling down on the floor at that  
6 point?  
7 A. Correct.  
8 Q. When he laughed at him, was it a big ho, ho,  
9 ho or was it a chuckle or what was it?  
10 A. More look a chuckle.  
11 Q. Did he say anything when he chuckled, that is  
12 Brandon?  
13 A. No.  
14 Q. Did Brandon chuckle before or after Officer  
15 Washington said to you that he was not talking to you?  
16 A. No.  
17 Q. It's a yes or no question.  
18 A. I said no.  
19 Q. All right. So which came first, the chuckle  
20 or Officer Washington saying to you, "I'm not talking to  
21 you"?  
22 A. I'm lost.

100

1 Q. After Officer Washington said, "Get the fuck  
2 out of my house," Brandon chuckled?  
3 A. Right.  
4 Q. Did Brandon chuckle before Officer Washington  
5 said to you, "I'm not talking to you"?  
6 A. No.  
7 Q. Officer Washington said to you, "I'm not  
8 talking to you," after --  
9 A. Yes. You're correct the other way.  
10 Q. All right. Let me do it one more time just to  
11 make sure we have it.  
12 Officer Washington said, "Get the fuck out of  
13 my house"?  
14 A. Right.  
15 Q. Brandon chuckled?  
16 A. Right.  
17 Q. Then Officer Washington said to you, "I'm not  
18 talking to you"?  
19 A. No. He told me, "Get the 'F' out of his  
20 house." Brandon chuckled. I told Brandon, "Let's go."  
21 And he said, "Big guy, I'm not talking to  
22 you."

|   |  |
|---|--|
| <p>101</p> <p>1 Q. Got you.</p> <p>2 A. <b>So more like he wanted me to do the job than</b></p> <p>3 <b>he wanted Brandon. And I asked Brandon I said,</b></p> <p>4 <b>"Brandon, do you know this guy?"</b></p> <p>5 <b>And Brandon said, "No." Because I knew he</b></p> <p>6 <b>didn't know me.</b></p> <p>7 Q. Did you ask Brandon this with Officer</p> <p>8 Washington standing right there?</p> <p>9 A. <b>Yes.</b></p> <p>10 Q. So right after Officer Washington said, "I'm</p> <p>11 not talking to you, big guy," that's when you asked</p> <p>12 Brandon, "Do you know this guy?"</p> <p>13 A. <b>Right. And he said no.</b></p> <p>14 Q. What happened after Brandon said no?</p> <p>15 A. <b>He told him to get the "F" out of his house</b></p> <p>16 <b>again.</b></p> <p>17 Q. That's the second time he said that?</p> <p>18 A. <b>Yes. And he pushed him.</b></p> <p>19 Q. "He" being?</p> <p>20 A. <b>Officer Washington.</b></p> <p>21 Q. Was Brandon on the floor kneeling?</p> <p>22 A. <b>Correct.</b></p> | <p>103</p> <p>1 pushed him?</p> <p>2 A. <b>He was on the side.</b></p> <p>3 Q. So it's your recollection that Officer</p> <p>4 Washington pushed Brandon from the side of his shoulder?</p> <p>5 A. <b>Right.</b></p> <p>6 Q. If Brandon had been real limp, he would have</p> <p>7 fallen over to his left?</p> <p>8 A. <b>He actually did that.</b></p> <p>9 Q. At this point?</p> <p>10 A. <b>No.</b></p> <p>11 Q. Let's keep it in order.</p> <p>12 In order to push him, then Officer Washington</p> <p>13 would have to had walked from where he was standing,</p> <p>14 between the bed and the wall nearest the door, over to</p> <p>15 the --</p> <p>16 A. <b>No. I was here. Brandon was here and</b></p> <p>17 <b>Mr. Washington was here.</b></p> <p>18 Q. Well, I apologize if I got it mixed up. I</p> <p>19 thought that it was Brandon who was farthest away from</p> <p>20 the door.</p> <p>21 A. <b>No.</b></p> <p>22 Q. It was you farthest away from the door?</p>   |
| <p>102</p> <p>1 Q. When Officer Washington pushed him?</p> <p>2 A. <b>Correct.</b></p> <p>3 Q. What part of Officer Washington's body came</p> <p>4 into contact with what part of Brandon's body?</p> <p>5 A. <b>His hands.</b></p> <p>6 Q. Officer Washington reached out with both</p> <p>7 hands?</p> <p>8 A. <b>I don't remember. He pushed him.</b></p> <p>9 Q. One or two hands?</p> <p>10 A. <b>I don't remember.</b></p> <p>11 Q. Well, did he push him with something other</p> <p>12 than his hands?</p> <p>13 A. <b>No.</b></p> <p>14 Q. So he either pushed him with one hand or he</p> <p>15 pushed him with two hands?</p> <p>16 A. <b>Correct.</b></p> <p>17 Q. What part of Brandon's body or clothing did</p> <p>18 Officer Washington contact?</p> <p>19 A. <b>The shoulder.</b></p> <p>20 Q. Which shoulder was it?</p> <p>21 A. <b>Right shoulder.</b></p> <p>22 Q. Was Officer Washington behind Brandon when he</p>  | <p>104</p> <p>1 A. <b>Correct.</b></p> <p>2 Q. If you had been carrying the back end of the</p> <p>3 box of rails, as you went up the stairs and into the</p> <p>4 room, how did you end up farthest away from the door?</p> <p>5 A. <b>We set the box down. Brandon went to</b></p> <p>6 <b>disassemble the bed. That's why he's closest to the bed</b></p> <p>7 <b>than I am over this way. Mr. Washington is standing</b></p> <p>8 <b>over here.</b></p> <p>9 Q. Did Brandon start to disassemble the bed?</p> <p>10 A. <b>He tried.</b></p> <p>11 Q. How did he try? What did he do?</p> <p>12 A. <b>He was on his knees.</b></p> <p>13 Q. On his knees next to the bed?</p> <p>14 A. <b>Right.</b></p> <p>15 Q. Was he on his knees next to the bed before he</p> <p>16 was on his knees next to the box?</p> <p>17 A. <b>I don't remember. I can't say where the box</b></p> <p>18 <b>was because we just set the box down. I don't remember</b></p> <p>19 <b>where we set the box down at.</b></p> <p>20 Q. Did he start to disassemble the bed before he</p> <p>21 started to open the box?</p> <p>22 A. <b>Well, he was getting ready to open the box</b></p> |

