

1 available, you may be recalled. Do not discuss your testimony.

2 MR. BENNETT: I'd like to call Special Agent Wilmore,
3 Your Honor.

4
5 C. REESE WILMORE, having been first so duly sworn,
6 testified as follows:

7
8 DIRECT EXAMINATION

9 By: Mr. Bennett

10 Q If you'd state your name and position, please?

11 A My name is Reese Wilmore. I'm a Special Agent with
12 the State Police.

13 Q How long have you been with the State Police, sir?

14 A Twenty-five years.

15 Q And how long have you worked as an investigator
16 with the State Police?

17 A Twelve years.

18 Q Now, did you participate in the investigation of the
19 killing of [REDACTED] [REDACTED] [REDACTED], which occurred on June 4, 1982?

20 A Yes.

21 Q How long did you work on that investigation?

22 A On the day it occurred, June 4th, I was called to
23 help at the crime scene. I worked that day and June 5th, the
24 following day, and I was not involved to any great extent until
25 the middle of October of 1982.

1 Q Now, in the course of the investigation, did
2 there come a time when you were in touch with Lt. Hart of the
3 Town Police about interviewing a possible suspect at the
4 Fauquier County Sheriff's Department?

5 A Yes, sir. The way this originated, on May 21,
6 1983, I received a call from my supervisor who informed me that
7 there had been some new developments in the [REDACTED] murder case
8 and he requested that I contact Lt. Hart in regard to this. This
9 was approximately 4:00 P.M. on a Saturday. I had been away from
10 home and I learned of this from him when I returned home that
11 evening.

12 Q Okay, did you do anything that particular evening,
13 that Saturday evening, May 21st?

14 A Within the next half an hour Lt. Hart and Special
15 Agent Hugh Elwood came by my home and we discussed the develop-
16 ments that had occurred.

17 Q Okay, did you make any trip to Fauquier that evening?

18 A As a result of talking with them I learned that Mr.
19 Washington had made a statement to the Fauquier County authorities...

20 MR. SCOTT: Objection, Your Honor.

21 THE COURT: Objection sustained. Just answer the
22 question, Mr. Wilmore. The question is whether you went to
23 Fauquier.

24 A Yes, sir.

25 Q Okay, on the evening of May 21, 1983 ...

1 A I went to Fauquier County ... not on the 21st, no,
2 sir.

3 Q Okay, did you make any attempt at all to speak with
4 the defendant, Earl Washington, Jr. on Saturday or Saturday
5 evening, May 21, 1983?

6 A No, sir.

7 Q Relate to the members of the jury and the Court,
8 if you would, please, your going to Fauquier County that follow-
9 ing Sunday morning, May 22, 1983.

10 A I met Lt. Hart here at the Police Department at
11 approximately 8:30 A.M. and we rode to Fauquier County in his
12 car, with him driving, and arrived at approximately nine or
13 shortly thereafter.

14 Q And what occurred then?

15 A We spoke with Investigator Schrum and Deputy Dennis
16 Zeets.

17 Q Did you at that point speak with the defendant,
18 Earl Junior Washington?

19 A I spoke with Mr. Washington at approximately 10:00
20 A.M.

21 Q Had anyone spoken with him before you began speaking
22 with him at 10:00 A.M.?

23 A Lt. Hart and I hadn't. I'm not sure that the
24 deputies had not spoken with him.

25 Q Now tell everyone, if you would, please, exactly

1 what you did when you went in to speak with Mr. Washington and
2 where you were speaking with him at about 10:00 that Sunday
3 morning.

4 A Mr. Washington was in a room that had one door and
5 there was a window almost street level. The room was about 10'x
6 12'. There was two desks in the room. He was in the room when
7 Lt. Hart and I entered. I had not met this man before and did
8 not know him. I introduced myself. I showed him my identifica-
9 tion and shook hands with him. I told him at this point that
10 Lt. Hart and I were there to discuss a murder that had occurred
11 in Culpeper County, but prior to asking him any questions in
12 regard to this murder we would have to inform him of his rights.
13 Hart provided a rights form and we handed it to Mr. Washington
14 for his review or for him to read. At that point he appeared to
15 have some problem reading the rights form and I asked Mr. Hart,
16 Lt. Hart, if he would read it in its entirety. I asked Mr.
17 Washington if he could read. His reply was, some. Lt. Hart
18 read a rights form in its entirety to him and asked him if he
19 completely understood what his rights were. He indicated that he
20 did. We then asked him to sign the rights form, which he did,
21 and we witnessed his signature.

22 Q Okay, now what occurred at that point?

23 A I told Mr. Washington that I was aware that he had
24 made statements to the Fauquier County authorities in reference
25 to stabbing a woman in Culpeper. I asked him, did he stab the

1 woman in Culpeper. Did he tell the ... Fauquier County the
2 truth.

3 MR. SCOTT: Objection, Your Honor. I just want to
4 note for the record my objections to all ...

5 THE COURT: All right, noted objection and it's con-
6 tinuing without your having to reassert it, Mr. Scott.

7 MR. SCOTT: All right, thank you, Your Honor.

8 THE COURT: It's overruled. Proceed, Mr. Bennett.

9 A He made no reply to my question. He sort of hung
10 his head and put his hand to his forehead. I asked him several
11 other questions such as, how far he went in school and his reply
12 was the ninth grade, who he worked for and his reply, Giles Early,
13 his date of birth, where he lived. I again asked him, did he
14 stab a woman in Culpeper. He nodded and replied that he did.
15 At this point I ... the next question I asked him was this woman
16 white or black. He replied that she was black. I asked him
17 several other questions and then got back to the question, was
18 she white or black, and he said she was white, she was a white
19 woman. I asked him where this occurred and he said, I don't
20 remember. I asked him was anyone else along and he said, no.
21 I asked him to describe this woman. He had problems with
22 describing ... I asked him, what did she look like. He said that
23 she was 5'6", 5'7", she had brown hair, she may weigh as much as
24 170 and as he put it, she was a little heavy. I then asked him
25 to go back from the beginning as to what occurred on that day

