

# CROSS-EXAMINATION

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CHRISTOPHER L. ACCURSO



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“Cross-examination is beyond any doubt the greatest legal engine ever invented for the discovery of truth.”

- John Henry Wigmore

# DEVELOPING AN EFFECTIVE CROSS-EXAMINATION

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1. Preparation
2. Establish goals for each witness
3. Consider who the witness is
4. Structure your cross-examination
5. Listen to the witness' answers
6. Control the witness
7. Be entertaining

# PREPARING FOR CROSS-EXAMINATION

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- There is no substitute for preparation
- Always be the most prepared person in the room
- Know your evidence better than anyone – not just what the evidence is, but what it means
- Review prior testimony
- Review social media posts
- Listen to jail calls
- Mental reps

# CROSS-EXAMINATION STARTS IN VOIR DIRE

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- Educate the jury about the difference between cross-examination and direct examination
  - Direct Examination = the initial questioning of a witness by the party that called them to the stand
  - Cross-Examination = the questioning of an opposing party's witness or a witness adverse to your side
- Explain the difference between leading vs. non-leading questions
  - Leading question = a question that suggest the answer to the witness. Generally only allowed during cross-examination.
  - Non-leading question = an open-ended question that don't suggest the answer and allows for explanation. Generally required during direct examination.
- Gauge the jury
  - At the time this homicide was committed, the defendant's 10 year old daughter was present in the home. I anticipate that we, the state, will call the defendant's daughter as a witness in our case-in-chief. With that in mind, are there any members of the jury panel who would hold it against the state for calling the defendant's daughter as a witness?
- Condition the jury
  - Sometimes during trials, witnesses may be reluctant to testify truthfully. At times, attorneys need to press a witness and ask tough questions in order to get all of their testimony out before the jury. If during this trial, there are witnesses that are reluctant to testify truthfully and I have to press them and ask them tough questions, are there any members of the jury panel who will hold that against my client?

# ESTABLISH GOALS FOR EACH WITNESS

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- Redefine the story and add perspective
- Impeachment of credibility, bias, knowledge, or recollection
- Create mistrust between the jury and the witness
- Obtain helpful admissions or concessions
- Introduce additional evidence

# CONSIDER WHO THE WITNESS IS

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- Criminal Defendant
- Expert Witness
- Child Witness
  - Remember that the child witness is not the defendant. Often times they are testifying for the defendant who is a relative
  - Try to establish rapport with the child even if futile
  - Show them respect
  - Treat them with compassion
  - Don't attempt to trick a child witness
  - Get down to their level

# STRUCTURING CROSS-EXAMINATION

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- Start off with easy questions that the witness will agree with you on
- Adduce admissions and favorable testimony before impeachment
- Set up and disguise your ultimate points – multiple levels/layers
- Don't end your cross-examination on a **sustained** objection
- Redefine the story AFTER you've established credibility with the jury
  - Great way to end a powerful cross-examination



# LISTEN TO THE WITNESS

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- This is one of the most basic rules of cross-examination that most attorneys forget
- If you aren't listening to the answer, you will miss great opportunities for follow-up questions
- Focus on the answer – not your next question
- Written questions vs. outline vs. simple notes
- I rarely write out my actual cross-examination questions

# CONTROLLING THE WITNESS

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- Body positioning
  - In relation to the jury
  - In relation to the witness
- Tone and inflection
- Eye contact
- Objections (e.g., the answer is nonresponsive and I move to strike)
- Get answers from the witness to the questions you ask
- OWN THE COURTROOM – MAKE IT YOURS
- The podium does move...

**BE ENTERTAINING**

**WIN THE CROWD AND YOU WILL WIN YOUR CASE**

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# BE ENTERTAINING

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- How the evidence and testimony are presented is equally as important as what the evidence is
- Remember that you are PRESENTING evidence
- Keep the jury engaged
- Use drama, humor, sarcasm, etc.
- Vary your voice tone, pitch and volume

# STATE V. JIMMIE VERGE

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- Double homicide off of 73<sup>rd</sup> and Wabash in KCMO on December 14, 2015 at 9:13 PM.
- V1 and V2 went to sell marijuana to a cousin of V1's friend. The deal was a setup for a robbery.
- V1 and V2 are both shot. V1 lives. V2 is killed. One of the robbers is also killed.
- The surviving victim identifies the friend who set him up as A-1 and identifies the shooter as A-1's cousin, Jimmie Verge (aka Two Shoe) .
- V1 also provides KCPD with Jimmie's Facebook handle "Shoe Go Get'em". Those records were obtained via a warrant.
  - Facebook records include private messages from "Shoe Go Get'em", including messages where he's admitting to the shooting.
- We also obtained cell phone records for A-1 and a number identified as Jimmie's phone number.
  - Records showed Jimmie's cell phone was accessing the cell tower closest to the crime scene at the time of the shooting
- Jimmie is arrested and questioned. Denies any involvement in the murders. Claims he was with his brother, Derrick Marshall, at their friend's house near 87<sup>th</sup> and Hillcrest from about noon on December 14<sup>th</sup> until 9:00 AM the next morning.
- Defendant's brother, Derrick Marshall, comes in at the 11<sup>th</sup> hour to give an alibi defense that mirrors Jimmie's story.