|  |  |
|--|--|
| <p style="text-align: right;">105</p> <p>1 <b>first. And then he's like, "No. Don't open the box</b></p> <p>2 <b>yet. Let's take this bed down and get those rails out."</b></p> <p>3 Q. This is Brandon talking to you?</p> <p>4 <b>A. To me.</b></p> <p>5 Q. So to back up, after the box of rails got set</p> <p>6 down, is it the case that Brandon turned his attention</p> <p>7 to the bed?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. And said to you, "Let's disassemble the bed"?</p> <p>10 <b>A. He asked Mr. Washington why he didn't have the</b></p> <p>11 <b>bed disassembled. And he really got mad then. He</b></p> <p>12 <b>pushed him. Brandon rolled over. And he jumped up.</b></p> <p>13 <b>And I said, "Look man, we're out of here.</b></p> <p>14 <b>We're getting up out of here." So I stepped between the</b></p> <p>15 <b>both of them. Now, Brandon is here. I'm here and</b></p> <p>16 <b>Washington is behind me.</b></p> <p>17 Q. We're going to have to start over one more</p> <p>18 time, because you keep adding details. Again, I'm not</p> <p>19 being critical, but every time you tell me something</p> <p>20 more, I got to start over to make sure I got the</p> <p>21 sequence.</p> <p>22 Brandon walked in the room first carrying his</p> | <p style="text-align: right;">107</p> <p>1 <b>apart before we do anything.</b></p> <p>2 Q. And it's while he's kneeling by the bed he</p> <p>3 says to Officer Washington something to the effect of</p> <p>4 why isn't the bed apart?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. While he's kneeling by the bed, Officer</p> <p>7 Washington says, "Get the fuck out of my house"?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. At this point, when he says that, Brandon has</p> <p>10 not yet started to open the box of rails?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. He's still turning his attention to the bed?</p> <p>13 <b>A. Correct.</b></p> <p>14 Q. Officer Washington then walks from where you</p> <p>15 have placed him, between the bed and the wall, over to</p> <p>16 Brandon and pushes him on the left shoulder; correct?</p> <p>17 <b>A. Right shoulder.</b></p> <p>18 Q. Right shoulder. I am sorry. While Brandon is</p> <p>19 kneeling by the bed?</p> <p>20 <b>A. Correct.</b></p> <p>21 Q. At that point, Brandon chuckles?</p> <p>22 <b>A. Correct.</b></p>                                       |
| <p style="text-align: right;">106</p> <p>1 end of the box?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. You walk in the room second, carrying your end</p> <p>4 of the box. Officer Washington walks in third, not</p> <p>5 carrying anything.</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. You and Brandon set down the box, but you're</p> <p>8 not entirely sure where?</p> <p>9 <b>A. Right.</b></p> <p>10 Q. Once the box is set down, Brandon turns his</p> <p>11 attention to the bed?</p> <p>12 <b>A. Correct.</b></p> <p>13 Q. And says, "Why isn't the bed disassembled?"</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. Is he standing up when he says that?</p> <p>16 <b>A. He's kneeling.</b></p> <p>17 Q. He's kneeling by the bed?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. He's not kneeling by the box?</p> <p>20 <b>A. No.</b></p> <p>21 Q. He's turning his attention to the bed?</p> <p>22 <b>A. To the bed, because we got to take the bed</b></p>  | <p style="text-align: right;">108</p> <p>1 Q. At that point you say, "Let's get out of</p> <p>2 here," or something to that effect?</p> <p>3 <b>A. Correct.</b></p> <p>4 Q. At that point Officer Washington said, "I'm</p> <p>5 not talking to you, big fellow. I'm talking to the</p> <p>6 other guy"?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. After he said, "I'm not talking to you. I'm</p> <p>9 talking to the other guy," Brandon is still kneeling by</p> <p>10 the bed?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. All right. After Officer Washington pushes</p> <p>13 him and said, "I'm not talking to you. I'm talking to</p> <p>14 the other guy," and pushes him, what happens next?</p> <p>15 <b>What's the very next thing that happened?</b></p> <p>16 <b>A. Brandon laughed at him again.</b></p> <p>17 Q. So this is the second laugh?</p> <p>18 <b>A. Right. And he goes and just do a push and</b></p> <p>19 <b>pushed him all the way over to where he was actually</b></p> <p>20 <b>laying down on his left side.</b></p> <p>21 Q. Officer Washington pushes Brandon a second</p> <p>22 time?</p> |

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1 **A. Right.**  
2 Q. Also on the right shoulder?  
3 **A. Right.**  
4 Q. Pushes him hard enough so that Brandon is  
5 laying down on his left side?  
6 **A. Right.**  
7 Q. Basically where, in the middle of the bedroom  
8 floor?  
9 **A. Correct.**  
10 Q. Brandon is still not starting to open the box  
11 of bed rails --  
12 **A. No.**  
13 Q. -- am I correct?  
14 **A. Correct.**  
15 Q. And when Officer Washington pushes Brandon the  
16 second time, did he say anything?  
17 **A. He told him to get the "F" out of his house.**  
18 Q. So this is the second time he's telling him to  
19 get the fuck out of his house?  
20 **A. Correct.**  
21 Q. What happened next?  
22 **A. Brandon jumped up. I stepped between the both**

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1 **of them. Now Washington is in the back of me, Brandon**  
2 **is in I'm in the middle and Brandon is going towards the**  
3 **stairs. He says, "Okay."**  
4 **And Washington said, "I know how to get you**  
5 **the fuck out of my house," and all I heard was a shot.**  
6 **At that time Brandon was close, almost to the stairs.**  
7 Q. You are referring to Exhibit Number 4.  
8 **A. He was almost to the top of the stairs and he**  
9 **just scream out. And I ran and I caught him before he**  
10 **fell down the stairs. And I caught him like right here.**  
11 Q. You are indicating the landing just at the top  
12 of the stairs on Exhibit 4?  
13 **A. Correct.**  
14 Q. Now, let's back up.  
15 What happened to Brandon trying to open the  
16 box? That's not part of any of this?  
17 **A. We never opened the box. I explained to you**  
18 **before, he was going to open the box, but he didn't open**  
19 **the box because he didn't want to get the pieces mixed**  
20 **up. So he had to take the bed apart first.**  
21 Q. You explained to me that Brandon was kneeling  
22 by the box trying to open it or starting to open it?

111

1 **A. Correct.**  
2 Q. But in the sequence of events we just  
3 discussed, that wasn't part of it. So let's start over  
4 again.  
5 **A. Okay.**  
6 Q. Now, we can do this one or two ways. I can  
7 say it the way I think you told me or you can say it  
8 from the beginning.  
9 **A. Go ahead.**  
10 Q. If I'm wrong, you got to stop me and say,  
11 "You've missed something."  
12 **A. Okay.**  
13 Q. You all walk up the stairs. Brandon's holding  
14 his end of box. You are holding your end of the box and  
15 he goes into the bedroom first?  
16 **A. Correct.**  
17 Q. You follow in the bedroom holding your end of  
18 the box?  
19 **A. Correct.**  
20 Q. Officer Washington then comes in third?  
21 **A. Correct.**  
22 Q. Holding nothing?

112

1 **A. Correct.**  
2 Q. You all put the box down?  
3 **A. Correct.**  
4 Q. Now, I got to ask you what happened right  
5 after you put the box down?  
6 **A. When he put the box down, Brandon kneeled.**  
7 **Mr. Washington told him --**  
8 Q. Kneeled where?  
9 **A. Kneeled in front of the box.**  
10 Q. And he was going to take the rails out. And  
11 he was like, "No. We can't take the rails out, because  
12 we're going to get the pieces mixed up." So he took the  
13 focus off the box and he looking at the bed.  
14 Did he have to stand up?  
15 **A. No. He was already kneeling now. So I think**  
16 **he took the bedspread, because the bed was fully made**  
17 **up. The bed was fully made up. So he took the**  
18 **bedspread. And he grabbed the bedspread and that's the**  
19 **time when he asked Mr. Washington why he didn't have**  
20 **this bed disassembled and --**  
21 Q. So he's on the floor, that is Brandon is on  
22 the floor.

