

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

Case No.: SC17-1391

Fl. Bar File No.: 2016-70, 106 (11J)

v.

JONATHAN STEPHEN SCHWARTZ,

Respondent.

APPENDIX TO

THE FLORIDA BAR'S

REPLY BRIEF

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1 IN THE COUNTY COURT OF THE 11TH JUDICIAL CIRCUIT
2 IN AND FOR MIAMI-DADE COUNTY, FLORIDA
3 CRIMINAL DIVISION JURISDICTION

4
5 CASE NO. F13-12946

6 THE STATE OF FLORIDA,

7 Plaintiff,

8 vs.

9 VIRGIL WOODSON,

10 Defendant.

11
12
13
14 CONTINUATION OF THE DEPOSITION

15
16 OF

17
18 GERSIE TELLISMA

19
20
21 Office of the State Attorney
22 1350 Northwest 12th Avenue
Miami, Florida 33136

23 Friday, February 13, 2015
24 2:30 p.m. - 3:30 p.m.
25

1 APPEARANCES

2 For the Plaintiff:

3
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8 For the Defendant:

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14 Also Present:

15 DON CORASMIN (Creole Interpreter)
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19
20 I N D E X

21 Witness Direct Cross
22 GERSIE TELLISMA 3 --

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1 THEREUPON:

2 GERSIE TELLISMA,
3 a witness named in the notice heretofore
4 filed, having been first duly sworn, deposes
5 and says as follows:

6 DIRECT EXAMINATION

7 BY MR. SCHWARTZ:

8 Q. Good to see you again. We reset the
9 deposition today hopefully to finish it. It's
10 not going to take that long. I'll start with the
11 two areas.

12 MS. CABRERA: Do you want to put on
13 the record everyone that's in the room right
14 now?

15 MR. SCHWARTZ: Not really. She'll get
16 it down afterwards.

17 BY MR. SCHWARTZ:

18 Q. So I'm going to start with the two
19 areas that we didn't do before and then we might
20 just go back into the facts one more time because
21 now you have an interpreter.

22 But right now it's about 15 minutes before
23 3:00. Just so you know, it's not going to be
24 very long. We should be done by the time that
25 the hand comes around to 3:15, at most.

1 Otherwise, you can hold it against me.

2 So first let's start with this letter that we
3 found out about last time you were here. I'm
4 going to mark this letter over here, just for the
5 purposes of this deposition, as Exhibit One.

6 (Thereupon, Exhibit Number One was
7 marked and introduced into evidence.)

8 MR. SCHWARTZ: I'm going to circle it.
9 It says Exhibit One.

10 MS. CABRERA: Can I see it?

11 MR. SCHWARTZ: It's the outside of the
12 envelope.

13 MS. CABRERA: Okay.

14 MR. SCHWARTZ: I think you have the
15 original envelope.

16 MS. CABRERA: Okay.

17 BY MR. SCHWARTZ:

18 Q. You received an envelope at some
19 point?

20 MR. SCHWARTZ: Do you have the
21 original envelope?

22 MS. CABRERA: I believe this is it.

23 BY MR. SCHWARTZ:

24 Q. Let me show you the original. I'm not
25 going to put it as part of the record, but let me

1 show you what the original envelope looks like.
2 This is just a copy of it. Did you receive this
3 envelope at your house?

4 A. Yes.

5 Q. That's a yes?

6 A. Yes.

7 Q. Was it around June of 2013?

8 A. I don't remember.

9 Q. Well, do you remember when this crime
10 happened?

11 A. Yes.

12 Q. When was that?

13 A. Midnight, 2013.

14 Q. And then inside that envelope over
15 there was there a letter?

16 MR. SCHWARTZ: Do you have the
17 original letter?

18 MS. CABRERA: Uh-huh.

19 BY MR. SCHWARTZ:

20 Q. Here's a copy of the letter, but here
21 was the original. Was this the letter that was
22 inside there?

23 A. I didn't sign the letter.

24 Q. No, no. It was sent to you. It was
25 inside the envelope.

1 A. Yes, I received it in my mail.

2 Q. And do you know if that was the
3 latter? It starts with, "Alo Gerdie."

4 A. She said she returned the letter and
5 he should have a copy.

6 Q. Do you know if this is the letter,
7 this particular piece of paper? Was this the
8 letter that was inside that you ended up giving
9 to the prosecutor?

10 A. Yes.

11 Q. Was there also keys inside that
12 envelope?

13 A. Yes, there was.

14 Q. And did you give the keys to the
15 prosecutor?

16 A. No, I didn't give it to her. I went
17 to the local police. I give them the key. They
18 said no, since the car was stopped, I can use the
19 key to use the car.

20 Q. So you kept the keys?

21 A. Because my car was stopped, yes, I
22 kept the key.

23 Q. Now, the bottom of the letter has a
24 date -- this is what I've marked as Exhibit One.
25 The bottom of the letter has a date which is June

1 5th of 2013; do you see that? Do you see the
2 date?

3 A. Yes, I see the date and then I'm going
4 to explain the letter to you.

5 Q. I'm going to, but is that
6 approximately when you received the letter,
7 sometime around June of 2013 or you don't know?

8 A. Well, she said two weeks after the
9 crime occurred, she received the letter and the
10 victim said they were going to mail her the key.

11 MR. SCHWARTZ: Wait, wait, wait. Hold
12 on. Wait, wait, wait.

13 Can you read that one back?

14 (Thereupon, the requested portion of
15 the record was read back as previously
16 recorded.)

17 BY MR. SCHWARTZ:

18 Q. Who said that?

19 A. The letter.

20 Q. Right, who said that? Who said?

21 A. She sent the key back.

22 Q. Who said they were going to send the
23 keys back?

24 A. The Woodson family said they were
25 going to send the key back.

1 Q. Who did you talk to, supposedly?

2 A. I didn't know. She said she was her
3 auntie.

4 Q. You're saying there's an aunt? And
5 did you talk to her on the telephone or did you
6 talk to her in person?

7 A. He came to my house and he talked to
8 her in the parking lot.

9 Q. He or she?

10 A. She, el.

11 Q. She, okay. El, like el in Spanish is
12 he. In French it's she.

13 A. Sorry.

14 Q. No, it's okay. No problem. Did she
15 speak English or Creole?

16 A. English only.

17 Q. So she was an English-speaking lady.
18 She was black?

19 A. She was black and she was big.

20 Q. A big black woman, okay. And how do
21 you know that she was the aunt of Virgil Woodson?

22 A. Because she identify herself to me.

23 Q. She said I'm the aunt of Virgil
24 Woodson?

25 A. Yes.

1 Q. And what did she say she's going to
2 do?

3 A. Let me begin to explain the beginning.

4 MS. CABRERA: Sorry. Just tell her to
5 answer the questions being asked.

6 THE WITNESS: What question?

7 BY MR. SCHWARTZ:

8 Q. So what you recall, some lady came to
9 you, right, from the parking lot? And what
10 exactly do you think that she said to you in
11 English? What do you remember that she said to
12 you in English?

