

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Luke N. Brown, Trial Judge
The Honorable R. Markely Dennis, Jr., Post-Conviction Relief Judge

Lower Court Case No. 2005-CP-10-3313
Appellate Court Case No. 2012-213419

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S.C. Supreme Court

Wesley Max Myers, ... Respondent,

v.

State of South Carolina, ... Petitioner.

APPENDIX

VOLUME 3 of 7

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1 The time period is relevant in
2 terms of the time that the police have
3 had, as I've been raising up these
4 issues, to go back and interview the
5 neighbors, to, to test his truck, to do
6 whatever they wanted to do. While his
7 family's resources are very limited,
8 government's is limited as well but,
9 but there're a lot more people that are
10 able to work that side of the case than
11 Tim Kulp and the people that he was
12 able to get to help him. All that
13 time, zero.

14 The third party guilt issue,
15 it's clear they had a suspect. They
16 documented it. In the S. L. E. D. lab
17 forms they say Wes Myers, subject,
18 suspect. Dana Chaples, suspect. They
19 took his clothes. They returned the
20 double-edged Gerber boot knife back to
21 him they took from the car he was
22 driving. Gave it back to him April the
23 fourteenth. The murder was on March
24 the thirteenth. They can't explain the
25 nature of the cut in the back of his

1 head, in the back of the victim's head.

2 I went and spoke to Clay,
3 Dr. Clay Nichols, the guy, the
4 gentleman, the doctor who did the
5 pathol -- the autopsy in this case.
6 I've spoken with him two or three times
7 before. He now lives in Columbia or he
8 works at Richland Memorial. I drove up
9 there about three weeks ago to speak
10 with him. And I asked him, I said
11 "What about that cut in the back of the
12 head?"

13 He said, "There's nothing in the
14 confession about that."

15 I said "Again, I've asked you
16 before about it, you said you didn't
17 know. And I said how could that cut
18 have been made?"

19 Now he says, "Well, it could
20 have been made with a piece of glass."
21 That cut is down to the skull. That
22 cut had to have been through her hair.
23 Thick, dark hair.

24 He also told me, "But I have to
25 say it could have been done with a

1 knife."

2 Your Honor, there was a -- and
3 we have picture -- there was a small
4 butcher knife -- a meat cleaver found
5 at the scene. It was of no interest to
6 the police despite that anatomical
7 appearance, tragic aspect of the injury
8 of the deceased.

9 I'm getting to the point of
10 repeating myself and that's because
11 I've lived with this case for four
12 years. I've known Mr. Myers for four
13 years, in and out of jail, and his
14 family. And, as I've said, I've looked
15 at this case over and over again.
16 They've done everything they can to put
17 him in the penitentiary and it hasn't
18 worked.

19 I think, your Honor, that the
20 Court can intervene and the Court can
21 say that there are so many things,
22 looking at each and every aspect of
23 this whole circumstance that render
24 this, the two-page confession and these
25 apologies said two times that

1 afternoon, unreliable and not
2 sufficient to submit to the jury.

3 Thank you very much, your Honor.

4 THE COURT: How about -- see if
5 that jury wants coffee. They got the
6 donuts --

7 THE BAILIFF: They have coffee.

8 THE COURT: They did get it.
9 All right.

10 Mr. Durant.

11 MR. DURANT: Thank you, your
12 Honor. That was a nice jury argument,
13 but that's what it was. The
14 uncontradicted evidence in this Jackson
15 V. Denno hearing was this defendant was
16 read his rights under Miranda on three
17 separate occasions; on Thursday by
18 Detective Payne; on Friday by then
19 Lieutenant McHale; and on Saturday by
20 Detective Tetanich and Clayton.

21 The uncontradicted evidence in
22 this Jackson V. Denno hearing
23 established that this man is not an
24 idiot, he's not a moron, he's not a
25 child, he's not mentally retarded, he

1 wasn't under the influence, he wasn't
2 impressionable. At the time he gave
3 his confession he had gone home, he'd
4 had a good night's rest. He was not
5 intoxicated. He was not under the
6 influence of drugs.

7 The uncontradicted evidence in
8 this case, from their own expert,
9 Mr. Kassin, said he was read his
10 rights, he understood his rights, he
11 was not promised anything, he was not
12 threatened in any way, he was not
13 offered leniency, and that statement he
14 gave was of his volition. That came
15 from their experts on the stand.

16 As you know and I know, but I
17 don't know that Mr. Kulp knows, the
18 voluntariness of this confession is a
19 jury question, and that's exactly what
20 it is. Makes no difference if there's
21 no physical evidence to support the
22 confession. It's still a jury
23 question. Whether the confession is
24 true or false, is a jury question.

25 The only issue before you in

1 this hearing was was he read his rights
2 and did he give the statement
3 voluntarily, period.

4 With regards to the T. V., the
5 admissions made to the T. V. cameras,
6 Mr. Myers brought that up to the
7 police. He was the one that told the
8 police that he wanted to talk to the
9 media. All the detectives that heard
10 the conversation testified to that. He
11 was told the media would be out there.
12 He was specifically advised that he did
13 not have to talk to the media and was
14 in fact counselled by
15 Detective Tetanich to not talk to the
16 media. But despite all these warnings,
17 he went out there and he started
18 responding to questions when asked by
19 the media.

20 There's no question that what he
21 did was freely and voluntarily done.
22 All Lieutenant Cumbee did was call the
23 media and said, "An arrest has been
24 made. He may have something to say to
25 you." That's all, all they were told.

1 Regard to Dana Chaples, your
2 Honor, no motive, no evidence, no
3 confession, period, that he committed
4 this murder.

5 The case law is clear in this
6 state that a defendant offering proof
7 of third party guilt can only occur
8 when the facts and circumstances are
9 completely inconsistent with the guilt
10 of his client, and the fact of the
11 matter is his client confessed. Mr.
12 Chaples did not confess. There is no
13 forensic evidence connecting
14 Mr. Chaples to this crime, and
15 Mr. Chaples had no motive to kill this
16 woman.

17 I think clearly under the
18 circumstances that, that any evidence
19 in this case based on mere suspicion of
20 Mr. Chaples is a, is a smoke screen
21 thrown up by this, this defendant to
22 try to divert attention away from the
23 fact that he told the police
24 department, he told the fire
25 department, he told the victim's

1 mother, and he told the tri-county area
2 on T. V. that he killed the woman.
3 Period.

4 THE COURT: Can you dispose of
5 the issue of third party guilt at this
6 time?

7 MR. KULP: Yes, your Honor. The
8 issue -- in terms of the issue of third
9 party guilt, there's an aspect of that,
10 while the Court may rule that the
11 evidence about Mr. Chaples would not
12 meet the standard under State versus
13 Gay, we have submitted to the Court I
14 believe the State Supreme Court case of
15 Colls versus Wickley (phonetic), which
16 indicates in there that the overall
17 quality of the police investigation is
18 a subject for consideration, in terms
19 of pursuit of leads and so forth.

20 I think that we can pursue that
21 allowable area of the course of the
22 investigation without necessarily
23 getting into Mr. Chaples by name.
24 Suspicion.

25 I don't really want to concede

1 the issue, your Honor, but I've read
2 the case, but I, but I think that as
3 well there a lot of other aspects of,
4 for example, I was reading last night
5 one of the -- one of the -- we might be
6 able to accomplish it by, by getting
7 into what is obvious in the matter of
8 the, the prosecution record, and that
9 is that there were many other suspects.
10 In fact in one circumstance a report
11 indicates that Raymond Alan White was a
12 suspect, having indicated he left the
13 note at the bar and wrote on her
14 windshield, and the word "suspect" is
15 used next to him.

16 And so I might be able to -- I
17 might be able to suggest to the Court
18 that we can examine those areas of the
19 investigation that would tend to show
20 that there were other people that were
21 being pursued and angles without
22 getting into the Chaples thing because
23 I know that --

24 THE COURT: Well --

25 MR. KULP: Yes, sir?

1 THE COURT: You could put that
2 in without going into, without pleading
3 third party guilt, but there been a lot
4 of stuff that you could bring in but --

5 MR. KULP: Yes, sir. I'd like
6 to hand you the -- like I said, the
7 statement, your Honor.

8 THE COURT: I'd like to see it.

9 MR. KULP: Yes, sir.

10 THE COURT: But I don't think
11 it's necessary for me to read it.
12 Ordinarily --

13 MR. KULP: Yes, sir.

14 THE COURT: -- I don't even let
15 them go into that when I hold a
16 Jackson-Denno hearing.

17 MR. KULP: Yes, sir.

18 THE COURT: But in any event, I
19 first want to tell you, Mr. Kulp --
20 well, I -- perhaps I'd start off with
21 the solicitor. Solicitor's only had
22 this, Mr. Durant's only had this case
23 for two years and knowing him, if he'd
24 had it from the beginning, it might
25 have been an entirely different story

1 because he's familiar with the police
2 investigation. I'm not criticizing
3 anybody, but this is kind of a "comedy
4 of errors" from the very beginning,
5 tragically.

6 So, and so I think since he's
7 had the case, things have moved along a
8 little better. I agree that I would
9 have ruled the same way. I would have
10 required the evidence to be turned over
11 to you. Supreme Court ruled right on
12 that case, but just keep in mind that
13 he hadn't had that case that long at
14 the time.

15 And I want to congratulate you
16 on the work you did. I, I read these
17 voluminous records, and I don't know
18 when I've ever had a case that's been
19 so thoroughly explored as you've done
20 it, and I congratulate you for that.

21 And if I were sitting on a jury
22 perhaps I might agree with you. But
23 you know my extent of what I have to
24 find is not by beyond a reasonable
25 doubt, but by the preponderance of the

1 evidence, and I perhaps would disagree
2 with some of the investigation by the
3 police. I don't know anything about
4 the, the set-up of the police
5 department, but it looks like every
6 officer did a good job moving in
7 different directions, and I'm not even
8 criticizing the case officer, but
9 somehow or another it seems that the --
10 perhaps the case officer just doesn't
11 have total authority it just seemed to
12 me to consider, because as I said, it's
13 just a comedy of errors through the
14 whole thing.

15 But given the fact that I only
16 have to find it by the preponderance of
17 the evidence and even though I might
18 disagree with you on many things, he
19 was given his Arizona -- Miranda versus
20 Arizona rights and warnings, and we're
21 not talking about somebody who's just a
22 street-wise, uneducated person. We're
23 talking about an intelligent person who
24 doesn't have any serious record at all,
25 who would understand what these things

1 are about just from his education and
2 what he might read in the paper. So it
3 would be hard for the police I think by
4 the preponderance of the evidence to
5 take advantage of him.

6 And so, as far as the confession
7 is concerned, I find by the
8 preponderance of the evidence that he
9 was given his Miranda, Arizona versus
10 Miranda warnings, and that he
11 understood them, and that he waived
12 those rights, and that he gave a
13 statement, and no promises or threats
14 or rewards of any kind were extended to
15 him to make that statement. The
16 statement was free and voluntary.

17 But of course in that portion of
18 the trial of the case I'd give them the
19 correct law which would be a lot more
20 strict than what I have to find at this
21 time.

22 Now, as far as the statement to
23 the press and the apology to the
24 victim's mother, is that still a part
25 of the confession, Solicitor?

1 MR. DURANT: Your Honor, I
2 intend to rely on that in my case in
3 chief.

4 THE COURT: No. What I'm
5 talking about is you know that the law
6 is as far as a confession only is
7 concerned. Is that outside of a
8 confession? Is that just additional
9 evidence?

10 MR. DURANT: Well, to tell you
11 the truth it would be my position that
12 it is, your Honor. I mean when in both
13 cases he was not questioned --

14 THE COURT: Have you ever
15 thought about that? Is that still part
16 of the confession, his statements to
17 the mother and the statements to the
18 press?

19 MR. KULP: No. I mean, the
20 confession is, is, is alleged or
21 suggested by the police to be the, the
22 statement that he gave and I guess
23 their supplemental oral testimony about
24 that.

25 You know, it's, it's, I'm not

1 going to belabor the point as I've
2 already, already mentioned, but if what
3 in -- if the statement, two-page, that
4 ensued from the contact with the police
5 was a product of their interaction with
6 him in rendering that document which is
7 a confession, I don't think, I think
8 that it's outside the range of what you
9 consider to be a confession or, or --

10 THE COURT: Well, then they do
11 have additional evidence other than the
12 confession.

13 MR. KULP: Pardon me?

14 THE COURT: So then they do have
15 additional evidence other than the
16 confession. That is these two, of the
17 press and the apology, that you want to
18 keep out.

19 MR. KULP: Well, it depends,
20 your Honor, on how you look at the way
21 it was staged.

22 THE COURT: That's what I was
23 asking you.

24 MR. KULP: Yes, sir.

25 THE COURT: You know --

1 MR. KULP: You know, if in
2 fact -- I would submit this, your
3 Honor. If he was standing -- if he'd
4 been released on bond that night, he
5 was standing on the street corner and
6 it happened to be that a wreck happened
7 and a news lady came said up and said,
8 "Hey, you're the guy that was arrested
9 last night."

10 He said, "Yeah. As a matter of
11 fact I'd like to apologize to
12 everybody." That's a different
13 scenario entirely.

14 But he was clearly within police
15 custody. It was staged by the police.
16 That's a matter of testimony in the
17 Jackson V. Denno, and that -- I think
18 there is a distinction as to the
19 circumstance. Thank you, Judge.

20 THE COURT: Well, if you look at
21 the totality of the circumstances, that
22 is the, the confession, the -- present
23 him, as you call it, presenting him to
24 the press and the apology to the
25 victim's mother, I disagree with your

VOLUME THREE OF SIX VOLUMES

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Luke N. Brown, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

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1 expert, Dr. Kassin, when he seems to
2 think he went through a terrible
3 ordeal. I thought that the police
4 treated him real gentle. The first day
5 all he had was the information that the
6 police got from him sitting in the car,
7 and his examination, which he wanted to
8 give, all that information.

9 And then, theoretically, he
10 wasn't, he wasn't asked anything else
11 except, of course, going to the house
12 to pick up whatever they picked up.

13 And then when he went to see
14 Major McHale, you don't -- and
15 incidentally, he did a super job I
16 thought, in his examination. He was
17 treated real gentle that day. And if
18 they had, as you indicated they should
19 have gone ahead and got the confession
20 at that time, you'd be standing right
21 there right now complaining about that.
22 Rightfully so. Because as I read the
23 transcript, he said he drank a case of
24 Budweiser or beer. Seemed like to me
25 he said Budweiser. But whatever. And

1 so he was allowed to go home and rest,
2 so that would have refreshed him and
3 had it -- give some real thought about
4 what he might want to say to the
5 police.

6 And then of course the police
7 then telling that the hair matched when
8 it, when it didn't. But I'm convinced
9 the police thought it did. And
10 apparently he thought it did, and so as
11 the result of it, that this
12 well-educated person, who had been
13 allowed to rest and who I didn't think
14 was any three-day ordeal, confessed.
15 And so it just ends up to be a jury
16 question. And so I deny your motion.

17 And we'll face during the trial
18 third party questions you want to ask.
19 Most everything that you want to ask I
20 think will probably be allowed and, of
21 course, in your criticisms of the
22 police investigation and all of the
23 things that you had to do as they come
24 up, we'll just treat them as they come
25 up. You can object to what you want

1 to, but most of that can come in, even
2 though he -- and he'll still be able to
3 argue to the jury whatever he wants to
4 argue about the investigation.

5 Now yesterday you showed me the
6 top of two bottles. You told me you'd
7 tell me the purpose of that. What was
8 the purpose of that? Just to show me
9 that they didn't test it and they
10 waited till the last minute and then
11 wanted to test it?

12 MR. KULP: No, sir.

13 THE COURT: Or the fact that
14 there was two of them there? You can
15 keep your seat.

16 MR. KULP: The fact there were
17 two there.

18 THE COURT: Yes. And as I said
19 on yesterday, most of those bars got a
20 lot of those things.

21 MR. KULP: Oh, I know that. In
22 fact there were probably three or more
23 there. But the confession only says
24 that "a carafe" was used, by both
25 parties.

1 THE COURT: I don't know what --
2 what will come out in the trial as far
3 as additional testimony or, or things
4 that the police got from him in the
5 confessions that would be unique that
6 what they didn't know. I just don't
7 have any idea, but we'll just face that
8 as it comes down the road.

9 Anything else you can think of?

10 MR. KULP: Yes, sir. Regarding
11 your last comment, you I think are
12 aware, your Honor, that yesterday two
13 new things came out that were not
14 documented before. One, that he exited
15 out of a side door of his parents'
16 house and that he rolled out. If there
17 any other --

18 THE COURT: Well, now there were
19 two more -- two things. One of those
20 police officers said did he indicate
21 anything about going out? Well, he
22 indicated that he went out a side door
23 but he didn't say anything about
24 pushing the car out, away from the
25 driveway, so it could crank up, but

1 different -- you and I both know from
2 trial experience and personal
3 experience that eyewitnesses, which the
4 major said he didn't care too much
5 about, eyewitnesses, everybody differs
6 in what occurred, so that's nothing
7 unusual. But I don't understand your
8 question about --

9 MR. KULP: My question is if
10 there's anything else that I now know
11 about it, that were statements of the
12 defendant under the --

13 THE COURT: Well, looking at the
14 record, there probably is.

15 MR. KULP: Well, then we request
16 that they disclose those at this
17 time --

18 THE COURT: But --

19 MR. KULP: So that we can
20 properly --

21 THE COURT: At this time the
22 solicitor doesn't know --

23 MR. KULP: If he knows it,
24 Judge, or what his witnesses, what his
25 witnesses --

1 THE COURT: Can you think of
2 anything that's new?

3 MR. DURANT: The only other
4 thing I can think of, your Honor, and
5 I'm just speaking from memory now, I
6 believe one of these officers is going
7 to say that she also, Wes told him she
8 came to the door with her pants undone.

9 MR. KULP: Oh.

10 THE COURT: Well, somehow or
11 another I heard that on yesterday.

12 MR. KULP: That he said that,
13 that he said that to the detective?
14 I've never heard that in four years.

15 THE COURT: Well, somehow or
16 another, I might have heard it in an
17 argument. I might have heard it from
18 testimony on yesterday, but I've heard
19 that before. I might have heard it
20 from you back there when we were
21 talking together, didn't we?

22 MR. DURANT: Well, obviously,
23 obviously, I talked to the detective,
24 your Honor, and I talked to all of
25 them, and like you say, they're,

1 they're testifying concerning something
2 that happened a good while ago and
3 there are certain aspects that some
4 remember that others don't and, and
5 there always is in a situation like
6 that.

7 But as far as I know, because
8 I'd specifically asked them, I
9 specifically asked them about, you
10 know, how he got out of the house, and
11 I know a couple of them remembered
12 something about that, and I know one of
13 them remembered something about her
14 coming to the door with her pants
15 undone.

16 MR. KULP: Let me mention
17 something, your Honor, at this time. I
18 move to dismiss this case. I move so
19 for violations of Brady, Rule Five
20 statements of the defendant, and the
21 whole -- every protection offered the
22 defendant. Let me tell you why.

23 I now know what the solicitor is
24 doing, and I'm not picking on the
25 person. That the State is doing.

1 There's only one thing, one thing that
2 they can say that he told them that he
3 wouldn't have already known or they
4 wouldn't have already told them, that
5 the killer would have known. Almost
6 four years, I hear it today in this
7 courtroom. That's the spring trap.
8 That's not fair.

9 Rule Five says statements of the
10 defendant. Now this B. S. of -- I mean
11 this, this, this suggestion, your
12 Honor, I'm sorry, this suggestion that
13 now they kind of get together and they
14 remember things, it just so happens
15 that that one thing that they remember
16 is the thing they're going to argue to
17 you and the jury that nobody else would
18 have known. That isn't fair to do
19 that.

20 MR. DURANT: Your Honor, that's
21 not true. The police knew that her
22 pants were undone. Says right in the
23 reports that when they went in that her
24 pants were undone, from when they went
25 in and the body was found.

1 THE COURT: Is it --

2 MR. DURANT: Detective Hallman
3 will testify to that.

4 THE COURT: Is that in the
5 report?

6 MR. DURANT: It's in the report.

7 MR. KULP: Of course they know.
8 They went in and looked at the body.
9 The question is that there was --
10 they're going to say there's no way he
11 could have known that. That's not in
12 his statement. That's not in the T. V.
13 camera.

14 THE COURT: Well, as we all
15 know --

16 MR. DURANT: His argument is
17 that he said that he saw the
18 photographs.

19 THE COURT: All right. Let's,
20 let's just --

21 MR. DURANT: Why would he -- he
22 saw the photographs.

23 THE COURT: I'll take that under
24 advisement and I'll rule on it before
25 the end of the case. I'll know a

1 little more about it.

2 All right. You all ready to go
3 forward?

4 MR. KULP: I'd like a very short
5 break, your Honor.

6 THE COURT: All right, sir.

7 MR. KULP: Five, ten minutes or
8 so.

9 THE COURT: I got a juror wants
10 to talk to me.

11 MR. KULP: Another one?

12 THE COURT: Let's --

13 MR. DURANT: Can't afford to
14 lose another one.

15 THE COURT: Well, let's -- how
16 about letting me have you all back
17 there and let's just -- if we need to
18 bring to her back out, we'll do that.
19 Bring her back in chambers.

20 Court's in recess. About five
21 minutes.

22 (Whereupon, a recess was called
23 at 10:11 a. m.)

24 (The Judge enters the courtroom
25 at 10:38 a. m.)

1 THE COURT: Bring the jury in.

2 (The jury enters the courtroom

3 at 10:38 a. m.)

4 THE COURT: Mr. Clerk -- how

5 about the jury stand and raise your

6 right hand to receive your oath.

7 CLERK OF COURT: Would the

8 defendant please rise?

9 (Whereupon, the jury is sworn.)

10 CLERK OF COURT: Have a seat.

11 Thank you, sir.

12 THE COURT: Now, Madam Foreman

13 and ladies and gentlemen, I want to

14 first apologize for keeping you all in

15 there. But I promise you that since

16 nine o'clock this morning we were

17 trying to dispose of legal issues so

18 you wouldn't have to hang around in the

19 courtroom or rather in your room later

20 in the day. So we wasn't drinking

21 coffee and telling jokes. I promise.

22 Not even eating donuts. We were really

23 working. So I hope you'll keep that in

24 mind. If I have you back there, don't

25 blame it on the parties. It's just

1 things that sometimes it's the only way
2 really we can operate.

3 Also as I told one juror, the
4 clerk didn't have time this morning to
5 cook for you. It might be a little
6 different tomorrow morning.

7 How many of you have never
8 served on a jury before? Good many of
9 you. Let me tell you what's about to
10 happen for those of you who have never
11 served on a jury before. As you
12 already know by now, the State charges
13 Wesley Max Myers with two offenses.
14 Remember, I told you this is not
15 evidence. It's just a piece of paper
16 which gets it into court and by the
17 way, Madam Foreman, on the back of it
18 is where you'll write your verdict at
19 the end of the trial.

20 He's charged with two offenses.
21 You could find him not guilty of both;
22 guilty of both; guilty of one, not
23 guilty of the other. Just depends upon
24 your view of the evidence and decision
25 at the end of the trial.

1 But I tell you that sitting at
2 that table as I told you earlier this
3 morning or yesterday, he's just as
4 innocent as you and I, unless and until
5 the State, if indeed they can, convince
6 twelve of you of his guilt beyond a
7 reasonable doubt, because he doesn't
8 have to prove, do anything, wouldn't
9 have to move from that table, nor his
10 attorney. The State has the burden of
11 proving him guilty beyond a reasonable
12 doubt.

13 So you're going to be looking at
14 what's a reasonable doubt? I'll tell
15 you more about it later. But it's said
16 that a reasonable doubt is a doubt that
17 would make a reasonable person hesitate
18 to act in his or her most important
19 affairs. And as I said, I'll be
20 telling you more about it later. Just
21 use those words "reasonable doubt" like
22 you would in your everyday affairs.

23 Now, because the State has the
24 burden of proof, always, because a
25 person is presumed to be innocent, the

1 State is going to get up -- when I'm
2 talking about the State, I'm always
3 talking about the solicitor who's
4 trying the case -- and he'll make some
5 openings remarks to you. It won't be
6 long. He'll probably tell you what he
7 says happened at this particular time,
8 what he intends to prove, kind of like
9 telling you about what a movie is all
10 about, what a book is all about.

11 When he sits down then
12 Mr. Myers' attorney, Mr. Kulp, can get
13 up and make some remarks. Doesn't have
14 to, but in all probability he'll stand
15 up and tell you some things.

16 When that's completed the State
17 puts up their witnesses and each side
18 examines them. Then the defense will
19 have the same opportunity. When that's
20 completed, then each attorney will have
21 a right to get up before you and
22 summarize their case. We call those
23 sometimes closing arguments, although I
24 heard one attorney say he didn't want a
25 jury to think that he would ever argue

1 with them. And then I tell you what
2 the law is, because all I'm going to do
3 in this case is preside and rule on
4 matters of law. You've got the most
5 important job. Our judicial system
6 provides that jurors decide the facts.
7 I can't do that. You decide the
8 believability of the witnesses, who to
9 believe, who not to believe, what
10 weight you going to give their
11 testimony. And then I tell you what
12 the law is and you take the law as I
13 give you, apply it to the facts as only
14 you can find, deliberate, and reach a
15 verdict in the case.

16 Now, there's two or three
17 important things I want to tell you.
18 In the first place you remember
19 yesterday afternoon I told you not to
20 talk about this case. Don't let
21 anybody talk about it with you in your
22 presence. Don't even talk about it
23 when you go in your jury room. And you
24 might say "Well, Judge Brown, why can't
25 we talk about the case? We've got to

1 decide it." Well, you really can't
2 discuss anything until you know both
3 sides, so wait till you know both sides
4 of the case. Wait till the attorneys
5 have a chance to address you and I tell
6 you what the law is and then you can,
7 you can begin deliberations.

8 Now, from time to time I'll send
9 you to your room, and if I send you to
10 your room I'll be talking about matters
11 of law. For instance, suppose one of
12 the attorneys got up and said "I
13 object, Judge Brown. I don't think
14 that testimony ought to come in."

15 And if you sat right there and
16 listened and later on I said it
17 couldn't come in, well, then you would
18 have already heard it. So that's why I
19 send you out. We're talking about
20 matters of law.

21 And as I said a few minutes ago,
22 if you feel like you're up and down
23 like a jack-in-the-box, don't hold it
24 against the parties because that's the
25 only way we could operate.

1 Now, we'll give you all the
2 breaks you want. If anybody needs to
3 take a break, just tell the Forelady
4 here and we'll take a break. If I send
5 you out and tell you to come back and
6 you not ready, just tell us you're not
7 ready. If you need anything to make
8 you comfortable, just ask the bailiffs.

9 And we'll take some testimony,
10 we'll break for a lunch, we'll take our
11 mid-afternoon break, and we'll stop the
12 testimony at a decent time so you men
13 can cook, and we'll go forward with the
14 case.

15 Solicitor.

16 MR. DURANT: Thank you, your
17 Honor. Good morning, ladies and
18 gentlemen.

19 My name is Bruce Durant. I was
20 briefly introduced to you yesterday.
21 I'm a senior solicitor, assistant
22 solicitor here in Charleston County,
23 and I will be handling this case on
24 behalf of the State of South Carolina.
25 This gentleman seated at the table with

1 me is Denver Clayton. He is a
2 detective with the North Charleston
3 Police Department and will be seated
4 with me throughout the trial of this
5 case as well.

6 This is a story about obsession.
7 It is a story about the relationship
8 between an angry, jealous, and
9 possessive man and a woman who did not
10 want to be possessed. It is a story of
11 a fatal attraction which resulted in
12 the murder of Teresa Haught by this man
13 on March thirteenth of 1997.

14 Need to fill you in on a little
15 background. Teresa Haught is a
16 thirty-six year -- was a thirty-six
17 year-old woman. She was married and
18 been divorced. Had four children. She
19 lived up in the state of Virginia until
20 her marriage ended and she moved back
21 to South Carolina approximately a year
22 before her murder. And when she moved
23 back to South Carolina she started
24 running a bar over on East Montague in
25 the old part of North Charleston named

1 the Mill Inn. The Mill Inn was owned
2 by her mother, Dixie Justice, and when
3 Teresa came back to the Charleston area
4 Dixie kind of turned that bar over to
5 her to run.

6 It was a result of her
7 management of this bar that a
8 relationship developed between her and
9 Wes Myers. Wes Myers was a patron of
10 the bar and she, of course, was the
11 manager. And I believe from the
12 beginning there was a mutual attraction
13 between them. They liked -- he liked
14 her, she liked him. And out of that
15 mutual attraction a relationship
16 developed and it developed normally
17 enough in the beginning and innocent,
18 innocently enough in the beginning, but
19 it soon turned into something quite
20 different. The reason for this is,
21 quite frankly, she was a female
22 bartender, manager of a bar that was
23 patronized predominantly by men and
24 Wes, being a possessive and jealous
25 sort of guy, couldn't stand it. And

1 Teresa, being an independent-minded
2 woman, didn't want to be possessed by
3 Wes. And by all accounts their
4 relationship was a tumultuous one,
5 characterized by frequent arguments,
6 squabbles, fights, to the point where
7 Teresa was trying to get rid of him.

8 Well, it all kind of came to a
9 head on March thirteen, 1997. The bar
10 closed that night. This was, by the
11 time the bar closed, this was early
12 Thursday morning on March the
13 thirteenth. Teresa was at the bar that
14 night. She had had something to drink
15 that day. Last call was announced at
16 about 1:30. Teresa decided that she
17 wasn't going to go on home, that she
18 had some work or something she had to
19 do in the morning. She was just going
20 to stay in the bar that night. That
21 was something she apparently did every
22 now and then.

23 So she told her employees
24 Margaret Johnson and Tammy Gonzales she
25 wanted to stay there, and they closed

1 out, locked her in the bar, secured the
2 doors to the bar, and as they left she
3 was either getting on or, or, or on a
4 pool table, taking a nap.

5 Well, at about two o'clock Wes
6 comes driving up to check on her. He
7 pulls up in his truck beside her car
8 that's parked in front of the bar. He
9 notices a note on her window. Someone
10 has written on the windshield of the
11 car. "Love you baby. Do me later.

12 ."

13 Wes gets out, knocks on the
14 door. She doesn't answer. Knocks
15 again. He's out there about five or
16 ten minutes before Teresa finally opens
17 the door. She comes to the door. He
18 notices that her pants are undone.

19 He goes in the bar. He sees a
20 note to her on the bar from Alan White,
21 something to the effect of "see you
22 later" or something like that. It
23 turns out that Alan White also lives at
24 [REDACTED] He confronts Teresa
25 about being unfaithful to him, accusing

1 her of having some sort of a
2 relationship with Alan White, who's
3 also a bartender at this same bar.

4 The fight scene turned ugly.
5 The argument scene turned ugly. She
6 called him a fool. Said it's over. He
7 couldn't accept it. The argument
8 turned into a physical fight, as a
9 result of which he took a wine carafe,
10 one of these big glass wine carafes you
11 see in bars for tip jars and beat her
12 to death. Fractured her skull all
13 over.

14 Went back behind the bar, looked
15 for available paper material, piled it
16 up on the floor behind the bar. Lit it
17 with his lighter. And he left out the
18 back door.

19 The fire was reported at about
20 3:15 in the morning. Ashley O'Neal
21 with the North Charleston Police
22 Department was on patrol. Noticed the
23 smoke in the area and he finally was
24 able to identify the source of that
25 smoke as being the Mill Inn. He

1 contacted his dispatcher who contacted
2 the fire department. They came out and
3 put the fire out.

4 It had -- the building had
5 become fairly involved by that time.
6 Lot of damage to the building.

7 As they were in there in the
8 aftermath of putting out the fire and
9 assessing what happened, they come
10 across the body of Teresa Haught,
11 laying facedown on the floor in front
12 of the bar, and it's apparent that she
13 had not died of natural causes.

14 The police are, of course,
15 contacted. An investigation begins.
16 Crime scene Officer Hallman is out at
17 the scene and when they turned the body
18 over her left hand had been pinned
19 under her when the fire was -- was
20 blazing. When they turned her over he
21 found some hairs in her land. A couple
22 of dark ones and one long blond one.

23 The defendant showed up at the
24 scene of the crime that morning and the
25 police upon finding out that he was the

1 victim's girlfriend (sic), that they
2 had had some, you know, problems, he
3 was a suspect.

4 He agreed to give them blood and
5 hair samples, and did. He was
6 cooperative at that time. The next
7 day, on Friday, March the fourteenth,
8 crime scene Officer Hallman took the
9 hairs that had been collected from the
10 victim's hand at the autopsy along with
11 the hair standards that had been pulled
12 from the defendant's head to be
13 examined by Agent Joe Powell with the
14 State Law Enforcement Division. He's a
15 trace -- what's called a trace examiner
16 up there.

17 He compared, did a microscopic
18 comparison of the long blond hair found
19 in the victim's hand and determined
20 that microscopically it was a match to
21 some hair that had been pulled from the
22 rear of the defendant's head, and he
23 relayed that information to Hallman who
24 in turn relayed that information to the
25 detectives back at North Charleston.

1 The next day the defendant was
2 brought in for questioning. He was
3 read his rights that day as he had been
4 on the fourteenth, Thursday, and as he
5 had been on Friday, the fifteenth, and
6 now we're on Saturday, the sixteenth.
7 He was read his rights under Miranda.
8 I'm sure you all know what I mean by
9 his rights. You hear it on T. V. all
10 the time.

11 And when confronted with that
12 evidence about the hair, he broke down
13 and he confessed. And he gave a
14 detailed confession to three detectives
15 with North Charleston Police
16 Department. He confessed to Benjie
17 Norris, fire investigator for the North
18 Charleston Fire Department. He
19 confessed to the victim's mother. And
20 as he was being taken to jail, he
21 confessed when questioned by a
22 reporter, a T. V. reporter, on all
23 three T. V. stations.

24 And I'm going to come back to
25 the hair because you're going to hear a

1 lot about the hair in this case. At
2 the time S. L. E. D. did not have the
3 capability to do DNA testing of this
4 hair, so an effort was made to send it
5 to the F. B. I. laboratory for testing,
6 and in that regard crime scene Officer
7 Hallman packaged up those hairs that
8 had been found in the victim's hand.
9 They had been matted on a microscope
10 slide by Joe Powell. I think there
11 were like I said a couple of darker
12 hairs and one long blond hair. And
13 those were on a slide, those were in a
14 cardboard slide container and that in
15 turn was put in an envelope and Fed
16 Ex'd up to Washington, D. C.

17 For a year and a half North
18 Charleston was told the only thing they
19 received was broken glass, and then in
20 May of this last year, May of 2000,
21 they presented -- provided information
22 that there were hair fragments in
23 addition to the broken glass, for the
24 first time, that they had remounted on
25 another slide and returned to the State

1 Law Enforcement Division. That slide
2 was finally located in June of last
3 year. Has the initials R. W. W. on it,
4 but nobody seems to know who R. W. W.
5 is.

6 Bottom line is it's been
7 compromised, the integrity of the hair
8 sample has been compromised. In any
9 event, an effort was made to take that
10 slide back up to Joe Powell at State
11 Law Enforcement Division to see if he
12 could determine whether or not
13 fragments of the original hair were
14 amongst that potpourri of hair
15 fragments that were on that slide. He
16 attempted to do so. He, he extracted
17 some hair fragments which he felt could
18 have been the original hair he looked
19 at, and those were in turn sent to a
20 laboratory in Pennsylvania for testing.
21 Mitochondrial DNA testing. And the
22 bottom line of that testing is that it
23 was either inconclusive or that it does
24 not belong to Wes Myers. I don't know
25 exactly what the report says but the

1 agent will testify and you will hear
2 him testify.

3 And the only points I want to
4 make on that regard are, number one,
5 the sample, the integrity of that
6 sample was compromised and, number two,
7 that if the hair had turned out to be
8 Wes's it wouldn't prove that he was
9 guilty of murder. He was her
10 boyfriend. He patronized that bar. If
11 it turns out not to be Wes's it doesn't
12 mean he's not guilty of murder. When
13 you hear the facts and circumstances of
14 this case you will come to the
15 conclusion that there are reasonable
16 explanations as to how the hair got in
17 her hand.

18 The bottom line, despite the
19 problem with the forensic evidence, one
20 piece of forensic evidence we had in
21 the case, and I will admit that's the
22 one piece of forensic evidence we had
23 in the case. Despite the matter, the
24 fact of the matter that evidence has
25 been compromised, you have the best

1 evidence that you can have of this
2 man's guilt, and that is the evidence
3 that comes out of his mouth, his lips,
4 to the detectives, to the fire
5 department, to the victim's mom, and
6 to, quite frankly, everyone in the
7 tri-county area.

8 Hold him to his word, ladies and
9 gentlemen. And if do you, you'll have
10 no alternative but to find this man
11 guilty of murder and arson.

12 MR. KULP: May it please the
13 Court, your Honor.

14 THE COURT: Yes, sir.

15 MR. KULP: Ladies and gentlemen
16 of the jury, I was briefly introduced
17 to you, as Mr. Durant said. My name is
18 Tim Kulp, and I'm a lawyer and I'm Wes
19 Myers' -- Wes Myers is my client and
20 I'm defending him in this case.

21 The importance of you, a jury,
22 could never be more significant and
23 clear than right now. If Mr. Durant
24 and the State got to decide this case,
25 it wouldn't be fair and there'd be no

1 need for you. But your role in this
2 case, in our criminal justice system,
3 in every criminal case is to decide the
4 issues, to render a verdict, to tell us
5 what the truth is in this case.

6 Now I was watching you, all of
7 you -- this is my job -- during Mr.
8 Durant's opening argument. He made a
9 lot of statements to you about what
10 their case will prove and went over his
11 position in this pretty well. But I
12 want to tell you something and submit
13 to you, like so many aspects of this
14 investigation, Mr. Durant left a lot of
15 things out. That's why we're here.
16 I'll be totally up-front with you in
17 this case. You have a difficult, very
18 difficult job ahead of you in the
19 trial. Let me tell you why. First
20 off, Mr. Durant postulates, suggests to
21 you that the theme of this case is
22 about obsession, about Wes's obsession
23 with Teresa, about her rejection of
24 him. Well, he left out the fact that
25 you'll be hearing from him, from, in

1 the case, and from witnesses that on
2 the Monday night before this tragic
3 death of Teresa Haught, she and Wes
4 slept together. They spent the night
5 together and throughout the next
6 morning. Left out a lot as well. That
7 particular day Wes had been to the Mill
8 Inn, visited with Teresa, who was
9 working. Other people were there.
10 There were no arguments, no rejection,
11 no fighting. There was no nothing.

12 This case -- Mr. Durant
13 mentioned the confession. Well, that's
14 what's going to be at the core of this
15 case, what's going to be extremely
16 difficult for each and every one of you
17 in this case to decide. You're going
18 to hear our position and our testimony
19 will be this is a false confession.
20 Now, what is a "false confession"? A
21 false confession is a confession
22 obtained from a person that is not the
23 truth. You will hear from an expert
24 regarding that in this case. He will
25 explain it to you more.

1 So how does someone confess to a
2 crime that they didn't do? Well, it
3 depends on the facts and circumstances
4 of the case. How did they get to that
5 point? And those are some of the
6 things that Mr. Durant left out.

7 What about that day? Well, that
8 particular day everything that
9 Mr. Durant told you came from the
10 confession, the information they got
11 from Mr. Myers. What really happened
12 that day? I'll tell you what happened
13 that day. Teresa and tragically
14 deceased now, murdered, had had
15 something to drink. Witnesses say she
16 had about sixteen beers between five
17 o'clock and possibly ten or 11:30 that
18 evening. As was her custom, I'm not
19 disparaging her at all, she would pass
20 out sometimes, as the manager of the
21 bar, and sleep, pass out on the pool
22 table. Sort of taking a nap.

23 There were two ladies that
24 evening who, or one lady working,
25 Margaret Jensen, who's been mentioned

1 was there, who secured the place and
2 left her there in the bar.
3 Miss Gonzales came to pick her up.
4 There was another man around when they
5 left, and they left him there at the
6 scene and they went home.

7 At about 3:14 that morning a
8 patrolman passing by saw the fire. As
9 Mr. Durant said, they went in there, in
10 the fire, and they discovered that
11 there was a body there and tragically
12 it was the body of Teresa Haught. They
13 began their investigation in that
14 regard.

15 Now, where was Wes Myers during
16 this time period? His parents will
17 tell you that he went to bed at their
18 house at ten o'clock that night,
19 approximately ten o'clock. His mother
20 will testify and tell you that when she
21 woke up at six o'clock he got up, came,
22 had a cup of coffee, was dressed for
23 work, got in his truck, drove on to
24 work. He drove to work and he, and he
25 went by, on the way to Texaco on

1 [REDACTED] near this bar, he went
2 to work down Chateau, the way he
3 drives. He went there and he saw fire
4 hoses across the street. He knew that
5 Teresa sometimes slept in that bar,
6 passed out.

7 He backed up. Couldn't get
8 across the street. He went around to
9 her house and when he saw the police
10 car in front of her house, he became
11 extremely upset. Drove over, parked in
12 front of Midland Mechanical and got
13 out. At that time he made inquiries.
14 What's going on? What's -- there're
15 tons, tons of police cars there and
16 firemen and everyone.

17 They told him -- they asked him
18 if he had a picture of Teresa. He
19 identified himself, said he was her
20 boyfriend. He brought a picture of her
21 from his truck. They looked at it and
22 said well, that's her. He became
23 extremely upset, fell to his knees, and
24 began crying.

25 There were other people, members

1 of the family there at that time. Wes
2 hugged them. They all consoled each
3 other, and then something changed.
4 Detective Lieutenant Tetanich decided
5 and got the feeling that Wes was the
6 murderer. He was her boyfriend. So he
7 instructed another, instructed another
8 detective, Detective Payne, to
9 interview him.

10 And so Detective Payne sat with
11 him in a patrol car and interviewed him
12 about the incident. And what he told
13 Detective Payne then was not
14 inculpatory or incriminating. And
15 Detective Payne sat in that car with
16 him and Detective Payne did not notice
17 any smoke about him. He did not notice
18 the smell of smoke, any soot about him
19 in his nostrils or whatever, and he
20 didn't notice any injury to his hands
21 or body or any other location.

22 Finished up the statement and to
23 complete his investigation he said
24 "Well, as a matter of fact, will you
25 give me standards of hair and blood and

1 other things so that we can exclude you
2 or eliminate you from consideration in
3 this case since you're the boyfriend?"

4 He said, "Sure I will." And
5 they drove down to the hospital. He
6 signed the forms and he gave them
7 everything; hair, standards, the works.

8 And then what happened? Well,
9 he came back up to the police station
10 and he said, "We don't really know how
11 she died at this point. Will you
12 submit to gunshot residue examination
13 to see if there's any gun powder on
14 your hands?"

15 He said, "Sure, yes." And he
16 did that. And thereafter they took him
17 back to the area back there and let him
18 out to get his truck and he went over
19 to Shores Bar at that time.

20 Well, that wasn't the end of the
21 police involvement with Wes. The next
22 day they called him up and they asked
23 him to come down to the police station
24 and he came down there and he talked to
25 the officers. And at that time they

1 started speaking to him and what the
2 evidence will show is they started "the
3 plan".

4 Now, Mr. Durant has told you,
5 kind of sort of told you in a way
6 there's no forensic evidence in this
7 case. And he has said that well, there
8 may be some evidence. He doesn't
9 like -- he doesn't like his evidence
10 that he sent off to have tested, the
11 hair, because it didn't come back to be
12 Wes Myers', could not be identified to
13 be his.

14 So what's he going to do? He's
15 going to take a shot at the handling of
16 it in the midst of this case and point
17 fingers at the F. B. I., say they
18 mishandled it. It really -- now it's
19 not his hair, turned out to be. Then
20 it's not worth your consideration in
21 terms of DNA findings.

22 Well, that hair is important
23 because right from the start at the
24 time of the autopsy there wasn't just
25 one piece of evidence, the hair, but

1 the hair was collected, a couple of
2 hairs from her hand. It didn't match
3 her hair color, so the police started
4 the process of dealing with Wes, the
5 person they suspected, gut feeling from
6 the get-go. And they started getting
7 him to agree to something that Friday.

8 They asked him, "Wes, you'd
9 agree that if we find out whose hair
10 that was in her hand, that would be the
11 killer, won't it?

12 "Well, sure." Why not? He
13 didn't deny that.

14 Now, in the interim they've
15 taken that hair and run it up to
16 S. L. E. D. for examination. You can't
17 do DNA in a day. They gave it to
18 Lieutenant Powell or Agent Powell. He
19 looked at it under the microscope and
20 did only what could be done under that
21 type of examination comparison.

22 He said it's similar to his
23 hair. And as well, parenthetically,
24 similar to a lot of other people's
25 hair. It's not an exclusive test.

1 That was relayed back to the
2 police, who then at the station, with
3 Wes cooperating in the investigation
4 because they told him that if we don't
5 get you out of the way and clear you
6 and exonerate you, we can't go find the
7 real killer of your girlfriend. Can't
8 do it. So he is, he's assisting them
9 in any way he can.

10 Now, they knew about the results
11 coming back on the microscopic
12 comparison. The hair became a very
13 important tool. They had no other
14 evidence at the time.

15 A lot of evidence was collected
16 from the scene, forensic evidence.
17 None of that has been tested to show
18 Myers' culpability in this case. In
19 fact we submitted the hair testing to
20 show that it was not him, that it is
21 not his hair.

22 And then there's another issue
23 that came up. There's going to be
24 testimony about a bloody one-dollar
25 bill that was found on the victim. The

1 State didn't want to test it. I don't
2 know why. We tested it. And on that
3 dollar bill was found the DNA of a
4 male, not Wes Myers.

5 But this Friday afternoon they
6 said, "Well, okay. We've got this
7 hair. We know in our stomach it's him.
8 There are some other suspects out
9 there, you know. But we got to get
10 him. How we going to do it?

11 "I got a great idea. Let's take
12 him down to another police department,
13 get this guy to talk to him." Special
14 kind of guy. You're going hear from
15 him. Major McHale. He's trained in
16 what's known as the "Reid Technique".
17 If you've never heard of it, it's a
18 system, it's a plan, it's a program of
19 getting people to confess. It's
20 recognized. It's on the Internet.
21 He's trained in that.

22 They took him down there and he
23 was interviewed and interrogated by
24 Captain McHale. But he wasn't told
25 something. He was being secretly

1 videotaped. And you're going to find
2 that event, what transpired then, very
3 interesting because part of the
4 technique of this, of approaching this
5 man to get him to confess, part of the
6 technique in a case I mean like we have
7 here where there was no other evidence
8 to corroborate anything, this hair had
9 been found similar, whatever, and that
10 was it. Their whole crime scene.

11 Their techniques, part is to minimize.

12 "Now, Wes, I know you say you
13 didn't kill her but, you know,
14 sometimes when people are dead they
15 look like they're sleeping. You know,
16 sometimes you can't live with women.
17 You can't live without them. Sometimes
18 you have to hit women, you know. And
19 you know, Wes, if you keep saying you
20 didn't do it, then we're really going
21 to focus on you, and you know what
22 that's going to do? That's going to
23 keep us from finding the real killer."
24 Now think about that. If you say you
25 did it and you quit denying that you

1 did it, then we'll go find the real
2 killer.

3 What you're going to see in that
4 exchange is one of the most perplexing,
5 confusing, bizarre exchanges between
6 two people. And based on Mr. Myers's
7 denial of doing it, and nothing else
8 except his "subjective gut reaction",
9 Major McHale concludes that Wes Myers
10 did it. He's guilty.

11 So what do they do? They still
12 don't have any evidence.

13 Now, what do the police know at
14 this time? They know that a wine
15 carafe was used. They know this
16 already. They didn't get that from
17 Wes. They know that because near Miss
18 Haught's body was the top third of a
19 wine carafe, broken. They knew that.
20 They knew the back door was open
21 because when the firemen arrived, the
22 back door was open.

23 They talked to, immediately at
24 the scene, the bartender lady, Miss
25 Jensen, who was there. And she said,

1 "Yes. Well, we put the victim, I mean
2 Miss Haught's purse in the cooler to
3 secure it when she passed out on the
4 pool table." It wasn't there. It had
5 been taken. The police knew that.

6 They also said there was some
7 money left in the freezer above the
8 refrigerator that we left before we --
9 when we closed the night before. And
10 they went looked and found that. So
11 the police knew a lot of things then
12 about the matter.

13 Now, when they left that day,
14 the meeting with Major McHale, the
15 point was, as far as Wes's involvement
16 was concerned, was that he had said he
17 didn't do it. Adamantly said he didn't
18 do it. And there was no evidence other
19 than this hair on-the-fly look at the
20 microscope, hair, hairs that they had.
21 So they needed something else. They
22 needed what was missing from the safe.
23 They needed the purse. So what do they
24 do?

25 "Wes, I know you've been real

1 cooperative. We really appreciate it."

2 Chief of police comes in and
3 hugs him and says we really appreciate
4 your help in this investigation, when
5 he's at the station.

6 And they say, "We need to -- how
7 about we go over to search your
8 parents' house where you live? Is that
9 all right?"

10 He said, "Yeah, man. I'd like
11 to call my parents and let them know
12 we're coming.

13 "No. You can't do that. Can't
14 do that.

15 "Oh. Okay."

16 So they roll over there, a bunch
17 of them. "Hi. We're the police here."

18 And what do they tell them?

19 "We're here to clear your son. We're
20 here to clear him from the suspect --
21 being a suspect in the murder in this.
22 One of the additional ways we need to
23 do it is we need to search your house."

