

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Fairfield County

Honorable Paul M. Burch, Circuit Court Judge

CURTIS LEE ELGIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001383

APPENDIX

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
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ORIGINAL

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF FAIRFIELD	)	2005-GS-20-273

State of South Carolina	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	(Trial)
	)	
Curtis Lee Elgin,	)	
	)	
Defendant.	)	

July 6 and 7, 2009
Winnsboro, South Carolina

BEFORE:

THE HONORABLE BROOKS P. GOLDSMITH, JUDGE; and a jury

APPEARANCES:

DOUG BARFIELD, SOLICITOR
RILEY MAXWELL, ASSISTANT SOLICITOR
SANDRA HICKMAN, ASSISTANT SOLICITOR
Attorneys for the State

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Monday, July 6, 2009

THE COURT: Solicitor, do you have business for the court?

MR. BARFIELD: I do. This is case number 2005-GS-20-273, The State vs. Curtis Lee Elgin, indicted for the offense of murder, represented by Gwendlyne Smalls. The case for trial, the State is ready to proceed. I earlier gave you a witness list which I am prepared to publish at the appropriate time.

THE COURT: Thank you, Solicitor. Ms. Smalls, are you ready to proceed?

MS. SMALLS: Yes, Your Honor.

THE COURT: Madam Clerk, would you please swear the jury.

(Whereupon, the jury venire is sworn)

THE COURT: Ladies and gentlemen of the jury panel, we're about to begin a trial of the case of The State of South Carolina vs. Curtis Lee Elgin. I am going to ask you some questions in a few moments concerning your relationship with any of the people involved in this case or your knowledge about the case.

The indictment in this case, which I'll explain to you later, alleges in part as follows: that one

1 Curtis Lee Elgin did in Fairfield County on or about
2 February the 15th of 1993 feloniously, willfully and
3 with malice aforethought kill the victim, Audrey
4 Belton, by means of shooting her, and the victim died
5 as a result thereof, in violation of the laws of this
6 state.

7 **MR. BARFIELD:** Can I interrupt the Court
8 briefly?

9 **THE COURT:** Yes.

10 **MR. BARFIELD:** Would you check the indictment
11 again? The amended indictment is the one -- they are
12 stapled together.

13 **THE COURT:** Ladies and gentlemen, the amended
14 indictment states as follows: that Curtis Lee Elgin
15 did at Golf Course Road, Winnsboro, in Fairfield
16 County on or about or between February the 8th, 1993,
17 February the 15th, 1993 implicitly, feloniously and
18 willfully and with malice aforethought kill and
19 murder one Audrey Belton by shooting the victim with
20 a pistol and the victim died, all in violation of the
21 laws of this state.

22 Now, ladies and gentlemen, the first thing I'm
23 going to do before I ask you any questions is ask the
24 attorneys who are involved in this case, the
25 solicitor representing the State and Ms. Smalls

1 representing the defendant, if they would stand and
2 identify themselves, identify any witnesses that they
3 believe might be called in this case. And after they
4 do that I will then ask you a series of questions
5 about your relationship with any of these individuals
6 that are being identified by the attorneys, beginning
7 with the solicitor. Mr. Barfield.

8 **MR. BARFIELD:** My name is Doug Barfield, the
9 solicitor for the Sixth Circuit which is Fairfield,
10 Chester and Lancaster Counties. There are some other
11 folks in my office that will be participating in one
12 way or another in this matter. They include Riley
13 Maxwell, an assistant solicitor in my office, Sandra
14 Hickman, an assistant solicitor in my office who I do
15 not think is in this courtroom at this moment,
16 Jaquita Lynn who is an administrative person in our
17 office. Randy Newman over here is a summer employee
18 of our summer internship in our office and will be in
19 and out of the courtroom.

20 And then the following folks are potential
21 witnesses in the case. And I will indicate to you
22 their affiliation with law enforcement if they are in
23 fact affiliated with law enforcement. And some of
24 them, Your Honor, are here. Most of them probably
25 are not at this moment. But if they're here, I would

1 ask them to stand briefly as I call their names.

2 Frazier Craig with the Fairfield County
3 Sheriff's Office. Brad Douglas with the Fairfield
4 County Sheriff's Office. Eric Gill with the
5 Fairfield County Sheriff's Office. Jimmy Joyner with
6 the Fairfield County Sheriff's Office. James
7 Kitchens, formerly of the Fairfield County Sheriff's
8 Office. Keith Lewis of the Fairfield County
9 Sheriff's Office. Mike Roseborough of the Fairfield
10 County Sheriff's Office. Sheriff Herman Young of the
11 Fairfield County Sheriff's Office. Jimmy Burroughs,
12 formerly Chief of the Winnsboro Department of Public
13 Safety, and William Gonzalez, currently an officer
14 and then an officer with the Winnsboro Department of
15 Public Safety.

16 David W. Black, an agent with the State Law
17 Enforcement Division, otherwise known as SLED. David
18 J. Collins, formerly an agent for the State Law
19 Enforcement Division now employed by the Richland
20 County Sheriff's Office. Lawrence E. Gainey, Jr.,
21 known as Larry, currently with the State Law
22 Enforcement Division. Reid Long, retired from the
23 State Law Enforcement Division, currently employed by
24 the Chester County Sheriff's Office.

25 Tommy Robertson, an agent with the South

1 Carolina Law Enforcement Division. Robert, also
2 known as Robbie, Dean who at the time was employed by
3 the Fairfield County Emergency Medical Services.
4 Joel S. Sexton, MD with Newberry Pathology
5 Associates.

6 Then the following civilian witnesses: Raymond
7 Louis Barnes, Rogers Brown, Frederick M. Craig, Lula
8 Cunningham, Jimmy Ray Douglas, Connie Gaither,
9 "Constance". Mildred Gaither. Her husband, Eddie
10 Gaither, Sr.. Lindsay Goins, G-O-I-N-S, Jr. Robert
11 Lee Green, Kenneth Wayne Haney, Sr., known as Wayne.
12 Kenneth Wayne Haney, Jr. known as Kenny. Terry Lee
13 Jones, Virgil Pauling, and Arlene Sinkler. If you
14 will give me ten seconds to make sure I didn't leave
15 any names off.

16 (Pause)

17 **MR. BARFIELD:** I believe that's it, Your Honor.

18 **THE COURT:** Thank you, sir. Ms. Smalls.

19 **MS. SMALLS:** Thank you, Your Honor. Good
20 afternoon. I'm Gwen Smalls of the private bar. This
21 is my client, Curtis Elgin. Potential witnesses for
22 the defense are Ty Ragsdale of *The Herald*
23 *Independent*, John McMeekin, Harold Douglas, Jimmy
24 Ragoes and Mark Ragoes.

25 **THE COURT:** Thank you, Ms. Smalls. Now, ladies

1 and gentlemen, has any member of the jury panel ever
2 been related by blood or related by marriage to any
3 of the following individuals or categories of
4 individuals?

5 First of all, has anybody ever been related to
6 any of the attorneys who were identified? If so,
7 please stand.

8 The next question, have you ever been related by
9 blood or related by marriage to any of the witnesses
10 who were identified by the attorneys? If so, please
11 stand. Give us your name and juror number if you
12 know it, beginning on the far left.

13 **JUROR:** Harriette Pauling, number 177. Virgil
14 Pauling, I am his cousin.

15 **THE COURT:** Would you feel a ...

16 **JUROR:** 177.

17 **THE COURT:** Let me get my paperwork. I'm sorry.
18 Ms. Harriette Pauling, who are you related to? Or
19 were?

20 **JUROR:** You mean what relationship?

21 **THE COURT:** No. Who are you related to? I'm
22 sorry.

23 **JUROR:** Oh. Virgil Pauling, my husband's
24 cousin.

25 **THE COURT:** It's not purely in alphabetical

1 order. Your husband is one of the witnesses
2 identified by the State, 76 on our list.

3 *JUROR:* My husband is related to the witness.

4 *THE COURT:* Oh. It's your husband who is
5 related to the witness?

6 *JUROR:* Yes.

7 *THE COURT:* How?

8 *JUROR:* They're cousins.

9 *THE COURT:* First cousins? Second cousins?

10 *JUROR:* Second cousins.

11 *THE COURT:* Second cousins.

12 *JUROR:* Yes. I think. I think.

13 *THE COURT:* Do you know that witness yourself?

14 *JUROR:* Yes, I do.

15 *THE COURT:* And tell me about your relationship
16 with that witness. How well do you know the second
17 cousin of you husband?

18 *JUROR:* I know him when I see him. Not a real
19 close relation, but I do know him.

20 *THE COURT:* The last time that the two of you
21 would have been at a social or family gathering would
22 have been approximately how long ago? And I mean you
23 and Virgil.

24 *JUROR:* About a year and a half, maybe two.

25 *THE COURT:* Maybe two years ago?

1 **JUROR:** Yes.

2 **THE COURT:** Are you friends of anybody in his
3 immediate family?

4 **JUROR:** Yes. His mother. I know his mother
5 well.

6 **THE COURT:** All right, Ms. Pauling. Let me ask
7 you this next question.

8 **JUROR:** Okay.

9 **THE COURT:** Would the fact -- would those facts
10 that you just related to me, would those facts
11 interfere with your ability to listen to the evidence
12 in this case and be fair to both the State and to the
13 defendant?

14 **JUROR:** No.

15 **THE COURT:** You think you could be fair?

16 **JUROR:** I believe.

17 **THE COURT:** To both?

18 **JUROR:** Yes.

19 **THE COURT:** Thank you, Ms. Pauling.

20 **JUROR:** You're welcome.

21 **THE COURT:** And, yes, ma'am. Your name and
22 number again.

23 **JUROR:** I don't know my number. Tamika Bell.

24 **THE COURT:** Bell?

25 **JUROR:** Mm-hmm (affirmative). Frazier Craig is

1 my uncle.

2 **THE COURT:** One of the witnesses, a Mr. Craig,
3 is your uncle?

4 **JUROR:** Yes.

5 **THE COURT:** Now, then you heard the other
6 questions I asked Ms. Pauling. I ask you similar
7 questions. How well do you know your uncle?

8 **JUROR:** Very.

9 **THE COURT:** How often do you see your uncle?

10 **JUROR:** Every day.

11 **THE COURT:** Would that relationship cause you a
12 problem listening to the testimony in this case and
13 being fair to both sides?

14 **JUROR:** I don't know.

15 **THE COURT:** All right. You think you might have
16 a problem then. Well, I'm going to excuse you from
17 serving on this jury. But you can't leave yet.

18 **JUROR:** Okay.

19 **THE COURT:** And yes, sir.

20 **JUROR:** Juror number 131. Dean, cousin on down
21 the line.

22 **THE COURT:** You've got to tell me who is
23 cousins.

24 **JUROR:** The last name is Dean. Robbie Dean.

25 **THE COURT:** One of the witnesses. Is he a

1 second or third?

2 **JUROR:** Yeah. A cousin.

3 **THE COURT:** Nothing special. Well, you heard my
4 questions with the previous jurors. How close are
5 you to him?

6 **JUROR:** I know him when I see him.

7 **THE COURT:** All right. But would that fact
8 interfere with your ability to be fair and impartial
9 in this case?

10 **JUROR:** No, sir, it would not.

11 **THE COURT:** Thank you very much. Just so I can
12 make sure I know who I've been talking to, you're
13 Mr. Porter?

14 **JUROR:** Right.

15 **THE COURT:** Thank you. The next question,
16 ladies and gentlemen, similar to the one I've asked
17 before. Has any member of the jury panel ever had a
18 close personal or social relationship with any of the
19 attorneys involved in this case? If so, please
20 stand. Any of the witnesses or the defendant? If
21 so, please stand. And give us your name and number.
22 Yeah. The lady who stood first.

23 **JUROR:** Vivian Stevenson, number 151.

24 **THE COURT:** And tell us who you had or do have a
25 relationship with.

1 **JUROR:** I'm close with several of the people on
2 both sides that was called out. I know them.

3 **THE COURT:** Okay. Say it again. What?

4 **JUROR:** I'm close with them. I'm friends with
5 them, with both of them.

6 **THE COURT:** I see.

7 **JUROR:** I know several other people on the lists
8 that their names were called out. I know the
9 majority of them.

10 **THE COURT:** Ms. Stevenson, do you think the fact
11 that you're friends with I'm going to say both sides
12 that you just referred to a minute ago, do you think
13 that would cause you a problem being fair and
14 impartial?

15 **JUROR:** Yes.

16 **THE COURT:** I'll excuse you then, excuse you
17 from sitting on this jury. But you've got to stay
18 with us. You can't leave us just yet.

19 **JUROR:** All right.

20 **THE COURT:** All right. Thank you. And, yes,
21 sir. Your name and number.

22 **JUROR:** I am Herbert Glenn, juror number 67.
23 I've been friends with Officer Gill for a long time.

24 **THE COURT:** So you're a good friend of his?

25 **JUROR:** Yes. I've been knowing him for a long

1 time.

2 **THE COURT:** Let's think about that. You've
3 known him for a long time, or are you a close friend
4 of his?

5 **JUROR:** Just been knowing him for a long time.
6 We used to play baseball together.

7 **THE COURT:** And when is the last time that he
8 would have been visiting in your home?

9 **JUROR:** Never.

10 **THE COURT:** Never. All right. What about you
11 visiting in his home?

12 **JUROR:** Never.

13 **THE COURT:** Are y'all members of the same church
14 or social organizations together?

15 **JUROR:** We run across each other at different
16 churches.

17 **THE COURT:** Do you know his family members?

18 **JUROR:** Yes, sir.

19 **THE COURT:** Does he know yours?

20 **JUROR:** Yes, sir.

21 **THE COURT:** When is the last time y'all played
22 baseball together?

23 **JUROR:** Probably been about 20 years or better.

24 **THE COURT:** Would the fact that you have known
25 Officer Gill for all these years interfere with your

1 ability to listen to the evidence in this case and be
2 fair and impartial to both the State and to the
3 defense?

4 **JUROR:** No, sir.

5 **THE COURT:** You think you could listen to the
6 evidence and be fair and impartial?

7 **JUROR:** Yes, sir.

8 **THE COURT:** Okay. Thank you. Has any member of
9 the jury panel ever been represented by any of the
10 attorneys who are involved in this case? If so,
11 please stand.

12 Is any member of the jury panel or a member of
13 your immediate family connected by blood or marriage
14 to any person who was interviewed by law enforcement
15 concerning this case or concerning the investigation
16 of this case? If so, please stand.

17 Has any member of the jury panel ever been
18 interviewed by law enforcement concerning the facts
19 of this case? If so, please stand.

20 Has any member of the jury panel formed or
21 expressed an opinion about any fact or any matter in
22 this case based on anything that you have heard or
23 read about this case? If so, please stand.

24 Is any member of the jury panel aware of any
25 bias or any prejudice that you might have towards

1 either the State or towards the defendant in this
2 case? If so, please stand.

3 Is there any member of the jury panel who was a
4 member of the Grand Jury which issued the indictment
5 in this case or the amended indictment in this case?
6 If so, please stand.

7 Is there any member of the jury panel who is a
8 member of or a contributor to any group which has as
9 its primary concern the promotion of law enforcement
10 or victims' rights? These groups would include but
11 not be limited to such groups as MADD or SADD or
12 CAVE. If so, please stand.

13 Does any member of the jury panel know of any
14 reason whatsoever why he or she should not serve as a
15 juror in this case, with particular emphasis being
16 placed on your ability to be fair and impartial to
17 both the State and to the defendant? If so, please
18 stand.

19 Any additional questions from the State?

20 **MR. BARFIELD:** None from the State.

21 **THE COURT:** From the defense?

22 **MS. SMALLS:** None from the defense.

23 **THE COURT:** I find the jury panel to be
24 qualified. Are you ready to select?

25 **MR. BARFIELD:** The State's ready.

1 **THE COURT:** Ms. Smalls?

2 **MS. SMALLS:** Yes, sir.

3 **THE COURT:** Ladies and gentlemen, we are getting
4 ready to actually begin the selection of 12 jurors
5 and two alternate jurors to serve in this case. The
6 process will be like this. Your name will be drawn
7 individually, one at a time, and then asked by your
8 clerk to come forward and stand at the front of the
9 room, face the back of the room while the attorneys
10 actually get to look at you.

11 The attorneys have a certain number of what are
12 referred to as strikes, which means they have the
13 right to decide I don't want you on my jury or I do
14 want you on the jury. But they have the right to
15 pretty much just say I don't like the kind of shoes
16 you're wearing today and I'm not going to have you on
17 there. But they may have all kinds of reasons they
18 have thought of why they would not want you on the
19 jury.

20 So we go through that process. We will select
21 12 jurors and then two alternate jurors. Once we do
22 that, we'll excuse those who have not been chosen.

23 Madam Clerk, would you please give us a jury?

24 **THE CLERK:** Yes, sir. It will take us a couple
25 of minutes to get the list.

1 (Pause)

2 **THE COURT:** The jury lists are selected by
3 computer. So when it's time to select the jury, the
4 numbers are punched and we go from there. I think
5 Fairfield is going to be adopting that method in the
6 next few months. It will take just a couple more
7 minutes.

8 (Pause)

9 **THE CLERK:** As I call your name, please come
10 forward, stand in front of the mike. Then turn
11 around and face the audience. Please bring your
12 purses or whatever you might have with you. And
13 please watch your step coming down because that area
14 can be very dangerous.

15 113, Craig McConnell.

16 (Black male).

17 **THE CLERK:** What says the State?

18 **MR. BARFIELD:** Please excuse the juror from this
19 trial.

20 **THE CLERK:** You're excused from this case,
21 Mr. McConnell. Go back to your seat.

22 187, Chubby Kennedy.

23 (Black male)

24 **THE CLERK:** What says the State?

25 **MR. BARFIELD:** Please excuse the juror from this

1 trial.

2 **THE CLERK:** You're excused from this case,
3 Mr. Kennedy.

4 175, Vernon Young.

5 (Black male)

6 **THE CLERK:** What says the State?

7 **MR. BARFIELD:** Please present the juror.

8 **THE CLERK:** What says defense?

9 **MS. SMALLS:** Please swear this juror.

10 **THE CLERK:** Have a seat in the jury box,
11 Mr. Young.

12 139, George Sandridge.

13 (Black male)

14 **THE CLERK:** What says the State?

15 **MR. BARFIELD:** Please present the juror.

16 **THE CLERK:** What says defense?

17 **MS. SMALLS:** Excuse the juror from this case.

18 **THE CLERK:** 78, Pearlene Harmon.

19 (Black female)

20 **THE CLERK:** What says the State?

21 **MR. BARFIELD:** Please present the juror.

22 **THE CLERK:** What says defense?

23 **MS. SMALLS:** Please excuse the juror.

24 **THE CLERK:** You're excused on this case, Ms.
25 Harmon.

1 174, Roxanne Young.

2 (Black female)

3 **THE CLERK:** What says the State?

4 **MR. BARFIELD:** Please present the juror.

5 **THE CLERK:** What says defense?

6 **MS. SMALLS:** Please swear this juror.

7 **THE CLERK:** Have a seat in the jury box,

8 Ms. Young.

9 178, Tammy Neely.

10 (White female)

11 **THE CLERK:** What says the State?

12 **MR. BARFIELD:** Could I have just a second?

13 Present the juror.

14 **THE CLERK:** What says the defense?

15 **MS. SMALLS:** Please swear this juror.

16 **THE CLERK:** Have a seat in the jury box, Ms.

17 Neely.

18 106, Antonio Long.

19 (Black male)

20 **THE CLERK:** What says the State?

21 **MR. BARFIELD:** Please present the juror.

22 **THE CLERK:** What says the defense?

23 **MS. SMALLS:** Please swear this juror for this

24 trial.

25 **THE CLERK:** 109, Lillie Martin.

1 (Black female)
2 **THE CLERK:** What says the State?
3 **MR. BARFIELD:** Please present the juror.
4 **THE CLERK:** What says the defense?
5 **MS. SMALLS:** Please swear this juror.
6 **THE CLERK:** Have a seat in the jury box,
7 Ms. Martin.
8 148, Elizabeth Sollers.
9 (White female)
10 **THE CLERK:** What says the State?
11 **MR. BARFIELD:** Please present the juror.
12 **THE CLERK:** What says the defense?
13 **MS. SMALLS:** Please excuse this juror.
14 **THE CLERK:** You're excused from the case,
15 Ms. Sollers.
16 181, Amy Neely.
17 (White female)
18 **THE CLERK:** What says the State?
19 **MR. BARFIELD:** Please present the juror.
20 **THE CLERK:** What says the defense?
21 **MS. SMALLS:** Please swear the juror.
22 **THE CLERK:** Have a seat in the jury box,
23 Ms. Neely.
24 180, Cierra Crosby.
25 (Black female)

1 **THE CLERK:** What says the State?

2 **MR. BARFIELD:** Please present the juror.

3 **THE CLERK:** What says defense?

4 **MS. SMALLS:** Please swear the juror.

5 **THE CLERK:** Have a seat in the jury box,

6 Ms. Crosby.

7 177, Harriette Pauling.

8 (Black female)

9 **THE CLERK:** What says the State?

10 **MR. BARFIELD:** Please present the juror.

11 **THE CLERK:** What says the defense?

12 **MS. SMALLS:** Please excuse the juror.

13 **THE CLERK:** You're excused from this trial,

14 Ms. Pauling.

15 16, Wanda Bright --

16 (White female)

17 **THE CLERK:** What says the State?

18 **MR. BARFIELD:** Please present the juror.

19 **THE CLERK:** What says defense?

20 **MS. SMALLS:** Please swear the juror.

21 **THE CLERK:** Have a seat in the jury box,

22 Ms. Bright.

23 66, Jeffery Gladney.

24 (Black male)

25 **THE CLERK:** What says the State?

1 **MS. SMALLS:** Excuse me. What number is he?

2 **THE CLERK:** Number 66.

3 **MR. BARFIELD:** Please excuse the juror from this
4 trial.

5 **THE CLERK:** You're excused from this trial,
6 Mr. Gladney.

7 51, Sharon Edrington.

8 (Black female)

9 **THE CLERK:** What says the State?

10 **MR. BARFIELD:** Please present the juror.

11 **THE CLERK:** What says defense?

12 **MS. SMALLS:** Please excuse this juror.

13 **THE CLERK:** You're excused from this case, Ms.
14 Edrington.

15 80, Miranda Harrison.

16 (Black female)

17 **THE CLERK:** What says the State?

18 **MR. BARFIELD:** Please present the juror.

19 **THE CLERK:** What says defense?

20 **MS. SMALLS:** Please swear the juror.

21 **THE CLERK:** Have a seat in the jury box,
22 Ms. Harrison.

23 158, Patricia Walker.

24 (Black female)

25 **THE CLERK:** What says the State?

1 **MS. SMALLS:** What was the number? I'm sorry.

2 **THE CLERK:** 158.

3 **MR. BARFIELD:** Please present the juror.

4 **THE CLERK:** What says defense?

5 **MS. SMALLS:** Please excuse the juror.

6 **THE CLERK:** You're excused from this trial,

7 Ms. Walker.

8 Number 7, Tarsha Ann Belton.

9 (Black female)

10 **THE CLERK:** What says the State?

11 **MR. BARFIELD:** Please present the juror.

12 **THE CLERK:** What says the defense?

13 **MS. SMALLS:** Please seat the juror.

14 **THE CLERK:** Have a seat in the jury box,

15 Ms. Belton.

16 43, Makia Davis.

17 **MR. BARFIELD:** What number again, Madam Clerk?

18 **THE CLERK:** 43.

19 **MR. BARFIELD:** Thank you.

20 **THE CLERK:** What says the State?

21 **MR. BARFIELD:** Please present the juror.

22 **THE CLERK:** What says the State? Defense?

23 **MS. SMALLS:** Please seat the juror.

24 **THE CLERK:** Have a seat in the jury box,

25 Ms. Davis.

1 132, Shirley Pullen.

2 (White female)

3 **THE CLERK:** What says the State?

4 **MR. BARFIELD:** Please present the juror.

5 **THE CLERK:** What says defense?

6 **MS. SMALLS:** Please excuse the juror.

7 **THE CLERK:** You're excused from this trial,

8 Ms. Pullen.

9 50, Shannon Dutton.

10 (White female)

11 **THE CLERK:** What says the State?

12 **MR. BARFIELD:** Please present the juror.

13 **THE CLERK:** What says defense?

14 **MS. SMALLS:** Please swear the juror.

15 **THE CLERK:** Have a seat in the jury box,

16 Ms. Dutton.

17 Number 3, Jerome Armstrong.

18 (Black male)

19 **THE CLERK:** What says the State?

20 **MR. BARFIELD:** Please present the juror.

21 **THE CLERK:** What says defense?

22 **MS. SMALLS:** Please excuse the juror.

23 **THE CLERK:** You're excused from this case,

24 Mr. Armstrong.

25 81, Terry Harvey.

1 (Black male)

2 **THE CLERK:** What says the State?

3 **MR. BARFIELD:** Please excuse the juror from this
4 trial.

5 **THE CLERK:** You're excused from this case,
6 Mr. Harvey.

7 63, Kimberly Gilstrap.

8 (White female)

9 **THE CLERK:** What says the State?

10 **MR. BARFIELD:** Please present the juror.

11 **THE CLERK:** What says the defense?

12 **MS. SMALLS:** Please swear the juror.

13 **THE CLERK:** Have a seat in the jury box, Ms.
14 Gilstrap.

15 For the first alternate, alternate number one,
16 Dorothy Smith, number 183.

17 (Black female)

18 **THE CLERK:** What says the State?

19 **MR. BARFIELD:** Please present the juror.

20 **THE CLERK:** What says defense?

21 **MS. SMALLS:** Please excuse the juror.

22 **THE CLERK:** You're excused from this case,
23 Ms. Smith.

24 111, Turner McCarly.

25 (White male)

1 **THE CLERK:** What says the State?

2 **MR. BARFIELD:** Please present the juror.

3 **THE CLERK:** What says the defense?

4 **MS. SMALLS:** Please swear the juror.

5 **THE CLERK:** Have a seat in the jury box,

6 Mr. McCarly. You're the first alternate.

7 This will be alternate number two. Number 46,

8 Tony Davis.

9 (Black female)

10 **THE CLERK:** What says the State?

11 **MR. BARFIELD:** Please present the juror.

12 **THE CLERK:** What says defense?

13 **MS. SMALLS:** Please swear the juror.

14 **THE CLERK:** Have a seat in the jury box,

15 Mr. Davis. You're our alternate number two.

16 **THE COURT:** Anything the Court needs to consider
17 concerning the composition or selection of the jury?
18 From the State?

19 **MR. BARFIELD:** Nothing from the State.

20 **THE COURT:** From the defense?

21 **MS. SMALLS:** Nothing from the defense.

22 (Whereupon, jurors not chosen for this case are
23 excused by the Court)

24 **THE COURT:** All right, ladies and gentlemen.

25 I'm getting ready to excuse you for lunch until 2:30.

1 As you'll probably hear me say several times before
2 this case is over with -- and, by the way, the
3 parties involved believe it is going to take several
4 days, won't finish it today, won't finish it
5 tomorrow, probably won't finish it Wednesday but
6 could.

7 So until the case is over with, you are not
8 allowed to let anybody discuss the case with you.
9 You are not allowed to discuss the case with anybody.
10 And believe it or not, you can't even discuss the
11 case among yourselves or even in the jury room. So
12 we'll talk more about that later.

13 I'm going to let you go to lunch now. I'll let
14 the bailiffs show you where the jury room is because
15 when you come back at 2:30 I'm going to ask you show
16 up in the jury room.

17 During the lunch break don't let anybody talk to
18 you about the case. I don't have any reason to think
19 anybody is going to try to do it, but somebody may
20 unintentionally be around you or in your vicinity and
21 might be chitchatting about the case. You need to
22 remove yourself from that conversation or ask them to
23 remove themselves. Any problems with anybody being
24 back at 2:30? See you back at 2:30, ladies and
25 gentlemen.

1 (Jury out at 1:16 p.m.)

2 **THE COURT:** Any matters we need to take up?

3 **MR. BARFIELD:** Just one matter for the record,
4 Your Honor. In a conference this morning between
5 yourself and Ms. Smalls and I, I told you that I have
6 sent an amended indictment to the Grand Jury. I
7 discussed that with Ms. Smalls. And it in fact was
8 true billed during the last meeting of the Grand
9 Jury. I gave a copy of it to Ms. Smalls last week
10 early, had a certified copy of it served today on Mr.
11 Elgin.

12 When we talked about this in chambers this
13 morning, I believe Ms. Smalls indicated there was no
14 objection to the amendment of the indictment; number
15 two, that she felt no need to have Mr. Elgin
16 arraigned on the amended indictment. It simply
17 changed the date range from February the 15th to
18 February 8th through 15th, inclusive. And some of
19 the language is different simply because we have a
20 new indictment form that we're using now on murder
21 charges. I just wanted to put that on the record and
22 make sure that we are clear on that point.

23 **MS. SMALLS:** That is correct. And my client and
24 I have discussed the amended indictment.

25 **THE COURT:** Anything else?

1 **MR. BARFIELD:** No, sir. And I apologize for not
2 pointing that out when you published the indictment.
3 That was my fault for not giving you the right one.

4 **THE COURT:** You had actually told me of it. I
5 just didn't think about it. That's fine. Thank you.
6 I think we're going to try to take up another matter,
7 Mr. Barfield, just about 2:30'ish.

8 **MR. BARFIELD:** And, Your Honor, let me just kind
9 of tell you what my plan was. I am thoroughly
10 pleased that we are really only 20 minutes behind
11 where I wanted us to be at this point. It's amazing
12 that we've got a jury and we're actually going to get
13 it to this point this afternoon.

14 But my anticipation this afternoon is to call
15 five witnesses who were basically at the very front
16 end of this case, and all of them are relatively
17 short witnesses. So I think the pace this afternoon
18 is going to be pretty comfortable. When I get those
19 five up and down, then I'm not prepared to call
20 anybody else this afternoon.

21 **THE COURT:** Okay. Anything else? All right.
22 Court is in recess until 20 minutes after 2.

23 **MR. BARFIELD:** Thank you, Your Honor.

24 (Whereupon, a lunch break is taken)

25

1 (WHEREUPON, State's Exhibit No. 1 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 2 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 3 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 4 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 5 is marked for
10 identification.)

11 **MR. BARFIELD:** One additional thing real quick.
12 In chambers this morning Ms. Smalls was talking about
13 sequestering witnesses. We really haven't gone on
14 the record about that. I don't have any real basis
15 to argue against it.

16 I've got my folks coming basically by half days.
17 I've got some this afternoon, some in the morning,
18 some tomorrow afternoon. I think it would be
19 manageable for this afternoon's purposes.

20 Three witnesses are in the back. Two witnesses
21 are in the courtroom. They are the victim's sister
22 and her brother-in-law. I think Ms. Smalls agrees
23 that there is no need to sequester the sister and the
24 brother-in-law. So unless I'm misunderstanding
25 something, I think we are good on that issue.

1 **MS. SMALLS:** Your Honor, that is correct as it
2 relates to the sister and the brother-in-law, just
3 based on the testimony that the solicitor indicated
4 that they would have.

5 **THE COURT:** Okay. And, Ms. Smalls, you
6 indicated you need to address another issue?

7 **MS. SMALLS:** Yes, Your Honor. Back in chambers
8 earlier this morning I actually indicated to the
9 Court that I had filed an ex parte order regarding
10 payment of services applied to the Office of Indigent
11 Defense. The first order was sent to Judge Goode. I
12 did not get anything back until this weekend. I did
13 receive a final order authorizing the payment of
14 services from indigent defense, and I think that
15 order says \$50 for an investigator for 20 hours and
16 we could actually make a request for additional funds
17 and \$80 for in and out of court for my services.

18 Prior to receiving that order Judge King signed,
19 and I have filed an order, as relates to
20 investigative services authorizing \$50 in and out of
21 court for investigative services for 20 hours and
22 leave to actually petition the Court for additional
23 funds for investigative services; in addition, this
24 past week I also filed a supplemental order for the
25 investigator to be permitted to attend a part of the

1 trial. I think Judge King indicated to me that
2 typically if we wanted or needed the service of an
3 investigator, those are obviously not included unless
4 the defense shows it's necessary.

5 In this particular case, in accordance with the
6 order, he actually interviewed several of the
7 witnesses. As an officer of the court I will state
8 that his presence during the testimony would be
9 crucial to the defense of the case and, therefore, I
10 would need him to be able to attend portions of the
11 trial and be paid for those services.

12 Now, aside from the investigator, I have not
13 received a ruling as it relates to my fee.
14 Specifically, I have requested a fee of \$80 an hour
15 in and out of court. It's based on 20 years of
16 experience, the nature of the trial, it's 16 years
17 old, and the amount of work that's actually required.
18 I have not received a ruling on that. And I thought
19 out of an abundance of caution I needed to actually
20 put that on the record prior to the defendant's case.

21 **THE COURT:** And you said you haven't seen a
22 ruling on it. Have you filed an application, a
23 motion seeking that?

24 **MS. SMALLS:** Actually, when I filed one as
25 relates to my services before Judge King, he

1 indicated that I needed to make the motion before the
2 Court.

3 **THE COURT:** Oh, I see. Okay. Yeah. Solicitor.

4 **MR. BARFIELD:** I'm all for it. I have no dog in
5 that fight, Your Honor. I think the record needs to
6 just be made. Whatever happens happens on that.

7 **THE COURT:** Well, I certainly think what she is
8 requesting is reasonable. But let me take it under
9 advisement as to what my authority to increase it is.
10 But certainly what you've asked for is reasonable.

11 **MS. SMALLS:** Thank you, Your Honor.

12 **MR. BARFIELD:** And, Your Honor, just one kind of
13 a tit-for-tat sort of a thing. I presume your
14 investigator is present in the courtroom as we speak?
15 Or not.

16 **MS. SMALLS:** He is not in the courtroom at this
17 moment, no. I have not received a ruling yet. I
18 don't want him to start billing out and not getting
19 anything back. I have sent a supplemental ex parte
20 order to Judge King, and I am going to call him over
21 lunch. I have not received a response as to that.

22 **MR. BARFIELD:** I presume that she wants him to
23 sit through testimony of witnesses that he
24 interviewed for purposes of impeachment if there is
25 some variance in their testimony versus what they

1 told him. Is that correct?

2 **MS. SMALLS:** That's correct.

3 **MR. BARFIELD:** That's what I'm guessing. Yes,
4 sir. That's why she's got him. The sequestration
5 order that would apply to him would defeat that
6 purpose. And I probably can't successfully argue
7 that he ought to be sequestered also. He's not a
8 fact witness. He's an investigative witness.

9 I guess my question then becomes: Are my
10 investigators going to be sequestered in this case
11 also? They are not fact witnesses other than through
12 their interviews of folks who might have been fact
13 witnesses.

14 **MS. SMALLS:** Your Honor, typically the
15 prosecutor asks for their main case investigator be
16 permitted to stay with them during the course of the
17 trial. And if that's the case, I certainly have no
18 objection to that.

19 **MR. BARFIELD:** There are two principals in this
20 case. One is James Kitchens, retired, who did the
21 initial investigation, and Frazier Craig who is in
22 the courtroom picked up on it sort of as a cold case
23 and carried it to its end. So I would ask that those
24 two would be allowed to be in. I think Mr. Kitchens
25 was here a minute ago. But if he wants to be in,

1 that's fine. He probably should, if the Court will
2 allow it.

3 **MS. SMALLS:** You know, like I said, it's a
4 unique situation. It's a 16-year-old case and we
5 have two I guess -- typically, I guess what the
6 prosecutor is saying is they have two main case
7 investigators. And so I don't know at what point in
8 time Kitchens started the incident and Investigator
9 Craig picked it up. But definitely at whatever point
10 in time that their presence is needed by the
11 prosecution, then I've got no objection.

12 **MR. BARFIELD:** Well, my position is it's needed
13 every minute of the time that I can convince them to
14 sit in the courtroom just to make sure that I'm
15 covering the stuff I'm supposed to cover and taking
16 care of business. They are more than just witnesses.
17 It's their case and I need their advice as we
18 proceed.

19 **THE COURT:** All right. I'll allow the solicitor
20 to keep both investigators in the case. I will
21 permit Ms. Smalls to keep her investigator in the
22 courtroom. Let me ask you this. How many hours, how
23 much time are you looking for with him?

24 **MS. SMALLS:** Your Honor, I don't think that he
25 will be needed today based on the witnesses that the

1 prosecutor has indicated that he is going to call.
2 But definitely probably tomorrow as well as
3 Wednesday.

4 **THE COURT:** Well, we're still actually waiting
5 for -- you're still actually seeking from me a ruling
6 on --

7 **MS. SMALLS:** Well, just what I'm doing is out of
8 an abundance of caution. You know, I mailed a
9 co-supplemental ex parte ruling to Judge King. I
10 don't know when I will receive that back. And so
11 time is of the essence. And I will need to give some
12 directive to my investigator as far as whether he can
13 or cannot actually be paid for his services while
14 appearing at trial.

15 **THE COURT:** So you think the earliest you would
16 need him would be tomorrow.

17 **MS. SMALLS:** I would think so. I tell you he is
18 not here now. And I have indicated that I didn't
19 think, one, he's got a ruling; and, two, I don't
20 think I need him today. But he could definitely be
21 here tomorrow if Your Honor needs to propose any
22 particular questions to the investigator.

23 **THE COURT:** No. I was just really trying to
24 figure out how much money is involved. With the
25 budget the way it is --

1 **MS. SMALLS:** And I think his fee has already
2 been given the hourly rate in a subsequent order from
3 Judge Goode authorizing 65.. Judge King had already
4 assigned 60. And that is the rate per hour in and
5 out of court for the investigator.

6 **THE COURT:** Well, what you want him to do is to
7 be here during the testimony of certain State's
8 witnesses?

9 **MS. SMALLS:** That's correct.

10 **THE COURT:** But not all 35 witnesses.

11 **MS. SMALLS:** No.

12 **THE COURT:** That would be approximately? Four?
13 Fifteen?

14 **MS. SMALLS:** Three to four, max.

15 **THE COURT:** All right.

16 **MS. SMALLS:** And of course, you know, the
17 solicitor will have to tell you. I really don't know
18 because I don't know the order in which he is
19 planning on calling these people. But for purposes
20 of today's testimony, the people he's indicated he's
21 going to call, I can tell you as an officer of the
22 court I don't need my investigator today.

23 **MR. BARFIELD:** And if it will help her, I can
24 tell her right now if you want to know what I plan on
25 doing.

1 **THE COURT:** Go ahead.

2 **MR. BARFIELD:** You know who I've got today.
3 Tomorrow morning, Robbie Dean. Then I've got I
4 believe of course then David Black with SLED, the
5 crime scene guy. Tomorrow afternoon, Dr. Sexton,
6 probably continuing in the morning with Mr. Douglas,
7 the two Haneys. If I call on Frederick Craig and
8 Terry Lee Jones, Jimmy Burroughs and William
9 Gonzalez, that's tomorrow's lineup.

10 **MS. SMALLS:** Okay. Based on tomorrow then, only
11 one of those witnesses, and that appears to be in the
12 afternoon so far.

13 **MR. BARFIELD:** Okay. And then Wednesday,
14 assuming I stay on my schedule, it will be David
15 Collins, the firearms examiner, and then Mr. Raymond
16 Barnes, Lindsay Goins, Virgil Pauling, and Robert Lee
17 Green. That's it.

18 **MS. SMALLS:** And I need him on Wednesday.

19 **THE COURT:** One tomorrow and then Wednesday.
20 Okay. The Court will approve that. Good deal.
21 That's assuming I have the authority to do so under
22 the rules. But I'll know by in the morning. All
23 right. Anything else? You ready for the jury?

24 **MR. BARFIELD:** The State's ready.

25 **THE COURT:** The defense is ready?

1 **MS. SMALLS:** Yes, sir.

2 **THE COURT:** Let's bring the jury in.

3 (Jury in at 2:48 p.m.)

4 **THE COURT:** Welcome back, ladies and gentlemen.
5 I apologize for making you wait. Madam Clerk, will
6 you swear the jury?

7 **THE CLERK:** Yes, sir. Ladies and gentlemen,
8 please stand and raise your hand to be sworn.

9 (Whereupon, the jury is sworn.)

10 **THE COURT:** Ladies and gentlemen, as you know,
11 we're about to begin the case of The State of South
12 Carolina vs. Curtis Lee Elgin. I'd like to make a
13 few statements to you about how the case may proceed
14 or how the trial may proceed.

15 The indictment that's been issued in this case
16 charges the defendant with the crime of murder. The
17 elements of the crime will be explained to you later
18 in the trial. I want to tell you now though the fact
19 that this indictment was issued is not in any sense
20 any evidence in this case. The indictment is simply
21 the vehicle by which a case is brought into court.

22 The defendant has pled not guilty to the
23 indictment. The State, therefore, has the burden of
24 proving each of the elements of the indictment to you
25 beyond a reasonable doubt. It will be your duty,

1 ladies and gentlemen, to determine whether the State
2 has met its burden of proof. Your purpose as jurors
3 is to determine the facts of this case. You are the
4 sole judges of the facts of this case, and if at any
5 time I do anything, make any comment regarding the
6 facts and something causes you to believe I have an
7 opinion about the facts of this case, you must
8 disregard that, because you determine the facts in
9 the case. You will determine the facts of the case
10 based on the testimony that you'll hear from the
11 witness chair and from any exhibits that may be
12 introduced.

13 On the other hand, the same law that makes you
14 the judges of the facts of the case makes me the
15 judge of the law of the case. It's my duty and
16 obligation to rule on the admissibility of the
17 evidence, for instance. I can't tell you what the
18 facts are. You can't disagree with me about what the
19 law is.

20 Until you begin your deliberations, which will
21 be at the end of the trial of course, you are not to
22 discuss the case with anybody. You're not to let
23 anybody discuss the case with you. And you can't
24 even discuss it among yourselves even in the jury
25 room.

1 I ask you also during this trial, which I've
2 indicated may last several days, not to read anything
3 about it, not to listen to anything that might be on
4 any radio or television. Of course I don't have any
5 reason to think there might be, but there could be.

6 It's important for you to keep an open mind in
7 this case. It's also important for the State and for
8 the defendant to believe that at the end of the day
9 they've gotten a fair trial. They selected you as
10 fair and open-minded jurors. So I ask you to please
11 listen to what's being said in the courtroom today,
12 to follow the orders of the Court concerning
13 discussions and readings, things such as that.

14 As jurors it's important for you also to
15 remember that over the next few days while this case
16 is going on, who you might be around is important.
17 The State has a right to expect that they are going
18 to receive a fair trial from you, as does the
19 defendant. So it's real important for you not to let
20 other people try to tell you what they have heard or
21 what they think they read 15 years ago about this
22 case. You decide the case based on what happens here
23 in the courtroom, primarily based on the testimony
24 that you hear from the witness stand and any other
25 exhibits that might be introduced.

1 In just a minute the attorneys will make to you
2 their opening statements beginning with the
3 solicitor. And that's when they tell you what they
4 think the case is going to be all about. After that
5 we will begin receiving evidence. At the end of the
6 case the attorneys will make to you their closing
7 arguments, and then finally I will tell you or give
8 you the law that applies to the case.

9 One other thing. From time to time, as you've
10 seen on TV I'm sure, I may ask the attorneys to step
11 to the side to have a side bar with me. Or they may
12 ask if they can approach and speak with me privately
13 about something. The reason -- or I may even ask
14 that you step in the jury room for a few minutes
15 while I talk to them in here about a matter.

16 The reason we do this is not to keep things
17 secret from you. The reason is that, as I already
18 told you, I am prohibited from discussing the facts
19 of this case in your presence. But from time to time
20 when an attorney has a matter that the law needs to
21 be discussed and I must rule on it, it may require me
22 to actually discuss with them the facts of the case.
23 So it's for those reasons that we may speak to each
24 other outside of your presence.

25 Having said all that, I believe we'll now hear

1 the opening statements from the attorneys, beginning
2 with the solicitor.

3 MR. BARFIELD: May it please the Court. Ms.
4 Smalls. Thank you, ladies and gentlemen. Much like
5 the judge told you a minute ago that the indictment
6 is not evidence in the case, what the lawyers say is
7 not evidence in the case either. We ask questions of
8 witnesses and the answers are the evidence in the
9 case.

10 Because what I am saying to you now is not
11 evidence at this stage in the trial, I don't say a
12 whole lot. I view an opening statement as kind of
13 the first paragraph of a newspaper article, simply to
14 tell you the who, the what, the when, the where,
15 sometimes maybe even the why. So I want to just
16 introduce this case to you very briefly.

17 You heard the date, or you heard when the judge
18 published the indictment when we began the jury
19 selection process, you heard the dates February 8
20 through February 15, 1993. And that is in fact
21 correct. 1993.

22 The date that you're going to probably hear a
23 lot about starting this afternoon is February 8th of
24 1993 which is kind of the date around which this case
25 begins.

1 The defendant in this case is Curtis Lee Elgin
2 and he is charged with murder. That implies that
3 there is a victim. And there is in fact a victim in
4 this case, and her name is Audre Ann Belton. Audre
5 Belton was a single young lady who lived on Golf
6 Course Road here in Fairfield County, had a house,
7 had a car, had a job at Whirlpool in Columbia which
8 is I think not even in operation any more.

9 She was born -- I'm not going to give you the
10 year because I don't have it in front of me -- but
11 she was born on February [REDACTED]. February [REDACTED] was her
12 birthday. And on [REDACTED] [REDACTED] she turned 35
13 years old. And I think the evidence will show you
14 that [REDACTED] was a Monday. And she was
15 scheduled to work at Whirlpool, the second shift,
16 which was 3 p.m. to 11 p.m., and, in fact, went to
17 work.

18 You'll hear this afternoon from a couple of
19 young ladies who were her co-workers at Whirlpool,
20 and they'll tell you that they saw her and they'll
21 describe her and they'll tell you a little bit about
22 her, and one of them will tell you what she was
23 wearing that day.

24 And at 11:00 on Monday night, February 8th of
25 1993, Audre Belton walked out of her place of

1 employment with a young lady named Lula Cunningham
2 who you'll meet today. They said goodbye. They went
3 their separate ways, both expecting at 3:00 the next
4 afternoon, Tuesday, to meet back up at work again.
5 Audre Belton didn't ever show back up at Whirlpool.
6 She never showed back up at Whirlpool; not Tuesday,
7 not Wednesday, not Thursday, not ever.

8 You're going to also meet this afternoon Connie
9 Gaither who was Audre Belton's sister. And Connie
10 Gaither is going to tell you that a week to the day
11 after February 8th, which was Monday, February 15th,
12 after having tried unsuccessfully to reach her
13 sister, Connie Gaither went by her house on Golf
14 Course Road. Her car is in the carport. Her tool
15 bag that she always has with her when she is at work
16 is in her car.

17 Ms. Gaither got concerned. Ms. Gaither went
18 home, got her husband, Eddie Gaither. They went back
19 to the house and Connie Gaither let herself in her
20 sister's house with the key that Connie Gaither had
21 and Audre Belton is found lying on the floor in the
22 bedroom of her house, having been shot four times,
23 three times in the head, once in the abdomen area.
24 And she is dead.

25 The State contends that Audre Belton died

1 sometime late night Monday, February 8th of '93, or
2 early morning hours February 9th of 1993. And the
3 State contends that Curtis Lee Elgin killed her.

4 Now, all of the folks involved in this case from
5 a lawyer's standpoint, from an investigator's
6 standpoint, of course some folks have been working on
7 this case for 16 years, but we have been working on
8 this case and we have tried to prepare the case to
9 present to you, both myself and Ms. Smalls, and we're
10 supposed to know everything there is to know about
11 this case. That's the way it's supposed to be.

12 On the other hand, you ain't supposed to know
13 anything about this case, because if you did, you
14 probably wouldn't be a fair and impartial jury. So
15 you don't know too much about this case.

16 Over the next two or three days we're going to
17 educate you about this case. And because you know
18 nothing about it, we've got to present this case to
19 you detail-by-detail. It will seem like
20 excruciatingly painful detail to you sometimes, but
21 we can't take it for granted that you know anything
22 unless we put it out there for you to know.

23 Now, I am not going to get into at this point in
24 the case why the State says Curtis Elgin killed Audre
25 Belton. You're going to find that out when the

1 evidence comes in, when the witnesses get on the
2 witness stand, when they tell you what they saw, what
3 they heard, what they know.

4 Your job is not easy. It's very difficult. And
5 this is obviously a very serious case. When we get
6 to the end of the road, when all the evidence is in
7 and when the closing statements and arguments are
8 made by Ms. Smalls and me, then the judge is going to
9 tell you what the law is that governs this case, the
10 law of murder. There's some general principles of
11 law that juries have to know before they begin
12 deliberations.

13 And at that time at the end of this case you've
14 got go in the jury room and you've got decide, did he
15 do it? And that's not easy. It's certainly not
16 easy. But from a factual standpoint, ladies and
17 gentlemen, this is not going to be a particularly
18 complicated case. We're going to bring witnesses in.
19 They're going to tell you what they know.

20 We're going to have a little bit of technical
21 evidence. You're going to hear from some State Law
22 Enforcement Division folks who processed the crime
23 scene and analyzed and studied and tested some
24 evidence. You're going to hear some things like
25 that. But it's not particularly complicated.

1 This case, like most cases, is going to boil
2 down to do you believe what the witnesses said when
3 they got on the witness stand in this courtroom. And
4 there are going to be several witnesses who are going
5 to tell you that Curtis Elgin did this and they're
6 going to tell you how they know that.

7 All the State asks you at this time is just a
8 couple of things. Be patient. As I told you, we're
9 going to have to hit a lot of details and I am going
10 to probably seem like I'm asking a lot of stupid
11 questions. But they're necessary questions. So be
12 patient with us. It will take a while. But it ain't
13 going to take two weeks. We're going to get this
14 done in a matter of a few days this week. So be
15 patient with us.

16 And the other thing that I ask of you from right
17 now until this is all over with is, use your good
18 common sense, your life experience. Judge for
19 yourselves what makes sense, what doesn't. Judge for
20 yourselves why you believe somebody or why you should
21 or why you shouldn't. Use your common sense. You've
22 all lived a long time. You've gone through a lot of
23 experiences; hopefully, none of you anything like
24 this before. But use your common sense.

25 That's all I've got to say right now. I'm going

1 to call some witnesses this afternoon. I am a fairly
2 simple-minded kind of guy. I try do things
3 chronologically so that it will make sense to you;
4 because if it doesn't make sense to you, it probably
5 doesn't make sense to me either.

6 We're going to have four or five witnesses this
7 afternoon who are going to tell you little bits and
8 pieces. Most of the witnesses in the State's case
9 have little bits and pieces of this to tell you
10 about. Some are going to be longer than others, but
11 this afternoon's witnesses are fairly compact, short
12 witnesses, and I don't think we'll have any trouble
13 keeping things moving this afternoon.

14 Thank you for being here. You didn't have any
15 choice about being here. We understand that. But
16 hang in there with us. We're going to try to move
17 this as quickly as we can and do the kind of job that
18 needs to be done so you'll know what this case is all
19 about when it's over with. Thank you.

20 **THE COURT:** Thank you, Mr. Barfield. Ms.
21 Smalls.

22 **MS. SMALLS:** May it please the Court?

23 **THE COURT:** Certainly.

24 **MS. SMALLS:** Ladies and gentlemen of the jury,
25 we actually agree to a certain extent with everything

1 that Mr. Barfield just told you. This isn't a very
2 complicated case. You will have evidence, and we
3 actually can agree right up front, that sometime
4 between February 8th and 15th of 1993, 16 years ago,
5 that Audre Belton was found shot four times in her
6 bedroom.

7 But that's pretty much where the agreement ends.
8 Just like you have a coin and there's two sides,
9 there's always two sides to every story. Now, if I
10 told you that I was born in 1962, some you may
11 believe me and some of you may not. But if I gave
12 you something authentic or certified, like a driver's
13 license or a birth certificate, more than just my
14 word, then that would be proof.

15 And speaking of proof, the State is the only
16 person in this courtroom that has the burden of
17 proof. Curtis Elgin does not have to prove himself
18 innocent. The State has to prove to not one or two
19 or three but all twelve of you beyond a reasonable
20 doubt that Curtis Elgin committed this crime.

21 Now, the evidence that you will hear, as the
22 judge instructed, as well as the solicitor told you,
23 will be presented from the witness stand and whatever
24 documents may be introduced into evidence. It is for
25 you to consider. And one thing when we chose you

1 that you didn't throw out the window when you came
2 here today is your common sense. We ask that you
3 listen carefully to the witnesses. You can choose to
4 believe some of what a witness says, none of what a
5 witness says or even part of what a witness says.
6 You are the sole fact finders in this case.

7 I don't know if any of you have ever served on a
8 civil case or not. But criminal court is completely
9 different. In a civil case, in order to be
10 victorious, the plaintiff may have to just -- if you
11 just had a -- the plaintiff just has to tilt the
12 scales a little bit. But in a criminal case, those
13 scales have to be turned upside down beyond a
14 reasonable doubt.

15 When you listen to the evidence, and if it gives
16 you some reason to pause, then use your common sense
17 and you make the determination of how believable that
18 witness actually is.

19 At the conclusion of this case -- and because we
20 don't have -- I don't think it's a very complicated
21 case, I'm going to be quite short -- at the
22 conclusion of the case, when you've evaluated the
23 witnesses as well as any evidence that has been given
24 to you, we are certain that you will have an
25 unlimited amount of reasonable doubt, and there will

1 be only one verdict that you can return, and that
2 verdict is not guilty for Curtis Elgin. Thank you.

3 **THE COURT:** Thank you, Ms. Smalls. All right,
4 Solicitor. You may call your first witness.

5 **MR. BARFIELD:** I have one witness in the hall
6 and two in the alternate jury room. Would you ask
7 Lula Cunningham to come into court, please. Ma'am,
8 get up there to the clerk with the Bible. She will
9 swear you in and then she'll show you where to sit.

10 **THE WITNESS:** Okay.

11 **THE CLERK:** I need you to raise your right hand.
12 Put your left hand on the Bible.

13 LULA CUNNINGHAM, after being duly sworn,
14 testifies as follows:

15 **THE CLERK:** Thank you. Please be seated. State
16 your name for the record.

17 **THE WITNESS:** Lula Cunningham.

18 DIRECT EXAMINATION

19 **BY MR. BARFIELD**

20 **Q** I don't want an address; but, Ms. Cunningham, tell us
21 what community you live in, please, ma'am?

22 **A** I live in the Ridgeway community, 34 Highway,
23 Ridgeway, South Carolina.

24 **Q** And that's in Fairfield County?

25 **A** Yes, it is.

1 Q Are you a lifelong resident of Fairfield County?

2 A Yes, I am.

3 Q Did you work at a place called Whirlpool in Columbia
4 many years ago?

5 A Yes, I did.

6 Q What did Whirlpool do? What kind of business was it?

7 A It was a washing machine business.

8 Q And was it a manufacturing facility?

9 A Yes, it was.

10 Q Where in Columbia was -- was there one Whirlpool
11 facility in Columbia?

12 A Yes. Blythewood.

13 Q And where was it?

14 A Blythewood, South Carolina.

15 Q Was it in Richland County?

16 A Mm-hmm (affirmative).

17 Q All right. Is it closed now?

18 A Yes, it is.

19 Q Do you know when it closed?

20 A Well, after Whirlpool became Little Tykes, after they
21 started that, it was something else, and then it
22 closed.

23 Q Okay. Little Tykes meaning the baby toy company?

24 A Yes.

25 Q How long did you work at Whirlpool?

1 **A** Four years..

2 **Q** Were you working at Whirlpool in the early part of
3 1993?

4 **A** Yes, I was.

5 **Q** Did you know Ethel Arlene Sinkler from working at
6 Whirlpool?

7 **A** Yes, I did.

8 **Q** Did y'all meet back up in the back again today after
9 some period of time of not seeing each other?

10 **A** Yes. It's been a while.

11 **Q** How long had it been since you had seen Ms. Sinkler?

12 **A** Oh. Since the plant closed, we haven't even seen
13 each other.

14 **Q** How long ago did the plant close?

15 **A** About 11 years.

16 **Q** All right. Did you know Audre Ann Belton?

17 **A** Yes, I did.

18 **Q** How did -- let me back up. How did you know
19 Ms. Sinkler?

20 **A** Because Ms. Sinkler and I worked together.

21 **Q** How did you --

22 **A** And Audrey and I were on a team.

23 **Q** That was my next question. How did you know
24 Ms. Belton?

25 **A** Well, I started working at Whirlpool on the three --

1 the latter of the second shift. Then I got bumped to
2 second. But Audre was on second, so I and Audre had
3 to work together of course.

4 Q I'm going to come back and talk a little bit more
5 about work in a minute. But how well did you know
6 Audre Belton?

7 A Not well.

8 Q Did she share much about herself with you or others
9 in your presence?

10 A No one.

11 Q How was her work attendance?

12 A Excellent.

13 **COURT REPORTER:** Judge, I'm having difficulty
14 hearing the witness. Could she pull the mike a
15 little closer?

16 **THE COURT:** Pull the mike a little closer.

17 Q I would have her slide up but her chair is bolted to
18 the floor.

19 A All right.

20 Q So I yell. I yell at you. You yell back to me.

21 A Okay.

22 **THE COURT:** Let me interject and say something
23 to the jury about that same issue. Ladies and
24 gentlemen, at any time if any of you have any trouble
25 understanding this witness or any other witness, you

1 can raise your hand and try to get my attention, do
2 something, and we'll try to do something similar.
3 Thank you.

4 Q Prior to February [REDACTED] of 1993, approximately how long
5 had you known and worked with Audre Belton?

6 A About nine months.

7 Q All right. Did you know where she lived, what town
8 or what county she lived in?

9 A Just Winnsboro.

10 Q Had you ever been to her house?

11 A No.

12 Q Did you ever socialize with her?

13 A No.

14 Q Did you ever go to church with her or any other
15 community activities?

16 A No.

17 Q Did you ever see her anywhere other than work as far
18 as you know?

19 A Nowhere.

20 Q Did y'all get along okay?

21 A Got along good.

22 Q Now, you said that you and Ms. Belton were on a team
23 at Whirlpool. Is that correct?

24 A Mm-hmm (affirmative).

25 Q Was Lula Cunningham also on the same team?

1 **A** That's me.

2 **Q** I'm sorry. Ms. Sinkler. Was Ms. Sinkler on the same
3 team?

4 **A** Yes. Yes, we were.

5 **Q** And I apologize. Did all three of y'all work in the
6 same area of the building?

7 **A** Audre and I worked in the same area, but Arlene
8 didn't. She worked on a -- there's a wall between
9 where Arlene and the two of us had worked.

10 **Q** All right. Now, do you recall February 8th of 1993,
11 Monday, February 8 of '93?

12 **A** Mm-hmm (affirmative).

13 **Q** You said a minute ago second shift. What shift --
14 what are the hours -- what were the hours for second
15 shift at Whirlpool back in February of '93?

16 **A** 3 to 11.

17 **Q** 3 p.m. to 11 p.m.?

18 **A** Mm-hmm (affirmative).

19 **Q** And you've got to say yes or no because sometimes she
20 can't get the uh-huh's.

21 **A** All right.

22 **Q** Not to be hard on you, but say yes and no.

23 **A** Okay.

24 **Q** Stupid question number one. Was there a parking lot
25 at the Whirlpool plant?

- 1 A Yes, there was. There was two.
- 2 Q Were you familiar with Audre Belton's automobile?
- 3 A No. Just that she drove a Camaro.
- 4 Q Did you ever see her car, I guess is what I'm asking?
- 5 A Uh-huh (affirmative).
- 6 Q I'm going to show you what's been marked for
- 7 identification State's Exhibit No. 3. Do you
- 8 recognize that car?
- 9 A Yes. That's her car.
- 10 Q Audre Belton's car?
- 11 A Mm-hmm (affirmative).
- 12 Q Did you work on February [REDACTED] of 1993?
- 13 A Yes, I did.
- 14 Q Did Audre Belton work on February [REDACTED], 1993?
- 15 A Yes, she did.
- 16 Q Was there anything significant about that day that
- 17 you were aware of in Audre Belton's life?
- 18 A No.
- 19 Q Do you know what her birthday was? Did you know it
- 20 was her birthday?
- 21 A No, I didn't.
- 22 Q Okay. Do you remember what you wore to work that
- 23 day?
- 24 A A yellow shirt.
- 25 Q What else did you have on?

1 **A** Blue jeans, acid wash jeans.

2 **Q** Do you recall what Audre Belton had on at work that
3 day?

4 **A** A yellow shirt, acid wash blue jeans and a yellow
5 shirt.

6 **Q** I'm going to show you another photograph which has
7 been marked for identification purposes State's
8 Exhibit No. 4. And you've seen that earlier today?

9 **A** Mm-hmm (affirmative).

10 **Q** Do you recognize the clothing shown on the person in
11 that photograph?

12 **A** Yes.

13 **Q** And what how do you recognize the clothing?

14 **A** That's what she wore that day.

15 **Q** All right. And did you ever see the live scene that
16 this photograph was a photograph of? Did you ever go
17 to her house after you last saw her at work?

18 **A** Hmm-mm (negative). I didn't.

19 **Q** Okay. And that's the clothes she was wearing when
20 she worked?

21 **A** That's the clothes.

