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3 **MS. LILLY EFIRD**, having been first duly sworn by the
4 Clerk, testified on **DIRECT EXAMINATION** by **MS. ALLEN**:

5 Q. (BY MS. ALLEN) Good afternoon, Ms. Efird. Would you
6 state your full name for the Court, please.

7 A. Lilly Peralta Efird.

8 Q. Are you Robert Peralta's sister?

9 A. Yes.

10 Q. Okay. And --

11 THE COURT: Ms. Efird, could you pull up a
12 little closer to that microphone. Thank you.

13 Q. (BY MS. ALLEN) Ms. Efird, would you tell us what in the
14 last ten years you have been convicted of that is a Class
15 Two misdemeanor or greater?

16 A. The only charges I've had in the last ten years are DWI
17 charges.

18 Q. Okay. And I believe that back in 1999 in July you gave
19 an interview to S.B.I. Agent John Reid who is right here?

20 A. Right.

21 Q. Do you recall that?

22 A. Yes.

23 Q. Okay. And have you had a chance to look over your
24 statement that you gave?

25 A. Yes, ma'am.

1 Q. Okay. And I'm going to ask you if you know Scott Allen?

2 A. Yes.

3 Q. How do you know him?

4 A. Through a friend of mine, Vanessa Smith.

5 Q. Okay. And how do you know Ms. Smith?

6 A. I've knew Vanessa for a pretty good while. Whenever I
7 first met her she was pregnant with her son, and I worked
8 with her ex-husband in screen printing. I was his
9 supervisor. And I met them through other friends, and I
10 knew of her afterwards, and sometime, I guess '98 to '99
11 I met Scott through Vanessa. For a time lapse in between
12 that I didn't even see them, and then later on I got back
13 up with Vanessa, and then Scott come back into the
14 picture.

15 Q. Okay. What was the relationship between Scott and
16 Vanessa, the best you could tell?

17 A. They were boyfriend and girlfriend at that time.

18 Q. Okay. And do you remember being in court somewhere on or
19 about July 12th, 1999 and getting some messages on your
20 pager?

21 A. Yes.

22 Q. Okay. Could you tell who was paging you?

23 A. Actually at the time I had took a lunch break, and when I
24 went out to the store I had noticed I had pages on there.
25 At first I didn't know who it was. I called home and

1 found out that she was at my home.

2 Q. And when you say she, who do you mean?

3 A. Vanessa.

4 Q. Okay. She was at your house?

5 A. Right.

6 Q. And where was your house at that time?

7 A. On Old Mill Road, Route One, Stanfield, North Carolina.

8 Q. Okay. Is that in Stanly County?

9 A. Yes.

10 Q. Is it near Albemarle?

11 A. Probably about fifteen minutes away from the city limits.

12 Q. Okay. And Vanessa was at your house. Was that a
13 surprise to you?

14 A. At the time, yes.

15 Q. Okay. Now at some point you went home that day, is that
16 right?

17 A. Yes. After I got through with court in the early
18 afternoon.

19 Q. Okay. And was she still there at your house when you got
20 home?

21 A. Yes.

22 Q. All right. What did y'all talk about?

23 A. Well, when I called her on the phone she was real upset,
24 and I told her I'd be there just as soon as I could get
25 there. When I got there she said she wanted to talk with

1 me, and she wanted to ride to the store so me and her
2 could talk. My children wanted to go, and she said that
3 she wanted to talk just directly to me.

4 Q. Without your children being around?

5 A. Right.

6 Q. Okay.

7 A. So on the way to the store she discussed to me what had
8 happened between her and Scott and the guy that had got
9 killed.

10 Q. Christopher Gailey?

11 A. Yeah, I never knew his last name, I just knew him as
12 Chris. I only met him one time.

13 Q. Okay. And Ms. Efird, do you recall what she told you
14 about what had happened?

15 A. She told me that they had walked through the woods, that
16 they were carrying a shotgun, that she helped them carry
17 it, back and forth, they'd pass it back and forth because
18 they walked a long way through the woods. And she said
19 that he had pushed her down on the ground and started
20 shooting, and the guy, best I remember she said the guy
21 had shot back, and she was on the ground with her head
22 covered up with her hands.