24 So the parents go, "Well, of
25 course. I mean we know he didn't do

1 course. I mean we know he didn't do
2 it. You can search our house."

3 So they start searching his
4 room. They don't find anything. They
5 don't find the purse. They don't find
6 any clothes. They don't find anything.

7 So what do they do? "We'll
8 search the rest of the house." The
9 parents reluctantly go, "Yes." I mean
10 they never had their house searched by
11 police officers before, so they agreed
12 to do it.

13 And they say, "We want to walk
14 along with you. These are personal
15 possessions and we want to go and make
16 sure that nothing is damaged or
17 whatever."

18 And they did, and they searched
19 the house and they took some things.
20 They took his boots. Is it of any
21 evidentiary value? Did it link him to
22 the scene? No. They took his
23 clothing. Any blood or smoke on it?
24 No. They were looking for the purse.
25 Did they find the purse? No.

1 Well, they got a problem. They
2 got together, the officer, the
3 detectives. After this wonderful
4 experience of two hours with Major
5 McHale and his own personal hybrid
6 method of interrogation under the Reid
7 Technique or some version of it, they
8 hatch a plan. What's the plan?

9 "I got a great plan. Why don't
10 you pick him up for breakfast 8:30
11 Saturday morning. Let's get him in the
12 car and take down to McDonald's for
13 breakfast. Then bring him up here and
14 we'll be waiting for him.

15 "What you going to do? I got a
16 great idea. Let's fake a phone call
17 from the S. L. E. D. lab. He won't
18 know they don't work on Saturdays. He
19 doesn't know they don't work on
20 Saturday. Let's do that. Let's get
21 him in here."

22 The police say that despite the
23 Thursday they spent with him, the
24 Friday -- which included being with
25 Major McHale in what you're just going

1 to shake your head over -- they hadn't
2 really started to interrogate him about
3 his involvement in the case.

4 Saturday they say they did.
5 Well, they might say they started about
6 10:30 just speaking with him some more.
7 But at twelve o'clock things changed.
8 Well, you know, okay.

9 They come back in. At this
10 point they got Wes, and they said, "We
11 know you did it. How'd we know you did
12 it? We got all kinds of evidence.
13 Well, we got hair and her blood from
14 your truck." Which he, incidentally,
15 had voluntarily, readily agreed to let
16 them have that previous evening, on
17 Friday, and keep at the police station
18 to go through. What did they get out
19 of that? Nothing. There was nothing
20 there.

21 "We got this, you know, and
22 gosh, Wes, you know." And that night
23 before there's an important element.
24 When they went through his house they
25 found some documentation that indicated

1 that he had been at Charter, had been
2 treated for alcohol abuse.

3 "Hum. Maybe you blacked out.
4 Wes, maybe you blacked out. Maybe you
5 don't really remember what happened.

6 "Boy, I mean, I could have
7 blacked out."

8 They're challenging his own
9 thinking. And then they say, "The
10 worst thing that's happened, you know
11 that hair that you agreed if
12 identified, found in her hand, would
13 point to the killer, we just got a
14 phone call from S. L. E. D." They
15 lied. They knew the day before that it
16 wasn't a comparison.

17 They said, "That's your hair,
18 Wes. Why, we even know what area of
19 your head, the back of your head, it
20 came from."

21 Excuse me one second, your
22 Honor. Get my chart.

23 And what did they say to him?
24 They say, "Wes, we know you did it. We
25 know you did it. Listen, we've got so

1 much evidence. We know you did it."

2 And what did he then say? This
3 is so significant throughout this
4 entire case. He said and they admit it
5 and quote it, "I must have did it
6 then." Forgive the grammar. "I must
7 have did it then."

8 Not "I did it." But "I must
9 have did it then," based on what you're
10 telling me, sitting in that setting.

11 And then what did they do?
12 There is some confusion about how many
13 eleven-by-fourteen glossy color photos
14 of his deceased girlfriend's face they
15 put on the table. But they had five of
16 them enlarged up the street here.
17 Horrible.

18 They put it out in front of him
19 and said, "You need to do what? You
20 need to apologize, Wes. You need to
21 apologize to Teresa. You need to
22 apologize to her. You don't know what
23 you did. You blacked out."

24 That wasn't enough. Did they
25 write the statement "I must have did it

1 then" down then for him to sign? Do
2 they ask him to write it out? No.
3 They didn't do that. Did they
4 videotape or audiotape, whether they
5 told him about it or not, his statement
6 "I must have did it then" or the
7 hour-and-a-half of interrogation before
8 that? No.

9 "We don't do that. We don't
10 record statements of people confessing
11 to murder. We got a lot of tape
12 recorders and video cameras at the
13 department. We don't do that."

14 Still there's a problem.
15 Nothing to corroborate it. And what
16 does he -- they say he said at the
17 time? Well, two-page statement
18 handwritten out but wasn't signed until
19 later in the afternoon because that
20 wasn't important to do that and record
21 him. It says what Mr. Durant told you,
22 but he left a few things out.

23 "I went to check on Teresa at
24 the Mill Inn. I went there and knocked
25 on the door." This is, this is what's

1 in the statement. I want to make that
2 very clear, the facts of the case that
3 they have committed themselves to,
4 saying it came from his mouth.

5 "She came to the door. I went
6 in the bar. I went inside, saw some
7 note behind the bar that was never
8 recovered and then we got in an
9 argument and she picked up a wine
10 carafe." No fingerprints on the piece
11 of wine carafe. Not even hers.

12 "I took it from her and I hit
13 her in the center of the head with it.
14 And I may have hit her some more. I
15 don't really remember."

16 The injuries to her head are
17 here and here. That's another little
18 thing they have trouble explaining.
19 They kind of -- Mr. Durant said, "Well,
20 he hit her all over."

21 Tragically, horribly, there's an
22 incision all the way around the back of
23 her head. To the bone. Comes here.
24 That can't be explained.

25 And then he went behind the bar

1 to commit suicide, not to cover up
2 evidence, knowing they kept lighter
3 fluids to refill Zippo lighters which
4 are kept at the bar, behind the bar,
5 because he did frequent the bar. It
6 was his girlfriend's place. She worked
7 there. And that they had propane tanks
8 there. He had a flare in the back of
9 his pick-up truck which they say he
10 parked in front, next to her car on
11 East Montague that time of night. The
12 car he's had for more than fifteen
13 years that everybody knew.

14 And that he then lit the papers,
15 to kill himself there. Then he went
16 back around to do what? He held on to
17 her.

18 Now Mr. Durant said that he
19 piled the materials and left out the
20 back door. Well, that's not even what
21 they got in his statement that they
22 suggested he said.

23 What they say he said was that
24 he held her in his arms as this small
25 paper fire continued to burn until he

1 was overcome by smoke, then he went out
2 the back door.

3 And the statement says, think
4 about this. It's the little things.
5 "I took a purse." Not "her purse."

6 "I took a purse, put it behind
7 the seat of my truck parked out front,
8 covered in blood, logically, soot,
9 smoke, whatever, got in my truck and
10 left."

11 Now, did they ask him what did
12 you do to your clothes? No. Where can
13 we get them? No. But at this point
14 that afternoon -- going back to the
15 chronology -- they realized, having
16 gotten him to say "I must have did it
17 then," they needed something which they
18 already knew was missing. The purse.

19 "Where's her purse? Now, come
20 on, Wes, now I know that you say you
21 blacked out and that's why you don't
22 remember this horrible crime you did."
23 And I know all that, and it doesn't
24 make sense actually that he would
25 remember all these details and he

1 didn't remember what he did with the
2 purse. That's something you're going
3 to have to wrestle with.

4 Well, they go, "Well, where
5 might you have put the purse? I know
6 you say you don't remember. You
7 remember everything else, you don't
8 remember what you did with the purse.
9 Where might you have put it?"

10 What do they do? Put him in the
11 patrol car, police car, take him down
12 to the Mill, drive by, look around to
13 help him refresh his recollection, and
14 he's going, "Man, I don't know."

15 At this point he's broken. And
16 when he talks to the media you'll see
17 he's broken. You can see his face.
18 His affect. He's broken. He's been
19 told that he committed a murder that he
20 didn't commit.

21 And I want you to compare that
22 face with the hard-to-see face that
23 you'll see on the surreptitiously made
24 video the day before by Major McHale.
25 Look at the differences.

1 mean, I don't know. I mean maybe I
2 left it in the hollow tree where we
3 first made love."

4 They go look in the hollow tree.
5 No purse. Rats. We don't have that
6 evidence to corroborate this
7 information.

8 So they go back. And when they
9 get back they said, "Well, we better
10 reduce this to writing, you know. We
11 didn't audiotape and we didn't
12 videotape it. Let's let him write out
13 what happened, how he committed this
14 crime, this murder, this arson. Naah.
15 Let's write it up for him."

16 So they write out a two-page
17 statement detailing the elements that
18 I've mentioned to you, that they
19 already knew, and they asked him to
20 sign it. And then they have a couple
21 corrections, mistakes here and there so
22 they had to go back and initial.

23 Two-page confession. We got a
24 hair comparison. Don't have the purse.
25 "I got an idea. You need to apologize,

1 "I got an idea. You need to apologize,
2 Wes. You did it. You need to
3 apologize."

4 What do the police do? "Hello?
5 Victim's mother, Miss Justice, can you
6 please come to the police station? Wes
7 Myers wants to apologize to you.

8 "Yeah. I'll be right up there.
9 Sure."

10 She comes to the police station.
11 They bring her up there. Let Wes go
12 in. Is he handcuffed? No. Is he
13 going to be able to leave? He's under
14 arrest. There's no way in the world
15 they could say he would be allowed to
16 leave that building.

17 They let him talk to her. And
18 guess what he's got on his belt? A
19 buck knife they never thought had any
20 role in this case and never tested
21 because it didn't. But he's wearing a
22 buck knife.

23 "I'm very sorry for what I did."
24 And you'll see it on the video. "I'm
25 sorry for what I did." Apologize.

1 Apologize.

2 That's not enough. Something
3 else happens. Don't have any evidence.
4 Got this two-pager, but didn't record
5 it.

6 "I got a great idea. This was a
7 pretty notorious crime. It's a murder
8 and arson. Let's call the media."

9 So Lieutenant Cumbee picks up
10 the phone, calls the media. Brings
11 them up. Says "We made an arrest in
12 the case and you all need to get up
13 here. He's going to have something to
14 say."

15 They're going to testify that
16 even though the reporter in the case
17 has testified that they said he's going
18 to have something to say, he's going to
19 have something to say of some nature,
20 that they told him not to talk to the
21 press. Not to talk.

22 But the reporter has indicated
23 that they also said, "Get on up here
24 because we're going to walk him. We're
25 going to walk him."

1 So what do they do? The press
2 gets there. They're upstairs on the
3 second or third floor, and they get him
4 ready. Get him handcuffed. Still got
5 the knife on him. Killer. And they
6 bring him downstairs. The media is out
7 back where the patrol -- where they
8 take people away, for the most part.
9 Sallyport area.

10 "Wes, come on out here. You
11 want to smoke a cigarette?

12 "Sure. Yeah, I'll smoke."

13 Take him out front. Smokes two
14 cigarettes, while the cameras are
15 finishing setting up. Then they walk
16 back through the police station after
17 that, and they go through, and as
18 they're going out that door -- that
19 printing is a little -- does that look
20 all right? Okay.

21 And when they get out there,
22 what do they do? Like T. V., hustle
23 him to the patrol car, go "sorry, no
24 comments." Take him off. No.

25 They stand there like this, and

1 here's Wes, handcuffed. "Did you do --
2 well, did you do it? Did you do it?
3 Why'd you do it?" Until no reporter
4 had any questions left. Here he is.
5 Then they put him in the police car and
6 then they took him off to jail. After
7 that several minutes of exposure.

8 There's not one piece of
9 evidence in this case. Were there
10 fingerprints lifted? By the way, very
11 important. You're not going to hear
12 anything about the use of a glove by
13 Wes.

14 There's also one other thing
15 they did that Saturday at the police
16 station that's critically important.
17 In that statement they took from him it
18 says that Teresa pushed me and hit me
19 in the chest real hard. Also there is
20 the use of the wine carafe that broke
21 on impact, the top third of which they
22 found with jagged edges on it. They
23 photographed him. No bruises. No
24 cuts. No injuries. No testimony about
25 the smell of smoke in his hair that

1 morning in the Crown Vic, Crown Vic, in
2 the closed car. No soot around the
3 nostrils. Nothing. No injuries.

4 And the statement says "I took a
5 wine carafe." But at the scene there
6 were two wine carafes. That can't be
7 explained. Doesn't fit or support his
8 confession.

9 Now, I think and hope now that
10 you can see what a difficult job you
11 have ahead of you because this is a
12 case, and I don't want any of you to
13 think, I'm not defending this case by
14 saying the police are on trial. And
15 they have a difficult, hard job to do
16 every day, and in my personal opinion
17 they're underpaid.

18 But the point of this case is
19 that the quality and nature of this
20 investigation has to be examined in
21 terms of the procedure, the search for
22 the truth. And as we go through that
23 process, I submit that you're going to
24 be very surprised about the events that
25 unfold.

1 This is the case about a false
2 confession. Whether you've heard ever
3 heard of that before or ever seen
4 anything about it, you're going to
5 learn about it during this case. All
6 the characteristics are there. All the
7 aspects are there. And I submit to you
8 that Wes is not the killer, that Wes
9 did not kill Teresa Haught.

10 The only way and the only
11 evidence that they have to take him out
12 of his parents' bed and put him there,
13 breaking the wine carafe over Teresa's
14 head, holding her until he was overcome
15 by smoke, somehow, somehow destroying
16 all evidence, any fingerprints,
17 anything, is "I must have did it then,"
18 and what stemmed from that, telling him
19 that he had to apologize.

20 So the question is, is it
21 sufficient, will it be sufficient as
22 you hear the entire case to convict him
23 on the statement made and what ensued
24 alone, and particularly when you most
25 interest -- interestingly have no

1 forensic evidence that corroborates the
2 elements of the statement, but forensic
3 evidence and test results that dispel
4 it, undermine it. The bloody
5 one-dollar bill with another male's DNA
6 on it. The hair that played such an
7 instrumental role in the scenario, the
8 lying, this interrogation, that the
9 State themselves spent the money to
10 have tested, that proves that Wes was
11 not the killer, that they now want to
12 challenge. Thank you.

13 MR. DURANT: Your Honor, may we
14 have an important side bar before I
15 begin.

16 THE COURT: Of course.

17 (Whereupon, there was an
18 off-the-record bench conference.)

19 THE COURT: Keep your seats
20 there just a moment. I'm going in
21 chambers. Take about a minute. So
22 keep your seats. Sometimes we have to
23 step out for a minute before we can go
24 ahead. I'll tell you all about it
25 later.

O'Neal -- Direct

1 Q And what were your duties in
2 March of 1997?

3 A I was also assigned to the road,
4 on the midnight shift, and I was working at
5 the north precinct.

6 Q When you say you were assigned
7 to the road, that means you were a routine
8 patrolman?

9 A Yes, sir.

10 Q Street officer?

11 A Yes, sir.

12 Q Does the north precinct
13 encompass the area of 1026 East Montague
14 Avenue?

15 A Yes, sir.

16 Q That address is located in the
17 City of North Charleston?

18 A That's correct.

19 Q What county is it located in?

20 A Charleston.

21 Q Did you have an opportunity to
22 be in the area of 1026 East Montague in the
23 early morning hours of March thirteen, 1997
24 at approximately 3:14 a. m.?

25 A I was.

O'Neal -- Direct

1 Q And what were you doing and what
2 did you see?

3 A What I was doing, I was just on
4 routine patrol. I was driving down East
5 Montague. I saw a cloud of smoke coming
6 from the area of 1026 East Montague. I then
7 asked the dispatchers if they had a fire in
8 the area. They stated no.

9 Upon myself turning around,
10 going back towards the smoke I observed
11 flames coming from the front roof of, of the
12 building, which was the Mill Inn.

13 Q The Mill Inn was the business at
14 1026 East Montague?

15 A Yes, sir.

16 Q And what type of establishment
17 is the Mill Inn?

18 A It's a bar.

19 Q What did you do when you located
20 the source of the fire?

21 A When I knew where the fire was
22 coming from I notified the dispatchers to
23 notify the fire department to respond due to
24 the flames coming through the roof of the
25 building. At that time, a few moments

O'Neal -- Direct

1 later, the fire department arrived.

2 Q How long did it take the fire
3 department to get there?

4 A Approximately three, four
5 minutes maybe, or less.

6 Q Did you ever go into the
7 building itself?

8 A No, sir.

9 Q At any time even after the fire
10 was put out?

11 A That's correct. No. Never went
12 inside.

13 Q Did you learn at some point that
14 there was a body inside the building?

15 A I did.

16 Q And how did you come by that
17 knowledge?

18 A I was -- I was informed of that
19 by a member of the fire department.

20 Q Okay. And what did you do upon
21 obtaining that information?

22 A At that time I notified my
23 supervisor of the situation, that they
24 located a body inside, and he responded to
25 the scene.

O'Neal -- Direct

1 Q And that would be who?

2 A Sergeant Heade.

3 Q Who else responded to the scene
4 at that time?

5 A At that time the crime scene
6 also responded, Detective Hallman. They
7 notified the detective division and they
8 responded. E. M. S. also responded to the
9 scene.

10 Q How about the coroner and the
11 Medical Examiner's Office? Were they there,
12 too?

13 A Yes, sir.

14 Q What was your involvement, what
15 was your involvement after that point?

16 A After that point, I secured the
17 crime scene. We had to block off the roads,
18 both sides of the Mill Inn, and I wrote an
19 initial incident report.

20 Q Did you -- how long were you at
21 the scene?

22 A Probably five hours.

23 Q Did you happen to see the
24 defendant there that morning?

25 A That morning?

O'Neal -- Direct

1067

1 Q Yeah.

2 A I did, that morning.

3 Q And where did you see him?

4 A Where did I? He was in the
5 parking lot of the Beasley Mechanical which
6 is located on Virginia Avenue at the corner
7 of East Montague, in the parking lot.

8 Q Do you recall what time it was
9 that you saw him?

10 A It was around daylight, so it
11 was I would probably say 6:30 or seven
12 o'clock, approximately.

13 Q Would you please answer any
14 questions that Mr. Kulp may have for you?

15 A Yes, sir.

16 MR. KULP: Thank you, sir.

17 May it please the Court.

18

19

20

21 CROSS-EXAMINATION BY MR. KULP:

22 Q Officer O'Neal, you, you never
23 entered the scene?

24 A That's correct.

25 Q So someone told you information

O'Neal -- Cross

1 you used to prepare a report, documentation
2 of the case?

3 A In reference to the body, that's
4 correct.

5 Q And you reported that the body
6 of Miss Haught was found behind the bar?

7 A Right. That's the -- that's the
8 information I was given. I had never -- I
9 never observed it myself.

10 Q Yes, sir. Secondly, I'd like to
11 ask you do you remember speaking with an
12 investigator for the defense, Jim Peacher,
13 some time ago, possibly last year, James
14 Peacher, Jim Peacher?

15 A In reference to this case here?

16 Q Yes, sir.

17 A No.

18 Q You don't. Well, let me ask
19 you, when you went by the fire on patrol
20 that evening at 3:14, that morning, 3:14
21 a. m. --

22 A Yes, sir.

23 Q -- did you see any flickering of
24 fire?

25 A Well, first I observed the smoke

O'Neal -- Cross

1 but when I drove on by the building upon
2 turning around I could see the flames coming
3 through the front of the roof in the front
4 of the building.

5 Q Okay. And when you turned
6 around, kind of like a button-hook?

7 A Well, actually what I did is I
8 passed the building and saw the smoke, I
9 went up to the next block, yes, sir, and
10 kind of did a U-turn into the street and was
11 proceeding back towards the building at that
12 time when I saw the fire.

13 Q And as you came back toward, to
14 the building and got close to it, what did
15 you see occur?

16 A Flames coming through the front
17 of the roof. I'd parked across the street
18 from the building on the side of the road.

19 Q All right. And did you hear
20 anything or see anything other than flames
21 coming through the roof?

22 A Not at that time, no.

23 Q Did you see the smoke increase
24 when you had passed by?

25 A Oh, yes. Correct.

O'Neal -- Cross

1 Q And how long do you think it
2 took for you to do that turn around and come
3 back?

4 A It was just one block. I'd say
5 maybe thirty seconds or so.

6 Q Thank you, sir. I appreciate
7 your testimony. By the way, one other
8 question. When you were there at the scene
9 that morning, did you observe a green
10 four-door L. T. D. Ford out in front of the
11 place?

12 A Honestly, I don't know if I did
13 or not.

14 Q Thank you, sir.

15 That's all I have, your Honor.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you, sir. You
18 can come down.

19 Call your next witness.

20 MR. DURANT: Thank you, your
21 Honor. The State would call Kevin
22 Cornell.

23 THE WITNESS: Your Honor, am I
24 being dismissed?

25 THE COURT: Do you have any

O'Neal -- Cross

1 objection to the witness being
2 dismissed? Any objection?

3 MR. KULP: No, sir, your Honor.

4 THE COURT: All right.

5 THE WITNESS: Thank you.

6 THE COURT: Have a good day.

7 THE WITNESS: Thank you.

8 MR. KULP: Thank you, sir.

9

10

11

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13

14 K E V I N C O R N E L L,

15 having been called as a witness in the

16 presence of the jury, is duly sworn and

17 testifies as follows:

18 DIRECT EXAMINATION BY MR. DURANT:

19 Q Good morning, sir.

20 A Good morning.

21 Q Could you tell the jury how old
22 you are?

23 A Forty-six.

24 Q And are you employed, sir?

25 A I'm employed with the city of

1 North Charleston Fire Department.

2 Q How long have you been employed
3 by the North Charleston Fire Department?

4 A Approximately fourteen and a
5 half years.

6 Q What is your rank?

7 A Captain.

8 Q As a fireman for the North
9 Charleston Fire Department did you have an
10 opportunity to respond to 1026 East Montague
11 Avenue on March thirteen, 1997?

12 A Yes.

13 Q Do you know what the name of
14 that establishment is?

15 A The Mill Inn.

16 Q Do you recall what time you
17 responded to the scene?

18 A Approximately somewhere in the
19 neighborhood of three o'clock in the
20 morning. Three a. m.

21 Q Could have been a little later
22 than that?

23 A Yes, sir.

24 Q And who was the first -- were
25 you the first truck there?

1 A I was the first truck in the
2 scene.

3 Q What did you observe upon
4 arriving at the location?

5 A Upon arrival at the location,
6 had heavy smoke and fire coming from the
7 front of the structure.

8 Q And what did you do upon
9 observing this?

10 A At that time we pulled the lines
11 up front and started extinguishing the fires
12 and make entry into the building itself.

13 Q And how did you gain entry into
14 the building?

15 A The one -- well, the main door I
16 guess to the establishment was -- I tried to
17 open it. I don't know if it was from the
18 heat or what, but when it would not open I
19 kicked it and that's when the whole door
20 frame fell in and that's when I did make
21 entry.

22 Q Okay. Did you later determine,
23 did you all later determine whether there
24 were other doors to the building that were
25 unlocked or open?

1 A Yes, we did.

2 Q And what did you determine, sir?

3 A The other front door was closed
4 but it was unlocked and the back door was
5 unlocked and open.

6 MR. DURANT: You have any
7 problems with this?

8 MR. KULP: No, sir.

9 (Whereupon, marked for
10 identification was State's Exhibit No.
11 1, diagram of the scene.)

12 MR. DURANT: Your Honor, I offer
13 State's exhibit one into evidence I
14 believe without objection. It's just a
15 rough sketch of the interior of the
16 Mill Inn, and it is not to scale.

17 MR. KULP: As demonstrative
18 evidence I have no problem with it.

19 THE COURT: As demonstrative,
20 just mark it for identification.

21 MR. DURANT: Well, I actually
22 was going to offer it into evidence.

23 THE COURT: Any objection?

24 MR. KULP: No, sir.

25 MR. DURANT: Several witnesses

1 will be referring to it.

2 THE COURT: Go ahead.

3 MR. KULP: I'm sure it will be
4 supplemented with testimony.

5 (Whereupon, entered into
6 evidence was State's Exhibit No. 1,
7 diagram.)

8 Q Could you tell -- I mean you've
9 seen State's exhibit number one before have
10 you not, sir?

11 A Yes.

12 Q And what does State's exhibit
13 number one depict or show? I mean what,
14 what establishment is this, sir?

15 A The Mill Inn.

16 Q And you indicated to the jury
17 that you had to kick through a door to gain
18 entrance into the Mill Inn. Which door was
19 that?

20 A This door right here.

21 Q Okay. And that is the door that
22 goes into the main bar area?

23 A Yes, sir.

24 Q Actually two front doors?

25 A There's two front doors, yes.

1 Q And you also indicated that
2 there was another door that was unlocked but
3 shut?

4 A Yes, sir.

5 Q Which door was that?

6 A This other door over here.

7 Q And finally you indicated that
8 there was a rear door that was unlocked and
9 open?

10 A This one.

11 Q The rear door in the back?

12 A Rear door in the back.

13 Q That would be the door on the
14 left-hand side if you're looking at the
15 building from the back. Is that correct?

16 A Yes.

17 Q Okay. And just for purposes of
18 the jury, where is the front of the
19 building?

20 A This would be the front of the
21 building here. East Montague Avenue.

22 Q Okay. Thank you, sir.

23 THE COURT: Give it back to the
24 court reporter so she can mark it.

25 MR. DURANT: It's already

1 marked, your Honor.

2 THE COURT: All right. Thank

3 you.

4 Q And how long did it actually
5 take you all to extinguish the fire, if you
6 know?

7 A I really don't have a estimate.
8 Probably couple hours at that time, sir.

9 Q Do you know how many hoses you
10 all have out there and all of that?

11 A It was hard to say. I mean I
12 was busy. I know we've had -- we probably
13 had three pumpers and an aerial truck at the
14 same time, so there was several, put it that
15 way.

16 Q Now, you had three pumper trucks
17 out there and an aerial you said?

18 A Yes, sir.

19 Q At some point after the fire was
20 put out did you have an opportunity to
21 explore the inside of the building?

22 A Yes, I did.

23 Q And could you tell -- were you
24 the one that discovered the victim's body?

25 A Yes, I was.

Cornell -- Direct

1 Q Can you tell him -- them, the
2 jury, how that came about.

3 A In the process of doing a
4 salvage and overhaul operation, you know,
5 going in and looking for hidden fires and
6 hot spots, I just happened to look down on
7 the floor in front of the bar area and I
8 seen something that appeared to, to look
9 like a body and. . .

10 Q Had you already been in the
11 interior of the building for some --

12 A Yes, I have.

13 Q -- period of time by that time?

14 A Yes, sir.

15 Q Were other firemen there as
16 well?

17 A At the time I had a couple other
18 ones with me, yes.

19 Q Did you notice the body
20 initially?

21 A Did I?

22 Q Did you notice the body
23 immediately upon going into the building?

24 A When I first entered it, no, I
25 did not.

Cornell -- Direct

1 Q And why is that, sir?

2 A Busy concentrating on
3 extinguishing the fire. I guess probably at
4 that time of the morning I really didn't
5 realize anybody would be inside.

6 Q What did you do upon discovering
7 the body?

8 A When I discovered the body I got
9 on the radio and notified my lieutenant,
10 chief, that we had found a body inside the
11 establishment and I had everybody leave the
12 building and that's when we secured the
13 scene until the investigators came,
14 investigators got there.

15 Q How extensive was the fire
16 damage to the building?

17 A It was pretty extensive.

18 Q Was there a lot of water inside
19 the building by that time?

20 A Yes.

21 MR. DURANT: May we approach,
22 your Honor?

23 THE COURT: Yes, sir.

24 (Whereupon, there was an
25 off-the-record bench conference.)

Cornell -- Direct

1 THE COURT: Go to your jury room
2 just a minute. Don't get settled.
3 Won't be time enough to smoke. How
4 many smokers do we have? No. Never
5 mind.

6 (The jury leaves the courtroom
7 at 11:57 a. m.)

8 THE COURT: All right. Go
9 ahead. I've looked at those pictures.
10 Solicitor wants to introduce those
11 pictures and you object and my question
12 was, Solicitor, why do you need it?

13 They're not particularly
14 gruesome because it looks like it's
15 pretty well covered. The victim has a
16 lot of ashes and soot and stuff on it.
17 Tell me why you need them in,
18 Solicitor.

19 MR. KULP: Well, actually,
20 Judge, I kind of agree with you. I
21 don't think they're as gruesome as some
22 of the others.

23 MR. DURANT: I can tell you
24 this, there are ones I'll probably try
25 to get in through the medical examiner

Cornell -- Direct

1 that are much more gruesome than those.

2 MR. KULP: I withdraw my

3 objection, your Honor.

4 THE COURT: All right. Bring

5 the jury in.

6 MR. DURANT: I was just about to

7 dazzle you with all my case law, Judge.

8 THE COURT: No, sir. I'm

9 familiar with it. You dazzled me

10 before, or attempted to dazzle me.

11 All right. Bring the jury out.

12 (The jury enters the courtroom

13 at 12:01 p. m.)

14 THE COURT: All right. Go

15 ahead.

16 MR. DURANT: Thank you, your

17 Honor.

18 Your Honor, I now had what's

19 been marked as State's exhibits two,

20 three, four, and five, a group of four

21 photographs taken at the crime scene.

22 I would offer them into evidence I

23 believe without objection.

24 MR. KULP: Without objection.

25 (Whereupon, entered into

Cornell -- Direct

1 evidence were State's Exhibit Nos. 2
2 through 5, photographs.)

3 Q Captain Cornell, I ask that you
4 take a look at State's exhibits two through
5 five. I ask if you've seen those
6 photographs before?

7 A Yes.

8 Q And after my machine gets warmed
9 up I want to put them on there and ask you a
10 couple questions, and you can -- may the
11 witness step down, your Honor, so he can
12 see?

13 THE COURT: Yes, sir.

14 Q Captain Cornell, I'm now
15 exhibiting what's been marked as State's
16 exhibit number two in evidence and ask you
17 if you can tell the jury what that depicts.

18 A That's -- looks like the rear
19 door of the building.

20 Q That's the rear door from the
21 interior, looking out?

22 A Yes.

23 Q Is that correct?

24 A Yes.

25 Q And, okay, referring back to

Cornell -- Direct

1 State's exhibit number one which if you
2 would, sir, could you come here. Stand over
3 here and I need you -- everything I ask you,
4 I need you to speak up so the jury can hear
5 you. And, if you will, could you stand up
6 right over here. Okay.

7 That's the back door of the
8 residence. Could you relate to the jury
9 where that door is located on this diagram?

10 A It would be this door right
11 here, be the rear door. It would be this
12 door right here.

13 Q Okay. And that's a view from
14 the bar area looking to the outside. Is
15 that right?

16 A The outside, yes.

17 Q That door was open when you all
18 arrived at the scene?

19 A It was open.

20 Q Now, showing you what's been
21 marked as State's exhibit number three,
22 previously. That's essentially the same
23 door, sir, from the other side?

24 A Correct.

25 Q Is that correct?

Cornell -- Direct

1 A Correct.

2 Q Now, I'm showing you what's
3 previously been marked as State's exhibit
4 number five, and ask you if you recognize
5 that photograph, sir?

6 A Yes, I do. That's the bar area
7 of the Mill Inn.

8 Q And what is this right here?

9 A That's the body.

10 Q Is that pretty much the way you
11 discovered the crime scene that day?

12 A Yes.

13 Q With all that debris there?

14 A Yes, sir.

15 Q Was it -- could you see that
16 well inside at the time you were in there?

17 A At the time I found the body I
18 couldn't see all that well. Later on you
19 could see real good.

20 Q And why couldn't you see at the
21 time you were in there?

22 A Dark. Didn't have lights.

23 Q How about smoke?

24 A There was some smoke in there at
25 that time.

Cornell -- Direct

1 Q And now showing you what's been
2 marked as State's exhibit number four, ask
3 if you recognize what's depicted in that
4 photo?

5 A Yes. That's the body.

6 Q That would be the rear of the
7 victim's body as she was found lying in
8 there. Is that correct?

9 A Yes.

10 Q Thank you, sir. You can resume
11 your seat. Do you recall seeing the
12 defendant out there that morning?

13 A Yes, I do.

14 Q And do you know what time it was
15 you saw him?

16 A I can't really be sure what time
17 it was. It was after daybreak.

18 Q Would you please answer any
19 questions Mr. Kulp may have for you.

20 THE WITNESS: Yes, sir.

21 MR. KULP: Thank you, sir. May
22 it please the Court.

23

24

25

Cornell -- Cross

1 CROSS-EXAMINATION BY MR. KULP:

2 Q Captain Cornell, just a few
3 questions for you. How far away is your
4 station from the Mill Inn?

5 A Maybe a block, half a block.
6 Right around the corner.

7 Q And prior to being notified as
8 you've testified about the fire happening,
9 did you receive any complaints of any nature
10 before that?

11 A Prior to us receiving the call?

12 Q Yes. That's a silly question,
13 but --

14 A No, sir.

15 Q Did anyone at the station there
16 a block away detect any smoke or fire is
17 what I'm getting at, that would cause you to
18 be on the way to the Mill at the time before
19 you got the call to go?

20 A No.

21 Q Okay. So a block away you
22 didn't notice or detect as firemen and
23 trained to do the job you do, of any fire in
24 the area?

25 A No.

Cornell -- Cross

1 Q Now, what time did the fire
2 start?

3 A I'm not really sure. I mean it
4 was -- it was after three a. m. in the
5 morning.

6 Q Did you find a, a burned wrist
7 watch at the scene?

8 A Did I?

9 Q Did you see a burned wrist watch
10 found at the scene?

11 A No, I did not.

12 Q Did you discover any remnant of
13 a tin cash or metal money box at the scene?

14 A I personally did not.

15 Q Did you detect that there was
16 any accelerant to cause the fire at the
17 scene?

18 A No, I did not.

19 Q Did you conduct any testing or
20 was any testing conducted in your presence
21 at the scene to determine if there was any
22 accelerant in the fire?

23 A I did not do any testing,
24 myself. I know that the City of North
25 Charleston Fire Department arson

1 investigator was called to the scene.

2 Q Okay.

3 A Later on.

4 Q And did you testify that -- how
5 long did it take you to put out the fire?

6 A Couple hours.

7 MR. KULP: Thank you, sir. No
8 further questions. Thank you, your
9 Honor.

10 MR. DURANT: Nothing further of
11 this witness, your Honor, and I'd also
12 ask that he be excused.

13 THE COURT: Any objection?

14 MR. KULP: None whatsoever.

15 THE COURT: Have a good day.

16 MR. DURANT: The State would
17 call Margaret Jensen White.

18 THE COURT: Margaret Jensen
19 White.

20

21

22

23

24

25

White -- Direct

1 M A R G A R E T A N N

2 J E N S E N W H I T E, having been
3 called as a witness in the presence of
4 the jury, is duly sworn and testifies
5 as follows:

6 DIRECT EXAMINATION BY MR.

7 DURANT:

8 Q Good afternoon, Miss White.

9 Could you please relate to the jury your
10 age.

11 A Forty-one.

12 Q And are you currently employed?

13 A No.

14 Q Your husband -- you're married,
15 correct?

16 A Correct.

17 Q Your husband I believe owns a
18 flooring business?

19 A Yes.

20 Q You have kids?

21 A Yes, sir.

22 Q How many kids you have?

23 A Six all together.

24 Q Now, I want to take you back to
25 March of 1997. Where were you employed at

White -- Direct

1 that time?

2 A The Mill Inn.

3 Q That would be on East Montague
4 Avenue?

5 A Yes, sir.

6 Q And in what capacity were you
7 employed at the Mill Inn? What did you do
8 there?

9 A Bartender.

10 Q And how long had you been a
11 bartender at the Mill Inn?

12 A Roughly around between -- it was
13 longer than six months. Almost a year.

14 Q Okay. And who was your
15 employer?

16 A Teresa Haught.

17 Q What was your relationship with
18 Teresa, purely an employer-employee type
19 relationship? Did you all have any kind of
20 social relationship in addition to that?

21 A It was all of it that you said.

22 Q Of both, you mean?

23 A Yeah. Both.

24 Q Okay. Did you see her socially
25 on occasion?

White -- Direct

1091

1 A Yes.

2 Q Was that very frequently?

3 A Yeah.

4 Q Okay. I'm not talking -- I'm
5 talking about other than at the bar itself.
6 I know obviously you saw her every day at
7 the bar?

8 A Uh-huh.

9 Q I mean other than the bar. Did
10 you see her frequently?

11 A Occasionally, yes.

12 Q Okay. How long had you known
13 Teresa?

14 A Since I had started working
15 there.

16 Q Do you also know the defendant
17 in this case, Wesley Myers?

18 A Yes, I do.

19 Q And how did you know Wesley?

20 A Through Teresa.

21 Q You were familiar that Wesley
22 and Teresa had a relationship?

23 A Yes, sir.

24 Q How would you describe that
25 relationship?

White -- Direct

1 A Rocky.

2 Q Why do you say it was rocky?

3 A Arguing all the time and --

4 Q What did they argue about?

5 A Anything and everything. Mainly
6 about Wesley's possessiveness and his
7 drinking of liquor.

8 Q So you saw them fighting about
9 those issues on occasion?

10 A Yes, sir.

11 MR. KULP: Object to the form of
12 the question. I think she said
13 arguing.

14 Q I mischaracterized that. When I
15 say fighting I'm not talking about fist
16 fighting, okay? I'm just talking about
17 you'd seen them arguing.

18 A Yes, sir.

19 MR. DURANT: Is that better,
20 Mr. Kulp?

21 MR. KULP: Yes, sir. It's
22 accurate.

23 Q With regard to the relationship
24 itself, do you know what the status of their
25 relationship was as of March thirteen of

White -- Direct

1 1997?

2 A She was trying to break it off
3 with him.

4 Q And how do you know this?

5 A Because he had called the bar
6 and she had told me.

7 MR. KULP: I think I have to
8 interpose a hearsay objection.

9 THE COURT: Well, what do you
10 want me to do?

11 Q Did she tell you this?

12 A Yes.

13 Q Or were you there when the phone
14 call came in?

15 A She told me that. She told me.

16 THE COURT: All right. That is
17 hearsay. Let me tell you what hearsay
18 is, Madam Forelady, members of the
19 jury. It's when somebody said somebody
20 said something and they're not here,
21 that's called hearsay, and I sustain
22 that objection.

23 MR. DURANT: Yes, sir, your
24 Honor.

25 Q Were you working on March twelve

White -- Direct

1 of 1997? That would be a Wednesday, the
2 Wednesday before that, with Teresa?

3 A Yes, sir.

4 Q Do you recall what shift you
5 were working?

6 A Second.

7 Q And when does the second shift
8 run about?

9 A Usually from five till two.

10 Q Okay. Five till two o'clock in
11 the morning?

12 A Right. One or two.

13 Q Now, do you remember going to
14 work that day?

15 A Yes, sir.

16 Q And do you remember -- who is
17 Little Alan White?

18 A The first shift bartender.

19 Q Do you remember seeing a note on
20 the bar that day?

21 A Yes, sir.

22 Q And who was that note from?

23 A Alan.

24 Q And who was that note to?

25 A Teresa.

White -- Direct

1 Q Do you remember what that note
2 said?

3 A Not exactly.

4 Q Do you know the substance of it?

5 A Sexual innuendos.

6 Q Where was that note located
7 physically in the bar?

8 A On the bar, right by Teresa.

9 Q Okay. And where, what part of
10 the bar? The bar, I think we've seen a
11 picture, runs pretty much the length, the
12 whole one side of the building. Was it near
13 anything?

14 A Near the corner.

15 Q Okay. Is that near where the
16 cash register is, too?

17 A Yes, sir.

18 Q And I'm going to refer your
19 attention to State's exhibit number one. I
20 believe you've seen this diagram before. Is
21 that correct?

22 A Yes, sir.

23 Q And where do you remember seeing
24 that note that day?

25 A That's the front door where

White -- Direct

1 everybody came in and she was sitting about
2 right here and the note was about right in
3 here.

4 Q And where's the cash register?

5 A About right in here, sir.

6 Q Okay. Now, I think the police
7 talked to you two times on March the
8 thirteenth of 1997. Is that correct?

9 A Yes, sir.

10 Q You gave them two different
11 statements?

12 A Yes, sir.

13 Q Did you ever tell the police
14 about this note?

15 A I believe I did.

16 Q Is it in your statement? Would
17 you like to review your statement?

18 A Yes, sir. Please.

19 Q I'm handing you two documents
20 now which purport to be two different
21 statements. Just ask you to look through
22 those, please.

23 Have you had a chance to review
24 both of them?

25 A Yes, sir.

White -- Direct

1 Q And could you tell the jury just
2 what time those statements were given?
3 There should be -- it should be written on
4 the top.

5 A It says oh five hundred hours, I
6 believe the one is. Oh. 10:20 a. m.

7 Q And how about the other?

8 A Seventeen forty-five.

9 Q Would that be on the same day,
10 both on March thirteenth. Is that correct?

11 A Yes, sir. Yes, sir.

12 Q So one at 10:30 a. m., one was
13 at 5:45 in the afternoon. Is that correct?

14 A Yes, sir.

15 Q Did you ever mention anything to
16 the police about seeing a note inside the
17 bar?

18 A No, sir.

19 Q And would you have had any
20 reason to tell the police about seeing a
21 note inside the bar?

22 A No, sir. Thinking about it now,
23 no.

24 Q So did they ask you about a note
25 inside the bar?

White -- Direct

1 A No, sir.

2 Q In fact did anybody ask you
3 about a note inside, inside this bar before
4 last year when you talked to Investigator
5 Casey in my office?

6 A No. That was the first time I
7 was asked about it, and I said I did
8 remember the note.

9 Q Okay. Do you remember what
10 color the note was?

11 A No. Not really.

12 Q Okay. Now, do you know why Alan
13 wrote that note? Do you know if he, he was
14 having a relationship with Teresa, for
15 example?

16 A No. We -- he always did that.
17 Always. It was a joke, you know. We had
18 fun with it.

19 Q He was a prankster kind?

20 A Right.

21 Q Were you also aware of something
22 that Alan had written on the windshield?

23 A Yes, because we all made fun of
24 that and laughed and joked.

25 Q And when I say the windshield,

White -- Direct

1 do you know whose car was that that he
2 wrote --

3 A Teresa's car.

4 Q Okay. So I presume you got to
5 work around five that, that evening, that
6 afternoon. Is that correct?

7 A Yeah. It was around four,
8 though. I got there a little bit early.

9 Q Did anything unusual happen at
10 the bar that day?

11 A No. I mean I came in and it was
12 just regular.

13 Q Was Teresa at the bar that
14 afternoon?

15 A Yes. Uh-huh.

16 Q And she was drinking, right?

17 A Not at first. She went to the
18 store and made her run for the bar, and
19 whenever she came back then she started
20 drinking. K. P. played the guitar.

21 Q And you were in the bar until it
22 closed that night. Is that correct?

23 A Yes, sir.

24 Q Wes Myers ever come into the bar
25 that afternoon?

White -- Direct

1 A No, sir. Not that while I was
2 there.

3 Q Okay. And you were there the
4 whole time, were you not?

5 A Yes, sir.

6 Q I mean from four till closing?

7 A Right.

8 Q Did he call the bar?

9 A Yes.

10 Q How many times did he call the
11 bar?

12 A It was a few times, you know.
13 At least three to five times that I can
14 remember. I mean he, he called there quite
15 a few times.

16 Q Did you answer the phone?

17 A Yes, sir. Every occasion.

18 Q So you knew it was him on the
19 phone?

20 A Yes, sir.

21 Q And what did he want?

22 A Teresa.

23 Q And did Teresa talk to him?

24 A She talked to him I think it was
25 twice and then she didn't want to talk to

1 him any more.

2 Q And that was relayed to you?

3 A Yes. Teresa told me that she
4 didn't want to.

5 Q So what did you tell Mr. Myers
6 when he called the last two or three times?

7 A I had told him that Teresa --
8 one side story. I told him that she wasn't
9 there, she left. And then I told him that
10 she said she didn't want to talk and he
11 heard that over the background. He had to
12 have.

13 Q You're friendly with Tammy
14 Gonzales?

15 A Yes, sir.

16 Q Was Tammy at the bar that night?

17 A She had dropped me off to work
18 and she had to go to work at bingo and then
19 she picked me up after she got off of work.

20 Q Okay. So she was your
21 transportation?

22 A Yes, sir.

23 Q Did she come by to pick you up
24 that evening?

25 A Yes, sir.

White -- Direct

1 Q Do you remember what time it was
2 that Tammy got there?

3 A About a little bit after twelve
4 midnight, somewhere around, around there.

5 Q What was Teresa doing when Tammy
6 got there?

7 A Teresa was -- she had her head
8 on the bar, sleeping.

9 Q She was sitting at the bar at
10 that time?

11 A Uh-huh.

12 Q Now, do you know whether or not
13 Teresa's pants were unfastened?

14 A They were unfastened.

15 Q And do you know how they came to
16 be unfastened?

17 A Yeah. She did it.

18 Q When did she do it?

19 A Earlier that night. She just
20 got bloated, I guess. You know how you
21 drink a few beers and you get bloated and
22 just undo your britches so you have your
23 belly rest.

24 Q You saw her do that that night?

25 A Yes, sir, because we joked about

White -- Direct

1 it.

2 Q You all joked about it?

3 A Yep.

4 Q Now, how did you all come to
5 close the bar that night? Did that bar --
6 let me ask you this. Does that bar usually
7 close or did it stay open all night at the
8 time?

9 A No. We usually closed during
10 the week nights and on the weekends if we
11 had a good crowd it would stay open.

12 Q Okay. But what happened that
13 night? Did you all stay open that -- this
14 was what day of the week? Thursday morning?
15 Is that right? Early?

16 A Wednesday night, Thursday
17 morning.

18 Q Okay. Did you all stay open all
19 that night?

20 A No, sir.

21 Q How did you all come around to
22 closing the bar?

23 A It was pretty much dead in
24 there, and I woke Teresa up and I asked her
25 did she want me to close the bar and she

White -- Direct

1 just lifted her head and said the bar is
2 closed.

3 Q Do you recall what time that
4 was?

5 A It was probably a little bit
6 after one.

7 Q What did she do after she said
8 the bar is closed?

9 A She at first -- they have -- she
10 laid her head back down and then me and
11 Tammy had both asked her did she want us to
12 give her a ride home, or was she going to go
13 home? And Teresa said no, that she was
14 going to stay there that night. So she
15 finally got up and went to the pool table.

16 Q Okay. Now, how did you -- did
17 Tammy help close up?

18 A Yes.

19 Q How did you all go about that
20 process? What did you do and what did Tammy
21 do?

22 A I did the money and paperwork,
23 and Tammy checked the bathrooms and the back
24 doors and then whenever I got done with my
25 paperwork and my money I also checked the

White -- Direct

1 back doors and the front doors.

2 Q Okay. Now, what do you -- when
3 you say you "do the money", what do you mean
4 you "do the money"?

5 A I put some money in Teresa's
6 purse and then the rest of the money I put
7 in a paper -- brown paper bag that -- we had
8 paper bags in the freezer, and that didn't
9 work in the refrigerator thing, and I took
10 the money and put it in that and then put it
11 in the freezer in the back of the bar, in
12 the refrigerator freezer.

13 Q Why did you all do the money
14 like that?

15 A Because for first shift the next
16 morning so the money would be there to open
17 the bar.

18 Q And the money that you kept in
19 the, the freezer was the money that you all
20 kept to open the bar the next day?

21 A Yes, sir.

22 Q Okay. And referring back to
23 State's exhibit number one again, could you
24 just show the jury where the freezer in the
25 bar is that you put the, the money, the

White -- Direct

1 opening up money?

2 A That was the refrigerator
3 freezer and that's where I put the money, in
4 this one.

5 Q Okay. Do you recall how much
6 money it was?

7 A Not right offhand I don't.

8 Q Do you recall how much money you
9 put in Teresa's pocketbook?

10 A No, sir. Not. . .

11 Q What did you do with Teresa's
12 pocketbook?

13 A I put it in the little cooler
14 where I got the brown bag at to put the
15 money in to put in the freezer. I put it in
16 the cooler right next to the cash register.

17 Q Okay. Now, you're pointing?

18 A Oh, I meant --

19 Q Okay. So the, the cooler was
20 behind the bar?

21 A Yes, sir. It was behind the bar
22 back here and then there was the register
23 like right in here and then there was a
24 cooler that didn't work right here and beer
25 tap, you know what I'm talking about, for

White -- Direct

1 draft beer and stuff like that. But this
2 one didn't work and that's what we used for
3 storage area, and that's where I put the
4 purse.

5 Q Okay. Thank you. Had you ever
6 stored her purse in that location before?

7 A Yes, sir.

8 Q Did she routinely store her
9 purse in that location?

10 A That's where I always put it, so
11 I reckon so.

12 Q Okay. Now, after you took care
13 of the money -- by the way, had Mr. Myers
14 ever been there at closing time before?

15 A Yes, sir.

16 Q He wasn't there that night,
17 though?

18 A No, sir.

19 Q Do you recall what time it was
20 when you actually left the bar that night?

21 A When I walked away and I
22 officially closed the bar it was 1:24.

23 Q Okay. Who all was actually in
24 the bar when you all left?

25 A Teresa, Tammy, Woody, and

White -- Direct

1 myself.

