

1 STATE OF MINNESOTA ORIGINAL DISTRICT COURT  
 2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

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3 -----  
 4 State of Minnesota )  
 )  
 5 Plaintiff, ) **JURY TRIAL**  
 ) D.C. File 27-CR-10-2076  
 6 v. ) App. Court No. A12-0173  
 )  
 7 Mahdi Hassan Ali ) Volume VII of XIV  
 )  
 8 Defendant. )

9 -----  
 10 The above-entitled matter came duly on for trial  
 11 before the Honorable Peter A. Cahill, one of the judges  
 12 of the above-named court, on September 14, 2011, in the  
 13 Hennepin County Government Center, Minneapolis,  
 14 Minnesota.

15 APPEARANCES:  
 16 Robert J. Streitz and Charles S. Weber, Assistant  
 17 Hennepin County Attorneys, appeared on behalf of the  
 18 State of Minnesota.  
 19 Frederick J. Goetz, Esq. and Gregory Young,  
 20 Certified Student Attorney, appeared on behalf of the  
 21 Defendant.  
 22 Mahdi H. Ali, defendant.  
 23 Abdi Elmi, Interpreter.  
 24 Erin Lutz, Law Clerk.  
 25 Dana Carmichael, Court Reporter.

1 (In open court:)

2 THE COURT: Counsel approach.

3 (Discussion at the bench.)

4 THE COURT: Members of the jury, good  
5 morning. Almost got 9:30, sorry about that.

6 So the State may call its next witness.

7 MR. STREITZ: Your Honor, the State  
8 would call Abdisalan Ali.

9 THE COURT: Mr. Ali, come right up here.

10 ABDISALAN ALI,

11 called as a witness on behalf of the State, having been  
12 first duly sworn, was examined and testified as follows:

13 THE COURT: Have a seat right there in  
14 the witness chair. Before you begin, if you can  
15 give us your full name and spell each of your  
16 names for us.

17 THE WITNESS: Abdisalan Ahmed Ali,  
18 A-b-d-i-s-a-l-a-n, A-h-m-e-d, A-l-i.

19 THE COURT: You don't have to speak  
20 directly into the microphone, but if you can be  
21 fairly close to it so we can pick up what you're  
22 saying, that would be great.

23 Mr. Streitz.  
24  
25

**DIRECT EXAMINATION**

1  
2 BY MR. STREITZ:

3 Q. Good morning. How are you?

4 A. I'm good.

5 Q. You're kind of soft-spoken, so we need you to  
6 speak up, okay?

7 A. (Nods head.)

8 Q. If I ask you some questions today and you can't  
9 hear me or you don't understand the question you  
10 just let me know and I'll ask you a different  
11 way, okay?

12 A. Yeah.

13 Q. How old are you?

14 A. I'm 17 years old.

15 Q. So back on January 6, 2010, you would have been  
16 15?

17 A. Sixteen.

18 Q. All right. And are you in school?

19 A. Yes, I'm in school.

20 Q. What grade are you?

21 A. I'm a senior in high school.

22 Q. And are you presently living outside of the  
23 metropolitan area with a family member?

24 A. Yes, in the meantime.

25 Q. Were you born in Somalia?

- 1 A. Yeah, I was born in Somalia.
- 2 Q. And I take it you speak Somali?
- 3 A. Yeah, I speak Somalian.
- 4 Q. Okay. When did you come to the United States?
- 5 A. Think it was '96. I don't know the month though.
- 6 Q. Have you always lived in Minnesota once you came  
7 to the United States?
- 8 A. No. I lived in New York City and Dallas, Texas.
- 9 Q. Okay. I'm going to take you back to January 6,  
10 2010. It was a Wednesday. On that date were you  
11 living with your family members here in  
12 Minneapolis?
- 13 A. Yes, sir.
- 14 Q. What address did you live at that back then?
- 15 A. Clinton and 29th.
- 16 Q. Do you recall the exact address that you lived  
17 at?
- 18 A. Uh-huh.
- 19 Q. And what was the address?
- 20 A. 2912 Clinton Avenue.
- 21 Q. And did you live with your parents back then?
- 22 A. Yes, sir.
- 23 Q. Who else lived in the house?
- 24 A. My brother and my sisters and my mom and my dad.
- 25 Q. Okay. Did a person by the name of Ahmed Shire

- 1           Ali?
- 2       A.   Yes, sir.
- 3       Q.   And how do you know him?
- 4       A.   That's my cousin.
- 5       Q.   And you know he's been charged with the murders
- 6           of the Seward Market?
- 7       A.   Yes, sir.
- 8       Q.   Do you know Ahmed Ali?
- 9       A.   Yes, sir.
- 10      Q.   How do you know?
- 11      A.   It's Ahmed's friend.
- 12      Q.   And was he your friend?
- 13      A.   Yeah, I knew him but not all that well.
- 14      Q.   Was your cousin Ahmed Ali closer to him than you
- 15           were?
- 16      A.   Yes, sir.
- 17      Q.   Okay. Are you or your cousin related to Mahdi
- 18           Ali?
- 19      A.   No, sir.
- 20      Q.   Is Mahdi Ali in this courtroom today?
- 21      A.   Yes, sir.
- 22      Q.   Can you please indicate by where he's located and
- 23           what he's wearing?
- 24      A.   He's sitting over there and he's wearing a suit
- 25           shirt and a dress pants and dress shoes.

1 MR. STREITZ: Okay. May the record  
2 reflect he's identified the defendant?

3 THE COURT: Any objection?

4 MR. GOETZ: No.

5 THE COURT: It will.

6 BY MR. STREITZ:

7 Q. Back to Wednesday, January 6, 2010. At that time  
8 were you going to school?

9 A. Yes, sir.

10 Q. What school were you?

11 A. Volunteer of America.

12 Q. Is that VOA?

13 A. Uh-huh.

14 Q. And was your cousin Ahmed Ali going to school  
15 there also?

16 A. Yes, sir.

17 Q. Were you at school that day?

18 A. The day that the incident happened?

19 Q. Yes.

20 A. Yes, I was.

21 Q. January 6th 2010?

22 A. Uh-huh.

23 Q. Was Ahmed Ali in school?

24 A. Yes, he was.

25 Q. After school, what did you and Ahmed do?

1 A. After school Mahdi came and picked up me and  
2 Ahmed.

3 Q. Okay. Had you known about that he was going to  
4 pick you up before then?

5 A. No, I didn't know about that.

6 Q. How did you know about that?

7 A. I found out after he came and picked him up.

8 Q. Who did you find that out from?

9 A. I seen him come and he pulled up to the front.

10 Q. You say he pulled up to the front. What did he  
11 pull up to the front of?

12 A. He was driving -- yeah, to the front of the  
13 school.

14 Q. Was he driving a car?

15 A. Uh-huh.

16 THE COURT: That's a yes?

17 BY MR. STREITZ:

18 Q. You have to say yes or no.

19 A. Yes, sir.

20 THE COURT: Great. Thanks.

21 BY MR. STREITZ:

22 Q. What kind of car was it?

23 A. Red Crown Victoria.

24 Q. Was there anyone else in the car with him?

25 A. No.

1 Q. What did you and your cousin Ahmed do when Mahdi  
2 Ali drove up in the red Crown Victoria?

3 A. We got in the vehicle.

4 Q. And was there a plan as to what was going to  
5 happen that particular day?

6 A. No. There was no plan what was going to happen.  
7 We just drove off and they got some cigarettes  
8 and came back to the school.

9 Q. Why did you come back to school?

10 A. Because Mahdi Ali said he was going to go pick up  
11 someone else.

12 Q. And so what happened to you and Ahmed?

13 A. We came back to the school.

14 Q. And did you leave the school, did you stay there?

15 A. No, we stayed there.

16 Q. Why did you stay there?

17 A. Because he said he was going to come back.

18 Q. Who was going to come back?

19 A. Mahdi.

20 Q. And did he come back?

21 A. Yes, he did.

22 Q. Was anybody in the car with him when he came back  
23 to the school the second time?

24 A. No, sir.

25 Q. What did you and your cousin Ahmed do when he



- 1           came back with the car?
- 2           A.   We got in the car.
- 3           Q.   What did you do once you got back in the car,  
4           where did you go?
- 5           A.   We went to a Coat Factory.
- 6           Q.   And where was the Coat Factory, what part of the  
7           cities?
- 8           A.   I think it was north side.
- 9           Q.   North side?
- 10          A.   Northwest side of town, I think, by the impound  
11          lot.
- 12          Q.   Okay. Why were you going to the Coat Factory?
- 13          A.   To go get some jackets.
- 14          Q.   When you say get some jackets, what do you mean  
15          by get some jackets?
- 16          A.   Go steal some jackets.
- 17          Q.   Okay. So who's with you?
- 18          A.   It was me, Mahdi and Ahmed.
- 19          Q.   Do you go to the Coat Factory?
- 20          A.   Uh-huh.
- 21          Q.   Who drove?
- 22          A.   Mahdi.
- 23          Q.   Did you all go into the Coat Factory?
- 24          A.   Yes, sir.
- 25          Q.   And did you steal a coat?

1 A. Yes, sir.

2 Q. And can you describe the coat to us?

3 A. It was a long black coat with Sean John and it  
4 had a brown fur on the inside.

5 Q. Did it have a collar on it?

6 A. Yes, it had a collar but no hood.

7 Q. Okay. Now, was it cold out that day?

8 A. Yeah, it was.

9 Q. Did you have a coat on before you went in and  
10 took the coat from the Coat Factory?

11 A. Yes, sir.

12 Q. What kind of coat did you have?

13 A. It was grey puffy coat with a hood on it.

14 Q. Once you took the coat, stole the coat from the  
15 Coat Factory, did you wear that coat?

16 A. Yeah. I wore the coat that I took from the Coat  
17 Factory.

18 Q. What happened to the grey puffy coat with the  
19 hood?

20 A. I left it in Mahdi's car so he could use it  
21 because he was not wearing a coat at the time.

22 Q. Okay. After you went to the Coat Factory, did  
23 you go somewhere else?

24 A. Yes, we went to the impound lot.

25 Q. Why did you go to the impound lot?

1 A. So they can go check how much the vehicle was  
2 that they were trying to get out.

3 Q. Whose vehicle were they trying to get out?

4 A. I think it was Mahdi's vehicle.

5 Q. Did all three of you go into the impound lot?

6 A. Yes, sir.

7 MR. STREITZ: May I approach, Your  
8 Honor?

9 THE COURT: You may.

10 BY MR. STREITZ:

11 Q. I want to show you what has an exhibit sticker on  
12 it, 181. I want you to look at it and tell me if  
13 you recognize that, sir.

14 A. Yes, sir.

15 Q. What is this?

16 A. It's a picture of me, Mahdi and Ahmed.

17 Q. Where?

18 A. At the impound lot.

19 Q. Is that a true and accurate picture of how you  
20 looked at the impound lot that day?

21 A. Yes, sir.

22 MR. STREITZ: State would offer Exhibit  
23 181 into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. GOETZ: Don't believe so, Your

1 Honor. To confirm, no objection.

2 THE COURT: 181 is received.

3 MR. STREITZ: May I publish this, Your  
4 Honor?

5 THE COURT: You may.

6 BY MR. STREITZ:

7 Q. There is a monitor right in front of you, Mr.  
8 Ali.

9 A. Uh-huh.

10 Q. Right there. Do you see it? Do you see the  
11 picture I just showed you?

12 A. Yes.

13 Q. And the jury is going to see one behind you, you  
14 just look at the one that -- as we look at the  
15 picture, which one is you, Mahdi Ali and Ahmed?

16 A. I'm the one to the far left corner, Mahdi is the  
17 one in the middle, and Ahmed is the one in the  
18 far right corner.

19 Q. Okay. Back on that date, do you recall how tall  
20 you were?

21 A. I was about 6'.

22 Q. How tall were you compared to your cousin, Ahmed?

23 A. He was about the same height, about half-inch  
24 taller.

25 Q. Do you recall what your weight was or what your

1 body type was?

2 A. About 200 pounds.

3 Q. Do you weigh that much today?

4 A. Yeah, I weigh like 213.

5 Q. And you appear to be wearing a jacket in that  
6 exhibit. Is that the jacket you stole from the  
7 Coat Factory?

8 A. Yes, sir.

9 Q. Is Mahdi Ali wearing the grey puffy coat at this  
10 time?

11 A. Nope.

12 Q. And the -- your cousin, Ahmed, you said was  
13 standing on the other side of Mahdi Ali?

14 A. Yes, sir.

15 Q. How tall were you compared to Mahdi Ali?

16 A. I was about four inches, five inches taller than  
17 him.

18 Q. Okay. Did Mahdi Ali or Ahmed Ali get a car out  
19 of the impound lot?

20 A. No, it didn't work. We couldn't get it out.

21 Q. Do you know why?

22 A. I think they didn't have enough money.

23 Q. So did the three of you leave the impound lot?

24 A. Yes, sir.

25 Q. Do you recall going to another place?

1 A. Yes, sir.

2 Q. And where was that?

3 A. The gas station.

4 Q. Okay. What kind of gas station?

5 A. It was a SuperAmerica.

6 Q. Do you recall what street that may have been on?

7 A. I think it was Lyndale and 22nd. I think, I  
8 don't know.

9 Q. Okay. When you went to the SuperAmerica, what  
10 was the reason you went to SuperAmerica?

11 A. To get some gas in the car.

12 Q. And did anybody take care of doing that?

13 A. I think --

14 Q. Did anybody go inside the store?

15 A. Yeah, I think Ahmed went in the store.

16 Q. Okay. And what did you and Mahdi Ali do?

17 A. I stayed in the vehicle, I think.

18 MR. STREITZ: Okay. May I approach,  
19 Your Honor?

20 THE COURT: You may.

21 BY MR. STREITZ:

22 Q. I'll show you what's been received into evidence  
23 as Exhibit 86. Ask you if you recognize that?

24 A. Yes, sir. That's the red Crown Victoria, looks  
25 like Ahmed.

1 Q. Okay. And is this at the SuperAmerica store you  
2 just told us you went to?

3 A. Yes, sir.

4 Q. Is that a fair and accurate depiction of the car,  
5 and who you believe to be Ahmed Ali?

6 A. Yep.

7 Q. Showing you what's been received into evidence as  
8 Exhibit 84, do you recognize that?

9 A. Yes, sir.

10 Q. And what is this?

11 A. That's a convenience store, and that's Ahmed Ali.

12 Q. Okay. And Exhibit 85, do you recognize that  
13 picture?

14 A. Yes, that's convenience store and that looks  
15 like --

16 THE COURT: Mr. Ali, keep your voice up  
17 a little bit.

18 THE WITNESS: That's a convenience  
19 store, and that is Mr. Ali.

20 BY MR. STREITZ:

21 Q. Okay. Where is Mr. Ali in this picture?

22 A. He's in the corner at the cash register.

23 Q. Okay. Watch your monitor again there. So  
24 Exhibit 86 that you were just shown is on your  
25 monitor there. Is that the Crown Victoria that

1           you had been driving in with Ahmed Ali and Mahdi  
2           Ali that day?

3           A.   Yes, sir.

4           Q.   And the individual that appears outside that car  
5           is --

6           A.   Ahmed.

7           Q.   Your cousin?

8           A.   Uh-huh.

9           Q.   Yes?

10          A.   Yes, sir.

11          Q.   And Exhibit 85. Do you see your cousin Ahmed in  
12          this particular photograph?

13          A.   Yes. I think the see the back of his jacket and  
14          shirt.

15          Q.   And how do you recognize that it would be him?

16          A.   Because he got a couple of spots on the back of  
17          his jacket, it came like that. I recognize the  
18          jacket.

19          Q.   And Exhibit 84. Do you recognize anybody in this  
20          picture?

21          A.   That's my cousin, Ahmed.

22          Q.   Which one of those two individuals is your  
23          cousin?

24          A.   The one near the cash register.

25          Q.   As we look at the picture, the one on the left



1 side?

2 A. Uh-huh.

3 Q. After you left the SuperAmerica store, did you go  
4 somewhere else?

5 A. Yeah. I think we went to Lyndale and -- no,  
6 Nicollet and 18th or 19th.

7 Q. Where did you go?

8 A. I think it was Nicollet and 19th.

9 Q. Could it be Nicollet and Franklin?

10 A. Uh-huh.

11 THE COURT: That's a yes?

12 THE WITNESS: Yes.

13 THE COURT: Try and say yes and no as  
14 much as possible.

15 THE WITNESS: Yes.

16 BY MR. STREITZ:

17 Q. Why did you go to Nicollet and Franklin?

18 A. Because Mahdi wanted to go inside the store and I  
19 was trying to go inside someone else's house.

20 Q. Who drove to that area, Franklin and Nicollet?

21 A. The owner of the car, Mahdi.

22 Q. And when you got to Franklin and Nicollet, you  
23 said Mahdi Ali, he said he wanted to do  
24 something?

25 A. Go in the store, I think.

1 Q. Why did he want to go in the store?

2 A. I don't know.

3 Q. Did he get out of the car?

4 A. Yes, he did.

5 Q. And when he got out of the car, was he wearing a  
6 jacket?

7 A. Yes, he was.

8 Q. What kind of jacket?

9 A. Grey puffy jacket.

10 Q. Whose jacket was that?

11 A. That was my jacket.

12 Q. And did anybody else get out of the car?

13 A. Yeah my cousin Ahmed.

14 Q. Okay. Did the two of them leave?

15 A. Uh-huh.

16 Q. Did you stay in the car?

17 A. Yeah, I did. I went the other kid's house trying  
18 to go and check to see if he was there.

19 Q. What other kid's house?

20 A. Bullethead. We call him Bullethead.

21 Q. Is he somebody you know or?

22 A. Uh-huh.

23 THE COURT: That's a yes?

24 THE WITNESS: Yes.

25 BY MR. STREITZ:

1 Q. And was Bullethead home?

2 A. No, he wasn't.

3 Q. So what did you do?

4 A. Went back in the car.

5 Q. And when you went back in the car, where was  
6 Mahdi Ali and Ahmed Ali?

7 A. They were walking back towards the vehicle.

8 Q. Okay. Was there any discussion about anybody  
9 wanting to get some money?

10 A. No, I don't know. I think Mahdi tried --

11 MR. GOETZ: Objection, Your Honor,  
12 foundation.

13 THE COURT: Overruled. He can continue.

14 BY MR. STREITZ:

15 Q. You can continue your answer.

16 A. I think he was trying to get some money to get  
17 his car out.

18 Q. Where was he going to get some money out of?

19 A. From someone in the store maybe.

20 Q. What store?

21 A. The store that he was walking to.

22 Q. And what store is he walking to?

23 A. Dahabshiil Center.

24 Q. Dahabshiil Center?

25 A. I don't know what the store is called, sir.

1 Q. What kind of store is it?

2 A. It's a money cash store.

3 Q. A money what?

4 A. Money shipping store.

5 Q. Okay. Did you know what he was going to do in  
6 the store other than perhaps try to get some  
7 money?

8 A. No.

9 Q. And was Ahmed Ali with him?

10 A. Yes.

11 Q. Did those two eventually come back to the car?

12 A. Uh-huh.

13 THE COURT: That's a yes?

14 THE WITNESS: Yes.

15 BY MR. STREITZ:

16 Q. And when they got back to the car, was there a  
17 discussion about anything?

18 A. Nope.

19 Q. Okay. What happened next?

20 A. I wanted to go home so I got a ride to my house.

21 Q. Why did you want to go home?

22 A. Because me and my father came to an agreement  
23 that I had to do my homework because I was  
24 lacking in my grades, so I went to the house.