1 as to how he got to Culpeper. He said that he was hitchhiking
 2 or walking on a road near Bealeton, and he was picked up by two
 3 friends whom he had met two or three days previously at the
 4 Hilltop Cafe in Warrenton. He said one of them's name was Billy.
 5 He did not know the other one's name. They were driving a blue
 6 Ford. He said once they picked him up he got in the back seat
 7 and they rode to Warrenton to the Hilltop, that they stayed
 8 there awhile and rode around. They then came to Culpeper and I
 9 asked him where in Culpeper. He could give me no direct answer.
 10 I asked him if he could show me the place where this occurred.
 11 He said he didn't know for sure, but he thought he could. He
 12 said they parked on a parking lot and he saw this woman walking
 13 along the sidewalk. He said that he got out of the car, walked
 14 over to the door where the woman went in and kicked the door.
 15 I asked him if the door was locked. He said it opened easily
 16 and was not locked. I asked him what occurred then. He said
 17 there was a woman standing in the middle of the floor. I asked
 18 him what occurred at this point. He said the woman told him to
 19 get out. He said that ... I asked him then what did he do. He
 20 said I took my knife out. He said I stuck her one time in the
 21 stomach and I took her to the back bedroom.

22 Q Is that the words he used?

23 A Yes, sir.

24 Q Okay.

25 THE COURT: Go ahead, sir.

1 A I asked him what occurred at this point and he said
2 I made her undress and why did you make her undress ... I wanted
3 to make love to her ... did she want to make love with you ...
4 no, I was holding a knife on her. Did you have sex with her?
5 One time. Did you stick her with a knife? I stabbed her once
6 or twice before I left the apartment. I asked him at this point,
7 when you left the apartment, did you take anything from it, any-
8 thing at all? No. Did you leave anything in the apartment?
9 My shirt. At this point I asked Lt. Hart to go to his car, since
10 we had a shirt we had been working with, and to secure it. He
11 brought the shirt in, in a grocery type bag, and I took the shirt
12 out and held it in front of Mr. Washington and asked him if it
13 was his shirt. He said yes, it was his. I asked him how did he
14 know that it was his and he continued, that was the shirt I had
15 on that day. I then asked him what makes it different or what
16 makes it outstanding. He said, there's a patch on the pocket ...
17 had been ripped off.

18 Q Okay, now let me show you a shirt in a bag which
19 is marked Commonwealth's Exhibit #10 for the purposes of identi-
20 fication. Could you take a look at this shirt, please, and
21 identify it if you can?

22 A Yes, sir, this is the shirt that I showed Mr.
23 Washington.

24 Q Okay, now can you show the members of the jury
25 any reference he made as to the patches that you were speaking of?

1 MR. SCOTT: Objection, Your Honor, until it's introduced.

2 Q Your Honor, we'll offer this as Commonwealth's
3 Exhibit #10 at this time.

4 THE COURT: Any further objection that should be
5 heard, Mr. Scott, that has not been considered already, on the
6 question of introducing that item?

7 MR. SCOTT: No, sir, that has not been considered
8 already.

9 THE COURT: All right, what's the number, Mr. Bennett?
10 What's the number of the exhibit?

11 Q Commonwealth's Exhibit #10 for purposes of identifi-
12 cation.

13 THE COURT: Is it being offered or merely presented to
14 the witness?

15 Q It's being offered as evidence at this point, Your
16 Honor.

17 THE COURT: Into evidence ... all right, I think the
18 objection has already been considered and if there's something
19 further that the Court should hear it should be out of the pre-
20 sence of the jury, that has not already been considered in
21 connection with being received into evidence. Mr. Scott, do you
22 have anything further to be heard?

23 MR. SCOTT: Your Honor, I said a number of things to
24 the Court this morning.

25 THE COURT: Still the same objection?

1 MR. SCOTT: Those same objections. I don't know
2 whether I should reiterate them or not. I think they're still
3 valid.

4 THE COURT: The Court notes those and overrules them,
5 Mr. Scott. Anything further though that we did not cover, I'll
6 be glad to consider.

7 MR. SCOTT: One moment, Your Honor.

8 THE COURT: Yes, sir.

9 MR. SCOTT: Your Honor, let me make sure I understand
10 what Mr. Bennett is doing. He's doing ... the Commonwealth
11 Attorney at this point in time is moving for the introduction of
12 the shirt?

13 THE COURT: Yes, sir, into evidence as #10. It's been
14 marked for identification only up to this point.

15 MR. SCOTT: All right, and yes, sir, I have one
16 additional objection. I want to make sure it's on the record.
17 I may have made it, Your Honor, but I want to make sure it's on
18 the record.

19 THE COURT: All right, well we ... it possibly should
20 be taken up out of the presence of the jury then.

21 MR. SCOTT: Yes, sir.

22 THE COURT: Let's have the jury retire to the jury room,
23 ladies and gentlemen, and we'll call you back as soon as we're
24 ready.

25

1 (The jury retired to the jury room at this time.)

2

3 MR. SCOTT: May I see the shirt for a second?

4 THE COURT: Yes, sir.

5 MR. SCOTT: I may have made this already, but I want
6 to make sure.

7 THE COURT: All right, sir, you may take your time to
8 examine it.

9 MR. SCOTT: So that it can be complete, may I ask
10 Investigator Wilmore one additional question?

11 THE COURT: Yes, sir.

12

13 Questions By: Mr. Scott

14 Q Investigator Wilmore, with reference to Commonwealth's
15 Exhibit #10, you say that there was a patch that Mr. Washington
16 talked about?

17 A Yes, sir, he was referring to this area here.

18 Q Is there a patch there now?

19 A No, sir.

20 Q The patch is not there? Was there a patch there on
21 the morning of May 22, 1983 ...

22 A No, sir.

23 Q ... when you showed this to him?

24 A No, sir.

25

1 Questions By: The Court

2 Q Mr. Wilmore, as I recall your statement about what
3 the defendant said that he referred to the patch as having been
4 ripped off before or was it ...

5 A Yes, sir, he said that a patch had been ripped off
6 above the pocket. He pointed to the area ... there appears to
7 me to be some glue on it now, yeah.

8 Q Now the question is not what you say the condition
9 was, but what he told you before he ...

10 A Yes, sir, he said the patch had been ripped off or
11 removed from the pocket ... above the pocket.

12 Q Did that indicate to you that it had been ripped off
13 since he saw it or it was ripped off before he parted with it?

