

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

RECEIVED

JUN 27 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GREGORY GATHERS,

APPELLANT

APPELLATE CASE NO. 2011-203951

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBIT #7 FOR ID (PHOTOGRAPH);
STATE'S EXHIBIT #8 FOR ID (PHOTOGRAPH);
STATE'S EXHIBIT #9 FOR ID (PHOTOGRAPH);
STATE'S EXHIBIT #10 (PHOTOGRAPH);
STATE'S EXHIBIT #11 (PHOTOGRAPH);
STATE'S EXHIBIT #12 (PHOTOGRAPH);
STATE'S EXHIBIT #13 (PHOTOGRAPH);
STATE'S EXHIBIT #14 (PHOTOGRAPH);
STATE'S EXHIBIT #15 (PHOTOGRAPH);
UNMARKED EXHIBIT (DIAGRAM).**

THE STATE OF SOUTH CAROLINA
VS.
GREGORY GATHERS,
DEFENDANT.

VOLUME 1 OF 4

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[Exhibits premarked by counsel unless otherwise noted in the transcript]

MARKED/ADMITTED

State's Exhibit Number 1
[Advice of Rights Form]

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Defendant's Exhibit Number 2
[Photograph of Mr. Gathers]

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State vs. Gregory Gathers
Jury Trial - Volume 1 of 4
November 14, 2011

JURY VOIR DIRE

1
2 THE COURT: All right. Ladies and gentlemen of
3 the jury, I'm Judge J.C. Nicholson, Jr. I'm going to
4 be holding general sessions this week, which is
5 criminal court, and we're getting ready to draw a jury.
6 The solicitor is going to call the case, then we're
7 going to draw the jury.

8 Solicitor, if you'll call your case, please.

9 MR. KIDD: Yes, sir, Your Honor.

10 This is State vs. Gregory Gathers and it's
11 indictment number 2010-GS-10-6287.

12 THE COURT: All right. Ladies and gentlemen of
13 the jury, the solicitor has called the case of the
14 State vs. Gregory Quinn Gathers, and he is charged with
15 murder. It happened on or about June the 7th, 2010.
16 This is the indictment. It's not evidence. It's
17 merely the means by which the defendant is brought
18 before the Court for trial.

19 In the criminal process, an arrest warrant is
20 issued by the magistrate, based upon affidavits from
21 whoever is filing the affidavit with the magistrate.
22 An arrest warrant is issued, the person is arrested,
23 and those arrest warrants are sent to the solicitor's
24 office. An indictment is prepared, sent to the grand
25 jury, and a true bill is returned by the grand jury.

1 and defendant a fair and impartial trial? If so,
2 please stand.

3 [Whereupon, there is no response]

4 THE COURT: Any further questions from the
5 State?

6 MR. KIDD: No, Your Honor.

7 THE COURT: Any further questions from the
8 defendant?

9 MS. RUNEY: No, Your Honor.

10 THE COURT: Thank you very much.

11 How long before we can --

12 THE CLERK OF COURT: Coming out right now.

13 THE COURT: Coming out right now?

14 THE CLERK OF COURT: Yes, sir.

15 THE COURT: How long do y'all need before you'll
16 be ready to strike?

17 MR. KIDD: We're ready, Your Honor.

18 MS. RUNEY: We're ready.

19 THE COURT: If y'all are going to need some time
20 -- I'll give you some time, if you need it.

21 MS. RUNEY: That would be good.

22 THE COURT: How much time do you need?

23 MS. RUNEY: Five minutes.

24 [Whereupon, a recess is taken from 12:34 p.m. to
25 12:44 p.m.]

State vs. Gregory Gathers
Jury Trial - Volume 1 of 4
November 14, 2011

1 THE CLERK OF COURT: What say ye for the State?

2 MR. KIDD: No challenge.

3 THE CLERK OF COURT: What say ye for the
4 defendant?

5 MS. RUNEY: Please seat Mr. Simmons.

6 THE CLERK OF COURT: Sir, if you will please
7 take your seat in the jury box. You've been selected
8 as the second alternate in the trial of this case.

9 [Whereupon, Mr. Simmons is seated in the jury
10 box as an alternate juror]

11 THE COURT: Do the rest of them call in?

12 THE CLERK OF COURT: Yes, sir. They're released
13 for the remainder of the day and they should call the
14 number tonight.

15 THE COURT: All right. Members of the jury
16 panel, I'm going to have to -- I'm going to have to ask
17 you to go to the jury room. Please don't discuss the
18 case. I'll get you back very shortly. Please follow
19 the bailiff. He'll show you where to go.

20 [Whereupon, the jury exits the courtroom at
21 12:57 p.m.]

22 THE COURT: All right. Any motions from the
23 State on drawing the jury?

24 MR. KIDD: No, Your Honor.

25 THE COURT: Any from the defendant?

1 MS. RUNEY: No, sir.

2 THE COURT: Okay. The remaining members of the
3 panel call in after six o'clock at the number -- is
4 there anybody that doesn't have the number that you
5 need to call -- and there will be a recorded message
6 for you to follow. Just follow the instructions on the
7 recorded message. Thank you so very much for being
8 here.

9 [Whereupon, the jury panel exits the courtroom
10 at 12:59 p.m.]

11 THE COURT: Let me see the lawyers up here for a
12 second.

13 [Whereupon, an off-the-record bench conference
14 is held]

15 THE COURT: Would you bring us the jury panel,
16 please, ma'am.

17 THE BAILIFF: Yes, sir.

18 [Off the record momentarily]

19 [Whereupon, the jury enters the courtroom at
20 1:01 p.m.]

21 THE COURT: Let me see. Marie Bedard? I'm
22 going to appoint you as forelady. If you'll swap.
23 Come down here and sit in the front, please, ma'am.

24 Ms. Bedard, if you'll sit in that chair as
25 forelady, and the two alternates will sit behind you.

JACKSON V. DENNO HEARING

1 THE COURT: All right. I believe we need to do
2 a hearing on the confession, I believe? Written
3 confession?
4

5 MR. KIDD: That's correct, Your Honor.

6 THE COURT: All right. Be glad to hear you.

7 MR. KIDD: Thank you, Your Honor. The State
8 calls Lewis Bazzle.

9 THE COURT: And I understand the defendant
10 doesn't question whether or not the Miranda rights was
11 given. It's just a question of whether or not the
12 statement was voluntarily entered into, which would
13 encompass the Miranda rights?

14 MS. RUNEY: Yes.

15 MR. KIDD: And I hope -- and I might have lacked
16 a little clarity a moment ago. We have two statements.
17 We have a written statement and we also have a very
18 short one-, two-sentence statement made to officers
19 when he was first taken into custody. So I think the
20 hearing would encompass both of those and I think both
21 the --

22 THE COURT: Well, let's just encompass the
23 hearing, both of them, and instead of having two
24 hearings let's just encompass both --

25 MR. KIDD: Correct.

1 THE COURT: -- of them in one hearing.

2 MR. KIDD: Correct. That's what I was getting
3 at, Your Honor.

4 THE COURT: Okay.

5 MR. KIDD: I just wanted to make you aware that
6 we would be talking about two separate statements. The
7 bulk of it is the written statement, but we also have a
8 one-sentence statement when he was first taken into
9 custody.

10 THE COURT: Okay. Call your first witness.

11 MR. KIDD: The State calls Lewis Bazzle.

12 [Whereupon, Mr. Bazzle comes forward]

13 THE CLERK OF COURT: If you'll place your left
14 hand right here and raise your right hand.

15 [Whereupon, Mr. Bazzle is duly sworn by the
16 clerk of court as follows: do you swear or affirm that
17 the testimony you shall give the Court touching now on
18 the matters before the Court shall be the truth, the
19 whole truth, and nothing but the truth, so help you
20 God]

21 THE WITNESS: I swear.

22 THE CLERK OF COURT: Thank you, sir. You may
23 take your seat.

24 [Whereupon, Mr. Bazzle takes the witness stand]

25 THE CLERK OF COURT: Sir, if you would please

1 state your first and last name, spelling your last for
2 the record.

3 THE WITNESS: My name is Lewis Bazzle. The last
4 name is B-A-Z-Z-L-E.

5 MR. KIDD: Good afternoon, Officer.

6 - - - - -

7 LEWIS BAZZLE,

8 Having Been First Duly Sworn,

9 was Examined and Testified as Follows:

10 DIRECT EXAMINATION

11 BY MR. KIDD:

12 Q. Can you tell the Court where you're employed.

13 A. I'm employed at the City of North Charleston
14 Police Department.

15 Q. And how long have you been an officer there?

16 A. Currently, almost seven years. March will be
17 seven years with North Charleston.

18 Q. And where do you -- what are your current duties
19 with North Charleston?

20 A. I'm a patrol officer. I pretty much just handle
21 calls for service and do private patrol throughout my
22 areas.

23 Q. Back in June of 2010, were your duties the same?

24 A. Yes, they were.

25 Q. Do you remember getting involved in the case

MIA PERRON, CVR-CM

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1 against the defendant, Gregory Gathers?

2 A. I do.

3 Q. Can you tell the Court briefly what -- how you
4 first became involved in this case?

5 A. Well, at the time, I was working my area when
6 they give -- tone out a call for a -- I think it was an
7 unknown situation and they said someone was possibly
8 deceased, murder. At that time, the detectives were on
9 scene handling the call and they put out a possible
10 location where the suspect may be, which was in my area.

11 Q. And did you respond to that location?

12 A. I did. I responded to that location.

13 Q. And who was with you at the time?

14 A. At that time it was an Officer Fred Houtz
15 [phonetic]. He responded with me. We also -- we worked
16 the same area.

17 Q. Were you in the same car, or separate cars?

18 A. We were in separate vehicles.

19 Q. Separate vehicles.

20 And do you remember what location you responded
21 to?

22 A. Well, it's directly on the corner of Gumwood.
23 As soon as you get into the subdivision, it's 2010
24 Gumwood. It's an apartment complex.

25 Q. Is that in North Charleston?

1 A. Yes, it is.

2 Q. What did you see when you arrived at that
3 location?

4 A. When we arrived on scene of course, standard
5 being a kind of a private call, we waited and went in
6 together. And once on the scene, there was -- at the
7 apartment, they gave the description of the suspect, and
8 there was a gentleman matching the description at the top
9 of the stairwell of the apartments.

10 Q. And so were you able to see him from your
11 vehicle?

12 A. Once pulling up right in front -- in front of
13 the apartments, approaching, pulling up, we could see him
14 at the apartments.

15 Q. And what did you and Officer Houtz [phonetic] do
16 at that point?

17 A. At that time we exited our vehicles to go up and
18 make contact to identify who the person was.

19 Q. And what happened next? What did he say to you?

20 A. As we were walking up -- as we were walking up
21 the stairwell, there's a little landing that goes up to
22 some more apartments on the top floor. It's only a two-
23 floor apartment levels. And at that time, he kind of
24 started walking down and almost met us in the middle. And
25 without -- we announced ourselves, officers of North

1 Charleston police. And before we could even finish, you
2 know, really stating who we were, he said that, I am the
3 person you're looking for, and explicitly he stated that,
4 I F'd up.

5 Q. And what did y'all do after that?

6 A. Pretty much at that time he was detained. After
7 detained, he kept mumbling, you know, I'm so sorry. He
8 started crying; you know, it shouldn't have happened; it
9 shouldn't have been this way.

10 And we -- at that point, Officer Houtz
11 [phonetic] did Mirandize him and then we were walking him
12 back down to the vehicles.

13 Q. Did you transport him over to North Charleston?

14 A. I did not.

15 Q. Did Officer Houtz [phonetic]?

16 A. Officer Houtz [phonetic] was the transport unit.
17 He took him back to meet with detectives.

18 Q. And was that the end of your involvement in the
19 case?

20 A. That was pretty much the end of my involvement.

21 The only thing that went from there was of
22 course we just secured the residence and everyone exited
23 and they -- the detectives later on secured a search
24 warrant.

25 Q. Okay. Now I want to talk to you a little bit

1 about just his demeanor. Did he appear intoxicated to
2 you?

3 A. He did not. He did not appear intoxicated. He
4 seemed in his right frame of mind.

5 Q. Did you make any force or threats towards
6 him --

7 A. There was --

8 Q. -- after he made those statements?

9 A. There was no threats, there was no resistance,
10 there was no -- I mean, we had no issues.

11 Q. And were -- those brief statements that he made
12 to you, were they in response to any questions that you
13 asked?

14 A. They were not. Nobody questioned him on
15 anything.

16 MR. KIDD: No further questions, Your Honor.

17 THE COURT: Cross-examination.

18 MS. RUNEY: Thank you, Your Honor.

19 Good afternoon, Officer Bazzle.

20 THE WITNESS: Good morning, afternoon.

21

22

23

24

25

CROSS-EXAMINATION

BY MS. RUNEY:

Q. You said that when you encountered Mr. Gathers, he was crying?

A. In the beginning, no, but as we approached him and announced who we were and after -- pretty much I think after cuffs had been placed on him, he started to cry or weep a little bit.

Q. So he cooperated with you and met you in the landing of the stairwell?

A. Yes. He was cooperative.

Q. And I believe you testified on direct that he was mumbling?

A. Yeah.

He -- I mean, half the stuff I -- some of the stuff I couldn't understand what he was saying. But, you know, he -- it was just pretty much as if a child was crying and mumbling things in the background, something that you couldn't really tell he was saying.

Q. Then he had a pat-down?

A. Yeah.

Q. Were his eyes bloodshot?

A. His eyes were a little red, but not to the point of, you know, someone that I deal with everyday that's totally intoxicated.

1 Q. Did he continue to cry as you put him in the
2 police car?

3 A. It wasn't all-out tears. You know, he was just
4 weeping a little bit, not --

5 Q. And mumbling?

6 A.. Mumbling, yeah.

7 Q. And he said to you, I'm the person you're
8 looking for?

9 A. Correct.

10 MS. RUNEY: That's all I have. Thank you.

11 MR. KIDD: No further questions for this
12 witness.

13 THE COURT: You may step down. Thank you very
14 much.

15 THE WITNESS: Thank you, Your Honor.

16 [Whereupon, Mr. Bazzle is excused and exits the
17 witness stand]

18 MR. KIDD: State calls Justin Corey Holt.

19 [Whereupon, Mr. Holt comes forward]

20 THE CLERK OF COURT: Left hand here. Raise your
21 right hand.

22 [Whereupon, Mr. Holt is duly sworn by the clerk
23 of court as follows: do you swear or affirm that the
24 testimony you will give the Court, touching now on the
25 matters now before the Court, will be the truth, the

1 whole truth, and nothing but the truth, so help you
2 God]

3 THE WITNESS: Yes, sir.

4 THE CLERK OF COURT: Thank you, sir. Take your
5 seat.

6 [Whereupon, Mr. Holt takes the witness stand]

7 THE CLERK OF COURT: Sir, if you would please
8 state your first and last name, spelling your last for
9 the record.

10 THE WITNESS: Justin Holt. H-O-L-T.

11 MR. KIDD: Good afternoon. Is it Detective
12 Holt?

13 THE WITNESS: Yes.

14 MR. KIDD: Good afternoon.

15 Judge, may I approach the court reporter?

16 THE COURT: Yes, sir.

17 MR. KIDD: State's 1.

18 [Whereupon, State's Exhibit Number 1 is marked
19 by the court reporter]

20 MR. KIDD: Thank you.

21

22

23

24

25

- - -

- - -

- - -

1 JUSTIN C. HOLT,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. KIDD:

6 Q. Detective Holt, could you tell the Court where
7 it is you're employed?

8 A. The City of North Charleston.

9 Q. And how long have you been employed there?

10 A. A little over eight years.

11 Q. Back in June of 2010, were you also employed
12 with the City of North Charleston?

13 A. Yes.

14 Q. What were your duties with North Charleston
15 then, back at that time?

16 A. At that time I was a property detective.

17 Q. Do you remember getting involved in the case
18 against Gregory Gathers?

19 A. Yes.

20 Q. How did you first get involved in this case?

21 A. I initially heard the call go out over the north
22 channel from North Charleston dispatch, and I was on my
23 way to work and I just happened to be right there when the
24 call went out.

25 Q. So did you respond to the crime scene?

1 A. Yes.

2 Q. Okay. And how long were you at the crime scene?

3 A. Approximately forty-five minutes. Thirty,
4 forty-five minutes.

5 Q. And where did you go after that?

6 A. Straight to the North Charleston Police
7 Department headquarters.

8 Q. And why did you go to headquarters?

9 A. For an interview with the --

10 Q. An interview? They had Mr. Gathers in custody
11 at that point?

12 A. Yes.

13 Q. Do you remember approximately what time in the
14 morning that was?

15 A. I believe we began the interview at 10:40,
16 10:45.

17 Q. Okay. Detective Holt, I want to show you what's
18 been marked as State's Exhibit Number 1. Do you recognize
19 that?

20 A. Yes.

21 Q. What is -- what is that document that I just
22 handed you?

23 A. This is the advice of constitutional rights.

24 Q. And is that the rights that you went over with
25 Mr. Gathers?

1 A. Yes, it is.

2 Q. And did he sign that advice of rights form?

3 A. Yes, he did.

4 MR. KIDD: Can I --

5 Q. [Mr. Kidd] So I just want to go through the
6 information on the form with you. The first is --

7 And did you fill out this form, or did he write
8 it?

9 A. The top portion, I filled it out.

10 Q. So you filled out his personal information
11 there?

12 A. Yes.

13 Q. Okay. And did you get the information from him?

14 A. Yes.

15 Q. Okay. So like where it says date of birth, did
16 you ask him his date of birth?

17 A. Yes..

18 Q. And what was his date of birth?

19 A. It was

20 Q. And there's a section there where it says
21 diploma/GED/or grade completed, and age. You asked him
22 all those questions and he gave you the answers?

23 A. Correct.

24 Q. And what were those answer? Age?

25 A. Forty-seven years old.

1 Q. Grade completed in school?

2 A. Twelfth grade.

3 Q. And diploma/GED?

4 A. Diploma.

5 Q. So to you, that means he graduated from high
6 school?

7 A. Yes.

8 Q. Okay. And then it says, I, Gregory Gathers,
9 have been advised by Detective J.C. Holt of the North
10 Charleston Police Department. And you filled out that
11 information?

12 A. Yes.

13 Q. Those two blanks with his name and your name;
14 right?

15 A. Correct.

16 Q. And then it lists a number of rights. The first
17 one -- and when you're going over this form with him, are
18 you reading it to him or did you have him read it? How do
19 you do that?

20 A. I turn it around so it's facing -- it would be
21 facing him and I read it upside down to him.

22 Q. So it would --

23 A. So he reads along as I'm reading it out loud.

24 Q. So it's right-side-up to him and then you're
25 reading it out loud to him, too?

1 A. Correct.

2 Q. Okay. So when you get to the first paragraph --
3 or the first line that says, I have the absolute right to
4 remain silent, do not have to answer any questions or give
5 any statement, and this fact cannot be used against me.

6 So you read that statement to him?

7 A. Yes.

8 Q. And then there's initials right there next to
9 the line. It looks like a G.G. Did you write those
10 initials?

11 A. No, I did not.

12 Q. Who put those initials there?

13 A. Mr. Gathers.

14 Q. And did you -- what did you tell him when you
15 were asked to initial those lines?

16 A. I asked him if he understood what I just read to
17 him.

18 Q. And if he understood those, to put his initials
19 in that blank?

20 A. Correct.

21 Q. And that's what he did?

22 A. Yes.

23 Q. And the next line: if I do -- if I do answer
24 any -- I can't read. If I do answer questions or give a
25 statement, anything I say can and will be used against me

1 in a court of law.

2 And then he initials that line, also?

3 A. Correct.

4 Q. And then the next line: I have the right to
5 consult with the lawyer of my choice before I answer any
6 questions or give a statement and also have him/her
7 present while I'm being questioned.

8 And he initials that line, also?

9 A. Yes.

10 Q. If I wish to talk to a lawyer and have him or
11 her present but I'm unable to afford to hire a lawyer, one
12 will be appointed to me to represent me free of charge.

13 He initialed that line?

14 A. Yes.

15 Q. If I decide to answer questions or give a
16 statement without having a lawyer present representing me,
17 I have the absolute right during this interview to stop
18 answering questions and to remain silent.

19 And he initialed that line?

20 A. Yes.

21 Q. And then under that it says: I fully understand
22 each of these rights explained to me.

23 And then we have two witness lines. Do you sign
24 one of those witness lines?

25 A. Yes. My signature is the top signature.

1 Q. And who's the other witness on there?

2 A. It would be Detective Cook.

3 Q. Detective Cook.

4 And then it has a signature on it. And it looks
5 like Gregory Gathers' signature; is that correct?

6 A. Yes.

7 Q. And that's the defendant's signature?

8 A. Yes.

9 Q. And he signed -- he signed that advisement of
10 rights form at the bottom there?

11 A. Yes.

12 Q. And this form was administered to him prior to
13 giving a statement to you?

14 A. Correct.

15 Q. And then at the bottom of the form it says
16 having these rights in mind, I wish to waive these rights
17 and answer questions. No threats, force, or promises of
18 any kind have been made to me by anyone to cause me to
19 waive these rights and/or answer questions.

20 And, again, it has two witness lines with your
21 signature and Detective Cook's signature again?

22 A. Correct.

23 Q. And then it also has Mr. Gathers' signature
24 again; is that right?

25 A. Yes.

1 Q. Which he signed there?

2 A. Yes.

3 Q. And then it has the date and the time. And
4 what's that date and time?

5 A. 6/7/2010 at 10:45 a.m.

6 Q. And so June 7th, 2010, at 10:34 in the morning?

7 A. Yes.

8 Q. All right. And then after the advisement of his
9 rights, did you -- what was Mr. Gathers's demeanor like
10 during -- while he was giving his statement and being
11 advised of his rights?

12 A. He was visibly upset.

13 Q. How did you know he was upset?

14 A. He was crying and just kept repeating, I'm
15 sorry, I'm sorry.

16 Q. And was there a point in time where he was
17 reluctant to speak with you at all?

18 A. Initially he wanted to know if the victim was
19 deceased or not and he -- that's the only thing he would
20 keep asking us, over and over and over, before we were
21 able to talk to him.

22 Q. And is there a reason why you kind of were
23 hesitant to begin speaking with him first?

24 A. I'm not sure I understand.

25 Q. Well, I guess -- did you want to administer

1 this advisement of rights and things like -- get things
2 like -- procedural things like that out of the way before
3 you --

4 A. Yes. Correct.

5 Q. And you made sure to do that?

6 A. Yes.

7 Q. Okay. And his statement is a typewritten
8 statement?

9 A. Correct.

10 Q. He didn't type this statement, did he?

11 A. No. I did.

12 Q. You typed the statement.

13 Did you have a typewriter or a computer in the
14 interview room?

15 A. A laptop.

16 Q. A laptop.

17 Was he in handcuffs at this time?

18 A. Yes. One of his hands was handcuffed.

19 Q. One of his hands was handcuffed?

20 A. To the chair.

21 Q. And where were y'all located?

22 A. In the North Charleston Police Department in the
23 detective bureau.

24 Q. In the detective bureau?

25 A. Yes.

1 Q. Is that a big room or a small room or --

2 A. It's a small room.

3 Q. Like a -- an interview room. It was an
4 interview room?

5 A. Yeah.

6 Q. What do you think? ten-by-ten? six-by-eight?

7 A. Something like that.

8 Q. Something like that.

9 Was he -- did he have -- was he sitting in a
10 chair?

11 A. Yes.

12 Q. Okay. Had a table in front of him?

13 A. Yes.

14 Q. Was he provided with an opportunity to use the
15 restroom if he needed to?

16 A. Yes.

17 Q. Did he actually take advantage of that?

18 A. He did.

19 Q. Did you give him anything to drink? Water or
20 anything like that?

21 A. It would have been offered to him. I don't
22 recall if we provided him with any water.

23 Q. At any point in time, did he ever ask you for an
24 attorney?

25 A. No.

1 Q. Or that he needed to speak with an attorney?

2 A. No.

3 Q. Did he ever hesitate in providing you what --
4 his statement or information? Did he ever act like he
5 didn't want to give it?

6 A. No, not at all.

7 Q. Was he able to answer all your questions
8 intelligently?

9 A. Yes.

10 Q. Was he making any remarks that seemed off the
11 wall or didn't -- irrelevant or didn't have to do with the
12 situation he was in?

13 A. Not at all.

14 Q. What -- did he appear intoxicated to you?

15 A. No.

16 Q. Was he -- you said he was physically upset. How
17 was he -- how was he acting?

18 A. I mean, he was just, you know, shaking, crying.
19 You know, just, I'm sorry, I'm sorry, over and over again.
20 Just, you know, you could tell that he was upset with the
21 events that had taken place.

22 Q. Okay. And then we have his statement. When
23 you're writing these statements, do you do them verbatim
24 as he -- the words come out of his mouth?

25 A. Exactly what he says, I type.

1 Q. So when we go through his statement and it says
2 Detective J.C. Holt typed this statement for me, as I told
3 him, at my request so he -- as opposed to handwriting his
4 own statement, he had asked that you do it in this format?

5 A. Correct.

6 Q. And then you have his information. It says he
7 was employed at Zeb's Quality Cleaning Services. Is that
8 information that he provided you?

9 A. Yes.

10 Q. And his statement says: we was smoking crack
11 cocaine and it was about four or five times. She stole
12 \$400 from me and all I did was beat her up. Oh, Lord, I
13 am so sorry. We were smoking and having sex and she stole
14 my money and that why.

15 And then you began a question-and-answer format.
16 It says, the following question-and-answer was asked and
17 typed by Detective J.C. Holt and answered by Gregory
18 Gathers. What time did all this begin. About 12:00 last
19 night. I didn't mean -- I'm sorry. Question: do you
20 know the female's name. Answer: she told me; I forgot.
21 Question: was this the first time that you had met her.
22 Answer: yes, sir. Question: how did you meet her.
23 Answer: at one of the bus stops I was walking up and she
24 stopped me. Question: what bus stop. Answer: the one
25 on Montague and Gainer. Question: was there anyone else

1 with you and her. Answer: no, sir. I'm sorry. I'm
2 sorry. I didn't mean to kill her. Question: did you go
3 back to her house on Gainer Avenue. Answer: yes, sir.
4 Question: have you ever been at the residence before.
5 Answer: no, sir.

6 Instead of me reading through this entire
7 statement, is this -- how the statement continues, that's
8 exactly how the conversation between you and Mr. Gathers
9 went?

10 A. Yes.

11 Q. And in that statement he describes the situation
12 when she -- he believed that she stole money from him and
13 he says that he punched her three or four times, drug her
14 down a hallway, and punched her a few more times, a knife
15 was involved, says he doesn't remember stabbing her.

16 Is that kind of the gist of what his statement
17 was?

18 A. Yes.

19 Q. And the entire statement -- and for -- we're not
20 going to go through it verbatim -- is exactly how your
21 conversation went with Mr. Gathers?

22 A. Yes.

23 Q. And on the bottom of each page, once again
24 there's two witness lines. Whose signatures were those
25 again?

1 A. Those were mine and Detective Bauer.

2 Q. Detective Bauer?

3 A. Correct.

4 Q. And also there's a signature line on the bottom
5 of each page where Mr. Gathers signed it?

6 A. Yes.

7 Q. And he would have signed that after you would
8 have printed up his statement?

9 A. That is correct.

10 After the statement is printed, I gave him a
11 copy for him to read before we put any signatures on it.
12 Just asked him to go through it, make sure that there was
13 nothing in here that was wrong, this is what he wanted the
14 statement to be.

15 He went through it, read it, said everything was
16 correct, signed his name, and then I signed my name, and
17 then Detective Bauer signed his on each one of the pages.

18 Q. At the bottom of each page?

19 A. Yes, sir.

20 Q. Did you ever threaten Mr. Gathers into making
21 this statement to you?

22 A. No, not at all.

23 Q. Did you use any force or coercion to get him to
24 make this statement to you?

25 A. No.

1 Q. By giving him the information that Ms. Nevarez
2 had deceased, was that used in a way to coerce his
3 statement at all?

4 A. No, not at all.

5 Q. And from beginning to end, how long were you and
6 Mr. Gathers in the interview room, approximately?

7 A. From 10:45 until I believe it was 12:45.

8 Q. So approximately two hours?

9 A. Yes.

10 Q. Were his eyes bloodshot to you?

11 A. Possibly. But, again, he was crying.

12 Q. And crying can cause someone's eyes to be
13 bloodshot?

14 A. [Indicates affirmatively]

15 Q. And he was -- did he tell you he was able to
16 read and write?

17 A. Yes.

18 Q. And he had a highschool diploma?

19 A. Yes.

20 Q. Forty-seven years old.

21 And did you believe that he understood the
22 rights as you read them to him?

23 A. Yes.

24 Q. Did it appear to be like he was giving that
25 statement voluntarily?

1 A. Yes, it did.

2 MR. KIDD: The Court's indulgence for one
3 moment, please.

4 [Whereupon, Mr. Kidd and Mr. Young confer]

5 Q. [Mr. Kidd] You didn't make any promises to him
6 in exchange for his statement?

7 A. No.

8 MR. KIDD: No further questions.

9 THE COURT: Cross-examination.

10 MS. RUNEY: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. RUNEY:

13 Q. Detective Holt, you advised Mr. Gathers of his
14 Miranda rights at 10:40. And that's a.m.; correct?

15 A. Yes.

16 Q. And did you ask -- did you immediately tell him
17 that we were -- that you were going to do a written
18 statement on your laptop, or did you have him talk first?
19 talk to you first?

20 A. Initially -- it was after we got his Miranda
21 rights done, like he was, you know, upset. And we let him
22 calm down. And there wasn't any interaction between us.
23 It was let him -- because, I mean, he was crying and so we
24 let him, you know, take a moment to compose himself. And
25 then that's when I had the laptop out and we began.

1 Q. And he sat there and cried for at least five
2 minutes?

3 A. I would say probably five minutes.

4 Q. And so you didn't have -- I guess what I'm
5 asking you is you didn't have him give a verbal statement
6 before you got on the laptop and typed it?

7 A. I don't believe so.

8 Q. This all happened at the same time?

9 A. Yes.

10 Q. So when you were on your laptop and he started
11 to talk to you, he told you that he had been smoking crack
12 cocaine with Ms. Nevarez?

13 A. Yes.

14 Q. And did you stop him at that point and ask him
15 how much cocaine he had had?

16 A. From the first part -- are you talking -- are
17 you on the statement part?

18 Q. I am.

19 A. Where it says we was smoking crack cocaine and
20 it was about four or five times? Is that what you're
21 asking?

22 Q. That's what I'm asking. Did you stop him and
23 ask him how much cocaine he had consumed?

24 A. I typed what he told me.

25 Q. And you continued with the interview?

1 A. Yes.

2 After he told me that, then that's when I
3 switched to the question and answer, because he was still,
4 you know, upset. So I decided to do the question and
5 answer instead of just typing out the statement.

6 Q. He was still crying?

7 A. Yes.

8 Q. And so at that time, you asked him what time all
9 of this began?

10 A. Yes.

11 Q. And he told you that it started about 12:00 last
12 night?

13 A. Yes.

14 Q. So you're speaking to Mr. Gathers at 10:45 on
15 the morning of the 8th? Or the 7th.

16 A. 7th. Yeah, the 7th.

17 Q. So on that same day is what he's referring to in
18 that first question?

19 A. Yes.

20 Q. 12:00 last night is the 7th?

21 A. Yes.

22 Q. So hours before?

23 A. Yes.

24 Q. So at that point, it's your understanding that
25 Mr. Gathers and Ms. Nevarez had started smoking crack at

1 12:00 that night?

2 A. Yes.

3 Q. And they had smoked four to five times together?

4 A. Yes.

5 Q. At that time, did you find out how much crack
6 they had smoked?

7 A. No. Four to five times. Like quantity? No.

8 Q. Quantity.

9 But smoking four to five times can be a
10 substantial amount of crack cocaine?

11 A. It depends on what they're smoking. I don't
12 know the quantity that they were --

13 Q. Even if it was small amounts, four to five times
14 could be significant?

15 A. Possibly.

16 Q. Especially over several hours? A pretty short
17 time frame.

18 A. Yes.

19 Q. And you had been to Gainer Avenue, the scene?

20 A. Yes.

21 Q. And had you seen where they had smoked this
22 crack?

23 A. No.

24 Q. Did you ever check Mr. Gathers for drugs?

25 A. No.

1 Q. And did you ask him if he was a regular drug
2 user?

3 A. I don't believe so.

4 Q. When you read this Miranda form to him and had
5 him initial and sign it, did you ask him if he had used
6 any alcohol?

7 A. No, I don't believe so.

8 Q. And had you asked him about any drug use at that
9 time?

10 A. No, I don't believe so.

11 MS. RUNEY: Your Honor, may I approach the court
12 reporter?

13 THE COURT: Yes, ma'am.

14 MS. RUNEY: I would like to have this marked
15 just for identification.

16 [Defendant's Exhibit Number 2 is marked by the
17 court reporter]

18 Q. [Ms. Runey] Detective Holt, I'm going to hand
19 you a picture. If you could tell me what that is a
20 picture of.

21 A. Mr. Gathers.

22 Q. And is that how Mr. Gathers looked that day?

23 A. Yes.

24 Q. His eyes were bloodshot --

25 A. I would say --

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1 Q. Did they appear blood --

2 A. Yes.

3 Q. And he was crying?

4 A. Yes.

5 Q. And you said on your direct testimony that he
6 kept muttering?

7 A. Mumbling.

8 Q. And he was saying, is she dead, is she dead, is
9 she dead?

10 A. Yes.

11 Q. And then I believe you said that he broke down
12 and was crying?

13 A. Yes.

14 Q. And that's why you had to stop the interview?

15 A. Yes.

16 Q. And when you finally got him to talk to you
17 again, when he starts this written statement --

18 A. Let me -- that was when I did the Miranda
19 rights. Between the Miranda rights and the statement.

20 Q. Right.

21 And so then he is going to give you this
22 statement?

23 A. Yes.

24 Q. And he blurts out what happened --

25 A. Uh-huh.

1 Q. -- very quickly?

2 And that's when you start typing it?

3 A. Yes.

4 MS. RUNEY: Beg the Court's indulgence.

5 [Whereupon, Ms. Runey and Mr. Smith confer]

6 Q. [Ms. Runey] How long is the statement that
7 Mr. Gathers gave you?

8 A. Three pages.

9 Q. And then the fourth would be the advisement
10 form?

11 A. Yes. The advisement of rights.

12 Q. And the entire interview lasted two hours?

13 A. Yes.

14 MS. RUNEY: Thank you. That's all.

15 THE COURT: Redirect?

16 MR. KIDD: Very briefly.

17 REDIRECT EXAMINATION

18 BY MR. KIDD:

19 Q. So this -- to give a time frame, now, this was
20 at 10:45 on the morning of the 7th. And according to his
21 statement, they began smoking cocaine around midnight the
22 night before. So this is roughly eleven hours removed?

23 A. Yes.

24 MR. KIDD: No further questions.

25 THE COURT: Any recross?

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1 MS. RUNEY: No, Your Honor.

2 THE COURT: You may step down. Thank you very
3 much.

4 MR. KIDD: Please leave the exhibits. Thank
5 you.

6 [Whereupon, Mr. Holt is excused and exits the
7 witness stand]

8 THE COURT: Have another witness?

9 MR. KIDD: One more, Your Honor. The State
10 calls Officer Cook.

11 [Whereupon, Mr. Cook comes forward]

12 [Whereupon, Mr. Cook is duly sworn by the clerk
13 of court as follows: do you swear or affirm that the
14 testimony you will give the Court, touching now on the
15 matters before the Court, will be the truth, the whole
16 truth, and nothing but the truth, so help you God]

17 THE WITNESS: I do.

18 THE CLERK OF COURT: Thank you, sir. You may
19 take your seat.

20 [Whereupon, Mr. Cook takes the witness stand]

21 THE CLERK OF COURT: Sir, if you will please
22 state your first and last name, spelling your last for
23 the record.

24 THE WITNESS: Michael Cook. Last name spelling,
25 C-O-O-K.

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1 MR. KIDD: Is it Officer Cook?

2 THE WITNESS: Yes, sir.

3 MR. KIDD: Good afternoon.

4

5 MICHAEL COOK,

6 Having Been First Duly Sworn,

7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MR. KIDD:

10 Q. Could you tell the judge where it is you're
11 employed?

12 A. City of North Charleston Police Department.

13 MR. KIDD: May I approach the witness, Your
14 Honor?

15 THE COURT: Yes, sir.

16 Q. [Mr. Kidd] Before you is State's Exhibit Number
17 1 for identification purposes. Do you recognize this top
18 page of this document?

19 A. Yes, sir, I do.

20 Q. What is that?

21 A. It's our advisement of constitutional rights
22 form.

23 Q. On the bottom lefthand corner of that page, is
24 that your signature there?

25 A. Yes, sir, it is.

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1 Q. What does that signature indicate?

2 A. My name.

3 Q. I mean, why do you -- why do you put your
4 signature on this --

5 A. To show that it was read to him; that I
6 witnessed his signature.

7 Q. So you were in the interview room when the --
8 his rights were read to Mr. Gathers?

9 A. Yes, sir, I was.

10 Q. And you were able to observe Mr. Gathers during
11 that process?

12 A. Yes, sir.

13 Q. Did he appear to understand the rights as they
14 were read to him?

15 A. Yes, sir.

16 Q. And did you see him initial each of the rights
17 as they were read to him?

18 A. Yes, sir, I did.

19 Q. And then did you see him personally sign the
20 signature line of those pages?

21 A. Yes, sir.

22 Q. And, also, later on did you end up taking some
23 evidence off of Mr. Gathers, like his clothing and things
24 of that nature?

25 A. I don't -- I can't remember. I don't believe

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1 so.

2 Q. Did you have the opportunity to interact some
3 with Mr. Gathers that day?

4 A. Mainly, I just sat there and watched and
5 listened.

6 Q. Just observed the statement?

7 A. Yes, sir.

8 Q. And based on your observations, did it appear
9 that Mr. Gathers understood what was going on that day?

10 A. Yes, sir.

11 Q. Did he appear to be intoxicated to you?

12 A. Not that I could tell, no.

13 Q. Were his responses to the questions that were
14 asked of him, were they cognizant and intelligently made?

15 A. Yes, sir.

16 MR. KIDD: Thank you, Officer. No further
17 questions.

18 THE WITNESS: Thank you.

19 THE COURT: Cross-examination?

20 MS. RUNEY: No questions, Your Honor.

21 THE COURT: You may step down. Thank you very
22 much.

23 THE WITNESS: Thank you.

24 [Whereupon, Mr. Cook is excused and exits the
25 witness stand]

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1 THE COURT: Anything else?

2 MR. KIDD: No further witnesses, Your Honor.

3 THE COURT: Are you going to call any witnesses?

4 MS. RUNEY: Yes, sir. Just one.

5 THE COURT: Okay.

6 MS. RUNEY: Defense calls Gregory Gathers.

7 THE COURT: Okay.

8 [Whereupon, Mr. Gathers comes forward]

9 THE CLERK OF COURT: Place your left hand here
10 and raise your right hand.

11 [Whereupon, Mr. Gathers is duly sworn by the
12 clerk of court as follows: do you swear or affirm the
13 testimony that you will give the Court, touching now on
14 the matters before the Court, will be the truth, the
15 whole truth, and nothing but the truth, so help you
16 God]

17 THE WITNESS: Yes.

18 THE CLERK OF COURT: Thank you, sir. You may
19 take your seat.

20 [Whereupon, Mr. Gathers takes the witness stand]

21 THE CLERK OF COURT: And, sir, if you would
22 please state your first and last name, spelling your
23 last for the record.

24 THE WITNESS: Gregory Gathers. G-A-T-H-E-R-S.
25

1. GREGORY Q. GATHERS,
2. Having Been First Duly Sworn,
3. was Examined and Testified as Follows:

4. DIRECT EXAMINATION

5. BY MS. RONEY:

6. Q. Mr. Gathers, I'm going to go straight to June
7. the 6th of 2010. I want you to tell me when you got off
8. of work that night -- I'm sorry -- that day.

9. A. I got off from work, it was about 11:00 or
10. twelve o'clock that morning. And I did a move job that
11. morning. I was helping my boss daughter move her house.
12. And after we finished moving, I went home and I told my
13. girlfriend I would be right back. And I left and I went
14. up on Liberty Hill.

15. Q. And what did you do up on Liberty Hill?

16. A. Me and a couple of friends, we started drinking.
17. A guy named Hot Rod, we went to the store and we got a
18. twelve-pack of beer and we started drinking. We drank
19. that. We drank some liquor. We ended up to another
20. friend's house, where we started drinking some liquor, and
21. drank -- drank most of the day with him. Basically drank
22. all day long and just talk and --

23. Q. How much liquor did you think -- do you think
24. you drank?

25. A. About three -- three or four of us, we drank

1 maybe a half a gallon.

2 Q. Half a gallon of what?

3 A. We were drinking Paul Mason, brandy, and
4 drinking beer.

5 Q. Did you drink all day?

6 A. Yes, ma'am.

7 Q. Did you smoke marijuana?

8 A. Yes, ma'am.

9 Q. And then that night about midnight you smoked
10 crack, didn't you?

11 A. Yes, ma'am.

12 Q. Were you a regular crack user?

13 A. I smoked crack maybe two, three times in my
14 life.

15 Q. And on June the 7th, how much crack did you
16 smoke?

17 A. Enough to where I had to stop because I felt
18 like I was going to throw up.

19 Q. Do you remember how much money you spent on the
20 drugs?

21 A. I spent about \$200.

22 Q. And did you sleep any?

23 A. I eventually blacked out. I don't remember
24 going to sleep. And I had no intention of going to sleep
25 but I did fall asleep, yes.

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1 Q. And your alarm went off at 4:15 in the morning?

2 A. Yes, 4:15.

3 And I mashed the snooze button on it and it went
4 off again at 4:30 and that's when I got up, I woke up.

5 MS. RUNEY: Thank you, Mr. Gathers. That's all
6 I have. If you'll answer any questions Mr. Kidd has
7 for you.

8 THE COURT: Cross-examination.

9 MR. KIDD: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. KIDD:

12 Q. Mr. Gathers, how long did you -- you were pretty
13 intoxicated? Is that your testimony here?

14 A. Yes, sir.

15 Q. But you had the wherewithal to set your alarm
16 before you went to sleep?

17 A. It was previously set. It's set every day. It
18 goes off the same day -- every time every day.

19 Q. You set the -- your alarm is set to go off at
20 four o'clock in the morning every day?

21 A. Yes, sir.

22 That's the time that I go -- I go to work about
23 5:30.

24 Q. So what's this alarm clock on? Is it -- it's
25 not the alarm clock that was at --

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1 A. No. It's on my cell phone.

2 Q. Your cell phone alarm clock.

3 So you were sleeping, but you were sleeping
4 light enough to where the alarm clock would have woken
5 you up?

6 A. Yes, sir.

7 Q. And you had the wherewithal to press the snooze
8 button so you could get a few more minutes of sleep?

9 A. Yes, sir.

10 Q. And when you woke up and after -- but did you do
11 anymore drugs between the time you woke up and going to
12 that interview room with Detective Holt?

13 A. I didn't do anymore drugs, but I did some more
14 drinking.

15 Q. Did you not understand the rights that were read
16 to you?

17 A. Kind of sort of. Like when they asked me did I
18 -- can I stop at any time and -- and -- I know you read me
19 my rights and I thought I understood them, but I didn't
20 really understand them the way I thought I did because
21 when I look at them now, I didn't hear him say some of
22 these things. But I signed it, so evidently I heard him.
23 But I didn't understand them, no.

24 Q. You've been read your rights before; right?

25 A. Yes.

1 Q. Did you -- I mean, in other instances, and you
2 understood your rights then?

3 A. It's been a long -- it was -- yes, yes, yes. It
4 was a long time ago.

5 Q. And your rights haven't changed between now and
6 then, have they?

7 A. Yeah, but then I wasn't under the influence the
8 first time my rights were read to me.

9 Q. Right.

10 But the rights are the same. You understood you
11 didn't have to speak to the officers, didn't you?

12 A. I wasn't under the influence.

13 Q. This time.

14 A. Right.

15 Q. This instance when you were talking to Detective
16 Holt, you knew you didn't have to speak to him, didn't
17 you?

18 A. I didn't know there was a right that I didn't
19 have to talk to him. Once I started talking to him, I
20 didn't know I had the right to stop talking to him. No, I
21 didn't know that.

22 Q. So your testimony in this courtroom today is
23 that you didn't understand that you had the right to
24 remain silent?

25 A. I knew I had the right to remain silent. But

1 like silence -- once I started talking, I didn't know I
2 could stop talking at any time.

3 Q. Did you know you had the right to an attorney?

4 A. Yes, sir.

5 Q. And you waived that right?

6 A. Yes, sir.

7 Q. And those are your initials and signature on
8 those forms?

9 A. Yes, sir.

10 Q. And do you remember that day?

11 A. I remember more now than I did that day.

12 MR. KIDD: Court's indulgence.

13 [Whereupon, Mr. Kidd and Mr. Young confer]

14 Q. [Mr. Kidd] Well, that morning do you remember
15 calling your brother?

16 A. Some -- yes, sir.

17 Q. And do you remember talking to your father?

18 A. Beg your pardon?

19 Q. And do you remember talking to your father?

20 A. Yes, sir.

21 Q. And do you remember having them -- or asking
22 your brother to go back to that residence on Gainer?

23 A. Yes, sir.

24 Q. And you asked him to go do that to get the body
25 out of the house, didn't you?

1 THE COURT: We're not going --

2 A. No, sir.

3 THE COURT: -- to go into that. Okay?

4 A. No, sir.

5 THE COURT: No, sir. Don't answer that
6 question.

7 We're just going into his condition at the time
8 of the statement.

9 MR. KIDD: Yes, Your Honor.

10 THE COURT: I don't have any problem if you want
11 to talk to him about, you know, talking with his
12 brother and his father. But not the substance of it.
13 Okay?

14 MR. KIDD: Yes, Your Honor.

15 Q. [Mr. Kidd] Did you have the wherewithal to take
16 some steps to try to -- to try to cover up some of the
17 things that had taken place?

18 MS. RUNEY: Your Honor, I'm going to --

19 A. No.

20 MS. RUNEY: -- object to that.

21 THE COURT: I'm sorry. What?

22 MS. RUNEY: He --

23 THE COURT: Do you have an objection?

24 MS. RUNEY: Yes, sir.

25 THE COURT: What's your objection?

1 MS. RUNEY: I'm objecting to him asking
2 Mr. Gathers what he said to his father, because I don't
3 believe that goes to his understanding of his rights
4 that day.

5 THE COURT: I'll sustain that objection.

6 I'm not going to use this hearing for him to
7 incriminate himself. Okay?

8 MR. KIDD: Correct.

9 THE COURT: As far as what he remembers and what
10 he did, without questions to incriminate himself,
11 that's fine. Okay? I know that's a fine line. I'll
12 just have to call it as I hear your questions. Okay?

13 MR. KIDD: Yes, Your Honor.

14 The Court's indulgence one more moment, Your
15 Honor.

16 [Whereupon, Mr. Kidd and Mr. Young confer]

17 Q. [Mr. Kidd] Do you drink a lot, Mr. Gathers?

18 A. I drink beer daily.

19 Q. And did you ever throw up that day?

20 A. That night.

21 Q. That night you did?

22 A. [No response]

23 Q. Did it make you feel better?

24 A. A little.

25 Q. How far of a walk is it from Gainer to Gumwood?

1 A. It's about three, four miles.

2 Q. Three or four miles.

3 And you went there on foot; right?

4 A. I do it on the regular -- I was diagnosed with
5 diabetes and I do it for exercise, so I'm familiar with
6 the walk.

7 Q. But you weren't doing it this morning for
8 exercise, though, were you?

9 A. No, sir. I was walking home.

10 Q. And, in fact, you went somewhere else before you
11 went to Gumwood this morning; right?

12 A. I went to the gas station and bought another
13 beer and a pack of cigarettes.

14 Q. And did you go by your father's house?

15 A. Yes.

16 Q. Where is your father's house located?

17 A. My father lives across the street, and maybe two
18 blocks over, from Gainer Avenue.

19 Q. So you went to your father's house first; is
20 that right?

21 A. Right.

22 Q. And then you went to the convenience store?

23 A. Yes, sir.

24 Q. And then you went to Gumwood?

25 A. No. I left my father's house and I started

1 towards Gumwood, and halfway to Gumwood I stopped at the
2 gas station and bought a pack of cigarettes and a beer,
3 and then I continued on to Gumwood.

4 Q. And so you're saying that's about three or four
5 miles from Gainer to Gumwood and then you add on a few
6 more blocks for going to your father's house; is that
7 about right?

8 A. I went from Gainer Avenue to my father's house.
9 to Gumwood, right. And I stopped in the middle.

10 Q. And about what time was this?

11 A. It was in the morning. I probably left there --
12 my father -- the reason I went to my father's house,
13 because my father takes me to work every morning and I
14 wanted to catch him before he -- because I knew he
15 probably had already been to my residence to take me to
16 work. So I went to his house to see if he had come back
17 home. But he wasn't home, so I left there and I went
18 home. I thought I would catch him in the middle
19 somewhere, but I didn't see him.

20 Q. So this was about --

21 A. So the time it was -- it was after 5:00.

22 Q. So sometime after five o'clock in the morning?

23 A. Sir?

24 Q. Sometime around five o'clock in the morning?

25 A. 5:00 or a little after, yes, sir.

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1 Q. And then -- so you walked about four miles that
2 morning?

3 A. Yes, sir.

4 Q. And what time did you get back to -- what time
5 did you get back to Gumwood?

6 A. I'm not sure. I didn't pay any attention to the
7 time. I'm not sure.

8 Q. Would you say a four-mile walk might take you
9 about an hour?

10 A. Yes, sir.

11 Q. Approximately? I mean, we're not splitting
12 hairs. But about an hour?

13 A. [Indicates affirmatively]

14 Q. So that would put you back to, what, about 6:00,
15 6:30, something like that?

16 A. Yes, sir.

17 Q. And then you were at Gumwood for, what, about
18 three more hours, three or four more hours, before the
19 police got there?

20 A. Yes, sir.

21 Q. And do you remember -- do you remember when the
22 police got there?

23 A. Yes, sir.

24 Q. And do you remember telling them that you messed
25 up?

1 A. Initially, when the police came I was on the
2 porch with my grandson and we were talking. And they
3 came. And they didn't come directly to the house. They
4 pulled up down the street maybe a hundred -- a little
5 distance away. But I saw them there. And they stayed
6 there for a little while. I don't know how long.

7 I told -- and then another cop came and they
8 pulled up in front of the house and I -- and I told my
9 girlfriend to take my grandson back into the house. And I
10 went down the stairs. Yes -- and I told them yes. I
11 asked them did they come to get me and they asked
12 [phonetic] me, yes, yes.

13 Q. And so you told them you were the one they were
14 looking for?

15 A. Yes, sir.

16 Q. And you told them you F'd up?

17 A. Yes, sir. I was in a fight with a female on
18 Gainer Avenue.

19 Q. And so you admitted to them?

20 A. I admitted to them that I was in a fight, yes.

21 MS. RUNEY: Objection.

22 THE COURT: What's your legal objection?

23 MS. RUNEY: My objection is this is beyond the
24 scope of this hearing.

25 THE COURT: I'll sustain the objection.

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1 Q. [Mr. Kidd] And then after you had that
2 conversation with those officers, then you were
3 transported to North Charleston. Did they ever force or
4 threaten you to make you make your statement?

5 A. No, sir.

6 Q. They didn't coerce you or make any promises or
7 say we'll cut you a deal if you talk?

8 A. No, sir.

9 Q. And you remembered well enough what happened
10 that night before to put it in a statement, didn't you?

11 A. Not totally. Some things I don't remember; some
12 things I do remember.

13 Q. But everything that was in that statement came
14 from you; is that accurate? I mean, the officers didn't
15 have any way to --

16 A. I don't remember everything that happened that
17 night. That morning -- I constantly, daily, every day, I
18 think about it. I think more and more about what happened
19 and I remember now more what happened than I did that
20 night and morning. I don't remember some of -- some
21 things and some things I may have said I don't remember.

