

Volume I of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

R. Knox McMahon, Circuit Court Judge

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SEP 16 2013

S.C. Supreme Court

KEITH SIMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213330

APPENDIX

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ORIGINAL

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND) 2004-GS-40-1037

State of South Carolina)

vs.)

TRANSCRIPT OF RECORD
(Trial)

Keith A. Sims,)

Defendant.)

March 20, 21, 22, 23, 24, 2006
Columbia, South Carolina

BEFORE:

THE HONORABLE JAMES JOHNSON, JUDGE; and a jury.

APPEARANCES:

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Monday, March 20, 2006

THE COURT: Ms. Durant, are you ready to proceed?

MS. DURANT: In one minute, Your Honor.

(Pause)

THE COURT: Do you want to do Denno?

MS. DURANT: Sir?

THE COURT: I said, do you have a Denno motion?

MS. DURANT: Oh, yes, sir, we do. But we are not opposing the voluntariness of the statement as such. But there is a statement involved.

THE COURT: I said, if you're not opposing the voluntariness, do you need a Denno hearing?

MS. DURANT: No, sir. No, sir.

THE COURT: Okay. All right.

MR. MEADORS: And that would be on all of them?

MS. DURANT: Right.

THE COURT: Is there anything else of a pretrial nature that we --

MR. MEADORS: Judge, there really isn't. There's some DNA. But it all comes back to the -- primarily it's all back to the victim, Brian Anderson, and I don't think that's in dispute, some body in a car and at a crime scene.

THE COURT: Well, it wouldn't be a pretrial

1 matter anyway, would it?

2 **MR. MEADORS:** No, sir. I'm just thinking any
3 potential issues.

4 **MS. DURANT:** Your Honor, if I may approach, I
5 put Jackson v. Denno on there just in case there were
6 any issues about it.

7 **THE COURT:** Well, you say now that that will not
8 be necessary?

9 **MS. DURANT:** No, sir.

10 **THE COURT:** Okay. Well, we'll get into these
11 matters once we select the jury. I'm not sure what
12 the number 7 means, but all right. All right. All
13 right. Is the State ready to proceed?

14 **MR. MEADORS:** Yes, Your Honor.

15 **THE COURT:** Will you call your case?

16 **MR. MEADORS:** If it pleases the Court, at this
17 time The State of South Carolina would call The State
18 vs. Keith A. Sims, Richland County true billed
19 indictment 2004-GS-40-1037. It is an indictment for
20 murder. John Meadors and Will Bryant here on behalf
21 of the State; Ms. Lanelle Durant and Ms. Stacy Owings
22 here on behalf of the defendant. He has entered a
23 plea of not guilty.

24 **THE COURT:** Is the defense ready to proceed?

25 **MS. DURANT:** Yes, Your Honor.

1 **THE COURT:** All right. Bring the jury, please.

2 **THE CLERK:** Yes, Your Honor.

3 (Pause)

4 **THE BAILIFF:** Your Honor, the jury is present.

5 **THE COURT:** All right. Thank you. Good morning
6 again, ladies and gentlemen. Welcome again to the --
7 this is the Court of General Sessions. This is the
8 criminal division of our court system which I
9 mentioned to some of you this morning, all of you
10 this morning. So those of you who are selected on
11 this jury today will be sitting on a criminal case.

12 This case is likely to last a day or two, maybe
13 three days. I'm not sure. Certainly I do not
14 believe it will last past the end of this week. And
15 I'm going to introduce the parties to you, introduce
16 the defendant to you, and tell you what the charges
17 are in just a minute. And following that we will
18 select a jury of 12 people. Actually we'll select
19 two alternates to sit with the 12-member jury in the
20 event something happens to members of the jury and
21 those alternates can fill in. But that process we'll
22 go through here in just a few minutes.

23 But before I actually get into that I always
24 like to introduce to you the people that are working
25 in this courtroom that will be working with you this

1 week. I always tell jurors I think the most
2 important people in the courtroom are the bailiffs.
3 Those are the people who are here for your benefit.
4 They're here solely for the purpose of taking care of
5 you, making sure your needs are met, any concerns you
6 have, all of which they are certainly prepared to
7 answer and deal with.

8 You met coming in the back door Mr. John
9 Gilliard who is seated in the back of the courtroom.
10 Seated to my left is Mr. Frank Whittle and Mr. Billy
11 Hollis, both of whom will be working here with you
12 this week and will be able to answer any questions.
13 If you have any emergency, if you have any questions,
14 parking, anything, please let them know, because we
15 want to make your service here this week as
16 comfortable as possible. We know you're giving up
17 things in your own personal life to be here with us,
18 so we want to make it, as I say, as comfortable as we
19 can for you.

20 Seated here in front of me is Mr. Jim Truitt who
21 is a Deputy Clerk of Court. He works with Ms. Scott
22 and keeps up with all the criminal records that go
23 through the court system here in Richland County.
24 It's a big job. We have a lot of business. We have
25 two courtrooms running right now, two criminal

1 courtrooms as well as two civil courtrooms. Mr.
2 Truitt does an excellent job.

3 Seated next to me to my immediate left is -- or
4 to my left is Ms. Jenny Williams. She is a Certified
5 Court Reporter. Everything that's said and done in
6 this courtroom is taken down by her. This is known
7 as a court of record. A permanent record is made of
8 everything that's said and done in this courtroom.

9 Seated immediately to my left is Mr. Sam Small
10 who is my law clerk who assists me with scheduling
11 matters, legal research and things of that nature.

12 My name is Tom Cooper. Again, I am a resident
13 judge of the Fifth Judicial Circuit. The Fifth
14 Judicial Circuit includes both Richland and Kershaw
15 Counties. I happen to live in Camden but my office
16 is here in Columbia. So those are the people that
17 will be working with you, those of who are selected
18 on this jury today.

19 Now, as in any case, in a criminal case, the
20 State prosecutes the case. In some cases, or rather
21 in some states, they're called -- the people who
22 prosecute a case are called the State's attorneys.
23 They're called the District Attorneys. Here in South
24 Carolina we call our prosecuting entity the
25 Solicitor's Office.

1 And as you know this morning, I introduced to
2 you Mr. Barney Giese who is the solicitor and chief
3 prosecuting officer for Richland and Kershaw
4 Counties, but he will not be trying the case today.
5 Today the case is going to be -- his office is going
6 to be represented by Mr. John Meadors and Mr. Will
7 Bryant. If you'd stand, please.

8 I need to ask if any member of the jury panel is
9 related by blood, connected by marriage or employment
10 to either Mr. John Meadors or Mr. Will Bryant. If
11 so, please stand. Anybody connected with either of
12 these two attorneys? All right.

13 I'm going to ask if any member of the jury panel
14 is related by blood or connected by marriage to Mr.
15 Barney Giese or any member of his staff. If you know
16 any member of the Solicitor's staff for the Fifth
17 Judicial Circuit, might work, any member of your
18 family might work with them, or you know somebody
19 that works in the Solicitor's Office; if so, please
20 stand. Yes, sir. Your name, please?

21 **JUROR:** Andrew Lindemann, Your Honor. I know
22 Dolly Justice Garfield. She is the wife of one of my
23 law partners.

24 **THE COURT:** All right. Mr. Lindemann, would
25 that fact in any way interfere with your ability to

1 give both the State and Defendant a fair and
2 impartial trial in this case?

3 **JUROR:** I know it would not, Your Honor.

4 **THE COURT:** You think you could be fair to both
5 parties?

6 **JUROR:** Yes, Your Honor.

7 **THE COURT:** Yes, ma'am.

8 **JUROR:** Kay Thompson.

9 **THE COURT:** Your jury number?

10 **JUROR:** 270. Mr. Meadors and I attend the same
11 church.

12 **THE COURT:** How long has that been?

13 **JUROR:** I've attended the church for about two
14 or three years. He was there when I started there.
15 We were also in law school together.

16 **THE COURT:** Does he come very frequently?

17 **JUROR:** I believe he probably goes more than I
18 do, Your Honor.

19 **THE COURT:** All right. Ma'am, would that fact
20 in any way interfere with your ability to give both
21 the State and the defendant a fair and impartial
22 trial in this case?

23 **JUROR:** No, sir.

24 **THE COURT:** You feel you could be fair to both
25 parties?

1 **JUROR:** Yes, sir.

2 **THE COURT:** All right. Thank you very much.
3 Anybody else? Yes, ma'am. Your name?

4 **JUROR:** Mary Jane Roof. My daughter --

5 **THE COURT:** What's your number?

6 **JUROR:** 225.

7 **THE COURT:** Ms. Roof.

8 **JUROR:** My daughter attended school with
9 Mr. Giese's daughter.

10 **THE COURT:** Okay. Do you have a family
11 relationship, social relationship, business
12 relationship other than that?

13 **JUROR:** (Shakes head negatively)

14 **THE COURT:** That's it?

15 **JUROR:** Mm-hmm (affirmative).

16 **THE COURT:** Well, I'll ask you the same
17 question, Ms. Roof. Would that fact in any way
18 interfere with your ability to give both the State
19 and the defendant a fair and impartial trial?

20 **JUROR:** No.

21 **THE COURT:** Thank you, Ms. Roof. Anybody else?
22 All right. Well, since the Solicitor's Office is the
23 prosecuting arm for law enforcement, I need to ask if
24 any member of the jury panel or any member of your
25 family is involved with law enforcement, either with

1 the Richland County Sheriff's Office, the Columbia
2 Police Department, SLED, the FBI, any military police
3 force, any police force within this community? Yes,
4 ma'am. Just please stand and give me your name and
5 number.

6 **JUROR:** Jane Kirby, 147. I work for the
7 Department of Natural Resources and that's a law
8 enforcement division.

9 **THE COURT:** It certainly is. Ms. Kirby, what is
10 your position with them?

11 **JUROR:** I work in the Boat and Title Department,
12 and I work with law enforcement when a boat or motor
13 gets stolen or when there's a hunting or fishing
14 situation.

15 **THE COURT:** Violation? All right. Thank you
16 very much, Ms. Kirby. Let me ask you this. I'm
17 going to ask everybody the same question after you
18 tell me what your involvement is. Ms. Kirby, would
19 that in any way interfere with your ability to give
20 both the State and the defendant a fair and impartial
21 trial?

22 **JUROR:** No.

23 **THE COURT:** Thank you very much. Mr. Lindemann.

24 **JUROR:** Yes, Your Honor. My lawfirm as well as
25 myself has represented currently and over the years

1 the Richland County Sheriff's Department on a regular
2 basis.

3 **THE COURT:** All right. Well, I'll ask you
4 again, would that fact in any way interfere with your
5 ability to give both the State and defendant a fair
6 and impartial trial?

7 **JUROR:** I guess it would, depending on who the
8 deputies are who would be testifying, Your Honor. If
9 they're deputies I currently represent, I probably
10 would feel uncomfortable doing that. But as far as
11 the Department as a whole, no. I think I could be
12 fair and impartial.

13 **THE COURT:** All right. Well, I am going to read
14 out the names of the deputies in a few minutes; and
15 if you'll just listen carefully, and if you know or
16 have represented any of the deputies that are going
17 to be listed, just please stand and let me know.

18 **JUROR:** Thank you, Your Honor.

19 **THE COURT:** Thank you, Mr. Lindemann. Yes, sir.

20 **JUROR:** Yes, sir. Your Honor, my wife is with
21 the Department of Corrections.

22 **THE COURT:** Okay. And where is she?

23 **JUROR:** I think it's Goodman. She's an
24 administrative manager.

25 **THE COURT:** Okay. And your name, please?

1 **JUROR:** Paul Bethea.

2 **THE COURT:** Mr. Bethea, would that fact in any
3 way interfere with your ability to give both the
4 State and the defendant a fair and impartial trial in
5 this case?

6 **JUROR:** No, sir.

7 **THE COURT:** You feel pretty comfortable about
8 that?

9 **JUROR:** Yes, sir.

10 **THE COURT:** Thank you, Mr. Bethea.

11 **MR. MEADORS:** Your Honor, I apologize. What
12 number was he? I'm sorry.

13 **THE COURT:** 18. You pronounce it Bethea?

14 **JUROR:** Betheeya (phonetic), Bethea. Depends.

15 **THE COURT:** Depends on what part of the state
16 you're in I guess. All right. Thank you,
17 Mr. Bethea.

18 Anybody else involved in law enforcement or
19 family? Yes, ma'am. Your name, please?

20 **JUROR:** Yes. My name is Ada Mckinstry. My
21 number is 178. My former husband was an officer at
22 the Department of Corrections.

23 **THE COURT:** All right. Ms. Mckinstry, you have
24 no more family in the Department of Corrections right
25 now?

1 **JUROR:** No.

2 **THE COURT:** Would the fact that your former
3 husband worked with the Department of Corrections,
4 would that in any way interfere with your ability to
5 give both the State and the defendant a fair and
6 impartial trial?

7 **JUROR:** No.

8 **THE COURT:** You feel comfortable about that?

9 **JUROR:** Yes.

10 **THE COURT:** Thank you very much, ma'am.
11 Anybody? Yes, ma'am. Your name, please.

12 **JUROR:** My name is Nancye Harrell. I am 109.
13 And my brother is a police officer with Forest Acres.

14 **THE COURT:** All right. Ms. Harrell, I'll ask
15 you the same question. Let me ask you this. How
16 long has he been with Forest Acres?

17 **JUROR:** About a year I think.

18 **THE COURT:** Okay. Would that fact in any way
19 interfere with your ability to give both the State
20 and the defendant a fair and impartial trial?

21 **JUROR:** No, sir.

22 **THE COURT:** All right. Thank you very much,
23 Ms. Harrell. Anybody else? Yes, sir.

24 **JUROR:** My name is John Corbitt. I am juror 59.

25 **THE COURT:** Corbitt?

1 **JUROR:** John Corbitt. It's the third. My uncle
2 is the magistrate of Richland County, Samuel Peay.

3 **THE COURT:** Your uncle is a magistrate?

4 **JUROR:** (Nods head affirmatively).

5 **THE COURT:** Okay. And what area of the county?
6 Do you know?

7 **JUROR:** Richland. That's all I know.

8 **THE COURT:** Okay. Mr. Corbitt, would that fact
9 in any way interfere with your ability to give both
10 the State and the defendant a fair and impartial
11 trial?

12 **JUROR:** No, sir.

13 **THE COURT:** Thank you, Mr. Corbitt. Anybody
14 else? Anybody else involved with law enforcement, or
15 members of your family?

16 All right. Let me ask you this, go one step
17 further. Is any member of the jury panel a
18 contributor to or a supporter of either as a
19 volunteer or with your financial resources of any of
20 the groups that support victims' rights or promotion
21 of law enforcement? For example, Citizens Against
22 Violent Crime, Mothers Against Drunk Driving, things
23 like the Trooper's Association or the Sheriff's a
24 association, any of these groups that regularly
25 that's their purpose, is to support law enforcement

1 or victims' rights. Or Sister Care. Any of these
2 type of groups that you may support or be a member of
3 that we need to know about? Any member of the jury
4 panel? Yes, ma'am, your name, please.

5 **JUROR:** Lois Norton, number 190.

6 **THE COURT:** Ms. Norton?

7 **JUROR:** I used to support the South Carolina
8 Troopers Association.

9 **THE COURT:** Okay, Ms. Norton. Do you get a
10 little sticker for your car?

11 **JUROR:** Yes.

12 **THE COURT:** Ever got a ticket?

13 **JUROR:** No.

14 **THE COURT:** That's what I always heard. Thank
15 you, Ms. Norton. All right. Thank you, Norton.
16 Mr. Lindemann.

17 **JUROR:** Your Honor, I know my lawfirm supports
18 the Sheriff's Association, and I have actually
19 represented the Sheriff's Association as an amicus
20 for the Supreme Court previously.

21 **THE COURT:** Mr. Lindemann, I think you're going
22 to civil court.

23 **JUROR:** I feel like they won't want me there
24 either, Your Honor.

25 **THE COURT:** Thank you, Mr. Lindemann.

1 **JUROR:** Thank you, Your Honor.

2 **THE COURT:** Yes, ma'am. Your name again.

3 **JUROR:** 270, Kay Tennyson. I support Sister
4 Care through some contributions, and my lawfirm is
5 involved in doing a free wills program for various
6 law enforcement groups, including the Sheriff's
7 Department.

8 **THE COURT:** Thank you, Ms. Tennyson. Is it
9 Tennyson?

10 **JUROR:** Tennyson.

11 **THE COURT:** Tennyson. Yes, ma'am. The lady in
12 front of you. Yes, ma'am. Your name, please?

13 **JUROR:** Yolanda Wallace.

14 **THE COURT:** Ms. Wallace.

15 **JUROR:** 281. I support the Sheriff's
16 Department.

17 **THE COURT:** The Sheriff's Association?

18 **JUROR:** Yes.

19 **THE COURT:** All right. Thank you, Ms. Wallace.
20 Anybody else? Only one person supports the Troopers.
21 All right. I'm sorry. Let me add one other group to
22 that list. The ACLU. Let me ask you about that.
23 Since they have some of their activities directed
24 towards victims' rights, things of that nature, the
25 ACLU. All right. This is not a comprehensive list.

1 It's just a list that you may be involved in. And I
2 assure you there's nothing political about it. It's
3 just to know a little bit you, so we'll know a little
4 bit more about you.

5 All right. Let me ask if any member of the jury
6 panel -- and all I need to know is yes or no and your
7 name and address. I assure you there's no -- this is
8 just -- you'll understand later. Any member of the
9 jury panel now own a gun or have owned a gun in the
10 past? Let's just start on the front row. And all we
11 need is just yes or no and your name, please. Name
12 and juror number if you know your number.

13 **JUROR:** 143, James Kendall.

14 **THE COURT:** Thank you, Mr. Kendall.

15 **JUROR:** 139, Dinah Keeton.

16 **THE COURT:** Ms. Keeton.

17 **JUROR:** 57, John Chick.

18 **THE COURT:** Mr. Chick.

19 **JUROR:** 18, Paul Bethea.

20 **THE COURT:** Mr. Bethea.

21 **JUROR:** 43, Tom Bryant.

22 **THE COURT:** Mr. Bryant.

23 **JUROR:** Number 85, Solomon Foulks.

24 **THE COURT:** Mr. Foulks. The second row. Yes,

25 ma'am.

1 **JUROR:** Juror number 178, Ada Mckinstry.

2 **THE COURT:** Ms. McKinstry. Anybody else on the
3 second row?

4 **JUROR:** Yeah. My husband owns a gun.

5 **THE COURT:** That's okay. You're Ms. Kirby?

6 **JUROR:** Yes. 147.

7 **THE COURT:** Thank you, Ms. Kirby. Third row.
8 Anybody? Yes.

9 **JUROR:** Stan Tompkins, number 274.

10 **THE COURT:** Anybody else?

11 **JUROR:** Lois Norton, number 190.

12 **THE COURT:** Ms. Norton.

13 **JUROR:** Wanda Loftin, number 162.

14 **THE COURT:** Ms. Loftin. Anybody else on the
15 back row, the fourth row?

16 **JUROR:** David Layman, number 154.

17 **THE COURT:** Mr. Layman.

18 **JUROR:** Tony Robinson, No. 304.

19 **THE COURT:** Mr. Robinson.

20 **JUROR:** Kay Tennyson, number 270. My husband
21 has owned guns in the past but we don't have any now.

22 **THE COURT:** Thank you, Ms. Tennyson. Anybody
23 else on the back row? Fine.

24 All right. Now, ladies and gentlemen, what I
25 have in my hand is known as an indictment. Let me

1 say this. This is a piece of paper literally, but
2 it's the charging document. It's the document by
3 which any case is brought into criminal court. And
4 it charges the defendant with a crime. It is not
5 evidence of anything. I need to tell you that right
6 up front. It is not evidence of anything. You're
7 not to consider it as evidence of anything. It is
8 merely the charging document that is brought into
9 court to charge the defendant with a crime.

10 Now, I am going to introduce the defendant to
11 you and I'm going to tell you what the indictment
12 says. But before I do that I'm going to introduce
13 his attorneys. They are Ms. Lanelle Durant and
14 Ms. Stacy Owings. So I need to ask if any member of
15 the jury panel is related by blood, connected by
16 marriage or employment, or a close personal
17 acquaintance of either Ms. Lanelle Durant or
18 Ms. Stacy Owings. If so, please stand. Thank you,
19 ma'am.

20 Any member of the jury panel or any member of
21 your family employed by the Public Defender's Office
22 of Richland County? Anybody either know anybody in
23 that office or are employed by anybody in that office
24 or -- yes. Or family members employed or do you know
25 anybody in that office? If so, please stand. All

1 right. Thank you.

2 The defendant in this case today is Mr. Keith A.
3 Sims. Mr. Sims, will you stand and face the jury.
4 I'll ask if any member of the jury panel is related
5 by blood or connected by marriage or employment or a
6 close personal acquaintance of Mr. Keith A. Sims?
7 Anybody know Mr. Sims? Where does Mr. Sims live?
8 Where do you live?

9 **MS. DURANT:** Monticello Road.

10 **THE COURT:** Is that right, sir?

11 **MR. SIMS:** (Nods head affirmatively).

12 **THE COURT:** That may help anybody that may live
13 in that vicinity if they know Mr. Sims. Anybody know
14 Mr. Sims? All right. Thank you very much, Mr. Sims.

15 Now, as I said, ladies and gentlemen, this
16 indictment is the charging document. This is the
17 document which tells me, tells you and tells the
18 defendant what he's charged with. The indictment
19 reads that Mr. Keith A. Sims, the defendant, did in
20 Richland County on or about December 31st, 2003,
21 December 31st, 2003, at that time a couple of years
22 ago, feloniously, willfully and with malice
23 aforethought kill one Brian A. Anderson by means of
24 shooting the victim with a handgun and that the said
25 victim; that is, Mr. Brian A. Anderson died as a

1 proximate result thereof. In other words, the
2 defendant is charged with murder.

3 Now, I need to ask if any member of the jury
4 panel, any member of your family knows or is
5 acquainted with Mr. Brian A. Anderson, the victim in
6 this case, or any member of Mr. Brian Anderson's
7 family? Anybody know Brian Anderson or know any
8 member of his family? Any member of the jury panel
9 recognize that name?

10 All right. Now, ladies and gentlemen, I need to
11 ask you if any member of the jury panel -- I have to
12 ask somebody to leave if ...

13 **MR. MEADORS:** May we approach?

14 (Whereupon, a bench conference is had)

15 **THE COURT:** All right. Ladies and gentlemen,
16 let's continue. I've asked about Brian Anderson or
17 any member of his family. I need to ask --

18 **MR. MEADORS:** Your Honor.

19 **THE COURT:** Sir? Yes, ma'am.

20 **JUROR:** I know -- well, I see a member of his
21 family that I went to school with.

22 **THE COURT:** All right. And your name, please?

23 **JUROR:** 199, Brenda Phillips.

24 **THE COURT:** All right. Ms. Phillips, I am going
25 to call out a list of the witnesses in this -- well,

1 let me ask you, ma'am; did you say 199?

2 **JUROR:** Yes, sir.

3 **THE COURT:** Okay. Ms. Phillips, and who would
4 that be? Do you know the name?

5 **JUROR:** Sandra.

6 **MS. ANDERSON:** Sylvia.

7 **MS. DURANT:** It's sylvia.

8 **THE COURT:** Sylvia who?

9 **MS. ANDERSON:** Anderson.

10 **THE COURT:** You say you went to school with
11 Ms. Anderson?

12 **JUROR:** Eau Clair, yes.

13 **THE COURT:** Do you see much of her these days?

14 **JUROR:** No, sir.

15 **THE COURT:** Okay. Sort of back to high school,
16 you may have gone your separate ways?

17 **JUROR:** Yes, sir.

18 **THE COURT:** Okay. Ms. Phillips, would the fact
19 that you went to school with Sylvia Anderson, would
20 that in any way interfere with your ability to give
21 both the State and the defendant a fair and impartial
22 trial?

23 **JUROR:** No, sir.

24 **THE COURT:** You feel comfortable about that?

25 **JUROR:** (Nods head affirmatively).

1 **THE COURT:** Thank you very much, Ms. Phillips.
2 Anybody else that has any connection with the family
3 of Brian Anderson? All right, ladies and gentlemen.
4 I need to know if any member of the jury panel knows
5 anything about this case. In other words, I realize
6 it took place some time ago, December 31st, 2003,
7 which was two years -- well, a little over, I mean,
8 over two years ago. But I need to know if any member
9 of the jury panel heard anything about it, saw
10 anything about it in the press, saw anything about it
11 on television? I don't even know if it was on
12 television. But, Solicitor, where did the alleged
13 crime take place?

14 **MR. MEADORS:** If it pleases, Your Honor, [REDACTED]

15 [REDACTED]
16 **THE COURT:** It took place on Monticello Road.

17 **MR. MEADORS:** Yes, sir.

18 **THE COURT:** All right. So this incident as
19 alleged in the indictment took place on Monticello
20 Road December 31st, 2003. Anybody have any knowledge
21 of this case one way or the other? Ms. Phillips.

22 **JUROR:** Yes, sir.

23 **THE COURT:** Did you hear about it, read about
24 it?

25 **JUROR:** I heard about it and I read about it.

1 **THE COURT:** Okay. Well, I'll ask you the same
2 question again, Ms. Phillips. Would that fact in any
3 way interfere with your ability to --

4 **JUROR:** It probably would.

5 **THE COURT:** It probably would?

6 **JUROR:** Yes, sir.

7 **THE COURT:** All right. Have a seat,
8 Ms. Phillips. Thank you very much. Anybody else?
9 All right. Ladies and gentlemen, I'm going to read
10 out to you a list of potential witnesses in this
11 case. And it's a fairly lengthy list. Most of the
12 people on this list are involved with law
13 enforcement. But I do need to know if any of you
14 are -- maybe you're married to or have any connection
15 with any of the following witnesses in this case.
16 And if any of the witnesses are present, if you'll
17 please stand so the jury can identify you.

18 Captain Todd Johnson of the Newberry County
19 Sheriff's Department. Is he not here? Some of these
20 witnesses will be here at a later time. Investigator
21 Wesley Boland with the Newberry County Sheriff's
22 Department, William R. Senn, S-E double N, Rebecca
23 Glanville, Investigator Howell Siniard with the
24 Richland County Sheriff's Department, Natalie
25 English, Nikki Davis, Derrick Ruff or Ruff, R-U-F-F.

1 Investigator Brian Metz, Sergeant Robert Dennis with
2 the Newberry Sheriff's Department, Chief Deputy
3 Wright with Newberry County, Lieutenant John Berlin
4 with the Richland County Sheriff's Office.

5 **MR. MEADORS:** That should be Jim. I apologize.

6 **THE COURT:** Jim Berlin?

7 **MR. MEADORS:** Yes.

8 **THE COURT:** John Moffat with the Richland County
9 Sheriff's Department, Alfred Stuckey, III with SLED.
10 Officer Stuckey is in the back of the courtroom right
11 now. Jeff Parrott with SLED, Deputy Tony Eigner with
12 Newberry County, Tony Phillips with the Department of
13 Natural Resources, Investigator Ben Chapman with
14 Newberry County, Deputy Johnny Scurry, Richland
15 County, Daniel Bernard Elkins.

16 **MR. MEADORS:** Your Honor, I apologize. Deputy
17 Scurry is with Newberry.

18 **THE COURT:** All right. Daniel Bernard Elkins,
19 Major Dan or Danny Gilliam with Newberry County.
20 Dewitt McCraw with SLED, Chief Deputy Jim Stewart
21 with Richland County, Lieutenant Lancy Weeks with
22 Richland County, Betty Sims, Investigator David
23 Collins with the Richland County Sheriff's
24 Department, Captain Stan Smith with Richland County,
25 Kenya Sims, Investigator Tommy Croxton with Richland

1 County, Investigator Anna Clemens with Richland
2 County, Investigator Ray Livingston with Richland
3 County, Dr. Joel Sexton, Dr. Sexton. John Ortuno
4 with SLED, David McClure with SLED, Tony Walker with
5 the Department of Natural Resources, Deputy Tool with
6 Richland County, Deputy Lominack with Newberry
7 County, Deputy Chapman with Newberry County, Deputy
8 Alexander with Newberry County, Investigator Jay
9 Russell, Richland County Sheriff's Department, Lauri
10 J. Shacker with the State Law Enforcement Division.

11 **MR. MEADORS:** I apologize. If we can approach
12 again briefly.

13 (Whereupon, a bench conference is had)

14 **THE COURT:** All right. Just a couple more
15 names, ladies and gentlemen. Sharon McCarra. This
16 is Ms. McCarra. Anybody know Ms. McCarra? All
17 right. More names. Chris Page. Anybody know Chris
18 Page? Marcus Majeed. And I'm not sure I called this
19 name out. Betty Sims. Is Betty Sims here? Oh.
20 There's Ms. Sims back there. Anybody know Ms. Sims?
21 All right.

22 **JUROR:** Your Honor, there were two individuals
23 on that list. I didn't realize you wanted us to stop
24 you as we went. There are two individuals on that
25 list I am familiar with. I don't know if the Court

1 wants me to explain outside the presence of the rest
2 of the panel.

3 **THE COURT:** No. Just which ones?

4 **JUROR:** The Chief Deputy and Investigator
5 Livingston.

6 **THE COURT:** Okay. Thank you, Mr. Lindemann.

7 **JUROR:** Thank you.

8 **THE COURT:** I don't think we need to go any
9 further with that.

10 **THE BAILIFF:** You've got one more, Your Honor.

11 **THE COURT:** Oh. Yes, ma'am. I'm sorry.

12 **JUROR:** I'm juror 27, Ada Mckinstry. I know
13 Investigator Ray Livingston. If he's parked between
14 them, I know him.

15 **THE COURT:** Oh. Ray Livingston. Okay. You're
16 related to him, Ms. Mckinstry?

17 **JUROR:** No.

18 **THE COURT:** How do you know him?

19 **JUROR:** Through church.

20 **THE COURT:** Through church?

21 **JUROR:** Mm-hmm (affirmative).

22 **THE COURT:** Known him for a good while?

23 **JUROR:** Well, I really -- I see him but I know
24 his brother. His brother attends occasionally. But
25 his brother is an original member of the church.

1 **THE COURT:** What was your number again?

2 **JUROR:** 178.

3 **THE COURT:** Ms. Mckinstry, would that fact in
4 any way interfere with your ability to give both --
5 I've asked you this before -- the State and the
6 defendant a fair and impartial trial?

7 **JUROR:** No.

8 **THE COURT:** Okay. Yes, sir.

9 **JUROR:** Charles Palmieri, 194. I'm with *The*
10 *Record*. I used to work with Ms. Lanelle Durant.

11 **THE COURT:** Mr. Palmieri.

12 **JUROR:** Yes, sir.

13 **THE COURT:** How long ago was that?

14 **JUROR:** It's been quite a few years. I don't
15 even know a number.

16 **THE COURT:** Well, do you maintain any sort of
17 family or professional relationship?

18 **JUROR:** No, sir.

19 **THE COURT:** Past the point of employment?

20 **JUROR:** No, sir.

21 **THE COURT:** Okay. Mr. Palmieri, would that
22 fact, the fact that you had a business relationship
23 with Ms. Durant, would that in any way interfere with
24 your ability to give both the State and the defendant
25 a fair and impartial trial in this case?

1 *JUROR:* No, sir.

2 *THE COURT:* All right. Thank you very much.
3 Anybody else? Yes, ma'am. Your name?

4 *JUROR:* Delores Prescott, 206.

5 *THE COURT:* Ms. Prescott.

6 *JUROR:* I know Ray Livingston.

7 *THE COURT:* Okay. And how do you know
8 Mr. Livingston?

9 *JUROR:* Through a friendship and church.

10 *THE COURT:* Family friendship --

11 *JUROR:* Yes.

12 *THE COURT:* -- sort of thing?

13 *JUROR:* Mm-hmm (affirmative).

14 *THE COURT:* Do you see Mr. Livingston on a
15 fairly regular basis?

16 *JUROR:* Not that often.

17 *THE COURT:* Okay. But know him when you see him
18 well enough to speak to him, that sort of thing?

19 *JUROR:* I do.

20 *THE COURT:* Ms. Prescott, would that in any way
21 interfere with your ability to give both the State
22 and defendant a fair and impartial trial in this
23 case?

24 *JUROR:* No, it won't.

25 *THE COURT:* All right. Thank you, ma'am.

1 Anybody else?

2 All right, ladies and gentlemen. Just a few
3 more questions. Let me ask if any member of the jury
4 panel or any member of your family has been a victim
5 of a violent crime? Any member of the jury panel or
6 any member of your family been the victim of a
7 violent crime? And I'm just going to ask you to
8 stand, tell me what it was, when it was, and that's
9 about all I'm going to ask. I'm not going to delve
10 into it. But we just need to know if any member of
11 the jury panel has been the victim of a violent
12 crime. If so, please stand.

13 All right. Any member of the jury panel or any
14 member of your family ever been -- let's turn that
15 around -- ever been charged with a violent crime? If
16 so, please stand.

17 **JUROR:** Lois Norton, 190.

18 **THE COURT:** Ms. Norton. And what family member,
19 ma'am?

20 **JUROR:** My husband.

21 **THE COURT:** Okay. And how long ago was that?

22 **JUROR:** 1990.

23 **THE COURT:** All right. That matter is resolved
24 by now I assume?

25 **JUROR:** Yes, sir.

1 **THE COURT:** Thank you, Ms. Norton.

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

3 **THE COURT:** And Ms. Mckinstry.

4 **JUROR:** My brother. And it's a few years ago.
5 I don't know how many years, but years ago. I was a
6 college student.

7 **THE COURT:** Okay. And has that matter been
8 resolved?

9 **JUROR:** Oh, yes.

10 **THE COURT:** Okay. All right. Thank you very
11 much, ma'am. Anybody else?

12 All right. Any member of the jury panel -- and
13 Ms. Phillips, I understand what you've told me -- any
14 other member of the jury panel have any opinion about
15 this case one way or the other, whether you would
16 know anything about it or know anybody involved in it
17 or would feel uncomfortable sitting in a case like
18 this? Any member on the jury panel feels they cannot
19 sit for some reason on a case of this type? Any
20 other reason that you might have?

21 All right. Everybody feels they can be fair and
22 impartial in a case of this type, knowing what you
23 know now?

24 All right. Anything further from the State?

25 **MR. MEADORS:** Lanelle.

1 **THE COURT:** No. Just wait a minute. Just wait
2 a minute. I said are there any other questions you
3 want me to ask for the State?

4 **MR. MEADORS:** That's what I wanted to approach
5 about.

6 **THE COURT:** I'm going to let you come up in just
7 a minute. I'm going to talk to you, but I just need
8 to know if there are any other questions that you
9 need asked. Yes or no?

10 **MR. MEADORS:** Not specifically from that; no,
11 sir.

12 **THE COURT:** Anything from the defense?

13 **MS. DURANT:** No, sir.

14 **THE COURT:** All right. Then approach the bench,
15 counsel.

16 (Whereupon, a bench conference is had)

17 **THE COURT:** Ms. Norton, let me see you just a
18 minute. Let me ask you to come up front.

19 (Whereupon, a bench conference is had)

20 **THE COURT:** Ms. McKinstry, let me see you for
21 just a minute.

22 (Whereupon, a bench conference is had)

23 **THE COURT:** All right. Anything further from
24 the State?

25 **MR. MEADORS:** Beg the Court's indulgence. No,

1 sir.

2 **THE COURT:** Anything further from the defense?

3 **MS. DURANT:** No, sir.

4 **THE COURT:** Give us a jury, please.

5 **THE CLERK:** Yes, Your Honor. Ladies and
6 Gentlemen of the Jury, if I should call out your
7 name, please come forward to this microphone standing
8 here to my left. State your name and occupation and
9 then remain standing there until I give you further
10 instructions. If you have any personal items: Books
11 coats, umbrellas, et cetera, bring those with you if
12 I call out your name.

13 The first juror, number 220, Tracey Robinson,
14 220.

15 (Black female)

16 **JUROR:** Tracey Robinson. I'm in international
17 sales for a company called Spirex Sunoco.

18 **THE CLERK:** Stand there, please.

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

20 **MR. MEADORS:** Please present Ms. Robinson.

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

22 **MS. DURANT:** Please seat the juror.

23 **THE CLERK:** Ma'am, if you would please have a
24 seat in the jury box as directed by the bailiff
25 there. Number 162, Wanda Loftin, 162.

1 (White female)

2 **JUROR:** I'm Wanda Loftin. I am a nurse educator
3 of science.

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

5 **MR. MEADORS:** Please present Ms. Loftin.

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

7 **MS. DURANT:** Please seat the juror.

8 **THE CLERK:** Please have a seat over here in the
9 jury box, ma'am. Number 298, S-O-K-U, Y-I.

10 (Oriental male)

11 **JUROR:** Soku Yi. I'm the minister of Old Weston
12 Church.

13 **THE CLERK:** Thank you, sir. What says the
14 State?

15 **MR. MEADORS:** Please present the Reverend.
16 Please present the juror.

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

18 **MS. DURANT:** Please excuse the juror.

19 **THE CLERK:** Thank you, sir. If you would please
20 return to the back of the courtroom there where you
21 see that bailiff standing. Number 57, John Chick,
22 57.

23 (White male)

24 **JUROR:** John Chick. I work for pursers in a
25 bank in the corporate real estate department.

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

2 **MR. MEADORS:** Please present Mr. Chick.

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

4 **MS. DURANT:** Please seat the juror.

5 **THE CLERK:** Sir, please have a seat here in the
6 jury box. Number 126, Tanya Jackson, 126.

7 (Black female)

8 **JUROR:** My name is Tanya Jackson, and I'm an LPN
9 at Department of Columbia.

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

11 **MR. MEADORS:** Please seat Ms. Jackson.

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

13 **MS. DURANT:** Please excuse the juror.

14 **THE CLERK:** Ma'am, if you would please return to
15 the back of the courtroom there where you see the
16 bailiff. Number 281, Yolanda Wallace, 28.

17 (White female)

18 **JUROR:** My name is Yolanda Wallace, and I'm
19 retired from Ft. Jackson store.

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

21 **MR. MEADORS:** Please present Ms. Wallace.

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

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

24 **THE CLERK:** Ma'am, if you would, please return
25 to the back of the courtroom there where you see the

1 bailiff. Number 109, Nancye Harrell, 109.

2 (White female)

3 **JUROR:** I am Nancye Harrell and I'm a social
4 worker. I work for Reach Placement Program as a
5 counselor.

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

7 **MR. MEADORS:** Please present Ms. Harrell.

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

9 **MS. DURANT:** Please seat the juror.

10 **THE CLERK:** Ma'am, if you would please have a
11 seat over here in the jury box. Number 147, Jane
12 Kirby, 147.

13 (White female)

14 **JUROR:** I am Jane Kirby. I work for the
15 Department of Natural Resources, an administrative
16 assistant.

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

18 **MR. MEADORS:** Please present Ms. Kirby.

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

20 **MS. DURANT:** Please excuse the juror.

21 **THE CLERK:** Ma'am, if you would please return to
22 the back of the courtroom there where the bailiff is.
23 304, Antonio Robertson, 304.

24 (Black male)

25 **JUROR:** I'm Antonio Robertson. I work with the

1 South Carolina Educational Lottery.

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

3 **MR. MEADORS:** Please present Mr. Robertson.

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

5 **MS. DURANT:** Please seat the juror.

6 **THE CLERK:** Sir, please have a seat here in the
7 jury box. 261, Alma Sumter, 261.

8 (Black female)

9 **JUROR:** My name is Alma Sumter. I work
10 different locations cleaning the elderly.

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

12 **MR. MEADORS:** Please excuse Ms. Sumter.

13 **THE CLERK:** Ma'am, if you would please return to
14 the back of the courtroom there where you see the
15 bailiff. 139, Dinah Keeton, 139.

16 (White female)

17 **JUROR:** I'm Dinah Keeton, self-employed; Life
18 Woodworks.

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

20 **MR. MEADORS:** Please present Ms. Keeton.

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

22 **MS. DURANT:** Please seat the juror.

23 **THE CLERK:** Please have a seat here in the jury
24 box, ma'am. 59, John Corbitt, 59.

25 (Black male)

1 **JUROR:** John Corbitt. I work for Dick Smith as
2 a detailer.

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

4 **MR. MEADORS:** Please excuse Mr. Corbitt.

5 **THE CLERK:** Sir, if you would, please return to
6 the back of the courtroom there where you see the
7 bailiff. Number 193, Rose Page, 193.

8 (Black female)

9 **JUROR:** My name is Rose Page. I work for the
10 United States Postal Service as a clerk.

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

12 **MR. MEADORS:** Please present Ms. Page.

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

14 **MS. DURANT:** Please seat the juror.

15 **THE CLERK:** Please have a seat here in the jury
16 box, ma'am. 98, Eretha Green-Daniels, 98.

17 (Black female)

18 **JUROR:** My name is Eretha Green. I work for
19 K-Mart HR/Assets Prevention.

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

21 **MR. MEADORS:** Please present Ms. Green.

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

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

24 **THE CLERK:** Ma'am, if you would please return to
25 the back of the courtroom there where you see the

1 bailiff. 292, Moses Williams, 292.

2 (Black male)

3 **JUROR:** I am Moses Williams. I pastor a church
4 called U.S. Christian Fellowship, and I also work as
5 a collection supervisor.

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

7 **MR. MEADORS:** Please excuse Mr. Williams.

8 **THE CLERK:** Sir, if you would please return to
9 the back of the courtroom there where you see the
10 bailiff. 143, James Kendall, 143.

11 (White male)

12 **JUROR:** My name is James Kendall. I'm a staff
13 engineer at the University of South Carolina,
14 Department of Mechanical Engineering.

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

16 **MR. MEADORS:** Please present Mr. Kendall.

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

18 **MS. DURANT:** Please seat the juror.

19 **THE CLERK:** Sir, if you would, have a seat here
20 in the jury box. 195, Michele Parrish, 195.

21 (White female)

22 **JUROR:** My name is Michele Parrish. I'm a
23 programmer analyst with Blue Cross/Blue Shield of
24 South Carolina.

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

1 **MR. MEADORS:** Please present Ms. Parrish.

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

3 **MS. DURANT:** Please seat the juror.

4 **THE CLERK:** Ma'am, please have a seat here in
5 the jury box. 188, Cynthia Newton, 188.

6 (Black female)

7 **JUROR:** My name is Cynthia Newton. I'm
8 unemployed.

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

10 **MR. MEADORS:** Please present Ms. Newton.

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

12 **MS. DURANT:** Please seat the juror.

13 **THE CLERK:** Please have a seat here in the jury
14 box, ma'am. 270, Donna Tennyson, 270.

15 (White female)

16 **JUROR:** I'm Kay Tennyson. I'm an attorney at
17 Nelson, Mullins, Riley & Scarborough in Columbia.

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

19 **MR. MEADORS:** Please present Ms. Tennyson.

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

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

22 **THE CLERK:** Ma'am, if you will, please return to
23 the back of the courtroom where you see the bailiff.
24 Number 3, Anthony Anderson, 3.

25 (Black male)

1 **JUROR:** My name is Anthony Anderson, and I own a
2 lawn care service.

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

4 **MR. MEADORS:** Please present Mr. Anderson.

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

6 **MS. DURANT:** Please seat the juror.

7 **THE CLERK:** Sir, please have a seat here in the
8 jury box. 246, Larry Simmons, 246.

9 (Black male)

10 **JUROR:** Larry Simmons, a line associate of
11 shipping and receiving supervisor.

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

13 **MR. MEADORS:** Please excuse Mr. Simmons.

14 **THE CLERK:** Sir, if you would please return to
15 the back of the courtroom there where you see the
16 bailiff. I have four for the State, Mr. Meadors, and
17 six for the defense, Ms. Durant.

18 **MS. DURANT:** Thank you.

19 **THE CLERK:** 134, Stacey Johnson-Anderson, 134.

20 (Black female)

21 **JUROR:** Stacey Johnson-Anderson. I'm an
22 instructional assistant with Lower Richland High
23 School.

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

25 **MR. MEADORS:** Could we approach?

1 (Whereupon, a bench conference is had)

2 **THE COURT:** Is that your husband?

3 **JUROR:** It is my husband.

4 **THE COURT:** How in the world did that happen?

5 Was he shaking his head? That has never happened.

6 Not only the two jurors were in the same panel were

7 husband and wife but were both drawn at the same time

8 as husband and wife. Hmm. Now I've really got a

9 problem. Have a seat a minute, Ms. Anderson. Let me

10 talk to these lawyers about this. Let's see now. If

11 she is seated, he gets no supper tonight.

12 (Whereupon, a bench conference is had)

13 **THE COURT:** Now, do I have a choice whether to

14 seat the husband or the wife? Ms. Anderson, just

15 have a seat out there, ma'am, and tell him goodbye.

16 How many -- pulling out of how many residents of

17 Richland County, 150, 200,000 and they both hit the

18 same path and they both get drawn out. The odds

19 against that are the odds against me winning the

20 lottery. It's about the same. That is incredible.

21 But, Ms. Anderson, thank you for your willingness to

22 serve.

23 **THE CLERK:** Number 250, Barbara Smith, 250.

24 (Black female)

25 **JUROR:** My name is Barbara Smith, Colonial Life

1 Insurance Company.

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

3 **MR. MEADORS:** Please present Ms. Smith.

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

5 **MS. DURANT:** Please seat the juror.

6 **THE CLERK:** I couldn't hear you.

7 **MS. DURANT:** I said please seat the juror.

8 **THE CLERK:** Thank you. Please have a seat here
9 in the jury box, ma'am. Number 194, Charles
10 Palmieri, 194.

11 (White male)

12 **JUROR:** Joe Palmieri, director of facility
13 operations at Palmetto GBA.

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

15 **MR. MEADORS:** Please excuse Mr. Palmieri.

