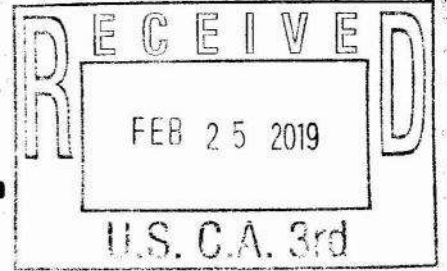
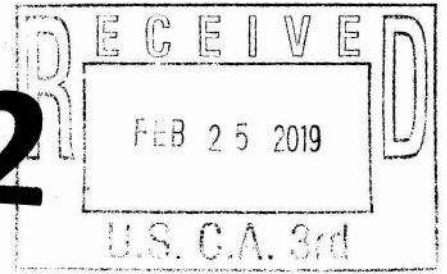


# EXHIBIT 1



- 1 A Yeah, like, like yeah.
- 2 Q Okay.
- 3 A And he had a black shirt under.
- 4 Q All right and that was the one that you recognized from high school?
- 5 A No, that was another one, but I don't know if that was him, the one that I
- 6 recognized from high school. I know he was definitely there.
- 7 Q Right.
- 8 A But I know the one that was actually hitting them the most—
- 9 Q Right.
- 10 A —was the one in the red jacket.
- 11 Q With the red jacket, okay. What um, can you just— with the, regards to the
- 12 red jacket, was there anything on it that stood out, any type of sig— um—
- 13 DET. SINGH: Symbol.
- 14 Q —lo— yeah, logo or anything on it that you would think of?
- 15 A No.
- 16 Q Like stripes or—
- 17 A No, it was just red.
- 18 Q It's a red jacket. Okay. All right. All, all red; correct?
- 19 A Yes.
- 20 Q Long sleeve?
- 21 A All red.
- 22 Q Okay. Um—
- 23 DET. SINGH: If you saw the actors again, would you be able to identify

# EXHIBIT 2



ENGLEWOOD POLICE Case# I-2012-025575 SUPPLEMENTARY INVESTIGATION REPORT

ROLE: Victim | NAME: CORTES, SANTIAGO | HOME ADDRESS: 276 ENGLE ST APT 12E, ENGLEWOOD NJ 07631 | HOME PHONE: [REDACTED] | SEX: M | DOB: 05/30/1994 | AGE: 18 | SSN: [REDACTED] | RACE: WHITE | HAIR COLOR: BLACK | COMPLEXION: OLIVE | HEIGHT: 5' 6" | WEIGHT: 160 | BUILD: SLIM

1 On 11/02/2012 at approximately 1230 hours, Detective Singh and I responded to the residence of Jeisson Duque: 276 Engle St. #12E, Englewood, NJ. 07631. Upon arrival, we met his Aunt and cousin who stated that he was at the Englewood Hospital along with Santiago Cortes and Kristian Perdomo. This was due to injuries sustained as a direct result of the incident which occurred on 10/31/2012. Detective Singh and I departed, and headed straight to the Englewood Hospital.

2 Upon arrival at Englewood Hospital, met with the security team. One of the security members escorted us to our destination to meet with the three victims. Once at said location, I observed Jeisson Duque laying in a hospital bed with his jaw wired shut. Santiago Cortes had just been released. However, he was waiting for Jeisson Duque to be released. Kristian Perdomo was on scene as well. During the initial interview, Detective Singh presented the Juvenile Bureau photo ID book to the victims. Upon Kristian Perdomo viewing said book, he immediately identified Derek Gaddy as being on the scene and with the group that attacked them. Perdomo also stated that during the incident, he had a conversation with Gaddy. According to Perdomo, he stated that Gaddy told others to stop hitting Perdomo because he knew him. Perdomo stated that Gaddy said, "Yo chill...I know this nigga...I know this nigga!" Perdomo said to Gaddy, "Yeah we had class together last year." Perdomo finished by stating that he could not be sure if Gaddy hit anyone. However, he did not see Gaddy hit anyone. Detective Singh called Natalia Cortes while the others looked at said ID book. She indicated that she was coming and was almost there.

3 Approximately 20 minutes later, Natalia Cortes arrived. Detective Singh presented said ID book to her as well. Natalia viewed several photos and was able to pick out Justin Evans, Tyrone Stephens, and Derak Gaddy. All of the victims and witnesses stated that they clearly remember clothing details. The ones that stick out the most are the suspect wearing a bright red jacket, a suspect wearing an orange jacket, and the suspect wearing the mask had on a black colored Adidas jacket with white stripes down the sleeves. Also one of the suspects is described as very big and large in stature. After the initial interview, Detective Singh took audio recorded statements from the all the victims and witnesses. He or I swore them in before proceeding with the questions. Each victim and witness recalled the incident to the best of their recollection of that night (All statements enclosed in case). After taking all of the statements from the victims and witnesses, Detective Singh and I drove to the Winton White football stadium to pick up Derek Gaddy for questioning.

4 Upon arrival to said stadium, we met with Coach Barry Harrison. We informed him that we needed to speak with Gaddy with regards to an incident. Coach Harrison came up with a rouse in efforts not to alarm the team as to what was going on. Derek Gaddy left with Detective Singh and I as we drove back to the Englewood Police Dept. Upon arrival to said Department, Detective Singh allowed Gaddy to call his mother to inform her of what was going on and that she needed to respond to this department immediately. Upon reaching Ms. Orla Haynes, she indicated that she could not come down at that time nor did she want her son to give a statement. Derek Gaddy indicated that he wanted to tell us what happened however, Detective Singh told him that he could not talk to him without his parent being present. Approximately 30 minutes later, Derek Gaddy's grandmother arrived at said Police Dept. She took custody of her grandson and departed. Detective Singh advised her that we would need to speak with Gaddy at a later date and we would be contacting his mother.

