

Jukes  
Intake

Part I  
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SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION-ATLANTIC COUNTY  
INDICTMENT NO. 88-06-1443

-----X  
STATE OF NEW JERSEY :  
vs. : TRANSCRIPT OF  
RICHARD HIGHLANDER : TRIAL PROCEEDINGS  
-----X

**FILED**  
APPELLATE DIVISION  
JUL 11 1990

Atlantic County Courthouse  
Mays Landing, New Jersey  
Wednesday, June 14, 1989

*[Signature]*  
Clerk

BEFORE: STEVEN P. PERSKIE, J.S.C.

ORDERED BY: JAMES JUKES, ADPD

A P P E A R A N C E S:

MURRAY TALASNIK, Assistant Prosecutor  
On Behalf of the State

NATHAN DAVIS, Assistant Public Defender  
and

MICHAEL PRESTON, Assistant Public Defender  
On Behalf of the Defendant

Reported by: Konstantin Koletas, CSR  
Atlantic County Courthouse  
Mays Landing, New Jersey

1 Q. Did you ever do any work with him at a  
2 place called the Madison House?

3 A. Yes.

4 Q. Do you know about when you did that  
5 work?

6 A. It was last year, about the beginning  
7 of the summer.

8 Q. Now, were you to receive money as a  
9 result of your working with Mr. Highlander at  
10 the Madison House?

11 A. Yes.

12 Q. Now, Mr. Duff, in addition to working  
13 with Mr. Highlander, were you ever with him in  
14 a social setting?

15 A. Sometimes I invited him to my house.

16 Q. On any of the times you invited him to  
17 your house or any of the times really you were  
18 with him at work, did he ever talk about any  
19 problems he was having with his girlfriend?

20 A. Sometimes he would mention something  
21 like that.

22 Q. What kinds of things did he mention to  
23 you about problems with his girlfriend?

24 A. Well, he would say something like she  
25 ripped me off, something like that. He didn't

1 go into too many details about it.

2 Q. Did he ever discuss with you about any  
3 charges she brought against him?

4 A. Said something about a tax evasion or  
5 something like that. She told a few things on  
6 him.

7 Q. Okay. Now, how did he feel about her?

8 A. At that time it wasn't too good.

9 Q. At that time it wasn't too good?

10 A. No.

11 Q. What do you mean?

12 A. It made him angry.

13 Q. He would get angry when he would talk  
14 about her?

15 A. Yes.

16 Q. Was there ever any discussion with you  
17 about harming Gloria?

18 A. Yes. At my house one time.

19 Q. What is it that he wanted you to do?

20 A. He wanted me to bump her off.

21 Q. He wanted you to bump her off?

22 A. Yes.

23 Q. Tell us about that conversation.

24 A. Well, he was talking in general. He  
25 asked me would I be willing to bump her off

1 for so much money. I said no, I couldn't.

2 Q. How much money did he offer you to  
3 bump her off?

4 A. Five grand.

5 Q. How did you respond when he offered  
6 you \$5,000 to kill her?

7 A. I couldn't do nothing like that.

8 Q. Was he specific about how much money  
9 you would get and at what times?

10 A. Well, the down payment, half now and  
11 half later after the killing.

12 Q. Half before the job?

13 A. Yes.

14 Q. And half after it was done?

15 A. Right.

16 Q. After you turned him down, after you  
17 refused to accept \$5,000 for bumping her off,  
18 what was his next line of questions or  
19 comments to you?

20 A. He asked me if I knew someone who  
21 would.

22 Q. Who would do what?

23 A. Bump her off.

24 Q. How did you respond to that?

25 A. I don't know anyone.

- 1 Q. Did Mr. Highlander ever come to your  
2 house with a gun?
- 3 A. Yes.
- 4 Q. What did he do with that gun when he  
5 came to your house?
- 6 A. Asked me to keep it for him.
- 7 Q. Did he show it to you?
- 8 A. Yes.
- 9 Q. What did it look like?
- 10 A. Like a six shooter, Smith & Wesson.
- 11 Q. Do you know the difference between a  
12 revolver and an automatic?
- 13 A. Yes.
- 14 Q. Was this a revolver?
- 15 A. Yes.
- 16 Q. He asked you if you would store it for  
17 him?
- 18 A. Yes.
- 19 Q. Did you ask him why?
- 20 A. No. He told me.
- 21 Q. What did he tell you?
- 22 A. He said he was moving in with a friend  
23 that was kind of cooky and he was scared the  
24 guy might get ahold of the gun and harm  
25 himself.

1 Q. And as a result he wanted you to store  
2 the gun?

3 A. Yes.

4 Q. He trusted you?

5 A. Oh, yes.

6 Q. Did you agree to store the gun for  
7 him?

8 A. I did.

9 Q. Where did you keep the gun?

10 A. In my guitar case.

11 Q. Was it in any other kind of container?

12 A. It was wrapped up.

13 Q. Wrapped up in something?

14 A. Yes.

15 Q. Now, I want you to think forward from  
16 the day that he left the gun with you to a  
17 Monday, the 25th of April, 1988. Did you work  
18 that day?

19 A. Yes.

20 Q. Do you remember about what time in the  
21 morning of that Monday you could home from  
22 work?

23 A. About 10 o'clock.

24 Q. Do you remember seeing Mr. Highlander  
25 when you got home from work?

- 1 A. Yes. He was waiting on my front porch  
2 -- steps, rather.
- 3 Q. When he was waiting on your front  
4 steps, was anybody with him?
- 5 A. Yes. A black gentleman.
- 6 Q. A black gentleman?
- 7 A. Yes.
- 8 Q. Can you describe him any better than  
9 that?
- 10 A. He was about six feet, 180 pounds and  
11 a bald head.
- 12 Q. Bald head?
- 13 A. Right.
- 14 Q. Did you have a conversation with Mr.  
15 Highlander and this other black fellow that  
16 morning?
- 17 A. He introduced me to him.
- 18 Q. Did you invite them into your home?
- 19 A. Yes, I did.
- 20 Q. What went on with the three of you in  
21 your home?
- 22 A. Well, we had a couple of beers and  
23 proceeded to go pick up Mr. Highlander's check  
24 from the Madison House.
- 25 Q. Now, while Mr. Highlander was at your

1 house with the black gentleman that was  
2 introduced to you, was there any conversation  
3 about this gun that he had left with you?

4 A. I still had it for him.

5 Q. He asked you if you still had it for  
6 him?

7 A. Right.

8 Q. Did you show it to him?

9 A. Yes. We went back into the bedroom,  
10 opened the case up and looked at it.

11 Q. Did you remove it from the case?

12 A. I didn't.

13 Q. Who did?

14 A. He did.

15 Q. Did he look at it?

16 A. Yes.

17 Q. Did he take it with him?

18 A. No.

19 Q. What did he say?

20 A. He would be back later on that night  
21 to pick it up.

22 Q. Now, did they ask you, that is to say  
23 Rick Highlander and this black fellow that was  
24 with him, to take them any place?

25 A. Afterwards.



- 1 Q. After they looked at the gun?
- 2 A. Yes. They wanted to go to the Madison  
3 House to pick up his check.
- 4 Q. Did you, in fact, take them to the  
5 Madison House?
- 6 A. Yes.
- 7 Q. Whose car?
- 8 A. My car.
- 9 Q. Who drove?
- 10 A. I did.
- 11 Q. Did you arrive at the Madison House?
- 12 A. Yes.
- 13 Q. And was Mr. Highlander with you?
- 14 A. Yes, he was.
- 15 Q. And this black fellow?
- 16 A. Right.
- 17 Q. Somebody else, too?
- 18 A. A friend of the family.
- 19 Q. What went on at the Madison House?
- 20 A. He wanted -- Mr. Highlander went into  
21 the Madison House to get his check for work  
22 completed and he got the check and we  
23 proceeded down to Ventnor to get the check  
24 cashed.
- 25 Q. How do you know you were going to

1 Ventnor to get the check cashed?

2 A. Mr. Highlander asked me to take him  
3 there.

4 Q. Do you know about where you went in  
5 Ventnor to get the check cashed?

6 A. At a grocery store.

7 Q. Did the clerk in the grocery store  
8 just cash the check there?

9 A. No. He said he didn't have enough  
10 money to cash it.

11 Q. So what happened?

12 A. He took Mr. Highlander up to this bank  
13 and proceeded to whatever they had to do.

14 Q. What were you doing while the guy from  
15 the grocery store was taking Mr. Highlander to  
16 the bank?

17 A. I was sitting in my car waiting with  
18 the other gentleman.

19 Q. Did Mr. Highlander come back from the  
20 bank?

21 A. Yes.

22 Q. And what did he do?

23 A. We proceeded to go out to Ruffu Ford,  
24 out that way.

25 Q. Well, now, when Mr. Highlander got

- 1 back from the bank, did he get in your car?
- 2 A. Yes.
- 3 Q. Did it appear that he had been able to  
4 get the check cashed?
- 5 A. Yes. Everybody was happy.
- 6 Q. Everybody was happy?
- 7 A. Yes.
- 8 Q. What do you mean? Was there something  
9 in this for you?
- 10 A. Oh, yes. I work for him.
- 11 Q. And he was paying you?
- 12 A. That's right.
- 13 Q. After you left the grocery store,  
14 after Rick had gotten the check cashed, where  
15 did you then go?
- 16 A. We went down to rent cars from on the  
17 Black Horse Pike.
- 18 Q. Did you just go to one place or more  
19 than one?
- 20 A. Two places.
- 21 Q. Did you rent the car at the first  
22 place?
- 23 A. No.
- 24 Q. What about the second place?
- 25 A. At Ruffu Ford we rented the car.

1 Q. That's where the car got rented?

2 A. Yes.

3 Q. Who went inside to rent the car?

4 A. The first time? Mr. Highlander.

5 Q. What about the second time at Ruffu  
6 Ford?

7 A. Highlander and the other black  
8 gentleman went.

9 Q. Do you know where the money came from  
10 to rent the car?

11 A. From Rick.

12 Q. From Rick?

13 A. Yes, sir.

14 Q. Now, after the car was rented, did you  
15 have any kind of a conversation with Rick  
16 before you left?

17 A. Yes.

18 Q. What did he tell you?

19 A. Well, I was under the impression he  
20 was going to Florida.

21 Q. Was there any discussion about that  
22 gun that he had left with you?

23 A. That he would be back later on that  
24 night to pick it up.

25 Q. After telling you that he would be

1 back later on to pick it up that night, where  
2 did you go?

3 A. I went straight home.

4 Q. Did you remain home the balance of the  
5 day and into the night?

6 A. Yes, I did.

7 Q. Did Mr. Highlander, in fact, come back  
8 that night?

9 A. Yes.

10 Q. Do you know about what time it might  
11 have been when he came back?

12 A. Probably about 6:00 or 7:00, I guess.

13 Q. Was it already dark or getting on to  
14 dark?

15 A. Dark.

16 Q. It was?

17 A. Yes.

18 Q. When he came in, what did he do?

19 A. He asked -- he spoke to everybody in  
20 the front and came back to talk to me.

21 Q. What did he say when he came back to  
22 talk to you?

23 A. He said he came to pick up his piece.

24 Q. And after he said he had come back to  
25 pick up his piece, what did you do?

1 A. He left the place.

2 Q. I'm sorry?

3 A. He left the place.

4 Q. What about the gun?

5 A. He picked it up.

6 Q. He picked it up? How do you know?

7 A. I gave it to him.

8 Q. You gave him the gun?

9 A. Right.

10 Q. And what did he do with the gun?

11 A. He put it somewhere on himself and  
12 left.

13 Q. And he left?

14 A. Yes.

15 Q. Is that the last time you saw Mr.  
16 Highlander?

17 A. Yes.

18 MR. TALASNIK: No further questions.

19 THE COURT: You may cross-examine.

20 CROSS-EXAMINATION

21 BY MR. DAVIS:

22 Q. Mr. Duff, you indicated that during  
23 this period of time you worked for Mr.  
24 Highlander?

25 A. Yes.

1 Q. And approximately how long had you  
2 worked for Mr. Highlander before this  
3 incident?

4 A. About two or three years.

5 Q. About two or three years?

6 A. Yes.

7 Q. Through that two or three year period,  
8 I assume you got to know Mr. Highlander pretty  
9 well?

10 A. Yes.

11 Q. And I would also assume that through  
12 that two or three year period that he got to  
13 know you pretty well?

14 A. Yes.

15 Q. And would he visit your home quite  
16 often?

17 A. Yes, sometimes.

18 Q. Directing your attention to this date  
19 of April 25th, he came to your home on that  
20 date?

21 A. Yes.

22 Q. And you indicated the purpose he came  
23 to your home was to pay you money?

24 A. Yes.

25 Q. He owed you money for what?

- 1 A. For a job completed.
- 2 Q. After you took him around to the
- 3 grocery store --
- 4 A. To take care of business.
- 5 Q. After he took you to the grocery
- 6 store, he paid you?
- 7 A. Yes.
- 8 Q. Is it not a fact he also owed you an
- 9 additional \$50.00 he was supposed to come back
- 10 and give you that night?
- 11 A. Yes. Not to me, but to Brian.
- 12 Q. Brian?
- 13 A. Yes.
- 14 Q. Who is Brian?
- 15 A. That's my old lady's nephew.
- 16 Q. Where did Brian live at that time?
- 17 A. Right then he stayed with me.
- 18 Q. In order to pay Brian, he would have
- 19 to come back to your house?
- 20 A. Yes.
- 21 Q. He indicated that to you earlier that
- 22 day he had to come back and pay Brian \$50.00?
- 23 A. Yes.
- 24 Q. When he was at your home the first
- 25 time you saw him on April 25th when you saw



1 him with the other black gentleman, is it not  
2 a fact that you and he were talking business?

