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State v. Drljic/Suttles

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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

File No. 62-CR-10-1464

State of Minnesota,

and 62-CR-10-1465

Plaintiff,

vs.

JURY TRIAL - DAY 6

Pages 126 - 381

Daniel Drljic and
Tamika Latoi Suttles,

Defendants.

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for Jury Trial before the Honorable Gail Chang Bohr, Judge of said Court, on the 1st day of December, 2010, at the Ramsey County Courthouse, 15 W. Kellogg Boulevard, St. Paul, Minnesota.

APPEARANCES:

Elizabeth Lamin, Assistant Ramsey County Attorney, appeared on behalf of the Plaintiff;

Jill Clark, Attorney at Law, appeared on behalf of the Defendants;

Susan D. Montpetit, Court Reporter.

INDEX

WITNESS:

1

2 Dana Rose

3 Direct Examination by Ms. Lamin..... 130

4 Cross-Examination by Ms. Clark..... 156

5 Redirect Examination by Ms. Lamin..... 173

6 Recross-Examination by Ms. Clark..... 176

7 Tyrone Strickland

8 Direct Examination by Ms. Clark..... 204

9 Cross-Examination by Ms. Lamin..... 249

10 Redirect Examination by Ms. Clark..... 259

11 Tamika Suttles

12 Direct Examination by Ms. Clark..... 266

13 Cross-Examination by Ms. Lamin..... 320

14 Redirect Examination by Ms. Clark..... 323

15 Daniel Drljic

16 Direct Examination by Ms. Clark..... 325

17 Cross-Examination by Ms. Lamin..... 353

EXHIBITS

11 No. 97 - Diagram (Suttles)

12 Marked..... 280

13 Offered..... 281

14 Received..... 282

15 No. 100 - Disc - No. 2

16 Offered..... 142

17 Received..... 143

18 No. 101 - Disc

19 Offered..... 142

20 Received..... 143

21 Nos. 102 to 119 - Photos

22 Offered and Received..... 146

23 No. 120 - Evidence Envelope - Drljic ID

24 Offered and Received..... 145

25 No. 121 - Small flashlight

Offered..... 143

Received..... 144

No. 122 - List - Sharrett's Liquor Store

Offered..... 137

Received..... 138

Nos. 126/127 - Photos

Offered and Received..... 255

State Rests..... 176

Defense Rests..... 360

Reporter's Certificate..... 387

State v. Drljic/Suttles

1 (In Open Court - Morning Session. The following
2 proceedings commenced outside the presence of the Jury.)

3 THE COURT: I want to make a record about the
4 Jones issue; and that is whether or not to allow this
5 conviction, his prior conviction under Jones, to be used
6 to impeach the -- Daniel Drljic. And the court is
7 requesting a certified copy of the conviction. And the
8 state has presented the sentencing work sheet and a copy
9 of MNCIS. And I'll take this under advisement, but I
10 have asked Ms. Lamin to get the certified copy of the
11 conviction. That was a request and the court will need
12 that to make a ruling on Jones.

13 All right. With regard to waivers. We will
14 wait until the state's case will rest and then we'll do
15 waivers from the defendants.

16 MS. LAMIN: I don't know if Your Honor wants to
17 take a minute and talk about the JIGS or is that --

18 THE COURT: We can certainly do that. I don't
19 want us to run into 9 o'clock, so once we get to that
20 point, we will stop.

21 And we will get the jurors in.

22 (The Jury returned to the courtroom and the
23 following proceedings continued.)

24 THE COURT: Good morning. We're ready to get
25 started again. And Ms. Lamin.

State v. Drljic/Suttles

1 MS. LAMIN: Thank you, Your Honor.

2 Your Honor, the State calls Dana Rose to the
3 stand.

4 THE CLERK: Please raise your right hand.

5 Thereupon,

6 DANA ROSE,

7 a witness, first having been duly sworn, was examined and
8 testified as follows:

9 THE CLERK: Please state and spell your full
10 name for the record.

11 THE WITNESS: Dana Rose, D-A-N-A, R-O-S-E.

12 THE CLERK: Okay. You can have a seat.

13 THE COURT: Good morning. Thanks for being
14 here. Have you ever testified before?

15 THE WITNESS: No.

16 THE COURT: Okay. Well, there are certain
17 rules. And one of the main ones is that if either
18 attorney raises an objection, you wait for the court to
19 make a ruling before you either answer it or don't answer
20 it. And I will tell you which way to go. In addition,
21 sir, we would ask you to speak into the mike so that
22 everybody in the jury can hear you.

23 THE WITNESS: Okay.

24 THE COURT: And also to use words and not head
25 gestures.

Rose - Direct

1 THE WITNESS: Okay.

2 THE COURT: Thank you. You may proceed.

3 MS. LAMIN: Thank you.

4 DIRECT EXAMINATION

5 BY MS. LAMIN:

6 Q Good morning, Mr. Rose?

7 A Good morning.

8 Q Where are you presently employed or what's your
9 employment?

10 A I'm a half owner of Sharrett's Liquors.

11 Q What is the address?

12 A 2389 University Avenue, St. Paul, 55114.

13 Q Mr. Rose, I'm going to ask you to speak a little louder
14 and into the microphone just to make sure that everyone
15 can hear you.

16 A Okay.

17 Q How long has Sharrett's Liquors been at it's current
18 location?

19 A In 1976 we incorporated.

20 Q And your address is the corner of University and Raymond?

21 A That's correct.

22 Q Okay. Can you describe your building?

23 A It's a three or four story building on the corner of
24 University and Raymond. It houses Keys Restaurant and
25 some other apartments upstairs and some other businesses.

Rose - Direct

1 I occupy the first floor.

2 Q Do you carry your own insurance?

3 A Yes.

4 Q Do you share any communal entrances or exits?

5 A No.

6 Q Do you share any communal storage space at all?

7 A No.

8 Q Now, Mr. Rose, I'm showing you Exhibit 1. Is that the
9 correct name and location of your store?

10 A Yes, it is.

11 Q And so you have -- you have a fully, self-contained unit
12 within, next to other units?

13 A Yes.

14 Q Okay. And how does one enter your building?

15 A There are three entrances.

16 Q I'm talking about Sharrett's?

17 A Sharrett's. There is three entrances. The one entrance
18 back on University Avenue is always locked. It's never
19 unlocked.

20 Q And if I can ask you, there is a pointer up next to you
21 and if you push the red button, it points a red beam and
22 you can point that.

23 A Okay. There is an entrance approximately right here
24 (indicating). That's a door, but it's always locked.

25 The main entrance is right here. During store hours,

Rose - Direct

1 it's always open. You can go in the back into the anti
2 way. There is a door back there that we use for
3 deliveries. That's locked unless there is deliveries.

4 Q Now, are you pointing to this kind of cove area?

5 A Well, I'm not sure exactly on this. But, there is an
6 entrance. There is a shop here. The keys Restaurant is
7 there. There is an entry way here to access the second,
8 third floor. And my door is right back there by the
9 stairs.

10 Q Okay. So, do you have a door to Sharrett's in this back
11 area?

12 A No.

13 Q And is that a picture of your liquor store?

14 A Yes, it is.

15 Q Is the clock up there correct?

16 A I believe so, yes.

17 Q Can you explain -- do you have an alarm system at your
18 store?

19 A We do.

20 Q Can you explain how that works?

21 A We are protected with Electro-Watchman. There is codes
22 to enter and codes to leave. If those codes aren't used,
23 if the door is opened, there is a silent alarm that goes
24 off and the police are called.

25 Q What if someone enters, let's say, through a wall?

Rose - Direct

1 A Our basement walls have copper wires running down from
2 top to bottom that's also on the alarm system.

3 Q Do you use your basement? Is it open to the general
4 public?

5 A No.

6 Q What's in your basement?

7 A Liquor, wine, beer, sundries.

8 Q Is there any connection between your basement and the
9 business next door?

10 A No.

11 Q What is the business next door?

12 A The business next door is my landlord's. That's his
13 shop. He's a clay maker. He's an artist. He uses that
14 space over there for his workshop. He also has, up the
15 block on Raymond, is his office and the art gallery.

16 Q And just for the jury, if you want to show us with the
17 pointer, where is that?

18 A Okay. Wherever the end of my door is, right next to me
19 is his shop right there. Next to him is the coffee shop.
20 And his office and art gallery is right about there.

21 Q Now, going back to the front door, is there one door to
22 get into your business or how many?

23 A There is one door that's lockable; and inside that door
24 there is like a porch door that we close for weather.

25 It's never locked, just open, close kind of thing. But

Rose - Direct

1 this is the door that's either always opened or locked.

2 Q Now, so is this the front door right here we're looking
3 at that's lockable?

4 A Yes.

5 Q And how's it locked?

6 A By key.

7 Q And this is from the outside, inside?

8 A Both. When I leave, put the key in the door, lock it.
9 When I enter, put the key in the door and open it. If I
10 need to take a minute, I can put the key from the inside
11 and lock it.

12 Q So, turning your attention back to December 6th, 2009,
13 what do you recall happening in the early Sunday morning
14 hours?

15 A I got a call that woke me up from Electro-Watchman
16 stating that there had been an alarm and that I should
17 proceed down to the liquor store. So I went down there.
18 I parked on University Avenue. And when I got there, I
19 saw several squad cars and I was told to park and wait.

20 Q Do you recall, you want to show us on this map?

21 A Sure. I parked right there and the squads were all over
22 there and in back.

23 Q And while you parked and waited, what did you do? How
24 long do you think you waited?

25 A I was in my car approximately 45 minutes, just waiting.

Rose - Direct

1 Q And it was your understanding that the alarm was tripped
2 at about 4:18?

3 A Yes.

4 Q Do you recall when you arrived?

5 A Probably 10 minutes, 15 minutes max.

6 Q What happened after you finished sitting in your car?

7 A The police asked for my keys and I gave them my keys.
8 They entered the front door and I was told to wait.

9 Q So, was it possible to get into the building -- when the
10 people who burglarized the building were inside, could
11 they get out without a key?

12 A No, unless they broke the door.

13 Q So, after you gave police the key, what happened next?

14 A They entered the building and from what I understand
15 arrested two people.

16 Q And after the police arrested two people, what happened
17 next?

18 A I was allowed in the building, after it was secured, and
19 I walked around with the officers to see if anything was
20 stolen, broken. And I was pretty much just there to
21 answer their questions.

22 Q Now, Mr. Rose, I'm showing you photos from that night.
23 Is that a photo of how things looked that night? Let me
24 start over. What are we looking at here?

25 A That looks like my basement. And that looks like the

Rose - Direct

1 wall that was broken out.

2 Q And when does your business close Saturday nights?

3 A Saturday night it would be 10 o'clock.

4 Q When the business closed on Saturday, December 5th, was
5 that wall in that condition?

6 A No.

7 Q And what are those items here that we're looking at?

8 A I don't really have a clear picture from that angle, but
9 looks like there are some cases; that looks like Canadian
10 Club or it might be a case of wine, some boxes, looks
11 like more wine.

12 Q And here's another picture. These are items -- were
13 these items that were removed from your business?

14 A Yes, those were on the other side of the wall from my
15 basement in my landlord's area.

16 Q What we're looking at here, this is your -- through the
17 wall, this is your business in there?

18 A Yes.

19 Q And this, right here, this is the art studio?

20 A Yes.

21 Q So, are these -- is this item right here in the bottom
22 right corner that I'm pointing to is that an item from
23 your business?

24 A Yes, it is.

25 Q What about down here?

Rose - Direct

1 A It looks like Estencia (phonetic) Wine. That would be
2 mine, also.

3 Q This one and the left one?

4 A Also, case of wine.

5 Q And this yours?

6 A Yes, that looks like gift packs.

7 Q And what about right there?

8 A That looks like a case of open wine.

9 Q And what about these items right here?

10 A Well, this is a bottle of Gray Goose that belongs to us.
11 This is a case of Crown Royal gift packs, just like that
12 one right there.

13 Q And Mr. Rose, did you make a list of items that had been
14 removed from your business?

15 A Yes, I did. I gave that to the police.

16 MS. LAMIN: Your Honor, may I approach?

17 THE COURT: Yes.

18 BY MS. LAMIN:

19 Q I'm showing you, Mr. Rose, what's been marked as Exhibit
20 122. Do you recognize what this is?

21 A That's my handwriting, yes, that's the list I gave.

22 Q That's the list. And is this a fair and accurate
23 photocopy of the list that you provided to police?

24 A Yes.

25 MS. LAMIN: Your Honor, I move to admit 122?

Rose - Direct

1 MS. CLARK: No objection.

2 THE COURT: Exhibit 122 is admitted.

3 BY MS. LAMIN:

4 Q So, how much, total, is on this list of what was removed
5 from your business?

6 A Total quantity?

7 Q Total cost?

8 A Looks like a little over 13 hundred dollars.

9 Q This is all alcohol that was removed from your business
10 during the burglary?

11 A All liquor and wine.

12 Q How would you characterize this liquor, was this Bud
13 Light or --

14 A No, this liquor was high end, expensive.

15 Q And what are we looking at in this photo?

16 A This is a bottle of Patron (phonetic) Tequila. And I
17 believe this is a bottle, I think I can read that,
18 Beafeater (phonetic), also high end.

19 Q This is also from your store?

20 A Yes.

21 Q What are we looking at there, Mr. Rose?

22 A Again a case of Crown Royal. I believe -- I can't see,
23 but I believe those are gift packs. A bottle of Gray
24 Goose, again top shelf.

25 Q Now, Mr. Rose, does your business have a surveillance

Rose - Direct

1 camera?

2 A Yes, it does.

3 Q Okay. Can you briefly explain how this surveillance
4 system is set up, where the cameras are and locations?

5 A I would show you the physical, there are six cameras.
6 They are on motion. They basically survey the retail
7 area. The system was installed in 2009. It's digital.

8 Q Now, when you say retail area, so that means is there a
9 surveillance system in the basement?

10 A No.

11 Q So, it's just on the main floor?

12 A That's correct.

13 Q And where is the system stored? Is it stored somewhere
14 in your store?

15 A It's in my office and it's locked.

16 Q And the system has a -- it's a reliable process of
17 recording?

18 A Yes.

19 Q Okay. And you have observed it recording while you have
20 watched it?

21 A Yes. You can put it on live or video. You can even
22 watch both ways.

23 Q And from the surveillance system, your store made some
24 videos for the police and the defense?

25 A That's correct.

Rose - Direct

1 Q Chronicling December 6th, 2009?

2 A Yes.

3 Q And there were three CDs produced; is that correct?

4 A Correct.

5 Q Mr. Rose, I'm showing you, first, what's been marked and
6 previously admitted as 91.

7 A Yes.

8 Q What is Exhibit 91? What do you recognize that as?

9 A My signature.

10 Q Okay. This is a CD?

11 A Yes, this is a CD that was burned off of our DVR.

12 Q Okay. This is chronicling the surveillance system from
13 this night?

14 A That's correct.

15 Q It's a recording of that surveillance system?

16 A Yes.

17 Q And you said this is your signature?

18 A That is my signature and date.

19 Q Did you have a chance to watch this CD?

20 A I did.

21 Q Did that CD fairly and accurately record -- or is that a
22 fair and accurate copy of your surveillance system from
23 that night?

24 A Yes.

25 Q I'm also showing you what's been marked as exhibit -- and

Rose.- Direct

1 just to go back to Exhibit 91, this is also marked as No.
2 1, as well; right?

3 A Yes.

4 Q And that was markings in the context of CD-1, 2 and 3?

5 A Correct.

6 Q Your surveillance system was -- the recording was so
7 large it needed three CDs?

8 A Yes.

9 Q I'm showing you what's marked as Exhibit 100. Do you
10 recognize that?

11 A I do.

12 Q What do you recognize that to be?

13 A My signature, the second CD, burned off of my DVR.

14 Q Did you have a chance to watch that --

15 A Yes.

16 Q -- CD?

17 A Yes.

18 Q If you can just answer after I am done.

19 A Yes. I'm sorry.

20 Q Okay. Sorry. And did that -- this CD, Exhibit 100,
21 fairly and accurately depict and is it a fair and
22 accurate copy of your surveillance system from that
23 night?

24 A Yes.

25 Q I'm also showing you what's been marked as Exhibit 101.

Rose - Direct

1 Do you recognize that?

2 A I do. It's the same as the other two, with my signature.

3 Q Okay. So, this is the third in the series of CDs
4 documenting December 6th, 2009?

5 A Yes.

6 Q And you watched that and that fairly and accurately
7 depicts your surveillance system from that night?

8 A Yes.

9 MS. LAMIN: Your Honor, I move to admit
10 Exhibits 100 and 101.

11 MS. CLARK: May I voir dire?

12 MS. LAMIN: Your Honor, may we approach?

13 THE COURT: Yes. Please approach.

14 (Counsel approached the bench and an
15 off-the-record discussion was had.)

16 THE COURT: With regard to Exhibit 100 and 101,
17 counsel?

18 MS. CLARK: The only objection is to foundation
19 as to the time frame.

20 BY MS. LAMIN:

21 Q Mr. Rose, do you -- what is the time frame of Exhibit 100
22 and 101?

23 A I believe it's off an hour, excuse me, because we didn't
24 reset it for daylight savings.

25 Q But what time was it recorded? If I can ask in the

Rose - Direct

1 series of events, what time of day was that?

2 A Early morning, Sunday, around four something until, I
3 think it was about 45 minutes.

4 THE COURT: And Exhibit 100 and 101 are
5 admitted.

6 BY MS. LAMIN:

7 Q Now, if we can just briefly talk about generally what's
8 on -- what is, generally, on Exhibit 91?

9 A As far as I can tell, it shows two people in my store,
10 running around, talking on their cell phones. And then,
11 I don't know if it's on that one, but towards the end of
12 it, there is police and police dog entering the building.

13 Q Generally, what is on Exhibit 100?

14 A Also, I believe that's when I entered the building with
15 the police. And we're walking around the building,
16 trying to look for items that have either been stolen or
17 other things on the floor.

18 Q Okay. And what, generally, is on Exhibit 101?

19 A That's pretty much the same thing. It's a short video
20 that shows the police wrapping it up.

21 Q Now, Mr. Rose, I'm showing you what's been marked as
22 Exhibit 121. Can you open up this paper bag and let me
23 know if you recognize what's inside.

24 A (Witness opened bag.)

25 Q Do you recognize Exhibit 121?

Rose - Direct

1 A Yes, that's a red flashlight I found in my store.

2 MS. LAMIN: Okay. Your Honor, I move to admit
3 Exhibit 121.

4 MS. CLARK: No objection.

5 THE COURT: Exhibit 121 is admitted.

6 BY MS. LAMIN:

7 Q Mr. Rose, I'm also showing you what's been marked as
8 Exhibit 120. Can you look inside the paper bag and let
9 me know if you recognize what that is.

10 A Yes, that's the ID of --

11 MS. CLARK: Objection. It's not in evidence.
12 May we approach, Your Honor?

13 THE COURT: I'm going to overrule that
14 objection. He can testify to what he found in the store.

15 MS. CLARK: Well, object to -- okay. I didn't
16 hear him say he found it.

17 BY MS. LAMIN:

18 Q Mr. Rose, what do you recognize that Exhibit 120 to be?

19 A It looks like an ID card that was found in the retail
20 area of the liquor store and I had the police come and
21 pick it up.

22 Q You personally handed that to the police?

23 A I did.

24 Q Okay. And you recognize this to be the same ID that you
25 handed to the police?

Rose - Direct

1 A That is correct.

2 Q Okay. That was recovered in your store?

3 A Yes. I believe that was recovered on Monday.

4 Q So the following day?

5 A Yes.

6 MS. LAMIN: Your Honor, I move to admit Exhibit

7 120.

8 MS. CLARK: No objection.

9 THE COURT: One-twenty is admitted.

10 BY MS. LAMIN:

11 Q Now, Mr. Rose, can you tell me what kind of an ID does
12 this appear to be and whose name is on it?

13 A It says an Employment Authorization Card. And it's -- I
14 won't be able to pronounce his name; but, it's Daniel --
15 I don't know how to pronounce his last name. You want me
16 to spell it?

17 Q Sure.

18 A D-R-L-J-I-C.

19 Q Thank you. Now, Mr. Rose, I am showing you Exhibits 102
20 to 119. Do you recognize these; if you want to look
21 through them?

22 A Sure. (Brief pause) Yes, this is the retail area of
23 Sharrett's Liquors. And all of these pictures were,
24 looks like they were taken off of the security cameras.

25 Q Okay. And had you had a chance to review these stills

Rose - Direct

1 before today?

2 A Yes.

3 Q And do these stills fairly and accurately, little snap
4 shots, from your surveillance system?

5 A Yes, those are all from the security camera.

6 Q Now, on the top of the stills, these are time stamped and
7 date stamped; is that correct?

8 A Yes.

9 Q Okay. And what is the date on there?

10 A The date is 2009, December 6th.

11 Q Okay. And what is the time?

12 A As I explained, the time is 5:35, which should be 4:35,
13 because we didn't adjust for daylight savings.

14 MS. LAMIN: Your Honor, I move to admit
15 Exhibits 102 through 119.

16 MS. CLARK: No objection.

17 THE COURT: And Exhibits 102 to 119 are
18 admitted.

19 BY MS. LAMIN:

20 Q Now, if we can just quickly go through the stills and
21 then we'll play the video. What -- this will help
22 explain. What are we looking at here?

23 A Again, this is the retail area of Sharrett's Liquors.
24 This would be the back entrance. My office is right in
25 that area. The front door being down over here.

Rose - Direct

1 Q Ask that's time stamped 5:35:40; but, that's really
2 4:35:40?

3 A It wasn't adjusted for daylight savings, yes.

4 Q These aren't the best pictures. What are we looking at
5 here?

6 A Also the retail area. Those are my coolers.

7 Q And what is -- where's your office? Where is the back of
8 the business?

9 A The office is right back here.

10 Q Where's the front of the business?

11 A The front is way over here.

12 Q What are we -- what part of your business are we looking
13 at there?

14 A I have a bad angle on this one. I'm not sure exactly
15 where this is located, but it is definitely in the liquor
16 store.

17 Q And again, this is December 6th, 2009, 4:36?

18 A That's correct.

19 Q What are we looking at here?

20 A Again my back door in my office.

21 Q And this is December 6th, 2009. It says 5:37; but it's
22 4:37?

23 A Correct. This also -- the back door, this is also the
24 entry way to the basement. There is a door right to the
25 left here and it accesses the basement.

Rose - Direct

- 1 Q So, is this where these individuals came in?
- 2 A Yes.
- 3 Q And this is to the basement where that damage was done --
- 4 A That's correct.
- 5 Q -- to the wall?
- 6 A That's correct. The back door was secure. The basement
- 7 door was opened and down the stairs and over here in the
- 8 basement is where the wall was broken out.
- 9 Q And now we're looking at, this is again -- what is this?
- 10 A Retail area. I'm not sure which camera it is, but it's
- 11 my retail area.
- 12 Q And it says 4:40, December 6th, 2009?
- 13 A Correct.
- 14 Q What are we looking at right there?
- 15 A A person in my store, unauthorized.
- 16 Q Now, you say unauthorized. Did you let anyone into your
- 17 store --
- 18 A No.
- 19 Q -- at 4:35 a.m., Sunday morning?
- 20 A No.
- 21 Q December 6th. Did you let Tamika Suttles into your store
- 22 on that day?
- 23 A I'm sorry. Again?
- 24 Q Did you let Tamika Suttles into your store on that day?
- 25 A I don't know who that person is, but I didn't allow

Rose - Direct

- 1 anybody in the store.
- 2 Q So, this gentlemen who is in there, did he have a right
3 to be inside?
- 4 A No.
- 5 Q Did he have a right to take anything?
- 6 A No.
- 7 Q Did you let Daniel Drljic into your store?
- 8 A No.
- 9 Q What about Jermaine English?
- 10 A No.
- 11 Q What are we looking at here?
- 12 A This is my cash register, counter area. That's the front
13 door.
- 14 Q Now, this is the front door -- is this the door that you
15 have the key to?
- 16 A This inner door is not looked. It's open. The door
17 right past that is the security door that is locked.
- 18 Q And again, this is December 6th, 2009, 4:44?
- 19 A Correct.
- 20 Q A.M. What are we looking at here?
- 21 A Again, this is my retail area.
- 22 Q December 6th, 2009, 4:46 a.m.?
- 23 A That's correct.
- 24 Q What do you see in this frame?
- 25 A I see my cash register, front door, two people

Rose - Direct

1 unauthorized.

2 Q And this is another frame taken from your surveillance
3 system; correct?

4 A Correct.

5 Q Okay. And this is December 6th, 2009, 4:47?

6 A That's correct. And this camera angle is from the front
7 door, along the cash registers. So, shooting from the
8 front door to the back of the store.

9 Q What about this camera angle? This is December 6th,
10 2009, 4:48 a.m.?

11 A That's correct. This camera angle is from a camera
12 shooting towards the front door. In a previous picture,
13 there is a camera right up here, shooting the other way.

14 Q What are we looking at here?

15 A Two people in my store that shouldn't be there.

16 Q Okay. What camera angle is this?

17 A This is camera angle from the front door, along the cash
18 register aisle.

19 Q What about this camera angle, where's your office?

20 A Office is right there. There is the back door.

21 Q What are we looking at there?

22 A Somebody who shouldn't be there.

23 Q This is again, December 6th, 2009. This is 4:41 a.m.?

24 A That's correct.

25 Q And then do you recognize that?

Rose -- Direct

1 A From this angle, I don't. That looks like wood in
2 the basement and it looks --

3 Q Well, let me --

4 A Okay. That looks like a jacket.

5 Q Okay. This was a previously marked exhibit. This is
6 just a close up of that.

7 A Sorry. This is much better picture than what I can see
8 there. This is my dog's water bowl right there. This is
9 cases of beer. This is a black jacket.

10 Q And is this in the basement or is this on the main floor?

11 A This is my office right here on the main floor. The back
12 door is up here and this is my office.

13 Q So, what do you see this individual, right here, doing?
14 Can you see?

15 A From this angle, I'm really sorry. I can't -- the stills
16 are much better than what I can see here.

17 Q Okay. I'm showing you Exhibit 115.

18 A Okay.

19 Q There is a person right there. As far as I can tell,
20 actually, there is two people there, isn't there? There
21 is one there and one there. I can't tell if he's
22 disrobing; but, that's where the jacket was found?

23 A Okay.

24 Q And now we're looking at 116. This will help you. What
25 are we looking at here?

Rose - Direct

1 A This is coolers. My office is back here. The registers
2 are up here. And this is an aisle with two people in it.

3 Q Now, if you want to look carefully at Exhibit 116, what
4 do you see that gentlemen doing?

5 MS. CLARK: Objection, foundation.

6 THE COURT: Overruled. You my answer.

7 THE WITNESS: I see two people with the back of
8 the camera, one hunched over, reaching into an area where
9 I keep bottles.

10 BY MS. LAMIN:

11 Q Now, is your understanding what we're looking at in
12 Exhibit 116, where one individual is look -- is reaching
13 into bottles, is that where Exhibit 120, Mr. Drljic's ID
14 was located?

15 A That's correct, right there.

16 Q Now I'm showing you Exhibit 117. Now, what camera angle
17 are we looking at there?

18 A In 117 this looks like, again, it is the camera from the
19 front door, along the cash register aisle.

20 Q Now, what are we looking at there, in Exhibit 118?

21 A That again is from the front door camera.

22 Q And Exhibit 119?

23 A Again from the front door camera.

24 Q And this is time stamped and dated 12/6/2009, 4:53 a.m.?

25 A That's correct.

Rose - Direct

1 MS. LAMIN: Your Honor, I would just like to
2 quickly play the surveillance video; the first
3 surveillance video at double speed.

4 MS. CLARK: What's the time frame?

5 MS. LAMIN: It's when the suspects entered the
6 store.

7 THE COURT: Yes, you may.

8 MS. LAMIN: Disc-1. So, we'll be playing it
9 from 4:35:46 a.m. on December 6th, 2009 until 4:55,
10 December 6th, 2009.

11 (Video played at this time.)

12 BY MS. LAMIN:

13 Q Can you explain to us what we're looking at here?

14 A Okay. This is video from the retail area at Sharrett's
15 Liquors. And that shows the six different camera angles.

16 Q Now, occasionally, there is the red M that appears. What
17 does that mean?

18 A I believe that means motion. So that means the camera is
19 activated.

20 Q So, the first still we looked at, where's the back of
21 your store?

22 A I'm sorry?

23 Q If you can use your pointer.

24 A And I'm sorry, what was the question?

25 Q I'm sorry. One second. Okay. Mr. Rose, where's the

Rose - Direct

1 back of your store?

2 A The back of the store is right back there. And again,
3 this is my office.

4 Q And this is the way it appears on your screen in your
5 office, the six surveillance cameras.

6 A Yes.

7 Q This is the way it was recorded into the CDs?

8 A Correct.

9 MS. LAMIN: I'm sorry. If we might have a
10 minute. (Brief pause)

11 BY MS. LAMIN:

12 Q Okay. So, we're looking -- the camera goes from -- can
13 you explain what we're watching?

14 A Yes. Again, this is the front area, front door, locked.
15 The cash registers. The back door of my office. This is
16 the camera angle shooting from the front door along the
17 cash registers. This is a walk-in cooler front. And
18 that's an aisle. And again, another -- my office is
19 right here. This is an aisle with a different angle on
20 that walk-in cooler.

21 MS. LAMIN: Your Honor, may we approach?

22 (Counsel approached the bench and an
23 off-the-record discussion was had at this time.)

24 THE COURT: Let's give it one more shot.

25 BY MS. LAMIN:

Rose - Direct

1 Q What are we seeing?

2 A We're seeing two people in the retail area. It was right
3 over there before it moved on, and other folks in here
4 that are unauthorized to be in the liquor store.

5 Q So, when that door is opened, can they get out of there?

6 A No. That door opens. It's not lockable. It's like a
7 screen door. And then the door just past that is the
8 locked security door.

9 Q Okay. And the surveillance video we're watching, this is
10 when they first appeared upstairs?

11 A That's correct.

12 (Extended pause while video played.)

13 BY MS. LAMIN:

14 Q Again, during this whole time, we have been watching two
15 individuals walking around your store?

16 A That's correct. That's correct.

17 Q What do we see now?

18 A I believe the police are coming up from the basement.
19 And I believe there is a police dog.

20 Q It looks like police just came in through the front door.

21 A That's correct. They asked for my keys and they entered
22 the front door.

23 Q At this point, the two suspects have been removed from
24 the store?

25 A Yes.

Rose - Direct

1 MS. LAMIN: This is 4:59 and it ends at
2 4:59:53. No further questions.

3 THE COURT: And Ms. Clark.

4 MS. CLARK: Thank you.

5 CROSS-EXAMINATION

6 BY MS. CLARK:

7 Q Did you actually prepare the copy of the video that was
8 given to the police?

9 A No.

10 Q Do you know who did?

11 A My manager.

12 Q Who is that?

13 A My manager, Ted Kline (phonetic), he recorded the video.

14 Q If you wouldn't mind keeping your voice up just a little
15 bit. Thank you. So, what time frames were given to the
16 police?

17 A The time frames given -- I'm sorry. I don't understand
18 the question.

19 Q Sure. Let me try asking this differently. The
20 surveillance videos are motion activated; correct?

21 A Correct.

22 Q So, is it accurate to say that the first time there is
23 any person in the range of the video cameras is when this
24 video started that we just first watched?

25 A Yes.

Rose - Cross

1 Q And in fact, your manager went back and made sure that
2 there was no person entering the show floor prior to that
3 time?

4 A I believe that's correct.

5 Q All right. So we saw the very beginning of the video
6 here in the courtroom?

7 A Yes.

8 Q And that was -- well, it says 5:35 on it, but in real
9 time, it was 4:35 a.m.?

10 A That's correct.

11 Q All right. And then how long does the video go for? Did
12 it go until 7, 8 in the morning? How much video did the
13 police pick up?

14 A About 45 minutes.

15 Q About 45 minutes. So from 4:35 to about 5:20 in real
16 time?

17 A I would have to look at the CD to see what the time stamp
18 on there is; but yeah, that's where it ends.

19 Q And did you leave the store after that?

20 A I did.

21 Q What time did you leave the store?

22 A It was probably around 5:30, quarter to six.

23 Q And did you just give police a key to lock up?

24 A No.

25 Q But, were police still there?

Rose - Cross

- 1 A No.
- 2 Q Did -- you indicated that on one of the discs, there is a
3 video of you entering the store and walking through with
4 the police?
- 5 A That's correct.
- 6 Q Does it sound right that on the clock of the video that's
7 around 6 a.m.? Real time 5 a.m.?
- 8 A Probably. I had been sitting outside for about 45
9 minutes.
- 10 Q Okay. And then maybe you already answered this, but just
11 so I understand. How long were you in the store before
12 you left that day?
- 13 A I honestly don't remember. I walked around with the
14 police. And when they were done, I set the security
15 alarm and locked up and went home.
- 16 Q Do you know how many police were in the store -- strike
17 that. Were you with police at all times?
- 18 A Yes.
- 19 Q Were there multiple police in the store?
- 20 A Yes, there were.
- 21 Q And was there a blond female police officer?
- 22 A Yes, there was.
- 23 Q Name of Alvarez?
- 24 A I don't know.
- 25 Q And was she moving things around in the store?