2 Q Okay. And did you all send

3 Woody outside?

4 A Yes, sir.

5 Q And you all did that before you

6 locked up the bar?

7 A Yes, sir.

8 Q Now, did you check all the doors

9 to the bar yourself?

10 A Yes, sir.

11 Q And were, were they locked or

12 unlocked?

13 A They were all locked.

14 Q And what door did you all leave

15 through?

16 A The front door closest to the

17 bar.

18 Q Okay. And did you personally

19 lock that door?

20 A Yes, sir.

21 Q Where did you get the key to

22 lock that door?

23 A Out of the register. Teresa

24 told me where it was.

25 Q Okay. And you locked it from

White -- Direct

1 the outside and what were you to do? Did
2 you always have that key with you or --

3 A No, sir. I was to bring it back
4 with me the next day and then put it back in
5 the register.

6 Q Okay. Do you know if that was
7 the only key to that lock?

8 A No. Teresa had another key.

9 Q Okay. Now, what was Teresa
10 doing when you actually locked the door,
11 when you -- the bar side door when you left?

12 A Laying on the front pool table
13 with her back turned against the bar.

14 Q And once again referring to
15 State's exhibit number one, which pool table
16 would that be?

17 A The one closest to the front
18 door. She was right here and her head was
19 here and her feet were there and her back
20 was -- her back was facing the bar.

21 Q Her back was toward the bar
22 side?

23 A Right. Uh-huh.

24 Q And after you locked the door,
25 what happened?

White -- Direct

1 A After I locked the door I turned
2 around and a customer was coming up from his
3 car from across the street, named Dana. And
4 I told him the bar is closed, he'd have to
5 come back tomorrow. And he started coming
6 up towards us and he went to my girlfriend
7 Tammy.

8 Q What was he doing with Tammy?

9 A Just sweet-talking her and
10 trying to be very aggressive with her.

11 Q What was Dana Chaples' state of
12 sobriety?

13 A Drunk.

14 Q Very drunk?

15 A He was drunk.

16 Q What happened after Tammy
17 rebuffed him or told him to go away?

18 A After he finally left her, the
19 last time I seen him he was walking towards
20 his car, getting into his car and that's the
21 last time I seen him.

22 Q Okay. And where did you all go?

23 A We dropped Woody off at home,
24 and then we went to Super K-Mart and then we
25 went home.

White -- Direct

1 Q Okay. Court's indulgence for
2 just a moment.

3 Do you know why Teresa was
4 staying at the bar that night?

5 A I vaguely remember her saying
6 that she was going to clean up the bar.

7 Q Okay. Could you please answer
8 any questions Mr. Kulp may have for you.
9 Thank you for your testimony.

10

11

12

13

14 CROSS-EXAMINATION BY MR. KULP:

15 Q Thank you. May it please the
16 Court. Miss Jensen --

17 A White.

18 Q I'm sorry. Miss White. Excuse
19 me. I'm sorry.

20 A Uh-huh.

21 Q Miss White, you've testified
22 that the note that you mentioned from little
23 Alan White was considered a joke like the
24 message on this windshield.

25 A Yes.

White -- Cross

1 Q In fact Alan White was kind of
2 like that, kind of a jokey, flirting kind of
3 fellow. Correct?

4 A Yes.

5 Q And he did it all the time?

6 A Yes.

7 Q Now, you know that Teresa spent
8 Monday night, Teresa and Wes Myers spent
9 Monday night together?

10 A Yes.

11 Q Okay.

12 A They spent a lot of nights
13 together.

14 Q And for the ladies and gentlemen
15 of the jury, this bar that you've described,
16 it's, it's a bar where people come to get
17 just drunk. I mean they drink very heavily
18 there. Correct?

19 A Not everybody.

20 Q A number of people do?

21 A Yes.

22 Q In fact people have passed out
23 cold there on the floor before and jokingly
24 some of the patrons will put a chalk line
25 around them. You've seen that before,

White -- Cross

1 haven't you?

2 A No.

3 Q You've never seen that?

4 A No.

5 Q Well, let me ask you, is it your
6 testimony that you did not tell the police
7 about the note?

8 A Yes.

9 Q Okay. Now you were there at the
10 scene that morning. The police summoned or
11 called or came and got you.

12 A Come and got me.

13 Q Come and got you from your
14 house, apartment or house?

15 A Yes.

16 Q And brought you to the scene?

17 A Yes.

18 Q And when you got to the scene
19 one of the things they asked you about of
20 course was the writing on Teresa's
21 windshield. Correct?

22 A I don't recall.

23 Q Okay. They may have or may have
24 mentioned it to you or made some comment?

25 A They could have. I don't

White -- Cross

1 recall.

2 Q Well, they interviewed you
3 fairly thoroughly about the circumstances of
4 the prior evening, did they not, and they
5 got as much information from you as they
6 could. Correct?

7 A Yes. At that time.

8 Q And while you were there, Alan
9 White came up on the scene because he was
10 going to open the bar at seven or eight
11 a. m. that morning. Correct?

12 A Yes.

13 Q You saw him there and you saw
14 the police talking to him as well at any
15 point?

16 A Yes.

17 Q Right. And were you privy and
18 present to the degree that you could tell or
19 overhear what they were discussing with Mr.
20 White?

21 A No.

22 Q Okay. Now, you testified that
23 Wes Myers called the bar several times that
24 night.

25 A Yes.

White -- Cross

1 Q Do you recall the last time or
2 the latest time he called, per chance? I
3 know it's been a while.

4 A I don't know. It had -- could
5 have been around eleven, right after eleven.
6 Somewhere around there. It was late.

7 Q Okay. Do you know where he was
8 calling from?

9 A No.

10 Q Okay. Now, during the time --
11 well, excuse me one second. Do you recall
12 where, having worked that cash box that was
13 there that was used like a, a gray metal or
14 beige kind of cash box with a plastic drawer
15 in it that was sometimes used for the next
16 day's start-up money or the bank or what you
17 call it in a bar, you know, the starting
18 bank?

19 A I always put the money in the
20 freezer.

21 Q Okay. But do you happen to
22 recall if you ever saw that?

23 A I don't recall it --

24 Q Okay.

25 A -- right now.

White -- Cross

1 Q Now, frequently in the Mill
2 there would be cook-outs back there from
3 time-to-time?

4 A Yes.

5 Q And people would go out there
6 and drink beer and drink alcohol and have
7 cook-outs among the people because it was a
8 private club. Correct?

9 A Yes.

10 Q And a number of people came
11 there to participate in social activities?

12 A Yes.

13 Q And because of that out there in
14 the cook-out area there was frequently in
15 different quantities from time-to-time
16 charcoal and lighter fluid to, to get the
17 charcoal to burn at the barbeque. Correct?

18 A No.

19 Q As a matter of fact, most of the
20 people that came to the Mill Inn smoked
21 cigarettes?

22 A Yes.

23 Q And they would -- would some of
24 them have Zippo lighters, the old
25 traditional flint wheel Zippo lighter?

White -- Cross

1 A I'm sure they did.

2 Q Do you know if kept behind the
3 bar was a bottle or can of lighter fluid
4 like Ronson lighter fluid or something like
5 that for the convenience of the patrons?

6 A I don't recall.

7 Q Okay. Well, you kept treats as
8 well, too, such as potato chips and snacks
9 or whatever behind the bar; beer nuts and
10 crackers or --

11 A Yes.

12 Q Okay. And exactly where if
13 you -- may I approach the witness, your
14 Honor?

15 THE COURT: Yes.

16 Q Looking at the chart the State
17 is using, here, the bar, you've -- let me
18 ask -- excuse me one second.

19 Now, you testified before, just
20 use my blue pen if you will without writing
21 and just as a pointer, please, ma'am, and
22 just point. The bar is the area here.
23 Correct?

24 A Uh-huh.

25 Q And you pointed before to where

White -- Cross

1 you feel -- when Mr. Durant was questioning
2 you about the location of the cash register?

3 A Uh-huh.

4 Q Could you please point to that
5 again. Let me get this out of your way.
6 There we go.

7 A About right in here is the
8 register and then there was a cooler and
9 that we didn't use but for storage and then
10 there's the beer draft and the most --
11 sometimes we had pickles there that people
12 pulled -- I mean a bowl of eggs --

13 Q Right.

14 A -- is what we had there, and
15 because we had snacks back in here, and
16 aspirin and things. I can't remember.

17 Q Did you have a trash can behind
18 the bar?

19 A Had, if I remember correctly,
20 the trash can was -- is right in here or in
21 the corner right there. I think it was
22 right in here somewhere.

23 Q Okay. And what type of trash
24 can was that?

25 A A big old trash can.

White -- Cross

1 Q Plastic or polyurethane?

2 A Like a big old plastic garbage
3 can.

4 Q Okay. And did you have any
5 other food stuffs or snacks along the back
6 of the wall back over here?

7 A Not that I recall.

8 Q Okay. All right. Was any --
9 you said the cash register was right about
10 here. Was anything over on this side of the
11 cash register?

12 A Yeah. There was another cooler.

13 Q That worked?

14 A Yeah.

15 Q Okay. And did you have a flag
16 hanging on the back wall there in the area?

17 A All I remember is a mirror.

18 Q A mirror?

19 A Yeah.

20 Q You don't remember a flag?

21 A No. I remember the mirror.

22 Q Okay. And this door that you're
23 talking about back here or rather -- well,
24 the outer-most outside door, that door is
25 secured by putting or customarily then was

White -- Cross

1 by dropping a two-by-four that drops down
2 into some metal frame in order to secure it,
3 and other than the two-by-four back there
4 being on it, would it lock?

5 A Oh, no.

6 Q If you didn't put the
7 two-by-four back there you could come and go
8 as you pleased?

9 A Right.

10 Q And there's a -- is a door back
11 over here, isn't there, that leads out?

12 A Yes.

13 Q That wasn't used very much?

14 A No.

15 Q The refrigerator you're talking
16 about is about right here?

17 A Uh-huh.

18 Q And that's where you put the
19 money you secured that night, in the
20 freezer?

21 A Right.

22 Q All right. Thank you. Thank
23 you, ma'am. You said before -- well, can
24 you point out here where the charcoal and
25 the lighter fluid, the charcoal starter

White -- Cross

1 stuff for the grill would have been, would
2 have been maintained or kept?

3 A It would be somewhere like back
4 in here.

5 Q Under a little ledge?

6 A Right in -- somewhere back in
7 here because they have it different places.
8 Like you have the smoke trash can for turkey
9 would be back over here and when you have a
10 barbeque it would be right in here. The
11 whole area would be taken up.

12 Q Were there any other trash cans
13 behind the bar besides the one you pointed
14 out over here? Maybe one in the opening in
15 the bar itself?

16 A Yeah. There was another one.

17 Q Where was that? (Mr. Kulp
18 points.)

19 A No. It was somewhere down
20 there.

21 Q In this area?

22 A No. It would be down in this
23 area.

24 Q Okay. All right. Now, before
25 you left that night you cleaned up the bar,

White -- Cross

1 standard operating procedure?

2 A Uh-huh.

3 Q Secured it as you said. Did you
4 notice a wrist watch on the floor of the bar
5 in any area?

6 A No.

7 Q Did you or Mrs. Gonzales lose a
8 wrist watch there that evening?

9 A No.

10 Q Okay. Now, did you have little
11 a smallish meat cleaver there at the bar
12 that you used?

13 A Had lots of knives.

14 Q Okay. Do you particularly
15 recall a meat cleaver?

16 A We had a couple of those.

17 Q Okay. And when you left that
18 evening and secured the bar with Teresa
19 being on the pool table, would you have left
20 one of the meat cleavers out laying on the
21 floor, lying on the floor?

22 A Not lying on the floor.

23 Q Okay.

24 A And every knife -- every bar has
25 knives you use to slice stuff with, so. . .

White -- Cross

1 Q Yes, ma'am. Now, when you came
2 on about five o'clock that night, four, five
3 o'clock that when Miss Gonzales dropped you
4 off to begin your work shift, were there
5 people there at the Mill at that time?

6 A Uh-huh.

7 Q Usually who was there then?

8 A For the most part.

9 Q Can you name them?

10 A Yeah.

11 Q Would you, please?

12 A Oh. Sorry.

13 Q That's all right.

14 A There was Teresa. K. P.

15 Deanna. And Elvis. Wait a minute.

16 Q If you want to refresh your
17 recollection. . .

18 A Teresa's ex-sister-in-law,
19 Regina.

20 Q Regina?

21 A Yeah.

22 Q Feel free to look at your
23 statement.

24 Does she still --

25 MR. DURANT: She doesn't have it

White -- Cross

1 any more.

2 Q There you go. My question was,
3 do you recall who you saw when you arrived
4 that evening, and I believe the statement
5 taken from you contemporaneous with this
6 event does indicate that Teresa was there,
7 Alan White?

8 A Yeah.

9 Q Colvert or Colvern?

10 A And his friend.

11 Q Colvern's friend, Ronnie
12 Chambers, and his friend whose name you
13 didn't know, Paul, Regina, Carl, Diana, K.
14 P. And then later Elvis came in, named
15 Edale, Elvis is his nickname?

16 A Yeah.

17 Q And then Ronnie Schockly came in
18 for two or three minutes and left?

19 A Uh-huh.

20 Q And then Teresa -- and I think
21 that was about, about 6:30?

22 A Yeah.

23 Q And then Teresa left to do a
24 beer run, to get beer for the bar?

25 A Uh-hum.

White -- Cross

1 Q And she came back?

2 A Uh-huh.

3 Q And she got back about 6:30

4 p. m.?

5 A Uh-huh.

6 Q And --

7 A Yes.

8 Q She came back and then she
9 started drinking beer?

10 A Yeah.

11 Q And then Jack Roach, who's
12 called Outback, Jack came into the bar about
13 7:30, and Teresa was talking to him about
14 9:30 or ten?

15 A Hum. Somewhere around then,
16 yeah.

17 Q Okay. And there were no fights
18 in the bar?

19 A Nope.

20 Q And Mort and Glenn came in about
21 11:10. Now, you recall or told the police
22 then that Teresa had been drinking about
23 eighteen beers by 11:30, which would be over
24 a five-hour time period?

25 A Uh-huh.

White -- Cross

- 1 Q And she was pretty well drunk by
2 this time. Correct?
- 3 A Yeah.
- 4 Q And then Johnny and his friend
5 came in the bar about 11:15 p. m.?
- 6 A Uh-huh.
- 7 Q Do you know Johnny's last name?
- 8 A No.
- 9 Q Okay. And then Mort and Glenn
10 left?
- 11 A Uh-huh.
- 12 Q And then at that time which I
13 assume would be roughly 11:15, Teresa was
14 sitting on a bar stool at the bar and she
15 passed out?
- 16 A Yeah. She went to sleep.
- 17 Q She had been drinking, drinking
18 eighteen beers, and she went to sleep?
- 19 A Yeah.
- 20 Q Now, then I want to ask you
21 about this very carefully. A blond haired
22 white male wearing jeans came in the bar,
23 drank one beer, a Bud in a bottle, shot a
24 game of pool, played the poker machine, and
25 left at about 11:45. Who was that man?

1 A I don't know. He'd been in
2 there a couple of other times and normally
3 he just drank one, one or two beers while he
4 played the poker machine, and then he'd
5 leave.

6 Q Okay. At that time, if the
7 times I'm reading from your statement are
8 correct or my review of them is, then when
9 he came in Teresa was passed out at the bar
10 or asleep at the bar?

11 A Uh-huh.

12 Q Okay. Now, let me hand you,
13 Miss White -- may I approach the witness,
14 your Honor? Ask you can you identify that
15 man?

16 A Yeah.

17 Q Who is that man?

18 A Looks like Wesley to me.

19 Q Okay.

20 A Yeah.

21 Q Okay. Well, for the record,
22 it's, it's not Wesley.

23 A Oh. Looked like him.

24 Q Did this man come in the bar
25 that evening? Have you ever seen him there?

White -- Cross

- 1 A Not that evening.
- 2 Q Okay.
- 3 A I don't think so.
- 4 Q Do you know a man named William
- 5 or Billy McKinnon?
- 6 A McKinnon?
- 7 Q Mc, K-i-n-n-o-n.
- 8 A Uh-huh.
- 9 Q Now is that man that came in,
- 10 the blond haired man wearing jeans, you said
- 11 you'd seen him in there before but you don't
- 12 know his name.
- 13 A Un-un.
- 14 Q Okay. Blond haired. And when
- 15 he left, what time did he leave?
- 16 A As a matter of fact that guy's
- 17 from Myrtle Beach if I remember Teresa
- 18 telling me once and he, he'd come into town,
- 19 he would play the poker machine for a while
- 20 and drink one or two Buds and leave.
- 21 Q He's from Myrtle Beach?
- 22 A That's -- if I recall right,
- 23 that's what Teresa said that he was from.
- 24 Q Yes, ma'am. And did he -- did
- 25 anyone else know his name or --

White -- Cross

1 A Teresa knew him and a couple of
2 other people knew him.

3 Q Who are -- what other people?

4 A But none of them were in that
5 bar that night.

6 Q Right. Of course. I mean who
7 else knew him that you can name?

8 A I think Elvis had knew who he
9 was because Elvis spoke to him before.

10 Q Okay. And anyone else besides
11 Elvis? All right?

12 A Not that I can recall right off
13 hand.

14 Q All right. A -- at a certain
15 point, though, you woke Teresa as she was
16 sleeping at the bar, and you were having a
17 hard time waking her up?

18 A Yeah.

19 Q And you asked her if you wanted
20 to -- if she wanted you to close the bar, or
21 keep the bar open, and she lifted up her
22 head and said the bar is closed?

23 A Uh-huh.

24 Q And that at 1:24 a. m. she got
25 up and walked over to the pool table and

White -- Cross

1 passed out on the pool table?

2 A She went to sleep on the pool
3 table, yeah.

4 Q But in your statement before
5 you -- the words you used were "passed out"?

6 A All right. Well. . .

7 Q Okay. And then you put the
8 money in the refrigerator freezer and
9 checked the back door without the wood bar
10 across it?

11 A Uh-huh.

12 Q So that time the wood bar was --
13 the two-by-four bar was not on the door?

14 A Yes, it was.

15 Q Oh, it was?

16 A Yeah. Tammy had already done
17 all of that, but I went behind her and
18 checked her.

19 Q Okay. And did you then put
20 Teresa's purse in the freezer which is next
21 to the cash register?

22 A I put it into the freezer next
23 to the register before I even took the money
24 back to the freezer.

25 Q Okay. Well, please look at your

White -- Cross

1 statement, the three-page statement. On --

2 A Right.

3 Q On page three, line -- about the
4 fourth line down you said, "Johnny, his
5 friend, Tammy, and Woody were present at
6 this time."

7 A Hum.

8 Q As you were putting her purse in
9 the freezer. That's what you wrote then?

10 A They were at the bar.

11 Q Right. They were present there?

12 A And I made them go outside,
13 though.

14 Q Okay.

15 A But they were still there at the
16 bar.

17 Q And then you said --

18 A And Johnny wanted me to take him
19 home -- he wanted to take me home.

20 Q Right. Okay. And you were
21 having a hard time getting Johnny out
22 because he wanted to give you a ride home?

23 A Right.

24 Q So he was there in the bar at
25 the time you put her purse --

White -- Cross

1 police and they were talking to you, and
2 they were interviewing you to get all the
3 details about what information you had about
4 this event, you indicated to them and told
5 them that Mr. Chaples was there at the bar
6 when you were leaving, walking to his car?

7 A Right.

8 Q And at some point the police
9 came back to you and asked you to get in a
10 car and go with them to observe Mr. Chaples
11 in a location at Spruill and Bexley?

12 A Yes.

13 Q And at that time you looked over
14 at Mr. Chaples and identified him as being
15 the person who was at the bar when you left,
16 walking to his car?

17 A Right.

18 Q Except that you told the police
19 something, didn't you? You told the police
20 that he shaved his mustache off --

21 A Yes.

22 Q -- between the time that you saw
23 him there at 1:30 and the time you
24 identified him the next day?

25 A Yes.

White -- Cross

1 Q And when you -- when you saw
2 Mr. Chaples there outside the bar, he was
3 hitting up on Tammy, too, making advances
4 with her?

5 A Uh-huh.

6 Q Bear with me one second. May I
7 approach the witness, your Honor? Let me
8 hand you this photograph and ask you if you
9 can identify what's depicted therein?

10 A What do you mean?

11 Q What is that? Can you tell me
12 what that is?

13 A That's a knife.

14 Q Okay. And do you recall having
15 a knife that appeared like that knife at the
16 bar?

17 A We had a whole bunch of knives.
18 I can't recall.

19 Q For sure?

20 A I really can't. We had -- we
21 had a whole bunch of knives. Every bar has
22 a whole bunch of knives.

23 Q Thank you, ma'am. Thank you,
24 Miss White.

25 MR. DURANT: Just a couple.

White -- Redirect

1

2

3

4

5

REDIRECT EXAMINATION BY MR.

6

DURANT:

7

Q Did you tell Dana that Teresa

8

was inside the bar?

9

A No, sir.

10

Q Did he know Teresa was inside

11

the bar?

12

A No, sir.

13

Q What color is Dana's hair?

14

A Brownish, brownish color. Not

15

real dark.

16

Q Okay. How do you all keep tips

17

or give tips in that bar?

18

A In three tip jars.

19

Q And when you say tip jars, do

20

you mean wine carafes?

21

A Right. Empty wine carafes.

22

Q How many do you recall that you

23

had in the bar?

24

A We had five to my recollection,

25

on the bar.

1 Q Thank you. I don't have
2 anything else.

3 MR. KULP: I have just two
4 questions, your Honor.

5

6

7

8

9 RECROSS-EXAMINATION BY MR. KULP:

10 Q You'd seen Dana in the Mill Inn
11 before, hadn't you?

12 A Yes.

13 Q And when he was in there he
14 tried to hit up on Teresa as well, didn't
15 he?

16 A He hit up on everybody.

17 Q Okay. And Teresa didn't like
18 him very much?

19 A Nobody did.

20 Q When you mentioned the wine
21 carafe, does that resemble something like
22 this that was used as tip jar?

23 A Yeah.

24 Q In fact did you serve Paul Mason
25 wine there at the Mill, do you remember?

White -- Recross

1 A I don't remember.

2 Q Okay. But that does in fact
3 resemble it?

4 A Sort of resembles it, yeah.

5 MR. KULP: Okay. Your Honor,
6 we'd offer this as a demonstrative
7 exhibit at this time. The witness has
8 indicated it resembles what was used at
9 the bar.

10 THE COURT: Any objection?

11 MR. DURANT: You know, I don't
12 know if that's the same kind they used,
13 but I would acknowledge that --

14 THE COURT: She says it
15 resembles it.

16 MR. DURANT: -- it has some
17 resemblance to the wine carafe.

18 THE COURT: All right.

19 MR. KULP: Thank you.

20 THE COURT: You offer it for
21 that purpose obviously, not --

22 MR. KULP: That's correct.

23 THE COURT: -- or not for the
24 purpose of those actually kept in the
25 bar. She said it resembles it. Kind

White -- Recross

1 of like it. All right. Anything else? —

2 MR. KULP: That's it, your

3 Honor. Thank you, sir.

4 (Whereupon, entered into
5 evidence was Defendant's Exhibit No. 7,
6 wine carafe.)

7 THE COURT: All right. You can
8 come down. Thank you, sir.

9 Good time to take a break for
10 lunch. I'm going to send you to lunch.
11 Can you get lunch in an hour? If
12 you're a little later I won't be upset
13 with you. Don't worry. But try to be
14 back at two o'clock. Come straight to
15 your room. Remember don't -- don't
16 anyone else leave at this time. Don't
17 talk about it. Same admonitions I gave
18 you on yesterday. Have a good lunch.
19 I'll see you in your jury room at two
20 o'clock.

21 (The jury leaves the courtroom
22 at 1:03 p. m.)

23 THE COURT: All right. Anything
24 else we need to do before I leave?
25 Have a good lunch.

White -- Recross

1 MR. KULP: Thank you, sir.

2 THE COURT: Two o'clock.

3 MR. DURANT: Your Honor, I'd ask
4 that Miss White be excused, too.

5 THE COURT: Any objection?

6 MR. KULP: Not if they -- no. I
7 have no objection to her being excused
8 as long as she remains under subpoena
9 to be called in the event that she's
10 needed to reappear.

11 THE COURT: Be sure you know
12 where to get her.

13 MR. DURANT: Okay.

14 MR. KULP: Thank you.

15 (A luncheon recess was called at
16 1:07 p. m.)

17

18

19 AFTERNOON SESSION

20 (The Judge enters the courtroom
21 at 2:14 p. m.)

22 THE COURT: Anything before we
23 bring the jury out, gentlemen?

24 MR. DURANT: I don't believe so,
25 your Honor.

White -- Recross

1 MR. KULP: No, sir, your Honor.

2 THE COURT: All right. Bring
3 the jury.

4 (The jury enters the courtroom
5 at 2:15 p. m.)

6 THE COURT: All right. Call
7 your next witness.

8 MR. DURANT: Thank you, your
9 Honor. State would call Tammy
10 Gonzalez.

11 THE COURT: Come right around
12 here, Miss Gonzalez. Right up to that
13 gentleman.

14

15

16

17

18 T A M Y A C U R T I S

19 G O N Z A L E Z, having been called as
20 a witness in the presence of the jury,
21 is duly sworn and testifies as follows:

22 DIRECT EXAMINATION BY MR.

23 DURANT:

24 Q Good afternoon, Miss Gonzalez.

25 What is your age?

Gonzalez -- Direct

1 A Forty-two. Be forty-three in
2 March.

3 Q And where do you work? Where
4 are you currently employed?

5 A Beach Bingo.

6 Q And what do you do for Beach
7 Bingo?

8 A I'm a caller and a runner.

9 Q How long have you been with
10 Beach Bingo?

11 A Going on four years.

12 Q Now, were you working in March
13 of 1997?

14 A Uh-huh. Yes, sir.

15 Q And were you also working in
16 bingo then, too?

17 A Yes, sir.

18 Q Which bingo?

19 A H. A. Jebs.

20 Q Did you also have a second job
21 at the time?

22 A Yes, sir.

23 Q And what was that?

24 A I worked as a bartender.

25 Q Whereabouts?

1 A Mill Inn.

2 Q What shift did you generally
3 work at the Mill Inn?

4 A Late night.

5 Q Did you work during the week or
6 just on the weekend?

7 A I worked mostly the weekend.

8 Q Okay. And on the weekends you
9 would work late in the night until the
10 morning. Is that correct?

11 A Yes, sir.

12 Q You know Margaret Jensen White?

13 A Yes, sir, I do.

14 Q She's a friend of yours?

15 A Yes, sir.

16 Q She was also a bartender at the
17 time?

18 A Yes, sir.

19 Q How did you meet -- how long had
20 you been employed at the Mill Inn, prior to
21 the time it was burned?

22 A Close to a year I think. It's
23 been a while.

24 Q And did you know Teresa Haught?

25 A Yes, sir.

Gonzalez -- Direct

- 1 Q And how did you know her?
- 2 A Through her momma.
- 3 Q Miss Justice?
- 4 A Miss Dixie. Yes, ma'am -- yes,
- 5 sir.
- 6 Q And you actually worked for, for
- 7 Teresa during the time you were employed at
- 8 the Mill Inn. Is that correct?
- 9 A Yes, sir. Yes.
- 10 Q What was your relationship with
- 11 Teresa?
- 12 A A friend.
- 13 Q She was a friend of yours?
- 14 A Yes, sir.
- 15 Q You know the defendant in this
- 16 case, Wesley Myers?
- 17 A I met him through Teresa, yes.
- 18 Q And were you aware of their
- 19 relationship?
- 20 A Yes, sir.
- 21 Q How would you describe their
- 22 relationship?
- 23 A Very rocky I would think.
- 24 Q Do you know why that was?
- 25 A Lot of arguments.

Gonzalez -- Direct

1 Q Did you -- do you know what they
2 argued about?

3 A I'm not really sure. A lot of
4 things.

5 Q Now were you working at the bar
6 on the -- in the early morning of March
7 thirteen, 1997?

8 A No, sir. I was -- just got out
9 of, of work, my other job.

10 Q And but did you go to the Mill
11 Inn that night?

12 A Yes, sir.

13 Q And why did you go to the Mill
14 Inn?

15 A To pick up Margaret.

16 Q Okay. And were you providing
17 her transportation at the time?

18 A Yes, sir.

19 Q You recall what time it was when
20 you got to the bar?

21 A Oh, let's see. About twelve --
22 it was between 12:25, 12:25 to 12:30.

23 Q What time did you get off at H.

24 A. Jebbs?

25 A We got off at twelve and we

Gonzalez -- Direct

1 clean up and usually takes about ten,
2 fifteen minutes.

3 Q Okay. Where was Teresa when you
4 got to the bar that night?

5 A She was at the corner.

6 Q Which corner? The corner of the
7 bar or --

8 A Yes, sir. As you walk in the
9 door there was a corner right there.

10 Q And what was she doing?

11 A She was laying her head down.

12 Q Did you have an opportunity to
13 speak to Teresa that night?

14 A Huh? When I walked in I always
15 tell everybody hello.

16 Q Okay. Did she say hello to you?

17 A Not for certain.

18 Q Okay. You recall ever having
19 said anything to her that night?

20 A I told her good night, though.

21 Q Okay. Now, you helped Margaret
22 close the bar up that night. Is that
23 correct?

24 A Yes, sir.

25 Q What did you do?

Gonzalez -- Direct

1 A When she was doing the money I
2 went out, checked the doors, checked the
3 bathrooms.

4 Q And did -- what did you check
5 the bathrooms for?

6 A Because it's a habit, you know.
7 Make sure there's nobody in there, you know.
8 Make sure they had toilet paper and stuff in
9 there, too.

10 Q And what doors did you check?

11 A I checked both front doors
12 because that one front door is never open
13 and then I checked both back doors.

14 Q Okay.

15 A And I put the bar on the back
16 door. It was, you know, the front door
17 straight across from it.

18 Q Did you all sweep the floors
19 that night?

20 A No, sir.

21 Q Now, was anybody in the bar when
22 you and Margaret closed up?

23 A No, sir. Nobody was supposed to
24 be in the bar when we close up and take the
25 money out.

Gonzalez -- Direct

1 Q Was there anybody waiting
2 outside for you?

3 A Yes. Woody was.

4 Q Why was Woody waiting outside?

5 A Because Woody asked me for a
6 ride home and I told him yes.

7 Q Do you recall what time it was
8 when you all actually left the bar that
9 night?

10 A Had to be close to one.

11 Q And so you made sure all the
12 doors were locked I guess except the door
13 you all were leaving out of. Is that
14 correct?

15 A That's locked. We lock the --
16 you know, before doing our paperwork the
17 door has to be locked. We cannot start the
18 money process without it locked.

19 Q Okay. You all have to unlock
20 it, leave, and then lock it back up?

21 A Yes, sir.

22 Q Who did that?

23 A Who did what?

24 Q Unlock the door when you all
25 left and locked it back, who did that?

Gonzalez -- Direct

1 A Well, I unlocked it and Margaret
2 relocked it.

3 Q Okay. You saw her do that?

4 A Yes, sir. When she shut the
5 handle.

6 Q Now just before you all left,
7 where was Teresa? Was she still sitting at
8 the bar?

9 A When we was going out the door
10 she got down and she went over to the pool
11 table. Said she was going to lay on the
12 pool table for a few minutes.

13 Q Do you know why she was staying
14 at the bar that night?

15 A She had paperwork to do. She
16 said she had a lot of paperwork to catch up
17 on and she wanted to, you know, wax the
18 floor, mop or wax the floor.

19 Q She was going to do that in the
20 morning?

21 A She was going to do it that
22 night she said after she gets through with
23 the paperwork.

24 Q Okay. Where was she when you
25 all actually left the bar?

Gonzalez -- Direct

1 A She was laying on -- getting
2 ready to lay on the pool table. In fact she
3 was sitting, her one side of her hip was on
4 the pool table.

5 Q Okay. Did she appear to be
6 intoxicated to you?

7 A Not to me, she didn't. I mean I
8 know she was tired.

9 Q After you and Margaret left, and
10 Margaret locked the front door, what
11 happened?

12 A What do you mean what happened?

13 Q Did you all see anyone outside?

14 A Yes, sir.

15 Q And who was that?

16 A Dana Chaples.

17 Q And how did you all run into
18 him?

19 A He pulled up and I told him we
20 was closed.

21 Q And what did he do?

22 A He walked up to me and started
23 to make a pass at me and I said that's not
24 right.

25 Q And what did you do when he made

Gonzalez -- Direct

1 the pass at you?

2 A Told him -- well, I told him he
3 needs to leave -- I mean this is just,
4 just...

5 Q What was his state of sobriety
6 at the time?

7 A He was intoxicated.

8 Q Any doubt about that?

9 A No.

10 Q When you told him to leave, what
11 did he do?

12 A He walked towards his -- well,
13 tried to paw me but then turned around,
14 walked towards his car, opened his car door
15 and we, you know, I already got in my car.

16 Q Okay. And you saw him get in
17 his car?

18 A Pardon me?

19 Q You saw him get into his car?

20 A No, sir. I didn't see him get
21 in his car. I see him open the door.

22 Q Okay.

23 A So I got into my car and I
24 shifted gears and left and took Woody and
25 them home.

Gonzalez -- Direct

1 Q Okay. Did you ever tell Dana
2 Teresa was inside the bar?

3 A No, sir.

4 Q Did you tell anyone that Teresa
5 was inside the bar?

6 A No, sir.

7 Q What color is Dana's hair?

8 A It's like a -- I want to say a
9 sandy dirty blond. It's a -- it's a dark --
10 not a, not a brown-brown, but it's a little
11 lighter.

12 Q A lighter brown?

13 A Yes. It's not much lighter.

14 Q Okay.

15 A It's about the same color as
16 yours.

17 Q Would you please answer any
18 questions Mr. Kulp may have for you?

19 A Yes, sir.

20 MR. KULP: If it please the
21 Court, your Honor. Thank you, sir.

22 THE COURT: Get something
23 straight to the jury. Mr. Kulp suffers
24 a little bit from back trouble so I
25 told him if he didn't feel like

Gonzalez -- Cross

1 standing he could sit. And that
2 doesn't mean he has any less respect
3 for the Court or the system. It's just
4 I allowed him to do it, so if he does
5 it, you'll know what's going on.

6 MR. KULP: Thank you, your
7 Honor. I'm doing well so far. Thank
8 you.

9
10

11

12

13

14 CROSS-EXAMINATION BY MR. KULP:

15 Q Miss Gonzalez, when you arrived
16 at the Mill Inn, this I know that you
17 described in your direct testimony, who did
18 you see there?

19 A You mean when I arrived that
20 night?

21 Q Yes, ma'am. To, to, when you
22 came back to pick up Margaret.

23 A Who I seen there when I walked
24 in?

25 Q Yes, ma'am. Who was present

Gonzalez -- Cross

1 then?

2 A There was Margaret, there was
3 Teresa, there was a guy called Johnny and
4 another man. I'm trying to think. Brian
5 was there. And Dale come in because I asked
6 Dale if he's got to work the next morning.
7 He said yes.

8 Q Dale who? Do you know Dale's
9 last name?

10 A Not really. I always call him
11 "Dale-arrilla".

12 Q How about Brian? Do you recall
13 that Brian, you mentioned, came in, sat at
14 the bar, got a beer?

15 A Brian was there.

16 Q He was already there. And who
17 was Brian?

18 A Brian. Brian.

19 Q Just don't know his last name?

20 A No.

21 Q Do you know where he's from?

22 A Well, from what I understood
23 about him, in that area off of Chateau.

24 Q Now, did you have any idea at
25 the time that you arrived at the Mill how

Gonzalez -- Cross

1 many beers that Teresa drank?

2 A No, sir.

3 Q Do you recall that Johnny who

4 was there didn't want to leave?

5 A Yes, sir. I do recall that.

6 Q And that you -- do you remember

7 giving a statement to the police, signing a

8 statement when the police interviewed you?

9 A The police wrote it for me.

10 Yes, sir.

11 Q Okay. You signed it?

12 A I think I did.

13 Q Have you had a chance to review

14 it in preparation for your testimony here

15 today?

16 A I have had many chances I've had

17 of looking at it, yes.

18 Q Okay. And let me ask you a

19 question if I might.

20 A Yes, sir.

21 Q Have you discussed your

22 testimony with, with anyone --

23 A No, sir.

24 Q -- today? Have you been related

25 the -- any details of Margaret White's

Gonzalez -- Cross

1 testimony here today by any person?

2 A No, because I work thirteen
3 hours a day and it's hard to talk to someone
4 when you're working all those hours.

5 Q I mean just today, during lunch.

6 A No, sir.

7 Q Did anyone ask you about, after
8 you arrived here today, anyone ask you about
9 floor sweeping or anything about that?

10 A No, sir.

11 Q Now, having reviewed your
12 statement, you recall telling the police, do
13 you not, "Johnny who was there had a cocky
14 attitude because he didn't want to leave and
15 always asked him are you always this
16 pleasant?" Is that correct?

17 A Yes, sir. I remember that. I
18 can tell you that by heart.

19 Q "And he replied, 'Yes. I'm
20 always this pleasant.' And then he and the
21 fellow he was with there ate some eggs."

22 A On a paper napkin with some
23 salt.

24 Q The pickled eggs?

25 A They're not pickled. No. They

Gonzalez -- Cross

1 was hard boiled.

2 Q Okay. "And they left finally
3 left about 1:45 a. m."

4 A I don't remember 1:45.

5 Q Okay. Would you like to look at
6 a copy of your statement to refresh your
7 recollection about what you told the police
8 and about what was in the statement that you
9 signed back when this happened? Would that
10 help?

11 A I just don't remember 1:45.

12 Q Okay. May I approach the
13 witness, your Honor?

14 Handing you a photocopy of the
15 statement, is that your signature there?

16 A Yes, sir. That's my signature.

17 Q Yes, ma'am. Does that look to
18 be a photo copy of the statement you said
19 you reviewed on more than one occasion in
20 preparation for your testimony here today,
21 and ignoring my scribble-scrabble.

22 A Yeah. It looks like it, because
23 the police officer took it.

24 Q All right. And drawing your
25 attention here to the sentence after "they

Gonzalez -- Cross

1 ate and" --

2 A That's correct. The eggs.

3 Q -- "their eggs, they finally
4 left about 1:45 in a white old car."

5 A Yes, sir.

6 Q You remember it was real long?

7 A Yes, sir, because I had a car,
8 wasn't similar but it was just about as
9 long.

10 Q Okay.

11 A But I don't remember the time
12 that they actually left.

13 Q Do you recall not telling the
14 officer who took this statement, who wrote
15 it for you that it was 1:45 a. m.?

16 A It's been a long time, sir.

17 Q Okay.

18 A I'm telling you --

19 Q Yes, ma'am. Now, now,
20 Miss Gonzales, when you -- the next morning,
21 of the fourteenth, you were contacted by the
22 police regarding the fire at the Mill Inn?

23 A How I was contacted, by a person
24 calling me and telling me they thought, you
25 know, it was a person in the inn.

Gonzalez -- Cross

1 Q Was that a police officer or an
2 acquaintance, a friend?

3 A It was an acquaintance.

4 Q And did you then travel down to
5 the Mill?

6 A About the second time he called
7 me I was so tired and I remember hanging the
8 phone up and I got up in a second.

9 Q Yes, ma'am. And when you
10 arrived there is that when the statement was
11 taken from you?

12 A No. Statement was taken maybe
13 about two hours later. There was so much
14 confusion, you know, with the police there
15 and everything else.

16 Q Yes, ma'am. So but whenever,
17 you arrived earlier than the time your
18 statement reflects of 10:20 a. m. Is that
19 correct?

20 A Yeah. I arrived early, yes.

21 Q All right. And when you got
22 there the police officers interviewed you
23 and spoke to you about your presence at the
24 Mill Inn the prior evening. Correct?

25 A When I got there, there was,

Gonzalez -- Cross

1 like I said, a lot of people there, and took
2 them a while. They said they wanted to wait
3 on Miss Margaret to get there. Do I know
4 how to get a hold of her?

5 Q You relayed that to them so they
6 could --

7 A Yes.

8 Q All right. And did you see Alan
9 White, Raymond Alan White there at the time
10 you arrived a couple hours before 10:20 or
11 when you were there giving a statement at
12 10:20?

13 A You mean that morning?

14 Q Yes, ma'am.

15 A It's been a long time. I don't
16 remember seeing him. I think he come
17 afterwards.

18 Q Okay. But when you were
19 interviewed, about what time he came up, do
20 you remember?

21 A Like I said, two hours after I
22 got there. It was a lot of fire --

23 Q All right.

24 A -- police and things, stuff
25 that --

Gonzalez -- Cross

1 Q But do you recall that he
2 arrived?

3 A Alan?

4 Q Yes. At the scene?

5 A Yes.

6 Q And do you recall if he was
7 speaking to the police officers or the
8 police officers --

9 A I don't recall. I didn't pay
10 attention to that.

11 Q All right. Very good. You,
12 however, you told us the police interviewed
13 you about then and you mentioned on your
14 direct examination him being there when you
15 all left?

16 A Yes, I did.

17 Q Now his car, do you recall his
18 car was parked across the street on East
19 Montague?

20 A Uh-huh.

21 Q And there were plenty of spaces
22 in front of the Mill that night that he
23 could have parked at?

24 A Uh-hum.

25 Q Now, he -- had he to your

Gonzalez -- Cross

1 knowledge or in your presence ever made a
2 pass as you said or at Teresa?

3 A I really don't remember.

4 Q All right. Had he -- do you
5 know of your own knowledge if he'd been in
6 the Mill bar before?

7 A He'd been in the Mill bar before
8 because I bartended there and he came in
9 there when I was bartending.

10 Q All right. And you told the
11 police that morning that you had seen Dana
12 there as you described in your direct
13 testimony and that when you left he was
14 walking away from your car or otherwise
15 toward the, his car or whatever?

16 A When we left that night, that's
17 when he was there and he walked to his car.
18 He opened the door. That's when I got in my
19 car and I started it up and I took Woody
20 home and I took Margaret home.

21 Q Yes, ma'am. Very good. Now,
22 later that morning the police, did they not,
23 they came and picked you and Margaret up and
24 took you over to the location so you could
25 see Dana and identify him.

Gonzalez -- Cross

1 A They put us, us, in, yeah, a
2 marked car.

3 Q They drove by and you pointed
4 him out, pointed him out and you said yes,
5 that's, that's Dana, that's the fellow who's
6 there last night when we left?

7 A Yes.

8 Q You made another remark about
9 appearance in terms of a mustache?

10 A Yeah. Something about his
11 mustache. I think he shaved it off.

12 Q Okay. Having worked in the bar,
13 that night in particular, as you were
14 helping Margaret leave she had tidied the
15 bar as is the standard procedure in closing,
16 had she not?

17 A Uh-huh.

18 Q And do you remember her
19 remarking or saying to you or did you see a
20 wrist watch lying on the floor anywhere?

21 A No, sir, I didn't.

22 Q Okay. Were you wearing a wrist
23 watch that night that you lost at the bar?

24 A I always wear my wrist watch and
25 I didn't lose no wrist watch.

Gonzalez -- Cross

1 Q Okay. Now, do you recall there
2 being a meat cleaver there at the Mill Inn
3 that was used before at the bar there?

4 A There was a lot of knives used
5 in the bar.

6 Q Would one of those knives have
7 included a small meat cleaver, like a cleaver?

8 A I don't know.

9 Q Don't know. Now, you were
10 present, were you not, when Margaret put
11 Teresa's purse into the cooler. Who was
12 present there?

13 A Me and Margaret and Teresa.

14 Q And that was about what time, do
15 you recall?

16 A I know it was time to close up
17 and everybody was out and we already locked
18 the doors.

19 Q Okay. And did you help or
20 participate in putting any money in the
21 freezer area of the refrigerator?

22 A No, sir..

23 Q Did you have anything to do with
24 that?

25 A Because of sometimes Teresa had

Gonzalez -- Cross

1 different places to put it. She had, like
2 this person put this here and maybe I put it
3 there.

4 Q Yes, ma'am. Do you remember
5 seeing any, when you worked there or that
6 evening, any kind of a little tin or, or
7 beige-colored or gray-colored cash box that
8 maybe was used for purposes of a bank to
9 open up the next day? Do you remember
10 seeing that? Anything resembling that even?

11 A No, sir.

12 Q Not at all?

13 A I don't remember.

14 Q What was kept down in that --
15 the cooler where the purse was put was not
16 operational. Correct?

17 A No, it was not.

18 Q And it was kind of like a little
19 storage bin for lack of a better --

20 A Yes.

21 Q And you don't remember seeing
22 anything in there, a cash box?

23 A Un-un.

24 Q Okay. Did you have the occasion
25 when you were there to pick up Margaret to

Gonzalez -- Cross

1 go behind the bar, just kind of helping her
2 a little bit?

3 A I stayed on this side of the bar
4 because I have no reason to be behind the
5 bar.

6 Q Because you're just picking her
7 up?

8 A Yes.

9 Q You see anything unusual that
10 night?

11 A Like what? Just you work in a
12 bar. Just same old thing.

13 Q All right. Thank you, ma'am. I
14 have no further questions. Thank you.

15 MR. DURANT: I have nothing
16 further and I'd ask that this witness
17 be excused, your Honor.

18 THE COURT: Any objection?

19 MR. KULP: No, your Honor.

20 THE COURT: Have a good day.

21 THE WITNESS: Thank you. You
22 too, sir.

23 MR. DURANT: State would call
24 Rose Myers.

25 R O S E M Y E R S, having been

1 called as a witness in the presence of
2 the jury, is duly sworn and testifies
3 as follows:

4 DIRECT EXAMINATION BY MR.

5 DURANT:

6 Q Good afternoon, Miss Myers.

7 A Good afternoon.

8 Q You are Wesley's mother. Is
9 that correct?

10 A I am.

11 Q And do you recall giving a
12 statement to Detective Clayton --

13 A I do.

14 Q -- on the morning of March
15 thirteen, 1997?

16 A Yes.

17 Q And that was at about 9:50 in
18 the morning. Is that correct?

19 A Yes.

20 Q And you told Detective Clayton
21 you got up at what time that morning?

22 A Six.

23 Q And what did you do after you
24 got up?

25 A I got up and went to tend to the

R. Myers -- Direct

1 coffee. Wesley's alarm went off right after
2 that.

3 Q Okay. And did you hear Wesley
4 get up?

5 A I did.

6 Q Did he -- what happened after
7 you heard Wesley get up?

8 A He got up and did the usual
9 routine of bathroom and dressing.

10 Q Okay.

11 A And then he came out.

12 Q Did he take a shower that
13 morning or --

14 A No. He just more or less washed
15 as he normally does.

16 Q Okay.

17 A Unless -- he usually showers the
18 night before if he needs to shower.

19 Q Okay. But he used the bathroom,
20 he got, got dressed before he came into the
21 other room. Is that correct?

22 A Except for his boots which he
23 leaves in the entry area before coming into
24 the kitchen.

25 Q Okay. And he came to the

R. Myers -- Direct

1 kitchen then and what did he do after he
2 got --

3 A Sat down in the doorway of the
4 kitchen and he retrieved his boots from the
5 entryway and proceeded to put those on.

6 Q Okay. Now, did he have a cup of
7 coffee with you?

8 A Yes, he did.

9 Q And did you all talk about
10 anything that morning?

11 A The general. Usual nothing
12 much. In fact he took his styrofoam cup of
13 coffee I think out with him.

14 Q Okay.

15 A Because he needed to put water
16 into the radiator.

17 Q You sat there and chatted with
18 him a little while before he went out?

19 A I stood at the back and
20 exchanged some few words back and forth. In
21 fact I recall as he cranked and backed up
22 that it was dry under where the pick-up
23 truck had been, and I said did it rain last
24 night? And he said no. I think it was a
25 heavy dew.

R. Myers -- Direct

1 Q Now, he had to put water in his
2 radiator. Is that correct?

3 A Yes.

4 Q Was he having problems with the
5 radiator?

6 A It had a leak.

7 Q And after that did he come back
8 in or did he go to work --

9 A No.

10 Q -- just from there?

11 How did he appear to be to you
12 that morning?

13 A The same as always.

14 Q Did he appear to be upset in any
15 way?

16 A Not in any way.

17 Q Did he receive any calls that
18 day?

19 A No, he did not.

20 Q To your knowledge did he make
21 any calls that morning?

22 A No, he did not.

23 Q Did he have a cell phone?

24 A No.

25 Q Did you get a call from Wesley,

R. Myers -- Direct

1 moving on a couple of days now, Saturday
2 afternoon when he was at the North
3 Charleston Police Department?

4 A Yes, I did. 4:30 that
5 afternoon.

6 Q 4:30 that afternoon. What did
7 he say to you?

8 A The officer said that my son had
9 something to tell me and he said "Mom, they
10 tell me I did it. I must have done it."

11 Q Okay.

12 A And I screamed and I said, "My
13 God, Wes, don't you know whether you were
14 there or not?"

15 Q Thank you very much. I have
16 nothing further.

17

18

19

20

21 CROSS-EXAMINATION BY MR. KULP:

22 Q Miss Myers, what is your
23 occupation?

24 A I'm the principal of a school,
25 six through twelve.

R. Myers -- Cross

1 Q What school is that?

2 A It's School of the Arts. It's a
3 magnet school, Charleston County.

4 Q And where's that located?

5 A North Charleston.

6 Q How long have you done that?

7 A This is thirty-seven years in
8 education.

9 Q How many children do you have?

10 A Two.

11 Q Wes?

12 A A son and a daughter.

13 Q And your daughter is there in
14 the row in the back. What's her name?

15 A Donna Marie Knudson.

16 Q Is she married?

17 A Yes.

18 Q Is she with her husband?

19 A Yes.

20 Q Where do you live?

21 A [REDACTED] thirty
22 some-odd years.

23 Q Over in Hanahan?

24 A In Hanahan.

25 Q And how -- the truck that the

R. Myers -- Cross

1 solicitor asked you about, how old is that
2 truck that Wes has? You know how long he's
3 had it?