3 A. About the Madison House?

4 Q. Yes.

5 A. Yes.

6 Q. About what other place?

7 A. The Quality Inn.

8 Q. The Quality Inn?

9 A. Yes.

10 Q. And what was he telling you?

11 A. Well, one had paid and the other  
12 hadn't paid.

13 Q. Okay. Was he giving you instructions  
14 of what he wanted you to do with regard to  
15 these two premises?

16 A. Yes.

17 Q. What was he indicating to you?

18 A. He wanted me to go finish work on the  
19 Madison House.

20 Q. Whether you say finish work, what type  
21 of work?

22 A. We were doing scaffolding work and  
23 ginny chair work.

24 THE COURT: What was that word?

25 A. Ginny chair.

1 Q. What was that, ginny chair?

2 A. That.

3 THE COURT: I'm glad you asked that  
4 question, Mr. Davis.

5 A. It's a cylinder you put a rod down and  
6 you slide down the edge of the building on the  
7 outside.

8 Q. Now, when he was telling you what he  
9 wanted you to do, were you under the  
10 impression he was going to leave town?

11 A. Yes, I was.

12 Q. Were you under the further impression  
13 that he was going to return?

14 A. Yes.

15 Q. Now, during that conversation during  
16 that morning when he was telling you what to  
17 do, was there anything unusual about what you  
18 should do for the next couple of days?

19 A. That's normal.

20 Q. That was normal?

21 A. Yes.

22 Q. Was it normal for him to come to your  
23 house and tell you what to do?

24 A. That's right.

25 Q. Now, at that point you said you had a

1     weapon.

2     A.         Yes.

3     Q.         And that weapon was contained in your  
4     guitar case?

5     A.         Yes.

6     Q.         Now, was it wrapped in anything or how  
7     was it in your guitar case?

8     A.         Wrapped in a cloth.

9     Q.         Wrapped in a cloth?

10    A.         Yes.

11    Q.         What type of cloth was it?

12    A.         A regular cotton cloth.

13    Q.         Just a cotton cloth?

14    A.         Yes.

15    Q.         What color was this?

16    A.         White.

17    Q.         White?

18    A.         Yes.

19    Q.         And you're the one who put it in your  
20    guitar case?

21    A.         Yes.

22    Q.         And when he came that afternoon or  
23    that morning, was it taken out of the guitar  
24    case?

25    A.         Yes.

- 1 Q. And where is your guitar case located?
- 2 A. In my bedroom.
- 3 Q. Was that gun taken out of the bedroom
- 4 that morning?
- 5 A. The morning? When Rick came to see
- 6 me?
- 7 Q. The 25th.
- 8 A. Not before he asked me to take it out.
- 9 Q. When he took it out of the case, where
- 10 was it taken, if anywhere?
- 11 A. He looked at it, that's all.
- 12 Q. Right there in the bedroom?
- 13 A. Yes.
- 14 Q. And put it right back in the case?
- 15 A. Yes.
- 16 Q. So it wasn't taken out into the living
- 17 room and you played with it and he played it
- 18 with and the black man looked at it?
- 19 A. I don't think so.
- 20 Q. And was it put back in in the same
- 21 wrapper, this white wrapper?
- 22 A. Yes.
- 23 Q. Who put it back in the guitar case?
- 24 A. I did, I believe.
- 25 Q. And he came back later that night.

1 Who took it out of the guitar case?

2 A. I did.

3 Q. And it was still in this white  
4 wrapper?

5 A. Right.

6 Q. Now, you indicated that -- did you  
7 know Gloria Simonelli?

8 A. No.

9 Q. You didn't know her?

10 A. Not personally.

11 Q. Did you know about her?

12 A. I heard about her.

13 Q. And that was through who?

14 A. Mr. Highlander.

15 Q. And did you know that there came a  
16 time when Mr. Highlander and Gloria had split  
17 up?

18 A. Yes, I heard about that.

19 Q. How did you hear about that?

20 A. Mr. Highlander mentioned it.

21 Q. He mentioned it to you?

22 A. Yes.

23 Q. Did he talk much about Gloria after  
24 they split up?

25 A. Not too much, except they broke up, he

1 didn't want to talk about it.

2 Q. He didn't want to talk about it?

3 A. Yes,

4 Q. Did he appear to be upset or hurt  
5 about it?

6 A. He seemed to be upset.

7 Q. Upset?

8 A. Yes.

9 Q. Now, you've indicated he offered you  
10 \$5,000 and did he do that in a serious vein,  
11 Mr. Duff?

12 A. Pardon?

13 Q. Did he do it in a serious manner?

14 A. Not too serious.

15 Q. He had known you?

16 A. Three or four years.

17 Q. Did he know you would do something  
18 like that?

19 A. No.

20 Q. Pardon me?

21 A. No.

22 Q. Did you take him serious when he was  
23 talking to you?

24 A. No, I didn't.

25 Q. And did he ever mention it again to

1 you?

2 A. That was it.

3 Q. Did he mention his intent of doing any  
4 harm to Gloria to you?

5 A. No.

6 Q. And when he came back that night of  
7 April 25th and he picked up the weapon, what  
8 was your impression that he was about to do?

9 A. He was taking all his belongings and  
10 going down south to see his dad.

11 Q. Do you know where that was?

12 A. Florida.

13 Q. And when you gave him that weapon,  
14 what did you give it to him wrapped in, if  
15 anything?

16 A. Some cotton thing, piece of fabric.

17 Q. Piece of fabric?

18 A. That's all.

19 Q. It wasn't a brown paper bag?

20 A. I don't think it was.

21 Q. A white fabric?

22 A. I'm not sure.

23 Q. Your recollection was a white fabric?

24 A. Yes.

25 Q. Now, Mr. Duff, when you were initially

1 -- when you gave the statement to the police

2 -- how did you get to the police department?

3 Did they contact you or did you contact them?

4 A. They contacted me.

5 Q. Where were you taken?

6 A. I was taken out to the crime division.

7 Q. Do you know what city that is in?

8 A. In Northfield, I believe.

9 Q. What time of day or night was that  
10 about?

11 A. That was in the afternoon.

12 Q. How long did you stay out there?

13 A. Four hours.

14 Q. Pardon me?

15 A. Four hours.

16 Q. Were you questioned for four hours?

17 A. Almost.

18 Q. Almost. During that four hour period,  
19 you told the police that you didn't know  
20 anything about this gun, that you never saw  
21 the gun, you never had the gun, you never saw  
22 Richard Highlander with a gun.

23 A. No.

24 Q. No what?

25 A. I don't believe I said that.



1 Q. Didn't you initially deny that you  
2 knew anything about this?

3 A. No.

4 Q. You didn't?

5 A. No.

6 Q. Do you recall speaking to Sergeant  
7 Porchelli on April 28th, 1988?

8 A. Sure.

9 Q. And during the initial part of your  
10 conversation to Sergeant Porchelli, you  
11 indicated you knew nothing about this  
12 situation?

13 A. I don't remember that.

14 Q. You don't remember?

15 A. No.

16 Q. Okay. You say you don't remember or  
17 it didn't happen?

18 A. You have a statement from me.

19 Q. I know he got a statement from you.  
20 He has more than one statement from you,  
21 doesn't he?

22 A. Yes.

23 Q. Pardon?

24 A. Yes.

25 Q. And what I'm talking about is your

1 first statement. And your first statement  
2 that you gave is that you didn't know anything  
3 about this situation. Isn't that the first  
4 statement you gave?

5 A. That's right.

6 Q. So now you remember you gave that  
7 statement, that you didn't know anything about  
8 this situation. Is that true?

9 A. That's true.

10 Q. And then after being out there for  
11 four hours, now you know something about that  
12 statement.

13 A. Right.

14 Q. Well, if you knew something about the  
15 statement, why did you tell the police you  
16 didn't know anything about the statement?

17 A. I didn't want to get involved.

18 Q. You didn't want to get involved. Is  
19 everything you said in your statement, does  
20 that come from your mouth or did the  
21 investigators help you with your memory?

22 A. They gave me a line of questions to  
23 answer.

24 MR. TALASNIK: Excuse me, your  
25 Honor. At this point I want to approach side

1 bar with Mr. Davis.

2 THE COURT: All right.

3 (Whereupon, the following occurred  
4 at side bar)

5 MR. TALASNIK: Judge, at this point  
6 I want to prevent a hand grenade from going  
7 off. This witness was given a polygraph test.  
8 After his first statement and before the final  
9 statement he was given a polygraph test. When  
10 he was advised he failed certain questions,  
11 the final version came through. When I  
12 interviewed this witness, I cautioned him  
13 about not referring to that fact. That's been  
14 some time, and the last thing I want to happen  
15 is for this witness in responding to Mr. Davis  
16 to refer to the giving of the polygraph, since  
17 that accounts for a chunk of that four hour  
18 period between the first statement and the  
19 last statement. At this point I'm asking for  
20 instructions from the Court to prevent this  
21 from happening.

22 MR. DAVIS: Well, Judge, I'm not  
23 going to ask him about the polygraph.

24 THE COURT: Well, just be sure you  
25 ask him questions that don't allow him the

1 opportunity to volunteer it.

2 MR. DAVIS: What Mr. Preston is  
3 indicating, you can caution him outside of the  
4 presence of the jury, if you wish.

5 THE COURT: Well, I suppose I could.  
6 Do you have any idea how much longer your  
7 cross will take. I'm looking at the schedule,  
8 not trying to limit you.

9 MR. DAVIS: Only a few minutes. I'm  
10 just about done, really.

11 MR. TALASNIK: Maybe we can break  
12 for lunch. We can accomplish that and come  
13 back at 1:30.

14 THE COURT: I guess that's probably  
15 safer. By the time I get the jury out -- it  
16 is almost 10 after 12:00. By the time I get  
17 them out, caution him and bring them back in,  
18 it would almost be silly.

19 (Whereupon, the side bar ended)

20 THE COURT: 20 and 15 make 35. Keep  
21 a running tally. I'm 35 minutes to the good.  
22 I want to make sure we get our account in  
23 order. We will recess a few minutes early for  
24 lunch while I take care of the situation that  
25 counsel have brought to my attention and we

1 will finish up with this witness and have the  
2 remaining witnesses this afternoon starting at  
3 1:30.

4 Again, please remember during your  
5 luncheon recess to be careful not to engage in  
6 any discussions about anything having to do  
7 with the case. We will see you after lunch.

8 (Whereupon, the Jury leaves the  
9 courtroom)

10 THE COURT: Mr. Duff, you may step  
11 down in just a moment. During the course of  
12 the luncheon recess you should be careful not  
13 to discuss the substance of your testimony  
14 with anybody. Now, let me ask, it has been  
15 represented to me by Mr. Talasnik that during  
16 the period of time that you were in the  
17 prosecutor's office that day, you had a lie  
18 detector test

19 THE WITNESS: That's correct. I was  
20 not supposed to say that.

21 THE COURT: It has been represented  
22 to me that was not to be disclosed unless you  
23 were specifically asked about it. Is that  
24 also your understanding?

25 THE WITNESS: Correct.

1 THE COURT: I simply want to remind  
2 you and caution you that you will not be asked  
3 about it and you shouldn't mention it. If, in  
4 fact, one of the lawyers specifically asks you  
5 a question which refers to the lie detector,  
6 you may answer it. But I don't expect it to  
7 happen and therefore I don't expect you to  
8 answer it

9 THE WITNESS: Thank you.

10 THE COURT: Mr. Talasnik, what do  
11 you have on the agenda for this afternoon?

12 MR. TALASNIK: Your Honor, I believe  
13 I will have available Terri McCabe, Patrick  
14 Sullivan, Tania Martin and Patrolman Oakes  
15 from the Margate police department.

16 THE COURT: Okay. Got all that, Mr.  
17 Davis?

18 MR. DAVIS: Yes. I'm all right.

19 MR. TALASNIK: Under those  
20 circumstances, I will definitely not have  
21 witnesses to present on Friday. As of  
22 tomorrow, I will exhaust the witnesses that  
23 were available to me this week. The balance  
24 are not available until next Monday.

25 THE COURT: And again for the

1 record, next Monday you will have whom.

2 MR. TALASNIK: Judith Breyers, the  
3 officers from the FBI and the local officers  
4 involved in the transport and confession  
5 taking.

6 THE COURT: Which I estimate that we  
7 would be able to accomplish by Tuesday.  
8 That's it?

9 MR. TALASNIK: At the present,  
10 that's about it. There may be a couple of  
11 other witnesses that were on vacation this  
12 week that I may want to bring in of a very  
13 brief duration, but I expect to be able to  
14 rest my case by the close of court on Tuesday.

15 MR. DAVIS: I'll be ready Wednesday  
16 morning, then, Judge.

17 THE COURT: I don't doubt it. See  
18 you after lunch.

19 (Luncheon recess)

20

21

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1 A F T E R N O O N S E S S I O N

2 (Jury enters the courtroom)

3 THE COURT: All right. Mr. Davis,  
4 you may proceed.

5 BY MR. DAVIS:

6 Q. Mr. Duff, just before lunch break, you  
7 indicated you had initially indicated to the  
8 prosecutor's office that you didn't know  
9 anything about this situation.

10 A. Right.

11 Q. And in particular about the gun.

12 A. Right.

13 Q. Now, you further indicated to me that  
14 you were in the prosecutor's office about four  
15 hours.

16 A. Right.

17 Q. Did the prosecutor put any heat on you  
18 in any fashion to make this statement, this  
19 last statement you made?

20 A. Yes.

21 Q. They did?

22 A. Yes.

23 MR. DAVIS: That's all I have, your  
24 Honor.

25 THE COURT: Mr. Talasnik?



1 REDIRECT EXAMINATION

2 BY MR. TALASNIK:

3 Q. Now, Mr. Duff, the first time that you  
4 were interviewed on the day that the interview  
5 process began, you did not disclose your  
6 information about the gun; right?

7 A. No.

8 Q. Why didn't you volunteer --

9 MR. DAVIS: If he could answer yes  
10 or no without shaking his head?

11 THE COURT: He said no.

12 BY MR. TALASNIK:

13 Q. Why didn't you volunteer the  
14 information about that?

15 A. I don't believe in ratting on people.

16 Q. You don't believe in ratting on  
17 people?

18 A. That's right.

19 Q. You didn't want to get anybody in  
20 trouble?

21 A. Right.

22 Q. During the time of the questioning  
23 that occurred after that, did anybody threaten  
24 you?

25 A. No.

1 Q. Did anybody assault you?

2 A. No.

3 Q. Did anybody push you around?

4 A. No.

5 Q. Did anybody do anything that put you  
6 in fear?

7 A. No.

8 Q. After some additional conversation  
9 with investigators, did you agree to give them  
10 a truthful statement?

11 A. Yes.

12 Q. And do you recall that this statement  
13 was given the very same day that you initially  
14 denied knowing about the gun?

