

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR PASCO COUNTY  
CASE NO. CRC06001591CFAWS

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STATE OF FLORIDA, :  
 :  
 Plaintiff, :  
-VS- :  
 :  
 SHANNON STEPHEN, :  
 :  
 Defendant. :

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PROCEEDINGS: JURY TRIAL - EXCERPT  
TESTIMONY OF MARVIN DALZELL

BEFORE: HONORABLE JACK DAY  
Circuit Judge

DATE: June 17, 2009

PLACE TAKEN: Pasco County Government Center  
7530 Little Road  
New Port Richey, Fl 34654

REPORTED BY: Maria A. Fortner, RPR  
Notary Public  
State of Florida, at Large

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COPY

1 APPEARANCES:

2

ERIC ROSARIO, ESQUIRE  
Assistant State Attorney  
New Port Richey, Florida  
Appearing on behalf of  
State of Florida

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KENNETH FOOTE, ESQUIRE  
6643 Ridge Road  
Port Richey, Florida  
Appearing on behalf of  
Defendant

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1 Thereupon,

2 MARVIN DALZELL,

3 a witness herein, being first duly sworn, was  
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ROSARIO:

7 Q. Would you please state your name for the  
8 record.

9 A. Marvin Duane Dalzell.

10 Q. Do you also go by Joe?

11 A. Yes, I do.

12 Q. And, Mr. Dalzell, where do you live?

13 A. 3530 Edenwood Drive, Holiday, Florida.

14 Q. Now, Mr. Dalzell, do you know a Shannon  
15 Stephen?

16 A. Yes, I do.

17 Q. Is he in the courtroom today?

18 A. Yes, he is.

19 Q. Can you point him out and describe what he's  
20 wearing?

21 A. He's the gentleman sitting over here to my  
22 left, the second person from the right, wearing a black  
23 suit with a black and gray tie on.

24 MR. ROSARIO: Your Honor, may the record show  
25 the witness correctly identified the defendant?

1 THE COURT: Actually, I believe he identified  
2 Jonathan Foote. Did you mean the second person  
3 from your right, sir?

4 THE WITNESS: As I'm looking, the second  
5 person from the right -- or from the left end of  
6 the table.

7 THE COURT: You mean the second person from  
8 your left?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay. The record will reflect. I  
11 don't mean to nitpick, but you understand?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay. If there's no objection,  
14 we'll let the record reflect that the witness has  
15 identified the defendant Mr. Stephen.

16 BY MR. ROSARIO:

17 Q. Now, going back to March 26th, 2006.

18 A. Yes, sir.

19 Q. Did you know Shannon Stephen?

20 A. Yes, sir.

21 Q. Does he look today the same as he looked back  
22 then?

23 A. Except for the suit, yes, sir.

24 Q. What about his facial hair?

25 A. If I remember right, he wasn't clean-shaved

1 that day. He looked like he might have needed a shave  
2 that day.

3 Q. Okay. So today he's clean-shaven?

4 A. Yes, sir.

5 Q. Does he look like he's gained or lost any  
6 weight?

7 A. To the best of my knowledge, no, he looks  
8 about the same weight-wise.

9 Q. Okay. And back on March 26, 2006, was there a  
10 plan to get together with Shannon Stephen and other  
11 people?

12 A. Yes, sir.

13 Q. Who were you going to get together with?

14 A. Jim Wallace and I, we were visiting, and we  
15 decided we wanted to go shoot some pool, and he give  
16 Frank a call and give Shannon a call to meet us at  
17 Seven's to shoot a couple rounds of pool.

18 Q. Okay. And where were you guys visiting?  
19 Where were you visiting?

20 A. Jim and I, we started out visiting at my  
21 place.

22 Q. Okay. And then did you go back to his place?

23 A. We went to Jim's place from my place, and I  
24 parked my vehicle at Jim's house, and then we left there  
25 in Jim's vehicle and went to Seven's.

1 Q. What kind of vehicle did you have?  
2 A. I had a red Econoline van.  
3 Q. That's one of those big conversion vans?  
4 A. Yes, sir.  
5 Q. And you parked that at Jim Wallace's house?  
6 A. Yes, sir.  
7 Q. And who drove to Seven's?  
8 A. Jim.  
9 Q. And Jim had what color truck?  
10 A. It's sort of a silverish-beige GMC pickup,  
11 half ton.  
12 Q. And did Jim drive his truck or did you drive  
13 Jim's truck?  
14 A. Jim drove his truck.  
15 Q. And you guys went to what bar?  
16 A. Seven's.  
17 Q. And is that located at Old County Road 54 and  
18 Little Road?  
19 A. Yes, sir.  
20 Q. And when you got there, did you get there  
21 ahead of Frank and Shannon?  
22 A. Yes.  
23 Q. Who came next?  
24 A. To the best of my recollection, Frank was the  
25 next person to show up.

1 Q. And about how long after that did Shannon  
2 arrive?

3 A. Oh, I'd have to say it was roughly ten minutes  
4 after that Shannon showed up.

5 Q. Okay. When you were there, were you drinking  
6 any alcoholic beverages?

7 A. I had just gotten my first beer, yes.

8 Q. What was Jim drinking?

9 A. A beer.

10 Q. And when Frank arrived, what did he order?

11 A. He went and got a beer.

12 Q. Okay. And then when the defendant arrived,  
13 what did he have?

14 A. When Mr. Shannon walked into the club, I  
15 walked up to the bar and ordered him a Captain and Coke  
16 and brought that back to the table and gave that to him  
17 upon his arrival to the table where we was.

18 Q. Okay. And did he drink that alcoholic  
19 beverage?

20 A. Yes, he did.

21 Q. Did he drink more alcoholic beverages after  
22 that?

23 A. Yes, he did.

24 Q. Do you have an idea as to how many he had?

25 A. Not total, no.

1 Q. His sobriety as the night went on, can you  
2 please tell the jury how his sobriety became worse.

3 MR. FOOTE: Objection. Lack of foundation.

4 THE COURT: If you can rephrase the question,  
5 please.

6 BY MR. ROSARIO:

7 Q. As the night went on, what did you notice  
8 about any signs of impairment or any drunkenness on the  
9 part of Shannon Stephen?

10 A. As the night went on, I noticed that his  
11 walking become more staggered, he wasn't walking a  
12 straight line at that particular time, he became more  
13 jovial.

14 Q. More jovial?

15 A. More playing around throughout the whole bar  
16 that evening.

17 Q. More carefree?

18 A. Yes, sir.

19 Q. Okay. And did you notice anything unusual  
20 start to occur?

21 A. No.

22 Q. Did he get drunk at the bar?

23 MR. FOOTE: Objection. May we approach?  
24

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1 BY MR. ROSARIO:

2 Q. Mr. Dalzell, have you had the occasion to be  
3 around people who are drunk?

4 A. Yes.

5 Q. And how old are you?

6 A. I'm 60.

7 Q. All right. And did you ever have any military  
8 service?

9 A. Yes.

10 Q. How long did you serve in the military?

11 A. Twenty-two and a half years, sir.

12 Q. What branch of the service?

13 A. U.S. Army.

14 Q. During that time period, did you have occasion  
15 to go out to bars with guys and have them just have a  
16 little too much to drink?

