

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA : Criminal No. 06-182  
:   
v. :   
: November 2, 2007  
DARRYL M. WOODFORK, :   
:   
Defendant : 10:00 a.m.  
. . . . . : . . . . .

TRANSCRIPT OF VICTIM IMPACT HEARING  
BEFORE THE HONORABLE JAMES ROBERTSON  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States: MICHAEL BRITTIN, AUSA  
UNITED STATES ATTORNEY'S OFFICE  
555 Fourth Street, NW  
Washington, D.C. 20530

For the Defendant: MITCHELL MARK SELTZER, ESQUIRE  
717 D Street, NW  
Suite 310  
Washington, DC 20004  
(202) 347-2333

Court Reporter: REBECCA STONESTREET, RPR, CRR  
Official Court Reporter  
Room 6511, U.S. Courthouse  
Washington, D.C. 20001  
(202) 354-3249

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**P R O C E E D I N G S**

THE COURT: This matter is under seal? Well, it's under seal -- I mean, the case is under seal, but this is a victim impact proceeding.

MR. DAVIS: I have no objection to unsealing the testimony in this matter, Your Honor. On behalf of Mr. Nelson, Christopher Davis.

MR. BRITTIN: We would request that this be a public proceeding.

THE COURT: We're missing a lawyer, aren't we?

MR. DAVIS: I just noticed that.

(OFF THE RECORD.)

THE COURT: Mr. Seltzer and Mr. Dale, everybody except you has been heard on the subject of whether or not these proceedings should be under seal. The consensus, I think, is it should not be under seal. This is a victim impact proceeding, and it should be public. Any objection?

MR. SELTZER: No, Your Honor.

THE COURT: Let's open it up, open the door.

Will the clerk please call the cases.

COURTROOM DEPUTY: Yes, Your Honor.

Criminal action 06-182, United States of America versus Darryl M. Woodfork. Michael Brittin for the government, Mitchell Seltzer for the defense.

And criminal action 06-165, United States of America

1 versus Anthony J. Nelson. Michael Brittin for the government,  
2 Christopher Davis for the defense.

3 THE COURT: This is a victim impact hearing conducted  
4 under statutory authority requiring and permitting victims of  
5 violent crime to be heard so that the Court can take their  
6 statements into consideration when fashioning an appropriate  
7 sentence in the case.

8 I see a number of people here in the courtroom. I'm  
9 not quite sure whether they're all going to testify, or whether  
10 some are here to testify and some are here to listen, but  
11 Mr. Brittin, you may proceed.

12 MR. BRITTIN: Thank you, Your Honor. Judge Robertson,  
13 a fraction of the victims that figure into these cases are in  
14 your courtroom here today. We initially expected between 20 and  
15 25 individuals here. Some victim impact statements have been  
16 received and submitted to the probation officers that you have  
17 assigned to prepare presentence reports for these two  
18 defendants, and we expect several others to be submitted between  
19 now and sentencing.

20 There were some victims who could not attend, there  
21 were some victims who chose not to attend, and there were some  
22 victims who were afraid to attend. But all of the victims with  
23 whom we had contact and who are not present today asked that I  
24 begin by expressing their appreciation to the Court for allowing  
25 them to be heard either through their victim impact statements

1 or through an appearance before the Court.

2 With the Court's permission, this is how the government  
3 would plan to proceed. And I've had a brief opportunity to  
4 discuss this with my colleagues for the defense: I will call  
5 forth individuals, roughly in chronological order pertaining to  
6 the crimes that figure into the respective pleas; I will briefly  
7 try to provide some context for the Court, because these pleas  
8 were rather comprehensive, and also make clear whether or not  
9 Mr. Woodfork, Mr. Nelson, or both figure into the crimes about  
10 which the victim is giving a statement; and then I will simply  
11 ask the victim, if this is acceptable with the Court, to  
12 approach the podium here and make whatever statement he or she  
13 would like.

14 THE COURT: Fine.

15 MR. BRITTIN: Your Honor, we fully expected at this  
16 hearing to have James Stevens, the father of Jerome Swales, or  
17 Jerry, present. We spoke to him as recently as yesterday, and  
18 we're not sure -- he's an elderly gentleman, and we're not sure  
19 if he's simply delayed or not. Mr. Swales was killed on  
20 January 23rd, 2003. Mr. Woodfork was not involved in that  
21 crime; that murder was committed by Anthony Nelson.

22 Detective Bernard Nelson from the Prince George's  
23 County police department was the lead investigator on that  
24 particular murder, and he joined a task force that put this  
25 whole case together. He is here, and in the absence of

1 Mr. Stevens, I would ask the Court if it would allow  
2 Detective Nelson to say a word or two about the impact that this  
3 loss had on the family of Jerome Swales.