# CROSS-EXAMINATION OF DEFENDANT'S BROTHER

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- Preparation – scoured Facebook, phone records, jail calls
- Establish Goals – (1) redefine the story; (2) impeach credibility & bias; (3) create mistrust with the jury; (4) obtain helpful admissions/concessions; and (5) admit additional evidence

1 Now, Mr. Marshall, your brother's legal name  
2 is Jimmie Verge; correct?  
3 A. Yes, sir.  
4 Q. Do you go -- does he go by any other names?  
5 A. Not that I know of.  
6 Q. Who's "Two Shoe"?  
7 A. I don't know.  
8 Q. You don't know?  
9 Mr. Marshall, you're on Facebook, aren't  
10 you?  
11 A. Yes. Derrick Marshall.  
12 Q. That's right. And we're going to see a  
13 little bit about your Facebook here in a minute, so  
14 don't you worry. But you're friends with Shoe Go  
15 Get'em; right?  
16 A. I believe so.  
17 Q. Yeah, right? And you've made several,  
18 several posts since your brother was charged with this  
19 offense saying "Free Two Shoe," haven't you?  
20 A. Yes.  
21 Q. So who's Two Shoe?  
22 A. I got other brothers --  
23 Q. Oh, yeah --  
24 A. -- in jail.  
25 Q. Right. Now, you said your Facebook name is

1 Derrick Marshall; correct?  
2 A. Yes, sir.  
3 Q. Do you have a cell phone number?  
4 A. Now. I mean, do you want my -- my current  
5 cell phone number?  
6 Q. I just asked if you have one.  
7 A. Yes, I do.  
8 Q. Did you have one at the time of this  
9 offense?  
10 A. I believe I did.  
11 Q. What number was that?  
12 A. I don't recall.  
13 Q. If I told you it was -- let's see here, I  
14 want to make sure I get this right.  
15 A. Okay.  
16 Q. (Continuing) -- 816-874-7518, would that be  
17 correct?  
18 A. I don't recall that number.  
19 Q. Is there any reason whatsoever that number  
20 should be linked to your Facebook page?  
21 A. It was probably used to log in or access my  
22 page. I don't recall that telephone number.  
23 Q. Well, let me ask you this. If we went on  
24 Facebook right now and put that number in the search  
25 bar, what profiles do you think would come up?

1 A. I don't know.  
2 Q. Would yours?  
3 A. If you say it was associated with my  
4 account, it probably would.  
5 Q. Probably? Should we get on Facebook and  
6 find out?  
7 A. If that's what you want to do.  
8 Q. Do you have your phone on you?  
9 A. No.  
10 MR. ACCURSO: Trista?  
11 (Pause)  
12 MR. ACCURSO: I'll get on my computer. Can  
13 you connect that to the TV, please.  
14 Q. (By Mr. Accurso) Would you agree that that  
15 (indicating) is a Facebook page?  
16 A. It appears to be one.  
17 MR. ACCURSO: Ms. Davies, could you please  
18 type in "816-874-7518" and push "Search," please.  
19 Q. (By Mr. Accurso) Whoa! What person is  
20 that?  
21 A. That looks like my Facebook page.  
22 Q. That looks like your Facebook page, or that  
23 is your Facebook page?  
24 A. It is.  
25 Q. Let's check it out. Do you want to, to

1 double-check?  
2 MR. ACCURSO: Can we please go to Derrick  
3 Marshall's Facebook page.  
4 Q. (By Mr. Accurso) Okay, now, Mr. Marshall,  
5 who is in that cover photo with you?  
6 A. I'm not in the cover photo.  
7 Q. Okay, who's in the cover photo?  
8 A. That's Jimmie --  
9 Q. Jimmie?  
10 A. -- S.T. Uh-huh.  
11 Q. Have you ever referred to Jimmie Verge as "  
12 Shoe Go Get'em"?  
13 A. No.  
14 Q. Do you know why the name " Shoe Go Get'em"  
15 is so important in this case?  
16 MR. RADKE: Speculation.  
17 THE COURT: Overruled.  
18 A. I believe it's because it's the Facebook  
19 page that you're saying Jimmie had.  
20 Q. (By Mr. Accurso) Do you know that somebody  
21 from that Facebook page admitted to killing the two  
22 victims of this homicide? Did you know that?  
23 A. No, I didn't.  
24 Q. You didn't? Mr. Marshall, you're giving me  
25 a lot to play with here.



**Recipients** Seanisha Renee' (100000794778661)

Shoe Go Get'em (100010235710460)

**Author** Shoe Go Get'em (100010235710460)

**Sent** 2015-12-16 23:08:22 UTC

**Deleted** false

**Body** I seen my cousin get killed the other day so I just been tripping

State's

Exhibit

**Recipients** Seanisha Renee' (100000794778661)  
Shoe Go Get'em (100010235710460)  
**Author** Shoe Go Get'em (100010235710460)  
**Sent** 2015-12-16 23:09:44 UTC  
**Deleted** false  
**Body** Delete that last message

**Recipients** Shoe Go Get'em (100010235710460)  
Seanisha Renee' (100000794778661)  
**Author** Seanisha Renee' (100000794778661)  
**Sent** 2015-12-16 23:10:02 UTC  
**Deleted** false  
**Body** I did wow . . . where was this at

**Recipients** Seanisha Renee' (100000794778661)  
Shoe Go Get'em (100010235710460)  
**Author** Shoe Go Get'em (100010235710460)  
**Sent** 2015-12-16 23:10:32 UTC  
**Deleted** false  
**Body** 73rd whn u called me that was me

**Body**

73rd he killed my cousin I killed him an hit his homie

**Recipients** Seanisha Renee' (100000794778661)

Shoe Go Get'em (100010235710460)

**Author** Shoe Go Get'em (100010235710460)

**Sent** 2015-12-16 23:12:07 UTC

**Deleted** false

**Body** Delete this hole convo whn we done

**Recipients** Seanisha Renee' (100000794778661)

Shoe Go Get'em (100010235710460)

**Author** Shoe Go Get'em (100010235710460)

**Sent** 2015-12-16 23:14:45 UTC

**IP** 172.56.13.168

**Call Record**

**Type** phone

**Missed** true

State's

Exhibit

1 (Proceedings returned to open court.)

2 Q. (By Mr. Accurso) Now, Mr. Marshall, you  
3 said that your brother's not Shoe Go Get'em; right?

4 A. Not to my knowledge.

5 Q. Not to your knowledge. Well, so there's no  
6 reason that you would take a photograph with your  
7 brother Jimmie Verge and post it on Facebook saying big  
8 bro, little bro, Roddo gang, real fellas, and you're  
9 with Shoe Go Get'em, is there?

10 A. Facebook tags people in pictures that they  
11 see in there. It's -- it's clear that that happened on  
12 Facebook. You take a picture and somebody's picture in  
13 there, it's in there, if somebody's face is in there and  
14 it recognize them, it will tag them.