Rose - Cross

1 A I don't believe so.

2 Q You're not sure?

3 A I don't know.

4 Q Have you ever, yourself, sat down and watched all of the
5 video?

6 A I have, yes.

7 Q Now, it sounds like there is not video of your office
8 area?

9 A That's correct.

10 Q Do you recognize a black jacket that's Exhibit 55?

11 A I believe that's the one that was found on the floor
12 outside of my office.

13 Q Do you recognize it, other than that?

14 A No.

15 Q And in other words, did you ever -- did you give it to
16 police?

17 A The police took that.

18 Q Okay. And did you determine whether or not it had
19 belonged to any employee or --

20 A No, that didn't belong to anybody at Sharrett's.

21 Q Okay. So, did you see it in your office on the floor?

22 A No.

23 Q You didn't see it there?

24 A Not in my office.

25 Q I'm sorry. Maybe I'm confused.

Rose - Cross

1 A Nobody entered my office.

2 Q What do you mean by that?

3 A That was found outside of my office.

4 Q Okay. And I might be a little confused on the viewpoint
5 of the picture. The picture that you were shown today
6 that had -- that you said had a jacket in it -- first of
7 all, did you look at that picture with the prosecutor
8 before you testified?

9 A Yes, we went through those.

10 Q And discussed what was in the picture?

11 A No, just I verified the pictures were from the video.

12 Q Oh, I'm sorry. Not those pictures. The picture of what
13 you said was the jacket, did you review that with the
14 prosecutor before you testified?

15 A I would have to look at the picture.

16 Q All right. I'll find it here. You said your dog's dish
17 was in the picture?

18 A That's correct.

19 Q Why don't you just tell me, where is that located?

20 Where's your dog's dish?

21 A That was right outside the locked office.

22 Q Okay. So that's right outside your office. It's on the
23 showroom floor level?

24 A Yes.

25 Q And it's within the range of the video cameras?

Rose - Cross

1 A Yes.

2 Q Showing you Exhibit 45. Do you recognize that object?

3 And if you would like to see is it closer --

4 MS. CLARK: May I approach, Your Honor?

5 THE COURT: Yes.

6 THE WITNESS: I believe that is the jacket that
7 was recovered by the police.

8 BY MS. CLARK:

9 Q Okay. Is that the position you first saw it in?

10 A I believe so.

11 Q Okay. Lying on the floor like that?

12 A Yes.

13 Q Would it be accurate to say that the pictures that have
14 the kind of reddish wall to wall carpeting in them, those
15 would be up on the showroom level; for example, this
16 Exhibit 41?

17 A Yes, that's correct. That's the carpet in the store.

18 Q Does your office also have the same carpet?

19 A Yes, it does.

20 Q And when you said no one was in your office, are you
21 saying that no one had interfered with anything in your
22 office?

23 A That's correct.

24 Q All right.. Nothing was missing, in other words?

25 A No.

Rose - Cross

1 Q You talked a little bit about some of the liquor. You
2 had made a list for police of the -- I'm assuming that's
3 the retail price of them or is it the wholesale price?

4 A I would have to look again, but I think that was the
5 retail price.

6 Q All right. Now, is it accurate that you got the liquor
7 back -- Sharrett's got the liquor back?

8 A That's correct.

9 Q Let me ask you a couple questions. This picture of the
10 hole in the wall. And here's one picture of it, Exhibit
11 26. The room you can see beyond. And I'll show this to
12 you.

13 MS. CLARK: May I approach, Your Honor?

14 THE COURT: Yes.

15 BY MS. CLARK:

16 Q Over on the right hand side of the picture, you can see
17 some cases in the other room?

18 A That's correct.

19 Q Is that what you kept in that room, cases?

20 A That's my storage area.

21 Q Okay. Did you keep anything other than cases of booze in
22 there?

23 A There was some single bottles, also.

24 Q What kinds of single bottles?

25 A This storage area was mostly for wine.

Rose - Cross

- 1 Q Any other kinds of single bottles you kept there?
- 2 A It was all wine, some beer.
- 3 Q What about single bottles of Gray Goose, would those be
4 up on the showroom floor?
- 5 A No.
- 6 Q Where would they be?
- 7 A They would be in the next room. There is a room right
8 next to it. It's a locked liquor area. That's my liquor
9 storage.
- 10 Q Let me just make sure I understand what you're saying.
11 The room we saw just on the other side of the ripped wall
12 is for cases, some singles, but it's wine and beer.
- 13 A Correct.
- 14 Q All right. Now, there is another room also on the
15 basement level where you store things before they have
16 been brought up to the show floor?
- 17 A That's correct.
- 18 Q How do you get into that room?
- 19 A That's a locked door. There is a key there. But, that
20 door is on a security -- the door is locked, unless you
21 use the key to get into the room, but that door is on the
22 security, so if that door is opened, unauthorized, while
23 the alarm is active, that will set off the alarm. And
24 that's where I store my liquor.
- 25 Q Okay. Things like the single bottle of Gray Goose?

Rose - Cross

1 A Oh, yes.

2 Q All right. So, I just want to -- were you shown any
3 pictures of that door by the prosecutor at all?

4 A No.

5 Q All right. So, does it look just like a regular internal
6 door?

7 A Yes.

8 Q But, it has, it sounds like, both a lock on it that has a
9 keyhole and then it's also wired into the security
10 system?

11 A That's correct.

12 Q Now, you said the key is there?

13 A The key is in the lock at all times, just because we
14 close the door for security reasons when the alarm is
15 set, that's on the alarm. So, the key is there. Any
16 time you want to open it, you just turn the key and walk
17 into the room. Turn the lights on and walk into the
18 room.

19 Q When you came into Sharrett's that night after you waited
20 in your car about 45 minutes, did you deactivate the
21 alarm?

22 A Yes.

23 Q Do you know a fair amount about the alarm system at
24 Sharrett's?

25 A Ask me a specific question.

Rose - Cross

1 Q Sure. What is the place that an alarm would be
2 triggered, to the best of your knowledge, described as
3 AUD, A-U-D, west basement lacing and window?

4 A That I couldn't tell you. There are several zones on the
5 system. I don't know that particular one. I would have
6 to go back and review the paperwork. It's listed on the
7 alarm. When you drop the door down, it's listed, all the
8 zones. I don't know what that one actually is.

9 Q Are the basement windows wired?

10 A Yes.

11 Q So, based on what you do know about the system, west
12 basement, lacing and window, does it sound like it's in
13 the area of a basement window?

14 A That is probably the wine room that I was looking at here
15 and along that wood wall, there are copper wires coming
16 down and that is on the alarm system. So, when the wall
17 was broken, the alarm went off. It was a silent alarm.

18 Q Okay. So, they could all be on the same circuit, in
19 other words? The window and this wall?

20 A That particular room, yes, that is on the same circuit.

21 Q All right. Do you have any knowledge of how long between
22 the time an alarm sounds at Electro-Watchman and the time
23 Electro-Watchman notifies authorities?

24 A I get a call and the police get a call, probably within
25 the minute.

Rose - Cross

1 Q Okay. It's very quick?

2 A Yes.

3 Q All right. Now, do you know an alarm that would be
4 described as side window?

5 A I would assume there would be the -- again, without
6 looking at the system, I don't know. I'm assuming that
7 might be one of the windows in the retail area that is on
8 the alarm. It's just a little cantilevered window that's
9 closed.

10 Q Okay. Main floor or basement floor?

11 A That would be main floor if that's the zone I'm thinking
12 about.

13 Q Okay. Then, to the best of your knowledge, how is this
14 keyed door, where you keep the single bottles of Gray
15 Goose, how would that be described in the alarm system?

16 A If it's opened, it trips the alarm. If it's closed, the
17 circuit is secure.

18 Q Do you know how that would be described?

19 A Again, I would have to look at the alarm system to find
20 out exactly which zone; but, it might be in the basement.
21 At that point, the alarm was already tripped, so anybody
22 going in and out of that door it would be tripped again.

23 Q The keyed door that you talked about is on the same
24 circuit as the wall?

25 A Again, I would have to look. I'm not sure.

Rose - Cross

- 1 Q Okay. You're not sure?
- 2 A No.
- 3 Q All right. And what about single bottles of Beef eater
4 of Patron, also in that room?
- 5 A That's correct.
- 6 Q What about like a gift box of Royal Crown in that locked
7 room?
- 8 A Crown Royal. That's right.
- 9 Q I'm sorry. Now, you were asked a question, it was either
10 when the stills were up or when the video was playing,
11 about what you could see a person doing. Do you remember
12 that, what you said? You were asked, do you see a person
13 reaching into the bottles?
- 14 A I believe that was on one of the stills, yes.
- 15 Q Okay. And did you talk to the prosecutor about that
16 still before you testified today?
- 17 A We reviewed all those pictures.
- 18 Q And are you saying you can tell that a person is reaching
19 into bottles in Exhibit 116?
- 20 A I don't see them putting anything in there, but his arm
21 is obviously out into the bottle area.
- 22 Q You don't know if he's putting his hand on the shelf to
23 stabilize himself?
- 24 A No, I wasn't there.
- 25 Q Was it suggested to you that this is a person putting

Rose - Cross

- 1 something into the bottles?
- 2 A The picture suggests that to me.
- 3 Q Did you talk about it with the prosecutor?
- 4 A No.
- 5 Q Now, the ID that you said was found in your store, who
6 found it, sir?
- 7 A That was my manager, Ted.
- 8 Q You didn't find it; right?
- 9 A No.
- 10 Q And did you see him find it?
- 11 A No, I didn't, but it was recovered and given to me and I
12 reported it to the police and the police picked it up.
- 13 Q I understand that. But, you weren't present when it was
14 located on the shelf.
- 15 A No. That was on Monday and that was during my manager's
16 shift.
- 17 Q Okay. You're not sure precisely where it was located on
18 the shelf; are you?
- 19 A I couldn't tell you exactly which bottle it was found
20 behind, but it was in that area between the cooler and
21 the beer shelf.
- 22 Q And how many feet is between the cooler and the wine
23 shelf?
- 24 A Three and a half, four feet, maybe.
- 25 Q Now, your store also found the red Coleman flashlight;

Rose - Cross

1 right?

2 A If that was a Coleman; that's correct.

3 Q Okay. The red flashlight that was put into evidence,
4 through you?

5 A Yes.

6 Q And at the same time as the flashlight was located, your
7 store also located some marijuana in that same location;
8 right?

9 A I'm not sure of exact locations; but yes, there was a bag
10 of marijuana found.

11 Q So when the police came to pick up the red flashlight,
12 they also picked up a bag of marijuana; correct?

13 A I don't recall what was picked up at what time. I know
14 the police came several different times to pick up
15 evidence. I don't know if it was both at the same time
16 or not.

17 Q But, your store turned the marijuana over to the police?

18 A That's correct.

19 Q Now, you were shown an overview of the building. And you
20 were pointing out some of the stores. And you said that
21 there is -- your neighbor is an artist and does some
22 sculpting or something there?

23 A That's correct. My neighbor is the owner of the
24 building.

25 Q Well, okay. Joseph Brown?

Rose - Cross

1 A That's correct.

2 Q And then you told us that his office, however, is farther
3 down on the Raymond side of the building?

4 A That's also correct. It's next to Keys. That's his
5 office and gallery.

6 Q Have you been in there?

7 A Oh, yes.

8 Q Where did he keep his computer equipment?

9 A As far as I know it was stored in his area that he does
10 his art. Not in the gallery, but in the office next to
11 us.

12 Q Had you seen it in there?

13 A No.

14 Q I'm sorry?

15 A No. I haven't been invited in there.

16 Q Okay. So, what do you base your information on?

17 A When we were walking through the building.

18 Q So, you and police?

19 A And Joseph.

20 Q And Joseph. And when was that?

21 A I believe that was the next day.

22 Q And which officers were there?

23 A I don't recall.

24 Q So, when you walked into Joseph's -- calling one a
25 gallery. We'll call one a gallery and one a studio.

Rose - Cross

- 1 Does that work for you?
- 2 A That's fine.
- 3 Q So and police walked into Joseph's art studio together?
- 4 A Studio.
- 5 Q Did you see computer equipment in there at that point
- 6 A No.
- 7 Q Have you ever seen any computer equipment in that room?
- 8 A No, I haven't been invited there before.
- 9 Q Okay. Did you and police walk into his gallery and/or
- 10 office?
- 11 A. Not the gallery, no.
- 12 Q Is it more accurate to say you're not really sure where
- 13 his computer equipment was kept?
- 14 A I'm assuming it was kept in his office in his studio,
- 15 because when we walked through that's where everything
- 16 was missing from.
- 17 Q Okay. But that's not your personal knowledge? That's
- 18 based on things police told you; right?
- 19 A No, that's what Joe said there, there, that's missing,
- 20 missing, missing. So that's what I recollect from when
- 21 the police and I and Joseph walked through his studio.
- 22 Q Okay. And did Joseph say that some computer pieces were
- 23 missing?
- 24 A Yes.
- 25 Q All right. Do you remember what he said?

Rose - Cross

1 A I don't recall exactly what was missing.

2 Q All right. Have you looked through -- and if I asked you
3 this before, I apologize. Have you looked through all of
4 the video that was provided to the police?

5 A All three CDs, yes.

6 Q And are there any video images of police taking pictures
7 in there?

8 A I don't recall.

9 Q Do you have any knowledge of where the red flashlight and
10 marijuana were found in the store?

11 A It was in the retail area. I don't know exactly where.
12 First floor.

13 Q Is there a bar across the street from the building on the
14 University side.

15 A Is there a bar?

16 Q Yes.

17 A Not to my knowledge.

18 Q Isn't there a bar and pool hall over there?

19 A I believe it's a pool hall.

20 Q Okay. Serve alcohol?

21 A I don't believe they have a license. I don't know. I've
22 never been in there.

23 MS. CLARK: Okay. Thank you. Nothing further.

24 THE COURT: Redirect?

25 MS. LAMIN: Yes, Your Honor, briefly.

Rose - Redirect

REDIRECT EXAMINATION

1

2

BY MS. LAMIN:

3

Q Mr. Rose, I'm showing you -- these were photos from your store?

4

5

A That's correct.

6

Q Okay. A series of three photos previously admitted into evidence. This is the evidence of the jacket found in your store; is that correct?

7

8

A That's correct.

9

Q Okay. Mr. Rose, you reviewed the video with your manager; is that correct?

10

11

A Yes. We both looked at it.

12

13

Q And this is your manager, Teddy, who recorded it?

14

A Yes.

15

Q You also reviewed with your manager, Teddy, where the -- where Mr. Drljic's ID was recovered?

16

17

A That's correct.

18

Q He showed you the area where it was found?

19

A Yes.

20

Q And then you watched that on the video?

21

A I couldn't tell -- I mean, again, I couldn't tell if he had the ID dropped there or not, but that's approximately where the ID was found.

22

23

24

Q So, where the ID was found is where you saw Mr. Drljic in the video reaching in?

25

Rose - Redirect

1 A Yes.

2 Q And you did that with your manager, Teddy?

3 A Teddy is the one who found it and reported it to me.

4 Q And he showed you in the store where it was?

5 A Yes.

6 Q And your understanding is -- how is it that Teddy found
7 Mr. Drljic's ID?

8 A We periodically do inventory for stock work. When he was
9 looking through the shelves to see what needed to be
10 filled, he found the ID.

11 Q That matched that area in the surveillance video?

12 A Yes.

13 Q Here's the series of -- so, here's Exhibit 43, 44 and 45.
14 There is the pictures of the jacket inside your store?

15 A That's correct.

16 Q Okay. This is outside the locked office, but this is
17 inside the main floor of your store?

18 A Yes.

19 Q And this is in the basement area, where you see the
20 suspects come up from?

21 A That is correct. This is the area. This is this retail
22 and this is also storage, with my office on the left hand
23 side here, retail area out here, and then the back door
24 and stairs to the basement.

25 Q Exhibit 43, that's how you saw the jacket?

Rose - Redirect

1 A Yes.

2 Q Okay. And Exhibit 45 is the jacket was displayed for the
3 photo?

4 A I believe so, yes.

5 Q Okay. You walked through with the police and pointed out
6 the coat; is that correct?

7 A The police --

8 MS. CLARK: Objection, leading.

9 THE COURT: Rephrase.

10 BY MS. LAMIN:

11 Q Explain to us what happened?

12 A The police found the coat.

13 Q Okay. Did they ask you about it?

14 A Yes. They asked he me if it was anybody -- like you
15 asked, it didn't belong to anybody, any of my employees,
16 anybody in the store.

17 Q And when you looked at it, was it in that location?

18 A I believe it was, yes.

19 Q Okay. Exhibit 43. And that's where the coat is
20 between -- next do your dog dish -- your dog's dish and
21 between two -- several boxes of beer?

22 A Okay.

23 MS. LAMIN: No further questions, Your Honor.

24 THE COURT: Yes, Ms. Clark.

25 MS. CLARK: I just have a bit here.

Rose - Recross

REXCROSS-EXAMINATION

1

2

BY MS. CLARK:

3

Q The ID was found because somebody was doing normal

4

business and happened across it; right?

5

A Correct.

6

Q But, the flashlight and the marijuana were found in a

7

different way; right? Someone in your store actually

8

noticed someone putting something on the shelf in the

9

video and then walked over and found the flashlight and

10

the marijuana and called the police?

11

A Not to my knowledge.

12

Q Do you know?

13

A I don't know how they were found.

14

MS. CLARK: Okay. Nothing further.

15

MS. LAMIN: Nothing from the state.

16

THE COURT: Okay. Thank you. And you may step

17

down.

18

THE WITNESS: Thank you.

19

MS. LAMIN: Your Honor, the state rests.

20

THE COURT: Okay. We should take a brief break

21

at this time.

22

THE CLERK: Fifteen minutes?

23

COURT REPORTER: Yes, please.

24

(Recess taken. Court reconvened and the

25

following proceedings were had outside the presence of

Rose - Recross

1 the Jury.)

2 THE COURT: All right. I want to do our Jones
3 analysis and do a waiver. Okay. Go ahead.

4 MS. LAMIN: Your Honor, earlier this morning,
5 when the state begin, the state said we don't have a
6 certified conviction of Mr. Drljic's felony conviction.
7 But, I did show you and I believe you still have it.
8 Your Honor, I don't believe the law requires a certified
9 conviction. It's the fact of his conviction, which Mr.
10 Drljic knows about and there doesn't appear to be dispute
11 about it. So, I think on that basis, we shouldn't be
12 denied.

13 What happens is if a defendant takes the stand
14 and denies that they have a felony conviction, that's the
15 point that the certified conviction typically comes in to
16 rebut that denial. And that's, in this case, what the
17 state wouldn't have. And that would be the limit for the
18 state not having the certified conviction. But that, in
19 my -- I had a colleague -- there are some cases. But, I
20 have two cases. And the prosecutor can still ask that
21 question if the defendant has a felony conviction because
22 that would still be a good faith basis for the question.

23 And that case is 289 N.W. 2d, 503, State v.
24 Wenberg, W-E-N-B-E-R-G.

25 THE COURT: Okay.

State v. Drljic/Suttles

1 MS. LAMIN: So, Your Honor, I believe not
2 having the certified conviction is not a bar for doing an
3 analysis of Jones factors. I have another case, as well,
4 that -- and I'll give you both cases. I haven't read
5 them, but I got them from a colleague; State v.
6 Pulkrabek, P-U-L-K-R-A-B-E-K. And that's 268 N.W. 2d,
7 561.

8 THE COURT: I do have this.

9 MS. LAMIN: And she does have a copy.

10 MS. CLARK: I do have it.

11 THE COURT: All right. I have looked at that
12 issue about the certified copy and I do believe that the
13 sentencing work sheet would suffice in this matter. So,
14 with that --

15 MS. CLARK: Your Honor, I haven't even had a
16 chance to address the issue.

17 THE COURT: Yeah, I want us to get to the Jones
18 factors, because that might just take care of everything.

19 MS. CLARK: Your Honor, I guess I would like,
20 very respectfully, to place on the record that when
21 English was on the stand that the court ruled that a
22 certified copy was necessary. That's the standard that
23 the defense was held to.

24 Now, when the prosecution doesn't have a
25 certified copy, we object to the court making a different

State v. Drljic/Suttles

1 ruling. The law of the case is that a certified copy is
2 required. And huge amounts -- the county attorney's
3 office has huge amounts of staff that went out, after the
4 court raised the issue this morning and brought in these
5 cases. It's just not -- it's not delivering the same,
6 you know, same ruling, same standard to both sides.

7 THE COURT: And actually I believe that we
8 should just get to the merit and just talk about the
9 Jones factor.

10 MS. CLARK: Okay.

11 THE COURT: All right.

12 MS. CLARK: Yes, Your Honor.

13 THE COURT: So, let's just do that.

14 MS. LAMIN: Your Honor, I would ask that the
15 court permit the state to impeach Mr. Drljic with his
16 felony conviction. It meets all the standards of the
17 Jones factors, as well as the 10-year limit. It is a
18 felony. It is a fleeing of police. It is not relevant
19 in terms of it's not the same type of crime that he's
20 charged with in this case.

21 And Your Honor, Mr. Drljic's credibility is
22 important in this case. And it's very important for the
23 jury to see the whole person. The -- essentially, it
24 appears the defense may be that they were tricked either
25 by Mr. English or some other people into being there,

State v. Drljic/Suttles

1 Your Honor. So, it is important for the jury to see the
2 whole person of Mr. Drljic. It is, to some degree, going
3 at least to the issue of intent. There is conflicting
4 stories.

5 And I would note, though, that defense did not
6 have copies of Mr. English's convictions. And defense --
7 and the court ruled the defense was permitted to impeach
8 Mr. English with just about all of his convictions, all
9 of within -- I think there were five or six within the
10 10-year period. So, the court is holding both parties to
11 the same standard. And the defense did have Mr.
12 English's record back in May. And so, Your Honor, I
13 believe the Jones factors allow or are in favor of the
14 state being permitted to impeach Mr. Drljic with his
15 felony.

16 THE COURT: Ms. Clark.

17 MS. CLARK: I'm just a little confused. Did
18 prosecution provide the court with some documentation?

19 THE COURT: It's the sentencing worksheet.
20 That's all I have.

21 MS. CLARK: May I see it?

22 THE COURT: Yes, with the fleeing police.

23 MS. LAMIN: It's previously been disclosed to
24 the defense attorney, of course.

25 (Brief pause)

State v. Drljic/Suttles

1 MS. CLARK: And Your Honor, we would
2 respectfully argue the opposite. That it is, although
3 it's within the 10 years, that Mr. Drljic's testimony is
4 very important to him being able to make his case. There
5 really is no one else who could lay or who we could put
6 the testimony in through. He and Mr. English were the
7 only people in the building. And with all due respect to
8 the state, we do believe that Mr. English testified in a
9 way that he thought would please the state, as opposed to
10 the truth. And so, really Mr. Drljic is the sole witness
11 who can acquit himself.

12 Under the Jones factors, that is an important
13 factor. The notion of seeing the whole person, although
14 we understand it, there really isn't anything about the
15 fleeing a police officer that would assist in that. We
16 vehemently oppose the notion that the state can use this
17 for proving intent. It cannot. It is very clear, under
18 the law, that the sole purpose is to impeach for
19 credibility. So, if it's allowed to come in, the state
20 should be instructed that it cannot use it to argue
21 intent.

22 And then finally, the -- if the court allows
23 the conviction to be told to the jury, then we would like
24 to have Mr. Drljic just give a brief description, in his
25 own words, about what occurred with regard to that

State v. Drljic/Suttles

1 incident. And I'll hand this back to the court.

2 THE COURT: All right. And I will note that in
3 the sentencing worksheet that does have the offense of
4 fleeing a peace officer in a motor vehicle; that the
5 court feels that the Jones analysis has accepted that.
6 And with regard to the Jones factors, it is within the
7 10-year limit. It's not the same crime. The court,
8 however, is concerned about the credibility issue; that
9 fleeing police is not -- actually goes quite to that
10 honesty factor. And that the importance of the
11 defendant's testimony is important. And I am denying the
12 state's request to use Mr. Drljic's felony conviction for
13 purposes of impeachment.

14 THE CLARK: Would you like to do waivers?

15 THE COURT: Yes, let's do the waivers.

16 MS. CLARK: Ms. Suttles, would you like to
17 approach the bench with me?

18 THE COURT: All right. And Ms. Suttles, we'll
19 just have you go up to the stand.

20 MS. CLARK: Do you inquire? Or do you want me
21 to inquire?

22 THE COURT: Well, you can inquire and then I
23 will inquire. So, we will put you under oath here and
24 make sure that you understand. We need to swear you in
25 and make sure that you understand.

State v. Drljic/Suttles

1 DEFENDANT SUTTLES: Okay. Thank you.

2 THE CLERK: Please raise your right hand.

3 (Defendant Suttles sworn.)

4 THE CLERK: Please state and spell your full
5 name for the record.

6 DEFENDANT SUTTLES: Tamika Latoi Suttles,
7 T-A-M-I-K-A, L-A-T-O-I, S-U-T-T-L-E-S.

8 THE COURT: All right. And you may start your
9 inquiry and I'll fill in if we need to do more.

10 MS. CLARK: Thank you, Your Honor.

11 EXAMINATION

12 BY MS. CLARK:

13 Q Ms. Suttles, you testified at the Omnibus Hearing; right?

14 A Yes, ma'am.

15 Q Before you testified, did your attorney review with you
16 the fact that you have a Fifth Amendment Right not to
17 testify in these proceedings?

18 A Yes, ma'am.

19 Q Now, this trial proceeding is a little bit different from
20 the Omnibus proceeding, but you still, at this time, have
21 a Fifth Amendment Right. If you desired not to testify,
22 you do not have to testify. Do you understand that?

23 A Yes, ma'am.

24 Q And have you had sufficient time and opportunity to
25 consult with your attorney on that issue?

State v. Drljic/Suttles

1 A Yes, ma'am.

2 Q Do you understand that if you choose to take the stand
3 and testify, then the state can cross-examine you?

4 A Okay. Yes, ma'am.

5 Q In other words, they can ask you questions -- the state
6 can ask you questions?

7 A Yes, ma'am.

8 Q At that point, you will not be able to say, I take the
9 Fifth Amendment?

10 A Yes.

11 Q All right. Once you're up there and talk on direct, then
12 you have to be available for cross-examination. Do you
13 understand that?

14 A Yes, ma'am.

15 Q Knowing all of those things, do you wish to testify?

16 A Oh, yes, yes, ma'am.

17 Q You wish to waive your Fifth Amendment Right not to
18 testify in this case?

19 A Do I wish to waive it; no -- I wish to continue. Yes, I
20 wish to --

21 Q Let me say it a different way. You have right now to
22 what's called a Fifth Amendment privilege. The court
23 will only let you testify if you waive the privilege?

24 A Okay.

25 Q It's a legal word. So, let me say it in more plain

State v. Drljic/Suttles

1 English. Do you want to testify even if that means that
2 you will not, on the witness stand, have your Fifth
3 Amendment Right?

4 A Yes, I do.

5 Q Okay.

6 THE COURT: All right.

7 BY THE COURT:

8 Q So, Ms. Suttles, you understand that when you testify,
9 you're giving up your right to remain silent?

10 A Yes, ma'am.

11 Q And is anybody forcing you to testify?

12 A No, ma'am.

13 Q Okay. Or not testify. I mean, that is a right that goes
14 both ways?

15 A No, ma'am.

16 Q All right. Tell me what rights you think you are giving
17 up?

18 A I'm giving up my right to be silent. And --

19 Q You're asserting the right to testify?

20 A I'm asserting the right to testify, yes.

21 Q Okay. In your defense?

22 A In my defense, yes.

23 Q All right. And you're doing this freely and voluntarily?

24 A Yes, ma'am.

25 Q And so your decision to testify is yours, alone?

State v. Drljic/Suttles

1 A Yes, ma'am.

2 Q Nobody has been forcing you to do this?

3 A No, ma'am.

4 THE COURT: Okay. Thank you. You may step
5 down.

6 DEFENDANT SUTTLES: Okay.

7 MS. CLARK: May I approach, Your Honor?

8 THE COURT: Yes, you may take the stand.

9 THE CLERK: Please raise your right hand.

10 (Defendant Drljic sworn).

11 THE CLERK: Please state and spell your full
12 name for the record.

13 DEFENDANT DRLJIC: Daniel Drljic, no middle
14 name. D-A-N-I-J-E-L, D-R-L-J-I-C.

15 THE COURT: Okay.

16 EXAMINATION

17 BY MS. CLARK:

18 Q Mr. Drljic, you testified in the Omnibus hearing;
19 correct?

20 A That's correct.

21 Q And before you testified in the Omnibus hearing, you
22 discussed with your attorney the fact that you had a
23 Fifth Amendment Right not to testify?

24 A Yes, we have discussed this.

25 Q And before this trial, did you also discuss with your

State v. Drljic/Suttles

1 attorney that you have a Fifth Amendment Right not to
2 testify at the trial?

3 A Yes, we also discussed that.

4 Q And if you decide to assert your Fifth Amendment Right,
5 the state cannot call you as a witness. Do you
6 understand that?

7 A I do understand that.

8 Q If you waive your Fifth Amendment Right and take the
9 witness stand to tell your story, you understand that the
10 state can then ask you questions?

11 A Of course, I understand.

12 Q And then you must answer because you're under oath on the
13 witness stand?

14 A Yes, I understand that.

15 Q Knowing all of those things -- oh, have you had
16 sufficient time and opportunity to talk with your
17 attorney about those issues?

18 A Yes, I have sufficient time and opportunity to talk to
19 you about it.

20 Q Knowing all of those things, do you still wish to testify
21 in this trial?

22 A Yes, I do wish to testify.

23 THE COURT: All right.

24 BY THE COURT:

25 Q And Mr. Drljic, you understand that your First Amendment

State v. Drljic/Suttles

1 Right is also the right to remain silent?

2 A Yes, Your Honor.

3 Q And that if you testify, you have given up that right?

4 A That's correct, Your Honor.

5 Q And that your testimony is subject to cross-examination?

6 You understand that?

7 A I understand that, Your Honor.

8 Q Okay. Now, you have had sufficient time to think about

9 this?

10 A Yes, I have, Your Honor.

11 Q Is anybody forcing you to testify?

12 A No, Your Honor, nobody force me to testify.

13 Q Is your decision to testify yours and yours, alone?

14 A Yes, that is my decision and my decision, alone, to

15 testify.

16 Q And so you're freely and voluntarily giving up your Fifth

17 Amendment Right not to testify?

18 A Yes, Your Honor, I'm freely giving up any Fifth Amendment

19 Right not to testify, to remain silent.

20 THE COURT: All right. Okay. Thank you.

21 DEFENDANT DRLJIC: Thank you, Your Honor.

22 MS. LAMIN: Your Honor, can I raise one issue,

23 unrelated to that, if that's okay.

24 THE COURT: Sure.

25 MS. LAMIN: I have raised, earlier, or one of

State v. Drljic/Suttles

1 the last few days. It appears Mr. Strickland is sitting
2 outside, Sergeant Strickland. And if defense intends to
3 call Sergeant Strickland as a witness, I do have concerns
4 about the authentication of the transcript the state was
5 provided. It's not dated. And Sergeant Strickland has
6 never had a chance to review the audio recording. This
7 is that secret recording between Sergeant Strickland and,
8 I guess, Ms. Suttles.

9 MS. CLARK: I have some new information about
10 that. I personally hand delivered, placed into the hand
11 of Sergeant Strickland, yesterday, a copy of the audio
12 and a copy of the transcript from the tape that Ms.
13 Suttles made of him and asked him to take the opportunity
14 to review the transcript and determine if there were any
15 issues. He also confirmed for me, at the time, that the
16 state had already given him a copy of the cassette tape
17 that I made of him, which the court reporter, then,
18 created into a transcript. And I gave him a physical
19 paper copy of that transcript. So there should not be
20 any issues.

21 But, the other thing is my client's were also
22 audio taped by the state when Sergeant Strickland talked
23 to them. We have never seen any transcript of those. I
24 don't know if the state has a transcript or hopes to
25 impeach my clients with a transcript. And all we have of

State v. Drljic/Suttles

1 Ms. Suttles is what appears to be a tiny portion of her
2 audio. So, we don't even have the full audio of that.
3 But, I did very much think this through. And I did
4 provide those things to Sergeant Strickland so that he
5 would have an opportunity to determine if he agrees with
6 the way that the transcript -- you know, agrees that it's
7 his voice and agrees the way the transcript has
8 articulated what is on the audiotape.