16 **THE CLERK:** Sir, if you would, please return to
17 the back of the courtroom there where you see the
18 bailiff. Number 278, Gretchen Villali,
19 V-I-L-L-A-L-I.

20 (Black female)

21 **JUROR:** Gretchen Villali, Northeast Animal
22 Clinic.

23 **MR. MEADORS:** Please present Ms. Villali, the
24 juror.

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

1 **MS. DURANT:** Please seat the juror.

2 **THE CLERK:** Please have a seat here in the jury
3 box, ma'am. Number 16, Janice Berry, 16.

4 (White female)

5 **JUROR:** Janice Berry, legal secretary.

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

7 **MR. MEADORS:** Please present Ms. Berry.

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

9 **MS. DURANT:** Please excuse the juror.

10 **THE CLERK:** Ma'am, if you would, please return
11 to the back of the courtroom there where you see the
12 bailiff. 95, Izetta Gilliard, 95.

13 (Black female)

14 **JUROR:** Izetta Gilliard. I am a teacher at
15 First National Church of Christ.

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

17 **MR. MEADORS:** Please excuse Ms. Gilliard.

18 **THE CLERK:** Ma'am, if you would, please return
19 to the back of the courtroom there where you see the
20 bailiff.

21 **THE COURT:** Jim, let me ask you. Jim. Jim.

22 **THE CLERK:** Yes, sir.

23 (Whereupon, a bench conference is had)

24 **THE COURT:** Thank you.

25 **THE CLERK:** Yes, sir. Number 274, Stan

1 Tompkins, 274.

2 (White male)

3 **JUROR:** I'm Stan Tompkins, and I work sales for
4 Stanley Denmark.

5 **MR. MEADORS:** Please present Mr. Tompkins.

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

7 **MS. DURANT:** Please seat the juror.

8 **THE CLERK:** Please have a seat here in the jury
9 box, sir.

10 **THE COURT:** All right, counsel. Any objections
11 to the jury selection process?

12 **MR. MEADORS:** Not from the State.

13 **MS. DURANT:** Your Honor, we do propose a Batson
14 hearing.

15 **THE COURT:** All right. All right. Ladies and
16 gentlemen, --

17 **MR. MEADORS:** Your Honor, we'd request one also
18 then.

19 **THE COURT:** All right. Whatever. All right,
20 ladies and gentlemen. It's 1:25 now. I need to take
21 up a matter of law with the attorneys. I'm going to
22 step out of the courtroom for just a minute. I'm
23 going to just ask you to be at ease. Nobody leave.
24 Once we complete this process, the juror as seated
25 will go to lunch. We'll all go to lunch. But I need

1 to take this matter up with the attorneys. Just
2 remain seated but be at ease for a few minutes while
3 we discuss a matter of law. All right, counsel. In
4 my chambers.

5 (Whereupon, the following in chambers motion is
6 had).

7 **THE COURT:** All right, Ms. Durant.

8 **MS. DURANT:** Your Honor, our concern is I think
9 out of the five --

10 **THE COURT:** Four.

11 **MS. DURANT:** Oh. I'm sorry. Two of the
12 alternates. I was just looking at five strikes, that
13 four were black.

14 **THE COURT:** Race neutral reason on Alma Sumter,
15 black female. Cleaning lady. I think she said
16 cleaning. That's all that I could hear. Young
17 woman.

18 **MR. MEADORS:** As to Alma Sumter, juror number
19 261, --

20 **THE COURT:** Right.

21 **MR. MEADORS:** -- Your Honor, she said -- to me
22 she was evasive and said she worked at different
23 locations.

24 **THE COURT:** Well, she wasn't evasive. She said
25 she did work different locations and she said -- got

1 a problem?

2 **THE CLERK:** One thing, Your Honor, I need to
3 pose before you, the defendant says he has to go to
4 the bathroom really bad, and I don't know what we can
5 do about it.

6 **MS. OWINGS:** Oh, no. Because they can't walk
7 him out in front, with chains in front of them.

8 **THE CLERK:** Well, the deputies have to walk him
9 out and that's a problem.

10 **MS. OWINGS:** Can we go talk to them?

11 **THE COURT:** You can't go.

12 **MR. MEADORS:** Can we put this jury panel out and
13 let the jurors walk outside?

14 **MS. OWINGS:** Can they just let him escort me out
15 and then --

16 **MR. BRYANT:** Or just put them in the jury room.

17 **MR. MEADORS:** We can. Can we put them in the
18 jury room?

19 **THE COURT:** All right. Do that, Jim. Take this
20 jury to the jury room. Just put them in the jury
21 room. Tell the remaining members of the panel they
22 can be excused if they want to get up and go to the
23 bathroom but be back in ten minutes. All right. And
24 do not talk about the case.

25 **THE CLERK:** Yes, sir.

1 **MR. MEADORS:** Your Honor, if I could get back to
2 the juror, her response to me was evasive. She said
3 she works at different locations, not specifying what
4 locations they were. And on the information we had
5 of the juror's sheet, specifically she said she
6 worked for a house cleaning -- Linda Robinson. But I
7 noticed this morning in the jury qualification with
8 the whole panel that then this afternoon it was kind
9 of an evasive: I work for different locations. It
10 wasn't --

11 **THE COURT:** No. She did not specify. She said
12 she worked at different locations as a cleaning
13 person for somebody.

14 **MR. MEADORS:** Right. On her jury information
15 she specified one specific person. So that was
16 inconsistent with her jury response and I felt she
17 was being evasive and not clarifying where she worked
18 when she had specifically mentioned somebody in her
19 jury questionnaire.

20 **THE COURT:** Let me see your jury -- what's her
21 name? Sumter?

22 **MS. OWINGS:** What's her number again?

23 **MR. MEADORS:** 261.

24 **THE COURT:** She filled it out. Four children,
25 46 years old.

1 **MS. OWINGS:** What she said was that she was an
2 elderly sitter for different people is what she said.
3 In qualifications this morning.

4 **THE COURT:** Qualification.

5 **MR. MEADORS:** And then she said different. And
6 here she specifically said she worked for Linda
7 Robinson. So I felt she was being evasive about
8 where she worked and that bothered me.

9 **MS. DURANT:** If I may, Your Honor, maybe she
10 works through one particular person and sits for
11 different people.

12 **MR. MEADORS:** That may well be, but it's my
13 subjective thoughts and that's what I felt. And the
14 neutral reason anybody else in that situation who had
15 specified one employer and didn't say that employer
16 when asked, and that's why I struck her.

17 **THE COURT:** All right. I'm going to withhold
18 ruling on that because I need to -- I need to hear
19 the rest of your reasons. I think that's a close
20 call. John Corbitt.

21 **MR. MEADORS:** Well, Your Honor, I'd like the
22 record to reflect, okay, that's clearly why anybody
23 else in that position who had put in one employer
24 here and then did not identify the employer, I would
25 have struck them; black, white or purple. I just

1 want the record to reflect that.

2 **THE COURT:** I understand. All right. DJ. I
3 think he's John Corbitt. He said something like DJ.

4 **MR. MEADORS:** Yes, sir, Your Honor. That --

5 **THE COURT:** Is he working at the Capital Center?
6 Did he change clothes from this morning.

7 **MS. DURANT:** I didn't see him this morning.

8 **MR. MEADORS:** I don't remember. That's not why
9 I struck him. Judge Peay, his uncle, he said Judge
10 Peay is up in that area. That is why I struck him.
11 He is the relative of Judge Peay. A lot of that
12 community knows everybody up there.

13 **THE COURT:** Where is "up there"?

14 **MR. MEADORS:** It's been my practice, sir, --

15 **THE COURT:** Where is "up there"?

16 **MR. MEADORS:** Well, Judge Peay is the North Main
17 Street area. Monticello is up in that area. I had
18 another case up in Florence with a magistrate and I
19 struck his kid. That's why I struck him, is, Judge
20 Peay's relative, any other magistrate's kid on here I
21 would have struck, or relative. And that's why I --
22 just for his familiarity with the legal system.

23 **THE COURT:** What did he say he does? Did he say
24 he was a disc jockey?

25 **MR. BRYANT:** No. If it please the Court. I

1 thought he said something like detailing cars for
2 Dick Smith or something.

3 **THE COURT:** Oh, detailing.

4 **MS. OWINGS:** I think it was for Dick Smith
5 Automotive.

6 **MR. MEADORS:** I really thought I did not see him
7 in a suit.

8 **MS. DURANT:** I don't remember that, but maybe he
9 just put his coat on. I don't know.

10 **MR. MEADORS:** It could have been.

11 **THE COURT:** It's a reason.

12 **MS. DURANT:** Well, Your Honor, I would -- I'm
13 sorry. If I may?

14 **THE COURT:** It might be a reason to keep him,
15 but that's neither here nor there. It's a race
16 neutral reason. Moses Williams, pastor.

17 **MR. MEADORS:** Your Honor, there are two things.
18 I -- he was a pastor and also a collection agent.
19 And I have always been leery of pastors. I've gone
20 back and forth spending -- I put some on; I put --
21 not on. But the collection agent, I've always been
22 leery, and I think of folks going out to collect cars
23 and collection agency. I struck him because of his
24 second duty there of being a -- what do you call
25 it -- collector.

1 **MS. OWINGS:** Repo man.

2 **MR. MEADORS:** Well, that phrase with me is what
3 bothers me. That seemed to be a little
4 contradiction.

5 **MS. OWINGS:** Now, I was a repo woman. Does that
6 make me bad?

7 **THE COURT:** You're on record.

8 **MR. OWINGS:** I'm sorry.

9 **MR. MEADORS:** But anyway, collecting funds at
10 church and then collecting in a repossession, anyway,
11 that's why I struck him, was the repossession.

12 **MS. DURANT:** Your Honor, if I may, he did seat a
13 minister before that, number 298.

14 **MS. OWINGS:** Soku Yi.

15 **MR. MEADORS:** And I believe he was not in the
16 repossession business. That's why I have gone both
17 ways. He's a full-time preacher. My dad is a
18 preacher. So I've always been reluctant to strike
19 preachers. But adding the repo sideline to the
20 second job, that's why I struck him.

21 **MS. DURANT:** My argument for that, Your Honor, I
22 would think repossession is more in the line of
23 duties similar to law enforcement; not exactly,
24 but --

25 **THE COURT:** Well, I can't --

1 **MS. DURANT:** You're going and taking things from
2 people.

3 **MS. OWINGS:** From people who haven't paid.

4 **THE COURT:** Larry Simmons.

5 **MR. MEADORS:** I'm sorry, sir?

6 **THE COURT:** Simmons.

7 **MR. MEADORS:** Larry Simmons, 246. I have a
8 manufacturing possession of substance with other --
9 there's a charge he had, Your Honor, from July 2003,
10 of manufacturing, of slash possession of some sort of
11 controlled substance. And that's why I struck him.
12 There was nobody else on here that had a drug charge
13 that I put on, and I would have struck them, too, if
14 they'd come up.

15 **THE COURT:** And your --

16 **MR. MEADORS:** Let the record reflect I had one
17 strike left in the make-up of the jury, is what --

18 **THE COURT:** Well, I know what the make-up is.
19 Izetta Gilliard, your alternate. She's a teacher,
20 First Nazareth Church of Christ.

21 **MR. MEADORS:** Your Honor, Ms. Gilliard, the
22 sister, I turned around and I was talking with the
23 family. And each one, Ms. McCarra and the sister, I
24 meant to bring that in here -- what's her name?

25 **THE COURT:** It doesn't matter. Tell me.

1 **MR. MEADORS:** Anyway, the sister indicated to
2 me, I got the indication from her that she either
3 knew her or did not want her on. The juror did not
4 make eye contact with me either. And those are the
5 reasons I put that on there. They did strike her.
6 Are we going to go through these?

7 **THE COURT:** You making a motion?

8 **MR. MEADORS:** Well, I do want the record to
9 reflect, I think a Batson motion is supposed to be
10 made in private up to the judge, and the words aren't
11 supposed to come to the juror just because so many
12 jurors are familiar with that term. If I could have
13 a moment to speak with co-counsel here.

14 **THE COURT:** Well, I'm not finished with yours
15 yet. Ms. Durant, if I take the initial -- I don't
16 know what I'm trying to say -- the initial offering
17 by the State that Sumter, juror number 12, was
18 evasive and did not -- her answers didn't match what
19 was on her juror information sheet, do you have any
20 argument that that is not a race neutral reason, that
21 that is not a race neutral reason?

22 **MS. DURANT:** Well, Your Honor, I think, as I
23 said earlier, that she could have just been working
24 for one person at different locations. I don't know
25 that -- I mean, I just think it fits in with all the

1 others since she was black. I mean, I don't know
2 that the reason couldn't have been clarified.

3 **THE COURT:** Well, you know, if they're race
4 neutral reasons, even if he strikes all blacks, it's
5 not Batson.

6 **MS. DURANT:** Yes, sir.

7 **MR. MEADORS:** And I take exception on how it
8 fits in with the others. I've explained my reasons
9 for all of them.

10 **THE COURT:** Number 15, John Corbitt, if I take
11 the position that the State's given a race neutral
12 reason; that is, that he's a nephew of a magistrate
13 and the State always strikes nephews of magistrates,
14 do you have any argument that that's not a race
15 neutral reason?

16 **MS. DURANT:** No, sir. Except I would think that
17 being a magistrate would help them, as opposed to
18 being a problem.

19 **THE COURT:** That's not the question.

20 **MS. DURANT:** I understand. Yes, sir.

21 **THE COURT:** We're talking about race neutral.

22 **MS. DURANT:** Yes, sir.

23 **THE COURT:** Moses Williams, black male, pastor,
24 collection agent; if I take the position that the
25 State has offered a race neutral reason, do you have

1 any argument that it's not a race neutral reason?

2 MS. DURANT: No, sir.

3 THE COURT: Okay. And as to --

4 MS. DURANT: Other than what we previously
5 offered, that they didn't --

6 THE COURT: Okay. And Larry Simmons, if the
7 State takes the position he has a criminal record,
8 although it may not either be in the form of a
9 conviction -- I don't know whether it's a conviction
10 or not.

11 MR. MEADORS: No, sir.

12 THE COURT: At least he was charged. Do you
13 have any reason to argue that that's not a race
14 neutral reason?

15 MS. DURANT: No, sir.

16 THE COURT: Do you have any reason to argue --
17 well, let me go on then -- that Alma Gilliard is a
18 teacher, that the State's taking the position that
19 one of the witnesses for the State indicated that she
20 either knew the woman or felt uncomfortable with her
21 being on the jury, that that's not a race neutral
22 reason?

23 MS. DURANT: No, sir.

24 THE COURT: All right. Do you have any argument
25 that the cumulative effect of striking -- of all

1 strikes, with the exception of your former employer
2 being black, under the totality of the circumstances
3 is tantamount to a racial motive in striking all of
4 them and that the strikes are pretextural?

5 **MS. DURANT:** Well, Your Honor, I think he has
6 offered a reason that satisfies us I think as far as
7 striking the jurors.

8 **THE COURT:** So you can't say that you in your
9 opinion or that you can give a reason why the
10 State's -- given the cumulative effect of all black
11 strikes with one exception, that that does not make
12 out a pretextural presumption, that there's a
13 presumption based on the fact that they're all black,
14 that there should be some presumption that it's
15 pretextural.

16 **MS. DURANT:** Well, Your Honor, I think in the
17 totality, there's always that presumption. But based
18 on what he has said, I think that he has explained
19 his reasons.

20 **THE COURT:** Okay. Well, I deny your motion.
21 Any motion from the State?

22 **MR. MEADORS:** No, sir.

23 **THE COURT:** Let's go.

24 **MR. MEADORS:** Okay.

25 (Whereupon, the proceedings are resumed in the

1 courtroom).

2 **THE COURT:** All right. Bring the jury,
3 Mr. Whittle.

4 **THE BAILIFF:** Your Honor, the jury is present.

5 **THE COURT:** All right. Thank you very much for
6 your patience, ladies and gentlemen. This jury
7 selection process took a little longer than I had
8 anticipated. Nevertheless, we're ready to begin with
9 the trial. Now, it's quarter to 2. You've been here
10 since somewhere around 9:00 this morning. So I'm
11 going excuse you now for the lunch hour.

12 I'm going to ask you to be back in your jury
13 room at 3:00. That is this jury room where you just
14 came from. You don't have to go back downstairs. If
15 you go back downstairs, I've got to come looking for
16 you. So the bailiffs are going to show you -- well,
17 they've already showed you your jury room and they'll
18 tell you how to get back up here at 3:00. That will
19 give you a little over an hour for lunch.

20 I'm going to ask you to do several things.
21 First of all, I'm going to ask you not to discuss the
22 case among yourselves while you're at lunch or when
23 you return to the jury room because you haven't heard
24 anything about it. You only know just a little bit
25 about it that I explained to you. I frankly don't

1 know any more about it than you do. We'll have to
2 hear from the attorneys when the trial starts.

3 The second thing I'm going to ask you to do,
4 when you return to the jury room, I want you to
5 select one of your members, it doesn't matter who it
6 is, to be the foreperson of this jury. That person
7 will sit where the lady with the gray sweater or
8 green sweater sitting on the front row here is and
9 will maintain that seat throughout the course of the
10 trial.

11 All the rest of the seats don't have any names
12 on them. In other words, I want you to sit where
13 you're comfortable, where you can hear, where you can
14 best pay attention to what's going on.

15 So once you select the jury -- I'm sorry, select
16 the foreman, as I say, that person will sit on the
17 front row. The only two people that could not be
18 obviously selected as forepersons would be either the
19 two alternates who are sitting here, sitting on the
20 back row. And both of you alternates will maintain
21 your seats throughout the trial. The alternates
22 obviously are here in case of emergency, if something
23 happens to one of the regular jurors or something
24 comes up with one of the regular jurors.

25 The third thing I'm going to ask you to do is

1 have a pleasant lunch. I hope to see you back here
2 at 3:00. Thank you very much.

3 (Jury out at 1:45 p.m.)

4 **THE COURT:** All right, counsel. Any matters of
5 a pretrial nature that need to be taken up before we
6 start this trial?

7 **MR. MEADORS:** Nothing from the State.

8 **MS. DURANT:** Your Honor, if I may have -- during
9 the lunch hour we may revisit the issue of the
10 Jackson v. Denno hearing on two of the statements.
11 But if we could reserve that until after lunch.

12 **THE COURT:** Well, you certainly can reserve it.
13 I want to get started and take that matter up before
14 we get the jury back if we can so we don't have to
15 keep them waiting.

16 **MS. DURANT:** Yes, sir.

17 **THE COURT:** If you'll let me know by 2:30, I'll
18 be glad to do it.

19 **MR. MEADORS:** Your Honor, we won't be offering
20 any statement today. No testimony will come out
21 about his statement if you want to get rolling
22 with --

23 **THE COURT:** Even in opening?

24 **MR. MEADORS:** Even in opening.

25 **MR. BRYANT:** No, sir.

1 **THE COURT:** Well, then we could do it in the
2 morning I assume.

3 **MS. DURANT:** That's fine.

4 **MR. MEADORS:** We've got several different
5 jurisdictions. And just time wise, we had kind of
6 arranged for them to come tomorrow if needed to do
7 that in the morning. So we could go ahead and get
8 through the rest of --

9 **THE COURT:** Does that suit you, Ms. Durant?

10 **MS. DURANT:** Yes, sir. There are just a few
11 other pretrial issues. I gave you the list. But
12 nothing that would require a hearing.

13 **THE COURT:** All right. Let me see. Do you have
14 these pretrial motions, Mr. Meadors.

15 **MR. MEADORS:** Yes, sir.

16 **THE COURT:** Go ahead. Make them on the record.

17 **MS. DURANT:** Your Honor, first, of course I want
18 renew discovery.

19 **THE COURT:** Any discovery that's failed to be
20 produced by the State?

21 **MR. MEADORS:** Your Honor, they have worked very
22 well the last few weeks with some stuff that came in.
23 We've all shared it with each other. Everything we
24 have they have.

25 **THE COURT:** That's all right. As long as you're

1 representing to the --

2 **MS. DURANT:** I think I mean, Mr. Meadors --

3 **THE COURT:** I want the State to represent
4 they've turned it all over to you, which they just
5 did. And settling the record, any impeachable --

6 **MR. MEADORS:** Could we go over that in the
7 morning also?

8 **THE COURT:** What are you witnesses today? Are
9 they primarily law enforcement?

10 **MR. MEADORS:** Primarily law enforcement; yes,
11 sir. The one potential witness we have, I think they
12 have that prior record I'm sure, the accessory after
13 the fact of murder. I'd be bringing that up. Other
14 than that, nobody today has a record.

15 **THE COURT:** All right. Sequestration? Do you
16 want sequestration?

17 **MS. DURANT:** Yes, sir. Please.

18 **MR. MEADORS:** We just ask it go both ways if
19 there are any potential witnesses for them.

20 **THE COURT:** Well, I just don't know who is in
21 the audience and you do. So, just make sure your
22 witnesses know they're to be sequestered. What
23 photos are you talking about?

24 **MS. DURANT:** Your Honor, there were numerous
25 photos taken. The ones that we particularly had

1 exception to were some photos of the body that we
2 feel would be inflammatory and prejudicial to the
3 jury.

4 **THE COURT:** So let me just --

5 **MS. DURANT:** If he's planning to introduce
6 those. And I don't know if he is.

7 **MR. MEADORS:** There's one body picture that
8 Rebecca Glanville -- I don't know if Rebecca is in
9 here. There she is. The first witness is going
10 to -- she's out at Molly's Rock with another
11 individual. They look down and see what we think is
12 not a very graphic picture, but that just shows what
13 she saw. And we think it's relevant because it shows
14 how the body was when, we believe the facts will
15 show, Mr. Sims when he left it. We'd like Your Honor
16 to look at it.

17 **THE COURT:** Let's do this. Whatever photographs
18 you plan or wish to introduce, let me see them during
19 the lunch hour. Then I can intelligently rule on
20 whether or not they should be admissible, of course
21 after laying the proper foundation. And you can tell
22 Ms. Durant which photographs you're talking about.
23 And then motion number 7 I frankly don't understand.

24 **MS. DURANT:** Your Honor, in the discovery I
25 think some of the witnesses on the list talk about

1 Mr. Sims breaking into a house to take a gun.

2 **THE COURT:** Any house or --

3 **MS. DURANT:** Well, it's a particular -- he's not
4 on the witness list, the person he broke into the
5 house. They talk about that that's how he got one of
6 the guns that's a significant part of the case. It's
7 not the murder weapon but it is a significant part of
8 the case. And we feel like that would be
9 prejudicial. And also --

10 **THE COURT:** It sounds like hearsay. But I don't
11 know. Unless there's some way of -- I mean, you
12 know --

13 **MR. MEADORS:** It's hard for you to understand.
14 Yeah, Judge.

15 **THE COURT:** I'm in the dark.

16 **MR. MEADORS:** We don't think it is relevant to
17 the case. I understand they think it will. If it
18 comes up, it may come up through them quite frankly.
19 And then to answer that, we may have to answer where
20 the gun came from. But I think at this point it's
21 premature to -- we're not planning on going into that
22 today; I can assure you. Maybe that's the easiest
23 way to say it.

24 **THE COURT:** All right. Well as long as I know
25 about it.

1 **MS. DURANT:** I'm sorry, Your Honor. Also when
2 it first comes to light, the Newberry officers talk
3 about knowing incidents of previous burglaries he had
4 been in as a juvenile I think. We just don't want
5 any reference to these.

6 **MR. MEADORS:** We certainly would stay away from
7 that. And, Your Honor, before we even came to the
8 point where we'd try to go into about that gun, we'd
9 certainly stop and approach. We wouldn't just
10 volunteer it. Your Honor, we're going to try to
11 pre-mark as much as we can in the next hour and give
12 it to the Court reporter before we come back.

13 **THE COURT:** All right. So you'll be ready to go
14 at 3:00?

15 **MS. DURANT:** Yes, sir.

16 **MR. MEADORS:** Yes, sir.

17 **THE COURT:** All right.

18 **MS. DURANT:** Thank you, Your Honor.

19 **THE COURT:** We'll stand at ease until 3:00.

20 (Whereupon, a lunch break is taken)

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

23 (WHEREUPON, State's Exhibit No. 2 is marked for
24 identification.)
25

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

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

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22 identification.)

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16 identification.)

17 (WHEREUPON, State's Exhibit No. 35 is marked for
18 identification.)

19 (WHEREUPON, State's Exhibit No. 36 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 37 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 38 is marked for
24 identification.)

25

1 (WHEREUPON, State's Exhibit No. 39 is marked for
2 identification.)

3 **THE COURT:** Are you ready to proceed?

4 **MR. MEADORS:** Yes, sir. May it please the
5 Court?

6 **THE COURT:** Yes, sir.

7 **MR. MEADORS:** Judge, we've marked 39 photos.
8 Out of those we've only got four in dispute. The
9 first one which I think we talked earlier, we can go
10 ahead and address it now with Your Honor because it
11 would come up in the first witness, would be what's
12 listed as State's 1. If it's all right, I'll show it
13 to Your Honor.

14 (Document handed to the Court)

15 **MR. MEADORS:** That would be the body, as the
16 testimony of Rebecca Glanville who was then a
17 16-year-old, her testimony would be she came to the
18 end of the dock, looked down after they'd been there
19 a while and then saw this body.

20 The reason we think it's relevant, Your Honor,
21 and not too inflammatory, it doesn't show necessarily
22 a close up picture. The injury actually was in the
23 head when he received the bullet wound. The
24 testimony is going to be that Mr. Anderson's body was
25 dragged from a parking area down to this dock area

1 and then pushed over the side. And that would depict
2 factually that his pants were down. We do think that
3 was from when he was dragged from the car to the
4 dock. And we don't think it's inflammatory or --

5 **THE COURT:** Who took this photo? I mean, you
6 said somebody --

7 **MR. MEADORS:** Your Honor, I think either Al
8 Stuckey who is the third witness here today. I was
9 going to show it to our first witness who actually
10 found this body and reported it to law enforcement.

11 **THE COURT:** But these are not law enforcement
12 people? This was taken by a lay witness?

13 **MR. MEADORS:** No, sir. That was taken by law
14 enforcement. The first witness I want to offer it
15 through is a lady who was at the dock and discovered
16 the body in this condition, I believe her testimony
17 will be. But that picture accurately reflects the
18 body that she saw. As a result of that she went and
19 called, got Newberry Sheriff's Department.

20 **THE COURT:** Is this allegedly the body in the
21 water?

22 **MR. MEADORS:** Yes, sir.

23 **THE COURT:** Ms. Durant.

24 **MS. DURANT:** Your Honor, excuse me. We do feel
25 that it is inflammatory and we think it is

1 misleading, the fact that his pants are down. And we
2 also feel like it is humiliating to the victim to
3 have that photo published to the jury. We would just
4 object to that picture, Your Honor. We do feel it is
5 inflammatory.

6 **THE COURT:** What are the -- you've seen it. Do
7 you know what the red markings on it are?

8 **MR. MEADORS:** Your Honor, I think that's a leaf.

9 **THE COURT:** Oh, that's a leaf.

10 **MR. MEADORS:** Yes, sir.

11 **MS. DURANT:** Yes, sir.

12 **THE COURT:** Those are leaves.

13 **MR. MEADORS:** Leaves. Leaves. Your Honor, as a
14 representative of the victim, we'd waive any of that.
15 We think it's more probative than prejudicial for the
16 jury just to see the condition of the body which
17 could be consistent and the way some individuals who
18 dragged it down there said his clothes was coming
19 off -- were coming off. Excuse me. And that's the
20 way the independent witness found the body.

21 **MS. DURANT:** And of course, Your Honor, our
22 argument is that it is more prejudicial than
23 probative as well as being inflammatory.

24 **THE COURT:** Well, I don't see it being
25 inflammatory. It's not pleasant to look at but I

1 don't find it to be inflammatory. I've seen a lot of
2 inflammatory photographs. Now, I don't think that
3 quite meets that threshold. But it may depend on
4 what the testimony is as to whether or not it's
5 admissible. I mean, if the testimony is not as Mr.
6 Meadors represents it is going to be, I might not let
7 it in. I mean, it's subject to your objection at
8 that time.

9 **MS. DURANT:** Yes, sir. Thank you.

10 **MR. MEADORS:** Your Honor, next is item 28,
11 State's 28, which is the coat that was also found in
12 the water in Molly Rock Pond. That was just taken by
13 law enforcement and placed over the side of the rail.

14 **THE COURT:** Well, what does that -- I mean,
15 what's the purpose of that?

16 **MR. MEADORS:** Your Honor, it's clothing that
17 belonged to the victim.

18 **THE COURT:** Okay. What's the purpose of it?

19 **MR. MEADORS:** I don't understand what you -- it
20 was taken out of -- it was part of his attire. It
21 was taken out and put on the dock.

22 **THE COURT:** Well, it's a piece of bloody
23 clothing. I mean, what is the purpose of offering
24 bloody clothing other than the fact that it's his
25 clothing?

1 **MR. MEADORS:** He was shot in the head. And as a
2 result of that he died and he bled. The blood got on
3 his clothes, and this depicts that. That's what we
4 offer as relevance, as relevant.

5 **THE COURT:** Ms. Durant.

6 **MS. DURANT:** Of course --

7 **THE COURT:** That's No. 28?

8 **MR. MEADORS:** No. 28.

9 **MS. DURANT:** Of course, Your Honor, again, we do
10 believe that it is -- it's really not necessary. I
11 mean, there are other photos. I mean, we feel that
12 the jacket, I mean --

13 **THE COURT:** Other photos of what?

14 **MS. DURANT:** Well, I mean, I think he has other
15 photos of the scene and of the car.

16 **THE COURT:** Is there testimony or will there be
17 testimony that the victim was shot in the head?

18 **MR. MEADORS:** Yes, sir.

19 **THE COURT:** Okay. I think that's -- shot in the
20 head is shot in the head. Whether blood dripped onto
21 his clothing doesn't seem to be that much relevant.

22 **MS. DURANT:** And of course again, I feel that it
23 would be prejudicial.

24 **THE COURT:** Well, any time you show -- well,
25 everything is prejudicial to start with.

1 MS. DURANT: Yes, sir.

2 THE COURT: But any time you show blood, it's
3 more prejudicial.

4 MS. DURANT: Yes, sir.

5 THE COURT: And --

6 MR. MEADORS: Judge, we have the actual clothes
7 which came from the victim's body. You know, we
8 could offer those. Clearly we think they'd be
9 relevant. I'm trying to just offer a picture.

10 THE COURT: It might be better.

11 MR. MEADORS: That's fine. And 31 did you say?

12 MS. DURANT: Right.

13 MR. MEADORS: That's another picture of the
14 coat.

15 MS. DURANT: Jacket.

16 MR. MEADORS: Jacket.

17 MS. DURANT: Yes.

18 THE COURT: It's the same jacket?

19 MR. MEADORS: Yes, sir.

20 THE COURT: Well, --

21 MR. MEADORS: And 34 was the other, just ...

22 THE COURT: You've got the jacket. That may be
23 more probative than prejudicial. You have a bloody
24 car seat.

25 MS. DURANT: Yes, sir. We do feel that one

1 would be again prejudicial, more prejudicial than
2 probative. We do feel that may reach the level of
3 inflammatory, Your Honor.

4 **THE COURT:** What is the probative value of that,
5 Mr. Meadors?

6 **MR. MEADORS:** Your Honor, he was shot -- in his
7 vehicle the victim was shot, Brian Anderson was shot
8 in Brian Anderson's vehicle in the right side of the
9 road, then falls over.

10 **THE COURT:** Well, is there any dispute about
11 that?

12 **MR. MEADORS:** I don't know. I don't think so.
13 And again, I believe the testimony will be that he
14 was pushed over, he being the victim, to the right
15 side and then his car was driven by the defendant to
16 Molly's Rock. This just is corroborating evidence
17 that he did fall over. The DNA has come back that's
18 his blood there. I don't think that's in dispute. I
19 am just trying to show the scene, show that there was
20 blood. And I have -- we've got hundreds of photos
21 and I've narrowed it down to about 40.

22 **THE COURT:** I understand. The photo -- and this
23 is just a general statement. Photos have to show
24 something that either is an issue in the case or has
25 such relevance to the case that it becomes more

1 probative than prejudicial. And you know this. Any
2 time you're dealing with bloody photographs, there's
3 a reluctance on the part of the Court to admit those;
4 not that the jury is not -- they're all grown up
5 people. They know what blood looks like. But the
6 courts, I mean, the appellate courts have just warned
7 against allowing too much of what might be considered
8 inflammatory photographs to be presented to the jury.

9 As I say, if they show something, if they're
10 significant from a probative standpoint to prove that
11 so-and-so did this or so-and-so did that or that the
12 gun was held adjacent to the head as opposed to from
13 a far distance, those kinds of things are relevant
14 and probative. But just to show --

15 **MR. MEADORS:** This would show where his body was
16 in the seat after he was shot in his car. But there
17 are other pictures depicting some blood in there. We
18 may can argue it. And obviously will go with
19 whatever Your Honor rules.

20 **MS. DURANT:** And if I may, Your Honor, there are
21 other pictures of the bloody car that we would not
22 object to. But we feel like that particular one with
23 the blood puddled there might be inflammatory.

24 **THE COURT:** Well, if the officer can testify
25 that when they examined the car there was a puddle of

1 blood on the passenger's side, that's in evidence. I
2 mean, that's in evidence, and it's -- it may be
3 objectionable but it's admissible. And I fail to see
4 the probative value of it that would not outweigh
5 the -- because all this is probably going to come in
6 anyway either through the testimony or through some
7 other matters. So I just -- photographs, unless
8 they're to depict something of relevance, then I
9 think they should stay out. But I think the body in
10 the position it was found is relevant and probative.
11 All right.

12 **MS. DURANT:** Thank you, Your Honor.

13 **THE COURT:** Now, so I would at this stage,
14 unless something else is presented, I would rule that
15 1 is admissible; 28, 31 and 34 are not.

16 **MR. MEADORS:** Thank you.

17 **THE COURT:** Because I don't see at this point --
18 I mean, I'll let you renew your offer or your tender
19 at some point in time if you think they become
20 probative.

21 **MR. MEADORS:** Yes, sir. Thank you, Judge.

22 **THE COURT:** All right. Anything else of a
23 pretrial nature?

24 **MS. DURANT:** No, sir, Your Honor. Just
25 addressing the issue of sequestering witnesses.

1 **THE COURT:** All right.

2 **MS. DURANT:** I think the first two he said --

3 **MR. MEADORS:** Well, they're out, too.

4 **MS. DURANT:** Oh, they're out, too? Okay.

5 **MR. MEADORS:** Your Honor, if I can just go out
6 there and I'll make sure that the third witness
7 doesn't come in.

8 **THE COURT:** Are there any witnesses in this case
9 in the courtroom that are witnesses -- all right.

10 **MR. MEADORS:** Your Honor, Ms. Sims was listed on
11 the State's, but I have no objection to her staying
12 in.

13 **THE COURT:** All right. Fine. All right.
14 Mr. Chick, Mr. John Chick has been selected as
15 Foreperson of the Jury. Is the State ready to
16 proceed?

17 **MR. BRYANT:** The State's ready.

18 **THE COURT:** Defense ready to proceed?

19 **MS. DURANT:** Yes, Your Honor.

20 **THE COURT:** Do you want me to wait for Mr.
21 Meadors?

22 **MR. BRYANT:** Judge, I'm doing the opening. So
23 if the Court is ready, we can proceed.

24 **THE COURT:** All right. Bring the jury, please.

25 (Jury in at 3:20 p.m.)

1 **THE BAILIFF:** The jury is all present, Your
2 Honor.

3 **THE COURT:** Thank you very much. All right,
4 ladies and gentlemen. I hope you had a pleasant
5 lunch. We're now ready to begin the trial. But
6 before we begin the trial I want to tell you some
7 things. I want to make some preliminary remarks to
8 you.

9 I want to tell you that this trial probably will
10 be different from what you might expect. Many people
11 do not have the chance to see actual court sessions
12 as you are about to do and may think from watching
13 television or movies or reading books that trials are
14 always full of high trauma, intense action and
15 riveting circumstances.

16 While all these things may be true at times,
17 this trial is not for entertainment. It is a
18 fundamental part of our democracy, a search for the
19 truth in an effort to make sure that justice is done
20 between these parties before the court. Searching
21 for the truth and making sure that justice is done is
22 often a slow, deliberate and repetitive process, the
23 opposite of what you may have seen on television or
24 in movies or read in books.

25 This courtroom is a place of honor dedicated to

1 the protection and preservation of citizens' rights
2 through what many have called the greatest justice
3 system ever created.

4 The attorneys appearing before you are advocates
5 for the parties they represent, but first and
6 foremost they are officers of the court sworn to
7 uphold the integrity and the fairness of our judicial
8 system and to help you in a search for the truth.
9 You should expect them to be professional, competent
10 and ethical in their behavior and their
11 representation for their client's interests.

12 Remember that each of you have just or are about
13 to take an oath to try this case to reach a fair and
14 just verdict, and you are also expected to be
15 professional, reasonable and ethical. So I want to
16 thank you before we begin for accepting this
17 important responsibility of jury service and for your
18 contribution today to our justice system.

19 Now, Mr. Clerk, swear the jury, please.

20 **THE CLERK:** Yes, Your Honor. Ladies and
21 Gentlemen of the Jury, please stand and raise your
22 right hands to be sworn. Please answer "I do" or "I
23 will" at the end of my statement. Do you swear or
24 affirm that you shall well and truly try and true
25 deliberation make between the State of South Carolina

1 and the defendant at the bar, whom you shall have in
2 charge, a true verdict giving according to the law
3 and evidence, so help you God.

4 (All jurors respond affirmatively).

5 **THE CLERK:** Thank you. Please have a seat.

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

7 We're about to try the case of The State vs. Keith A.
8 Sims. What I tell you during these remarks is
9 intended to be an introduction of the case and not a
10 charge on the law of the case. I'll instruct you on
11 the law applicable to this case at the end of the
12 trial and before you consider your verdict. This is
13 merely an explanation of the procedure that we'll
14 follow in the trial of this case so you may better
15 understand what may be happening from time to time.

16 Now, the defendant is charged, as I told you
17 earlier, in an indictment filed with this court with
18 the crime of murder. At this time I'm going to
19 define what our State's law, our state statute says
20 murder is.

21 The defendant is charged with murder. The State
22 must prove beyond a reasonable doubt that the
23 defendant killed another with malice aforethought.
24 Malice is hatred, ill will or hostility towards
25 another person. It is the intentional doing of a

1 wrongful act without just cause or excuse and with an
2 intent to inflict an injury or under circumstances
3 that the law would infer an evil intent.

4 Malice aforethought does not require that malice
5 exists for any -- at any particular time before the
6 act is committed, but malice must exist in the mind
7 of the defendant just before and at the time the act
8 is committed. Therefore, there must be a combination
9 of previous evil intent and the act.

10 Malice aforethought may be express or inferred.
11 These terms, express and inferred, do not mean
12 different types of malice; but rather mean the manner
13 in which malice may be shown to exist; that is,
14 either by direct evidence or inference from the facts
15 and circumstances which are proved.

16 Express malice is shown when a person speaks
17 words which express hatred or ill will for another or
18 when a person prepared beforehand to do the act which
19 was later accomplished. For example, laying in wait
20 for a person or any other act of preparation going to
21 show that the deed was within the defendant's mind
22 would be express malice.

23 Malice may be inferred, on the other hand, from
24 conduct showing a total disregard for human life.
25 Inferred malice may also arise when the deed is done

1 with a deadly weapon. And a deadly weapon of course
2 is any article, instrument or substance which is
3 likely to cause death or great bodily harm. Whether
4 an instrument has been used as a deadly weapon
5 depends on the facts and circumstances in each case.

6 Now, as I told you, this indictment is simply
7 the charge by which this case is brought into court.
8 It is not in any sense evidence of any of the
9 allegations it contains. The defendant has pled not
10 guilty to this indictment, and the State therefore
11 has the burden of proving each of the elements of the
12 indictment that I just explained to you beyond a
13 reasonable doubt. And it will be your duty, ladies
14 and gentlemen, to decide whether the State has met
15 that burden.

16 Your purpose as jurors is to find and determine
17 the facts. You are the sole judges of the facts. If
18 at any time I make any comment regarding the facts,
19 please disregard those comments. You are to
20 determine the facts from the testimony you hear and
21 the other evidence introduced into court. It is up
22 to you to determine the inferences you feel may be
23 properly drawn from the evidence.

24 It's especially important that you perform your
25 duty of determining the facts diligently and

1 conscientiously because ordinarily there is no way to
2 correct an erroneous determination of the facts by a
3 jury. And on the other hand and with equal emphasis,
4 the same law that makes you the judges of the facts
5 makes me the judge of the law. The law as given by
6 the Court is the only law you may consider. You must
7 accept and follow it even though you may disagree
8 with it.

9 Now, I cannot tell you what the facts are, and
10 you should not disagree with me about what the law is
11 or what the law should be. Your job is to take the
12 law as I explain it to you and apply it to the facts
13 as you find them from the testimony of the witnesses
14 and any other evidence that's introduced. After
15 doing that you will render your verdict, a true and
16 just verdict under the solemn oath you just took as
17 jurors.

18 And until I advise you to begin your
19 deliberations, you must not discuss the case with
20 anyone, including your fellow jurors, friends, family
21 members or anyone else involved in the case. And
22 after the case is submitted to you, you must discuss
23 it only in the jury room with your fellow jurors.

24 Now, during the trial and during this week I'm
25 going to ask you not to read, listen to or watch any

1 news reports about this case. There may be none, but
2 I don't know. There may be newspaper articles or
3 there may be news reports about it. I'm going to ask
4 you not to watch those because they are the opinion
5 of somebody else. They're not -- you are the ones
6 that are hearing the evidence. You are the ones that
7 have to make the decision. So it would be improper
8 for you to try to listen to what somebody else thinks
9 the evidence shows during the course of the trial.
10 So I'll ask you not to listen or watch any news
11 reports. And this includes anything that may be in
12 the newspapers or on the Internet or radio or
13 television.

14 In other words, you must not consider anything
15 you may have read or heard about the case outside the
16 courtroom whether before or during the trial because
17 it's important that you keep an open mind and not
18 decide any issue in this case until all the evidence
19 has been presented, the parties have made their
20 closing arguments and I have instructed you on the
21 law of the case.

22 It will be your solemn responsibility to
23 determine the guilt or the innocence of this
24 defendant. Your verdict must be based solely on the
25 evidence as it is presented to you in this trial and

1 on the law as I instruct you at the close of the
2 trial.

3 Now, in just a moment the solicitor will make
4 what's known as an opening statement in which the
5 solicitor will explain to you the issues in the case
6 or at least what the solicitor thinks the issue are.
7 The attorney for the defendant may also make an
8 opening statement. What the attorneys tell you
9 during their opening statements is not evidence in
10 this case. It is only their contention as to what
11 the evidence or issues will show.

12 The evidence in the case will be presented to
13 you by the testimony of sworn witnesses from this
14 witness stand and by any other exhibits that may be
15 introduced during the trial.

16 Now, from time to time during the trial you may
17 hear one of the lawyers say something like, Your
18 Honor, we have a question of law to discuss with you
19 or may we approach the bench? Or sometimes I myself
20 might find it necessary to excuse you from the
21 courtroom for a few minutes, for a short while, so
22 that the attorneys and I can discuss a matter of law.

23 The reason for this is because you are the
24 judges of the facts in the case, and sometimes when I
25 am discussing matters of law with the attorneys, it

1 may be necessary for me to make some comment as to
2 the facts in connection with whether a ruling,
3 whether a particular law applies or not. I'm not
4 supposed to tell you what I think the facts are, so I
5 would excuse you from the courtroom while these
6 discussions take place so that in no way will you be
7 influenced by anything that I might say or do in
8 connection with the facts.

9 In determining what the true facts are, you must
10 decide whether or not the testimony of any witness is
11 believable. It will be my responsibility to rule as
12 a matter of law whether the testimony is admitted or
13 admissible, but once the testimony is admitted,
14 whether or not you believe it is solely up to you.

15 In deciding whether to believe a witness you
16 have the right to consider the interest of any
17 witness, the bias of any witness, the prejudice of
18 any witness and the opportunity for the witness to
19 have seen the matters and things about which the
20 witness may testify and the way the witness acts on
21 the witness stand.

22 You have a right to consider anything that's in
23 the record that will help you evaluate the testimony
24 of the witnesses. And that means it is your duty to
25 pay close attention to the witnesses, to observe the

1 witnesses and listen to the witnesses and pay close
2 attention to the attorneys. Try not to let your
3 thoughts wander but give strict attention to the case
4 and the testimony in the case so that at the end of
5 the testimony and after all the arguments of counsel
6 and the charge on the law by the Court you will then
7 be a position to determine what the true facts are
8 and apply the law to those facts and thus render a
9 true and just verdict.

10 Now, it will be your added duty, Mr. Foreperson,
11 to -- I believe it's Mr. Chick, to preside in the
12 jury room and be the jury's spokesperson here in
13 court. It will also be your duty to write the
14 verdict, but I'll give you further instructions about
15 that at the conclusion of the trial.

16 Now, ladies and gentlemen, I have -- I will
17 provide you with pencils and pads if you'd like to
18 take notes because I believe that jurors sometimes
19 feel more comfortable if they're able to take notes.
20 As you heard at the beginning of this trial or
21 earlier, there are quite a number of witnesses in
22 this case. And I don't know what the witnesses are
23 going to say, but it may help you if you wish to take
24 notes.

25 Now, Mr. Clerk, I'm going to just let you hand

1 those out if anybody would like pencils or paper.
2 While the clerk is doing that, let me caution you
3 about one thing; and that is that the notes are for
4 your benefit and your benefit only. They are not to
5 try to convince somebody else of what you wrote down
6 at some point in time during the course of the trial.