13 A. And she said are you Mrs. Mark?

14 Q. Mrs. Mark? She said are you
15 Mrs. Mark, okay. And then what did you say?

16 A. I take a little while to respond to
17 her.

18 Q. And then did you say something?

19 A. And I ask her what she want.

20 Q. And then?

21 A. And she said I'm looking for
22 Mrs. Mark.

23 Q. She said she's looking for Mrs. Mark.
24 And is your last name Mark?

25 A. My husband last name is Mark.

1 Q. Oh, it is? It's not Tellisma?

2 Tellisma is not your last name?

3 A. Tellisma last name.

4 Q. And Mark?

5 A. Mark is my husband name.

6 Q. His first name or his last name?

7 A. His first name.

8 Q. So something about Mrs. Mark? And
9 then what did you say? What did you say?

10 A. I ask her what she want with
11 Mrs. Mark.

12 Q. And then what? What did she say?

13 A. And she said I have a problem.

14 Q. What did she say her problem is?

15 A. And I ask what's your problem? Well,
16 she said her nephew have an accident and she need
17 to talk to somebody. And then at that time I
18 said well, I am Mrs. Mark.

19 Q. And then what did she say? What did
20 she want to talk about?

21 A. And I ask her what do you want?

22 Q. And what did she say?

23 A. And she said her nephew is in jail and
24 he did something terrible and I want to say
25 sorry.

1 Q. She said sorry. So she's apologizing
2 for Mr. Woodson, okay. What else did she say?

3 A. And she said Woodson mother was on the
4 phone.

5 Q. Was on the phone when the aunt was
6 there; is that what she's saying?

7 A. When the aunt was there with me.

8 Q. When the aunt was there, okay. And
9 then did she say anything? Did the mom say
10 anything to you on the phone or who you thought
11 was the mom?

12 A. Yes. She said something to me on the
13 phone.

14 Q. What did she say?

15 A. I explained to her your son just pull
16 out a gun on me and he took my phone and he took
17 my money. And she said don't give yourself any
18 problem. I can give you the money back.

19 And she said I can give you the money and
20 then I told her no, just give them the money. I
21 just need my car key. And she said no.

22 And I was looking for the key. I found the
23 key in my house. And the cop come to my house
24 and I did not see the key, but I finally see it.

25 After she said okay, I'm going to send the

1 key, but when I said no, I'm not going to take
2 it. Just return it back to the Miami Police
3 Department. After that -- and she take a black
4 card and they left. And I said to myself, I
5 cannot stay in that house. I have to move
6 because they know my house.

7 BY MR. SCHWARTZ:

8 Q. All right, let's go back to where
9 she --

10 MS. CABRERA: Let her finish.

11 THE WITNESS: Because they know my
12 house.

13 BY MR. SCHWARTZ:

14 Q. Let's go back to where you said about
15 you found some key inside your house. Which key
16 was that?

17 A. Oh, she say Woodson mother. She found
18 the key at her house, not me.

19 Q. She said she found some keys?

20 A. Yes.

21 Q. How does she know whether they were
22 your keys or not? Did you talk to her about what
23 your keys look like?

24 MS. CABRERA: I would object to the
25 form of the question; compound question.

1 MR. SCHWARTZ: Okay, forget about the
2 question. I'll start it over.

3 BY MR. SCHWARTZ:

4 Q. Okay, wait hold on. What did your
5 keys look like?

6 A. It was the car keys and then she found
7 the car keys at her house. She just call me and
8 ask me, you know, she found the key.

9 Q. Listen to my question real closely.
10 What did your keys look like? How many keys were
11 there? What did they look like? Right, like my
12 keys; one big one, another key, lots of other
13 keys here, lots of discount cards.

14 A. Oh, she said that she give me the
15 whole set of keys because I give them the old key
16 of my car. It was a set of keys.

17 Q. So how many keys did you lose?

18 A. My car keys, my house, that's two.
19 And my husband key, that's three. Plus the mail
20 key.

21 Q. In Creole.

22 A. No. That's the mail. That's the
23 mail, CVS and some other places.

24 Q. So when you were talking to
25 Ms. Woodson about the keys, did she describe what

1 she was looking at?

2 A. She knows her son and she knows her
3 son has a problem. And he come with a lot of
4 keys and phones and they found the money on him.
5 And she knows the key was my keys.

6 Q. Did she describe the keys to you?

7 A. I wasn't at home. I was just talking
8 with her.

9 Q. Let me try it one last time. Did she
10 describe the keys that she was looking at to you?

11 A. Oh, no. She wasn't talking to me.
12 She was talking to my niece.

13 Q. Oh, so she never talked to you?

14 A. When she asked her niece to give me
15 the phone and I said no, I don't want to talk to
16 her at all.

17 Q. So you never talked to anybody who
18 said that they were the mother of Mr. Woodson?

19 A. Oh, the niece told me that was Woodson
20 mom on the phone.

21 Q. Okay, now you say it was the niece or
22 was it the aunt? Before you said it was the
23 aunt, now you're saying it was the niece of
24 somebody? Which one do you remember now?

25 A. Oh, one is Woodson aunt and the other

1 one was the niece.

2 Q. So you're saying now there was two
3 people on the scene?

4 A. That was Woodson aunt. I don't know
5 whether that was true or not. And she said that
6 was Woodson aunt.

7 Q. But who was the niece? You just said
8 you were speaking with a niece. Who's the niece?

9 A. She was the niece of Mr. Woodson and
10 she said she doesn't remember if the mother was
11 the niece and the aunt was the niece, but she
12 doesn't remember exactly. I was talking to the
13 aunt. I was talking to Woodson aunt and Woodson
14 tried to make me talk to the niece. I don't --

15 Q. Was Woodson there, the defendant?

16 A. I was talking to Woodson aunt.

17 Q. Woodson's aunt, okay. How many people
18 were there on the scene, in that parking lot
19 there? You and one other person?