22 Q. Well, you remember giving -- you remember giving
23 them that information that was in your statement?

24 A. Some of it.

25 Q. Well, what part of it do you not remember? I

1 think you might have a copy there of the --

2 [Whereupon, the witness reviews documents]

3 A. This isn't all of it.

4 Q. [Mr. Kidd] Sir?

5 A. This isn't all of it. Is this all of it?

6 Q. Yes, that's all of it.

7 [Whereupon, the witness reviews documents]

8 A. I don't remember them asking me about did I stab
9 her with a knife, I don't remember asking me about
10 dragging her during the altercation, I don't remember them
11 asking me about her clothing, the question about the
12 death.

13 Q. [Mr. Kidd] About what?

14 A. Are you responsible for the death of the female
15 that you know as Renee. I don't remember. Some of these
16 -- I don't remember some of them, no.

17 Q. So there's a few questions that they -- maybe
18 towards the end there that you don't recall?

19 A. This page -- I mean, the second and third page.
20 Yes, sir.

21 Q. But you signed -- that's your signature on the
22 bottom of those pages?

23 A. That's my signature on the bottom of the pages,
24 yes.

25 Q. Now, Mr. Gathers -- and I'll be brief. But

1 you're a pretty big guy. How much do you weigh?

2 A. 235.

3 Q. 235.

4 A. I was weighing two twenty-something -- yes,
5 two --

6 Q. I weigh 235, also. We're both kind of would
7 like to lose a few pounds. But if it turns out I can
8 drink a little bit more alcohol than some people because
9 I'm a little bit bigger of a guy -- do you find that to be
10 true in your life?

11 A. I know I was intoxicated. I was even
12 intoxicated when I got to the county jail because I --
13 that's when I really threw up and that's when I slept
14 until the next day and I -- where I realized that I was in
15 jail.

16 I may can drink a little bit more alcohol than
17 some, but I was truly intoxicated that I know.

18 Q. And you say you drink beers about every day --

19 A. I drink one -- I drink one and two beers a day.
20 Yes, sir.

21 Q. And were there some nights you would go out and
22 drink a lot more?

23 A. Most of the time when I drink, I stay -- I
24 normally drink one or two beers a day, because I work
25 most -- seven days a week between two jobs, so I really

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1 don't get a chance to do a lot of drinking. So I normally
2 drink like one or two beers. Anything over three beers is
3 a little bit more than I normally do, yes, sir.

4 Q. Are they twelve-ounce beers, twenty-four ounce
5 beers?

6 A. Uh-huh.

7 Q. Which one?

8 A. Twelve.

9 Q. Twelve.

10 What about like on holidays? The Fourth of
11 July? You put back a couple more?

12 A. If I have a day off and I'll stay home and
13 drink, I drink a little more on holidays or anytime --
14 like I say, for the last two months before I -- this
15 incident happened, I been working pretty much seven days a
16 week.

17 Q. What about liquor?

18 A. I hardly ever really drink liquor outside of the
19 home, because when I drink liquor things seem to happen.
20 Sometime I don't remember what happened until the next
21 day. So I try to stay away from liquor, other than when
22 I'm home.

23 Q. What made this day different?

24 A. I had the day off. I was around a bunch of guys
25 and we were all drinking. They were all drinking.

1 Q. So you were just kind of hanging out with the
2 guys?

3 A. Just hanging out.

4 Q. So you're saying that -- is that -- was that
5 rare for you just to hang out with the guys or something?

6 A. Yes, sir. I'm normally home every day.

7 Q. But you hang out with the guys sometimes?

8 A. I have three grandsons that live with me. I
9 spend most of my time with them.

10 MR. KIDD: No further questions.

11 THE COURT: Redirect?

12 MS. RUNEY: No, sir. Thank you.

13 THE COURT: Okay. You may step down. Thank you
14 very much.

15 [Whereupon, Mr. Gathers is excused and exits the
16 witness stand]

17 THE COURT: Ms. Runey, do you have any other
18 witnesses?

19 MS. RUNEY: No, sir.

20 THE COURT: Okay. Does the State have any
21 testimony in rebuttal?

22 MR. KIDD: No, Your Honor.

23 THE COURT: Okay. Any arguments from either
24 party?

25 I guess it's your motion to suppress the

1 statements, Ms. Runey, so I guess it's your argument.

2 MS. RUNEY: It is, yes, sir.

3 We are not arguing that North Charleston forced
4 or coerced Mr. Gathers into giving a statement, nor are
5 we contesting the fact that he signed the Miranda form
6 or the statement that was typed out for him.

7 Mr. Gathers was not able to waive those rights
8 that day due to his intoxication. He testified here in
9 court today that he had a twelve-pack of beer, he
10 continued to drink liquor and then more beer, he smoked
11 marijuana, and then he continued that night, smoked
12 crack, \$200 worth of crack, and he had only done so two
13 to three times in his entire life, and then he blacked
14 out. And then the next morning, or several hours
15 later, he drank more beer when he returned to his
16 girlfriend's house on Gumwood.

17 He let Detective Holt know that he had used
18 drugs and at that point, none of the detectives stopped
19 Mr. Gathers, inquired further into how much he had
20 consumed in the hours before giving the statement, nor
21 did they test him. Detectives surely could have
22 waited, because he was in custody at that time, giving
23 him some time to sober up so that he could voluntarily
24 waive his rights.

25 We don't think that he could understand the

1 significance of those rights that he did waive that
2 day. And his behavior that day was certainly
3 indicative of somebody who had been using drugs. His
4 eyes were bloodshot and he was mumbling. And these
5 officers should have known that, based on his demeanor
6 that day, that it's likely he consumed large amounts of
7 drugs or alcohol, yet they didn't continue to question
8 him about how much or what he had taken that day or
9 what he had to drink.

10 He testified before the Court today that he did
11 not understand those rights. And he did say that he
12 understood some of them and that he understood that he
13 had the right to a lawyer but he didn't understand that
14 he could stop at any point and quit answering their
15 questions.

16 He did sign these things. But based on his
17 intoxication, which was a significant amount, two to
18 three times the drug use in his life -- and he used
19 such a large amount that he didn't understand. He
20 doesn't remember a lot of that day, and that's
21 certainly indicative of being highly intoxicated.

22 And, most importantly, he told Your Honor that
23 he didn't understand what he was waiving that day when
24 he signed that form.

25 Thank you, Your Honor.

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1 THE COURT: Okay. Anything from the State?

2 MR. KIDD: Briefly, Judge.

3 I believe most of the alcohol consumption that
4 he referenced was, again, around noon the prior day.
5 I guess that's a -- almost a twenty-four-hour period
6 before his statement. He did say he had beer, one
7 beer, three or four hours before his statement. But
8 surely a man of his size, that alcohol would have
9 metabolized out of his system.

10 As far as his drug use, his cocaine intoxication
11 was in the early hours that morning, approximately --
12 it happened around midnight and 1:00 a.m. and this
13 statement is at 11:00, about approximately ten hours
14 prior to his statement since he had last ingested any
15 drugs.

16 Each officer testified that he was cognizant of
17 his surroundings, intelligently replying to his
18 questions, understood his rights. He even just
19 admitted on the stand that he understood that he had
20 the right to remain silent.

21 Furthermore, it comes down to the credibility of
22 the witnesses at this point, Judge. These officers
23 have no dog in this fight. The one who would have the
24 reason to get his statement suppressed this morning
25 would be Mr. Gathers and the only way to do that would

1 be to not understand his rights. And I think that
2 is -- goes to the credibility of his testimony here
3 today.

4 But all the evidence from the three officers
5 that interacted with Mr. Gathers prior to him giving
6 his statement all testified that he understood what he
7 was doing, he was upset, he was upset because he knew
8 what was going on, he signed his rights, he
9 acknowledged them, he gave the statement. The fact
10 that he had done drugs and drank prior -- and not
11 moments prior, but ten, twelve, fourteen, twenty-four
12 hours prior, does not invalidate a voluntary waiver of
13 ones rights.

14 That's all.

15 THE COURT: Okay. Anything, very briefly, in
16 rebuttal?

17 MS. RUNEY: Briefly, Your Honor.

18 These officers did have a dog in that fight.
19 And they could have easily stopped asking the
20 questions, given him time to sober up, and then start
21 the interview over again.

22 THE COURT: Okay. Thank you very much.

23 All right. The Court finds that the defendant
24 testified that he knew he had the right to remain
25 silent and he knew he had the right to an attorney, but

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1 he did testify he didn't know he could stop talking
2 once he started. He acknowledged signing the documents
3 to acknowledge parts of his statement. He said today
4 he doesn't remember some of the questions that were
5 asked of him.

6 The Court also finds that he apparently has
7 given a statement in some prior case, so he has some
8 knowledge of the judicial system as far as giving
9 statements and having -- previously having Miranda
10 rights read to him on a previous charge.

11 And as far as the statements -- the oral
12 statement is concerned, I find that that statement was
13 freely and voluntarily entered into. And as far as the
14 written statement is concerned, I find it was freely
15 and voluntarily given.

16 Now, as to the two statements, I make the
17 following findings of fact as I just enumerated. I
18 make the following -- the additional following
19 findings. The Court is convinced by a preponderance of
20 the evidence, and I so find, that before the alleged
21 statement was obtained from the defendant, the
22 defendant was fully advised of his rights under the
23 fifth and sixth amendments to the constitution. The
24 defendant's advised of the constitutional safeguards
25 required by Miranda vs. Arizona. The defendant was

1 advised, prior to any interrogation, that he had the
2 right to remain silent. The defendant was further
3 advised, prior to any interrogation, that he could
4 waive his right to remain silent and made a statement,
5 that such statement can and will be used against him.
6 The defendant was advised, prior to any interrogation,
7 he had a right to employ or select an attorney of his
8 own choice, if you do not have the funds to pay for an
9 attorney, the Court would appoint an attorney for him.
10 He had the right to have his attorney present with him.
11 The defendant was advised, prior to any interrogation,
12 he had the right to consult his attorney. The
13 defendant was further advised, prior to any
14 interrogation, he had the right to interrupt and
15 terminate the interrogation. The defendant was
16 advised, prior to any interrogation, if he desired an
17 attorney the interrogation would cease and he would be
18 provided an attorney; that the defendant knowingly and
19 intelligently waived his rights under the fifth and
20 sixth amendments of the constitution of the United
21 States that constitutes the safeguards required by
22 Miranda vs. Arizona; and that the alleged statements
23 obtained by the defendant was freely and voluntarily
24 given without duress, without coercion, without due
25 influence, without reward, without promise or hope of

1 reward, without promise of lenience, without threat of
2 injury, and without compulsion or inducement of any
3 kind; that such alleged statement was the voluntary
4 product of a free and unconstrained will of the
5 defendant.

6 The Court finds all of the foregoing conclusions
7 by a preponderance of the evidence; therefore, I find
8 that the statements are admissible into evidence.

9 And all of my findings apply to the oral
10 statement except for the Miranda warnings, since the
11 Miranda warnings were not given and the statement was
12 spontaneously given by the defendant -- the oral
13 statement -- to the police officer when he arrived on
14 the scene.

15 Are y'all ready for opening statements?

16 MS. RUNEY: Yes, sir.

17 MR. KIDD: Yes, sir.

18 THE COURT: Do you want to take a short break
19 before we start?

20 MS. RUNEY: Yes, sir.

21 THE COURT: All right. We'll take about a five-
22 or ten-minute break and then we'll bring the jury in
23 and have our opening statements.

24 Let me see the -- it's a quarter to 4:00. Let
25 me see the attorneys up here just very briefly.

OPENING STATEMENT

MR. YOUNG: Ladies and gentlemen of the jury, on June 7th, 2010, the defendant, Gregory Gathers, murdered Renee Navarez.

This case is simple. I'm going to ask you-all to listen to me for a little bit while I give my opening statement, and then we'll go to the evidence and testimony.

The reason this case is simple is because it's about choices. It's about the choice the defendant made on June 7th, 2010. Actually, in the early hours of June 6th of 2010, into June 7th of 2010 in the early hours of that next day. It's about the choices he made to go out and party on June 6th, 2010. That evening, after getting off of work, he decided to go partying. It's about the choices he made. And after getting in an argument with a woman named Renee Navarez, he beat her up. It's about a choice that he made to continue beating her until he killed her, until he beat her to death.

Now, Renee Navarez, that's our victim, her life was cut short by the anger and selfishness of one man. And that man, ladies and gentlemen, is in the courtroom with us today. This is the defendant, Gregory Gathers. Make no mistake, he is guilty of murder.

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1 Obviously, by now you know we're in a murder
2 case. Now, what is murder in South Carolina? The
3 judge, at the end of the case, he's going to go over
4 the law. And he's the judge of the law, so you're
5 going to listen to him. Any matter, you refer to him,
6 certainly. But it's just the killing of another person
7 with malice aforethought. That's what murder is.

8 Now, this word malice, you're going to hear this
9 over and over and over. It's very important. Malice
10 is just killing somebody with an ill will or a wicked
11 heart. That's what malice is. But, again, the judge
12 is going to instruct you on that. At the end of the
13 case, listen to what he says and think about that.
14 Malice. Killing another person with malice and ill
15 will.

16 Now, let me tell you about the facts in this
17 case. On June the 6th, 2010, the defendant decided
18 that he wanted to party. He wanted to have some
19 drinks. A lot of times, as you might know and I know,
20 when you want to party you do it with somebody of the
21 opposite sex. So he wanted to party with a girl. This
22 unfortunate sole was Renee Navarez.

23 At some point during the evening of June 6th,
24 2010, he made his way towards her house on Gainer
25 Avenue. He goes over there and throughout the night,

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1 into the early hours of June 7th, they party. Again,
2 whether you know or not know, partying sometimes
3 involves using drugs, having sex. And that's what was
4 going on this night into the early morning. They were
5 smoking crack, having sex, and the process kept going
6 and going.

7 Fast forward to about 4:00 a.m. on June 7th.
8 The defendant and victim start to get into a verbal
9 argument. And you can see where this is going. They
10 get into an argument. It turns physical. At this
11 point the defendant starts to beat the victim, starts
12 to beat her up, and beat her, and beat her, and beat
13 her, until he eventually killed her.

14 You're going to hear from the forensic
15 pathologist. He's going to get on the stand right here
16 and he's going to tell you blunt-force trauma. That's
17 the cause of death. Basically, using your fist and
18 your hands to beat somebody to death. Listen to what
19 he says. His name is Dr. Batalis and he's going to
20 talk to you.

21 After the defendant beats this girl to death,
22 Renee Navarez, he doesn't call the cops, he doesn't try
23 to render aid. He flees. He leaves Gainer Avenue and
24 he goes to his house, which is on Gumwood Avenue, a few
25 miles away. At this point he gets to Gumwood, still

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1 hasn't called the cops. So he calls his brother,
2 Ronald. Then, in turn, Ronald calls their father,
3 Harry Gathers. And Harry is here. He's going to talk
4 to you. He's going to tell you what was said. But
5 Harry and Ronald at this point go to Gainer Avenue to
6 check on this victim, Renee Navarez, to see if she's --
7 what has happened -- what they've heard happened has
8 happened.

9 They get there and they realize that she's been
10 killed, she's been murdered. They realize that the
11 defendant has done it. They call the police. North
12 Charleston police respond to the scene. They see they
13 have a murder scene. They get there, collect evidence,
14 take statements, do all the proper police work. At
15 this point they know who the suspect is, the defendant,
16 Gregory Gathers, and they go and they promptly arrest
17 him.

18 Now, fast forward to today. That's why we're
19 here, is to hold him responsible for what he did that
20 day. It's as simple as that.

21 Now, as the State, as a prosecutor, I have the
22 burden to prove this case to you beyond a reasonable
23 doubt. And mind you, that's not beyond all doubt.
24 There are certain ways I'm going to prove this case to
25 you -- Mr. Kidd and I are going to prove this case and

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1 prove this man guilty. Testimonial evidence: you're
2 going to hear Harry Gathers, his dad. As you can only
3 imagine, a father testifying against his son might be
4 kind of uncomfortable. It's going to be a little
5 tough, but I ask you to listen to what he says, listen
6 to what he talks to you about on the stand. You know
7 he doesn't want to be here. But he's doing the prudent
8 thing.

9 Additional evidence. What else are we going to
10 give to you? You're going to hear from North
11 Charleston police officers. They're going to say how
12 they respond to the scene, proper police work was done,
13 evidence collected. All the things that policemen need
14 do in a case like this have been done. And you're
15 going to hear from them. They're all going to get on
16 the stand and they're going to talk to you all day.
17 They're going to talk to you about it.

18 You're going to hear from South Carolina Law
19 Enforcement Division, also. SLED is what it's commonly
20 referred to. They're going to tell you how DNA is
21 collected for evidence at the scene, how they test the
22 DNA. And that's right. We do have DNA linking the
23 defendant to the victim, DNA evidence.

24 Additionally, you'll see some photos, some
25 photos of the scene, some photos of the victim. Some

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1 of this stuff might be hard to look at, but it's
2 important that you do.

3 So all that testimonial evidence from Harry
4 Gathers, from the officers, you have DNA evidence,
5 photo evidence. But most importantly, you're going to
6 hear the statement this defendant gave police officers
7 that night. Listen carefully to what he said. All
8 that evidence, coupled with that testimony, is going to
9 come together and it's going to prove this defendant
10 guilty of murder.

11 Now, one more thing I want to touch on about
12 malice is there are certain things you need to be
13 looking for in this case, certain things the evidence
14 is going to show, that's going to prove this malice
15 element, things such as when the victim is down, she
16 has slits above her eyes. Evidence showing the ill
17 will, the wicked heart, of the defendant. The evidence
18 is going to show her hair, not in just one spot; that
19 maybe a lucky punch would have -- may have killed her.
20 No. Hair all around that apartment where she had been
21 dragged around. Evidence is going to show that,
22 proving this ill will, this wicked heart.

23 Additionally, you're going to hear from the
24 pathologist, just like I've said. Also, proving malice
25 is going to be how her head, the entire head, is

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1 bruised, hardly a spot left untattered. The whole head
2 bruised. Not just one punch to the face that killed
3 her, but multiple beating, beating, beating, beating,
4 over time. And this malice can be formed instantly.
5 But, again, we'll go more into that in closing. But I
6 want you to be aware that that stuff is important to be
7 thinking about throughout this trial.

8 I won't take up too much more of your time. So
9 in conclusion, again, listen to the testimony, look at
10 the evidence. It's going to match up. The testimony
11 from the father, and from the cops, the DNA evidence,
12 photo evidence, and, most importantly, his statement to
13 the police. It's going to match up. And when it does,
14 myself or Mr. Kidd are going to come back up here and
15 ask you to return a verdict in this case that truth
16 dictates and justice demands. Hold this man
17 responsible, responsible, for what he did that day on
18 June 7, 2010, and find him guilty of murder. Thank
19 you.

20 THE COURT: Ms. Runey.

21 MS. RUNEY: Thank you, Your Honor.
22
23 - - -
24 - - -
25 - - -

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OPENING STATEMENT

MS. RUNEY:- The State is exactly right. This case is about choices and bad decisions, bad decisions one after the other. And Gregory Gathers made bad decisions. He made bad decisions on June the 7th of 2011 [phonetic] that would change his life forever.

He went home with Ms. Nevarez. They met at a bus stop near her home. That day Greg had been hanging out with his friends, drinking, after he had gotten off of work. Greg had never met this woman before and he went to her house and they had sex for crack, over and over again, four to five times, calling Ms. Nevarez's drug dealer over and over and over to get more crack.

Greg had gotten paid that day. He helped his boss move his daughter into a new apartment and he had cashed his check and was carrying around his money. He spent most of that money on drugs that night, but he had \$400 that he kept separate. And after the two of them got high for many hours, they passed out. And when Greg woke up, he realized that his money was gone. He was furious and he confronted Ms. Nevarez.

She said the money was in the den. And they fought about it. He fought with her in the bedroom, and the fight moved to the den. He thought he was going to get his money back. The money was supposed to

1. be in there.

2. Ms. Nevarez pulled a knife on Greg and they did
3. struggle. You will hear all of this from the witness
4. stand. And the police knew this. They knew this
5. immediately. And you know how they knew it? Because
6. Gregory Gathers told them. He told them what happened.
7. He fully cooperated with the police. He did not murder
8. Ms. Nevarez, and that is why we are here today.

9. He stands trial for murder. Greg is forty-eight
10. years old and this is a big day for him. He's here
11. supported by his family, who love and care about him.
12. Greg had the same job for twenty years. And he should
13. have never put himself in this situation. He knew
14. better. He should have never put himself in the
15. situation where he was trading drugs for sex, trading
16. sex for drugs, using drugs, and fighting with Ms.
17. Nevarez.

18. Now two families deal with a tragedy: one
19. dealing with the death of a loved one, and another one
20. dealing with a person they love facing a murder charge.

21. We are here because it was not a murder. And
22. you will not hear that Greg wasn't there. You won't
23. hear any dispute about who did this. You won't hear
24. that there wasn't a struggle. There was a struggle.
25. And, unfortunately, Ms. Nevarez did die.

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1 And as the judge will tell you, you are the fact
2 finders. And from the facts that you will be given in
3 this courtroom, you will see that Gregory Gathers is
4 not guilty of murder.

5 THE COURT: Solicitor, you want to call your
6 first witness, please.

7 MR. KIDD: Yes, Your Honor. The State calls
8 Harry Gathers.

9 [Whereupon, Mr. Harry Gathers comes forward]

10 THE CLERK OF COURT: Sir, if you would place
11 your left hand here and raise your right hand.

12 [Whereupon, Mr. Harry Gathers is duly sworn by
13 the clerk of court as follows: do you swear or affirm
14 that the testimony that you will give the Court will be
15 the truth, the whole truth, and nothing but the truth,
16 so help you God]

17 THE WITNESS: Yes.

18 THE CLERK OF COURT: Sir, if you will please
19 take your seat.

20 [Whereupon, Mr. Harry Gathers takes the witness
21 stand]

22 THE CLERK OF COURT: And, sir, if you would
23 please state your first and last name, spelling your
24 last for the record.

25 THE WITNESS: [No response]

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MR. KIDD: Good afternoon, Mr. Gathers.

- - - - -

HARRY GATHERS, JR.,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you state your name for the record, please.

A. My name is Harry Gathers, Jr.

Q. And how old are you, Mr. Gathers?

A. Eighty.

Q. Eighty.

And what is your relation to the defendant,
Gregory Gathers?

A. He's my son.

Q. He's your son?

A. Yeah.

Q. And where --

A. Our son. Excuse me.

Q. Go ahead.

A. He's our son.

Q. He's your son. Okay.

And how long have you been living in Charleston,
Mr. Gathers?

A. 5/27/1931.

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1 I was born on Dewey Hill, a place they call
2 Dewey Hill. That's North Charleston. And then, well, we
3 moved off of there. We moved on Liberty Hill in, what, in
4 the '40s there, you know, and I was up there ever since,
5 you know. And I went in the service in 1950. Yeah.

6 Q. What service were you in?

7 A. Air force.

8 Q. Air force?

9 A. I was in the air force, yeah, four years.

10 Q. How long?

11 A. Four years.

12 Q. Four years in the air force?

13 A. Uh-huh. And when I got out, came back home
14 after a while and --

15 Q. So you've been living in Charleston on and off
16 your whole life?

17 A. [No response]

18 Q. Have you been living in Charleston sort of on
19 and off your entire life?

20 A. Yes. Yes, yes, yes.

21 Q. Mr. Gathers, I want to get kind of right to the
22 reason why we're here today. Do you remember early in the
23 morning of June 7th, 2010?

24 A. [No response]

25 Q. Do you remember going to pick up Gregory for

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1 work one day and him not being there?

2 A. Pick up Gregory?

3 Q. On June 7th, 2010.

4 A. Yeah.

5 Q. The morning when all this happened, do you
6 remember that morning?

7 A. Well, when I -- that Thursday morning when my
8 son came down?

9 Q. Yes, sir.

10 A. Yeah. And I went to his -- to an apartment up
11 there.

12 Q. And just so we can get it as clear for the jury
13 as we can, when you say your son came down; you're talking
14 about a different son, not Gregory; is that right?

15 A. [No response]

16 Q. Talking about Ronald?

17 A. Yeah, Ronald.

18 Q. Okay. And Ronald is another --

19 A. He came to get me. Well, when Ronald came, I
20 was going -- I was on Montague. I usually go on Montague
21 and Abraham. I'll be sitting out there, you know, under
22 -- in the -- under the tree, see. And so Ronald came down
23 and then he told me -- he came by.

24 Q. And where does Ronald live?

25 A. Where he live?

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1 Q. Uh-huh.

2 A. In Walterboro.

3 Q. In Walterboro?

4 A. Yeah.

5 Q. And that's up north of here? Or not north. But
6 it's about an hour away?

7 A. About an hour. An hour, yeah, according to how
8 you drive. It's forty-five minutes, an hour, or something
9 like that.

10 Q. And so he came down that morning --

11 A. He came down that morning, you know, and then he
12 told me -- so I asked him what was happening and he said
13 he had called -- say they got a call from Greg, or Greg
14 called him, you know, and --

15 Q. And what did the two of you do at that point?

16 A. Well, after he told -- after he told me -- I was
17 kind of like shook up. And then he told me what Gregory
18 said to him.

19 And then so I said, well, let's go. I said,
20 what. And I asked him, you know, and I said -- he said
21 Gregory said something had happened --

22 MS. RUNEY: Objection.

23 A. -- he ran up -- to come on let's --

24 THE COURT: Hold on a second, Mr. Gathers.

25 Yes, ma'am. Got an objection?

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1 MS. RUNEY: Mr. Gathers cannot testify to what
2 Greg --

3 THE COURT: What's your legal objection?

4 MS. RUNEY: Hearsay.

5 THE COURT: Hearsay?

6 MS. RUNEY: Yes.

7 THE COURT: I'll sustain the objection.

8 Mr. Gathers, don't testify as to what you were
9 told, just what you did. Okay?

10 THE WITNESS: Sir? Sir?

11 THE COURT: Don't testify to what you were told.
12 Testify to what you did. Can you do that?

13 THE WITNESS: Oh, oh. Oh. All right.

14 A. After -- after --

15 THE COURT: Okay? Thank you very much.

16 Please proceed, solicitor.

17 A. After Ronald came down and told me, you know.
18 And so I said, well, let's go up to -- to where he lived,
19 you know.

20 Q. [Mr. Kidd] And you and Ronald then --

21 A. We went -- I got in his car, in his truck, and
22 we went on up to his house there.

23 Q. And you went to Gregory's house?

24 A. Yeah.

25 Q. Okay.

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1 A. On Ten Mile Hill up to Gumwood Boulevard.

2 Q. And did you -- did you speak to Gregory?

3 A. No.

4 And Ronald went in there and got him, you know,
5 from his apartment. Then he came down. And then I asked
6 him what happened, you know. And because I was sitting in
7 the car. So he got there -- well, after he got there, he
8 was -- I guess he couldn't -- I don't know.

9 But then -- and I asked him what happened, so he
10 just crumbled down on the -- you know, on the side of the
11 car and said he was sorry, you know. And I said, what.
12 And so then after -- because he had told Ronald what he
13 did.

14 So I tell Ronald, let's go back to the apartment
15 where the thing was happened and that -- so then we came
16 back to the apartment on Railroad Avenue or --

17 Q. And you went back to the apartment?

18 A. To the apartment to see, you know.

19 Q. Uh-huh.

20 A. So then Ronald went and opened the door. And he
21 looked and he came back right quick. And I said, well,
22 what happened. And he said, somebody's stretched out on
23 the floor in there like -- and I can't stand too much of
24 it.

25 So I went in there peeping and I saw the thing

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1 was on the floor down there, but it was headed in so I
2 came on back.

3 Then I called my daughter, you know, and she
4 told me to call the --

5 Q. And what does your daughter do for a living?

6 A. My daughter?

7 Q. Uh-huh.

8 A. She live in Walterboro, too.

9 Q. Well, what does she do for a -- what does she --
10 what's her job?

11 A. What's her job? She's a police in Colleton
12 County there.

13 Q. She's a Colleton County police officer?

14 A. Yeah. Walterboro.

15 And, anyway, and then so she told me to call the
16 police, so I did. I called our police in North Charleston
17 and so -- and they came down and asked me where the place
18 and I told them it was on Railroad Avenue or Gainer
19 Avenue. And so they came on. When they was coming --
20 when I was coming from the place, then they came across
21 the track and then we -- I turned on around and head on
22 back and I showed them.

23 Q. You met the police officers there that morning?

24 A. How's that?

25 Q. Did you meet the police officers that morning?

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1 A. Yeah.

2 The officers -- you know, they -- when they was
3 coming, and I went on and showed them to the apartment
4 where the -- where the thing was at. And they ran on in
5 there and --

6 Q. And my last question to you, Mr. Gathers: when
7 you and Ronald went to Gregory's apartment and Gregory
8 came outside and came to the car and kind of crumbled down
9 the car like you said just a moment ago --

10 A. Yeah. You know, on the -- the car, yeah.

11 Q. What did Gregory tell you right then?

12 A. Because I asked him what happened and he said he
13 was sorry, you know.

14 Q. Uh-huh.

15 A. And then he crumbled down on the side of the
16 door down there. And I said, what. And because he going
17 to give --

18 And I told Ron -- because I couldn't stand too
19 much of it. And so then Ron tell me about it and I said,
20 well, let's go. And so I told Ronald I would show him
21 where the house was at, because he told Ronald what
22 happening but my son didn't know where, you know, the
23 house was at, the one -- Ronald, he didn't know where the
24 apartment was at, so they -- because he's a stranger
25 around there.

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1 And I told him let's go, and I went there and I
2 showed him, then he went on in the house. And that was
3 it.

4 And I called the police and they came up,
5 because they knew what we -- and they went in and look
6 around and --

7 Q. What was Gregory's demeanor like? Was he
8 crying, was he shaking? How was he acting?

9 A. Well, he was acting like just nervous. What
10 he -- he just crumbled down after he got out to the car,
11 you know. And I don't know. It's like he say, he was
12 sorry and, I don't know, boom, crumbled down. I don't --

13 Q. Do you have a pretty good relationship with your
14 son Gregory?

15 A. Say what?

16 Q. Do you have a good relationship with your son
17 Gregory?

18 A. Yeah, that's my son. That's my baby boy.

19 Q. Right.

20 A. Yeah. I love all my kids. I love all my kids
21 anyway, but then I just -- yeah. I just love children.

22 MR. KIDD: I have no further questions, Judge.

23 THE COURT: Okay. Cross-examination?

24 MS. RUNEY: I don't have any questions for
25 Mr. Gathers. Thank you.

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1 THE WITNESS: Good afternoon.

2

3

LEWIS BAZZLE,

4

Having Been First Duly Sworn,

5

was Examined and Testified as Follows:

6

DIRECT EXAMINATION

7

BY MR. YOUNG:

8

Q. Could you tell the jury where you work?

9

A. I work for North Charleston, City of North

10

Charleston Police Department.

11

Q. And how long have you worked there?

12

A. Coming up on seven years in March.

13

Q. What are your duties at the department?

14

A. Right now I'm acting -- I'm a patrol officer, a

15

street officer. I handle calls for service and proactive

16

patrol.

17

Q. Were you in the course of these duties on June

18

7th, 2010?

19

A. Yes, sir, I was.

20

Q. And did you respond to any location on that day?

21

A. I did. I responded to a location over on

22

Gumwood Avenue.

23

Q. Okay. What was that in reference to?

24

A. We had received a call about a -- I think it

25

maybe started out as an unknown situation that led into a

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1 murder. And a possible suspect was on Gumwood Avenue.

2 Q. And were you in the area at that point or --

3 A. I was.

4 That's my -- Gumwood Avenue is kind of right
5 there in my area. And I was near by, so I was one of the
6 responding officers to that area.

7 Q. Did you gain any information about the subject
8 at that point?

9 A. We were relayed a name from the detectives
10 and --

11 Q. Who was that?

12 A. I'm sorry?

13 Q. What was that name?

14 A. Gregory Gathers.

15 Q. You said you arrived at Gumwood; is that -- is
16 that right?

17 A. Yes, Gumwood. It's in Ten Mile. They call it
18 Ten Mile.

19 Q. When you arrived at Gumwood, did you see the
20 suspect?

21 A. I did.

22 There was actually two -- me and another
23 officer. We approached. And as we arrived, there's a set
24 of apartments located at and the
25 person meeting the description was on the top floor of

1 those apartments.

2 Q. What did you -- were you with any other officers
3 at that time?

4 A. Yes.

5 There was me and one other officer at that time.

6 His name was Fred Houtz [phonetic].

7 Q. Okay. Is he with the department anymore?

8 A. He is currently still with the department,
9 deployed over in Kabul in Afghanistan.

10 Q. Okay. So when you get to Gumwood, what do you
11 and Officer Houtz [phonetic] do?

12 A. When we get there, of course we announced --
13 advised the dispatcher we're coming on scene.

14 We see him up there. We park the vehicles and
15 approach. As we get out of the vehicles and approach, of
16 course we're announcing ourselves, our names, who we are.
17 Before we can continue, the defendant's coming down the
18 stairs, meets us about halfway, and at that time he starts
19 saying some utterances, I'm the --

20 MS. RUNEY: Objection --

21 A. -- person you look --

22 MS. RUNEY: -- Your Honor.

23 THE COURT: What's your legal objection?

24 MS. RUNEY: I renew my previous objection from
25 the pretrial hearing.

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1 THE COURT: All right. Overruled.

2 MS. RUNEY: Thank you, Your Honor.

3 MR. YOUNG: Thank you, Judge.

4 Q. [Mr. Young] So as you're approaching the
5 suspect, he meets you halfway down the stairs like you
6 said; right?

7 A. Correct.

8 There's a ledge, there's like a center ledge,
9 before going up the stairs. He meets us about halfway.

10 Q. And just to be clear, is the suspect in the room
11 today?

12 A. Yes, he is.

13 Q. Can you point him out for the jury?

14 A. Yes, sir. He's right up here [indicates].

15 Q. Is he sitting at the defense table?

16 A. Yes, sir.

17 MR. YOUNG: Let the record reflect the officer
18 has identified the defendant.

19 Q. [Mr. Young] At this point, does the defendant
20 say anything to you?

21 A. Well, at that time, as we're walking up we're
22 announcing who we are. He's coming down. Before we can
23 really even say anything and say who we are, he just
24 states that, I'm the one you're looking for. And, you
25 know, he was a little explicit. He said, I'm the one

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1 you're looking for, I F'd up, is what he said.

2 Q. Did he say -- did he say F or did he use the --

3 A. He used the slang term.

4 Q. So I'm the person you're looking for, I F'd up?

5 A. Yes. Correct.

6 Q. What was his demeanor like when you saw him?

7 A. He was a little upset, a little shaken.

8 Q. Did you threaten him at all to give his
9 statement?

10 A. No, nobody threatened him. In fact, he was
11 being as cooperative with us, coming down and talking to
12 us.

13 Q. Okay. At this point, did you have probable
14 cause to make an arrest of this defendant?

15 A. At that time, with the information I had I did
16 have probable cause to arrest him.

17 Q. And did you make that arrest?

18 A. Yes, we did.

19 Q. Did you, in fact, then transport him down --

20 A. I was --

21 Q. -- to the station or --

22 A. I was not the transporting officer. The other
23 officer with me, Officer Houtz [phonetic], was the actual
24 -- he did the transporting.

25 Q. Did the defendant say anything else, as you were

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1 putting him in the car, that you heard at all?

2 A. He wasn't really -- just under his breath, just
3 mumbles.

4 He was a little shaken up. He started to maybe
5 -- he was crying a little bit as we put handcuffs on him,
6 put him in the car. To the extent of it, that was about
7 it.

8 Q. Okay. At this point, was that the end of your
9 involvement with this case?

10 A. Besides holding the scene. We just secured the
11 scene a little bit longer until a search warrant could be
12 obtained to check the apartment that he was standing in
13 front of that he was at.

14 MR. YOUNG: Okay. The Court's indulgence,
15 Judge.

16 [Whereupon, Mr. Young and Mr. Kidd confer]

17 Q. [Mr. Young] Officer Bazzle, did -- was the
18 defendant injured anywhere that you saw?

19 A. From appearance, I don't -- no, he was not
20 injured.

21 Q. Did he complain of being injured at all?

22 A. He did not.

23 MR. YOUNG: Okay. No further questions, Judge.

24 THE COURT: Cross-examination.

25

- - -

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CROSS-EXAMINATION

MS. RUNEY:

Q. Officer Bazzle, you said that Gregory Gathers, he was crying?

A. Yes, he was.

Q. And he --

A. Well, not the entire time. I mean, he was distraught. He was -- you know, he was just upset. He was worried and he was -- and he, you know, I'm sorry. And as we got -- it got more involved, then he started to come into tears a little bit.

Q. Had his head down crying and mumbling?

A. Yeah.

Q. And his eyes were red?

A. His eyes were a little bit red to the appearance, yes.

MS. RUNEY: Thank you. That's all I have.

MR. YOUNG: No further questions, Judge.

THE COURT: Okay. You may step down. Thank you very much.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Bazzle is excused and exits the witness stand]

THE COURT: Call your next witness, please.

MR. KIDD: The State calls Justine Holt.

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1 [Whereupon, Mr. Holt comes forward]

2 [Whereupon, Mr. Holt is duly sworn by the clerk
3 of court as follows: do you swear or affirm that the
4 testimony you will give the Court will be the truth,
5 the whole truth, and nothing but the truth, so help you
6 God]

7 THE WITNESS: I swear.

8 THE CLERK OF COURT: Sir, if you would please
9 take your seat.

10 [Whereupon, Mr. Holt takes the witness stand]

11 THE CLERK OF COURT: And, sir, if you would
12 please state your first and last name, spelling your
13 last for the record.

14 THE WITNESS: Justine Holt. H-O-L-T.

15 MR. KIDD: Good afternoon, Detective Holt.

16 - - - - -

17 JUSTINE HOLT,

18 Having Been First Duly Sworn,
19 was Examined and Testified as Follows:

20 DIRECT EXAMINATION

21 BY MR. KIDD:

22 Q. Can you tell the jury where it is you're
23 employed?

24 A. City of North Charleston Police Department.

25 Q. And how long have you been employed at North

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1 Charleston?

2 A. A little over eight years.

3 Q. And what are your current duties with North
4 Charleston?

5 A. I'm currently assigned to the violent crime task
6 force with the U.S. Attorney's Office.

7 Q. And back in June of 2010, what were your duties
8 with North Charleston?

9 A. I was a property crimes detective.

10 Q. And go right to this date: on June 7th, 2010,
11 do you remember getting involved in this case?

12 A. Yes, I do.

13 Q. What was the first thing you did with regard to
14 this case?

15 A. I was on my way to work that morning and I
16 heard, over our North Charleston dispatcher north channel,
17 the original call go out. I was right there in the area.

18 As soon as I came over the bridge on Montague, I
19 observed Mr. Gathers's father's vehicle in the area. They
20 were supposedly going to flag us down when we pulled into
21 the area. I observed his vehicle. I let other officers
22 know that I saw this vehicle. And they ended up saying
23 that he had come to the residence on Gainer Avenue.

24 Q. And did you then go to that residence?

25 A. Yes, I did.

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1 Q. And did they show you where it was?

2 A. Yes.

3 Q. And what was the address? Do you recall?

4 A. I don't recall the exact address.

5 Q. But on Gainer Avenue?

6 A. Yes.

7 Q. Is that in Charleston County?

8 A. Yes.

9 Q. And did you go inside the residence?

10 A. Yes, I did.

11 Q. What did you see when you first entered the
12 residence?

13 A. Upon my initial entry I observed a black female
14 lying on the floor in the kind of the doorway -- as soon
15 as you walked into the door, there is a kitchen area and
16 then a second doorway -- and a large pool of blood on the
17 floor.

18 Q. And she was -- was she on her back, or face
19 down?

20 A. Face down.

21 Q. And what did you do at that point?

22 A. At that point, we cleared the remainder part of
23 the residence to make sure there was no one else inside
24 the residence, no other injured parties. As soon as we
25 made sure that it was clear, I got all officers out of the

1 residence and secured it.

2 Q. And for what reason did you do that?

3 A. For crime-scene purposes.

4 Q. In order to preserve evidence?

5 A. Evidence, yes.

6 Q. From that point, were there other officers
7 entering the residence?

8 A. The only other officer that arrived on scene was
9 the on-duty supervisor in that area. She came on scene
10 and she stuck her head inside the door. She didn't make
11 entry, but she did look inside the door just to confirm
12 what we had told her.

13 And then the on-duty detective supervisor and
14 on-duty EMS supervisor arrived on scene after that, and
15 those were the only other -- and the crime scene
16 supervisor were the only other ones that entered the
17 residence at that time.

18 Q. And the crime scene supervisor would have been
19 the one that was collecting the evidence --

20 A. Correct.

21 Q. -- things of that nature?

22 MR. KIDD: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes, sir.

25 Q. [Mr. Kidd] I'm going to show you what's been

1 marked as State's Exhibit Number 1. Do you recognize this
2 item?

3 A. Yes, I do.

4 Q. What is that?

5 A. It's advice of constitutional rights that I read
6 to Mr. Gathers.

7 Q. And there's a few pages attached to that.

8 A. And also his statement.

9 Q. And were you -- were you present when that
10 statement was taking place?

11 A. Yes, I was.

12 Q. Are you the one that advised those rights to
13 Mr. Gathers?

14 A. I was.

15 Q. And how was the statement taken?

16 A. I'm not sure how --

17 Q. I mean, how was it recorded?

18 A. It was not recorded. It was --

19 Q. Well, I mean --

20 A. -- written down. Or typed out. The statement
21 was typed out.

22 Q. Did you type it?

23 A. Yes, I did.

24 Q. Okay. And did Mr. Gathers sign it?

25 A. Yes, he did.

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1 MR. KIDD: Your Honor, at this time the State
2 would offer to introduce State's Exhibit Number 1 into
3 evidence.

4 MS. RUNEY: I would renew my previous objection
5 to the State's --

6 THE COURT: Overruled.

7 I'll admit, excuse me, State's Exhibit Number 1.

8 MS. RUNEY: Thank you.

9 MR. KIDD: Thank you, Your Honor.

10 THE COURT: Admitted with objection.

11 [Whereupon, State's Exhibit Number 1 is admitted
12 into evidence by the Court]

13 [Whereupon, Mr. Kidd and Ms. Runey confer]

14 MR. KIDD: Sorry, Judge.

15 Let me kind of zoom it in and see --

16 Q. [Mr. Kidd] I just want to go through this.

17 This is State's Exhibit Number 1. This is the item I just
18 showed you a moment ago?

19 A. Yes.

20 Q. And this -- what is this first page?

21 A. This is Mr. Gathers' advice of constitutional
22 rights.

23 Q. And you went through this advisement of rights
24 with Mr. Gathers that day?

25 A. Yes, I did.

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1 Q. And did you fill out that form?

2 A. The top portion I did.

3 Q. So you filled out his name there, date of birth,
4 age, grade completed in school, and all that info on the
5 top?

6 A. I did.

7 Q. And when it says -- it says there, I, Gregory G.
8 Gathers, has been advised by Detective Holt.

9 You filled that part out?

10 A. Yes, I did.

11 Q. And then these various rights, you went over
12 these rights with him?

13 A. Yes, I did.

14 Q. How did you do that?

15 A. I turned the form around to where Mr. Gathers or
16 -- yeah -- Mr. Gathers could read it and I read, upside
17 down, to him. After each statement, before I had him
18 initial I asked him if he understood that right that I
19 explained to him. He stated that he did. After he stated
20 that he did, he initialed it.

21 Q. And just to go through those rights, those
22 are -- and then at the bottom of this form under the
23 witness line, is that your signature?

24 A. Yes, it is.

25 Q. And is that Mr. Gathers' signature?

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1 A. Yes, it is.

2 Q. And when did you advise the defendant of his
3 rights? What day was this?

4 A. June 7th, 2010.

5 Q. And about what time?

6 A. 10:45 a.m.

7 Q. And then when we get to the next page of the
8 exhibit, is this the statement that you took from
9 Mr. Gathers?

10 A. Yes, it is.

11 Q. I think it might be best to maybe -- it's a
12 little tough to read on that overhead.

13 MR. KIDD: May I have the witness publish the
14 statement to the jury, Your Honor?

15 THE COURT: Is that combined with Number 1, or
16 do you offer it as Number 2?

17 MR. KIDD: I had it as the entire Number 1.

18 THE COURT: Okay. You've got it as the entire
19 Number 1. Okay. All right. That's fine.

20 MR. KIDD: Thank you, Your Honor.

21 Q. [Mr. Kidd] If you could read the defendant's
22 statement to the jury, please, Detective Holt.

23 A. Do you want me to explain it in whole, or just
24 read the statement?

25 Q. Explain it first and then read the statement, if

1 you could.

2 A. I know we can't see.

3 At the top part of the statement right here it
4 says personal information, his employer, what the
5 statement is in reference to, which it states murder. It
6 gives the time when it happened, the date, where the
7 statement is given at and what time the statement is given
8 at. And then from here is where the statement started.

9 It says: [reading] Detective J.C. Holt typed
10 this statement for me, as I told him, at my request.

11 Which means that Mr. Gathers requested that I
12 take the statement for him instead of him physically
13 handwriting out the statement.

14 His initial statement was: [reading] we was
15 smoking crack cocaine and it was about four or five times.
16 She stole \$400 from me. And all I did was beat her up.
17 Oh, Lord, I am so sorry. We were smoking and having sex
18 and she stole my money, and that why.

19 After that, I began a question and answer. It
20 says: [reading] the following question and answer is
21 asked and typed by Detective J.C. Holt and answered by
22 Gregory Gathers.

23 Question: what time did all this begin.

24 Mr. Gathers's answer: about 12:00 last night.
25 I didn't mean. I am sorry.

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1 Question: do you know the female's name.

2 Answer: she told me. I forgot.

3 Question: was this the first time you had met
4 her.

5 Answer: yes, sir.

6 Question: how did you meet her.

7 Answer: at one of the bus stops. I was walking
8 up and she stopped me.

9 Question: what bus stop.

10 Answer: the one at -- the one on Montague and
11 Gainer Avenue.

12 Question: was there anyone else with you and
13 her?

14 Answer: no, sir. I am sorry. I am sorry. I
15 didn't mean to kill her.

16 Question: did you go back to her house on
17 Gainer Avenue.

18 Answer: yes, sir.

19 Question: have you ever been at that residence
20 before.

21 Answer: no, sir.

22 Question: when you got to her house, what
23 happened.

24 Answer: we started getting high and having sex.
25 She knew a fellow that lived at -- by the corner store in

1 Liberty Hill and -- and I bought some more dope from him.
2 We went through that routine four to five times and then
3 when we were laying there in the bed. The alarm went off
4 at 4:15 a.m. and I started putting my clothes on and
5 that's when I noticed my money missing. I asked her where
6 it was and we began arguing about that. And I hit her a
7 couple of times and pulled out some of her hair and walked
8 out the door. I am sorry, I am sorry, I am sorry. I
9 didn't mean to kill her.

10 Question: where did you hit her at.

11 Answer: I boxed her in the face four to five
12 times. I pulled her by her hair down the hall and hit her
13 three or four more times.

14 Question: did you use any type of weapon.

15 Answer: she grabbed a knife when we was in the
16 kitchen and I grabbed it from her and broke off the
17 handle.

18 Question: where is the knife handle.

19 Answer: it should be in the house somewhere
20 behind the bed or sofa. It's in the house.

21 Question: did you stab her with the knife.

22 Answer: if I did, I don't remember doing it.

23 Question: did you drag her at any point of the
24 altercation.

25 Answer: I pulled her from the room to the

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1 living room.

2 Question: where did you go when you left.

3 Answer: I was going home, and I decided not to
4 go home and went to my girlfriend's house on Gumwood
5 Boulevard.

6 Question: does your girlfriend know what
7 happened.

8 Answer: no. I called her and told her I was in
9 a fight.

10 Question: did you call anyone and tell them
11 about what happened.

12 Answer: I called my brother and told him that I
13 was in a fight with his girl and I told him that I think I
14 did too much. He told me to run.

15 Question: did you go home at any point after
16 the incident.

17 Answer: I walked to the corner of Lilac and
18 Hassel and didn't see my father's car and then that's when
19 I walked to Gumwood.

20 Question: where are the clothes that you were
21 wearing during the incident.

22 Answer: these are the clothes. Subject
23 indicating that the clothes that he's currently wearing
24 are the clothes.

25 Question: are you responsible for the death of

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1 the female that you know as Renee.

2 Answer: I didn't mean to kill Renee. I was
3 just trying to get my money back. I didn't mean to, but I
4 guess I am responsible. I just beat her up and if she
5 died from it --

6 Question: which door did you leave from.

7 Answer: the front door. I took a left onto
8 Gainer and then took a left on Montague to Nesbitt and
9 took a right on Nesbitt and then cut behind a church to
10 Lilac and to Hassel, but I didn't see my dad's car so I
11 turned around and went back to the same way. I crossed
12 over the tracks and went through Ferndale to Rivers and
13 then to Gumwood.

14 Question: did you tell your brother that you
15 killed her.

16 Answer: I told him that I hurt her and told her
17 [phonetic] to check on her, because she was lying on the
18 floor when I walked out.

19 Question: how and where was she laying when you
20 walked out.

21 Answer: she was lying on her stomach between
22 the living room and the kitchen in the doorway.

23 Question: what happened to Renee's cell phone.

24 Answer: I took it and threw it towards the
25 railroad tracks -- towards the railroad tracks. She

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1 called the little crack boy like four or five times.

2 Question: do you remember what the -- what it
3 looked like.

4 Answer: small black cell phone.

5 Question: do you know the drug dealer's name,
6 the one who you called the little crack boy.

7 Answer: I think they call him Little D. He
8 rides a blue Moped.

9 Question: can you tell me anything -- can you
10 tell me anything else about him.

11 Answer: he lives past Liberty Hill Corner Store
12 on Luella on the left, apartment number , in the
13 apartments on Luella. He's five one, about 120, 125
14 pounds, brown skin, short hair.

15 Question: did Renee fight back.

16 Answer: yeah, she was fighting back.

17 Question: when you say boxed her in her face,
18 what does -- sorry -- when you say you boxed her in her
19 face, does that mean you struck her with an open hand or
20 closed fist.

21 Answer: closed fist.

22 Question: what else can you remember about the
23 incident.

24 Answer: the knife handle broke off in my hand
25 and she still had the blade part and I was pulling her

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1 hair to get her to drop the knife.

2 Question: do you know what color the knife
3 handle was.

4 Answer: the knife handle was black and the
5 blade was stainless-steel color.

6 Gathers is showing me his hands, that the knife
7 was approximately eight to ten inches long.

8 Question: do you know what Renee's cell phone
9 number is.

10 Answer: no. today was the first time that I
11 met her.

12 Question: did you call your girlfriend about
13 this incident.

14 Answer: I called her. I woke her up.

15 Question: is there anything else you would like
16 to tell me at this point in time.

17 Answer: I am sorry. I didn't mean it. I am
18 very, very sorry. I am sorry for her family, I'm sorry
19 for my son. I didn't mean to kill her. I didn't even
20 mean to beat her up that bad. I am sorry.

21 That's the end of statement.

22 Q. Thank you, Detective.

23 And did Mr. Gathers sign this statement?

24 A. Yes, he did.

25 MR. KIDD: And it'll take just a moment to bring

1 it back up.

2 Q. [Mr. Kidd] Here it is behind you. This is the
3 advice of rights form. Is that his signature?

4 A. Yes, it is.

5 Q. Right there?

6 And you -- did he sign that in front of you?

7 A. Yes, he did.

8 Q. And this is the first page of that statement you
9 just read to us?

10 A. Yes.

11 Q. And on the bottom there, is that his signature
12 there, also?

13 A. Yes.

14 Q. And did he sign that in front of you?

15 A. Yes.

16 Q. The second page of that statement you just read,
17 is that his signature on the bottom of that page?

18 A. Yes.

19 Q. And he signed that in front of you?

20 A. Yes.

21 Q. And did -- those witness lines over there, does
22 it have your signature there?

23 A. The top signature is my signature.

24 Q. And what about the bottom signature?

25 A. The bottom signature is Detective Bauer.

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1 Q. And he was in the room with you when all this
2 took place?