14 A To me, sir, it meant that it was his shirt and the
15 patch had been removed. Who removed it, I don't know. He
16 didn't say.

17 Q Well, did he seem to indicate that it had been
18 removed since he last saw it?

19 A No, sir.

20 Q Go ahead with any questions, Mr. Scott. We may be
21 misconstruing it as to what that reference meant about the patch
22 having been ripped off.

23

24 Questions By: Mr. Scott

25 Q Mr. Wilmore, the patch was not on the shirt when you

1 showed it to him on May 22, 1983?

2 A No, there was no patch on it then.

3 Q All right, and that was the only distinguishing
4 characteristic, according to your testimony, made by the defendant
5 in reference to the identification of this shirt?

6 A Well, sir, I was holding the shirt ... I was holding
7 the shirt up several ways so he could see it. I was holding it
8 in front of him and I asked him, is this your shirt, and he said,
9 yes, that is my shirt. How do you know? And he said, that's
10 the shirt I wore that day. And then I said, well, what makes it
11 outstanding or what makes it different? And he said, a patch
12 had been ripped off of the pocket, and pointed, or indicated to
13 this area.

14 MR. BENNETT: Your Honor, if the record could reflect
15 that the Investigator is pointing to the area right above the
16 shirt pocket. If a person were wearing this shirt, the left
17 shirt pocket on the front of the shirt.

18 THE COURT: So noted.

19 A Or just above the left shirt pocket.

20 THE COURT: Yes, sir... noted.

21 Q Investigator Wilmore, are you quoting the defendant
22 when you say that ... the patch had been removed?

23 A I have it in this written statement as to what he
24 said. I asked him, or Lt. Hart asked him, the shirt that has
25 been shown you, is it the one you left in the apartment? Yes,

1 sir. Wilmore: How do you know it is yours? That is the shirt
2 I wore. Next question, Hart: What makes it stand out? A patch
3 had been removed from the top of the pocket.

4 Q Your Honor, just so that the record will be complete,
5 at this time we have testimony from Mrs. [REDACTED] that the shirt
6 that she found, washed, processed, gave to her husband and which
7 remained in her apartment or home, rather, for four weeks, one
8 had a yellow tag ...

9 THE COURT: Had a yellow what? A tag?

10 Q A tag, a tag with numbers on it and was whole, that
11 is, was complete without rips or tears. The item being intro-
12 duced as Commonwealth's Exhibit #10 has rips or tears and no
13 patch or no tag, rather, no numerical tag. The item being intro-
14 duced, according to the testimony of the investigator, as I
15 understand it, was shown to Mr. Washington and we have a conver-
16 sation that Investigator Wilmore has quoted to you, that the
17 shirt is distinguishable because the ... I'll use your word ...
18 flap ... no that's not ... what did you call it, Investigator
19 Wilmore?

20 THE COURT: Patch. The patch had been removed.

21 Q Patch had been removed, and there is no patch on
22 that shirt that is Commonwealth's Exhibit #10 now. And I
23 respectfully submit that the shirt has not been properly linked,
24 that this shirt has not been properly linked to Mr. Washington
25 and this crime.

1 THE COURT: You're talking about the linkup from the
2 time that it was removed from the dresser until the time that it
3 was presented to the defendant?

4 Q Yes, sir.

5 THE COURT: All right, Mr. Bennett, on that point, do
6 you wish to respond?

7 MR. BENNETT: Yes, sir. Your Honor, I'd like to clarify
8 something that I think ... I'd ask the Court to make a note of
9 this for the purposes of the record, that when Mrs. [REDACTED]
10 testified that she had this shirt and she said that the shirt that
11 she observed in the courtroom today was the same one that she
12 turned over to Investigator Buraker, with the exception of the
13 holes and with the exception of the patch, she clearly pointed
14 out when she was on the stand that the patch she was referring to
15 was the patch that was located at the inside of the neck collar
16 and the Court can see ... the Court ... there was an opening
17 at the time ... for the purposes of the record and I'd ask the
18 Court to note for the purposes of the record at this time that
19 she was indicating a missing patch on the inside of the collar
20 or a tag, a numbering tag ... the Court can see right here ...
21 was removed as Investigator Buraker testified, by the lab. The
22 Court can see where the back of the shirt collar was opened up
23 so the stitching could be removed and that tag was removed from
24 the inside collar of the shirt. Now, there was never ... there's
25 no evidence whatsoever that any tag above the left-hand front

1 shirt pocket, if a person were wearing this shirt, had been
2 removed by^{an} agent of the Commonwealth or anyone while it was in
3 the possession of the Commonwealth after it was taken in as an
4 item of evidence and I think it's clear from all of the testimony
5 in this Court today that Mrs. [REDACTED] got this shirt. It had a
6 tag at the neck. It didn't have any holes in it. She turned it
7 over to Investigator Buraker. Buraker turned it over to the
8 lab and he testified that the lab put all these holes in it,
9 which are circled and numbered, were identified with the initials
10 of the lab technician where they cut out what appeared to be
11 blood stains. They removed this patch. It came back. It was
12 turned over to Lt. Hart. They were questioning the defendant on
13 May 22, when Lt. Hart went to the car, got this shirt, brought
14 it out, the same shirt, showed it to the defendant and the defen-
15 dant says, that's the shirt I was wearing. How did he know that?
16 He says, because it's still missing the patch that's always been
17 missing, right over the left front shirt pocket, if a person
18 were wearing the shirt. Obviously it was a nametag or the name
19 of a business or something of that nature. Now, the Court is
20 well familiar that the Commonwealth doesn't have to establish
21 any sort of chain of custody for this type of exhibit. I refer
22 the Court to Section 166 of The Law of Evidence in Virginia by
23 Friend, "Where a tangible solid object is being offered and no
24 chemical analysis is involved, the Court should require no more
25 than a witness testify that the item is what it purports to be

1 and that its condition has not changed materially since the
2 initial discovery. If the offered item possesses characteristics
3 which are fairly unique and readily identifiable and if the
4 substance of which the item is composed is relatively impervious
5 to change, the trial court is viewed as having broad discretion
6 to admit, merely on the basis of testimony, that the item is the
7 one in question and is in a substantially unchanged condition."