20 A. That was me and my mom.

21 Q. You and your mom?

22 A. Yes.

23 Q. So your mom was there, as well, when
24 somebody else was there? Now there's three
25 people there?

1 A. Well, my mom just saw me talking to
2 the person and she was standing up there, too,
3 but she doesn't speak English and she didn't know
4 what we were talking about.

5 Q. But she was there now? You're saying
6 the mother was there and she can identify whoever
7 the woman was?

8 A. I don't know if my mom can identify
9 the aunt because she's very old.

10 Q. But you said the niece was there, too.
11 Who was the niece who you said you were talking
12 to?

13 MS. CABRERA: I'm sorry. Can we go
14 off the record for a moment, please?

15 MR. SCHWARTZ: Huh?

16 MS. CABRERA: Can I go off the record
17 for a moment?

18 MR. SCHWARTZ: Okay.

19 (Thereupon, a brief discussion was
20 held off the record, and then the deposition
21 continued as follows:)

22 MR. SCHWARTZ: Okay.

23 THE COURT REPORTER: Last thing was I
24 don't know if my mom can identify the aunt
25 because she's too old.

1 BY MR. SCHWARTZ:

2 Q. So you mentioned something about a
3 niece. Just tell me whatever it is that you
4 remember about something to do with a niece of
5 who, first of all?

6 A. Three people, myself and the aunt and
7 the mom was on the phone and one was the niece.

8 Q. Did anybody tell you they were going
9 to send the keys back to you?

10 A. The mother tell me --

11 Q. Mother told you or told --

12 MS. CABRERA: Let him finish, please.

13 MR. SCHWARTZ: Okay.

14 THE WITNESS: And the mother states
15 she was going to return the key back to me.

16 BY MR. SCHWARTZ:

17 Q. And she said that to the aunt or
18 directly to you?

19 A. Oh, she was talking to the aunt. I
20 didn't want to talk to her. She said to the aunt
21 I will return the key back for her because I
22 didn't want to talk to them.

23 Q. And the aunt was, you think, on the
24 phone with her, right?

25 A. Yes. The aunt was on the phone, but I

1 believe she walked to the parking lot because the
2 mom was trying to give me the money back.

3 MS. CABRERA: I'm sorry. She said
4 something. What did she say?

5 THE WITNESS: Because the mother wants
6 to give me the money -- Woodson mother. She
7 wants to give me the money.

8 BY MR. SCHWARTZ:

9 Q. Was the phone on speaker phone? Could
10 you hear the other person?

11 A. The phone was on the speaker first and
12 so I didn't want to talk to them and they take it
13 off of the speaker.

14 Q. So when you say something about the
15 keys, that is something that the aunt said that
16 the mother said to her?

17 A. I spoke to the aunt and I said I need
18 my key because my car just, you know, just stay
19 there. I can do nothing to it.

20 Q. That's it?

21 A. Then the mother said okay.

22 Q. Was the mother on speakerphone when
23 she said she's going to send back the keys? And
24 did you hear it on the speaker?

25 A. No, the aunt told me that.

1 Q. So did you read this letter?
2 A. Yes, I read it. But I did not --
3 Q. But what?
4 A. I read it. I did not understand the
5 Creole.
6 Q. The Creole was a mess?
7 A. She said it was a mess.
8 Q. It says something about somebody by
9 the name of Fritz (phonetic), right? The name
10 Fritz is mentioned many times. You saw that,
11 right, Fritz?
12 A. Yes, I saw it.
13 Q. There's somebody saying that -- and
14 then on the top of it, it says that someone's
15 name is Nancy Baptiste (phonetic). Do you know a
16 Nancy Baptiste?
17 A. I don't know her.
18 Q. How about a Jean Baptiste?
19 A. Jean Baptiste, no. I don't know her.
20 Q. Do you go to a church around there?
21 A. Which church? Where?
22 Q. Around that neighborhood over there.
23 Did you go to an Adventist church over there?
24 A. No. Yes, I'm a Seven Day Adventist.
25 I go to an Adventist church.

1 Q. And this lady in this letter says that
2 she knows you from the church.

3 MS. CABRERA: Can we go off the record
4 for a moment?

5 (Thereupon, a brief discussion was
6 held off the record, and then the deposition
7 continued as follows:)

8 MS. CABRERA: Do you want to see the
9 letter? Do you want to read the letter
10 before you answer questions?

11 THE WITNESS: I don't want to see the
12 letter because they make the letter
13 themselves so they can make somebody else
14 responsible for it.

15 BY MR. SCHWARTZ:

16 Q. Do you go to an Adventist church?

17 A. Yes.

18 (Thereupon, a brief discussion was had
19 off the record and the deposition continues
20 as follows:)

21 MR. SCHWARTZ: Sir, what's your name
22 again?

23 THE INTERPRETER: Don.

24 MR. SCHWARTZ: Don, sorry about that.
25 When did you become certified as a Creole

1 interpreter?

2 THE INTERPRETER: It's been a long
3 time.

4 MR. SCHWARTZ: When is the last time
5 that you translated for a deposition?

6 THE INTERPRETER: About a few months
7 ago.

8 MR. SCHWARTZ: A few months ago. Have
9 you ever translated in court and been
10 certified during a jury trial?

11 THE INTERPRETER: Yeah, sure.

12 MR. SCHWARTZ: Did you translate in a
13 jury trial?

14 THE INTERPRETER: Sure.

15 MR. SCHWARTZ: And when did you first
16 do that?

17 THE INTERPRETER: Back in 2012.

18 MR. SCHWARTZ: In 2012?

19 THE INTERPRETER: Uh-huh.

20 MR. SCHWARTZ: And how many jury
21 trials have you translated for?

22 THE INTERPRETER: About six or eight.

23 MR. SCHWARTZ: Six or eight, okay.

24 All right, fine.

25 BY MR. SCHWARTZ:

1 Q. So what's the name of the church?
2 What's the name of your church that she went to
3 in June of 2013?

4 A. My church called the Temple Adventist
5 of Seven Days.

6 Q. And what's the location of that? Is
7 that in Miami?

8 A. It's 143 Northeast --

9 Q. That's 14300, right?

10 A. Huh?

11 Q. It's 14300?

12 A. The church is at 143 Northeast West
13 Dixie Highway.

14 Q. West Dixie Highway, okay. So you got
15 this letter. You got your keys, right?

16 A. Inside the letter I received the key
17 and I received --

18 Q. And you brought it to the state or the
19 police officer, the keys?

20 A. I went to the local police.

21 Q. And you told them that these were
22 taken in a robbery?

23 A. But they have the keys. They know
24 everything. I did not have to tell them
25 anything.

1 Q. Did you tell them that they were taken
2 in a robbery?

3 A. Yes, I told them. And they know that.
4 They give me the phone numbers.

5 Q. Did they ever take fingerprints or any
6 kind of -- something off of the keys to try to --

7 A. No.

8 Q. Do you have the keys today?

9 A. No, they didn't take fingerprints. I
10 don't have the key today and the car's was
11 totaled in an accident.

12 Q. The car was totaled, okay. That's
13 Exhibit One. Now, did you ever know a boy by the
14 name of Fritz Lajeau (phonetic)?

