

1 (Defendants are present together with
2 counsel.)

3 (Jury enters the courtroom at 11:00
4 a.m.)

5 COURT OFFICER: Your Honor, all 14
6 jurors are now present, in the courtroom.

7 THE COURT: Make sure they have their
8 booklets.

9 COURT OFFICER: Is everybody okay?

10 THE COURT: All right. Are you
11 ready, Commonwealth?

12 MS. HEARD: Yes.

13 THE COURT: All right. Commonwealth,
14 you may call your next witness.

15 MS. HEARD: Yes, Your Honor.

16 Thank you.

17 Commonwealth calls Susan Fleming to
18 the stand.

19 COURT OFFICER: Would you state your
20 name and spell your last name for the record.

21 THE WITNESS: Susan Fleming,
22 F-L-E-M-I-N-G.

23 - - -

24 SUSAN FLEMING, having been first duly
25 sworn, was examined and testified as follows:

1

- - -

2

DIRECT EXAMINATION

3

- - -

4

BY MS. HEARD

5

Q. Good morning, Ms. Fleming.

6

A. Good morning.

7

Q. Where are you employed?

8

A. Sugar House Casino.

9

Q. Ms. Fleming, do you live near Kentwood and
10 Ferndale Streets in the city and county of

11

Philadelphia?

12

A. Yes.

13

Q. And on 2013, were you living near Kentwood
14 and Ferndale Streets?

15

A. Yes.

16

Q. Were you home on the late evening, say, at
17 approximately 2:30 p.m. or so --

18

A. Yes.

19

Q. -- on July 21st of 2013?

20

A. Yes.

21

Q. Now, Ms. Fleming, tell the ladies and

22

gentlemen of the jury what, if anything, you

23

remember hearing while you were in your home on that

24

particular evening?

25

A. First, I had been laying on the couch just

1 watching TV, and I noticed headlights shining into
2 my kitchen window very brightly.

3 So after maybe five minutes or so, I got
4 up to see what it was. And I just thought people
5 were chatting. I saw a couple of cars out there,
6 but it was kind of facing my home. And I just
7 thought, you know, people getting out deciding what
8 they are going to do or something like that.

9 Went back in the living room. Still
10 didn't go away. Went back. What the heck is going
11 on. And then I -- when I was standing in the
12 kitchen, I heard pop-pop. And I immediately just
13 ducked down.

14 I yelled up to my friend upstairs, you
15 know, get away from the window. I think somebody
16 got shot. And I heard a female voice saying a few
17 minutes later, Oh, my God. I can't believe you just
18 shot him.

19 Q. Okay. Now, did you -- after you heard
20 this -- and by the way, what the -- who lives with
21 you -- who was living with you at that time?

22 A. A friend of mine. My son's Godmother.
23 She was upstairs, and my son was possibly on his way
24 home from work, so I was panicking when I heard
25 that.

1 Q. And what's the name of your friend?

2 A. Dale Selzter.

3 Q. And what's the name of your son?

4 A. Nicholas Fleming.

5 Q. Now, after you heard this pop-pop, did you
6 know what happened?

7 A. No, I hadn't. To be honest, I've never
8 heard gunshots, but I assumed that's what it was.
9 Because I had never heard that. And, you know, I
10 guess I just panicked, ducked, and just yelled, Call
11 911. I don't know if she called and I called. I
12 know she definitely called, but I don't remember if
13 I grabbed my phone also.

14 Q. Okay. All right. Now, after this --
15 after you heard this pop-pop, did you ever go
16 outside?

17 A. Not until the police arrived. No. I
18 stayed in the house with the doors locked.

19 Q. And when the police arrived, did you go
20 outside?

21 A. Yeah. Towards my patio. You know, they
22 had everything taped off. But I did see out the
23 window when the police arrived that whoever had been
24 involved in this incident was still there because I
25 saw them get out of the car. I saw one person with

1 a white shirt pull his shirt up and had his hands in
2 the air.

3 MS. HEARD: And indicating for the
4 record, the witness took her hands, put them up in
5 upward motion, both hands with palms facing up.

6 BY MS. HEARD

7 Q. Go ahead, Ms. Fleming.

8 A. Yeah. Like I said, I just assumed that
9 was to show that there was not weapon or not. But
10 like I said, this is not something that happens
11 often, so I kind of really didn't know what to
12 think. But I didn't go outside until the police
13 were there.

14 Q. Okay. Now, going back a little bit, you
15 indicated that you noticed -- the first thing you
16 noticed was lights before you heard this pop-pop,
17 correct?

18 A. Uh-huh.

19 Q. Is that a yes?

20 A. Yes. I'm sorry.

21 Q. No problem.

22 Did you hear any voices before you heard
23 this pop-pop?

24 A. Not clearly. Not clearly. I couldn't
25 understand like the conversation, what they were

1 saying or anything like that. Like I said, I just
2 assumed that it was two cars pulling up maybe
3 deciding where to go or something like that. I
4 didn't think anything of it being something
5 suspicious.

6 Q. Now, I know that you indicated that you
7 couldn't make out conversations, but could you make
8 out whether or not it was a female talking versus a
9 male talking in this incident?

10 A. No. I didn't hear the female until I
11 heard her say, Oh, my God. I can't believe you shot
12 him.

13 MS. HEARD: Okay. Court's
14 indulgence.

15 - - | -
16 (Pause.)

17 - - -

18 BY MS. HEARD

19 Q. Ms. Fleming, later on, I guess, that early
20 morning, it would have been July 22 of 2013, did you
21 give a statement to the detectives?

22 A. Yeah. They were knocking on the door very
23 early in the morning. I just assumed they were
24 going to all the neighbors.

25 Q. Did they come into your home?

1 A. Yes.

2 Q. And is that when you provided a statement?

3 A. Yes.

4 Q. And did you sign that statement?

5 A. Yes.

6 MS. HEARD: If I could have the
7 witness shown what has been previously marked as
8 Commonwealth's Exhibit 17.

9 THE COURT: C-17.

10

- - -

11

12

13

14

(Whereupon, a document was marked,
for identification purposes, Exhibit
C-17.)

15

COURT OFFICER: May, I, Your Honor?

16

THE COURT: Yes.

17

18 to the witness.

19 BY MS. HEARD

20 Q. And ma'am, could you just take a moment to
21 review your answer?

22 A. (Reviewing.)

23

24 Q. And I'm, actually, going to direct your
25 attention to about five or six lines down into your
answer.

1 A. All right.

2 Q. Ma'am, after reviewing that, does that
3 refresh your recollection as to whether or not you
4 heard any voices before the shooting?

5 A. I'm looking at where you have, Black car
6 in between the crosswalk.

7 (Reviewing.)

8 Do you mean where, When I heard the
9 female's voice, but I couldn't see anybody?

10 Q. Yes.

11 A. Right. But I could not understand what
12 she was saying.

13 Q. Right. Right. But you did hear a female
14 voice?

15 | A. Yeah. Oh, yeah. |

16 Q. Do you remember if you heard a male voice?

17 A. No. Like I said, I did hear a couple of
18 voices, but I believe my windows may haven't been
19 closed -- or just cracked because the air might have
20 on, something like that. So that might be why I
21 couldn't hear them clearly.

22 Q. Understandable. Now, you indicated that
23 once you noticed those headlights -- you noticed
24 that initially and then you went back into the
25 living room, correct?

1 A. Right.

2 Q. Okay. How much time had past, say, when
3 you went to the living room and when you went back
4 into the kitchen?

5 A. Maybe five, six minutes possibly, because
6 I was just wondering what the heck is that, you
7 know, back off. It was annoying me.

8 Q. Understand. When you say, "it was
9 annoying me" --

10 A. It was very bright. It was just shining
11 into my window.

12 Q. So you're referring to the lights when you
13 say annoying you?

14 A. Yes. I could see them in my living room.

15 Q. All right. And when you heard the loud
16 pops, did you hear anything proceeding those loud
17 pops? Did you hear anybody say anything? What, if
18 anything, did you hear anybody say?

19 A. No. I didn't hear any -- I couldn't make
20 out any conversation, no.

21 Q. Okay. Now, I know you just testified that
22 you couldn't remember whether or not you called 911
23 or not, correct?

24 A. Right.

25 Q. Okay. If you could review your statement

1 with respect to --

2 A. Okay. I see it.

3 Q. -- you see that?

4 A. Right. And I do remember it -- the first
5 thing I did was call upstairs, and I just yelled to
6 my friend, Please, get away from the windows, Dale.
7 I think somebody got shot. That's what I said. So
8 apparently she called 911. And I called them.

9 MS. HEARD: Okay. And Your Honor, at
10 this time, I'm going to play a portion of the 911
11 tape that is not transcribed, but it is her 911
12 call. I just wanted to let you all know that
13 there's no transcription of this.

14 MR. McGOVERN: No objection, of
15 course, Your Honor.

16 MR. FEINMAN: No objection, Your
17 Honor.

18 THE COURT: Okay. Just for the
19 purposes of the record, is it 53...

20 MS. HEARD: For the purposes of the
21 record, it's 52, C-52.

22 THE COURT: C-52.

23 MS. HEARD: Correct.

24 (Audio playing.)

25

1 BY MS. HEARD

2 Q. And Ms. Fleming, was that your voice?

3 A. Yes.

4 Q. Now, really briefly, I know we touched on
5 it a little bit, but once again, just so I'm
6 clear -- and I apologized if I'm asking you double
7 questions -- when you walked out of the house and
8 once the police knocked on your door -- once the
9 police came, tell the ladies and gentlemen of the
10 jury, generally, what it was that you saw out there.

11 A. They didn't ask me any questions. Like I
12 said, I just went out on my landing. You know, all
13 the neighbors were out there then.

14 Q. And when you say "they," are you referring
15 to the police?

16 A. Yes, yes.

17 Q. Okay.

18 A. I just saw like the one car kind of
19 diagonal facing my home and then another car behind
20 it.

21 Q. Okay.

22 A. And that was it.

23 MS. HEARD: Okay. Thank you so much,
24 Ms. Fleming. Defense counsel may have some
25 questions.

1 THE COURT: Cross?

2 MR. FEINMAN: May I, Your Honor.

3 THE COURT: Yes.

4 MR. FEINMAN: Thank you.

5 - - -

6 CROSS-EXAMINATION

7 - - -

8 BY MR. FEINMAN

9 Q. Good morning.

10 A. Hi.

11 Q. How are you today?

12 A. Good.

13 Q. Thank you for coming in. Couple
14 questions. You said you were in the living room
15 laying down watching some television, and you could
16 hear something outside of your house?

17 A. No, I didn't hear anything. When I was
18 laying on the couch, I just saw the headlights
19 shining in my window.

20 Q. First thing that caught your attention was
21 headlights shining into your home in some way?

22 A. Right. And they weren't going away.

23 Q. It's not like someone was turning, got in
24 the head lights, and then kept going?

25 A. No.

1 Q. They stayed?

2 A. Right.

3 Q. And then it caught your attention?

4 A. Uh-huh.

5 Q. And after that you had heard a female
6 voice?

7 A. When I had gone back into the kitchen the
8 second -- actually, when I was listening to the 911
9 tape, I did crack the door at one point before I
10 locked it. And that's maybe when I heard her say
11 that. Maybe I didn't hear that through the windows.
12 Because I believe that it was in the middle of the
13 summer.

14 Q. Right. Now, you heard a female voice.
15 You couldn't make out what was being said, but you
16 can hear a female voice.

17 A. Scream after the shots.

18 Q. I'm talking about before the shots.

19 A. No. I couldn't understand. I could just
20 hear, like, voices, but I didn't understand what
21 they were saying.

22 Q. In your statement you indicated
23 distinctively that you heard a female's voice?

24 A. Right. But mostly I heard her voice when
25 she said, Oh, my God. I can't believe you shot her.

1 Q. After the shooting? After you heard those
2 two pops?

3 A. Right.

4 Q. Before the two pops, you distinctively
5 heard a female voice and it was in a calm tone?

6 A. Well, I just assumed people were having a
7 conversation. As I said, I didn't think anything
8 was going on. I just assumed they were making plans
9 to where they were going to go or pulling up next to
10 each other on the street just making some
11 conversation.

12 Q. You didn't hear any shouting or screaming
13 or hollering or anything like that?

14 A. No, no.

15 Q. And then a few moments or a few minutes
16 goes by and then you hear this female voice again,
17 but this time, shouting, Oh, my God. I can't
18 believe you shot him, something to that effect,
19 correct?

20 A. Right.

21 Q. And then moments or short time later, you
22 called 911 and then they tell you police are on
23 their way. Your door is secured. You look out and,
24 eventually, you feel comfortable to go out because
25 the police are on the scene, correct?

1 A. Right.

2 Q. And at that point, when you get out there,
3 it was right after the first police car had pulled
4 up, correct?

5 A. I believe there was a couple there at
6 once, possibly. I can't remember exactly.

7 Q. And when you went out to your landing
8 there or patio area, is there anything obstructing
9 your view to where the car was and where the
10 activity seemed to be?

11 A. No. I mean I have a -- my friend's car
12 was probably parked in the driveway, but the street
13 is pretty opened.

14 Q. But, I mean, there's no shrubs or trees
15 that would block those headlights?

16 A. No.

17 Q. And you say you saw a few things taking
18 place; one of which, was a male in a white shirt and
19 he had his shirt pulled up and was walking towards
20 the police; is that correct?

21 A. I'm assuming that that person had come out
22 of a car -- out of one of the cars, and when the
23 police arrived, I was assuming that he did that for
24 the purpose of showing that he didn't have a weapon,
25 possibly.

1 Q. But you saw that male with his shirt
2 pulled up?

3 A. Yes. Just like up to his chest area.

4 Q. Showing his abdominal area?

5 A. Right.

6 Q. Did you hear that male say anything?

7 A. No.

8 Q. Could you describe that male?

9 A. No. It was too dark, and I can't really
10 see without my glasses.

11 Q. Then you said you saw a second male and
12 that male had a darker shirt?

13 A. Yeah. But I didn't really get a good look
14 at him. Like I said, it was dark at night.

15 Q. But there was a second male that you saw
16 out there?

17 A. Right.

18 Q. At least, standing?

19 A. Right.

20 Q. That male you said made a comment or
21 statement to the police about -- and I ask you to
22 take a look at C-17, your statement, next to the
23 last line on the first page?

24 A. Okay. Yeah. I was forced to use my
25 weapon.

1 Q. Could you read what you wrote there?

2 A. Okay. It says, I heard an officer -- oh,
3 wait a minute -- I heard an officer asking what
4 happened to her. I heard a male say something to
5 the effect of, I was forced to use my weapon. I
6 have a permit. So apparently, that's something I
7 didn't remember vividly, but apparently, if I was
8 taken the next morning, that did happen.

9 Q. And you recall -- looking at it now, do
10 you recall if it was something you observed and you
11 thought it was important to tell the police?

12 A. Right.

13 Q. Could you read the first line on the
14 second page there?

15 A. The man had his hands in the air and was
16 wearing a black shirt.

17 Q. So when you observed that male, how did he
18 have his hands up? Were they indicating his hands
19 up like this (indicating), showing --

20 A. I don't know how high they were. I'm just
21 assuming they were up.

22 Q. -- okay. Very good.

23 Now, during your statement, you were also
24 asked by the officer who took this statement -- by
25 the detective -- whether or not you had heard any

1 kind of fighting or anything. Do you recall hearing
2 any kind of fighting?

3 A. I don't recall hearing specific words. I
4 mean, you know, they could have been -- people could
5 be -- like I said, they could have been outside --
6 they could have been out drinking. I don't know
7 what was going on. I didn't assume it was going to
8 be saying anything like this.

9 Q. You would agree that there was nothing
10 that occurred outside that you were able to hear
11 that caught your attention to anything unusual until
12 you heard that pop-pop?

13 A. Right. Yes.

14 MR. FEINMAN: Thank you very much.

15 I have no further questions.

16 THE COURT: Counsel?

17 MR. McGOVERN: I don't have any
18 questions. Thanks for coming in today. Pretty much
19 everything that I would have asked has been covered
20 by the DA and Mr. Feinman. I represent Mr. Greg
21 Spector here.

22 BY MR. McGOVERN

23 Q. You indicated that -- and my name is Mike
24 McGovern.

25 A. Okay.

1 Q. You indicated that it was dark and you
2 didn't have -- like I have on today -- long distance
3 or bifocals?

4 A. Uh-huh.

5 Q. So you weren't able to identify the two
6 men that you saw out there?

7 A. Right. I saw them from the kitchen
8 window.

9 Q. Okay.

10 A. I wasn't outside when I saw them. Like I
11 said, I remember staying in the house until the
12 police arrived and then I probably didn't go out
13 until other neighbors may have even been out there.

14 Q. Good enough. But you can't say that one
15 of them had either a black or dark shirt and one had
16 a lighter color shirt, right?

17 A. Yeah. It was under the street light. I
18 could see that.

19 Q. And the one with the lighter color
20 shirt -- when the police were coming on the scene, I
21 believe you said, there was a male wearing a white
22 shirt and he lifted his shirt up while walking to
23 the police wagon, correct?

24 A. I don't know if he was standing still when
25 he did it. Like he may have been standing still and

1 the officer may have been next to him. I think he
2 was facing the other side of the block. Like,
3 standing still and did it.

4 Q. When you gave your interview at 6:00 in
5 the morning where you said, There was a male wearing
6 a white shirt and he lifted his shirt up while
7 walking to the police wagon. Is that your best
8 recollection then?

9 A. Yeah. Just lifting the shirt.

10 Q. And you said that -- and I ask you to look
11 at the bottom of the first page -- you said you had
12 called 911, and it said, the police arrived a few
13 minutes later; is that right?

14 A. Yeah. I wouldn't say it was that long.

15 Q. Okay. Were you aware that my client had
16 been trying to call the police for 45 minutes before
17 that?

18 A. It wasn't 45 minutes.

19 Q. Okay. But I mean -- I'll withdraw that
20 question.

21 But when you called, they were there just
22 a few minutes later?

23 A. Few minutes, meaning it wasn't like 20
24 minutes, it wasn't 15. To me, they got there pretty
25 quick.

1 Q. Okay. And you said that the next thing
2 you noticed -- and I'm looking at your statement at
3 the bottom there -- I heard an officer asking what
4 happened to her and I heard a male saying something
5 to the effect, I was forced to use my weapon. I
6 have a permit; is that correct?

7 A. Yes.

8 Q. And that was the person in the darker
9 shirt?

10 A. I don't even know.

11 Q. Okay. Good enough. Whatever you
12 recollect is --

13 A. Yeah. I'm not going something I'm not
14 sure of.

15 Q. Thank you. That's all we can ask for.

16 And I guess, other than first hearing the
17 female voice, you didn't hear any fighting?

18 A. No. Like I said, it could have been loud
19 talking --

20 Q. I'm not -- I'm sorry for interrupting. I
21 don't mean what could have been, but "you" didn't
22 hear any fighting?

23 A. Well, not really, no. I was just
24 wondering when they were going to leave. I just
25 didn't think it was anything.

1 Q. What was really annoying is that you had
2 headlights right in your kitchen window, right?

3 A. Pretty much, yeah.

4 Q. And they weren't going away?

5 A. Right.

6 Q. Ms. -- oh, I just want to ask you. The
7 other voice that was on the tape, someone saying,
8 I'm calling 911. And you said, I'm calling 911.
9 Was that other person Dale?

10 A. Probably Dale, yes.

11 MR. McGOVERN: All right. Thanks a
12 million for coming in. That's all I have.

13 THE COURT: Any redirect?

14 MS. HEARD: Your Honor, I don't have
15 any redirect for this witness.

16 THE COURT: Thank you for coming in.
17 You're excused.

18 (Witness excused.)