15 Q. So Facebook recognizes your brother as Shoe  
16 Go Get'em --

17 MR. RADKE: Wait, I'm going to object --

18 Q. (By Mr. Accurso) -- is that what you're  
19 saying?

20 THE COURT: Overruled. That's a fair  
21 question --

22 A. That's just how Facebook works.

23 Q. (By Mr. Accurso) Wow, okay. Well, do you  
24 recognize State's Exhibit 240 and 241?

25 A. Pictures.

The screenshot shows a mobile gallery interface. The main image is a photograph of two men, Derrick Marshall and another man, looking at a smartphone. Overlaid on the photo is the text "God Didnt Make Enough #REALFELLA Z" in large, bold, orange letters. Below the photo are icons for "Share", "40" views, "0" likes, a trash can, "Options", and "Send in Messenger". To the right of the gallery is a Facebook post by Derrick Marshall from January 2, 2016. The post text reads: "100 BIG BRO. LIL BRO.. #RODDOGANG #REALFELLAZ #YGM #FOE #EA 27 Olive Type Shit.. 100 🍷 — with Shoe Go Get'em." Below the post are 19 likes and two comments: "Princess Mya'sMmy 🙄🙄 Derrick Marshall January 2, 2016 at 1:43pm" and "Brian Vaughan That's right Bro January 2, 2016 at 4:22pm". At the bottom of the Facebook interface, there is a "Friend Requests" section with a request from Tricia Teeter and a "Confirm Friend" button.

1 Q. They're pictures?  
2 A. Yes.  
3 Q. They're your pictures; right?  
4 A. Yes.  
5 Q. That you posted?  
6 A. Yes.  
7 Q. And in State's Exhibit 240, we're just  
8 looking at the photo itself; correct?  
9 A. Yes.  
10 Q. And that's you and your brother?  
11 A. Yep.  
12 Q. And it says, God didn't make enough real  
13 fellas. Right?  
14 A. Yes.  
15 Q. And we keep seeing that hashtag. We'll talk  
16 about that here in a little bit.  
17 In the description of the photograph it  
18 says, Big bro, little bro with Shoe Go Get'em. Correct?  
19 A. Yes.  
20 Q. But you're saying that Shoe Go Get 'Em's not  
21 your brother; right?  
22 A. That's not the page that I was going to be  
23 associated with --  
24 Q. That's not what I asked you.  
25 MR. RADKE: I object. He can answer the

Derrick Marshall's Photos  
In Mobile Uploads

God Didn't  
Make  
Enough  
#REALFELLA  
Z

Share

40 0

Options Send in Messenger

Derrick Marshall  
January 2, 2016 · 🌐

100 BIG BRO. LIL BRO.. #RODDOGANG  
#REALFELLAZ #YGM #FOE #EA 27 Olive Type  
Shit.. 100 🗨️ — with Shoe Go Get'em.

Share

19

Princess Mya'sMmy 🙄🙄 Derrick Marshall  
January 2, 2016 at 1:43pm

Brian Vaughan That's right Bro  
January 2, 2016 at 4:22pm

Friend Requests See All

Tricia Teeter  
Confirm Friend

1 question in his own way, Judge.  
2 THE COURT: Overruled.  
3 Q. (By Mr. Accurso) Is Shoe Go Get'em your  
4 brother?  
5 A. Jimmie Verge is my brother.  
6 Q. Is Shoe Go Get'em Jimmie Verge?  
7 A. Not to my knowledge.  
8 Q. Yeah, okay.  
9 MR. ACCURSO: Your Honor, at this time the  
10 State offers Exhibits 240 and 241 into evidence.  
11 THE COURT: Continue to renew your  
12 objections?  
13 MR. RADKE: Yes, sir.  
14 THE COURT: 240 and 241 will be admitted  
15 over defendant's objection.  
16 (State's Exhibit Nos. 240 and 241 were  
17 admitted.)  
18 MR. ACCURSO: Will you please put those up,  
19 Ms. Davies. We'll start with 240.  
20 Q. (By Mr. Accurso) That's you on the left;  
21 right?  
22 A. Yeah.  
23 Q. Derrick Marshall?  
24 A. Yes.  
25 Q. And that's Jimmie Verge on the right;

Derrick Marshall's Photos  
In Mobile Uploads

God Didnt  
Make  
Enough  
#REALFELLA  
Z

Share

40 0

Options Send in Messenger

Derrick Marshall  
January 2, 2016 · 🌐

100 BIG BRO. LIL BRO.. #RODDOGANG  
#REALFELLAZ #YGM #FOE #EA 27 Olive Type  
Shit.. 100 🗨️ — with Shoe Go Get'em.

Share

19

Princess Mya'sMmy 🙄🙄 Derrick Marshall  
January 2, 2016 at 1:43pm

Brian Vaughan That's right Bro  
January 2, 2016 at 4:22pm

Friend Requests See All

Tricia Teeter  
Confirm Friend

1 A. Okay.

2 Q. Have you ever seen your brother in

3 possession of a weapon that would match that

4 description?

5 A. I mean, we've had guns before.

6 Q. That wasn't my question. My question is,

7 have you ever seen your brother in possession --

8 A. I don't recall.

9 Q. You don't recall?

10 MR. ACCURSO: I'm showing Mr. Radke what's

11 been marked as State's Exhibits 242 and 243. And I'm

12 also showing Mr. Radke what's been marked as State's

13 Exhibits 244 and 245.

14 Q. (By Mr. Accurso) Mr. Marshall, do you

15 recognize State's Exhibit 242?

16 A. Uh-huh. It's a picture.

17 Q. It's a picture. Who's in that picture?

18 A. Me and my little brother.

19 Q. Your little brother Jimmie?

20 A. Yes, sir.

21 Q. What's in Jimmie's left hand?


22 A. Looks like a prop for a video we were

23 shooting that day.

24 Q. Oh, a prop for a video you were shooting

25 that day?




 **Derrick Marshall**  
January 2 · 🌐


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👍 Like 🗨 Comment ➦ Share


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👍🔥 57

 **Martice Summers RAILO**  
Like · Reply · January 2 at 8:18pm




 **RaJah Sa'Mila** Free my mans!  
Like · Reply · January 2 at 10:09pm

 **Cynthia Perez** I love my two nephews  
Like · Reply · 🗨 1 · January 3 at 8:05am

 **Derrick Marshall** Love u too aunty  
Like · Reply · January 3 at 8:32am

 **Schon Nettie Young Bulls**  
Like · Reply · 🗨 1 · January 3 at 9:13am

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 Write a comment...  

