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COA No. 43870-4-II RECEIVED BY E-MAIL
(Consolidated cases)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

COREY TROSCLAIR,

Petitioner.

ON REVIEW FROM THE COURT OF APPEALS
OF THE STATE OF WASHINGTON,
DIVISION TWO
AND THE SUPERIOR COURT
OF THE STATE OF WASHINGTON,
PIERCE COUNTY

SUPPLEMENTAL BRIEF ON BEHALF OF ~~RESPONDENT~~ ^{PETITIONER}
COREY TROSCLAIR

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 ORIGINAL

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A. ISSUES PRESENTED FOR REVIEW

1. Did the court of appeals properly hold that the admission of Kisha Fisher's statement in the joint trial of Fisher and Respondent Corey Troclair violated Troclair's Article I, § 22 and Sixth Amendment rights to confrontation where the redactions to Fisher's statement were insufficient to render it facially neutral to Troclair, as required under the controlling U.S. Supreme Court precedent of Bruton v. United States, 391 U.S. 123, 88 S. Ct. 1620, 20 L. Ed. 2d 476 (1968), Richardson v. Marsh, 481 U.S. 200, 107 S. Ct. 1702, 95 L. Ed. 2d 176 (1987), and Gray v. Maryland, 523 U.S. 185, 118 S. Ct. 1151, 140 L. Ed. 2d 294 (1998)?
2. In Gray, the Supreme Court clarified that redactions must more than just replace the name of the nondeclarant with an obvious deletion or substitution, because such redactions still refer the jury to the nondeclarant, except under very unique facts. Did Division Two correctly hold that Fisher's statement was not sufficiently redacted where the prosecution mostly changed Troclair's name to the phrase "the first guy," but the statement pointed directly to Troclair as "the first guy" in multiple ways?

B. SUMMARY OF ARGUMENT

Corey Troclair's Article I, § 22, and the Sixth Amendment rights to confrontation under Bruton, Richardson and Gray were violated when the prosecution admitted the statement of Troclair's sister and non-testifying codefendant, Kisha Fisher, without making sufficient redactions to eliminate the prejudice to Troclair.

The bulk of the redactions simply replaced Troclair's name throughout the statement with the phrase "the first guy," still clearly pointing to Troclair. Fisher and Troclair were brother and sister; Fisher's statement indicated that she and "the first guy" were related. Fisher's statement identified only three people involved: Mario Steele, her boyfriend (not on trial), a man from California Fisher had only met the once and could not name (also not on trial), and "the first guy" - obviously

Trosclair, with her on trial. The reason the court of appeals held that there was a violation is that the cases clearly so hold.

Trosclair's constitutional rights to confrontation were violated, and Division Two properly so held. Although Division Two then applied an improper standard instead of the proper constitutional harmless error standard in finding the constitutional errors harmless, this Court denied Trosclair's petition for review on that issue.

C. STATEMENT OF THE CASE

Respondent Corey Trosclair was charged by amended information with first-degree and second-degree felony murder and firearm enhancements for the shooting death of a man named Leonard Masten in 2011. CP 11-12. Although initially charged as a codefendant with another man, Mario Steele, Trosclair ultimately went to trial with Trosclair's sister, Kisha Fisher, as a codefendant, after Steele got a "deal" for incriminating Trosclair and Fisher, who was Steele's girlfriend at the time. CP 1-2; see 3RP 1.¹

Masten had been shot in a dark parking lot of the apartment building where he lived and, while lighting was not great, it was generally believed by neighbors that two men appeared to be involved and they may have been black, or one potentially Hispanic. 3RP 440, 445. Masten was a drug dealer and a backpack with drugs, money and a gun were removed by people close to him after he was shot. 3RP 494, 516, 811, 1073, 1720.

Police investigation ultimately focused on Mario Steele, as

¹References to the verbatim report of proceedings are explained in Appendix A.

Masten's phone records showed that Steele's phone had called Masten's multiple times that day, before Masten's death. Sean Conlon of the Lakewood Police Department interviewed Steele and then Steele's girlfriend, Kisha Fisher. 3RP 804, 1552, 1570. Both denied involvement. 3RP 804, 1552, 1570. Officers then determined that a phone identified as belonging to Corey Trosclair had been involved in a three-way phone call with Steele and Masten on the day of the shooting and that it appeared to have "hit" on towers in the area of the incident, as did Steele's and Masten's. 3RP 825-28, 1579-80.

At trial, Conlon testified that police started researching Trosclair at that point and "found that he was possibly related to Kisha Fisher[.]" 3RP 1580. They then arrested Trosclair. 3RP 833, 838, 1581-82. Trosclair denied committing the crimes or even being in the area and did not know how cell phone records could show his phone was nearby. 3RP 836-37, 841-45. Fisher was also arrested and ultimately gave a taped statement incriminating Steele and Trosclair. 3RP 1584-86.

Because the prosecution planned to introduce Fisher's statement against her - and Trosclair - at trial, Trosclair moved to sever, arguing that Fisher's statement could not be redacted sufficiently and thus its admission would violate Trosclair's constitutional rights to confrontation. CP 58-59; see 3RP 24-46. Fisher's statement was 46 pages long. See CP 151-96.² The prosecutor ultimately proposed - and the trial court approved - redactions which took out a few portions but primarily just replaced

²A copy of the version as redacted by the trial court is filed herewith as Appendix A.

Trosclair's name throughout with the phrase, "the first guy." 3RP 209-213-14. After the trial court denied the motion to sever, Trosclair continued to object to admission of Fisher's statement, arguing that the redactions were not sufficient because the statement still clearly pointed to Trosclair as the person whom Fisher was incriminating. 3RP 209, 213-14, 234, 237-40.

Before the statement was admitted at trial, the jury first heard from many witnesses, including City of Lakewood police investigator Jeff Martin, who repeatedly identified Fisher as Trosclair's sister. 3RP 653, 786, 790, 835-36, 849-50. Trosclair moved for a mistrial, arguing, *inter alia*, that the evidence of the relationship was prejudicial and there was "no way that they [the jury] can now even think about saying that it was somebody else." 3RP 867-68. The prosecutor did not think it was prejudicial. 3RP 870-71. Later, Fisher's counsel asked to have Trosclair's name put back into Fisher's statement in one section in which the officers had confronted Fisher with the claim that Masten had told her family he had forced her to work as a prostitute while they were dating. 3RP 1033. Fisher had said there was no such rumor but officers had confronted her with the claim that Steele and Trosclair had reported that rumor to the police. 3RP 1033. Counsel maintained his vehement objection on Mr. Trosclair's behalf to the statement but, at that point, agreed to the change, which Fisher wanted because she thought it showed that officers were not being honest with Fisher as Trosclair had not made such a report. 3RP 1036.

The statement as redacted and submitted to the jury contained the

following information:

- When reminding her how serious it was, the officers had Fisher confirm that she already knew that “the first guy” and her boyfriend, Mario Steele, were in jail and that Steele had been “cooperating.” CP 155-56.

-Fisher said it was “him and Mario” who “went to go get some powder” with a man she did not know from California. CP 156-57.

-When asked how many people went to go see Masten that fateful night, she was clear it was “just them three.” CP 157-58. An officer clarified with her that those three were Steele and the other “two guys.” CP 158-59.

-The officers next told Fisher that she could spend “forever in prison” if she could not name only *one* of the other two men - the one from California. CP 159. They said Steele had told her she knew the men involved. CP 159. Fisher made it clear that she would identify that third man if she could, stating, “if I’m sitting here cooperating and I knew his name I would tell you his name.” CP 159. She again said she did not know the California guy, had never seen him before or since that day. CP 159-60.

-Fisher said in the statement that she knew that it had to have been the California man who drove that day, however, because “the first guy” had no car. CP 160. She also said the “first guy” “stays out in Kent so he don’t really come over that often.” CP 160.

-Fisher was asked to describe the California guy and whether she heard what name “they” called him that day. CP 160-61. She said she had not heard then call him anything and he was only in the apartment for a

short time. CP 160-61. When the officers asked Fisher if the California guy had introduced himself, Fisher responded that he had just said, “hi what’s going on cousin?” CP 161-62.

A few moments later, the following exchange occurred:

[Q]: If dude was your cousin would you tell me his name if he was your real cousin?

[A]: Oh yeah at this point yeah.

[Q]: What?

[A]: **He’s not, he’s not my cousin, he’s no relation to me.**

[Q]: **No relation to the first guy Corey that you know of?**

[A]: **No relation to my family.**

CP 163 (emphasis added).

A short time later, Conlon then turned back to “the first guy,” and the following exchange occurred.

[Q]: Right now when the first guy Corey was up here, I’m gonna tell you what I know, okay? When the the first guy Corey was up here with this, his cousin.

[A]: **It ain’t his cousin.**

[Q]: I’m just saying you call him, he said cousin.

[A]: Yeah.

[Q]: Hey cousin, that’s why I’m just referring to cousin. They were looking for someone to do a licks, someone who had money correct?

[A]: Well I don’t know if that was there [sp] intentions [when] they came over because he wanted to get some powder and some black.