15 A. Yes.

16 Q. And that truthful statement was on  
17 tape even, wasn't it?

18 A. Yes.

19 Q. Now, I'm going to ask you a series of  
20 questions and answers and ask you whether you  
21 recall that these were the questions and  
22 answers contained on that taped statement;  
23 okay?

24 A. Yes.

25 Q. "QUESTION: Did there come a time

1 when Mr. Highlander brought a gun over to your  
2 house?

3 "ANSWER: Yes."

4 A. Right.

5 Q. "QUESTION: Okay. Tell us about  
6 that.

7 "ANSWER: He brung a gun over my  
8 house between three weeks to two weeks prior  
9 to this.

10 "QUESTION: So about two weeks ago,  
11 two and a half, three weeks ago --

12 "ANSWER: Yeah, he wanted me to keep  
13 it because Michael, the guy he was staying  
14 with, was kind of erratic and he might harm  
15 him or harm himself, you know, so he didn't  
16 want in his -- over his house."

17 A. Right.

18 Q. "QUESTION: Okay. Can you describe  
19 the gun for us?

20 "ANSWER: It was like a six shot colt  
21 or a revolver."

22 A. Right.

23 Q. "QUESTION: All right. Small, large?

24 "ANSWER: Medium size, six inch  
25 barrel, I believe."

1 A. Right.

2 Q. "QUESTION: Okay. Did you look in  
3 the barrel to see what was in it?

4 "ANSWER: Yeah, I looked in the  
5 barrel and it had hollow points in it and had  
6 a few regular round ones."

7 A. Right.

8 Q. In that same statement, do you recall  
9 the following question and answer.

10 "QUESTION: Okay. What did he ask  
11 you to do when you brought it over?

12 "ANSWER: He said he wanted me to  
13 keep it for him and until he needed it."

14 A. Right.

15 Q. "QUESTION: Okay. And what did you  
16 do at that point?

17 "ANSWER: Well, I gave the guy a beer  
18 and told him to have a seat and, uh, me and  
19 Rick walked in the back. He asked me -- he  
20 didn't want to pick up the gun right now. He  
21 wanted to pick it up later on that afternoon,  
22 after he paid us for work, you know."

23 A. Right.

24 Q. "QUESTION: And had he previously  
25 told you that he was going to pick the gun up

1 that day?

2 "ANSWER: Yes, he told me that  
3 earlier when I first seen him on the steps and  
4 then he went upstairs and told me the same  
5 thing all over again.

6 A. Right.

7 Q. "QUESTION: All right. Now, did  
8 there come a time -- did you have any other  
9 phone conversations or anything else with Rick  
10 Highlander that afternoon?

11 "ANSWER: No, I did not. I knew he  
12 was coming back."

13 A. Right.

14 Q. "QUESTION: All right. Because he  
15 indicated --

16 "ANSWER: Earlier that he would be  
17 back by to pick up his piece.

18 "QUESTION: Okay. Meaning the gun?

19 "ANSWER: The gun."

20 A. Right.

21 Q. "QUESTION: Meaning the gun?

22 "ANSWER: Yes."

23 A. That's correct.

24 Q. "QUESTION: Did there come a time  
25 later that day that he did come by to pick up

1 the gun?

2 "ANSWER: Yes, it was dark when he  
3 came by."

4 A. Right.

5 Q. And all of that was contained in the  
6 same statement that you gave the same day that  
7 you were initially interviewed by the police?

8 A. Yes.

9 Q. And you weren't promised anything to  
10 give that statement?

11 A. No.

12 Q. Nobody threatened you?

13 A. No.

14 Q. Nobody beat you?

15 A. No.

16 Q. Nobody put any words in your mouth?

17 A. No.

18 MR. TALASNIK: No further  
19 questions.

20 RE-CROSS-EXAMINATION

21 BY MR. DAVIS:

22 Q. Somebody kept you there for four hours  
23 to get you to make that statement?

24 A. I was there.

25 Q: You were there, weren't you?

1 A. Yes.

2 Q. You didn't want to be there, did you?

3 A. No.

4 Q. Did they allow you to contact anybody  
5 to get you out of there?

6 A. No.

7 Q. You indicated to me that the  
8 prosecutor's office put heat on you. What do  
9 you mean by that?

10 A. A lot of questions.

11 Q. Questions?

12 A. Yes.

13 Q. And did they keep pushing you for  
14 answers?

15 A. Well, they kept asking the same thing  
16 over and over.

17 Q. You gave them the original statement.  
18 They didn't stop with what you originally told  
19 them?

20 A. No.

21 Q. They kept pushing for another  
22 statement?

23 A. Yes.

24 Q. Now, you've told us today that one  
25 statement is true and one statement is false?

- 1 A. Almost.
- 2 Q. What do you mean almost?
- 3 A. Well, one is exactly the truth and one  
4 isn't exactly the truth either.
- 5 Q. Which one is that?
- 6 A. The first one.
- 7 Q. What about the second one?
- 8 A. That's complete.
- 9 Q. Pardon?
- 10 A. In detail.
- 11 Q. Detail?
- 12 A. Yes.
- 13 Q. Now, when you initially were  
14 questioned by the police, you told them the  
15 first statement was true?
- 16 A. Yes.
- 17 Q. And then you turned around and told  
18 them the first statement is untrue.
- 19 A. I didn't say that.
- 20 Q. Didn't you -- well, is the first  
21 statement true?
- 22 A. Partially.
- 23 Q. Partially true?
- 24 A. Right.
- 25 Q. Is it true when you said you knew



1 nothing about this?

2 A. That was a lie.

3 Q. Is it true when you said there was a  
4 no gun?

5 A. That was a lie.

6 Q. What was true?

7 A. The second statement.

8 Q. Pardon me?

9 A. The second statement.

10 Q. What was the second statement?

11 A. He had a gun.

12 Q. I want you to listen to me, Mr. Duff.  
13 Maybe you don't understand me. When you were  
14 first questioned by the police, you told them  
15 you knew nothing about a gun, is that true?

16 A. Yes.

17 Q. And you told them you didn't know  
18 anything about Rick Highlander and this gun?

19 A. Did I say?

20 Q. You said you didn't know anything  
21 about the gun being in your house, didn't you?

22 A. I didn't say that, did I.

23 Q. Did you tell them that you gave Rick  
24 Highlander the gun?

25 A. Yes.

- 1 Q. The first time?
- 2 A. Yes.
- 3 Q. Do you recall Mr. Porchelli talking to  
4 you on April 28th?
- 5 A. Yes.
- 6 Q. And do you know what I mean when I say  
7 a pre-interview with regard to making a  
8 statement?
- 9 A. They ask the questions first and then  
10 after that --
- 11 Q. What the police do, they question you  
12 first to find out what you are going to say  
13 and then after they find out what you are  
14 going to say, then they make a final --
- 15 A. Statement.
- 16 Q. -- statement, is that true?
- 17 A. That's right.
- 18 Q. During the course of this first  
19 statement, they asked you had you ever seen  
20 Mr. Highlander with a gun.
- 21 A. That previous -- that same day?
- 22 Q. That same day we were talking about.  
23 Your answer was no?
- 24 A. Right.
- 25 Q. And they asked you if you knew

1 anything about the homicide and your answer  
2 was no?

3 A. I didn't.

4 Q. Okay. Then they kept questioning you  
5 and then you made a second statement which, as  
6 Mr. Talasnik has indicated to you, is a  
7 statement that they took down upon tape; is  
8 that true?

9 A. Yes.

10 Q. Before they took that statement down  
11 on tape, they went through a long series of  
12 questions with you, questions and answers?

13 A. Right.

14 Q. And that first set of questions and  
15 answers that you gave them, they didn't stop  
16 there, did they?

17 A. No.

18 Q. And you're telling us today that that  
19 first set of questions and answers was not  
20 true.

21 A. Partially.

22 Q. Well, let me ask you one phrase. Did  
23 you tell them you had never seen Rick  
24 Highlander with a gun?

25 THE COURT: You are talking about

1 the beginning?

2 MR. DAVIS: The very first  
3 statement.

4 A. Yes.

5 Q. You then later turn around and the  
6 various questions that Mr. Talasnik read back  
7 to you, the questions and answers which  
8 indicated you did see him with a gun?

9 A. Yes.

10 Q. Now you are telling us that your first  
11 statement was untrue?

12 A. Part of it.

13 Q. Just that one phraseology.

14 A. Yes.

15 Q. Was untrue?

16 A. Yes.

17 Q. So, in fact, when you gave that  
18 initial statement, you were not being truthful  
19 with the police is what you are telling us?

20 A. That's right.

21 Q. Before you gave that statement, didn't  
22 you indicate to them that you were going to  
23 tell them the truth?

24 A. Yes.

25 Q. But you didn't tell them the truth.

1 A. 'The first time?

2 Q. The first time.

3 A. That's right.

4 Q. Is that true?

5 A. Yeah.

6 Q. Now you want us to believe because you  
7 are telling us that you are telling us the  
8 truth today that it is the truth?

9 A. Yes.

10 Q. But you're capable of telling people  
11 that you will tell the truth and not tell the  
12 truth.

13 A. Sounds like it, don't it?

14 Q. Pardon me?

15 A. I guess it sounds like it, don't it.

16 Q. I didn't understand.

17 THE COURT: He said I guess it  
18 sounds like that, doesn't it.

19 Q. Not only does it sound like that,  
20 that's the way it is, isn't it?

21 A. That's the way it sounds to me.

22 MR. DAVIS: That's all I have.

23 THE COURT: Mr. Talasnik.

24 REDIRECT EXAMINATION

25 BY MR. TALASNIK:

1 Q. The statement I read to you from, the  
2 one that was on tape, the questions and  
3 answers that I read to you, that was the  
4 truth?

5 A. Yes.

6 Q. And is that the same truth you told us  
7 here today?

8 A. Yes.

9 Q. And the reason you didn't give it all  
10 up front is why?

11 A. I don't like to rat on people.

12 MR. TALASNIK: No further questions.

13 THE COURT: Mr. Davis?

14 MR. DAVIS: No, I don't have nothing  
15 else.

16 THE COURT: You may step down, Mr.  
17 Duff. Thank you very much for coming.

18 (Witness excused)

19 MR. TALASNIK: The State calls Terri  
20 McCabe.

21 THERESA McCABE, having been duly sworn, was  
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. TALASNIK:

25 Q. Where do you live, Ms. McCabe?

1 A. 27 South Little Rock in Ventnor.

2 Q. How long have you lived in the Ventnor  
3 area?

4 A. Three years.

5 Q. What kind of work do you do?

6 A. I'm a VIP representative at Trop  
7 World.

8 Q. While working at Trop World, did you  
9 come to know a young lady by the name of  
10 Gloria Simonelli?

11 A. Yes.

12 Q. How well did you come to know her?

13 A. Very well. We were very close  
14 friends.

15 Q. Would you see each other after work?

16 A. Yes.

17 Q. What about your days off?

18 A. We made sure we had the same days off  
19 every week.

20 Q. And would you do things together  
21 socially?

22 A. Yes.

23 Q. How long have you known Gloria  
24 Simonelli?

25 A. Seven years.

1 Q. Did you become aware of Gloria's  
2 involvement with a man by the name of Rick  
3 Highlander?

4 A. Yes.

5 Q. How did you become aware of that  
6 relationship?

7 A. She told me about it.

8 Q. And do you recall when that might have  
9 been that you first found out about it?

10 A. At the end of the summer.

11 Q. Of what year?

12 A. Of last year, '88.

13 Q. Maybe '87?

14 A. I mean '87.

15 Q. Okay. Now, did you continue to have a  
16 friendship with Gloria during the time that  
17 Gloria and Rick were dating?

18 A. At the beginning, yes.

19 Q. What do you mean at the beginning?

20 A. At the beginning of the relationship,  
21 we were still friendly, but as the  
22 relationship grew, she wasn't allowed to stay  
23 in contact with me.

24 Q. Did you have some problems with Rick?

25 A. Personally? No. No.



1 Q. All right. But you felt there was  
2 some interference?

3 A. Gloria told me that she wasn't allowed  
4 to hang around with me.

5 MR. DAVIS: I object to this, your  
6 Honor.

7 THE COURT: Objection will be  
8 sustained.

9 BY MR. TALASNIK:

10 Q. Now, did you learn at some point that  
11 Gloria and Rick moved in together?

12 A. Yes.

13 Q. And where were they living together?

14 A. On Monroe Avenue in Margate.

15 Q. Whose place was that?

16 A. It was Gloria's condo.

17 Q. Had she lived there before Rick moved  
18 in?

19 A. Yes.

20 Q. And did she continue to live there  
21 after Rick moved out?

22 A. Yes.

23 Q. Now, during March of 1988, did you  
24 become aware of an assault incident that  
25 involved Gloria and Rick?

- 1 A. Yes.
- 2 Q. How did you become aware of this?
- 3 A. From Jean Bruni, who was Gloria's
- 4 supervisor at work.
- 5 Q. Was Jean also a social friend of
- 6 yours?
- 7 A. Yes.
- 8 Q. Was she a social friend of Gloria's?
- 9 A. Yes.
- 10 Q. When was the first time you saw or
- 11 spoke with Gloria after that incident?
- 12 A. A week later.
- 13 Q. And when you saw her a week later, how
- 14 did she seem?
- 15 A. Very upset. Very upset and she was
- 16 bruised and her eyes were -- she had like red
- 17 dots in her eyes from broken blood vessels and
- 18 her finger was broken, splint on it.
- 19 Q. Did you continue to maintain a social
- 20 relationship with Gloria during the weeks that
- 21 followed?
- 22 A. Yes.
- 23 Q. Are you a good friend of Gloria's?
- 24 A. Yes.
- 25 Q. Was there ever a time during those

1 weeks when you discussed with Gloria any  
2 criminal charges that had arisen?