25 Q. Okay. And how did you get home?

1 A. Got a ride.

2 Q. And did you get dropped off at your house or  
3 somewhere else?

4 A. Couple houses down from the house, Auto Zone.

5 Q. What's the Auto Zone?

6 A. That's a store.

7 Q. Like an auto parts store?

8 A. Yep.

9 Q. Yes?

10 A. Yes.

11 Q. Why were you dropped off there?

12 A. I mean, it was the closest to my house.

13 Q. Why couldn't you be dropped off at your house?

14 A. I don't know, I just wanted to get dropped off  
15 over there and walk to my house.

16 Q. Okay. Who drove you there?

17 A. Mahdi.

18 Q. Who was with Mahdi?

19 A. Ahmed and me.

20 Q. And so you got out of the car?

21 A. Uh-huh.

22 THE COURT: That's a yes?

23 THE WITNESS: Yes.

24 BY MR. STREITZ:

25 Q. Did you go home?

- 1 A. Yes, I did.
- 2 Q. When you got home, who was home?
- 3 A. My mom.
- 4 Q. Anybody else in the house?
- 5 A. My little sisters and brothers.
- 6 Q. And what did you do once you got in the house?
- 7 A. Went to sleep at the house.
- 8 Q. Had your father gotten home yet?
- 9 A. No, not yet.
- 10 Q. When you got home, did you learn of anybody
- 11 had -- anybody was looking for your cousin?
- 12 A. Yeah, my other cousin called Adimar (ph).
- 13 Q. Who's he?
- 14 A. Ahmed's older brother.
- 15 Q. And do you know whose phone number or phone he
- 16 had called?
- 17 A. He called my sister's phone.
- 18 Q. Did he eventually give that phone number to the
- 19 police?
- 20 A. My sister's number?
- 21 Q. Yes.
- 22 A. Yeah. I gave my sister's number to the police.
- 23 Q. Why did you give them her number?
- 24 A. They said they wanted proof to verify that I was
- 25 at the house, so I gave them that number.

1 Q. When you got home and learned that Ahmed Ali's  
2 brother had called, did you know why he was  
3 calling?

4 A. To look for Ahmed.

5 Q. Did you or anybody in your house call him?

6 A. Did we call him?

7 Q. Yes.

8 A. No, I don't think we call him.

9 Q. Did you talk to him?

10 A. Yeah, I talked to him.

11 Q. How did you talk to him?

12 A. (No response.)

13 Q. How did that come about, did he call you then?

14 A. Yeah. He called my sister, my sister gave me the  
15 phone.

16 Q. Okay. And did you tell him where Ahmed was?

17 A. Yeah. I told him I left him and I wasn't with  
18 him, I didn't know where he was.

19 Q. Do you recall about what time you got home, you  
20 were dropped off?

21 A. Before sun went down, before sundown.

22 Q. Okay. Did you ever leave the house that night?

23 A. No, I didn't.

24 Q. I want to go into the next day, which at the 6th  
25 of January which was a Wednesday, now we're

1 talking Thursday, the next day, did you go to  
2 school?

3 A. Yeah, I did.

4 Q. How did you get to school?

5 A. Got a ride from my father.

6 Q. Okay. And did you and your father have a  
7 discussion about something that had happened the  
8 night before?

9 A. No. As I was getting out the car, my dad told me  
10 that --

11 MR. GOETZ: Objection, hearsay, Your  
12 Honor.

13 THE COURT: Approach.

14 (Discussion at the bench.)

15 THE COURT: Objection is overruled.

16 BY MR. STREITZ:

17 Q. What did your father tell you?

18 A. That he was listening to the radio and that  
19 someone died, three people died.

20 Q. Where?

21 A. Not too far away from the school.

22 Q. I take it you stayed in school that day?

23 A. Yes, I did.

24 Q. When you got into school, did you talk to a  
25 person by the name of Abshir?



- 1 A. Yeah, I did.
- 2 Q. Do you know Abshir's last name?
- 3 A. No, I don't.
- 4 Q. How do you know Abshir?
- 5 A. He goes to school with me.
- 6 Q. Okay. And did you talk to Abshir about anything?
- 7 A. No, not anything serious. I was asking him if he
- 8 knew where my cousin was.
- 9 Q. Your cousin Ahmed?
- 10 A. Uh-huh.
- 11 Q. Why were you looking for your cousin Ahmed?
- 12 A. Because I want to talk to him.
- 13 Q. What did you want to talk to Ahmed about?
- 14 A. I want to see if he was okay.
- 15 Q. Why would you have been concerned about Ahmed?
- 16 A. That's my cousin.
- 17 Q. Okay. Did your cousin show up at school at some
- 18 point after you had already talked to Abshir?
- 19 A. Yeah, afterwards.
- 20 Q. And did you talk to your cousin Ahmed?
- 21 A. I did.
- 22 Q. Tell us what you two talked about, what he said.
- 23 A. I asked him if he was okay, and he said, yeah. I
- 24 asked if they got the car out. He said, no.
- 25 Q. What else did he say?

1 A. I asked him if anything happened, he said no, and  
2 we had to go back to class.

3 Q. Did he appear that he wanted to talk to you  
4 anymore?

5 A. Huh?

6 Q. Did he appear to want to talk to you anymore  
7 about things?

8 A. Nope.

9 Q. Did you ever tell Abshir that you had  
10 participated in a robbery or a murder at the  
11 Seward Market?

12 A. No, sir.

13 Q. Had you participated in that murder or robbery?

14 A. No, I didn't.

15 Q. Were you anywhere near that market at the time?

16 A. No, I wasn't.

17 Q. Did you become aware through talking with  
18 detectives that Abshir was claiming that you had?

19 A. Yes, sir. Abshir and someone else.

20 Q. Did you tell the police whether you had or hadn't  
21 participated in it?

22 A. Yes, I did.

23 Q. What did you tell them?

24 A. I told them I hadn't participated in anything.

25 Q. Did the police ask you where you had been the

- 1           afternoon of the murders?
- 2       A.   Yes, sir.
- 3       Q.   And did you tell them where you were?
- 4       A.   Yes, I did.
- 5       Q.   Did you tell them who you were with?
- 6       A.   Yes, I did.
- 7       Q.   After the police talked to you, was that on
- 8           January 8th that the police brought you down to
- 9           talk to you -- a couple days later?
- 10      A.   A couple days afterwards.
- 11      Q.   Okay.  And after you told the police what you had
- 12           been doing on January 6th and who you were with
- 13           and where you had been, did the police arrest you
- 14           or let you go home?
- 15      A.   They let me go home.
- 16      Q.   How did you get home?
- 17      A.   They picked me up and dropped me back off at the
- 18           house.
- 19      Q.   When they dropped you back off at the house, did
- 20           they talk to your mother?
- 21      A.   Yeah, they did.
- 22      Q.   Did the police have you come downtown to talk to
- 23           you a couple of other times about this case?
- 24      A.   Yes, they did.
- 25      Q.   And were those the days shortly there -- a few

1 days after they had originally talked to you, did  
2 they bring you in a couple of different times?

3 A. Yes, they did.

4 Q. And did you answer the questions that they had?

5 A. Yeah, I did to my best.

6 Q. Did you ever go with the detectives to show them  
7 any of the places that you had been with your  
8 cousin and Mahdi Ali?

9 A. Yeah. Because they asked. They told me to show  
10 them where the Coat Factory was, so I showed  
11 them.

12 Q. Okay. Did you take them over to the area of  
13 Franklin and Nicollet also?

14 A. Uh-huh.

15 Q. Is that a yes?

16 A. Yes.

17 Q. Okay. Did you explain to him where the car was  
18 parked and that type of thing?

19 A. Uh-huh.

20 Q. When the police first talked to you, very first  
21 time you went down to the police station, did  
22 they show you any pictures?

23 A. Yes, they did.

24 Q. And did you ever tell the police they should  
25 check some fingerprints?

1           A.    Because they told me that all they needed was --  
2                    all they needed was the fingerprints and they  
3                    showed me someone's fingerprints, someone's hand  
4                    holding the door, and I told them it was me, I  
5                    didn't know who it was, and they could check my  
6                    fingerprints if they needed to.

7                                MR. STREITZ:  If I can just an a second,  
8                    Your Honor?

9                                May I approach, Your Honor?

10                               THE COURT:  You may.

11  BY MR. STREITZ:

12           Q.  I'm going to show you what's been received into  
13                    evidence as Exhibit 87.  Have you look at that.  
14                    Do you recognize that?

15           A.  Yes, you showed me that before.

16           Q.  Okay.  Do you recognize it?

17           A.  Yeah.

18           Q.  What is it?

19           A.  It's a photo of Mahdi, it looks like.

20           Q.  A what?

21           A.  A photo of Mahdi is what it looks like.

22                               MR. STREITZ:  Okay.  If you can show  
23                    that, Mr. Weber.

24  BY MR. STREITZ:

25           Q.  If you look at your monitor.  Which is the --

- 1           there appears to be two individuals in that  
2           picture. Do you recognize both of them?
- 3           A. I recognize one.
- 4           Q. And which one of the two do you recognize?
- 5           A. The one in the front.
- 6           Q. And you recognize him as Mahdi Ali?
- 7           A. Yeah.
- 8           Q. And how is it that you're able to recognize him?
- 9           A. Because of my jacket -- and my jacket.
- 10          Q. Okay. Are you able to see his face?
- 11          A. A little bit, not too much.
- 12          Q. Okay. Is there anything about the face that you  
13          recognize?
- 14          A. Just his hat.
- 15          Q. You mentioned a hat. Was he wearing a hat that  
16          day?
- 17          A. Yeah, he was.
- 18          Q. Okay. Did he do something with the hat when he  
19          went -- he left the car with Ahmed near Franklin  
20          and Nicollet?
- 21          A. Uh-huh.
- 22          Q. What did he do?
- 23          A. He put on his hat. He was wearing his hat.
- 24          Q. What color was the hat and what kind of hat was  
25          it that day?

1 A. It was a beanie with two little strings.

2 THE COURT: You have to speak up, sir.

3 THE WITNESS: It was a hat, like a  
4 beanie with two long strings on the side.

5 BY MR. STREITZ:

6 Q. Okay. Do you recall the color?

7 A. It was red and black on the side.

8 Q. And when he went into -- well, when he left the  
9 car with Ahmed near Franklin and Nicollet, do you  
10 recall whether the hat was right side out or  
11 inside out?

12 A. I don't remember.

13 Q. Okay. A few days ago, did I meet with you --  
14 excuse me -- did Sgt. Ann Kjos, one of the  
15 homicide detectives, and myself meet with you?

16 A. Yes, you did.

17 Q. And when we met, did I ask you if you'd be  
18 willing to give us a DNA sample?

19 A. Yes, you did.

20 Q. And did you?

21 A. Yeah, I did.

22 Q. Had the police asked you for DNA sample on a  
23 different occasion?

24 A. Huh?

25 Q. Had they ever asked you for one before?

1 A. I don't know. I don't remember.

2 Q. Okay. Had you received any instructions from  
3 your mother about talking to the police?

4 A. An instruction from my mom?

5 Q. Did your mom ever tell you about if the police  
6 came and wanted to talk to you what she wanted  
7 you to do?

8 A. Talk to her first because she's my guardian and  
9 I'm a minor. So I was a minor at the time, too.

10 Q. Okay. When I talked to you, when Sgt. Kjos and I  
11 talked to you, did you have an adult family  
12 member with you?

13 A. Yeah, I did.

14 Q. Okay. The very first time the police brought you  
15 in to talk to you and then they took you home  
16 that same night, do you remember that?

17 A. Uh-huh.

18 Q. Did they bring you in the next day?

19 A. I think they brought me a lot of times after.

20 Q. Okay. Did they ever ask you if you were trying  
21 to hide out your cousin? You were trying to hide  
22 your cousin?

23 A. Yeah, they did.

24 Q. Were you trying to hide your cousin?

25 A. No, I wasn't.



1 Q. Did you try and find your cousin so you could  
2 tell him to turn himself in?

3 A. Uh-huh.

4 Q. Yes?

5 A. Yes.

6 MR. STREITZ: Mr. Ali, I don't have any  
7 further questions, but perhaps the other attorney  
8 will have some questions for you, okay.

9 THE COURT: Mr. Goetz.

10 MR. GOETZ: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. GOETZ:

13 Q. Good morning, Mr. Ali.

14 A. Good morning.

15 Q. What's your birthday?

16 A. 3/10/1994.

17 Q. Your relation to Ahmed Shire Ali, you're cousins;  
18 is that right?

19 A. Yes, sir.

20 Q. Where is the connection, how are you related?

21 A. My father and his mother are siblings.

22 Q. You've known Ahmed Shire Ali all of your life?

23 A. Yes, sir.

24 Q. You're close?

25 A. Yes, sir.

1 Q. And your culture, the Somalia culture -- did you  
2 come from Somalia or Kenya?

3 A. Came from Somalia.

4 Q. So you're actually born in Somalia. Did you go  
5 to refugee camp before you came to the United  
6 States?

7 A. I don't remember all that.

8 Q. You were really small?

9 A. Yep.

10 Q. How old were you when came to the United States?

11 A. I was about two, three years old.

12 Q. Two or three. But have -- has your family in the  
13 broad sense tried to maintain some tradition in  
14 this country that you had in Somalia?

15 A. I don't understand the question, sir.

16 Q. That's fair. If you ever don't understand a  
17 question, please let me know and I'll try to  
18 rephrase it or come about it in a different way.

19 Is clan important to you?

20 A. Yes, it is.

21 Q. And why is clan important?

22 A. I don't know. It's good to keep family close.

23 Q. You want to help your family?

24 A. Yes, sir.

25 Q. If you knew a family member was in need, you

- 1           would do what you could to help them?
- 2       A.   Uh-huh.
- 3       Q.   Is that yes?
- 4       A.   Yes.
- 5       Q.   And you'd expect them to do the same for you?
- 6       A.   Uh-huh, yes.
- 7       Q.   Okay.  And within the broader clan you have your
- 8           actual family, your father, mother, aunts,
- 9           uncles, cousins; correct?
- 10      A.   Yes.
- 11      Q.   But the clan is a little bigger than that, right?
- 12      A.   Yes.
- 13      Q.   Ahmed Shire Ali is part of your same clan;
- 14           correct?
- 15      A.   Yes, sir.
- 16      Q.   He's part of your same family; correct?
- 17      A.   Yes, sir.
- 18      Q.   Mahdi Ali is not; correct?
- 19      A.   No, he's not.
- 20      Q.   He's no relation whatsoever?
- 21      A.   Yes, sir.
- 22      Q.   In fact, you know that his birth name is not
- 23           Mahdi Ali, it's something completely different,
- 24           were you aware of that?
- 25      A.   No, I wasn't aware of that.

1 Q. Okay. Now, Mahdi Ali is somebody you knew but he  
2 wasn't anybody that you were close to; correct?

3 A. Yes, sir.

4 Q. He was Ahmed's friend; correct?

5 A. Yes, sir.

6 Q. In fact, you never really liked him that much,  
7 did you?

8 A. Who?

9 Q. Mahdi Ali.

10 A. I don't know that.

11 Q. You did not really like him that much, isn't that  
12 true?

13 A. Did I not like Mahdi that much?

14 Q. Right.

15 A. If I didn't like him, I wouldn't have got in his  
16 car.

17 Q. Let me rephrase it just so we're clear. Would it  
18 be more accurate to say that you and Mahdi just  
19 didn't get along?

20 A. We did get along.

21 Q. Now, the prosecutor asked you questions about the  
22 times you've talked to the police; correct?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes.

1 Q. Okay. And you've told us today when you talked  
2 to the police you tried to tell them the truth;  
3 correct?

4 A. Yes.

5 Q. Just like you want us here to believe you're  
6 telling the truth today, right?

7 A. Yes, sir.

8 Q. And one of those times when you talked to the  
9 police was on January 9th 2010. In the course of  
10 preparing to testify today, have you reviewed  
11 transcripts, written up transcripts of what you  
12 said before?

13 A. No, I didn't.

14 Q. Prosecutors have never gone through these with  
15 you?

16 A. No, sir.

17 Q. Police officers never gone with you?

18 A. No, sir.

19 Q. All right. Well, we're going to go through them  
20 now.

21 MS. GOETZ: May I approach, Your Honor?

22 THE COURT: You may.

23 BY MR. GOETZ:

24 Q. I have a transcript, supplement 90, January 9,  
25 2010, Page 2 of a statement that you gave to Sgt.

1 Kjos and Porras. You remember that, the male and  
2 female investigators?

3 A. Uh-huh.

4 Q. They typed up what you said here. And on the  
5 second page it reads that you said, I was -- and  
6 Mahdi and me don't get along. Did I read that  
7 correctly?

8 A. Yes, you did.

9 Q. That's what you told the investigators, right?

10 A. Yes, sir.

11 Q. That was on January 9th. And then I also have a  
12 transcript from the next interview you gave --  
13 I'm sorry, the one after that. This was on  
14 January 13, 2010, supplement 50, Page 8. And,  
15 again, the investigators were asking you a lot of  
16 questions; is that right?

17 A. Yes, sir.

18 MR. GOETZ: May I approach again, Your  
19 Honor?

20 THE COURT: You may.

21 BY MR. GOETZ:

22 Q. And, again, you told the investigators then,  
23 quote, but me and Mahdi don't get along. Is that  
24 what you said; correct?

25 A. Yes, sir.

- 1 Q. So to be truthful, Mr. Ali, it's the fact, is it  
2 not, that you didn't get along with Mahdi Ali in  
3 January of 2010 and you don't get along with him  
4 now; correct?
- 5 A. I mean, I probably didn't get along with him, we  
6 probably fought a couple of times, it's not that  
7 I hated him or anything.
- 8 Q. You also testified this morning that your cousin  
9 Ahmed never told you anything about what happened  
10 at the Seward Market; correct?
- 11 A. Yes, sir.
- 12 Q. And you swear to this day that that's the truth?
- 13 A. Yeah. I can't recall him telling me anything.
- 14 Q. Had he told you about a robbery that went bad and  
15 three people were left dead, that's something you  
16 would remember, right?
- 17 A. Yes, sir.
- 18 Q. But it's your testimony that he never told you  
19 anything like that; correct?
- 20 A. Yes, sir.
- 21 Q. You know Abshir Asse; correct?
- 22 A. Yeah, I went to school with him.
- 23 Q. Your schoolmate, your school friend?
- 24 A. Uh-huh.
- 25 Q. Is that a yes?

1 A. Yes, sir.

2 Q. We have to keep reminding you that because there  
3 is a court reporter who's taking everything down  
4 and there is no button for uh-huh or huh-uh, so  
5 if you can try to remember to use words.

6 A. All right.

7 Q. Now, Abshir is a good friend of yours, right?

8 A. Yeah. He's not a good friend of mine, I know him  
9 from school.

10 Q. A friend?

11 A. Uh-huh.

12 Q. And that was at the Volunteers of America;  
13 correct?

14 A. Yes, sir.

15 Q. On January 7th, the morning after the shooting,  
16 you see Abshir at school, right?

17 A. Yes, sir.

18 Q. You talked to him; correct?

19 A. (Nods head.)

20 Q. Is that right?

21 A. Yes, sir.

22 Q. And the investigators also, didn't they show you  
23 surveillance footage from Volunteers of America  
24 School where it's you and Abshir talking?

25 A. Yes, sir.



1 Q. And the next day, the day after the  
2 shooting -- now, you testified here today that  
3 you only heard about the shooting because your  
4 father said he heard something about the incident  
5 on the radio?

6 A. Uh-huh, yes, sir.

7 Q. Is that right?

8 A. Uh-huh.

9 Q. And, again, you're telling us you never talked to  
10 Ahmed?

11 A. I talked to Ahmed.

12 Q. About the shootings?

13 A. Yes.

14 Q. But yet, isn't it the case that on the morning of  
15 January 7th or some time during the day on  
16 January 7, you told Abshir that you and Mahdi  
17 decided to rob a store?

18 A. Can you repeat that, sir?

19 Q. Sure. The day after this incident happened,  
20 isn't it the case that you told Abshir that it  
21 was you and Mahdi who decided to rob the store?

22 A. I didn't tell Abshir that, sir.

23 Q. Didn't you tell Abshir how this robbery went bad?

24 A. I didn't tell him anything like that, sir. I  
25 just asked him where my cousin was.

1 Q. Didn't you tell Abshir that one of the people who  
2 was shot was shot while he was trying to grab for  
3 a gun? Didn't you tell Abshir that the day after  
4 the shooting?