15 A. No, never.

16 Q. Well, he used to live in your building
17 ever there.

18 A. I don't know. Fritz?

19 Q. His name is Fritz.

20 A. Fritz Lejeau?

21 Q. Lejeau, yeah.

22 A. I don't know him.

23 Q. Fritz Len Joseph (phonetic). Have you
24 ever heard the name before?

25 A. No, I don't know that person.

1 Q. Now later, the police officer showed
2 you what they call a photographic lineup; do you
3 remember that?

4 A. I remember they give me the lineup.

5 Q. And do you remember -- huh? You
6 remember they showed you a lineup?

7 A. Yes, I remember.

8 Q. Was it like a piece of paper like my
9 Exhibit Number Two over here? Was it a piece of
10 paper like that or was it on like a cardboard
11 inside like a boxed set?

12 A. It was on a piece of paper like that.

13 Q. A piece of paper like this?

14 A. Uh-huh.

15 Q. Let me show you what's marked as
16 Exhibit Number Two.

17 (Thereupon, Exhibit Number Two was
18 marked and introduced into evidence.)

19 BY MR. SCHWARTZ:

20 Q. Now, forget about what you did before.
21 Now, I just want you to look at Exhibit Two.

22 MS. CABRERA: Sir, let me just clarify
23 something.

24 MR. SCHWARTZ: Huh?

25 MS. CABRERA: Can I clarify something

1 with her? When the detective showed you the
2 photo lineup, was it in color or was it in
3 black and white?

4 MR. SCHWARTZ: I'm sorry, this is my
5 depo. You can do your cross examination when
6 it's over, but this is my depo now.

7 MS. CABRERA: I know, but I think that
8 she --

9 MR. SCHWARTZ: Whatever. You can
10 cross examine her, but this is my depo. You
11 can't keep interrupting my depo.

12 MS. CABRERA: But I'm trying to
13 clarify now.

14 MR. SCHWARTZ: You can't. You can't.
15 That's not how we do depos. I'm sorry. We
16 don't do depos like that. I do my
17 questioning, you can do your questioning, but
18 you don't interrupt my depo repeatedly. I'm
19 sorry, I don't do that.

20 MS. CABRERA: Well, I mean I think if
21 we --

22 MR. SCHWARTZ: You're not interrupting
23 my depo, I'm sorry. You have your right to
24 ask her questions. Just like in court, we do
25 a cross examination. You don't stand up in

1 the middle of the case and start cross-
2 examining a witness or, you know -- I don't
3 cross examine your witness when you're doing
4 a direct, do I?

5 THE WITNESS: I have a question.

6 BY MR. SCHWARTZ:

7 Q. Okay.

8 A. The question that you asked me if I
9 was a Seven Day Adventist. When the lady was
10 there, when we explain to her that I was a Seven
11 Day Adventist and a Christian and if I wasn't a
12 Christian I would die. And after I told her
13 that, then she said I used to go to church, but I
14 saw that she was like just fooling around and she
15 wasn't telling the truth.

16 Q. All right. Thank you very much for
17 that. Appreciate that. Can you translate
18 everything I said? I happened to show you just
19 Exhibit Two. When they were shown to you, was it
20 in black and white or color?

21 A. When they show that to me, I do not
22 remember whether that thing was in black and
23 white or color. And then when I show up, I saw
24 Mr. Woodson.

25 Q. Now, some of the pictures they showed

1 you and you did not identify and some of the
2 pictures you did identify; do you remember that?

3 A. No.

4 Q. You do not, okay, no problem. Let me
5 show you Exhibit --

6 A. They show me only one picture.

7 Q. Only one, no problem. Let me show you
8 Exhibit Two and just ask you to look at it and
9 just ask you to pick out the person, if you know,
10 who was the one who robbed you; if you can tell
11 me.

12 And look at the pictures really carefully
13 now. And if you're sure, then tell me if you can
14 recognize or you can identify who was the person
15 who robbed you on that day. If you can tell from
16 this copy. If you can, you can. If you can't,
17 you can't.

18 A. The picture is so black I can't even
19 remember him. And the only person I can see that
20 I remember that looked like him was the first
21 one.

22 Q. Number One?

23 MS. CABRERA: Let me see.

24 BY MR. SCHWARTZ:

25 Q. Number one?

1 MS. CABRERA: I'm going to object to
2 this line of questioning.

3 THE WITNESS: When he robbed me, I
4 could not see his face because he had the
5 hood on his head.

6 BY MR. SCHWARTZ:

7 Q. He had a hood on the head?

8 A. Yeah.

9 Q. Let me show you now what's marked as
10 Exhibit Number Three.

11 (Thereupon, Exhibit Number Three was
12 marked and introduced into evidence.)

13 MS. CABRERA: Can you please show it
14 to me before you show her? Sorry, let me see
15 the previous. Where did you get this from?
16 Sorry, can I go off the record for a moment?

17 (Thereupon, a brief discussion was
18 held off the record, and then the deposition
19 continued as follows:)

20 MS. CABRERA: Okay, so let me just put
21 this on the record. Mr. Schwartz is showing
22 the victim, Ms. Tellisma, Exhibits Two and
23 Three, I guess for the deposition and the
24 state is objecting to this line of
25 questioning regarding these exhibits.

1 Photo number five is significantly
2 different from the photo lineup that was
3 provided by the state from the police
4 officers and it appears that --

5 MR. SCHWARTZ: And she didn't identify
6 the person.

7 MS. CABRERA: Let me finish. And it
8 appears that at the bottom of Exhibits Two
9 and Three, there's a handwriting from the
10 detective and from Ms. Tellisma where she
11 selected photo number five, so I think this
12 is extremely misleading. And Mr. Schwartz is
13 asking to have Ms. Tellisma identify who was
14 the robber in this case based on Exhibits Two
15 and Three and this is not, you know --

16 MR. SCHWARTZ: He showed pictures that
17 were not -- there were six people, not him.
18 I show pictures that are six people, not him.
19 It's the exact same thing.