5 On 11/05/2012 at approximately 1000 hours, I was on the grounds of Dwight Morrow High School in the capacity as School Resource Officer when I received an anonymous tip about the incident on 10/31/2102. According to the information, Kirk McIntosh Jr. and Jahquann Graham were involved in assaulting the three victims. Coincidentally, on an unrelated matter, Mr. Kirk McIntosh responded to the school to pick up his son Kirk McIntosh Jr. I know Mr. McIntosh because of previous dealings with his son in past years. I informed Mr. McIntosh that I needed to speak with Kirk sooner than later. Mr. McIntosh stated that he had to take his son to the doctor now and could not miss the appointment. I advised Mr. McIntosh to call me or I would call him if I did not hear from him. Mr. McIntosh agreed and departed with his son at approximately 1330 hours.

6 On 11/07/2012 at approximately 0930 hours, I responded to Dwight Morrow High School because I did not hear back from Mr. McIntosh. I went to the office of Assistant Principal Joseph Armenthal. I informed Mr. Armenthal that I needed to bring Kirk to the Police Department. Mr. Armenthal called Mr. McIntosh to inform him of what was going on. I then spoke with Mr. McIntosh to instruct him to meet me at the Englewood Police Dept. Det. Nathaniel Kinlaw and I, transported Kirk to the Englewood Police Dept. Upon arrival he was brought to the Juvenile Bureau. Upon Mr. McIntosh's arrival, he was escorted to the Juvenile Bureau by the Tour Commander of said Department. Detective Kinlaw and I informed him of what we would be talking to his son about. Mr. McIntosh indicated that he would allow his son to talk to us to tell us what he knew.

75A. Name	DETECTIVE McDONALD, MARC	162	78A. Date Report	12/05/2012	79A. Reviewed By	DETECTIVE LIEUTENANT CUBI
Signature						

Detective McDonald - Direct 13

1 question before I showed you the report. Do you recall  
2 who Natalia was able to pick out out of that -- the  
3 photo book that you showed her?

4 A Yes. She picked up -- picked out Tyrone Stevens,  
5 Justin Evans, and Derric Gatti.

6 Q That photo book, how was that book  
7 constructed. Or, where did you get that book from?

8 A That is the photo mug shot book of people we've  
9 taken into custody in the past. It's photos. And on  
10 the back there's a -- a corresponding number which we  
11 have back at headquarters as a database. There --  
12 there are no names on there. It's just the picture and  
13 on the back there is a corresponding number.

14 Q Okay. And, now, I'll move back to asking  
15 about the course of your investigation you were  
16 speaking about earlier. After you attempted to  
17 interview Derric Gatti, what happened next?

18 A I mean, well, that was pretty much it. All we  
19 really knew was at that particular point was -- was  
20 Derric Gatti. The following week, which was Monday, in  
21 the capacity of the school resource officer, I was on  
22 the grounds of Dwight Morrow High School when I  
23 received a tip from a person at the school that stated  
24 that Kirk McIntosh and Jahquann Graham were involved in  
25 beating up the three boys at 7-11.

# EXHIBIT 3



Detective McDonald - Cross

63

1 A I believe so, yes.

2 Q Okay. "The other guy with the red jacket was  
3 hitting the most." During the course of your  
4 investigation, did you ever conclude that my client had  
5 the red jacket?

6 A No.

7 Q Okay. She also said, "I'm not sure if I can  
8 identify the actors, it was really dark." I think,  
9 then, that you said, "If you saw them again, could you  
10 identify them?" Does that sound about --