3 A. Yes.

4 Q. What kinds of discussions did you have  
5 with her regarding her intentions?

6 A. Gloria told me that she was going to  
7 go all the way and press charges on Rick and  
8 that when she went to the police to press the  
9 charges, she found out he had a prior  
10 record --

11 Q. Terri, just answer the question,  
12 okay? I can't --

13 A. Yes, the answer is yes.

14 Q. All right, thank you.

15 Do you know a place known in Margate  
16 as the Greenhouse?

17 A. Yes.

18 Q. Have you ever been there before?

19 A. Gloria and I went there often.

20 Q. Now, you've been there by yourself  
21 before?

22 A. Yes.

23 Q. Have you ever been there with Gloria?

24 A. Yes, many times.

25 Q. Would that have been including the

1 latter part of 1987 and early 1988?

2 A. Yes.

3 Q. I want you to now focus on the day of  
4 April 25, 1988. Do you remember whether you  
5 were working that day?

6 A. No, I was off.

7 Q. That was a Monday. Was that a regular  
8 day off?

9 A. Yes, we both had off Sunday and  
10 Monday.

11 Q. By we both, who are you referring to?

12 A. Gloria and I.

13 Q. Did you see Gloria on the 25th of  
14 April?

15 A. Yes.

16 Q. Where did you see Gloria?

17 A. We met for lunch at Cousin's Country  
18 Inn over in Bargaintown.

19 Q. Was anybody else there that you knew?

20 A. Yes.

21 Q. Who might that have been?

22 A. Jeff Henderson, Jean Bruni and Cathy  
23 Bonky, Sue Donato and Jerri, a secretary from  
24 work.

25 Q. What went on at Cousin's?

1 A. We celebrated our -- their secretary's  
2 -- I think it was secretary's day that week  
3 and we all took her out for lunch.

4 Q. How long did you remain at Cousin's?

5 A. For at least an hour and a half to  
6 two.

7 Q. Was Gloria there with you?

8 A. Yes.

9 Q. Had she come with somebody or alone?

10 A. No. She drove herself.

11 Q. Do you know what kind of car she had?

12 A. A black Toyota, I believe a Toyota.

13 Q. At some point in the afternoon, was a  
14 decision made to go someplace else?

15 A. Yes. We decided to go to the  
16 Greenhouse.

17 Q. And is this the same Greenhouse you  
18 have told us you and she had been to before?

19 A. Yes.

20 Q. Was Gloria going to go with you or was  
21 she going to get there on her own?

22 A. She was going to go there on her own.

23 Q. What time did you get to the  
24 Greenhouse?

25 A. About five o'clock.

1 Q. And do you know about what time Gloria  
2 got there?

3 A. She got there about 30 minutes later,  
4 I believe.

5 Q. Are you sure on the times?

6 A. Not positive.

7 Q. Okay. Was it still light out when you  
8 got there?

9 A. Yes.

10 Q. Was it still light out when Gloria got  
11 there?

12 A. Yes.

13 Q. Do you know how Gloria got to the  
14 Greenhouse?

15 A. She drove her car.

16 Q. Now, what went on in the Greenhouse?

17 A. What went on in the Greenhouse? I was  
18 drinking and we were just talking and we had  
19 called a few of our friends to come and meet  
20 us over there to, you know, spend the day with  
21 us.

22 Q. How was Gloria?

23 A. She seemed for the first time in a  
24 long while to be a little relaxed and more  
25 comfortable than she had been for a while.

1 Q. Was she involved in this calling of  
2 additional friends to come over?

3 A. Yes. She was very happy and she felt  
4 like having all her friends around her that  
5 day.

6 Q. Was Gloria drinking?

7 A. No.

8 Q. How long did you stay at the  
9 Greenhouse?

10 A. Until about nine o'clock, I believe.

11 Q. Now, do you remember what Gloria was  
12 wearing that day?

13 A. Yes.

14 Q. Can you describe it for us?

15 A. She had on a white cotton sweater with  
16 a pair of pre-washed paper bag type jeans,  
17 which are the kind that fold over at the  
18 waist.

19 Q. Anything else?

20 A. No, not that --

21 Q. Do you recall if she had a jacket with  
22 her?

23 A. No.

24 Q. Now, do you know a fellow by the name  
25 of Patrick Sullivan?

1 A. Yes.

2 Q. How do you know Patrick Sullivan?

3 A. He used to work at Tropicana.

4 Q. Did you see Patrick Sullivan at the  
5 Greenhouse that night?

6 A. Yes.

7 Q. Had Patrick Sullivan come with Gloria?

8 A. No.

9 Q. He came at some other time?

10 A. Right. Maybe about an hour before we  
11 left I think he showed up.

12 Q. Now, you say you knew Patrick  
13 Sullivan. Do you know whether Gloria knew  
14 Patrick Sullivan?

15 A. Casually. They weren't friends. They  
16 were more of an acquaintance type. She knew  
17 his brother who had been a director of  
18 marketing over at the Tropicana. It was that  
19 type of thing. They weren't really friends.  
20 He was her neighbor, he lived around the  
21 corner.

22 Q. Now, was Patrick Sullivan by himself  
23 or did he have a companion?

24 A. I don't know. I think he might have  
25 been with a friend. I'm not really sure.



1 Q. Was he asked to join you and Gloria  
2 and the rest of the people there?

3 A. Yes, he was, through Jeff Henderson,  
4 who was there, who is a friend of his.

5 Q. How long did you stay at the  
6 Greenhouse?

7 A. Until about nine o'clock. From 5:00  
8 till around 9:00.

9 Q. When you determined to leave the  
10 Greenhouse, was Gloria still there?

11 A. Yes.

12 Q. Was Pat Sullivan still there?

13 A. Yes.

14 Q. Did you have any kind of a  
15 conversation with Gloria before you left?

16 A. I just told her to take it easy and  
17 that I loved her and I would talk to her  
18 later.

19 Q. Did you talk to her later?

20 A. No.

21 Q. What was the next thing that you  
22 remember happening?

23 A. The next thing I remember happening,  
24 we went home, back to my house, my boyfriend  
25 and I, and later that evening Jean Bruni

1 called and my boyfriend answered the phone and  
2 he told me to get dressed, hurry up, Gloria  
3 had been killed.

4 Q. Did you then go to the police station?

5 A. Yes, we did.

6 Q. Were you interviewed there?

7 A. No. I don't believe so -- wait. They  
8 took our names and everything because we had  
9 been with Gloria that night. They did take  
10 our names, addresses and phone numbers.

11 MR. TALASNIK: Nothing further.

12 CROSS-EXAMINATION

13 BY MR. DAVIS:

14 Q. Miss McCabe, you indicated you went to  
15 Cousin's with Ms. Simonelli?

16 A. Yes.

17 Q. Was that a pre-planned luncheon?

18 A. Yes.

19 Q. Who knew about it?

20 A. Just the girls that worked in the gift  
21 shop, supervisor, myself, my roommate knew I  
22 was going there.

23 Q. And when you left Cousin's to go to  
24 the Greenhouse, prior to going to Cousin's,  
25 did you know you would end up in the

1 Greenhouse that night?

2 A. No.

3 Q. Was that a spontaneous agreement  
4 between the group at Cousin's?

5 A. We had decided to go to the Greenhouse  
6 while we were at Cousin's, yes.

7 Q. Ms. Simonelli was in that group the  
8 entire time?

9 A. Yes.

10 Q. At Cousin's and then over to the  
11 Greenhouse?

12 A. Correct.

13 Q. Now, did she have a companion with her  
14 when she went to Cousin's, a male companion?

15 A. No.

16 Q. When she went to the Greenhouse, did  
17 she have a male companion?

18 A. No.

19 Q. When you got to the Greenhouse,  
20 approximately how many people would you say  
21 would be in your group? At the maximum.

22 A. Five.

23 Q. Just five? Who were the five?

24 A. Jeff Henderson, Jeannie Bruni, Cathy  
25 and myself and Gloria.

1 Q. Did somebody else come to that group  
2 or join that group later?

3 A. Yes.

4 Q. Who?

5 A. Patrick Sullivan.

6 Q. Anyone else?

7 A. No, not to my knowledge.

8 Q. Eventually this group started to  
9 leave?

10 A. Correct.

11 Q. And when you left, who did you leave  
12 in the Greenhouse?

13 A. Who did I leave in the Greenhouse?

14 Q. Yes. In that group. I'm talking  
15 about that group you just indicated.

16 A. Gloria Simonelli and Patrick Sullivan.

17 Q. So when you left, you left Gloria  
18 Simonelli in the Greenhouse with Patrick  
19 Sullivan?

20 A. Correct.

21 MR. DAVIS: That's all I have, your  
22 Honor.

23 THE COURT: Mr. Talasnik.

24 MR. TALASNIK: Nothing further,  
25 thank you, your Honor.

1 THE COURT: You may step down, Ms.  
2 McCabe, thank you very much

3 (Witness excused)

4 MR. TALASNIK: The State calls  
5 Patrick Sullivan.

6 PATRICK SULLIVAN, having been duly sworn, was  
7 examined and testified as follows:

8 THE COURT: Mr. Sullivan, good  
9 afternoon.

10 Please be good enough to either keep  
11 your voice up or sit forward and use the mike  
12 so we can all hear you. Thank you.

13 Mr. Talasnik?

14 DIRECT EXAMINATION

15 BY MR. TALASNIK:

16 Q. Mr. Sullivan, what kind of work do you  
17 do?

18 A. I'm a dealer.

19 Q. Do you work with a casino in Atlantic  
20 City now?

21 A. Yes.

22 Q. Which casino?

23 A. Bally.

24 Q. Mr. Sullivan, back in the spring of  
25 1988, where were you living?

1 A. Margate, New Jersey.

2 Q. Did you know a young lady by the name  
3 of Gloria Simonelli back then?

4 A. Yes.

5 Q. How did you know Gloria Simonelli?

6 A. From my previous employment at the  
7 Tropicana Hotel.

8 Q. How long have you known of Ms.  
9 Simonelli?

10 A. Since approximately late 1982 or early  
11 '83.

12 Q. Did the two of you ever date?

13 A. No, no.

14 Q. Do you know where she lived at that  
15 time in relation to where you yourself lived?

16 A. Yes.

17 Q. Was it close?

18 A. Yes.

19 Q. Do you know a place in Margate known  
20 as the Greenhouse?

21 A. Yes.

22 Q. What kind of place is it?

23 A. It's a restaurant and lounge.

24 Q. Have you ever been there before?

25 A. Yes.

1 Q. Have you been there on more than one  
2 occasion?

3 A. Yes.

4 Q. I want to direct your attention to a  
5 Monday evening, April 25, 1988. Were you at  
6 the Greenhouse that night?

7 A. Yes.

8 Q. Do you remember about what time you  
9 got to the Greenhouse?

10 A. Approximately 7:15 to 7:30.

11 Q. In the evening?

12 A. Yes.

13 Q. Was it still light out or dark?

14 A. It was light out.

15 Q. How did you get to the Greenhouse that  
16 evening?

17 A. Friend of mine and myself had been  
18 playing golf and we went there after we  
19 finished our golf.

20 Q. That friend you are referring to, was  
21 that Gloria?

22 A. No.

23 Q. When you went into the Greenhouse, did  
24 you see Gloria?

25 A. Yes.

1 Q. How long had it been since you had  
2 seen Gloria?

3 A. Two years, two-and-a-half years maybe.

4 Q. Did you go up and talk to her?

5 A. Yes.

6 Q. What did you talk about?

7 A. What we've been doing with our lives  
8 since we last seen each other.

9 Q. Can you describe what she looked like?

10 A. She's about 5' 8", long dark hair,  
11 curly, had a white sweater kind of shirt and  
12 dress jeans on.

13 Q. Okay. Anything else you remember  
14 about her physical condition?

15 A. She had a splinter or cast on her  
16 finger.

17 Q. Did you ask her about that?

18 A. Yes.

19 Q. Was there some discussion about how  
20 that got there?

21 A. Yes.

22 Q. Was Gloria alone or was she with  
23 others when you first saw her there that  
24 evening?

25 A. She was with others.



1 Q. Do you know any of those others?

2 A. Yes.

3 Q. Who do you know them to be?

4 A. Jeff Henderson, Jean Bruni, Terry -- I  
5 don't know her last name -- a guy named Dan.  
6 Didn't know his last name, but knew them by  
7 their first name. And they knew me by my  
8 first name.

9 Q. All right.

10 A. That's all.

11 Q. As the evening progressed, did some  
12 members of the group leave?

13 A. Yes.

14 Q. Do you recall who left?

15 A. Everybody left.

16 Q. Everybody but who?

17 A. Myself and Gloria.

18 Q. Do you know about what time it was  
19 when everybody had left and just you and  
20 Gloria were left together at the Greenhouse?

21 A. About 8:30.

22 Q. Did the two of you continue to stay at  
23 the Greenhouse for some period of time?

24 A. Yes.

25 Q. What were you doing?

1 A. Talking.

2 Q. At some point, did the two of you  
3 determine to leave?

4 A. Yes.

5 Q. Do you know about what time it was  
6 when you determined to leave the Greenhouse?

7 A. About 9:15, 9:20.

8 Q. Was there any discussion about how you  
9 were going to get home or how she was going to  
10 get home?

11 A. Well, my friend who drove me there had  
12 left and she offered to ride me home.

13 Q. And where did she live in relation to  
14 you?

15 A. Less than two blocks away.

16 Q. Did the two of you then get up to  
17 leave the bar?

18 A. Yes.

19 Q. Do you recall what exit you used to  
20 leave the bar?

21 A. The rear exit.

22 Q. Now, can you describe for us that rear  
23 exit that the two of you used in leaving the  
24 bar at about 9:15, 9:20?

25 A. It's at the far end of the bar.

1 There's an exit that brings you out to the  
2 rear of the building, the parking area of the  
3 building.

4 Q. Was there an indication by Gloria that  
5 it was in that rear lot that her car was  
6 parked?

7 A. Yes.

8 Q. Did the two of you walk through the  
9 rear door together?

10 A. Yes.

11 Q. Can you describe for us the kind of  
12 lighting that existed as you walked out the  
13 door and then as you would get into the  
14 parking lot?