19 MS. HEARD: Your Honor, if I may have
20 a moment. My victim is here. He is going to be the
21 next witness. I just need two minutes.

22 MR. McGOVERN: Are we referring to
23 the complainant?

24 MS. HEARD: Yes.

25 THE COURT: All right.

1 MS. HEARD: Commonwealth calls
2 Mr. Sardor Bolyaganov, the victim in this case.

3 (Whereupon, there was a brief break
4 in the matter.)

5 MS. HEARD: And the Commonwealth now
6 calls Sardor Bolyaganov to the stand.

7 COURT OFFICER: Sir, could you kindly
8 please state your full name and spell your name for
9 the record.

10 THE WITNESS: Sardor Bolyaganov,
11 S-A-R-D-O-R B-O-L-Y-A-G-A-N-O-V.

12 - - -
13 SARDOR BOLYAGANOV, having been first
14 duly sworn, was examined and testified as follows:

15 | - - - |
16 MS. HEARD: Thank you, Your Honor.

17 - - -
18 DIRECT EXAMINATION

19 - - -
20 BY MS. HEARD

21 Q. Good morning, Mr. Bolyaganov.

22 A. Good morning.

23 Q. I noticed that you have a heavy accent, so
24 I'm just going to ask you to speak loudly and
25 clearly as possible so that the ladies and gentlemen

1 of the jury can hear you, so that defense and
2 defendants can hear you. And this lady is going to
3 take down everything you say.

4 A. Understand.

5 Q. Mr. Bolyaganov, how old are you?

6 A. Twenty-three right now.

7 Q. And are you originally from the United
8 States?

9 A. No. Uzbekistan.

10 Q. When did you come to the United States?

11 A. May 23, 2010.

12 Q. When you came to the United States, what
13 were you doing?

14 A. I came here, like, on a J-1 visa for
15 working and travel and for summertime. Then I met
16 my wife and fell in love, school, get married, and
17 stuff. Was trying to live -- living in America, you
18 know.

19 Q. Let me take you back a little bit. You
20 said you got some type of student permit?

21 A. I had 2010 -- back in 2010.

22 Q. And were you studying?

23 A. No -- yes. I study at university, a
24 foreign country university, you know.

25 Q. Now, you indicated that you met your

1 then-wife, correct?

2 A. Yes.

3 Q. What was your wife's name?

4 A. Olena Sirko.

5 Q. And do you remember when you got married?

6 A. It was 2012, January.

7 Q. And are you all currently married?

8 A. No, not anymore. Divorced.

9 Q. Now, have you always been in Philadelphia?

10 A. No. The first city was Atlantic City for
11 work permit, like job welfare.

12 Q. And then, eventually, you made your way to
13 Philadelphia?

14 A. Yes.

15 Q. Now, when you and Ms. Sirko got married,
16 where were you all living?

17 A. I had my apartment before we got married
18 and before we moved on. And then after we get
19 married, few, like, maybe months or like few weeks
20 after, decided to go to her place with her parents
21 because they asked me to move.

22 Q. And where did her parents live?

23 A. 741 Gorman Street, Philadelphia.

24 Q. And did you all just stay, generally, in
25 the house? Basement?

1 A. It's a basement. Like, it's two single
2 people in their, like, an apartment, you know, in
3 the basement so...

4 Q. All right. So I'm going to take you back
5 to July 21st 2013. Okay. That was a Sunday,
6 correct?

7 A. Yes, correct.

8 Q. Before we begin, are there any persons
9 that you recognize from that date that are here in
10 the courtroom today?

11 A. Yes.

12 Q. Who are those people?

13 A. The guy who shot me.

14 Q. And where is he?

15 A. His name is George Spector, right? | Or...

16 MR. McGOVERN: Your Honor, for the
17 record, to facilitate, I will stipulate that he's
18 identifying my client, Gregory Spector.

19 THE COURT: Okay.

20 BY MS. HEARD

21 Q. Is there anybody else that you recognize?

22 A. I think his father on the right in
23 glasses.

24 MS. HEARD: Indicating for the
25 record, Lonnie Spector.

1 THE WITNESS: Sorry, uh-huh.

2 BY MS. HEARD

3 Q. Now, Mr. Bolyaganov, earlier, on July 21st
4 of 2013, you placed an add on Craig's List, correct?

5 A. Yes.

6 Q. I take that back. You placed the add on
7 Craig's list prior to that?

8 A. Before.

9 Q. Okay. Tell the ladies and gentlemen of
10 the jury what happened when you received a phone
11 call with respect to this add on Craig's List? What
12 were you selling, first of all?

13 A. I had a cell phone. It was Galaxy S3. I
14 posted on Craig's List, like, months before I got
15 shot. So I was renewing the add and then he called
16 me --

17 Q. When you say "he," who are you talking
18 about?

19 A. Spector, the guy who shot me.

20 MS. HEARD: Okay. Indicating for the
21 record, Gregory Spector.

22 THE WITNESS: Yeah. He was trying to
23 buy my phone. So we met next to my house, not far
24 from house, at the place where I got shot at, you
25 know. So he was, like, I believe so with his wife

1 or girlfriend. I'm not sure.

2 The price was 300. So they come down
3 to 290 with cash. He said -- he checked out the
4 phone. I gave to him. I said put your SIM card in
5 there and try to call me or whatever. Like, check
6 out the phone, whatever. He said, Yeah. No
7 problem. He give me the money -- just -- that's it.
8 He left.

9 BY MS. HEARD

10 Q. Okay. Let me take you back little bit.

11 A. Sure.

12 Q. You said this was a Samsung Galaxy 3,
13 correct?

14 A. Correct.

15 Q. And you indicated that you had placed this
16 add previously, correct?

17 A. Yes.

18 MS. HEARD: Court's brief indulgence,
19 Your Honor.

20 - - -

21 (Pause.)

22 - - -

23 BY MS. HEARD

24 Q. Now, let's talk about this cell phone.

25 Where did you get this cell phone?

1 A. I bought not far from my house. It's at a
2 gas station next to George Washington High School.

3 Q. Do you remember where the gas station was
4 located?

5 A. Yeah. Next to George Washington High
6 School on Bustleton and Verree intersection. It is
7 an Exxon gas station, I believe so.

8 Q. Okay. Tell the ladies and gentlemen of
9 the jury how it was that you bought this cell phone?

10 A. Okay. So the guy came up to me, and he
11 said, I got phone for sale. You know, I had a more
12 simple phone. I was trying to get upgrade. He give
13 me a good price. And the phone was really good
14 condition, you know.

15 The thing is because it's a Galaxy and the
16 time -- when I came out, it was a small SIM card.
17 Like you guys all -- so I had a bigger SIM card so I
18 cannot -- I couldn't really put it -- I could not
19 use it. The phone was -- like I turned it on and
20 everything was working; the video, camera. Like
21 normal phone. So got the phone for myself. Then I
22 couldn't use it, you know. And I just leave it
23 home.

24 It was a few months at my house and then I
25 just decided to post it on Craig's list, you know.

1 Just, you know...

2 Q. Okay. So the guy that you bought the cell
3 phone from, did you know this guy?

4 A. Not really. If I see him, I recognize
5 him, but since sometime before I got shot -- I
6 believe so. Maybe he studying at school or
7 something, but I -- you know, I wasn't sure.

8 Q. Okay. Was he -- do you know if he was
9 young or old or anything?

10 A. He was young. Maybe a little younger than
11 me.

12 Q. Okay. How much was this guy selling the
13 cell phone for?

14 A. He was asking for a \$100.

15 Q. And how much did you pay for it?

16 A. Eighty dollars.

17 Q. And did you not find it a little weird
18 that this guy was selling --

19 A. Oh --

20 Q. Give me a second.

21 -- that this guy was selling this cell
22 phone and he gave it to you for \$80?

23 A. Yeah, that's correct. I found it was a
24 good deal, but he was in a rush. He was saying,
25 like, he needed money for something. The way he

1 could make money of this is -- he wanted to the sell
2 cell phone, you know. But I was also in a rush to
3 go back to work, and I didn't have that much money
4 on me. So I take out everything I get from my
5 pocket. So he said, yeah, I can have it.

6 Q. Okay. Now, you indicated that you never
7 tried to get this phone activated?

8 A. I was trying to put my SIM card in there.
9 By my SIM card was bigger. It couldn't fit. I
10 didn't have another SIM card, you know, so I just...

11 Q. Okay. What I mean is, did you ever try to
12 take it to carrier or anything like that?

13 A. No, not really. Because I had, like, my
14 phone, like I used it. So I didn't really, like,
15 need it. Like I said, I was trying get it upgrade
16 you know. But when I found out it's not, like,
17 going to take my SIM card -- and the phone was also
18 from AT&T and my carrier was T-Mobile, and I still
19 have the same number and same carrier. Still, I
20 believe it still would have to be unlocked from
21 T-Mobile, you know.

22 Q. Okay. Understand. So you decided to
23 place the add on Craig's List, correct?

24 A. Correct.

25 Q. Had anybody contacted you about it? Is

1 that prior to Gregory Spector?

2 A. I think -- yeah, a few people contacted
3 me. Maybe like 10 people text me or something, but
4 nobody came to check it out. So he was the only one
5 person who contacted me for the cell phone.

6 Q. And that was Gregory Spector, correct?

7 A. Yes, correct.

8 Q. So once you placed the phone on the add,
9 how did you communicate with Mr. Spector? Was it
10 via text or was it via phone call?

11 A. Hundred percent, I'm not really sure. It
12 was long time ago. But I believe we spoke on the
13 phone and text to each other.

14 Q. Okay. And you agreed to meet at Ferndale
15 and Kentwood Streets; is that correct?

16 A. Yes, correct.

17 Q. And do you remember around what time that
18 was when you agreed to meet them?

19 A. First time we meet, it was daytime. Not
20 hundred percent sure exactly, but maybe 3:00, 4
21 o'clock.

22 Q. Okay. And you indicated that Mr. Gregory
23 Spector did not come alone, correct?

24 A. Yes. He was with a woman. I'm not who is
25 she. Maybe his wife or girlfriend.

1 Q. Okay.

2 A. Relative. I don't know.

3 Q. And once you were, actually, speaking with
4 Gregory Spector, you said the price was originally
5 \$300, correct?

6 A. (Gesturing.)

7 Q. Is that a yes?

8 A. Yes, correct.

9 Q. Okay. But Gregory Spector paid \$290 for
10 it?

11 A. Yes.

12 Q. How did you all come to the terms of \$290?

13 A. He was trying -- you know how it is. He
14 was trying to get something cheaper, and so he said,
15 like, \$250 maybe. I'm not hundred percent, but he
16 was like, you know, he said, Could you come down to
17 290. I said, okay. He said I got the money and I
18 will buy so...

19 Q. Okay. And did you take the money at that
20 time?

21 A. Yes.

22 Q. Was it cash?

23 A. Yes.

24 Q. And Mr. Spector received the cell phone,
25 correct?

1 A. I'm sorry?

2 Q. Mr. Gregory Spector received that cell
3 phone, correct?

4 A. Yes. He had cell phone in his hands, and
5 I was saying to him, You have to put your SIM card
6 in to call me or check it out. So it's hundred
7 percent he never did it.

8 He just said, Oh, I like it, you know. I
9 said, Make sure it's working and everything. He
10 said, Yeah. I believe you.

11 Q. Okay. Did you -- what, if any,
12 information did you give to Mr. Spector about
13 yourself?

14 A. Information about myself?

15 Q. Yes.

16 A. I didn't -- he didn't ask me nothing.

17 Q. So did he know your name? Did he have
18 your cell phone number?

19 A. Cell phone, yes, and maybe my name, but
20 nothing, not really, that I remember.

21 MS. HEARD: All right. Your Honor,
22 I'm going to show the witness what has previously
23 been marked as C-32.

24 I'm just going to show to counsel.

25 MR. McGOVERN: Thank you.

1

- - -

2

(Whereupon, a document was marked,

3

for identification purposes, Exhibit

4

C-32.)

5

- - -

6

COURT OFFICER: C-32 is being shown

7

to the witness. Here you go.

8

THE WITNESS: Yeah. That's the

9

phone.

10 BY MS. HEARD

11

Q. Do you recognize that?

12

A. Yes.

13

Q. What is that?

14

A. That's the cell phone, the Galaxy 3.

15

Q. Okay. So let's go back. So you sell

16

Mr. Gregory Spector this cell phone, correct?

17

A. Yes.

18

Q. After you sell Gregory Spector this cell

19

phone, tell the ladies and gentlemen of the jury

20

what do you do?

21

A. After I sold cell phone?

22

Q. Yes.

23

A. Because it was like one-half year ago,

24

after the injury, it's hard to remember hundred

25

percent.

1 I guess I got out of the car at that time.
2 Went to the -- maybe down the street, going home,
3 because my wife wasn't home. Then came outside kind
4 of later on. And after the time, Lonnie Spector
5 started texting me so...

6 Q. You said Lonnie Spector started texting
7 you?

8 A. Yes.

9 Q. Okay. What was Lonnie -- excuse me. Did
10 you say Lonnie Spector or was it Gregory? Was it
11 the person that you bought -- the person that you
12 sold the phone to?

13 A. The person who shot me.

14 Q. Okay. So Gregory Spector started texting
15 you?

16 A. Sorry. Gregory Spector.

17 Q. Okay. And what was Gregory Spector
18 texting you?

19 A. He said some problems with the phone about
20 carrier or something. I said, okay. I never had
21 problems or nothing. But I said, if you want to
22 meet up, I can decide your problem or something.

23 Q. But he said something was wrong with the
24 phone?

25 A. He said he couldn't use the phone from

1 AT&T or T-Mobile. I'm not sure which phone company
2 he have, but he said it wasn't go through. He
3 called the company, and they said the phone was
4 locked.

5 Q. Okay. Did he tell you that the phone was
6 stolen?

7 A. I don't remember. He said, like, the
8 phone was locked. It was locked.

9 Q. Okay. And you indicated that you had been
10 doing some things prior to that, correct?

11 A. I'm sorry?

12 Q. Prior to receiving these text messages
13 from Mr. Spector, right?

14 A. Yes.

15 Q. Okay.

16 A. Then we decided to met up around *3:30,
17 like, where I live at. Same spot where I sold the
18 phone. And I was waiting with my wife.

19 Q. Okay. Let me take you back a little bit.

20 A. Okay. Sorry.

21 Q. When Mr. Spector called you or texted you
22 about this phone, did you all come to -- did you all
23 talk about money? Giving money back?

24 A. Yes. Sure.

25 Q. Tell the ladies and gentlemen of the jury

1 about that?

2 A. So at the time, he gave \$290. At the time
3 it was 3:00 or 4 o'clock daytime. He start texting
4 me maybe about 7:00, 8 o'clock. And we were
5 supposed to meet up maybe around 830, 9 o'clock.

6 But I was waiting for him around one hour.
7 I had \$200 in my pocket. I text him if you want to
8 get this money or I can fix the phone or check it
9 out the problem.

10 He said, Yes. No problem. I will take
11 the money. We will meet up. No problem.

12 I said okay. I was waiting in the car
13 with my wife like around one hour.

14 Q. Let me take you back a little bit. What
15 did you do with the \$90?

16 A. I spent it, you know. Put gas in my car.
17 I don't remember. I don't remember what I spend for
18 something. Just \$90. It's not big amount so...

19 Q. And you spent in between --

20 A. Yeah, yeah. Between 10:00 and 4 o'clock.

21 Q. You said gas in your car. Do you remember
22 anything else?

23 A. I can't remember. I'm so sorry.

24 Q. Okay. And now, going back a little bit,
25 when you, initially, met Mr. Gregory Spector, what

1 kind of car were you in?

2 A. I was in Mercedes, black.

3 Q. When you first --

4 A. Oh, first time was a Honda Civic.

5 Q. And who's car was that?

6 A. My car.

7 Q. Now, you indicated that your wife, at that
8 time, was not home, correct?

9 A. Yes.

10 Q. Where was your wife?

11 A. I don't really remember. I think at that
12 time was working across the street in the smoke
13 shop. She was at the counter or something like
14 that.

15 Q. Okay. | Now, the second time, before you |
16 met Gregory Spector for the second time, what car
17 were you in?

18 A. In Mercedes with my wife. It was my
19 wife's car. I bought this car, but it was a family
20 car, you know.

21 Q. Okay. So was this car -- who's name is
22 this car under?

23 A. It was in her father's name.

24 Q. Now, you indicated that you waited for
25 Mr. Gregory Spector, correct?

1 A. Yes.

2 Q. When you were waiting for Gregory Spector,
3 was Gregory Spector communicating with you at all?

4 A. Yes. He was texting me, talking on the
5 phone. 'Cause I was nervous and waiting for him,
6 you know, outside.

7 Q. Why were you nervous?

8 A. Because he said he was going to come soon and
9 then he said he had no gas in the car. Then the
10 second other message was like 30 minutes after I
11 still texted him, Are you coming or not. He said
12 his car battery is dead, so he needs to jump start.

13 After that, I was still waiting for him
14 and calling him. And then we decided to leave. You
15 know, I thought he was not going to come. So we turned
16 around. We almost next to my house, and he called
17 me, you know...

18 Q. When you say "he called," who are you
19 talking about? Gregory Spector?

20 A. Yes.

21 Q. And when Gregory Spector called you, what
22 did he say?

23 A. He said, I'm here. Like, let's meet. I
24 said, Okay. No problem. I turned around to the
25 spot where he was waiting for me. But it was

1 different car so...

2 Q. What do you mean by "different car"? Who
3 had a different car?

4 A. I believe so the father was driving. And
5 the first time when I sold the phone, it was another
6 car. They came in Blue Subaru.

7 Q. Okay. Now, let me take you back a little
8 bit. Ferndale and Kentwood Streets, how far away is
9 that from your house?

10 A. On the same block. So maybe at stop sign,
11 you know, you just turn the corner. I live right
12 there.

13 Q. And why did you decide to meet at this
14 particular location? Why did you decide to meet
15 there as opposed to some place a little bit more out
16 in the open?

17 A. Because that's my neighborhood. I live
18 right there. It's next to my house, you know.

19 Q. You indicated that you decided to go back
20 and meet Mr. Gregory Spector, correct?

21 A. Yes.

22 Q. After you left, correct?

23 A. Yes.

24 Q. Now, when you left off before, you were
25 talking about it was a different car involved. Tell

1 the ladies and gentlemen of the jury exactly what
2 happened when you pulled up and you saw this car?
3 What happened?

4 A. So when I was pulling up next to them,
5 there is like T-section intersection like this
6 (indicating). So they parked up, like, right in the
7 middle of intersection. So they can go forward,
8 back, right or left.

9 Q. When you say --

10 MR. FEINMAN: For the record, Your
11 Honor, the witness is holding his hands one against
12 the other in almost like a T-shape.

13 THE WITNESS: Yeah, the intersection
14 or the -- sorry.

15 THE COURT: Okay.

16 THE WITNESS: So I parked up next to
17 them, and I came out of the car. I don't remember
18 if he opened the door or --

19 Q. And when you say "he," are you talking
20 about Gregory Spector?

21 A. Yeah. He was on the passenger side.

22 Q. Okay.

23 A. And I had \$200, like, his money, you know.
24 And I give him straight up. I wasn't thinking about
25 nothing.

1 Q. Now, when you gave him this money, is
2 Mr. Gregory Spector out of the car?

3 A. I don't really for sure, you know. It was
4 a long time ago. He was in the car or like next to
5 car. I don't hundred percent sure, but I remember I
6 gave him the money and asked him to show me the
7 phone. I seen the phone in his hands, but he never
8 gave me the phone.