23 Q. Okay.

24 A. So afterwards he told her to leave, and probably about
25 five or six hours later she came back and picked him up

CHRIS
SHOOTING

1 on the side of the road.

2 Q. All right. Did she say anything about a cabin out there?

3 A. No. She didn't say anything about the cabin, but the
4 only reason I know, prior, I had come and picked them up
5 before and walked up to the cabin. I don't even know if
6 it's the same one, but the picture looked just like the
7 one when I had come and picked them up at some time
8 before this had come about.

9 Q. Okay.

10 MS. ALLEN: If I may approach the witness, Your
11 Honor?

12 THE COURT: Yes, ma'am.

13 Q. (BY MS. ALLEN) Ms. Efird, I'm showing you State's
14 Exhibit Number Forty-Two that has been entered into
15 evidence. Does that look familiar to you?

16 A. Actually, no.

17 Q. That does not look familiar to you?

18 A. Maybe. The part that I saw looked like, was like, it was
19 white, and maybe the opposite side of the house, but it
20 was white. The house was white. It was a small cabin-
21 looking place that I had went to to pick them up after
22 work one evening.

23 Q. Okay. Ms. Efird, now I'm going to show you what I've
24 marked as State's Exhibit Forty-One that's been entered
25 into evidence. Does that look familiar to you? That was

1 another place.

2 A. No.

3 Q. Okay. Now at some point you had a picture of that cabin,
4 and neither one of those looked familiar to you, is that
5 correct?

6 A. It was just like an old house way out in the woods.

7 Q. Okay.

8 A. I had come off a paved road onto a dirt road, and I rode
9 until I saw her standing on the side of the road.

10 Q. Okay.

11 A. And I pulled my car over and walked with her up to the
12 house.

13 Q. Okay.

14 A. Or an old abandoned house, whatever it was.

15 Q. Okay. And was there a point in time when Scott and
16 Vanessa stayed with you at your house?

17 A. Yes. What, at the time that I'm telling you about when I
18 picked her up on the side of the road?

19 Q. Yes, ma'am.

20 A. We walked up to what I call an old abandoned house,
21 cabin, whatever you want to call it.

22 Q. Okay.

23 A. I met them -- Well, me and Vanessa walked up through the
24 woods, and she had carried a bag on the way back. I
25 helped Scott carry a bag. Well, he started carrying it

1 and then I -- he carried one side and I carried the other
2 to my vehicle, put the stuff in the trunk, stopped at the
3 Amoco, got gas, and went straight to my house.

4 Q. Okay.

5 A. Or my trailer.

6 Q. Okay. And while they were staying with you what did you
7 find out about Scott Allen?

8 A. Well, I had heard before that he had --

9 MR. ATKINSON: Objection.

10 THE COURT: Ma'am, don't tell us what you heard
11 from other people unless it was from --

12 A. Well, Vanessa had told me that --

13 MR. ATKINSON: Objection.

14 THE COURT: That's sustained at this point.
15 Members of the jury, if you wouldn't mind, just take a
16 little walk back, please.

17 *(Jury is excused from the courtroom.)*

18 TIME: 2:09 p.m.

19 *(The following proceedings were held in open court,
20 no jurors being present.)*

21 THE COURT: Okay. Would you answer that
22 question now, please, ma'am.

23 A. As far as me actually knowing, I was told that he had
24 escaped like a week before he was supposed to get out. I
25 personally don't know, don't know the guy, other than

1 what little bit he was around me at my trailer, and I had
2 met him prior, maybe four, five, six months before then.

3 THE COURT: All right.

4 A. I really don't even know Scott.

5 THE COURT: I see. Well, who told you that?

6 A. Vanessa.

7 THE COURT: All right. I'm going to let her
8 testify to that. You want to talk to her right now about
9 anything else that we can do outside the presence of the
10 jury, because I've got a burning question here. Ma'am,
11 look at all three of these. One's Two, one's Forty-One,
12 and one's Forty-Two. Can you tell us if when you were
13 asked about a cabin, whether any of those were the cabin?