4 A Since the eighties. I'm not
5 certain of the exact age of it. When he
6 bought it he was not living at home.

7 Q What's the sound of the truck?
8 Is it loud?

9 A You hear him coming, you know.

10 Q Why is that?

11 A I believe he needs a muffler.
12 It was very loud. The motor was loud.
13 Everything about it.

14 Q Does your testimony apply to the
15 time of this, this matter?

16 A Oh, yes.

17 Q And that particular evening,
18 what time did you go to bed that evening,
19 that being the evening before this incident?

20 A I went to bed sometime maybe
21 just prior to 9:30. And Wes followed. Max
22 followed. We were all in bed by ten.

23 Q And did you hear him leave at
24 any time that evening?

25 A No, I did not.

R. Myers -- Cross

1 Q All right. Would you describe
2 yourself as a light sleeper or heavy
3 sleeper?

4 A I'm a very light sleeper. I
5 always hear when he does leave and I hear
6 whether or not he returns. Mothers are like
7 that.

8 Q Did you -- now on the morning
9 that the police discovered the death of the
10 murder of Mrs. Haught at a fire, did someone
11 come over and interview you?

12 A Yes.

13 Q Who was that?

14 A That was Detective Clayton.

15 Q And he interviewed you at your
16 house?

17 A Yes.

18 Q What did he tell you why he was
19 there?

20 A He just told me that he
21 indicated, I asked him why, and he said we
22 were just interviewing everybody who has any
23 knowledge of the victim or that knew the
24 victim and we need to know where Wes was.

25 Q Did you tell him?

R. Myers -- Cross

1 A Yes.

2 Q Okay. And did you speak with
3 him outside your house or inside your house?

4 A Inside our den.

5 Q You invited him in?

6 A Yes.

7 Q Okay. And did he sit there and
8 write out a statement for you to sign or did
9 he do it later?

10 A He asked me if I would write a
11 statement with reference to where, what we
12 did the evening before and Wesley's
13 involvement in that, and he I believe was on
14 the deck of the house with one or two other
15 gentlemen, police officers at that time.

16 Q And did you write out the
17 statement he asked you about Wesley's
18 whereabouts that night?

19 A Yes, I did.

20 Q He didn't write it out for you?
21 You wrote it?

22 A I wrote the statement.

23 Q All right. And was that at his
24 suggestion for you to write it out?

25 A He asked me if I would write it

R. Myers -- Cross

1 out.

2 Q And did you answer all his
3 questions?

4 A I think so.

5 Q All right. And after that time,
6 did you have occasion to see your son that
7 afternoon at any point?

8 A This is -- this is when?

9 Q On that Thursday.

10 A On that Thursday? No. I do not
11 think so.

12 Q Okay. And did you see him on
13 Friday?

14 A Yes.

15 Q Okay. And did he spend the
16 night at the house on Friday?

17 A Yes, he did.

18 Q Okay. And did he -- did
19 anything happen at your house on Friday
20 night that you recall regarding this case?

21 A Around 8:30, approximately, nine
22 o'clock, between 8:30 and nine, six to
23 seven, I believe it was seven because we
24 have the names, policemen and firemen
25 entered our home with our son and announced

R. Myers -- Cross

1 that they were there to search Wesley's
2 room. My husband spoke with them about that
3 and learned that the law stated that they
4 had the right to search our son's room. It
5 was Detective Clayton who came to us, to my
6 husband and I, and said we don't have a
7 search warrant so we cannot legally search
8 your home. But we're simply trying to
9 eliminate Wes as a suspect so we can get on
10 with this investigation, and it would be
11 very helpful if you would sign for us to be
12 allowed to search.

13 Q And did you do so?

14 A And we did.

15 Q And when -- after you did, did
16 you make any request of Detective Clayton or
17 any other officers regarding the exit --
18 regarding the process of a search?

19 A Well, we, we thought we should
20 be in the room with them as they searched,
21 and so we accompanied them.

22 Q Did they conduct a search, full
23 search of the house?

24 A Absolutely. And it was -- had
25 never been through anything like this

R. Myers -- Cross

1 before, obviously. Had never, never had any
2 dealings whatsoever with the police other
3 than those members of my own family, in a
4 very positive way, and we were struck by the
5 fact that as Miss , as Detective Tetanich
6 pulled open the drawer of the buffet in my
7 dining room, he remarked that it was so very
8 similar to his mother's and other detectives
9 remarked that they seldom got to search a
10 home such as ours. Now, we're very middle
11 class. We don't have a fancy home. But I
12 just thought that was amazing.

13 Q Did, did they -- did you secrete
14 anything or prohibit them in any way from
15 searching any area of your home?

16 A No, I did not.

17 Q Had you hidden or secreted or
18 otherwise disposed of any clothing or
19 evidence or anything belonging to your son
20 in this case?

21 A Absolutely not. It never
22 entered our mind that there should be such a
23 reason for anything like that.

24 Q And when the police officers
25 left, did they take some things?

R. Myers -- Cross

1 A They took the clothes that Wes
2 had worn that day, including his boots. And
3 some paper from his room. I believe one of
4 his books that he had been writing in. He
5 likes -- he's a, I think, fine musician,
6 composer. He took that.

7 Q Did they give you a list or an
8 inventory of the items that they took from
9 your family home that you recall?

10 A I don't recall a list of those
11 things, no.

12 Q Okay. And the next day, did
13 Detective Clayton come and pick up your son,
14 from the house?

15 A That next morning. It was
16 prearranged that he would continue to help
17 them with the investigation, and that
18 Detective Clayton would pick him up the next
19 morning, and he did.

20 Q At that point had any of the
21 police officers who were in your home or who
22 made the arrangements to come get him that
23 next morning on Saturday morning, advise you
24 or your husband that he was a suspect in the
25 case?

R. Myers -- Cross

1 A No.

2 Q They never had?

3 A No.

4 Q And he left that day and when
5 did you see him again?

6 A Not until I could visit him in
7 jail several weeks later on a Saturday.

8 Q Okay. Thank you, ma'am. I have
9 no further questions.

10 MR. DURANT: I just have a
11 couple on redirect.

12

13

14

15

16 REDIRECT EXAMINATION BY MR.

17 DURANT:

18 Q We went through what Wes had
19 done that morning. Do you know what time it
20 was when he actually went to work? Thursday
21 morning I'm talking about now.

22 A Thursday morning, he called me
23 around seven.

24 Q No. I mean when, what time did
25 he actually leave the house?

R. Myers -- Redirect

1 A What time he left the house?

2 Q To go to work.

3 A It was 6:15, 6:20 at the most.

4 Q Okay. Do you know how far, how
5 long does it take to get to --

6 A Ten, fifteen minutes at the
7 most.

8 Q -- to the Mill Inn from where
9 you all live?

10 A Yes.

11 Q And your bedroom is located, and
12 if I'm not mistaken, isn't it located on --

13 A As you're facing the house,
14 there are three bedrooms on the left-hand
15 side of the house. The front bedroom, the
16 middle room is my son's, the next room is
17 mine and my husband's.

18 Q And your house, if you're
19 standing in the front of the house looking
20 at your house, your house would be in the
21 rear left-hand corner. Is that correct?

22 A My bedroom would be in the
23 rear --

24 Q Excuse me. Your --

25 A -- left-hand corner.

R. Myers -- Redirect

1 Q Okay. And you don't, you don't
2 share a hallway with Wes, do you?

3 A No, but what we do share is that
4 this is an addition and we covered up a
5 window that unfortunately we did not do
6 anything about sound, so it's -- there's no
7 obstruction. Also we had the window up. It
8 was a nice evening.

9 Q Okay.

10 A Over the kitchen as well --

11 Q I'm sorry.

12 A -- to the car port where he was
13 parked directly behind my car.

14 Q Okay. But the driveway to your
15 house is diagonally on the opposite side of
16 the house from your bedroom. Is that
17 correct?

18 A Yes. But don't make my house
19 sound too large.

20 Q Well, I understand and I'm not,
21 not trying to say sizes, but just, just to,
22 to get the idea if this -- is your house a
23 rectangular shape, roughly?

24 A Well, yes. It's longer than
25 it's wide.

R. Myers -- Redirect

1 Q Right. And your bedroom would
2 be on this corner? Is that correct?

3 A That's correct.

4 Q This is the front. Correct?

5 A Yes.

6 Q Your bedroom would be in this
7 corner and the driveway comes in over here.
8 Is that correct?

9 A Exactly.

10 Q Now Wes did not stay at your
11 house Thursday night. Correct?

12 A No, he did not.

13 Q And you say the police brought
14 Wes over Friday night and they searched your
15 house. Is that correct?

16 A Yes.

17 Q And Wes stayed there?

18 A Yes, he did.

19 Q Did he go -- did he go to bed
20 after that?

21 A Shortly after.

22 Q To your knowledge did he have
23 anything to drink or anything like that that
24 night?

25 A Nothing. No.

R. Myers -- Redirect

1 Q And do you recall what time it
2 was about when he went to bed?

3 A We always went to bed between
4 9:30, 10:30.

5 Q Okay.

6 A Within that hour.

7 MR. DURANT: Court's indulgence.

8 I have nothing further. Thank
9 you so much.

10 MR. KULP: Couple questions,
11 your Honor.

12

13

14

15

16 RECROSS-EXAMINATION BY MR. KULP:

17 Q That particular evening, the
18 evening before, the evening before this
19 event occurred and you testified Wes was at
20 your house with you and your husband and
21 went to bed. Had he been drinking anything
22 at all that evening at the house?

23 A No.

24 Q He didn't?

25 A No. We had -- we had watched

R. Myers -- Recross

1 ice skating competition.

2 Q Okay.

3 A And went to bed.

4 Q The solicitor's asked you
5 questions about your house.

6 A We have a very open floor plan
7 and that's what I was trying to get at.
8 There are no walls to obstruct from our
9 bedroom door to the kitchen window.

10 Q Okay. And if you haven't
11 already, would you be in a position to draw
12 a rough floor plan of your house in the
13 course of this case?

14 A Be glad to.

15 MR. KULP: Let me -- your Honor,
16 if we could have two photos marked,
17 please, for identification at this
18 time.

19 (Whereupon, marked for
20 identification were Defendant's Exhibit
21 Nos. 8, 9, and 10, photographs.)

22 MR. KULP: Approach the witness,
23 your Honor.

24 Q I have in my hands defendant's
25 exhibits marked for identification at this

R. Myers -- Recross

1 time eight, nine, and ten. Hand you these
2 small photographs and ask you if you -- well
3 I'll hand them to you one at a time.
4 Referring to defendant's exhibit number ten,
5 do you recognize what's depicted in that
6 photo?

7 A Absolutely.

8 Q What is that?

9 A That's my home for the past
10 thirty-five years.

11 Q Is this your driveway?

12 A Yes.

13 Q All right. And at the time on
14 March thirteenth, fourteenth, fifteenth
15 did -- were these edges of the driveway here
16 there?

17 A Yes.

18 Q This concrete curbs or whatever
19 they are?

20 A Yes.

21 Q All right. And where -- your
22 testimony is where was Wes's truck parked
23 when you came out that morning?

24 A Right here behind mine that was
25 under the car port and he was parked

R. Myers -- Recross

1 directly next to my car. You could just
2 barely get between my, the back of my car
3 and his truck.

4 Q Okay. And I hand you exhibit
5 number nine marked for I. D. and ask you if
6 you identify that? Is that a close-up view
7 of virtually the right side of that scene?

8 A Yes. The car port where he
9 parked.

10 Q Okay. And I think exhibit eight
11 is a duplicate or close duplicate of the
12 other.

13 A Right.

14 Q All right. All right. Thank
15 you. We move these in evidence at this
16 time, your Honor.

17 MR. DURANT: No objection.

18 MR. KULP: May I publish them,
19 your Honor?

20 THE COURT: Yes, sir.

21 MR. KULP: Thank you, sir.

22 (Whereupon, entered into
23 evidence were Defendant's Exhibit Nos.
24 8, 9, and 10, photographs.)

25 Q Now when -- the solicitor asked

R. Myers -- Recross

1 you that morning when you came and you
2 served coffee to Wes that morning after he
3 got up at six o'clock, did you have the
4 occasion to get close to him in the course
5 of bringing him coffee?

6 A Oh, yes. We always hug one
7 another good-bye in the morning.

8 Q Did you smell the odor of smoke
9 about him? Did you see any soot about him,
10 about his clothing?

11 A No, no.

12 Q Did you see any injury to him,
13 to his hand, to his face, to any part of his
14 body or appearance?

15 A No. No.

16 Q Thank you, ma'am. No further
17 questions?

18 MR. DURANT: I just have one
19 that came up in reference to that.

20

21

22

23 REDIRECT-EXAMINATION BY MR.

24 DURANT:

25 Q Now his tuck was parked behind

R. Myers -- Reirect

1 your car. Is that correct?

2 A Yes.

3 Q So it wasn't beside your car?

4 A No. It was directly behind my
5 car.

6 Q Okay. And it was the last car
7 in the driveway. Is that correct?

8 A Yes.

9 Q There was nobody parked behind
10 him to --

11 A No.

12 Q Nothing further. Thank you.

13 MR. KULP: Thank you, your
14 Honor.

15 THE COURT: Okay. You can come
16 down. Thank you.

17 Next witness.

18 MR. KULP: May we approach one
19 second?

20 THE COURT: All right.

21 MR. DURANT: Sure.

22 (Whereupon, there was an
23 off-the-record bench conference.)

24 MR. DURANT: State would call
25 Danny Perry.

Perry -- Direct

1

2

3

4

J O S E P H D. P E R R Y,

5

having been called as a witness in the

6

presence of the jury, is duly sworn and

7

testifies as follows:

8

DIRECT EXAMINATION BY MR.

9

DURANT:

10

Q Good afternoon, Mr. Perry.

11

Could you tell the jury how old you are?

12

A I'm thirty-nine.

13

Q And what do you do for a living?

14

A I'm vice-president of a

15

mechanical contracting company.

16

Q And what mechanical contracting

17

company is that?

18

A Midland Mechanical Millwright.

19

Q Is that a family owned business

20

kind of?

21

A No. It's incorporated, family.

22

Q What kind of work do you all do?

23

A Pipe fitting, welding, copper

24

repairs, stuff like that.

25

Q How long have you been doing

Perry -- Direct

1 that, sir?

2 A My business, I've been doing it
3 for almost six years.

4 Q You know the defendant in this
5 case, Wesley Myers?

6 A Yes, sir.

7 Q And how do you know Mr. Myers?

8 A He used to work for me.

9 Q Was he your employee in March of
10 1997?

11 A Yes, sir.

12 Q And when did you normally pay
13 Wesley?

14 A Thursdays was our pay day.

15 Q Thursday was your pay day?

16 A Yes, sir.

17 Q Now I want to direct your
18 attention to Thursday, March thirteen of
19 1997. That was your pay day, was it not?

20 A Yes, sir.

21 Q Did you pay Wesley that day?

22 A Not that day because I didn't
23 see him because he didn't come around.

24 Q Okay. Do you also know Teresa
25 Haught?

Perry -- Direct

1 A I knew of her, yes, sir.

2 Q Were you aware of his
3 relationship, Wes's relationship with Teresa
4 Haught?

5 A Yes, sir.

6 Q Did you have an opportunity to
7 hear from Mr. Myers in the early morning of
8 March thirteen, 1997?

9 A Yes, sir. He called me that
10 morning.

11 Q And where were you when he
12 called you?

13 A I was at my house getting ready
14 to leave for work.

15 Q And how did he call? Did he
16 call on your phone at home or cell phone
17 or --

18 A On my cell phone.

19 Q Okay. Did Wes have a cell
20 phone?

21 A Not that I know of, no, sir.

22 Q Do you recall what time it was
23 when you received that call?

24 A I'd say probably around a
25 quarter after six, 6:20, something like

Perry -- Direct

1 that.

2 Q And why did he call you?

3 A When he called he said that
4 there had been a fire at the Mill Inn and he
5 thought Teresa might have been in there, he
6 wasn't sure, if I could go by there and find
7 out.

8 Q Now, did you know where he was
9 calling from?

10 A No, sir.

11 Q Did you get the impression he
12 was calling from the Mill Inn?

13 A No, sir.

14 Q Did you in any way, did he ever
15 tell you at any time that he wasn't coming
16 in? Did he call you to tell you he wasn't
17 going to work that day?

18 A No, sir. He was kind of upset
19 sounding and when he said the condition of
20 the fire, work was never really mentioned at
21 the time.

22 Q Okay. Now, did this strike you
23 as odd?

24 A Yes, sir, a little, it did,
25 because I thought if that was my girlfriend

Perry -- Direct

1 and I was worried about her in a fire or
2 thought she might have been in a fire, I
3 would have been wanting to check myself
4 instead of calling somebody to check. That
5 was what seemed strange.

6 Q Now how far did you live from
7 the -- how long did it take you to drive to
8 the Mill Inn?

9 A Maybe ten minutes.

10 Q And after you talked to him, did
11 you drive to the Mill Inn?

12 A Yes, sir.

13 Q Now, what did you do after you
14 got to the bar?

15 A I got out to see if I could find
16 out something, and then an officer
17 approached me and took a statement from me.

18 Q And how long had you been here,
19 there when the officer approached you and
20 took a statement from you?

21 A Maybe a minute or two, if that.

22 Q Okay. Did you see Mr. Myers at
23 the Mill Inn that morning?

24 A No, sir.

25 Q Now I believe Detective Roper

Perry -- Direct

1 was the one that took your statement?

2 A Yes, sir.

3 Q Do you recall if there was any
4 news media there at the time?

5 A I don't recall. I never made it
6 around to the front.

7 Q Now, when you talked to
8 Detective Roper, you talked to him for a few
9 minutes. Correct?

10 A Yes, sir.

11 Q And then he took your written
12 statement after that?

13 A Yes, sir.

14 Q I ask to show you a photocopy
15 and ask if you recognize that?

16 A Yes, sir.

17 Q Is that the statement that was
18 taken that morning?

19 A Yes, sir.

20 Q And does that statement indicate
21 a time on it?

22 A Yes, sir.

23 Q And what is that time?

24 A 6:43.

25 Q Please answer any questions

Perry -- Direct

1 Mr. Kulp may have for you.

2

3

4

5

6

7

CROSS-EXAMINATION BY MR. KULP:

8

MR. KULP: Thank you. May it

9

please the Court, your Honor, I'd like

10

to pull my flip chart out.

11

THE COURT: Go ahead.

12

Q Can you see that all right?

13

A Yes, sir.

14

Q Granted not to scale and pretty

15

sloppy, but trying to draw your attention to

16

this rough map of the area, Virginia Avenue

17

runs along in this manner. Correct?

18

A Yes.

19

Q And roughly would you describe

20

the Mill Inn to be somewhere along here on

21

East Montague?

22

A Yes, sir.

23

Q Would Beasley's Mechanical

24

Company be here on the corner?

25

A Yes, sir.

Perry -- Cross

1 Q All right. And a little alley
2 runs behind the Mill. Correct?

3 A Yes, sir.

4 Q You know the name of that,
5 offhand?

6 A No, sir, I don't.

7 Q All right. But you can drive
8 down there?

9 A Yes, sir.

10 Q But it's not really a double
11 street?

12 A Right.

13 Q All right. Now the Texaco plant
14 is down Virginia Avenue over this way. I
15 think it's renamed now.

16 A Yes, it is.

17 Q All right. And they sold out?

18 A Yeah. They merged with Shell I
19 think it was. Shell.

20 Q Now at the time of this incident
21 you had a contract, Midlands Mechanical did,
22 to work at the old Texaco plant. Right?

23 A Yes, sir.

24 Q Down the road here on Virginia
25 Avenue?

Perry -- Cross

1 A Yes, sir.

2 Q Now, and Wes Myers was employed
3 by you at that time?

4 A Yes, sir.

5 Q And you both were therefore
6 working at the Texaco plant?

7 A Yes, sir.

8 Q What time did you have to be at
9 the Texaco plant?

10 A Seven o'clock is when we started
11 work.

12 Q Okay. And you knew at the time
13 that he was living with his parents?

14 A Yes, sir.

15 Q All right. And the way that he
16 came to work would be come down Chateau,
17 which is a little street along here? Or do
18 you know?

19 A I don't know how he came to
20 work.

21 Q Okay. But in any event, you
22 testified, if I look at my notes that, to be
23 sure, you said, told the jury in your direct
24 that Mr. Myers called you about 6:15 or
25 6:20.

Perry -- Cross

1 A Somewheres right around that.

2 Q Did he call you at home or did
3 he call you on your cell phone?

4 A He called my cell phone while I
5 was at the house.

6 Q I see. So you picked it up
7 there at the house?

8 A Yes, sir.

9 Q Now, you got a subpoena to
10 appear in this case from the defense?

11 A Yes, sir.

12 Q And that subpoena directed you
13 to bring your cell phone records if you had
14 them. Do you have them with you?

15 A No, sir.

16 Q Don't have them?

17 A No, sir.

18 Q All right. And when you got the
19 call on your cell phone, you spoke with him,
20 and as indicated in your statement that the
21 solicitor reviewed with you, you said,
22 quote, he asked me -- he being Wes -- to
23 come down to 1020 East Montague Avenue to
24 check on Teresa because it was a fire there.
25 Correct?

Perry -- Cross

1 A Yes, sir.

2 Q And you signed that statement.

3 You just looked at it?

4 A Yes, sir.

5 Q Now, you said that he said "come
6 on down there."

7 A Come down. I mean he wanted me
8 to go by the Mill Inn.

9 Q Yes, sir. And you knew Teresa?

10 A Yes, sir.

11 Q And he knew that you would have
12 an interest in anything that happened to her
13 as well. You'd been to the Mill Inn and
14 you'd had beer there socially like anybody?

15 A Yes, sir.

16 Q So tell me this, tell the ladies
17 and gentlemen of the jury where Wes Myers
18 was calling from when he called your cell
19 phone?

20 A I have no idea.

21 Q Okay. Did the police tell you
22 that at that exact time that he called you
23 that he was calling from Beasley's
24 Mechanical Company?

25 A No, sir.

Perry -- Cross

1 Q Did the police tell you that
2 when he called you he was already there at
3 the scene?

4 A No, sir.

5 Q They didn't tell you that?

6 A No, sir.

7 Q Now, you -- the solicitor asked
8 you and you said your statement was taken at
9 6:43. Correct?

10 A Yes, sir.

11 Q And you said you got there, you
12 came up from the back, you were there about
13 one minute, and you made a mistake in a
14 sense. You said "Where's Teresa? What's
15 the deal with Teresa?" Correct?

16 A I just wanted to ask what was
17 going on --

18 Q Okay.

19 A -- if anybody was in there.

20 Q All right. As a matter of fact
21 the police officer said come on this way, I
22 want to take a statement from you, in a
23 minute?

24 A Yes.

25 Q So he contacted you at about

Perry -- Cross

1 6:42 or so? Well, about a minute before he
2 sat down to begin taking your statement at
3 6:43. Correct?

4 A Yeah. I would say so.

5 Q Okay. Now you also said
6 something that's very important that needs
7 to be properly illustrated to this jury.
8 You said you came up from the back?

9 A Yes, sir.

10 Q True?

11 A Yes, sir.

12 Q That's because there were a lot
13 of people there. Correct?

14 A Yes, sir.

15 Q There were fire trucks that had
16 been fighting the fire for two hours, there
17 were police cars, ambulances, an A. T. F.
18 truck, and a bunch of people?

19 A Yes, sir.

20 Q And the Shores Bar was right
21 over here and there were people standing
22 around all over the place, weren't they?

23 A Yes, sir.

24 Q Okay. You didn't conduct or
25 have the opportunity even because you were

Perry -- Cross

1 taken in to get a statement, to look around
2 to see who was there. That wasn't really
3 your design or your purpose in being there.
4 Right?

5 A Right.

6 Q And so when you got here your
7 statement was taken. Did the police tell
8 you that about the time they were taking a
9 statement from you or about the time that --
10 depending upon -- about the time that Wes
11 Myers -- they didn't tell you that he was
12 calling from Beasley Mechanical, that he was
13 already at the scene?

14 A No, sir.

15 Q Or that at the time your
16 statement was being taken, that he was
17 sitting in a police car with Detective Payne
18 who was taking his statement. They didn't
19 tell you that, did they?

20 A No, sir.

21 MR. KULP: I don't have any
22 other questions. Thank you very much
23 for coming.

24 MR. DURANT: I have no further
25 questions, your Honor.

Perry -- Cross

1 THE COURT: Thank you.

2 MR. DURANT: State would call

3 Detective Harry Roper.

4 Oh, your Honor, this witness
5 really needs to be released from his
6 subpoena.

7 THE COURT: Any objection?

8 MR. KULP: No, sir, your Honor.

9 THE COURT: Have a good day.

10

11

12

13

14 H A R R Y M I C H A E L

15 R O P E R, having been called as a
16 witness in the presence of the jury, is
17 duly sworn and testifies as follows:

18 DIRECT EXAMINATION BY MR.

19 DURANT:

20 Q Detective Roper, you're employed
21 by North Charleston Police Department?

22 A Yes, I am.

23 Q How long have you been so
24 employed?

25 A Little over eighteen years.

Roper -- Direct

1 Q Your current duties are what,
2 sir?

3 A Right now I'm on a specialized
4 team called the Weed and Seed.

5 Q And what were you doing in March
6 of 1997?

7 A At that time I was a detective
8 supervisor.

9 Q Did you have an opportunity to
10 respond to the Mill Inn on that morning?

11 A Yes, I did.

12 Q And do you recall what time it
13 was you got there?

14 A I got there approximately six,
15 6:11 a. m.

16 Q And what did you do upon
17 arriving at the Mill Inn?

18 A I met with my lieutenant who at
19 the time was Lieutenant Cumbee and he gave
20 me a synopsis, what they were investigating,
21 and I went inside the Mills Inn.

22 Q You did actually go inside the
23 building at that time?

24 A I did, yes, sir.

25 Q Was the victim still there at

Roper -- Direct

1 the time?

2 A Yes.

3 Q How extensive was the fire
4 damage?

5 A Very extensive.

6 Q Were you able to determine from
7 your inspection as to where the point of
8 origin of the fire appeared to be?

9 A At that time, based on the
10 investigation it appeared to have been
11 behind the bar.

12 Q Did you have an opportunity to
13 run into a fellow that day named Joseph
14 Daniel Perry?

15 A I did, sir.

16 Q And do your notes reflect
17 exactly what time it was you encountered
18 him?

19 A I believe it was approximately
20 6:43 a. m.

21 Q Okay. I want you to look at
22 your supplement, sir.

23 A At 6:34 a. m.

24 Q Okay. So it was 6:34 when you
25 originally encountered him. Is that

1 Q And is that your signature as a
2 witness?

3 A Yes, sir.

4 Q And there's a time written on
5 there. Who wrote that time down there?

6 A I wrote that time.

7 Q And is that the time you
8 actually sat down and took his written
9 statement or the time that you actually
10 first encountered him there?

11 A That I took his written
12 statement.

13 Q And you actually saw him and
14 talked to him at sometime before that. Is
15 that correct?

16 A I did.

17 Q And that time being 6:34 a. m.?

18 A Right. That's when I
19 encountered Mr. Perry.

20 Q Do you know the defendant, Wes
21 Myers?

22 A Yes. He's the defendant in this
23 investigation.

24 Q Okay. Did you see him there
25 that morning?

Roper -- Cross

1 Detective Roper, you didn't know
2 that when you were -- that Mr. Myers,
3 Mr. Wes Myers had called Mr. Perry while Mr.
4 Myers was at Beasley Mechanical Contracting?
5 You didn't know that, did you?

6 A I knew that he called Mr. Perry.

7 Q That's all you knew?

8 A But I didn't know --

9 Q You didn't know from where, from
10 where Mr. Myers called Mr. Perry?

11 A I, I do know that Mr. Perry had
12 said that he could, we could find him at a
13 Texaco place or some reference to that.

14 Q My question is, did you know
15 where Mr. Myers was calling Mr. Perry from?

16 A No, sir, because Mr. Perry said
17 he received it from a mobile phone.

18 Q You just -- all right. Did you
19 ask him where Mr -- if he knew where
20 Mr. Myers was calling from?

21 A No.

22 Q Okay. Now, but you knew at the
23 time that you were taking this statement
24 that simultaneous -- well, let me ask you
25 this. You're at the scene and you said you

Roper -- Cross

1 didn't see Mr. Myers at the scene. Did you
2 know who was sitting in -- you know
3 Detective, then Detective Jeffrey Scott
4 Payne, P-a-y-n-e, Payne?

5 A Okay. Yes. I know Detective
6 Payne.

7 Q You know him. Did you know at
8 the scene there that at the time that you
9 were taking a statement from Mr. Perry that
10 Mr. Myers was sitting in the patrol car or
11 detective car with him, being interviewed?

12 A At that time I did not know
13 that.

14 Q You know that now?

15 A I knew that at one point that
16 Detective Payne had spoke to Mr. Myers.

17 Q Okay. Okay. As a matter of
18 fact, the reason you might not know that or
19 have known that then is because you that
20 morning were busy doing some other things --
21 correct -- in the part in the course of the
22 investigation?

23 A Pertaining to he -- where
24 Mr. Myers was or, I'm. . .

25 Q Pertaining to the investigation.

Roper -- Cross

1 A To what question? I'm sorry.

2 Q Well, you were directed by
3 someone at the scene at the police
4 department to go over and interview and
5 contact Mr. Dana Chaples. Correct?

6 A At one point in the
7 investigation, yes, sir.

8 Q And you went over there and
9 spoke to him, didn't you?

10 A Mr. Chaples?

11 Q Yes.

12 A Yes, sir.

13 Q And you told him that it had
14 been reported that he was at the scene that
15 evening?

16 A I don't believe at that point we
17 had discussed him being at the scene.

18 Q Okay. Well, you contacted him
19 at his house.

20 A Mr. Chaples?

21 Q Yes, sir.

22 A Yes, sir. I then made contact
23 with Mr. Chaples.

24 Q And then you came back to the
25 scene and then you or other detectives took

Roper -- Cross

1 Margaret Gonzalez -- excuse me. Margaret
2 Jensen and Tammy Gonzalez back over to see
3 Mr. Chaples?

4 A No, sir.

5 Q You weren't involved in that?

6 A I don't believe I was involved
7 in that.

8 Q Let me ask you this, you went --
9 when you went to Mr. Chaples' house --

10 A Yes, sir.

11 Q -- you noticed that his demeanor
12 appeared to be very nervous when you were
13 asking him questions about this
14 investigation?

15 A Yes, sir.

16 Q And you noticed that he said the
17 last time he was at the Mill Inn was around
18 six weeks ago?

19 MR. DURANT: Your Honor, I have
20 no -- obviously based on your previous
21 rulings I have no problem with him
22 inquiring into this area, but also I
23 have objection as to the manner he's
24 doing it.

25 THE COURT: All right. He says

Roper -- Cross

1 abide by the rules. Go ahead.

2 Q Yes, sir. At some point he
3 became uncooperative and didn't want to be
4 interviewed any more. Correct?

5 A I believe at the end of the
6 interview, yes, sir. There's a correction
7 on that, on my part, sir. At one point of
8 the investigation he was avoiding I believe
9 certain questions to, to the interview.

10 Q Yes, sir. And then eventually
11 you caught up with him at a traffic stop?

12 A Yes, sir.

13 Q And you spoke with him there?

14 A Yes, sir.

15 Q And there he made statements,
16 did he not, that the victim was shot in the
17 head and that she had the suspect's hair in
18 her hand?

19 A He made statement to --
20 something to that effect, yes, sir.

21 Q And then he had a gun in his
22 possession and he was arrested?

23 A Yes, sir.

24 Q Did you look in his car?

25 A I didn't look into his vehicle

Roper -- Cross

1 until after the gun was found in his
2 vehicle, sir.

3 Q While you were there did you see
4 a police photographer taking pictures of the
5 car he was in and the contents?

6 A Right. At one point a crime
7 scene detective was called. I believe it
8 was Brogden who was called over there.

9 Q Did they take any pictures of
10 Mr. Chaples' face that you know of?

11 A I can't recall, sir.

12 Q Inside the car did you see any
13 articles of jewelry that he had or a
14 turquoise bracelet or a watch or anything, a
15 watch band?

16 A I don't recall.

17 Q And just before you had contact
18 with him there at [REDACTED] you
19 all had seen him driving by the crime scene.
20 Correct?

21 A Right. And that's, that's what
22 started the, the traffic stop, sir.

23 Q Thank you, sir.

24 MR. DURANT: I just have a
25 couple.

Roper -- Cross

1

2

3

4

5

6

7

REDIRECT EXAMINATION BY MR.

8

DURANT:

9

Q When he was stopped in the car

10 what time of the day was that, sir?

11

A That was later on.

12

Q Around 11:30 in the morning, is

13

that what your notes reflect?

14

A If I can review my notes I can

15

tell you that. I believe it was around that

16

time, sir. Yes, sir. Around that time,

17

11:30.

18

Q Around 11:30?

19

A 11:30, 11:40.

20

Q And when he got out of the car

21

he said basically that someone at Shores had

22

told him that --

23

A Yes, sir.

24

Q -- somebody had been shot in the

25

head. Is that correct?

Roper -- Redirect

1 A Yes, sir. That's correct.

2 Q And that she, the victim had a
3 hair in her finger?

4 A Yes, sir.

5 Q And he told you that someone
6 else had told him that at Shores?

7 A Yes, sir.

8 Q Where all these people were that
9 morning talking about what went on at the
10 Mill Inn?

11 A Yes, sir.

12 Q Did Mr. Chaples also indicate to
13 you that he was an alcoholic?

14 A Yes, sir.

15 Q And are you aware why
16 Mr. Chaples was a suspect initially in this
17 case?

18 A Yes.

19 Q And why was that?

20 A You mean he was being
21 interviewed because at one point I think he
22 was a member, he was known that he was a
23 member of the Mills Inn.

24 Q Okay. But you don't know that.
25 You were told to go talk to him by someone

Roper -- Redirect

1 else?

2 A Right.

3 Q Okay. I have nothing further.

4 MR. KULP: Just a couple, your
5 Honor.

6

7

8

9

10 RECROSS-EXAMINATION BY MR. KULP:

11 Q Detective Roper, you said -- so
12 that the information, the critical
13 information that the victim had a hair in
14 her hand was learned by Mr. Chaples at
15 Shores, a bar nearby the murder scene, and
16 learned that morning by him when he was
17 there. Correct?

18 A Well, actually it was a gunshot
19 according to the information that he had,
20 that the victim had a gunshot wound to the
21 head and also a finger -- a hair or
22 something --

23 Q In her hand?

24 A Yes.

25 Q Right. And so that information,

Roper -- Recross

1 critical information, it's apparent and
2 obvious to you the police provided to
3 someone who conveyed it to Shores where
4 people in the area had gathered who, who
5 responded to the event. Correct?

6 A Right.

7 Q That's where Mr. Chaples learned
8 that. Did he learn anything there in terms
9 of this news about the case and this
10 critical information you say he had learned
11 that evening there about a pink note found
12 behind the bar?

13 A He didn't say anything about the
14 news. He just said that he, he learned that
15 this had trans -- in reference to the
16 gunshot and the, and the hair, that people
17 at Shores were talking about the event that,
18 that happened around the corner, which was
19 the Mills Inn.

20 Q Right. Did you know or did you
21 ask him if they were talking about a pink
22 note found behind the bar or Mr. Alan White,
23 Raymond Alan White leaving a pink note
24 behind the bar?

25 A I don't even recall a note.

Roper -- Recross

1 Q Next let me ask, the solicitor
2 asked why Mr. Chaples was a suspect and I'd
3 like to ask you one question, a series of
4 questions about that.

5 Is it not true he was a suspect
6 because two eyewitnesses put him at the
7 scene as the last person there at the crime.
8 Correct?

9 A He, he was --

10 MR. DURANT: He also has already
11 stated that he had -- didn't know why
12 Mr. Chaples was a suspect, your Honor.
13 He's testified to that.

14 THE COURT: He's on cross. If
15 he can answer, he'll answer. If he
16 can't, he'll say I don't know.

17 Q Because two eyewitnesses had put
18 him there as the last person at the scene of
19 the murder. Correct?

20 A Okay.

21 Q If you know?

22 A I'd like to answer the question
23 but you have to give me -- there are so many
24 questions you're asking me.

25 Q Yes, sir. I'll start over. He

Roper -- Recross

1 was a suspect, was he not, for the following
2 reasons: One, two people put him at the
3 scene as being the last person there;
4 Margaret and Tammy.

5 A Okay. He was implemented as a
6 person to be investigated in this case based
7 on the fact that he was known through
8 witnesses that he was, he was there. I
9 can't say he was a primary suspect.

10 Q Okay. Do you have your report
11 with you in this case?

12 A Yes, sir.

13 Q Would you please turn for, to
14 refresh your recollection or to review, to
15 the first page of the incident report that
16 you filed?

17 A I'm sorry. You said the
18 incident report, sir?

19 Q Pertaining to Mr. Chaples. If
20 you don't have a copy of it, I can hand you
21 one.

22 A Yes, sir. I would appreciate
23 it. I don't have a copy of it, sir. Yes,
24 sir.

25 Q Just briefly.

Roper -- Recross

1 A Oh, in reference to the fire
2 alarm?

3 Q Well, just please read the first
4 paragraph there to refresh your
5 recollection, if you will.

6 A Okay. "On 3/13/97 in reference
7 to a homicide" --

8 MR. DURANT: Your Honor, I
9 object to him reading his report.

10 Q Don't -- read it to yourself.
11 I'm sorry.

12 A Oh. I have the subject, sir.
13 Subject of the investigation.

14 Q Right.

15 THE COURT: Now, see, just use
16 that if you need it to refresh your
17 memory. Go ahead.

18 Q Yes, sir. And the question I
19 have for you, having read that and
20 refresh -- to refresh your recollection, it
21 is the case, is it not, that you went over
22 to interview Mr. Chaples because two
23 witnesses by the name of Tammy or Tanya and
24 Margaret indicated to him to be a subject in
25 this investigation?

Roper -- Recross

1 A Right. A subject.

2 Q Right. A subject.

3 A Not a suspect.

4 Q And according to them, and if
5 you need to still review, according to them
6 at approximately 1:30 hours, 1:30 a. m. he
7 was at the Mill Inn Bar?

8 A Right. They, they had indicated
9 that at one point he was at the bar. I
10 can't recall the exact time, but at one
11 point he was at the bar. I guess I could
12 review the report and tell you. Right.
13 They said they saw him about 1:30 at Mills
14 Inn, yes, sir.

15 Q Okay. But that was why you went
16 over there.

17 A Right. To talk to Mr --

18 Q So two eyewitnesses --

19 THE COURT: Wait a minute now.
20 He's already gone through that.
21 Solicitor said let's abide by the
22 rules.

23 MR. KULP: Yes, sir.

24 Q But you just testified two
25 people identified him as being at the scene?

Roper -- Recross

1 A Right. Being at the Mills Inn,
2 yes, sir.

3 Q You interviewed him and he said
4 he wasn't there.

5 A Right.

6 Q As they described.

7 A Yes, sir.

8 Q You stopped him later and
9 interviewed him. He was nervous.

10 A Again, when I stopped him,
11 stopped him.

12 Q He was nervous again. He made
13 the comment to you about a hair being found
14 in the victim's hand and indicated to you
15 that he learned that at the Shores bar.

16 MR. DURANT: Is there a question
17 in there somewhere, your Honor?

18 Q Did he not?

19 THE COURT: Good question.

20 Q Did he say to you, thirdly, that
21 he, he asked about a hair found in the
22 victim's hand, did he tell you that he
23 learned that at Shores bar?

24 A That was the second time,
25 because I only spoke to him on two events,

Roper -- Recross

1 the first time and the second time.

2 Q Okay. Thank you very much.

3 THE COURT: You can come down.

4 THE WITNESS: Oh. Thank you,
5 sir.

6 MR. DURANT: I would ask that
7 Detective Roper be excused --

8 MR. KULP: Without objection,
9 your Honor.

10 MR. DURANT: -- at this time.

11 THE COURT: Would you like to
12 take a break?

13 MR. KULP: Yes, sir.

14 THE COURT: All right. Let's
15 take a few minutes. Let me know when
16 you're ready, and the smokers just take
17 two or three draws. We don't want to
18 be here Thursday.

19 All right. Court's in recess.

20 (Whereupon, a recess is taken at
21 3:32 p. m.)

22 (The Judge enters the courtroom
23 at 3:45 p. m.)

24 THE COURT: Who's your next
25 witness, Solicitor?

Roper -- Recross

1 MR. DURANT: It would be Al
2 Hallman of the North Charleston Police
3 Department.

4 THE COURT: All right. Who's
5 going to get him in here?

6 (The jury enters the courtroom
7 at 3:46 p. m.)

8 A L B E R T H A L L M A N,
9 having been called as a witness in the
10 presence of the jury, is duly sworn and
11 testifies as follows:

12 DIRECT EXAMINATION BY MR.

13 DURANT:

14 Q Good afternoon, Officer Hallman.
15 Would you please tell the jury where you're
16 employed?

17 A I'm employed with the city of
18 North Charleston Police Department.

19 Q How long have you been so
20 employed?

21 A Little over thirteen years.

22 Q And in what capacity you are
23 employed with the North Charleston Police
24 Department?

25 A I'm assigned to the crime scene

Hallman -- Direct

1 investigations unit.

2 Q How long have you been with the
3 crime scene unit?

4 A About six -- about seven years.

5 Q And do you have training in the
6 area of crime scene investigation?

7 A Yes, I do.

8 Q Were you employed as a crime
9 scene investigator on March thirteen, 1997?

10 A Yes, sir.

11 Q Did you have an opportunity to
12 be dispatched to the Mill Inn, 1026 East
13 Montague Avenue on March thirteen, '97?

14 A I did.

15 Q What time did you arrive, sir?

16 A If I can refer to my notes?

17 Q Yes, sir.

18 A I responded, I was notified at
19 4:30 in the morning and arrived shortly
20 thereafter.

21 Q What did you do upon arriving at
22 the scene?

23 A I met with several investigators
24 that were already on the scene and assessed
25 basically what we had at the time. I

Hallman -- Direct

1 notified or I noticed that the exterior part
2 of the rear of the building had smoke damage
3 on the outside. And at that time I began
4 visually assessing the crime scene itself.

5 Q And if you would, just tell the
6 jury about how you went about processing the
7 crime scene.

8 A Well, the first thing I did to
9 assess, just get a visual overview of the
10 crime scene. I entered through the rear of
11 the business. As I approached the back door
12 of the business on the ground was a small
13 book of matches or box of matches, one of
14 the two. I marked that with an orange cone
15 for identification purposes and then I
16 entered the business through the rear door.

17 Once you enter the rear door
18 you're in like a foyer-type area. It's a
19 small area. Probably, I don't know what the
20 dimensions are, but it's a small area.

21 You go through that area and
22 then you're on, enter another doorway and
23 you're standing on steps. These steps look
24 down into the main part of the bar itself.

25 As you come down these steps,

Hallman -- Direct

1 you got a long bar, the bar itself on the
2 left-hand side. On the right-hand side you
3 have a half-wall or short wall we call it,
4 that separates the bar area, the immediate
5 bar area from a, an area in the bar with
6 pool tables, where people pay pool at.

7 Q Officer Hallman, I hate to
8 interrupt you, but I'm going to show you
9 what's been marked as State's exhibit number
10 one into evidence. This is a diagram of the
11 bar that you drew. Is that correct?

12 A That's correct.

13 Q And I just put that up there to
14 assist you in your testimony, if it will.

15 A All right.

16 Q You don't have to refer to it if
17 you don't want to.

18 A Well, I can show it better, if
19 it will help.

20 Q Okay.

21 A Right here is the back door of
22 the bar where I entered. This right here is
23 that foyer area I told you about, and right
24 here are the steps that lead down into the
25 bar area. This is the long bar. Several

Hallman -- Direct

1 bar stools. This is that short wall that I
2 told you about that separates the area where
3 they play pool at.

4 And then just on the other side
5 of the pool table is like a bar room area
6 with a lot of circular tables and, tables
7 and chairs and things of that nature.

8 I entered the bar. As soon as I
9 entered down into the bar there was, there
10 was extensive water damage and fire damage
11 in the bar area itself. I saw the victim
12 laying on the floor between the -- about
13 halfway between where I was at on the steps
14 and the front part of the bar. And she was
15 laying facedown right on the right-hand side
16 of the bar.

17 Q I have a question. You had
18 stated, you had stated that there was a
19 great deal of water in the bar. Is that
20 correct?

21 A Yes, there was.

22 Q And presumably a lot of debris
23 from the fire. Is that correct?

24 A There was extensive debris
25 everywhere.

1 Q Had there been a bunch of folks
2 already inside the bar by the time you got
3 there?

4 A There had been numerous
5 firefighters and investigators. I couldn't
6 tell you how many people had been in there.

7 Q And how does that affect your
8 ability to process the crime scene?

9 A It makes it very, very difficult
10 because any physical evidence that may have
11 been present at the initial time of the
12 scene, could have been trampled, moved,
13 carried out by a person's feet, removed, or
14 completely damaged by water or soot and
15 debris. It makes it kind of tough to
16 collect any evidence whatsoever.

17 Q You're talking about the fire
18 itself. Is that correct?

19 A The fire itself I'm sure
20 destroyed a lot of evidence.

21 Q You are a certified fingerprint
22 examiner, too, are you not, sir?

23 A I am.

24 Q Does fire, as a fingerprint
25 examiner, does fire affect your ability to

Hallman -- Direct

1 be able to lift or read prints off of things
2 that have been burned?

3 A Absolutely. A fingerprint when
4 left on any given surface is basically an
5 impression by the hand -- when you're
6 dealing with the hand -- that's left. The
7 friction ridge skin on the palms and the
8 fingers come in contact with an item and if
9 there's any debris or sweat or oils or
10 things like that that's on your hand, it
11 transfers a pattern onto that object.

12 Now keep in mind that pattern is
13 generally usually made by sweat and your
14 oils and amino acids secreted by your hand.
15 Heat, extensive heat will basically
16 evaporate anything usually left by, you
17 know, in the form of a fingerprint. And if
18 the heat doesn't evaporate it then the fire
19 or soot or damage and things like that will
20 totally obliterate it.

21 Q Okay. I'm sorry to divert you,
22 but I did want to ask you about that.

23 A That's okay.

24 Q You were describing locating the
25 victim's body, I believe.

Hallman -- Direct

1 A Yes. The victim's body was on
2 the floor to the outer part of the bar, like
3 I said about halfway between me on the steps
4 and the front of the bar. Her head was
5 towards me and her feet were pointed towards
6 the front of the bar and, as I said, she was
7 lying facedown.

8 There was a lot of fire debris,
9 burn debris and stuff on the -- on her back
10 and her legs, and the bar area itself behind
11 the bar where the bartender would work was
12 virtually wiped out by fire.

13 Q Did you go out in front of the
14 bar?

15 A Yes. At a later, at a later
16 time, I did.

17 Q Did you see the victim's car out
18 in front of the bar?

19 A Yes. After I photographed the
20 interior of the bar, I went outside the
21 front of the bar and was, there was a green
22 vehicle parked out front. That was later
23 identified as the victim's vehicle.

24 Q And was there anything unusual
25 on the windshield of the car?

Hallman -- Direct

1 A Yeah. I noticed some writing of
2 some type on the windshield and closer
3 examination revealed that letters that had
4 been written with some kind of clear wax
5 pencil or grease pencil and it formed the
6 words I think it was "I love you, baby. Do
7 me later. [REDACTED]"

8 Q And you lifted latents of that
9 writing. Is that correct?

10 A Later after, later when the
11 vehicle was processed by both me and
12 Sergeant Poole, I dusted the windshield with
13 blank fingerprint powder and was able to
14 make latent lifts of those words.

15 Q Okay. Now, once you completed
16 your survey at the scene what did you do
17 then?

18 A As I earlier stated, I
19 photographed the entire, you know, scene
20 itself, both interior and exterior. The
21 matches that were located outside the back
22 door were photographed as they were found,
23 and they were collected by me as evidence.

24 There were several pieces of
25 broken glass, broken, I believe it was a

Hallman -- Direct

1 wine carafe like a tip jar that was lying on
2 the ground around the victim. It appeared
3 to have blood spatter on them. Those were
4 photographed and I collected those as
5 evidence as well.

6 The victim's body was
7 photographed at numerous angles, both
8 showing her location as well as showing
9 close-ups of injuries that were present
10 around her head area. And of course at that
11 point that's when I went outside, after I
12 photographed all that I went outside and
13 that's when I processed her vehicle.

14 Q Did you assist the coroner's
15 office in examining the victim?

16 A Yes, I did. Upon the arrival of
17 Deputy Coroner Rae Wooten, I assisted in
18 further examinations of the victim herself.
19 We documented the way she, her appearance
20 was on her back, and then we rolled the
21 victim over. The front part of her body was
22 virtually untouched by fire. She was
23 wearing a black bra I believe it was, and a
24 white shirt and blue jeans. The shirt and
25 the bra had been basically torn open, away

Hallman -- Direct

1 from her body. Her face had extensive
2 lacerations and bruising around the eyes,
3 her eyes were completely bruised and of
4 course her head area was, had sustained
5 extreme damage by fire.