[Q]: But he asked you, the first guy Corey asked you.

[A]: The first guy Corey didn’t, why would he wait ‘til that day

to ask me?

CP 172-73 (emphasis added).

-The officers continued the interrogation and accused her of setting up Masten when she said she had not seen him for years, would have no reason to rob him and would not know if he had valuables anyway. CP 171. Fisher then got upset, and the following exchange then occurred:

[Q]: [Y]ou hadn't seen him in a while[,] they robbed him and they killed him and now you're feeling a little bit guilty.

[A]: Well I'm not feeling guilty.

[Q]: Yeah well you should.

[A]: I didn't call, I didn't call Solo and say uh or tell them uh oh this is a, this is a dude you could rob, them, that didn't come out my mouth, I didn't do that, I didn't do none of that.

[Q]: Well according to both,

[A]: You know I hate to, I hate that it's you know what I'm saying that's the first guy ~~my brother~~ and that's my, and that's my boyfriend.

[Q]: Yeah.

[A]: You know what I'm saying 'cause it put me in the middle of them they always think that a female does something but not this time.

[Q]: Kisha timeout for a second.

[A]: Not this time.

CP 178-79.

-When Fisher denied being mad at Masten, Conlon then asked, "[s]o Solo didn't spread any rumors about you **to family members?**" CP 181 (emphasis added). When she responded, "[n]o," the officer continued

pressing, asking if there were some rumors he had spread about “what he used to do” to her when they were dating - that he “put her out” on the streets and forced her to prostitute. CP 181-82. The officers then expressed surprise that she denied it. CP 182.³

D. ARGUMENT

TROSCLAIR’S SIXTH AMENDMENT AND ARTICLE I,
SECTION 22, RIGHTS TO CONFRONT THE WITNESSES
AGAINST HIM WERE VIOLATED BY ADMISSION OF THE
FISHER’S STATEMENT WHICH REMAINED
INCRIMINATING ON ITS FACE

Both the Sixth Amendment and Article I, section 22, of our constitution guarantee the accused the right to confront witnesses against them in a criminal case. See State v. Jasper, 174 Wn.2d 96, 108-109, 271 P.3d 876 (2012); Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004). As part of these rights, when there is a joint trial and codefendant 1 has given a statement that expressly implicates codefendant 2 in the crime, the prosecution cannot use the incriminating statement against codefendant 2 unless codefendant 2 has the opportunity to cross-examine the declarant *or* the statement is rendered so neutral that it no longer amounts to an accusation of codefendant 2's guilt. See Bruton, 391 U.S. at 125.

Put another way, if codefendant 1 does not testify, her statement cannot be used in a joint trial with codefendant 2 unless the statement is rendered “non-testimonial” by removing all reference to codefendant 2.

³It was at this point that, instead of saying “the first guy” knew about it, along with Steele, the prosecutor’s redactions had been changed at Fisher’s request, to add Trosclair’s name back in once the jury had been told that Fisher and Trosclair were brother and sister. CP 182.

Bruton, 391 U.S. at 125.

In Bruton, the Supreme Court held that it was a violation of the confrontation clause of a defendant to allow the confession of his codefendant to be used against him at trial, even if the jury is instructed not to use the confession against both. Bruton, 391 U.S. at 125. The limiting instruction was insufficient because, the Court found, the risk the jury “will not, or cannot” follow that instruction was so great and consequences to the defendant “so vital” that, in a joint trial, “we cannot accept limiting instructions as an adequate substitute for petitioner’s constitutional right of cross-examination” of the accusers against him. 391 U.S. at 137; see State v. Wheeler, 95 Wn.2d 799, 806, 631 P.2d 376 (1981).

Bruton crafted a standard applying examination of function, not form, as its later decisions make clear. In Richardson, *supra*, the Supreme Court found that Bruton was not implicated when the confession of a nontestifying codefendant was redacted to omit not only the name of the codefendant but “all indication that the defendant was present during an incriminating conversation between two people in a car.” Richardson, 481 U.S. at 208.

The redactions were sufficient because there was nothing in the redacted statement, on its face, which incriminated the defendant at all. *Id.* It was only the defendant’s later testimony admitting that she had been in the car which made the statement incriminating, when linked with other evidence admitted later. *Id.* The Richardson Court elevated form over function, following Bruton and upholding redactions which were

constitutionally sufficient, even though the evidence within the statement which is not incriminating on its face later couples with other evidence to so become.

The Richardson Court distinguished the situation from that in Bruton, because the redactions has been sufficient and the statement had been “redacted to eliminate not only the defendant’s name, but **any reference to his or her existence.**” Richardson, 481 U.S. at 211 (emphasis added). The Court left for another day the question of whether redactions are sufficient when the codefendant’s name is simply replaced by a pronoun. Richardson, 481 U.S. at 211 n. 5.

In contrast to the statement in Bruton, the statement in Richardson was not incriminating at all until linked with evidence introduced later at trial. This led to the decision in Gray, which further refined what is required to satisfy Bruton and honor the confrontation clause rights of a defendant facing an incriminating statement made by a nontestifying codefendant.

In Gray, six men were allegedly involved in a beating death. 523 U.S. at 189. One man, Bell, confessed to his involvement, also incriminating Gray and a third man, who later died. Bell and Gray were tried together, with Bell’s statement admitted. 523 U.S. 189-90. But “unlike Richardson’s redacted confession,” the statement in Gray still referred “directly to the ‘existence’ of the nonconfessing defendant,” because the prosecution “simply replaced the nonconfessing defendant’s name with a kind of symbol, namely, the word ‘deleted’ or a blank space

set off by commas.” Gray, 523 U.S. at 192. The Court then stated:

We therefore must decide a question that Richardson left open, namely, whether redaction that replaces a defendant’s name with an obvious indication of deletion, such as a blank space, the word “deleted,” or a similar symbol, still falls within Bruton’s protective rule.

In concluding that such statements run afoul of Bruton, the Gray Court noted that extrajudicial statements of a codefendant naming another defendant are so prejudicial as a class that “limiting instructions cannot work.” Gray, 523 U.S. at 193. Further, the Court was convinced that replacing the codefendant’s name “with an obvious blank space or a word such as ‘deleted’ or a symbol **or other similarly obvious indications of alteration,**” was insufficient. Gray, 523 U.S. at 193 (emphasis added).

The Court noted why:

For one thing, a jury will often react similarly to an unredacted confession and a confession redacted in this way, for the jury will often realize that the confession refers specifically to the defendant. This is true even when the State does not blatantly link the defendant to the deleted name, as it did in this case by asking whether Gray was arrested on the basis of information in Bell’s confession as soon as the officer had finished reading the redacted statement. **Consider a simplified but typical example, a confession that reads, “I, Bob Smith, along with Sam Jones, robbed the bank.” To replace the words “Sam Jones” with an obvious blank will not likely fool anyone.**

523 U.S. at 193 (emphasis added). A juror who was only “somewhat familiar” with criminal law would immediately know that the blank referred to Jones, and any other juror “need only lift his eyes to Jones, sitting at counsel table, to find what will seem the obvious answer.”

Id. The Court was also concerned that an obvious deletion may well cause the jurors to focus even more on the removed name, by overemphasizing

its importance. 523 U.S. at 193.

The Gray Court was aware that using “delete” was less obvious than the direct reference in Bruton, and the Court thus stayed open to the possibility that the type of reference used in that case might not always violate the right to confrontation in all circumstances. Gray, 523 U.S. at 193. But the statement in Gray still obviously “referred directly to the existence of the non-confessing defendant” and drew the jury’s attention to the fact that two specific defendants were involved - the same number of people on trial. 523 U.S. at 196. The Court reasoned:

[the redacted statements] obviously refer directly to someone, often obviously the defendant and . . . involve inferences that a jury ordinarily could make immediately. . . [so that] the accusation that the redacted confession makes ‘is more vivid than inferential incrimination, and hence more difficult to thrust out of mind.’

Gray, 523 U.S. at 196, quoting, Richardson, 481 U.S. at 208.

The Gray Court also rejected the state’s argument that Richardson controlled, even though the jury had to “use inference to connect the statement in this redacted confession with the defendant.” Gray, 523 U.S. at 196-97. Instead, the Court adopted a narrow view of the “linkage” requirement of Richardson, finding that “inference pure and simple cannot make the critical difference, for if it did, then Richardson would also place outside Bruton’s scope” confessions using nicknames, shortened first names or other identifiers even including unique descriptions. Gray, 523 U.S. at 196. The Court concluded that Richardson depended “in significant part upon the *kind of*, not the simple *fact of*, inference.” Gray, 523 U.S. at 195-96. In Richardson, nothing in the statement linked the defendant to the crime - it was only the later evidence introduced at trial

which cast the incriminating light on the information in the statement. See Gray, 523 U.S. at 196.

Thus, Gray also applied Bruton as a ruling of form over function, looking at the context and impact of the statements as redacted instead of holding that deleting the name by itself was enough. Redactions that replace a name with a symbol, blank, phrase or other indication that a name has been deleted are not constitutionally sufficient. Gray, 523 U.S. at 194-95.