17 A. Yes, sir.

18 Q. Have you seen them impaired by alcohol?

19 A. Yes, sir.

20 Q. Have you seen somebody who was drunk?

21 A. Yes, sir.

22 Q. On the night that we're talking about, March  
23 26th, 2006, did Shannon Stephen appear to be drunk?

24 A. In my opinion, yes, sir.

25 Q. And he got drunk, did you have a conversation

1 with Jim Wallace?

2 A. Yes, sir.

3 Q. Was there any conversation about maybe trying  
4 to get him to go home or take a ride home?

5 A. Yes, sir.

6 Q. And what did you two talk about?

7 A. First we talked about going out and getting  
8 something to eat, so we had something in our stomach  
9 besides just the alcohol. And then I made the  
10 suggestion that since I was riding with Jim, that I  
11 would drive Shannon's vehicle for him to the restaurant  
12 and possibly to Shannon's residence, because of the  
13 state and condition that I felt he was in, he shouldn't  
14 be behind the wheel.

15 Q. How much had you had to drink at that point  
16 when you decided possibly to be the designated driver?

17 A. One and three quarter's beer.

18 Q. Are you sure about that?

19 A. Yes, sir.

20 Q. So your plan to be the designated driver, did  
21 it come through?

22 A. No, sir.

23 Q. Tell the jury what happened.

24 A. After we left the establishment, got out to  
25 the parking lot, I asked Mr. Shannon for his vehicle

1 keys, that I would drive him to the restaurant or drive  
2 him to his residence, and he emphatically said, no. And  
3 his keys was in his pant's pocket, and I wasn't about to  
4 reach in his pant's pocket. He refused to give up the  
5 keys. And next thing I knew, he left from between Jim  
6 and I and he was headed to his vehicle, and we was going  
7 to try to talk him out of not driving, and next thing he  
8 was backing up.

9 Q. Let me stop you right there. That's kind of a  
10 lot of information. You're in the bar?

11 A. Yes, sir.

12 Q. Did you see him close out his tab?

13 A. Yes, sir.

14 Q. Okay. So he walked up to the bar, tell the  
15 jury what happened when he walked up to the bar and  
16 closed out you his tab.

17 A. He walked up to the bar to pay his tab, and he  
18 reached in his pocket and pulled his hand out, and I  
19 seen his credit card hit the floor, and I reached down  
20 to pick it up and I give it to Jim.

21 And at that time, I would have to say joking  
22 around, Mr. Shannon turned around and give me a polite  
23 pop to the stomach, and I wasn't expecting it, and my  
24 knee buckled on me, and then he turned back around, paid  
25 his bill, and we left the bar.

1 Q. And did he pay with the card that you had  
2 given to Jim?

3 A. No.

4 Q. How did he pay?

5 A. That, I'm not sure how he paid.

6 Q. So Jim has got his card, and he paid his bill  
7 some other way?

8 A. Yes, sir.

9 Q. And he punches you and you went down on a knee  
10 or something like that?

11 A. My knees buckled down, it almost went all the  
12 way down to the full knee, yes.

13 Q. All right. What happened after he paid his  
14 bar tab and was leaving the bar?

15 A. We had got outside of the door of the bar, and  
16 there was a pretty stocky man, I'd have to say he was  
17 around six foot tall, around 300 pounds, was walking  
18 into the bar, and Shannon turned and said, I'll pay you  
19 \$20 to beat this man up and get my credit card back, he  
20 won't give it to me, and the gentleman just laughed or  
21 ignored him and walked into the club.

22 Q. Do you remember if that guy had a Mohawk?

23 A. I don't recall.

24 Q. Okay. So the guy laughed and walked into the  
25 bar?

1 A. Yes, sir.

2 Q. What happened next?

3 A. There's a pillar out in front of the door, and  
4 Mr. Shannon said he had to go to the bathroom, and he  
5 walked over to the pole and proceeded to urinate on the  
6 post, and then I knew for sure he was too intoxicated to  
7 drive.

8 And then this other gentleman went by, about 5'6",  
9 5'7", roughly 250, 260 pounds, and Shannon says, I'll  
10 pay you \$25 to beat him up and get my credit card back,  
11 and the gentleman just ignored him and walked on into  
12 the bar, and we proceeded to walk across the drive of  
13 the parking lot at that point.

14 Q. Okay. So did you guys walk up to Jim's silver  
15 truck or the defendant's red truck?

16 A. We walked to Jim's truck.

17 Q. And was there some conversation being had  
18 then?

19 A. We were talking about going to the bar -- or  
20 going to the restaurant to get some breakfast that  
21 morning, and Shannon was coming up behind us at that  
22 point.

23 Q. Okay. Then what happened as Shannon came up  
24 from behind you?

25 A. As we was getting ready to step up onto one of

1 the little island deals there where there was a tree and  
2 some flowers --

3 Q. Is that right next to Jim's truck?

4 A. Yes, sir.

5 Q. Okay.

6 A. And Shannon come up over it, and I don't know  
7 if he was trying to tackle Jim or what, but he jumped on  
8 Jim from behind, and Jim just turned with a glancing  
9 blow and Shannon went down to the ground.

10 And then we proceeded to help him get back up, and  
11 we went to the tailgate of Jim's truck, and we were  
12 talking about going to the restaurant and getting  
13 something to eat, and that's when I offered to drive  
14 Shannon's truck for him.

15 Q. Did he take you up on that offer?

16 A. No, he did not. He was very emphatic that I  
17 was not driving his truck, and I made the argument,  
18 well, fine, Jim can drive your truck and I'll drive  
19 Jim's truck.

20 Q. What did he say to that?

21 A. He didn't. I mean, he was gone from where we  
22 was at and headed towards his vehicle, and as we were  
23 going across the parking lot to him I hollered at Jim,  
24 don't, because we were going to cross from one lane to  
25 the other, and I said, Jim, don't, he's coming back, and

1 at that time Mr. Shannon come out of the slot he was  
2 parked in and just missed Jim and bumped another  
3 vehicle.

4 Q. Okay. Just to be clear, when you yelled to  
5 Jim, don't, Shannon Stephen has already gotten into his  
6 truck?

7 A. Yes, sir.

8 Q. And he's backing out?

9 A. Yes, sir.

10 Q. Okay. And as he backs out, how did he back  
11 out?

12 A. He come back out I would have to say at a  
13 moderate speed, and I seen where Jim was at, if he  
14 continued his route, that he would have got hit. When I  
15 hollered at Jim to stop, Jim did, and Shannon's truck  
16 just missed him by a few inches.

17 And then as he proceeded to pull forward, he just  
18 barely missed me and kept going on out, and he come to  
19 the end of the lane, he come to a stop, and then he made  
20 a right headed over toward Alternate 54.

21 MR. ROSARIO: Now, Your Honor, I'm showing the  
22 witness what's previously been marked as State's  
23 Evidence 6.

24 BY MR. ROSARIO:

25 Q. Do you recognize that?

1 A. Yes, sir.

2 Q. That is a picture of what?

3 A. That is the tailgate of Mr. Shannon's truck.

4 Q. So he backs out of this and almost hits you  
5 and Jim?

6 A. Yes, sir.

7 Q. Does he drive towards Seven's or away from  
8 Seven's?

9 A. Towards Seven's.

10 Q. All right. And he drives towards Seven's and  
11 he takes a right and goes which direction?

12 A. That would be going south.

13 Q. Okay. And did you see him drive south to the  
14 end of the parking lot exit?

15 A. Yes, sir.

16 Q. And when he got to the parking lot exit, which  
17 way did he turn?

18 A. Well, he did come to a complete stop, and then  
19 he made another right onto that road there that took him  
20 back toward Little and Old 54, at the red light there,  
21 he had a red light and he come to a complete stop.