7 I will give you further instructions about that
8 at the conclusion of the trial and before you begin
9 your deliberations. But I want to caution you that
10 the notes, if you take notes, they're for your
11 benefit only. And I will ask you every evening to
12 leave the notes here and not take them home with you.
13 We'll collect them at the end of the day and then
14 redistribute them to you in the morning. You may
15 want to put your names on the pads just so the clerk
16 or the bailiff will have an easy time finding you in
17 the morning and giving your note pads back.

18 All right. We're now prepared to begin the
19 trial. Solicitor, you may begin with your opening
20 remarks.

21 **MR. BRYANT:** Thank you, Your Honor. If it
22 pleases the Court, Your Honor.. Ms. Owings, Ms.
23 Durant. It's about Brian Anderson losing his life in
24 the early morning hours of December 31st, 2003. It's
25 about the murder of Brian Anderson. He gave a ride

1 home. Keith Sims. And that's where he lost his
2 life. He took Keith Sims to Mr. Sims' home on
3 Monticello Road.

4 The State will show you, ladies and gentlemen,
5 through evidence from the stand, through evidence
6 that we will admit through the court through our
7 witnesses that Keith Sims killed Brian Anderson.

8 And as the Court told you and I will tell you;
9 essentially, murder is the intentional killing of
10 another with malice aforethought. You are going to
11 hear from witnesses for the State that the shooting
12 occurred outside Keith Sims' home. After the
13 shooting Mr. Sims goes inside where his girlfriend,
14 Natalie, was and wakes her up.

15 They then take Natalie's car. Natalie takes her
16 car, follows Keith Sims to Fulmer Street. Now,
17 please keep in mind that Mr. Sims is driving the
18 victim's Crown Victoria. The victim has now been
19 pushed over in the car that Mr. Sims is now driving.

20 They get to Fulmer Street. They park the car.
21 Mr. Sims then gets in the car with his girlfriend,
22 Natalie. From there they go to Boundary Street.

23 Now, a couple of important things I'd like you
24 to keep in mind. The shooting, the murder, happened
25 in Richland County on Monticello Road, as I said.

1 Other parts of this happened in Newberry. You are
2 going to hear from a number of witnesses, some from
3 the Richland County Sheriff's Department, some from
4 the Newberry County Sheriff's Department, because
5 what we have is kind of a potpourri of witnesses.

6 After the shooting and after they left the house
7 with Ms. English, Natalie, following Mr. Sims, they
8 crossed the line into Newberry County. That's where
9 they dropped the victim's car with the victim still
10 in it in Newberry County. They then go to Boundary
11 Street which is still in Newberry County, ladies and
12 gentlemen.

13 They go to the house of a friend of Mr. Sims'
14 named Derrick Ruff. Derrick is staying at that house
15 with his girlfriend, Nikki. And by this time it's
16 mid morning or so. And the timeline will be fleshed
17 out as we get more into the trial.

18 But Mr. Sims the evidence will show goes in,
19 wakes up Mr. Ruff. His girlfriend is already awake
20 by then. And he enlists their help. So they then go
21 back to Fulmer Street, the four of them, and they
22 pick up the victim's car because they've got to do
23 something with it.

24 And as Natalie and Nikki are sitting in
25 Natalie's car, Mr. Sims and Mr. Ruff are getting

1 cement blocks and a tow chain from a house near where
2 the victim's car is parked to load into the trunk.
3 And they are doing that because they are planning to
4 dispose of the body. So they load up. And at one
5 point, ladies and gentlemen, you have Mr. Sims, the
6 victim in one car along with Mr. Ruff until he
7 changes cars and gets in with Natalie and Nikki and
8 they proceed down the road.

9 And they proceed until they come to a place
10 called Molly's Rock Park. And in Molly's Rock Park
11 is Molly's Rock Pond. It is there that they start to
12 dispose of the body of Mr. Anderson. Mr. Ruff and
13 Mr. Sims start to pull the body, start to drag the
14 body down the embankment towards the dock. And Mr.
15 Sims is tugging, trying to dispose of this body, and
16 they're having a little trouble. So they have to
17 enlist the help of Natalie and Nikki to dispose of
18 the body.

19 And they get Mr. Anderson's body to the dock.
20 And they're having some trouble. But eventually,
21 after they struggle with him, they're able to dump
22 him, uncereemoniously dump him into the pond. But
23 along with dumping him, he is wrapped in a tow chain
24 with these cement blocks to weigh him down. They
25 don't want any evidence of this. You will see the

1 tow chain after it is wrapped up. You will see the
2 cement blocks.

3 Now, ladies and gentlemen, after they've done
4 that, they have to figure out what to do with
5 themselves and what to do with the car. So they
6 leave Molly's Rock Pond, deciding to go to
7 Charleston. Mr. Sims, however, gets lost along the
8 way. So he turns back.

9 But there's something else about this, ladies
10 and gentlemen. It's not just well we're going to
11 drop the body in the pond. On the way to disposing
12 of the body they stopped by a filling station getting
13 gas and gloves to use in the destruction of the body
14 and the evidence. They do that, ladies and
15 gentlemen, because they don't want any traces left.

16 So now, having done that, having left for
17 Charleston are Mr. Ruff, Natalie and Nikki. Mr. Sims
18 has gotten lost. In Charleston, Natalie, Nikki and
19 Mr. Ruff try to dispose of the clothing they were
20 wearing because it's bloody. They'd already tossed
21 out some of Mr. Anderson's belongings on the way to
22 Charleston. Now they're tossing out their bloody
23 clothes in a dumpster in Charleston.

24 They come back to Columbia. They go back to Mr.
25 Sims' house, ladies and gentlemen. And at that house

1 you're going to hear testimony that Mr. Sims tries to
2 clean blood off of the driveway. He's trying to get
3 rid of any trace of a crime that occurred in his
4 driveway, still part of the cover-up.

5 While they are in the midst of this cover-up
6 they eventually come back to Newberry. It was at
7 this point that the defendant, Keith Sims, gave the
8 gun he used to shoot Mr. Anderson, he gave that to
9 Natalie who in turn gave it to Nikki.

10 Nikki is going to tell you, ladies and
11 gentlemen, about how they were driving to Newberry to
12 pick up I believe Mr. Sims' mother to take her to
13 church and how she threw the gun out of the car
14 hoping that it would land in the Broad River. But
15 that didn't happen.

16 You're going to hear from a Newberry County
17 investigator that when they went to look for the gun
18 that they found the gun along the bank of the Broad
19 River. And they have that gun, ladies and gentlemen.
20 You're also going to hear from Nikki about how when
21 they took mother to church, they dropped her off and
22 then went and disposed of some more items of the
23 victim, Brian Anderson, in a dumpster by the church,
24 still trying to get rid of the evidence, still trying
25 to get rid of everything that connects them to it.

1 The people involved in this, ladies and
2 gentlemen, Mr. Ruff, Natalie, Nikki, there's no
3 question they helped commit the disposing of the
4 body. There's no question what they did was wrong.
5 And they've been charged in Newberry County with
6 accessories after the fact for their part of that.

7 The issue that you are going to hear time and
8 again is the State submits that Keith Sims murdered
9 Brian Anderson, murdered him December 31st of 2003.
10 That's why I say it's about Brian Anderson. If you
11 strip everything away, then it's about the death of
12 Brian Anderson.

13 Ladies and gentlemen, as you heard earlier,
14 sitting at the table is John Meadors. He is lead
15 counsel. My name is Will Bryant. And it is our job,
16 but more than that, it's a job we love as
17 representatives of The State of South Carolina, and
18 in this county in particular, Richland County. It is
19 our burden to prove this case beyond a reasonable
20 doubt.

21 Mr. Sims as he sits there is cloaked in
22 innocence. Not just not guilty, but he's cloaked in
23 innocence. It's our job to prove to all of you a
24 unanimous verdict beyond a reasonable doubt that Mr.
25 Sims committed murder. And I submit, ladies and

1 gentlemen, that after you hear from the young lady,
2 Ms. Glanville, who found the body that day,
3 December 31st, after you hear from the DNR diver,
4 Tony Walker, who helped bring the body up, after you
5 hear from Mr. Stuckey with SLED and the rest of the
6 investigators, after you see the chain, after you see
7 the cement blocks and you see the other evidence, you
8 all will realize that December 31st, 2003, that Keith
9 Sims murdered Brian Anderson.

10 And I'll ask after the close of all the evidence
11 that you go back and you return a verdict that speaks
12 to justice, and that verdict I submit will be guilty.

13 **MS. OWINGS:** Your Honor, may it please the
14 Court?

15 **THE COURT:** Yes, ma'am.

16 **MS. OWINGS:** This is Keith Sims. You're all
17 probably wondering why he has this bandage on his
18 head and what it means. It doesn't mean anything.
19 It means that he has an infection and he has to wear
20 the bandage. So we'll clear that up right ahead.

21 The night of December 30th, 2003 was the most
22 traumatic night of Keith Sims' young life. It was on
23 this night that he believed that he had to make a
24 choice of whether he lived or died. It was on this
25 night that he believed his actions were going to

1 determine if he lived or died.

2 This night began rather happily. Keith went to
3 a party at the Adams Mark Hotel here in Columbia with
4 many of his friends. Keith eventually left this
5 party, and he left with Brian Anderson. Now, ladies
6 and gentlemen, the evidence will show that Brian and
7 Keith had a past. Brian and Keith have had many
8 issues in the past.

9 Brian rode home -- Keith rode home from this
10 party with Brian in Brian's car. They drove out to
11 Monticello Road, the area of Richland County where
12 they both lived.

13 When they approached Keith's home, the
14 conversation in the car drastically changed. Brian
15 started telling Keith about guns that he had,
16 including a Russian AKA .47. And Keith starts to get
17 nervous and he starts to get afraid. And then Brian
18 tells him, "I could harm you or your family any
19 time." And Keith starts to get more afraid and he
20 doesn't quite know what's going on here.

21 And then Brian tells him, "I didn't want it to
22 go down like this." He's getting more panicked. And
23 then Brian tells him, "I'm going to settle all my
24 scores before the New Year." And Brian goes to reach
25 under his seat to get what Keith believed was a gun.

1 And Keith panicked and he pulled out his own gun and
2 he fired it.

3 Keith Sims is innocent of murder. Keith Sims
4 shot Brian Anderson because he thought that's what he
5 had to do to save his own life that night.

6 Now, you are a panel of 12 jurors, but you're
7 also 12 individuals with your own minds and your own
8 opinions and your own common sense and judgment in
9 your everyday life. December 30th may have been the
10 most traumatic night in Keith Sims' life, but March
11 the 20th, 2005 is quite possibly the most important
12 day in his life.

13 And you are going to hear a lot of evidence over
14 the next several days. You are going to hear a lot
15 of testimony, an overwhelming amount of testimony
16 maybe; but we ask you, pay attention. Listen to what
17 you hear. Listen to the questions that are asked.
18 Listen to the answers. Look at all the evidence.

19 The State says their burden is beyond a
20 reasonable doubt. What does that mean? I have an
21 explanation. If you think that Keith Sims is
22 probably guilty of murder, you have to find him not
23 guilty. Reasonable doubt means you have to be sure.

24 The evidence will show that Keith Sims is
25 innocent of murder, that Keith Sims pulled that

1 trigger that night because he thought it is what he
2 had to do to save his own life. Thank you.

3 **THE COURT:** Solicitor, call your first witness.

4 **MR. MEADORS:** If it pleases Your Honor. The
5 State of South Carolina would call Rebecca Glanville.

6 REBECCA GLANVILLE, after being duly sworn,
7 testifies as follows:

8 **THE CLERK:** Please have a seat up here. Speak
9 into the microphone. State your full name for the
10 record.

11 **WITNESS:** Rebecca Glanville.

12 DIRECT EXAMINATION

13 **BY MR. MEADORS**

14 **Q** Good morning, Ms. Glanville. How did you get here
15 today?

16 **A** I came from Anderson College.

17 **Q** How long have you been attending -- you say Anderson
18 College. Is it a university now?

19 **A** Yes, sir.

20 **Q** How long has it been a university?

21 **A** Since January.

22 **Q** And is this your freshman year?

23 **A** Yes, sir.

24 **Q** Tell these Ladies and Gentlemen of the Jury where
25 you're from?

1 **A** I am from Newberry, South Carolina, but I was born in
2 Shreveport and moved to Swainsboro, Georgia, and then
3 to Newberry, South Carolina.

4 **Q** Is it safe to say you were basically raised in
5 Newberry?

6 **A** Yes, sir.

7 **Q** Did you go to the schools in Newberry?

8 **A** Yes, sir. I went to Newberry High School.

9 **Q** And you graduated when, Ms. Glanville?

10 **A** 2005.

11 **Q** All right. And after that you went to Anderson this
12 year?

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

14 **Q** What you are you majoring in?

15 **A** Biology.

16 **Q** Now, going back if we can to December 2003, what
17 we're about here today, how old were you then?

18 **A** I am 19 now. So I was probably around 16.

19 **Q** Did you have an occasion then -- and is this your mom
20 back here in the red and white?

21 **A** Yes, sir.

22 **Q** Ms. Glanville?

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

24 **Q** Did you have an occasion on December 30th or 31st --
25 was it the 31st?

- 1 A 31st.
- 2 Q So, New Year's Eve day?
- 3 A Yes, sir.
- 4 Q Did you have an occasion to go to what's been
- 5 referred to as Molly's Rock Park?
- 6 A Yes, sir.
- 7 Q And is that in Newberry?
- 8 A Yes, sir.
- 9 Q Had you been there before?
- 10 A Mm-hmm (affirmative).
- 11 Q And on this particular day, do you remember what time
- 12 you went out there?
- 13 A Around 11:30. It was lunchtime.
- 14 Q You were out of school I guess?
- 15 A Yes, sir.
- 16 Q Did you go out there with anybody else?
- 17 A Rob Senn.
- 18 Q Rob Senn?
- 19 A Yes, sir.
- 20 Q Is he is a classmate of yours?
- 21 A Yes, sir.
- 22 Q A friend of yours maybe?
- 23 A Yes, sir.
- 24 Q Maybe you all were dating back then?
- 25 A Yes, sir.

1 Q So you all go out to the pond at lunchtime?

2 A Mm-hmm (affirmative).

3 Q Tell the jury what, if anything -- when you got to
4 Molly's Rock Park, what did you all do?

5 A We walked towards the water and we saw a jacket
6 floating in it.

7 Q Did you have an occasion to explore or walk around
8 the pond?

9 A Yes, sir. We walked around and went through the
10 trails.

11 Q I'm sorry. Went through the what?

12 A The trails. They have little trails around the
13 water.

14 Q And when did you see a jacket in the pond, Ms.
15 Glanville?

16 A On Pond Road. It was about 15 minutes.

17 Q You saw the jacket. Then you all started going
18 through the trails?

19 A Yes, sir.

20 Q You were just having a good time?

21 A Yes, sir.

22 Q Is there a dock at Molly's Rock Pond?

23 A Yes.

24 Q Did you have an occasion to go on the dock?

25 A Yes, sir, I did.

1 Q And I say you. You and this Rob Senn fellow?

2 A Mm-hmm (affirmative).

3 Q You all still friends?

4 A Yes, sir.

5 Q Not dating?

6 A Right.

7 Q Okay. And when you went on the dock what, if
8 anything, did you all do on the dock?

9 A We walked around the dock. There's a tree in the
10 middle of it. And I went inbetween the tree and the
11 dock.

12 Q Could you actually go in --

13 A Inbetween it. Yes, sir.

14 Q Go down beside the tree?

15 A Right.

16 Q May I approach the witness?

17 **THE COURT:** Yes, sir.

18 Q I'm going to show you what's been marked State's 2,
19 State's 4 and State's 3. Do you recognize those?

20 A Yes, sir.

21 Q And do they relate to your testimony you were just
22 telling the jury?

23 A Yes, sir.

24 **MR. MEADORS:** Your Honor, at this time State's
25 2, 3 and 4 I believe were without objection.

1 **MS. DURANT:** Without objection.

2 **MS. OWINGS:** Without objection, Your Honor.

3 (WHEREUPON, State's Exhibit No. 2 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 3 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 4 is admitted
8 into evidence.)

9 **Q** Looking at State's 2 here, Ms. Glanville, is that the
10 dock at Molly's Rock Park?

11 **A** Yes, sir.

12 **Q** And can you show on here -- can I ask her to come
13 down, Judge?

14 **THE COURT:** Certainly.

15 **Q** If you just get over here, please, ma'am, just so the
16 court reporter can take down what -- speak loud
17 enough so she can -- okay?

18 **A** Okay.

19 **Q** Look at State's 2, Ms. Glanville. You said you were
20 playing around the tree. Is this the tree you're
21 talking about?

22 **A** Yes, sir.

23 **Q** And when you all were walking around the pond, can
24 you show the jury what you're talking about?

25 **A** We went around here. There is some land. And you

1 walk on the land right here. And we went back in
2 these woods, made basically a complete circle.

3 Q How many times have you been down there?

4 A Just a couple.

5 Q All right. And you mentioned the dock, too. Is this
6 the pond that you can see a bigger picture of,
7 State's 4?

8 A Yes, sir.

9 Q And I think you mentioned a jacket. You said you
10 recognized this in State's 3. Is that the jacket?

11 A Yes, sir.

12 Q And you saw that jacket initially when you came,
13 correct?

14 A Right.

15 Q I'm looking back on State's I believe 4. Is that
16 also the jacket in there?

17 A Yes, sir.

18 Q If you'll stay right here. How long -- do you
19 remember a pump being out there?

20 A Yes, sir.

21 Q Do you recognize that, State's 29?

22 A Yes, sir.

23 Q Is that the pump?

24 A Yes, sir.

25 MR. MEADORS: Your Honor, we'd offer State's 29

1 without objection.

2 MS. OWINGS: Without objection, Your Honor.

3 (WHEREUPON, State's Exhibit No. 29 is admitted
4 into evidence.)

5 Q How long were you all out there before you made a
6 discovery? Let me just cut right to the chase. How
7 long were you all out there?

8 A About an hour.

9 Q Did you all play around this pump area?

10 A Yes, sir.

11 Q I don't know if "play" is the right word. But you
12 all were having a good time. Right?

13 A Yes, sir.

14 Q Now, did there come a point when you got up on the
15 dock?

16 A Mm-hmm (affirmative).

17 Q Did you have an occasion to look down into the water?

18 A Yes, sir.

19 Q What, if anything, did you see?

20 A I saw a body and it was face down and the pants were
21 off of it.

22 Q Was that unusual?

23 A Yes.

24 Q And you kind of -- were you scared?

25 A Mm-hmm (affirmative).

1 Q Had you seen anything like that before?

2 A No.

3 Q Look at State's 1. And do you recognize that? And
4 does that relate to what you were just telling the
5 Ladies and Gentlemen of the Jury about?

6 A Yes, sir.

7 MR. MEADORS: Your Honor, at this time we would
8 offer State's 1.

9 MS. OWINGS: Your Honor, we just renew our
10 earlier objection.

11 THE COURT: All right. Overruled. Go ahead.
12 It's admitted into evidence.

13 MR. MEADORS: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit No. 1 is admitted
15 into evidence.)

16 Q Showing you now what's been admitted as State's 1, is
17 this what you saw when you looked over the dock?

18 A Yes, sir.

19 Q When you described, and this picture depicts, that
20 the pants appeared to be pulled down on this person?

21 A Yes, sir.

22 Q Did you know who this was?

23 A No.

24 Q It startled you?

25 A Yes.

- 1 Q Were you and Rob both on the dock?
- 2 A Yes, sir.
- 3 Q After you saw State's 1 -- you can sit back up here,
- 4 Rebecca. Thank you. Did you stay around and play
- 5 any more after you saw that?
- 6 A No, sir.
- 7 Q What did you do?
- 8 A We went to Newberry Sheriff's Department.
- 9 Q And do you live near the Sheriff's Department?
- 10 A Yes, sir.
- 11 Q So, did Mr. Senn go with you?
- 12 A Yes.
- 13 Q And when you got to -- why did you go to the
- 14 Sheriff's Department, Rebecca? Explain to the jury.
- 15 A Because we were scared and we needed to report
- 16 because it looked like it was a murdered body.
- 17 Q What time the best you can remember did you get to
- 18 the Newberry Sheriff's Department?
- 19 A It was around 12:30, 1; around that time.
- 20 Q Okay. You're not exactly sure?
- 21 A No, sir.
- 22 Q But you're pretty sure it was around that time?
- 23 A Yes, sir.
- 24 Q And the best you can remember, you got to Molly's
- 25 Rock Park about what time?

1 **A** About 11:30.

2 **Q** Now, did you and/or Mr. Senn go back to Molly's Rock
3 Park after that?

4 **A** Yes, sir. We went with the police back to Molly's
5 Rock.

6 **Q** And were you all actually traveling together or back
7 kind of I guess --

8 **A** Yes, sir.

9 **Q** And when you got back to the park, what did you do;
10 when you got back this time with the police?

11 **A** They took us outside but we didn't go back to the
12 water, and they asked us to tell them exactly where
13 we walked. And then they basically talked to us and
14 we had to write stuff down.

15 **Q** And you gave a statement, basically what you've told
16 us today?

17 **A** Right.

18 **Q** Beg the Court's indulgence. Ms. Glanville, thank you
19 for being here. That's all I have. Wait a minute,
20 ma'am.

21 **THE COURT:** Cross examination.

22 **MS. OWINGS:** Your Honor, we have no questions
23 for the witness.

24 **THE COURT:** You may come down. May this witness
25 be excused?

1 **MR. MEADORS:** We so ask.

2 **MS. OWINGS:** Without objection.

3 **THE COURT:** You're free to go, ma'am. Thank you
4 very much for coming. Call your next witness.

5 **MR. BRYANT:** Your Honor, the State calls Tony
6 Walker.

7 ANTHONY H. WALKER, after being duly sworn,
8 testifies as follows:

9 **THE CLERK:** Please have a seat there, sir.
10 State your full name for the record.

11 **WITNESS:** Anthony H. Walker.

12 DIRECT EXAMINATION

13 **BY MR. BRYANT**

14 **Q** Officer Walker, good afternoon. How are you?

15 **A** Fine, sir.

16 **Q** Could you please tell the jury where you work?

17 **A** I work for the South Carolina Department of Natural
18 Resources in the Law Enforcement Division. I am
19 currently assigned to Richland County but I also work
20 with aquatics investigation and the recovery team.

21 **Q** How long have you worked for DNR?

22 **A** I've been with the department for 20 years.

23 **Q** Prior to that did you have any experience in law
24 enforcement?

25 **A** Yes, sir. I worked for two years in law enforcement

1 at the Capitol Complex. I also worked for a year
2 with the United States Treasury Bureau of Alcohol,
3 Tobacco and Firearms as a special agent.

4 Q What about your college degree, your education?

5 A I have a college -- I attended a year at the Citadel,
6 transferred to South Carolina State, and I have a
7 B.S. degree in biology and chemistry.

8 Q And you mentioned you're on the aquatic recovery
9 team?

10 A Aquatics investigation recovery. Yes, sir.

11 Q Explain that to me. Break that down I guess.

12 A What we do, we do underwater investigation. We find
13 things underwater for law enforcement agencies,
14 whether it be both state, federal and local.

15 Q So I guess if something has fallen in the water and
16 they need to retrieve it they would call you guys?

17 A Yes, sir. That would be correct.

18 Q Now, does this entail I guess the scuba suit, the
19 tank, everything else?

20 A Yes, sir.

21 Q How did you get the training for that? What are your
22 credentials with regard to that?

23 A I started with the -- actually I started diving
24 before I came to work in law enforcement. And I've
25 been working within our department on the aquatics

1 investigation and recovery team for approximately ten
2 years. I started out as an open water diver and then
3 advanced to open water and did other specialties up
4 to the master diver level.

5 Q Do you recall December 31st of 2003?

6 A Yes, sir.

7 Q Tell the jury if you would what happened on that day
8 and what you did?

9 A On December 31st, 2003, I was -- I think I was
10 scheduled off that day, but I received a call from
11 the Newberry County Sheriff's Office requesting
12 assistance on a dive operation at Molly's Rock. They
13 believed they had found a person that had been --
14 that was in the water and wanted us to help them, to
15 assist in the investigation and the recovery of the
16 person.

17 Q And if you would, please, sir, tell the jury what you
18 did when you first got to the scene?

19 A When I first got there I assessed the scene. I went
20 to take a look at where I would be diving, any
21 obstructions or hazards that might be there, and then
22 at that point went, got dressed in my dry suit and
23 proceeded on up to where the evidence was located.

24 Q I'm going to show you what has been marked as State's
25 Exhibit No. 2. Does this reflect the scene from that

1 day?

2 A Yes, sir. That would have been from the platform or
3 from the dock at Molly's Rock where I went and took a
4 look at where the evidence was located.

5 Q Now, which way did you enter the water?

6 A I entered the water from this side next to this tree.

7 Q I guess you walked into the water. Is that how you
8 did it?

9 A Yes, sir. I walked in and tried to go a little bit
10 further down so that I wouldn't stir up the bottom so
11 I would be able to come up and tell the investigators
12 what I did see if I could see anything.

13 Q What happened when you entered the water?

14 A Okay. As I -- when I entered the water, I swam up to
15 the -- up to the body, went down. I took a look at
16 it. There were two concrete blocks that were on top
17 of a pipe. I came back up, told the investigator
18 what I saw. They asked me to retrieve that, bring it
19 to them. I did that.

20 Then I went back in. I took another look. And
21 the victim was face down and feet up close to the
22 surface. There was a chain that was wrapped around
23 his left wrist, and it was run -- the chain was run
24 through a pipe. I came back to the surface, told the
25 investigators about that, and they said, okay, get

1 the chain and bring that over to the -- or bring that
2 to them.

3 Q I'm going to hand you what has been marked State's
4 Exhibit 30. Can you tell the jury -- and let me stop
5 you there. When you brought the chain out of the
6 water, what did -- what happened to that chain?

7 A Well, the chain was placed inside this PVC pipe
8 that's also in the photograph.

9 Q Okay. Would you tell the jury what that photograph
10 depicts, please, sir?

11 A This is the chain and the pipe that was attached to
12 the victim's body.

13 MR. BRYANT: Your Honor, at this time I would
14 move State's No. 30 into evidence.

15 MS. OWINGS: Without objection.

16 THE COURT: Without objection.

17 (WHEREUPON, State's Exhibit No. 30 is admitted
18 into evidence.)

19 MR. BRYANT: Permission to publish?

20 THE COURT: Certainly.

21 Q After you removed the chain, what did you then do?

22 A I was requested to go back in and look and then bring
23 the body back.

24 Q Okay. And was this before or after you had the
25 cinder blocks?

1 **A** This would have been after I got the cinder blocks.

2 **Q** While Investigator Siniard is bringing that up, could
3 you tell us how they were roped to the body, please,
4 sir; tied to the body?

5 **A** They were -- well, like I said, the body would have
6 been sort of in this position with the head down,
7 feet up towards the surface. The cinder blocks
8 initially when I got there was thought to be maybe a
9 pipe run through them. But when I picked them up,
10 the cinder blocks themselves actually were not. They
11 were sitting on top of the pipe.

12 **Q** Okay. And the cinder blocks were weighting the body
13 down?

14 **A** Yes, sir.

15 **Q** If you could stand up. Permission to have the
16 witness stand up, Your Honor, off the stand?

17 **THE COURT:** Sure. Go ahead.

18 **Q** If you could, tell me if those are the cement blocks
19 you recovered from Molly's Rock Pond that day?

20 **A** They appear to be.

21 **Q** And what did you do with those after you collected
22 them?

23 **A** Gave them to the investigators that were there that
24 day.

25 **MR. BRYANT:** Any objection?

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1 MS. OWINGS: Without objection, Your Honor.

2 COURT REPORTER: What are you marking?

3 MR. BRYANT: What number?

4 COURT REPORTER: No. 40 would be next.

5 MR. BRYANT: I'm going to mark both of them as
6 State's Exhibit No. 40.

7 COURT REPORTER: I think we don't need to have
8 two number 40's.

9 MR. BRYANT: 40 and 41. I'm sorry.

10 COURT REPORTER: Okay. Thank you.

11 (WHEREUPON, State's Exhibit No. 40 is marked for
12 identification and received in evidence.)

13 (WHEREUPON, State's Exhibit No. 41 is marked for
14 identification and received in evidence.)

15 Q After you removed the cinder blocks and the chain,
16 what did you do next?

17 A Went back to retrieve the body.

18 Q And tell us if you don't mind what you did then,
19 please, sir?

20 A I swam the body over to the side of the dock that was
21 there. And then we tried to put it in a body bag,
22 assisted in removing the body from the water.

23 Q And did you get a chance to look at the body after it
24 was removed from the water?

25 A Yes, sir, I did.

1 Q And let me -- if you don't mind, could you tell the
2 jury what this is, please, sir?

3 A That would be the PVC cylinder that the chain and the
4 steel pipe was placed into.

5 MR. BRYANT: Your Honor, at this time I would
6 offer this into evidence as State's No. 42.

7 THE COURT: Is something in it?

8 MR. BRYANT: Yes, sir. The chain is in it. If
9 we would open it up, there would be pond water and
10 some type of foul smell.

11 MS. OWINGS: Your Honor, my objection would be
12 there's already a photograph of this in evidence.

13 THE COURT: Well, overruled. Go ahead.

14 MR. BRYANT: Thank you, Your Honor.

15 (WHEREUPON, State's Exhibit No. 42 is marked for
16 identification and received in evidence.)

17 Q I'm sorry. This is what they put the chain into that
18 was retrieved from the pond?

19 A Yes, sir.

20 Q And that was used to hold down the victim, Mr.
21 Anderson?

22 A Yes, sir.

23 Q I'm going to hand you what has been marked into
24 evidence as State's No. 1. That would --

25 A That would be the condition of -- let me get the

1 position. That would be the condition of Mr.

2 Anderson when I got there.

3 Q And that would be head down like this?

4 A Head down, feet up and his arms basically out in
5 front of him. Yes, sir.

6 Q Beg the Court's indulgence. With regard to any other
7 items pulled from the pond, did you get any clothing?

8 A Yes, sir. There was a jacket that was also -- that
9 was in proximity. It was across the pond away from
10 him. And I was requested to retrieve it. Then it
11 was retrieved, brought back over. I saw blood in
12 the -- and looked it like a mucus type material in
13 the jacket.

14 Q And while Investigator Siniard is retrieving the
15 coat, could you tell the jury how long you were on
16 the bottom or in the water and explain that for us,
17 please, sir?

18 A I was in the water a number of different times. It
19 was back and forth allowing the sediment -- as I
20 would get in and get close to the body, I would stir
21 up sediment from around the body. And I would back
22 away from it a little while, let it settle back down
23 so I could go back and then see again and communicate
24 to the investigators what I saw.

25 Q The stirring up of the sediment, what did that do in

1 terms of visibility?

2 **A** It decreased the visibility greatly. Initially when
3 the water was settled, there was probably five to six
4 feet of visibility. After I stirred things up, we
5 had a distance down to maybe about inches.

6 **Q** The sediment would preclude your seeing and having
7 the ability to I guess collect evidence?

8 **A** Yes, sir.

9 **Q** Okay. The Court's indulgence. Officer Walker, I'm
10 going to hand you for I.D. purposes only and ask you
11 if you recognize this?

12 **A** Yes, sir. This looks to be the same jacket in the
13 condition that we saw it at the scene.

14 **Q** Then I'm going to show you, if you could -- you might
15 have to stand up -- this bag. Do you recognize
16 what's in that bag?

17 **A** That appears to be the same jacket that we recovered
18 at the scene.

19 **Q** From Molly's Rock Pond?

20 **A** From Molly's Rock. Yes, sir.

21 **MR. BRYANT:** Your Honor, at this time I would
22 offer the jacket into evidence.

23 **MS. OWINGS:** Your Honor, we renew our objection
24 to the jacket and the picture of the jacket.

25 **THE COURT:** I'll allow it into evidence.

1 There's no proof it's anything more than a jacket at
2 this point. I'll just allow it for identification
3 purposes only.

4 **Q** That looks like the jacket you pulled from the pond?

5 **A** Yes, sir.

6 **MR. BRYANT:** State's 43 at this time for I.D.
7 only.

8 (WHEREUPON, State's Exhibit No. 43 is marked for
9 identification.)

10 **THE COURT:** No. I've already ruled. It's only
11 for identification at this point.

12 **Q** And when you were done collecting evidence at the
13 scene, what did you then do?

14 **A** As far as ...?

15 **Q** As far as wrapping up your investigation.

16 **A** Did my paperwork, a report as far as the dive was
17 concerned, water temperature, the date, location and
18 then got took my dry suit off and got dressed to
19 return back to Columbia.

20 **MR. BRYANT:** Court's indulgence. Nothing
21 further, Your Honor.

22 **THE COURT:** Cross examination.

23 **MS. OWINGS:** Your Honor, we have no questions
24 for this witness.

25 **THE COURT:** You may come down sir. May this

1 witness be excused?. Any objection?

2 **MR. MEADORS:** We would so ask.

3 **MS. OWINGS:** No objection, Your Honor.

4 **THE COURT:** Mr. Walker, you're free to go.
5 Thank you very much for coming.

6 **MR. MEADORS:** May we approach, Your Honor?

7 **THE COURT:** Yes, sir.

8 (Whereupon, a bench conference is had)

9 **THE COURT:** All right. Ladies and Gentlemen of
10 the Jury, there's a matter of law I need to take up
11 with the attorneys. It will only take they say five
12 minutes. Better give them ten. That's sort of the
13 way things go. So I'm going to ask you to go to the
14 jury room and just relax for a few minutes. Do not
15 discuss the case among yourselves while you're in the
16 jury room. We'll call you in just a few minutes when
17 we're ready. Mr. Chick, if those are your notes,
18 just put them face down on your chair will be fine.

19 (Jury out 4:20 p.m.)

20 **THE COURT:** Is this a matter that needs to be
21 taken up by the Court?

22 **MR. MEADORS:** No, sir. I think we can handle it
23 ourselves if that's okay.

24 **THE COURT:** We'll stand at ease for seven
25 minutes.

1 (Whereupon, a break is taken)

2 (WHEREUPON, State's Exhibit No. 44 is marked for

3 identification.)

4 (WHEREUPON, State's Exhibit No. 45 is marked for

5 identification.)

6 (WHEREUPON, State's Exhibit No. 46 is marked for

7 identification.)

8 (WHEREUPON, State's Exhibit No. 47 is marked for

9 identification.)

10 (WHEREUPON, State's Exhibit No. 48 is marked for

11 identification.)

12 (WHEREUPON, State's Exhibit No. 49 is marked for

13 identification.)

14 (WHEREUPON, State's Exhibit No. 50 is marked for

15 identification.)

16 (WHEREUPON, State's Exhibit No. 51 is marked for

17 identification.)

18 (WHEREUPON, State's Exhibit No. 52 is marked for

19 identification.)

20 (WHEREUPON, State's Exhibit No. 53 is marked for

21 identification.)

22 (WHEREUPON, State's Exhibit No. 54 is marked for

23 identification.)

24 (WHEREUPON, State's Exhibit No. 55 is marked for

25 identification.)

1 (WHEREUPON, State's Exhibit No. 56 is marked for
2 identification.)

3 **THE COURT:** Is this matter resolved as to the --

4 **MR. MEADORS:** Yes, sir.

5 **THE COURT:** -- pictures?

6 **MS. DURANT:** Yes, sir.

7 (WHEREUPON, Defendant's Exhibit No. 1 is marked
8 for identification.)

9 **THE COURT:** Is the State ready to proceed?

10 **MR. MEADORS:** The State's ready.

11 **THE COURT:** Is the defense ready to proceed?

12 **MS. DURANT:** Yes, Your Honor.

13 **THE COURT:** Bring the jury, please.

14 (Jury in at 4:53 p.m.)

15 **THE BAILIFF:** Your Honor, the jury is present.

16 **THE COURT:** Thank you. Call your next witness,
17 Solicitor.

18 **MR. MEADORS:** May it please the Court, Your
19 Honor. The State would now call Agent Al Stuckey of
20 the South Carolina Law Enforcement Division.

21 **THE COURT:** Come around, Mr. Stuckey.

22 AL STUCKEY, after being duly sworn, testifies as
23 follows:

24 **THE CLERK:** Please have a seat there, sir.

25 State your full name for the record.

Anthony H. Walker - Direct by Mr. Bryant

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1 **WITNESS:** Al Stuckey, S-T-U-C-K-E-Y.

2 DIRECT EXAMINATION

3 **BY MR. MEADORS**

4 **Q** Is it all right if I call you Agent?

5 **A** Yes, sir.

6 **Q** Agent, as I do with all my witnesses, would you
7 briefly tell the jurors about yourself, specifically
8 where you were born and raised?

9 **A** I was born and raised in a little town called
10 Bishopville, South Carolina. I graduated from high
11 school there in 1993.

12 **Q** After that did you have an occasion to go to --
13 continue your education?

14 **A** Yes, sir. I graduated from the University of South
15 Carolina in 1997 with a Bachelor of Science degree in
16 Criminal Justice.

17 **Q** Had you gone to Francis Marion a year and then
18 transferred to USC?

19 **A** Yes, sir. I went to Francis Marion my first year of
20 college and then transferred to the University of
21 South Carolina after that.

22 **Q** And you had a Bachelor's of Science. And after that
23 did you have an occasion to get into law enforcement?

24 **A** Yes, sir. Later, in the year 1997, I was hired by
25 the South Carolina Law Enforcement Division, better

1 known as SLED, in their latent print crime scene
2 department.

3 Q Was that in 1997?

4 A October 2nd, 1997.

5 Q And did you go straight into the crime scene unit, if
6 you will?

7 A Yes, sir, I did.

8 Q Was that also the latent print department?

9 A Yes, sir, it is.

10 Q All right. Other than your undergraduate degree, did
11 you receive any additional training in law
12 enforcement; specifically, the Criminal Justice
13 Academy and any other training? If so, would you
14 please relate, tell the jury about that?

15 A Yes, sir. I have a basic law enforcement
16 certification from the South Carolina Criminal
17 Justice Academy. I've also completed the SLED
18 two-year on-the-job training program for the latent
19 print crime scene department. In addition to that
20 I've attended numerous classes by the South Carolina
21 Criminal Justice Academy, the International
22 Association for Identification, and the South
23 Carolina Division for the International Association
24 of Identification.

25 Q This whole time since 1997 until today you've been in

1 this unit?

2 **A** Yes, sir, I have.

3 **Q** All right. And specifically, just -- or generally,
4 what do you all do?

5 **A** Our function is two-fold. Primarily we accept
6 evidence from local, state and federal authorities
7 through the door to the lab to process for latent
8 fingerprints, footwear tire tread, blood spatter
9 interpretation and general crime scene
10 reconstruction.

11 The second thing we do is we respond to crime
12 scenes throughout the state of South Carolina to
13 assist local state and federal authorities in the
14 investigation of those crime scenes, primarily for
15 the recovery of forensic evidence.

16 **Q** So you're not assigned to a certain geographical
17 area. You're statewide?

18 **A** Yes, sir. All counties in the state.

19 **Q** And you have to be requested by a local agency?

20 **A** That is correct. We have to be requested by either a
21 local state or federal authority to respond to a
22 crime scene.

23 **Q** Now, you mentioned -- how many crime scenes do you
24 think you've responded to in your career?

25 **A** Approximately 350.

1 Q You mentioned a minute ago a fingerprint analysis.
2 Can you tell the jury about that generally? You
3 know, what's the difference between a latent print,
4 an inked print and the process of fingerprint
5 comparison, if you will?

6 A Well, as you look at the palms of your hands and at
7 your finger tips you can notice like a little
8 mountain range. Those little mountains ranges form a
9 unique pattern on your fingers, your fingers alone.
10 There are little sweat glands on those mountain
11 ranges. And so that when you touch something the
12 sweat glands in combination with the contaminants
13 from, say, your skin or your hair, when you touch
14 something, you could possibly believe a latent
15 fingerprint behind, latent meaning hidden or it must
16 be developed in order to be seen.

17 What we compare that to is an inked impression,
18 whereas we take ink and actually put it on a person's
19 finger and then roll it onto a known card. So we've
20 actually taken the person's finger and creating a
21 known fingerprint, whereas the latent fingerprint is
22 more unknown because it must be developed in order to
23 be seen.

24 Q So you get a known and an unknown and you try to make
25 a comparison, correct?

1 **A** That is correct. Yes, sir.

2 **Q** You're looking for similar ridge details?

3 **A** Yes, sir. We're looking for ridge detail that is in
4 the same unit -- I lost my word.

5 **Q** Oh, that's okay. How many prints have you lifted or
6 how many fingerprint comparisons have you attempted
7 to make?

8 **A** In the thousands.

9 **Q** Have you ever been offered as an expert in courts of
10 record of this state in the field of crime scene
11 investigation and fingerprint analysis? Have you
12 been offered as an expert before?

13 **A** Yes, I have.

14 **Q** Have you ever been offered and not qualified?

15 **A** No, sir, I have not.

16 **MR. MEADORS:** Your Honor, at this time we would
17 offer Special Agent Alford Stuckey, III as an expert
18 in the area of crime scene investigation and
19 fingerprint analysis and comparison.

20 **THE COURT:** Any Voir Dire or objections?

21 **MS. DURANT:** No objections, Your Honor. No Voir
22 Dire.

23 **THE COURT:** Thank you. You may proceed.

24 **MR. MEADORS:** Thank you, Your Honor.

25 **Q** Agent Stuckey, if we will, were you requested by in

1 this case the Newberry County Sheriff's Department to
2 come to Molly's Rock?

3 A Yes, sir, I was.

4 Q Have you worked with Newberry County before?

5 A Yes, sir, I have.

6 Q And if you have your notes there, if you need to use
7 them, can you tell the jury, the Ladies and Gentlemen
8 of the Jury, what time you got to Molly's Rock?

9 A Your Honor, may I be allowed to refer to my notes?

10 **THE COURT:** Certainly.

11 A Thank you.

12 Q What time did you get there?

13 A What was your question again?

14 Q What time did you get to Molly's Rock?

15 A I arrived at approximately 2:20 p.m.

16 Q I believe you were notified at 1:07?

17 A Yes, sir. That's correct. 1:07 p.m.

18 Q You lived in ...?

19 A Actually I lived in Lexington.

20 Q Now you live elsewhere?

21 A Yes, sir.

22 Q So you respond from Lexington to Molly's Rock?

23 A That's correct. Yes, sir.

24 Q Once you got there, was there another SLED agent with
25 you?

1 **A** Yes, sir. There was another agent with me. Special
2 Agent Jeff Parrott.

3 **Q** Take us back there right now, right now, Agent, as
4 you're going up to Molly's Rock. And about what time
5 was it? 2:20?

6 **A** Yes, sir. We arrived at approximately 2:20 p.m.

7 **Q** What do you generally, and specifically what did you
8 and/or Agent Parrott do when you got to Molly's Rock?

9 **A** Upon arrival what we do is we call it the initial
10 walk through. When we go through the initial walk
11 through, what we're looking for is any biohazard
12 concerns or any chemical concerns that may be a
13 danger to us or anybody around us. And also we're
14 looking for any plain view evidence so we don't
15 contaminate the scene when we're walking through. So
16 what we're doing is we're taking odd angles or odd
17 entrances to the scene so that we can see what
18 evidence we see so that we don't contaminate the
19 scene while we're processing it.

20 **Q** As a part of that, do you photograph it?

21 **A** Yes, sir. Once we're done with the initial walk
22 through, we document the scene fully as we found it
23 with color photography.

24 **Q** And did you do that in this case?

25 **A** No, sir. Jeff Parrott did it under my direction.

1 Q Were you there when he took the pictures?

2 A Yes, sir, I was.

3 Q And we had a diver from the Department of National --
4 of NDR a minute ago. Were you there when the diver
5 was there?

6 A Yes, sir, I was.

7 Q Were you there when the concrete -- did you see the
8 concrete blocks previously?

9 A Yes, sir, I did.

10 Q What's been referred to as the tow chain in State's
11 30?

12 A Yes, sir, I have.

13 Q Specifically, were they already out of the water when
14 you saw them? You didn't dive, too, did you?

15 A I did not dive. No, sir. I was there once they were
16 recovered from the water.

17 Q Can you describe the condition of this chain? It's
18 now in this big tube here. But in State's 30, there
19 appears to be grease or something on it. What is
20 that?

21 A That's actually the mud from the bottom of the pond.
22 When we're collecting metal from a water based type
23 situation, we collect it inside the water because
24 once we remove that metal from outside the water it
25 automatically starts the oxidation process or the

1 rusting process. So we leave it in the water that we
2 actually found it in until we actually are processing
3 it. And that's why we put it in that tube and that's
4 why you see it the way you see it.

5 Q And did you assist in getting Brian Anderson's body
6 out of the pond?

7 A Yes, sir, I did.

8 Q Were there any dumpsters around?

9 A Yes, sir, there were.

10 Q And did you as a part of your crime scene
11 investigation check the dumpsters?

12 A The trashcans were checked.

13 Q Were there any other outhouses or restrooms, latrines
14 out there?

15 A Yes, sir.

16 Q Did you have an occasion to check those?

17 A Those were drained by an outside company and checked
18 with negative results.

19 Q Okay. Did you see the body of Brian Anderson with
20 these chains on and the concrete on the chains?

21 A No, sir, I did not.

22 Q Now, did you prepare a diagram not to scale of what
23 you found there? And, if so, would it aid you in
24 your testimony today?

25 A Yes, sir, it would.

1 Q Is this it?

2 A Yes, sir, it is.

3 MR. MEADORS: Your Honor, this is the one we
4 forgot to mark. We however offer it as State's ...

5 COURT REPORTER: 57.

6 MR. MEADORS: 57, I believe without objection.

7 MS. DURANT: No objection, Your Honor.

8 THE COURT: Without objection.

9 (WHEREUPON, State's Exhibit No. 57 is marked for
10 identification and received in evidence.)