9 I said, can I check it out, the problem?

10 He said, No, give me the rest of the
11 money.

12 But before that, I explained to him that I
13 spent that money, and I have \$200, and he was okay
14 with that, you know.

15 So After I give him the money and he still
16 have the phone, then they start screaming at me.

17 Q. Who was screaming at you?

18 A. First, his son, who shot me. He was
19 screaming about the money and about, like, bad
20 stuff.

21 Q. What exactly was Gregory Spector saying,
22 if you can remember?

23 A. He was -- I cannot say hundred percent
24 because you understand after you got shot, it's
25 like -- I was almost dead, you know. I cannot

1 really remember hundred percent, but he was talking
2 about the money, like, give me the rest of the money
3 or something. I was just trying to figure out the
4 problem, you know. So I never have the phone back
5 or the money back after that day.

6 So after that time, his father ran out
7 from the car from the driver seat and he was
8 screaming at me. He was saying --

9 Q. Now, his father -- do you see his father
10 in the courtroom? Lonnie Spector?

11 A. Right there, uh-huh. (Indicating.)

12 MS. HEARD: Indicating Lonnie Spector
13 for the record.

14 THE WITNESS: He came up to me and he
15 held me from here, I believe so, (indicating). He
16 said he's an undercover cop, and I didn't believe
17 him, because, like I said, they're supposed to show
18 a badge or something. And the time he pushed me.
19 We're on the ground fighting (indicating), and his
20 son jumped into the fight. And a few seconds after
21 I was down on the ground, after shots.

22 Q. Okay. Let me take you back a little bit.
23 Now, you indicated that Lonnie Spector was in the
24 driver seat, correct?

25 A. (Witness nods.)

1 Q. Is that a yes?

2 A. Yes.

3 Q. When Lonnie Spector came around to where
4 you were, did he come around the front of the car?
5 Back of the car?

6 A. He was on the right back side of the car.

7 Q. Okay. Who's car were you next to? Were
8 you next to the Spector's car or was this your car?

9 A. So I believe so he was between -- my car
10 was on the right, and his car on the left. So we
11 was somewhere around here, on the back right
12 passenger side (Indicating.)

13 Q. Okay. But it was near his car, correct?

14 A. Yeah. Not far from his car.

15 Q. Okay. And so when Lonnie Spector was
16 saying he's an undercover police officer, is he
17 saying anything else to you, if you can remember?

18 A. That's the thing. He didn't show no
19 badge, nothing like that, you know. Usually, cops
20 do that stuff.

21 He was trying, like, you know, we were
22 kind of fighting, you know. He ran out for me, and
23 he grabbed me. And it was like one, two seconds.
24 It was, like, really fast. Hard to remember hundred
25 percent, but he just ran from the car, grabbed me,

1 said, I'm an undercover cop, blah, blah, blah. And
2 he was trying to punch me or something. He was,
3 like, start fighting. And, you know, his son jumped
4 in.

5 Q. Now, let me take you back a little bit.
6 You said that Lonnie Spector grabbed you. Do you
7 remember how he grabbed you?

8 A. I hundred percent remember he grabbed me
9 with his right hand for my left hand. Then we start
10 fighting, you know.

11 Q. Now, do you remember throwing punches at
12 Lonnie Spector?

13 A. I don't really remember a lot of stuff,
14 because I remember we was fighting, you know. I was
15 fighting one and both of them. The son and the
16 father.

17 Q. Okay. Did you and Mr. Spector end up on
18 the ground at any point?

19 A. Maybe before falling down on the ground,
20 yeah.

21 Q. Can you explain to the ladies and
22 gentlemen of the jury how you ended up on the ground
23 with Mr. Lonnie Spector?

24 A. I can't -- I don't remember really hundred
25 percent. You guys understand. It's like a few

1 seconds, you know, it was really, really fast, you
2 know. He jumped on me, try to punch me. We start
3 fighting. The son jumped in. I don't know how is
4 it that -- then we get up together next to his car.
5 We was kind of holding each other or wrestling.
6 Then I just fall down on the ground. He just shot
7 me in my back. I never seen like -- you know.

8 MS. HEARD: Court's indulgence.

9

- - -

10

(Pause.)

11

- - -

12 BY MS. HEARD

13 Q. Mr. Bolyaganov, do you remember giving a
14 statement that next day on July 22nd of 2013 to the
15 detectives?

16 A. (Witness nods.)

17 Q. Is that a yes?

18 A. Yes. I was in the hospital.

19 Q. Okay. Did you sign and date that
20 statement?

21 A. I believe so. Yeah.

22 MS. HEARD: If I could have the
23 witness shown what's previously marked as C-35?

24 THE COURT: C-35. All right.

25 COURT OFFICER: C-35, Counsel?

1 MR. FEINMAN: Thank you.

2 THE COURT:

3 MR. McGOVERN: Yeah. Thanks.

4 - - -

5 (Whereupon, a document was marked,
6 for identification purposes, Exhibit
7 C-35.)

8 - - -

9 COURT OFFICER: There you go, sir.
10 C-35.

11 BY MS. HEARD

12 Q. Mr. Bolyaganov, do you recognize what I
13 just showed you?

14 A. One second.

15 (Reviewing.)

16 Excuse me. I don't really remember --
17 like I had so many documents, you know. But, like,
18 I see -- I was checking really fast. There's not my
19 signature on here.

20 But can I read real fast, please? Sorry.

21 Q. Yes.

22 A. Excuse me. Is it the detective when I was
23 in hospital? He wrote this? What is the paper,
24 please?

25 Q. Hold on, Mr. Bolyaganov, what I'm going to

1 have you do is go to the second page of that
2 document. Do you see that?

3 A. Yes, ma'am.

4 Q. Can you see where it starts off, I yelled?

5 A. Yes.

6 Q. Can you read -- just read to yourself.

7 A. Yes. I yelled --

8 Q. No, no. Just read to yourself.

9 Okay. Now, does that refresh your
10 recollection as to whether or not you punched Lonnie
11 Spector?

12 A. Like I always told, we was fighting, you
13 know. The time when the detective came to the
14 hospital, I was on medication. So you guys
15 understand.

16 MR. McGOVERN: Your Honor -- I'm
17 sorry. Excuse me, sir.

18 Your Honor, I object. It's
19 nonresponsive to the question. He was asked a
20 specific question and I'd ask him to respond to it.

21 THE COURT: All right. I think he's
22 trying to work his way to that in his own way.
23 Overruled.

24 MR. McGOVERN: Sorry for the
25 interruption.

1 THE WITNESS: So like I told you, we
2 was fighting. And it was only second day in the
3 hospital. I was, like, almost dying. I was really
4 sick, and I was on medication there. And this just
5 explaining how we was fighting, you know.

6 Q. Okay. Does that say that you punched him?

7 A. Probably I punched him, because I was
8 fighting two big guys, you know.

9 Q. But does --

10 A. Of course, I punched him. I was, like,
11 you know, I was scared, like...

12 MR. McGOVERN: Your Honor, I'm sorry.
13 My objection is -- the question is, Does it say
14 there in his statement that I punched -- that's the
15 question.

16 THE WITNESS: Yes, I punched --

17 MR. McGOVERN: I'm not asking you the
18 question. I'm sorry.

19 THE WITNESS: -- after he punched me,
20 I punched him back. Of course. It's like young
21 kids in a school fight. They punch each other.
22 Look at them. They're big two guys. Of course, I
23 was scared for my wife and myself.

24 MR. McGOVERN: Your Honor, objection.

25 MR. FEINMAN: Objection.

1 THE COURT: All right. Witness,
2 please answer the questions. We're not trying to
3 free flow.

4 BY MS. HEARD

5 Q. All I was trying to get out --

6 A. I'm sorry.

7 Q. It's okay.

8 -- because you said you didn't remember.

9 So that's why I showed you your statement. Okay.

10 Now, you said that at some point Gregory
11 Spector got involved in the fight; is that right?

12 A. Yes.

13 Q. What exactly did Gregory Spector do in the
14 fight?

15 A. Well, you guys understand when people
16 fight, he was trying to fight --

17 Q. No, no, no. No understanding --

18 A. I can't remember hundred percent. I got
19 shot that day.

20 Q. Right. But let me ask you this, how did
21 Gregory -- was he on top of you? Was he -- were you
22 on top of him?

23 MR. FEINMAN: Objection. Move to
24 strike --

25

1 BY MS. HEARD

2 Q. Were you all standing up? How did it all
3 happen?

4 MR. FEINMAN: Objection. Move to
5 strike, Your Honor. If I may, it's a suggestive
6 question suggesting a possible response. It's an
7 improper question. And based on the nature of the
8 question, I'd ask you to rephrase.

9 THE COURT: It is a little leading.
10 Just write that down. Just ask him -- I think if
11 you ask him piece by piece, that will help him.

12 MS. HEARD: Right. No problem.

13 THE WITNESS: Should I answer the
14 question?

15 THE COURT: There's no question
16 pending. You can only answer when a question is
17 pending. Wait for her to ask the question.

18 BY MS. HEARD

19 Q. So you and Mr. Lonnie Spector are
20 fighting, right?

21 A. Yes.

22 Q. Okay. At this point are you two standing
23 up or are you on the ground? How is that happening?

24 A. I believe so in the beginning we was
25 standing up. Then we was fell to the ground, I

1 believe so. And then we kind of the same time
2 wrestling. Then get up.

3 Q. Okay. Now, when Mr. Gregory Spector got
4 involved in the fight, where is Mr. Gregory
5 Spector -- how did you know he got in the fight?

6 A. He wasn't -- at the time I was fighting
7 with his father, he never was in front of me. He
8 was kind of on my right side, in the beginning.

9 Then I don't really remember how, like --
10 I don't know -- threw him or pushed him or
11 something, and I still was with his father, you
12 know.

13 Q. Okay. Now, I'm going to have you look at
14 your statement again, okay. And look on that second
15 page, and I'm going to refer you to the second line,
16 and I want you to read until you get to the fifth
17 line. Okay? Read to yourself.

18 A. (Reviewing.)

19 Q. Okay. Now, does that refresh your
20 recollection as to how the situation with
21 Mr. Gregory Spector came about?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yes.

25 Q. Okay. Tell the ladies and gentlemen of

1 the jury what happened when Mr. Gregory Spector got
2 involved in the fight.

3 A. Okay. So after we start fighting with his
4 father, he jumped in to fight. I don't remember if
5 he, like, was wrestling me or punching me. It was
6 just, like, you know, one, two. It's like so fast.
7 And it was nighttime or so and he just jumped into
8 the fight. So I don't remember. Maybe I punched
9 him or pushed him or something. But it was like --
10 then we was still fighting with his father. We were
11 maybe -- we fell down on the ground and then get up
12 at the same time, and we was holding each other, you
13 know, next to the collar.

14 Q. Who are you talking about?

15 A. His father.

16 Q. You were holding his father against the
17 car?

18 A. We was holding each other and so -- and as
19 soon as we get up, I got shot.

20 Q. Okay. Did you see Mr. Gregory Spector
21 shoot you?

22 A. No. I couldn't.

23 Q. What, if anything, did Mr. Gregory Spector
24 say before he shot you?

25 A. Nothing.

1 Q. Now, once you were shot, what did that
2 feel like?

3 A. It's feeling like big electrical impulses.
4 My English is not hundred percent perfect. I can't
5 not explain. It was like electrical impulses,
6 electric shock to my spine. It was, like, after one
7 second I was standing like this, shaking and then I
8 fell down after one second and my legs were like
9 this, you know. (Indicating.)

10 MR. FEINMAN: Indicating --

11 THE WITNESS: And so after that --

12 MR. FEINMAN: -- indicating for the
13 record his legs were spread out.

14 MS. HEARD: If I may, indicating for
15 the record, he had one arm going outwards and the
16 other arm going outwards indicating his legs being
17 spread out.

18 THE WITNESS: My legs was -- yeah.
19 Like this (indicating).

20 As soon as I fell down to the ground
21 out on the street, I don't feel my legs, because I
22 didn't see, you know, my legs were starting in weird
23 position, you know. My stomach was like this
24 (indicating) with the blood inside, you know,
25 because I was touching my spine where I had the

1 pain, and I had almost no blood like this
2 (indicating). I couldn't feel blood, you know. So
3 all the blood went inside my body. And my legs and
4 my stomach was full of blood like this (indicating),
5 and I was almost dying.

6 I was screaming to my wife, Get me
7 some water to spray in my face, because I couldn't
8 breathe. My left leg -- from the bone fragment, had
9 a hole, so I couldn't really breathe.

10 She sprayed the junk on me, and I
11 believe so she called the cops. And it was so fast
12 the paramedics came. They saved my life, kind of.
13 And they had to straighted up on the ground. They
14 had to put something here to my lung to get me
15 breathing back.

16 And I remember I was saying to them,
17 can you help something to do with my stomach,
18 because I felt like I would have blown up, you know,
19 or something. My stomach was so -- if you never
20 seen it, it's like -- I cannot explain it, you know.
21 Just like blood inside my body, you know.

22 So the paramedics came. They gave me
23 medication and stuff, like, I been in the hospital
24 after that so...

25 Q. Okay. Now, Mr. Bolyaganov, I'm going to

1 take you back a little bit.

2 Once you were shot, where was your wife?

3 You said that your wife came in -- was your wife
4 there this whole time?

5 A. Actually, sorry. I forgot. Yeah. My
6 wife was -- after we start fighting, she was trying
7 to, you know, stop -- stop everything. She was
8 between us or something. But it was like one, two,
9 you know. She couldn't really do nothing.

10 Q. Okay. Now, after you were shot, did you
11 see Mr. Gregory Spector after you were shot?

12 A. The son or the father?

13 Q. The son. The person that shot you.

14 A. Yes.

15 Q. Tell the ladies and gentlemen of the jury
16 what happened once you saw Mr. Gregory Spector.

17 A. So when I fell down on the ground and my
18 legs landed, he come up next to me -- I don't
19 remember how exactly he stand or, like, he put --
20 like, I was on the ground. He stand up, like, he
21 put his legs in between my body. He was holding a
22 gun in my face.

23 MS. HEARD: Indicating for the
24 record, the witness has put out his hands pointing
25 for the record. Go ahead.

1 THE WITNESS: On my face, correct.

2 And I was -- I don't remember if he
3 say anything, but I was screaming and saying, Please
4 don't kill me, you know. And that's all I remember,
5 because I couldn't say nothing. I was afraid. He
6 was pointing a gun on me, you know. I already get
7 shot, you know. I was so scared for my life, you
8 know.

9 Q. Now, Mr. Bolyaganov, do you remember
10 coming into my office about a few weeks ago and we
11 were discussing this case?

12 A. Yes.

13 Q. And do you remember telling me that after
14 reviewing your first statement that something was
15 missing? Do you remember doing that?

16 A. Yes.

17 MR. McGOVERN: Your Honor, objection.
18 May we see you at side bar? I object.

19 (A discussion was held at side bar.)

20 THE COURT: Okay. Counsel, you can
21 proceed.

22 MS. HEARD: Thank you, Your Honor.

23 BY MS. HEARD

24 Q. Mr. Bolyaganov, do you remember coming
25 into my office on April 1, 2015?

1 A. Yes.

2 Q. Do you remember being interviewed by
3 Detective Brady?

4 A. Yes.

5 MS. HEARD: If I can have the witness
6 shown what's previously marked as C-51.

7 MR. McGOVERN: Thank you.

8

9 (Whereupon, a document was marked,
10 for identification purposes, Exhibit
11 C-51.)

12

13 COURT OFFICER: C-51 is being shown
14 to the witness, Your Honor.

15 BY MS. HEARD

16 Q. Mr. Bolyaganov, do you recognize that
17 document?

18 A. Yes.

19 Q. What is that document?

20 A. So that is saying that he was holding the
21 gun on my face and he was saying, like, stuff.

22 Q. Okay. Can you review your statement on
23 page Number 2? Go to page Number 2?

24 A. Yes.

25 Q. Okay. Now, can you go to the question

1 where it says, Thinking back, is there anything else
2 that you would like to add to your previous
3 statement?

4 Do you see that question? It's in the
5 middle of the statement?

6 A. One second.

7 (Reviewing.)

8 Yes.

9 Q. Okay. Now, go to the next question.

10 A. Okay.

11 Q. And then go to the last question where it
12 say, Did he say anything to you.

13 A. Yes. I got it.

14 Q. Okay. Now, does that refresh your
15 recollection as to what Gregory Spector said to you?

16 A. Yes.

17 Q. What did Gregory Spector say to you?

18 A. He said he going to kill me.

19 Q. And was it -- and you indicated that at
20 some point that you put your hands up. When was
21 that?

22 A. Right after, I fall down on the ground.
23 Like straight up.

24 Q. Now --

25 MS. HEARD: And Your Honor, at this

1 time, I ask the witness be shown what was previously
2 marked as C-42-7.

3 THE COURT: C-42-7?

4 MS. HEARD: Yes.

5 COURT OFFICER: C-42-7.

6 MR. McGOVERN: Thank you.

7 - - -

8 (Whereupon, a document was marked,
9 for identification purposes, Exhibit
10 C-42-7.)

11 - - -

12 COURT OFFICER: C-42-7 is being shown
13 to the witness.

14 BY MS. HEARD

15 Q. Mr. Bolyaganov, does this look familiar to
16 you at all?

17 A. Yes.

18 Q. What is that that's depicted in that
19 picture?

20 A. That's the place where I got shot and
21 everything happened on that intersection and that's
22 their car.

23 Q. That's whose car?

24 A. The Sectors' car. Sorry.

25

1 MS. HEARD: If you can zoom in a
2 little bit of the car.

3 BY MS. HEARD

4 Q. Now, Mr. Bolyaganov, can you describe
5 exactly where this fight happened?

6 A. So the fight happened from the left side
7 from the back from the passenger side. And then do
8 you see, like, bottles and stuff?

9 Q. Yes.

10 A. After, like, the fight started so we moved
11 there and then I got shot from the driver side of
12 their car, back of the car.

13 Q. Okay.

14 MS. HEARD: Court's indulgence.

15 - - -
16 (Pause.)

17 - - -

18 BY MS. HEARD

19 Q. Now, you indicated that, initially, you
20 were on the passenger side of the car, correct?

21 A. Beginning of the fight, yes.

22 Q. Okay. And when you were on the passenger
23 side of the car, who was on the passenger side of
24 the car with you?

25 A. My wife, Olena.

1 Q. No, no, no. I'm sorry.

2 When you were next to the Spectors' car --

3 A. Okay.

4 Q. Which -- were any of the Spectors next to
5 you? Who was there, with respect to the Spectors?

6 A. Sorry. I don't understand the question.

7 Q. Sure. So you indicated that's where the
8 fight started.

9 A. Okay.

10 Q. Who were you talking to when this fight
11 started?

12 A. His father Spector and his son Spector.

13 Q. Okay. Now, where is his son? Where is
14 Gregory Spector, the person that you sold the phone
15 to? Where is he?

16 A. First, he was on passenger side of the
17 car.

18 MR. McGOVERN: Excuse me one second.

19 (A discussion was held off the
20 record.)

21 MS. HEARD: Can you give me a moment.

22 Your Honor, if I may have a short
23 recess, if you don't mind, just so I can...

24 THE COURT: Why don't we take a brief
25 comfort break, five, ten minute comfort break.

1 COURT OFFICER: Kindly remain seated
2 while the jurors exit the courtroom.

3 (Jury exits the courtroom at 12:16
4 p.m.)

5 (Jury enters the courtroom at 12:38
6 p.m.)

7 COURT OFFICER: Okay. Your Honor,
8 all 14 jurors are now present in the courtroom.

9 THE COURT: Okay.

10 MS. HEARD: Thank you, Your Honor.

11 BY MS. HEARD

12 Q. Now, Mr. Bolyaganov, I'm going to show you
13 a picture, another picture. Okay?

14 A. Yes.

15 | MS. HEARD: I'm going to show the |
16 witness C-42-11.