1 A. Yes, sir.

2 Q. Well, why don't we -- this just identifies

3 that this is your photo; right?

4 A. Yeah.

5 Q. That you posted?

6 A. Yeah.

7 Q. Are these fair and accurate?

8 A. You can say that.

9 Q. Okay.

10 A. Where'd you get them from?

11 Q. Your Facebook page.

12 A. Okay.

13 Q. Yeah.

14 MR. ACCURSO: The State offers State's

15 Exhibits 242 and 243.

16 MR. RADKE: Same objection.

17 THE COURT: Over defendant's objections, 242

18 and 243 will be admitted into evidence.

19 (State's Exhibit Nos. 242 and 243 were

20 admitted.)

21 MR. ACCURSO: Ms. Davies, will you please


22 publish that.

23 Q. (By Mr. Accurso) In his left hand, what is in

24 Shoe Go Get 'Em's left hand?

25 A. It looks like a prop.





 **Derrick Marshall**  
January 2 · 🌐


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
👍 Like   🗨 Comment   ➦ Share


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  57


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 **Martice Summers** RAILO  
Like · Reply · January 2 at 8:18pm




 **RaJah Sa'Mila** Free my mans!  
Like · Reply · January 2 at 10:09pm

 **Cynthia Perez** I love my two nephews  
Like · Reply · 1 · January 3 at 8:05am

 **Derrick Marshall** Love u too aunty  
Like · Reply · January 3 at 8:32am

 **Schon Nettie Young** Bulls  
Like · Reply · 1 · January 3 at 9:13am

---

 Write a comment...  



1 Q. And I just asked you what was in Shoe Go Get  
2 'Em's left hand. Thank you for answering.  
3 It looks like a prop. That doesn't look  
4 like an extended magazine to you?  
5 A. It might be for a prop gun, for a fake gun  
6 for a video.  
7 Q. A fake gun for a video, okay.  
8 A. Yes, sir.  
9 Q. State's Exhibits 244 and 245. Do you  
10 recognize these?  
11 A. Yes.  
12 Q. Okay. Who's on the right?  
13 A. Jimmie.  
14 Q. And what does Jimmie have in the front of  
15 his waistband in his hand?  
16 A. I can't tell. All I see is something  
17 extended from the side of him.  
18 Q. You can't tell?  
19 A. No, sir.  
20 Q. You can't see that extended magazine?  
21 A. That might be what that is, but the picture  
22 is blurred; I can't tell.  
23 Q. Can you see the trigger?  
24 A. No, I don't see a trigger.  
25 Q. Can you see the slide --



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THE COURT: Overruled.

Q. (By Mr. Accurso) Showing you what's been marked as State's Exhibit 220-LLLL, do you recognize that document?

A. Yes. Why does it say "False" everywhere?

Q. My question is, do you recognize the document?

A. Yes, I do.

Q. And is that even further documentation of when you and Shoe Go Get'em became friends?

A. It says "False," so I can't tell you if it's true or not.

MR. ACCURSO: State offers 220-LLLL into evidence, Judge.

THE COURT: All the 220 series has all been admitted into evidence.

MR. ACCURSO: Okay, I gotcha, I understand, Judge.

Permission to publish?

THE COURT: It's been granted before.

Q. (By Mr. Accurso) Look at this, Mr. Marshall. Here it says that the sender of this friend request is Derrick Marshall; correct?

A. Yes.

Q. So that would be you?

**Sender** Derrick Marshall (1361882763)  
**Recipient** Shoe Go Get'em (100010235710460)  
**Marked As Spam** false  
**Hidden** false  
**Rejected** false  
**Accepted** true  
**Time** 2015-09-11 01:20:38 UTC

**Time** 2015-09-11 01:20:39 UTC  
**Story** Shoe Go Get'em and Derrick Marshall are now friends.

1 A. Yes.  
2 Q. And the recipient is Shoe Go Get'em;  
3 correct?  
4 A. Yes.  
5 Q. And that would be Jimmie?  
6 A. If that's what you want to say.  
7 Q. Is that a yes?  
8 A. I don't know. It could have been anybody.  
9 Q. Could have been anybody.  
10 Mr. Marshall, do you and Jimmie have the  
11 same mother?  
12 A. Yes, sir.  
13 Q. And I mean absolutely no disrespect --  
14 A. I hope not.  
15 Q. I know that, sir. She passed away from  
16 cancer recently, did she not?  
17 A. Yes, she did.  
18 Q. Okay. Now, what I would like to know is, if  
19 Shoe Go Get'em is posting on Facebook photos of himself  
20 and your mother, himself as your brother Jimmie, that's  
21 pretty indicative of who Shoe Go Get'em is, isn't it?  
22 MR. RADKE: That's speculation.  
23 A. It's --  
24 THE COURT: Hold -- hold on.  
25 MR. RADKE: Object to the form of the

**Sender** Derrick Marshall (1361882763)  
**Recipient** Shoe Go Get'em (100010235710460)  
**Marked As Spam** false  
**Hidden** false  
**Rejected** false  
**Accepted** true  
**Time** 2015-09-11 01:20:38 UTC

**Time** 2015-09-11 01:20:39 UTC  
**Story** Shoe Go Get'em and Derrick Marshall are now friends.

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9 Q. Could have been anybody.  
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11 same mother?  
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20 and your mother, himself as your brother Jimmie, that's  
21 pretty indicative of who Shoe Go Get'em is, isn't it?  
22 MR. RADKE: That's speculation.  
23 A. It's --  
24 THE COURT: Hold -- hold on.  
25 MR. RADKE: Object to the form of the



**Id** 191524697865386

**Title** Man man man I have never in my 21 Years of life seen my momma like this laid up in da hospital man I hate it ..... If u still got your mother embrace that shit fr cherish y'all parent's I never had my father so to see my momma like. Dis is fucking me up tho