9 MS. LAMIN: Well, I wasn't aware of that. So,
10 can we ask Sergeant Strickland -- I mean, if he will
11 authenticate it, then obviously, the state doesn't have
12 an issue.

13 THE COURT: Right. Do we have to do this off
14 the record?

15 MS. CLARK: Well, I don't know. Why don't we
16 just -- I don't think the state should get a preview.
17 They didn't call Sergeant Strickland. I think we should
18 just start his testimony, because otherwise, we will take
19 a whole bunch of time, half an hour going through the
20 transcript. I may never impeach him with it. You know
21 what I mean? So, why don't we take --

22 MS. LAMIN: Can we take 10 seconds and just ask
23 him?

24 THE COURT: Yes, bring him in. It will just
25 make the trial go faster and we don't have to get bogged

State v. Drljic/Suttles

1 down with that.

2 MS. CLARK: You think he should be put on the
3 witness stand?

4 THE COURT: Yes.

5 MS. LAMIN: Well, Ms. Clark just asked Sergeant
6 Strickland if he had a chance to listen to the audiotape
7 she provided and he just said no.

8 MS. CLARK: I said, did you have an
9 opportunity, and he said no. But clearly, he did.

10 THE COURT: Well --

11 MS. LAMIN: Your Honor, the state's only
12 concern is authentication.

13 THE COURT: I know. That's mine, too.

14 MS. LAMIN: When is the date? What? We just
15 don't know anything about this. That's the state's
16 concern.

17 MS. CLARK: Well, it will all get cleared up.
18 Ms. Suttles' made the tape. And she can testify as to
19 what Sergeant Strickland said and she can authenticate it
20 with the audiotape. So he can give up his opportunity to
21 address those issues, I guess, on his exam. But, there
22 should not be any special treatment. I mean -- and I
23 personally took the audiotape over there yesterday so
24 that he had an opportunity to review it. And
25 consciously, intentionally not reviewing it cannot be a

State v. Drljic/Suttles

1 basis to say there is no opportunity to authenticate it.

2 MS. LAMIN: I'm sorry, what time was that?

3 MS. CLARK: It was right after lunch. So, he's
4 had almost 24 hours. I just can't believe he doesn't
5 have time to listen to a half hour tape.

6 THE COURT: Sergeant Strickland, would you come
7 up here, sir. Were you handed a tape yesterday?

8 THE WITNESS: I was handed a tape and a copy of
9 the report of the tape.

10 THE COURT: So, a transcript of the --

11 THE WITNESS: Yes, a transcript, which I read.

12 THE COURT: Which you read.

13 THE WITNESS: Yes.

14 THE COURT: And with regard to the tape, were
15 you able to listen to that tape?

16 THE WITNESS: No, I didn't have time to listen
17 to it, no.

18 MS. LAMIN: Did defense counsel explicitly ask
19 you to listen to it?

20 THE WITNESS: She said it played kind of fast
21 and was kind of hard to understand, so I just read the
22 report, the transcript that she gave me.

23 MS. CLARK: That's not accurate. That's not an
24 accurate rendition of what occurred. I specifically
25 asked him to listen to the tape.

State v. Drljic/Suttles

1 MS. LAMIN: Your Honor, maybe I have a
2 suggestion.

3 THE COURT: Yes.

4 MS. LAMIN: It's after 11, so if Sergeant
5 Strickland -- if Ms. Clark isn't done with her
6 examination of Sergeant Strickland, he can listen to the
7 tape over lunch.

8 THE COURT: All right.

9 MS. LAMIN: Is there a way to accommodate that?

10 MS. CLARK: Well, I don't think -- no, I think
11 I should be able to do my cross in the order that I want
12 to do it with him. And if I come across a question, this
13 should not be a basis for me not to ask him if he said a
14 certain thing to Ms. Suttles. Why would it be? It
15 wouldn't be, even if there wasn't a tape. The tape is
16 just a tape. The conversation still occurred. I would
17 be able to -- excuse me? May I?

18 MS. LAMIN: I agree.

19 MS. CLARK: I would be able to ask him about
20 the conversation.

21 MS. LAMIN: Yeah, you just can't impeach him.

22 My position is --

23 MS. CLARK: No, because he shouldn't be here to
24 hear what you want him not to do. I object to that.
25 That's improper.

State v. Drljic/Suttles

1 MS. LAMIN: I'm sorry, Your Honor, I was trying
2 to clear things.

3 THE COURT: We're trying to figure this thing
4 out so that we can get Sergeant Strickland on the stand.

5 MS. LAMIN: Your Honor, from the State's
6 position, of course Ms. Clark can impeach Sergeant
7 Strickland with conversations he has had and ask him
8 about those conversations. The concern is the playing of
9 it or the specific words and impeaching him with the
10 physical transcript, if he hasn't had an opportunity to
11 authenticate it. That's -- she can always ask him about
12 is this -- did you say this or did she say this, Your
13 Honor. That's where I'm coming from and I don't want to
14 interfere with defense's opportunity to present it's
15 case. That's it's right.

16 MS. CLARK: Here's the problem. The state has
17 had that transcript since the Omnibus Hearing in August.
18 Why am I just hearing about this now when I have --

19 THE COURT: About authentication?

20 MS. CLARK: Yes.

21 THE COURT: Well, it was a concern of mine,
22 yes.

23 MS. CLARK: You raised it during the trial and
24 I responded to that, Your Honor, by taking the audio over
25 there and gave him the opportunity. If he gave up that

State v. Drljic/Suttles

1 opportunity, I guess that's his choice. But, that
2 doesn't mean that the transcript isn't authenticated. I
3 can put Ms. Suttles on the stand right now and lay a
4 foundation for the court. She created the transcript.
5 She listened to the audiotape that she had made and
6 she -- and as the court knows from the case law, all we
7 need to do to authenticate the transcript in a trial is
8 to have the person who created the transcript say they
9 made best efforts to make it accurate. So, I could put
10 her on the stand right now to do that. But, I don't want
11 to take people out of order.

12 THE COURT: What if the transcript is different
13 from the tape, though? Who did the transcript? Not Ms.
14 Suttles?

15 MS. CLARK: Yes, she did.

16 THE COURT: She actually sat and wrote this up?

17 MS. CLARK: She wrote it out by hand and it was
18 simply typed by someone in my office. But, she proof
19 read it, so she is the transcript preparer.

20 THE COURT: Oh.

21 MS. LAMIN: I guess, Your Honor, if we want to
22 lay that foundation.

23 THE COURT: Yes.

24 MS. LAMIN: And then if we have any issues.

25 THE COURT: I think we should have the

State v. Drljic/Suttles

1 foundation before you can start with it.

2 MS. CLARK: That's fine. But, I don't want to
3 call her first as a witness. I would like to just lay
4 that foundation now. The state was allowed to take
5 everybody in the order that they wanted to take people
6 in. I want to take Sergeant Strickland before my
7 clients. I do not want to be forced to put my clients on
8 first just because of an issue the state raised at the
9 last minute.

10 THE COURT: All right. Let's have Miss --
11 well --

12 MS. LAMIN: Your Honor, that's fine. If they
13 just want to lay a foundation for the tape, Your Honor,
14 this would be just a foundation. Does the defense want
15 to do this quickly outside the presence of the jury?

16 MS. CLARK: That's fine.

17 THE COURT: Okay.

18 MS. LAMIN: And then we can proceed.

19 THE COURT: All right. Ms. Suttles, you're on
20 the stand. Perhaps he should wait outside.

21 (Witness Strickland left the courtroom at this
22 time.)

23 THE COURT: And Ms. Suttles, you're already
24 under oath so we'll continue with that.

25 DEFENDANT SUTTLES: Yes, ma'am.

State v. Drljic/Suttles

1 MS. LAMIN: Is Ms. Suttles under oath?

2 THE COURT: Yes, she was put under oath for the
3 waiver.

4 MS. LAMIN: Okay. I'm sorry.

5 THE COURT: So, she's still under oath for
6 that. All right. And go ahead.

7 MS. CLARK: Thank you, Your Honor.

8 EXAMINATION

9 BY MS. CLARK:

10 Q Ms. Suttles, did you have a conversation with Sergeant
11 Strickland in which you asked him some questions about
12 Jermaine English and some other things about the case
13 that you tape recorded?

14 A Yes, ma'am.

15 Q Where did the conversation take place?

16 A At the western district off Hamline.

17 Q Western District Police Station?

18 A Yeah, the one on Hamline.

19 Q Okay. And you made that tape, yourself?

20 A Yes, ma'am.

21 Q And then, at some point after it was made, did you tell
22 your attorney that you had it?

23 A Yes, ma'am.

24 Q And did you bring it to your attorney's office?

25 A Yes, ma'am.

State v. Drljic/Suttles

1 Q And was a copy made of it, at that time?

2 A Yes, I wrote it down, myself. I wrote it.

3 Q I'm just talking about a copy of the audiotape, itself?

4 A Yes.

5 Q Okay. And then did your attorney ask you to come over to
6 the office and spend time, I believe, an afternoon, in
7 order to spend whatever time it took to prepare an
8 accurate transcript of it?

9 A Yes, ma'am.

10 Q And then did you first -- did you first prepare a
11 handwritten transcript?

12 A Yes, I did. Yes, ma'am.

13 Q And then did you ask staff at your lawyer's office to
14 type the transcript?

15 A Yes, I did.

16 Q And did you then review a draft transcript that had some
17 blanks in it of some of your handwriting that was not
18 quite legible?

19 A Yes, ma'am.

20 Q Then did you review that draft and make changes; edits to
21 it?

22 A Yes, ma'am, I did.

23 Q And then did you review the final version of the
24 transcript?

25 A Yes, ma'am, I did.

State v. Drljic/Suttles

1 Q How many times would you say you played that audiotape in
2 making the transcript?

3 A Oh, my goodness, over 20 something times, just to make
4 sure I heard everything.

5 Q Okay. And did you compare the final transcript to the
6 audiotape?

7 A Yes, I did.

8 Q Did you make best efforts to make the transcript match
9 the words you heard on the audiotape?

10 A Yes, I did, ma'am.

11 MS. CLARK: I would offer that, Your Honor.

12 MS. LAMIN: Your Honor, could I ask a few
13 questions?

14 THE COURT: Yes.

15 BY MS. LAMIN:

16 Q Ms. Suttles, what was the date of this conversation?

17 A Right after I found we was charged, that first hearing.

18 Q I'm sorry? So, what date is that? Is this in December,
19 January, February?

20 A I think it was March or May. It was something with an
21 "M"; the first hearing we had and we found out we was
22 charged. That's -- I went over there, myself,
23 personally, because I was not liking how we was charged.
24 And I went and talked to Strickland, myself.

25 THE COURT: Okay. We need a date.

State v. Drljic/Suttles

1 MS. CLARK: Well, she might not know the exact
2 date, but she says that it's after the first hearing.

3 DEFENDANT SUTTLES: After the first hearing, as
4 soon as we left the courtroom, I went straight over
5 there.

6 COURT REPORTER: One person at a time, please.

7 MS. CLARK: First of all, Your Honor, I would
8 respectfully disagree that a date is required. But, she
9 said it was after the first hearing, so the court
10 records, I'm sure, would -- it looks like she has MNCIS
11 there. No? Oh, but the court records would show what
12 that was. Maybe even your clerk could --

13 THE CLERK: I'm looking.

14 MS. LAMIN: Your Honor, may I approach?

15 THE COURT: Yes.

16 BY MS. LAMIN:

17 Q So, Ms. Suttles, I'm showing you what looks like a
18 12-page document, is that the transcript that you
19 produced?

20 A Yes, ma'am. And I have the original with me, if you want
21 it, the one I wrote.

22 Q That's okay.

23 A Okay.

24 Q And then, it looks like on that Page 1, SS. It says, the
25 county attorney's office (those guys at the office). Is

State v. Drljic/Suttles

1 that what Mr. Strickland said?

2 A Yes.

3 Q Okay. On Page 3, it says SS, and then it says, "Okay. I
4 got to talk to him -- "

5 MS. CLARK: Well, she can cross-examine him.
6 This isn't appropriate.

7 MS. LAMIN: Well, let me ask this question.

8 BY MS. LAMIN:

9 Q In parens, it says: Why wasn't this produced? Is that
10 what was -- is that Sergeant Strickland's words?

11 A No, I put that for my notes, after that, because when he
12 said something was produced -- I heard -- I put what I
13 could hear and I put it in what -- how it was.

14 Q Okay. So, on Page 3, where it says, "Why wasn't this
15 produced?" That is not what Sergeant Strickland said?
16 That's your personal notes for your transcript?

17 A Yes. Just that one, with him saying -- with that. And
18 then, because I was trying to tell him and we was talking
19 over each other. So, it was both our conversation
20 clashing. And I wrote it the best way I could.

21 Q So, that's your -- the other parens is not your notes;
22 but, this parens is your notes?

23 A We clashed, so right then and there, I could look back to
24 the reference of the originals, if you want. But, yes,
25 what was typed was how I wrote it and I'm not a

State v. Drljic/Suttles

1 transcript writer so I did the best I could.

2 MS. LAMIN: Okay. I just want to make sure
3 that "why wasn't this produced" is not part of the
4 transcript. That's just Ms. Suttles' notes on Page 3.

5 MS. CLARK: Ms. Suttles, is that the only
6 quote, note, that you put in there.

7 DEFENDANT SUTTLES: That was, yeah.

8 MS. CLARK: Okay. That's fine. We can
9 conceptually delete that one parenthesis from the
10 transcript. That's fine.

11 MS. LAMIN: That's just what I wanted to
12 clarify.

13 THE CLERK: Just for the record, the first
14 appearance was March 12th, 2010.

15 DEFENDANT SUTTLES: So, I said March or May.

16 MS. LAMIN: It happened that day?

17 DEFENDANT SUTTLES: As soon as we left the
18 court, I went straight over there.

19 THE COURT: Okay. Thanks. All right.
20 Anything else?

21 MS. LAMIN: Not from the state, Your Honor,
22 thank you.

23 MS. CLARK: I don't think so.

24 THE COURT: All right. Well, let's get the
25 show on the road. You may step down. Let's get the

State v. Drljic/Suttles

1 jury.

2 (The Jury returned to the courtroom and the
3 following proceedings continued.)

4 THE COURT: Thank you. Please be seated. Ms.
5 Clark.

6 MS. CLARK: Your Honor, the defense calls
7 Sergeant Strickland.

8 Thereupon,

9 TYRONE STRICKLAND,

10 a witness, first having been duly sworn, was examined and
11 testified as follows:

12 THE CLERK: Please state and spell your full
13 name for the record.

14 THE WITNESS: Tyrone Strickland, T-Y-R-O-N-E,
15 S-T-R-I-C-K-L-A-N-D.

16 THE COURT: And good morning, Sergeant.

17 THE WITNESS: Good morning.

18 THE COURT: And I understand you have testified
19 before?

20 THE WITNESS: Yes.

21 THE COURT: All right. So you know the rules.
22 So, if there is an objection, you wait for me to answer.
23 Okay?

24 THE WITNESS: Yes.

25 THE COURT: All right. Okay. You may proceed.

Strickland - Direct

1 MS. CLARK: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. CLARK:

4 Q Good morning, Sergeant.

5 A Good morning.

6 Q Why don't you give us a little bit of information about
7 your background. When did you start working for the St.
8 Paul Police Department?

9 A I started September, 1988, for the St. Paul Police
10 Department. I am presently assigned to the burglary
11 unit. I have been a sergeant for 13 years and been with
12 the police department for 22 and a half years.

13 Q Did you work in a different jurisdiction before St. Paul?

14 A Before St. Paul, no.

15 Q Have you worked only in the St. Paul jurisdiction?

16 A Yes.

17 Q You're a licensed peace officer?

18 A Yes.

19 Q And do you recall when you were assigned to the burglary
20 unit?

21 A October, 2007.

22 Q I assume that at some point you started as a patrol
23 officer?

24 A Yes.

25 Q How long were you a patrol officer?

Strickland - Direct

1 A Nine and a half years.

2 Q Did you become pretty familiar with St. Paul police
3 policies and protocols?

4 A Yes.

5 Q And then after nine and a half years, you were promoted
6 to sergeant?

7 A Yes.

8 Q And did you go into investigations at that time?

9 A Vice unit, yes.

10 Q Okay. So you did some vice investigations. What else
11 did you do before the burglary unit?

12 A I ran ACOP unit, public housing police for two years. I
13 was a Minnesota gang strike force for a year. Spent five
14 years as active commander for the patrol unit. One year
15 in homicide and then the burglary.

16 Q So, how many years of investigating experience had you
17 had by December of 2009?

18 A About 12.

19 Q Now, you first heard about a case that occurred over at
20 the security building on Raymond and University when you
21 got some police reports?

22 A Yes.

23 Q Was that December 7, 2009?

24 A The morning of, yes.

25 Q The incident had occurred on December 6th, which was a

Strickland - Direct

1 weekend; is that right?

2 A I'm not sure.

3 Q Okay. Do you work days during the week?

4 A Yes.

5 Q All right. So the first day you came into work, at any
6 rate, you got reports of the incident?

7 A I believe it happened in the morning, which I believe was
8 the 6th of December.

9 Q Okay. And the next day you worked, someone assigned you
10 the case and you reviewed police reports?

11 A It was my area, yes.

12 Q Did you assume on that day that what the patrol officers
13 had put in their police reports was accurate?

14 A Yes.

15 Q Did you go over to the LEC to interview some people?

16 A Yes.

17 Q Who did you go over to interview?

18 A Tamika Suttles, Daniel and Jermaine English.

19 Q And I know Daniel -- it's a tough last name, Daniel
20 Drljic?

21 A Drljic. And Jermaine English.

22 Q And why don't you tell us, just briefly, what occurred
23 when you attempted to interview Jermaine English?

24 MS. LAMIN: Your Honor, may we approach?

25 THE COURT: Yes.

Strickland - Direct

1 (Counsel approached the bench and an
2 off-the-record discussion was had.)

3 BY MS. CLARK:

4 Q So, what, just tell us, briefly, what happened when you
5 attempted to interview Jermaine English?

6 A He first said that he would talk to me. Then he said he
7 didn't want to talk. He wanted a lawyer.

8 Q Did Jermaine English ask you to tell him what police
9 knew?

10 A No.

11 Q Give a description of what police knew?

12 A No.

13 Q Then who did you go interview?

14 A I interviewed him last.

15 Q Oh, I'm sorry. So, who did you interview first?

16 A Tamika.

17 Q And did she agree to talk to you?

18 A Yes.

19 Q And why don't you summarize for us what she told you?

20 A Basically, her story was that she was called in to help a
21 friend, Jermaine, move some items.

22 Q Did she express some concern to you about some money of
23 hers that police had taken from her?

24 A Yes.

25 Q And did you authorize her release from jail that day?

Strickland - Direct

1 A No.

2 Q Did you -- all the -- did you soon thereafter authorize
3 her release?

4 A I think she timed out for the 36 hours.

5 Q Okay. So, after 36 hours, it sounds like what you're
6 saying is she wasn't charged and she was released?

7 A Yes.

8 Q If police want to obtain clothing that someone wears over
9 to the jail, who does that; the patrol officers, the
10 investigator? How does it work?

11 A Investigator, usually.

12 Q Did you obtain any clothing from Jermaine English, Tamika
13 Suttles or Daniel Drljic?

14 A I don't think I did. I don't remember.

15 Q Did you inspect Jermaine English's clothing at any point?

16 A No.

17 Q When you first got the case, did you have video from the
18 liquor store at your disposal?

19 A No.

20 Q Have you, at this point, reviewed that video?

21 A Yes.

22 Q How many officers were on scene that night,
23 approximately?

24 A I have no idea.

25 Q And I should lay a little foundation for this. As the

Strickland - Direct

1 investigator, you review all the police supplements;
2 right?

3 A Yes.

4 Q All of the reports so that you can get an overview of
5 what each of those officers did; right?

6 A Yes.

7 Q All right. So, at some point, you reviewed video from
8 the inside of Sharrett's Liquor?

9 A Yes.

10 Q And do you know these junior officers that were there
11 that night? In other words, do you recognize names and
12 know the people?

13 A Yes.

14 Q Would you recognize someone in a video?

15 A An officer in a video?

16 Q Yeah?

17 A Probably.

18 Q Recognize faces?

19 MS. CLARK: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MS. CLARK:

22 Q I'm showing you what's in evidence as either Exhibit 100
23 or 101. I can't tell for sure because I don't know the
24 exact time frames of those exhibits. Time for the
25 readers.

Strickland - Direct

1 MS. LAMIN: I'm sorry, Your Honor, this is
2 Exhibit 100 and 101.

3 MS. CLARK: It's just a copy.

4 THE COURT: Is that a copy of 101?

5 MS. CLARK: Yeah, it's either 100 or 101. I
6 just have it queued up.

7 THE COURT: I think we want to use these.

8 MS. CLARK: I have this queued up. I'm just
9 asking him who he recognizes in the video.

10 BY MS. CLARK:

11 Q Can you see a white police officer with a receding hair
12 line there?

13 A Yes.

14 Q Placing a bottle of Gray Goose vodka gift pack and
15 another, some single bottles of alcohol on the counter
16 inside the liquor store?

17 A Yes.

18 Q Who is that?

19 A I think that's the K-9 officer.

20 Q And was that Harrison that night?

21 A Yes.

22 Q In the video, could you see him come in the front door?

23 A I just saw him standing by the door. I didn't see him
24 come in.

25 Q Okay. Did you understand that some of the evidence in

Strickland - Direct

1 the case involved where certain liquor bottles were
2 located in the building?

3 A The ones on the counter I know nothing about.

4 Q Okay. Have you seen pictures from this case? Pictures
5 taken at the liquor store.

6 A (No response).

7 Q For example, did you see some pictures of some alcohol in
8 photographs taken by police?

9 A Yes.

10 Q Okay. Did you understand that the patrol officers were
11 purporting to take pictures of where evidence had been
12 located?

13 A That's my understanding, yes.

14 Q Okay. Do you have any idea why a police officer would be
15 carrying single bottles of alcohol into the upstairs of
16 the liquor store and putting them on the counter?

17 A No, I don't know. I wasn't there, so I don't know.

18 Q Now, in a burglary, as an investigator, would it be fair
19 to say sometimes fingerprints are important?

20 A Yes.

21 Q Should police officers who are aware that fingerprints
22 are important in burglary situations, wear gloves?

23 A Before they touched it, yes. If they haven't been
24 processed, yes.

25 Q And is it your understanding that the patrol officers on

Strickland - Direct

1 the scene did not gather fingerprint evidence from any of
2 the items that they claim that someone touched?

3 A I don't remember any prints.

4 Q Okay. And that is the job of the patrol officer; right,
5 to preserve that evidence?

6 A Yes, first part, yes.

7 Q In other words, if they don't preserve it, you don't have
8 anything to review?

9 A Yes.

10 Q So, did you also interview Daniel Drljic over at the LEC?

11 A Yes.

12 Q And was that on the 7th; does that sound right?

13 A Yes.

14 Q And why don't you briefly summarize what he told you.

15 A He said he had came with Jermaine and that they had --
16 Jermaine had forced this door open. And that Jermaine
17 told him to put a mask on because there was a camera, so
18 they wouldn't be seen.

19 Q Did he indicate to you that Jermaine had asked him to
20 come assist him?

21 A He said he was with Jermaine and he walked over, is what
22 he said.

23 Q Well, didn't he say he walked over after Jermaine was
24 already there?

25 A He may have, yes.

Strickland - Direct

1 Q Okay. Then he indicated, at one point, that he realized
2 that Jermaine was doing something wrong; correct?

3 A I think so, yes.

4 Q Okay. And at that point, he was concerned and wanted to
5 give himself up to police; right?

6 A He did say that once they were in the liquor store and
7 they saw the cops were outside, that Jermaine was trying
8 to find a way out. And he just wanted to give up.

9 Q Mr. Drljic told you that his concern was that he wanted
10 to let police know that he was there and give himself up?

11 A Yeah, he didn't want to get bit by the dog, yes.

12 Q Well, and did he express to you some concern for his
13 safety when he saw that the police had guns?

14 A He didn't mention the guns. He mentioned the dog. I
15 remember about the dog, but I don't remember about the
16 guns.

17 Q Did you ever have a transcript prepared of his interview
18 by you?

19 A Did I have one, no.

20 Q Did you audio record it?

21 A Yes.

22 Q When was the last time you listened to it?

23 A I didn't listen to it. I read the report.

24 Q Okay. And is it fair to say that your police report is
25 just a summary of that audio recording?

Strickland - Direct

1 A Yes.

2 Q All right. Did Mr. Drljic also tell you that Jermaine
3 English was upset because someone else had not showed up
4 to help him move some items from the basement?

5 A He said he couldn't get a ride, yes. And he said when he
6 called for a ride, he said that they didn't have a ride.
7 Somebody didn't show up.

8 Q And Mr. Drljic also told you that he, when he got to the
9 door of the building, he saw some chips in it, but at
10 that time, he didn't really think that much of it?

11 A Yes, he said he saw that, yes.

12 Q And then that they went into a dark, dusty room that
13 seemed like a storage unit?

14 A Yes.

15 Q And then when he saw the liquor stacked, that then he
16 realized that Jermaine was involved in some kind of
17 burglary? And I'm not saying the words exactly, but was
18 that the thrust of what he said to you?

19 A I don't remember that.

20 Q Did he also indicate to you that it was Jermaine English
21 who gave him a mask and told him to cover his face?

22 A Yes.

23 MS. CLARK: I have a document that might
24 refresh your recollection about the stack of liquor. May
25 I approach, Your Honor?

Strickland - Direct

1 THE COURT: Yes.

2 THE WITNESS: Yep.

3 BY MS. CLARK:

4 Q All right. So, does that refresh your recollection that
5 he told you that when he, Daniel Drljic, saw a box
6 containing liquor and some other items stacked, that he
7 knew that English was doing a burglary?

8 A Yes.

9 Q That he then -- and he also told you that he then went
10 upstairs and saw the cops talking to Ms. Suttles?

11 A Yes.

12 Q And then he told you that he didn't want to get shot.
13 So, by phone, he told the cops he didn't have a weapon
14 and would come out?

15 A Yes.

16 Q All right. Did he also indicate to you, in that first
17 interview on December 7th, that English tried to talk him
18 into running out the back by breaking out a window?

19 A Yeah, said he was trying to force a way out, yes.

20 Q That English was?

21 A Yes.

22 Q And did he also tell you that he knows English because he
23 did some tattoos for him?

24 A Yes.

25 Q All right. Now, did Ms. Suttles tell you that -- and

Strickland - Direct

1 again, in this first interview, that she had gotten a
2 call from someone that she called Hood?

3 A Yes.

4 Q Did you understand her to be speaking about Jermaine
5 English?

6 A No.

7 Q You didn't know who Hood was?

8 A No.

9 Q Well, doesn't your police report say that Hood is
10 English?

11 A It did later on. In the beginning, I didn't know who
12 Hood was. When she said Hood, I didn't know who it was.

13 Q You mean in the first part of the conversation?

14 A Yes.

15 Q All right. At some point, then, you realized Hood was
16 English?

17 A When she told me, yes.

18 Q All right: And did she tell you that Hood had called and
19 asked her to come pick him and -- that she used the
20 nickname Dado for Daniel?

21 A Yes.

22 Q And pick them up; right?

23 A Yes.

24 Q And that it was Hood who gave her the address?

25 A I think directions.

Strickland - Direct

1 Q Do you want to review your report?

2 A Yeah. I put the address in there, but she said
3 directions, basically, how to get there.

4 Q Okay. So, basically the location?

5 A Yes.

6 Q All right. And then Suttles also told you in that first
7 interview that she parked in the lot near the address
8 and then a white male came out and put some items into
9 her trunk?

10 A Yes, she did say that.

11 Q And that she thought one of them was a printer?

12 A Yes.

13 Q And that she thought the white male lived upstairs at
14 that address?

15 A Yes.

16 Q And then did she also tell you that she had been there 5,
17 maybe 10 minutes before police showed up?

18 A Something like that, yes.

19 Q But that she had gotten the first call from Hood about an
20 hour before police arrived; does that sound right?

21 A Yes..

22 Q Did she also tell you that she and Dado, or Daniel
23 Drljic, were going to open a tattoo business together and
24 that's why she had a lot of money in her purse?

25 A Yes.

Strickland - Direct

1 Q Now, does St. Paul have some street cameras on the
2 corners?

3 A Yes.

4 Q Did you do anything to locate any footage from any street
5 cameras to determine when in fact Ms. Suttles' drove up to
6 the building in that car?

7 A I had the officer run the cameras and check it and there
8 was nothing there.

9 Q What officer?

10 A Officer Jeff Jacobson.

11 Q You mean there wasn't any camera in the area right here?

12 A It doesn't cover the back part of that building.

13 Q Oh, you mean the immediate area?

14 A Yes, on the intersection, the front.

15 Q Okay. And I should be more clear. I mean, to drive to
16 that part of St. Paul, you would have to pass through
17 many intersections; right?

18 A Yes, you would have to come across 280, coming from
19 Minneapolis, the way she came.

20 Q Okay. Did you check cameras at intersections to
21 determine the time that Ms. Suttles drove over to the
22 building?

23 A No.

24 Q Did she ask you to do that?

25 A She asked me to check a camera from some gas station in

Strickland - Direct

1 another part of Minneapolis, where she was at.

2 Q Okay. Well, let's talk about that. She told you that
3 before she went over to St. Paul, she had stopped at a
4 Super America in South Minneapolis; right?

5 A Yes.

6 Q And she had asked you to get video footage to prove that
7 she had been there at that time?

8 A Yes.

9 Q Did you do that?

10 A No.

11 Q Did you go over to the building shortly after these
12 interviews?

13 A Yes.

14 Q Do you remember who you spoke with there?

15 A One of the owners at the liquor store.

16 Q Do you remember which one?

17 A I'm not sure which one.

18 Q Did you get video footage, at that time?

19 A No.

20 Q When you were at the business that day, did you learn
21 that some video cameras had been spray painted black over
22 in the Edge Cafe?

23 A No.

24 Q Based on your experience investigating burglaries, why
25 are cameras spray painted black?

Strickland - Direct

- 1 A Prevent the video.
- 2 Q So there can't be images captured?
- 3 A Right.
- 4 Q Someone -- if you see that, you're looking for a fairly
5 sophisticated burglar; I take it?
- 6 A Not necessarily.
- 7 Q Well, did you locate any spray paint at the building?
- 8 A No.
- 9 Q Did any of the patrol officers turn in any spray paint as
10 evidence?
- 11 A They may have.
- 12 Q You don't know?
- 13 A I don't know.
- 14 Q Well, nothing was property inventoried. No spray paint
15 was property inventoried; was there?
- 16 A I don't remember seeing any.
- 17 Q Now, shortly after the incident, did you release some
18 items from the property room back to the owners?
- 19 A Yes.
- 20 Q Do you recall what you released and who you released it
21 to?
- 22 A Some were released to Tom Brown. He went down to the
23 property room. I'm sorry -- Joseph Brown went to the
24 property room, the father. And the son met me at the
25 Western District and I released some items to him.

Strickland - Direct

1 Q Do you recall what you released to Joseph Brown?

2 A I would have to see the sheet.

3 MS. CLARK: May I approach, Your Honor?

4 THE COURT: Yes.

5 THE WITNESS: I don't see anything.

6 BY MS. CLARK:

7 Q Well, do you see on the form that's on top there, it says
8 line 1, duffel bag. Do you see that line?

9 A Yes.

10 Q And then do you see down at the bottom of that, part of
11 line 1 was released to Joseph Brown on 12/15?

12 A Yes.

13 Q And do you see then up on top, blue drill is crossed out?

14 A Yeah, that's what he said belonged to him was a drill.

15 Q Does that refresh your recollection that Joseph Brown
16 came down to the police department and you released to
17 him on 12/15 a blue drill?

18 A Okay. I wasn't at the property room when it got
19 released. I released it over the phone.

20 Q I see. You stated the Western District released it by
21 phone and then someone released it to him at the property
22 room?

23 A Yes, right.

24 Q All right. But, does it refresh your recollection that
25 you released a blue drill?

Strickland - Direct

1 A Yes, he called and told me that that was the only thing
2 that belonged to him there.

3 Q That. Okay. So, do you know anything about a Kenwood
4 face plate?

5 A No.

6 Q Did Joseph Brown ever tell you that he owned a Kenwood
7 face plate?

8 A No.

9 Q And he -- you didn't release that to him, I take it. He
10 didn't ask that you release it to him?

11 A No.

12 Q Did you ever release any printer or a scanner to either
13 Joseph Brown or his son?

14 A I did to Tom. That was at the district.

15 Q Tom Brown, the son?

16 A Yes..

17 Q Peter Brown, maybe?

18 A Peter Brown. I'm sorry. It's Peter Brown.

19 Q All right. So, over at the Western -- did you physically
20 release that to him or tell him he could get it at the
21 property room?