4 MR. DAVIS: Your Honor, I didn't know that we were  
5 going to be doing this in that fashion this morning. My  
6 recollection -- and I haven't looked at the statute lately, but  
7 my recollection is that victim impact is limited to statements  
8 from the immediate family, and I'm a little bit cautious about  
9 allowing a law enforcement official to testify on behalf of the  
10 family for purposes of this hearing.

11 Maybe in another context, maybe at sentencing, but for  
12 the purposes of a victim impact, I -- and again, I apologize. I  
13 just didn't know we were going to be doing this --

14 THE COURT: Well, I didn't know either. Do you have  
15 any authority for the proposition that the detective should be  
16 permitted to testify about the impact on the family,  
17 Mr. Brittin? You know, as interested as we all are in giving  
18 the family the opportunity provided by statute to express  
19 themselves and their own feelings and the impact upon  
20 themselves, what we get from a police officer is not quite that.

21 MR. BRITTIN: That's right, Your Honor. And the  
22 governing statute, of course, is 18 U.S.C. Section 3771, and it  
23 defines a crime victim pretty much as counsel has suggested. It  
24 says: "For the purposes of this chapter, the term 'crime  
25 victim' means a person directly and proximately harmed as a

1 result of the commission of a federal offense or an offense in  
2 the District of Columbia."

3 I take his objection, Your Honor, as well founded, and  
4 I'll move forward.

5 THE COURT: Go ahead.

6 MR. BRITTIN: Thank you, Your Honor.

7 Judge --

8 THE COURT: I mean, I hear you to have conceded the  
9 objection.

10 MR. BRITTIN: Yes, Your Honor.

11 THE COURT: So fine. Go ahead.

12 MR. BRITTIN: Judge, on April 23, 2003, there was a  
13 shooting at the heart of the Taft Terrace neighborhood outside  
14 the home of a captain with the Metro Transit Police. His name  
15 is William Malone. Captain Malone and his wife Sandy Malone,  
16 both of whom were victimized in that case, are present in the  
17 courtroom.

18 This particular incident, Your Honor, figured into the  
19 plea by Mr. Woodfork. The government did not ask Mr. Nelson to  
20 accept responsibility for this, although in debriefing he  
21 admitted his involvement in it in this sense: He provided a  
22 gun, a .45-caliber revolver that in fact he had used just three  
23 months earlier to kill Jerome Swales, to Darryl Woodfork; Darryl  
24 Woodfork used that gun to shoot a car outside of Mr. and  
25 Mrs. Malone's home. Mr. Woodfork was accompanied by an

1 individual by the name of Dominick Flowers, who also shot the  
2 car with a sawed-off shotgun. He was separately prosecuted  
3 successfully in Superior Court.

4 The context for this crime, Your Honor, is that  
5 Captain Malone and his then girlfriend, now wife, Sandy Malone,  
6 had just purchased a home in the Taft Terrace neighborhood, had  
7 moved in. Captain Malone, who was a very senior official with  
8 the Metro Transit Police, discovered that there was a good deal  
9 of organized drug trafficking, and took it upon himself to  
10 attempt to disrupt that sometimes. This was an act in  
11 retaliation for those activities.

12 Captain Malone, would you step forward, please?

13 MR. MALONE: Good morning, Your Honor.

14 THE COURT: Good morning, sir.

15 MR. MALONE: How are you today?

16 THE COURT: I'm great. How are you?

17 MR. MALONE: I'm good.

18 I'm here today because I want to, number one, express  
19 appreciation to the United States Attorney Office for  
20 prosecuting these cases and really helping out our neighborhood.

21 When we first moved into the neighborhood, there was  
22 illegal drug trade on several different corners. I'm the  
23 evening watch commander for the Metro Transit Police, and my  
24 hours were 4:00 o'clock in the afternoon until about  
25 2:00 o'clock in the morning. I noticed that my unmarked police

1 vehicle that was assigned to me had a detrimental effect to this  
2 drug trade. And when I had spare time or when I started to go  
3 on the street in the afternoons, that if I parked in certain  
4 locations, it would certainly disrupt the drug trade, and if not  
5 impact them one way or another, it would scare the customers  
6 coming to the neighborhood to buy the drugs. I had a couple of  
7 encounters with motorcyclists who were racing around the  
8 neighborhood that were, I believe, involved in this also. My  
9 wife was -- or then girlfriend, but now wife, was harassed  
10 verbally in front of our lawn while she was out doing garden  
11 work.

12 On the night in question that they shot my truck, I was  
13 downtown at our headquarters building a few blocks from here.  
14 Sandy, she called me on the phone and said, "They're shooting at  
15 our house." She had been upstairs in our house working - she  
16 worked from home - and my truck was parked in front of the  
17 house. A car pulled up and they fired six rounds of handgun and  
18 one blast from a sawed-off shotgun into the side of my truck,  
19 right in the driver's door area. This to me was an obvious  
20 threat for me to back off or to quit being proactive in the  
21 neighborhood, calling the police or strategically parking my  
22 vehicle.