**Photo** [http://sphotos-h.ak.fbcdn.net/hphotos-ak-xft1/v/t1.0-9/s720x720/12510394\\_191524697865386\\_2798004748547543497\\_n.jpg?oh=880f4c5452f9b67cc76c9d81b24c24f3&oe=5723BE16&\\_\\_gda\\_\\_=1461939716\\_e6579590aca2ff45d6b92dfcb3b5e20d](http://sphotos-h.ak.fbcdn.net/hphotos-ak-xft1/v/t1.0-9/s720x720/12510394_191524697865386_2798004748547543497_n.jpg?oh=880f4c5452f9b67cc76c9d81b24c24f3&oe=5723BE16&__gda__=1461939716_e6579590aca2ff45d6b92dfcb3b5e20d)

**Link** <http://www.facebook.com/photo.php?fbid=191524697865386&set=a.124486071235916.1073741828.100010235710460&type=3>

**Upload Ip** 172.56.13.24

**Album Name** Mobile Uploads

**Uploaded** 2016-01-09 19:54:57 UTC



**Id** 191524697865386

**Title** Man man man I have never in my 21 Years of life seen my momma like this laid up in da hospital man I hate it ..... If u still got your mother embrace that shit fr cherish y'all parent's I never had my father so to see my momma like. Dis is fucking me up tho

**Photo** [http://sphotos-h.ak.fbcdn.net/hphotos-ak-xft1/v/t1.0-9/s720x720/12510394\\_191524697865386\\_2798004748547543497\\_n.jpg?oh=880f4c5452f9b67cc76c9d81b24c24f3&oe=5723BE16&\\_\\_gda\\_\\_=1461939716\\_e6579590aca2ff45d6b92dfcb3b5e20d](http://sphotos-h.ak.fbcdn.net/hphotos-ak-xft1/v/t1.0-9/s720x720/12510394_191524697865386_2798004748547543497_n.jpg?oh=880f4c5452f9b67cc76c9d81b24c24f3&oe=5723BE16&__gda__=1461939716_e6579590aca2ff45d6b92dfcb3b5e20d)

**Link** <http://www.facebook.com/photo.php?fbid=191524697865386&set=a.124486071235916.1073741828.100010235710460&type=3>

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1 question, Your Honor.

2 THE COURT: You can object -- no, you don't  
3 need to approach.

4 MR. RADKE: Okay.

5 THE COURT: Make your objection.

6 MR. RADKE: I object for all the reasons  
7 I've heretofore stated, plus the form of the question  
8 makes an assumption that cannot inferentially be drawn.

9 THE COURT: Overruled.

10 A. Can you restate your question, please?

11 Q. (By Mr. Accurso) If Shoe Go Get'em is  
12 posting photos of himself with your mother in her  
13 hospital bed, that's pretty indicative of who Shoe Go  
14 Get'em is, isn't it?

15 A. It's safe to say that he could have been  
16 using that page at that time.

17 MR. ACCURSO: Ms. Davies, would you please  
18 put up --

19 A. I don't want that picture being shown. Can  
20 we have a better picture of my mother, please?

21 Q. (By Mr. Accurso) Okay --

22 A. I don't want --

23 Q. -- I respect --

24 MR. ACCURSO: Would you please take that  
25 down, Trista.

1 Q. (By Mr. Accurso) Now, I'll ask you this.  
2 If somebody was impersonating your brother as Shoe Go  
3 Get'em, would it be fair to say that you would not take  
4 it very kindly if he was posting those photos?

5 A. No, I wouldn't.

6 Q. Correct.

7 MR. ACCURSO: What date was that photo  
8 posted, Trista?

9 Q. (By Mr. Accurso) That photo was posted on  
10 January 9th of 2016. Would you have any reason to  
11 disagree with me?

12 A. No.

13 Q. Okay. You wouldn't continue to socialize  
14 and be friends with Shoe Go Get'em after that imposter  
15 would post that photo, would you?

16 A. No. Like I say, he could have been using  
17 the page at the time.

18 Q. He could have been using the page. Is that  
19 because that is his page?

20 A. It could have been made by him, but he  
21 probably wasn't in control of it. Facebooks gets hacked  
22 all the time.

23 Q. Facebooks get hacked all the time.

24 A. It's a true statement.

25 Q. In the entire time that you and I spoke on



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1 March 9th of 2016 for your deposition --

2 A. March 9th, 2016.

3 Q. I'm sorry, 17th.

4 A. Okay.

5 Q. (Continuing) -- never once did you make any  
6 allegation or any claim that Shoe Go Get 'Em's Facebook  
7 account got hacked, did you?

8 A. I was never --

9 MR. RADKE: Objection --

10 A. -- asked that --

11 THE COURT: Hold --

12 MR. RADKE: -- speculation and conjecture.

13 THE COURT: Overruled.

14 A. I was only answering the questions that I  
15 was asked.

16 Q. (By Mr. Accurso) And when asked what your  
17 brother Jimmie Verge's Facebook name is, you said it was  
18 Rydahjay?