22 A No. I gave it to him at the district and photographed it
23 before we give it to him.

24 Q All right. So, you released to Peter Brown, two pieces
25 of computer equipment. Does that sound right?

Strickland - Direct

1 A It was a printer. He was missing a computer and some
2 other stuff that was there.

3 Q I'm showing you Exhibit 13. Is this one of the items
4 that you photographed at the western district?

5 A Yes.

6 Q And released to Peter Brown?

7 A Yes.

8 Q And then, what about these boxes; Exhibit 14, boxes --

9 A They were empty. That's what they came in.

10 Q Do you recognize these?

11 A Yes.

12 Q Did you have this photographed at the western district?

13 A Yes.

14 Q And released these to Peter Brown?

15 A Yes.

16 Q And there were parts in some; right? I mean, there is
17 this little box here that's open that has computer parts;
18 right?

19 A I think so.

20 Q But this bigger box did not have a computer in it?

21 A I think one box was empty. A couple boxes was empty.

22 Q Okay. And was that computer ever located?

23 A No.

24 Q Now, you ended up with those because you asked Tamika
25 Suttles to give you those boxes and computer parts out of

Strickland - Direct

1 the trunk of her car at the impound lot; right?

2 A Yes, so I could release her car, yes.

3 Q She wanted her car released and you said in order to do
4 that, we need to get these things out of the trunk?

5 A She needed her car because she had kids. And in order
6 for me to release the car, I had to take the evidence out
7 of the car. I had to have her permission to go in her
8 car without a search warrant to take those items.

9 Q All right. She give you her permission to go in her car?

10 A Yes.

11 Q And search around?

12 A Yes.

13 Q Did you have any idea why the patrol officers left those
14 items in her trunk rather than seizing them at the scene
15 and taking them over to the property and evidence room?

16 A No, I have no idea what they did, no.

17 Q Based on having been a patrol officer and being an
18 investigator for 12 years, would that be the job of the
19 patrol officers to seize evidence at the scene and
20 properly inventory it?

21 A They could do it either way. They could leave it in the
22 car and tow it as one product and then processed at the
23 impound lot with a search warrant.

24 Q What does that mean, processed at the impound lot?

25 A For fingerprints and for everything else; go through the

Strickland - Direct

1 car to see what's in there.

2 Q Okay. But, you didn't ask anyone at the impound lot to
3 process that evidence, did you?

4 A No, I reviewed it because I asked her for consent.

5 Q Okay. But, you didn't ask that it be processed for
6 fingerprints?

7 A No, I didn't think there was a need to process it.

8 Q Wasn't this the beginning of the investigation?

9 A Two days later, yes.

10 Q And is it accurate that you asked Ms. Suttles to take the
11 items out of the trunk and put them on the ground?

12 A No, I don't remember that. I took the items out of the
13 car, out of the trunk.

14 Q Are you sure about that?

15 A Yeah, she told me what was hers and what wasn't hers.
16 And she said, this is items that they brought in.

17 Q Okay. The items that the white male had put in her
18 trunk?

19 A The white male that she said brought into the car, yes.

20 Q Okay. Did you have gloves on?

21 A No.

22 Q Did you leave the items at the impound lot and come back
23 and get them later?

24 A No, I took them with me.

25 Q Sure of that?

Strickland - Direct

1 A I think I did.

2 Q Is it accurate to say that none of the items seized by
3 police, at any time, in any way, are shown to have any
4 fingerprints of Ms. Suttles on them?

5 A No, they didn't have any prints on them. They were
6 covered with dirt. There was dust. There was a lot of
7 dust on them. So, you could tell they had been touched,
8 by fingerprints, so it was just a lot of dust all over
9 the printer and all the other items that were taken out
10 of the art studio.

11 Q Well, the question right now is, is it accurate that the
12 police do not have any fingerprint evidence connecting
13 Tamika Suttles to any of those items?

14 A That's true.

15 Q And you said some of the items had fingerprints on them,
16 but they were not tested by a scientist; correct?

17 A I didn't say that.

18 Q Is it also accurate that none of the items seized by
19 police, at any time or in any manner, have been shown to
20 bear the fingerprints of Daniel Drljic; is that accurate?

21 A That's accurate.

22 Q Now, on December 8th, did Jermaine English come over to
23 the western direct?

24 A He was brought to the western district.

25 Q Brought there by Ms. Suttles and Mr. Drljic?

Strickland - Direct

1 A Yes.

2 Q All right. And did he come in to speak with you?

3 A Yes.

4 Q And did he remain there?

5 A Well, actually, they came in first and said he wanted to
6 talk to me. They left him in the car in the parking lot.
7 He then gets out of the car and leaves, walks away. And
8 one of the squads saw him and brought him back to the
9 district.

10 Q All right. And before we go into that in depth, I found
11 the exhibit I was looking for, Exhibit 12. You can see
12 that there are fingerprints on this object; right,
13 Sergeant?

14 A Yes, looks like prints, yes.

15 Q Okay. Was it ever determined who those prints belonged
16 to?

17 A It could have been anybody's after we touched and moving
18 it around.

19 Q You think it could have been a police officer's print?

20 A I was moving them, along with a couple other officers
21 when we photographed them. That was after they were
22 moved around to be photographed.

23 Q All right. But, isn't that why you want to preserve the
24 fingerprint evidence early in the investigation?

25 A Yes.

Strickland - Direct

1 Q All right. Now, with regard to Mr. English, after -- I
2 take it, a squad went out and brought him back?

3 A Yes.

4 Q After a squad brought him back, what did he tell you?

5 A He said that his lawyer told him not to talk to me. That
6 I would arrest him if he admitted being involved in the
7 burglary.

8 Q And did you want to tape record that session?

9 A Yes.

10 Q And did he let you do that?

11 A He said he wouldn't talk if I recorded the conversation.

12 Q And did you have an idea of why he might be saying that?

13 A He was lying.

14 Q Did you wonder if perhaps he wanted to be able to change
15 his story later?

16 A That's a possibility, yes.

17 Q Okay. So, what did you do then, you took notes when you
18 spoke with him?

19 A Yes.

20 Q And then you created a police supplement?

21 A Yes.

22 Q Do you recall him telling you that he came in that day to
23 clear the other two suspects; meaning, Mr. Drljic and Ms.
24 Suttles?

25 A Yes, so she could get her money back. He said that's why

Strickland - Direct

1 he came in.

2 Q Well, your police report doesn't actually say that; does
3 it?

4 A No, it doesn't say that, but that's what he told me why
5 he came in.

6 Q Well, wouldn't you agree that the best record we have of
7 that conversation is your police report?

8 A Yes.

9 Q I mean, because we don't have a tape or a transcript,
10 right?

11 A No.

12 Q So, your police report states that he came in that day
13 because he wanted to clear the other two suspects; right?

14 A That's what he told me, yes.

15 Q All right. And did he also tell you that he knew a white
16 male by the name of Joe and they would have drinks at a
17 bar on University across from the liquor store?

18 A Yes.

19 Q And did he also tell you that he and Joe would smoke
20 crack together?

21 A Yes.

22 Q And that he had fronted Joe some crack and wanted his
23 money for the crack?

24 A Yes.

25 Q Did he also tell you that English would go to the alley

Strickland - Direct

1 and whistle and Joe would look out the window and then
2 would come down?

3 A Yes.

4 Q Did he also tell you Joe was larger than him and would
5 pay him his money?

6 A I'm sorry? Wouldn't pay him his money, yes.

7 Q Okay. And I'm reading from your report. So you can
8 recall that he was -- well, what you were trying to
9 document was that Joe wouldn't pay English?

10 A Yes.

11 Q All right. And did English also tell you he was going to
12 jail soon and wanted to get money for his canteen while
13 he was in jail?

14 A Yes.

15 Q And that he had decided to call Daniel Drljic for muscle
16 because he was bigger?

17 A Yes.

18 Q And also that he knew Daniel because Daniel had done some
19 tattoos for him?

20 A Yes.

21 Q And did English also tell you that he had directed Daniel
22 over to Raymond and University?

23 A Yes.

24 Q And that he had met with Joe about the money?

25 A Yes.

Strickland - Direct

- 1 Q He, meaning English, had met with Joe about the money.
2 Was that a yes?
- 3 A Yes.
- 4 Q Did English describe this Joe, the physical
5 characteristics of him?
- 6 A White male in his 20s.
- 7 Q And did English also tell you on December 8th, 2009, that
8 Joe had told him that he didn't have any money, but that
9 he would give him some items that he had in his storage
10 locker in the basement?
- 11 A Yes.
- 12 Q And that English -- did English also tell you that when
13 he, English, saw the liquor and other items, that he said
14 he could party before he went to jail?
- 15 A Yes.
- 16 Q Did English tell you that he then called Tamika Suttles,
17 because he had too much to carry and needed a ride?
- 18 A Yes.
- 19 Q And that after Tamika came, the police showed up?
- 20 A Yes.
- 21 Q And that he, English, was trying to get out and not be
22 caught?
- 23 A Yes.
- 24 Q All right. And did you release money to Ms. Suttles
25 shortly after this?

Strickland - Direct

1 A Yes.

2 Q Do you recall the date of that?

3 A I believe the next day. I'm not sure.

4 Q All right. Do you recall the amount you released to her?

5 A Sixteen thousand twenty-five dollars.

6 Q And is it accurate, sir, that she told you that that was
7 not the full amount that had been taken from her purse?

8 A No.

9 Q No, that's not accurate?

10 A She didn't tell me that.

11 Q Well, isn't it true that she talked to you when you first
12 came over to the LEC and before you turned on the tape
13 recorder and told you she was very concerned about her
14 money?

15 A No, she complained about Minneapolis police mistreating
16 her. She didn't complain about her money.

17 Q Well, have you gone back and listened to the audio of Ms.
18 Suttles' interview, recently?

19 A No.

20 Q About how long was the interview?

21 A I don't know, probably 10 minutes or more.

22 Q Do you know how much audio of that interview was released
23 to the defense in this case?

24 A No, I don't.

25 Q What did you do with the audio once you had it?

Strickland - Direct

- 1 A Of the interview?
- 2 Q Yes.
- 3 A It goes to the county attorney.
- 4 Q You give it directly to the county attorney?
- 5 A Make copies and it goes to the county attorney.
- 6 Q Does it get inventoried?
- 7 A No.
- 8 Q All right. Now, when you gave Ms. Suttles the \$16,025,
9 is it accurate that she objected to you that that was not
10 all of her money?
- 11 A No.
- 12 Q Did you, at any point, investigate whether or not some
13 officers had taken some of the money?
- 14 A No.
- 15 Q Did you understand that \$150 cash was missing from the
16 Edge Cafe?
- 17 A Yes.
- 18 Q Was that found on the person of Jermaine English?
- 19 A No.
- 20 Q Was it found on the person of Tamika Suttles?
- 21 A No.
- 22 Q Was it found in the car of Tamika Suttles?
- 23 A No.
- 24 Q Was it found on the person of Daniel Drljic?
- 25 A No.

Strickland - Direct

- 1 Q Was it located in the building?
- 2 A No.
- 3 Q Did you ever investigate what happened to that \$150?
- 4 A No.
- 5 Q Do you know anything about any muffins?
- 6 A Muffins?
- 7 Q Did you ever learn anything about any muffins allegedly
8 being staged for theft?
- 9 A No.
- 10 Q In your experience as a burglary investigator, do
11 burglars want to get easy to move items that they can get
12 a lot of money for?
- 13 A Yes.
- 14 Q And the smaller and more expensive it is, the better,
15 right?
- 16 A Yes.
- 17 Q I mean, obviously, you need to be able to sell it to
18 someone. But, assuming you can sell it to someone,
19 burglars take things like lap top computers?
- 20 A Yes.
- 21 Q And if they're robbing a liquor store, they might take
22 some high end booze?
- 23 A Yes.
- 24 Q Have you ever had a burglary of muffins before, sir?
- 25 A No.

Strickland - Direct

- 1 Q In December, 2009, did you issue a search warrant for an
2 administrative subpoena for cell phone records for
3 Jermaine English?
- 4 A Yes.
- 5 Q And did you -- did the telephone company give you any
6 actual call data?
- 7 A No.
- 8 Q Did they tell you that there was no call data for that
9 particular number that he had given you?
- 10 A Yes.
- 11 Q Did you, in December, 2009, attempt to get cell phone
12 records for Tamika Suttles' cell phone?
- 13 A I didn't have the accurate number.
- 14 Q Is that a no?
- 15 A That's a no.
- 16 Q Did you, in December, 2009, attempt to get cell phone
17 records for Daniel Drljic's cell phone?
- 18 A No.
- 19 Q Would it be fair to say, Sergeant, that if in fact
20 Jermaine English had placed a call to Tamika Suttles
21 about an hour before police arrived at Raymond and
22 University, that could have been shown in cell phone
23 records obtained in December 2009?
- 24 A I asked Tamika for a cell phone number to do a subpoena
25 and she refused to give it to me.

Strickland - Direct

1 Q When was that?

2 A Well, she kept calling. She called practically twice a
3 day during the month of December until she got her money
4 back. So I asked her for her cell phone number so I
5 could do a subpoena on it, actually, after I turned it
6 back over to her.

7 Q All right. Let me take that a part a little bit. You
8 returned Ms. Suttles' cell phone back to her?

9 A Yes.

10 Q So, police had Ms. Suttles' cell phone; right?

11 A Yes.

12 Q So police had the physical evidence and cell phones
13 containing the numbers inside of them, did they?

14 A Yes.

15 Q So, police had what it took to obtain, to timely obtain,
16 cell phone records of Ms. Suttles' phone; correct?

17 A Yes.

18 Q And the police did not do that, right?

19 A Right.

20 Q Now, you said Ms. Suttles called you a number of times in
21 December. Isn't it true that Ms. Suttles called you, at
22 one point, and you asked her for Jermaine English's cell
23 phone number because you had lost it?

24 A No, I already had his number. I already had Jermaine's
25 number.

Strickland - Direct

1 Q So, when did you run the administrative subpoena for the
2 cell phone records of Jermaine English?

3 A I don't know. I would have to look at the reports.

4 Q It wasn't until summer of 2010; was it?

5 A It might have been, yes.

6 Q All right. Would you agree that if in fact Jermaine
7 English had called Daniel Drljic, called Tamika Suttles,
8 that would be shown in timely obtained cell phone data?

9 A Yes.

10 Q And you're familiar with cell phones and you know what a
11 pre paid cell phone is?

12 A Yes.

13 Q And is it accurate, according to your experience, that
14 cell phone data for pre paid cell phones is not kept that
15 long by the telephone companies?

16 A I don't know.

17 Q Well, it is not available forever, is it?

18 A No.

19 Q If you ask even six months later, it may no longer be
20 available; is that correct?

21 A It might not.

22 Q Is it also accurate that Ms. Suttles was not charged
23 until March of 2010?

24 A Yes.

25 Q And same for Mr. Drljic?

Strickland - Direct

- 1 A Yes.
- 2 Q How many black duffel bags were there involved in this
3 case?
- 4 A I believe one.
- 5 Q Do you know whether there was a second one?
- 6 A No.
- 7 Q When you reviewed the evidence in this case, did you
8 associate a black bag with some crow bars and a bolt
9 cutter with Jermaine English?
- 10 A Did I associate it with him?
- 11 Q Yes.
- 12 A Yes.
- 13 Q Is it accurate from your understanding that there was
14 nothing from the liquor store in Ms. Suttles' vehicle?
- 15 A Yes.
- 16 Q Did you ever obtain a search warrant for the apartment of
17 a Thomas Nolan to see whether he had a stolen computer in
18 there?
- 19 A No.
- 20 Q Did you do some investigation to try to determine who the
21 white male was who had come down to put some items in Ms.
22 Suttles' car?
- 23 A Yes.
- 24 Q Tell us what you did?
- 25 A I went over to the address and talked to Peter Brown to

Strickland - Direct

1 get a list of some of the residents that may fit that
2 description. And then I did a check on three different
3 parties, which didn't fit.

4 Q Well -- all right. You went over and talked to Peter
5 Brown and got a list of tenants from the building?

6 A Yes.

7 Q Who fit the description of a white male in his 20s?

8 A Named Joe, yes.

9 Q Well, let's go with the physical description, first.
10 Isn't it true that you determined, Sergeant, that the
11 only person who was a tenant of that building who fit the
12 description, physical description of Joe, was Thomas
13 Nolan?

14 A He fit the description, yes.

15 Q And he was the only tenant that fit the physical
16 description that Ms. Suttles and Mr. English had given
17 you; correct?

18 A Yes.

19 Q All right. And isn't it true that the guy who owned the
20 art studio was getting pissed at you because you were
21 trying to prove or disprove whether there was another
22 guy?

23 A He was not happy, yes.

24 Q That you were investigating this other white male?
25 That's what he was not happy about?

Strickland - Direct

1 A He was not happy that I was trying to find out whether he
2 was telling me the truth or not.

3 Q Not happy that you were trying to investigate whether
4 Tamika Suttles was telling you the truth?

5 A No, Jermaine English was telling me the truth about this
6 guy named Joe.

7 Q You had information about a white male from at least two
8 sources; Ms. Suttles and Mr. English, right?

9 A Yes.

10 Q All right. And so, is it accurate to say that on March
11 12, 2010, you told Ms. Suttles that the guy who owned the
12 art studio was getting pissed at you because you were
13 trying to prove or disprove whether there was another
14 guy?

15 A Yes.

16 Q Did you view that as part of your job?

17 A Yes.

18 Q Your investigators for the police force are supposed to
19 be neutral; right?

20 A In the beginning, yes.

21 Q Beginning, start, and then review all of the evidence
22 before you come to a conclusion; right?

23 A No, you just present the facts; you don't have a
24 conclusion.

25 Q Well, what you're saying is, eventually you refer the

Strickland - Direct

1 case to the county attorney's office and you don't make a
2 charging decision?

3 A Right.

4 Q Okay. But, as far as being neutral, that means that you
5 look at all the evidence. You're supposed to be diligent
6 and look at all of the different evidence?

7 A Yes.

8 Q Did you also tell Ms. Suttles, May 12, 2010, that this
9 guy who owned the art studio got pissed at you and called
10 the county attorney on you?

11 A No.

12 Q No, you did not say that?

13 A What I said was, that's what he told me he was going to
14 do. I didn't say he did it.

15 Q Okay. He told you he was going to call the county
16 attorney and was it your understanding that he was going
17 to have you stopped?

18 A No.

19 Q Well, did you stop your investigation into the white male
20 in his 20s at that point?

21 A No.

22 Q Well, you didn't do anything after that point; did you?

23 A There wasn't anything else to do. The guy didn't exist.

24 Q Is the answer to my question, yes, at that point -- at
25 the point after the art studio guy got pissed and told

Strickland - Direct

1 you he was going to call the county attorney's office,
2 you did not do anymore investigation into the identify of
3 the white male in his 20s?

4 A I ran a check on the names that Peter had given me that
5 fit that description.

6 Q Okay. But you didn't do anything after this point,
7 correct?

8 A That's what I just told you. That's what I did, what I
9 just told you.

10 Q All right. Did you go over in December, 09, to interview
11 this Thomas Nolan?

12 A I spoke -- no, I didn't. I spoke to him on the phone.

13 Q Briefly, right?

14 A Yes.

15 Q His middle name is Joseph, correct?

16 A I don't remember. It might be. I'm not sure.

17 Q Well, sometimes people use their middle name, don't they?

18 A Yes.

19 Q And I asked you whether you had gotten any search warrant
20 for a computer at this Joe Nolan's apartment. Did you
21 get any kind of search warrant with regard to Mr. Nolan?

22 A No.

23 Q Did --

24 THE COURT: All right. How much further we
25 going to go?

Strickland - Direct

1 (Counsel approached the bench and an off-the
2 record discussion was had.)

3 THE COURT: We think we have another 15
4 minutes. I don't know if you want to keep going or break
5 for lunch and then come back. I am seeing a lot of
6 "nos". Is that accurate? You want to keep going?

7 JURORS: Keep going.

8 THE COURT: Yes. Keep going and finish. Okay.

9 BY MS. CLARK:

10 Q Now, Ms. Suttles, when she talked to you March 12, 2009,
11 she told you that the guy who had called police that
12 night, the white male who had called the police, was the
13 guy who had put the stuff in the trunk of her car;
14 correct?

15 A Yes.

16 Q And do you recall the day that you returned this money to
17 Ms. Suttles?

18 A It's on that sheet, the property sheet.

19 Q And isn't it true you told Ms. Suttles on March 12, 2010,
20 that you gave the money back to her and you didn't think
21 that she was really involved in it?

22 A Did I say that?

23 Q Yes?

24 A I may have.

25 Q Okay. And if there was a transcript of an audio taped

Strickland - Direct

1 recording of your conversation with her on that day, you
2 wouldn't have any reason to dispute that, would you?

3 A No.

4 Q And I take it, the denominations for the money you gave
5 back to Ms. Suttles did not match the denominations that
6 were missing from the Edge Cafe, right?

7 A No.

8 Q No, they did not?

9 A They did not match, no.

10 Q Thank you. And did Mr. Drljic and Ms. Suttles also come
11 in and present to you some documents showing the sources
12 of the cash, like a 401K withdrawal, savings account
13 withdrawal; things like that?

14 A I didn't see a 401K, but I saw some pictures and some art
15 work and tattoo art, that they said they were going to
16 open a business with. She said she needed the money to
17 rent a place, open a business.

18 Q At any rate, they brought some documents in that
19 satisfied you that you could return the money to them?

20 A No. I give her the money back because I couldn't find
21 any other place where it was taken. That's why I gave
22 her the money back.

23 Q Well, did you review all the documents that they brought
24 to you?

25 A No, I looked at the pictures. I didn't look at the 401K.

Strickland - Direct

1 It didn't have anything to do with it.

2 Q Did you keep copies of the documents that they brought to
3 you?

4 A No.

5 Q Did you review, at that time, a document that -- showing
6 that Jermaine English was in fact a client in the tattoo
7 business for Mr. Drljic?

8 A No.

9 Q Do you recall such a document?

10 A No.

11 MS. CLARK: A document that might refresh his
12 recollection. May I approach?

13 THE COURT: Yes.

14 THE WITNESS: No.

15 BY MR. CLARK:

16 Q No, you don't recall it?

17 A No.

18 Q Do you recall a yellow document similar to this one?

19 A No.

20 Q You learned at some point that police had -- or that the
21 liquor store had called about finding a red flashlight
22 and some marijuana over in the store; right?

23 A Flashlight, yes.

24 Q And was the marijuana ever inventoried at the police
25 department?

Strickland - Direct

1 A I don't know.

2 Q Well, was it in the property sheets that you just looked
3 at?

4 A No, it was not.

5 Q Would you agree that proper protocol, police are supposed
6 to inventory marijuana that they seize?

7 A Yes.

8 Q In your experience as a patrol officer and investigator,
9 does it sometimes occur that the person who calls 911 is
10 actually involved in committing the crime?

11 A That would be a guess.

12 Q Have you had that experience, officer?

13 A Domestics, I have, yes.

14 Q And when you were asked that question, prior, on July 27,
15 2010, you said it could happen. It's happened before,
16 yes. Didn't you?

17 A If that's what it says, I guess, yes.

18 Q Now, on July 27, 2010, a member of the defense team came
19 and met with you, interviewed you and looked at the
20 evidence in the property room; right?

21 A Yes.

22 Q Then the very next -- oh, I'm sorry. Strike that.

23 During that interview there was a lot of questioning

24 about why the conversation with Jermaine English, where

25 he said he wanted to clear Suttles and Drljic, had not

Strickland - Direct

1 been tape recorded; right?

2 A Yes.

3 Q And then the very next day, you and Richard Dusterhoft, a
4 prosecutor, went out to talk to Thomas Nolan; right?

5 A Yes.

6 THE COURT: Let me just stop you. Are you all
7 right, sir?

8 JUROR: Yes.

9 THE COURT: All right.

10 BY MS. CLARK:

11 Q The very next day, the very next morning, you and a
12 prosecutor, Mr. Dusterhoft, went out to speak with Thomas
13 Nolan; correct?

14 A Correct.

15 Q And you didn't tape record that conversation, did you?

16 A No.

17 Q How long was the conversation?

18 A Ten, fifteen minutes.

19 Q Did you ask him if he was the white male who had put
20 things into Ms. Suttles' trunk?

21 A I believe he did.

22 Q You asked him that?

23 A We asked him. No, I don't remember that.

24 Q You don't remember asking him that?

25 A No, I don't.

Strickland - Direct

1 Q And I had asked you a couple questions about the impound
2 lot. But, you did drive Ms. Suttles over there so that
3 she could access her vehicle; right?

4 A Yes.

5 Q Okay. Have you ever interviewed the girlfriend of Thomas
6 Nolan who had been with him on December 6, 2009?

7 A No.

8 Q Do you know who she is?

9 A No.

10 Q Never got a name?

11 A No.

12 MS. CLARK: I have nothing further.

13 THE COURT: All right. I think we should break
14 here. And then, I'm wanting us to start back up at 1
15 o'clock. Everyone wants to do this. Okay. Let's do it.
16 Back at 1.

17 (Lunch recess taken)

18 (Afternoon Session - Approximately 1 p.m. The Jury
19 returned to the courtroom and the following testimony
20 continued with Witness Strickland.)

21 THE COURT: Okay. Please be seated. And Ms.
22 Lamin.

23 MS. LAMIN: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. LAMIN:

Strickland - Cross

1 Q Sergeant Strickland, were you one of the first officers
2 on the scene on December 6th, 2009?

3 A No.

4 Q Did you help arrest the suspects; English, Suttles or
5 Drljic?

6 A No.

7 Q Did you search Ms. Suttles' vehicle on December 6th,
8 2009?

9 A No.

10 Q Did you collect evidence from Ms. Suttles' vehicle on
11 December 6th, 2009?

12 A No.

13 Q Did you speak -- did you go to the scene at all on
14 December 6th, 2009?

15 A No.

16 Q As part of your job, do you examine all the police
17 reports?

18 A Yes.

19 Q And how are police reports kept in the St. Paul Police
20 Department?

21 A They are kept in the RNS system.

22 Q Can you just briefly explain what that is?

23 A Based on where the incident happened at, you assign it to
24 a district. We have three districts. And this incident
25 was the western district, so it was assigned to that

Strickland - Cross

1 computer system, which comes into the burglary unit.

2 Q So, when an officer writes a report, what does that have
3 to do with the RMS system?

4 A Well, it's all located with a case number. You have the
5 CN, for the year. At this time it was like 09, and then
6 2568; 258604; and then all the reports written would go
7 under that CN.

8 Q To your knowledge, how many CNs do you believe are
9 related to this case?

10 A Three.

11 Q And as part of your duties, did you review RMS for all
12 the police reports?

13 A Yes.

14 Q Did you examine all three CNs?

15 A Yes.

16 Q In every police report that's produced, is that somehow
17 in this RMS system?

18 A Yes.

19 Q Is there any police report from an Officer Thomas Menton?

20 A No.

21 Q And you checked RMS?

22 A Yes.

23 Q And all three CNs?

24 A All three CNs, yes.

25 Q Now, you interviewed the Defendant Daniel Drljic.

Strickland - Cross

1 A Yes.

2 Q And it looks like you did that one time on December 7,
3 2009?

4 A Right.

5 Q And you recall Mr. Drljic told you that when he arrived,
6 he saw the door was chipped?

7 A Yes.

8 Q And you recall he told you he arrived and he went through
9 the entrance where there is -- it was an older place, for
10 sculpting?

11 A That's right.

12 Q And did Mr. Drljic tell you that Jermaine English was
13 looking for an older white guy?

14 A I don't think --

15 Q Did Drljic talk about an older white guy that Jermaine
16 English was looking for?

17 A I don't remember.

18 Q Okay. And Mr. Drljic told you that he was asleep, right,
19 when he received a phone call; is that correct?

20 A Yes.

21 Q And then he walked up to Raymond and University?

22 A Yes.

23 Q And then he's the one who called Suttles to pick him up?

24 A Yes.

25 Q So, Drljic, in his interview with you, told you that he

Strickland - Cross

1 called Suttles to pick him up?

2 A Yes.

3 Q Mr. Drljic also told you that when he went to the
4 basement, he saw that there were boards that were
5 crushed?

6 A Yes.

7 Q And it was at that point he knew, he was a hundred
8 percent certain it was burglarized?

9 A Yes.

10 Q And Mr. Drljic told you that's when he went outside?

11 A Yes.

12 Q And Mr. Drljic told you that's when the police yelled for
13 him to stop?

14 A Yes.

15 Q And Mr. Drljic claimed he was the one who then ran back
16 into the building?

17 A Yes.

18 Q And Mr. Drljic never mentioned seeing anyone else there
19 at the scene?

20 A No.

21 Q And was Mr. Drljic trying to protect Ms. Suttles during
22 his interview with you?

23 A He --

24 MS. CLARK: Objection, foundation.

25 THE COURT: Lay the foundation.

Strickland - Cross

1 BY MS. LAMIN:

2 Q What did Mr. Drljic say about Ms. Suttles' involvement?

3 A That she just came to give him a ride.

4 Q Did he say that she had nothing to do with it?

5 A Yes.

6 Q Isn't it true, Mr. Drljic never mentioned anyone named

7 Joe?

8 A Yes.

9 Q Isn't it true when Mr. Drljic talked to you, the day
10 after he was arrested, he never said anything about a
11 male in an apartment building?

12 A Yes.

13 Q Let's talk about Ms. Suttles' statement. So you spoke to
14 Ms. Suttles, this is the day after she was arrested?

15 A Yes.

16 Q And so, for the time -- if you can explain, from the time
17 she was arrested until you spoke to her, she was in
18 custody?

19 A Yes.

20 Q You hadn't had a chance to talk to anyone else yet?

21 A No.

22 Q So, did Ms. Suttles tell you that she was at home alone?

23 A She said she was at home.

24 Q Okay. And did Ms. Suttles tell you that she received a
25 call from Mr. English?

Strickland - Cross

- 1 A Yes.
- 2 Q And Ms. Suttles told you that Mr. English asked her to
3 pick Mr. English up and Drljic?
- 4 A Yes.
- 5 Q Isn't it true Ms. Suttles told you she had a hard time
6 finding the place?
- 7 A Yes.
- 8 Q Isn't it true Ms. Suttles told you it took her an hour to
9 get there?
- 10 A Yes.
- 11 Q Do you know, did you -- you reviewed all the police
12 reports as part of your investigation?
- 13 A Yes.
- 14 Q You reviewed the initial report by Officer Glisky?
- 15 A Yes.
- 16 Q That documented Ms. Suttles' address?
- 17 A I think it did, yes.
- 18 Q Okay. Do you know Ms. Suttles' address?
- 19 A Not off hand, no.
- 20 Q Sergeant Strickland, if I show you Officer Glisky's
21 police report, would that refresh your recollection
22 regarding Ms. Suttles' address?
- 23 A Yes..
- 24 Q Showing you the fourth page.
- 25 A It's 2807 St. Mary's Place, Southeast Minneapolis.

Strickland - Cross

1 Q (Brief pause) Just having trouble finding something,
2 Sergeant Strickland. Sergeant Strickland, I'm showing
3 you what's been marked as Exhibit 126. This is -- what
4 does this appear to be?

5 A The address at University and Raymond, the liquor store.

6 Q This is a map of the area?

7 A Yes.

8 Q And you said there is a marker for the University and
9 Raymond address, the liquor store?

10 A Yes, around the corner.

11 Q Do you also see a notation for the address of Ms.
12 Suttles?

13 A Yes.

14 Q Okay. And your understanding -- are you familiar with
15 this area?

16 A Yes.

17 Q Does that seem to be to you like a fair map of the area?

18 A Yes.

19 MS. LAMIN: I move to admit Exhibit 126.

20 MS. CLARK: No objection.

21 THE COURT: And 126 is admitted.

22 BY MS. LAMIN:

23 Q So, Sergeant Strickland, if you can use the pointer and
24 just point where is the liquor store on that map?

25 A The liquor store is right here. Right on University.

Strickland - Cross

- 1 Q Okay. And where is Ms. Suttles' address.
- 2 A Right here, just past the border of St. Paul and into
3 Minneapolis.
- 4 Q And is that distance, take someone an hour to get there?
- 5 A No, about 5 to 10 minutes at the most.
- 6 Q Now, do you know when the red flashlight was picked up
7 from the liquor store?
- 8 A I believe the next day. I think the 7th. I'm not sure.
- 9 Q Would it help to refresh your recollection to look at the
10 property sheet?
- 11 A Yes. The 10th -- December 10th?
- 12 Q Okay. December 10th. So, four days later?
- 13 A Yes.
- 14 Q Did you ever know if the red flashlight was connected?
- 15 A Did I know that it was connected?
- 16 Q Yeah, did you ever learn if it was connected to the
17 burglary?
- 18 A Yeah, from the video you can see there was stuff there;
19 but, they only found the red flashlight.
- 20 Q Okay. Did -- now, if some small amount of marijuana is
21 found by officers, what typically do police do with small
22 amounts of marijuana?
- 23 A We have a property locker for it to go into and they just
24 dump it in there. If it can't be connected with anyone,
25 they just usually dump it and dispose of it later.