11 MR. MEADORS: With Your Honor's permission,
12 could the agent step down?

13 THE COURT: Yes, sir.

14 Q I show you what's been entered as State's 57. Did
15 you make this drawing?

16 A Yes, sir, I did.

17 Q Now, specifically, when you first came up to the
18 scene, you've said pictures were taken and you made
19 this diagram. As we go through I want to show you
20 what's State's 6. Do you recognize that?

21 A Yes, sir, I do.

22 MR. MEADORS: Your Honor, all of these I
23 previously have been I believe admitted without
24 objection. We'd offer 6.

25 MS. DURANT: No objection, Your Honor.

1 **THE COURT:** All right.

2 (WHEREUPON, State's Exhibit No. 6 is admitted
3 into evidence.)

4 **Q** And I'll go through each one as we go. These little
5 cards are in here with different numbers on it?

6 **A** Yes, sir.

7 **Q** What is this?

8 **A** These are black cards to note where evidence is
9 located in the photograph.

10 **Q** Does it correspond to this?

11 **A** Yes. Yes, it does.

12 **Q** So the one on the black card here would be this one
13 right here?

14 **A** The one right here. Yes, sir.

15 **Q** The one right here. You represented over here that's
16 what this one is, right?

17 **A** Yes, sir, that is.

18 **Q** And on State's 6 which has now been entered, you see
19 1 on the rock. Is that Molly's Rock there?

20 **A** Yes, sir, that is.

21 **Q** And starting off with number 1, what is 1?

22 **A** 1 was an area of possible blood we found right here
23 along this walkway.

24 **Q** And what do you do when you see that?

25 **A** What we do is we'll put the placard out with the

1 number on it, and then we'll photograph it from a
2 long ways away, then get closer and closer until we
3 get a close up photograph of it. And then once we're
4 done photographing it and documenting it we'll
5 collect it.

6 Q And how do you collect it?

7 A We put saline onto a cotton swab and we'll stab that
8 area until a sufficient amount of the substance comes
9 up. And we'll put it in an envelope. But the actual
10 swab we'll sit outside the envelope because it has to
11 air dry before we can actually seal it up. So we'll
12 allow to it air dry for a certain amount of time.
13 We'll break the stick so that the swab actually goes
14 down into the envelope. We'll seal the envelope and
15 I'll log it in. It will go to SLED DNA for analysis.

16 Q And that's what you did in this case?

17 A Yes, sir.

18 Q State's 6 was kind of the panoramic view of these.
19 So, State's 5, you all just said you take a distance
20 and then a close up?

21 A That's a close up. Yes, sir.

22 Q This would be a close up of the blood you took a swab
23 from?

24 A Yes, sir.

25 **MR. MEADORS:** We'd now offer State's 5, Your

1 Honor.

2 **MS. DURANT:** No objection, Your Honor.

3 **THE COURT:** Without objection.

4 (WHEREUPON, State's Exhibit No. 5 is admitted
5 into evidence.)

6 **Q** As we head on down to the dock, if you will, and
7 looking at State's 7, do you recognize this also?

8 **A** Yes, sir, I do.

9 **Q** In here I see 2, 3, 4 and 5?

10 **A** Yes, sir. That's 2, 3, 4 and 5.

11 **Q** And on State's 7 and State's 8 and State's 9, do they
12 all show 2, 3, 4 and 5 different distances?

13 **A** Yes, sir, they do.

14 **MR. MEADORS:** Okay. Your Honor, we'd now offer,
15 these 7 and 8 and 9, I believe without objection.

16 **MS. DURANT:** No objection, Your Honor.

17 (WHEREUPON, State's Exhibit No. 7 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 8 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 9 is admitted
22 into evidence.)

23 **Q** And it's depicted on your charts. What are 2, 3, 4
24 and 5?

25 **A** Those are areas of possible blood that we found on

1 the dock area.

2 Q Do you do the same with these? Do you take a swab?

3 A Yes, sir. The exact same thing. We put blood on the
4 swab and go through the exact same process I
5 mentioned earlier.

6 Q Once you take the swab, you take it where?

7 A We put it into the envelope but it's allowed to air
8 dry. But it's away from any type of issue from
9 contamination. We put it off so that it's not
10 anywhere near the scene. And then once it's air
11 dried, we put it back down, we break the stick and
12 put it in the envelope and seal it up. It goes to
13 DNA for analysis.

14 Q You take it back to SLED?

15 A Yes, sir.

16 Q You all did that this day?

17 A Yes, sir.

18 Q Then it goes to another department to analyze it?

19 A That's correct.

20 Q And State's 5 is -- do you recognize that?

21 A Yes, sir.

22 Q That's a close up also of the blood stain?

23 A That's a close up of placard number 5. And that's
24 the guard rail at the dock right there.

25 MR. MEADORS: Your Honor, we'd offer State's 10.

Al Stuckey - Direct by Mr. Meadors

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1 **THE COURT:** Without objection?

2 **MS. DURANT:** No objection.

3 (WHEREUPON, State's Exhibit No. 10 is admitted
4 into evidence.)

5 **Q** Can you tell me what that is?

6 **A** That is a cigarette butt.

7 **Q** That's referred to as State's 11?

8 **A** Yes, sir. State's 11 is a cigarette butt. That's
9 No. 6 right here.

10 **Q** And at this point are you collecting anything that
11 may -- you don't know if any of this stuff is
12 relevant to the case at all, do you?

13 **A** That's correct. Anything that seems odd for the
14 area, you know, we're going to collect it. And duct
15 tape, or a cigarette butt in this case, it seems odd
16 to be right there next to a guy in the lake.

17 **MR. MEADORS:** We'd offer State's 11, Your Honor,
18 I believe without objection.

19 **MS. DURANT:** No objection.

20 (WHEREUPON, State's Exhibit No. 11 is admitted
21 into evidence.)

22 **Q** State's 12, you mentioned it just a minute ago. What
23 is that?

24 **A** Yes, sir. That's a piece of duct tape found right
25 here on that dock.

1 Q And again, you're collecting whatever is in the area
2 of what you consider the crime scene?

3 A Yes, sir. That's correct.

4 MR. MEADORS: Your Honor, we'd offer State's 12,
5 I believe without objection.

6 MS. DURANT: No objection, Your Honor.

7 THE COURT: No objection.

8 (WHEREUPON, State's Exhibit No. 12 is admitted
9 into evidence.)

10 Q Moving along to what I have marked State's 13, do you
11 recognize that?

12 A Yes, sir.

13 Q Can you show us on here where that is?

14 A That's up here in the parking lot area.

15 Q What is 8?

16 A 8 is an area of possible blood located in the parking
17 lot area of Molly's Rock.

18 Q And looking at State's 13, is that a close up of 8?

19 A Yes, sir. That's a close up of 8.

20 Q And again, on this, as always, did you take a swab?

21 A The same procedure as before.

22 Q Seal it, dry it, and take it back to SLED for DNA
23 analysis?

24 A Dry it, seal it, then send it to SLED. Yes, sir.

25 Q Sorry.

1 **MR. MEADORS:** Your Honor, State's Exhibit's 13,
2 I believe without objection.

3 **MS. DURANT:** No objection, Your Honor.

4 (WHEREUPON, State's Exhibit No. 13 is admitted
5 into evidence.)

6 **Q** Helping to explain this, I'm now looking at State's
7 14. Does State's 14 show several placards or
8 placards?

9 **A** Yes, sir. It shows 9, 10, 12 and 13.

10 **Q** And can you show the jury first on State's 57 where
11 they are?

12 **A** 9, 10, 12 and 13, they are in this area right here of
13 the parking lot.

14 **Q** And I know we can all see it. But what's 9 and 10?

15 **A** 9 and 10.

16 **Q** And 12, what are they?

17 **A** 9 is a possible blood area. 10 is a possible blood
18 area. 11 is a jewelry chain. Or, no. I'm sorry.

19 Let me see. 9, 10, 12 and 13. 12 is a possible
20 blood area and 13 is a possible blood area. Sorry.

21 **Q** And again, I did the same thing. So this is State's
22 14 which depicts those four?

23 **A** Yes, sir.

24 **MR. MEADORS:** Your Honor, we'd offer this, I
25 believe without objection.

1 **MS. DURANT:** No objection.

2 (WHEREUPON, State's Exhibit No. 14 is admitted
3 into evidence.)

4 **Q** And as with all of them, you took swabs from these?

5 **A** Yes, sir.

6 **Q** State's 14 -- excuse me. 14 I.D. on you, State's
7 No. 15 here, do you recognize that?

8 **A** Yes, sir. That's a cigar filter. It was located
9 right here in the parking lot.

10 **MR. MEADORS:** Your Honor, we'd offer State's 15.

11 **MS. DURANT:** No objection.

12 (WHEREUPON, State's Exhibit No. 15 is admitted
13 into evidence.)

14 **Q** Do you recognize State's 16?

15 **A** Yes, sir, I do.

16 **Q** What items on your diagram does it depict?

17 **A** I see 14, 8, 11, 9, 12, 10, 13.

18 **Q** And is this more again a distance picture heading
19 back toward the pond?

20 **A** That's what we call a general shot to show the
21 relation of different items to other items within the
22 scene.

23 **MR. MEADORS:** Your Honor, we'd offer State's 16,
24 I believe without objection.

25 **MS. DURANT:** No objection.

1 (WHEREUPON, State's Exhibit No. 16 is admitted
2 into evidence.)

3 Q State's 17, do you recognize that?

4 A Yes, sir. That's placard number 15. It shows a tire
5 mark in the parking lot.

6 MR. MEADORS: Your Honor, we'd offer State's 17
7 I believe without objection.

8 MS. DURANT: No objection.

9 (WHEREUPON, State's Exhibit No. 17 is admitted
10 into evidence.)

11 Q How about State's 18? Do you recognize that?

12 A Yes, sir. That's -- it shows 16, the placard 16.
13 But it also gives a view of a drag mark along in
14 here. You can't see on this reproduction, but it
15 goes along this way.

16 MR. MEADORS: Your Honor, we'd offer State's 18,
17 I believe without objection.

18 MS. DURANT: No objection.

19 (WHEREUPON, State's Exhibit No. 18 is admitted
20 into evidence.)

21 Q And you say a drag mark. Can you just -- forget your
22 training.

23 A Yes, sir.

24 Q Just based on your everyday experience, does that
25 appear to you to be a drag mark?

1 A Yes, sir, that does.

2 Q Can you show it to the jury?

3 A Right there. Starting right here, just like that.

4 Q And then is that coming from this area of the parking
5 lot?

6 A Yes, sir. That's right in here, coming down this
7 way. 16 is actually in the picture. But you can see
8 it going right by 16.

9 Q Okay. And let's get to 16. What is 16?

10 A 16 is --

11 Q Your item No. 16. Not State's Exhibit 16, Madam
12 Court Reporter.

13 A Yeah. It is a Nautica belt loop that we found along
14 that drag mark.

15 Q And I now ask you to look at State's 25. Is that
16 what you're talking about?

17 A Yes, sir. That is a Nautica belt loop, which is 16.

18 MR. MEADORS: Your Honor, we offer State's 25.

19 MS. DURANT: No objection.

20 (WHEREUPON, State's Exhibit No. 25 is admitted
21 into evidence.)

22 Q Next I have the placard marking 17, State's Exhibit
23 26?

24 A Yes, sir.

25 Q Can you tell us what that is?

1 **A** 17 is a plastic comb that we located near the --
2 there was like a pump or a well along this path here.
3 That's the pump or well right there. And that's item
4 17 or No. 17, the plastic comb.

5 **Q** Was that in the vicinity with the drag marks?

6 **A** Yes, sir. The drag mark, the actual line I drew
7 didn't reproduce on this. But it goes right along
8 this side here of the pump, the hand pump.

9 **MR. MEADORS:** And we'd offer State's 26.

10 **MS. DURANT:** No objection.

11 **MR. MEADORS:** Without objection, Your Honor.

12 (WHEREUPON, State's Exhibit No. 26 is admitted
13 into evidence.)

14 **Q** And then I'm showing a close up. State's 19, is that
15 the comb?

16 **A** Yes, sir. That is the comb, No. 17.

17 **MR. MEADORS:** Your Honor, we'd offer that I
18 believe without objection.

19 **MS. DURANT:** No objection.

20 (WHEREUPON, State's Exhibit No. 19 is admitted
21 into evidence.)

22 **Q** Beg the Court's indulgence. I will go to what's been
23 marked State's Exhibit No. 27. Do you recognize
24 that?

25 **A** Yes, sir, I do.

1 Q What is that?

2 A It's No. 19. It is an acorn with possible blood on
3 it.

4 Q And again, Agent Al Stuckey, III, is that in the same
5 general area as where the drag marks are?

6 A Yes, sir, it is.

7 MR. MEADORS: And that's -- we'd offer State's
8 27, Your Honor.

9 MS. DURANT: No objection, Your Honor.

10 THE COURT: Without objection.

11 (WHEREUPON, State's Exhibit No. 27 is admitted
12 into evidence.)

13 Q I have here State's 20, State's 21, State's 22,
14 State's 23 and State's 24. Would these appear to be
15 the close up -- let's go through them, State's 20, is
16 that a close up of placard No. 9?

17 A Yes, sir, it is.

18 MR. MEADORS: Your Honor, we'd offer that, I
19 believe without objection.

20 MS. DURANT: No objection.

21 (WHEREUPON, State's Exhibit No. 20 is admitted
22 into evidence.)

23 Q And State's 21, is that a close up of No. 10?

24 A Yes, sir, it is.

25 MR. MEADORS: Your Honor, we'd offer that, I

1 believe without objection.

2 **MS. DURANT:** No objection.

3 (WHEREUPON, State's Exhibit No. 21 is admitted
4 into evidence.)

5 **Q** State's 22 is placard No. 11. What's that?

6 **A** It's a jewelry chain.

7 **Q** Where was it found?

8 **A** It was No. 11 right here in the parking lot.

9 **Q** Is that near the blood stains?

10 **A** Yes, sir. That's right in amongst the blood stains.

11 **MR. MEADORS:** We'd offer that, Your Honor, I
12 believe without objection, as State's 22.

13 **MS. DURANT:** No objection.

14 (WHEREUPON, State's Exhibit No. 22 is admitted
15 into evidence.)

16 **Q** State's 23, is that a close up of placard No. 12, a
17 blood stain?

18 **A** Yes, sir, that is. Yes, sir, it is.

19 **Q** And State's 24, is that a close up of placard 13,
20 also a blood stain?

21 **A** Yes, sir, that is.

22 **MR. MEADORS:** Your Honor, we'd offer 23 and 24,
23 I believe without objection.

24 **MS. DURANT:** No objection.

25

1 (WHEREUPON, State's Exhibit No. 23 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 24 is admitted
4 into evidence.)

5 Q And specifically, State's 44, is that the actual comb
6 that's depicted, your No. 17?

7 A Yes, sir. It was my item 7 but it was on No. 17
8 placard. It's got my case number, item number and
9 initials.

10 MR. MEADORS: Your Honor, we'd offer state 44.

11 MS. DURANT: No objection, Your Honor..

12 (WHEREUPON, State's Exhibit No. 44 is admitted
13 into evidence.)

14 Q And State's 49, is that that Nautica belt buckle?

15 A Yes, sir, it is.

16 MR. MEADORS: Your Honor, we'd offer State's 49,
17 please.

18 MS. DURANT: No objection.

19 (WHEREUPON, State's Exhibit No. 49 is admitted
20 into evidence.)

21 Q Are you familiar with State's 48?

22 A Yes, sir. This was a tag that was found located by a
23 Newberry County Sheriff's Deputy that was logged into
24 the SLED forensic lab, and I received that item.

25 MR. MEADORS: Your Honor, at this time we'd mark

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1 for identification at this point State's 48. Beg the
2 Court's indulgence.

3 **MS. DURANT:** No objection, Your Honor.

4 **MR. MEADORS:** Just for I.D.?

5 **MS. DURANT:** Right.

6 **MR. MEADORS:** 48 for I.D. at this point, Your
7 Honor.

8 **THE COURT:** All right..

9 (State's No. 48 previously marked)

10 **Q** And you received this from a Newberry --

11 **A** County Sheriff's Deputy. Yes, sir.

12 **Q** And you got it and turned it over to SLED?

13 **A** No, sir. He logged it in at the SLED forensic lab
14 straight to me. Robert Dennis logged it in to me and
15 I received it from him.

16 **Q** Okay. This is State's 52. Here it is. It's 51.

17 State's 52, can you tell me if you recognize that?

18 Does it relate to this.

19 **A** Yes, sir. It has the lab number and the item number
20 and then my initials.

21 **Q** Can you tell us what that is?

22 **A** It says glove from opposite side of pond from victim,
23 which would have been No. 21.

24 **MR. MEADORS:** Your Honor, we'd now offer State's
25 52.

1 **MS. DURANT:** No objection.

2 (WHEREUPON, State's Exhibit No. 52 is admitted
3 into evidence.)

4 **Q** Please tell the Ladies and Gentlemen of the Jury if
5 you recognize 46?

6 **A** Yes, sir, I do.

7 **MR. MEADORS:** Your Honor, we'd offer 46, I
8 believe without objection.

9 **MS. DURANT:** No objection.

10 (WHEREUPON, State's Exhibit No. 46 is admitted
11 into evidence.)

12 **Q** And you collected this from --

13 **A** Yes, sir. It was a water bottle that was next to the
14 jacket over at -- noted as 20. It was across the
15 pond. It's showing it right there.

16 **Q** All right. I think we're back to State's 50. Can
17 you tell us what this is?

18 **A** Let me see it. State's 50 is what I have noted down
19 as a flashlight and a head lamp.

20 **Q** Where did you receive this from?

21 **A** I received that at the same time I received the tag
22 from Sergeant Robert Dennis, a Newberry County
23 Sheriff's Deputy. He logged it into the lab and I
24 received it directly from him.

25 **Q** Do you know exactly where it was found?

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

2 **Q** But you know it was found?

3 **A** He told me, but I don't know.

4 **MR. MEADORS:** Your Honor, at this time we offer
5 State's 50 for identification at this point.

6 **MS. DURANT:** Your Honor, I think we do object to
7 that because there is no indication that it was --
8 that Mr. Stuckey found it there.

9 **MR. MEADORS:** Your Honor, this just came in his
10 possession. This for I.D. at this point only. We'd
11 have to call somebody else to --

12 **MS. DURANT:** For I.D. only?

13 **MR. MEADORS:** Yes.

14 **MS. DURANT:** No objection to that, Your Honor.

15 (State's No. 50 previously marked)

16 **Q** If I can here now, you mentioned an acorn shell
17 earlier. Here it is marked State's 33 (sic) I think.
18 Is that the actual acorn shell?

19 **A** It is the acorn shell. Yes, sir.

20 **Q** Who collected this?

21 **A** I collected it.

22 **Q** Then what did you do with it?

23 **A** I logged it into the SLED forensic lab and it went to
24 DNA for analysis.

25 **MR. MEADORS:** Your Honor, we'd offer State's 33

1 at this point at this point.

2 **MS. DURANT:** No objection.

3 **MR. MEADORS:** Beg the Court's indulgence. It's
4 55. Sorry.

5 **COURT REPORTER:** For I.D., right?

6 **MR. MEADORS:** Yes, ma'am.

7 (State's No. 55 previously marked)

8 **Q** 56, do you recognize that?

9 **A** Yes, sir. That is the cigar filter from marker
10 No. 14.

11 **MR. MEADORS:** Your Honor, we would now offer 56
12 for identification.

13 **MS. DURANT:** No objection, Your Honor.

14 (State's No. 56 previously marked)

15 **Q** And you mentioned earlier I believe the duct tape.
16 Is this the duct tape you found, and is that State's
17 53?

18 **A** State's 53 is the duct tape I found at marker No. 7.

19 **MR. MEADORS:** Your Honor, we'd offer that for
20 identification at this time, State's 53.

21 **MS. DURANT:** No objection, Your Honor.

22 (State's No. 53 previously marked).

23 **Q** Showing you what's marked State's 54 for
24 identification, did you collect I think you've told
25 us the cigarette?

1 **A** Yes, sir. That is the cigarette from marker No. 6.

2 **MR. MEADORS:** We'd offer that as State's 54 for
3 identification at this time, Your Honor.

4 **MS. DURANT:** No objection.

5 (State's No. 54 previously marked)

6 **Q** Do you recognize that?

7 **A** Yes, sir. That is the jewelry chain from marker
8 No. 7.

9 **MS. DURANT:** No objection, Your Honor.

10 **MR. MEADORS:** Your Honor, at this time the State
11 offers 58 for I.D. only.

12 (WHEREUPON, State's Exhibit No. 58 is marked for
13 identification.)

14 **Q** You collected that?

15 **A** Yes, sir, I did.

16 **Q** What did you do with it?

17 **A** I logged it in and I processed it. I actually
18 received that and I processed it for DNA and prints.

19 **Q** You yourself did?

20 **A** Yes, sir.

21 **Q** And the results of that were what?

22 **A** There were no latents of value developed on item
23 No. 6.

24 **Q** What does that mean?

25 **A** It means that if I developed any latents at all that

1 they were not enough for me to identify anybody to
2 the latents. It also can mean that I didn't develop
3 any latents at all. It's either no ridge detail
4 developed or insufficient ridge detail for
5 identification purposes.

6 Q And is that unusual?

7 A No, sir, it's not.

8 Q What could determine whether you can get something
9 that's of evidentiary value, specifically relating to
10 fingerprints? What could cause you not to get it?
11 Could the environment? The conditions? What?

12 A Well, first of all, the person could be wearing
13 gloves. Then the environment around where the item
14 is touched and then the condition of the person's
15 hands when they touch it could all play into whether
16 or not we get a latent fingerprint on a particular
17 item.

18 Q Before I get you to step down, I think there's been
19 testimony previously about this coat. I believe it's
20 State's 43. Did you see this coat when you were out
21 at Molly's Rock?

22 A Yes, sir, I did. It has my lab number and item
23 number.

24 Q What did you -- how did that coat get from Molly's
25 Rock to SLED?

1 **A** I transported it from Molly's Rock to SLED and logged
2 it in.

3 **Q** Once it got to SLED, what happened to it?

4 **A** I secured it and logged it in for DNA analysis.

5 **Q** You didn't do the analysis on that?

6 **A** No, sir, I did not.

7 **Q** I think at this time you can have a seat back,
8 please. Did you find any identification on the body
9 of Brian Anderson when you were at Molly's Rock Pond?

10 **A** No, sir, we did not.

11 **Q** Did you all attempt to find some?

12 **A** Yes, sir, we did.

13 **Q** When you've got a body and you don't have any
14 identification, you as in law enforcement, what do
15 you do to try to determine the identity of a body
16 that you don't know who it is?

17 **A** We attempt to print their hands and identify them
18 through our AFIS machine, Automated Fingerprint
19 Identification System.

20 **Q** And did you get an inked impression of the victim in
21 this case for identification purposes?

22 **A** Yes, sir, I did.

23 **Q** And specifically, the clothes were checked for I.D.
24 and there were none?

25 **A** Yes, sir.

- 1 Q Now, what time did you depart that scene? I think
2 you said you got there at 2:20. And this is New
3 Year's Eve day?
- 4 A New Year's Eve day; yes, sir.
- 5 Q So what time did you leave Molly's Rock?
- 6 A I departed at approximately 6:30 p.m.
- 7 Q And this evidence was transported by you to SLED?
- 8 A Yes, sir, it was.
- 9 Q Now, did you have an occasion -- this is now your
10 case I guess evidence wise as far as Newberry is
11 concerned?
- 12 A Yes, sir.
- 13 Q Did you have an occasion to hear from the Newberry
14 officials after this?
- 15 A Yes, sir, I did.
- 16 Q Please tell the Ladies and Gentlemen of the Jury
17 about that?
- 18 A I was contacted on January 1st, 2004, at
19 approximately 6:30 p.m. by Investigator Robert Dennis
20 of the Newberry County Sheriff's Department.
- 21 Q Let me just stop you. That's like the next day,
22 right?
- 23 A Yes, sir. That's the next day.
- 24 Q And for what purpose were you contacted by Sergeant
25 Robert Dennis?

1 **A** He stated that they had found the victim's car in
2 relation to the body that was recovered at Molly's
3 Rock Park.

4 **Q** And as a result of that phone call on January 1st
5 now, what did you do?

6 **A** I responded to the area where the car was recovered
7 and proceeded to process that crime scene.

8 **Q** Please tell the ladies and gentlemen, where was the
9 car?

10 **A** It was Colony East Apartment Complex on Kay Street in
11 Columbia, South Carolina, which is right off of St.
12 Andrews Road.

13 **Q** And showing you what's marked State's 83 (sic), do
14 you recognize -- 33, do you recognize that?

15 **A** Yes, sir. That's the car as we found it at the
16 apartment complex.

17 **MR. MEADORS:** Your Honor, I believe this is
18 without objection.

19 **MS. DURANT:** Let me see.

20 **MR. MEADORS:** Your Honor, we'd offer State's 33,
21 I believe without objection.

22 **MS. DURANT:** No objection, Your Honor.

23 (WHEREUPON, State's Exhibit No. 33 is admitted
24 into evidence.)

25 **Q** I presume you did the same thing -- is this a new

1 crime scene, too; a potential crime scene, correct?

2 A Yes, sir. That's correct.

3 Q What did you do when you arrived at the car on
4 January 1st?

5 A Well, the initial walk through is a little more
6 abbreviated because we don't have quite the area that
7 we had before, but it's the same proceeding, that we
8 look for any type of concerns chemically or biohazard
9 there may be to us. At that point we document the
10 scene with photography.

11 Q You take pictures?

12 A Yes, sir. We take pictures.

13 Q And did you take pictures of the inside of the car?

14 A As I recall we documented the outside of the car as
15 it was at the Colony East Apartment Complex, and then
16 we had the car transported back to our vehicle
17 processing area at the SLED forensic lab on Broad
18 River Road.

19 Q Is that a more controlled environment there?

20 A Yes, sir. It's more controlled. We have lighting
21 there and it's a controlled environment there
22 temperature wise. So, yeah, we can close it in. And
23 it's heated in there.

24 Q All right. State's 32, does that depict the front of
25 Mr. Anderson's car?

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1 **A** Yes, sir, it does.

2 **MR. MEADORS:** Your Honor, we'd offer State's 32,
3 I believe without objection.

4 **MS. DURANT:** No objection, Your Honor.

5 (WHEREUPON, State's Exhibit No. 32 is admitted
6 into evidence.)

7 **Q** Looking at the back of State's 35, do you recognize
8 that also?

9 **A** Yes, sir. That's a picture of the back seat of the
10 vehicle recovered at the apartment complex.

11 **Q** And State's 39?

12 **A** 39 is a picture of the other side of the back seat
13 from the driver's side of the vehicle.

14 **Q** And State's 38 -- 36, 37 and 38. And call them out
15 as you refer to them, please?

16 **A** 36 is a --

17 **Q** Yeah. That's it. Go ahead.

18 **A** 36 is a photograph of a McDonald's bag that was
19 sitting in the middle hump as I refer to it, in the
20 front passenger area of the vehicle. 37 is a
21 photograph of the front passenger's side seat. 38 is
22 a photograph of the trunk area of the vehicle.

23 **WITNESS:** Your Honor, may I get a drink of
24 water, please?

25 **THE COURT:** It's right behind you.

1 **WITNESS:** Thank you.

2 **MR. MEADORS:** Your Honor, at this time we'd
3 offer State's 37 and 38; I believe without objection.

4 **MS. DURANT:** No objection to those, Your Honor.

5 (WHEREUPON, State's Exhibit No. 37 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 38 is admitted
8 into evidence.)

9 **MR. MEADORS:** We need to approach just very
10 briefly on these, Your Honor, please.

11 (Whereupon, a bench conference is had)

12 **MS. OWINGS:** Your Honor, at this time we'd offer
13 State's 35, 36 and 39.

14 **MS. DURANT:** We do state an objection to those,
15 Your Honor.

16 **THE COURT:** The objection is overruled. Go
17 ahead.

18 (WHEREUPON, State's Exhibit No. 35 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 36 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 39 is admitted
23 into evidence.)

24 **Q** The interior pictures of the car, specifically
25 State's 35, there appears to be a substance there in

1 the floorboard?

2 **A** Yes, sir.

3 **Q** And also on State's 36. What, if anything, did you
4 do with the substance?

5 **A** That appeared to be blood. And I took approximately
6 four swabs from inside or outside the vehicle, or
7 inside the vehicle.

8 **Q** And on State's 37 which has been entered, would this
9 be the passenger's side?

10 **A** Yes, sir. That's the passenger's side.

11 **Q** There appears to be a red substance here. Did you
12 take a sample of that or a swab? And it might be
13 more generally. What did you do on the interior of
14 this car? Maybe I'll ask you that.

15 **A** I took swabs from different areas inside the vehicle,
16 from different areas of what I thought was possible
17 blood inside the vehicle.

18 **Q** And can you tell the jury where you took swabs?

19 **A** I took a set of swabs from the front passenger's
20 seat, from the rear passenger's side floorboard, from
21 the inner side of the front passenger's side seat,
22 and from the inner side of the front passenger's
23 seat. So there were two swabs taken from the inner
24 side of the front passenger's side.

25 **Q** Inner side of the front passenger's seat?

1 **A** Yes, sir.

2 **Q** Now, were there any other items collected? What
3 items were collected out of the car?

4 **A** I collected the McDonald's bag from the center of the
5 front seat or the hump area of the front seat, a set
6 of miscellaneous papers from the glove box, a Ford
7 Crown Victoria owner's manual from the front seat
8 area, and a set of miscellaneous paper items from the
9 front seat floorboard area.

10 **MR. MEADORS:** What's our next number, Madam
11 Court Reporter?

12 **COURT REPORTER:** No. 59.

13 **Q** Is this the McDonald's bag you collected?

14 **A** Yes, sir, it is. It has my case number and item
15 number and initials on it.

16 **MR. MEADORS:** Your Honor, without opening this,
17 we would offer it as State's Exhibit No. 59.

18 **MS. DURANT:** No objection, Your Honor.

19 (WHEREUPON, State's Exhibit No. 59 is marked for
20 identification and received in evidence.)

21 **Q** Have you got a picture of it, a Polaroid of the item?

22 **A** Yes, sir. I've got a Polaroid of it.

23 **MR. MEADORS:** Your Honor, we'd offer State's 60,
24 I believe without objection.

25 **MS. DURANT:** No objection, Your Honor.

1 (WHEREUPON, State's Exhibit No. 60 is marked for
2 identification and received in evidence.)

3 A That is the contents of the McDonald's bag and the
4 McDonald's bag.

5 Q And it looks like the hamburger is still there and
6 the french fries, correct?

7 A Yes, sir.

8 Q Your Honor, thank you. We're trying to wrap up here.
9 You mentioned some miscellaneous papers from the
10 glove box. Did you collect those, and have they been
11 marked as item 45?

12 A Yes, sir. Yes, they have.

13 MR. MEADORS: Your Honor, we'd offer that, I
14 believe without objection.

15 MS. DURANT: No objection.

16 (WHEREUPON, State's Exhibit No. 45 is admitted
17 into evidence.)

18 Q And miscellaneous papers from the front seat
19 floorboard passenger's side, State's 47?

20 A Yes, sir.

21 Q And your writing is on here. We're saying yes. But
22 I mean, you can identify these papers?

23 A Yes, sir. That's my case number, my item number, my
24 initials on that items.

25 Q You put that number there?

1 **A** Yes, sir. I put those numbers there.

2 **MR. MEADORS:** We'd offer State's No. 47, I
3 believe without objection.

4 **MS. DURANT:** No objection.

5 (WHEREUPON, State's Exhibit No. 47 is admitted
6 into evidence.)

7 **Q** State's 51, does that have your initials?

8 **A** That has my case number, initials and item number on
9 it and my description of what I collected and where I
10 collected it from.

11 **Q** You got all this, right?

12 **A** Yes, sir. I collected all that.

13 **Q** And that's from the owner's manual from the front
14 seat?

15 **A** Yes, sir.

16 **MR. MEADORS:** And we'd offer this as State's 51,
17 Your Honor, I believe without objection.

18 **MS. DURANT:** No objection.

19 (WHEREUPON, State's Exhibit No. 51 is admitted
20 into evidence.)

21 **Q** You got all this material, all this evidence,
22 potential evidence, from Molly's Rock and from the
23 car. Some of it you sent on to DNA for analysis,
24 correct?

25 **A** That's correct. Yes, sir.

1 Q What were you able to do with any of the evidence,
2 and did you issue a report?

3 A Yes, sir, I did. And I processed all items that came
4 to me for latent print evidence.

5 Q Can you go through that in the best way you can and
6 tell the jury those results?

7 A On everything that I collected?

8 Q The results that you came up with on the items that
9 you collected and/or that you evaluated or at
10 examined?

11 A Of the items that I collected and processed, the only
12 person I was able to identify was Brian Anderson.

13 Q The victim in the case?

14 A The victim in the case. Yes, sir.

15 Q Were you able to identify any fingerprints beyond --
16 how did you identify Brian Anderson?

17 A I'm sorry. I don't understand the question.

18 Q You said the only person you were able to identify
19 was Brian Anderson. How?

20 A Yes, sir. It is the same method as I described
21 earlier, comparing a latent to the known impression
22 of Brian Anderson.

23 Q And to summarize the rest of them, did you attempt to
24 get latent prints on these other items and you were
25 not able to find any identifiable --

- 1 **A** Well, I found identifiable items. But those
2 conclusions, two of them that I was able to get
3 latents off of were not identified with Brian
4 Anderson or Keith Antonio Sims. Three more of the
5 latents that I developed were -- I could not make a
6 conclusion based on the known fingerprint cards I had
7 on Brian Anderson or Keith Antonio Sims.
- 8 **Q** Specifically on your report, and you were looking for
9 fingerprint analysis for comparison, correct?
- 10 **A** Yes, sir.
- 11 **Q** Specifically, the loop, Nautica belt, you weren't
12 able to get anything off there to identify it by
13 fingerprints, correct?
- 14 **A** That is correct. Yes, sir.
- 15 **Q** And the same as far as the duct tape, correct?
- 16 **A** Yes, sir. That's correct.
- 17 **Q** The clear plastic bottle. So you were just gathering
18 evidence. You couldn't get any identifiable print
19 that led to anybody on that, correct? And I'm going
20 straight down your report.
- 21 **A** Okay. Yes, sir. That's correct.
- 22 **Q** The same as with the jewelry chain, correct?
- 23 **A** That's item 6?
- 24 **Q** Yes, sir.
- 25 **A** Yes, sir. That's correct.

- 1 Q The same as with item 7, the plastic comb, correct?
- 2 A That's correct. Yes, sir.
- 3 Q As well as the white plastic bottle, correct?
- 4 A That was item ...?
- 5 Q 10.
- 6 A Yes, sir. That's correct.
- 7 Q And there's nothing more you were able to do with
- 8 these blocks and the chain, correct? Except they
- 9 were found there with the body of Brian Anderson,
- 10 correct? And that's items 27, 28 and 31.
- 11 A Actually, I processed the blocks and the chain for
- 12 latents and was unable to get any.
- 13 Q That was my next question.
- 14 A Yes, sir. That's correct.
- 15 Q Thank you. Begging the Court's indulgence. And to
- 16 summarize, and I guess you stated it to start with,
- 17 besides identifying Brian Anderson, you couldn't get
- 18 prints identifying anybody else?
- 19 A That's correct. Yes, sir.
- 20 Q Now, did you get some footwear impressions?
- 21 A Yes, sir, I did.
- 22 Q Where did you collect those from?
- 23 A The diagram is down now. But it was at marker
- 24 No. 18. It was right near the acorn.
- 25 Q Okay. Show me where that is?

1 **A** Right here.

2 **Q** Is that again consistent with what I've referred to
3 as the drag marks?

4 **A** Yes, sir.

5 **Q** Did you ever compare those footprint impressions with
6 a shoe?

7 **A** No, sir, I did not.

8 **Q** Beg the Court's indulgence. As far as the items,
9 Special Agent Al Stuckey, III, that have been entered
10 here along with the DNA analysis, were they in your
11 custody and then SLED's custody until they came back?

12 **A** Yes, sir. They were in my custody and then went to
13 SLED or the laboratory custody. Yes, sir.

14 **Q** And they were in their custody until they were
15 brought back to this courthouse by either one of the
16 agents involved or one of the SLED agents involved,
17 correct; to the best of your knowledge?

18 **A** To the best of my knowledge.

19 **MR. MEADORS:** Thank you, Judge.

20 **THE COURT:** All right. All right, ladies and
21 gentlemen. That will conclude the testimony for the
22 day. It's about a quarter to 6. I think I'm going
23 to let you go. I'm going to ask you to be back in
24 the jury room at 9:30 in the morning at which time
25 the trial will continue. Again, do not discuss the

1 case among yourselves when you return to the jury
2 room or with anyone else over the evening, including
3 your family. And I believe that that prohibition
4 goes as far as to anybody else. It would be improper
5 for you to be talking about the case to somebody
6 else. And again I will remind you not to read or
7 listen to any press reports about this trial. Again
8 that would also be improper.

9 So I hope you have a pleasant evening. I'll see
10 you at 9:30 in the morning. Thank you. You can --
11 the bailiff will collect the note pads and give them
12 back to you in the morning.

13 (Jury out at 5:40 p.m.)

14 **THE COURT:** Anything before we adjourn?

15 **MR. MEADORS:** Your Honor, no, sir. We made a --
16 went through a good bit of -- how early are you
17 starting tomorrow?

18 **THE COURT:** 9:30.

19 **MR. MEADORS:** I didn't hear you.

20 **THE COURT:** The jury will be here at 9:30.

21 **MR. MEADORS:** I couldn't hear you.

22 **MS. DURANT:** Not from the defense.

23 **THE COURT:** Well, I'll be available at 9:00 in
24 the morning. If anything else comes up in the
25 morning, I'll be glad to talk it over with you.

1 Thank you very much. Stand adjourned until 9:30 in
2 the morning.

3 (Whereupon, the proceedings are concluded for
4 the day, to be reconvened tomorrow morning)

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Tuesday, March 21, 2006

THE COURT: Is the State ready to proceed?

MR. MEADORS: The State's ready. Yes, sir.

THE COURT: Is the defense ready to proceed?

MS. DURANT: Your Honor, I don't know if there is still some pretrial issues we need to finish. But we're not going to make an issue about the --

COURT REPORTER: I couldn't hear her.

MS. DURANT: I don't know if we finished the pretrial issues. I don't know if we were going to talk about settling the records for everyone that we needed.

THE COURT: I would assume that would have been done right now.

MR. MEADORS: Yes, sir. This next witness does not have a -- we're not through with Stuckey yet. The next witness does not have a prior record. Beyond that, I think Mr. Ruff does have a prior record. They have that one.

MS. DURANT: Right.

MR. MEADORS: Then we've got some other potential witnesses that may, but I don't think we'll get to those before lunch.

THE COURT: They're law enforcement?

MR. MEADORS: Yes, sir.

1 **MS. DURANT:** I didn't know if you wanted to talk
2 about Keith's, but we'll do that later.

3 **MR. MEADORS:** That would be fine.

4 **THE COURT:** About what?

5 **MS. DURANT:** About my client's record. If we're
6 ready to clarify that.

7 **MR. MEADORS:** Your Honor, I'd as soon do that at
8 the lunch hour. We're not going to get to that
9 today.

10 **THE COURT:** It's not clear. All right. Are you
11 ready for the jury?

12 **MR. MEADORS:** Yes, sir. There will just be a
13 minute break between since they are sequestered.
14 We've got them in the office. But other than that,
15 we're ready.

16 **THE COURT:** Just everybody have a seat. All
17 right. Bring the jury, please.

18 (Jury in at 9:43 a.m.)

19 **THE BAILIFF:** The jury is present, Your Honor.

20 **THE COURT:** All right. Thank you very much.
21 Good morning, ladies and gentlemen. I hope you had a
22 pleasant evening. We're now ready to continue with
23 the trial. Solicitor, you may call your next
24 witness.

25 **MR. MEADORS:** Your Honor, I think we're in the

1 middle of Special Agent Stuckey.

2 **THE COURT:** I'm sorry. Come around, Agent
3 Stuckey. Cross examination.

4 **MS. DURANT:** Thank you, Your Honor.

5 CROSS EXAMINATION

6 **BY MS. DURANT**

7 **Q** Good morning, Agent Stuckey.

8 **A** Good morning.

9 **Q** How are you today?

10 **A** I'm fine. Thank you.

11 **Q** I'm Lanelle Durant. I'm one of the attorneys
12 representing the defendant, Keith Sims.

13 **A** Yes, ma'am.

14 **Q** And I wanted to ask you some questions about your
15 testimony yesterday.

16 **A** Okay.

17 **Q** You checked all of the items in the case or all of
18 the items that you checked for fingerprints, right?
19 You're the one that checked for fingerprints?

20 **A** Yes, ma'am. I checked the items for fingerprints
21 that came to me.

22 **Q** And in all of the items that you checked, you did not
23 find Keith Sims' fingerprints on any of those items.
24 Isn't that correct?

25 **A** That is correct. Yes, ma'am.

1 Q And that included the items that were in the
2 passenger's seat, all of the items that were in the
3 car?

4 A That is correct. Yes, ma'am.

5 Q And I also think you said you had given a report in
6 this case?

7 A Yes, ma'am.

8 Q And I think part of your report, you said that you
9 photographed the car as it was recovered?

10 A That was part of my testimony; yes, ma'am. It
11 doesn't go out in our report as that though.

12 Q Right. And I think when the car was recovered, the
13 front driver's seat was open?

14 A I'm sorry. I don't --

15 Q When the car was recovered, when you saw the car,
16 when you went to photograph the car, the driver's
17 door was open?

18 A If I could see a photograph of that, because I don't
19 recall it.

20 Q Well, I think you have a copy of your report, Agent
21 Stuckey?

22 A No, ma'am. All my copies were given out.

23 Q Okay. May I approach the witness, Your Honor?

24 THE COURT: Sure.

25 A This is a copy of my crime scene notes from my case

1 file. This isn't actually the report. But, yes,
2 ma'am; it does say the front driver's side door was
3 ajar.

4 Q And that was as it was recovered?

5 A Yes, ma'am.

6 Q And you signed that report?

7 A Yes, ma'am, I did.

8 Q Thank you. I think you do crime scene investigation?

9 A That is correct. Yes, ma'am.

10 Q It's probably as close as we get to CSI?

11 A Yes, ma'am. Pretty close.

12 Q And part of what you do is blood stain pattern
13 analysis?

14 A Interpretation. Yes, ma'am.

15 Q And you're certified as an expert in that, correct?

16 A I have been in the past. Yes, ma'am.

17 Q Okay. Blood stain pattern analysis can tell you many
18 things about a case. Isn't that true?

19 A Yes, ma'am. It is possible.

20 Q Some of the things it can tell may be what kind of
21 weapon was used to create the blood stains?

22 A Yes, ma'am. That is correct.

23 Q The position of the victim or maybe even the position
24 of the assailant. Isn't that true?

25 A That is correct. Yes, ma'am.

1 Q And it could tell the distance of the victim from the
2 blood stains?

3 A That is correct. Yes, ma'am.

4 Q And one of the ways you do this is looking at the
5 velocity of the blood stains. Is that correct?

6 A Well, yes, ma'am. The velocity of the stains is
7 directly correlated to the amount of force acted upon
8 a person as the blood is let out of the body.

9 Q I'm not an expert, so let me make sure I understand.
10 Okay? Velocity does not refer to the speed of the
11 blood?

12 A Yes, ma'am, it does. But it's not like a velocity as
13 like a car. It's more directly correlated to a force
14 as opposed to like a baseball bat, a gunshot, high
15 speed machinery. That's what we refer to as velocity
16 as opposed to like a speeding car. In other words,
17 we don't look at it as feet per second or miles per
18 hour. We look at it as force.

19 Q So it would be the force of whatever caused the
20 blood?

21 A Yes, ma'am. Whatever caused the blood to come to the
22 skin or come out of the body or the blood to let out
23 of the body.

24 Q Okay. So you can have high velocity, low velocity,
25 medium velocity?

- 1 **A** That is correct. Yes, ma'am.
- 2 **Q** Now, in this case I think you described as high
3 velocity blood stains were seen in some part of the
4 car?
- 5 **A** Yes, ma'am. In part of the car.
- 6 **Q** And I think in your report -- and I don't know if you
7 have a --
- 8 **A** I have a copy of my notes.
- 9 **Q** You do a copy of your notes. Okay. I'm sorry.
10 These are your notes, not the official report?
- 11 **A** Yes, ma'am.
- 12 **Q** Okay. I apologize for that. I think you said the
13 area on the inside portion of the front passenger's
14 side seat were high velocity impact stains?
- 15 **A** Yes, ma'am.
- 16 **Q** Is that correct? And high velocity impact stains are
17 very small stains. Is that not true?
- 18 **A** That is correct. They are very small stains, a
19 millimeter or less. They appear as though it's like
20 a aerosol, like if you have a spray bottle and you
21 spray aerosol, those dots that spray out on the
22 surface are high velocity. It's going to be like an
23 aerosol type spray.
- 24 **Q** Sort of like a mist?
- 25 **A** Like a mist; yes, ma'am.

1 Q Maybe the size of the pin of a head, the head of a
2 needle. The head of a pin? I'm sorry.

3 A Yes, ma'am.

4 Q And high velocity impact stains are usually caused by
5 a gunshot?

6 A They are caused by a gunshot most likely or high
7 speed machinery.

8 Q Okay. So if you ...

9 MR. MEADORS: No objection.

10 MS. DURANT: May I approach the witness, Your
11 Honor?

12 THE COURT: Certainly.

13 Q Agent Stuckey, do you recognize that picture?

14 A Yes, ma'am, I do.

15 Q That was one of the photographs you took, correct?

16 A Yes, ma'am, it is.

17 Q And that is a -- are those high velocity impact
18 stains? Blood?

19 A Yes, ma'am. That is high velocity impact stains.

20 Q And that is on the part of your report, the rear -- I
21 mean, the inside of the bottom of the passenger's
22 seat?

23 A Yes, ma'am. If I was sitting in the passenger's seat
24 and the driver was sitting here, they would be right
25 here on the side of the chair.