17 COURT OFFICER: Counsel?

18 MR. McGOVERN: Thank you.

19 MR. FEINMAN: Thank you.

20 - - -

21 (Whereupon, a document was marked,
22 for identification purposes, Exhibit
23 C-42-11.)

24 - - -

25

1 COURT OFFICER: C-42-11 is being
2 published to the witness, Your Honor.

3 BY MS. HEARD

4 Q. Now, Mr. Bolyaganov, I have a pointer
5 there. Do you see that pointer?

6 A. Yes.

7 Q. Can you show the ladies and gentlemen of
8 the jury exactly where you and Mr. Gregory Spector
9 where when you gave him the money?

10 A. Okay. So my car was somewhere here. I
11 came out and I give him the money right there. Then
12 when he was yelling at me, his father come out
13 around the car from the back. And then we move from
14 here to this side. And then his father start
15 fighting with me and he say he's undercover and
16 stuff like that. Then we move from the other side
17 of the back and this is the place where I got shot
18 at.

19 Q. Okay. Now, let me take you back.

20 Now, initially, you said that you started
21 fighting near the driver side; is that correct?

22 A. No. This side (indicating). We were
23 right there. We started fighting somewhere here.
24 I'm sorry.

25 MS. HEARD: Okay. Can you put back

1 up C-47-7?

2 THE WITNESS: We start fight
3 somewhere here and then move somewhere here. That's
4 the place where I got shot at.

5 MS. HEARD: Okay.

6 MR. FEINMAN: Indicating for the
7 record, initially, on the right side of the Spector
8 vehicle, then over to the left side of Spector
9 vehicle towards the rear.

10 BY MS. HEARD

11 Q. Now, can you tell the ladies and gentlemen
12 of the jury exactly where you and Lonnie Spector
13 ended up right before you got shot?

14 A. Somewhere right here. It was next to the
15 car on the back left side, driver side.

16 MS. HEARD: Officer Lewis, Can you
17 zoom back out?

18 BY MS. HEARD

19 Q. And you testified earlier that you did not
20 see Lonnie Spector once you were -- once and --
21 excuse me -- you did not see Gregory Spector once
22 you and Lonnie Spector were holding each other; is
23 that correct?

24 A. I'm sorry. One more time.

25 Q. I said you testified that you did not see

1 Gregory Spector when you and Mr. Lonnie Spector were
2 holding each other against the car, correct?

3 A. The time when I got shot?

4 Q. Yes.

5 A. Yes, I didn't see him.

6 Q. Okay. Now, Mr. Bolyaganov, going back a
7 little bit, let's talk about your hospital stay.

8 Do you remember going to the hospital?

9 When you were shot?

10 A. After I get injured?

11 Q. Yes.

12 A. Yes, I was in ambulance, paramedics. They
13 took me to the hospital. I remember, like, a few
14 parts because then they put me on medication. I
15 fell asleep.

16 Q. Can you tell the ladies and gentlemen of
17 the jury how long you were hospitalized?

18 A. I was two months. A little bit more than
19 two months in the hospital. I was around ten days
20 in the hospital. I don't know how to say condition,
21 but I was really bad condition code. When you're
22 really bad condition, they put you first and then
23 they transfer you to the amputation center. So I
24 was like 10 days in bed. Then they transfer you to
25 other hospital.

1 They teach how you do life from
2 wheelchair. Like, wash up, dress up, going to
3 bathroom and stuff like that. Because I got nervous
4 system damage. I can't have a -- like, bowel
5 problem or like -- you understand.

6 Q. Now, when you were released from the
7 hospital, where exactly did you -- where did you go
8 when you were released to the hospital?

9 A. I -- we go to my wife's house where we
10 used to live. Because I'm in the wheelchair, I
11 couldn't get to the steps, and they had to do
12 everything new inside. Like, they had to open the
13 door to the garage. They had to break a wall,
14 because I used go around the house because it's the
15 basement and we had steps. And I can't get to steps
16 because of wheelchair. And the door is too small
17 for my wheelchair. I cannot go to place besides
18 handicap.

19 Q. And at this time, you were still married
20 to Olena Sirko?

21 A. Yes, I been still married, correct.

22 Q. Now, did -- what happened after a few
23 months after you were released from the hospital?
24 Who was taking care of you at that point?

25 A. I had family care agency -- I mean, home

1 care agency. They was coming to my house. They had
2 therapist. And they was helping me taking shower
3 and stuff like that, you know, like stretch my legs,
4 work out a little bit. And that was...

5 Q. Now, was Olena helping taking care of you
6 or was she somewhere else? Where was she?

7 A. She went to Penn State, like, to study,
8 you know. So she help a little bit there, but, you
9 know, she was living her life, like, far away, like
10 four, five hours. So I had to break up, you know.

11 Like, you guys understand, like she's
12 young girl. She don't need a husband in a
13 wheelchair. Like, you guys understand. I cannot
14 take care of her like before.

15 Q. Now, do you still live with Olena's
16 parents?

17 A. No. I moved out. Like five, six months
18 ago.

19 Q. And how has this affected your family life
20 at all?

21 A. It's really bad, you know. I got stressed
22 out all the time. I can't sleep no more with my
23 spasms and pain. Especially, the days I don't have
24 them, I still have to go because of my spine and --
25 spasms, they move sometimes. I can't, basically, do

1 a lot of stuff, you know, like before. I can't have
2 children, like they say, anymore.

3 Q. Now, did your family stay in Uzbekistan?

4 A. Yes. My mom came after I got injured. My
5 wife send her, like, from the hospital, a letter.
6 And she went through the embassy so that she came
7 here to support me somehow.

8 Q. And what is the status of that? Is your
9 mom still here?

10 A. My mom went back and then she come back
11 again on the visa, you know.

12 Now, I'm by myself and I got home care
13 agency coming to me sometimes to help me. Like, the
14 lady, you know.

15 Q. Tell the ladies and gentlemen of the jury
16 what exactly does the home care agency do for you,
17 exactly?

18 A. Basically, she helps clean, cook, like
19 wash my clothes, dishes and everything. She helps
20 with me stretch my legs, because I have really bad
21 spasms, you know. And sometimes I got to stretch
22 like, a few times a day. And then dress up in the
23 morning. She helps me, like, going to take a shower
24 and stuff like that, because I get really bad
25 spasms. I can fall down, you know, and really hard

1 to get up myself.

2 Q. How do you go to the bathroom?

3 A. I'm using a catheter right now.

4 Q. Do you need assistance to go to the
5 bathroom otherwise?

6 A. Yes. Sometimes when I have bad spasms, I
7 can fall down in the bathroom so she sometimes have
8 to be next to me.

9 And the apartment I rented was so hard to
10 find because of the doors, you know. I cannot go to
11 any apartment. I need the wide door in bathroom,
12 you know. So the doorway -- now, like, the house --
13 I took off the door to the bathroom, so I don't
14 really have -- I can't bring my friends to the house
15 or something. All my stuff, like paraplegic people,
16 you know. It's really crazy.

17 Q. What did you miss most about not being
18 able to walk?

19 A. All my life, my wife, everything. I can't
20 do anything by myself. I mean, I can't run around
21 in the wheelchair but...

22 Q. Are you getting any follow-up care for
23 your injury?

24 A. Yes.

25 Q. Tell the ladies and gentleman of the jury

1 what follow-up care you're receiving?

2 A. I'm still going to therapy every week,
3 like two hours in the week. That's all the
4 insurance can cover for me, but it's not enough for
5 me, two hours a day -- I mean week.

6 So the therapist really trying to help me
7 to get back to work and stuff like that. But I'm
8 using, like, braces for the legs to get -- to lock
9 my knees. Like, it's to help me stand up on my
10 feet. And I got special remote product. I'm
11 sitting in special wheelchair. It's like a special
12 chair and I can get up and the computer moves my
13 legs -- so without me thinking about it. So with
14 the crutches, it's just kind of trying to move, but
15 I cannot control the movement, you know.

16 MS. HEARD: Court's indulgence.

17 - - -

18 (Pause.)

19 - - -

20 BY MS. HEARD

21 Q. And I apologize, Mr. Bolyaganov. I'm
22 going to go back a little bit.

23 MS. HEARD: Can I have the witness
24 shown C-36-L.

25 COURT OFFICER: C-36-L.

1 MR. MCGOVERN: Thank you.

2 MR. FEINMAN: Thank you.

3 - - -

4 (Whereupon, a document was marked,
5 for identification purposes, Exhibit
6 C-36-L.)

7 - - -

8 BY MS. HEARD

9 Q. I apologize. I'm going back a little bit
10 in time, but what is -- do you recognize this
11 depiction?

12 A. Yes.

13 Q. What is that?

14 A. It's my Craig's List post of my cell phone
15 I was trying to sell.

16 Q. Is that what you posted on Craig's List?

17 A. Yes.

18 Q. Okay. Now, really quickly, going back a
19 little bit -- I'm going to fast forward a little
20 bit, because we're getting closer in time. People
21 are probably hungry.

22 When you, initially, met Gregory Spector
23 and the second time you met Gregory Spector, did you
24 have a weapon on you at all?

25 A. No, no, weapons.

1 Q. What, if anything, was in your car with
2 respect to a weapon?

3 A. Nothing. I didn't have nothing. Only me
4 and my wife in the car. That's all.

5 Q. And did you ever tell the Spectors that
6 you had a weapon?

7 A. No, never.

8 Q. And why did you bring your wife with you?

9 A. I mean, I picked her up after work, you
10 know. So we were just together, you know, trying to
11 go home. Before that, we was waiting to meet with
12 them and had the problems so...

13 MS. HEARD: Thank you much,
14 Mr. Bolyaganov.

15 THE COURT: Well, it's 1:00 right
16 now. I think it makes sense to take lunch before we
17 go to cross-examination. So it's 1 o'clock. The
18 jurors will return at 2:00.

19 Remember, don't talk about the case
20 and we'll see you at 2:00. Remember no stragglers.
21 Come back on time, and we'll get to the
22 cross-examination.

23 (Jury exits the courtroom at 12:54
24 p.m.)

25 MR. McGOVERN: Your Honor, the

1 complainant wants to express his point of view. I'm
2 just going to alert the Court in my point of view,
3 and I know the Court is experienced and may not need
4 this. Your Honor, I would just -- I just want to be
5 cautious that the witness responds to the question
6 asked, rather than take that as an invitation to
7 make a speech.

8 THE COURT: We've already addressed
9 that.

10 MR. McGOVERN: All right. Thank you.

11 THE COURT: He's been controlled, I
12 think.

13 MR. McGOVERN: Yes, Your Honor.

14 THE COURT: Okay. See you at 2:00.

15 | (Whereupon, lunch recess was taken.) |

16 | (The defendants are present together
17 with their counsel.)

18 MS. HEARD: And Your Honor, if I may,
19 I'm being passed something at the bar of the court.
20 It looks like Facebook references from the
21 complainant that was printed out on November 12 of
22 2013 and one was printed January 7th of 2015. I'm
23 just trying to figure out what I'm getting this now.

24 THE COURT: Something that he -- the
25 complainant?

1 MR. McGOVERN: The complainant's
2 Facebook page.

3 THE COURT: I'm assuming you're going
4 to ask him about it?

5 MR. FEINMAN: We're going to question
6 him about it.

7 MS. HEARD: Right. But y'all
8 couldn't have given me a copy of it earlier?

9 THE COURT: Did you just get it?

10 MR. McGOVERN: I didn't have a copy.

11 MR. FEINMAN: Your Honor, I've had
12 this in my file. I found it the other day. I just
13 had copies made of it. My intention is to confirm
14 that he was involved in social media. And there's
15 some images there that I'll elude to, show, reflect.

16 MS. HEARD: So it was mistake on your
17 part, in terms of not giving me?

18 MR. FEINMAN: That's correct.

19 MS. HEARD: Okay. No problem. I
20 understand.

21 (Jury enters the courtroom at 2:05
22 p.m.)

23 COURT OFFICER: Your Honor. All 14
24 jurors are in the courtroom.

25 THE COURT: You can begin.

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- - -
CROSS-EXAMINATION
- - -

MR. FEINMAN: Good afternoon, ladies
and gentlemen of the jury. Good afternoon.

BY MR. FEINMAN

Q. You came to this country -- you said it
was in May of 2010, and you went to Atlantic City,
correct?

A. (Witness nods.)

Q. You have to say yes. You have to
verbalize --

A. Yes. I'm sorry.

Q. How long did you stay there before moving
to the Philadelphia area?

A. Maybe month or so.

Q. And then you moved to Philadelphia area
and you moved right off to Gorman Street?

A. No, no, no, not Gorman Street. It was
the -- area where I use to live?

Q. Yes.

A. I lived with my friends.

Q. Okay. And then you, eventually, met your
future wife and moved in with her?

A. Yes. Correct.

1 Q. When you came into this country, did you
2 enroll in school?

3 A. I was trying to, yes.

4 Q. Did you enroll at any time?

5 A. I enrolled into the school, because I
6 wanted to stay in America with my wife.

7 Q. All I asked you is if whether or not you
8 ever enrolled in school.

9 A. Yes, I did -- I was trying to but...

10 Q. You never enrolled in school?

11 THE COURT: You have to say yes or
12 no.

13 THE WITNESS: I was trying to enroll
14 in school, but I couldn't.

15 BY MR. FEINMAN

16 Q. Okay. From the time you came here in May
17 2010, have you ever been in school?

18 A. No.

19 Q. When you got here, you had some people
20 that you became friends with?

21 A. Yes.

22 Q. You're interacting with friends on a
23 regular basis?

24 A. Sorry. I don't understand.

25 Q. You had regular contact with these

1 friends?

2 A. Yes.

3 Q. Did you set up a Facebook or social media
4 account at some time?

5 A. Yes, I have.

6 Q. That's Facebook, right?

7 A. Yes.

8 Q. And on Facebook, you post things about
9 yourself and communicate with your friends through
10 Facebook?

11 A. Sometimes.

12 Q. You post photographs on there?

13 A. Sometimes.

14 Q. You post information, express information,
15 about who you are and things you like to do and
16 interests that you have?

17 A. Sometimes.

18 Q. And you exchanged that information with
19 your friends, right?

20 A. Yeah.

21 Q. At certain times, you posted photographs
22 of yourself being down at the beach or some other
23 area, correct?

24 A. Of course.

25 Q. What type of interests do you have? Like

1 sports? Do you do sports?

2 A. I like cars a lot.

3 Q. Cars. Did you like --

4 A. Computers.

5 THE COURT: Just answer the question.

6 BY MR. FEINMAN

7 Q. Did you like mixed martial arts?

8 A. Yes, of course. Krav maga.

9 Q. And did you take any courses here or
10 participate in any training programs here?

11 A. I was trying here and there, but nothing
12 that serious, no.

13 Q. Did you do any training back in
14 Kazakhstan?

15 MR. McGOVERN: Uzbekistan.

16 BY MR. FEINMAN

17 Q. Uzbekistan. Because I'm seeing in the
18 records and it indicates different places, but it's
19 Uzbekistan, correct?

20 A. Yes. I did sometimes at my house and
21 stuff like that.

22 Q. Back when you were back in --

23 A. Yeah. Back in the house and stuff.

24 Q. -- but when you were in Uzbekistan, you
25 did some mixed martial arts training, right?

1 A. When I was like maybe 5, 7 or like maybe

2 10. From that time.

3 Q. And then when you came here, you did a few
4 trainings here, correct?

5 A. Yeah, of course, I guess.

6 Q. And they teach you how to strike people
7 and how to defend yourself in certain situations and
8 how to use your extremities, your arms and legs
9 to --

10 A. I was doing.

11 Q. -- let me finish -- they teach you how to
12 use your arms and legs --

13 A. They teach me how --

14 Q. -- let me finish my question, please. I
15 get to ask questions. Let me finish.

16 -- they teach you how to use your arms,
17 your legs, to engage in fighting, correct?

18 A. No.

19 Q. They don't?

20 A. No.

21 Q. They don't teach you how to use your arms
22 to engage in a combative situation?

23 A. No.

24 Q. Yes or no?

25 A. No.

1 Q. Okay.

2 A. Nobody teach me.

3 Q. Let me ask you the questions and please
4 respond when I ask the question. Okay?

5 MS. HEARD: And Your Honor, if I may,
6 the complainant was trying to answer the question.
7 May he be permitted to answer the question?

8 THE COURT: He was, but he was kind
9 of --

10 MR. FEINMAN: Your Honor, if I may,
11 it was a simple yes or no. He can answer that. He
12 doesn't need to elaborate. The Commonwealth wants
13 him to --

14 THE COURT: If he says answer yes or
15 no, answer yes or no. You will be given a chance to
16 elaborate, but just answer the question as he asks
17 them and this will move along.

18 THE WITNESS: Okay. Sorry.

19 BY MR. FEINMAN

20 Q. While you're here and not in school, were
21 you working?

22 A. Yes, of course.

23 Q. What kind of work did you do?

24 A. I did all kinds of work, like
25 construction, you know, air duct cleaning; that was

1 a long job. I was trying to fix cars, older cars.
2 So much stuff. All kind of stuff.

3 Q. You would fix cars. You would buy cars
4 and sell them on Craig's List?

5 A. My friends -- I have a lot of friends from
6 my country who are dealers so --

7 MR. FEINMAN: Excuse me. Just answer
8 the question. Your Honor, I'd ask you to
9 instruct --

10 THE COURT: Just answer the question.

11 BY MR. FEINMAN

12 Q. I asked if you sell cars or Craig's List.

13 A. Yes, I did.

14 Q. That's all. A simple yes or no.

15 Do you sell other items on Craig's List?

16 A. Cell phone and cars.

17 Q. How many cell phones did you sell on
18 Craig's List --

19 A. I think --

20 Q. -- before this incident?

21 A. -- I think that's the only one phone, you
22 know.

23 Q. And you sold some since, right?

24 A. What's that?

25 Q. You sold some after that, correct?

1 A. After that? When I was in wheelchair?

2 Yeah. Because I was buying cell phone for getting
3 better, and so...

4 Q. And when you buy these phones, who do you
5 buy them from?

6 A. From people on Craig's List.

7 Q. You buy from people on Craig's List?

8 A. Yeah or sometimes like...

9 Q. Now, this boy --

10 A. Right.

11 Q. -- you said a guy, but isn't it really a
12 boy? You said he was like 14 years old?

13 A. I don't know how old is he, but he was a
14 little younger than me.

15 Q. A little younger, but at the time you
16 bought it, you were 20 --

17 A. He was like 20.

18 Q. -- you were 21 at the time when you bought
19 it --

20 A. Okay. 20.

21 Q. Okay. 20.

22 Well, I want you to take a look -- do you
23 still have the statement up there that the
24 Commonwealth was talking to you about earlier and
25 questioning you about, C-35, the interview

1 investigation, interview record, that four-page
2 document that you signed?

3 Do you have that in front of you?

4 A. Which one? C-51?

5 Q. C-35.

6 A. Oh, yeah, I got it.

7 Q. I want you to take a look at that
8 statement, okay, and I want you to look on the
9 second page. And the very last question on that
10 page.

11 You were asked by Detective Corrigan, with
12 your wife present in the hospital, a question. And
13 I'm going to read what that question is.

14 It says, where did you get the cell phone?
15 Do you agree that's the question?

16 A. Yes.

17 Q. Would you read to the jury your answer?
18 Read what your answer is.

19 A. I bought the phone from unknown male at
20 Bustleton and Verree like months ago. I paid for it
21 \$80 for the phone. He was like 15, I said.