6 Q Did you discover -- did you all
7 turn the victim over?

8 A Yes. Once we turned the victim
9 over her, I believe it was her left hand,
10 had been clutched underneath her body the
11 entire time. When we rolled it over the
12 palm of her hand was slightly, it was
13 slightly open and I saw several hairs on the
14 palm of her left hand.

15 Q Do you recall how many hairs
16 there were?

17 A I don't know exactly how many
18 there were. I know that there was one that
19 was very long and it was real thin, like a
20 lightish brown color, and there were several
21 shorter hairs that were real, real dark,
22 kind of thick, almost black.

23 Q Did you collect those hairs
24 then?

25 A No, sir, I did not. I bagged --

Hallman -- Direct

1 I placed a bag over her -- a paper bag over
2 her hand and secured it with tape so as not
3 to lose any of that evidence and then I
4 assisted Rae Wooten in transporting or
5 preparing the body for transport to
6 M. U. S. C.

7 Q Okay. You had mentioned earlier
8 about collecting a wine carafe or pieces of
9 a wine carafe. Is that correct?

10 A Yes, sir.

11 Q Do you recall how many you
12 collected?

13 A I don't recall how many pieces.
14 There were several pieces I collected. I
15 couldn't tell you how many individual wine
16 carafes it was. I just know it was several
17 pieces of broken glass.

18 Q Okay. Could you determine from
19 the necks at least how many wine carafes
20 were broken?

21 A If I'm not mistaken I think -- I
22 don't know how many were broken. I think I
23 identified two of them with all the glass
24 that I collected. I think two were
25 identified.

Hallman -- Direct

1 Q All right. Okay. And where --
2 you said you collected one that was near the
3 victim's body. Did you take a photograph of
4 that?

5 A Yes, I did.

6 (Whereupon, marked for
7 identification were State's Exhibit
8 Nos. 6 through 16, photographs.)

9 MR. DURANT: Your Honor, the
10 State would offer State's exhibits six
11 through sixteen in evidence, I believe
12 without objection.

13 MR. KULP: Without objection,
14 your Honor.

15 THE COURT: Thank you.

16 (Whereupon, entered into
17 evidence were State's Exhibit Nos. 6
18 through 16, photographs.)

19 Q Officer Hallman, I hand you
20 what's now been marked as State's exhibit
21 number fourteen in evidence and ask if you
22 recognize what that photo depicts?

23 A Yeah. That's a photograph of
24 several pieces of broken glass or broken
25 wine carafe that was near the victim.

Hallman -- Direct

1 Q What's the number on the back of
2 that?

3 A Fourteen.

4 MR. KULP: Thank you, sir.

5 (Whereupon, marked for
6 identification was State's Exhibit No.
7 17, package containing piece of wine
8 carafe.)

9 Q I hand you what's now been
10 marked as State's exhibit number seventeen.
11 I ask you to take a look at the contents of
12 that package and relate to the jury whether
13 you recognize it?

14 A Yes, I do.

15 Q And what is that, sir?

16 A That is the broken piece of wine
17 carafe that's got very extensive burns to it
18 that was found near the victim, and it's
19 also depicted in that photograph.

20 Q That's the same wine carafe or
21 piece of carafe that is depicted in State's
22 exhibit number fourteen. Is that correct?

23 A That is correct.

24 Q And where was that piece of wine
25 carafe located --

Hallman -- Direct

1 A It was near the foot --

2 Q -- in relation to the victim's
3 body?

4 A I'm sorry. It was near the foot
5 of the bar, up near the victim's head.

6 Q Okay. And if you would, just
7 point out on this diagram this --

8 A It would have been in this area
9 right here.

10 Q Okay.

11 A Right in there.

12 Q Do you know where the other
13 piece of wine carafe was collected from?

14 A I don't recall, but I believe it
15 was up further, up on this part of bar.

16 MR. DURANT: Okay. Your Honor,
17 we would also offer State's exhibit
18 number seventeen into evidence if
19 there's no objection.

20 MR. KULP: No objection.

21 THE COURT: Thank you.

22 (Whereupon, entered into
23 evidence was State's Exhibit No. 17,
24 piece of wine carafe.)

25 Q What did you do at the scene

Hallman -- Direct

1 once the, the body was removed by the
2 coroner and medical examiner's office?

3 A I then met with members of the
4 A. T. F., or the Alcohol, Tobacco and
5 Firearms. They had their mobile crime lab
6 present at the scene and I obtained a
7 sifter, a sifting board from them.

8 I then went back inside the bar
9 and using a shovel, shovelled up a lot of
10 the debris that had been found right around
11 where the victim was and put it on this
12 sifting tray and took it outside and using
13 running water I sifted through all the
14 debris that I had shovelled up. I think I
15 did that three or four different times.

16 Q And what did you obtain from
17 sifting through the debris?

18 A I recovered several more,
19 several additional pieces of broken glass
20 that had blood spatter on them, and I also
21 recovered a watch face plate and back plate
22 that had been really, really burned.

23 Q Who -- was there any cash
24 recovered from inside the bar?

25 A Yes. As I was just finishing up

Hallman -- Direct

1 with my initial processing of the scene, one
2 of the firefighters at the scene advised me
3 that they had located some money in a
4 freezer in the very, very far back part of
5 the bar. And what he was talking about was
6 down in this area right here. That right
7 there was a freezer and he directed me to
8 that location, and inside the freezer itself
9 was a bag that contained three hundred and
10 seventy-three dollars in currency. Just all
11 paper, paper money I believe it was. And I
12 photographed that where it was found and
13 collected it as evidence.

14 Q How long did you remain out at
15 the scene?

16 A I departed shortly after that.
17 I think I was out at the scene, I can't be
18 exactly sure. Several hours.

19 Q Okay. You say you got there
20 about four, five?

21 A About quarter to five I would
22 say.

23 Q Did you attend the autopsy at
24 sometime later?

25 A Yes, I did.

Hallman -- Direct

1 Q And where was that autopsy
2 performed?

3 A Excuse me. At M. U. S. C.

4 Q And was that that same day or
5 was that --

6 A It was later that morning.

7 Q Okay. Did you collect any
8 evidence from the, the autopsy at that time?

9 A Yes, I did. The -- as soon as I
10 arrived at the autopsy, I immediately took
11 some photographs of some injuries to the
12 victim's head area. I then removed the
13 paper bag on her left hand and collected
14 hair samples, the hairs that were in -- that
15 I had located in the palm of her hand. I
16 placed those hairs in a small envelope and
17 marked them "left hand".

18 I then obtained some additional
19 hair samples, some hair fibers that were
20 found on her chest area. I placed them in
21 another envelope and labeled them "chest".
22 I then took both of those envelopes and put
23 them in another envelope and secured them as
24 evidence.

25 Then the medical examiner

Hallman -- Direct

1 cleaned the victim up a little bit, got rid
2 of a lot of the fire debris and stuff, and I
3 re-photographed her injuries to her head.
4 She had extensive lacerations to the back of
5 her head, to the side of her head, and to
6 her face. And as I stated earlier, both her
7 eyes I believe were swollen completely shut.

8 Q Do you recall anything about
9 collecting a one-dollar bill, a burned
10 one-dollar bill from the autopsy?

11 A Yes. That was presented to me
12 by the medical examiner who had located that
13 in one of the front pockets of the victim,
14 in her pants, her jeans.

15 Q Okay. You don't recall if it
16 was the left or right pocket?

17 A I don't recall. I think it was
18 the right pocket, but I don't recall
19 exactly, no.

20 Q Did you take the wine, pieces of
21 wine carafe that previously, that has now
22 been marked as State's exhibit number
23 seventeen?

24 MR. KULP: Just, just a minute.

25 We have a matter of law to take up at

Hallman -- Direct

1 this time, your Honor please, sir.

2 THE COURT: Is it the kind we
3 can talk here or we need to -- that's
4 all right.

5 Go to the room just a minute.
6 Don't sit down. Bring you right back.

7 (The jury leaves the courtroom
8 at 4:08 P. M.)

9 THE COURT: All right, sir.

10 MR. KULP: Thank you, your
11 Honor. It's my belief that where we
12 were getting ready to go then was that
13 the solicitor was going to elicit from
14 this witness that a -- one of the two
15 wine carafes was taken by him and held
16 up to the victim's neck or face to
17 determine if it matched the incisions
18 or impressions in her face. I do not
19 believe that this witness is competent
20 to make that kind of opinion to the
21 jury.

22 THE COURT: Well, let's just see
23 what he's going to say. Go ahead,
24 Solicitor.

25 MR. DURANT: Well, let me ask

Hallman -- Direct

1 him the question. I don't know what
2 he's going to say either.

3 Q Did you take State's exhibit
4 number seventeen in evidence, the piece of
5 wine carafe, the burned piece of wine carafe
6 that was found next to the defendant's (sic)
7 face, did you take that with you when you
8 went to the autopsy?

9 A I did.

10 Q Did you -- what did you do with
11 it?

12 A I presented it to Dr. Nichols.
13 Dr. Clay Nichols.

14 Q And what did he do with it?

15 A He compared that wine carafe
16 piece there to an injury on the victim's
17 head, on the victim's face, right up in
18 here.

19 THE COURT: That's as far as you
20 want to go with him.

21 MR. DURANT: That's as far as
22 I'd want to go with him.

23 THE COURT: All right, sir.

24 MR. KULP: That was his
25 observation but nothing about whether

1 the results of that comparison --

2 THE COURT: Oh, no.

3 MR. DURANT: No. I'm not --

4 MR. KULP: Yes, sir.

5 MR. DURANT: Dr. Nichols will
6 testify to that.

7 MR. KULP: Okay. Just want to
8 make sure. I didn't want to get
9 into --

10 MR. DURANT: Okay. You
11 understand?

12 THE WITNESS: Oh, yeah.

13 MR. DURANT: Okay.

14 THE WITNESS: Got you.

15 MR. KULP: Right.

16 (The jury enters the courtroom
17 at 4:10 p. m.)

18 THE COURT: All right, sir. Go
19 ahead.

20 Your question was: "Did you
21 take this item. . ."

22 Q Right. Did you -- State's
23 exhibit number seventeen, previously into
24 evidence, the piece of wine carafe that
25 you've identified, did you take that with

Hallman -- Direct

1 you when you went to the autopsy?

2 A Yes, sir, I did.

3 Q And what did you do with it when
4 you got to the autopsy?

5 A I presented that to Dr. Clay
6 Nichols, who's the medical examiner.

7 Q And what did he do with it?

8 A He used it and compared it to
9 several wounds on the victim's head and
10 face.

11 Q Okay. What did you do after the
12 autopsy?

13 A I responded back to North
14 Charleston Police Department to try and get
15 some of the evidence together and get it
16 prepared and ready for transport.

17 Q Did you ever see the defendant
18 that day?

19 A Upon my arrival back at the
20 police department the defendant and Sergeant
21 Dusty Poole were in my office. Sergeant
22 Poole was obtaining a gunshot residue kit or
23 residue evidence from the defendant's hands
24 and I just immediately went to my desk and
25 started putting together the evidence, like

Hallman -- Direct

1 I said, packaging it and getting ready for
2 transport.

3 Q Did the defendant say anything
4 to you?

5 A Yes. He asked me if I had found
6 the victim's purse.

7 Q And what did you respond?

8 A "No."

9 Q Did you know anything about the
10 victim's purse being missing at that time?

11 A I had no knowledge of that
12 whatsoever.

13 Q Well, see if my machine is
14 working here. Can you see from where you
15 are, sir?

16 A I've got to move the microphone
17 but, yeah, I can see.

18 Q You can see all right from where
19 you are?

20 A Yeah.

21 Q Okay. Just I'll show you what's
22 previously been marked as State's exhibit
23 number thirteen in evidence. I ask if you
24 recognize that photograph?

25 A That's the match box that was

Hallman -- Direct

1 found outside the back door of the bar.

2 Q You took that photograph?

3 A Yes, sir.

4 Q Do you know whether there was
5 ever any evidentiary value resulting from
6 that?

7 A No, I do not.

8 Q Yes. This is State's exhibit
9 number fourteen. I'm going to ask you what
10 that depicts. And if you need this, it's a
11 laser pointer.

12 A Okay. That's a photograph of
13 the broken glass, broken wine carafe that I
14 found near the victim. And that piece right
15 there is what has been marked as State's
16 Exhibit number seventeen.

17 Q And where was, where would the
18 victim's head have been in relation to that
19 photograph?

20 A About over here, on the wall.
21 It was probably, I don't know, two, three
22 feet from the foot of the bar. That's the
23 foot of the bar right there.

24 Q Okay. And that is what you've
25 identified as State's exhibit number

1 seventeen. Is that correct?

2 A That's correct.

3 Q Excuse me. This is State's
4 exhibit number fifteen. Ask what that
5 depicts.

6 A That's the photograph of the
7 victim as she was found.

8 Q This is State's exhibit number
9 ten.

10 A I've got to step down and see
11 that full picture.

12 Q Okay. Come look at it if you
13 would. You can put it down, then you can --

14 A Okay.

15 Q -- point out to the jury what
16 all is in there.

17 A That's a picture of the bar area
18 itself, looking down the bar from the back
19 steps that I testified earlier where we
20 entered from the back, and the victim is
21 lying right here. This is her head. Her
22 feet are pointing towards the front of the
23 bar which is up here, and this is the bar
24 itself running down the left side of the
25 building.

Hallman -- Direct

1 Q And where was the wine carafe
2 you previously identified?

3 A It would have been right in this
4 area, right in here. See this is the, this
5 is the foot rest on bar itself, and it was
6 on this part right down in here. It was
7 actually on the floor.

8 Q Okay. This is another picture,
9 this being State's exhibit number eleven.
10 That may show that a little bit better.

11 A Yes. That is -- that's the
12 victim, we took another photograph of the
13 victim again, and right there is the wine
14 carafe. Pieces of exhibit, State's exhibit
15 number seventeen.

16 Q Okay. What is all that on top
17 of the victim there?

18 A That's burn debris from both the
19 ceiling and just some stuff that had been
20 spread around with the fire hoses, the
21 pressure of the water, the hoses just spread
22 everything around in there.

23 Q This is State's exhibit number
24 twelve. Do you know what that cone is
25 depicting?

Hallman -- Direct

1 A No. I do not.

2 Q Would you like to look at it
3 more closely?

4 A Okay. Now I see it. That's --
5 that is the other piece of wine carafe. The
6 other neck piece to that piece.

7 Q Okay. The other piece of wine
8 carafe you collected?

9 A Right. The victim is back here,
10 and the first piece that I collected was
11 about right in that area and then the second
12 piece is right there.

13 Q Okay. This is State's exhibit
14 number eight. Would you tell the jury what
15 that depicts.

16 A Yes. That's the freezer in the
17 very back part of the bar, right back in
18 there. And that's the bag, the bag right up
19 here is the bag of cash that had the three
20 hundred and seventy-three dollars in it.

21 Q State's exhibit number six.

22 A That's an area behind the bar
23 and this area right here was believed to be
24 where the fire had initially been started.

25 Q And State's exhibit number

1 seven.

2 A That's just another angle, a
3 photograph of another angle of that same
4 area right in here.

5 Q Okay. And do you know if this
6 picture was taken before or after that area
7 had been cleaned up by the police -- the
8 fire department?

9 A I do not attest to that. I know
10 the fire department was back there doing
11 what they have to do before we were even
12 allowed in there.

13 Q And State's exhibit number
14 sixteen.

15 A That's a photograph -- actually
16 if you could turn it long-wise you could
17 probably see it better. Yeah. That's a
18 photograph of where the victim had been
19 laying after she'd been removed, this being
20 her head area and this being her leg area.

21 Q And finally State's exhibit
22 number I believe that's nine?

23 A That is the victim's left finger
24 and that is her left fingernail that was
25 almost -- it was virtually removed and

1 ripped from her finger.

2 Q Okay. Did you also obtain --
3 you're aware, of course, that the defendant
4 in this case gave hair and blood standards.
5 Is that correct?

6 A That is correct.

7 Q And did you obtain possession of
8 those hair and blood standards?

9 A Later I did. Yes, I did. I
10 received them I believe from Officer Payne.

11 Q Was it Payne or Clayton, or do
12 you know?

13 A I believe it was Payne. I'm not
14 one hundred per cent sure. I think I got
15 the, the evidence kit from him, but I'm not
16 sure.

17 Q Would it refresh your memory if
18 you saw the evidence sheet?

19 A Yes, it would.

20 Okay. I received it from
21 Clayton who received it from Payne.

22 Q And how did the suspects' kits
23 come to you? How are they packaged?

24 A They're sealed in a S. L. E. D.
25 designated envelope.

Hallman -- Direct

1 Q And was the one you received on
2 the -- from the defendant, Wes Myers, in
3 this case sealed at the time that you got
4 it?

5 A It was.

6 Q Any indication that it had been
7 tampered with in any way?

8 A No, sir.

9 Q Now, moving on to March
10 fourteen, the next day, which would be a
11 Friday I believe, did you do anything
12 regarding this case on that day?

13 A Yes, sir. I responded to the
14 police department and gathered up all trace
15 and serology evidence, that being the hairs,
16 the hair fibers, the blood swabs, things of
17 that nature, and I responded to S. L. E. D.
18 with these items.

19 Q That is the State Law
20 Enforcement Division?

21 A That is correct.

22 Q And did you take at the time
23 the, the hairs that you had collected from
24 the victim's hand at the autopsy?

25 A Yes, sir.

Hallman -- Direct

1 Q And did you take the hair
2 standards that had been collected from the
3 defendant, Wes Myers, that were in the
4 suspect kit?

5 A Yes, sir.

6 Q And what, where up at
7 S. L. E. D. did you take those?

8 A I -- upon my arrival up at
9 S. L. E. D. headquarters I met immediately
10 with Special Agent Joseph Powell. He's the
11 lieutenant in charge of the trace evidence
12 department.

13 Q And what did Agent Powell do?

14 A He compared the hairs, the hair
15 fibers that were recovered from the victim's
16 hand and from her chest, and compared them
17 to the known hair standards from Wesley
18 Myers.

19 Q And were you present when he did
20 that, sir?

21 A Yes, I was.

22 Q And what did you -- now,
23 specifically was there any of the hairs from
24 the victim's hand that, that -- never mind.
25 Withdraw that question.

Hallman -- Direct

1 And one of the hairs you had
2 collected was a longer blond hair. Is that
3 correct?

4 A Yes. There was a hair
5 approximately six to eight inches in length.

6 Q And what did you learn as a
7 result of Agent Powell's examination?

8 A He examined the hair fibers
9 underneath a high powered microscope, a
10 comparison microscope which takes two
11 different items and basically puts them
12 together so that you compare each to the
13 other through this microscope. And he said
14 that he had matching characteristics in one
15 of the hairs and allowed me to view them,
16 and I viewed them through the microscope and
17 I, too, could -- I could tell that they were
18 very, very, very similar hairs.

19 MR. KULP: Your Honor, I think
20 we object to the use of the word
21 "matching" because within this field of
22 science that's not an appropriate term
23 because there's a comparison made and
24 similarities observed, but I think that
25 is not an appropriate designation.

Hallman -- Direct

1 Anyway, that's testimony for
2 Agent Powell.

3 MR. DURANT: I understand.

4 THE COURT: All right, sir.

5 Q But I guess my question is this.
6 Were you led to believe that the hairs --
7 the hair matched or not?

8 A Yes.

9 Q And what? Matched or not?

10 A Yes. They matched.

11 Q And were you led to believe that
12 the hair matched any particular part of the
13 defendant's hair?

14 A Yes. It was Special Agent
15 Powell told me that the hair, the long six
16 to eight inch hair that I'd gotten from her
17 hand was almost like a two-tone color, half
18 of it being a very, very light blondish
19 color and the other half being a lighter
20 brown color, and it was said to match the
21 back portion of Myers' hair because he had
22 what was called or designated as a "rat
23 tail", long pieces of hair that had --
24 partially, half of it had been dyed.

25 Q What did you do upon obtaining

Hallman -- Direct

1 this information?

2 A I immediately relayed it to
3 investigators at North Charleston Police
4 Department.

5 Q And so that was on Friday. Is
6 that correct?

7 A Yes.

8 Q Do you recall who you contacted
9 regarding the hair?

10 A I believe it was Lieutenant
11 Melvin Cumbee.

12 Q Okay. Now, moving on in this
13 case to December of 1998. Specifically
14 December fourteen of 1998.

15 A Okay.

16 Q Do you recall having done
17 anything associated with this case in
18 December, December fourteen of 1998?

19 A Yes. I received a telephone
20 call from Special Agent Steven Lambert up at
21 S. L. E. D. again. He requested that I look
22 into our evidence department, evidence room
23 for an evidence bag relating to this case,
24 and he gave me a bar code number. I've got
25 that number if I can refer, if it's

1 important.

2 Q Okay. Well, you don't need to
3 refer to it now.

4 A Okay. And he said he wanted me
5 to see if we had that evidence bag in
6 evidence matching that bar code number
7 because he had been contacted from the
8 F. B. I. stating that that evidence package
9 contained the six to eight-inch long hair
10 that had been removed from the victim's hand
11 and --

12 MR. KULP: Your Honor, may I
13 approach for just a second?

14 THE COURT: Sure.

15 (Whereupon, there was an
16 off-the-record bench conference.)

17 THE COURT: Go to your room just
18 a minute. Don't sit down now, and then
19 we can resolve things right here.

20 (The jury leaves the courtroom
21 at 4:27 p. m.)

22 THE COURT: Go ahead. Go ahead,
23 Mr. Kulp.

24 MR. KULP: Your Honor, I just
25 mentioned to you that I think that this

Hallman -- Direct

1 is some sort of -- that it's a dilemma.
2 It's hearsay testimony. I didn't
3 object at first to see exactly where we
4 were going with this.

5 THE COURT: How far has he gone
6 so far?

7 MR. DURANT: Well, are you
8 asking me or him?

9 MR. KULP: I'm sorry, your
10 Honor. He's indicating so far that
11 they said that they asked him to look
12 for another hair, and I'm afraid what
13 we're going to get into is trying to
14 trace the handling of this hair and how
15 it was handled by using hearsay
16 testimony from this witness and from
17 possibly other witnesses about
18 conversations with people that I can't
19 cross-examine because, much to my
20 dismay as I -- as I have expressed to
21 the director of the F. B. I. himself,
22 these people will not cooperate and
23 appear here, who have tested this hair,
24 and who have handled it.

25 THE COURT: Well, I thought,

Hallman -- Direct

1 Solicitor, all you wanted to let them
2 know was that --

3 MR. DURANT: All I wanted to let
4 them know, and I probably asked the
5 question wrong, is based upon, you
6 know, what you were told, what did you
7 do. He went and located the hair that
8 he originally found and Fed-Ex'd it to
9 the F. B. I. is the testimony I wanted.

10 I didn't really want to really
11 get into who told him what.

12 THE COURT: Well, can the two of
13 you all give me a statement I could
14 give to the jury that will cure it?

15 MR. DURANT: You know, I mean --

16 THE COURT: So far it's not, not
17 bad, but I don't mind addressing the
18 jury in an attempt to cure it if you
19 want me to.

20 MR. DURANT: Well, we need to
21 address this issue now, Judge, because
22 obviously we got nobody here from the
23 F. B. I. and not going to have anybody
24 here from the F. B. I. and I've always
25 told Mr. Kulp that I will stipulate to

Hallman -- Direct

1 chain of custody everywhere that -- in
2 Charleston and from Charleston to here
3 to Columbia, because he wants that
4 evidence in. He wants the evidence
5 from Terri Melton at Modern
6 Technologies into evidence. I told him
7 I'm not going to disagree with that,
8 and I'm not going to object to the
9 chain of custody, but I cannot vouch
10 for the chain of custody for the
11 F. B. I.

12 And I don't know any other way
13 that -- unless he wants to enter into a
14 written stipulation which I would be
15 more than happy to do -- I don't know
16 any other way to broach the subject but
17 to say it was sent up there.

18 He's going to -- this, this
19 officer would testify I sent it up
20 there, two days later I called and they
21 acknowledged that they had received it
22 in good order.

23 Agent Powell I believe will
24 testify that he was contacted by the
25 F. B. I. and advised that --

Hallman -- Direct

1 THE COURT: You see, all of
2 that's, all of that's hearsay.

3 MR. DURANT: I understand --
4 well, no. I mean --

5 THE COURT: It is hearsay if he
6 says they received it.

7 MR. DURANT: Well, Judge, all's
8 I can say is this. I can either
9 stipulate to the results or I can't
10 stipulate to the results. You either
11 allow me to argue that or then he's got
12 to prove the chain of custody.

13 MR. KULP: Your Honor, that's
14 exactly the issue. Let's -- and I'd
15 like to introduce into the record at
16 this time copies of the letters that I
17 wrote in that regard.

18 On February the first,
19 summarizing things for the record, I
20 wrote to the lawyer for the F. B. I.
21 Laura Bloomfield -- Bloomenfeld --

22 THE COURT: Well, let's don't go
23 into that.

24 MR. KULP: All right.

25 THE COURT: I've already told

Hallman -- Direct

1 you that you left no stone unturned,
2 and I couldn't understand why the
3 F. B. I. wouldn't cooperate with you,
4 and I still don't know.

5 By the same token I don't think
6 anybody knows really what went on up
7 there, the solicitor's office or the
8 police or you. So let's see what we
9 can do to stipulate.

10 How far more you want to go with
11 this, because he's already said too
12 much.

13 MR. DURANT: The only, the only
14 thing -- well, let me tell you what I
15 will proffer, what this witness --

16 THE COURT: So far all he said
17 is --

18 MR. DURANT: Right. I would
19 proffer what I believe this witness
20 would testify to. That as based upon,
21 based upon this conversation with
22 Lambert, he went to the evidence room,
23 located the hair, physically located
24 the hair, and Fed-Ex'd it to the
25 F. B. I.

Hallman -- Direct

1 THE COURT: And that's all that
2 he testified to.

3 MR. DURANT: He called two days
4 later.

5 THE COURT: He can't do -- he
6 can't testify --

7 MR. DURANT: No. Just to see if
8 he -- if they received it.

9 THE COURT: All right.

10 MR. DURANT: And they confirmed
11 receipt. Okay.

12 THE COURT: But that's still
13 hearsay. He calls.

14 MR. DURANT: Why?

15 THE COURT: What do you mean?

16 MR. DURANT: Well, I guess if
17 I --

18 THE COURT: Who knows whether
19 they received it or not?

20 MR. DURANT: If I'm -- okay.
21 And then all I have after that as an
22 affidavit, you know, I have where they
23 told Agent Powell that they did receive
24 it. That, you know, obviously is what
25 this witness could testify to. And,

Hallman -- Direct

1 you know, I mean if he -- you all want
2 me to argue they never received it,
3 fine.

4 THE COURT: I don't know what,
5 whether they received it or not.

6 MR. DURANT: But the F. B. I. --

7 THE COURT: They wouldn't
8 correspond with him.

9 MR. DURANT: What --

10 THE COURT: Wouldn't return his
11 telephone calls. I looked at the
12 correspondence.

13 What you want me to do?

14 MR. KULP: I think you didn't
15 mention exactly this the other day, but
16 I don't know if you'd consider trying
17 to call and ask the director of the
18 F B. I. to send his agents down here to
19 clear this matter up.

20 THE COURT: You think if they
21 won't cooperate with a former agent
22 they'd cooperate with me? I'm just a
23 red-necked judge.

24 MR. KULP: Your Honor, you're
25 the judge. You know, I mean you're the

Hallman -- Direct

1 judge. I'm the lawyer.

2 THE COURT: Hold it a minute.

3 Let's see what can we stipulate.

4 MR. DURANT: Well, that's what
5 I'm trying to say. The bottom line,
6 Judge, he either wants the --

7 THE COURT: Tell him what you
8 would like to stipulate to.

9 MR. DURANT: I told him, and
10 I've told him this for a month at
11 least, is I will stipulate to all the
12 chain of custody on this hair, the
13 defendant's standards, and the
14 defendant's blood, and this, the
15 questioned hair, up to the point that
16 it, it goes to Washington.

17 THE COURT: Do you want to do
18 that?

19 MR. DURANT: But I can't
20 stipulate given, given the
21 irregularities of what, you know, they
22 told Agent Powell that they didn't
23 receive it, they told me they didn't
24 receive it, and then after a year and a
25 half of saying they didn't receive it

Hallman -- Direct

1 and having reports where they, they
2 claimed that all they got was debris,
3 then after eighteen or a year and a
4 half, all of a sudden they have an
5 affidavit saying there were hair
6 fragments in it and --

7 THE COURT: Sounds pretty good
8 on your side.

9 MR. DURANT: Right. And that
10 those hair fragments were mounted on
11 another slide, and returned to
12 S. L. E. D. This witness and Joe
13 Powell both looked at the, the, the,
14 you know, I don't know if I showed you
15 this before, Judge, but --

16 THE COURT: Just tell me. You
17 don't have to show me.

18 MR. DURANT: But, well, it's
19 easier. What this witness is going to
20 say is that he sent a long blond hair
21 up there and this is what he got back.

22 THE COURT: Is that a long blond
23 hair?

24 MR. DURANT: That's an
25 enlargement of that, Judge. It's

Hallman -- Direct

1 obviously a bunch of different hairs.

2 MR. KULP: Here's what happened,
3 in short. They sent this hair, the
4 critical evidence in this case, off to
5 be tested.

6 THE COURT: A hair?

7 MR. DURANT: No. It was, it was
8 the long blond hair. It was whatever
9 was found in her hand, I believe.

10 THE COURT: Okay.

11 MR. KULP: It was now pieces of
12 what was believed to be -- let me
13 finish, please, Bruce -- the hair.
14 When the results came back from that
15 five -- four to five thousand dollar
16 testing the taxpayers paid for, and it
17 came back and said it could not be
18 identified to be his hair through the
19 "toppest", the most highest level of
20 the DNA testing, mitochondrial, then
21 the State and not prior to that time
22 and I beg them to show evidence of the
23 fact they complained about the chain
24 prior to that. After that they said,
25 "Wait a minute. This F. B. I. window

Hallman -- Direct

1 is questionable."

2 But they went ahead and paid the
3 money to have it tested. Now when they
4 get the result back that's when they're
5 complaining about this, and they want
6 to argue to the jury that the --
7 despite that finding that exonerates or
8 at least exculpates him, they -- the
9 jury shouldn't consider it because
10 agents that I can't get to do anything,
11 that are on the prosecution side of the
12 court, didn't cooperate or that they
13 messed the hair up and I have --

14 MR. DURANT: Did they --

15 MR. KULP: -- based -- and I
16 have -- let me put one other thing on.

17 MR. DURANT: Okay.

18 MR. KULP: The solicitor's
19 office has not cooperated by trying to
20 at least call the F. B. I. in the
21 interests of justice and say would you
22 please come down here and clarify this
23 and help this out because this is
24 exonerative evidence and if it was
25 inculpatory they'd be out here in the

Hallman -- Direct

1 hall right now.

2 MR. DURANT: Oh, to the
3 contrary, Judge, and I'm going to talk
4 now if I may. I told Mr. Kulp before
5 this thing was even sent up there that
6 I would pay the freight, agree to all
7 the chain of custody, if he would be
8 bound by the results, and he elected
9 not to do so.

10 THE COURT: Can we do this?

11 MR. DURANT: And --

12 THE COURT: Let's just stipulate
13 to the jury. I'll tell them to
14 disregard anything he might have said.
15 That those hairs were given to
16 S. L. E. D., that S. L. E. D. sent them
17 to the F. B. I.

18 MR. DURANT: Well, actually I
19 think that this particular hair was
20 sent by Officer Hallman.

21 THE COURT: Well, first --

22 MR. DURANT: Right.

23 THE COURT: They were sent by
24 S. L. E. D., were they not?

25 MR. DURANT: Well, actually --

1 THE COURT: The first ones.

2 MR. DURANT: -- I think what
3 happened is the standards, the
4 defendant's standards were sent by, by
5 S. L. E. D. if I'm not mistaken.

6 MR. KULP: I can't -- I'm not --

7 MR. DURANT: Okay.

8 MR. KULP: I don't know it.

9 THE COURT: Okay.

10 MR. DURANT: Then they for some
11 reason did not get the unknown. They
12 called, S. L. E. D. called him to ask
13 him if the unknown was back in the
14 evidence room. He found it and sent
15 it.

16 THE COURT: Okay. And then for
17 a year and a half it was lost.

18 MR. DURANT: Then for a year and
19 a half it was lost.

20 THE COURT: And then --

21 MR. DURANT: And then it shows
22 up in this form.

23 THE COURT: All right. And then
24 neither one of you all know whether or
25 not that's the same hairs. Right?

Hallman -- Direct

1 What can we tell the jury then?

2 MR. KULP: Wait a minute. I
3 didn't even think of that either, your
4 Honor. You say that it was lost. When
5 it was found, it was found to have been
6 at the North Charleston Police
7 Department the whole time.

8 MR. DURANT: Well, that's not
9 true because it was found in the North
10 Charleston Police Department in a box
11 that had been mailed there from the
12 F. B. I., to S. L. E. D. from the
13 F. B. I.

14 MR. KULP: A year and a half
15 ago.

16 MR. DURANT: It was found in
17 June.

18 THE COURT: Why don't we just
19 tell the jury the facts and as a result
20 of all this, errors, comedy of
21 errors --

22 MR. DURANT: It is that.

23 THE COURT: Neither the defense
24 nor the State are sure about any
25 result. Can't do that?

Hallman -- Direct

1 MR. KULP: I don't think I can
2 do that, your Honor.

3 THE COURT: Well, are you sure
4 of the result?

5 MR. KULP: Am I sure of the
6 result?

7 THE COURT: Yeah.

8 MR. KULP: I am.

9 THE COURT: And what is the
10 result? What is the result?

11 MR. KULP: The result is that
12 the hair cannot be identified through
13 mitochondrial DNA testing to be Wes
14 Myers' hair.

15 There's one other thing, very
16 briefly, I left out, by way of review.
17 Quickly. When the F. B. I. got the
18 hair, and by the way, for the record I
19 asked that the hair be sent to the
20 F. B. I. to be tested and on my
21 in-court request it was finally sent,
22 but when it got up there they did
23 something I didn't know they did. When
24 I was in the F. B. I. twenty years ago,
25 Mr. Hoover's rule was if one lab looked

Hallman -- Direct

1 at something, another lab wouldn't
2 duplicate. They just -- the F. B. I.
3 lab wouldn't try to duplicate it for
4 fear of whatever, not agreeing with
5 them.

6 It turns out that in this
7 particular instance when a hair came in
8 for DNA testing, what they do to
9 screen, to determine if it's worth
10 spending all the money on DNA is they
11 do something. They do a microscopic
12 examination of the hair that was sent
13 to them compared to the standards
14 submitted that's supposed to be Myers,
15 and they concluded that there was no
16 significant comparison between those
17 two hairs that would warrant DNA
18 testing.

19 MR. DURANT: That's not what
20 they concluded, Judge. That's just a
21 plain misstatement of the facts.

22 THE COURT: Well, where is the
23 record of that? We can look, read it
24 and tell.

25 MR. DURANT: I got it right

Hallman -- Direct

1 here, Judge.

2 MR. KULP: Might as well.

3 THE COURT: Well, while you're
4 looking, let me tell you what our
5 problem is. You all had agreed that
6 you would only go so far, Solicitor.

7 MR. DURANT: Yes.

8 THE COURT: And that he wouldn't
9 require that we can go on forward, go
10 on forward with the trial and he
11 wouldn't require any court orders to
12 get the F. B. I. personnel down here.

13 Now, where do we stand as far as
14 your agreement?

15 MR. DURANT: Well, my agreement
16 has always been, your Honor, I would
17 not object to that testimony from the
18 DNA person coming in that as long as I
19 had a right to question the, the
20 integrity of that sample while it was
21 in Washington. That's always been
22 my --

23 THE COURT: Wait a minute.

24 MR. DURANT: Huh?

25 THE COURT: Yesterday morning

Hallman -- Direct

1 when we started and I got back in this
2 room, one of the questions that we had
3 to talk about was whether or not I was
4 going to have to continue the case, and
5 so I talked to the two of you all in
6 chambers.

7 MR. DURANT: I understand.

8 THE COURT: And you said all you
9 were going to put before that jury was
10 whatever you said. I don't remember
11 what it was. Can you tell me what it
12 was?

13 MR. DURANT: If I have --

14 THE COURT: And he said in view
15 of that fact, Mr. Kulp said in view of
16 that fact then I'm going forward with
17 the case. Now, what was his --

18 MR. KULP: That we would not get
19 into this, as this through, for
20 example, the hearsay testimony. Here's
21 why. I don't care if, if the test was
22 conducted by fifty DNA experts that
23 concluded it wasn't Wes's. If he's
24 able to tell that jury that it wasn't a
25 hair, it doesn't matter what the

Hallman -- Direct

1 results are.

2 THE COURT: I remember. He said
3 yesterday morning --

4 MR. KULP: Yes, sir.

5 THE COURT: -- in the chambers,
6 he said, "I'm going to tell that
7 jury" -- correct me if I'm wrong --
8 "that I don't know whether or not it's
9 the hair, I don't know whether it's not
10 the hair, but it really don't make any
11 difference." And as a matter of fact
12 that's what you said --

13 MR. DURANT: That's what I told
14 them in closing.

15 THE COURT: In the opening
16 statement, and you didn't object to
17 that part of it. He said that in
18 opening statement. I don't know
19 whether it's the hair. I don't know
20 whether it's not the hair. It just
21 don't make any difference in this
22 particular case.

23 MR. DURANT: That's been my
24 argument for almost, you know -- your
25 Honor, I have never said at any time to

Hallman -- Direct

1 Mr. Kulp or to your Honor that I'm
2 aware of, that I've always said I don't
3 want to keep that scientist's testimony
4 from the jury, but given the
5 irregularities of how this hair was
6 handled by the F. B. I., I did not want
7 to give up my argument that maybe it
8 was the hair, maybe it wasn't the hair.

9 THE COURT: And that's what you
10 told the jury to start off with. You
11 recall?

12 MR. DURANT: Right.

13 MR. KULP: Yes, your Honor. And
14 I also recall that we, we didn't want
15 to continue the case because we spent a
16 lot of money to have witnesses and
17 experts here.

18 THE COURT: Right.

19 MR. KULP: Mr. Durant doesn't
20 want to continue case because he wants
21 to have concluded it in the interests
22 of justice. It's been almost four
23 years. For the victim's family as
24 well.

25 Now, the, the, the -- that is

Hallman -- Direct

1 why we wanted to go forward. Now what
2 I thought we might be able to do, I
3 regret the fact, of course, that the
4 F. B. I. wouldn't respond, despite my
5 efforts to get them to do so. I think
6 the Court was concerned yesterday in
7 that as well.

8 But the notion was I think to
9 figure out a way to possibly let the --
10 Mr. Durant address his concerns about
11 that and equal the playing field by
12 letting me get from the Court possibly
13 some instruction that would balance it
14 out, and I think that's the way we left
15 it there in the morning time.

16 THE COURT: Let me tell you
17 something, for what it's worth.

18 MR. KULP: Yes, sir.

19 THE COURT: Yesterday morning I
20 would have continued the case if they
21 were going to bring out what you
22 indicated they were going to bring out,
23 and that's why I wanted to find out
24 first. I don't want to start the case
25 and then, and then find out we got a

Hallman -- Direct

1 problem.

2 Now the two of you all go in my
3 chambers right now and you figure out
4 how you want to straighten this thing
5 out, because --

6 MR. DURANT: Okay.

7 (Whereupon, a recess was called
8 at 4:40 p. m.)

9 (The Judge enters the courtroom
10 at 4:55 p. m.)

11 (The jury enters the courtroom
12 at 4:56 p. m.)

13 THE COURT: Madam Forelady and
14 ladies and gentlemen, I want to remind
15 you of something. I don't know whether
16 I even said anything about this. But
17 remember I told you I was going to rule
18 on matters of law, and when I do that
19 it doesn't mean I'm favoring either
20 side. It's just I must rule as a
21 matter of law, so really don't get any
22 idea in your head if I rule in favor of
23 somebody that I'm favoring that side.

24 But there's no use keeping you
25 back there. Sometimes we can work

Hallman -- Direct

1 these things out quickly and sometimes
2 we can't. So I'm going to send you
3 home early today, and don't stay around
4 the courtroom. And remember my
5 admonitions about talking and T. V. and
6 radio and newspapers, those kind of
7 things. And have a good night. And
8 I'll see you tomorrow morning at 9:30.

9 (The jury leaves the courtroom
10 at 4:57 p. m.)

11 THE COURT: Everyone else remain
12 seated for just a moment, please.

13 Now, Mr. Kulp and Solicitor, as
14 I understand we got a little problem
15 and you all going to try to solve it
16 tonight. Is that correct?

17 MR. KULP: Yes, sir.

18 MR. DURANT: That is correct,
19 Judge.

20 THE COURT: All right. If
21 you -- see if I can do anything to help
22 you, let me know. In the mean time,
23 court's in recess until tomorrow
24 morning, 9:30. Have a good night.

25 MR. KULP: You, too, your Honor.

Hallman -- Direct

1 Thank you.

2 MR. DURANT: Thank you.

3 (Whereupon, Court is adjourned

4 at 4:57 p. m.)

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C E R T I F I C A T I O N

I, the undersigned HEATHER GAYLE BURNS, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings in the captioned case, relative to appeal, heard in the Court of General Sessions for Charleston County, South Carolina, on the 27th day of February, 2001.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATED: July 31, 2001

Heather Gayle Burns RDR
HEATHER GAYLE BURNS, R.D.R.
Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
DOCKET NO. 97-GS-10-4319, 4320

TRANSCRIPT OF PROCEEDINGS

STATE OF SOUTH CAROLINA,

-VS-

WESLEY MAX MYERS,

FEBRUARY 28, 2001

CHARLESTON, SOUTH CAROLINA

Defendant.

BEFORE:

THE HONORABLE LUKE N. BROWN, Judge, and a Jury.

APPEARANCES:

D. BRUCE DURANT, ESQ.
SENIOR ASSISTANT SOLICITOR
FOR THE STATE

TIMOTHY CLAY KULP, ESQ.
FOR THE DEFENDANT

BY: HEATHER GAYLE BURNS, R.D.R.
CIRCUIT COURT REPORTER

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1 (Prior to commencement of the
2 trial marked for identification were
3 State's Exhibit No. 18, cardboard
4 mailer; State's Exhibit No. 19,
5 photograph of a slide; and State's
6 Exhibit No. 20, photograph of a slide.)

7 (The Judge enters the courtroom
8 at 9:40 a. m.)

9 THE COURT: You want to publish
10 them?

11 MR. DURANT: Your Honor, if you
12 want to do it, that's fine.

13 THE COURT: I don't want to
14 publish them.

15 MR. DURANT: Pardon me? I mean
16 not the contents but I mean if you just
17 want to tell the jury that we've agreed
18 that this is the what the people
19 would --

20 THE COURT: I'll let you all
21 tell the jury.

22 MR. KULP: They'll be in
23 evidence. They may be referred to
24 during testimony possibly, or --

25 MR. DURANT: In that case, if

1 you want me to go ahead and mark them.

2 THE COURT: Yes. Go ahead and
3 get them marked in that case.

4 Are they in order? Put them in
5 the order by dates and staple them and
6 we'll make them one exhibit.

7 MR. DURANT: Okay. And I guess
8 let's just -- I'm stapling this all
9 together as one thing. Is that right?

10 MR. KULP: Sure.

11 THE COURT: And if you want to
12 go ahead and mark it. What do you want
13 to call this? Defense, State, or
14 Court?

15 MR. KULP: Court's exhibit so
16 that it's not --

17 THE COURT: All right.

18 (Whereupon, marked for purposes
19 of the record was Court's Exhibit No.
20 1, stipulation.)

21 THE COURT: All right, sir. Go
22 ahead, Mr. Kulp.

23 MR. KULP: Thank you, your
24 Honor. If it please the court, just
25 reviewing some other matters this

1 morning, I see in the newspaper that
2 there was an article about this case
3 this morning. I know that you've
4 instructed the jury not to receive any
5 outside information about the case and
6 I think that your standard practice,
7 your Honor, is to check with them on
8 that or remind them of it.

9 THE COURT: I will.

10 MR. KULP: Thank you, your
11 Honor.

12 THE COURT: I'll also remind
13 them it was even an error in the
14 newspaper reports, so that's why it's
15 so important for them not to pay any
16 attention.

17 MR. KULP: Yes, sir.

18 THE COURT: Anything else?

19 MR. KULP: Additionally, your
20 Honor, we -- I think we're going to
21 address that and that's all, your
22 Honor.

23 THE COURT: All right. Bring
24 the jury in.

25 (The jury enters the courtroom

1 at 9:44 a. m.)

2 THE COURT: Now Madam Foreman,
3 members of the jury, something occurred
4 this morning which drove home to me and
5 I'll tell you all about it. You
6 remember I always tell you not to read
7 newspapers or listen to radio, watch
8 T. V. about things that go on in the
9 trial. Even though we got good
10 reporters for all the news media, very
11 often they'll quote some hearsay
12 testimony which I explained to you what
13 it was, or even erroneous testimony and
14 so this morning in the newspaper there
15 was an article that was incorrect. A
16 portion of it was incorrect, I'll put
17 it that way. So I always, as I said,
18 remind you all not to talk to anybody
19 about the case or contact the news
20 media in any way, so I always ask my
21 jury has any member of the jury panel,
22 anybody tried talk to you about the
23 case?

24 Anybody read a newspaper or
25 watched T. V. or listened to the radio,

1 anything about this case?

2 I know you wouldn't, but it's
3 just a policy of mine to always ask the
4 jury.

5 Now, on yesterday we had a
6 little sticky problem because we've got
7 some correspondence and the parties,
8 each side objected to certain things.
9 And so over night the attorneys got
10 together, and they do that real often,
11 and agree on certain things. Not that
12 whatever is there might be true because
13 they'll explain their own positions,
14 but they just agreed that there are a
15 series of letters or reports from
16 either S. L. E. D. or the F. B. I.
17 laboratory that they going to just give
18 you as a Court exhibit, and so at this
19 time, Solicitor, if you'll just explain
20 those to you.

21 MR. DURANT: Yes, sir, your
22 Honor.

23 THE COURT: To the jury. I
24 picked him, not because it's more
25 important to the State because I think

1 the two of you all got together and did
2 this, so go ahead and explain to the
3 jury what it is.

4 MR. DURANT: Thank you, your
5 Honor. For the jury's edification,
6 this is a court's exhibit consisting of
7 a two-page document from the F. B. I.
8 lab in Washington, D. C. dated February
9 seventeen, 1999 just detailing items of
10 evidence they received from the North
11 Charleston Police Department relative
12 to this case.

13 There is a report of an
14 examination by John Stuart of the DNA
15 lab dated February seventeen, 1999.
16 There is a, also of the F. B. I.

17 There is a report from a Robert
18 Framm also of the F. B. I. dated
19 February one, 1999. He is with the
20 trace lab at the F. B. I.

21 And finally there is a
22 three-page affidavit from John E.
23 Stuart of the DNA lab at the F. B. I.
24 detailing their handling of the
25 evidence in this case.

1 Mr. Kulp and I have agreed that
2 were these persons present they would
3 testify to what's contained in these
4 documents. We are not stipulating as
5 to the truth of what's contained in
6 these documents, only that that's what
7 they will testify to. Is that --

8 MR. KULP: That is correct.

9 THE COURT: And also from time
10 to time in the rest of the trial
11 somebody might be referring to it, to
12 these documents, and so that's why we
13 wanted to tell you about it. And
14 they'll of course address their
15 position at the end of the case when
16 they make their summation.

17 Call your next witness.

18 MR. DURANT: Thank you, your
19 Honor. We would resume with Officer Al
20 Hallman.

21 THE COURT: He's already been
22 sworn.

23

24

25 A L B E R T H A L L M A N ,

1 previously sworn as a witness in the
2 presence of the jury, resumes the stand
3 and testifies as follows:

4 CONTINUED DIRECT EXAMINATION BY
5 MR. DURANT:

6 Q Officer Hallman, I believe when
7 we left off yesterday we were discussing
8 your activities on about December fourteen
9 of 1998. Is that correct, sir?

10 A Yes.

11 Q And on that occasion were you
12 asked to go to the evidence room to see if
13 you could find the hair that you had
14 originally collected in this case, the hairs
15 collected from the victim's hand?

16 A Yes.

17 Q And did you do that, sir?

18 A I did.

19 Q Where did you locate that hair?

20 A I located that package in our
21 evidence room marked with the bar code
22 number that had been designated by
23 S. L. E. D. I then retrieved it in the
24 presence of our evidence custodian and she
25 verified the package and the bar code number

1 along with myself.

2 Q Sir, I hand you what's
3 previously been marked as State's exhibit
4 number eighteen and ask if you can identify
5 that item?

6 A That is the cardboard mailer
7 that is used by S. L. E. D. to package
8 evidence such as this, and it contains the
9 hair in question or that's the writing on
10 the outside indicates such.

11 Q Okay. Now, is that the
12 cardboard mailer that you sent to the
13 F. B. I. lab on December fourteen, 1998?

14 A Yes, it is.

15 Q Did you have an opportunity to
16 open that package to verify its contents
17 prior to sending it to the F. B. I. lab?

18 A Yes, I did, and I did that in
19 the presence also of our evidence custodian
20 who verified the hair being present.