15 A. The Greenhouse has an outside deck on  
16 the second floor which extends over that exit,  
17 so that when you first leave the building it's  
18 a dark area because you're under this deck.  
19 And for say eight, 10 feet it's kind of dark  
20 under there. And then you -- when you  
21 continue, you are out from underneath the  
22 deck. And you are in the bright lights of the  
23 parking area.

24 Q. You have described the bright lights  
25 of the parking area. Can you be a little more

1 descriptive? Like how bright?

2 A. Like daylight.

3 Q. Mr. Sullivan, I am going to show you a  
4 photograph that has been marked as S-17 for  
5 identification. I would like you to look at  
6 the photograph and tell me if you recognize  
7 what is depicted there.

8 A. Yes.

9 Q. What do you recognize as being  
10 depicted there?

11 A. The back exit of the Greenhouse  
12 building.

13 Q. Is the exit that you've described that  
14 brings you out under the deck shown on that  
15 photograph?

16 A. Yes.

17 Q. And is that the one that's by the pay  
18 phone there?

19 A. Yes.

20 Q. Is the deck that you walk under also  
21 depicted?

22 A. Yes.

23 Q. And the open area of the parking lot?

24 A. Yes.

25 Q. And is it when you get to the open

1 area of the parking lot that you described it  
2 as bright as daylight?

3 A. Yes.

4 Q. Thank you. Did you and Gloria walk  
5 out of the parking lot together?

6 A. Yes.

7 Q. Were you side by side?

8 A. Yes.

9 Q. How close were you to Gloria as the  
10 two of you emerged into the lit portion of the  
11 parking lot from under the deck?

12 A. Six inches.

13 Q. I want you to tell the jury what  
14 happened as the two of you emerged into the  
15 lit portion of the parking lot side by side  
16 with Gloria.

17 A. As we got into the lit portion, a man  
18 appeared from behind the back of Gloria's car,  
19 aimed and fired a gun at us.

20 Q. Were you able to see the man emerge  
21 from the back end of Gloria's car?

22 A. Yes.

23 Q. Were you able to see the gun in his  
24 hand?

25 A. Yes.

1 Q. I have a photograph that has been  
2 marked as S-22 for identification. I would  
3 like you to look at it and first tell us  
4 whether you recognize what is depicted in the  
5 photograph?

6 A. Yes.

7 Q. What do you recognize as being  
8 depicted there?

9 A. Gloria's car.

10 Q. Is it from the back end of that car  
11 that you saw the gunman emerge?

12 A. Yes.

13 Q. I want you to tell us, as best you can  
14 remember, exactly what that gunman did as you  
15 saw him emerge from the back end of Gloria's  
16 car.

17 A. Started shooting.

18 Q. Where was the gun when you first saw  
19 it?

20 A. In his hand.

21 Q. And where was his hand when you first  
22 saw it and the gun?

23 A. Approximately chest level.

24 Q. Chest level?

25 A. Yeah.

1 Q. Was it in a bent position or a  
2 straight-armed position?

3 A. Straight armed.

4 Q. And was the gun being held by the  
5 right hand?

6 A. Yes.

7 Q. Was it pointed in the direction of you  
8 and Gloria?

9 A. Yes.

10 Q. Did you hear the gun go off?

11 A. Yes.

12 Q. Did you see anything?

13 A. I saw the gun go off.

14 Q. What do you mean you saw the gun go  
15 off?

16 A. I saw a gun emit a small flame --  
17 whatever, whatever a gun does.

18 Q. At the time that you saw the man, the  
19 arm, the gun and heard the gun go off, how far  
20 was that man from you and Gloria?

21 A. About 10 or 12 feet.

22 Q. Mr. Sullivan, I'm going to start back  
23 here and I want you to stop me when I get as  
24 close to you as the gunman was with the gun  
25 pointed at you and Gloria.

1 A. About there. That's good.

2 THE COURT: Hold up a second.

3 I make it seven tiles, approximately  
4 two feet each, about 14 feet.

5 MR. DAVIS: That's correct, your  
6 Honor.

7 BY MR. TALASNIK:

8 Q. From that distance, could you see the  
9 man who shot at you?

10 A. Yes.

11 Q. Were you able to give his description  
12 to the police later that night?

13 A. Yes.

14 Q. After the first shot was fired, what  
15 did you do?

16 A. Went down, hit the ground.

17 Q. Face forward or back?

18 A. Face forward.

19 Q. Could you tell what Gloria did?

20 A. No.

21 Q. Was there any more shooting?

22 A. Two more shots.

23 Q. Do you recall specifically two more  
24 shots?

25 A. Yes.



1 Q. What were you doing while these other  
2 two shots were being fired?

3 A. Laying down.

4 Q. Face down?

5 A. Face down.

6 Q. After the third shot, what did you do?

7 A. After the third shot, I heard  
8 footsteps and looked up and saw him running  
9 away.

10 Q. Are you able to describe the man who  
11 shot at you and the man who you saw running  
12 away?

13 A. Yes.

14 Q. Can you describe him for us now?

15 A. White, approximately 5'10", medium  
16 build, light featured, had a painter's cap on  
17 and light colored clothing.

18 Q. Could you tell in which direction he  
19 fled?

20 A. Yes.

21 Q. Where?

22 A. He fled towards the Longport side of  
23 the Greenhouse. I don't know which direction  
24 that is. South, I guess.

25 Q. At or about the time of this flight,

1 did you hear any cars?

2 A. No.

3 Q. What did you do after you saw the man  
4 flee?

5 A. I went to help Gloria.

6 Q. Tell the jury what you found.

7 A. I found her to be shot.

8 Q. Describe her condition.

9 A. Bullet wounds in the chest area.

10 Q. Was Gloria able to speak?

11 A. No.

12 Q. What did you do with Gloria?

13 A. I took off my coat and put my coat  
14 underneath her head and tried to talk to her,  
15 but there was no response.

16 Q. Did others come out from the bar?

17 A. One person came out from the bar.

18 Q. Do you recall if it was a man or  
19 woman?

20 A. It was a woman.

21 Q. Did the police then come?

22 A. Yes.

23 Q. Do you know how long it took?

24 A. Two or three minutes.

25 Q. During this time, you're supporting

- 1 Gloria?
- 2 A. Yes.
- 3 Q. And talking to her?
- 4 A. Yes.
- 5 Q. But she's not able to respond?
- 6 A. No.
- 7 Q. Did you move Gloria?
- 8 A. No.
- 9 Q. So she was still there being supported  
10 by you when the police arrived?
- 11 A. Yes.
- 12 Q. Is the shooter in the courtroom?
- 13 A. Yes.
- 14 Q. Can you identify him?
- 15 A. Yes.
- 16 Q. Would you point him out?
- 17 A. Sitting in the white shirt with the  
18 dark tie at the other table.
- 19 MR. TALASNIK: No further questions.
- 20 THE COURT: The record will reflect  
21 that the witness was looking at the defendant.
- 22 You may cross-examine.
- 23 CROSS-EXAMINATION
- 24 BY MR. DAVIS:
- 25 Q. Mr. Sullivan, you indicated you had

1 been in the Greenhouse for a few hours with  
2 Gloria.

3 A. Yes.

4 Q. And there came a time for you to exit  
5 or leave. Is that true?

6 A. I don't know what the question is.

7 Q. There came a time when you and Gloria  
8 left?

9 A. Yes.

10 Q. And you indicated that as you walked  
11 out, you were under a porch or outside porch  
12 and it was rather dark under there. Now, even  
13 though it may have been slightly darkened  
14 under the porch area as you exited, did you  
15 have a clear view of the parking lot from the  
16 back door?

17 A. Yes.

18 Q. Okay. As you initially came out, who  
19 came out the door first?

20 A. Gloria came out the door first.

21 Q. And I assume you came out behind her?

22 A. Yes.

23 Q. And I would assume within a few steps  
24 you caught up and started walking abreast of  
25 Gloria?

1 A. Yes.

2 Q. And you were walking in the direction  
3 of her automobile?

4 A. Yes.

5 Q. As you made these first two or three  
6 steps, did you see anything in the parking  
7 lot?

8 A. No.

9 Q. Okay. And as you entered the lit area  
10 of the parking lot, which you indicated was  
11 like broad daylight, when did you first notice  
12 Mr. Highlander?

13 A. As soon as we were in the light.

14 Q. As soon as you were in the light.

15 Okay.

16 Now, at the moment that you  
17 initially saw Mr. Highlander, did you hear him  
18 emit any words?

19 A. No.

20 Q. Did you hear him say anything to  
21 Gloria?

22 A. No.

23 Q. You indicated 14 foot. You were close  
24 enough to hear him if he said something?

25 A. Absolutely.

1 Q. You have no hearing problem?

2 A. Absolutely not.

3 Q. And at that point I think you  
4 indicated to Mr. Talasnik that you were going  
5 maybe abreast maybe six inches apart?

6 A. Correct.

7 Q. Now, was there anything said to you,  
8 Mr. Sullivan?

9 A. No.

10 Q. By Mr. Highlander that is.

11 A. No.

12 Q. Did you hear Gloria say anything?

13 A. No.

14 Q. And were you close enough to Gloria to  
15 hear her if she had spoken?

16 A. Yes.

17 Q. Now, at that point you say he raised  
18 his gun?

19 A. Yes.

20 Q. And he fired?

21 A. Yes.

22 Q. Now, was he directing that weapon at  
23 Gloria?

24 A. I don't know who he was directing it  
25 at. He was directing it at both of us.

1 Q. Let me put it this way. When a man  
2 points a gun, was he waving it or was it  
3 pointed in one direction?

4 A. Pointed in one direction.

5 Q. And you indicated that at the moment  
6 that you saw him pointing that gun with his  
7 hand and you indicated you saw fire or  
8 whatever a pistol emits when it is fired, you  
9 saw that?

10 A. Yes.

11 Q. Okay?

12 A. Yes.

13 Q. And when you saw that fire --

14 A. Yes?

15 Q. -- is that when Gloria was struck?

16 A. I believe so, yes.

17 Q. And obviously the gun was pointed at  
18 Gloria when he pulled the trigger?

19 A. Yes.

20 Q. Because she was the one that was  
21 struck.

22 A. Yes.

23 Q. Okay. And at that point you  
24 indicated, Mr. Sullivan, that you went to the  
25 ground.

1 A. Yes.

2 Q. And what happened after that you have  
3 no knowledge in terms of the gunshots?

4 A. Other than the fact that two more  
5 gunshots were fired, you know. I have full  
6 recollection of two more shots being fired.

7 Q. Maybe it wasn't a very good question.  
8 You don't have any knowledge of in which  
9 direction these gunshots were fired?

10 A. No. I just know they were fired.

11 Q. Were you hit?

12 A. No.

13 MR. DAVIS: That's all.

14 THE COURT: Mr. Talasnik?

15 MR. TALASNIK: Nothing further.

16 THE COURT: You may step down, Mr.  
17 Sullivan, thank you very much.

18 (Witness excused)

19 THE COURT: Ladies and gentlemen, we  
20 will take a brief recess at this point.

21 (Whereupon, the jury leaves the  
22 courtroom)

23 THE COURT: Five minutes.

24 (Brief recess)

25 THE COURT: Who is next, Mr.



1 Talasnik?

2 MR. TALASNIK: Russell Hendricks.

3 (Jury enters the courtroom)

4 THE COURT: Mr. Talasnik?

5 MR. TALASNIK: Thank you, your  
6 Honor.

7 The State calls Russell Hendricks.  
8 RUSSELL D. HENDRICKS, having been duly sworn,  
9 was examined and testified as follows:

10 DIRECT EXAMINATION.

11 BY MR. TALASNIK:

12 Q. Where do you live, Mr. Hendricks?

13 A. Ocean City.

14 Q. What kind of work do you do?

15 A. I have my own business on the  
16 boardwalk.

17 Q. Mr. Hendricks, are you familiar with a  
18 location in Margate known as the Greenhouse  
19 Bar and Restaurant?

20 A. Yes, I am.

21 Q. Have you ever been there before?

22 A. Yes.

23 Q. How frequently do you go there?

24 A. Twice a week.

25 Q. I want to refer you specifically to a

1 Monday evening, the 25th of April, 1988. Do  
2 you recall being at the Greenhouse that  
3 evening?

4 A. Yes, I do.

5 Q. Do you remember about what time you  
6 arrived?

7 A. Between 9:00 and 10:00.

8 Q. Was it a busy night there?

9 A. Not really, no.

10 Q. What was your purpose in going there?

11 A. Just to go get something to eat and  
12 have a couple of drinks.

13 Q. Did you notice people at the bar and  
14 at the tables?

15 A. Yes, I did.

16 Q. Did there come a time when you noticed  
17 a man and woman leaving the bar sometime after  
18 9:00?

19 A. Yeah, I did.

20 Q. Would you tell us what you remember  
21 about that?

22 A. I remember a girl going into the  
23 bathroom, coming back out to where she was  
24 sitting and leaving with a man.

25 Q. Do you know what door they left by?

1 A. The door -- I would say it's the back  
2 door on the beach side.

3 Q. Okay. And when you go through that  
4 back door towards the beach side, where are  
5 you in relation to the parking lot?

6 A. You walk out, take a left and the  
7 parking lot is right there.

8 Q. After those people left, tell us what  
9 you heard.

10 A. After they left, I heard something --  
11 it was a noise, three pops. I said to the  
12 person to me, I said to me it sounds like the  
13 kids working in my kitchen banging plastic  
14 bags, like a popping sound. Then I heard a  
15 person screaming in the kitchen, they shot  
16 her. That was all I heard.