8 And that's exactly the situation that we have here. The only
9 way this shirt has been changed has been fully explained to the
10 Court, when it went to the lab and had certain small portions
11 of it cut out where there were apparent blood stains and when one
12 patch was removed. Apart from that the defendant has looked at
13 it himself and has said, this is the shirt that he was wearing.

14 THE COURT: All right, anything further, Mr. Scott?

15 MR. SCOTT: I want to differentiate for the Court ...
16 when I use the word patch I'm talking about the patch above the
17 left pocket of the shirt. When I say tag, at least my notes
18 indicate, that Mrs. [REDACTED] indicated that I can identify this
19 shirt as a consequence of the number tag, not ... and I make the
20 distinction between the number tag and this patch. That number
21 tag, as Mrs. [REDACTED] pointed out, is not there. She then said,
22 of course, that this is the shirt. She said, but there is no
23 tag and there were no holes, but she had earlier said in her
24 testimony that I can identify this shirt because of the number
25 tag and when she looked there was no number tag and she said,

1 but this shirt has no number tag.

2 THE COURT: Mr. Buraker testified, I believe, that he
3 delivered this shirt to the lab on the 20th of July, 1982 and
4 then he indicated it was delivered by the lab back to Yancey and
5 then to Hart on the 27th.

6 MR. SCOTT: Right.

7 THE COURT: Now, when Mr. Hart testified he said nothing
8 about the shirt, but it's only to that extent that there's a
9 gap between Mrs. [REDACTED] and the present witness, but it doesn't
10 seem to me to be material that we haven't had a complete chain
11 of evidence here, as long as there can be an identification of
12 the item. Now the question that I have of Mr. Wilmore is whether
13 he can say that he can identify that as the same shirt that he
14 presented to the defendant, and if so, how do you make that
15 identification, Mr. Wilmore?

16 A Your Honor, I never initialled this shirt. I was
17 not in the chain with it. It was with Buraker and Hart. It was
18 a gray shirt. It had a tag like this in the back. There was a
19 tag missing at this point and that's the only way I can identify
20 it. I remember some lab writing being right in the back of the
21 neck in this area.

22 THE COURT: Well, what did you do with the shirt after
23 you presented it to the defendant?

24 A I allowed him to view it and I gave it back to Lt.
25 Hart. It's been in his possession.

1 THE COURT: And there's no identifying mark, other than
2 your general observation as to that being the same shirt that
3 you gave to Lt. Hart?

4 A No, sir.

5 THE COURT: All right, thank you, sir. I'm going to
6 have to sustain the objection for now, Mr. Bennett, simply on
7 this last point. If Mr. Wilmore could have an independent
8 identification, it would stand, but the shirt ... all he can say
9 is he presented a shirt to the defendant which was acknowledged
10 to be his own and that same shirt was delivered to Lt. Hart, and
11 what has happened to it since then he can't say and he can't say
12 of his own knowledge that that is the same shirt. It appears to
13 be. Now, I have to sustain the objection on that part. It seems
14 to me that Lt. Hart or someone else is going to have to identify
15 the shirt that was received from Investigator Wilmore at the time
16 he ... immediately after he presented it to the defendant. That
17 seems to me to be the problem here. Now, if he has an ... if the
18 present witness has an independent identification, I would admit
19 it right now, but he doesn't seem to have it. Is that clear,
20 Mr. Wilmore, that you do not have an independent identification
21 you can make of that shirt?

22 A No, sir, I did not initial it.

23 THE COURT: All right, sir.

24 A I put no identifying marks on it.

25 THE COURT: All right, sir, thank you. The objection is

1 sustained for now just on a matter of further linking it up,
2 Mr. Bennett.

3 MR. BENNETT: Your Honor, I'd like to go ahead and
4 call Lt. Hart now, before we resume with any testimony.

5 THE COURT: I think we've got to finish your witness,
6 unless you take him off, because whatever you want to take from
7 this witness ... it's not a question of satisfying the Court.
8 It's a question of presenting it to the jury. Now you can deal
9 with it as an exhibit. It's not admitted yet into evidence, but
10 it's a numbered exhibit marked for identification. Now you'll
11 have to let Mr. Wilmore testify simply from his recollection,
12 rather than from this, or you can withdraw him as a witness,
13 start over again with somebody else and recall him, that's up
14 to you. We can't take time out now and hear from a witness and
15 then leave Mr. Wilmore on the stand when the jury comes back.

16 MR. BENNETT: Yes, sir.

17 THE COURT: So you'll have to make a decision now.

18 MR. BENNETT: We'll just continue with this witness,
19 Your Honor.

20 THE COURT: All right, sir, call the jury back.
21

22 (The jury returned to the jury box at this time.)
23

24 THE COURT: All right, Mr. Bennett, you may proceed.
25

1 Continue on Direct By: Mr. Bennett

2 Q All right, Investigator Wilmore, after showing the
3 defendant the shirt, what ... would you resume with your con-
4 versation with the defendant from that point?

5 A Yes, sir. I asked him where he left this shirt.
6 In the apartment. He stated he left it on a dresser drawer in
7 the bedroom. I then asked him, what did you wear out? Did you
8 go out without a shirt? And he ... on this day I had on a tan
9 Eisenhower type windbreaker, which was hanging on the back of my
10 chair. He pointed to my coat and he said, I had on a coat some-
11 thing like that, except longer.

12 Q Okay.

13 A At this point I advised Mr. Washington that we
14 would basically go over the same thing again, with the exception
15 that this time I would be reducing it to writing and asking him
16 questions and I would write down as verbatim as I could his
17 response. And at that time, this is the statement that he gave
18 me.

19 Q Okay, let me have this marked for purposes of
20 identification first, if I may.

21
22 (Commonwealth's Exhibit #12 was marked for purposes
23 of identification at this time.)

24
25 Q Investigator, let me show you Commonwealth's Exhibit

1 #12 marked for purposes of identification other than ... if you
2 would relate to the members of the jury and the Court who asked
3 the questions and what was the response in each case by the
4 defendant?

5 A Lt. Hart and I both asked questions. I put a cap-
6 tion to start the statement. It's "The Statement of Earl Junior
7 Washington. Earl Junior Washington is a Negro male. Date of
8 birth 5/3/60, Bealeton, Virginia. This statement is being given
9 to C.R. Wilmore and Lt. H.L. Hart at the Fauquier County
10 Sheriff's Office at 11:00 A.M. in regard to the stabbing death
11 and rape of [REDACTED] [REDACTED] on June 4, 1982, in the town
12 of Culpeper.