22 **Q** Did you know Audre Belton to wear a jacket during the
23 period of time we're talking about, late winter of
24 1993?

25 **A** Yes.

1 Q And generally speaking, what kind of a jacket did she
2 wear on a -- did she wear this same jacket on a
3 fairly regular basis during cold weather?

4 A Every day.

5 Q And generally speaking, what kind of jacket was it?

6 A Army camouflage.

7 Q All right. And I'm going to show you what's been
8 marked for identification State's Exhibit No. 5. The
9 jacket you just verbally described, does it appear
10 consistent with the jacket in this picture?

11 A Uh-huh (affirmative). Yes, it is.

12 Q Okay. Did you leave work at 11:00 when the shift was
13 over on Monday, February 8th, 1993?

14 A Yes.

15 Q Did Audrey leave?

16 A Mm-hmm (affirmative).

17 Q Did you leave out of the plant together?

18 A Yes, we did.

19 Q When and where did you last see Audre Belton that
20 night?

21 A At the end of the walkway. We said goodnight, I'll
22 see you tomorrow. She parks over in the left-hand
23 parking lot. I park over in the right-hand parking
24 lot.

25 Q Did you ever see her get to her car?

- 1 **A** Mm-hmm (affirmative).
- 2 **Q** And did she get into her car?
- 3 **A** Mm-hmm (affirmative). Yes, she did.
- 4 **Q** Did you see her leave the parking lot in her car?
- 5 **A** No. Because Audrey always warmed her car up. I
- 6 didn't.
- 7 **Q** Okay.
- 8 **A** To go home.
- 9 **Q** It's time to go home when the shift is over, isn't
- 10 it?
- 11 **A** Yes.
- 12 **Q** Was Tuesday at 3:00 in the afternoon the start of
- 13 your next scheduled shift?
- 14 **A** Mm-hmm (affirmative).
- 15 **Q** Or were you supposed to go to work Tuesday afternoon?
- 16 **A** Right.
- 17 **Q** Was Audrey supposed to be at work Tuesday afternoon?
- 18 **A** Yes, she was.
- 19 **Q** Did she show up?
- 20 **A** No.
- 21 **Q** Did you ever see her again after you parted company
- 22 with her in the parking lot Monday night?
- 23 **A** No.
- 24 **Q** Did you have any thoughts when she didn't show up for
- 25 work Tuesday afternoon at 3:00?

1 **A** Well, she didn't tell anybody what she was doing. So
2 I figured, well, she took a vacation day and didn't
3 let anybody know, you know, not any of the team
4 members.

5 **Q** Did you personally do anything as a result of her not
6 being there Tuesday afternoon?

7 **A** The next day I got worried. I said, well, she don't
8 miss time off of work. Somebody needs to check, you
9 know, call her house or something, a supervisor or
10 something. So my supervisor didn't have the number
11 to get to -- the key to get to the office. We worked
12 second, and first shift had the key. So the next day
13 he got the keys and he tried to call and he told
14 me --

15 **Q** Don't say what he said because that would be hearsay.

16 **A** All right.

17 **Q** So you're saying Tuesday is when you couldn't get
18 into the office to get her number. Is that right?

19 **A** Mm-hmm (affirmative). Right.

20 **Q** I'm going to date you a little bit.

21 **A** Right.

22 **Q** Did anybody have a cellphone back in 1993?

23 **A** No.

24 **Q** All right. Tuesday nobody could call her. Is that
25 what you're saying?

- 1 **A** No. We didn't have her number.
- 2 **Q** Were phone calls made to her starting Wednesday from
3 folks at work, yourself included?
- 4 **A** My supervisor. I didn't call, just the supervisor.
- 5 **Q** All right. To your knowledge -- don't quote
6 anybody -- but to your knowledge did anybody ever
7 successfully make contact by telephone with Audre
8 Belton?
- 9 **A** Not that I know of.
- 10 **Q** Did she come in Wednesday?
- 11 **A** No.
- 12 **Q** Did she come in Thursday?
- 13 **A** No.
- 14 **Q** Did she come in any other time to the plant at
15 Whirlpool?
- 16 **A** No, she didn't.
- 17 **Q** Did you see law enforcement officers at Whirlpool
18 sometime after Audrey did not come back to work?
- 19 **A** Officer Kitchens came down and asked me some
20 questions about her.
- 21 **Q** And do you remember when it was that he came?
- 22 **A** I think it was that Tuesday night.
- 23 **Q** The Tuesday that she was -- after she was found?
- 24 **A** I don't know because I asked him and he didn't give
25 me any answers.

1 Q At some point did you discover -- did you learn one
2 way or another that something had happened to Ms.
3 Belton?

4 A Yes.

5 Q And again, don't quote anybody. But did you hear
6 that just through the grapevine, or did somebody from
7 law enforcement come tell you? How did you find out
8 something had happened to Audre Belton?

9 A Someone in the plant came and told me.

10 Q Okay. Thank you, ma'am. Answer anything Ms. Smalls
11 has.

12 CROSS EXAMINATION

13 **BY MS. SMALLS**

14 Q Just briefly, Ms. Cunningham. You say that you had
15 known Ms. Belton or worked with her for approximately
16 nine months?

17 A Uh-huh (affirmative).

18 Q And you testified that you didn't know her that well?

19 A No, I didn't.

20 Q Never been to her home?

21 A No, ma'am.

22 Q And didn't know where she lived?

23 A No, ma'am.

24 Q Didn't have her phone number?

25 A No, ma'am.

1 Q She never discussed with you any of her personal
2 business, did she?

3 A No, we didn't.

4 Q You didn't know whether she had a boyfriend or not?

5 A No, ma'am.

6 Q You don't know even if she went out with someone on
7 her birthday, do you?

8 A No, ma'am.

9 Q Now, you testified that on the 8th when the two of
10 you walked out that you just said goodnight, see you
11 tomorrow. But you didn't actually see her leave, did
12 you?

13 A I saw her go to her car.

14 Q You said she was warming up her car?

15 A Yes, ma'am.

16 Q At any time in the nine-month period, had you heard,
17 did Ms. Belton ever tell you that she had a
18 relationship with Mr. Elgin?

19 A No, ma'am.

20 Q You'd never seen Mr. Elgin at Whirlpool with Ms.
21 Belton, did you?

22 A No, ma'am.

23 MS. SMALLS: Nothing further of this witness,
24 Judge.

25 MR. BARFIELD: That's all from this witness. I

1 would ask that she be excused. I discussed with her
2 the possibility somebody might decide they need to
3 recall her and the subpoena will be good until the
4 trial is over, but I have no further need for her
5 here in court.

6 **MS. SMALLS:** Without objection.

7 **THE COURT:** Thank you, Ms. Cunningham. You may
8 be excused from your subpoena.

9 **MR. BARFIELD:** Ms. Sinkler.

10 **ETHEL A. SINKLER,** after being duly sworn,
11 testifies as follows:

12 **THE CLERK:** Please be seated. State your name
13 for the record.

14 **THE WITNESS:** Ethel A. Sinkler.

15 DIRECT EXAMINATION

16 **BY MR. BARFIELD**

17 **Q** Ms. Sinkler, I'm going to ask you some questions and
18 then Ms. Smalls will ask you some questions. And
19 we've got to holler at you. So holler back at us so
20 everybody can hear.

21 **A** Okay.

22 **Q** You're doing fine. Don't give me an address; but
23 what town or county do you live in?

24 **A** Richland.

25 **Q** Have you lived in Richland County most of your life?

- 1 **A** Yes.
- 2 **Q** Back in 1993 did you work at the Whirlpool plant in
3 Richland County?
- 4 **A** Yes.
- 5 **Q** Did you know he Lula Cunningham?
- 6 **A** Yes.
- 7 **Q** And did you know Audre Belton?
- 8 **A** Yes.
- 9 **Q** How did you know those two ladies?
- 10 **A** We worked in the same group at Whirlpool.
- 11 **Q** Now, Ms. Cunningham was in here before you and
12 explained about groups and teams at Whirlpool.
- 13 **A** Mm-hmm (affirmative).
- 14 **Q** Were you on the same team as Ms. Cunningham and Ms.
15 Belton?
- 16 **A** Yes.
- 17 **Q** Did y'all work side-by-side, all three of you?
- 18 **A** No.
- 19 **Q** Where did you work in relation to the other two?
- 20 **A** It was separated by walls, stone walls, and I worked
21 on the other side of the stone wall.
- 22 **Q** All right. How long prior to February 8th, 1993 had
23 you known Audre Belton?
- 24 **A** I met her when she started working at Whirlpool. I
25 don't remember when she started, but I was there

1 before she was.

2 Q Okay. Were you at work on February [REDACTED] of 1993?

3 A Yes. That was her birthday?

4 Q Yes.

5 A Yes.

6 Q You answered my next question. Let me ask it. For
7 Audre Belton, was there anything significant about
8 February [REDACTED] of 1993?

9 A That was her birthday.

10 Q Did she work that day?

11 A Yes.

12 Q Did you see her that day?

13 A Yes.

14 Q Were you all close?

15 A We were.

16 Q Did she confide things, any things in you?

17 A No.

18 Q Was there any change from when you first met her
19 until when you last knew her --

20 A Yes.

21 Q -- in her personality? Just generally describe that.

22 A She was very to herself. She was very private. She
23 didn't talk a lot. And towards the end, right,
24 that's when I started getting to know her. She
25 started opening up and talking and she would let her

1 hair down more and she --

2 Q You mean literally let her hair down?

3 A Yeah.

4 Q Tell me about her. What kind of hair did she have?

5 A Long, very long. And she kept it back in a ball most
6 times. And towards the end she started letting it
7 down more.

8 Q Did she talk more freely to you toward the end?

9 A Yes.

10 Q Now, even then though, did she give you details of
11 her private life, boyfriends or dates or social life
12 or anything like that?

13 A No.

14 Q Did you know where she lived, what town or county she
15 lived in?

16 A I knew she lived out in Blythewood, or Ridgeway,
17 Winnsboro somewhere, but I didn't know exactly where
18 she stayed.

19 Q Ever been to her house?

20 A No.

21 Q Did you know whether she was married or single even?

22 A Well, I knew she was single.

23 Q Okay. Did you know what she drove?

24 A I can't remember.

25 Q All right. Did she work on her birthday,

1 February 8th of 1993?

2 A Yes.

3 Q And did you and she have any conversation about that
4 being her birthday?

5 A Yes.

6 Q What did y'all talk about, about her birthday?

7 A I just asked her what was she going to do for it or
8 something to that effect. She had went out to dinner
9 that Sunday she said.

10 Q Meaning the day before the Monday of February 8th?

11 A Yes. And that was her celebration.

12 Q Did she tell you who she went with, where they went
13 or anything else?

14 A She didn't say who she went with, but they went to
15 a -- it's closed now, a restaurant on Bush River
16 Road, a sushi bar or something. I can't remember.

17 Q Did she in fact tell you that she went with anybody?
18 Did she tell you somebody was with her?

19 A She just said she went out for her birthday.

20 Q Okay. Do you recall what time -- well, what was
21 your -- what were the hours for your shift on
22 February [REDACTED] of 1993?

23 A 3 to 11.

24 Q Was Ms. Belton on the same shift that day?

25 A Yes.

1 Q Do you recall what time during the shift you last saw
2 or had any conversation, either one, with Ms. Belton?
3 How late in the shift?

4 A It was probably around lunchtime because that's when
5 I was on that side and helped relieve and catch up on
6 the machines. So probably around 7, somewhere around
7 in there.

8 Q If you work second shift you call lunch what people
9 at home would call suppertime?

10 A Yes.

11 Q About the same time?

12 A Uh-huh (affirmative).

13 Q Didn't you see her at the end of the shift?

14 A I don't recall.

15 Q Do you recall seeing her after the shift in the
16 parking lot or anywhere else?

17 A I don't recall.

18 Q Do you have any specific recollection of the clothing
19 Audre Belton was wearing on her birthday, February
20 of '93?

21 A I don't recall what she was wearing.

22 Q Did she have a jacket that you were familiar with?

23 A Yes. She wore the same jacket all the time.

24 Q And what kind of a jacket was it? Generally, how do
25 you describe the jacket?

1 **A** An Army fatigue jacket.

2 **Q** I'm going to show you a photograph marked for
3 identification purposes State's No. 5. Is that
4 jacket in the photograph similar to what you had seen
5 her wearing?

6 **A** Yes.

7 **Q** Did you ever -- after the lunch break on February 8th
8 of '93, did you ever see Audre Belton again?

9 **A** No.

10 **Q** Did she come to work any more at Whirlpool?

11 **A** No.

12 **Q** Was that usual or unusual for her not to come to
13 work?

14 **A** Unusual.

15 **Q** Did you personally first of all know how to get in
16 touch with Audre Belton?

17 **A** No.

18 **Q** Did you have her phone number or anything like that?

19 **A** No.

20 **Q** Did you personally do anything to try to get in touch
21 with Audre Belton when she didn't show back up for
22 work?

23 **A** I didn't. They had already -- people within the
24 group had already been to the supervisor to get them
25 to call and try to find out something.

1 Q Were you aware that some effort was being made from
2 within Whirlpool to get in touch with her?

3 A Yes.

4 Q And to your knowledge did anybody ever successfully
5 get in touch with her after Monday night?

6 A No.

7 Q Don't tell me yet how, but did you become aware that
8 something had happened to Ms. Belton?

9 A Yes.

10 Q And again, without quoting anybody, first of all,
11 when did you find out something had happened? You
12 don't need to answer that. How did you find out
13 something had happened?

14 A It was -- I don't know if somebody called me up at
15 home or if I found out on the job. I am not really
16 sure how I found out.

17 Q That's fine. That's fine. Thank you, ma'am. Answer
18 anything Ms. Smalls has.

19 A Okay.

20 MS. SMALLS: May it please the Court.

21 CROSS EXAMINATION

22 BY MS. SMALLS

23 Q Ms. Sinkler, you've indicated that when you worked at
24 Whirlpool that you were separated by a wall in the
25 group?

- 1 **A** Yes.
- 2 **Q** From Ms. Belton?
- 3 **A** Yes.
- 4 **Q** And I think you said that when she came to work at
- 5 Whirlpool you had already been working there?
- 6 **A** Yes.
- 7 **Q** Approximately how long would you say that the two of
- 8 you worked together?
- 9 **A** I was there for eight years. So maybe four, five. I
- 10 can't really remember.
- 11 **Q** You can't remember?
- 12 **A** Not really.
- 13 **Q** You testified that she was a private person?
- 14 **A** Yes.
- 15 **Q** She didn't really talk to you about her personal
- 16 life?
- 17 **A** No.
- 18 **Q** But after she worked there for a while I think you
- 19 said that she began to let her hair down?
- 20 **A** Towards the end. Towards the end. Because she had
- 21 worked with us for a while and she was very private.
- 22 **Q** When you say let her hair down, do you mean both
- 23 physically as well as she opened up to you and
- 24 started talking to you more?
- 25 **A** Both.

1 Q Okay.

2 A Mm-hmm (affirmative).

3 Q So towards the end when she started letting her hair
4 down and talking to you more, the two of you, would
5 you have more conversations?

6 A Whenever I would come to relieve her, we would
7 exchange -- you know, we would exchange, inbetween
8 sometimes talk about how the job was going. It
9 wasn't a whole lot of conversation.

10 Q She still even at that time didn't discuss her
11 personal life with you?

12 A No.

13 Q I think you testified that you knew she was single?

14 A Yes.

15 Q You don't know whether she was dating anybody, do
16 you?

17 A No.

18 Q And you testified that she indicated to you that she
19 actually had gone to a restaurant in Columbia to
20 celebrate her birthday?

21 A Yes.

22 Q And you said that restaurant was off Bush River Road?

23 A Yes.

24 Q Could that be Key West? Would that refresh your
25 memory? Could that be the name of the place?

1 **A** I think so. It was a blue -- big blue, empty. It's
2 still empty. As a matter of fact, it's still there
3 but it's closed.

4 **Q** And even though you were somewhat familiar with where
5 Ms. Belton lived, you never went to her home?

6 **A** No.

7 **Q** You never talked to her on the telephone when you
8 weren't at work?

9 **A** No.

10 **Q** But because you worked in close proximity to her, are
11 you aware that sometimes or often she would receive
12 flowers on the job?

13 **A** It seems like I do remember that, but --

14 **Q** But you don't remember seeing them?

15 **A** No. Hmm-mm (negative).

16 **MS. SMALLS:** Beg the Court's indulgence.
17 Nothing further.

18 **MR. BARFIELD:** No redirect from this witness. I
19 ask that she be excused.

20 **MS. SMALLS:** Without objection.

21 **THE COURT:** You may be excused from your
22 subpoena, Ms. Sinkler.

23 **THE WITNESS:** Thank you.

24 **THE COURT:** Call your next witness.

25 **MR. BARFIELD:** I will call Connie Gaither.

1 CONSTANCE GAITHER, after being duly sworn,
2 testifies as follows:

3 **THE CLERK:** State your name for the record.

4 **THE WITNESS:** My name is Constance Gaither,
5 known as Connie.

6 DIRECT EXAMINATION

7 **BY MR. BARFIELD**

8 **Q** Ms. Gaither, you live here in Fairfield County?

9 **A** Yes, sir.

10 **Q** And are you a lifelong resident of Fairfield County?

11 **A** Yes, sir.

12 **Q** Are you married?

13 **A** Yes, sir.

14 **Q** And your husband's name?

15 **A** Eddie Gaither, Sr.

16 **Q** And do you have any children?

17 **A** One son.

18 **Q** His name?

19 **A** Eddie Gaither, Jr.

20 **Q** Is that the two fellows who were sitting on either
21 side of you --

22 **A** Yes, sir.

23 **Q** -- when you got up to come up here?

24 **A** Yes, sir. Thank you.

25 **Q** Yes, ma'am. I'm going back to February of 1993 and

1 perhaps before. As of then, were your parents alive?

2 **A** No, sir.

3 **Q** Did you have any brothers or sisters?

4 **A** No, sir.

5 **Q** Did you have a sister?

6 **A** I had -- I'm sorry. I had a sister.

7 **Q** Okay. And her name?

8 **A** Audre Belton.

9 **Q** Her middle name?

10 **A** Ann.

11 **Q** Her birth date?

12 **A** February [REDACTED]

13 **Q** And I'm going to ask you another question. What year

14 was she born in?

15 **A** [REDACTED].

16 **Q** And on February [REDACTED] of 1993, was that her birthday?

17 **A** Yes, sir.

18 **Q** And how old was she on February [REDACTED] of 1993?

19 **A** Thirty-five.

20 **Q** As of again February of '93, was your sister, Audre,

21 married or single?

22 **A** She was single.

23 **Q** Had she been married?

24 **A** She had.

25 **Q** And how long prior to '93 had that marriage ended?

- 1 **A** I think Scoona was divorced back in maybe '83, '84,
2 something like that.
- 3 **Q** You said something a minute ago. You said Scoona.
4 Spell Scoona first of all.
- 5 **A** S-C-O-O-N-A.
- 6 **Q** And who is Scoona?
- 7 **A** That was my sister, Audre. That was her nickname.
- 8 **Q** And how long had she had that nickname?
- 9 **A** I remember my mother saying that my grandfather gave
10 it to her when she was a little girl and used to
11 crawl real fast and he would call her Scooter. And I
12 couldn't say Scooter and I said Scoona. So it stuck.
- 13 **Q** Did others outside the immediate family call her
14 Scoona?
- 15 **A** Yes, sir.
- 16 **Q** People in the community called her Scoona?
- 17 **A** People at church called her Scoona and in the
18 community.
- 19 **Q** She was divorced. Did she ever have any children?
- 20 **A** No, sir.
- 21 **Q** Again, all the questions at this point relevant to
22 February of 1993; did she have a job?
- 23 **A** Yes, sir.
- 24 **Q** Where did she work?
- 25 **A** At that time she was at Whirlpool.

1 Q How long had she been at Whirlpool approximately by
2 February of '93?

3 A Oh, gosh. I'd say about four or five years.

4 Q Okay. Did she have a house?

5 A She had just purchased a house.

6 Q And where was her house?

7 A In the Middlesex area of Winnsboro.

8 Q And on what road was her house on?

9 A Golf Course Road.

10 Q Do you know the road number of Golf Course Road of
11 her house, like 110 or whatever? Do you remember
12 what it was?

13 A No, sir.

14 Q And was her house on Golf Course Road located within
15 Fairfield County?

16 A Yes, sir.

17 Q Did she have an automobile?

18 A She did.

19 Q What kind of car did she have?

20 A I think she was driving a -- at that time a 1985
21 Camaro.

22 Q All right. Now, I'm going to show you a couple of
23 pictures. I'm going to show you State's Exhibit
24 No. 1 for identification purposes. Look at that
25 picture and tell me if you recognize what's shown in

1 that picture?

2 **A** That's my sister's house.

3 **Q** A view of the front door taken at night apparently?

4 **A** Yes, sir.

5 **Q** I am going to show you State's Exhibit No. 2 for
6 identification purposes. What is that picture? Do
7 you recognize what's shown in that picture?

8 **A** That's the back of my sister's car parked in her
9 carport.

10 **Q** At the house that you have described on Golf Course
11 Road?

12 **A** Yes, sir.

13 **Q** And I show you State's Exhibit No. 3 for
14 identification purposes. What's that a picture of,
15 if you know?

16 **A** That's the front of Scoona's car parked in her
17 carport.

18 **Q** Now, I'm going to jump ahead and then we're going to
19 come back. Do you know when these pictures were
20 made?

21 **A** They look like they were made right after she moved
22 in her new house which she had just purchased in
23 1992, around November or December.

24 **Q** Well, let me ask a different question. You don't
25 know this because I haven't asked you yet. But do

- 1 you see the embossing on those pictures?
- 2 A Yes, sir.
- 3 Q Do you know whose pictures those are?
- 4 A What it says right here?
- 5 Q Yes.
- 6 A SLED?
- 7 Q Yeah. Do you know what SLED is?
- 8 A I do.
- 9 Q Okay. We'll come back to the pictures in just a
- 10 moment. Did you take these pictures?
- 11 A I don't know. Probably Scoona. She loved taking
- 12 pictures.
- 13 Q Was your sister -- what did she do besides work back
- 14 in '93, early '93?
- 15 A Oh, we -- she mostly went to church, went to work and
- 16 spent time with me and my family.
- 17 Q Did she shop?
- 18 A We shopped. We shopped.
- 19 Q Do you know back in the weeks I guess and maybe a few
- 20 months before February of '93, do you know if she was
- 21 dating anybody?
- 22 A In '93, not to my knowledge.
- 23 Q Had she had boyfriends?
- 24 A She had.
- 25 Q Subsequent to her divorce but before her death?

1 **A** Right. She had.

2 **Q** Did anybody live in her house on Golf Course Road
3 with her in February of '93 as far as you know?

4 **A** No, sir.

5 **Q** How often did you have contact with your sister?

6 **A** When she was working with me at the Highway
7 Department, it was every day, every day. And then
8 when she left and she started working at this
9 Whirlpool and we didn't have this long distance plan
10 where you could call and it would be cheaper, and it
11 was maybe -- like maybe once a week. We stopped
12 calling each other every day because the phone bill
13 was getting really high and she was trying to, you
14 know, afford this house. So I would say about at
15 least once a week we would actually see each other.

16 **Q** Okay. Did y'all go to the same church?

17 **A** We did.

18 **Q** In February of '93 was she working at Whirlpool?

19 **A** She was.

20 **Q** And do you know what shift she worked at Whirlpool?

21 **A** The second shift, from 3 to 11.

22 **Q** 3 p.m. to 11 p.m.?

23 **A** Yes, sir.

24 **Q** And do you know what days of the week were normally
25 her workdays? Was it a Monday to Friday job? Did

1 she rotate?

2 A It was usually Monday through Friday.

3 Q Did she typically work on weekends at Whirlpool?

4 A No, sir.

5 Q Were you working at the Highway Department in
6 February of '93?

7 A Yes, sir.

8 Q And did you work regular first shift kind of hours,
9 daytime hours?

10 A 9 to -- 8:30, 5, something like that.

11 Q All right. Did y'all see each other during the
12 daytime during the week based upon your work
13 schedules?

14 A No, sir.

15 Q Did you see each other at church on a regular basis?

16 A Yes, sir.

17 Q Do you recall the last time you talked with your
18 sister, Audre Belton?

19 A Yes, sir. That would have been February the [REDACTED] at
20 church the day before her birthday.

21 Q You answered my next question. Did you realize that
22 the next day, Monday, February [REDACTED] was her birthday?

23 A I did.

24 Q And did you -- were you scheduled to work
25 February 8th?

1 **A** Yes, sir.

2 **Q** As far as you know, was she scheduled to work
3 February 8th?

4 **A** Yes, sir.

5 **Q** Did y'all make any plans to see each other on
6 February [REDACTED] for her birthday?

7 **A** No, sir, we didn't.

8 **Q** Do you know whether she had made any plans to
9 celebrate her birthday any time, any place?

10 **A** I don't remember her mentioning anything.

11 **Q** Okay. February [REDACTED] did you see your sister?

12 **A** I did not.

13 **Q** The 9th, Tuesday, the 10th, Wednesday, the 11th,
14 Thursday through the coming week, did you see your
15 sister?

16 **A** No, sir. I called her house several times and I
17 never did see her, never did get a phone call from
18 her. I don't think we had answering machines. I
19 don't think she did.

20 **Q** At some point did you do something in light of your
21 inability to contact your sister?

22 **A** Yes, sir. I had drove past her house, and when I did
23 that I noticed that her car was in the carport.

24 **Q** Stop. What day did you drive by her house?

25 **A** It was my day off from the Highway Department which

1 would have been a holiday, February the 15th. And
2 that would have been Presidents' Day or something
3 like that.

4 Q All right. You drove by your sister's house. How
5 far was your house from her house? Did you live in
6 the Winnsboro area also then?

7 A Yes, sir. I guess about maybe three or four miles.

8 Q Okay. About what time of day was it, if you recall,
9 that you rode by her house on February 15th?

10 A I do know it was after the time she should have gone
11 to work. And that's when I noticed her car in the
12 carport.

13 Q Was it daylight or dark when you went by there?

14 A It was about maybe 4:00.

15 Q Okay. Did you stop when you rode by about 4:00 that
16 Monday, February 15th of '93?

17 A Exactly. I remember.

18 Q Were you by yourself?

19 A I was.

20 Q And when you stopped, what did you do? And let me
21 interrupt. Did you have a key to your sister's
22 house?

23 A I did have a key.

24 Q When you went by her house and saw her car in the
25 yard, did you stop your car?

- 1 **A** I did.
- 2 **Q** Did you get out of your car?
- 3 **A** I did.
- 4 **Q** Did you look around on the outside of her house?
- 5 **A** I did.
- 6 **Q** Did you look around her car?
- 7 **A** I did.
- 8 **Q** Did she have any stuff that she needed to use at work
- 9 that you were aware of?
- 10 **A** Right. I saw in the back seat of her Camaro her tool
- 11 bag. She had told me that she could not work without
- 12 the tool bag. She would always have to take that.
- 13 And when I saw that in the back, then I knew
- 14 something wasn't right.
- 15 **Q** As far as you know, was she supposed to be at work at
- 16 the time you went by the house?
- 17 **A** Yes, sir.
- 18 **Q** Anything messed up about the car that you noticed?
- 19 **A** No, sir.
- 20 **Q** Did you go inside the car, look around it or do
- 21 anything?
- 22 **A** No, sir.
- 23 **Q** Did you go to the door?
- 24 **A** I did.
- 25 **Q** Now, you showed -- we looked at this picture a minute

1 ago of the carport, State's Exhibit No. 2 for
2 identification purposes. And it's kind of a dark
3 picture. But that's what you said showed the back of
4 the car?

5 A Yes, sir.

6 Q Would that be the view from looking toward the house
7 from the street?

8 A Yes, sir.

9 Q And is there a door from the carport that goes into
10 the house?

11 A Yes, sir.

12 Q Is it shown on that picture somewhere?

13 A It looks like right in here.

14 Q That silvery looking, looks like maybe the frame of a
15 storm door or something?

16 A Yes, sir.

17 Q Okay. What door did you go to when you were by there
18 about 4:00 on the 15th of February?

19 A The door coming in from the carport.

20 Q The one you just showed me on the picture?

21 A Yes, sir.

22 Q Did you do anything to try to raise her? Did you
23 knock on the door or ring the doorbell or anything?

24 A I rang the doorbell and I didn't get an answer. And
25 I felt like something wasn't right. Even though I

1 had my key on my key chain, I then went back home and
2 got my husband to go in with me he.

3 Q And did your husband, Eddie, go back over to your
4 sister's house with you?

5 A He did.

6 Q Was it still daylight when you got there?

7 A It was.

8 Q Was anybody -- let me back up. When you were there
9 the first time and didn't get anybody to the door,
10 did you see anybody else around?

11 A I didn't.

12 Q Did you notice anything on the outside other than her
13 car being in the yard, in the carport and her tool
14 bag in her car, did you notice anything unusual from
15 your outside view of her property?

16 A I did not.

17 Q When you and your husband got back over there, what
18 did y'all do?

19 A When we got back over there, then I went in first.

20 Q In what door?

21 A In the door beside the carport.

22 Q And how did you go in?

23 A I had a key. So --

24 Q Did you check before you used the key to determine
25 whether the door was locked or unlocked?

1 **A** The door should have been -- it should have been
2 locked. I did not check.

3 **Q** Did you check it before you put the key in?

4 **A** No, sir. No, sir. I did not. I just put the key
5 in.

6 **Q** And when you put your key in, did you go in the
7 house?

8 **A** I did.

9 **Q** Now, what room of the house are you in when you go in
10 off the carport?

11 **A** The kitchen.

12 **Q** Was there any -- did you see anybody inside the
13 kitchen, any person inside the kitchen?

14 **A** No, sir.

15 **Q** Did you notice anything unusual inside her kitchen?

16 **A** No, sir.

17 **Q** Was your husband with you?

18 **A** He was.

19 **Q** You in front or him in front?

20 **A** I was in front.

21 **Q** All right. Where did you go from the kitchen?

22 **A** Well, I remember him calling out my sister's name or
23 something, saying, is anybody home, or something like
24 that.

25 **Q** Did anybody answer?

1 **A** No.

2 **Q** Go ahead. What did you do?

3 **A** And then we walked from the kitchen down through the
4 hallway. There's a living room on the left and a
5 bathroom on the right.

6 **Q** Down the hallway?

7 **A** Down the hallway.

8 **Q** I'm going to stop you a minute. How many bedrooms
9 are in that house?

10 **A** I think it was -- let me see. One -- three bedrooms.

11 **Q** Now, did you know which bedroom was the one that your
12 sister actually used as her bedroom?

13 **A** Yes, sir.

14 **Q** And how would you the describe her bedroom? Not what
15 color the walls were. But in relation to the layout
16 of the house, what bedroom was hers?

17 **A** Her bedroom --

18 **Q** If you're walking down the hallway?

19 **A** It would have been the last room on the right on the
20 back of the house.

21 **Q** At the corner of the house?

22 **A** Yes, sir.

23 **Q** Okay. The last room on the right going down the
24 hall?

25 **A** Yes, sir.

1 Q You're going down the hall. You pass the living
2 room. Do you notice anything unusual there?

3 A No, sir.

4 Q Where did you go?

5 A We -- we just started looking from room to room until
6 I got down to the last room and it was her bedroom.

7 Q The one on the right at the end on the corner of the
8 house?

9 A Correct.

10 Q Now, up to that point had you been examining the
11 walls, the ceilings, the floors looking for stuff
12 other than to try to find your sister?

13 A No, sir.

14 Q Were you paying much attention to anything other than
15 human beings?

16 A No, sir.

17 Q When you got to your sister's bedroom, did you go in?

18 A No, sir. I didn't go in. I -- I --

19 Q Did you look in?

20 A I looked in.

21 Q You were ahead of your husband or vice versa?

22 A I think I was still in the front.

23 Q When you looked in -- well, let me back up. Let me
24 ask you this. Do you recall whether any lights were
25 on in the house when you entered the carport into the

1 living room?

2 A No, sir.

3 Q You don't recall or there weren't?

4 A I don't recall. I don't think that there was any
5 lights on.

6 Q Do you recall switching any lights on as you're going
7 through the house?

8 A No, sir.

9 Q Okay. Do you recall whether there was a light on in
10 her bedroom on the back corner of the house?

11 A No.

12 Q On the right down the -- you don't recall or there
13 wasn't?

14 A I don't think there was.

15 Q That's fine. Could you see inside the house?

16 A Yes, sir.

17 Q All right. When you looked in your sister's bedroom,
18 did you see something that caused you to startle?

19 (Pause - witness crying)

20 Q If you need a minute, we've got all the time in the
21 world.

22 (Pause)

23 MR. BARFIELD: It might be a good time to take a
24 couple of minutes.

25 THE COURT: Let's take a five-minute recess,

1 ladies and gentlemen. I'll ask you to step in your
2 jury room, remind you it's too early to begin
3 discussing the case.

4 (Jury out at 3:55 p.m.)

5 **MR. BARFIELD:** May the witness step down? Is
6 she allowed to?

7 **THE COURT:** If you need to, if you'd like to,
8 you may certainly step down.

9 **MR. BARFIELD:** If you'd like to.

10 **THE COURT:** Let's take a five-minute recess.

11 **MR. BARFIELD:** Thank you, Your Honor.

12 (Whereupon, a break is taken)

13 **THE COURT:** All right. Let's bring our jury in.

14 (Jury in at 4:03 p.m.)

15 **THE COURT:** Welcome back, ladies and gentlemen.
16 Solicitor, you may resume examination of the witness.

17 **Q** When you got down the hallway to the last bedroom on
18 the right which you previously described as your
19 sister's bedroom, did you go in?

20 **A** No, sir.

21 **Q** Did you look in?

22 **A** I looked in.

23 **Q** Was there anybody in your sister's bedroom?

24 **A** Just my sister.

25 **Q** All right. That's my question. Was your sister in

1 her bedroom?

2 A Right.

3 Q Where was your sister?

4 A She was stretched out on the floor on the side the
5 window of the bedroom, not the door.

6 Q Okay. On the far side of the room from the door?

7 A Yes, sir.

8 Q Stupid question number four. Was there a bed in her
9 bedroom?

10 A Yes, sir.

11 Q And was it closer to the door or closer to the
12 window?

13 A Her bed was kind of like in the middle.

14 Q And where was your sister in relation to her bed and
15 the far side of the room?

16 A My sister was like -- all I saw were her legs like
17 stretched out with her legs going toward the kitchen
18 door. And it was a big, like a big, big, bloody
19 stain on her right side of her leg.

20 Q Was she clothed?

21 A I saw the jeans. That's all -- that's all I saw.

22 Q Okay.

23 A The jeans and the shoes.

24 Q Did you go further into the room to do any further
25 inspection?

1 **A** I didn't.

2 **Q** When you saw your sister, did you react in some way?

3 **A** I'm sure I was upset. I'm sure I started to scream.
4 I went to look for the telephone. I think it was in
5 her kitchen and I couldn't get a dial tone. So I
6 remember going to the nextdoor neighbor's house.

7 **Q** You left out of the house?

8 **A** I did.

9 **Q** Did you go to your sister and her examine her
10 personally?

11 **A** No, sir. No, sir.

12 **Q** When you were in the house, before you saw your
13 sister in the bedroom; again, did you do any further
14 inspection of the house, the rooms, the wall, the
15 ceiling, anything?

16 **A** No, sir. I didn't.

17 **Q** After you saw your sister lying on her bedroom floor
18 and as you left out of the house, did you do any
19 inspection of the rooms, the walls, the ceilings, the
20 floors, anything?

21 **A** No, sir.

22 **Q** Okay. Did you go to a neighbor's house?

23 **A** I did.

24 **Q** Did a phone call get placed to notify authorities
25 that your sister was in -- that something was wrong?

1 **A** Yes, sir.

2 **Q** When you left out of the house, do you remember where
3 your husband -- what your husband, Eddie, did?

4 **A** He -- he stayed in the house.

5 **Q** Okay. Did you ever go back in the house that day?

6 **A** That -- no, sir.

7 **Q** Or that night?

8 **A** No, sir.

9 **Q** While your sister's person was still in the house,
10 did you ever go back in?

11 **A** No, sir.

12 **Q** Did emergency folks come to your sister's house?

13 **A** Yes, sir.

14 **Q** Let me back up. A fellow named Rogers Brown -- you
15 might not know him by that name -- but did some man
16 come to her house while you and your husband -- your
17 sister's house, while you and your husband were still
18 there?

19 **A** Yes, sir.

20 **Q** And did you see him go in the house?

21 **A** I did.

22 **Q** All right. Did emergency folks come to your sister's
23 house?

24 **A** Yes, sir.

25 **Q** Do you recall was it law enforcement folks? Not who

1 they were, but did the police come, the Sheriff's
2 Office or some law enforcement agents come to your
3 sister's house?

4 **A** Right. Yes, sir.

5 **Q** Did an ambulance come to your sister's house?

6 **A** Right. Correct.

7 **Q** Before the evening was over, did a bunch of people
8 end up at your sister's house?

9 **A** Yes, sir.

10 **Q** Did you stay at your sister's house for some hours
11 after you initially found your sister inside her
12 bedroom?

13 **A** Not hours.

14 **Q** All right.

15 **A** A few minutes later.

16 **Q** All right. And where did you go? Well, I guess when
17 people started arriving, did you stay for some period
18 of time?

19 **A** I mean, I went home. I didn't --

20 **Q** That's fine. That's fine. At some point that
21 evening did you know your sister's fate?

22 **A** When I saw my sister lying on her bedroom floor, she
23 was so still, I just -- I just knew she wasn't alive.
24 She was so still.

25 **Q** All right. Did you at some point that evening learn

1 that she was in fact not alive?

2 **A** Yes, sir.

3 **Q** And were you still at the scene at your sister's
4 house when you learned that, or had you gone home, if
5 you recall? If you don't, that's fine.

6 **A** I don't remember.

7 **Q** Do you have any other recollection of anything
8 unusual inside your sister's house that afternoon
9 other than her body on her bedroom floor?

10 **A** No, sir.

11 **Q** Do you have any recollection of the temperature
12 inside your sister's house when you went in sometime
13 after 4:00 Monday afternoon, February 8th [sic] of
14 1993?

15 **A** I remember that it was extremely cold. It was
16 freezing.

17 **Q** Inside the house?

18 **A** Inside her house.

19 **Q** Do you know whether there were -- do you have any
20 knowledge of any doors or windows being open --

21 **A** No, sir.

22 **Q** -- while you were at that house?

23 **A** No, sir.

24 **Q** As a result of your sister's death, did somebody get
25 put in charge of her estate and affairs?

1 A Yes, sir.

2 Q And who was that?

3 A I was the personal representative I guess.

4 Q All right. Were you generally -- you said you saw
5 your sister, had contact with your sister at least
6 once a week --

7 A Yes, sir.

8 Q -- when you all were working the different shifts.
9 Did that include frequent visits to her house?

10 A Yes, sir.

11 Q Did you generally -- I'm sure you didn't know
12 everything your sister owned. But did you generally
13 know what stuff your sister had?

14 A Yes, sir.

15 Q When she went shopping and bought something, did she
16 tell you about it?

17 A Yes, sir.

18 Q Did you know what kind of pocketbook she carried?

19 A Yes, sir. Basically.

20 Q All right. To your knowledge, as the person in
21 charge of her estate after her death, to your
22 knowledge, was anything missing from her house or
23 missing from wherever that normally would have been
24 there with her?

25 A Her pocketbook.

1 Q Okay. Anything else? Did you ever see her driver's
2 license or her credit cards or any kind of bank
3 documents that normally would be inside somebody's
4 purse?

5 A No, sir. All the contents were missing.

6 Q Okay. Did you have a key to her car?

7 A I can't remember if I had a key to Scoona's car.

8 Q Did you ever come into possession of her key to her
9 car after her death?

10 A Yes, sir.

11 Q Do you know where it came from?

12 A No, sir. Perhaps I did have a key to her car. I
13 don't --

14 Q You don't remember one way or the other?

15 A I don't remember.

16 Q So her purse and whatever was in it you say were
17 missing?

18 A Yes, sir.

19 Q Did you know what kind of money your sister had? I
20 mean, were you familiar with her bank accounts or
21 what she carried around in her pocketbook or anything
22 like that?

23 A No, sir. Not really familiar with that.

24 Q That's fine. Bear with me one moment, Your Honor.

25 THE COURT: All right, sir.

1 Q You said there was -- you just noticed what you
2 described as blood on your sister's person --

3 A Yes, sir.

4 Q -- as she lay on the floor? Was it on her clothing?
5 Where did you see blood?

6 A It was like about from her thigh to her knee on the
7 right side.

8 Q On her clothing?

9 A On her jeans.

10 Q Okay. Were you familiar with the clothes that were
11 on your sister's body when you saw her there on the
12 bedroom floor, the jeans and the tennis shoes?

13 A Yes, sir. That's all I saw. I didn't see her shirt.

14 Q And those were her jeans and her shoes?

15 A Yes, sir.

16 Q Did anybody ever bring you a pocketbook that was
17 identified as being your sister's missing pocketbook?

18 A No, sir.

19 Q Did anybody in law enforcement or otherwise ever
20 bring you the things that normally would be in a
21 lady's pocketbook like a driver's license or credit
22 cards or checkbook or anything like that?

23 A No, sir.

24 Q Okay. Bear with me one second. Thank you, ma'am.
25 Answer anything Ms. Smalls has.

1 **THE COURT:** Ms. Smalls.

2 **MS. SMALLS:** May it please the Court.

3 CROSS EXAMINATION

4 **BY MS. SMALLS**

5 **Q** Ms. Gaither, you would consider yourself as pretty
6 close to your sister?

7 **A** Yes.

8 **Q** Were you her only sister?

9 **A** I am.

10 **Q** And you are the person that was in charge of her
11 estate, correct?

12 **A** Correct.

13 **Q** The solicitor asked you whether or not you ever
14 received a pocketbook or a driver's license or credit
15 cards. You have not?

16 **A** I have not.

17 **Q** But you indicated that her pocketbook was actually
18 missing?

19 **A** Right.

20 **Q** Now, you said she liked to shop. Did she only own
21 one pocketbook?

22 **A** She had several pocketbooks. But her work bag would
23 have been a certain pocketbook. She wouldn't take
24 her dress pocketbook to work. So she had a work
25 pocketbook.

1. Q She had a work pocketbook?
- 2 A Yes, ma'am.
- 3 Q And was that work pocketbook ever returned to you?
- 4 A No, ma'am. Not that work pocketbook.
- 5 Q So you never received that work pocketbook back?
- 6 A No, ma'am.
- 7 Q The solicitor asked you about your familiarity with
- 8 her money and credit cards. You said you wasn't very
- 9 familiar with that, how much money she would keep on
- 10 her person?
- 11 A No, sir. No, ma'am.
- 12 Q And as the person in charge of her estate, some
- 13 things were given back to you that belonged to your
- 14 sister?
- 15 A Yes, ma'am.
- 16 Q And actually when her body was found, returned to you
- 17 was some jewelry, was it not?
- 18 A The jewelry, some of the jewelry that was returned to
- 19 me was the things that she was wearing.
- 20 Q Okay. So the day that her body was found -- I know
- 21 that you only personally observed I guess the bottom
- 22 part of her body?
- 23 A Yes, ma'am.
- 24 Q But as being in charge of her estate, some things
- 25 were actually given to you, were they not?

1 **A** Some things were in the house.

2 **Q** Let me ask you this. Are you aware that she was
3 wearing jewelry at the time of her death?

4 **A** What they gave me back from I guess the autopsy
5 report, they gave me her jewelry back.

6 **Q** Okay. Her jewelry was given back as you remember?

7 **A** Some earrings. Might have been a watch and some
8 rings.

9 **Q** Okay. A bracelet?

10 **A** Might have been. She had several.

11 **Q** But whatever jewelry she was wearing, after the
12 autopsy was complete, they gave it back to you?

13 **A** Yes, ma'am.

14 **Q** No further questions for this witness, Judge.

15 **MR. BARFIELD:** Nothing else of this witness at
16 this time. I might at some point need to recall her
17 for some other things.

18 **THE COURT:** You may step down.

19 **MR. BARFIELD:** I call Eddie Gaither, Sr.

20 **THE CLERK:** Mr. Gaither, are you going to be
21 able to get up in this chair and climb a couple of
22 steps? I need you to raise your right hand, put your
23 left hand on the Bible.

24 **EDDIE L. GAITHER, SR.,** after being duly sworn,
25 testifies as follows:

1 **THE CLERK:** State your name for the record.

2 **THE WITNESS:** Eddie Lewis Gaither.

3 DIRECT EXAMINATION

4 **BY MR. BARFIELD**

5 **Q** You are in fact Sr.?

6 **A** Yes.

7 **Q** Your son is Jr.?

8 **A** Yes.

9 **Q** Connie or Constance is your wife?

10 **A** Yes.

11 **Q** Audre Belton was your sister-in-law?

12 **A** Yes.

13 **Q** Beginning sometime shortly after February 8th of
14 1993, for the few days after that day, did you know
15 that your wife had not been able to get in touch with
16 your sister-in-law?

17 **A** Yes.

18 **Q** Did you at any point that week, starting Monday,
19 February 8th, or February 9th, Tuesday, any time that
20 week or over the next few days go by Audre Belton's
21 house?

22 **A** Yes.

23 **Q** Do you remember what day it was, what day of the week
24 or what date on the calendar it was that you went by
25 there?

1 **A** It was a state holiday.

2 **Q** Okay. Now I'm going to jump ahead and then we're
3 going to jump back. Were you with your wife when
4 your sister-in-law was found dead in her home?

5 **A** Yes.

6 **Q** Prior to that day had you been by on the road or
7 otherwise been by Audre Belton's house?

8 **A** Yes.

9 **Q** Do you remember what day that was?

10 **A** It was the same day I went to pay the cable bill in
11 that area. So I just came by there because it was
12 close, because my wife had been calling to see
13 whether her vehicle was in the yard or not.

14 **Q** All right. When you rode by Audre's house, you're
15 saying it's the same day that the body was
16 discovered?

17 **A** Yes.

18 **Q** You rode by her house that day. Was her car in the
19 carport?

20 **A** Yes.

21 **Q** Did you stop or do anything to try to make contact
22 with Audre?

23 **A** No, I didn't.

24 **Q** Were you at home later that afternoon when your wife
25 was not there?

- 1 **A** Yes.
- 2 **Q** Did you know that your wife had gone to Audre's
- 3 house?
- 4 **A** No, I didn't.
- 5 **Q** Did your wife come back to your house?
- 6 **A** Yes.
- 7 **Q** And as a result, when your wife came back to your
- 8 house, did you leave your house?
- 9 **A** Yes.
- 10 **Q** Did your wife tell you where she had been?
- 11 **A** No. She just wanted me to go with her.
- 12 **Q** All right. And did you go with your wife?
- 13 **A** Yes.
- 14 **Q** Where did you and your wife go?
- 15 **A** To her sister's house.
- 16 **Q** Audre's house?
- 17 **A** Yes.
- 18 **Q** When you got there -- how long before was it that you
- 19 had been by there earlier that day? An hour or two
- 20 or a long time?
- 21 **A** It was probably either I'd say about an hour, within
- 22 an hour or two, somewhere in there.
- 23 **Q** Okay. When you got back with Connie, was Audre's car
- 24 still in the carport?
- 25 **A** Yes.

1 Q Just describe what happened when you and Connie got
2 back over there?

3 A We tried to get in the back door. We knocked, you
4 know, knocked on the door and called her name out.

5 Q Did anybody answer?

6 A No one answered.

7 Q Did anybody open the door --

8 A No.

9 Q -- from inside?

10 A We did that several times. And then she just -- she
11 had a key to the house, and we went in then.

12 Q All right. Now I'm going to ask you a couple of
13 questions before we get to the nuts and bolts of
14 this. While you were there that day, did you do
15 any -- before you found Audre or after, did you do
16 any investigating of the house or what's going on
17 with the house, doors, windows, walk around the
18 outside, look for evidence or anything like that?
19 Did you investigate anything while you were there?

20 A No, I didn't.

21 Q Okay. Connie opened the door. Where did you go?

22 A We entered the door in the kitchen area.

23 Q Did you notice anything in the kitchen unusual?

24 A No. It seemed normal to me.

25 Q Go ahead. Where did you go?

1 **A** We just kept walking. Then we had to enter the
2 hallway, and the living room was on the left. You
3 could look and see in there. You couldn't notice.
4 that no one was in there. So we kept calling her
5 name, going from room to room down the hallway
6 looking.

7 **Q** Did anybody respond?

8 **A** No, they didn't.

9 **Q** Go ahead. Where did you go?

10 **A** We entered -- we then found the bathroom area. We
11 looked in the other bedroom. When we got to the end
12 of the hallway on the right, you could see her legs
13 or something sticking out with blood. So I walked
14 in.

15 **Q** All right. Did you walk into the room?

16 **A** Yes.

17 **Q** And was there somebody on the floor in Audre Belton's
18 bedroom?

19 **A** Yes.

20 **Q** Did you see the whole person that was on the floor?

21 **A** Yes, I could see it.

22 **Q** And who was on the floor in Audre Belton's bedroom?

23 **A** Audre Belton.

24 **Q** Do you have any question about that at all?

25 **A** No.

1 Q Now, did you go to her person and -- well, I want you
2 to describe what you saw.

3 A I saw --

4 Q Where was she in her room?

5 A She was laying towards I guess the rear of the bed,
6 and I could see the blood on her leg. But then I
7 looked around, and her eyes had a funny look in them.

8 Q Was she on the floor?

9 A She was stretched out.

10 Q Was she face up or face down?

11 A Looked like it was sort of like, you know, leaning to
12 the one side.

13 Q Could you see her face?

14 A Yes, I could.

15 Q Were her eyes open?

16 A They was open. They looked funny, you know.

17 Q Was there any movement of her body?

18 A No, there wasn't.

19 Q Other than describing the blood you said on her
20 jeans --

21 A Yeah.

22 Q -- did you see what looked like blood anywhere else
23 on her?

24 A No, I didn't.

25 Q Okay. Did you touch her?

1 A No.

2 Q Did you do anything from a first aid or a medical
3 standpoint?

4 A No, I didn't.

5 Q What did Connie do when Connie looked in the room?

6 A She approached the room. She never did enter. She
7 just ran, tried to call the -- you know, call
8 someone, 911. Then the next thing I know, she had
9 gone out the door. I was still back there.

10 Q All right. Did you stay in the house --

11 A Yes.

12 Q -- for that period of time?

13 A Yes.

14 Q Now, at some point did another man come to the house?

15 A Yes. He came in.

16 Q And did you and -- did he come to the bedroom?

17 A Yes. He came back there where she was.

18 Q Did you know who that fellow was?

19 A No. I didn't know him.

20 Q All right. Did you at some point leave out of the
21 house?

22 A Well, I left out, you know, once law enforcement got
23 there, everybody started coming there.

24 Q Did you stay in the house until law enforcement got
25 there?

- 1 **A** Yes.
- 2 **Q** And did they take you out of the house?
- 3 **A** Yes. They didn't want me to touch anything.
- 4 **Q** While you were in the house, did you walk around,
5 look around, touch anything, do anything?
- 6 **A** No. I didn't even -- you know, once I got to the
7 bedroom, I was through looking then.
- 8 **Q** Did you move stuff?
- 9 **A** No.
- 10 **Q** Did you pick up stuff?
- 11 **A** No.
- 12 **Q** Did you hide stuff?
- 13 **A** No.
- 14 **Q** Did you throw away stuff?
- 15 **A** No.
- 16 **Q** Did you disturb Audre Belton's body in any way?
- 17 **A** No.
- 18 **Q** Did you move it?
- 19 **A** No.
- 20 **Q** Did you cover it up?
- 21 **A** No.
- 22 **Q** Did you put clothes on it?
- 23 **A** No.
- 24 **Q** Did you take clothes off?
- 25 **A** No.

1 Q Didn't touch anything? Okay. Thank you. Answer
2 anything Ms. Smalls has.

3 THE COURT: Ms. Smalls.

4 MS. SMALLS: No questions.

5 THE COURT: Thank you. You may step down.

6 MR. BARFIELD: I call Rogers Brown.

7 THE CLERK: I need you to raise your right hand.
8 Put your left hand on the Bible. Raise your right
9 hand.

10 ROGERS C. BROWN, after being duly sworn,
11 testifies as follows:

12 THE CLERK: Please have a seat. State your name
13 for the record.

14 THE WITNESS: My name is Rogers C. Brown.

15 DIRECT EXAMINATION

16 BY MR. BARFIELD

17 Q I don't believe we're going to have any trouble
18 hearing you.

19 A How are you?

20 Q Mr. Brown, what town or county do you currently live
21 in? Or do you kind of swap back and forth?

22 A Kind of back and forth. I'm living in Richland
23 County right now.

24 Q You've got connections still here in Fairfield
25 County?

1 **A** Yes.

2 **Q** All right. Where were you living back specifically
3 on February 15th of 1993?

4 **A** I was living on Golf Course Road.

5 **Q** And do you remember the house number for your house
6 on Golf Course Road?

7 **A** No, I don't.

8 **Q** Do you remember what house you lived at?

9 **A** No. I've done forgot now. It was a long time ago.

10 **Q** Yes, sir. Did you know a young lady named Audre
11 Belton who lived on Golf Course Road, or at least
12 know who she was?

13 **A** Yes. She was my neighbor.

14 **Q** Okay. Nextdoor or a couple of houses between?

15 **A** It was a couple of houses between.

16 **Q** And did you know her by seeing that she lived there
17 and went in and out of that house, or did you know
18 her by name and conversations with her?

19 **A** No. I kind of know her by name also.

20 **Q** Familiar with what she drove? Do you remember what
21 kind of car she had?

22 **A** No, I don't.

23 **Q** That's fine. Were you in your neighborhood on your
24 street on the afternoon of February 15th of 2008
25 which I think the calendar says was a Monday?

1 **A** Yes.

2 **COURT REPORTER:** Excuse me, Judge. I can't hear
3 the witness, please.

4 **A** Yes. I was.

5 **Q** We've got it. Did you know Audre Belton's sister?

6 **A** Yes. By her husband, yes.

7 **Q** And is that her husband --

8 **A** Right.

9 **Q** -- sitting back there on the aisle?

10 **A** It is.

11 **Q** And that's Eddie Gaither?

12 **A** Right.

13 **Q** Do you know the young lady beside him as Connie
14 Gaither?

15 **A** Right.

16 **Q** Now, did you know them well back in February of 1993,
17 or did you just know who they were?

18 **A** I knew them well. Yes.

19 **Q** Okay. Did you see them, Eddie and Connie Gaither,
20 later in the afternoon on February 15th of 1993? Did
21 you see them on your street?

22 **A** Yes, I did.

23 **Q** And where did you see them?

24 **A** Well, they were standing directly in the front of
25 their drive, in front of her driveway.

- 1 Q Audre's driveway?
- 2 A Her sister, yes.
- 3 Q Were you walking or were you riding?
- 4 A I was driving. Yes.. Right.
- 5 Q Did you stop next to them?
- 6 A Yes, I did.
- 7 Q What was going on between the two of them, if
- 8 anything, that you know of, sir?
- 9 A Well, like I say, I seen them standing at the side of
- 10 the road and his wife was crying and he was trying to
- 11 calm her down. So I pulled up and stopped, asked
- 12 them what was wrong. He told me that her sister --
- 13 Q He being Eddie Gaither, Sr.?
- 14 A Right. Yeah. Said that his wife's sister was in the
- 15 house, she wasn't breathing.
- 16 Q Wasn't breathing?
- 17 A Right.
- 18 Q Now, did you know CPR or have any first aid training
- 19 at the time that you thought might be useful?
- 20 A Yes, I did.
- 21 Q Now, he said she wasn't breathing. Did you have any
- 22 idea what kind of situation was inside that house?
- 23 A No, I didn't.
- 24 Q Did you decide to do something when Eddie Gaither,
- 25 Sr. said that Audre Belton wasn't breathing?

1 **A** Yes. I wanted to go and see could I help, me knowing
2 CPR.

3 **Q** Did you go in the house?

4 **A** Yes. Yes, we did.

5 **Q** Were you led to the room where Audre Belton was?

6 **A** Yes, I were [sic].

7 **Q** Now, let me first ask you this. Did you see Audre
8 Belton inside that house?

9 **A** Yes, I did.

10 **Q** And do you know that it was Audre Belton?

11 **A** Yes.

12 **Q** All right. Generally speaking, where was Audre
13 Belton?

14 **A** She was in the very back bedroom on the right, the
15 far end.

16 **Q** All right. I'm going to show you a photograph which
17 has been marked for identification purposes State's
18 Exhibit No. 4. Is what is shown in that photograph
19 familiar to you?

20 **A** Yes, it is.

21 **Q** And what is shown in that photograph?

22 **A** She is laying there on her back. I mean --

23 **Q** Speak up, please, sir.

24 **A** She is laying flat on her back, and I kind of seen
25 the blood on her leg. I kind of peeked around over

1 the bed. She was laying on her back with her eyes
2 open.

3 Q You saw her whole body eventually?

4 A Yes.

5 Q Now, when you saw what you saw, what you've described
6 and what's shown in State's No. 4 for identification,
7 did you do anything from a first aid or a medical
8 standpoint?

9 A No, I didn't.

10 Q Why not?

11 A Because, like I say, I seen the blood on her leg and
12 I kind of looked around. I seen bullet holes in the
13 top of the ceilings, all kind of bobby pins, hairpins
14 and stuff laying around in the house.

15 Q Bobby pins? Hairpins?

16 A Right. I saw Mr. Gaither, and I told him, I said,
17 man, that looks like she's been shot or something.
18 We need to get out of here.

19 Q Did you all get out of there?

20 A So we backed out. Yeah.

21 Q While you're inside the house, did you ever lay hands
22 on Audre Belton to take her pulse or anything else?

23 A No, I didn't.

24 Q Did you pick up anything?

25 A No, I didn't.

1 Q Did you move anything?

2 A No, I didn't.

3 Q Did you put anything in your pockets and carry it
4 out?

5 A No, sir.

6 Q Did you search around the house to investigate to see
7 if you could find anything?

8 A No, I didn't.

9 Q Did you hang around until law enforcement came up?

10 A I don't remember. I don't think I did.

11 Q At some point did somebody from law enforcement come
12 to you and get a little bit of information from you?

13 A No, they didn't.

14 Q Okay. Thank you, sir. Answer anything Ms. Smalls
15 has.

16 CROSS EXAMINATION

17 **BY MS. SMALLS**

18 Q Mr. Brown?

19 A Yes.

20 Q Approximately how many houses are between your house
21 and the house that Ms. Belton lived in?

22 A I think there's two.

23 Q Two houses?

24 A Uh-huh (affirmative).

25 Q And you said you were riding down the street on the

1 15th of February, 1993?

2 A Right.

3 Q And you say you saw Ms. Connie Gaither and her
4 husband were outside?

5 A Right.

6 Q Were both of them actually outside when you first saw
7 them?

8 A Yeah. They were standing at the end of the driveway.

9 Q At the driveway?

10 A At the end of the driveway by the highway, yes.

11 Q How long had Ms. Belton been your neighbor?

12 A I'm not quite sure. It had been months though. I'm
13 pretty sure about pretty close to a year, I guess.

14 Q Close to a year?

15 A Mm-hmm (affirmative).

16 Q And you say you knew her by name. Had you ever
17 visited her home before?

18 A No, I haven't.

19 Q How often would you say you saw Ms. Belton in the
20 neighborhood?

21 A You didn't see her very much. Every now and then you
22 see her in the backyard maybe like cleaning the yard
23 up or something like that.

24 Q In the backyard?

25 A In the backyard.

1 Q You never saw her with my client, Mr. Elgin, have
2 you?

3 A No, I haven't.

4 MS. SMALLS: Beg the Court's indulgence.

5 THE COURT: Certainly.

6 MS. SMALLS: Nothing further.

7 MR. BARFIELD: Nothing else from this witness.

8 I ask that he be excused if he would like to be.

9 MS. SMALLS: Without objection.

10 THE COURT: You may be excused from your
11 subpoena. Thank you, sir.

12 THE WITNESS: Thank you.

13 MR. BARFIELD: I call former investigator James
14 Kitchens for a limited purpose. I told you we would
15 call him later on in the case, but this is for a
16 limited purpose.

17 THE COURT: All right.

18 JAMES E. KITCHENS, after being duly sworn,
19 testifies as follows:

20 THE CLERK: State your name for the record.

21 THE WITNESS: James E. Kitchens.

22 DIRECT EXAMINATION

23 BY MR. BARFIELD

24 Q Mr. Kitchens, what were you doing back in 1993? What
25 were you doing for a living?

1 **A** I was employed with the Fairfield County Sheriff's
2 Department as an investigator.

3 **Q** At that time how long had you been employed by the
4 Fairfield County Sheriff's Office?

5 **A** It had been since '84 until '93.

6 **Q** Did you continue to be employed by the Fairfield
7 County Sheriff's Office for some time after February
8 of 1993?

9 **A** Yes.

10 **Q** When did you retire from the Fairfield County
11 Sheriff's Office?

12 **A** I left the department between '96 or '97.

13 **Q** Or. Were you -- you might know; you might not. Were
14 you on shift on February 15th of 1993, or were you on
15 call? Or do you recall?