3 A. Yes.

4 Q. And he witnessed --

5 A. He witnessed him signing this statement.

6 Q. And the third page of the statement that you
7 read, is that also Mr. Gathers' signature?

8 A. Yes, it is.

9 Q. And he signed that in front of you?

10 A. Yes.

11 Q. And how does that process go? Because you
12 actually typed the statement. And how do you get it in
13 front of him to sign it?

14 A. After I type the statement, I print out a copy,
15 I bring it in to the defendant, I place it in front of
16 them. I let them read it, make sure that everything in
17 that statement is true and correct, that he didn't want to
18 take anything out, add anything in there. And at that
19 point after he says that that is his statement, I have him
20 sign it in front of me and another witness. He has to
21 sign on three pages. Each page that the statement is, he
22 has to sign that page.

23 After he gets done signing it, then I sign and
24 then the witness signs.

25 Q. And if he had wanted to make a change, what

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1 would you have done?

2 A. We would have added it to it.

3 Q. So if he thought something was wrong or
4 something needed to be added or taken away, that would
5 have been done?

6 A. Yes.

7 Q. Did he request that you make any changes? Any
8 additions or subtractions?

9 A. No, he did not.

10 And then after he is -- or after everything is
11 signed, he's presented with a copy of that statement.

12 Q. And what did he do with his copy of the
13 statement?

14 A. He took his advice of rights and defendant's
15 statement and crumbled them up and threw them in the trash
16 can.

17 MR. KIDD: Court's indulgence.

18 [Whereupon, Mr. Kidd and Mr. Young confer]

19 MR. KIDD: No further questions, Your Honor.

20 THE COURT: Let me see the attorneys up here
21 real quick.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 THE COURT: All right. Madam Forelady and
25 members of the jury, we're going to stop at this time.

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1 Please don't discuss the case with anyone. I
2 want you to -- I want you to make up your own mind,
3 your own decision, based upon what you hear in the
4 courtroom, not what someone outside the courtroom tells
5 you.

6 If there's anything in the paper, please don't
7 read it. If there's anything on television, please
8 don't listen to it. And don't get on any computers or
9 do any research.

10 I'll see you in the morning at 9:30. Have a
11 good evening.

12 [Whereupon, the jury exits the courtroom at
13 4:54 p.m.]

14 THE COURT: All right. Detective Holt, this
15 evening don't discuss the case with anyone, please,
16 sir.

17 THE WITNESS: Yes, sir.

18 THE COURT: We'll adjourn until 9:30 in the
19 morning. Thank you very much.

20 [Off the record momentarily]

21 MR. KIDD: We also have the photographs that we
22 disagree on.

23 THE COURT: Do you want to hand them up and let
24 me take a look at them?

25 [Whereupon, Mr. Kidd proffers documents to the

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2010-GS-10-6287

THE STATE OF SOUTH CAROLINA)
)
VS.)
)
GREGORY GATHERS,)
)
 DEFENDANT.)

JURY TRIAL

VOLUME 2 OF 4

held before the Honorable J.C. Nicholson, Jr.
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Tuesday, November 15, 2011, Commencing at 11:31 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
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PROCEEDINGS

[Whereupon, State's Exhibit Number 2 is marked
by the court reporter]

[Whereupon, State's Exhibit Number 3 is marked
by the court reporter]

THE COURT: Let's go on the record.

[Off the record momentarily]

THE COURT: All right. Referring to State's
picture, Exhibit Number 4, which is a photograph,
what's your objection to that one?

MS. RUNEY: Your Honor, my objection is that
they're prejudicial when they see the blood and the
body on the floor.

I think that the crime scene techs can testify
as to where they found her body. And we don't dispute
the location of her body, we just think it's
prejudicial for the jury to see her lying there dead
and see the blood.

THE COURT: Okay. Number 4 I'm going to allow.
Okay?

MS. RUNEY: Yes, sir.

THE COURT: And then here's Number 5, which is
also a picture apparently from the other direction with
the body lying on the floor.

MS. RUNEY: Your Honor, it would be the same

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1 objection, but we do think that that one is much better
2 than the previous picture.

3 THE COURT: Okay. I'll allow --

4 MS. RUNEY: Yes, sir.

5 THE COURT: -- Number 5.

6 And Number 6 is basically the same picture as
7 Number 5, except it's a closeup. I mean, why put both
8 in?

9 MR. KIDD: I don't believe I need both, Your
10 Honor.

11 THE COURT: Which one do you want?

12 MR. KIDD: Number --

13 THE COURT: I'm not going to let --

14 MR. KIDD: -- Number 8.

15 THE COURT: -- both of them in.

16 MR. KIDD: Number 8. I believe it's a better
17 quality photo. It shows the hair, in the exhibit, on
18 the floor. And that's the bottom, Judge.

19 THE COURT: All right. I'm going to exclude 5.
20 What's your objection? Same --

21 MS. RUNEY: Yes, sir.

22 THE COURT: -- objection as 8? All right. I'm
23 going to allow 8 in.

24 All right. And then Number 19 is basically the
25 same picture.

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1 MR. KIDD: We can exclude 19.

2 THE COURT: 20 is just apparently information
3 that was found.

4 What's your objection to 20?

5 MS. RUNEY: My only objection to that one is
6 that her head with the blood is at the top of that
7 picture. If we could cut that off, that would be
8 helpful. That would be no problem to us.

9 MR. KIDD: All right. I don't object to cutting
10 that off. I would just, like you said, cut the top of
11 it off.

12 THE COURT: Do the same thing as 20.

13 All right. Now we've got it looks like 31, 32,
14 33 and 34, which are closeups of the -- 31 is a closeup
15 of the photograph earlier that was taken from a
16 distance. I understand her objection.

17 In other words, I'm not going to necessarily
18 allow all these in.

19 MR. KIDD: I don't need 31 so much. I can leave
20 30 --

21 THE COURT: I mean, I don't know what 31 shows,
22 other than --

23 MR. KIDD: Correct.

24 THE COURT: -- what you've already put in.

25 MR. KIDD: I can leave 31 out.

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1 THE COURT: All right. What about 33? What
2 does that show? And 34? Because it's basically the
3 same thing, a photograph of somebody holding her hands
4 and her fingers.

5 MR. KIDD: It specifically shows the defensive
6 wounds on her hands. On the palm of the hand on that
7 picture --

8 THE COURT: Show me where you're talking about.

9 MR. KIDD: This is the defensive wound, the
10 knife cut on her hand here; and the knife lacerations,
11 on her opposite hand on her fingers, in this picture.

12 You know, this whole case is not a who-done-it.
13 It comes down to malice. And I think, you know, these
14 pictures depict that she's fighting for her life.

15 THE COURT: All right. He's referring to 33 and
16 45. What's your objection?

17 MS. RONEY: Judge, my objection to 33 and 34 is
18 the blood. If the hands were cleaned off -- I think
19 the blood makes it highly prejudicial. The fact that,
20 you know, they're pulling the hands out of the body bag
21 is highly prejudicial, as well.

22 If he wants -- the officer can testify to her
23 defensive wounds and where they are located on her
24 hands, and I believe that Dr. Batalis can also testify
25 as to those wounds and where they are located, but the

1 blood and the body bag are highly prejudicial.

2 THE COURT: Well, do you want to stipulate as to
3 the wounds?

4 MS. RUNEY: I can stipulate to the location of
5 the wounds.

6 MR. KIDD: I think the severity of the wounds is
7 what's important. I think just by saying that someone
8 has a laceration on her finger or a laceration on her
9 palm --

10 THE COURT: Well, I mean, I assume the
11 pathologist is going to testify; right?

12 MR. KIDD: Correct.

13 THE COURT: He can't testify about the severity
14 of the cuts on the sight, the left -- right hand, the
15 middle finger, and the right-hand palm?

16 MR. KIDD: They can testify to it. He will
17 testify to it, absolutely. But I think if --

18 THE COURT: All right. What I'm going to do is
19 I'm going to listen to his testimony and I'm going to
20 take these two under advisement. Okay?

21 MS. RUNEY: Yes, sir.

22 THE COURT: As far as the wounds themselves.

23 Now we're looking at 32.

24 MS. RUNEY: Judge, when the jury sees that, I
25 think that it's going to --

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1 THE COURT: Well, I mean --

2 MS. RUNEY: -- certainly be emotional.

3 THE COURT: -- doesn't that depict to what the
4 blows did to her, that he apparently killed her from --
5 I don't know the cause -- was caused that? Trauma to
6 the head?

7 MR. KIDD: Blunt-force trauma.

8 MS. RUNEY: Blunt-force trauma.

9 THE COURT: Blunt-force trauma from the fist. I
10 mean, why isn't that relevant?

11 MS. RUNEY: Your Honor, it --

12 THE COURT: I know it's relevant, but why
13 doesn't the relevant value of the --

14 MS. RUNEY: It is relevant --

15 THE COURT: -- probative value outweigh the
16 prejudicial value?

17 I understand that it's prejudicial in that it
18 shows blood, but it's an accurate depiction of the
19 beating that the woman took from the defendant.

20 MS. RUNEY: Yes, sir. And I think that the
21 blood on these -- there are some autopsy pictures where
22 the blood is not all over her face and it does show the
23 bruising and the lacerations. But I believe that the
24 blood and the body bag on those are going to prejudice
25 the jury and not -- and affect their decision, based on

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1 emotions.

2 THE COURT: Well, let me see the ones that she's
3 talking about --

4 MR. KIDD: If I could say one further thing
5 about that that I find very important.

6 The lacerations over her eyes, Dr. Batalis will
7 testify that these are knife wounds. And they're
8 actually symmetrical knife wounds over her eyes.

9 The reason I think this picture is especially
10 important is because we also have a DMV photo of her
11 before her injuries, which we plan to admit, which
12 actually shows her having a very sharp nose-ridge line
13 which kind of shows that one slash of the knife really
14 couldn't get both those spots on her eyes.

15 THE COURT: My inclination is to allow it in,
16 but I will take it under advisement --

17 MS. RUNEY: Yes, sir.

18 THE COURT: -- until I hear the pathologist
19 testify.

20 MS. RUNEY: Yes, sir.

21 THE COURT: You can mark them for
22 identification, as far as whoever took the pictures --
23 indication of the pictures themselves. But as far as
24 admitting them and showing them to the jury, I'm going
25 to wait until I hear from the pathologist --

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1 MR. KIDD: Yes, sir.

2 THE COURT: -- and see those other pictures you
3 were talking about. Okay?

4 MR. KIDD: Yes, sir.

5 Particularly, I try to stay away from autopsy
6 pictures for the purpose that the body has been
7 altered.

8 THE COURT: Well, the defense wants to see it
9 altered.

10 MR. KIDD: I'm sure they do.

11 THE COURT: You know, that's the way the defense
12 wants it, to be altered without the blood.

13 I don't think she has an objection to the
14 autopsy being an altered picture, do you?

15 MS. RUNEY: No, sir.

16 THE COURT: That's basically the same picture,
17 just without the blood.

18 MR. KIDD: Correct. This is on the autopsy
19 table.

20 I mean, and these depict the same injuries as
21 the ones on the scene --

22 THE COURT: Why don't -- why won't these do what
23 you want shown, other than the -- it shows the nose.
24 It shows apparently a broken nose and the cuts. Why
25 won't these do the same thing for what you want other

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1 than without basically the bloody gore and the bloody
2 tee-shirt and the body bag?

3 MR. KIDD: Well, it does, almost, except that we
4 still have this issue of malice. I mean, malice is the
5 entire case that we have here.

6 THE COURT: Well, I mean, you've got malice
7 there with the big cut on the temple area. You've got
8 malice, with the cuts over the eyes, both eyes. I
9 mean, it shows the same thing, just without the blood
10 and without the blood on the shirt, and the body bag.

11 But I'll take it under advisement until I hear
12 the testimony. Okay? I'm not going to rule right now.

13 MR. KIDD: Correct. Can we take it under
14 advisement, also, as to the defensive wounds on the
15 hands, as well?

16 THE COURT: Yeah. I said I'm going to do that.
17 And as far as who took the picture let's get them
18 identified and marked for identification, as far as
19 authentication.

20 Unless you don't have a problem with that?

21 MS. RUNEY: But please don't flash them to the
22 jury.

23 THE COURT: I don't have a problem with
24 authentication. Do you have a problem with
25 authentication of the pictures?

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1 MS. RUNEY: No.

2 THE COURT: I'm, we can go ahead and mark
3 them --

4 MS. RUNEY: -- because I don't want to risk --

5 THE COURT: -- them for identification right
6 now, if you want to.

7 MS. RUNEY: That's fine. I don't want to risk
8 them being shown to the jury. I'm not saying that you
9 would do that on purpose, but when you're --

10 MR. KIDD: No.

11 THE COURT: But we'll just go on and -- if you
12 don't have an authentication problem --

13 MS. RUNEY: I don't --

14 THE COURT: -- we'll just --

15 MS. RUNEY: -- no.

16 THE COURT: -- mark them for identification
17 right now. And then after I hear the pathologist's
18 testimony, I'll make a decision.

19 MS. RUNEY: Yes, sir.

20 THE COURT: What about 35? That's a picture,
21 apparently, of her legs and her knees. What's wrong
22 with that?

23 MS. RUNEY: My objection to that is the
24 pathologist has a diagram that he can testify as to
25 the --

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1 THE COURT: Cuts and bruises --

2 MS. RUNEY: -- scrapes, carpet burn on her knees

3 --

4 THE COURT: -- or whatever they are?

5 MR. KIDD: Right. And, once again, we have the
6 autopsy photo that is the same -- depicting the same
7 image we want. It's just the --

8 THE COURT: Actually, the autopsy picture shows
9 it better than --

10 MR. KIDD: It's just the color is better in the
11 autopsy photograph.

12 THE COURT: The color is much better with this
13 than this. Which one do you want?

14 MR. KIDD: I just -- I mean, I would prefer the
15 autopsy picture. I thought that one was more
16 prejudicial because it has her on an autopsy table, as
17 opposed to on the scene.

18 THE COURT: You don't have an objection to that
19 one?

20 MS. RUNEY: Well, I do. But if I've got to
21 decide between the two --

22 THE COURT: You're going to have to decide
23 between the two. I mean, I think this is a better
24 picture, as far as showing --

25 MS. RUNEY: Yes, sir.

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1 THE COURT: -- what actually occurred.

2 I'll just take this one under advisement.

3 MS. RUNEY: Yes, sir.

4 MR. KIDD: Well, if we're okay on this one, I
5 don't need --

6 THE COURT: I'm okay with that one.

7 MR. KIDD: Okay. So I don't need that one.

8 MS. RUNEY: And those are the ones that you're
9 taking under advisement?

10 MR. KIDD: No. That's the ones that we agreed
11 not to --

12 THE COURT: Those are the ones that you're not
13 going to put in.

14 MS. RUNEY: Okay

15 MR. KIDD: These are out and --

16 THE COURT: And she's marked some for
17 identification.

18 MR. KIDD: And just so we're clear. These are
19 out. This one is under advisement -- or this one is
20 good. This one is under advisement; under advisement;
21 under advisement; under advisement; under advisement;
22 under advisement; that one is good; that one is good;
23 that one is good, once I cut the top off --

24 THE COURT: I'll make a decision on those after
25 I hear the testimony.

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1 MS. RUNEY: Yes, sir.

2 THE COURT: We'll mark them for identification.

3 So she doesn't have a problem with
4 identification with these pictures right here.

5 MS. RUNEY: Right.

6 THE COURT: Is that right?

7 MS. RUNEY: That's right.

8 THE COURT: And then when I hear the autopsy
9 testimony, I'll make a decision.

10 MS. RUNEY: Thank you, Judge.

11 [Off the record momentarily]

12 THE CLERK OF COURT: All jurors are present.

13 THE COURT: We've got all the jurors?

14 THE CLERK OF COURT: Yes, sir.

15 [Off the record momentarily]

16 [Whereupon, State's Exhibit Number 4 is marked
17 by the court reporter]

18 [Whereupon, State's Exhibit Number 5 is marked
19 by the court reporter]

20 [Whereupon, State's Exhibit Number 6 is marked
21 by the court reporter]

22 [Whereupon, State's Exhibit Number 7 is marked
23 by the court reporter]

24 [Whereupon, State's Exhibit Number 8 is marked
25 by the court reporter]

1 [Whereupon, State's Exhibit Number 9 is marked
2 by the court reporter]

3 [Whereupon, State's Exhibit Number 10 is marked
4 by the court reporter]

5 [Whereupon, State's Exhibit Number 11 is marked
6 by the court reporter]

7 [Whereupon, State's Exhibit Number 12 is marked
8 by the court reporter]

9 [Whereupon, State's Exhibit Number 13 is marked
10 by the court reporter]

11 [Whereupon, State's Exhibit Number 14 is marked
12 by the court reporter]

13 [Whereupon, State's Exhibit Number 15 is marked
14 by the court reporter]

15 - - - - -
16 JUROR DISMISSED

17 THE COURT: Let me see the attorneys up here
18 just a minute.

19 [Whereupon, an off-the-record bench conference
20 is held]

21 THE COURT: All right. The Court has talked to
22 the attorneys. Juror Number 144 [sic], Jacquelin Lynn,
23 her uncle passed away yesterday morning and she has to
24 go to Jacksonville for a family dinner Thursday night.
25 The funeral is Friday morning. After conferring with

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1 the attorneys, the parties agree that we will dismiss
2 juror number 155, Jacquelin Lynn, because of the
3 possibility of her being involved in deliberations by
4 this jury and unable to make the funeral in
5 Jacksonville, Florida.

6 And the parties have agreed that we will put the
7 names of the two alternates, Thomas Allenspach, juror
8 number 5, and Calvin J. Simmons, juror number 237, in a
9 hat and then we'll draw them out, rather than taking
10 alternate one and alternate two in the order in which
11 they were drawn.

12 Is that correct from the State?

13 MR. KIDD: Correct, Your Honor.

14 THE COURT: Is that correct from the defendant?

15 MR. SMITH: Yes, Your Honor.

16 THE COURT: Okay. Thank you very much.

17 [Off the record momentarily]

18 THE COURT: All right. The draw is Calvin
19 Simmons, juror number 237. And the Court will place
20 him on the jury.

21 Anything else from the State before we bring the
22 jury?

23 MR. KIDD: No, Your Honor, other than I've now
24 marked the exhibits we went through for ID purposes and
25 they're State's Exhibits 4 through 15.

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1 And I guess my understanding, just for the
2 record, is we won't have to establish foundation --

3 THE COURT: Authenticate those documents, those
4 pictures; is that correct? There's no --

5 MS. RUNEY: They do not have to --

6 THE COURT: There's no objection as to
7 authentication of those pictures?

8 MS. RUNEY: As to authentication.

9 THE COURT: We're going to mark them for
10 identification only.

11 The Court is taking under advisement as to
12 whether he's going to admit them or not. I'm going to
13 wait until I hear from the pathologist's testimony
14 before I make a decision on which ones are going to be
15 admitted and which ones are not going to be admitted.

16 MS. RUNEY: Yes, sir. Thank you.

17 THE COURT: Okay? Is that correct?

18 MR. KIDD: Correct, Your Honor.

19 And that's -- and just so we're clear on the
20 record, that's as to State's Exhibit Number 7, 8, 9,
21 10, 11, 12, 13, 14, and 15.

22 THE COURT: Okay.

23 MR. KIDD: Thank you, Your Honor.

24 THE COURT: Would you ask -- if you would, would
25 you go bring in Jacquelin Lynn, juror number 155,

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1 MS. RUNEY: Yes, sir. Thank you.

2 Good morning, Detective Holt.

3 THE WITNESS: Good morning.

4 - - - - -

5 JUSTIN HOLT,

6 Having Been Previously Duly Sworn,

7 was Examined and Testified as Follows:

8 CROSS-EXAMINATION

9 BY MS. RUNEY:

10 Q. Yesterday you testified that you took
11 Mr. Gathers's statement; correct?

12 A. Yes.

13 Q. And he was cooperative with you?

14 A. Yes.

15 Q. And when you advised him of his rights, he was
16 muttering? I believe that was the word that you used.

17 A. He was upset, but as I asked -- or as I read
18 them out to him, he understood. It was clear that he
19 understood.

20 Q. He kept saying things under his breath?

21 A. Prior to the advice of rights. When he first
22 was in the room with us he was crying and he wanted to
23 know if the victim was deceased or not.

24 Q. He kept asking you about Ms. Nevarez?

25 A. Yes.

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1 Q. And when you told him that Ms. Nevarez had
2 passed away, he broke down?

3 A. Yes. He was already crying, but he continued to
4 cry.

5 Q. And at that point, you couldn't ask him anymore
6 questions?

7 A. No. We couldn't get on with what we needed
8 to, as far as the statement and stuff, until we advised
9 him of his rights and so we let him take a moment to
10 compose himself before we advised him of his rights.

11 Q. And he sat there and cried?

12 A. For a few minutes, prior to the advisement of
13 rights.

14 Q. For at least five minutes or so?

15 A. Yes.

16 Q. And he kept saying, I'm so sorry, I'm so sorry?

17 A. Yes.

18 Q. And once that happened, you let him sit there
19 for a while and then you asked him what happened that
20 night?

21 A. After the advisement of rights.

22 Q. Correct. And he blurted out?

23 A. Yes.

24 Q. He blurted out, we was smoking crack and it was
25 about four to fives times. She stole \$400 from me. And

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1 all I did was beat her up. Oh, Lord, I am so sorry. We
2 were smoking and having sex and she stole my money and
3 that's why?

4 A. Yes.

5 Q. And then became upset again?

6 A. Yes.

7 Q. And so at that point you had to change the form
8 of your interview?

9 A. That is correct.

10 Q. And you began asking him questions and he would
11 answer your questions?

12 A. Yes.

13 Q. And his answers to you were pretty brief?

14 A. Yes.

15 Q. After he told you that they had been smoking
16 crack for four to five times, did you stop the interview?

17 A. No.

18 Q. Did you further question Mr. Gathers about how
19 much crack he had smoked?

20 A. I don't recall. I would have to look at the
21 interview.

22 Q. You didn't give him a drug test, did you?

23 A. No. We don't -- we don't issue drug tests.

24 But at no time did he appear like intoxicated or
25 anything, under the influence of anything, while he was

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1 talking to us. He was speaking very clearly.

2 Q. And he was in custody at that time?

3 A. Yes, he was.

4 Q. He was handcuffed?

5 A. One hand.

6 Q. To a chair?

7 A. Yes.

8 Q. So if you stopped the interview, he would have
9 remained in custody?

10 A. Yes.

11 Q. And he told you that he had been up with
12 Ms. Nevarez all night?

13 A. Yes.

14 Q. The interview was over a two period -- two-hour
15 period?

16 A. Yes.

17 Q. And this interview was not recorded on audio or
18 video?

19 A. No. We didn't have capabilities at that time.

20 Q. And when you finished the written statement you
21 asked Mr. Gathers, is there anything that you would like
22 to add?

23 A. Yes.

24 Q. Your question was: is there anything else you
25 would like to tell me at this point in time?

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1 A. Yes.

2 Q. And he said to you: I am sorry, I didn't mean
3 it. I am very, very sorry. I am sorry for her family, I
4 am sorry for my son. I didn't mean to kill her. I didn't
5 even mean to beat her up that bad. I am sorry.

6 A. Yes.

7 MS. RUNEY: Beg the Court's indulgence.

8 [Whereupon, Ms. Runey and Mr. Smith confer]

9 MS. RUNEY: That's all I've got. Thank you,
10 Detective Holt.

11 THE WITNESS: Thank you.

12 THE COURT: Redirect?

13 MR. YOUNG: Just one quick follow up.

14 REDIRECT EXAMINATION

15 BY MR. KIDD:

16 Q. Ms. Runey just asked you if he was up all night.
17 But, in fact, in the statement it says that he woke up at
18 some point; is that correct?

19 A. From the alarm clock.

20 Q. From the alarm clock.

21 So he did at some point, then, go to sleep that
22 evening?

23 A. From my understanding, yes, because he was
24 awakened by the alarm clock.

25 MR. KIDD: MR. YOUNG: No further questions.

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SEAN BAUER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION.

BY MR. YOUNG:

Q. Officer Bauer, tell the jury where you work.

A. I work at the North Charleston Police
Department.

Q. And how long have you worked there?

A. July, it will be six years.

Q. And what are your duties there?

A. I am currently a patrol officer.

Q. Were you in the course of these duties on June
7th, 2010?

A. No. No, sir.

Q. What were you doing then?

A. I was a property crimes detective; investigating
cases.

Q. And on that date did you respond to a crime
scene?

A. Yes, I did.

Q. And what was that in reference to?

A. That was in reference to an unknown situation; I
believe, that turned out to be a suspected homicide.

Q. And what did you observe when you first arrived

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1 at the scene?

2 A. I observed -- I didn't actually go completely
3 into the residence. I did peek my head in to see the body
4 of the victim lying on the floor.

5 After that, I was looking around the area of the
6 residence to see if I could locate any other kind of
7 evidence that would be useful.

8 Q. So you just canvassed the area after you got
9 there?

10 A. Yes, sir.

11 Q. At some point did you make your way from the
12 crime scene to the detective bay?

13 A. Yes, I did.

14 Q. And why would you have done that?

15 A. I went back to the detective bay to get my notes
16 into the computer on what was done. Also, to attempt to
17 obtain a DNA sample from the defendant.

18 Q. Was the defendant at the detective bay when you
19 went there at that time?

20 A. I believe he was.

21 Q. Okay. And so when you get to the detective bay,
22 did you have an opportunity to view the suspect?

23 A. Yes.

24 Q. How did he appear?

25 A. He appeared upset. He was crying.

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1 Q. And where exactly did you view him; do you
2 remember?

3 A. I believe it was in the interview room.

4 Q. And was anybody else in there with you?

5 A. I want to say that Detective Cook was with me at
6 the time.

7 Q. And is the defendant seated or standing or
8 how -- do you know what he was doing?

9 A. I believe he was seated.

10 Q. Seated.

11 At some point were you instructed to obtain a
12 buccal swab of the defendant?

13 A. Yes, I was.

14 Q. And I'm going to show you --

15 MR. YOUNG: May I approach the witness, Judge?

16 THE COURT: Yes, sir.

17 Q. [Mr. Young] -- what's been marked as State's 2,
18 for ID only. Do you recognize that form?

19 A. Yes, I do.

20 Q. And what is that form?

21 A. That's a consent to search form from the North
22 Charleston Police Department.

23 Q. What -- consent to search, is that -- could you
24 explain what that means to the jury?

25 A. That basically is just saying that, you know,

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1 you're giving us permission to search your residence, your
2 belongings, or your body. In this case it was his person.

3 Q. So did the defendant sign this?

4 A. Yes, he would have.

5 Q. And would you have signed it, as well, on the
6 bottom?

7 A. Yes.

8 Q. And so he gave you consent to search his -- his
9 DNA --

10 A. His person, yes.

11 Q. -- which would be a buccal swab?

12 A. Yes, sir.

13 Q. Did you, in fact, obtain that buccal swab?

14 A. Yes, I did.

15 Q. And how would you -- can you tell the jury how
16 you go about obtaining a buccal swab?

17 A. After explaining it to him, I would have read
18 the statement -- or the consent to search form, ask if he
19 understood it. If he did do so, at that time I would have
20 him sign it. After that, I would instruct him to open up
21 his mouth for me. I would take a cotton swab and just
22 swab the inner cheek of -- inner lining of his cheek to
23 obtain the DNA cells.

24 Q. And did you -- and so it's like a Q-tip
25 almost-looking?

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1 A. It kind of looks like one, yes, sir.

2 MR. YOUNG: May I approach the witness, Judge?

3 THE COURT: Yes, sir.

4 Q. [Mr Young] I'm going to show you what's been
5 marked as State's 3, for ID only. It's obviously packaged
6 up.

7 A. Uh-huh.

8 Q. What does that say right there? The top line.

9 A. This is a buccal swab from Gregory Gathers.

10 Q. Okay. And would that have been the buccal swab
11 you would have taken --

12 A. Yes.

13 Q. -- from the defendant?

14 A. Yes, sir.

15 Q. Okay. And when you took it, did you tamper with
16 it at all?

17 A. No. I --

18 Q. Would you --

19 A. I immediately packaged it.

20 Q. You would have packaged it up. Would you have
21 sealed that package?

22 A. Yes.

23 Q. And what would you do -- after you sealed the
24 package, what would you do with it --

25 A. I would --

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1 Q. -- what did you do with it?

2 A. I would have put it down on the chain of custody
3 form that I obtained it at that time, and then I would
4 have transferred it all over to Sargent Reynolds of the
5 crime scene unit.

6 Q. So you gave it to Sargent Reynolds?

7 A. Yes.

8 Q. And you didn't tamper with it at all?

9 A. No.

10 Q. You didn't alter it in any way?

11 A. No, sir.

12 Q. And processed -- when you say you gave it to
13 Sargent Reynolds, did you hand it to him?

14 A. I would have handed it to him with the chain of
15 custody form, and which he would have signed showing that
16 he obtained it.

17 Q. Did you give the defendant a copy of his consent
18 to search form?

19 A. Yes, I did.

20 Q. What did he do with that?

21 A. He threw it in the trash can.

22 MR. YOUNG: Court's indulgence, Your Honor.

23 [Whereupon, Mr. Young and Mr. Kidd confer]

24 MR. YOUNG: Please answer any questions defense
25 counsel may have.

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1 MS. RUNEY: I don't have any questions for
2 Officer Bauer.

3 THE COURT: You may step down. Thank you very
4 much.

5 THE WITNESS: Thank you, sir.

6 [Whereupon, Mr. Bauer is excused and exits the
7 witness stand]

8 MR. KIDD: The State calls Sargent John
9 Reynolds.

10 [Whereupon, Mr. Reynolds comes forward]

11 [Whereupon, Mr. Reynolds is duly sworn by the
12 clerk of court as follows: do you swear or affirm that
13 the testimony you will give the Court will be the
14 truth, the whole truth, and nothing but the truth, so
15 help you God]

16 THE WITNESS: I do.

17 THE CLERK OF COURT: Thank you, sir. You may
18 take your seat.

19 [Whereupon, Mr. Reynolds takes the witness
20 stand]

21 THE CLERK OF COURT: And, sir, if you would
22 please state your first and last name, spelling your
23 last for the record.

24 THE WITNESS: John Reynolds. R-E-Y-N-O-L-D-S.

25 MR. KIDD: Good morning, Sargent Reynolds.

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1 THE WITNESS: Good morning.

2

3

JOHN REYNOLDS,

4

Having Been First Duly Sworn,

5

was Examined and Testified as Follows:

6

DIRECT EXAMINATION

7

BY MR. KIDD:

8

Q. Could you tell the jury where it is you're
9 currently employed?

10

A. I'm currently employed with the City of North
11 Charleston Police Department.

12

Q. And how long have you been employed with North
13 Charleston?

14

A. Approximately sixteen years.

15

Q. And what are your current duties?

16

A. I'm currently assigned as the supervisor of the
17 crime scene investigation unit.

18

Q. And what does that entail?

19

A. The supervisor of the crime scene investigation
20 unit will respond to crime scenes. We recover evidence,
21 we document, photograph, collect the evidence, and
22 preserve it for later testing at the laboratories up in
23 Columbia.

24

Q. And were these your responsibilities back in
25 June of 2010?

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1 A. Yes, they were.

2 Q. Do you recall getting involved in this case in
3 June of 2010?

4 A. Yes, I do.

5 MR. KIDD: Court's indulgence for one moment.

6 [Whereupon, Mr. Kidd reviews documents]

7 MR. KIDD: If I may approach the reporter, Your
8 Honor?

9 THE COURT: Yes, sir.

10 [Whereupon, State's Exhibit Number 16 is marked
11 by the court reporter]

12 [Whereupon, State's Exhibit Number 17 is marked
13 by the court reporter]

14 [Whereupon, State's Exhibit Number 18 is marked
15 by the court reporter]

16 [Whereupon, State's Exhibit Number 19 is marked
17 by the court reporter]

18 [Whereupon, State's Exhibit Number 20 is marked
19 by the court reporter]

20 [Whereupon, State's Exhibit Number 21 is marked
21 by the court reporter]

22 [Whereupon, State's Exhibit Number 22 is marked
23 by the court reporter]

24 [Whereupon, State's Exhibit Number 23 is marked
25 by the court reporter]

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1 [Whereupon, State's Exhibit Number 24 is marked
2 by the court reporter]

3 [Whereupon, State's Exhibit Number 25 is marked
4 by the court reporter]

5 [Whereupon, State's Exhibit Number 26 is marked
6 by the court reporter]

7 [Whereupon, State's Exhibit Number 27 is marked
8 by the court reporter]

9 [Whereupon, State's Exhibit Number 28 is marked
10 by the court reporter]

11 [Whereupon, State's Exhibit Number 29 is marked
12 by the court reporter]

13 [Whereupon, State's Exhibit Number 30 is marked
14 by the court reporter]

15 [Whereupon, State's Exhibit Number 31 is marked
16 by the court reporter]

17 [Whereupon, State's Exhibit Number 32 is marked
18 by the court reporter]

19 [Whereupon, State's Exhibit Number 33 is marked
20 by the court reporter]

21 [Whereupon, State's Exhibit Number 34 is marked
22 by the court reporter]

23 [Whereupon, State's Exhibit Number 35 is marked
24 by the court reporter]

25 [Whereupon, State's Exhibit Number 36 is marked

1 by the court reporter]

2 [Whereupon, State's Exhibit Number 37 is marked

3 by the court reporter]

4 [Whereupon, State's Exhibit Number 38 is marked

5 by the court reporter]

6 [Whereupon, State's Exhibit Number 39 is marked

7 by the court reporter]

8 [Whereupon, State's Exhibit Number 40 is marked

9 by the court reporter]

10 [Whereupon, State's Exhibit Number 41 is marked

11 by the court reporter]

12 MR. KIDD: All right. I apologize about that,

13 sir.

14 Q. [Mr. Kidd] I'm going to first show you what's
15 been marked for identification purposes as State's Exhibit
16 Number 16, 17, and 19. See if you recognize these items.

17 A. Yes, I did [phonetic].

18 Q. What are those?

19 A. These are copies of photographs that I
20 originally took, on that date, of the exterior of the
21 residence that I responded to.

22 Q. And so you actually took those photographs?

23 A. That is correct.

24 Q. And so when you go to a crime scene, is that one
25 of the things you do is you like to document the scene at

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1 it appears to you right when you get there?

2 A. That is correct.

3 Q. And so the pictures you would have taken would
4 have been preferably before the scene would have been
5 disturbed in any way?

6 A. That is correct. . . .

7 Q. And those pictures accurately reflect how
8 that -- that's how that residence looked on that day?

9 A. That is correct.

10 Q. Do you remember the address of that residence?

11 A. To my recollection, it was
12 , in North Charleston.

13 THE COURT: What numbers?

14 MR. KIDD: This is State's -- and at this time,
15 Your Honor, the State would move State's Exhibits 16,
16 17, and 18 into evidence.

17 THE COURT: Any objection to 16, 17 and 18?

18 MS. RUNEY: No, sir.

19 THE COURT: All right. 16, 17 and 18 admitted
20 without objection.

21 [Whereupon, State's Exhibit Number 16 is
22 admitted into evidence by the Court]

23 [Whereupon, State's Exhibit Number 17 is
24 admitted into evidence by the Court]

25 [Whereupon, State's Exhibit Number 18 is

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1 admitted into evidence by the Court]

2 MR. KIDD: Thank you, Your Honor.

3 Q. [Mr. Kidd] I'm going to first show you -- and I
4 know the lighting is terrible on these -- what's been
5 marked as State's Exhibit Number 16. Can you tell the
6 jury what we're looking at?

7 A. Yes. The apartment that I responded to. I
8 responded there in reference to a death investigation.

9 The apartment that it occurred in was the
10 apartment on the left where you see the detective in the
11 open doorway. That photograph was taken from the edge of
12 the street in front of the residence and had been secured
13 by yellow crime scene tape, which you can see along the
14 bottom of the screen there.

15 Q. And from your crime scene unit, are there a
16 number of other investigators and officers present at this
17 time?

18 A. That is correct.

19 Q. I'm now going to show you what's been marked and
20 entered into evidence as State's Exhibit 17. Can you tell
21 what we're looking at here?

22 A. That's a closer view of the same residence;
23 however, it's taken up in the front -- taken from the
24 front yard and more towards the left side of the
25 residence.

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1 Q. So that's just kind of finishing off what we're
2 seeing there on the left side of the house?

3 A. That is correct.

4 Q. And, finally, State's Exhibit Number 18.

5 MR. KIDD: I guess that would be the appropriate
6 way to look at it.

7 Q. [Mr. Kidd] Can you tell the jury what we're
8 looking at there?

9 A. Yes. In that photograph I'm standing under --
10 as you face the residence from the street, I'm standing on
11 the right side of the porch.

12 That is taken from over by apartment showing
13 the porch area of the house.

14 Q. Now I'm going to show you what's been marked for
15 ID as State's Exhibit Number 4.

16 MR. KIDD: Madam Court Reporter, this actually
17 was double-marked 5 and 20, so if you could just cross
18 out 20 and make it --

19 THE CLERK OF COURT: Thank you.

20 MR. KIDD: Sorry about that.

21 Q. [Mr. Kidd] I'm first going to show you what's
22 been marked as State's Exhibit Number 4. Do you recognize
23 that photograph?

24 A. Yes, I did [phonetic].

25 Q. And what does that photograph depict?

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1 A. That is a photograph of the victim lying on the
2 floor.

3 Q. And in what part of the residence is that?

4 A. The upper half of her body was in the kitchen
5 area and the lower half of her body was protruding into
6 the living room.

7 Q. Does that accurately depict the scene as you saw
8 it when you arrived there?

9 A. Yes, it does.

10 Q. And did you take that photograph?

11 A. Yes, I did.

12 Q. I'm now going to show you what's been marked
13 as State's Exhibit -- for ID only as State's Exhibit
14 Number 5. Do you recognize that photograph?

15 A. Yes, I do.

16 Q. And can you tell the jury what that is?

17 A. This depicted the victim from a different angle,
18 where I'm standing in the living room depicting her -- the
19 lower half of her body in the living room but trailing
20 into the kitchen.

21 Q. And you took that photograph, as well?

22 A. Yes, I did.

23 Q. And it accurately reflects the scene as you saw
24 it that day?

25 A. Yes, it does.

1 Q. When you enter into that residence through the
2 front door, where are you in that residence? How was it
3 laid out?

4 A. As you walk into the residence, you step into
5 the front living room.

6 Q. So there's a front living room. And is that
7 where she's located?

8 A. The lower half of her body is, yes.

9 Q. And where is the other half?

10 A. In the kitchen, which is -- as you walk through
11 the living room, the kitchen is right behind the living
12 room.

13 Q. And are there -- where is the bedroom in
14 location to that?

15 A. You walk into the kitchen and you make a left
16 and go down the hallway and the bedroom is located down at
17 the end of the hallway.

18 Q. I'm now going to show you State's -- what's been
19 marked for ID as State's Exhibit Number 21. Do you
20 recognize that item?

21 A. Yes, I do.

22 Q. And what does that depict?

23 A. This is a photograph of a couch in the living
24 room.

25 Q. And does it accurately reflect how those -- how

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1 the scene looked when you arrived there that day?

2 A. Yes, it does.

3 Q. And State's Exhibit Number 22 for ID only: do
4 you recognize that item?

5 A. Yes, I do.

6 Q. And what is that?

7 A. This is a closer view of the same couch from a
8 closer angle.

9 Q. And it is also an accurate representation?

10 A. Yes, it is.

11 Q. Okay. I'm going to show you State's 23, 24, 25,
12 26, and 19. If you would take a look at those
13 photographs.

14 [Whereupon, the witness reviews documents]

15 Q. [Mr. Kidd] Do you recognize those photographs?

16 A. Yes, I do.

17 Q. And did you take those photographs?

18 A. Yes, I did.

19 Q. And they all accurately reflect how the scene
20 looked when you arrived that day?

21 A. Yes, they do.

22 Q. Thank you.

23 MR. KIDD: Your Honor, at this time the State
24 would move 4, 5, 19, 21, 22, 23, 24, 25, and 26 into
25 evidence.

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1 THE COURT: Any objection to the ones he
2 enumerated?

3 MS. RUNEY: Your Honor, I would renew my
4 objection from photo number 4 and number 5.

5 THE COURT: All right. Any others?

6 MS. RUNEY: I have no objection to 19, 21, 22,
7 23, 24 and 25 and 26.

8 THE COURT: Okay. 19, 21, 22, 23, 24, 25 and 26
9 admitted without objection.

10 4 and 5 admitted with objection --

11 MS. RUNEY: Yes, sir.

12 THE COURT: -- which has previously been heard
13 by the Court.

14 [Whereupon, State's Exhibit Number 4 is admitted
15 into evidence by the Court]

16 [Whereupon, State's Exhibit Number 5 is admitted
17 into evidence by Court]

18 [Whereupon, State's Exhibit Number 19 is
19 admitted into evidence by the Court]

20 [Whereupon, State's Exhibit Number 21 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 22 is
23 admitted into evidence by the Court]

24 [Whereupon, State's Exhibit Number 23 is
25 admitted into evidence by the Court]

1 [Whereupon, State's Exhibit Number 24 is
2 admitted into evidence by the Court]

3 [Whereupon, State's Exhibit Number 25 is
4 admitted into evidence by the Court]

5 [Whereupon, State's Exhibit Number 26 is
6 admitted into evidence by the Court]

7 MR. KIDD: Thank you, Your Honor.

8 Q. [Mr. Kidd] Sargent Reynolds, I'm going to first
9 show you --

10 MR. KIDD: Back out a little bit more. It's not
11 perfect.

12 Q. [Mr. Kidd] But could you tell the jury what
13 we're seeing here?

14 A. Yes. I took these photographs standing in the
15 kitchen area.

16 As you can see, the camera is pointed towards
17 the front door. The victim was lying like that, with her
18 upper body protruding into the kitchen and her lower body
19 protruding into the living room. And that photograph was
20 taken from the kitchen towards the front door.

21 Q. So that front door that we see there would be
22 the door that he's standing in right here on this
23 photograph?

24 A. That's correct.

25 Q. And I'll now show you what's been marked and

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1 admitted into evidence as State's Exhibit Number 5. Do
2 you recognize this photo?

3 A. Yes, I did.

4 Q. And could you tell the jury what direction we're
5 looking at here.

6 A. At this photograph, I'm standing in the living
7 room pointed towards the kitchen area. The victim is the
8 same person lying on the floor, from a different angle.

9 Q. I know it's kind of hard to see this picture,
10 but can you tell what we're looking at right here?

11 A. Yes. That appeared to be to hair extensions or
12 hair.

13 Q. Would that appear to be consistent with the
14 victim?

15 A. Correct.

16 Q. I'll now show you what's been marked and
17 admitted into evidence as State's Exhibit Number 19. Do
18 you recognize this?

19 A. Yes, I do.

20 Q. And what are we looking at here?

21 A. That's -- I'm standing in the living room by the
22 front door. This is the furniture that was in the living
23 room of the residence and I photographed it from the -- by
24 the front door.

25 Q. Where would the victim's body be located in

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1 relation to this photograph?

2 A. As I'm sitting here, she would be towards the
3 right.

4 Q. Towards the right.

5 So this is that couch -- that couch -- on the
6 right-hand side is that couch there? Is that accurate?

7 A. That is correct.

8 Q. And what is -- what is this here?

9 A. That appears to me to be suspected blood stains.

10 Q. And up here on the couch, as well?

11 A. Yes, sir.

12 Q. I'll now show you what's been marked and admitted
13 into evidence as State's Exhibit Number 21. Is that that
14 same couch we were just looking at?

15 A. Yes, it is.

16 Q. And this kind of shows starting in the kitchen
17 on the right-hand side right there?

18 A. That is correct.

19 Q. Show you what's been marked and admitted into
20 evidence as State's Exhibit Number 22. Do you recognize
21 that?

22 A. Yes, I do.

23 Q. And is that -- what is that?

24 A. That is the same couch I photographed
25 previously. However, it's a more close-up photo depicting

1 the suspected blood stains on the couch.

2 Q. All right. I'm now going to show you what's
3 been marked and admitted into evidence as State's Exhibit
4 Number 23. Do you recognize that?

5 A. Yes, I do.

6 Q. And can you tell the jury what that is?

7 A. That is a couch that was by the front window, it
8 was a longer couch, and I noticed what appeared to be
9 another hair extension on the top of the cushion there.

10 Q. So we're looking back at State's Exhibit Number
11 19, which I previously showed you, which showed kind of a
12 bigger picture of the living room. The couch which is in
13 State's Exhibit Number 23, would that be the couch on the
14 left-hand side over here?

15 A. Yes, it is.

16 Q. And now I'm going to show you what's been marked
17 and admitted into evidence as State's Exhibit Number 24.
18 Could you tell the jury what we're looking at here?

19 A. Yes. That is the same couch in the previous
20 picture and here was a knife blade that was -- that I
21 found on the cushion.

22 Q. Is that where you found the knife blade?

23 A. That's how I found it, yes, sir.

24 Q. And on the top of that cushion above the knife
25 blade, what was that?

1 A. It was a hair extension that was -- as shown in
2 the previous photograph.

3 Q. I'm now going to show you what's been marked and
4 admitted into evidence as State's Exhibit Number 25. Can
5 you tell the jury what that is?

6 A. That's a close-up view -- photograph of the same
7 knife blade from the previous photograph; however it was
8 marked with an evidence marker. It's number 10. I
9 photographed it with the evidence marker prior to
10 collection.

11 Q. And was there any -- are there stains or
12 anything like that on the knife blade itself?

13 A. There was some stains on the knife blade that
14 appeared to me to be blood.

15 Q. Did you collect that knife blade?

16 A. Yes, I did.

17 Q. How do you go about collecting an item of
18 evidence?

19 A. Well, first I get a piece of packaging to
20 package the knife blade in. I wear gloves, of course, to
21 recover the evidence. After I photograph it in place with
22 the marker, then I place it into the evidence packaging.

23 Q. And is that sealed?

24 A. Yes, it is.

25 Q. And do you keep that in your custody --

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1 A. Correct.

2 Q. -- at that point while you're on scene?

3 A. Yes.

4 MR. KIDD: Might be a little better.

5 Q. [Mr. Kidd] Let me show you what's been marked
6 as State's Exhibit Number 26. Tell the jury what that is.

7 A. That's a closeup photo as the same hair
8 extension as in the previous photograph -- however this
9 time it's marked with evidence marker number 11 -- and it
10 was photographed with the marker in place prior to
11 collection.

12 Q. And was that item collected?

13 A. Yes, it was.

14 Q. I'm now going to show you what's been marked for
15 identification purpose as State's 27, 28, 29, 30 and 31.
16 Would you see if you recognize those photographs.

17 [Whereupon, the witness reviews documents]

18 A. Yes, I do.

19 Q. [Mr. Kidd] Did you take those photographs?

20 A. Yes, I did.

21 Q. What do those photographs depict?

22 A. Well, these photographs depict different areas
23 of the kitchen and different items within the kitchen.

24 Q. And do they accurately represent how that
25 kitchen looked on the day in question?

1 A. Yes, they do.

2 Q. Thank you.

3 MR. KIDD: Your Honor, at this time the State
4 would offer State's Exhibit 27, 28, 29, 30 and 31 into
5 evidence.

6 THE COURT: Any objection?

7 MS. RUNEY: No, Your Honor.

8 THE COURT: 27, 28, 29, 30 and 31 are admitted
9 without objection.

10 MR. KIDD: Thank you, Your Honor.

11 [Whereupon, State's Exhibit Number 27 is
12 admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 28 is
14 admitted into evidence by the Court]

15 State's Exhibit Number 29 is admitted into
16 evidence by the Court]

17 [Whereupon, State's Exhibit Number 30 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 31 is
20 admitted into evidence by the Court]

21 Q. [Mr. Kidd] First, I'm going to show you State's
22 Exhibit Number -- what's been marked and entered into
23 evidence State's Exhibit Number 27. Do you recognize that
24 photograph?

25 A. Yes, I do.

1 Q. Can you tell the jury what we're looking at
2 here?

3 A. That is the counter top of the kitchen. It's
4 depicting utensils and appliances on the kitchen and a
5 butcher-block knife holder.

6 Q. It's a little tough to see this picture. I'm
7 going to show you what's been marked as State's Exhibit
8 Number -- already been entered as State's Exhibit Number
9 28. Do you recognize that photo?

10 A. Yes, I do.

11 Q. And what is that?

12 A. That depicts the same butcher block or knife
13 holder, a hair extension that was also in the sink area,
14 and also suspected blood stains on the counter top.

15 Q. And that knife holder, it was sitting upright?

16 A. No. I found it like that.

17 Q. So it was toppled over when you first saw it?

18 A. That is correct.

19 Q. I'm going to show you -- did you collect that
20 knife holder?

21 A. Yes, I did.

22 Q. And you took it into your custody at that time?

23 A. Yes, I did.

24 Q. I'm going to show you what's been marked and
25 entered as evidence State's Exhibit Number 29. Do you

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1 recognize that item?

2 A. Yes, I do.

3 Q. Where is this in the kitchen?

4 A. As you step into the kitchen it's to the right,
5 in the corner.

6 Q. And other than the signs of struggle, how would
7 you characterize the condition of this apartment?

8 A. Other than the signs of the struggle, it was
9 somewhat neat.

10 Q. I'm going to show you what's been marked -- oh.
11 Specifically, did you collect any evidence that
12 you would have seen in this photograph or that would be
13 contained in this photograph?

14 A. Yes.

15 Later on, after a search warrant was obtained
16 for the residence, we found a condom inside that white
17 trash bag.

18 Q. Inside that trash bag hanging over the vacuum
19 cleaner right there?

20 A. Correct.

21 Q. And did you collect that condom?

22 A. I had one of my crime scene techs around, to see
23 if she could give me a hand, and she collected it in my
24 presence.

25 Q. So she collected the item. Were you with her

1 when it was collected?

2 A. Yes, I was.

3 Q. And did you take custody of it?

4 A. Yes, I did."

5 Q. Show you what's been marked and admitted into

6 evidence as State's Exhibit Number 30. Do you recognize

7 this photograph?

8 A. Yes, I do.

9 Q. Where is this photograph taken?

10 A. That photograph is taken in the kitchen on --

11 the -- the chairs in the kitchen, that there were more

12 hair extensions in the chair.

13 Q. And so that's what this is right here?

14 A. Correct.

15 Q. And, finally, I'm going to show you what's been

16 marked and admitted as State's Exhibit Number 31. Can you

17 tell the jury what we're looking at here?

18 A. Yes. It's a hair extension that was lying on

19 the floor of the kitchen.

20 Q. I'll now show you what's been marked for

21 identification purposes as State's Exhibit Number 6, 32,

22 33 and 34. Do you recognize those photographs?

23 A. Yes, I do.

24 Q. And what do those photographs depict?

25 A. These photographs are taken of the hallway from

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1 the kitchen to the bedrooms.

2 Q. Did you take those photographs?

3 A. Yes, I did.

4 Q. Do they accurately reflect the scene as you saw
5 it that day?

6 A. Yes, they do.

7 MR. KIDD: Your Honor, at this time the State
8 would offer State's Exhibit Number 6, 32, 33 and 34
9 into evidence.

10 THE COURT: Any objection?

11 MS. RUNEY: No, sir.

12 THE COURT: All right. 6, 32, 33 and 34
13 admitted without objection.

14 MR. KIDD: Thank you, Your Honor.

15 [Whereupon, State's Exhibit Number 6 is admitted
16 into evidence by the Court]

17 [Whereupon, State's Exhibit Number 32 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 33 is
20 admitted into evidence by the Court]

21 [Whereupon, State's Exhibit Number 34 is
22 admitted into evidence by the Court]

23 Q. [Mr. Kidd] I'm going to first show you what's
24 been marked as State's Exhibit Number 6. Can you tell the
25 jury what we're looking at here?

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1 A. Yes.

2 This is a photograph to the hallway from the
3 kitchen to the bedroom in the rear depicting the items on
4 the floor of the hallway. Number 6 and Number 7 appear to
5 be hair extensions.