Strickland - Cross

1 Q Did you ever see any report regarding any marijuana
2 connected to this?

3 A No.

4 Q Defense counsel asked you to watch -- truthfully, I don't
5 even know how much of a glimpse of the surveillance
6 video, and asked you to identify an officer in the video.
7 Do you recognize what the officer was carrying from these
8 photos?

9 A Yeah, it was some of the liquor that was recovered from
10 downstairs.

11 Q Okay. So, this is what the offerer you saw in the video
12 is carrying stuff from Exhibit 27 and 29, this is photos
13 from the liquor, downstairs?

14 A Yes.

15 Q So, returning it to the property owner?

16 A Yes. They was doing it for inventory, so it could be
17 accounted on how much the value was.

18 Q Why was Ms. Suttles calling you on such a regular basis?

19 A She wanted her money back. She wanted her car. She
20 wanted her phone.

21 Q Why did she tell you she wants those things?

22 A She said the money was for a business that she and her
23 boyfriend was trying to open. And she said she needed
24 the car because she had kids and had to get around. She
25 needed the phone for the same reason.

Strickland - Cross

1 Q Why did you release those things?

2 A Actually, I was being nice, because I actually could have
3 held them until the end of the case. But, I was being
4 nice and actually gave her the car back because she had
5 the kids; and the phone; and the money because she
6 claimed she was starting a new business and she needed it
7 for rent for the space that they were going to use for a
8 business.

9 Q How many suspects did you develop, based on the evidence?

10 A Three.

11 Q Who were the suspects?

12 A Daniel Drljic, Tamika Suttles and Jermaine English.

13 Q Did you ever have any, any evidence, beyond Ms. Suttles'
14 statement?

15 A No.

16 Q Of any other suspect?

17 A No.

18 Q This is aside from Ms. Suttles' statement and Mr.
19 English's statement?

20 A No other.

21 Q Okay. But, just to confirm, Sergeant, you were never at
22 the scene that night?

23 A No.

24 Q You didn't become involved until at least the 7th?

25 A Yes.

Strickland - Redirect

1 MS. LAMIN: Thank you. No further questions.

2 MS. CLARK: I just have a couple follow up.

3 REDIRECT EXAMINATION

4 BY MS. CLARK:

5 Q You met with the prosecutor over the lunch hour and
6 looked at the videos; right?

7 A No.

8 Q Isn't it true that you made plans before we left the
9 courtroom to come early and meet with her to look at the
10 video of the liquor stores?

11 A Yes, we had plans.

12 Q You did not review it?

13 A I did not.

14 Q Now, why did you testify just now that Officer Harrison
15 was moving those liquor bottles to count them -- what did
16 you say, to count them?

17 A I said inventory.

18 Q Well, how do you know that? How could you possibly know
19 that?

20 A She asked me.

21 Q Who asked you?

22 A What did I think. And that's what I thought he was
23 doing.

24 Q Oh, you mean you just -- you don't know that. You're
25 just saying, he could have been doing that?

Strickland - Redirect

1 A He could have been.

2 Q All right. Thank you. Isn't it true that when the
3 member of the defense team met with you, July 27, 2010,
4 she specifically asked to see the marijuana that had been
5 picked up from Sharrett's?

6 A Yes, you did.

7 Q And the police department could not produce it; could
8 they?

9 A No.

10 Q And you're not suggesting, are you, that police can go
11 pick up marijuana and leave no record of picking it up;
12 are you?

13 A It might happen. If it's an amount that's not going to
14 be charged with anything, they just dump it in the locker
15 and it's destroyed later.

16 Q Well, let me ask you just two follow up questions about
17 that. What is proper procedure? You're supposed to put
18 in the police report that they picked it up and then
19 there should be a record of it at headquarters; right?

20 A Yes.

21 Q And what you're saying is that in reality, a lot of
22 times, the patrol officers do not inventory marijuana;
23 correct?

24 A I will say, it could happen. In this situation, I don't
25 know what happened. But, it could happen.

Strickland - Redirect

1 Q Isn't it true, you told Ms. Suttles on the way to the
2 impound lot that day that there is a big problem in the
3 St. Paul Police Department with officers not inventorying
4 drugs?

5 A No.

6 Q Now, with regard to what Mr. Drljic said to you over at
7 the LEC, isn't it true he said to you, first English
8 called Suttles for a ride and then he also called her to
9 come?

10 A Is that what's in the report?

11 Q Would it be fair to say you don't precisely recall?

12 A I don't recall him telling me that, no.

13 Q Okay. You don't know for sure if he did?

14 A No.

15 Q Okay. And isn't it true that if what Daniel Drljic told
16 you in the LEC that day is true, he wouldn't have known
17 about the Joe?

18 A He might not have. I don't know.

19 Q In other words, if English had tricked Drljic over there
20 to help him carry some things out of the basement and
21 only English knew about Joe, then of course Drljic can't
22 tell you about it on the 7th; can he?

23 A I don't know what he knows. I just went by what he told
24 me.

25 Q Well -- and if what Mr. Drljic told you was true, then he

Strickland - Redirect

1 would have been inside at the point that the white male
2 was putting something in Ms. Suttles' trunk; right?

3 A I guess. I don't know.

4 Q Now, Mr. Drljic did tell you he came out, saw police and
5 rushed back in; right?

6 A Yes.

7 Q Some version of that, right?

8 A Yes.

9 Q Do you know whether there is a contemporaneous record in
10 the incident recall showing exactly that?

11 A Say it again?

12 Q Did you review the incident recall as part of your
13 investigation?

14 A No.

15 Q Did you learn in your investigation that at 4:26 police
16 radioed dispatch that a witness saw someone run back into
17 the building?

18 A I think it was in one of the reports.

19 Q And then that at 4:27, a full minute later, police
20 radioed that they saw a black male, black coat, dark
21 jeans, red stocking cap. Did you know that?

22 A Yes.

23 Q Now, when you were talking with Ms. Suttles on March 12,
24 2010, isn't it true you told her, you need to go get your
25 attorney to prove that this Joe guy exists. Something

Strickland - Redirect

- 1 like that; right?
- 2 A I didn't talk to her on March 12th.
- 3 Q Not at all?
- 4 A Not on March 12th, no.
- 5 Q Well, do you recall having a conversation with Ms.
- 6 Suttles when she came down to the western district to
- 7 speak with you?
- 8 A I had a conversation with her on December the 12th; not
- 9 March 12th.
- 10 Q I'm talking about a time when she came down to the
- 11 western district to speak with you, do you recall that?
- 12 A Yeah, December 12th.
- 13 Q All right. Whatever date you recall, you recall the
- 14 conversation; right?
- 15 A Yes.
- 16 Q And isn't it true she was trying to convince you or talk
- 17 to you about this white guy that had come put stuff in
- 18 her trunk?
- 19 A Yes.
- 20 Q And isn't it true, at one point, you said, okay, you
- 21 guys, your attorney got to do the work on it?
- 22 A Yes, I told her you had to do the work on it, yes.
- 23 Q All right. And isn't it true that you destroyed the
- 24 records you had gotten from Joseph and Peter Brown about
- 25 who lived in the apartment building and did not turn them

Strickland - Redirect

1 over to the defense?

2 A No, I didn't turn them over to the defense, no.

3 Q You got rid of them; right?

4 A Yes, I did.

5 Q You said you didn't want those things lying around?

6 A I had no right to give them out to anyone else. They
7 give them to me. If you wanted them, I thought you would
8 go to Joseph Brown and get them.

9 Q Do you understand the concept of turning evidence
10 favorable to the defense over to the defense?

11 A Yes.

12 Q Have you been trained in that?

13 A Yes.

14 MS. LAMIN: Your Honor, may we approach?

15 THE COURT: All right.

16 (Counsel approached the bench and an
17 off-the-record discussion was had.)

18 MS. CLARK: Your Honor, I'll withdraw the last
19 question.

20 THE COURT: All right. We'll strike the answer
21 from the record.

22 BY MS. CLARK:

23 Q Would it be accurate to say that you can't assess
24 evidence if you don't first collect it?

25 A Yes, it is.

Strickland - Redirect

1 MS. CLARK: Nothing further.

2 THE COURT: Ms. Lamin.

3 MS. LAMIN: Nothing further, Your Honor.

4 THE COURT: Sergeant Strickland, you are free
5 to go. Thank-you.

6 MS. CLARK: Your Honor, the defense calls
7 Tamika Suttles.

8 THE CLERK: Please raise your right hand.

9 Thereupon,

10 TAMIKA SUTTLES,

11 The Defendant, first having been duly sworn, was examined
12 and testified as follows:

13 THE CLERK: Please state and spell your full
14 name for the record.

15 DEFENDANT SUTTLES: Tamika Latoi Suttles,
16 T-A-M-I-K-A, L-A-T-O-I, S-U-T-T-L-E-S.

17 THE COURT: And Ms. Suttles, you heard me
18 explain the rules of testifying.

19 DEFENDANT SUTTLES: Yes, ma'am.

20 THE COURT: And that if the attorneys -- if
21 there is an objection, you wait for me to rule before you
22 even answer or not answer and I will give you that
23 instruction.

24 DEFENDANT SUTTLES: Okay. Yes, ma'am.

25 THE COURT: And Ms. Clark, you may proceed.

Suttles - Direct

1 MS. CLARK: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. CLARK:

4 Q Ms. Suttles, what's your full name?

5 A Tamika Latoi Suttles.

6 Q And how old are you?

7 A I'm 29.

8 Q And did you, at some point, have a career involved with
9 nursing?

10 A Yes, ma'am.

11 Q Can you tell us just briefly about that?

12 A I was a certified nursing assistant for Maxim Health Care
13 (phonetic), from 2001 to 2007.

14 Q What happened in 2004?

15 A I was having -- I was in a domestic abuse, so I was
16 having post traumatic stress and anxiety and they ended
17 up putting me on social security.

18 Q So, you were found to be disabled?

19 A Yes, ma'am.

20 Q Did you continue to do some work after that?

21 A Yes. I tried to continue with my nursing, but I had
22 trouble because I was having too many panic attacks and
23 setbacks and stuff.

24 Q And how did you meet Daniel Drljic?

25 A I met him through tattoos. He did a few of mine and we

Suttles - Direct

1 were friends for awhile and then we started dating, like
2 a while after that.

3 Q Do you recall the year you started dating?

4 A It was 2008, December.

5 Q And what's your relationship with him now?

6 A That's my fiancée.

7 Q And do you work now?

8 A Yes, I do piercings and learning tattoos, part-time. I'm
9 still apprenticing, but yeah, I'm slowly working, yes.

10 Q Where do you do the piercings?

11 A I do the piercings now at our shop on 3004 Lyndale Avenue
12 South, called Supreme Inks.

13 Q And why did you want to open that shop?

14 A Well, due to my, shall I say mental records, a lot of
15 places really didn't want to hire me after that. So,
16 starting our own new business would be the nice thing.
17 And I'm like a people's person, so it was like, I like
18 the art and so that's what I chose to do.

19 Q Do you work full time?

20 A No, I'm part-time. I am apprenticing, more or less, if
21 anything because I'm still learning.

22 Q Do you have any children?

23 A Yes, ma'am. I have a 14-year-old and a 10-year-old and
24 I'm currently due any time soon for my next baby.

25 Q How do you know a gentlemen by the name of Jermaine

Suttles - Direct

1 English?

2 A He's a tattoo client of Daniel.

3 Q You heard Mr. English testify that, something like he's
4 friends with you and Mr. Drljic. Do you agree with that
5 characterization?

6 A No.

7 Q How would you characterize the relationship?

8 A He was more or less a tattoo client. Twice our car broke
9 down, so he gave us a ride. So, that was pretty much it.

10 Q Do you hang together like party together and things like
11 that?

12 A No.

13 Q So, what do you mean your car broke down and he gave you
14 a ride?

15 A Well, he called -- called him to do some tattoos. And a
16 couple times our cars was disabled, mine and his. And he
17 wanted the tattoos, so then he came and got us at them
18 times and helped us get the parts we need to get the car
19 back running.

20 Q All right. So let me break that apart a little bit.

21 When you said, he and my car. Do you mean, Mr. Drljic
22 and your cars were both impaired?

23 A Yeah, we both had Cadillac DeVilles at the time, yes?

24 Q And those breakdown a lot or something?

25 A Yes.

Suttles - Direct

1 Q So, do you recall the first time that that happened, that
2 you ended up getting a ride with English?

3 A Well, I just got approved for public housing from, after
4 that, and that's when me and him, around the time we met.
5 We was just knowing each other a little while. And 26
6 and Colfax is where I stayed at the time. That's where
7 he picked us up at, because my tire had blew. And that's
8 when we needed to get it fixed. And that's when he came
9 for the first time. It was back in, I want to say
10 February. It was cold still.

11 Q February, 09?

12 A Yes.

13 Q Okay. So, Mr. English wanted a tattoo?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes, ma'am.

17 Q And called for a tattoo?

18 A He called Drljic for a tattoo. And Drljic told him, at
19 the time, which is my fiancée, our cars were down so we
20 couldn't make it over there. So, he's like, well, I'll
21 come get it. I really want my tattoo fixed and done. So
22 he came and got us.

23 Q In order to get his tattoo, he helped you with your car
24 situation?

25 A Yes.

Suttles - Direct

1 Q And you said that happened twice?

2 A Yes.

3 Q Was it basically the same the next time; in other words,
4 did he also want a tattoo and you guys didn't have
5 wheels?

6 A Well, he was saying he had somebody else that needed a
7 tattoo, at that time, on the second time. And he called.
8 It was like early summer, I would say. I couldn't give
9 you the exact month on that time, but he said he needed
10 someone that wanted to get some work. He wanted a quote.
11 So then we was telling him, again, like man, you know,
12 our car is messed up. And he's like, well, we'll take
13 you and you can talk to the guy about the tattoo that he
14 wants to get done. So, we was like, okay.

15 Q And were those situations where you could make some money
16 doing the tattoos?

17 A Oh, yes.

18 Q And when did you decide to open the shop, your own shop,
19 I mean?

20 A We decided before then, but we needed amount of cash. We
21 needed about 20 thousand, so we was working our way up to
22 that and looking for locations in the meantime.

23 Q All right. And how had you started to gather money to
24 reach the amount that you needed to get a place?

25 A Well, his father gave us \$8,000 from a 401K. Then he

Suttles - Direct

1 turned around and gave us \$2,500 because he's a welder,
2 so he makes very good money. Then his mother, who owns a
3 European massage therapy and a bed and breakfast in
4 Montrose and Hopkins, she gave us \$2,500. I had \$2,000
5 saved up. And he had \$2,000 saved up. And between my
6 social security and my EMFIP, that's about a thousand to
7 eleven hundred a month income coming in regularly.

8 Q All right. So, on December 6th, 2009, did you have some
9 cash with you?

10 A Yes, ma'am. We just came from shopping. I took my kids
11 to Burlington.

12 Q So, let me ask you about that.

13 A On the 5th, excuse me.

14 Q I'm sorry?

15 A The 5th, the night before. Because the morning, that
16 morning, which was turned to the 6th at midnight, that
17 was a whole other day, but it was still that day.

18 Q All right. I guess what I'm trying to get to is, how
19 much cash did you have on you, in your purse, December
20 6th, 2009?

21 A After \$500 at Burlington, it was \$17,450.

22 Q And how are you sure about that?

23 A Because I have the receipts.

24 Q Did you take receipts to show Sergeant Strickland when
25 you got some of the money back in December of 2009?

Suttles - Direct

1 A Yes, that was the only way he said he was going to
2 release it.

3 Q All right. Now, I keep saying December 6th. And you're
4 right, December 6th was early morning. So, what you're
5 saying is you were out and about on the 5th?

6 A Yes, ma'am.

7 Q Doing some shopping. Then you went home?

8 A Yes, ma'am.

9 Q And you live at this address at St. Mary's Place?

10 A Yes, ma'am.

11 Q Was Mr. Drljic staying with you there at the time?

12 A No, he stayed in St. Paul, but he was there that day,
13 yes.

14 Q Okay. And did you guys go to bed early or were you up
15 late? What was going on?

16 A Well, after we came from shopping, that night we kind of
17 had intimacy, you know, sex. And we laid down, so it was
18 kind of getting late and we was slowly going to sleep and
19 stuff.

20 Q So, at around four in the morning, did somebody get a
21 phone call?

22 A Yeah, we was just starting to wind down, laying down,
23 going to sleep. And then Drljic got a call from English.

24 Q Stop there for a second. Because I just want to ask you,
25 so what were you doing just before the phone call?

Suttles - Direct

1 A Just got done having sex. And like, not even, within an
2 hour trying to go to sleep and stuff.

3 Q All right. And I'm not trying to pry too much in your
4 private life, but -- so you were in bed, yes?

5 A Yes, ma'am.

6 Q But awake?

7 A Yes.

8 Q All right. And what time does your shop open in the
9 morning?

10 A Right now?

11 Q Yeah.

12 A Oh, we open up anywhere from 8 to 11, depending on the
13 days. We set our own schedule.

14 Q And are you open late sometimes?

15 A Oh yeah, until 11, sometimes 2 or 3, depending on if they
16 make an appointment, then we stay later.

17 Q Okay. So, it's kind of a late trade?

18 A Yeah. Yeah, it is.

19 Q Now, go back to the part where you said, Drljic got a
20 call from English. Could you hear the phone call? Was
21 it on speaker phone or was he just talking on the phone?

22 A English kind of talks loud, so you can hear him say, eh,
23 man, I need your help. And I was laying next to him,
24 because like I said, we just got done having sex and I
25 was trying to go to bed. And then, next thing you know,

Suttles - Direct

1 after that, he was like, eh, man, it's late. And then
2 English says something like, well, I helped you. And
3 then Dado got up, which -- Drljic, excuse me. That's his
4 nickname.

5 Q It's okay. Your nickname for Mr. Drljic is Dado?

6 A Dado. That's his name.

7 Q All right. And did you and Drljic discuss whether or not
8 you were going to help English?

9 A I told him I was tired. So, he said, well I'll just walk
10 up there and that's because English was on the phone,
11 very persistent. And he walked up there after awhile.

12 Q Did you discuss at all these prior times that English had
13 come to give you rides?

14 A I told him I wasn't sure about that night, you know,
15 sometimes you get an instinct. But, I wasn't -- I mean,
16 you know, I'm like I don't know what's going on. Just
17 felt like let's just stay. But he was like, you know, he
18 helped us, so he got this moral thing about helping
19 people, like who help us. So he went.

20 Q Okay. He left on foot?

21 A Yes, he did.

22 Q What did you do next?

23 A I was still in bed, laying down at that time when he
24 left.

25 Q Did you fall asleep at all?

Suttles - Direct

1 A No, I didn't get a chance to.

2 Q What's the next thing that happened that you recall?

3 A Well, I know once he left, I laid down. And then I was
4 just trying to go to sleep, because you know, we just got
5 done. And then, right after that, like I would say,
6 within the hour or so, that's when I got a call. It was
7 like -- there was like the timing was really -- like I
8 said, it was really late. And I just got a call from
9 them, saying, hey, can you come? And I'm like, for what?
10 And then he was saying, I thought I was, you know -- I
11 thought I was here to move some little things --

12 MS. LAMIN: Objection, Your Honor, hearsay.

13 MS. CLARK: Well, I don't know who she's saying
14 is talking.

15 MS. LAMIN: Exactly.

16 DEFENDANT SUTTLES: Oh, I'm sorry. Well,
17 excuse me.

18 THE COURT: I'm going to sustain that. So,
19 don't answer. You can ask the question differently.

20 BY MS. CLARK:

21 Q All right. Okay. Let's try to break it apart a little
22 bit. Okay?

23 A Okay.

24 Q Who did you get a phone call from? What's the first call
25 you got?

Suttles - Direct

1 A I got a call from English.

2 Q Okay. At some point later did you get a call from Mr.

3 Drljic?

4 A Yeah, I got a call from him, too.

5 Q For right now, just yes or no?

6 A Yes.

7 Q All right. Now, when English called, what did he say to
8 you?

9 A He said, hey -- he called me Mika (phonetic) at the time.

10 He said, Mika, is there any way you can give us a ride?

11 And I said, who a ride? He said, me and Joe, at the

12 time. But, I didn't, you know -- but, I couldn't really

13 hear because the phone, it was outside, you could tell

14 they were outside. And then I said, well, I'm tired.

15 And he said, well, our ride didn't show up. And I said,

16 well, where's Dado? You know, he was like, oh he's

17 around the corner, something he said. And I'm like,

18 well, that's weird. And I didn't say too much after

19 that. And then, he was just like, well, I'm waiting --

20 THE COURT: I'm going to stop you. I don't

21 think there is a question in front of you.

22 DEFENDANT SUTTLES: Okay.

23 BY MS. CLARK:

24 Q I had asked her what English had said. What did he say

25 next?

Suttles - Direct

1 A He just said, after that was, I heard, I'll pay you for a
2 ride. And I know I needed \$20, so that's what I was
3 doing, trying to get as much money as I can.

4 Q So, did he say anything else about this Joe guy?

5 A No. All you could do is hear somebody in the background,
6 talking. And he was like, man, tell her to hurry up.
7 Tell her to hurry up. My girl tripping. My girl
8 tripping. And I'm trying to hear everything, all of what
9 else is going on. And then he was like, man, just come
10 on. And I'm like -- he was like, tell her I'll pay her
11 some. I'll pay her well. And I'm like okay. You know,
12 after that I just threw on my clothes, some jogging pants
13 and left. And then I needed gas, so I had to go to the
14 gas station.

15 Q All right. So, where was that?

16 A I went to SA, the only one that was opened, because Steve
17 and Bobby's wasn't open on that night.

18 Q Do you remember what SA you went to?

19 A The one on Lyndale.

20 Q And do you know about what time you were there?

21 A About, if anything, 4:14, something around there because
22 that's how I found out what was Steve and Bobby's had
23 closed down for inventory. That's when I had to end up
24 going to SA.

25 Q All right. And then what did you do?

Suttles - Direct

1 A So then after I left the gas station, that's when I'm
2 like headed towards their way and he called me again and
3 said --

4 Q Who is he?

5 A English called me again and he was like, where are you?
6 Where are you? And I'm like, I'm coming, you know. And
7 then, finally, when I got there, I couldn't find the
8 location right away. I'm driving, because if you look at
9 that building, it's weird, you know. There is no way you
10 would know if you ain't never really been over there, how
11 to get in there or where to go right away.

12 Q So, how long did you drive around looking for it, do you
13 think?

14 A About five minutes. Be about five minutes, if that.

15 Q And now, by this point, had you gotten a call from Mr.
16 Drljic or no?

17 A Well, while I was in the car, coming in, I got a call
18 from Mr. Drljic.

19 Q And what did he say?

20 A He was just saying, where are you? And he was like, man,
21 something is weird. He was like, man, I don't know
22 what's going on. I said, what do you mean? And he's
23 like, something weird, but I don't know. And I was just
24 like, well, I'm on my way there. And he was like, yeah,
25 hurry up, 'cuz he was like, I don't know, something just

Suttles - Direct

1 weird. And that's all he could say. And then I just
2 said all right, cuz his phone went dead. He didn't get
3 to finish the conversation with me.

4 Q So, did you -- how did you pull up to a building?

5 A Well, actually, they got me in, once I kept telling him I
6 was lost, English, and you could hear a white male in the
7 background.

8 Q And then describe how you approached the building or
9 where you came next to the building?

10 A Well, here's University. You getting off of the highway,
11 the way I came is right there. There is a light. And
12 then there is Raymond this way. You see a US Bank over
13 here. And then there is a billiards where people was
14 partying like at a pool hall with stuff that was outside,
15 like a bar type little thingy. And when I came, I just
16 kept going right here and circling like out of US Bank,
17 because I didn't know where to enter, because you can't
18 really know where to enter right away.

19 Q Okay. So, I'm not asking you about that part anymore.
20 I'm asking you, when did you actually come up to the
21 building? Where did you come up to the building?

22 A I came in from the Raymond side.

23 Q In what?

24 A My Cadillac.

25 Q And did you go to the front or the back of the building

Suttles - Direct

1 or side or what?

2 A It was a little part alley way that once they directed
3 me, they said the first alley way, first alley way you
4 can take a left, take a left, take a left. And that's
5 where I ended up at. And that's when I seen the building
6 and it had apartments on the top and stores at the
7 bottom. So I started proceeding towards the back. And
8 it was really like, it was kind of narrow, so it was like
9 you ain't got too much room back there, immediately, when
10 you first coming back there, so --

11 MS. CLARK: May I approach, Your Honor?

12 THE COURT: Yes.

13 MS. CLARK: I'm marking this Exhibit 97. And
14 I'm going to get you a magic marker. There is a black
15 one there.

16 BY MS. CLARK:

17 Q Would you draw the back of the building and show us where
18 you parked your car?

19 A Okay.

20 Q Do you remember what the little insert looks like?

21 A Kind of.

22 Q Do you need something to refresh your recollection?

23 A I kind of know what the back looked like. I'm just
24 trying to -- the building was funny shaped, so it was
25 weird.

Suttles - Direct

1 Q Would it help to have something to refresh your
2 recollection?

3 A I think I can get it.

4 Q All right.

5 A (Drawing diagram)

6 Q All right.

7 MS. CLARK: Offer Exhibit 97.

8 MS. LAMIN: I'm sorry, what is this?

9 MS. CLARK: It's the back of the building. The
10 back of the building in question.

11 MS. LAMIN: What are those lines?

12 DEFENDANT SUTTLES: Here's Raymond side where
13 you enter. And here's up University, but you only enter
14 if you go in this way. Here's this way, proceeding to
15 the front of the building. And this is the back,
16 immediate alley way, if you was to look at your picture,
17 your diagram, that's dark.

18 MS. CLARK: Offer Exhibit 97.

19 MS. LAMIN: No objection.

20 MS. CLARK: All right. Now, I'm going to give
21 you --

22 THE COURT: Exhibit 97 is admitted.

23 MS. CLARK: I'm sorry, Your Honor. May I
24 approach?

25 THE COURT: Yes.

Suttles - Direct

1 MS. CLARK: I'm going to give you a couple of
2 other colors.

3 BY MS. CLARK:

4 Q Then what I would like you to do is draw where you parked
5 your car. And if you could put like a triangle at the
6 front of the car, so we can tell the way it was facing?

7 A Since my car is near this color, I'll use this color for
8 my car.

9 Q Which -- put the triangle at the front of the car.

10 A (Indicating)

11 Q Okay. You can sit down. All right. So, describe for
12 us, then you said you pulled in and you parked there.
13 And what did you do next?

14 A When I pulled in and I parked, there is a white male
15 right here.

16 Q Can you put an "X" where you first saw the white male.

17 A (Indicating)

18 Q All right. What happened next?

19 A So, when he came, I got out my car, which is just the
20 front driver's door. And I opened the trunk because he
21 had bags and stuff with him right there. So I just
22 opened it and he sat it in there.

23 Q What do you mean in there? In where?

24 A He sat the stuff in my trunk and then I was asking --

25 Q That's what I meant. You mean the trunk?

Suttles - Direct

- 1 A Yeah, he set the stuff in the trunk and then that's when
2 I asked him, where's Hood, where's Dado?
- 3 Q And who is Hood?
- 4 A Hood is Jermaine English.
- 5 Q Okay.
- 6 A And Dado is Daniel Drljic.
- 7 Q Okay. And did you get a good look at this guy?
- 8 A Yeah.
- 9 Q The white man, I mean?
- 10 A Yeah, he had on a brown Dickie jacket, like one of them
11 worker type, car mechanic type jackets, and he had on a,
12 like a brown hat. He the mutton chops and he was a
13 cleaner dude.
- 14 Q Okay. Approximate age?
- 15 A Twenty something, if that. If, in his 20s. He just like
16 fresh, you know, like my little brother.
- 17 Q And have you seen that person in this courtroom at all?
- 18 A Yeah, now that I know who it is, yeah. It's Thomas Nolan
19 who I seen.
- 20 Q Did you know his name the night you were over by the
21 building?
- 22 A Not really. I thought -- excuse me. Not really. When I
23 heard Joe, when they was on the phone. But, I didn't
24 think, at that time, I just heard money and came. But,
25 they did say a name and that was the name, but at that

Suttles - Direct

1 time, it didn't recollect. I was just knowing I was
2 coming to give somebody a ride with English.

3 Q Had you ever seen that gentleman before that night?

4 A No.

5 Q Did you, at any point, get out and inspect what he was
6 putting in the trunk?

7 A No.

8 Q Where were you when he was putting stuff in the trunk?

9 A I just opened the trunk. And I had to -- you know, by
10 that time I was asking him where they at and I had to use
11 the bathroom. So, he just said, they're coming and he'll
12 be right back. Because, if you look, these apartment
13 windows, I'm going to use a different color. They reside
14 over here. And there is two levels of apartment windows
15 and once he sat stuff in the trunk and I was going to
16 start asking him more questions, you could hear a female
17 voice yelling and saying some things. And he was like,
18 well, you know, I'll be right back. And that's when he
19 left. And then I was like, okay. Dang. I should have
20 asked him, can I use the bathroom.

21 Q Hang on a second now.

22 A Okay.

23 Q Where did you see him go to?

24 A He went into somewhere over here. You can't really see
25 the door that they're dark like that. You just know

Suttles - Direct

1 there is a way in, because that's the way he went to --
2 into.

3 Q Went away?

4 A Yeah, went away to.

5 Q Okay. And then, what did you do?

6 A After he did that, I went back towards the car because
7 I'm like, dang, I got to use the bathroom. Ain't no
8 bathrooms. There is a divider here, before the other two
9 parking lots.

10 Q What do you mean a divider?

11 A Like, when you go through the alley way, it's so narrow
12 you ain't getting out that easy. You're coming out here
13 or you're going back out that way. It's no other way to
14 get in there.

15 Q All right. Let me show you something. Showing you
16 Exhibit 127. Would you just take a moment to look at
17 that, please. And without regard to the date or the
18 weather, is that a representation of what it looks like
19 when you turn in the alley and come towards the back of
20 the building?

21 A Yes, ma'am.

22 MS. CLARK: Offer Exhibit 127.

23 MS. LAMIN: Can I inspect it, Your Honor?

24 THE COURT: Yes.

25 MS. CLARK: Okay.

Suttles - Direct

1 MS. LAMIN: I'm sorry. I guess I don't
2 understand. What -- where on that map is 127? What view
3 is that?

4 (Counsel approached the bench and an
5 off-the-record discussion was had.)

6 MS. CLARK: You can ask her later, on cross.

7 MS. LAMIN: Can I voir dire, Your Honor?

8 THE COURT: Yes.

9 VOIR DIRE EXAMINATION

10 BY MS. LAMIN:

11 Q Ms. Suttles, did you take this photo?

12 A No.

13 Q When was the last time you were at the building?

14 A Well, actually, my attorney, I just told her where the
15 address was, went to the building. The last time I was
16 there, you all got a restraining order after that night,
17 so I ain't going near that building.

18 Q So, just to understand, you were only there that -- the
19 only time you have been to the building is the night of
20 December 6, 2009?

21 A Yes, ma'am.

22 Q Okay. And you were there when it was dark?

23 A It was dark. The only thing there was probably a little
24 street light here and there, but nothing major.

25 Q And do you have any idea when this photo was taken?

Suttles - Direct

1 A No.

2 Q I'm sorry. How do you know this photo represents that?

3 A Because I was there that night.

4 Q This isn't the condition anything was in that night?

5 A It was cold and snowy back then, so yeah, it could be
6 similar. I don't know how much snow was on December 6th
7 of last year, but yeah, it was cold, then, too.

8 Q You were in the parking lot for 10 minutes. And Ms.

9 Suttles --

10 MS. CLARK: Objection, this is cross.

11 MS. LAMIN: Your Honor, I do object to
12 foundation for this, I'm sorry.

13 MS. CLARK: This is cross.

14 THE COURT: I don't think that you have laid
15 the proper foundation, Ms. Clark. You could do something
16 better than that, I think.

17 MS. CLARK: Can we approach?

18 THE COURT: Yes.

19 (Counsel approached the bench and an
20 off-the-record discussion was had.)