16 **A** I was on shift.

17 **Q** Did you along with other officers, both investigators
18 and uniformed deputies, respond to Golf Course Road
19 concerning a found person?

20 **A** Yes.

21 **Q** Now, first of all, what date was it that this call
22 came in about a person on Golf Course Road in a
23 house?

24 **A** It was on February the 15th of '93 at about 5:00.

25 **Q** Did you actually go to the scene?

- 1 **A** Yes. .
- 2 **Q** Did a lot of folks in an official capacity go to the
- 3 scene?
- 4 **A** Yes.
- 5 **Q** Did EMS go?
- 6 **A** Yes.
- 7 **Q** Did the coroner come?
- 8 **A** No. I believe Robbie Dean, the paramedic, arrived.
- 9 **Q** Did eventually the State law enforcement dispatch a
- 10 crime scene unit to process the scene?
- 11 **A** Yes.
- 12 **Q** Now, where was this crime scene?
- 13 **A** It was off of Golf Course Road at the residence of
- 14 Audre Belton.
- 15 **Q** Prior to this event did you even know who Audre
- 16 Belton was?
- 17 **A** Yes.
- 18 **Q** Did you know this young lady?
- 19 **A** Yes.
- 20 **Q** Did you go inside the house at some point?
- 21 **A** Yes, I did.
- 22 **Q** Well, when responding officers -- how soon after
- 23 this -- in the line of succession of the people who
- 24 arrived from the first to last, where were you in
- 25 that process? One of the first or one of the last?

1 **A** No. I was about one of the first. The uniformed
2 officer responded to the call, and then as an
3 investigator, I was the chief investigator at that
4 time, he called me out to the scene.

5 **Q** Okay. What was going on out there when you got
6 there?

7 **A** Well, they had the house surrounded. The door that's
8 on the garage was open. And I went in to just
9 investigate the crime scene.

10 **Q** The door in the garage. You mean the carport door to
11 go into the house?

12 **A** Yes.

13 **Q** Had the house been cleared, meaning they knew there
14 wasn't anybody living in the house --

15 **A** Yes.

16 **Q** -- alive in the house that wasn't supposed to be
17 there?

18 **A** Yes. It had been cleared by the responding officers.

19 **Q** Were you made aware that there was what appeared to
20 be a dead body inside that house?

21 **A** Yes.

22 **Q** Was the scene secured shortly after officers arrived?

23 **A** Yes, sir.

24 **Q** And when you say secured, when I say secured, tell
25 the jury what we're talking about?

1 **A** Well, secured just means they have gone through the
2 house and they have cleared the house to make sure
3 there is no person in there that might have been
4 there, like a suspect, and just had it cordoned off
5 to make sure that no one else would contaminate the
6 area.

7 **Q** And was access to the house and a certain area
8 outside the house restricted --

9 **A** Yes.

10 **Q** -- to people who had a need to be there?

11 **A** Yes, sir.

12 **Q** Did it stay that way until the SLED crime scene folks
13 got up here?

14 **A** Yes, it did.

15 **Q** Did they take over when they got up here?

16 **A** Yes.

17 **Q** Now, did you have occasion to be both outside and
18 inside the house --

19 **A** Yes.

20 **Q** -- during the evening of February 15th of '93?

21 **A** Yes, I did.

22 **Q** I'm going to show you -- let me ask you this
23 question. Is this the house on Golf Course Road that
24 was Audre Belton's in Fairfield County?

25 **A** Yes, it is.

1 Q Do you recognize what's in State's Exhibit No. 1 for
2 identification?

3 A Yes, sir. This is the residence where Ms. Belton
4 used to live.

5 Q The front door?

6 A The front door. Yes, sir.

7 Q I'm going to show you State's Exhibit No. 2 for
8 identification purposes. Let me ask you a couple of
9 general questions about this. Put all five of them
10 in your hands and look at them again. You've been
11 looking at them over at our table, but take a minute
12 to look at all of them.

13 A Okay.

14 Q Are you familiar with what's shown in all five of
15 those photographs?

16 A Yes, I am.

17 Q Did you with your own eyes see the things that are
18 depicted in those photographs?

19 A Yes, I did.

20 Q Do you know what date those photographs were taken?

21 A These was taken on February the 15th at the time that
22 she was discovered.

23 Q Of '93?

24 A Yes, sir.

25 Q And whose pictures are those?

1 **A** SLED.

2 **Q** Are they embossed with S-L-E-D stamped into them at
3 the bottom?

4 **A** Yes, sir. They're right here on the back of it.

5 **Q** All right, sir. Now, do those pictures accurately
6 depict what is shown in each one of those pictures as
7 you witnessed with your eyes?

8 **A** Yes, sir.

9 **Q** All right. Hand them back to me, if you would, just
10 a minute. Tell me what State's No. 1 for ID. is?
11 What view is that? What is that a view of?

12 **A** Okay. This is the view here of Ms. Belton's house
13 off of Golf Course Road.

14 **Q** State's No. 2 for identification, what's that a
15 picture of?

16 **A** This is the Camaro that's parked underneath the
17 garage that Ms. Belton drove.

18 **MS. SMALLS:** Your Honor, I object to him
19 publishing it to the jury since it's not in evidence.

20 **Q** Don't show it to them.

21 **A** Okay.

22 **Q** Just tell me what's happening.

23 **A** All right.

24 **Q** Tell us again what that picture is, the second one?

25 **A** Okay. It's the Camaro that Ms. Belton drove, and

- 1 it's parked underneath the garage.
- 2 Q And was it parked there when you first got to the
- 3 scene?
- 4 A Yes, sir.
- 5 Q State's No. 3 for identification, what's that a
- 6 picture of?
- 7 A Okay. This is the front view of the same Camaro that
- 8 Ms. Belton drove.
- 9 Q Okay.
- 10 A Parked in this garage.
- 11 Q State's No. 4, what's that a picture of?
- 12 A This is the picture of Ms. Belton lying down on her
- 13 back in the bedroom.
- 14 Q Let me ask you a couple of detailed questions about
- 15 that scene, not necessarily that photograph.
- 16 A Okay.
- 17 Q Did you get a look at the body that was in that back
- 18 bedroom?
- 19 A Yes, I did.
- 20 Q Did you recognize the face, the pictures, the form of
- 21 that body?
- 22 A Yes.
- 23 Q And who was that dead person in that house?
- 24 A Ms. Audre Belton.
- 25 Q Do you know that from personal knowledge?

1 **A** Yes, sir.

2 **Q** Now, State's No. 5 for identification, what's that a
3 picture of?

4 **A** This is the green Army jacket that was located in the
5 front bedroom on the floor of Ms. Belton's residence.

6 **Q** All right. Now, you say front bedroom. Is that the
7 bedroom where Ms. Belton's body was found?

8 **A** No, sir. This is a different one. As you go down
9 the hallway, where the body was found was this
10 bedroom on the back side of the house, and this Army
11 jacket was found in the bedroom on the front side of
12 the house.

13 **Q** Now, --

14 **A** In the front bedroom.

15 **Q** -- from a layman's standpoint, I'm not asking you as
16 a forensic person at this point, but is there
17 anything on that jacket shown in that picture that
18 was of significance to you when you saw the jacket
19 lying in the floor in the front bedroom?

20 **A** It had blood around the collar of the jacket.

21 **MR. BARFIELD:** Okay. Your Honor, at this time
22 I'm going to offer these exhibits, State's 1, 2, 3, 4
23 and 5 for identification as State's Exhibits 1
24 through 5.

25 **MS. SMALLS:** Without objection.

1 **THE COURT:** They're admitted without objection.

2 (WHEREUPON, State's Exhibit No. 1 is admitted
3 into evidence.)

4 (WHEREUPON, State's Exhibit No. 2 is admitted
5 into evidence.)

6 (WHEREUPON, State's Exhibit No. 3 is admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 4 is admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 5 is admitted
11 into evidence.)

12 **Q** Just a couple of other miscellaneous questions and
13 I'll have you back up at some point later on in the
14 trial. You said you retired in '96 or '97?

15 **A** Yes. This was Fairfield County. Then I went down to
16 Richland County, worked there as an investigator.

17 **Q** Was this still an open -- was the death of Audre Ann
18 Belton still an open file, an open investigation when
19 you left the Fairfield County Sheriff's Office in
20 either '96 or '97?

21 **A** Yes, it was.

22 **Q** Okay. Nobody had been arrested for it by the time
23 you left and went to Richland County?

24 **A** No, sir.

25 **Q** That's all I have. I reserve the right to call him

1 later as needed. But that's all the questions I have
2 right now.

3 **THE COURT:** Ms. Smalls.

4 **MS. SMALLS:** May it please the Court.

5 CROSS EXAMINATION

6 **BY MS. SMALLS**

7 **Q** Investigator Kitchens, so were you the main case
8 investigator in the beginning?

9 **A** Yes, ma'am.

10 **Q** Okay. And you left I think you said in 1996?

11 **A** I believe it was '96 or '97. I'm not for sure.

12 **Q** So you would be considered actually the lead
13 investigator?

14 **A** Yes.

15 **Q** And as the lead investigator, you conducted several
16 interviews --

17 **A** Yes, I did.

18 **Q** -- of persons? Approximately 50 or more?

19 **A** Probably. I'm not for sure of the number, but it was
20 a lot.

21 **Q** And as part of your interviews, you did an interview
22 of some and you took statements of some, did you not?

23 **A** Yes, ma'am.

24 **Q** What's the difference between interviewing someone
25 and taking a statement?

1 **A** Well, interviewing is just when you have them come
2 in, you sit down and you talk with them to see if
3 they may have any knowledge of the crime that may
4 have been committed. And taking a statement is when
5 they actually know that a crime -- they've actually
6 seen what has happened and then they give you a
7 statement.

8 **Q** So when you were actually conducting the interview,
9 you were just gathering information? Is that what
10 you're saying?

11 **A** Yes, ma'am. Trying to gather information.

12 **Q** But if you determine that the information is
13 valuable, then you reduce it to a statement. Is that
14 correct?

15 **A** Yes, ma'am.

16 **Q** And when you reduce it to a statement, you
17 actually -- either you or either they write it and
18 you actually have that person sign it, correct?

19 **A** Yes, ma'am.

20 **Q** And the reason you do that is to preserve it for
21 whenever they may have to come and testify, to use
22 that statement to refresh their memories with their
23 signature?

24 **A** That's correct.

25 **Q** You testified earlier that you knew Ms. Belton prior

1 to this incident, did you not?

2 A Yes, ma'am.

3 Q So you were familiar with her and her family?

4 A Sort of. Yes.

5 Q Okay. Now, you indicated earlier that you talked to
6 a number of people in connection with this case?

7 A Yes.

8 Q And you've taken those interviews and statements?

9 A That's correct.

10 Q Now, when you left inbetween 1996 and 1997, you had
11 already taken several statements?

12 A Yes, ma'am.

13 Q And you made that a part of the file?

14 A Yes, ma'am.

15 Q And when you left you handed that information over to
16 the next investigator?

17 A To Captain Craig.

18 Q Okay. So in 1993, Captain Craig, was he working with
19 you during that time period?

20 A Yes.

21 Q Do you recall the first time you actually took a
22 statement in this case; not who you took it from, but
23 when you took a statement, not interviews but
24 actually a statement from anybody?

25 A Not exactly. I know there were some statements

1 taken, but I don't know exactly when it was.

2 Q As the lead investigator, did you receive information
3 about this case prior to taking a statement?

4 A Yes, ma'am.

5 Q Did you receive a Crimestoppers tip?

6 A There was many peoples [sic] around Fairfield County
7 in that general area, I mean, just around Fairfield
8 County would call in and give information. And we
9 would ask them to come in or I would go out and sit
10 and talk to those peoples [sic]. And if I thought it
11 was important enough to take a statement, I would do
12 it. But if I felt it wasn't important enough, I just
13 notated it in my notes.

14 Q No. What I'm asking you, as a part of your job as
15 the lead investigator, was there a Crimestoppers tip
16 in this case? Did someone call you and make an
17 anonymous tip with information involving this case?

18 A No. Not a Crimestop. No.

19 Q Not a Crimestop?

20 A No, ma'am.

21 Q So did you ever receive any anonymous call?

22 A I received calls; but, I mean, it wasn't offered
23 through like Crimestoppers on TV. Just people just
24 called the Sheriff's Department and just gave out
25 information.

1 Q So to your knowledge, there was never a Crimestoppers
2 tip?

3 A No, ma'am.

4 Q Beg the Court's indulgence.

5 **THE COURT:** All right.

6 Q May 4th of 1993, you still would have been in the
7 capacity of the lead investigator, were you not, on
8 in case?

9 A Yes, ma'am.

10 Q So you didn't receive any information around
11 10:20 a.m. or so calling you with information
12 regarding this case?

13 A I can't remember, ma'am. That's been 16 years. I
14 could possibly look at a report and refresh my
15 memory.

16 Q Okay. Do you recall receiving information from
17 someone that a white male between the ages of 30 or
18 40 years of age had committed the crime?

19 A Ma'am, I received information, plenty of information
20 from different peoples [sic] giving names of
21 different people that may have committed the crime.
22 Yes, I received that. But I don't remember if I
23 received one from a white male or not.

24 Q Not the question of who called. Do you recall on
25 May 4th, 1993, at approximately 10:20 a.m. a call

1 being made indicating that the person that committed
2 the crime was a white male between the ages of 30 and
3 40 years of age with initials JSO?

4 **A** Oh. Yes, ma'am. I remember that.

5 **Q** Okay. And in addition to that, that person indicated
6 to you that you could find the person, the gun, that
7 person was familiar with the person's gun, was he
8 not?

9 **A** I think so, ma'am.

10 **Q** Tell the Court what efforts you used to investigate
11 that call personally?

12 **A** Well, I -- I'm not for sure where this JSO person
13 lived or where he worked, but I remember running that
14 lead down. I don't remember locating this person. I
15 don't think I did. And I don't think I determined
16 what the JSO stands for.

17 **Q** Do you recall what efforts you made to identify this
18 person, if any?

19 **A** Yeah. I made effort. I asked around and, you know,
20 seen if anyone knew who had those initials of JSO.
21 But I'm not for sure if I came up with anything or
22 not, if I talked to that person and I talked with him
23 in person or not.

24 **Q** Okay. So now after refreshing your memory, you
25 actually do recall a Crimestoppers tip being made of

1 May 1993?

2 **A** Yes, ma'am.

3 **Q** Okay. And that was less than three months after the
4 murder, correct?

5 **A** Yes, ma'am.

6 **Q** Beg the Court's indulgence.

7 **THE COURT:** All right.

8 **Q** Just briefly. As part of your investigation, I think
9 you say you talked to a number of people. In
10 addition, did you talk to the neighbors of Ms.
11 Belton?

12 **A** Oh, yes.

13 **Q** Okay. And none of those neighbors indicated to you
14 that they have ever seen Curtis Elgin at Ms. Belton's
15 residence, have they?

16 **A** No.

17 **MS. SMALLS:** Nothing further of this witness at
18 this time.

19 **THE COURT:** Mr. Barfield.

20 REDIRECT EXAMINATION

21 **BY MR. BARFIELD**

22 **Q** During the course of your investigation did you
23 determine whether Curtis Elgin had any business or
24 connections on Golf Course Road?

25 **A** Yes.

1 Q What was that?

2 A He had a girlfriend that lived a few houses down from
3 Ms. Belton that he used to go see all the time.

4 Q On Golf Course Road?

5 A Yes, sir.

6 Q Now, Ms. Smalls was asking you about a Crimestoppers
7 tip. I'm going to give you a blast from the past.

8 A Okay. Thank you.

9 Q Tell me if you recognize what that document is?

10 A This is something came from "Columbia - a Capital
11 Place to Be." And --

12 Q Let me just ask you this question. Is that a waxed
13 paper fax of the Crimestoppers tip that Ms. Smalls
14 was asking you about?

15 A Yes, sir.

16 Q That came to Fairfield County via the Columbia Police
17 Department?

18 A Yes, sir.

19 Q Is it a tip that came into the Columbia Police
20 Department Crimestoppers line?

21 A I believe so, sir.

22 Q All right. The question is this. When you got that
23 information, did you run it out as far as it would
24 go?

25 A Yes, sir.

1 **Q** Did it lead you anywhere in solving the homicide of
2 Audre Belton?

3 **A** No, sir.

4 **Q** Okay. Thank you, sir. Nothing further for
5 Mr. Kitchens.

6 **MS. SMALLS:** Nothing further.

7 **THE COURT:** Thank you. You may step down.

8 **THE WITNESS:** Thank you, sir.

9 **THE COURT:** Ladies and gentlemen, we're getting
10 ready to recess for the day. What I'm getting ready
11 to tell you now is going to be the most difficult
12 thing you've probably ever done; and that is, when
13 you leave here and you go see your family and loved
14 ones, don't tell them what's going on up here.

15 They may know you've been on a jury, drawn or
16 picked or selected on a jury. But if you start to
17 tell them anything about the case, then you really
18 risk the chance that they're going to start telling
19 you what they heard somebody else say that they heard
20 somebody else say about the case.

21 It won't be fair if one side or the other at the
22 end of the day finds out that y'all talked about it
23 or let somebody else talk to you about it. They're
24 going to feel like they got a raw deal, that they
25 didn't get a fair shake.

1 So I'm going to ask you to please tell your
2 family and loved ones that you'll tell them all about
3 it, you'll tell them everything about it once it's
4 all over with in a couple of days. See you back at
5 9:30 in the morning in the jury room.

6 (Jury out at 5:01 p.m.)

7 **THE COURT:** Solicitor.

8 **MR. BARFIELD:** I don't have anything else for
9 the day, but there is another issue that's a little
10 premature, but I want to go ahead and bring it up
11 now. Curtis Elgin was in fact a suspect, was
12 interviewed at least twice as I understand it,
13 non-custodial as I understand it, gave some oral
14 information to investigators which was summarized by
15 them, never confessing to anything, but did say some
16 things that I intend to call investigators up to say
17 that he said, like he knew where the victim lived,
18 had delivered furniture to her mother's house when
19 she was over there, things like that. There are some
20 little bits and pieces of stuff he told them that I
21 intend to offer some evidence of.

22 That's just food for thought for Ms. Smalls. If
23 it's a Jackson V. Denno situation, I need to declare
24 that. I really don't think it is because he wasn't
25 under arrest, he wasn't in custody and didn't really

1 confess to anything. He just gave some information
2 that I think supports my theory of the case.

3 **MS. SMALLS:** Of course, Your Honor, I don't know
4 whether I'm going to object until I actually hear it.
5 So we'll just have to see. I don't know.

6 **THE COURT:** Okay. Anything else?

7 **MS. SMALLS:** Nothing else from the defense at
8 this time.

9 **THE COURT:** Anything from the State?

10 **MR. BARFIELD:** Nothing right now, Your Honor.

11 **THE COURT:** All right. We'll be in recess until
12 9:30 tomorrow morning.

13 (Whereupon, the proceedings are concluded for
14 the day, to be reconvened tomorrow morning)
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Tuesday, July 7, 2009

MR. BARFIELD: If I find Ms. Smalls, can we meet you in chambers?

THE COURT: Sure. I saw her earlier. She is here.

(Whereupon, a break is taken)

THE COURT: Please be seated again, ladies and gentlemen. Are you ready for the jury?

MR. BARFIELD: The State's ready.

THE COURT: Do you need to do your timeline thing first or not? Do we need to do that while the jury is in the courtroom?

(Whereupon, a side bar conference is had off the record).

MR. BARFIELD: Let me do one more thing. I should have done this before, but we've all been kind of scrambling. I've got a series of photographs, just several. Can I go ahead and just get them marked for identification? I know. I know. But it won't take but a minute. I'll hand them to you and you can just put a sticker on them. It will save us some time.

(WHEREUPON, State's Exhibit No. 6 is marked for identification.)

1 (WHEREUPON, State's Exhibit No. 7 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 8 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 9 is marked for
6 identification.)

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4 identification.)

5 (WHEREUPON, State's Exhibit No. 57 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 58 is marked for
8 identification.)

9 **THE COURT:** Welcome back once again, ladies and
10 gentlemen. And once again, I apologize for the
11 delay. I believe we are though ready to resume the
12 presentation of evidence. Solicitor.

13 **MR. BARFIELD:** I call Robbie Dean. Robert Dean.

14 **THE CLERK:** I need you to raise your right hand.
15 Put your left hand on the Bible.

16 ROBERT F. DEAN, JR., after being duly sworn,
17 testifies as follows:

18 **THE CLERK:** Please be seated. State your name
19 for the record.

20 **THE WITNESS:** Robert F. Dean, Jr.

21 DIRECT EXAMINATION

22 **BY MR. BARFIELD**

23 **Q** Mr. Dean, do you live in Fairfield County or Richland
24 County or actually Kershaw County?

25 **A** Richland County.

1 Q Where are you currently employed?

2 A I am currently employed with Basker Solutions.

3 Q Is that a private business?

4 A Yes.

5 Q And do you have any government employment or
6 part-time government employment right now?

7 A Yes, sir. I'm an investigator with the Richland
8 County Coroner's Office.

9 Q And back in February, specifically February 8th,
10 1993, did you live here in Fairfield County?

11 A Yes, sir, I did.

12 Q And did you have employment here in Fairfield County
13 on February 8th, 1993?

14 A Yes, sir. I was a paramedic with Fairfield County
15 EMS.

16 Q And as a paramedic with Fairfield County EMS, did you
17 get a call along with I presume other emergency
18 services workers to go to a house on Golf Course Road
19 here in Fairfield County in Winnsboro?

20 A Yes, sir, I did.

21 Q Did you respond?

22 A Yes, sir, I did.

23 Q Did you know the nature of the call when you got
24 dispatched?

25 A Initially it was an unknown, but it was a possibility

1 of a gunshot victim.

2 Q Okay. When you got to the scene, were other
3 emergency folks there? Police? Firemen?

4 A Some law enforcement and law enforcement employees
5 were there. Yes, sir.

6 Q And were you the -- did you have a partner with you
7 that day?

8 A Yes, sir, I did.

9 Q And what was his name?

10 A Randy Sisk.

11 Q Did y'all go in an ambulance or --

12 A An ambulance, yes, sir.

13 Q Were you the primary responding paramedic --

14 A Yes, sir.

15 Q -- for this call?

16 A Yes, sir.

17 Q And when you got there, did somebody brief you about
18 what was going?

19 A I can't remember exactly who it was. It was a law
20 enforcement officer that told me that they had a
21 gunshot victim inside that residence.

22 Q And when you were first briefed on the situation --
23 well, first of all, have you reviewed your ambulance
24 run report for this case?

25 A Yes, sir, I have.

- 1 Q And do you remember about what time of day it was
2 that you got dispatched?
- 3 A No, sir. I can't remember exactly what time it was.
4 It was during the day.
- 5 Q All right. Do you have the report with you?
- 6 A Yes, sir.
- 7 Q Do you need to refer to it --
- 8 A Yes, sir --
- 9 Q -- to refresh your memory on the time?
- 10 A Yes, sir. It was about 5:00 in the evening.
- 11 Q I'm sorry. Say that again?
- 12 A 5:00 in the evening.
- 13 Q All right. And when you got there, did it appear
14 that the scene had been secured?
- 15 A Yes, sir.
- 16 Q Do you recall whether any crime scene tape had been
17 put up at that point?
- 18 A No, sir. I do not recall.
- 19 Q All right. At some point were you allowed access to
20 the house to attend to the person that you had been
21 called to attend to?
- 22 A Yes, sir. Yeah. I was not hindered.
- 23 Q Did you go inside the house?
- 24 A Yes, sir, I did.
- 25 Q Were you directed to a particular location inside the

1 house?

2 A Yes, sir. A small bedroom in the back of the
3 residence.

4 Q And did you find a patient in the house?

5 A Yes, sir. I found a young lady laying supine, flat
6 on her back, in the floor of the bedroom.

7 Q I'm going to show you what's been introduced into
8 evidence as State's Exhibit No. 4. Do you recognize
9 what's shown in that photograph?

10 A Yes, sir, I do.

11 Q Is that the patient that you're referring to in your
12 testimony?

13 A Yes, sir.

14 Q And is that the condition that her body was in when
15 you first saw it?

16 A Yes, sir.

17 Q What did you undertake to do concerning this patient?

18 A To ascertain if there was any way I could -- if she
19 was a viable patient which I could save. Upon my
20 assessment of her I found her to be pulseless and
21 inactive, which there was no heartbeat, no
22 respiratory effort at all. Upon further exam I
23 noticed that her mucous membranes, her eyes and nose
24 and mouth, were dry, and her body was conditioned to
25 ambient temperature. Looking at the skin condition

1 and mottled, I knew that she had been deceased for
2 several days.

3 Q And was she in fact dead?

4 A Yes, sir. She was dead.

5 Q All right. Did you do anything further for the
6 patient at that point?

7 A No, sir. After I ascertained death I secured myself
8 and my partner out, not to contaminate the scene any
9 further.

10 Q Did the coroner arrive at some point while you were
11 there?

12 A Yes, sir. Joe Silvia did respond.

13 Q Okay. And was the body transported away from the
14 scene?

15 A Yes, sir.

16 Q Did you participate in the transport or did
17 somebody --

18 A No, sir, I did not.

19 Q Were you there when the body was transported?

20 A No, sir, I was not.

21 **COURT REPORTER:** Excuse me, Your Honor. If the
22 witness could wait to hear the end of the question,
23 please, because there's a lot of overlap and it's
24 difficult.

25 **THE COURT:** Do you understand?

1 **THE WITNESS:** Yes, sir.

2 **COURT REPORTER:** Thank you.

3 **Q** That's my fault. And I'm talking too fast. Were you
4 there when the body was removed from the scene?

5 **A** No, I was not.

6 **Q** Did you stay there for some period of time after you
7 initially tended to the body?

8 **A** No, sir. Actually after I released the body to the
9 coroner we went back into service.

10 **Q** Is there any doubt in your mind that the patient
11 that's shown in State's Exhibit No. 4 was in fact
12 deceased?

13 **A** No doubt at all.

14 **Q** All right. Thank you. Answer anything Ms. Smalls
15 has, please.

16 **THE COURT:** Ms. Smalls.

17 **MS. SMALLS:** No questions of this witness.

18 **THE COURT:** Thank you, sir. You may step down.

19 **THE WITNESS:** Thank you, sir.

20 **THE COURT:** May Mr. Dean be excused? You may be
21 excused from your subpoena, Mr. Dean. Call your next
22 witness.

23 **MR. BARFIELD:** David Black.

24 DAVID W. BLACK, after being duly sworn,
25 testifies as follows:

1 **THE CLERK:** I need you to state your name for
2 the record.

3 **THE WITNESS:** Yes, ma'am. My name is David
4 Warren Black. My last name is spelled B-L-A-C-K.

5 DIRECT EXAMINATION

6 **BY MR. BARFIELD**

7 **Q** Mr. Black, I'm going to ask you to do something
8 before I start asking you questions. And I meant to
9 do this earlier. Open your file up and pull out your
10 sketches. If you would just separate them for me, if
11 you don't mind doing that.

12 **A** Yes, sir.

13 **Q** And I guess before you put it back together,
14 you're -- well, we'll get to that in a little bit.
15 Leave it apart because I'm going to ask you to pull
16 out something in a little bit.

17 **A** Yes, sir.

18 **Q** By whom are you currently employed, Mr. Black?

19 **A** I'm employed with the South Carolina State Law
20 Enforcement Division, better known as SLED.

21 **Q** And how long have you been employed by SLED?

22 **A** I've been employed by SLED for over 17 years.

23 **Q** Were you employed by SLED on February 15th of 1993?

24 **A** Yes, sir, I was.

25 **Q** What is your current job with SLED?

1 A I am a senior agent assigned to the latent print
2 department with SLED.

3 Q Do you still do crime scene investigations?

4 A At this time I do not. There has been some
5 reorganization at SLED. When I started at SLED, it
6 was known as the latent print and crime scene
7 department. You had to do, or I had to be a latent
8 print examiner, also do crime scene investigation,
9 crime scene reconstruction. That has since been
10 separated. The crime scene personnel are now
11 assigned to the various regions throughout the state,
12 and what is left is the latent print department.

13 Q And on February 15th of 1993, were you a crime
14 scene/latent print agent with the State Law
15 Enforcement Division?

16 A Yes, sir, I was.

17 Q And in connection with your employment in that
18 capacity in 1993, did you I guess on a fairly regular
19 basis get called out to assist local law enforcement
20 agencies to process crime scenes?

21 A Yes, sir, I did.

22 Q When did SLED reorganize and you no longer were a
23 crime scene agent? Within the last few months?

24 A Yes, sir. Well, I spent -- I have a total of 14
25 years as a latent print examiner and crime scene

1 investigator, three of those years with the Richland
2 County Sheriff's Office, eleven of those years with
3 SLED. When I left the latent print crime scene
4 department I had an opportunity to go to the firearms
5 department where I was a firearms examiner for six
6 years.

7 The reorganization took place. I was
8 transferred -- I was requested by the lab director to
9 return to the newly formed latent print department
10 because that department had lost a great deal of its
11 expertise. So in March of 2009 of this year is when
12 I returned back to the latent print department. It
13 actually -- the process occurred the latter part of
14 2008, is when they began the actual transformation.

15 Q And your work with the Richland County Sheriff's
16 Office was before SLED or during a hiatus from SLED?

17 A It was prior to SLED. I worked at the Richland
18 County Sheriff's Office seven years, four years in
19 uniformed patrol, three years doing the latent print
20 crime scene work.

21 Q Now, over the course of your work as a crime scene
22 investigator over the years, you got any idea how
23 many crime scenes you got called out to go process?

24 A What I can tell you, and this is just a rough
25 guesstimate, my last year at the Richland County

1 Sheriff's Office doing the crime scene work, though
2 most of those were -- approximately 60 percent of the
3 calls were what were classified as property crime,
4 40 percent being violent crime which include
5 homicides, I ran 600 calls my last year at the
6 Richland County Sheriff's Office.

7 With SLED, regardless of your level of
8 expertise, when I started, being the low man on the
9 totem pole, my first year I'd say I ran 175 crime
10 scenes but 125 of those were homicides.

11 Q All right, sir. Now, do you have any expertise that
12 you have been called upon to testify to in the courts
13 of this state concerning latent fingerprint
14 identification?

15 A Yes, sir. In the 14 years or the 14 years doing
16 latent fingerprint work in the General Sessions
17 courts of South Carolina, in federal court and
18 military courts, I have qualified and testified as an
19 expert in latent prints over 100 times.

20 Q Have you ever been offered as an expert in latent
21 fingerprint identification in a court anywhere and
22 been denied qualification as an expert?

23 A No, sir. Not to my knowledge. No.

24 MR. BARFIELD: Okay. Your Honor, at this time
25 I'd offer Senior Agent Black as an expert witness in

1 latent fingerprint identification.

2 **THE COURT:** Ms. Smalls?

3 **MS. SMALLS:** Without objection.

4 **THE COURT:** The motion is granted. Ladies and
5 gentlemen of the jury, let me just take one moment to
6 explain what's just happened. The Court has just
7 qualified this witness as an expert witness.
8 Normally witnesses are restricted in their testimony
9 as to what they have seen, heard, smelled, something
10 they have firsthand knowledge of. Witnesses who are
11 qualified as expert witnesses though are permitted to
12 give their opinions about matters and they're
13 qualified as experts based on special training that
14 they have received; generally speaking, at any rate.

15 You receive the testimony of an expert
16 witness -- and I'll tell you more about this later --
17 just as though you receive the testimony of any
18 witness. You decide what portion of the testimony to
19 believe; all of it, none of it, or part of it. Thank
20 you, Solicitor. Proceed.

21 **Q** Agent Black, I'm going to ask you questions, some
22 general questions about two separate issues, number
23 one, crime scene investigation; and, number two,
24 latent fingerprint identification. So tell the jury
25 basically as a crime scene agent, and specifically I

1 guess relating to this case but not the details of
2 this case at this point, what is your role and
3 function when you get dispatched by the State Law
4 Enforcement Division to assist a local agency in a
5 crime scene investigation? What is your general
6 purpose in doing that?

7 **A** When we respond to a crime scene, what we're
8 basically there for is to document the crime scene.
9 The crime scene documentation is done through
10 photography, both general photography as we arrive,
11 as the scene looks when we're there. Then there may
12 be some mid range photography if we're seeing
13 something in particular we want to focus on, and then
14 any close up photograph to get a better clear picture
15 of what's there.

16 Also we do documentation through some diagrams.
17 We make notes on a run sheet, information. We're
18 there to basically identify any potential forensic
19 evidence, preserve that evidence, collect that
20 evidence. And we'll take it back with us to the SLED
21 forensic laboratory in Columbia for whatever
22 department to do whatever work they need to do with
23 that particular piece of evidence.

24 We also assist the locals; for example, if a
25 search needs to be done or any other type legal

1 matters that need to take place.

2 As the latent print examiner, we also not only
3 process the scene for any impression evidence,
4 whether it's fingerprints, footwear, tire
5 impressions, but we also would take any evidence back
6 and process that also for latent print evidence.

7 Q All right, sir. If you collect evidence -- well, let
8 me back up. In this case did -- we're going to get
9 into the detail later. But did you collect some
10 latent prints which we'll define after a while? Did
11 you collect some latent prints and photograph some
12 latent prints?

13 A Yes, sir, I did.

14 Q And with those items of evidence, did you actually
15 take them back to the SLED lab and do the work on
16 them yourself?

17 A Yes, sir, I did.

18 Q Generally speaking, if you collect evidence that is
19 not within your expertise; for example, something
20 that's not latent prints and something that you're
21 not personally going to work on in the lab, do you
22 transfer it over to whatever section of the SLED lab
23 is going to work on it?

24 A Yes, sir, I do. And in every case that I work, crime
25 scene that I work, the evidence will be brought back.

1 It will be locked in by me into what's referred to as
2 evidence control, the evidence log-in area. And from
3 there it will be routed to whichever department it
4 needs to go through for whatever forensic exam needs
5 to be conducted.

6 Q Now, if the local agency subsequent to your
7 processing of the crime scene comes into possession
8 of additional evidence in the case, does it get
9 submitted to SLED and if it's something that you're
10 going to work on end up in your hands?

11 A Yes, sir. That is correct.

12 Q Now, did you and other crime scene latent print
13 agents get dispatched by SLED to come to Fairfield
14 County on Golf Course Road sometime late afternoon,
15 early evening of February 15 of 1993?

16 A Yes, sir. As a matter of fact, I spoke with the
17 dispatcher, a Ms. Woodard, with the Fairfield County
18 Sheriff's Office at 5:10 that afternoon on the 15th.

19 Q Did you arrive here at Fairfield County sometime
20 thereafter to begin your work in this case?

21 A Yes, sir. I, also Larry Gainey who was my backup for
22 the call, and also Ms. Robin Whitmire who was with at
23 that time the serology department which is now known
24 as the DNA department with SLED.

25 Q Now, from a general standpoint, from your experience

1 in answering calls for local agencies to process
2 crime scenes, when a decision is made to call in a
3 crime scene unit from SLED, what does the local
4 agency do before y'all get there, from a general
5 standpoint?

6 **A** General standpoint, they secure the scene. In this
7 case the scene was secured by the local agency. They
8 will -- we'll usually ask them to begin any type of,
9 you know, crime scene log, who has been in the scene,
10 near the scene, that sort of thing. They may also
11 begin their field investigation where they may start
12 interviewing people and that sort of thing.

13 **Q** When you got to this scene, you and the other agents,
14 was it locked down?

15 **A** Yes, sir. It was secure when I arrived on the scene.

16 **Q** At any time during your investigation of this scene,
17 did you see anything that gave you any concerns about
18 the security or integrity of the scene?

19 **A** None whatsoever. No, sir.

20 **Q** Now, describe generally speaking what the scene was?
21 A house? A business? What was it?

22 **A** It was a residence. It was a brick home. It had a
23 carport. The home was immaculate. It was very well
24 kept, clean. Things -- my -- from my personal
25 experience, my wife is very organized. The person

1 who owned the house, very organized; I mean, very
2 well kept.

3 Q I'm going to show you some photographs in a moment.
4 I'm showing you what has been introduced into
5 evidence as State's Nos. 1 through 5 in evidence as
6 exhibits. Just tell me if you're familiar with those
7 photographs?

8 A Yes, sir, I am.

9 Q Are they photographs of the scene, certain parts of
10 the scene that we're talking about right now?

11 A Yes, sir, they are.

12 Q Now let's talk about history just a little bit. SLED
13 doesn't do it this way any more, do you? The
14 pictures?

15 A No, sir. Things have changed.

16 Q How do you do it now?

17 A With technology and a lot of things that are done,
18 maybe actually put on a CD, they're actually put on
19 disks. The cameras are different now. They use a
20 lot more digital photography, and, you know, video
21 recording and that sort of thing.

22 Q Now, these pictures appear to have embossing on them,
23 each of them?

24 A Yes, sir.

25 Q Could you explain to the jury what the embossing is

1 that comes up on those pictures?

2 **A** Yes, sir. On each photograph that is taken with a
3 case, you'll find embossed on the photograph S-L-E-D
4 and also a laboratory number. In this case the
5 laboratory number that was assigned this case is
6 L-932667. Anything that came in with this case will
7 have that lab number. And in particular if the items
8 of evidence are submitted, an item number, evidence
9 number will be assigned to that item. In the case of
10 photographs, though an item number is not assigned to
11 each individual photograph, but the SLED lab number
12 is put on each photograph to identify what scene it's
13 connected to.

14 **Q** Now, when reports are generated by SLED laboratory
15 personnel, does that same SLED lab number appear on
16 those reports?

17 **A** Yes, sir, it does.

18 **Q** All right. Now I'm going to hand you some additional
19 photographs which are marked for identification
20 purposes, State's Exhibit Nos. 6 through 11. Well,
21 let me back up. Let me ask you another general
22 question. These SLED embossed photographs, were they
23 taken by one or more members of the SLED crime scene
24 team that came up to Golf Course Road on February 15
25 of '93?

1 **A** Yes, sir. The ones I would have taken, the majority
2 of the photographs; but it's also very likely and
3 possible that who is now Major Larry Gainey with SLED
4 who is my backup may have also taken the photograph.
5 We would have been the two taking any of these
6 photographs.

7 **Q** And today you have your own set of these pictures.
8 Is that correct?

9 **A** Yes, sir, I do; in my file.

10 **Q** And today did you and I earlier this morning review
11 this stack of pictures, including the ones I just
12 showed you this morning?

13 **A** Yes, sir, we did.

14 **Q** And do all of what -- we'll talk about what the
15 pictures are of in a minute. But do all of these
16 pictures accurately depict what is shown as the
17 subject of the pictures?

18 **A** Yes, sir, they do.

19 **Q** Now, I'm going to ask you -- I don't want to make
20 this too tedious if I can help it. But I'm just
21 going to hold it up and get you to tell, what is that
22 a picture of?

23 **A** That is a picture of the residence on Golf Course
24 Road. It is the carport shown on the side and you
25 can see a vehicle in the carport.

1 Q And that's State's No. 6 for ID. I'm showing you
2 State's No. 7 for ID. What is that?

3 A That is the rear of the residence. It's showing in
4 particular an open door which is at the carport. It
5 leads into the kitchen area of the house. And you
6 can also see a back window.

7 Q All right, sir. I'm showing you State's No. 8 for
8 identification. What part of the house is that?

9 A This is another window that's at the rear of the
10 home.

11 Q And as a matter of fact, in particular, below this
12 window which is another photograph, there's a screen
13 on the ground. Is there a screen on that window in
14 this photograph?

15 A In that particular photograph, no, sir.

16 Q State's No. 9 for identification, is that a backed up
17 picture, a farther away picture of the back of the
18 house?

19 A Yes, sir, it is. It's the same window that I
20 referred to earlier. You can see an air conditioning
21 unit and next to the air conditioning unit you can
22 see a screen on the ground.

23 Q State's No. 10 for identification, what is that a
24 picture of?

25 A That is a close-up photograph of the screen on the

1 ground below the window near the air conditioning
2 unit.

3 Q State's No. 11, what is that innocuous-looking
4 photograph?

5 A That's just a side shot of the house on the opposite
6 side that would be on the opposite side of the
7 carport on the other end of the house.

8 MR. BARFIELD: Your Honor, after Ms. Smalls has
9 had a chance to look at them, I would offer them as
10 State's Exhibit Nos. 6 through 11 I believe they are.

11 MS. SMALLS: Without objection.

12 MR. BARFIELD: We offer them, I think she said
13 without objection.

14 THE COURT: They're admitted without objection.

15 (WHEREUPON, State's Exhibit No. 6 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 7 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 8 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 9 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 10 is admitted
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 11 is admitted
2 into evidence.)

3 Q Did you and the crime scene team do an inspection of
4 the exterior of the house?

5 A Yes, sir, we did. If I may, one of the things we do
6 when we arrive on the scene after getting some
7 information from the local investigators, we do what
8 is known as a walk-through which includes an
9 inspection on the outside of the residence, also the
10 inside of the residence, just to look to see, look at
11 the surroundings, see what we have, see if there's
12 any potential evidence. So, yes, sir; that's one of
13 the things that are done not long after we arrive on
14 the scene.

15 Q If you arrive at a scene that a crime appears to have
16 occurred -- if you arrive at a residence or a
17 building which is a scene and inside which a crime
18 appears to have occurred, do you have any interest in
19 perhaps a point of entry or whether entry was forced
20 or how somebody might have gotten inside the house?

21 A Yes, sir, we do.

22 Q Now, does your exterior examination of the scene
23 include looking for perhaps a point of entry?

24 A Yes, sir, it does.

25 Q Does your interior examination of the scene include

1 looking perhaps for a point of entry?

2 A Yes, sir, it does.

3 Q Now, did you find any point -- were you able to
4 determine in this case on Golf Course Road the point
5 of entry that the person who killed this victim used
6 to get in the house? Could you tell?

7 A I think I'm getting ready to answer your question.
8 During the -- at no time did we find any forcible
9 entry to the residence. Though there was a screen on
10 the ground, the window had not been forced open.
11 That's why we photographed it as we saw it first.
12 And as I say, we -- I'm referring to myself and Major
13 Gainey and Whitmire, whoever else may have been
14 there -- did part of the looking. But there was no
15 indication of any forced entry to the residence.

16 Q Any broken windows?

17 A No broken windows.

18 Q Any broken window locks?

19 A No, sir.

20 Q Any broken doors?

21 A No, sir.

22 Q Any broken door locks?

23 A No, sir.

24 Q Any damaged or pry marked door frames?

25 A No, sir.

1 Q Locking mechanisms?

2 A No, sir.

3 Q Okay. How did you make entry into the house when
4 it's time to go in?

5 A I started where the -- when we arrived on the scene,
6 the storm door was open leading to the kitchen at the
7 carport. As we're walking in, we're photographing.
8 And that would lead me into the kitchen area of the
9 home.

10 Q I show you State's Exhibit No. 12 for identification.
11 What is that a picture of?

12 A This is a picture of a plastic bag that was on the
13 kitchen floor. It was between the oven and the sink.
14 And this particular plastic bag contained some food
15 items.

16 Q Okay. Do you have any idea the source of it or
17 anything other than it was just lying there?

18 A I would be going on memory at this point. From what
19 I understand, it was what I would call somebody's
20 lunch bag that they took with them. They had their
21 meal when they went to work. And that's what it
22 appeared to be, the person's lunch bag that they took
23 with them when they went to work or coming home from
24 work.

25 MR. BARFIELD: I offer No. 12 for ID as State's

1 Exhibit No. 12.

2 **MS. SMALLS:** No objection.

3 **THE COURT:** Without objection.

4 (WHEREUPON, State's Exhibit No. 12 is admitted
5 into evidence.)

6 **Q** I'm going to show you something in a plastic bag.
7 Take it out, if you will. Is it familiar?

8 **A** Yes, sir, it is.

9 **Q** And is that the item that's shown in State's Exhibit
10 No. 12?

11 **A** Yes, sir. And the reason why that I know it is, not
12 only on the plastic bag, the outer plastic container,
13 but on the plastic bag itself you will see a SLED lab
14 number, an item number and my initials, DWB and an L
15 with a circle which is something that I personally
16 put down that represents latents.

17 **Q** Now let me ask you this question about this item.
18 This is in a sealed bag, but it looks like a rat
19 chewed a hole in it, in the outside bag. But it's in
20 a sealed bag. But it appears to be something similar
21 to a Wal-Mart bag or something like that?

22 **A** Yes, sir.

23 **Q** And it's got black stuff all over it?

24 **A** Yes, sir. That's the black fingerprint powder.

25 **Q** Did you put that stuff all over? Or somebody on your

1 team?

2 **A** I'm the one that actually took the evidence back with
3 me and processed it at SLED. Fingerprint powder was
4 one of the things that I used to process it for
5 latents. I also used some chemical means, too.

6 **Q** Did you -- I've got to digress for a minute because
7 we've started talking about fingerprints. Tell the
8 jury briefly what a latent print is?

9 **A** Sure. In law enforcement terminology a latent print
10 is any print either developed or enhanced at a crime
11 scene or evidence associated with a crime scene.

12 **Q** All right. Is it accurate to say that a latent print
13 is one that you normally can't see just by looking?

14 **A** That is correct. Latent in Latin means invisible.
15 And it generally means you cannot see the print. You
16 have to use something, whether it can be oblique
17 light which is simple enough; take your flashlight
18 and shine the light at a particular angle, or using
19 some chemical or some powder to be able to see the
20 print.

21 **Q** Did you check the bag that I've just shown you to see
22 if you could develop any latent prints in any manner?

23 **A** Yes, sir, I did.

24 **Q** And did you find any latent prints on that item in
25 that bag?

1 **A** No, sir, I did not.

2 **Q** Is it easy to get a latent print off a Wal-Mart bag?

3 **A** No, sir. Some surfaces are more conducive for prints
4 than others. For example, if I had just a glass, a
5 drinking glass, generally that is a better surface to
6 work with versus, for example, the wood that you see
7 here.

8 If I touch it, yes, I touched the surface; but
9 because of the surface that it's on, more than likely
10 I would not develop a print on it. It has to do with
11 the wood being a porous surface. And what happens is
12 the sweats and the oils and the greases on your hand
13 are actually absorbed by the wood preventing you from
14 developing any prints on the surface.

15 **Q** All right, sir. Your Honor, at this time I'd offer
16 this package as State's No. 59.

17 **MS. SMALLS:** Without objection.

18 **THE COURT:** Admitted without objection.

19 (WHEREUPON, State's Exhibit No. 59 is marked for
20 identification and received in evidence.)

21 **Q** While I start it, we'll come back to the other stuff
22 in a little bit. We've started talking about prints.
23 Let's just continue with prints.

24 **A** Yes, sir.

25 **Q** Did you examine this scene to see if you could obtain

1 any latent prints anywhere inside, anywhere at the
2 scene, inside or outside?

3 **A** Yes, sir, we did.

4 **Q** Generally speaking, if you came to my house today,
5 would there be fingerprints all over my house?

6 **A** You would think. But this is an honest answer. I
7 wouldn't know until I could see the actual items or
8 what was in your residence or in your business. It
9 depends on the condition of the items. Yeah, I've
10 worked numerous scenes where you could actually see
11 where someone has touched because of all the dust
12 that was present. But because what was happening
13 when the person actually touched, they removed the
14 dust and they actually didn't leave their prints
15 because the prints were actually adhering to the dust
16 versus the surface underneath.

17 In general terms, you probably could find
18 prints, yes, if I went through. You could somewhere.
19 But it again depends on the surface that's touched,
20 and it depends on the condition of the hands and
21 fingers when they touch that surface.

22 **Q** All right. What if, again, generally speaking, you
23 go to a scene and you just find beaucoups of latent
24 prints. Is that a bingo, or does it depend on the
25 quality of the latent print?

1 **A** It depends on the quality of the print. I may
2 develop prints, but depending on the ridge detail and
3 the characteristics that are present in those prints
4 will determine whether or not I can effect
5 identification. I might be able to see where someone
6 has touched a surface but I can't tell you positively
7 who touched the surface.

8 **Q** Now, tell the jury what you're talking about when you
9 say ridge detail. Describe the components of a
10 latent print?

11 **A** Okay.

12 **Q** Or a print that's present on my thumbs right now.
13 What's in a print?

14 **A** If you'll just take a moment, if you'll look at your
15 hand and fingers, from the tips of your fingers to
16 the base of your palms and on the soles of your feet,
17 I'm not going to ask you to take your shoes off now
18 to look, but trust me; but on the soles of your feet
19 you have what's known as friction ridge skin. That
20 friction ridge skin is unique to only those two areas
21 of the human body. These friction ridge skins
22 have -- my granddaddy is a farmer, and whenever he
23 disks fields, he cuts rows. These rows are like the
24 rows in a fingerprint. These skin ridges form rows.
25 And on the top of the rows you have minute sweat

1 pores that are constantly exuding perspiration which
2 is water. And also in the water, the perspiration,
3 are greases, oils and alpha amino acids. And when
4 you touch a surface, those contaminants may transfer
5 to the surface. It may or it may not. It just
6 depends again on the type surface that's being
7 touched and the condition of the surface.

8 Q All right, sir. All right. Are all latent prints
9 identifiable?

10 A No, sir.

11 Q Okay. Now, did you -- skip ahead. If you get a
12 latent print that -- when you do a report, if you
13 take in a latent print and it just ain't good enough,
14 what generally does your report say about that latent
15 print? How do you describe the result of your
16 examination of the print?

17 A At the time that this report was put out and since
18 today there is some different terminology, but it
19 means the same thing. At the time this report was
20 put out, if a print was -- there was ridge detail
21 present but it is not identifiable, we can't identify
22 it to anyone, the terminology used would be "contains
23 insufficient ridge detail for identification". That
24 simply means, yes, there is fingerprints present but
25 because of the poor quality of the print I cannot

1 tell you who placed the print there. There is no way
2 to positively identify who the print belongs to.

3 Q Now, if you get a good latent print that's got
4 sufficient ridge detail to compare to something
5 else --

6 A Yes, sir.

7 Q -- number one, generally speaking, what are you going
8 to compare that good latent print to?

9 A I would have to have what's referred to as known
10 prints, inked standards. This is where someone is
11 actually fingerprinted or palm printed, which is in
12 this case both finger and palm prints. And that's
13 where a thin layer of printer's ink would be applied
14 to the fingers, the thumb and the palms, and they
15 would be rolled onto a recipient card. And that card
16 would have information of the person's biographical
17 information, their name, their sex, their race, their
18 date of birth, Social Security number, things like
19 this.

20 There will also be a signature of the person who
21 is being printed and the one who actually did the
22 printing. So it's a way to positively say these
23 prints belong to this particular individual.

24 Once I have a known standard, I can compare the
25 latent prints which are the unknown from the crime

1 scene or evidence associated with the crime scene to
2 the known prints of whatever individuals, including
3 not only if you have a suspect in mind, but also the
4 victim or any witnesses or anyone that may have had
5 access to that area. If they had access to the area,
6 those are known as elimination prints.

7 Q All right. For example, the sheriff of Fairfield
8 County, if he is in this crime scene and he touched
9 something, you're going to take his prints and see if
10 he matches anything that was in the house?

11 A I'm going to ask if I can take his prints. Yes, sir.

12 Q Okay. Generally speaking, are there two different
13 kinds of sets of fingerprints? Do you understand the
14 question? Regular fingerprints? What is a set of
15 major case prints? Explain the difference in any
16 different types of fingerprinting process.

17 A When you hear just an inked fingerprint card, which
18 you typically think of as what's known as the regular
19 ten-print card, that's where you have the
20 biographical information. And on the card you have
21 certain blocks where it specifies which thumb and
22 which finger is to be rolled into that block. And on
23 the bottom of the card you have what's known as the
24 simultaneous impression where you just have to press
25 down those fingers or thumb again into an assigned

1 block. That's used as a check and balance to make
2 sure the right finger or thumb was rolled in the
3 appropriate block.

4 Major case prints, on the other hand, are much
5 more in depth, has a lot more information. Major
6 case prints are not only going to have your thumb and
7 fingers; it's going to include the fingerprint
8 joints, it's going to include the various area of the
9 palms, whether it's the inner digital area which is
10 right below the fingers, the side of the palm which
11 is known as the hypothenar areas or there are other
12 areas of the palm known as the thenar area.

13 It's going to have all of this information. It
14 can also include the fingerprints where the actual
15 tip is rolled also. So it's a lot more information,
16 a lot more detail.

17 Q Now, at this scene did you recover any latent prints?

18 A Yes, sir, I did.

19 Q Just run through where and whatever you can recall
20 from your file and your reports you recovered latent
21 prints?

22 A I have four latent lift cards. I would need to look
23 underneath those cards to tell you exactly where they
24 came from.

25 Q Okay.

1 **A** Because that information is written on the cards.

2 They came from the scene generally from the area of
3 the two bedrooms. Also there were two photographs
4 taken that were in the doorframe area of one of the
5 bedrooms.

6 **Q** Okay. We're working over there to see if we can find
7 them.

8 **A** Okay.

9 **Q** Were there any palm prints among the latent prints
10 that you lifted?

11 **A** Yes, sir, there were.

12 **Q** One or more?

13 **A** There were a total of two palm prints.

14 **Q** All right. I hesitate to do this, and I might not.
15 But is there some easy way to identify which ones
16 were the --

17 **A** Latents?

18 **Q** -- scene latent prints?

19 **A** Yes, sir. They are eight-and-a-half by
20 five-and-a-half like big index cards.

21 **Q** All right. Take them out of that. I apologize. I
22 know there are ten million things in that folder. Is
23 that your folder? Is that a SLED folder?

24 **A** This is a SLED folder, and it should be all the
25 latent print material from that.

1 Q And let me generally ask you this question as you're
2 flipping through it. If you don't want to answer
3 while you're looking, tell me to wait.

4 A Yes, sir.

5 Q As a result of this investigation, did you come into
6 possession of multiple sets of known standards of
7 many different individuals?

8 A Yes, sir. There were over 85 sets of fingerprints or
9 palm prints that I compared in this case.

10 Q All right. And does that big folder that you've got
11 include as far as you know at least from cursory
12 examination some of the known prints that were sent
13 to SLED to be worked on on this case?

14 A Yes, sir.

15 Q Okay.

16 (Pause)

17 A This folder does contain all the known inked
18 standards, but I do not see the latent lift cards.

19 Q That's fine. We'll look through our stuff and see if
20 we've got something else.

21 A Okay. Sorry.

22 Q No. That's fine. I kind of surprised you with that.
23 How many sets of known prints did you get again?

24 A There were over 85 sets, and most of those were the
25 major case prints, finger and palms.

1 Q And did you know -- do you know that the defendant in
2 this case is Curtis Lee Elgin? Is that name familiar
3 to you?

4 A Yes, sir.

5 Q And does your file and your recollection indicate to
6 you whether known prints from Curtis Lee Elgin were
7 submitted to you for comparison to the latents that
8 you lifted from the scene?

9 A Yes, sir, they were.

10 Q Now, did you compare -- well, first of all, were any
11 of the latents that you lifted characterized by you
12 as insufficient ridge detail?

13 A Yes, sir. Two of the latents were, contained
14 insufficient ridge detail for identification.

15 Q So how many latents did that leave that had
16 sufficient ridge detail from the scene?

17 A I believe a grand total of three because one of the
18 photographs that I took of the latent print I
19 photographed first before I attempted to lift the
20 print because I didn't know if it would lift or not,
21 and it did.

22 Q Okay.

23 A So there was a duplicate of one. But a total of
24 three identifiable prints.

25 Q And was one of them at least a palm print, or is the

1 palm print outside those three that we're talking
2 about?

3 A No, sir. If I'm not mistaken, two of those prints
4 were palm prints. One print was a fingerprint.

5 Q Now, did you over the course of I'm guessing many
6 months --

7 A Yes, sir.

8 Q -- compare the three latent prints that had
9 sufficient ridge detail to everything that got
10 submitted to you, including the 85 plus sets of known
11 prints?

12 A Yes, sir.

13 Q Now, were some of the sets of known prints law
14 enforcement emergency personal elimination type
15 people?

16 A Yes, sir, they were.

17 Q Were some of them to your knowledge family members
18 who discovered the body that was found at the scene?
19 Do you know?

20 A To my knowledge, yes, sir.

21 Q And were some of them, including Curtis Lee Elgin,
22 people that the Sheriff's Office looked at as persons
23 of interest or suspects or whatever else you might
24 want to call them?

25 A Yes, sir.

1 Q Through your fingerprint work in this case, were you
2 able to match the latent prints, the three latents
3 that were good enough to do something with, to
4 anything that was submitted to you, including Curtis
5 Elgin's known prints?

6 A Yes, sir. I matched them to no one.

7 Q Okay. Is that unusual?

8 A No, sir. The areas that we were processing -- and
9 understand it was a case while literally processing
10 from where we entered all the way back to the
11 bedrooms, including those areas not only to collect
12 evidence and process for prints but also using the
13 fingerprint powder, it could have -- based on the
14 location, it could have been anyone who had had
15 access to the premises. I have no way of aging a
16 print. I cannot scientifically tell you how long
17 that developed latent was there. So I have -- that
18 print may have been there for years, for months, for
19 days. I have no way of knowing.

20 Q Okay. Are you also trained and qualified and were
21 you in 1993 to examine footwear impressions that
22 might be found at a crime scene?

23 A Yes, sir, I was. I still am.

24 Q All right. And did you find some footwear
25 impressions at the house on Golf Course Road on

1 February 15th of 1993?

2 A Yes, sir, I did.

3 Q Are there parallels between footwear impression
4 comparison and fingerprint comparison?

5 A Yes, sir. A lot of the techniques that are used to
6 develop or enhance latent prints are also the same
7 methods that are used with footwear, too.

8 Q And when you're comparing a footwear impression from
9 a crime scene, what do you compare it to?

10 A The same thing. We compare it to shoes. What we're
11 specifically looking for is the outsole to the bottom
12 of the shoe. We're looking at the design, the
13 pattern, any wear patterns that may be present in the
14 impression. Also with the shoe there are different
15 things that we look at. But principally, we're
16 looking at the outsole design.

17 Q If I go to some athletic store and buy two sets, two
18 pairs of ASIC running shoes, the same size, the same
19 brand, the same model, are the outsoles going to look
20 about the same?

21 A They should. Yes, sir.

22 Q If you find a footwear impression at a crime scene
23 and end up with an actual pair of shoes to compare it
24 to, how do you know that the footwear impression is
25 actually that pair of shoes that came out of my

1 closet and my house as opposed to the same size that
2 somebody bought at another store across the country?
3 **A** One of the things we do in a footwear exam, which the
4 exception of elimination purposes is not something
5 you can do an exam on the scene. What you have to do
6 is take it back, photograph the shoes, the outsole of
7 the shoes.

8 Actually I do test impressions. I actually put
9 the shoes on, put a protective sleeve on my foot and
10 leg and I put the shoe on. The outsole is powdered
11 with fingerprint powder and we step onto a roll of
12 transparent film which gives you an overlay. And
13 from that overlay you can actually put it over the
14 impression that you have at the scene.

15 And from that overlay you look for things like
16 not only the outsole design but you look at the
17 dimensions of the outsole design, because usually
18 with shoes, maybe not a half size but with a whole
19 size, there is a difference in the dimensions. There
20 can also be differences in how the pattern flows.

21 You also look for things such as wear
22 characteristics. Wear is nothing more than the
23 erosion of the outsole. As you walk and run on the
24 shoe, it's going to change over time. You also look
25 for random identifying characteristics, not only the

1 things that are taken away like the cuts and knicks;
2 but what about things that are added, such as gum,
3 tacks, nails, rocks, things like this. So there's a
4 lot of different things that you look for.

5 Q Now, were you ever -- were any shoes ever submitted
6 to SLED to compare to the footwear impressions you
7 found on this scene subsequent to your work at the
8 crime scene that day?

9 A No, sir.

10 Q When you saw foot -- did you see a whole bunch of
11 tracks in the house, or was it of one impression of
12 somebody?

13 A There were several impressions. In particularly the
14 house, I mentioned earlier about processing the scene
15 with fingerprint powder, not only did we dust the
16 walls, the doors while we were there; we also dusted
17 the floors to see what we could come up with.

18 In one particular room there were some footwear
19 impressions that were developed using black
20 fingerprint powder. Now, none were developed when we
21 later processed the chemical used, amido black,
22 specific for blood. But they were developed with the
23 fingerprint powder in one particular area of the
24 house.

25 Q And did those footwear impressions that were

1 developed in that one particular area of the house
2 appear to be the same foot?

3 **A** They appeared to be the same type shoe.

4 **Q** Okay.

5 **A** And to a particular pattern, working crime scene and
6 being familiar with what law enforcement wear and
7 firefighters wear and EMT's, first responders,
8 emergency personnel wear, they kind of wear the same
9 type shoes. It has the same type outsole design. It
10 was recognized at that point that this may be a first
11 responder, emergency personnel responding to the
12 scene.

13 **Q** And did you do something to try to eliminate those
14 footwear impressions to associate them with people
15 who had business being there as opposed to the person
16 who did the crime?

17 **A** Yes, sir. When we got to a point in time that we
18 could do so, those people that were there, we
19 literally had them at the scene, and we looked at
20 their shoes on the scene. And we were able to
21 eliminate those shoes from the emergency personnel to
22 what was developed in the scene.