22 Q. To be exact --

23 A. 14, 15, correct.

24 Q. To be exact it says he was 14-15 years
25 old?

1 A. Yes.

2 Q. Does that help you refresh your memory
3 that he wasn't 20? That he was 14 or 15?

4 A. I mean, you know, people look like older
5 or young. I really -- it's hard to tell sometimes.

6 Q. Understood. But when the detective asked
7 you the day afterwards, you were pretty clear that
8 he was 14 or 15 --

9 A. I was injured. You saw my picture.

10 Q. Excuse me. I wasn't asking you about your
11 injuries. I was asking you --

12 THE COURT: Hold on. Just answer the
13 question. Let's not go back and forth.

14 THE WITNESS: Okay.

15 THE COURT: All right. Go ahead.

16 BY MR. FEINMAN

17 Q. When the detective asked you, you were
18 pretty clear. You told him that he was 14 or 15
19 years old, correct?

20 A. Yes.

21 Q. Didn't it strike you odd that a 14 or 15
22 year old kid would have this \$600 phone that he was
23 going to sell for 80 bucks on the street in a gas
24 station parking lot? Didn't that strike you a
25 little odd?

1 A. I don't know. It's normal, I think. Gas
2 station sells stuff.

3 Q. Have you bought other phones in that same
4 normal fashion?

5 A. No, not at this gas station.

6 Q. And you just bought the phone. It didn't
7 have a charger, didn't have a box, didn't have a
8 receipt, it didn't have anything else.

9 A. It's didn't --

10 Q. Yes or no.

11 A. Yes.

12 Q. Okay. Now, you bought it a couple months
13 before --

14 A. Right.

15 Q. |-- couple months before you posted it on
16 Craig's List, right?

17 A. Yes.

18 Q. So you posted it in June on Craig's List.
19 So a couple months before, around April maybe?
20 Would that be about right when you bought it?

21 A. Yes.

22 Q. So you paid \$80 in April. And you checked
23 the phone, and you know it was working fine.
24 Everything was good about the phone, correct?

25 A. Yes.

1 Q. And you never bothered to use it. You put
2 it aside and you kept it for a few months and then
3 you decided you were going to sell it on Craig's
4 List, correct?

5 A. Yes.

6 Q. You posted it. You didn't get any
7 interest and then in July, low and behold, you're
8 getting ready because the month of listing was going
9 to expire and Gregory Spector contacts you, correct?

10 A. Yes.

11 Q. Now, you arrange to meet with him, and you
12 were looking to make a nice profit on the sale of
13 that phone?

14 A. Okay.

15 Q. Right?

16 A. Yes, yes.

17 Q. You meet up with him and his wife. You
18 said it was a female, and it's his wife we've
19 learned. You met up with the two of them, correct?

20 A. Yes.

21 Q. When you did that, were you alone or
22 someone else?

23 A. I was alone.

24 Q. When you drove up, you drove up in a Honda
25 Civic, correct?

- 1 A. Yes.
- 2 Q. What year is that?
- 3 A. Like 2003, '4.
- 4 Q. And it's got tinted windows, right?
- 5 A. Yes.
- 6 Q. Where did you meet with him?
- 7 A. On the corner next to place where I got
- 8 shot.
- 9 Q. Right near that same corner?
- 10 A. I believe so Canal Street or something.
- 11 Q. Right near the same corner?
- 12 A. Right there. Maybe like 10, 15 minutes
- 13 from there.
- 14 Q. I believe your testimony was when you
- 15 bought the phone from this 14 or 15 year old that
- 16 you bought it from him at the gas station near
- 17 George Washington High School. Is that the gas
- 18 station that's right around the corner there?
- 19 A. Yes.
- 20 Q. So you went to the gas station right
- 21 there? Do you hang out there sometimes?
- 22 A. I used to work there before.
- 23 Q. You used to work there?
- 24 A. Right.
- 25 Q. So you bought it from the kid there and

1 where you sold it, and you arranged to meet Gregory
2 about three blocks from there, right?

3 A. Yes.

4 Q. Go down a little bit on Verree and make
5 the turn?

6 A. Yes.

7 Q. And this was in the afternoon?

8 A. Correct.

9 Q. You met up, you had the transaction and he
10 gives you \$290 cash?

11 A. Correct.

12 Q. You give the phone, and both of you went
13 separate ways?

14 A. Yes.

15 Q. Later on, throughout the next few hours,
16 you're getting text messages or phone calls from
17 Gregory, correct?

18 A. Correct.

19 Q. The phone number that he was calling you
20 at, what was that phone number?

21 A. My phone number?

22 Q. He was calling on a phone, what was that
23 phone number?

24 A. Cell phone that I have now is the same
25 number.

1 Q. Same number?

2 A. Correct.

3 Q. But it's a different phone that you have
4 now, correct?

5 A. Correct.

6 Q. In fact, the phone that you had then had a
7 phone number -- it was a T-Mobile phone, wasn't it?

8 A. Correct.

9 Q. And it was a T-Mobile phone that was a
10 prepaid phone, right?

11 A. Correct.

12 Q. And it has no name on it, so there's no
13 way of tracking who purchased that phone, correct?

14 A. I don't know about that.

15 Q. You never gave anybody a name? You just
16 purchased the T-Mobile phone?

17 A. Everybody knows my name.

18 Q. Everybody knows your name?

19 A. Yes.

20 Q. I want to direct your attention to page 3
21 of that same statement, fifth question down. Let me
22 know when you get to that page -- I beg your pardon.
23 It's page 4. At the top it says page 4.

24 A. What does it say?

25 Q. It says page 4 at the very top right side.

1 Did you find the page?

2 A. I got it.

3 Q. Question Number 5. I'll read the
4 question. And this was Detective Corrigan asking
5 you the question.

6 What kind of phone did you use to
7 communicate with the son?

8 Could you read your answer there. Read it
9 exactly how it's written there?

10 A. Okay. T-Mobile black Galaxy. The cell
11 phone number --

12 Q. Read it back -- it says black Galaxy and
13 then it says another word after that.

14 A. Yeah. Black Galaxy T-Mobile. The cell
15 phone number is (267)475-3899 -- just the same as I
16 have still.

17 Q. Keep going.

18 A. The phone is prepaid phone. There's no
19 name on the account.

20 Q. There's no name on the account.

21 A. Right.

22 Q. So when you spoke to Detective Corrigan,
23 you let him know then that he had a phone number
24 with a prepaid phone, and there was no way of
25 tracking that account because there's no name on it,

1 right?

2 A. Yes.

3 Q. Okay. So even though Gregory had your
4 phone number, in reality, there was no way for him
5 to track you down, because there's no name on that
6 phone, right?

7 MS. HEARD: Your Honor, objection to
8 that.

9 MR. FEINMAN: It's proper
10 cross-examination.

11 THE COURT: What's the basis?

12 MS. HEARD: It's speculation.
13 There's no way for Gregory to track him down. How
14 does he know how Gregory can track down?

15 THE COURT: Well, the way to track
16 him down -- overruled.

17 BY MR. FEINMAN

18 Q. He couldn't track him down by that phone
19 number, could he?

20 A. What does that mean? Track down?

21 Q. He couldn't find you because your name
22 wasn't on the account; isn't that so?

23 A. My phone number is everywhere, like, my
24 Facebook account. My phone number -- 0I'm using it
25 three years already. So I never changed the SIM

1 card you know.

2 Q. Now, let me ask you this, he tells you the
3 phone is stolen?

4 A. Who?

5 Q. Gregory, during the contacts over the next
6 few hours. He's texting you, saying, hey, there's a
7 problem with the phone. It's stolen. Right?

8 A. Like, I remember --

9 Q. He told you it was stolen, didn't he?

10 A. Can I say?

11 THE COURT: Answer the question.

12 THE WITNESS: I don't remember this.

13 BY MR. FEINMAN

14 Q. You don't remember. Well, let's go back
15 to your statement again and see if that helps you
16 remember.

17 A. Okay.

18 Q. Look on the first page of your statement.
19 The first question says, Can you tell me what
20 happened to you on 7/21/13 that was led to you being
21 shot?

22 A. Okay.

23 Q. Could you read the answer, and I'll tell
24 you when to stop?

25 A. 7/21/13 about 3:00 p.m. I sold a Galaxy

1 white cell phone.

2 Q. Keep going.

3 A. I placed it on Craig's List, and this...

4 Q. This male. Looks like male. I know you
5 didn't write this. This was Detective Corrigan,
6 correct?

7 A. Yeah. This male responded to it -- it's
8 really hard to understand.

9 Q. At about 6:00 p.m.

10 A. At about 6:00 p.m., 7/21/13, the male
11 begin to text me and told me that the phone I sold
12 was stolen.

13 Q. Okay. Does that help refresh your memory
14 that he didn't tell you it was broken? He told you
15 that it was stolen?

16 A. I couldn't remember, but now I see.

17 Q. Okay. Now you remember --

18 A. Yeah, I --

19 Q. -- now, you remember when you talked to
20 Detective Corrigan, you told him the next day, you
21 know what? He called me and he was telling me this
22 phone was stolen?

23 A. Yes, like you said --

24 Q. Do you want that to be -- is that your
25 answer? It was stolen?

1 A. Whatever is in the paper.

2 MR. McGOVERN: Can I have one second.

3 (A discussion was held off the
4 record.)

5 MR. McGOVERN: Thank you, Your Honor.

6 BY MR. FEINMAN

7 Q. Based on Gregory reaching out and
8 contacting you, you arranged to meet with him and
9 return some of the money?

10 A. Yes.

11 Q. Now, you said you had \$200?

12 A. Yes.

13 Q. And you said you spent some of it in those
14 few hours?

15 A. Correct.

16 Q. Spent the \$90?

17 When you went to meet up with Gregory, as
18 I understand it, you first went and met your wife?

19 A. Yes.

20 Q. You drove and picked her up?

21 A. I don't really remember that.

22 Q. You said she was working and she worked
23 nearby?

24 A. She picked me up or we meet up somehow or
25 I came to her work. I don't remember. I didn't pay

1 attention to those kind of stuff, you know.

2 Q. Well, let me ask you about something maybe
3 you did pay attention. At some point you were with
4 your wife --

5 A. Okay.

6 Q. -- who's car where you in?

7 A. My car.

8 Q. And that's the Mercedes?

9 A. Yes.

10 Q. Did you drive it over to her place to pick
11 her up?

12 A. No. She was driving. Then she was using
13 the car. I had the black Honda Civic.

14 Q. So what did you do? Drive over in the
15 Civic to her place, leave it there and then take the
16 Mercedes?

17 A. After I get the money, \$290 dollars --

18 Q. I didn't ask you that. After you went
19 back to where your wife worked, did you drive over
20 there in the Civic?

21 A. I didn't remember if I went to her work or
22 to the house after --

23 Q. Well, you testified --

24 MS. HEARD: Your Honor, if he could
25 finish his statement? Counsel was interrupting.

1 MR. FEINMAN: My apologizes, Your
2 Honor.

3 THE COURT: Okay. Let him answer.
4 BY MR. FEINMAN

5 Q. You testified on direct by the
6 Commonwealth that you went to where your wife worked
7 and you picked her up. Do you want to change that?

8 A. I don't remember that.

9 Q. Okay. If you went there, did you drive
10 there?

11 A. It's just close to my house, so I don't
12 remember if I parked my car or maybe she picked me
13 up. I don't remember. It was one and a half year
14 ago. Come on.

15 Q. Then you drove over to get gas?

16 A. Probably.

17 Q. Not probably.

18 A. I don't really remember. Of course, I put
19 gas in my car.

20 Q. Well, you know, your wife testified you
21 came to her job and picked her up. Does that help
22 refresh your memory? Did you pick her up at work?

23 A. I was picking her up always, you know.
24 Sometimes -- I don't know.

25 Q. I'm not talking about "always." I'm

1 talking about on this occasion. Your wife came --

2 A. I don't remember.

3 Q. Let me finish.

4 -- your wife came into this courtroom
5 yesterday and told this jury that you came over and
6 picked her up at work --

7 A. I didn't hear what she said. I don't
8 know.

9 Q. I know you didn't hear. But did you pick
10 her up at work?

11 A. I don't know. I don't remember. What's
12 the problem?

13 Q. And then after leaving her job, were you
14 in the Mercedes or in the Honda?

15 A. When we was meeting up with them, it was
16 the Mercedes. I was driving.

17 Q. You were driving?

18 A. Yeah.

19 Q. Okay. Now, after you left where your wife
20 was working, did you stop and get gas at the Shell
21 Station?

22 A. What do you mean? Sneaky questions. Come
23 on, man.

24 THE COURT: Mr. Bolyaganov, please
25 stop.

1 MR. FEINMAN: Answer my questions.

2 THE COURT: Stop. Answer the
3 questions.

4 THE WITNESS: I don't remember.

5 THE COURT: Okay. You've been
6 through the preliminary hearing, so you've been
7 through the process where different lawyers will ask
8 questions.

9 MS. HEARD: And Your Honor, if I may,
10 he did not testify at the preliminary hearing. This
11 is his first time.

12 MR. McGOVERN: He wasn't called at
13 preliminary hearing.

14 THE COURT: He was not called.

15 MR. FEINMAN: No. This is his first
16 time.

17 THE COURT: Okay. I just made an
18 assumption. Well, at least you've been interviewed
19 by detectives. The way the process works is, you
20 let the lawyers ask the questions. You will get a
21 chance to answer. If you don't understand
22 something, you can say you don't understand, and we
23 will redirect -- you know, you can explain the
24 answers. But we'll be here all night if we keep
25 going back and forth. Just answer those questions

he is lost

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1 to the best of your ability. If you don't
2 understand something, say I don't understand.

3 THE WITNESS: Okay. Sorry.

4 THE COURT: We're not going to
5 spar -- this isn't a sparing session. Just answer
6 the questions.

7 THE WITNESS: Okay. Sorry.

8 MR. FEINMAN: Thank you, Your Honor.

9 BY MR. FEINMAN

10 Q. According to your wife, you stopped and
11 got gas at the Shell Gas Station at Bustleton and
12 Tomlinson. Do you remember that?

13 MS. HEARD: Your Honor, objection.
14 That was not the testimony from his wife.

15 MR. FEINMAN: I'll let the jury's
16 recollection -- if we want to go back...

17 THE COURT: Well, you can ask him if
18 he did.

19 BY MR. FEINMAN

20 Q. Do you remember going to the Shell Gas
21 Station?

22 A. Oh, my God. I've been there, of course.
23 Every day. I live there.

24 Q. But your wife testified that she --

25 A. I don't --

1 Q. -- you drove there to get gas. Do you
2 remember doing that?

3 A. No.

4 Q. But you were driving, right?

5 A. I remember doing it today. I see my
6 friends every day. I live there. Come on. I don't
7 remember.

8 THE COURT: Mr. Bolyaganov, please.

9 BY MR. FEINMAN

10 Q. Just listen to my question. It's much
11 easier to respond to the question I ask rather than
12 trying to tell a story. Just listen.

13 After getting gas, you drove over to the
14 place where you're going to meet Gregory, correct?

15 A. Maybe.

16 Q. Maybe? Where'd you go?

17 A. Can I say?

18 Q. Where did you go? Did you go meet
19 Gregory?

20 A. Yes, I did.

21 Q. Okay. And you drove over, correct?

22 A. Correct.

23 Q. And when you drove over, you were in the
24 black Mercedes, which was yours, but really in
25 Olena's father's name?

1 A. Yes. Because of the insurance. You
2 understand.

3 Q. It's cheaper for insurance. I understand.

4 Now, you drove down Bustleton and right
5 where Bustleton splits with Verree, you bear off to
6 the right and you started going down Verree Road,
7 correct?

8 A. One more time?

9 Q. You're going down Bustleton. You get to
10 where Verree Road is and bear off and start going
11 down Verree Road to go to where you're going to meet
12 with Gregory, correct?

13 A. No.

14 Q. You didn't go down Verree Road?

15 A. No. | |

16 Q. Okay. So now you get over to Kentwood --
17 Ferndale and Kentwood. And there's no one there and
18 you're waiting and you're wondering where Gregory
19 is, correct?

20 A. Correct. I was parked out there.

21 Q. And you parked and you waited and you
22 waited. And you and Olena are sitting there
23 waiting, wondering what's going on. And then
24 Gregory texts you -- or he called you and started
25 explaining or giving you some reasons, excuses why

1 he wasn't there at the time he was supposed to be
2 there, correct?

3 A. Yes.

4 Q. And that happened on multiple occasions,
5 right?

6 A. Yes.

7 Q. You're wondering -- it seemed a little
8 strange. You're wondering, where is he? You know,
9 what's going on, right?

10 A. Yes. Okay.

11 Q. And then you're getting ready to leave and
12 he pulls up?

13 A. Yes.

14 Q. And they pull up in this different car --

15 A. Correct.

16 Q. -- but they pull up. Pulled right up and
17 stopped the vehicle. And at that point, you get out
18 of your vehicle, and you get out of the driver side
19 of the Mercedes, correct?

20 A. Correct.

21 Q. And then you walk over, and you walk over
22 close to the door on the passenger side where
23 Gregory is, and he gets out?

24 A. Correct.

25 Q. And you didn't have to walk that far.

1 They were pretty close to the car?

2 A. Yes. Correct.

3 Q. Now, you're next to each other and you're
4 talking, correct?

5 A. Correct.

6 Q. And Gregory says, Hey, the phone was
7 stolen, and I want my money back?

8 A. No, not correct. I gave the money first.
9 He got the money --

10 Q. But he told you the phone was stolen,
11 didn't he?

12 A. Yes.

13 Q. Don't avoid my question. Did he tell you
14 the phone was stolen and he wanted his money back?

15 | A. He took his money back. That's what I
16 remember.

17 Q. He wanted his money back, correct?

18 A. He said there were some problems. I don't
19 remember exactly what problems he said about the
20 phone, but there was some problems. Maybe stolen,
21 maybe something. I never get a chance. I still
22 didn't get the phone back from that time.

23 MR. FEINMAN: Objection, Your Honor.
24 Move to strike. It's nonresponsive.

25 THE COURT: I think he's trying to

1 answer. I think he did answer. Go on.

2 BY MR. FEINMAN

3 Q. So you give \$200, and you wanted to get
4 the phone back, correct?

5 A. I want to see.

6 Q. But you wanted it back, yes?

7 A. I wanted to help him fix it or solve the
8 problem.

9 Q. That's very kind of you. You wanted the
10 back, didn't you?

11 A. If I gave the money back, like we decided
12 on the messages, I --

13 Q. Yes or no? You wanted the phone back?

14 MS. HEARD: Your Honor, if he could
15 answer the question --

16 MR. FEINMAN: It's nonresponsive.

17 THE COURT: Hold on. He's really not
18 answering the question. Answer the question. Yes
19 or no?

20 THE WITNESS: No.

21 BY MR. FEINMAN

22 Q. At that point, according to what Gregory
23 told you, you knew the phone was stolen?

24 A. How? I didn't.

25 Q. He told you it was stolen, right?

1 A. Like you said now, yeah. I remember.

2 Q. Okay.

3 A. I know what he said in the papers.

4 Q. And like you told us -- and now today,

5 yes. Okay.

6 A. Of course.

7 Q. Yeah. Now, after he wouldn't give you the

8 phone, he put it in the car. He put it back on the

9 seat of the car, yes?

10 A. No.

11 Q. He had it in his hand?

12 A. He had it in his hand and I believe so he

13 put it in his pocket or something.

14 Q. Okay. And at that point, you started

15 getting loud because you wanted the phone back?

16 A. No.

17 Q. Okay. And then --

18 A. It was like two seconds.

19 Q. I didn't ask you anything.

20 -- and then Lonnie Spector gets out of the

21 car from the driver side, correct?