13 Wilmore: What is your name?

14 Washington: Earl Junior Washington.

15 Wilmore: Where do you live?

16 Washington: Bealeton.

17 Wilmore: How old are you?

18 Washington: 23.

19 Wilmore: Do you realize you're about to be
20 questioned about a crime?

21 Washington: Yes.

22 Wilmore: Have you been advised of your rights?

23 Washington: Yes, sir.

24 Wilmore: Have these rights also been read to you?

25 Washington: Yes, sir.

1 Wilmore: Do you understand them?

2 Washington: Yes.

3 Wilmore: Do you wish to talk with us about the
4 stabbing and rape of Rebecca Williams?

5 Washington: Yes.

6 Wilmore: What grade did you complete in school?

7 Washington: 9th.

8 Wilmore: Where?

9 Washington: Bealeton.

10 Wilmore: Who do you work for or with?

11 Washington: Farming with Giles Early.

12 Wilmore: Last June did you go to Culpeper?

13 Washington: Yes.

14 Wilmore: Who did you go with?

15 Washington: A friend named Billy.

16 Wilmore: Was he white or black?

17 Washington: Black.

18 Wilmore: Who else was along?

19 Washington: I don't know him.

20 Wilmore: Was he white or black?

21 Washington: Black.

22 Wilmore: Whose car was it?

23 Washington: The boy Billy and I were riding with.

24 Wilmore: What kind of car was it?

25 Washington: A Ford.

1 Wilmore: What color was it?
 2 Washington: Blue.
 3 Wilmore: Where had you met Billy before?
 4 Washington: Warrenton, at the Hilltop.
 5 Wilmore: How long have you known him?
 6 Washington: Three or four days.
 7 Wilmore: Where did they pick you up?
 8 Washington: A mile from where I was living.
 9 Wilmore: Where was that?
 10 Washington: I was living in Bealeton with my
 11 sister.
 12 Wilmore: Who were you living with?
 13 Washington: My sister, Linda Washington.
 14 Wilmore: Where was she living?
 15 Washington: With Will Shumake...taking care of
 16 him.
 17 Hart: Where did you go?
 18 Washington: Went to the Hilltop in Warrenton.
 19 Hart: Where did you go from the Hilltop?
 20 Washington: Rode around.
 21 Hart: Did you go to Culpeper?
 22 Washington: Yes, sir.
 23 Wilmore: Whose idea was it?
 24 Washington: The dude the car belonged to.
 25 Hart: Where did you go in Culpeper?

1 Washington: Rode around for awhile.

2 Hart: Where did you go after that?

3 Washington: Went to a set of apartments.

4 Hart: Whose idea was it to go to the apartments?

5 Washington: The dude the car belonged to.

6 Hart: Can you show us where these apartments are?

7 Washington: I think I can.

8 Wilmore: Why did you go to the apartments?

9 Washington: I don't know for sure.

10 Wilmore: What occurred when you got to the
11 apartments?

12 Washington: They parked in the parking lot and
13 stayed in the car.

14 Wilmore: What did you do?

15 Washington: Got out of the car.

16 Wilmore: What did you do then?

17 Washington: I went into an apartment.

18 Hart: How did you get in the apartment?

19 Washington: Kicked the door open.

20 Hart: Did you know whose apartment it was?

21 Washington: No, sir.

22 Hart: Was the door locked?

23 Washington: I don't think so.

24 Hart: Was anyone inside?

25 Washington: A white woman.

1 Hart: What happened then?

2 Washington: I took out my knife.

3 Wilmore: What kind of knife was it?

4 Washington: A pocketknife that I carried on my

5 side in a case.

6 Hart: What happened then?

7 Washington: She told me to get out.

8 Hart: What did you do then?

9 Washington: I stuck her.

10 Hart: Did you stick her more than one time?

11 Washington: One time in the stomach.

12 Hart: What happened then?

13 Washington: I took her to the bedroom.

14 Hart: What were you planning on doing in the

15 bedroom?

16 Washington: Make love to her.

17 Hart: Did she want to make love?

18 Washington: No.

19 Hart: Did she resist?

20 Washington: Yes, I was holding a knife on her.

21 Wilmore: Did she undress or did you make her

22 undress?

23 Washington: I made her undress.

24 Hart: Did you make her undress completely?

25 Washington: Yes, sir.

1 Hart: Did you remove any of her clothes?

2 Washington: Yes, sir.

3 Hart: What clothing?

4 Washington: The halter top.

5 Wilmore: Did you have sex with her on the bed?

6 Washington: Yes, sir.

7 Wilmore: How many times?

8 Washington: Once.

9 Hart: Did you stab her after you had sex?

10 Washington: Yes, sir.

11 Hart: How many times?

12 Washington: Once or twice.

13 Hart: While you were stabbing her, did you injure
14 or cut yourself?

15 Washington: Yes.

16 Hart: Where?

17 Washington: In my left hand.

18 Hart: Did you bleed?

19 Washington: A little bit."

20 Q Your Honor, at this point, I'm going to ask the
21 Investigator to use the same language as contained in the state-
22 ment. Some people may find it very offensive.

23 THE COURT: Read the statement as it is. It's not
24 supposed to be changed, if that's the record.

25 Q If there's any ... I just wanted to bring that up

1 if there's anyone in the courtroom that ...

2 THE COURT: Yes, sir, it's understood. Read it as it
3 is.

4 A "Wilmore: What do you mean when you say you
5 wanted to make love to her?

6 Washington: I mean fucking her.

7 Hart: Was the radio in the apartment on or off?

8 Washington: On, but it wasn't too loud.

9 Wilmore: Was there anyone else in the apartment?

10 Washington: I didn't see anyone.

11 Hart: Did you remove any of your own clothes
12 while having sex with her?

13 Washington: No more than pulling my pants down.

14 Hart: Did you leave any of your clothing in the
15 apartment?

16 Washington: My shirt.

17 Hart: The shirt that has been shown you, is it
18 the one you left in the apartment?

19 Washington: Yes, sir.

20 Wilmore: How do you know it is yours?

21 Washington: That is the shirt I wore.

22 Hart: What makes it stand out?

23 Washington: A patch had been removed from the
24 top of the pocket.

25 Wilmore: Why did you leave the shirt in the

1 apartment?