17 Q. In response to that, what did you do?

18 A. I got up a few minutes later and  
19 looked out and went out the door with the  
20 bartender.

21 Q. What did you see?

22 A. I saw a girl laying unconscious on the  
23 ground.

24 Q. Was there a fellow with her?

25 A. Yes, there was.

1 Q. How soon after that did the police  
2 arrive?

3 A. They may have been there right at that  
4 time.

5 Q. So that would have been moments after  
6 the three pops?

7 A. Yeah. Maybe five minutes maximum.

8 Q. As best you can remember, there were  
9 three of them?

10 A. Yes.

11 MR. TALASNIK: Thank you, no further  
12 questions.

13 THE COURT: Cross-examine?

14 MR. DAVIS: No cross-examination.

15 THE COURT: You may step down.

16 Thank you, Mr. Hendricks.

17 (Witness excused)

18 MR. TALASNIK: The State calls Tania  
19 Martin.

20 TANIA LYNN MARTIN, having been duly sworn, was  
21 examined and testified as follows:

22 THE COURT: Ms. Martin, please be  
23 good enough to sit forward and use the mike so  
24 we can all hear you.

25 DIRECT EXAMINATION

1 BY MR. TALASNIK:

2 Q. Ms. Martin, where do you live?

3 A. Brigantine.

4 Q. How long have you lived in that area?

5 A. Since November of '87.

6 Q. What kind of work do you do?

7 A. Right now I'm in an accounting  
8 department.

9 Q. I want you to think back to the spring  
10 of 1988. Where were you working back then?

11 A. At Ventura's Greenhouse.

12 Q. Where is that?

13 A. It's in Margate.

14 Q. How long did you work at Ventura's  
15 Greenhouse?

16 A. I probably worked there about five or  
17 six months.

18 Q. And would those five or six months  
19 included the month of April 1988?

20 A. Yes, sir.

21 Q. What kind of job did you have at the  
22 Greenhouse back in April of 1988?

23 A. I was a waitress.

24 Q. What sorts of things did you do when  
25 there weren't tables to wait on?

1 A. I do side work like cleaning up and  
2 making popcorn or pizza boxes for the next  
3 shift or the day time shift.

4 Q. Could you describe for us how the  
5 Greenhouse is laid out with respect to any  
6 attached parking garage or parking lot?

7 A. They've got parking on the side, like  
8 if you're coming up to the -- from the big  
9 street, Atlantic or Pacific -- I'm not sure of  
10 the name of the street, the one that runs  
11 right in front of it and then they've got  
12 parking there and parking in the back and the  
13 pizza business is located in the back, right  
14 off the back parking lot.

15 Q. When you say they've got a parking  
16 lot, in the back parking lot, would that be  
17 closer to the beach than the restaurant  
18 itself?

19 A. Yes, sir.

20 Q. So it is between the beach and the  
21 back door to the restaurant?

22 A. Yes, sir.

23 Q. Do you remember working there on the  
24 evening of Monday, April 25, 1988?

25 A. Yes, sir.

1 Q. Do you remember about what time you  
2 got to work?

3 A. Well, I usually get there like 7  
4 o'clock, but I know I was late that day  
5 because Louie got mad at me.

6 Q. Who is that?

7 A. Louie Ventura.

8 Q. He's the owner?

9 A. Huh-huh.

10 Q. What time did you get there that  
11 night?

12 A. It was before eight o'clock, probably  
13 like 45 minutes late because I had to ride on  
14 the next bus.

15 Q. So sometime before eight o'clock that  
16 night you got to the Greenhouse?

17 A. Just before 8:00.

18 Q. When you got there at just before  
19 eight o'clock, was it already dark?

20 A. I don't believe so. I don't really  
21 think so. I don't think so.

22 Q. This parking lot that you told us  
23 about that is kind of in the back between the  
24 back door and towards the beach, are there  
25 lights there?

1 A. I don't know for sure.

2 Q. Well, when you would leave work at the  
3 end of your shift and go into the parking lot,  
4 are you able to find a car?

5 A. Oh, yeah.

6 Q. Was it a busy night at the Greenhouse?

7 A. No. It was real slow.

8 Q. And when it's real slow on a night  
9 like that, what would you do?

10 A. Well, make pizza boxes.

11 Q. Whereabouts do you stand when you're  
12 making pizza boxes?

13 A. Well, they have a big long table right  
14 by the pizza -- the pizza kitchen has a place  
15 to stick them out there by the cash register  
16 and they have a long table, the longest table  
17 there sits like six people, and I would sit  
18 there and make the boxes.

19 Q. Is the location where you would sit  
20 anywhere near a door?

21 A. Where I would sit, it's right next to  
22 the door. The only thing separating it would  
23 be the cash register and the bar.

24 Q. From where you would sit near that  
25 door and by the cash register, are you able to



1 see out into the parking lot?

2 A. You can see out the windows there, but  
3 I was standing up part of the time because I  
4 got tired of making the boxes.

5 Q. I've got a couple of pictures here  
6 that I want you to look at. They have been  
7 marked as S-19 and S-20 for identification.

8 First I want you to look at S-19 and  
9 tell me if you recognize what is depicted in  
10 that photograph.

11 A. Yeah. That's me.

12 Q. What is it that's generally shown in  
13 the photograph?

14 A. The door, the parking lot and where I  
15 was -- the bar I was just talking about, the  
16 cash register.

17 Q. From where this picture is taken, can  
18 you see from the parking lot through the door  
19 that you've described to where you were  
20 standing?

21 A. Yes, sir.

22 Q. And do you even appear in that  
23 picture?

24 A. Yes, sir.

25 Q. Is that approximately where you were

1 standing when all this other stuff happened?

2 A. Yes, sir.

3 Q. I want to show you another picture  
4 that has been marked as S-20 for  
5 identification and ask you the same sorts of  
6 things. Do you recognize what is in that  
7 picture?

8 A. Yes, sir.

9 Q. Is it essentially the same but a  
10 slightly different angle?

11 A. Yeah. Just a little bit of a  
12 different angle.

13 Q. And, again, is that you we see in that  
14 open doorway there?

15 A. Yes, sir.

16 Q. You got to work about quarter to 8:00.  
17 I want you to think forward that same evening,  
18 Monday night the 25th of April, to sometime  
19 around nine o'clock. Did you have occasion to  
20 be standing by that open doorway when  
21 something happened?

22 A. That night there was -- I hadn't made  
23 any tips at all about the time I left that  
24 night because Monday nights are the slowest  
25 nights they have, so there was maybe like one

1 or two people came in and sat at the tables.  
2 Most of the people sat around the bar and  
3 talked, you know, to Gail, the bartender. If  
4 I had any customers that night, it was very  
5 few.

6 Q. Okay.

7 A. So I just did all my side work and  
8 looked out the door.

9 Q. Did that side work include standing by  
10 the open doorway near the cash register you've  
11 described for us?

12 A. No. I was just standing there looking  
13 out.

14 Q. Were you just standing there looking  
15 out?

16 A. Yeah.

17 Q. Did something happen that you were  
18 able to see from that position?

19 A. Yes, sir.

20 Q. I want you to tell us what it is that  
21 you saw looking out that open doorway into the  
22 parking lot.

23 A. Well, I was looking out there and I  
24 heard some -- sounded like firecrackers. One  
25 firecracker and I was just daydreaming and I

1 looked up and this girl, dark hair, and then a  
2 guy that was just in here was walking out and  
3 then I seen this gentleman over here went out  
4 from like it was from a black car, all I could  
5 see was the end of the car because the wall  
6 started there, and I just seen that girl get  
7 shot.

8 Q. You said that you could see the end of  
9 a dark car?

10 A. I believe it was black. It was like  
11 one of the things that first came to my  
12 attention because that was really the first  
13 real movement I seen because I didn't see  
14 those -- I didn't pay attention to the people  
15 walking out from under the porch or even them  
16 walking out of the restaurant itself. I was  
17 just minding my own business, I guess.

18 Q. I'm going to show you a picture that  
19 has a marking on it, S-22 for identification.  
20 Does that picture -- is there anything in that  
21 picture that you recognize?

22 A. That's the end of the car, I imagine.  
23 That's the last parking place you would be  
24 able to see from the door, so you could see  
25 from about that much of the car sticking out

1 from where I was standing.

2 Q. Does that appear --

3 THE COURT: You could see what?

4 THE WITNESS: You can just see the  
5 rear end of the car.

6 THE COURT: The witness is pointing  
7 to a place in the car -- let me see the  
8 picture -- indicating the left rear wheel of  
9 the vehicle.

10 BY MR. TALASNIK:

11 Q. Now, the thing that drew your  
12 attention to that parking lot was this  
13 firecracker sound?

14 A. The thing that drew my attention to  
15 the car was the man coming out from behind it.

16 Q. I want you to imagine that this table  
17 here is the car.

18 Now, when you say someone came out  
19 from behind it, were they already upright or  
20 were they down and they emerged like that?

21 A. I believe they were upright and  
22 moving.

23 Q. They were upright and moving?

24 A. They were moving.

25 Q. In which direction was he moving?

1 A. Towards the patio, towards that lady.

2 Q. Towards the lady?

3 A. And the man.

4 Q. And the man. Were the lady and the  
5 man together?

6 A. They were walking out the parking lot  
7 together, yes.

8 Q. Did you see whether the man who was  
9 emerging from the dark car and walking towards  
10 the man and the lady, did you see if he had  
11 anything in his hand?

12 A. Yeah.

13 Q. What did you see in his hand?

14 A. A gun.

15 Q. What did you see him do with that gun?

16 A. Shoot that lady.

17 Q. Can you tell us about how far away the  
18 man was from the lady when he shot her?

19 A. I don't know. I don't know about the  
20 first shot because I didn't see him. The  
21 second one, he was probably about the distance  
22 that you are from me right now. But by the  
23 time he shot her the second time, he was a lot  
24 closer to her.

25 THE COURT: All right. Can I have

1 the answer read back, please.

2 (Whereupon, the reporter read the  
3 previous answer)

4 MR. TALASNIK: I'll back up and try  
5 to clarify.

6 THE COURT: For the record, the  
7 reference to where you are at this point by  
8 the same measurement, Mr. Davis, appears to be  
9 12 feet.

10 MR. DAVIS: Yes, Judge.

11 THE COURT: You may proceed.

12 BY MR. TALASNIK:

13 Q. So I understand, Tania, when you first  
14 saw the man with the gun, he was about this  
15 far away from the lady?

16 A. The first time that I heard a shot and  
17 then I looked up and he was coming from behind  
18 the car and they were just coming out from  
19 under that porch, the overhang at the other  
20 end of the stairs, maybe just a little farther  
21 than where you are -- from where they first  
22 came out and I heard the shot and I couldn't  
23 see him until until it brought my attention  
24 when I looked over to where it came from, it  
25 was probably this far and then when I seen him

1 and the second one was done, the one that hit  
2 her, then he was like maybe right there. And  
3 closer with the other time.

4 Q. This shot is the one that you saw?  
5 You saw the shot when he was this far away?

6 A. Yeah.

7 THE COURT: Indicating now  
8 approximately eight to 10 feet.

9 Q. Was his arm raised?

10 A. Yes.

11 Q. Was the gun in his hand?

12 A. Yes, sir.

13 Q. Did you hear the gun go off?

14 A. Yes, sir.

15 Q. Did you see a flash?

16 A. I didn't pay any attention to a flash.

17 Q. How did you see the girl, the  
18 dark-haired girl react?

19 A. She went backwards and she just kind  
20 of -- she held her hands up and the guy that  
21 was just here like caught her when she went to  
22 fall backwards and then --

23 Q. Then what did you see the man with the  
24 gun do?

25 A. He ran right up on top of her and shot



1 her again.

2 Q. He went right up on top of her and  
3 shot her again? Was she already down?

4 A. Yeah. She was down. The man had  
5 caught her. She never really hit the ground.  
6 She was in a different place than you all had  
7 outlined in those pictures.

8 Q. She had fallen backwards and was  
9 caught by the man who was in here?

10 A. Yeah.

11 Q. Was she in that position when the  
12 shooter came up on top of her?

13 A. Yes.

14 Q. Did you see him shoot her again?

15 A. Yes, sir.

16 Q. How far was he from her when he shot  
17 her again?

18 A. Maybe this far.

19 THE COURT: Indicating approximately  
20 five feet.

21 Q. After that, what did you next see or  
22 hear?

23 A. Well, I started screaming that he was  
24 shooting her, because nobody was paying any  
25 attention to it, you know? And I like made

1 eye contact or something with that man and I  
2 went running out and he ran off towards that  
3 elephant and I went out the same door that  
4 that lady had went out and that's all.

5 Q. When you say he ran towards the  
6 elephant, who is the he that ran towards the  
7 elephant?

8 A. The man with the gun.

9 Q. The man with the gun. When you got  
10 out to the parking lot, did you see the girl  
11 that had been shot? Did you see the man who  
12 was with her?

13 A. Yeah.

14 Q. In what positions were they when you  
15 got out to the lot?

16 A. Like in those pictures that you showed  
17 me where -- where you have it outlined, that's  
18 where I told him to lay her down because he  
19 was like trying to move her, get her out of  
20 there or something because I didn't know what  
21 was going on, you know. I didn't understand  
22 why he was moving her around like that. I  
23 just kept yelling at him to lay her down, lay  
24 her down, you know. And so he laid her down.

25 Q. Did you see her?

1 A. Yes.

2 Q. Did you see any injuries on her?

3 A. Yeah.

4 Q. Tell us what you saw.

5 A. There was just like a little spot of  
6 blood over here.

7 THE COURT: I can't hear you.

8 THE WITNESS: There was a little  
9 spot of blood right here.

10 THE COURT: Indicating the left area  
11 of the chest.

12 BY MR. TALASNIK:

13 Q. Was she saying anything?

14 A. She just made a real wierd noise.

15 Q. What do you mean she made a wierd  
16 noise?

17 A. I can't describe it. It was just --

18 Q. Was it words or a sound?

19 A. It was a sound.

20 Q. Did she do anything else? Did she  
21 move?

22 A. Her eyes just rolled up and rolled  
23 back and she made that sound and her eyes came  
24 back down and they just stayed like that.

25 Q. I'm sorry. And they just stayed like

1 that?

2 THE COURT: Yes.

3 Q. Did the police then come?

4 A. Shortly thereafter.

5 Q. Was it within moments?

6 A. Then just a few minutes. I don't know  
7 exactly how long. Everything kind of happened  
8 really fast.

9 MR. TALASNIK: No further questions,  
10 thank you, your Honor.

11 THE COURT: Mr. Davis?

12 CROSS-EXAMINATION

13 BY MR. DAVIS:

14 Q. Ms. Martin, you indicated before you  
15 saw this situation, you were more or less  
16 daydreaming then looking out the back door and  
17 looking at nothing?