14 A. No.

15 THE COURT: Any of those look familiar?

16 A. No.

17 THE COURT: All right. Thank you. You
18 understand I'm not suggesting that any of them should
19 look familiar to you. I'm just asking you the question.
20 Because I don't know anything.

21 A. No, but what I'm looking at now looks, you know.

22 THE COURT: Ma'am, look at Forty-Three, does
23 that look familiar?

24 A. No.

25 THE COURT: All right.

1 A. This is wooden-colored, and the house I remember seeing
2 was like white. It had been painted, I think.

3 THE COURT: All right. Thank you. All right.
4 Any further questions about conversations, telephone
5 calls, anything like that?'

6 MS. ALLEN: There is a question about her
7 taking Scott somewhere, but that's fine.

8 THE COURT: No, that won't be it. The same
9 type of questions. Bring the jury back in. Objection
10 overruled. I change my ruling.

11 *(Jury enters the courtroom.)*

12 TIME: 2:13 p.m.

13 *(The following proceedings are held in open court in*
14 *the presence of the jury.)*

15 THE COURT: Thank you. Ask her your question,
16 ma'am.

17 Q. (BY MS. ALLEN) Ms. Efird, what did you find out about
18 Scott Allen during the period that he and Vanessa Smith
19 were staying with you?

20 MR. OLDHAM: Objection to the form.

21 A. That he --

22 THE COURT: Overruled. You may answer.

23 A. Do I answer it?

24 THE COURT: Yes, ma'am.

25 A. I was told that he had escaped the week before he was

1 supposedly able to get out of prison.

2 Q. (BY MS. ALLEN) And who told you that?

3 A. Vanessa. Why he was in or anything like that, I don't
4 know.

5 Q. And did there come a point in time when they were there
6 that Scott asked you to take him somewhere?

7 A. Yes, after I had got off of work one afternoon.

8 Q. Do you remember where you took him?

9 A. I took him to Millingport at the store. It's a BP
10 station there, across the street is a motorcycle shop, at
11 that time. I guess it still is, I don't know.

12 Q. And did you see who he was meeting there?

13 A. I did not see the guy at the time, but he told me he was
14 supposed to meet someone in a white truck. Across the
15 street was a white truck, and I let him off at the store,
16 and I left.

17 Q. Okay. Did you see the truck itself?

18 A. Yes.

19 Q. Okay.

20 MS. ALLEN: If I could have State's Exhibit
21 Number Fifty-Nine.

22 Q. (BY MS. ALLEN) Ms. Efird, I'm handing you what I've
23 marked as State's Exhibit Number Fifty-Nine. It's been
24 entered into evidence. Does that look familiar to you?

25 A. Yes.

1 Q. Is that the truck that you saw there when he went to meet
2 somebody?

3 A. Yes, it's the same truck.

4 Q. Okay. Now, did you see Scott later on that day?

5 A. Yes, ma'am.

6 Q. And tell us about that.

7 A. After I had let Scott out I had went to the store, and on
8 the way home I got behind the truck. And they come back
9 to my house for a short visit, and that's when I had met
10 Chris. They wasn't there very long, and then Chris and
11 Scott left together.

12 Q. Okay. So you met Chris for the first time at that point
13 in time?

14 A. First and only.

15 Q. Okay. Thank you. No further questions.

16 THE COURT: Any cross?

17 MR. ATKINSON: Yes, Your Honor.

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20 **CROSS EXAMINATION of MS. LILLY EFIRD by MR. ATKINSON:**

21 Q. (BY MR. ATKINSON) Ms. Efird, you indicated that on July
22 the 12th of '99, you were somewhere and that you had some
23 calls on your pager, is that correct?

24 A. Yes, sir.

25 Q. Where did you indicate you were?

1 A. At Stanly County Courthouse.

2 Q. Okay. And had you -- did you notice anything -- was
3 there anything special or particular about those, what
4 you noticed on the pager?