1 Q Okay. And that's what this indicates?

2 A That that's what this indicates. Yes, ma'am.

3 MS. DURANT: Your Honor, I would like to offer
4 this for evidence please, Defense Exhibit 1.

5 THE COURT: Without objection.

6 COURT REPORTER: I need to mark it. And it's
7 actually No. 1. You're right. No. 1. Excuse me.

8 A Just make sure that it's the correct orientation when
9 they look at it.

10 Q Right. So, I'm sorry. I'll have Agent Stuckey put
11 it in the right order.

12 A This is the actual seat cushion and this is the
13 bottom part of the seat and this is under the seat.
14 So it's just like that.

15 Q And I'm sorry?

16 A I'm sorry.

17 Q So this dark pattern right here is just a shadow?

18 A That's a shadow from the flash of the camera.

19 Q So this is the correct --

20 A Other way.

21 Q This way?

22 A Yes, ma'am. That's correct.

23 Q So the correct way would be this mark is at the top?

24 A That's correct. Yes, ma'am.

25 Q Okay. So in high velocity impact stains, the victim

1 would be about 12 inches or less from the impact
2 stains? Is that true?

3 **A** High velocity impact stains travel no more than five
4 feet. So we're talking about five feet or less. And
5 most times we're talking between two and four feet.

6 **Q** Okay. Well, isn't there a method to determine
7 exactly how far the victim is from the stains?

8 **A** If there is one, I mean --

9 **Q** Well, there's a way to determine the point of
10 convergence for blood stains to determine the point
11 of origin?

12 **A** Is -- yes, ma'am. Oh, yes, ma'am, there is. I'm
13 sorry.

14 **Q** Stringing is one of those techniques I think. Is
15 that correct?

16 **A** It is one of them. Yes, ma'am.

17 **Q** And if I can demonstrate. I don't have a marker. Do
18 we have a marker? Let's just say these are some
19 blood stains. I don't know if you can see these. In
20 stringing --

21 **THE COURT:** The clerk has one.

22 **MS. DURANT:** Thank you.

23 **Q** So, in the stringing -- thank you. We'll try
24 again -- so in the stringing technique, to determine
25 the point of origin, you could actually draw a string

1 from these blood stains. Is that correct?

2 A Generally, that is correct. I mean, there's a little
3 bit more to it than that. But, yes, ma'am; that's a
4 general description of what it is.

5 Q And the point at which they converge would be
6 basically the point of convergence or the point of
7 origin?

8 A Well, the point is a little more specific than what
9 we tend to do. It's more of an area of origin as
10 opposed to a point of origin. In other words, we
11 can't get it down to the exact point where a bullet
12 entered a head. We can get it to an area where that
13 head would have been as opposed to a point, like what
14 you're saying, where the bullet would have entered.
15 It would have been more like an area of where the
16 victim would have been.

17 Q Well, it is possible to narrow the area, correct?

18 A Yes, ma'am.

19 Q So you can narrow the area to a foot or less?

20 A I wouldn't be willing to say that at this point in
21 the particular case.

22 Q But, I mean, that would give you a more specific
23 point of origin than just saying a general area of
24 two to four feet, correct?

25 A Yes, ma'am. Well, I mean, it depends on what kind of

1 area we're talking about.

2 Q Well, if you use that method, I think you can do it
3 with a computer, too. Isn't that true?

4 A We don't use computers. We strictly use our
5 scientific calculators and a drawing.

6 Q So you use scientific calculators?

7 A Yes, ma'am.

8 Q But it is possible to do it with a computer. Isn't
9 that true?

10 A It is possible. Yes, ma'am.

11 Q But SLED doesn't use that?

12 A No, ma'am. What we use computers for are sketches,
13 but that's about it.

14 Q Okay. But if you did the stringing method you could
15 narrow it to it will tell you much more about the
16 point of origin, correct?

17 A I don't know. I don't know what you're asking me
18 exactly. I mean, the point of origin for those
19 stains in this particular case was the driver's side,
20 was the front driver's side of the seat.

21 Q So you do know that they came from the front driver's
22 seat?

23 A Yes, ma'am. I am willing to say that.

24 Q But your report does not indicate that you used the
25 stringing method or any method to determine the point

1 of origin, correct?

2 A No, ma'am.

3 Q So without having done that method, basically you're
4 just giving us a best estimate of how far the body
5 was from the blood stains. Is that true?

6 A As a -- well, I knew that the body could not have
7 been outside the vehicle.

8 Q Right.

9 A And I knew that it could not have been in the
10 passenger's side, because there's no way for the
11 blood to curve. So there's only one other place for
12 it to be, and that would be in the front driver's
13 side seat. I guess you'd call it common sense as
14 opposed to a best guess estimate.

15 Q Okay.

16 A I mean, that's --

17 Q But it wasn't a really scientific method to determine
18 it?

19 A It was based on the science of blood stain pattern
20 interpretation, but there's no other possible
21 explanation for it.

22 Q Other than he was in the driver's seat?

23 A Other than the fact that he was in the driver's seat.

24 Q I beg the Court's indulgence, Your Honor. Thank you,
25 Agent Stuckey. No further questions.

1 **MR. MEADORS:** Just quick follow-up.

2 **THE COURT:** Redirect.

3 **MR. MEADORS:** Thank you. May it please the
4 Court.

5 REDIRECT EXAMINATION.

6 **BY MR. MEADORS**

7 **Q** Ms. Durant was asking you about blood in the car.
8 And I think you testified yesterday about some swabs
9 you took. I have these divided in swabs from Molly's
10 Rock and swabs from the car. Can you tell me which
11 is which? Looking at what's marked State's 61 -- and
12 thank you for everybody's patience, Your Honor -- are
13 these the swabs from Molly's Rock?

14 **A** Yes, sir, they are.

15 **Q** And you collected these and sent these to SLED,
16 correct?

17 **A** Yes, sir.

18 **MR. MEADORS:** Your Honor, we'd offer State's 61,
19 swabs from Molly's Rock, without objection, I
20 believe.

21 **MS. DURANT:** No objection, Your Honor.

22 (WHEREUPON, State's Exhibit No. 61 is marked for
23 identification and received in evidence.)

24 **Q** Do you also have swabs from the vehicle?

25 **A** I think you've got them.

1 Q Beg the Court's indulgence. And would these be the
2 swabs from the vehicle?

3 A Yes, sir, they are.

4 MR. MEADORS: Your Honor, we'd offer those as
5 State's 62, I believe without objection.

6 MS. DURANT: No objection, Your Honor.

7 (WHEREUPON, State's Exhibit No. 62 is marked for
8 identification and received in evidence.)

9 Q My apologies to everybody. Can you look at this item
10 and tell me if you recognize it?

11 A Yes, sir., I do.

12 Q What is that?

13 A This is hair follicle residue from the comb that I
14 collected at Molly's Rock.

15 Q And what's the other item?

16 A The other item is the swab I took from the jewelry
17 chain from Molly's Rock.

18 MS. DURANT: No objection, Your Honor.

19 THE COURT: Without objection.

20 (WHEREUPON, State's Exhibit No. 63 is marked for
21 identification and received in evidence.)

22 Q Agent, you sent these on to SLED for analysis, as
23 with the other ones?

24 A Yes, sir.

25 Q And that's 63 without objection. Have you reviewed

1 these items?

2 **A** No, sir, I have not.

3 **Q** Would you please look at those. So all the items,
4 swabs from the car and Molly's Rock, that is the
5 extent of your involvement as far as swabs and blood
6 that was sent to SLED, correct?

7 **A** Molly's Rock, the car and then the two envelopes, one
8 from the comb and one from the jewelry chain.

9 **Q** Now, let me ask you this. Ms. Durant asked you up
10 here how could you tell that this came from -- it's
11 spatter, isn't it? Not splatter.

12 **A** It's spatter.

13 **Q** Spatter. S-P-A-T-T-E-R. How could you tell that
14 spatter came from someone that was in the driver's
15 side, correct?

16 **A** Yes, sir.

17 **Q** And did you say common sense?

18 **A** Yes, sir.

19 **Q** Is there anywhere else it could have come from?

20 **A** No, sir.

21 **Q** So the person who got shot would have been sitting in
22 the driver's seat?

23 **A** Yes, sir.

24 **Q** And is it consistent based on your experience, your
25 training, common sense that that's why the blood went

1 to the passenger's side door?

2 A Yes, sir, it is.

3 Q And that would be the area the blood came from?

4 A Yes, sir. It came from the driver's side.

5 Q One final question, Judge. I appreciate it. She
6 asked you when the car was recovered it was in that
7 condition. What day did you get the call to go look
8 at the car?

9 A It was January 1st, 2004.

10 Q And this incident to your knowledge and what you've
11 learned through investigation happened when?

12 A We were -- we were called to the original scene on
13 December 31st, 2003.

14 Q So do you know where that car had been between the
15 time these high velocity stains were there and when
16 you found it?

17 A I do not know. No, sir.

18 Q Beg the Court's indulgence. One further question.
19 Did you testify, where was the hamburger found?

20 A It was in what I call the center hump of the vehicle.

21 Q In the vehicle?

22 A Yes, sir.

23 Q The McDonald's bag?

24 A The McDonald's bag.

25 Q She asked you about some -- Ms. Durant did -- about

1 some prints. Did you have an occasion to look at
2 this item?

3 **A** May I?

4 **Q** Sure.

5 **A** Yes, sir, I did.

6 **Q** And you're doing that now in front of the jury. What
7 are you doing to determine whether you looked at it
8 or not?

9 **A** On the bottom part of the trigger guard, it's got --
10 I have etched in my case number, my evidence number
11 and my initials on this item.

12 **Q** Is that so you can come to court and say, I know I
13 looked at this?

14 **A** Yes, sir. They're right here on the bottom. I have
15 them etched there on the bottom part of the trigger
16 guard.

17 **Q** Did you try to get prints off of this?

18 **A** Yes, sir, I did.

19 **Q** Were you able to?

20 **MS. DURANT:** Your Honor, this is going beyond
21 the scope of the cross that we did.

22 **MR. MEADORS:** She asked about prints and I was
23 just following up on this, Your Honor.

24 **THE COURT:** It's beyond the scope.

25 **MR. MEADORS:** And this is my last question.

1 Your Honor, this is 64 for I.D., please.

2 **THE COURT:** For I.D.

3 (WHEREUPON, State's Exhibit No. 64 is marked for
4 identification.)

5 **Q** I believe you said you did not get any prints off of
6 it?

7 **A** No, sir. I did not get any prints off of that item.

8 **Q** That's all. Thank you.

9 **THE COURT:** Recross?

10 **MS. DURANT:** No further questions, Your Honor.

11 **THE COURT:** All right. Thank you. You may come
12 down, sir. Thank you very much.

13 **WITNESS:** Thank you, sir.

14 **MR. MEADORS:** The State would call Nikki Davis.

15 **THE COURT:** May the agent be excused?

16 **MR. MEADORS:** Please.

17 **THE COURT:** Any objection?

18 **MS. DURANT:** Your Honor, we would ask that he
19 still be subject to subpoena in case we need him. If
20 he doesn't need to be in court, we can just call him.

21 **THE COURT:** You may have to be available.

22 **MR. MEADORS:** He's available.

23 **THE COURT:** What's the name of your next
24 witness? What's the name?

25 **MR. MEADORS:** Nikki Davis.

1 **THE COURT:** Davis?

2 (Pause)

3 **MR. MEADORS:** Thank you, Your Honor.

4 **SIERRA N. DAVIS,** after being duly sworn,
5 testifies as follows:

6 **THE CLERK:** Please have a seat up here, ma'am.
7 Speak into the microphone. State your full name for
8 the record.

9 **WITNESS:** Sierra Nicole Davis.

10 **DIRECT EXAMINATION**

11 **BY MR. MEADORS:**

12 **Q** Say your name again, please?

13 **A** Sierra Nicole Davis.

14 **Q** You go by Sierra Nicole or Nikki?

15 **A** Or Nikki.

16 **Q** Nikki. Do you care if I call you Nikki some during
17 this?

18 **A** No. I don't mind.

19 **Q** Please tell them, the Ladies and Gentlemen of the
20 Jury, where you're from?

21 **A** Hollywood, South Carolina.

22 **Q** And you have to speak into the mike. Hollywood,
23 South Carolina?

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

25 **Q** Were you born and raised there, Nikki?

- 1 **A** Yes.
- 2 **Q** Did you go to school there?
- 3 **A** Yes.
- 4 **Q** Please tell them where you went to school?
- 5 **A** Baptist Hill High School.
- 6 **Q** And you graduated from there?
- 7 **A** No.
- 8 **Q** How far did you go?
- 9 **A** The eleventh grade.
- 10 **Q** Did you go to Goose Creek, too?.
- 11 **A** Yes.
- 12 **Q** And West Ashley?
- 13 **A** Yes.
- 14 **Q** James Island?
- 15 **A** Yes.
- 16 **Q** Were those all the schools you went to growing up?
- 17 **A** Yes.
- 18 **Q** Where do you live right now?
- 19 **A** With my aunt on Harpers Ferry Road, Hollywood, South
20 Carolina.
- 21 **Q** Is she here?
- 22 **A** Yes, she is.
- 23 **Q** Did she come with you?
- 24 **A** Yes, ma'am. She is right there.
- 25 **Q** Did she come with you today? Is that her back there?

- 1 **A** Mm-hmm (affirmative).
- 2 **Q** How old are you? I hate to ask a lady her age, but
- 3 how old are you?
- 4 **A** Nineteen.
- 5 **Q** After you got through school, as far as you went,
- 6 what did you do?
- 7 **A** What I did I do?
- 8 **Q** Yes, ma'am.
- 9 **A** I started working at Ryan's and got my own place.
- 10 **Q** At what Ryan's did you work at, Nikki?
- 11 **A** On Rivers Avenue.
- 12 **Q** Rivers Avenue?
- 13 **A** Mm-hmm (affirmative).
- 14 **Q** That's where.
- 15 **A** North Charleston, South Carolina.
- 16 **Q** And do you remember when that was that you started
- 17 working there?
- 18 **A** January of 2005.
- 19 **Q** So that's after this incident we're talking about?
- 20 **A** Right.
- 21 **Q** 2005 or 2004?
- 22 **A** 2005.
- 23 **Q** And where did you work after that?
- 24 **A** Citgo.
- 25 **Q** What did you do there?

- 1 A Cashier. Stocking.
- 2 Q And have you got a child?
- 3 A Yes. I have a daughter.
- 4 Q Have you got another one on the way?
- 5 A Yes, I do.
- 6 Q When is that one due?
- 7 A July the 1st.
- 8 Q Have you also -- where is Ladson?
- 9 A In Summer -- North Charleston.
- 10 Q Did you live there, too?
- 11 A Did I live there?
- 12 Q In Ladson.
- 13 A For a short period of time.
- 14 Q I want to take you back to what we're here about
- 15 today. Okay?
- 16 A Right.
- 17 Q Do you know a fellow named Derrick Ruff?
- 18 A Yes, I do.
- 19 Q Tell them how you know Derrick Ruff?
- 20 A I met him in Charleston.
- 21 Q Did there come a time at the end of 2003 that you
- 22 started a relationship with Derrick Ruff?
- 23 A In September 2003.
- 24 Q And would that be a -- you all were talking,
- 25 boyfriend and girlfriend, or --

1 A Right.

2 Q -- that type relationship?

3 A Right.

4 Q And when you met Derrick Ruff, you said you met him
5 in Charleston?

6 A Right.

7 Q Where did you all end up living?

8 A In Newberry, South Carolina.

9 Q And when did you go to Newberry, South Carolina?

10 A November the 15th of 2003.

11 Q November the 15th, 2003?

12 A Right.

13 Q And how can you remember that?

14 A Because it was the same exact day that I conceived my
15 daughter.

16 Q That you what?

17 A Conceived my daughter.

18 Q That you conceived your daughter?

19 A (Nods head affirmatively).

20 Q Okay. So where did you live at in Newberry?

21 A With his mom on Boundary Street.

22 Q Boundary Street?

23 A Right.

24 Q Did Derrick have a friend named Keith Sims?

25 A Yes.

1 Q And as a result of your relationship with Derrick
2 Ruff, did you meet Keith Sims?

3 A Yes.

4 Q Prior to the night in question that we're here about,
5 how many times had you seen Keith Sims?

6 A Numerous of times. That was -- he was like a brother
7 to Derrick then.

8 Q Like a brother to him. Would those be social
9 settings? I mean, you all were having a good time?

10 A Right.

11 Q Now, I want to take you to the early morning hours of
12 December 31st, 2003. Okay. New Year's Eve morning.

13 A Right.

14 Q Can you tell the Ladies and Gentlemen of the Jury
15 where you were staying?

16 A On Newberry -- I mean on Boundary Street.

17 Q Where had you gone to sleep that night?

18 A With his mom on Boundary Street.

19 Q On Boundary Street in Newberry?

20 A Yes.

21 Q Did anything unusual happen that morning?

22 A Yes.

23 Q Are you a little nervous today?

24 A Very.

25 Q Tell the jury what happened the morning hours of

1 December 31st, 2003?

2 A Well, it was like around 3 something in the morning
3 and I heard a knock at the door. And I wasn't going
4 to answer the door. I was like, Derrick's mom just
5 kept, you know, telling me to open the door. So I
6 went and I opened the door. And Keith came in with
7 Natalie with his arm folded.

8 Q Now, let me stop you. He came in with his arm
9 folded?

10 A Yes.

11 Q Like -- show on me. What are you talking about?

12 A Like he had on a wrist, like that right there. Yeah.
13 With something in his arm, like a shirt basically.

14 Q Did you know what was in his arm?

15 A No. I really didn't pay no attention to it.

16 Q And you said he came in with, you mentioned the name
17 of Natalie. Who is Natalie?

18 A His friend.

19 Q Do you know her last name?

20 A English.

21 Q Natalie English?

22 A Yes.

23 Q So they came in this residence of Derrick Ruff's
24 mother on Boundary Street. What happened next?

25 A He told me to wake up "Black", which is Derrick, and

1 I told him I can't get him up. You just -- you get
2 him up yourself, basically. So he started hitting on
3 Derrick, you know, to get him up. And Derrick got
4 up. And he told him to --

5 **MS. DURANT:** Objection, Your Honor. Hearsay.

6 **MR. MEADORS:** Your Honor, these are
7 co-conspirators in a crime. I think it's an
8 exception to the hearsay. And, plus, these are
9 statements by the defendant I think.

10 **THE COURT:** They're statements by the defendant.
11 Overruled. Approach the bench just one minute.

12 (Whereupon, a bench conference is had)

13 **MR. MEADORS:** May it please the Court?

14 **THE COURT:** You may proceed.

15 **Q** Nikki.

16 **THE COURT:** The objection is overruled.

17 **Q** A minute ago you referred to Derrick Ruff, you had a
18 nickname?

19 **A** "Black".

20 **Q** "Black". And that's what you all called him?

21 **A** Right. Well, I didn't. They did.

22 **Q** Okay. Take up where you left off.

23 **A** So he started hitting him to get him up. And Derrick
24 finally got up and told him, you know, to go in the
25 back. And they went to the back and they started

1 talking. Which Natalie, you know, she was already
2 in. She came. She sat --

3 **Q** Slow down, please. Please.

4 **A** And we came in and she sat down on the couch right by
5 the bed that we were sleeping on. And she was
6 crying. So I figured, you know, it's either Keith
7 done beat her or just called her a bunch of names
8 or --

9 **MS. DURANT:** Objection, Your Honor.
10 Speculation.

11 **Q** Just let me --

12 **THE COURT:** I'm going to sustain that.

13 **MR. MEADORS:** Yes, sir. I'm sorry.

14 **THE COURT:** This has to be under 801(d)(2)(e).

15 **MR. MEADORS:** Yes, sir.

16 **Q** Keith and Derrick went to a back room?

17 **A** Right.

18 **Q** You said they were talking. You didn't know what
19 they were talking about?

20 **A** No.

21 **Q** You're in I assume the front room with Natalie
22 English?

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

24 **Q** And I think you were describing -- her condition was
25 what?

1 **A** Crying.

2 **Q** She was upset?

3 **A** Right.

4 **Q** You see her crying?

5 **A** Yes.

6 **Q** What happened next?

7 **A** So I just started rubbing her back and telling her
8 that everything was going to be all right and stuff.
9 And she wouldn't tell me. I kept asking her what was
10 going on. She wouldn't tell me what was going on.
11 And so she asked me if I wanted to go to Charleston.
12 And I told her, yeah, I needed to go to Charleston
13 because at the time I was two months pregnant with my
14 daughter and I needed to get my Medicaid card and my
15 social security card and stuff like that. So I told
16 her, yeah, I was going to go. So I started getting
17 dressed and stuff like that. And then at that time
18 Keith came out first, and Derrick he was still in the
19 kitchen or whatever. And Keith asked me whether or
20 not I was going or not. I told him, yeah, I was
21 going. And he asked me if they had -- if we had any
22 bricks or anything like that. So I told him, I don't
23 know. Just go look in the backyard.

24 **Q** Keith asked you that?

25 **A** Yes.

1 Q Okay.

2 A So I told him I don't know. Just go look in the
3 backyard and stuff. And I guess he went and started
4 to looking. That's when everybody just, you know,
5 came back out and headed out inside the car. And we
6 went to Lil' Cricket, but Lil' Cricket was closed.
7 So --

8 Q Now, slow down. Why did you go to Lil' Cricket?

9 A I didn't know at the time.

10 Q Okay.

11 A And --

12 Q How far is Boundary Street from Lil' Cricket?

13 A Like 30 seconds. And we went to a Shell station
14 afterwards. And Derrick got out to get gas. And at
15 the time it was just -- and Natalie got out and she
16 went in the store. And at the time it was just me
17 and Keith inside the car. And, you know, I was
18 joking with him and stuff, just like, why didn't you
19 get me anything for my birthday and stuff like that.
20 You know, he gave me \$10 for my birthday or whatever.
21 And he told me to go inside the store to make sure
22 Natalie was getting everything that he told them to
23 get.

24 So I got out of the car and I went and I just
25 peeked my head inside the store. And at that time

1 she had, you know, like the gloves and stuff like on
2 top of the counter. So I figured that's what he told
3 her to get. And I came back out into the car. And
4 everybody came and they got inside the car. And then
5 we headed to --

6 Q Let me stop you there. Whose car were you in?

7 A Natalie's.

8 Q What type of car was it?

9 A A red Grand Am.

10 Q A red what?

11 A Grand Am.

12 Q So the four of you all were in it?

13 A Right.

14 Q Who was driving?

15 A Natalie.

16 Q So Natalie was driving. Where were you sitting?

17 A On the passenger's side.

18 Q Okay. And do you remember where Keith and Derrick
19 were sitting?

20 A Keith was like right behind Natalie and I was right
21 behind -- I mean, Derrick was right behind me.

22 Q So you go to Lil' Cricket and then the Shell station.
23 And where did you all go from there?

24 A We went to this lady named Sharon or Shadow. Sharon
25 I guess.

1 Q Sharon?

2 A Yes. Down a dirt road.

3 Q Do you know -- can you be more specific? I mean,
4 were you still in Newberry?

5 A Yes.

6 Q Had you been there before?

7 A Yes.

8 Q Do you remember the name of the road?

9 A No.

10 Q Is there a reference that you or Keith or Derrick
11 used for that road or that area?

12 A I think 34.

13 Q Okay. Was the road at this time paved or dirt?

14 A Dirt.

15 Q And did you ever hear a reference to it as a dirt
16 road? Let's go. You go down this road, right?

17 A Mm-hmm (affirmative).

18 Q What happens there?

19 A And we parked right in front of the lady's house.
20 And I just figured that they were going to go. And
21 so we all were going to go inside the house. But me
22 and Natalie stayed inside the car and Keith and
23 Derrick got out. And they started toting like this
24 long thing I guess to a car, and a chain, you know,
25 some bricks, just toting it to the back of the house

1 right behind me.

2 Q Were you in the car still?

3 A Yes.

4 Q Sitting in the front passenger's seat?

5 A Right.

6 Q Could you see them taking this item you described as
7 a chain?

8 A Right.

9 Q And who was taking it?

10 A Keith and Derrick both.

11 Q And where were they taking it?

12 A Behind a house behind us.

13 Q And what happened next?

14 A The next thing I knew he sped from behind the house
15 inside of another car. And that's when I, you know,
16 started pushing Natalie. I'm asking her what's going
17 on? Did he steal a car or what's going on? Where
18 did he get that from and stuff like that. And then
19 she told me, you know, Keith had murdered somebody.
20 But I didn't, you know --

21 MS. DURANT: Objection, Your Honor. Again
22 that's hearsay.

23 THE COURT: Overruled.

24 Q You've got a little accent, don't you?

25 A Yes.

- 1 Q I like it. I'm not commenting on it. But did you
2 say earlier that he sped away before that?
- 3 A Yeah. Like sped from behind the other house.
- 4 Q Okay. In another car?
- 5 A Right.
- 6 Q All right. And is that when you had this
7 conversation with Nikki then?
- 8 A Natalie.
- 9 Q I'm sorry, Nikki. I apologize. I do. I'm sorry.
10 You had it with Natalie then?
- 11 A Right.
- 12 Q Did you know that other car was there?
- 13 A No.
- 14 Q And you mentioned this. Did you ever see them carry
15 anything else besides this chain?
- 16 A Just the bricks and like a long pipe thing.
- 17 Q You say bricks. I couldn't lift it as easy as that
18 DNR fellow did. But this does this look familiar?
- 19 A Yes.
- 20 Q And where were they taking that and the chain to?
- 21 A Behind the house.
- 22 Q And is it after that that you say you saw another car
23 coming?
- 24 A Yes.
- 25 Q And then the statement that Natalie made?

- 1 **A** Right.
- 2 **Q** What happened after that?
- 3 **A** We -- we left. And before we left, Derrick had
- 4 already been in the car with Keith. Before we left,
- 5 he got out, you know. And that's when just all the
- 6 lights came on inside the car, you know. He said
- 7 that he couldn't -- you know, when Derrick got in, he
- 8 said he couldn't stand the smell. So, you know, we
- 9 just drove on. And --
- 10 **Q** So, when the car comes around the back of the house
- 11 that you saw, was Derrick in the car then?
- 12 **A** Right.
- 13 **Q** With whom?
- 14 **A** Keith.
- 15 **Q** Okay. And you're still in the car with Natalie?
- 16 **A** Right.
- 17 **Q** At some point after that it's your testimony that
- 18 Derrick got out of this other car?
- 19 **A** Right.
- 20 **Q** Okay. When was that?
- 21 **A** Just before we left that little road, that same road.
- 22 **Q** Just before you left that same road. And you said
- 23 something about a light came on?
- 24 **A** Yes. The lights to the car.
- 25 **Q** Could you see anything then?

1 **A** Just another guy in the front, front seat.

2 **Q** Derrick comes back to you all's car?

3 **A** Yes.

4 **Q** He says he can't stand the smell?

5 **A** (Nods head affirmatively).

6 **Q** What happened next?

7 **A** We just drove. And they -- we just rode. I don't
8 know like areas like that. We just road until we got
9 to this other place which was a park. And Keith
10 parked the car on this side and Natalie parked the
11 car on this side right here. And I was still in the
12 car. And Keith opened up the door to the passenger's
13 side in the other car, and that's when the guy, he
14 just fell out. And he started ...

15 **MR. MEADORS:** Beg the Court's indulgence.

16 (witness crying)

17 **THE COURT:** Give her some water.

18 **A** I can't do this any more.

19 **Q** Just don't ... can you take a deep breath. Please
20 take a Kleenex, please. Begging the Court's
21 indulgence. You didn't know that body was in there
22 when it came out?

23 **A** Not like that.

24 **Q** And can you get yourself together? Ms. Davis, can
25 you go on now? After -- look at me, please, ma'am.

1 Look at me. When you saw the body fall out, okay,
2 did you get up -- you got upset then? Were you
3 upset?

4 **A** I didn't -- I didn't think. I had nothing on my
5 mind. The only thing that I know was, Lord, please
6 forgive me. That's the only thing that I could think
7 of. I had nothing on my mind. I didn't cry or
8 anything. I just couldn't think.

9 **Q** After you saw the body fall out -- look at me, Nikki,
10 please. Please. After you saw the body fall out,
11 please tell them, I've got to say you all, what did
12 you all do next?

13 **A** Keith dragged him out and he started to drag him by
14 himself but I guess he couldn't do it. And Derrick
15 started to help. And they got like just a little bit
16 with the -- he had just got a little bit with the guy
17 and then Derrick came back and got Natalie. And
18 Natalie told me to come on. And -- and while we
19 were -- or when I got out of the car Keith was -- he
20 told me to put my socks on my hands, which I just did
21 what he said. I put my socks on my hands. And
22 Natalie grabbed one leg and I grabbed the other.
23 And --

24 **MS. DURANT:** Your Honor, may we approach?

25 **THE COURT:** Sure.

1 (Whereupon, a bench conference is had)

2 Q Nikki. Nikki. Do you need a break? Do you need a
3 break? Hmm?

4 A No. I just want to go ahead and do this.

5 Q Well, let's go ahead and do it. Okay? Please. All
6 right. How did the body in the car get down to the
7 pond?

8 A We just started dragging him. And we just dragged
9 him 'til we -- we got like to this little balcony
10 thing. And then the guy was just laying like flat on
11 the ground. And Keith was just saying things to him.
12 And we were just trying to get him -- we were just
13 trying to get him through.

14 Q Do you recognize this? Is that the little balcony
15 thing you just talked about?

16 A (Nods head affirmatively).

17 Q And you all were trying to get him through what?

18 A The lower railings.

19 Q Through the railings?

20 A (Nods head affirmatively).

21 Q And were you all able to do that?

22 A No. So he said that our next best thing was to just
23 try to lift him up. So we lifted him up and it took
24 a while. And we just finally got him over. And
25 everybody just ran or walked off and never looked

1 back. But before -- while we was walking off, Keith
2 stayed and I just heard a splash. And I just walked
3 back to the car. And they got back into the car.
4 And Keith brought some things to the car inside a
5 paper bag. And I looked inside the bag and there was
6 a cellphone and a chain and the guy's wallet.
7 Q A cellphone, chain and wallet. I'm going to show you
8 just a couple more pictures. This is State's 14. Do
9 you recognize this?

10 A Yeah.

11 Q Was that a yes?

12 A Yes.

13 Q And State's 16, do you recognize this?

14 A (Nods head affirmatively).

15 Q What time of the day was it when you all got here,
16 when you got here to State's 16? What time?
17 Generally.

18 A Probably around like 5 something probably.

19 Q In the morning?

20 A Five.

21 Q Was it dark?

22 A Yes.

23 Q Looking at State's 16, if you can, can you tell the
24 jury where you all parked?

25 A Keith was like right on that side right there and he

1 was to the left.

2 Q And you said that you all dragged the body. Did you
3 drag it from here to the pond?

4 A Yes.

5 Q What, if anything, happened to the pants that were on
6 the body of the person you were dragging?

7 A They came down like half the way.

8 MR. MEADORS: Beg the Court's indulgence.

9 Q And State's 4 finally, do you recognize that?

10 A (Nods head affirmatively).

11 Q Is that a yes, ma'am?

12 A Yes.

13 Q Or yes, sir. I'm sorry. And is this the balcony
14 where his body was pushed over?

15 A Yes.

16 Q Now, you described earlier a chain I think. Looking
17 at State's 30, do you recognize that?

18 A Yes.

19 Q Does that appear to be the chain that you saw?

20 A Yes.

21 Q You are now back at -- well, let me show -- you
22 followed this car. Can you describe the car that the
23 body fell out of?

24 A It was like a blue or a light blue or it had designs
25 on the left and the right. It was a Crown Vic.

1 Q Looking at State's 32, do you recognize that?

2 A Yes.

3 Q Is that the car?

4 A Yes.

5 Q You're now back at -- stay with me, please. Okay?

6 A (Nods head affirmatively).

7 Q You all took his body down. It's in the pond.

8 You're back at the parking lot. So we're at the
9 parking lot. Okay? Tell us what happens next?

10 A Like I said, Keith brought me a paper bag with the
11 things, the chain and the wallet and the cellphone.
12 And I just looked in it and stuff. And Keith got
13 back into the other car. And Derrick got back into
14 the car that I was in, into Natalie's car. And Keith
15 sped away backwards. And we left there and just kept
16 on going. And somewhere during that time we -- he
17 told me to get rid of it. Actually he told me to get
18 rid of it. So --

19 Q He being Keith Sims?

20 A Yes.

21 Q Told you to get rid of what?

22 A The stuff that he had inside the bag. And we just
23 kept going. And somewhere down the line we lost them
24 basically.

25 Q And we being you, Natalie and Derrick?

- 1 **A** Yes.
- 2 **Q** Had there been a, plan or where did you think you
3 were going after you left Molly's Rock Park?
- 4 **A** I didn't know where I was going.
- 5 **Q** Where did you go?
- 6 **A** Charleston.
- 7 **Q** And where specifically did you go in Charleston?
- 8 **A** To a friend of Derrick's and mine.
- 9 **Q** Name, please?
- 10 **A** Quita.
- 11 **Q** Quita? And what was the name of the apartments?
- 12 **A** New Orleans Gardens.
- 13 **Q** And that's in Charleston?
- 14 **A** Yes.
- 15 **Q** Did Keith Sims go to Charleston?
- 16 **A** No.
- 17 **Q** And do you know why he didn't go to Charleston?
- 18 **A** I don't now.
- 19 **Q** When you got to Quita's -- what was the name of the
20 apartments again?
- 21 **A** New Orleans Gardens.
- 22 **Q** New Orleans Gardens. What, if anything, did you all
23 do then?
- 24 **A** When we got out of the car, Derrick just got the
25 ⁿ things out of the trunk which were Keith's clothing

1 and threw them inside the dumpster and just basically
2 threw all the clothes inside the dumpster.

3 Q Did he throw your clothes in there?

4 A Yes.

5 Q Why?

6 A Because it had blood on them.

7 Q What did you put on?

8 A Clothings of Quita's.

9 Q And did you go straight to Charleston from Molly's
10 Rock?

11 A Yes.

12 Q All right. How long did you stay in Charleston?

13 A Until Natalie found where Keith was.

14 Q Okay. And how did you find that out?

15 A Because she was calling around. She called his mom
16 and she called Bernie Mack.

17 Q A friend of his?

18 A Yes.

19 Q So after making contact with his mother, Ms. Sims,
20 and Bernie Mack, did you all discover where Keith
21 was?

22 A Yes.

23 Q As a result of that, what did you all do, you all
24 being for the record, Derrick, Natalie and yourself,
25 Nikki?

- 1 **A** Right. She found out where he was which was over at
2 his friend's house, "Little's".
- 3 **Q** "Little's"?
- 4 **A** Yes.
- 5 **Q** Or "Little A's"?
- 6 **A** Either one I guess.
- 7 **Q** Are the --
- 8 **A** And we went straight from Charleston to there. And
9 when we got there he was all I guess talking to
10 everybody. And we just sat down for a little while.
11 And Derrick, him and "Little A", they just went
12 upstairs.
- 13 **Q** And for the record, what did you say? You're saying
14 "Little A"?
- 15 **A** Yeah.
- 16 **Q** Where did you go in Columbia specifically? Do you
17 know the location?
- 18 **A** In some apartments.
- 19 **Q** Okay. Do you know the name of them?
- 20 **A** No.
- 21 **Q** Okay. How long were you in Charleston?
- 22 **A** Probably 30 minutes altogether.
- 23 **Q** Did you come back to these apartments -- was this
24 Bernie Mack's apartment, too?
- 25 **A** Yes. That was his mother, "Little A's" mother.

- 1 Q And that's where you see Mr. Sims again?
- 2 A Yes.
- 3 Q What happened after that?
- 4 A We left there and went to the store.
- 5 Q We being whom?
- 6 A Me, Keith, Natalie and Derrick.
- 7 Q And what store did you go to?
- 8 A I don't know.
- 9 Q I'm sorry?
- 10 A I don't know the name of the store. Probably a
- 11 corner store.
- 12 Q Was it like a Pantry or convenience store?
- 13 A Yes.
- 14 Q Do you remember what you got there?
- 15 A Probably a soda. And he told me just to get
- 16 something.
- 17 Q Did he have any money?
- 18 A Yes. He had a roll of money.
- 19 Q Did you see it?
- 20 A Yes.
- 21 Q Did anybody else go in the store?
- 22 A Derrick. I think we all went in.
- 23 Q What happened after that? What did you do after
- 24 that?
- 25 A We went back to Keith's house. I mean, we -- well,

1 actually when he came, then we dropped him back off
2 and we went back to Keith's house.

3 Q And where is Keith's house?

4 A In Columbia.

5 Q Yes, ma'am. Can you be more specific than that? Do
6 you know?

7 A (Shakes head negatively).

8 Q And when you got to Keith's house, who was there?

9 A Just -- I can't remember.

10 Q You can't remember?

11 A No.

12 Q What did you or you all do at Keith's house?

13 A Natalie and Keith washed up and me and Derrick just
14 laid across on the bed.

15 Q Had you been there before?

16 A Yes.

17 Q And did his mother also live with him? Or do you
18 know?

19 A Keith's mom, yes.

20 Q Did she also stay at that residence in Columbia? I'm
21 sorry, ma'am. You've got --

22 A Yes.

23 Q Okay. Thank you. So Natalie and Keith washed up.
24 You and Derrick are laying on the bed, correct?

25 A Yes.

1 Q And is this all later on that same day?

2 A It was like the early morning times, yeah.

3 Q And what do you do after that? Or what do you all do
4 after that? You're now at Keith's house in Columbia.
5 What do you all do next?

6 A We went back to Derrick's house.

7 Q Which is where?

8 A In Newberry.

9 Q What street, please?

10 A Boundary. And --

11 Q And what happened back at Keith's house on Boundary
12 Street, if anything?

13 A He was telling me that, just basically telling
14 everyone that he got everything that he needed to
15 have got rid of and that the only thing left was to
16 get rid of the bullet. And he asked me to do it. By
17 that time he had already ditched the car somewhere
18 else in another apartment complex area.

19 Q Do you know where?

20 A It starts with an "F".

21 Q How did you know that?

22 A Memory.

23 Q No. I understand that, ma'am. That was a bad
24 question. How did you know he ditched the car at
25 this apartment complex?

- 1 **A** Because he said it.
- 2 **Q** He told you all that. And you said something about
- 3 the bullet. What did you think that meant?
- 4 **A** To the guy, that he shot the guy with.
- 5 **Q** And you said you'd do it. What did you mean?
- 6 **A** I didn't say I would do it. He asked me to do it and
- 7 I wouldn't do it.
- 8 **Q** To do what though? I'm sorry.
- 9 **A** To get rid of it, to go back and get it.
- 10 **Q** Go back and get it from where?
- 11 **A** Out of the car.
- 12 **Q** So that's how you knew the car was somewhere else?
- 13 **A** Right.
- 14 **Q** And you did not do that?
- 15 **A** No.
- 16 **Q** Are you still at Derrick's house in Newberry when
- 17 this is taking place?
- 18 **A** Yes.
- 19 **Q** What else, if anything, happened at Derrick's house?
- 20 **A** We just went on a walk. And on the walk we came back
- 21 and we heard like sirens and stuff. And I don't know
- 22 where Keith went but he went somewhere. And Natalie,
- 23 she was saying that they might have found the guy or
- 24 whatever. And we left there.
- 25 **Q** Let me stop you here. And we're at Keith's house.

1 On the way, do you remember the wallet you testified
2 about? What happened to that?

3 **A** It was thrown inside the dumpster in North
4 Charleston.

5 **Q** With the clothes?

6 **A** Yes.

7 **Q** Was anything else thrown away on the way to
8 Charleston?

9 **A** The cellphone and the chain.

10 **Q** Okay. And where was that thrown?

11 **A** On the way to Charleston.

12 **Q** Do you know where?

13 **A** No.

14 **Q** Now, you got back to Keith Sims's house from
15 Charleston, right?

16 **A** Right.

17 **Q** You said they were showering or took a shower. I
18 don't know what you said. Right?

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

20 **Q** Prior to that did you see Keith doing anything?

21 **A** Well, when we walked out of the house, when I walked
22 out of the house, he was cleaning up the driveway in
23 the backyard with a -- I don't know what it was. It
24 was a brush.

25 **Q** Did you see that?

- 1 **A** Yes.
- 2 **Q** With a brush cleaning the driveway?
- 3 **A** Yes.
- 4 **Q** Anybody else helping him? Was anybody else helping
- 5 him?
- 6 **A** No.
- 7 **Q** Now, we're at Boundary Street where we left off a
- 8 minute ago. Okay?
- 9 **A** Right.
- 10 **Q** Where do you all go from Boundary Street?
- 11 **A** Back to Sharon's house.
- 12 **Q** And Sharon, that's still in Newberry?
- 13 **A** Yes.
- 14 **Q** Do you know Sharon's last name?
- 15 **A** No.
- 16 **Q** All right. And was the road paved or dirt?
- 17 **A** Dirt.
- 18 **Q** What happens at Sharon's house?
- 19 **A** We all went, and Keith and Natalie went inside the
- 20 back room to talk. And after they spoke for a little
- 21 while, I wanted to know what was going on and I went
- 22 inside the back room. And we all came back out and
- 23 he give us the gun and told us to get rid of it
- 24 inside a green t-shirt.
- 25 **Q** He being whom gave you the gun and told you to get

1 rid of it?

2 **A** Keith.

3 **Q** And this was in Sharon's house somewhere in Newberry?

4 **A** Yes.

5 **Q** Describe it?

6 **A** It's a .9 millimeter, black.

7 **Q** Do you recognize this? Look at it.

8 **A** Yeah.

9 **Q** You say yes?

10 **A** (Nods head affirmatively).

11 **Q** Does that look like the gun?

12 **A** (Nods head affirmatively).

13 **MS. DURANT:** No objection, Your Honor.

14 **MR. MEADORS:** Your Honor, we'd offer this as
15 State's 64, I believe without objection.

16 **COURT REPORTER:** That's not the right number.

17 **MR. MEADORS:** Beg the Court's indulgence. 65.

18 (WHEREUPON, State's Exhibit No. 65 is marked for
19 identification and received in evidence.)

20 **Q** 65, is this the .9 you referred to?

21 **A** Yes.

22 **Q** That Keith Sims gave you?

23 **A** Yes.

24 **Q** What kind of shirt was it in, did you testify, when
25 you got it?

1 **A** It was like a long green t-shirt, long sleeved green
2 t-shirt, or short sleeved probably.

3 **Q** Beg the Court's indulgence. Does that appear to be
4 the shirt?

5 **A** I don't remember any writings on it. It was dark.
6 All I remember is it being green.

7 **Q** So you're not sure?

8 **A** No, I'm not.

9 **Q** Now, you mentioned some -- did you have any other
10 items with you? Let me take it this way. You leave
11 Newberry from Sharon's house, correct?

12 **A** (Nods head affirmatively).

13 **Q** Where do you all go from Sharon's house?

14 **A** Keith and Derrick went to a club. It was New Year's
15 Day, I think New Year's Day or something. They went
16 to a club and me and Natalie was on our way to pick
17 up Keith's mom for church.

18 **Q** That's Ms. Betty Sims?

19 **A** Yes.

20 **Q** And so you left from Newberry heading back toward
21 Columbia?

22 **A** Yes.

23 **Q** What, if anything, happened on the way there?

24 **A** We crossed over a bridge and that's when she told me
25 to throw the gun out the window at.

- 1 Q So you actually throw State's 65 out the window?
- 2 A Yes.
- 3 Q Do you remember what river it was?
- 4 A Bush River.
- 5 Q Show the jury how you did it. I mean, you're going
- 6 over. Did you just --
- 7 A I just tossed it out of the window.
- 8 Q And you're headed to see Ms. Sims and go to church,
- 9 right?
- 10 A Yes.
- 11 Q Did you have an occasion to go to church?
- 12 A Did we have an occasion?
- 13 Q Did you go?
- 14 A New Year's Day.
- 15 Q Did you go to church?
- 16 A Did I go to church? Yes.
- 17 Q And prior to that did you have any other items with
- 18 you?
- 19 A Yes.
- 20 Q What did you have with you?
- 21 A In the back seat there was a CD book, a dog chain, a
- 22 new pair of jeans.
- 23 Q Where had you gotten these from?
- 24 A Keith gave it to me when we were to Bernie Mack's
- 25 house.

1 Q When you were at Bernie Mack's house?

2 A Yes.

3 Q And what were to you do with these?

4 A When we got out of the car, she let Ms. Betty out
5 first. Then we drove on to the back and she told me
6 to throw this out at the dumpster.

7 Q You got these at Bernie Mack's house?

8 A Mm-hmm (affirmative).

9 Q When you came back from Charleston. You got them
10 from whom?

11 A Keith.

12 Q All right. And you were told to do what with them?

13 A Throw them inside the dumpster.

14 Q Near the church?

15 A Yes.

16 Q And did you do that?

17 A Yes.

18 MR. MEADORS: Beg the Court's indulgence.

19 (WHEREUPON, State's Exhibit No. 66 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 67 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 68 is marked for
24 identification.)
25

1 (WHEREUPON, State's Exhibit No. 69 is marked for
2 identification.)

