

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 (Witness stands down.)

4 THE COURT: Call your next witness.

5 MR. BURT: I call Mr. Byers.

6 THE COURT: It should be pointed out that he's
7 been in the courtroom the entire time. If the State
8 doesn't object, it's fine with the Court, but other-
9 wise, it's a violation of the rules.

10 MR. BURT: We didn't frankly, anticipate that we
11 would call him as a witness, but it came to light as
12 the discussion with Dr. Baden and I just wanted to
13 make sure that we got this straight.

14 THE COURT: If they don't object, that's all
15 right.

16 MR. HOLT: I don't think we have an objection.

17 THE COURT: All right, come on.

18 DR. BADEN: This isn't the way it works in
19 Brooklyn. Everyone would object in Brooklyn.

20 THE COURT: Raise your right hand, please.

21 (Witness sworn.)

22 THEREUPON,

23 JOHN MARK BYERS

24 was called as a witness by and on behalf of the Petitioner/
25 Defendant and having been duly sworn, was examined and testified

1 as follows, to-wit:

2 DIRECT-EXAMINATION

3 BY MR. BURT:

4 Q] Good afternoon, Mr. Byers.

5 A] Good afternoon.

6 Q] Sir, first of all, we apologize for having to show those
7 photos while you were in the courtroom.

8 A] I understand.

9 Q] You heard Dr. Baden's testimony about your conversation out
10 in the hallway?

11 A] Yes, sir.

12 Q] Would you clarify what you said to him out in the hallway,
13 just so we've got the record straight on this?

14 A] I had commented to him about that, uh, for a couple of
15 summers in my swimming pool in the back yard, I could always
16 tell which children had been playing out there, mainly because
17 of the turtles that I would find in my swimming pool. If they
18 were small turtles, say, six to eight inch in diameter, they
19 would generally have a Ninja turtle toy duct taped to them,
20 well, I knew that was probably my son Christopher and his
21 buddies. I would scoop those out just with a skimmer net, put
22 'em in a five-gallon bucket and dispose of 'em. Then if I went
23 out and I found larger turtles, say, twelve inch in diameter to
24 a larger, it took a different apparatus, which I used a fishing
25 net to scoop the larger turtles out of my pool. And I lived on

1 a corner that had a drain and I would take the larger turtles
2 and the small ones, too, and dump 'em in that drain and then
3 they washed or went to where ever they went. But for several
4 years I got turtles and they told me that they found - - you
5 know, I'd ask 'em "where have y'all been" and they'd been down
6 playing in the Robin Hood area.

7 Q] Okay, and where, sir, did you live in relation to where the
8 boys were found?

9 A] I lived on the corner of Barton and 14th Street, which is
10 just a couple of blocks up from Robin Hood Hills.

11 Q] Did you happen to know what kind of turtles these were; do
12 you know enough about turtles?

13 A] Uh, yes, sir. Some of 'em were soft-shell turtles, uh,
14 some of 'em were what we call red ear slider, which is a turtle
15 with a little red spot on the side of it, and then there were
16 snapping turtles and there some that I recognized as what we
17 call a logger head turtle or maybe a alligator turtle. But from
18 growing up in the country and just seeing 'em, I recognized 'em.

19 Q] And just for the record, could you identify your relation-
20 ship to the boys in this case?

21 A] Christopher Mark Byers was my son that I adopted. Michael
22 Moore lived right across the street corner and Stevie Branch
23 lived down the street and then back a ways on McAuley.

24 MR. BURT: Thank you very much. That's all I
25 have.

1 MR. HOLT: No questions.

2 THE COURT: All right, you may stand down. You're
3 excused.

4 (Witness excused.)

5 THE COURT: Call your next witness.

6 MR. BURT: Your Honor, I'm afraid we've kind of
7 run out of witnesses for today.

8 THE COURT: I wanted to quit at 3:30 anyway.

9 MR. BURT: Yes, we anticipated a little longer on
10 cross, so I apologize for that.

11 THE COURT: Well, I can start back at about 12:30
12 if that's convenient. It takes me an hour to drive
13 over here and I suspect I could probably be here by
14 twelve. Let's say 12:30, is that all right?

15 MR. BURT: Thank you.

16 THE COURT: All right, court will be in recess
17 until tomorrow at 12:30.

18 (WHEREUPON, a recess was taken August 11, 2009; proceedings
19 resumed August 12, 2009, 12:30 p.m., as follows, to-wit:)

20 **AUGUST 12, 2009**

21 THE COURT: All right, call your next witness.

22 MR. BURT: Judge, just to let the Court know in
23 terms of scheduling, we have one expert that will
24 probably take all afternoon, hopefully, a little bit
25 less than that and then we have witnesses lined up for