5 A. No, I didn't, sir.

6 Q. Didn't you tell Abshir the day after the shooting  
7 how another guy got shot in the neck?

8 A. No, I didn't. I didn't tell him any of that,  
9 sir.

10 Q. Didn't you tell Abshir that you pushed the door  
11 with an elbow to get out and stepped over a dead  
12 body to get out of the front door of that market?

13 A. No, I didn't.

14 Q. Mr. Ali, it's true, is it not, that you told  
15 Abshir Ali about the shooting, the events of the  
16 shooting, in great detail the day after it  
17 happened?

18 A. No, I didn't. I didn't tell him any of that.

19 Q. You told Abshir details of the incident that only  
20 somebody who had been involved in the incident  
21 would know?

22 A. You keep saying I told him. I didn't tell him  
23 anything.

24 Q. And you never spoke with Mahdi after the  
25 incident; correct?

1 A. Nope.

2 Q. But isn't it the case that you told Abshir that  
3 you were going to kill Mahdi because you thought  
4 he might talk?

5 A. No. No, sir.

6 Q. You also told Abshir that you were scared and you  
7 might leave for Africa?

8 A. No, sir.

9 Q. Can you explain for us, Mr. Ali, how Abshir would  
10 know all of the details of this Seward Market  
11 shooting the day after it happened if you did not  
12 provide them to him?

13 MR. STREITZ: Your Honor, I would  
14 object, speculation.

15 THE COURT: Sustained.

16 BY MR. GOETZ:

17 Q. Let me ask you this. Do you have any reason to  
18 explain why Abshir would tell authorities that  
19 you told him all these things if it was not  
20 actually true?

21 A. Nope, I have no reason. But me and Abshir, not  
22 me and Abshir, but my brother and Abshir did have  
23 a conflict before, a couple of weeks prior to the  
24 incident.

25 Q. Your brother and Abshir?

1 A. Yeah. And he always looked at me funny  
2 afterwards at school, but I don't know why he  
3 would --

4 Q. So you're telling us that would be a reason for  
5 Abshir to falsely tell the police --

6 A. I'm not saying a reason for him, I'm just.

7 Q. I want to talk about a couple of other areas.  
8 January 6, 2010. You've lived in Minnesota for a  
9 number of years, you know January, that's pretty  
10 much about the darkest time of winter, is it not?

11 A. Yes, sir.

12 Q. It's true, is it not, that by the time that you  
13 were at the SuperAmerica store, as you claim you  
14 were, it was already starting to get dark?

15 A. Yes, sir.

16 Q. So if we accept your testimony that after that  
17 you went to Nicollet and Franklin -- and how long  
18 were you at Nicollet and Franklin area?

19 A. For about five minutes the whole area.

20 Q. So you were -- you were for about five minutes  
21 there and 22nd and Lyndale is just down the  
22 street from Nicollet and Franklin. It's not too  
23 far, is it?

24 A. Yes.

25 Q. So by the time you're at Nicollet and Franklin

1 leaving that area, it's already starting -- it's  
2 pretty much dark, is it not?

3 A. No, it wasn't dark, but the sun was starting to  
4 go down.

5 Q. Okay. Now, you said Mahdi Ali was the owner of  
6 the car. Do you know who owned that Crown  
7 Victoria?

8 A. No. But police told who owned that Crown  
9 Victoria.

10 Q. So the police were giving you information?

11 A. No. They told me because I told them that I was  
12 in that car and they said, the red Crown Victoria  
13 that so-and-so. So they didn't say Mahdi's name,  
14 they said so-and-so owned.

15 Q. Oh, so you don't know who owns that car?

16 A. No, I don't.

17 Q. And, lastly, I want to ask you some questions  
18 about the jacket.

19 MR. GOETZ: May I approach, Your Honor?

20 THE COURT: You may.

21 BY MR. GOETZ:

22 Q. Just to move things along, I'm just going --

23 MR. GOETZ: Everybody see?

24 JURORS: Yes.

25

1 BY MR. GOETZ:

2 Q. Now, just so I'm clear, Mr. Ali, do you recognize  
3 just one or both people in this photograph?

4 A. I recognize my jacket though.

5 Q. So all you recognize is your jacket?

6 A. The hat and --

7 THE COURT: Exhibit number?

8 MR. GOETZ: 87. I'm sorry, Your Honor.

9 THE COURT: Thank you.

10 BY MR. GOETZ:

11 Q. And there is nothing about the second figure  
12 depicted at all that you recognize?

13 A. The shirt, the undershirt and the shoes. That's  
14 about it.

15 Q. Okay. Undershirt and shoes?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. But the only thing that looks familiar to you on  
20 the first individual is the jacket and the hat?

21 A. Yes, sir.

22 Q. Okay. And you admit that that is your jacket?

23 A. Yeah, I left it in Mahdi's car.

24 MR. GOETZ: May I approach again, Your  
25 Honor?

1 THE COURT: You may.

2 BY MR. GOETZ:

3 Q. Showing you what's been received in evidence as  
4 Exhibit 67.

5 MR. GOETZ: Everyone see that?

6 JURORS: Yes.

7 BY MR. GOETZ:

8 Q. Do you see your jacket in this photograph?

9 A. Can I see it? Yeah, I see my jacket in the  
10 photograph.

11 Q. Can you point out to the jury where your jacket  
12 is?

13 A. Right there (pointing).

14 Q. And it's got a hood up; is that right?

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. Yes.

18 Q. And as you described to investigators, that hood  
19 has two things on the inside of it, so there's  
20 strings that you can pull it to make it tighter  
21 or looser; is that right?

22 A. That's the hat.

23 Q. I'm asking you about inside the jacket hood  
24 itself. As you described it to investigators  
25 there are two things inside the hood to use to

1 pull it tighter?

2 A. Yes, sir.

3 Q. Is that right?

4 A. Yes, sir.

5 MR. GOETZ: That's all the questions I  
6 have. Thank you.

7 MR. STREITZ: Just need a second, Your  
8 Honor, please.

9 THE COURT: Sure.

10 **REDIRECT EXAMINATION**

11 MR. STREITZ: May I approach again?

12 THE COURT: You may.

13 BY MR. STREITZ:

14 Q. I'm going to show you what's marked as Exhibit  
15 65. Take a look at that. Do you recognize your  
16 jacket in this particular photograph?

17 A. I kind of recognize my jacket over here.

18 Q. And do you recognize who would be wearing your  
19 jacket?

20 A. No. But, I mean, I gave it to Mahdi. I can't  
21 recognize who's wearing the jacket.

22 THE COURT: I'm sorry. I can't hear.

23 THE WITNESS: I can't recognize who's  
24 wearing the jacket, but I gave the jacket to  
25 Mahdi and the face is covered up.



1 BY MR. STREITZ:

2 Q. Is that you?

3 A. No, that's not me.

4 Q. Is that -- there is another -- there is two other  
5 individuals in the picture. One appears to be  
6 behind a counter with his hands up. That's not  
7 you, is it?

8 A. No, sir.

9 Q. And how about the person in the striped shirt?

10 A. That's not me either.

11 Q. Do you know anybody who is wearing a striped  
12 shirt that day?

13 A. Yeah. Ahmed was wearing a stripped shirt earlier  
14 that day.

15 Q. Okay. Also in 65, I'm going to draw your  
16 attention to the person who has a jacket on, your  
17 jacket on. Do you notice anything about that  
18 person's --

19 MR. GOETZ: Objection, leading, Your  
20 Honor.

21 THE COURT: Sustained.

22 BY MR. STREITZ:

23 Q. I want to show you what's been received into  
24 evidence as Exhibit 67. Do you recognize  
25 anybody -- do you recognize your jacket in this

1 picture?

2 A. Yes, I do, sir.

3 Q. And what is the person who has got the jacket on,  
4 what is that person doing?

5 A. He's holding --

6 THE COURT: I'm sorry.

7 THE WITNESS: He's holding someone up  
8 against the counter.

9 BY MR. STREITZ:

10 Q. And you were asked some questions by the defense  
11 attorney about some strings. Do you see any  
12 strings in that picture?

13 A. Yeah, string right there (pointing) --

14 THE COURT: Could you repeat that.

15 THE WITNESS: It looked like a hat  
16 string.

17 BY MR. STREITZ:

18 Q. Were you wearing a hat that had strings on that  
19 day?

20 A. No, sir.

21 Q. You mentioned that in some questioning with the  
22 defense attorney if you had any reason to -- why  
23 Abshir would say the things that he did, remember  
24 that?

25 A. Yes, sir.

1 Q. And you brought up some type of issue between  
2 Abshir and your brother?

3 A. Yes, sir.

4 Q. Okay. Was that like a fight or something?

5 A. Yeah. It was some issue something that happened.

6 Q. Okay. When did that happen, before or after  
7 these murders had happened?

8 A. Before.

9 Q. Do you know how soon before?

10 A. No, I don't.

11 Q. Did you tell the police about that?

12 A. Yeah, I did.

13 MR. STREITZ: If I can just have a  
14 second.

15 (State's counsel confer.)

16 MR. STREITZ: I have nothing further.

17 MR. GOETZ: Nothing further, Your Honor.

18 THE COURT: Sir, you may step down.

19 (Witness leaves the stand.)

20 THE COURT: Members of the jury we'll  
21 take our 20-minute break. Please be in the usual  
22 place at five minutes to 11. Thank you.

23 (Recess.)

24 MR. STREITZ: We call Leandro Garcia.

25 THE COURT: Mr. Garcia, come right up in

1 front of the bench.

2 LEANDRO GARCIA,  
3 called as a witness on behalf of the State, having been  
4 first duly sworn, was examined and testified as follows:

5 THE COURT: Have a seat in the chair.  
6 Before you begin, give us your full name,  
7 spelling each of your names.

8 THE WITNESS: Leandro Garcia;  
9 L-e-a-n-d-r-o, G-a-r-c-i-a.

10 THE COURT: And the microphone in front  
11 of you, you don't have to be really close to it,  
12 but speak close -- speak near it, that would be  
13 fine. That's just fine the way you are. Keep  
14 your voice up, if you could.

15 **DIRECT EXAMINATION**

16 BY MR. STREITZ:

17 Q. Good morning, Mr. Garcia.

18 A. Good morning.

19 Q. How are you doing?

20 A. Pretty good.

21 Q. Do you live in the metropolitan area or do you  
22 live outside the metropolitan area?

23 A. Outside the metropolitan area.

24 Q. And are you employed?

25 A. Yes.

1 Q. Full-time?

2 A. Yes.

3 Q. And I don't want you to tell us where you work,  
4 but what type of work do you do?

5 A. Machine operator.

6 Q. Okay. How old are you?

7 A. I'm 25.

8 Q. Okay. I want to take you back to January and  
9 February of 2010, okay?

10 A. Yes.

11 Q. And ask you some questions. Were you serving  
12 some time in the Carver County Jail?

13 A. Yes.

14 Q. And for -- why were you in the jail?

15 A. For a DWI.

16 Q. Okay. While you were in the Carver County Jail,  
17 did you get placed in a special unit?

18 A. Yes.

19 Q. And what unit was that?

20 A. The medical unit.

21 Q. Did you have a medical problem?

22 A. No.

23 Q. Okay. Why was it that you got placed there?

24 A. There was an individual in the medical unit that  
25 needed to -- someone to be there to talk to him

1 and help him out.

2 Q. Okay. Who was that person?

3 A. His name was Sam.

4 Q. Okay. And what do you mean, talk to him and help  
5 him out?

6 A. Just to calm down because he was worried about  
7 where he was going. I believe he was going to  
8 the state hospital and he just needed someone to  
9 room with him and keep him occupied.

10 Q. Why you?

11 A. Because just being incarcerated I had like just  
12 no problems, always been polite to the jailers  
13 and other inmates there. And I worked in the  
14 kitchen so, you know, I have -- they trust me.

15 Q. Okay. So they put you in this medical unit with  
16 this person?

17 A. Yes.

18 Q. Was there anybody else in the medical unit?

19 A. At the time when they placed me there, I thought  
20 it was just going to be me and this one  
21 individual. But when I got there, it was me and  
22 the individual and another one.

23 Q. And who was the other one?

24 A. Mahadi.

25 Q. That's what you knew the person's name as?

1 A. I didn't know his name at the time until just  
2 being in there and he told me his name.

3 Q. Okay. Is that person in the courtroom today?

4 A. Yes.

5 Q. Can you tell us where that person is, what that  
6 person is wearing?

7 A. He's right there. He's wearing black dress up  
8 shoes, tan pants and a long sleeve shirt.

9 MR. STREITZ: May the record reflect  
10 he's identified the defendant, Your Honor?

11 THE COURT: Any objection?

12 MR. GOETZ: No objection.

13 THE COURT: It will.

14 BY MR. STREITZ:

15 Q. Had the jail staff put you back there to try to  
16 get information from the defendant?

17 A. No.

18 Q. Okay. It for this other person?

19 A. Yeah, for Sam.

20 Q. To keep him calm?

21 A. Yeah, to keep him calm.

22 Q. All right. Describe for us kind of what the  
23 layout of the medical unit was.

24 A. It was one unit like a little room. Well, it's  
25 not little but medium-size room. It had a TV,

1 two chairs, a table with stools around it, a  
2 little like desk with books. And on the  
3 right-hand side was like the bathroom shower  
4 area, and there was two cells. One cell had two  
5 beds or two bunks and the other cell had just one  
6 bunk.

7 Q. And were you in a cell with anybody else?

8 A. Yes, I was with Sam.

9 Q. And the defendant was in --

10 A. In a cell by himself.

11 Q. So was there a room where you could come out of  
12 your cells and be together?

13 A. Yes. That was where the day reward TV and chairs  
14 were.

15 Q. Did the defendant eventually talk to you about  
16 why he was in jail?

17 A. Not at first. Well, I didn't know anything about  
18 him until Sam told me --

19 MR. GOETZ: Objection, hearsay.

20 THE COURT: Sustained.

21 BY MR. STREITZ:

22 Q. The question is, did the defendant eventually --  
23 did the defendant ever tell you about what he had  
24 done -- if he had done any crimes?

25 A. Eventually.



1 Q. After you learned that information, did you  
2 approach anybody to tell them about the  
3 information you received?

4 A. Yes, one of the jail staff.

5 Q. And eventually did some homicide detectives come  
6 and talk to you?

7 A. Yes.

8 Q. And did they take a statement from you?

9 A. Yes.

10 Q. And what did you get out of this?

11 A. Nothing.

12 Q. Okay. Did you get less time in jail for that?

13 A. No.

14 Q. So why was it that you came forward with the  
15 information?

16 A. I just felt it was a harsh crime that was  
17 committed and just kind of felt like remorse for  
18 the family, you know, that passed away, like just  
19 felt bad for them.

20 Q. Okay. How was it that you came -- did you come  
21 to learn some information from the defendant?

22 A. By Sam.

23 Q. And then did you learn some information from the  
24 defendant himself?

25 A. Yes.

1 Q. And how was it that that came about that you and  
2 the defendant were talking?

3 A. Just came down off of lockdown and was watching  
4 TV.

5 Q. What were you watching?

6 A. The First 48 Hours.

7 Q. And who's watching it?

8 A. Me, the defendant and Sam.

9 Q. And as you're watching it, what happens?

10 A. Just talking about there was, I believe, like a  
11 homicide on the show and just going talking about  
12 what the person did wrong and, you know.

13 Q. Who's saying what the person did wrong on the  
14 show?

15 A. Mahadi.

16 Q. What do you mean by saying he's telling what  
17 went wrong?

18 A. Well, like, in one of the shows like the  
19 individual had a gun and he didn't -- wasn't  
20 wearing any gloves and that was a mistake that  
21 the person did was by touching the gun without  
22 wearing any gloves.

23 Q. And who's saying this?

24 A. Mahadi.

25 Q. Did you know why the defendant was in jail?

1 A. No.

2 Q. Did you learn why he was in jail?

3 A. Yes, after him talking to me.

4 Q. How was it that -- what was -- what did you  
5 learn?

6 A. That he was in there -- for him talking to me, he  
7 was in there on a triple homicide.

8 Q. So you're watching the show 48 Hours?

9 A. Yes.

10 Q. With Sam and the defendant?

11 A. Yes.

12 Q. Did you ever see any -- did the defendant ever  
13 show you any paperwork that he had?

14 A. He showed me the paperwork, I just glanced at it,  
15 it just said homicide, and I gave it back to him.

16 Q. How did that happen?

17 A. Well, before I ever knew anything about Mahadi or  
18 his crime, it was lockdown and I was reading a  
19 book and Sam told me that he was --

20 MR. GOETZ: Objection, Your Honor,  
21 hearsay.

22 THE COURT: Overruled.

23 MR. STREITZ: Not offered for the truth,  
24 Your Honor.

25

1 BY MR. STREITZ:

2 Q. You can continue.

3 A. That Sam was telling me that he was in here for  
4 killing three people, and he told me to talk to  
5 him about it, which I didn't really care.

6 Q. So did you talk to him at that point about what  
7 he had done?

8 A. No.

9 Q. Why not?

10 A. Because it wasn't my business, I was in there for  
11 my case.

12 Q. Okay. And then what happened?

13 A. We got off of lockdown and we were watching the  
14 TV.

15 Q. The 48 Hours?

16 A. The 48 Hours, and that's when Sam told Mahadi to  
17 show me the papers what he was in there for.

18 Q. Did you also ask the defendant to show you his  
19 papers?

20 A. No.

21 Q. Then what happened?

22 A. Mahadi said that he wasn't in there for no  
23 murder, and Sam said quit lying that you are, and  
24 which at that point Mahadi got up and went to his  
25 room, came back and had bunch of papers in his

1 sleeve.

2 Q. In his sleeve?

3 A. Yes.

4 Q. Sleeve like --

5 A. Like a sweater they give us in jail.

6 Q. Okay.

7 A. And he sat next to me and I was watching TV and  
8 Sam goes, show him. And Mahadi said, show him  
9 what? And Sam goes, the paperwork. Why you're  
10 in here for. That's when Mahadi pulled the  
11 paperwork out of his sleeve and said, this is  
12 what I'm in here for. And he handed to me, I  
13 glanced at it and it said homicide and I gave it  
14 back to him.

15 Q. Okay. You say you glanced at it, what exactly  
16 did you see at the paper?

17 A. It just said triple homicide.

18 Q. And did you read anything more?

19 A. No.

20 Q. Okay. What did you do then?

21 A. I just hand it back to him and continued watching  
22 TV.

23 Q. Why did you hand it back to him? Weren't you  
24 curious?

25 A. No, because it wasn't my business.

1 Q. Had you watched any, I take it that in the jail  
2 you said there was a TV?

3 A. Yes.

4 Q. Had you watched any news coverage about a triple  
5 homicide that had happened in early January in  
6 Minneapolis?

7 A. No.

8 Q. Okay. Had you read any newspaper accounts of it?

9 A. No.

10 Q. Were you in any way aware of it?

11 A. No.

12 Q. After you handed the papers back to the  
13 defendant, what did he tell you?

14 A. He just start talking to me about the case.

15 Q. Okay. And what did he tell you about -- what did  
16 he tell you?

17 A. He just told me that -- that he killed three  
18 people.

19 Q. He tell you how it happened?

20 A. Yes.

21 Q. Tell us what he told you.

22 A. He just mentioned that it was -- he got a call  
23 from a friend of his who wanted to talk to him.  
24 They met outside, it was his friend and another  
25 individual, Mohammed was saying there was two

1 other individuals that came and talk to him.

2 Q. You said one was a friend?

3 A. One was a friend.

4 Q. What about the other?

5 A. He didn't know who he was.

6 Q. Okay. All right.

7 A. They started talking and, uh --

8 Q. What were they talking about?

9 A. About doing a robbery.

10 Q. Okay.

11 A. And the -- his friend had a gun, and he asked  
12 where he get it from, and he said it was from his  
13 brother, he got from his brother's room.

14 Q. And when he talked about this friend, the one  
15 that he knew, did he say anymore about who that  
16 individual was?