|  |  |
|--|--|
| <p style="text-align: right;">113</p> <p>1     <b>A. Correct.</b></p> <p>2     Q. First dealing with the box and then he turns</p> <p>3 around to deal with the bed, still on the floor?</p> <p>4     <b>A. Correct.</b></p> <p>5     Q. That's the part that was missing.</p> <p>6         He turns to deal with the bed, Washington</p> <p>7 says, "Get the fuck out of my house"?</p> <p>8     <b>A. Correct.</b></p> <p>9     Q. Brandon chuckles?</p> <p>10    <b>A. Correct.</b></p> <p>11    Q. You say, "Let's get out of here"?</p> <p>12    <b>A. Correct.</b></p> <p>13    Q. Officer Washington says, "I'm not talking to</p> <p>14 you. I'm talking to this other fellow"?</p> <p>15    <b>A. Correct.</b></p> <p>16    Q. Brandon chuckles again?</p> <p>17    <b>A. Correct.</b></p> <p>18    Q. Officer Washington says, "Get the fuck out of</p> <p>19 my house" a second time?</p> <p>20    <b>A. Pushed him.</b></p> <p>21    Q. Pushed him. This is the first push?</p> <p>22    <b>A. Right.</b></p>  | <p style="text-align: right;">115</p> <p>1 three?</p> <p>2     <b>A. Could have been.</b></p> <p>3     Q. Is it the case that after the last push you</p> <p>4 got between --</p> <p>5     <b>A. The both of them.</b></p> <p>6     Q. -- Clark and Washington?</p> <p>7     <b>A. Correct.</b></p> <p>8     Q. When you got between them, are you facing</p> <p>9 Clark?</p> <p>10    <b>A. I'm facing Clark. I got my back to Officer</b></p> <p>11 <b>Washington.</b></p> <p>12    Q. All right. When you get between them, is that</p> <p>13 when you say again, "Let's get out of here" or something</p> <p>14 to that effect?</p> <p>15    <b>A. Yes. I was more trying to get Brandon out of</b></p> <p>16 <b>the house than anything. Just leave. I wasn't even</b></p> <p>17 <b>trying to get the rails, you know.</b></p> <p>18    Q. And you gestured that as Brandon exited the</p> <p>19 bedroom, he was walking backwards with his hands up in</p> <p>20 an "I surrender" kind of position?</p> <p>21    <b>A. Yes.</b></p> <p>22    Q. He was walking backwards. And you were</p> |
| <p style="text-align: right;">114</p> <p>1     Q. And does he say, "Get the fuck out of my</p> <p>2 house" the second time when he pushes him the first</p> <p>3 time?</p> <p>4     <b>A. Yes.</b></p> <p>5     Q. Pushes him from right shoulder moving to the</p> <p>6 left?</p> <p>7     <b>A. Correct.</b></p> <p>8     Q. What happened after he pushed him?</p> <p>9     <b>A. Brandon laughed at him.</b></p> <p>10    Q. Is this the second?</p> <p>11    <b>A. Second laugh. And he told him, he was like,</b></p> <p>12 <b>"Get the fuck out of my house."</b></p> <p>13    Q. Is that the third time he said that?</p> <p>14    <b>A. No. After Brandon chuckled a second time and</b></p> <p>15 <b>when he pushed him, I think the second time, Brandon was</b></p> <p>16 <b>over on his side. And I think that's how it happened.</b></p> <p>17    Q. How many pushes were there, as best you can</p> <p>18 recall?</p> <p>19    <b>A. Either two or three. I can't remember.</b></p> <p>20    Q. You've testified both; correct?</p> <p>21    <b>A. Correct.</b></p> <p>22    Q. Grand jury you said two and at trial you said</p> | <p style="text-align: right;">116</p> <p>1 walking toward him, facing him?</p> <p>2     <b>A. Right.</b></p> <p>3     Q. Officer Washington was still somewhere behind</p> <p>4 you?</p> <p>5     <b>A. Correct.</b></p> <p>6     Q. I think you said that as Brandon got to the</p> <p>7 top of the stairs, were you still facing him?</p> <p>8     <b>A. Correct.</b></p> <p>9     Q. And Officer Washington is still somewhere</p> <p>10 behind you?</p> <p>11    <b>A. Correct.</b></p> <p>12    Q. You heard some shots?</p> <p>13    <b>A. I heard, "I know how to get you the fuck out</b></p> <p>14 <b>of my house," and pop, pop.</b></p> <p>15    Q. Was Brandon -- had Brandon already started</p> <p>16 down the stairs?</p> <p>17    <b>A. No.</b></p> <p>18    Q. He's standing at the top of the stairs?</p> <p>19    <b>A. He's like here.</b></p> <p>20    Q. Are you showing me the very top of the stairs</p> <p>21 in Exhibit 4? Is that what you're pointing to?</p> <p>22    <b>A. Correct.</b></p>  |

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1 Q. How far away were you from Brandon when you  
2 heard --  
3 A. **Not far.**  
4 Q. Can you estimate? Is it a yard?  
5 A. **It was close enough that I could get to him**  
6 **where he wouldn't fall down the stairs.**  
7 Q. Were you able to estimate, though, in terms of  
8 feet or yards?  
9 A. **No. Couldn't do it.**  
10 Q. How many shots did you hear at that point?  
11 A. **I heard two.**  
12 Q. Could you tell if Brandon was hit?  
13 A. **I don't know. He screamed out.**  
14 Q. Did he say something?  
15 A. **I never seen a gun.**  
16 Q. But you heard two shots and you knew they were  
17 gunshots; right?  
18 A. **Could have been.**  
19 Q. You've heard gunshots before; right?  
20 A. **In a house, it's different. Heard gunshots**  
21 **out the door, they sound different.**  
22 Q. Okay. Was Brandon still facing you at the

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1 time you heard the gunshots?  
2 A. **Yes.**  
3 Q. He still had his hands up?  
4 A. **No. He was buckling over and he was going**  
5 **back towards the steps. So I just ran up and grabbed**  
6 **hold of him. And I actually had to go down like two**  
7 **steps to actually lay him down. And he was laying like**  
8 **that.**  
9 Q. Did he start to fall backwards down the  
10 stairs?  
11 A. **No. He was walking towards the stairs. And I**  
12 **knew he wasn't paying attention to what he was doing. I**  
13 **don't think he even knew how close he was to it.**  
14 Q. Right. I understand. You are telling me he's  
15 at the top of the stairs, but facing the bedroom at the  
16 time you heard the shots?  
17 A. **Right.**  
18 Q. And my question is when you heard the shots  
19 and you saw him kind of buckle, as you've just shown me,  
20 did he, Brandon, start to fall backwards as though he  
21 would fall down the stairs if you didn't catch him?  
22 A. **Correct.**

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1 Q. So you kind of reached around him and stopped  
2 him from falling?  
3 A. **I actually grabbed him and came down like two**  
4 **of the steps.**  
5 Q. And when you --  
6 A. **I'm facing this way.**  
7 Q. Tell me in the picture. Are you facing down  
8 the stairs?  
9 A. **Facing down the stairs, because my body is**  
10 **here and Brandon face is here.**  
11 Q. Well, that's not going to help us.  
12 When you caught Brandon, was he still facing  
13 up the stairs or --  
14 A. **He was still looking towards the bedroom door.**  
15 Q. When you caught him, did you catch him from  
16 the front, the side, or his back?  
17 A. **I caught his body and I laid him down.**  
18 Q. Were you to the front of him or to the side of  
19 him?  
20 A. **Side of him. I was on this side. And I laid**  
21 **him down this way. His head was this way towards the**  
22 **steps.**

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1 Q. Were you to the side of him, closest to the  
2 railing?  
3 A. **On this side.**  
4 Q. But by reference to Exhibit 4, were you  
5 closest to the railing? That is, the railing alongside  
6 the outside of the stairs or were you near the inside of  
7 the stairs?  
8 A. **In the middle.**  
9 Q. You were right in the middle.  
10 Where was Brandon? Was he closest to the  
11 outside of the stairs or the inside of the stairs?  
12 A. **He was on this side.**  
13 Q. Is that outside of the stairs or inside of the  
14 stairs?  
15 A. **I don't know.**  
16 Q. I'm saying the long railing that is along --  
17 keeps you from falling over the side of the stairs if it  
18 wasn't there, that's the outside of the stairs. The  
19 other side next to the wall is inside of the stairs.  
20 So you were in the middle. Where was Brandon?  
21 Was he on the outside of the stairs?  
22 A. **Outside.**