Indeed, even before Gray, the highest court in Iowa had held redactions insufficient under Bruton where the redactions changed the defendant's name to "the other guy." See State v. Jefferson, 574 N.W.2d 268 (1997). In Jefferson, the state's case centered on two defendants committing a robbery and, while the confession of one did not specifically name the other, the confession "was not silent on the existence of an accomplice" because they "repeatedly referred to the 'other guy' involved in the robbery." 574 N.W.2d at 272. The Iowa Court contrasted a case where two people were being jointly tried and the statement of one was changed not only to remove the defendant's name but also to refer to the people involved by the non-specific plural pronoun "they." Referring to "they" in that context could have meant "anyone or a group of individuals acting with the codefendants," the Court pointed out, but in Jefferson there were two perpetrators and there were only two defendants in the courtroom, so that "[n]o doubt could be left in a reasonable juror's mind that Jefferson was "the other guy," and principal player, identified in" the codefendant's statements. 574 N.W.2d at 275.

Here, Fisher's statement identified three people as being involved. One of them was clearly identified as Steele. Another was identified as someone Fisher did not know, from California. And the third was "the first guy," clearly linked to Fisher and identified as Trosclair in multiple ways. Trosclair was the only other person on trial. He was Fisher's brother. Fisher's statements showed not only that she knew "the other guy" but that she knew him well enough to know he did not have a car, that he lived down in Kent and did not visit often, and that he would have no reason to ask her to get drugs right then. Most egregious, the jury heard Fisher refer to the first guy as "family" when she was saying the California "cousin" was not actually related.

Division Two here properly found that Mr. Trosclair's confrontation clause rights were violated. In reaching that conclusion, the court went through a lengthy analysis of all of the sections of Fisher's statements which pointed to Trosclair despite the redactions:

These included Fisher's statements that (1) "first guy" did not have a car, (2) "first guy" lived in Kent, (3) "Mario," the "first guy," and an unknown man from California went to purchase drugs from Masten, (4) Fisher knew that the case was serious because "first guy" and Steele were already in jail as suspects, and (5) a statement that implied that "first guy" was related to Fisher because when she was asked whether a third party was related to "first guy" she answered, "No relation to my family" when the jury had already heard that Fisher and Trosclair were brother and sister

184 Wn. App. at 776.

The redactions in this case did not cure the prejudice to Trosclair in admitting his sister's statements at trial. While the replacement of "the other guy" was not a "blank," as the Gray Court noted, Bruton also applies where there is an "other similarly obvious alteration," because a blank and

such an alteration are both “directly accusatory.” Gray, 523 U.S. at 194.

State v. Vincent, 131 Wn. App. 147, 120 P.3d 120 (2005), review denied, 158 Wn.2d 1015 (2006), is instructive. In that case, the appellate court held that the redactions were insufficient even though they removed the name of the suspect. The crimes involved two brothers, one of whom allegedly made incriminating statements to a jailhouse informant. 131 Wn. App. at 150. At trial, the second brother moved to sever after the prosecution sought to admit the first brother’s statements, but the court denied the motion, instead ordering the statements amended to take out the second brother’s name and refer to him as “the other guy.” 151 Wn. App. at 151. The court also gave a limiting instruction, telling the jury it could not consider the incriminating out-of-court statement made by one defendant as evidence against the other. Id.

The Vincent Court rejected the prosecution’s claim that replacing the defendant’s name with a pronoun or phrase such as “the other guy” satisfies Bruton in all situations. Vincent, 131 Wn. App. at 154. Instead, the Court declared,

[t]he question is not the precise words used in a redaction, but whether the redaction is sufficient to protect the codefendant from the prejudice of a statement he cannot cross-examine - that is, to prevent the jury from concluding the redacted reference is obviously to the codefendant, making it impossible for the jury to comply with the court’s instruction to consider the evidence only against the defendant who made the statements.

131 Wn. App. at 154. There were only two participants in the crimes, the Court noted, and only two defendants, and all of the witnesses said there was only one guy other than the one whose confession was admitted. Thus, the Court held, the “only reasonable inference the jury could have

drawn” from the references to the “other guy” was that the guy was the other codefendant. Id. The redaction “thus failed in its purpose” and confrontation clause rights under Bruton were violated. Id.

Below, the prosecution tried to shoehorn this case into the limited, narrow rule of Richardson, but that case clearly did not control. This case did not involve a statement where, as in Richardson, all mention of even the existence of the defendant is redacted before its admission at trial. Instead, as in Gray, the existence of “the first guy” was more than clearly established in the statement, even with the redactions. See United State v. Vejar-Urias, 165 F.3d 337 (5th Cir. 1999). Where, as here, it is obvious from looking at the statement as a whole that the redacted term referred to the nondeclaring defendant, it is still a violation of Bruton. Vejar-Urias, 165 F.3d at 340.

Mr. Trosclair’s confrontation rights were violated in this case, and the court of appeals properly so held. It is Trosclair’s position that the court of appeals *did* err, however, in concluding that the violation of Mr. Trosclair’s state and federal rights to confrontation was constitutional harmless error, but this Court denied Trosclair’s petition on that issue.

E. CONCLUSION

For the reasons stated herein, this Court should hold that Trosclair's confrontation clause rights were violated.

DATED this 9th day of November, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE BY EMAIL/MAILING

Under penalty of perjury under the laws of the State of Washington, I hereby declare that I sent a true and correct copy of the attached Appellant's Opening Brief to opposing counsel at the Pierce County Prosecutor's office, via their email service address, pcpatcecf@co.pierce.wa.us, and to Mr. Corey Trosclair, DOC 817896, WSP, 1313 N. 13th Ave., Walla Walla, WA. 99362, via first class postage prepaid, and to counsel for the codefendant, Stephanie Cunningham, via email service at sccattorney@yahoo.com.

DATED this 9th day of November, 2015.

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APPENDIX A

The verbatim report of proceedings consists of multiple volumes, not all of which are chronologically paginated. They will be referred to herein as follows:

volume containing the proceedings of January 12 and February 23, 2012, as "1RP;"

April 5, 2012, "2RP;"

May 10, 22, 29 and 30, July 12, 16, 17, 19, 23, 24, 25, 26, 30 and 31, August 1, 2, 6, 7, 8, 9, 13, 14, 15 and 24, 2012, as "3RP;"

the separately paginated proceedings of June 22, 2012, as "4RP;"

the proceedings of September 21, 2012, unfortunately using the same page numbers used in other transcripts, as "5RP."

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Attached please find the supplemental to be filed on Mr. Trosclair's behalf in this case, No. 91438-9.

Thank you!

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No. 91438-9

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DIVISION TWO
AND THE SUPERIOR COURT
OF THE STATE OF WASHINGTON,
PIERCE COUNTY

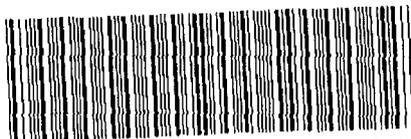
APPENDIX TO BRIEF ON BEHALF OF ^{PETITIONER}~~RESPONDENT~~ TROSCLAIR

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 ORIGINAL

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Case number 11-016-0880

MARCH 15, 2011

Court Approved
 REDACTED STATEMENT
 7/13/12

11-1-01002-5

The following statement was taken by Detective Conlon and Sergeant Parr of the Lakewood Police Department from Kisha Fisher. It involves case number 11-016-0880.

Investigator Conlon	I'll take those off for yah. Okay stand up for me. Just so you know (Inaudible) being audio and video recorded.
Kisha Fisher	Mmm.
Investigator Conlon	And that water's for you, for you.
Sergeant Parr	How are you ma'am?
Kisha Fisher	I'm alright how are you?
Sergeant Parr	Good. I got a water here for yah. I'll just go over here.
Investigator Conlon	Know if you met last time sir this is Sergeant Parr. Just gonna be helping us out today I think maybe askin' a few questions himself. Okay just to advise you we're being audio and video recorded.
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	I read you your rights out there but I'm read 'em to you again, okay? You have the right to remain silent any statement that you do make can be used as evidence against you in a court of law. You have the right at this time to talk to an attorney of your choice and to have your attorney present before and during any questioning or the making of any statements. If you can afford to hire an attorney you are entitled, if you cannot afford to hire and attorney you are entitled to have one appointed to you without cost to you and to have the attorney present at any time during any questioning and the making of any statements. You may stop answering questions or ask for an attorney at any time

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Pierce County Clerk
 By *[Signature]*
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	during any questioning and the making of any statements do you understand your rights?
Kisha Fisher	Yep.
Investigator Conlon	Okay what time is it?
Sergeant Parr	And just for confirmation your last name ma'am?
Kisha Fisher	Fisher.
Sergeant Parr	F-I,
Kisha Fisher	S-H-E-R.
Sergeant Parr	Your first?
Kisha Fisher	K-I-S-H-A.
Sergeant Parr	And a middle name?
Kisha Fisher	Lashawn. L-A-S-H-A-W-N.
Sergeant Parr	Okay and your birthday?
Kisha Fisher	4/21/74.
Sergeant Parr	And how old are you?
Kisha Fisher	36.
Sergeant Parr	You know how tall you are?
Kisha Fisher	5'5".
Sergeant Parr	You know how much you, I know it's a dangerous question for women but,
Kisha Fisher	Probably about 130.