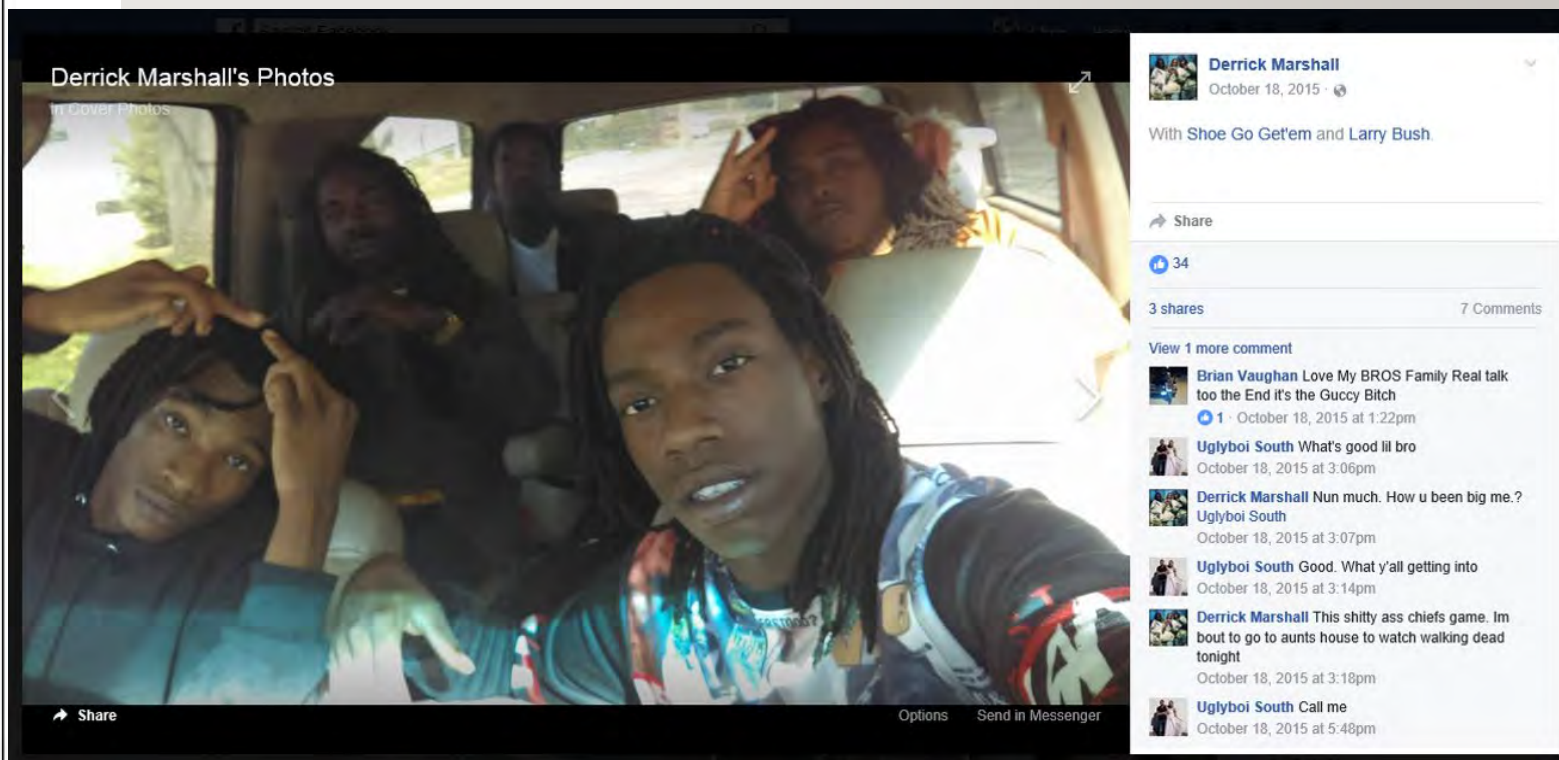
19 A. That's the Facebook he was using.

20 Q. Are you sure about that?

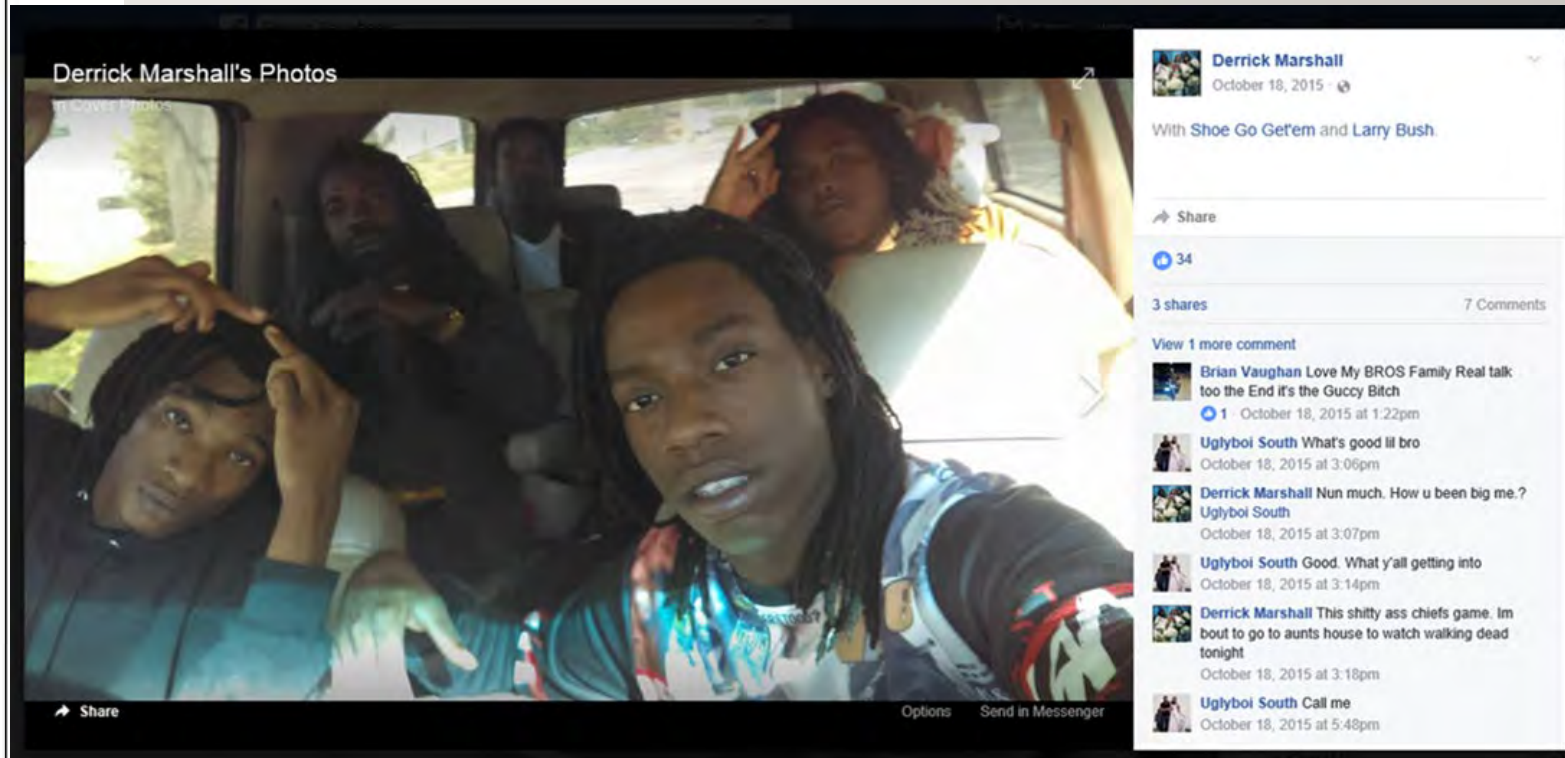
21 A. I mean, he could probably -- if he was using  
22 two, that makes it even easier for someone to hack it.