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1 Q. You caught his body and you laid him down  
2 where on the stairs?  
3 **A. On the flat place on the stairs. Not on the**  
4 **stairs, but on the flat part of it, like the hallway.**  
5 Q. The hallway at the top of the stairs?  
6 **A. Right. Right close by the steps.**  
7 Q. Was Brandon's head closest to the steps?  
8 **A. Correct.**  
9 Q. And were his feet then closest to the bedroom  
10 door that he had backed out of?  
11 **A. Correct.**  
12 Q. At the time you laid him down, you are  
13 standing on the second or the third step from the top?  
14 **A. Correct.**  
15 Q. Is that correct?  
16 **A. Correct.**  
17 Q. Where was Officer Washington when you were  
18 laying Brandon down?  
19 **A. I don't even know. I wasn't paying him no**  
20 **attention. I wasn't paying him no attention. And when**  
21 **I got up off Brandon, because I asked Brandon where was**  
22 **the phone. He was like, in his pocket. So I reached in**

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1 **his pocket. It wasn't in his pocket.**  
2 Q. Did Brandon tell you it was in his pocket?  
3 **A. That's what he said. And then after that,**  
4 **after he told me it was in his pocket and I couldn't**  
5 **find the phone. When I got up and when I turned, that's**  
6 **when the first time I seen the gun.**  
7 Q. You were still standing on the stairs when you  
8 turned?  
9 **A. Correct.**  
10 Q. Still on the second or third stairs?  
11 **A. Correct.**  
12 Q. If I understand what you are saying, Brandon  
13 is laying at the top of the stairs and you are kind of  
14 bent over him asking him about the phone?  
15 **A. Correct.**  
16 Q. And when you looked up after you didn't find  
17 the phone in his pocket, that's when you saw Officer  
18 Washington?  
19 **A. I turned around. I actually turned my body**  
20 **and then I was looking up at him.**  
21 Q. Before you turned your body looking up, which  
22 way were you turned?

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1 **A. This way.**  
2 Q. Towards the outside of the stairs?  
3 **A. Correct.**  
4 Q. So you turned to your right to look up the  
5 stairs?  
6 **A. Correct.**  
7 Q. Did you see Officer Washington when you turned  
8 to your right?  
9 **A. Correct.**  
10 Q. Where was Officer Washington?  
11 **A. Standing in front of me.**  
12 Q. Was he -- well, Brandon was directly in front  
13 of you once you turned to your right?  
14 **A. Correct.**  
15 Q. Laying down?  
16 **A. Correct.**  
17 Q. Where was Officer Washington relative to  
18 Brandon?  
19 **A. I don't know.**  
20 Q. You say he was in front of you. He wasn't  
21 standing on Brandon?  
22 **A. If I got my body turned this way -- if I'm**

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1 **this way catching Brandon, I'm not looking to see where**  
2 **he's at. When I turned around, that's when I actually**  
3 **seen him.**  
4 Q. That's what I'm asking you. Were was he when  
5 you actually saw him?  
6 **A. In front of me.**  
7 Q. Where was he relative to Brandon? Was he  
8 standing on top of Brandon?  
9 **A. On the side of him.**  
10 Q. On the side of him?  
11 **A. Outside, this side.**  
12 Q. Nearest to the bedroom door or nearest to the  
13 top of the steps?  
14 **A. I don't know. He was close by. I don't know.**  
15 Q. What was he doing?  
16 **A. I don't know.**  
17 Q. Was he just standing there?  
18 **A. I don't know.**  
19 Q. Did he have anything in his hands?  
20 **A. No. I couldn't see him then. I ain't seen**  
21 **him until I turned around.**  
22 Q. That's what I'm talking about.

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1 **A. When I turned around, he had the gun pointed**  
2 **at me.**  
3 Q. I'm not asking what you saw when you didn't  
4 see anything. I'm asking what you saw when you turned  
5 around and saw him.  
6 **A. I saw he was pointing a gun at me. He looked**  
7 **at me and I looked at him. I seen his finger move and I**  
8 **just turned my head. I wasn't going to look at the guy**  
9 **shoot me.**  
10 Q. My question is where he was when you saw him?  
11 You said he was in front of you. You said he  
12 was in the hallway. But you haven't told me where he  
13 was relative to you.  
14 **A. I wasn't even paying attention. I was looking**  
15 **at the gun.**  
16 Q. Let's talk about the gun. How far away from  
17 the gun --  
18 **A. I don't know.**  
19 Q. Well, let me finish my question. How far away  
20 from you was the gun when you saw the gun?  
21 **A. I don't know.**  
22 Q. Was the gun pointing at you when you saw the

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1 gun?  
2 **A. Yes.**  
3 Q. Was the gun in somebody's hand when you saw  
4 the gun?  
5 **A. Yes.**  
6 Q. The gun was in Officer Washington's hand?  
7 **A. Correct.**  
8 Q. And Officer Washington's hand was connected to  
9 his arm and his body; correct?  
10 **A. Yes.**  
11 Q. Where was Officer Washington standing? Can  
12 you show me?  
13 **A. I can't show you, because I wasn't looking at**  
14 **where he was standing at.**  
15 Q. Can you show me where was the gun was then?  
16 **A. In his hand.**  
17 Q. Show me in Exhibit 4 where the gun was.  
18 **A. I don't know.**  
19 Q. Were you still standing on the second or third  
20 step at the time you were shot?  
21 **A. Yes.**  
22 Q. Where were you shot?

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1 **A. The chest and the stomach.**  
2 Q. And you didn't fall backwards down the stairs,  
3 did you?  
4 **A. No. I got up and I walked up the stairs. I**  
5 **went and laid by the bedroom. I laid there for a few**  
6 **minutes. I didn't see Washington. I got back up.**  
7 **He comes out the room. From wherever he was,**  
8 **he came out the room and he said, "You still up," and he**  
9 **shot again. He shoot his gun again, hitting me in the**  
10 **knee, so I just laid down.**  
11 Q. You said after he shot you the first time you  
12 got up?  
13 **A. I walked up the stairs. I never fell. I**  
14 **walked up the steps and went and laid by -- I guess, I**  
15 **see two doors. I don't know which one, but I think I**  
16 **was closer to this door. And I went and laid down at**  
17 **that door.**  
18 Q. I'll show you some more pictures. We will get  
19 it more specific, but I just want to make sure I  
20 understand.  
21 When you were shot in the chest and the  
22 abdomen, you did not fall down?

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1 **A. Correct.**  
2 Q. You did not fall or step back down a couple of  
3 steps?  
4 **A. Correct.**  
5 Q. You walked forward toward where the gun was;  
6 is that correct?  
7 **A. No.**  
8 Q. Why is it incorrect?  
9 **A. Because he wasn't -- he had moved. He's not**  
10 **going to let me grab his gun.**  
11 Q. Were the two shots real close together, bang,  
12 bang?  
13 **A. Yes.**  
14 Q. Did he leave as soon as he fired the second  
15 shot?  
16 **A. He moved back. I don't know how far he moved**  
17 **back. And I just went and laid by a room. I knew if I**  
18 **tried to go down the stairs, he probably would have shot**  
19 **me in the back of the head.**  
20 Q. When you were walking up the two or three  
21 stairs to go down the hall to lay by the bedroom door,  
22 were you walking towards Officer Washington?