2 Washington: It had blood on it and I didn't
3 want to wear it back out.

4 Wilmore: Where did you put it when you left?

5 Washington: Laid it on top of the dresser drawer
6 in the bedroom.

7 Wilmore: Was the dresser drawer open or closed?

8 Washington: Open.

9 Wilmore: What time did this occur?

10 Washington: Near the middle of the day.

11 Wilmore: Where was [REDACTED] when you left the
12 apartment?

13 Washington: I left her in the bedroom on her
14 back.

15 Wilmore: Was she conscious when you left?

16 Washington: No, sir.

17 Hart: What type of shoes were you wearing that
18 day?

19 Washington: Tennis shoes.

20 Hart: Where are they now?

21 Washington: I don't know.

22 Wilmore: Did you know the Williams girl?

23 Washington: No, sir.

24 Wilmore: Had you been in the apartment before?

25 Washington: Yes, one time with a friend.

1 Hart: Who were you with?

2 Washington: I don't remember.

3 Hart: Did you go in the house?

4 Washington: No, I stayed on the outside.

5 Hart: What did he go there for?

6 Washington: I don't know, but he said he knew
7 them.

8 Hart: How long was this before the stabbing
9 happened?

10 Washington: About a month.

11 Wilmore: Where did you go after leaving the
12 apartment?

13 Washington: I walked to the highway and was
14 thumbing. A white guy in a car picked me up.

15 Wilmore: What did you do with the knife?

16 Washington: Threw it away.

17 Wilmore: Where?

18 Washington: On the side of the road coming from
19 Culpeper.

20 Wilmore: What kind of knife was it?

21 Washington: A folding type in a case.

22 Wilmore: Where did the white man let you out of
23 the car?

24 Washington: Route 29.

25 Wilmore: Where on Route 29?

1 Washington: I don't know, but I can show you.

2 Hart: Did you tell anyone that you had stabbed
3 and raped a white woman?

4 Washington: No, sir.

5 Wilmore: Why are you telling us?

6 Washington: Because it is the truth.

7 Hart: Have you been made any promises for your
8 cooperation?

9 Washington: No, sir.

10 Hart: Have you been threatened in any way?

11 Washington: No, sir.

12 Hart: Are you making this statement on your own
13 free will?

14 Washington: Yes, sir.

15 Wilmore: Is there anything else you want to say,
16 Mr. Washington?

17 Washington: No, sir.

18 The statement was ended at 12:25." It was signed
19 by Mr. Washington and witnessed by Lt. Hart and me.

20 Q You say it was signed by Mr. Washington? Is that
21 the defendant present in the courtroom at this time?

22 A Yes.

23 Q And he's the same individual that gave you this
24 statement?

25 A Yes, sir.

1 Q Okay, Your Honor, I'd offer this as the Commonwealth's
2 Exhibit at this time.

3 THE COURT: What's the number?

4 MR. SCOTT: #12.

5 Q #12.

6 THE COURT: #12, anything to be heard on ... any
7 objection, Mr. Scott?

8 MR. SCOTT: Your Honor, my objection has been noted
9 earlier and I simply request that it be continued.

10 THE COURT: All right, sir, the objection is noted
11 again and overruled and #12 is now admitted into evidence.

12
13 (Commonwealth's Exhibit #12 was admitted into evidence
14 at this time.)

15
16 THE COURT: Since it's been read it does not have to
17 be presented at this time. You can move on with the rest of
18 your evidence.

19 Q Now, Investigator Wilmore, what occurred after you...
20 after Mr. Washington signed that statement?

21 A It was afternoon at this point. We asked Mr.
22 Washington prior to leaving him so he could have some lunch if
23 he would show us where he was picked up that day, if he could
24 show us where the apartment was in Culpeper that he went and
25 also as to where he threw the knife. We left and returned at

1 approximately 2:00 or a few minutes after. There was some
2 delay in getting started. As I recall, we left the Sheriff's
3 Office sometime prior to 3:00 enroute back toward Culpeper.
4 At this point I asked Mr. Washington to show us where he was
5 picked up by Billy and his friend on June 4th. He directed us
6 to travel south to Opal. He told us to take a right turn at
7 Opal. We continued down this state road for approximately a
8 mile and the first state road we made a left and continued on
9 it for two miles and at the next state road we made another
10 left which was state route 661. Along a bridge he pointed to a
11 spot as being the place where he was walking where he was picked
12 up by Billy and the other unknown black. He then directed us
13 to go to Route 29. We requested at this time that he show us
14 where this assault occurred. He directed that we travel on
15 toward Culpeper. At the first Culpeper exit after you pass
16 south of Brandy he directed that we turn right. We came on in
17 toward town and at the Culpeper Townhouse he directed that we
18 take a right, the Culpeper House. We went up in that area and
19 rode around and gave him an opportunity to look at the area.
20 He said this was not the right area. He then directed that we
21 go back to Main Street or Madison Road and continue on toward
22 town. When we got to the stoplight Mr. Washington seemed con-
23 fused. At that point Lt. Hart told him that he would take him
24 to every apartment, let him view every apartment complex in the
25 town of Culpeper. We then travelled towards Sperryville on 522

1 and turned at Triplett's Mill. I believe that's Catalpa Hill
2 Apartments. We rode him through that area. He said it was
3 not familiar and was not the right place. We came back to 522
4 and went up Blue Ridge Avenue, showed him Stuckner's apartments.
5 He said he had never seen this area before. We then continued
6 on out toward the hospital to Laurel Street and rode him through
7 Mountain View Apartments. He said this was not the right area,
8 that nothing looked familiar. We next went to Redbud Apartments
9 which is very near the hospital. He said it was the first time
10 he had ever seen this area. We then continued to a townhouse
11 project which was Westminster Square Townhouses and he said
12 this was not the place. We came back to Madison Road and then
13 went to Village Apartments. We made a circle of the large
14 parking area there and he first said that he did not remember
15 the area.

16 Q Okay, now where were you sitting in the car?

17 A Lt. Hart was driving and Mr. Washington was in the
18 right front and I was seated on the rear seat behind Mr. Washing-
19 ton.