20 MS. CABRERA: So I'm objecting to that
21 and I will be bringing this in front of the
22 court.

23 MR. SCHWARTZ: Okay.

24 BY MR. SCHWARTZ:

25 Q. All right, let me show you now Exhibit

1 Number Three and just ask you to look at them as
2 if you've never seen them before, because I don't
3 know whether you have or not. And the same
4 question I asked you as Exhibit Number Two.

5 MS. CABRERA: Okay. You know, we're
6 going to have to stop this deposition right
7 now. We're going to stop this deposition
8 right now.

9 MR. SCHWARTZ: Can I hear the
10 translation?

11 MS. CABRERA: No. We're going to stop
12 this deposition right now.

13 MR. SCHWARTZ: Can we hear the
14 translation first?

15 MS. CABRERA: And just give me a
16 moment.

17 MR. SCHWARTZ: Can we hear the
18 translation? Well, I need the translation on
19 the record, what she said.

20 THE WITNESS: I cannot --

21 MS. CABRERA: Stop the deposition.

22 MR. SCHWARTZ: Huh?

23 THE WITNESS: I cannot identify. The
24 picture is too black.

25 MS. CABRERA: Make sure he doesn't ask

1 more questions.

2 (Thereupon, a brief recess was taken,
3 and then the deposition continued as
4 follows:)

5 MS. CABRERA: We can go back on the
6 record. Just so it's clear, the state would
7 be objecting to any line of questioning
8 regarding Exhibits Two and Three. It's very
9 misleading. Our victim is not required to
10 make an identification in the deposition. If
11 you can translate to her, so she understands.

12 And by trying to make the witness do
13 this identification, you're trying to create
14 evidence, so I'm going to keep objecting. I
15 ask, Mr. Schwartz, that you refrain from this
16 line of questioning and continue on something
17 else. If you're going to continue with this,
18 I will continue objecting on the record.

19 MR. SCHWARTZ: Okay.

20 BY MR. SCHWARTZ:

21 Q. Let me show you now what's been marked
22 as Exhibit Four.

23 (Thereupon, Exhibit Number Four was
24 marked and introduced into evidence.)

25 MS. CABRERA: And I will be objecting

1 to any line of questioning regarding Exhibit
2 Four. Again, this -- I want to object to
3 Exhibit Four that was not provided by the
4 State.

5 BY MR. SCHWARTZ:

6 Q. Let me show you what's been marked as
7 Exhibit Four. Do you recall ever seeing this
8 document before?

9 A. No, I never seen that.

10 Q. You've never seen that document?

11 A. No.

12 Q. Was there a time when the officer came
13 by and showed you six pictures and asked you to
14 identify one of the six pictures and you said you
15 couldn't identify anybody?

16 MS. CABRERA: I object to the form of
17 the question.

18 THE WITNESS: When the officer showed
19 me this, Woodson wasn't there in the picture.

20 BY MR. SCHWARTZ:

21 Q. Right. And so you do remember then
22 him coming by and showing you six other pictures?

23 A. I don't know how many picture that the
24 officer showed me but he showed me some picture.

25 Q. Well, there are two different times

1 where he asked you to make an identification, two
2 different occasions.

3 A. So the first time when he show up with
4 the picture, Mr. Woodson wasn't on the picture.
5 So the second time when he show up, I show him.
6 I say yes, there he is.

7 Q. He said Woodson wasn't in the
8 pictures?

9 THE INTERPRETER: She said the first
10 time when the officer --

11 MR. SCHWARTZ: No, no, no. I need you
12 to translate for me.

13 THE INTERPRETER: Okay.

14 MR. SCHWARTZ: I'm not asking you a
15 question.

16 BY MR. SCHWARTZ:

17 Q. The first time, he said Woodson was
18 not in the pictures?

19 A. He could not tell me anything because
20 he was looking for Mr. Woodson. He didn't find
21 him, yet.

22 Q. Well, when you made the identification
23 of Mr. Woodson, did you know that he was the one
24 who had been found already with your phone and
25 money?

1 A. Yes.

2 Q. So one last time, Exhibit Four, can
3 you look at it closely and just ask you, do you
4 remember ever seeing this form ever before?

5 A. No, I don't remember seeing something
6 like that.

7 Q. Let me show you what's going to be
8 marked as Exhibit Five.

9 (Thereupon, Exhibit Number Five was
10 marked and introduced into evidence.)

11 THE COURT REPORTER: I'm sorry. Did
12 you answer?

13 THE WITNESS: I did not remember.

14 BY MR. SCHWARTZ:

15 Q. This is Exhibit Five. Have you ever
16 seen this lady before?

17 A. No.

18 Q. No? You don't know who that lady is?

19 A. No.

20 Q. You never saw her at your church any
21 time?

22 A. No, never.

23 MR. SCHWARTZ: All right, that's
24 Exhibit Five.

25 BY MR. SCHWARTZ:

1 Q. Let me show you Exhibit Six.

2 (Thereupon, Exhibit Number Six was
3 marked and introduced into evidence.)

4 BY MR. SCHWARTZ:

5 Q. Have you ever seen Exhibit Six before?
6 This is the black and white version. I'll show
7 you Exhibit Seven, as well.

8 (Thereupon, Exhibit Number Seven was
9 marked and introduced into evidence.)

10 BY MR. SCHWARTZ:

11 Q. Have you ever seen this fellow ever
12 before?

13 A. No, I never see him. Where?

14 Q. Huh?

15 A. Where?

16 THE INTERPRETER: She asked you where.

17 MR. SCHWARTZ: Where?

18 THE INTERPRETER: Uh-huh.

19 BY MR. SCHWARTZ:

20 Q. Well, I'm asking you really is whether
21 this guy is the one who robbed you? Because
22 evidently we have a witness who says that this
23 guy confessed to robbing you.

24 MS. CABRERA: Okay, just for the
25 record, I'm objecting to this line of

1 questioning. Again, defense counsel is
2 asking for the victim to make an
3 identification and we would be objecting to
4 that. He's trying to create evidence and --

5 MR. SCHWARTZ: I'm just asking. I
6 didn't ask her anything.

7 MS. CABRERA: -- and I'm going to
8 bring it up to the court.

9 MR. SCHWARTZ: I just said well, had
10 she ever seen him --

11 MS. CABRERA: Let me finish so that
12 the court reporter can write down what I'm
13 saying. And if you could please explain that
14 to the --

15 THE WITNESS: I don't know that
16 person.

17 BY MR. SCHWARTZ:

18 Q. Well, you asked me why am I showing
19 him to you.

20 A. Why?

21 Q. I'd like to be able to tell you.

22 A. Yes.

23 Q. There's a girl who came in that
24 Ms. Cabrera took a deposition of, so she knows
25 what were talking about, okay. This girl says

1 that she was with him and he pointed out your
2 house and said that he robbed you. Then he got
3 killed a couple of months later.