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1 **A. No. He wasn't close enough to me.**  
2 Q. Did you see where he was when you walked up  
3 the stairs and laid down?  
4 **A. I don't remember.**  
5 Q. Do you know if he went into the bedroom that  
6 the three of you had just come out of after he shot you?  
7 **A. Say that again.**  
8 Q. Do you know whether he went into the bedroom,  
9 the same bedroom that the three of you --  
10 **A. It wasn't even really paying attention.**  
11 Q. You have to let me finish the question.  
12 Do you know whether he went into the same  
13 bedroom that the three of you had just come out of when  
14 he shot you?  
15 **A. Wasn't paying attention.**  
16 **(Deposition Exhibit 7 was**  
17 **marked for identification)**  
18 **BY MR. KARP:**  
19 Q. I'm showing you what has been marked as  
20 Deposition Exhibit 7, Mr. White. This shows the hallway  
21 from the point of view of the bedroom that you had taken  
22 the rails into; is that correct?

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1 In other words, the person taking this picture  
2 is standing basically in the doorway of the room you had  
3 taken the bed rails into; is that right?  
4 **A. I don't know.**  
5 Q. Do you remember there being a hallway at the  
6 top of the stairs?  
7 **A. Okay.**  
8 Q. Is that correct? You already told me that  
9 when you went up the stairs, you went basically straight  
10 ahead --  
11 **A. Right.**  
12 Q. -- to take the rails into the bedroom?  
13 **A. Correct.**  
14 Q. This photograph shows the hallway you walked  
15 down after you were shot, does it not?  
16 **A. Could have been. I don't know.**  
17 Q. Well, if it could have been, can you tell me  
18 where you could have laid down after you walked up the  
19 stairs?  
20 **A. I can't say from this picture here. I can say**  
21 **from this picture.**  
22 Q. Let's go back to Exhibit 3 then. Show me in

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1 Exhibit 3 where you laid down.  
2 **A. I don't know if it was this room or that room,**  
3 **but I laid in front of one of the rooms.**  
4 Q. You are showing me what appears to be --  
5 **A. Two doors.**  
6 Q. It looks like actually maybe there are three  
7 doors. One to the right, one in the middle and one to  
8 the left. You think that's right?  
9 **A. Correct.**  
10 Q. And you laid down either in front of the  
11 middle one --  
12 **A. This door or that door. I think it was this**  
13 **door, because when the paramedics came in, they actually**  
14 **took me from the top. Took me from the top, because**  
15 **they couldn't go this way. So they actually lifted me**  
16 **over the top rail. And there was some more paramedics**  
17 **down here and they catch me. And that's how they got me**  
18 **down the stairs.**  
19 Q. You're telling me, looking at Exhibit 3, you  
20 believe you laid down to the room on the right at the  
21 top, at the right on the second floor, as you are  
22 looking at the photograph?

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1 **A. Correct.**  
2 Q. When you say they lifted you over the rail,  
3 you are telling me they lifted you over the railing or  
4 the banister that is in front of that door --  
5 **A. Correct.**  
6 Q. -- to get you down the stairs?  
7 **A. Correct.**  
8 Q. Tell me again why you went up the stairs in  
9 the direction from which the shots came rather than down  
10 the stairs after you were shot?  
11 **A. Because I figured if I go down the stairs, he**  
12 **shoot me in the back of the head.**  
13 Q. What did you think would happen if you went up  
14 the stairs?  
15 **A. I don't know. He was just screaming, "Get**  
16 **down. Get down."**  
17 Q. He was screaming, "Get down" when he shot you?  
18 Is that the case?  
19 **A. No. When I went and laid by the bedroom --**  
20 **and me and Brandon sitting there hollering, he was like,**  
21 **"Don't move. Stay down. Stay down."**  
22 **And he went somewhere. I don't know where he**

|   |   |
|---|---|
| <p style="text-align: right;">133</p> <p>1 went, but he disappeared. I didn't see him, so I got<br/>2 up. I was still able to get up. So I got up. And when<br/>3 I got up, as soon as I got up, he came out of the room<br/>4 and was like, "Didn't I tell you to stay down?"<br/>5 Q. Your contention is that's when he shot you in<br/>6 the knee?<br/>7 A. Correct.<br/>8 Q. You just said you got up. You got up from the<br/>9 hallway near the bedroom door where you had walked and<br/>10 laid down?<br/>11 A. Correct.<br/>12 Q. But I'm still trying to figure out why you<br/>13 went up the stairs rather than down the stairs.<br/>14 A. It's a long way down the stairs. It's a short<br/>15 way up the stairs.<br/>16 Q. But you knew the guy who had shot you was up<br/>17 the stairs, didn't you.<br/>18 A. Okay. Why would I try to go down the stairs,<br/>19 if he shoot me in the back of the head? He already<br/>20 shoot me in the chest. You don't think he'd shoot me in<br/>21 the back of the head?<br/>22 Q. You don't think he'd shoot you in the face if</p> | <p style="text-align: right;">135</p> <p>1 Q. You were sitting?<br/>2 A. Yes.<br/>3 Q. Is that right?<br/>4 A. Yes. But I sit down on the leg like this. I<br/>5 was like that, sitting down. This leg out and this leg<br/>6 under. And that leg had locked. They couldn't even<br/>7 pull it. They put me on the stretcher just like that.<br/>8 Q. Which leg were you shot in?<br/>9 A. The right. Right knee.<br/>10 Q. So if I'm accurately describing what you<br/>11 showed me, when you sat down, your right leg was curled<br/>12 under your body?<br/>13 A. Correct.<br/>14 Q. And your left leg was what?<br/>15 A. Straight out.<br/>16 Q. Were you leaning against a wall?<br/>17 A. Yes, I was, at first.<br/>18 Q. What do you mean "at first"?<br/>19 A. When I went and sat down, I was leaning<br/>20 against the wall.<br/>21 Q. But you also said you were still in that<br/>22 position when the paramedics got you?</p>   |
| <p style="text-align: right;">134</p> <p>1 you walked up the stairs to him?<br/>2 A. He probably would have.<br/>3 Q. But he didn't?<br/>4 A. He didn't, but he shoot me in the knee for a<br/>5 second time.<br/>6 Q. When you stood up after -- let me start over<br/>7 again.<br/>8 You laid down. You lay there for a brief<br/>9 period of time, then you stood up?<br/>10 A. Correct.<br/>11 Q. And your intention was to go over to Brandon;<br/>12 is that right?<br/>13 A. My intention was to go and get us out of<br/>14 there.<br/>15 Q. Had you taken any steps after you got up<br/>16 before Officer Washington --<br/>17 A. As soon as I got up, he came out of the room.<br/>18 Q. When he shot you, you fell basically in the<br/>19 same place you were laying?<br/>20 A. I sat down. And I sat down on the knee that<br/>21 he shot me. I sat down on that knee. And that's the<br/>22 way I was when the paramedics came in.</p>   | <p style="text-align: right;">136</p> <p>1 A. Okay. My leg was still like this.<br/>2 Q. You're still leaning against the wall when the<br/>3 paramedics got to you?<br/>4 A. I could have.<br/>5 Q. Is it the case, then, that after you were shot<br/>6 in the leg, you were never laying down on the floor?<br/>7 A. I could have been laying down on the floor.<br/>8 Q. You don't really remember, do you?<br/>9 A. I don't.<br/>10 Q. What happened after you sat down leaning<br/>11 against the wall?<br/>12 A. Mr. Washington got on the phone and he made a<br/>13 phone call to somebody. Who it was, I don't know.<br/>14 Q. Where was he when you saw him making the phone<br/>15 call?<br/>16 A. He was standing towards the door.<br/>17 Q. You are referring us to Exhibit 4. And the<br/>18 door you are referring to is the door through which<br/>19 you had taken the bed railings?<br/>20 A. Correct. He was standing at the back of<br/>21 Brandon's feet.<br/>22 Q. What did you hear him say?</p> |