23 This had an impact on our life tremendously. From that  
24 day forward, if I walked to the car, if I cut the grass, if we  
25 used my hot tub in the back of the house, I kept a gun with me



1 at all times. Obviously, bold enough to shoot a police  
2 officer's vehicle, bold enough to come after me.

3 It also affected my wife greatly, and she'll tell you  
4 about that in a little bit. It kept us in the house, it kept us  
5 from doing yard work, it put me on guard, and had an effect.

6 But what really bothered me the most is I'm a police  
7 officer; I can be armed in the District of Columbia. My  
8 neighbors can't. And they're at the will and mercy of the good  
9 nature of the criminals in our neighborhood, and they're running  
10 around scared with absolutely no way to protect themselves. And  
11 this is something that once people were starting to be arrested  
12 in our neighborhood, the people started coming back out and  
13 feeling much better about our neighborhood, and now today it's  
14 just tremendously better than it was when we first moved in.

15 The removal of people from the street by the  
16 U.S. Attorney's Office and the federal prosecutors and the  
17 criminal justice system has had a tremendous impact. I just  
18 want to assure you that the neighbors are behind the police and  
19 the U.S. Attorney's Office, and we would like to see these  
20 gentlemen sentenced to the maximum amount allowable by your  
21 sentencing guidelines and the law. We want our neighborhood to  
22 remain nice.

23 Now, I'm retiring 29 years after the police department.  
24 I'm going to Puerto Rico. I still have an interest in the  
25 neighborhood, and I want it to be good for my neighbors who are

1 still living there. So please see fit to give him what you feel  
2 is appropriate, but I would stress the maximum amount allowable  
3 by law.

4 THE COURT: Thank you, Captain.

5 MR. BRITTIN: Judge Robertson, Sandy Nelson, who was in  
6 the house at the time of this incident, is also present and has  
7 asked to address the Court.

8 THE COURT: All right. Sandy Nelson?

9 MS. NELSON: Thank you for this opportunity. I bought  
10 my first home in the Taft Terrace neighborhood. We weren't  
11 married yet, and I bought it for myself and I was so excited  
12 about it. We had only been there a couple of months and we  
13 started to notice there were some problems up on the corner.

14 And we were greeted like heroes when we moved into the  
15 neighborhood, because our neighbors were so excited to have a  
16 cop on the block. They're, like, "oh, yeah" -- we said, "we  
17 don't see any problems." When the weather got good, the  
18 problems started, and the neighbors are, like, "there's a police  
19 officer on the block."

20 And we moved in, and it was my first house, and I was  
21 so excited, working in the yard. And it was April, we had only  
22 been there two months, and it was 11:00 o'clock at night, and  
23 I'm home alone every evening because my husband works. He's out  
24 protecting these people and their families. And I'm home alone,  
25 11:00 o'clock at night, I watch the news, it was lame, I changed

1 the channel. It was about 11:04, 11:05. All of a sudden I  
2 heard bang, bang, bang, bang, bang, bang, and then boom.

3 Now, I grew up in Potomac, okay? And I've lived on  
4 Capitol Hill and heard gunshots, but when it's coming right at  
5 your house, it's a different sound. And I was in a side window,  
6 and I looked and I saw the flash from the shotgun, and  
7 everything kind of came together at once and I hit the deck, I  
8 got under my desk. It was one of those, like, cartoon scenes;  
9 I'm reaching on the top of the desk trying to find a phone. I  
10 swept everything off the desk, grabbed the phone, called 911,  
11 they put me on hold.

12 And as I'm on hold, I'm calling my husband, going, "Oh,  
13 my god, they're shooting at us." I'm trying to explain to 911  
14 what's going on. "Ma'am, are they still shooting at you?" I  
15 mean, I had heard car tires squealing away; I don't know what's  
16 going on outside. But I'm home alone, I've heard smashing  
17 glass; we have a big bay window in the front of the house, and I  
18 didn't know if that had gone, I didn't know what had broken. I  
19 was scared to death.

20 And I called 911, and the minute I hung up the phone,  
21 my neighbor called and she said, "Sandy, they're shooting at  
22 you. Get in the stairwell because it's the only place without  
23 windows." So I hid in the stairwell until the police arrived.  
24 And I've never been so happy to hear sirens. And I went  
25 outside, and -- he was talking about they shot at the cars.

1 Well, they did shoot at the cars, but they also hit our house,  
2 they also hit our next door neighbor's house. We were digging  
3 bullets out of the air conditioning unit. They shot at -- they  
4 could have very easily shot us, they could have shot the dog in  
5 the window; absolutely no care whatsoever for what was going on.