6 Q. So in which direction are we looking? Which way
7 is the kitchen?

8 A. To the top of the screen.

9 Q. So the kitchen is up here and that's where the
10 victim was?

11 A. That is correct.

12 Q. Okay. And what's down on this end of the
13 hallway?

14 A. From the -- on this side of the hallway is the
15 bedroom area, leading to the bedroom area.

16 Q. And what evidence was recovered from the hallway
17 itself?

18 A. A cell phone battery and two pieces of hair
19 extensions.

20 Q. Was there any blood evidence in the hallway?

21 A. Yes, there was.

22 Q. Where was that?

23 A. On the walls.

24 Q. On the walls.

25 I'm going to now show you what's been marked as

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1 State's Exhibit Number 32. Do you recognize that
2 photograph?

3 A. Yes, I do.

4 Q. What is that?

5 A. Well, this photograph, I'm standing on the
6 kitchen-side area of the hallway. This photograph was
7 taken towards the bedrooms, depicting the cell phone
8 battery on the floor and also a hair extension down there
9 at the bottom.

10 Q. So is it your testimony this is the bedroom
11 here?

12 A. That's correct.

13 Q. Or the entrance to the bedroom?

14 A. [No response]

15 Q. I'm going to show you what's been marked as
16 State's Exhibit Number 33. I'm sorry. This won't take
17 the whole picture on this vertical like this. But do you
18 recognize this photograph?

19 A. Yes, I do.

20 Q. And what is that?

21 A. I'm standing on the opposite side of the doorway
22 leading into the bedroom and it shows items on the floor
23 and also a suspected blood stain on the doorframe.

24 Q. And that's what we're looking at right here?

25 A. That is correct.

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1 Q. Show you State's Exhibit Number 34. Do you
2 recognize that --

3 A. Yes, I do.

4 MR. KIDD: Hang on. I'm sorry. Grabbed --

5 Q. [Mr. Kidd] Do you recognize that item?

6 A. Yes, I do.

7 Q. And is that that same blood stain that you just
8 referenced?

9 A. Yes, it is, at a closer angle.

10 Q. I'm going to now show you what's been marked for
11 identification purposes as State's Exhibit Number 35, 36,
12 37, 38, 39, 40 and 41. Do you recognize those
13 photographs?

14 [Whereupon, the witness reviews documents]

15 A. Yes, I do.

16 Q. [Mr. Kidd] And what do those photographs
17 depict?

18 A. These photographs are taken of the back bedroom
19 and also items that were located inside the bedroom and
20 also on the floor.

21 Q. And did you take those photographs?

22 A. Yes, I did.

23 Q. Do they accurately reflect that bedroom as you
24 saw it that day?

25 A. Yes, it does -- yes, they do.

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1. MR. KIDD: Your Honor, at this time the State
2 would offer State's 35, 36, 37, 38, 39, 40 and 41 into
3 evidence.

4 THE COURT: Any objection?

5 MS. RUNEY: No, sir.

6 THE COURT: All right. 35 through 41 admitted
7 without objection.

8 MR. KIDD: Thank you.

9 [Whereupon, State's Exhibit Number 35 is
10 admitted into evidence by the Court]

11 [Whereupon, State's Exhibit Number 36 is
12 admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 37 is
14 admitted into evidence by the Court]

15 [Whereupon, State's Exhibit Number 38 is
16 admitted into evidence by the Court]

17 [Whereupon, State's Exhibit Number 39 is
18 admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 40 is
20 admitted into evidence by the Court]

21 [Whereupon, State's Exhibit Number 41 is
22 admitted into evidence by the Court]

23 Q. [Mr. Kidd] First I show you what's been marked
24 and admitted into evidence as State's Exhibit Number 35.
25 Do you recognize that?

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1 A. Yes, I do.

2 Q. And what are we looking at here?

3 A. That is a photograph of the bedroom taken from
4 the doorway.

5 Q. So just to give us a little bit of frame of
6 reference: when we look at State's Exhibit Number 33,
7 which is the hallway and the bloodstain, what are these
8 right here? Can you tell?

9 A. To my recollection, they were plastic bins.

10 Q. Okay. And is that those same bins that are
11 right there?

12 A. That's correct.

13 Q. So we're looking through that door into the
14 bedroom?

15 A. Correct.

16 Q. Correct? Okay.

17 Show you what's been marked and admitted into
18 evidence as State's Exhibit Number 37. Do you recognize
19 that photograph?

20 A. Yes, I do.

21 Q. And what is that of?

22 A. That is the bed in the bedroom depicting more
23 hair extensions over here.

24 Q. And when you say hair extensions, are these like
25 dreadlocks or are they like --

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1 A. Yes, they're dreadlocks.

2 Q. And State's Exhibit Number 36?

3 A. That's a closeup photo of the same hair
4 extension.

5 Q. Show you what's been marked and admitted into
6 evidence as State's Exhibit Number 38. Do you recognize
7 that photograph?

8 A. Yes, I do.

9 Q. Tell the jury what's in that photograph.

10 A. That photograph is of the TV stand that was in
11 the corner of the bedroom, a TV on it. There were
12 numerous items on the TV stand, to include the two Pepsi
13 cans you see on the lefthand side there.

14 Q. What is significant about those Pepsi cans?

15 A. Those Pepsi cans were folded in half, with a
16 hole drilled in them -- made in the middle. There were
17 ashes around that hole. And those cans when they're made
18 into that fashion with the ashes are commonly used, in my
19 experience, to smoke crack cocaine.

20 Q. Did you collect those --

21 A. Yes --

22 Q. -- Pepsi cans?

23 A. Yes, I did.

24 Q. Show you what's been marked and admitted as
25 State's Exhibit Number 37. Do you recognize that item?

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1 A. Yes, I do.

2 Q. And what does that depict?

3 A. That's a photograph of an area of the bedroom
4 floor depicting an ashtray on the ground with cigarette
5 filters that appear to have come out of the ashtray, along
6 with other items that were on the floor as I found them.

7 Q. State's Exhibit Number 41?

8 A. That's a closer photograph of the cigarette
9 filters.

10 Q. And can you tell the jury what this is here?

11 A. To my recollection, it was a cord.

12 Q. I'm going to show you a photograph that's a
13 little bit clearer. I'm going to show you again State's
14 Exhibit Number 41. I'm going to hand it to you.

15 A. There was a cord on the floor.

16 Q. And what's next to that cord?

17 A. Telephone.

18 Q. And in this --

19 In the picture in your hand.

20 A. Oh. Was the cigarette filters.

21 Q. And below the cord? With the green bead on it.

22 A. Another hair extension.

23 Q. Thank you.

24 Just so the jury can see what we were just
25 referencing, is that what we were referencing right there?

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1 A. That is correct.

2 Q. Thank you.

3 And, finally, State's Exhibit Number 40. Do you
4 recognize that photograph?

5 A. Yes, I do.

6 Q. And where was that taken?

7 A. This was also taken in the bedroom on the floor.

8 Q. And what does that depict?

9 A. More hair extensions.

10 Q. Thank you.

11 Could you tell the jury how you go about
12 processing a crime scene like this?

13 A. We respond to the crime scene, as we just went
14 through all the photographs. As we go through, we
15 photograph everything as we find it. We don't want to
16 touch anything or move anything. We want to document it
17 as soon as we found it when we arrive on scene.

18 Once that's done, we photograph the items in
19 plain view, kind of document and examine -- you know, kind
20 of try to figure out what happened here at the individual
21 scene. Usually, a search warrant is secured for the
22 residence before we collect or process anything further.

23 Once the search warrant arrives on the scene,
24 then we start to collect the items that we think may be of
25 evidentiary value. We also --

1 MR. KIDD: Court's indulgence for one moment.

2 [Whereupon, Mr. Kidd and Mr. Young confer]

3 MR. KIDD: May I approach the reporter?

4 THE COURT: Yes, sir.

5 MR. KIDD: Thank you.

6 [Whereupon, State's Exhibit Number 42 is marked
7 by the court reporter]

8 [Whereupon, State's Exhibit Number 43 is marked
9 by the court reporter]

10 [Whereupon, State's Exhibit Number 44 is marked
11 by the court reporter]

12 Q. [Mr. Kidd] All right. Sargent Reynolds, I'm
13 going to first show you what's been marked for
14 identification purposes as State's Exhibit Number 42. Do
15 you recognize that item?

16 A. Yes, I do.

17 Q. What is that?

18 A. This is a box that I packaged the knife blade
19 that I located on the couch in the living room.

20 Q. And can you open that.

21 A. [Witness complies]

22 Q. Is that that same knife blade?

23 A. Yes, it is.

24 Q. And you collected that knife blade?

25 A. Yes, I did.

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1 Q. And you packaged it into that packaging?

2 A. Yes, I did.

3 Q. And what did you -- and you did that -- what did
4 you do with it at that point?

5 A. I filled out a chain of custody form and placed
6 it into the evidence room.

7 Q. When you place something in the evidence room,
8 do you actually hand it over to someone? Is there a drop
9 box? How does that work?

10 A. We have a secured area in the forensic office
11 area that passes directly into the evidence room. Once we
12 package and seal the evidence, along with the chain of
13 custodies we place them into secure lockers and it's
14 passed through to the evidence room.

15 Q. And is this that same knife blade --

16 A. Yes, sir.

17 Q. I'm sorry.

18 [Off the record momentarily]

19 Q. [Mr. Kidd] Is this that same knife blade that
20 you have in your hand there?

21 A. Yes, it is.

22 MR. KIDD: Your Honor, at this time we would
23 like to offer State's Exhibit Number 42 into evidence.

24 MS. RUNEY: No objection.

25 THE COURT: All right. 42 admitted without

1 objection.

2 [Whereupon, State's Exhibit Number 42 is
3 admitted into evidence by the Court]

4 Q. [Mr. Kidd] I'm going to show you what's been
5 marked as State's Exhibit Number 43. Do you recognize
6 that item?

7 A. Yes, I do.

8 Q. And can you tell the jury what that is?

9 A. This is the condom I spoke previously about that
10 was located in the trash bag of the -- in the kitchen.

11 Q. And that was that trash bag that was hanging
12 over the vacuum cleaner?

13 A. That is correct.

14 Q. Okay. And I think you testified that you had an
15 assistant to actually collect that evidence; is that
16 right?

17 A. That is correct.

18 Q. And you took it in your custody at that point?

19 A. That is correct.

20 Q. And what did you do with it then?

21 A. When I brought it back to the station, I had to
22 dry it out prior to packaging. We placed it into a
23 forensic dryer and once it was dried after three to four
24 hours, then I placed it into this paper bag and sealed it.

25 Q. And what did you do with it at that point?

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1 A. I placed it into the evidence room through the
2 chain of custody.

3 Q. And that's in a similar method as you would have
4 with the knife blade?

5 A. That's correct.

6 Q. Okay. Thank you.

7 I'm going to show you what's been marked for
8 identification as State's Exhibit Number 44. Do you
9 recognize that item?

10 A. Yes, I do.

11 Q. And what is that?

12 A. This is the butcher-block knife-holder that was
13 located on the kitchen counter.

14 Q. And is that the same knife block that we had
15 photographs of earlier?

16 A. Yes, it is.

17 Q. I believe it was depicted in State's Exhibit
18 Number 28; is that right?

19 A. That is correct.

20 Q. And so that's that same knife block there?

21 A. Yes, it is.

22 Q. Did you collect that knife block?

23 A. Yes, I did.

24 Q. And what did you do with it?

25 A. I placed it into the bag and I transported it

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1 back to the station, where it was sealed, and I also
2 placed it into the evidence room.

3 MR. KIDD: And, Your Honor, at this time the
4 State would offer State's Exhibit Number 44 into
5 evidence.

6 MS. RUNEY: Without objection.

7 THE COURT: 44 admitted without objection.

8 MR. KIDD: Thank you.

9 [Whereupon, State's Exhibit Number 44 is
10 admitted into evidence by the Court]

11 Q. [Mr. Kidd] All right. Sargent Reynolds, is
12 there anything else -- well, what else -- how thorough was
13 your search of that Gainer Avenue apartment?

14 A. It was very thorough.

15 Q. Did y'all kind of leave no stone unturned?

16 A. I like to think so.

17 Q. Did you ever find any money?

18 A. I don't recall finding any money at the scene,
19 no.

20 Q. Did you take numerous samples? Can you describe
21 how that process takes place?

22 A. Yes, I did.

23 There were suspected blood stains on the walls,
24 counter tops, and other areas within the residence. These
25 were photographed and -- I didn't collect samples from

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1 every stain at the scene, but what I did was take samples
2 of various blood stains throughout the scene. What I did
3 was I photographed them, placed markers on them, and those
4 markers I labeled alphabetically.

5 Then I used sterile cotton swabs that are sealed
6 in paper packaging. I wet those swabs with our distilled
7 water and I swabbed the various blood stains.

8 Q. Approximately how long do you think you were --
9 you spent at that apartment?

10 A. I don't recall the exact amount of time I spent
11 at the scene, but I would say over a couple of hours.

12 Q. And upon leaving that scene, what was your next
13 involvement in this case?

14 A. I got called to a residence on Gumwood Avenue in
15 reference to the investigation's unit executing a search
16 warrant.

17 Q. Were you aware of whose residence that was going
18 to be?

19 A. Not at the time, no.

20 MR. KIDD: If I may approach the reporter?

21 [Whereupon, State's Exhibit Number 45 is marked
22 by the court reporter]

23 [Whereupon, State's Exhibit Number 46 is marked
24 by the court reporter]

25 [Whereupon, State's Exhibit Number 47 is marked

1 by the court reporter]

2 [Whereupon, State's Exhibit Number 48 is marked

3 by the court reporter]

4 [Whereupon, State's Exhibit Number 49 is marked

5 by the court reporter]

6 [Whereupon, State's Exhibit Number 50 is marked

7 by the court reporter]

8 Q. [Mr. Kidd] Sargent Reynolds, I'm going to show

9 you what's been marked for identification as State's

10 Exhibit Number 45, 46, 47, 48, 49 and 50.

11 [Whereupon, the witness reviews documents]

12 Q. [Mr. Kidd] Do you recognize those photographs?

13 A. Yes, I do.

14 Q. And did you take those photographs?

15 A. Yes, I did.

16 Q. And do they accurately represent the -- that
17 apartment that day?

18 A. Yes, they do.

19 MR. KIDD: Your Honor, at this time the State
20 would offer State's Exhibit Number 45, 46, 47, 48, 49
21 and 50 into evidence.

22 THE COURT: Any objection?

23 MS. RUNEY: No, sir.

24 THE COURT: All right. 45 through 50 admitted
25 without objection.

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1 MR. KIDD: Thank you, Your Honor.

2 [Whereupon, State's Exhibit Numbers 45 is
3 admitted into evidence by the Court].

4 [Whereupon, State's Exhibit Number 46 is
5 admitted into evidence by the Court]

6 [Whereupon, State's Exhibit Number 47 is
7 admitted into evidence by the Court]

8 [Whereupon, State's Exhibit Number 48 is
9 admitted into evidence by the Court]

10 [Whereupon, State's Exhibit Number 49 is
11 admitted into evidence by the Court]

12 [Whereupon, State's Exhibit Number 50 is
13 admitted into evidence by the Court]

14 Q. [Mr. Kidd] Sargent Reynolds, I'm going to first
15 show you State's Exhibit -- what's been marked and entered
16 as State's Exhibit Number 45. Do you recognize that
17 photograph?

18 A. Yes, I do.

19 Q. And what is that photograph?

20 A. It's a photograph of the apartment building that
21 I responded to.

22 The search warrant was executed on the second
23 floor, the apartment on the right.

24 Q. Do you remember what address that apartment was?

25 A. I don't recall the exact numerical, but it was

1 apartment

2 Q. Do you remember what street it's on?

3 A. Gumwood Avenue.

4 Q. Gumwood.

5 Show you what's been marked State's Exhibit

6 Number 46. Do you recognize that photograph?

7 A. Yes, I do.

8 Q. Can you tell the jury what's in that photograph?

9 A. That photograph is inside the apartment. And to
10 my recollection, it was in the -- I think it was the
11 bedroom area, with a washcloth on the floor.

12 Q. Was there anything that peaked your attention at
13 the washcloth?

14 A. It appeared to have reddish stains on it. It
15 could be suspected blood.

16 Q. I'm going to show you State's Exhibit Number 47.
17 Can you tell the jury what that is?

18 A. That's a closeup photo of the same item as in
19 the previous photograph.

20 Q. I'm going to show you what's been marked and
21 admitted into evidence as State's Exhibit Number 48.
22 Sorry, the light is not -- it's a dark photograph. Do you
23 recognize that item -- or that photograph?

24 A. Yes, I do.

25 Q. Tell the jury what's in that photograph.

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1 A. In this photograph is a pair of brown-in-color
2 trousers, that also had suspected blood stains on them;
3 along with a towel that had suspected blood stains on it;
4 and another piece of clothing on the lower part of the
5 photograph.

6 Q. And show you what's been marked and admitted
7 into evidence as State's Exhibit Number 49. Do you
8 recognize that photograph?

9 A. Yes, I do.

10 Q. And what is that?

11 A. That is the bedroom area of the apartment, that
12 we did the search warrant in, taken from the doorway.

13 Q. And I'm going to show you what's been marked and
14 admitted into evidence as State's Exhibit Number 50. Do
15 you recognize that?

16 A. Yes.

17 Q. And what is that?

18 A. That's a closeup photo of the same bed as
19 depicted in the previous photograph.

20 The pillowcase you see toward the right had a
21 reddish stain on it, some suspected blood.

22 Q. Did you have an opportunity to test those items
23 for the suspected blood?

24 A. Yes, I did.

25 Q. What kind of test do you use for that sort of

1 thing?

2 A. It's a presumptive test to indicate whether or
3 not that something is possibly blood. It's a chemical kit
4 called a phenolphthalein, which has a chemical in it that
5 reacts with certain items within the blood.

6 Q. And how do you go about applying that
7 phenolphthalein test to an item?

8 A. It's a four-step process. You use sterile
9 cotton swabs. You rub it with distilled water. The swab
10 is stained with -- the swab with the water. And then you
11 pour alcohol on it and then the chemical reads the
12 phenolphthalein.

13 Q. And how do you know whether it's presumptive or
14 not?

15 A. If it's blood, the swab will turn pink.

16 Q. And you -- on what items did you do that test?

17 A. It was on the pillow case, that's shown in the
18 previous photograph, and also the washcloth.

19 Q. And do they -- is there a chance that they can
20 do false positives on those presumptive tests?

21 A. There's always a chance.

22 MR. KIDD: The Court's indulgence.

23 [Whereupon, Mr. Kidd and Mr. Young confer]

24 Q. [Mr. Kidd] Do you recall about how long you
25 were at the -- that Gumwood residence?

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1 A. To my recollection, thirty to forty-five
2 minutes.

3 Q. Did you uncover any -- a large number of funds
4 or anything there?

5 A. Not to my recollection, no.

6 Q. After leaving that Gumwood apartment, what was
7 your next involvement in this case?

8 A. After leaving there, I was called back to Gainer
9 Avenue to the railroad tracts that were across the street
10 from the residence --

11 Q. How far are those railroad tracks from the
12 Gainer Avenue -- Gainer Avenue residence?

13 A. Right across the street.

14 Once you step out of the house, you walk across
15 the street and you're on the railroad tracks.

16 Q. And what were you called there in reference to?

17 A. Investigators had located items that they wanted
18 collected.

19 [Whereupon, State's Exhibit Number 51 is marked
20 by the court reporter]

21 [Whereupon, State's Exhibit Number 52 is marked
22 by the court reporter]

23 [Whereupon, State's Exhibit Number 53 is marked
24 by the court reporter]

25 Q. [Mr. Kidd] Sargent Reynolds, I'm going to show

1 you what's been marked for identification purposes as
2 State's Exhibit Number 51, 52 and 53. Do you recognize
3 those photographs?

4 A. Yes, I do.

5 Q. Did you take those photographs?

6 A. Yes, I did.

7 Q. What do they depict?

8 A. These three photographs depict the area of the
9 railroad tracks where the knife handle, and a cell phone
10 was found.

11 Q. And do they accurately reflect those locations
12 when you saw them?

13 A. Yes, they do.

14 Q. Do you recall the first item that you found out
15 on the railroad tracks that day?

16 A. Well, I didn't find the items. They were
17 already found previously, and when I got there I was shown
18 the cell phone and also the knife blade.

19 Q. You mean the knife blade?

20 A. I'm sorry. The knife handle.

21 Q. Okay.

22 A. Okay..

23 Q. And do you recall -- well, let's talk about the
24 knife handle first. Do you recall which officer found it?

25 A. No, I do not.

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1 Q. Do you know if it was disturbed before you
2 arrived?

3 A. I don't know if it was disturbed or not, no.

4 Q. Do you know if one of the officers had moved it?

5 A. Not to my knowledge.

6 Q. I'm going to show you what's been marked and
7 entered into evidence as State's Exhibit Number 51. Do
8 you recognize that?

9 A. Yes, I do.

10 Q. Is that the -- what is that?

11 A. That's a knife handle along by the railroad
12 tracks.

13 Q. And I guess mainly for perspective I'm going to
14 show you what's been marked as State's Exhibit Number 52.
15 What does that depict?

16 A. That depicts the railroad tracks.

17 This photograph is taken from me standing on the
18 railroad tracks, and directly behind the vehicle there is
19 the house --

20 Q. So this residence back here, is that the
21 residence in which the victim was located?

22 A. That is correct.

23 Q. In what proximity to this picture do you recall
24 was the knife handle located?

25 A. The knife handle would be located to the right

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1 of the picture, up towards where the green bushes are, and
2 the cell phone was on the lefthand side of the picture
3 down at the edge of the rocks. It's difficult to see.

4 Q. And I show you what's been marked as State's
5 Exhibit Number 53.

6 MR. KIDD: It's almost impossible to tell on
7 this thing but maybe if I show it to you personally,
8 you'll be able to see it better. Sorry. Some of my
9 photographs are pretty bad.

10 Q. [Mr. Kidd] Can you see that item right there?

11 A. Yes, I do.

12 Q. What is that?

13 A. That is a cell phone.

14 Q. And you collected that?

15 A. Yes, I did.

16 Q. And you collected this knife handle?

17 A. Yes, I did.

18 Q. And what did you do with those items once
19 collected?

20 A. Once I secured them in the vehicle, I brought
21 them back to the police station. There I processed the
22 phone and also the knife handle. The knife handle was not
23 suitable for me taking fingerprints, but I did swab it
24 with a sterile swab and distilled water for possible touch
25 DNA material. And I processed the cell phone with

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1 fingerprint powder and I was unable to locate any
2 fingerprints.

3 MR. KIDD: And, Your Honor, I think I might
4 have --

5 THE COURT: Any objection to --

6 MR. KIDD: 51 through 53.

7 THE COURT: -- 51, 52 and 53?

8 MS. RUNEY: No, sir.

9 THE COURT: How about 49 and 50? Any objection
10 to those?

11 MS. RUNEY: [No response]

12 THE COURT: I'm sorry. They're already in.

13 MR. KIDD: Yeah. I think we put in --

14 THE COURT: No objection to 51, 52 and 53?

15 MS. RUNEY: No.

16 THE COURT: All right. 51, 52 and 53 admitted
17 without objection.

18 [Whereupon, State's Exhibit Number 51 is
19 admitted into evidence by the Court]

20 [Whereupon, State's Exhibit Number 52 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 53 is
23 admitted into evidence by the Court]

24 MR. KIDD: I apologize, Your Honor.

25 THE COURT: Okay.

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1 [Whereupon, State's Exhibit Number 54 is marked
2 by the court reporter]

3 Q. [Mr. Kidd] Sargent Reynolds, I'm going to show
4 you what's been marked for identification as State's
5 Exhibit Number 54. Do you recognize that item?

6 A. Yes, I do.

7 Q. What is that?

8 A. This is the bag that I packaged the knife handle
9 in.

10 Q. Is there a knife handle in that bag?

11 A. Yes, there is.

12 Q. And when you collected that item from those
13 railroad tracks, what did you do with it?

14 A. I brought them back to the police station.

15 Q. And did you, yourself, package it in that bag?

16 A. Yes, I did.

17 Q. And then what did you do with it from that
18 point?

19 A. I placed it into the evidence room after I
20 processed it. After it was secured in the bag, I placed
21 it in the evidence locker with the chain of custody.

22 Q. And you say you processed it. I think you've
23 already told the jury this. What processing did it
24 entail?

25 A. I wanted to process for fingerprints, but due to

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1 the surface -- the surface was very rough, so it was
2 unsuitable for retaining fingerprint detail, so I swabbed
3 it with a sterile swab and distilled water for possible
4 touch DNA.

5 Q. So you --

6 THE COURT: Any objection to 54?

7 MS. RUNEY: No, sir.

8 THE COURT: 54 admitted without objection.

9 MR. KIDD: Thank you, Your Honor.

10 [Whereupon, State's Exhibit Number 54 is
11 admitted into evidence by the Court]

12 [Whereupon, State's Exhibit Number 55 is marked
13 by the court reporter]

14 Q. [Mr. Kidd] Sargent Reynolds, I'm going to show
15 you what's been marked as State's Exhibit Number 55 for
16 identification. Do you recognize those items?

17 A. Yes, I do.

18 Q. And what are those?

19 A. These are swabs that I obtained from evidence
20 that we had collected.

21 Q. And what evidence -- what evidence did you swab
22 those swabs?

23 A. These swabs contain one swab from the knife
24 handle, one swab from one of the Pepsi cans from the
25 bedroom, and the other swab, a third swab, is also from a

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1 Pepsi can -- another -- the second Pepsi can.

2 Q. And what did you do with those swabs once --

3 A. Once I swabbed the materials, I packaged them
4 into these envelopes here and then I sealed them.

5 Q. And what did you do with them at that point?

6 A. I placed them into the evidence room with the
7 chain of custody.

8 Q. After you collected the evidence from the
9 railroad tracks, what did you do next?

10 A. I brought everything back to the police station.

11 Q. Did you have the opportunity to see the
12 defendant that day?

13 A. Yes, I did.

14 Q. Can you tell the jury about how that occurred?

15 A. Later on that afternoon I was contacted by
16 Investigator Cook and Bauer, said they had items they
17 wanted to collect from a person they had in custody and
18 also that they had observed what appeared to be blood on
19 his fingers and also cuts on his fingers.

20 Q. Do you recall speaking with Detective Bauer,
21 Officer Bauer, that day?

22 A. Yes, I did.

23 Q. And did he turn anything over to you?

24 A. Yes, he did.

25 Q. I'm going to show you what's been marked for

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1 identification purposes as State's Exhibit Number 3. Do
2 you recognize that?

3 A. Yes, I do.

4 Q. And what is that?

5 A. This is the envelope that I packaged the buccal
6 swab that Detective Bauer had turned over to me.

7 Q. And what did -- after you packaged it, what did
8 you do with it?

9 A. I placed it into the evidence room, also with
10 the chain of custody.

11 Q. Thank you.

12 Did you have the opportunity to photograph the
13 defendant that day?

14 A. Yes, I did.

15 [Whereupon, State's Exhibit Number 56 is marked
16 by the court reporter]

17 [Whereupon, State's Exhibit Number 57 is marked
18 by the court reporter]

19 [Whereupon, State's Exhibit Number 58 is marked
20 by the court reporter]

21 [Whereupon, State's Exhibit Number 59 is marked
22 by the court reporter]

23 [Whereupon, State's Exhibit Number 60 is marked
24 by the court reporter]

25 [Whereupon, State's Exhibit Number 61 is marked

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1 by the court reporter]

2 Q. [Mr. Kidd] Sargent Reynolds, I'm going to show
3 you what's been marked for identification purposes as
4 State's 56, 57, 58, 59, 60 and 61. Do you recognize those
5 photographs?

6 [Whereupon, the witness reviews documents]

7 A. Yes, I do.

8 Q. [Mr. Kidd] Did you take those photographs?

9 A. Yes, I did.

10 Q. Do they accurately reflect the defendant as you
11 saw him that day?

12 A. Yes, they do.

13 MR. KIDD: Your Honor, at this time the State
14 would offer State's Exhibit Number 56 through 61 into
15 evidence.

16 THE COURT: Any objection?

17 MS. RUNEY: No, sir.

18 THE COURT: All right. 56 through 61 admitted
19 without objection.

20 [Whereupon, State's Exhibit Number 56 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 57 is
23 admitted into evidence by the Court]

24 [Whereupon, State's Exhibit Number 58 is
25 admitted into evidence by the Court]

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1 [Whereupon, State's Exhibit Number 59 is
2 admitted into evidence by the Court]

3 [Whereupon, State's Exhibit Number 60 is
4 admitted into evidence by the Court]

5 [Whereupon, State's Exhibit Number 61 is
6 admitted into evidence by the Court]

7 Q. [Mr. Kidd] Sargent Reynolds, where were you
8 when you saw the defendant that day?

9 A. I was at the police station?

10 Q. Okay. Is it in a specific room or --

11 A. The defendant is placed into -- he was in one of
12 the interview rooms after the detectives had interviewed
13 him.

14 Q. First show you what's been marked as State's
15 Exhibit Number 56. Do you recognize that photograph?

16 A. Yes, I do.

17 Q. What is that?

18 A. That is a photo of the defendant sitting in the
19 interview room at the police station.

20 Q. Did you notice -- did he appear to have any
21 injuries to his face or head area?

22 A. I don't recall, no.

23 Q. Do you not remember, or did you not see any?

24 A. I didn't see any.

25 Q. I'm going to show you what's been marked as

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1 State's Exhibit Number 57. Do you recognize that
2 photograph?

3 A. Yes, I do.

4 Q. What is that a photograph of?

5 A. That is a photograph of the defendant's right
6 hand.

7 Q. Were there any injuries on his right hand?

8 A. He appeared to have slight cuts on there. And
9 also his hands had like a reddish tinge to them.

10 Q. Show you what's been marked as State's Exhibit
11 Number 58. Do you recognize that item?

12 A. Yes, I do.

13 Q. And what -- tell the jury what that is.

14 A. That is a photograph of the -- his left hand,
15 and on the top of his second finger in is the -- on his
16 ring finger is a small cut.

17 Q. You might not be able to see it, but I'm going
18 to show you what's been marked as State's Exhibit Number
19 59. Is that right there [indicates] the cut you're
20 referring to?

21 A. Yes, it is.

22 Q. And is State's Exhibit Number 60 a closer-up
23 view of that cut?

24 A. Yes, it is.

25 Q. Is that the most substantial injury you saw on

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1 the defendant that day?

2 A. To my recollection, yes.

3 Q. Finally, State's Exhibit Number 61. Do you
4 recognize that?

5 A. Yes, I do.

6 Q. And what is that?

7 A. That is a photograph of his hands.

8 Q. Did anything else draw your attention to his
9 hands that day?

10 A. I was told by Detective Cook that he had
11 observed what appeared to be suspected blood around his
12 cuticles and also his fingernails and when I looked at his
13 hands, I saw the same thing. Appeared to have a reddish
14 tinge to it, so I obtained swabs of his hands.

15 Q. And how did that process go when you obtained
16 swabs from the defendant's hands?

17 A. I used sterile swabs and distilled water. And
18 once I wet the swabs, I swabbed his fingers.

19 Q. And where was the suspected blood on his hands,
20 again?

21 A. Up towards the cuticles and his nail areas.

22 Q. I'm going to show you what's been marked for
23 identification as State's Exhibit Number 62. Do you
24 recognize those items?

25 A. Yes, I do.

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1 Q. And what are those?

2 A. This is one swab from his right hand and one
3 swab from his left hand.

4 Q. And what did you do with those swabs once you
5 collected them from the defendant's hands?

6 A. I packaged them in these envelopes and I sealed
7 them and I placed them into the evidence room.

8 Q. After leaving the defendant that day, what was
9 your next involvement in this case?

10 A. My next involvement was attending the autopsy
11 down at MUSC the next morning.

12 Q. And that would be of the victim?

13 A. I'm sorry?

14 Q. The autopsy of the victim?

15 A. That is correct.

16 Q. I'm going to show you what's been marked for ID
17 as State's Exhibit Number 63. Can you tell what that item
18 is?

19 A. Yes. These are items collected from when I
20 attended the autopsy, down at MUSC, of the victim.

21 Q. And can you tell the jury what those items are?
22 If you need to open that package, it might make it easier.
23 Do you need scissors?

24 A. [Witness complies]

25 I collected a blood spot, which was taken from

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1 the victim, and dried onto a piece of cotton for DNA
2 purposes. I collected her left fingernail clippings, the
3 right fingernail clippings, and her head hair, a sample of
4 her head hair.

5 Q. And once you collected those items, what did you
6 do with them?

7 A. I transported them back to the police station,
8 packaged them up, and placed them into the evidence room.

9 Q. Thank you.

10 MR. KIDD: The Court's indulgence.

11 [Whereupon, Mr. Kidd and Mr. Young confer]

12 Q. [Mr. Kidd] Finally, Sargent Reynolds, to your
13 knowledge, was any money recovered from the defendant that
14 day?

15 A. To my recollection, I recovered money from his
16 clothing.

17 Q. Do you remember possibly how much money that
18 was?

19 A. I don't recall exactly how much, no.

20 Q. Would it help refresh your recollection if you
21 could refer to your report?

22 A. This is --

23 Q. Do you have a copy of it up there?

24 A. No, I do not.

25 [Whereupon, Mr. Kidd proffers documents to the

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1 witness]

2 [Whereupon, the witness reviews documents]

3 A. It appears to be approximately \$11 and change.

4 Q. [Mr. Kidd] And were you able to see and
5 photograph the victim as she was found on the scene that
6 day?

7 A. Yes, I did.

8 Q. And could you tell the jury as best you can how
9 she appeared and what her injuries looked like to be?

10 A. At the scene?

11 Q. That's correct.

12 A. She appeared to have injuries around her head.
13 And was -- she was lying on the floor. There was an
14 amount of suspected blood under her upper body. And after
15 we had photographed and the coroner arrived on the scene,
16 once we turned her over she appeared to have some facial
17 injuries, also.

18 Q. What do you mean facial injuries?

19 A. She appeared to have cuts on her face, and her
20 face was kind of puffy and appeared to be bruised.

21 Q. Was there swelling?

22 A. Appeared to be, yes.

23 Q. And you say she had cuts on her face. Where
24 were the cuts located?

25 A. I noticed two cuts at the time, at the scene,

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1 above her eyebrows.

2 Q. Were there any other lacerations or -- I guess,
3 you know, that's another word for cuts, I guess. Any
4 other specific injuries or trauma that you noticed?

5 A. She just had various areas on her face. It was
6 difficult to determine to at the time, due to the amount
7 of blood that was on her face and head area.

8 Q. Did you notice any cuts or lacerations to her
9 hands?

10 A. Yes, I did.

11 Q. How did those appear?

12 A. She had cuts on her hands that appeared to be,
13 in my opinion and experience, defensive wounds from a
14 knife attack.

15 Q. Were they more or -- how significant were they?
16 Were they deep cuts?

17 A. Yes, they were.

18 Q. Did they have -- did it appear that they had cut
19 into the muscle?

20 A. Yes.

21 Q. I guess what I'm getting at is were they more
22 significant than the cut on Mr. Gathers' hand?

23 A. Yes, they were.

24 Q. Significantly so?

25 A. Somewhat, yes.

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1 Q. And where on her hands were these cuts?
2 A. I would have to refer to the photographs.
3 Q. Did you notice any other injuries to her legs?

4 A. Yes, sir, I did.

5 Q. What were those?

6 A. She had areas of shaved skin underneath both
7 kneecaps on the front of her legs.

8 Q. And did you notice any other injuries to her
9 body?

10 A. Not to my recollection, no.

11 Q. No further questions, Your Honor.

12 THE COURT: All right. Madam Forelady, ladies
13 and gentlemen of the jury, we're going to take a break
14 at this time. If you need anything, let the bailiffs
15 know.

16 I don't know if any of you are smokers. If you
17 are, let the bailiffs know and they'll take you to the
18 proper place for smoking.

19 Take about a fifteen- or twenty-minute break.
20 Please don't discuss the case amongst yourselves.
21 We'll see you after the break.

22 [Whereupon, the jury exits the courtroom at
23 11:29 a.m.]

24 THE COURT: Sargent Reynolds, please don't
25 discuss the case with anybody during the break.

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1 is held]

2 THE COURT: Any cross-examination?

3 MS. RUNEY: Yes, sir.

4 CROSS-EXAMINATION

5 BY MS. RUNEY:

6 Q. Sargent Reynolds, part of your job is to
7 photograph the scene?

8 A. That is correct.

9 Q. And you did that on June the 7th?

10 A. Yes, I did.

11 Q. And that included pictures of Gainer Avenue?

12 A. That is correct.

13 Q. And those pictures included the bedroom, the
14 den, and the kitchen?

15 A. Yes.

16 Q. Is there a bathroom?

17 A. Yes, there was.

18 Q. Are there any other bedrooms?

19 A. Not to my recollection, no.

20 Q. This is State's Exhibit Number 24. Could you
21 tell me what that's a picture of again?

22 A. This is a picture of the couch in the living
23 room.

24 Q. And those are the cushions that are turned up?

25 A. That appears to be, yes.

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1 Q. They're not in their proper place?

2 A. Not normally, no.

3 Q. State's Exhibit Number 22, those are possible
4 blood stains on the sofa?

5 A. That is correct.

6 Q. Did you take any samples of those blood stains?

7 A. I took various bloodstain samples from
8 throughout the house, yes.

9 Q. How about these spots?

10 A. Not to my recollection, no.

11 Q. And this is the same sofa and the same blood
12 spots?

13 A. Yes, it is.

14 Q. Did you take a swab of the blood on the
15 doorframe?

16 A. To my recollection, I think I did, yes.

17 Q. And what did you do with those swabs?

18 A. I packaged them and placed them into the
19 evidence room.

20 Q. Did you do anything further with those swabs?

21 A. No, I did not.

22 MS. RUNEY: May I approach the court reporter,
23 Your Honor?

24 THE COURT: [Indicates affirmatively]

25 MS. RUNEY: Have that marked for identification.

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1 [Whereupon, Defendant's Exhibit Number 2 is
2 marked by the court reporter]

3 Q. [Ms. Runey] Sargent Reynolds, can you tell me
4 if you can identify that picture?

5 A. Yes.

6 Q. What is that of?

7 A.. This is a room inside the residence, which is
8 the bedroom.

9 Q. And did you take that picture?

10 A. Yes, I did.

11 Q. Thank you.

12 And this picture was taken on January 7th --

13 A. That is correct.

14 Q. -- 2010?

15 A. Correct.

16 MS. RONEY: Your Honor, at this time I would
17 move Defendant's 2 into evidence.

18 THE COURT: Defendant's 2?

19 MS. RONEY: Yes, sir.

20 THE COURT: Any objection?

21 MR. KIDD: No, sir.

22 THE COURT: All right. Defendant's 2 admitted
23 without objection.

24 [Whereupon, Defendant's Exhibit Number 2 is
25 admitted into evidence by the Court]

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1 Q. [Ms. Runey] Sargent Reynolds --

2 THE COURT: Hold on just a second.

3 [Off the record momentarily]

4 THE COURT: Go ahead.

5 Q. [Ms. Runey] Sargent Reynolds, could you tell us
6 again what this is a picture of and where in the house?

7 THE WITNESS: Can you back it out just a little
8 bit for me, please?

9 A. This appears to be a storage room that was
10 across from the bedroom at the end of the hallway.

11 Q. [Ms. Runey] So this is another room in the
12 house?

13 A. Correct.

14 Q. You testified earlier about several pieces of
15 hair extensions. Do you know if this was real hair, or
16 hair that can be added?

17 A. I'm not really sure about the hair.

18 I do know that the hair color was consistent
19 with the hair on the victim's head.

20 Q. You took eight swabs of blood from the
21 residence?

22 A. If I recall correctly, yes.

23 Q. And you also took a swab of the knife handle?

24 A. Correct.

25 Q. And when you take a swab, that's for possible

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1. DNA?

2. A. Correct.

3. Q. And DNA can be in sweat --

4. A. Correct.

5. Q. -- as well as blood and other bodily fluids?

6. A. Yes.

7. MS. RUNEY: I would like to have this marked for
8. identification.

9. [Whereupon, Defendant's Exhibit Number 3 is
10. marked by the court reporter].

11. Q. [Ms. Runey] Sargent Reynolds, are you familiar
12. with --

13. MR. KIDD: Objection; Your Honor.

14. THE COURT: What's your legal objection?

15. MR. KIDD: May we approach? Relevance is my
16. legal objection.

17. [Whereupon, an off-the-record bench conference
18. is held]

19. THE COURT: The objection at this point in time
20. is sustained.

21. Ladies and gentlemen, when the attorneys make an
22. objection, what they are saying is that the evidence is
23. not admissible under the rules of evidence. It's my
24. job to make a determination whether they are admissible
25. under the rules of evidence or not.

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SAM RIEDEL,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. KIDD:

Q. Can you tell the jury where you're employed?

A. I'm currently employed for the City of North
Charleston Police Department.

Q. And how long have you been employed there?

A. January will be eight years.

Q. Eight years.

And what are your duties with North Charleston?

A. I'm currently assigned to the investigations
bureau, with an emphasis on white-collar fraudulent crime.

Q. Back in June of 2010, what were your duties with
North Charleston?

A. I was assigned to the white-collar crime.

Q. Did you find yourself involved in this case --

A. I did.

Q. -- in June of 2010?

A. I did.

Q. What was your involvement in this case?

A. On my way in to work, I responded to a call,
along with Detective Holt and patrol officers, as it was
just around the corner from our station.

MIA PERRON, CVR-CM

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1 During the course of the investigation, I was
2 appointed as the case agent or lead detective.

3 Q. And how does that -- how does that appointment
4 go? I mean, you were white-collar crime. Why did you get
5 appointed to a homicide?

6 A. One, for being one of the primary responding
7 officers -- or detectives; as well as assigned by our
8 division. There's a list in which we are assumed
9 responsibility if we are at that scene.

10 Q. So is it sort of just because you were kind of
11 the ranking officer on scene? Is that sort of how it
12 worked?

13 A. Somewhat, yes.. I was the lead -- or ranking
14 investigator at that time.

15 [Whereupon, State's Exhibit Number 64 is marked
16 by the court reporter]

17 Q. [Mr. Kidd] And so because you were one of the
18 first responders and the ranking investigator, you kind of
19 caught the case as the lead case agent?

20 A. Yes.

21 Q. Is that an accurate kind of description of how
22 that worked out?

23 A. Yes, it is.

24 Q. So it had nothing to do with any white-collar
25 that --

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1 A. No.

2 Q. -- you did?

3 What are your typical duties when you are a case
4 agent on something like this?

5 A. Typical duty include making sure that, you know,
6 all aspects of the investigation are followed up on, and
7 assigning persons to do these tasks, gathering information
8 that they obtain, and trying to piece it all together to
9 make sense of the entire situation.

10 Q. Are you familiar with the area that this
11 occurred in North Charleston?

12 A. Yes, I am.

13 Q. Like are you familiar with where Gumwood Avenue
14 is?

15 A. Yes.

16 The areas in which both of the events took place
17 were located within an area I patrolled for several years
18 before being assigned to the investigators division.

19 Q. So you were familiar with Gainer Avenue and
20 Gumwood?

21 A. Yes.

22 [Whereupon, State's Exhibit Number 65 is marked
23 by the court reporter]

24 Q. [Mr. Kidd] I'm going to show you what's marked
25 as State's Exhibit Number 65. Do you recognize that?

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1 A. It's an overhead map of a portion of the City of
2 North Charleston.

3 Q. Does that accurately represent the area which
4 you patrolled?

5 A. Yes.

6 Q. Does it contain the location of Gainer Avenue,
7 and also the location of Gumwood Avenue, on that map?

8 A. It does.

9 Q. I'm going to give you this red Sharpie. And I
10 know it's kind of a far-back map. Do you think you could
11 mark an X where -- and if it takes you a minute, take your
12 time -- where -- or maybe put a GA where Gainer is and a
13 GU where Gumwood is?

14 [Whereupon, the witness reviews documents]

15 Q. [Mr. Kidd] I know the streets are --

16 A. Yeah, it's --

17 Q. -- kind of small.

18 A. -- kind of difficult to --

19 Do you want me to put that general area in which
20 the street is, or where in which the incident occurred?

21 Q. The location.

22 Which one do you have marked there?

23 A. This would be where the incident occurred at.

24 Q. Gainer Avenue?

25 A. Yes.

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1 Q. As close to the residence as you can, if you
2 would just mark a GA.

3 A. [Witness complies]

4 Okay. And then you said also for Gumwood?

5 Q. [Mr. Kidd] -- for Gumwood, if you could.

6 A. [Witness complies]

7 Q. Thank you.

8 A. That was GU.

9 Q. Perfect. Thank you.

10 MR. KIDD: Your Honor, at this time the State
11 would like to offer State's Exhibit Number 65 into
12 evidence.

13 THE COURT: Any objection?

14 MS. RUNEY: No, sir.

15 MR. KIDD: May I publish it to the jury, Your
16 Honor?

17 THE COURT: Do you have a --

18 MR. KIDD: I have an easel right here.

19 THE COURT: Do you have something other, that
20 can be folded up, of that? Or you don't?

21 MR. KIDD: I do not. I could refrain from
22 admitting it --

23 THE COURT: We'll worry about that --

24 MR. KIDD: -- just demonstrative.

25 THE COURT: -- later on.

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1 All right. State's Number 65 admitted without
2 objection.

3 MR. KIDD: Thank you, Your Honor.

4 [Whereupon, State's Exhibit Number 65 is
5 admitted into evidence by the Court]

6 Q. [Mr. Kidd] And just so we can kind of try to
7 give the jury an idea about what we're doing with --

8 MR. KIDD: Can I have him step down, Judge?

9 Q. [Mr. Kidd] Can you first show the jury where
10 the Gainer -- the GA, the Gainer Avenue, residence was in
11 the top corner of this map up here and where is Gumwood?

12 A. Gumwood is down here. Right here..

13 Q. Okay. And do you know what -- what is this
14 here?

15 A. That's Interstate 526.

16 Q. It's 526?

17 A. Yes.

18 Q. And what about this right one here?

19 A. That is Interstate 26.

20 Q. So it's roughly near the 526-26 intersection? I
21 mean, in relation on this map, anyway?

22 A. In relation to this, yes.

23 Q. Okay. And what is this line here?

24 A. That is a series of railroad tracks that extends
25 from the Amtrak station, which is actually here on the

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1 other side of Gainer Avenue, and extends all the way out
2 through the city into Goose Creek.

3 MR. KIDD: Thank you, sir.

4 Q. [Mr. Kidd] During the course of your
5 investigation, were you able to determine the identity of
6 the victim?

7 A. Yes, I was.

8 Q. Did you obtain a photograph image of her?

9 A. Yes.

10 We obtained a photograph from access to the
11 South Carolina Department of Motor Vehicles.

12 Q. I'm going to show you what's been marked as
13 State's Exhibit -- for identification as State's Exhibit
14 Number 64. Do you recognize that photograph?

15 A. I do.

16 Q. And what is that?

17 A. It is a photograph of the victim's driver's
18 license.

19 Q. Thank you.

20 THE COURT: Any objection?

21 MS. RUNEY: No, sir.

22 THE COURT: All right. State's Exhibit Number
23 64 admitted without objection.

24 * [Whereupon, State's Exhibit Number 64 is
25 admitted into evidence by the Court]

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1 MR. KIDD: Thank you, Your Honor.

2 Q. [Mr. Kidd] And just for the jury, this is
3 that --

4 [Whereupon, Mr. Kidd and Mr. Young confer]

5 Q. [Mr. Kidd] And is that the picture that you
6 pulled off that database?

7 A. That is identical to the picture that I pulled
8 off..

9 Q. Right. This isn't the specific one. I mean,
10 it's the same photograph, just a different piece of paper

11 A. That's correct.

12 Q. And is that the victim in this case?

13 A. Yes, it is.

14 Q. And that's how she appeared in this photograph.

15 Is her appearance much different on the -- when
16 you saw her on the scene?

17 A. Yes. It was considerably different.

18 Q. In what ways?

19 A. In the upper portion of her facial area was
20 extremely swollen and bruised.

21 Q. Did it make her look like a different person?

22 A. There was definite alterations to her
23 appearance, yes, but she was recognizable when compared to
24 other features that were unaltered due to damage.

25 Q. Thank you, sir.

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1 I'm going to show you again State's Exhibit
2 Number 64.

3 A. Yes.

4 Q. Could you tell the jury what the victim's height
5 and weight is on that document?

6 A. Five foot four, 134 pounds.

7 MR. KIDD: The Court's indulgence.

8 [Whereupon, Mr. Kidd and Mr. Young confer]

9 Q. [Mr. Kidd] And were you involved in the search
10 of the Gainer Avenue residence?

11 A. Yes, I was.

12 Q. And were you there throughout the execution of
13 that search warrant and execute -- or searching that
14 victim's residence?

15 A. Yes. I was present at the residence from the
16 initial point until the residence was secured upon
17 completion of that search warrant.

18 Q. Did you also go to the Gumwood residence?

19 A. I did not go to the Gumwood residence.

20 MR. KIDD: I have no further questions of this
21 witness, Your Honor.

22 THE COURT: Cross-examination.

23 MS. RUNEY: Thank you.

24 - - -

25 - - -

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CROSS-EXAMINATION

BY MS. RUNEY:

Q. Detective Riedel, as a result of your participation and investigation of this case, you wrote a report; is that correct?

A. I did.

Q. And in that report you stated that you did two thorough searches of the bedroom and the living room?

A. That is correct.

Q. And that was to ensure that no evidence was overlooked?

A. Yes, ma'am.

Q. And you were also present for the interview of Mr. Gathers?

A. I was present at the ending of Mr. Holt's initial interview, yes. And upon his exiting and informing me of what was said, I did gather the full information.

Q. So after Mr. Gathers had given a written report to detective Holt, he also spoke to you? And he was cooperative with you?

A. Yes, ma'am.

Q. He was sad?

A. Yes.

Q. And you know that because he was crying?

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1 A. At the point I contacted him, he was more
2 sobbing, not crying.

3 Q. He was sobbing?

4 A. Yes.

5 Q. And he told you that Ms. Nevarez had been in
6 possession of a knife?

7 A. Yes, there was mention of a knife.

8 Q. And that he had tried to remove that knife from
9 her?

10 A. According to what he had stated to me, yes, that
11 is correct.

12 Q. And you documented that in your report?

13 A. I did.

14 MS. RUNEY: That's all I have Detective Riedel.
15 Thank you.

16 THE COURT: Redirect?

17 MR. KIDD: No, sir.

18 THE COURT: You may step down. Thank you very
19 much.

20 THE WITNESS: Yes, sir.

21 [Whereupon, Mr. Riedel is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness, please.

24 MR. KIDD: Your Honor, may we approach?

25 THE COURT: yes, sir.

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1 [Whereupon, an off-the-record bench conference
2 is held]

3 THE COURT: All right. Madam Forelady, members
4 of the jury, we're going to take a lunch break at this
5 time.

6 Please don't discuss the case amongst
7 yourselves. If you'll be back in the jury room at
8 2:15, we'll get started at that time. And if anyone
9 tries to talk with you about it, please don't.

10 I believe from this morning you know where to
11 come. When you come to the courthouse, come straight
12 to the jury room. See you at 2:15.

13 [Whereupon, the jury exits the courtroom at
14 12:40 p.m.]

15 THE COURT: All right. For the record, Defense
16 Exhibit Number 1 is a photo that was entered into
17 during the Jackson v. Denno hearing. I'm going to mark
18 that as Court's Exhibit Number 1, pursuant to the
19 Jackson v. Denno hearing. If you want to introduce it
20 at a later time, we'll change the enumeration.

21 [Whereupon, Defendant's Exhibit Number 1 is
22 remarked as Court's Exhibit Number 3]

23 THE COURT: Now, during the bench conference,
24 defendant offered their Exhibit Number 2, which is a
25 series and a list of names with credit card numbers

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1 that was obtained from the victim's home.

2 Is that correct, Ms. Runey?

3 MS. RUNEY: Yes, sir.

4 THE COURT: And the State had an objection to
5 that; is that correct?

6 MR. KIDD: That's correct, Your Honor.

7 I think just for clarification, I think
8 Defendant's 2 was that photo.

9 I think Defendant's 3 is the documents that you
10 objected to.

11 THE COURT: Okay. Defendant's Exhibit Number 3.

12 All right. Do you want to put your objection on
13 the record?

14 MR. KIDD: Yes, Your Honor.

15 Our objection was simply that -- it's relevancy.
16 I don't think it has any relevancy to this case. I
17 think it's an attempt to show action and conformity
18 therewith, showing that maybe she had some prior bank
19 fraud issues -- if that was even her writing or her
20 paperwork -- and we just don't find it to have any
21 relevancy to this case.