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1 **A. He said, "These two guys just break in my**  
2 **house and beat me up with a pipe. Hit me with a pipe.**  
3 **They didn't know I was a cop."**  
4 **I was like, oh my God. I don't believe it's**  
5 **going to go down like this.**  
6 Q. Did you hear the 911 tape at any point?  
7 **A. Some of it.**  
8 Q. You heard enough of it to know that Officer  
9 Washington never said anything about being beaten by a  
10 pipe, didn't you?  
11 **A. No.**  
12 Q. Is it still your belief, sitting here today,  
13 that he said he was beaten by a pipe?  
14 **A. Correct. He said he was beaten up.**  
15 Q. By a pipe?  
16 **A. Not by a pipe, he said by me and Brandon.**  
17 Q. Did he say he was beaten by a pipe?  
18 **A. No. He said he was beaten by me and Brandon.**  
19 Q. Didn't you just testify that you heard him say  
20 on that telephone call that he was beaten by a pipe?  
21 **A. I said I heard a conversation. I didn't say**  
22 **anything about the 911 call.**

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1 Q. When did you hear him saying something about a  
2 pipe?  
3 **A. He was on the phone with two different people.**  
4 **He made two phone calls.**  
5 Q. Okay.  
6 **A. The first guy that came was a cop.**  
7 Q. Let's not talk about who came. Let's talk  
8 about the phone calls.  
9 Tell me about everything you heard him say in  
10 the first phone call.  
11 **A. That's the first phone call.**  
12 Q. What did he say?  
13 **A. He said, "These two guys just busted in my**  
14 **house and beat me up with a pipe."**  
15 Q. Did he say anything else during that phone  
16 call?  
17 **A. I don't remember. He could have.**  
18 Q. How long did that telephone call last?  
19 **A. I don't know.**  
20 Q. Did he pause as though he was listening to  
21 somebody on the other end --  
22 **A. I don't know.**

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1 Q. -- or did he just talk?  
2 **A. I don't know.**  
3 Q. How much time was there between the first call  
4 and the second call?  
5 **A. I don't know.**  
6 Q. Did you pass out at any time while you were at  
7 the top of the steps before the paramedics came?  
8 **A. I don't remember.**  
9 Q. Tell me everything you remember about the  
10 second call.  
11 **A. I really don't remember nothing about the**  
12 **second call.**  
13 Q. How do you know there was a second call?  
14 **A. He did make a second call. He dialed a**  
15 **number. I'm sitting there watching him dial a number,**  
16 **but I wasn't paying attention to what he was saying.**  
17 Q. Did the call go through, the second one?  
18 **A. He was talking to someone.**  
19 Q. You don't recall what he said?  
20 **A. No.**  
21 Q. You don't recall -- do you recall how long  
22 that conversation lasted?

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1 **A. I don't know.**  
2 Q. Do you have any estimate as to how long he was  
3 on the phone either the first or the second time?  
4 **A. No.**  
5 Q. Did you say anything to Officer Washington  
6 after he shot you the first time?  
7 **A. No.**  
8 Q. Did you say anything to him after he shot you  
9 the second time?  
10 **A. No.**  
11 Q. Did Brandon say anything to Officer Washington  
12 after he was shot?  
13 **A. Yes.**  
14 Q. What did he say?  
15 **A. He asked him to call for help.**  
16 Q. Where were you when that -- when he said that?  
17 **A. I was sitting on the floor.**  
18 Q. After having been shot in the knee?  
19 **A. Right.**  
20 Q. What did Officer Washington say?  
21 **A. He said he wasn't calling anyone.**  
22 Q. Was this before or after he made his first

141

1 call?

2 **A. I don't remember.**

3 Q. Was it before or after he made his second

4 call?

5 **A. I don't remember.**

6 Q. Did you hear Officer Washington ask for an

7 ambulance?

8 **A. I don't recall.**

9 Q. When you were shot in the knee, were you

10 standing upright?

11 **A. Yes.**

12 Q. You weren't down on the ground?

13 **A. No.**

14 Q. You've previously given testimony that you

15 heard Officer Washington say something to the effect

16 that the people who he shot were bleeding on his carpet;

17 do you remember that?

18 **A. Correct.**

19 Q. Tell me as best you recall whether that was

20 the first or second call?

21 **A. I don't remember.**

22 Q. Tell me as best you recall, specifically what

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1 he said about bleeding on the carpet.

2 **A. It was like, "I just shot these two guys and**

3 **they are bleeding all over my carpet."**

4 Q. Was that the same conversation you heard in

5 which he said he was hit by a pipe?

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

7 Q. Did you see any physical contact between

8 Officer Washington and Brandon Clark after Brandon was

9 shot?

10 **A. Yes.**

11 Q. Tell me about that.

12 **A. The cop that came in, he came in and Brandon**

13 **was on his back. Picked Brandon up, slammed him to the**

14 **floor and handcuff him. Washington, he kicked him**

15 **couple times and I was like, I'm next. He actually put**

16 **him under arrest.**

17 Q. Who put him under arrest?

18 **A. The cop that came in, whoever the first cop**

19 **that got there.**

20 Q. How many times did Officer Washington kick

21 Brandon?

22 **A. I don't remember. He kicked him a couple**

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1 **times, one or two times.**

2 Q. Where did he kick him?

3 **A. On the leg.**

4 Q. Do you recall which leg?

5 **A. I'm not sure.**

6 Q. Were you in any bedroom other than the one

7 that had the box of rails in it?

8 **A. No.**

9 Q. Was there any conversation -- did you hear

10 Officer Washington accuse either you or Brandon of

11 having been in a different bedroom?

12 **A. During news reports.**

13 Q. I'm talking about at the time of the incident

14 in the house.

15 **A. No.**

16 Q. Did you hear Officer Washington accuse either

17 you or Brandon of being in a different bedroom?

18 **A. No. I only heard about that when he was**

19 **trying to change his story.**

20 Q. Did you hear Officer Washington say during

21 either of the telephone calls you've mentioned, that one

22 of the men was dead?

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1 **A. Yes. I recall that.**

2 Q. When did he say that?

3 **A. I don't know, but he said it.**

4 Q. What else did he say other than what you've

5 already told me?

6 **A. There is a lot I don't remember. Some things**

7 **I remember and some things I don't. I don't remember a**

8 **whole lot.**

9 Q. Well, you've given testimony before the grand

10 jury that Officer Washington said on the telephone that

11 one of the people he shot was dead?

12 **A. Okay.**

13 Q. Is that correct?

14 **A. Correct.**

15 Q. And is it your recollection that he did, in

16 fact, say that?

17 **A. Correct.**

18 Q. You don't know if it was the first call or the

19 second call?

20 **A. Correct.**

21 Q. You gave testimony before the grand jury that

22 Officer Washington kept saying something to the effect

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1 that, "I do not have a problem with you," meaning  
2 Mr. White?  
3 **A. Right.**  
4 Q. Just him, meaning Mr. Clark?  
5 **A. Right.**  
6 Q. How many times did Officer Washington say  
7 that?  
8 **A. He only said it that one time.**  
9 Q. But you testified up in front of the grand  
10 jury that Officer Washington kept saying that, didn't  
11 you?  
12 **A. I probably did. I don't know. I don't**  
13 **remember.**  
14 Q. Is that true?  
15 **A. It could have been, if I said it.**  
16 Q. What's the longest period of time you ever  
17 worked for one employer, Mr. White?  
18 **A. Three or four years.**  
19 Q. When was that?  
20 **A. Early '90's.**  
21 Q. Who did you work for then?  
22 **A. Myer's Construction.**