11 A I'm sorry, I didn't hear that.

12 Q I think -- my understanding is she said, "I'm  
13 not sure if I can identify the actors, it was really  
14 dark."

15 A Right.

16 Q And you said, "If you saw them again, could  
17 you identify them?"

18 A Right. Yes.

19 Q Okay. All right. So, then, I think, then,  
20 you showed her the photo array, again?

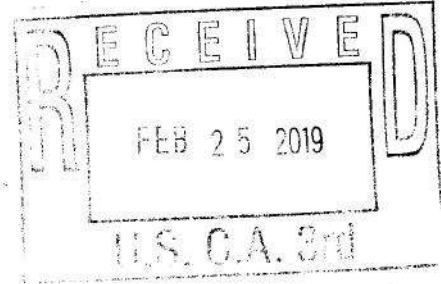
21 A That was for --

22 Q Oh, Detective Cabillos's (phonetic).

23 A Yes.

24 Q Okay. So, you met with Natalia at the  
25 hospital.

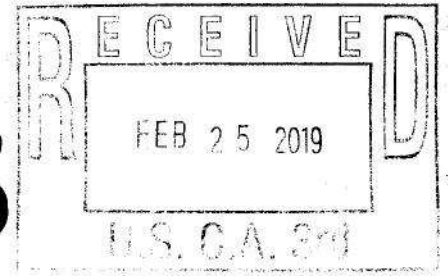
# EXHIBIT 4





ENGLEWOOD POLICE				SUPPLEMENTARY INVESTIGATION REPORT			
1. Complaint Number I-2012-025575	2. Mun. Code 0215	3. Phone Number 201-568-2700	4. UCR	21. Prosecutor's Case Number	22. Department Case Number C-2012-018958		
5. Crime/Incident ROBB - ROBBERY - BELATED		5A. New Crime/Incident if Changed		22. Victim(s) New Address if Changed 276 ENGLE ST, ENGLEWOOD NJ, 07631			
				23a. Victim(s) Name DUQUE, JEISSON			
6A. New NJS		7. Date of Crime 11/01/2012		Additional Value Stolen Property	40A. Currency	41A. Jewelry	42A. Fur
				43A. Clothing	44A. Auto	Miscellaneous	
46A. S.C.I.C.	46A. Additional Technical Service-Agency			48A. Additional Stolen Property Value		47A. Adult Recovered Property Value	
61A. B.C. Radio		52A. B.C. Radio Cancel		53A. H.C.I.C.			
57. Vehicle	58. Year	59. Make	60. Body Type	61. Color	62. Registration Number & State		62A. Serial Number or Identification
<p>List Name Only of Previous Accused. Complete information on New Accused; include Additional Perpetrators; Suspects; Record all Developments Since Last Report; Explain Any Crime Change; List Additional Interviews of Victims; Persons Contacted; Witnesses; Evidence; Technical Services; Stolen Property; Recovered Property; Court Action.</p>							
63. No. of Accused	63A. New Accused	64A. Adult	65A. Juvenile	66A. Status Crime	67A. Status Case	68A. UCR Status Month Yr.	69A. Date Cleared
7			7	CLOSED	CLOSED		
70. Name		Address		71. Age	72. Sex	73. Race	74. DOB
<p>On 11/12/12 at 1449 hrs. I met with Kristian Pardo at the Englewood Police Department to show him a photo array of a possible ADULT suspect that may have been involved in the Robbery / Aggravated Assault. The photo line-up was created by Det. McDonald and each photograph was placed in a separate folder and properly labeled on the outside. During the identification procedure, Kristian was unable to pick anyone out.</p> <p>On 11/13/12 at 1528 hrs., I met with Natalia Cortes at the Englewood Police Department to show her the same photo array that Det. McDonald had provided. During said photo array, Natalia was unable to pick anyone out. I completed the PHOTO ARRAY EYEWITNESS IDENTIFICATION PROCEDURE WORKSHEET documenting the array. After the array, Det. McDonald advised me that the individual that was placed in the photo array was of a possible suspect named Victory Sarmino. No photo of any other juvenile suspect was used in this photo array.</p>							
75A. Name DETECTIVE LIEUTENANT CUBILLOS, CLAUDIA				160	76A. Date Report 01/04/2013	76A. Reviewed By DETECTIVE LIEUTENANT CUBILLOS	
Signature							

# EXHIBIT 5



17. Photos were presented (choose one): sequentially  simultaneously

If sequential presentation, did you explain:

- a. that the witness would be given one photo at a time? Y  N
- b. that he/she can take as much time as he/she wants to make a decision about each photo? Y  N
- c. that when the witness is finished looking at a photo, you would take it back before giving the witness the next photo? Y  N

18. Officers must avoid providing "feedback," that is, signaling to the witness in any way (whether during or after the identification procedure) that the witness correctly identified the suspect. Did you or anyone else present say or do anything during or after the procedure that would have suggested to the witness that he/she correctly identified the suspect? Y  N   
(If yes, detail any actions/gestures/dialogue) \_\_\_\_\_

19. Did the witness look at all of the photos? Y  N

20. Did the witness identify any photo as depicting the perpetrator? Y  N

21. If yes to #20, did you ask the witness during the procedure to make a statement concerning his/her level of confidence that the photo he/she selected depicts the perpetrator? Y  N   
You must document the exact words and gestures used by the witness to describe his/her level of confidence:

22. Did you repeat back to the witness the language quoted in the answer to #21 and confirm that is what he/she said about his/her level of confidence? Y  N

23. Was there any other dialogue between anyone in attendance during the identification procedure not described in detail in the answers to #18 and 21? Y  N  (If yes, provide a verbatim/detailed summary of the dialogue)

24. Did you instruct the witness not to discuss the identification procedure or its results with other witnesses and not to obtain information from other witnesses/sources? Y  N

25. Did you preserve the photo array, mug books or digital photos used? Y  N

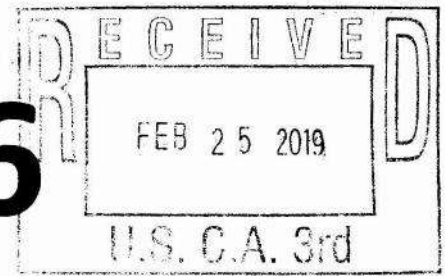
26. Was this worksheet completed during/immediately following the identification procedure? Y  N  (If not, explain)

[Signature]  
Signature

Claudia Cubillas  
Print Name

Date: 11/13/12 Time: 4:00pm

# EXHIBIT 6



Detective McDonald - Cross

65

1 Q Okay.

2 A But, it was for a different suspect at that time.

3 It wasn't for Justin.

4 Q Okay. Do you recall Natalia being asked, "Is  
5 there anyone from" -- Is there anyone familiar?" She  
6 states, "Not really. I'm not sure." Do --

7 A According to Detective Cabillos, yes.

8 Q Okay.

9 A That's what she said.

10 Q So, looking through the photo array, at  
11 headquarters, on November 13<sup>th</sup>, the bottom line is,  
12 Natalia could not identify anyone in the photo book as  
13 being there that night; right?

14 A Right. But, again, those were different suspects  
15 at that time.

16 Q Okay. Do you know, with certainty, whether  
17 or not Justin's picture was in that November 13<sup>th</sup> photo  
18 book with Detective Cabillos?

19 A No. They were all adults.

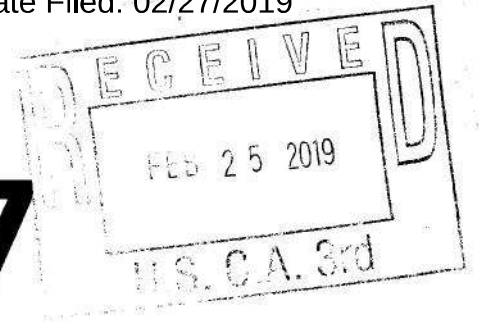
20 Q Okay.

21 A All the -- all the suspects were adults.

22 Q Okay.

23 MR. GROSSMAN: Well, Judge, it's not  
24 something for today, but my problem is that I don't  
25 have a -- a transcript was not provided of Ms. Cortez'

# EXHIBIT 7



STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- February 26, 2013

SHEET 5

Cortes - Direct

8

1 A Yeah.

2 Q And just now in the hallway, when you first

3 saw him --

4 A Uh-huh.

5 Q -- what -- what was -- what was your

6 reaction? What did you just say?