5 A. Well, when I went to lunch at that time I didn't -- the
6 three calls, I didn't really understand that calls, but
7 then later I got the number 420 on there which was a code
8 that Vanessa would leave for me to be able to call her
9 back.

10 Q. Okay.

11 A. And I couldn't understand at the time why I was getting
12 the calls, the messages, you know, at that point in time,
13 because only my children would normally be calling.

14 Q. Okay. Were your children not with you at the courthouse?

15 A. My -- I had two children that were in a case involving a
16 situation with a predica -- a certain situation.

17 Q. And they were with you there at the courthouse?

18 A. The two older ones. My younger one was at school.

19 Q. Okay. Did you -- Do you recall making the -- The
20 District Attorney asked you about a statement you made to
21 officers, Agent Reid of the S.B.I. back in July of 1999.
22 Do you recall making that statement? Is that correct?

23 A. About my children?

24 Q. Well, about the statement that you made to Officer -- to
25 Agent Reid back in 1999. Do you remember talking with

- 1 him?
- 2 A. I remember talking to him, yes, sir.
- 3 Q. And making a statement?
- 4 A. Yes, sir.
- 5 Q. And in that statement, do you recall telling him that you
6 were at the courthouse and your daughter's ages, nine,
7 eleven, and thirteen, were with you there at the
8 courthouse?
- 9 A. I -- I -- I don't know that I mentioned my baby girl, but
10 I'm sure the other two were involved because of the case
11 that existed on their behalf.
- 12 Q. You indicated, did you not, that you called and talked --
13 in response to these pages, you called your home, did you
14 not?
- 15 A. Yes, sir.
- 16 Q. And who answered the phone?
- 17 A. Vanessa.
- 18 Q. Okay. Now whenever she answered the phone, did you
19 notice anything peculiar about her speech?
- 20 A. Yeah, she sounded like she had been taking something.
- 21 Q. Well, describe her speech.
- 22 A. It was just like she was real groggy like.
- 23 Q. Speech slurred?
- 24 A. Yes.
- 25 Q. Is that what you indicated in your statement?

- 1 A. Yes.
- 2 Q. Okay. And you indicated, did you not, that Scott Allen
3 was not there with her?
- 4 A. Not that I know of. I know for a fact when I got there
5 he wasn't there, and I'm pretty sure he wasn't there
6 beforehand.
- 7 Q. Okay. Did you subsequently leave and go to your
8 residence?
- 9 A. After I left the courthouse.
- 10 Q. Okay. What time would that have been?
- 11 A. Between 4:30 and 5:00, I imagine, because it would have
12 been that late evening.
- 13 Q. Well, what time was it, if you recall, when you placed
14 the call to your home and she answered the phone?
- 15 A. Around lunch time at their lunch break, between 12:30 and
16 1:00, I would say.
- 17 Q. Okay. And whenever you got there, what did you and --
18 what, if anything, did you and Vanessa do after you got
19 to your house?
- 20 A. After I got to my house she said she had something to
21 talk to me about, so me and her rode to the store across
22 the street from West Stanly High School. And my children
23 wanted to go, like I had stated earlier, but Vanessa
24 asked for them not to go because I had no clue what she
25 wanted to tell me. So on the way there she started

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1 talking about what had happened.

2 Q. Okay. And now after you and she left to go to the store,
3 is that correct?

4 A. Right.

5 Q. And you stated that she started telling you some things?

6 A. Right.

7 Q. Okay. You indicated, what was it you said, that Scott
8 Allen had pushed her?

9 A. Said that when they were going through the woods that he
10 pushed her to the ground and started shooting Chris.

11 Q. And what did you say after that, something about the guy
12 firing, shooting back?

13 A. That's what was stated to me.

14 Q. Okay. In your statement you didn't -- Do you recall
15 making any statement like that whenever you gave this to
16 Officer Reid?