23 **Q** When you entered the house, did you notice anything
24 about the environment inside the house?

25 **A** The house appeared to be meticulous, very clean,

1 everything organized and in order.

2 Q Temperature?

3 A Temperature wise, it was cool.

4 Q Did you record the temperature somewhere?

5 A Yes, sir. On my run sheet I actually report the
6 temperature. I looked at the thermostat. The heat
7 was off, and it was shown to be approximately
8 52 degrees inside the house.

9 MR. BARFIELD: Okay. Your Honor, I'm going to
10 get into the photographs. Ms. Smalls has seen these
11 but not necessarily in order. But I'm going to talk
12 about them now. Perhaps it would be a good time for
13 a break. It won't take but just a minute.

14 THE COURT: Do y'all want to take a minute,
15 ladies and gentlemen, to stand up and stretch?

16 (Pause)

17 MR. BARFIELD: Your Honor, Ms. Smalls has looked
18 at these, and they're all marked for identification
19 State's Nos. 13 through 58 I believe. And before I
20 get into them, I'm going to offer them into evidence.
21 I do not believe she has any objection to them.

22 MS. SMALLS: No objection, Your Honor.

23 (WHEREUPON, State's Exhibit No. 13 is admitted
24 into evidence.)
25

1 (WHEREUPON, State's Exhibit No. 14 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 15 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 16 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 17 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 18 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 19 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 20 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 21 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 22 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 23 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 24 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 25 is admitted
24 into evidence.)

25

1	(WHEREUPON, State's Exhibit No. 26	is admitted
2	into evidence.)	
3	(WHEREUPON, State's Exhibit No. 27	is admitted
4	into evidence.)	
5	(WHEREUPON, State's Exhibit No. 28	is admitted
6	into evidence.)	
7	(WHEREUPON, State's Exhibit No. 29	is admitted
8	into evidence.)	
9	(WHEREUPON, State's Exhibit No. 30	is admitted
10	into evidence.)	
11	(WHEREUPON, State's Exhibit No. 31	is admitted
12	into evidence.)	
13	(WHEREUPON, State's Exhibit No. 32	is admitted
14	into evidence.)	
15	(WHEREUPON, State's Exhibit No. 33	is admitted
16	into evidence.)	
17	(WHEREUPON, State's Exhibit No. 34	is admitted
18	into evidence.)	
19	(WHEREUPON, State's Exhibit No. 35	is admitted
20	into evidence.)	
21	(WHEREUPON, State's Exhibit No. 36	is admitted
22	into evidence.)	
23	(WHEREUPON, State's Exhibit No. 37	is admitted
24	into evidence.)	
25		

1 (WHEREUPON, State's Exhibit No. 38 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 39 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 40 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 41 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 42 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 43 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 44 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 45 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 46 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 47 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 48 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 49 is admitted
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 50 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 51 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 52 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 53 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 54 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 55 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 56 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 57 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 58 is admitted
18 into evidence.)

19 Q Agent Black, we're going to come back to this in a
20 minute. But did you find anything within the
21 residence, the crime scene, that appeared to you to
22 be fired bullets or fired bullet fragments?

23 A Yes, sir, I did.

24 Q Based upon that, did you conclude that gunfire had
25 occurred within that house?

1 **A** Based on that and some other things that I saw; yes,
2 sir.

3 **Q** All right. Did you observe within the house areas
4 that you concluded were bullet holes?

5 **A** Yes, sir.

6 **Q** I'm showing you State's Exhibits 13, 14, 15, 16, 17,
7 18, 19, 20 and 21. Take a look at them.

8 **A** Yes, sir.

9 (Pause)

10 **A** Yes, sir.

11 **Q** Are those pictures of what you concluded were bullet
12 holes in the house?

13 **A** Yes, sir, they are.

14 **Q** Are those pictures of what you concluded were two
15 separate bullet holes related to each other in some
16 fashion?

17 **A** Yes, sir.

18 **Q** Are all of those pictures various views of that pair
19 of bullet holes?

20 **A** Yes, sir, they are.

21 **Q** Generally describe, first of all, what room of the
22 house were those two bullet hole defects found in?

23 **A** These were in a bedroom, not the bedroom that the
24 victim was found in. It is basically two bullet
25 holes that are opposite each other in a corner of a

1 wall. And what the photograph depicts is not only
2 the bullet holes, but also you'll see the height with
3 some rulers giving relationship from the floor. And
4 also you will see what is a metal dowel that has been
5 put through the hole to show you an angle, direction
6 that the path of the bullet went through.

7 Q Now, two holes on two walls in a corner. About how
8 far apart are the two holes from each other if you
9 stretched the ruler across the two holes?

10 A Just several inches.

11 Q All right. And did you reach any conclusion about
12 whether -- well, first of all, did you reach any
13 conclusion about whether the same bullet made those
14 two holes?

15 A Yes, sir. It appeared that one bullet made -- one is
16 what would be referred to as an exit hole, and the
17 other hole would be an entrance hole where the bullet
18 was going through the two walls.

19 Q Now, did you reach any conclusion about whether the
20 bullet that made those two holes was fired from
21 within that room or from somewhere else?

22 A It came from somewhere else. It came from another
23 room. It came more than likely, based on the
24 trajectory, the path it was going through, from a
25 rear bedroom where the bullet -- where some of the

1 firearms evidence, two bullet fragments were located.

2 Q Thank you.

3 A Yes, sir.

4 Q And let me jump ahead. I asked you to pull a sketch
5 out a minute ago. Is that --

6 A Three.

7 Q Well, let's see. Let's talk about the first sketch.

8 A Yes, sir.

9 Q Was a not-to-scale sketch made of the interior layout
10 of this crime scene?

11 A Yes, sir.

12 Q And is that actually a photocopy of it?

13 A Yes, sir, it is.

14 Q Okay. Your Honor, at this time I'd offer -- well, is
15 that a copy of the same thing that you gave me that's
16 got your holes punched in it?

17 A Yes, sir.

18 Q I'll use mine.

19 MR. BARFIELD: I offer this sketch at State's
20 60.

21 MS. SMALLS: Without objection.

22 THE COURT: Admitted without objection.

23 (WHEREUPON, State's Exhibit No. 60 is marked for
24 identification and received in evidence.)

25 Q Using the sketch -- not tons of detail -- but using

1 the sketch, walk us through the house from carport
2 door into the kitchen all the way to the back of the
3 house. Just describe what you're doing when you're
4 going down the hall.

5 A May I --

6 Q Yes, sir. Absolutely.

7 A -- use this when I say this, the exhibits? What I'm
8 pointing to would be the carport area of the home.
9 This funny-looking triangle is the doorway that leads
10 to the kitchen. As you step into the kitchen, as you
11 step into the kitchen, if you will look to your left,
12 that's where between the oven and the kitchen sink
13 was the plastic bag that contained the food items.

14 If you continue from there straight, you come to
15 a living room area. You would enter. And at the
16 living room area, if you turn back to your left --
17 I'm sorry -- you would see the front door of the
18 residence. If you continue down the hall, you go to
19 the living areas, the various bedrooms.

20 Q How many bedrooms are in that house?

21 A There were three bedrooms in the house.

22 Q All right. Walk us on down.

23 A Okay. You'll pass a linen closet on the left. Right
24 past the linen closet on the left is the first
25 bedroom. Which I apologize. I'm trying to locate it

1 here. Directly across from that bedroom is the
2 bathroom. My index finger is on it. Past the
3 bathroom on the right-hand side is the master
4 bedroom. This is where the victim was located.

5 Next to at the end of the hallway, if you were
6 walking straight, not turning right into the master
7 bedroom where the victim was located, is another
8 bedroom. And it was at this bedroom where the
9 bullet, bullet fragment and some other evidence was
10 recovered, blood. This was also where the footwear
11 was developed, was in this area also, eliminated to
12 the emergency personnel.

13 **MR. BARFIELD:** Your Honor, permission to publish
14 this sketch to the jury?

15 **THE COURT:** Certainly.

16 **Q** I'm going to do something by way of elimination for a
17 minute myself here.

18 **A** Okay.

19 **Q** Generally speaking, other than the food bag in the
20 kitchen, was there anything -- I'm sorry -- was there
21 anything of evidentiary value observed or collected
22 in the kitchen?

23 **A** With the exception of the food bag, that was all. If
24 I may, what appeared from the walk-through of the
25 crime scene, it appeared based on the location of the

1 food bag there may have been the initial meeting
2 there in that area possibly in the kitchen. But
3 everything subsequent to that that was found was in
4 the hallway and in the bedrooms at that point.

5 Q All right. So anything amiss or of evidentiary value
6 in the living room?

7 A No, sir.

8 Q Anything in the linen closets moving down the hall to
9 the left, anything out of the ordinary about the
10 closets?

11 A No, sir.

12 Q Anything about the laundry closet where the washing
13 machine was on the right-hand side of the hallway?

14 A No, sir.

15 Q Anything amiss or of evidentiary value in the
16 bathroom on the right-hand side of the hallway?

17 A No, sir.

18 Q Anything of evidentiary value or amiss in I guess the
19 first bedroom on the left going down the hallway?
20 That one? Anything going on in that bedroom that you
21 could tell?

22 A No, sir.

23 Q All right. We'll talk in detail in a minute. But
24 did you find anything in the hallway of significance
25 to this investigation?

1 **A** The only thing in the hallway that was significant
2 was two areas in the hallway. The access area to the
3 attic where you have the wood panel that you would
4 pull down so you can go into the attic, there was a
5 bullet hole. Prior to that, which would be on the
6 left-hand side of the hallway, you have a light
7 switch and a thermostat I talked about earlier where
8 the heat was off it and showed it to be approximately
9 52 degrees in the residence, there was a bullet hole
10 near that area also. There were two bullet holes
11 there.

12 **Q** All right. Lots of stuff in the two back bedrooms
13 that we'll talk about?

14 **A** Yes, sir.

15 **Q** All right. You talked -- I got kind of way
16 sidetracked a minute ago. But you talked about the
17 two bullet holes in the corner of the bedroom that
18 the victim's body was not found in. Is that correct?

19 **A** Yes, sir.

20 **Q** I'm showing you State's Exhibit No. 22. What's that
21 a picture of?

22 **A** This is the picture of the hallway. This photograph
23 was taken with -- my back would have been to the
24 kitchen. The kitchen and living room area would have
25 been behind me. I am photographing down the hallway

1 towards the bedroom areas. And you can see the light
2 switch and the thermostat on the left-hand side of
3 the wall. And up towards the top you'll see a little
4 piece of the dome of a light, and right behind that
5 you will see the access to the attic.

6 Q Now I'm showing you State's Nos. 23, 24 and 25. What
7 are those pictures of?

8 A State's Exhibits 23, 24 and 25 are a series of
9 photographs that show the light switch and the
10 thermostat in the left-hand side of the wall in the
11 hallway, and in particular it gets closer showing you
12 the bullet hole that's present.

13 Q All right. Did you dig any fired bullets out of any
14 of the bullet holes?

15 A No, sir.

16 Q Okay.

17 A Pretty much what happened in this case, those bullets
18 continued to wherever -- whenever -- I know this from
19 my firearms experience. When you fire a weapon or a
20 gun, the bullet will continue to travel until it
21 loses its velocity. In this case, going through the
22 walls and what not, I have no idea where they went.
23 Though we did try. We attempted. But we did not
24 locate them.

25 Q All right. I'm showing you State's 26, 27, 28, 29

1 and 30. What are those pictures of?

2 **A** State's Exhibits 26 through 30 refer to the bullet
3 hole that is in the access point to the attic. It
4 includes various photographs and also the metal dowel
5 to kind of give you an angle of direction.

6 **Q** All right, sir. Showing you State's 31, 32, 33 and
7 34, you talked so far about a bullet hole near the
8 thermostat, a bullet hole in the attic access door.
9 Were there any bullet holes in the bedroom where the
10 body was not found but where other ballistics
11 evidence was found?

12 **A** Yes, sir.

13 **Q** Showing you again State's 31 through 34, what are
14 those pictures of?

15 **A** These again are the bedroom where the body was not
16 located. And other evidence was found, firearms
17 evidence like the bullet and bullet fragment. In
18 particular, it's going to show you a light switch.
19 Near the light switch is what are some things
20 believed to be blood. But above that light switch is
21 a bullet hole.

22 **Q** The same pictures of the same bullet hole --

23 **A** Yes, sir.

24 **Q** -- on the light switch?

25 **A** The same bullet hole.

1 Q You mentioned earlier that you found fired bullets
2 inside the house?

3 A Yes, sir.

4 Q What room of the house did you find fired bullets in?

5 A Again, this is the bedroom at the end of the hallway,
6 the bedroom that the victim was not located in.
7 There was a fired bullet and what appeared to be a
8 bullet fragment that were on the floor in that
9 bedroom. This is also the one that, one of our
10 earlier pictures where it has a bullet hole above the
11 light switch in the bedroom, it's that same bedroom.

12 MR. BARFIELD: Beg the Court's indulgence one
13 moment.

14 THE COURT: Certainly.

15 (Pause)

16 Q How many fired bullets did you recover in that
17 bedroom where the victim's body was not located?

18 A Two.

19 Q Did you have any sense from your crime scene
20 experience and from your ballistics experience how
21 heavy a caliber bullet they were? Did you have any
22 sense about that at all when you found them?

23 A Yes, sir. One bullet in particular was very well
24 intact. It appeared to be a .22 caliber bullet. And
25 that's just based on my experience not only in law

1 enforcement and crime scene and firearms work, and
2 I'm a target shooter myself. I don't hunt very much
3 but I do do some target shooting. And I could tell
4 that one appeared to be a .22 caliber.

5 Also on the things that wasn't present on the
6 scene were fired cartridge casings. Fired cartridge
7 casings, if they're not present, generally, not
8 always as a rule, but generally, that usually refers
9 to a revolver being used and not a pistol.

10 Q And if a pistol is used, what happens to the fired
11 cartridge casings generally?

12 A In general, with a pistol, the cartridge case, the
13 fired cartridge case is extracted and ejected from
14 the firearm. In the case of a revolver, it's not.
15 Unless the cylinder is open, those cartridges will
16 remain inside the cylinder of the revolver.

17 Q I'm showing you a series of pictures somewhat out of
18 sequence, State's Exhibit No. 35 followed by State's
19 Exhibits 56, 57 and 58. Take a look at them and tell
20 me, first of all, do they all show things
21 photographed in one room?

22 A Yes, sir, they do.

23 Q And again, which room is that?

24 A Again, this is the bedroom at the end of the hallway,
25 the bedroom the victim was not in.

1 Q All right. The first picture, read the number off
2 and tell me what's shown in that picture?

3 A State's Exhibit 35 shows an OD green Army coat, and
4 near, above the Army coat on the floor you're going
5 to see an evidence tin, an aluminum evidence tin.
6 That's what I used to collect the fired bullet and
7 the fired bullet fragment in. And that is what I
8 refer to as the head of the coat, at the top of the
9 coat. It's near the window in the room.

10 Q All right, sir. Is there anything that you observed
11 about the field jacket itself of any significance to
12 you?

13 A Yes, sir. Present on the field jacket itself was
14 blood.

15 Q And what part of the field jacket was the blood on?

16 A There appeared to be blood near the collar at the top
17 of the jacket, and also there appeared to be some
18 blood kind of towards the base or the bottom of the
19 jacket.

20 Q All right. Tell me about the other three pictures.
21 And again, give the numbers since you've got them and
22 I don't.

23 A Yes, sir. State's Exhibit 56 is a closer up
24 photograph of the intact .22 bullet that was on the
25 floor. State's Exhibit 57 and 58 refers to the

1 bullet fragment that was on the floor. And it was --
2 actually this particular bullet fragment was near the
3 wall of the bedroom towards the base of the jacket.

4 Q Did you seize the jacket, first of all?

5 A Yes, sir.

6 Q Did you seize the two bullets or bullet fragments
7 that were also in that room with the jacket?

8 A Yes, sir, I did.

9 Q And did you seal them up and take them back to SLED
10 with you when you cleared up that scene that night?

11 A Yes, sir, I did.

12 Q Did you with respect to the bullets themselves do any
13 testing?

14 A I personally did not do any testing on the bullets
15 themselves. As far as latent prints, that's not
16 viable, because anything I may do latent print wise
17 may destroy whatever the firearm examiner would have
18 to do for their firearms comparison examination. I
19 simply transported them to SLED for their
20 examination.

21 Q And do you from looking at your file -- well, let me
22 show you something. You probably haven't, but let me
23 show you. Can you tell us what you did -- well, let
24 me back up. The two bullets that you found in that
25 back bedroom, did you give them SLED item numbers?

1 **A** Yes, sir, I did.

2 **Q** And what were your SLED item numbers?

3 **A** The SLED item numbers were items 5 and 6.

4 **Q** Now, at the time of this investigation back in
5 February of 1993, did SLED have multiple firearms
6 examiners on staff?

7 **A** Yes, sir, they did.

8 **Q** And was David Collins one of them?

9 **A** Yes, sir, he was.

10 **Q** And do you have personal knowledge whether or not
11 David Collins was the firearms examiner on this case?

12 **A** I have personal knowledge he was the firearm examiner
13 assigned to this case.

14 **Q** What did you do with items 5 and 6, the fired bullets
15 that you found in that back bedroom after you took
16 them to SLED?

17 **A** They were taken to SLED and turned over to David
18 Collins, the firearms examiner.

19 **Q** All right, sir. The ballistics evidence at this
20 scene -- we've talked about bullet holes, we've
21 talked about two fired bullets -- any other
22 ballistics evidence you picked up at this scene?

23 **A** No, sir.

24 **MR. BARFIELD:** Your Honor, your pleasure about
25 my showing this to the witness? I don't have the

1 order in front of me. I can't recall what it says.

2 **THE COURT:** Go ahead and show it to him.

3 **Q** I'm going to hand you this.

4 **A** Yes, sir.

5 **Q** And you make sure it's okay before we talk about it.

6 **A** Sure.

7 **Q** Is it safe?

8 **A** Oh, yes, sir. It is safe. It is unloaded. There is
9 no cartridges in the cylinder and there is no bullets
10 or cartridges in the barrel.

11 **MR. BARFIELD:** All right. Your Honor, I'd ask
12 that this be marked for identification as State's No.
13 next.

14 **COURT REPORTER:** 61.

15 **MR. BARFIELD:** 61.

16 **MS. SMALLS:** Identification?

17 **MR. BARFIELD:** Identification.

18 **THE COURT:** All right.

19 (WHEREUPON, State's Exhibit No. 61 is marked for
20 identification.)

21 **Q** Agent Black, did you at some point subsequent to your
22 initial work on this case receive a firearm to do
23 your fingerprint thing with?

24 **A** Yes, sir, I did.

25 **Q** I'm showing you what's been marked for identification

1 State's Exhibit No. 61.

2 A Are you okay?

3 Q Yeah. I just couldn't get my fingers out. Do you
4 recognize that item?

5 A Yes, sir, I do.

6 Q Did it come into your possession at some point?

7 A Yes, sir, it did.

8 Q And do you know where it came from?

9 A It was brought to me by the Fairfield County
10 Sheriff's Office.

11 Q Directly to you by a sheriff's deputy, somebody with
12 the Sheriff's Office?

13 A Yes, sir. If I'm not mistaken, if you'll bear with
14 me, if I may look at my notes?

15 Q Yes, sir.

16 A I received it directly from Sergeant James Joyner
17 with the Fairfield County Sheriff's Office.

18 Q Now, for what purpose did you take it into your
19 possession?

20 A It was marked for two examinations, one for latent
21 print examination and also for firearms examination.

22 Q And in the normal course, would the latent print
23 examination occur first?

24 A Yes, sir. The reason why latent print examination
25 occurs first, with what firearm examiners would do in

1 handling this firearm, if they did their examination
2 first, it would destroy any latent prints that may
3 possibly with present on the evidence.

4 **Q** Tell me when you came into possession of that pistol?
5 Could you give us a date?

6 **A** Yes, sir. I actually received the pistol on June the
7 23rd of 1993.

8 **Q** And other than it coming to you from Jimmy Joyner
9 with the Fairfield County Sheriff's Office, do you
10 have any personal knowledge of where it had been
11 before you got it in June of '93?

12 **A** I have no personal knowledge. No, sir.

13 **Q** Was it in the same condition it's in today when you
14 got it in June of '93?

15 **A** No.

16 **Q** Generally speaking, number one, was the cylinder
17 opened or openable or opened by you when you got it
18 in June of '93?

19 **A** No, sir. When I received the revolver, there is rust
20 still present, but it was -- there was rust present.
21 There was debris and dirt present. As a matter of
22 fact, I could not open the cylinder. I could not
23 open it. And what I simply did, my marks are still
24 present. I actually marked -- if I may?

25 **Q** Yes, sir.

1 **A** At the top of the cylinder there are two marks with a
2 permanent pen, permanent marker that I made. When
3 the cylinder was closed I marked it on what's
4 referred to, this is known as the top strike, so that
5 whenever it was open you could determine exactly what
6 position it is when it was opened by the firearms
7 examiner. I did that on purpose. I talked with
8 Agent Collins in the firearms department. I could
9 not open it and I wasn't going to force it open. We
10 agreed to that. And I processed it as is.

11 **Q** Did you clean it up before you processed it?

12 **A** No, I did not.

13 **Q** Did you clean it up after you processed it?

14 **A** I may have wiped down some of the excess fingerprint
15 powder and some of the superglue that was on it to
16 help them. But beyond that, no, sir.

17 **Q** Superglue is part of the fingerprint process?

18 **A** Yes, sir. We call it cyanoacrylate but the common
19 term is superglue. And so that's what was used along
20 with some chemicals and fingerprint powder, is the
21 last thing that I used to try to develop any prints
22 on it.

23 **Q** Although you could not open the cylinder, could you
24 tell if there was any live ammunition or spent
25 cartridge casings, fired cartridge casings in the

1 cylinder by just a visual examination?

2 A Based on my visual examination, I don't remember
3 seeing anything in the cylinder.

4 Q Okay. You don't know one way or the other?

5 A I'm not sure. I just don't remember.

6 Q That's fine. Were you able to lift any latent prints
7 off that pistol?

8 A No, sir.

9 Q Okay. Without handing it back to you, does that
10 pistol bear a maker's name, a brand name?

11 A Yes, sir. On there it has N.E.F., but it looks
12 familiar like with what's known as H&R,
13 Harrison/Richardson also. But also -- I meant to say
14 this earlier -- none of this -- the serial number
15 matched to my report. It also has the lab number,
16 item number and my initials engraved on the rear grip
17 of the revolver.

18 Q I'm handing you State's Exhibits 44, 45 and 46. I'll
19 hand them to you. Let me ask you this. Did you
20 observe evidence of what you concluded was likely
21 blood inside the house?

22 A Oh, yes, sir.

23 Q One place or multiple places?

24 A Multiple places.

25 Q I'm handing you State's 44, 45 and 46. Tell me, are

1 they first of all different pictures of the same
2 thing?

3 **A** Yes, sir, they are.

4 **Q** Generally speaking, what mechanical or electrical
5 item is shown in the pictures?

6 **A** It's a light switch on the wall.

7 **Q** In what room?

8 **A** It is in the bedroom at the end of the hall that the
9 victim is not in.

10 **Q** And what is shown of significance around the light
11 switch?

12 **A** There appears to be some transfer pattern of blood
13 that's on the wall near the light switch.

14 **Q** I'm showing you State's 47, 48, 49, 50 and 51. Are
15 they also multiple pictures of the same basic thing?

16 **A** Yes, sir, they are.

17 **Q** Is there an electrical object shown in that series of
18 pictures?

19 **A** Yes, sir. It's an outlet that is on the wall.

20 **Q** What room?

21 **A** The same bedroom that the victim was not in at the
22 end of the hallway.

23 **Q** And is there anything around the outlet of
24 significance in your investigation?

25 **A** Above that outlet, above and also kind of towards the

1 left were again some areas of bloodstains that appear
2 to be some type of transfer pattern.

3 Q I'm showing you State's 52, 53, 54 and 55. Are they
4 also a series -- is it also a series of photographs
5 of the same basic thing?

6 A Yes, sir, it is.

7 Q What object is shown in those pictures?

8 A Basically you have the air duct floor vent. It's
9 also in the bedroom that the victim was not in at the
10 end of the hallway. And through these photographs,
11 to give you some relationship, you can also see in
12 the photograph the OD Army coat and also the
13 electrical outlet that's on the wall.

14 Q And is there anything of significance anywhere around
15 the vent?

16 A Yes, sir. There are bloodstains that are present in
17 and around the vent.

18 Q I'm showing you State's Exhibits 37 to 43. Take a
19 minute to look at them and then I'll ask you some
20 specifics about them.

21 (Pause)

22 Q Generally speaking, what are those pictures of?

23 A Generally speaking, these are again various areas of
24 the wall and the doorframe, the door jamb area that
25 shows some bloodstain patterns. Some of them, for

1 example, one that's near the baseboard is actually
2 dripping blood where blood has dripped down onto the
3 baseboard area. You also have some transfer area
4 that's on the wall and on the door jamb. But you
5 also have what may possibly be some type of impact
6 stain. Possible. You know, without looking at it
7 closer, it may be; or it may just be an end pattern.
8 It could also be a transfer stain, too.

9 Q Transfer is if I've got blood on my hand and I brush
10 up against something?

11 A Yeah. It can be your hand. It could be an article
12 of clothing. It could be blood that's on someone and
13 they brush up against it. It could come from a lot
14 of different areas.

15 Q And when you say impact, is that something that some
16 people might refer to as blood splatter [sic]
17 evidence?

18 A Blood spatter.

19 Q Spatter. Excuse me.

20 A Spatter. Blood spatter. It just means it's some --
21 it may be from the blood was on, for example, a
22 certain part of the body and that body came in
23 contact with that surface. It may have an impact
24 from that. I didn't see any high velocity spatter
25 which is associated with a gunshot. But the fact

1 that you're using a small caliber bullet, like a .22,
2 you may not have any.

3 **Q** And generally speaking, what area of the house, what
4 doorframe were these stains present in?

5 **A** Again, it's the same bedroom that the victim was not
6 in at the end of the hallway.

7 **Q** All right.

8 **THE COURT:** Solicitor, let me interrupt you just
9 one minute. How much longer do you anticipate going,
10 sir?

11 **MR. BARFIELD:** I think I'm fixing to finish my
12 part of it. I'm just checking my list to make sure.

13 **THE COURT:** All right.

14 **MR. BARFIELD:** If you'd give me just a second, I
15 think I can wrap it up.

16 (Pause)

17 **Q** Any latent prints taken off the window screen that
18 was below the window that you described earlier?

19 **A** There were no prints developed. No, sir. None were
20 taken from that.

21 **Q** All right. Finally I'm showing you State's Exhibit
22 No. 36. Tell me generally, what's that a picture of
23 first? And then we'll talk about the details.

24 **A** State's Exhibit 36 is a photograph of the victim's
25 legs as she is -- where she was found in what I'm

1 going to refer to as the master bedroom where she was
2 located. In particular, near her shoes, the floor
3 area, you can see what appears to be blood that is
4 actually drag marks. It appeared that this is where
5 the victim was found, where she -- her resting spot.
6 It appears that she was drug from another location
7 and this is where she lay to rest.

8 Q Is there anything that looks like blood on her shoes
9 or the bottom of her shoes?

10 A There appears to be some blood on the bottoms of the
11 shoes, the outsoles of the shoes. You can actually
12 see with the pattern of blood an actual curve, like a
13 drag mark you can see in the floor.

14 Q And of course that's not a full picture of the
15 victim. But did you examine the body as it lay in
16 the floor when you got to the scene?

17 A Yes, sir.

18 Q And was there blood about the body other than on the
19 bottom of the shoes and sort of near the --

20 A There was blood on the victim and the victim's
21 clothing.

22 MR. BARFIELD: Your Honor, I believe that's all
23 the questions I have on direct examination. Agent
24 Black, I'll take that back. But we'll take a break.
25 I may have to ask him one more thing.

1 **THE COURT:** Let's take a ten-minute break,
2 ladies and gentlemen.

3 (Jury out at 11:34 a.m.)

4 (Whereupon, a break is taken)

5 **THE COURT:** Folks, are you ready for the jury?

6 **MR. BARFIELD:** We are. I am in fact through
7 with the witness. I'll say that officially when the
8 jury gets in here..

9 (Jury in at 11:49 a.m.)

10 **THE COURT:** And welcome back once again, ladies
11 and gentlemen. I believe we are ready to continue.
12 Solicitor.

13 **MR. BARFIELD:** Your Honor, I don't have any
14 further questions of Agent Black.

15 **THE COURT:** Ms. Smalls.

16 **MS. SMALLS:** Thank you, Your Honor. May it
17 please the Court.

18 CROSS EXAMINATION

19 **BY MS. SMALLS**

20 **Q** Agent Black, let me make sure I understand this.
21 Your job is to go through and collect evidence as
22 well as process it, or you just collect it?

23 **A** I do both. On the crime scene I would collect all
24 the forensic evidence, but I would only process the
25 evidence in particular that has to do with like the

1 latent prints, footwear, tires, things of that
2 nature.

3 Q So in relationship to this particular case, the
4 evidence that you processed would have dealt with
5 prints. Is that correct?

6 A Yes, ma'am. That is correct.

7 Q Okay. And I think you testified that you actually
8 had been given somewhere around 85 sets of prints?

9 A Yes, ma'am. It was over 85 sets.

10 Q Okay. And when you say sets, that's both
11 fingerprints and palm prints?

12 A Yes, ma'am. The vast majority of those were the
13 major case prints, finger and palm prints.

14 Q And when you say in total, there were three
15 identifiable prints. Is that correct?

16 A Yes, ma'am.

17 Q And that's two palm prints and one fingerprint?

18 A That is correct.

19 Q Okay. And in those 85 sets of fingerprints or palm
20 prints that you were given to use for identification,
21 Curtis Elgin, his set of prints were in that set,
22 correct?

23 A Yes, ma'am. That is correct.

24 Q Okay. And in your examination or comparison with the
25 prints that were found on the scene with both the

1 palm prints and fingerprints of Curtis Elgin, you did
2 not receive positive results, did you?

3 A That is correct. Those prints were not made by Mr.
4 Elgin.

5 Q Okay. Now, you also testified that there were some
6 foot impressions at the scene?

7 A Yes, ma'am.

8 Q And was that all throughout the home?

9 A The only area, it was only one part of the home that
10 we developed any footwear impressions. And that was
11 in the bedroom at the end of the hall that the victim
12 was not in, and that was the only area. Because one
13 of the things we did, part of the processing, we also
14 literally took the fingerprint powder and dusted the
15 floors, and that was the only area that we developed
16 footwear impression evidence.

17 Q Let me back up for a minute. When you were talking
18 about the three identifiable prints that you found,
19 the fingerprint and palm prints, are you able to
20 determine whether there were prints of -- can you
21 tell the gender based on the prints that you
22 received? Can you tell if they're made by a male or
23 a female?

24 A In general, no, ma'am. We're speaking in general.
25 Based on experience, as you look at prints, if you

1 have latent prints that are very fine ridge detail,
2 in general that is usually associated with either a
3 woman or a child. That type thing can be done. But
4 the answer to your question is, no, there is no way
5 from just looking at a latent print to determine if
6 it's male or female.

7 Q Okay. So in this particular case, based on the
8 prints that you received, there is no way that you
9 can determine whether those prints were left by a
10 male or a female. Is that correct?

11 A Yes, ma'am. That is correct.

12 Q Now, relating to the footprints, you said that there
13 were some footprints at the entry of the bedroom
14 where the victim was not found. Is that correct?

15 A The actual footwear impressions were located on the
16 floor near the vent where there was some blood that
17 had been swabbed. It was near that area of that
18 bedroom.

19 Q You testified earlier that you were not given any
20 footprint for comparison. Is that correct?

21 A No foot -- that's correct. No shoes were submitted
22 to me at SLED. Yes, ma'am. That's correct. But in
23 that -- if I may, in that particular case I was able
24 to look at the shoes of the emergency personnel who
25 responded. And by eliminating them, they were in

1 those areas of the house. And looking at the outsole
2 was consistent. It corresponded with their shoes.
3 So I eliminated them at that point.

4 Q Okay. But you can't say for certain that that
5 footprint was left by the other persons that were on
6 the scene? Not with certainty?

7 A With certainty, no, ma'am.

8 Q Okay. You testified earlier about there being a
9 screen in one of the photographs that was found on
10 the ground. You were not able to determine how long
11 that screen had been on the ground, were you?

12 A No, ma'am.

13 Q As a matter of fact, I think you testified that there
14 was no fingerprints found on that window?

15 A That is correct. On the window and the window
16 screen. That is correct.

17 Q What about that air conditioning unit that was out
18 there? Were there any prints recovered from that
19 device?

20 A No, ma'am.

21 Q As a matter of fact, you testified earlier that you
22 are of the opinion that there was no forced entry.
23 Is that correct?

24 A Yes, ma'am. That is correct.

25 Q The three sets of identifiable prints that you

1 actually collected, can you tell me exactly if you
2 recall where those sets of prints were collected
3 from?

4 **A** And I'm going on memory because I don't have the
5 actual latents in front of me because on the cards it
6 would have exactly where they're from. And going on
7 memory 16 years ago, it was somewhere in the area of
8 the -- between the bedrooms, the doorframes.
9 Specifically where I can't tell you. I don't recall.

10 **Q** Now, you actually recovered I think you said two
11 bullets?

12 **A** Yes, ma'am.

13 **Q** But you turned those bullets over to someone else for
14 comparison?

15 **A** Yes, ma'am. They were turned over to Agent David
16 Collins who at the time was the firearms examiner at
17 SLED.

18 **Q** Now, what, if anything, did you do with the gun when
19 you received that from the Sheriff's Department?

20 **A** When I received the -- I don't remember the exhibit
21 number. But when I received the revolver, I
22 processed the revolver first for latent prints.
23 There was rust and dirt and other debris on it. As a
24 matter of fact, the cylinder was in my words sealed
25 shut. I couldn't get it open because of the rust and

1 debris. I used various methods to process it for
2 prints and no prints were developed on the revolver.
3 When I was done with it I transferred it directly to
4 Agent Collins in the firearms department.

5 **Q** You have not received any information from your
6 involvement in the case of any prints, footprints,
7 fingerprints, palm prints or anything linking Curtis
8 Elgin to this case, have you?

9 **A** Yes. That's correct. I have no impression evidence,
10 whether it's a finger, palm, footwear, match to Mr.
11 Elgin.

12 **MS. SMALLS:** Beg the Court's indulgence.

13 **THE COURT:** Yes, ma'am.

14 (Pause)

15 **MS. SMALLS:** Nothing further from this witness.

16 **THE COURT:** Anything further, solicitor?

17 **MR. BARFIELD:** No, sir. I ask that he be
18 excused.

19 **MS. SMALLS:** Without objection.

20 **THE COURT:** Thank you, sir. You may be excused
21 from your subpoena.

22 **THE WITNESS:** Thank you, Your Honor.

23 **THE COURT:** You may call your next witness.

24 **MR. BARFIELD:** Jimmy Ray Douglas.

25 **THE CLERK:** I need you to raise your right hand,

1 put your left hand on the Bible.

2 JIMMY R. DOUGLAS, after being duly sworn,
3 testifies as follows:

4 **THE CLERK:** Please be seated. State your name
5 for the record.

6 **THE WITNESS:** Jimmy Ray Douglas.

7 DIRECT EXAMINATION

8 **BY MR. BARFIELD**

9 **Q** Mr. Douglas, do you live here in Winnsboro, Fairfield
10 County?

11 **A** Yes, sir.

12 **Q** Lifelong resident of Fairfield County?

13 **A** Lifelong.

14 **Q** What do you do for a living right now?

15 **A** I own a furniture store and I work in real estate..

16 **Q** You got rental properties?

17 **A** Right.

18 **Q** What is the name of your furniture store?

19 **A** Carolina Furniture.

20 **Q** And where is your furniture store?

21 **A** 144 South Congress Street.

22 **Q** Right up the street here?

23 **A** Mm-hmm (affirmative).

24 **Q** All right, sir. How long have you all been -- how
25 long has your family been in the furniture store

- 1 business up the street here?
- 2 A About 55 years.
- 3 Q And who started the furniture store?
- 4 A My father.
- 5 Q What's your daddy's name?
- 6 A Harold Douglas.
- 7 Q All right, sir. Is he still living?
- 8 A Yes, he is.
- 9 Q He still spends time at the store?
- 10 A He comes up there but he doesn't work any more.
- 11 Q Okay. I'll be sensitive when I ask this, but does
- 12 your dad have some cognitive problems in his --
- 13 A He's in the second stage of Alzheimers.
- 14 Q All right, sir. How old is your dad now?
- 15 A Eighty-seven.
- 16 Q All right, sir. Were you working in the store in
- 17 1993?
- 18 A Yes, sir.
- 19 Q Was that your primary business?
- 20 A Right. Right.
- 21 Q In 1993 did you or your store have what's called an
- 22 FFL, a Federal Firearms License?
- 23 A Yes, we did.
- 24 Q And did you sell firearms in your store?
- 25 A Yes.

1 Q Did it include handguns and long guns?

2 A Yes.

3 Q Was that a big part of your business or just --

4 A No.

5 Q -- not a significant part of your business?

6 A No. Not really.

7 Q I'm going to ask you about three particular in
8 particular. The question is: Do you know these
9 people. First of all, do you know Curtis Lee Elgin?

10 A Yes.

11 Q And do you see Curtis Elgin in the courtroom today?

12 A Yes.

13 Q And is he sitting over there in the white shirt with
14 the necktie on at the table with Ms. Smalls?

15 A Yes, he is.

16 Q Was he ever employed by Carolina Furniture?

17 A Yes.

18 Q Was he employed by Carolina Furniture sometime prior
19 to February 8th of 1993?

20 A Yes. I guess he was. It's hard to remember that
21 long back, but I'm sure he was.

22 Q All right. Did you employ lots of people? Well,
23 maybe not lots. But did you employ several people to
24 assist in the business?

25 A Right.

1 Q When Mr. Elgin was working at the store, what was his
2 job?

3 A He did stock work and deliveries.

4 Q When you say stock work, the truck brings furniture
5 in, he puts it together, puts it on the floor?

6 A Right.

7 Q Do you know Kenneth Wayne Haney, Sr., who I think
8 everybody calls Wayne?

9 A Wayne. Right. Yes, sir.

10 Q Do you know Kenneth Wayne Haney, Jr., who I think
11 everybody calls Kenny?

12 A Kenny, yes.

13 Q The first stupid question of the day. Are they
14 father and son?

15 A Yes, they are.

16 Q Did Kenny, the son, ever work for you?

17 A Yes. Years ago before this happened.

18 Q All right. All right, Mr. Douglas. I'm going to
19 hand you a piece of paper first of all. It's a --
20 well, let me show it to Ms. Smalls first. Your
21 Honor, I'm going to -- without getting him to
22 identify it, I'm going to go ahead and offer it in
23 evidence. Ms. Smalls has seen it and tells me she
24 has no objection. This will be State's 63?

25 COURT REPORTER: 62.

1 **THE COURT:** It's admitted without objection.

2 (WHEREUPON, State's Exhibit No. 62 is marked for
3 identification and received in evidence.)

4 **Q** Mr. Douglas, we kind of short circuited a couple of
5 things. I'm handing you now what's been introduced
6 into evidence as State's Exhibit No. 62. Do you know
7 what that is? That's a copy of a document. Do you
8 know what that is?

9 **A** It's a gun registration.

10 **Q** All right. And is that for a handgun that was sold
11 by you at your store?

12 **A** Yes, sir.

13 **Q** And what was the date of the sale of the handgun?

14 **A** 1-20-89.

15 **Q** And who was the purchaser of the handgun?

16 **A** Kenneth Wayne Haney.

17 **Q** Okay. And are your signature and Kenneth Wayne
18 Haney's signature on that form?

19 **A** Yes, sir.

20 **Q** Is a description of the handgun that was sold on that
21 paperwork?

22 **A** Yes, there is.

23 **Q** I'm going to hand you what's been marked for
24 identification as State's Exhibit No. 61. It's kind
25 of dirty. But take a minute and examine it, look at

1 all the writing and numbers on it, and then I'm going
2 to ask you a couple of questions..

3 (Pause)

4 A Okay.

5 Q Based on the caliber, the -- well, first of all, did
6 you notice the caliber of this gun, the item itself
7 when I handed it to you?

8 A A .22 long rifle.

9 Q And did you look at the make of the gun?

10 A Yes, sir.

11 Q Did you look at the model number of the gun on the
12 pistol itself?

13 A Right.

14 Q And did you look at the serial number of the gun?

15 A Right.

16 Q Is this pistol or revolver, State's Exhibit No. 61
17 for identification, the subject of that purchase
18 application that you have in your hand?

19 A This is '92. I can't find a serial number.. It's
20 been so long.

21 Q I saw it the other day and I can't remember where it
22 was. It's on there somewhere.

23 **COURT REPORTER:** I'm sorry. I can't hear you
24 talking.

25 Q I really didn't mean to --

1 A Trying to find the serial number.

2 Q I'm sorry. Let me help you.

3 A It's been a long time since I saw any weapons.

4 Q Check it there.

5 A On the back. I see it.

6 Q That pistol in your hand is the subject of the
7 transaction between your store and Mr. Haney?

8 A Yes, sir.

9 Q Now, and the date of that sale again?

10 A January the 20th, 1989.

11 Q At some point -- well, do you recall whether Kenny
12 Haney was working for you when this pistol was
13 purchased?

14 A No, he was not.

15 Q He was not. Do you recall at some point that pistol
16 coming back to your store?

17 A Yes.

18 Q And who brought the pistol back?

19 A I think Kenny brought it back.

20 Q That's fine.

21 A Let me make sure.

22 (Pause)

23 A Yeah. Kenny brought it back.

24 Q All right. Did you take the pistol back on a trade
25 or because he didn't want it any more? Did he come

1 back to your store for you to be the owner or
2 possessor of it or --

3 A Right. He returned it.

4 Q Right. And immediately upon the pistol's return,
5 State's Exhibit 61 for identification, what did you
6 do with it immediately upon its return to your store?

7 A I took it to my father and had him put it in his
8 cabinet in his office.

9 Q All right. And did it remain there for some period
10 of time at least?

11 A Right.

12 Q Your dad was in the furniture store business. Was
13 your dad also in the rental business?

14 A Yes. He rented houses also. Yes.

15 Q And did your dad have another business?

16 A Yes. He was a bondsman.

17 Q All right. Now, did the pistol remain in the cabinet
18 in your dad's office forever, or did it get used for
19 some other purpose?

20 A I found out later after talking to Detective Kitchens
21 about this weapon. And I asked him about it. And he
22 said he had taken it out and exchanged it in his
23 truck. He was a bondsman and when he went out he
24 needed protection just in case he had any problems.

25 Q Your dad had the pistol in his truck?

1 **A** Right. And he took a .32 that he had in his truck
2 and put it in the cabinet and took the .22 because of
3 the smaller caliber weapon and put it in his truck.

4 **Q** Now, until sometime I'm guessing in June of 1993,
5 from the point the pistol comes back into your
6 possession and you put it in the -- where did you say
7 you put it when you first got it?

8 **A** I gave it to daddy and asked him to put it in his
9 cabinet in his office.

10 **Q** From the time you got it back until sometime in mid
11 to late June of '93, did you think any more about the
12 pistol?

13 **A** No. I never even saw it again.

14 **Q** Now, at some point in 1993, did the pistol become an
15 issue for you again?

16 **A** Yes.

17 **Q** And did somebody, some person contact you that made
18 the pistol become an issue again?

19 **A** Yes.

20 **Q** Who contacted you?

21 **A** James Kitchens with the Sheriff's Department.

22 **Q** At the time he was with the Sheriff's Department.

23 Don't quote Mr. Kitchens. But based -- did you have
24 a conversation, or probably several, with
25 Mr. Kitchens about this pistol?

1 A Yes.

2 Q And based upon those conversations, did you have any
3 understanding one way or another whether law
4 enforcement was now in possession of State's Exhibit
5 61 for identification?

6 A Yes.

7 Q Was that a surprise to you?

8 A Yes, it was.

9 Q And when Kitchens came to you and you became aware
10 that the police, the Sheriff's Office had the pistol,
11 did you go look to try to find out if he was right?

12 A Well, I went back to the store. He asked me to see
13 if I could find, you know, the records on where it
14 was sold. And I went back and got a copy of the
15 firearms, you know, transaction.

16 Q Okay. Did you -- had anybody missed State's Exhibit
17 61 for ID out of your dad's glove box prior to
18 Kitchens coming to you and telling you what he told
19 you?

20 A No. Because daddy lost the key to his glove box.

21 Q Okay.

22 A And it was locked and he couldn't get in it. So he
23 just didn't think anything about it. I didn't have
24 any idea where it was.

25 Q Now, at some point after Kitchens came to you, was

1 some effort made to see if the pistol -- and
2 obviously it wasn't. But was some effort made to see
3 if the pistol was in the glove box? Did somebody go
4 in the glove box?

5 **A** Yeah. I got my sister's husband, Larry Proctor, to
6 go break into the glove box to see if it was in
7 there.

8 **Q** And was it?

9 **A** It was not.

10 **Q** Okay. Bear with me just one minute, Your Honor. An
11 obvious question. Do you have any knowledge of how
12 the pistol got from in your dad's glove box into the
13 possession of James Kitchens --

14 **A** No, sir.

15 **Q** -- at the Sheriff's Office?

16 **A** No, I don't.

17 **Q** Are you able to tell us any -- from employment
18 records or otherwise, what period of time Curtis
19 Elgin worked for your store?

20 **A** No.

21 **Q** Are you able to tell us from employment records or
22 otherwise what period of time Kenny Haney worked for
23 your store?

24 **A** No.

25 **Q** All right. Do you know and did you know back in 1993

1 who Audre Ann Belton was?

2 **A** No. I hadn't -- I didn't remember her until I saw
3 her picture in the paper.

4 **Q** All right. Now, had she at some point prior to
5 February 8th of 1993 been a customer at your store?
6 Had she ever bought anything from you, based on your
7 business records?

8 **A** She came in the store one time and bought a portable
9 kerosene heater for her, and she made payments on it
10 until it was paid.

11 **Q** Okay. Beg the Court's indulgence one moment.

12 **THE COURT:** Yes, sir.

13 **Q** What did you all deliver furniture with at Carolina
14 Furniture back in '93, July of '93?

15 **A** Had a pick-up truck.

16 **Q** Okay. What kind of truck was your daddy's truck that
17 the glove box key got lost to?

18 **A** I have no idea.

19 **Q** Okay.

20 **A** I can't remember.

21 **Q** All right. Was your daddy's truck one of the trucks
22 you used to deliver furniture?

23 **A** No. That was his personal truck.

24 **Q** Was it ever used to deliver furniture?

25 **A** No.

1 Q Did Curtis Elgin deliver furniture when he worked at
2 the store?

3 A Yes, he did.

4 Q Did he have access to a vehicle to make a delivery
5 when it was necessary for him to make a delivery?

6 A Yes.

7 Q Did he drive?

8 A Yes, he did.

9 Q Do you know if he was given keys and was allowed to
10 drive?

11 A Mm-hmm (affirmative). Yes.

12 Q Do you know if Curtis Elgin ever accompanied your dad
13 on any bail bond business?

14 A No.

15 Q You don't know one way or the other?

16 A No.

17 Q Thank you, sir. Answer anything Ms. Smalls has.

18 CROSS EXAMINATION

19 **BY MS. SMALLS**

20 Q Mr. Douglas, you indicated that Curtis worked for
21 your store for some period of time but you don't
22 recall how long?

23 A No. I don't remember how long.

24 Q But as part of his job there, I think you indicated
25 he both did stocking and deliveries?

1 **A** Right.

2 **Q** Okay. At that time period though, I'm specifically
3 referring to '92, '93, did the store have a number of
4 employees?

5 **A** Yes. We had other employees that worked over that
6 period of time. Yes.

7 **Q** Approximately how many employees would you say the
8 store had during that time period?

9 **A** I think at the time when Detective Kitchens asked me,
10 I wrote a list of people that had worked over the
11 years. It was Curtis Elgin, Bobby Small, Floyd
12 Elgin, Preston Cohen, Steven Haney and Eddie Elgin.

13 **Q** So in the past, those persons who were employed with
14 the furniture store, would they all make deliveries
15 on occasions?

16 **A** Yes.

17 **Q** Do you recall whether or not the persons that worked
18 with you actually received a paycheck, or did they
19 receive their pay typically in cash?

20 **A** They were paid in cash.

21 **Q** Do you recall approximately how old Curtis was when
22 he first started working for the store?

23 **A** No.

24 **Q** To your knowledge, he didn't have a personal car, did
25 he?

1 **A** No.

2 **Q** Now, Carolina Furniture actually provided the truck
3 for the employees to make deliveries, did they not?

4 **A** Yes.

5 **Q** And your father's truck you testified was his
6 personal truck?

7 **A** Right.

8 **Q** Okay. And no deliveries were done using your
9 father's truck?

10 **A** Not that I recollect.

11 **Q** Okay. You stated that not only did your family have
12 a furniture business, I think some real estate
13 business, that your father also was involved in a
14 bonding business?

15 **A** That's right.

16 **Q** Do you know what that consisted of?

17 **A** Just get people out of jail when they need to get
18 out.

19 **Q** You testified earlier that in 1989, that's when you
20 actually sold the .22 pistol to Kenneth Haney?

21 **A** Wayne Haney.

22 **Q** Wayne Haney. And later the gun was brought back to
23 you?

24 **A** Right.

25 **Q** Do you recall when that was?

1 **A** I know approximately when it was, but I couldn't
2 swear to it. I just guessed at it. I said March of
3 1990.

4 **Q** About 1990?

5 **A** March of 1990 was the approximate return time.

6 **Q** You testified earlier that your father swapped the
7 .32 that he had?

8 **A** That is true.

9 **Q** With the .22?

10 **A** Right.

11 **Q** And that is because he wanted a smaller revolver to
12 keep in his truck?

13 **A** Right.

14 **Q** And your personal knowledge is that he kept has
15 revolver in his glove compartment of his personal
16 truck?

17 **A** Yes.

18 **Q** Do you recall approximately when your father did the
19 swapping of the .32 for the .22 and put it in his
20 glove compartment?

21 **A** No.

22 **Q** You testified earlier at some point in time that you
23 learned that your father had lost the key to the
24 glove compartment?

25 **A** Yes.

- 1 Q Do you know when that was?
- 2 A No. Because when I asked him about the pistol, he
- 3 said it was in his glove compartment and it was
- 4 locked. And that's when I asked Larry Proctor to
- 5 come and, you know, see if he could get in there and
- 6 find out whether the gun was in there or not.
- 7 Q Okay. And you were having this conversation about
- 8 the pistol after you have received that instruction
- 9 from Officer Kitchens --
- 10 A Right.
- 11 Q -- about the gun?
- 12 A Yes.
- 13 Q So you have no knowledge of how long the glove
- 14 compartment key had actually been missing?
- 15 A I think daddy told me six months.
- 16 Q Six months?
- 17 A That's what he said. It was -- and he kept on
- 18 putting off going up to the Chrysler place to get a
- 19 key made for it.
- 20 Q Okay. And in his glove compartment is where he keeps
- 21 his loaded .22 for protection for his bail bonding
- 22 business?
- 23 A Right.
- 24 Q And for six months he didn't get a key made?
- 25 A That's -- that's it. That's right. That's the

1 truth.

2 Q You've never seen Curtis Elgin with that .22, have
3 you?

4 A No, I haven't.

5 Q You testified earlier that Carolina Furniture sold a
6 kerosene heater to Ms. Belton?

7 A Right.

8 Q Do you know approximately when that was?

9 A Yep. November the 9th of 1991. I made you a copy
10 here if you want copies of it.

11 Q Was that a small kerosene heater?

12 A Yes.

13 Q So would that be something that needed to be
14 delivered, or would that be something that you
15 actually just carried out to the customer's car?

16 A We never delivered kerosene heaters.

17 Q You never delivered kerosene heaters?

18 A Right.

19 Q Okay. To your knowledge, have you ever delivered any
20 living room furniture to Ms. Belton's residence on
21 Golf Course Road?

22 A No.

23 Q What about bedroom furniture?

24 A No.

25 Q Dinette set?

1 **A** No.

2 **Q** So it's your testimony that you never made any
3 deliveries to Ms. Belton's residence?

4 **A** No.

5 **Q** Not only did you not make any delivers; to your
6 knowledge, no employees made any deliveries on
7 Carolina Furniture's behalf. Is that correct?

8 **A** No.

9 **Q** You testified earlier that you didn't know Ms.
10 Belton?

11 **A** I didn't remember her.

12 **Q** You didn't remember her?

13 **A** I remembered her when I saw her picture in the paper.
14 And when I sold her this kerosene heater, she was on
15 440 West Collins Street.

16 **Q** Oh, okay. So other than selling her the kerosene
17 heater, you never had any other relationship with Ms.
18 Belton?

19 **A** No.

20 **MS. SMALLS:** Beg the Court's indulgence.

21 **THE COURT:** Certainly.

22 **MS. SMALLS:** Nothing further..

23 REDIRECT EXAMINATION

24 **BY MR. BARFIELD**

25 **Q** These folks that were employed by Carolina Furniture,

1 did they have two bosses? .I mean, you and your daddy
2 pretty much together ran your business?

3 **A** Yes. These are part-time help.

4 **Q** Well, let me ask the question this way. Did these
5 employees, the delivery guys, did they take
6 directions from you?

7 **A** Yes.

8 **Q** Did they take directions from your dad?

9 **A** Yes.

10 **Q** Did they do things -- you testified earlier that your
11 dad's truck was not used as a delivery truck. Y'all
12 had another truck or two?

13 **A** Right.

14 **Q** Is that what you said? Would there ever be occasion
15 for -- well, for example, for one of the delivery
16 guys to get in your vehicle with you to go somewhere
17 to do something that maybe didn't involve delivering
18 furniture? That might not be a good question. But,
19 for example, if you had to take your truck to the
20 shop, would somebody ever accompany you to bring you
21 back?

22 **A** Yes.

23 **Q** Or ride in your truck or drive your truck?

24 **A** Well, they -- the delivery guys also drove daddy's
25 truck around from the back to the front each night

1 when we were closing up, too.

2 **Q** All right. You've answered the question I'm fixing
3 to ask. Did the delivery guys from time -- did the
4 delivery guys have access to your daddy's personal
5 truck?

6 **A** Yes.

7 **Q** For various purposes?

8 **A** Right. Yes, they did.

9 **Q** Do you have any specific recollection about Curtis
10 Elgin in your daddy's personal truck?

11 **A** No.

12 **Q** Okay. Thank you. That's all.

13 **MS. SMALLS:** No further questions.

14 **THE COURT:** Thank you. You may step down.

15 **MR. BARFIELD:** I ask that the witness be
16 excused.

17 **THE COURT:** Any objection?

18 **MS. SMALLS:** No, Your Honor.

19 **THE COURT:** Mr. Douglas, you may be excused from
20 your subpoena. Thank you very much. Thank you, Mr.
21 Douglas. You got a short witness, Solicitor, or do
22 you want to go to lunch?

23 **MR. BARFIELD:** Your Honor, I've actually got
24 a -- well, it's entirely up to you. I've got a short
25 witness. I've got two or three short witnesses that

1 are real short. I'll leave it up to you.

2 **THE COURT:** What do y'all want to do, folks? Do
3 you want to hear a witness or not?

4 **JUROR:** Yeah. We'll hear one.

5 **THE COURT:** All right. Let us hear one.

6 **MR. BARFIELD:** Wayne Haney. To do one, you've
7 got to do two. They're father and son. They're
8 together.

9 **THE COURT:** As long as they're short.

10 **MR. BARFIELD:** I know. I'm just joking, Your
11 Honor. Whatever you decide.

12 KENNETH W. HANEY, SR., after being duly sworn,
13 testifies as follows:

14 **THE CLERK:** Please be seated. State your name
15 for the record.

16 **THE WITNESS:** Kenneth Wayne Haney.

17 DIRECT EXAMINATION

18 **BY MR. BARFIELD**

19 **Q** And you're Sr.?

20 **A** Sr., yes.

21 **Q** They call you Wayne?

22 **A** Wayne, yes.

23 **Q** You're a lifelong Fairfield County resident?

24 **A** Yes, sir.

25 **Q** You got a son?

1 A Yes.

2 Q And his name is ...?

3 A Kenneth Wayne, Jr., also Kenny.

4 Q That's fine. How old is Kenny now?

5 A Kenny was born in 1972. And so he is 36.

6 Q Now, I'm going to show you State's Exhibit No. 62 in
7 this case, which I'm going to ask you first of all if
8 you've seen that document before?

9 A Yes, sir.

10 Q And what is that? Generally speaking, not the detail
11 of it, but what is that document?

12 A It's for the purchase of a firearm.

13 Q Does it bear your signature?

14 A Yes, it does.

15 Q And did you on January -- I don't remember the date.
16 What's the date on that thing? When did that happen?

17 A January the 20th, 1989.

18 Q All right. On January 20 of 1989, did you purchase
19 what I am handing you right now, State's Exhibit
20 No. 61 for identification purposes, from Jimmy Ray
21 Douglas at Carolina Furniture?

22 A Yes, I did.

23 Q And you're welcome to take it in your hands and look
24 at it and look at all the numbers and do whatever you
25 need to do with it.

1 A Oh, okay. Yes. Yes, sir.

2 Q You bought that gun?

3 A Yes, sir.

4 Q And did your son, Kenny, take possession of the gun?

5 A Yes.

6 Q For some period of time?

7 A Yes.

8 Q And do you know -- of personal knowledge, do you know
9 what Kenny did with the gun?

10 A He returned it back to Mr. Douglas, to Jimmy Ray.

11 Q Did you go with Kenny when it got returned to Jimmy
12 Ray?

13 A No.

14 Q Did you have anything to do with the swap back of the
15 gun or the sell back of the gun or the give back of
16 the gun, whatever it was?

17 A No, sir.

18 Q All right, sir. Other than buying the gun on
19 January 20th of 1989, do you have any other knowledge
20 of that gun?

21 A I have no other knowledge and it was not in my
22 possession at all.

23 Q Thank you, sir. No further questions. Answer
24 anything Ms. Smalls has.

25 **THE COURT:** Ms. Smalls.

CROSS EXAMINATION

BY MS. SMALLS

Q Just briefly, Mr. Haney. So you bought this gun actually for your son?

A Actually, yes, ma'am.

Q And it was your son that returned it to Jimmy Ray Douglas?

A That's right.

Q And after he returned it to Jimmy Ray Douglas, you don't know anything about the gun?

A That's correct.

Q No further questions.

MR. BARFIELD: That's all.

THE COURT: Thank you, sir. You may step down.
May he be excused?

MR. BARFIELD: If you're prepared to do another one, we'll do it. If not, we'll do it later.

THE COURT: We'll do another one. Certainly.

MR. BARFIELD: Kenny Haney.

KENNETH WAYNE HANEY, JR., after being duly sworn, testifies as follows:

THE CLERK: State your full name for the record.

THE WITNESS: Kenneth Wayne Haney, Jr.

DIRECT EXAMINATION

BY MR. BARFIELD

- 1 Q Mr. Haney, how old are you?
- 2 A I am 36 years old.
- 3 Q You live here in Fairfield County?
- 4 A Yes, sir.
- 5 Q And your dad is Kenneth Wayne Henry, Sr.?
- 6 A Sr.
- 7 Q Known as Wayne?
- 8 A Yes, sir.
- 9 Q Did you work for Carolina Furniture a long time ago?
- 10 A Yes, sir, I did.
- 11 Q And do you know Jimmy Ray Douglas?
- 12 A Yes, sir, I do.
- 13 Q I'm going to show you State's Exhibit No. 62. Look
- 14 at that piece of paper and tell me if you know what
- 15 that is?
- 16 A Yes, sir.
- 17 Q What is that?
- 18 A That's when we purchased the pistol.
- 19 Q And when did you purchase a pistol?
- 20 A That was back in '89.
- 21 Q All right. And is that the paperwork that your dad
- 22 completed?
- 23 A That's the document my dad signed. Yes, sir.
- 24 Q And where did you purchase the pistol from?
- 25 A Carolina Furniture.

1 Q And who did actually -- were you with your dad when
2 he bought the pistol?

3 A Yes, sir. We called my dad. We picked the pistol
4 out. We called my dad. He came up to Carolina
5 Furniture and signed for it.

6 Q And all of it occurred in your presence?

7 A Yes, sir.

8 Q And who at Carolina Furniture did you and your dad
9 deal with about purchasing this pistol?

10 A Jimmy Ray Douglas.

11 Q Now I'm going to show you this Exhibit No. 61 for
12 identification. It's unloaded. I want you to take
13 it in your hands if you're comfortable doing that.

14 A No problem.

15 Q And look at it, look at the item, look at the
16 paperwork, look at the numbers on everything, and
17 then I'm going to ask you a couple of questions about
18 it.

19 A Yes, sir.

20 Q Do you recognize 61 for identification?

21 A Yes, sir.

22 Q Is that the pistol you bought from Jimmy Ray Douglas,
23 or your dad bought, in January of 1989?

24 A Yes, sir.

25 Q I'll take it back so you don't have to deal with it

1 any more. When the pistol got bought in January of
2 1989, was it pretty much in your possession from that
3 point on?