6 And, you know, I hadn't done anything to these people.  
7 The police investigated, and first they arrested  
8 Dominick Flowers, and for a long time Darryl Woodfork was out  
9 there. We didn't know who he was, we just knew he was known as  
10 D. I couldn't garden, I couldn't go out in my yard alone. I  
11 can't carry a gun, but I couldn't go any place without my  
12 husband because we didn't know what to do.

13 The D.C. Police sent in a threat assessment team. They  
14 had us spend \$3,000 upgrading our security system, and they told  
15 us to move because they hadn't caught this guy yet, and there  
16 are murders all over the neighborhood and it's not safe to be  
17 there. It's like I spent \$270,000 on this house, I have an FHA  
18 loan, which means I can't sell it for two years and I can't rent  
19 it for two years; I have to live it in for the first two years.  
20 We had no choice.

21 I had to be medicated on Valium and Xanax, which I've  
22 never been on that kind of medicine in my life. I was afraid to  
23 take a shower when my husband wasn't home because I was afraid I  
24 wouldn't hear something if something happened.

25 We had built a fabulous back deck and put in a

1 10-person hot tub with the intention of doing a lot of  
2 entertaining, and it's not a lot of fun to entertain when your  
3 husband has to have his gun sitting next to the hot tub the  
4 whole time. Our friends wouldn't come to our house. People are  
5 afraid. The neighbors that had children sort of shied away.  
6 They were still glad we were there, but they were scared,  
7 because now, instead of scaring away the bad guys, we were  
8 actually drawing gun fire. It was horrible. It was absolutely  
9 horrible.

10 I didn't sleep for months. It affected my job. I was  
11 a lobbyist with a large corporation. Thanks to the corporation,  
12 I made it through with my job intact, but barely.

13 And all this because we decided to move into the city  
14 because my husband thinks it's important that some of the police  
15 officers in the city actually live in the city. And most of the  
16 actual officers can't afford to live in the city, so if  
17 officials don't do it, there's no cops.

18 And it never got better for us. You know, for several  
19 months after -- you know, the other guy, Dominick Flowers, we  
20 kept seeing him around our house and in the neighborhood even  
21 though he had a stay-away order. We didn't know who this other  
22 guy was, and we finally found out he was in jail for killing  
23 people. Well, that sent me back into the shrink's office.

24 It's been a horrible experience. We decided that we  
25 were going to sell the house as soon as we could because it's

1 not going to get better. You don't get over that. Being home  
2 alone at night -- I didn't know if Bill was coming in the door  
3 and somebody had shot him on the front steps on the way in. I  
4 didn't know what had happened. In that five-minute period where  
5 I was waiting for the police to get there, my entire world  
6 collapsed.

7           And my husband, we made a decision before we -- first  
8 off, that we would get the hell out of there as soon as we  
9 could; but secondly, that we would definitely sell the house or  
10 leave one way or the other before he retired. Because even  
11 though he can keep a weapon now that they've passed H.R. 218,  
12 that's fine, but I want an arsenal in our house.

13           So he's retiring December 1st and we're closing on our  
14 house this afternoon. We're leaving. We tried. And I have had  
15 neighbors actually cry because we're leaving; like, oh, my god,  
16 it's all going to go to hell again. And I said, no, you know  
17 what? No, it's not, because an awful lot of these people have  
18 been arrested and they're going to jail and they are never  
19 getting out. And I've made that promise to my neighbors, and I  
20 don't want the last three years to go to waste. I'm really sad  
21 that we're leaving. I feel like we quit. I feel like we gave  
22 up.

23           You know, my neighbors all joked, "Oh, my god, you're  
24 pioneers, white people moving in on the block, a cop in the  
25 neighborhood." The neighborhood has gotten so much better, and

1 it's integrated and it's diversified and there's older people  
2 and there's people with little children, and it's gotten so much  
3 better. But what these people have done is they've created a  
4 culture of fear. And everyone is afraid.

5 And you know what? They have absolutely no redeeming  
6 social value. They don't contribute to society, they're not  
7 doing anything positive in this world, and all of us are working  
8 and trying to buy homes and live happily.

9 So I just urge you to do everything in your power to  
10 make sure that these men never make it out. They never should  
11 be put back into society. They shouldn't be allowed to live  
12 after what they've done. They've done much worse things to  
13 other people than me, and I am a strong woman with several  
14 degrees and a serious career. I own my own company now, and  
15 just thinking about this -- I haven't slept all week knowing I  
16 had to do this today, and I feel the same way as we go into the  
17 next phase of this.

18 So I just urge you to do everything possible to try and  
19 make people feel a little safer in their neighborhoods.

20 THE COURT: Thank you very much, Ms. Nelson.

21 MR. BRITTIN: Judge Robertson, the next crime that will  
22 be the subject of this hearing took place in North Carolina on  
23 December 24th, Christmas Eve, 2003. Both Mr. Woodfork and  
24 Mr. Nelson as a racketeering predicate acknowledged  
25 responsibility for traveling to that state and committing with

1 others down there a burglary.