18 A. Yes, sir.

19 Q. And what brought your attention to  
20 this situation was that you heard what you  
21 learned -- later learned to believe was a  
22 shot?

23 A. Yes, sir.

24 Q. Now, when you heard the shot, had you  
25 seen the two people at that time?

1 A. I hadn't paid any attention to them.

2 Q. So you actually hadn't noticed them  
3 leaving the premises?

4 A. No, sir.

5 Q. And this man that you said you saw by  
6 the -- by this black car, had you seen him  
7 before you heard this shot?

8 A. No, sir.

9 Q. Now, when you heard the shot, what did  
10 you do? Look up in the direction of the  
11 shot? What did you do?

12 A. I was already looking out there.

13 Q. Okay.

14 A. But it like brought me -- you know how  
15 you daydream? It snapped me back in, you  
16 know, to what was going on around me, I guess,  
17 made me aware of everything as I wasn't  
18 before.

19 Q. And then when you were snapped back to  
20 reality, you became aware of what was around  
21 you, you didn't see the front of Ms.  
22 Simonelli, did you?

23 A. Of who?

24 Q. The lady that was later shot, Gloria  
25 Simonelli?

1 A. Could you say that again?

2 Q. Her name was Gloria Simonelli. Did  
3 you see the front of her after she was shot or  
4 the first shot?

5 A. Could I see the front of her? She was  
6 walking out from underneath the porch at that  
7 time.

8 Q. Could you see the front of her where  
9 you --

10 A. I could see her from the side.

11 Q. From the side. So, if, in fact, she  
12 had been wounded in front from that first  
13 shot, you couldn't tell?

14 A. I don't believe she was hit the first  
15 time.

16 Q. How many shots did you hear all  
17 together?

18 A. I believe I heard three.

19 Q. You believe you heard three. And you  
20 say -- okay. Now, the later two shots or the  
21 last two shots that you heard, did you see in  
22 which direction that they were fired?

23 A. They were fired in the direction of  
24 the lady.

25 Q. They were fired in the direction of

1 the lady. Now, when you heard the first shot,  
2 the gentleman that you saw walking with the  
3 lady, did you see him react in any fashion?

4 A. They both just kind of coward, you  
5 know, and tried to get out of the way, I  
6 thought. They just moved.

7 Q. Did you ever see the gentleman hit the  
8 ground?

9 A. No, sir.

10 Q. Just after the shot, he just dove to  
11 the ground?

12 A. I don't recall that.

13 Q. You don't recall that.

14 A. No.

15 Q. And -- well, when you heard the second  
16 shot, where was the gentleman, as you recall  
17 it?

18 A. Right by the stairs.

19 Q. Right by the stairs? Was he standing  
20 up, crouching, running? What was he doing?

21 A. I believe him to have been standing by  
22 that -- by the lady or, you know -- I know  
23 when she went back, he was there.

24 Q. Say that again. I didn't hear that.

25 A. I believed when she -- when I heard

1 the second shot, I seen her go back. I don't  
2 know if she was shot then or if she just went  
3 scared and went backwards, but to the best of  
4 my knowledge he was there.

5 Q. You're talking about the man with her?

6 A. Yeah.

7 Q. When you say there, there to do what?

8 A. As to right there next to her.

9 Q. He was right next to her. You  
10 indicated to the prosecutor that somewhere  
11 along the line he caught her after she had  
12 been shot?

13 A. That's what I believe.

14 Q. When you say that's what you believe,  
15 did you actually see this or --

16 A. Yes, I seen it.

17 Q. So when she was shot, as you indicated  
18 by the second shot, what did the gentleman do?

19 A. He caught her.

20 Q. He caught her?

21 A. The thing I remember the most was when  
22 all the shooting was over was that he had a  
23 hold of her, like under her arms from the back  
24 and he was moving her, you know?

25 Q. There was no question when it was all



1 over he was cradling her in his arms --

2 A. I don't know if you call it cradling  
3 her. He was moving her around.

4 Q. He had her in his arms.

5 A. Yes.

6 Q. But the question is, before the last  
7 shot and before the assailant left, isn't it a  
8 fact that the gentleman was prone on the  
9 ground, facing the ground?

10 A. That's not the way I recall it.

11 Q. That's not the way you recall it. But  
12 you do recall all shots that you saw being  
13 directed towards the woman.

14 A. Yes, sir.

15 Q. Now, did you give a description of  
16 this assailant to the police department?

17 A. I gave a description to them, yes.

18 Q. What description did you give?

19 A. That he had light hair, light colored  
20 clothes and I don't recall -- I don't recall  
21 if he had any facial hair or anything. I  
22 recall his eyes being large.

23 Q. Eyes being large?

24 A. Yeah, but I figured --

25 Q. I'm sorry?

1 A. I figured because he was afraid.

2 Q. Did you describe his hair to the  
3 police, the amount of hair and all that he  
4 had?

5 A. No.

6 Q. Didn't you describe it as a lot of  
7 hair on his head?

8 A. I don't recall.

9 Q. Do you recall indicating whether or  
10 not this assailant had a hat on?

11 A. He did not have a hat on.

12 Q. He did not have a hat on. And do you  
13 know approximately how tall he was or his age?

14 A. No, sir.

15 Q. And did the police talk to you that  
16 evening of this incident?

17 A. Yes, sir.

18 Q. And did they ask you to make any  
19 identification of any pictures?

20 A. Yes, sir.

21 Q. And were you able to identify anyone?

22 A. I believe so.

23 Q. Pardon me?

24 A. I believe so.

25 Q. You did or you did not?

1 A. I did.

2 Q. And who did you identify?

3 A. The picture was different, but it  
4 looks a lot like him.

5 Q. Looks a lot like him?

6 A. Yes.

7 Q. Do you know if this is the man you  
8 saw?

9 THE COURT: Indicating the  
10 defendant.

11 A. That's the man I seen in the parking  
12 lot, yes.

13 Q. Now, after the incident, how long  
14 after the incident did you leave -- how long  
15 after the incident did you exit the building?

16 A. With the police?

17 Q. Yes.

18 A. Or --

19 Q. No. After you saw what you saw, when  
20 did you leave the building to come outside?

21 A. To check on the lady?

22 Q. Yes.

23 A. Right immediately. As soon as --

24 Q. Is that parking lot well lit?

25 A. They have flood lights out there, yes.

- 1 Q. And is it easy for anyone -- is it  
2 easy for the patrons near the windows to see  
3 the complete parking lot area?
- 4 A. Yes, sir.
- 5 Q. No problem for you to see what was  
6 going on?
- 7 A. Most of it took place right there next  
8 to the porch, so not only did it have the  
9 flood lights, it had the light from the  
10 kitchen.
- 11 Q. How close would you say that would be  
12 to the building, the building itself?
- 13 A. How far what is from the building?
- 14 Q. Where the shooting took place.
- 15 A. Right next to it.
- 16 Q. Right next to it?
- 17 A. Like the sidewalk for the deck above  
18 it is maybe like four foot wide, so that  
19 there, they were just out from under the porch  
20 cover in there, so maybe that far from the  
21 building, but no more.
- 22 Q. Now, were the windows open or anything  
23 that night or the door?
- 24 A. The door and the windows were open.
- 25 Q. Did you hear any words being uttered?

1 A. No, sir.

2 MR. DAVIS: That's all I have, your  
3 Honor.

4 THE COURT: Mr. Talasnik?

5 MR. TALASNIK: Nothing further, your  
6 Honor, thank you.

7 THE COURT: You may step down, Ms.  
8 Martin. Thank you very much for coming.

9 (Witness excused)

10 THE COURT: Mr. Talasnik.

11 MR. TALASNIK: Thank you.

12 State calls Patrolman Oaks.

13 JOHN C. OAKS, having been duly sworn, was  
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. TALASNIK:

17 Q. Officer, would you tell us where you  
18 are employed?

19 A. Margate Police Department, New Jersey.

20 Q. How long have you been employed with  
21 the Margate Police Department?

22 A. Approximately three-and-a-half years.

23 Q. Are you familiar with a location known  
24 as the Ventura's Greenhouse?

25 A. Yes, I am.

1 Q. Is that a location within the  
2 jurisdiction of your local police department?

3 A. Yes, it is.

4 Q. I want to direct your attention to the  
5 evening of Monday, the 25th of April, 1988,  
6 and ask whether you were on duty that night.

7 A. Yes, I was.

8 Q. Did you receive a dispatch to go to  
9 the location of Ventura's Greenhouse?

10 A. Yes, I did.

11 Q. Where were you when you got that  
12 dispatch?

13 A. At the time of the dispatch, I was  
14 turning off Ventnor Avenue onto South  
15 Washington Avenue towards Atlantic.

16 Q. How far would that be from the  
17 location of Ventura's Greenhouse?

18 A. At the time of the dispatch, I was  
19 approximately two blocks away from the  
20 Greenhouse.

21 Q. Do you know about what time you  
22 received the dispatch to go to that location?

23 A. Approximately 9:20 p.m.

24 Q. Was it already dark out?

25 A. Yes, it was.

1 Q. Were you the first officer to arrive  
2 at the scene pursuant to the dispatch?

3 A. Myself and my partner that night,  
4 Officer Hopkins.

5 Q. What was the nature of the dispatch  
6 that caused you to go there?

7 A. We were dispatched on a report of  
8 shots fired, somebody being shot.

9 Q. When you arrived at the Greenhouse,  
10 from what streets did you approach?

11 A. As we were coming up South Washington  
12 towards Atlantic, we came up to the corner of  
13 Atlantic and South Washington, took a left  
14 towards the Greenhouse, which is taking a left  
15 off South Washington and you would be going  
16 towards Atlantic City. From that time, we  
17 went towards the Greenhouse, took a right on  
18 on South Decator Avenue, which is bordered by  
19 Lucy the Elephant and the Greenhouse, and at  
20 that time we saw people in the back parking  
21 lot waving us back to that area.

22 Q. By back parking lot, can you describe  
23 where that parking lot is in relation to the  
24 rear of the restaurant and the boardwalk or  
25 beach?

1 A. The Greenhouse is on the beach side of  
2 Atlantic Avenue. There is a large lawn,  
3 building itself, then there is a rear parking  
4 lot you have to turn down South Decator Avenue  
5 and take a left just behind the Greenhouse so  
6 it is the Greenhouse parking lot and then  
7 another condo before you get to the beach.

8 Q. So the parking lot would be roughly  
9 between the back of the Greenhouse and the  
10 beach?

11 A. Yes.

12 Q. Is it a well lit area, that parking  
13 lot?

14 A. No.

15 Q. Do you have any difficulty seeing  
16 there at night?

17 A. You can see, but it is not well lit.

18 Q. Tell us what you found when you got  
19 there?

20 A. We approached the woman. She had what  
21 appeared to be blood spots on her chest off to  
22 the right approximately four inches in  
23 diameter, quick went down to check her out,  
24 tried her throat, felt nothing. We had a  
25 flashlight, her eyes were turned up and they



1 were fixed and she wasn't breathing.

2 Q. What was the condition of the fellow  
3 that was holding her or supporting her?

4 A. He was near hysterical. He was just  
5 screaming, help her, help her. Couldn't get  
6 any information out at all.

7 Q. Okay. What did you then do?

8 A. At that time, as I was down there,  
9 another male came out from the crowd and gave  
10 me a quick description of a man he said ran  
11 from the scene. At that time Officer Hopkins  
12 went with the victim and I followed the  
13 directions of the flight that was pointed to.

14 Q. Did you find anything along the  
15 direction of flight that you had been given by  
16 one of the people at the bar?

17 A. No, I didn't.

18 Q. Did you then return to the location of  
19 the victim?

20 A. Yes.

21 Q. Was she in the same condition that she  
22 was when you first arrived?

23 A. Yes.

24 Q. Were arrangements made for an  
25 ambulance?

1 A. Yes. The dispatcher just after  
2 dispatching us dispatched an ambulance. As I  
3 was approaching the scene from coming back  
4 where I checked, the ambulance was coming  
5 crossing Atlantic up South Decator.

6 Q. How long after your arrival did the  
7 ambulance arrive?

8 A. I would have to say approximately two  
9 to three minutes.

10 Q. Was the scene secured during that  
11 period of time?

12 A. At that time it was only myself and  
13 Officer Hopkins. Officer Hopkins stayed with  
14 the victim and at the time the ambulance  
15 showed up or sometime just prior to that  
16 Sergeant Green also showed up and they were in  
17 the process of securing the scene.

18 Q. Between the time of your first arrival  
19 at the scene and the time of your leaving the  
20 scene with the victim, was the scene altered  
21 in any way?

22 A. Not that I could say.

23 Q. What did you do after the ambulance  
24 arrived?

25 A. The ambulance arrived, got a stretcher

1 out, they just took a quick check of her,  
2 loaded her right away and because there are  
3 only two ambulance drivers and both were  
4 needed in the situation, they needed one of us  
5 to drive. Sergeant Green and Officer Hopkins  
6 were securing the scene, so I was detailed to  
7 drive the ambulance.

8 Q. Would you describe that process for  
9 us?

10 A. What process is that?

11 Q. What happened with respect to the  
12 ambulance and the victim and where you went?

13 A. They loaded the victim in the back of  
14 the ambulance. I believe EMT Harry Scull  
15 began CPR and at that time Medigate out of the  
16 Shore Memorial was on the air requesting a  
17 meeting place between the scene and Shore  
18 Memorial so they could stop and put one of  
19 their own technicians in to see what the  
20 situation was before we arrived. The meeting  
21 place was designated at Grillo's Electric,  
22 which is located at the base of Longport  
23 Bridge, has a large parking lot which would  
24 accommodate both vehicles. We stopped there,  
25 Medigate was right there as soon as we pulled

1 in, one of their technicians got out and told  
2 us to proceed and he stayed with us and we  
3 drove directly to Shore Memorial Hospital.