17 A. No.

18 Q. Did he indicate whether or not that person has  
19 been arrested?

20 A. At the end of his story he mentioned it, that he  
21 got arrested.

22 Q. Okay. The friend of his?

23 A. The friend of his.

24 Q. Okay. So let's go back to the defendant telling  
25 you that he killed three people and that a friend

1 of his did something. He had a gun?

2 A. Yes.

3 Q. Tell us more about that.

4 A. It all started the -- like he told me that his  
5 friend had -- his car got impounded and they went  
6 to go take it out, and on their way to go get it  
7 out, the defendant mentioned something about a  
8 store to rob, and that's how they got the whole  
9 idea, they planned it.

10 Q. Did he tell you about the plan?

11 A. Yes.

12 Q. What was the plan?

13 A. The plan was the individual that he did not know  
14 was going to drive and that him and his friend  
15 were going to go in the store to rob it. And  
16 that the individual that Mahadi didn't know was  
17 supposed to stay outside and keep the car  
18 running.

19 Q. What were Mahdi and his friend going to do when  
20 they went into the store?

21 A. He said that his friend was supposed to go in the  
22 back and take the individual so whoever was in  
23 there, in the back of the room, tie them up and  
24 keep them back there until everything was over.

25 Q. Okay. And what was -- did Mahdi tell you what he



1 was going to do?

2 A. That he would have the gun and rob them.

3 Q. Okay. Did he tell you whether or not -- did he  
4 tell you whether or not there was a lot of money  
5 in the store?

6 A. Yes.

7 Q. What did he tell you?

8 A. He said on this particular day that there would  
9 be like 10 to \$15,000 in the cash register and  
10 more in a little safe or some kind of hidden  
11 thing underneath the cash register.

12 Q. And had he told you whether or not he had been in  
13 the store to check that out?

14 A. Yes. He said he had been in there to scope it  
15 out and to see what was all around there. That  
16 was it.

17 Q. Okay. Did he tell you why there would be all  
18 this money at that time?

19 A. That family members would send money to different  
20 countries like Africa.

21 Q. So did he tell you what they -- what he and his  
22 friend who went into the store, what they did?

23 A. Yes.

24 Q. Did he indicate whether or not they did anything  
25 to keep from being recognized?

1 A. Yes, that a mask and some gloves.

2 Q. What about a mask and some gloves?

3 A. That they would have put them on so no one would  
4 identify them.

5 Q. Did he tell you whether or not he, Mahdi, the  
6 defendant, and his friend went into the market?  
7 Did he tell you if they went in?

8 A. Yeah, they went in.

9 Q. And did he tell you what happened once they went  
10 in?

11 A. Yes.

12 Q. Okay. So he told you that?

13 A. Yes.

14 Q. Did he tell you how many people were inside?

15 A. He told me that there was three individuals at  
16 the cash register, and I believe three more that  
17 were in the store.

18 Q. Okay. And did he say what he -- the defendant  
19 tell you what he did and what the other person,  
20 his friend did, when they went in?

21 A. Yes.

22 Q. And tell us what he told you.

23 A. That his friend went in first and Mahadi would go  
24 in after him; that his friend was supposed to  
25 take everybody in the back of the room and tie

1           them up and just wait until he was done, you  
2           know, robbing the place. That's when he had the  
3           gun and was robbing the place with three  
4           individuals in the front of the store.

5           Q. Okay. And did he tell you what the -- did the  
6           defendant tell you what he did when he was in the  
7           front with these three people?

8           A. Yes.

9           Q. What?

10          A. That he told them that this is a robbery, for  
11          them to give him all the money. The  
12          individuals -- the individuals of the store  
13          didn't believe it, so they just tried to like  
14          take the gun away from him, but instead of Mahdi  
15          wasn't intentionally like trying to shoot at the  
16          person but instead was aiming -- he mentioned  
17          that one of the individuals tried to get the gun  
18          away and shot him in the head.

19          Q. And did he say what he did after he shot the one  
20          in the head?

21          A. Yeah. He got scared, ran out, and came back in  
22          and 'cause his friend was in the back still, back  
23          of the store, and he shot the other two  
24          individuals.

25          Q. Why?

- 1 A. He got scared and that no witnesses, because he  
2 didn't want no one to know it was him.
- 3 Q. What did he tell you about the friend who was in  
4 the back of the store?
- 5 A. He got scared too because he heard the gunshots  
6 and he came running out with Mohammed -- Mahdi  
7 and he took off.
- 8 Q. Did he ever mention whether his friend went back  
9 in or was it just the defendant that went back  
10 in?
- 11 A. It was just the defendant.
- 12 Q. And again he went back in why?
- 13 A. To shoot the two other individuals because he  
14 didn't want no witnesses to testify against him.
- 15 Q. Did he tell you whether or not he got any money  
16 from the store?
- 17 A. No, he did not.
- 18 Q. He did not tell you or he didn't get --
- 19 A. Oh, he told me. He told me he didn't get no  
20 money.
- 21 Q. Why?
- 22 A. He was scared and he just killed, you know, the  
23 three individuals and he just took off.
- 24 Q. Did he tell you where he went after he had killed  
25 these three individuals?

1 A. Yeah. They went back to an apartment that he was  
2 at where he lived with, I believe, a girl and a  
3 baby, and he just sat there and talked about what  
4 happened.

5 Q. Did the defendant say anything about school?

6 A. Yes, he mentioned it to his friend.

7 Q. Which friend?

8 A. The one that he knew.

9 Q. The one that had gone in with him?

10 A. Yeah, that had gone in with him.

11 Q. What about?

12 A. That for him not to go to school, that because,  
13 you know, what they did was bad and everybody is  
14 going to know, you know, people got killed, just  
15 to lay low for a little while. But his friend  
16 went to school the following day.

17 Q. Did the defendant tell you why he had been  
18 arrested?

19 A. I don't understand the question.

20 Q. Did he tell you that someone else has been  
21 arrested on the case?

22 A. Oh, yeah, his friend did.

23 Q. The one who had gone in with him?

24 A. Yes.

25 Q. The one who had been in the back of the store?

1 A. Yes.

2 Q. And did he mention to you whether or not he  
3 thought that other person who was arrested had  
4 said something to the police?

5 A. Yes.

6 Q. What?

7 A. That he was the trigger man.

8 Q. That who was the trigger man?

9 A. Mahadi.

10 Q. That --

11 A. That he mentioned to the cops that Mahadi was the  
12 one that killed the three individuals.

13 Q. So the other person that was arrested for these  
14 crimes, Mahdi believed had told the police that  
15 Mahdi was the trigger man?

16 A. Yes.

17 Q. But Mahdi himself had just told you that?

18 A. Yes. He told me in the beginning of the story  
19 that he committed the crime.

20 Q. Do you think he was joking when he was telling  
21 you that?

22 A. No. I didn't because he had a smirk on his face  
23 like, I don't know, he just didn't care.

24 Q. Did you think he was trying to act tough in the  
25 jail?

1 A. No.

2 MR. GOETZ: Objection, Your Honor,  
3 relevance, foundation as well.

4 THE COURT: Sustained on foundation.

5 BY MR. STREITZ:

6 Q. Sometimes in jail do people try and act tough for  
7 a reason?

8 A. Yes.

9 Q. What kind of reason would people try and act  
10 tough?

11 MR. GOETZ: Objection, relevance, Your  
12 Honor.

13 THE COURT: Overruled.

14 BY MR. STREITZ:

15 Q. You can answer.

16 A. Oh, just because there is individuals are bigger,  
17 some of them feel vulnerable, intimidated by  
18 other individuals.

19 Q. So they may want to make themselves look tough  
20 and big so they don't get intimidated?

21 A. Yes, or bullied.

22 Q. Did you think that was the reason why he may have  
23 been telling you this?

24 MR. GOETZ: Objection, speculation,  
25 foundation.

1 THE COURT: Sustained.

2 BY MR. STREITZ:

3 Q. Was anybody bullying the defendant when he was in  
4 the medical unit with you and Sam?

5 A. No.

6 Q. Did the defendant say anything about this third  
7 person or what he was going to do about that?

8 A. Yes. He mentioned that the third individual that  
9 he did not know -- well, I -- I asked him what  
10 happened to the third individual. He goes that  
11 he shouldn't be around, he should be gone to his  
12 country because, you know, it was all over the  
13 news that, if he would get caught, he would put  
14 the blame on the third individual.

15 Q. If who got caught?

16 A. Mohammed -- Mahdi.

17 Q. So he was going to blame --

18 A. The third individual.

19 Q. Did you mention -- did you have a discussion with  
20 the defendant about modern technology and crimes?

21 A. Yeah.

22 Q. Tell us about that.

23 A. Well, I mention to him like aren't you afraid  
24 you'll get caught with the technology they have  
25 nowadays like with forensics and all that. He



1 just mentioned to me because he wasn't worried  
2 about it because they didn't have -- they didn't  
3 have fingerprints or no face which meant -- well  
4 he basically told me, no face, no case.

5 Q. Did he mention to you anything about the clothes  
6 that he had worn, what he did with them?

7 A. Yes. He said he washed them, and I mentioned to  
8 him, where did they go, but he didn't really get  
9 into details with that.

10 Q. Do you recall anything about a car being  
11 involved?

12 A. Excuse me?

13 Q. Do you recall anything about the car being  
14 involved?

15 A. Yeah, he mentioned it was a four-door, I don't  
16 know what type of model it was, it was either  
17 black or white, but it was a four-door.

18 Q. So the defendant told you this information and  
19 then you eventually told the police about it?

20 MR. GOETZ: Objection, repetitive.

21 THE COURT: Overruled.

22 THE WITNESS: Yes. I mentioned it to  
23 one of the sergeants, or guard there when they  
24 were moving me back to population.

25 BY MR. STREITZ:

1 Q. Okay. The police give you anything in exchange  
2 for this?

3 A. No.

4 Q. Have I given you anything in exchange for this?

5 A. No.

6 Q. Has anybody given you anything in exchange for  
7 this?

8 A. No.

9 MR. STREITZ: I have no further  
10 questions, but perhaps the other attorney does.  
11 Okay.

12 THE COURT: Mr. Goetz.

13 MR. GOETZ: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MR. GOETZ:

16 Q. Mr. Garcia, you are no stranger to the criminal  
17 justice system, are you?

18 MR. STREITZ: Objection, Your Honor.  
19 May we approach?

20 THE COURT: You may approach.

21 (Discussion at the bench.)

22 THE COURT: Members of the jury, the  
23 attorneys and I are going to discuss this legal  
24 issue, it will probably take longer than a few  
25 moments and, unfortunately, I have a meeting in

1 Brooklyn Center at noon, so I'm going to release  
2 you until 1:30 today. Please be in the usual  
3 spot at that time.

4 Mr. Garcia, you can remain.

5 (Jurors leave the courtroom.)

6 THE COURT: Mr. Goetz, you were about to  
7 ask or the witness about his criminal record. Do  
8 you want to make an offer of proof?

9 MR. GOETZ: I would, Your Honor, outside  
10 the presence of the witness, please.

11 THE COURT: All right. Mr. Garcia, why  
12 don't we have you wait out in the hallway. Go  
13 with Ms. Etter (ph).

14 THE COURT: Mr. Goetz.

15 MR. GOETZ: Your Honor, through the  
16 course of discovery in this case we made a  
17 request under Rule 9 that the State provide us  
18 with notices of who their witnesses might be and  
19 their records of conviction, if any.

20 As to Leandro Garcia, the State provided  
21 us with information showing that he has three  
22 felonies. Number one, a felony conviction from  
23 February 10th of 2005 in Sibley County, the  
24 offense is failure -- predatory offender  
25 intentionally providing false information in

1 violation of Minnesota Statute 243.166 subd. 5  
2 paragraph A, a felony.

3 THE COURT: What was the year of  
4 conviction?

5 MR. GOETZ: He was sentenced on February  
6 10 of 2005.

7 THE COURT: Okay.

8 MR. GOETZ: The next conviction the  
9 State provided us with notice of was a felony  
10 second-degree burglary conviction, burglary of a  
11 dwelling, also from Sibley County, also with a  
12 date of conviction of February 10 of 2005. The  
13 third conviction that the State provided us  
14 notice of was a DUI felony, felony DUI, from  
15 Carver County with a date of conviction of  
16 October 7, 2008. Your Honor, those are all  
17 admissible under 609. There is no notice  
18 requirement because they are within ten years.

19 In addition, the defense under 608(b)  
20 intends to offer proof of a specific instance of  
21 misconduct, rather specific instance of  
22 untruthfulness on the part of Mr. Garcia. 608(b)  
23 provides that specific instances of conduct of  
24 the witness for the purpose of attacking or  
25 supporting the witness's character for

1 truthfulness other than the conviction of a crime  
2 as provided in Rule 609 may not be proved by  
3 extrinsic evidence. They may, however, in the  
4 discretion of the Court if probative of  
5 truthfulness or untruthfulness be inquired into  
6 on cross-examination of the witness considering  
7 the witness's character for truthfulness or  
8 untruthfulness. And that's the basis on which we  
9 want to ask him about the underlying  
10 circumstances of his predatory offender fail to  
11 register false information conviction. And --

12 THE COURT: You've got to be more  
13 specific than that, Mr. Goetz. What specifically  
14 are you going to ask him?

15 MR. GOETZ: I'm just getting to that,  
16 Your Honor. Would be that he was a predatory  
17 offender; that he knew he was required to  
18 provide, as the statute reads, law enforcement,  
19 including corrections agents, law enforcement  
20 authority or the Bureau of Criminal Apprehension  
21 with correct information as to his address and  
22 other personal information, and he provided false  
23 information as to his address. He gave them an  
24 address in Lafayette when in fact he lived in  
25 Gaylord. And that's the substance of what I

1 wanted to cross-examine him on. But I think,  
2 Your Honor, his character for truthfulness or  
3 untruthfulness is a critical part of this case,  
4 and I think because of the nature of that felony,  
5 the underlying circumstances should be allowed to  
6 be inquired into as well as the underlying  
7 conviction.

8 THE COURT: Mr. Streitz.

9 MR. STREITZ: I object to this. I did,  
10 in fact, give him notice of any convictions of  
11 any of my witnesses. There was no motion in this  
12 court to have a ruling by Your Honor as to  
13 whether or not those could be used for  
14 impeachment. Under State versus Jones, this  
15 Court has to do an inquiry as to whether or not  
16 those prior conviction are admissible. Had I  
17 known that the defendant was planning to do that,  
18 it would have changed my strategy. I would have  
19 asked this witness, depending upon the Court's  
20 rulings, about those crimes during direct  
21 examination. If I had asked a defense witness  
22 that, those same things without getting a prior  
23 ruling from this Court, the defense would be  
24 doing the exact same thing that I'm doing now.  
25 It's totally improper for this to come in up in

1 this manner without prior ruling by this Court.

2 Respect to 608(b) extrinsic evidence  
3 cannot be used. To get into that is really  
4 prejudicial because it really bootstraps in yet  
5 another crime that the defendant did that has  
6 absolutely no bearing whatsoever on credibility.

7 THE COURT: It's my understanding the  
8 608(b) offer of proof is the same facts  
9 underlying in the conviction, however, correct?

10 MR. GOETZ: That's true, Your Honor.

11 THE COURT: And you will acknowledge  
12 that under 608(b), it's my discretion on whether  
13 that comes in.

14 MR. GOETZ: It is, Your Honor.

15 THE COURT: It's going to be either the  
16 felony or the underlying facts, it's not going to  
17 be both. I think that's unduly cumulative and  
18 prejudicial.

19 But as far as notice, Mr. Streit, z,  
20 what's your authority that they have to give you  
21 notice?

22 MR. STREITZ: Your Honor, I don't  
23 have -- because I didn't think this was going to  
24 come up, I didn't bring that with me, but if I  
25 can -- when we reconvene I'll have that for the

1 Court.

2 THE COURT: All right. I'll allow you  
3 to bring something, try to be here at 1:15. I  
4 would note, however, that under 609(b), talking  
5 about time limits, it does say that evidence of a  
6 conviction under this rule is not admissible if a  
7 period of more than ten years has elapsed since  
8 the date of conviction or the release of the  
9 witness from the confinement imposed for that  
10 conviction, whichever is the later date, unless  
11 the Court determines that in the interest of  
12 justice that the probative value of the  
13 conviction supported by specific facts and  
14 circumstances substantially outweighs its  
15 prejudicial effect. However, evidence of a  
16 conviction more than ten years old is calculated  
17 herein is not admissible unless the proponent  
18 gives to the adverse parties sufficient advance  
19 written notice of intent to use such evidence to  
20 provide the adverse party with a fair opportunity  
21 to contest the use of such evidence. There is a  
22 specific and explicit notice requirement for  
23 convictions longer than ten years. There is no  
24 similar provision for anything less than ten  
25 years, which would imply that notice of intent to



1 use is not required. However, I will give the  
2 State until 1:15 to provide me with any  
3 authority.

4 MR. GOETZ: Your Honor, insofar as, and  
5 I don't know if this was Mr. Streitz's intent,  
6 but if there is any sort of improper conduct on  
7 our part, I'll just say that, and we all have our  
8 different strategies, but if I had a defendant  
9 with these convictions and I knew they were going  
10 to be testifying, I would bring a motion in  
11 limine to keep those out so.

12 THE COURT: Okay. I don't think what  
13 anybody is claiming is unethical here because the  
14 information was traded. I think it would have  
15 been better practice if we dealt with this before  
16 trial as opposed to in the middle of trial.

17 Nonetheless, at first glance, I'm saying  
18 I don't see that there is a notice requirement,  
19 and, to be honest, I can't say that State versus  
20 Jones applies to witnesses who are not the  
21 defendant, but I'd like the State to have a  
22 chance to provide me with authority. At this  
23 point, I'm leaning towards letting all three  
24 convictions come in for impeachment, but I'm not  
25 allowing the 608(b) evidence because it's

1 repetitive.

2 With that as a preliminary ruling, I'll  
3 ask the State to provide me authority. If you  
4 can be back here at 1:15.

5 MR. STREITZ: And then we're resuming  
6 testimony at --

7 THE COURT: 1:30.

8 (Recess for the noon hour.)

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1 (Afternoon session:)

2 (Jurors not present.)

3 THE COURT: Record should reflect we're  
4 outside the hearing of the jury. And before the  
5 break, State objected to the defendant eliciting  
6 the three felony convictions of Mr. Garcia, and  
7 also the defense seeking to elicit the underlying  
8 facts of the failure to register case under  
9 608(b).

10 Anything further.

11 MR. STREITZ: No, Your Honor, I would  
12 ask the Court to do the balancing under 609(a),  
13 the balancing of the Rule 403 in terms of  
14 probativeness and prejudicial.

15 THE COURT: Okay. And I agree that  
16 State versus Jones does not apply to witnesses in  
17 a criminal case only when the witness is the  
18 defendant whose convictions are being considered.  
19 To say otherwise would ignore a lot of the  
20 language in the five Jones factors. They just  
21 don't make sense in terms of a witness testifying  
22 who is not a defendant.

23 So on a balance of 609(a) versus Rule  
24 403, I do find that the probative value of the  
25 convictions, given their recency, is such that

1           they outweigh any unfair prejudicial effect and,  
2           accordingly, the defense will be allowed to  
3           impeach Mr. Garcia with the three convictions.  
4           However, there was some discussion and concern  
5           about the accurate title of the failure to  
6           register case. I believe the BCA has it as  
7           failure to register, predatory offender, and in  
8           MNCIS the conviction is failure to register or  
9           providing false information. And the fact that  
10          the complaint has false information in there is  
11          not determinative, it's the title of the  
12          conviction seems a little bit unclear, it's not  
13          as easy as burglary in the second-degree or  
14          aggravated robbery in the first-degree.  
15          Accordingly, I'm going limit the defense to  
16          eliciting the conviction as failure to register  
17          as a predatory offender. And, obviously, the  
18          county of conviction and the date of conviction  
19          are irrelevant.

20                        In the alternative, as to the last, the  
21                        failure to register case, I am providing the  
22                        defense with an alternative to elicit the  
23                        underlying facts. However, if the defense  
24                        chooses to do that, I think it would be unfairly  
25                        prejudicial and repetitive and cumulative to also

1 have the fact of conviction for the failure to  
2 register. But I'll allow the defense to either  
3 offer the specific facts under 608(b) or the  
4 conviction itself under 609(a).