21 THE COURT: All right. So with Exhibit 127,
22 I'm allowing it in.

23 BY MS. CLARK:

24 Q You talked about a barrier. Do you see the barrier in
25 Exhibit 127?

Suttles - Direct

1 A Yes, right here.

2 Q Can you put it into words what it is that you're pointing
3 at?

4 A It's these like sign thingies with chains that connect
5 through 'em and you can't get through. And that night a
6 whole bunch of cars was parked straight, so it was like
7 the only way you can, like I said, there was only one way
8 in and one way out.

9 Q All right. When you say signs with chains, do you mean
10 there is --

11 A There is another parking lot right next to it. It's
12 actually two. They're immediate, the other one and this
13 one. If you are here, there is a parking lot here and
14 there is a parking lot there.

15 Q All right. So the place you parked was separated from
16 the other parking lot by these metal chains?

17 A When I pulled in this alley, this is the building's
18 immediate parking lot, where the garbage cans and like
19 cars could park. And over here, is some other cars. And
20 this night, they had the cars lined up all the way right
21 here (indicating).

22 Q All right. Thank you. So after the -- by the way, that
23 night -- strike that. Before you saw Thomas Nolan in the
24 courtroom the other day, did you know his name?

25 A No.

Suttles - Direct

1 Q After he went away towards the corner, what happened
2 next?

3 A When he went away towards the corner, I'm waiting and I
4 pulled -- you know, I opened the door, because I had to
5 use the bathroom. I was peeing, you know, and as soon as
6 I was peeing, next thing you know I'm waiting on them --

7 Q Wait a minute. I hate to, again, intrude on your
8 privacy, but can you explain that a little bit more.
9 What do you mean by you were peeing?

10 A I had to go. And I was trying to ask him for -- she
11 yelled and he went back in after -- before I asked him
12 where Hood and Dado was. There was no bathrooms, so --

13 Q So, where did you pee?

14 A I peed by my door, driver's door.

15 Q Would you put -- put the letter "P" next to your driver's
16 door. All right. And were you standing up or what?

17 A I was squatting, like, you know you trying to get a
18 little privacy. I had the door like this and I was
19 squatting between the door and I was peeing.

20 Q Then what happened?

21 A Well, in the midst of me peeing, I see these lights come
22 and they came around the corner. And then next thing you
23 know they're flashing at the car.

24 Q From the alley on the Raymond side?

25 A Yes, ma'am.

Suttles - Direct

1 Q What happened next?

2 A Well, I couldn't see right away because I was still
3 peeing when the car first pulled up. Next thing you
4 know, an officer came and he came around and he shined
5 the lights on me. So when he shined the lights on me, he
6 caught me like in the midst of, like, oh, you know,
7 trying to pull up my pants because I was just peeing
8 outside, so --

9 Q What happened next?

10 A I was nervous. I'm like, I don't know if you're supposed
11 pee outside, but I had to go.

12 Q What happened next?

13 A So then, after that, he came. He seen me. He started
14 asking me questions. What's my name. What are you doing
15 here? And I'm still static, because the man just caught
16 me peeing, so I'm like, um, you know, I'm waiting on
17 somebody. And then he was like, well, why is your car
18 open? And I'm looking like I'm not going to -- me,
19 personally, I'm not going to admit to you anything. You
20 all can see I peed, but I'm not going to just say that.
21 So, I was just like, I had to pee. You know. I had to
22 pee. So then, next thing you know, he just grabbed me
23 and then he put the cuffs on me. And I'm like, why you
24 putting cuffs on me? So then he was like, well, I just
25 need to figure out what's going on. We got a call here.

Suttles - Direct

1 And I'm like, a call here. What are you talking about?
2 He's like, I'll explain further. And he said, let me do
3 all the question asking, so --

4 Q What happened next?

5 A So, he starts asking me questions. He asked me my name.
6 Is that my vehicle. I said yes. Then he seen that my
7 door was open. He said, you have identification? I
8 said, yes. And he said, where is it? I said, it's in my
9 purse. So then my purse was right there by the arm rest,
10 by the passenger side, hanging halfway over, because you
11 know, the seat hang halfway over. So then he reached in
12 there since I had my cuffs on by that time, because I
13 don't know, maybe I looked nervous. I don't know. To
14 him, or whatever. But, he cuffed me. So then he started
15 going through my purse. So then when he went through my
16 purse, what do you know? Big wad of cash in a bag. So
17 his eyes got big. So then he took it, no gloves on,
18 stuck his hand in there and pulled out one of the first
19 bundles, because it was in two bundles.

20 Q All right. Let me stop you there. Describe how you had
21 the cash in your purse?

22 A I had it in two large bundles and they were just stacked
23 up on top of each other, going a long way in the zip lock
24 baggies.

25 Q Zip lock, like a baggy?

Suttles - Direct

1 A Yeah, like a big zip lock, you know, a food baggies that
2 you store food in.

3 Q Colored or clear?

4 A It was clear.

5 Q And you said you had two bundles. Were they wrapped with
6 something?

7 A Yeah, it was wrapped in rubber bands.

8 Q All right. Now, he took one of those out and then what
9 happened?

10 A He took one out, and he's like, wow, what are you doing
11 with this amount of cash? I said, well, that's for our
12 tattoo business. And he said, whose tattoo business? I
13 said, me and my boyfriend, me and my fiance's, you know.
14 And he was like, what are you doing with this amount of
15 cash? And then, I'm like, well, it's ours, you know.
16 And then after that, he didn't say too much. He grabbed
17 the purse. He grabbed me. And the money was still
18 outside the purse. He threw the purse and the money on
19 top of the hood of his car. And he's --

20 Q Hold on a second. So where -- did he park his car? Had
21 he parked his car by that time?

22 A When he pulled in -- (indicating) well, it was further
23 back. But, yeah, it was right by my car.

24 Q All right. And did you use black for that?

25 A Blue.

Suttles - Direct

1 Q Blue. Okay. So, blue -- the blue rectangle above the
2 pink rectangle is where the first officer's squad was
3 parked?

4 A Yes.

5 Q And you said he put the -- he took the money out of the
6 purse and put them both on the hood of that car?

7 A Yeah, when he took it out when I was over there by my car
8 and then he proceeded with me, because I already had
9 cuffs on and he walked and that's when he put the money
10 on the hood of his car, and the purse.

11 Q All right. And then where did you go?

12 A Then, when he put the money on the hood, the purse, right
13 here, I'm right here between the front and the back of
14 the squad car, like the doors, just standing there. And
15 he was trying to start asking me questions.

16 Q What happened next?

17 A So then he started asking me, what are you doing here? I
18 said, I don't know. Some white male from upstairs, some
19 girl yelled. They came, asking -- well, they called me
20 through somebody I know give them a ride and I'm just
21 supposed to be giving a ride. Someone is supposed to be
22 moving. And then he was like starting to ask me more
23 questions. But, I never got a chance to finish because
24 like I said, it was all within like minutes of each
25 other. Nolan came and he starts saying, that's them.

Suttles - Direct

1 That's them. I'm the one who called.

2 Q All right. Slow down.

3 A Now I know his name. Nolan. But, yeah.

4 Q Okay. You got to slow down a little bit. Okay.

5 A Okay.

6 Q So, were you outside the first officer's squad or inside?

7 A I was outside, because he was starting to ask me
8 questions and that's when I was explaining to him, you
9 know, there was a white male came, you know, put some
10 stuff in the trunk. And I was saying, like, um, somebody
11 yelled from the window, his girl or something and he went
12 back in. And I was like, I'm still waiting on the people
13 I know, so --

14 Q Okay. So, then you saw the guy who you now know as
15 Nolan, again?

16 A I saw him when he came back down, yes, the second time.
17 That's when he came down. Because I'm thinking, he just
18 disappeared. She yelled. He went up. I ain't see him
19 no more. Like I said, I was peeing and then he came and
20 when he started to ask me questions, that's when he
21 popped up again.

22 Q Can you slow down a little bit?

23 A I'm sorry. I'm sorry.

24 Q All right. So, when he popped up again, what happened
25 then?

Suttles - Direct

- 1 A So, when he popped up again, he said, I'm the one who
2 called. That's -- that's them. And I'm like that's
3 them. I'm still, like, figuring out what the heck is
4 going on at this time, because I'm still confused, you
5 know. And then he starts saying, there is others. There
6 is others. And I'm like, there is others. What is he
7 talking about? That's when the cop placed me in the car.
8 And then he went over and was talking to Nolan for a
9 while.
- 10 Q All right. So, the first officer put you in the back of
11 his squad car?
- 12 A Uh-huh.
- 13 Q Is that a yes?
- 14 A Yes, ma'am.
- 15 Q And then you saw him go over and talk with a guy you now
16 know as Nolan?
- 17 A Yes.
- 18 Q Could you hear what they were saying?
- 19 A He was saying I'm the one that's called. He said, I'm
20 the one that called. And then only thing I kept hearing
21 him say is, the other one is inside. The other one is
22 inside. And then they started talking, but then the
23 radio was going off. You can hear the radio cops,
24 dispatch radio going off. So, certain things I couldn't
25 hear all the way. And then, you know, by that time

Suttles - Direct

1 another officer pulled up.

2 Q All right. Where did that officer come from?

3 A (Indicating)

4 Q Came from the other direction?

5 A Yes. Yes, ma'am.

6 Q All right. So the red rectangle, below the pink
7 rectangle is the second officer's squad?

8 A Yes, ma'am. And must I remind you, like, my car is like
9 up so I'm not a great drawer, but their cars are more
10 like towards the butt of my car, because my trunk was
11 right there.

12 Q All right. And the trunk was still open?

13 A No.

14 Q Okay. What happened next?

15 A So then, the second car pulled up. He was over there
16 talking to -- or this first car was over there talking to
17 Nolan, now that I know his name.

18 Q All right. So, now that you know his name you can call
19 him Glisky.

20 A Okay. Officer Glisky was talking to Nolan. Then the
21 second cop car pulled up and then, by that time, he
22 walked over there, where Glisky and them was and Glisky
23 told him to check the trunk. So, I'm assuming Nolan was
24 telling him where, you know, what's going on or what he
25 saw by that time because he just said, check the trunk.

Suttles - Direct

1 And that's when the trunk started to get checked and
2 stuff.

3 Q All right. What happened next?

4 A So, then he started to check the trunk and then, next
5 thing you know, Glisky, he was over there talking to him.
6 He went back towards the money.

7 Q Excuse me?

8 A Officer Glisky.

9 Q Don't say he because we don't know who you are talking
10 about.

11 A Oh, okay. Officer Glisky went back towards the front of
12 the car where my money was. My money was out. One of
13 the bundles wasn't in there. You could see it a little
14 bit on the hood of the car. Like they was going to start
15 counting it there. Menton or whatever this guy's name
16 is, as I found out later, has -- well, um, he was already
17 checking the trunk. That's when him and Glisky started
18 going through the car even more, you know, like checking
19 the trunk and inside the Caddy and all this stuff. But,
20 by that time, it was just so much stuff going on that
21 it --

22 Q All right. So where was -- could you see your money at
23 this point?

24 A Yeah, it was still on the hood of the car. I was right
25 in the car that the money was on the hood?

Suttles - Direct

1 Q All right. What happened next?

2 A So then, they kept going through the car and going back
3 towards their cop car, so there was so much stuff going
4 on. And all I could see is items being moved, so from
5 around -- from them walking around. So, I didn't know
6 what to do. You know, I was just sitting there, like,
7 hey, where's my money? That's my money. That's my
8 money. That was my main concern at that time, because I
9 seen how they was looking and how they counting it and
10 all that and I'm like, you know, I was just here for a
11 ride. You know, I just kept repeating it over and over
12 again, yelling it out the car as they had me in cuffs.

13 Q What happened next?

14 A So, then they had, after him and him start -- Officer
15 Glisky and the second vehicle, they were collaborating.
16 Stuff was going from the car, whatever they was doing.
17 And he just stuffed a whole bunch of different items that
18 I had never seen before, getting moved through hands, so
19 I didn't know what was going on about that part. My
20 concern, at that time, was my money.

21 Q Okay. What happened next?

22 A So then, another female cop came around the corner. And
23 she came around the corner, she started talking to the
24 second cop and Glisky. And then they start collaborating
25 and talking and stuff and that's when they moved my money

Suttles - Direct

1 from here and they proceeded over to the second vehicle
2 where this Glisky and Alvarez had the money. And the
3 second officer had my purse. And they were over here by
4 my purse for a while with the money.

5 Q Now, you said the female officer came. Did she come on
6 foot or in a car?

7 A I don't know. I don't know. She came around this way.
8 I don't know if a car, because I couldn't see that far
9 back. I must I remind you, I'm detained.

10 Q But, you just saw her as a she approached?

11 A I just seen a female officer walking up around that way.

12 Q And can you describe her, physically?

13 A She's like, I want to say, brownish blond, I want -- I
14 don't know if she's taller than me or not because like I
15 said, I'm in the car and I don't know if she had blue or
16 green eyes. But I just know she was the only female
17 officer there, so -- that I seen that whole night.

18 Q What race?

19 A A Caucasian.

20 Q Okay. I'm going to ask you to slow down, again. Okay?

21 A Okay. Sure.

22 Q And then make sure I get to be done talking before you
23 start?

24 A Okay.

25 Q Because our court reporter is really working hard here?

Suttles - Direct

1 A I'm sorry. The baby is moving. I'm trying my best.

2 Q All right. So the -- who had the money at that point?

3 A Glisky handed the female officer the money and the second
4 officer had my purse.

5 Q And what happened next?

6 A So then, they were over here collaborating from the front
7 of the car. And then that's when Glisky and then Alvarez
8 was still dealing with the money. They proceeded towards
9 the back. Glisky handed the second officer my purse.
10 She was still dealing with the cash. And then, that's
11 when they all -- like they came back over here and
12 started dealing with the car again.

13 Q By the car, you mean your car?

14 A Yes.

15 Q What happened next?

16 A So then, as they're dealing with the car and all of the
17 stuff that was coming out that I ain't never seen before,
18 you know. Like I said, it was just stuff that they were
19 moving around and you know, I'm looking at them. You
20 know, they didn't have no gloves on. They didn't have
21 anything on. They were just grabbing things and I'm
22 starting to -- now, I'm starting to worry because I'm
23 like, what is going on? You know. And then, like within
24 minutes of them going and doing this and talking to
25 Thomas Nolan, somebody popped their head out. And Nolan

Suttles - Direct

1 said, that's one of the guys that's in the building. And
2 then after that, whatever, they would go right here,
3 that's when they focussed the attention to that door?

4 Q All right. What happened next?

5 A So then, they focussed their attention to the door. Next
6 thing you know is all you see is cops pull out guns. And
7 I'm like, oh, snap, like them are some big guns, you
8 know. I'm like I seen them on TV, but them are some big
9 guns.

10 Q Do you, yourself, own a gun?

11 A I own a shot gun.

12 Q Do you own a pistol?

13 A No.

14 Q Did you have any kind of .44 Magnum rounds in your glove
15 compartment?

16 A No.

17 Q What happened next?

18 A So then, as they came, they started pointing towards the
19 guns -- pointing the guns towards the door. That's when
20 Nolan was trying to come over there and he kept saying
21 get out, you're stopping a police investigation going on.

22 Q Who said that?

23 A The police said it to Nolan because he was trying to come
24 up all in there and that's when the guns, trying to
25 figure out who ran back in the building, since that's

Suttles - Direct

1 what he said. They just ran back in the building.

2 Q Okay. What did you see next?

3 A So, then, next thing you know, Glisky and this uniform
4 get on the phone, start calling more people or what not.
5 I don't know. I just know they were dispatching. You
6 could hear it on the cop's radio because I'm still in the
7 car at the time. So then, I get a phone call, because my
8 phone is still in my pocket. And I can't answer it,
9 because I got cuffs on. So it rung the first time and
10 that was all.

11 Q Okay. Then what happened?

12 A So then -- and that was around the time when all the
13 commotion come and they had the guns pulled out. So
14 then, Menton, after -- I don't know what else was said,
15 because like I said, that's like I said, they was talking
16 and then they was all figuring out what was going on with
17 Nolan. He came to the car and opened the door and was
18 fixing to ask me questions and the phone rang again.

19 Q What happened then?

20 A So then, all I heard was Daniel telling me, hey, man,
21 what's going on. Tell the cops I want to come out. We
22 ain't got no guns. You know, what's going on? And
23 before I could even explain to him anything, because I
24 still didn't know, that's when Menton, or now I know his
25 name, the second officer through the report, Menton,

Suttles - Direct

1 grabbed the phone and he said it again to him. And they
2 closed the door on me again. And then, that's when they
3 was saying, well, won't you turn yourself in. And they
4 were like, well -- and like I said, that was -- I
5 couldn't hear their conversation after that, so --

6 Q Okay. And did you ever talk on the cell phone, again,
7 after that?

8 A No.

9 Q Because the police had it?

10 A They had it by then.

11 Q You were still in the back of the first squad?

12 A Yes.

13 Q And could you hear what people were saying outside?

14 A No, I just kept hearing them say, the guy said -- which
15 they didn't -- wouldn't say his name, but I know him,
16 Nolan saying that there is two more people in there. And
17 something about he heard noises and all of that. And
18 they was giving him a brief of what was, you know, the --
19 Nolan was saying to him, so --

20 Q All right. And what did you see next?

21 A So then, after all that, and then Alvarez and then he ran
22 out, that's when they -- and then they called me, that's
23 when all the commotion was going on and all you just
24 seen, a whole bunch of cops running around with guns
25 trying to figure out a way to get into the building to

Suttles - Direct

1 figure out how to get them and stuff. So, Alvarez and
2 them, they just -- they kept disappearing. You know,
3 they never stayed consistently in one spot. It was like
4 if I was to the best way to describe it, it was like a
5 movie scene of police popping in and out and with
6 different objects and at different locations. They was
7 back here, too, and doing some weird stuff. So, I really
8 couldn't say, because my main concern, like I said, was
9 my money at that time.

10 Q And did you have any idea where it was at that time?

11 A No. I just know the last place it went after they --
12 Menton handed Glisky the purse, that's the last I seen
13 it. So I'm assuming it's somewhere in their car.
14 Because then I'm worried about the guns, too, because I
15 was saying, don't shoot. Don't shoot. Don't shoot.
16 Because I'm like, oh wow, these are some big guns.

17 Q Okay. Take a deep breath.

18 A Okay.

19 Q So did you see -- could you see any doors that people
20 were going in or were you not able to see that? Or I
21 mean, coming in or going out or anything. Could you see
22 doors open or not?

23 A No, because I mean the doors was right next to each
24 other, so it was like you really couldn't see what doors
25 they was accessing at that time.

Suttles - Direct

1 Q All right. Did you see some police go into the building
2 at some point?

3 A Yes.

4 Q And then, what's the next thing you knew?

5 A All I know is after they starting talking and you see the
6 female officer go with Nolan -- or some go upstairs and
7 then they just talking over here, like by the doors area
8 and stuff. Like I said, I never seen what door. I just
9 know there was some doors right here, like right, right,
10 consecutive next to each other. So with the dark
11 building -- like a building being that big and how it was
12 shaped, you wouldn't know if you ain't never been there.

13 Q So -- and I just want to clarify something. You drew in
14 fact a little oval of where Nolan was standing at one
15 point. You drew an "X". Were those ground level
16 positions?

17 A Yes.

18 Q And then, how long do you think you were there in that
19 squad?

20 A Like -- it all happened within five, way less than 10
21 minutes. It was a few minutes. Like I said, (snapping
22 fingers) it was very fast, like boom, boom, boom.

23 Q All right. And then, did you see Mr. English at all
24 come out of the building?

25 A When they -- when he said -- when they was talking and he

Suttles - Direct

1 said, hey there is one of them right there. All you
2 could do is see a little red thing pop out. And that,
3 you know, that -- that's when they noticed it. But
4 before that, you know, they was too busy trying to figure
5 out what was going on.

6 Q All right. Did you see Mr. Drljic come out of the
7 building at all?

8 A You could see shadows -- you could see like something,
9 somebody, but like the main thing that popped out what I
10 could notice was the red thing, that's what I could see
11 at that time. Because I'm in the cop car and you can
12 only see so far when you in the back seat. So --

13 Q Did you see anyone -- could you see the front of the
14 building at all?

15 A No.

16 Q And were you -- did anything else happen from your
17 vantage point before you were taken downtown?

18 A Well, besides the fact of the guns, my -- the funniness
19 with my money and just how that they was dealing with
20 stuff around the car. And I didn't see none of them have
21 gloves on, I mean, the only second thing was when I got
22 transported.

23 Q All right. Did you -- were you taken downtown in the
24 first squad car or a different squad car?

25 A No, they transferred me.

Suttles - Direct

1 Q Where did they transfer you to?

2 A They transferred me to the second vehicle.

3 Q The red triangle?

4 A Yes. They transferred me to the second vehicle.

5 Q Okay. And who ended up driving you down to the LEC?

6 A A female officer that said, we're going to have a good
7 Christmas on your money. Because that's all I kept
8 asking about was my money; and the male officer, which I
9 don't know the name of.

10 Q You don't know his name?

11 A No.

12 Q And when you got down to the LEC?

13 A Uh-huh.

14 Q Did you see Mr. English down there?

15 A Yeah, we -- it was one big common area, so everybody
16 passed everybody like going through either getting locked
17 into different cell areas.

18 Q Did you see Mr. Drljic down there?

19 A Yes.

20 Q And was there any conversation at that point?

21 A No. I just kept saying, my money, my money. Where's my
22 money? Where's my money? And she walked in there with
23 me and she was like, oh, we're going to have a good
24 Christmas on your money, like real confident and
25 boastful. And I'm like, you ain't getting my money. I'm

Suttles - Direct

1 walking out with my money. And that's what I kept
2 telling her, over and over again.

3 Q Did you have gloves on that night?

4 A No.

5 Q Did anyone come over in your car with you that night?

6 A No.

7 Q What was the color of your jacket?

8 A It was a brown jacket, a dark brown. And then there was
9 a hoodie, because the zipper was broke on it. And it had
10 like red, green, yellow, blue colors in it.

11 Q I'm showing you Exhibit 21.

12 MS. CLARK: May I approach, Your Honor?

13 THE COURT: Yes.

14 BY MS. CLARK:

15 Q I'm going to ask you about some objects. First of all,
16 can you tell where in your car this seat is?

17 A This is the back, looks like the back driver's seat. The
18 driver's seat back.

19 Q Okay. Do you recognize that roll of duct tape?

20 A If anything, it could have been in the trunk. We do
21 murals.

22 Q Did you have it in your pocket?

23 A No.

24 Q Do you know whether it was in the trunk?

25 A Everything was in the trunk. The whole cab, front part

Suttles - Direct

1 was clean.

2 Q I'm not asking you about what was here. I'm asking you,
3 do you know whether or not it was in the trunk or are you
4 just presuming?

5 A I'm presuming.

6 Q All right. What about the pair of kind of yellowish, tan
7 gloves here?

8 A No.

9 Q Do you recognize those?

10 A No.

11 Q Do you recognize a pair of black -- it's hard to tell if
12 it's one or two, black gloves?

13 A No.

14 Q Do you recognize these screw drivers?

15 A Not off hand, no.

16 Q And do you recognize this remote control?

17 A Yes.

18 Q What is that?

19 A That's to my other -- my Kenwood face, to my green Olds.

20 Q It's for your Kenwood stereo for a different car?

21 A Yes.

22 Q And then, what about that purple glove, do you recognize
23 that?

24 A Well, I know we have some gloves in the trunk of our car
25 from tattoos, but I don't remember what color they were,

Suttles - Direct

1 so --

2 Q When you say you had gloves for tattoos, how would they
3 have been in the trunk; do you know?

4 A They were in -- because there is very much sterilization
5 process with tattoos when you're dealing with skin and
6 flesh. They're in a box.

7 Q You mean like they come in?

8 A Yes, the box that they come in. You can't cross
9 contaminate. You can get in trouble for that, so --

10 Q Now I'm showing you Exhibit 10-A. And I would like you
11 to -- I don't want you using this. Let me give you a
12 different color here. I would like you to draw a circle
13 around, with green, objects that you recognize were in
14 your trunk when you drove over there that night.

15 THE COURT: Counsel, can you approach.

16 (Counsel approached the bench and an
17 off-the-record discussion was had.)

18 THE COURT: All right. We're going to have to
19 take a break to give the reporter's hands a rest. So, it
20 will be 10 minutes.

21 COURT REPORTER: Fifteen, please.

22 THE COURT: Okay. Fifteen minutes.

23 (Recess taken. The Jury returned to the
24 courtroom and the following proceedings continued.)

25 THE COURT: All right. Please be seated. Ms.

Suttles - Direct

1 Clark.

2 MS. CLARK: Thank you.

3 BY MS. CLARK: (Resuming)

4 Q So, if you can quickly take the green pen and circle what
5 you recognize as having in your trunk when you drove over
6 there that night?

7 A (Indicating) I can't really see what that is. But,
8 that's pretty much it.

9 Q What are you saying?

10 A I said I can't see what that really is, so I can't
11 confirm that, but we did have some parts like --

12 Q Okay. Why don't you take your seat. And then I can tell
13 the court reporter can't hear you if you point your mouth
14 that way. So, you circled some things in green?

15 A Yes.

16 Q Just tell us, briefly, what you circled?

17 A A bunch of automatic transmission parts and the Minnesota
18 Health Care employment thingy.

19 Q Because the circle is?

20 A Because the circle is on the bag, if you show the green,
21 because the circle isn't working.

22 Q All right. Then, the automotive thing, put a green "X"
23 on that, too.

24 A I can't see the green circle, even. That's not working
25 so great.

Suttles - Direct

1 Q We'll get there. And then you were saying something.

2 Could you just repeat slowly what you said, you began to
3 say something?

4 A I said, we work on our car, so I couldn't tell what that
5 tool is, so I can't comment on that tool.

6 Q Why don't you take the brown and make a nice big "X" on
7 the thing you recognize?

8 A (Indicating)

9 Q Okay. Looks like a Minnesota there?

10 A Yeah, that's employment guide.

11 Q So, did you have any of these other items in your trunk
12 before you came over?

13 A No.

14 Q Is this something that you say could be auto parts?

15 A Yes.

16 Q But, you can't see it well enough?

17 A Right.

18 Q All right. Now, if you can take the red pen and why
19 don't you put a check mark on the items that Sergeant
20 Strickland left and had you take out at the impound lot.

21 A (Indicating)

22 Q Can you see a kind of a case thing leaned up in the back?
23 Do you know what that is?

24 A Barely, but --

25 Q Do you know what the thing is?

Suttles - Direct

- 1 A No.
- 2 Q Is this something you took out at the impound lot?
- 3 A I believe so, yes.
- 4 Q Why don't you red check that.
- 5 A (Indicating)
- 6 Q So now I'm showing you Exhibit 46. (Exhibit shown to the
7 Jury.) And I'm going to ask you -- tell us, first of
8 all, can you tell what seat of your car this is?
- 9 A Driver's seat.
- 10 Q And do you -- first of all, do you recognize the black
11 gloves?
- 12 A Yeah, those are the gloves we do murals with. It was in
13 the trunk.
- 14 Q All right. What do you mean do murals with?
- 15 A Well, we're outside all day and it's cold. So we need
16 gloves to be able to paint and to tape stuff up and prep
17 it, so we can paint it, whatever design or choice that
18 they want.
- 19 Q So mural as like in a wall painting?
- 20 A Yes.
- 21 Q They were in the trunk when you drove there that night?
- 22 A Yes, ma'am.
- 23 Q Do you know what these bags are?
- 24 A No.
- 25 Q Do you know what this star like looking thing is?

Suttles - Direct

1 A This is that key chain.

2 Q Is that yours?

3 A Yes.

4 Q And have you seen this black glove before?

5 A No, I haven't seen that black glove.

6 Q Now, when you were being interviewed by Sergeant
7 Strickland the night after you were taken to jail --
8 first of all, you agreed to talk to him?

9 A Yes.

10 Q Did you tell him anything about the money?

11 A Right away.

12 Q Do you remember what you said to him?

13 A I asked him first, how much was inventory, like, where is
14 my money? And he told me an amount. And I said, that's
15 not correct.

16 Q Then what did he say?

17 A He said, well, do you have a way of knowing how much you
18 had? But, by that time he was fumbling, even the tape
19 recorder he kept stopping and playing it through the
20 whole interview. So, I don't know. It was right away,
21 though, when he first came in. After he asked me my name
22 and all of this stuff.

23 Q Did he say how much the report said you had in your
24 purse?

25 A When he told me \$16,025, I started getting very

Suttles - Direct

1 frustrated and I said, no, that is not correct. I said
2 someone stole some of my money right away.

3 Q Now, you heard Sergeant Strickland say today your
4 interview was about 10 minutes. Did you have time to
5 tell him then everything you have had time to tell the
6 jury in this trial?

7 A Yeah, I told him.

8 Q Did you go into as much detail as you did here?

9 A Yeah, I did. But, after the tape, he kept stopping it in
10 between, so I don't know what the conversation is on
11 there, so --

12 Q Do you remember what day you went to get your car?

13 A The 7th he came -- we got it out 5 o'clock, the morning
14 of the 8th, five or six. And he took us to the impound
15 lot around -- the slips in there. I want to say between
16 10 and 11 because he took us to the bank, first, too.

17 Q He took you to the bank?

18 A Yeah, he took me to the bank to cash my check.

19 Q Okay. Then took you to the impound lot and you signed a
20 consent to have him look in your car?

21 A Yes, I did.

22 Q And then, what happened to the things in your trunk?

23 A Well, at that -- after I signed the form and we was
24 downstairs in the garage, I told him about the car
25 leaking. And he's saying don't worry about that right

Suttles - Direct

1 now. Just show me what was put in there. And so then I
2 said, how am I supposed to take it out? Don't worry
3 about it just take it out. It's dusty. I had took it
4 out with no gloves and I sat it on the impound room
5 garage floor. And then, as I set it out, he said, is
6 that everything? All that stuff came out of my trunk and
7 in the back, just a few items that I had in there. Then
8 he said, I don't know -- he left me there with the car.

9 Q When he left, where were the items?

10 A Still on the floor.

11 Q Of this impound garage?

12 A Yes.

13 Q And did you leave?

14 A I couldn't leave right away. I had stuff -- the lady
15 from the impound lot came down and she was very mad. She
16 said he's not supposed to do this. He's supposed to
17 check it in. And it was still on the floor. And then I
18 told her about the car leaking the fluid and she told me
19 to make a report later. So I just pulled the car out and
20 left after that.

21 Q All right. And then you heard Sergeant Strickland talk
22 about Jermaine English coming to talk to him at the
23 western district. Do you recall that?

24 A Yes.

25 Q Just briefly, tell us what you recall about that?

Suttles - Direct

1 A Well, English, cause we was mad after the whole incident,
2 called us and was trying to apologize. We didn't want to
3 hear it. He was like, well, I want to take you all down
4 there and exclude you all from this. We picked him up
5 and drove over to the impound lot. Because he met us,
6 drove him up there and went in and talked to Strickland.
7 And then he said he's the one who offered it. So then
8 once we went in there, we got done talking to Strickland.
9 Strickland asks us a few questions. Are you seeing this?
10 Where the car is parked. Where's he now? He's out
11 there. I just seen English taking off from the car, like
12 running across the street. And you see a cop coming and
13 running across the street. Strickland radioed on the
14 phone, pick him up, you know, so then they picked him up,
15 brung him back. English came in and when he came in, why
16 you running? You the one who told us to bring you there,
17 you know. And he just looked. And then he was going to
18 arrest him. Strickland, I'm not going to arrest you. I
19 just want to know what happened.

20 Q All right. So you heard Jermaine English testify that
21 you and Mr. Drljic told him what to say to Strickland or
22 something like that. Is that accurate?

23 A He said I exclude them. And then they went to the back
24 and Strickland wouldn't let me back there, so I don't
25 know. Jermaine, Strickland was on their own after that.

Suttles - Direct

1 Q But, what I'm saying is had you told Mr. English what to
2 say?

3 A No.

4 Q Did you know the particulars of his relationship with Joe
5 or anything?

6 A No.

7 Q When did you learn that you had actually been charged in
8 this case?

9 MS. LAMIN: Your Honor, may we approach?

10 THE COURT: Yes.

11 (Counsel approached the bench and an
12 off-the-record discussion was had.)

13 BY MS. CLARK:

14 Q Well, so you didn't know you were going to be charged
15 until March; right, of 10?

16 A Yeah.

17 Q So, here's the question. Did you know that you needed to
18 preserve your own cell phone records?

19 A I told Strickland, no, at that time, but I told
20 Strickland then to get the police car cameras.

21 Q I'm not asking you about that.

22 A Okay.

23 Q Did you know before you were charged that you might need
24 your cell phone records?

25 A No.

Suttles - Direct

1 Q Did you try to get your cell phone records after you were
2 charged?

3 A Yes. And the cameras.

4 Q Were you able to do that?

5 A Nope.

6 Q Do you recall the date that you actually received money
7 back?

8 A The 16th of December.

9 Q And did you take some documents in to Sergeant
10 Strickland?

11 A I did the client form. I took the pictures of the
12 tattoos and I took the receipts and I took some
13 statements from the money that we have received; yes, I
14 did.