22 Q. And at the red light, what did he do after it  
23 turned green?

24 A. He went straight through the intersection at a  
25 reasonable speed, and at that point Jim says he's got it

1 under control, he's headed home, he doesn't live far  
2 from here. And so Jim and I got in his vehicle, went  
3 back to Jim's house, and I got out, we talked for a  
4 minute or two, maybe five, and I left and went home.

5 Q. Okay. And could you guys also been talking in  
6 the truck on the way over about what had just happened?

7 A. Yes, we did.

8 Q. And he lives about how far away from Seven's?

9 A. I have no idea.

10 Q. Okay. So you get to Jim's house and you get  
11 into your own van?

12 A. Yes, sir.

13 Q. All right. And where do you go in your van?

14 A. I left there and headed home.

15 Q. Okay. Do you remember the route you took?

16 A. Yes, sir, but I don't remember the name of the  
17 streets.

18 Q. Okay.

19 A. I come out of Jim's, I made -- when I got to  
20 the end there, I made a left on that road. I went  
21 approximately a mile and a quarter and made another  
22 left, it brought me out at Little Road to McDonald's  
23 there on the corner, I don't know the name of the road.  
24 I made a left from there onto Little to Old 54, and I  
25 made a right on Old 54 over to 54, and made the right

1 there and proceeded west across 54 to 19.

2 Q. So some period of time has elapsed since  
3 Shannon has left and going down Old 54, and then when  
4 you came back around to Old 54?

5 A. Yes, sir.

6 Q. Were you watching your watch at all as far as  
7 the time or anything?

8 A. No, sir.

9 Q. Okay. When you got to State Road 54, and  
10 you're driving down the road, did something else happen?

11 A. Yes, sir. As I went along there and I come up  
12 on Grand --

13 Q. Grand Boulevard?

14 A. Grand Boulevard, I noticed a red pickup  
15 sitting out into the outside lane of 54.

16 Q. The red pickup being?

17 A. Yes, sir, it ended up being Mr. Shannon's  
18 truck, but at that particular point I can only identify  
19 it as a red pickup.

20 Q. Okay.

21 A. And as I got closer to the truck, then I seen  
22 Mr. Shannon get out of his pickup holding onto the side  
23 of the truck and going around behind it. Well, at this  
24 point I knew he needed help, but I couldn't pull over  
25 where I was at, because there was no place to park. So

1 I decided there's a bus stop on the other side, I'll go  
2 around his truck, park in the bus stop, and then come  
3 back and see if I could help.

4 Q. Okay. And what happened when you tried to do  
5 that?

6 A. As I slowly went around the front of his  
7 truck, I noticed the hood was totally caved in, and I'm  
8 like, oh, my God, he had a hell of a wreck, and I called  
9 911 to report where his truck was at and that he had  
10 been in a wreck. I had no idea what he had hit or what  
11 had hit him.

12 Q. Let me stop you right there. Just prior to  
13 calling 911, did you call Jim Wallace?

14 MR. FOOTE: Objection. Leading.

15 THE COURT: Sustained.

16 BY MR. ROSARIO:

17 Q. Just prior to calling 911, did you make any  
18 other calls?

19 A. Not to my recollection.

20 Q. Would looking at your phone records refresh  
21 your recollection?

22 A. Possibly, yes, sir.

23 MR. FOOTE: May we approach, Judge?  
24

25

\* \* \* \* \*

1           MR. ROSARIO: Your Honor, I'm approaching the  
2           witness with what's previously marked as Defense  
3           Exhibit 6.

4 BY MR. ROSARIO:

5           Q.    Could you look at that. Does that appear to  
6           be your cellphone record?

7           A.    Yes, sir.

8           Q.    And does this refresh your recollection as to  
9           when you called 911 on March 26th, 2006? Mr. Dalzell,  
10          could I direct you to the middle row where it says the  
11          numbers.

12          A.    Yes, sir.

13          Q.    Does it refresh your recollection as to when  
14          you called 911?

15          A.    Yes, sir.

16          Q.    What time did you call 911?

17          A.    9:23 a.m. -- or excuse me, 1:23 a.m.

18          Q.    The number right above it, whose phone number  
19          does that appear to be?

20          A.    Jim Wallace, sir.

21          Q.    And you called him at what time?

22          A.    1:22 a.m.

23          Q.    And your provider in this is what company?

24          A.    T-Mobile.

25          Q.    Why did you call Jim Wallace at 1:22 a.m.?

1           A.    At that particular time I believe I tried to  
2 make contact with him just to have a general  
3 conversation with him, but I do not recall talking with  
4 Jim at that particular time.

5           Q.    You think you may have left a message?

6           A.    No, sir.

7           Q.    Okay. You called 911?

8           A.    Yes, sir.

9           Q.    Did you tell them what you saw?

10          A.    I told them -- I described the vehicle I saw  
11 and the location of the vehicle and that the vehicle had  
12 passed through behind me, and at that point I made a  
13 U-turn, and then I told them the sheriff was right there  
14 behind me.

15          Q.    Okay. By that time the sheriff had arrived?

16          A.    Yes, sir.

17          Q.    After you made a U-turn and went back?

18          A.    Yes, sir.

19          Q.    And once the sheriff arrived, was there anyone  
20 else there ahead of you?

21          A.    Yes, sir.

22          Q.    Tell us about that.

23          A.    Just as I pulled up behind Shannon's truck,  
24 there was a silver pickup that come flying by me, I have  
25 no idea where it come from, and he slid catty-corner

1 across the front of Shannon's truck and got out.

2 And at this particular time Shannon had opened his  
3 door, and this gentleman helped Shannon out of the  
4 truck, around behind the truck, and this whole time he  
5 was hollering, he just killed two people back up the  
6 road.

7 I sat back down in the vehicle in total shock, and  
8 that's when I seen the sheriff come through the parking  
9 lot there at Club 54, and then one pulled up behind me,  
10 and the one that was in Club 54 went over and took  
11 Mr. Shannon into custody.

12 Q. So when these two guys said, he just killed  
13 two people up there, did you call Jim Wallace and leave  
14 a message and tell him that that had happened?

15 A. Yes, sir.

16 Q. Okay.

17 A. After I had hung up with 911, yes, sir.

18 Q. So the person you saw get out of the vehicle  
19 and run around, did he run around to a certain area in  
20 that intersection, the defendant when he got out of the  
21 truck and ran around before you stopped?

22 A. He was going around behind the back of his  
23 vehicle, he had ahold of the tailgate. I didn't know  
24 where he was headed at that particular time or what was  
25 going on. And before I could come to a stop, I seen the

1 motion in my mirror, and I looked and saw him going  
2 through the intersection.