7 A I said I'm not -- I'm not really so sure that he

8 wasn't there -- that he was there.

9 Q So, you're --

10 A Like, I've seen him, but I was, like, I'm not

11 really so sure that he was there.

12 Q Was he one of the pictures that the officers

13 showed you?

14 A Yeah.

15 Q And were you --

16 A I think.

17 Q Did -- I'm sorry?

18 A I think so. I think he was in one of the

19 pictures.

20 Q Okay. And was he one of the pictures that

21 you pointed out saying it's possible he was there?

22 THE COURT: You have to say yes or no.

23 THE WITNESS: Yes.

24 BY MR. COMET:

25 Q Are you saying yes or no?

Cortes - Direct

9

1 A Yes.

2 Q So, you're saying you did point out and say

3 my --

4 A I said he might have been there, but I'm not sure.

5 Q Okay. And --

6 A That's what I said.

7 Q -- did you witness Mr. Stephens fighting that

8 night?

9 A I didn't quite see anybody's faces who were

10 actually fighting. Like --

11 Q Okay.

12 A -- the only people that I saw were just standing,

13 like -- just there.

14 Q Okay. And do you specifically recall whether

15 my client was specifically there at 10:13 p.m. that

16 night?

17 A No.

18 Q And when the officers asked you -- they --

19 was there -- was there a point on November 2nd or

20 November 13th that they videotap-- not video --

21 audiotaped your conversation with them?

22 A Yeah.

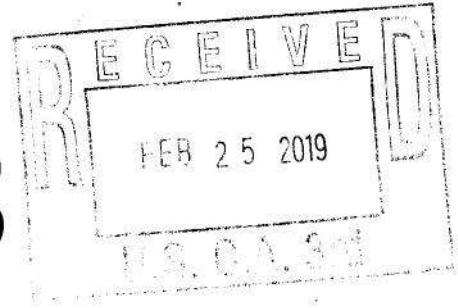
23 Q Do you recall that?

24 A I remember they -- they recorded it.

25 Q The recorder. And when the recorder was in

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# EXHIBIT 8





**STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- February 26, 2013**

SHEET 6

Cortes - Direct 10

1 front of you, did they show you pictures?  
2 A Yes.  
3 Q And, at that point, was there ever a point  
4 where you said, I identify a specific person?  
5 A Well, I identified, like, one or two that kind of  
6 stood out, but not him.  
7 Q Okay. To refresh your recollection, the  
8 audiotape doesn't have you identifying anybody.  
9 A No.  
10 Q Do you recall that?  
11 A Not really. It was just a long time ago.  
12 Q It was a long time ago. But I'm just trying  
13 to get you to remember exactly what it was that you  
14 said.  
15 A Okay.  
16 Q I listened to the audio tapes. And I'm  
17 trying to get you to remember exactly what happened  
18 that day. Can you recall whether you specifically  
19 identified anybody or not?  
20 A No.  
21 THE COURT: You can't recall --  
22 BY MR. COMET:  
23 Q You can't recall or you haven't -- didn't  
24 identify anybody? Which one is it?  
25 A I can't recall.

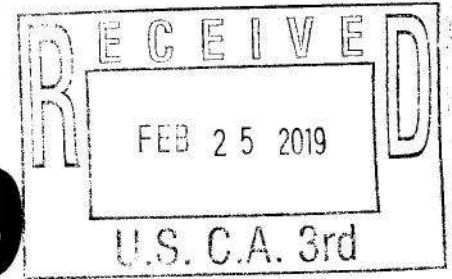
Cortes - Direct 11

1 Q You can't recall. Okay. There was testimony  
2 in this Court --  
3 A Okay.  
4 Q -- that said that you specifically picked out  
5 specific people. Do you recall whether you identified  
6 anybody by name?  
7 A No. It was --  
8 Q Do you recall --  
9 A -- mostly face --  
10 Q -- whether --  
11 MR. MILLER: Objection. I don't know what  
12 day we're talking about.  
13 MR. COMET: It doesn't make a difference. At  
14 any point, at any time.  
15 THE COURT: Wait a minute.  
16 MR. COMET: Well, there's only really two  
17 recordings. There's 11/2 and 11/13, Judge. Those are  
18 the two recordings that we have as part of discovery --  
19 THE COURT: Okay.  
20 MR. COMET: -- that she was id-- she was  
21 interviewed. Now, if the Court -- I'm sorry. If the  
22 prosecution is saying that there are times outside  
23 those two times that they're relying on, they have  
24 other issues that we have not gotten through discovery.  
25 Right now I believe that my focus is on the 11/2 and

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# EXHIBIT 9



**STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- February 26, 2013**

SHEET 9

Cortes - Direct 16

1 A I don't -- I didn't know anybody's name. I just  
2 saw by face.  
3 Q Okay. Now, second question.  
4 A I just saw their face.  
5 Q When you looked at their faces, did you say I  
6 saw that face at 7-Eleven on October 31, 2012?  
7 A No.  
8 Q And finally, third, did there come a point  
9 where you wavered and said, I'm not sure, this person  
10 might have been there, I really don't know?  
11 A That was -- yeah.  
12 Q And how many faces did you say that about?  
13 A I think one or two.  
14 Q Do you know --  
15 A Names?  
16 Q -- which -- which faces you were referring  
17 to?  
18 A Now -- I can't remember now. Maybe at that point,  
19 yes.  
20 Q Okay. And the crucial question, do you know  
21 whether one of those faces that you said might have  
22 been there was my client?  
23 A No.  
24 Q You don't know or you're saying no, it was  
25 not him?