5 And so it's my understanding that  
6 defense is going to offer the conviction under  
7 609(a)?

8 MR. GOETZ: Yes, Your Honor. That would  
9 be defense's request.

10 And one other related request for  
11 clarification. As an offer of proof, I believe  
12 Mr. Garcia was in jail when he contends he talked  
13 to my client on a probation violation. He's  
14 still on probation, so insofar as that may give  
15 him a bias or interest to testify against the  
16 defendant, cooperate with law enforcement, stay  
17 on the right side of the law, I ask to make  
18 inquiry about his probationary status under 616.

19 THE COURT: Was he pending a decision on  
20 a probation violation --

21 MR. GOETZ: He was not --

22 THE COURT: -- or would he be serving?

23 MR. GOETZ: He was not though he has  
24 subsequently had a probation violation, the  
25 second violation in June of 2011, right, did not

1 result in any revocation.

2 THE COURT: Okay.

3 MR. STREITZ: Nor was there any part  
4 on -- the State was not part of that, had nothing  
5 to do with, Your Honor, I think that is too  
6 prejudicial to bring up. But if there was some  
7 evidence that the State had somehow done  
8 something in regards to any revocation, yes, but  
9 he was merely serving part of his sentence at the  
10 time that he was in jail.

11 THE COURT: Well, I do think it would be  
12 relevant if his probation violation hearing was  
13 still pending and he was hoping to garner favor  
14 with the State, but if he was -- or rather if  
15 that hearing had already been concluded, the  
16 sanction has been imposed and he was serving that  
17 sanction, I don't see the subsequent June  
18 probation violation as probative towards bias in  
19 either way.

20 MR. GOETZ: May I ask one question of  
21 counsel for clarification?

22 THE COURT: Sure.

23 MR. GOETZ: So I take it by that offer  
24 of proof by the State that the State would show  
25 that neither the Hennepin County Attorney's

1 Office nor the Minneapolis Police Department  
2 communicated Mr. Garcia's ongoing cooperation to  
3 Carver County officials to an extent as a factor  
4 of determining whether or not -- how his  
5 disposition should be handled in that June 2011  
6 probation violation?

7 MR. STREITZ: The only communication I  
8 had with anybody, Your Honor, was contacting his  
9 probation officer to see why he was in jail.

10 THE COURT: Okay.

11 MR. STREITZ: And he told me because he  
12 violated his probation, he has -- he hadn't  
13 turned himself in to put the bracelet on, and the  
14 probation officer said he was going to ask the  
15 judge to --

16 THE COURT: Is that in June we're  
17 talking about?

18 MR. STREITZ: I believe it was in June,  
19 right.

20 THE COURT: Yeah. I don't see that as  
21 sufficiently probative on bias. Even if there  
22 was any probative value to it, I think it's so  
23 attenuated that it's outweighed by its unfair  
24 prejudicial effect.

25 MR. GOETZ: Just for the clarification

1           then, the State did make inquiry into whether or  
2           not he received any benefits, I'd ask to at least  
3           be able to allow him, or ask him whether he  
4           communicated his ongoing cooperation to any  
5           public official in the hope of getting any kind  
6           of benefit.

7                     THE COURT: I think that's a legitimate  
8           question, you're probably going to be stuck with  
9           the question, but it is legitimate.

10                    All right. We'll get the jury.

11                    (Jurors enter courtroom.)

12                    THE COURT: Members of the jury, I just  
13           want to give you an idea on scheduling. We will  
14           actually end today at 4 o'clock. I usually  
15           cancel meetings in a jury trial because that  
16           takes precedence. Unfortunately, I have a  
17           meeting on Friday with the chief justice and I  
18           have to have a preparatory meeting this afternoon  
19           at 4, so we'll actually end today at 4. And  
20           we'll have a different schedule on Friday. Just  
21           to give you a little heads up, we're going to  
22           start early at 8:30 and go until 12 and then have  
23           a short lunch and then go from 1 to 2:30.  
24           Otherwise our days are generally the usual  
25           schedule. I just want to give you a heads up,



1           you'll get out a little bit earlier today, at 4  
2           o'clock.

3                         With that, Mr. Goetz.

4                         MR. GOETZ: Thank you, Your Honor.

5                         THE COURT: Just a reminder, Mr. Garcia,  
6           you're still under oath.

7                         THE WITNESS: Thank you, Your Honor.

8                                 **CONT'D CROSS-EXAMINATION**

9         BY MR. GOETZ:

10         Q. Mr. Garcia, you are a convicted felon; true?

11         A. Yes.

12         Q. You have a conviction from Sibley County?

13         A. Yes.

14         Q. February 10, 2005, that was the date, sound  
15         right?

16         A. Depending on what charge.

17         Q. The charge failure to register as a predatory  
18         offender?

19         A. Yes.

20         Q. You have another felony; correct?

21         A. Yes.

22         Q. Again from Sibley County?

23         A. Yes.

24         Q. Again the date of February 10th of 2005?

25         A. Yes.

1 Q. And that was for a burglary?

2 A. Yes.

3 Q. In the second-degree?

4 A. Yes.

5 Q. And you have another felony?

6 A. Yes.

7 Q. And that is from Carver County?

8 A. Yes.

9 Q. And the date of that conviction is November 7th  
10 of 2008?

11 A. Yes.

12 Q. And that's a felony DUI or driving under the  
13 influence of alcohol conviction as a felony, is  
14 it not?

15 A. Yes.

16 Q. And that's when you said earlier, you told the  
17 jury that you were in jail for DUI, it was  
18 actually this felony DUI; is that right?

19 A. Yes.

20 Q. Now, you were in the medical unit because you  
21 had, correct me if I'm wrong, but you had  
22 obtained special status as an inmate within that  
23 jail, the Carver County Jail; is that right?

24 A. Yes.

25 Q. Special status as a result of your cooperation

1 over the years, your cooperation at that time  
2 with the jail authorities?

3 A. Yes.

4 Q. But here today you have told us that you're not  
5 receiving any benefits at all?

6 A. No, I'm not.

7 Q. So just so I'm clear, is it your testimony under  
8 oath, sir, that you have never told any  
9 government official about your cooperation with  
10 the prosecution in this case in the hopes of  
11 getting any favorable or better treatment?

12 A. No.

13 Q. Ever heard the phrase, jumping on someone's case?

14 A. Yes.

15 Q. That means that when an inmate hears about a  
16 fellow inmate's case --

17 MR. STREITZ: Objection, Your Honor,  
18 counsel is testifying.

19 MR. GOETZ: I'll rephrase.

20 THE COURT: Rephrase.

21 BY MR. GOETZ:

22 Q. Correct me I'm wrong, but that phrase means this,  
23 does it not?

24 MR. STREITZ: Same objection, Your  
25 Honor.

1 THE COURT: Overruled.

2 BY MR. GOETZ:

3 Q. To jump on someone's case is when an inmate may  
4 hear about another fellow inmate's case, they'll  
5 try to learn as much as they can about that case  
6 through the media or newspaper or getting the  
7 person, the fellow inmate's paperwork, in the  
8 hope of using that information to their advantage  
9 later on, that's what jumping on someone's case  
10 means, doesn't it?

11 A. Everybody has different scenarios, so I guess,  
12 yes.

13 Q. That's what it means, right?

14 A. Yes.

15 Q. And in this case, you knew -- and you pronounced  
16 the name Mahadi?

17 A. Yes.

18 Q. Is that how he told you his name was pronounced,  
19 Mahadi?

20 A. Who?

21 Q. The person that you claim that you talked to who  
22 confessed this involvement in the murder, he told  
23 you his name was Mahadi?

24 A. No, Mahdi.

25 Q. This morning you told us Mahdi, or Mahadi, are

1           you changing your pronunciation?

2           A.   No, I'm not.

3           Q.   How do you pronounce the name --

4           A.   How I pronounce it, what I understand is Mahadi.

5           Q.   Mahadi.

6           A.   Right.  Yes, I can't pronounce it right.

7           Q.   So when he came up to you and said, this is my  
8           name, I'm Mahadi.  Is that what he said?

9           A.   Yes.

10          Q.   And you knew that he was hiding his legal  
11          paperwork; correct?

12          A.   Yes.

13          Q.   Because people in jail if they've got paperwork  
14          they don't want to let other fellow inmates see  
15          it because they might be jumping on their case,  
16          right?

17          A.   Yes.

18          Q.   Now, when you were in the Carver County Jail in  
19          January of it 2010, you were, what, 23, 24 years  
20          old?

21          A.   Yeah, I was 24.

22          Q.   24?

23          A.   Or 25.

24          Q.   Were you aware that Mahdi Ali was a juvenile?

25          A.   No, I was not.

1 Q. They didn't keep you in separate housing,  
2 juveniles from adults?

3 A. Well, they had juveniles in different areas from  
4 the adult offenders.

5 Q. But you did get access to Mr. Ali's legal  
6 paperwork, did you not?

7 A. After he showed -- when he showed me them.

8 Q. And you looked at those papers?

9 A. The front page.

10 Q. There were a lot of papers?

11 A. Yes.

12 Q. And those papers had all the prosecution claims  
13 against Mr. Ali, did they not?

14 A. I have no idea.

15 Q. It's your testimony that you had all this legal  
16 paperwork about this case that you had heard  
17 something about through people talking in the  
18 jail; correct?

19 A. No one's ever talked about his case.

20 Q. Nobody has ever said, hey, there's the guy that  
21 was charged with, in the triple murder?

22 A. No. He was in a different unit than I was.

23 Q. It's a kind of a big deal, isn't it?

24 A. Not to me, it wasn't in where I live so I wasn't  
25 paying any attention to the media.

1 Q. So the fact that three people were killed is just  
2 not a big deal for you because it's not in your  
3 area?

4 A. Well, it's a big deal, I just didn't know about  
5 it at the time.

6 Q. You were out on the street on January 6, 2010,  
7 weren't you?

8 A. I believe so.

9 Q. You didn't come into custody until approximately  
10 wasn't it about January 10th or so, some days  
11 later?

12 A. Yes, yeah, something like that, yeah.

13 Q. So when all the news would have been out there  
14 about this triple homicide in Minneapolis on the  
15 7th, 8th and 9th, you were on the street at that  
16 same time?

17 A. To be honest, I don't even know when it occurred.

18 Q. Okay. But it's true, is it not, that only after  
19 you had access to Mr. Ali's paperwork did you go  
20 to authorities and claim that he had confessed  
21 this homicide to you?

22 A. After he explained to me about what he committed,  
23 that's when I notified the jailers.

24 Q. And only after you had looked at his paperwork  
25 did you tell authorities that he had confessed to

1           you?

2           A.   The first page when I just saw the first page, I  
3           didn't read through his paperwork.

4           Q.   I understand that's your story, sir, my question  
5           is simple, you looked at the paperwork, you're  
6           telling us you looked at the first page, but the  
7           point is, you looked at the paperwork and then it  
8           was only after that that you tell authorities,  
9           oh, Mr. Ali confessed to me?

10          A.   No.  After I looked at the paperwork, a little --  
11          later after that he started going to details  
12          about his crime and after that that's when I told  
13          the jailers.

14          Q.   All right.  Let's talk about that.  You don't --  
15          you didn't know Mr. Ali before this?

16          A.   No.  I didn't even know there was such a person  
17          at the jail.

18          Q.   Not a friend of his?

19          A.   Nope.

20          Q.   You're obviously not related in any way; correct?

21          A.   That's correct.

22          Q.   And everything -- it's clear in our courtroom  
23          here, but just for our record, I mean, you're not  
24          Somalian; correct?

25          A.   No, I'm not.



1 Q. I mean, he's a complete stranger to you, is he  
2 not?

3 A. That is right.

4 Q. Yet you're telling us that this complete stranger  
5 confessed his participation in three murders to  
6 you?

7 A. That's correct.

8 Q. You told us that, well, you know, he showed me  
9 this paperwork, but I just looked at the first  
10 page, triple homicide, something like that  
11 because, as I wrote it down, you didn't really  
12 care about the details, you didn't want to know  
13 the details; is that right?

14 A. That is correct.

15 Q. But then you also have us believe that you  
16 subsequently engaged Mr. Ali in conversation in  
17 which he gave you incredible details; correct?

18 A. That is correct.

19 Q. You never cut him off and told him, hey, man, I  
20 don't want to know the details, you know, you  
21 shouldn't be talking to me about that?

22 A. He came at me first with his crime and I was just  
23 listening, you know, just being, you know, just  
24 to hear him out.

25 Q. Just listening, just soaking up the information?

1 A. Whatever -- well, I wasn't soaking it but I was  
2 just, you know, trying to be there to, you know,  
3 give him advice, like, talk to him about it, you  
4 know. My main purpose was to be there for Sam.

5 Q. So you don't want to know any details when you're  
6 looking at paperwork, but you do want to know  
7 details when somebody is talking to you?

8 A. You know, just ask questions.

9 Q. To find out details?

10 A. Well, or just to how he felt about it.

11 Q. As you said, it wasn't any of your business, was  
12 it?

13 A. That is correct, about reading his paperwork.

14 Q. And in these details that you claim Mr. Ali told  
15 you, amongst those was that the dude that was  
16 arrested with him had the gun. Is that what you  
17 told the police?

18 A. Yes.

19 Q. And that gun belonged to the other participants  
20 in the burglary, it belonged to that guys  
21 brother. That's what you were told?

22 A. No.

23 Q. Perhaps I asked the question in a confusing  
24 manner. To clarify it, let me go through your  
25 statement with you on Page 5.

1 MR. GOETZ: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MR. GOETZ:

4 Q. Now, you've met with the prosecutors a number of  
5 times; correct?

6 A. Yes.

7 Q. And they've gone through with you your statement;  
8 correct?

9 A. Yes.

10 Q. Statement you gave to two Minneapolis police  
11 detectives; is that right?

12 A. That's correct.

13 Q. And on Page 5, didn't you tell the investigators,  
14 but the other dude, he knew and he was -- were  
15 just discussing that that dude that was arrested  
16 with him had a gun and that gun belonged to his  
17 brother. Did I read that correctly?

18 A. Yes, you did.

19 Q. And was that your understanding?

20 A. That the gun belonged to his friend.

21 Q. His friend's brother?

22 A. His friend's brother.

23 Q. And did you also tell the police that it was your  
24 understanding that it was the other guy in the  
25 store who got rid of the gun?

1 A. Can you repeat the question?

2 Q. Sure. We were talking about the gun and where it  
3 came from. And was it your understanding that  
4 that other guy in the store, not Mr. Ali, but the  
5 other guy in the store, he was the one that got  
6 rid of the gun?

7 A. His friend?

8 Q. Yes.

9 A. Oh, from his story, Mahadi telling me that, the  
10 gun that belonged to his friend's brother, he  
11 gave -- he put it back.

12 Q. And it's also part of what you told the  
13 detectives that you claim that Mr. Ali told you  
14 that you believe he said he burned all of his  
15 clothes after this happened?

16 A. Yeah. We discussed it and there was like  
17 misunderstanding like about what, you know,  
18 miscommunication with burning and stuff, but I  
19 did say that.

20 Q. You did know for sure but you knew he said he  
21 washed them and you didn't know if he burned them  
22 or buried them in some place or threw them in a  
23 garbage can?

24 A. That's correct.

25 Q. But somehow all the clothes were gotten rid of,

1 to your understanding?

2 A. To my understanding, they were washed.

3 Q. And then gotten rid of somehow?

4 A. Yes, somehow.

5 Q. Burned, put in a garbage can, buried?

6 A. Yes.

7 MR. GOETZ: May I just have a moment,  
8 Your Honor?

9 THE COURT: You may.

10 MR. GOETZ: That's all the questions I  
11 have, Mr. Garcia.

12 THE COURT: Mr. Streit.

13 MR. STREITZ: I have no further  
14 questions, Your Honor.

15 THE COURT: You may step down.

16 (Witness leaves the stand.)

17 MR. STREITZ: We call Kadra Ahmed to the  
18 witness stand, Your Honor.

19 THE COURT: And we have an interpreter  
20 present.

21 MR. STREITZ: Yes, Your Honor.

22 THE COURT: If you could identify  
23 yourself for the record.

24 INTERPRETER: Yes. My first name is  
25 Abdulaziz, A-b-d-u-l-a-z-i-z. My last name is

1 Hussen, H-u-s-s-e-n.

2 THE COURT: And you've been sworn today?

3 INTERPRETER: No, Your Honor.

4 THE COURT: Raise your right hand.

5 (Interpreter sworn.)

6 THE COURT: All right.

7 KADRA AHMED,

8 called as a witness on behalf of the State, having been  
9 first duly sworn, was examined and testified as follows:

10 THE COURT: Okay. Have a seat.

11 MR. STREITZ: Your Honor, I'm wondering  
12 if the Court would inquire, I'm not sure the  
13 witness actually needs an interpreter or just one  
14 on standby.

15 THE COURT: Would you interpret this for  
16 me? Do you need the services of a Somali  
17 interpreter?

18 THE WITNESS: I don't need it.

19 THE COURT: Would you like him on  
20 standby?

21 THE WITNESS: Yes, that's fine.

22 THE COURT: Okay. He can sit right  
23 behind you then and you can turn if you have any  
24 questions regarding any question that is asked.

25 All right.

1 THE WITNESS: Okay.

2 THE COURT: Mr. Streitz.

3 **DIRECT EXAMINATION**

4 BY MR. STREITZ:

5 Q. Good afternoon --

6 THE COURT: Actually, can we have you  
7 state your full name and spell each of your  
8 names.

9 THE WITNESS: My name is Kadra Ahmed;  
10 K-a-d-r-a, A-h-m-e-d.

11 THE COURT: Okay. Mr. Streitz.

12 BY MR. STREITZ:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. How are you?

16 A. Great.

17 Q. Good. Do you work in a building at 2025 Nicollet  
18 Avenue South in Minneapolis?

19 A. Correct.

20 Q. I want to take you back to January 6, 2010, were  
21 you at work that day?

22 A. Yes.

23 Q. And were you there in the late afternoon hours?

24 A. Yes.

25 Q. Is there another business in that building by

1 the name, correct me if I'm mispronouncing it,  
2 Dahabshiil?

3 A. Correct.

4 Q. What kind of business is that?

5 A. That's a money wiring -- money wiring.

6 Q. Okay. Where they can wire money?

7 A. Yes, overseas, yes.

8 Q. Is that a Somalian owned business? Does a  
9 Somalian person own that business?

10 A. I believe it.

11 Q. Okay. Around -- between 6 and 6:30 that evening,  
12 did you notice something in the hallway of that  
13 building that caused you to do something?

14 A. Yes.

15 Q. What did you notice?

16 A. I just seen three young boys. They just walking,  
17 look strange to me, but they didn't do anything.  
18 They, I see they walking in the hallway.

19 Q. Okay.

20 A. That's all I see.

21 Q. Did you see two or three?

22 A. I saw three for -- they just come up the  
23 upstairs, one was downstairs.

24 Q. Okay.

25 A. Uh-huh.



1 Q. Do you know if all three of them were together or  
2 you just happened to see them?

3 A. I just seen for the one time together, but I  
4 don't know if they were together or not, but they  
5 look to me like they were together because when  
6 he's holding the door, the other one just coming  
7 up.

8 Q. Okay.

9 A. Uh-huh.

10 Q. So there is a stairway to get up to the floor  
11 that you and the Dahabshiil is on?

12 A. Yes.

13 Q. And so you were looking down the steps to the  
14 main entrance of the building?

15 A. Yes.

16 Q. And you said one person opened the door?

17 A. Uh-huh, and two was coming upstairs.

18 Q. The two that came upstairs, did the other  
19 person -- so the other person merely opened the  
20 door for them?

21 A. Yeah. One was -- he was downstairs, he just  
22 didn't come upstairs. Just only two, they was  
23 walking when he was close his face. He waiting  
24 for the -- I couldn't see for the face. The  
25 other one was, I cannot recognize his face, but I

1 just see his face.