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1 Q. In South Carolina?  
2 **A. Correct.**  
3 Q. Why did that job end?  
4 **A. I moved.**  
5 Q. What did you do for Myer's?  
6 **A. Labor.**  
7 Q. You moved from where to where?  
8 **A. I moved from Orangeburg to Andrews,**  
9 **Georgetown.**  
10 Q. Is Andrews the same as Georgetown?  
11 **A. Correct.**  
12 Q. Are they two --  
13 **A. Well, it's Georgetown County. It's the County**  
14 **of Georgetown. And Andrews is the little town.**  
15 Q. Okay. What's the most you ever made in a year  
16 in terms of earned income? That is, income from salary  
17 or wages?  
18 **A. I don't know.**  
19 Q. Was Myer's the best job you ever had?  
20 **A. No.**  
21 Q. What's the best job you ever had?  
22 **A. I worked for a plant, Santee Cooper Power**

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1 **Plant.**  
2 Q. Is that in South Carolina?  
3 **A. Correct.**  
4 Q. When did you work there?  
5 **A. That was in, I think '89, '90.**  
6 Q. How long did you work there?  
7 **A. Maybe a year.**  
8 Q. Why was that the best job?  
9 **A. What?**  
10 Q. Why was that the best job?  
11 **A. There was more money and it was easy. I**  
12 **really don't do anything.**  
13 Q. This wasn't a nuclear power plant by any  
14 chance?  
15 **A. Well, I mean the first couple of months I went**  
16 **there, you know, we washed down like where the cold**  
17 **comes into the machine and we wash down the units.**  
18 **And one guy didn't come to work and I moved**  
19 **from doing that to driving a Bobcat. And moved from the**  
20 **Bobcat to being a foreman in a couple of months.**  
21 MR. KARP: Take a five minute break, please.  
22 (Pause in proceedings)

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1 BY MR. KARP:  
2 Q. You use a brace or a cane or anything,  
3 anything to assist you walking?  
4 **A. I'm supposed to.**  
5 Q. What are you supposed to use?  
6 **A. A brace.**  
7 Q. Why don't you use it?  
8 **A. Because it keeps sliding down my leg. And I**  
9 **can walk from here to out there and it'll come down.**  
10 **And they give me like two different types of brace and**  
11 **neither one of them work.**  
12 Q. You are telling me if you walk 10 or 15 yards,  
13 the brace will slide off?  
14 **A. Slide down my leg.**  
15 Q. Is there anything you can't do in terms of  
16 walking or using your legs now that you used to be able  
17 to do?  
18 **A. Yes.**  
19 Q. What can't you do now?  
20 **A. Running. Can't run. I can't -- actually, if**  
21 **I squat, I got to actually get down. If I squat down, I**  
22 **have to actually get down all the way on the floor and**

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1 **pry myself up.**  
2 Q. Mr. White, you are a big man. You didn't do  
3 all that much running before this incident, did you?  
4 **A. I played basketball. I can't do that now.**  
5 **Softball, football.**  
6 Q. You played softball? When did you last play  
7 softball?  
8 **A. It had been years, but I played.**  
9 Q. When did you last play football?  
10 **A. It's been a couple of years. It's been a lot**  
11 **of years**  
12 Q. It's been a lot of years before the shooting;  
13 is that right?  
14 **A. Correct.**  
15 Q. And the same is true of the softball?  
16 **A. But I play basketball regular.**  
17 Q. So you can't run, play basketball, you have  
18 difficulty getting up once you're squatting, if I  
19 understand you?  
20 **A. Correct.**  
21 Q. What other limitations do you believe you have  
22 with respect to your right knee?

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1 **A. Like I was sitting here, it's kind of**  
2 **stiffening up on me, when I was sitting here as long as**  
3 **I was. And I mean, I'm all right. But I don't like to**  
4 **complain about anything. And if I'm hurting, I'm not**  
5 **going to tell anybody that I'm hurting. I don't like**  
6 **taking medicine.**  
7 Q. Do you take any?  
8 **A. No.**  
9 Q. When is the last time you took any medicine as  
10 a result of this shooting?  
11 **A. Probably after my last surgery. And that I**  
12 **don't remember exactly what date that I did that.**  
13 Q. How many surgeries have you had?  
14 **A. Couple of them.**  
15 Q. Excuse me. How many surgeries for your knee  
16 have you had?  
17 **A. Couple.**  
18 Q. Couple being two?  
19 **A. Could have been three. Had to go in there.**  
20 **Couple of them wasn't surgeries. It just opened it up**  
21 **and cleaned it out, because it got infected. He was**  
22 **pulling bullet fragments out and doing different stuff.**

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1 Q. In your opinion, do you suffer any  
2 consequences from the bullets that hit your chest and  
3 abdomen?  
4 **A. At times I can't lay on my right side.**  
5 Q. Why not?  
6 **A. Because I could feel that bullet. And**  
7 **sometimes it gets numb if I'm laying on that side. It**  
8 **will get numb. And I'm sitting down too long -- if I'm**  
9 **sitting in a comfortable chair with cushions, I'm good.**  
10 **But if I'm sitting on a chair and it's hard, I can feel**  
11 **the bullet that I'm sitting on.**  
12 Q. Feel the bullet fragment in your buttocks?  
13 **A. Right.**  
14 Q. Do you know why they didn't take that bullet  
15 fragment out?  
16 **A. I don't know.**  
17 Q. Do you know why they didn't take the bullet  
18 fragment from your chest?  
19 **A. I don't know.**  
20 Q. In your statement, which is Exhibit 1 you said  
21 that you set Brandon down and laid on top of him,  
22 referring to what happened after the shooting.

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1 Is that a reference to laying him at the top  
2 of the stairs?  
3 **A. Correct.**  
4 Q. And trying to find his keys?  
5 **A. The phone.**  
6 Q. Excuse me, the phone. So when you are saying  
7 you are laying on top of him, it was to try to find the  
8 phone?  
9 **A. Correct.**  
10 Q. Not for any other reason?  
11 **A. Correct.**  
12 Q. You didn't say anything in this statement that  
13 is Exhibit 1 about Officer Washington having made two  
14 phone calls after he shot you, do you?  
15 **A. No.**  
16 Q. Is there any reason for that?  
17 **A. Just come-and-go memory. It's been a long**  
18 **time. When I did this right here, I was in the**  
19 **hospital. I don't even know if I was going to make it.**  
20 **I was on drugs. They had me on all kinds of drugs,**  
21 **so --**  
22 Q. Is that your signature?

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1     **A. I didn't even think I was going to make it.**  
2     **You know, even after I left the hospital here, I was**  
3     **still in danger. Because I went right in the**  
4     **hospital -- after I left here, I went to South Carolina**  
5     **and I went right back in the hospital.**  
6     Q. Well, if you didn't think you were going to  
7     make it, you wanted to make sure that this statement was  
8     as complete and accurate as possible, didn't you?  
9     **A. Yes.**  
10    Q. Is that your signature on the third page?  
11    **A. Yes, sir.**  
12    MR. KARP: That's all I have. Thank you, sir.  
13    MR. THIBODEAU: I am not asking any questions.  
14    MR. WINKLEMAN: No questions. We will waive.  
15    (Signature having been waived,  
16    the deposition of ROBERT WHITE,  
17    was concluded at 12:40 p.m.)  
18           \* \* \*  
19  
20  
21  
22

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1           **CERTIFICATE OF SHORTHAND REPORTER**  
2           **I, Tracy Obering, Registered Professional**  
3     Reporter, the officer before whom the foregoing  
4     proceedings were taken, do hereby certify that the  
5     foregoing transcript is a true and correct record of the  
6     proceedings; that said proceedings were taken by me  
7     stenographically and thereafter reduced to typewriting  
8     under my supervision; and that I am neither counsel for,  
9     related to, nor employed by any of the parties to this  
10    case and have no interest, financial or otherwise, in  
11    its outcome.  
12    **IN WITNESS WHEREOF, I have hereunto set my**  
13    hand and affixed my notarial seal this 8th day of  
14    November, 2008.  
15    My commission expires:  
16    December 1, 2008  
17  
18  
19  
20     \_\_\_\_\_  
21    NOTARY PUBLIC IN AND FOR  
22    THE STATE OF MARYLAND

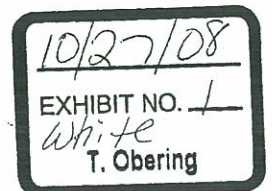
On the evening of January 24, 2007 I was making a delivery in Accokeek, Maryland for Marlo Furniture. I was working with Brandon Clark and this was our last stop of the night. We were going to exchange a set of bed rails for a customer. I had never been to this customer's house before.