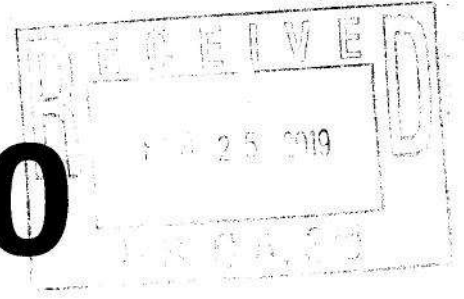
Cortes - Direct/Cross 17

1 A No. I'm saying no.  
2 THE COURT: Wait. Wait.  
3 THE WITNESS: I'm saying, no, it wasn't him.  
4 BY MR. COMET:  
5 Q It was not one of the faces. Okay. One  
6 final question. Other than the two times that you were  
7 questioned by the police on November 2nd and November  
8 13th in front of a microphone, were there any other  
9 times that the police, regarding this case, questioned  
10 you?  
11 A No.  
12 Q You were never questioned by any police  
13 officer in any setting anywhere regarding this case?  
14 MR. COMET: I'm done. No more questions,  
15 Judge.  
16 THE COURT: Oh -- no. You didn't answer the  
17 last question.  
18 THE WITNESS: No.  
19 THE COURT: Okay. Cross?  
20 CROSS-EXAMINATION BY MR. MILLER:  
21 Q Okay. Okay. You said that you were  
22 interviewed at the hospital, correct?  
23 A Yes.  
24 Q And you think that the date, November 2nd,  
25 sounds correct?

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# EXHIBIT 10



**STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- February 26, 2013**

SHEET 10

Cortes - Cross 18

1 A Something like that.

2 Q Approximately.

3 A Yeah. I'm -- I'm not really sure when it was, but

4 --

5 Q Okay.

6 A -- it sounds like it's around there.

7 Q And you said that you were -- were you showed

8 a -- a -- a Photo Identification --

9 A Yes.

10 Q -- Book? A collection of pictures?

11 A Yes.

12 Q Did you point to any of the pictures when

13 asked if -- if they were there?

14 A I pointed, like, one or two pictures.

15 Q Okay. Are you sure it was one or two?

16 A Yeah. It was -- it wasn't like a bunch of them.

17 I point-- it was, like, one or two, maybe three. I'm

18 not so sure.

19 Q Maybe three?

20 A Yeah.

21 Q Did you say how sure you were at that point?

22 A All my answers were pretty much, I'm not so sure.

23 Q Uh-huh.

24 A It might have been, but I'm not really sure since

25 it was really dark.

Cortes - Cross 19

1 Q Uh-huh.

2 A And like I said, everybody had either hoodies or,

3 like, some type of hat on.

4 Q Was there one particular picture that you

5 were more sure about than the others?

6 A Not that I can recall.

7 Q And you said -- did you know Tyrone Stephens

8 before you looked at the Photo Book on November 2nd?

9 A I remember him by face because --

10 Q Uh-huh.

11 A -- we went to high school together. I mean, like,

12 we really didn't talk or, like, anything. But I

13 remember seeing him in high school.

14 Q Okay.

15 A And that he played sports and everything.

16 Q Did you -- did you recognize any of the

17 pictures that you pointed out as being Tyrone Stephens?

18 A No. Not that I can remember at this point.

19 Q Okay. How well do you think that you

20 remember what happened on November 2nd?

21 A At this point it's, like, really sketchy. I

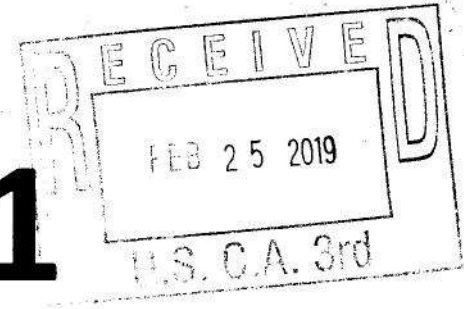
22 remember it just happened at -- like, from -- one

23 second it just happened and then everybody is running

24 around.

25 MR. COMET: I'm going to object, Judge.

# EXHIBIT 11



STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- December 20, 2012

SHEET 34

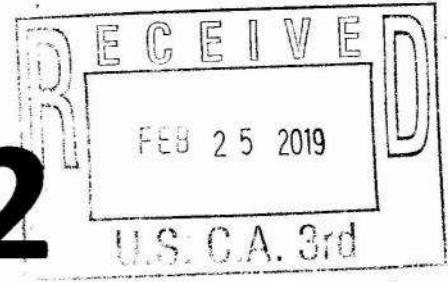
McDonald - Recross 66

1 Q Was anything actually stolen, taken?  
2 A You don't need it to be to --  
3 Q That wasn't my question.  
4 A -- for a robbery.  
5 Q Was anything actually stolen?  
6 A No. But it was still a robbery.  
7 Q I -- I understand. I was leading to another  
8 question. But you're saying there was nothing actually  
9 stolen, correct?  
10 A There was nothing actually stolen. The hat was  
11 actually taken, but it was returned.  
12 Q Okay.  
13 THE COURT: Was it returned -- when was it  
14 returned?  
15 THE WITNESS: At the scene. The -- the  
16 victim said, that's my hat -- one of the victims said,  
17 that's my hat and the individual gave it back to him.  
18 THE COURT: Okay.  
19 THE WITNESS: I don't recall which one it  
20 was.  
21 BY MR. COMET:  
22 Q Is it possible that the hat fell off during  
23 the scuffle and, therefore, not really robbed?  
24 A Well, according to the victim, it was taken off.  
25 Q Other than -- sorry. Based on the audiotapes

McDonald - Recross/Colloquy 67

1 of the witness, the victims -- oh, I'm sorry. Let me  
2 go back. I apologize. Let me go back. Did any of the  
3 victim's identify my client?  
4 A Yes.  
5 Q Which victim id--  
6 A I'm sorry. Not the victims.  
7 Q Did any of the victim's identify my client?  
8 A No. No.  
9 Q Did any of the co-defendants, other than  
10 Justin Evans who was accused himself of -- of wearing a  
11 mask, did any of them identify my client?  
12 A No.  
13 MR. COMET: Nothing further, Judge.  
14 THE COURT: Okay. Thank you. Anything else?  
15 MR. MILLER: No. No, Your Honor.  
16 THE COURT: Okay. Thank you, Detective  
17 McDonald.  
18 THE WITNESS: You're welcome.  
19 THE COURT: I -- my staff have not had a  
20 break and I apologize to them. Ho-- I understand  
21 you're going to call some witnesses? How many?  
22 MR. COMET: One -- one person.  
23 THE COURT: Oh. One person?  
24 MR. COMET: Yes. Just to corroborate my  
25 client's statement and to dis--

# EXHIBIT 12





A I don't even-- uh--

DET. MCDONALD: What about, uh, Brooklyn?