22 THE COURT: Ms. Runey, what's your relevancy?

23 MS. RUNEY: Your Honor, it becomes relevant when
24 Mr. Gathers' statement is in evidence that she took
25 money from him and that's why he became upset with her

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1 and why they struggled. And it -- I do think it is
2 character evidence but I think that when it comes into
3 play, it -- as a part of his defense, it does become
4 relevant.

5 THE COURT: All right. At the bench I ruled it
6 may become relevant at the time. However, at that time
7 I had not read the statement. I have now read the
8 statement and in several portions of the statement, the
9 defendant refers to the money and he was trying to
10 merely just get his money back. Plus, the State has
11 asked two of the detectives about searching the house,
12 looking for money, and then was very specific about
13 finding \$11 and some change within the right pocket of
14 the defendant.

15 Having said that, I'm going to allow those
16 statements into evidence. I'm going to grant -- is it
17 Defendant's Exhibit Number 3?

18 MS. RUNEY: Yes, sir.

19 THE COURT: I'm going to put State's --
20 Defendant's Number 3 in, with objection.

21 [Whereupon, Defendant's Exhibit Number 3 is
22 admitted into evidence by the Court]

23 MR. KIDD: Your Honor, if you do that, I would
24 like at least an opportunity to cross-examine the
25 witness on those -- on that exhibit. I refrained from

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1 doing that --

2 THE COURT: The witness -- what witness? The
3 witness it belonged to is dead.

4 MR. KIDD: Well, the witness who collected it.
5 Or any witness about it, Judge.

6 THE COURT: Well, if you want to re-call the
7 police officer, I'll be happy for you to do that.
8 Okay? I'll be happy for you to do that.

9 My difficulty: I had not read the statement.
10 That's why I asked for it, so I could read it and see
11 what it related to as far as money is concerned.

12 MR. KIDD: Yes, sir.

13 THE COURT: But please re-call -- who do you
14 want to re-call? John Reynolds? Or do you want to re-
15 call -- who do you want to re-call?

16 MR. KIDD: I won't re-call him, Judge. I --

17 THE COURT: I mean, I don't have any problem if
18 you want to re-call him and ask him any question you
19 want to ask him.

20 MR. KIDD: I understand that, Judge. I just
21 think that's going to bring more attention to it than I
22 would prefer to.

23 THE COURT: Well, please, if you change your
24 mind, you can call Detective Riedel or you can call
25 either -- whoever you want to re-call in reference to

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1 that, since I did rule at the bench I wasn't going to
2 allow it in and now I'm changing that after having read
3 the statement.

4 MR. KIDD: Yes, sir.

5 THE COURT: Okay?

6 MR. KIDD: Thank you.

7 THE COURT: So after lunch, feel free to re-call
8 if you want to, or at any point during the trial you're
9 welcome to re-call. Okay?

10 MR. KIDD: Yes, Your Honor. Thank you.

11 THE COURT: All right. Thank you very much.
12 Anything else before we recess to 2:15?

13 MS. RUNEY: No, Your Honor.

14 THE COURT: All right. We'll recess to 2:15.

15 [Whereupon, a recess is taken from 12:49 p.m. to
16 2:23 p.m.]

17 THE COURT: Let's see. Detective -- what is
18 it -- Riedel, is he here?

19 MR. KIDD: He is, Your Honor.

20 THE COURT: Tell him to come on around and have
21 a seat.

22 Anything before we bring the jury?

23 MR. KIDD: I believe he was finished testifying.

24 THE COURT: Oh. He had? He had finished
25 testifying? Okay. I'm sorry. That's right. She had

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1 ADRIENNE HEFNEY,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. YOUNG:

6 Q. Can you tell the jury, please, what your
7 occupation is?

8 A. Yes. I'm a forensic DNA analyst with the South
9 Carolina Law Enforcement Division, more commonly known as
10 SLED.

11 Q. And how long have you been employed by SLED?

12 A. For fourteen years..

13 Q. And what does SLED mean again?

14 A. South Carolina Law Enforcement Division.

15 Q. Tell the jury what your duties are as a forensic
16 DNA analyst.

17 A. As a forensic DNA analyst, what I do is analyze
18 biological evidence that may have been left behind at a
19 crime scene and make comparisons.

20 We analyze known evidence samples, which are
21 samples that we collect from the subject and/or the victim
22 in the case and can make comparisons to unknown samples,
23 which are evidence samples that were left behind at the
24 crime scene. And those samples could be blood, semen,
25 saliva, bone, tissue, et cetera. Hair.

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1 Q. What's -- tell the jury a little bit about your
2 educational background, if you don't mind.

3 A. Sure.

4 I have a Bachelor of Science degree, from the
5 University of South Carolina, in biology. I also have a
6 Master's of Business Administration or MBA from Winthrop
7 University.

8 I was trained at SLED by a court-qualified
9 analyst. And since joining SLED, I've taken courses in
10 population genetics, molecular and cellular biology,
11 statistics.

12 And each year we are required to attend a
13 conference or some other type of outside training to stay
14 abreast of any changes that happens in the -- dealing with
15 DNA analysis.

16 Q. Have you testified before as an expert in DNA
17 testing?

18 A. Yes, sir, I have.

19 Q. Approximately how many times?

20 A. About fifty-three times or -- I'll say over
21 fifty times.

22 Q. Over fifty times. And has that been in South
23 Carolina?

24 A. Yes, sir. As well as federal court.

25 MR. YOUNG: Judge, at this time the State offers

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1 Ms. Hefney as an expert in forensic DNA analysis.

2 THE COURT: Do you want to cross-examine her on
3 her qualifications, or do you stipulate?

4 MS. RUNEY: I don't, Your Honor. I believe that
5 Ms. Hefney is qualified as an expert in DNA analysis.

6 THE COURT: The Court so finds. Thank you very
7 much.

8 MR. YOUNG: Thank you, Judge.

9 Q. [Mr. Young] Ms. Hefney, if you could kind of
10 tell the jury and myself, what is DNA?

11 A. DNA essentially is what makes us who we are. It
12 is a chemical substance, that's found in cells of our
13 body, that we inherit from our mother and our father. We
14 inherit half of our DNA from our mother and the other half
15 from our father.

16 Now, a lot of DNA between humans are the same
17 because it's the DNA that codes for us to have two arms,
18 two legs and two eyes. But if we look around this
19 courtroom, we notice that everybody looks different. So
20 our DNA is different and it's unique to each individual.
21 The only two people that will have the same DNA will be
22 identical twins.

23 Q. Thank you.

24 A. Uh-huh.

25 Q. How is DNA used for forensic purposes?

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1 A. The fact that we -- our DNA is unique to
2 individuals, we use it in forensics because we are able to
3 make comparisons to evidence to known standards. Like if
4 we were to develop a DNA profile from an evidence sample,
5 say a drop of blood that was left behind at a burglary
6 scene and we through investigation find out who we think
7 may have left that blood behind, we could make a
8 comparison. And then once we make that visual comparison,
9 we also apply a statistical match to it, as well.

10 Q. Okay. Now, is there certain types of DNA
11 analysis that -- or analyses that you perform at SLED?

12 A. Yes. We perform what's known as PCR DNA
13 analysis.

14 And what that is, theoretically you can have as
15 small as a pinhead size of stain, of DNA, that was left
16 behind and we're able to get a DNA profile from it. And
17 we do this by an amplification procedure. And what an
18 amplification -- and what I mean by that is, for example,
19 say you have a Xerox copier and you lay a piece of paper
20 down. You can make a million copies of that piece of
21 paper. So we can make a book, but it doesn't change how
22 the paper looks or anything like that. It's still that
23 same piece of paper.

24 That's the same as with DNA. We can take a
25 stack of DNA and amplify it to where it'll give us a DNA

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1 profile that we can look at.

2 And we also do YSTR testing at SLED. And what
3 YSTR testing is, it's specifically designed to only
4 examine male DNA. And we use that in cases like sexual
5 assault cases or any other type of case where we may have
6 an overabundance of female DNA and a minor contribution of
7 male DNA. Well, with this type of testing, it'll only
8 pick up or analyze the male DNA or paternally-inherited
9 DNA.

10 Q. And what specific types of bodily fluids or
11 tissues can DNA be obtained from?

12 A. Sure. Blood, semen, saliva, hair, tissue, bone,
13 skin cells, sweat.

14 Q. Did you have an opportunity to examine or
15 analyze evidence related to this case for us today, the
16 case of Gregory Gathers?

17 A. I did.

18 Q. And do you have your report in front of you that
19 you wrote for this case?

20 A. I do.

21 Q. Can you tell the jury what type of evidence was
22 submitted that you analyzed for this case?

23 A. Sure.

24 I received what is known as SLED item 1, which
25 is a buccal swab from Gregory Quinn Gathers. And a buccal

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1 swab is a swab from the inside of your cheek cells. I
2 also received item 2, which was a swab from the right hand
3 of Gregory Gathers; item 3, a swab from the left hand of
4 Gregory Gathers ; item 5.1, swab from the outside of the
5 condom; item 5.2, swab from the inside of the condom; 5.3
6 is debris from the condom, but I did not do any analysis
7 on that; item 6, a swab from a knife handle; item 7, I
8 received a blood standard from Renee Nevarez. I also
9 received swabs from a Cherry Pepsi can that I did not
10 perform analysis on. And that was item 8 and 9. As well
11 as item 10 and 11, which were the right and left
12 fingernail clippings of Renee Nevarez. I did perform DNA
13 analysis on those. And I also received known head hairs
14 that I did not perform analysis on.

15 Q. Ms. Hefney --

16 MR. YOUNG: If I may approach the witness,
17 Judge?

18 THE COURT: Yes, sir.

19 Q. [Mr. Young] I'm going to show you two pieces of
20 evidence. That will be State's 3, State's 62, State's 43,
21 66, 55, and 63. I know these have the SLED numbers, as
22 well.

23 When you received I guess -- I'm sorry. When
24 you receive like evidence, what do you -- will you take us
25 through the process of when you say you analyze it? Is

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1 this when you start the testing process or is it --

2 A. Yes.

3 Q. Can you kind of explain that?

4 A. Yes.

5 When we receive evidence, it's usually in a
6 dried state, whether it's on a swab or on a cutting or
7 some substrate like that. What we'll do is make a small
8 cutting into a tube and we'll add chemicals into that tube
9 that will release the DNA from the cells.

10 And once we release the DNA from the cells, we
11 will run it through a procedure where we clean up the DNA,
12 which means we're removing any extracellular material or
13 anything that's not, you know, DNA from the cell, remove
14 it from out of there as a -- known as a purification
15 procedure.

16 After that's done, we'll quantify it. And what
17 I mean by that, we will do a quantization test to see how
18 much DNA we have.

19 And once that's done, we'll do the
20 amplification, which I explained earlier with the Xerox
21 copier type method.

22 We'll do that, and then develop a DNA profile
23 from there.

24 Q. Okay. Now, when you get evidence in, do you --
25 go ahead.

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1 A. I'm sorry. There's one thing I forgot.

2 Q. That's okay.

3 A. When we get evidence in, we also do what's known
4 as a serology test. And what the serology test is is a
5 body-fluid identification. So we'll see whether we're
6 dealing with blood or semen.

7 And in this case, on item 3 I did a serology
8 test, which is a presumptive test for blood -- which is
9 called phenolphthalein; that reacts with the human blood.
10 And that was on item 3, the swab from the left hand of
11 Gregory Gathers. And there was blood indicated there.
12 And as well as on the condoms, we also want to test for
13 semen. So we want to identify those two types of body
14 fluid before we go on to DNA.

15 Q. Okay. And when you receive evidence and it
16 comes to you, is it sealed?

17 A. Yes, sir.

18 Q. Okay. And those pieces of evidence in front of
19 you, SLED 1, 2, 3, 5.1, 5.2, 6 and 7, which should be
20 State's 3 in front of you, 62, 43, 55 and 63 -- do you see
21 all of those in front of you?

22 A. Let's see. 43, 62, 3, 66 --

23 Q. And 55?

24 A. -- and 55.

25 Q. And do you see all of that, as well -- as well

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1 as 3? Do you see all of those up there?

2 A. Is 3 -- yes, sir.

3 Q. Okay. When you got those items, when they came
4 to you, were those items all sealed?

5 A. Yes.

6 Q. And had they been tampered with from what you
7 could tell?

8 A. No, not when they arrived with me.

9 Q. When you -- if they had been tampered with, what
10 would you have done?

11 A. We would have to make a phone call to find out
12 why we received this opened, for one thing, and then we
13 wouldn't analyze it.

14 Q. Okay. But that wasn't the case? Everything
15 that you got had been sealed and not tampered with?

16 A. That's correct.

17 Q. Okay. When you analyze different pieces of
18 evidence, do you make a report?

19 A. Yes, sir.

20 Q. You do.

21 And is that the report that you have in front of
22 you today? It's a six-page report?

23 A. Yes, sir.

24 Q. In this case were you able to determine some
25 results from the evidence that was submitted?

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1 A. Yes, I was.

2 Q. And let's kind of take a look at those results.
3 So certainly for me I'm going to put your results page --
4 and the jury, as well -- on the overhead here. And can
5 you kind of explain for me -- sometimes I have a little
6 trouble understanding this stuff. If you would read it
7 and tell me --

8 [Off the record momentarily].

9 Q. [Mr. Young] So on your results page you said
10 that blood was indicated, right, on the left hand of
11 Gregory Gathers? Is that right? Is that --

12 A. Not on that page.

13 Q. Okay.

14 A. -- but on -- in my serology section.

15 Q. Your serology. Okay.

16 A. Yeah.

17 Q. Explain to me what your first result was here on
18 this page, the result that's in front of you.

19 A. On this page? Okay.

20 Q. Is that the easiest way for me to have you
21 explain that?

22 A. Yes, unless -- it might be easier to show the
23 chart but --

24 Q. Go over the alleles first?

25 A. Yeah --

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1 Q. Would that be easier for you?

2 A. -- probably so.

3 Q. Okay. I can do that

4 A. And then I can read the results if --

5 Q. Okay. That sounds perfect.

6 Let me show you, then, your chart with the
7 different identifiers on it. And is it -- so what -- and
8 this is a chart that you make when you perform analysis on
9 these different pieces of evidence; is that right?

10 A. Yes.

11 THE WITNESS: May I stand?"

12 THE COURT: Yes, ma'am.

13 MR. YOUNG: Yeah.

14 Q. [Mr. Young] If you could, Ms. Hefney, just kind
15 of explain --

16 THE COURT: You don't have a pointer she can
17 use?

18 Do you want a pointer?

19 THE WITNESS: Yes, sir.

20 THE COURT: Will that help you?

21 THE WITNESS: It'll help.

22 THE COURT: Get her a pointer, please.

23 [Off the record momentarily]

24 Q. [Mr. Young] Just kind of take us through what
25 this chart means and what -- what these columns are.

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1 A. Okay. What you see across the top here --
2 THE WITNESS: And it's cut off some.
3 MR. YOUNG: I'm sorry. Can you see that?
4 THE WITNESS: Yeah, but it's still truncated on
5 this -- on the other side.
6 MR. YOUNG: On the right side?
7 THE WITNESS: The right side.
8 Q. [Mr. Young] Okay. Take us through --
9 A. But I'll take you --
10 Q. Right --
11 A. -- through --
12 Q. Right. Just explain -- just -- okay.
13 A. At the top here, you notice these various
14 numbers. And at the first number it says D8S1179. What
15 that means, we have twenty-three pairs of chromosomes in
16 our body and we look at fifteen of these chromosomes to
17 compare a DNA profile as unique to each individual. And
18 the first one that we looked at, D8, which is chromosome 8
19 at site 1179 on that chromosome -- and we go through each
20 one. The next one will be D21, the next one will be D7,
21 CSF, so on and so forth, until we get it through all
22 fifteen. The last one is amelogenin, which codes for male
23 or female. The female is an X and the male being an XY.
24 All right. Right here I've developed -- this
25 item 7 is Renee Nevarez' known standard.

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1 Q. So that's her DNA right there? That's her DNA
2 screen? Is that the best way to --

3 A. That is her known standard from the --

4 Q. Item -- SLED item 7?

5 A. -- SLED item 7, which would have been a blood
6 standard from her.

7 So I've developed a DNA profile from her blood
8 standard, and her -- it's shown right here. And at D8
9 you'll notice that she's a 14/15, at D21 she's a 28/30,
10 and which means she would have either gotten -- remember I
11 said half of your DNA comes from your mother and half of
12 it from your father. So she would have gotten either the
13 14 from her mother or the 15 from her mother or one of --
14 one of them came from each one. Without having her
15 parents' profile, I can't tell which one she got from
16 which.

17 But at this locus you see -- and locus is just
18 another word for the chromosome marker. Right here at CSF
19 she is a 12. That means she got both a 12 from her mother
20 and a 12 from her father.

21 So I developed a profile from her and then I
22 developed a DNA profile from Gregory Gathers. And that's
23 item 1.

24 Q. And that was SLED item 1?

25 A. Yes. And it was from a buccal swab from inside

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1 his cheek.

2 And the buccal -- the -- and I want to emphasize
3 that the swab -- the DNA that you get from your blood, the
4 DNA that you get from the inside of your cheeks or your
5 skin, is the same DNA. No matter what, it doesn't change
6 depending on where you get it from from your body.

7 But Gregory Gathers here, he is an 11/12 here at
8 D8 and a 31/32.2. And, again, he would have gotten the 11
9 or the 12 from either his mother or his father. The same
10 as with the 31/32.2.

11 Now on my result sheet, the first result that I
12 had -- and I'll read directly from my report. It says:
13 the DNA profile developed from item 3 is a mixture of at
14 least two individuals. Gregory Gathers and Renee Nevarez
15 cannot be excluded as possible contributors to this
16 mixture. The probability of randomly selecting an
17 unrelated individual who could have contributed to this
18 mixture is approximately one in two million people.

19 Q. So this item 3, just to be clear, that was a
20 swab that was taken from Gregory Gathers' left hand?

21 A. That's correct. I believe it was the left hand.

22 [Whereupon, the witness reviews documents]

23 A. Yes, the left hand. And there was blood
24 identified or indicated on that hand.

25 Q. [Mr. Young] And you're saying that Renee

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1 Nevarez' blood is also on Gregory Gathers' hand? Is that
2 what that chart is saying?

3 A. It was blood indicated on his hand. And I can't
4 say whether the blood came from her or if he was bleeding,
5 whether it came from him or the skin cells underneath.
6 But she is the major contributor to this.

7 Q. To the blood on his hand --

8 A. To the -- and so I would have to assume that the
9 blood, it is the major profile on there.

10 For example, here, the 11/12 -- I'm sorry. He's
11 the major contributor here. So the 11/12 -- let's see on
12 the chart. It doesn't tell us. But D -- item 3, the left
13 hand of Gathers, you see we have an 11/14 and a 14/15.
14 And the 11/12 is in bold and what that means is the bold
15 is the major contributor to that item.

16 So the 11/12 matches Gregory Gathers. The 14/15
17 matches Renee. And I go through each one of these, like
18 28/30 and 31/32.2 at the next locus, and I see Gregory
19 Gathers is a 31/32.2 and Renee Nevarez is a 28/30.

20 When I go through this entire profile, I look
21 before I make my conclusion that it's is a mixture of the
22 two of them. And then I apply a statistic to it. And the
23 statistic that I apply to it -- and how you do that is you
24 take each one of these numbers and you apply a frequency
25 of how -- you have a population of how ever many people,

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1 how many times you're going to see that number.

2 So I'll take the -- and I don't do this by hand.
3 I have a computer program that will do all this
4 mathematics for me. But I'll put the 11 in and it'll say
5 the 11 is shown however many times in a population and the
6 12 is shown however many times. It'll go through each one
7 of these numbers and so a multiplication or -- it's known
8 as product rule -- to get the big number.

9 The big number in this case, or with this item,
10 was one in two million. So if I was to line up two
11 million people, I should only expect to see this
12 combination of DNA one time.

13 Q. So -- okay. And, Ms. Hefney, explain to me --
14 if you look at item 3 in the left-hand, Gathers, in the
15 first column. So Renee is 14/15; right? That's her
16 number?

17 A. Uh-huh.

18 Q. And Gregory is 11/12; right?

19 A. Yes, sir.

20 Q. And then in that column, the first one you have
21 is 11/12, 14/15?

22 A. Uh-huh.

23 Q. Is that -- it looks like it's matching up in
24 every single column; is that right?

25 A. Yes, sir.

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1 Q. Okay. So that's Renee's DNA, as well as his
2 DNA, matching up on his --

3 A. On his --

4 Q. -- hands?

5 A. -- hands, yes.

6 Q. Okay. And the chance of that not being correct,
7 just so I'm clear, is one in two million?

8 A. No. The chance of you seeing that profile
9 again --

10 Q. Okay.

11 A. -- if you were to line up two million people is
12 a one in two million chance.

13 Q. One out of two million chances?

14 A. So I should not see -- if I line up two million
15 people, I should only see that DNA profile, that
16 combination, one time.

17 Q. What does that say? Can you -- or what does
18 that say to you as far as -- is that -- can you say with
19 relative certainty that's Renee on his hands?

20 A. Within a reasonable degree of scientific
21 certainty, yes --

22 Q. That that's --

23 A. -- it's a mixture --

24 Q. -- that's Renee Nevarez --

25 A. It's a mixture, yes.

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1 Q. Okay. That's a mixture of Gregory and Renee;
2 right?

3 A. Uh-huh.

4 Q. Okay. Sorry. I know you'll bear with me. I'm
5 trying to make sure I work through -- work my way through
6 this thing.

7 Do you want to go to your next result? Would --

8 A. Yes.

9 Q. -- that be --

10 A. All right.

11 Q. -- be the easiest way to do it?

12 A. So you see both of those. They're -- both of
13 the results are similar for item 2 and 3. Item 5.1.f --

14 Now, when we -- what do I mean by F and M here?
15 When we have a swab from like a condom or something that
16 contains semen, we'll do our best to separate the female
17 portion of that from the male portion of that. The female
18 portion is the F and the male portion is the M. And we
19 just apply different chemicals on there that's going to --
20 live sperm cells; and that's what you should see in the M
21 fraction effect.

22 But in this case both fractions end up being
23 from Renee Nevarez. And one reason for that may be --
24 usually with condoms -- we see those quite a bit because
25 sometimes condoms contain a spermicide. We get our DNA

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1 from the sperm, not really the semen. And so it could of
2 killed the sperm where we didn't get any DNA from the male
3 in that respect.

4 But here on item 5.1.f, you see 14/15, 28/30, 7,
5 10, 12, 15, 16, all the way across, and we see that that
6 matches Renee Nevarez.

7 And, again, with the male fraction what --
8 normally, I guess if it was anything but a condom, maybe,
9 we would expect to see the male in this. But in this case
10 we see the female again, but in lower quantities of it.

11 Item 5.2 is another swab from the condom and
12 that is from what, as submitted, is the inside of the
13 condom.

14 Q. And can you explain -- as submitted, explain
15 that -- that'll be too graphic.

16 A. Okay. Typically, when we -- when like Janice
17 gets the condom, she's going to swab the inside and the
18 outside as it came in. Now, whether when this act was
19 occurring or this condom was being used, whether that was
20 typically the inside or the outside, we don't know that
21 because sometimes when a condom is being taken off, it's
22 taken off and turned inside out. So if that's the case,
23 then the outside would become the inside and the inside
24 would become the outside.

25 So in this case, which is item 5.2, which was

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1 the inside of the condom, we have a mixture again. And my
2 results there --

3 Q. And so the inside, just to be clear, would most
4 likely be the outside? Is that -- it could be the
5 outside?

6 A. It could be.

7 Q. It could be --

8 A. Uh-huh.

9 Q. -- could be the outside.

10 A. The DNA profile developed from item 5.2 is a
11 mixture of at least two individuals. The DNA profile of
12 the major contributors of this mixture matches the DNA
13 profile of Renee Nevarez. The probability of randomly
14 selecting an unrelated individual having a DNA profile
15 matching the major contributor to this item is
16 approximately one in 500 [phonetic] quadrillion. The
17 partial DNA profile of the minor contributor to this
18 mixture matches the DNA profile of Gregory Gathers. The
19 probability of randomly selecting an unrelated individual
20 having a DNA profile matching the minor contributor to
21 this mixture is approximately one in 17,000.

22 So if we go through here --

23 Q. Can you --

24 A. I can't really see it up here.

25 Q. Ms. Hefney, can you -- so can you kind of --

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1 just so I'm clear: so on the condom, one in 50
2 quadrillion chance that it's not her; right?

3 A. Is if I lined up one in -- if I lined up 50
4 quadrillion people, I should only expect to see that DNA
5 profile one time. And being as though that's higher than
6 the population on the earth, then probably within a
7 reasonable degree of scientific certainty I would agree
8 that --

9 Q. You could say that --

10 A. -- it's her.

11 Q. -- that Renee was on the condom?

12 A. Yes.

13 Q. And then the minor contributor to the condom is,
14 from the results -- did you say Gregory Gathers?

15 A. Yes.

16 Q. Okay. And --

17 A. And it's a partial.

18 Q. The -- I'm sorry. Go ahead.

19 A. And it's a partial profile from him so we apply
20 the statistic to what we see. And that's why his
21 statistic is one in 17,000 versus one in 50 quadrillion.

22 Q. And when you say a minor or major contributor,
23 is that just -- does that mean the DNA is not strong,
24 maybe, or it's sort of been rubbed off, possibly, or
25 something like that? Is that maybe a possibility?

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1 A. What I mean by that is like the concentration
2 from DNA from her, as opposed to him, is greater. So
3 she's contributing more DNA on that sample than he is,
4 basically.

5 Q. Okay. Continue on to the -- the knife handle,
6 is that number 6?

7 A. Yes.

8 Item number 6 is a knife handle. The partial
9 DNA profile developed from item 6 is a mixture of at least
10 two individuals. The partial DNA profile of the major
11 contributor to this mixture matches the DNA profile of
12 Renee Nevarez. The probability of randomly selecting an
13 unrelated individual having a DNA profile matching the
14 major contributor to this item is approximately one in 460
15 million. And a DNA profile of the minor contributor to
16 this mixture is insufficient for reliable interpretation.

17 Q. So explain what that means in laymen's terms.
18 Does that mean that Renee Nevarez' DNA is on that knife
19 handle?

20 A. Yes.

21 Q. Okay. And then there's also another DNA profile
22 that there wasn't enough to make an interpretation; is
23 that right?

24 A. Exactly.

25 So I did further testing on this knife handle.

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1 Where I explained earlier that we have a YSTR test that we
2 can perform that will only pick up male DNA -- and that's
3 a different chart, though.

4 Q. And I'm going to show that chart. And tell me,
5 is this the YSTR chart?

6 A. Yes.

7 Q. Can you explain again -- I know you kind of
8 touched on what -- touched on YSTR. Is that -- why would
9 you use the YSTR testing?

10 A. Usually, YSTR testing is when we have a high
11 concentration of female and a small concentration of male
12 that we can -- sometimes the female may be masking the
13 male.

14 We can use this test to only pick up the male
15 and not the female in this case. And so and that's what I
16 did in this instance on this knife handle.

17 Q. And in using this test, were you able to develop
18 a result on that knife handle who that --

19 A. Yes.

20 Q. -- minor contributor, that you weren't sure
21 about --

22 A. Yes.

23 Q. -- became?

24 A. And I'm going to read directly from my report.

25 Q. Okay.

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1 A. [Reading] The partial YSTR profile developed
2 from item 6 matches the YSTR profile of Gregory Gathers.
3 Paternal male relatives of Gregory Gathers may not be
4 excluded as a contributor of this profile. This profile
5 is found nine times in a population data base of 1,164
6 males.

7 So and, again, I went through here. This is
8 Gregory Gathers' YSTR standard.

9 Q. YSTR standard?

10 A. This is -- I also ran the condom again because I
11 got a -- what was -- a very small amount on the
12 insufficient -- I'm sorry -- insufficient profile on the
13 first condom, so I ran it on the Y to see if I could pick
14 up any male. And I didn't get anything there.

15 And then on the knife handle here, I got very
16 little. So but you can see there's a 14. And anything
17 that's in parenthesis here, we interpret with caution
18 because it's very low level. So it's not much at all.
19 But there is a 14 there and that 14 matches the 14 of
20 Gregory --

21 Q. And that's Gregory's DNA right there; right?

22 A. Yes.

23 Q. Okay. 14 and 14.

24 What's that number there? Is it 19-19, 14-14,
25 10-10?

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1 A. Uh-huh.

2 Q. Okay. Sorry to interrupt you.

3 A. That's fine.

4 Q. I'm just making sure, for me to be clear.

5 A. Okay.

6 Q. Is that all you need on this chart?

7 A. Yes.

8 Q. Okay. So the knife handle, interpreting your
9 results, Renee is on there 1 in 460 million that she's
10 not; right?

11 A. I should only expect to see that profile once in
12 460 million people.

13 Q. And then when you did the YSTR test, you found
14 Gregory to be a minor contributor on there, as well;
15 right?

16 A. On the YSTR profile, it -- the partial matches
17 Gregory and I should only expect -- it was found nine
18 times in a population of 11,064 males.

19 And, again, anybody on Gregory's male side of
20 the family, or paternal side of the family, would have the
21 same profile.

22 Q. Okay. And moving -- is that -- and then you did
23 the female clippings; is that --

24 A. That's items 10 and 11, and there was no DNA
25 profile foreign to Renee on those.

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1 Q. Okay. So nothing was developed, per your
2 report, on items 10 and 11? Go ahead.

3 A. No DNA profile foreign to the victim was
4 developed from items 10 and 11.

5 Q. Okay. Just so we're clear, then: on the knife
6 handle, condom, you said you could say with a reasonable
7 degree of certainty that you got Gregory and Renee in
8 there; right?

9 A. -- make sure on those.

10 [Whereupon, the witness reviews documents]

11 A. Uh-huh.

12 Q. [Mr. Young] And also on his hand, her blood is
13 there, too; right?

14 A. Yes.

15 Well, I can't say whether it was her blood or
16 his. I have her DNA.

17 Q. Her DNA?

18 A. Yes.

19 Q. Okay. Is that all you need from this chart?

20 A. Uh-huh.

21 MR. YOUNG: Okay. You can sit down now, if you
22 would like.

23 [Whereupon, the witness complies]

24 Q. [Mr. Young] Those items that we just went
25 through, 1, 2, 3, 5.1, 5/2, 6 and 7, are those those items

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1 in evidence that are in front of you right there?

2 A. Yes.

3 MR. YOUNG: Judge, at this point I would ask to
4 admit State's 3, State's 66, State's 63, State's 55,
5 State's 43, and State's 62 into evidence.

6 THE COURT: All right. You said 3, 66, 62, 43
7 and 55; is that correct?

8 MR. YOUNG: I said 3, 62, 43, 55, 63 and 66.

9 THE COURT: Okay. Any objection to, let me see,
10 3, 43, 55, 62, 63 and 66?

11 MS. RUNEY: No, sir.

12 THE COURT: All right. Admitted without
13 objection.

14 [Whereupon, State's Exhibit Number 3 is admitted
15 into evidence by the Court]

16 [Whereupon, State's Exhibit Number 43 is
17 admitted into evidence by the Court]

18 [Whereupon, State's Exhibit Number 55 is
19 admitted into evidence by the Court]

20 [Whereupon, State's Exhibit Number 62 is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 63 is
23 admitted into evidence by the Court]

24 [Whereupon, State's Exhibit Number 66 is
25 admitted into evidence by the Court]

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1 MR. YOUNG: Thank you for answering my
2 questions. Please answer any questions defense counsel
3 may have.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MS. RUNEY:

7 Q. Ms. Hefney, I'm going to go straight to your
8 results, okay, which would be Gregory Gathers -- a swab
9 from Gregory Gathers' right hand and a swab from his left
10 hand. Right?

11 A. Correct.

12 Q. Those are items 2 and 3?

13 A. Yes, ma'am.

14 Q. And you tested those for blood?

15 A. I tested item 3 for blood --

16 Q. Yes, ma'am.

17 A. -- and I did not test item 2 for blood because
18 there was no visible stain present.

19 I made a note on my worksheet: item 2 swab from
20 right hand of Gregory Gathers, no visible stain, straight
21 to DNA.

22 Q. So blood is only found in the swab from his left
23 hand?

24 A. On the left hand, yes, I noted that there was a
25 visual blood stain present so I did a presumptive test,

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1 the phenolphthalein test, and it came up positive.

2 Q. And that blood, or that test, is simply for the
3 presence of blood?

4 A. That's correct.

5 Q. It doesn't tell you whose blood it is?

6 A. That's correct.

7 Q. And then following that, you do a DNA test?

8 A. Correct.

9 Q. Which is different from blood because DNA can be
10 sweat, semen -- or can be found in sweat, semen, or other
11 bodily fluids?

12 A. That's correct.

13 Q. And so when you do the second test, you're
14 looking for DNA from any of those things?

15 A. I'm looking to see, yes, what -- who the stain
16 belongs to, basically.

17 Q. And when you did that test, you found a mixture
18 of both Mr. Gathers' DNA and Ms. Nevarez' DNA?

19 A. That's correct.

20 Q. And then on -- when you tested the handle, which
21 would be item 6 --

22 A. Uh-huh.

23 Q. -- you weren't testing for blood, you were
24 testing for DNA?

25 A. DNA.

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1 Q. And the major contributor of that DNA was
2 Ms. Nevarez?

3 A. That is correct.

4 Q. And at that point you didn't find any DNA that
5 belonged to Mr. Gathers?

6 A. I saw my minor contribution there from someone
7 else, and it appeared to be him. And which is why I
8 performed the YSTR test.

9 Q. And you move to that test when you don't -- when
10 you don't have a definitive answer from the first test?

11 A. Yes. Or if you see something.

12 And also back in this one when we did the quantization
13 step -- remember when I said we quantify the DNA to see
14 how much we have? In this particular case I ran a
15 quantization step that would tell us whether we had like
16 total human DNA, as well as a male portion of DNA. And in
17 this one I had a very little bit of male portion of DNA,
18 so YSTR would be the best option for that. When you have
19 a lot of total human DNA and very little male, the Y is
20 the best option to go there.

21 Q. So that --

22 A. And so even with the identifier or with the
23 normal I guess PCR test, I saw where I had minor alleles
24 or DNA present from him, the DNA which is -- the YSTR,
25 which is further being on the hands --

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1 Q. For a male?

2 A. Uh-huh.

3 Q. And then at that point when you did the YSTR
4 profile test is when you were able to develop a DNA
5 profile for Gregory Gathers?

6 A. Yes, ma'am. A partial.

7 Q. And I believe you said on direct that there was
8 very little DNA material of Gregory Gathers on that knife
9 handle?

10 A. Yes.

11 It's like I had -- out of the -- let's see. 16
12 chromosome locations for YSTR testing, there was four with
13 -- that matched him.

14 [Whereupon, Ms. Runey and Mr. Smith confer]

15 MS. RUNEY: That's all I have. Thank you,
16 Agent.

17 THE COURT: Any redirect?

18 MR. YOUNG: No further questions.

19 THE COURT: Thank you very much. You may step
20 down.

21 [Whereupon, Ms. Hefney is excused and exits the
22 witness stand]

23 THE COURT: All right. Madam Forelady, ladies
24 and gentlemen of the jury, we're going to take a break
25 at this time.

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1 [Whereupon, Dr. Batalis is duly sworn by the
2 clerk of court as follows: do you swear or affirm that
3 the testimony that you will give the Court and the jury
4 in the trial of this case will be the truth, the whole
5 truth, and nothing but the truth, so help you God]

6 THE WITNESS: I do.

7 THE CLERK OF COURT: Thank you, sir. You may
8 take your seat.

9 [Whereupon, Dr. Batalis takes the witness stand]

10 THE CLERK OF COURT: Sir, if you would please
11 state your first and last name, spelling your last for
12 the record.

13 THE WITNESS: My name is Nicholas Batalis.

14 B-A-T-A-L-I-S.

15 MR. KIDD: Good afternoon, Doctor.

16 THE WITNESS: Good afternoon.

17 - - - - -

18 NICHOLAS BATALIS, M.D.,

19 Having Been First Duly Sworn,
20 was Examined and Testified as Follows:

21 DIRECT EXAMINATION

22 BY MR. KIDD:

23 Q. Can you tell the jury where you're employed?

24 A. I'm employed at the Medical University of South
25 Carolina here in Charleston.

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1 Q. And how long have you worked there?

2 A. I've been on staff there for about three and a
3 half years now.

4 Q. And what is your job title at the Medical
5 University?

6 A. I'm employed there as a forensic pathologist.

7 Q. And have you been a forensic pathologist there
8 the three years that you've worked there?

9 A. Yes, I have.

10 Q. Are you a licensed physician?

11 A. Yes. I'm fully licensed in South Carolina.

12 Q. In South Carolina. Is that the only state?

13 A. Yes.

14 Q. And you are presently engaged in that job
15 currently?

16 A. Yes, I am.

17 Q. Where did you receive your training in
18 pathology?

19 A. So after finishing medical school at Indiana
20 University, I came down to do training in general
21 pathology here at the Medical University of South
22 Carolina.

23 So general pathology is the study of disease. A
24 pathologist is the one who might look at a biopsy or a PAP
25 smear to see if there's cancer or not.

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1 After that four -- after those four years, I
2 then went to the Dallas County medical examiner's office
3 in Dallas, Texas, for a one-year fellowship in forensic
4 pathology, and then came back here on staff after that.

5 Q. Can you explain to the jury a little bit about
6 what forensic pathology is?

7 A. So forensic pathology is a medical subspecialty
8 that predominately involves determining the cause and
9 manner of death, which is how a person died.

10 Q. And that's currently what you do now? You're a
11 forensic pathologist now?

12 A. Yes.

13 Q. And what do your duties entail as a forensic
14 pathologist?

15 A. So as a forensic pathologist our primary duty
16 involves performing autopsies, which are examinations on
17 decedents, to determine why they died.

18 So a typical case, what would happen, we would
19 bring a body into our examination room, take photographs
20 as we receive the body before we've touched it in any way,
21 with the clothing on. So take photographs as it is. Then
22 we'll disrobe the body, clean it up, take another set of
23 photographs.

24 After that's done, we then move on to the
25 external examination, which is basically just looking at

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1 the body from head to toe, looking at -- for stuff such as
2 eye color, tattoos, but also any evidence of trauma or
3 natural disease, anything abnormal.

4 And then the last part of it then is the
5 internal exam, where we make surgical type incisions to
6 look inside the body, dissecting the internal organs,
7 again, to look for natural disease or any sort of trauma.

8 Then after that's finished, we complete a
9 report.

10 Q. How many autopsies, roughly, have you performed?

11 A. Over a thousand.

12 Q. And are you -- what's your affiliation with the
13 Medical University? Do you teach there? Are you an
14 academic there?

15 A. So I'm appointed as a forensic pathologist, so
16 probably about fifty percent of my time is spent doing
17 autopsies and working that type of stuff up. The rest of
18 my time is spent in education. So I teach medical
19 students and then our own trainees in pathology and
20 forensic pathology.

21 Q. Are you a member of any specialized like medical
22 groups or associations?

23 A. Yeah. I'm a member and actively involved in
24 several forensic national organizations and also some
25 general pathology organizations, as well.

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1 Q. What's the American Board of Pathology?

2 A. So the American Board of Pathology is the body
3 that certifies pathologists to be board certified.
4 They're the only recognized body that certifies
5 pathologists.

6 Q. Are you a certified pathologist?

7 A. Yes.

8 So after completing my general pathology
9 training, I completed an exam to become certified in
10 anatomic and clinical pathology, which is your general
11 pathologist. And then after my fellowship, I became board
12 certified in forensic pathology.

13 Q. Is there a continuing education requirement that
14 accompanies that certification?

15 A. Yes.

16 From both the State of South Carolina and the
17 American Board of Pathology, we have to get a certain
18 number of credits each year -- I believe it's at least
19 thirty-five credits per year -- educational hours.

20 Q. What about the department -- your department at
21 the Medical University? Does it have some sort of
22 certification?

23 A. The department itself does not.

24 Q. Okay. Have you testified in court before?

25 A. Yes.

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1 I've been -- I've testified as an expert witness
2 in South Carolina approximately twenty times, and then
3 once in North Carolina and once in Texas.

4 Q. And is that in the area of expert in forensic
5 pathology?

6 A. Yes.

7 MR. KIDD: Your Honor, at this time we would
8 offer Dr. Batalis as an expert in the area of forensic
9 pathology.

10 THE COURT: Any objection?

11 MS. RUNEY: We agree.

12 THE COURT: Pardon?

13 MS. RUNEY: We agree. No objection.

14 THE COURT: Okay. Thank you very much.

15 MR. KIDD: Thank you -- thank you, Your Honor.

16 Q. [Mr. Kidd] Doctor, do you remember or do you
17 recall performing the autopsy on the victim in this case,
18 Renee Nevarez?

19 A. Yes, I did, on June 8th of 2010.

20 Q. I want to go over with you some of your findings
21 and sort of -- do you have your -- do you generate a
22 report when you conduct an autopsy?

23 A. Yes, we do.

24 Q. And I want to kind of mirror your report.
25 First, do you -- were you able to determine an approximate

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1 height and weight of the victim?

2 A. Yes, we did.

3 The decedent measured sixty-three inches in
4 length, so five foot three inches, and she weighed 139
5 pounds.

6 Q. And were you able to determine the cause of
7 death?

8 A. Yes, I did.

9 Her cause of death was blunt head trauma or
10 blunt-force trauma of the head.

11 Q. And now I kind of want to go -- kind of mirror
12 your report, as best I can. I want to go to the external
13 examination of the body. Can you tell the jury what you
14 found there?

15 A. In the general terms, or just the injury, or --

16 Q. In general, what did you observe when --

17 A. Okay.

18 Q. -- also when she was --

19 A. Again, the first thing we note is kind of what
20 the decedent is wearing. So we noted the clothing,
21 personal effects, removed those. Then we measured and
22 weighed the body. Other than that, we then kind of went
23 from head to toe to look for anything abnormal. Which the
24 decedent did have a couple of scars, kind of scattered
25 scars, an area of skin that was darker than others, kind

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1 of scattered around the body. But that was the major --
2 or I guess the findings that did not involve injuries.

3 Q. Did -- so any of those scars would have been
4 from prior injuries or surgeries or things that happened
5 well before?

6 A. Right.

7 A scar is going to take a least two months or so
8 to heal.

9 Q. And in your external examination section, did
10 you make any note about the swelling of her neck?

11 A. Yes.

12 The decedent's neck -- basically, we check the
13 neck to see if it appears swollen, and also to see if
14 there's any masses there, and the neck did appear slightly
15 swollen.

16 Q. And you also make a comment about -- or the lack
17 of petechia. Can you tell the jury what petechia is?

18 A. So petechia are small, pinpoint hemorrhages that
19 you can get really anywhere. You can get them on your
20 skin. You can get them anywhere. A lot of times where
21 you'll see them is in the eyeballs and these are due to
22 the little blood vessels that will burst. Sometimes if
23 you've ever been really sick and vomiting, vomiting, and
24 vomiting, just from that you can get these petechia.

25 But another time that we see them, especially in

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1 this setting, is they can be suggestive of -- somebody who
2 was strangled, you can get petechia in the eyes.

3 But, again, in this case we did not see
4 petechia.

5 Q. And I want to get right to the -- your evidence
6 of injury section.

7 A. Okay.

8 Q. And do you have that section in front of you?

9 A. I do.

10 Q. And did you make some charts with reference to
11 this case?

12 A. I did. Well, I made some diagrams.

13 Q. I guess that's what I mean, diagrams.

14 Would it help to go over your findings if we
15 were able to show the diagrams to the jury?

16 A. I believe so.

17 Q. All right. This is the first diagram I'm going
18 to show you.

19 MR. KIDD: I'm going to hand you a laser pointer
20 so you can --

21 THE WITNESS: Okay.

22 MR. KIDD: -- it might help you better explain
23 what we see here.

24 THE WITNESS: Thank you.

25 MR. KIDD: Uh-huh.

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1 A. Did you have any specific questions, or did you
2 just want me to describe --

3 Q. [Mr. Kidd] Well, let's start with the blunt
4 head trauma, which I guess might -- we might be better off
5 seeing -- I'm on this top-left corner of the diagram.

6 A. Okay.

7 Q. Can you describe the blunt-force head trauma
8 that she sustained?

9 A. Sure.

10 So this diagram is of the decedent's face. And
11 the major finding was -- or one of the major findings is
12 basically this line here, which is just across -- you
13 know, just about the mid part of the nose. Basically from
14 that point all the way up to the forehead, as far up as we
15 could see to the hairline, the face was bruised. Where
16 this little triangle is, there was a little area of
17 sparing where there wasn't any bruising in the middle.

18 But essentially, again, both sides of the face
19 all the way from the nose to the forehead were entirely
20 bruised. You couldn't even tell them apart. Just one
21 confluent bruise.

22 In addition to that, there were three different
23 scrapes on the left side of the face. So where this says
24 abrasions, these are just scrapes of the skin. And so we
25 had three different scrapes, up until about an inch in

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1 size, off to the lefthand -- left side of the eye. So
2 three different scrapes here.

3 In addition, we had two lacerations. So a
4 laceration is a tear in the skin but, as opposed to being
5 a cut from a knife, a laceration is from a blunt-force
6 object. So, again, from being struck by a fist, struck by
7 an object, if the head was slammed in or bumped into
8 something. That's the type of injury we're talking about
9 the laceration.

10 So we had a partial thickness. So kind of a
11 superficial laceration just over the left eye here and
12 then a larger laceration -- I'm sorry. This one, the
13 smaller one, was over the right eye and then the larger
14 laceration just above and to the left of the left eye.
15 And this one was through the full thickness of the skin.
16 And so those were the blunt-force findings we saw on the
17 external exam.

18 Q. I mean now going to show you your other chart.
19 Can you tell the jury what this chart shows?

20 A. So that the findings I just described previously
21 we're just looking at her face at the autopsy, just like
22 I'm looking at you guys.

23 After we complete that external exam, the next
24 thing we do is move on to the internal exam. So to do
25 this -- and we make a cut from behind the right ear to the

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1 top of the head and then to behind the left ear. And by
2 doing that, we can then fold forward the decedent's scalp
3 so that we can examine the brain and then pull the scalp
4 back so that you could still have an open casket at a
5 funeral and not be -- and not be compromised.

6 So what we're looking at here, then, this is the
7 scalp folded forward. So this part of the scalp that's
8 right here at the bottom would actually be functionally
9 when -- before we made the cut, would have been at the top
10 of her head.

11 And so where I've colored in these dark black
12 areas are large bruises in the scalp. And so you can see
13 here this one will be at the top of the head, this one
14 would correspond to right above the forehead, and then --
15 so several different areas we could see that would be on
16 the front to the top of the scalp here.

17 This is looking at the back of the head. So
18 there was another large bruise at the back of the head.

19 Looking at the left side -- so her face would be
20 facing this way -- again, several large bruises in the
21 scalp here. And the same thing here.

22 Now she would be facing this way. We see,
23 again, five more distinct bruises.

24 So multiple discrete impact sites where there
25 are bruises or contusions of the scalp.

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1 Q. Based on that analysis of her head, are you able
2 to make a determination of how many times she was struck?

3 A. At least several would be about as --

4 Q. At least several? Could you give a range? Is
5 it more -- so it's more than two, more than three?

6 A. At least five to ten times.

7 Q. At least five to ten times. Could it have been
8 twenty?

9 A. Could have been.

10 Q. But based on your opinion, it was at least five?

11 A. Exactly. And that's including the bruises that
12 we're seeing here on the scalp. In addition, again, we
13 had the lacerations on the face. So taking into account
14 the face and the scalp, you know, conservatively, at least
15 five times.

16 Q. And upwards it could have been twenty? Could it
17 have been more than that?

18 A. Right. Because of the bruising on the face was
19 just continuous, as opposed to where we're seeing discrete
20 lesions here, the face was just -- again, it was just kind
21 of one big bruise.

22 So it's not possible to say. Again, it could
23 have been a couple or it could have been numerous.

24 Q. It could have been multiple impacts in the same
25 area? It just kind of all blended together?

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1 A. Right.

2 Q. Now I want to talk to you a little bit about
3 how -- how does one die from blunt-force trauma?

4 A. Sure. So all the findings that we showed to
5 this point --

6 Q. Would it help to have one of these?

7 A. No. That's --

8 All the findings we've shown to this point
9 indicate definite severe trauma with multiple impact
10 sites.

11 But just the bruising on the scalp and face
12 alone would not cause you to die. If you were in just a
13 bad fight or a car accident, you could get these same type
14 of findings.

15 What we found the cause -- how -- how she would
16 have died in this case: when we then removed the skull to
17 look at the brain, there was bleeding in two different
18 areas. So you have a layer called the dura, which kind of
19 wraps around and protects the brain. So she had a layer
20 of bleeding, which was subdural hemorrhage. So blood
21 between the dura and the brain.

22 In addition, you have a layer on top of the
23 brain called the arachnoid layer. So that sits right on
24 top of the brain. So she had subarachnoid hemorrhage. So
25 that tells us she had bleeding around the brain and then

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1 on top of the brain.

2 In addition to that, her brain was markedly
3 swollen. So as the person is being beaten, the brain
4 sloshes back and forth, your nerves, instead of sticking
5 together like this, will get injured and kind of sheered
6 or kind of pulled apart, which causes the brain to swell
7 up.

8 And so basically to die of blunt-force trauma,
9 you're talking about just a massive insult on the brain
10 from the repeated trauma, and, again, that shirring
11 episode that would cause the brain to dysfunction. And it
12 may tell the lungs to stop breathing, it may tell the
13 heart to stop beating. But you get a dysfunction of the
14 brain because of the blunt-force trauma.

15 Q. And how -- the subarachnoid bleeding, so that's
16 bleeding inside the skull? Is that --

17 A. The subarachnoid is on top of or in the brain.

18 Q. On top of or in the brain.

19 And is that from like the brain bouncing against
20 the skull or how --

21 A. And so the -- let me go back. The subdural, so
22 that's underneath the covering of the brain. That's
23 generally from little blood vessels you have that go from
24 the dura to the brain. So the little connecting vessels.
25 And so those get torn, that causes the subdural

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1 hemorrhage.

2 The subarachnoid hemorrhage is you have small
3 blood vessels in the brain and in that layer, that
4 arachnoid. Again, those get torn from the same actions.
5 From the kind of sloshing back and forth, you get just the
6 direct trauma to the brain that causes that bleeding.

7 Q. And does it -- that trauma, that sheering and
8 that bleeding inside of her skull, or inside of her brain,
9 which ultimately caused her death?

10 A. Yes.

11 Q. Now I want to talk to you about the sharp-force
12 injuries that Ms. Nevarez suffered. Can you tell the jury
13 a little bit about those?

14 A. So just above both eyes --

15 MR. KIDD: I'll put it back on the overhead.

16 Maybe that'll help.

17 A. So just above both eyes she had very superficial
18 incised wounds.

19 So, again, as opposed to the lacerations we
20 talked about before being from a blunt trauma, these are
21 very sharp distinct injuries which would have been made by
22 a sharp object such as a knife.

23 And so she had one above each eye. So the one
24 over the right eye was just over an inch. And so we're
25 talking on the eyelid here between the lid and the

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1 eyebrow. So just over an inch on the right side. And
2 then almost in the exact same spot on the left side, she
3 had one that was just under an inch. So nearly identical
4 superficial cuts above both eyes.

5 Q. [Mr. Kidd] And generally speaking, this -- so
6 this is below the eyebrow but above the eyelid; is that
7 accurate?

8 A. It's essentially on the eyelid so --

9 Q. On the eyelid.

10 A. Right.

11 Q. And is there -- there's not like a bone right
12 behind that, is there? Is it a soft --

13 A. No.

14 Where this was, it's soft. Your eye kind of
15 sits back in a cavity. And so this would be just kind of
16 just above that.