3 Q Look at me, please, ma'am. I'm going to show you
4 what's marked as State's 66. Do you recognize that?

5 A Yes.

6 Q State's 67, do you recognize that?

7 A Yes.

8 Q State's 68, do you recognize that?

9 A Yes.

10 Q And State's 69?

11 A (Nods head affirmatively).

12 MR. MEADORS: Your Honor, we'd --

13 Q And they relate to what you just testified to?

14 A Sir?

15 Q This is what you were just testifying about?

16 A Yes.

17 MR. MEADORS: Your Honor, we'd offer these now,
18 I believe without objection, 66, 67, 68 and 69.

19 MS. DURANT: No objection, Your Honor.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit No. 66 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 67 is admitted
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 68 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 69 is admitted
4 into evidence.)

5 Q Who took these and put them in the dumpster behind
6 the church?

7 A I did.

8 Q Who asked you to?

9 A Natalie.

10 Q And who had you all gotten them from?

11 A Keith.

12 Q What's that say right there?

13 A Anderson. Brian Anderson.

14 Q Beg the Court's indulgence. Do you recognize this?

15 A No.

16 Q What's the name of the church?

17 A I don't know. I don't know.

18 Q Okay. Do you remember the preacher's name?

19 A Mr. Bonner.

20 Q Bonner?

21 A He was a short, kind of short, bald headed guy. Not
22 really bald headed but, you know ...

23 Q So after putting these items in, you and Natalie went
24 to church with Ms. Sims?

25 A Right.

1 Q Just a couple more questions, please. Just a couple
2 more questions. I'm about through, Nikki. When you
3 saw the defendant cleaning something up in the
4 driveway, did he tell you what he was cleaning up?

5 A No. But I knew it was -- I could see it was blood in
6 the pavement.

7 Q Did it look like blood to you?

8 A Yes.

9 Q Did you see what, if anything, he did with the brush?

10 A He threw it.

11 Q Now, after you left Refuge Temple, after you said the
12 church you don't remember, Mr. Bonner's congregation,
13 --

14 A Right.

15 Q -- where did you go?

16 A We went back to Keith's house.

17 Q I'm sorry. Back to whom?

18 A We went back to Keith's house.

19 Q Keith Sims's house?

20 A Mm-hmm (affirmative). And we dropped his mom off and
21 we all went inside the house. And we sat down for a
22 little while. And then the phone rang. And
23 obviously they were getting news about what had
24 happened and that they were -- that investigators
25 were looking for Keith. And so, I can't remember. I

1 think it was Natalie who came inside the front room
2 and turned the TV on. And it just had a body found
3 in Molly's Rock. And we all -- his sister, "Shell",
4 you know, we went out looking for her. And we went
5 to the club and -- but we only saw Derrick. And we
6 were asking where Keith was. And Keith had already
7 left with someone. And so Derrick just told "Shell"
8 to drop us off home.

9 Q So you go from Keith's house looking for Keith. Had
10 he already left?

11 A Yes.

12 Q Who had he left with from the Sims' house?

13 A I have no idea.

14 Q What club do you go looking for him? The word is
15 getting out. You all go look for him at the club,
16 right? What club was it you went to?

17 A Buster Wicker's.

18 Q Buster Wicker's. And where is Buster Wicker's club?

19 A I have no idea.

20 Q Is it back in Newberry?

21 A Yes.

22 Q And when you got to Buster Wicker's, was Keith Sims
23 there?

24 A Yes.

25 Q You learned he had already gone?

1 **A** Yes.

2 **Q** But was Derrick still there?

3 **A** Yes.

4 **Q** Where did you go from there?

5 **A** Home.

6 **Q** Where is home?

7 **A** Derrick's house.

8 **Q** And what did you do after -- go ahead.

9 **A** I think that they -- I think we went to a few places
10 looking for him. A few places. He was at a trailer.
11 I don't know where it is.

12 **Q** Looking for Keith?

13 **A** Yes.

14 **Q** Were you able to find him?

15 **A** I can't remember.

16 **Q** Did you end up talking to law enforcement?

17 **A** Yes.

18 **Q** The police?

19 **A** Yes.

20 **Q** And you told them what happened?

21 **A** Yes.

22 **Q** Now, you've talked about the dirt road and some other
23 places. Did you actually take the police to these
24 places you've told us about?

25 **A** Yes.

1 Q Did you point it out to them?

2 A Yes.

3 Q And do you remember what the police officer it was
4 you took?

5 A Robert Dennis. And the other deputy, Thomas. I
6 think that's his name.

7 Q Robert Dennis from Newberry?

8 A Yes.

9 Q And another deputy?

10 A Yeah.

11 Q Did you see Keith Sims any more after that?

12 A I don't think so. No. No. I didn't.

13 Q And where are you living now?

14 A Hollywood, South Carolina.

15 Q Just a couple of questions for the record here. I'm
16 not doing this to get you upset. But that's the body
17 you all dropped in the pond, correct? Just say yes
18 if it is.

19 A Yes.

20 Q If it is. Now, you've mentioned Keith Sims numerous
21 times throughout your testimony, correct?

22 A Yes.

23 Q Is the Keith Sims that you've testified to about here
24 in the courtroom?

25 A Sir?

1 Q Is Keith Sims that you've testified about today in
2 the courtroom?

3 A Yes.

4 Q Would you please point him out for the Ladies and
5 Gentlemen of the Jury?

6 A Right there.

7 Q Sitting between Ms. Durant and Ms. Owings?

8 A (Nods head affirmatively).

9 MR. MEADORS: Your Honor, we'd like the record
10 to reflect she's pointed to the defendant, Keith
11 Sims.

12 THE COURT: The record reflects the witness has
13 identified the defendant.

14 Q Now, let's talk about you for a second. Okay? As a
15 result of your actions in this case, you were charged
16 with accessory after the fact of murder?

17 A Yes.

18 Q Right?

19 A (Nods head affirmatively).

20 Q Because of what you did?

21 A (Nods head affirmatively).

22 Q And that charge is in Richland or Newberry County?

23 A Newberry.

24 Q And you're still facing those charges?

25 A Yes.

1 **MR. MEADORS:** Beg the Court's indulgence. Thank
2 you, Your Honor. That's all.

3 **THE COURT:** All right, ladies and gentlemen.
4 Let's take about a ten or fifteen-minute break. I'm
5 going to ask you to go to the jury room. Do not
6 discuss this case among yourselves while you're in
7 the jury room. We'll call you in just a few minutes.

8 (Jury out at 11:09 a.m.)

9 **THE COURT:** All right. Ms. Davis, we're going
10 to take about a fifteen-minute break. You're going
11 to have to come back on the witness stand for just
12 some more questioning. But during this break I don't
13 want you to talk with any of these lawyers or law
14 enforcement. Do you understand? You can talk with
15 your aunt and your kin people who are here with you.
16 But I want you to relax for a few minutes. I don't
17 know that it's going to be much longer but we're
18 going to take about a fifteen-minute break. You can
19 use the bathroom, get a soda or something like that.
20 I want you to relax. Okay? We'll stand at ease for
21 about ten or fifteen minutes.

22 (Whereupon, a break is taken)

23 **THE COURT:** Where is Ms. Davis? Are you
24 bringing Ms. Davis?

25 (Pause)

1 **THE COURT:** All right. Bring the jury, please.

2 (Jury in at 11:35 a.m.)

3 **THE BAILIFF:** The jury is present, Your Honor.

4 **THE COURT:** Thank you. All right, Ms. Durant.

5 You may cross examine.

6 CROSS EXAMINATION

7 **BY MS. DURANT**

8 **Q** Ms. Davis, I know this is very difficult for you. So

9 I only have a few questions. Okay?

10 **A** (Nods head affirmatively).

11 **Q** You said that Derrick and Keith were like brothers?

12 **A** Yes.

13 **Q** Derrick was older than Keith?

14 **A** Yes.

15 **Q** So he was like a big brother to Keith?

16 **A** Right.

17 **Q** You gave a -- you said you had talked to the Newberry
18 officers?

19 **A** Yes.

20 **Q** And you actually gave a written statement. Isn't
21 that true?

22 **A** Yes.

23 **Q** And you signed your statement?

24 **A** Yes.

25 **Q** You remember that?

1 **A** Yes.

2 **Q** Now, I think you testified today -- do you have a
3 copy of your statement with you?

4 **A** No.

5 **Q** Okay. Just hang with me. Okay? You testified today
6 that Keith had given you when you were at Molly's
7 Rock Pond -- first of all, let me go -- you said it
8 took all four of you to take the body to the pond?

9 **A** Yes.

10 **Q** So Brian was pretty big guy then. Is that right?

11 **A** Yes.

12 **Q** Okay. And you said that Keith gave you a bag with a
13 cellphone, a wallet and a tag in it. Is that right?

14 **A** And a chain, a necklace.

15 **Q** Cellphone, chain and necklace. In your statement,
16 your statement was a little different. Your
17 statement, you don't mention that. I think you just
18 said Keith gave us a bunch of stuff. Do you remember
19 that?

20 **A** Right.

21 **Q** So in your statement you didn't say that he gave you
22 a cellphone and chain?

23 **A** That's what it was. I was nervous then and I'm
24 nervous now, and I --

25 **Q** I know you are. Just hang with me. We're just

1 talking about the statement you gave. I think you
2 gave that statement on January the 5th, 2004?

3 A Well, when I said "stuff", that's what I was
4 referring to.

5 Q Right. But you didn't itemize it in your statement.
6 You just said he gave you a bunch of stuff?

7 A Right.

8 Q And that statement was given right after the
9 incident, correct?

10 A Right.

11 Q Right. And that's been almost -- it's been over two
12 years ago?

13 A Right.

14 Q And I also think you testified today that Keith told
15 you to go back and get the bullet out of the car?

16 A Yes.

17 Q And you didn't put that in your statement either, did
18 you?

19 A I don't know what I wrote.

20 Q Well, I have a copy of your statement here if you
21 would look at it.

22 A Mm-hmm (affirmative).

23 Q And it is rather lengthy, but if you would look at it
24 and see if that's anywhere in this statement?

25 A Okay.

1 **MS. DURANT:** May I approach the witness, Your
2 Honor?

3 **THE COURT:** Yes, ma'am.

4 (Ms. Durant hands document to the witness)

5 (Pause)

6 **A** You're right. It's not in here.

7 **Q** So you didn't say anything about that in your
8 statement right after the incident, correct?

9 **A** I just -- I just summed it up.

10 **Q** Okay.

11 **A** Just ...

12 **Q** And may I -- that's okay. And I also think you
13 testified today that Keith gave the gun to you and
14 Natalie and told you to get rid of it?

15 **A** Yes.

16 **Q** And you didn't say anything about that in your
17 statement. I think in your statement you said Keith
18 gave the gun to Natalie?

19 **A** I just told the officers everything that I knew and
20 they told me to just basically write down everything,
21 just sum up everything. And I may have left it out,
22 yeah.

23 **Q** I think your statement you said --

24 **A** But I told them about it before I even written (sic)
25 my statement.

1 Q But your statement just says he gave the gun to
2 Natalie, correct?

3 A Yes.

4 Q Okay. Now, you also said today that you went to
5 Bernie Mack's and Keith gave you the jeans, the CD
6 and the tag?

7 A He didn't give it to me personally. He gave it to
8 Natalie somewhere in that area. Then she gave it to
9 me when she wanted me to get rid of it.

10 Q Well, there's nothing in your statement about Keith
11 giving you that at Bernie Mack's. Is that correct?

12 A No. Because he didn't. He didn't give it to me.

13 Q And, Ms. Davis, the solicitor said you are also
14 charged with accessory after the fact of murder?

15 A Yes.

16 Q Correct? And you have not been convicted of that at
17 this point, correct?

18 A No.

19 Q Do you know what time that carries, how much time
20 that carries?

21 A Yes. They said 15 years.

22 Q So you're potentially facing that much time in
23 prison?

24 A Yes.

25 Q Would you hope that by testifying today you could get

1 less than the 15 years?

2 A What I hope is that basically everyone just knows
3 what I basically went through, that I had to do it
4 and I'm just doing it because I have my daughter and
5 my kids to worry about. And then I have this guy's
6 family. You know, I don't know what they think of me
7 because of this situation. And I just ...

8 Q I understand. Just stay with me. We're almost done.
9 Okay? I don't want you to cry. I know it's very
10 hard. Okay? So just -- the only thing I'm asking
11 you is --

12 A I just want the best to come out of it. That's all.
13 I'm not doing it to have lesser time or, you know, to
14 get anyway with anything. I'm not trying to do that.
15 I just want people to see and to know basically, to
16 feel what I'm going through right now, what I will be
17 going through, whether I'm in jail or on the outside.

18 Q And I'm sure it will be -- I'm sure none of us can
19 know exactly, but it's got to be very difficult. But
20 the best would be less than 15 years, correct, so you
21 could be with your children?

22 A Yes.

23 Q I beg the Court's indulgence, Your Honor. Ms. Davis,
24 just one more question. Okay? And then you're
25 through. You were not in the car at the time the

1 shooting occurred, correct?

2 **A** No.

3 **MS. DURANT:** No further questions, Your Honor.

4 **THE COURT:** Any redirect?

5 **MR. MEADORS:** Yes, sir. A few brief ones. A
6 few brief questions.

7 (WHEREUPON, State's Exhibit No. 70 is marked for
8 identification.)

9 **MR. MEADORS:** Court's permission to approach
10 briefly?

11 **THE COURT:** Yes, sir.

12 REDIRECT EXAMINATION

13 **BY MR. MEADORS**

14 **Q** I just want to show you what's marked State's 70 for
15 I.D. only. Okay? Ms. Durant asked you about your
16 statement. Is this the three-page statement, almost
17 three pages, you gave to Robert Dennis?

18 **A** Yes.

19 **Q** And the date on here is January 5th, correct?

20 **A** Yes.

21 **Q** 2004? And Ms. Durant asked you about -- I think she
22 said about whether or not you said in detail about
23 what they had given you. But you've put in here
24 "stuff", he gave you some stuff?

25 **A** Yes.

1 Q And was that the stuff that you told us about on
2 direct?

3 A Yes.

4 Q And she asked you specifically about I think the gun.
5 And if you'd look at State's 70, did you put in your
6 statement that you tossed the gun out?

7 A Yes.

8 Q You put in there you tossed the gun out, correct?

9 A Yes.

10 Q And did you put in there where you'd gotten the gun
11 from?

12 A Yes.

13 Q Keith gave the gun or the green shirt to Natalie?

14 A Yes.

15 Q You got it and tossed it out?

16 A Yes.

17 Q That's in your statement?

18 A Yes.

19 Q And you put in your statement about the cement blocks
20 and the chain?

21 A You asked if I --

22 Q Did you tell them about the cement blocks and the
23 chain?

24 A Yes.

25 Q You put that in there, didn't you?

1 **A** Yes.

2 **Q** And did you put in there about what happened at
3 Molly's Rock and taking the body down?

4 **A** Yes.

5 **Q** You put that in your statement?

6 **A** Yes.

7 **Q** And did you put in there about going to Charleston,
8 Nikki?

9 **A** Yes.

10 **Q** Did you put in there about seeing Derrick -- excuse
11 me -- seeing the defendant clean up blood in the
12 driveway at his home?

13 **A** Yes.

14 **Q** That's in there?

15 **A** Yes.

16 **Q** Did you put in there about going to the BP and the
17 Shell station and all that? Is that in there?

18 **A** Yes.

19 **Q** Did you put in there about Bernie Mack?

20 **A** Yes.

21 **Q** Did you put in there about him tossing the little
22 thing he was cleaning the blood up with away?

23 **A** Yes.

24 **Q** Did you put in there that he asked you if there was a
25 brick when you first saw him that night?

1 A Yes.

2 Q Beg the Court's indulgence. Thank you.

3 THE COURT: Recross examine?

4 MS. DURANT: Just a couple, Your Honor.

5 RECROSS EXAMINATION

6 BY MS. DURANT

7 Q Ms. Davis, I think you said when you threw the gun
8 out you were going over the Bush River? I think you
9 testified to that?

10 A I'm not actually sure. I mean, I just -- I know it
11 starts with a "B" and we were going over like a
12 little bridge, just a small one.

13 Q Okay. But I think you testified that it was the Bush
14 River, is what you thought?

15 A Yes. That's what I said.

16 MS. DURANT: Okay. Beg the Court's indulgence
17 one moment, Your Honor. No further questions, Your
18 Honor.

19 THE COURT: All right. Ms. Davis, you may come
20 down. Thank you very much. May this witness be
21 excused?

22 MR. MEADORS: We'd so ask.

23 MS. DURANT: Yes, Your Honor. That's fine.

24 THE COURT: Ms. Davis, you are free to go.

25 Thank you very much, ma'am. All right. Approach the

1 bench.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** All right. Ladies and gentlemen,
4 let me talk to them. Ladies and gentlemen, it's my
5 understanding from the State that the next series of
6 witnesses will be here from Newberry County. I think
7 some of them are here and some of them are not here.
8 They were told to be here I believe after lunch
9 today. So I think the only thing we can do at this
10 point, the most expeditious use of our time, would
11 be -- I know we just took a break, but I think we're
12 going to go ahead and take an early lunch hour. I
13 wasn't quite informed of the schedule but that's the
14 way things go in trials.

15 So let's take our lunch break now. I'm going to
16 ask you to be back in the jury room at 1:30. That's
17 an hour and a half. Normally I take about an hour,
18 an hour and a half. I don't know what obligations
19 you may have. I ask you to be back at 1:30. And
20 we'll start the testimony at that time and we'll
21 welcome our friends from Newberry County to be with
22 us this afternoon.

23 So again, don't discuss the case among
24 yourselves when you return to the jury room or with
25 anyone else over the lunch hour. Have a pleasant

1 lunch. See you in the jury room at 1:30. We'll be
2 ready to proceed. Thank you very much.

3 (Jury out at 11:55 a.m.)

4 **THE COURT:** We'll stand at ease until 1:30.

5 (Whereupon, a lunch break is taken)

6 **THE COURT:** Is the State ready to proceed?

7 **MR. MEADORS:** Yes, sir.

8 **THE COURT:** Defense ready to proceed?

9 **MS. DURANT:** Yes, Your Honor.

10 **THE COURT:** Is Ace ready to proceed?

11 **MR. ACE WESLEY:** One second, Judge.

12 (Pause)

13 **MR. MEADORS:** Beg the Court's indulgence.

14 (Pause)

15 **THE COURT:** What's going on?

16 **MR. MEADORS:** Your Honor, there is a part of a
17 video that will take two seconds. We just want to
18 show them when the next witness is walking into an
19 Amoco.

20 **THE COURT:** You're showing defense counsel or
21 are you going to show the jury?

22 **MR. MEADORS:** Both.

23 (Pause)

24 **MR. MEADORS:** Thank you.

25 **THE COURT:** All right. Bring the jury, please.

1 (Jury in at 1:37 p.m.)

2 **THE BAILIFF:** The jury is present, Your Honor.

3 **THE COURT:** Thank you very much. All right.

4 Ladies and gentlemen, I hope you had a pleasant
5 lunch. We're now ready to continue with the trial.
6 Solicitor, call your next witness.

7 **MR. MEADORS:** Thank you. Bernard Elkins.

8 **DANNY B. ELKINS,** after being duly sworn,
9 testifies as follows:

10 **THE CLERK:** Please have a seat there, sir, and
11 please speak into the microphone and state your full
12 name for the record.

13 **WITNESS:** My name is Danny Bernard Elkins.

14 **DIRECT EXAMINATION**

15 **BY MR. MEADORS**

16 **Q** Mr. Elkins, if you don't -- see if you can just speak
17 in there as best you can so all the jurors can hear
18 you.

19 **A** Okay.

20 **Q** You go by Daniel or Bernard?

21 **A** Either one. It doesn't matter.

22 **Q** What do you like best?

23 **A** Danny.

24 **Q** Is it all right if I call you Daniel or Mr. Elkins?

25 **A** Yes, sir.

1 Q Can you please tell these ladies and gentlemen where
2 you're from?

3 A Newberry, South Carolina.

4 Q Born and raised there?

5 A Yes, sir.

6 Q Where did you go to school?

7 A Newberry High.

8 Q What year did you get out of Newberry High?

9 A 1989.

10 Q After you left Newberry, what did you do, Bernard?

11 A Joined the armed services for six years.

12 Q And were you also working somewhere else during that
13 time?

14 A Yes, sir. Louis Rich.

15 Q What branch were you in the armed services?

16 A National Guard.

17 Q And how long did you work at Louis Rich?

18 A About two years.

19 Q After that where did you work?

20 A Kaiser-Roth, the hosiery plant in Prosperity.

21 Q Kaiser-Roth?

22 A Yes, sir.

23 Q That's a hosiery plant?

24 A Yes, sir.

25 Q How long did you work there?

- 1 A About three to four years.
- 2 Q Where did you work after that?
- 3 A American Fiber and Finish.
- 4 Q American Fiber what?
- 5 A American Fiber and Finish.
- 6 Q AFF?
- 7 A Yes, sir. AFF.
- 8 Q What did you do there?
- 9 A A slash operator.
- 10 Q What's that?
- 11 A I can't really explain it. Just like winding yarn on
12 a beams, is all can I describe it as.
- 13 Q After that where did you work?
- 14 A Georgia Pacific.
- 15 Q What did you do at Georgia Pacific?
- 16 A A forklift operator.
- 17 Q And tell these Ladies and Gentlemen of the Jury where
18 are you working now?
- 19 A Shakespeare Composite.
- 20 Q Where is that?
- 21 A Newberry.
- 22 Q And what do you do at Shakespeare?
- 23 A A paint booth technician.
- 24 Q And what does that mean?
- 25 A I like paint poles. And like if things don't get

- 1 right, I have to straighten it out.
- 2 Q You like your job?
- 3 A Love it.
- 4 Q How long have you been doing that?
- 5 A A year and a half.
- 6 Q And what kind of hours do you work?
- 7 A Ten hours a day five days a week.
- 8 Q What time did you get off work last night?
- 9 A About 1:30.
- 10 Q I want to take you back in your mind if I can to New
- 11 Year's Eve of 2003. Okay? Where -- let me --
- 12 reference point; where were you working then out of
- 13 all these jobs?
- 14 A Georgia Pacific.
- 15 Q And do you remember what you did New Year's Eve 2003?
- 16 A Well, I went to a club down in Pomaria callid Buster
- 17 Wicker's for a while.
- 18 Q Buster Wicker's?
- 19 A Yes, sir.
- 20 Q And that's in Pomaria?
- 21 A Yes, sir.
- 22 Q What highway is it on?
- 23 A 176.
- 24 Q Were there a lot of people there?
- 25 A Yes, sir.

- 1 Q What time did you get to Buster Wicker's?
- 2 A Roughly around 12:30, something like that.
- 3 Q In the morning?
- 4 A In the morning.
- 5 Q And this would have been New Year's --
- 6 A Day. Morning or whatever.
- 7 Q Day, morning?
- 8 A Yes, sir.
- 9 Q New Year's Eve night, New Year's Day morning. When
- 10 you got there, did you have an occasion to see Keith
- 11 Sims?
- 12 A Yes, sir.
- 13 Q Did he come after you got there, or was he already
- 14 there?
- 15 A He was already there before I got there.
- 16 Q How long had you known Keith Sims?
- 17 A About seven years.
- 18 Q After you saw him there, did you talk with Keith Sims
- 19 that night? Did he talk with you?
- 20 A Well, he came up to me and told me that he needed a
- 21 ride because the cops were looking for him.
- 22 Q Because the cops were looking for him?
- 23 A Yes, sir.
- 24 Q Did you want to leave?
- 25 A Not really. But he kept on pushing. So I said,

- 1 "Okay, I'll take you where you need to go."
- 2 Q All right. And did you have any gas money or --
- 3 A Well, he offered me some.
- 4 Q Okay. And did you take him from Buster Wicker's
- 5 somewhere?
- 6 A Yes, sir.
- 7 Q Where did you take him?
- 8 A Well, I went to a road called Barnes' Crossing. We
- 9 went to kinfolks' house, but they wouldn't let him in
- 10 for some reason. I don't know.
- 11 Q And where was that, those kinfolks' house where they
- 12 wouldn't let him in?
- 13 A Excuse me, sir?
- 14 Q Where was that?
- 15 A It was in Newberry.
- 16 Q You took him one place; he couldn't get in. Then
- 17 where did you all go?
- 18 A 773 by the interstate 26. It's like a Subway
- 19 station.
- 20 Q Do they sell gas there, too?
- 21 A Yes, sir.
- 22 Q Do you know what kind of gas station it was?
- 23 A BP. I want to say BP or Amoco.
- 24 Q BP or Amoco?
- 25 A Yeah.

1 Q While you're riding and going to these places,
2 Mr. Daniel or Bernard, did he tell you anything about
3 why he was running?
4 A Yes, sir.
5 Q What did he tell you?
6 A Well, I asked him why he was running. He was like,
7 "Hey, man, I shot somebody." Man, I was like,
8 "What?" He was like, "I shot the dude." He said
9 they had been arguing all day, which I did not know
10 because I wasn't there. So when he told me that, I
11 kind of like panicked, you know what I'm saying.
12 Then I went to my girlfriend's house and I let him
13 out at my girlfriend's. I told him, "I've got to get
14 out of this because I don't want no part of it."
15 Q And where does your girlfriend live?
16 A Forest Hills in Prosperity.
17 Q Is that in Newberry county?
18 A Yes, sir.
19 Q And did he tell you where he shot this guy?
20 A He said he shot him in his front yard.
21 Q He shot him in Keith's, in his front yard?
22 A Yes, sir.
23 Q And do you know where Keith Sims lived?
24 A I just know he lived down here in Columbia, Richland
25 County somewhere. I don't know whereabouts.

1 Q In Richland County?

2 A Yes, sir.

3 Q And he said that's where he shot him, in his yard?

4 A Yes, sir.

5 Q Now, maybe I missed it, but did you just kind of
6 leave him there on the street and said, "I'm not
7 going to get involved with it?"

8 A Yes. I just walked in the house. He went walking
9 down the road. I don't know where he went after
10 that.

11 Q All right. And do you know where he went after that?

12 A No. I do not know.

13 Q And where did you go after that, Bernard?

14 A After I left my girlfriend's house, I went home and
15 tried to lay down and go to sleep but I couldn't
16 because it was on my mind about what I had heard. So
17 I called my pastor, which is a Sheriff's Deputy in
18 Newberry County, and he told me to go to the
19 Sheriff's Office and make a statement.

20 Q So your pastor is also employed with the Newberry
21 County Sheriff's Department?

22 A Yes, sir.

23 Q And what's his name? I have to put you on the spot
24 with your preacher.

25 A Johnny Mack Scurry.

1 **COURT REPORTER:** Johnny Mack what?

2 **A** Scurry.

3 **COURT REPORTER:** Thank you.

4 **Q** And had your mama also encouraged you to go?

5 **A** Yes, sir. Because she seen I couldn't sleep.

6 **Q** And did you have an occasion to go down to the
7 Newberry County Police Department?

8 **A** Yes, sir.

9 **Q** And when did you go down there?

10 **A** It must have been around about 7 or 7:30 or 8:00 that
11 morning.

12 **Q** So you went on down there that same day?

13 **A** Yes, sir.

14 **Q** And did you have an occasion to tell the folks at the
15 Newberry County Sheriff's Department what you told
16 the jury and what the defendant had told you?

17 **A** Yes, sir.

18 **Q** And did he tell you what type of gun he'd used?

19 **A** He said a .9 millimeter. That's all I know.

20 **Q** He told you it was a .9 millimeter. Did he tell you
21 where he'd shot him?

22 **A** In the head. That's all he said. He shot him in the
23 head.

24 **Q** Did he tell you what happened to the gun?

25 **A** Well, all I know, he said he throwed it away

1 somewhere in Columbia. I do not know whereabouts.

2 He just throwed it away.

3 Q But he told it was thrown away?

4 A Yes, sir.

5 Q When did you see him next?

6 A I haven't seen him since then.

7 Q Is today the next time you've seen him?

8 A Yes, sir.

9 Q And is the person who told you that he had killed
10 somebody in his yard in Columbia with a .9 millimeter
11 after shooting him in the head, is that person in the
12 courtroom?

13 A Yes, sir.

14 Q Would you please point him out?

15 A Right there with the white on his head.

16 Q I'd like the record to reflect he's pointed out the
17 defendant, Keith A. Sims. Your Honor, beg the
18 Court's indulgence.

19 **THE COURT:** The record will so reflect.

20 Q Thank you, sir.

21 **THE COURT:** Cross examination.

22 **MS. OWINGS:** Yes, Your Honor. May we approach?

23 (Whereupon, a bench conference is had)

24 CROSS EXAMINATION

25 **BY MS. OWINGS**

- 1 Q Hey, Mr. Elkins.
- 2 A Hey. How you doing?
- 3 Q Mr. Elkins, I believe you testified that you ran into
- 4 Keith at about 12:30 in the morning on New Year's
- 5 Eve?
- 6 A Something like that.
- 7 Q So, in the middle of the night?
- 8 A Yes, the middle of the night.
- 9 Q Okay. When you saw Keith he was upset?
- 10 A No. He wasn't upset. They were partying until they
- 11 said the police was looking for him.
- 12 Q And then he wanted to get out of there?
- 13 A Yeah.
- 14 Q Okay. You testified that you all went to a kinfolk's
- 15 house or someone's house and they wouldn't let him
- 16 in?
- 17 A Mm-hmm (affirmative).
- 18 Q But it was the middle of the night, right?
- 19 A Mm-hmm (affirmative).
- 20 Q It was like 12:30 or 1, that time of night?
- 21 A No. It was closer to about 1:30, almost 2 by that
- 22 time.
- 23 Q So it was late when you all got there?
- 24 A Mm-hmm (affirmative).
- 25 Q Okay. Mr. Elkins, when Keith was telling you about

1 the shooting, he told you that he had been arguing
2 with this guy?

3 A Mm-hmm (affirmative).

4 Q And I believe, according to your statement you gave,
5 they'd been arguing for a long time?

6 A Well, that's what he told me.

7 Q So he told you they'd been arguing or beefing for
8 about a year?

9 A Mm-hmm (affirmative).

10 Q So these two had issues?

11 A I don't know.

12 Q But according to what you were told --

13 A Yes.

14 Q -- they had issues?

15 A Yeah.

16 Q Okay. I beg the Court's indulgence one moment. When
17 you and Mr. Sims were in the car, would you say that
18 he was scared?

19 A Pretty much.

20 Q His hands were shaking?

21 A Yes.

22 Q And you could see in his eyes that he was terrified?

23 A By his hands was shaking, trying to use the
24 cellphone. He can't use the cellphone.

25 Q So it was very obvious that he was upset?

1 **A** (Nods head affirmatively).

2 **Q** I have no further questions. Thank you, Mr. Elkins.

3 **THE COURT:** Redirect?

4 **MR. MEADORS:** Beg the Court's indulgence.

5 **THE COURT:** Anything further, Mr. Meadors?

6 **MR. MEADORS:** Beg the Court's indulgence,
7 please. Yes, sir.

8 REDIRECT EXAMINATION

9 **BY MR. MEADORS**

10 **Q** She just asked you, did he specifically tell you --
11 how did he describe the person he shot?

12 **A** Well, he didn't describe him. He just said he had
13 shot somebody. That's all I can tell you.

14 **Q** Did he use a term in describing him?

15 **A** Well, he said he shot that "N".

16 **Q** He used the "N" word?

17 **A** Yes.

18 **Q** That's all. Thank you.

19 **THE COURT:** Anything further?

20 **MS. OWINGS:** No, Your Honor.

21 **THE COURT:** Thank you. You may come down, sir.
22 Thank you very much. May Mr. Elkins be excused?

23 **MR. MEADORS:** We'd like to -- I mean, we have no
24 objection to that.

25 **THE COURT:** Any objection?

1 **MR. MEADORS:** No. Excuse me. It's up to you.

2 **MS. OWINGS:** No, sir. We don't have any
3 objection.

4 **THE COURT:** Mr. Elkins, you're free to go.
5 Thank you very much for coming.

6 **MR. MEADORS:** May we approach?

7 (Whereupon, a bench conference is had)

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

9 **MR. BRYANT:** The State calls Lieutenant Wesley
10 Boland.

11 WESLEY BOLAND, after being duly sworn, testifies
12 as follows:

13 **THE CLERK:** Please have a seat there, sir.

14 Speak into the microphone. State your full name for
15 the record.

16 **WITNESS:** Wesley Boland.

17 DIRECT EXAMINATION

18 **BY MR. BRYANT**

19 **Q** Lieutenant, could you tell the court where you work?

20 **A** I'm Lieutenant of investigations at Newberry County
21 Sheriff's Office.

22 **Q** Where were you born?

23 **A** Pomaria, South Carolina, in Newberry County.

24 **Q** Where did you go to high school?

25 **A** Mid Carolina High School, Prosperity, South Carolina.

1 Q How long have you been a law enforcement officer?

2 A I'm going on 14 years.

3 Q All of those with Newberry County?

4 A Yes, sir.

5 Q What about your training, your background that
6 prepared you for this job?

7 A I got a bachelor's degree in Criminal Justice from
8 the University of South Carolina. While I was still
9 attending it, I went full time with the Sheriff's
10 Office Police Academy, South Carolina Criminal
11 Justice Academy. In the meantime of that, numerous
12 photography crime scene investigative classes, auto
13 theft, arson, a little bit of everything.

14 Q Let me take you back to December 31st, 2003. Could
15 you tell me how you got involved in this incident?

16 A There was a young man and a young lady came to the
17 Sheriff's Office. I talked with our chief deputy,
18 said that they had found what they thought to be a
19 body in the pond at Molly's Rock. It's a U.S.
20 Forestry property in our county. So at that time we
21 followed them for them to show us what they had
22 found. It was several of us from the office, mostly
23 investigative staff at that time, followed them to
24 the pond where they said the body was.

25 Q You said mostly investigators. Is Newberry Sheriff's

1 Department a small -- it's a small police force or --

2 A Yes, sir. We're about 50 officers total.

3 Q How many investigators?

4 A Six.

5 Q What did you do? What did you see when you first got
6 to Molly's Rock Pond?

7 A When we got there, at the end of the little dock area
8 on the pond, it was definitely a body submerged in
9 the water. At that time we thought it was a white
10 male from looking into the water. At that time we
11 backed out. We -- if it's a major scene, something
12 like that, we'll a lot of times call SLED to come
13 help us with the crime scene. So we backed out,
14 started marking off the area. And then we noticed
15 there was drag marks from the parking lot. So at
16 that time we moved the line on further back 'til
17 actually the whole parking area and all was cordoned
18 off.

19 Q When you say you noticed a body in the water, I'm
20 going to hand you what's been introduced in evidence
21 as State's Exhibit 1. Is that what you saw?

22 A Yes, sir.

23 Q And you said that looked, it first appeared to be a
24 Caucasian male?

25 A Yes, sir.

1 Q You also spoke about approaching the area of Molly's
2 Rock Pond. I show you what's been introduced into
3 evidence as State's Exhibit 2. Is that a photograph
4 of the dock as you approached?

5 A That's the dock at the pond. Yes, sir.

6 Q And when you mentioned cordoning off the area, could
7 you explain that, please, sir?

8 A We marked it off as the crime scene area. That way
9 nobody could come in or out of the crime scene
10 without being checked on a list, a crime scene list
11 of who would have came onto the scene.

12 Q How did you prevent people from coming in?

13 A We had an officer posted. It was actually gated at
14 the drive in of the parking area, and we totally
15 blocked off the whole area where the drive in area is
16 on down to the dock. That whole area was actually
17 closed off all that day.

18 Q Now, you mentioned you called SLED. Do you call SLED
19 on every case?

20 A Not every case. But if it's a major scene we will
21 typically call SLED, especially something like a
22 homicide where we will need a lot of lab assistance.
23 They have the lab; and, therefore, we know most of
24 what they're doing. But with them having the lab,
25 they have the ability to get us results much quicker

1 and work together a whole lot better.

2 Q Where did you park when you first arrived at the
3 scene?

4 A I had actually pulled into the gate area where the
5 parking area is just to the left.

6 Q Was anybody with you?

7 A Yeah. It was several investigators with me. It was
8 chief deputy. It was Sergeant Robert Dennis who is
9 under me in investigations. It was probably six or
10 so of us at that time.

11 Q Once SLED was called, then what did you do?

12 A We backed out. We had also called for DNR to send a
13 diver because we knew he was in a pond and we would
14 need some assistance on that end. We backed out and
15 waited for SLED crime scene to actually come and work
16 the scene.

17 Q But your agency had already, including you, had
18 already surveyed and been over the scene?

19 A Well, initially we had to size up the scene and see
20 what we had and what kind of area we needed to cordon
21 off so nothing would be contaminated or anything. So
22 just in our nature, we're looking at evidence while
23 we're there to make sure nothing is disturbed and to
24 make sure that we've got plenty of area cordoned off.

25 Q After SLED gets there, they take charge?

1 **A** As far as the crime scene; yes, sir.

2 **Q** In terms of evidence, what did you assist in that
3 day?

4 **A** Pretty much evidence wise, SLED crime scene worked
5 the area that's cordoned off, which included the drag
6 marks, the photographing and everything that they did
7 on that scene. While some of them were doing this,
8 our guys were actually walking the roads. It's a
9 very isolated area and there's some roads to the
10 driving area of the little park. So we were actually
11 walking those roads to see if we saw anything on the
12 side of the road that may be of some evidentiary
13 value. In that time we found the glove, the little
14 package like work gloves coming in where they're
15 stapled together. It's got the brand name and all on
16 them. It was actually on the road leading into the
17 park.

18 **Q** You mentioned drag marks. I'm going to hand you
19 what's in evidence as State's No. 29. Are those the
20 drag marks?

21 **A** Yes, sir. Where the old well is at, the actual
22 parking area, they're at the edge of the parking area
23 looking toward the pond, which you'll see the dock to
24 your right, and that is the drag marks.

25 **Q** Part of the evidence I believe you also mentioned you

1 collected were a set of gloves?

2 A It was actually just a tag. It wasn't the gloves
3 itself. It wasn't -- it was just the tag itself of
4 the gloves.

5 Q Once the DNR person gets there and goes into the
6 water, what are your duties as he is doing that?

7 A We were just there to aid them, the crime scene guys,
8 anything they collect. One thing that came up was
9 the chain and all that was used. If we took it out
10 of the water environment, it would rust. We wanted
11 to try to save that for evidentiary value, so we
12 ended up getting a big three inch PVC pipe, putting a
13 cap on one side and filling it full of water. And
14 then Tony who came with DNR put the chain inside of
15 the tube filled with water. That way it wouldn't
16 oxidize and rust until we could attempt to get any
17 prints or anything we could off of it.

18 Q I'm going to show you State's No. 30. Is that an
19 accurate depiction of the chain and PVC tubing in
20 which it was placed?

21 A Yes, sir.

22 Q And with the Court's permission, rather than bring
23 the chain, I'm going to ask the witness to stand down
24 and identify the tube itself?

25 THE COURT: If he needs to.

1 Q Is that it?

2 A Yes, sir. That is definitely the tube that we made
3 that day.

4 Q Were there also cement blocks collected?

5 A Yes, sir.

6 Q And was this one of the blocks?

7 A Tony and SLED took those. I can't tell you on that.

8 Q Okay.

9 A It looks -- I mean, a cement block, I can't --

10 Q They all look the same?

11 A Pretty much.

12 Q After you'd gotten the tube, you'd seen that
13 collected, what happened to the victim?

14 A After everything, the chain was collected, everything
15 was done, we actually -- Tony with DNR brought the
16 body up to the edge of the bank and had a body bag
17 there, got the body bag, I mean got the body bag
18 positioned at the edge of the bank, got the body
19 there. We actually fingerprinted the body right
20 there trying to get an identification. We
21 fingerprinted the body and it was later identified as
22 that of Brian Anderson.

23 Q After you learned that -- let me -- was that the end
24 of your work at the scene itself?

25 A At the scene itself; yes, sir.

1 Q Subsequent to establishing the identity of the victim
2 as Brian Anderson, then what did you do?

3 A After we identified him we met with Richland County
4 investigators because the family was in Richland
5 County. So we met with the investigators there and
6 we went to the mother's house in Richland County.
7 Once we got -- once we talked with the mother, she
8 showed us pictures, pretty much further identified
9 what we already knew, just confirmed everything.

10 Some of the family tried to help us run down
11 where he had been the night before, and we found out
12 that it had been a party at Adams Mark Hotel in
13 Columbia for one of Brian's friends. And that's
14 where he had been the night before. And we -- during
15 the night we consistently did interviews from people.
16 One group of us actually went to Adams Mark. My
17 group went up Monticello Road finding family and
18 friends along the way.

19 Q Did you go talk with the person who had the party?

20 A I did, yes. The Hutchins. Well, who the party was
21 for, he was actually on leave from the military. And
22 they were having a birthday party for him at the
23 Adams Mark.

24 Q Did you also as part of your investigation talk with
25 other individuals?

1 **A** Many. Yes, sir.

2 **Q** And as a result of that investigation, were you able
3 to develop a possible suspect?

4 **A** Yes, sir. Keith Antonio Sims was developed as a
5 suspect. He was the last one seen by any of the
6 witnesses while he was alive.

7 **Q** When you developed Mr. Sims as a suspect, was that
8 about the end of what you could do for that day?

9 **A** The other group was working the Adams Mark, the Adams
10 Mark side of the investigation. We got back with
11 them. They had determined similar information. So
12 at that time it had been a long day and night. We
13 spent New Year's Eve, we brought it in on Monticello
14 Road in Columbia that year. So at that time we
15 went -- we decided we were going to call it a night,
16 go to the Sheriff's Office in Newberry and try to get
17 an arrest and went up to Highway 176 by Buster
18 Wicker's club.

19 **Q** Do you remember if that was later that morning, late
20 at night? Do you remember what time that happened?

21 **A** I'm -- roughly, 1:30, 1:30'ish area. Somewhere along
22 there. I can't tell you exactly. By then I'd been
23 going about 16 hours.

24 **Q** When you say 1:30, I guess you mean in the morning of
25 New Year's Day?

1 **A** That was New Year's Day. It was after New Year's.

2 **Q** When you started, came back to work later, January
3 the 1st, what did you then do?

4 **A** The autopsy was done but that was with another
5 officer. We had gotten the information that Mr.
6 Elkins had information that we needed to talk with
7 someone. The other officers had talked with him as
8 well. We further developed Keith Sims from that. So
9 at that time I went looking for Keith for all the
10 areas that he had been the night prior trying to
11 locate him.

12 **Q** And did you eventually come into contact with Mr.
13 Sims?

14 **A** Yes, I did. He actually paged me. And I talked with
15 him. He said he was at home. And as soon as he
16 found somebody to bring him, he'd come to the office.

17 **Q** This was your first contact with Keith Sims?

18 **A** Yes.

19 **Q** Is that correct?

20 **A** I had been by the house and talked with -- well,
21 actually, his mother was at church that first night.
22 But I had left a card and stuff, and Keith actually
23 got in touch with me that day.

24 **Q** As a result of your going by the house?

25 **A** I take it. Yes.

1 Q What happened when you first met Mr. Sims?

2 A We -- we sat down and Mirandized him, read him his
3 rights and all, told him we wanted to talk to him in
4 reference to this homicide. And we went through the
5 Miranda form, Mirandized him.

6 MS. DURANT: May we approach, Your Honor?

7 (Whereupon, a bench conference is had)

8 Q When you went through the rights with Mr. Sims --

9 A Yes, sir.

10 Q -- you didn't threaten or coerce him in any way?

11 A No, sir.

12 Q He voluntarily waived, talked to you?

13 A Yes, sir.

14 MS. DURANT: No objection.

15 MR. BRYANT: Your Honor, I'm going to show the
16 witness what is State's 71, I believe without
17 objection.

18 MS. DURANT: No objection.

19 (WHEREUPON, State's Exhibit No. 71 is marked for
20 identification and received in evidence.)

21 Q If you could, please, sir, is this a blow up of [REDACTED]
22 and [REDACTED]? Could you tell us where
23 Mr. Sims lived?

24 A Let's see. I'm trying to make sure. This is
25 Columbia? This is Fairfield?

1 Q I believe so.

2 A Yeah. That would be right. The [REDACTED] would be Sims.
3 And I'm thinking [REDACTED] would be the grandfather's
4 house of Brian Anderson.

5 Q After you read him his rights, what was the result of
6 your next actions?

7 A Between all the evidence, well, the circumstantial
8 evidence we had gathered from witnesses and
9 everything, he was arrested in Newberry County and
10 charged with murder. During our conversation when we
11 talked to him he gave limited stories with
12 conflicting times of what had happened that night but
13 of course denied anything to do with the homicide of
14 Brian.

15 Q The arrest that day of Keith Sims, did that end your
16 investigation?

17 A No, sir.

18 Q After he was arrested for the murder of Brian
19 Anderson, what was the next step in your
20 investigation?

21 A Well, we knew there was other people. Other people
22 had told me some other people that they had heard
23 were involved, which those was at least getting rid
24 of the body. One of those was Derrick Ruff and also
25 Nikki. I don't know Nikki's last name. I had known

1 Derrick prior as well. So we were able to eventually
2 locate them, and then they were questioned as well.

3 **Q** After interviewing Nikki, Mr. Ruff's girlfriend, did
4 you go searching for the weapon that was used in --

5 **MS. DURANT:** Objection, Your Honor. Leading.

6 **THE COURT:** What did you do next?

7 **Q** After interviewing Nikki, what did you do?

8 **A** Okay. There was a -- Nikki was a great help in the
9 investigation. She had pointed out several pieces of
10 evidence that was crucial to the case. She had told
11 us that she had thrown the pistol out over off of a
12 bridge where there was water. From where she took us
13 and riding, we found that that was Broad River
14 Bridge, also known as Pinner Bridge and Highway 213
15 right at the Newberry County, Fairfield County line.

16 So once we identified where it was, we had asked
17 for assistance again from DNR with a gun sniffing
18 dog. They met us at the scene. As I was walking
19 across the bridge looking, I actually saw the gun.
20 The sun just hit it just right. I actually saw the
21 gun just laying on the bank right away from the
22 river.