A Oh, yeah, Brook.

Q This is what we gotta stop doing. Alright, you're doing good, alright. You're doing good but the more names we give you--

A Uh-huh.

Q You say, oh, yeah, yeah.

A Brooklyn but--

Q You know who was there, dude. Help yourself.

A I don't remember every-- I'm being honest though. I can't remember everybody that was there. I'm being honest.

DET. MCDONALD: I'm talking about the people that took part in the beating. I-- it was a lot of people there. There was 20-30 people there at least.

A Uh-huh.

DET. MCDONALD: Did he take part in the beating?

A Yeah. Uh--

PAMELA EVANS: That's not Brooklyn from the building?

A Yeah.

Q Gaddy.

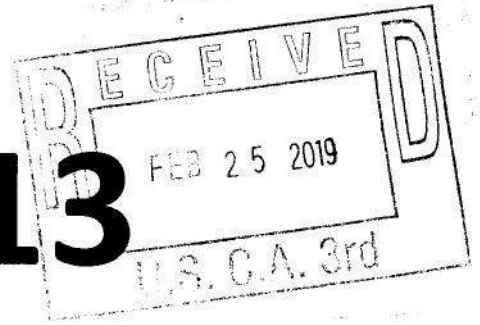
PAMELA EVANS: What?

A Yeah.

PAMELA EVANS: Oh, great.

A Graham.

# EXHIBIT 13



Q But you said a little while ago that they call you bitch ass Justin, this, that and the other.

A Yeah, but that-- yeah, that's the point. But I'm saying, like, with them, that's how they like to play around but I honestly know that's how they really feel about me. I know that's how they feel.

Q Alright, uh, we're not getting anywhere with this. Uh--

PAMELA EVANS: I just want you to know--

A Alright.

PAMELA EVANS: This doesn't look good. This doesn't look good at all.

A I know it don't look good but I'm saying that-- but that's the thing, how they gunna put my name in it? I don't even mess with Jaquis and them like that. I know how Tyrone and them get down.

PAMELA EVANS: Alright, but I'm just saying, he-- look, he was-- he's talking about a whole different group of people. People that-- you know what I'm saying, that don't know you, Justin.

A They do know me. I don't know why they said they don't know me. They do know me.

PAMELA EVANS: Oh, this is horrible.

DET. SINGH: No, no, no, not--

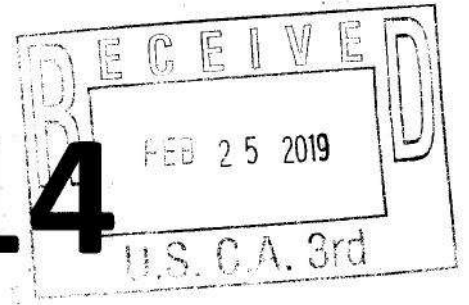
A We all went to school together. They--

Q This-- this-- this group. No, no, no, not even them.

A Tyrone was in high school--

Q I gave you all of them.

# EXHIBIT 14



Page 10

1 A. I made the first statement saying he was part of it  
2 because I thought he was one of the people that said I was  
3 involved or told them --

4 Q. All right. So you --

5 THE COURT: Was it out of revenge?

6 THE WITNESS: Yeah.

7 THE COURT: Go ahead.

8 BY MS. D'ALESSANDRO:

9 Q. All right. And you're saying today that that  
10 first statement was not true. Is that correct?

11 A. Yes.

12 Q. And you're telling us that he was not involved  
13 on that particular day.

14 A. No involvement.

15 Q. No involvement.

16 MS. D'ALESSANDRO: All right. Thank you.

17 THE COURT: Mr. Burke?

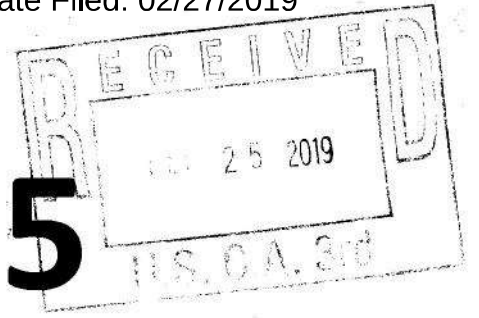
18 MR. BURKE: The state is satisfied.

19 THE COURT: The court is satisfied.

20 Defendant's got advice of extremely competent counsel he's  
21 satisfied with. He's entered his plea today freely and  
22 voluntarily. He's knowingly, intelligently and freely  
23 given up his rights to self-incrimination, to a trial by  
24 jury, to confront witnesses against him.

25 He's clearly not under the influence of any

# EXHIBIT 15



STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- December 20, 2012

SHEET 13

McDonald - Cross

24

1 much of that hour and 20 minutes did Justin Evans say  
2 that he was not there?  
3 A Pretty much the entire beginning of it.  
4 Q No. If I told you that -- if I told you that  
5 the tape said for the first 50 minutes, 5-0, of the  
6 hour and 20 minutes that he denied his involvement at  
7 all in this incident, would that be accurate?  
8 A It could be.  
9 Q Okay. And at the point where -- in the  
10 middle -- during that 50 minutes, not during the rest  
11 of the time, but during that 50 minutes, there came a  
12 point where -- after you and another detective in the  
13 room were talking to him, isn't it true that he said, I  
14 did it, it's me, I'm involved?  
15 A Yes, he did.  
16 Q And at that point, his mother turned to him  
17 and said, what are you talking about? You said the  
18 whole time you weren't there. And he then turned to  
19 you and said, well, you want me to say I'm there, you  
20 tell me that I -- I -- that clearly I'm there, so I'm  
21 te-- I'm telling you what you want to hear. Is that  
22 true?  
23 A That is true.  
24 Q That is true. And then he goes back and  
25 says, but I really wasn't there. Is that true?