4 **A** Yes, sir.

5 **Q** Now, at some point did you do something with the
6 pistol?

7 **A** Nothing but squirrel hunt.

8 **Q** Did you get rid of the pistol, I guess is my
9 question?

10 **A** Yes, sir. I took it back to Jimmy Ray.

11 **Q** And do you remember, do you have any recollection at
12 all when it was that you took it back to Jimmy Ray?

13 **A** Not exactly. No, sir.

14 **Q** Do you remember what year? I'm not trying to pin you
15 down. If you have any recollection --

16 **A** No, sir. It was in six to eight months I would
17 think, you know, what I can recollect. It's been so
18 long ago.

19 **Q** And when you took the pistol back, first of all, did
20 your dad have anything to do with you returning the
21 pistol?

22 **A** No, sir.

23 **Q** Was he present when you returned it?

24 **A** No, sir.

25 **Q** Who did you deal with when you returned it?

1 **A** Jimmy Ray.

2 **Q** And did you give the pistol to Jimmy Ray?

3 **A** Yes, sir.

4 **Q** Do you recall -- well, what were the terms under
5 which you returned that pistol, 61 for
6 identification, to Jimmy Ray?

7 **A** I just didn't want it any more. I didn't want to pay
8 for it.

9 **Q** Did you get another pistol? Did he give you money
10 back? Or what was the deal?

11 **A** I got another pistol from him.

12 **Q** Traded with him?

13 **A** No. Yes, sir.

14 **Q** Oh, okay. Beg the Court's indulgence one moment.

15 **THE COURT:** Yes, sir.

16 **Q** Were you working with Carolina Furniture during the
17 time this occurred?

18 **A** Yes, sir.

19 **Q** The purchase and the return of that pistol?

20 **A** Yes, sir.

21 **Q** What did Mr. Douglas do with the pistol when you took
22 it back to him?

23 **A** He put it in his desk drawer.

24 **Q** Okay. Have you been in the store any time lately?

25 **A** Whenever I got the subpoena I walked down there and,

Kenneth Wayne Haney, Jr. - Direct by Mr. Barfield

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1 you know, asked him about it because I was, you
2 know --

3 Q Was it the same desk that he sits at now?

4 A No, sir.

5 Q Has the store been reconfigured?

6 A That store has been totally turned around.

7 Q Okay. Do you know Curtis Lee Elgin?

8 A Yes, sir.

9 Q Do you see him in the courtroom today?

10 A Yes, sir.

11 Q And is he in the white shirt with the necktie at the
12 table over there with Ms. Smalls?

13 A Yes, sir.

14 Q Was he an employee of Carolina Furniture?

15 A Yes, sir, he was.

16 Q Was he an employee when you were an employee?

17 A Off and on, yes, sir. Not as much as I was.

18 Q And what was the case?

19 A I worked with his brother more than I worked with
20 him.

21 Q All right. After you returned State's Exhibit 61 for
22 identification to Jimmy Ray Douglas until I'm
23 guessing maybe five minutes ago, have you ever seen
24 that pistol between when you returned it and today?

25 A No, sir. No, sir.

1 Q All right. Did you become aware that it got itself
2 into the hands of law enforcement sometime?

3 A Yes. A while back. A while after that.

4 Q Did the Sheriff's Office come looking to you about
5 it?

6 A Yes, sir. I come -- I worked for Sox & Freidman and
7 I come through town when we get off work. And
8 Mr. Kitchens pulled up beside me, asked me if I would
9 go to the Sheriff's Office. And there he asked me,
10 he said, do you -- well, he said, you know what
11 you're here for, don't you? I was like, no. And he
12 said, murder one. And I stood up and said, that
13 ain't so, you know.

14 Q Did you get grilled pretty hard about the pistol?

15 A Yeah. I got -- yeah. It basically, you know, scared
16 me.

17 Q And that's fine. We don't need to get into all that.
18 Thank you, sir. Answer anything Ms. Smalls has.

19 **THE COURT:** Ms. Smalls.

20 CROSS EXAMINATION

21 **BY MS. SMALLS**

22 Q So, Kenny, your father actually purchased the
23 business gun for you?

24 A Yes, ma'am.

25 Q And you returned it back to Jimmy Ray Douglas?

1 A Yes, ma'am.

2 Q And I think you said you don't know exactly when it
3 was? Maybe eight months or so afterwards?

4 A Yes, ma'am. It's been so long ago.

5 Q Okay. And when you returned it back to Jimmy Ray,
6 you said he put it in the desk drawer to your
7 knowledge?

8 A Yes, ma'am.

9 Q So you don't know when it actually got from the desk
10 drawer to his father's truck?

11 A No, ma'am.

12 Q Okay.

13 A No, ma'am.

14 Q How long did you work for the Douglasses?

15 A I worked off and on since I was probably about 12 to
16 16.

17 Q Ages 12 to 16?

18 A Yeah. Off and on, you know.

19 Q During between the ages of 12 and 16, did you and
20 Curtis Elgin ever work for them at the same time?

21 A Yes, ma'am. That was when he was here and there.
22 Yeah.

23 Q Were you also responsible for deliveries?

24 A Yes, ma'am.

25 Q So if you worked for Mr. Douglas 12 to 16, you pretty

1 much are familiar with the habits of the Douglasses?

2 A Yes, ma'am.

3 Q Do you have any personal knowledge of the Douglasses
4 ever losing any keys?

5 A No, ma'am. No, ma'am. None at all.

6 Q Any keys to the store?

7 A No, ma'am. None at all.

8 Q Do you have any knowledge of them ever changing any
9 locks?

10 A No, ma'am.

11 Q Based on your personal knowledge of their habits, if
12 there are any keys lost, would they be replaced?

13 A I would think they would. Yeah. But I've never been
14 around when they've lost keys. So --

15 Q During the time period in which you worked there, did
16 you learn that the keys to the glove compartment were
17 lost?

18 A No, ma'am.

19 Q You never heard anything about that?

20 A No, ma'am. I wasn't working there when the gun was
21 supposedly stolen.

22 Q Okay. Would it be normal if the keys were lost for a
23 certain time period, six months, for them not to be
24 replaced?

25 A I wouldn't think so.

1 **Q** You wouldn't think so?

2 **A** I wouldn't think. I would think they would get them
3 replaced as soon possible, as much furniture as they
4 have.

5 **Q** You have never seen Curtis Elgin with that same gun,
6 have you?

7 **A** No, ma'am.

8 **Q** The last time you saw it is when you gave it back to
9 Jimmy Ray?

10 **A** Yes, ma'am.

11 **MS. SMALLS:** Beg the Court's indulgence.

12 **THE COURT:** Certainly.

13 **MS. SMALLS:** Nothing further for this witness.

14 **MR. BARFIELD:** Nothing further with this
15 witness. I ask that he be excused.

16 **THE COURT:** You may step down, sir, and you may
17 be excused. Any reason not to take a lunch break?

18 **MR. BARFIELD:** No, sir.

19 **THE COURT:** Let's take a lunch break until about
20 ten minutes 'til two. Does that work with y'all?
21 Fine. We'll see you back then.

22 (Jury out at 12:38 p.m.).

23 **THE COURT:** Do we have anything to do during the
24 lunch break, to take care of?

25 **MR. BARFIELD:** No, sir.

1 **THE COURT:** What's it look like on your end?

2 **MR. BARFIELD:** Very good. I've got three real
3 quick witnesses on this same line about the gun and
4 then Dr. Sexton.

5 **THE COURT:** That's fine.

6 **MR. BARFIELD:** The schedule is good. Thank you.

7 **THE COURT:** Court will be in recess until ten
8 minutes 'til two.

9 (Whereupon, a lunch break is taken)

10 **THE COURT:** Is the defense ready for the jury?

11 **MS. SMALLS:** Yes, sir.

12 **THE COURT:** Call the jury, please. Ms. Hickman,
13 let's bring the jury in.

14 (Jury in at 1:53 p.m.)

15 **THE COURT:** And welcome back once again, ladies
16 and gentlemen. I believe we are continuing to
17 receive evidence in the State's case. Solicitor.

18 **MR. BARFIELD:** Jimmy Burroughs.

19 JAMES BURROUGHS, after being duly sworn,
20 testifies as follows:

21 **THE CLERK:** Please have a seat. State your name
22 for the record, please.

23 **THE WITNESS:** James Burroughs.

24 DIRECT EXAMINATION

25 **BY MR. BARFIELD**

1 Q Mr. Burroughs, what do you do now?

2 A I'm an ordained minister with Christ Central
3 Ministries.

4 Q What were you doing for a living back on June the
5 15th or 16th I think of 1993?

6 A I was the director of public safety for the Town of
7 Winnsboro, which was police chief, responsibility of
8 the police department and the fire department.

9 Q Sometime on or about June 16th of 1993, did you have
10 occasion to be in an area near the old Uniroyal
11 plant?

12 A Yes. We were looking for merchandise that had been
13 stolen in some break-ins previously.

14 Q Now, was there somebody in jail --

15 A Yes.

16 Q -- on the break-ins --

17 A Yes.

18 Q -- that you're referring to?

19 A Correct.

20 Q What was that fellow's name?

21 A Terry Lee Jones.

22 Q Were the break-ins to your knowledge in any way --
23 well, let me back up. By June 16th of 1993, were you
24 aware that Audre Belton had been found shot to death
25 in her home --

1 A Yes.

2 Q -- on Golf Course Road?

3 A Yes, sir.

4 Q Is that in the city or the county?

5 A That is in the county.

6 Q Did your department do anything directly to
7 investigate --

8 A No.

9 Q -- the Audre Belton homicide?

10 A No.

11 Q Did you have knowledge in June of '93 of what the
12 Sheriff's Office and I guess SLED, too, suspected to
13 be the caliber of the weapon that was used in the
14 Audre Belton homicide?

15 A Yes..

16 Q Did you know in June of '93 whether or not the
17 Sheriff's Office and/or SLED had recovered something
18 that they concluded was the murder weapon in the
19 Audre Belton case?

20 A No, sir, I did not.

21 Q They had not, or you didn't know one way or the
22 other?

23 A They didn't -- I didn't -- I'm not sure. I don't
24 think they had recovered anything.

25 Q Okay. On or about June 16th, based upon information

1 concerning the burglaries that you referred to a
2 minute ago, did you and some other folks from
3 Winnsboro Department of Public Safety go out to an
4 area around the old Uniroyal plant?

5 **A** Yes.

6 **Q** Describe the area first of all.

7 **A** It was kind of a grassy, overgrown area. It's right
8 on a curve.

9 **Q** Do you know the name of the road?

10 **A** Dunn Street. And I'm not sure what the other street
11 that runs into it is. But I know Dunn Street is the
12 street that runs down beside a railroad track and
13 goes around.

14 **Q** All right. And can you actually see the Uniroyal
15 plant --

16 **A** Yes.

17 **Q** -- from the first --

18 **A** Right behind it. Yeah.

19 **Q** Is there train tracks anywhere nearby?

20 **A** Right directly across the road. They run parallel
21 with Dunn Street.

22 **Q** Okay. Is there another fairly significant road on
23 the far side of Dunn Street and the curve across the
24 railroad track?

25 **A** Yes.

1 Q Do you know what road or street that is?

2 A That is Golf Course Road.

3 Q Okay. And were you familiar with -- first of all, do
4 you know where Audre Belton lived back before she
5 died?

6 A Yeah. We -- let me say that was -- you know, working
7 in law enforcement, the city and the county, we knew
8 about what was going on as far as what had happened.
9 We did not assist any investigation but we did know
10 what had happened and where it was located.

11 Q So did you know where Audre Belton's house was?

12 A Yes.

13 Q Before we get to what you found during your search,
14 describe the best you can, if you can, how far the
15 curve near the Uniroyal plant is from the row of
16 houses that Audre Belton lived on, if you're walking?

17 A It's, you know, five-minute walk maybe, three
18 minutes. It's just right there. You can see the
19 area.

20 Q Okay.

21 A Probably 300 yards.

22 Q All right. At the time you were searching off you
23 said Dunn Street I think --

24 A Mm-hmm (affirmative).

25 Q -- was there a dump site, a county maintained green

1 box site anywhere in that area?

2 A Right there on the curve.

3 Q And were there dumpsters there?

4 A Yes.

5 Q Okay.

6 A My recollection, there were two I believe.

7 Q All right, sir. Who was William Gonzalez? Who is he
8 and was he?

9 A William Gonzalez was a public safety officer that
10 worked under my direction at the time.

11 Q All right. He is on the other side of the hall with
12 you today?

13 A Right.

14 Q Was he with you --

15 A Yes.

16 Q -- the day that you went out to Dunn Street to look?

17 A He was.

18 Q And did you have pretty specific information about
19 where to go look for the stolen stuff?

20 A Yes.

21 Q And who did that information come from?

22 A From Mr. Jones.

23 Q Now, was any of the stuff you were looking for based
24 on the information from Mr. Jones firearms or any
25 ballistics?

1 **A** Oh, no.

2 **Q** It wasn't any guns?

3 **A** No.

4 **Q** Describe where you went to do your search?

5 **A** As far as the area or the type landscape or --

6 **Q** You're on Dunn Street and you're at the curve. You

7 get out of your car. Where did you go then?

8 **A** He told us right there on the corner of Dunn Street,

9 that was the stash place up there and some of the

10 stuff may be there.

11 **Q** Was it off the road anywhere?

12 **A** Right off the road about 25, 30 yards --

13 **Q** Okay.

14 **A** -- into the grassy, overgrown place.

15 **Q** And did y'all go look where you were instructed to

16 look?

17 **A** We did. William went in before I did. I was coming

18 into the edge of the tree line. And we had been

19 there just a few seconds, a few minutes rather; and

20 he said -- he hollered and said, Chief, I've got a

21 gun.

22 **Q** All right. Stop right there. Is there any

23 significant difference in the area --

24 **A** Yeah.

25 **Q** -- today from what it was --

1 **A** Yes.

2 **Q** -- in June of '93?

3 **A** Yes.

4 **Q** And how was it in June of '93?

5 **A** In June of '93 it was all flat. Just the roadway and
6 then the shoulder and then the wooded area was all
7 level. Since that time there has been a lot of dirt
8 piled in and -- it's more of a southern term -- a
9 gully down beside the roadway.

10 **Q** All right. And how about the area where Gonzalez was
11 when he said he had a gun?

12 **A** It was --

13 **Q** Was it overgrown or was it fairly clear?

14 **A** It was clear enough to walk. And we were under some
15 honeysuckle vines and stuff like that. But it was a
16 stash place. I mean, you could --

17 **Q** Now, when William Gonzales informed you that he had a
18 gun, did you give him any instructions? Well, first
19 of all, did it strike any particular chord with you?

20 **A** Not at the time. He said, I've got a gun. I told
21 him don't touch it. I went over there to it and saw
22 it.

23 **Q** Did anybody touch it?

24 **A** No.

25 **Q** Did you or William Gonzales or anybody else until

1 somebody took formal possession of it?

2 **A** I picked it up with a -- I think I picked it up with
3 a stick and took it to the car when the county came.
4 I called the county immediately because it was in the
5 county. And they came down. And I can't be exactly
6 sure. But I know that I turned the gun over to
7 Frazier Craig I believe.

8 **Q** All right, sir. Now I'm going to hand you State's
9 Exhibit 61 for identification. And I don't know if
10 you can, but take a look at that and tell me if that
11 means anything to you?

12 **A** That is -- well, it's been a long time since I've
13 seen it.

14 **Q** No. That's fine. And if you can't -- and I'm not --

15 **A** I could not say that that's the gun, but that is the
16 type --

17 **Q** That's fine.

18 **A** -- of .22. I mean, they're pretty -- if you know
19 anything about guns, you know it's a .22.

20 **Q** Did the Sheriff's Office take possession of that?

21 **A** Yes.

22 **Q** Did your department, your officers or anybody that
23 you were supervising have any further responsibility
24 or interaction with the gun that William Gonzales
25 found?

1 **A** No.

2 **Q** Okay.

3 **A** I know that Frazier got there and -- I think it was
4 Frazier -- they put it in a box with string. I
5 remember the details of them putting it in a box and
6 nobody touched it.

7 **Q** Bear with me one moment. Just one second, Your
8 Honor.

9 **THE COURT:** Yes, sir.

10 (Pause)

11 **MR. BARFIELD:** That's all the questions I have
12 for Mr. Burroughs.

13 **MS. SMALLS:** Thank you. May it please the
14 Court.

15 CROSS EXAMINATION

16 **BY MS. SMALLS**

17 **Q** Mr. Burroughs, you indicated that the date that you
18 actually found the gun was June 16th, 1993. Is that
19 correct?

20 **A** I can't positively say. I think it was -- I -- it
21 was in June. 13th maybe. 16th. Or I'm not sure.

22 **Q** June the 9th. Is that correct?

23 **A** Yes, ma'am.

24 **Q** Is that the date? And you stated you happened to be
25 in the area that day?

1 **A** Yes, ma'am. I was --

2 **Q** And it was just you and Mr. Gonzalez?

3 **A** There may have been another officer or two there, but
4 I remember distinctly that William went with me. He
5 found the gun and called me.

6 **Q** Okay. So was it more than the two of you?

7 **A** I don't think so. I think it was William and I. I
8 think some other officers may have come down later.
9 But William and I originally went.

10 **Q** And the reason that you went to the area is because
11 you were looking for some items that had been stolen
12 in a burglary?

13 **A** Breaking and enterings. Yes, ma'am. We had a
14 subject in custody who had confessed to several and
15 told us that he was not sure what all he done with
16 the stuff but he thought some of it was still there.
17 So we went and looked. But --

18 **Q** So the subject that you had in custody from the
19 breaking and entering told you where he had stashed
20 some of the stuff?

21 **A** Yes, ma'am.

22 **Q** So the subject sent you to that area?

23 **A** Mm-hmm (affirmative).

24 **Q** And while looking for some items that were stolen
25 from the breaking and entering, that's when

- 1 Mr. Gonzales --
- 2 A Mm-hmm (affirmative).
- 3 Q -- came across the gun?
- 4 A Right.
- 5 Q So you were not in that area, had no interest in the
- 6 area until that subject who was in custody told you
- 7 to go to the area?
- 8 A Right.
- 9 Q Correct?
- 10 A Correct.
- 11 Q And it was Mr. Gonzales that first actually came
- 12 across the gun --
- 13 A Right.
- 14 Q -- and brought it your attention?
- 15 A Right.
- 16 Q And after he did that -- I think you said you worked
- 17 for the city and that was within the county -- then
- 18 you called some other folks?
- 19 A Mm-hmm (affirmative).
- 20 Q And who actually took possession of the gun?
- 21 A The Fairfield County Sheriff's Department.
- 22 Q The Sheriff's Department?
- 23 A Mm-hmm (affirmative).
- 24 Q And after that you didn't see it again?
- 25 A No, ma'am.

1 Q Beg the Court's indulgence.

2 THE COURT: Certainly.

3 Q You turned over in this case the gun to the county
4 because you're in the city?

5 A Yes, ma'am.

6 Q So you weren't part of any type of search party?

7 A No, ma'am.

8 Q Do you know whether or not that area had been
9 searched prior to that date?

10 A I have no idea.

11 Q No further questions.

12 MR. BARFIELD: Just a couple of follow-ups real
13 quick.

14 THE COURT: All right.

15 REDIRECT EXAMINATION

16 BY MR. BARFIELD

17 Q Ms. Smalls was asking you about the suspect in
18 custody on burglaries that you said he confessed to.
19 Did he confess to anything to do with Audre Belton --

20 A No.

21 Q -- and her house on Golf Course Road?

22 A As a matter of fact, he was in jail at the time.

23 Q Okay. That's fine.

24 MS. SMALLS: Just one question.

25 MR. BARFIELD: Let me ask one more question.

1 Q Terry Lee Jones is who you were talking about, right?

2 A Correct.

3 Q And he was in jail at that time? What time?

4 A When the murder took place.

5 Q Okay. Thank you.

6 MS. SMALLS: He asked the question I was going
7 to. Thank you.

8 THE COURT: You may step down.

9 THE WITNESS: Yes, sir.

10 MR. BARFIELD: William Gonzalez.

11 WILLIAM GONZALES, after being duly sworn,
12 testifies as follows:

13 THE CLERK: Please be seated. State your name
14 for the record.

15 THE WITNESS: William Gonzales.

16 DIRECT EXAMINATION

17 BY MR. BARFIELD

18 Q Investigator Gonzales, or Captain, right?

19 A Yes, sir.

20 Q By whom are you employed?

21 A The Winnsboro Department of Public Safety.

22 Q And sometime in June of 1993, were you in the area of
23 the curve on Dunn Street, actually out in the county
24 near the old Uniroyal plant with your then chief or
25 director, Jimmy Burroughs?

1 **A** I was.

2 **Q** And did you find something -- well, generally
3 speaking, not in any details; but generally speaking,
4 what were you and Jimmy Burroughs out there doing?

5 **A** We were looking for some stolen property from some
6 burglaries we had in town.

7 **Q** And did you find something of significance yourself?

8 **A** Yes, I did.

9 **Q** Describe -- well, let me just show you. I'm showing
10 you State's Exhibit No. 61 for identification
11 purposes.

12 **A** Okay.

13 **Q** And you might not -- my finger. I need to start
14 using one finger. You might not be able to. But do
15 you recognize that?

16 **A** I remember finding a pistol in that area that was
17 silver in color, but I can't say for sure --

18 **Q** That's fine.

19 **A** -- this is the same one.

20 **Q** That's fine. When you -- well, describe, was the
21 pistol on the ground?

22 **A** Yes, it was.

23 **Q** Describe it when you came upon it? Just tell the
24 jury how you came upon this pistol.

25 **A** I was walking through the woods just looking for the

1 property that we were trying to find from the
2 break-ins and happened to stumble across it laying on
3 the ground in the open.

4 Q You just walked up to it?

5 A Yes.

6 Q Okay. When you found it, did you say anything or do
7 anything?

8 A If I remember correctly, I forget what the
9 conversation was, but I do remember asking him, well,
10 what if we find a gun? And they said, well, do you
11 have a gun? I said yes. And I stayed with it
12 until -- I don't remember. I think the chief or
13 someone else come in. And I don't remember who
14 removed it.

15 Q All right. Do you have any recollection -- did you
16 handle it yourself?

17 A No, I did not.

18 Q You never put your hands on it?

19 A No.

20 Q Okay. Thank you. Answer anything Ms. Smalls has.

21 **THE COURT:** Ms. Smalls.

22 **MS. SMALLS:** If it pleases the Court.

23 CROSS EXAMINATION

24 **BY MS. SMALLS**

25 Q Captain Gonzales, who was with you the day that you

1 found the gun?

2 A I remember Director Burroughs. But who else, I
3 really don't remember at the time.

4 Q Would it have possibly been just the two of you
5 initially?

6 A I'm wanting to say it was three or four of us. But
7 like I say, I don't remember who else was there.

8 Q But it was actually you who found the gun?

9 A Yes, ma'am.

10 Q And you said that you were in the area because you
11 were looking for some items that had been stolen in a
12 breaking and entering or a burglary case?

13 A Yes, ma'am.

14 Q Whose idea, if you recall, was it for you to go to
15 the area?

16 A I think it was Director Burroughs.

17 Q Excuse me?

18 A I think it was Director Burroughs.

19 Q Were you with Mr. Burroughs when he received any
20 information about items being possibly in the area?

21 A No, I was not.

22 Q Basically he just told you to go and assist him --

23 A Yes, ma'am.

24 Q -- search the area?

25 A Yes.

1 Q You said something about you were walking through the
2 woods and you ran across the gun. I think the
3 prosecutor asked you if you said anything or what did
4 you do when you ran across the gun. What was it that
5 you said?

6 A If I remember, I think they were telling us what we
7 were looking for. And when I happened to stumble
8 across it, I just said, well, what if we find a gun?
9 And that's when one of them, I don't remember who
10 asked me, well, do you have a gun? I told them yes.

11 Q Let me make sure I understand. So when you found the
12 gun, did you specifically tell Mr. Burroughs at that
13 time what you had, or did he ask you if you found a
14 gun?

15 A I think at that time I just asked him -- I told him
16 that I'd found it.

17 Q You told him that you'd found a gun?

18 A Yes.

19 Q How far away was Mr. Burroughs when you found the
20 gun?

21 A He was standing on the street. I would say no more
22 than 500 feet.

23 Q Beg the Court's indulgence.

24 THE COURT: Certainly.

25 MS. SMALLS: Nothing further.

1 **MR. BARFIELD:** One more thing, Your Honor.

2 REDIRECT EXAMINATION

3 **BY MR. BARFIELD**

4 **Q** Do you recall whether y'all found any of the stuff
5 you were actually out there looking for?

6 **A** I don't think we did.

7 **Q** Okay. That's all. Thank you.

8 **THE COURT:** Thank you, Mr. Gonzalez. You may
9 step down. May he be excused?

10 **MS. SMALLS:** Without objection.

11 **THE COURT:** You may be excused from your
12 subpoena.

13 **THE WITNESS:** Thank you.

14 **MR. BARFIELD:** I call Jimmy Joyner.

15 JAMES E. JOYNER, after being duly sworn,
16 testifies as follows:

17 **THE CLERK:** Please be seated. State your name
18 for the record.

19 **THE WITNESS:** James E. Joyner.

20 DIRECT EXAMINATION

21 **BY MR. BARFIELD**

22 **Q** And, Mr. Joyner, by whom are you employed?

23 **A** Fairfield County Sheriff's Office.

24 **Q** How long have you been with the Fairfield County
25 Sheriff's Office?

1 **A** Twenty-one years.

2 **Q** Were you employed by the Fairfield County Sheriff's
3 Office sometime in June of 1993?

4 **A** Yes, I was.

5 **Q** And are you currently the evidence custodian for the
6 Fairfield County Sheriff's Office?

7 **A** At that time I was an investigator for the Sheriff's
8 Office. But I am currently now the evidence
9 custodian.

10 **Q** Now, did you become aware on some date in June of
11 1993 that William Gonzales or Jimmy Burroughs had
12 stumbled upon a pistol off the road at the curve on
13 Dunn Street near the old Uniroyal plant?

14 **A** Yes, we did.

15 **Q** Did you go out there?

16 **A** Yes, I did.

17 **Q** Did other officers from the Sheriff's Office go out
18 there?

19 **A** Yes, they did.

20 **Q** Do you recall specifically who all was out there?

21 **A** I don't recall specifically. I'm not sure if
22 Mr. Kitchens was there. I'm pretty sure that I had
23 another investigator with me, but I don't remember
24 who.

25 **Q** Thank you. When you got there, were you briefed on

1 what the city had?

2 A Yes.

3 Q And were you shown what the city had?

4 A Yes, I was.

5 Q And did you take possession of what the city had
6 found?

7 A Yes, I did.

8 Q Now I'm going to hand you State's Exhibit 61 for
9 identification purposes, ask you to take all the time
10 you need, examine it. If there's any paperwork you
11 need to see, let me know. But I'm going to ask if
12 you can identify that in just a moment.

13 A Yes, I can.

14 Q And have you seen that before today?

15 A Yes, I have.

16 Q And where did you first see that?

17 A Between Dunn and Maple Street.

18 Q And where was it?

19 A It was -- I can't remember whether they had already
20 brought it out to the car or whether we actually went
21 into the woods to pick it up where it was at. I
22 don't remember.

23 Q Did you take possession of it?

24 A I did.

25 Q Did you secure it and keep it secured while it

1 remained in your possession?

2 **A** Yes, I did.

3 **Q** And sometime that day or within a day or two, did you
4 do something else with it?

5 **A** Yes. We secured it in a box. To protect the
6 fingerprints on it, you suspend it with string so
7 that it doesn't bump the box and smear anything that
8 might be on it. And then we transported -- I
9 transported it to SLED, to the Law Enforcement
10 Division lab down there, and turned it over to the
11 forensics officer down there to be worked on.

12 **Q** And does the paperwork in this case -- Court's
13 indulgence one moment. Have you got a paper trail to
14 show who signed for it when you got to SLED with it?

15 **A** Yes, I do.

16 **Q** And it went from you to whom?

17 **A** To David Black.

18 **Q** The fellow that was here earlier this morning?

19 **A** That's correct.

20 **Q** Okay. Now, at some point did it come back to the
21 Fairfield County Sheriff's Office?

22 **A** It did.

23 **Q** All right. And when you took possession of it back
24 in June of '93, did you -- you said you suspended it
25 in a box. Did you manipulate it, clean it, try to

1 open it up, do anything with it?

2 **A** No. We didn't handle it no more than we had to to
3 get it suspended.

4 **Q** Thank you.

5 (Pause)

6 **MR. BARFIELD:** Your Honor, at this time I'm
7 going to offer 61 for identification as State's
8 Exhibit No. 61.

9 **THE COURT:** All right.

10 **MS. SMALLS:** Your Honor, I have an objection to
11 him offering it into evidence at this time.

12 **MR. BARFIELD:** Your Honor, there will be
13 additional -- I anticipate presenting additional
14 evidence and testimony concerning 61 for
15 identification tomorrow.

16 But my argument to you at this point is that I
17 have established a pretty complete chain of custody,
18 as complete as it can be under the circumstances from
19 the point that the pistol was sold from a retailer to
20 the point that law enforcement came into possession
21 of it, all the way into the front door of SLED which
22 was testified to by David Black earlier this morning.

23 So I think there is a good chain of custody on
24 this pistol and I think it's appropriate to offer it
25 into evidence at this point.

1 **THE COURT:** Well, I thought you meant offer it
2 for identification.

3 **MR. BARFIELD:** No. It's already marked for
4 identification. I'm offering it as an exhibit.

5 **THE COURT:** Into evidence?

6 **MR. BARFIELD:** Into evidence.

7 **THE COURT:** Any objection to that?

8 **MS. SMALLS:** Yes, sir. My position is Agent
9 Black testified earlier from SLED who indicated that
10 he gave this gun to another individual who has not
11 testified yet. And since the solicitor indicates
12 that person is testifying tomorrow, I think it would
13 be more appropriate for him to try to get it into
14 evidence after the last person has testified.

15 **THE COURT:** Well, the witness has identified it.
16 I'm going to overrule the objection. I'll allow it
17 into evidence over objection.

18 (WHEREUPON, State's Exhibit No. 61 is admitted
19 into evidence.)

20 **Q** When it came back to the Sheriff's Office, as
21 evidence custodian, are you in charge of it now?

22 **A** I'm in charge of it now. I've been in charge of the
23 evidence room since 2000.

24 **Q** And did you bring it to court?

25 **A** Yes.

1 Q And the rest of the stuff in this case?

2 A That's correct.

3 Q Thank you, sir. That's all I have. Answer anything
4 Ms. Smalls has.

5 MS. SMALLS: May it please the Court?

6 THE COURT: Yes, ma'am.

7 CROSS EXAMINATION

8 BY MS. SMALLS

9 Q Mr. Joyner, so basically you were called to the scene
10 and you retrieved the gun and turned it into
11 evidence?

12 A That's correct.

13 Q And that has been your only dealings with the gun.
14 Is that correct?

15 A That, and storing it for the last nine years.

16 Q And bringing it here with you today?

17 A Yes, ma'am.

18 Q Do you know if there is any photographs taken of the
19 scene where the gun was actually located?

20 A I am not sure if there was or not. I wasn't the lead
21 investigator on this case. I was just down there
22 helping by checking it and taking it to SLED for
23 them.

24 Q At the time the gun was found, was that Investigator
25 Kitchens who was the lead investigator?

1 **A** I believe so.

2 **MS. SMALLS:** No further questions.

3 **THE COURT:** Anything else for this witness?

4 **MR. BARFIELD:** I probably will need to recall
5 him for a similar --

6 **THE COURT:** All right. You may step down.

7 **MR. BARFIELD:** Joel Sexton.

8 DR. JOEL S. SEXTON, after being duly sworn,
9 testifies as follows:

10 **THE CLERK:** Please be seated. State your name
11 for the record.

12 **THE WITNESS:** Dr. Joel Steven Sexton. That's
13 S-E-X-T-O-N.

14 DIRECT EXAMINATION

15 **BY MR. BARFIELD**

16 **Q** I ask every witness by whom are you employed. And I
17 can't ask you that any more, can I?

18 **A** Well, I'm technically employed by myself.

19 **Q** Well, good.

20 **A** I have retired from full-time practice but I'm still
21 doing consulting work.

22 **Q** All right. And what is your profession, Dr. Sexton?

23 **A** Pathologist with specialization in forensic
24 pathology, as well as doing hospital pathology.

25 **Q** And the name of your former practice I guess is what?

1 **A** The former practice was Newberry Pathology Associates
2 which I sometimes work for them part time. Right now
3 I'm just Joel S. Sexton, MD.

4 **Q** And is Newberry Pathology Associates still an ongoing
5 business enterprise?

6 **A** It is.

7 **Q** How long have you been a forensic pathologist?

8 **A** Since 19 and 68. I became licensed in the state and
9 later became nationally board certified in 1972 in
10 anatomical, clinical and forensic pathology. I at
11 that time was teaching at the Medical University
12 which I did until 1983 and then moved to Newberry as
13 the head of the pathology department at the Newberry
14 County Hospital.

15 **Q** And is your former practice and I guess some of your
16 current work done in conjunction with the Newberry
17 County Hospital over there?

18 **A** Yes, it is.

19 **Q** Have you been called upon -- you need to speak up a
20 little bit. You're soft spoken and we've been
21 fussing at people about not talking loud enough. You
22 can do that if you want to.

23 **A** I'll talk a little louder.

24 **Q** Over the course of your career, have you been
25 called -- well, let me back up. Are you still

1 licensed and still hold all of your credentials that
2 you have had for many years?

3 **A** Correct. I am still licensed in pathology and as an
4 MD and have recently re-certified for the next ten
5 years nationally.

6 **Q** All right, sir. Have you been called upon from time
7 to time to testify in the courts of this state and
8 qualified as an expert witness in forensic pathology?

9 **A** Yes. Over 700 times.

10 **Q** Many in this courtroom right here?

11 **A** That's correct.

12 **Q** Have you ever been offered up as an expert witness in
13 forensic pathology and been denied qualification as
14 an expert in that field by any judge anywhere?

15 **A** No. That has not occurred.

16 **MR. BARFIELD:** All right. Your Honor, at this
17 time I'd offer Dr. Sexton as an expert in forensic
18 pathology.

19 **MS. SMALLS:** Without objection.

20 **THE COURT:** The motion is granted.

21 **Q** Dr. Sexton, on or about I think probably June or
22 February 16th of 1993, were you called upon by the
23 Fairfield County Coroner's Office to perform an
24 autopsy on the body identified to you as that of
25 Audre Ann Belton?

1 A Yes. That is correct. We did that autopsy that
2 morning.

3 Q Describe generally the exterior -- describe the
4 person that you were doing the autopsy on the body
5 of?

6 A Ms. Belton was approximately five-foot-six inches in
7 height. We measured the length of the body which
8 corresponds pretty well with the height, although not
9 exact. The weight we estimated at 120. She was
10 fully clothed, wearing a pair of jeans, a gold
11 colored, long-sleeved blouse and tennis shoes. She
12 had blood in some of the areas on that clothing
13 corresponding to injuries that were on the body.

14 Q Was there jewelry on the body?

15 A There was a gold colored pulsar watch. There were
16 four gold colored bracelets, two gold colored
17 necklaces and I think one other piece of jewelry.
18 Just a moment. That may be all. There's two
19 necklaces, four bracelets. I'm sorry. Two rings,
20 two gold colored rings on her left hand.

21 Q The court reporter is still having a little bit of
22 trouble hearing you. There you go. You described
23 the body as being fully clothed?

24 A That's correct.

25 Q When the body came to you, was there any unfastening

1 of any closures of clothes, of pants, of bra straps
2 or anything? Was there any state of undress or
3 unfastening at all about the clothing of the body?

4 **A** No, there was not.

5 **Q** I'm going to go ahead and talk to you about this and
6 then we'll come back and get into some other things.
7 But during the course of your autopsy on this body,
8 did you find any evidence of a sexual assault on the
9 body?

10 **A** We did not. After unclothing the body we took
11 samples. We analyzed those from the vagina, the
12 mouth and the rectum as far as sperm. No sperm
13 present in any of those locations, no injuries
14 present in any of those locations, and no asos
15 phosphatase which is a chemical that's present if
16 someone has had a vasectomy so that if they no longer
17 have sperm, they will have that type of chemical in
18 the ejaculate. So there was no evidence of sexual
19 assault.

20 **Q** With respect --

21 **A** Or sexual activity I should say.

22 **Q** Was there any evidence of gunshot wounds to the body?
23 And we'll come back and ask you details. But was
24 there any evidence of gunshot injuries to the body?

25 **A** There were four gunshot wounds present.

1 Q Now, other than gunshot wounds, was there evidence of
2 any other physical injury to the body of Audre
3 Belton?

4 A Well, on top of the head was what I'll refer to as an
5 area of injury consistent with a blow or falling
6 against something that showed scraping of the
7 external surfaces and laceration and bruising of the
8 skin. So there was a small area on the top of the
9 head shaped almost like an L or a T.

10 Q Other than that and the gunshot injuries, was there
11 any other physical injury to the exterior of the
12 body?

13 A We found no other physical injury.

14 Q Did you examine the hands and the upper extremities
15 of the body?

16 A Yes, we did.

17 Q Were there any injuries to the hands that you saw?

18 A No. We checked everything else carefully. There
19 were no broken nails, nothing under the nails.

20 Q All right, sir. A moment ago you testified there
21 were four gunshot wounds to the body. If you would
22 describe them one-by-one in laymen's terms so that we
23 know where Ms. Belton had been shot?

24 A There were four wounds that we numbered arbitrarily 1
25 through 4. So the number on the diagram if you see

1 that later has nothing to do with the order in which
2 the shots may have been fired.

3 There was one here on the top left side of her
4 head near the front of her head. It entered from the
5 rear. It hit the bone but did not go into the skull,
6 caused a little fracture there. Part of the lead
7 stayed in the wound. A major portion came out. And
8 so it entered from the rear, hit the bone, caused a
9 fracture, caused bleeding inside the skull on the
10 brain and left going forward. Another one --

11 Q Let me stop you right there. Which one did you
12 number that as for your autopsy numbering system?

13 A It was numbered number 1.

14 Q Now, was --

15 A And I'm pretty sure all of that bullet continued on.
16 We don't have it.

17 Q Was any bullet recovered from what you numbered as
18 gunshot wound number 1?

19 A No. All the bullet continued on out the exit towards
20 the front.

21 Q All right. You didn't find the bullet from that one?

22 A We did not. Correct.

23 Q Yes, sir. The next one?

24 A Number 2 arbitrarily I labeled as one that entered
25 the right ear near the top of the ear, went through

1 the ear, hit the mastoid bone which is the big bone
2 behind your ear. And a portion of it stayed in the
3 base of the neck and the rest of it continued on out
4 through a hole in the back of the neck on the right
5 side. And we arbitrarily labeled that number 2.

6 And I should mention that neither of these
7 showed any indication that the muzzle of the gun was
8 close to the person. When a gun fires, in addition
9 to the bullet coming out, if you ever see a gun fired
10 at night, there are flames that come out. There is
11 completely burned powder.

12 In the case of pistols often and sometimes
13 rifles and shotguns there is powder that's not
14 burned. It hasn't had time in the barrel to burn
15 completely. And when that hits the skin, it actually
16 sticks in the skin and sometimes chemically bonds
17 with the skin and produces a tattoo that requires
18 surgery to remove or it causes stippling where the
19 powder penetrates the skin and then falls out. And
20 so you have little pockmarks in the skin. Or you
21 have soot where it could be washed away. None of
22 that was present on the wound in the right ear that
23 went to the rear or on top of the head that went to
24 the front. The --

25 Q Well, let's talk about a couple of issues about that

1 right quick. So you would characterize the first two
2 you talked about as distant gunshot wounds?

3 **A** That's correct.

4 **Q** And when you say distant, in relative terms, what do
5 you mean? How close would it have to be for you to
6 describe it as a close range gunshot wound?

7 **A** It varies with the gun. But generally with pistols,
8 it's rare to see powder stippling and tattooing with
9 a small caliber pistol, meaning like a .22 or .25.
10 And this was consistent with a .22. It's unusual to
11 see that powder go more than about a foot-and-a-half
12 to two feet and actually penetrate the skin.

13 In this case there was no penetration of the
14 skin by any powder particles. So once it's two feet
15 away from the body, then we call it distant. And we
16 can't say whether it's only two feet or all the way
17 across the room or even further away.

18 **Q** All right. I think you're probably later on going to
19 talk to us about a contact gunshot wound. Describe
20 for the jury what you mean by a contact gunshot wound
21 and what you see on a body that leads you to conclude
22 that a wound was a contact gunshot wound?

23 **A** As I mentioned, these various things come out of the
24 gun barrel at the same time the bullet does. If the
25 muzzle of the gun is touching the skin, we can see

1 two things. And we saw both on the case of the
2 gunshot wound to the back of the neck or back of the
3 lower part of the head on the left side. We see the
4 imprint of the muzzle.. The gas goes in through the
5 hole right behind the bullet and it forces that skin
6 back against the hot muzzle of the pistol or rifle
7 and it produces an imprint. So you can -- it's like
8 looking at the front of that as though it was stamped
9 on the skin or burned on the skin. We saw that on
10 the back of the head.

11 And also we have the soot. So if it's just a
12 little ways away, you'll have some of the soot leak
13 out. And that soot was around the entrance wound in
14 the back of the head. So that indicated the gun was
15 right up against the skin but not pressed real
16 tightly so that some of the soot leaked. But most of
17 the muzzle of the gun was imprinted on the back of
18 the head.

19 Q Much like a brand perhaps?

20 A Similar to a brand, but it's mostly the force. It's
21 more of an abrasion. But the muzzle is going to be
22 hot at that time.

23 Q Now let's go back to gunshot wound your number 2.
24 I'm going to hand you a little medicine bottle or
25 vial. Take a minute to look at that, look at any

1 markings on it that you need to. And I'm going to
2 ask you if you can identify the container and what's
3 in it. While you're doing that let me ask you this
4 question. You described gunshot wound number 2,
5 mastoid bone, found part of the bullet still there.
6 Right?

7 **A** Right.

8 **Q** Did you recover that bullet?

9 **A** We recovered a major portion of that bullet.

10 **Q** All right, sir.

11 **A** Did not recover all of the bullet but a major
12 portion. And what was recovered was in some ways
13 badly damaged. I'm putting it underneath a magnifier
14 now to see the markings. This is the fragment that
15 matches the two photographs I took of the fragment.
16 And the vial has my initials on it and is labeled as
17 the bullet from Ms. Belton. It's also labeled number
18 2. So this is the fragment that passed -- from the
19 bullet that passed through the right ear and was
20 found in the back of the neck on the right side.

21 **Q** And the packaging and containers and I guess the
22 black ink writing on the container is yours. Is that
23 correct?

24 **A** The writing is not mine but the initials are mine.

25 **Q** All right. Gunshot wound you numbered number 3, you

1 got into that when I asked you about contact gunshot
2 wounds. But tell us about that gunshot wound?

3 A Number 3, as I mentioned, was a contact wound,
4 meaning the muzzle of the gun was actually against
5 the skin at the time the shot was fired. And it went
6 in and hit the back of the skull and part of it came
7 out and part stayed in the neck or back left side.

8 I should mention that the one on top of the head
9 and the one here in the back of the head both caused
10 bleeding on top of the brain inside the skull. So
11 they were potentially fatal in that they did impact
12 the skull and cause hemorrhage internally.

13 The brain is held in fluid, and it acts -- it's
14 similar to a shock absorber, so that it takes a
15 significant jolt to actually cause rupture of the
16 little vessels on the surface of the brain to cause
17 hemorrhage there. And there was hemorrhage both in
18 the back related to the wound to the ear and the one
19 through the top of the head and even more hemorrhage
20 related to one that hit the back of the head here
21 that was contact.

22 So I considered the one on the right side that
23 went through the ear as potentially fatal because it
24 did cause hemorrhage on the surface of the brain, the
25 one on top of the head potentially fatal, and the one

1 in the back of the head in my opinion was probably
2 fatal. But the fourth wound also could have been
3 fatal. So it's a matter of these wounds together
4 that caused her death. The one in the back of the
5 head was a contact wound and we did retrieve a
6 portion of that bullet.

7 Q Did either of the three gunshot wounds to the head,
8 the projectiles themselves, penetrate the skull?

9 A No. None of them penetrated the skull. They all hit
10 tangentially and simply impacted the skull.

11 Q Now I'm going to hand you another vial and ask you to
12 take a moment to examine it and tell me if you can
13 identify that vial and its contents?

14 A This is the type of vial we use. It's properly
15 labeled. It's designated bullet number 3. It's got
16 my initials on it. As I look at the photograph that
17 I took, it matches the photograph of the bullet. And
18 it's large enough to have my markings. So this is
19 the fragment that was recovered from bullet number 3
20 that entered the back of the head and was one of the
21 wounds that in my opinion could have been fatal.

22 Q All right, sir. Talk to us about gunshot wound
23 number 4, if you would now, please?

24 A I mentioned that one came from the rear and came
25 across the top of the head. One came from the front,

1 entered the top of the ear and went to the rear. One
2 hit the back of the head at contact and went downward
3 to the front.

4 The fourth one entered the abdomen just about
5 the beltline on the right and went up. It went
6 through one of the major arteries there that we call
7 the iliac artery. It went through the bowel and it
8 went into the tissue in the back of the abdomen. And
9 it caused approximately a liter, or I should say a
10 little over a quart of a blood, more than two pints
11 of blood, to bleed into that abdominal cavity.
12 Usually it takes three pints to die. But this was a
13 little over two pints. So by itself it might have
14 been fatal in her case.

15 So she's got four wounds all of which could be
16 fatal. The two more serious ones were the one in the
17 abdomen on the right which didn't quite bleed as much
18 as I'd expect to be the only cause of death, and the
19 one in the back of the head that hit the base of the
20 skull which is where the vital centers are that keep
21 our heart and lungs functioning.

22 Q Did you recover a fired bullet from the abdominal
23 wound?

24 A We did. It was much more intact.

25 Q I'm going to hand you a final vial and ask you to

1 examine it, please, sir?

2 **A** Again, it's labeled as bullet number 4 from Ms.
3 Belton. It bears my initials and it matches my
4 photographs that I took of several sides of the
5 bullet. When they get damaged like this, they are
6 fairly unique as far as appearance. So several
7 photographs are able to identify the bullet as the
8 bullet I removed from gunshot wound number 4 in Ms.
9 Belton.

10 **Q** Now, concerning what you described and identified as
11 your vials containing your bullet numbers 2, 3 and 4,
12 did you turn these over to personnel with the
13 Fairfield County Sheriff's Office at the autopsy?

14 **A** James Pritchard took that evidence.

15 **MR. BARFIELD:** Okay. Your Honor, at this time
16 I'd mark these three vials for identification
17 purposes. I would ask to mark them for
18 identification purposes.

19 **THE COURT:** Certainly.

20 (WHEREUPON, State's Exhibit No. 63 is marked for
21 identification.)

22 (WHEREUPON, State's Exhibit No. 64 is marked for
23 identification.)

24 (WHEREUPON, State's Exhibit No. 65 is marked for
25 identification.)

1 Q Dr. Sexton, a couple of questions about the timing.
2 Well, let me back up. Based upon your autopsy of the
3 body of Audre Ann Belton, did you determine to a
4 reasonable degree of medical certainty the cause of
5 her death?

6 A I did. In my opinion within reasonable medical
7 certainty she died of the gunshot wounds to her head
8 and abdomen. I cannot say that any particular one
9 was the only cause of death because they all
10 potentially could have been fatal.

11 In the 40 years I've been doing this, I've seen
12 people die from any one of those wounds where they
13 only had that wound and it was enough to cause death.
14 On the other hand, when you have a wound like the top
15 of the head and the one at the ear, sometimes people,
16 because of the adrenaline in their system and because
17 of the angle it actually hits, it might knock them
18 unconscious and they wake up in a little while and it
19 might not even phase them.

20 So I can't say any one specific one, but she
21 died in my opinion within a reasonable medical
22 certainty of the gunshot wound to the head and
23 abdomen.

24 Q Now, the next question about timing. Or the first
25 question about timing. Are you able with a

1 reasonable degree of medical certainty to give us a
2 range of the period of time from receipt of injury to
3 death? Is there anything you can shed light on
4 concerning that?

5 **A** It would be a rough range, because the fact that it
6 went through an artery and it's a fairly major
7 artery, near the diameter of my little finger, the
8 fact it went through an artery in the abdomen,
9 arteries tend to bleed with every beat of the heart,
10 and this had a large enough hole it wouldn't take
11 long for her to have bled the three pints of blood
12 necessary for that to be the sole cause of death.

13 Certainly each beat of the heart might put 20
14 cc's into that abdominal cavity, and your heart at
15 that rate is probably going to beat 100 or more a
16 minute simply because of the fright of the situation.
17 So it wouldn't take more than a few minutes for that
18 to have caused her to bleed out.

19 The fact that she died before she bled out, then
20 I would say it's a matter of minutes. Now, I can't
21 say whether it was two minutes, five minutes, ten
22 minutes, maybe even fifteen.

23 **Q** All right, sir.

24 **A** Because sometimes vessels like that when they're
25 injured will actually clamp off for a little while to

1 try to prevent the bleeding, but then with time they
2 relax and the bleeding occurs.

3 Q Now, are you able to tell us, in relation to
4 February 16th of 1993 when you performed this
5 autopsy, can you tell us with any certainty at all
6 how long Audre Belton had been dead prior to your
7 receipt of her body for autopsy?

8 A We cannot. The time frame is going to be adjusted
9 depending on the temperature. We expected her to
10 have more decomposition if she died the day that she
11 disappeared or was last seen.

12 Q Were you given that date as part of your background
13 information to do this autopsy?

14 A Correct. We were told she was last seen at work on
15 the 8th of February, 1993.

16 Q Now, I interrupted you. Go back to the temperature
17 and the decomposition issues.

18 A The temperature in the room though we were told was
19 very cool. It was like 52 degrees. And so that's
20 almost the temperature you have in a refrigerator
21 which is 42 degrees. So obviously her body was well
22 preserved and, therefore, could have easily been from
23 the 8th. Had it been normal room temperature of 70
24 to 75, we would have expected her to be more
25 decomposed had she died on the 8th, which she could

1 have easily have died on the 8th because of that cool
2 environment, and we can't say for sure.

3 Q Was there evidence from the autopsy that Ms. Belton
4 had eaten? Did you find any evidence that she had
5 partaken of food sometime reasonably soon before her
6 death?

7 A Correct. We examine the stomach contents when we do
8 autopsies. She had about a half a cup of green
9 beans. And excuse me a minute. I was trying to
10 remember the other item in her stomach. Some either
11 red peppers or red tomatoes. It was a little
12 decomposed or had partially been digested. But it
13 was a vegetable, either tomatoes or red peppers, and
14 some ground beef. There is ground meat, red type
15 meat.

16 Q Now, are you able to tell the jury how long food
17 items like that will remain in the stomach to the
18 degree that you can identify them visually?

19 A It varies. I think we've all had a situation where
20 we have eaten something the night before that sat
21 real heavy on our stomach, like in my case a big
22 pizza which I love; the next day I've still got some
23 of that, some sort of belching up. So I'm still
24 going through the digestive process.

25 But you eat a normal meal, and if you're not

1 angry or frightened or have some digestive disorder,
2 usually in a couple of hours the food is out of your
3 stomach. But again, that varies. And I have no
4 knowledge of her mental status the day of her death.
5 So it could be anywhere from less than two hours to
6 much longer depending on her mental status on that
7 particular day.

8 The fact that most of it had been digested and
9 there was no odor of acid, usually if a person has
10 indigestion, it's because of the excess acid there.
11 And if a person vomits you have a distinctive odor.

12 In fact, I wouldn't be doing this job if the
13 gastric contents smell like vomitus, because my wife
14 has always had to clean up after the kids or she'd
15 have to clean up after me and the kids because I get
16 turned off and vomit when I smell vomit. So this had
17 no odor like that. So she probably had only eaten
18 maybe a couple of hours before. But it could be
19 longer.

20 Q All right, sir.

21 A I can't really say with certainty.

22 Q I believe that's all I have, Doctor. Please answer
23 anything Ms. Smalls has.

24 **THE COURT:** Ms. Smalls.

25 CROSS EXAMINATION

1 **BY MS. SMALLS**

2 **Q** Dr. Sexton, I think you testified earlier that Ms.
3 Belton's body didn't have any injuries to her hands.
4 Is that correct?

5 **A** That's right. The hands showed what we call
6 decomposition in the form of almost mummification.
7 They had dried out. But there was no injuries, just
8 that artifact of postmortem change.

9 **Q** Were there any bruises or contusions of any sort of
10 her knees or anything underneath her fingernails?

11 **A** We checked carefully under the nails, and there was
12 nothing under the nails and no broken nails. We
13 found no injuries on the knees.

14 **Q** I know you said that she was fully clothed. Was her
15 clothing still completely intact? Were they torn or
16 anything?

17 **A** No. No tears. The underwear was on properly. It
18 wasn't wrongside out. Nothing appeared to be unusual
19 as far as her dress. In other words, everything
20 seemed to be intact and without any disarray.

21 **Q** I think you testified earlier when you were talking
22 about distant wounds and contact wounds about if it
23 is a contact wound, oftentimes one of the signs is an
24 imprint of the muzzle from the gun. The injury to
25 the head, did you find an imprint of a muzzle there?

1 **A** We did. It was very non-distinct because it was not
2 a full imprint. The back of the head is curved
3 inward, and so part of it was touching and part was
4 not. That's why the soot was able to come out around
5 it. So it was not a clear imprint, just about a half
6 circle.

7 **Q** Did you personally have an opportunity to view the
8 scene?

9 **A** No, I did not.

10 **Q** In performing your autopsy, were you able to
11 determine whether or not the victim was lying or
12 standing when she was shot?

13 **A** There are a number of positions that a person can be
14 in at the time they're shot and receive these
15 injuries. The only way to know if maybe she was
16 lying down during any of this is if the portion of
17 the bullets that continued on, had gone through her,
18 if they in fact were found at the scene. The one in
19 the top of her head would have had some indentation.
20 It may have had some blood on it.

21 If that was found, say, in a wall at a certain
22 height, that would put her in a certain position; or
23 if something was found in the floor, if a fragment
24 was found in the floor that had gone through her
25 first. But I found nothing on the body that would

1 tell me that she was in a certain position for the
2 head shots.

3 Now, as far as the shot to the abdomen that's
4 going upward, she most probably was lying down and
5 was shot by someone standing near her feet because
6 that would give that upward angle; or at least
7 standing, say, about where her knee might be, unless
8 the person doing the shooting was lying down and
9 shooting up at her, which is unlikely.

10 Q Are you able to determine if one of the shots that
11 you described was to the head, would that have
12 rendered unconsciousness?

13 A As I mentioned earlier, it's hard to tell. I have
14 seen people with a shot like, say, one on top of the
15 head that just grazes the head and the person died
16 from that shot. So in this case each of these could
17 have been fatal.

18 But actually it's unlikely that only one of
19 these shots, like the one to the top of the head or
20 ear were fatal. Otherwise, she wouldn't have moved,
21 because she's got one going to the front, one going
22 to the back, another one coming in from the back to
23 the back of the head, and then she's got one in the
24 abdomen.

25 So, cumulatively, they were enough. And one of

1 them, the one on the top of the head there, may have
2 caused her to go unconscious for a period of time,
3 may not have. They certainly were capable of doing
4 that, but I can't say that they did.

5 Q You testified earlier that you would expect there to
6 be more decomposure to the body. And I think you hit
7 on a little bit about the temperature of the body.
8 Could you expound a little upon that? What's the
9 normal expectation of the temperature of a body
10 that's found in the time range that you were given?

11 A Well, it wouldn't be so much the temperature itself.
12 But the temperature of the room, if it's normal, at
13 about 70 or 75, the body should have been decomposed.
14 And it was not. She looked very normal except for
15 some drying artifacts on her fingers and hands and
16 the eyes being a little sunken. But she was easily
17 recognizable.

18 In the interval between the 8th and the 15th,
19 that's seven days, in February, it still could have
20 been that way depending on the temperature if, say,
21 there was no air conditioning because the temperature
22 outside may have been cold. But a 70-degree
23 temperature, I would expect the body to show much
24 more decomposition. We would have had trouble
25 recognizing some of the internal organs and

1 recognizing her appearance but had no trouble because
2 the body was -- the environment was cold.

3 Q And basically after performing her autopsy and seeing
4 the body on the 15th, you are only able to say that
5 the time of death or the date of death was somewhere
6 inbetween the dates that were given to you?

7 A That's correct. Somewhere between the 8th when she
8 was last seen and the 15th when she was found. But I
9 can't say exactly because of that cold environment.

10 Q Thank you. No further questions.

11 A You're welcome.

12 MR. BARFIELD: That's it for Dr. Sexton. We
13 would ask that he be excused.

14 THE COURT: Doctor, you may be excused from your
15 subpoena. Thank you.

16 THE WITNESS: Thank you.

17 MR. BARFIELD: Thank you, Doctor.

18 THE WITNESS: Thank you.

19 THE COURT: We'll take a short break.

20 MR. BARFIELD: Yes.

21 THE COURT: Ladies and gentlemen, let's take
22 about a ten-minute break.

23 (Jury out at 2:59 p.m.)

24 THE COURT: All right. Court will be in recess
25 for ten minutes.

1 (Whereupon, a break is taken)

2 **MR. BARFIELD:** Your Honor, that's one of them
3 things I think you've just got to decide. I'd prefer
4 not to take the afternoon off tomorrow.

5 **THE COURT:** No. The only thing I could do is
6 either tell that juror no or we move our alternate
7 juror number one into the jury pool.

8 **MR. BARFIELD:** It really doesn't matter. But do
9 we know whether this is something that arose after
10 jury selection yesterday, or is this something that
11 was pending and we just weren't told about it?

12 **THE COURT:** I don't know.

13 **MR. BARFIELD:** It doesn't matter.

14 **THE COURT:** I don't know.

15 **MR. BARFIELD:** So we don't know. I'll let Ms.
16 Smalls decide. I don't know how close the family
17 connection is. I mean, if it's a great uncle, it's
18 one thing. If it's a father-in-law, it's another.
19 But if I needed to go to a family member's funeral,
20 I'm probably not going to be happy if somebody tells
21 me I can't.

22 **MS. SMALLS:** Judge, perhaps if you could inquire
23 about whose funeral it is, then that might make a
24 difference. Definitely if it's a family member, I
25 would not mind if she absolutely needs to attend the

1 funeral. But if it is some distant friend that she
2 happens to know or something --

3 **MR. BARFIELD:** Number 187, her name is what?

4 **THE COURT:** 198, Crosby. All right. Now, let
5 me ask y'all this. Do you all want me to bring that
6 juror in or make an inquiry through the clerk's
7 office?

8 **MR. BARFIELD:** I am satisfied with the clerk or
9 the bailiff coming out. I think we're just kind of
10 putting the witness [sic] on the hot seat if we bring
11 her in here and start drilling her about stuff. I
12 don't mind somebody just going in and asking her
13 whatever it is we want to know about it from her.

14 **MS. SMALLS:** I'm okay with someone inquiring of
15 her.

16 **THE COURT:** Well, Madam Clerk, are you okay with
17 going in the jury room and asking Ms. Crosby more
18 details?

19 **THE CLERK:** You want to know whose funeral?

20 **THE COURT:** The relationship of the individual.
21 And I guess we want to know how long the arrangements
22 have been made. In other words, did the person just
23 die yesterday?

24 (Pause)

25 **THE COURT:** All right. Ms. Beckham advises me

1 that this is Ms. Crosby's aunt who died Saturday.
2 Arrangements were made on Sunday.

3 **THE CLERK:** What says the State?

4 **MR. BARFIELD:** Your Honor, I don't remember what
5 the juror looks like. I don't know what impressions
6 I made.

7 **THE CLERK:** She's got on a blue shirt with blue
8 jeans.

9 **MR. BARFIELD:** I ain't been looking at them. I
10 leave it up to the Court's discretion.

11 **MS. SMALLS:** As well, Your Honor, just that I
12 know that we gave the jurors an indication of the
13 length of the trial at the beginning. We asked if
14 they had any hardships, if they wanted to be
15 transferred, anything of that sort, and she didn't
16 come forward. I'm not suggesting that the juror
17 wasn't being honest. It just concerns me because,
18 you know, you questioned them properly prior us to
19 selecting the jury. So I leave it as well in your
20 discretion.

21 **THE COURT:** So the defense doesn't have a
22 position one way or the other on it. All right. Let
23 me ask you this. Let's suppose that the Court
24 excuses the juror. Does everybody agree that the
25 first alternate picked would be the one to step into

1 the shoes of the excused juror?

2 **MR. BARFIELD:** I think logically that's the only
3 way we could do it unless we had a coin toss.

4 **MS. SMALLS:** I would agree that it would be the
5 first alternate.

6 **THE COURT:** Actually I think there are two
7 different rules that have two different results.
8 Actually the only other suggestion I have which
9 nobody is going to like is that -- of course I don't
10 know where the funeral is, we can work -- well, the
11 funeral is at 2. We can work until 1:30 and then
12 come back at 3:30. Nobody likes that. I know that.
13 Sorry.