Sergeant Parr	130 okay and how 'bout an address for yah?
Kisha Fisher	Excuse me?
Sergeant Parr	An address for yah?
Kisha Fisher	Uh I just moved I don't have one.
Sergeant Parr	Okay you just moved, you live on the streets or?
Kisha Fisher	Well I just moved out a couple days ago.
Investigator Conlon	Yeah she was evicted out of the apartment (Inaudible).
Sergeant Parr	Oh okay, okay. How about if, if I had to send you a check where would I send it to folks, anybody close around here that can get a hold of you if I needed to?
Kisha Fisher	No.
Sergeant Parr	Okay.
Kisha Fisher	No address.
Sergeant Parr	Phone number, cell phone anything like that?
Kisha Fisher	No I don't have one.
Sergeant Parr	Okay.
Investigator Conlon	Okay like I told yah before I'm not here to trick you, promise you anything.
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Um lie to yah all I want from you is from your side of the story. You know what we're talking about, correct?

Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Solo's murder.
Kisha Fisher	Yeah.
Investigator Conlon	Who is Leonard Mastin?
Kisha Fisher	Yeah.
Investigator Conlon	And you know him because?
Kisha Fisher	I've been, I used to date him years ago.
Investigator Conlon	Okay, okay now we talked to you in here once before we had you in here and I questioned you right?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Were you completely honest that time you were in here?
Kisha Fisher	Uh no, no.
Investigator Conlon	Why?
Kisha Fisher	Uh (sigh) like I said I mean I still didn't, I still didn't get no verbal statement you know nobody telling me.
Investigator Conlon	Okay.
Kisha Fisher	You know what actually happened.
Investigator Conlon	Okay.
Sergeant Parr	Well let me back up just real quick here just so, so my partner here, here something I cant understand, we're starting over today. I think is what he's getting at. He wanted to get through were you honest last time, no. are you going to be completely honest today?

Kisha Fisher	Yes.
Sergeant Parr	Okay um be, since we weren't, you weren't completely honest last time we might approach some questioning a little bit differently.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	We might now necessarily believe everything you say the first time you say it so um but just understand that we're gonna want to know why you were honest and what your, the honest level is going to be today 'cause that's gonna determine a lot. This, this is not a shoplifting case, this is not a, this is not something small this is something,
Kisha Fisher	I know.
Sergeant Parr	That you can potentially spend the rest of your life in prison for, okay?
Investigator Conlon	And you already know that the first guy. Corey, who is your brother.
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Is in jail?
Kisha Fisher	Yeah.
Investigator Conlon	On this charge right, on a murder charge?
Kisha Fisher	Yeah.
Investigator Conlon	And your boyfriend.
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Mario, Mario Steele.

Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Is also in jail?
Kisha Fisher	Yeah.
Investigator Conlon	Okay and you talked about, we talked about it in the car you know that Mario's been cooperating?
Kisha Fisher	Yeah I guess so.
Investigator Conlon	Okay well why don't you tell me what you know about the case. Start from the, from what you know about, you say you have absolutely no involvement, correct?
Kisha Fisher	No involvement no.
Investigator Conlon	Let, let, let me just back up a minute there.
Kisha Fisher	Yep.
Investigator Conlon	The night Solo was killed,
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	The day Solo was killed was a <u>guy</u> Corey at your house earlier that day today? Or earlier that day?
Kisha Fisher	Yeah they did come earlier.
Investigator Conlon	They, who's they?
Kisha Fisher	I said well him and Mario went to go get some powder.
Investigator Conlon	Okay.
Kisha Fisher	So uh it was some, it was somebody I don't know who the other person was. It was somebody, somebody from

	California I don't know who, I don't know 'em.
Investigator Conlon	You don't know him?
Kisha Fisher	I don't know 'em he went, they, that's who was there looking for some powder.
Sergeant Parr	How many people went?
Kisha Fisher	Went where?
Sergeant Parr	Went to go get powder?
Kisha Fisher	As far as I know just them three.
Sergeant Parr	Okay so <u>two guys</u> and Cor, Corey, Mario and who else, and one other person?
Kisha Fisher	Yeah.
Sergeant Parr	Describe them.
Kisha Fisher	He was just dark skinned tall dude, dark skinned and tall I don't,
Investigator Conlon	What did they call him?
Kisha Fisher	I swear I don't, I can't, I, I would be lying if I tried to make up a name. They wasn't there for very long and it, it gets I don't know if he, he did black whatever they or powder and some, some black and.
Sergeant Parr	But what I need you to, I need you to understand is you're, the outcome of what may happen prison wise,
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	Is gonna depend on a lot of communication that's take place in this room.

Kisha Fisher	Mm-hm (yes).
Sergeant Parr	If your life is gonna be spent forever in prison,
Kisha Fisher	I know.
Sergeant Parr	Because you couldn't name this person.
Kisha Fisher	(Sigh).
Sergeant Parr	That's what we need, we need.
Kisha Fisher	See I don't know I, I'd be lying I don't make and then I'll be lying.
Sergeant Parr	I know and that's what I don't want you to do is,
Kisha Fisher	I don't know his, I don't, I don't,
Sergeant Parr	You don't want that.
Kisha Fisher	Honestly I swear to god I don't know.
Sergeant Parr	Kisha, Kisha I don't want you to lie.
Investigator Conlon	I'll, I'll tell yah right now Mario said you know who they are.
Kisha Fisher	No I swear to god that if I do I'm not gonna, man I'm not gonna stay get, go to jail for nobody else's doin' you know if I knew his, if I, if I'm sitting here cooperating and I knew his name I would tell you his name.
Investigator Conlon	so he came up from California?
Kisha Fisher	Yeah he came from California.
Investigator Conlon	Okay to visit who?

Kisha Fisher	To visit, the first guy to Corey and Carmen I guess.
Investigator Conlon	To their house?
Kisha Fisher	I, I don't know that was the first time that I seen the dude.
Investigator Conlon	Okay.
Kisha Fisher	And <u>the first</u> guy Corey I mean he stays out, he stays out in Kent so he don't really come over that often.
Investigator Conlon	And you've never seen that guy before?
Kisha Fisher	I've never seen him before and I've never seen him since then.
Investigator Conlon	What was he driving?
Kisha Fisher	I didn't even go out, see I didn't even go outside and look but I know he drove, I know he drove.
Investigator Conlon	You know he drove?
Kisha Fisher	Yeah.
Investigator Conlon	So you're saying he's a black male?
Kisha Fisher	'Cause <u>the first</u> guy Corey didn't have, Corey didn't have no car.
Investigator Conlon	He's a black male and he's dark skinned?
Kisha Fisher	Dark skinned and tall.
Investigator Conlon	Tall?
Kisha Fisher	Mm-hm (yes).

Investigator Conlon	Is he muscular, fat?
Kisha Fisher	No he's kind of slim.
Investigator Conlon	Slim?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Like a medium build or?
Kisha Fisher	He was slim.
Investigator Conlon	Slim?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Like a basketball players type slim?
Kisha Fisher	Yeah.
Investigator Conlon	You never saw him before, you didn't hear 'em what they called his name or nothing?
Kisha Fisher	No he wasn't even there that long.
Investigator Conlon	But he was in your apartment?
Kisha Fisher	Yeah for a second.
Investigator Conlon	And he didn't introduce himself, says hey this is Kisha my sister.
Kisha Fisher	He said cousin.
Investigator Conlon	Who's cousin?
Kisha Fisher	He's like hi what's going on cousin?
Investigator Conlon	You didn't say what's, anything to him, his name?

Sergeant Parr	As we go like I told other people I mean don't get frustrated with me interrupting periodically, um I need you to be honest when you answer a question.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	As if there's two ways to answer it um three ways, yes here's the information, two I don't know who did it, three I don't want to tell you that. I don't want to tell you that and I don't know are two completely different answers.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	And that's what I need. If you don't know and you don't want to tell I have the one hundred (Inaudible) percent respect for yah.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	I'm not gonna hound you on it, I'm not gonna jack yah up or anything but if you don't know I need you to tell me I don't know.
Kisha Fisher	I don't know.
Sergeant Parr	If I don't want to tell yah just I respect, I'll respect yah but just say I don't want to tell you that.
Kisha Fisher	(Inaudible).
Sergeant Parr	And I'll respect that because this is gonna play out in the long run its,
Kisha Fisher	Yeah that's, that's all I'm worried about.
Sergeant Parr	Okay just want to make sure that that, we have that clear understanding.
Kisha Fisher	Mm-hm (yes).