17 A. Do I recall making a statement that that's what I said?

18 Q. Did you tell Officer Reid anything about who was firing
19 and what was going on there at the scene?

20 A. I imagine I did because that's what was told to me.

21 Q. Okay. What -- You indicated, did you not, that Vanessa
22 said that Scott Allen told her to do what there at the
23 scene?

24 A. To leave the scene and to come back later to pick him up.

25 Q. Okay. And she indicated -- Did she indicate to you

1 that's what she did?

2 A. Yes.

3 Q. That she left there immediately, did she not, is that
4 what she indicated?

5 A. What she told me, that's all I know.

6 Q. Okay. And did she tell you that -- did she describe to
7 you where she thought Chris had been shot?

8 A. She said that he had been shot behind in his legs and his
9 back, that's all I know.

10 Q. Now, is that what she told you, Ms. Efird?

11 A. Yes.

12 MR. ATKINSON: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, sir.

15 Q. (BY MR. ATKINSON) Is this the statement, Ms. Efird, that
16 you made to Officer Reid?

17 MR. YATES: Objection. If he's going to ask
18 her about it he can mark it.

19 MR. ATKINSON: Mark it --

20 THE COURT: Defendant's exhibit for
21 identification purposes Defendant's Exhibit Number Three,
22 I think.

23 COURT REPORTER: Number Three, yes ,sir.

24 **(DEFENDANT'S EXHIBIT NUMBER THREE (3) is marked for**
25 **identification purposes by this court reporter.)**

1 Q. (BY MR. ATKINSON) Okay. I'll show you what has now been
2 marked Defendant's Exhibit Number Three, Ms. Efird, and
3 ask you if you can identify this. Is this a statement
4 that you made to Officer John Reid, Special Agent John
5 Reid of the State Bureau of Investigation back on July
6 21st of 1999?

7 A. Is that the statement that I gave?

8 Q. Yes, ma'am.

9 A. Yes, sir.

10 Q. Okay. Now, in that statement, did you indicate that
11 Allen yelled at her and told her to leave?

12 A. That's what was stated to me, and I did state back what
13 was told to me, yes, sir.

14 Q. Okay. And in that statement, did Vanessa state to you
15 she thought Chris had been shot in the chest?

16 A. If that's what I said. As far as I remember she said he
17 was shot from behind.

18 Q. Well, this is the statement you made, is it not?

19 A. Evidently so, it's wrote down.

20 Q. And that was on July the 21st of 1999, is that correct?

21 A. I guess, sir. That's been so long ago. I mean, you
22 know.

23 Q. Well, would the statement that you made on July 21st of
24 1999, would it have been fresh in your memory then at
25 that time, would it not have been?

- 1 A. I'm sure it was a lot fresher than today, yes.
- 2 Q. Okay. Now, did she also tell you, Ms. Efird, that she
3 returned to the area approximately five to six hours
4 later to pick Scott Allen up?
- 5 A. Yes.
- 6 Q. And she indicated to you that she had gone somewhere to
7 pick Chris' truck up after the shooting occurred, is that
8 correct?
- 9 A. As far as I know, she said she went back to the truck.
- 10 Q. Okay.
- 11 A. From what I gathered, the truck was there the whole time.
- 12 Q. Okay. Would you look at that and see, does that not say,
13 Ms. Efird, that she returned to the area approximately
14 five to six hours later to pick Scott Allen up? She
15 stated, Vanessa indicated she had gone somewhere to pick
16 up the truck?
- 17 A. Right. Somewhere which meaning that it was away from the
18 area that the boy had been shot.
- 19 Q. Now Ms. Efird, how long did she stay with you?
- 20 A. Her and Scott? A couple of weeks.
- 21 Q. No. I'm talking about on this occasion when she was
22 talking to you on that occasion. How long did she stay
23 at your house?
- 24 A. I really don't remember.
- 25 Q. You have no recollection whatsoever how long she was

1 there?

2 A. That had to been that day, I'm -- Well, the best I
3 remember that I told her that she's lucky that Scott
4 didn't kill her, that I got paid on Thursday, and that I
5 would carry her to the beach, which is what I did. When
6 I took her to the beach, that night, I got awakened about
7 somewhere during the middle of the night, somebody was
8 looking for a lighter, and they said Vanessa had got my
9 car keys to go get cigarettes. I looking in my pocket
10 and my keys were gone, my money was gone, my car was
11 gone.