23 **Q** I hand you what is in evidence as State's 65 and ask
24 you --

25 **A** Yes, sir. That would be the gun that we found on

1 Broad River off of Highway 213 that day.

2 Q And that's where you were told it was thrown?

3 A Yes, sir.

4 Q After you found the gun, what did you do?

5 A Again, there was a lot of other evidence that had
6 been pointed out that was collected mostly by
7 Sergeant Dennis. Again, let's see. I'm trying to
8 remember everything. After we -- after we found the
9 gun and then all the information came out from
10 Derrick Ruff and Nikki as well, we interviewed, or
11 there was another interview of Keith Sims by Major
12 Gibbons and "Spike", Dewitt McCraw, SLED agent.

13 Q What were you doing during this time? You were not
14 in the interview. So what were you -- what were your
15 duties during this time?

16 A We were continually following up leads. It was -- I
17 mean, we were just talking to people, continuously
18 running down leads from different people. We had
19 later -- me and Robert had went back to the family to
20 meet with the family to give them a status update.
21 And the car had been shown -- the picture of the car
22 had been shown on the news. And later it was
23 discovered at Kay Street Apartments; colony
24 Apartments on Kay Street -- excuse me -- off of St.
25 Andrews Road.

1 Q You mentioned that Keith Sims was charged with murder
2 in Newberry. What did subsequent investigation tell
3 you or reveal about that?

4 A Okay. Subsequent investigation with everything that
5 we gathered showed that the incident, the actual
6 shooting incident occurred inside Richland County and
7 not Newberry County. That's where the body was
8 disposed of.

9 Q Do you happen to know where in Richland County the
10 shooting occurred?

11 A From everything we had gathered pointing that it
12 happened in Keith Sims' driveway on Monticello Road,
13 Columbia, South Carolina.

14 Q As a result of I guess that investigation with the
15 assistance of Richland County, was Mr. Sims then
16 charged in Richland County with murder?

17 A Yes, he was.

18 Q Mr. Ruff, Ms. Davis and Ms. English, what happened to
19 them for their part?

20 A They are charged with accessory after the fact of
21 murder in Newberry County. In Newberry County.
22 They're facing those charges in our county.

23 Q The Court's indulgence. Are you familiar with the
24 evidence that was collected in the course of this
25 investigation?

1 **A** Most of it now. Some of it I was not present on. I
2 don't know which one in particular you're talking of.

3 **Q** Were you present when the CD and the dog tags were
4 collected?

5 **A** No, sir. That would be Sergeant Dennis.

6 **Q** Okay. Finally, Lieutenant, do you see Keith Sims in
7 this courtroom?

8 **A** Yes, sir.

9 **Q** Could you identify him for the record, please?

10 **A** Right there with the white bandage on his head.

11 **Q** Sitting between his two attorneys?

12 **A** I take it that's who they are.

13 **MR. BRYANT:** Your Honor, I'd like the record to
14 reflect that the investigator has identified Mr.
15 Sims.

16 **THE COURT:** The record will so reflect. Cross
17 examination.

18 **MS. DURANT:** Thank you, Your Honor.

19 CROSS EXAMINATION

20 **BY MS. DURANT**

21 **Q** Is it Captain Boland?

22 **A** Lieutenant.

23 **Q** Lieutenant Boland. I'm sorry. My name is Lanelle
24 Durant and I am one of the attorneys representing
25 Keith Sims.

1 **A** Nice to meet you.

2 **Q** It was your testimony that Keith went to the
3 Sheriff's Office on his own?

4 **A** Yes, ma'am.

5 **Q** He contacted you all?

6 **A** After I had been by his house prior already; yes,
7 ma'am.

8 **Q** But I think he called and said --

9 **A** Yes, ma'am.

10 **Q** -- he wanted to come in?

11 **A** Yes, ma'am.

12 **Q** And he was arrested on what day?

13 **A** That would have been New Year's Day.

14 **Q** January 1st?

15 **A** Yes, ma'am.

16 **Q** I think you testified that you all as part of your
17 investigation talked with Brian Anderson's mother?

18 **A** Yes.

19 **Q** And wasn't it your understanding after talking with
20 her that Brian may have been involved in selling
21 drugs?

22 **MR. BRYANT:** Objection.

23 **THE COURT:** Sustained. Strike it from the
24 record.

25 **Q** Well, let me go to this. I think it was maybe your

1 understanding that Brian had not worked in a long
2 time?

3 **MR. BRYANT:** Objection, Judge. It's the same
4 thing. She's trying to back door it.

5 **THE COURT:** I understand. Sustained.

6 **MS. DURANT:** I beg the Court's indulgence, Your
7 Honor. No further questions, Lieutenant Boland.
8 Thank you.

9 **MR. BRYANT:** No further questions, Your Honor.

10 **THE COURT:** You may come down, sir. Thank you
11 very much. May this witness be excused? Any
12 objection?

13 **MR. BRYANT:** No. The State would ask if they
14 have any objection.

15 **THE COURT:** No objection?

16 **MS. DURANT:** We have no objections, Your Honor.

17 **THE COURT:** All right. Lieutenant, you're free
18 to go. He was going anyway.

19 **MR. MEADORS:** He's gone to get the next witness,
20 Sergeant Robert Dennis.

21 **THE COURT:** Sure.

22 ROBERT DENNIS, after being duly sworn, testifies
23 as follows:

24 **THE CLERK:** Please have a seat there, sir.
25 State your full name for the record.

1 **WITNESS:** Robert Dennis, Newberry County
2 Sheriff's Office.

3 DIRECT EXAMINATION

4 **BY MR. MEADORS**

5 **Q** Good afternoon, Sergeant. Is it Sergeant?

6 **A** Sergeant Dennis. That's correct.

7 **Q** I say briefly, but however long you want to, tell
8 these people about yourself. Where are you from?

9 **A** I'm originally from Newberry County, born and raised
10 Newberry County, went through Newberry High School,
11 graduated from Newberry High School, started work. I
12 put myself through Piedmont Tech where I received an
13 associate degree in Criminal Justice; and 1991 was
14 hired at the Newberry City Police Department as a
15 patrol officer.

16 **Q** Chief Swindler?

17 **A** At the time it was Chief Andrew Shealy. Went through
18 the Criminal Justice Academy, graduated there in '91,
19 and started my patrol there in Newberry City, worked
20 there until 1995 where I became law enforcement for
21 about -- probably about five or six months working
22 construction with my father-in-law, went back into
23 law enforcement with a small town, Prosperity Police
24 Department where I continued my duties as far as
25 patrolling the town of Prosperity, traffic and

1 investigative work; somewhere along the time of '96,
2 '97 was hired at Newberry Sheriff's Office as a road
3 deputy. I worked there on the road for about seven
4 months where I came into investigations, and I've
5 been an investigator there since then.

6 Q And other than the training you've received growing
7 up and your schooling, do you have continuing
8 training you receive now as a police officer, like
9 continuing legal education?

10 A Yes, sir, we do. We continue training pretty much on
11 a monthly basis of updates for legal matters as well
12 as training for different schools that we could go to
13 for interrogation, forensic interviews and different
14 things like that.

15 Q Sergeant, everybody knows what you're here to testify
16 about. Did you have an occasion to respond to
17 Molly's Rock on December 31st of 2003?

18 A Yes, sir, I did.

19 Q And you all got -- once you got there, whose decision
20 was it to call in SLED?

21 A The initial decision was the Sheriff's once we
22 communicated with him the findings of the scene. And
23 we talked with him and he made the final decision and
24 to call, to notify SLED for assistance.

25 Q And your Sheriff is Sheriff Lee Foster?

1 **A** That's correct.

2 **Q** Prior to SLED getting there -- and I believe the
3 young lady's name is Rebecca Glanville and another
4 fellow named Senn I think?

5 **A** That's correct.

6 **Q** Prior to getting there, did you or anybody with your
7 department see any evidence, identify any evidence
8 before SLED got there, potential evidence?

9 **A** The first thing that we did whenever we got there is
10 we pretty much locked off the entire area which is a
11 pull in type park down at Molly's Rock. We were able
12 to station a deputy there at the front gate to keep
13 anyone from going in. And we limited the number of
14 people who walked down through there to look at any
15 potential evidence.

16 Once we located several areas that evidence was
17 visible to us, we backed out and also did a canvass
18 of the entire area down the dirt road and the paved
19 road that leads into Molly's Rock. There we secured
20 some items that we felt would be of evidentiary
21 value.

22 **Q** Specifically, was there anything relating to gloves?

23 **A** One of those items was a torn tag that come off a
24 pair of gloves that showed a price tag for the gloves
25 and the name of the gloves that was on there.

1 Q Did you turn that over to Agent Al Stuckey?

2 A Yes. All evidence was turned over to SLED.

3 Q So you didn't put up the yellow tape, the crime scene
4 tape. You just closed off the road?

5 A There was yellow crime scene tape marking off
6 different areas throughout that entire crime scene.
7 But the main area we were able to cordon off with the
8 gate and a patrol truck.

9 Q And did that deny access? I mean, there's only one
10 way in and one way out?

11 A That's correct. There is a fence that kind of
12 borders around where the parking area is, and then
13 the rest of it is a very highly wooded vegetative
14 area that we could actually see if anyone tried to
15 get by us.

16 Q I was out there recently. And are there park hours?
17 Is the park supposed to be opened and closed at a
18 certain time?

19 A There is a sign that says that, but normally the gate
20 is not closed during that time when it was supposed
21 to be closed.

22 Q So based on your experience just being up there, if
23 you wanted to go in after the park hours, would it be
24 hard to get in there?

25 A No, sir. The gate's left open and you can pull right

1 into the parking area as well as down in the shelter,
2 picnic area.

3 Q Is this federal property?

4 A That's correct. Sumter National Forest.

5 Q You saw the blocks and the chain, correct?

6 A I didn't see them when I was coming in.

7 Q No. But I mean --

8 A Yes, sir. At the crime scene.

9 Q So I won't -- does this appear to be them down here?

10 A Yes, sir.

11 Q And there has been prior testimony, the chain's in
12 that, too?

13 A That's correct. The tube was purchased from one of
14 our local hardware companies here in Newberry so that
15 we could secure the evidence.

16 Q Now, at this point you're at the scene. You've
17 called in SLED. DNR is coming. You're on federal
18 property. Did you find any identification on the
19 victim?

20 A No, we did not. No type identification in his pants,
21 his jacket or his shirt that he had on.

22 Q And when that happens what do you do?

23 A The first thing we usually try to do is take
24 fingerprints. And we take those fingerprints by
25 rolling them on an ink pad and transferring them to a

1 an ink card or a fingerprint card. And then we would
2 take that card down to SLED or someone that has the
3 AFIS ability which is the Automated Fingerprint
4 Identification System, and we tried to identify them
5 that way.

6 Q And were you able to determine the identity of the
7 body at Molly's Rock as Brian Anderson?

8 A That's correct.

9 Q Once you did that, how long were you all at the
10 scene? Do you remember? When I say the scene, the
11 first scene in this case, the Molly's Rock Park?

12 A We probably began at the scene shortly after lunch or
13 right around lunchtime, and it was getting close to
14 dusk whenever we pulled out, having an investigator
15 go run the fingerprints.

16 Q And are we now into clearly in this New Year's Eve
17 day?

18 A Yes, sir. Well, actually we are still at the scene
19 as the investigator leaves to go run the print. And
20 once we get through securing all the items, we end up
21 going back to the Sheriff's Office until we know who
22 the identity of the body is.

23 Q Once you develop or you determine who the body is,
24 what do you do next?

25 A Once we identified the body and was able to get an

1 address on him, we were able to call Richland County
2 and get with some deputies and go to the home of
3 Brian Anderson's mother.

4 Q Is that Sharon McCarra?

5 A Yes, sir.

6 Q Is this Ms. McCarra who is sitting right back here?

7 A Yes. With the glasses on.

8 Q You had occasion to talk with her that day?

9 A Yes, sir, we did; myself and Captain Thompson.

10 Q She lived where? On Monticello Road? Let me show
11 you what's been in evidence. You went to her house?

12 A Yes, sir, we did.

13 Q And who all did you go with?

14 A There was myself, Captain Todd Johnson and Lieutenant
15 Phil Redder who is our training officer.

16 Q And do you remember what road she lived on?

17 A I could probably take you there.

18 Q Was it in Columbia?

19 A Yes, sir, it was in Columbia off -- the way we came
20 in was off of I-20 to 215.

21 Q And in Richland County?

22 A Yes, sir. Correct.

23 Q Does Monticello Road ring a bell?

24 A Yes, sir.

25 Q That's where you met with Ms. McCarra?

1 **A** That's correct.

2 **Q** Were you the first one to tell her about her son?

3 **A** I think that she pretty much realized there was
4 something going on. She began to become upset and we
5 started talking with her, just not really telling her
6 that we had found a body but trying to get some
7 identifying marks. Which he had some tattoos on his
8 arm. And once we identified those, then we advised
9 her and she was able to supply us with a picture of
10 her son.

11 **Q** Was he a black male?

12 **A** Yes, sir.

13 **Q** And if you look in the picture, I think it may be No.
14 1, State's No. 1 of Brian's body, that picture is
15 beneath the water, right?

16 **A** That's correct.

17 **Q** And it would appear then that almost -- could you
18 tell what the race of the individual is in here?

19 **A** No, you could not.

20 **Q** In your opinion and experience, why is that?

21 **A** The water, once you leave something submerged, you're
22 going to have some type of discoloration with the
23 body once it stays in the water for a certain period
24 of time.

25 **Q** You're at Ms. McCarra's house I think you say trying

1 to get information on the victim?

2 A That's correct.

3 Q And she supplied you with information?

4 A Yes, she did.

5 Q Now, as a result of that, what did you do?

6 A As a result of her information, we broke into two
7 teams. I had one team with Captain Johnson and then
8 Lieutenant Boland had the other team. They went to
9 the grandfather's house, met with them and get
10 information. And we stayed there with Brian's mother
11 and spoke with her, got more information as well as
12 going over to the Adams Mark Hotel.

13 Q And the grandfather of whom, Sergeant?

14 A The grandfather was that of Brian Anderson.

15 Q So your team goes to Adams Mark?

16 A Yes, sir.

17 Q And at this point what were you attempting to uncover
18 in your investigation?

19 A We had learned information through communicating
20 there at the home of Brian's mother as well as
21 communicating back with Lieutenant Boland that they
22 were attending a party at the Adams Mark Hotel. So
23 that's what sent us there to Adams Mark, to try to
24 follow up on that.

25 Q You're not from here, are you?

1 **A** No, sir. No, sir.

2 **Q** Is that just Adams Mark just a couple of blocks down
3 the street?

4 **A** It's downtown Columbia. Yes, sir.

5 **Q** You actually went to the Adams Mark?

6 **A** Yes, sir, we did.

7 **Q** And did you have an occasion to talk to somebody
8 there in a management position who was able to
9 confirm or deny that a party had been there that
10 night?

11 **A** We did. We received information that the room was
12 rented by Terrence Hutchison. We spoke with
13 management and they were so gracious as to provide us
14 with the information there that Terrence had in fact
15 rented a room as well as cooperating with us by
16 taking us to that room which had not been cleaned.
17 And you could tell that something went on there in
18 the room as far as a party.

19 **Q** A party?

20 **A** Yes, sir.

21 **Q** And were you able to determine through your
22 investigation whether or not the victim and/or the
23 defendant had been to that party?

24 **A** Yes, sir. Through witnesses that had attended the
25 party, Lieutenant Boland had received that

1 information through talking with those individuals
2 who were in attendance to that party.

3 Q Pretty much your own investigative staff here in
4 Richland County. You had two teams. You all had a
5 number of folks from Newberry and Richland County?

6 A Yes, sir. We had two teams from Newberry, as well as
7 we were teamed up with Richland County deputies and
8 investigators.

9 Q And that's my next question. When you come into
10 somebody else's county, if you will, is there a
11 custom that you get with one of the locals before
12 you'll go do anything?

13 A Yes, sir. We always notify whatever jurisdiction
14 we're going into so that they can come over. They
15 may know something a lot better than we do. So they
16 were very valuable in assisting us.

17 Q Now, you had determined there was a party at Adams
18 Mark, that the victim and defendant had been there.
19 What did you do next?

20 A Once we had discovered that information we relayed
21 telephone information back and forth with the other
22 team. We were pretty much about that point in time
23 getting pretty exhausted because it was probably
24 around 1:00. We celebrated New Year's at the Adams
25 Mark. And we decided, made the decision to come on

1 back to Newberry and get ready, kind of coordinate
2 our efforts for the following morning.

3 Q So the following morning is what date?

4 A That would have been January the 1st, 2004.

5 Q What did you do that morning, Sergeant?

6 A Once we met early that morning at the Newberry
7 Sheriff's Office, the Captain had received a call
8 from one of our road deputies who is a pastor and was
9 wanting us to meet there and speak with a Daniel
10 Elkins, that he had some information about the
11 homicide at Molly's Rock.

12 Q And that deputy who is a pastor is Chief Johnny Mack
13 Scurry?

14 A Well, Corporal Johnny Mack. You're --

15 Q I'm sorry. Corporal. He's a pastor though?

16 A Yes, sir. He's a pastor of a local church there in
17 Newberry.

18 Q As a result of that, did you all, you and/or Boland
19 or somebody else, have an occasion to meet with a
20 Daniel or Daniel Bernard Elkins?

21 A Yes, we did. We met with Daniel Elkins and his
22 mother in the office of Captain Todd Johnson.

23 Q Took a statement from him?

24 A Yes, we did.

25 MS. OWINGS: Your Honor, leading objection.

1 Q Did you take a statement from him?

2 A The verbal statement was taken from Daniel and
3 Captain Johnson summarized it on the computer.

4 Q What happened next?

5 A Through the information received from Daniel we
6 continued to coordinate our efforts in looking for
7 the places that Daniel advised he had met with or met
8 Keith and then the places that they had gone
9 throughout Newberry County. Once we located a couple
10 of places in talking with people, Lieutenant Boland
11 received a page from Keith while we were out on the
12 road in Prosperity.

13 Q And at this time you had already talked to Bernard?

14 A Yes, sir. We had already talked with Bernard and got
15 that statement and released him.

16 Q Is Newberry County a small community?

17 A Yes, sir. We're about 690 square miles.

18 Q And how long after you talked to Bernard did you get
19 a phone call?

20 A I would say probably about an hour and a half after
21 talking with Bernard that we got -- Wesley got the
22 page and Wesley called him back and spoke with him,
23 spoke with Keith.

24 Q Keith Sims. And you said you were trying to follow
25 up on some of the details Bernard Elkins had told you

1 about. Did you go to an Amoco?

2 **A** Yes, we did. That was one of the locations he said
3 that he had taken him to buy a phone card.

4 **Q** Did you get a video from there?

5 **A** Yes, sir. We took the video from that night.

6 **Q** What did that video show?

7 **A** That video revealed Daniel going in to make the
8 purchase of the phone card.

9 **Q** Daniel Elkins?

10 **A** Daniel Elkins.

11 **Q** Had you been to the autopsy yet?

12 **A** I'm trying to -- I'm not exactly sure if we had been
13 there or that was after we had spoke with Keith Sims.

14 **Q** Okay. Let me take you then to Keith Sims, if we
15 could. Did you have an occasion to meet with Keith
16 Sims at the Newberry Sheriff's Department after he
17 called you?

18 **A** Yes, sir. I'm not sure how long it took, but Keith
19 arrived at the Sheriff's Office with his mother and
20 Natalie English who was his girlfriend. We met him
21 there in the parking lot Newberry Sheriff's Office on
22 219.

23 **Q** And specifically in the Sheriff's Office, where did
24 you go?

25 **A** Within the Sheriff's Office we have a interview room

1 that we are able to -- it has a one-way mirror.

2 There are no type of video or recording devices
3 within that room. It's just a table and four chairs.

4 Q And who was in the interview room?

5 A It was myself, Lieutenant Boland and Keith Sims.

6 (WHEREUPON, State's Exhibit No. 72 is marked for
7 identification.)

8 Q What is your practice, if any, prior to talking to
9 someone that may be a potential suspect?

10 A Before we talk with a suspect involved in a crime, we
11 always give them advisement of their rights. And
12 this is one of the advisement of rights that we use
13 from the Sheriff's Office.

14 Q Have you got that in there? It's marked as State's
15 72?

16 A That's correct.

17 Q Is this the form that you used on January the 1st,
18 2004, when you talked to Keith Sims?

19 A It is.

20 Q Let me ask you a couple of questions. It says on
21 here time 1:32, correct?

22 A That is correct. 11:04, 1:32 p.m.

23 Q Now, beneath that it's got just identification,
24 identifying information, like name, social security,
25 date of birth?

1 **A** That's correct.

2 **Q** Okay. Who provided you with that information,
3 Sergeant?

4 **A** Keith Sims.

5 **Q** 248-67-0989, that's a social security number?

6 **A** That's a social security number.

7 **Q** Did you have any trouble understanding him when he
8 gave it to you?

9 **A** No, sir, we did not.

10 **Q** Did he appear, based on your training, experience,
11 everyday life, to have any problem understanding your
12 questions?

13 **A** No, sir, he did not.

14 **Q** Would he give you appropriate answers to your
15 questions?

16 **A** Yes, he would.

17 **Q** Did he appear to be under the influence of any
18 alcohol or drugs or any other intoxicating substance
19 whatsoever?

20 **A** No, sir, he did not.

21 **Q** And provided his home phone?

22 **A** Yes, he did.

23 **Q** And coming on down there, it says: "I, Keith Sims,
24 20 years old, my address is", what did he put down as
25 his address?

1 **A** He gave his address at as [REDACTED]
2 Winnsboro, South Carolina, 29180. And he advised --
3 I always ask, what's the last grade you completed?
4 And he said the eleventh grade. And then the next
5 questions that I asked: "Can you or can you not read
6 and write?" And he said that he could read and
7 write.

8 **Q** And you all were having a colloquy back and forth of
9 this, getting information, correct?

10 **A** Yes, sir.

11 **Q** Now, I wanted to ask you about this. It says
12 Winnsboro. [REDACTED], where he told you he
13 lived, his residence, that's in Richland County,
14 isn't it?

15 **A** That's correct.

16 **Q** Is it a Winnsboro address?

17 **A** It's a Winnsboro address but it's Richland County.

18 **Q** Is there any question in your mind, and based on your
19 experience in law enforcement, that [REDACTED] is in
20 Richland County? There's no question about it, is
21 there?

22 **A** No question. No, sir.

23 **Q** Now, below that are what we know as a waiver of
24 rights. Is that correct?

25 **A** That's correct.

1 Q Would you read them right now like you did to Mr.
2 Sims that day?

3 A It starts off: "Before I can ask you any questions,
4 I want you to understand your rights. The first
5 right is you have the right to remain silent.
6 Anything you say can and will be used against you in
7 a court of law. You have the right to a lawyer for
8 advice before we ask you any questions and to have
9 him or her present with you during any questioning.
10 If you have no money for lawyer fees, the court will
11 appoint one to represent you without cost to you if
12 you wish. If you decide to answer questions now
13 without a lawyer present, you will still have the
14 right to stop the questions at any time. You also
15 have the right to stop answering questions at any
16 time until you talk with your lawyer".

17 The next line is: "I have read this statement
18 of my rights and I understand what my rights are."

19 Q Now, let me ask you, as you're going through, "You
20 have the right to remain silent", are you reading
21 this and looking at him when you say that?

22 A Yes, I am.

23 Q And did he understand that right?

24 A Yes, he did.

25 Q Did he tell you that I understood it, say, "I

1 understand that?"

2 A I advised him that if he understood his rights as I
3 read them to, if he would put his initial next to
4 each right as I read it.

5 Q And that's any next question. There are some
6 initials next to each one of these. "You have the
7 right to remain silent. Anything you say can be used
8 against you in a court of law." Can you tell us who
9 these initials are?

10 A That's the handwriting initials K.A.S. for Keith
11 Antonio Sims.

12 Q So beside each one of these rights are his initials?

13 A That's correct.

14 Q And does that aid you in coming in here today and
15 telling this jury, I know I read them to him and I
16 know he understood them?

17 A Yes.

18 Q There are some other initials to the left of that.
19 Whose are that?

20 A That's my initials, R.D.

21 Q And that's -- I couldn't read them. But that's R.D.?

22 A Yes, sir.

23 Q And then he also -- you may have said it -- "I have
24 read the statement of my rights and I understand what
25 my rights are." And he signed it Keith Sims?

- 1 **A** Yes, sir. He signed it Keith Sims and that day's
2 date.
- 3 **Q** Listen to me, please, and look at me, Sergeant. At
4 any time during the reading of his rights -- well,
5 did he appear to understand them?
- 6 **A** Yes, sir.
- 7 **Q** During the reading of these rights, did he appear to
8 be under the influence of anything?
- 9 **A** No, sir.
- 10 **Q** Did you threaten him?
- 11 **A** No, sir.
- 12 **Q** Did you coerce him?
- 13 **A** No, sir.
- 14 **Q** Did you hold out any promise or hope of reward
15 whatsoever?
- 16 **A** No, sir.
- 17 **Q** Did he tell you, I don't want to talk to you?
- 18 **A** No, sir.
- 19 **Q** Did he say, I want a lawyer?
- 20 **A** No, sir.
- 21 **Q** If he had, what would you have done?
- 22 **A** We would have stopped the interview right then.
- 23 **Q** Below that is what's referred to as waiver of rights.
24 Can you read that?
- 25 **A** Yes, sir. The waiver: "I am willing to make a

1 statement and answer questions. I do not want a
2 lawyer at this time. I understand and know what I am
3 doing. No promises or threats have been made to me,
4 and no pressure or coercion has been used against
5 me."

6 Q And whose name is below that?

7 A Below that is Keith A. Sims and that day's date,
8 1-1-04.

9 Q Did you see him sign it?

10 A Yes, sir.

11 Q And next to that it looks like two witnesses?

12 A Yes, sir. I am the top witness, Robert Dennis; and
13 the second witness is W. M. Boland, Wesley Boland.

14 Q Who just testified? Who just was in here previously?

15 A Yes, sir.

16 Q Is this what you do? You use this right form to
17 advise of rights?

18 A Yes, sir.

19 Q Before you talk to folks. Now, you and the
20 investigator and the defendant, correct?

21 A That's correct. Myself, Investigator Boland and
22 Keith Sims.

23 Q Describe the room. You said where you were. But
24 describe it.

25 A The room is probably about maybe a seven-by-seven

1 room. There are four chairs in it and a desk. In
2 the desk is where we keep our rights form and a
3 clipboard. It also has a one-way mirror that you can
4 actually look from the room next to it which is
5 another interview room the same size to look back in.

6 Q Did you ask him what, if anything, he knew about the
7 death of Brian Anderson?

8 A Yes, we did.

9 Q And did you take some notes of what he told you?

10 A Yes, sir, we did.

11 Q Can you tell the jury what he told you on January
12 1st, 2004?

13 A He pretty much walked --

14 Q Do you have your notes?

15 A You would. A copy of them.

16 Q Do you recognize this, and is that in fact your
17 handwriting, Sergeant?

18 A This is my handwriting.

19 Q Were these notes you took from your interview with
20 Keith Sims on January the 1st, 2004?

21 A These are the notes, not in their original form but
22 in a copy form.

23 Q All right. Can you tell the jury what he told you
24 when you asked him about the incident involving Brian
25 Anderson at [REDACTED]

1 **A** The first thing that he told is that he had came home
2 yesterday, meaning probably around the 31st. I'm not
3 exactly sure. But he said people were telling him
4 that the police were looking for him, that he had
5 stayed with people out on Highway 34. He was brought
6 to Newberry by --

7 **Q** Let me ask you specifically, did he tell you who he
8 was staying with?

9 **A** Yes, sir. He said he was staying with Lisa Williams,
10 Ashley, Cedric Willingham, Lisa Kidds, Gerald, Jr.,
11 "Tray-Tray" and Corey Sims. All these people were
12 out standing around the fire barrel at the house on
13 34 he was staying at.

14 **Q** A burn barrel?

15 **A** Burn barrel.

16 **Q** Fire barrel?

17 **A** Yes.

18 **Q** It says fire. But is that a burn barrel?

19 **A** Yes, sir.

20 **Q** And next to -- above Lisa Williams -- or beside it,
21 it's got Oakridge?

22 **A** Yes, sir. That's a street, a road there in Newberry
23 County off 34.

24 **Q** I don't know if you said it. In your notes you said
25 you've got Sharon crossed out. Can you explain that?

- 1 **A** I'm not exactly sure what he was saying about that.
2 If it was crossed out, he probably told me that, you
3 know, she wasn't there around the fire barrel.
- 4 **Q** Just going by your notes, if you will, what else did
5 he tell you?
- 6 **A** He put down -- or I put down Charles's wife had
7 brought him to Newberry around 12:30, 1 p.m. on
8 12-31.
- 9 **Q** Slow down. . On 12-31 New Year's Eve?
- 10 **A** '03. Yes, sir. I'm not sure what --
- 11 **Q** And I don't mean to interrupt. 12-31 what? Did he
12 say? A.M. or P.M.?
- 13 **A** 12 P.M.
- 14 **Q** Okay. Next?
- 15 **A** He said, "Not sure what time Brian dropped me off.
16 Had a few words with Natalie", which is his
17 girlfriend. He went up the street from his house to
18 see an old man who lives in the first house past my
19 house toward Columbia. "I went in with him. He and
20 the old man went into a back room." And what he was
21 telling was is him and Brian had gone to this old
22 man's house and Brian and the old man had gone in the
23 back room.
- 24 **Q** Okay.
- 25 **A** We asked him about what time he left the Adams Mark.

1 He said he left the Adams Mark about 1 a.m., got
2 something to eat and then went to his house. He said
3 he had been drinking. "I want you to go with me so
4 I'm not by myself."

5 **Q** And is he referring to a conversation he has with --

6 **A** He is referring --

7 **Q** -- Brian then?

8 **A** That's correct.

9 **Q** Okay.

10 **A** They went by McDonald's on North Main there at the
11 truck stop. Then they went by El Cheapo's and they
12 come back home through the back way. Also him and
13 people have been in arguments over money, territory.
14 And he give us the name of Marcus. He was talking
15 about Brian.

16 We asked him what the relationship was with
17 Brian. "We hang out. He stays moving a lot. He is
18 with his girl." He also told us that they had gone
19 to school together.

20 I had written down several other names of folks
21 that -- which was Terrence, Tywon, Brandon Lee, John
22 Lee, and Terrence's cousin. These were folks he was
23 telling that they were around and had seen -- been
24 seen with.

25 He also told me that he rode with Terrence to

1 the Adams Mark, which was Keith rode with Terrence to
2 the Adams Mark. He told that on 12-30-03 that
3 Terrence picked him up around 8 p.m. It was John
4 Lee, Chris Page were in the car. They stopped at
5 John Lee's to get a Play Station and a boom box and
6 then went on to the Adams Mark.

7 It was a few minutes before 9 p.m. on 12-30-03
8 when they got to the Adams Mark. Brian and Jay came
9 together around 11 p.m. He stayed at the room.
10 Brian and John Lee and Jay left to take Jay home
11 around 12 a.m. and then it was about 25 or 30 minutes
12 later that Brian and John Lee came back to the room.
13 Me and Brian left around 1 a.m. and he had his car
14 parked --

15 **MS. OWINGS:** Your Honor, objection.

16 **THE COURT:** What's the objection?

17 **MS. OWINGS:** Rather than using his notes to
18 refresh his memory, the officer is just reading his
19 notes straight down to testify.

20 **THE COURT:** No. He's reading a statement of the
21 defendant.

22 **MS. OWINGS:** No. He's reading his notes, Your
23 Honor. I have followed along with that.

24 **MR. MEADORS:** These are his notes of the
25 statement he took, the oral statement he took from

1 the defendant.

2 **THE COURT:** I thought it was a statement of the
3 defendant.

4 **MS. OWINGS:** No, sir.

5 **MR. MEADORS:** Your Honor, I don't know how else
6 he can do it. These are the notes he took of saying
7 what the defendant told him.

8 **MS. OWINGS:** He is just reading straight down
9 his notes.

10 **THE COURT:** Okay. Overruled. Go ahead.

11 **Q** I think you left off -- I can't remember if you --
12 Brian and John Lee came back?

13 **A** Yes, sir. They had came back into the room.

14 **Q** And all this is what he told you, correct?

15 **A** Yes. Yes. This is what he was relaying to myself
16 and Lieutenant Boland. The -- around --

17 **Q** The --

18 **A** I'm sorry.

19 **Q** Okay. I'm sorry. Where are you?

20 **A** I'm at "me and Brian".

21 **Q** Okay.

22 **A** He told us that him and Brian had left around 1 a.m.,
23 that Brian had parked his car out on the street next
24 to Adams Mark. They left. They went to McDonald's,
25 then went to the old man's house around 1:15 a.m.,

1 something like that. He said there were three guys
2 there with the old man. The old man was about 50
3 years old. He doesn't know what his name was or
4 anything like that. That Brian and the old man went
5 into the back room and talked for about ten minutes,
6 and after that Brian took him home. He said that
7 Natalie was upset with him.

8 Q Did he give you a time? Brian took me home about --
9 A He said about 1:30 a.m. in the notes. He said that
10 Natalie was upset with him when he got home, that
11 they had an argument but they made up with sex and
12 then went to sleep. He told us that he got up around
13 11:45 a.m., went to Newberry with his sister-in-law
14 who had gone to work. His nephews were up. His
15 brother was up and --

16 Q You said with his sister-in-law. Did he say his
17 sister-in-law had gone to work?
18 A His sister-in-law had gone to work.
19 Q Okay.
20 A Natalie brought him to Newberry in the red Grand Am.
21 Q Prior to that he said his nephews were up?
22 A Yes. Everybody was up at the house.
23 Q All right. What else did he say?
24 A We asked him about arguments with Brian. He said,
25 "We have had no real big arguments. When going to

1 school, Brian got mad because I" --

2 Q Did he say, "We've had no big arguments"? Did he
3 say, "But no real big arguments"?

4 A "No real big arguments." He said that him and Brian
5 had had a falling out because of a fight. Brian got
6 mad because he said I didn't help his brother. This
7 was about two years ago." Then he told that "me and
8 Brian had squashed that, that problem, and we be
9 kicking now."

10 Q Based on your experience and training, squashed and
11 we be kicking now, what does that mean to you?

12 A That they had forgotten the problem and everything
13 was cool now, everything was okay with them.

14 Q Past history?

15 A It's over with.

16 Q All right.

17 A And then we asked him about owning a pistol. He
18 said, "I ain't got no pistol." But he also said, "I
19 might need one." We asked him about killing Brian.
20 He said, "That's crazy. I didn't kill Brian." And
21 then we asked him about -- actually we told him
22 someone saw him driving Brian's car. And he said;
23 "Nobody saw me driving Brian's car."

24 We asked him about being seen at a club. He
25 said he left the club with "Scooter". He went to 34

1 to Zack Bates' house in Prosperity. Sister picked
2 him up at Miller Street Apartments. He got something
3 to eat at McDonald's after the Adams Mark and then he
4 went home. And we were just kind of going back and
5 forth. He was kind of giving the same information
6 over and over again.

7 He rode to Buster's with Zack Bates. And we
8 asked him about money. And he said he didn't need
9 nobody else's money, that his daddy would send money,
10 would give him money.

11 Q And these are the notes you took from his oral
12 statement at the time when you were talking to him,
13 correct?

14 A That's correct.

15 Q So he admitted to you he had seen Brian the night
16 before, denied killing him?

17 A That's correct.

18 Q I think that statement, what time does it say on
19 there? 1 what?

20 A I've got 1:33 p.m.

21 MR. MEADORS: Your Honor, we'd offer State's 72.
22 I can't remember if I have or not.

23 MS. OWINGS: Without objection.

24 (State's Exhibit 72 previously received in
25 evidence)

1 Q At this point what other information did you have
2 implicating Keith Sims in the death of Brian
3 Anderson?

4 A Based on the information, after talking with Daniel
5 Elkins from his own verbal admission to Daniel
6 Elkins, we secured an arrest warrant on Keith Sims.

7 Q And at this point you're in Newberry?

8 A That's correct.

9 Q You're not in Newberry right now?

10 A No, sir.

11 Q The murder warrant was for Newberry?

12 A That's correct.

13 Q And at that point where did you think the murder had
14 happened?

15 A We had thought the murder occurred here in Newberry,
16 or had occurred in Newberry County.

17 Q But you didn't -- you found your body in Newberry?

18 A That's correct. We found the body.

19 Q As a result, did you all hook up with Richland County
20 or someone with our office and thus charges were
21 later brought here in Richland County?

22 A That's correct.

23 Q And is that in fact the residence of Keith Sims,

24 [REDACTED] which is in Richland County?

25 A That's correct.

- 1 Q Even though it's a Winnsboro address, it's Richland
2 County?
- 3 A It's Richland County.
- 4 Q You went to the autopsy at some point?
- 5 A Yes, sir.
- 6 Q Okay. And the pathologist we're going to hear from
7 tomorrow is Dr. Joel Sexton?
- 8 A That's correct.
- 9 Q Is his office in Newberry County?
- 10 A Yes, sir. At Newberry Hospital.
- 11 Q Does he do all your autopsies pretty much; he or one
12 of his assistants?
- 13 A Yes, sir.
- 14 Q And you were there when he performed the autopsy?
- 15 A That's correct.
- 16 Q Can you just take that out, tell me if you recognize
17 it? Were you involved with it in any way?
- 18 A Yes, sir, I was. This is the bullet that was removed
19 from the victim.
- 20 Q The victim, Brian Anderson?
- 21 A Brian Anderson. Yes, sir.
- 22 Q Was that the same body that was taken from Molly's
23 Rock Pond?
- 24 A Yes, sir, it is.
- 25 Q And what did you do -- who did you get the bullet

1 from?

2 A The -- excuse me. The bullet was released to me by
3 Dr. Joel Sexton's office. And then it was
4 transferred -- the bullet as well as other
5 evidence -- was transferred to SLED for forensic
6 testing.

7 Q Sexton, you, SLED?

8 A Yes, sir.

9 MR. MEADORS: And, Your Honor, at this time this
10 is 72 for I.D. only.

11 COURT REPORTER: Did you say 72?

12 MR. MEADORS: 73 I'd like the record to reflect.
13 I apologize. I had my back to the jury.

14 (WHEREUPON, State's Exhibit No. 73 is marked for
15 identification.)

16 Q Did you ever hook up with Nikki?

17 A Yes, sir, we did.

18 Q And you had taken a statement from Nikki?

19 A Yes, sir.

20 Q Somebody had?

21 A Yes, sir.

22 Q And did you have an occasion to ride with Nikki when
23 she took you around to some of the places that were
24 involved in this?

25 A Yes, sir. Myself and Investigator Tony Eigner took

1 Nikki around to the different places she was showing
2 us.

3 Q Did she take you all to Molly's Rock?

4 A Yes, sir. She pointed out Molly's Rock.

5 Q Now, we've heard Newberry may be like Kershaw more so
6 than Richland County. Are certain areas referred to
7 by certain terms even if they're not by their road
8 name?

9 A Yes, sir.

10 Q Do you understand what we mean?

11 A Yes, sir.

12 Q There has been reference in this case to like a dirt
13 road off Monticello where Nikki went. Did Nikki have
14 a chance to take you to what was referred to as a
15 dirt road or Fulmer Road?

16 A Yes, sir. That's right there off of Highway 34.

17 Q And why did she take you there?

18 A That is where Brian Anderson's car had been parked,
19 as well as that was where cement blocks and the
20 chains were gathered.

21 Q And she physically took you there and pointed those
22 out to you?

23 A Yes, sir, she did.

24 (WHEREUPON, State's Exhibit No. 74 is marked for
25 identification.)

1 Q Did you know Nikki?

2 A No, sir. Not until that day.

3 Q I'm just going to ask you now, does it reflect on
4 this map Fulmer Road where Nikki Davis, for the
5 record, took you?

6 A Yes, sir. Right up here in the top corner, the top
7 left-hand corner.

8 Q And can you tell us right now how to get to Fulmer
9 Road?

10 A Yes, sir. Off of I-26 and 34 in Newberry County, you
11 would take a right if you were coming from Columbia
12 down I-26 onto 34. And you would travel probably
13 close to about five miles out. And you would
14 actually turn onto Piester Road which runs off to the
15 right, and then the first road back to the right is
16 Fulmer road. And there's another way of going, too,
17 which is Mary's Road turns off of 34, and you turn
18 onto Mary's Road and you run right into Fulmer Road.

19 Q And is this -- is 34 depicted on here?

20 A Yes, sir, it is.

21 Q All right. If you are leaving Fulmer Road off 34,
22 how do you get back to Molly's Rock?

23 A You would -- depending on which road they take to get
24 back out on 34, you still have to take a right on 34
25 and travel down to Highway 176 where there is a stop

1 sign. And then you would take a left at that stop
2 sign on 176 and go probably roughly right around
3 another five to six miles before you get down to
4 Molly's Rock.

5 Q And is that intersection depicted on here, and is
6 also Molly's Rock depicted on here?

7 A Yes, sir, it is.

8 Q So you went with Ms. Nikki to Fulmer Road. And did
9 the -- were you able to determine through your
10 investigation, did the defendant have any family on
11 Fulmer Road or in that area?

12 A That was close to the area of where the fire barrel,
13 where they were all standing around the fire barrel.

14 Q And do you know where Boundary Road is?

15 A Boundary Street.

16 Q Boundary Street. Excuse me. I apologize.

17 A Yes, sir.

18 Q Where is that?

19 A Boundary Street runs through the City of Newberry and
20 then runs out into the county of Newberry.

21 Q And did you have an occasion to go to 319 Boundary
22 Street, the home of Derrick Ruff?

23 A Lieutenant Boland did.

24 Q Are you familiar with that, where that house is?

25 A Yes, I am.

1 Q Now, were you with the Lieutenant when he went, when
2 they found the gun that was thrown from the car?

3 A Yes, sir, I was.

4 Q And looking back at this point at State's 74, is that
5 depicted on here?

6 A Yes, sir, it is.

7 Q Can you tell us where that is?

8 A Once you would leave the Molly's Rock area, you would
9 take a left coming back out of Molly's Rock onto 176.
10 And you will travel probably close to 13 miles toward
11 Columbia on 176, and then you would turn onto Highway
12 213 which takes you back in towards Jenkinsville.

13 You would actually cross over Broad River. And right
14 there in Newberry County is where we located the gun
15 on the side of the bank.

16 Q There's been testimony about some convenience stores,
17 one near the Ruffs' house and one near the
18 intersection of Highway 34 and 126. Are they
19 depicted on this map?

20 A Yes, sir, they are.

21 MR. MEADORS: Beg the Court's indulgence. Your
22 Honor, we'd now offer State's 74. There is one
23 matter that just needs to be redacted before it's
24 presented to the jury that we've discussed.

25 MS. OWINGS: Your Honor, we object to that being

1 admitted into evidence. It's a map the Solicitor's
2 Office has produced to show different locations. I
3 don't see how that's evidence in this case.

4 **THE COURT:** There was testimony that certain
5 events took place at certain places. It's helpful to
6 the jury to understand the location of the various
7 events in the trial. It may not be to scale. I
8 don't know. But I see no reason not to admit it.

9 **MR. MEADORS:** Your Honor, we will redact the one
10 matter which I think is in the -- before it's
11 presented on the map.

12 **THE COURT:** That's fine. As long as there's
13 testimony to support the note that you have on there,
14 I don't see what the objection would be.

15 **MR. MEADORS:** Subject to that redaction, we'd
16 offer State's 74.

17 **THE COURT:** Over the objection of the defendant,
18 it's admitted.

19 (WHEREUPON, State's Exhibit No. 74 is admitted
20 into evidence.)

21 **MS. OWINGS:** Once again, for State's Exhibit 71,
22 the same objection. It's just a map of Monticello
23 Road.

24 **MR. MEADORS:** That's already in. Sorry.

25 **THE COURT:** It's already been admitted.

1 Q Did you go to Charleston?

2 A Yes, sir, we did.

3 Q Why did you go to Charleston?

4 A We -- we had Nikki still in the vehicle with us and
5 she was attempting to show us where the gun had been
6 thrown. And she told us that there would possibly be
7 some clothes with blood evidence on it at an
8 apartment complex there in Charleston. With that
9 information, we took off down to Charleston.

10 Q And do you remember where you went to in Charleston?

11 A Excuse me?

12 Q I'm sorry, sir. Where did you go in Charleston?

13 A I would -- I'm not exactly sure of the name of the
14 complex. But this was a place that Nikki had pointed
15 out where they had stayed the night.

16 Q And once you got there, did another law enforcement
17 jurisdiction get involved in this case?

18 A Yes, sir. In route to Charleston we had notified --
19 through Sheriff Foster in Newberry County, we
20 contacted Sheriff Al Cannon and advised him of our
21 situation, that there was potential evidence there at
22 that apartment complex. He was more than willing to
23 help.

24 It took us probably about two hours to get down
25 there. And once we arrived on the scene, they had

1 several officers, if it would be our whole police
2 department, they had went through all the dumpsters
3 there at the apartment complex and was pulling out
4 potential clothing items.

5 Q And through your investigation was it determined
6 whether or not these dumpsters had already been
7 dumped?

8 A Once we got there and began talking with Nikki and
9 their time period of being there and then speaking
10 with the management of the apartment complex, it was
11 learned that the dumpsters had already been dumped.
12 And they were actually going through stuff that
13 was -- been there from that day, that morning after
14 they were dumped on to whenever we got there.

15 Q But you all attempted to locate that?

16 A Yes, sir, we did.

17 Q After you came back from Charleston -- or after your
18 interview of Keith Sims and you had been with Nikki,
19 Nikki took you to these places, did you ever go to
20 Refuge Temple?