17 Q. So is it safe to say in order to make that
18 laceration, one would have to kind of push down and you
19 wouldn't have a hard surface to kind of -- to cut through
20 that skin on? Does that make sense?

21 A. Well, these are incise wounds so they're not --
22 laceration would be the one above the eye and to the left
23 side of the eye.

24 Q. Right.

25 A. But these incise wounds --

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1 Q. Well, I mean, with a sharp instrument -- like
2 even if you have like a piece of paper and I have a knife,
3 it's going to be hard for me to cut through that paper
4 without something to bear down on, I guess is what I'm
5 saying.

6 A. Right.

7 Q. And so without a firm structure behind that
8 eyelid skin, one would have to kind of push further in in
9 order to break through that skin? Is that accurate?

10 A. I don't think I can say so.

11 You know, if the knife was sharp enough and
12 you're pulling it across without pushing too far in, you
13 could still cause a cut. And I guess alternatively -- I
14 mean, there is -- the top of the eye socket is a firm
15 surface so, I mean, if you did push up into it you would
16 have a surface --

17 Q. So if it was made in an upper motion, I guess
18 you would have that kind of backboard --

19 A. Right.

20 Q. -- to have it against? Okay.

21 Was there any sign of a continuation of that
22 laceration across the bridge of the nose?

23 A. So, again, it's an incised wound, not a
24 laceration. So --

25 Q. I'm sorry. I keep --

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1 A. Yeah. Laceration was -- is the tear in here.

2 Q. Right. I apologize.

3 A. So, no.

4 These were two distinct incise wounds --

5 Q. Incise wounds.

6 A. -- with no -- with nothing in between the bridge
7 of the nose.

8 Q. Okay. And is it safe to say, sort of like this
9 kind of mannequin here, that the bridge of the nose sticks
10 out above or in front of where those incise wounds would
11 be?

12 A. Right.

13 If you were to take the knife straight across,
14 you would run into the bridge of the nose because the eyes
15 sit back just a little bit from the bridge of the nose.

16 Q. And so those would be -- I guess as you
17 described earlier -- logically speaking, separate incise
18 wounds over each eye?

19 A. Correct. There's, yeah, two separate wounds,
20 one on each eye.

21 Q. What other sharp-force trauma did she suffer?

22 A. So in addition to the two wounds on the face
23 that we just talked about, she had three other incise
24 wounds or cuts on her hands.

25 So she had one cut that was on the kind of inner

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1 surface of the left hand, kind of right on the palm. And
2 then on the right hand, on the inner surface of the second
3 and third finger she also had cuts kind of right near
4 where that crease is in your finger.

5 So one cut here, and then one cut to the inner
6 part of each of your second and third finger.

7 Q. And I apologize. I didn't have the diagram up
8 when you were referring to it. But are those depicted
9 there?

10 A. Yeah. So here's the incise wound on the left
11 palm. And then the lines are kind of small, but on the
12 inner surface of the second and third fingers there were
13 cuts or incised wounds.

14 Q. Are you able to make a determination about how
15 deep those incise wounds are?

16 A. Yes. One second.

17 [Whereupon, the witness reviews documents]

18 A. So both of these -- all three of these injuries
19 were partial thickness, so it did not go the full
20 thickness through the skin. So relatively superficial.
21 You know, less than a quarter of an inch.

22 Q. [Mr. Kidd] Quarter of an inch deep or --

23 A. Correct. Deep.

24 Q. Okay. And you say relatively superficial. That
25 was between -- does it enter the muscle --

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1 A. No.

2 Q. -- at that point?

3 A. For superficial, we're just saying in the top
4 part of the skin or the -- just the very superficial
5 tissues underneath the skin. But not into fat, not into
6 the muscle or anything, not into the deep blood vessels.

7 Q. And would it be the same on the laceration on
8 the palm, as well?

9 A. Right.

10 The palm and the incisions on the fingers --
11 and, for that matter, the ones on the eyes -- all of them
12 were, you know, superficial, just partially thick,
13 partially under the skin.

14 Q. Would they have caused a lot of bleeding?

15 A. They could.

16 You know, they did not sever a major artery so
17 probably not severe bleeding by themselves. But, again,
18 the one on the hand was an inch and a half long so, you
19 know, you definitely could get some bleeding with these
20 wounds.

21 Q. What about the incise wounds on her -- on the --
22 on her face and/or the lacerations on her face? Would
23 that cause a lot of bleeding?

24 A. Yeah.

25 The skin on the face, everything kind of above

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1 the neck, is much more vascular. So you have a lot more
2 blood vessels in the skin up here than you would on your
3 fingers or hands. So you would expect the lacerations or
4 tears on the face, and then the two incise wounds, to
5 bleed pretty significantly.

6 MR. KIDD: Your Honor, may we approach?

7 THE COURT: Yes, sir.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 MR. KIDD: Your Honor, at this time the State
11 would offer State's Exhibit Number 12 --

12 THE COURT: I'm sorry. Which ones?

13 MR. KIDD: State's Exhibit Number 12, 13, 14,
14 15, 11 and 10 into evidence.

15 THE COURT: So 10 through 15; is that correct?

16 MR. KIDD: That's correct.

17 THE COURT: Any objection?

18 MS. RUNEY: Yes.

19 I will renew my previous objection to these
20 photos coming into evidence.

21 THE COURT: All right. As to 10 through 15,
22 that objection is overruled. Okay?

23 MR. KIDD: Thank you, Your Honor.

24 [Whereupon, State's Exhibit Number 10 is
25 admitted into evidence by the Court]

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1 [Whereupon, State's Exhibit Number 11 is
2 admitted into evidence by the Court]

3 [Whereupon, State's Exhibit Number 12 is
4 admitted into evidence by the Court]

5 [Whereupon, State's Exhibit Number 13 is
6 admitted into evidence by the Court]

7 [Whereupon, State's Exhibit Number 14 is
8 admitted into evidence by the Court]

9 [Whereupon, State's Exhibit Number 15 is
10 admitted into evidence by the Court]

11 Q. [Mr. Kidd] Dr. Batalis, I'm going to show you a
12 series of photographs from your autopsy room. And I'm
13 just going to kind of run through them quickly and kind of
14 talk about some of the findings that you just -- that you
15 just referenced. Okay?

16 First I'm going to show you what's been marked
17 and entered into evidence as State's Exhibit Number 10.
18 Can you describe those wounds that we see there that we
19 just references?

20 A. Right. So, again, looking at the face, there's
21 generalized bruising, and, again, the level of the nose
22 all the way to the scalp. Specifically referring to the
23 lacerations, this would be the tear from the blunt-force
24 injury over the right eye.

25 And then the other wounds that we can see here

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1 are the sharp-force injuries. So the cuts, here's the one
2 over the right eye and then the one over the left eye.
3 And then, again, the discoloration around the eyes are,
4 again, just different forms of bruising. But this would
5 all be basically all contused from the nose up.

6 Q. And, Dr. Batalis, can you describe what her --
7 how her hair is in that photograph?

8 A. So her hair was, you know, black-gray and curly,
9 which you can see here.

10 Q. Is it kind of braided or --

11 A. Yes.

12 Q. -- or in dreadlocks or --

13 A. Kind of off to the side you can see that it was
14 braided. And we also noted that on the external
15 examination.

16 Q. Thank you.

17 I'm going to now show you what's been marked as
18 State's Exhibit Number 11.

19 A. So now we're looking at the left side of the
20 decedent's face. So this would be the left eye. And it's
21 kind of blurry. But the cut or incised wound is right
22 here above her left eye. This larger wound here, this is
23 the laceration or tear from the blunt-force trauma. And
24 then she had these scattered abrasions or scrapes off to
25 the left side of her face.

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1 Q. And in State's Exhibit Number 12?

2 A. And so this is a picture of the right side of
3 the face, again showing that incised wound there over the
4 eye and then generalized bruising over most of the face.

5 Q. I'm going to show you a picture of State's
6 Exhibit Number 13.

7 A. So this is a picture of the decedent's knees.
8 In addition to the injuries we talked around the face and
9 on the hands, she also had fresh scrapes on both of her
10 knees. She had one scrape like this on the right knee and
11 then two others on the left knee that looked similar to
12 this one.

13 Q. And it's just kind of hard -- you can barely see
14 the edge of one right there but it's just kind of hard to
15 see it on the overhead. But it would be just kind of on
16 the same level but on the other side of that knee?

17 A. Exactly. This leg, the left leg here, is just
18 kind of rotated out. So it was right on the top of the
19 leg there.

20 Q. Show you State's Exhibit Number 14.

21 A. So this is the decedent's left hand. So we're
22 holding it up here to show this incised wound or cut on
23 the left hand. And then also at the edge of this picture
24 you can see that this skin here looks darker and purple.
25 So there's a large contusion on the left forearm.

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1 Q. And I guess some of the reason I wanted to show
2 you these photographs is you refer to that as kind of a
3 superficial incise wound?

4 A. Right. Partial thickness. So just not all the
5 way through the skin but part way through.

6 Q. And State's Exhibit Number 15?

7 A. So here we're seeing the two incised wounds on
8 the fingers. So, again, we're right hand, the second and
9 third finger. So here's one on the second finger. And
10 then this one is on the middle finger.

11 So, again, fairly superficial cuts through the
12 kind of the top part of the skin but not all the way
13 through.

14 Q. Thank you.

15 And I want to refer back to your prior chart.
16 Can you talk about some of the contusions that she
17 sustained on her arms and the rest of her body?

18 A. Sure. So the -- in the picture we just saw of
19 the left hand, we picked up a little bit of this bruise.
20 But essentially most of her left forearm, on the back side
21 of it was pretty much just one large bruise much like the
22 face where it was just completely confluent and just all
23 one grouping here.

24 And then on the right forearm, there were two
25 large contusions. So this was about nine inches long and

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1 three inches wide. And both of these contusions were up
2 to three inches. So, again, two fairly large contusions
3 on the right forearm but they were separate as opposed to
4 this one, which is just one bruise.

5 Q. And when we talk about contusions and bruises,
6 if I sort of bump into the podium and hit my leg, I can
7 get a bruise there. But is that the same sort of bruises
8 we're dealing with here, or are they greater or less or
9 can we tell?

10 A. Everybody is going to bruise a little bit
11 differently. But what's significant here is the number of
12 bruises and the fact that they're over widespread areas.
13 So you would not expect to see this type of bruise under
14 most -- you know, in normal people, just from bumping into
15 the podium or stand.

16 Q. Okay. And when you perform your autopsy, do you
17 actually kind of open up the skin to see how much bleeding
18 has occurred with some of these contusions?

19 A. We do on the scalp when we're exposing the
20 brain. But we do not cut into the extremities to look at
21 those.

22 Q. When you did so on the scalp, like in these
23 diagrams, are you able to determine how much bleeding has
24 taken place kind of behind the skin?

25 A. We can. I mean, only to say that the bleeding

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1 extended all the way through the scalp.

2 Since the blood is in the tissue, you can't kind
3 of drain it out to actually see how much is there but --

4 Q. Right.

5 A. -- pretty significant bleeding to have this many
6 large splotches.

7 And, additionally, there is -- you have a muscle
8 right here, right about your ear, that you kind of -- when
9 you move your mouth, you can feel that muscle. And that
10 muscle was bruised, as well. So, again, it takes pretty
11 significant force to bruise that muscle underneath the
12 scalp.

13 Q. Did -- and I could be wrong. I thought I read
14 in your report where she received some contusions on her
15 shoulders? Is that accurate or --

16 A. She had a -- she had a pinpoint scrape on her
17 left shoulder.

18 Q. What do you mean by a pinpoint scrape?

19 A. So it's an abrasion but literally, you know,
20 almost too small to measure. So, you know, less than a --
21 less than a quarter of an inch. That was on the left
22 shoulder.

23 She had the bruises on the forearms, but that
24 would be the only wound that she had on her shoulders.

25 Q. And other than the injuries that we've been

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1 discussing, the blunt-force trauma, the incise wound or
2 sharp-force trauma, when you performed your autopsy did
3 you also look at her organs and her -- the healthiness of
4 her overall being?

5 A. Yes.

6 So, again, after -- you know, we're not just
7 looking for the trauma. We go through, look at each
8 individual organ for evidence of any natural disease.
9 Overall, she was fairly healthy-appearing. Her heart was
10 of normal size. She did have a little bit of blockage in
11 one of her coronary arteries, but nothing to the point
12 that would be concerning. And throughout the rest of her
13 organs, there were no significant medical conditions.

14 Q. Is it safe to say that but for this blunt-force
15 trauma, this individual would have lived substantially
16 longer?

17 A. I don't know what would happen the next day, but
18 for sure she was a healthy individual and died of the
19 blunt head trauma.

20 Q. As a part of the autopsy, do y'all do toxicology
21 reports?

22 A. We do.

23 So in the course of the autopsy we'll take
24 samples of blood, submit them in a packet, and we send
25 them to a national lab and we get toxicology testing

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1 performed.

2 Q. And can you go over the results of the
3 toxicology with the jury?

4 A. Sure.

5 So when we're in the decedent's blood for
6 toxicology testing -- and this covers not only the illegal
7 drugs, but also all sorts of medications. So we're
8 looking for three to four hundred different drugs.

9 In the decedent's blood we did find a fairly
10 large amount of cocaine and also a breakdown product of
11 cocaine. We found a drug called tramadol. And tramadol
12 is a prescription medication that they -- a pain reliever.
13 So a prescription pain medication that she also had fairly
14 high levels and one of its breakdown products.

15 And then, additionally, we found nicotine and a
16 breakdown product of nicotine, like you might find in
17 cigarettes. And then also caffeine, again, which you get
18 in softdrinks and all sorts of stuff.

19 Q. And I -- and you did say she had high levels of
20 cocaine in her blood, as well?

21 A. Yes. Significant levels of cocaine.

22 Q. Okay. Were there any other notes or anything in
23 your report that I glossed over that you find to be
24 pertinent and the jury will need to hear about?

25 A. I don't believe so.

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1 MR. KIDD: I have no further questions of
2 Dr. Batalis.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MS. RUNEY:

6 Q. Dr. Batalis, the bruising on Ms. Nevarez' scalp,
7 you can't say that that came from a fist or a hard object,
8 can you?

9 A. No. It could have been -- I just know it was
10 blunt-force, as opposed to a sharp force. So it could
11 have been from a fist. Her head could have been pushed
12 into the ground, could have been hit with, like you said,
13 a hard object. I can't say for sure what caused it.

14 Q. Or when somebody falls to the ground and they
15 hit the floor really hard?

16 A. If you fell from a standing position, you could
17 get one of these bruises. The fact that there was
18 multiple would not be consistent with a fall. But a fall
19 from a standing height could cause that --

20 Q. Blunt-force trauma?

21 A. Right.

22 Q. And some of this bruising could have been caused
23 by her hair being pulled out?

24 A. There were a couple of the smaller bruises on
25 one of the sides of the scalp that were not as full

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1 thickness, so not as deep as most of the rest of them.
2 Those were a little bit fainter and those could be
3 consistent with hair-pulling, but really, again,
4 compromised a minority of the scalp bruises.

5 Q. And I want to ask you about the cuts over
6 Ms. Nevarez' eyes. You can say that they're in the same
7 location and they're approximately the same size, but you
8 can't tell us how they got there?

9 A. Right. There's several different ways that it
10 could have occurred. But -- so, yeah, I can say where
11 they are. They appear nearly identical but --

12 Q. And you wrote in your report that the
13 lacerations -- or the -- I'm sorry -- the incised wound
14 over her right eye is one-and-one-fourth inches?

15 A. Correct.

16 Q. And he left eye is seven-eighths of an inch in
17 length?

18 A. Correct.

19 Q. So they're not the same size?

20 A. Within about a quarter of an inch. So within
21 about that much [indicates]. So not exactly the same, but
22 very close.

23 Q. And these types of incise wounds could be made
24 on a person's face if they're in a standing position?

25 A. Certainly.

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1 Q. And it could be made in one swoop if the person
2 jerked back?

3 A. Right. It would have to be kind of a perfect
4 scenario, but it would be possible if the arm is coming
5 across. Again, there is the bridge of the nose in the
6 way.

7 But if she had kind of came back and then went
8 back/forward, or possibly if the trajectory of however the
9 person was going -- left to right, right to left -- if
10 there was interruption in that, but still in one motion,
11 you could get that separation.

12 Q. When you do an autopsy, your job is not to
13 determine how these wounds were inflicted, your job is to
14 determine what kind of wounds they are?

15 A. Not necessarily. It depends on the case.
16 Sometimes it is, such as these wounds on the face, because
17 they tell -- it is important to decide is it a sharp-force
18 injury or a blunt-force injury. So to some extent, we do
19 have to characterize what group is it in. But beyond
20 that, once I've decided it's a blunt-force injury --

21 Sometimes it will be a pattern. If somebody was
22 struck with a pipe or a wrench, it will leave a pattern so
23 in that case it would be, I think, an important part.

24 But in this case the blunt-force injuries, there
25 was nothing specific about them.

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1 Q. You testified earlier that Ms. Nevarez had high
2 levels of cocaine in her system?

3 A. Yes.

4 Q. And this would be in close proximity to the time
5 of death?

6 A. Right.

7 So cocaine itself gets broken down by your body
8 very quickly and so it's a matter of basically -- we're
9 talking minutes to hours that she would -- she would have
10 had to take the cocaine within minutes to hours before she
11 died. Otherwise, the cocaine would get broken down and
12 you would just have that -- the breakdown products of it.
13 So we did have the breakdown products. But since we found
14 that parent cocaine or the main cocaine, it tells us
15 within, you know, minutes to hours of her death.

16 Q. And the breakdown of cocaine is metabolized
17 cocaine; correct?

18 A. Correct.

19 Q. And how long can that stay in your system?

20 A. That can stay in there, again, in general terms,
21 hours to even days, to have the breakdown product.

22 Q. And the tramadol, that is a prescription drug?

23 A. Yes. It's a prescription pain medication.

24 Q. And her levels of tramadol were significantly
25 high?

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1 A. Yeah. Her -- the levels that we detected in her
2 are higher than you would expect in a patient taking it at
3 the normal dosage, I guess is the best way to put it.

4 Q. If you had a prescription for it, it's a higher
5 dosage than --

6 A. Or not a prescription. The studies are based on
7 basically you give a patient X number of milligrams, which
8 would be a prescription dose. And so comparing her levels
9 to those studies, she's roughly twice what that standard
10 dose would be.

11 Q. Two times what it should be?

12 A. Right.

13 Q. When you issue these toxicology reports, they
14 come with some comments.

15 A. So I don't issue the report. We send the
16 samples to a national lab. It's certified in
17 Pennsylvania. They then send a report back that does have
18 comments with them.

19 Q. Comes back to you?

20 A. Correct.

21 Q. And that's usually included with your autopsy
22 report?

23 A. Correct.

24 Q. Can you tell the jury, under the comments for
25 the metabolites of the cocaine --

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1 MR. KIDD: Objection, Your Honor.

2 THE COURT: I'm sorry. What's your legal
3 objection?

4 MR. KIDD: Objection to hearsay.

5 THE COURT: Well, let me hear the question
6 first.

7 Q. [Ms. Runey] I would like for you to explain to
8 the jury how this report lays out Ms. Nevarez' cocaine
9 levels in comparison to cocaine levels in people who have
10 died from cocaine.

11 A. So based on the comments they have here, again,
12 generated by the lab, they mention that thirty-seven
13 cocaine-related fatalities -- and, again, I'm not sure
14 what that means. That could be somebody who was in a car
15 accident with cocaine on board and attributed as a cocaine
16 fatality.

17 But of thirty-seven people who died and was
18 related to cocaine, those levels were -- averaged 4600
19 units. And hers was 600 -- 620 units.

20 Q. And that comes with a range, as well?

21 A. Correct.

22 So the range -- the range they stated was from
23 forty units up to 31,000 units.

24 Q. And Ms. Nevarez' cocaine level was 620 nanograms
25 per milliliter?

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1 A. Correct.

2 MS. RUNEY: Beg the Court's indulgence.

3 [Whereupon, Ms. Runey and Mr. Smith confer]

4 MS. RUNEY: That's all I have. Thank you, Dr.
5 Batalis.

6 THE COURT: Redirect?

7 MR. KIDD: Very briefly, Judge.

8 REDIRECT EXAMINATION

9 BY MR. KIDD:

10 Q. Ms. Runey was talking about a perfect scenario,
11 how those incise wounds could be created. I guess your
12 testimony was that was a possibility?

13 A. Correct.

14 Q. But would it be safe to say that's kind of an
15 unlikely possibility?

16 MS. RUNEY: Objection, Your Honor.

17 THE COURT: What's your legal objection?

18 MS. RUNEY: It calls for speculation.

19 THE COURT: Pardon?

20 MS. RUNEY: Speculation.

21 THE COURT: Lay some foundation and I'll --
22 right now, I'll sustain the objection.

23 MR. KIDD: The Court's indulgence.

24 [Whereupon, Mr. Kidd reviews documents]

25 Q. [Mr. Kidd] As an expert in forensic pathology,

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1 you're able to see a lot of different series of wounds and
2 cuts on different individuals; is that accurate?

3 A. Yes.

4 Q. And a lot of times you can see how some of those
5 injuries might be related to one another. Like, say you
6 have a gunshot wound. You're going to have an entrance
7 and an exit so you might see how those -- an entrance
8 wound and exit wound would be related to one another; is
9 that accurate?

10 A. Correct.

11 Q. Or say you have a knife wound that went through
12 an arm and into an abdomen or something like that, you
13 would see how those wounds would be related to one
14 another?

15 A. Correct.

16 Q. Based on your experience like that, is it --
17 would it be common for you to be able to see a wound which
18 would have bypassed the bridge of the nose and be related
19 to a single swipe or motion in a knife fight or something
20 in that scenario?

21 A. It would not be common.

22 To be honest, though, this pattern with the two
23 distinct cuts right above the eyes, I have not seen that,
24 again, in the over a thousand cases I've done, probably --
25 again, roughly 50 to 100 have involved some sort of sharp-

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1 force injury. I haven't seen that pattern before. I
2 talked to colleagues in my office. They hadn't seen that
3 pattern. So it's -- but a very rare pattern to see the
4 two distinct cuts there.

5 Q. And the photos I showed you earlier of the
6 victim, had they been cleaned up -- had the blood and
7 stuff been washed off the body at that point?

8 A. Yes, it had.

9 Q. So because those photographs aren't sort of
10 bloody or gory doesn't mean that it wasn't like that at
11 the scene, I guess is what I'm saying?

12 A. Correct. I was not at the scene, so I can't
13 attest to what was there. But the photographs we -- that
14 you showed today were after we had cleaned the body up.

15 Q. And when it came in to you -- when the body
16 first came in to you, was it covered in blood?

17 A. I can't say for sure. I would have to review
18 those photographs. But I do remember cleaning some blood
19 off.

20 Q. And I guess my last comment is on the cocaine
21 usage. Her levels of cocaine were high. Is that
22 accurate?

23 A. Uh-huh.

24 Q. But her level of cocaine use didn't contribute
25 to the blunt-force trauma, did they?

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1 A. No. She died of her blunt head trauma. Again,
2 with or without cocaine, that would have -- her head
3 trauma would have been enough to kill her. With the
4 cocaine, they get into a high level, we also see -- we do
5 autopsies for car accidents, heart attacks, all sorts of
6 reasons. And so, again, it's a high level but not so high
7 that it's, you know, off the charts. So it's -- we see
8 levels like that, in other types of deaths, where people
9 don't die of cocaine.

10 MR. KIDD: Thank you, Doctor. No further
11 questions.

12 THE COURT: Any recross?

13 MS. RONEY: Briefly, Your Honor.

14 RECCROSS-EXAMINATION

15 BY MS. RONEY:

16 Q. Cocaine is a stimulate; correct?

17 A. Yes. That's how it's classified.

18 Q. And that can cause excitement? aggression?

19 A. It's been described to do so.

20 MS. RONEY: That's all I have. Thank you.

21 THE COURT: You may step down, Doctor. Thank
22 you so very much.

23 THE WITNESS: Thank you.

24 [Whereupon, Dr. Batalis is excused and exits the
25 witness stand]

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1 5:09 p.m.]

2 THE COURT: All right. Ms. Runey, I guess the
3 first things we need to cover are your objections to
4 State's Exhibit 10, 11, 12, 13, 14 and 15. I believe
5 we took that up at a bench conference.

6 Do you want to put on the record your objection
7 to those pictures --

8 MS. RUNEY: Yes, sir.

9 THE COURT: -- that the Court has allowed in?

10 MS. RUNEY: Your Honor, I would renew my motion
11 to suppress the photos from the autopsy. I believe
12 that they are prejudicial. And Dr. Batalis did testify
13 to Ms. Nevarez's injuries and was able to do so through
14 diagrams.

15 I believe that the pictures will arouse the
16 emotions of the jury and cause them to make a decision
17 based on those pictures versus what they heard from the
18 witness stand.

19 THE COURT: Okay. That objection is overruled
20 as to 10, 11, 12, 13, 14 and 15.

21 However, as to pictures 7, 8 and 9, the State
22 has offered these pictures and we have discussed it at
23 the bench conference and I have sustained her
24 objections to pictures 7, 8 and 9. And in doing a 403
25 analysis, I think the prejudicial value with the

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1 excessive blood in the photographs outweighs the
2 probative value.

3 The probative value: it's very clear from the
4 wounds in the pictures that the Court allowed.
5 Basically, the same pictures were allowed in from the
6 autopsy after the blood had been removed. I think the
7 prejudicial value of State's Exhibits 7, 8 and 9
8 outweighs the probative value, especially since the
9 same pictures are shown in the autopsy pictures less
10 the blood and the gore.

11 So do you want me to mark these as a Court's
12 Exhibit or do you want them back?

13 MR. KIDD: I'll just take them off your hands,
14 Judge.

15 THE COURT: Okay.

16 MR. KIDD: Do you need them?

17 THE COURT REPORTER: They were marked.

18 THE COURT: All right. They're out.

19 THE COURT REPORTER: They were marked.

20 THE COURT: They're out. Okay?

21 THE COURT REPORTER: All right.

22 THE COURT: Any motions? Any motions from the
23 State?

24 MR. KIDD: We have no motions, Judge.

25

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MOTION FOR A DIRECTED VERDICT

THE COURT: All right. Any motions from the defendant?

MS. RUNEY: Yes, sir.

[Off the record momentarily]

THE COURT: Well, you can't ever tell. The State might have one. At least give you the opportunity.

Any motions from the defendant?

MS. RUNEY: Your Honor, at this time the defense would make a motion for a directed verdict.

After the State presented their evidence, we submit that they have not proved murder. We heard from the admission of Mr. Gathers' statement that he woke up, that his money was missing and that he fought with Ms. Nevarez.

We submit to the Court that this was not murder and we ask you to grant a directed verdict as to this murder indictment.

THE COURT: All right. Taking the evidence as most favorable to the non-moving party, that motion is denied.

MS. RUNEY: Yes, sir.

THE COURT: Is there anything else we need to deal with this afternoon before we come back tomorrow?

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EXHIBITS

[None]

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1 THE CLERK OF COURT: Place your left hand here
2 and raise your right hand.

3 [Whereupon, Mr. Gathers is duly sworn by the
4 clerk of court as follows: do you swear or affirm that
5 the testimony you will give the Court and the jury in
6 the trial of this case will be the truth, the whole
7 truth, and nothing but the truth, so help you God]

8 THE WITNESS: Yes, sir.

9 THE CLERK OF COURT: Please take your seat.

10 [Whereupon, Mr. Gathers takes the witness stand]

11 THE CLERK OF COURT: And, sir, if you would
12 please state your first and last name, spelling your
13 last for the record.

14 THE WITNESS: Gregory Gathers. G-A-T-H-E-R-S.

15 - - - - -
16 GREGORY Q. GATHERS,

17 Having Been First Duly Sworn,
18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MS. RUNEY:

21 Q. Greg, I want to ask you some questions about
22 yourself.

23 How old are you?

24 A. Forty-eight.

25 Q. Have you been in Charleston -- how long have you

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1 been in Charleston?

2 A. Most of my life.

3 Q. Do you have family here?

4 A. Yes, ma'am.

5 Q. Tell me about your family.

6 A. My father, he live fairly close to me. I have
7 ten, eleven sisters here, two brothers. My father has
8 twenty-nine children. My mother, she lived in Walterboro.
9 I have sisters, brothers.

10 Q. Lots of brothers and sisters?

11 A. Lots of brothers and sisters, yes.

12 Q. And some of your brothers and sisters, and
13 father, are there in the courtroom today?

14 A. Yes, ma'am.

15 Q. Where did you work?

16 A. I work numerous jobs. On my last job, I was
17 working for Zeb's Quality Cleaning. Which I've been
18 working with Zeb's for about twenty years. I've been in
19 the furniture business but the economy is slow right now
20 so there's not a lot of work going on, So I been basically
21 working with Zeb's and driving limo part time, limousine
22 driver.

23 Q. And you've been in the military?

24 A. Yes, ma'am.

25 Q. How far did you go in school?

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1 A. I was in the military for four years.

2 Q. And how about school? How far did you go in
3 school?

4 A. I finish high school and some college.

5 Q. And you said you've worked for Zeb's Quality
6 Cleaning for twenty years?

7 A. Yes, ma'am.

8 Q. Okay. I'm going to talk to you about the day of
9 June the 6th and June the 7th of last year, 2010.

10 The morning of June the 6th: did you work that
11 day?

12 A. Yes, ma'am. Well, I didn't work on my regular
13 job but my boss, Zeb's, daughter was going back to college
14 so I helped her move out of the house. The week prior I
15 had already moved all the furniture out of her house and
16 we had to move a little bit more out of her house and put
17 it in storage. And then we had breakfast, she paid us,
18 and I was off, yes.

19 Q. So just some side work for your boss?

20 A. Yes, ma'am.

21 Q. Okay. And what did you do after that?

22 A. I went home for a brief moment and then I left
23 and I -- with a friend and I was out.

24 Q. When you say out, where were you?

25 A. I was on Liberty Hill, in North Charleston,

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1 drinking with some guys.

2 Q. Liberty Hill is a neighborhood?

3 A. Yes, ma'am.

4 Q. Okay. So y'all were just hanging out?

5 A. Yes, ma'am.

6 Q. How much did you have to drink?

7 A. Around that day we drank about a case of beer
8 and maybe a half of gallon of liquor. A lot.

9 Q. You drank too much?

10 A. Yes, ma'am.

11 Q. And did you smoke any marijuana?

12 A. Yes, ma'am.

13 Q. Any other drugs?

14 A. No, ma'am. Not that day, no.

15 Q. And how long did you hang out with your friends?

16 A. Basically, all day. I got there around about
17 12:30, one o'clock or 11:30, twelve o'clock, that night.

18 Q. Did you go home?

19 A. No, ma'am.

20 Q. Where did you go?

21 A. At 12:00 -- I started to go home around about
22 12:00, but I missed my ride so I started walking towards
23 the bus stop and I was --

24 Q. Did you get the bus?

25 A. Yeah. The bus went by, zoom, and I missed the

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1 bus.

2 So I started walking towards the store. I was
3 going to call a cab. I wanted to go in the store and then
4 I was going to call a cab.

5 When I was at the bus stop, I ran -- this
6 female, she started talking to me and she asked me if I
7 wanted to have fun with her.

8 Q. What did you take that to mean?

9 A. Drugs and sex.

10 Q. And did you take her up on that?

11 A. Yes.

12 She asked me -- she asked me to go -- go to the
13 store where there were some guys, they had drugs over
14 there, I guess some drugs, and come back. And she lives
15 over here, which was right up the street.

16 Q. Did you go get the drugs?

17 A. Yes, ma'am.

18 Q. And where did you take them?

19 A. I took them to her house and we started doing
20 drugs and having sex.

21 Q. Started doing drugs and having sex?

22 A. Yes, ma'am.

23 Q. How much -- how many times did you smoke crack?

24 A. I don't smoke crack. That's probably about the
25 second time, third time, in my life. But I was smoking

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1 some that night with her. I went there. I had bought a
2 piece. It was some. And then it ran out and she asked me
3 to buy her some more and she called some guy and a guy
4 bought some more. We did that throughout the night.

5 Q. So she would have sex with you and you would buy
6 her drugs?

7 A. Yes, ma'am.

8 Q. And this happened several times?

9 A. Yes, ma'am.

10 Q. How many times do you think?

11 A. Three, four, I bought drugs, and had sex
12 throughout the night.

13 Q. And then what happened? Did you go to sleep?

14 A. I had no intention of going to sleep but I -- I
15 blacked out during the night, I guess. Yeah, I went to
16 sleep.

17 Q. You passed out?

18 A. Yes.

19 Q. And what do you remember next?

20 A. My cell phone alarm going off.

21 Q. Had you set the alarm?

22 A. I had -- it's set by the week because I normally
23 go to work every day about around 5:00, 5:30 a.m. So I
24 had it set for 4:00, 4:30 a.m.

25 Q. So you were supposed to go to work that day?

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1 A. Yes, ma'am. The next morning.

2 Q. Okay. And so what happened after that?

3 A. Huh?

4 Q. What happened after that? You woke up and your
5 alarm was going off.

6 A. I got up, started getting dressed. The victim
7 was helping me to get dressed, giving me clothes, yes,
8 yes, yes, and I --

9 Q. What do you mean she helped you get dressed?

10 A. It was like, here, here; here's your shirt,
11 here's your socks. You know, put this on, put this on,
12 put this on. I was like okay, okay, okay, okay, okay,
13 okay. And I got dressed. And I felt in my pocket and I
14 realized the money that I had put aside, besides the one
15 that I spent, was missing.

16 Q. You had put some money in a different pocket?

17 A. Yes, ma'am.

18 Q. Why did you do that?

19 A. Because I know what I was doing. There was a
20 chance that, you know, my money would be taken.

21 Q. How much did you put back there?

22 A. I had \$420.

23 Q. And you had set that money aside?

24 A. Yes, ma'am.

25 Q. And so you realized that money was gone. What

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1 did you do next?

2 A. I asked her for it. And I said, why did you
3 take my money, and we started arguing and started
4 fighting.

5 Q. You slapped her?

6 A. Yes, ma'am.

7 Q. And was she bleeding?

8 A. I slapped her a couple of times, and I hit her
9 in the nose. Her nose started to bleed and I was like,
10 oh, no. I don't -- I -- when her nose started to bleed
11 she said, okay, okay, okay, okay, okay, okay, I'll give
12 you your money, I'll give you your money, I'll give you
13 your money.

14 And she started dancing around and I grabbed her
15 by her -- I had her by her hair. I pulled her hair. And
16 she said -- say, the money's in the living room, the
17 money's in the living room, the money's in the living
18 room.

19 We went to the living room. I had her by -- I
20 pulled her down the hall by her hair to the living room.
21 And when we got in the living room, she went to the sofa
22 and started lifting the cushions, lifting the cushions,
23 with her back -- with her back to the sofa and the -- and
24 the seat of the sofa. I mean, she was feeling, feeling,
25 feeling around, the money's in there.

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1 Q. So she was acting like she was going to give you
2 the money back?

3 A. I'm sorry. I didn't hear you.

4 Q. She was acting like she was going to give you
5 the money back?

6 A. Yeah. She said she would give it back, give it
7 back.

8 And then she said, uh, uh, uh, it's not there,
9 it's not there. I said, well, where is it. She was like,
10 okay, here, I'll give it to you, I'll give it to you. And
11 she stood up and she turned towards the kitchen. And it
12 was just a couple of steps.

13 She took a step and she grabs a knife out of the
14 -- off of the kitchen counter, the butcher block. And we
15 started fighting again over the knife. Because she had
16 the knife. She was like get out, get out, leave, leave.
17 And I grabbed her wrist like this and I -- I got the
18 handle of the knife and -- but it broke. And she grabbed
19 the blade like this.

20 Q. So you had the handle?

21 A. After the handle broke, I hit her. When we were
22 fighting over the knife, I had -- one hand I had the blade
23 with the handle and I hit her with the other hand and she
24 fell and she hit her head on the counter. When she fell,
25 she fell -- but she fell on the floor.

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1 And I said, this is not good. I said, just
2 please give me my money, please give me my money, please
3 give me my money and I'll just leave. She, uhhhh, uhhhh,
4 I don't -- I don't -- I don't have the money, I don't
5 have your money. I said, what do you mean you don't have
6 it. I don't have your money; I'll give it to you; I'll
7 give it to you later; I'll give it to you later. I said,
8 what you mean later. I said, just give me my money and
9 I'll leave. She said, uhhhh, I'll give it to you later.

10 And I got scared. And I said, I'm coming back
11 to get my money, I'll be back to get my money, I'll be
12 back to get it. And she said, okay. And then I was --

13 Q. At that point, were you freaking out?

14 A. Ma'am?

15 Q. Scared at that point?

16 A. [No response]

17 Q. You were scared at that point?

18 MR. KIDD: Objection, Your Honor. Leading.

19 THE COURT: Overruled. Go ahead.

20 Q. [Ms. Runey] What did you do when you left?

21 A. I was starting to leave, which the front door
22 was just only a couple of steps away, from where we were,
23 where we were fighting. And she had a cell phone that --
24 so I took her cell phone. And I had the blade -- I mean,
25 the handle of the knife still in my hand. And I took the

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1 cell phone and the knife and when I walk outside, the
2 blade of the knife -- I mean, the handle of the knife.
3 And when I walk outside, I threw it across the street,
4 which was some railroad tracks not far away. And I threw
5 it over there. And then I left.

6 Q. Where did you go?

7 A. I went to my father's house, which he lives
8 right across the street around -- a couple of blocks away.

9 Q. Was he there?

10 A. He was not there.

11 He had -- he was at my house where -- he went to
12 pick me up to go to work for that morning, because I
13 wasn't driving then back and forth so he was taking me to
14 work back and forth. He wasn't there, so I just turned
15 around and I started walking home toward my girlfriend
16 house.

17 And I walked a couple of miles. I called my --
18 well, before I got a couple of miles, I called my brother.

19 Q. Where does your brother live?

20 A. My brother lives in Walterboro, South Carolina.

21 And I told him, I mean, that I was in a -- in a
22 fight, I messed up, man; I was up doing some things I
23 shouldn't have been doing; I was in a fight and -- a
24 female and I think she might be hurt; will you please come
25 and check on her.

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1 And I didn't want to stick around because I
2 didn't want to get in trouble or wait for the cops. I
3 told him to come and check on her.

4 And I started walking and I walked a couple of
5 miles. I stopped at a little gas station. Wanted some
6 more to drink, alcohol or beer.

7 Q. Were you still feeling intoxicated from the
8 night before?

9 A. Yeah. I was really drunk, feeling kind of bad.
10 Got another drink, smooth -- tried to smooth it
11 over. And finished walking. I went to my girlfriend's
12 house. And I called her on the way, while I was walking.
13 You know, she was like where were you, where are you,
14 where are you. Because I didn't come home the night
15 before.

16 Q. She was mad at you?

17 A. Ma'am?

18 Q. She was upset with you?

19 A. Upset. She didn't know where I was at; why
20 didn't you come home. And I told her I was out doing some
21 things I shouldn't have been doing and I got in a fight.
22 I didn't tell her with who or about what or anything. I
23 said I was just in a fight. And I said, I'll be there in
24 a few minutes. And I hung up. I continued to walk. I
25 got there. I went into the house.

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1 Q. And that's where you were arrested?

2 A. Ma'am?

3 Q. And that's where you were arrested?

4 A. Yes.

5 Q. You had told your father and your brother that
6 that's where you would be?

7 A. I called my brother and I told him I was going
8 to be home. Got into the house, washed -- I think washed
9 my hands. And my grandson was there. He lives with us.
10 And I went in the refrigerator and I got another beer.
11 And I think they came. They came.

12 Q. When you say they: the police came?

13 A. They said they have been by the house and she
14 was -- the lady was still laying in the house on the
15 floor. Said she was laying in the house on the floor.
16 Said -- I said, yeah. I said, well, you need to call --
17 you know, get some help, call the ambulance, you know, and
18 get some help, the cops. He said, that's what you want to
19 do; you're sure you don't want to take off and run. I
20 said, no, no, no, no, no.

21 Q. Your brother suggested that to you?

22 A. [Indicates affirmatively]

23 Q. And you stayed on Gumwood? On Gumwood Avenue is
24 where your girlfriend lived? You stayed there?

25 A. Yeah.

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1 They -- they were outside. I went outside and I
2 talked to them and --

3 Q. Are you talking about your brother?

4 A. My brother and my father.

5 And they left. So I was thinking they were
6 going to, you know, get some help for her.

7 And when they left, I sat outside for a while
8 with my grandson. We were talking. And the police showed
9 up. I put him back into the house.

10 Q. And you said --

11 A. And the police pulled up in front of the house.

12 Q. What did you tell them?

13 A. I walked halfway down the stairs and they met me
14 halfway up the stairs. And I told him were -- I asked
15 him, were you looking for me. And they said, why.
16 Because I said I was in a fight with a lady, female, on
17 Gainer Avenue.

18 Q. And they took you to City Hall?

19 A. Yes, ma'am.

20 Q. And did you give them a statement at that point?

21 A. Yes, ma'am.

22 MS. RUNEY: Beg the Court's indulgence.

23 [Whereupon, Ms. Runey and Mr. Smith confer]

24 MS. RUNEY: That's all I have, Mr. Gathers. If
25 you would answer any questions that Mr. Kidd has for

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1 you. Okay?

2 THE COURT: Cross-examination.

3 MR. KIDD: Thank you, Your Honor..

4 CROSS-EXAMINATION

5 BY MR. KIDD:

6 Q. I want to talk a little bit about your brother.

7 A. Yes, sir.

8 Q. Do you remember talking to your brother on the
9 phone that day?

10 A. Yes, sir.

11 Q. And, in fact, you asked your brother to get that
12 body out of that house, didn't you?

13 A. No, sir. No.

14 Q. You're aware that my office served your brother
15 with a subpoena in this case?

16 A. I was told he was subpoenaed, yes.

17 Q. And you're aware that he failed to comply with
18 that subpoena and come here and testify, aren't you?

19 A. Yes.

20 Q. Why would you call your brother to get help for
21 Ms. Nevarez when he lives over an hour away?

22 A. He was coming to Charleston that day, anyway.
23 He's a painter. He was going to Phillips Painting Company
24 on King Street, because I was supposed to be going with
25 him because we were both looking for work. And he was

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1 going to come anyway. But I had a job. I told him I was
2 going to go to work. He said he was going to come. I
3 said, okay, and if I be finished in time, I'll go with
4 you. I knew he was coming to Charleston that morning.
5 And I had no one else I could call. I didn't want to call
6 my father.

7 Q. You didn't want to call your father because you
8 knew he wouldn't help get rid of that body, didn't you?

9 A. I would never ask my father to do anything like
10 that, sir.

11 Q. Right. You would ask your brother to do
12 something like that.

13 A. I would never ask my brother to do anything like
14 that. There was no body there when I left. There was a
15 woman talking to me when I left, sir.

16 Q. So your testimony in this court that these
17 photographs, this picture -- you have to own -- that this
18 picture, this woman who used to look like this, your
19 testimony is that that damage done to her face was from
20 one punch?

21 A. No.

22 Q. How did it happen?

23 A. We were fighting over the knife. I previously
24 hit her a couple of times. We were fighting in the
25 bedroom.

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1 Q. When you hit her a couple of times did you use
2 your fist, or did you slap her like you told us earlier?

3 A. I slapped her a couple of times, then I hit her
4 with my fist in her nose and her nose started bleeding in
5 the room.

6 When we got into the kitchen and she grabbed the
7 knife, the knife -- and we were fighting over the knife.
8 And I punched her. She fell. She fell. She fell. She
9 hit that counter. She hit that counter. She hit the --
10 her head hit the counter and she fell, thoom [phonetic].
11 She fell.

12 Q. And you remember giving a statement to the
13 police; right?

14 A. Somewhat, sir.

15 Q. And in this statement you told the police, I
16 boxed her in the face four to five times?

17 A. Yes.

18 Q. And that was in the bedroom; right?

19 A. Yes, sir.

20 Q. And then back in the kitchen you hit her three
21 or four more times?

22 A. Between the living room and the kitchen. Yes,
23 sir.

24 Q. And the officer asked you, what do you mean
25 boxed her. And you said, with a closed fist.

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1 A. I was meaning the last time.

2 She hit her head on the counter and fell on the
3 floor.

4 Q. You don't say, the last time, in your statement.

5 A. I made a mistake, sir.

6 Q. So according to your statement -- four or five
7 times, plus three or four times -- seven to nine times you
8 boxed her in the face?

9 A. No, sir.

10 Q. That's what your statement says, isn't it?

11 A. Between boxed and slapped, sir.

12 Q. And the officer asked you what boxed meant in
13 your statement.

14 A. I made a mistake, sir.

15 Q. How did she get these cuts over her eyes?

16 A. I do not know, sir.

17 Q. You don't know?

18 A. I think she -- when she fell and hit her head on
19 the counter and fell on the floor. I don't know. I
20 didn't cut her.

21 Q. You didn't cut her?

22 A. No, sir. No, sir.

23 Q. Your testimony to this jury is that someone else
24 had to have come into that room and used a sharp
25 instrument to cut slits over her eyes?

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1 A. I didn't say that, sir.

2 Q. When the truth of the matter is you had her
3 pinned down and you took that knife and you said, give me
4 my money or I'm going to cut your eyes out?

5 A. No, sir. No, sir, I did --

6 Q. That's what you did --

7 A. -- not do that.

8 Q. -- isn't it?

9 A. No, sir. No, sir. No, sir. No, sir. I didn't
10 do that. I didn't do that. I didn't do that.

11 Q. You tortured that woman, didn't you?

12 A. I didn't tortured no woman. No, sir. No, sir.

13 Q. And you dragged her up and down that apartment
14 by her hair?

15 A. No, sir.

16 I pulled her by the hair out of the bedroom when
17 we was coming out and some of her hair came out in my
18 hand. I didn't realize I pulled it at all. And some hair
19 came out in my hand. But I didn't pull her up and down.
20 We only went from the bedroom to the living room one time.

21 Q. And you saw the photographs. Her hair is all
22 over that apartment. In every room of that apartment her
23 hair is, isn't it?

24 A. [No response]

25 Q. Isn't it? You saw the photographs.

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1 A. I saw some photograph of picture with hair on
2 it, but I don't think it was her hair.

3 Q. You've been lying and minimizing your
4 involvement since you knew you were caught.

5 A. I never lied, sir. I cooperated with the police
6 from the day they picked me up until now.

7 Q. When you realized that your brother wasn't going
8 to give you the help you needed, and that your father was
9 going to be a stand-up guy and call the police, you knew
10 you were caught, didn't you?

11 A. No, sir.

12 Q. And you knew from that moment on that you had to
13 minimize, that you had to tell half truths. Isn't that
14 right?

15 A. No, sir. No, sir. No, sir, it's not true.

16 Q. And it's all been weighing on you heavily,
17 hasn't it?

18 A. It weighs on me every day. Every day I think
19 about different thing.

20 Q. Don't you think you would feel a lot better if
21 you finally come clean to finally get what really happened
22 off your chest?

23 A. I've been telling the truth from day one. I'm
24 still telling the truth. I feel sorry for what I did and
25 I admitted to what I did. And there's nothing else that I

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1 can say that can make me come cleaner than what I already
2 said, sir.

3 Q. I want you to tell the jury where in this
4 photograph is a counter that she would have hit her head
5 on.

6 A. Right to the left. Right to the left, right
7 here, in the kitchen where the knife was at on the
8 counter. Two steps away.

9 Q. There's no counter in this picture, is there?

10 A. There's not in that picture, but it's in another
11 picture I saw yesterday with the blood on the counter.
12 When she hit her head, her head drug across the counter.

13 Q. You mean where she desperately grabbed that
14 knife to fight for her life?

15 A. No, sir.

16 Q. That counter?

17 A. No, sir. No, sir. She wasn't desperately
18 fighting for her life.

19 She was -- she said, I'll get your money. And
20 she stood up and she took a couple of steps toward the
21 kitchen and she grabbed the knife.

22 Q. Did you ever get your money?

23 A. No, sir.

24 Q. There was no money found, was there?

25 A. I don't think so, sir. That's what they said.

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1 Q. How big of a man are you, Mr. Gathers?

2 A. Five feet eleven, 230 pounds.

3 Q. Let me see how big that hand is.

4 A. [Witness complies]

5 Q. That's a big hand you've got there. Would you
6 call it a big hand? Bigger than mine.

7 A. Yes, sir.

8 Q. What do you think is going to happen when you
9 strike a female with a closed fist seven to ten times on
10 the face?

11 A. I didn't strike her seven to ten times with a
12 closed fist. I really didn't strike her -- I hit her in
13 the nose one time, I know, which I did, and I hit her kind
14 of hard when we -- when we were in the kitchen cussing
15 over the knife, but I didn't hit her in her face ten
16 times.

17 Q. What about when you had that knife, when you had
18 the handle of that knife, in your hand --

19 A. I grabbed --

20 Q. -- and she was grabbing the blade; right?

21 A. She had the -- yes, sir. She -- when -- I
22 grabbed her by her arm and I was able to grab the handle
23 like this, and she grabbed the blade.

24 Q. And so you had control of the knife. You had it
25 by the handle?

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1 A. The handle broke off. It broke off --

2 Q. And the blade broke --

3 A. -- in her hand --

4 Q. -- off in her hand?

5 A. -- and she had the blade. Yes, sir.

6 Q. When she was trying to fight you off from
7 attacking her with that knife?

8 A. No, sir.

9 Q. But you had the handle.

10 A. I had the handle, she had the blade, yes, sir.

11 Q. And she's got all the cuts to prove it; right?

12 A. Right. When I -- when the handle broke -- when
13 it broke -- when I had the handle like this, before it
14 broke off, I pulled it a little bit. I was trying to pull
15 it out of her hand and I guess it cut her hand. It cut
16 her hand.

17 Q. And from the moment that you beat the life out
18 of this woman, you tried to distance yourself from this
19 apartment, didn't you?

20 A. I'm sorry, sir. I didn't hear you.

21 Q. I said from the moment you beat the life out of
22 this woman, you tried to distance yourself from this
23 apartment?

24 A. No, sir.

25 I was talking to her and when I left -- the

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1 minute I left out of the door, she was still talking to
2 me. I never beat the life out of her.

3 Q. And the one thing you could think of is, my
4 fingerprints are on this knife handle, I'm going to get
5 rid of it, I'm going to throw it down by the train tracks;
6 right?

7 A. I don't know why I threw it away. I threw the
8 phone away so she wouldn't call over there, and I just had
9 the blade -- the handle in my hand. I told the police
10 officer, when we got to City Hall, where I had threw the
11 phone and I threw the blade -- or the handle of the knife.
12 I'm sorry.

13 Q. After you realized you had been caught?

14 A. No, sir. I told them that so they could go and
15 find it and recover it. And I was just telling the truth.
16 I just told them what happened.

17 MR. KIDD: Court's indulgence.

18 [Whereupon, Mr. Kidd reviews documents]

19 Q. [Mr. Kidd] And you're telling this jury that
20 you don't recall cutting her eyes?

21 A. I'm sorry, sir. What did you say?

22 Q. I said your testimony to this jury is that you
23 don't recall cutting her eyes?

24 A. I did not cut her eye.

25 Q. But in your statement that you give the police,

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1 they asked you if you stabbed the victim.

2 A. They asked me did I stab the victim. I told
3 them, no, I didn't stab -- they said that she had stab
4 wounds all over her body and did I stab her. And I said,
5 no, I didn't stab her. And they said, how did she get
6 stabbed. And I do not know how she got stabbed.

7 Q. Well, in fact, your statement says: question,
8 did you stab her with a knife. Answer: if I did, I don't
9 remember doing it.

10 Is that not what you told police?

11 A. I don't remember that, sir.

12 Q. But it's in your statement that you signed.

13 A. It's a lot of things in that statement I don't
14 remember now, sir.

15 Q. It's convenient not to remember certain things,
16 isn't it?

17 A. No, sir. The more I remember, the more I tried
18 to tell just what happened.

19 Q. But it's convenient, in regards to this case,
20 for you not to remember certain things, isn't it?

21 A. No, sir. It's a lie. It's not the truth.

22 Q. The devil is in the details, isn't it?

23 A. Sir?

24 Q. I said the devil is in the details, isn't it?
25 The little things?

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1 A. No, sir.