2 The victim of the burglary was Darryl Woodfork's  
3 paternal aunt, who was visiting his mother and father here in  
4 the Washington area at the time. That predicate act was framed  
5 as an interstate travel in aid of racketeering, and again,  
6 involved both defendants.

7 The Court will ultimately receive a number of victim  
8 impact statements. I wanted for the record at this hearing --  
9 because it leads directly into the individuals you're going to  
10 hear from next, I wanted to read into the record some of the  
11 statements made by Diann Jarrell Faulcone, who was the woman  
12 whose home was burglarized.

13 She's an elderly woman, Your Honor, and her health did  
14 not permit her to travel. But she wanted to be heard. And in  
15 her statement, she told the Court this:

16 "This crime was real scary and fearful for me. I never  
17 experienced anything like this before. I came up to  
18 Washington, D.C. to visit my brother for Christmas 2003. While  
19 I was in Washington, my brother's stepson, Darryl Woodfork,  
20 traveled to my home in North Carolina and burglarized my home.  
21 He stole old money, a gun, a pistol, a rifle, jewelry, two  
22 safes - one with important papers, another with money - and a  
23 Playstation.

24 He took many physical possessions from my home, but  
25 most importantly he took my sense of safety. He stole the



1 window air conditioner, he shot at the home, he shot at the  
2 freezer. The hole is still there. That is the point: He stole  
3 from my home and he shot at the back of my home and made two  
4 holes, one on the top of the freezer and the other on the wall  
5 in the back room.

6 I thought the people or persons who did this were going  
7 to come back and get me. This is a horrible feeling to have.  
8 I've lived in my house for 30 years and I live in a quiet  
9 neighborhood, mostly around my family. I tried to put this  
10 crime behind me unless someone mentions it. This was the first  
11 and only time in my life that I've been victimized.

12 After this crime I had nightmares and I had to be  
13 hospitalized. The nightmares and the fear caused my head to be  
14 stressed, and I had to be put in the hospital for two weeks.  
15 I'm on disability because of my heart, and I am a senior citizen  
16 and I was a senior citizen in 2003."

17 As I indicated, Your Honor, this occurred on  
18 December 24, 2003. By December 25, 2003, Mr. Nelson and  
19 Mr. Woodfork were back in the District of Columbia. One of the  
20 items they obtained in the burglary was a Colt .32-caliber  
21 revolver, and that particular gun was one of four weapons that  
22 was used to kill Damian May, who was killed on January 7, 2004.

23 Both Mr. Woodfork and Mr. Nelson accepted  
24 responsibility for that murder. Each one was armed with two  
25 guns. Mr. May was killed, Your Honor, because he was suspected

1 of having committed a crime in the Taft neighborhood on  
2 December 28th, 2003, some 10 days earlier. And the evidence  
3 developed and acknowledged by both defendants here is that after  
4 that date, December 28th, there was an ongoing hunt to find  
5 Damian May and to kill him for his offense to the Taft  
6 enterprise and committed in the Taft neighborhood.

7 Damian May, Your Honor, was the only child of Joanne  
8 Washington, and Ms. Washington, who has an interesting story to  
9 tell in her own right about her own life, is here to advise the  
10 Court about the impact that the loss of her son has had on her  
11 life.

12 THE COURT: I'll hear from Ms. Washington.

13 Good morning, ma'am.

14 MS. WASHINGTON: Good morning, Your Honor. My name is  
15 Joanne Washington, this is my fiance' Gerald Archie (ph). I'm  
16 the mother of Damian Edwin Washington May. I'm very nervous, so  
17 I apologize to the Court and all of you.

18 But I stand here before you today to speak on behalf of  
19 my son, Damian May, whose life you took at an early age. And I  
20 do this because I know Damian would want me to speak. I'm also  
21 speaking on behalf of his three young children. The youngest  
22 never had a chance to hear his father's voice or to feel his  
23 touch, and because of you, his children will never see or hear  
24 him again.

25 Three years ago, when you took Damian from our family,

1 you destroyed my reason for living. Not only did you kill my  
2 only child, but sometimes I feel like you killed me as well. I  
3 have a big hole in my heart, and I feel like I can't go on  
4 without Damian in my life. There are times when I remember his  
5 smile and his expression telling a silly joke, and because of  
6 you I will never see or hear him again.

7 Damian was a very good Christian young man, so I know  
8 in my heart which direction he went when you took him away from  
9 us, and that eases my pain. Like a lot of black men in our  
10 city, he had his struggles, and like most parents, I pray for an  
11 end to the violence that is killing our young people.