23 Q. Handing you what's been marked as State's  
24 Exhibits 235 and 236, do you recognize those photos?

25 A. Yes.




1 Q. And who posted that photo?  
2 A. It says I did.  
3 Q. And what's the date of that post?  
4 A. October 18th, 2015.  
5 Q. Who's it say you're with?  
6 A. Shoe Go Get'em and Larry Bush.  
7 Q. Shoe Go Get'em and Larry Bush. And who's in  
8 the driver's seat of that vehicle?  
9 A. I can't tell if it was me or Jimmie.  
10 MR. ACCURSO: State offers 235 and 236 into  
11 evidence.  
12 THE COURT: Any objections?  
13 MR. RADKE: No objections.  
14 THE COURT: 235 and 236 will be admitted  
15 into evidence.  
16 (State's Exhibit Nos. 235 and 236 were  
17 admitted.)  
18 MR. ACCURSO: Permission to publish?  
19 THE COURT: Any objections --  
20 On the video?  
21 MR. ACCURSO: Yes.  
22 THE COURT: All right, any additional  
23 objections?  
24 MR. RADKE: No.  
25 THE COURT: Over defendant's objections, 235





1 THE WITNESS: Oh, so I answer yes or no?  
2 THE COURT: Yes.  
3 A. No.  
4 Q. (By Mr. Accurso) No. So if you said that  
5 you were with Shoe Go Get'em, what would that mean?  
6 A. What do you mean?  
7 Q. Who would you be with?  
8 A. It's clear if it says I'm with Shoe Go  
9 Get'em, that's the tag it's making; right?  
10 Q. Right. And if you were continually around  
11 Shoe Go Get'em, I'd like to know who that is. So who is  
12 Shoe Go Get'em?  
13 A. It's a Facebook that Jimmie uses.  
14 Q. Thank you.  
15 Now, Mr. Marshall, it's your testimony that  
16 you got picked up by Cortez Brown at what time the day  
17 of his birthday?  
18 A. At nine -- I mean ten o'clock that morning.  
19 Q. Do you remember telling me during deposition  
20 nine o'clock?  
21 A. No.  
22 Q. You remember this deposition, don't you?  
23 A. Yes.  
24 Q. And you remember taking an oath to tell the  
25 truth?

Derrick Marshall's Photos



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Options Send in Messenger

**Derrick Marshall**  
October 18, 2015 · 🌐

With Shoe Go Get'em and Larry Bush

Share

34

3 shares 7 Comments

View 1 more comment

- Brian Vaughan** Love My BROS Family Real talk too the End it's the Gucy Bitch  
1 · October 18, 2015 at 1:22pm
- Uglyboi South** What's good lil bro  
October 18, 2015 at 3:06pm
- Derrick Marshall** Nun much. How u been big me.? Uglyboi South  
October 18, 2015 at 3:07pm
- Uglyboi South** Good. What y'all getting into  
October 18, 2015 at 3:14pm
- Derrick Marshall** This shitty ass chiefs game. Im bout to go to aunts house to watch walking dead tonight  
October 18, 2015 at 3:18pm
- Uglyboi South** Call me  
October 18, 2015 at 5:48pm

1 the "N" word, but what I'm suggesting is if we did this  
2 outside the jury to find out, and if he says no, over my  
3 objection I guess it could be played. But you can't  
4 unring the bell. And this is a highly prejudicial  
5 encounter or bit of evidence that I think should be done  
6 in a way that the jury isn't infected. Thank you.

7 THE COURT: All right, overruled.

8 MR. RADKE: Okay.

9 (Proceedings returned to open court.)

10 Q. (By Mr. Accurso) Mr. Marshall, if I played  
11 you a portion of that call, you would certainly be able  
12 to recognize your voice; correct?

13 MR. RADKE: May this be continuing, Your  
14 Honor?

15 THE COURT: It's a continuing line of  
16 objection and it's overruled.

17 A. I should be.

18 Q. (By Mr. Accurso) You should be? Okay.

19 MR. ACCURSO: Ms. Davies, could you please  
20 play that snippet of what has been marked as State's  
21 Exhibit 240 -- I'm sorry, 250, for the record.

22 (State's Exhibit 250 played.)

23 Q. (By Mr. Accurso) "Plus your little  
24 message."

25 A. Is that what you heard? I didn't hear that

1 clearly.

2 Q. Was that you?

3 A. Doesn't sound like me.

4 Q. It doesn't sound like you. What's your  
5 telephone number?

6 A. 816-876-3172.

7 Q. So, Mr. Marshall, if we recall, let's say,  
8 Detective Stammler and he presents the jail call record,  
9 you're telling me that that phone call won't be made to  
10 you?

11 MR. RADKE: Irrelevant --

12 A. Yes.

13 MR. RADKE: -- immaterial, argumentative --

14 THE COURT: Hold on just a second,  
15 Mr. Marshall.

16 I'm sorry?

17 MR. RADKE: Irrelevant, immaterial,  
18 argumentative.

19 THE COURT: Overruled.

20 MR. RADKE: Lack of foundation.

21 THE COURT: Overruled.

22 Q. (By Mr. Accurso) Are you as confident in  
23 that answer as you are with the fact that you were with  
24 your brother at the time of the murder?

25 MR. RADKE: Same objection. Multiple

1 compound inquiries.