21 Q And what did you observe when
22 you opened the package?

23 A The slide contained one long
24 hair. I don't know -- it was rolled up,
25 curled up, it was on the slide so I don't

Hallman -- Cont'd. Direct

1 know the exact length, and several dark,
2 blacker hairs.

3 Q And they were all located on one
4 slide?

5 A Yes, sir.

6 Q And was one large slide?

7 A Yes.

8 Q And after you observed the, the
9 hair and the hairs on the slide, what did
10 you do with the package?

11 A I packaged it in an Air Borne
12 Express overnight mailer or a Fed Ex mailer
13 and sent it to the evidence custodian at the
14 F. B. I. headquarters.

15 Q And that was done on December
16 fourteen?

17 A Yes, sir.

18 Q Now, at some point evidence that
19 was sent to the F. B. I. was sent back to
20 agent Joe Powell in Columbia. Is that
21 correct?

22 A That's correct.

23 Q Do you know when that was, sir?

24 A No, I do not.

25 Q Do you have your notes with you?

1 A Yes.

2 Q Would it reflect in your notes
3 when you actually went back up there?

4 A Oh, yes. I can tell you when I
5 went back up there. I don't know when Agent
6 Powell received it.

7 Q Okay. But did you go back up
8 there after Agent Powell received it?

9 A Yes. That was August
10 twenty-seventh of '99.

11 Q Okay. And did you look through
12 the box that had been sent back by the
13 F. B. I.?

14 A Yes, I did.

15 Q With Agent Powell?

16 A Yes.

17 Q Was State's exhibit -- what's
18 that, eighteen?

19 A Yes.

20 Q Was State's exhibit eighteen in
21 the box that was sent back by the F. B. I.?

22 A This container here was, yes.

23 Q And what was the condition of it
24 when it was sent back?

25 A It contained broken glass.

1 Q Did you and Agent Powell
2 actually open it?

3 A Yes, we did.

4 Q And when you opened it did you
5 all find any hair inside that particular
6 exhibit?

7 A No, we did not.

8 Q Now, at some point and now I'm
9 referring to Court's exhibit number one into
10 evidence, were you aware of an affidavit by
11 Mr. Stuart of the F. B. I. dated February --
12 excuse me. May eighteen of last year, 2000,
13 stating that hair fragments had been located
14 in that package initially and remounted on
15 another slide?

16 A I'm aware of that document, yes.

17 Q And once you all acquired that
18 information, did you make an effort to
19 locate the slide that those hair fragments
20 had been relocated or remounted on?

21 A Yes, we did.

22 Q And those were located where,
23 sir?

24 A Those were located in the box
25 with the rest of the evidence but on another

Hallman -- Cont'd. Direct

1 slide designated with another number.

2 Q Okay. Prior to that time, sir,
3 had you ever been -- had you ever received
4 any information from any source prior to the
5 affidavit of Mr. Stuart in May of 2000 --

6 MR. KULP: I object to any, any
7 hearsay, of course under the rules of
8 hearsay.

9 MR. DURANT: I'm not asking him.
10 I'm just asking if he had any
11 information from any other source.

12 THE COURT: Go ahead.

13 MR. KULP: We need to approach,
14 your Honor.

15 THE COURT: Well, I'll let him
16 ask that question. He just can't
17 answer, he can't go any further.

18 MR. KULP: Yes, sir.

19 THE COURT: Go ahead.

20 MR. KULP: Because we're
21 restricting it to the document.

22 THE COURT: That's correct. Go
23 ahead.

24 Q Prior to that receipt, receiving
25 that document did you have any information

1 from any source that the F. B. I. had
2 received any hair fragments?

3 A No.

4 Q Now, once this -- where was the
5 slide that -- I believe in Court's exhibit
6 number one they indicated that they had
7 remounted these hair fragments on slide Q-2.
8 Is that correct?

9 A If I recall correctly, yes.

10 Q And you located slide Q-2?

11 A Yes.

12 Q Now I hand you what's previously
13 been marked as State's exhibits number
14 nineteen and twenty. Ask if you recognize
15 those photographs, sir?

16 A State's exhibit nineteen --
17 State's exhibit nineteen is a photographic
18 picture of the slide designated Q-2 and it
19 has the word "broke" written on it. And
20 then State's exhibit twenty is an enlarged
21 photo of the hair fibers mounted on that
22 slide.

23 Q Okay. And when you located this
24 hair, did you -- this slide, did you look at
25 it under a microscope yourself?

Hallman -- Cont'd. Direct

1 A Along with Special Agent Joe
2 Powell, yes.

3 Q Okay. And in fact Special Agent
4 Joe Powell was the one that took these
5 photographs.

6 A Yes.

7 Q Is that correct?

8 A Yes, he did.

9 Q And do these photographs fairly
10 and accurately depict the condition of slide
11 Q-2 at the time you located this --

12 A Yes, they do.

13 Q -- in the evidence room?

14 A Yes.

15 MR. KULP: Without objection.

16 THE COURT: Without objection.

17 MR. DURANT: Your Honor, at this
18 time I would offer State's exhibits
19 eighteen, nineteen, and twenty into
20 evidence consisting of the cardboard
21 mailer and two photographs --

22 THE COURT: Without objection.

23 MR. DURANT: -- of the hair.

24 (Whereupon, entered into
25 evidence were State's Exhibit Nos. 18,

Hallman -- Cont'd. Direct

1 cardboard mailer; State's Exhibit No.
2 19, photograph of a slide; and State's
3 exhibit No. 20, photograph of a slide.)

4 Q And could you step -- could the
5 witness step down, please, sir.

6 Officer Hallman, was the slides
7 you sent to, the hair samples you sent to
8 the F. B. I. in State's exhibit number
9 eighteen on December fourteen, compared to
10 the hair sample returned in State's exhibit
11 nineteen and twenty, could you please
12 describe to the jury what the differences
13 from your own personal observations between
14 what you saw in December and you saw in June
15 of last year.

16 A Yes. What I sent was several
17 hairs resembling these darker black hairs
18 here and one hair, one individual hair that
19 was curled on the slide itself. It was a
20 long hair that had a descriptive look such
21 as these hairs did, the lighter colored
22 hairs on this slide.

23 When we received it back of
24 course this is what we got and it has
25 absolutely no resemblance to what I sent to

1 the F. B. I. whatsoever.

2 MR. KULP: Your Honor --

3 A From a visual inspection --

4 THE COURT: Just a minute.

5 MR. KULP: -- may we approach?

6 THE COURT: Sure.

7 (Whereupon, there was an
8 off-the-record bench conference.)

9 MR. DURANT: Thank you,
10 Officer Hallman. I have no further
11 questions regarding that issue.

12 Court's indulgence for just one
13 moment.

14 Q And you are the one that
15 initially processed the crime scene in this
16 case. Is that correct?

17 A That's correct.

18 Q And did you ever find any kind
19 of note at the crime scene from little an
20 White to the victim in this case, Teresa
21 Haught?

22 A No.

23 Q And once again, one last
24 question, was there any particular problems
25 with the way you found this crime scene that

Hallman -- Cont'd. Direct

1 affected your ability to collect forensic
2 evidence?

3 A Absolutely. With the fire
4 damage and water damage, and also with the
5 amount of personnel that had been through
6 the crime scene itself, I'm quite sure that
7 a large amount of forensic evidence was lost
8 due to those facts.

9 Q And I believe I asked you this
10 yesterday and I'm not sure but if I did it,
11 I apologize. I know we talked a little bit
12 about fingerprints and how fire affects
13 fingerprints. With regard to State's
14 exhibit seventeen, the burned glass carafe
15 specifically, how would the fire have
16 affected, affected your ability to lift
17 prints from that piece of evidence?

18 A It would have been, it could
19 have been in numerous ways. The heat of the
20 fire as I had testified yesterday actually
21 evaporates residues left by the hand. The
22 fire, the intense heat and then the further
23 flames and then water damage after the
24 subsequent fire was put out would also
25 obliterate and totally remove any prints

Hallman -- Cont'd. Direct

1 that would have been on that glass.

2 Q And fingerprints are in fact
3 primarily moisture. Is that correct?

4 A Moisture --

5 Q In terms of sweat?

6 A -- amino acids, sweat, salts,
7 and things of that nature, yes.

8 Q You were there when the victim
9 was turned over. Is that correct?

10 A Yes. I assisted the medical
11 examiner in doing that.

12 Q And did you notice anything
13 unusual about her pants, whether --

14 A Yes. Her, her blue jeans were
15 unbuttoned and unzipped partially.

16 Q Okay. Are you aware that a
17 wooden beam was collected from the back door
18 of --

19 A A two-by-four?

20 Q A two-by-four.

21 A Yes.

22 Q Do you know whether efforts were
23 made to lift prints off of that board?

24 A They were not done by myself but
25 I believe they were done by Officer Brogden.

Hallman -- Cont'd. Direct

1 Q And do you have any results from
2 that?

3 A There were none found.

4 Q Could you please answer any
5 questions Mr. Kulp may have for you?

6 MR. KULP: Thank you, sir.
7
8
9
10

11 CROSS-EXAMINATION BY MR. KULP:

12 Q Detective Hallman, when you
13 arrived at the crime scene that day you did
14 something that's standard operating
15 procedure for a crime scene technician, and
16 that is putting up crime scene tape to
17 cordon off the area. Correct?

18 A No, sir, I did not. That had
19 been done prior to my arrival.

20 Q Do you have a copy of all your
21 documents in this case before you, your
22 reports?

23 A I do.

24 Q And it indicates as you just
25 stated that the crime scene had been secured

Hallman -- Cross

1 with crime scene tape and a crime scene log
2 had been maintained?

3 A That's correct.

4 Q Now, you testified to the jury
5 that you found a box of matches out beside
6 the back door?

7 A Correct.

8 Q And you never sent those off for
9 forensic analysis until the defense asked
10 you to do so. Correct?

11 A To the best of my recollection,
12 yes, that's correct.

13 Q Okay. Now, you testified to the
14 jury indicating that you prepared this
15 diagram, State's exhibit number one, of the
16 scene and the location?

17 A That's correct.

18 Q Do you have with you a copy or
19 the original of the detailed drawing to
20 scale or even otherwise that you made of the
21 crime scene that day when it was fresh, when
22 you were there conducting your
23 investigation?

24 A One was not done.

25 Q When you were there at the scene

Hallman -- Cross

1 conducting your crime scene investigation,
2 did you detect or see any propane tanks
3 there in any area of the Mill Inn Bar?

4 A I do not recall seeing any, no.

5 Q You were aware that the --
6 certainly a fire was there and a suspected
7 arson occurred. Would it have been
8 important to determine if there were any
9 types of devices there that had or could be
10 used to generate a fire?

11 A That part of the investigation
12 would have been left to the arson
13 investigation team. That was not part of my
14 investigation because I was concentrating on
15 the immediate crime scene itself.

16 Q Right. And in that regard that
17 focuses on collecting evidence. Correct?

18 A Yes, sir.

19 Q And documenting the presence of
20 evidence that might be relative to the crime
21 scene and the case?

22 A Correct.

23 Q And in fact you photographed a
24 number of photographs there?

25 A Yes.

1 Q Or took a number of photographs.

2 Did you also do a videotape?

3 A No, I did not do a video tape.

4 Q Do you have your documents
5 before you that indicate the page where you
6 indicate that you took a number of
7 photographs, kind of a grid table like
8 document?

9 A What. . .

10 Q It's an inventory more or less
11 or a listing of your activities, kind of a
12 check sheet where you put photographs,
13 videotape?

14 A On this one right here?

15 Q Oh, yeah. The one right on the
16 top.

17 A Yes. This top sheet. Okay.

18 Q Can I look at your copy, please,
19 sir?

20 A Sure.

21 Q Okay. Now you put on there you
22 took, did you not, forty-six photos, still
23 photos?

24 A Yes, I did.

25 Q And in the block checked for

Hallman -- Cross

1 videotape it says "yes"?

2 A That's correct.

3 Q Now, you've seen the report of
4 Mr. Norris, the arson investigator, and
5 indicating that he took a videotape.
6 Correct?

7 A I have not seen the report, but
8 that was my indication, that he did do a
9 videotape, yes.

10 Q I see. So you reported on your
11 report that he had taken a videotape?

12 A I reported that there was a
13 videotape done, yes.

14 Q Okay. Is it noted there that it
15 was done by Mr. Norris?

16 A No.

17 Q Okay. Now, you've testified to
18 the jury that the, in short, that exposure
19 to a fire of latent fingerprints left, left
20 on a glass surface would destroy or exposure
21 to the fire would destroy or render the
22 latent prints, latent prints impossible to
23 compare to known prints?

24 A Well, I testified that it can
25 destroy them.

Hallman -- Cross

1 Q It can?

2 A Right. It can enable or cause
3 the prints, if they were there, not to be
4 developed or lifted at all, not -- because
5 they cannot be compared. It, it basically
6 makes them disappear.

7 Q I see. Have you ever heard of
8 the, the "flame technique" of latent print
9 development on glass?

10 A No, I haven't.

11 Q Do you have any indication that
12 or knowledge in fact of exposure to the fire
13 of latent fingerprints on glass enhances the
14 ability to compare and develop the latent
15 fingerprints?

16 A I've never heard that
17 whatsoever.

18 Q Okay. Now, you, you arrived at
19 the scene that morning and you began your
20 activities of investigating the crime scene?

21 A Correct.

22 Q And you're trained to do that?

23 A Yes.

24 Q And part of that training
25 includes making a very detailed map or

Hallman -- Cross

1 drawing of the crime scene and specifically
2 referencing the location of any possible
3 piece of physical evidence that might relate
4 to the event?

5 A Yes, but it depends on the
6 situation, and the situation that morning
7 was I was the only investigator for crime
8 scene there and we were dealing with a
9 situation that was basically deteriorating
10 as we stood there because of all the damage
11 for water and stuff, and it was one in which
12 we measured the priorities, the priority
13 being the victim itself, getting the victim
14 out, and then processing what was remaining
15 of the crime scene.

16 Q But when you got there the fire
17 was out?

18 A Yes.

19 Q And tragically the deceased had
20 expired?

21 A Right.

22 Q Okay. And as well the Bureau of
23 Alcohol, Tobacco and Firearms agents were
24 present there, too?

25 A Yes, they were.

Hallman -- Cross

1 Q And they brought their step van
2 or truck, the complete effective laboratory
3 on wheels, to assist you in your arson
4 investigation or in the collection of
5 evidence?

6 A They were there, but they
7 arrived sometime later. They were not there
8 at the scene when I got there.

9 Q How much later did they arrive?

10 A I have no idea. All I know is
11 that when I went outside after the body had
12 been prepared for transport, there was the
13 truck and that's when I obtained the sifter
14 from them.

15 Q Okay. They did assist you?

16 A Yes.

17 Q Did they draw a detailed or
18 assist you in drawing a detailed diagram of
19 the crime scene so the location of every
20 piece of evidence could be recorded?

21 A I have no idea.

22 Q Okay.

23 A If they did, they did not
24 present me with a copy.

25 Q All right. And so at some point

Hallman -- Cross

1 you went out, according to your testimony,
2 and -- well, first let me deal with this.
3 You have your report before you. Could you
4 please, for the sake of reference with me,
5 turn over I think to the first page under
6 that top page which begins your narrative.

7 A Okay.

8 Q You reported back then, almost
9 four years ago and documented it in writing,
10 that you noticed what appeared to be "a
11 broken wine carafe commonly used by
12 bartenders as tip jars."

13 And I'm sorry. Let me help you
14 out. Third line from the bottom, last
15 paragraph.

16 A Okay. Yes.

17 Q Okay.

18 A It says, "Next to the victim's
19 head I noticed what appeared to be a broken
20 wine carafe commonly used by bartenders as
21 tip jars."

22 Q Yes, sir. And where in any of
23 those reports that you have there did it
24 indicate that there were two top pieces of
25 wine carafes?

Hallman -- Cross

1 A It does not.

2 Q Okay.

3 A It just -- that falls under the
4 "other pieces of broken wine carafe" that I
5 documented in my report.

6 Q Yesterday, sometime this week
7 you had a conversation with Mr. Durant.
8 Correct?

9 A I've had several.

10 Q Okay. This week. And he asked
11 you this week, after Monday afternoon, if
12 you were aware of two broken wine carafes,
13 pieces that resembled, not pieces of broken
14 glass, but -- well, let me hand you this
15 whole bag, defendant's (sic) exhibit number
16 seventeen.

17 A Okay.

18 Q This. This is the top third of
19 a wine carafe bottle that you found next to
20 and proximate to the victim's head?

21 A Correct.

22 Q That you photographed?

23 A Yes, I did.

24 Q Let me hand you State's exhibit
25 number twelve, a photograph depicting the

1 crime scene.

2 A That's correct.

3 Q Right. And yesterday you
4 pointed out to the ladies and gentlemen of
5 the jury this other wine carafe piece.

6 Do you have it? Is it in -- is
7 that other piece in evidence?

8 MR. DURANT: It's over here.

9 It's not in evidence.

10 MR. KULP: Okay. Could we
11 introduce it?

12 MR. DURANT: You want it?

13 MR. KULP: If he could identify
14 it.

15 MR. DURANT: You want it?

16 MR. KULP: Yes, I do.

17 MR. DURANT: All right.

18 Q While he's getting that, as a
19 matter of fact not only does your report not
20 indicate anything about this piece of wine
21 carafe top they're looking for over there
22 now, but the issue didn't come up until Mr.
23 Durant asked you about it this week, if in
24 fact there were two wine carafe pieces that
25 were round and intact like this, and then

Hallman -- Cross

1 you recalled it. Isn't that true?

2 A Well, in my report I

3 designated --

4 Q Excuse me. If you could please

5 answer the question yes or no, then you're

6 welcome to explain it all you want.

7 A Yes.

8 Q All right. So you didn't know

9 anything about that even though you worked

10 the crime scene until Mr. Durant this week

11 asked you about it. Correct?

12 A Correct.

13 Q And what he did was he took

14 State's exhibit number twelve and he showed

15 it to you and he said in words, more or

16 less, what is that, or asked if you could

17 identify that.

18 And in fact in that photo -- may

19 I approach the jury, your Honor, with an

20 admitted exhibit?

21 THE COURT: Go ahead.

22 Q In that photo that you took --

23 correct?

24 A Correct.

25 Q There are other people there

Hallman -- Cross

1 investigating the scene who are shining a
2 flashlight on what we will mark as a
3 defendant's exhibit. Can you identify that?

4 A Yes.

5 Q Is that the one that the light's
6 shined on?

7 A That's correct.

8 MR. KULP: Okay. Next
9 successive exhibit number.

10 Q But you did --

11 COURT REPORTER: One moment,
12 please.

13 MR. KULP: I'm sorry.

14 (Whereupon, marked for
15 identification was Defendant's Exhibit
16 No. 11, wine carafe.)

17 Q This piece as depicted in the
18 photo you took, defendant's number eleven,
19 is located some distance down the bar away
20 from the body of the victim?

21 A Yes.

22 Q And looking at it, did you test
23 in any way any of these dark red colored
24 droplets that are on the object?

25 A Yes. Swabs were taken from

Hallman -- Cross

1 primarily all pieces of broken glass that
2 had blood spatter on them.

3 Q Okay. Did you have that
4 identified as being human blood?

5 A It was sent to S. L. E. D. for
6 analysis and the results I could not tell
7 you. I did not get that report.

8 Q You don't know?

9 A No.

10 Q But you did the swabbing?

11 A Yes.

12 Q You sent it up?

13 A Yes.

14 Q All the reports had come from
15 S. L. E. D., analysis of a forensic nature
16 come back to you?

17 A No, sir. They go --

18 Q Where do they go?

19 A They go to the case agent.

20 Q All right. So regarding -- I
21 know you're not an arson specialist and that
22 was done by others -- but regarding the
23 State's exhibit --

24 A I think it's seventeen. Yes.

25 Q Thank you, sir. Seventeen, this

Hallman -- Cross

1 was the wine carafe piece that was found
2 closest to Miss Haught's head?

3 A That's correct.

4 Q And you're aware of looking at
5 the report that the suggestion is that the
6 fire started behind the bar?

7 A Correct.

8 Q You're also -- did you
9 participate in the interrogation or any
10 contact with Mr. Myers on the fifteenth?

11 A On the fifteenth, no. The only
12 contact I had with Mr. Myers was in my
13 office when I returned that day and I was
14 gathering evidence and he asked me about the
15 victim's purse.

16 Q Did you go down with
17 Detective Clayton to the county police
18 department with him when Mr. Myers had a
19 meeting with Major McHale?

20 A I responded down there.

21 Q Yes, sir.

22 A The meeting was already in
23 progress.

24 Q Yes, sir.

25 A And in fact was fixing to be

Hallman -- Cross

1 terminated when I got there because I just
2 responded back from Columbia.

3 Q Yes, sir. Thank you.

4 Now, you read the file in this
5 case and you're familiar with the statement
6 that was taken from Mr. Myers?

7 A No, sir. I have not seen that
8 statement.

9 Q Okay. Well, let me ask you
10 this. Between these two exhibits,
11 defendant's exhibit number eleven and
12 State's exhibit number seventeen, do you
13 know which one it is suggested was held and
14 used by Mr. Myers as a mallet or as a blunt
15 object?

16 A No, sir, I do not.

17 Q Now, you were the crime scene
18 investigator in this case?

19 A Yes.

20 Q Okay. Now, when you got the
21 assistance of the Alcohol, Tobacco and
22 Firearms -- the Bureau of Alcohol, Tobacco
23 and Firearms, the federal agency, and, and,
24 and when you got the sifting tray they were
25 of course there, clearly there then and they

Hallman -- Cross

1 had their truck, big white truck?

2 A Correct.

3 Q And you then sifted some debris
4 in the fire, some evidence, some that was --
5 remained, and you found a burned wrist
6 watch. Correct?

7 A A face plate and a back plate.

8 Q A face plate and a back plate?

9 A Right.

10 Q And you secured that as
11 evidence?

12 A I did.

13 Q And you wrote it down as a Casio
14 watch?

15 A That's correct.

16 Q And it's not. It's a Gitano or
17 Gitano watch. Correct?

18 A That is correct.

19 Q Now, prior to the defense asking
20 that that be forensically examined for any
21 evidentiary value, you didn't send that off
22 in any way for an examination, did you --

23 A I did not.

24 Q -- of any type of analysis.

25

Hallman -- Cross

1 MR. KULP: Approach -- would you
2 mark this the next number.

3 (Whereupon, marked for
4 identification was Defendant's Exhibit
5 No. 12, photograph.)

6 Q Mr. Hallman, I hand you
7 defendant's twelve. Can you identify what's
8 in that picture?

9 A Yes. That's the watch face and
10 the back plate that I recovered. That
11 appear to be it, yes.

12 MR. KULP: We'd offer it as
13 defendant's next successive exhibit
14 number, twelve. We offer it in
15 evidence at this time.

16 THE COURT: Any objection?

17 MR. DURANT: No objection.

18 THE COURT: Hold it a minute.

19 (Whereupon, entered into
20 evidence was Defendant's Exhibit No.
21 12, photograph.)

22 Q Approach the jury, your Honor.

23 This face -- by the way, did
24 you, being the crime scene investigator,
25 would you agree that it is very important

Hallman -- Cross

1 for you in the puzzle of this crime scene to
2 collect and analyze evidence?

3 A Yes.

4 Q Okay. Did you have a chance to
5 look at that watch that you found, which is
6 the Gitano not the Casio, to determine if in
7 fact it reflected a time that it stopped or
8 where the hands are?

9 A Yes. I looked at it, but I
10 really couldn't tell exactly what time it
11 reflected.

12 Q You don't think that that says
13 three?

14 A I don't know. I can't tell.

15 Q All right. Forget it.

16 Publish it to the jury, your
17 Honor.

18 So you, you found this watch.
19 Did you ever make any type of, you know,
20 investigation or extend your investigation
21 to contact, to find out if in fact Mr. Myers
22 had any kind of wrist watch on at any time
23 or the deceased did?

24 A No. That, the information once
25 I recovered the, the watch face and back

Hallman -- Cross

1 plate, was relayed to the investigating
2 detectives, and what questions they asked
3 Mr. Myers I cannot testify to.

4 Q Okay. And that was up to them?

5 A Yes.

6 Q Now, you at some point that
7 morning in your investigation went out and
8 you examined the -- Miss Haught's car, the
9 older green Ford L. T. D. two?

10 A Yes.

11 Q And at that time -- do you
12 remember what time it was, approximately?

13 A I do not recall exactly what
14 time it was, no.

15 Q Okay. But it was sometime that
16 morning?

17 A Yes.

18 Q All right. And when you
19 examined that car windshield, you were
20 photographing her vehicle which was -- as it
21 was parked there in front of the bar at the
22 Mill. Correct?

23 A Correct.

24 Q And, and as you were
25 photographing it you noticed something on

Hallman -- Cross

1 the windshield. Correct?

2 A Yes.

3 Q And quotes upon or "a closer
4 examination revealed -- showed the words 'I
5 love you baby, do me later, [REDACTED]
6 Avenue.'"

7 A That's correct.

8 Q You photographed the windshield
9 as best as you could, then later, later in
10 your investigation when Miss Haught's car
11 was taken back to the North Charleston
12 Police Department you then processed the
13 windshield with several different powders,
14 and I assume like fingerprint powders?

15 A Correct.

16 Q Fine grain like?

17 A Different colors and different
18 textures.

19 Q And after using the standard
20 black fingerprint powder you were able to
21 process and lift latent impressions of the
22 words "I love baby, do me later, and
23 "?

24 A Right.

25 Q Correct?

Hallman -- Cross

1 A Right.

2 Q Did you have any contact with
3 Mr. Alan White at the scene?

4 A No.

5 Q You then reported, in the next
6 paragraph, "It was later learned that a
7 suspect going by the name little Alan had
8 admitted to writing the messages on the
9 victim's windshield and had also written a
10 similar note and had put it on the cash
11 register inside the business."

12 A Yes. That's what I wrote.

13 Q When and from whom did you learn
14 that?

15 A From the investigators. From
16 the detectives. I do not know which
17 detective, but that was related to me later.

18 Q Okay. You prepared these
19 reports using a computer that's on your
20 system for crime incident report reporting.
21 Correct?

22 A Yes.

23 Q Now, you testified on direct
24 that you, that you attended the autopsy --

25 A I did.

Hallman -- Cross

1 Q -- of Miss Haught, and did you
2 ever in any of your documentation that you
3 used to cover evidence or be attached to
4 evidence for submission for testing, reflect
5 that it was a possibility that Mrs. Haught
6 had been strangled?

7 A That information had been
8 relayed to me at the autopsy by the people
9 doing the autopsy, the medical staff doing
10 the autopsy.

11 MR. KULP: Okay. And if you
12 could mark this, please.

13 (Whereupon, marked for
14 identification was Defendant's Exhibit
15 No. 13, blowup of document.)

16 Q I hand you what's been marked
17 for I. D. as defendant's thirteen, which is
18 a blowup of a document, and I would like to
19 ask you, please, sir, to see if you can
20 find -- I'm sorry.

21 MR. DURANT: We have matter of
22 law here.

23 (Whereupon, there was an
24 off-the-record bench conference.)

25 THE COURT: Go ahead. First

Hallman -- Cross

1 identify what that is.

2 MR. KULP: Yes, your Honor.

3 Q This is a blowup. It is marked
4 for identification as defendant's exhibit
5 number thirteen for I. D.

6 THE COURT: And what is it?

7 MR. KULP: It is a blowup of a
8 copy of Mr. Hallman's report in this
9 case upon which he has offered
10 testimony on direct, which I'm handing
11 to him to ask him if he recognizes it
12 in the form it's in.

13 THE COURT: It's pretty hard for
14 him to handle that. You don't have the
15 other -- but go ahead.

16 MR. KULP: Yes, sir. Okay.
17 Well. . .

18 THE WITNESS: If you get one
19 side, I can get the other.

20 Q All right. Do you have the
21 report with you?

22 A Yes, I do.

23 Q If I may hold it up and turn
24 right to the page and ask you to look at it.
25 Okay.

Hallman -- Cross

1 A With the exception of the word
2 "autopsy" at the top, yes. That's a copy of
3 my report.

4 Q Okay. Now --

5 A Got a little bit more added to
6 it down here, but I think that's an
7 extension of the next page, this paragraph
8 right here.

9 Q Okay. At one -- okay. Let me
10 focus your attention right here. It was
11 also -- did you report at one time and was
12 it your assessment that you determined that
13 "the victim was possibly strangled due to
14 the fact that her hyoid bone located in the
15 throat was broken, which was indicative of
16 strangulation victims"?

17 A That's correct.

18 MR. KULP: All right. Now, mark
19 this for identification, please, ma'am.

20 (Whereupon, marked for
21 identification was Defendant's Exhibit
22 No. 14, blowup of document.)

23 THE COURT: For I. D.

24 MR. KULP: For I. D.

25 Q I'm handing you defendant's

Hallman -- Cross

1 number fourteen for I. D. and want to ask
2 you if that appears to be again a blowup of
3 the document that you have with you that you
4 brought to refresh your recollection with?

5 A Yes.

6 Q That sentence that we just read
7 is no longer in the report. Correct?

8 A That's correct.

9 Q Okay. Thank you. And,
10 Mr. Hallman, that's because you went back
11 and you took that out of the report.
12 Correct?

13 A I may have.

14 Q Well, did somebody else do it?

15 A I don't know. That may have
16 been me that took it out. I don't recall.

17 Q Okay. And what -- so therefore
18 when you make a police report and record
19 your evidence and observations as you did --

20 A Yes.

21 Q -- you can go back into the file
22 on the computer and correct things as you
23 might have done then?

24 A Correct.

25 Q Okay. Or make additions?

Hallman -- Cross

1 A Yes.

2 Q All right. Now, at the scene
3 you noticed, did you not, a large meat
4 cleaver, a meat cleaver?

5 A That was given to me later.

6 Q Okay. But you eventually got
7 it?

8 A Yes.

9 Q All right. And where did you --
10 you didn't find it?

11 A No.

12 Q Do you know who found it?

13 A I would venture to say it was
14 one of the firefighters I believe turned
15 over that and a couple other pieces of
16 evidence to me.

17 Q Okay. Do you know of your own
18 knowledge having investigated the case
19 where, where the -- beg the Court's
20 indulgence just one second.

21 Did they indicate to you where
22 they had gotten it from?

23 A I believe it was from behind the
24 bar. If I could refer to my notes it may be
25 in here.

Hallman -- Cross

1 Q Please do.

2 A Yes. I received that from arson
3 investigator Benjie Norris. He had found it
4 on the floor behind the bar.

5 Q All right.

6 (Whereupon, marked for
7 identification were Defendant's Exhibit
8 Nos. 15 and 16, photographs.)

9 Q Mr. Hallman, I'm handing you two
10 photographs marked for identification as
11 defendant's fifteen and sixteen and ask if
12 you can identify what's depicted therein?

13 A Yes. That is the meat cleaver
14 in question. Yes.

15 MR. KULP: Okay. And we would
16 offer these in evidence, having been
17 identified by the witness at this time,
18 your Honor.

19 THE COURT: Any objection?

20 MR. DURANT: No objection.

21 (Whereupon, entered into
22 evidence were Defendant's Exhibit Nos.
23 15 and 16, photographs.)

24 MR. KULP: May I publish them?

25 Q Now this meat cleaver, did you

Hallman -- Cross

1 send that off for analysis?

2 A No.

3 Q You did eventually send it off
4 for analysis when the defense requested that
5 you do so?

6 A Yes.

7 Q And at that time was the -- was
8 any blood detected on there?

9 A I don't know. The results again
10 did not come to me. They went to the
11 investigating detective.

12 Q Yes, sir.

13 (Whereupon, marked for
14 identification was Defendant's Exhibit
15 No. 17, photograph.)

16 Q Mr. Hallman, I'm handing you
17 defendant's seventeen for identification, a
18 photograph, and ask you if you can depict
19 what's reflected therein?

20 A Again --

21 Q Excuse me. Identify what's
22 depicted therein?

23 A Yes. Again that is a picture of
24 the meat cleaver.

25 Q Does this -- was this photograph

Hallman -- Cross

1 taken or does it appear to be taken about
2 the time that the, the butcher knife was
3 sent off for testing?

4 A I do not know. I cannot say.

5 MR. KULP: Okay. All right.
6 We'd offer it in evidence at this time,
7 your Honor.

8 THE COURT: Any objection?

9 MR. DURANT: No objection.

10 (Whereupon, entered into
11 evidence was Defendant's Exhibit No.
12 17, photograph.)

13 MR. DURANT: Can we approach
14 just a second, your Honor?

15 THE COURT: Sure.

16 (Whereupon, there was an
17 off-the-record bench conference.)

18 Q Now, Mr. Hallman, you
19 observed -- strike that. Beg the Court's
20 indulgence one second.

21 Now, did you send off for
22 examination the victim's, Miss Haught's,
23 clothing?

24 A I believe it was sent off at one
25 point in time, but I do not recall exactly

Hallman -- Cross

1 when.

2 Q Was that at the defense's
3 request?

4 A It may have been, yes.

5 Q Now, you testified on direct
6 that there was a burned dollar bill that
7 was -- a burned dollar bill that was found I
8 think you testified in the victim's right --
9 excuse me. Front pocket but you couldn't
10 remember whether it was right or left?

11 A That's correct.

12 Q And you got that down at the
13 autopsy?

14 A Yes.

15 Q And you had your camera with you
16 there and you were taking pictures there as
17 well?

18 A Yes.

19 Q Did you photograph the position
20 of the dollar bill on the victim when it was
21 recovered from her --

22 A No.

23 Q -- there at the autopsy room?

24 A No. It had already been removed
25 by the medical staff.

1 Q Is that kind of a standard
2 procedure for the medical examiner or the
3 personnel of that office to remove evidence
4 from a body prior to your arrival?

5 A I can't testify as to what their
6 procedures are, but I have seen it done
7 numerous times, yes.

8 Q Okay. And so and your testimony
9 is that they had already begun the autopsy?

10 A Well, they had already begun the
11 examination of her clothing.

12 Q Okay. And so that is why you
13 don't know exactly where it came from?

14 A Correct.

15 Q Did you ask them so that you
16 could document that in your file to preserve
17 that issue --

18 A They --

19 Q -- that piece of evidence?

20 A They indicated that it came from
21 the front pant pocket of her jeans.

22 Q They didn't know?

23 A They didn't tell me.

24 Q Okay. And I believe. . .

25 (Whereupon, marked for

Hallman -- Cross

1 identification was Defendant's Exhibit
2 No. 18, chain of custody sheet.)

3 (Whereupon, marked for
4 identification was Defendant's Exhibit
5 No. 19, report of Mr. Hallman.)

6 Q Mr. Hallman, I'm handing you
7 defendant's exhibit number eighteen for
8 I. D. and asking if you can identify that
9 document, the copy of that document?

10 A Yes. That is a copy of the
11 chain of custody sheet prepared by me and
12 has highlighted item number seven, which is
13 one partially burned one-dollar bill.

14 Q Okay. Oh, I'm sorry. What's
15 the other word after that --

16 A Blood --

17 Q -- you left out?

18 A Blood stained.

19 Q Blood stained. Let me ask you,
20 on defendant's exhibit number nineteen, did
21 you prepare -- do you recognize that
22 document?

23 A Yes.

24 Q Did you prepare that?

25 A I did.

Hallman -- Cross

1 Q And drawing your attention to.
2 item fifty-two, what does it indicate in the
3 first column?

4 A One burned one-dollar bill,
5 blood stained.

6 Q Thank you. Now, you testified
7 on direct, Mr. Hallman, that you took one of
8 or a wine carafe down to Dr. Nichols, the
9 medical examiner, for his possible
10 examination himself at the autopsy?

11 A That's correct.

12 Q Do you recall whether it was
13 State's number seventeen or defendant's
14 number eleven?

15 A It was State's exhibit number
16 seventeen.

17 Q This one?

18 A Yes.

19 Q You did not take this one?

20 A I did not.

21 Q Although you had it in your
22 possession as an item of evidence in the
23 case, you didn't take it down there?

24 A I did not.

25 Q Because although you collected

Hallman -- Cross

1 it at the scene, you didn't report anything
2 about it until you were asked about it by
3 Mr. Durant this week?

4 A It was in my initial report
5 listed as "additional broken wine carafe
6 glass".

7 Q Okay. So your testimony is that
8 falls, that piece of glass as it sits, falls
9 within the characterization of "additional
10 pieces of broken glass"?

11 A "Broken wine carafe", yes.

12 Q Did you have occasion to appear
13 at the corner of Spruill and Bexley to take
14 photographs of a car --

15 A No.

16 Q -- on the morning of this, of a
17 gray. . .

18 A No, I did not.

19 Q Now you, if I recall correctly,
20 you testified on direct that -- let me ask
21 you this. What is your testimony -- what,
22 what is the length of the hair, the blond
23 hair that -- the hair that you found in the
24 victim's hand?

25 A It was approximately six to

Hallman -- Cross

1 eight inches long.

2 Q Okay. That was your testimony
3 in direct?

4 A That's correct.

5 Q And as well I think you made
6 some reference to a rat tail or something
7 like that that Mr. Myers might have had?

8 A Yes.

9 Q Okay. Did you have occasion on
10 Saturday, the fifteenth of March, to take
11 photographs of Mr. Myers?

12 A I don't recall taking
13 photographs of Mr. Myers, no.

14 Q Well, let me ask you this. Did
15 you ever have occasion in your contact with
16 Mr. Myers, either on -- and I don't want to
17 go back through that. I know you testified
18 it was on one day. You did have contact
19 with him on the fourteenth -- thirteenth,
20 fourteenth, and fifteenth?

21 A I briefly had contact with him
22 in my office that morning when I came back
23 with the evidence.

24 Q Yes, sir.

25 A And then again briefly at the

Hallman -- Cross

1 meeting down at Charleston County.

2 Q Did he have a rat tail?

3 A I believe he did. I don't

4 recall exactly, but I believe he did.

5 Q Did you measure the maximum

6 length of his hair at that time --

7 A No.

8 Q -- that you had contact with

9 him?

10 A No, I did not.

11 Q Okay. Did you ever have the

12 occasion to yourself or request from anyone

13 else the microscopic examination of either

14 State's exhibit number seventeen or

15 defendant's exhibit number eleven, the two

16 carafe pieces?

17 A No.

18 Q Did you or anyone within your

19 knowledge conduct any chemical or any other

20 kind of analysis of Ms. Haught's clothing

21 for the presence an accelerant?

22 A No, not to my knowledge.

23 Q Did you collect any, any

24 evidence of any nature, any physical

25 evidence for the purpose or and have it

Hallman -- Cross

1 examined for the presence of an accelerant?

2 A No. That would have been the
3 arson team's investigation.

4 Q Okay. Now, you testified that
5 you took the hairs that were found in the
6 victim's hand, Miss Haught's hand, in
7 December the -- I'm not trying to trick --
8 the fourteenth I think? Thirteenth?

9 A I believe it was December
10 fourteenth is when I sent them.

11 Q Okay.

12 A Yes.

13 Q And you got the hairs and at
14 that point my question is were those the
15 hairs that you found in her hand?

16 A Yes.

17 Q That you recovered from her hand
18 after you opened up the paper bag and
19 recovered them and collected them at
20 autopsy?

21 A After they had been placed on a
22 microscopic slide by Special Agent Joe
23 Powell, yes.

24 Q Right. But --

25 A Yes. That is them, yes.

Hallman -- Cross

1 Q In other words, you wouldn't
2 have sent off hairs that you didn't think
3 were the ones that came from the hand?

4 A Absolutely not. Right.

5 Q And did you photograph at that
6 time on December the fourteenth the hairs?

7 A No.

8 Q To record how they appeared at
9 that time before you put them in the Air
10 Borne Express package?

11 A No. I had them witnessed by
12 Patricia Nelson, who is our evidence room
13 custodian at that time.

14 Q And you post -- and you posted
15 it by Air Borne Express, which is a standard
16 method of transport or conveyance of
17 evidence to the F. B. I.?

18 A That's correct.

19 Q Or to other locations?

20 A Yes.

21 Q You have -- you've investigated,
22 did you not, and you found the air bill to
23 confirm that it was sent?

24 A That's correct.

25 Q And you checked and found it was

Hallman -- Cross

1 received by the F. B. I.?

2 A Yes.

3 Q And you confirmed that there was
4 no interruption of delivery between your
5 sending it and their receipt of it?

6 A That's correct.

7 Q Now, referring to State's
8 exhibit number nineteen and twenty, okay,
9 did you make these photographs?

10 A No.

11 Q Did Agent Powell make these?

12 A Yes, he did.

13 Q Okay. And that's when you went
14 and met with him in July or whenever --

15 A Yes.

16 Q -- 1999?

17 A Yes.

18 Q Okay. And is this, this
19 photograph number twenty, okay, that is just
20 a closer view of number nineteen?

21 A That's correct.

22 Q So when we look at number
23 nineteen. . . Excuse me. Thank you very
24 much. Number twenty, it's really just an
25 enlargement of this area of nineteen?

Hallman -- Cross

1 A That's correct.

2 Q In other words, what's depicted
3 here is this, and it's mounted on the slide?

4 A Yes.

5 Q Just to clarify that. Now, I
6 believe that Mr. Durant asked you,
7 Mr. Hallman, referring to Court's exhibit
8 number one -- let me refer to my notes one
9 second, your Honor.

10 That you -- that prior to your
11 review, referring to Court's exhibit number
12 one, of Special Agent John Stuart's
13 affidavit that I'm referring to as, as I
14 stand here, dated May the eighteenth, 2000,
15 that you had no idea that within that broken
16 slide that there was hair?

17 A That's correct.

18 Q Okay. Referring back to Court's
19 exhibit number one, surely as the crime
20 scene person in this case you received and
21 reviewed the report of the F. B. I. dated
22 February the seventeenth, 1999 -- prior to
23 Agent Stuart's affidavit -- that reflected
24 that because no microscopic associations
25 between the questioned hairs and the known

Hallman -- Cross

1 hair standards were made in this case, no-
2 mitochondrial DNA examinations were
3 conducted?

4 A Okay.

5 Q So my question is, surely you
6 had or reviewed this February the
7 seventeenth report and what's contained
8 therein prior to the time that you read
9 Special Agent Stuart's affidavit?

10 A That report there never came to
11 me.

12 Q Okay. So you never saw this
13 report?

14 A Not until after all this came to
15 be.

16 Q Okay. Now you, in, in, in
17 looking at the evidence in this case that
18 you collected, you made some swabs of some
19 glass in the case?

20 A Correct.

21 Q And you had those analyzed?

22 A They were sent to S. L. E. D. or
23 taken to S. L. E. D., yes.

24 Q And no analysis of those swabs
25 identified Mr. Myers?

Hallman -- Cross

1 A To the best of my recollection,
2 that's correct.

3 Q There was a gunshot residue kit
4 that Mr. Myers agreed to be examined to
5 collect evidence from his hands?

6 A Correct.

7 Q And no gunshot residue was
8 detected in that examination?

9 A Again, to the best of my
10 recollection, that is correct.

11 Q And there were three metal tins
12 with swabs taken from the tile floor of the
13 bar.

14 A Yes. Those were collected by
15 Officer Brogden.

16 Q And to your knowledge they
17 reflected no evidentiary findings that would
18 identify Mr. Myers?

19 A Correct.

20 Q How about one large bag of blunt
21 stained -- blood stained tiles?

22 A That is the tiles in question.

23 Q Oh, I'm sorry. Mr. Myers
24 provided to your knowledge pubic hair
25 standards, head hair standards, body hair,

Hallman -- Cross

1 whatever standards. Were any pubic hair .
2 comparisons made that identified Mr. Myers
3 as being the contributor of any, any hairs?

4 A No.

5 Q Were Mr. Myers' boots that were
6 taken examined?

7 A I don't recall.

8 Q Do you know if there was any
9 indication of any evidentiary findings
10 regarding boots that identified Mr. Myers?

11 A Not to my immediate knowledge,
12 no.

13 Q You know, do you not, that there
14 was some examination of his truck?

15 A Yes. I believe by Sergeant
16 Poole, if I'm not mistaken.

17 Q Right. He readily agreed to --

18 MR. DURANT: Can we approach
19 just a second again?

20 MR. KULP: Yes, sir.

21 (Whereupon, there was an
22 off-the-record bench conference.)

23 Q Do you know if -- well, let me
24 do it this way. Do you know, of your own
25 knowledge, if any of Mr. Myers' clothing was

Hallman -- Cross

1 examined and found to have any incriminating
2 value?

3 A I don't recall. That would,
4 that information would be on a S. L. E. D.
5 transmittal form and it would have gone to
6 the lead detective.

7 Q Okay. Well, let me ask it this
8 way. You, you did an inventory at one point
9 of all of the evidence that was comprised --
10 I mean you prepared a document that listed
11 all of the physical evidence or exhibits in
12 the case. Correct?

13 A Yes. I got those from the chain
14 of custody in this case.

15 Q Okay. And there were ninety-six
16 separate items?

17 A Something to that effect, yes.

18 MR. KULP: That's all I have.

19 Thank you, sir.

20 THE COURT: You have anything
21 further?

22 MR. DURANT: Oh, just a couple,
23 your Honor.

24

25

Hallman -- Redirect

1 REDIRECT EXAMINATION BY MR. DURANT:-

2 Q Little Alan White, do you know
3 him?

4 A No.

5 Q Did you ever speak to him?

6 A No.

7 Q Have you spoken to him to this
8 day?

9 A No.

10 Q Now, Mr. Kulp was pointing out
11 something in your report and I believe he,
12 he read "It was later learned that a suspect
13 going by the name of little Alan had
14 admitted to writing the messages on the
15 victim's windshield."

16 A That's correct.

17 Q You say it was later learned.
18 Do you know when that was learned?

19 A No, I do not.

20 Q Okay. Do you know -- when did
21 you actually write your initial report in
22 this case?

23 A Several days later.

24 Q And that would be the initial
25 report in this case was several days after,

Hallman -- Redirect

1 after you actually examined the crime scene.

2 Is that correct?

3 A That's correct.

4 Q And it's possible that you could
5 have learned about that information after
6 you wrote your initial report. Isn't that
7 correct?

8 A That's correct.

9 Q Because you state in here that
10 "it was later learned"?

11 A Right.

12 Q Do you know how that, that
13 passage came to be in your report?

14 A Yes. I wrote it in such a
15 manner as to reflect that the detectives
16 later informed me of this fact.

17 Q Did they ever tell -- did --
18 what did they tell you specifically
19 concerning little Alan?

20 A That he had admitted to writing
21 that information on the windshield and that
22 there was a note at the bar somewhere near
23 the register, cash register or something
24 like that.

25 Q Did they tell you that little

Hallman -- Redirect

1 Alan had admitted writing that note?

2 A No, they did not.

3 Q And this was once again prepared
4 some days after the, the actual fire?

5 MR. KULP: If the Court please,
6 we object to leading questions. I
7 think the rule is -- we hesitate,
8 but --

9 THE COURT: Well, he's just
10 repeating what perhaps came out ahead
11 of time.

12 MR. KULP: Yes.

13 THE COURT: Go ahead.

14 Q In other words, sir, would this
15 information -- you're aware that the fire
16 was on the thirteenth?

17 A Yes.

18 Q And you're aware that the
19 defendant gave a statement on the fifteenth.
20 Is that correct?

21 A That's correct.

22 Q Do you know whether or not your
23 initial report in this case was made before
24 or after the defendant's arrest?

25 A I believe it was after, but I

Hallman -- Redirect

1 cannot be absolutely sure because we spent.
2 several days compiling information and
3 evidence.

4 Q Okay. And you don't know when
5 the passage "was later learned" was added?

6 A No.

7 Q Court's indulgence.

8 Just one other question.

9 State's or defendant's exhibit eleven and
10 State's exhibit I believe this came out
11 of --

12 A Seventeen.

13 Q Seventeen. Have those been in
14 the custody of North Charleston Police
15 Department ever since they were collected?

16 A They have. With the exception
17 of they were sent to S. L. E. D. for
18 examination.

19 Q And do you, do you know whether
20 they were ever turned over to the defendant
21 for testing as well?

22 A I believe that is possible
23 because quite a bit of evidence was.

24 Q Okay. And did you prepare a, a
25 itemization of evidence that had been turned

Hallman -- Redirect

1 over to the defense for testing?

2 A Yes, I did.

3 Q Is that with you?

4 A Yes, it is.

5 Q And what items were turned over
6 to the defendant for testing?

7 A The defense received a latent
8 fingerprint card from the front door armrest
9 or front door exterior of a silver
10 Oldsmobile; a latent print card from the
11 front passenger's side door of a silver
12 Oldsmobile; a latent print card from the
13 driver's side rear door exterior and
14 driver's door; a latent print card from the
15 victim's vehicle windshield; a latent number
16 five from the victim's vehicle windshield;
17 latent number six, seven, eight, and nine,
18 respectively, also from the victim's vehicle
19 windshield; a latent print card from the top
20 exterior window and rear passenger door of a
21 green Mercury Cougar; a latent print card
22 from the exterior driver's side window from
23 a green Mercury Cougar; a latent print card
24 from the driver's window and rear edge,
25 green Mercury Cougar; a latent print card

Hallman -- Redirect

1 from the rear door and driver's side window
2 exterior, green Mercury Cougar; a latent
3 print card from the windows of the green
4 Mercury Cougar; a latent print card from a
5 Disney cup from the green Mercury Cougar;
6 item sixteen, seventeen, eighteen, nineteen,
7 twenty, twenty-one, twenty-two, and
8 twenty-three are all latent print cards from
9 the green Mercury Cougar, respectively; item
10 twenty-four was one piece of two-by-four
11 board, one large bag containing three
12 smaller bags of broken glass with blood
13 spatter.