12 I'm a Christian woman, and I know that I should forgive  
13 you, but I can't find it in my heart to do so yet. I hope you  
14 get the maximum sentence possible for taking my son away from  
15 his children and my family. Given the violence in this city, we  
16 must make an example out of people like you who kill without  
17 caring about the life of another human being.

18 I do pray for your family, and I pray for other parents  
19 who lose loved ones because of the violence committed by  
20 individuals like you. You took my son, and because of you I  
21 will never feel his hug again. Thank you.

22 THE COURT: Thank you, Ms. Washington.

23 MR. BRITTIN: Judge Robertson, Ms. Washington advised  
24 the Court that Damian May had three young children, one of whom  
25 was born after he died. The mother of his three children is

1 named Coriana (ph) Hughes, and she is present as well.

2 THE COURT: Does she wish to speak?

3 MR. BRITTIN: Yes, she does.

4 THE COURT: Ms. Hughes?

5 MS. HUGHES: Good morning. My name is Coriana Hughes.

6 I am the mother of Damian Edwin May's three children.

7 When I got the phone call January 7th, 2004, I was four  
8 months pregnant with the youngest child. I fell to my knees and  
9 kept saying, "No, it's not. It's not him." When I got there,  
10 the detectives and police officers, everyone just tried to calm  
11 me down. I was really, really upset. I fell out, I passed out.

12 I mean, I was going through -- I've been through so  
13 much since he's been gone. I've actually been through too much  
14 since he's been gone. Without him, I feel like my life is just  
15 not complete. I'm still trying to figure out how could this  
16 happen.

17 He was my world. My three kids will no longer be able  
18 to see their father ever again. And it's hard. It's hard for  
19 me to actually believe that -- he never took anyone's life, so  
20 for someone to take his life, I could never understand it. I  
21 will never understand it. I'm still not at ease with this.

22 I am pleased with the sentence that these gentlemen  
23 will get, but it's hard for me. It is very hard for me. I'm  
24 only 24 years old with three kids, no kids' father. I must take  
25 care of them on my own. I'm pleased with the sentence that

1 these young men will get. Hopefully we will have justice.

2 Thank you.

3 THE COURT: Thank you, ma'am.

4 MR. BRITTIN: The shooting in the Taft Terrace  
5 neighborhood on December 28th, 2003 that triggered the  
6 conspiracy that took the life of Damian May also resulted in the  
7 murder of Clabe Walker. Members of the Taft enterprise, in  
8 talking about the offense committed in that neighborhood on  
9 December 28th, concluded, or at least some of them concluded,  
10 that Clabe Walker also had a role in that and had to pay with  
11 his life.

12 Their supposition in that regard was incorrect.  
13 Mr. Walker had nothing at all to do with the offense in the Taft  
14 neighborhood on the night of December 28th, 2003, and so his  
15 murder is particularly tragic. Your Honor, Clabe Walker's  
16 parents, Doris and Clabe Walker, are present in the courtroom.  
17 They had three children. Their first son, Kenny Walker, was  
18 murdered in 2001. That case is still open. Clabe Walker was  
19 killed less than 24 hours after Damian May in the early morning  
20 hours of January 8, 2004.

21 I also want to recognize Clabe Walker's girlfriend,  
22 Prashita (ph) Johnson, who is present, but has advised me that  
23 she is too nervous to address the Court.

24 Doris Walker, Your Honor, would like to address the  
25 Court.

1 THE COURT: I will be happy to hear from Doris Walker.

2 MS. WALKER: Good morning, Your Honor.

3 THE COURT: Good morning, Ms. Walker.

4 MS. WALKER: I'm nervous, so bear with me for a minute.

5 THE COURT: Take your time.

6 MS. WALKER: Your Honor, my family has been through a  
7 lot, from my husband becoming handicapped when my kids were  
8 young, to me losing my first son at just 24 years old. Less  
9 than three years later, I lost another son, Clabe. That was a  
10 senseless, senseless act that has destroyed my family. I have a  
11 10-year-old who has lost two brothers, and he's constantly  
12 reminding me he wants a brother, he wants --

13 THE COURT: He wants to what?

14 MS. WALKER: He wants a brother. He can't understand  
15 why he don't have his brothers. I have four grandkids who will  
16 never see their father.

17 I feel that Mr. Woodfork should be sentenced to the  
18 full extent of the law. For what he's done to my family, he  
19 should never ever be allowed to set foot outside of a jail  
20 again. Because it was just -- it was senseless. There's no  
21 excuse for what he did.

22 That's all I have to say.

23 Do you have anything you want to say?

24 MR. WALKER: Your Honor, I would like to see him get  
25 the max.

1 THE COURT: I understand. Thank you.

2 MR. BRITTIN: Judge Robertson, on behalf of the  
3 victims, or their representatives who are present in your  
4 courtroom today, and also those who are not present - and there  
5 are many in that category - the government thanks you for the  
6 Court's time and attention. And that is all the evidence or  
7 statements that we have to offer today.