3 Q. And he got back into the truck?

4 A. Yes, sir.

5 Q. When he came back from the rear of the truck,  
6 he came around and got back in his truck?

7 A. Yes, sir.

8 Q. Okay. The truck, is it leaking fluids? Is it  
9 smoking?

10 A. It wasn't smoking, but I didn't look under it  
11 to see if it was leaking fluids. I just saw the damage  
12 on the hood and I was going to stop and --

13 Q. So you see him get back into the truck?

14 A. I didn't see him get into the truck, I seen  
15 the truck pull through the intersection, so I knew he  
16 had to get back into the truck.

17 Q. Okay. So you see the truck pull across the  
18 intersection?

19 A. Yes, sir.

20 Q. And you did what again, I'm sorry?

21 A. I backed up just a little bit, cut the wheel  
22 hard to the left and made a quick turn to pull in behind  
23 it, and without looking I cut another vehicle off, and  
24 he let me know about it. But I pulled in behind  
25 Shannon, and then the next thing the silver truck come

1 flying by me, blocked Mr. Shannon's truck, and then the  
2 sheriff pulled through the Club 54 parking lot and one  
3 pulled in behind me.

4 Q. So you were blocked in?

5 A. Yes, sir.

6 Q. Did you end up talking to the police that  
7 night?

8 A. Vaguely, yes, sir.

9 Q. Did there come a time after you called Jim  
10 Wallace up that he came to the scene?

11 A. Yes, sir.

12 Q. And did you talk to him a little bit?

13 A. We stood there in amazement about the truck  
14 and then what had happened. We really didn't have much  
15 of a discussion.

16 Q. And then did the two of you leave about the  
17 same time?

18 A. I left before Jim. I don't know how long  
19 after that Jim left.

20 Q. Okay. And the person that was pulled out from  
21 the truck, Shannon Stephen, that's the same person that  
22 you saw the police take custody of, correct?

23 A. Yes, sir.

24 Q. The same person that those two guys in the  
25 truck pulled out of Shannon's truck?

1 A. Yes, sir.

2 MR. ROSARIO: Your Honor, that's all I have of  
3 this witness.

4 THE COURT: Mr. Foote.

5 MR. FOOTE: May I have a moment, Judge?

6 MR. ROSARIO: Judge, may we approach?

7 THE COURT: I think you better.

8

9 \* \* \* \* \*

10

11

CROSS-EXAMINATION

12 BY MR. FOOTE:

13 Q. Good morning, Mr. Dalzell.

14 A. Good morning, sir.

15 Q. Let's talk about your testimony here today.

16 You were present at the Seven's Bar with Jim Wallace?

17 A. Yes.

18 Q. And Shannon Stephen?

19 A. Yes.

20 Q. Do you consider Jim a good friend of yours?

21 A. Yes, sir.

22 Q. More friends with Jim than Shannon?

23 A. Yes, sir.

24 Q. How long have you known Jim?

25 A. Roughly four years now.

1 Q. You would consider you and Jim to be best  
2 friends?

3 A. Yes, sir.

4 Q. And you stay in contact even up to now with  
5 Jim?

6 A. Yes, sir.

7 Q. Okay. When is the last time you've seen Jim?

8 A. Oh, probably a month ago.

9 Q. When is the last time you spoke with him?

10 A. Probably three days ago.

11 Q. Okay. And you guys talk about three times a  
12 week or so? You're in pretty frequent contact with Jim?

13 A. Yes, sir.

14 Q. Now, before this whole incident occurred, you  
15 spent very little social time with Shannon Stephen?

16 A. True.

17 Q. Okay. You don't have contact with Shannon  
18 that often?

19 A. No, sir.

20 Q. In fact, you haven't spoken to him since this  
21 incident back in 2006?

22 A. No, sir.

23 Q. Let's talk about the night at the bar, at the  
24 Seven's Bar. Now, Shannon accidentally knocked over a  
25 beer at the bar?

1 A. Yes, sir.

2 Q. And that was an accident, right?

3 A. Yes, sir.

4 Q. He wasn't standing there knocking over beers  
5 on purpose?

6 A. True.

7 Q. And he knocked it over one time?

8 A. He knocked it over three times, sir.

9 Q. Okay. And you tried to get Shannon's keys  
10 from him?

11 A. I had asked him for his keys at the parking  
12 lot, yes, sir.

13 Q. All right. So you mean when you tried to get  
14 them, you just asked him for the keys?

15 A. Yes, sir.

16 Q. All right. And it's your testimony that  
17 Shannon punched you?

18 A. Yes, sir.

19 Q. Now, let's talk about this punching, because  
20 of different stories that are going on.

21 MR. ROSARIO: Objection. Argument.

22 THE COURT: Sustained. No commentary, no  
23 editorializing these questions, please.

24 BY MR. FOOTE:

25 Q. How many times did Shannon punch you?

- 1 A. Once.
- 2 Q. The whole night?
- 3 A. Yes, sir.
- 4 Q. He punched you one time the whole night?
- 5 A. Yes, sir.
- 6 Q. Are you certain about that?
- 7 A. Yes, sir.
- 8 Q. Was it as in a fight or was he playing?
- 9 A. He was playing, sir.
- 10 Q. He punched you one time and he was playing?
- 11 A. Yes, sir.
- 12 MR. ROSARIO: Objection. Asked and answered,
- 13 Judge.
- 14 THE COURT: Overruled. We're not going to
- 15 nitpick, but just keep it rolling, please,
- 16 Mr. Foote.
- 17 BY MR. FOOTE:
- 18 Q. In fact, there was no fights going on in the
- 19 bar with Shannon? In fact, he was laughing, joking?
- 20 A. Yes, sir.
- 21 Q. Flirting with girls?
- 22 A. Yes, sir.
- 23 Q. He wasn't fighting anybody in the bar?
- 24 A. No, sir.
- 25 Q. Which means he wasn't fighting Jim in the bar?

1 A. No.

2 Q. Now, Shannon paid his bill and you guys left  
3 the bar?

4 A. Yes, sir.

5 Q. And at some point you spoke with Corporal  
6 Stires, the homicide investigator from the Highway  
7 Patrol, right?

8 A. Yes, sir.

9 Q. You never indicated to Corporal Stires that  
10 Shannon was punching anybody, did you?

11 A. I only indicated the one time that he turned  
12 around jovially and punched me in the stomach and that  
13 was it, sir.

14 Q. And that was at the bar as he was paying the  
15 bill?

16 A. Yes, sir.

17 Q. There comes a point where you, Shannon and Jim  
18 are walking to the door of the Seven's Bar and you guys  
19 were all leaving?

20 A. Yes, sir.

21 Q. Jim was on one side and you were on the other  
22 side helping Shannon out of the bar?

23 A. Yes.

24 Q. He needed some assistance, because he had  
25 consumed a lot of alcohol?

- 1 A. Yes, sir.
- 2 Q. That's what you observed?
- 3 A. Yes, sir.
- 4 Q. He was staggering as he was walking?
- 5 A. Yes, sir.
- 6 Q. And he needed you and Jim's assistance?
- 7 A. We gave it to him, yes, sir.
- 8 Q. Well, if you didn't hold him up, would he have  
9 fell down?
- 10 A. I wouldn't say that he would have fell down,  
11 but I don't think he could have walked a straight line  
12 to get out the door.
- 13 Q. In your opinion he needed help walking; is  
14 that right?
- 15 A. Yes, sir.
- 16 Q. And you had to hold him up to guide him out  
17 through the door?
- 18 A. We just guided him, we didn't really hold him  
19 up, sir.
- 20 Q. Well, did you say that on any previous  
21 occasion that you had to hold him up to guide him out  
22 the door?
- 23 A. Not to my recollection, sir.
- 24 Q. Outside of the bar, you get outside, you say  
25 that Shannon urinated on a pole, and, in fact, he

1 punched Jim a few times?