20 Q Did you have a clear view of the defendant's face
21 and his eye movements while you were driving around?

22 A Yes, sir. Part of the time he would look back and
23 talk with me. I was sitting sort of in the middle of the seat
24 and not directly behind him. He first indicated that Village
25 Apartments did not look familiar to him, so we started exiting

1 the area. As we were driving down toward Madison Road he
2 said that the area did look familiar. At that point we turned
3 around and went back up the lane again to Village Apartments
4 and again we made a circle of the area slowly. As we were
5 leaving the area again, he stated that 29 looked familiar to
6 him. So we again turned around and went back to the area. At
7 this time we parked on the parking lot of Village Apartments.
8 On the other two occasions we rode through slowly, as we did in
9 all the other apartments that we visited, and I asked him if he
10 could point to the apartment where the assault occurred and he
11 pointed to an apartment on the exact opposite end from where
12 the [REDACTED] girl was killed. At that time I pointed to the
13 [REDACTED] apartment and asked him directly, is that the one? He
14 said that it was and that he recognized it the first time we
15 were in the area. I asked him, why didn't you say something
16 and he stated, I don't know why. At this point we exited the
17 apartment project, continued out to Route 29 and made a left to
18 go north on 29. Just prior to leaving the apartment I asked him,
19 the apartment project, I asked him, where did you go? How did
20 you leave when you left the [REDACTED] apartment? He pointed to
21 an area along a woven wire fence which separates the apartment
22 project from Route 29, which is approximately 150 to 200 feet
23 from [REDACTED] apartment and said that he crossed the fence at
24 that location. He further said that he crossed Route 29 and
25 began walking and hitchhiking toward Warrenton.

1 Q Okay, let me ask you this, did you go back and
2 examine that woven wire fence?

3 A Yes, sir.

4 Q Is there anything unusual about the fence in the
5 area that he pointed out?

6 A No more than there's a staple or two missing from
7 the top strand of wire.

8 Q Okay, are there any staples missing from any other
9 strands in the fence?

10 A No, sir, not in that area that I've been able to
11 see.

12 Q Okay.

13 A We went ... travelled northbound to the Route 15
14 overhead bridge and he said he was walking and hitchhiking toward
15 Warrenton and this was where the white man in a car picked him
16 up.

17 Q Okay, what did you do then?

18 A On our way to Culpeper he pointed to ^{the} Elkwood Store
19 and said that was the location where the man let him out of the
20 car. Approximately a half mile south of Elkwood he pointed to a
21 location along Route 29 as the place where he threw the knife
22 out of the car.

23 Q Okay, now the location where he pointed to as being
24 the place where he threw the knife out, did you subsequently
25 examine that area in an effort to locate the knife?

1 A Yes, sir.

2 Q Describe the terrain and the growth there and your
3 results of your trying to locate the knife.

4 A This was Mothers' Day and we were talking to Mr.
5 Washington, it was either ... I'd have to look at my notes ...
6 either Monday or Tuesday we had seven town officers and seven
7 State Police officers and we searched this area, where he told me
8 he had thrown the knife out, very carefully, however our efforts
9 were hampered by honeysuckle and all types of vegetation. In
10 places the honeysuckle was almost knee deep and I had on a pair
11 of boots and I was hardly able to kick to see a bare spot on the
12 ground, and in addition there was a farm pond adjacent and as a
13 result, water had backed up through a highway culvert and some
14 of the ditch, which was flooded. We searched that area for I
15 suppose almost a mile. We did not recover the knife.

16 Q Okay, did there come a time when you returned to
17 the Culpeper Town Police Department?

18 A Yes, sir, at approximately 4:00 P.M. we arrived at
19 the Culpeper Town Police office.

20 Q Okay, now were any questions asked Mr. Washington
21 at that time?

22 A Yes, sir, at approximately 6:00 I asked Mr. Washing-
23 ton ... I did not advise him of his rights all over ... I told
24 him to keep ... keeping his rights in mind, I'd like to ask him
25 several more questions, which he agreed to. I asked him, how

1 much did you have to drink prior to stabbing and raping [REDACTED]
2 [REDACTED]?

3 MR. SCOTT: Objection, Your Honor, again ... as to
4 this line of interrogation my objection has been noted and I ask
5 that it be continued.

6 THE COURT: All right, sir, noted as continuing and
7 overruled, Mr. Scott. Go ahead, Mr. Wilmore.

8 Q Your Honor, I'll withdraw the question. Investiga-
9 tor, you said that you participated in the crime scene investiga-
10 tion on June 4, 1982?

11 A Yes, sir.

12 Q Now, did you ... tell the members of the jury and
13 the Court when you first entered the apartment that day, if you
14 would, please ... [REDACTED] apartment.

15 A What time it was?

16 Q Uh-huh (indicating yes).

17 A I received this call at 12:15 when the town was
18 requesting for the evidence recovery van. I had to drive to
19 the office and get it and come back to the apartment and it was
20 12:57 when I arrived. Special Agent Frank Lasley and I were
21 going to work this crime scene together. I waited for him. I
22 secured the scene, put out some banner guards or rope. He
23 arrived at approximately 1:30 and the crime scene search continued
24 very shortly after that.

25 Q Did you both go into the apartment at the same time?

1 A Yes, sir.

2 Q The first time? Now, state for the members of the
3 jury and the Court whether or not a radio was playing when you
4 first went into the apartment.

5 A Yes, sir, a radio was playing.

6 Q Which station was it on?

7 A We made a note of the ... after listening to it
8 awhile we finally got station 105 out of the announcer, which is
9 an FM station, I believe, in D.C.

10 Q Now in your search of the crime scene, did you
11 observe the front door to the apartment?

12 A Yes.

13 Q Was there any damage done to that?

14 A When I arrived this door was open and, of course,
15 we processed it, powder processed it for prints and closely
16 observed that the lock, the striker, none of the hardware on
17 the door was damaged.

18 Q Okay, that's all the questions I have, Your Honor.

19 THE COURT: All right, you may cross examine, Mr.
20 Scott.

21

22 CROSS EXAMINATION

23 By: Mr. Scott

24 Q Investigator Wilmore, you stated that when you
25 first interrogated Mr. Washington on May 22, 1983 in Fauquier,

1 that Mr. Washington advised you that the lady who was assaulted
2 was a black woman, is that right?