22 A. Yes.

23 Q. And around that same time, your wife gets

24 out of the passenger side of the Mercedes, correct?

25 A. I didn't pay attention to that. Maybe.

1 Q. But at some point you knew --

2 A. Yes, yes, of course.

3 Q. Let me ask the question.

4 -- at some point you knew your wife was
5 standing outside of the vehicle, correct?

6 A. I didn't know at the point when we was
7 fighting.

8 Q. How about before you were fighting?

9 A. She was in the car.

10 Q. Before you were fighting, did you see your
11 wife standing outside the car?

12 A. I don't remember that.

13 Q. Before you were fighting, did you see your
14 wife get angry with Gregory because Gregory took his
15 own phone out and took a picture of your
16 father-in-law's license plate?

17 A. Yes, actually, I remember that. I was
18 already on the ground, no?

19 Q. No, I don't think so. That's not what
20 your wife said.

21 A. Okay. I remember he took pictures, right.

22 Q. Okay. So now, you remember Gregory taking
23 pictures?

24 A. Correct.

25 Q. And he was taking pictures of the license

1 plate?

2 A. Correct.

3 Q. And you remember at that point your wife
4 is out of the car? You remember that?

5 A. Yeah, maybe. Yeah. She was screaming,
6 correct.

7 Q. She was out of the car and she was
8 screaming, right?

9 A. Yeah.

10 Q. She was upset that he was taking pictures
11 of the license, wasn't she?

12 A. I don't know if she was upset but...

13 Q. She was screaming, right?

14 A. Yeah. Probably.

15 Q. Okay. And that got you upset, right?

16 A. No.

17 Q. Okay. And she was screaming because he
18 now had photographs of what the license was, which
19 is a way to track you down, isn't it?

20 A. No.

21 MS. HEARD: Your Honor, objection.

22 He doesn't know what she was screaming.

23 THE COURT: I'll sustain it to the
24 tracking down part. Go on.

25

1 BY MR. FEINMAN

2 Q. Now, at that point she was screaming and
3 you said Lonnie Spector came over towards you,
4 correct?

5 A. One more time?

6 Q. Olena is screaming --

7 A. Okay.

8 Q. -- and Lonnie Spector comes walking over
9 towards you now, correct? Yes or no?

10 A. Let me remember -- probably. Like you
11 said, he was coming next to me.

12 Q. It's not like I said. What do you say?
13 We need to know -- the jury needs to know what you
14 say happened that day? If you don't remember, you
15 don't remember. |

16 A. Can I explain? Because I don't really
17 remember a lot of stuff. You guys got to understand
18 I was shot. That's --

19 THE COURT: Mr. Bolyaganov.

20 BY MR. FEINMAN

21 Q. Yeah, you were shot. I understand. I
22 feel very badly for that.

23 A. Thank you so much.

24 Q. But we need to find out the reason why you
25 were shot.

1 Now, according to you, Lonnie swung at
2 you?

3 A. No. He did swing.

4 Q. You said he was trying to hit you?

5 A. His father, right?

6 Q. Yes.

7 A. Yeah.

8 Q. And he missed you?

9 A. Maybe I like...

10 Q. Did he hit you?

11 A. He missed because I moved.

12 Q. And with your mixed martial arts training,
13 you turned around and you punched him in the face,
14 didn't you?

15 A. I don't remember that.

16 Q. You don't remember. You punched him in
17 the face and knocked him down? Yes or no?

18 A. I don't remember.

19 Q. You don't remember.

20 A. I remember we was fighting, you know.

21 Q. Well, let's remember the details of the
22 fight, rather than just calling it a fight.

23 A. Okay.

24 Q. You swung, you punched him in the face and
25 you knocked him down, didn't you?

1 A. I don't remember that.

2 Q. Okay. Let me help you remember. Go to
3 page two of your statement.

4 A. Okay.

5 Q. Read -- right under where your name is,
6 read what is written down. It starts, I yelled.
7 Read that to the jury, please?

8 A. I yelled, back off of him. I told him to
9 show me the phone or --

10 Q. Give me. Give me my phone.

11 A. Give me. Sorry. It's hard to read.

12 The father...

13 Q. Tried.

14 A. Tried to punch me.

15 | Q. I moved... |

16 A. I moved -- I can't read this.

17 Q. Punched him...

18 A. Can you read this for me? I can't
19 understand.

20 Q. I moved and punched him. And then it has
21 in parenthesis, the father. Do you see that there?

22 A. The father fell down. Yeah, I see.

23 Q. The father fell down. Keep reading?

24 A. And I started to fight with his son.

25 Q. Okay. So does that help refresh your

1 memory? You punched the father, my client, Lonnie
2 Spector?

3 A. I still don't remember that. It's in the
4 papers, but I don't remember that.

5 Q. I understand you don't remember today, but
6 when the detective interviewed you --

7 A. I --

8 Q. Let me finish.

9 -- when the detective interviewed you and
10 asked you questions and you responded, you
11 remembered it then, correct?

12 A. Maybe but...

13 Q. Maybe. Okay.

14 A. I was on drugs in the hospital.

15 Q. You were on drugs. I understand you were
16 drugs. I understand that.

17 The detective wrote what you told him down
18 and then you gave the answer. And you said to him,
19 you punched the father and he fell down, correct?
20 Well, it says it here. Do you agree with that?

21 A. I just read it, right? That's true, like
22 you said.

23 Q. So it helps refresh your memory now?

24 A. I still don't remember, but it's in the
25 paper so...

1 Q. Okay. Now, at that point, you started to
2 fight, according to you, with Gregory?

3 A. Okay.

4 Q. Okay. You pushed Gregory. You just
5 pushed him with your arms? Your elbows? What did
6 you do? Did you push him?

7 A. I don't remember. Maybe push him. We was
8 fighting, you know.

9 Q. Did you push him with your shoulder like
10 this (indicating)?

11 Indicating a motion with your right
12 shoulder brushing him off? Rolling it?

13 A. I don't remember.

14 Q. But whatever you did, it was hard
15 enough --

16 A. Okay.

17 Q. -- to knock Gregory down? He fell down,
18 didn't he?

19 A. Oh, wow.

20 Q. Yeah. Oh, wow. He fell down, didn't he?

21 A. I don't remember that.

22 Q. Well, let's go back to your statement.

23 The next line down.

24 A. His father was fighting but --

25 THE COURT: Mr. Bolyaganov, let's not

1 do that.

2 THE WITNESS: Sorry.

3 BY MR. FEINMAN

4 Q. Let's go the next line down. That third
5 line on page 2. It starts off, I pushed the son
6 down. Do you see that there?

7 A. Hold on. One second. Second page, right?

8 Q. Second page. The third line. Over on the
9 far right it says, I pushed.

10 A. I don't see it. Hold on.

11 Q. Do you see it?

12 A. It's the same paper, right?

13 Q. Same paper. It says --

14 A. I see here on third line, did you ever see
15 who's holding the gun?

16 Q. No. Read at the top of the document. On
17 the right-hand side, it will say page 2.

18 A. Page two. Correct.

19 Q. Now, on page 2, third line on the right.
20 It says, I pushed. Do you see those words? I
21 pushed?

22 A. Oh, I see. I was looking a little further
23 up. Sorry.

24 Q. Okay. Read that to the jury.

25 A. I pushed the son and he fell down on the

1 ground. Probably, yeah.

2 Q. So does that help refresh your memory?

3 A. No.

4 Q. But you told Detective Corrigan that you
5 pushed the son, who is Gregory, and he fell down.

6 That's what you told him?

7 A. Well, yeah that's --

8 Q. That's not what you said earlier today?

9 A. -- what he wrote -- he wrote it down,
10 correct.

11 Q. Okay. Now, the father, Lonnie Spector,
12 was still on the ground. He was trying to get up,
13 wasn't he?

14 A. No. We was kind of wrestling or
15 something.

16 Q. He hit his head. You saw that, right?

17 A. No.

18 Q. Okay. Did you see him bleeding?

19 A. No.

20 Q. While he was on the ground, you said you
21 were fighting --

22 A. I didn't pay attention to those type of
23 stuff. I was busy, you know.

24 Q. You didn't pay attention.

25 A. My stomach was almost blown up. I didn't

1 see.

2 Q. This is before your stomach was blown up.
3 You didn't see Lonnie bleeding while he was on the
4 ground?

5 MS. HEARD: Your Honor, objection.
6 Asked and answered.

7 THE WITNESS: I didn't.

8 THE COURT: Overruled.

9 BY MR. FEINMAN

10 Q. While he's on the ground you start to kick
11 him, don't you?

12 A. No. How can I, like --

13 Q. No. You answered.

14 And you punched him more?

15 A. Okay. |

16 Q. And then you kicked him more, didn't you?

17 A. Continue. Okay. What else?

18 Q. Did you continue -- did you kick him more?

19 A. I didn't do it.

20 Q. You never kicked him, did you?

21 A. Come on.

22 Q. Yes or no? Did you ever kick him?

23 A. I don't remember what he did.

24 Q. All right. Well, let me help you with
25 your memory? Let's go back to your statement.

1 A. I know what they said right here.

2 Q. This is not what they say. This is what
3 you said?

4 A. I know, like, he wrote it down.

5 Q. Well, I want you to -- I want the jury to
6 hear what you said. Okay?

7 A. Okay.

8 MR. FEINMAN: And I ask for the
9 Court's indulgence.

10 THE COURT: Okay.

11 - - -

12 (Pause.)

13 - - -

14 BY MR. FEINMAN

15 Q. Page 2 -- there's a lot of information on
16 page 2, so let's go back to that page. Three
17 questions from the bottom of the page.

18 A. Uh-huh.

19 Q. It says, Did the son ever warn you to stop
20 hitting or kicking his father?

21 What's your answer?

22 A. I didn't -- not hear him say anything to
23 me.

24 Q. Now, let's go to the question before that
25 one. It's says, Did you kick the father while he

4-14-15

1 was on the ground.

2 What's your answer?

3 A. We were fighting, yes.

4 Q. Yes. So you did kick him. Does that help
5 refresh your memory?

6 A. I don't remember but, it's in the papers.
7 The papers say --

8 Q. The papers say, Yeah, I kicked them. So
9 you remembered the day after --

10 A. We were fighting, yes.

11 Q. You remembered saying --

12 A. We were fighting, yes.

13 Q. Excuse me. Let me finish my question.

14 -- the day after, when Detective Corrigan
15 was interviewing you and Olena, your wife, was
16 sitting there, you remember telling Detective
17 Corrigan that you kicked him?

18 A. I don't remember. I see the papers, but I
19 don't remember.

20 Q. Okay. As Lonnie is getting up, he's over
21 near the car and you're over the car, correct?

22 A. Yes.

23 Q. And it's at that point your back is to
24 Gregory?

25 A. Yes.

1 Q. Yes. And you're looking over to where
2 Lonnie is, as he's trying to get up, correct?

3 A. We was getting up at the same time, I
4 believe so.

5 Q. Understood.

6 A. We was holding each other.

7 Q. He was trying to get up, wasn't he?

8 MS. HEARD: And Your Honor, I
9 apologize. If he could finish answering the
10 question.

11 BY MR. FEINMAN

12 Q. He was trying to get up, wasn't he?

13 A. Yes.

14 Q. And as he was getting up, you were looking
15 and facing where he was, weren't you?

16 A. We looking at each other, correct.

17 Q. Okay. And as he's trying to stand up,
18 that's when you got shot, isn't it?

19 A. Yes, probably. We were getting up at the
20 same time.

21 Q. Okay. You never told Detective Corrigan
22 that you fell down, did you?

23 A. We was fighting. I don't really remember
24 if I fell down. We fell down.

25 Q. Could you do me this favor?

1 A. Sure.

2 Q. I want you to take your time and read
3 these four pages of the statement that you gave to
4 Detective Corrigan on July 22nd, the day after, and
5 point out to me where it is on this statement that
6 you told Detective Corrigan that you fell down on
7 the ground?

8 A. There is none.

9 Q. Thank you. There is none. I agree.

10 A. Of course, I didn't remember that.

11 MR. FEINMAN: May I have a moment,
12 Your Honor?

13 THE COURT: Yes.

14 - - -

15 (Pause.)

16 - - -

17 BY MR. FEINMAN

18 Q. Oh, by the way, when Olena was screaming
19 because Gregory was taking that picture of the
20 license, did she try to take you and leave?

21 A. I'm sorry?

22 Q. Did she try to take you by the arm to
23 leave?

24 A. I don't remember that.

25 Q. Okay. Now, after this incident and after

1 you got out of the hospital and you go into your
2 apartment, and as a result, this case is coming up
3 and you hired a lawyer and you filed a civil lawsuit
4 against Lonnie Spector --

5 A. My wife did.

6 Q. I beg your beg your pardon. Let me finish
7 my question.

8 -- you filed a lawsuit against Gregory
9 Spector, Lonnie Spector and a company
10 Mr. Contractor; is that correct?

11 A. Yes, correct.

12 MR. FEINMAN: Your Honor, may I have
13 this marked? I believe it would be D-2.

14 THE COURT: D-2.

15 COURT OFFICER: Counsel, D-2.

16 MS. HEARD: Thank you.

17 - - -

18 (Whereupon, a document was marked,
19 for identification purposes, Exhibit D-2.)

20 - - -

21 COURT OFFICER: Showing D-2 to the
22 witness.

23 BY MR. FEINMAN

24 Q. You would agree that you filed this
25 lawsuit, didn't you?

1 A. This was my wife, correct.

2 Q. With your wife?

3 A. Yes.

4 Q. Could you look over that document. It's
5 about 9 pages, 10 -- actually, it's a combined total
6 of 11 pages. Could you look it over and point out
7 to me where in the 11 pages your wife's name
8 appears?

9 A. I'm sorry. What's the question?

10 Q. You said you and your wife filed this.
11 It's 11 pages. Where in those 11 pages -- can you
12 point out to me where in those 11 pages does your
13 wife's name appears, because I haven't been able to
14 find it anywhere? Could you point it out to me?

15 A. I don't know.

16 Q. You don't know. Let me ask you something.
17 Go to the last page. The last page is a document --
18 right at the top it has a label to it. It says,
19 Verification. Do you see that?

20 A. Hold on.

21 Q. The very last page.

22 A. I got 10 pages.

23 Q. Yes. That's right. That last page there,
24 at the bottom says page number 10. Do you see that?

25 A. Yes.

1 Q. And at the very top of it, it says,
2 Verification. Do you see that?

3 A. Yes.

4 Q. There is a date on it. It says
5 10/10/2014.

6 A. Okay.

7 Q. Is that your handwriting?

8 A. Yes. .

9 Q. And then it says, Sardor Bolyaganov. And
10 there's a signature?

11 A. Yes. Correct.

12 Q. Is that your signature?

13 A. Yes.

14 Q. And it says there, Plaintiff, Sardor
15 Bolyaganov, hereby states that he is the plaintiff
16 in this action --

17 A. Yes.

18 Q. Read along with me.

19 A. Go ahead.

20 Q. Read along with me in case I miss a word
21 or two.

22 -- and verify that the statements made in
23 the foregoing complaint are true and correct to the
24 best of his knowledge, opinion, information, and
25 belief --

1 A. Correct.

2 Q. -- the undersign understands that the
3 statements herein are made subject to the penalties
4 of 18 Pennsylvania consolidated statute of Section
5 4904, relating to unsworn falsification to the
6 authorities.

7 A. Okay.

8 Q. You signed that?

9 A. Yes.

10 Q. And by signing that, you are acknowledging
11 that everything in this document is true and you're
12 swearing under oath that if it's false, you're
13 committing a criminal act. Do you know that?

14 A. Yes.

15 Q. And you signed that?

16 A. Yes. I understand, you know.

17 Q. So it wasn't your wife and you. It was
18 just you who filed this lawsuit?

19 A. At the time, we were married. She set up
20 everything. I didn't know English really well.

21 Q. Excuse me. Just answer my question.

22 A. Yes.

23 Q. Because your wife's name does appear
24 anywhere in this lawsuit? Only you?

25 A. Of course not. We're separated.

1 Q. And if you win this lawsuit, you win
2 money, don't you?

3 A. Of course, I'd win money. I can't eat. I
4 can't pay my apartment.

5 Q. All I ask you to do is answer my question.
6 Yes or no?

7 A. I want him to be in jail. I don't care
8 about no money.

9 Q. I didn't ask you a question, so please
10 wait.

11 Now, tell me something.

12 A. Okay.

13 Q. You state in here -- I'll withdraw that
14 question.

15 When you spoke to Gregory and you arranged
16 and purchased a phone from you, it was with Ashley
17 present, correct?

18 A. I'm sorry?

19 Q. When you met up with Gregory, Ashley was
20 present when you sold him the phone, correct?

21 MS. HEARD: And Your Honor, I
22 apologize. I don't know if he knows who Ashley is.

23 BY MR. FEINMAN

24 Q. Oh, I beg your pardon. When you met up
25 with Gregory, he was with a female, which was his

1 wife, and you sold them the phone, correct?

2 A. I didn't sell her.

3 Q. You sold it to him?

4 A. I see her inside.

5 Q. But you sold it to Gregory?

6 A. Yes.

7 Q. And only Greg?

8 A. I saw her in the car.

9 Q. All right. When Gregory was talking about
10 buying from you, he told you he wanted to buy it for
11 her as a gift, didn't it?

12 A. Yeah, I remember that.

13 Q. Yeah, you remember that?

14 A. Correct.

15 Q. And, in fact, he bought it for her as a
16 gift and she looked at it and said okay. They
17 bought from you and they paid you a little bit less
18 than the 300, correct?

19 A. Correct.

20 Q. And then later that night when you met up
21 again with Gregory, that's the very first time you
22 ever knew Lonnie Spector existed, correct?

23 A. Yes.

24 Q. You never knew anything about him before,
25 did you?

1 A. No.

2 Q. And in fact, you knew that the phone was
3 being purchased to be used by Gregory's wife,
4 personally, right?

5 A. I didn't know and I didn't care. He gave
6 me the money; I gave him the phone. No problem.

7 Q. I want you to look on page 4 of that D-2
8 document, that lawsuit, and I want you to look at
9 paragraph Number 5, These are allegations that you
10 say are true. You filed this lawsuit -- oh, by the
11 way, so the jury knows, when did you file this
12 lawsuit? Look on the front page. There's a date
13 there that says, Filed Pro Prothy. Do you see the
14 date? Right in the center near --

15 A. Uh-huh.

16 Q. -- what date is that?

17 A. It's 12/19/14.

18 Q. Yes. What's that date?

19 A. Friday.

20 Q. No. What's it say there.

21 A. December?

22 Q. D-E-C for December 19, 2014, right?

23 A. Friday, December 19, 2014.

24 Q. Correct. That's when it was filed, right?

25 A. Probably.

1 Q. So you -- not -- it says it there?

2 A. It says it there, so probably, yes.

3 Q. So a few months ago, you filed this
4 lawsuit in your name against -- the first name in
5 this lawsuit is Mr. Contractor, Inc. Do you see it
6 there? Look on the second page. It says Sardor
7 Bolyaganov versus Mr. Contractor, Inc. do you see
8 it?

9 A. Yes.

10 Q. And it says Mr. Contractor, Inc., 2634-48
11 Frankford Avenue?

12 A. I see it.

13 Q. What did Mr. Contractor have to do with
14 you getting shot?

15 A. I don't know.

16 Q. Okay. You don't know nothing?

17 A. My lawyer did it. I don't know nothing
18 about that.

19 Q. You don't know nothing? Agreed
20 Mr. Contractor wasn't involved in this in any way,
21 was it?

22 MS. HEARD: And Your Honor --

23 THE WITNESS: I don't know --

24 THE COURT: There's an objection.

25 MR. FEINMAN: What's the basis of the

1 objection?