2 A. No, sir.

3 Q. He never punched Jim a few times?

4 A. No, sir.

5 Q. How many times did he punch Jim?

6 A. I don't recall him punching Jim.

7 Q. Are you certain about that?

8 A. Yes, sir.

9 MR. FOOTE: One moment, Judge.

10 BY MR. FOOTE:

11 Q. Do you remember speaking to the Highway Patrol  
12 and giving a recorded statement?

13 A. No, sir.

14 Q. Did you ever give any statement to the Highway  
15 Patrol?

16 A. No, sir.

17 MR. FOOTE: May I approach the witness, Judge?

18 BY MR. FOOTE:

19 Q. I'm showing you a document that says sworn  
20 statement of Marvin Dalzell.

21 MR. ROSARIO: Objection, Your Honor, may we  
22 approach?

23 THE COURT: Yes.

24

25

\* \* \* \* \*

1 BY MR. FOOTE:

2 Q. Sir, I'm showing you a document and ask you to  
3 take a look at it, not to read it, just the front.  
4 What's it say there, sir?

5 MR. ROSARIO: Objection, Your Honor, that's  
6 improper recollection to refresh.

7 THE COURT: Sustained.

8 BY MR. FOOTE:

9 Q. Sir, do you remember giving a statement to  
10 Trooper Stires?

11 A. No, I do not.

12 MR. FOOTE: Okay. I'm going to direct the  
13 Court and counsel to the sworn statement of Marvin  
14 Dalzell dated March 31st, 2006.

15 MR. ROSARIO: Judge, I'm going to object.  
16 Improper impeachment.

17 THE COURT: Approach.

18

19 \* \* \* \* \*

20

21 BY MR. FOOTE:

22 Q. All right. Just to clarify, Mr. Dalzell, do  
23 you recall ever talking to anyone from the Florida  
24 Highway Patrol?

25 A. No, sir.

1 Q. Throughout this whole case you've never spoken  
2 to anyone?

3 A. The only time I seen the Highway Patrol was  
4 when I come to the State's Attorney Office and the  
5 Highway Patrol was present at the deposition with the  
6 State's Attorney.

7 Q. And after your meeting with the State  
8 Attorney, did you speak with a Corporal Michael Stires  
9 afterward and he took a statement from you?

10 A. He said that he would probably be getting back  
11 in touch with me, but I do not recall ever speaking with  
12 the gentleman after that day, sir.

13 Q. Do you recall him saying, I want to take some  
14 statements and record them?

15 A. He said he would be getting back with me, that  
16 he had some questions for me, but I do not recall ever  
17 speaking with the gentleman after that, sir.

18 Q. Okay.

19 MR. FOOTE: May I have a moment, Judge?

20 THE COURT: Yes.

21 BY MR. FOOTE:

22 Q. You do recall speaking to me before on another  
23 occasion?

24 A. Yes.

25 Q. We sat down in a room with a lady like this

1 typing things down?

2 A. Yes, sir.

3 Q. Okay. All right. So let's go back out. So  
4 outside the bar, it's your testimony that Shannon jumped  
5 on Jim's back by the island in the parking lot?

6 A. Yes, sir.

7 Q. All right. And Shannon had rolled off of Jim  
8 and hit the ground and you guys had to help him up?

9 A. Yes, sir.

10 Q. And it's at that time you tried to get the  
11 keys from Shannon at that time, you and Jim?

12 A. At that particular time we got him up, we  
13 walked to the back of Jim's truck, we were standing  
14 there talking about going to the restaurant, and I  
15 suggested that I would drive Shannon's truck to the  
16 restaurant and possibly to Shannon's house.

17 Q. Was Shannon just standing there?

18 A. He was standing between us, yes.

19 Q. Were you still holding him up?

20 A. No, sir.

21 Q. Now, he's standing up on his own?

22 A. Well, he was standing next to the back of the  
23 truck, yes, sir.

24 Q. Okay. Who's truck?

25 A. Jim's.

1 Q. All right. And Shannon at some point leaves  
2 Jim's truck and goes over to his truck?

3 A. Yes, sir.

4 Q. Okay. Did he run over to that truck?

5 A. I didn't pay attention. I would have to say  
6 he walked at a very high rate of speed, I can't say he  
7 run, but before we knew it he was in his truck and was  
8 attempting to back -- well, he did back up.

9 Q. Did you and Jim try to go and stop him?

10 A. Yes, sir.

11 Q. Did you try to go and stop him?

12 A. Yes, sir.

13 Q. All right. You couldn't catch him?

14 A. No, sir.

15 Q. Okay. So he ran a little faster than you and  
16 Jim?

17 A. Yes, sir. He was moving quite a bit faster  
18 than us.

19 Q. He got the keys out of his pocket?

20 A. Yes, sir.

21 Q. And pressed the thing to unlock his door?

22 A. I don't know if he pressed it to unlock the  
23 door or what. The next time I seen Mr. Shannon, he was  
24 in his truck and backing up.

25 Q. So he gets away from you and Jim, gets in the

1 car and had it already started and he's leaving?

2 A. Yes, sir.

3 Q. Okay. Did he screech his tires at a high rate  
4 of speed and leave the parking lot?

5 A. No, sir.

6 Q. He never screeched his tires?

7 A. No, sir.

8 Q. Did he appear to just be leaving normal,  
9 driving normal?

10 A. Yes, sir.

11 Q. Did you see anything about his driving through  
12 that parking lot that would alert you that he shouldn't  
13 be driving?

14 A. No, sir.

15 Q. Okay. And the plan was that you, Jim and  
16 Shannon were going to get something to eat?

17 A. Yes, sir.

18 Q. And, in fact, at some point you had mentioned  
19 Denny's, that was a place that would be open?

20 A. Yes, sir.

21 Q. And Denny's would be up on 19, U.S. 19?

22 A. Yes, sir.

23 Q. And you stated that Shannon didn't want to go  
24 get anything to eat?

25 A. Correct, sir.

1 Q. And Jim wanted to go get something to eat?

2 A. Yes, sir.

3 Q. So Shannon takes off, do you and Jim get  
4 something to eat?

5 A. No, sir.

6 Q. You changed your mind?

7 A. Yes, sir.

8 Q. So you and Jim were not hungry at that time,  
9 is that what happened?

10 A. Yes, sir. We was just wanting to -- we was  
11 going to get something to eat just to absorb the  
12 alcohol, but Jim and I hadn't had that much to drink,  
13 and we changed our mind and decided that we was just  
14 going to go to the house and chill out for the rest of  
15 the night.