Investigator Conlon	If dude was your cousin would you tell me his name if he was your real cousin?
Kisha Fisher	Oh yeah at this point yeah.
Investigator Conlon	What?
Kisha Fisher	He's not, he's not my cousin, he's no relation to me.
Investigator Conlon	No relation to <u>the first guy Corey</u> that you know of?
Kisha Fisher	No relation to my family.
Investigator Conlon	Okay.
Kisha Fisher	I would know who he was then.
Investigator Conlon	Okay so that was at three o'clock?
Kisha Fisher	Yeah.
Investigator Conlon	And it was just him?
Kisha Fisher	Yeah.
Investigator Conlon	Okay.
Kisha Fisher	That I know of.
Investigator Conlon	And so the, they went to buy powder?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	From Solo?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Where?

Kisha Fisher	I don't he said he was going to meet him.
Investigator Conlon	Okay so you don't know where?
Kisha Fisher	I don't know where.
Investigator Conlon	Okay so we'll get past that.
Kisha Fisher	Okay.
Investigator Conlon	We'll come back to that later. So that was at about three o'clock.
Kisha Fisher	Earlier the day.
Investigator Conlon	Earlier the day okay, later on in the day,
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Did they go back to get more powder?
Kisha Fisher	They were supposed to go back and get more powder.
Investigator Conlon	Okay who?
Kisha Fisher	I (Inaudible) I the, the matter of fact they didn't even, didn't nobody even come up Mario just went outside.
Investigator Conlon	Mario just went outside?
Kisha Fisher	Yeah.
Investigator Conlon	What did Mario, he was just gonna go get some powder?
Kisha Fisher	Yeah.
Investigator Conlon	And what happened?
Kisha Fisher	He left his phone, he left his phone he, he called me and said

	could you call, call 'em on three way.
Investigator Conlon	Who called you?
Kisha Fisher	So, Mario called me.
Investigator Conlon	Okay.
Kisha Fisher	So he asked me can I call him on a three way 'cause he didn't want you know from a different number he might not answer or whatever so after I called on three way and he, he talked, he talked him.
Investigator Conlon	Who talked to him?
Kisha Fisher	Mario.
Investigator Conlon	Mario talked to him?
Kisha Fisher	Mm-hm (yes) that's who he called Mario,
Investigator Conlon	'Cause you were still on the line?
Kisha Fisher	Yeah.
Investigator Conlon	So what was that conversation, what'd that say?
Kisha Fisher	He just said I'm, I'm, I'm 'bout, I'm 'bout to be there.
Investigator Conlon	Okay.
Kisha Fisher	I'm almost there wherever they meet at.
Investigator Conlon	And that was it?
Kisha Fisher	That was it.
Investigator Conlon	And then he hung up?

Kisha Fisher	Yeah.
Investigator Conlon	Okay and so when did Mario get home?
Kisha Fisher	Uh he wasn't gone that long.
Investigator Conlon	'Cause who got home after that?
Kisha Fisher	Hmm?
Investigator Conlon	What'd he tell you after that, when he got home?
Kisha Fisher	He didn't, he didn't.
Investigator Conlon	He told you nothing?
Kisha Fisher	No he didn't tell me nothing, he didn't tell me nothing. So I don't,
Sergeant Parr	What was behavior like?
Kisha Fisher	He didn't get high I know that.
Investigator Conlon	He didn't tell you they shot Solo? They did.
Sergeant Parr	Kisha we know a lot more answers to these questions.
Kisha Fisher	I, I believe you.
Sergeant Parr	'Kay let me finish talking.
Investigator Conlon	But you're gonna stand there and lie to me.
Kisha Fisher	I'm not.
Investigator Conlon	You're looking me right in the face and you're telling me he didn't tell you and he did.
Kisha Fisher	Yeah he did.

Investigator Conlon	So why you gonna look me right on and just lie to me like that?
Kisha Fisher	Because I mean I'm just I don't, 'cause I don't understand why I'm.
Sergeant Parr	Kisha,
Investigator Conlon	You gotta understand why.
Kisha Fisher	'Cause I don't know what 'cause I wasn't there.
Sergeant Parr	Kisha.
Kisha Fisher	So I don't know what happened.
Investigator Conlon	Right but I'm asking you what you know and you're lying to me.
Kisha Fisher	So yeah he, yeah he did tell me he, he, he did tell me that.
Investigator Conlon	Okay.
Sergeant Parr	Exactly what did he say?
Kisha Fisher	He said they,
Sergeant Parr	Not kind-a-what-a-sort-a.
Kisha Fisher	They said, they said they shot 'em.
Sergeant Parr	Why I mean he didn't walk in the door and go they shot him.
Kisha Fisher	No he came in he said they,
Sergeant Parr	Hey Kish we're home and shit went,

Kisha Fisher	He said, no he came and he sat down for a minute and, and then I'm just looking at him and you know he's sitting on the couch just, just like in a daze and that's when, that's when he said it.
Investigator Conlon	And what'd you say?
Kisha Fisher	I could, I don't even remember, I don't remember what I said. I was as shocked too.
Sergeant Parr	'Cause you thought it was just supposed to be a robbery not a killing?
Investigator Conlon	You knew they were gonna rob that dude, to rob Solo?
Kisha Fisher	I know that they talked about it.
Investigator Conlon	Mm-hm (yes).
Kisha Fisher	But when they went to go and get powder earlier that day they the, I don't think that that was no intentions.
Sergeant Parr	No, no we're talking about just the one at the night time.
Kisha Fisher	That's what I'm saying, he didn't say oh I'm finin' go this, we just, this is what we finin' to go and do right now.
Investigator Conlon	Who talked about robbing him?
Kisha Fisher	I (Inaudible) when they went to go get the powder they didn't tell that's what I'm saying they didn't sit and say, say stuff in my face.
Sergeant Parr	Now does your, how old are you?
Kisha Fisher	36.
Sergeant Parr	Okay you got kids?

Kisha Fisher	Yeah.
Sergeant Parr	How old are your kids?
Kisha Fisher	17, nine, two, three, and one.
Sergeant Parr	So all through, what I'm trying to get out is you're a mom, you raise the kids?
Kisha Fisher	I'm not right now.
Sergeant Parr	I know but you raised the kid's right?
Kisha Fisher	Yeah.
Sergeant Parr	Okay so when they were doing something behind yah you knew exactly what they were doing because that's, that's just a mother instincts whole thing. My mom knew when I was doing stuff I wasn't supposed to be doing so you know everything that's going on around you.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	Except this incident you're distancing yourself because I know more took place and I know that you took more of an active role. Listen,
Kisha Fisher	No I didn't take no role.
Sergeant Parr	Kisha let me finish.
Kisha Fisher	I did not take not role.
Sergeant Parr	Kisha let me finish now okay I'm gonna give you a chance to talk. That I think you, this is my, my thought. You can clarify it afterwards. That you took a more active role than what you thought was just gonna be taking a boys drugs and money and people get high, get a little spending cash not thinking that anybody was gonna die at the end of this and then when somebody died you went holy shit.

Kisha Fisher	Nope.
Sergeant Parr	I'm tied up in this.
Kisha Fisher	Nope.
Sergeant Parr	Well that's why you're sitting here.
Kisha Fisher	No I didn't even, I did not have anything to do with that, I didn't interfere or question anything about whatever what was gonna take place, none of that.
Sergeant Parr	But let me,
Kisha Fisher	I was not involved in that.
Sergeant Parr	But let me ask you something real quick the phone call you made, the three way phone call.
Kisha Fisher	I didn't talk to him.
Sergeant Parr	I'm just saying.
Kisha Fisher	I swear I did not talk to him (Inaudible).
Sergeant Parr	But Kisha, Kisha, Kisha you made the phone call.
Kisha Fisher	I made the phone call,
Sergeant Parr	Right.
Kisha Fisher	For yeah 'cause he, they was supposed to go and get some powder.
Sergeant Parr	But what I'm saying is you set up.
Kisha Fisher	I did not set up anything.

Sergeant Parr	Kisha what I'm, you need to listen to me okay. I'm not trying to put words in your mouth but I'm, I'm trying to just go step by step. You made a phone call to the guy with three way but you made the phone call that started the wheel in progress.
Kisha Fisher	No for Mario left his phone at home.
Sergeant Parr	What I'm saying is by you picking up that phone and calling him you called and are now intertwined in it.
Kisha Fisher	Well I didn't talk to him.
Sergeant Parr	It doesn't matter if you talked to him you made the phone call (Inaudible).
Kisha Fisher	Because he left his cell phone at home. I didn't call, I didn't make call to set up anything.
Sergeant Parr	Kisha,
Kisha Fisher	I did not say two words to Solo.
Sergeant Parr	Kisha, Kisha.
Investigator Conlon	I know that, I know that he left his phone at home.
Sergeant Parr	Mm-hm (yes).
Investigator Conlon	Okay earlier in the day what, let me back up even a little bit further, when did you run into Solo again?
Kisha Fisher	Oh it was, it's been a while, I haven't run into him at the Latitude.
Investigator Conlon	Latitude how long ago?
Kisha Fisher	It was last year some time.