2 MS. HEARD: -- Your Honor, I would --
3 clearly, unless Mr. Bolyaganov drafted these
4 documents, he wouldn't know why an attorney would go
5 towards a contractor. He doesn't know that.

6 THE WITNESS: I don't know those
7 questions.

8 MR. FEINMAN: Excuse me. There's no
9 question to you.

10 THE COURT: Mr. Bolyaganov...

11 MR. FEINMAN: And Your Honor, if I
12 may.

13 THE COURT: Hold on. Hold on. He
14 signed the verification.

15 MR. FEINMAN: That's right.

16 MS. HEARD: He did, absolutely.

17 MR. FEINMAN: So he's verifying that
18 these facts are true under penalty of perjury.

19 THE WITNESS: Correct.

20 BY MR. FEINMAN

21 Q. Do you understand that?

22 A. Yes, yes. I understand.

23 Q. If you lied in this lawsuit, you could be
24 charged by the same office of the District Attorney
25 for lying. Do you understand that?

1 A. Understand.

2 Q. And yet, you said that Mr.
3 involved in this shooting. You would agree
4 they weren't involved, were they?

5 A. Where does it say?

6 Q. Number 5. You said that they were
7 employees of Mr. Contractor. Doesn't that say that?

8 A. Are they employees?

9 Q. Excuse me.

10 A. Aren't they employees over there?

11 Q. Excuse me. Doesn't Number 5 -- I'm going
12 to read it to the jury. I want you to watch to make
13 sure that I don't read it wrong.

14 A. Okay.

15 Q. At all times relevant hereto, the
16 defendants, Gregory Spector and Lonnie Spector, were
17 employees of Defendant Mr. Contractor, Inc.?

18 A. Probably they was --

19 Q. On that Sunday night, do you have any
20 evidence on that Sunday night that they were
21 employees?

22 A. I don't remember that.

23 Q. Okay. Number 6. You said that they were
24 acting in the course and scope of employment with
25 and furthering the business interest of Defendant

1 Contractor, Inc. Do you have anything at all to
2 suggest that they --

3 A. Well, once --

4 Q. Let me finish.

5 THE COURT: Let him finish his
6 question.

7 THE WITNESS: Sorry.

8 BY MR. FEINMAN

9 Q. Do you have anything at all to suggest
10 that Lonnie or Gregory were doing anything at all
11 that night on behalf of the company, Mr. Contractor,
12 Inc.?

13 A. Probably trying to --

14 Q. Not probably. Yes or --

15 A. I don't know.

16 Q. Excuse me.

17 -- yes or no?

18 MS. HEARD: And Your Honor, asked and
19 answered. He said he didn't know.

20 BY MR. FEINMAN

21 Q. You said you don't know?

22 A. I don't know.

23 Q. Then, if you don't know, then why did you
24 sign the verification saying that this is what
25 happened?

1 A. Because probably they was tr
2 for work for something. I don't know

3 Q. I'm not asking you to specu
4 asking you what you know. And that is, Do you
5 know --

6 A. Probably they was working the same time --

7 MR. FEINMAN: -- excuse me.

8 THE WITNESS: -- and probably
9 couldn't use the phone -- the phone for work --

10 THE COURT: Hold on. Let him ask the
11 question.

12 BY MR. FEINMAN

13 Q. Do you know if they were working that
14 night?

15 A. I didn't never know them before.

16 Q. Did you ever learn they were working that
17 night?

18 A. No.

19 Q. Okay.

20 A. They work tomorrow or they work --

21 THE COURT: Mr. Bolyaganov, there's
22 no question pending to you now.

23 BY MR. FEINMAN

24 Q. And you would agree that during this
25 entire time, you had absolutely no dealings with Mr.

1 Contractor, Inc.?

2 A. His --

3 Q. The business?

4 A. No.

5 MR. FEINMAN: Thank you. No further
6 questions.

7 THE COURT: All right. Mr. McGovern?

8 MR. MCGOVERN: Thank you, Your Honor.

9 BY MR. MCGOVERN

10 Q. Good afternoon, sir.

11 A. Good afternoon.

12 Q. My name is Mike McGovern. I represent
13 Gregory Spector.

14 A. Okay.

15 Q. The Judge had mentioned earlier that she
16 believed this is your second time testifying, but
17 the fact of the matter is, you weren't called by the
18 District Attorney's Office to testify at the
19 preliminary hearing in October of 2013, were you?

20 A. (No response.)

21 Q. You weren't called to take the witness
22 stand, as you are today, to tell your version of the
23 story, correct?

24 A. No. First time.

25 Q. So this is the first time?

1 A. Correct.

2 Q. So this is the first time you and I spoken
3 with each other?

4 A. Yes.

5 Q. And this incident occurred 20 months ago?

6 A. Maybe, yes. Correct.

7 Q. And you were there at that preliminary
8 hearing, right? You were there with your wife --
9 your then-wife?

10 A. Yes, yes, yes, I remember.

11 Q. So Olena Sirko was there and you were
12 there?

13 A. Yes, but they don't let me go --

14 THE COURT: Just answer the question.

15 BY MR. MCGOVERN

16 Q. So you were both there? You're subpoenaed
17 to be witnesses to testify, right?

18 A. Yes.

19 Q. But for some reason, the District Attorney
20 didn't call you to testify, did they?

21 A. I don't remember that.

22 Q. Well, you didn't come into the courtroom
23 and swear under oath to tell the truth, to give the
24 version back in October of 2013 of what you claimed
25 happened, right?

1 A. I didn't went inside the courtroom. I was
2 in the building, because that's my case. But I
3 don't remember the courtroom. But I was there, of
4 course.

5 Q. That's what I mean. You did not testify?
6 Only your wife testified?

7 A. Only my wife, right. Sorry. I didn't
8 understand the question.

9 Q. I understand, sir, that this is an
10 unfamiliar setting today to be here, I guess, in
11 front of this jury; however, if you could just
12 please wait until my question is finished and then
13 when you answer, I'm going to try to wait until
14 you're done answering my question. And then I'll
15 ask another one. Okay? Because we can't talk at
16 the same time. Okay?

17 A. Okay.

18 Q. And the other thing I'm going to ask is,
19 to listen to the question I'm asking you. And
20 answer the question that I'm asking you and -- do
21 you want to take a break now?

22 THE COURT: Are you all right,
23 Mr. Bolyaganov?

24 THE WITNESS: Yes. Just some
25 spasms -- can I take one-minute break?

1 THE COURT: Okay. Let's take a brief
2 comfort break.

3 COURT OFFICER: Kindly remain seated
4 as the jurors exits the courtroom.

5 (Jury exits the courtroom at 3:20
6 p.m.)

7 (Defendants are present together next
8 to counsel.)

9 (Jury enters the courtroom at 3:26
10 p.m.)

11 COURT OFFICER: All 14 jurors are
12 present in the courtroom.

13 THE COURT: You can proceed.

14 MR. McGOVERN: Thank you very much.

15 BY MR. McGOVERN

16 Q. When you came from Uzbekistan, it was
17 May -- I think you said 23rd? May 23, 2010?

18 A. Uh-huh.

19 Q. And you came on a student visa; is that
20 right?

21 A. Correct.

22 Q. And what did you understand a student visa
23 to be?

24 A. It's a J-1 visa, a work and travel visa
25 so, basically, people from foreign countries coming

1 to America, they can work and travel at the same
2 time.

3 Q. Okay. And student visa -- I believe the
4 Commonwealth in the opening said that you intended
5 to pursue further education when you came here?

6 A. No, it's not about education. It's about
7 work and travel.

8 Q. Okay.

9 A. Only for summertime, you know. Work and
10 travel.

11 Q. Okay. That was May of 2010?

12 A. Correct.

13 Q. And does that visa have an expiration
14 time?

15 A. Expiration time? Yes.

16 Q. What was the expiration time?

17 A. I don't remember. They give me visa for
18 five or four months.

19 Q. Okay. And how was it extended?

20 A. It was extended -- I was trying to apply
21 to go to school. And trying to transfer from my
22 school to the American school, but it never worked
23 out.

24 Q. All right. So you were going to extend
25 that by enrolling in school here?

1 A. Yes.

2 Q. And since May 23rd of 2010, you have never
3 enrolled in any school here, correct?

4 A. No. They didn't --

5 Q. Just answer the question. You've never
6 enrolled in any school in America since you've been
7 here, correct?

8 A. I did Community College.

9 Q. Oh, you did? I thought you had answered
10 earlier that you had never enrolled in school?

11 A. Not enrolled. I was trying to apply or I
12 was starting to studying. I was trying. I never
13 get a chance to study in America, but I was trying
14 to.

15 Q. Okay. I understand. So you were -- you
16 were trying to enroll, but, I guess, your old
17 school --

18 A. My student visa --

19 Q. Hold on one second. I'm just going to try
20 to make a claim.

21 -- did you ever go to school here?

22 A. No, I didn't study.

23 Q. So you never went to school here? Can you
24 agree on that?

25 A. Yes.

1 Q. And you have remained here on that student
2 visa since 2010?

3 A. On the papers here?

4 Q. Have you remained here on that student
5 visa since 2010?

6 A. Sorry. I don't understand the question.
7 Can you explain?

8 THE COURT: Have you been on the
9 student visa -- you said --

10 BY MR. MCGOVERN

11 Q. Have you stay here in America on that
12 student visa since 2010.

13 A. Yes, yes.

14 Q. Now, I know you said several times during
15 your direct examination from the Commonwealth and
16 then from Mr. Feinman's questioning -- you said it's
17 hard to remember hundred percent, because this was
18 20 months ago, correct?

19 A. Yes.

20 Q. And at one point, I believe, you were
21 asked earlier on direct examination from the
22 Commonwealth whether or not Gregory Spector, my
23 client, told you that it was stolen, and you said, I
24 don't remember if he said stolen or if it was just
25 locked? That's what you said today?

1 A. Correct, yes.

2 Q. I don't want to belabor the point;
3 however, you do agree -- and if you could look at
4 C-35 -- that in the statement Detective Corrigan
5 took from you -- and I'm referring to the very first
6 answer, and I'm referring to the third and fourth
7 line, it says, At about 6:00 p.m. on 7/23/13, the
8 male began to text me and told me that the phone I
9 sold him was stolen.

10 Do you see that?

11 A. Is it the first page, right?

12 Q. Very first page of C-35, the interview of
13 July 22, '13 at 1:05 p.m. that says that when
14 Detective Corrigan asked you the very first
15 question, Can you tell me what happened to you on
16 7/21/13, which led you being shot, among other
17 things? Third and fourth line says, About 6:00 p.m.
18 on 7/23/13, the male began to text me and told me
19 that the phone I sold him was not locked, but
20 stolen.

21 Do you see that?

22 A. One second.

23 (Reviewing.)

24 From the beginning of third line? Or from
25 the end?

1 Q. I'm sorry. I'm not trying to confuse you.

2 A. It's just hard to understand the --

3 Q. Okay. I'll try to do it again.

4 A. Yeah.

5 Q. Do you see C-35?

6 A. This paper, right?

7 Q. Do you see the first question? I'm
8 pointing. Do you see the first question? It says,
9 Q?

10 A. Yeah, yeah, yeah. Correct.

11 Q. Do you see underneath it there's an A? Do
12 you see that A?

13 A. The first A, yes.

14 Q. Do you see one line, two line, the third
15 line -- do you see the third line? It begins, At
16 about 6:00 p.m.?

17 A. Yes, yes. I see that now. Thanks.

18 Q. Okay. Do you agree with me that it says
19 -- are you with me?

20 A. Yeah. I'm reading.

21 Q. At about 6:00 p.m. on 7/21/13, the male
22 began to text me and told me that the phone --

23 A. Yes. I see it.

24 Q. -- I sold him was --

25 A. Correct. I see it.

1 Q. Excuse me. Let me finish my question.

2 A. I'm sorry. I'm sorry.

3 Q. That's okay. It's important.

4 -- he told you, not that it was locked, he
5 told you that it was stolen, correct?

6 A. Okay. Yes.

7 Q. Okay. So there's no doubt in your mind
8 that you heard him tell you that this phone is
9 stolen, right?

10 A. Of course, it's in my mind. Like,
11 everything.

12 Q. Do you see this first page. There's one
13 question, Can you tell me what happened to you on
14 7/21/13 which lead you to being shot. Now, you were
15 in the room, Detective Corrigan was in the room, and
16 your wife, at the time, Olena Sirko was in the room,
17 correct?

18 A. Correct.

19 Q. And he asked that first question and then
20 there appears to be an answer that goes -- follow
21 along with me -- it goes the entire first page, the
22 answer. And if you flip over to the second page, it
23 goes over -- the answer continues to almost a third
24 of the second page, correct?

25 A. Correct.

1 Q. And that's the first question, and you
2 gave a page-and-almost-a-half-answer, right?

3 A. Yes.

4 Q. And going back to the first page --

5 MR. McGOVERN: May I approach the
6 witness, just to point?

7 THE COURT: Yes.

8 MR. McGOVERN: Forgive me, sir. I
9 just want to point just to speed it up. I'm going
10 to ask you right here where it says, I waited. It's
11 on the first page.

12 THE WITNESS: Okay. Good.

13 MR. McGOVERN: Thank you.

14 BY MR. McGOVERN

15 Q. And included in that first
16 page-and-a-half-answer -- was where I pointed -- you
17 see where you told Detective Corrigan, I waited
18 there for about an hour for the male to show up. My
19 wife, Olena was with me. The male kept giving me
20 excuses as to why he was late, saying his car was
21 out of the gas and things like that.

22 Do you see that?

23 A. Yes.

24 Q. And that's what you told Detective
25 Corrigan, correct?

1 A. Correct.

2 Q. And including in the excuses, he also told
3 you that his car stalled and needed to be jumped,
4 correct?

5 A. Yes.

6 Q. And he told you three or four different
7 things like, his tires were low --

8 A. No, nothing about tires.

9 Q. -- okay. It was out of gas --

10 A. And the jump start. That's it.

11 Q. -- jump start.

12 A. Correct.

13 Q. And you're sitting there for about an hour
14 and you can't figure out why he's not coming right
15 to you, correct?

16 A. Correct.

17 Q. Now, going to the second page, if you
18 don't mind flipping over to the second page.

19 A. Sure.

20 Q. And I think Mr. Feinman covered a lot of
21 this. I'm just going to try to condense it.

22 Do you see where it begins where it's
23 says, The father?

24 A. Uh-huh.

25 Q. It says, The father tried to punch me and

1 I moved and punched him, the father.

2 Do you see that?

3 A. Yes, I see that.

4 Q. And then you told Detective Corrigan after
5 that, The father fell down and then I started to
6 fight with his son. I pushed the son and he fell on
7 the ground.

8 Do you see that?

9 A. Yes.

10 Q. And then it says, The father and I were
11 next to his car, the Chrysler 300. The father stood
12 up, and I heard two loud bangs.

13 That's what you said, correct?

14 A. Yes.

15 Q. Now, you never told Detective Corrigan,
16 did you, that at one point, there was this moment
17 where my client, Gregory Spector, took his cell
18 phone and began to take pictures of the
19 Mercedes-Benz and its license plate?

20 A. Yes.

21 Q. You never told the detective about that,
22 correct?

23 A. Correct. Yes.

24 Q. On July 21st of '13, you first got this
25 call or text -- you tell me which -- from the person

1 who turned out to be Gregory Spector, expressing an
2 interest in responding to your Craig's List sale at
3 a requested \$300 for that Samsung Galaxy phone,
4 correct?

5 A. Correct.

6 Q. And you agree with me that around 4:00 or
7 5 o'clock you went to the location where you met
8 with Gregory Spector, and he was there with a woman,
9 who -- we're telling you now -- is his wife, right?

10 A. Yes.

11 Q. And as you said earlier, Gregory
12 Spector -- whether you knew his name or not -- told
13 you that he was buying it for his wife, correct?

14 A. Yes. Like you guys say, I don't remember
15 him telling me that, but I didn't remember until
16 now.

17 Q. Okay. Good enough. But you see his wife
18 there and he's there. Now, let me ask you this,
19 that was around Ferndale and Kentwood, correct?

20 A. Yes.

21 Q. And how far was your home at 741 Gorman
22 Street from that location?

23 A. There's a stop sign. One stop sign away
24 from there on the corner.

25 Q. Okay. And do you remember giving

1 Mr. Spector an address to go to 735 Kentwood?

2 A. Yes.

3 Q. Okay. And --

4 A. That was the place where I was at.

5 Q. Okay. And would you agree with me that

6 735 Kentwood, the location you told him to go to, is
7 an apartment complex?

8 A. Apartments, correct.

9 Q. And that apartment building is not where
10 you lived, correct?

11 A. Yes, correct.

12 Q. And you could have, if you wished, told
13 him to come directly to the Sirko home where you
14 lived with Olena and her father -- it's Vladimyr,
15 correct?

16 A. Correct.

17 Q. And what was your mother-in-law's name?

18 A. That Natalia.

19 Q. Natalia. So you could have said, if this
20 were on a normal level purchase, just come on over
21 to 741 Gorman where I live, right?

22 MS. HEARD: Your Honor, I'm going to
23 object to the form.

24 MR. MCGOVERN: I'll withdraw the
25 question. That was not fair. Sorry.

1 BY MR. McGOVERN

2 Q. If you wanted to, you could have said just
3 come to 741 Gorman, and we'll exchange the money for
4 the phone if you like it, correct?

5 A. Correct.

6 Q. But you didn't do that?

7 A. No.

8 Q. And you also said that you had a phone
9 number which was or is (267)475-3899, correct?

10 A. Correct.

11 Q. And I'm going to direct your attention to
12 page 4 of that first interview on the day after.

13 MR. McGOVERN: May I approach very
14 briefly again, Your Honor? That seem to work better
15 last time.

16 THE COURT: Yes.

17 MR. McGOVERN: I'm going to direct
18 your attention right to that question. Thank you.

19 BY MR. McGOVERN

20 Q. So one of the questions on page 4 that
21 Detective Corrigan asked you was, What kind of phone
22 did you use to communicate with the son?

23 And you see your answer right there,
24 correct?

25 A. Yes.

1 Q. And let me know if I get this correctly,
2 it says the answer is, T-Mobile black Galaxy --

3 A. Blaze.

4 Q. -- Blaze. And then it goes on. The cell
5 phone number is (267)475-3899 -- 3899?

6 A. Yes.

7 Q. And then it says this, The phone is a
8 prepaid phone. There is no name on the account.

9 Is that correct?

10 A. Yes, correct.

11 Q. Okay. Now -- so going back to the
12 transaction. You say that when you finally do meet
13 at 4:00 or so with Gregory Spector and the woman who
14 turns out to be Ashley Spector, his wife, they were
15 in what kind of car?

16 A. Blue Subaru, I believe so.

17 Q. And that's your best recollection?

18 A. Was it like an SUV?

19 A. Kind of. I believe so.

20 Q. And you were driving a 2003 Black Honda
21 Civic with dark tinted windows, correct?

22 A. Correct.

23 Q. That was not the car you were in later
24 that night?

25 A. No. It was another one.

1 Q. Okay. And the car that Gregory Spector
2 was in with his father, Lonnie Spector, later that
3 night was a Chrysler 300, which wasn't the car that
4 Gregory and Ashley had been in when you first saw
5 them, correct?

6 A. Correct.

7 Q. Okay. So you're making this transaction,
8 not in your home, but on a street corner, correct?

9 A. Correct.

10 Q. So you're on this street corner -- and I
11 know this isn't the phone. My phone's black. It
12 was a white phone -- but have the phone and you show
13 it to Mr. Gregory Spector, correct?