When we arrived Brandon went inside to meet the customer. I waited in the truck. Brandon came out of the house with the customer, who was dressed in plain clothes. Brandon came to the truck and said to me "man, this guy is looking for a fight." He asked to use my cell phone so he could call Mike, our supervisor. I told Brandon we should just leave. Brandon spoke to Mike about the situation and the customer, visibly angry, was standing close by. I went to the side of the truck to unload the box with the bed rails while Brandon spoke on the phone.

We went inside the house with Brandon and I carrying the box with the bed rails. The customer was behind us directing us to a bedroom upstairs. When we walked into the bedroom Brandon was closest to the door and I was across from him holding the other side of the bed rails. We set the box down and both Brandon and I were on our knees and we were going to open the box with the bed rails. The customer then pushed Brandon and said "ok, now get the fuck out of my house" to Brandon. Brandon laughed it off. Brandon then looked over at the other bed and asked the customer "why haven't you disassembled that bed?" The customer looked at Brandon and said "man, now you are going to tell me what to do in my house? Get the fuck out of my house" and he shoved Brandon again while he was still on his knees.

I stood up and walked towards Brandon to get us out of there before the customer started anything more with Brandon. He looked at me and said "not you" then turned to Brandon and said "you, get the fuck out of my house." I began walking forward and said to Brandon "come on let's go." Brandon was walking backwards out of the room and I was facing him. The customer was behind me. Brandon had his hands up in the surrender position and said "look man, I don't want to fight, just let me finish my job."

As we were leaving we reached the top of the steps and the customer said "I know how to get you the fuck out of my house" and I heard gunshots. I grabbed Brandon to stop him from falling down the stairs. I set Brandon down and laid on top of him. I asked Brandon where my phone was.





Brandon said it was in his pocket so I reached into his pocket and told Brandon the phone was not there. Brandon said he thought the phone was on the floor under him so I stood up and tried to lift him. I then heard a few more shots and realized I had been shot. I moved a short distance away from Brandon and laid down in the hall. The customer yelled at us not to move.

I waited and when the customer went into the bedroom I stood up to get the phone again from Brandon. The customer must have seen me move because he shot me in the knee and said "I told you not to move." I went down to the floor again and did not move.

The customer had his gun pointed at us and made a phone call. I heard part of the conversation and had the impression he was speaking with someone he knew. I heard him say something like "These two dudes just broke up in my house and I shot both of them and they are here bleeding all over my carpet." He also said something like "they beat me up real good. Yeah, they hit me with a pipe" and I remember sitting there on the ground thinking to myself I can't believe this is how it is going to be.

At some point the customer's wife called upstairs. He yelled at her to stay downstairs. We were asking the customer to call for help. Brandon asked the customer to get his phone for him and the customer said "hell no I am not going to give you your phone." I told the customer I was having trouble breathing and asked him to call for help. We laid on the floor for a long time.

The first people to arrive were two police officers. One was a dark skinned officer in a blue uniform. The other had a lighter blue shirt. The first officer with the blue uniform went to Brandon and immediately handcuffed him. The other officer came to me and said "man, what are you doing in this house, you know you just broke into a cop's house?" That was the first I knew the customer was a police officer. I told him we were just delivering furniture and asked him to help us. He looked surprised and said "you were delivering furniture?" I nodded yes. He said "damnit, why were you delivering so late at night" and told the other officer to get the cuffs off Brandon. He immediately took the cuffs off Brandon.

Paramedics arrived quickly thereafter. They began tending to Brandon and me. I remember being transported to the hospital and recall being on the operating table. I recall the police attempting to ask me

questions but I could not answer. The doctors told me to keep quiet and save my strength.

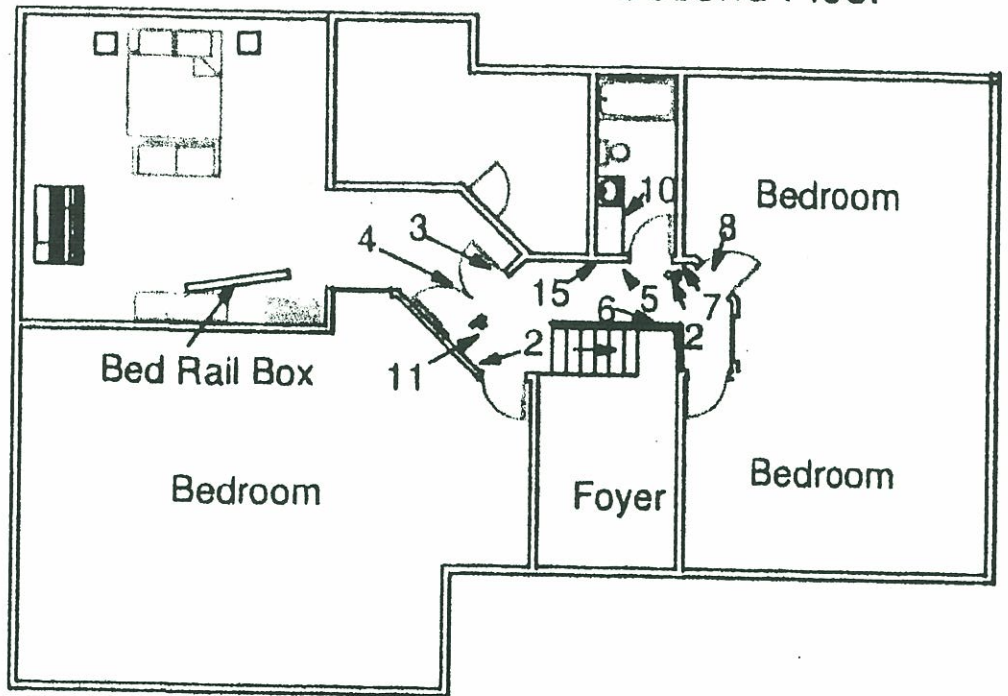
I first learned of Brandon's death when I had been transferred out of Critical Care to my own room and I saw a news report on the television. At the time I am signing this statement I have not discussed this matter with anyone other than my attorney.

By:



Robert White

## Second Floor



10/27/08  
 EXHIBIT NO. 6  
 White  
 T. Obering

P.G.C. FORM #3137 (4/84)

### PRINCE GEORGE'S COUNTY, MARYLAND POLICE DEPARTMENT

#### ACCIDENT/CRIME SCENE SKETCH/DIAGRAM

1 CCN 07

|   |  |
|---|--|
| 2. COMPLAINANT/VICTIM<br><b>Cpl. Washington, K. #1790</b>                     | 3. T/A NAME<br><p style="text-align: center;">n/a</p>                              |
| 4. LOCATION OF INCIDENT (ADDRESS)<br><b>1513 Shellford La., Accokeek, Md.</b> | 5. DATE/TIME<br><b>1-24-07 2100</b>  |
| 7. LEGEND<br>CN1- door handle<br>CN2- cap<br>CN3- wrist watch                 | 8. REPORTING OFFICER<br><b>Tech. W.H. Clelland C364</b><br>9. DISTRICT<br>10. BEAT |