Investigator Conlon	Last year, have you been talking to him since then?
Kisha Fisher	No.
Investigator Conlon	Mm-mm (no) you haven't been getting? You smoke crack right?
Kisha Fisher	Yeah.
Investigator Conlon	And Mario does powder?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	But you hadn't been getting crack from Solo or had you?
Kisha Fisher	No.
Investigator Conlon	And Mario didn't normally get crack from Solo or powder?
Kisha Fisher	He, naw he every blue moon he would.
Investigator Conlon	Right now when <u>the first guy Corey</u> was up here, I'm gonna tell you what I know, okay? When <u>the first guy Corey</u> was up here with this, his cousin.
Kisha Fisher	It ain't his cousin.
Investigator Conlon	I'm just saying you call him, he said cousin.
Kisha Fisher	Yeah.
Investigator Conlon	Hey cousin, that's why I'm just referring to cousin. They were looking for someone to do a licks, someone who had money correct?
Kisha Fisher	Well I don't know if that was there intentions they came over because he wanted to get some powder and some black.
Investigator Conlon	But he asked you, <u>the first guy Corey</u> asked you.

Kisha Fisher	The first guy Corey didn't, why would he wait 'til that day to ask me?
Investigator Conlon	Ask if you knew anybody 'cause these boys were up doing some licks.
Kisha Fisher	No, no.
Investigator Conlon	And he asked you who.
Kisha Fisher	No, no, no, no. he may have asked Mario.
Investigator Conlon	While you were right there.
Kisha Fisher	It wasn't, it was not,
Investigator Conlon	While you were right there.
Kisha Fisher	No, no see that why I'm,
Investigator Conlon	Yeah.
Kisha Fisher	No, no, nope, nope, nope, not one time did I mention or say anything about getting Solo, ever.
Investigator Conlon	I didn't say that.
Kisha Fisher	Ever.
Investigator Conlon	I never said you said that.
Kisha Fisher	Never.
Investigator Conlon	I didn't even say you said that.
Kisha Fisher	I'm just saying I never said that, ever.
Sergeant Parr	Kisha lets get past that. He's not saying you said that.

Kisha Fisher	Yeah.
Sergeant Parr	Okay we're trying to lay some groundwork so you can kind of understand the severity,
Investigator Conlon	Tell you where we're coming from so that you can,
Kisha Fisher	I understand what you're saying but I'm telling you that I've never if, if that's what they, if that's what they plan on doing I never implicated or uh or mentioned him as a person or none of that.
Investigator Conlon	That had money?
Kisha Fisher	Yes.
Investigator Conlon	The player?
Kisha Fisher	Exactly.
Investigator Conlon	No?
Kisha Fisher	I've never said that.
Investigator Conlon	When did they discuss robbing him?
Kisha Fisher	I don't, I don't (sigh) I don't know, I don't that, I'm not, I can't honestly say that. Like I said they didn't sit, sit and discuss it in my face. It could have been after they went and got the powder 'cause that was the only reason why because he, we couldn't find none. Then he mentioned, he mentioned Solo and uh I was, he was, he tried to get his number from his cousin. He wasn't home so I called my sister and got the number from her.
Investigator Conlon	From your sister?
Kisha Fisher	Mm-hm (yes).

Investigator Conlon	From Bam?
Kisha Fisher	Yeah and Mar, and after that Mario talked to him.
Investigator Conlon	Right and then but it (Inaudible) in your apartment to talk about robbing him?
Kisha Fisher	No I'm not gonna say that, not in front of me.
Investigator Conlon	But you knew, then how'd you find, figure it out?
Kisha Fisher	Not in front, that, that's what I'm saying not in front of me, they never talked about it in front of, never said that in front of me.
Sergeant Parr	Kisha you're the one who brought up that they brought it up, they talked about it. They might not have been to you specifically you might have been,
Kisha Fisher	That's what I said.
Investigator Conlon	Yeah (Inaudible).
Sergeant Parr	If you're in the kitchen while they're in the other room but again I'm going back to the mother instinct in you. You know what going on around you.
Kisha Fisher	Yeah.
Sergeant Parr	When and where were they talking about this? They weren't talking to you specifically, Kisha we're gonna jack this boy. But you hear, they're gonna oh shit they're gonna jack this boy, you hear stuff going on.
Kisha Fisher	They said, I asked them, mean I heard 'em asking if, what see it's as soon as, long I mean this is not computed in my head.
Sergeant Parr	Mm-hm (yes).

Kisha Fisher	So.
Investigator Conlon	So some, somehow, somewhere that you hear you don't know where from that they're gonna rob Solo, just rob him. They don't say,
Kisha Fisher	(Inaudible).
Investigator Conlon	They're gonna kill him right?
Kisha Fisher	They didn't say rob of kill.
Investigator Conlon	What'd they say?
Sergeant Parr	What did, what did they say?
Kisha Fisher	They just said nobody said rob or kill.
Sergeant Parr	You're hearing something going over here.
Investigator Conlon	You already said you knew they were going to rob him.
Kisha Fisher	No I didn't say I knew they were gonna rob him.
Investigator Conlon	What'd you say then? Correct me.
Kisha Fisher	(Laughing).
Sergeant Parr	Hon, Kisha honestly I need you to make some things right.
Kisha Fisher	Oh god uh it needs to be right, it really does.
Investigator Conlon	That's why I'm asking that.
Sergeant Parr	Yeah.
Kisha Fisher	It has to be right but I, I want, if I'll be lying if I sat there and said I heard them say we finin' to go rob this dude.

Investigator Conlon	Okay so they didn't say we,
Kisha Fisher	That would be (Inaudible).
Investigator Conlon	Finin' to go rob this dude, what did they say?
Kisha Fisher	(Sigh).
Investigator Conlon	How did they word it?
Sergeant Parr	How was the conversation taking place in the other room?
Kisha Fisher	It wasn't not taking place it was not taking place like that. Like I said the conversation didn't,
Investigator Conlon	How did it go?
Kisha Fisher	Was not in front of me. The conversation was not in front of me.
Investigator Conlon	So what did you hear?
Kisha Fisher	Mario saying he was gonna show, he was gonna show them where he's , where he'd meet 'em at.
Investigator Conlon	Why?
Kisha Fisher	That's what he said.
Investigator Conlon	Why?
Kisha Fisher	I guess to rob him.
Investigator Conlon	Why do you guess to rob them?
Kisha Fisher	'Cause that's what he, he, this is what he said to me. You know this is not fair; this is not fair on me on both sides.
Investigator Conlon	Well I'm trying to figure it out that's why we're here.

Kisha Fisher	You know I don't want everybody out, everybody out there thinking that I set this boy up and that's pretty fucked up 'cause I, I didn't, I didn't do that.
Investigator Conlon	Okay so tell us what,
Kisha Fisher	You know I've been knowing him from before years. Ain't no real and now one reason now when I choose to try to do something like that and I hadn't even seen him and or been dealing with him. I don't know what he got.
Investigator Conlon	Because you hadn't seen him in a while they robbed him and they killed him and now you're feeling a little bit guilty.
Kisha Fisher	Well I'm not feeling guilty.
Investigator Conlon	Yeah well you should.
Kisha Fisher	I didn't call, I didn't call Solo and say uh or tell them uh oh this is a, this is a dude you could rob, them, that didn't come out my mouth, I didn't do that, I didn't do none of that.
Investigator Conlon	Well according to both,
Kisha Fisher	You know I hate to, I hate that it's you know what I'm saying that's <u>the first guy</u> my brother and that's my. and that's my boyfriend.
Investigator Conlon	Yeah.
Kisha Fisher	You know what I'm saying 'cause it put me in the middle of them they always think that a female does something but not this time.
Sergeant Parr	Kisha timeout for a second.
Kisha Fisher	Not this time.
Sergeant Parr	Look, look at me, time out for a second okay number one I

	never in my mind and I never (Inaudible) to Investigator Conlon that Kisha, Kisha (Inaudible) with that. No you know how your name up? two other people went you, okay except I'm not gonna lie to yah hey and like my partner said right here if you were just to go hey look I don't want to talk to yah would have been fine with us 'cause,
Kisha Fisher	No I'm cool with it.
Sergeant Parr	Hey but let me finish real quick. We'll just (Inaudible) there's no issue with that, okay?
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	We have enough grounds, we've talked to the prosecutors there's enough PC to have you charged all that stuff, we want the opportunity to try to hear your side of what's going on and what I kind of think, this is just a theory, is that A you knew these guys were up here, you knew that they were gonna, let me finish before you get mad and erupt, okay? That you knew they were gonna do a lift you, you just damn well didn't think anybody was gonna get killed over this and now that somebody did get killed you're trying to distance yourselves from it.
Kisha Fisher	No, no, regardless of what they,
Sergeant Parr	See if you but let, let, let me finish, let me finish. If all you had was knowledge that they were gonna rob somebody you're looking maybe conspiracy to commit robbery and you didn't know it was gonna take place you helped cooperate.
Kisha Fisher	I did not help.
Sergeant Parr	Okay I'm just saying if you helped cooperate by police,
Kisha Fisher	I didn't not, oh.
Sergeant Parr	Police wise things look a lot differently if, if you're a