3 A Yes, sir.

4 Q And what did you say to him after he said it was
5 a black woman?

6 A I didn't say anything. I continued to ask him
7 other questions. I didn't even stop. I asked him several more
8 questions then went back and asked him again if the woman was
9 white or black....

10 Q And that's when he ...

11 A At that point he said, white. It was a white woman.

12 Q That's when he changed?

13 A Yes, sir.

14 Q Okay, and you stated that he told you that he was
15 brought to Culpeper by a boy named Billy and somebody else that
16 he didn't know?

17 A Yes, sir.

18 Q You also stated that he came to Culpeper and when
19 you asked him why did he come to Culpeper what did he say?

20 A As I recall he didn't know for sure, for no partic-
21 ular reason.

22 Q Did he tell you what time of the day or night he
23 was picked up by Billy and this other person?

24 A Yes, sir, he said it was approximately 9:00.

25 Q And did he tell you how long he, Billy and this

1 other person sat in this parking lot prior to him entering this
2 apartment?

3 A No, sir.

4 Q Now when you brought Mr. Washington to Culpeper
5 you indicated that Investigator Hart drove him to a number of
6 complexes, apartment complexes, is that correct?

7 A Yes, sir. Mr. Washington directed us to the Culpeper
8 House and after we left there and got to the first stoplight
9 coming into town he seemed confused as to what ... which way to
10 go or any directions to give us. At that point Hart advised him
11 that we'd take him to every apartment complex in Culpeper.

12 Q All right, but Mr. Washington himself directed you
13 to the Culpeper House?

14 A Yes, sir.

15 Q Where is the Culpeper House?

16 A You continue north out Main Street, it's on your
17 left approximately a half a mile from the shopping center.

18 Q At the exact opposite end of town from the Village
19 Square Apartments, is that correct?

20 A Yes, sir.

21 Q And you said that after you left the Culpeper House
22 and came on into town Mr. Washington seemed confused?

23 A Yes, sir, that was the impression I got.

24 Q Okay, and that when you ultimately ended up at the
25 Village Square Apartments you rode around the apartment complex

1 slowly on two occasions and Mr. Washington told you that wasn't
2 the place?

3 A But not ... as we were leaving on each occasion
4 he indicated that something looked familiar. On one occasion
5 he said Route 29 looks familiar and then we went back and let
6 him look at it again. All the other places we rode him around
7 there was no question in his mind that nothing looked familiar
8 to him.

9 Q When you rode him around slowly in the parking lot
10 of the Village Square Apartments, did either you or Investigator
11 Hart write down an apartment number?

12 A No, sir.

13 Q Did either you or Investigator Hart on the third
14 time through the apartment complex ... I believe your testimony
15 was that you parked there ... point out to him the apartment
16 and say, that's the apartment?

17 A On the third occasion I asked him if he could point
18 out where the crime occurred or where the assault occurred and
19 he pointed to an apartment which was all the way across the
20 parking lot. It was an end apartment, but it was on the exact
21 opposite from the [REDACTED] apartment. At that point I pointed
22 to [REDACTED] apartment and asked him, is that the one?

23 Q Okay.

24 A And his reply was, yes, I recognized it the first
25 time I came through or the first time we rode through the area.

1 My question was, well, why didn't you say so then? And his
2 reply was, I don't know why.

3 Q All right, let me ask you again, did at any time
4 while you were either riding around the parking lot of Village
5 Square or stopped in that parking lot on any of the three
6 occasions, did you or Investigator Hart write down the number of
7 the [REDACTED] apartment and show it to Mr. Washington?

8 A No, sir.

9 Q Investigator Wilmore, during your securing of the...
10 or rather during your working the crime scene on June 4, 1982,
11 did you examine a dresser in the master bedroom of the [REDACTED]
12 apartment?

13 A I recall the dresser being there, yes, sir. I
14 didn't search through that dresser, but as I recall Special Agent
15 Lasley did look through it for weapons.

16 Q But you yourself did not go through the dresser
17 drawers?

18 A No, sir, I do not recall. I'm sure I didn't go
19 through the dresser.

20 Q No further questions.

21 THE COURT: Redirect?

22
23 REDIRECT EXAMINATION

24 By: Mr. Bennett

25 Q Investigator Wilmore, when you took the defendant

1 through the Village Square Apartments there that you went through
2 several different times, were you in a position to observe what
3 Mr. Washington was looking at as you were driving through there?

4 A Yes, sir, I could see the left side of Mr. Washing-
5 ton's head and face fairly well, since I was seated near the
6 middle of the rear seat.

7 Q Could you describe for the members of the jury and
8 the Court the various things that he was paying particular atten-
9 tion to as he was going through?

10 A He looked at all the ... all of the apartments,
11 but he paid particular attention or he looked long and hard at
12 apartment #682, which was the [REDACTED] apartment.

13 Q Did he do that the first time he went through, the
14 second time, the third time?

15 A I noticed it some on both occasions, the first and
16 second occasions. I didn't ... I don't recall it happening on
17 the third occasion. He was looking more in the opposite direction.

18 Q Apartment #682 is where Mrs. [REDACTED] was killed?

19 A Yes, sir.

20 Q That's all the questions I have, Your Honor.

21 THE COURT: Recross?

22 MR. SCOTT: Yes, sir.

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RECROSS EXAMINATION

By: Mr. Scott

Q Investigator Wilmore, you said he looked long and hard at it, and then you ... prior to that you said he paid attention to all of them. What do you mean he looked long and hard at it?

A As we were riding around by the apartments he looked at them all, but he paid more particular attention to #682 than he did the rest of them.

Q Did Investigator Hart, in fact, slow his vehicle in front of #682?

A No, sir, I don't recall that we ever slowed down. It was a slow pace to start with. It was almost 5 M.P.H. or less, I would think.

Q Do you recall whether or not Investigator Hart reduced the speed of his vehicle perhaps even more in front of that apartment on your first two swings through the apartment complex?

A No, sir, I don't feel that he did.

Q You, of course, were seated to the rear of Mr. Washington during this trip, were you not?

A Yes, sir, I was on the back seat ...

Q Okay.

A ... near the center of the seat, so I could observe Mr. Washington.