14 A. Correct.

15 Q. And you tell him this is the phone you
16 wanted 300 for it, correct?

17 A. Correct.

18 Q. And he tells you that he's buying it for
19 his wife and wants to show his wife, right?

20 A. I didn't remember but, correct.

21 Q. Okay. And there were a couple little
22 cracks, as we seen it. And you mentioned earlier --
23 when bought -- when you came in possession of it,
24 you said there were some cracks in it, correct?

25 A. Correct.

1 Q. So Mr. Spector, Gregory Spector, took the
2 car (sic) back to his wife and there were some
3 words. You didn't stand right next to him, correct?

4 A. No.

5 Q. Okay. He came back to you and tried to
6 get you to come down like 250 bucks, right?

7 A. Probably.

8 Q. Okay. And you came down 10 bucks and you
9 said, I'll take 290, and the deal was done, right?

10 A. Excuse me. Can I ask you to repeat that,
11 please?

12 Q. Sure. If I say something that's confusing
13 or too fast, just stop me and I'll slow down.

14 A. Okay. If I understand, when I was still
15 selling the phone, he went to talk to his wife,
16 right?

17 Q. Right.

18 A. Are you talking about that?

19 Q. Yes.

20 A. That was next to the car, yeah.

21 Q. Okay. And he says he wants it for 250.
22 You say, I'll sell it to you for 290, and that was
23 agreed on, correct?

24 A. Correct.

25 Q. Okay. Do you recall at that point or

1 shortly thereafter -- right around then that he
2 counted \$290 and then took it back to his wife for
3 her to recount it?

4 A. I don't remember that.

5 Q. Okay. You're not saying it didn't
6 happen -- let me ask you this -- well, I'll let that
7 go. It's not that important.

8 In any event, you wound up getting \$290
9 and most of it was in 20s and then one 10? Do you
10 remember that?

11 A. Probably. It was 20s, I remember.

12 Q. Okay. So this was around 4 o'clock in the
13 afternoon. Now, when you were asked by Detective
14 Corrigan, and I'm going to go back to the bottom of
15 page 2. The very bottom of page 2. The very last
16 question. And then we're going to go over to page 3
17 for a couple questions and answers. Okay? Are you
18 with me?

19 A. Yeah, yeah.

20 Q. At the very bottom of page 2 where it
21 says, Where did you get the cell phone? Do you see
22 that?

23 A. Yes.

24 Q. And your answer to Detective Corrigan, as
25 it reads here and correct me if I'm wrong, it says,

1 I bought the phone from an unknown male at Bustleton
2 and Verree months ago. I paid him \$80 for the
3 phone. He was 14, 15 years old.

4 Do you see that?

5 A. Yes.

6 Q. And that's what you told Detective
7 Corrigan?

8 A. Yes.

9 Q. Because he was writing down what you were
10 saying, correct?

11 A. Yes, that's correct.

12 Q. Okay. Next page. The next question is,
13 Did the male tell you where he got to phone from?

14 And your answer was, No.

15 A. Yes.

16 Q. And the next question was, Did you find it
17 odd that the male sold you that phone for \$80, this
18 600 phone?

19 Did you see that question?

20 A. Yes.

21 Q. Okay. And your answer was -- if I state
22 this wrong, let me know -- He initially wanted \$200.
23 I was able to talk him into paying \$80 for it
24 because it was scratched.

25 Is that your answer?

1 A. (Witness gestures.)

2 Q. And then the next question was, do you
3 have any way of contacting the male who sold you the
4 phone?

5 Of course, he's referring to this 14, 15
6 year old kid.

7 A. Yes.

8 Q. And your answer was, I may have his number
9 in my phone. I see him sometimes at the gas station
10 at Bustleton and Verree?

11 A. Yes. Can I explain?

12 Q. That was your answer?

13 A. Yes.

14 Q. Okay. Do you have that alleged person's
15 phone number in your phone?

16 A. Not anymore. It was long time ago.

17 Q. Well, you were interviewed on July 22nd.
18 You have no reason to purge or erase that number on
19 July 23rd, correct?

20 A. Correct.

21 Q. So when did you give the phone number to
22 the DA's Office -- the detectives?

23 A. I mean...

24 Q. Well, let me withdraw that question.

25 Did you ever give that phone number to the

1 DA's Office?

2 A. He didn't ask me.

3 Q. I'm sorry. My question is he --

4 A. You're asking me questions and I'm
5 answering them.

6 THE COURT: Don't talk at the same
7 time.

8 MR. McGOVERN: I'm sorry. That's my
9 fault.

10 BY MR. McGOVERN

11 Q. My question is, Did he ask you -- "he" is
12 obviously the detective.

13 A. Exactly.

14 Q. He says, Is there a way I can confirm what
15 you're telling me?

16 A. Yes.

17 Q. And you say, I might have his phone
18 number, but now you're saying you don't have it
19 anymore?

20 A. Of course, I don't. It was a long time
21 ago. I changed to maybe, like, a few phones
22 already. Every few months I get new phone, you
23 know, so...

24 Q. But he was looking to find the guy who
25 stole the phone?

1 A. Who was looking?

2 Q. The detective?

3 A. Okay.

4 Q. Why didn't you give him the phone number?

5 MS. HEARD: And Your Honor,
6 objection.

7 THE WITNESS: He didn't ask me.
8 There's no question about it --

9 THE COURT: There's an objection.

10 MS. HEARD: I'll withdraw the
11 objection. Never mind. He can answer it.

12 BY MR. McGOVERN

13 Q. Well, if you wanted to help the detective,
14 could you say, I'll get this number and give it to
15 you right now?

16 A. Can you show my pictures how I was in the
17 hospital?

18 Q. No, I understand that, but --

19 A. I was -- my hands were --

20 Q. I apologize. I'm not trying to diminish
21 the severity of your injury. I respect that and I
22 understand that. What I'm asking is, why didn't you
23 give that phone number to the detectives if you
24 claim there was a 14-year-old boy who sold you a
25 stolen phone?

1 A. What was that? Fourteen or fifteen years
2 old boy sold the phone?

3 Q. Why didn't you give that number to the
4 detective at some point?

5 A. He didn't ask probably.

6 Q. Okay. Now, I'm going to ask a couple
7 other questions.

8 A. Is that a question, Counsel?

9 THE COURT: Mr. Bolyaganov.

10 BY MR. McGOVERN

11 Q. This is the question. Do you remember
12 page two being asked this question, Did you see --

13 MR. McGOVERN: May I approach, Your
14 Honor?

15 THE COURT: Yes.

16 MR. McGOVERN: Page 2. This is a
17 series of single questions. Got that?

18 THE WITNESS: Yes.

19 BY MR. McGOVERN

20 Q. Okay. Do you see the series of,
21 basically, single-lined Q's, questions and
22 single-lined answers. There's about four or five in
23 a row.

24 Do you see that?

25 A. Yes.

1 Q. Okay. now, this is July 22, 2013 about
2 1 o'clock in the afternoon. It's you, Olena Sirko,
3 and Detective Corrigan, right?

4 A. Yes.

5 Q. Do you remember him asking you this
6 question -- and I will point out this is the first
7 question after the one and a half page initial
8 answer that you gave him. Okay.

9 So the first question he asked you after
10 that long answer that you first gave is, Did you see
11 who shot you.

12 Now, I know you pointed out many times. I
13 respect and understand that you were shot. This is
14 the first time the detective asked you that, and he
15 says, Did you see who shot you. And is your
16 answer --

17 A. No.

18 Q. -- look at your answer.

19 A. No.

20 Q. Is your answer, No. I was looking at the
21 father?

22 A. Correct.

23 Q. And that was your answer then?

24 A. Yes.

25 Q. And then the next question is, Did you

1 ever see the son holding a gun, and your answer
2 was...?

3 A. No.

4 Q. Okay. Then the next question was, Did you
5 kick the father while he was on the ground.

6 Answer -- could you look at your interview? Was
7 your answer, We were fighting, yes?

8 A. Yes, yes.

9 Q. Did you kick the father while he was on
10 the ground? We were fighting, yes. Correct?

11 A. Yes, correct.

12 Q. The next question is, Did the son ever
13 warn you to stop hitting or kicking his father. And
14 your answer was, I did not hear him say anything to
15 me; is that correct?

16 A. Yes.

17 Q. So when the detective asked you if you
18 heard him warning you, your answer, at that time,
19 was, I did not hear him say "anything" to me,
20 correct?

21 A. Yes.

22 Q. And then the next question was, Did the
23 son try and pull you off of his father, and you
24 remember answering no?

25 A. Yes. No.

1 Q. In fact, that when you had his father on
2 the ground, he tried to pull you off of his father
3 who you had punched and knocked to the ground and
4 had kicked in the head and in the body and that you
5 shrugged him off and you broke his nose; isn't that
6 true?

7 A. Are you serious?

8 Q. I couldn't be more serious, sir.

9 A. No.

10 Q. If your wife had testified that that's
11 exactly what you did, would she be telling the truth
12 or would you be telling the truth?

13 A. Can you repeat that?

14 MS. HEARD: And Your Honor, I would
15 object to that. That was not exactly the wife's
16 testimony yesterday.

17 MR. McGOVERN: I'll withdraw. It's
18 the jury's recollection that controls. And if I
19 misstated, I didn't mean to.

20 BY MR. McGOVERN

21 Q. Mr. Bolyaganov, where did you really get
22 the cell phone?

23 A. I bought it.

24 Q. Now, you gave this interview on -- I'm
25 sorry. You gave this interview -- that we've been

1 going over -- to Detective Corrigan on January 22,
2 2013, almost 20 months ago. And you've been saying
3 that, you know, I understand you've been saying to
4 the jury and the Court that your memory is not that
5 good. It's not a hundred percent because it was so
6 long ago, right?

7 A. Correct.

8 Q. And yet you were interviewed on April 1st
9 of 2015, 14 days ago, were you not? By the DA
10 detectives?

11 A. Yes, I was.

12 Q. And this was the first statement and
13 interview that you've given --

14 MR. McGOVERN: I'm referring to C-51,
15 Your Honor. |

16 BY MR. McGOVERN

17 Q. This is the first interview you've given
18 since July 22, 2013, correct?

19 A. Yes.

20 Q. And that was on, significantly, April 1,
21 2015. That's when you gave the interview, right?

22 A. Yes.

23 Q. And you recall the questions here, the
24 questions I just asked you a minute or two ago,
25 about you didn't see who shot you, you didn't see

1 son holding a gun, and I did not hear the son say
2 anything to me. That's what you say July 22nd,
3 right?

4 A. Yes.

5 Q. And you weren't called in October of 2013
6 to testify under oath as you're doing today,
7 correct?

8 A. One more time?

9 Q. The preliminary hearing when your wife was
10 called and you weren't, you never testified under
11 oath that day?

12 A. Nope.

13 Q. So this is the first day that you're
14 testifying under oath, and this April 1, 2015, 20
15 months after the incident, is the second and only
16 interview that you've give to the DA Office and the
17 police?

18 A. Correct. First time I see the paperwork
19 correct.

20 MR. McGOVERN: I'm going to ask --
21 could the witness see C-51.

22 THE COURT: C-51.

23 MR. McGOVERN: May I approach?

24 THE COURT: Yes. If you show him
25 ahead of time, it might move things along.

1 BY MR. MCGOVERN

2 Q. Now, I want you to look at the first page.
3 And at the top of it, it says Sardor "Bolyanov" and
4 that's an incorrect spelling of your name, correct?

5 A. Oh, yes. They missed G.

6 Q. It's Bolyaganov, B-O-L-Y-G-A-N-O-V (sic),
7 correct?

8 A. Yes. It was a mistake right. There I
9 didn't see it.

10 Q. We know it's you. It was just a
11 misspelling.

12 Now, this was -- if you look over here
13 where there's number right -- if you could see the
14 date it says 4/1/15, 2:10 next to it?

15 A. Yes, I see.

16 Q. And right above that, to the left of it,
17 it says, name of close relative and it says Sally
18 Kirk.

19 A. Yes.

20 Q. Is that accurate?

21 A. Yes.

22 Q. And it says the address, Northeast, right?

23 A. Correct.

24 Q. Now, I'm going to ask you to look at the
25 second page, and where I pointed to when I was up

1 there a moment ago, sir. Do you see in the very
2 center of the page there's a single question that
3 says, Have you seen your paperwork before today, and
4 your answer is no, correct?

5 A. Yes.

6 Q. And then there's the next question asked
7 to you 14 days ago, which is, Thinking back, is
8 there anything else that you would like to add to
9 your previous statement.

10 Do you see that question?

11 A. Yes.

12 Q. And the answer that you give is, I was
13 previously asked who shot me. I said no, but when I
14 was laying on the ground after I was shot, I saw the
15 man with the gun. Correct?

16 A. Correct.

17 Q. Do you remember saying that?

18 A. Yes.

19 Q. Now, that was after you were shot?

20 A. Yes.

21 Q. Now, the question is, Who did you see with
22 the gun, and the answer is, The son.

23 A. The Spector son.

24 Q. That's not what you told the detectives
25 back --

1 A. I didn't tell them because I just
2 remembered.

3 Q. But two weeks ago you remembered that and
4 told them that?

5 A. Yes -- not two weeks ago. It was --

6 Q. Fourteen days ago.

7 A. -- it was maybe three months after I got
8 shot, I started remembering little by little but --

9 Q. That's not my question. I'm sorry, sir.

10 A. Yeah, I did that.

11 Q. You told them 14 days ago. This is your
12 second interview, correct?

13 A. Yes.

14 Q. And where you didn't see Gregory Spector
15 with the gun, not saying that he didn't have it, but
16 you said two weeks ago you did see him with the gun,
17 correct?

18 A. Yes. After I got shot.

19 Q. Okay. But then there was more that was
20 asked of you, right?

21 A. (Witness gestured.)

22 Q. And then the next question was, Did he say
23 anything to you?

24 A. Yes.

25 Q. Do you see that? Now, back on July 22nd

1 of 2013, you said he didn't say anything to you,
2 correct?

3 A. Correct.

4 Q. But two weeks ago, 14 days ago, when
5 you're asked that question, your answer was, He said
6 quote, I'm going to kill you. Correct?

7 A. Correct.

8 Q. And the father just stood there, correct?

9 A. Yes, correct.

10 Q. So I appreciate the passage of time.
11 You've made the point many times during today's
12 testimony that your memory is not as good after all
13 this passage of time. But 14 days ago, you have
14 suddenly remembered that not only do you see my
15 client with a gun -- not saying that he didn't have
16 it, but you're saying for the first time that you
17 saw it -- and he said to you, I'm going to kill you.

18 A. Correct. He did.

19 Q. Okay. Is that testimony as truthful as
20 the rest of your testimony?

21 A. It's truthful a hundred percent. He did
22 point the gun at me. He was trying to kill me.

23 Q. Do you know why your wife never heard
24 that?

25 A. I don't know, but everything she saw and

1 everything she knew she told you. I didn't talk to
2 her for six months, five months.

3 Q. Let me ask you this, earlier today the
4 District Attorney asked you this question --

5 A. Yes.

6 Q. -- this was on direct examination. I
7 didn't ask the question. The DA asked the question.

8 A. Correct.

9 Q. And the jurors were all here. She asked
10 you, Do you remember if Gregory Spector said
11 anything, and you said, I didn't hear him say
12 anything, but I screamed, Don't kill me.

13 Do you remember telling the jury that?

14 A. I did.

15 Q. Just earlier today?

16 A. Yes, I did.

17 Q. Okay. And then the DA wanted to ask you
18 another question, and I objected and you see us all
19 go to side bar over there?

20 A. Yes.

21 Q. And then we came back and District
22 Attorney then asked you questions again, Did you
23 hear Gregory Spector say anything to you, and she
24 had you read this statement. She had you look at
25 this statement. And then you remembered today again

1 that --

2 A. I didn't --

3 Q. Excuse me. Hold on one second.

4 -- that you remembered the second time,
5 after you denied it when you were first asked in
6 court today, you remembered that he said, I'm going
7 to kill you?

8 A. Yes, I remembered.

9 Q. Okay. Now, are you aware that Gregory
10 Spector, immediately after the shooting, called 911
11 and asked for an ambulance for you and him and his
12 father?

13 A. I don't.

14 Q. Do you know that he had a handgun that had
15 a full load of numerous live rounds of ammunition in
16 his gun?

17 A. I wasn't -- can you explain? I don't
18 understand in English.

19 Q. Other than when you were shot the one
20 time, there were no other attempts to harm you or
21 shoot you or kick or hit you, were there?

22 A. Nobody touched me after that, but he point
23 the gun at me. Exactly.

24 Q. But you're telling the jury that unlike
25 your wife or any other witness there that you heard

1 him -- on April 1, 2015 you remembered him saying,
2 I'm going to kill you?

3 A. One more time? April 14, you said?

4 Q. No. It was 14 days ago, April 1, 2015.

5 That's when you changed testimony?

6 A. Yes.

7 MS. HEARD: Your Honor, objection to
8 the characterization of changing his testimony.

9 MR. McGOVERN: Well, he did. He
10 changed his statement.

11 THE COURT: He said he added.

12 THE WITNESS: I added, of course.

13 MR. McGOVERN: You know, I'll move
14 on.

15 BY MR. McGOVERN |

16 Q. Now --

17 THE COURT: Hold on. It's about --
18 it's after 4:00. How much longer?

19 MR. McGOVERN: I'm going to be a
20 little while longer, Judge.

21 THE COURT: What's that mean?

22 MR. McGOVERN: At least 15 minutes.

23 THE COURT: Because if we're going to
24 go to redirect, I think we'll have to reconvene on
25 this.

1 MR. McGOVERN: I don't mean to
2 inconvenience the jury.

3 THE COURT: No, it's fine. It takes
4 whatever it takes. I'm just trying to figure out.

5 MR. McGOVERN: And also for the
6 comfort of the witness.

7 THE COURT: I don't think we're going
8 to finish up today, because by the time we get to
9 redirect and then recross. I think the best thing
10 to do is stop now. It's five after 4:00, and we're
11 not going to be able to finish with the witness
12 today. We'll bring him back on tomorrow.

13 All right. like I said, it's five
14 after 4:00. We don't want to be here until 5:00, 6
15 o'clock. We give everybody a fair opportunity to
16 ask whatever questions that need to be asked.

17 So we're going to convene now, and
18 we'll reconvene tomorrow at 10:00 a.m.

19 Remember, don't talk to anybody about
20 the case and we'll see you all tomorrow.

21 COURT OFFICER: Kindly remain seated
22 while the jury exits the courtroom.

23 (Jury exits the courtroom at 4:06
24 p.m.)

25 THE COURT: So we'll continue with

1 Mr. Bolyaganov tomorrow. We'll take -- whatever it
2 takes, it takes. I just want everybody to have
3 enough time, because it's 4 o'clock.

4 MS. HEARD: Your Honor, if I may, the
5 doctor in this case had to go back today, and,
6 obviously, we didn't get to him today. So I told
7 him to come back and I said would get him on first
8 thing in the morning, since he is working, et
9 cetera, et cetera.

10 MR. McGOVERN: I have no objection
11 taking him out of order.

12 THE COURT: If you want to take him
13 out of order, because he's on the clock. I get
14 that. That's fine.

15 MR. FEINMAN: That's fine, Your
16 Honor. I don't think that's an issue at all for any
17 of us.

18 THE COURT: What time did you tell
19 him to come?

20 MS. HEARD: I told him we start at
21 10:00 a.m. He'll probably will come about 30
22 minutes before that.

23 THE COURT: All right. We'll go with
24 him first and finish up with Mr. Bolyaganov.

25 (Court adjourned.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.

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