4 Unfortunately, he's dead right now, so that's
5 why I ask you, is it possible that this was the
6 boy instead of Woodson who actually robbed you?

7 MS. CABRERA: And again, I will be
8 objecting for the record. The victim does
9 not -- she does not have to make an
10 identification at the deposition.

11 MR. SCHWARTZ: All right, no problem.
12 I'll withdraw the question.

13 BY MR. SCHWARTZ:

14 Q. All right, I don't have anything
15 further. I appreciate it. I assume every
16 witness of mine reads. No problem. Good to see
17 you. We're done. That's it. Perfect. Thank
18 you very much. Okay, thank you.

19 (Thereupon, Mr. Schwartz exited the
20 room and then the deposition continued as
21 follows:)

22 MS. CABRERA: For the record, this is
23 ASA Cabrera. I just wanted to put on the
24 record that after Jonathan Schwartz asked the
25 victim his last question, he immediately got

1 up and left without giving me an opportunity
2 to do cross examination on this deposition
3 and I'll be bringing this up to the court.
4 All right, thank you.

5 THE COURT REPORTER: You're very
6 welcome.

7 (Thereupon, the deposition was concluded.)

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EXCEPT FOR ANY CORRECTIONS MADE
ON THE ERRATA SHEET BY ME,
I CERTIFY THIS IS A TRUE AND
ACCURATE TRANSCRIPT.
FURTHER DEPONENT SAYETH NOT.

GERSIE TELLISMA

STATE OF FLORIDA)
 SS.
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before
me this _____ day of _____, 20__.
PERSONALLY KNOWN _____ OR
ID. _____

Notary Public in and for
the State of Florida at Large.
My commission expires:

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INTERPRETER'S CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, Susan H. Mahmoud, the undersigned
authority, certify that the interpreter
personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 13th
day of February, 2015.

Susan H. Mahmoud
Notary Public
State of Florida

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CERTIFICATE OF OATH

STATE OF FLORIDA:
 SS.
COUNTY OF DADE:

I, the undersigned authority, certify
that Gersie Tellisma, personally appeared before
me and was duly sworn.

WITNESS my Hand and Official Seal this
13th day of February, 2015.

Susan H. Mahmoud
State of Florida - Notary Public
Commission no. FF3294
Expires: 03/28/17

1 REPORTER'S DEPOSITION CERTIFICATE

2 STATE OF FLORIDA:
3 SS.
4 COUNTY OF DADE:

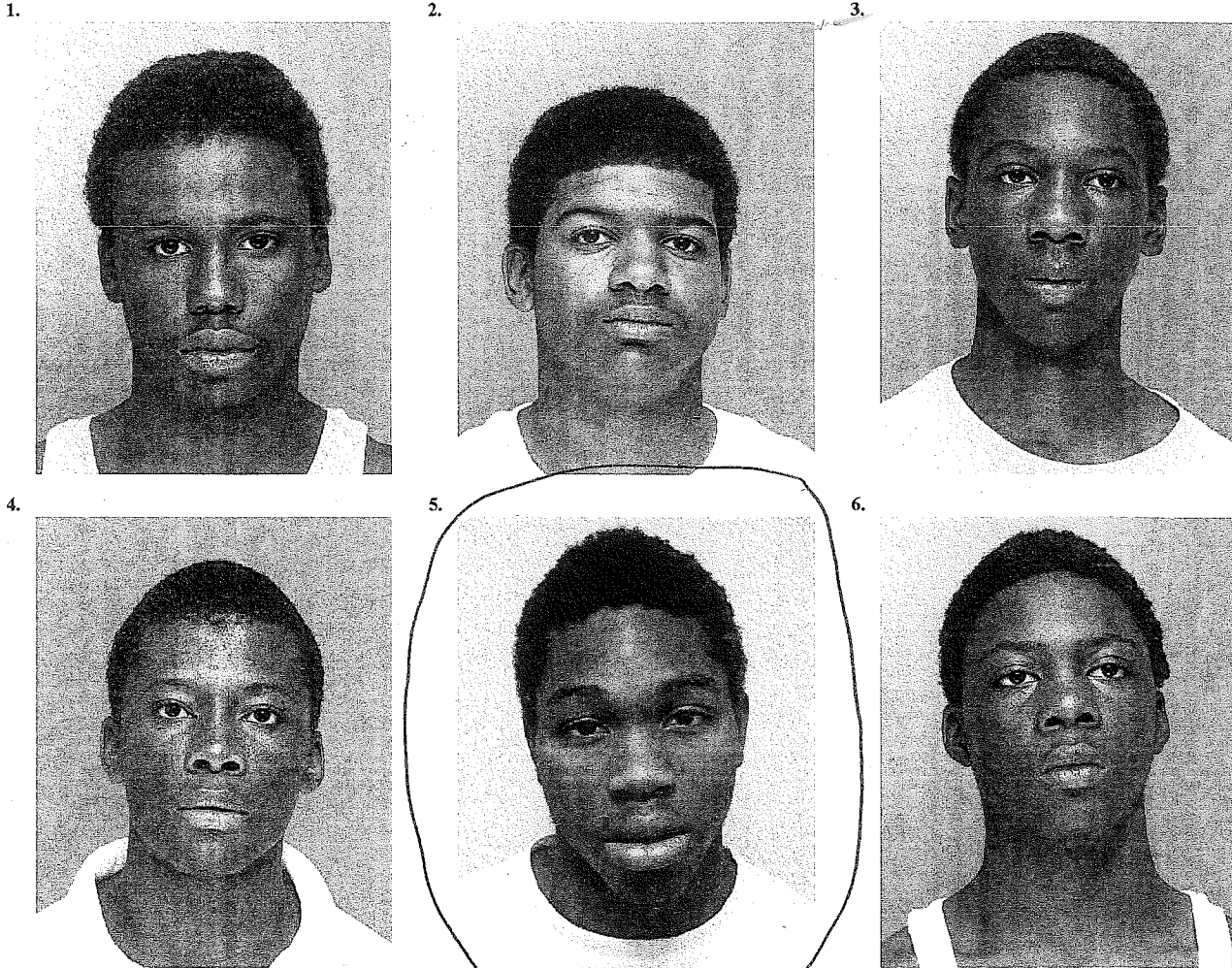
5 I, Susan H. Mahmoud, Court Reporter and
6 Notary Public in and for the State of Florida at
7 Large, do hereby certify that I was authorized to
8 and did report the deposition of Gersie Tellisma,
9 a witness called by the defendant in the above
10 styled cause; that the reading and signing of the
11 deposition were not waived by the witness; that
12 the foregoing pages, numbered from 1 to 43,
13 inclusive, constitute a true and complete record
14 of my notes.