15 Q And how much did you get back?

16 A \$16,025.

17 Q Now, after you learned you were charged, did you go over
18 and tape record a conversation with Sergeant Strickland
19 at the western district?

20 A Right away.

21 Q Did you preserve that audiotape?

22 A Yes, I did.

23 Q Did you make a transcript out -- excuse me, make a
24 transcript of the conversation?

25 A Yes, I did.

Suttles - Direct

1 Q Did Sergeant Strickland say to you that day when you were
2 talking to him about the money, I didn't think you were
3 really -- oh, I understand. That's why I gave it back to
4 you. I didn't think you were really involved in it?

5 A Yes, he did.

6 Q Did you try to talk to Sergeant Strickland again after
7 that conversation?

8 A After that, he called me, asking for Mr. English's
9 number.

10 Q For Mr. English's telephone number?

11 A Cell phone number, yes.

12 Q Do you recall what he said about that?

13 A He called me and he said, yeah, Ms. Suttles, do you know
14 Mr. English's number? And I told him the number,
15 701-something back then. And then I said, well, have you
16 heard anything else? What's going on? And he said the
17 prosecutor told me I can't talk to you no more.

18 MS. CLARK: No further questions.

19 THE COURT: All right. Ms. Lamin.

20 MS. LAMIN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. LAMIN:

23 Q Good afternoon, Ms. Suttles?

24 A Good afternoon.

25 Q So Ms. Suttles, around 4:14 a.m., you went to get gas; is

Suttles - Cross

1 that correct?

2 A I didn't say 4:14. I said it was around that time. Four
3 something. About then, yes.

4 Q Okay. So you went to go get gas on your way to
5 University and Raymond?

6 A Yes.

7 Q Is that correct?

8 A Yes.

9 Q Okay. And you went there because somebody told you you
10 would get money for helping out?

11 A Helping English and whoever in the background with him,
12 yes.

13 Q So you went at 4:14 in the morning to help someone out so
14 you could get some money; is that correct?

15 A The time you're saying, I said it was around four
16 something. So let's get that correct.

17 Q But, you went there. How short money were you to try to
18 get your business going?

19 A When I had \$17,450 -- \$16,025 is about what, \$1,425
20 missing.

21 Q Okay. So, you needed some more money to start your
22 business, correct?

23 A Yes.

24 Q And you were really close to getting enough money for
25 your business, is that correct?

Suttles - Cross

- 1 A We were getting close, yes.
- 2 Q So at 4:18 in the morning, you left your warm house and
3 went to University and Raymond, around four-ish in the
4 morning, you left your warm house and you went to
5 University and Raymond to do something so you could get
6 some money?
- 7 A The time frame; but, yes, around four something. But, in
8 the time you're saying, 4:18, because that would --
9 that's conflicting, so -- but, yes.
- 10 Q And when you went there, you drove in the alley from
11 Raymond; is that correct?
- 12 A Yes.
- 13 Q Okay. And so you passed Keys Restaurant; correct?
- 14 A Keys Restaurant.
- 15 Q You passed businesses?
- 16 A Yes.
- 17 Q Okay. The businesses were closed, correct?
- 18 A Except a bar, the billiards.
- 19 Q Okay. The alley you rolled down, the businesses were
20 closed?
- 21 A Every one was closed where I pulled into, yes.
- 22 Q So at 4, around 4 a.m., you drove to University and
23 Raymond. You drove down an alley of closed businesses;
24 is that correct?
- 25 A Yes.

Suttles - Cross

1 Q At that time -- so, Mr. Drljic had left earlier, correct?

2 A Yes.

3 Q And he left on foot?

4 A Yes.

5 Q So he could walk from your place to University and
6 Raymond?

7 A Yes.

8 Q You said you're engaged to Mr. Drljic; correct?

9 A Yes.

10 Q Sounds like you love him very much?

11 A Yes.

12 Q You're there for each other in good times?

13 A Yes.

14 Q And there for each other in bad times?

15 A Yeah.

16 Q You do whatever you can to help each other out?

17 A I got kids, first. So, my kids come first, but yeah.

18 Q If Mr. Drljic is in trouble, you're there to help him?

19 A If it's going to be jeopardize my kids, no.

20 MS. LAMIN: No further questions, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. CLARK:

23 Q You mentioned a billiard place being open. Do you know,
24 were they serving liquor?

25 A I think so. I never been there before. I just knew I

Suttles - Redirect

1 seen people there that night.

2 Q Where's it in relationship to the building we have been
3 talking about?

4 A Can I take it off?

5 Q If it helps you.

6 A There is another side, this is University, this side
7 right there, looking where the -- actually -- well,
8 actually take it back. University is right here and is
9 looking all the way you can see these parking lots. You
10 can see all the building, the second and the third
11 parking lot, like right there in the middle of them two.

12 Q The billiards place?

13 A Yes, like right here on the other side of the street.
14 Here's the alley way to the building.

15 Q On the other side of the street?

16 A On the other side of the street.

17 MS. CLARK: All right. Nothing further,

18 MS. LAMIN: Nothing from the state, Your Honor.

19 THE COURT: Ms. Suttles, you may step down.

20 MS. CLARK: Your Honor, the defense calls

21 Daniel Drljic.

22 Thereupon,

23 DANIEL DRLJIC,

24 The Defendant, first having been duly sworn, was examined
25 and testified as follows:

Drljic - Direct

1 THE CLERK: Please state and spell your full
2 name for the record

3 DEFENDANT DRLJIC: My name is Daniel Drljic,
4 D-R-L-J-I-C, last name, D-A-N-J-I-E-L.

5 DIRECT EXAMINATION

6 BY MS. CLARK:

7 Q Mr. Drljic, I just want to ask you a couple questions
8 about yourself. Where were you born?

9 A I was born in Bosnia.

10 Q How old are you?

11 A I am 33 -- well, 34 now.

12 Q Didn't mean to ask you the tough ones right away. When
13 did you come to the United States?

14 A I came to United States exactly on May 1st, 94 from
15 Germany. I lived there for two years previous to coming
16 here. I was refugee there with my mother..

17 Q Refugee there with?

18 A My mother. And I came to United States May 1st, 94 from
19 Frankfurt, Germany, where I lived. I was a refugee.

20 Q Okay. Just keep your voice up a little bit.

21 A Okay.

22 Q Thank you. What were you a refugee from when you moved
23 to Germany?

24 A I was a refugee from ethical cleansing and genocide.

25 Q And was it your people who were the victims of the

Drljic - Direct

1 genocide?

2 A Yes.

3 Q And I don't want to go into it too much, but just
4 briefly, what did you experience with regard to that?

5 A Well, back in 91 and 92, when the war started, I was 13.
6 And I experience -- I was shot at and I was shot. And I
7 have experienced just the war, of you know, digging
8 graves in a park, because the military want to save gas
9 for the military purposes and not for the bobcats. So
10 they had the young guys like us dig graves.

11 Q And did the soldiers wear uniforms?

12 A Yes. Enemies wear uniforms.

13 Q When you came to the United States, May 1, 1994, how long
14 did it take you to get a job here?

15 A I got a job on May 3rd, 1994.

16 Q What did you do?

17 A I work as a dish washer at National Car Rental, 7600
18 France Avenue in Edina.

19 Q And did you continue doing that or why don't you just
20 briefly describe for us what you did for a living for the
21 next --

22 A Well, I --

23 MS. LAMIN: Your Honor, may we approach?

24 THE COURT: Yes.

25 (Counsel approached the bench and an

Drljic - Direct

1 off-the-record discussion was had.)

2 BY MS. CLARK:

3 Q So, just briefly, tell us what kinds of work you did
4 after you came here?

5 A Well, I came 94, as I mentioned. And 95, I worked for
6 this very courthouse as a general security services, at
7 the metal detectors, which used to be across the street,
8 back in 95. And in 96, I also worked for the family
9 courthouse, as well as metal detector, as a security
10 officer.

11 Q Did you get any schooling here?

12 A Yes, I have culinary arts degree.

13 Q And did you -- just briefly, did you put that to use?

14 A Well, I'm still trying to open up my own restaurant. I
15 managed my mother's business for about 12 years,
16 successfully. I did all the books, payroll and
17 everything else. Two businesses.

18 Q Did you stay pretty busy?

19 A Yes, I always had two or three jobs. I work for St.
20 Catherine's College as security as well. I did roofing
21 and I worked pretty much all the time.

22 Q And how did you get into tattoos?

23 A Well, I thought that it would be lucrative to do tattoos.
24 I have done numerous portraits, oil on canvas, for
25 different judges for Minnesota court.

Drljic - Direct

1 Q And so you have a, like an artistic side?

2 A Yes. Yes.

3 Q Is doing tattoos a little bit like painting?

4 A Yes. I have also did a mural in 2008, for City of
5 Minneapolis that was voted for the best mural in 08. And
6 I was rewarded \$5,500 for the City of Minneapolis.

7 Q So, tattoos are like doing a mural on a person's body?

8 A Yes.

9 Q Did you have your own shop or did you work somewhere
10 else?

11 A I worked at the Tattoo Asylum for three years before I
12 got my own license. That's where I work before I opened
13 up my own shop.

14 Q Where did you first meet Jermaine English?

15 A I met him, he was trying to sell me some weed on the
16 street. That's how I met him.

17 Q Did you buy it?

18 A No, I didn't buy it. I offer him tattoos. And he came
19 to Tattoo Asylum, where he sign a client consent form on
20 January 14th, 2009. That's where he got his first
21 tattoo. And that shop is still in business. It's on
22 85th and Central in Spring Lake Park?

23 Q Did you show that client consent form to Sergeant
24 Strickland?

25 A That's what he wanted to see because at the LEC he asked

Drljic - Direct

1 me how I know him. And that's all he needed to confirm
2 that I was telling the truth. I had a copy of the
3 consent form right there with English's signature. So I
4 showed it to Sergeant Strickland?

5 Q So, if English's first tattoo was in the beginning of 09,
6 did you do some other tattoos on him?

7 A Yes, I have done actually all of his tattoos. I done his
8 tattoos on his hands, neck and on his back. And I have
9 done all his tattoos.

10 Q Now, you heard Ms. Suttles tell about Mr. English giving
11 you guys a ride a couple times. Do you recall that, as
12 well?

13 A Yes, it was the wintertime. He wanted to get a tattoo.
14 I told him I couldn't go anywhere and I wasn't working
15 that day and he offered to come and drive us and have our
16 tire changed.

17 Q So that he could get his tattoo?

18 A So he could get a tattoo, yes.

19 Q You have to let me finish talking because she can only
20 take one of us at a time. Okay?

21 A All right. Pardon me.

22 Q Did you hang out with Jermaine, like party with him and
23 have him over to your home and stuff?

24 A No.

25 Q You also heard Ms. Suttles talk about the two of you

Drljic - Direct

1 wanting to open up your own tattoo parlor. Anything that
2 you need to add to what she said?

3 A To open up --

4 Q Opening up your own tattoo parlor?

5 A Well, I just -- it was hard to get a place. We were --
6 we had filled out three different applications for three
7 different locations, which were pending.

8 Q Were they pending in December, 09?

9 A Yes. Yes. Jim Stewart (phonetic) owner of Stewart
10 Realty, he is supposed to rent us a place, but he ended
11 up renting it to another hair salon, just because hair
12 salon was previously at that location and he didn't want
13 us to make any adjustment to his property.

14 Q So, around December 5, 2009, did you think you might be
15 closing any day on a property?

16 A Yes. Yes. We were trying to close before that. We were
17 trying to close in June ever since we withdraw that cash
18 out of TCF trust account.

19 Q And you heard Ms. Suttles describe where the money had
20 come from; your father's 401K and some gifts from your
21 folks. Was that accurate?

22 A That's accurate, yes.

23 Q Had you also been making some money doing tattoos?

24 A Of course. I worked for the Eastside Tattoos on Fourth
25 and Lake Street. And I made \$1,400 dollar in one day.

Drljic - Direct

1 Q So in the early morning hours of December 6, 2009, where
2 were you?

3 A I was winding down. I was at home with Tamika Suttles.

4 Q Someone call you?

5 A Yes.

6 Q Why don't you tell us about that, briefly?

7 A I received a phone call from Jermaine English.

8 Q What did he ask you to do?

9 A To come and help him bring some stuff out of the
10 basement. He was moving some stuff and he needed it very
11 bad.

12 Q Why did you agree to help him?

13 A Well, I didn't agree, at first. I thought it was way too
14 early, but he kind of -- he kind of looked out for us
15 when our tire was broke down and I -- I didn't know much
16 about Jermaine English record. I didn't know he had a
17 record at the time.

18 Q You mean a criminal record?

19 A Criminal record, no. So I wasn't thinking much. I was
20 thinking of him as a lucrative client.

21 Q So what did you do?

22 A Well, I decided to go and help.

23 Q How did you get over there?

24 A I walked because Tamika didn't want to get up and leave.
25 And she didn't want to give me a ride. She didn't want

Drljic - Direct

1 to drive up there.

2 Q How long did it take you to walk there?

3 A Approximately, I would say, 15 minutes to 20 minutes.

4 Not longer than that. It's -- the way he described it,

5 he said he's right on University. And Tamika lives on

6 27 -- 2807 St. Mary's, which is only two blocks from

7 University. So, I figured it will be relatively close.

8 Q And what did you observe when you first got there?

9 A Well, he was outside, talking on the phone. And he was

10 trying to get a vehicle and we were just standing

11 outside. And --

12 Q Do you know who he was talking to?

13 A Yes, I -- no, he was talking to two different persons.

14 He was talking to a male and female. First, he was

15 talking to a male which I can tell by the tone of the

16 voice he was very agitated. He just needed to get the

17 ride and he didn't have a ride. And he was telling this

18 person to come back, come back and come back. And then

19 he was clicking over and was talking with different tone

20 of voice to his girlfriend. He was telling -- he was

21 talking nicer, so I could tell it was two different

22 people. He was trying to convince her to come, too.

23 Q Come pick him up?

24 A Yeah, he was talking to them about the same thing, just

25 different tone of voice to different people.

Drljic - Direct

- 1 Q What happened next?
- 2 A He ended up calling Tamika.
- 3 Q Did you hear him call Tamika?
- 4 A Yeah.
- 5 Q What did he say?
- 6 A Well, I told him that she doesn't want to come, but he
7 called her, anyways.
- 8 Q And what did he say?
- 9 A Just come. I can't recall exactly the words that he was
10 saying, that he was using to call her; but, in my own
11 words, he was calling her to come and pick him up.
- 12 Q Did you end up calling her, as well?
- 13 A Yeah. Yeah, after I think she told him no.
- 14 Q Did you call from -- what phone did you call from?
- 15 A I called from my phone after he spoke to her.
- 16 Q And what did you say?
- 17 A I was trying to convince her, too. And I think she was
18 coming at that point, but I remember exactly that my
19 phone had just run out of juice while I was speaking to
20 her, yes.
- 21 Q What happened next?
- 22 A He was on the phone, again, calling this other guy that
23 he was speaking to. And he was telling him to come down
24 and -- come down and -- I never saw the guy.
- 25 Q Then what happened?

Drljic - Direct

1 A We proceeded towards the door. He wanted to show me the
2 stuff that he needs help bringing out.

3 Q What was your understanding of what the stuff was or what
4 you were going to be helping him with?

5 A Boxes. I wasn't certain if there was his stuff to move
6 or somebody else's stuff. My understanding was he needed
7 help to bring some boxes upstairs from the basement.

8 Q What happened next?

9 A We walked towards the door and I observed that on the
10 side of the door, it was piece of wood missing. It
11 was -- it looked like a chipped. The door was wide open
12 and as I looked inside, everything else was very dusty.
13 It was disorganized. It didn't look like anything that
14 needs to be moved from there. It just -- it was a lot of
15 just different tools and dust and it pretty much, at that
16 point, after I saw in the inside, it matched the door,
17 the way the door looked. So I really didn't think of
18 anything, yet, at that point.

19 Q Were the lights on or off?

20 A It was -- the lights were off on the inside. The lights
21 that I could see that were coming from the store window.
22 They were coming through the store, from the front store
23 window, the lights from the street lights were coming in
24 to -- just the little lights, not -- little lights from
25 the street. Because when you walk in the back door, if

Drljic - Direct

1 you look straight ahead, there is the window. You can
2 see the way far back window and there would be the front
3 of the store, that I understand.

4 Q You understand that now?

5 A I do, yes.

6 Q Had you ever been in that building before that night?

7 A No.

8 Q So, what was your thought when you saw this dusty place?

9 A Not much. My question was, what am I going to bring?
10 What am I going to help with.

11 Q Okay. What happened next?

12 A He walked me through the dusty place and he was looking
13 around and he moved certain objects by the door, like
14 weird stuff. I remember it was a tank, air tank, that he
15 picked up and he put it by the door and just some
16 miscellaneous stuff.

17 Q What happened next?

18 A He gave me the light and he said that we go into the
19 basement to pick up. And there was no -- it was even
20 darker downstairs. There was no light downstairs at all.
21 It was no light at all.

22 Q And did he tell you why you were going down to the
23 basement?

24 A Well, I was pretty much asking, you know, what does he
25 need help with; at that point, while he was moving the

Drljic - Direct

1 stuff while we was still on the main floor, upstairs. So
2 he told me we're going to go bring the stuff up here, the
3 boxes. He didn't tell me what kind of boxes or what was
4 in the boxes. My whole purpose of coming there is to
5 help him bring the stuff up. I didn't think about that
6 we was going to have to drive that stuff anywhere or that
7 he needed a car at all, at that point, until I got there.

8 Q What happened next?

9 A I came downstairs to the basement and it was dark. I
10 looked to the right and looked to the left. And the
11 boxes was just piled up right next to the stairs when you
12 come down.

13 Q What kind of boxes?

14 A I couldn't see exactly what kind of boxes, like what
15 exactly was in there, but at that point, I saw it was
16 labeled with like liquor names. But, you know, people
17 put stuff, you know, in any kind of boxes, so I wasn't
18 certain was there liquor in there.

19 Q You mean you thought someone might have been reusing a
20 liquor box?

21 A Yeah, like you're moving stuff. It was different,
22 various sizes of the boxes in there and they were all
23 stacked up.

24 Q What happened next?

25 A I followed him towards the pile of boxes and I looked to

Drljic - Direct

1 the left and I saw, there was doorway. But, the plywood
2 was on the left side of that, as I -- I had a flashlight.
3 It was not light that you can just turn on the light and
4 you can observe everything. It's kind of like, you can
5 observe only one thing at a time, one specific area at a
6 time. But, I learned quickly that there was something
7 terribly wrong.

8 Q What gave you that feeling?

9 A The door on the right. Because the door on the left
10 looked like it was a doorway and the plywood was opened
11 on the left, which indicated something wrong; but, when I
12 saw the door on the right, just as well, it looked kind
13 of the same condition, I was certain at that point.

14 Q Certain of what?

15 A That this was not good. This was terribly wrong.

16 Q Did you know -- did Jermaine say anything? Did you ask
17 him anything?

18 A No. Actually, I wanted to go outside. I went upstairs
19 to the door and that's -- I didn't come outside the door.
20 I just walked up to the door and that's when I saw, which
21 I learned today, that it's Officer Glisky. Further
22 end -- it was dark in the back, in the immediate area
23 outside the door. But, further back, where Officer
24 Glisky was standing it was -- you could see some lights.

25 Q And so, what did you actually do?

Drljic - Direct

1 A I ran back inside.

2 Q So, what had you -- do you know anything about what door
3 you were at in the diagram there?

4 A Yes. Yes, I do. May I show?

5 Q Yes, can you pick a color that hasn't -- why don't you
6 pick the green.

7 A Okay.

8 Q And what's the Exhibit number at the bottom there?

9 MS. LAMIN: It's 97.

10 MS. CLARK: Thank you.

11 DEFENDANT DRLJIC: Okay. (Indicating) The
12 door was all the way, right in this corner. And there
13 was another metal door right there, which I didn't have
14 any idea and another door and some windows and some other
15 doors right here. So, this is the door.

16 BY MS. CLARK:

17 Q Did you put like an "X" on it or -- an arrow. I see it.

18 A Sure.

19 Q You said you ran back in. But, what did you do? How --
20 did you come actually out?

21 A No, I did not come out. No, I came out --

22 Q Did you open the door?

23 A The door was open.

24 Q Okay.

25 A Door was wide open. Door was open when we first got

Drljic - Direct

1 there, too. That door was never closed. I think I was
2 on the inside, at this point, right here, little "X".
3 That's where I saw the officer right there.

4 Q All right. And why did you run back in?

5 A Well, first of all, I didn't want to come out and
6 surprise. I didn't want to get shot. I have been shot
7 before and I -- and I didn't want to get shot. That's --

8 Q Why were you concerned that you might be shot under those
9 conditions?

10 A Well, I mean, just coming out -- first of all, it was
11 wrong to be there at that time. After I learned what it
12 looks like downstairs. Just coming outside in a dark
13 place, like I had mentioned before, I have been shot
14 before. I have been shot at and I have been shot from a
15 sniper. And I just -- it was my survival instinct. I
16 just walked back there. And I was pretty upset with
17 Jermaine at that time. I remember I was totally out of
18 it. I was just telling him that I wanted to know,
19 what's --

20 Q Was there conversation between you and him then?

21 A Yes. Yes. He was acting pretty normal and he was very
22 calm. He didn't seem excited at all.

23 Q How about you?

24 A My heart was racing and I -- I'm not the doctor, but
25 doctor diagnosed me with post traumatic stress disorder,

Drljic - Direct

1 which I never learn that I had.

2 Q You mean after the war?

3 A Yeah, after the war, after five years my post traumatic
4 stress disorder kicked in really bad. I was just afraid.
5 I wanted to come in a controlled situation. In a control
6 manner, where I can come out to the light where they can
7 see me and at least see my hands up. I didn't want to
8 get shot. I didn't want to get killed.

9 Q And did you and Jermaine discuss that or are you telling
10 us what your thoughts were?

11 A That is what my thoughts were. That's what was going
12 through my head.

13 Q Okay.

14 A I was pretty upset with Jermaine.

15 Q Were you saying anything to him?

16 A Yes.

17 Q What?

18 A Just what? Why? What's going on and stuff like that.

19 Q What did he say?

20 A He give me the mask. He pulled a mask out.

21 Q Where did he pull it out from?

22 A He pulled it out -- he had it in his hand, pockets,
23 jacket.

24 Q Did he say something?

25 A Yes.

Drljic - Direct

1 Q What?

2 A Put the mask on. We're getting out of here. Follow me.

3 Q What did you do?

4 A I put the mask on.

5 Q Why did you do that?

6 A I was afraid. I -- my heart was racing. I didn't think
7 clearly. I was highly agitated and all I could think
8 about is my life, pretty much. I just didn't want to get
9 killed, that's all. I didn't want to get shot at.

10 Q So, what happened after that?

11 A I am not certain. It was very dark inside. I'm not sure
12 which way we exactly went. But, I followed him and we
13 end up in the liquor store, upstairs. I mean, we ran up
14 the stairs. It was dark like I mentioned. We went
15 through some obstacles, like stuff on the floor and boxes
16 and up the stairs. That's when we got to the liquor
17 store and I was going through each and every window,
18 trying to get police officer's attention. And they were
19 all around, surrounded. Cars was everywhere. And I
20 remember I was knocking on a couple different windows and
21 waving and trying to get their attention. And I also
22 remember at one point on the back door, Jermaine told me
23 he picked up the fire extinguisher and he was trying to
24 hand it to me. He says, break this window. And that
25 window was facing the inside in the lobby that was

Drljic - Direct

1 upstairs.

2 Q And did you do that?

3 A No. No. At that point, no. I didn't do that, no. I
4 told him that this just more trouble.

5 Q Then what happened?

6 A At that point, I was, like I mentioned, trying to get
7 attention from police, but I couldn't get attention. And
8 there was squad cars outside. And the lights were
9 shining at the building and nobody -- I couldn't get a
10 hold of anybody by waving. I tried all the windows that
11 were there. I tried the doors. I -- my phone was off.
12 I told Jermaine, please, to call Tamika's number and to
13 tell police officers where we exactly located and we
14 don't -- that I don't have weapons and I confirmed it
15 with Jermaine and that I am giving up. I'm -- I wanted
16 them to come and arrest me at the light, where they can
17 see my hands, where they can see and secure me in front
18 of the door. And that's mainly the area that I kept
19 walking back and forth because on the other side of the
20 door, which doesn't show on the camera, on the video, I
21 saw was officer with a ski mask and a shot gun directly
22 pointed toward the door. And that's why I stood in front
23 of the door, like this with my hands (indicating), just
24 to secure them that I won't make any sudden moves, while
25 other officers would come from behind and secure us.

Drljic - Direct

1 That would be my security for my life. So, he called
2 Tamika.

3 Q So, after the point -- yeah, I was going to ask you about
4 that. So, did Jermaine dial Tamika's cell phone?

5 A He dialed it. He said she's not answering. Then I
6 dialed it and he spoke to -- we both spoke to the
7 officer. I remember speaking to officer, telling him
8 that -- he is asking me, what's your location? Where are
9 you located? Where are you located in the building? And
10 I told him we are in the liquor store. And we didn't
11 have -- the first thing that came to my mind, we don't
12 have weapons. I was concerned about my life. At that
13 point, I really didn't think of anything else, but to
14 come out of there alive.

15 Q Did the officer say anything to you?

16 A Not that I can recall. I can't remember exactly.

17 Q What did you do next?

18 A After the conversation, that's when the officer was on
19 the other side of the door, front door of the liquor
20 store. That's the officer that I couldn't recognize. He
21 had a ski mask on and he had a shotgun pointed towards
22 me. At that point, I was feeling comfortable that
23 somebody -- because he didn't shoot at me. And he -- I
24 trusted him, at that time, that I can just stay there and
25 get secured.

Drljic - Direct

1 Q Is that the point where you can see you putting your
2 hands up in the video?

3 A That's a part of the point. Previous to that, I was
4 putting my hands up and waving, as well, at different
5 windows.

6 Q Okay. And then did some police come in and did they ask
7 you to get down? Did they put you on the ground?

8 A Well, honestly, I took my mask off upstairs and I told
9 Jermaine why do we have -- this is -- would you rephrase
10 that question, again.

11 Q Sure. Well, just finish your thought. You took your
12 mask off and told Jermaine what?

13 A I took my mask off upstairs because it was pointless.
14 You know, I had a couple more seconds to think more
15 clearly.

16 Q Okay. So my question was, when police came towards you
17 from the back?

18 A Uh-huh.

19 Q Did they tell you to get on the ground? Did they put you
20 on the ground?

21 A We were both facing the front door.

22 Q Did you end up on the ground?

23 A Yes. Yes.

24 Q How did you end up on the ground?

25 A Well, we did not move. We could not move while the

Drljic - Direct

1 officer on the other side of the door had a shotgun
2 pointed at us, with the officer with the ski mask on.
3 All I remember that officers came from behind and that's
4 how I went down to the ground.

5 Q You went down?

6 A Yes I, you know, I -- because I didn't want to make any
7 moves. Because officers were yelling on the other side,
8 keep your hands where I can see them. And I would not
9 make any moves at all. I stood there until the police
10 came from behind to go and get on the floor.

11 Q And you heard Officer Glisky say that he identified you.
12 How did that occur? Did that occur at that time? Did
13 police take your wallet?

14 A Yeah, they took my wallet out of my pocket, keys, cell
15 phone that was -- that wasn't charged. It was out of --

16 Q The one that was out of juice?

17 A Yes.

18 Q When did you see those objects again?

19 A I haven't seen those objects, you know, until my release
20 after 36 hours. In the property room, I received my
21 wallet, cell phone and my clothing, which was a gray
22 corduroy pants and I had a very bright Adidas goalie
23 dress, which was bright yellow, like shiny bright yellow.
24 That's the one on the picture that was taken in the LEC.
25 This was the clothing that I got returned.

Drljic - Direct

1 Q When you got out of jail?

2 A When I got out of jail. And my wallet and my cell phone.

3 Q Now I'm showing you Exhibit 120. It says, Employment
4 Authorization Card. Does this -- was this issued to you?

5 A Yes.

6 Q And you say the -- Mr. Rose said that he thought, in the
7 video, that you were putting it on a shelf. Did you do
8 that?

9 A No.

10 Q Did you have a number of IDs in your wallet that night?

11 A Yes. Yes. I had a -- I had my YMCA card, which had a
12 picture on it, as well. I had a State ID. I had a --
13 more than two picture IDs in there. And my wallet, when
14 I got it back, the first thing that I noticed that that
15 wasn't in there.

16 Q By that, you mean, 120?

17 A Yes, by Exhibit 120, that wasn't in my -- that's the
18 first thing that I noticed.

19 Q What is Exhibit 120? Can you just tell us why it was
20 issued to you?

21 A It was issued to me due to the new policy of homeland
22 security. I came to this country when I was 17. I
23 didn't think that I needed to apply for a citizenship.
24 And -- which came issued, later on, because I never
25 applied for a citizenship.

Drljic - Direct

1 Q So, that Exhibit 120 had something to do with your being
2 an immigrant?

3 A Yes. Yes, but I have been here more than half my life.

4 Q Was it a current ID?

5 A At that time, no. That's expired. I have a brand new
6 one in my wallet that is current right now.

7 Q Okay. Same type of ID, but --

8 A Same type. Exact same type of ID.

9 Q All right. Now, when you -- shortly after you were on
10 the ground in the liquor store, were you taken over to
11 the LEC?

12 A Yes.

13 Q Do you recall Ms. Suttles, at the LEC saying anything
14 about her money?

15 A Well, may I say something?

16 Q Well --

17 A Before I was booked in the LEC --

18 MS. LAMIN: Your Honor, objection. No
19 question.

20 THE COURT: Sustained.

21 MS. CLARK: Yes.

22 THE COURT: Do not answer.

23 BY MS. CLARK:

24 Q Just go ahead and answer the questions. Okay? Did you
25 see Ms. Suttles over at the LEC when you first got there?

Drljic - Direct

1 A That's not the first time I seen Ms. Suttles. I saw her
2 in a squad car on the back of the building, because
3 officer that handcuffed me, he put me in the car and he
4 drove back, behind a car that Ms. Suttles was in, in the
5 alley.

6 Q Oh, okay. So you happened to see her in the back of
7 another squad car?

8 A Yes, then.

9 Q And you were being transported in a different squad car
10 over to the LEC?

11 A That's correct.

12 Q Do you know what officer was transporting you?

13 A Yes, I do. He was an very nice officer.

14 Q Who was that?

15 A I, a McGinn (phonetic). I did not forget his name.
16 McGinn. He was a very nice officer.

17 Q Then when you got over to the LEC, did you see Ms.
18 Suttles?

19 A Yes, I had.

20 Q And did you hear her say anything about her money?

21 A Yes, as soon as she walked in. She came after.

22 Q Came after you?

23 A Right. And I kept -- I mean, I hear her through the
24 hallways, just concerned about the money.

25 Q Were you able to be in a room and talk with her or were

Drljic - Direct

1 you separated?

2 A We were separated. We were going through this small area
3 where the booking part is, where there is cells there.

4 And I saw Officer Alvarez coming in.

5 Q Now which one was Alvarez?

6 A Alvarez was the female officer.

7 Q Do you remember her race, hair color?

8 A Yes. I couldn't tell race. She could be anything. She
9 was light skinned, long brownish hair. And I remember
10 exactly, word by word, very loud, she said, we're going
11 to have a great Christmas on your money. That was reply
12 to Tamika Suttles asking and just raising hell about the
13 money.

14 Q Had you seen Alvarez at all at the scene?

15 A I can't remember that I have seen Alvarez on the scene.
16 I seen -- I have seen -- today I learn it's a Nolan. And
17 he's the guy that was smoking the cigarette outside and
18 kept pointing finger at Tamika Suttles, at the car that
19 she was in.

20 Q So, you're saying when the squad drove you around the
21 back?

22 A Yes.

23 Q You saw a guy that you now know the name as Nolan?

24 A Yes.

25 Q And where on the map was he standing? Where on that

Drljic - Direct

1 diagram was he standing?

2 A Well, at that point, the car was behind here. He was in
3 this area. All I can remember is that. I vividly
4 remember him smoking a cigarette and pointing a finger at
5 her, very, very aggressively pointing finger at her. And
6 I also remember officers telling him to -- trying to push
7 him away.

8 Q You mean, like telling him to get back?

9 A Yes. It was very briefly in the back and he pulled off.

10 Q Showing you Exhibit 55. Is that your jacket?

11 A No.

12 Q Did you have your jacket on when you got to the LEC?

13 A Yes.

14 Q Did you have any gloves on when you walked over there
15 that night?

16 A I had my gloves on, yes. I had a black cloth -- or
17 knitted gloves.

18 Q Black cloth glove?

19 A Yes. Black cloth, yes.

20 Q Have you seen as the gloves have been put into evidence
21 in the trial -- have you seen the gloves that we have got
22 in the evidence here?