4 Q. Did you remain with the victim the  
5 entire time she was in the ambulance?

6 A. Yes, I did.

7 Q. What was being done in the ambulance?

8 A. As far as I could tell, they were  
9 trying to place IV's and continuing CPR.

10 Q. Did you accompany the victim into the  
11 emergency room of the hospital?

12 A. Yes, I did.

13 Q. During any of the time that she was at  
14 the scene, before she was placed in the  
15 ambulance, did the victim ever regain  
16 consciousness?

17 A. Not that I could tell, no.

18 Q. During any of the time that she was in  
19 the ambulance on the way to the emergency  
20 room, did she ever?

21 A. No signs of consciousness, no sounds,  
22 nothing.

23 Q. Did you remain in the hospital while  
24 the victim was being tended to in the  
25 emergency room?

1 A. Yes, I did.

2 Q. And could you tell that there were  
3 technicians working on her in the emergency  
4 room?

5 A. Yes. They tried several different  
6 methods which I couldn't testify to, but they  
7 tried several different ways to revive her.

8 Q. At some point, were you advised that  
9 these various measures were unsuccessful?

10 A. Yes, I was.

11 Q. How were you advised?

12 A. The physician in charge of the  
13 emergency room at that time was working on her  
14 looked up at the clock, called all his  
15 assistants off and said that's it. Time of  
16 death, I believe, was 10:31.

17 Q. What was done with the victim's  
18 belongings at that point?

19 A. Her clothing was pretty much cut up  
20 throughout the time she was in the emergency  
21 room by what they were trying to do to her and  
22 after time of death was pronounced, she was  
23 unclothed on the table and at that time I  
24 secured her belongings.

25 Q. Do you recall what she was wearing?

1 A. Clothing, she I believe had a white  
2 blouse stripe shirt, blue denim skirt and dark  
3 jacket.

4 Q. Now, what would be done with this  
5 clothing in terms of preserving it once it was  
6 turned over to you?

7 A. The medical examiner's office arrives  
8 and they will place it in bags and from there  
9 it is either directly to the prosecutor's  
10 office or to us.

11 Q. Did you maintain custody of the  
12 clothing until the medical examiner's arrival?

13 A. Yes.

14 Q. Officer, I'm going to show you an item  
15 that has earlier been marked as S-13 for  
16 identification. I want you to look at the  
17 item and tell me if you recognize what it is.

18 A. It appears to be the jacket -- I  
19 couldn't say right now if that was the jacket  
20 right now or not that she was wearing. It  
21 does resemble the jacket, yes.

22 Q. Now, in what condition was it when you  
23 accepted it?

24 A. That condition.

25 Q. Without --

1 MR. DAVIS: Objection. He hasn't  
2 actually identified it.

3 THE COURT: That's correct, Mr.  
4 Davis, but I don't see anything to object to.  
5 He's described the condition on a comparison  
6 basis.

7 A. The condition that I accepted it in --  
8 turn it around. I saw the hole in the  
9 shoulder and that was -- there was a hole in  
10 the shoulder that night.

11 THE COURT: The witness is pointing  
12 to the right rear shoulder area of the jacket,  
13 Mr. Davis.

14 BY MR. TALASNIK:

15 Q. At the time that you accepted it, had  
16 it been cut open in the process of attempting  
17 to revive Gloria?

18 A. Not that way, no. I believe the  
19 jacket was removed and they cut her blouse.

20 Q. Officer, did you remain with the  
21 victim until the medical examiner arrived?

22 A. Yes, I did.

23 Q. And did you remain for the performance  
24 of an autopsy?

25 A. Yes, I did.

1 Q. Officer, what is an autopsy?

2 A. An autopsy is a technique used by the  
3 medical examiner to determine the cause of  
4 death and any other factors, the type of -- to  
5 simplify it, an operation on a corpse.

6 Q. Did you remain on that procedure?

7 A. Yes.

8 Q. Who performed that procedure?

9 A. Dr. Jason of the Atlantic County  
10 Medical Examiners.

11 Q. Would you physically be in the room as  
12 the autopsy is being performed?

13 A. Yes.

14 Q. As Dr. Jason performs the autopsy, is  
15 he describing what he finds?

16 A. Yes. He shows -- he's speaking into a  
17 microphone himself, but then he will speak so  
18 everyone in the room can hear him.

19 Q. At any time prior to the performance  
20 of the autopsy, did you learn the identity of  
21 the deceased?

22 A. Yes, I did.

23 Q. Who did you learn her to be?

24 A. Gloria Simonelli.

25 Q. Did that name mean anything to you?



1 A. Yes, it did.

2 Q. Had you been involved in another  
3 investigation involving that same young woman?

4 A. Yes, I was.

5 Q. Tell us about that.

6 A. Approximately a week earlier, we  
7 received a call from a woman stating that her  
8 door had been vandalized, a window possibly  
9 kicked in. Myself and Officer Hopkins again  
10 arrived and Gloria Simonelli was standing in  
11 front of her apartment, I believe 100 North  
12 Monroe Avenue, Apartment E. She was very  
13 upset, almost hysterical at the time. We had  
14 to calm her down. She kept on saying that it  
15 was him --

16 MR. DAVIS: I object, your Honor.

17 MR. TALASNIK: Your Honor, it's  
18 being offered under evidence rule --

19 THE COURT: Let me see counsel.

20 (Whereupon, the following side bar  
21 discussion took place)

22 THE COURT: First of all, what's the  
23 proffer?

24 MR. TALASNIK: It's --

25 THE COURT: What is he going to say

1 that she said?

2 MR. TALASNIK: Word for word, I'm  
3 not sure.

4 THE COURT: What is the essence of  
5 it?

6 MR. TALASNIK: That she's sure it  
7 was him, probably some reference to the  
8 restraining order.

9 THE COURT: What's the purpose for  
10 the proffer?

11 MR. TALASNIK: Well, there -- there  
12 has been evidence offered throughout under  
13 Rule 55 to show motive, to show bias, to show  
14 intent and to identify this defendant as the  
15 one who committed the homicide. The conduct  
16 was admitted to by Mr. Highlander through the  
17 testimony of Mr. Brooks and, I believe, Mr.  
18 Reed.

19 The victim's parents testified that  
20 the incident was, in fact, reported to the  
21 police and they were cross-examined about  
22 whether a complaint was signed, so this  
23 information in addition to having relevance  
24 under Rule 55 corroborates the testimony of  
25 the victim's parents with respect to its

1 reporting under Rule 20.

2 THE COURT: I will permit the  
3 testimony of this witness to the effect that  
4 she made a complaint and whether or not she  
5 signed the complaint. I won't permit him to  
6 testify as to statements that she made as to  
7 who she thought might have done it.

8 MR. TALASNIK: Very well.

9 THE COURT: Given there is already  
10 evidence to the effect that she indicated she  
11 didn't see him do it.

12 MR. TALASNIK: I think that will  
13 come through this Officer if I can be allowed  
14 to question him.

15 THE COURT: Well, it is one thing  
16 for him to quote her, but for him to quote her  
17 as saying it was Highlander, it is that latter  
18 that I think is appropriately objectionable.

19 MR. TALASNIK: I will try to  
20 reconstruct the question, Judge.

21 (Whereupon, the side bar discussion  
22 ended).

23 BY MR. TALASNIK:

24 Q. Officer, with reference to this  
25 incident, approximately what time of the day

1 or evening were you summoned to Ms.  
2 Simonelli's Monroe Avenue condo?

3 A. It was approximately 11:35 at night,  
4 p.m.

5 Q. At the time of your arrival, was she  
6 there?

7 A. Yes.

8 Q. What was her emotional state at the  
9 time she confronted you there?

10 A. She was very upset.

11 Q. Was there any evidence of any damage  
12 to her door?

13 A. Yes. There -- she had a door which  
14 was full length Plexiglas with false frames  
15 put into it and some of the frames were  
16 knocked out.

17 Q. Did you speak to her about what had  
18 occurred?

19 A. Yes.

20 Q. As a result of that conversation, was  
21 anyone ultimately charged with that damage?

22 A. No. Because she at the time did not  
23 actually see whoever did the damage.

24 Q. Okay. And this was the same Gloria  
25 Simonelli that you saw at the parking lot of

1 the Greenhouse on the night of the 25th?

2 A. Yes.

3 Q. Now, during the course of Dr. Jason's  
4 autopsy, did he have occasion to examine both  
5 the clothing of the victim and the victim  
6 herself?

7 A. As far as the clothing, I'm not sure.  
8 The victim, yes.

9 Q. And that was done in your presence?

10 A. Yes.

11 Q. Was anybody else present during the  
12 performance of the autopsy?

13 A. There was several people present.  
14 There were two assistants. I think one was  
15 Barbara Fenton from the medical examiner's  
16 office; sheriff's county ID was there and two  
17 I think Longport police officers were there.

18 Q. What would be the purpose of the  
19 sheriff's county ID person?

20 A. For positive ID, I believe, of the  
21 deceased.

22 Q. What about the taking of photographs?  
23 Did that occur?

24 A. Yes. That was also the sheriff's ID.

25 Q. What was done with anything that was

1 removed from the victim?

2 A. It was inventoried and kept by, I  
3 believe, the prosecutor's office.

4 MR. TALASNIK: Thank you, your  
5 Honor. I have no further questions.

6 THE COURT: Cross-examine?

7 MR. DAVIS: No further questions.

8 THE COURT: You may step down.

9 Thank you, Officer.

10 (Witness excused)

11 THE COURT: Call your next witness.

12 MR. TALASNIK: Your Honor, I don't  
13 have any other witnesses here available to  
14 testify this afternoon.

15 THE COURT: Okay.

16 We had a lot of ground covered  
17 anyway today. We will pick up first thing in  
18 the morning. Again, at 9:00. It is my  
19 present expectation that we will not require  
20 you on Friday. I'm reasonably certain of  
21 that, so you can feel comfortable making plans  
22 this evening if you like as far as Friday is  
23 concerned. And I hope I will turn out to be  
24 right.

25 Again, I remind you to be careful as

1 it remains important, as it will throughout  
2 the case, to insulate yourself from any media,  
3 newspaper or other accounts with respect to  
4 the trial and to avoid any opportunity or any  
5 situation that puts you in the position of  
6 discussing anything about the case with each  
7 other or with anybody else.

8 We will see you first thing in the  
9 morning. Thank you.

10 (Whereupon, the jury leaves the  
11 courtroom)

12 THE COURT: Tomorrow?

13 MR. TALASNIK: Tomorrow I have  
14 Officer Harbison from the sheriff's  
15 department, Dr. Jason, Detective Fritz.  
16 Whether I can go beyond that, I will to see  
17 what I can do tonight.

18 THE COURT: What are the  
19 possibilities?

20 MR. TALASNIK: Detective Walsh.

21 THE COURT: Okay. So tomorrow you  
22 will be talking about among other things the  
23 pictures?

24 MR. TALASNIK: Yes, your Honor.

25 THE COURT: Do you want to give me

1 some -- because we have a couple of minutes  
2 this afternoon -- some possible sense of  
3 whatever the fault lines in that debate will  
4 be on the terms of a proffer, of what you  
5 perceive to be the areas of relevance for  
6 which you perceive you need some of the  
7 pictures?

8 MR. TALASNIK: Well --

9 THE COURT: I won't make any rulings  
10 today. I want some idea what to prepare for.

11 MR. TALASNIK: Well, I think it  
12 might be easier to discuss it after Dr. Jason  
13 testifies. Obviously, I will be careful in  
14 the examination of Dr. Jason to ensure that  
15 the photographs are not in any way seen by the  
16 jurors. But I think the overall relevance of  
17 the photographs is best understood in the  
18 context of having heard from Dr. Jason.

19 THE COURT: Okay. All right. I'm  
20 just trying to get a handle again on the  
21 schedule so we can be as smooth as possible  
22 next week.

23 Monday and Tuesday we have already  
24 talked about and it is your present  
25 expectation that you go as far as you need to



1 tomorrow so you will be able to finish up by  
2 Tuesday.

3 MR. TALASNIK: Yes, your Honor. I  
4 have no reason to believe that I will not be  
5 finished by Tuesday.

6 THE COURT: Okay. Anything else we  
7 need to or should discuss at this point?

8 MR. PRESTON: We had a discussion I  
9 believe in chambers concerning an issue that  
10 we had on the record yesterday. Given some  
11 rethinking on that line, I don't feel inclined  
12 to present the issue at this time.

13 THE COURT: The record will reflect  
14 that I suggested to Mr. Talasnik in the  
15 presence of Mr. Preston and Mr. Davis that  
16 while I wasn't making any specific rulings at  
17 this point, I did indicate to Mr. Talasnik I  
18 thought he should be prepared in the event we  
19 got to that point in the proceedings to make a  
20 proffer to me and to the jury as to what of  
21 the evidence that would have been presented in  
22 the first phase of the trial he would ask the  
23 jury to consider in connection with penalty  
24 phase.

25 I believe, and I will have specific

1 writing for you tomorrow, that I should, in  
2 general, charge the jury that with respect to  
3 the function of finding and evaluating  
4 aggravating and mitigating factors, they may  
5 consider any relevant information that was  
6 presented either in the first phase or in the  
7 penalty phase. But I also indicated to Mr.  
8 Talasnik that I thought it would be  
9 appropriate to have him define for the record,  
10 for the jury and for the court and defense the  
11 scope of that portion of the testimony in the  
12 first phase of the trial upon which he will  
13 place some reliance in that regard.

14 Anything else? See you tomorrow.  
15 Nine o'clock.

16 (Whereupon, the hearing adjourned)

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## C E R T I F I C A T I O N

I, Konstantin Koletas, Certified Shorthand Reporter and Notary Public for the State of New Jersey, do hereby certify that the foregoing transcript is a true and accurate transcript of my stenographic notes taken in the matter of:

STATE VS. RICHARD HIGHLANDER

Held at the place and on the date hereinbefore set forth.

Further, that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this hearing was taken.

And further, that I am not a relative or employee of any of the parties or attorney or counsel employed in this case, nor am I financially interested in the action.

  
Konstantin Koletas, CSR

Dated: October 13, 1989