16 Q. Okay. And if Jim stated you had three beers  
17 and a Screwdriver, would that be correct?

18 A. That would be incorrect.

19 Q. You only had one and three quarter's beers?

20 A. Yes, sir.

21 Q. And your plan to get Shannon home was that you  
22 were going to drive him home?

23 A. Yes, sir.

24 Q. But you didn't have any idea where Shannon  
25 lived?

- 1 A. No, sir.
- 2 Q. Because you had never been to the house?
- 3 A. Correct.
- 4 Q. And you were hoping that Shannon could give  
5 you directions?
- 6 A. Yes, sir.
- 7 Q. Did it appear, in the statement as you said  
8 intoxicated state, that he would be able to give you  
9 directions to get to his house?
- 10 A. Yes, sir.
- 11 Q. So you believed that he would be able to give  
12 you directions to his house?
- 13 A. Yes, sir.
- 14 Q. And Jim was going to follow in his own truck?
- 15 A. Yes, sir.
- 16 Q. That was the plan?
- 17 A. Yes, sir.
- 18 Q. All right. And you testified earlier that  
19 Shannon didn't want you driving his truck?
- 20 A. Right.
- 21 Q. All right. So then you suggested Jim drive  
22 Shannon's truck?
- 23 A. Yes, sir.
- 24 Q. And you would follow?
- 25 A. Yes, sir.

1 Q. All right. But none of that actually happens?

2 A. No, sir.

3 Q. All right. You suggest that you drive Jim's  
4 truck and Jim drive Shannon's truck, but Shannon wasn't  
5 having any of that, is that your testimony?

6 A. That is correct, sir.

7 Q. Okay. So you go to Jim's house about three  
8 minutes away from the Seven's Bar?

9 A. It's about five to seven minutes from the  
10 Seven's Bar, yes, sir.

11 Q. Okay. And you go to pick up your van?

12 A. Yes, sir.

13 Q. And how long do you stay at Jim's house after  
14 Shannon takes off?

15 A. Roughly ten minutes.

16 Q. Okay. You're there ten minutes and then you  
17 head on your way home?

18 A. Yes, sir.

19 Q. Now, when you pull up, you happen to just come  
20 up on State Road 54, and happen to see Shannon Stephen's  
21 vehicle?

22 A. Yes, sir.

23 Q. And you recognized it as Shannon's vehicle?

24 A. Not at first, sir.

25 Q. All right. And as you stated, you couldn't

1 tell it was in an accident until you had went around the  
2 front of it?

3 A. Correct.

4 Q. So the truck was pointing out of Grand Avenue  
5 and you were coming down 54?

6 A. Yes, sir.

7 Q. And from your vantage point, you couldn't see  
8 damage on the right side of the truck?

9 A. No, sir.

10 Q. So you go around that truck and then you see  
11 the damage?

12 A. Yes, sir.

13 Q. All right. So, now, it's your testimony that  
14 as you go up to the truck, though, Shannon gets out of  
15 the vehicle?

16 A. Yes, sir.

17 Q. And you recognize it was Shannon's truck when  
18 you pulled up and slowed down?

19 A. Yes, sir.

20 Q. And you immediately recognized it was Shannon  
21 getting out of the vehicle, because it was his vehicle  
22 and it was him?

23 A. I recognized Shannon and then I recognized it  
24 being Shannon's truck, yes, sir.

25 Q. What was Shannon Stephen wearing when he got

1 out of that vehicle?

2 A. I do not recall at this time what he was  
3 wearing, sir.

4 Q. Okay. Now, when you see Shannon getting out  
5 of the vehicle and you see this damage to the vehicle,  
6 all of this occurs before you call 911; is that right?

7 A. Yes, sir.

8 Q. And you knew that Shannon's vehicle had been  
9 in a serious accident, and as you stated at an earlier  
10 occasion, you knew he had left the scene of something  
11 was in your words?

12 A. Yes, sir.

13 Q. Okay. So you think he left the scene of  
14 something?

15 A. Yes, sir.

16 Q. All right. You weren't aware of whether or  
17 not he had hit a pole sitting right there on the corner?

18 A. I did not know if he had hit a pole or a car  
19 hit him. I had no idea what had hit his truck, but I  
20 knew it had a serious impact with something.

21 Q. But you figured that he left the scene of  
22 something?

23 A. Yes, sir.

24 Q. And you called 911, because you didn't know if  
25 it had been reported already or not?

1 A. Yes, sir.

2 Q. Okay. Now, prior to calling 911, did you know  
3 that there was a fatality where two people were killed?

4 A. No, sir.

5 Q. You didn't know that before you called 911?

6 A. No.

7 Q. All right. Did you call Jim to tell him,  
8 before you called 911, that Shannon had been in an  
9 accident?

10 A. No, sir.

11 Q. You didn't speak to Jim until after you called  
12 911?

13 A. Correct, sir.

14 Q. When you called Jim, do you call him on his  
15 phone number or his cell number?

16 A. Cell number.

17 Q. Do you know his phone number?

18 A. No.

19 Q. Okay. So is it programmed in your phone  
20 already that you would call him on his cell?

21 A. Yes, sir.

22 Q. So you don't dial the number each time, you  
23 probably have it under the name Jim or something?

24 A. Yes.

25 Q. So every time you call Jim, you open your

1 phone and you press Jim and it dials his cellphone  
2 number?

3 A. Yes, sir.

4 Q. How often would you say you call his house  
5 number?

6 A. His house?

7 Q. Yes.

8 A. Maybe once or twice.

9 Q. Is that something frequently you would do,  
10 call his house number?

11 A. No.

12 Q. More you would call his cell number?

13 A. Yes.

14 Q. Now, the first time that you actually find out  
15 that Shannon killed two people as you say was when the  
16 two people in the pickup truck pull up?

17 A. Yes, sir.

18 Q. Prior to that time, you didn't get out of your  
19 vehicle to go and check on Shannon, did you?

20 A. I did not get a chance, no, sir.

21 Q. Okay. How fast would you say when you came up  
22 on the vehicle and the other pickup truck came and they  
23 jumped out, how long were you looking at Shannon?

24 A. Prior to the other vehicle pulling up?

25 Q. Yes. You come up, you see a vehicle, you see

1 Shannon jump out?

2 A. Right.

3 Q. You don't go and talk to Shannon?

4 A. No, sir.

5 Q. You don't go give him any help?

6 A. No, sir.

7 Q. Okay. How long when you first see this  
8 vehicle to when the pickup truck comes up?

9 A. A matter of 20, 30 seconds.

10 Q. Twenty to 30 seconds?

11 A. Yes, sir. It was very fast. As soon as I  
12 made the U-turn and I come to a stop behind his vehicle,  
13 the other truck come flying by me, and I mean it was 20,  
14 30 seconds in there that everything just come down.

15 Q. Are you certain about that, sir?

16 A. Fairly certain, yes, sir. It was very fast.  
17 Everything happened so fast, it was unbelievable.

18 Q. All right. So instead of checking on Shannon,  
19 you actually called 911 first?

20 A. I was attempting to check on Shannon. I was  
21 on the phone with 911, and I called 911 before I could  
22 get to a complete stop to be able to check on Shannon,  
23 and Shannon got in his vehicle, pulled through the  
24 intersection, the silver truck was there, and then the  
25 sheriff was there.

1 Q. Did you tell the 911 people that? As you're  
2 watching this and you're on the phone, are you telling  
3 them this on the 911 call?

4 A. To my recollection, yes.

5 Q. Did you tell them that this is a person you  
6 know, his name is Shannon Stephen?

7 A. No, I did not.

8 Q. You didn't tell them it was a person that you  
9 just left 10, 15 minutes ago?

10 A. No, I did not.

11 Q. Did you give them a description of the vehicle  
12 and acted like you knew who this person was and who the  
13 vehicle was?