McDonald - Cross

25

1 A No. I don't recall that. He -- he stated that he  
2 was there and he stated whoever else was there, present  
3 with him.  
4 Q Okay. So, having listened to the tape  
5 myself, I'm going to ask you again. During the hour  
6 and 20 minute interview -- an hour and 20 minute  
7 discussion with Mr. Justin Evans, at approximately 45  
8 to 50 minutes, he turns and he says -- after saying I'm  
9 not there the whole time, he says, I was there, I did  
10 it, it was me. Not mentioning anyone else initially,  
11 just saying it was me. Is that correct?  
12 A Correct.  
13 Q Then after his mother turns to him and says,  
14 how could that be, you've been saying no the whole  
15 time, he then explains why he said it was him. Did he  
16 do that?  
17 A Yes, he did.  
18 Q Did he say, it's me because the officers are  
19 pushing me, everyone is pushing me, and -- we're  
20 talking about a juvenile here, right? Is Mr. Justin  
21 Evans a juvenile?  
22 A Correct.  
23 Q How old is he?  
24 A He's 17.  
25 Q 17 years old and he's in the room for an hour

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# EXHIBIT 16



STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- December 20, 2012

SHEET 46

Court Decision

90

1 recall where they went afterwards?  
2 MR. MILLER: He said they got to the car  
3 together and he did not recall where they went next.  
4 THE COURT: Okay.  
5 MR. COMET: Correct.  
6 THE COURT: All right. All right. I want to  
7 be fac-- I want to be accurate. So, that's what the  
8 videotape says?  
9 MR. COMET: Audiotape. Yes.  
10 THE COURT: Audiotape. Okay. All right.  
11 All right.  
12 And, finally, Detective McDonald testified  
13 that he also learned through his investigation that at  
14 a court appearance -- and, again, this was admittedly  
15 hearsay -- but Tyrone was overheard telling one of his  
16 co-defendants that they were caught because of that rat  
17 Derek.  
18 And now on cross-examination -- again, Mr.  
19 Comet was very thorough -- very thorough in his -- in  
20 establishing the inconsistencies in Justin's statement.  
21 He also was thorough as far as establishing the lack of  
22 corroboration in regards to Justin's statement. He  
23 also established a potential motive for Justin  
24 fabricating his statement, his admitted dislike of his  
25 client, Tyrone.

Court Decision

91

1 With regard to Natalia's testimony -- again,  
2 I was not clear frankly in what was recorded and what  
3 was not recorded. But at the end of Mr. Comet's cross,  
4 it was clear to me, at least, that the -- any ID that  
5 may or may not have occurred of the juvenile Tyrone by  
6 Ms. Cortes was not recorded. So, that to me is the  
7 only thing that was clear.  
8 But, again, he did an excellent job in  
9 pointing out the inconsistencies in some of Justin's  
10 statements, as well as, again, the lack of -- of other  
11 witnesses identifying his client as the perpetrator.  
12 I also heard the test-- brief testimony of  
13 Tyrone Roy. I found Tyrone to be credible as a  
14 witness. And clearly the -- the reason Tyrone Roy was  
15 called is to establish time line, indicating that,  
16 again, he and another friend, Anthony Man-- Mancini,  
17 picked up Tyrone at his house at approximately 9:40,  
18 9:45. At approximately 10 p.m. they went to  
19 McDonald's. They ate food there for about ten or 15  
20 minutes. And then Anthony drove Tyrone Stephens home,  
21 which would have taken about another ten or 15 minutes.  
22 So, I think the juvenile's argument here is  
23 that, again, the time line -- and, again, the act was  
24 alleged to have occurred at 10:13 p.m. -- that Tyrone,  
25 at that time, would have either been at McDonald's or

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# EXHIBIT 17



**3. My brother's current charges will be fully dismissed due to filing of false police report/complaint.**

On October 31, 2012, three victims were approached by an individual wearing a ski-mask, black jacket, and riding a bike. The victims were attacked and received broken jaws, dislocated shoulders, and lacerations. My brother, Tyrone Stephens, is being maliciously prosecuted as the individual with the ski-mask, black jacket, and riding a bike based on the false confession of Justin Evans, and filing of a false complaint and false testimony of Detective Marc McDonald of the Englewood Police Department.

In Justin Evans sworn statement, dated November 7, 2012, he mentioned, in audio, the following (on the left is the audio timeframe):

54:16 Det. Singh asked - What was Tyrone wearing? Justin states "I think he had on a big jacket, like a bubble jacket, like a green army jacket. I'm not sure what kind of sneakers, but he had on some blue jeans".

54:35 Det. Singh asked - Who was on the bicycle? Justin states "It was Jacquise".

54:42 Det. Singh asked - Who was wearing the mask? Justin states "Tyrone".

1:00:22 Det. Singh asked - Who was the one that approach these kids? Justin states, "Tyrone".

All of the victims and witnesses stated that the suspect was wearing a ski-mask, black jacket, and riding a bike. Justin Evans testified that Tyrone Stephens was wearing a ski-mask, green army fatigue jacket, blue jeans, and not riding the bike.