15 I further certify that I am not a relative,
16 employee, attorney or counsel of any of the
17 parties, nor am I a relative or employee of any
18 of the parties' attorney or counsel connected
19 with the action, nor financially interested in
20 the action.

21 Dated this 13th day of February, 2015.

22
23 _____
24 Susan H. Mahmoud
25

Photographic Line-Up



SHOWING PHOTO DISPLAY:

Before conducting the photo line-up, the following should be read to each witness

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : YES NO
Date of Identification : 5/11/13

Photo selected : # 5
Initialed by the witness : *[Signature]*

DET. F. GUARDIA
[Signature]

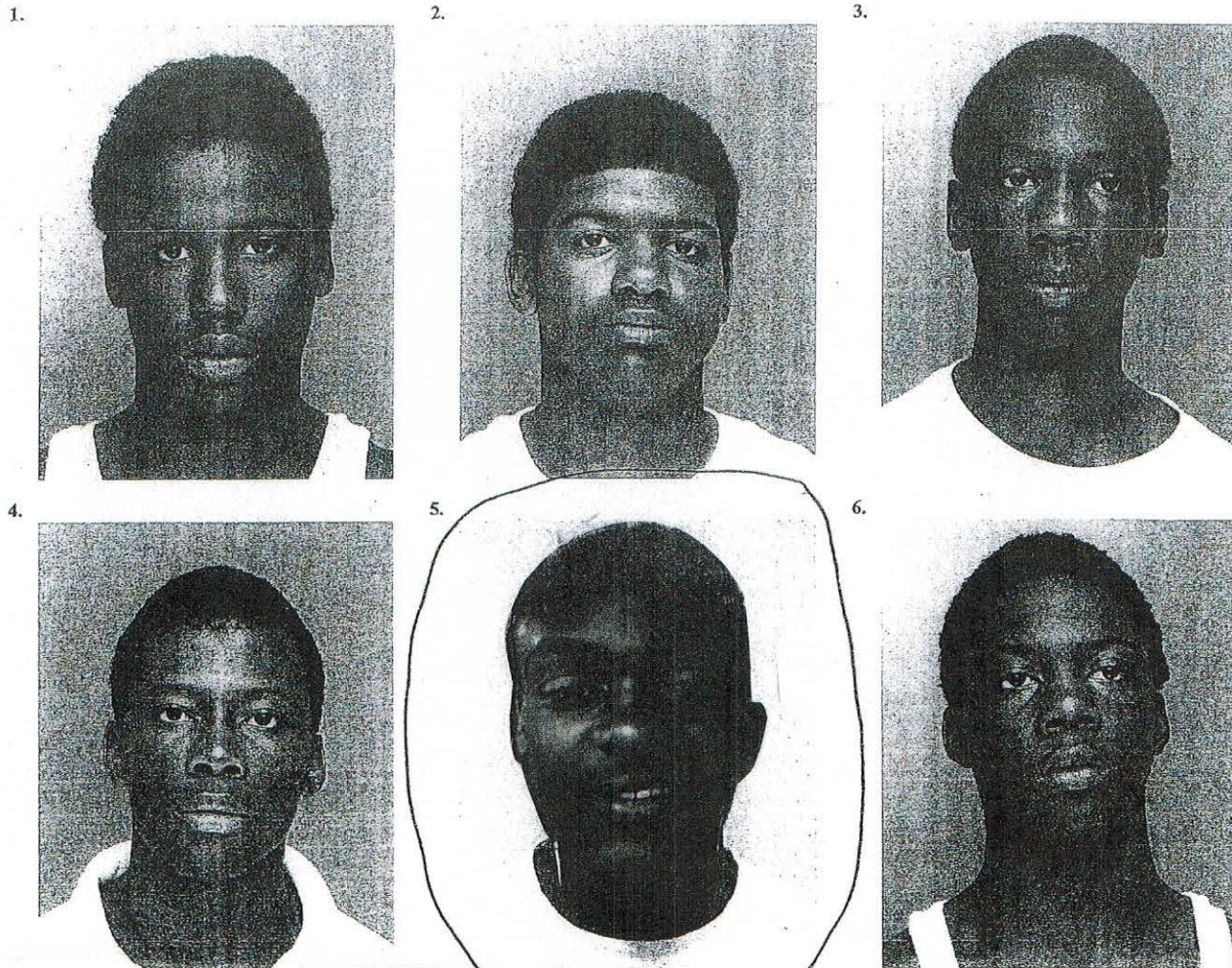
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Appendix 1

A 46
5/11/2013

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Photographic Line-Up



SHOWING PHOTO DISPLAY:

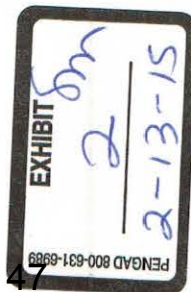
Before conducting the photo line-up, the following should be read to each witness

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : YES NO
 Date of Identification : 5/11/13