2 Q. Okay. But I want to get back to when these two  
3 individuals came up the steps.

4 A. Uh-huh.

5 Q. This person who had held the door, he didn't come  
6 with them?

7 A. He didn't come at all, uh-huh.

8 Q. So are you sure whether or not he was with these  
9 people or not?

10 A. I'm not sure, uh-huh.

11 Q. Okay. When these people came up the stairs, what  
12 did they do?

13 A. I did not see when they was coming up the stairs.

14 Q. Did you see --

15 A. I just see when I was come out from my door, I  
16 see them, they was walking. And it was looked  
17 like to me they was strange, but I was not see  
18 when they were coming upstairs. I just see what  
19 you see on the camera, that's all.

20 Q. Did you talk to these two individuals?

21 A. No.

22 Q. Did they talk to you?

23 A. No.

24 Q. You said you thought it was strange?

25 A. The way they walking and the way one, he was

1           hiding his face.

2           Q.    Okay.

3           A.    Uh-huh.

4           Q.    Could you tell how old they were?

5           A.    No.  They look like younger than 30, but I cannot  
6           tell what age.

7           Q.    Okay.  Could you tell if one was taller than the  
8           other?

9           A.    Yes.  The first one was shorter than the second  
10          one was taller and skinny.

11          Q.    I'm sorry.  So the second was taller and skinny?

12          A.    Uh-huh.

13          Q.    Okay.  And the other then was shorter?

14          A.    Uh-huh.

15                         THE COURT:  That's a yes?

16                         THE WITNESS:  Yes.

17   BY MR. STREITZ:

18          Q.    Okay.  The one who -- do you remember anything  
19          about their clothing?

20          A.    No.

21          Q.    When you saw them walking down the hallway, did  
22          you go somewhere?

23          A.    I just come -- I go in Dahabshiil.

24          Q.    Why did you go into Dahabshiil?

25          A.    I was trying to go home and then I just trying to

1 let them know I'm going to go home. And then I  
2 see this customer, and I told them, okay, guys,  
3 there is this strange people, they walking. I  
4 just tell them but he didn't understand what I  
5 was saying to him, and then I just walk away.

6 Q. And you know that this was all reported to the  
7 police; correct?

8 A. Yes. I just find out for like, after couple of  
9 days someone called me --

10 MR. GOETZ: Objection, nonresponsive at  
11 this point, Your Honor.

12 THE COURT: Sustained.

13 BY MR. STREITZ:

14 Q. Did the police come and talk to you about what  
15 you had seen?

16 A. Yes.

17 Q. And you told them?

18 A. I told them what I saw.

19 Q. Okay.

20 MR. STREITZ: May I approach, Your  
21 Honor?

22 THE COURT: You may.

23 BY MR. STREITZ:

24 Q. Back on August 10th of this year, did I come out  
25 to meet you and show you what I've marked as

1 Exhibits 139, 140 and 141?

2 A. Yes.

3 Q. And did I play those for you on a computer laptop  
4 that I brought along?

5 A. Yes.

6 Q. And did you recognize what was on these exhibits,  
7 these disks?

8 A. Yes.

9 Q. And what was on them?

10 A. I just was out from my office and I was going in  
11 the Dahabshiil office, and the young boys, they  
12 was walking, that's what I --

13 Q. So these show the --

14 A. My picture was there.

15 Q. Okay. And they show the individuals that you saw  
16 in the hallway that day that you've described for  
17 us?

18 A. I didn't describe any face because I cannot see  
19 their face.

20 Q. But they show the activities how these people  
21 were walking down the hallway?

22 A. Yes.

23 MR. STREITZ: Your Honor, I would offer  
24 into evidence 139, 140, and 141.

25 MR. GOETZ: No objection.

1 THE COURT: 139, 140 and 141 are  
2 received.

3 MR. STREITZ: May I publish those, Your  
4 Honor?

5 THE COURT: You may.

6 BY MR. STREITZ:

7 Q. Ms. Ahmed, I'm going to be showing the jury those  
8 exhibits starting with 139. You can watch on  
9 that monitor right in front of you. They're  
10 going to be watching right behind you, okay?

11 A. Okay.

12 Q. And then afterwards I'm going to ask you what  
13 that shows, okay?

14 A. Okay.

15 (Video played.)

16 BY MR. STREITZ:

17 Q. We can pause that. Ms. Ahmed, do you see anybody  
18 you recognize in that particular picture that  
19 you're seeing right now?

20 A. Abdinoor, the guy that works for Dahabshiil, and  
21 that's me.

22 Q. Okay. And you're doing what?

23 A. I was just trying to tell him there is something  
24 strange I see in the hallway.

25 Q. Okay. We'll continue.

1 MR. GOETZ: Your Honor, for the record,  
2 when she said, that's me, can we have  
3 clarification what she is referring to for the  
4 record.

5 THE COURT: Ma'am, can you point to  
6 where you are using the laser pointer. There's a  
7 laser pointer.

8 MR. STREITZ: I'm sorry. I'll get it  
9 for her.

10 BY MR. STREITZ:

11 Q. If you can press this button and a red dot comes  
12 and if you can just turn and point that red dot  
13 to where you are on that.

14 A. That's me (pointing).

15 Q. And, for the record, you're pointing to -- there  
16 is three individuals, you would be the in the  
17 middle between the person with a white shirt and  
18 somebody with a darker?

19 A. That's the Abdinoor, the guy that works at  
20 Dahabshiil (pointing).

21 Q. He's in front of a computer screen it looks like?

22 A. Yes.

23 MR. GOETZ: Thank you.

24 BY MR. STREITZ:

25 Q. And we'll continue here.

1 (Video played.)

2 BY MR. STREITZ:

3 Q. At the beginning of this video, did you see the  
4 two individuals who you had described for us  
5 earlier?

6 A. No.

7 Q. I'm going to run it again. I'm going to stop at  
8 a point and I'm going to have you look at your  
9 monitor, okay?

10 (Video played.)

11 BY MR. STREITZ:

12 Q. The doorway to get into Dahabshiil, can you see  
13 that on the monitor?

14 A. Yes.

15 Q. Do you see any individuals in that doorway?

16 A. Yeah. I see but I don't see when I was in there.

17 Q. All right. Okay. Thank you.

18 A. Uh-huh.

19 Q. We'll go onto exhibit 140. Same thing. I'm  
20 going to have you watch it. I'm to ask you a  
21 question or two.

22 (Video played.)

23 BY MR. STREITZ:

24 Q. Stop it right there. What does that show us?

25 A. Two men, they walking, that's all.



1 Q. Are those the individuals you've described to us  
2 today?

3 A. I didn't come out that time when they was just  
4 walking. I didn't come out from my office, yeah.

5 Q. Okay.

6 A. I'm right there (pointing).

7 Q. Do you come out of your office at some point?

8 A. Yes.

9 Q. Can you tell us when?

10 A. I just come out, then I see, then I go back, I  
11 try to lock the security alarm and then I did and  
12 then I come out.

13 Q. Okay.

14 A. We just meet the hallway when they was just going  
15 back, go back, and I was going to Dahabshiil.

16 Q. Okay. We'll continue on. Do you still have that  
17 little pointer up by you? Can you point to the  
18 jury where you were coming out of?

19 A. Right there (pointing).

20 Q. That would be just over the shoulder of the one  
21 person that we see in that frame?

22 A. Yeah.

23 Q. And if you can continue to watch your monitor  
24 there.

25 (Video playing.)

1 BY MR. STREITZ:

2 Q. Can we stop right here. What are we seeing at  
3 this point?

4 A. I just come out from my office and they was  
5 trying to go back to the stairs.

6 Q. Can you use that pointer again and show us where  
7 you would be in this?

8 A. I was right there (pointing).

9 Q. And that's at the top of this particular frame?

10 A. Yes.

11 Q. And you say there is somebody else that you see  
12 in this particular image?

13 A. Yeah, that guy (pointing).

14 Q. Okay.

15 A. Uh-huh.

16 Q. And now we'll continue on.

17 (Video playing.)

18 BY MR. STREITZ:

19 Q. We can stop it there. Is this the shorter or the  
20 taller one, do you recall?

21 A. I cannot remember that moment what was the --  
22 there was a short or tall. The first time, I was  
23 just come out two times. The first time I saw  
24 them when they was just coming from the stair and  
25 then I saw them, the two young men they was

1 coming. But when they were just coming, I cannot  
2 remember was the taller or shorter when they was  
3 going back.

4 Q. Okay. We'll continue.

5 (Video played.)

6 BY MR. STREITZ:

7 Q. Where are you walking to now?

8 A. That time hallway. I was trying to just going to  
9 Dahabshiil.

10 Q. Okay. Okay. And then one last one -- I'm sorry,  
11 this one is continuing. We can stop it. Do you  
12 recognize that individual as one of the two  
13 you've described to us this afternoon? We can  
14 bring in a back a little bit.

15 A. He look like the first one.

16 Q. First one what?

17 A. That time -- I think that time, I'm not remember,  
18 they was going back or they was walking. But  
19 because I just come out from my office two times,  
20 but one time I did not come out with all my body,  
21 I just saw them when they was coming. When they  
22 going back I just meet the hallway, but I cannot  
23 remember which was what.

24 Q. That's fine.

25 A. Uh-huh.

1 Q. Is that you that appears on the screen right now?

2 A. Yeah, that's me.

3 Q. Okay. And are you heading back to your business?

4 A. I don't think so, I was going back to my  
5 business. I believe, I think I going home when I  
6 just -- from the Dahabshiil, I just go back my  
7 home.

8 Q. And who is that individual you see there?

9 A. That's Abdinoor, the guy who work for the  
10 Dahabshiil.

11 Q. Okay. Now, the direction that we're seeing here  
12 in 140 in the hallway, is that from the direction  
13 of Dahabshiil towards the step?

14 A. No. The direction I'm going right now was the  
15 stair, the main door, I was going out.

16 Q. Okay. So the direction you were headed in the  
17 hallway, was it towards the steps to get out of  
18 the building?

19 A. Yes.

20 Q. And that individual, do you know who that is?

21 A. No.

22 Q. Okay. Does that appear to be a lady?

23 A. There is two people who was in the Dahabshiil who  
24 was the customer at that time.

25 Q. Okay.

1 A. Man and woman.

2 Q. Okay. And this individual again is?

3 A. That's Abdinoor.

4 Q. From Dahabshil?

5 A. Yeah, the guy. He just lock the door after we  
6 left.

7 Q. Okay. And, again, is that who?

8 A. That's Abdinoor.

9 (Video played.)

10 BY MR. STREITZ:

11 Q. And that individual again is Mr. Noor?

12 A. Yes.

13 Q. And, finally, I'd like to show you and the jurors  
14 Exhibit 140. Again, you can look at your monitor  
15 and I may pause it to ask you some questions.

16 (Video playing.)

17 BY MR. STREITZ:

18 Q. We can pause it. What direction are we looking  
19 in here in the hallway? Are we looking, you  
20 know, where would the stairs be?

21 A. This side (pointing).

22 Q. We're looking down the hallway, would the  
23 stairways be towards the back of this picture or  
24 towards the front?

25 A. Back.

1 Q. Okay. Stop it there. Do you recognize this as  
2 one of the individuals you saw?

3 A. Yes.

4 Q. Now, the direction that he's heading right there,  
5 where would that lead to?

6 A. That is the bathroom area and there is one exit  
7 but that exit nobody can use it, it's locked.

8 (Video played.)

9 BY MR. STREITZ:

10 Q. Okay. Is this the same individual who we saw a  
11 few seconds earlier walking back towards the  
12 bathroom area?

13 A. It looks like.

14 Q. Okay. Did either of the individuals you  
15 described for us do anything to cover their faces  
16 or anything?

17 A. I cannot recognize any faces.

18 Q. I understand that. Did they do anything that  
19 would have kept you from looking at their faces?

20 A. One was hood like this (indicating).

21 Q. By this, you made a gesture to cover it?

22 A. Not by his hand, it look like hood like this  
23 (indicating) or he didn't hold his hand, somehow  
24 it just was most of the face was cannot see it,  
25 it was hood from the sweater.

1 Q. Do you know if that was the person we just saw in  
2 this video?

3 A. I cannot remember.

4 Q. Okay. Ms. Ahmed, when you saw these two  
5 individuals in the hallway, were you able to tell  
6 their race or ethnicity?

7 A. No, it was look like black, but I cannot, I  
8 cannot tell what they was.

9 (Video played.)

10 BY MR. STREITZ:

11 Q. And that man that we see at this time is who?

12 A. Abdinoor.

13 Q. The man looks like he went into a door there. Is  
14 that the bathroom door that you're talking about?

15 A. Yeah, the men bathroom.

16 Q. Okay. That was Mr. Noor?

17 A. Yes.

18 Q. And it appears he's coming out of the bathroom?

19 A. Yes.

20 MR. STREITZ: May I approach again, Your  
21 Honor?

22 THE COURT: You may.

23 BY MR. STREITZ:

24 Q. I want to show you what I've marked as Exhibits  
25 87, 88 and 89, and do you recognize the pictures

1 here?

2 A. This one. That the guy that look like strange.

3 Q. You're referring to Exhibit 88 and you pointed to  
4 an individual in that picture as what acting --  
5 acting what?

6 A. Looked like strange the way he act.

7 Q. Okay. And Exhibit 87. Do you recognize this  
8 picture?

9 A. Yes.

10 Q. And what is that?

11 A. That's two guys, just two guys I saw that day.

12 Q. The same individuals you've told us about and  
13 we've seen on the video today?

14 A. Yes.

15 Q. And Exhibit 89, do you recognize that?

16 A. Yes. This is Abdinoor and that is the customer  
17 but I was not -- at that time those --

18 THE COURT: Could you keep your voice up  
19 so we can all hear.

20 THE WITNESS: This is Abdinoor, the guy  
21 who work for Dahabshiil. This is his customer.  
22 In the back, I cannot remember for. And I didn't  
23 come out that time when they was coming this  
24 door.

25



1 BY MR. STREITZ:

2 Q. Okay. So the record is clear, you've indicated  
3 Mr. Noor is the individual sitting in front,  
4 looks like of a computer screen --

5 A. Abdinoor.

6 Q. -- with his back to us?

7 A. Yes.

8 Q. And then there is two other individuals. Is this  
9 a lobby area -- is this a lobby?

10 A. That's the second floor where is Dahabshiil, also  
11 where I work.

12 Q. There is two individuals that also appear to be  
13 facing Mr. Noor?

14 A. Yes.

15 Q. Were those customers?

16 A. They was look like, yeah.

17 Q. You pointed to two individuals towards the -- is  
18 that the entryway of the Dahabshiil?

19 A. That's the hallway, but that time I was not come  
20 out when they was coming in this door. I just  
21 see for the video of that time, I didn't see they  
22 coming in Dahabshiil.

23 Q. And I understand that. Did those two individuals  
24 near the doorway of Dahabshiil look like the  
25 other individuals you saw in the hallway?

1 A. I'm not sure that one.

2 Q. Okay. All right.

3 MR. STREITZ: Ms. Ahmed, I have no  
4 further questions, but perhaps the other attorney  
5 does.

6 THE COURT: Mr. Goetz.

7 MR. GOETZ: Thank you, Your Honor.

8 May I have a moment with counsel, Your  
9 Honor?

10 THE COURT: You may.

11 (Counsel confer.)

12 MR. STREITZ: Your Honor, for  
13 clarification, I believe Exhibits 87, 88 and 89  
14 have been received?

15 THE COURT: That is true.

16 MR. GOETZ: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. GOETZ:

19 Q. Good morning, or good afternoon, Ms. Ahmed.

20 A. Good afternoon.

21 Q. My name is Fredrick Goetz. We have not met  
22 before, have we?

23 A. No.

24 Q. I just have a few questions for you, all right?

25 A. Okay.

- 1 Q. What do you do for Dahabshii1?
- 2 A. Nothing. We just, we work for the same floor.
- 3 Q. Okay. So you have a business also on the floor?
- 4 A. Same floor, yes.
- 5 Q. What is your business?
- 6 A. Sell for the ticket, that's a travel.
- 7 Q. Travel agency?
- 8 A. Yes.
- 9 Q. Okay. Do you have surveillance cameras as well
- 10 in your company?
- 11 A. No, I don't.
- 12 Q. So I was a little unclear when you were telling
- 13 us these things that you saw, is that things that
- 14 you saw with your own eyes directly or did you
- 15 look into a screen at all and see some things?
- 16 A. No. My own eyes when I was come from my door.
- 17 Q. Okay.
- 18 A. Uh-huh.
- 19 Q. And on one of the videos where you're coming out
- 20 of a door, is that the door you're talking about?
- 21 A. That's the door I work.
- 22 Q. Okay.
- 23 A. Uh-huh.
- 24 Q. So is that when you were, when you made -- when
- 25 you saw these things?

1 A. That's where I work, yes. I come out from the  
2 door where I work.

3 Q. Okay.

4 A. Uh-huh.

5 Q. You were basically standing in that doorway or  
6 close to the doorway when you made these  
7 observations, you saw these things?

8 A. Yes.

9 Q. And one of the things that you saw -- you told us  
10 you saw was three men or three young people down  
11 by the entrance, one holding the door for the  
12 other two?

13 A. Downstair.

14 Q. Downstairs?

15 A. Yep, that one, he didn't come up.

16 Q. Right.

17 A. And the video camera doesn't catch it, but I saw  
18 it.

19 Q. You saw this with your own eyes?

20 A. Yes.

21 Q. And you weren't sure if they were together, but  
22 that's how it looked to you?

23 A. They look like there are together, but I'm not  
24 sure.

25 Q. Okay.

1 A. Uh-huh.

2 Q. One apparently was holding the door for the other  
3 two?

4 A. Two they come up on the hallway.

5 Q. And the two that came up on the hallway, you  
6 think they're the people we see in the video?

7 A. Yes.

8 MR. GOETZ: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. GOETZ:

11 Q. So these images from the video, 87, 88 and 89.  
12 This is not your video system?

13 A. No.

14 Q. It's Dahabshiil?

15 A. Correct.

16 Q. There are numbers in the bottom right-hand  
17 corner, do you see that, for example, on Exhibit  
18 87? Do you see that?

19 A. I just see for 1828, yes. I don't know what it  
20 is.

21 Q. Okay.

22 A. Uh-huh.

23 Q. You know the date that this was about January 6th  
24 of 2010; is that right?

25 A. Yes.

1 Q. And there is the next number is 18, colon, 28,  
2 colon, 28; is that right?

3 A. Uh-huh.

4 Q. Is that yes?

5 A. That's what I see.

6 Q. And the other one we have 18, colon, 28, colon,  
7 30. That's on Exhibit 88?

8 A. Uh-huh.

9 Q. Is that yes?

10 A. Yes, I see.

11 Q. And then the next one Exhibit 89, it's sort of  
12 hard to see but it's 18, colon, looks like 28,  
13 20-something; correct?

14 A. Yeah.

15 Q. It's harder to see because the background is  
16 light?

17 A. Okay.

18 Q. Thinking back on that day, does it make sense to  
19 you that you would have seen these things about  
20 6:30 at night? Does that seem about right?

21 A. Usually that's the time I leave from my work and  
22 it looked like that time around 6:30, 6:31,  
23 something like that.

24 Q. Okay.

25 A. That's when I go home.

1 Q. That's when you usually go home from work?

2 A. Yeah.

3 Q. And in that one video we see you actually  
4 leaving; correct?

5 A. Yes, that's the time.

6 Q. You're going home?

7 A. Uh-huh.

8 Q. Now, I want to ask you some questions about these  
9 two young people you saw walking down the  
10 hallway. You could tell they were dark skin,  
11 black; correct?

12 A. I cannot remember was it dark or not, but they  
13 was black.

14 Q. Black?

15 A. Uh-huh.

16 Q. Can you tell whether or not they were Somalian or  
17 African American or Nigerian?

18 A. No. I cannot remember what they was. Are  
19 they -- they look like black, but I don't know  
20 was Somalian or other Africa, I cannot tell.