8 THE COURT: All right. Well, I don't think it's  
9 appropriate for me to say anything at this point about the  
10 sentencing. The sentencing is the next step of this procedure.  
11 But I do want the victims to know that I have heard them  
12 clearly, and respect what they've said.

13 I don't know if the defense has anything to say at this  
14 point, or wishes to be heard about anything.

15 MR. DALE: Your Honor, if it please the Court,  
16 Mr. Woodfork would very briefly like to say through the Court to  
17 the victims how sorry he is while they're here.

18 DEFENDANT DARRYL WOODFORK: I know I've committed the  
19 worst possible sin by taking the life of your loved ones. I  
20 come in front of you and recognize I have caused you great,  
21 great pain. There is no way I can truly understand the full  
22 weight of that pain on you, but I know I was very -- I mean, I  
23 was very wrong.

24 I have now learned to act nonviolently and to react to  
25 God. I wish I had learned to do so earlier in my life. From

1 the bottom of my heart, I am truly sorry and ask for your  
2 forgiveness. Thank you.

3 THE COURT: Anything further from the defense side?

4 MR. DAVIS: Nothing further, Your Honor.

5 THE COURT: Well, this is a remarkable kind of a court  
6 proceeding, ladies and gentlemen. It may seem to you to be  
7 remote and cold. It's not. Thank you very much. We're  
8 adjourned.

9 (BENCH CONFERENCE ON THE RECORD.)

10 MR. DAVIS: Your Honor, I wanted to approach the Court  
11 outside of the presence of the victim's family because I don't  
12 think this is appropriate to do on their day in court here.

13 But last week, on October 22nd, there was a mitigation  
14 hearing held on behalf of Mr. Nelson, and at that time there was  
15 reference to a social history and neglect file that existed with  
16 respect to Mr. Nelson which to a large degree the sentencing  
17 memorandum was based on.

18 And at this time I would like to move this as an  
19 exhibit. I have a CD with those records on it, and I would like  
20 to have it labeled as a Defendant's Exhibit, whatever the next  
21 exhibit was from that hearing, and move it into the evidence,  
22 with the understanding that this will remain sealed.

23 THE COURT: The CD will remain sealed, will be given an  
24 exhibit number, and will be received for the record, sir. Thank  
25 you.



1 (END BENCH CONFERENCE.)

2 THE COURT: You had another matter, Mr. Seltzer?

3 MR. SELTZER: Yes.

4 THE COURT: I think the people from the community, the  
5 victims that are here, should understand that these little  
6 side-bar conferences with the husher on do not change or affect  
7 anything that has just happened here. They're about technical,  
8 administrative sides of the case that you don't need to hear.  
9 But I don't want you to think that we're doing something in  
10 secret up here, it's just that it's an administrative part of  
11 the case.

12 (BENCH CONFERENCE ON THE RECORD.)

13 MR. SELTZER: Good morning, Your Honor. And I  
14 apologize, I haven't really had a chance to talk to Mr. Brittin.  
15 But earlier in the case I had a neuropsychologist examine my  
16 client, who did a lot of testing and came to a lot of  
17 conclusions; at that time did not put it in writing.

18 I have since talked to her. She thinks given that  
19 those tests took place a year, a year and a half ago, that she  
20 would like to repeat some of the tests. She did make findings,  
21 and there is materially on the record that he at one time was  
22 classified as mildly retarded and that he may have some left  
23 brain dysfunction. I know this is no longer a death proceeding,  
24 but obviously there is a lot at stake and a lot of different  
25 factors.

1           For all those reasons, I'm going to request a  
2           postponement. She's also not available on the day set for the  
3           mitigation hearing, and I would probably have her testify.

4           For all those reasons, I think I'm going to need about  
5           another 60 days to have her come in. There may possibly be  
6           another neurologist to look at him briefly, also. I just want  
7           to make sure we have everything before the Court.

8           I will say that I have --

9           THE COURT: Well, she did an examination a year ago.  
10          What effect, if any, on the sentence would any change after a  
11          year --

12          MR. SELTZER: Well, I guess in theory it could go to  
13          whether he's being rehabilitated. It's also, frankly -- it's  
14          more confirmatory. I mean, for instance, I think typically, if  
15          she were a witness in a contested proceeding - this proceeding  
16          may or may not be contested - that would be something the other  
17          side would jump all over, this sort of old material.

18          I mean, you previously, frankly, approved her for --  
19          she's only used a tiny fraction of her hours.

20          THE COURT: Yeah, I know. But we had a mitigation  
21          hearing.

22          MR. SELTZER: No, we didn't. That's what I'm saying.  
23          We never had a mitigation hearing.

24          THE COURT: We did not have a mitigation hearing?

25          MR. SELTZER: No. That's what I'm talking about. So

1 this is in anticipation of a mitigation hearing.