12 Q. So after you took her to the beach she stole your
13 vehicle, didn't she?

14 A. And my money.

15 Q. Okay.

16 A. And my car.

17 Q. And you didn't lend that to her?

18 A. No.

19 Q. And you didn't lend your vehicle to her?

20 A. Nope.

21 Q. And you didn't lend your money to her?

22 A. No.

23 Q. And that's the last time that you saw her, Ms. Efird?

24 A. Up until the time --

25 Q. When did you next see her?

- 1 A. It had been a long lapse up until the time I had went to
2 the courthouse in Troy. I went up there, and her mother
3 was up there for a visit. I visited her one time. The
4 next weekend I moved to the beach at Ocean Isle, which is
5 I think around March 25th of 2000.
- 6 Q. And this time, this, you're talking about, Ms. Efird,
7 about the other time that you went to a cabin with
8 Vanessa Smith and Scott Allen, that was a long time prior
9 to that, wasn't it?
- 10 A. It was some time prior. I wouldn't say very long. But
11 it was prior to the incident.
- 12 Q. Well, it was what, a month, two months, a year?
- 13 A. I would say it might have been within months, but not a
14 year, no.
- 15 Q. Okay. And at no time while, on this occasion on July the
16 12th when you were having this conversation with Vanessa,
17 at no time was Scott Allen there at your house or as far
18 as you knew in the area?
- 19 A. No, sir.
- 20 Q. And you never saw this white vehicle at your house, did
21 you?
- 22 A. Yes, sir, I did.
- 23 Q. Okay. And that was that occasion when you talked about?
- 24 A. The same date that -- The same day I took him to
25 Millingport.

1 Q. Okay. That was --

2 A. It was around an hour that I had took him that they
3 showed back up at my house.

4 Q. But that was the month or some other time prior to that,
5 when you're talking about seeing him, that other time
6 when you took him to Millingport?

7 A. The day I took him to Millingport is the day I met Chris,
8 and the only and other -- the only time I ever met and
9 saw Chris.

10 Q. But that was some time substantially prior to July 12th,
11 was it not?

12 A. Yes.

13 MR. ATKINSON: I believe that's all the
14 questions I have, Your Honor.

15 MS. ALLEN: Just a moment. May I approach the
16 witness, Your Honor?

17 THE COURT: You may.

18 MS. ALLEN: If I could have --

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21 **REDIRECT EXAMINATION of MS. LILLY EFIRD by MS. ALLEN:**

22 Q. (BY MS. ALLEN) This is what has been called Defendant's
23 Exhibit Three which is the statement that you gave to Mr.
24 Reid, okay, that Mr. Atkinson was just talking about.
25 Could you read the statement beginning right here where

1 I've marked it where it says "Vanessa -- " and ending
2 here at the end of the paragraph.

3 MR. OLDHAM: Your Honor, we would object.

4 THE COURT: Well, sustained.

5 Q. (BY MS. ALLEN) Ms. Efird, have you had a chance to look
6 over that statement?

7 A. Yes, ma'am.

8 Q. Does that refresh your recollection as to anything else
9 that Ms. Smith told you about what happened in the woods?

10 A. Yes, ma'am.

11 Q. Is there anything else that she told you?

12 A. Not other than the fact that he asked her to leave and
13 then she came back later to pick him up.

14 Q. Did she anything about whether Chris was still alive?

15 MR. OLDHAM: Objection, Your Honor.

16 THE COURT: Sustained.

17 Q. (BY MS. ALLEN) What did she tell you about what Chris
18 was doing after he was shot?

19 MR. ATKINSON: Objection.

20 THE COURT: Sustained.

21 MS. ALLEN: No further questions of this
22 witness.

23 MR. OLDHAM: No further questions.

24 THE COURT: Ma'am, you may step down.

25 *(Witness is excused from the witness stand.)*