21 Q. Okay. The first male who walked by you said he  
22 was shorter?

23 A. Well, they was coming, the second one was looked  
24 like to me was the taller one.

25 Q. Okay.

1 A. The first one looked like, look to me like the  
2 short.

3 Q. And that first man, you couldn't see his face to  
4 remember the details, but he wasn't wearing a  
5 mask?

6 A. No, not a mask, was the hood jacket. He was  
7 wearing a sweater, little bit heavy. But I  
8 cannot tell it was a jacket that kind of  
9 material, but it was the hood, but it was not a  
10 mask.

11 Q. I'm just talking about the first male, the  
12 shorter male.

13 A. That one, his face was showing.

14 Q. Okay. And he wasn't wearing any --

15 A. No.

16 Q. It's important that we not talk at the same time,  
17 okay.

18 A. Okay. Go ahead.

19 Q. Because we're going to get the court reporter  
20 very angry if we do. We don't want to do that.

21 A. Uh-huh.

22 Q. Okay. So the first male was not wearing any  
23 scarf or anything on his face; correct?

24 A. Correct.

25 Q. But the second male, when he walked past you, you



1 saw him pull his hood over, kind of over his  
2 face, right?

3 A. Yes.

4 Q. And as a result of him doing that, you could not  
5 see his face, the second male?

6 A. The second male, yeah, I did not recognize  
7 anyone, their face.

8 Q. Right. But the first male, he just walked by you  
9 and that was it; correct?

10 A. Yes.

11 Q. Did it look like to you, Ms. Ahmed, that the  
12 second male, the tall, skinny guy was trying to  
13 deliberately hide his face from you?

14 A. I'm not sure, but I just -- his face is hiding,  
15 but I don't know what the reason.

16 MR. GOETZ: Thank you, that's all the  
17 questions I have.

18 THE WITNESS: Thanks.

19 THE COURT: Mr. Streitz.

20 **REDIRECT EXAMINATION**

21 BY MR. STREITZ:

22 Q. Ms. Ahmed, I have a question, when -- and I  
23 apologize if you did say this when I first asked  
24 you questions, but I don't recall you ever saying  
25 that when you saw a man downstairs opening the

1 door for the other two that the man opening the  
2 door was necessarily young. Could you tell if he  
3 was young or old?

4 A. No, I cannot tell. I just see for male man just  
5 holding the door, but I cannot tell for what he  
6 look like, it was black or white, but I see for  
7 the men who was holding the door, but I cannot  
8 remember --

9 MR. STREITZ: Thank you. I just wanted  
10 to be clear.

11 Thank you I have nothing further.

12 THE COURT: Mr. Goetz.

13 MR. GOETZ: No more questions.

14 THE COURT: Ma'am, you can step down.

15 (Witness leaves the stand.)

16 THE COURT: Members of the jury, we'll  
17 take a 15-minute recess, so let's try to get back  
18 here for 3 o'clock and we'll go until four today.  
19 Thank you.

20 (Recess.)

21 MR. STREITZ: State would call Mohamud  
22 Galony to the witness stand.

23 THE COURT: Mr. Galony, come forward.

24 Will do you need an interpreter?

25 THE WITNESS: No.

1 THE COURT: Okay. We can have one  
2 standby in case you need.

3 THE WITNESS: All right.

4 THE COURT: Let's to that. Come forward  
5 then. Interpreter has already been sworn today.

6 MOHAMUD GALONY,  
7 called as a witness on behalf of the State, having been  
8 first duly sworn, was examined and testified as follows:

9 THE COURT: Have a seat in the chair  
10 there. Our interpreter for the record.

11 INTERPRETER: Abdulaziz,  
12 A-b-d-u-l-a-z-i-z; my last name is Hussen,  
13 H-u-s-s-e-n.

14 THE COURT: Okay. Sir, we're going to  
15 start by stating your full name and spelling.

16 THE WITNESS: My name is Mohamud Mohamed  
17 Galony; M-o-h-a-m-u-d, M-o-h-a-m-e-d,  
18 G-a-l-o-n-y.

19 THE COURT: Mr. Streitzi.

20 **DIRECT EXAMINATION**

21 BY MR. STREITZ:

22 Q. Good afternoon, sir.

23 A. Yes.

24 Q. How are you?

25 A. Good.

1 Q. Okay. Do you live in the metropolitan area?

2 A. Yes, I do.

3 Q. And what -- are you employed?

4 A. Yes, I am.

5 Q. What type of work do you do? I'm not interested  
6 in where you work but what type of work do you  
7 do.

8 A. I'm an educational assistant. I work with  
9 Somalia students and kind of help them with, you  
10 know, go from transition from ESL to mainstream  
11 English.

12 Q. Okay. And can you tell us what ESL is?

13 A. English as second language.

14 Q. Okay. Back on January 6, 2010, there were three  
15 individuals who were murdered at the Seward  
16 Market in South Minneapolis. Did you become  
17 aware of that?

18 A. Yes, I did.

19 Q. Did you hear about that that same night?

20 A. No, I think through the news.

21 Q. That same night?

22 A. That same night or like the following morning, I  
23 don't recall.

24 Q. Okay. When you heard about what had happened,  
25 did you contact a police officer?

1 A. Yes, I did. I spoke with Mohamed Abdullahi, and  
2 I spoke with him.

3 Q. And why did you contact him?

4 A. Because I worked with him when I worked at the  
5 community, the summer prior to that.

6 Q. In the community?

7 A. Yes. I used to work for Somali Community of  
8 Minnesota called CSCM, and I was their youth  
9 program manager over there.

10 Q. Okay. And what was the purpose for you  
11 contacting that Somali police officer?

12 A. You know, after I become aware of the tragedy  
13 that happened and those people that were killed,  
14 I just kind of called him and said, hey, I  
15 remembered running into the building that I used  
16 to go to, it's 1525 South Minneapolis, tall  
17 building right by there that, you know, I spoke  
18 to a young gentleman there, guy sitting right  
19 there (pointing), Mahdi. And he was talking  
20 about doing a few missions or whatever that he  
21 called it at that time and that he wanted to look  
22 into that place and also looked into the gas  
23 station that was in front of that building. I  
24 just kind of gave him that. I specifically told  
25 him that --

1 THE COURT: We're going to have the  
2 prosecutor ask you some more questions so.

3 THE WITNESS: All right.

4 BY MR. STREITZ:

5 Q. So you believed that you had some information  
6 that you wanted to share with him?

7 A. With Mohamed, yeah.

8 Q. Okay. And did you in turn meet with some  
9 homicide detectives right after that?

10 A. Yeah. I think once I talked to Mohamed, he  
11 called me the following day and said, hey, man, I  
12 think we have something tied to what you told us  
13 and we would like to -- for you to come down. So  
14 initially I thought I was going to talk to  
15 Mohamed, but he brought me to two other people, I  
16 forgot the name.

17 Q. Some detectives?

18 A. Yeah.

19 Q. And did you give the detectives some information?

20 A. Same information that I gave Mohamed, yeah.

21 Q. A few minutes ago you said you had spoken to, and  
22 then you pointed to somebody over here and you  
23 called them Mahdi. Do you recognize the  
24 individual that you were referring to that told  
25 you some things?

1 A. Yes, I do.

2 Q. And can you indicate by where he is seated and  
3 what he is wearing.

4 A. He's right there in the middle of those two  
5 gentlemen wearing suits (pointing).

6 MR. STREITZ: May the record reflect  
7 he's identified the defendant, Your Honor?

8 THE COURT: Any objection?

9 MR. GOETZ: No, Your Honor.

10 THE COURT: It will.

11 BY MR. STREITZ:

12 Q. So let's back up. How do you know the defendant,  
13 Mahdi?

14 A. I used to see him in the community when I work at  
15 the Brian Coyle Center. He's not specifically a  
16 person that I worked with closely through the  
17 community when I used to lead the youth circles,  
18 but, I mean, I saw him around. I saw him like at  
19 the buildings that I used to go visit a lot.  
20 And, I mean, as I have normal conversations with  
21 most of the youth there, I did with him.

22 Q. Okay. You said some type of center, the Coyle  
23 Center?

24 A. Coyle Center.

25 Q. Is that the Brian Coyle Center?

1 A. Brian Coyle Center, yeah.

2 Q. You also mentioned that you'd see him at a tall  
3 building. What is that building?

4 A. The 1425 South Minneapolis building right behind  
5 Starbucks.

6 Q. Okay. Is that what's called the Seward Towers?

7 A. Seward Towers West, I think.

8 Q. And do you know whether -- who do you know that  
9 lives there, a friend of yours?

10 A. A friend of mine, yes.

11 Q. Would you visit your friend there?

12 A. Visit him a lot, yeah.

13 Q. And when you visited your friend, did you ever  
14 run into the defendant Mahdi Ali there?

15 A. Yes, I did, a couple of times.

16 Q. Do you know Mahdi Ali lived in that building?

17 A. I don't know if he lived there or visited there,  
18 but he was there most of the time. Probably had  
19 relatives or maybe lived there himself, I'm not  
20 sure.

21 Q. When you talked to the homicide detectives who  
22 provided them with information, what exactly did  
23 you tell them, what information did you provide  
24 to them?

25 A. Same information that I gave to Mohamed. I told



1 him that, you know, like, I think two weeks prior  
2 at that there was this young man Mahdi that was,  
3 you know, planning to do a mission, as he called  
4 it at that time, or that's what the young man in  
5 the communality called it, I'm going on a  
6 mission, and either to go steal something or to  
7 go get something out of the building or whatever  
8 to Starbucks and that building where the killings  
9 happened.

10 Q. And is this information that you're saying Mahdi  
11 had told you about two weeks earlier?

12 A. Yep.

13 Q. Did he -- when you were -- when Mahdi was telling  
14 you this, did he tell you any other things about  
15 the store that he was thinking of robbing the  
16 Seward store?

17 A. Yeah. Like when I remember him saying that he  
18 looked into the place and you know it's -- it's  
19 not hot, which can mean that, you know, it's not  
20 a place that's --

21 THE COURT: I'm sorry?

22 THE WITNESS: It's not a place that's  
23 heavily secured.

24 BY MR. STREITZ:

25 Q. Did he mention anything about the other part of

1 the store?

2 A. He mentioned that there was a money wiring  
3 center, they call it hawala -- I don't know if  
4 you want to --

5 INTERPRETER: Hawala is the money wiring  
6 business.

7 BY MR. STREITZ:

8 Q. Did you provide the detectives with some  
9 information about a car?

10 A. Yeah, Mohamed asked me, the Somali officer asked  
11 me like, hey, I don't know who you're talking  
12 about but if I wanted to find where he's at where  
13 could I find him? Do you know, like, his  
14 apartment? Do you know if he has a car and all  
15 that stuff? And I told him that, no, I don't  
16 know if he has a car or not but there's this car  
17 that he's usually by or that he used to drive at  
18 that time or whatever that's parked on the second  
19 floor of the building where we used to hang out  
20 when I'm meeting my friend.

21 Q. And did you give any more information about what  
22 this car might look like?

23 A. At the time I think I told him it was a red  
24 Caprice or whatever.

25 Q. Do you recall anything about any windows in the

1 car?

2 A. I think it had had a broken window, yeah.

3 Q. And were you able to tell the detectives anything  
4 in terms of any building nearby where the car  
5 might be parked by?

6 A. It was parked towards the -- or facing away from  
7 the bank, the back was the Wells Fargo Bank.

8 Q. I'm sorry, if I asked you this and I missed it, I  
9 apologize. What kind of car do you recall it  
10 was?

11 MR. GOETZ: Objection, repetitive, Your  
12 Honor.

13 THE COURT: Overruled.

14 BY MR. STREITZ:

15 Q. What kind of car?

16 A. It was a Caprice.

17 Q. When you said the defendant, correct me if I'm  
18 using the wrong word, but the defendant was  
19 thinking of doing what at the Seward Market?

20 A. A mission or a lick.

21 Q. What does a mission or a lick mean to you?

22 A. To go and rob that place.

23 MR. STREITZ: I don't have any further  
24 questions, perhaps the other attorney does.

25 THE COURT: Mr. Goetz.

1 MR. GOETZ: Thank you, Your Honor.

2 **CROSS-EXAMINATION**

3 BY MR. GOETZ:

4 Q. Mr. Galony, do you remember going down talking to  
5 two police sergeants the day after the shootings  
6 happened?

7 A. Yes, I do. And I think also the Somali officer,  
8 or maybe he directed me there. It was a long  
9 time ago, so I can't really recall.

10 Q. And they asked you to tell them everything that  
11 you knew that might be pertinent to the murders,  
12 right?

13 A. (Nods head.)

14 Q. Is that right?

15 A. Yes, yes.

16 Q. And you told them that this person that you're  
17 saying now is Mr. Ali and told you of his plan,  
18 you said you don't even know his name, right?

19 A. You know, I work with a lot of youth and students  
20 that I don't know their names, but I know their  
21 faces.

22 Q. The person that you're asking this jury to  
23 believe told you about his plan to commit crimes,  
24 serious crimes, you did not even know his name,  
25 did you?

1 A. (Shakes head.)

2 Q. Is that a no?

3 A. Not at that time, but, I mean, like once that it  
4 was told to me or news said it, it rang a bell.

5 Q. And when the police officers were interviewing  
6 you a second time, again, you didn't remember the  
7 name but one of the officers, the male, told you  
8 the name Mahdi, didn't he?

9 A. What?

10 Q. Didn't the police -- isn't it one of the police  
11 officers that told you the name Mahdi?

12 A. They might have, but I also found out through  
13 other channels.

14 Q. Like television, Channel 5, Channel 4, Channel  
15 11, Channel 9, right?

16 A. Yeah, if you want to put it in that terms.

17 Q. And this guy that you're claiming told you this  
18 plan to commit crimes is somebody that, if I  
19 understood your testimony, you would just run  
20 into a couple of times around the buildings,  
21 right?

22 A. That and also like the community when I used to  
23 work at the Coyle Center.

24 Q. You'd never been to his house?

25 A. No.

1 Q. Right?

2 A. No.

3 Q. Don't know where he lives; correct?

4 A. Correct.

5 Q. Don't know any of his family; correct?

6 A. Correct.

7 Q. What clan are you?

8 A. Why does that matter?

9 Q. I'm asking you what clan are you?

10 A. I'm Somali.

11 Q. What Somali clan are you?

12 A. Darod.

13 Q. That is the same clan as Ahmed Shire Ali, is it  
14 not?

15 A. I'm not sure.

16 Q. Are you telling us you don't know whether you're  
17 related to Ahmed Shire Ali?

18 A. I'm not sure what his clan is.

19 Q. Are you related to Ahmed Shire Ali?

20 A. No, I'm not.

21 Q. You know Ahmed Shire Ali; correct?

22 A. Yeah. Well, not like -- not directly, but I just  
23 know of him.

24 Q. You perhaps are closer to his older brother?

25 A. Ahmed Ali, right.

1 Q. You know his family?

2 A. No.

3 Q. Ahmed Shire Ali's?

4 A. (No response.)

5 Q. Do you remember talking with the investigators  
6 about knowing Ahmed Shire Ali's older brother?

7 A. If it's Mohamed Ali that we're talking about,  
8 yeah, I know of him. I went to, I think  
9 either -- if he went to Edison I either remember  
10 him from there or just pretty much from around  
11 Cedar -- Cedar Riverside.

12 Q. And the first time that you met with the officers  
13 on January 7th of 2010, you decide the person  
14 that you had spoken with as having a dark  
15 complexion; correct?

16 A. Yes.

17 Q. Now, what's your birth date?

18 A. 1/1/85.

19 Q. Is that your -- January 1, 1985?

20 A. Yeah.

21 Q. Is that your actual date that you were born?

22 A. Yeah.

23 Q. Just like everybody else?

24 A. Just like all Somalis are born on January 1st,  
25 yeah.

1 MR. STREITZ: Objection, Your Honor.

2 THE COURT: Overruled.

3 BY MR. GOETZ:

4 Q. It's true, is it not, sir, that you don't know  
5 the actual date you were born?

6 MR. STREITZ: Objection, Your Honor,  
7 relevance.

8 THE COURT: Sustained.

9 BY MR. GOETZ:

10 Q. Last, you described the car as a red Caprice that  
11 was connected with the person that you claim told  
12 you of these robberies, right? That's what you  
13 remember as a red Caprice?

14 A. Yes.

15 Q. Not a Crown Victoria?

16 A. I don't think so, it was a Caprice. I can tell  
17 the difference between a Caprice and a Crown Vic.

18 Q. And you know the difference between red and  
19 white; correct?

20 A. Yes.

21 Q. Between red and black; correct?

22 A. (No response.)

23 Q. Yes?

24 A. Correct.

25 MR. GOETZ: No further questions.



1 THE COURT: Mr. Streit.

2 MR. STREITZ: May I approach, Your  
3 Honor?

4 THE COURT: You may.

5 THE WITNESS: Am I done?

6 THE COURT: Few more questions.

7 **REDIRECT EXAMINATION**

8 BY MR. STREITZ:

9 Q. Supplement 38. I'd like to show you a supplement  
10 and ask you to look at it and read it and then  
11 tell me if that refreshes your memory about the  
12 color of the car. And the paragraph I point to  
13 you --

14 MR. GOETZ: Objection, Your Honor,  
15 improper rehabilitation.

16 THE COURT: Overruled.

17 MR. GOETZ: Your Honor, may we approach?

18 THE COURT: No. Overruled.

19 THE WITNESS: Right here?

20 BY MR. STREITZ:

21 Q. Yes, read that paragraph.

22 A. (Witness complies.)

23 Q. And then the next paragraph.

24 A. Is that what he's going towards?

25 Q. No. I just want you to --

1 MR. STREITZ: May I approach again, Your  
2 Honor?

3 THE COURT: Your may.

4 BY MR. STREITZ:

5 Q. I show you Exhibit 22 --

6 MR. STREITZ: Second page, counsel.

7 THE COURT: Exhibit 22 or --

8 MR. STREITZ: Supplement 22, Your Honor.

9 BY MR. STREITZ:

10 Q. First full paragraph, I have you read that.

11 A. (Witness complies.)

12 MR. GOETZ: Your Honor, may we approach?

13 This is improper rehabilitation.

14 THE COURT: Approach.

15 (Discussion at the bench.)

16 BY MR. STREITZ:

17 Q. Mr. Galony, have you read that paragraph?

18 A. Yes, I have.

19 Q. Having read that, does that refresh your memory  
20 of the color of the Caprice that you told the  
21 police about?

22 A. Yes, it does.

23 Q. And what color do you recall telling the police  
24 back on January 6th or 7th the Caprice was?

25 A. I think it was black.

1 MR. STREITZ: Okay. I have no further  
2 questions.

3 THE COURT: Mr. Goetz.

4 MR. GOETZ: Just one area of inquiry I  
5 forgot to ask about.

6 **RE-CROSS-EXAMINATION**

7 BY MR. GOETZ:

8 Q. You used the word "mission" many times, and you  
9 even the did the quotation mark. You remember  
10 that?

11 A. Yes.

12 Q. And it's your testimony that that's a specific  
13 word that you remember this person using;  
14 correct?

15 A. Yes.

16 Q. It stuck in your mind, right?

17 A. Yes.

18 Q. And you thought it was important; correct?

19 A. I mean, if somebody telling you and you remember,  
20 yeah.

21 Q. The word mission. But it's true, is it not, that  
22 when you were describing what this person  
23 supposedly told you to the detectives, you never  
24 used that word mission, not once, did you?

25 A. I might have not used it, I don't remember what I

1 told them.

2 Q. You never used the word lick; correct?

3 A. I'm not sure, I don't have the papers in front of  
4 me so.

5 Q. And it's true, is it not, that the only reason  
6 that you changed your testimony from red to black  
7 is because the prosecutor showed you that --

8 A. What I said --

9 Q. -- report?

10 A. Yeah.

11 MR. GOETZ: No further questions.

12 THE COURT: Anything further?

13 **FURTHER REDIRECT EXAMINATION**

14 BY MR. STREITZ:

15 Q. Mr. Galony, the information you provided to the  
16 homicide detectives was awhile ago; is that  
17 correct?

18 A. Yes, it was.

19 Q. You may not have used the word mission when you  
20 talked to the detectives, but did you use the  
21 term robbery?