14 **MS. SMALLS:** I'm shaking my head not about
15 working until 2 but just the fact that I guess I have
16 some sensitivity as to the issue. To be honest, I
17 mean, the funeral might start at 2 and it might be a
18 2-hour funeral. And if it's actually a close family
19 member, I would not want a juror to have to come back
20 and sit on a case involving a death.

21 **THE COURT:** Okay. I'll let Ms. Crosby go. I
22 tell you what. What we need to do though, let's have
23 one of our bailiffs ask Ms. Crosby to step in the
24 court and I will just -- well, I'll bet everybody in
25 there knows what's going on back there.

1 **THE CLERK:** I didn't ask her any questions in
2 front of the other jurors. I brought her outside the
3 door. I don't know if she's told anybody else or
4 not.

5 **THE COURT:** Let me talk to Ms. Crosby away from
6 the other jurors. So let's get somebody who can
7 bring juror number 188, Ms. Crosby in the courtroom.

8 **MR. BARFIELD:** It's 180, isn't it?

9 **THE COURT:** I don't have a 180.

10 **MS. SMALLS:** It's 180.

11 (Whereupon, Juror Crosby enters the courtroom)

12 **THE COURT:** Hey, Ms. Crosby.

13 **JUROR:** Hey.

14 **THE COURT:** Your Clerk of Court has advised me
15 that you have had a death in your family.

16 **JUROR:** Yes.

17 **THE COURT:** And it's your desire to attend a
18 funeral tomorrow?

19 **JUROR:** (Nods head affirmatively).

20 **THE COURT:** Okay. I wish you'd let us know
21 earlier. But I understand. We are going to excuse
22 you. I ask you though to call that number that the
23 other jurors are calling today at 6.

24 **JUROR:** Okay.

25 **THE COURT:** Excuse me. Tomorrow at 6 to find

1 out if there's anything going to be going on the
2 following day.

3 **JUROR:** Okay.

4 **THE COURT:** So you're still on jury duty. Call
5 that number at 6 or after tomorrow to find out what
6 to do. But we are going to excuse you from sitting
7 on this jury any further.

8 **JUROR:** Okay.

9 **THE COURT:** Okay. All right. Thank you so
10 much.

11 (Whereupon, Juror Crosby exits the courtroom)

12 **THE COURT:** Okay. We're ready for the jury.

13 **MR. BARFIELD:** Let me, before we bring them in,
14 I've got one more -- I'm going to call Lieutenant
15 Joyner again briefly just for a chain issue, and then
16 I think I am done for the day. We've got the Jackson
17 v. Denno issues which we can address today. We
18 appear to have plenty of time to do it if we want to
19 take it up this afternoon. I would like to take a
20 break after we finish with Lieutenant Joyner though.

21 **THE COURT:** Let's do that.

22 **MS. SMALLS:** Who is our alternate going to be?

23 **THE COURT:** 111.

24 (Jury in at 3:25 p.m.)

25 **THE COURT:** And welcome back again, ladies and

1 gentlemen. We are excusing Ms. Crosby from sitting
2 on the jury. You can go. You don't have to stay
3 with us until tomorrow. I'm sorry. I didn't make
4 myself clear. That's my fault, Ms. Crosby. Thank
5 you so much for your service. But remember, you've
6 got to call that phone number.

7 **JUROR:** Okay.

8 **THE COURT:** Okay. Welcome back, ladies and
9 gentlemen. As you see, Ms. Crosby has been excused.
10 Mr. Harley, our first numbered juror, number 111,
11 will be taking her place. Is it Harley? Is that
12 right?

13 **JUROR:** McCarly.

14 **THE COURT:** McCarly.

15 **JUROR:** McCarly. M-C-C-A-R-L-Y.

16 **THE COURT:** McCarly. She is going to be
17 required to attend a funeral tomorrow. So we're
18 going to excuse you from any further service on the
19 jury. I would also remind Ms. Davis, our next
20 alternate, you need to pay attention. You never can
21 tell when you may also be required to serve. Having
22 said all that, I believe we're ready to continue
23 receiving evidence in the case. Solicitor.

24 **MR. BARFIELD:** We call Lieutenant Jimmy Joyner
25 again.

1 **THE COURT:** Mr. Joyner, you're still under oath.

2 **THE WITNESS:** Yes, sir.

3 JIMMY JOYNER, after being recalled and reminded
4 he is still sworn, testifies as follows:

5 DIRECT EXAMINATION

6 **BY MR. BARFIELD**

7 **Q** Lieutenant Joyner, I am handing you what have been
8 marked for identification purposes State's Exhibits
9 63, 64 and 65. And I'll ask you to examine them.
10 Let me get the other containers out of the way. And
11 tell me if you recognize those three items?

12 **A** Yes, I do.

13 **Q** And did you take possession of those items as a
14 result of the autopsy of Audre Ann Belton and secure
15 them as evidence for the Sheriff's Office and deliver
16 them to the State Law Enforcement division?

17 **A** Yes, I did.

18 **Q** All right. And do they appear to be in the same
19 condition today that they were in when you took
20 possession of them and took them to SLED years ago?

21 **A** Yes, they are.

22 **Q** And did they come -- I never can finish. Did they
23 come back to you when SLED was done with them or come
24 back to the Fairfield County Sheriff's Office and get
25 locked up in the evidence room when SLED was done

1 with their work on those three items?

2 **A** Yes, they did.

3 **Q** And did you have them in your possession as evidence
4 custodian for the Sheriff's Office for the purpose of
5 logging them out and bringing them here for this
6 trial?

7 **A** That's correct.

8 **Q** Thank you. I don't have any further questions of
9 Lieutenant Joyner on this point.

10 **MS. SMALLS:** No questions.

11 **THE COURT:** Mr. Joyner, you may step down.

12 **MR. BARFIELD:** Your Honor, that is the final
13 witness from the State's case today. It's a good
14 stopping point for us. We have some other matters we
15 might take up that don't require the jury's presence,
16 but I'm done for the day.

17 **THE COURT:** All right. Ladies and gentlemen,
18 we're going to recess until 9:30 tomorrow morning.
19 I'll remind you that you can't discuss the case with
20 anybody. You can't let anybody discuss the case with
21 you.

22 I would like you to think about one thing
23 though. Tomorrow I'd like first of all to try and
24 select a foreperson to represent the jury. It can be
25 anyone except our alternate juror, our remaining

1 alternate juror. I don't want y'all to get in a fuss
2 about it. If y'all can't agree on who should be the
3 foreperson, I can appoint somebody. So we're going
4 to excuse you for the day. See you back in the jury
5 room at 9:30 in the morning. Thank you so much.

6 (Jury out at 3:29 p.m.)

7 **THE COURT:** Now do you want to take a short
8 recess?

9 **MR. BARFIELD:** If we could, please.

10 **THE COURT:** All right. We'll be in recess for
11 about five minutes.

12 (Whereupon, a break is taken)

13 **THE COURT:** Are you ready on the Jackson v.
14 Denno?

15 **MR. BARFIELD:** Your Honor, we are ready. Ms.
16 Smalls and I have talked briefly. Your Honor, there
17 are at least three that I know of contacts between
18 law enforcement and Curtis Lee Elgin. The only one
19 that I have any interest in from the standpoint of
20 any comments or statements he made was the contact
21 they had with him on July the 14th of 1993. I do not
22 intend to offer any other statements he made to any
23 law enforcement officers other than on July 14th of
24 '93. And I'm going to call Reid Long to testify in
25 that regard.

1 **THE COURT:** All right.

2 **MR. BARFIELD:** Oh. He is in here. Excuse me.

3 **THE CLERK:** If you would raise your right hand.

4 REID H. LONG, after being duly sworn, testifies
5 as follows:

6 **THE CLERK:** Please be seated. You need to state
7 your name for the record.

8 **THE WITNESS:** My name is Reid Harrison Long,
9 L-O-N-G.

10 DIRECT EXAMINATION

11 **BY MR. BARFIELD**

12 **Q** Mr. Long, currently by whom are you employed, at
13 least part time?

14 **A** Part time with the Chester County Sheriff's
15 Department as a bailiff in the courts.

16 **Q** All right. And do you actually live down here in
17 Fairfield County?

18 **A** I do live in Fairfield County.

19 **Q** By whom were you employed back in 1993 when Audre Ann
20 Belton was murdered?

21 **A** The State Law Enforcement Division.

22 **Q** Were you a field agent for the State Law Enforcement
23 Division?

24 **A** That's correct, sir. A field agent.

25 **Q** Were you assigned to this area?

1 A Yes, sir.

2 Q Did you get assigned by the State Law Enforcement
3 Division as, I think they may have called you
4 resident agents back then?

5 A Yes, sir.

6 Q To assist the Fairfield County Sheriff's Office in
7 the investigation of Audre Ann Belton's death?

8 A I did.

9 Q Now, generally speaking, did you work on this case
10 for months dragging into years or just for a brief
11 period of time?

12 A I am sorry, sir? Would you repeat it?

13 Q How long were you on this case?

14 A Oh, I would say a couple, three months in all. It's
15 been so long ago, I can't tell you.

16 Q That's fine. And did you and James Kitchens then
17 with the Sheriff's Office work side-by-side on a lot
18 of this stuff?

19 A Yes, sir, we did.

20 Q Did y'all interview a lot of people?

21 A Yes, sir, we did.

22 Q Were some of those people people that y'all knew of
23 up front were just witnesses or what would be
24 witnesses to several factual matters?

25 A That's correct. Yes, sir.

1 Q Were a good many of those people folks that y'all
2 thought might have had some motive or incentive to be
3 involved in this by way of --

4 A What we would do, if we thought somebody might have
5 information, people in the area, people that knew Ms.
6 Belton, just people who hung around at that area, we
7 would stop and talk to them. And that's what a lot
8 of our stops were.

9 Q Did some of the contacts y'all had include folks that
10 you received information might have been former
11 boyfriends of Ms. Belton, for example?

12 A Yes, sir.

13 Q Now, at some point was Curtis Elgin, Curtis Lee Elgin
14 somebody that y'all had contact with to attempt to
15 interview concerning Ms. Belton's death?

16 A Yes, sir. We interviewed Mr. Elgin.

17 Q All right. Specifically on July 14th of 1993, did
18 you and James Kitchens run into and talk to and
19 interview Curtis Lee Elgin?

20 A Yes, sir, we did.

21 Q Now, at that time, by July 14th of '93 which by then
22 is five months less a day from the discovery of Audre
23 Belton's body, by July 14th of '93, had anybody been
24 charged and arrested in connection with Audre
25 Belton's death?

1 **A** No, sir, they had not.

2 **Q** On July 14th of 1993, did anybody get charged and
3 arrested for Audre Belton's death?

4 **A** No, sir.

5 **Q** The best you recall -- I know it's been a long
6 time -- the best you recall, how did you and James
7 Kitchens come to be in the company of Curtis Lee
8 Elgin on July 14 of '93?

9 **A** Sir, to the best of my memory, Mr. Kitchens and I was
10 riding in the area down close to where Ms. Belton was
11 killed. We happened to see Mr. Elgin and we stopped.
12 I was in my car and asked him to talk to us. And he
13 got in the back seat of the car and talked to us at
14 that time.

15 **Q** Now, stop right there. I'm going to skip around a
16 little bit. Did he -- was the interview as far as
17 you can recall the three of y'all sitting in your
18 car?

19 **A** Yes, sir.

20 **Q** Was he taken anywhere?

21 **A** No, sir.

22 **Q** Was he at any time -- from the moment of the initial
23 contact until y'all finished talking that day, was he
24 at any time in custody?

25 **A** No, sir. He was not in custody at all.

1 Q Was he at any time during this interview process not
2 free to get out of that car and walk off?

3 A He was free at any time to leave.

4 Q When you all got through talking that day, did he in
5 fact get out of that car and go about his merry way?

6 A He did.

7 Q Did he ever that day get arrested?

8 A Not by us.

9 Q Do you know when he got arrested?

10 A No.

11 Q Would you be surprised if I told you it was 12 years
12 later?

13 A I knew it was a long time later. But that would
14 surprise me, yes. Yes, it would.

15 Q Generally speaking -- well, first of all, did anybody
16 read Curtis Lee Elgin his Miranda rights, you or
17 Kitchens --

18 A No, sir.

19 Q -- the day y'all talked to him on July 14th of '93?

20 A No, sir, we didn't.

21 Q Why not?

22 A He wasn't under arrest. He wasn't really a suspect
23 in anything. He was free to get up and leave
24 whenever he wanted to. And I didn't see the need at
25 that time to advise him of his rights.

1 Q Now, I'm going to jump way ahead and then we'll come
2 back. Did he during that interview on July 14th of
3 '93 confess to any crime?

4 A No, sir.

5 Q Did he confess to any involvement in the death of
6 Audre Ann Belton?

7 A No, sir, he did not.

8 Q Did he tell you anything that pinned himself down and
9 made his position worse than before y'all had talked
10 to him that day?

11 A No, sir.

12 Q All right. While y'all were talking to him -- I'm
13 going to ask some silly questions -- in 1993 I don't
14 got no idea what SLED was driving. What were y'all
15 driving? Crown Vics? Or was it Chevrolet Impalas
16 back then? Or do you remember?

17 A Oh, mercy.

18 Q How many cars did you have at SLED?

19 A I think I was in a Ford.

20 Q All right. Was it the kind that didn't have door
21 handles and the door locked down in the back seat?

22 A No, sir. It was a regular Ford, just a regular Ford.

23 Q All right. Did it have a cage between the driver and
24 the passenger?

25 A No, sir. No, sir.

1 Q Was there any way that you could lock somebody in the
2 back seat of that car?

3 A No, sir, there wasn't.

4 Q And was Curtis Elgin at any time restrained by
5 handcuffs or zip ties or leg shackles or anything
6 else?

7 A No, sir, he was not.

8 Q At any time did anybody -- you got any recollection
9 of how long he sat in the back of that car and y'all
10 chatted about stuff?

11 A I would say less than 20 minutes.

12 Q All right. Other than you and James Kitchens, was
13 anybody else around that you recall during this --

14 A No, sir.

15 Q -- questioning, this interview? In the car? Did
16 anybody other than you and James Kitchens --

17 A Nobody -- at that time?

18 Q Yes, sir.

19 A No, sir. Just Mr. Kitchens, Mr. Elgin and myself.

20 Q Now, at any time did you or James Kitchens produce a
21 weapon, a hasp, a baton or anything else and
22 threaten --

23 A No, sir.

24 Q -- Curtis Elgin with it? Did Curtis Elgin at any
25 time tell you initially or during any part of the

1 process that he didn't want to talk to y'all?

2 A I'm sorry. I'm --

3 Q No. That's fine. Did Curtis Elgin at any time from
4 the moment y'all pulled up beside him 'til the time
5 y'all got through talking to him, did he at any time
6 say, I'm done talking, I don't want to talk to you
7 any more?

8 A If he had done that, he could have got out and left
9 at any time.

10 Q All right.

11 A I don't recall him saying that. It's a possibility
12 he might have said, I'm ready to leave. If he did,
13 he was allowed to go right then.

14 Q All right. Did at any time Curtis Elgin ask y'all
15 for anything, like let me go to a pay phone and call
16 somebody before I talk to you all?

17 A No.

18 Q Did he ask anything like that?

19 A No, sir.

20 Q Did he ever say, I don't want to talk to you at all?

21 A No, sir.

22 Q Did he ever say, I want to go call a lawyer before I
23 decide whether I'm going to talk to y'all?

24 A No, sir.

25 Q During the time y'all were talking to him, did he

1 ever say, I want to stop talking and go talk to a
2 lawyer or call my mama, or anything like that?

3 **A** No, sir.

4 **Q** Did anybody -- did you or James Kitchens promise him
5 anything to get him to talk to y'all?

6 **A** No, sir.

7 **Q** Did you or James Kitchens make any threats to him or
8 put any heat on him or pressure on him to get him to
9 talk to y'all?

10 **A** No, sir.

11 **Q** Do you know how old he was then? Was he a young man
12 or an older man? How old was he back then? Do you
13 know?

14 **A** He was a young man. I would say a young adult.

15 **Q** Okay. Not under 18?

16 **A** Maybe close to 20.

17 **Q** Do you know how far he had been in school?

18 **A** No, sir.

19 **Q** Was that part of the interview process?

20 **A** I didn't ask him.

21 **Q** Did you -- you say you talked to him no more than 20
22 minutes. Did you have any difficulty understanding
23 what Curtis Elgin was saying, the words he was using?
24 Did you have any problem understanding his
25 conversation?

1 A No, sir. I could hear at that time.

2 Q Other than not being able to hear, but the words he
3 was using, did you understand the stuff he was saying
4 to you?

5 A Yes, sir. We could understand him.

6 Q Did he have any apparent difficulty understanding
7 words and thoughts you were expressing to him?

8 A No, sir.

9 Q Now, as a result of that interview did you type up
10 something on a form I think that SLED used called a
11 lead sheet?

12 A Yes, sir, I did.

13 Q Well, let me back up. Did Curtis Elgin -- of course
14 you said you didn't read him his rights?

15 A No, sir.

16 Q So I presume there is no written Miranda waiver
17 anywhere --

18 A No, sir.

19 Q -- concerning this interview?

20 A No, sir.

21 Q Is that correct? Did Curtis Elgin give you a written
22 statement?

23 A No, sir. I didn't ask for one.

24 Q Okay. Did you type notes based on your conversation
25 with Curtis Elgin in your car apparently the same day

1 that y'all talked to him?

2 **A** Yes, sir. I did.

3 **Q** And is it a two-page document with a heading, again
4 lead sheet? You got a copy of it?

5 **A** Yes, sir.

6 **Q** Is that --

7 **A** This is it.

8 **Q** Okay.

9 **MR. BARFIELD:** Your Honor, I don't think we've
10 got any more questions. I don't see any need to
11 publish the statement. There are some things in
12 there that I would want to put before a jury. I
13 guess at that point I will. I don't see any need to
14 publish it for purposes of the Jackson v. Denno
15 hearing other than to establish that this is a
16 summary of an oral conversation.

17 **THE COURT:** That's the statement that you want
18 to ultimately --

19 **MR. BARFIELD:** That's correct. And, well, for
20 the record, maybe, we might need to mark this thing
21 somehow or another. Would you prefer it to be
22 State's for identification or a Court's Exhibit?

23 **THE COURT:** Well, I think we probably ought to
24 mark it as Court's. Don't you?

25 **MR. BARFIELD:** Court's No. 1.

1 **THE COURT:** It reduces the chance that somebody
2 is going to end up sending it to the jury room,
3 assuming the case goes to the jury.

4 **MR. BARFIELD:** Yeah.

5 (WHEREUPON, Court's Exhibit No. 1 is marked for
6 identification.)

7 **Q** Let me ask just a couple of real quick questions, a
8 couple of other questions. Page 2, it's got
9 strike-throughs and some handwriting. Is that your
10 strike-throughs and your handwriting?

11 **A** No, sir. Somebody else struck through that. It's
12 much neater than my handwriting. I don't know who
13 did it.

14 **Q** Well, regardless of who struck through it, with the
15 corrections, is it accurate?

16 **A** Yes, sir, they are.

17 **Q** And the change is from Jimmy Ray Douglas to Harold
18 Douglas, son to father. Is that correct?

19 **A** That's correct.

20 **Q** Is it accurate based on your recollection with the
21 changes that are made to it?

22 **A** Yes, sir, it is.

23 **Q** Okay. That's all from Mr. Long.

24 **MS. SMALLS:** Thank you, Your Honor. May it
25 please the Court?

1 **THE COURT:** Certainly.

2 CROSS EXAMINATION

3 **BY MS. SMALLS**

4 **Q** Officer Long, at the time you were with SLED --

5 **A** You're going to have to come close to me. I'm sorry.

6 **Q** You were actually working with SLED at the time?

7 **A** Yes, ma'am. I worked with SLED from about 1967 to
8 about 2001.

9 **Q** And you were actually just assisting Fairfield
10 County. Is that correct?

11 **A** Yes, ma'am. We would come in and they would ask for
12 assistance from us. Mr. Kitchens was the lead
13 investigator for the county and I was for SLED if
14 we'd have called anybody else in.

15 **Q** Now, I know 1993 was a long time ago. 16 years?

16 **A** It is.

17 **Q** So are you doing most of this by memory?

18 **A** Most -- if I ever did anything, I would write it
19 down. I would go home that night or that day and
20 type it up and put it in a case file which I kept at
21 the Sheriff's Office and I kept one for myself.

22 **Q** The typed lead sheet that the prosecutor just showed
23 you, who typed that up?

24 **A** That's a lead sheet that I made and I typed it up. I
25 made a form of it. And then every time I would

1 interview somebody, this is the sheet I would use to
2 put my interview on.

3 Q Okay. What I'm asking you is, the sheet that he just
4 showed you, you personally typed that up?

5 A Yes, ma'am.

6 Q So after you talked with Curtis Elgin that night you
7 went home and typed what you recall the conversation
8 was?

9 A Well, I don't think it was that night. I think it
10 was sometime during the middle of the day.

11 Q Okay.

12 A And I might have typed it up at the Sheriff's Office.
13 They had a typewriter set up down there for me.

14 Q Let me ask you this. While the two of you were
15 talking, since it's both you and Investigator
16 Kitchens, were you taking notes?

17 A I took notes that I had and I would go home and take
18 those notes and type it up. And then I destroyed the
19 notes. I destroyed them because I would have so many
20 I couldn't keep up with everything. So --

21 Q Okay. That was my next question. Do you have those
22 notes?

23 A No, ma'am, I do not.

24 Q So you actually destroyed those notes. On that lead
25 sheet that you typed, you talk about the conversation

1 between you and Mr. Elgin. But I notice you don't
2 talk about where the conversation actually took
3 place?

4 **A** No, ma'am. It doesn't.

5 **Q** Okay. Being 16 years ago, how do you recall that you
6 had the conversation with Mr. Elgin while he was
7 walking down the street?

8 **A** This is the best of my recollection, that this is how
9 it occurred. That's where 90 percent of the
10 interviews I have occurred. I usually did not ask
11 people to come to the Sheriff's Office to talk to me.
12 If I saw them on the street, I would stop there and
13 I'd ask them to talk to me, get in the car. They
14 were free to leave. After the interview was over,
15 they were right where they started, and it was just
16 better for everybody.

17 **Q** Let me ask you this. In July of '93 when you and
18 Investigator Kitchens had this conversation with
19 Curtis Elgin, do you recall what time of day it was?

20 **A** I would imagine it wasn't at night. I would think it
21 would be around 11 to 2:00 in the afternoon, 11 in
22 the morning. But that's a generalization. I can't
23 tell you for sure when it was.

24 **Q** Would you happen to recall what day of the week it
25 was on?

1 **A** I've got the date on the thing. I can look it up and
2 let you know.

3 **Q** But you don't know --

4 **A** No, ma'am, I don't.

5 **Q** -- exactly? A Friday or whatever?

6 **A** I would imagine it was during the week, because I
7 like my weekends.

8 **Q** Let me ask you this. Is it possible that you had
9 this conversation or the first time you came in
10 contact with Curtis Elgin on that particular day that
11 he was at work? Is that possible?

12 **A** No, ma'am.

13 **Q** So it wasn't -- he was definitely walking down the
14 street?

15 **A** He was not at work.

16 **Q** Okay. And he was alone?

17 **A** I don't know if he was alone or not. But if he was,
18 we would have asked him to, you know, just step into
19 the car with us and nobody else was in the car with
20 us when we talked to him.

21 **Q** So you don't recall his being with Steven Haney?

22 **A** With who?

23 **Q** Steven Haney.

24 **A** Is Mr. Haney a white gentleman?

25 **Q** Yes, he is.

- 1 **A** No, ma'am. He was not with a white gentleman. If he
2 was with anybody, it would have been with a black
3 man.
- 4 **Q** And you recall this because of what? What makes you
5 recall that if he was with somebody it was a black
6 man and not a white man?
- 7 **A** I can't remember stopping somebody on the street and
8 talking to them and it be both races. Now, it just
9 did not -- I think I would have remembered that. And
10 it doesn't stick out that it does.
- 11 **Q** Okay. Are you aware that Steven Haney, a white male,
12 and Curtis Elgin, worked together?
- 13 **A** Yes, ma'am. I have read that in the case file.
- 14 **Q** And so your recollection is that this entire
15 conversation for approximately 20 minutes took place
16 in the car with both you and Investigator Kitchens?
- 17 **A** To the best of my recollection, that's correct,
18 ma'am.
- 19 **Q** Okay. And you say that he was walking down the
20 street. When he got in the car to talk with the both
21 of you, where was the car parked?
- 22 **A** I can't tell you that, ma'am. On a side street.
- 23 **Q** Were both of you in uniform?
- 24 **A** No, ma'am. I did not wear a uniform.
- 25 **Q** Plain clothes?

1 A And Mr. Kitchens I think was in a suit.

2 Q Okay.

3 A I can't remember whether Mr. Kitchens was in uniform.
4 It could be, but I don't remember that.

5 Q But to your recollection, this conversation did not
6 take place at the Sheriff's Department?

7 A No, ma'am. I don't -- my best of my recollection, it
8 did not.

9 Q Were you aware in July of '93 that the gun that was
10 used in the murder had already been found?

11 A Yes, ma'am, I was.

12 Q Were you aware that that particular gun was
13 registered to the employer of Curtis Elgin?

14 A I more than likely did. I would say that I did know.

15 Q Are you saying that to the best of your knowledge
16 that Curtis Elgin was not a suspect in July of '93?

17 A No, ma'am. He wasn't a suspect at that time.

18 Q He was not a suspect?

19 A No, ma'am. No more so than anybody else that we
20 talked to on the street. I had nothing to indicate
21 that he -- you know, that he was a suspect then.

22 Q When you learned that the murder weapon had been
23 found and Curtis Elgin worked for the owner of that
24 gun, he still was not a suspect?

25 A I was told that the gun had been stolen. I didn't

1 know about who stole it or anything else. I think we
2 asked Curtis about the gun, but that was just the
3 information on our part.

4 **Q** And he didn't tell you that he had any knowledge
5 about ever having the gun?

6 **A** I think he told me he had seen the gun one time.

7 **Q** Okay. I know you said that the reason you did not
8 read Curtis his Miranda rights was because you felt
9 that he was not in custody. Is that correct?

10 **A** He was not in custody, not a suspect at that time.

11 **Q** Did you ever tell him that if he wanted to leave that
12 he could, that he didn't have to talk to you?

13 **A** I always do that, ma'am. I can't specifically say I
14 know exactly what I told him, but if I interview
15 somebody like that, I tell them -- ask them if they
16 will talk to me.

17 **MS. SMALLS:** Beg the Court's indulgence.

18 **THE COURT:** Certainly.

19 **MS. SMALLS:** Nothing further.

20 **THE COURT:** Solicitor.

21 **MR. BARFIELD:** Nothing further from the State.

22 **THE COURT:** Thank you, Mr. Long. You may step
23 down.

24 **THE WITNESS:** Thank you.

25 **THE COURT:** Anything else?

1 **MR. BARFIELD:** Nothing else for this witness.
2 And that would conclude the State's proffer on the
3 Jackson v. Denno issue, which I really think is
4 really not a Jackson v. Denno issue. My point is to
5 make it not a Jackson v. Denno issue. And I don't
6 know if she's got anybody or not, but I'm ready to
7 argue.

8 **MS. SMALLS:** Nothing by way of testimony, Your
9 Honor. Just in response. Of course this is a lead
10 sheet and not a statement. And they are posing it in
11 the form of an interview. Our position is that
12 because there's substantive information in this form
13 for an interview that gives an oral statement that my
14 client allegedly made, we would object to its
15 admission.

16 Our position would be that he indeed was in
17 custody at the time, that the gun was found a couple
18 of months before. I know that Officer Reid [sic]
19 indicated he was not a suspect. So based on all the
20 testimony that has been presented, I submit to you
21 that he was a suspect and any information that they
22 were attempting to get from Mr. Elgin at this time
23 was being used for the purposes against him; and,
24 therefore, he should have been Mirandized
25 accordingly.

1 **THE COURT:** Thank you, Ms. Smalls. Solicitor.

2 **MR. BARFIELD:** Your Honor, you have not read
3 the --

4 **THE COURT:** I have not.

5 **MR. BARFIELD:** -- lead sheet. And I'm going to
6 hand it up if you feel like you want to read it. But
7 I would say just a couple of things. I think you've
8 heard testimony over the last day and a half at
9 various times that a lot of people -- I hate the
10 phrase "person of interest", just like with a home
11 invasion, we used to call them burglaries. But lots
12 of people were on the radar in this case. And you've
13 heard testimony that they talked to a lot of people.
14 You've heard testimony they took fingerprints from a
15 ton of people. You're going to hear tomorrow that
16 they took guns from a bunch of people. They were
17 running down leads.

18 Now, clearly Curtis Elgin was among those that
19 they had some interest in. There is no evidence in
20 the record today concerning what Curtis Elgin --
21 concerning this interview, that Curtis Elgin was any
22 more a suspect or a person of interest than anybody
23 else they had talked to. There is no evidence in the
24 record that Curtis Elgin was in custody. In fact,
25 the evidence tells us he was not in custody.

1 I did not go through my usual Jackson v. Denno
2 Miranda stuff because there wasn't any Miranda
3 because he wasn't in custody. The testimony is that
4 he was seen on the side of the road. He was asked if
5 he would talk to them. He freely and voluntarily got
6 in the back of the car. He freely and voluntarily
7 discussed some things with them for no more than 20
8 minutes. He was allowed to leave when the interview
9 was over with.

10 He at no time asked to stop. He at no time
11 asked to call somebody. He at no time asked to talk
12 to a lawyer. He at no time invoked any rights that
13 he wasn't told he had. It wasn't a contentious
14 encounter with law enforcement.

15 He clearly was not arrested as a result of the
16 interview. And although the Court doesn't have the
17 date, I think the court file, the clerk's file
18 clearly will show us that Curtis Elgin wasn't
19 arrested in 1993 or any time until 1993 until his
20 arrest in I think it was February of 2005 that he got
21 arrested.

22 So clearly what he told them didn't make his
23 position any worse than it had been before they
24 pulled up alongside him. They didn't beat a
25 confession out of him. It's not a confession. It

1 just contains some information that is of interest to
2 me in the presentation of my case. I don't think it
3 was custodial interrogation which is the threshold
4 issue as to whether Miranda warnings are required to
5 be given.

6 And, furthermore, there is no evidence that his
7 statement was not freely and voluntarily given
8 through the questions and answers I posed and
9 received from Mr. Long. I don't think there is an
10 issue here about the admissibility of those comments
11 that I would choose to put before the jury. Thank
12 you.

13 **THE COURT:** All right. The Court finds that the
14 defendant was not restrained, that the discussion
15 that went on was given voluntarily. It lasted less
16 than 20 minutes. He wasn't under arrest. He wasn't
17 threatened. No promises were made. I find that
18 Miranda was not required. His warnings pursuant to
19 Miranda were not required and that the statements
20 made were voluntary.

21 **MR. BARFIELD:** Thank you, Judge.

22 **THE COURT:** What else do we have?

23 **MR. BARFIELD:** That's all I've got today.

24 **THE COURT:** I've got a 9:00 hearing that
25 supposedly will take only 15 minutes, and we know it

1 will take 30. But I think we'll be ready to go at
2 9:30 in the morning.

3 **MR. BARFIELD:** I do have an issue that we talked
4 about briefly yesterday which seems like a week and a
5 half ago. Tomorrow is the day that I intend to bring
6 four people in here who I believe are going to
7 testify that Curtis Elgin made certain confession
8 type statements to them.

9 I don't know how much more you want me to
10 expound on that on the record right now. But all of
11 those witnesses at the time they received the
12 information I believe they're going to testify about
13 were inmates of one facility or another. And,
14 factually, and as we would expect, Mr. Elgin was also
15 an inmate in one capacity or another when he had
16 these conversations with these folks.

17 I am going to have to talk to these four people
18 again before they get on the witness stand. The
19 first thing in the morning is going to be the
20 firearms guy, and then my intention is to walk right
21 into those four witnesses. And of course I don't
22 coach witnesses, but if there are going to be some
23 ground rules about their testimony, I need to know
24 that before I talk to them and certainly before I put
25 them on the witness stand.

1 **THE COURT:** All right. So you anticipate --
2 let's just make sure I understand this -- that part
3 of their testimony, whether you want it to come out
4 or not, would be that they were in custody for them
5 to be able to explain the situation as to why they
6 were even talking to the defendant.

7 **MR. BARFIELD:** Yes, sir. They're in jail; he's
8 in jail.

9 **THE COURT:** That he was likewise in custody.

10 **MR. BARFIELD:** And of course some of it, Your
11 Honor, occurred in the -- there are four witnesses.
12 The first two are going to testify that they were
13 incarcerated in the Fairfield County Detention Center
14 with Curtis Elgin who was in the Fairfield County
15 Detention Center.

16 The other two witnesses are going to testify
17 that they were in -- witness number three is going to
18 testify I was in Lee Correctional institution with
19 Curtis Lee Elgin who was also serving a sentence in
20 the State Department of Corrections when he said what
21 he said.

22 And then witness number four is going to say
23 that I was in the Manning Correctional Institution
24 where Curtis Lee Elgin was also serving a state
25 sentence when he said what he said.

1 **THE COURT:** Well, let me ask you this question.
2 And I haven't heard yet from Ms. Smalls. It would be
3 possible to avoid talking about a specific facility
4 so that it might make a difference to some people on
5 the jury as to why -- because if he is off somewhere,
6 that may in the mind of some jurors mean that he's
7 been convicted of something, as opposed to that he is
8 in this local facility could merely mean he's been
9 detained for some reason. I don't know.

10 **MR. BARFIELD:** And in actuality, Your Honor, the
11 only time -- well, in actuality, none of the periods
12 of -- he wasn't in -- he wasn't in -- he wasn't being
13 detained on this charge during any of those
14 encounters. On only one of them had he even been
15 charged. Chronologically, he got charged and then he
16 ended up doing the sentence in SCDC for something
17 else. And one of the encounters occurred after he
18 had been charged but while he was serving the state
19 sentence on an unrelated matter.

20 But I understand what you're saying. The county
21 jail, it doesn't imply that he's been convicted of
22 anything.

23 **THE COURT:** The jury could just assume that he
24 was in the Detention Center here as a result of the
25 charges that he got here. Now let's hear from Ms.

1 Smalls.

2 **MS. SMALLS:** Judge, I think I agree. I think
3 that if you have four inmates testifying, two of
4 which were at two different institutions within the
5 Department of Corrections, it will put me in a
6 position from the defense perspective of -- it's
7 almost like him having to already testify in that
8 then I've got to explain why was he at Fairfield
9 County, why was he at Manning Correctional, why was
10 he at Lee Correctional institution.

11 And one of the things that the solicitor
12 indicates, the South Carolina Department of
13 Corrections institution alleged statements that were
14 possibly made by my client are post his being
15 charged. So for that reason; I mean, I don't know
16 how the testimony is going to unfold, but I'm
17 thinking that perhaps them saying that they were in
18 custody at the time that the statement was given but
19 not saying where.

20 **MR. BARFIELD:** I can couch it with -- you know,
21 we need to first keep from getting inadmissible
22 evidence before the jury. And I can couch it with my
23 witnesses with: On such and such a date were you
24 being detained with -- do you know Curtis Elgin, and
25 on such-and-such a date were you being detained with

1 Curtis Lee Elgin and did you all have a conversation
2 and yada, yada, yada.

3 **MS. SMALLS:** I think then more than likely, just
4 based on the statements that I've been given that
5 probably for purposes of in the morning, if those
6 inmates are all coming, I'm not trying to tell you
7 that you have to develop it that way, the solicitor
8 will need more time to talk with them. Because they
9 specifically say in their statement while we were at
10 the rec center at that particular institution.

11 **MR. BARFIELD:** Oh. And then another type of
12 kind of a nitpicky sort of a deal is two of the guys
13 are out. They're going to come in here with better
14 clothes than I've got on probably. Two of the guys
15 are still in the South Carolina Department of
16 Corrections. They are probably going to be brought
17 in SCDC uniforms.

18 We might need to get Fairfield -- they're going
19 to be taken straight to the Detention Center at 9:00
20 in the morning. We're probably going to need to ask
21 the Detention Center to put them in Fairfield County
22 coveralls so they don't come in here with SCDC all
23 over their backs, which kind of blows what we're
24 trying to accomplish here.

25 **MS. SMALLS:** One thing I can say about that,

1 Your Honor, I think that the jurors would have no way
2 of knowing whether those persons have finished their
3 sentence or not. So they won't know whether they're
4 in custody.

5 **THE COURT:** I know. You want to think the
6 witnesses are bad guys; but then, on the other
7 hand --

8 **MS. SMALLS:** I just don't --

9 **MR. BARFIELD:** It's an unusual thing. I've
10 never had to deal with this before.

11 **MS. SMALLS:** No, sir. I just think that the
12 jurors won't know whether they've obviously finished
13 their sentences, those that are in the Department of
14 Corrections. But because it's 16 years ago, that
15 doesn't necessarily mean that they were in the
16 Department of Corrections at the time that they had
17 this conversation supposedly with my client either.

18 **THE COURT:** What I can have your client to do --
19 and I want to be heard, Ms. Smalls, I want you to be
20 heard on this. I want to hear you on this. I think
21 that the solicitor could in fact take each one of
22 these witnesses aside and explain to them the rules.
23 In fact, we could bring them in the courtroom and
24 explain to them the rules if we could agree on the
25 rules before they testify, that they are prohibited

1 from volunteering information about where they were.
2 Specifically, number one, you can't mention the name
3 of the facility. You can't mention why they were
4 there or why the defendant was there, if they know.
5 Those are just thoughts I have about how we can treat
6 these witnesses.

7 **MS. SMALLS:** Beg the Court's indulgence.

8 **THE COURT:** Sure.

9 (Pause)

10 **MR. BARFIELD:** Judge, it has been suggested to
11 me that we dress the SCDC inmates in street clothes.
12 And if we can make those arrangements, I mean, that's
13 something we can do.

14 **THE COURT:** Does Fairfield County have street
15 clothes?

16 **MR. BARFIELD:** Some places do have a rack of
17 clothes.

18 (Pause)

19 **MR. BARFIELD:** I don't think we're going to
20 completely resolve the issue. But I am going to make
21 a suggestion. Whatever you decide to do, it's going
22 to take a little bit of logistics for the ground
23 rules to be laid and stuff. I've got Mr. Collins
24 coming in the morning and he's going to take a little
25 while. And I think probably what we might need to do

1 is -- I mean, I don't think he's going to take too
2 much time. But, I mean, we're probably going to need
3 to take a fairly solid break after he testifies to
4 make sure we've got our ducks in a row, and then Ms.
5 Smalls and I might can come to terms about some of
6 the inmates and then we can see if we can come up
7 with some street clothes for the guys coming from
8 SCDC. I mean, we'll work on that.

9 **THE COURT:** Ms. Smalls, the ball is almost on me
10 from back in your court as to what exactly it is that
11 you're going to oppose. It may be something you need
12 to be thinking about. The clerk tells me there's a
13 thrift store down the road somewhere. Maybe we can
14 get some money somewhere to go buy them some clothing
15 if that's what you want to do. You may want them in
16 prison garb. I don't know, you know.

17 **MS. SMALLS:** Let me think about it. Of course I
18 don't want them mentioning anything about a
19 conversation with my client.

20 **THE COURT:** Okay. Anything else we need to talk
21 about or any other issues we need to hear addressed?
22 All right. Court will be adjourned until 9:00
23 tomorrow morning.

24 (Whereupon, the proceedings are concluded for
25 the day and reconvened the following day with Mike

1 Watts, Court Reporter, reporting the reminder of the
2 trial) "
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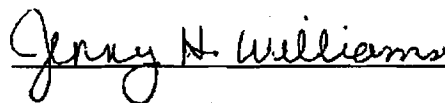
CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

I, Jenny H. Williams, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, as reported by Court Reporter Elizabeth Harris, relative to appeal, in the Court of General Sessions for Fairfield County, South Carolina, on the 6th and 7th days of July, 2009.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

February 26, 2010



Jenny H. Williams, Court Reporter

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF FAIRFIELD
05-GS-20-273

STATE OF SOUTH CAROLINA

VS.

CURTIS LEE ELGIN

WINNSBORO, SOUTH CAROLINA
JULY 8-9, 2009 AND SEPTEMBER 25, 2009
BEFORE THE HONORABLE BROOKS P. GOLDSMITH

APPEARANCES

FOR THE STATE: DOUGLAS BARFIELD

FOR THE DEFENDANT: GWENDOLYN SMALLS

REPORTED BY: MICHAEL C. WATKINS

OFFICIAL COURT REPORTER

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TESTIMONY OF DAVID COLLINS

1 THE COURT: Is the State ready for the jury?

2 MR. BARFIELD: Yes, sir.

3 THE COURT: Is the defense ready for the jury?

4 MS. SMALLS: Yes, Your Honor.

5 THE COURT: Would you bring the jury in?

6 (The jury return to the courtroom.)

7 THE COURT: Good morning, and welcome back, ladies and
8 gentlemen. The bailiff has indicated the jury has
9 indicated they would like for Mr. McCarley to be our
10 foreperson; is that correct?

11 THE JUROR: Yes, sir, Your Honor.

12 THE COURT: Wise decision, and the Court confirms
13 that. And I believe we are ready to continue receiving
14 evidence from the State.

15 MR. BARFIELD: The State calls David Collins.

16 The witness, DAVID COLLINS, was first duly sworn and
17 Testified as follows, on:

18 DIRECT EXAMINATION

19 BY MR. BARFIELD:

20 THE CLERK: State your name for the record.

21 A David Jeffrey Collins.

22 Q Mr. Collins, by whom are you currently employed?

23 A I'm employed by the Richland County Sheriff's
24 Department.

25 Q What is your current job with the Richland County

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1 Sheriff's Department?

2 A I'm a firearms and tool marks examiner with the
3 forensics laboratory.

4 Q Does Richland County have its own forensics
5 laboratory?

6 A Yes, we do.

7 Q How long have y'all had a lab in Richland County?

8 A The firearms laboratory was established in 2002.

9 Q Did you go -- were you there from the get-go with the
10 firearms lab?

11 A Yes. I initially was employed by Sled, the South
12 Carolina Law Enforcement Division, as a firearms examiner
13 in 1990, and worked there until 2002 when the Richland
14 County Sheriff's Department hired me to establish a
15 firearms laboratory at their agency.

16 Q Now, how did you become a firearms examiner? Well,
17 let me backup, you started with Sled in 1990?

18 A Yes.

19 Q Is that your first job in law enforcement?

20 A Yes, it is.

21 Q Before you went to work for Sled, what was your
22 initial job with Sled?

23 A When I first went with Sled I was firearms examiner
24 trainee, I went straight into the forensics laboratory and
25 entered an on-the-job training program in that field of

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1 expertise. That training program lasted for slightly over
2 two years. Upon completion of that program I was
3 qualified and certified by Sled to be a firearms examiner.

4 Q Do you have a college degree?

5 A Yes, I do.

6 Q From where and in what and what year?

7 A I was a Citadel graduate with a degree in history and
8 I received that degree in 1984.

9 Q All right. After two years at Sled you became
10 certified by Sled as a firearms examiner; is that correct?

11 A Approximately two, perhaps a few months more.

12 Q Now, other training that you have had -- let me ask
13 you this, the two or two plus years to get you certified
14 by Sled as a firearms examiner, the training was basically
15 in what form?

16 A The training is a combination -- initially it's a lot
17 of reading, background history of firearms, firearms
18 functions, it was also a lot of hands-on experience with
19 firearms and microscopic examinations and firearms
20 evidence. The best way to describe the firearms examiner
21 training program is it is just like an apprenticeship.
22 There are no college courses that you could go to that
23 would train you to be a firearms examiner. It's all done
24 under the supervision of other qualified examiners who
25 have a great deal of experience, and through the process

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1 you actually assist those examiners in the examination of
2 evidence and you perform the examination under their
3 supervision, and towards the end of your training you are
4 actually performing the examinations on case work and
5 cosigning that report with the training officer or another
6 qualified examiner. Once you've completed the training
7 you are able to sign reports and do all of the case work
8 on your own. Also during a portion of your firearms
9 examining training you may be sent out to other schools if
10 they are available for additional firearms
11 familiarization, you may visit other laboratories,
12 factories and things of that nature.

13 Q After your initial certification, did you receive
14 from time to time additional training in firearms
15 examination in conjunction with your employment by Sled
16 and also since your employment by the Richland County
17 Sheriff's Department?

18 A Yes. One of the training resources that are
19 available to firearms examiners is through our
20 professional association, the Association of Firearms and
21 Tool Mark Examiners. Through that organization we receive
22 continuing literature and we also are able to when
23 possible to go to an annual training seminar that they
24 provide as a week long seminar in new techniques and new
25 findings in the areas. Also there are courses that you

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1 can go to in firearms repair, they would give you valuable
2 information and training on firearms functions and how to
3 compare firearms that may come into the laboratory damaged
4 and you may have to repair then for them to be able to
5 fire. I have been able to take place and participate in
6 that type of training.

7 Q When you're talking about firearms examination, are
8 you talking about long guns, short guns, rifles, shotguns,
9 pistols, revolvers, all of it?

10 A A firearms and tool marks examiner would be
11 responsible for examining not only firearms but any type
12 of firearm related evidence; bullets, cartridge cases,
13 ammunition components that might be sent into the
14 laboratory, it would be any type of firearm. And the tool
15 marks component would stand beyond just firearms because
16 of another portion of our exercise is the examination for
17 instance of marks left by a tool like in a breaking of a
18 door.

19 Q All right, sir. Have you been called upon to testify
20 in the courts of this state and qualified as an expert
21 witness in firearms examination before?

22 A Yes. I have been qualified as an expert witness in
23 the circuit courts of South Carolina in excess of 200
24 times during my career. I have also been qualified in the
25 state courts of Georgia and North Carolina in the same

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1 field of expertise, as well as in the federal and military
2 court system.

3 MR. BARFIELD: Your Honor, at this time I would offer
4 Mr. Collins as an expert in the firearms examination?

5 MS. SMALLS: Without objection.

6 THE COURT: That motion is granted.

7 Q I asked you about different types of firearms a
8 minute ago, we're going to focus on pistols for the rest
9 of the time you're on the witness stand. Explain to the
10 jury -- I'm going to give you a scenario. You have a
11 pistol that is believed to have been involved in a
12 shooting and you have ammunition, or ammunition
13 components, fired bullets, fired cartridge cases that are
14 recovered that there's some interest in comparing to the
15 pistol. Take a couple of minutes just to explain your --
16 how you do your job.

17 A When we receive any type of firearms evidence in the
18 laboratory the first thing we do is take notes about its
19 physical condition, we may have to measure various aspects
20 of it with measuring instruments. For instance, if you
21 have any bullets submitted to the laboratory, the diameter
22 of that bullet will aide us in determining the caliber of
23 firearm from which it was fired. In the case of firearms
24 you will note various things about the condition; if they
25 had received any damage, anything unusual about them, then

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1 you will test-fire that firearm in some sort of a bullet
2 recovery system. At Sled and the Richland County
3 Sheriff's Department we use the water tanks. The
4 test-firing the firearm allows us to do two things; it
5 allows us to determine if the firearm was functioning
6 properly, and also enables us to obtain test specimens
7 that we can use for microscopic comparisons with the
8 evidence.

9 Q When you say test specimens, are you talking about
10 the bullet that gets fired through the chamber of that
11 firearm?

12 A Yes. That would be a bullet or -- a bullet was fired
13 through the barrel of a suspect firearm that we know was
14 the bullet because we actually do the test firing and the
15 cartridge cases from the firearm, which may also be
16 important. When we are performing this test we are trying
17 to obtain the test bullets that are in the least damaged
18 condition possible, which is why we use water. The water
19 slows the bullet down gradually and we can get it back to
20 the more intact condition than firing it into another type
21 of recovery system. At that point we would move to what I
22 call the comparison phase of the examination where you are
23 actually comparing a microscopic comparison of an evidence
24 bullet or cartridge case with a test-fired bullet or
25 cartridge case. What we're looking for in this

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1 examination are microscopic defects on the surface of both
2 the evidence and the test specimen that would be magic.
3 In the case of a bullet we are looking for what are called
4 striations or scratch marks made on the surface of the
5 bullet by the barrel when the bullet passed down the
6 barrel. When a firearm is manufactured there are various
7 machine processes that are employed that leave behind
8 small defects in the barrel and the way that these defects
9 mark the surface of a bullet is very unique to that
10 particular firearm. What we're looking for is a pattern
11 of those markings that match, and if we can find
12 sufficient matching characteristics in that way we could
13 conclude that it was our opinion that that bullet was
14 fired by that particular firearm. In some cases your
15 bullet may be badly damaged as a result of what kind of
16 material it was fired into or other factors, and that may
17 have a negative impact on our ability to be able to use
18 that bullet to identify which firearm it was fired by.

19 Q Now, do barrels of pistols have any intentionally
20 manufactured characteristics within the barrel, some or
21 all?

22 A Virtually all handguns have a system of spiraling
23 grooves in the barrel called rifling. The rifling is the
24 place in the barrel of the firearm to cause the bullet to
25 spin as it leaves the firearm. This spinning serves to

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1 stabilize the bullet in flight much the same way that if a
2 quarterback tries to put a spiral on the ball when he
3 throws a pass he kind of puts the same thing as a bullet,
4 it is spin stabilizing the bullet. The number of rifling
5 grooves that are placed in the barrel of a firearm and the
6 dimensions of those grooves can be, while not necessarily
7 unique to a particular manufacturer. Different
8 manufacturers use different numbers in their rifling
9 grooves in a firearm and so this can be used at some
10 points of an examination it has an early excluder. If you
11 have an evidence bullet that, for instance, would have six
12 rifling grooves impressions on it and you were submitting
13 a firearm that leaves seven, nine, five or some other
14 number of rifling grooves, then you can automatically
15 exclude that firearm as being a possible source.
16 Similarly if he -- versus an evidence bullet with six
17 rifling impressions on it when the firearm is submitted it
18 has six rifling grooves but they are much different widths
19 then you could also use that as an excluder.

20 Q Do the rifling grooves leave markings on the fired
21 bullets?

22 A Defects -- as I mentioned at the beginning of my
23 examination, microscopic defects in the barrel, those
24 defects are found in the rifling in the barrel, not
25 necessarily -- they're going to be randomly placed in the

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1 rifling, they could be as a result of the rifling process
2 itself, they could be as a result of misuse of the
3 firearm, damage to the barrel as a result of improper
4 cleaning or various other factors.

5 Q Now, some time in June of 1993 did you receive as
6 evidence -- actually probably before June of 1993, but
7 sometime -- February of '93 or later, did you receive
8 evidence from Fairfield County Sheriff's Office concerning
9 the case that I subpoenaed you here today?

10 A Yes, I did.

11 Q Is there a Sled lab number associated with this case
12 that you have been working on?

13 A Sled lab number that I have associated with this case
14 is L93-2667.

15 Q All right, sir. Now, I'm going to show you some
16 things. Well, first of all, let me ask you this,
17 initially did the evidence submitted to you -- and was all
18 of this done in conjunction with your working for the
19 State Law Enforcement Division?

20 A Yes, it was.

21 Q Did the evidence submitted to you initially include
22 five different fired bullets or bullet fragments?

23 A It did.

24 Q And did you assign -- had Sled lab numbers been
25 assigned to each of those items by the time they came into

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1 your hands?

2 A Yes, they had.

3 Q Now, did you -- from history, from documentation,
4 from things that were provided to you, did you know
5 generally speaking at least the source of each of those
6 five different items?

7 A Generally the source of information that I have is
8 either on the evidence submission document or on the
9 container that the evidence was actually in.

10 Q Now, what are the numbers of the five items that --
11 the Sled lab item numbers for the five items of ammunition
12 or ammunition components that you initially got in this
13 case?

14 A The items numbers of the evidence that I examined
15 regarding fired bullets, or bullet fragments, are items
16 five, six, 35.1, 35.2 and 35.3.

17 Q Now, do you know from your record generally speaking
18 at least where items -- Sled items five and six came from,
19 or were recovered from?

20 A The information that I have, which is placed in
21 quotes on my report which indicates that I got it from
22 other documentation that was provided, is that five came
23 from the back bedroom under window, and that six came from
24 the back bedroom next to inside wall.

25 Q Now, generally speaking I'm going to ask you about

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1 five and ask you about six very briefly. Number five,
2 what was number five?

3 A Number five was a fired bullet that was copper plated
4 solid projectile consistent with being a .22 fired bullet.

5 Q What condition was that fired bullet in?

6 A It was -- my notes indicate it was badly damaged and
7 distorted.

8 Q Was it of sufficient quality for you to compare to --
9 successfully compare to any firearm?

10 A The term that we used at the time and I still use to
11 this day is whether it was suitable for identification
12 purposes. And my notes indicated it was borderline
13 suitable, which means the damage was of such magnitude
14 that I would not be able to determine if it was suitable
15 until I actually had something else to compare it against.

16 Q Tell me about number six, what was number six?

17 A Number six is again a copper plated .22 rim fired
18 style bullet, and it was also indicated as being slightly
19 damaged with some possible paint residue.

20 Q Okay. Pretty good shape?

21 A Yes. It was -- there's no indication that it was
22 damaged to the point where it would be unsuitable for
23 identification purposes.

24 Q Now, from your record tell us generally speaking the
25 source of your items 35.1, 35.2 and 35.3.

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1 A 35.1, 35.2 and 35.3 were all submitted to me in
2 packing or bottles that were labeled Audrey A. Belton
3 bullet number two, that was bullet 35.1. 35.2 was Audrey
4 A. Belton bullet number three, and 35.3 was Audrey A.
5 Belton bullet number four.

6 Q Now, I am going to hand you three things which are
7 marked for identification purposes as State's Exhibits 63,
8 64 and 65. Take all of the time you need to look at them,
9 look in them, whatever you need to do and I'm going to ask
10 you some questions about them.

11 A Based on the markings and these containers and the
12 markings that I can see with my 16 year older eyes than
13 when I looked at this before on the actual evidence, these
14 are the items that I examined initially.

15 Q And are those the items that are listed as Sled
16 lab number -- items numbers 35.1, 2 and 3?

17 A Yes.

18 MR. BARFIELD: Your Honor, at this time I would offer
19 these three exhibits for identification as State's Exhibits
20 63 if, 64 and 65?

21 MS. SMALLS: Without objection.

22 THE COURT: They are admitted without objection.

23 (The three containers were receives as Exhibits 63, 64
24 And 65.)

25 Q Is there writing on these containers anywhere that

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1 helps you identify them? Is your handwriting on any of
2 those containers?

3 A My handwriting is on all three of the containers on
4 the label in red and also on top.

5 Q All right, sir. Now, let's get back to the
6 comparison part of your job. When you get your test-fired
7 bullets and when you get your submitted evidence and when
8 you get your firearm, when you're at the point that you
9 have got what you are going to be looking at to compare,
10 tell the jury how you compare items to determine whether
11 you can conclude and give an opinion that a bullet or a
12 bullet fragment was fired by a particular firearm. Tell
13 them how you do that.

14 A Once I'm at that point when I start at the
15 microscopic examination phase of the case work
16 examination, what I use is a comparison microscope. This
17 is an instrument that has two separate stages that you
18 could place evidence on to examine, and when you're
19 examining it through the optics you are looking at both
20 items side by side with virtually a very thin dividing
21 line. What I can do is move the two items independently
22 in one another and turn them and look for these striations
23 that were caused by this case the rifling and the barrel
24 of the firearm to see if I can find a matching pattern of
25 individual characteristics. When I have found that

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1 matching pattern of individual characteristics or if I
2 find one with sufficient information then I can conclude
3 that those two items are fired by the same gun.

4 Q And if you do reach that conclusion, do you prepare a
5 written report saying what your conclusion is?

6 A Yes, I do.

7 Q Now, with regard to items five and six and 35.1, 2
8 and 3 -- well, strike that. Did you do work on this case
9 actually stretching over a period of several months?

10 A Yes, I did.

11 Q After you came in to possession of five, six and 35.1
12 through 35.3, did you determine what caliber subsequent to
13 that did you come into possession of -- let me backup.
14 Five, six and 35.1 through 35.3, did you determine what
15 caliber ammunition those were?

16 A Several of them -- of all of those items that you
17 mentioned a few of them were badly damaged to the point
18 where the original source caliber could not be determined,
19 but many of them were determined to be .22, or .22 long
20 rifle caliber ammunition.

21 Q Now, subsequent to your receipt of five, six and 35.1
22 through 35.3, were firearms -- .22 caliber firearms
23 submitted to you by the Fairfield County Sheriff's Office
24 to compare to five, six and 35.1 through 35.3?

25 A Yes.

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- 1 Q Do you recall how many -- excluding the one we're
2 going to talk about later, other than the one sitting up
3 here on this table, how many firearms were submitted to
4 you from the Fairfield County Sheriff's Office to compare
5 to your five, six and 35.1 through three?
- 6 A It would be four total.
- 7 Q Did you do the comparison for all four of those
8 firearms and your items of submitted ammunition evidence?
- 9 A I did.
- 10 Q Did you reach any conclusion about whether five, six,
11 or 35.1 through 35.3 were fired by any of the previously
12 submitted four firearms?
- 13 A I was able to exclude these items as having been
14 fired by other firearms.
- 15 Q Some time in June of 19 -- I'm going to hand you
16 this, you check it but I think it's okay, examine it and
17 when you are through examining it I will ask you some
18 questions about it.
- 19 A This is the firearm I examined in this case.
- 20 Q Now, two questions -- a couple of questions -- 100
21 questions -- did that firearm get a Sled lab item number?
- 22 A Yes, it did.
- 23 Q What is the item number for that item?
- 24 A Item 77.
- 25 Q How do you know that's the gun that you received --

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1 well, first of all, when did you receive that based on
2 your record from the Fairfield County Sheriff's Office?

3 A If I can refer to my notes.

4 Q Yes, sir, thank you.

5 A Item 77 appears to have been submitted on June 23rd
6 of '93.

7 Q How do you know that's item 77 by looking at it?

8 A The firearm itself bears a serial number which is
9 unique to the firearm and it also bears markings that
10 would describe them to the laboratory. And it has the
11 initials of what I take to be a latent prints examiner
12 that I'm familiar with, and it also has my initials
13 subject described to the back?

14 Q Did you scratch some of that stuff on there?

15 A Yes, sir.

16 Q What is the caliber of that firearm, item 77. And
17 let me refer to it, I think it's been introduced into
18 evidence as State's Exhibit Number 61, I'll refer to it
19 that way. What is the brand of the firearm?

20 A This firearm is New England firearms brand revolver,
21 the abbreviation that is used on the firearm is NEF, and
22 it is a model R92, and it's chambered to fire a .22 long
23 rifle caliber ammunition.

24 Q Does it have a serial number on the butt?

25 A It does.

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1 Q What is it?

2 A NBO34342.

3 Q When you received that firearm -- first of all, where
4 did you get it from?

5 A This firearm was submitted again -- if I can refer to
6 my notes?

7 Q Yes, sir. The other examiner that you referred to
8 that you were familiar with, what was his name?

9 A David Black.

10 Q Okay. Thank you.

11 A David Black transferred this item to me on June 24th
12 of 1993 at 10:25 a.m.

13 Q Now, generally speaking, what condition was it in
14 when you got your hands on it?

15 A My notes indicate that the firearm was in overall
16 condition fair or had some rust on the metal of the
17 firearm, and a note that it apparently -- it was dirty as
18 well.

19 Q All right, sir.

20 MR. BARFIELD: Beg the Court's indulgence one moment.

21 THE COURT: Yes, sir.

22 (Break in proceedings.)

23 Q What did you do with it when you first got it?

24 A The first thing that I did with it was took notes as
25 to its condition and then moved into the later stages of

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1 my examination with the test firing of the firearm and
2 then the comparison.

3 Q Did you have to clean it up or do anything to make
4 sure it was working okay before you did that?

5 A As I recall there were some fired cartridge cases
6 that were with the firearm, they had been removed and
7 noted within the notes.

8 Q How many rounds would that cylinder hold?

9 A It would hold nine.

10 Q And how many fired cartridge cases were in it when
11 you got it?

12 A Six.

13 Q I will get them for you in a minute. What did you do
14 next?

15 A Test fired the firearm and then made comparisons of
16 the test specimens from this firearm with the evidence
17 that had been submitted.

18 Q Did you compare your test-fired bullets to item five?

19 A I did.

20 Q Did you reach any conclusion about item five, whether
21 or not it had been fired from State's Exhibit 61, which is
22 your item 77?

23 A Yes. It was an inconclusive result from the damaged
24 condition.

25 Q Did you compare your test-fired bullet, or bullets,

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1 to Sled item six?

2 A Yes.

3 Q Did you reach a conclusion about that?

4 A I did.

5 Q What was your conclusion?

6 A It was my opinion that item six had sufficient
7 matching individual characteristics with the test fires
8 from this test fire to include that item six had been
9 fired by this firearm.

10 Q Did you compare your test fired bullets to item 35.1,
11 State's Exhibit Number 63?

12 A Yes.

13 Q Did you reach any conclusion?

14 A Again due to the damaged condition of the evidence it
15 was an inclusive result.

16 Q Did you compare your test-fired bullets from State's
17 Exhibit 61 to item -- your item 35.2, which is State's
18 Exhibit 64?