2 THE COURT: Which is set for when?

3 MR. SELTZER: It's set for December 7th. What I'm  
4 saying is we need about two more months than that.

5 I will also say that I have worked closely with  
6 Ms. Panzer, who is here. She has interviewed Darryl. I think  
7 she's probably going to need more time to talk to him again to  
8 also review some of these materials.

9 So this is not an attempt to delay anything. We all  
10 want this over. But on the other hand, I don't think it's  
11 realistic that we'll be ready for mitigation on December 7th.

12 THE COURT: Mr. Brittin, what's the government's  
13 position?

14 MR. BRITTIN: Judge, we would not expect to vigorously  
15 contest proof presented by the defense in support of mitigation,  
16 if we would contest it at all.

17 Having said that, we do not object, Your Honor, if the  
18 Court deems this additional information necessary for the  
19 purposes of sentencing.

20 THE COURT: Well, I don't deem it necessary for  
21 purposes of sentencing. It has yet to be shown to me that it  
22 has really much at all to do with sentencing.

23 She can testify based on what she's already done, can  
24 she not?

25 MR. SELTZER: First of all, as a purely technical

1 matter, she's not available on that date, period.

2 THE COURT: How about the day after that?

3 MR. SELTZER: Well, it's a Friday.

4 But with all due respect, Your Honor, everybody here  
5 has tried to do everything expeditiously, this case was  
6 resolved, fortunately, with a lot of good help from Mr. Brittin,  
7 keeping in mind my client did also cooperate.

8 I mean, frankly, if it turns out he has some type of  
9 serious brain dysfunction and we don't get to introduce that,  
10 then you're starting to talk about issues of ineffectiveness on  
11 our part. I'm just asking the Court just to be patient with us  
12 for about another 60 days --

13 THE COURT: Well, your problem is you're asking me on  
14 the wrong day.

15 MR. SELTZER: I know. I know.

16 THE COURT: I've just heard from victims who are here  
17 asking for justice, and they don't --

18 MR. SELTZER: Well, they know Mr. Woodfork is not going  
19 anywhere, and frankly, to be really candid about it, it's all  
20 the more reason he's entitled to a full hearing. We've heard  
21 the really ugly side of it; we're entitled to present his  
22 background, including any brain dysfunction and/or mental health  
23 issues. That's going to be, we hope, critical to where you  
24 land.

25 I mean, Mr. Woodfork knows he's not walking in and out

1 of any doors in the near future. This is just a matter of you  
2 having the full picture. I frankly anticipated that this was  
3 not a good day to ask about this, but as a practical matter we  
4 have to ask today because it's only a few weeks down the line.

5 THE COURT: Have we set a date for sentencing?

6 MR. DALE: We have, Your Honor. December 14th.

7 MR. SELTZER: The idea was on the 7th -- we have not  
8 had any mitigation hearing. On the 7th we have the mitigation  
9 hearing, and a week later the actual sentencing. What I'm  
10 saying is there's no way we'll be ready for the mitigation  
11 hearing.

12 I would ask the Court if they would like to inquire of  
13 probation, because frankly I think they also need additional  
14 time to have this matter ready. This is not the ordinary --

15 THE COURT: How much time do you need, Ms. Panzer?

16 MS. PANZER: We're getting some of the reports from the  
17 psychologist today from defense counsel. I mean, it's due for  
18 disclosure next week.

19 If the Court -- would I like to have more time? Sure.  
20 But certainly we'll comply with whatever the Court's order is.

21 THE COURT: All right. This is not a capital case any  
22 longer. I'll give you a continuance, but it's not going to be a  
23 60-day continuance. I don't have 60 days. I'm going to be gone  
24 the entire month of February, and we're going to get this done  
25 in January.

1 MR. SELTZER: Very well.

2 THE COURT: You work out a date, two dates for  
3 mitigation and then sentencing in January, and work them out  
4 with Mr. Brittin, and we'll reset it when my courtroom deputy  
5 gets back. He's not here today. You can work with him next  
6 week and we'll set up two dates in January.

7 MR. SELTZER: Very well. Thank you.

8 MR. DALE: Just for my scheduling purposes, I can use  
9 those two dates we have now for other matters?

10 THE COURT: Yes.

11 (END BENCH CONFERENCE.)

12 THE COURT: If there's nothing further, we are  
13 adjourned. Thank you once again to the members of the community  
14 and the family who came down here to speak this morning.

15 (Proceedings adjourned at 11:00 a.m.)  
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**CERTIFICATE OF OFFICIAL COURT REPORTER**

I, Rebecca Stonestreet, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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**SIGNATURE OF COURT REPORTER**

**DATE**