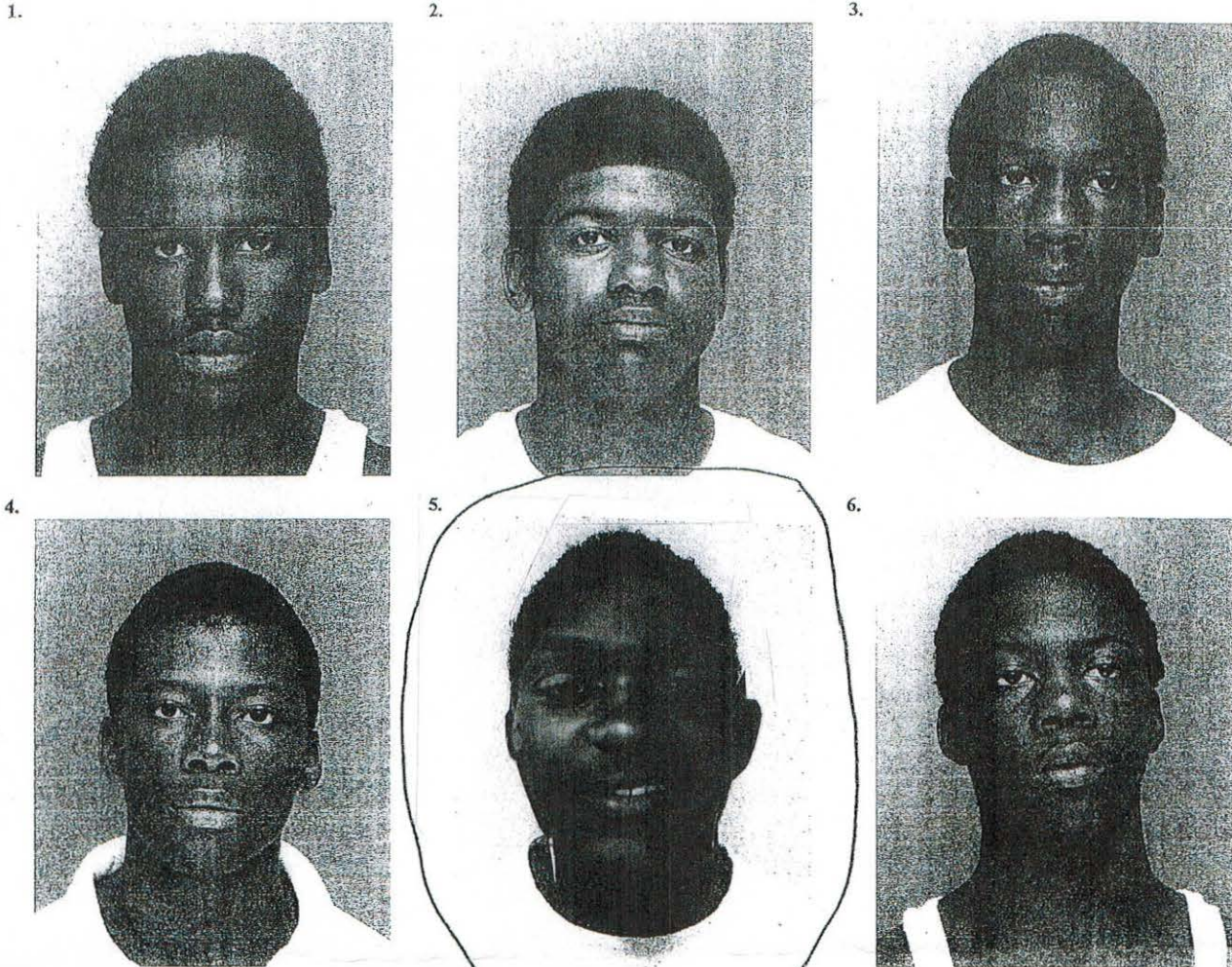
Photo selected : # 5
 Initialed by the witness : *[Signature]*

Det. F. Guada
[Signature]



Ex 3

Photographic Line-Up



SHOWING PHOTO DISPLAY:

Before conducting the photo line-up, the following should be read to each witness

"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : YES NO
 Date of Identification : 5/11/13

Photo selected : # 5
 Initialed by the witness : *[Signature]*

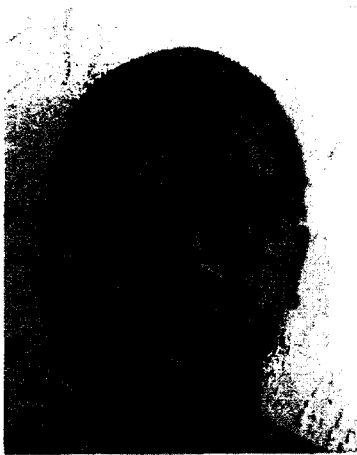
Det. F. GUARDARUCCI
[Signature]

EXHIBIT
 3
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Photographic Line-Up

Ex 4

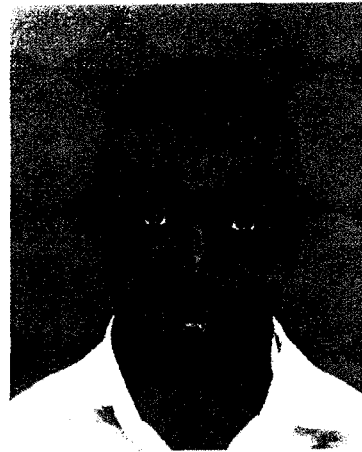
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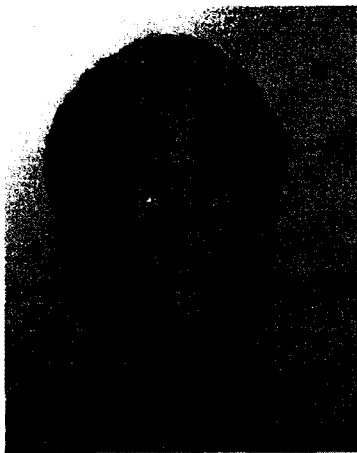
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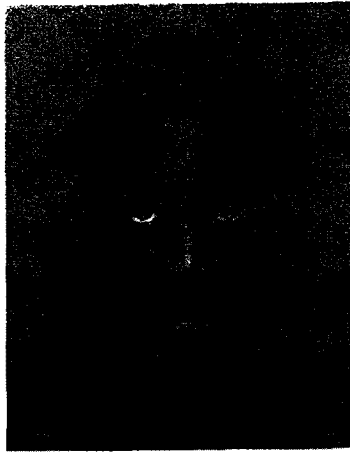
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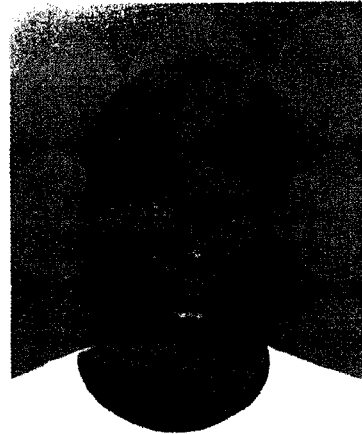
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SHOWING PHOTO DISPLAY:

Before conducting the photo line-up, the following should be read to each witness

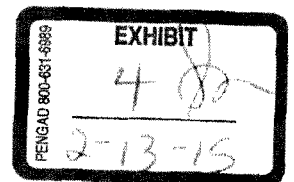
"In a moment I am going to show you a group of photographs. This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : YES NO

Photo selected : # _____

Date of Identification : _____

Initialed by the witness : _____



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the above and foregoing was this date filed and served by using the Florida Courts e-Filing Portal on this 8th day of April, 2021 to:

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