23 A Yeah.

24 Q Were any of those your gloves?

25 A No.

Drljic - Direct

- 1 Q What happened to your gloves?
- 2 A They were released.
- 3 Q From the jail?
- 4 A From the jail.
- 5 Q Exhibit 63. Is this your flashlight?
- 6 A No.
- 7 Q Did you see it at all there?
- 8 A I can't say that I have.
- 9 Q What -- did Jermaine have gloves on?
- 10 A Yeah.
- 11 Q Do you know what he had on?
- 12 A He had a, just the gloves. I can't remember -- I can't
- 13 remember what kind of gloves was it.
- 14 Q Did he have them on at all times? Did he take them off
- 15 at some point?
- 16 A Yes, I remember -- I can't remember the gloves that he
- 17 had on. He had different gloves. But, I remembered
- 18 latex gloves. That's the gloves that I can say for sure
- 19 that he had on, what kind. But, the one that he had
- 20 over, I'm not certain.
- 21 Q Okay. Now let me just take this apart. He had two pairs
- 22 of gloves on?
- 23 A Yeah, right.
- 24 Q All right. Latex underneath?
- 25 A Uh-huh.

Drljic - Direct

1 Q Is that a yes?

2 A Yes.

3 Q Do you remember the color?

4 A Purple, pink latex gloves. It was pretty dark, so --

5 Q Okay. What about the other gloves? Do you know what
6 they looked like?

7 A Other gloves?

8 Q The ones that he had over the top of the latex gloves.

9 A I would think black. I'm not certain of that.

10 Q Showing you Exhibit 58. What is that?

11 A That is a grip with a tube. That's what we call grip and
12 a tube.

13 Q What's it used for?

14 A It is used for, to hold a tattoo needle on the inside
15 and this goes on the tattoo machine.

16 Q And did you ever -- can you tell whose it is?

17 A Jermaine English.

18 Q It's his?

19 A Yes.

20 Q And how do you happen to know that it's his?

21 A Because he were inquiring to me -- well, in the course of
22 giving him tattoos, he was inquiring me of teaching him
23 how to do tattoos, which I refused. And he was gathering
24 equipment to do tattoos, himself. I mean, to learn how
25 to do tattoos.

Drljic - Direct

1 Q So you actually saw his equipment?

2 A Yes. Yes. He had a tattoo -- he has tattoo equipment,
3 yes. That's after he has numerous tattoos from me.

4 Q The things that you saw stacked in there, did you do any
5 of the stacking?

6 A No.

7 Q Did you --

8 A Didn't have the time.

9 Q Did you go anywhere other than what you have told us
10 about?

11 A No.

12 Q Did you go over into the Edge Cafe?

13 A No.

14 Q Do you know how to get over into the Edge Cafe?

15 A No, I have never stepped my foot in the other side of
16 that particular door that I saw that was damaged on the
17 right.

18 MS. CLARK: Nothing further.

19 THE COURT: Ms. Lamin.

20 MS. LAMIN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. LAMIN:

23 Q Mr. Drljic, so you only knew Mr. English for less than a
24 year?

25 A Since this day, today?

Drljic - Cross

- 1 Q No, at the time.
- 2 A I didn't keep track of time.
- 3 Q Okay. Yet, he got lots of tattoos from you?
- 4 A You can say that, yes. He has enough.
- 5 Q To get lots of tattoos, he came to you often?
- 6 A Yes. Yes. He came one, two, three -- often, you want to
7 call it. Not as often.
- 8 Q But, he came on a regular basis. You said he was your
9 lucrative client --
- 10 A Well, only two or three months.
- 11 Q Sir? Mr. Drljic? I'm sorry. What did you say?
- 12 A Let's say every two or three months.
- 13 Q Oh, okay? Every two and three months?
- 14 A Yes. Well, when I say lucrative client, I mean referring
15 other clients, as well; so, yes.
- 16 Q So you walked on foot at about 4 a.m. from Ms. Suttles'
17 house over to Raymond and University; correct?
- 18 A I'm not certain what time it was. I cannot recall
19 exactly the time. I wasn't looking. It was about that
20 time. I walked. That's correct.
- 21 Q And you met Mr. English behind the building?
- 22 A That's correct.
- 23 Q And you noticed, correct, that no lights were on inside
24 the business portions of the building?
- 25 A I did not notice. I never walked around that area. The

Drljic - Cross

1 way that I came from, I came from west, going eastbound.
2 So I never really had a chance to walk around the
3 building or anything, but I would think that I would
4 agree with you that businesses were very closed at the
5 time, yes, except the bar across the street, which
6 seemed --

7 Q Mr. English -- I'm sorry. Mr. Drljic, thank you. You
8 said that there were windows once you went inside the
9 building, facing back out; correct?

10 A Windows facing?

11 Q You said there were windows facing out to the back
12 parking lot?

13 A No. No. There was a window facing front of the store,
14 which is by -- want me to show?

15 Q Yes.

16 A This is University Avenue. So, if you look, this is the
17 store. So, let's say that this is the building. So now,
18 all these stores are like that. So, this is the window.
19 And that would be up front. This would be a front door
20 for the art studio.

21 Q Okay. So, Mr. Drljic, your testimony is that there
22 weren't any windows that you were looking out of when you
23 were inside the building, out back into the parking lot?

24 A Not at that door. It was just a door there. There was
25 no windows.

Drljic - Cross

1 Q Okay. And as you walked through that open door, you
2 noticed it was chipped; correct?

3 A That's correct, yes.

4 Q And when you went downstairs, that's when Mr. English
5 told you to put the mask on; isn't that what you told
6 Sergeant Strickland?

7 A That's what I told Sergeant Strickland, yes. And that's
8 correct. But, that was the second time I went
9 downstairs --

10 Q Okay. Thank you, Mr. Drljic. When you went downstairs
11 to the basement, that's when you saw crushed boards;
12 right? You told Sergeant Strickland that; correct?

13 A That's correct.

14 Q And when you went downstairs, Mr. Drljic, that's when you
15 told Sergeant Strickland that you were a hundred percent
16 certain the business was being burglarized; correct?

17 A That's correct. It was very, very obvious at that point.

18 Q Thank you. Thank you, Mr. Drljic.

19 MS. CLARK: The witness needs to be allowed to
20 answer the --

21 DEFENDANT DRLJIC: Well, if you going to ask me
22 question, let me answer it.

23 THE COURT: It was answered and that's enough.

24 DEFENDANT DRLJIC: Yes, Your Honor.

25 THE COURT: Ask a question. Okay.

Drljic - Cross

1 BY MS. LAMIN:

2 Q And then you told Sergeant Strickland you went back
3 upstairs and the police were there; is that correct?

4 A Yes.

5 Q And you saw the police, not through any windows; is that
6 correct?

7 A No window. The door was open in the back. There was no
8 windows on the back.

9 Q Once you saw police, you turned around and went back
10 downstairs; correct?

11 A I didn't go immediately downstairs, but I turned around,
12 yes. He didn't see me --

13 Q I'm sorry. Mr. Drljic, I guess I didn't -- I wasn't
14 asking you a question at that point.

15 A Okay.

16 Q You went inside the open door with the wood chips and you
17 saw that the lights in the building weren't on; is that
18 correct?

19 A I don't understand. The lights in the building? What
20 does that mean?

21 Q You just testified, Mr. Drljic, that the lights were not
22 on when you went into the building?

23 A Inside the art studio?

24 Q Yes.

25 A The lights wasn't on, no.

Drljic - Cross

1 Q Okay.

2 A But, you could still see from the lights on the outside.

3 Q And at that point, you didn't turn around and leave; is
4 that correct?

5 A No. Everything was dusty and --

6 Q Mr. Drljic, you stayed with Mr. English inside the
7 building; correct, while he was collecting things. Is
8 that correct?

9 A No, that's not correct.

10 Q You just testified that you were inside the art studio
11 with Mr. English as he walked around and moved things
12 towards the door; is that correct?

13 A Yeah, he moved the gas -- or the air tank that was on the
14 floor, he moved it to the door; yes. I would think that
15 would be --

16 Q Thank you, Mr. Drljic. Now, Mr. Drljic, you just said
17 that you're not a citizen?

18 A Well, there is an issue about that. I'm supposed to be a
19 citizen automatically because I came here when I was
20 under age. But that law has changed, so we are dealing
21 with it right now, yes.

22 Q Okay. But, technically, right now, you're not a citizen;
23 is that correct?

24 A Um --

25 Q How about this. Back on December 6th, 2009, you were not

Drljic - Cross

1 a citizen?

2 A Well, citizen, um --

3 Q I'm sorry. Mr. Drljic, did you have an ID card?

4 A Uh-huh.

5 Q Okay. To indicate that you had a right to work here;
6 correct?

7 A Well, that was something else. That is not correct, no.
8 That card is something else.

9 Q Would anything else in your wallet indicate that you are
10 not a citizen besides that card?

11 A There is nothing to indicate that I'm not a citizen.

12 There is nothing that says that I am not a citizen

13 because I'm still in this country and I came here as a

14 minor. So I'm presumed, until proven, not a citizen.

15 Q Fair to say, Mr. Drljic, when you were in the liquor
16 store you knew you were getting -- you were going to get
17 stopped by police; is that correct?

18 A I knew I was going to get stopped by police?

19 Q You were trying to figure out a way to make contact with
20 police?

21 A Yes, that's correct. I was trying to contact, yes.

22 Q You knew you were about to have contact with police; is
23 that correct?

24 A Uh-huh.

25 Q Is that a yes?

Drljic - Cross

1 A That's correct. Pardon me. Yes, that's correct.

2 Q And you were in this store -- do you know Mr. Rose? You
3 heard him testify today.

4 A No. I never drink in my life. I never went to liquor
5 store. I don't know Mr. Rose.

6 Q Did he give you permission to be in his liquor store?

7 A Absolutely not.

8 MS. LAMIN: No further questions.

9 MS. CLARK: Redirect.

10 MS. CLARK: I have nothing.

11 THE COURT: Okay. You may step down.

12 DEFENDANT DRLJIC: Thank you, Your Honor.

13 MS. CLARK: Your Honor, the defense rests.

14 THE COURT: Okay. Trying to figure out the
15 schedule now, so --

16 MS. LAMIN: Your Honor, may we approach?

17 THE COURT: Yes.

18 (Counsel approached the bench and an
19 off-the-record discussion was had.)

20 THE COURT: We're going to have a 5 minute
21 break right. I know you don't want another break, but
22 we're going to give you one. Let's do -- let's do 10
23 minutes. We're trying to figure out the rest of the
24 schedule. Okay. But I'm not going to keep you late. I
25 know that, but I just need to be able to tell you what

State v. Drljic/Suttles

1 we're going to be doing.

2 JUROR LEE: Judge, you're aware I can't be here
3 tomorrow?

4 THE COURT: We're going to talk about that.

5 (Recess taken. Court reconvened and Juror Lee,
6 separately, was called to the courtroom and the following
7 proceedings were had.)

8 THE COURT: Hi.

9 JUROR LEE: Hi.

10 THE COURT: And you are Ms. Lee; right.

11 JUROR LEE: Yes.

12 THE COURT: Okay. Tell me what's going on?

13 JUROR LEE: So I am, basically, one of 300
14 specialists in the world in what I do. And I head up a
15 multi-million dollar industry in the veterinary field.
16 And I'm teaching a four-hour graduate course tomorrow to
17 a bunch of people that I just didn't think this trial was
18 going to extend until Thursday. So it's been organized
19 for over a month. So, it's between University of
20 Minnesota and the company that I work for.

21 THE COURT: And what's the name of your
22 company?

23 JUROR LEE: Pet Poison Health Line and Safety
24 Call International.

25 THE COURT: And is there anybody else who can

State v. Drljic/Suttles

1 do this?

2 JUROR LEE: No. I'm the only lecturer.

3 THE COURT: The only lecturer?

4 JUROR LEE: I'm the only one giving the
5 lectures tomorrow. It's a four-hour retreat.

6 THE COURT: I understand that. But, if you
7 weren't there, would they be able to find somebody else
8 to --

9 JUROR LEE: No. Because I'm the only -- there
10 is only five specialists in what I do in the State of
11 Minnesota.

12 THE COURT: Where are the other four?

13 JUROR LEE: They are not employed by our
14 company. There is no one who would be able to replace my
15 lectures. It was purposely assigned for me to lecture to
16 this group of grad students and staff.

17 THE COURT: And it's going from what time to
18 what time?

19 JUROR LEE: From eight to noon. So honestly, I
20 would love to complete this. So I'd be happy to stay
21 later tonight, depending on what the rest of the people
22 want to do or coming back after one tomorrow. But, I'm
23 fully committed between eight and noon.

24 THE COURT: And I just want to let you know
25 that the goal here is to get this to the jurors in the

State v. Drljic/Suttles

1 morning so they can start deliberating.

2 JUROR LEE: Do you know how long it would be
3 for our jury instruction?

4 THE COURT: Oh, in the morning?

5 JUROR LEE: No, I just want to know time frame
6 wise; like if it's another hour, I feel like everyone on
7 our team would stay.

8 THE COURT: Oh, I understand that. But,
9 actually, for the jury instructions, we have to have
10 closings and time for the jury instructions, too. For
11 the jury instructions we have a number of things we still
12 need to put together here.

13 JUROR LEE: Yes. I apologize I didn't disclose
14 this earlier, but I just didn't think it would go on
15 until Thursday. That's why.

16 THE COURT: I understand that.

17 (Pause)

18 JUROR LEE: I could do it on Friday, all day.

19 THE COURT: No. All right.

20 MS. CLARK: Well, I have a question.

21 THE COURT: Yes.

22 MS. CLARK: Can the class, itself, be
23 rescheduled?

24 JUROR LEE: No. It's been scheduled for over a
25 month. It's --

State v. Drljic/Suttles

1 MS. CLARK: I understand it's been scheduled.
2 But, I mean, if you got in a car accident, they would
3 reschedule it, right? I mean, not that I wish that on
4 anybody, but --

5 JUROR LEE: The reason why it would be hard to
6 be rescheduled is we're a 24-hour triple license medical
7 human and veterinary and pharmaceutical company. And so
8 for us to pull our staff at different times when we are
9 already filled to cover 24/7 it's very, very difficult
10 for our staff. That's why it was set, you know, over a
11 month in advance.

12 MS. CLARK: I understand that it's hard to
13 reschedule, but it sounds like its possible.

14 JUROR LEE: I cannot reschedule it.

15 THE COURT: All right. You can say something,
16 Ms. Lamin.

17 MS. LAMIN: Your Honor, I ask that she be
18 excused.

19 MS. CLARK: Well, that discussion should be
20 outside the presence of the juror.

21 MS. LAMIN: Can we approach?

22 THE COURT: Yes.

23 THE CLERK: I can have her step outside.

24 MS. CLARK: Yes, so we can make a record.

25 MS. LAMIN: I'm sorry. I have no further

State v. Drljic/Suttles

1 questions.

2 THE CLERK: Well, have her go back to the room?

3 THE COURT: Yes. Why don't you go back to the
4 room and I have to bring them back so they know what's
5 going on.

6 (Juror Lee excused and the following
7 proceedings were had outside the presence of the Jury.)

8 MS. CLARK: I need to make a record of this.
9 With all due respect to everybody, I found that an
10 inappropriate comment. I don't think the juror should
11 know what any individual lawyer or party thinks about
12 whether they should be excused or --

13 THE COURT: Well, it's not up to -- it's not
14 really up to either of you now. And I'll make that very
15 clear. It's my decision.

16 MS. CLARK: I understand that.

17 THE COURT: When we get to that point, I'll
18 make that decision.

19 MS. CLARK: No, I understand that. I'm just
20 making a record that I believe that was not appropriate.
21 I would like to make an argument on behalf of defendants
22 that either we accommodate the juror by doing closings at
23 one or tell her that she can't go. I mean, she's been
24 listening intently during the entire trial. She's an
25 important part of the jury. I do not think she should be

State v. Drljic/Suttles

1 excused at this time. It sounds like there is a woman
2 with an issue Friday. I don't know if it's a woman. I
3 don't know who it is. Okay. There is someone with an
4 issue on Friday, but we do not yet, at this time, know
5 that's a problem.

6 In other words, that would be the time to let
7 someone go and put an alternate into place, it seems to
8 me.

9 THE COURT: The alternate is going to be let go
10 once we finish closing and they get jury instructions.

11 THE CLERK: Once deliberations start the
12 alternate is let go. And that's a problem If you put
13 this to the jury Thursday afternoon, late, you know --
14 she has a flight at noon.

15 MS. CLARK: How long are the closings and the
16 instructions?

17 THE COURT: Well, that's not the issue. I want
18 to give them time to deliberate.

19 MS. CLARK: No, I understand that. I really
20 do.

21 THE COURT: And that's my goal. I do not want
22 to give them something that -- I don't want anybody
23 rushing this. And that's the whole point of getting it
24 to them early in the morning.

25 MS. CLARK: Right.

State v. Drljic/Suttles

1 THE COURT: That's my goal. So, they have --
2 take the time to do what they need to do. And I'm not
3 giving it to them in the afternoon. So, because I don't
4 know if they are going to, you know, what that's going to
5 look like.

6 So, my -- we have two alternates. When it goes
7 to the jurors, it will happen in the morning. If we go
8 in the morning, then that alternate is released. And it
9 may well end up being the person who has a flight to
10 catch, because that would make the most sense in order
11 for them to have the time to deliberate without feeling
12 rushed. All right. That's -- I'm thinking out loud
13 here.

14 MS. LAMIN: I'm sorry, who is going to be
15 released -- the alternates are released or the person
16 whose taking the flight is going to be released?

17 THE COURT: No, once it goes for deliberation.

18 MS. LAMIN: I'm sorry. The alternates are
19 released, yes.

20 THE COURT: Right.

21 THE CLERK: So, it's not like we can bring the
22 alternates back and release --

23 MS. LAMIN: No, I understand. Your Honor, I'm
24 on the same page.

25 THE COURT: So I want this to go to the jury in

State v. Drljic/Suttles

1 the morning, so that then we'll release an alternate.
2 Now, the only question and the only issue that's making
3 me hold up here is, what if somebody gets sick? But --

4 COURT REPORTER: Do you want this all on the
5 record?

6 THE COURT: No, because I'm talking out loud
7 here.

8 COURT REPORTER: Thank you.

9 (An off-the-record discussion was had.)

10 MS. CLARK: It's one thing to release a juror
11 in advance when you know that they have got a big thing
12 scheduled. But, at this point, we're done -- literally
13 done with the trial. She's been listening intently. I
14 think it would -- I'm going to object, strongly, to her
15 being released at this time and having an alternate put
16 in her place. So, the defense request is that the court
17 order her to reschedule her event. She did indicate that
18 if -- it would be difficult; but, I never heard her say
19 that it would be impossible.

20 THE COURT: Well, I think I heard her say that.

21 MS. CLARK: I did not hear her say that.

22 THE COURT: Impossible because there are only
23 five people. Thank you for putting that on the record.
24 And I believe it's a decision that I will make. I did
25 hear her say she's one of five people. Unfortunately,

State v. Drljic/Suttles

1 when we started this trial, we thought we were going to
2 be finished before Thursday, so she did not disclose it
3 which is a problem.

4 But, considering that we did have two
5 alternates for just this reason and we can get this --
6 and we really have to get this to them in the morning so
7 they can start deliberating. And one of the alternates
8 is going to -- one other person is going to be released.
9 So from that perspective, I will let Ms. Lee go. And you
10 can bring her back in.

11 THE CLERK: Would you like everybody to come
12 back in or would you like just Ms. Lee?

13 THE COURT: I think I will release Ms. Lee,
14 first.

15 MS. CLARK: And I would just like permission to
16 be able to speak with her then once she's released.

17 THE COURT: Not until this case is over.

18 MS. CLARK: If she's released and never coming
19 back?

20 THE COURT: No. That permission is denied.

21 THE CLERK: Okay. So should I bring her first
22 and have her released?

23 THE COURT: Yes.

24 THE CLERK: Okay. And then bring everyone else
25 back in so that they can be released?

State v. Drljic/Suttles

1 THE COURT: Yes.

2 THE CLERK: Okay.

3 (Juror Lee returned to the courtroom at this
4 time.)

5 THE COURT: All right. Ms. Lee, it's very
6 unfortunate that we are at this point and -- but, I
7 just -- you're one of five people that can do this
8 lecture and it is not possible to have it rescheduled or
9 to have somebody else take your place? Is that what I
10 heard?

11 JUROR LEE: Correct.

12 THE COURT: This is a way to get people
13 certified for something; is that correct?

14 JUROR LEE: It's -- yes. It's licensed
15 training at a grad school. So some grad students, who
16 are present, plus our own staff pulled off phones, pulled
17 off a human and animal poison control, specifically,
18 where we had to bring in extra people to man phones.
19 It's difficult.

20 THE COURT: This is for a certain facility and
21 people who are to sit through your lecture?

22 JUROR LEE: Yes, grad school, residents and our
23 own staff.

24 THE COURT: So it would be difficult to
25 reschedule it for all those people to come to your

State v. Drljic/Suttles

1 lecture at another time?

2 JUROR LEE: Yes, correct.

3 THE COURT: Yes, I am going to let you go.

4 JUROR LEE: Okay.

5 THE COURT: And that's it. Okay. We can't --
6 we need to just move things along.

7 JUROR LEE: Okay.

8 THE COURT: That's it. Thank you.

9 (Juror Lee was excused at this time. The Jury
10 returned to the courtroom and the following proceedings
11 continued.)

12 THE COURT: All right. Please be seated. I
13 just wanted to let you know what the plan is now for
14 tomorrow we'll finish up with the closing arguments and
15 you'll get jury instructions. So I want you all back
16 here at 9 o'clock. And the goal is you will get this
17 case way before lunch time. All right. So, be back here
18 tomorrow at 9 o'clock. It's -- I'm not going to keep
19 people later today.

20 All right. Same instructions. Do not talk to
21 anybody about this case. Do not discuss it with anybody.
22 Do not do any research. Don't even look words up in the
23 dictionary, please. Yes?

24 JUROR: Any chance that it will go until
25 Friday, just to have an idea?

State v. Drljic/Suttles

1 THE COURT: I can't really say, because once
2 it's out of my hands, it's in your hands.

3 JUROR: Okay.

4 THE COURT: And I want it out of my hands early
5 in the morning. All right. So, that's where -- just so
6 you know. And I really thank you for your patience.
7 This has been one of those scheduling nightmares and I
8 apologize for that in advance. But, I appreciate that
9 you're here and that you have been attentive and all the
10 rest of that. And we'll get through this. Okay.

11 The only one thing I want to say, is it cold
12 over there?

13 JURORS: Yes.

14 THE COURT: It is. Okay. Because I see people
15 wearing coats. I don't know what we can do about the
16 vent. Okay. All right. See you tomorrow.

17 (The Jury was excused at this time and the
18 following proceedings were had outside their presence.)

19 THE COURT: Okay. Ms. Clark, your motion for
20 acquittal?

21 MS. CLARK: Thank you, Your Honor. On behalf
22 of Tamika Suttles, there is really no evidence, at best,
23 insufficient evidence, that she was in the building at
24 all. And so with regard to the burglary counts, there
25 are three burglary counts, as I understand it, for Second

State v. Drljic/Suttles

1 Degree Burglary; and three burglary counts for Third
2 Degree Burglary. But, for all of the burglary counts,
3 she has to have -- there has to be evidence that she was
4 in the building.

5 The best the state could muster in this case
6 was asking Jermaine English if Tamika Suttles had ever
7 been in the building. And he said something like, I
8 believe she was. But, when he told his story, he never
9 described her, ever, being anywhere physically in the
10 building. And so the equivocal, I believe she was is --
11 equates to no evidence on the element of being inside the
12 building. So the three burglary counts against Ms.
13 Suttles should be dismissed.

14 The -- here we go (pause). The three -- there
15 is three counts of burglary against Daniel Drljic. And
16 it is our position that there is insufficient evidence of
17 intent to commit a burglary. And I am going to -- you'll
18 hear more about this in closing argument; but, I am going
19 to argue that the standard of intent that should be used
20 for burglary is subjective intent, not objective intent.
21 And that is based on Minnesota Supreme Court case in the
22 trespass area. Trespass is very similar to burglary.
23 And I'm pulling the case up now, which is why I'm looking
24 with my phone here. I'm trying to pull it off of Lexis.

25 I believe it's State v. Hart (phonetic). But,

State v. Drljic/Suttles

1 it essentially says -- it's in the context of discussing
2 trespass. A woman went to visit her grandmother at a
3 nursing home and somehow the management didn't want her
4 there and she got charged with trespass. But, she went
5 to visit her grandmother, of course, assuming as an
6 invitee, that she was legally in the building. The
7 Minnesota Supreme Court ruled that if she believed that
8 she had a right to be there then that in fact was the
9 proper standard and that the standard of proof for intent
10 was subjective intent.

11 So, based on that standard, there is no
12 evidence that Mr. Drljic believed or subjectively had the
13 intent to commit a crime or to steal; otherwise known as
14 burglary. He indicated that he went into the arts studio
15 because -- in good faith, because he believed that the --
16 that he was helping someone. In other words, that he was
17 an invitee. By the time that he realized he should not
18 be there, then he actually withdrew. And we have
19 requested that the court instruct the jury on withdrawal.
20 But, even if he had conspired to be in there to commit
21 burglary, you can withdraw from a conspiracy. That's
22 very clear under the law.

23 Obviously, we argue that he didn't have
24 anything to do with any conspiracy to commit burglary.
25 But, even if he had, he clearly withdrew at that point,

State v. Drljic/Suttles

1 from it. And then his entry into the liquor store was
2 not with the intent to steal; but, it was the intent to
3 get out of there alive and to come out in the light with
4 his hands up in front of the police. There is no
5 evidence that he, at any time, went into the Edge Cafe.
6 Jermaine English said that he, Jermaine English, went
7 into the Edge Cafe. But I do not recall any evidence,
8 even by English, that Mr. Drljic had gone into the Edge
9 Cafe.

10 So, on the issue of intent, we ask that all of
11 the burglary charges be dismissed. Even if the objective
12 standard for intent is used, it is our position that the
13 evidence is insufficient for a reasonable juror to come
14 to the conclusion that Mr. Drljic was in the building in
15 order to steal or otherwise for some intent, nefarious
16 intent. And of course, the -- that is the standard of
17 reasonable juror. This is not a peppercorn is enough or
18 an scintilla of evidence standard. It's not just if the
19 state has put some evidence into the record. But, the
20 question is, could a reasonable juror, would an objective
21 juror, be able to find on this record that Mr. Drljic,
22 even on the objective standard, had the intent to steal?
23 And we argue that the answer to that must be no.

24 We also, as the court is aware, we argue that
25 there is only one building. And so there cannot -- there

State v. Drljic/Suttles

1 should not have ever been, cannot now be three charges of
2 burglary. That was clear from our very first witness who
3 owns the building. It's one building.

4 The other thing I do want to note is that the
5 art studio -- and now I think I understand why Joseph
6 Brown was not called -- the art studio is not a
7 commercial business. And so the jury instructions that I
8 see the state asking for are the JIGS for burglary of a
9 commercial business. It is not a commercial business.
10 And it's clearly not a residence. So that is another
11 basis to dismiss all of the counts relating to the art
12 studio.

13 With regard to the aid and abet or otherwise
14 known as crimes of another, there has to be intent there,
15 as well. It can't just be I was in the vicinity of
16 someone who was committing a crime; or I was outside
17 while they were inside committing a crime; or I was kind
18 of hanging around them while they were doing some things
19 that ended up being criminalized. That is not the proper
20 standard. And I am trying to pull my own instructions up
21 here. Here we go. For crimes of another, the state must
22 prove beyond a reasonable doubt that the defendants had
23 intentionally aided the other person in committing or
24 intentionally advised, hired, counseled, conspired with
25 or otherwise procured the person to commit it.

State v. Drljic/Suttles

1 To be as brief as possible, Your Honor, there
2 is no evidence of conspiracy. Jerome (sic) English said
3 we talked in the car beforehand. But when asked what did
4 you talk about, there was no evidence that came from him.
5 He said, I can't remember who said what. So there is no
6 evidence of conspiracy. There is no evidence Tamika
7 Suttles counseled Daniel Drljic to commit a burglary.
8 And there is no evidence that Daniel Drljic counseled Ms.
9 Suttles to commit a burglary. There is no evidence of
10 anybody hiring anybody to commit a burglary. And there
11 is no evidence of advising to commit a burglary. So the
12 only possibility is intentionally aided the person in
13 committing it. It does not say aiding the person in
14 committing an attempt. And this is very important.

15 So based on the record, we would ask that the
16 court dismiss all of the burglary counts with regard to
17 Ms. Suttles. Obviously, we would like all the counts
18 dismissed, Your Honor, but I think there is a strong
19 argument to dismiss all the burglary counts with regard
20 to Ms. Suttles. To dismiss all but one of the burglary
21 counts with regard to Mr. Drljic. To dismiss all of the
22 burglary counts with regard to the art studio.

23 And then, on the record, we would argue that
24 there is insufficient evidence of intent and that all the
25 burglary charges against Mr. Drljic should be dismissed.

State v. Drljic/Suttles

1 I mean judgment of acquittal entered. Thank you.

2 THE COURT: Ms. Lamin.

3 MS. LAMIN: Your Honor, the standard for
4 judgment of acquittal -- I'm trying to find it -- but the
5 evidence, Your Honor, here, is definitely past that
6 stage. In terms of Ms. Suttles and Mr. Drljic conspiring
7 together and Mr. English to burglarize three independent
8 business that are not connected in any way.

9 Your Honor, the state has more than proved that
10 through the testimony of all of the state's witnesses.
11 Your Honor, the -- I think the defense, we can argue
12 about these issues at closing or even shortly afterwards,
13 but the jury instructions for liabilities of crime of
14 another does -- it's Crim. JIG 4.01, last line, Page 9 of
15 your instructions. The defendants are not liable,
16 criminally, for aiding, advising, hiring, counseling,
17 conspiring or otherwise procure the commission of the
18 crime unless some crime, including an attempt is actually
19 committed. That's the standard jury instruction and it
20 is appropriate in this case.

21 The three parties went together in a vehicle.
22 Mr. Drljic took a duffel bag full of tools, broke through
23 some doors, broke through a wall. Property that was
24 stolen from the coffee shop was removed from the coffee
25 shop. Items were removed from the liquor store. And

State v. Drljic/Suttles

1 items were removed from the art studio. And the art
2 studio items were recovered in Ms. Suttles' car, along
3 with burglary tools. Your Honor, this more than meets
4 the standard.

5 If you also look at the definition of burglary,
6 it talks about buildings, structure suitable for
7 affording shelter for human beings, including any
8 connected structure. That's the Second Degree Burglary
9 element. The point of that is that you can't burglarize
10 a tent; that this actually has to be a structure, which
11 is what this is. And we can -- I think that's a valid
12 point to argue for the jury. Are these three separate or
13 one? There is more than probable cause to indicate that
14 these are three separate. Otherwise, we would create a
15 situation where Mr. Drljic and Ms. Suttles and Mr.
16 English could have burglarized every single, including
17 every apartment, Key's Restaurant, everything in there
18 and face just one charge. That's not what the statute
19 intended. This is not -- these were not one facility.
20 These were three separate facilities, Your Honor.

21 I ask that you deny the motion and we proceed
22 with jury instructions.

23 THE COURT: All right. With regard to the
24 defense Motion for Judgment of Acquittal, the motion is
25 denied with regard to Ms. Suttles. And the arguments

State v. Drljic/Suttles

1 that counsel have made, there is sufficient evidence here
2 that should go to the jury. And the court will not grant
3 that motion.

4 With regard to the Motion of Acquittal for
5 Daniel Drljic, the court denies the defense motion. The
6 court believes that there is sufficient evidence that
7 should go to the jury and that the jury will make that
8 decision.

9 With regard to whether or not there are three
10 businesses that were entered and intent is certainly one
11 of those issues that they can certainly make a decision
12 on. Okay.

13 (Proceedings recessed.)
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State v. Drljic/Suttles


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STATE OF MINNESOTA

COUNTY OF RAMSEY

I, Susan D. Montpetit, do hereby certify that a Jury Trial was had in the cause styled in the caption hereto on Page One hereof; that I was authorized to and did attend said trial and reported the proceedings had therein fully and accurately in shorthand and that the foregoing computer-aided transcription numbered 126 through 380, inclusive, constitute a true and correct transcript from my shorthand report of the proceedings taken at said trial.

Dated: June 14th, 2011.


SUSAN D. MONTPETIT
Official Court Reporter