2 Q. It's the little things that tell the story about
3 what really happened that night.

4 A. No, sir.

5 Q. It's not the words that come out of your mouth
6 that tells the story, it's the facts that tell the story,
7 it's the injuries, it's the blood, it's the hair. Those
8 things tell the story; right?

9 A. Yes, sir.

10 Q. Those things can't lie, can they?

11 A. No, sir.

12 Q. But you can lie.

13 A. I haven't lied, sir.

14 Q. But you can.

15 A. I haven't lied, sir.

16 Q. And would you agree that it's instinct, the
17 instinct of self-preservation, to minimize your
18 involvement in a death like this?

19 A. No, sir.

20 I believe if you do something wrong, you should
21 pay for what you do. I don't believe in lying and hiding
22 behind anything, sir.

23 Q. It's convenient? It's convenient today for that
24 to be your answer?

25 A. No, sir. It's the truth.

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1 Q. If you were so concerned about getting her
2 help --

3 A. Yes, sir.

4 Q. -- why didn't you call the police right
5 afterwards?

6 A. I was scared and I made a mistake.

7 Q. Why didn't you call the police when she stole
8 your money?

9 A. Because she told me she was going to give it
10 back to me. I didn't know we was going to end up fighting
11 over it.

12 Q. You didn't know you were going to end up
13 fighting over it? You said the first thing you did was
14 slap her.

15 A. I asked her for the money, I asked her for the
16 money, and we started fussing almost --

17 Q. So you started this fight? That's accurate,
18 isn't it?

19 A. The fight started because of the money. I
20 didn't steal my own money, no, sir.

21 Q. Well, the physical fight, you started the fight.
22 You hit her. You didn't say that she hit you.

23 A. Right.

24 Q. And you didn't have any injuries on you, did
25 you?

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1 A. No, sir.

2 Q. No scratches? You had one minor little scrape
3 on the inside of your finger; right?

4 A. Yes, sir.

5 She fell and she hit her head on the counter and
6 the -- down -- down there.

7 Q. She hit her head on the counter that's --

8 A. Yes, sir.

9 Q. -- nowhere near her body, where her body ended
10 up?

11 A. She hit her head on that counter. Said, thump,
12 thump, on there.

13 Q. There was a lot of blood, wasn't there?

14 A. There was no blood when I left. There was just
15 some blood from when her nose was bleeding in the room and
16 she had her hand on her nose. There was blood coming from
17 her nose and she touched that door. There was some blood
18 on that door. And when she was at the sofa, there was
19 blood on the sofa. She had her hand on her nose and she
20 put her hand on the sofa and there was blood there. There
21 wasn't a lot of blood but there was some blood, yes, sir.

22 Q. And there's blood in the kitchen, there's blood
23 in the hallway?

24 A. There was no blood in the kitchen. I didn't see
25 any blood in the kitchen, sir. There was no blood -- when

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1 I left, she was talking. There was no blood in the
2 kitchen.

3 Q. What about the blood next to that knife block?

4 A. That's when she fell, she hit her head, her hand
5 hit the counter. That's --

6 Q. That blood right there?

7 A. Yeah. Yes, sir.

8 Q. And you're saying those droplets of blood --

9 A. Smeared, right.

10 Q. -- came from that laceration?

11 A. That came from her nose, her nose bleeding.

12 Q. I believe that.

13 A. Yes.

14 Q. When her nose was bleeding, after you punched
15 her in the face --

16 A. In the room her nose --

17 Q. -- and she's fighting for her life and
18 scrambling in the kitchen to try to get a knife to get you
19 out of there, blood drops from her nose on the counter;
20 right?

21 A. I guess so, sir. I'm not sure. But that --

22 Q. And then you take the knife from her; right?

23 A. I didn't never took the knife. The handle
24 broked off. I had the handle of the knife. She had the
25 blade. I never took the knife.

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1 Q. Well, you take the handle of the knife?

2 A. Yes, sir.

3 Q. So you're saying that she grabbed the knife by
4 the blade out of the knife block?

5 A. She grabbed the knife out of the -- out of the
6 block. And I grabbed her wrist like this and I pulled the
7 knife out of her hand -- tried to pull it out of her hand.

8 Q. And at the same time --

9 A. I tried to --

10 Q. -- you punched her with the other hand?

11 A. Yes, sir.

12 Q. And what happened when you punched her? She
13 fell to the ground?

14 A. She hit the counter. She [indicates] fell. She
15 fell.

16 Q. Well, how did she end up in the doorway, then?

17 A. I don't know, sir. She was talking to me.
18 She's -- she's only a step away from the counter. If you
19 get the two pictures and put them together, you'll see how
20 close the counter is to the --

21 Q. But she's facing the wrong direction.

22 A. I don't know which way she's facing, sir. She
23 was only a step away from the counter and she was talking
24 to me when I left.

25 Q. You can see the counter there; right?

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1 A. The counter is two steps, about two steps, away
2 from the kitchen. Maybe two steps.

3 Q. And her feet are in the living room, aren't
4 they?

5 A. Yes, sir.

6 Q. When one falls down -- if I were to fall down
7 right here and hit my head on this counter --

8 A. Yes, sir.

9 Q. -- my feet wouldn't end up on the other side,
10 would they?

11 A. You shouldn't. I don't know.

12 Q. Wouldn't you say it's impossible for her to fall
13 from this position and hit her head on the counter?

14 A. The kitchen is right here. Right there. Right
15 there.

16 Q. You don't think very highly of women, do you,
17 Mr. Gathers?

18 A. I'm sorry. Say --

19 Q. You don't think very highly of women, do you,
20 Mr. Gathers?

21 A. I think very highly of women. I have a mother,
22 I have a daughter, I have a granddaughter, I have sisters.
23 I think very highly of women.

24 Q. You treat them a bit like objects, don't you?

25 A. No, sir.

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1 Q. Take advantage of their weaknesses; right?

2 A. I was wrong. I was intoxicated and I did some
3 things I shouldn't have do. But I do not think -- I think
4 very highly of women.

5 Q. You took advantage of your mere physical size
6 and strength to get what you wanted --

7 A. No, sir. No, sir.

8 Q. -- to exercise that sort of power or control
9 over somebody else. Because that's really what it comes
10 down to, right? power, control?

11 A. Treat people like I want to be treated. I don't
12 have --

13 Q. You want to be treated like this? You want
14 someone to treat you like this?

15 A. It wasn't meant to happen, sir.

16 Q. I agree.

17 A. I had no intention of this happening, sir...

18 Q. And your testimony today is that she was alive
19 when you left that apartment?

20 A. Yes, sir. She was talking.

21 Q. But didn't you tell your brother that you think
22 you went too far and killed this woman?

23 A. No, sir.

24 Q. Didn't you tell your father that, too?

25 A. No, sir.

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1 Q. You knew she was dead when you left that
2 apartment, didn't you?

3 A. No, sir.

4 Q. You knew you had messed up --

5 A. I knew I had messed up.

6 Q. -- because you went too far?..

7 A. No, sir. I knew I messed up. When her head hit
8 the --

9 Q. You got carried away?

10 A. -- her head hit the counter, I knew it wasn't
11 good. But she was alive and talking to me. Sorry.

12 Q. It's a little late for sorrys, isn't it,
13 Mr. Gathers?

14 A. I suppose so, sir.

15 Q. Do you feel sorry for the victim, or do you feel
16 sorry for the situation you find yourself in today?

17 A. Most of all, I feel sorry for the victim's
18 daughter, I feel sorry for my family.

19 MR. KIDD: Court's indulgence for just one
20 moment.

21 [Whereupon, Mr. Kidd and Mr. Young confer]

22 Q. [Mr. Kidd] When you were dragging Ms. Nevarez
23 down this hallway, did you just have her by her hair --

24 A. Yes, sir. I pulled her by the hair --

25 Q. -- and that was all?

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1 A. Yes, sir.

2 Q. And so she was kind of the front of her body
3 towards the floor? Is --

4 A. Yes, sir.

5 Q. -- that accurate?

6 A. She was bent over and -- yes, sir.

7 Q. And you -- did you have two hands on her hair?

8 A. One.

9 Q. What was your other hand doing?

10 A. By my side, I guess. Yes, standing by my side.

11 Q. So you were just -- had one hand full of her
12 hair, just kind of dragging her kind of like a dog, down
13 the hallway?

14 A. I was pulling her by her hair down the hallway.
15 I wasn't pulling her like a dog, no, sir.

16 Q. How would you describe it?

17 A. Pulling her by her hair down -- doing what I
18 shouldn't have been doing, pulling her by her hair down
19 the hallway.

20 Q. And you didn't tell the detective when you made
21 this statement that she hit her head on the counter, did
22 you?

23 A. I thought I did, sir, yes.

24 Q. Well, tell me in this statement, this three-page
25 statement that you gave to the officers the day after this

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1 occurred, tell me where in that statement you say where
2 she hits her head on the counter.

3 A. It's not in there. I didn't give it to them. I
4 thought I did.

5 Q. You thought --

6 A. I made a mistake, sir.

7 Q. Don't you think that's a pretty crucial mistake?

8 A. There's a lot of things in -- in there, there's
9 a lot of crucial mistakes.

10 Q. It was a very crucial mistake for you to say
11 that the blow that killed Ms. Nevarez came from a counter,
12 is what you're testifying today; right? That's your
13 testimony today, that she hit her head on the counter and
14 that's what killed her?

15 A. She didn't die -- she was not dead when I left
16 there. She was talking to me. So she died from the
17 pathologist said blunt-force trauma.

18 Q. Right.

19 A. Yes, sir.

20 Q. So and so you think someone else went in there
21 and finished her off?

22 A. I didn't say that, sir.

23 Q. So you think she died from you punching her, or
24 from her head hitting the counter, or both?

25 A. She died from blunt-force trauma.

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1 Q. What hit her in the head to cause her to die?

2 A. She hit her head on the counter and --

3 Q. Okay. That's what I'm getting at. So your
4 testimony today is that she hit her head on the counter,
5 which killed her; right?

6 A. She was -- I don't know. I don't know.

7 Q. Don't you think it would be important to tell
8 the police officers she hit her head on the counter and
9 that's what killed her, if that's what really happened?

10 A. [No response]

11 Q. Wouldn't that be the first thing out of your
12 mouth?

13 A. I was drunk, I was high. A lot of thing I
14 thought I told them like you said it's not in there. I
15 made a mistake.

16 Q. And the last question on the statement is: is
17 there anything else you would like to tell me at this
18 point in time.

19 You didn't add that she hit her head on the
20 counter.

21 A. I didn't go back and think through the whole
22 statements that they asked me about, every question that
23 they asked me, too. Sorry.

24 Q. And you were -- and this was at, what, 11:00,
25 twelve o'clock the next day; right?

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1 A. I thought it was the same day.

2 Q. Well, yeah, the same morning. Right.

3 So this is -- what time did all of this occur?

4 About 4:00 or five o'clock in the morning? Is that
5 accurate?

6 A. Yes, sir.

7 Q. And this is about eleven o'clock the same day?

8 A. From what I read on it just in the last couple
9 of days, yes, I don't remember what time it was.

10 Q. So about seven hours or so after you had been in
11 a fight with Ms. Nevarez you made this statement. Is that
12 accurate?

13 A. That's the time that's on it, sir.

14 Q. So it's --

15 A. I don't --

16 Q. -- accurate?

17 A. I don't -- I don't remember.

18 Q. And you had walked a few miles --

19 A. Yes, sir.

20 Q. -- you drank a couple of beers?

21 A. Yes, sir. I drank some more when I got home.

22 Q. Why were you drinking?

23 A. No reason. Just drinking. Drunk. High.

24 Q. And but after you left, you -- you testified you
25 walked first to your father's house; right?

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1 A. Yes, sir.

2 Q. From Gainer to your father's house. How far is
3 that from Gainer to your father's house?

4 A. Across the street. Three blocks. A --

5 Q. So walked --

6 A. -- few streets.

7 Q. -- a few blocks. And then your father wasn't at
8 home. And where did you go then?

9 A. Started walking back towards my girlfriend
10 house.

11 Q. And then you walked all the way over to Gumwood

12 --

13 A. Yes, sir.

14 Q. -- right? From Gainer to Gumwood?

15 A. Yes, sir.

16 Q. How many miles would you say that is?

17 A. It's about four miles.

18 Q. Walked about four miles.

19 A. Do it all the time.

20 Q. Do it all the time.

21 And during all that walking, what were you
22 thinking about?

23 A. I made a mistake I shouldn't have done. I wish
24 I would have went home. I wish I had never stopped.

25 Q. Wish you hadn't been cheating on your

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1 girlfriend? You didn't really care much about her
2 feelings, either, did you?

3 A. Sir?

4 Q. I said you weren't really caring about her
5 feelings, either, were you?

6 A. I love her. She's my fiancé. I'm going to
7 marry her. Made a mistake.

8 Q. But nowhere in this statement do you mention her
9 hitting her head on the counter.

10 A. [No response]

11 Q. And when they asked you in this statement about
12 did you stab her, you said, I don't remember; is that
13 right?

14 A. Yes, sir.

15 Q. And the reason you say I don't remember cutting
16 her is because you didn't want to own up to it; right?

17 A. No, sir. If I didn't remember, I didn't
18 remember.

19 Q. So you didn't remember cutting her or not
20 cutting her then, but you specifically remember now?

21 A. I think about this daily. It just plays over
22 and over and over in my mind. I know I didn't cut her. I
23 know I never had a knife in my hand. I do know that.

24 Q. You just testified you had the knife in your
25 hand.

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1 A. I had the blade -- the handle part broke off in
2 my hand. I never had the knife.

3 Q. Okay. How did the blade end up on the couch,
4 then?

5 A. I -- you asked me what I thought killed her. I
6 thought when she fell --

7 Q. No. I asked you how the blade ended up on the
8 couch.

9 A. I don't know, sir. When she fell, she had it in
10 her hand, that I knew of.

11 Q. Convenient that the hardest questions you don't
12 know the answers to, isn't it?

13 A. I can only tell you the truth, sir.

14 Q. You're almost there, Mr. Gathers. You're so
15 close to telling the full truth.

16 A. I've told you the truth, sir. I've told you the
17 truth.

18 Q. Why did you throw her cell phone on the train
19 tracks?

20 A. Yes, sir.

21 Q. I said why.

22 A. Why? I didn't want her to call the police on me
23 because I knew I had fought her, which was wrong.

24 Q. Didn't want to get in trouble; right?

25 A. Yes, sir.

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1 Q. When you called your brother, you didn't want to
2 get it trouble. That's why you asked for his help; right?

3 A. Yes, sir.

4 Q. And when you're washing the blood off your
5 hands --

6 A. I washed my hands, yes, sir. I didn't see any
7 blood on my hand but when I washed them, there was blood
8 on my hand, yes.

9 Q. So tell me, then, how do you get blood on your
10 hands if you only struck her in the face that one time?

11 A. When her nose was bleeding, she had her hand
12 over it and when we was fighting over the knife she had
13 blood on her hands because she had her hand over her face.

14 Q. I'm going to show you a photograph. And I
15 probably should have gotten a better one for this trial.
16 But I want you to look at this photograph and I want you
17 to look at that back column back there.

18 A. Uh-huh.

19 Q. Do you see that red mark that's a swipe?

20 A. Uh-huh.

21 Q. Do you see that?

22 A. Yes, sir.

23 Q. It looks like blood, doesn't it?

24 A. It does.

25 Q. Would you agree that that blood's there from

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1 when you left the apartment that day?

2 A. No, sir.

3 Q. You wouldn't agree with that?

4 A. I don't -- I didn't put any blood on the porch.

5 Q. Well, when you were leaving the apartment, what
6 door did you leave out of?

7 A. If I remember correctly, I think I went straight
8 out the front door and straight off the porch.

9 Q. All right. But the porch -- you can't exit the
10 porch straight. You have to exit from one side or the
11 other because there's two ramps going from each direction;
12 right?

13 A. Right.

14 Q. So you would have had to have gone off of one
15 side of the porch or the other.

16 A. The side that -- because I don't think anyone
17 lives on the other -- yeah. Yes.

18 Q. And so this column that is closest to
19 Ms. Nevarez's apartment door has a blood smear on it,
20 doesn't it?

21 A. If I put the blood on it, I don't know, sir.

22 Q. Okay. So your hands were bloody enough to where
23 if you grabbed that pole running out of her apartment, it
24 would have put a blood smear on it; right?

25 A. I walked out of the apartment. And I don't

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1 remember touching any pole, sir.

2 Q. But someone put that blood smear there; right?

3 A. If that's blood.

4 Q. And if -- whoever's hand put that blood smear
5 there obviously had enough blood on their hand to where
6 you could have at least seen it; right?

7 A. I don't know. I guess. I don't know.

8 Q. And you had enough blood on your hands to, after
9 you washed your hands with at least two washcloths, you
10 still had blood on your hands when you were at the police
11 station.

12 A. My hand was also bleeding. I had a little nick
13 on my finger and my hand was bleeding.

14 Q. Right.

15 A. Yes, sir.

16 Q. And you also heard from the DNA analyst that
17 when they swabbed your fingers, the victim's DNA was on
18 your hands --

19 A. I didn't hear --

20 Q. -- you remember that; right?

21 A. No, sir. I can -- I can barely hear. I didn't
22 hear a lot of things that the DNA expert said. But if she
23 said it was, it was; it was blood on my hand.

24 Q. So you had enough blood on your hands to where
25 you could wash them with two washcloths and still have DNA

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1 on your fingernails from the victim; right?

2 A. Yes, sir.

3 Q. And you're telling me that much blood came onto
4 your hands just from punching her in the face one time or
5 from fighting over the knife with her?

6 A. The blood came from her nose. I may have even
7 touched some blood. I don't know. I don't know where the
8 blood came from. I didn't know where the blood came from.
9 I didn't see any blood go on my hand.

10 Q. Well, then, why did you wash them?

11 A. Why did I wash them?

12 Q. Why did you wash your hands with two wash cloths
13 that --

14 A. When I came home --

15 Q. -- that tested presumptive for blood?

16 A. -- I went into the -- I used the bathroom and I
17 washed my hands. My grandson was right there with me.
18 And I picked my grandson up. I washed my hands, yes, sir.

19 Q. You didn't want to get blood on your grandson?

20 A. No, sir. I washed my hand because I was using
21 the bathroom, for one.

22 Q. The truth is you got blood on your hands, and
23 you're standing over that woman, and you're cutting on
24 her?

25 A. No, sir. No, sir. No, sir.

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1 Q. Were you cutting on her because you didn't
2 want --

3 A. I did not cut --

4 Q. -- her to look at you --

5 A. I didn't --

6 Q. -- while you were beating on her -- like that?

7 A. I did not cut her, sir.

8 Q. Couldn't look her in the eye when you were doing
9 what you were doing to her?

10 A. No, sir. When I left, she was laying face down.
11 She was just talking to me. I didn't see her face.

12 Q. She was talking to you laying face down?

13 A. Yes, sir. She was like, I don't have your
14 money, I don't have your -- I'll go get your money, I'll
15 go get your money. I say, I'm coming back to get my
16 money. She said, I'll give you your money when -- I'll
17 give you your money when you come back. She was talking
18 face down. I didn't see her face. I never saw her face
19 anymore after that, after she fell and hit her head on
20 that counter and fell.

21 Q. She was talking to you lying like that?

22 A. Yes, sir.

23 Q. In that pool of blood?

24 A. There was no blood there, sir. There was no
25 blood. When I left the resident [phonetic], there was no

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1 blood there.

2 Q. Where she fell and hit her head on the counter
3 that's nowhere near her?

4 A. The counter is just a step away, sir.

5 Q. But regardless of all the things that you and I
6 disagree about, we can agree that you're responsible for
7 her death; right? We can agree on that, can't we?

8 A. [No response]

9 Q. Nobody else killed her, did they?

10 A. Responsible for her death. Yes, sir. Yes. I
11 didn't mean to do it.

12 Q. What was that?

13 A. I never meant to hurt her. I didn't mean to do
14 it, so I'm responsible for it. I did fight her. She did
15 hit her head on the counter.

16 Q. You can -- we can agree that had you not been
17 punching her, whether she hit her head on that counter or
18 not, she would not have died. Her daughter would still
19 have a mother. Her grandkids would still have a
20 grandmother --

21 A. Yes, sir.

22 Q. -- but for you?

23 A. If I could change back the hand of time, yes,
24 sir.

25 Q. All over \$400, that you might have spent on

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1 crack; right?

2 A. [No response]

3 Q. You could have been mistaken that that money was
4 ever taken, couldn't you?

5 A. I had the money. I put it in my back pocket so
6 it wouldn't get taken. I had 600 -- yeah, I had the
7 money.

8 Q. 600? I thought it as 400.

9 A. Sir?

10 Q. I thought you said it was 400.

11 A. I had \$600. I spent \$200 with her and I had
12 \$400 left.

13 Q. Isn't it possible that you just spent all that
14 money on crack?

15 A. No, sir. I put it in my pocket and I buttoned
16 my back pocket so I would have it.

17 Q. How much do you get paid?

18 A. [No response]

19 Q. How much do you get paid?

20 A. I got paid the day before. I had about \$700.

21 And my boss daughter, she gave me \$150 the next day for

22 helping her move. I gave my girlfriend some money to pay

23 a bill, and I had 600 -- 600 and some -- about six hundred

24 and forty or fifty dollars left when I went on Liberty

25 Hill. And I spent it --

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1 Q. And you spent --

2 A. -- drinking.

3 Q. -- some of it on beer and drinking liquor all
4 day; right?

5 A. Yes, sir.

6 Q. Did you eat anything all day?

7 A. I ate that morning when I was helping Aleshia,
8 my boss' daughter, move. We had breakfast after we got
9 finished moving her. And I may have ate a sandwich
10 throughout the day. I don't remember. I don't remember
11 eating anything.

12 Q. How many crack rocks did you buy each time?

13 A. I bought --

14 Q. Each time you went to that --

15 A. I only bought it one time, and the other three
16 times she called someone.

17 Q. And then how much -- how many crack rocks did
18 you buy? Two? One for each of you? Four? Two for each
19 of you? What did you do?

20 A. No. I bought -- I had -- I really don't -- I
21 was smoking marijuana. I smoked some crack with her, but
22 I don't smoke crack. I bought -- when I went to the store
23 from that guy I bought 50-dollar crack, 50-dollar piece.

24 Q. And that was the first time; right?

25 A. Yes, sir. Or all three times.

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1 Q. \$50 each time?

2 A. Well, one time I -- yeah.

3 Q. Were you smoking crack, or were you not smoking
4 crack?

5 A. I smoked some, yes. I did smoke some.

6 Q. And in your statement you say you bought crack
7 four or five times; right?

8 A. Yes, sir.

9 Q. It says you smoked crack -- or you bought crack
10 four or five times; right?

11 A. Four times -- yes, sir.

12 Q. And she was just going to have sex with you in
13 exchange for that crack? That was your arrangement you
14 had with her?

15 A. Yes, sir.

16 Q. You weren't going to have to pay her anymore
17 money?

18 A. I gave her some money.

19 Q. All right. Now we're --

20 A. I gave her --

21 Q. -- getting there.

22 A. I gave her \$10.

23 Q. \$10?

24 A. She said she --

25 Q. You had sex four or five times?

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1 A. [Indicates affirmatively]

2 [Whereupon, Mr. Kidd reviews documents]

3 MR. KIDD: I don't have any further questions.

4 THE COURT: Okay. Redirect?

5 MS. RUNEY: No, sir.

6 THE COURT: Okay. You may step down. Thank you
7 very much. Mr. Gathers, you may step down.

8 [Whereupon, Mr. Gathers is excused and exits the
9 witness stand]

10 THE COURT: Do you have any other witnesses?

11 MS. RUNEY: No, sir.

12 THE COURT: Can I see the attorneys up here just
13 a second.

14 [Whereupon, an off-the-record bench conference
15 is held]

16 THE COURT: All right. Madam Forelady --

17 One more thing. Let me ask the attorneys one
18 more thing.

19 [Whereupon, an off-the-record bench conference
20 is held]

21 THE COURT: Madam Forelady and ladies and
22 gentlemen of the jury, we're going to break at this
23 time. It's a little after 5:00. And if you'll be back
24 in your jury room at ten o'clock in the morning, we'll
25 get started at that time. I'll see you in the morning

MIA PERRON, CVR-CM

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THE STATE OF SOUTH CAROLINA
VS.
GREGORY GATHERS,
DEFENDANT.

VOLUME 4 OF 4

held before the Honorable J.C. Nicholson, Jr.
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Thursday, November 17, 2011, Commencing at 10:13 a.m.

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EXHIBITS

[None]

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CLOSING STATEMENT

MR. KIDD: Ladies and gentlemen, this is my opportunity to discuss a little bit about the law that kind of governs the case that we have here in front of us this week.

Before I get started, I want to take a quick moment to thank you. I know jury service is burdensome. I know you all have places you had rather be, other demands on your time, and you've made a sacrifice to be here. And I want you to know that myself, my office, and, really, everyone in the courtroom, appreciates the sacrifices you made to be here.

But there are a few things that I do want to talk about with regard to the law in this case. There's a few issues, a few kind of legal terms, that I think need to be addressed just so you can kind of have thinking points as we start arguing about the facts.

The first is my burden of proof, which is reasonable doubt. I know it gets kicked around a lot. It's a term which there's a million definitions for. I try to mirror mine as close as the one the judge is going to charge you. And a lot of times, understanding reasonable doubt, the easiest way is to understand what it is not. Beyond a reasonable doubt does not mean

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1 beyond all doubt. There are very few things in this
2 world which are absolute certain.

3 And I do not have to prove to you beyond all
4 doubt that the defendant is guilty. That's not my job.
5 I have to prove to you each element of the offense
6 beyond a reasonable doubt. And beyond a reasonable
7 doubt is what leaves you firmly convinced. If you are
8 firmly convinced of the defendant's guilt, then you
9 must find him guilty. And that's what beyond a
10 reasonable doubt is, that which leaves you firmly
11 convinced.

12 Now, the charge that we're here for today is
13 murder. The definition of murder is a little bit
14 convoluted. But it is the killing of another with
15 malice aforethought. So there's really sort of three
16 things that make up what a murder is. The killing of
17 another -- and that's really not in dispute here. It's
18 really not at issue. So we have malice aforethought.
19 So those -- malice aforethought is really the issues
20 that you're here to determine.

21 So what is malice aforethought? So let's break
22 it down and first let's discuss what is malice. Well,
23 there's different ways that you as a jury can find what
24 malice is. We have express malice and then there's
25 implied malice.

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1 Express malice is a little bit rare. And we
2 don't have it in this case. But express malice is when
3 someone says, I'm going to kill you, and then takes a
4 gun and kills somebody. The expression of that intent,
5 the saying what he's going to do, the I'm going to kill
6 you, that's express malice. It's the expression of
7 that intent to do that harm. We don't have that here.
8 And that's really kind of rare.

9 What we have is what we call implied malice.
10 And implied malice is just as good as express malice,
11 it's just different. It's a way through the
12 defendant's actions and the things he does, based on
13 those things you can imply or infer that he acted
14 maliciously. And there's a number of ways in which you
15 can find implied malice. One of the ways is through
16 the use of a deadly weapon. A knife is a deadly
17 weapon. And you'll get a judge charge you that fists,
18 while ordinarily not deadly weapons, when used in a
19 certain manner can be a deadly weapon.

20 And the use of a deadly weapon, fists as a
21 deadly weapon, or a knife -- and a knife doesn't have
22 to be what ultimately ends that person's life. But the
23 use of a deadly weapon. From that you can infer or
24 imply malice. So that's one of the ways that you can
25 find that he acted maliciously.

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1 Another way that you can find that he acted
2 maliciously is through an intent to cause serious
3 bodily injury. He doesn't have to act with the intent
4 to kill the victim, but if he -- you find that he
5 intended to cause her serious bodily injury, and
6 through those actions, that can imply malice. So if
7 you find that he intentionally acted to cause her
8 serious injury, then you can imply that he acted
9 maliciously.

10 And, finally, another way that you can imply
11 malice is if he acted with a reckless disregard for
12 human life or the safety of others. Just recklessly.
13 If he acted so wanton and recklessly that it was a
14 total disregard for human safety and human life, if you
15 find that he acted in a behavior like that, you can
16 imply malice from that behavior.

17 So those are about four separate ways that you
18 can imply malice: from the use of his fists, from the
19 use of a knife, from the attempt to cause serious
20 bodily injury, or from reckless and wanton behavior,
21 any one of those things. And we don't need all four.
22 We only need you to find one. So if any one of you
23 finds at least one of those things, you can imply
24 malice. So that's the second part of murder. We have
25 the unlawful killing with malice and then we have

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1 malice aforethought.

2 So what is aforethought? Aforethought means
3 that that manifestation of malice had to be present in
4 the defendant at some time prior to his actions which
5 caused the victim's death. It doesn't need to be there
6 for any particular period of time. It can manifest the
7 instant before her death or it can manifest hours or
8 days before. But the reality of it is is that malice
9 can manifest so quickly that in the time it takes
10 for -- if he's just relaxed and cool as can be, with
11 not an ill bone in his body. But the moment that he
12 draws his fist back to strike a blow, in that amount of
13 time that malice can manifest. And that is
14 aforethought. All it takes is a split second for that
15 malice to manifest itself. And that's what the
16 definition requires, and that as soon as he draws his
17 fist back to strike that blow, with that intent, with
18 that malice, that is aforethought.

19 You're going to be charged in this case on what
20 we call a lesser-included offense. A lesser-included
21 offense is just -- it's voluntary manslaughter in this
22 case. You're going to be charged on the law of
23 voluntary manslaughter. Basically, voluntary
24 manslaughter is murder without the malice, ultimately
25 is what it is. But it means a lot to know exactly

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1 where it came from and what it is.

2 Voluntary manslaughter originated when someone
3 -- for -- to sort of lessen the degree of guilt on
4 someone when they commit a murder or a killing and it's
5 because they're in the heat of passion or they're so
6 enraged and that's sort of -- they're so kind of worked
7 up that it justifies what they did, to some extent.
8 And it was originally kind of designed for the scenario
9 when a husband comes home and finds his wife in bed
10 with someone else and he's so mad and so enraged that
11 he's incapable of cool reflection, and he loses his
12 mind because he's so upset that he finds his wife in
13 bed with another man when he comes home, and he kills
14 her.

15 And so we have the law of voluntary manslaughter
16 that says that upon an adequate legal provocation, is
17 the kind of catchwords -- upon adequate legal
18 provocation. Something that the law is going to say
19 justifies someone to sort of lose control. And it says
20 that upon that adequate legal provocation, someone acts
21 out in the heat of passion, which would render the mind
22 of an ordinary person incapable of cool reflection. An
23 ordinary person incapable of cool reflection.

24 And I -- sometimes I take this too far. But an
25 ordinary person. It's an objective standard, not a

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1 subjective standard. And what that means is it's not
2 what the defendant -- how the defendant would react or
3 an intoxicated person would react under a certain
4 scenario. It's how an ordinary reasonable person would
5 react under a certain scenario. And when an ordinary,
6 reasonable person under a certain scenario would be so
7 enraged to lose control of themselves, then under that
8 scenario, if they're provoked by adequate legal
9 provocation, then voluntary manslaughter would apply.

10 And on top of that -- although I don't think
11 it's necessarily too applicable in this case, you need
12 all that and you couldn't have had sufficient time to
13 cool. So even if you have those first prongs of
14 voluntary manslaughter, adequate legal provocation,
15 heat of passion, if the defendant would have had
16 sufficient time to cool to gather his composure, then
17 voluntary manslaughter wouldn't be available --

18 So those are the two options that you're really
19 going to have as jurors. You can find him guilty of
20 murder, guilty of voluntary manslaughter, or not
21 guilty. So I guess you have three options.

22 One other concept I want you to think about --
23 and the judge will charge you this, also -- is the idea
24 of what voluntary intoxication means in the context of
25 our legal world. And voluntary intoxication is no

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1 excuse or justification for any criminal act. You
2 know, in the job that I do, if being on drugs or drunk
3 or something like that excused criminal behavior, then
4 we wouldn't have any criminal cases. It is not an
5 excuse and it does not dissolve a defendant of any
6 criminal responsibility whatsoever. So the fact that
7 someone is intoxicated is not an issue.

8 Finally, I want to talk a little bit about
9 sympathies, sympathies and sentencing and wondering
10 about these sort of questions, which are natural
11 questions for you to wonder and for you to ask. But
12 they really have no place in jury deliberation. Your
13 job, as the fact finders, is to determine what
14 happened. It's not to feel sorry for anybody. It's
15 not to listen in mitigation, because that's really for
16 Judge Nicholson to consider when he -- once you
17 determine the facts, and actually what happened, and
18 then Judge Nicholson takes that sympathy and he takes
19 that mitigation evidence and he uses that to pass what
20 should be an appropriate sentence.

21 Because, ultimately, sentencing is up to the
22 judge and it's really not for you to consider. You
23 just consider what happened. You determine the acts.
24 And as you determine the facts, no one can then
25 question what you decide actually happened. What you

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1 decide happened that day is what happened that day in
2 the eyes of the law.

3 And I'm not going to speak much further on the
4 law but I do want you to know that just as you're the
5 judge of the facts, Judge Nicholson is the judge of the
6 law and if there is any point which I have told you or
7 tried to explain a legal concept to you and it differs
8 in any way than Judge Nicholson charges you, I defer to
9 him. He is the authority on the law. So if I've made
10 a mistake somehow or explained something incorrectly,
11 he is the authority on the law and you must follow the
12 law as he charges it to you, not as I charge it to you.
13 I try to explain it to you as best I can to help maybe
14 put in some context other than the way he does. But he
15 is the authority on the law and I defer to him.

16 At this point I'm going to sit down. I want you
17 to listen carefully to the defense counsel's arguments
18 and then I'm going to have one more last opportunity to
19 come up and address some of the facts with you and --
20 before you begin your deliberations. So I appreciate
21 your time. And please listen to Ms. Runey.

22 THE COURT: Yes, ma'am.

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CLOSING ARGUMENT

MS. RUNEY: It's not that complicated. As I told you from the beginning, this is not a whodunit. And you have now heard from Mr. Gathers himself exactly what happened that night. He's not proud of what happened. In fact, he's sad. He's distraught about it.

I'm sure that the solicitor would like you to believe that Gregory is simply protecting himself. But that is not the case. Gregory cooperated with the police from the beginning. He told the investigators what happened. He told Officer Bauer, when he approached him on Gumwood, I'm the man you're looking for; I F'd up. This is not someone who is a murderer.

Gregory called his brother and his father and he asked them to go over there and check on Ms. Nevarez, help her, she was hurt. He didn't know that she had died. Murderers don't do that.

And at City Hall, Gregory gave detectives a statement. He was crying. He was mumbling. And he kept asking if Ms. Nevarez was okay. Not only was he upset, he was drunk and he was high.

Detective Holt told you that Gregory told them how much crack they had smoked. And he never tried to stop the interview. Greg was sitting in an interview

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1 room, handcuffed to a chair. He was in custody. They
2 could have stopped the interview and waited, waited
3 until he sobered up, but they didn't.

4 He also told -- Detective Holt also told you
5 that he had to change the form of the interview,
6 correct, because Greg blurted out what had happened.
7 And he was crying and he was so upset that he had to
8 change the form by asking him questions and Greg would
9 simply answer the questions. And you'll have that
10 statement back there with you. They're short questions
11 and fairly short answers.

12 He told the officers the truth but he didn't
13 give all the details, which he should have. He
14 answered that he hit her and that he tried -- and that
15 she tried to pull a knife on him and she -- and he had
16 to wrestle her to get the knife away.

17 He wasn't able to concentrate and give all of
18 the details of what happened. At the end of the
19 interview, Detective Holt asked him is there anything
20 else that you would like to add, and all he could do
21 was mumble and put his head down and say, I'm sorry,
22 I'm sorry, I'm sorry; I'm sorry for her family; I'm
23 sorry for my family.

24 Gregory Gathers didn't come in here to testify
25 to protect himself. He didn't come in here to make

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1 himself look good. In fact, he admitted to a lot of
2 bad things. And you probably don't agree with his
3 behavior that night. He got really drunk, hanging out
4 with his friends, smoking marijuana. He goes to the
5 bus stop, he meets Ms. Nevarez, and instead of going
6 home to his girlfriend where he should have gone, he
7 traded drugs for sex. He smoked a lot of crack. And
8 he slapped and hit Ms. Nevarez and he pulled her by her
9 hair. And he also should have called EMS or called 911
10 when she fell to the ground. And as I told you from
11 the beginning, Gregory Gathers made bad decisions, bad
12 decisions that don't make a murderer.

13 This is not a court of morality. And the
14 solicitor wanted to make Greg look like a woman-hater
15 to pretend it's about something else. And that's not
16 what this is about. It's really not about drugs, it's
17 not about prostitution, and it's not about hating
18 women.

19 Gregory should not have fought with her in the
20 bedroom. He shouldn't have pulled her by her hair down
21 the hall. But when Renee Nevarez pulled a knife on
22 Gregory Gathers, what else was he supposed to do? He
23 had to react immediately. This could have easily gone
24 the other way. She could have easily have stabbed him.
25 It doesn't matter if you are bigger than someone when

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1 they pull a knife on you, a knife that size.

2 The solicitor is going to argue to you that
3 Renee Nevarez never took Gregory's money. And it makes
4 sense that she did. She needed his money for the
5 drugs, the drugs they smoked that night, and he bought
6 them for her.

7 We also heard from Sargent Reynolds that she had
8 people's names and banking information in her house. I
9 say this to you not to bash Ms. Nevarez, but simply to
10 show you that Gregory is telling you the truth. The
11 reason that the money isn't found is that the
12 detectives, they do a thorough search, they told you
13 they did a thorough search, of the bedroom, the kitchen
14 and the living room. Detective Riedel told you that
15 he, in fact, did a thorough search of the bedroom and
16 the living room. But you didn't hear anything about
17 the bathroom or the spare bedroom which was used for
18 storage. The spare bedroom had piles of clothes and
19 Tupperware containers full of stuff.

20 Gregory Gathers had smoked crack three times in
21 his life and it really messed him up. And he told you
22 he blacked out. We don't know where Ms. Nevarez put
23 his money. He kept the money buttoned in his back
24 pocket and he had other money in his front pocket. But
25 he had put the money back there so he wouldn't spend

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1 it. And that's why it was separate from his other
2 money.

3 Yo also heard from Dr. Batalis. And he told us
4 that cocaine is a stimulate. It causes excitement and
5 aggression. Gregory and Renee both did a lot of crack.
6 And we know that from the test done on her blood and
7 from what he told us. These drugs could have easily
8 caused him to anger easily, but they could have also
9 caused Ms. Nevarez to act aggressively and to pull this
10 knife on Greg.

11 When Greg wakes up and realizes his money is
12 gone, he slaps her and her nose is bleeding. She's
13 bleeding in the hall. And he pulls her down the hall.
14 She suffered bruising from her skull on this. And when
15 they are in the den, her nose is still bleeding and the
16 fighting stops. He thinks he's getting his money back.
17 She's looking in the cushions saying to him, you're
18 going to get your money back, I'm going to give it back
19 to you. But it's not there.

20 She acts like she's going to give it to him by
21 going in the kitchen. He's standing there thinking
22 that he's finally going to get his money back. He
23 turns around and there's a large knife in his face.
24 What else was he supposed to do? Her hands are cut
25 because of the struggle over the knife. He grabbed her

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1 wrist and the bottom of the knife handle and during the
2 struggle the handle pops off and she's holding the
3 blade.

4 You're going to hear a lot about her eyes were
5 cut. We don't know how her eyes got cut. She's
6 holding the knife, jerking back, trying to keep it,
7 trying to keep him from getting it. I don't know how
8 it happened, Gregory doesn't know how it happened. The
9 struggle was very bad.

10 We know that Greg is telling you the truth about
11 the struggle over the knife. We heard about DNA
12 evidence and that Ms. Nevarez' DNA is all over the
13 knife handle. We don't know about the blade part
14 because it was never sent for analysis. Agent Hefney,
15 from SLED, told you that Ms. Nevarez was the major
16 contributor and that she had to do an additional test
17 to determine if Greg's DNA was on there. And it was.
18 We're not disputing that. It should have been. He
19 took the handle from her, he carried it away, and he
20 threw it on the railroad tracks.

21 Why did he take that handle with him? Why did
22 he throw it on the railroad tracks? He panicked. He
23 panicked.

24 The solicitor went through all these charts and
25 numbers with Agent Hefney. We don't disagree with any

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1 of that. Gregory had blood on his hands. Of course he
2 did. We know Ms. Nevarez was bleeding. He was cut,
3 too. And we know that her DNA, whether it was blood
4 or any other bodily fluids, were on his hands. They
5 had been together sexually, she was bleeding, and they
6 fought over the knife.

7 I want to go back to the living room. The sofa
8 cushions were turned up and the rest of the room was
9 orderly. It is apparent, from the pictures of the
10 apartment, that the fighting occurred in the bedroom
11 and down the hall -- and you'll have those pictures
12 back there with you -- down the hall until Greg thinks
13 that he's finally going to get his money back, the very
14 reason the fight started.

15 When Gregory is trying to get the knife from Ms.
16 Nevarez, the handle is popped off and she still has the
17 blade. He pulls and pulls more of her hair. She does
18 fall to the ground. She falls to the ground hard and
19 hits her head on the kitchen counter. And, yes, at
20 this point he should have called the police. He should
21 have helped her. He freaked out and he ran, taking the
22 handle and the phone. If he was trying to hide
23 evidence, wouldn't he take the blade with him, too?

24 Gregory is not a murderer. He is not proud of
25 his behavior that night or that morning. He did not

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1 act with hatred or ill will towards Ms. Nevarez. In
2 the bedroom he acted with anger, anger that she had
3 taken his money. He did fight with her. But when
4 Renee Nevarez pulled that knife on Gregory Gathers, he
5 had to react, react to get the knife away from her and
6 to keep himself from getting stabbed. If he had not,
7 he may be dead. These same families could be on
8 opposite sides of this courtroom. These same
9 prosecutors could be prosecuting Ms. Nevarez. What
10 else is a person to do, a knife that big coming at you,
11 no matter what your size.

12 It's that simple and that is why you must find
13 Gregory Gathers not guilty of murder.

14 THE COURT: Solicitor?

15 MR. KIDD: Thank you, Your Honor. May it please
16 the Court.

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CLOSING ARGUMENT

1
2 MR. KIDD: Ms. Runey was correct when she told
3 you that it's not a complicated case and it's not a
4 whodunit case.

5 You don't have to piece together the evidence to
6 figure out whether Mr. Gathers killed Ms. Nevarez. He
7 told you he did. He told you that yesterday and he
8 told you that in his statement. You know that. You
9 know that those hands right there pressed against his
10 face, balled into a fist, and pounded the life out of
11 Renee Nevarez. Not one punch, but punch after punch
12 after punch. A six-foot man -- a six-foot-tall man,
13 230-some-odd pounds, outweighs her by a hundred pounds,
14 a foot taller, pounded the life out of her.

15 Now, I'm going to spend a little bit of time
16 talking about his testimony yesterday, but before I do,
17 I want you to know this. I want you to know that if
18 you believe every single word that came out of his
19 mouth, it doesn't matter, even if you believe his
20 entire story -- and I contend you shouldn't. It was
21 full of lies, and I'll explain those to you. But even
22 if you do, he's still guilty of murder. He's still
23 guilty of murder. He beat a woman, in her own home, to
24 where she had to act in self-defense and try to protect
25 herself and fight for her life. And she died as a

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1 result of it. And that's murder.

2 You can't kill someone -- even if she did steal
3 his money, it doesn't matter whether she did or not,
4 it's not an excuse. You can't kill someone because
5 they stole a couple hundred dollars from you. Petty
6 larceny is not adequate provocation to reduce murder to
7 manslaughter.

8 Well, let's talk about his lies. Let's talk
9 about all those things that he told you yesterday.
10 It's full of half truths, omissions. He's shielding
11 himself from what he really did.

12 I think Benjamin Franklin said it best. He
13 said, a half truth is often a great lie. And that's
14 what we have here. We have Gregory Gathers trying to
15 pull a great lie over the eyes of this court and off on
16 you.

17 So let's talk about the different lies he told
18 you yesterday. I want to start at the beginning. Do
19 you remember when I was talking to him about his
20 brother and about how he told his brother to get rid of
21 that body? Did you see his facial expression? Did you
22 see how he acted? He wasn't going to win an Emmy or
23 anything for it. Kind of wide-eyed, no, no, no. You
24 can't believe that. You know why his brother is not
25 here. That's the first lie.

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1 The second lie he told you: he struck her with
2 a closed fist one time. That's what he told you.
3 That's what he wants you to believe, that he struck her
4 with a closed fist one time.

5 Ms. Runey is right. You're going to have all
6 this evidence, all these things that we showed you,
7 back there in your jury deliberation room. You're
8 going to have his statement. And I want you to read
9 it. And I want you to read where he says he struck her
10 with a closed fist three to four times in the bedroom
11 and another four or five times in the living
12 room/kitchen area. That's seven to nine strikes with a
13 closed fist. And that's what he tells you the day it
14 happened. And then he's going to come in here and he's
15 going to try to tell you that he hit her one time with
16 a closed fist and that's what he wants you to believe?
17 No, ma'am. No, sir.

18 And you heard Dr. Batalis. He said that she was
19 struck a minimum of five times. A minimum. Someone
20 who's an expert in his field, someone who they don't
21 even argue is an expert, they agree he's an expert, he
22 said she was struck a minimum of five times. It could
23 have been twenty. But a minimum of five times. He
24 said the bruising and contusions on her face were so
25 many that they melted together and you couldn't even

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1 tell them apart from one another. And that's just on
2 the front of her face. He also told you about the
3 bruises on the side of her head, on the back of her
4 head, so hard that the muscle of her ear is bruised.
5 One punch? I don't think so. That's the second lie he
6 told you.

7 The third lie he told you: he told you he never
8 had the knife. He said they were fighting over it, he
9 got the handle, the blade broke off. And then you see
10 -- saw when I asked him, well, how come the knife blade
11 is on the couch across the room from the victim's body?
12 And what did he do? Uh, uh, uh, I just don't know. He
13 doesn't know because it doesn't fit his lies. He can't
14 explain it because he's lying and it doesn't fit.
15 That's his third lie that he told you.

16 Let's talk about his fourth lie: that he hit
17 her head on the counter -- she fell and hit her head on
18 the counter. Look at the pictures. Look at the way
19 her body was found. It's not even near a counter. Her
20 whole lower half of her body is still in the living
21 room. It's not possible. It's another lie.

22 The fifth lie he told you: he told you he
23 didn't cut her. Once again, you heard from Dr.
24 Batalis. Incise wounds. And I even made a mistake
25 talking to him. I started calling them lacerations,

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1 because I don't hardly know the difference. But he
2 called them incise wounds because they're caused by a
3 sharp instrument, knife wounds, incise wounds.
4 Lacerations are from the blunt-force impact where the
5 skin tears apart from an impact and it's different than
6 an incise wound from a sharp object. He told you he
7 even talked with his colleagues, never seen anything
8 like this before.

9 Yet he can't explain to you why he cut her, and
10 it makes him look bad, so he's just going to lie about
11 it. He wants to tell you that he's owning up to
12 everything he did. No, he is not. He's giving you
13 half truths, and those half truths are great lies.

14 And those are just five of the lies that he told
15 you that I can prove are wrong in a forty-five minute
16 conversation we had with him on the stand. Everything
17 else he told you wasn't true, either, but it doesn't
18 matter. All of it really doesn't matter. If you
19 believe him, that's fine. He's still guilty of murder.

20 And as I told him yesterday, the devil is in
21 those details. And that's so true in this case because
22 that sick and that brutal behavior that he acted out
23 on, that came from a place within him, a dark place
24 within who he is as a person. And he's embarrassed and
25 ashamed of that, of a light being shined on that

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1 darkness that's within him. And he's ashamed. He's
2 ashamed to admit it to you, he's ashamed that his
3 family is seeing that. And that's why he lies. That's
4 why he put his hand on that Bible up there and he lied
5 to you and he lied to this Court.

6 Ladies and gentlemen, the entire case that was
7 presented to you from defense counsel was all designed
8 for you to feel sorry for him, for you to have sympathy
9 for Gregory Gathers. Ladies and gentlemen, save your
10 sympathies. Save your sympathies for Tiffany Nevarez,
11 for a daughter who no longer has a mother, for her
12 grandchildren who no longer have a grandmother. Save
13 your sympathies for a woman whose life was cut
14 tragically short, who was beaten, dragged around by her
15 hair in her own home. Save your sympathies for those
16 people.

17 And, ladies and gentlemen, make no mistake about
18 it. Renee Nevarez, she was no angel. She was not a
19 perfect person. She had her faults, she had her
20 weaknesses. She wasn't going to win mother of the
21 year. She probably wasn't on the PTA. She wasn't
22 perfect. But nobody, nobody, deserves to have their
23 life taken away from them in the manner that she had
24 her life taken away. Nobody deserves that. In your
25 own home, to be drug around by your hair, punched in

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1 your face so many times, so many times.

2 And you'll see those pictures. And I hate
3 showing them to you, but a picture says a thousand
4 words. And to be cut on the way she was, and tortured?
5 And for what reason? To get some money back. Is that
6 what it was? Maybe.

7 Was he holding her down by her neck? And you
8 heard Dr. Batalis. Her neck was swollen. Maybe he had
9 her pinned down by the neck telling her, give me my
10 money or I'm going to cut your eyes out. Maybe. Maybe
11 he just didn't want her looking at him as he was
12 beating on her and torturing her. Maybe he just
13 couldn't stand to look in her eyes. But there was
14 something there.

15 Now, I want to talk to you a little bit more
16 about some of the law that we addressed just a few
17 minutes earlier about the murder and malice and about
18 those different ways that you can imply malice.

19 And I think the most simple definition is that,
20 you know, implied malice is like a wicked or malicious
21 -- a malicious intent. It's more commonsensible than
22 we make it a lot of times. What is malice? Well,
23 ladies and gentlemen, what I think best explains what
24 malice is is when you look at the before photo of what
25 Renee Nevarez looked like and you look at how her

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1 facial structure really looks when she was alive, and
2 then you see how swollen and mangled it was when he was
3 finished with her. And it's hard to look at, and it's
4 not easy. But if there is anything that can show
5 maliciousness, it's those photos. And that's not even
6 considering the fact that even without those, you can
7 imply malice just from him using his fist like a deadly
8 weapon. You can imply malice from him cutting on her
9 with that knife. You can imply malice just from him
10 acting so recklessly and not understanding that his
11 actions could easily cause someone to lose their life.
12 Any of these things you can imply malice for.

13 It's so present. It's the elephant in the room.
14 You know, they can try to act like she was behaving in
15 self-defense and pulled -- or she was attacking him
16 with a knife and he was just acting in self-defense.
17 Who do you think was acting in self-defense in this
18 scenario? You know the fight started in the bedroom.
19 You see the hair all over the bedroom, hair down --
20 being dragged down the hall, hair in the living room,
21 hair in the kitchen. You see the blood, and the knife
22 block knocked over. You know exactly what happened.
23 He was beating her in the bedroom, he was dragging her
24 down the hall, he was beating her in the kitchen, and
25 she was fighting for her life and she lost that fight.

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1 Ladies and gentlemen, your role as jurors is to
2 determine the facts, determine what happened. And in
3 doing so, your biggest asset is your common sense. So
4 don't turn your back on that. See his lies for what
5 they are. But please remember, in the end it does not
6 matter whether you believe his lies or not. If you
7 just go off of his testimony alone, he is still guilty
8 of murder.

9 There's a famous French philosopher, Voltaire,
10 who once said: to the living we owe respect; to the
11 dead we owe only the truth. And I think that rings
12 especially true. Pay respect to Tiffany Nevarez and to
13 this Court, and your community, and deliver a verdict
14 which brings the truth for Renee Nevarez. And in so,
15 deliver a verdict which truth and justice demands and
16 return a verdict that finds this man right here guilty
17 of murder, because that's what it is. Thank you.