14 A. I give them a full description of the vehicle  
15 and the location, yes, sir.

16 Q. Now, it's your testimony, as you were on with  
17 911, you hear them say he's killed two people?

18 A. No, sir.

19 Q. When do you find that out?

20 A. I found that out when the two gentlemen --  
21 while the gentlemen got out of the silver truck, the  
22 passenger, and he come running up and he's hollering at  
23 me, he killed two people back up the road, and that's  
24 when I found out.

25 Q. So were you already off the phone with 911 at

1 that time?

2 A. I had just hung up from 911, yes, sir.

3 Q. And when the two people pull up, do they come  
4 and talk to you or do they go right to Shannon's truck?

5 A. They went right to Shannon's truck. They were  
6 in front of it, I was behind it, and he had opened the  
7 door, he proceeded to help Mr. Shannon out of the  
8 vehicle and over to the curb, and the sheriff come right  
9 up and took custody of Mr. Shannon, and I was still  
10 sitting in the van dazed as to what was going on.

11 Q. And all this time Jim is at home?

12 A. Yes, sir.

13 Q. Okay. And when do you tell Jim that Shannon's  
14 been in an accident?

15 A. After the sheriff had placed Mr. Shannon in  
16 the cruiser, I called Jim and told him that Shannon had  
17 been in a bad wreck, and he didn't believe me and I had  
18 to tell him twice. And then he showed up over at Club  
19 54, and we just stood there waiting to see what was  
20 going to happen.

21 Q. All right. And at some point they get Shannon  
22 out and put him down on his knees and you start asking  
23 the cops if you can leave?

24 A. After they put him in the police cruiser, I  
25 asked if I could leave.

1 Q. How long did it take the deputies to arrive  
2 after you got on 911?

3 A. Probably two, maybe three minutes from the  
4 time I originated the call, they showed up.

5 Q. How long were you at that scene?

6 A. Probably -- from the very beginning of it,  
7 probably five minutes.

8 Q. Okay. And then after that, you left and went  
9 home?

10 A. Yes, sir.

11 Q. Did you ever tell the police that you knew who  
12 the driver was?

13 A. No, sir.

14 Q. Did you ever go up and try to talk to Shannon?

15 A. No, sir.

16 Q. Now, this is a person that you were just out  
17 for a few hours, you're drinking beers with him, you try  
18 to stop him from driving, you hear that he's killed two  
19 people, police are on the scene?

20 A. Yes, sir.

21 Q. And you don't tell them anything?

22 A. No.

23 Q. And you don't tell 911 who this person is?

24 A. No, sir.

25 MR. FOOTE: May I have a moment, Judge?

1 THE COURT: Yes.

2 BY MR. FOOTE:

3 Q. Okay. You stated that you were at the scene  
4 for about five minutes, does Jim ever come to the scene  
5 while you were there?

6 A. Yes, sir.

7 Q. You and Jim were standing there talking?

8 A. We were standing off to the side. We couldn't  
9 believe that it happened. We really didn't talk, we  
10 just stood there.

11 Q. Okay. And so it's your testimony that you  
12 were there at the scene for about five minutes? In  
13 fact, you asked the police officers if you could leave?

14 A. Yes, sir.

15 Q. And you were trying to leave?

16 A. Yes, sir.

17 Q. But you couldn't, because you were blocked in?

18 A. Yes, sir.

19 Q. So you wanted those cops to move to release  
20 you?

21 A. Yes, sir.

22 Q. Because you were ready to go home?

23 A. Yes, sir.

24 Q. You had looked at some phone records, the  
25 State showed you some phone records. After you hang up

1 from 911, is it your testimony that you called Jim?

2 A. Yes, sir.

3 Q. On your cellphone?

4 A. Yes, sir.

5 Q. To his cellphone?

6 A. Yes, sir.

7 Q. All right. Are you familiar with your phone

8 bill? Do you look at your phone bill?

9 A. Once in a while, yes, sir.

10 Q. Okay. Do you know what it means when it says

11 incoming call?

12 A. Yes, sir.

13 Q. That means that someone is calling you?

14 A. Yes, sir.

15 Q. After you hang up from 911 at 1:23, you're on

16 the phone with them for five minutes; at 1:28 the next

17 call that's incoming is Jim calling you, did you know

18 that?

19 A. I don't recall it, but, yes, sir.

20 Q. So Jim's calling you?

21 MR. FOOTE: Judge, we're going to move into

22 evidence Defense K, which is an enlarged version,

23 if the State has no objection.

24 MR. ROSARIO: No objection.

25 THE COURT: Okay. We'll let it in as Defense?

1 THE CLERK: Exhibit Number 9.

2 THE COURT: Number 9.

3 MR. FOOTE: Judge, may I have the witness step  
4 down --

5 THE COURT: Yes.

6 MR. FOOTE: -- to publish Defense 9, to the  
7 jury?

8 THE COURT: Mr. Dalzell, would you step down  
9 and help him out, please.

10 BY MR. FOOTE:

11 Q. Now, this is just a big page of what you  
12 already looked at. That's your phone bill, right?

13 A. Yes, sir.

14 Q. Okay. And that's your phone number?

15 A. Yes, sir.

16 Q. 271-5544?

17 A. Yes, sir.

18 Q. All right. And you make a 911 call, which is  
19 clearly --

20 MR. ROSARIO: Judge, I'm going to object to  
21 Mr. Foote marking the evidence. May I approach?

22

23 \* \* \* \* \*

24

25 THE COURT: Thank you, Deputy. Mr. Foote, you

1           may proceed.

2 BY MR. FOOTE:

3           Q.   Mr. Dalzell, stand here. All right, so as we  
4 stated, we entered in a bunch of small records, this is  
5 one page from the date that we're talking about.

6           Looking at this, do you recognize it?

7           A.   Yes, sir.

8           Q.   Okay. And here is your 911 call on 3-26 at  
9 1:23 a.m.?

10          A.   Yes, sir.

11          Q.   All right. Can you put a little sticky there  
12 right next to that.

13          That's the 911 call you made once you came up on  
14 the truck?

15          A.   Yes, sir.

16          Q.   Now, just before that, you testified that a  
17 minute before -- that's Jim's number?

18          A.   Yes, sir.

19          Q.   642-1236?

20          A.   Yes, sir.

21          Q.   That lasted only a minute, but you testified  
22 that you didn't get to speak to him?

23          A.   No, sir.

24          Q.   All right. And you didn't leave a message?

25          A.   No.

1 Q. And you testified just a little while ago  
2 after you hung up with 911 --

3 A. Yes, sir.

4 Q. -- you called Jim?

5 A. Yes, sir.

6 Q. All right. Would you agree with me that the  
7 next calls at 1:28 and 1:35 are incoming?

8 A. Yes, sir.

9 Q. So Jim's calling you?

10 A. That's what it shows, yes, sir.

11 Q. Okay. So you didn't call Jim right  
12 afterwards?

13 A. According to the record, no, I did not.

14 Q. Okay. So I'm going to put two stickies next  
15 to those two calls.

16 Okay. Would you agree with me that on 3-25, the  
17 day before, the last time -- and that's Jim's number --  
18 that Jim called you is 8:37 at night?