On November 8, 2012, Defendant Tyrone Stephens gave a sworn statement that he was not involved and that Det. Nathaniel Kinlaw spoke to Defendant as he was entering the restaurant McDonald's with friends at around 10:00pm, which is a quarter mile away from the incident. Det. McDonald confirms that Det. Kinlaw greeted Defendant, specifically:

12:22 Tyrone Stephens: I don't understand how a victim could say I was there, and I was not there. If the victim did say my name or pick me out, why didn't you come to my house and come pick me up..or anything?

Det. McDonald: Because it was an investigation going on Tyrone.

12:45 Tyrone Stephens: And I'm telling you I was not there. My brother came here, I didn't speak to my brother at all, I didn't speak to him. You pick me right up, we came right here, I didn't even get out the car, and my brother (Marc Stephens) said that I was at home.

Det. McDonald: Right.

Marc Stephens: The officer should have seen him to.

1 A I wasn't there. I don't know how--

2 Q Now-- now-- now-- now if-- if-- if-- if you was there, then you was there.

3 A I wasn't there.

4 Q If you was there and didn't take part, that's-- you was there and you didn't take  
5 part. There was a lot of people there that was there and didn't take part. There  
6 was a lot of people there and did not take part--

7 A I was not there at all. I wasn't there at all.

8 Q Okay. Alright.

9 A If-- if-- if Kinlaw just said that he seen me. You just said on-- on here that you  
10 just-- you heard Kinlaw say that he seen me. He seen me at McDonald's with--  
11 he was talking to a little kid, Willy. And he was with a-- I think he was with Ron.  
12 He was right there at McDonald's. If you say that's the time, then how could I be  
13 at two places at once?

14 Q That was at 10:00 he said. This happened at 10:12.

15 A Uh-huh.

16 QUESTIONING BY DET. SINGH:

17 Q Let me just jump in here real quick. I just want to-- Marc, let me just answer your  
18 question. You had said that, uh, the police had dropped off your nephew--

19 MARC STEPHENS: Yeah.

20 Q There was two incidences-- at least two hour difference in between.

21 MARC STEPHENS: Okay.

22 Q Uh, between the two, so I just wanted to clear that up.

23 MARC STEPHENS: Okay, yeah, and right, he explained that.

# EXHIBIT 18



**STATE OF NEW JERSEY IN THE INTEREST OF T.S. -- December 20, 2012**

SHEET 9

McDonald - Direct 16

1 McIntosh (phonetic), Brooklyn, who was also Jaquan  
2 Graham (phonetic). He also said Victory Sagoon  
3 (phonetic). And I believe that was it. And then he --  
4 he named some other people who were in the vicinity.  
5 Q What did he say about the juvenile Tyrone  
6 Stephens role in the attack?  
7 A He specifically said Tyrone Stephens orchestrated  
8 the attack and it was his plan.  
9 Q Did you take a statement from Tyrone Stephens  
10 at some point after that?  
11 A Yes.  
12 Q What did Tyrone say in his statement?  
13 A Tyrone stated several times that he was not  
14 present. He was elsewhere.  
15 Q Did Tyrone say what he was wearing that  
16 evening?  
17 A He stated he had on a black colored Adidas suit  
18 with white stripes.  
19 Q Where did Tyrone say that he was at the ti--  
20 time of the alleged attack? First of all, what was the  
21 time that the victims said the attack occurred?  
22 A On or about ten -- 10 p.m.  
23 Q And what day did they say the attack  
24 occurred?  
25 A October 31st, Halloween.

McDonald - Direct 17

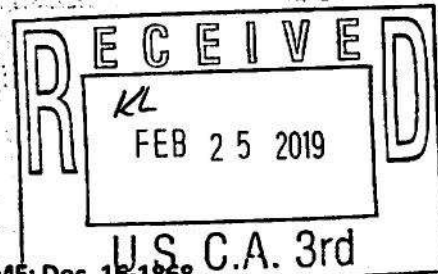
1 Q Where did Tyrone say that he was at at that  
2 time?  
3 A He stated that he was initially at McDonald's and  
4 then he went with two other friends who were taking him  
5 to Fort Lee.  
6 Q On November 9th, were you aware that Tyrone  
7 Stephens was transferred -- transported to this  
8 courthouse, the Bergen County Courthouse in Hackensack?  
9 A Yes.  
10 Q Were you informed of any --  
11 MR. COMET: Objection.  
12 THE COURT: What's the objection?  
13 MR. COMET: Hearsay, Judge.  
14 THE COURT: Hearsay is admissible in Probable  
15 Cause Hearings.  
16 MR. COMET: Judge, the hearsay is coming from  
17 another officer. It's not coming from a defendant or a  
18 co-defendant or anyone else.  
19 THE COURT: It's --  
20 MR. COMET: It's coming from an officer.  
21 THE COURT: Hearsay is admissible in Probable  
22 Cause Hearings.  
23 MR. COMET: Okay.  
24 THE COURT: Overruled.  
25 BY MR. MILLER:

**Marc A. Stephens**

271 Rosemont Place, Englewood, NJ 07631, 201-598-6268

February 8, 2019

United States Court of Appeals for the Third Circuit  
21400 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106-1790



RE: Stephens, et al vs City of Englewood, et al – Case# 2:14-cv-05362-WJM-MF; Doc. 18-1868

Dear Clerk,

Enclosed please find and file:

- 1. Petition for Writ of Mandamus and Exhibits 1-18
- 2. \$500 Money Order
- 3. ORAL ARGUMENT REQUEST

Respectfully Submitted,

  
 Tyrone Stephens  
 Plaintiff, pro se

  
 Marc Stephens  
 Plaintiff, pro se

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of February, 2019, I mailed a copy to to Judge Martini, and the Clerk who will file using the CM/ECF system, which will then send a notification of such filing to the following:

- Cc: Marc Mory, Esq. (via e-mail) mmory@dvorakandassociates.com  
 Adam Kenny, Esq. (via e-mail) akenny@weinerlesniak.com  
 Marc Pakrul, Esq. (via e-mail) MPakrul@tompkinsmcguire.com  
 Judge Mark Falk (via fax) 973-645-3097



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