14 Q Those would be the, the --

15 A The pieces of broken wine
16 carafe.

17 Q That have previously been
18 introduced into evidence. Is that correct?

19 A That's correct.

20 One meat cleaver; one burned
21 watch face and back plate; one partially
22 burned one-dollar bill with blood stains;
23 one filter from an evidence vacuum; and the
24 G. S. R. test kit done on Wesley Myers.

25 Q And those were all turned over

Hallman -- Redirect

1 to the defendant for whatever testing they.
2 felt was necessary. Is that correct?

3 A That is correct.

4 MR. DURANT: Nothing further,
5 your Honor.

6 MR. KULP: A few questions, your
7 Honor.

8

9

10

11

12 RECROSS-EXAMINATION BY MR. KULP:

13 Q Detective Hallman, and when did
14 the defense get those items?

15 A I would have to look at the
16 individual chain of custodies. They were
17 taken, most of them were given to Mr. Jim
18 Springs but that information was compiled
19 off of the individual chain of custodies
20 themselves.

21 Q Okay. You don't know
22 approximately when that would have been?

23 A I would have to, like I said,
24 look at the chain of custody because I'm
25 sure there were various dates.

Hallman -- Recross

1 Q Yes, sir. Do you know of your
2 own knowledge if any of those items were
3 identified in any way as being Mr. Myers?

4 A I have no knowledge, no.

5 Q Okay. And that's certainly
6 something you would, you would know and
7 think important?

8 A Yes.

9 Q Let me ask you about this note.
10 You've testified under oath here today that
11 the detectives advised you of that pink
12 note. Correct?

13 A They advised me of a handwritten
14 note, yes.

15 Q Okay. Let me ask you this. Did
16 you ever make any fingerprint comparisons to
17 Alan White's known fingerprints against
18 those you collected from the windshield of
19 Miss Haught's car?

20 A I did not, no.

21 Q All right. You're a fingerprint
22 examiner?

23 A I am.

24 Q Did you do any handwriting
25 samples from Mr. White?

Hallman -- Recross

1 A No, I did not.

2 Q Okay. And let me ask you this.

3 Now, you went back you testified and changed
4 something in your report at a later time?

5 A Yes.

6 Q All right. Now, surely,
7 Mr. Hallman, if the source of the
8 information about the pink note came only,
9 only from Mr. Myers, you've had four years
10 and you would have gone back and you would
11 have changed this paragraph from "it was
12 later learned that a suspect" to "Mr. Myers
13 told us for the first time that the pink
14 note was behind the bar", wouldn't you have?

15 A No.

16 Q All right. Thank you. No
17 further questions.

18 THE COURT: You can come down.

19 Can we go ahead? Anybody want
20 to take a break? Call your next
21 witness.

22 MR. DURANT: Your Honor, the
23 next witness is going to be rather
24 lengthy.

25 MR. KULP: Yeah.

Hallman -- Recross

1 THE COURT: All right. Let's
2 take about five minutes. Let me know
3 when you're ready and if the smokers
4 want to smoke, just take two or three
5 draws.

6 (The jury leaves the courtroom
7 at 11:01 a. m.)

8 (Whereupon, a recess was called
9 at 11:02 a. m.)

10 (The Judge enters the courtroom
11 at 11:19 a. m.)

12 THE COURT: Ready to go forward,
13 Solicitor?

14 MR. DURANT: Yes, sir, your
15 Honor.

16 THE COURT: Bring the jury in
17 for me, please.

18 (The jury enters the courtroom
19 at 11:21 a. m.)

20 THE COURT: Call your next
21 witness.

22 MR. DURANT: Thank you, your
23 Honor. State would call Joe Powell of
24 the State Law Enforcement Division.

25 J O S E P H D. P O W E L L,

Powell -- Direct

1 having been called as a witness in the
2 presence of the jury, is duly sworn and
3 testifies as follows:

4 DIRECT EXAMINATION BY MR.

5 DURANT:

6 Q Where are you employed,
7 Mr. Powell?

8 A I'm currently employed at the
9 South Carolina Law Enforcement Division and
10 my title is lieutenant as I'm supervisor
11 over the trace evidence section.

12 Q How long have you been employed
13 by S. L. E. D.?

14 A Approximately nineteen and a
15 half years.

16 Q And your current duties I
17 believe you kind of related. You're the
18 supervisor of the trace lab up there?

19 A Yes, sir. I'm currently
20 responsible for not only dealing with the
21 management of the personnel within the trace
22 department, but I'm also involved with the
23 method, development, unusual applications,
24 instrumentations being brought into the
25 laboratory, as well as I deal with various

Powell -- Direct

1 types of case analysis myself. I go to
2 courts around the state and testify as to
3 the findings and I go with my other
4 personnel to check on their ability to
5 testify in other issues involving personnel
6 in my department.

7 Q And just generally, what does
8 the trace lab, what kind of work do they do?

9 A We deal with many different
10 sub-disciplines. We do the analysis for
11 instance for hairs, fibers, paints,
12 explosives, gunshot residue, gun powder
13 residue, and other materials that do not
14 have actually a forensic label. For
15 example, the comparison of woods or
16 comparisons of metals, plastics, things
17 along those lines.

18 Q And you have been a trace
19 evidence examiner for how long, sir?

20 A Well, trace evidence did not
21 exist until about ten years ago. Up and to
22 that point trace evidence was part of the
23 drug analysis department and when I came
24 into S. L. E. D. I was doing both trace
25 evidence and drug analysis.

Powell -- Direct

1 Q And do you have any specific
2 training and education in the area of trace
3 evidence and examination?

4 A Yes, sir. I received my
5 American Chemical Society certified degree.
6 B. S. degree in chemistry from the
7 University of Southern Mississippi. After
8 receiving my degree in chemistry I came to
9 South Carolina and took some graduate level
10 studies in the area of analytical chemistry.
11 I did not complete my degree due to other
12 factors that I had to take care of.

13 Once I became employed at
14 S. L. E. D. I went through an extensive
15 in-house training program where I learned
16 various types of analysis using
17 instrumentation provided at the laboratory.
18 After completing my analysis I took home a
19 case load involving numerous counties around
20 the state, and began to develop methods
21 involving trace evidence and aspects
22 involving trace evidence.

23 Over the years I've attend
24 numerous schools, specializing in specific
25 areas of trace evidence and all of the

Powell -- Direct

1 sub-disciplines. I have been a guest
2 lecturer in some cases involving trace
3 evidence in the application of the science
4 itself.

5 Q And have you ever testified as
6 an expert witness in the area of trace
7 evidence and examination?

8 A Yes, sir, I have.

9 Q On how many occasions, sir?

10 A I have testified over six
11 hundred times of which over two hundred and
12 thirty of those in the area of trace
13 evidence analysis.

14 Q And is the area of microscopic
15 examination of hairs, is that considered a
16 sub-sub-specialty of trace examination?

17 A Yes, sir. The hair examination
18 is a sub-discipline where we take and look
19 at hair based upon microscopic features,
20 characterizing them based upon these
21 microscopic features and render a report as
22 to our findings.

23 Q And do you also have expertise
24 in the area of microscopic examinations on
25 hair?

Powell -- Direct

1 A Yes, sir. That is one of the.
2 disciplines that I have been to school on
3 many years ago. I have, I have performed
4 numerous tests involving hairs and hair
5 analysis.

6 Q And have you ever testified as
7 an expert witness in the, in the specific
8 area of trace examination of hair
9 examination?

10 A Yes, sir, I have.

11 Q And on how many times have you
12 been so qualified?

13 A I believe it was around twenty
14 so. I'm not sure the exact number. I'd
15 have to go back and look at my information
16 in my laboratory.

17 MR. DURANT: Your Honor, at this
18 time we would offer Agent Powell as an
19 expert in the field of trace
20 examination and specifically hair
21 examination.

22 THE COURT: Any objections?

23 MR. KULP: No, sir, your Honor.

24 THE COURT: Thank you.

25 Q Now in your capacity as a trace

Powell -- Direct

1 evidence examiner for State Law Enforcement
2 Division, did you have an opportunity to
3 examine some hair evidence in this case on
4 March fourteen of 1997?

5 A Yes, sir. On March fourteenth
6 some evidence was submitted to me for
7 examination along with, among that evidence
8 was some hair to take a, to take a look at.

9 Q And who brought that evidence up
10 to you?

11 A Detective Hallman.

12 Q And was he there during the time
13 that you examined that hair?

14 A Yes, sir. He was there while --
15 during the examination of the hair.

16 Q And would you relate to the jury
17 what was brought to you?

18 A What was brought to me was
19 several what we call them penny envelopes.
20 They're nothing more than small envelopes,
21 manila paper in type. They're yellow. And
22 inside them was hairs. There were several
23 hairs that were lifted from the hand of the
24 victim and some from the body of the victim.

25 I immediately removed these

Powell -- Direct

1 hairs to take a look to see what was
2 contained in these envelopes to get a
3 general idea of what kind of hairs we were
4 looking at.

5 Q Okay. And part of the hair you
6 get are known hairs from a subject. Is that
7 correct?

8 A That is correct.

9 Q They come to you in a suspect
10 kit?

11 A Yes, sir. And if I may explain.

12 Q Yes. Please do.

13 A The suspect kit is a method of
14 collection of various types of hair that we
15 make a comparison on. The human body
16 contains many, many, many thousands of hairs
17 of which there are two types of hairs that
18 we can actually do a microscopic comparison;
19 the head hair and the pubic hair. All other
20 hairs on the body such as arm hair or other
21 hairs does not have enough characteristics
22 to be able to do microscopic examination.

23 The test itself is basically
24 collecting suitable number of hairs from
25 different regions to be able to make the

Powell -- Direct

1 comparison. The problem within the hair is
2 that every one of us have different hairs
3 depending upon what region you talk about.
4 For example, if I'm describing myself, I
5 have somewhat long big hair if you will on
6 the sides, yet on the top where I'm actually
7 loosing hair it's very small and tiny. We
8 call these juvenile hairs. Eventually they
9 will all fall out and it will be no hairs up
10 there at all.

11 What we do is we collect these
12 hairs from different regions. From the head
13 region we actually collect five different
14 areas. We collect it from the sides, the
15 back, from the top, and from the front. And
16 we're looking at the characteristics that
17 are found here to see if those
18 characteristics are consistent with what we
19 find with the unknown hairs. From the pubic
20 region we will collect approximately twenty
21 hairs to also make comparisons with.

22 We have to have these standards
23 to be able to make our conclusions as stated
24 before since hairs are variable. We have a
25 wide range of things we're looking at.

Powell -- Direct

1 Every one of us in here have hairs sometimes
2 which may look very close to someone else's,
3 so we have to look at the entire range of
4 what someone has to draw a conclusion.

5 Q Okay. So you had the hairs
6 taken from different regions of the
7 defendant's head. Is that correct?

8 A Yes, sir. That is correct.

9 Q And were you brought any other
10 hairs to compare those hairs against?

11 A Yes, sir. There was, there was
12 hairs which I mentioned was taken from the
13 victim, from the hand and from the body,
14 that was brought for comparison.

15 Q Okay. And if you would, before
16 we get into the details of what you did,
17 would you just relate to the jury how you go
18 about doing a microscopic comparison of a
19 hair sample?

20 A Yes, sir. Initially we do a
21 visual examination. The best examination is
22 and will always be looking at something.
23 Take a look at what you actually have. Is
24 it curly? Is it straight? What color is
25 it? What is the characteristics? Is it --

Powell -- Direct

1 what kind of coloring pattern does it have?
2 Has it been dyed? All these are questions
3 that we pose on a visual examination.

4 If two hairs, a known and
5 unknown, have characteristics which visually
6 look the same, then and only then will we
7 take them to the microscope. The microscope
8 better defines the hairs as we're looking at
9 them. If they do not look the same
10 visually, we do not go to the microscope.
11 At that point we stop the analysis and we
12 say they're not consistent with each other.
13 We just -- based upon the visual
14 examination.

15 In this case I opened up the
16 penny envelopes. We looked at the contents
17 within. We found several -- well, we found
18 several hairs which were dark, fairly big
19 hairs, and we found one hair which was kind
20 of a blonding, brown with blond on one side
21 of it. It was a long hair. It was
22 different than the other hairs that we had
23 found.

24 We mounted these, all these
25 hairs on microscopic slides to compare it

Powell -- Direct

1 with the standards that I found from -- that
2 was submitted to me as being the known or
3 from the suspect.

4 After opening up the suspect's
5 hair I immediately noticed that four of the
6 packets I opened up was brown hair, was kind
7 of short brown hair. But there was one
8 packet opened up that had longer blond to
9 brown hair, and this is the hair that I
10 actually mounted to make the comparison with
11 the unknown long brown hair found from the
12 victim.

13 Q And from the initial visual
14 inspection of the known hairs taken from the
15 defendant, what area of the head did that
16 come from?

17 A The list -- it was labeled or
18 listed as coming from the back of the head.

19 Q And once you do a microscopic
20 comparison, you do -- put them on
21 microscopes side-by-side. Is that correct?

22 A Yes, sir. What we'll do is
23 we'll first we, we take the hair where we
24 can place it on the microscope slide. We
25 then coat it with a mounting material so

Powell -- Direct

1 that it will stay fixed. It will not move.
2 around. We then put a cover slip over it.
3 Then we do the same for the known. And we
4 place them under -- in a specially designed
5 microscope. It's called a comparison
6 microscope as what it will do is allow you
7 to look at both hairs simultaneously so you
8 can make a comparison.

9 Anyone who tries to make any
10 kind of comparison by looking at one scope
11 and switching back and forth will forget.
12 The brain will, will lose some detail, some
13 information. So you need to be able to look
14 at both of these at the same time, same
15 light, same conditions. Everything is kept
16 the same. So this is the procedure that we
17 follow.

18 Q Are there a certain number of
19 points of comparison that you look for when
20 you're doing a microscopic examination of
21 the hair?

22 A Yes, sir. That is correct.

23 Q And --

24 A We sat down here and we looked
25 at, we looked at the hair from the root, the

Powell -- Direct

1 tip. We looked at the thickness of the
2 hair. We looked at what is found inside the
3 hair. We find any bubbles, any, any kind of
4 characteristics we may find inside of that
5 hair, we make a comparison on all these
6 points.

7 Q And there I believe twenty-six
8 of those points all together?

9 A Yes, sir. That is correct.

10 Q And before you may reach a
11 conclusion that is a hair, that is a
12 microscopic match to another hair, how many
13 points of comparison must they pass on?

14 A They must pass on a, what we
15 call at least three, four, five major points
16 and then you may have other sub-minor
17 points. The problem you run into is I
18 rarely have found a perfect hair. Because
19 of the variability that we find on our head,
20 you will still find some characteristics
21 which are not very close. But we look at,
22 you know, how important are those
23 characteristics. For example, if someone
24 has a air bubble that's formed in their hair
25 and that's what we find in the standard but

Powell -- Direct

1 I'm not finding that in the unknown hairs -
2 then I'm going to discount that as being a
3 match because there's a physical
4 character -- physical process going on.

5 However, if there is a subtle
6 difference in length I don't think this is
7 as important because depending which hair it
8 was, it may not be a, a factor which can
9 exclude these hairs.

10 Q And as a bottom -- bottom line a
11 microscopic comparison is not like a DNA
12 test. Is that correct?

13 A No, sir. The microscopic hair
14 examination at its best is a process saying
15 certain group of people with these
16 characteristics can match with this hair.
17 It is not a fingerprint. A fingerprint
18 technique is a technique which says this
19 person and this person only could have this.

20 The hairs, the hair comparison
21 test itself is actually at S. L. E. D. we're
22 now in the process of giving it strictly to
23 DNA. We only screen hairs at this point and
24 we give all those hairs to DNA as DNA is a
25 fingerprint technique whereas microscopic is

Powell -- Direct

1 a technique which in its day was a great
2 test. It's what we had to work with. But
3 it's not up to the standard of today.

4 Q Okay. So it basically is a test
5 of exclusion. Is that correct?

6 A Yes, sir.

7 Q For example, if you're dealing
8 with a blond hair you can certainly rule out
9 most Asian people, most black people, things
10 of that nature?

11 A Yes, sir. That is correct.

12 Q But, and given that fact, but
13 you have twenty-six points of comparison
14 that you go by. Is that correct?

15 A Yes, sir. We try to look at all
16 aspects of the hair to make a comparison.

17 Q And you can say that
18 microscopically a unknown hair matches to a
19 known hair. Is that correct?

20 A Yes. We can say that
21 microscopically these two hairs fall within
22 a range and are consistent with each other.

23 Q Okay. And as I believe I went
24 into previously, you received a number of
25 items of evidence in this case on March

Powell -- Direct

1 fourteen, 1997?

2 A Yes, sir.

3 Q Those consisted of first a
4 G. S. R. kit or what's called a gun shot
5 residue kit. Is that correct?

6 A Yes, sir.

7 Q That was obtained from the
8 defendant, Wes Myers, I believe at a later
9 time if I'm not mistaken, and you received
10 hair standards from the victim and the
11 defendant?

12 A Yes, sir. That is correct.

13 Q And the envelope with the hairs
14 from -- that Mr. Hallman had collected. Is
15 that correct?

16 A That is correct.

17 Q Now, going to the hairs, the
18 unknown hairs, the hairs that were collected
19 by Mr. Hallman from the autopsy, how were
20 they packed when they got to you?

21 A When I received them, they were
22 inside several penny envelopes. When we
23 opened those up, we removed the hairs from
24 inside those envelopes and mounted them on
25 several microscopic slides.

Powell -- Direct

1 Q Okay. Do you recall there being
2 two envelopes, one taken from the victim's
3 hand, one taken from the victim's chest
4 area?

5 A To the best of my memory there
6 were two envelopes.

7 Q And those were contained in a
8 third envelope. Is that correct?

9 A Yes, sir. There was one larger
10 envelope which had the other smaller
11 envelopes inside of them.

12 Q Okay. Now the envelope that
13 contained the hairs collected from the
14 victim's hand, do you recall how many hairs
15 were in that particular envelope?

16 A No, sir. I do not know exactly
17 the number. I know that there were several
18 hairs that we were looking at. I looked at
19 all the hairs on the microscope slide to see
20 who they may belong to and but I can't say
21 exactly how many they were.

22 Q Okay. But one of those hairs
23 was markedly different from the other hairs.
24 Is that correct?

25 A Yes, sir. All the other hairs

Powell -- Direct

1 that we found in this situation were hair
2 fragments and they were microscopically
3 consistent with the victim as she had
4 oriental traits and these were the traits
5 that I found in these hairs from the hand.

6 Q Okay. Let's go into that a
7 little bit in terms of performing a
8 microscopic examination of hair fragments.
9 Do you do that usually?

10 A No, sir. Because of the
11 variability that's found within the hair, we
12 do not as a routine work with the hair
13 fragment because we do not know first of all
14 what fragment are we looking at? What part
15 of the hair are we dealing with? We need to
16 be able to have a starting point that we can
17 match both the known and unknown with to be
18 able to say okay, we know where we're at.

19 Now in some cases we have
20 analyzed cut hairs and in this case the
21 standards actually have been cut from the
22 suspect's head and there we, what we do, we
23 can already tell that we're getting close to
24 the roots, so we have a general starting
25 point. But if I have a fragment that I

Powell -- Direct

1 cannot, do not have a starting point,
2 there's nothing I can do with it normally
3 under the microscope, unless I'm asked to
4 look at it just from a race
5 characterization. In some cases I am ale to
6 characterize it based upon race, racial
7 features.

8 Q And, for example, if you have a
9 long hair that's cut into several different
10 pieces, is there any way to determine
11 looking at it microscopically, where from
12 the hair it came from? Whether it was the
13 root end or the tip end or anything of that
14 nature?

15 A No, sir. Unless there's some
16 characteristic that was on that hair to give
17 me a map or a guideline. I have had one
18 case where there was a streak that was found
19 on the hair and I could use that streak to
20 be able to piece back, piece back a hair.
21 But in most cases you do not have any kind
22 of map to go by, so you don't know which
23 part goes where.

24 Q And do the characteristics of
25 hair vary from one end to the other?

Powell -- Direct

1 A Yes, sir. Absolutely. It can .
2 change from the root to the tip. It can
3 change from, in many different places, so
4 you need to have an intact hair to be able
5 to make that comparison.

6 Q Okay. So as a general rule to
7 do microscopic comparisons you need to
8 compare whole hairs to whole hairs?

9 A Yes, sir. That is correct.

10 Q Is it possible for, for
11 fragments of hair from two different people
12 to exhibit the same characteristics
13 microscopically?

14 A Yes, sir, it is.

15 Q Okay. With respect to the hair
16 you examined in this case, what were your
17 findings?

18 A If I may read. On number, item
19 number nine which would be listed as my
20 number nine from our laboratory number
21 L-97-3580, this is from the victim, Teresa
22 and I believe it's pronounced Haught,
23 H-a-u-g-h-t, subject listed as Wesley Myers,
24 M-y-e-r-s, and also a subject listed as Dana
25 Chaples, C-h-a-p-l-e-s.

Powell -- Direct

1 My item number nine was an
2 envelope with hairs from the victim's body
3 and hand. One Caucasian head hair found
4 with a physical and microscopic
5 characteristics of the unknown hair, fall
6 within the range of physical microscopic
7 characteristics of the head hair standard
8 from W. Myers, which is listed later as a
9 standard, Mr. Myers or W. Myers can be
10 considered as a source for these hairs.

11 Four fragments also found
12 consistent with the victim's head hair
13 standard. Item -- another item, number
14 eight.

15 Q Okay. And with respect to this
16 actual hair you made this finding on, what
17 color was it?

18 A The hair that I made the finding
19 on from as far as the match, I found it to
20 be a hair which was brown at one end but as
21 it moved towards the tip it was lighter and
22 lighter and lighter, almost to no color at
23 all at the very end. It appeared to have
24 been dyed or some type of chemical treatment
25 had been applied to it so that it would have

Powell -- Direct

1 a different color.

2 Q Okay. And I believe you
3 testified previously you determined that it
4 was a microscopic match to one that came
5 from the rear of the defendant's head. Is
6 that correct?

7 A Yes, sir. That is correct.

8 Q What information did you relate
9 to Detective Hallman concerning your
10 examination?

11 A Well, when, when
12 Detective Hallman was right there in the
13 room with me as I looked at it, I looked at
14 him and said "This looks very good."

15 I was very much surprised when I
16 actually opened up the standards because
17 immediately I was looking at short brown
18 hair and I was going well, this is not going
19 to match up with these, this longer hair
20 until I opened up one packet from the back
21 and I found those hairs which did have the
22 characteristics I was looking for.

23 Once I looked at them
24 microscopically I told him these look very
25 good. You've got, you've got something here

Powell -- Direct

1 to go with. You'll be able to pursue the.
2 investigation.

3 Q And so even though you can't
4 say, you can't say it came from the
5 defendant Wes Myers, can you?

6 A I cannot say at the exclusion of
7 everyone else in the world it came from him.
8 I can say that the characteristics of the
9 hairs that I looked at from his standard
10 fall or are consistent with the unknown
11 hair, so thus it could have come from him.
12 It could have come from someone else, but --

13 Q Microscopically it was a match?

14 A That is correct.

15 Q And you relayed that information
16 to Detective Hallman?

17 A Yes, sir, I did.

18 Q Are there some matches that are
19 better than others?

20 A Yes, sir. There are some
21 matches which are very, very good. For
22 example, someone takes and treats the hair
23 with unusual color. For example, purple or
24 blue. When I have a purple or blue hair to
25 match up with a purple or blue hair it's

Powell -- Direct

1 easier to say yes, these are much closer to.
2 each other.

3 There are some others just based
4 upon general characteristics which would
5 fall into the physical range which is what
6 this hair would fall into.

7 Q Now I also believe at the time
8 that this hair evidence was sent to you
9 there was also some evidence sent to you
10 concerning the hair that had been found on a
11 piece of carafe. Do you recall anything
12 about that? Item, I believe it would be
13 your item number six.

14 A Yes, sir. There was an item
15 sent to me which listed just one hair
16 sample. The location of the hair I'm not
17 sure of, but I know that when it was logged
18 in it was listed as one hair sample.

19 Q And did you perform any kind of
20 examination on that?

21 A No, sir. No analysis was
22 performed on this hair due to the condition
23 of the hair. The hair itself was, was
24 damaged from heat, from other factors, and
25 it was unsuitable for any type of

Powell -- Direct

1 comparison.

2 Q Okay. Going back a little bit,
3 you also at some point received a gunshot
4 residue kit on the defendant. Is that
5 correct?

6 A That is correct, sir.

7 Q That was negative as to gunshot
8 residue?

9 A That is correct, and if I may
10 explain the kit.

11 Q Sure.

12 A When a weapon is discharged,
13 when you shoot the weapon there's a cloud of
14 debris material that will, is expelled by a
15 weapon. This material will cover your hands
16 or any object that's close or adjacent to
17 this weapon.

18 The gunshot residue kit is
19 performed to capture this material. What it
20 has inside of it is, usually it's found with
21 both cotton swabs and what's called particle
22 lifts. Particle lifts are nothing more than
23 flattened pieces of round aluminum with
24 sticky adhesive on it like you'd find with
25 Scotch tape. You take and apply it to the

Powell -- Direct

1 surface of the object you're interested --
2 in this case I'm describing the back of my
3 left hand, and any particles that are found
4 it will pick up and retain.

5 We then follow up with the swab
6 where we actually wipe or mop up any
7 residuals not picked up by the particle
8 lift. We then can take this kit, look on
9 the surface of this lift to see if we can
10 find any particles which would tell us if
11 someone has fired or been around a weapon,
12 and we draw a conclusion as to what they may
13 have been doing.

14 Q Okay. Did you forward this hair
15 to the DNA lab at S. L. E. D. for analysis?

16 A No, sir. Originally the hair
17 was returned back with Detective Hallman.
18 After I had finished with my initial
19 examination of this evidence and other
20 evidence, I returned this evidence back and
21 then through several conversations a need
22 arose to send it to another laboratory for
23 additional testing.

24 Q Do you know why testing could
25 not be done at S. L. E. D. at that time?

Powell -- Direct

1 A At that time the only type of
2 examination that we were doing which --
3 requires a larger volume than could be done
4 on hairs. Now today we've actually upgraded
5 the -- upgraded the type of analysis so we
6 could actually do hair analysis with our,
7 with our DNA laboratory.

8 But at that time they could not.

9 There was not sufficient sample from hairs
10 to do the analysis, so it would have to be
11 performed by an outside laboratory.

12 Q And is that when now it came to
13 be that this hair would be sent to the
14 Federal Bureau of Investigation?

15 A Yes, sir. That is correct.

16 Q Now, I show you what's
17 previously been marked as State's exhibit
18 number eighteen. Ask if you -- it's in
19 evidence. Ask if you recognize that
20 container?

21 A Yes, sir. What's stated is
22 State's exhibit eighteen is called a
23 cardboard mailer. We use cardboard mailers
24 to actually protect microscope slides.
25 Microscope slides being glass are very

Powell -- Direct

1 fragile and easily broken.

2 What's inside of here is a
3 cut-out or an area which has been cut out
4 from the cardboard that will fit perfectly
5 with the microscopic slide.

6 Once a slide is placed in the
7 slide holder it is then sealed so that it is
8 protected, so it will not get broken up or
9 destroyed in transit or whatever may happen.

10 In this case there were several
11 of these, several of these holders were
12 generated because I know there were several
13 slides that were mounted. This is,
14 represents one of those, of that group.

15 Q And to your knowledge that would
16 be the container that held the questioned
17 hair?

18 A Yes, sir. It contained some,
19 the questioned hairs listed as item number
20 nine, so would have been in one of the
21 mailers that was holding the slides that
22 were mounted from item number nine.

23 Q Okay. And you are aware that
24 that, that item was later sent to the
25 F. B. I. Is that correct?

Powell -- Direct

1 A Yes, sir. It was my
2 understanding that this was sent to the
3 F. B. I., at a later date.

4 Q Okay. Did you ever receive any
5 information back from the F. B. I. as to
6 whether or not they received the hair?

7 A Through conversations with --
8 MR. KULP: Objection. That's
9 why we have these documents.

10 THE COURT: Sustained.

11 MR. DURANT: Okay.

12 Q Now, at some point that mailer
13 was returned to you by the F. B. I. Is that
14 correct?

15 A Yes, sir. That is correct.

16 Q And do your notes reflect when
17 that was?

18 A One moment, sir. On 3/15 of '99
19 my notes indicate the evidence was returned
20 to me.

21 Q Okay. And did you look at the
22 evidence that was returned to you by the
23 F. B. I.?

24 A Yes, sir, I did.

25 Q And did you see -- is that item

Powell -- Direct

1 seventeen?

2 A This is State's exhibit
3 eighteen.

4 Q Excuse me. State's exhibit
5 eighteen. Was State's exhibit eighteen
6 amongst the -- within the package sent to
7 you by the F. B. I.?

8 A Yes, sir, it was.

9 Q And what condition was it when
10 you received it back from the F. B. I.?

11 A When I had received it from the
12 Bureau, it had Bureau seal tape on it. It
13 was sealed. I opened the contents and found
14 inside small fragments of glass.

15 Q And I believe, would you shake
16 that for the jury.

17 A (Witness complies.)

18 Q And was that similar to the way
19 it sounded when you got it back?

20 A Yes, sir. We have the, what I
21 would call the remnants of a microscopic
22 slide in here.

23 Q Okay. But there were no hair
24 fragments in there?

25 A No, sir. There's no hair

Powell -- Direct

1 fragments in here that I'm aware of.

2 Q Okay. Did you look when you got
3 it back from the F. B. I.?

4 A Yes, sir. When I got it back
5 from the Bureau I was actually looking for a
6 slide which contained my number nine on it
7 or some type of long hair, to see if I could
8 locate it. I was unable to locate what I
9 was looking for and made a note that the
10 evidence in question was not there.

11 Q Okay. And then you sent that
12 evidence back to North Charleston. Is that
13 correct?

14 A Yes, sir. That is correct.

15 Q Okay. And then you're aware, of
16 course, and referring to State's exhibit
17 number or Court's exhibit number one, that
18 the F. B. I. provided an affidavit dated May
19 eighteen of 2000 indicating that they had
20 received hair fragments, they had received
21 hair fragments which had been remounted on
22 another slide. Is that correct?

23 A I became aware of that
24 information, yes, sir.

25 Q Okay. And were you aware of

Powell -- Direct

1 that information prior to May of 2000?

2 A I do not believe I was aware of
3 it at that point, sir.

4 Q Okay. Now, moving on up to June
5 of last year. June of 2000. Did you have
6 any contact with Detectives Hallman and
7 Clayton on about June twentieth of last
8 year?

9 A Yes, sir. I was contacted by
10 Detective Hallman indicating that he found
11 what he believed to be the evidence in
12 question, and wanted to get to me to take a
13 look at it.

14 Q And did they bring that up to
15 you?

16 A Yes, sir, they did.

17 Q And did you take pictures of
18 what they brought to you?

19 A Yes, sir, I did.

20 Q And those pictures are what's
21 previously been marked as State's exhibits
22 number nineteen and twenty. Is that
23 correct?

24 A That is correct. What you see
25 depicted is going to be two photographs of

Powell -- Direct

1 the same microscopic slide, one at one focal
2 or one magnification and one at a higher
3 magnification, showing more of the details
4 of the hairs.

5 Q Okay. Now, what were you --
6 what were you asked to do with respect to
7 that slide?

8 A I was asked to examine the slide
9 to see if there were any fragments that's on
10 that slide that would be consistent with the
11 standards from Wesley Myers. So immediately
12 before I destroyed the slide, because to be
13 able to remove the hairs from it I actually
14 have to take and put a chemical around the
15 cover slip to cause it to loosen up to
16 remove it, I took photographs of it so that
17 we would have a picture of these slides.

18 I then opened up the slide and
19 then took a -- separated them out visually
20 based upon what I could tell. The ones that
21 were so far away from the characteristics
22 that it could not be, separated those out,
23 and what I had left was the small fragments
24 which looked consistent.

25 I then took those, I mounted

Powell -- Direct

1 them on what is called a wet mount. It's .
2 nothing more than a microscopic slide with
3 just a, just a solvent. It's not designed
4 to hold them permanent, but just temporary
5 where we could look at them, and looked at
6 the hairs under the microscope to see if
7 they have the similar characteristics I was
8 looking for.

9 Some of the hairs I had selected
10 did. Some did not. I removed the ones that
11 did have the best characteristics and placed
12 them in a container and took the others and
13 placed them in another container and then I
14 sent that evidence to the DNA department for
15 them to take care of for DNA.

16 Q Okay. Now, I hand you what's
17 marked as State's exhibit number twenty in
18 evidence.

19 A Yes, sir.

20 Q How many fragments do you
21 actually see in that photograph, sir?

22 A You have numerous fragments
23 portrayed in this photograph. Each one of
24 these little small strands is what we're
25 calling a fragment, and you would have

Powell -- Direct

1 twenty, twenty-five, maybe thirty different
2 fragments on display here on this
3 photograph.

4 Q Okay. And once again, with
5 regard to microscopic comparisons and
6 fragments, why is that a problem?

7 A Because as you break up this
8 hair, as you chopped up this hair, you're
9 now mixing the characteristics. You're now
10 mixing where they would fall and what can
11 happen. In two people you can have
12 characteristics, for example someone who has
13 hair similar to mine, you will find similar
14 characteristics in those hairs. It just
15 depends where they're found at will dictate
16 the -- how unique they may be. So once
17 they're broken up it is very difficult to
18 draw any conclusions other than we've got
19 these characteristics, they look the same.

20 Q Okay. And I believe like you
21 explained before, that's because that
22 depended on where and what shaft of the hair
23 it is. Hairs could be similar between two
24 different people, whereas if you had the
25 whole hair it would be completely different.

Powell -- Direct

1 Is that correct?

2 A Yes, sir. It would be much,
3 much easier to do.

4 Q So you separated the fragments
5 you believed could have been part of the
6 original hair you looked at in '97?

7 A Yes, sir. There was some
8 banding that we found on the hair which I
9 found also in the known hair. I used that
10 banding to be able to say okay, this hair
11 has banding. This hair has banding. And
12 that was the main clue that I was using to
13 be able to pull them together.

14 Q And do you know how many
15 fragments out of those perhaps thirty or so
16 on that slide you actually were able to --
17 you say might have been the original hair?

18 A I did not count the exact number
19 as I was collecting them into one container.
20 About four or five. Somewhere in that
21 neighborhood.

22 Q Okay. Okay. I believe you were
23 later asked to look at a door panel from the
24 defendant's truck. Is that correct?

25 A Yes, sir. There was a door

Powell -- Direct

1 panel that was submitted from the suspect's
2 truck is what was indicated to us.

3 Q Any evidentiary value on that?

4 A No, sir. My report went out to
5 say no hair found.

6 Q Okay. How about I believe you
7 also received the victim's socks?

8 A I'm sorry, sir. Oh, yes, sir.
9 Yes, sir. There was a later submission of
10 some additional evidence for analysis and it
11 was the white socks from the victim.

12 Q Okay.

13 A And we found no hairs of
14 evidentiary value on those socks.

15 Q You also were submitted -- you
16 also later received a watch I believe which
17 is depicted in defendant's exhibit number
18 twelve?

19 A Yes, sir. When I had
20 received -- yes, sir. I had received this,
21 but I believe it actually was even more
22 parts than this when I actually got it to
23 the laboratory. This is listed as
24 defendant's exhibit number twelve.

25 Q And did you find anything of

Powell -- Direct

1 evidentiary value, trace evidentiary value.
2 from your examination of that watch?

3 A No, sir. Upon examination of
4 the watch I found nothing of evidentiary
5 value of the watch.

6 Q Okay. Part of trace I believe
7 is to, you know, do you all do any serology
8 as well?

9 A No, sir. That's actually
10 handled --

11 Q Presumptive testing is what I'm
12 talking about.

13 A No, sir. All of the testing
14 that you're describing is handled in other
15 departments. We, in our department, once we
16 begin a test we can take it all the way to
17 whatever level that the unknown will allow
18 us to go to.

19 Q Could you please answer any
20 questions Mr. Kulp may have for you.

21 A Yes, sir.

22 MR. KULP: Thank you, Mr.
23 Durant.

24

25 CROSS-EXAMINATION BY MR. KULP:

Powell -- Cross

1 Q Good morning, Agent Powell.

2 A Good morning, sir.

3 Q Now, Agent Powell, you had the
4 occasion, as you testified on direct, to do
5 an examination, a microscopic examination of
6 hairs that Mr. Hallman brought to you on
7 that day or is it the fourteenth or the
8 fifteenth? Excuse me. The thirteenth or
9 the fourteenth? Fourteenth, I believe?

10 A You're referring to the first --

11 Q Yes, sir.

12 A 3/14. 3/14/97.

13 Q Okay. And that was --

14 A '97.

15 Q Thank you. That was an
16 emergency sort of analysis or examination?

17 A Yes, sir. I may explain. Lot
18 of times we will do what's called
19 investigative work where someone calls us.
20 We have got a suspect we need to send down
21 here for police purposes for additional
22 warrants or other issues that may be needed.
23 We need to find out now what's going on,
24 what's happening.

25 So in this case this hair was

Powell -- Cross

1 brought to me from an investigative
2 standpoint because they wanted to see does
3 this hair from the hand of the victim have
4 any relation to the suspect at that time.

5 Q Thank you. And some of the
6 hairs they brought were brown or darkish?

7 A Yes, sir.

8 Q And you could almost see that
9 with your glasses?

10 A Yes, sir, you could.

11 Q Yeah. So those hairs could
12 easily and be excluded from comparison?

13 A Yes, sir. Normal circumstances,
14 unless there's some dying issues,
15 absolutely, no problem.

16 Q Yes, sir. Now on that day when
17 you examined the hairs that Mr. Hallman
18 brought to you, did you make any detailed
19 notes associated that day with your
20 comparison?

21 A Yes, sir, I did.

22 Q That day?

23 A Yes, sir.

24 Q Do you have them with you?

25 A Yes, sir. Actually you have a

Powell -- Cross

1 copy of it this morning.

2 Q Is that what you gave me this
3 morning?

4 A Yes, sir.

5 Q Okay. That's these?

6 A No, sir. That was actually a
7 week or so later. The ones that I gave you
8 from the detail would be the five pages.

9 Q Like this?

10 A No, sir. This is the ones
11 you're looking for. Would be these, these
12 ones right here.

13 Q Oh, okay. Very good. Those
14 ones that you've just identified, those are
15 dated July of 1997. Correct?

16 A Yes, sir.

17 Q Okay. I'm not asking you about
18 July. I'm asking you about any notes
19 associated with this day, the day that
20 Mr. Hallman brought you the hair.

21 A Okay. These notes were the
22 beginning of the notes taken. Then by the
23 time we got, we was waiting to complete up
24 the rest of the case, the July date is
25 actually when we were writing up the final

Powell -- Cross

1 part of it, we put the date in, we put -- we
2 number the pages, so it was actually this is
3 the beginning of the process.

4 Q On any of those documents do you
5 see the date March fourteen, 1997?

6 A No, sir. You will not find that
7 date on there.

8 Q Okay. But you began them then?

9 A Yes, sir.

10 Q Okay. But didn't date them.
11 How -- and in a microscopic you call them
12 microphotographs. Right?

13 A Yes, sir.

14 Q Or photo micrograph?

15 A Well, either way, because what a
16 photo micrograph is, is that when you have a
17 camera attached to the microscope so that
18 as -- what you're looking at under the scope
19 can also be photographed. This allows you
20 to be able to have, to take this information
21 for presentation for court or other
22 purposes.

23 Q And the day on the fourteenth of
24 March, 1997, you didn't take any photo
25 micrographs of the hairs that you examined?

Powell -- Cross

1 A No, sir, I did not. The reason
2 being is that in our case at that time the
3 comparison microscope we worked with did not
4 have that capability. I have later changed,
5 corrected that problem, but as of that date
6 I did not have that capability.

7 Q Yes, sir. Beg the Court's
8 indulgence one second.

9 Thank you, your Honor.

10 Now, you, in regards to
11 questions that Mr. Durant was asking you,
12 you mentioned a couple of times -- well, you
13 didn't recall the number of hairs --

14 A From what we just --

15 Q -- that were brought that day?

16 A No, sir.

17 Q To the best of your
18 recollection?

19 A There was a total of, I believe
20 it was a total of five hairs that were found
21 in these two envelopes. I can't say which
22 was, which, how many was in which envelope.

23 Q Okay. And but you started notes
24 that day. It's not reflected there?

25 A As far as what, as far as the

Powell -- Cross

1 envelope, which one it came out --

2 Q Yes.

3 A No, sir, because as we was
4 opening up, we just opened them up, we
5 processed through them, we did not take the
6 notes as far as which came out of the other
7 because at that time there was a question
8 as, when I asked well, which, where did this
9 come from? We're not sure if it was from
10 the body or from the hands or what. So just
11 went forward with them as one unit, number
12 nine, meaning all the hairs found from her
13 at that location.

14 Q Okay. Now, do you recall
15 meeting with me and, and someone from the
16 solicitor's office on November eighteen,
17 1997?

18 A We've, we've talked and met on
19 several occasions, sir.

20 Q And at that time do you recall
21 that on behalf of the defense we requested
22 that there be some DNA analysis of that
23 hair?

24 A Oh, yes, sir, there was. And
25 also a telephone conversation that you and I

Powell -- Cross

1 had where the question was being posed to.
2 me, you know, what can we do with this hair,
3 what, what, you know, there's more can be
4 done. And I explained at that point, yes,
5 there is more work that can be done to
6 either, to eliminate or to actually to prove
7 that these hairs matched through DNA, either
8 mitochondrial DNA or if there's any tissue
9 left on the root, other types of DNA
10 analysis.

11 Q Precisely my point. In other
12 words, I think you testified that to this on
13 direct, but that DNA, both P. C. R. or
14 R. L. F. P. or --

15 A I'm sorry. I'm not a biologist.
16 I would have to remember.

17 Q All right. Or mitochondrial
18 testing is a, is a better and more reliable
19 method of testing?

20 A Oh, yes, sir, by no -- and as a
21 matter of fact, this type of examination
22 itself is no longer, in my laboratory, a
23 primary source of information to go to court
24 with because of the --

25 Q Okay.

Powell -- Cross

1 A -- variability that we're
2 finding in cases where we're taking the DNA,
3 we're finding DNA saying no, they're not a
4 match, where in the microscopic they do.

5 Q Okay. Thank you very much.

6 Did Mr. Hallman tell you that
7 the defendant or the suspect then had a rat
8 tail?

9 A Not until I actually opened up
10 the envelope which had the long hair. At
11 that point he said oh, yeah, well, he does
12 have a rat tail. I said okay. Then that
13 would explain that. So he did tell me that
14 after, when I found it in that envelope from
15 the back.

16 Q Okay. Did you work at
17 S. L. E. D. at your laboratory on March the
18 fifteenth, 1997, a Saturday?

19 A Did I work?

20 Q That day, on that Saturday?

21 A No, sir.

22 Q Okay. You weren't at work that
23 day, you did not have a telephone
24 conversation with Lieutenant Melvin Cumbee?

25 A No, sir. Not, not on Saturday.

Powell -- Cross

1 Q Please tell the ladies and
2 gentlemen of the jury what your finding was
3 in the -- your microscopic examination that
4 day of the suspect hair and Mr. Myers' known
5 standard was that it can be considered?

6 A Yes, sir.

7 Q All right. How many other
8 people could also be considered to be the
9 contributor of that unknown hair?

10 A Without --

11 Q Can you give the ladies and
12 gentlemen of the jury a number?

13 A I can give a relative number,
14 and if I may explain.

15 Q Yes, sir.

16 A There has not been a lot of
17 testing done on how many hairs can fall
18 together. Based upon the only two studies
19 that we've been able to find over the past
20 twenty-five years, it comes down to about
21 one out of six thousand.

22 So if you take that group and
23 that one out of six thousand is a racial
24 group, for example, in my group which would
25 be Caucasian, when you find the hair you

Powell -- Cross

1 match up you're looking at about one out of
2 six thousand matches is what you're talking
3 about.

4 Q So six thousand other people?

5 A One out of six thousand. So for
6 every six thousand, you're looking at one.

7 Q Okay. But can you give the
8 number of other people who could have hair
9 with consistent characteristics to what you
10 examined? You have no idea?

11 A I have no idea.

12 Q Okay. Now, you used the word
13 "match" in your testimony.

14 A Yes, sir.

15 Q A lot of controversy in the
16 forensic community about the use of the word
17 "match", isn't there?

18 A Yes, sir. There is a lot of
19 controversy and the controversy arises from
20 when you say "match", are you saying
21 "absolutely no question about it
22 fingerprint" or are you saying "oh, they're
23 close"?

24 It's the same issue we run into
25 with the word "consistent". The word

Powell -- Cross

1 "consistent" can mean in some places very
2 consistent and sometimes well, it's close.
3 So there's various controversy with these
4 terms.

5 Q Yes. And in fact it -- would
6 you agree that it would be fair to use the
7 word "match" as to the results of DNA,
8 properly performed DNA analysis?

9 A I believe the word can be used
10 in many different forms. It would be proper
11 for DNA, but it's also proper for some of
12 the tests that we perform in our laboratory
13 today.

14 Q Okay. So your testimony is that
15 "can be considered" but "also can be
16 considered to an unknown number of other
17 people" is equivalent to a match?

18 A Yes, sir.

19 Q All right.

20 A In this case we have defined, we
21 can be considered as defining the
22 characteristics so now when we use the word
23 "match" we're just using it with the
24 definition "can be considered". That's the
25 way we're using it within that sentence.

Powell -- Cross

1 Q How long was the, the suspect or
2 unknown hair that you examined on March the
3 fourteenth? Was it four to six inches long
4 or four point six inches long?

5 A Bear with me one moment.

6 Q Yes, sir.

7 A No, sir. We have it listed here
8 as four to six inches, so this was a visual
9 examination of the length. We didn't take a
10 ruler. We looked at it visually and said
11 it's between four to six inches.

12 Q Okay. You had this unknown hair
13 before you at the lab --

14 A Yes, sir.

15 Q -- for purposes of visual
16 comparison using everything from your naked
17 eye to a microscope probably costing
18 thousands of dollars?

19 A Actually, sir, the microscope
20 would be about twenty-two thousand dollars.

21 Q Okay. And you also had rulers
22 there and devices to measure the length of
23 the hair?

24 A Absolutely, sir.

25 Q Okay. And so your estimate was

Powell -- Cross

1 that the hair was four to six inches in
2 length?

3 A Yes, sir.

4 Q Meaning that it could have been
5 four inches; it could have been six inches?

6 A We just looked at it and said
7 okay, it's between four and six inches, and
8 left it at that.

9 Q Okay. Now, you testified on
10 direct that in fact you drew a, an
11 assessment or made a determination that the
12 hair that you examined, the unknown hair,
13 might be bleached. I think you used the
14 word dyed?

15 A Yes, sir. Dyed or bleached.
16 There was a change in color. Something had
17 occurred with the hair so that it was not
18 the same color it was when it was coming out
19 from the root.

20 Q But in fact in your notes, if
21 you'd like to refer to them, you weren't
22 sure and the notes indicate that it might be
23 sun bleached, but you didn't know?

24 A Right. We were, because we,
25 what we look for in a hair is in some cases

Powell -- Cross

1 it's easy to determine if someone has dyed.
2 their hair because there's a different line.
3 We have a change-over in color. In this
4 case that line was blurred, so it could have
5 been from being bleached, it could have been
6 from sun, it could have been from factors of
7 something we're not sure of.

8 Q Okay. And your testimony when
9 Mr. Durant asked you is that moving ahead in
10 time in I guess June, June of 2000 or so --

11 A Yes, sir.

12 Q -- when you examined the hair
13 fragments, and you had the occasion to
14 compare them to the known hair of Mr. Myers
15 at that time?

16 A Yes, sir. That's correct.

17 Q I think you testified on direct
18 that if the hairs were broken or cut, that
19 you couldn't perform this multi-step method
20 of microscopic analysis.

21 A It's not as accurate because you
22 can't place where the part was to know
23 what's going on. We looked at them and I
24 saw characteristics were the same. With the
25 assumption that there's no other

Powell -- Cross

1 contaminations in the case then these were,
2 these were consistent with the hairs that I
3 was looking at prior and containerized them
4 for further analysis.

5 Q Okay. And you testified that
6 these small fragments looked consistent?

7 A Yes, sir, they did. They --
8 when I looked at them I'm going yeah. I was
9 skeptical at first. When I first opened it
10 up I was going I don't know. But as I began
11 to look at them I saw the characteristics, I
12 saw that there were characteristics which
13 were the same, and I knew that the victim's
14 hair was so far different from the other
15 hairs that obviously we're dealing with
16 something which has similar characteristics.

17 Q Let's clarify that right now.
18 I'm handing you State's exhibit number
19 twenty.

20 A Yes, sir.

21 Q Now, you don't need a twenty-two
22 thousand dollar microscope to look at that
23 and tell that the brown hairs don't look
24 like the blond hairs. Correct?

25 A That is correct, sir. This

Powell -- Cross

1 is --

2 Q All right. Now, you said
3 thirty -- I'm sorry.

4 A Well, I was just going to say it
5 took a, it took a good camera, though. I'm
6 very proud of the camera we got to be able
7 to create this.