19 A Actually I did not perform a microscopic comparison
20 of that item to the test specimen from this known as the
21 initial examinations in 35.2, it was so badly damaged it
22 would be unsuitable for me to test-fire it.

23 Q Did you compare your test-fired bullets through
24 State's Exhibit 61, your item 77 to Sled item 35.3, which
25 is State's Exhibit 65?

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1 A I did.

2 Q Did you reach any conclusions?

3 A I did.

4 Q What was your conclusion?

5 A Item 35.3 based on matching individual
6 characteristics that were located during my microscopic
7 examination was concluded to have been fired by my item
8 77, or State's Exhibit 61.

9 Q All right, sir. Now, I'm going to hand you a little
10 box, it looks like a match box. Take a look at that if
11 you would for me, please, sir.

12 A This box contains six fired .22 long rifle caliber
13 cartridge cases. The box itself bears my markings
14 indicating that these are the contents of the cylinder of
15 this firearm as I received them.

16 Q Did you compare test-fired cartridge cases from
17 State's Exhibit 61, your item number 77, to your contents
18 of this box right here, which is Sled item between 77.1
19 through Sled item 77.6?

20 A I did.

21 Q And you said those were the cartridge cases that were
22 in the cylinder of the gun when you got it in your
23 possession?

24 A That's correct.

25 Q And did you reach any conclusion about whether those

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1 cartridge cases had been fired by State's Exhibit 61, your
2 item 77?

3 A I did. There was sufficient matching individual
4 characteristics for me to conclude that all of these
5 cartridge cases had indeed been fired by this firearm.

6 Q And we didn't do this a minute ago, but how do you
7 look at cartridge cases -- what kind of marks on a
8 cartridge case will tell you that a particular firearm
9 fired it?

10 A In many cases there are various parts of a firearm
11 that will mark the cartridge case during the firing
12 process in a manner that leaves unique characteristics
13 just as the bullet is marked by the barrel. In this case
14 it's typical with revolvers, you would be looking at the
15 firing pin impression and the marks left by the impact of
16 the firing pin itself or the breach face which is where
17 the cartridge case would have settled against the interior
18 of the firearm. These particular examinations were based
19 on the firing pin impressions.

20 Q All right, sir.

21 MR. BARFIELD: Your Honor, I will offer this as a
22 single exhibit, the box and all, as State's Number 66.

23 MS. SMALLS: Without objection.

24 THE COURT: Admitted without objection.

25 (The box and cartridges were received as State's 66.)

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1 Q Did you prepare a -- well, let me back up. Did you
2 prepare multiple written reports based on your examination
3 of previously submitted -- the four firearms?

4 A I did.

5 Q Did you prepare a written report concerning your
6 comparisons of State's Exhibit 61, your item 77, and your
7 items five, six, and 35.1, 2 and 3, which are State's
8 Exhibits 63, 64 and 65, and Sled items 77.1 through 77.6,
9 which are State's Exhibit Number 66?

10 A I did.

11 Q Do you have your written report with you?

12 A I have copies of my report.

13 Q What is the date of your written report concerning
14 the previously mentioned items stuff that's sitting up
15 there around you?

16 A My initial report concerning the items before I
17 received this item where -- my initial examination of the
18 fired bullets and cartridge cases was issued on
19 February 26th of 1993.

20 Q What was the date of the report for the comparisons
21 of the ammunition evidence and the actual firearm, State's
22 Exhibit Number 61?

23 A That report was issued on July 2nd of 1993.

24 Q And I'm going to hand you a document, and I will use
25 yours or I will use mine, it doesn't matter, but am I

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1 handing you a copy of the report that you're referring to?

2 A This is a copy of my report.

3 Q There's also on this report of July 2nd of '93 an
4 item 75?

5 A That's correct.

6 Q Generally speaking, what is item 75?

7 A Item 75 was another .22 caliber revolver that was
8 submitted in comparison with these items.

9 Q Is that one of the four that you previously
10 mentioned?

11 A Yes, it is.

12 Q And does this report also address your comparison of
13 the ballistics evidence that's surrounding you and item
14 75, one of the other four pistols?

15 A It does in that the -- once the items have been
16 identified with this particular firearm there's no mention
17 of any comparison of those with item 75 -- but item five
18 and item 35.1 as they were inclusive are mentioned as
19 having been excluded by -- as having been fired by item
20 75, that is they were not fired by item 75.

21 Q Seventy-five didn't kill the victim in this case?

22 A I have no evidence of that, no.

23 Q Thank you.

24 MR. BARFIELD: Your Honor, I would offer at this time
25 the copy of Mr. Collins' report, which is dated July 2,

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1 1993 as State's Number 67.

2 MS. SMALLS: Without objection.

3 THE COURT: Admitted without objection.

4 (The report was received as State's 67.)

5 MR. BARFIELD: Thank you, Mr. Collins. Answer
6 anything Ms. Smalls has, please, sir.

7 THE COURT: Ms. Smalls?

8 MS. SMALLS: Beg the Court's indulgence.

9 (Break in proceedings.)

10 MS. SMALLS: Please the Court, Your Honor? I have no
11 questions of this witness.

12 MR. BARFIELD: I would ask that he be excused.

13 THE COURT: You may be excused from your subpoena,
14 Mr. Collins. Thank you.

15 MR. BARFIELD: Your Honor, I think we're at the point
16 where we probably have some matters we need to deal with
17 that don't require the jury's presence, I think.

18 THE COURT: Let me see counsel at a quick side bar.

19 (A bench conference was held.)

20 THE COURT: Ladies and gentlemen, we're going to take
21 a ten minute break, ask you to step into the jury room. If
22 it turns out it's going to be substantially longer than ten
23 minutes, and that is a possibility, as soon as I can find
24 that out I will get you back in here and we will talk about
25 how long of a break we will take, so let's try for ten

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1 minutes.

2 (The jury left the courtroom and a break was taken.)

3 THE COURT: Let's bring our jury in.

4 (The jury returned to the courtroom.)

5 THE COURT: Ladies and gentlemen, I apologize,
6 sometimes things don't go as smoothly as we would like. I
7 will give you an additional 30 minute break that you can
8 take anywhere you want to except in here. You can go back
9 to the jury room, you can leave the courthouse, I would
10 like you back in the jury room at about 15 after 11:00, 30
11 minutes from now. Thank you.

12 (The jury left the courtroom.)

13 THE COURT: Court will be in recess for ten minutes.

14 (A recess was taken.)

15 THE COURT: Solicitor?

16 MR. BARFIELD: The issue -- we've had some informal
17 conversation in a side bar about the issue before the
18 Court, that is fixin' to be before The court. The issue --
19 I think in light of the fact that I do not have audiotapes
20 of the conversation two of my witnesses are going to talk
21 about in a little bit, Ms. Smalls asked you to conduct a
22 hearing concerning whether any of the four folks who are my
23 next main witnesses were promised anything in connection
24 with their providing information in this case. I'm going
25 to talk about it specifically as to one witness and then

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1 generally as to all four. One witness is Lindsay Goins.
2 Mr. Goins was charged and arrested on a warrant for --
3 well, can we approach the bench for just a minute?

4 (A bench conference was held.)

5 MR. BARFIELD: Your Honor, Mr. Goins was charged in
6 warrant number E666749 with criminal sexual conduct second
7 degree, I think factually it's actually criminal sexual
8 conduct with a minor in the second degree, he was arrested
9 on that warrant on 5/28 of 1996, we need to remember these
10 dates, I think. That case got nolle prossed on 2/4 of
11 2000. The statement given by Mr. Goins that relates to
12 this case was provided -- he actually gave a written
13 statement which was dated 12/28 of 2004. We found out that
14 he had some information on the case and knew that he then
15 lived in Rochester, New York and a couple of folks in the
16 sheriff's office actually went to Rochester and took a
17 written statement from him on 12/28 of 2004, so that's the
18 chronology. I cannot tell you why the criminal sexual
19 conduct charge got dismissed. I asked Mr. Goins why it got
20 dismissed and he said just lack of evidence. I'm unable to
21 talk to -- there's no written record of the reason for the
22 dismissal because the charge was expunged, the record was
23 expunged so I have no documentation from my office saying
24 why we dismissed it, and I did not do it and have no
25 recollection of the case itself. So with regard to that

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1 particular charge on Mr. Goins I would simply offer to the
2 Court that he got arrested on whatever the date was I told
3 you, it got dismissed in 2000 and he didn't provide a
4 statement in this case until 2004, so I would argue to you
5 that there's no way that that dismissal could have been in
6 exchange for information that he was going to give four
7 years later. Generally speaking with all of the
8 witnesses -- well, let me back up. With respect to witness
9 Green, witness Green is currently a state inmate and nobody
10 in law enforcement knew anything about witness Green until
11 my office received a letter addressed to the solicitor, and
12 that letter was dated 2/13 of 2007, which I forwarded to
13 law enforcement which resulted in interviews with Mr. Green
14 in March, May and July of 2007. So with respect to
15 Mr. Green we didn't know about him, he came to us. With
16 respect to all four witnesses, I have asked all four
17 witnesses multiple times, but again today, whether any of
18 them were promised anything in consideration for their
19 assistance on this case by way of -- any kind of
20 consideration at all and they all say no. With respect to
21 all four of those witnesses in general, all of the law
22 enforcement agents who interviewed them were asked by me
23 informally in the hallway in the presence of Ms. Smalls
24 whether any of them offered or promised any of these
25 witnesses anything in exchange for their assistance on this

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1 case and they said no. They were further asked are they
2 aware of whether anybody else offered or promised any of
3 these four witnesses anything for their help on this case
4 and they all said no. They are all here, they're all
5 available to be put under oath to be questioned about that,
6 the witnesses are here and available to be put under oath
7 and questioned about that. That's what I've got.

8 MS. SMALLS: Your Honor, if I may, the solicitor is
9 correct that we did have several outside discussions
10 regarding this, however, for the record, I would
11 respectfully ask that you at least inquire of those persons
12 that interviewed these four individuals those two
13 questions, whether or not they offered in anyway of any
14 compensation or leniency or reduction in charge to any of
15 the individuals, or if they are aware of anybody else
16 having done so, just of the officers, not the actual
17 inmates themselves.

18 THE COURT: Solicitor?

19 MR. BARFIELD: I am happy to do that, we can swear
20 them where they sit in the courtroom or we can bring them
21 to the witness' chair, I'll tell you which ones interviewed
22 each witness and we can just knock it out real quick,
23 however you want to do it.

24 THE COURT: Let's just swear them where they are and
25 you ask them those questions.

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1 MR. BARFIELD: I need Reid Long. Your Honor, Frazier
2 Craig and Reid Long, Keith Lewis and Eric Gill, Tommy
3 Robertson, and I think actually an agent who is not a
4 witness in the case, Dave Lawrence with Sled, but was with
5 Tommy Robertson when he talked to one witness but I don't
6 have him here and didn't anticipate calling him as a
7 witness. Tommy Robertson with Sled. And I think Tommy
8 Robertson and Frazier Craig again on witness Green. Does
9 that cover anybody that interviewed these four people? If
10 will you swear them I will ask them questions.

11 (Each of the witnesses were sworn.)

12 MR. BARFIELD: These questions are directed one at a
13 time to Frazier Craig and Reid Long with respect to witness
14 Raymond Barnes, and I will ask the question and then I
15 would ask each of you to respond to it, I'm going to ask
16 you two questions. Frazier Craig and Reid Long, did either
17 of you make any promises to Raymond Barnes for sentence
18 reduction, payment of money, any consideration whatsoever
19 in exchange for information and help he would give you in
20 the investigation of the homicide of Audrey Belton with
21 which Curtis Lee Elgin was subsequently charged? Did you
22 promise him anything, Frazier Craig?

23 THE WITNESS: No, sir.

24 MR. BARFIELD: Reid Long?

25 THE WITNESS: No, sir.

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1 MR. BARFIELD: Are either of you aware of whether
2 anybody else did the same, Frazier Craig?

3 THE WITNESS: No, sir.

4 MR. BARFIELD: Reid Long?

5 THE WITNESS: No, sir.

6 MR. BARFIELD: Anything you want, Ms. Smalls?

7 THE COURT: Ms. Smalls, any additional questions of
8 those witnesses concerning that statement?

9 MS. SMALLS: No, sir.

10 THE COURT: Continue, Solicitor.

11 MR. BARFIELD: Your Honor, with respect to witness
12 Lindsay Goins, it's Keith Lewis and Eric Gill. Same
13 question, did either of you promise Lindsay Goins anything,
14 any consideration of any kind whatsoever to get him -- in
15 exchange for information that he provided in the
16 investigation of the murder of Audrey Belton for which
17 Curtis Elgin was subsequently charged, Keith Lewis?

18 THE WITNESS: No.

19 MR. BARFIELD: Eric Gill?

20 THE WITNESS: No.

21 MR. BARFIELD: Are either of you aware if somebody did
22 the same, Keith Lewis and Eric Gill?

23 THE WITNESS: No.

24 THE WITNESS: No.

25 MR. BARFIELD: With respect to witness Virgil Pauling

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1 that will be --

2 MS. SMALLS: Your Honor, as respect to Lindsay Goins,
3 officers Lewis and Gil, since his statement was actually
4 taken in the year 2004, can you tell me how it is -- did he
5 contact you or you contacted him?

6 MR. BARFIELD: Keith Lewis will respond to that.

7 THE WITNESS: Your Honor, I contacted Mr. Goins, I am
8 the chief deputy of the sheriff's office. This case
9 occurred in 1993. In 2004 it was one of our so-called cold
10 cases, I decided to reopen that case in 2004. After going
11 through the case file, I saw there was some things that
12 occurred in our detention center back in '95 or '96 and I
13 learned that Lindsay Goins was also an inmate in the
14 detention center at that same time and that he was also in
15 that same cell block area, I contacted him to see if he
16 also may have heard what other people had recorded earlier
17 that they had heard, and I contacted him.

18 MS. SMALLS: That's fine.

19 THE COURT: Solicitor?

20 MR. BARFIELD: Your Honor, with respect to Virgil
21 Pauling, it's Tommy Robertson. Agent Robertson, did you
22 promise any consideration of any kind to Virgil Pauling in
23 exchange for information he provided in the investigation
24 of the death of Audrey Belton with which Curtis Elgin is
25 charged?

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1 THE WITNESS: No, sir.

2 THE COURT: Are you aware of anybody who did?

3 THE WITNESS: No.

4 MR. BARFIELD: With respect to witness Green, again
5 this is agent Tommy Robertson and Frazier Craig, I believe.

6 OFFICER LEWIS: Mr. Barfield, I was also with that
7 with Mr. Green.

8 MR. BARFIELD: Did you promise Green anything?

9 OFFICER LEWIS: No, sir.

10 MR. BARFIELD: Are you aware of anybody who did?

11 OFFICER LEWIS: No, sir.

12 MR. BARFIELD: All right. With respect to Green then,
13 Frazier Craig and Tommy Robertson again, did either of
14 y'all promise witness Green any consideration of any kind
15 in exchange for the information he provided in the
16 investigation of the death of Audrey Belton for which
17 Curtis Elgin is charged?

18 THE WITNESS: No, sir.

19 THE WITNESS: No.

20 MR. BARFIELD: Are either of you aware of anybody else
21 who did?

22 THE WITNESS: No, sir.

23 THE WITNESS: No.

24 MR. BARFIELD: That's all I have got.

25 THE COURT: Any additional questions of any of the

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1 witnesses concerning the witnesses who are about to
2 testify? Isn't that what we're talking about?

3 MR. BARFIELD: Yes, sir.

4 THE COURT: All right. Anything else we need to talk
5 about?

6 MR. BARFIELD: Yes, we do. I just want to make sure
7 before the jury gets here, couple of issues are still out
8 there, and I'm probably directing this as an inquiry of
9 Ms. Smalls more than anything else. You know and she knows
10 and I know and we all know that I ain't got any tapes of
11 this wire that was put on witness Barnes. If I need to put
12 something on the record about that or if we're just going
13 to develop that through the testimony, it doesn't matter to
14 me, but I'm prepared to address that if it needs to be
15 addressed outside the presence of the jury, and I am
16 prepared to address it if it needs to be addressed in the
17 presence of the jury.

18 MS. SMALLS: I am actually fine with that being
19 presented in the presence of the jury. I am actually fine
20 with any testimony regarding the wire being presented in
21 the presence of the jury.

22 THE COURT: I figured you would be.

23 MR. BARFIELD: With regard to --

24 THE COURT: Well, but I think the thing that you are
25 doing now is making a statement on the record that you

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1 don't have it.

2 MR. BARFIELD: I don't.

3 THE COURT: And can't produce it.

4 MR. BARFIELD: That's correct. And certainly I'm
5 going to have to explain it at this point because she knows
6 about it and if I don't say something about it she's going
7 to.

8 THE COURT: Now, go ahead.

9 MR. BARFIELD: The next issue is I have got two guys
10 from SCDC who are tan and who have got SCDC all over their
11 backs and Ms. Smalls' pleasure about them.

12 MS. SMALLS: I'm okay with them remaining in that
13 clothing.

14 THE COURT: So the sheriff's can take his extra suits
15 back home?

16 MR. BARFIELD: To tighten up that issue a little
17 further, all four of those witnesses were in custody, two
18 of them are no longer in custody but they were all four in
19 custody when the events that lead them here today occurred
20 by inference and by fact, Curtis Elgin was in custody with
21 them at the time. We talked yesterday about how we're
22 going to refer to those circumstances. Does Ms. Smalls --
23 I am inquiring whether Ms. Smalls cares whether Robert Lee
24 Green says it happened at Lee and Virgil Pauling says it
25 happened at Manning or how we're going to dealing with

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1 that?

2 MS. SMALLS: Beg the Court's indulgence?

3 THE COURT: Yeah.

4 (Break in proceedings.)

5 MS. SMALLS: After discussing with my client he is
6 comfortable with the prisoners actually testifying where
7 they were actually at the time.

8 THE COURT: Okay. So there's -- which by inference
9 would mean that --

10 MS. SMALLS: That he was also at those particular
11 institutions and he understands that.

12 MR. BARFIELD: And if that is the rules we're
13 operating under I'm going to say this, "Was Curtis Elgin at
14 Manning Correctional Institution with you?" I think it
15 doesn't make sense if I can't do that. I'm not going to
16 get into any details -- I'm not going to ask them why he
17 was there. I am going to caution them to say nothing bad
18 about Curtis Elgin other than what he said to them during
19 the conversation.

20 THE COURT: You need to caution them they shall not
21 testify and they may not blurt out why he was there.

22 MR. BARFIELD: And I'm also going to tell my
23 witnesses -- and I'm telling the Court so everybody doesn't
24 think I'm being a jerk, but I am going to tell my witnesses
25 if you start saying words that you can't say I am going to

TESTIMONY OF FRAZIER CRAIG

1 say to you, stop, shut up.

2 THE COURT: Okay.

3 MS. SMALLS: That's fine with me.

4 THE COURT: Tell them to answer the questions that are
5 asked to them.

6 MR. BARFIELD: Absolutely, Your Honor. And I am going
7 to do my very best to control what happens because I don't
8 want to do this twice.

9 THE COURT: Anything else? Are we ready to bring in
10 the jury?

11 MR. BARFIELD: Yes, sir.

12 MS. SMALLS: Yes, sir.

13 (The jury returned to the courtroom.)

14 THE COURT: Welcome back, ladies and gentlemen, and I
15 believe we are ready to resume the trial of the case.
16 Solicitor?

17 MS. SMALLS: Call Frazier Craig.

18 The witness, FRAZIER CRAIG, was duly sworn and
19 testified as follows, on:

20 DIRECT EXAMINATION

21 BY MR. BARFIELD:

22 THE CLERK: State your name for the record.

23 THE WITNESS: Frazier Craig.

24 Q Captain Craig, by whom are you employed?

25 A Fairfield County Sheriff's Office.

TESTIMONY OF FRAZIER CRAIG

1 Q How long have you been employed by the Fairfield
2 County Sheriff's Office?

3 A Since 1988.

4 Q When this case occurred in 1993, were you assigned as
5 an investigator to this case back in 1993?

6 A No, sir.

7 Q Okay. We heard from James Kitchens earlier this week
8 who indicated he retired in '96 or '97, at some point did
9 this case get picked up by you to further investigate?

10 A Yes, sir.

11 Q And did you undertake to work this case again?

12 A Yes, sir.

13 Q At some point did the name Raymond Lewis Barnes come
14 across your desk?

15 A Yes, it did.

16 Q Do you recall about when it was that Raymond Lewis
17 Barnes stepped into the picture in this matter?

18 A Sort of indirectly from another case that I was
19 investigating, and I don't remember the exact -- probably
20 '95 or '96, somewhere around there.

21 Q All right. Now, at some point -- well, let me just
22 ask you this, did you know what Raymond Lewis Barnes'
23 status in the world was at the time you first became aware
24 he existed? Was he a free man or was he in prison
25 somewhere?

TESTIMONY OF FRAZIER CRAIG

- 1 A He was in prison somewhere.
- 2 Q Where was he in prison?
- 3 A Esdale, in South Carolina.
- 4 Q In a federal prison?
- 5 A That is correct.
- 6 Q Where was he from?
- 7 A North Carolina.
- 8 Q Did he become a guest of Fairfield County in the
- 9 Fairfield County Detention Center for some several months
- 10 during 1996?
- 11 A Yes, sir, he did.
- 12 Q Now, without getting into any detail from Mr. Barnes,
- 13 at some point did Mr. Barnes become a figure in the
- 14 investigation of the death of Audrey Belton and the
- 15 investigation about that matter?
- 16 A Yes, sir.
- 17 Q And is he now a witness?
- 18 A Yes, sir.
- 19 Q Did he provide information which was summarized by
- 20 you and Reid Long formerly with Sled, containing his
- 21 knowledge of the Audrey Belton homicide?
- 22 A Yes, sir.
- 23 Q Did that all occur while he was in the Fairfield
- 24 County Detention Center?
- 25 A That's correct.

TESTIMONY OF FRAZIER CRAIG

1 Q Now, did the sheriff's office initiate contact with
2 Barnes in the detention center about -- let me back up.
3 At some point along the way did the sheriff's office make
4 a decision to charge Curtis Lee Elgin with the murder of
5 Audrey Belton?

6 A Yes, sir.

7 Q Did he get arrested?

8 A Yes.

9 Q And do you recall when Curtis Elgin got charged and
10 arrested with this homicide, what year at least?

11 A I think it was 2004.

12 Q Okay. So my question is who approached whom about
13 information -- did Raymond Barnes provide information that
14 implicated Curtis Lee Elgin in the Audrey Belton homicide?

15 A He did.

16 Q Who approached whom with that information? Did you
17 go to Barnes or did Barnes come to y'all?

18 A He came to me.

19 Q All right. Now, after Barnes became a witness, what
20 did you do to try to gather and collaborate the
21 information that Barnes had told you? Let me ask you this
22 question first, when this information came to your
23 attention, was Curtis Elgin also a guest of Fairfield
24 County in the detention center?

25 A Yes, he was.

TESTIMONY OF FRAZIER CRAIG

- 1 Q Now, what did you do to try to investigate what
2 Barnes told you he knew?
- 3 A I contacted the Midlands Office at Sled and then a
4 Sled agent came up.
- 5 Q Her name?
- 6 A Eleanor Savage.
- 7 Q Go ahead.
- 8 A And she equipped him with an electronic listening
9 device.
- 10 Q Equipped whom?
- 11 A Raymond Barnes.
- 12 Q And you say an electronic listening device, is that
13 what on TV they call a wire?
- 14 A Yes, sir.
- 15 Q Once or more than one time did that occur, the wire
16 on Barnes in the jail?
- 17 A It was more than twice.
- 18 Q Okay. And that was in 1996?
- 19 A Best of my knowledge, it has been a long time ago.
- 20 Q Okay. Now, was the wire something that was going to
21 be -- when Barnes is wearing the wire, number one, was it
22 a recording device? Was it designed to record words and
23 sounds?
- 24 A That's correct.
- 25 Q Was it a monitorable device, meaning if Barnes had a

TESTIMONY OF FRAZIER CRAIG

1 wire on inside the detention center, were you and Savage
2 or anybody else able to sit somewhere and listen to what
3 was going on when the wire was operable?

4 A No, sir.

5 Q Not at all a monitorable system?

6 A Not at all.

7 Q So on these two or more, or more than two occasions
8 that Barnes had a wire on him in the jail, was it your
9 understanding that he was going to be in the company of
10 Elgin in the detention center?

11 A That's correct.

12 Q Now were tapes made while Barnes had on a wire?

13 A Yes, sir, afterwards.

14 Q All right. Explain that. Let me ask you this, and
15 I'll ask Ms. Savage in a minute, but were tapes of some
16 sort microcassettes or regular cassettes or we have
17 digital stuff now, but was this tape-tape like a cassette
18 tape?

19 A It's a cassette, yes, sir.

20 Q A standard cassette tape is what we can say?

21 A Standard.

22 Q Now, were recordings made, not what was on them or
23 anything else, but were recordings made while Barnes had
24 on the wire in the detention center?

25 A Yes, sir.

TESTIMONY OF FRAZIER CRAIG

1 Q And were the tapes something that Barnes also had or
2 were they recorded remotely, like did he have on something
3 that was wireless and somewhere else in the jail was a
4 recording device with the cassette in it? Do you remember
5 how it was set up?

6 A No, sir, it wasn't set up like that.

7 Q How was it set up?

8 A It had to be removed and taken somewhere else.

9 Q Explain that.

10 A The device would have to be taken off his person and
11 taken to -- I'm assuming to Sled to the tech. service and
12 they would produce it to a tape.

13 Q All right. I guess there is the question. Did
14 Barnes have something on like a Walkman that would have a
15 blank cassette on it that would record or was it some
16 other system?

17 A It was another system, it didn't actually have a
18 cassette.

19 Q Now, were some recordings made as a result of Barnes
20 having this wire on in the detention center in the
21 presence of Elgin?

22 A There were recordings made, yes.

23 Q And was something produced that people with their
24 ears could listen to to see what was on the recording?

25 A Yes, sir, there was.

TESTIMONY OF FRAZIER CRAIG

1 Q And did you get the opportunity with your ears to
2 listen to what had been recorded while Barnes had on the
3 wire?

4 A Yes, I did.

5 Q What was on the recordings? Tell the jury what you
6 heard.

7 A Muffled voices, it was wasn't audible at all.

8 Q Could you make out any words on the recordings that
9 had been made while Barnes was wearing this wire?

10 A No, sir.

11 Q Was that a problem? Did you try to do anything with
12 the recordings, or did anybody try to do anything with the
13 recordings so that you could hear words?

14 A I don't have that information, Eleanor Savage could
15 answer that question.

16 Q Do you recall what the -- when you were using your
17 ears to listen to the recordings, do you recall whether it
18 was in the form of a cassette tape by then, or what was
19 the form of the recording when you were trying to hear
20 something on them?

21 A It was in the form of a cassette.

22 Q It got recorded in cassette tapes, is that what
23 you're saying?

24 A Yes, sir.

25 Q And you actually saw cassette tapes?

TESTIMONY OF FRAZIER CRAIG

1 A Yes, sir.

2 Q Did you keep the cassette tapes that were made while
3 Barnes had on the wire?

4 A No, sir.

5 Q Did you ever have them in your possession after they
6 were made?

7 A No, sir.

8 Q Did they ever get returned to the Fairfield County
9 Sheriff's Office?

10 A No, sir.

11 Q Do you have any idea where they are now?

12 A I have no clue.

13 Q And again, the question again is did you listen to
14 all of the recordings that were made?

15 A Yes, sir.

16 Q And were you able to make out any words on any of
17 them?

18 A Not a word.

19 MR. BARFIELD: That's all of the questions I have of
20 Captain Craig on this point.

21 THE COURT: Ms. Smalls?

22 MS. SMALLS: May it please the Court?

23 CROSS EXAMINATION

24 BY MS. SMALLS:

25 Q So Investigator Craig, you took over this case after

TESTIMONY OF FRAZIER CRAIG

1 Investigator Kitchens?

2 A I did.

3 Q But while he was the main case investigator, did you
4 work closely with him?

5 A As far as working closely with him as how?

6 Q Were you underneath him when he was the main case
7 investigator?

8 A Yes, ma'am.

9 Q So when he was considered the chief investigator, you
10 actually worked along side with him investigating this
11 same case, is that correct to say?

12 A Not all of the time, just every now and then.

13 Q And I know you were present I think it was two days
14 ago when I questioned Investigator Kitchens regarding the
15 Crime Stoppers tip. As the main case investigator taking
16 over the case from Investigator Kitchens, you were also
17 aware of that tip, are you not?

18 A No, ma'am. I was not aware of that.

19 Q So you didn't know anything about there being a call
20 from Crime Stoppers?

21 A No, ma'am. I didn't dig that deep into the case file
22 until later in years, and I still didn't know about this
23 information because I just didn't -- I just picked up on
24 certain areas that I was going to investigate like certain
25 things and that type thing.

TESTIMONY OF FRAZIER CRAIG

- 1 Q Let me ask you this: When you picked up the file
2 from Investigator Kitchens, did you not inherit the entire
3 case file?
- 4 A I did.
- 5 Q So that information was in there and you just did not
6 see it?
- 7 A I didn't see it, and I was going at it step by step.
8 I was just taking certain things out and running down
9 leads and I just hadn't been to that point.
- 10 Q But now you are aware after his testimony that indeed
11 that information was in that case file.
- 12 A Yes, ma'am.
- 13 Q Are you also aware that a reward was offered in this
14 case?
- 15 A Yes, ma'am.
- 16 Q Okay. And the reward specifically is for not only
17 the arrest but the conviction of the person that killed
18 Ms. Belton, correct?
- 19 A That's what the flier said, yes, ma'am.
- 20 Q And to your knowledge, was it five or \$10,000?
- 21 A I think it was \$10,000.
- 22 Q \$10,000?
- 23 A Yes, ma'am.
- 24 Q That reward has not been paid out.
- 25 A No, ma'am.

TESTIMONY OF FRAZIER CRAIG

1 Q You testified earlier that you came in contact with
2 Raymond Barnes because you were working another case.

3 A Yes, ma'am, that's correct.

4 Q Raymond Barnes was not in the Fairfield County
5 Detention Center for any charges relative to Fairfield
6 County, was he?

7 A No, ma'am.

8 Q He was actually transported from a federal prison.

9 A That's correct.

10 Q And he was put in this jail to actually assist local
11 officers with another case.

12 A That's correct.

13 Q Do you know approximately how long he was housed in
14 the Fairfield County Detention Center?

15 A Not right off the bat, not from memory I don't
16 remember how long he was up there. But it was several
17 months.

18 Q So would it be safe to say that Raymond Barnes was
19 actually put in the Fairfield County Detention Center as a
20 cooperative?

21 A Yes, ma'am.

22 Q And by cooperative, that's someone that is going to
23 assist with information and sometimes they are called
24 snitches, are they not?

25 A We refer to them as informants.

TESTIMONY OF FRAZIER CRAIG

- 1 Q You refer to them as what?
- 2 A Informants.
- 3 Q Informants. Have you ever heard them called snitches
- 4 even though it's not the word you choose to use?
- 5 A I have heard them called a lot of things but we refer
- 6 to them as informants.
- 7 Q Law enforcement refers to them as informants.
- 8 A Yes, ma'am.
- 9 Q Okay. You testified earlier that you actually talked
- 10 to Raymond Barnes and he contacted you. How did he
- 11 contact you?
- 12 A At what point?
- 13 Q He is in the detention center, did he call you?
- 14 A I would go and pick him up. Like I said, I was
- 15 working another case and I would use him in various ways.
- 16 Q So he would go off the premises with you, correct?
- 17 A That's right.
- 18 Q Okay. And how often would that occur?
- 19 A It happened pretty much on a daily basis. I was
- 20 assigned to this particular case and that's what I was
- 21 working on a regular basis.
- 22 Q So pretty much on a daily basis you would go to the
- 23 detention center and Raymond Barnes had the privilege of
- 24 leaving the institution with you, correct?
- 25 A That's right.

TESTIMONY OF FRAZIER CRAIG

1 Q Now, you say you summarized the information that he
2 gave you. Tell me what you mean by summarized.

3 A What information are you talking about?

4 Q When you talked with Barnes and he gave you
5 information, did you make any notes of that?

6 A I never used the word summarized. Are you talking
7 about --

8 Q Did you take a statement from Mr. Barnes?

9 A Sled Agent Long and myself, we did.

10 Q Did you take a statement from him, a sworn statement
11 that he signed?

12 A No, not a sworn statement that he signed. It was
13 reduced to typing out what he told us.

14 Q Okay. So it was typed out what he told you. Was he
15 present when you typed that out?

16 A That's correct.

17 Q Okay. So he was present during the entire time of
18 all of the information that he gave you?

19 A Yes, ma'am. He gave it to us verbatim.

20 Q And you typed exactly what he said?

21 A That's right.

22 Q But at the conclusion of that you didn't have him
23 sign it?

24 A No, ma'am.

25 Q Okay. And if he signed it it would be considered a

TESTIMONY OF FRAZIER CRAIG

1 statement, would it not?

2 A That's usually the way it's done.

3 Q Because the only other thing you would have is a
4 typed what you call verbatim, but because he didn't sign
5 it he's not doing the typing, is he?

6 A No, ma'am.

7 Q So you're typing up what he is saying and he doesn't
8 sign it or anything.

9 A That's correct.

10 Q The first time you came in contact with Barnes was in
11 1996, is that the same year he gave you the statement?

12 A I would have to look at the paperwork. It could have
13 been a little sooner than that, I'm not sure, but this
14 transpired over several months.

15 Q Could it have been in 1995?

16 A Like I said, I would have to look at the paperwork.
17 I'm -- you're talking about a long time ago.

18 Q Right. But you have the opportunity to review -- you
19 were the main case investigator on that, right, since
20 199 -- at least 1996 or 1997 you have had this case?

21 A Yes, ma'am.

22 Q And you knew you were coming to testify?

23 A I knew that, but I still -- I would prefer to look at
24 it just to be sure, just to be --

25 Q In preparation for this trial, did you review the

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1 case file?

2 A Yes, ma'am.

3 Q And you just don't recall the dates and times?

4 A I don't recall the exact dates and times, that's why
5 I would like to, if I could, look at the paperwork and I
6 could tell you a sure answer.

7 Q Let me ask you this, all of the conversations with
8 Raymond Barnes and yourself took place outside of the
9 institution?

10 A Well, it's like an annex, we had substations, or we
11 have substations.

12 Q And I know you're doing it by memory, but as best as
13 you can recollect, when did you first contact -- I think
14 you said her name is Eleanor Savage, requesting that
15 Mr. Barnes be equipped with a listening device, or
16 recording device?

17 A Like I said, I would need to look at some notes or
18 some documentation because that's been a long time. I
19 can't tell you this month or that month. I can tell you
20 the approximate year, it was in the year of 1996 or '95 or
21 something of that nature.

22 Q Can you tell me the year? Was it the same year that
23 you typed up this information, was it that same year?

24 A It could have been around '96.

25 Q How many times had you talked with Raymond Barnes

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1 before you made the determination to call in Sled?

2 A That's a hard number to come up with, also. But it's
3 like I said, I was working on the case -- on another case
4 and it was a day to day thing.

5 Q Let me ask you this then: When he first gave you
6 information allegedly regarding Curtis Elgin, did you
7 immediately then contact Sled regarding the recording
8 device, or did you have several other conversations with
9 Mr. Barnes?

10 A I went back to my superiors and explained to them
11 what I had and we consulted with the late solicitor at the
12 time and that pretty much led me to it.

13 Q So you don't know if you requested a recording device
14 after the first conversation with Mr. Barnes that involved
15 Mr. Elgin or not?

16 A Like I said, I don't remember exactly the series of
17 events, but it was around the same time.

18 Q You say there were cassette tapes made?

19 A Yes, ma'am.

20 Q And you say this was done more than two occasions you
21 testified to?

22 A Yes, ma'am.

23 Q Okay. So did you listen to the tapes all at one
24 time?

25 A There were only like a couple best of my knowledge,

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1 like a couple that I saw.

2 Q Okay. So if you listened to a tape and it was
3 difficult to hear anything on the tape, did you then bring
4 that to the attention of whoever was in charge of the
5 wiring at Sled that we're having problems hearing what's
6 on this tape?

7 A Agent Savage was aware of that.

8 Q She was aware of that?

9 A She was.

10 Q So he went in on more than one occasion with a wire,
11 so after the second time did you listen to the tape?

12 A The tape was brought at one time after they were made
13 from the device and we listened to them, there was nothing
14 audible on them, you couldn't understand them.

15 Q On any of the tapes?

16 A No, ma'am.

17 Q You said that this was the kind of recording device
18 where it was just being tape recorded and then once the
19 device is removed from Mr. Barnes then it's handed over to
20 an individual and I guess put in a listening form,
21 correct?

22 A I would have to say that's the way it was but I
23 didn't actually go to see how the tapes were made, I
24 just -- it was the Sled agent that took the device.

25 Q You testified earlier that that device had to be

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1 removed from Mr. Barnes. Was he capable of removing it
2 himself?

3 A Yeah, I'm sure -- yeah, he could remove it.

4 Q So if he was -- if the listening device or recording
5 device was put on his person and he went in and talked
6 with someone, did you or some other person from law
7 enforcement that same day come to talk with Mr. Barnes to
8 retrieve that device?

9 A We would have retrieved it the following day.

10 Q So how long would he have the device?

11 A Like over night.

12 Q And because you can't hear what is going on on the
13 device while it is being recorded, you don't know if it
14 was tampered with before you received it back, do you?

15 A No, ma'am.

16 MS. SMALLS: Beg the beg the Court's indulgence.

17 THE COURT: Certainly.

18 (Break in proceedings.)

19 Q You didn't take any notes at all during this time
20 period that you were dealing with Raymond Barnes?

21 A I took notes when that pertinent information came in.
22 In the same year I was dealing with another case and I was
23 concentrating on that case.

24 Q I understand that you were working on another case,
25 then you received information about Curtis Elgin from

TESTIMONY OF FRAZIER CRAIG

1 Mr. Barnes. Are you saying that you didn't want to
2 confuse the information of the two cases? You say you
3 went to your superior, but is it your testimony you did
4 not take any notes about the conversation that you had
5 almost on a daily basis with Mr. Barnes?

6 A The conversation and information is in the case file
7 in the time.

8 Q What I'm saying, did you not transcribe any notes?
9 Did you take any written notes and then type them?

10 A I didn't. Agent Long was concentrating on that end,
11 because like I said, I was working on another case, a
12 serious case similar to this one.

13 Q I just want to make sure I'm clear, you had
14 conversations on a daily basis with Raymond Barnes and you
15 personally do not have any notes from those conversations,
16 your handwritten notes?

17 A We did not talk about this particular case every day,
18 it was brought to me one time, and then at that point we
19 went the trail of going through the solicitor's office
20 and --

21 Q When you say we, who are you referring to?

22 A Myself, Reid Long, Major Byrd -- Captain Byrd at the
23 time, just people at the sheriff's office.

24 Q So you personally only talked with Raymond Barnes
25 once about Curtis Elgin, then you turned it over to

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1 somebody else, is that what you're saying?

2 A No. We talked but it wasn't like that was the main
3 focus at the time.

4 Q I understand that you were working on another serious
5 case, but you received information about this murder,
6 which is a serious case, and you're saying that you did or
7 did not take any notes when you had conversations with
8 Raymond Barnes that involved Curtis Elgin and this murder?

9 MR. BARFIELD: I'm going to object, Your Honor, I
10 think it's been asked and answered several times.

11 THE COURT: I'll let him do it one more time. The
12 witness may answer the question.

13 A Mr. Barnes came to me with that information, the
14 information was noted and I went to my supervisors and at
15 that point we went with the wire.

16 Q Okay. When you say the information was noted, where
17 was it noted?

18 A It was noted -- the statement is in the case file, it
19 was typed up.

20 Q You didn't permanently type it up?

21 A No, ma'am.

22 MS. SMALLS: Beg the Court's indulgence.

23 THE COURT: All right.

24 (Break in proceedings.)

25 Q Do you have your case file with you today?

TESTIMONY OF FRAZIER CRAIG

- 1 A Yes, ma'am.
- 2 Q You do?
- 3 MR. BARFIELD: Permission to hand it to him.
- 4 MS. SMALLS: Yes.
- 5 Q I just want you to take your file and review it and
- 6 see if you can find where your notes are relative to this
- 7 case and your conversation with Raymond Barnes or anybody
- 8 else relative to this case, not the other case.
- 9 A Okay.
- 10 Q Have you located it?
- 11 A Yes, ma'am.
- 12 Q Now, did you locate some notes or just that typed
- 13 version that you referred to?
- 14 A The typed version.
- 15 Q So you don't see any handwritten notes or anything
- 16 that was used prior to typing it?
- 17 A No, ma'am.
- 18 Q Okay. Tell me whose handwriting -- is that your
- 19 handwriting on this document?
- 20 A Yes, ma'am.
- 21 Q It is?
- 22 A Uh-huh.
- 23 Q I'm going back to some earlier testimony. I think it
- 24 was Jimmy Burrows that testified about finding the gun.
- 25 A Yes, ma'am.

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1 Q And he testified specifically that the reason he went
2 to Uniroyal was because he was told to go there by a
3 suspect in a breaking and entering, was he not?

4 A That's what I heard him say on the stand.

5 Q But you actually talked with Officer Burrows
6 yourself, did you not?

7 A That day when we were at Dunn Street.

8 Q Do you recall him telling you that the subject did
9 not tell him anything about there being items that were
10 stolen in a breaking and entering in the area of Uniroyal
11 and that he just went there on his own.

12 A Can I look at that? Ask the question again.

13 MR. BARFIELD: Your Honor, I'm going to object. I
14 know this is cross but this is nowhere close to being
15 related to the subject matter that Captain Craig is being
16 called upon to testify about at this moment.

17 MS. SMALLS: This is cross examination, I can ask him
18 anything.

19 THE COURT: Overruled.

20 Q The question is you had a conversation with Jimmy
21 Burrows, did you not, regarding the gun. You indicate
22 that is your handwriting, correct?

23 A It is.

24 Q And on that -- in your -- I guess your handwritten
25 notes you specifically say that you talked with Jimmy

TESTIMONY OF FRAZIER CRAIG

1 Burrows and he said that he did not go to Uniroyal based
2 upon the information that the suspect had given him, is
3 that not correct?

4 A You said prior to talking to Raymond Barnes?

5 Q No, I'm not talking about Raymond Barnes now. I'm
6 talking about Officer Burrows and finding the gun.

7 A Right.

8 Q Okay. In your handwritten notes you also had a
9 conversation with Officer Burrows about finding the gun,
10 and in that conversation with Officer Burrows he indicated
11 to you that he did not go to Uniroyal based on information
12 given to him by the suspect; is that correct?

13 A That's what I wrote down, yes.

14 Q That's what you wrote in your notes?

15 A Yes.

16 Q So you take notes sometimes, correct?

17 A That was in 2003.

18 MS. SMALLS: Nothing further from this witness.

19 MR. BARFIELD: Just a couple.

20 REDIRECT EXAMINATION

21 BY MR. BARFIELD:

22 Q You -- go back and ask you a couple of questions
23 again about the problems with the recording made when
24 Barnes was wearing the wire. Ms. Smalls was asking you --
25 she basically asked did you listen to one of them and find

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1 out it didn't work and did you do anything when you found
2 it didn't work. Explain again when you found out that the
3 recording device wasn't actually producing anything that
4 could be heard audibly.

5 A When I found out it wasn't working the Sled agent
6 brought the cassette tapes to me and she listened to them
7 and she said that there was nothing on them.

8 Q All right. Stop. You said she brought the tapes to
9 you. Was it more than just one tape?

10 A It was couple of cassette tapes.

11 Q Was it at the end of the wire process? Was the wire
12 over with by then?

13 A It was done.

14 Q Okay. Did you ever hear a tape that wasn't audible
15 and subsequent tapes were made after you heard one that
16 wasn't audible?

17 A No, sir.

18 Q You now have your file in front of you. Ms. Smalls
19 was asking you earlier when you first started dealing with
20 Raymond Lewis Barnes. On this case as it relates to
21 Curtis Lee Elgin, when did you first start dealing with
22 Raymond Lewis Barnes on the Audrey Belton homicide?

23 A It was in '96.

24 Q You have a typed summary of his information; is that
25 correct?

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- 1 A Yes, sir.
- 2 Q When did you -- does the summary help you recall when
3 you reduced it to writing?
- 4 A It was back in June of '96.
- 5 Q Are there precise dates on your summary?
- 6 A 28th.
- 7 Q Okay. Had he been here and in contact with you,
8 Barnes, for sometimes days, weeks or maybe even months
9 prior to the whole Elgin issue coming up?
- 10 A A long time, yes, sir.
- 11 Q Did you promise Barnes anything on his federal
12 sentence or get pizza every night while he's in jail or
13 anything, did you make any promises to Barnes for
14 information relating to Curtis Elgin?
- 15 A No, sir. No, I didn't.
- 16 Q And did Barnes ever get any benefit that you're aware
17 of from providing information on Curtis Elgin?
- 18 A No, sir, not to my knowledge.
- 19 Q Did Barnes leave Fairfield County at some point after
20 your original case investigation that you had him down
21 here for was done and after you were through talking to
22 him about Curtis Elgin?
- 23 A He did.
- 24 Q Where did he go when he left Fairfield County?
- 25 A I want to say -- best of my knowledge he went to --

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1 he ended up in North Carolina, Pittsburg, I'm not sure.

2 Q Well, let me ask you this: When he left here, was he
3 free or was he still in prison?

4 A No, he was still incarcerated.

5 Q He didn't leave here a free man.

6 A No, sir.

7 Q All right. Now, a couple of other real quick
8 questions. Ms. Smalls asked you about a reward. Are you
9 aware that when this case occurred back in '93 that a
10 reward fund was established and a reward was actually
11 public I guess posters or fliers were put up?

12 A Yes, sir.

13 Q Do you know who put the money up?

14 A Best of my knowledge I think her sister put up part
15 of it and I'm not sure about the other portions of it.

16 Q Do you know whether her plant, Whirlpool, had
17 anything to do with a reward fund? If you don't know
18 that's fine, I'm not trying to put words in your mouth.

19 A They had a small -- I'm not sure of the amount,
20 somebody did come up with some money and I don't know if
21 it was with the one reward or -- I don't know, but they
22 came up with some.

23 Q When you picked up on the Audrey Belton homicide
24 investigation, did you make any inquiry with the source of
25 reward funds to see if, in fact, there was still a reward

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1 that was going to be paid by anybody if the case got
2 solved?

3 A I did.

4 Q And was there still a reward when you picked this
5 case back up?

6 A The money had been taken down.

7 Q Okay. Did anybody on the face of God's earth, to
8 your knowledge, get a dime for the arrest of Curtis Lee
9 Elgin for the murder of Audrey Belton, did anybody get a
10 dime in reward money as a result of Curtis Elgin getting
11 arrested for this murder?

12 A No, sir. If they did I don't know anything about it.

13 Q That's fine.

14 MR. BARFIELD: That's all of the questions of this
15 witness.

16 THE COURT: Ms. Smalls?

17 MS. SMALLS: Just briefly.

18 RECROSS EXAMINATION

19 BY MS. SMALLS:

20 Q Now, you say to your knowledge nobody got a dime on
21 this case, correct?

22 A No, ma'am. I don't have any knowledge of that.

23 Q But you're aware that the posting said the reward
24 money would be paid for both the arrest and conviction of
25 a person involved in the murder?

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1 A To the best of my knowledge I'm pretty sure that's
2 what it said.

3 Q You never talked about the reward at all with Barnes,
4 did you?

5 A No.

6 Q But -- and a matter of fact, getting back, I think
7 you mentioned the tapes. You testified that the tapes
8 were placed on him and you got them back the next day and
9 then you handed them over to Sled?

10 A That's right.

11 Q So you actually could wire them up yourself, you knew
12 how to wire them up yourself or was that Sled?

13 A It was just a one piece deal, just the one unit.

14 Q But you were capable of doing it, Sled didn't have to
15 come and do that part of it.

16 A She would come and assist me from time to time.

17 Q And before you gave him the wire he knew what
18 information he was supposed to be trying to get for you?

19 A He was instructed not to initiate the conversation.

20 Q He was instructed not to initiate the conversation?

21 A That's right.

22 MS. SMALLS: Nothing further.

23 MR. BARFIELD: I have got to do it, I'm sorry, real
24 quick.

25 FURTHER DIRECT EXAMINATION

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1 BY MR. BARFIELD:

2 Q Same question a little different way. Is there
3 anybody waiting in the wings, hiding in the corner in this
4 building or off in another part of the county or in some
5 other state that's waiting on a verdict on this case for
6 somebody to write him a reward check?

7 A Not to my knowledge, sir.

8 MR. BARFIELD: Thank you. That's all.

9 MS. SMALLS: Nothing further.

10 THE COURT: Thank you, sir, you may step down.

11 The witness, ELEANOR SAVAGE, was first duly sworn and
12 Testified as follows, on:

13 DIRECT EXAMINATION

14 BY MR. BARFIELD:

15 THE CLERK: State your name for the record.

16 THE WITNESS: Eleanor Savage.

17 Q Ms. Savage, I don't want an address, but what town or
18 county do you live in?

19 A Richland County.

20 Q Have you been in Richland County for a long time?

21 A Yes, sir.

22 Q Where are you currently employed?

23 A I'm currently employed with the Richland County
24 Sheriff's Office.

25 Q How long have you been employed by the Richland

TESTIMONY OF ELEANOR SAVAGE

- 1 County Sheriff's Department?
- 2 A Six months.
- 3 Q What do you do for the Richland County Sheriff's
- 4 Department?
- 5 A I'm a sergeant in internal affairs.
- 6 Q And you say sergeant, are you a sworn police officer?
- 7 A Yes, sir.
- 8 Q Where did you work before Richland County?
- 9 A Prior to that I was employed with the State Law
- 10 Enforcement Division commonly known as Sled.
- 11 Q How long were you employed by Sled leading up to six
- 12 months ago?
- 13 A Twenty years.
- 14 Q What did you do for Sled -- well, you probably did a
- 15 lot of different things for Sled, but if you would say
- 16 your primary job for Sled, your biggest job, your best job
- 17 at Sled, what were you?
- 18 A I was an investigator.
- 19 Q A field agent like other folks?
- 20 A Yes, sir.
- 21 Q In 19 -- do you know Frazier Craig, do you know this
- 22 fellow right here?
- 23 A Yes, I do.
- 24 Q Did you know him before 1996?
- 25 A Yes, sir.

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1 Q Had y'all worked various matters together.

2 A We worked numerous cases at Sled before.

3 Q And sometime in 1996, did Frazier Craig contact you
4 about providing some assistance with an electronic
5 monitoring device which I'm going to refer to as a wire
6 and a couple of inmates in the Fairfield County Detention
7 Center?

8 A Yes, sir, he did, he contacted --

9 Q Well, let me stop you, I don't want to cut you off
10 but I did. Let me ask you this first, did you start
11 compiling a case file as a Sled agent on what you were
12 helping Frazier Craig with?

13 A Yes.

14 Q And generally speaking, what did Frazier Craig --
15 what was your understanding of what you were going to help
16 Frazier Craig do?

17 A We were going to interview an inmate that he wanted
18 us to interview as the defendant on a case.

19 Q Okay.

20 A And during that time we were going to wire that
21 individual up, or at least try to wire an individual up to
22 talk with some -- another person.

23 Q All right. I'm going to throw a couple of names out
24 and just see if these names ring a bell. Was Raymond
25 Barnes the cooperating inmate, I guess for lack of a

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1 better term? Do you remember the names?

2 A Yes.

3 Q And was Curtis Lee Elgin the person that Raymond
4 Barnes was going to attempt to engage in conversation?

5 A Yes, sir.

6 Q Now, as a Sled agent, did you know -- as a Sled agent
7 did you know about the electronic, monitoring or recording
8 devices and all of that kind of stuff?

9 A Yes, sir.

10 Q And had you used them in connection with your work as
11 a Sled agent prior to Frazier Craig asking you for some
12 help?

13 A Yes, sir, in an undercover capacity.

14 Q Had you done undercover work?

15 A Yes, sir.

16 Q Had you worn wires yourself?

17 A Yes, sir.

18 Q Had you had informants or other undercover officers
19 working with you on cases that you had equipped with wires
20 in the past?

21 A Yes, sir.

22 Q Now, it has been 12 years now, I guess technology
23 might have changed. But back then describe for the jury
24 if you will what the device was like, first of all.

25 A It's what we called at the time a beeper, or beeper

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1 buzz, and it's a small device that you just use. It was
2 battery operated, of course, and it has wires that you can
3 strap on your -- on the individual or on your person and
4 it will record any conversations that the person has.

5 Q You called it a beeper mic, did it look like a pager
6 or beeper?

7 A Yes. It looks like a small pager.

8 Q Now, we say wire, did it actually have wire running
9 all over somebody's body?

10 A Yes, it does have wires.

11 Q And the wire -- was there a microphone?

12 A Yes.

13 Q Was the microphone at the far end of one of them
14 wires?

15 A Yes, sir.

16 Q And did it clip on?

17 A It would clip on or you could just kind of tape it on
18 your body.

19 Q Okay. And where would the wire -- would the mic on
20 the far end of it ordinarily be placed?

21 A Well, you could place it up on the chest area where
22 you would probably get the best reception.

23 Q Now, this beeper part of it, is that actually the
24 recording device?

25 A No, sir. It's just an electronic device that picks

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- 1 it up and sends it back to the recording that I had.
- 2 Q All right.
- 3 A It's like a tape recorder.
- 4 Q I'm an idiot so help us with this. The beeper thing,
- 5 it didn't have no tapes in it or nothing.
- 6 A No, sir.
- 7 Q Was it wireless to some degree?
- 8 A You can say it's wireless.
- 9 Q I've got the beeper on me and I've got a wire coming
- 10 up to my collar, where is the recording device?
- 11 A It was with me. It's with the individual who is
- 12 operating it.
- 13 Q What is it like?
- 14 A It's just like a tape recorder.
- 15 Q And what kind of tapes did it use?
- 16 A You use cassettes, not the miniature ones but the --
- 17 Q Standard cassettes?
- 18 A Standard cassettes.
- 19 Q And was the recording device in any way connected by
- 20 wire to the pager mic? There wasn't a wire running from
- 21 Raymond Lewis Barnes out the room to record anything.
- 22 A No, sir.
- 23 Q Now, did Raymond Barnes get wired up? Let me ask you
- 24 this first, did you participate at all in the attempt to
- 25 record conversations between Raymond Barnes and Curtis

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- 1 Elgin?
- 2 A Yes, sir.
- 3 Q Were you present here in Fairfield County at the jail
- 4 or wherever when you knew that was going on?
- 5 A It wasn't here, it was in Akin.
- 6 Q Akin?
- 7 A Yes, sir.
- 8 Q Tell me about that.
- 9 A It was at the --
- 10 Q Hold on just a minute, stop just a minute. If I say
- 11 the Mandy Floyd case, do you know what I'm talking about?
- 12 Do you have a recollection of that?
- 13 A Yes, sir.
- 14 Q Is that a cold case that Frazier Craig was working
- 15 on?
- 16 A Yes.
- 17 Q Is that in Akin?
- 18 A Yes.
- 19 Q I'm asking you today about Curtis Elgin and Raymond
- 20 Barnes and the victim being Audrey Belton, do those names
- 21 connect with you?
- 22 A Yes.
- 23 Q Did you provide recording equipment and instruction
- 24 for Frazier Craig to use at the Fairfield County Detention
- 25 Center?

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1 A Yes, sir.

2 Q Was that in connection with Raymond Barnes and Curtis
3 Elgin?

4 A Yes.

5 Q Were efforts made to make recordings from your device
6 worn by Raymond Barnes while he was in the presence of
7 Curtis Elgin?

8 A Yes.

9 Q Was is successful?

10 A No, sir, it was not.

11 Q In what regard was it not successful?

12 A The tapes were inaudible. It was -- and when I say
13 inaudible, we could not understand -- it was like a
14 gargled that you couldn't interpret anything from the
15 tapes.

16 Q Could you make out any words at all on the tapes?

17 A It was very, very inaudible.

18 Q Do you recall how many tapes this effort produced?

19 A I believe at least two.

20 Q Okay. When it was discovered that the tapes were
21 inaudible, was any effort made to make them audible?

22 A Yes, sir.

23 Q Explain that to the jury.

24 A Well, after we reviewed the tape and we were not able
25 to understand anything from the tape, as I said, they were

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1 inaudible, we took it to Sled's -- our support unit, which
2 is called the technical services unit, and they have
3 devices that enhance tapes for if you can't hear to try to
4 produce it to make it a much better tape. We were not
5 able to get anything off of it.

6 Q Let me stop you there again. Somebody else made the
7 enhancement efforts?

8 A Yes, sir.

9 Q Did you turn the tapes over to somebody else?

10 A I didn't turn them over but I was there whenever they
11 tried to see if the tapes could be enhanced.

12 Q And in your presence, was there any successful effort
13 to make the tapes audible?

14 A No, sir, you could not understand them.

15 Q All right. And after that exercise was over, what
16 happened to the tapes, do you know?

17 A I kept the tapes and in the process of not being able
18 to use it then we would recycle tapes.

19 Q Was there anything on those tapes that anybody could
20 listen to and make out words?

21 A No, sir.

22 MR. BARFIELD: Okay. That's all. Thank you, ma'am,
23 answer anything that Ms. Smalls may have.

24 THE COURT: Ms. Smalls?

25 MS. SMALLS: May it please the Court?

TESTIMONY OF ELEANOR SAVAGE

1 CROSS EXAMINATION

2 BY MS. SMALLS:

3 Q Is it Savage, is that your last name?

4 A Yes, ma'am.

5 Q So you were actually contacted by Investigator
6 Frazier around 1996?

7 A Yes.

8 Q That was solely for the purpose providing him with a
9 wire?

10 A Correct.

11 Q And I think as you testified earlier, it wasn't just
12 for the case here in Fairfield County, it was also for
13 another ongoing case?

14 A Yes.

15 Q But at some point in time you provided a wire
16 specifically as it relates to Curtis Elgin?

17 A Yes, ma'am.

18 Q Now, when you provided the wire, did you just give it
19 to Investigator Craig or did you actually equip the inmate
20 with the device?

21 A No, ma'am. I did not equip the inmate.

22 Q Did you have any contact at all with the inmate?

23 A No.

24 Q So you didn't have any conversation with the inmate?

25 A No.

TESTIMONY OF ELEANOR SAVAGE

1 Q What instruction, I guess -- did you give
2 instructions to Investigator Craig of how the device was
3 supposed to be worn on the inmate?

4 A Yes. We would tell him you could either clip it in,
5 you could clip it on the side, or if you wanted to tape it
6 onto the person's body you could do it that way.

7 Q Are you personally aware of where Mr. Barnes wore the
8 device?

9 A No.

10 Q Prior to giving the device to Mr. Craig, did you
11 check to make sure that the device was in good working
12 order?

13 A Yes.

14 Q I think you said it was battery operated so it had
15 working batteries?

16 A That's correct. We made sure there were fresh
17 batteries and, of course, the cassettes.

18 Q You said this is actually a wireless device?

19 A It's not wireless but it doesn't have anything that
20 you have to connect up into a direct socket to make it
21 operate. When I say wireless, it entails batteries.

22 Q And the information that goes into the device I think
23 you said the device that it goes to you have?

24 A Yes.

25 Q And that's the recording bag?

TESTIMONY OF ELEANOR SAVAGE

- 1 A It's a tape recording.
- 2 Q And you testified earlier that on more than two
3 occasions that Mr. Barnes wore this wire in the presence
4 of Mr. Elgin, correct?
- 5 A I'm not sure how many times.
- 6 Q When did you receive the device back?
- 7 A That same day that we tried -- when we tried to
8 enhance the tapes, that same day.
- 9 Q Okay. Let me ask you this: If you gave the device
10 to Investigator Craig on a Monday in order for him to give
11 it to the inmate, when would you get it back?
- 12 A It would be that same day.
- 13 Q That same day?
- 14 A Yes.
- 15 Q So they wouldn't keep it overnight or anything?
- 16 A No, not for an extended period of time. It was never
17 like an ongoing thing for weeks or days at a time.
- 18 Q And the reason you get it back the same day is to
19 preserve that particular information?
- 20 A Yes.
- 21 Q You testified that you took it to your IT person to
22 try to get it enhanced and that was unsuccessful.
- 23 A It was unsuccessful.
- 24 Q And after you had it for awhile you recycled it?
- 25 A The cassettes?

TESTIMONY OF ELEANOR SAVAGE

1 Q The cassettes were recycled?

2 A Yes, ma'am.

3 Q You were aware that the information on those tapes
4 even though you couldn't hear it was involved in an
5 ongoing murder case, were you not?

6 A Well, we were not able to get anything off of the
7 tapes.

8 Q Okay. You were talking about 1996, do you know the
9 year which it was recycled?

10 A It was around that same time, I don't know exactly
11 when.

12 Q What I'm getting at is technology changes and is it
13 possible that there could be something available that
14 could enhance those tapes today?