18 MS. RUNEY: Judge, can we approach?

19 THE COURT: Pardon?

20 MS. RUNEY: Can we approach?

21 THE COURT: Yes, ma'am.

22 [Whereupon, an off-the-record bench conference
23 is held]

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CHARGE OF THE COURT

THE COURT: All right. Ladies and gentlemen of the jury, and Madame Forelady, I'll give you a copy of these instructions in written form and during your deliberations you may refer to the instructions to guide your decision-making. You must consider the instructions as a whole and not follow some and ignore others.

Please return the instructions to the Court, Madam Forelady, after you have reached a verdict.

Now, as to these indictments, the defendant has entered a plea of not guilty, which places upon the State the burden of proving the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you it's a vital important rule of law of evidence that the defendant in a criminal trial, no matter how great or serious may be the defense with which he is charged, must always be presumed innocent until his guilt has been proven beyond a reasonable doubt, as presumption of innocence remains with the defendant at all times from the moment of his appearance in this court, throughout the trial and until you, the jury, have upon the testimony and evidence presented reached a verdict of guilty beyond a reasonable doubt, for it's the solemn duty of the jury if not firmly convinced of his guilt beyond a reasonable

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1 doubt, to acquit the defendant. So the burden of proof is
2 upon the State to establish by evidence, to your
3 satisfaction, the guilt beyond a reasonable doubt of this
4 defendant.

5 Now, what is reasonable doubt? A reasonable
6 doubt is the kind of doubt that would cause a reasonable
7 person to hesitate to act. If you have such a doubt as to
8 the guilt of the defendant, you enter a verdict of not
9 guilty. Reasonable doubt may arise from evidence which is
10 in the case or from the absence or a lack of evidence in
11 the case. You alone must make the determination of
12 whether or not reasonable doubt exists as to the guilt of
13 the defendant. The term reasonable doubt should be given
14 its everyday plain and ordinary meaning. Proof beyond a
15 reasonable doubt is proof that leaves you firmly convinced
16 of the defendant's guilt. There are very few things in
17 this world that we know with absolutely certainty and in
18 criminal cases the law does not require proof that
19 overcomes every possible doubt. If based on your
20 consideration of the evidence you are firmly convinced
21 that the defendant is guilty of the crime charged, you
22 must find him guilty. On the other hand, if you think
23 there's a real possibility he's not guilty, you must give
24 him the benefit of the doubt and find him not guilty.

25 The evidence from which you would decide what

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1 the facts consists of the sworn testimony of witnesses
2 both on direct and cross-examination, regardless of who
3 called the witness, the exhibits that have been received
4 into evidence, and any facts which the lawyers have agreed
5 or stipulated. What is not evidence? Certain things are
6 not evidence. You may not consider them in deciding what
7 the facts are. I will list them for you. Arguments and
8 statements by lawyers are not evidence. The lawyers are
9 not witnesses. What they have said in opening statement,
10 closing arguments, and other times is intended to help you
11 interpret the evidence but it is not evidence. If the
12 facts as you remember them differ from the way the lawyers
13 have stated them, your memory controls. Questions and
14 objections by lawyers are not evidence. Attorneys have a
15 duty to their clients to object when they believe a
16 question is improper under the rules of evidence. You
17 should not be influenced by the objection or by the
18 Court's ruling on the objection. Testimony that's been
19 excluded or stricken, or that you have been instructed to
20 disregard, is not evidence and must not be considered.
21 Anything you may have seen on television, read in the
22 paper, or heard from others while the Court's not in
23 session is not evidence. You'll decide the case solely on
24 the evidence received at trial.

25 Under the constitution and code of laws only

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1 you, the jury, can make the findings of facts in this
2 case. I am not permitted to indicate to you how I may
3 feel about the testimony, evidence which has been
4 presented, and throughout this trial it's been my
5 intention to be fair and impartial towards each of the
6 parties involved. To determine the facts in this case,
7 you will have to evaluate the credibility, which means the
8 believability, of each witness. Some of the things you
9 may consider as you decide whether or not to believe a
10 witness' testimony about a particular matter include what
11 was the manner and appearance of the witness who
12 testified, was he or she straightforward or hesitant in
13 their answer, was the testimony of the witness consistent
14 or inconsistent, how did the witness come to know the
15 facts that he or she testified to, was the person present
16 during the incident or did he happen on the scene after it
17 occurred, is there some reason a witness would want to
18 give testimony which would help or hurt one side or the
19 other -- in other words, was the witness biased or
20 prejudiced -- was the testimony of the witness
21 strengthened or weakened by other testimony and evidence,
22 the duration and length of time between the alleged acts
23 and when they were reported -- you may consider this,
24 whether this would weaken or strengthen their memory --
25 all prior statements made as to whether they're consistent

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1 or inconsistent. You can believe as much or as little of
2 each witnesses' testimony as you think proper. You may
3 believe the testimony of a single witness against that of
4 many, or just the opposite. You do not determine the
5 truth by merely counting the number of witnesses presented
6 by each side. Throughout this process you have but one
7 object, to seek the truth regardless of its source.

8 The same constitution and laws which designate
9 and make you the finders of fact, as I just explained,
10 also make me the sole instructor of the law. You should
11 accept statements of the law as I give them to you. The
12 attorneys are not the instructors of the law. Please base
13 your decision-making on what the law is and not what you
14 think the law should be.

15 There are two types of evidence which are
16 generally presented during the trial: direct evidence and
17 circumstantial evidence. Direct evidence is the testimony
18 of a person who asserts or claims to have actual knowledge
19 of a fact, such as an eyewitness. Circumstantial evidence
20 is proof of a chain of facts and circumstances indicating
21 the existence of a fact. The law makes absolutely no
22 distinction between the weight or value to be given to
23 either direct or circumstantial evidence, nor is a greater
24 degree of certainty required of circumstantial evidence
25 than of direct evidence. You should weigh all the

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1 evidence in the case on a contested factual issue and have
2 some direct and some circumstantial evidence.

3 To determine the facts in this case, you will
4 have to evaluate the credibility, which means the
5 believability, of each witness.

6 The rules of evidence ordinarily do not permit a
7 witness to testify to opinions or to conclusions. An
8 exception to this rule exists for witnesses we call expert
9 witnesses. A witness who by education and experience has
10 become expert in some art, science or profession may give
11 an opinion as to the subject the witness claims to be an
12 expert in and also may give the reasons for the opinion.
13 You should consider any expert opinion given by a witness
14 and, like any other evidence, give it the weight you think
15 it deserves. If you decide that an expert witness'
16 opinion is not based on sufficient education and
17 experience, or if you decide that the reasons given in
18 support of the opinion are not sound or that the opinion
19 is outweighed by other evidence, you may disregard the
20 opinion entirely.

21 Voluntary intoxication is not an excuse for, or
22 a defense to, a crime. The rule extends to the voluntary
23 ingestion of drugs. A person who voluntarily becomes
24 intoxicated is just as responsible for the acts committed
25 while intoxicated as if the acts had been committed while

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1 sober. Voluntary intoxication does not relieve the
2 intoxicated person of responsibility and cannot be
3 considered as causing a sudden heat of passion.

4 The defendant is charged with murder. The State
5 must prove beyond a reasonable doubt that the defendant
6 killed another person with malice aforethought. Malice is
7 hatred, ill will, or hostility towards another person. It
8 is the intentional doing of a wrongful act without just
9 cause or excuse and with the intent to inflict an injury
10 under the circumstances of law that will infer an evil
11 intent. Malice aforethought does not require that malice
12 exist at any particular time before the act is committed,
13 but malice must exist in the mind of the defendant just
14 before and at the time the act is committed; therefore,
15 there must be a combination of previous evil intent and
16 the act. Malice aforethought may be express or inferred.
17 These terms express and inferred do not mean different
18 types of malice, but merely the manner in which malice may
19 be shown to exist, that is, either by direct evidence or
20 by circumstances which are proved. Express malice is
21 shown when a person speaks words which express hatred or
22 ill will for another or when the person prepared
23 beforehand to do the act which was later accomplished.
24 For example, lying in wait, or any other act of
25 preparation going to show that the deed within the

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1 defendant's mind would be expressed. Malice may be
2 inferred from conduct showing total disregard for human
3 life. In other words, if such conduct results directly in
4 the death of another and if such conduct was so culpable
5 and inexcusable, so aggravated and grossly recklessness to
6 show an act of intentional disregard of the consequences
7 of human life, thus denoting a malignant spirit, a heart
8 devoid of social duty, a fatal event, or mischief, an
9 implication of malice may arise. Inferred malice may also
10 arise when the deed is done with a deadly weapon.

11 A deadly weapon is any article, instrument or
12 substance which is likely to cause death or great bodily
13 harm. Whether an instrument has been used as a deadly
14 weapon depends upon the facts and circumstances of each
15 case. However, the use of a deadly weapon does not
16 require you to infer malice. The following examples of
17 instruments which may be deadly weapons: a pistol,
18 shotgun, a rifle, a dirk, a dagger, a knife, a slingshot,
19 metal knuckles, a razor, gasoline, a firebomb, a Molotov
20 cocktail and lighter fluid. A gun may be a deadly weapon,
21 even if it's not operating.

22 A hand or a fist is not normally considered a
23 deadly weapon; however, under some circumstances,
24 depending upon the matter and means of its use, the wounds
25 inflicted, and other relevant acts, a hand or fist may be

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1 considered a deadly weapon. It is for you to decide in
2 this case, beyond a reasonable doubt, whether or not a
3 hand or a fist is a deadly weapon.

4 Voluntary manslaughter: if you find the
5 defendant [sic] has failed to prove beyond a reasonable
6 doubt the defendant committed murder, you may consider
7 whether the State has proven beyond a reasonable doubt
8 that the defendant committed voluntary manslaughter.
9 Included within the offense of murder is the lesser
10 offense of voluntary manslaughter. To prove voluntary
11 manslaughter, the State must prove beyond a reasonable
12 doubt that the defendant took the life of another in the
13 sudden heat of passion, based upon sufficient legal
14 provocation of heat of passion, and sufficient legal
15 provocation must be present at the time of the killing to
16 constitute voluntary manslaughter. There's numerous legal
17 provocations of factual basis within the determination of
18 voluntary manslaughter. It's just not one, there's
19 numerous and the courts have stated that it will be
20 determined on a case-by-case basis whether legal
21 provocation is sufficient for voluntary manslaughter.
22 There's not just one, there are several.

23 Sudden heat of passion may, for a time, affect a
24 person's self-control and temporarily disturb a person's
25 reason. The sudden heat of passion must be the type that

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1 would make an ordinary person unable to coolly reflect on
2 his actions and will produce an uncontrollable impulse to
3 do violence. Sufficient legal provocation must be the
4 type that would make a person of ordinary reason and
5 caution become enraged and to lose control temporarily.
6 The provocation needed for voluntary manslaughter must
7 come from some act of or related to the victim. Words
8 alone, however vulgar or insulting, are not enough to be
9 legal provocation. And if the heat of passion had cooled
10 or if there was enough time between the provocation if any
11 and the killing for the passion of a person reasonable to
12 cool, the killing would not be voluntary manslaughter. In
13 deciding whether a reasonable person would have had enough
14 time to cool off, you should consider all the
15 circumstances surrounding the killing. You may consider
16 the nature of the provocation, if any, the defendant's
17 mental and physical state, and the circumstances and
18 relationships between the parties.

19 A statement alleged to have been made by the
20 defendant has been admitted into evidence in this case.
21 While the Court has determined that the statement is
22 admissible, I instruct you that you make the ultimate
23 decision of whether or not the defendant made the
24 statement. If the defendant did make the statement, you
25 must determine whether the statement was made by the

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1 defendant voluntarily and of his own free will. This
2 means that the statement was not caused by pressure,
3 force, fear, threats, coercion, or intimidation, or by
4 hope or a promise of leniency or reward of any kind. In
5 determining whether the statement was voluntarily given,
6 you should consider both the characteristics of the
7 defendant and the details of the question. Some of the
8 factors which you may consider are the age of the
9 defendant, the defendant's education or lack of education,
10 the defendant's mental ability or capacity, the
11 defendant's IQ or intelligence, the defendant's background
12 and environment, the place and lengths of detention, the
13 nature of the question and the advice or lack thereof of
14 the defendant to his constitutional rights including, but
15 not limited to, the right to remain silent, that the
16 statement could be used against him in a court of law, the
17 right to have a lawyer present, if he or she cannot afford
18 an attorney a lawyer will be appointed to represent him
19 without cost and that he could stop making his statement
20 at any time. You must carefully consider all of the
21 surrounding circumstances before you give any weight to an
22 alleged statement. The State has a burden of proving
23 beyond a reasonable doubt that the alleged statement was
24 voluntarily given. If you determine it was, you must give
25 the statement any further consideration deemed proper.

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1 You must decide what weight, if any, should be given to
2 the alleged statement. If you determine -- excuse me. If
3 you determine the alleged statement was not the free and
4 voluntary statement of the defendant, you should not
5 consider the statement at all.

6 Now, you've been selected as fair and impartial
7 jurors sworn to impartially try and determine the facts in
8 this case and when you comply with your oath to do so, no
9 one will have the right to criticize your verdict. You
10 have fully discharged your duties as jurors. You'll
11 determine this case according to the testimony you've
12 heard from the sworn witnesses, along with the other
13 evidence introduced.

14 I charge you as jurors you must decide the
15 issues in this proceeding without bias, without prejudice
16 to any party. You cannot allow yourself to be governed by
17 sympathy, by prejudice, by passion, by public opinion, or
18 any other arbitrary factor. Both the State and the
19 defendant have the right to expect that each of you will
20 carefully and impartially consider all of the evidence in
21 the case, that you will follow the law as I have explained
22 it to you.

23 Nothing that I may have said or done during the
24 course of this trial has been in any way intended to
25 express or suggest a view of the case or opinion as to the

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1 facts, the weight of the evidence, or the credibility of
2 the witnesses. If any of my actions or words have seemed
3 to so indicate, you will disregard such and form your own
4 opinion as to these matters.

5 Madam Forelady and ladies and gentlemen of the
6 jury, I have prepared a verdict form and in the verdict
7 form it has the name of the case, The State of South
8 Carolina vs. Gregory Quinn Gathers, and it has the
9 indictment number. As to indictment number, it has the
10 number of the case. It says, we, the jury, by unanimous
11 consent, find the defendant guilty of murder, as to the
12 lesser-included offense of voluntary manslaughter, or not
13 guilty.

14 So you can make -- you can make a determination
15 whether he's guilty of murder. If you say he's not, then
16 you go to the lesser-included charge of voluntary
17 manslaughter and make a decision whether he's guilty or
18 not guilty of that. If you can't find him guilty of
19 murder, and voluntary manslaughter, you have to do one of
20 the two -- or find him not guilty as to both charges. A
21 place for the foreperson to sign and date it, November
22 17th.

23 Your verdict has to be unanimous. I will tell
24 you that it's a collective bargaining -- excuse me -- a
25 collective reasoning process on all twelve of you. I

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1 would ask you to consider each other's opinions. If it's
2 necessary, reevaluate your opinion. But listen to each
3 other's opinions, evaluate the facts, look at the
4 evidence, and make a just and fair decision.

5 Madam Forelady, I'm going to ask you to go to
6 the jury room, but I don't want you to begin your
7 deliberations until I have had an opportunity to take up
8 my charge with the jury [sic]. I may have to bring you
9 back and correct something I've said or add something that
10 I've said. So I don't want you to do that until I have
11 had an opportunity to review my charge with the jury
12 [sic].

13 And as I told you when we started this trial, no
14 computers, no phones, no contact outside the jury room, in
15 reaching your deliberations.

16 And Madam Forelady, if you and the jurors could
17 go to the jury room.

18 Mr. Allenspach, the alternate, if you'll just
19 keep your seat, please, sir.

20 [Off the record momentarily]

21 [Whereupon, the jury exits the courtroom at
22 11:24 a.m.]

23 THE COURT: Any exceptions to the charge? From
24 the State?

25 MR. KIDD: Your Honor, our only exception is the

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1 inclusion of the voluntary manslaughter as we've
2 previously discussed.

3 And if I could just briefly state my position
4 for the record, Your Honor?

5 THE COURT: Yes, sir. Please do.

6 MR. KIDD: The State relies on -- all out of the
7 state -- cases State v. Ligon, of North Carolina, State
8 v. Hardisty, of Kansas, and Schmidt v. State, of
9 Oklahoma, all which support the proposition that a
10 property crime or a simple larceny is insufficient
11 legal provocation to reduce murder to manslaughter.
12 And then we would also rely on the Supreme Court
13 of South Carolina case, State v. Starns, and the case
14 of -- and with regard to the lack of evidence of heat
15 of passion and in regards to the charge of voluntary
16 manslaughter.

17 But I understand your ruling and I just wanted
18 to state my position for the record.

19 THE COURT: Anything else you want to put on the
20 record?

21 MR. KIDD: No, sir. That's all.

22 THE COURT: All right. Ms. Runey, I'll be glad
23 to hear you.

24 MS. RUNEY: Thank you, Your Honor.

25 THE COURT: Anything you want to put on the

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1 record as to why we -- why I charged involuntary
2 manslaughter?

3 MS. RUNEY: Not as to manslaughter.

4 MR. SMITH: Not as to manslaughter.

5 THE COURT: Be glad to hear you.

6 MR. SMITH: Judge, we --

7 THE COURT: Excuse me. Voluntary manslaughter.

8 MR. SMITH: Voluntary manslaughter.

9 THE COURT: Glad to hear you, Mr. Smith.

10 MR. SMITH: Judge, we had specifically requested
11 this morning that you consider a charge of self-defense
12 in this case.

13 THE COURT: Well, first of all I want to hear
14 why you think I should charge voluntary manslaughter,
15 then we'll take up the self-defense issue. Okay?

16 MR. SMITH: I'm sorry, Your Honor. I apologize
17 for that.

18 Judge, in this situation we believe that the
19 testimony that Mr. Gathers gave yesterday certainly
20 puts us in a position where we should be entitled to
21 the charge of voluntary manslaughter. His testimony,
22 specifically, yesterday was that there was a fight that
23 occurred but that fight and the actions that had
24 occurred in the hallway and in the bedroom had ended,
25 that at that point he believed that he was going to get

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1 his money back, and things had cooled off. At that
2 point he believed that the victim in the case was going
3 to get that money and, instead, she came back at him
4 with a large kitchen knife.

5 We believe kind of under the reasoning of the
6 cases that the solicitor mentioned, specifically
7 Hardisty, that it's -- the present case is certainly
8 distinguishable from that. In Hardisty, there was the
9 dispute over some construction crossings and someone
10 during an argument ends up -- one of the workers gets
11 shot and killed. The Court specifically in that case
12 says: nowhere in this opinion does the Court take into
13 consideration the quarrel which occurred between the
14 parties at the time of the killing, and they didn't
15 have any information about the heat of passion or
16 provocation. In that case the defendant said in his
17 statement, I shot -- I shot and killed in that
18 particular situation. He had a period overnight where
19 he thought about the situation and then he came back
20 out and killed him with a gun the next day.

21 It was not the same factual scenario we're
22 dealing with here where in this instance the use of the
23 knife occurred immediately after the argument which had
24 cooled off and believed -- Mr. Gathers believed he was
25 getting his money back. In this situation, the knife

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1 came out directly then; therefore, in this situation he
2 acted in the heat of passion with provocation, the
3 provocation in the situation being the victim in this
4 case coming at him in an overhand fashion with the
5 knife. And so we think that Hardisty specifically is
6 distinguishable in this scenario.

7 We also would rely on State v. Gardner. And in
8 that case it's a situation between a husband and a
9 wife. And the question there was that the -- the
10 defendant's testimony in that case was that the wife
11 jumped on him and, me and her got into it. And the
12 court there looked at those discretions and decided
13 that those discretions, actually could have been
14 determined either as only words or as actual actions.
15 And what they say specifically is that where there's
16 some doubt about it, we think that that is a proper
17 question for the jury to hear.

18 And for those reasons, we believe we're entitled
19 to the instruction on that.

20 THE COURT: Okay. The Court would also put on
21 the record State v. Penland. It's 273 SE2d 765 (1981).
22 In that case there was a shooting, and after the
23 shooting there was a pointing of a gun and a struggle
24 ensued, and the court allowed voluntary manslaughter.
25 In this case the same scenario could have occurred, in

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1 that there was a fight and there was a pointing of the
2 knife and the question of heat and passion for the jury
3 to determine.

4 Any other exceptions from the State?

5 MR. KIDD: Other than voluntary manslaughter,
6 no, sir.

7 THE COURT: Okay. Any exceptions from the
8 defendant?

9 MR. SMITH: Judge, the only exception we have is
10 we had -- as I indicated before, we had requested a
11 charge of self-defense based on Mr. Gathers --

12 THE COURT: Do you have a charge that you would
13 submit to the Court?

14 MR. SMITH: Judge, we have asked -- we had a
15 charge over here that had to be redone and I've asked
16 my paralegal to bring that over.

17 THE COURT: All right. Well, as soon as she
18 redo -- excuse me -- as soon as she re-does the self-
19 defense charge, I'll mark it as Court's Exhibit Number
20 what?

21 THE COURT REPORTER: Number 5.

22 THE COURT: Number 5 as a request from the
23 defendant, which the Court denied.

24 MR. SMITH: Thank you, Judge.

25 THE COURT: As soon as you get it, let me know

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1 and I'll mark it as a Court's exhibit.

2 MR. SMITH: Thank you, Your Honor.

3 THE COURT: All right. Any other exceptions
4 from the defendant?

5 MR. SMITH: No, Your Honor.

6 THE COURT: All right. Ms. Runey, at the bench
7 you had -- you wanted the Court to make a curative
8 charge concerning the issue where the solicitor stated
9 that the -- the husband catching the wife in bed was
10 sufficient legal provocation, that was the beginning of
11 voluntary manslaughter.

12 MS. RONEY: Yes, sir.

13 THE COURT: I did not give a curative charge but
14 I did put in the charge that there were other reasons,
15 and numerous reasons, that could be determined. The
16 Supreme Court has said they would deal with that on a
17 case-by-case basis.

18 Was that sufficient for your request for --

19 MS. RONEY: Yes, sir.

20 THE COURT: -- a curative charge?

21 MS. RONEY: Yes, sir.

22 THE COURT: Anything else you would like to do
23 on the curative issue with the jury --

24 MS. RONEY: No, sir.

25 THE COURT: -- other than what I've already told

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1 them?

2 MS. RUNEY: No, sir.

3 THE COURT: All right. Anything else from the
4 State?

5 MR. KIDD: No, Your Honor.

6 THE COURT: All right. Would the lawyers come
7 up and count the exhibits, make sure they're all here.
8 We'll get the bailiffs to take the exhibits, the charge
9 book, and the verdict form back to the jury and tell
10 them to begin their deliberations.

11 MS. RUNEY: Judge, before we do that, I just
12 wanted to renew my directed verdict motions.

13 THE COURT: I'm sorry. Excuse me. Should have
14 done -- you should have said that to me a long time
15 ago. We should have done that before we did closing
16 arguments. I'm sorry. But go ahead.

17 MS. RUNEY: Thank you.

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1 RENEWED MOTION FOR A DIRECTED VERDICT

2 At this time the defense would submit to the
3 Court that the State has failed to produce competent
4 evidence tending to prove the charge of murder.

5 After Mr. Gathers testified he said that he woke
6 up, he fought with Ms. Nevarez in the bedroom, they
7 fought in the hallway, and then when he thought that
8 she was going to give his money back that he did stop
9 hitting her and that's when Ms. Nevarez went into the
10 kitchen and grabbed the large knife and that's when the
11 fatal blows were struck. We submit to the Court that
12 this is not murder and ask you to direct a verdict on
13 the charge of murder.

14 THE COURT: All right. The Court will find that
15 the motion was made timely.

16 The Court, taking the evidence most favorable to
17 the nonmoving party, denies that motion.

18 MS. RUNEY: Thank you, Your Honor.

19 THE COURT: Solicitor, is there anything you
20 want to put on the record about the self-defense
21 request? For the record.

22 MR. KIDD: If you would like to hear me, I would
23 be glad to. It's just that --

24 THE COURT: I mean, whatever you want to put on
25 the record. I did not --

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1 MR. KIDD: Your Honor, I think that --

2 THE COURT: -- give you that opportunity. I
3 will give you that opportunity.

4 MR. KIDD: I appreciate it, Your Honor.

5 I think it's uncontroverted that the defendant
6 is responsible for binging on this situation. He's the
7 one that began the violence. And that is not a fact at
8 issue. And that fact alone should preclude the charge
9 of self-defense, being that if he is partly responsible
10 for bringing on the violence, he would not be entitled
11 to a self-defense charge.

12 Furthermore, I think the Castle doctrine would
13 apply to the victim in this scenario and I think when
14 the Castle doctrine applies --

15 THE COURT: Was it in existence when this
16 occurred?

17 MR. KIDD: Sir?

18 THE COURT: Was that statute in existence? The
19 new --

20 MR. KIDD: The new --

21 THE COURT: -- the new statute? The new
22 statute.

23 MR. KIDD: The new case law on it?

24 THE COURT: Yeah.

25 MR. KIDD: No, sir, Not the new case law that's

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1 come out recently, as in the past few months, which --

2 I'm assuming you're talking about the case law
3 that refers to the fact that the judge can direct a
4 verdict as soon as he finds -- you determine that the
5 Castle doctrine applies?

6 THE COURT: Right.

7 MR. KIDD: And I don't think that is -- that
8 case law doesn't exist as of the time of this crime.

9 But the Castle doctrine was sure in existence.
10 And with that, she is entitled to defend herself in her
11 own home when someone is beating on her. And that
12 being the case, she's entitled to pull a knife in her
13 defense of herself in her own home. And he can't claim
14 self-defense for her -- from her exercising a legal
15 right.

16 And I think based on that, he would not be
17 entitled to a self-defense charge.

18 THE COURT: Okay. Mr. Smith, anything you
19 want to put on the record pursuant to your request for
20 self-defense?

21 MR. SMITH: Judge --

22 THE COURT: I've already ruled. I'm just giving
23 y'all an opportunity to put on the record whatever you
24 feel comfortable, if you want to do that.

25 MR. SMITH: Sure, Your Honor.

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1 We would just indicate to the Court that our
2 position was that whatever argument had taken place had
3 resolved itself to the point there was a cooling off
4 period and then she comes at him with a knife, in
5 essence, two separate instances as opposed to one
6 continuing --

7 THE COURT: Well, my only reaction to that is
8 that I'm not sure dragging her down the hallway by the
9 hair is cooling off periods or termination of first
10 incident.

11 But your motion -- your request to charge -- not
12 charge voluntary manslaughter is denied and the request
13 for the charge of self-defense is denied.

14 MR. SMITH: Thank you, Your Honor.

15 THE COURT: Anything else?

16 MR. KIDD: No, Your Honor.

17 THE COURT: All right. Would y'all come forward
18 and mark on the record -- put on the record all the
19 exhibits are present and we can let the jury begin
20 their deliberations.

21 MR. KIDD: Your Honor, I'm not sure if we really
22 agreed or not, But as my recollection goes, the actual
23 documents were never actually entered into evidence,
24 the ones with the bank information.

25 THE COURT: The ones with what, now?

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1 MR. KIDD: The bank information, which you
2 originally ruled --

3 THE COURT: I thought they were. I thought I
4 later came back and said they were.

5 MR. KIDD: And this is my recollection of it,
6 Judge. It was the witness was on the stand --

7 THE COURT: It may have been done at the bench.

8 MR. KIDD: It was done at the bench, yes.

9 THE COURT: Then I need to put on the record
10 that I did admit them into evidence, although we did it
11 at a bench conference.

12 MR. KIDD: Right.

13 THE COURT: But that's never been placed on the
14 record.

15 MR. KIDD: Right.

16 And it was never admitted into evidence in front
17 of the jury.

18 THE COURT: All right. Well, I'm going to admit
19 them into evidence. Okay? I don't know what number
20 they would be. Whatever the next number would be.
21 Okay? Sometimes it gets -- you forget what's done up
22 here and what's -- that's why I don't really like to do
23 bench conferences. I had rather do what -- you forget
24 what you've done up here and what you did in open
25 court.

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1 Do you want me to bring the jury back and admit
2 that?

3 MR. KIDD: No, sir, not if that's the way you
4 would handle it.

5 My position would be that it shouldn't be
6 admitted at this point because --

7 THE COURT: I know. That's the position you
8 took at the bench conference, which I told you I
9 disagreed with.

10 MR. KIDD: Right.

11 THE COURT: Now, I don't remember whether we did
12 in open court or not.

13 Do you remember, Ms. Runey?

14 MS. RUNEY: I don't remember.

15 MR. KIDD: And it wasn't done -- and my
16 recollection is it wasn't done in open court.

17 THE COURT: Well, this lady knows. Has it been
18 admitted?

19 THE COURT REPORTER: It was admitted. The jury
20 was not in the room. It's on the record --

21 THE COURT: Okay. It's on the record.

22 THE COURT REPORTER: -- but the jury was out.

23 THE COURT: Okay. All right. Anything else?

24 MR. KIDD: No, sir.

25 THE COURT: Anything else y'all can dream up or

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1 come up with?

2 MR. KIDD: I apologize. I didn't see --

3 [Whereupon, attorneys and court reporter confer]

4 THE COURT: Sir, would you step out in the hall?

5 Let me know when y'all are ready.

6 MR. KIDD: Okay.

7 [Whereupon, the alternate juror exits the
8 courtroom at 11:45 a.m.]

9 [Whereupon, evidence goes to the jury at
10 11:55 a.m.]

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VERDICT

THE COURT: All right. Anything from the State before we bring the jury?

MR. KIDD: No, sir.

THE COURT: Anything from the defendant?

MS. RONEY: No, sir.

THE COURT: All right. As soon as we get a bailiff.

[Whereupon, the jury enters the courtroom at 1:04 p.m.]

THE BAILIFF: All are seated, Your Honor.

THE COURT: Thank you very much.

I understand, Madam Forelady, you've reached a verdict. If you'll give the verdict form to the bailiff, please, ma'am.

[Whereupon, the bailiff proffers documents to the Court]

[Whereupon, the Court reviews documents]

[Whereupon, the Court proffers documents to the clerk of court]

THE COURT: Publish the verdict for us.

THE CLERK OF COURT: Thank you, sir.

The State of South Carolina vs. Gregory Quinn Gathers, as to indictment number 2010-GS-10-6287, we, the jury, by unanimous consent, find the defendant

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1 guilty of murder. Signed, foreperson, November 17th,
2 2011.

3 Ms. Foreperson, ladies and gentlemen of the
4 jury, if this is your verdict, please raise your right
5 hand.

6 [Whereupon, jurors comply]

7 THE CLERK OF COURT: Let the record reflect that
8 all jurors raised their hand.

9 THE COURT: Okay. Thank you very much.

10 Madam Forelady, I have written on this
11 indictment form guilty and dated 11/17/11. I'm going
12 to ask you if you will please sign where it says
13 foreperson.

14 [Whereupon, the clerk of court proffers
15 documents to the foreperson]

16 [Whereupon, the foreperson complies]

17 [Whereupon, the clerk of court proffers
18 documents to the Court]

19 THE COURT: Thank you, ma'am.

20 All right. Any motions from the State as to the
21 jury?

22 MR. KIDD: No, Your Honor.

23 THE COURT: Any from the defendant?

24 MS. RUNEY: Judge we would ask you to poll the
25 jury, please.

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POLLING OF THE JURY

THE COURT: Mr. Clerk, if you would poll the jury, please.

THE CLERK OF COURT: Ladies and gentlemen, I'm going to ask you each two questions: is this your verdict; and is this still your verdict. Please answer each question appropriately, and also stand whenever I call your name, please. We'll begin with the foreperson.

Juror number 25, Marie Bedard. Is this your verdict?

MS. BEDARD: It is.

THE CLERK OF COURT: Is this still your verdict?

MS. BEDARD: Yes, it is.

THE CLERK OF COURT: Thank you, ma'am. You may take your seat.

Juror number 215, Sandra Reiser. Is this your verdict?

MS. REISER: Yes.

THE CLERK OF COURT: Is this still your verdict?

MS. REISER: Yes.

THE CLERK OF COURT: You may take your seat.

Juror 126, Timothy Hoats. Is this your verdict?

MR. HOATS: Yes.

THE CLERK OF COURT: Is this still your verdict?

1 MR. HOATS: Yes.

2 THE CLERK OF COURT: Thank you, sir.

3 Juror 128, Anne Hood. Is this your verdict?

4 MS. HOOD: Yes, sir.

5 THE CLERK OF COURT: Is this still your verdict?

6 MS. HOOD: Yes, sir.

7 THE CLERK OF COURT: Thank you, ma'am.

8 Juror 85, Alexandra Fisher. Is this your
9 verdict?

10 MS. FISHER: Yes, sir.

11 THE CLERK OF COURT: Is it still your verdict?

12 MS. FISHER: Yes, sir.

13 THE CLERK OF COURT: Thank you, ma'am.

14 Juror 136, Michael Jefferson. Is this your
15 verdict?

16 MR. JEFFERSON: Yes.

17 THE CLERK OF COURT: Is this still your verdict?

18 MR. JEFFERSON: Yes.

19 THE CLERK OF COURT: Thank you, sir.

20 Juror 180, Rogina Morgan. Ma'am, is this your
21 verdict?

22 MS. MORGAN: Yes.

23 THE CLERK OF COURT: Is this still your verdict?

24 MS. MORGAN: Yes.

25 THE CLERK OF COURT: Thank you, ma'am.

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1 Juror 290, Matthew Willis. Sir, is this your
2 verdict?

3 MR. WILLIS: Yes.

4 THE CLERK OF COURT: Is this still your verdict?

5 MR. WILLIS: Yes.

6 THE CLERK OF COURT: Thank you, sir.

7 Juror 262, Taylor-Parsons, is this your verdict?

8 MS. TAYLOR-PARSONS: Yes.

9 THE CLERK OF COURT: Is this still your verdict?

10 MS. TAYLOR-PARSONS: Yes.

11 THE CLERK OF COURT: Thank you, ma'am. You may
12 take your seat.

13 Juror 202, Rosetta Polite. Ma'am, is this your
14 verdict?

15 MS. POLITE: Yes.

16 THE CLERK OF COURT: Is this still your verdict?

17 MS. POLITE: Yes.

18 THE CLERK OF COURT: Thank you very much, ma'am.

19 Juror 94, Nathan Gabriel. Sir, is this your
20 verdict?

21 MR. GABRIEL: Yes.

22 THE CLERK OF COURT: Is this still your verdict?

23 MR. GABRIEL: Yes.

24 THE CLERK OF COURT: Thank you, sir.

25 Juror 237, Calvin Simmons. Sir, is this your

1 verdict?

2 MR. SIMMONS: Yes.

3 THE CLERK OF COURT: Is it still your verdict?

4 MR. SIMMONS: Yes.

5 THE CLERK OF COURT: Thank you, sir.

6 Your Honor, the jury has been polled and the
7 verdict stands.

8 THE COURT: Okay. Thank you very much.

9 [Off the record momentarily]

10 THE COURT: All right. Ladies and gentlemen of
11 the jury, you're welcome to stay in the courtroom, or
12 you're welcome to go to the jury room and collect your
13 items, or you're welcome to stay in the jury room. And
14 I believe a pizza was just delivered to the jury room
15 prior to bringing you into court. You're welcome to
16 stay in the jury room and eat the pizza, you're welcome
17 to take it with you, whatever you would like to do. It
18 doesn't make any difference to the Court. You're
19 welcome to stay or you can go to the jury room. Your
20 choice. Whatever y'all want to do. What does the jury
21 want to do? Do you want to go? Some of you want to
22 stay and some of you want to go? It doesn't matter.
23 Some of you can stay, some of you can go.

24 [Whereupon, jurors exits the courtroom at
25 1:09 p.m.]

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SENTENCING

THE COURT: Be glad to hear you on sentencing.
From the State first, please.

MR. KIDD: Thank you, Your Honor.

I think I don't need to rehash the facts of the case for you. I know you've paid attention throughout the trial. I also know that you had the privilege of seeing some pictures that the jury didn't get to see and I think the brutal and gruesome nature of the offense was even more clearly depicted in some of those other photographs, how bloody and gruesome it actually was...

I know the victim's daughter would like to address you.

But as far as a prior record of the defendant, it is a 1986 simple assault. He has a 1988 assault and battery of a high and aggravated nature, in which he received a ten-year sentence suspended on eighteen months active and a five-year probation. He has a petty larceny in '91. And out of Georgia, in 2002 he has a cruelty to children charge, a simple battery, which is their CDV or family violence charge, and a criminal trespass.

And I believe Tiffany Nevarez would like to address the Court.

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1 THE COURT: I'll be glad to hear you, Tiffany.

2 MS. TIFFANY NEVAREZ: My name is Tiffany
3 Nevarez, Your Honor, and I want to thank you for my
4 addressing the Court today.

5 First of all, I know my mother had some bad
6 habits, but she was a very good person to her family,
7 strangers, and people that she just came in contact
8 with she loved -- people that she came in contact with,
9 people that she loved.

10 I didn't have the chance to grow up with my
11 mother, due to her bad habits, but she was trying to
12 make that up to us. She came back into my life when I
13 was eighteen years old. I did live a part of life
14 without her. But I did make it with the help of the
15 Good Lord and his lessons. I could not have seen it
16 through without Him.

17 Every day when I was a little girl, I prayed for
18 my mother to get help. I prayed for him to make her a
19 better person. And one day he did.

20 She came back in my life when I was eighteen and
21 I had one child already. And every day since then that
22 she was able to come back in my life, I thank him. I
23 thank him for making her a better person and helping
24 her with her problems, for bringing her back for me and
25 my kids' sakes.

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1 She moved to Charleston to help me and my sister
2 out with our kids. She also had kids. By that time
3 she moved to Charleston, I already had two sons and my
4 sister had two children. And they needed their
5 grandmother. She loved our sons. She loved her
6 grandchildren to death. She loved all babies. She
7 babysat all the time. She helped anybody she could
8 help. And my kids loved grandma, whether grandma was
9 spanking them on the hands on just giving them love and
10 hugs. Everyone that knew her knew she loved her
11 grandkids. And being that she wasn't there for me and
12 my sister, she was making her time up with her kids.
13 She spent every waking moment with her grandkids. She
14 raised them, she helped us, she babysit. When we were
15 at work, she took care of them. She helped us a lot.

16 A few years after that, I did had another baby.
17 She became a grandmother at that time for the fourth
18 time. Like I said, she had children and I had
19 children. Shortly after I had that baby, that baby
20 died when he was three and a half months old with
21 lymphoma cancer. She was with me when that baby be
22 born and she was with me when that baby die. He died
23 in my arms and my mother was there for me the whole
24 time. But that's what took a toll on my mother. She
25 turned around and she went back to the streets and she

1 became like she was when I was a little girl.

2 She always told me and my sister that she was
3 very proud of us because we turned out to be two strong
4 young ladies, the lady that she couldn't be, the mother
5 to her -- the mother to our kids that she couldn't be
6 to us. Me and my sister now are both single parents.
7 And my grandmother [phonetic] knows she wasn't the
8 father of our kids but she was -- my mother wasn't the
9 father of our kids, but she was there for us and her
10 presence made it a whole lot easier for us. She helped
11 us out, like I said, with everything.

12 I just recently had another son and I had my son
13 three days before her one-year anniversary, so three
14 days before his grandmother died last year. He was
15 born on of and because of this selfish act, he
16 will never get to know his grandmother. He will never
17 get to -- he will never get the love that a grandmother
18 could give to him, that a grandmother should give to
19 her kids.

20 Your Honor, I said all of that to say that I
21 just ask you to serve justice for my mom and for my
22 kids, my nieces and my nephews. Not so much for me,
23 because I did cherish the little bit of time that I did
24 have with her -- it was only a few years, but I did
25 cherish those years and I remember the good times that

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1 we had -- but for my sons and my two nieces and my two
2 nephews, I just ask that justice be served.

3 I'm not asking you to take Mr. Gathers' life,
4 because if it were I wouldn't be the person that I am.
5 But I do feel that a life for a life is what he should
6 get. I wouldn't see fit for him to live -- live on the
7 streets when my mom is not able to take care of her
8 grandkids no more. And if he comes home, if he's able
9 to live the sentence out, if he's able to come home
10 from prison, he would still see his grandkids. He
11 would be able to see his dad and his sisters and his
12 twenty-nine family members.

13 It's only me and my sister. I don't have any
14 brothers, I don't have any other sisters. My aunts and
15 my uncles are all over the world so it's just me and
16 the grandchildren. And it was my mom, and now it's us
17 and our eight kids.

18 MR. KIDD: And, Your Honor, I think Ms. Nevarez
19 would like for me to show you a few pictures.

20 THE COURT: Ms. Nevarez, I'm awfully sorry for
21 your loss, but thank you so very much.

22 Do you want to show me some pictures?

23 MR. KIDD: I just want to briefly -- she asked
24 that I briefly show you some pictures of their family.
25 I think that is the Nevarez family. And then there's

1 one including Ms. Renee Nevarez in that photograph
2 there.

3 [Whereupon, the Court reviews documents]

4 THE COURT: This is -- here?

5 MR. KIDD: That is.

6 THE COURT: You wouldn't recognize her from
7 those pictures.

8 MR. KIDD: Sure wouldn't.

9 THE COURT: Okay. Thank you very much.

10 Fine looking family. You need to take care of
11 your children.

12 MS. TIFFANY NEVAREZ: And I've got one more
13 thing to say.

14 THE COURT: Yes, ma'am.

15 MS. TIFFANY NEVAREZ: These people -- how my
16 mother looked, we couldn't even allow any of the kids,
17 any of her grandkids, to come to her funeral or her
18 wake.. I didn't want that image to be left in their
19 heads that I have to see and I have to think about
20 every time I close my eyes now. I have to remember the
21 pictures and the damage that he has done to my mom.
22 And I don't want him to do that to anybody else ever
23 again. It was not right.

24 MR. KIDD: And, Your Honor, based on a lot of
25 that that Ms. Nevarez has just said, the State would

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1 think that a life sentence would be appropriate in this
2 case.

3 Thank you.

4 THE COURT: Okay. Thank you very much.

5 Be glad to hear you.

6 MS. RUNEY: Thank you, Your Honor.

7 Mr. Gathers is here today supported by his
8 family -- if y'all will stand up -- and they've been
9 here throughout the trial.

10 As you heard from him on the stand, he has a
11 very large family. I believe that his father has left.
12 It was hard for him and he decided to leave. But he
13 has been here throughout the trial. His father is
14 eighty years old. His father has twenty-nine children,
15 so Greg has twenty-nine brothers and sisters.

16 He's been in Charleston most of his life. He
17 did move to Atlanta for a while in the military. He
18 spent three and a half years in the army and then he
19 came back to Charleston.

20 He has done mostly moving, labor work, in his
21 life. But I have been in contact with a former
22 employer. That is Mr. Zeb Eberhardt of Zeb's Quality
23 Cleaning. And Gregory worked for him for twenty years.
24 He says he was dependable and he could always look to
25 him for work when he couldn't from other -- some of the

1 others that he employed, and was very complimentary of
2 his work.

3 Greg has one sister that is a Colleton County
4 sheriff detective. His family was in touch with her
5 when this happened and she said, all you can do is turn
6 yourself in.

7 THE COURT: Is the sister here?

8 MS. RUNEY: She is.

9 THE COURT: Okay.

10 MS. RUNEY: I would like for you to hear from
11 her, I would like for you to hear from his other family
12 members, about Greg.

13 My experience with Greg is that he has been nice
14 to deal with, polite, mild-mannered. I've asked him
15 not to say anything today in this sentencing hearing,
16 as much as I know that he would like to. I know that
17 you were able to hear from him during his testimony.
18 But I think that his family is a good testament to --

19 THE COURT: I understand he was on cocaine and
20 probably marijuana and alcohol and was extremely
21 intoxicated. But the brutality of this killing. I
22 mean, he bashed this woman senseless, bashed her until
23 he killed her. I mean, you can look at her pictures
24 and you can't even recognize the woman in the pictures,
25 especially the ones at the scene that I didn't even

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1 allow into evidence. I mean, it's an extremely brutal
2 killing. He just beat her to death. That's my
3 concern. And I guess your -- my concern is it
4 happening to someone else.

5 MS. RUNEY: Your Honor, I would ask for you
6 to hear from the family. I would ask you to consider
7 that a thirty-year sentence is a life sentence for
8 Mr. Gathers.

9 THE COURT: Pardon?

10 MS. RUNEY: I would ask you to consider --

11 THE COURT: Well, a thirty-year sentence would
12 be -- he would be seventy-eight before he got out.

13 MS. RUNEY: Yes, sir.

14 THE COURT: How long has he been in jail now?

15 MS. RUNEY: He's been in jail for a little over
16 a year. Since his arrest on June 7th.

17 THE COURT: So he would be seventy-seven --

18 MS. RUNEY: Yes, sir.

19 THE COURT: -- because he's got to serve day-
20 for-day, doesn't get any credit --

21 MS. RUNEY: Yes, sir.

22 THE COURT: -- with a thirty-year sentence.

23 MS. RUNEY: Yes, sir.

24 THE COURT: Ma'am, I'll be glad -- what's your
25 name?

1 MS. DORETHA GATHERS: I'm Doretha Gathers,
2 Detective Doretha Gathers, Colleton County Sheriff's
3 Department.

4 THE COURT: Ms. Gathers, I'll be glad to hear
5 you, anything you would like to tell me.

6 MS. DORETHA GATHERS: Yes, sir. I am the sister
7 of --

8 THE COURT: And I'm awfully sorry about your
9 brother and what happened but --

10 MS. DORETHA GATHERS: Yes, sir.

11 THE COURT: -- and it's a real tragedy on both
12 families.

13 MS. DORETHA GATHERS: Yes, it is.

14 THE COURT: But at the same time -- I don't know
15 if you've seen these pictures, but it was -- from this
16 Court's perspective, it was extremely brutal.

17 MS. DORETHA GATHERS: Yes, sir. I do
18 understand.

19 THE COURT: And the lady was five feet six,
20 weighed 130 pounds. He was -- he's over six feet, 230
21 pounds. And he just beat her unmercifully.

22 MS. DORETHA GATHERS: Yes, sir.

23 THE COURT: And I just don't see any
24 justification for it.

25 MS. DORETHA GATHERS: Yes, sir.

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1 THE COURT: But I'll be glad to hear you.

2 MS. DORETHA GATHERS: I am the sister that they
3 did call when my dad spoke and he asked me what to do.
4 I said, dad, just call the police department, y'all
5 stay where you at, tell everything what happened.

6 I'm not going to try to justify anything today.
7 It was a sad situation. It's something that shouldn't
8 have happened. And I do apologize.

9 Good afternoon. Giving honor to God, who is the
10 head of my life, thank you, Your Honor, for allowing me
11 to speak today. On behalf of the Gathers family, we
12 offer up our sincerest apology and lifelong prayers for
13 the peace and harmony to the Nevarez family.

14 My brother has been battling with drugs for
15 years and that battle has ultimately affected his
16 sanity. Do I believe he's insane? No. But I do
17 believe that his judgment was altered due to results of
18 extended usage. Never would I present this as an
19 excuse for the crime committed, but submit this as one
20 of the many reasons why we're here today.

21 Our mother reared all seven kids, three boys and
22 four girls -- my dad got twenty-nine, and my mom got
23 seven from him -- as a single parent and did her very
24 best, did her very best. But I felt my brother always
25 missed our dad and that male bonding. He struggled to

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1 find or fit into place -- find a fitting place in this
2 world for himself. To the people on the outside he may
3 seem rough and rugged, but to us he's our baby brother
4 with a quick smile and a funny sense of humor. Please
5 have mercy on him.

6 In closing, the Gathers family will never forget
7 the void this crime has left in the lives of the
8 Nevarez' relatives and we will forever pray serenity
9 and forgiveness. May God bless us all.

10 Thank you, Your Honor.

11 THE COURT: Okay. Thank you so very much.
12 Appreciate --

13 MS. DORETHA GATHERS: Yes, sir.

14 THE COURT: -- your being here.

15 MS. BROWN: I'm his sister. My name is --

16 THE COURT: I'm sorry. What's your name?

17 Mr. Gathers, move over just a little bit so I
18 can see -- is it your sister?

19 MS. RUNEY: It is, yes. It's Carnell [phonetic]
20 Brown.

21 MS. GATHERS-BROWN: This is -- Gathers-Brown. I
22 want to say I'm sorry. But I'm very sorry to your
23 family. Very sorry. And just have mercy on him. But
24 I am very sorry.

25 MS. RUNEY: His fiancé, Mary Greenland, is here
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1 but she would not like to address the Court.

2 THE COURT: Okay. Anybody else you would like
3 for me to hear from?

4 MS. RUNEY: No, sir. Thank you.

5 THE COURT: Mr. Smith, anything you would like
6 to add?

7 MR. SMITH: No, Your Honor.

8 THE COURT: All right. Mr. Gathers, I'll be
9 happy to hear anything you would like to tell me. It's
10 up to you.

11 MR. GATHERS: I would like to say I'm sorry. I
12 didn't mean to do that to your mother. I wish I could
13 take it back. I'm sorry. I ask for your forgiveness.
14 I'm sorry. I'm sorry to my family. I'm sorry. I am
15 sorry.

16 THE COURT: Ms. Runey, anything else you would
17 like to tell me or anything else you've got to say?

18 MS. RUNEY: No, sir.

19 THE COURT: Okay. All right. Mr. Gathers,
20 indictment number 6287, sentenced to the State
21 Department of -- sentenced to the State Department of
22 Corrections for a period of life.

23 Thank you very much.

24 The jurors are welcome to leave.

25 Anything? Do you need ten days, or do you want

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1 to make your motions today?

2 MS. RUNEY: No. I can do them today.

3 THE COURT: You want to do them today or do you
4 want ten days?

5 MS. RUNEY: We'll do it within ten days.

6 THE COURT: Okay. All right.

7 [JURY TRIAL ADJOURNS AT 1:26 P.M.]

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CDD20100603092

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2010024048

ARREST WARRANT NUMBER

K640056

DATE OF ARREST

June 7, 2010

ACTION OF GRAND JURY

TRUE BILL

Donald H. Bostick
Foreperson of Grand Jury
Date: SEP 08 2010

VERDICT

Guilty

Marie Bader
Foreperson of Petit Jury

11/17/11
Date

INDICT

DOCKET NO. 2010GS1006287

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

September Term 2010

THE STATE

vs.

GREGORY QUINN CATHERS

DOB

B/M

Indictment for

Murder

437

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

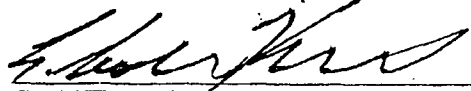
INDICTMENT

At a Court of General Sessions, convened on September 7, 2010 the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County on or about June 7, 2010, with malice aforethought, GREGORY QUINN GATHERS did kill and murder Renee Nevarez by means of hitting the victim about the head and face with a closed fist, and that Renee Nevarez did die in Charleston County as a proximate result thereof on June 7, 2010; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


CULVER KIDD
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
GREGORY QUINN GATHERS

AKA: _____

Race: BLACK Sex: M Age: 48

DOB: _____ SS#: _____

Address: _____

City, State, Zip: NORTH CHARLES, SC 294050000DL#: _____ SID#: SC00563911*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

439

INDICTMENT/CASE#: 2010GS1006287A/W#: K640056Date of Offense: 6/7/2010S.C. Code § : 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____

Kidd, Culver

SC Bar# _____

Defendant

Attorney for Defendant

SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Mia Pearson

SCCA/217 (03/2011)

Presiding Judge: [Signature]

Judge Code: _____

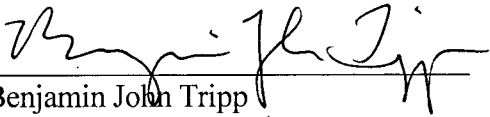
Sentence Date: 11/17/11

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 27, 2013


Benjamin John Tripp
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County
J. C. Buddy Nicholson, Jr., Circuit Court Judge

RECEIVED

JUN 27 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

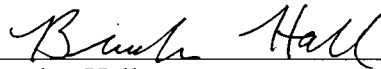
V.

GREGORY GATHERS,

APPELLANT

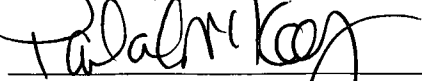
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William Edgar Salter, III, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 27th day of June, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 27th day of June, 2013.



(L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022.