8 Q Okay.

9 A But, yes, sir, it doesn't
10 require a high-priced microscope to see what
11 you're talking about.

12 Q Right. I'm glad you have it.
13 But the, the, the thirty fragments that you
14 talk about included the brown hair?

15 A Yes, sir. This is the overall
16 picture from when the slide was taken apart.

17 Q Okay. So that you ended up with
18 four to five fragments of blond hair?

19 A Yes, sir. That is correct.

20 Q And what was the overall length
21 of those four to five fragments?

22 A Every one of them was several
23 centimeters, if you will. They, they were
24 not very long. They had been, every, every
25 one of them had gone through a tremendous

Powell -- Cross

1 trauma because they were cut and broken.
2 They had been brutalized.

3 Q Okay. But they were there?

4 A Yes, sir. They were there.

5 Q Now, the broken slide that the
6 solicitor has had you shake here, it
7 contains broken glass. Well, you later
8 testified after identifying that, that what
9 was found in there by the F. B. I. was just
10 remounted on another slide?

11 A Yes, sir. At some point the
12 contents of this mailer and I believe
13 another mailer which I have yet to see was
14 opened and they took and mounted what they
15 found in there onto the slide.

16 Q Okay. Now, you've been
17 referring to your notes during the course of
18 your -- well, let me ask you this. The
19 notes that you have, that you referred to,
20 are like kind of sort of a checklist or
21 sheet for the determination of the
22 valuation, the point system of coming up
23 with a conclusion about whether your
24 microscopic comparison reaches a certain
25 level of reliability. Correct?

Powell -- Cross

1 A That is correct.

2 Q Even, even though your, your
3 maximum finding as you've testified to is
4 that it can be considered?

5 A That is correct.

6 Q All right. Now, in that regard
7 your check sheet, and please refer to it at
8 your leisure.

9 A Uh-huh.

10 Q Your check sheet, if you total
11 up all -- the maximum points you can get for
12 each type of observation or analysis is five
13 points. Correct?

14 A That is correct.

15 Q And there are twenty-six
16 different possible characteristics of
17 microscope analysis, of microscopic
18 analysis?

19 A That is correct.

20 Q All right. So that gives a
21 total of one hundred and thirty points of
22 possible assessment quantitatively of the
23 analysis and comparison?

24 A Yes, sir. That's correct.

25 Q And in this particular case the

Powell -- Cross

1 total in this examination was sixty-three?

2 A Yes, sir. That is correct.

3 Q Now, the last question I want to
4 ask you, you've been referring to your notes
5 during your testimony and I want to ask you
6 about those notes. Those notes that you've
7 been referring to, that you've shared and
8 given to us here today, those notes, that
9 doesn't have your handwriting on it, does
10 it?

11 A No, sir. At the time that I was
12 working this case, I had a -- one of my
13 analysts who was in training with me, so I
14 was dictating to her and she was writing
15 down on paper. There's two reasons for
16 this. Number one, she needed to be familiar
17 with this and, number two, my handwriting is
18 atrocious so this, it served two purposes.

19 MR. KULP: Thank you very much.

20 Thank you for your testimony.

21 MR. DURANT: Nothing on
22 redirect.

23 THE COURT: You can come down.

24 THE WITNESS: Thank you, sir.

25 THE COURT: Can he be excused?

Powell -- Cross

1 MR. DURANT: As far as I'm
2 concerned.

3 MR. KULP: Without objection,
4 your Honor. Thank you, sir.

5 THE COURT: Have a good day.

6 THE WITNESS: Thank you, sir.

7 MR. DURANT: State would call
8 Jeff Payne.

9 THE COURT: Come right up here,
10 Mr. Payne.

11

12

13

14

15

16 J E F F R E Y S C O T T

17 P A Y N E, having been called as a
18 witness in the presence of the jury, is
19 duly sworn and testifies as follows:

20 DIRECT EXAMINATION BY MR.

21 DURANT:

22 Q Where are you currently
23 employed, sir?

24 A North Charleston Police
25 Department.

Paye -- Direct

1 Q And were you so employed in
2 March of 1997?

3 A Yes, sir.

4 Q What capacity were you employed
5 by the police department in March of 1997?

6 A I was assigned to the detective
7 division, the juvenile division.

8 Q And in your capacity as a
9 detective then did you have an opportunity
10 to respond to the Mill Inn on March
11 thirteen, 1997 in the early morning?

12 A Yes, sir, I did.

13 Q And what time did you arrive at
14 the Mill Inn?

15 A I believe it was about twenty
16 minutes till six a. m.

17 Q And what did you do upon your
18 arrival?

19 A I entered the crime scene from
20 the rear of the building with I believe
21 Detective Roper. I viewed the body, the
22 inside of the building, and then I exited.

23 Q What was the crime scene like?

24 A The, the body was facedown in
25 front of the bar, at a angle. Had, if I

Paye -- Direct

1 remember right, it had some, she had some .
2 lacerations on the back of her head. The
3 interior of the bar was completely burned,
4 gutted.

5 Q Did the defendant show up at the
6 scene that morning?

7 A He did.

8 Q And around what time was that,
9 sir?

10 A I don't recall. I didn't see
11 him walk up to the scene. When I exited the
12 bar, I spoke with Captain Smith, Lieutenant
13 Cumbee, and Sergeant Tetanich out front and
14 they informed me or they instructed me to
15 take his, his statement. I don't recall. I
16 don't -- I didn't see him walk up to the
17 scene.

18 Q Okay. And do your, do your
19 notes reflect and after you were asked to
20 take his statement did you take a written
21 statement immediately, or did you talk to
22 him verbally first?

23 A We spoke verbally and then I
24 took his statement.

25 Q And do you recall how long you

Paye -- Direct

1 talked to him before you took his written-
2 statement?

3 A It was a short period of time.
4 I don't recall exactly how long it was, but
5 it was probably less than thirty minutes,
6 maybe.

7 Q And you then took his written
8 statement. Is that correct?

9 A Yes.

10 Q Where did you take that
11 statement?

12 A In the front seat of my police
13 car, which was just a short distance from
14 the incident location.

15 Q Okay. To your knowledge, was he
16 a suspect at that time?

17 A No, sir.

18 Q Is that the front page of his
19 statement?

20 A Yes, sir, it is.

21 Q And does that indicate what time
22 you took the written statement?

23 A It does.

24 Q And what time is that, sir?

25 A 6:57 in the morning.

Paye -- Direct

1 Q What was his demeanor while you
2 were talking with him?

3 A He was, he was cooperative. He
4 was -- he spoke intelli -- he was very
5 articulate. I don't -- he wasn't upset or,
6 or completely distraught or anything, and he
7 was -- we carried on a conversation.

8 Q Did you notice anything unusual
9 about his conduct that morning?

10 A I knew his relationship with the
11 victim and throughout the time that I was
12 with him he, he, he would, in my words he
13 would attempt to break down, but at no time
14 there was no tears, never cried, nothing.
15 He appeared to have short bursts I guess of
16 emotion, but there was no tears at all. He
17 never cried, and that was the entire time I
18 took the statement, the time we spent
19 together at the police department, and the
20 time at the hospital.

21 Q Did he ever make any suggestions
22 to you as to how the fire had started?

23 A I believe he did say something
24 about -- I didn't ask him to formulate any,
25 any opinion about it, but he did volunteer

Paye -- Direct

1 that he thought the building had electrical
2 problems.

3 Q After you took his statement in
4 the car, what were you directed to do?

5 A To escort him to the police
6 department where we, where the crime scene
7 officer, Corporal Poole took some major case
8 prints, which is just fingerprints of the
9 hand, the side of the hand and the
10 fingerprints.

11 Q Also the gunshot residue --

12 A Sem-tabs. Correct.

13 Q -- was done at the same time?

14 Was he under arrest at the time?

15 A No, sir.

16 Q How did he happen to be to the
17 police department or go to the police
18 department?

19 A I asked him to come with me and
20 he agreed and he rode in the front seat of
21 my car.

22 Q Okay. He was being cooperative
23 with you. Is that correct?

24 A Yes, sir.

25 Q Now, did you have an opportunity

Paye -- Direct

1 to advise him of his constitutional rights .
2 when he was in the station that morning?

3 A I did.

4 Q And why did you do that?

5 A I felt it necessary to let him
6 know that he did not have to do any of the
7 things that we were asking him to do, the
8 sem-tabs or the fingerprints, and I did this
9 just to let him know in a written form that
10 he not have to cooperate or, or take part in
11 anything we were asking him to do.

12 Q So you did that before he agreed
13 to, before you all got the fingerprints and,
14 and sem-tabs. Is that correct?

15 A Yes, sir.

16 Q And that was done where?

17 A At the police department.

18 (Whereupon, marked for
19 identification was State's Exhibit No.
20 21, advisement of rights form.)

21 Q Detective Payne, I hand you
22 what's been marked as State's exhibit
23 twenty-one for identification, ask if you
24 recognize that document, sir?

25 A Yes, sir, I do.

Paye -- Direct

1 Q And what is that?

2 A This is a standardized form that
3 we use at the, North Charleston to advise
4 individuals of their constitutional rights.

5 Q Okay. And did, is that the one,
6 the form you used to advise the defendant of
7 his rights in this case?

8 A Yes, sir.

9 Q And what time was he advised of
10 his rights?

11 A The time indicated here, which
12 is what, which time he signed the form, was
13 at 8:57 in the morning.

14 Q And what rights did you advise
15 him of?

16 A The form has on it five that
17 are, that are written out and I read them
18 verbatim to him. After each one I would
19 stop and ask him if he understood what I
20 just read to him. If he indicated that he
21 did, then I would move on.

22 After I completed all five,
23 there is a statement underneath those five
24 that say, this says: "I fully understand
25 each of these rights explained to me." He

Paye -- Direct

1 initialled next to each of the five in
2 addition to signing the form, which was then
3 witnessed by me and Corporal Poole.

4 Q Okay. And if you would just
5 relate the rights that you read to him to
6 the jury.

7 A Okay. Yes, sir. The first one
8 is: "I have the absolute right to remain
9 silent and do not have to answer questions
10 or answer, have to answer any questions or
11 give a statement and this fact cannot be
12 used against me."

13 Number two is: "If I do answer
14 questions or give a statement, anything I
15 can -- anything I say can and will be used
16 against me in a court of law."

17 Number three: "I have the right
18 to consult with a lawyer of my choice before
19 I answer questions or give a statement, and
20 also have him present while I'm being
21 questioned."

22 Number four is: "If I wish to
23 talk to a lawyer or have him present but am
24 unable to afford to hire a lawyer, one will
25 be appointed to represent me free of

Paye -- Direct

1 charge."

2 And the fifth and final one is:

3 "If I decide to answer questions or give a
4 statement without having a lawyer present
5 and representing me, I have the absolute
6 right during the interview or during this
7 interview to stop answering questions and to
8 remain silent. I fully understand each of
9 these rights explained to me."

10 Signature, time, and date.

11 Q And that is his signature on
12 that form?

13 A Yes, it is.

14 Q And your signature as a witness?

15 A Yes, sir.

16 Q And I believe also the signature
17 of Officer Poole as a witness, too.

18 A Yes.

19 Q Is that correct?

20 A Un-huh. Yes.

21 Q Officer Poole also signed down
22 where the defendant was supposed to sign.

23 Do you know why that was?

24 A No, sir. Just a clerical error
25 on Corporal Poole's part.

Paye -- Direct

1 MR. DURANT: Your Honor, we
2 would offer State's exhibit number
3 twenty-one into evidence.

4 THE COURT: Any objection?

5 MR. KULP: No, sir, your Honor.
6 Thank you.

7 (Whereupon, entered into
8 evidence was State's Exhibit No. 21,
9 advisement of rights form.)

10 Q Did you make any effort to
11 question him that day?

12 A No, sir.

13 Q Other than the witness
14 statement --

15 A Right.

16 Q -- you had just taken in his
17 car. Correct?

18 A Correct.

19 Q Taken in the car. Correct?

20 A Yes.

21 Q He certainly never confessed to
22 you, did he?

23 A No.

24 Q Did you ever ask him any
25 questions any time that day concerning his

Paye -- Direct

1 involvement in this case?

2 A No. No, sir.

3 Q Did you receive any other
4 requests with regard to Mr. Myers while you
5 were at headquarters?

6 A I did. After the major case
7 prints and the, the gunshot residue tests
8 were taken, I was instructed to ask him to
9 go to the hospital to submit for some
10 samples of hair from his various parts of
11 his person.

12 Q Okay. And did you take him to
13 the hospital?

14 A Yes, sir.

15 Q Which hospital did you take him
16 to?

17 A Charleston Memorial.

18 Q And is that where the suspect
19 collection kit was obtained --

20 A Yes, sir.

21 Q -- on Mr. Myers?

22 Were you present when that was
23 done?

24 A I was.

25 Q And did you observe the nurse

Paye -- Direct

1 obtain the samples from the defendant,
2 Mr. Myers?

3 A Yes, sir, I did.

4 Q Did you observe the nurse
5 package those samples?

6 A Yes, sir, I did.

7 Q And in what form were they when
8 they came to you?

9 A They were in the, in the kit
10 itself that contained all the hairs.

11 Q You were aware that they
12 obtained head hairs and pubic hairs and
13 blood and saliva and all that?

14 A Yes, sir.

15 Q Did they come to you in a sealed
16 package?

17 A Yes, sir.

18 Q And that package was sealed when
19 you received it. Is that correct?

20 A Yes, it was.

21 Q And you subsequently turned that
22 package over to Detective Clayton. Is that
23 correct?

24 A Yes, sir, I did.

25 Q That same day?

Paye -- Direct

1 A Yes, sir.

2 Q And you all didn't tamper with
3 the package in any way while it was in your
4 possession?

5 A No, sir.

6 Q Would you please answer any
7 questions that Mr. Kulp may have for you.

8 A Yes, sir.

9 MR. KULP: Beg the Court's
10 indulgence one second.

11 THE COURT: Yes, sir.

12 MR. DURANT: May we approach
13 briefly before you start?

14 MR. KULP: Yes, sir.

15 (Whereupon, there was an
16 off-the-record bench conference.)

17

18

19

20

21 CROSS-EXAMINATION BY MR. KULP:

22 Q Detective Payne, you had the
23 occasion to interview Mr. Myers on that
24 morning as you described, 3/13?

25 A Yes, sir.

Payne -- Cross

1 Q '97.

2 A Yes, sir.

3 Q 6:40 a. m.

4 A I believe so.

5 Q And to assist you in your
6 contact with him and information which you
7 were receiving, you made some handwritten
8 notes, didn't you?

9 A Yes, sir, I did.

10 Q And have you reviewed those
11 notes in anticipation of your testimony here
12 today?

13 A The only time I saw the notes
14 was during the Jackson v. Denno.

15 Q And when you -- in those notes
16 you didn't make any notation -- you made
17 those notes that morning as you were there
18 in the car with Mr. Myers. Correct?

19 A Just throughout the morning I
20 did, yes.

21 Q Documenting information?

22 A The time I was called, the time
23 I arrived, things of that nature I did.

24 Q And you didn't put anything down
25 on those handwritten notes about Mr. Myers

Payne -- Cross

1 "short bursts of crying" or his "attempts to
2 break down"?

3 A No.

4 Q Now, you never met Mr. Myers
5 before that day?

6 A No, sure haven't.

7 Q You don't look -- know how he
8 looks when he's upset, you don't know how he
9 looks that day before then when he's happy?

10 A No, sir, I sure don't.

11 Q Now, in terms of any discussion
12 about an electrical problem, you testified
13 on direct that he wasn't a suspect at the
14 time?

15 A No, sir, he wasn't. Not to my
16 knowledge.

17 Q But you still read him his
18 rights like we see on T. V.

19 A Not before the witness
20 statement, sir, no.

21 Q Oh. Afterwards?

22 A Yes.

23 Q Okay. But during your contact
24 with him you were asking him a number of
25 questions. I mean that was the purpose in

Payne -- Cross

1 interviewing him. You'd been instructed to
2 do so, had you not, by other officers?

3 A A witness statement is, is not
4 so much an interview as it is a, a person
5 giving a chronological rendition of what
6 happened. If I have any questions at all it
7 would be just clarification questions, not
8 interrogation questions. Tell me what
9 happened and I write it down, or I have them
10 write it down.

11 Q Did anybody in this case ask you
12 not to say you interrogated Mr. Myers?

13 A I didn't interrogate Mr. Myers,
14 no.

15 Q That's not what I asked you.

16 A No, sir. Nobody has asked me to
17 say that, no.

18 Q That's all right. Now, did some
19 other detectives direct you over to
20 Mr. Myers to take a statement from him?

21 A Take a witness statement. Yes,
22 sir.

23 Q Okay. And they told you to do
24 that for the purpose of acquiring
25 information from him about what he knew or

Payne -- Cross

1 didn't know about the event?

2 A Correct.

3 Q And in the course of that, you
4 asked him if he was aware of anyone who
5 might have done it?

6 A I don't recall asking that
7 specific question, no.

8 Q You recall asking him about what
9 he might think or know about the cause of
10 the fire?

11 A No. No.

12 Q Well, what were you -- I mean
13 were you, were you asking him about his -- I
14 don't mean to be facetious, but I mean were
15 you asking him about, you know, his favorite
16 interests or, or I mean --

17 A No.

18 Q -- surely you were asking him
19 about this crime?

20 A No. A witness statement is
21 simply a statement taken of somebody who was
22 at or near a scene where a crime was
23 committed and, and that person giving what
24 they know. Nothing more, nothing less.

25 Q Okay. Do you recall who car

Payne -- Cross

1 five was at the time of this?

2 A That's Captain Smith.

3 Q And who was sixteen?

4 A I believe that's Lieutenant
5 Cumbee.

6 Q And how about unit thirty-five?

7 A That's Sergeant Tetanich.

8 Q Okay. And did you, prior to
9 interviewing him as you say to take a
10 statement in your car, did you speak with
11 him, with -- him being Mr. Myers -- with
12 Captain Smith, Lieutenant Cumbee, and then
13 Sergeant Tetanich?

14 A No. He was in the area. I
15 don't believe he was standing right there
16 with the three of us or four of us while we
17 spoke but he may have, he may have been
18 there. I'm not sure.

19 Q If I show you a copy of your
20 notes, will that help refresh your
21 recollection?

22 A Yes, sir. It will.

23 Q Draw your attention to that.

24 A Uh-huh.

25 Q Do you -- I'll give you a chance

Payne -- Cross

1 to read it.

2 A Right. "Spoke with W. W" --
3 which is the defendant -- "with car five,
4 sixteen" -- which are the captain, the
5 lieutenant, and the sergeant. And then
6 "took statement in my car."

7 As I stated, if he was in that
8 group, he may have been. I'm not sure if he
9 was there with us or not.

10 Q Okay. And you sat in your car.
11 Was it your police car?

12 A Yes, sir.

13 Q And Mr. Myers sat in the front
14 seat with you?

15 A He did.

16 Q And so you were -- both of you,
17 you both were sitting in the front seat.
18 You were a short distance away from him?

19 A Yes.

20 Q Do you recall if the windows
21 that March morning were rolled up or down?

22 A I believe they were up. I'm not
23 sure.

24 Q And any time during your time
25 with Mr. Myers and taking this information

Payne -- Cross

1 and writing it down and so forth, did you .
2 smell the odor of smoke about him?

3 A Not that I recall, no.

4 Q And did you see any soot or any
5 marks of exposure to a fire on him?

6 A I didn't make a physical
7 examination of him, but none that were
8 obvious.

9 Q So you didn't examine anything
10 about him during your contact with him that
11 would lead you to believe that he was,
12 physical observations other than what you've
13 testified to about attempts to break down,
14 your assessment of that and short bursts of
15 crying, that would lead you to believe that
16 he was a sus -- that would change his status
17 from a witness to a suspect?

18 A Correct. My purpose was not to
19 establish him as a suspect. It was just
20 simply to take a witness statement.

21 Q Did Detective Tetanich come up
22 to you that morning, as you now recall,
23 being present there with Lieutenant Cumbee,
24 Captain Smith and W. W. or Mr. Myers, and
25 say that he considered Mr. Myers a suspect?

Payne -- Cross

1 A No, sir.

2 Q Okay. Now, after you took the
3 statement from Mr. Myers, that statement had
4 nothing in it that was incriminating?

5 A No. No, sir.

6 Q Okay. And at that time had he
7 spoken, prior to your contact with him, had
8 he spoken possibly with a, an individual
9 named Major McHale?

10 A No, sir.

11 Q To your knowledge?

12 Now, after you left the area,
13 you asked Mr. Myers if he would give you
14 standards of hair and blood from his vein,
15 arm, and, and other forensic samples for
16 purposes of comparison?

17 A After the fingerprints were
18 taken, correct, and the G. S. R. kit was
19 done.

20 Q From this witness?

21 A Correct.

22 Q Do you know about that same time
23 that you were with him that Detective
24 Clayton was over at his mother's house
25 trying to verify if he was there the evening

Payne -- Cross

1 before?

2 A I have no knowledge.

3 Q Do you have a radio in your
4 police car?

5 A I do.

6 Q And does it have a speaker? Is
7 that how you hear what someone is saying and
8 communicating with you?

9 A Yes, sir, it does.

10 Q And you were communicating from
11 time-to-time, letting the radio operator
12 know where you're going, and that's standard
13 procedure. Correct?

14 A Yes, sir.

15 Q And during the time that you
16 were with Mr. Myers, you were getting
17 up-dates from the other detectives and
18 officers about what was going on in the case
19 and the developments that were occurring
20 that morning?

21 A No, sir.

22 Q They didn't tell you anything?

23 A No.

24 Q Okay. And from the scene you
25 went to the North Charleston Police

Payne -- Cross

1 Department?

2 A Yes, sir.

3 Q And there you got the gunshot
4 residue samples?

5 A Corporal Poole did, yes, sir.

6 Q Corporal Poole. Sorry. And
7 from there you went down to the Medical
8 University and then you, and then found out
9 that they really didn't collect samples and
10 then you had to go over to the county
11 hospital.

12 A Yes, sir. We ended up in the
13 emergency room of Charleston Memorial.

14 Q Right. And there you, as you
15 testified, samples were taken from
16 Mr. Myers' hair and all the other stuff?

17 A Yes, sir.

18 Q Did you observe him to have a
19 rat tail coming down his back of his head at
20 that time?

21 A A pony tail?

22 Q No. Those little rat tail
23 things that people put a rubber band around
24 and grow their hair a little bit longer?

25 A I remember he had, his hair was

Payne -- Cross

1 shoulder length or longer, but I don't
2 recall they style. If it was --

3 Q Okay.

4 A -- long in one part or, I don't
5 know.

6 Q Okay. And so you left there and
7 then you went from there and departed at ten
8 o'clock or so from the county hospital?

9 A Yes, sir.

10 Q And then did you come back to
11 the North Charleston Police Department for
12 major case prints or was that done --

13 A That was done prior to the trip
14 to the hospital.

15 Q Okay. So first seeing him at
16 about 6:40 a. m., you last saw him and I
17 don't -- it's not in your notes and it's not
18 a trick question. Was it about 10:30,
19 eleven?

20 A It was somewhere around ten. I,
21 I put ten. It was -- I had every intention
22 of putting the exact time that we left the
23 hospital, but I forgot to indicate it
24 exactly on my notes.

25 Q Okay. So you were with him for

Payne -- Cross

1 several hours?

2 A A few hours. Yes, sir.

3 Q A few hours. Now, later in the
4 case you had, around mid-day you had an
5 occasion to participate with other
6 detectives in the, an aspect of the
7 investigation that took place at Spruill and
8 Bexley Street. Correct?

9 A It was a traffic stop that was,
10 that was effected by another officer, but I
11 didn't participate. I, I got in my car and
12 went to where the traffic stop had been
13 initiated, but I stayed at a distance. I
14 didn't actually participate in the stop
15 itself. I was just there simply for
16 assistance.

17 Q Okay. You never got out of your
18 car?

19 A I believe I got out of my car,
20 but I didn't -- that was -- I was just there
21 for more of a safety issue than anything
22 else.

23 Q Do you know who was taking
24 photographs there at that scene?

25 A From our department?

Payne -- Cross

1 Q Yes, sir.

2 A I remember seeing crime scene
3 Officer Hallman there, but I don't remember
4 if there were others that were participating
5 there or not.

6 MR. KULP: Thank you. Thank you
7 very much.

8 MR. DURANT: Just have a couple.
9
10
11
12

13 REDIRECT EXAMINATION BY MR.

14 DURANT:

15 Q So your testimony is that you
16 were with the defendant around about 6:40 to
17 about ten o'clock. Right?

18 A Yes, sir.

19 Q About three hours and some
20 minutes. Right?

21 A (The witness nods head.)

22 Q How many times did you beat him
23 with a rubber hose during that period of
24 time?

25 A None.

Paye -- Redirect

1 Q What threats did you make to him
2 during that period of time?

3 A I made no threats at all.

4 Q What subtle psychological
5 coercive methods did you use on him to try
6 to extract a confession from him?

7 A I made no efforts to have him
8 confess at all.

9 Q And obviously you all had
10 conversations during that period of time.
11 Is that correct?

12 A Yes, sir.

13 Q And what did you all talk about?

14 A The only real specific
15 conversation I recall is he asked what the
16 purpose of the sample that was going to be
17 taken from him at the hospital was and I
18 believe I offered a brief layman's
19 explanation of it.

20 Q Okay. Thank you, sir.

21

22

23

24 RECROSS-EXAMINATION BY MR. KULP:

25 Q And as you said that brief

Payne -- Recross

1 layman's explanation to answer his inquiries
2 included telling him that a hair was found
3 in the victim's hand?

4 A No. No, sir. He asked what the
5 kit was for. I simply offered the
6 explanation that known standards would be
7 compared to collected standards if there
8 were any at all and that was for the purpose
9 of comparison.

10 Q You left the department for a
11 while and then came back?

12 A For one year, yes, sir. '99 to
13 November of 2000.

14 MR. KULP: Thank you, sir.

15 THE COURT: You can come down.

16 The next witness is going to be
17 a long witness so it's a good time to
18 go to lunch if it's all right with you
19 all. Yesterday I just gave you an hour
20 for lunch. Did you have enough time or
21 would you like a little more time? I
22 don't know what the --

23 THE FORELADY: It was fine.

24 THE COURT: Is that all right?

25 THE FORELADY: Uh-huh.

Payne -- Recross

1 THE COURT: How much time do you
2 all want, Solicitor? You do --
3 Mr. Kulp, are you going to be doing
4 anything extra?

5 MR. KULP: I actually would like
6 to have about maybe -- a little more
7 than that, your Honor. Maybe an hour
8 and a quarter.

9 THE COURT: Well, why don't we
10 just come back at two o'clock?

11 MR. KULP: Yes, sir.

12 MR. DURANT: That would be
13 great, your Honor.

14 THE COURT: You all cut your
15 examination that twenty minutes, so
16 that helped.

17 MR. KULP: Yes, sir, your Honor.

18 THE COURT: Have a good lunch
19 and remember about my admonitions and
20 see you back in your room at two
21 o'clock. Have a good lunch.

22 Everyone, everyone else, remain
23 seated for just, just a few minutes.

24 (The jury leaves the courtroom
25 at 12:45 p. m.)

Payne -- Recross

1 THE COURT: Counselor, wasn't .
2 there something else you wanted to put
3 on the record when we talked in
4 chambers?

5 MR. KULP: I was thinking the
6 same thing, your Honor. I was -- I
7 was --

8 THE COURT: It came to mind a
9 few minutes ago and I failed to write
10 it down.

11 MR. KULP: Let me double check.
12 Well, one of the things was the fact,
13 your Honor, I don't know, you may have,
14 I didn't see any responses, but was to
15 inquire of the panel if in fact anyone
16 had been exposed to any --

17 THE COURT: Oh, I did that.

18 MR. DURANT: He did that.

19 MR. KULP: And no one -- fine.

20 THE COURT: But it was something
21 else.

22 MR. DURANT: I heard him do
23 that.

24 MR. KULP: Oh, I think it was
25 just that, and you may have mentioned,

Payne -- Recross

1 addressed this as well, but just the.
2 admonition to everyone not to speak to
3 any members of the press about the case
4 to reduce the possibility of exposure.

5 THE COURT: Well, I took care of
6 everything, but was -- there was
7 something else. I'll figure what it is
8 this afternoon and let you put it on
9 the record. Have a good lunch. See
10 you at two o'clock.

11 MR. KULP: Thank you, Judge.

12 MR. DURANT: Thank you, your
13 Honor.

14 (Whereupon, a recess is taken at
15 12:46 p. m.)
16
17
18
19
20

21 AFTERNOON SESSION

22 (The Judge enters the courtroom
23 at 2:01 p. m.)

24 THE COURT: Anything before I
25 bring the jury out, Solicitor?

Payne -- Recross

1 MR. DURANT: I don't believe so,
2 your Honor.

3 THE COURT: Counselor?

4 MR. KULP: No, sir, your Honor.

5 THE COURT: Bring the jury in.

6 (The jury enters the courtroom
7 at 2:03 p. m.)

8 THE COURT: All right. Thank
9 you. Go ahead. Call your next
10 witness.

11 MR. DURANT: State would call
12 Major Kevin McHale.

13 K E V I N T I M O T H Y
14 M c H A L E, having been called as a
15 witness in the presence of the jury, is
16 duly sworn and testifies as follows:

17 DIRECT EXAMINATION BY MR.

18 DURANT:

19 Q Major McHale, could you tell the
20 jury where you're employed?

21 A Charleston County
22 Sheriff's Office.

23 Q How long have you been employed
24 with the Sheriff's Office?

25 A About six years, since January

McHale -- Direct

1 sixth, 1995.

2 Q And you are a major. Is that
3 correct?

4 A That's correct.

5 Q And what is your law enforcement
6 experience?

7 A Before I came to Charleston
8 County I worked in Beaufort County
9 Sheriff's Office for eight years.

10 Q Now, did you have an opportunity
11 to talk to the defendant, Wesley Myers, in
12 this case on Friday, March the fourteenth,
13 of 1997?

14 A Yes, I did.

15 Q And how did that come about?

16 A Detective Clayton of the North
17 Charleston Police Department contacted me on
18 the day previous and asked me to assist them
19 in interviewing a suspect, and that was
20 Mr. Myers.

21 Q Now, you are not with the North
22 Charleston Police Department. Is that
23 correct?

24 A That's correct.

25 Q And why is it that Detective

McHale -- Direct

1 Clayton contacted you to potentially
2 interview Mr. Myers?

3 A At the time they didn't have the
4 same kind of experts that, that I am. I'm
5 an expert in interviewing and interrogation
6 and a lot of agencies from around this area
7 bring people to me to assist on their cases
8 in interviewing them, and that's basically
9 what I did in Beaufort as well.

10 Q And had you assisted the North
11 Charleston Police Department in other cases
12 that they had handled?

13 A Yes. Mostly murder cases, but
14 some high profile type cases I would assist
15 them in interviewing subjects.

16 Q And could you please relate to
17 the jury what your educational and
18 experiential background is in the area of
19 interviewing and interrogation.

20 A Got a bachelors degree from
21 Trinity Baptist College. Church ministries,
22 theology, pastoral counseling. That led
23 into and when I went into law enforcement, I
24 had a knack for interviewing and stuff, so
25 early on in my law enforcement I went into

McHale -- Direct

1 some advanced training, eight weeks of
2 specialized training for interviewing in
3 Atlanta, Georgia.

4 After that time I went to the
5 F. B. I. National Academy and got, took
6 advanced training there. I did some
7 practical work at S. L. E. D. for six months
8 where I did hundreds of interviews, and
9 since that time I've done thousands of
10 interviews. Have taken advanced courses.
11 I've taught interviewing and interrogation.
12 Gotten hundreds of confessions from people.
13 And been working in this field for about
14 fourteen years now.

15 Q And you also participate in
16 continuing education in the field of
17 interview and interrogation?

18 A Yes. Every year I have at least
19 forty hours of continuing education, yes, in
20 that area of my expertise.

21 Q And have you actually worked as
22 an instructor at the Criminal Justice
23 Academy in the area of interview and
24 interrogation?

25 A I'm a certified instructor

McHale -- Direct

1 through the Academy in ethics and, and basic
2 courses. I teach interviewing and
3 interrogation. I teach it for the F. B. I.
4 and pretty much anybody who wants me to
5 teach it.

6 Q Have you previously been
7 qualified as an expert in the courts of this
8 state in the fields of interview and --
9 field of interview and interrogations?

10 A Yes. For different counties.
11 About a dozen different times.

12 MR. DURANT: Your Honor, at this
13 time the State would offer Major McHale
14 as an expert in the field of interview
15 and interrogation.

16 THE COURT: Any objection?

17 MR. KULP: No, your Honor.

18 THE COURT: All right, sir. Go
19 ahead.

20 Q Now, what information were you
21 provided by Detective Clayton prior to your
22 interview with the defendant on Friday,
23 March the fourteenth?

24 A Just some basic information.
25 Basically that they had a, they had a murder

McHale -- Direct

1 and an arson and that they had several
2 suspects. The first person that they wanted
3 me to speak with, the only one they had
4 scheduled so far for me to talk to, was the
5 estranged boyfriend, which is always a good
6 suspect, and so I got a few basic facts --

7 MR. KULP: We'd object to any
8 characterization, your Honor, about
9 estranged unless he has personal
10 knowledge of that.

11 THE WITNESS: I have --

12 THE COURT: All right. Go
13 ahead.

14 A I have personal knowledge from
15 Mr. Myers.

16 And got the basic information
17 about how it occurred, what had occurred,
18 when it occurred, and just some basic facts,
19 and then set him up for an appointment for
20 the next day.

21 Q Did anybody accompany the
22 defendant when he was brought to the
23 Sheriff's Office on Friday, the fourteenth?

24 A Detective Clayton and I believe
25 there were several others from North

McHale -- Direct

1 Charleston Police Department. It was the .
2 middle of a hectic day so I don't remember
3 everybody, but Detective Clayton certainly
4 was there.

5 Q Now, did any officers from the
6 North Charleston Police Department actually
7 participate in the interview you had with
8 the defendant?

9 A No, sir. No, sir. It's a
10 one-on-one situation.

11 Q Did any of the officers with
12 North Charleston Police Department tell you
13 how to conduct your interview with the
14 defendant?

15 A No.

16 Q Or tell you what questions to
17 ask?

18 A They always, they always want to
19 know several things, of course. But the
20 reason they were bringing him over to me is
21 because I really do know what I'm doing, so
22 basically they, they ask me a few things
23 like "would you just find out if he did it",
24 you know. That's basic. The basics.

25 Q Now, preparatory to interviewing

McHale -- Direct

1 the defendant, did you have an opportunity
2 to read him his rights?

3 A Absolutely.

4 Q And do you have an advisement of
5 rights form that you used in this
6 circumstance?

7 A Yes, sir. I sure do.

8 (Whereupon, marked for
9 identification was State's Exhibit No.
10 22, advisement of rights form.)

11 Q Major McHale, I hand you what's
12 now been marked as State's exhibit number
13 twenty-two and ask you if you recognize that
14 document?

15 A Yes, I do.

16 Q And that is the advisement of
17 rights form you used in this case?

18 A Yes, sir.

19 Q Would you tell the jury how you
20 went about advising the defendant of his
21 rights.

22 A Our practice or my practice, the
23 Sheriff's Office's practice basically is we
24 don't have to give rights to people when
25 they come in. They're not under arrest.

McHale -- Direct

1 The only time you really have to give rights
2 is when somebody is under arrest. A lot of
3 people don't understand that.

4 It is our practice, though, that
5 when we have people coming in we read
6 everybody their rights when they come in,
7 and we tell them up front. You know, you're
8 free. You don't to be here. This is
9 strictly a voluntary thing. But I want you
10 to understand these rights so that, listen,
11 you don't have to tell me anything.

12 Q Was he under arrest at the time?

13 A No, sir.

14 Q Did he come to you in cuffs or
15 anything?

16 A No, sir.

17 Q Okay.

18 A It's a complete voluntary thing.
19 That's the only way I'll talk to people like
20 that, and I let them know up front, and like
21 I said, I let them know. I don't even have
22 to read them these rights. But I want them
23 to know their rights so that if I ask
24 questions that are making them
25 uncomfortable, they realize even though this

McHale -- Direct

1 is voluntary, that they don't have to tell
2 me anything.

3 So I begin at the top and
4 there's -- you name and date it, and then I
5 read them verbatim off of this sheet. And I
6 make sure that as I'm reading them to them,
7 that they acknowledge back that they
8 actually understand them.

9 Q Okay. And what rights did you
10 advise him of, sir?

11 A I read: "Before we ask you any
12 questions, you must first understand your
13 rights. You have the right to remain
14 silent." And I stress, you do have the
15 right to remain silent. You don't have to
16 say anything to me. And I explain that in
17 detail and I make sure that they tell me
18 back that they understand that. And of
19 course prior to this time I've already gone
20 through a little bit of biography with them.
21 That's basically to find out how far they
22 went in school.

23 Mr. Myers completed high school,
24 had a year of college, had military
25 training, and done very well. And that is

McHale -- Direct

1 to make sure that educationally they're on a
2 par where I know that they're really
3 understanding what I'm saying so it's not
4 just agreeing with me.

5 Then I say: "Anything you say
6 can and will be used against you in a court
7 of law." I explain to them, yeah, I'm a
8 police officer, so you tell me anything and
9 they ask me in court, I got to say whatever
10 you said. And I explained that to them and
11 make sure that they tell me back that they
12 understand that.

13 And I tell them: "You have the
14 right to talk to a lawyer for advice before
15 I ask any questions and have a lawyer
16 present with them while I'm questioning
17 them." And I even let them know that even
18 if you bring your lawyer here, and I'm
19 sitting and chatting with you, you still
20 have the right not to answer questions even
21 if your lawyer is here. And I explained
22 that to Mr. Myers as well.

23 Then I say: "If you decide to
24 answer questions now without a lawyer
25 present, you still have the right to stop

McHale -- Direct

1 answering questions at any time. You also
2 have the right to stop answering questions
3 at any time until you talk with a lawyer."

4 So we bend over backwards to
5 make sure that everybody understands they
6 don't have to say nothing. They're there on
7 their own free will. I even say to everyone
8 that comes in, there's the door. If you
9 want to get up and walk out, knock yourself
10 out. And they all know that and I make them
11 acknowledge it to me so that I understand
12 that they understand, and they understand
13 that, that I understand.

14 Then I have them sign it. It
15 says: "I read the statement of rights. I
16 understand what my rights are." And I give
17 them the form.

18 Now even though I read them
19 verbatim, I tell them please read over what
20 I just read to you, even though I read it
21 verbatim to you, and sign where it -- on the
22 bottom where it says "I understand these
23 rights."

24 Then there's a waiver of rights
25 right underneath that. It's another

McHale -- Direct

1 separate paragraph and it says: "I am
2 willing to make a statement and answer
3 questions. I do not want a lawyer at this
4 time. I understand and know what I'm doing.
5 No pressures or coercions have been made
6 against me. No promises or threats have
7 been made to me. No pressure, pressures or
8 coercions of any kind have been used against
9 me."

10 Then there's another place to
11 sign. So after they sign that they really
12 do understand their rights and they read
13 them, now they sign that they're waiving
14 those rights. In other words, I'm willing
15 to talk to you, and I know what I'm doing
16 and, no, nobody's threatened this. And they
17 sign it there.

18 At the end I put my signature
19 and then I put the time. The process
20 actually is very short. But I extend it.
21 Now the reading of these rights took four
22 minutes from the time I sign it in until the
23 time I sign it out. If, if you're in the
24 room though, I would actually belabor the
25 point and go over the rights and explain

1 them a lot more in detail because everyone.
2 that comes in there, I want to make sure, so
3 that if there's any question later on, that
4 everybody stands up and says yeah, he did,
5 he did all that, I know what I'm doing.

6 Q And he signed the advisement of
7 rights form?

8 A Yes, sir.

9 Q And he also signed the waiver of
10 rights form. Is that correct?

11 A That's correct.

12 Q This is the original document?

13 A That's the original.

14 Q And what time was he advised of
15 his rights?

16 A At 16:20. 4:20 p. m.

17 Q And what time did he sign the
18 waiver of rights?

19 A 16:24.

20 Q And that is your signature as a
21 witness there?

22 A Yes.

23 MR. DURANT: Your Honor, we
24 would offer State's twenty-two into
25 evidence at this time.

McHale -- Direct

1 THE COURT: Any objection?

2 MR. KULP: No, sir, your Honor.

3 (Whereupon, entered into

4 evidence was State's Exhibit No. 22,

5 advisement of rights form.)

6 Q How did you go about
7 interviewing the defendant in this case?

8 A Like I said earlier, I start
9 with a sheet that I use. Basically it's to
10 get background information. You know, name,
11 address, date of birth, all that kind of
12 stuff. What that is, is it's part of a
13 technique that we use to put people at ease,
14 you know. Those are easy questions to
15 answer. You don't have to think about your
16 date of birth or where you live. It's
17 rapport building and pretty much some people
18 are real anxious when they come to speak
19 with me. They want to get right into it and
20 talk about what we're there for.

21 A lot of people, they don't want
22 to talk about it at all. That's the last
23 thing they want to talk about.

24 So all part of the interview
25 process, we do what we call behavioral

McHale -- Direct

1 analysis and I am looking at all his
2 non-verbal behaviors, body language, how you
3 sit, how you stand, how you answer. Listen
4 to verbal cues. The non-verbal is probably
5 more important than the verbal a lot of
6 times.

7 And as I go through this rapport
8 building process it, sometimes it takes five
9 minutes to build and just connect with
10 certain people. Other people takes twenty
11 or thirty minute sometimes. And I'll, I'll
12 go off and talk about fishing or whatever.

13 In this situation here, began
14 talking with him, he was sort of closed.
15 Not a real talker, so I ended up doing
16 predominantly more of the talking, but you
17 have to change your style with different
18 people.

19 Q In your field is there a
20 difference between interview and
21 interrogation?

22 A Oh, absolutely.

23 Q And would you explain the
24 difference to the jury.

25 A There are several techniques of

1 interviewing and interrogation out there. .
2 Interviewing basically is asking questions.
3 It's having a conversation with a purpose.
4 That's what an interview is. Interviews
5 that you get from field officers are very
6 brief, and don't cover near the information
7 I'm going to cover. When a person comes to
8 my office I'm going to interview him for
9 quite a long time. That is just asking
10 questions.

11 At some point in time it can
12 turn into interrogation. There is a clear
13 line when it goes from interview to
14 interrogation. An interrogation is when you
15 accuse somebody. We're not asking questions
16 any more. It is "I know you did it." And
17 from that point on it is very intense,
18 actually, because we are adversarial at that
19 point.

20 You know, if you get accused of
21 doing something by a person right across the
22 room from you, that doesn't give you a whole
23 lot of warm fuzzies, you know. And so at
24 that point, it changes.

25 But an interview is completely

McHale -- Direct

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1 different. Very calm. Non-threatening .
2 completely. Obviously we're trying to get
3 information from people. You don't treat
4 people badly that you want information from.
5 They're not going to give you any. So you
6 are very non-threatening, nice, and you try
7 to get all the information you can because
8 you're trying to bring this case to a
9 resolution.

10 Q And were you non-threatening in
11 this case?

12 A Absolutely. I was -- I was
13 great.

14 Q Did you ever make any promises
15 to the defendant in any manner?

16 A No, sir.

17 Q Did you ever offer him any
18 rewards to talk to you?

19 A No, sir.

20 Q Did you ever offer him leniency
21 if he talked to you?

22 A No, sir.

23 Q Did you ever make any specific
24 threats to him or his family or anyone else?

25 A No, sir.

McHale -- Direct

1 Q Did you ever accuse him of
2 anything?

3 A No. Never.

4 Q And you had an extensive
5 interview with him, did you not?

6 A Extensive by some people's
7 standards. It wasn't extensive to me, but
8 an hour-and-a-half.

9 Q And did you ever get into the
10 interrogation phase with him?

11 A No. And there were several
12 reasons I did not go to the interrogation
13 phase.

14 Q And what were those reasons?

15 A Well, during the interview one
16 of the questions I always ask is, you know,
17 how much sleep have you had? And how much
18 have you had to drink in the last
19 twenty-four hours? And are you on any kind
20 of drugs or anything like that?

21 Basically, what that is doing is
22 to make sure that the person is completely
23 coherent and are able to, if I go into the
24 interrogation phase, give me a proper
25 confession, if they actually were the guilty

McHale -- Direct

1 party.

2 If you don't do that, basically
3 when you get to court, you know, it gets
4 thrown out because a person was, was not in
5 the frame of mind to give you a knowing,
6 willing, voluntarily confession.

7 In this case Mr. Myers, when I
8 asked him how much he had had to drink in
9 the last twenty-four hours, he said
10 twenty-four beers. First he said a case and
11 then I said okay, a case is being how much?
12 And he said twenty-four beers.

13 You know, he didn't look like,
14 you know, he was drunk or he didn't look, he
15 didn't speak like it, but and I even told
16 him twenty-four beers in a twenty-four hour
17 period, I'd still be in bed. But and that's
18 one of the things I tucked away in the back
19 of my mind.

20 Another thing was that he hadn't
21 slept and this is four o'clock in the
22 afternoon and so he, he seemed pretty wired
23 and when I asked him about that, apparently
24 he had taken some kind of caffeine pills.

25 So though I went on with the

McHale -- Direct

1 interview, because an interview is just
2 gathering information, and that's what, part
3 of what I was there to do. I knew I was not
4 going to interrogate him, and I did not
5 interrogate him. I never accused him. I
6 never got into that phase of it, but I did
7 make arrangements to talk to him at a later
8 time.

9 Q Okay. He never admitted to you
10 that he did anything, did he?

11 A No, sir.

12 Q What advice did you give to
13 Detective Clayton with regard to
14 interviewing this defendant in the future or
15 interrogating this defendant in the future?

16 A I was very clear. Because of my
17 extensive experience in having to come to
18 court and explain the way we do things, at
19 the time Detective Clayton was pretty new up
20 there in the detectives. I think it was his
21 second murder case. And I said now, this is
22 very important that you listen to what I'm
23 telling you. I even wrote it down and gave
24 him explicit instructions. I said this
25 fellow is not suitable to give you a

McHale -- Direct

1 confession, and it is important that you do
2 not interrogate him tonight. Now, listen to
3 what I'm saying, Detective. I want you to
4 take him, let him go home. Tell him to get
5 a good night's rest, you know. Don't drink.
6 And tomorrow go and pick him up and then,
7 and then go ahead and interrogate him. And
8 I, not only did I tell him, I wrote it down
9 so that we would all know where we stood.

10 And basically, you know, the
11 police are always -- a murder's been done
12 and we're always in a hurry to get, get it
13 solved. Of course we want to bring quick
14 resolution. I mean we got a victim's family
15 out there. And I understand that. I was a
16 detective and I had a big case load and
17 wanted to get these things resolved quickly,
18 but there's a right way and a wrong way to
19 do things.

20 He took a lot of pressure in not
21 interrogating that night because the
22 detectives back in his office wanted to, but
23 I give him credit for not doing that that
24 night.

25 Q Did you get any indication from

McHale -- Direct

1 your interview with the defendant that he
2 was mentally deficient, in any capacity?

3 A Oh, no. Very bright,
4 articulate. Not a real talker, but
5 understandably he was not a real talker.

6 Q Thank you very much. Could you
7 please answer any questions Mr. Kulp may
8 have for you.

9 MR. KULP: Thank you, sir. May
10 it please the Court.

11

12

13 CROSS-EXAMINATION BY MR. KULP:

14 Q Now, Major McHale, is it your
15 testimony that you were contacted on the day
16 before you met Mr. Myers?

17 A Yes, sir.

18 Q Who contacted you?

19 A As far as I know it was
20 Detective Clayton. I believe I talked with
21 Lieutenant Cumbee as well. I don't remember
22 if that was before or after, but I talked
23 for sure with Detective Clayton at one point
24 and Lieutenant Cumbee.

25 Q And what did they tell you?

McHale -- Cross

1 A Basically what I said. They .
2 have a murder and they had several suspects.
3 The first suspect they wanted me to talk to
4 was Mr. Myers, who was the estranged
5 boyfriend of the victim.

6 Q Did they ever have you talk to a
7 Dana Chaples?

8 A No, sir.

9 Q And what did you tell them in
10 that telephone conversation?

11 A Come over tomorrow at
12 such-and-such a time and, you know, we'll go
13 at it.

14 Q And about what time -- I think
15 you testified regarding the advice of rights
16 issue about the time that he arrived but
17 what, about what time was that?

18 A The rights were given -- he took
19 that sheet. It was about 4:20. So he was
20 there a few minutes before because there was
21 a little part I go through first getting the
22 background, so I guess around four o'clock.

23 Q Okay. And he didn't drive over
24 there himself, did he?

25 A I don't know. They showed up at

McHale -- Cross

1 the front door. There's a locked door and.
2 you got to buzz them in, so I don't know how
3 he got there. But I assume he came with
4 them, but I don't know that.

5 Q Okay. And who was with
6 Mr. Myers when he came there that afternoon?

7 A Detective Clayton was the only
8 one I remember. I know that there were
9 several other officers from North Charleston
10 showed up. The way our office is laid out
11 they could be in one part and I, I wouldn't
12 know that they were there.

13 Q Do you know who showed up and
14 how many officers?

15 A No, sir.

16 Q All right. Now, once you began
17 your interview of Mr. Myers, you didn't tell
18 him something, did you?

19 A I didn't tell him a lot of
20 things. Could you be more specific?

21 Q Yes, sir. You didn't tell him
22 that you had a camera and you were
23 videotaping him during this segment of
24 interview?

25 A No. I didn't tell him, but the