	witness and a cooperative verses I didn't know nothing, I didn't know nothing and just like we did with Mario, just like we did with <u>the first guy Corey</u> I proved every aspect of what they were trying to tell me was the truth,
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	As not the truth.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	And that's why they're in jail right now.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	Facing murder one charges.
Kisha Fisher	Mm-hm (yes).
Sergeant Parr	Okay? These guys have done nothing but sleep and breathe this case, okay they know, in your mind you may not want to be involved in this and you might be distancing yourself and it might be justifiably so but on paper and the way everything looks you are actively involved. The, just let me finish, minutes before Solo was killed you make a phone call to him for Mario but you make the phone call to him for,
Kisha Fisher	I was just called on his phone.
Sergeant Parr	Right for Mario you make the phone call,
Kisha Fisher	And he talked,
Sergeant Parr	But Kisha makes the phone call but,
Kisha Fisher	But he t, he talked to him, I never.
Sergeant Parr	But Kisha try, stop for a second try to convince a jury of 12 people that nope all I did was do this I didn't do anything especially when you're mad at Solo for some comments he's

	made about you in the past.
Kisha Fisher	I was not mad at him.
Investigator Conlon	So Solo didn't spread any rumors about you to family members?
Kisha Fisher	No.
Investigator Conlon	No?
Kisha Fisher	Not that I know of.
Investigator Conlon	None about what you were doing what he used to do to you when you guys were dating?
Kisha Fisher	What'd he used to do to me?
Investigator Conlon	He never said he put you out?
Kisha Fisher	Put me out of where? We never lived together.
Investigator Conlon	Prostitution?
Kisha Fisher	Fuck no.
Investigator Conlon	Never?
Kisha Fisher	No.
Investigator Conlon	That's not true?
Kisha Fisher	Hell no.
Investigator Conlon	He never said that?
Kisha Fisher	Oh I don't know if he said it but it no.
Investigator Conlon	You guys never, well <u>the first guy Corey knew about.</u>

Kisha Fisher	U it wasn't notin' to know about.
Investigator Conlon	That he said it?
Kisha Fisher	I don't know about that.
Investigator Conlon	You don't know about that?
Kisha Fisher	I don't know about that.
Investigator Conlon	Why?
Kisha Fisher	And that's knew to me.
Investigator Conlon	Why?
Kisha Fisher	Why what?
Investigator Conlon	How does, if its new to you how does Mario know it and <u>the first guy Corey</u> both know it?
Kisha Fisher	I, that's what I want to know, where this come from?
Investigator Conlon	From two different people,
Kisha Fisher	Two different, exactly (Inaudible).
Investigator Conlon	We didn't sit them down together and say (Inaudible).
Kisha Fisher	Mm-hm (yes) yeah.
Investigator Conlon	He told us one time he goes another time.
Kisha Fisher	Yeah I don't know, I don't know.
Investigator Conlon	Never heard it?
Kisha Fisher	No.

Investigator Conlon	Ever?
Kisha Fisher	No.
Investigator Conlon	Ever?
Kisha Fisher	Hell no.
Sergeant Parr	Kisha you're not helping yourself out here at all.
Kisha Fisher	(Inaudible) have I been hearing him saying,
Sergeant Parr	But what I'm saying is (Inaudible).
Investigator Conlon	Okay well then here's,
Kisha Fisher	I am he has never, I've never, why would he even say that?
Investigator Conlon	Here's a, here's another thing too I want you to think about when you're answering these questions okay, I'm not saying that you heard him say that.
Kisha Fisher	Yeah.
Investigator Conlon	Did you ever hear that anywhere?
Kisha Fisher	From Mario his self.
Investigator Conlon	Okay so you heard that from Mario?
Kisha Fisher	Yeah.
Investigator Conlon	Okay so you did hear it?
Kisha Fisher	Well.
Investigator Conlon	Just not from Solo? Okay.

Kisha Fisher	I haven't, I haven't heard it from nobody but Mario.
Investigator Conlon	Okay but here's what I'm thinking.
Kisha Fisher	And I'm thinking Mario's saying it because he's, he's 'cause I used to date him or you know?
Investigator Conlon	Mm-hm (yes).
Kisha Fisher	But no as a rumor no.
Investigator Conlon	Okay so you heard it from Mario. Here's, here's what I'm gonna tell you too, whenever I'm telling you something I'm not saying it in a literal sense so if I say something to you where as it was said and you say well I didn't say, they never said they were gonna rob that man,
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	I'm not saying the literal sense, okay? So by you saying back to me I never heard 'em say I'm gonna rob that man, okay I'm not saying that's what they said rob that man. What I'm saying is rob him, do a lick, not word for word, okay? Just like when I just brought up prostitution you act like it was a whole shock.
Kisha Fisher	Yeah it was, I mean it is.
Investigator Conlon	And yet you heard it, you heard him say, talk about it before.
Kisha Fisher	I heard Mario say it to me.
Investigator Conlon	Okay so you did hear it?
Kisha Fisher	So there wasn't nobody talking about it.
Investigator Conlon	Okay but it was out there, okay?
Kisha Fisher	(Sigh).

Investigator Conlon	So the, I'm just getting that clear.
Kisha Fisher	I don't know what out there is.
Sergeant Parr	Kisha semantics, you're a mother how old are you again?
Kisha Fisher	36.
Sergeant Parr	Right. I don't want to play games a lot, you don't want to play games we want to get through as quickly and painlessly as possible. You're making it extremely difficult like I'm pulling teeth.
Kisha Fisher	I don't know why.
Sergeant Parr	Because my partner asked are you upset about Solo saying this, well he never said that to me but then you just admitted that he, at least he said something to Mario.
Kisha Fisher	That Mario said it to, Mario said it to me.
Sergeant Parr	Right but you got angry a minute ago because nobody ever said that, nobody ever said that.
Kisha Fisher	Yeah 'cause (Inaudible).
Investigator Conlon	And, and Mario supposed, Mario supposedly heard it from somewhere else.
Sergeant Parr	Mm-hm (yes).
Investigator Conlon	He supposedly heard it somewhere.
Sergeant Parr	But see this is the pulling teeth I'm talking about.
Kisha Fisher	I didn't even believe Mario when he said it. I'm thinking he just making something up just, so when you, so of course when you said that no it through me off guard.

Investigator Conlon	You ever been arrested for prostitution?
Kisha Fisher	No.
Investigator Conlon	Did you ever do prostitution?
Kisha Fisher	No.
Investigator Conlon	Okay. Just clearing that up I didn't,
Kisha Fisher	Mmm.
Sergeant Parr	So let me go back to the conversation that you said it wasn't in your face you were in another room or,
Kisha Fisher	No I wasn't even in the other room I'm not gonna even its actually hear uh say that I heard them discussing what was gonna happen.
Sergeant Parr	And I want to hear the words that they used when you said they were discussin'.
Kisha Fisher	That's,
Sergeant Parr	Or how, in your mind replay what they were discussing so we can kind of understand.
Kisha Fisher	It wasn't nobody that was discussin' nothing, he said he was gonna show them where we, he was gone show them, show them wherever uh Solo be at or whatever.
Sergeant Parr	Mm-hm (yes).
Investigator Conlon	And did you ask why or anything?
Kisha Fisher	Nope.
Investigator Conlon	Never asked why?

Sergeant Parr	What did you think?
Kisha Fisher	That they, that they, that they probably was.
Sergeant Parr	They probably was?
Kisha Fisher	Probably was gone rob 'em.
Sergeant Parr	Okay.
Investigator Conlon	Why did you think that? I mean what made you think that?
Kisha Fisher	He said he was gone show 'em where they stayed, where he stayed at.
Investigator Conlon	Where he stayed at?
Sergeant Parr	What was the conversation before he said that? What was taking place 'cause they didn't, they didn't just all of a sudden go hey I'm gonna show you where.
Investigator Conlon	Did Mario know where he lived at, where he stayed at?
Kisha Fisher	That's mmm see I might of got myself to my trapped words 'cause like to my knowledge, to be hon, a hundred percent honest I never knew he knew where Solo lived at. I never knew he lived where, he knew where Solo lived at.
Investigator Conlon	Okay where was Mario getting powder normally?
Kisha Fisher	(Sigh) different people.
Investigator Conlon	Okay diff, so what I'm getting at is Solo wasn't his normal supplier?
Kisha Fisher	No not normally.
Investigator Conlon	Okay.

Kisha Fisher	Yeah he had gotten from him before.
Investigator Conlon	So why Solo, why did he pick Solo to do this, this time?
Kisha Fisher	I don't know, oh this when he got, they got the powder from him earlier 'cause they couldn't find nobody else to get it from.
Investigator Conlon	So then you called Bam got Solo's number?
Kisha Fisher	Yeah.
Investigator Conlon	And gave it to Mario?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Now did Mario call Solo first or did you?
Kisha Fisher	I called him first.
Investigator Conlon	Okay.
Kisha Fisher	And told him that uh I got his number from sister and who I was and I was putting Mario on the phone.
Investigator Conlon	Okay so,
Kisha Fisher	And he said don't call, he said don't call this number let me give you another number and he gave me the other number and I just gave that number straight to Mario and Mario called him.
Investigator Conlon	Did Mario know Solo before then?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	He did kinda but Solo knows you? When, why didn't Mario just call him straight? Why didn't you call him?