19 A. Yes, sir.

20 Q. After that you don't talk on the phone,  
21 because you're out at Seven's Bar?

22 A. Yes, sir.

23 Q. Okay. And then you go home as you stated?

24 A. Right.

25 Q. And then you leave his house, and the next

1 time you're using your phone is to try to call Jim?

2 A. Yes, sir.

3 Q. You leave no message?

4 A. No message.

5 Q. And then you talk to 911?

6 A. Yes, sir.

7 Q. All right. Is that accurate to you?

8 A. Yes, sir.

9 Q. All right. 1:44, that's another Jim call?

10 A. Yes, sir.

11 Q. Okay. 3:05 in the morning, Jim calling you?

12 A. Yes, sir.

13 Q. And those are the calls for March 26th?

14 A. Yes, sir.

15 Q. Right?

16 A. Yes, sir.

17 Q. Does that look accurate to you?

18 A. Yes, sir.

19 Q. All right. Thank you, sir. Now, sir, how  
20 long would you say it took for Jim to get to the scene?

21 A. I'd say roughly about seven minutes.

22 Q. Seven minutes?

23 A. Yes, sir.

24 Q. Okay. And you stated he only stayed there  
25 about five minutes?

1 A. Yes, sir.

2 Q. And you left and left Jim at the scene?

3 A. No. We were both at the scene for a short  
4 period of time.

5 Q. Five minutes for you?

6 A. Yes, sir.

7 Q. And then who leaves first?

8 A. I do.

9 Q. You leave first?

10 A. Yes, sir.

11 Q. And you leave Jim there?

12 A. Yes, sir.

13 Q. All right.

14 MR. FOOTE: All right. Judge, at this time I  
15 have no further questions, but we would like to  
16 publish the 911 tapes previously stipulated to.

17 THE COURT: May the witness be excused?

18 MR. FOOTE: Probably not.

19 MR. ROSARIO: Judge, I'm going to ask for  
20 redirect.

21 MR. FOOTE: Correct.

22 THE COURT: Do you want to do that before  
23 redirect by the State?

24 MR. FOOTE: While he's here, yes.

25 THE COURT: Okay. Agreed?

1 MR. ROSARIO: Yes, agreed.

2 THE COURT: For the record, this is Exhibit  
3 what?

4 MR. FOOTE: This is Defendant's Exhibit --

5 THE CLERK: If it's the CD, it should be  
6 Number 7.

7 THE COURT: Is that Defense 7?

8 MR. FOOTE: Defense 7.

9 THE COURT: Okay.

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11 \* \* \* \* \*

12

13 MR. ROSARIO: May I re-inquire, Judge?

14 THE COURT: Yes.

15

REDIRECT EXAMINATION

16 BY MR. ROSARIO:

17 Q. Mr. Dalzell, when you're out there that night  
18 at the scene where the defendant had been taken out of  
19 the vehicle, were you watching your watch?

20 A. No, sir.

21 Q. Is five minutes a guesstimate?

22 A. Yes, sir.

23 Q. About how long from the time you called 911,  
24 in your opinion, was it when Jim arrived? How long  
25 after you called 911, and got off the phone with 911,

1 did Jim arrive after you talked with him, best guess?

2 A. About seven minutes.

3 Q. And when he arrived, did he have a goatee?

4 A. No, sir.

5 Q. The only person that had facial hair that  
6 night was whom?

7 A. Mr. Shannon, to my recollection, sir.

8 MR. ROSARIO: That's all I have, Your Honor.

9 THE COURT: Mr. Foote.

10 RE CROSS EXAMINATION

11 BY MR. FOOTE:

12 Q. You listened to the 911 tape?

13 A. Yes, sir.

14 Q. Does it refresh your recollection about what  
15 was going on that night?

16 A. Yes, sir.

17 Q. Okay. You never told 911 -- they asked you  
18 what type of vehicle, you needed to get around and drive  
19 around to see what type of vehicle it was?

20 A. Yes, sir.

21 Q. You were standing at that vehicle no more than  
22 20 minutes before, 30 minutes before at the Seven's Bar?

23 A. Yes, sir.

24 Q. This is Shannon's car, you guys were going to  
25 hang out, you didn't know what kind of car that was?

1           A.    I didn't pay attention to what brand he was  
2 driving, no, sir.

3           Q.    Okay.  And you didn't tell them that it was  
4 Shannon Stephen either?

5           A.    No.

6           Q.    You acted like you never even knew the person,  
7 right?

8           A.    Yes, sir.

9           Q.    You just told the State that about ten minutes  
10 after you hung up from 911 is when Jim arrived?

11          A.    Roughly seven to ten, yes, sir.

12          Q.    Okay.  The phone records show you're still on  
13 the phone with him, you guys are still talking on the  
14 phone, do you know why that is?

15          A.    Who?

16          Q.    You and Jim?

17          A.    He was driving while talking with me on the  
18 phone, sir, on our last conversation.

19          Q.    Okay.  Do you recall your phone continually  
20 ringing, Jim trying to reach you on that phone?

21          A.    No, sir, I don't.

22          Q.    While you were there at the scene, do you  
23 remember the phone ringing?

24          A.    No, sir.

25          Q.    From Jim?

1 A. I do not recall it.

2 MR. FOOTE: Judge, I have no further  
3 questions. Oh, one question.

4 BY MR. FOOTE:

5 Q. On that night Jim was wearing a gray shirt and  
6 blue jeans?

7 A. I don't recall, sir.

8 Q. Okay. Do you recall talking to me at the  
9 deposition where the young lady was typing?

10 A. Yes, sir.

11 Q. And I had asked you that question before?

12 A. Yes, sir.

13 Q. If I were to show you a copy of that and you  
14 read it, would it refresh your recollection?

15 A. Yes, sir.

16 MR. FOOTE: May I approach the witness, Judge?

17 BY MR. FOOTE:

18 Q. I'm just going to show you a copy of that  
19 deposition and ask you to look at line number 15.

20 A. Yes, sir.

21 Q. Just read it to yourself.

22 A. Yes, sir.

23 Q. And tell me whether it refreshes your  
24 recollection.

25 A. Yes, sir.

1 Q. Okay. Do you remember now?

2 A. Yes, sir.

3 Q. Okay. So on that evening Jim was wearing a  
4 gray shirt and blue jeans?

5 A. To my knowledge, yes.

6 MR. FOOTE: Okay. That's all I have.

7 THE COURT: Can Mr. Dalzell be excused,  
8 Counsel?

9 MR. ROSARIO: Subject to recall, yes, sir.

10 THE COURT: Object. You'll continue under  
11 subpoena, sir, but you're excused for now.

12 (HEARING EXCERPT CONCLUDED.)

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1 STATE OF FLORIDA )

2 COUNTY OF PASCO )

3

4 I, Maria A. Fortner, Registered Professional  
5 Reporter, certify that I was authorized to and did  
6 stenographically report the foregoing proceedings, pages  
1 through 60, and that the transcript is a true and  
complete record of my stenographic notes.

7

8 I FURTHER CERTIFY that I am not a relative,  
9 employee, attorney or counsel of any of the parties, nor  
am I a relative or employee of any of the parties,  
10 attorney or counsel connected with the action, nor am I  
financially interested in this action.


11

12 Dated this 17th day of December, 2009.

13

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15



16

MARIA A. FORTNER  
Notary Public State of Florida  
My Commission Expires 04-16-2011

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