2 THE COURT: Overruled.

3 A. Yes.

4 Q. (By Mr. Accurso) Now, that message you're  
5 talking about --

6 MR. ACCURSO: Would you please pull up  
7 State's Exhibit HHHH.

8 THE COURT: I couldn't hear you.

9 MR. ACCURSO: Let me just double-check.  
10 It's going to be four letters in a row, but I said HHHH.

11 Q. (By Mr. Accurso) So I'm pulling up State's  
12 Exhibit IIII.

13 THE COURT: Of what, for what, 220?

14 MR. ACCURSO: 220-IIII, yes, Judge. I  
15 apologize.

16 Q. (By Mr. Accurso) And this is a conversation  
17 we've already seen. Two days after the homicide,  
18 between Shoe Go Get'em -- who you've already admitted to  
19 this jury is a Facebook account that your brother uses;  
20 correct?

21 A. Yes.

22 Q. And you see him tell her to "Delete that  
23 last message"; right?

24 MR. RADKE: Wait, I'm going to object.  
25 "He." That would suggest my client, when that has not

1 been established. He can refer to the Facebook page  
2 handle name, but not otherwise my client.

3 THE COURT: Overruled.

4 Q. (By Mr. Accurso) He says "Delete  
5 that...message"; correct?

6 A. That's what it says.

7 Q. And she says: I did, wow. Where was this  
8 at. Correct? And Shoe Go Get'em's response: 73rd.  
9 When you called me, that was me.

10 MR. ACCURSO: And if we could go to  
11 220-JJJJ, please.

12 MR. RADKE: In addition, Judge, there's been  
13 improper foundation laid that my client is even aware of  
14 these Facebook entries. I object for those reasons as  
15 well.

16 THE COURT: Overruled.

17 Q. (By Mr. Accurso) 73rd. He killed my  
18 cousin. I killed him and hit his homie.

19 That's a message from Shoe Go Get'em; right?

20 A. That's what it says.

21 Q. The same Shoe Go Get'em that you said is the  
22 account your brother uses?

23 A. That he used.

24 Q. Well, clearly he doesn't use it right now,  
25 but he used to use it; right?

1 A. I wouldn't say that's his message, but he's  
2 used it before.

3 Q. This is the message you were talking about  
4 in that jail call; correct?

5 A. No.

6 Q. This is the message, along with the  
7 eyewitness -- who you know to be Rickey Brown; correct?

8 A. No.

9 Q. And the victim surviving that you know to be  
10 Kameron Gines; correct?

11 A. No.

12 Q. Plus this little message where he  
13 confesses --

14 MR. RADKE: Object.

15 Q. (By Mr. Accurso) -- what, two days after --

16 THE COURT: Is there an objection?

17 MR. RADKE: Yes.

18 THE COURT: Sustained. Argumentative.

19 Q. (By Mr. Accurso) And then there's this  
20 message; right?

21 A. Uh-huh.

22 Q. Is that a yes?

23 A. I mean, that's a message.

24 Q. And what we can take away from this is that  
25 Shoe Go Get'em was at 73rd and Wabash, shot and killed

1 Gerrod Woods, D.J. Groves, and hit Kameron Gines?

2 MR. RADKE: I'd object. That is misleading,  
3 speculative, argumentative. I object for those reasons.

4 THE COURT: Overruled. You can answer.

5 A. I don't know how to answer that question.

6 What was your question?

7 Q. (By Mr. Accurso) We can take from this  
8 message that Shoe Go Get'em, the Facebook page you said  
9 your brother used, wasn't with you --

10 A. No.

11 Q. -- when this homicide happened; correct?

12 A. That's not what you can take from that.

13 Q. He was at 73rd and Wabash; correct?

14 A. No.

15 Q. Pulling out a Glock with an extended mag;  
16 correct?

17 A. No, sir.

18 MR. RADKE: Wait. He's getting too close to  
19 this witness, Judge.

20 MR. ACCURSO: I'm grabbing an exhibit.

21 THE COURT: Fair enough.

22 THE WITNESS: I feel scared.

23 THE COURT: Hold on. All right, guys,  
24 everyone just calm down a little bit, okay? We'll get  
25 through this.

1 Go ahead.

2 Q. (By Mr. Accurso) Pulling out that same  
3 Glock with an extended mag clip; correct (indicating)?

4 A. That picture was taken in 2013.

5 Q. Putting multiple bullet holes in Gerrod  
6 Woods; correct?

7 A. No, sir.

8 Q. Multiple bullet holes in D.J. Groves;  
9 correct?

10 A. No, sir.

11 MR. RADKE: Judge, I'm going to object to  
12 this line of inquiry. There's no foundation laid,  
13 first, that -- that this witness even has knowledge of  
14 that type of information.

15 THE COURT: Overruled.

16 Q. (By Mr. Accurso) You want to tell this jury  
17 who Shoe Go Get'em is?

18 A. I don't know who Shoe Go Get'em is. I know  
19 Jimmie used to have a Facebook page, but as of right  
20 now, I don't know who that is; I don't know who those  
21 messages came from.

22 Q. But we can all agree that Shoe Go Get'em's  
23 guilty of all eight counts in this case; right --

24 A. I'm done, I'm getting off the stand --

25 MR. RADKE: I object --

1 THE COURT: Sir --

2 MR. RADKE: -- Judge. Argumentative, Judge.  
3 It invades the province of this jury --

4 THE COURT: Mr. Marshall, sit down.

5 THE WITNESS: I can't leave?

6 THE COURT: No, you cannot.

7 MR. RADKE: Cool it, doggone it.

8 THE COURT: What's your objection,  
9 Mr. Radke?

10 MR. RADKE: It's argumentative and invades  
11 the province of the jury.

12 THE COURT: All right, sustained.

13 MR. ACCURSO: No further questions.

14 MR. RADKE: Respectfully, if the Court --  
15 never mind.

16 THE COURT: Do you have any redirect?

17 MR. RADKE: Oh, yes.

18 **REDIRECT EXAMINATION**

19 BY MR. RADKE:

20 Q. Mr. Marshall, I want you to kind of calm  
21 down. Take some deep breaths.

22 A. I'm calm.

23 Q. Mr. Accurso is doing his job, from his  
24 perspective. And this is a very emotional case and it's  
25 late in the afternoon. So really be cool about all