15 A That's what I mean. But we never did that, that's
16 why we were recycling tapes.

17 MS. SMALLS: Nothing further of this witness.

18 THE COURT: Solicitor?

19 MR. BARFIELD: No other questions. I would ask if she
20 could be excused if she would like to.

21 MS. SMALLS: No objection.

22 THE COURT: You may be excused from your subpoena.

23 Thank you. You may call your next witness.

24 The witness, RAYMOND BARNES, was first duly sworn and

25 Testified as follows, on:

TESTIMONY OF RAYMOND BARNES

1 DIRECT EXAMINATION

2 BY MR. BARFIELD:

3 THE CLERK: State your full name.

4 THE WITNESS: Raymond Barnes.

5 Q Mr. Barnes, where do you live?

6 A In North Carolina, Durham.

7 Q Are you a North Carolina -- life-long North Carolina
8 resident or have you moved around in your life?

9 A Yes.

10 Q You are a North Carolina resident life-long?

11 A Yes.

12 Q Are you a free man today?

13 A Oh yes.

14 Q Has there been a time when you weren't a free man?

15 A Sure, I was incarcerated.

16 Q How old are you today?

17 A Sixty-two.

18 Q Back in 1996, did you spend some time in Fairfield
19 County?

20 A Yes, I was.

21 Q Let me ask specifics and we'll break it down.

22 A Okay.

23 Q Prior to your coming to Fairfield County, where did
24 you lay your head at night? Immediately prior to you
25 coming to Fairfield County, where did you lay your head at

TESTIMONY OF RAYMOND BARNES

1. night?
- 2 A I was in federal prison.
- 3 Q What federal prison were you in?
- 4 A Esdale in South Carolina.
- 5 Q When did you start your stay at the federal prison at
- 6 Esdale in South Carolina?
- 7 A In 1991.
- 8 Q When in 1991?
- 9 A It was October of 1991.
- 10 Q Other than your stay in Fairfield County, which we
- 11 will talk about momentarily -- well, after your visit to
- 12 Fairfield County, where did you go?
- 13 A I came to -- after my visit from Fairfield County?
- 14 Q When you left Fairfield County, where did you go?
- 15 A I went to Buckner, North Carolina federal prison.
- 16 Q How long did you remain in the federal prison at
- 17 Buckner, North Carolina?
- 18 A Until 2/02.
- 19 Q So from October of '91 until February of '02, were
- 20 you incarcerated?
- 21 A Yes.
- 22 Q At any time in between then were you a free man?
- 23 A No.
- 24 Q Without telling a real long story, why did you end up
- 25 in Fairfield County?

TESTIMONY OF RAYMOND BARNES

1 A I was in Esdale, South Carolina and there was a guy
2 there was talking about a case that he was involved in
3 that he was bragging about a situation that had happened.

4 Q I'm going to stop you. Is that guy that you're
5 referring to Curtis Lee Elgin?

6 A No.

7 Q Did you subsequently meet Curtis Lee Elgin?

8 A Yes.

9 Q Do you see Curtis Lee Elgin here today?

10 A Yes.

11 Q Where is he at, what has he got on and where is he
12 sitting?

13 A He has got on a white shirt with a tie.

14 Q Sitting next to the lady at the table across the
15 room?

16 A Yes.

17 Q How long has it been since you -- until this moment
18 how long has it been since you saw Curtis Lee Elgin?

19 A Fifteen years ago.

20 Q The matter that the fellow who wasn't Curtis Elgin
21 started talking to you about at Esdale, did it have
22 anything to do with the charge that Curtis Elgin is on
23 trial for today?

24 A No.

25 Q All right. Did that matter arise -- the matter the

TESTIMONY OF RAYMOND BARNES

1 other fellow talked to you about arise out of Fairfield
2 County?

3 A What the other fellow did it arise? No. It never
4 materialized.

5 Q Let me back up and ask the question again. Was the
6 case that the first guy was talking to you about an old
7 Fairfield County case?

8 A Uh-huh.

9 Q Did you at some point after talking to that fellow in
10 federal prison in Esdale unrelated to Curtis Elgin in this
11 case at some point after that, did you meet this fellow
12 right here that just raised his hand?

13 A Yes, Mr. Frazier Craig.

14 Q Where did you first meet him? Not when yet, but
15 where?

16 A He came to Esdale.

17 Q To the prison?

18 A Federal prison, yes.

19 Q As a result of your conversations with him, did you
20 become a guest of Fairfield County for some period of
21 time?

22 A Yes.

23 Q And when you were a guest of Fairfield County, where
24 did you lay your head at night?

25 A At Winnsboro Detention Center.

TESTIMONY OF RAYMOND BARNES

1 Q Were you in custody while you were here?

2 A Yes.

3 Q Were you ever a free man while you were here in
4 Fairfield County?

5 A No.

6 Q Did you from time to time -- and I'm not making light
7 of this at all -- did you take field trips with Frazier
8 Craig concerning the matter that you came here for?

9 A Yes.

10 Q Did y'all go places, look at things, talk about
11 things and do things?

12 A Yes.

13 Q Were you ever given free reign to drive yourself
14 somewhere, go out to eat by yourself, were you ever out of
15 custody?

16 A No.

17 Q All right. When you got to Fairfield County, when
18 you first got here, had you ever heard the name Curtis Lee
19 Elgin before?

20 A No.

21 Q And when you first started staying at the detention
22 center, did you know who Curtis Lee Elgin was?

23 A No.

24 Q When you first got to the Fairfield County Detention
25 Center, had you ever heard the name Audrey Ann Belton?

TESTIMONY OF RAYMOND BARNES

- 1 A No.
- 2 Q When you first got here did you know that Audrey
3 Belton had been murdered in Fairfield County in 1993?
- 4 A No.
- 5 Q Had you read anything in a newspaper or anywhere
6 about it?
- 7 A No.
- 8 Q Had you seen any TV or heard any radio reports about
9 it?
- 10 A No.
- 11 Q Did you have any knowledge about the murder of Audrey
12 Belton when you first got to Fairfield County?
- 13 A No.
- 14 Q How long did you stay in Fairfield County
15 approximately?
- 16 A Approximately eight or nine months.
- 17 Q Do you know when you first got here, can you put it
18 with a month or a year even?
- 19 A Not right off.
- 20 Q Did you meet Curtis Lee Elgin while you are an inmate
21 at the Fairfield County Detention Center?
- 22 A Yes.
- 23 Q Was he there, also?
- 24 A Yes.
- 25 Q I'm going to jump way ahead, then we're going to come

TESTIMONY OF RAYMOND BARNES

1 back. At some point did you participate in conversations
2 with Curtis Elgin that struck you as significant?

3 A Yes, at some point.

4 Q And as a result of that at some point, did you have a
5 conversation with Frazier Craig and tell him, "We need to
6 talk?"

7 A Yes.

8 Q As a result of all of that was an electronic
9 recording device utilized on your person in the Fairfield
10 County Detention Center?

11 A Yes.

12 Q Were recordings made of conversations between
13 yourself and Curtis Elgin and another fellow I'm going to
14 ask you about in a minute?

15 A Yes.

16 Q At some point did you have the opportunity to listen
17 to the recordings that had been made?

18 A Yes.

19 Q What did you hear?

20 A It was distorted.

21 Q Could you make out words?

22 A Some of it.

23 Q Could you make out enough to know what was being
24 said?

25 A Vaguely.

TESTIMONY OF RAYMOND BARNES

1 Q Now, how did this whole -- do you know Lindsay Goins?

2 A Yes.

3 Q Was he also in the Fairfield County Detention Center?

4 A Yes.

5 Q Were you and Goins and Elgin ever together -- and I
6 don't know if they call them cells or rooms or what, but
7 were y'all ever housed together out there?

8 A Yes.

9 Q What prompted you to contact Frazier Craig concerning
10 this case?

11 A Mr. Elgin had said some things that I really didn't
12 believe.

13 Q What did Elgin say to you?

14 A Telling me about a murder that had taken place.

15 Q All right. Did he give you any details?

16 A Yes.

17 Q Did you and Elgin have more than one conversation
18 about this murder that had taken place?

19 A Yes.

20 Q All right. Over the course of those conversations --
21 don't give me the details yet -- but did he provide you
22 details?

23 A Yes.

24 Q All right. Did he tell you generally speaking first
25 of all who did this murder that had taken place in

TESTIMONY OF RAYMOND BARNES

1 Fairfield County?

2 A He said he did it.

3 Q Did he tell you when this murder that he had done in
4 Fairfield County took place?

5 A Yes.

6 Q When did he say it had taken place?

7 A It happened in February of -- I don't remember the
8 year, but it was in February, it was cold.

9 Q That's fine. Do you remember the day or the month
10 that he said it happened?

11 A No.

12 Q Did he tell you anything about the discovery -- the
13 timing of the discovery of the body? Not any details of
14 the discovery of the body, but did he tell you anything
15 about the -- when the body was discovered?

16 A He said the body was discovered about a week or two
17 later.

18 Q Did he tell you by name who the victim was?

19 A Yes.

20 Q And what name did he say was the name of his victim?

21 A Audrey Belton.

22 Q Did he describe -- and again did that name mean
23 anything to you at that time?

24 A No.

25 Q Did he describe for you the appearance of his victim,

TESTIMONY OF RAYMOND BARNES

1 Audrey Belton?

2 A Yes.

3 Q How did Curtis Elgin describe Audrey Belton?

4 A He said she was light skinned with long pretty black
5 hair, said she was a beautiful lady.

6 Q Did he tell you how he murdered Audrey Belton, with
7 what mechanism? Not the details of the event itself, but
8 how was she killed, with what was she killed?

9 A She was shot with a .22 pistol.

10 Q Did he tell you at any point during your
11 conversations with Curtis Elgin, did he mention -- well,
12 when I say the name Carolina Furniture, does that mean
13 anything to you as a result of your time in Fairfield
14 County?

15 A No.

16 Q Did Curtis Elgin ever talk about Carolina Furniture
17 or a furniture store?

18 A He talked about a furniture store, I don't remember
19 him calling the name of it.

20 Q Did Curtis Elgin ever talk to you about a family with
21 the last name of Douglas?

22 A Generally, yes.

23 Q Did Curtis Elgin tell you anything about -- I asked
24 you a minute ago and I forgot your answer, how did you
25 describe the weapon, what did you say he said it was?

TESTIMONY OF RAYMOND BARNES

- 1 A It was a .22 based on a .32 frame.
- 2 Q Did Curtis Elgin ever tell you where he got his hands
3 on that .22 revolver?
- 4 A Yes.
- 5 Q What did he say?
- 6 A He says he stole it out of the office at the
7 furniture store.
- 8 Q Was there any other comment or conversation from
9 Curtis Elgin about the pistol and the store and what the
10 common theory was about how he got the pistol?
- 11 A Yes. But he said he had stole it off -- the pistol
12 out of the furniture store, but they thought that
13 Mr. Douglas had it in his truck and that somebody at the
14 detention center had stole it.
- 15 Q Did Curtis Elgin tell you -- did he tell you where it
16 happened?
- 17 A Yes.
- 18 Q And where did he say it happened, the murder?
- 19 A He said it happened at her house.
- 20 Q Did he give you the address and tell you specifically
21 where the house was?
- 22 A No.
- 23 Q Did he tell you whether it happened inside of the
24 house or outside of the house?
- 25 A He said it was inside of the house.

TESTIMONY OF RAYMOND BARNES

1 Q Did Curtis Elgin tell you how he got inside of the
2 house?

3 A Yes, he had a key.

4 Q Did he tell you how he got a key to the house?

5 A She had bought some furniture from the store and left
6 the key up there for them to deliver the furniture.

7 Q Did Curtis Elgin tell you whether she was home when
8 he entered the house?

9 A She wasn't home at the time.

10 Q Did he tell you why he went into her house?

11 A He went in the house to rob the house.

12 Q Did he tell you if he did anything to keep from
13 getting caught?

14 A Yes.

15 Q Well, let me ask a more direct question. Did you and
16 Curtis Elgin ever talk about fingerprints or lack of
17 fingerprints?

18 A Yes.

19 Q Did Curtis Elgin make any comments to you about where
20 there would or would not be any fingerprints?

21 A He said he had some socks on his hands. I didn't
22 believe that.

23 Q Did he tell -- did Curtis Elgin tell you whether or
24 not the victim came while he was there?

25 A Yes.

TESTIMONY OF RAYMOND BARNES

- 1 Q And what did he say she did or she didn't?
- 2 A When she walked in started hollering.
- 3 Q She started hollering?
- 4 A Yes.
- 5 Q Did Curtis Elgin tell you what happened when she came
- 6 in and started hollering?
- 7 A Yes.
- 8 Q Tell it from there and I will stop you when I need
- 9 to.
- 10 A Okay. He said when she came in he shot her. He shot
- 11 her in the vagina and he said that bullet went up, come
- 12 out the back of her, she turned around and ran, he ran all
- 13 around the house at her shooting her. He shot her one
- 14 time in the leg, shot her in the back, and in the back of
- 15 the head. And then he said it had bullet holes all in the
- 16 walls. And I don't believe that, that's because there's
- 17 no way you can be in a town in a house shooting that many
- 18 times and nobody going to hear you.
- 19 Q Stop right there. Did he tell you what rooms of the
- 20 house he was shooting her in?
- 21 A In the bedroom.
- 22 Q Okay. Did he tell you how many bedrooms were
- 23 involved in this?
- 24 A He said two.
- 25 Q How many?

TESTIMONY OF RAYMOND BARNES

- 1 A Two.
- 2 Q Did he tell you anything about the affect of her
3 being shot had on her initially?
- 4 A Did he tell me what?
- 5 Q Did he tell you how many times he shot her?
- 6 A He said he shot her a number of times but he didn't
7 tell me exactly how many.
- 8 Q Did he tell you whether the first shot killed her?
- 9 A No.
- 10 Q Did he tell you anything about her demise?
- 11 A No. After he shot her he got upset because she
12 wouldn't die.
- 13 Q He said that to you?
- 14 A Yeah. That's when he shot her in the back of the
15 head and then went out the door.
- 16 Q Did he tell you anything about the heating and air
17 system in the house?
- 18 A He said he turned the thermometer up but it was in, I
19 mean, February, so, you know, I said, "Well, if that's the
20 case your fingerprints would have been on the
21 thermometer." And he said, "Yeah, but that's the only
22 place they would have got my fingerprints from."
- 23 Q Did he tell you anything about his disposition of the
24 pistol? Did he tell you what he did with the gun?
- 25 A Oh yes.

TESTIMONY OF RAYMOND BARNES

1 Q What did he say he did with the gun?

2 A He said he throwed the gun behind a dumpster up by
3 the Uniroyal Tire Company.

4 MR. BARFIELD: Beg the Court's indulgence?

5 THE COURT: Yes, sir.

6 (Break in proceedings.)

7 Q Prior to whenever you came to Fairfield County to
8 help out Frazier Craig on the other case, had you ever
9 been in Winnsboro that you know of?

10 A No.

11 Q At all times back then between then and now and
12 forever, do you have any relatives in Fairfield County?

13 A No.

14 Q Do you have any friends in Fairfield County other
15 than people you met in connection with being here in '96
16 and back here now?

17 A I had never heard of Winnsboro, South Carolina.

18 Q Ever been to the Uniroyal Plant? Ever heard of the
19 Uniroyal Plant?

20 A No.

21 Q I don't think I asked you this before, if I did I
22 apologize to you and everybody else -- well, let me ask
23 you this: Did your assistance to Frazier Craig concerning
24 the other murder case get anywhere?

25 A No.

TESTIMONY OF RAYMOND BARNES

1 Q Did you get anything, any consideration, any payment
2 of money, any time off your federal prison sentence for
3 your assistance with the other murder case?

4 A No.

5 Q Did you get anything, any benefit whatsoever?

6 A No.

7 Q Monetary or time off your sentence or anything from
8 your assistance to Frazier Craig with the Curtis Elgin
9 homicide investigation?

10 A No.

11 Q And from the time you left here in -- did you leave
12 here in '96 after you were done with Frazier Craig and
13 these two investigations?

14 A Yes.

15 Q From the time you left here in '96 until I think you
16 said February of '02 --

17 A Uh-huh.

18 Q -- were you ever free?

19 A No.

20 Q Did you get any reduction in your federal sentence
21 for any reason?

22 A No.

23 Q I don't think I asked you this, but what were you
24 doing the federal sentence for, but what was the crime?

25 A Selling drugs.

TESTIMONY OF RAYMOND BARNES

1 Q All right. Prior to being in the Fairfield County
2 Detention Center, did you know who on the face of this
3 earth Lindsay Goins was?

4 A No.

5 Q Had you ever heard the name Virgil Pauling?

6 A No.

7 Q Have you ever heard the name Robert Lee Green?

8 A No.

9 Q Do you know any of them guys?

10 A No.

11 Q Prior to Curtis Elgin telling you about that murder
12 that had happened, did you know that murder had happened?
13 Did you know anything about the case at all?

14 A No.

15 MR. BARFIELD: Thank you, sir. Answer anything --
16 well, hold on a second.

17 (Break in proceedings.)

18 MR. BARFIELD: That's all, thank you.

19 CROSS EXAMINATION

20 BY MS. SMALLS:

21 Q Mr. Barnes, you testified that you were in the
22 Fairfield County Detention Center for about eight or nine
23 months, that's close?

24 A Yes.

25 Q And I think you said you came there from Esdale

TESTIMONY OF RAYMOND BARNES

- 1 Prison?
- 2 A Yes.
- 3 Q And that's a federal prison?
- 4 A Yes.
- 5 Q You were not in the Fairfield County Detention Center
- 6 for anything that had anything to do with charges that you
- 7 had pending in Fairfield County, correct?
- 8 A No.
- 9 Q You actually were here to assist law enforcement with
- 10 another case, were you not?
- 11 A Yes.
- 12 Q And at the time when you first came it wasn't to
- 13 assist in the case against Curtis Elgin, it was someone
- 14 else.
- 15 A Yes.
- 16 Q And I think you testified that never materialized.
- 17 A Right.
- 18 Q And I think you told the prosecutor earlier that the
- 19 reason you were in Esdale Federal Prison was for selling
- 20 drugs.
- 21 A Yes.
- 22 Q And for actually selling crack.
- 23 A Yes.
- 24 Q Crack, right?
- 25 A Okay.

TESTIMONY OF RAYMOND BARNES

- 1 Q And for selling crack you received a sentence of 120
2 months.
- 3 A Yes.
- 4 Q Okay. But that wasn't the only time you had ever
5 been sentenced for anything, was it?
- 6 A I had a prior case prior to that.
- 7 Q You also received a seven year sentence for
8 something, didn't you?
- 9 A Right.
- 10 Q And what was that for?
- 11 A Kidnapping and assault.
- 12 Q Now, you said that the reason you came to Fairfield
13 County in 1996 was because you had some information to
14 assist Investigator Craig with.
- 15 A Yes.
- 16 Q Okay. You actually talked to Investigator Craig
17 pretty much on a daily basis, wouldn't you?
- 18 A Before I came to Fairfield County?
- 19 Q When you came to Fairfield County.
- 20 A Yes.
- 21 Q People come and get you?
- 22 A Yes.
- 23 Q And you would try to make cases for them if you could
24 or give them information about cases?
- 25 A No.

TESTIMONY OF RAYMOND BARNES

- 1 Q No?
- 2 A No.
- 3 Q So when they came to get you everyday, what did the
4 two of you do?
- 5 A We worked on that particular case that I came here
6 for.
- 7 Q But the case that you came here for, he would pick
8 you up and you would leave Fairfield County Detention
9 Center with him?
- 10 A Yes.
- 11 Q You said y'all would work on that case?
- 12 A Yes.
- 13 Q Would you go out and give him information about that
14 case?
- 15 A No. We would go to a substation.
- 16 Q And that required you to get with him every single
17 day.
- 18 A One time we went to the Sled place and then we did
19 like that.
- 20 Q How long would you be out with Investigator Craig
21 when he came to pick you up from the detention center?
- 22 A A few hours.
- 23 Q A few hours?
- 24 A Yes.
- 25 Q So while you were out with him, would you have your

TESTIMONY OF RAYMOND BARNES

1 lunch there or inside the institution?

2 A No. I had my lunch inside the institution.

3 Q So you ate all of your meals inside of the
4 institution?

5 A Yes.

6 Q Now, at some point in time Curtis Elgin became a
7 point of interest.

8 A Yes.

9 Q Okay. And approximately how many conversations had
10 you had with Curtis Elgin before you contacted
11 Investigator Craig?

12 A About three or four.

13 Q Okay. So you had talked to him three or four times.
14 Do you remember what month that may have been?

15 A No, I don't.

16 Q So after three or four conversations with Curtis
17 Elgin you decided to let Mr. Craig know what the two of
18 you had been talking about?

19 A Yes. I asked him did this happen.

20 Q You asked Investigator Craig if it happened?

21 A Yes.

22 Q When you say you asked him did this happen, what are
23 you referring to?

24 A Did this woman get killed and did she get killed this
25 particular way. Back to the day he never answered, but I

TESTIMONY OF RAYMOND BARNES

1 knew, you know.

2 Q Why did it take three or four times of your talking
3 to Curtis Elgin before you brought it to the attention of
4 Mr. Craig?

5 A Because I didn't believe him.

6 Q Because you didn't believe him?

7 A No.

8 Q So what happened the fourth time that made you
9 finally say something to Investigator Craig?

10 A Because he kept going over the details of it, the
11 details, you know, and I kept asking him questions and he
12 was answering the questions real good.

13 Q So you were asking him questions about it?

14 A Yeah.

15 Q Because you say you didn't believe him at first?

16 A No.

17 Q So the next day the two of you would continue that
18 conversation and you would give you more details?

19 A Yeah.

20 Q Now, specifically at some point in time you were
21 given a wire and I think you said that was in June; is
22 that correct?

23 A Whatever month it was, but I was given a wire.

24 Q Okay. It could have been June of 1996?

25 A It's possible.

TESTIMONY OF RAYMOND BARNES

- 1 Q Who gave you that wire?
- 2 A Frazier Craig.
- 3 Q And where did you put the wire on your person?
- 4 A I put it up under my shirt, and then when I was
- 5 laying on my bunk I would put it up under my pillow. And
- 6 I would lay across my pillow on my stomach with my pillow
- 7 in my arm and it would be up under the pillow and he would
- 8 lean over to talk and be talking right into the mic.
- 9 Q Okay. Let me ask you this: Do you recall what time
- 10 of day Investigator Craig would have provided you with
- 11 that wire?
- 12 A It had to be around 10:00 or 11:00.
- 13 Q So the two of you had arranged previously for you to
- 14 get the wire?
- 15 A Yes.
- 16 Q The day before?
- 17 A Yes.
- 18 Q So he provided the wire to you around 10:00 or
- 19 sometime that morning?
- 20 A Yes.
- 21 Q And you wore the wire all day?
- 22 A Sure.
- 23 Q How long would you wear the wire?
- 24 A All day.
- 25 Q When would you give it back to Investigator Craig?

TESTIMONY OF RAYMOND BARNES

- 1 A The next day.
- 2 Q So you would actually keep it over night?
- 3 A Yes.
- 4 Q And you actually -- I think you testified you would
- 5 go to sleep with it?
- 6 A Uh-huh.
- 7 Q Now, you said something about you getting your bunk
- 8 and put it under your pillow?
- 9 A Yes.
- 10 Q Now, you say bunk, was there a top bunk and bottom
- 11 bunk?
- 12 A Bottom bunk.
- 13 Q You slept on the bottom?
- 14 A Yes.
- 15 Q Where was Mr. Elgin in the cell?
- 16 A My bunk was here, his was this way cross-ways.
- 17 Q So he was actually your roommate in June of '96?
- 18 A Yes, all of us in the cell.
- 19 Q How many people in the cell?
- 20 A Three.
- 21 Q Three of you in the same cell?
- 22 A Yes.
- 23 Q And you all had bottom bunks or bottom and top?
- 24 A All bottom bunks.
- 25 Q Okay. Now, at some point in time -- let me ask you

TESTIMONY OF RAYMOND BARNES

- 1 this: You gave this information to law enforcement in
2 1996.
- 3 A Okay.
- 4 Q Did you take any notes?
- 5 A Did I take any notes?
- 6 Q Right.
- 7 A No.
- 8 Q Because the wire -- you said you were not able to
9 hear anything on it.
- 10 A It was distorted.
- 11 Q So your testimony here today, what did you use to
12 refresh your memory about the events from 1996?
- 13 A (Pointing) my brain.
- 14 Q So you remember all of this -- from 1996 would be 13
15 years ago?
- 16 A Just like it happened yesterday.
- 17 Q Never wrote anything down?
- 18 A No. Just like it happened yesterday.
- 19 Q You never gave a written statement in this case?
- 20 A Yes. I gave a written statement about it.
- 21 Q Who did you give a written statement to?
- 22 A Reid Long and Frazier Craig.
- 23 Q Who wrote it?
- 24 A I think Reid wrote it.
- 25 Q Did you sign it?

TESTIMONY OF RAYMOND BARNES

- 1 A I believe I did.
- 2 Q Did they give you a copy of it?
- 3 A Yes, I got a copy of it.
- 4 Q Did you bring it with you here today?
- 5 A No.
- 6 Q So when they gave you a copy of it they gave you a
- 7 copy of it the same day that you gave it to them, correct?
- 8 A No. They wouldn't give me a copy of it right then, I
- 9 got a copy of it later on.
- 10 Q When did you get a copy of it?
- 11 A It's been about three weeks ago.
- 12 Q You got a copy of it three weeks ago?
- 13 A Two weeks ago probably.
- 14 Q Who provided you with a copy of that?
- 15 A The prosecutor's office.
- 16 Q And when you got a copy of it three weeks ago, did
- 17 you read over it?
- 18 A Yes.
- 19 Q It said everything that you basically just testified
- 20 to?
- 21 A I remembered it, yes.
- 22 Q So when you got it you read it and that actually
- 23 refreshed your memory?
- 24 A I remembered it anyway, if something that bad you
- 25 will remember it.

TESTIMONY OF RAYMOND BARNES

- 1 Q But you're saying three weeks ago?
- 2 A Yes.
- 3 Q You received it in the mail?
- 4 A Uh-huh.
- 5 Q When is the last time you talked to any of the
- 6 prosecutors or investigators in this case?
- 7 A About 30 minutes ago.
- 8 Q Prior to today?
- 9 A Prior to today?
- 10 Q Yes.
- 11 A Yesterday.
- 12 Q Yesterday?
- 13 A Yes.
- 14 Q And that same what you call is a statement that you
- 15 received three weeks ago, you went over that again?
- 16 A No.
- 17 Q Did you ever talk about it again?
- 18 A No.
- 19 Q You didn't talk about your testimony?
- 20 A No.
- 21 Q So they didn't ask you to make sure you're going to
- 22 testify consistent with that statement in 1996?
- 23 A No. He said make sure I be here at about 9:15 today.
- 24 Q The only thing he told you is when to be here?
- 25 A That's all he said. He walked in the door, he said,

TESTIMONY OF RAYMOND BARNES

1 "Make sure you be there tomorrow by 9:15." I say, "I will
2 be there," and he said, "Okay."

3 Q That was the only conversation you had?

4 A That was it.

5 Q Prior to yesterday, when was the last time you talked
6 to anybody in law enforcement or the prosecutor's office
7 about this case?

8 A Prior to yesterday?

9 Q Prior to yesterday?

10 A Day before yesterday.

11 Q Was that just telling you when to come again?

12 A No.

13 Q What was the purpose of that conversation?

14 A The purpose of that conversation, he went over the
15 statement.

16 Q They went over the statement?

17 A Yes.

18 Q You're talking about the statement you received three
19 weeks ago?

20 A Right. But now, we didn't go over that statement, we
21 went over my records, he pulled my records out and wanted
22 me to explain to him about my records.

23 Q You said you went over your --

24 A He didn't go over the statement.

25 Q Y'all went over your records you say?

TESTIMONY OF RAYMOND BARNES

1 A Yes.

2 Q Now, you testified that you have been in jail --
3 well, actually from October of '91 to February of 2002 you
4 were in jail continuously during that time?

5 A Yes.

6 Q And I guess the only time you left that jail was when
7 you were being transported to another institution or you
8 were cooperating with law enforcement?

9 A Yes.

10 Q You say you recall the conversation with Curtis Elgin
11 as if it just happened yesterday.

12 A (Nods in the affirmative.)

13 Q What time of day did the two of you have the
14 conversation?

15 A We would have it in the mornings, then we would have
16 it in the evenings right after dinner, we would have it
17 right after I took a shower, and every time I come back in
18 there we would talk about it some more.

19 Q The day you claim -- because you said you got the
20 statement three weeks ago.

21 A Yes.

22 Q Do you recall there being a date on that that you
23 talked to law enforcement and gave them all of this
24 information?

25 A That was back in '96.

TESTIMONY OF RAYMOND BARNES

1 Q In '96?

2 A Yes.

3 Q Okay. On the day that you gave them this information
4 about Curtis, do you recall what time you say that you had
5 this conversation with Curtis Elgin?

6 A We had the conversation a number of times.

7 Q You don't recall giving them information in this
8 conversation at 6:00 p.m. on a certain day in June?

9 A In the evenings?

10 Q Yes.

11 A I talked to Curtis at that time.

12 Q So you are saying you talked to Curtis all day?

13 A All day, that's when I was back at the detention
14 center.

15 Q The information that you just testified to, it was
16 not given to you during a one day time period?

17 A No.

18 Q How many days was it given to you?

19 A The information that I testified to, how many days it
20 is --

21 Q All of this information about this murder, did he
22 tell you all of this in one day?

23 A Who, Elgin?

24 Q Yes.

25 A We went over this off and on all day, yes.

TESTIMONY OF RAYMOND BARNES

- 1 Q How many days would you say that the two of you had
2 this conversation?
- 3 A Six or seven days I would say.
- 4 Q How many days did you wear the wire?
- 5 A Six or seven days.
- 6 Q And when you had this conversation I guess everyday
7 with Investigator Craig and he would come and get you,
8 where would the two of you typically go?
- 9 A We would go to a place in Winnsboro that's called the
10 Four Way.
- 11 Q It was called a what?
- 12 A The Four Way, it's a substation right there by the
13 Four Way. It was a grocery store there on the corner,
14 too.
- 15 Q How many tapes would you say were made of your
16 conversations with Mr. Elgin?
- 17 A Probably about four.
- 18 Q About four?
- 19 A Yeah. But I would cut it on and cut it off.
- 20 Q So you controlled it?
- 21 A Yeah.
- 22 Q And you said in some of those tapes you were able to
23 make out some of the conversation?
- 24 A It was distorted. Inside of that building it was --
25 we had big upright fans blowing and you couldn't get over

TESTIMONY OF RAYMOND BARNES

1 that fan. You know, the tall fans, the upright fan, big
2 old round fans? It would be blowing all of the time so
3 you had to really talk into the mic.

4 Q You testified earlier that some of the conversation
5 you could make out. If you recall what part of the
6 conversation do you recall being able to hear on the tape?

7 A Well, with me I could make out just about everything
8 on it because I know what was said, but if you were
9 listening to it yourself you wouldn't be able to make out
10 what it is.

11 Q You could make it out because you knew what was said
12 but listening to it I can't hear what you hear if I was
13 listening to the tape?

14 A No, it was distorted.

15 Q But it wasn't distorted to you?

16 A It was distorted to me but I know what was said.

17 Q Do you recall telling law enforcement that you had a
18 conversation with Curtis Elgin specifically on June 27th
19 at 6:00 p.m.?

20 A Okay.

21 Q No, not okay, do you recall that?

22 A It's a possibility. I talked to him all of the time.

23 Q Okay. What --

24 A I don't want to tell you a lie, I want to be straight
25 up with you.

TESTIMONY OF RAYMOND BARNES

- 1 Q Please. What would be the significance of 6:00 p.m?
- 2 Did anything particularly happen at 6:00 at the detention
- 3 center.
- 4 A Time to eat.
- 5 Q You eat at 6:00?
- 6 A Yeah.
- 7 Q So y'all are talking while you're eating?
- 8 A Yes.
- 9 Q And he's giving you all of these details about a
- 10 murder while you're eating?
- 11 A Yeah. I would ask him the questions.
- 12 Q You would ask him the questions?
- 13 A Yes.
- 14 Q So you initiate the conversation about the murder?
- 15 A Later on, yes.
- 16 Q Because you know you're wearing that wire and you
- 17 were trying to get as much information from his as
- 18 possible.
- 19 A Right.
- 20 Q So even if you were eating and you're talking about
- 21 the weather, you would bring up the murder to gain more
- 22 details?
- 23 A Right.
- 24 Q Now, June 27th of 1996, 6:00 you say dinnertime, the
- 25 two of you are having this lengthy conversation.

TESTIMONY OF RAYMOND BARNES

- 1 A Uh-huh.
- 2 Q You remember it was 6:00, do you remember what you
- 3 ate that day? You remember it like it was yesterday.
- 4 A Let me -- yeah, it's a possibility that it was
- 5 mystery meat.
- 6 Q It was a what?
- 7 A Mystery meat.
- 8 Q Mystery meat?
- 9 A Yes. That means nobody don't know what it is but you
- 10 eat it anyway.
- 11 Q On that same day did you and Curtis talk during
- 12 breakfast and lunch as well?
- 13 A Sure.
- 14 Q On that same day?
- 15 A Uh-huh.
- 16 Q You had mystery meat for breakfast and lunch also.
- 17 A No. We have sandwiches and an apple or orange for
- 18 lunch.
- 19 Q So you had a sandwich, apple and orange for lunch.
- 20 Is that typically what you had every day at lunch?
- 21 A No.
- 22 Q But you know that's what you had on that day.
- 23 A Possible, yeah.
- 24 Q Okay. Did you have that on that day or not?
- 25 A Yeah, cheese and bologna sandwich.

TESTIMONY OF RAYMOND BARNES

- 1 Q So on June 27, 1996 at lunchtime you know you had a
2 sandwich and probably an apple.
- 3 A Yes.
- 4 Q Do you recall whether Curtis ate all of his lunch?
- 5 A Yeah.
- 6 Q He didn't give any of it away?
- 7 A No, he didn't give it up.
- 8 Q What did you have for breakfast that day?
- 9 A Powdered eggs.
- 10 Q Do you get to order or that's what they serve
11 everybody?
- 12 A We ain't at the hotel, Baby.
- 13 Q Do you recall whether Curtis ate his breakfast that
14 day?
- 15 A I'm sure he did.
- 16 Q So on June 27 of 1996 breakfast, lunch and dinner you
17 were in the presence of Curtis Elgin?
- 18 A Yes.
- 19 Q You feel pretty certain that he probably ate all of
20 his breakfast, lunch and dinner?
- 21 A Yeah, we didn't throw it away.
- 22 Q During the course of this whole day you are trying to
23 get information from him about this murder?
- 24 A Yeah. We in a 12 by 12 room, 12 by 12 room and we're
25 there all day long, and we talked.

TESTIMONY OF RAYMOND BARNES

- 1 Q What time did you go to bed that day?
- 2 A I stayed in bed all day anyway, you just lay across
- 3 the bed and watch TV.
- 4 Q So all day the two of you -- I guess the three of you
- 5 are in there --
- 6 A You're laying on your bunk and you're watching TV and
- 7 talking.
- 8 Q So did you not have any rec. during that time period?
- 9 A No rec.? No.
- 10 Q So during that particular year all you did was pretty
- 11 much just stay in your room?
- 12 A Yeah. Now, if you wanted to go out for one hour a
- 13 day they would take you out for one hour, but the majority
- 14 of the time we wouldn't go.
- 15 Q So to the best of your recollection you spent -- you
- 16 were in Curtis' company that whole day?
- 17 A Sure.
- 18 Q You remember a lot of details, but in 1996 when you
- 19 talked with law enforcement you didn't know Curtis' last
- 20 name, did you?
- 21 A No. I had forgot his last name, all I know was
- 22 Curtis.
- 23 Q And you are talking to this man all day?
- 24 A Yes.
- 25 Q And he's been talking to you about the details of

TESTIMONY OF RAYMOND BARNES

- 1 this murder?
- 2 A Well, I didn't ask him what his last name was, we
- 3 just talked.
- 4 Q Okay. Did you ask him his name at all?
- 5 A Yeah. His name is Curtis.
- 6 Q And he never said, "My name is Curtis Elgin?"
- 7 A No.
- 8 Q But you know the first and last name of the other
- 9 individuals that was in the cell with you?
- 10 A I remember the lady's name?
- 11 Q No. The first and last name of the other individual
- 12 that was in the cell with you.
- 13 A Yeah.
- 14 Q You know his first and last name?
- 15 A Yeah.
- 16 Q And you know the victim in this case, you know her
- 17 first and last name?
- 18 A Yes.
- 19 Q And you remember all of that?
- 20 A Right.
- 21 Q And you even recall the name of the person at the
- 22 furniture store where Curtis worked; don't you?
- 23 A Yes.
- 24 Q His name was what?
- 25 A Jimmy Ray.

TESTIMONY OF RAYMOND BARNES

1 Q And you indicated earlier that Curtis told you that
2 he got a key to this lady's house from working with Jimmy
3 Ray.

4 A Yes, from the furniture store.

5 Q Because he had delivered furniture there before.

6 A Yes.

7 Q You were even specific about what furniture he
8 delivered -- you know what furniture he delivered, don't
9 you?

10 A He said she bought a living room suit and a bedroom
11 suit and dinette set.

12 Q And he said he himself delivered --

13 A He delivered all three times.

14 Q So he had been to this lady's house a number of
15 times.

16 A Yes.

17 Q What did you say about the sock on the hands?

18 A I asked him how could you pull the trigger with a
19 sock on and he said he had a hole in the stock.

20 Q But you didn't believe that?

21 A No. I didn't believe none of that stuff.

22 Q So you didn't believe most of the stuff he was
23 telling you?

24 A No. When you go to prison everybody there was a big
25 boy until you find out later.

TESTIMONY OF RAYMOND BARNES

- 1 Q You said Curtis told you that his fingerprints should
2 be found on the thermostat because he did something to the
3 temperature when he was leaving the house?
- 4 A Yes.
- 5 Q Did you believe that part?
- 6 A No.
- 7 Q So you didn't believe anything he was telling you.
- 8 A Not really.
- 9 Q But you relayed to law enforcement to get a wire.
10 What was the purpose of getting a wire if you didn't
11 believe him?
- 12 A No. I asked him did it happen.
- 13 Q So once they told you that it happened --
- 14 A He didn't say it happened.
- 15 Q He never told you it happened?
- 16 A He never said it happened, not to today.
- 17 Q Whose idea was it to put the wire on you?
- 18 A Reid Long and Frazier Craig.
- 19 Q You didn't ask why you were wearing the wire?
- 20 A No. I didn't have to, because I knew I was wearing a
21 wire.
- 22 Q Because it wasn't your first time wearing one, right?
- 23 A Huh?
- 24 Q Because you had worn a wire before, right?
- 25 A No.

TESTIMONY OF RAYMOND BARNES

- 1 Q Never worn a wire before?
- 2 A Never in my life.
- 3 Q You didn't wear a wire in connection with the other
- 4 case?
- 5 A No.
- 6 Q He just brought you here to get information.
- 7 A Yes.
- 8 Q But they specifically told you how to operate the
- 9 wire, though. You knew all you had to do was turn it on
- 10 and off.
- 11 A Yeah.
- 12 Q You had given information on other cases before.
- 13 A No.
- 14 Q Never?
- 15 A Never.
- 16 Q And so Curtis was just speaking all freely about this
- 17 murder to you that he didn't even know?
- 18 A Yes.
- 19 Q Now, you said something about he even told you the
- 20 type of gun that was used and what about what happened to
- 21 the gun, you asked him what he did with it?
- 22 A Yes.
- 23 Q He told you what?
- 24 A That he threw it behind a dumpster up behind the
- 25 Uniroyal place.

TESTIMONY OF RAYMOND BARNES

1 Q And you're not from Winnsboro.

2 A No.

3 Q But you remember all of those details?

4 A Sure.

5 Q Just like it was yesterday.

6 A Just like it was yesterday.

7 Q Were you aware that there was a reward offered in
8 this case?

9 A No, I wasn't. But if it is I want it.

10 MS. SMALLS: Beg the Court's indulgence.

11 (Break in proceedings.)

12 Q Mr. Barnes, if you recall prior to June 27th of 1996
13 at that 6:00 p.m. dinner time, approximately how many
14 times prior to that had you spoken to Curtis Elgin?

15 A Four or five times.

16 Q Four or five times?

17 A Yes. We talked about it all of the time.

18 Q All of the time?

19 A All of the time.

20 Q After wearing that wire for seven days, who did you
21 give it back to?

22 A Frazier Craig.

23 MS. SMALLS: No further questions.

24 MR. BARFIELD: Solicitor?

25 REDIRECT EXAMINATION

TESTIMONY OF RAYMOND BARNES

1 BY MR. BARFIELD:

2 Q Just a couple of real quick. Ms. Smalls was asking
3 you about the victim, Audrey Belton, being a customer of
4 the furniture store and him delivering furniture out
5 there. Did Curtis Elgin during your conversation say he
6 had any other contact or knowledge of the victim,
7 Ms. Belton?

8 A Yes. He had talked to her before and asked her to
9 let him cut her grass.

10 Q Did he indicate how he happened to be anywhere around
11 her house before she was killed at some point?

12 A His cousin lived next door.

13 Q And I don't recall whether I asked you this -- that's
14 all.

15 MR. BARFIELD: Thank you. No more questions, thank
16 you.

17 CROSS EXAMINATION

18 BY MS. SMALLS:

19 Q Just briefly. The cousin that lived next door, do
20 you recall that cousin's name?

21 A No.

22 MS. SMALLS: Nothing further.

23 THE COURT: Thank you. You may step down.

24 MR. BARFIELD: I will speak to Mr. Barnes in a minute,
25 but I presume he's no longer in sequestration if he desires

TESTIMONY OF RAYMOND BARNES

1 to be in the courtroom for further proceedings.

2 MS. SMALLS: Without objection.

3 THE COURT: Certainly. He may stay in the courtroom
4 if he desires.

5 MR. BARFIELD: Ladies and gentlemen, let's take a
6 lunch break until 20 after 1:00 -- 2:00.

7 (The jury left the courtroom and a lunch break was
8 Taken.)

9 (The jury returned to the courtroom.)

10 THE COURT: Welcome back, ladies and gentlemen. And I
11 apologize again, I know I'm not doing good when I tell you
12 we're going to start at a certain time, I'm sorry.
13 Solicitor.

14 MR. BARFIELD: State calls Lindsay Goins.

15 The witness, LINDSAY GOINS, was first duly sworn and
16 Testified as follows, on:

17 DIRECT EXAMINATION

18 BY MR. BARFIELD:

19 THE CLERK: State your name for the record.

20 THE WITNESS: My name is Lindsay Goins, Jr.

21 Q Mr. Goins, where do you currently reside?

22 A Four, Kings Street Apartment, Rochester, New York.

23 Q How long have you lived in Rochester, New York?

24 A Four years and a half.

25 Q Where are you from?

TESTIMONY OF LINDSAY GOINS

- 1 A I'm originally from right here in Fairfield County.
- 2 Q If you don't mind me asking, how old are you?
- 3 A Fifty-three.
- 4 Q During 1996, did you reside in Fairfield County?
- 5 A Yes, I did.
- 6 Q All right, sir. Now I am going to ask you some
- 7 general questions. Prior to -- in 1996, in the summer of
- 8 1996, were you for a period of time an inmate in the
- 9 Fairfield County Detention Center?
- 10 A Yes, I was.
- 11 Q Did you come to meet a fellow named Raymond Lewis
- 12 Barnes who was also an inmate in the summer, June of 1996?
- 13 A Yes, I did.
- 14 Q Prior to the meeting Raymond Barnes in the detention
- 15 center in June of '96, had you ever met him?
- 16 A No, I didn't.
- 17 Q Did you know him?
- 18 A Never even heard mention of the name.
- 19 Q Okay. Back in 1996 prior to you going into the
- 20 detention center in the summer of '96, did you know a
- 21 fellow named Curtis Lee Elgin?
- 22 A No.
- 23 Q Have you ever met anybody named Curtis Lee Elgin in
- 24 '96?
- 25 A No.

TESTIMONY OF LINDSAY GOINS

- 1 Q Did you meet somebody named Curtis Lee Elgin in the
2 Fairfield County Detention Center?
- 3 A Yes.
- 4 Q Do you remember what he looks like?
- 5 A Yes, I do.
- 6 Q Where is he sitting and what has he got on?
- 7 A He is wearing a white shirt sitting to my right at
8 the table over here.
- 9 Q At the table next to the young lady?
- 10 A Yes.
- 11 Q Got a neck tie on?
- 12 A Yes, he do.
- 13 Q When you were in the Fairfield County Detention
14 Center in the summer of 1996, were you at any time in the
15 same cell with Raymond Lewis Barnes?
- 16 A Yes, I was.
- 17 Q Were you at any time in the same cell with Curtis Lee
18 Elgin?
- 19 A Yes, I was.
- 20 Q About how long were the three of y'all cellmates?
- 21 A I'll say about two months.
- 22 Q Okay. At any time during that two months or so that
23 you and Barnes and Elgin were cellmates, was there ever
24 any discussion about the murder of Audrey Ann Belton?
- 25 A Yes, there was.

TESTIMONY OF LINDSAY GOINS

1 Q Prior to the discussions in the detention center, did
2 you know anything about that case?

3 A I had no knowledge of anything concerning the case.

4 Q Okay. Did you even know the case existed? Did you
5 know that somebody named Audrey Ann Belton had been
6 killed?

7 A No.

8 Q All right. Did Curtis Elgin ever talk about the
9 death of Audrey Ann Belton?

10 A Yes, he did.

11 Q Did he tell you anything about where it occurred?
12 Well, let me back up. When he was talking about it was
13 Mr. Barnes present?

14 A Yes, he was.

15 Q And who was principally in the conversation?

16 A Mostly Curtis Elgin.

17 Q And who was he talking to mostly?

18 A Barnes.

19 Q Were you hearing what was being said?

20 A Yes.

21 Q Okay. Did Elgin say first of all in reference to you
22 where the killing occurred?

23 A He was talking to Barnes and I overheard the
24 conversation.

25 Q All right. Did Elgin say where the killing occurred

TESTIMONY OF LINDSAY GOINS

1 in relation to you to where you lived or where you hung
2 out?

3 A Yes.

4 Q What did Elgin say about that?

5 A He said that the killing, "It was a girl that don't
6 stay too far from you."

7 Q When he said "from you," who was he talking about?

8 A Me, Lindsay Goins.

9 Q Okay. Now, at the time had you, in fact -- do you
10 now know in Fairfield County where the killing occurred?

11 A Yes.

12 Q And did you, in fact, live anywhere near where the
13 killing occurred at some point prior to you being in the
14 detention center?

15 A Yes. On Golf Road I think it was, yes.

16 Q You lived on that road somewhere?

17 A Yes.

18 Q Did you know Audrey Ann Belton?

19 A No.

20 Q Had you ever seen her to your knowledge?

21 A No.

22 Q Did Curtis Elgin say in your presence who killed
23 Audrey Ann Belton?

24 A Yes, he did.

25 Q And who did he say killed Audrey Ann Belton, who did

TESTIMONY OF LINDSAY GOINS

- 1 he say did it?
- 2 A He said he did it.
- 3 Q He did it.
- 4 A Yes.
- 5 Q Now, I asked you where it occurred in relation to
- 6 where you had lived at some point, did he say in what type
- 7 of place it occurred?
- 8 A He said it occurred somewhere up on the upper part of
- 9 the street, somewhere up there on that end in a house.
- 10 Q In a house?
- 11 A Yes.
- 12 Q Did he -- did Curtis Elgin tell you how he got in the
- 13 house?
- 14 A He mentioned something about a screen.
- 15 Q All right. And you've got to pay attention to that
- 16 microphone because sometimes it's there and sometimes it
- 17 ain't.
- 18 A Yeah.
- 19 Q What did he say about a screen?
- 20 A Said he took the screen off the back window.
- 21 Q Did he give any other explanation for how he got in
- 22 the house?
- 23 A No, not to me.
- 24 Q Did you hear him tell anybody else?
- 25 A Yeah. I heard him talk to Barnes about it.

TESTIMONY OF LINDSAY GOINS

1 Q What did you hear him tell Barnes about getting in
2 the house?

3 A Said he had got in the house relative to steal some
4 money or something.

5 Q Well, let me back up. You said you heard him say he
6 took a screen off the window on the back of the house.

7 A Yes.

8 Q Did he give any alternative means by which he got in
9 the house to you or to Barnes that you heard?

10 A All he said is he got in the through the back window
11 in the bedroom.

12 Q All right. Did he at any time tell you -- did he
13 tell you -- did you hear him say why he went in the house?

14 A He stated he went in there to steal some money.

15 Q Did he tell you whether or not the victim came there
16 while he was there?

17 A Yes, he said she came there.

18 Q Did he say anything about what happened -- did he
19 indicate he was in the house when the victim came?

20 A Yes.

21 Q Did Curtis Elgin indicate what happened when the
22 victim came in the house that he was in?

23 A He stated he was in the house going through the
24 drawers and when she came in she asked him what he was
25 doing, she tried to run and he ran in the hall and caught

TESTIMONY OF LINDSAY GOINS

- 1 her.
- 2 Q Caught her?
- 3 A Yeah.
- 4 Q Did he tell you what happened after he caught her?
- 5 A He said he shot her four or five times.
- 6 Q Stop. We'll come back to that in a second. Did he
- 7 tell you what he shot her with?
- 8 A If my recollection is right it was a .22.
- 9 Q Okay. Did you hear him say where he shot this --
- 10 first of all, did he give a name when he said who he had
- 11 shot?
- 12 A I heard Audrey Ann Belton.
- 13 Q Did he tell you where he shot Ms. Belton?
- 14 A He said in the upper body and somewhere down in the
- 15 lower torso area.
- 16 Q Did he tell you about any other shots that didn't
- 17 involve Ms. Belton's body?
- 18 A Something about shooting in the wall twice or
- 19 something, I'm not sure.
- 20 Q You said he told you it was a .22, the firearm?
- 21 A I overheard him say that.
- 22 Q And all of these questions when -- if I ask you if he
- 23 told you, what I mean really is did you hear him say,
- 24 really that is the preface for every question I'm going to
- 25 ask, did you hear him say or not.

TESTIMONY OF LINDSAY GOINS

- 1 A Yeah.
- 2 Q You said you heard him say it was a .22?
- 3 A Yes.
- 4 Q Did he give any further description of the gun?
- 5 A He said it was a .22 on a .32 frame or something like
- 6 that.
- 7 Q Did you hear Curtis Elgin at any time talk about how
- 8 he came to be in possession of that gun?
- 9 A Yes.
- 10 Q What did he say about that?
- 11 A He said that he went in there to some delivery truck
- 12 where he worked that Harold, Jr --
- 13 Q Stop. Who is Harold Jr.?
- 14 A I mean, the furniture company that he worked for.
- 15 Q Did you know that he worked at a furniture company?
- 16 A No, I didn't.
- 17 Q Well, did he tell you that he worked at a furniture
- 18 company?
- 19 A I overheard it.
- 20 Q That's fine. And did you overhear him say what
- 21 furniture company he worked for?
- 22 A Yes.
- 23 Q What furniture company did you hear him say he worked
- 24 for?
- 25 A Harold Douglas.

TESTIMONY OF LINDSAY GOINS

1 Q When he said Harold Douglas' furniture company, did
2 you know where he was talking about?

3 A Yes, I did.

4 Q Were you familiar with that business?

5 A Yes, I've been by there.

6 Q Were you familiar with who Harold Douglas was?

7 A Yes, I am.

8 Q I'm coming back to the question I asked a minute ago.
9 Did you hear Curtis Elgin say how he came to be in
10 possession of that .22 pistol?

11 A He said he stole the -- he went into Harold Douglas'
12 office and he got the gun out of the drawer or something
13 and he got the keys.

14 Q Was there ever any discussion about a truck that
15 belonged to the Douglas' or Harold Douglas or the
16 furniture store?

17 A No. He just said he made them think like he was
18 getting the keys for the truck but he got the keys out of
19 the office.

20 Q And do you know what -- do you know what keys -- did
21 he say what keys he was talking about when he went into
22 Harold's office?

23 A He said house key, so I'm not --

24 Q Did you ever hear Curtis Elgin say what happened to
25 the gun after he shot Ms. Belton?

TESTIMONY OF LINDSAY GOINS

1 A He stated that he went to the back of the house and
2 threw it across the railroad tracks behind the Uniroyal
3 near by a dumpster somewhere.

4 Q Okay. Bear with me, Your Honor.

5 THE COURT: Yes, sir.

6 (Break in proceedings.)

7 Q When you heard Curtis Elgin talking about these
8 things in the summer, or June of 1996, did you go to
9 anybody in law enforcement and tell anybody what you had
10 heard?

11 A No.

12 Q All right. At some point sometime later did law
13 enforcement come to you to talk to you about this?

14 A Yes. They asked me if I overheard a conversation,
15 yeah.

16 Q Now, first of all, do you remember when it was that
17 law enforcement came to you?

18 A I can't exactly remember the time.

19 Q Where did law enforcement come to you?

20 A In Rochester, New York.

21 Q Did you give a written statement to law enforcement
22 about this matter?

23 A Yes, I did.

24 Q Do you remember who it was that came to you in
25 Rochester, New York?

TESTIMONY OF LINDSAY GOINS

1 A Officer Keith Lewis and another officer, I can't
2 remember the name.

3 Q Not in here right now, I don't think. I'm going to
4 just show you this not for purposes -- do you have a copy,
5 or have you seen a copy of your statement?

6 A Yes.

7 Q I'm going to show you my copy. Is that your
8 statement?

9 A Yes, that's my statement.

10 Q Can you tell me when that statement was given? Will
11 you look on that document and tell me if there's a date on
12 there when you gave that statement? Take all of the time
13 that you need.

14 A It was the 20th day of December.

15 Q Of what year.

16 A 2004.

17 Q 2004?

18 A Yeah.

19 Q All right, sir. Do you know a guy named Virgil
20 Pauling?

21 A No, never met him.

22 Q Do you know a guy named Robert Lee Green?

23 A I never met him.

24 Q After being in the Fairfield County Detention Center
25 with Curtis Elgin in the summer of 1996, do you remember

TESTIMONY OF LINDSAY GOINS

1 if you left there or he left there first, or do you recall
2 which one of y'all was out first?

3 A I can't recall.

4 Q After you got out until today, do you know whether
5 you have ever seen Curtis Elgin since then?

6 A No. I haven't seen him since then.

7 Q Have you talked to him since then?

8 A No, I haven't.

9 Q When Keith Lewis and the other officer came to you in
10 Rochester, New York -- first of all, did you know they
11 were coming?

12 A No, I had no idea.

13 Q They didn't call and say, "We are coming?"

14 A Well, they said they wanted to talk to me about --

15 Q Well, let me ask you this: Had there been any
16 communication between you or Keith Lewis or anybody with
17 the sheriff's office?

18 A No.

19 Q How did you know they wanted to talk to you, I guess?

20 A Because they called me.

21 Q From Rochester?

22 A Yeah, to Rochester.

23 Q Well, my question is this: Was somebody down here
24 calling you on the phone up in Rochester or did they just
25 show up in Rochester and called you --

TESTIMONY OF LINDSAY GOINS

- 1 A Yeah, they called me.
- 2 Q From here or from up there?
- 3 A From here.
- 4 Q So you knew that they wanted to talk to you.
- 5 A Yes, I did.
- 6 Q Did you know they were coming?
- 7 A Yes. And I thought they were looking for me, you
- 8 know.
- 9 Q Well, they were, weren't they?
- 10 A Yeah. I thought I had done something wrong, I
- 11 was ready to put on my boogie shoes.
- 12 Q We're glad you didn't. Did you know that they were
- 13 actually coming to Rochester after you had talked to them
- 14 on the phone?
- 15 A I talked to them, as far as me knowing they were
- 16 coming, no.
- 17 Q Did they show up in Rochester?
- 18 A Yes, they did.
- 19 Q Did they find you at work, find you at your house, or
- 20 where did they find you?
- 21 A They found me at my house.
- 22 Q Okay. And did y'all talk for just one day or were
- 23 they there for several days talking to you?
- 24 A We talked for one day and they explained what they
- 25 were there for and everything.

TESTIMONY OF LINDSAY GOINS

1 Q When you were talked to by Keith Lewis and the other
2 officer in Rochester, New York then or in any phone
3 conversation before they came to Rochester or at any time
4 from then until now, did anybody in law enforcement make
5 any promises to you to reward you in any way to tell them
6 what you knew about this case?

7 A No, never mention of no idea of it.

8 Q Did anybody offer to pay you money about this case?

9 A No.

10 Q When you were in Rochester, were you a free man?

11 A Yes, I was.

12 Q Do you know whether there was, in fact, a reward
13 offered on this case? Do you know?

14 A A what?

15 Q Do you know if there's a reward that had been offered
16 in this case?

17 A Reward?

18 Q Do you know whether there was one?

19 A This is the first I have heard of it.

20 MR. BARFIELD: Thank you, sir. Answer anything

21 Ms. Smalls has, please.

22 MS. SMALLS: May it please the Court?

23 THE COURT: Ms. Smalls?

24 CROSS EXAMINATION

25

TESTIMONY OF LINDSAY GOINS

- 1 BY MS. SMALLS:
- 2 Q So Mr. Goins, you actually were in Fairfield County
- 3 in 1996, correct?
- 4 A Yes, I was.
- 5 Q Approximately how long were you there?
- 6 A Repeat the question again.
- 7 Q How long were you in jail in Fairfield County?
- 8 A Two months.
- 9 Q Two months?
- 10 A Yeah.
- 11 Q Now, you just testified that you gave a statement, or
- 12 you actually talked to law enforcement about Curtis Elgin
- 13 in 2004 December, correct?
- 14 A Yes, I did.
- 15 Q That's some eight years later.
- 16 A It would seem so, yeah.
- 17 Q Eight years from 1996.
- 18 A Well, I'm not adding it, but it seems so.
- 19 Q Now, you told them that you overheard a conversation
- 20 between Curtis Elgin and Raymond Barnes; is that correct?
- 21 A Yes.
- 22 Q You were in the cell with them?
- 23 A Yes.
- 24 Q So any time is Curtis talking to you or he's always
- 25 talking to Raymond Barnes?

TESTIMONY OF LINDSAY GOINS

- 1 A He looked my way, but most of his conversation was
2 directed at Raymond Barnes.
- 3 Q But it's the three of you talking.
- 4 A Well, mostly it was him and Raymond Barnes.
- 5 Q And you just listening?
- 6 A Yes, I was standing there listening.
- 7 Q Describe the cell for me. How big is the cell?
- 8 A I'm not good at numbers so I couldn't give you a
9 detailed number, but it was small, I can tell you that.
- 10 Q Where was your bed?
- 11 A My bed was on the top.
- 12 Q Your bed was on the top?
- 13 A Yeah.
- 14 Q Where was Raymond's bed?
- 15 A At the bottom.
- 16 Q Where was Curtis' bed?
- 17 A Curtis' bed was off to the side.
- 18 Q Your bed is on the top, it's like a bunk?
- 19 A Yeah, sort of like a bunk.
- 20 Q And Raymond, is he below you?
- 21 A Yeah, directly below me.
- 22 Q You say Curtis is on the side, is he up high or down
23 low?
- 24 A Up high -- he was down low. That's what I could
25 remember, he was down low.

TESTIMONY OF LINDSAY GOINS

1 Q Do you recall where the three of you were? Were you
2 actually in the cell --

3 A Yes.

4 Q -- when the conversation took place?

5 A Yeah, in the cell.

6 Q How many conversations were there about this murder?

7 A Well, there were probably was about -- it was only
8 one conversation that I remember, but they talked
9 themselves. So the only one I can remember that I heard
10 was that particular time.

11 Q So you only heard one conversation?

12 A Yes.

13 Q How big do you say the cell is?

14 A I didn't tell you because I don't have no ruler to
15 measure it so I don't want to give you a number.

16 Q Is it kind of small for three beds?

17 A Well, it's big enough, I will put it like that.

18 Q Are you close enough to each of the other inmates
19 when they're talking you could hear the conversation?

20 A I don't know about the other inmates, but me, Curtis
21 and Barnes, I can hear them.

22 Q Now, when you talked with law enforcement in 2004 you
23 told them about the conversation that you overheard
24 between Raymond Barnes and Curtis Elgin, correct?

25 A Yes, I did.

TESTIMONY OF LINDSAY GOINS

- 1 Q Can you tell me what the three of you did that day?
2 Anything in particular happen on that day that you
3 overheard this conversation?
- 4 A Curtis asked him for a cigarette and the conversation
5 started, that's the basic.
- 6 Q Who started the conversation?
- 7 A Well, Mr. Elgin was talking.
- 8 Q Who was talking?
- 9 A Curtis Elgin was talking.
- 10 Q What was he saying?
- 11 A He was telling about the situation.
- 12 Q When you say the situation, what are you referring
13 to?
- 14 A What he had did and how he did it and whatever else
15 he had done.
- 16 Q Was Raymond asking him questions about the murder?
- 17 A He might have asked him two questions.
- 18 Q What two questions?
- 19 A Who did he kill and what happened.
- 20 Q So he said who did he kill and what happened. When
21 he said who did he kill, did Curtis answer him?
- 22 A Yes, he did.
- 23 Q He told him who he killed?
- 24 A I can't quite remember but I am thinking that's it.
- 25 Q You can't remember whether he answered that one