22 A. I mean if it's going to go on the record, like, I  
23 don't remember what I exactly used, but I know  
24 that he wanted --

25 MR. GOETZ: Objection, Your Honor,

1 speculation at this point.

2 THE COURT: At this point it's  
3 nonresponsive so we'll stop the answer there.  
4 Answer will stand to that point.

5 MR. STREITZ: May I approach, Your  
6 Honor?

7 THE COURT: You may.

8 MR. STREITZ: Pages 6 and 7 of his  
9 statement to the police, counsel.

10 BY MR. STREITZ:

11 Q. Have you take a look at that, does that look like  
12 part of your statement you gave to the police,  
13 some questions you were asked and answers that  
14 you gave?

15 A. Uh-huh.

16 THE COURT: That's a yes?

17 THE WITNESS: Yes.

18 BY MR. STREITZ:

19 Q. I'm going to direct you to the bottom of there  
20 and ask you to read it and onto the next page,  
21 and when you're done let me know.

22 A. (Witness complies.)

23 Q. Having looked at those pages, does that refresh  
24 your memory as you used the word robbery the  
25 defendant was going to do at the Seward Market?

1 A. Yes.

2 Q. Did you use that term robbery?

3 A. Yes, I did.

4 MR. STREITZ: Thank you. Nothing  
5 further.

6 THE COURT: Mr. Goetz.

7 MR. GOETZ: No further questions.

8 THE COURT: You may step down.

9 (Witness leaves the stand.)

10 MR. STREITZ: Your Honor, the State  
11 would call Paul Hartzell to the stand.

12 PAUL HARTZELL,  
13 called as a witness on behalf of the State, having been  
14 first duly sworn, was examined and testified as follows:

15 THE COURT: Before you begin, give us  
16 your full name, spelling each of the names.

17 THE WITNESS: Paul Hartzell; P-a-u-l,  
18 H-a-r-t-z-e-l-l.

19 THE COURT: Okay. Mr. Streitz.

20 **DIRECT EXAMINATION**

21 BY MR. STREITZ:

22 Q. Good afternoon, Mr. Hartzell. Are you employed?

23 A. Yes.

24 Q. And where do you work?

25 A. Hennepin County Attorney's Office.

1 Q. Same office that I work?

2 A. Yes.

3 Q. In fact, you're working with me on this case; is  
4 that; correct?

5 A. Correct.

6 Q. Okay. And what do you do for the County  
7 Attorney's Office?

8 A. My title is digital evidence specialist. I  
9 primarily work with the media evidence that comes  
10 into the office.

11 Q. Okay. And what type of things do you do with the  
12 media evidence that comes into the office?

13 A. Generally I will make sure that it's viewable by  
14 our attorneys and typically by defense attorneys.  
15 I work with one other person that also does  
16 similar tasks that I do and I manage him.

17 Q. Does your work also include helping the attorneys  
18 prepare exhibits for trial, such as this?

19 A. Yes.

20 Q. Can you tell us briefly what your qualifications,  
21 if you will, for the work that you do are in  
22 terms of experience, education, training and  
23 ongoing education.

24 A. Okay. I started my career with a bachelor's  
25 degree in broadcasting, television broadcasting.

1 And from there I worked in different technical  
2 fields, everything from radio stations to TV  
3 stations. And when I came into this office, I  
4 immediately started working with the video  
5 evidence that was coming in. When I was hired it  
6 was primarily analog video, so I discovered that  
7 I needed some training in dealing with a lot of  
8 the evidence because broadcast and evidence are  
9 not really the same.

10 So I started by taking a course in basic  
11 video forensics and the law that was at Quantico,  
12 the FBI Academy, although it was not sponsored by  
13 the FBI, it was held there, and that was a  
14 week-long course. A few years later I took an  
15 advanced course at the same place. And then a  
16 few years after that, I took an intermediate  
17 course that dealt mostly with the digital  
18 surveillance and forensics. In between all those  
19 years, as much as I could, I attended development  
20 conferences, different places, different cities.  
21 Most of them were three to five days long. In  
22 between that, I do everything I can to study to  
23 fill in all the gaps because technology changes  
24 very fast and I don't always find myself totally  
25 up to date, so I'm always seeking new



1 opportunities to learn more.

2 Q. So how long have you been working with the County  
3 Attorney's Office doing this work?

4 A. Just over ten years. I started in July of 2001.

5 Q. Now in this particular case, were you asked to --  
6 by myself and Mr. Weber, to review some forensic  
7 video from a Mr. Clifford Johnson of the Bureau  
8 of Identification Police Department?

9 A. Yes.

10 Q. And what specifically were you asked to do?

11 A. I was asked to obtain a file of surveillance from  
12 the Seward Market.

13 Q. And did you do that?

14 A. Yes.

15 Q. And can you explain to us how you went about  
16 that?

17 A. I knew that what I was interested in obtaining  
18 was as good quality video as I could get, and I  
19 knew in order to do that I would need a pretty  
20 large external hard drive. I knew that the file  
21 would be enormous, so I brought with me an  
22 external hard drive over to Mr. Johnson's office,  
23 plugged it into his video system, which he had  
24 already prepared with the video, and I pulled it  
25 off the timeline uncompressed and put onto my

1 hard drive.

2 Q. And Mr. Johnson has testified and he told us  
3 about the AVID system that he uses. Are you  
4 familiar with the AVID system?

5 A. Yes.

6 Q. In fact, do you have one?

7 A. I have two.

8 Q. And is that where you retrieved that, correct me  
9 if I'm using the wrong terminology, is that where  
10 you retrieved the information from and put it on  
11 the hard drive you've just told us about?

12 A. Yes.

13 Q. And, again, the reason for getting it from his  
14 AVID system was what?

15 A. What I was interested is the most -- the highest  
16 quality of the video that I could get. The only  
17 way that I know of to do that is to pull it off  
18 in an uncompressed format, which is what I did.

19 Q. So what you exported onto your hard drive was  
20 uncompressed from his AVID system?

21 A. Correct.

22 Q. And the purpose of obtaining that was to provide  
23 it to Target Corporation, some individuals there  
24 to review?

25 A. Yes.

1 Q. And also in preparation for trial court exhibits  
2 here?

3 A. Correct.

4 Q. And did you, in fact, then make, correct me if  
5 I'm using the wrong terminology, CDs for the  
6 trial exhibits?

7 A. Yes.

8 Q. And when you made the CDs that are Exhibits 94  
9 through 102 here, that is the various cameras  
10 from the market and put those on CDs, was there  
11 some compression involved in that?

12 A. Yes.

13 Q. Is there any way to avoid that?

14 A. Not in order to make it playable on what we have  
15 in our court.

16 Q. Okay. You also were provided some CDs from  
17 various other businesses from the police  
18 department; is that correct?

19 A. Yes.

20 Q. Did that include a Brooklyn Center SuperAmerica  
21 store CD?

22 A. Yes.

23 Q. A SuperAmerica, 2200 Lyndale, CD or CDs?

24 A. Yes.

25 Q. Some CDs from the Minneapolis Impound Lot?

1 A. Yes.

2 Q. And I'm not sure if I'm forgetting any, a place  
3 called the Dahabshiil check cashing business?

4 A. Yes.

5 Q. And the CDs that have been provided to the police  
6 department from those businesses, did you make'  
7 copies of those?

8 A. Yes.

9 Q. And when you made copies of what had been  
10 provided to the police department, is there  
11 compression?

12 A. Yes.

13 Q. Okay. And so the exhibits that we have from  
14 those facilities have been compressed somewhat?

15 A. Somewhat, yes.

16 Q. Is that just a necessity whenever you're making  
17 copies?

18 A. Not when I'm making copies, but when I'm  
19 transcoding it to be able to play it in court,  
20 yes.

21 Q. Okay.

22 MR. STREITZ: May I approach, Your  
23 Honor?

24 THE COURT: You may.  
25

1 BY MR. STREITZ:

2 Q. In addition to making copies of those varies CDs  
3 I just referred to, did you make still  
4 photographs from not only those CDs but some  
5 footage that had been recovered from the Seward  
6 Market?

7 A. I don't -- yes.

8 Q. I want to show you what I've marked as Exhibits  
9 130, 131, and 132, 133 and 134. Have you look at  
10 those, tell me if you recognize those exhibits.

11 A. Yes.

12 Q. And what are those, sir?

13 A. These are still images taken from what I know as  
14 Camera 2 looking on the street adjacent to the  
15 Seward Market.

16 Q. 25th Avenue?

17 A. Yes.

18 Q. And the photographs or still photographs from  
19 that surveillance footage, are those in a  
20 compressed format?

21 A. When they're printed they become somewhat  
22 compressed but what I -- for the exhibit they are  
23 uncompressed.

24 Q. Okay. I'm confused. These are the exhibits?

25 A. Yes, they are. And when you print them they do

1           tend to become slightly compressed when they're  
2           printed.

3           Q.   Is there any way to avoid that?

4           A.   No.

5                         MR. STREITZ:   State would offer Exhibits  
6           130, '31, '32, '33, and '34 into evidence.

7                         THE COURT:   Any objection?

8                         MR. GOETZ:   No, Your Honor.

9                         THE COURT:   130 through 134 are  
10          received.

11         BY MR. STREITZ:

12          Q.   Showing you what is marked as Exhibits 135, 136,  
13          137 and 138.  Do you recognize those, sir?

14          A.   Yes.

15          Q.   And what are they?

16          A.   These are the disks that I prepared from the  
17          video.

18          Q.   From the impound -- Minneapolis Impound Lot?

19          A.   Can I open it?

20          Q.   Absolutely.

21          A.   Yes.

22          Q.   You probably should -- why don't you open them  
23          all up to make sure.  I'm sorry, Exhibit 135 is  
24          Camera 5 from the impound lot; is that correct?

25          A.   Yes.

1 Q. Exhibit 136?

2 A. Is Camera 6.

3 Q. Okay. 137?

4 A. Camera 9.

5 Q. Okay.

6 A. 138 is Camera 10.

7 Q. Okay. And those exhibits you made are copies  
8 from what had been provided to the Minneapolis  
9 Police Department from the impound lot as you  
10 understand it?

11 A. Yes.

12 MR. STREITZ: State would offer Exhibits  
13 135, 136, 137, and 138.

14 MR. GOETZ: No objection.

15 THE COURT: 135 through 138 are  
16 received.

17 BY MR. STREITZ:

18 Q. Showing you what has been marked as Exhibit 104,  
19 I'll take that out for you. Do you recognize  
20 that, sir?

21 A. Yes.

22 Q. What is that?

23 A. That's what has been identified as SuperAmerica  
24 Brooklyn Center pumps one through ten.

25 Q. And Exhibit 104, is that a copy that you made

1 from a CD, surveillance CD that had been provided  
2 to the Minneapolis Police Department?

3 A. Yes.

4 MR. STREITZ: State would offer Exhibit  
5 104 into evidence, Your Honor.

6 MR. GOETZ: Without objection.

7 THE COURT: Received.

8 BY MR. STREITZ:

9 Q. And showing you what has been marked at Exhibit  
10 145, 146, 147, 148 and 289. Have you look at  
11 those, Mr. Hartzell, and tell me if you recognize  
12 those.

13 A. Yes.

14 Q. And what are those, sir?

15 A. These are still images taken from the  
16 surveillance from the Brooklyn Center  
17 SuperAmerica.

18 Q. The exhibit that was just received into evidence?

19 A. Yes.

20 MR. STREITZ: State would offer these  
21 into evidence, Your Honor. That's Exhibit 145,  
22 146, 147, 148 and 289.

23 MR. GOETZ: No objection.

24 THE COURT: Exhibits 145 through 148 and  
25 Exhibit 289 are received.



1 BY MR. STREITZ:

2 Q. I'd like to show you what's been marked as 124,  
3 125a 125b, 125c, 126, 127, 128, and 129. Do you  
4 recognize those exhibits, Mr. Hartzell?

5 A. Yes.

6 Q. And they are what?

7 A. These are still images that I extracted from what  
8 was given to me as forensic garage video that  
9 they made.

10 Q. That the Minneapolis Police Department made  
11 concerning a red Crown Victoria license TPJ 926?

12 A. Correct.

13 MR. STREITZ: State would offer Exhibits  
14 124, 125a, 125b, 125c, 126, 127, 128 and 129.

15 MR. GOETZ: Without objection, Your  
16 Honor.

17 THE COURT: Exhibits 124 through 129  
18 subparts a through c of 125 are received.

19 MR. STREITZ: Thank you.

20 BY MR. STREITZ:

21 Q. Mr. Hartzell, did you also -- were you also asked  
22 by myself to go out to the Seward Market in  
23 October of 2010 to do something?

24 A. Yes.

25 Q. And what were you asked to do?

1 A. I was asked to conduct -- to conduct a simple  
2 experiment.

3 Q. And what was the experiment about?

4 A. What I did is I went out to a fabric store and I  
5 purchased a piece of black fabric that was  
6 polyester. Because from my experience and  
7 partially from my training I learned that some  
8 cameras will color shift, specifically with  
9 synthetic fabric, so that's what I wanted --  
10 that's all I had. I knew that polyester would  
11 definitely reveal a color shift in a camera. So  
12 I went there with the assistance of a couple of  
13 officers and held the black fabric up under an  
14 interior camera and a couple of exterior cameras.

15 Q. Why were you doing this?

16 A. What I was mostly interested in was will this  
17 black fabric look the same on -- under a normal  
18 camera and what I suspected was an infrared or  
19 near infrared camera. And near infrared records  
20 light that's not visible, or spectrums of the  
21 light -- parts of the light spectrum that are not  
22 visible, and I knew that a black polyester would  
23 look different under those two types of cameras.

24 Q. Had you reviewed the surveillance video from the  
25 Seward Market prior to that?

1 A. Yes.

2 Q. Did you notice something between two of the  
3 exterior cameras and the interior cameras that  
4 caused you to want to do this experiment?

5 A. Yes.

6 Q. What?

7 A. What I saw on the interior camera didn't phase  
8 me, it looked -- all the colors looked normal,  
9 nothing was out of place. But on the outside, I  
10 saw some unrealistic colors and that's what led  
11 me to believe that there could be an infrared  
12 camera in play.

13 Q. Specifically, are you talking about what's been  
14 referred to as Camera 6 and nine, cameras that  
15 showed under the awnings respectively -- not  
16 respectively, but one facing under the awning on  
17 25th and one under the awning on Franklin Avenue?

18 A. Yes.

19 Q. What specifically did you notice that you wanted  
20 to check out?

21 A. The color that I saw on a subject walking past  
22 the camera, it looked to me what I, in my mind, I  
23 thought aqua blue.

24 Q. Okay.

25 A. And that was an unnatural color for an evening

1 for a color camera. It just looked unnatural to  
2 me.

3 Q. Did you see something in that footage from  
4 Cameras 6 and nine and compared it to what you  
5 saw on Camera 2 that was different?

6 A. Yes.

7 Q. What?

8 A. The person in camera -- in the inside camera  
9 looked to be wearing black or dark, outside it  
10 looked to be blue or light blue.

11 Q. Any particular person on the inside camera?

12 A. I didn't --

13 Q. Any particular subject in the interior camera?

14 A. I did notice that there was a subject on the  
15 interior camera that appeared to be wearing  
16 black, a black jacket.

17 Q. Okay.

18 THE COURT: Counsel, approach.

19 (Discussion at the bench.)

20 BY MR. STREITZ:

21 Q. Mr. Hartzell, I want to show you Exhibit 65.  
22 Does that look familiar to you?

23 A. Yes.

24 Q. And is there a subject in 65 that was part --  
25 that was part of what you were trying to do in

1 this experiment, or cover in this experiment?

2 A. Both of these subjects.

3 Q. Okay. And you're referring to an individual that  
4 has what appears to be a striped shirt sticking  
5 out?

6 A. Yes.

7 Q. And an individual that appears to have a bandana  
8 on his face?

9 A. Yes.

10 Q. Okay. And what was it about in subject, in 65  
11 that you wanted to check in terms of this color  
12 shift?

13 A. When I saw the dark clothing on the inside and  
14 then I saw what appeared to be on aqua blue on  
15 the outside, I didn't look for any other features  
16 other than that color.

17 Q. Okay.

18 A. It just seemed that somebody walking past that  
19 camera wearing something aqua blue made me think  
20 that there was a color shift in the camera.

21 Q. And what were the results of your experiment?

22 A. When I took that black fabric into the store I --

23 MR. GOETZ: Your Honor, may I ask one  
24 question for the purpose of laying foundation for  
25 an objection?

1 THE COURT: You may.

2 **VOIR DIRE EXAMINATION**

3 BY MR. GOETZ:

4 Q. Mr. Hartzell, I have one question. Do you know  
5 whether or not the Cameras 6 and 9 that were the  
6 subject of your color test were the same cameras  
7 in place October 2010 as were in place on January  
8 6th of 2010?

9 A. According to the gentlemen that were in the  
10 store, they were.

11 MR. GOETZ: I have no further questions.

12 THE COURT: Okay.

13 BY MR. STREITZ:

14 Q. And was the interior camera that you were  
15 using --

16 MR. STREITZ: And you know if I can  
17 approach again.

18 **CONT'D DIRECT EXAMINATION**

19 BY MR. STREITZ:

20 Q. What I just showed you, Exhibit 65, is Camera 1,  
21 isn't it? Well, for purposes of speeding this  
22 up, Mr. Hartzell, you used footage and still  
23 photographs from Camera 2 inside the market,  
24 correct, for this experiment?

25 A. I need to explain how I -- what I did to set up

1 the experiment. The camera numbers may not be  
2 the same when I went back. And the reason why is  
3 I took the DVR that was originally used and I  
4 brought it down into the basement where all the  
5 camera feeds go in. And I was talking to an  
6 officer on the outside and I was unplugging  
7 cameras because they had a new system. So I  
8 wanted to get the feed from those particular  
9 cameras so when I did I just arbitrarily plugged  
10 them into the back hoping to get some kind of a  
11 signal so the camera numbers may have changed  
12 from the second time around.

13 Q. Well, the camera that you used for the interior  
14 camera, was that a camera that was there in use  
15 on January 6, 2010?

16 A. Yes.

17 Q. Okay. As were the two outside cameras that  
18 counsel asked you about?

19 A. Yes.

20 Q. The results of your experiment?

21 A. Okay. There was a very obvious color shift. The  
22 fabric looked blue on the outside cameras and it  
23 looked black on the inside cameras.

24 Q. But they appeared to be the same figures and  
25 jackets on the individuals outside as they were

1 on the individuals inside the market?

2 A. I'm sorry, I don't understand the question.

3 Q. The articles where the color shift that we're  
4 color shifting, were the articles of clothing  
5 that this happened on in the images outside the  
6 market similar to the articles of clothing in the  
7 inside of the market?

8 A. Yes.

9 Q. Okay. In other words, they were jackets?

10 A. I don't know.

11 Q. Things on the top of the person who was wearing?

12 A. It was clothing that.

13 Q. And does color shifting depend upon the type of  
14 fabric?

15 A. It depends on quite a number of things, but, yes,  
16 fabric and dyes are very common things that will  
17 color shift.

18 Q. Okay. So I want to try and summarize this then.  
19 So if somebody was looking at the footage from  
20 the market on Cameras 6 and nine and saw a  
21 difference in color between articles of clothing  
22 of individuals inside the market, does color  
23 shift could explain that difference in color?

24 A. Yes.

25 MR. STREITZ: Thank you. I have no



1 further questions.

2 THE COURT: Mr. Goetz.

3 MR. GOETZ: No questions.

4 THE COURT: Mr. Hartzell, you may step  
5 down.

6 (Witness steps down.)

7 THE COURT: Members of the jury, we'll  
8 recess for the day. Just to give you an idea,  
9 tomorrow's schedule is likely to be 9 a.m., so  
10 please be in place by 9 a.m. in the room and then  
11 we'll go until noon and then 1:30 to 4:30. So  
12 have a good night we'll see you tomorrow at 9.

13 (Court adjourned until the following  
14 day, September 15, 2011.)

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