Kisha Fisher	I just 'cause he, I got the number.
Investigator Conlon	Why didn't you saw here Mario here's his number?
Kisha Fisher	I did, I gave it, I did give it to him.
Investigator Conlon	But you called Solo?
Kisha Fisher	Yeah.
Investigator Conlon	And you said hey it's Kisha?
Kisha Fisher	Yeah Taylor, he knows me by Taylor.
Investigator Conlon	Okay then what'd you say?
Kisha Fisher	I just said hold on.
Sergeant Parr	When,
Kisha Fisher	Matter fact before I even get to say, before I got to say hold on he, he said aw let me give, give you, he gave me the other number and I gave the number to Mario and Mario called his cell.
Investigator Conlon	Okay he said call back on this other number.
Kisha Fisher	Yeah.
Investigator Conlon	Okay so before he said that though when you were asking fill you up or what'd you say? Why would he give you, he gave you his work number?
Kisha Fisher	Mm-mm (no).
Investigator Conlon	What was said on the first phone that he said call me on this other number?
Kisha Fisher	Uh (Inaudible).

Investigator Conlon	Okay and so you figured that out?
Kisha Fisher	Yeah.
Investigator Conlon	Okay so that phone call went and then they went you said that it was Mario, <u>the first guy and</u> the tall dude, Corey and was there somebody else?
Kisha Fisher	If it was I never seen another person.
Investigator Conlon	Later on in the day?
Kisha Fisher	I didn't even see them then, I didn't see nobody then.
Investigator Conlon	D'you talk to?
Kisha Fisher	Mario went outside.
Investigator Conlon	Okay so then they go to what you believe they're going to rob him but you don't know they never said it.
Kisha Fisher	No, uh no, no I thought they was going to go meet him for some more powder. I did not know that they was, I did not know they was gonna,
Sergeant Parr	No, no uh what he's, what he's trying to get at is 'member before you, you heard him say something about showing him where the house was.
Kisha Fisher	That was earl,
Sergeant Parr	Okay.
Kisha Fisher	Yeah.
Sergeant Parr	Yeah and then that, that you assumed that they were probably gonna go rob him just by the way they were saying it?

Kisha Fisher	Yeah.
Sergeant Parr	Okay and since that was earlier,
Kisha Fisher	But when they,
Sergeant Parr	When so when,
Kisha Fisher	But when they came back later,
Sergeant Parr	When they left to go meet him later what did you think might be going on? You think,
Kisha Fisher	Well,
Sergeant Parr	That might be where they were gonna do it?
Kisha Fisher	Well uh well Mario wasn't 'posed to be involved.
Sergeant Parr	Okay.
Kisha Fisher	So no him going with them, I him going with 'em I'm thinking he's going, they going to get some more powder.
Investigator Conlon	But I mean rob him, how do you know Mario wasn't supposed to be involved?
Kisha Fisher	'Cause (Inaudible) just like it was (Inaudible) he, Mario said he was gonna show them.
Investigator Conlon	Okay.
Kisha Fisher	So he, he why would he, he wasn't 'posed, he wasn't gonna go.
Investigator Conlon	How do you know he wasn't gonna go?
Kisha Fisher	He said 'cause he told me he said was just gonna show them.

Investigator Conlon	And,
Kisha Fisher	And that was it he, he was just gone show it. show them.
Investigator Conlon	For what. he said I'm just gonna show 'em?
Kisha Fisher	Yeah.
Investigator Conlon	But he never told you they were gonna rob him? I'm just trying, just,
Kisha Fisher	That's how I told you that uh that's what I got out of it.
Investigator Conlon	But he didn't tell you,
Kisha Fisher	That's all I got out of it.
Investigator Conlon	But he didn't tell you he was gonna go,
Kisha Fisher	He said, he said I'm gone go, he said I'ma show them. I'ma show them where you, um show them where (Inaudible).
Investigator Conlon	And you said okay?
Kisha Fisher	I don't know if I said that.
Investigator Conlon	You didn't say why or what are you gonna show 'em, why do they want to know where they, where he stay at?
Kisha Fisher	No.
Investigator Conlon	Sure you did.
Kisha Fisher	I didn't ask him that.
Investigator Conlon	Nothing? But you assumed in your mind they were probably gonna rob him?

Kisha Fisher	Pretty much.
Investigator Conlon	But you know, how did what in your mind how do you know Mario's not gonna go later?
Kisha Fisher	'Cause he said he was just gone show them.
Investigator Conlon	And,
Kisha Fisher	That was it he said he was just gonna show 'em.
Investigator Conlon	But didn't say why?
Kisha Fisher	What?
Investigator Conlon	Didn't tell you why right? He was gonna show 'em?
Kisha Fisher	When he said that I already got, I told you that I already kind of knew that this, I told you earlier.
Investigator Conlon	Okay so when he said that you kinda already knew?
Kisha Fisher	Yeah when he told me that, that he was just gonna show 'em.
Investigator Conlon	You kinda already knew?
Kisha Fisher	Mm-hm (yes).
Investigator Conlon	Before?
Kisha Fisher	That's why I said they never said conversated about any of, any of that in front of me and he said he was just going show 'em.
Investigator Conlon	That doesn't make any sense.
Kisha Fisher	Why?

Investigator Conlon	Because here's me and you right hey Kisha I'ma go show,
Kisha Fisher	Yeah but this is after,
Investigator Conlon	<u>The first guy</u> Your brother , after what? I mean I'm trying to understand this so that I, I get it square.
Sergeant Parr	We weren't there Kisha so we, we need to take baby steps all the way through this so we can have a good picture in our head, we cant jump from place to place.
Kisha Fisher	I don't know if they planned on, if they planned on robbin' whatever I'm not gonna put no words in nobody's mouth.
Sergeant Parr	Don't want you to.
Investigator Conlon	Nope don't do it.
Kisha Fisher	You know what I'm saying?
Investigator Conlon	Don't want you to do it.
Kisha Fisher	And then he said he was gone show them.
Investigator Conlon	Okay.
Sergeant Parr	Okay.
Kisha Fisher	So and so that's when, when he left him phone and when he left and he left his phone I thought he and when he called and asked me to call him I thought he was gonna call, that he was going to get some more powder.
Sergeant Parr	Now let me,
Kisha Fisher	And I called, and I called him and that's he uh said um I'm almost there.
Investigator Conlon	Mm-hm (yes).

Sergeant Parr	So when it was taking place that, that he was gonna go show 'em was that, was he telling you or was he telling somebody else that?
Kisha Fisher	That's what he said to me.
Sergeant Parr	To me and then what did you say?
Kisha Fisher	I didn't say anything.
Sergeant Parr	I'm gonna go show 'em you didn't try go show 'em what?
Investigator Conlon	Or why? But you said you already kinda knew.
Kisha Fisher	I didn't ask no why.
Investigator Conlon	'Cause you already kinda knew you said.
Sergeant Parr	Did you tell them you better keep it don't you better stay out of this?
Kisha Fisher	I told, I told him not to get in the middle, don't get involved.
Investigator Conlon	Okay when did you tell him that?
Kisha Fisher	When they (Inaudible) when they was tryin' have private conversations whatever it, whatever it is don't get involved.
Investigator Conlon	When were they trying to have private conversations?
Kisha Fisher	Earlier that, that day it was only time that I seen them.
Investigator Conlon	Okay.
Kisha Fisher	That once that day the only time that I seen 'em.
Investigator Conlon	So in your apartment they're trying to have private conversations?

Kisha Fisher	Outside.
Investigator Conlon	Or outside.
Kisha Fisher	That's what I, my apartments only this big.
Investigator Conlon	Right I been there 'member I was there.
Kisha Fisher	Yeah.
Investigator Conlon	So outside,
Kisha Fisher	So I don't know if they coulda discussed it or whatever when they went to get it the, you know after they got it the first time.
Investigator Conlon	Mm-hm (yes). No they already pretty much knew they were gonna do it before they got it the first time.
Kisha Fisher	No I don't, I don't (Inaudible).
Investigator Conlon	Yeah.
Kisha Fisher	No because nobody even they was trying to get some powder and that was the only reason why Solo got brought up was for them to go get some powder. I swear to god yes it was.
Investigator Conlon	Mm-mm (no) no Solo's name come up 'cause that's who they planned on robbin' from the get-go. They woulda figured,
Kisha Fisher	No they, <u>the first guy</u> my brother didn't even know him.
Investigator Conlon	I know.
Kisha Fisher	So how they (Inaudible) from the get-go?

Investigator Conlon	'Cause they figured he had money.
Kisha Fisher	Naw.
REDACTED TEXT	REDACTED TEXT

END OF TAPED STATEMENT

This taped statement was transcribed by Sr. Office Assistant, Brea Wolfe on 3/9/2012.

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Attached please find an Appendix being filed in this case.

Thank you!

Sincerely,

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