21 A Yes, sir. Nikki drove us there to the Refuge Temple
22 and we drove around back where we were able to locate
23 other items belonging to Brian Anderson.

24 Q Where did you locate those?

25 A Those items were located in the dumpster directly

1 behind the church.

2 Q Was one of those what's been entered as I think
3 State's 67?

4 A Yes, sir. These are the keys that had Courtney's
5 name on them, the dog tag.

6 Q And whose name is that?

7 A It's Brian Anderson as well as Courtney Rivers which
8 was his girlfriend.

9 Q And you collected those after you were shown where
10 they were?

11 A Yes, sir. I actually went into the dumpster and
12 recovered all of that.

13 Q Now, I believe on January 2nd, did someone else have
14 an occasion to talk to Keith Sims?

15 A Yes, sir. He was interviewed by SLED agent "Spike"
16 McCraw and Major Danny Gilliam of the Sheriff's
17 Office, Newberry Sheriff's Office.

18 Q And that's Dewitt McCraw. You and I know him as
19 "Spike". Is that correct?

20 A Yes, sir. That's correct.

21 Q It's Special Agent "Spike" McCraw?

22 A That's correct.

23 Q Does he work with you all some, as does Al Stuckey?

24 A Yes, sir. They are -- they work with SLED, down at
25 the South Carolina Law Enforcement Division. And any

1 time we call for assistance, because we have worked
2 with them on so many cases, we request them and they
3 assist us in any matters.

4 Q It's not unusual for "Spike" to get involved in one
5 of your cases?

6 A No, sir, it's not.

7 Q You were not privy -- or were you privy -- to that
8 conversation between Special Agent Dewitt McCraw and
9 the defendant?

10 A I was not in the room at that time. No, sir.

11 Q Beg the Court's indulgence. Did you have an occasion
12 again to talk with Keith Sims?

13 A Yes, sir, we did.

14 (WHEREUPON, State's Exhibit No. 75 is marked for
15 identification.)

16 Q I show you what's marked State's 75 at this point,
17 Sergeant. Do you recognize that?

18 A Yes, sir. This is once again a Newberry County
19 Sheriff's Office rights form.

20 Q And did you go through the same procedure as you had
21 before in your office on January 1st (sic), I believe
22 around 1:30 something, as far as giving the rights to
23 Mr. Sims?

24 A Yes, sir. I did.

25 Q And specifically, did you get the background

1 information again?

2 A Yes, sir.

3 Q And where he lived again, [REDACTED]

4 A That's correct.

5 Q And did he sign again that you had read him his
6 rights?

7 A Yes, sir. He had initialed the rights as well as
8 signing his name in both places that he understood
9 his rights and that he waived his rights.

10 Q Where were these read to him? You were at the
11 Newberry County Sheriff's Department the first time.
12 Where are you now on January the 7th, 2004?

13 A January 7th 2004, we were at the Lexington County
14 Detention Center.

15 Q Thanks for correcting me. January 7th. At the
16 Lexington County Detention Center in Lexington?

17 A That's correct.

18 Q And as you're reading him these rights, did he appear
19 to understand them?

20 A Yes, sir, he did.

21 Q Did he appear to be under the influence of alcohol or
22 drug or any other intoxicating substance?

23 A No, sir, he did not.

24 Q Did he appear to you, based on your training,
25 experience in law enforcement and just everyday

1 living, to understand your questions? Did he give
2 you appropriate responses to your questions?

3 A Yes, he did.

4 Q Did he ever say, I don't want to talk to you?

5 A No, sir.

6 Q Did you threaten, coerce him, or promise him
7 anything?

8 A No, sir.

9 Q Below that where he says, "I've read my rights", and
10 he signs it?

11 A Yes, he did; his name.

12 Q Below that, the waiver of rights, you signed also?

13 A Yes, sir.

14 Q And he signed?

15 A And he signed.

16 Q And did you -- you had gathered some information I
17 presume in the investigation?

18 A Yes, sir. He was being housed at the Lexington
19 County Detention Center because the Newberry County
20 Detention Center was being renovated. So all our
21 prisoners were housed at Lexington County. Once I
22 read him his rights, he was put into my vehicle and
23 we transported him back up to the Newberry County
24 Sheriff's Office on 219 where we conducted the
25 interview back in the interview room.

1 Q Okay. And as a result of this interview, did he tell
2 you he had shot Brian or he had not shot Brian?

3 A He still denied having any dealings with shooting
4 anybody.

5 Q Did he say whether or not they had been together that
6 night?

7 A The only time that they had been together would have
8 been at the Adams Mark.

9 MR. MEADORS: Beg the Court's indulgence. Your
10 Honor, we'd offer State's 75, the advice of rights
11 given to Keith Sims on January 7th, 2004.

12 MS. OWINGS: Without objection, Your Honor.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit No. 75 is admitted
15 into evidence.)

16 Q Beg the Court's indulgence. Were you able to talk --
17 or did you talk with anybody else that had been
18 involved somewhat in this case? Specifically, you
19 said you met with Nikki?

20 A That's correct.

21 Q And she showed you around?

22 A Yes, sir.

23 Q Did you talk with anybody else involving this case?

24 A We had talked with a couple of inmates that had been
25 housed with Keith Sims.

1 Q Specifically, as far as anybody being charged, did
2 you talk with Natalie English and/or Derrick Ruff?

3 A I talked with Natalie English.

4 Q Is the individual that you talked to on January 1st
5 and the individual you talked to on January 7th,
6 2004, whom you've identified as Keith Sims in this
7 courtroom today, Sergeant?

8 A Yes, sir, he is.

9 Q Would you please identify him for the jury?

10 A Keith Sims is sitting there with the dark colored
11 coat on with a red tie and white bandage around his
12 head.

13 MR. MEADORS: We would ask the record to so
14 reflect.

15 THE COURT: The record will so reflect.

16 MR. MEADORS: That's all we have. Thank you,
17 Judge.

18 THE COURT: Cross examination.

19 CROSS EXAMINATION

20 BY MS. OWINGS

21 Q Investigator Dennis, were you one of the first people
22 to respond to the crime scene at Molly's Rock Pond?

23 A If I remember, we all pretty much responded there
24 together.

25 Q How long were you down there?

1 A We probably started right around lunchtime there,
2 after lunch, and right before dark. So I would say
3 anywhere from six to seven hours.

4 Q That's a long time?

5 A Yes, sir. Yes, ma'am. I'm sorry.

6 Q That's okay. You testified earlier that the crime
7 scene was taped off?

8 A The actual different places which would go down
9 toward the pond area was taped off. Then you had the
10 road that was actually going into the parking area.
11 That was kind of closed off with a deputy being
12 posted there.

13 Q And I think you testified earlier that you limited
14 the amount of people to go down there?

15 A Yes.

16 Q Because it's a crime scene?

17 A That's correct.

18 Q So were you down there -- were you at Molly's Rock
19 the entire time that any investigative work was being
20 done?

21 A Yes. I was down off to the side which had been a
22 secure area for everyone to stand as well as ourself
23 unless we were directly involved with assisting in
24 gathering evidence.

25 Q So, is it normal procedure at a crime scene to keep a

- 1 log of who all comes into the crime scene?
- 2 A Yes, it is.
- 3 Q And the purpose of that is to be able to limit how
- 4 many people go down there?
- 5 A That's correct.
- 6 Q Is that right? So you were familiar with the people
- 7 who were down there that day?
- 8 A Yes.
- 9 Q Dan Kingston was down there?
- 10 A That's correct.
- 11 Q Todd Johnson was down there?
- 12 A That's correct.
- 13 Q You were down there, right?
- 14 A That's correct.
- 15 Q Field Rita?
- 16 A Rhetta.
- 17 Q Rhetta. Ben Chapman was down there?
- 18 A That's correct.
- 19 Q Wes Boland?
- 20 A Yes, ma'am.
- 21 Q Jerry Wright?
- 22 A Yes, ma'am.
- 23 Q Lee Foster?
- 24 A Yes, ma'am.
- 25 Q Gene Clue. He is on the log. Who is he? He's not

1 indicated to be in law enforcement.

2 A I am not sure who that is.

3 Q Okay. But he was down there?

4 A Yes. If it's on the log, --

5 Q He was down there?

6 A -- they were down there.

7 Q And Leonard Saukaman, he's also not listed as being
8 law enforcement. Who is he?

9 A He is the county administrator.

10 Q John David Dawkins?

11 A He is the chairman of the county Council.

12 Q Gary Pope?

13 A He is the attorney for Newberry County.

14 Q Rob Senn?

15 A He was one of the individuals that found the body.

16 Q And Rebecca Glanville?

17 A And she is the other.

18 Q Who we heard from earlier?

19 A That's correct.

20 Q Andy Sadler?

21 A Andy Sadler is the law enforcement for the Sumter
22 National Forest.

23 Q Jeff Parrott?

24 A Jeff Parrott is SLED.

25 Q Al Stuckey?

- 1 **A** SLED.
- 2 **Q** James Smith?
- 3 **A** The coroner.
- 4 **Q** Dr. Janet Ross?
- 5 **A** The pathologist in the office with Dr. Joel Sexton.
- 6 **Q** Stevie Sligh?
- 7 **A** SLED.
- 8 **Q** Kenny Coke. Kevin Coke. Excuse me.
- 9 **A** I'm not sure on that one.
- 10 **Q** Could it be the Department of Natural Resources?
- 11 **A** Could be.
- 12 **Q** George Bannister?
- 13 **A** Department of Natural Resources.
- 14 **Q** "Spike" McCraw?
- 15 **A** SLED.
- 16 **Q** Robbie Barnes?
- 17 **A** I'm not familiar with that one, ma'am.
- 18 **Q** Could it be DNR?
- 19 **A** Could be.
- 20 **Q** Tony Walker?
- 21 **A** He was our diver.
- 22 **Q** Gene Donahue?
- 23 **A** I'm not familiar with that one.
- 24 **MR. MEADORS:** Was the last name Donahue?
- 25 **Q** Could it be SLED?

1 A It could be.

2 Q Jeff Kinley?

3 A I'm not familiar with that one.

4 Q Could it be SLED?

5 A Could be.

6 Q Connie Johnson?

7 A Our victim's advocate.

8 Q Ezra Arnold?

9 A Our deputy.

10 Q Tony Eigner?

11 A Investigator --

12 Q Pete --

13 A -- for Newberry County.

14 Q Sorry. Pete Johnson?

15 A Lieutenant, shift Lieutenant.

16 Q Jackie Swinton?

17 A Chief of Police, Newberry City.

18 Q Darryl Betsel?

19 A I'm not familiar with that one.

20 Q Could it be SLED?

21 A Could be.

22 Q Daniel Floyd?

23 A Deputy of Newberry County.

24 Q Jimmy Dunaway?

25 A He is the Whitmire sanitation officer.

- 1 Q Pete Hood?
- 2 A I'm not familiar with that one.
- 3 Q Okay. But he's not law enforcement to your
- 4 knowledge?
- 5 A I'm not sure.
- 6 Q Ross Waggoner?
- 7 A Ross runs the septic tank, cleanout septic tank
- 8 company in Whitmire.
- 9 Q Oh, okay. Ray Ellison?
- 10 A I'm not sure on that one.
- 11 Q Could it be rescue squad?
- 12 A Could be.
- 13 Q Jimmy Anders?
- 14 A The chief for the rescue squad.
- 15 Q And Jason Taylor?
- 16 A I'm not sure on that one.
- 17 Q Could it be rescue squad?
- 18 A Could be.
- 19 Q That's quite a few people down at that crime scene?
- 20 A Well, they kept a good log.
- 21 Q They did keep a good log. So all of these people
- 22 were tromping down at the crime scene area throughout
- 23 the day?
- 24 A No. They were not all down at the crime scene area.
- 25 Q But they're in the log.

1 **A** What I testified earlier, there was a secure area for
2 those folks that were coming down to aid in some way
3 or the other.

4 **Q** Someone from the Fairfield County Sanitation?

5 **A** No. That was Whitmire.

6 **Q** Whitmire Sanitation?

7 **A** Yeah.

8 **Q** So there were quite a few people down there that day?

9 **A** Yes, ma'am.

10 **Q** After you all left the crime scene, it's my
11 understanding that you then went to the Adams Mark
12 Hotel in Columbia?

13 **A** Not completely after leaving the crime scene. We
14 went to Brian Anderson's mother's house first.

15 **Q** But at some point?

16 **A** And then we did go to the Adams Mark. That's
17 correct.

18 **Q** When you were at the Adams Mark, one of the employees
19 took you up to the room. Is that correct?

20 **A** That's correct.

21 **Q** Okay. And you were able to see the room where this
22 party occurs?

23 **A** That's correct.

24 **Q** Did you photograph the room?

25 **A** Richland County photographed the room.

1 Q Did you supervise those who were photographing the
2 room?

3 A I pretty much stood back and let them do what they
4 needed to.

5 Q Did you see the room in its present condition?

6 A Yes, I did.

7 Q Okay.

8 (WHEREUPON, Defendant's Exhibit No. 2 is marked
9 for identification.)

10 (WHEREUPON, Defendant's Exhibit No. 3 is marked
11 for identification.)

12 Q May I approach the witness, Your Honor? Do you
13 recognize these pictures?

14 A Yes, ma'am.

15 Q And what are those?

16 A It looks like the pictures of the room there at the
17 Adams Mark.

18 Q Okay. And that's the room as you saw it when you
19 went to the room with Richland County deputies that
20 day?

21 A Yes, ma'am.

22 Q And what do you see on top of this television?

23 A There are three bottles of alcohol. I'm not sure
24 about the tallest one. The second one looks like
25 it's still got a little bit maybe there in the

1 bottle. And then I can't tell about the third one.

2 And then there is a box on the very end.

3 Q So there's liquor on top of the TV?

4 A That's correct.

5 Q And then in the next picture, what is that on the
6 table?

7 A That's a box of Budweiser, a carry box.

8 Q And what's on the floor beside it?

9 A A Budweiser carry box.

10 Q Do you see some empty beer bottles in there?

11 A Ones on the ground, it looks like there's two in the
12 waste basket.

13 Q And what size boxes are those? Can you tell?

14 A Those look like the bottles, the 12-ounce bottles.

15 And I don't know if it's 12 in it or 24.

16 Q It could be 12 or 24?

17 A That's correct.

18 Q Thank you.

19 MS. OWINGS: Your Honor, at this time we'd like
20 to submit these photographs of the room into
21 evidence.

22 MR. MEADORS: No objection.

23 THE COURT: Without objection.

24 (WHEREUPON, Defendant's Exhibit No. 3 is
25 admitted into evidence.)

1 (WHEREUPON, Defendant's Exhibit No. 4 is
2 admitted into evidence.)

3 MS. OWINGS: Permission to publish to the jury,
4 Your Honor.

5 THE COURT: Certainly.

6 Q So there was quite a party going on in the room?

7 A Yes, ma'am.

8 Q At least there was drinking going on in the room at
9 the time?

10 A Yes, ma'am.

11 Q I think you also testified earlier that Mr. Anderson
12 was fingerprinted. Is that correct?

13 A That's correct.

14 Q And that's how you identified his body?

15 A That's correct.

16 Q You testified earlier the prints were in AFIS?

17 A Yes, ma'am.

18 Q What's AFIS?

19 MR. MEADORS: Your Honor, objection.

20 MS. OWINGS: He testified to it earlier.

21 THE COURT: What's your objection?

22 MR. MEADORS: Can we approach?

23 THE COURT: Sure.

24 (Whereupon, a bench conference is had)

25 Q On January 1st, Sergeant Dennis, you first

1 interviewed Keith Sims. Is that correct?

2 A That's correct.

3 Q Did he come to your office with an attorney?

4 A No, he didn't.

5 Q Who did he come with?

6 A He came with his mother as well as Natalie English.

7 Q But no lawyer?

8 A No lawyer.

9 Q State's Exhibit 72, Investigator Dennis, is the
10 advice of rights that you signed with Keith Sims. Is
11 that correct?

12 A Yes, ma'am.

13 Q Now, when you reviewed the advice of rights with Mr.
14 Sims, you asked him about his education level. Is
15 that correct?

16 A That's correct.

17 Q And he told you that he finished the eleventh grade?

18 A That's correct.

19 Q And that he can read?

20 A Yes.

21 Q Did you give him any type of test to see if he really
22 could read?

23 A If he can write his name, he can read and write.

24 Q You assume that he can read or write just if he can
25 write his name?

- 1 **A** Yes, ma'am.
- 2 **Q** You didn't ask him if he was in any type of special
- 3 ed classes?
- 4 **A** No, ma'am.
- 5 **Q** You didn't ask him about his abilities to read or
- 6 write or how well he'd done in school or anything
- 7 like that?
- 8 **A** No, ma'am.
- 9 **Q** You didn't ask him if he had any kind of mental
- 10 issues or anything that could affect his ability to
- 11 understand what you all were doing?
- 12 **A** No, ma'am.
- 13 **Q** Now, the room that you all interviewed him in at the
- 14 Sheriff's Department, you said there were four
- 15 chairs?
- 16 **A** Yes, ma'am.
- 17 **Q** Now, who was present in the room whenever you talked
- 18 to him?
- 19 **A** There was myself, Lieutenant Boland, Keith Sims, and
- 20 that was it.
- 21 **Q** So it was two police officers and Mr. Sims?
- 22 **A** And Mr. Sims, yes.
- 23 **Q** Is this a really big room like this courtroom?
- 24 **A** No. It's probably about maybe a seven-by-five.
- 25 **Q** Seven-by-five room?

1 **A** Yes, ma'am. It's enough that you can move around or
2 push away if you feel uncomfortable.

3 **Q** But you can't push a police officer?

4 **A** He can scoot back from me.

5 **Q** Okay. But other than asking him, than reading to him
6 what's on this sheet and seeing that he could
7 actually write his name, you didn't do anything else
8 to determine his educational ability, his mental
9 capacity or anything like that?

10 **A** He communicated very well to me understanding the
11 questions that I asked as far as the rights. Any
12 time that someone can do that, if they don't
13 understand, they're usually going to ask you or tell
14 you they don't understand. And he never did that.

15 **Q** So that's the limit to your test. If he can
16 understand this paper, then he's competent to you?

17 **A** If he can understand the conversation that I'm having
18 with him, talking back and forth, and he can answer
19 those questions; yes, I feel like he can understand,
20 or anybody can understand.

21 **Q** When you interviewed Mr. Sims you took several pages
22 of notes?

23 **A** Yes, ma'am.

24 **Q** So this interview was more than just a ten-minute
25 interview?

- 1 A Rephrase that again?
- 2 Q This interview wasn't short?
- 3 A No. No. No.
- 4 Q Would you say it went on for about an hour?
- 5 A At least.
- 6 Q At least an hour. So for about an hour he was in a
- 7 seven-by-five room with you and another police
- 8 officer?
- 9 A That's correct.
- 10 Q With no attorney present?
- 11 A With no attorney present.
- 12 Q Okay. As I said earlier, I asked you earlier, you
- 13 only took notes of what he said. Is that correct?
- 14 A That's correct.
- 15 Q You didn't take a written statement from him?
- 16 A No, I did not.
- 17 Q You didn't take your notes down into a statement that
- 18 he could later read and sign?
- 19 A No, we did not.
- 20 Q So none of what you have put down in your notes has
- 21 been verified by Keith?
- 22 A Everything that was written here came from the words
- 23 that Keith give us. This was -- at this point in
- 24 time we were gathering the information of where he
- 25 was at, who he was with.

1 Q And what Keith did was he came in and he gave you a
2 voluntary statement?

3 A He gave a verbal statement to where I could put it
4 down in my notes for recall, yes.

5 Q But sometimes, Investigator Dennis, don't you,
6 whenever people come in and give you statements,
7 don't you commit that to paper?

8 A Yes. If he gives me a statement that we would --
9 that we feel is credible.

10 Q So -- but isn't it common practice whenever you
11 interview someone to either have the interviewee
12 write down their statement or to have you write down
13 their statement and they sign it later?

14 A It depends on the person being interviewed. If the
15 person cannot write, then I would write the statement
16 for them. If they can write, then they would write
17 it.

18 Q But you said that you thought Keith could write?

19 A But as I said earlier, he did not give anything that
20 was solid corroborating information to be put down in
21 writing on his part.

22 Q So you just took notes?

23 A I just took notes. That's correct.

24 Q Did you interview Derrick Ruff?

25 A No, I did not.

1 Q Did you interview Natalie English?

2 A Yes, I did.

3 Q Did you interview Nikki or Sierra Davis, Nikki
4 Jenkins?

5 A Yes, I did.

6 Q I beg the Court's indulgence one moment, please. You
7 took a written statement from Nikki Jenkins?

8 A We took a written statement from Nikki, as well as I
9 had notes, too.

10 Q That she wrote?

11 A That she wrote.

12 Q And you also took a written statement from Natalie
13 English?

14 A As well as notes.

15 Q Which she wrote?

16 A Which she wrote.

17 Q Well, let's refer to your notes. When you were
18 reading your notes earlier, you mentioned that Keith
19 had told you -- and tell me if I'm right, if I'm
20 misquoting you -- that him and people had been in
21 arguments over money or territory. And you qualified
22 that him and people, that him would be Brian. Is
23 that correct?

24 A That's correct.

25 Q And you also have in quotation a person named Marcus.

1 Was this the person that Keith told you that Brian
2 was having problems with?

3 A That was a name, yes.

4 Q Were you able to identify who Marcus was?

5 A No, we were not.

6 Q You also document here that Keith told you that
7 before they went to his house they stopped at an old
8 man's house?

9 A That's correct.

10 Q And they were there for about ten minutes?

11 A That's correct.

12 Q But it was never determined why they were there?

13 A No, sir. No, ma'am. I'm sorry.

14 Q Did you ever find out who that old man possibly could
15 have been?

16 A No, we did not.

17 Q You also testified that on January the 7th of 2004,
18 you went to Lexington County to see Keith. Is that
19 correct?

20 A That's correct.

21 Q He was housed at Lexington County?

22 A Thereabouts.

23 Q For administrative reasons, right?

24 A Yes. Because the Newberry Detention Center was being
25 renovated.

- 1 Q While you were at the jail you read him his rights?
- 2 A That's correct.
- 3 Q Was a lawyer present when you read him his rights
- 4 there?
- 5 A No, he was not.
- 6 Q And once again, not to rehash everything, but you
- 7 didn't go through his education level and his mental
- 8 competence or what type of classes he's had. You
- 9 just verified that he could understand what you were
- 10 telling him?
- 11 A Eleventh grade is what he said. And, yes.
- 12 Q Okay. And then you took him back to the Sheriff's
- 13 Department?
- 14 A That's correct.
- 15 Q Was it just you in the car with him?
- 16 A That's correct.
- 17 Q So you took him back to the Sheriff's Department to
- 18 interrogate him?
- 19 A To interview him.
- 20 Q So, you were his interviewer but you were also his
- 21 transportation. Is that correct?
- 22 A That's correct.
- 23 Q So after he talked to you, no matter what he said,
- 24 you were taking him back to the jail?
- 25 A That's correct.

1 Q And once again, whenever you interviewed him on the
2 7th, who was with you?

3 A There was Major Gilliam there at that time.

4 Q Was there anyone else in the room?

5 A I believe Sheriff Foster stepped in. That was it.

6 Q And Sheriff Foster is the Sheriff of Newberry County?

7 A He is the Sheriff, yes.

8 Q So Major Gilliam is with SLED?

9 A No. Major Gilliam is the Major of the Newberry
10 Sheriff's Office.

11 Q So, were you all in the same five-by-seven room?

12 A The same room.

13 Q With Keith?

14 A With Keith.

15 Q And Sheriff Foster?

16 A Yes.

17 Q And you?

18 A And me.

19 Q Major Gilliam?

20 A That's correct.

21 Q And no attorney?

22 A No attorney.

23 MS. OWINGS: I beg the Court's indulgence one
24 moment. Your Honor, I have no further questions.

25 THE COURT: Any redirect?

1 **MR. MEADORS:** A couple of quick follow-up,
2 please.

3 REDIRECT EXAMINATION

4 **BY MR. MEADORS**

5 **Q** Is that room a seven-by-five or seven-by-seven? It
6 doesn't matter.

7 **A** It's -- it's enough room that if I count the tiles in
8 there, it's roughly around seven-by-five or a little
9 bit bigger.

10 **Q** She asked you all these names. Was this prepared by
11 Al Stuckey, these names that came on the crime scene?

12 **A** Yes, sir.

13 **Q** Documented everybody that came on the scene, correct?

14 **A** That is correct.

15 **Q** Now, were these folks down where the evidence was?

16 **A** No, they were not.

17 **Q** Looking at the evidence, touching the evidence?

18 **A** No, they were not.

19 **Q** Were they taking swabs?

20 **A** No, they were not.

21 **Q** Who was in charge of that, the crime scene?

22 **A** That would be Al Stuckey, Jeff Parrott.

23 **Q** And Al Stuckey is the one who prepared this crime
24 scene log who came out, right?

25 **A** That's correct.

1 Q Very thorough in your opinion?

2 A Yes, sir.

3 Q Newberry is kind of small, isn't it?

4 A Yes, sir.

5 Q Word gets out something is going on, everybody hears
6 about it, don't they?

7 A That's correct.

8 Q She asked you specifically about the notes and some
9 things that you had followed up on. She asked you
10 about Adams Mark and McDonald's and he said old man's
11 house around 1:15, correct?

12 A That is correct.

13 Q You couldn't find out --

14 A We were not sure exactly where the old man's house
15 that he was talking about other than near where Brian
16 and --

17 Q All he said was old man's house around 1:15?

18 A That's correct.

19 Q No other identifying features?

20 A No.

21 Q And you couldn't find an old man?

22 A Couldn't find an old man.

23 THE COURT: Anything further?

24 MR. MEADORS: No, sir.

25 RECROSS EXAMINATION

1 **BY MS. OWINGS**

2 **Q** Investigator Dennis, you were the interviewer. Is
3 that correct?

4 **A** With Mr. Sims?

5 **Q** Right.

6 **A** That's correct.

7 **Q** The interviewer is the person who asks questions?

8 **A** That's correct.

9 **Q** Okay. If you didn't have enough information to find
10 out who the old man was, you could ask him more
11 questions. Is that right?

12 **A** That's true.

13 **Q** Thank you.

14 **MS. OWINGS:** No further questions, Your Honor.

15 **THE COURT:** All right. You may come down, sir.
16 You thank you very much. Any objection to this
17 witness being excused? Any objection?

18 **MS. OWINGS:** No objection, Your Honor.

19 **THE COURT:** All right. You're free to go,
20 Lieutenant Dennis. All right, ladies and gentlemen.
21 Let's take a take a short break, about 15 minutes.
22 I'll call you back when we're ready to go. We'll
23 stand at ease. Don't discuss the case among
24 yourselves while you're in the jury room.

25 (Jury out at 3:44 p.m.)

1 **THE COURT:** We'll stand at ease. Not at ease.
2 Ms. Durant, you mentioned something to me about
3 the -- at a side bar about the lack of moving for a
4 Jackson v. Denno hearing. And I indicated at that
5 time I didn't think it was appropriate to make that
6 sort of comment in front of the jury, but I'll allow
7 you to make it for the record if you wish to do so.

8 **MS. DURANT:** Yes, sir. We just wanted to put on
9 the record that we were not requesting a Jackson v.
10 Denno hearing about any of his statements. We felt
11 that that was not necessary. We were not questioning
12 the voluntariness. He turned himself in. And it
13 goes straight to the defense. And we are not
14 requesting that, Your Honor.

15 **THE COURT:** All right. Thank you very much.
16 All right. Let's stand at ease for ten to fifteen
17 minutes. Let's try to resume at 4:00.

18 (Whereupon, a break is taken)

19 (WHEREUPON, State's Exhibit No. 76 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 77 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 78 is marked for
24 identification.)
25

1 (WHEREUPON, State's Exhibit No. 79 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 80 is marked for
4 identification.)

5 **THE COURT:** Ms. Owings.

6 **MS. OWINGS:** Yes, sir.

7 **THE COURT:** Counsel, approach the bench, please.
8 (Whereupon, a bench conference is had)

9 (WHEREUPON, Court's Exhibit No. 1 is marked for
10 identification.)

11 **THE COURT:** Solicitor, are you ready to proceed?

12 **MR. MEADORS:** Yes, sir. Your Honor, we're going
13 to have to briefly recall Sergeant Dennis just for
14 chain purposes. This stuff came out in a search
15 warrant.

16 **MS. OWINGS:** Your Honor, this is also something
17 I'd like to put on the record. One of our side bars
18 I'd just like to put it on the record before we move
19 forward.

20 **THE COURT:** If you've got something to put on
21 the record, put it on the record now.

22 **MS. OWINGS:** Thank you, sir. Earlier we had a
23 side bar. I wanted to ask Investigator Dennis what
24 AFIS was. You said that I could not say that. I
25 just wanted to put it on the record I wanted to ask

1 him what AFIS was. I am in AFIS, Your Honor. Every
2 attorney in my office is in AFIS. People in the
3 military are in AFIS. There are other reasons for
4 people to be in AFIS besides just having a criminal
5 record. I just wanted to ask him what AFIS was. I
6 understand that you overruled my objection, overruled
7 me. I understand that. I just wanted to put it on
8 the record.

9 **THE COURT:** The State's position?

10 **MR. MEADORS:** That response, I didn't -- she
11 didn't say that at side bar earlier. So I took it
12 that was not why she was doing it. So that was why I
13 objected.

14 **THE COURT:** Well, you didn't object on the
15 record I don't believe, but you explained at the side
16 bar that you felt that the defense was attempting to
17 establish the fact that the deceased had a criminal
18 record.

19 **MR. MEADORS:** I said I hoped she wasn't trying
20 to do that but I wasn't sure, is what I think I said
21 at the side bar.

22 **THE COURT:** All I said was you can't do that.
23 So, it's on the record.

24 **MS. OWINGS:** Thank you, sir.

25 **THE COURT:** Now, that's a Court's Exhibit.

1 **MS. OWINGS:** I know. I just want to show it to
2 Ms. Durant.

3 **THE COURT:** Recall. Come on up, Sergeant
4 Dennis. Are you ready for the jury?

5 **MR. MEADORS:** Yes, sir.

6 **THE COURT:** Bring the jury, please.

7 (Jury in at 4:07 p.m.)

8 **THE BAILIFF:** The jury is present, Your Honor.

9 **THE COURT:** Thank you very much. You may
10 explain to the jury that you're recalling Sergeant
11 Dennis.

12 ROBERT DENNIS, after being recalled to the
13 stand, testifies as follows:

14 DIRECT EXAMINATION

15 **BY MR. MEADORS**

16 **Q** Sergeant, a few housekeeping matters. As a result of
17 the search warrant at the residence of Keith Sims at
18 you [REDACTED] in Richland County, did you
19 come in possession of some items and subsequently
20 send those to SLED?

21 **A** Yes, sir, I did.

22 **Q** Specifically, 76 for identification?

23 **A** This is a spent casing found in the driveway of Keith
24 Sims.

25 **Q** 77 for identification?

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1 **A** These were shirts and pants taken from the home of
2 Keith Sims.

3 **Q** 78?

4 **A** These were a pair of boots taken from the home of
5 Keith Sims.

6 **Q** 79?

7 **A** And 79 is ammunition taken from the home of Keith
8 Sims.

9 **Q** All of these for identification at this point came in
10 your possession as a result of the search warrant,
11 and you sent them to SLED, correct?

12 **A** That's correct.

13 **MR. MEADORS:** With the Court's permission, I'm
14 going to leave those right there, Your Honor. The
15 chain witnesses are coming up right now.

16 **Q** In addition, can you look at this item and see if you
17 recognize it?

18 **A** This is a cellphone taken from a black jacket
19 belonging to Keith Sims.

20 **Q** And who took that? Do you know?

21 **A** I'm not exactly sure. Either myself or Lieutenant
22 Boland.

23 (WHEREUPON, State's Exhibit No. 81 is marked for
24 identification.)

25 **MR. MEADORS:** Your Honor, we'd offer State's 81,

1 a cellphone taken from Keith Sims.

2 **MS. OWINGS:** We object to that, Your Honor,
3 because he cannot say if he took it or Investigator
4 Boland took it. He doesn't remember who took the
5 phone. He just testified to that.

6 **THE COURT:** All right. I'll sustain the
7 objection.

8 **MS. OWINGS:** Yes, sir:

9 (WHEREUPON, State's Exhibit No. 82 is marked for
10 identification.)

11 **Q** And some shoes. Did you see that cellphone before?

12 **A** Yes, sir. I had seen that cellphone.

13 **Q** Did you see it taken from him?

14 **A** I can't recall.

15 **Q** Do you recognize those?

16 **A** Yes, sir. These are a pair of shoes that were turned
17 over to us. I'm trying to think of the lady that
18 give them to us. But the shoes had been left at
19 Derrick Ruff's house.

20 **MR. MEADORS:** Your Honor, we'd offer State's
21 Exhibit 82.

22 **MS. OWINGS:** Your Honor, I have my same
23 objection to this because he can't say where he got
24 it from. Some lady gave it to him and said it came
25 from Derrick Ruff's house.

1 **THE COURT:** A lady gave it to them and he turned
2 them over to SLED. That's overruled.

3 (WHEREUPON, State's Exhibit No. 82 is admitted
4 into evidence.)

5 **Q** Do you recognize State's 80?

6 **A** It is the clip from the .9 millimeter located on
7 Highway 213.

8 **MR. MEADORS:** Your Honor, speaking with counsel
9 earlier, we'd offer this, I believe without
10 objection.

11 **MS. OWINGS:** Without objection, Your Honor.

12 **THE COURT:** Okay. Without objection.

13 (WHEREUPON, State's Exhibit No. 80 is admitted
14 into evidence.)

15 **MR. MEADORS:** That's all.

16 **THE COURT:** Any further cross examination?

17 **MS. OWINGS:** No, Your Honor.

18 **THE COURT:** You may come down. Call your next
19 witness.

20 **MR. MEADORS:** Deputy Alexander.

21 CHRIS ALEXANDER, after being duly sworn,
22 testifies as follows:

23 **THE CLERK:** Please have seat there, sir. State
24 your full name for the record.

25 **THE WITNESS:** My name is Chris Alexander. I'm a

1 deputy at the Richland County Sheriff's Department.

2 DIRECT EXAMINATION

3 **BY MR. MEADORS**

4 **Q** Deputy, how long have you been with the Sheriff's
5 Department?

6 **A** A little over five and a half years now.

7 **Q** Did you participate in the search warrant at the
8 residence of [REDACTED]

9 **A** Yes, sir, I did.

10 **Q** Back in January of 2004, specifically January 2nd?

11 **A** Yes, sir, I did.

12 **Q** And I'm going to refer you, if it would help you, if
13 I may approach, to the back of the return. Did you
14 specifically find some items there?

15 **A** Yes, sir, I did.

16 **Q** And I believe listed one is a .9 millimeter shell
17 casing, correct?

18 **A** Yes, sir.

19 **Q** And I'm showing you what's been marked State's 76.
20 Can you look at that and tell me if that is the .9
21 millimeter shell casing?

22 **A** Yes, sir. I believe this is the shell casing that I
23 recovered in the driveway that wrapped around the
24 back of the house.

25 **Q** On here it's got backyard here?

1 **A** Yes, sir.

2 **Q** Can you explain that?

3 **A** The driveway, if I remember correctly, went around,
4 came in. It went around to the back of the house
5 where the homeowner's vehicles were parked. And we
6 found it in the driveway that wrapped around to the
7 back side of the house.

8 **Q** Are you hoarse? You're sick?

9 **A** Unfortunately, sir.

10 **Q** And that's State's 76. And when you got it, did you
11 take it to Jim Berlin?

12 **A** Yes, sir, I did.

13 **Q** And Jim Berlin is with the Sheriff's Department,
14 correct?

15 **A** Yes, sir.

16 **Q** Also, did you get a pair of tanned pants?

17 **A** Yes, sir.

18 **Q** Looking at State's -- I'm sorry -- 77, do you
19 recognize that?

20 **A** These were clothing articles that we were told we
21 were looking for, pants and a black shirt --

22 **Q** You don't want any gloves? Okay. That's fine.

23 **A** -- that fit the description of what the subject was
24 wearing at the time of the incident. And these were
25 found in a closet in the bedroom.

1 Q And that's got your name and where you located them,
2 correct?

3 A Yes, sir.

4 Q That's State's 77. You also turned that over to Jim
5 Berlin?

6 A Yes, I did.

7 Q Next, a long-sleeved shirt?

8 A I believe that was the black long-sleeved shirt in
9 there.

10 Q Okay. And also a pair of tanned pants, correct?

11 A Yes, sir.

12 Q And a .9 millimeter shell casing. Is that correct?

13 A Yes, sir.

14 Q And is that all you got at the search warrant? You
15 specifically got? You all go do a search warrant,
16 you all are out searching; if you find something, do
17 you bring it back to one person?

18 A If that's what they want us to do and advise them of
19 where we found it. And it's up to the lead
20 investigator on the scene to whether or not they want
21 us to mark it and let them photograph it or not. And
22 it was their request that when we find it we notify
23 them and bring it so they could tag it for evidence.

24 Q Thank you very much. Thank you. That's all. Thank
25 you for coming today.

1 **MS. OWINGS:** Thank you, Your Honor. We have no
2 questions for this witness.

3 **THE COURT:** Thank you, sir. You may come down.

4 **WITNESS:** Thank you.

5 **MR. BRYANT:** The State calls Deputy Tool from
6 the Richland County Sheriff's Department.

7 JOHN E. TOOL, IV, after being duly sworn,
8 testifies as follows:

9 **THE CLERK:** Please have a seat there, sir.
10 State your full name for the record.

11 **WITNESS:** My full name is John Ernest Tool, IV.

12 DIRECT EXAMINATION

13 **BY MR. BRYANT**

14 **Q** Could you please tell the jury where you work?

15 **A** Richland County Sheriff's Department.

16 **Q** And you are a reserve deputy with the Sheriff's
17 Department?

18 **A** Yes.

19 **Q** Do you have another occupation?

20 **A** I do. I'm a vice-president of technology for a
21 company here in town.

22 **Q** Did you help serve a search warrant on January the
23 2nd of 2004, on [REDACTED]

24 **A** I did.

25 **Q** And from that did you receive certain items?

1 A I did.

2 Q And I'm going to hand you what has been marked
3 State's No. 79 and ask you if you recognize that?

4 A I do. These are items that I recovered as part of
5 the search warrant. I believe these were in a
6 bedside stand dresser or drawer in the bedroom of the
7 residence we were searching. And it's basically a
8 small box of 7.62 rounds, rifle rounds, a shotgun
9 round, and basically an unidentified smaller caliber
10 handgun round.

11 Q On the return it reflects where you took them from,
12 that night stand?

13 A Mm-hmm (affirmative).

14 Q Is that correct?

15 A Yes. I took them from the nightstand and turned them
16 over to one of the other deputies that were there
17 actually conducting the warrant.

18 Q And I believe Jim Berlin was on the scene that night?

19 A Yes.

20 Q You turned them over to him I believe?

21 A I believe that's -- yes, sir.

22 Q Could I have --

23 A Yeah.

24 Q Is that all you recovered that night?

25 A I also recovered a pair of Timberline boots from the

1 closet as well.

2 Q I hand you what is marked State's 78.

3 A Okay.

4 Q If you'd look in that, please, sir.

5 A It's a pair of black Timberline boots that were
6 recovered from the closet, and that was one of the
7 items that was --

8 MS. DURANT: Objection, Your Honor. I don't
9 think he can show them at this point until we have
10 looked at them.

11 THE COURT: You haven't seen them?

12 MS. DURANT: I believe we've seen the outside.
13 We haven't seen the inside.

14 THE COURT: Just show her.

15 Q Are those boots recovered from there?

16 A They were.

17 Q And you gave those items to Jim Berlin as well?

18 A Yes, sir.

19 Q Okay. And on the return that's noted as well?

20 A Mm-hmm (affirmative).

21 Q Thank you, sir.

22 MS. DURANT: We have no questions, Your Honor.

23 THE COURT: Come down, Deputy Tool. Sir, you're
24 free to go.

25 WITNESS: Thank you.

1 **MR. BRYANT:** The State calls Jim Berlin.

2 JAMES D. BERLIN, after being duly sworn,
3 testifies as follows:

4 **THE CLERK:** Please have a seat there, sir, and
5 state your full name for the record.

6 **WITNESS:** All right. James David Berlin.

7 DIRECT EXAMINATION

8 **BY MR. BRYANT**

9 **Q** Mr. Berlin, where are you currently employed?

10 **A** I am currently at Post Trauma Resources. It's a
11 private mental health practice in town.

12 **Q** Back in January of 2004, specifically January 2nd,
13 where were you working?

14 **A** I was a Lieutenant with the Richland County Sheriff's
15 Department.

16 **Q** And do you recall serving a search warrant that day
17 at [REDACTED]

18 **A** Yes, I do.

19 **Q** What was your job there?

20 **A** I was a Lieutenant. And part of this case I
21 understood came from Newberry County. And so I was
22 there as a supervisor for the Sheriff's Department
23 since I was on duty as a Lieutenant.

24 **Q** I'm going to hand you State's 79. Did you receive
25 that that day from other officers at the scene?

1 **A** I'd have to see the search warrant because I scribed
2 the search warrant.

3 **Q** I hand you a copy of the search warrant. Would that
4 help refresh your memory?

5 **A** Yes, it does. This was collected. This was item No.
6 3 it looks like.

7 **Q** And could you tell me what's in that envelope,
8 please, sir?

9 **A** There is a shotgun -- shotgun shell. There is a box
10 of what seems to be some sort of rifle ammunition.

11 **Q** Is there anything else in the bottom of it?

12 **A** There is a small caliber, looks to be a handgun
13 round. I'm sorry. I didn't see that.

14 **Q** And I'm going to hand you what's been marked State's
15 76.

16 **A** Yes. I recognize this.

17 **Q** And did you receive that during the service of the
18 search warrant?

19 **A** Yes. This was listed as item No. 9, one .9
20 millimeter shell casing.

21 **Q** Put that back in the bag, please, sir.

22 **THE COURT:** You've got your back to the jury.

23 **MR. BRYANT:** I'm sorry.

24 **THE COURT:** The jury is having a hard time
25 seeing.

1 Q I'm going to hand you next what has been marked
2 State's Exhibit 78.

3 A Excuse me. I'm having trouble reading it back that
4 far. This is item No. 4, one pair of black
5 Timberline boots, is what they called them.

6 Q Did you receive that during service of the search
7 warrant?

8 A Yes, I did.

9 Q And finally, Mr. Berlin, I'm going to hand you what
10 has been marked as State's No. 77.

11 A This looks to be the pair of item No. 8 which is a
12 pair of tanned pants. And this is item No. 7 which
13 is listed as a long-sleeved Timberline navy blue
14 shirt.

15 Q Did you receive those items during the service of the
16 search warrant?

17 A I did.

18 Q Did you give all of these items that we have just
19 been over to Investigator Sergeant Dennis of the
20 Newberry County Sheriff's Department?

21 A Every item on this sheet was turned over to the
22 investigators that were there from Newberry County,
23 yes.

24 MR. BRYANT: Your Honor, at this time the State
25 would move to introduce State's 76, 77, 78, 79.

1 **THE COURT:** Let the defense look at them.

2 **MS. OWINGS:** I have some objections, Your Honor.
3 I need to refer to them to go through my objections.

4 **THE COURT:** Look at them.

5 **A** Here is one of the stickers. It stuck to my clothes.

6 **MS. OWINGS:** Your Honor, at this time I object
7 to State's Exhibit No. 79. It's the 11 rounds of
8 Wolfe ammunition, a Winchester .12 gauge shell,
9 another round of an unknown type or caliber
10 ammunition. I don't think it's relevant to this case
11 just because they got it at the search warrant. The
12 only type of gun mentioned as being used was a .9
13 millimeter, and these are not .9 millimeter bullets.
14 I don't think they are relevant to this case.

15 **THE COURT:** Overruled.

16 (WHEREUPON, State's Exhibit No. 79 is admitted
17 into evidence.)

18 **MS. OWINGS:** Also, Your Honor, we would object
19 to any of the clothes that are coming in. I think
20 those are State's Exhibits 77 and 78. According to
21 the search warrant, they were looking for bloody
22 clothes, and they just grabbed some clothes from
23 Keith's house it looks like. I don't see where those
24 are relevant either.

25 **THE COURT:** Overruled. 77 and 78.

1 (WHEREUPON, State's Exhibit No. 77 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 78 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 76 is admitted
6 into evidence.)

7 **THE COURT:** Go ahead. You may continue.

8 **MR. BRYANT:** Your Honor, I would at this time
9 offer these over objection.

10 **THE COURT:** I've overruled the objections.

11 **MR. BRYANT:** Thank you, Your Honor. No further
12 questions.

13 **MR. MEADORS:** Could he be excused?

14 **THE COURT:** Mr. Bryant.

15 **MS. OWINGS:** We have no questions for this
16 witness, Your Honor.

17 **MR. MEADORS:** I apologize.

18 **THE COURT:** All right. Call your next witness.

19 **MR. MEADORS:** Investigator David Collins.

20 DAVID J. COLLINS, after being duly sworn,
21 testifies as follows:

22 **THE CLERK:** Please have a seat, sir. State your
23 full name for the record.

24 **WITNESS:** David Jeffrey Collins.

25 DIRECT EXAMINATION

1 BY MR. MEADORS

2 Q Investigator Collins, familiarize yourself with the
3 jury, please; specifically, where you're from?

4 A I am currently employed by the Richland County
5 Sheriff's Department as a firearms examiner in the
6 forensic services laboratory.

7 Q How long have you been there?

8 A I have been with the Sheriff's Department for about
9 four years now.

10 Q And what do you do there?

11 A As a firearms examiner, my primary responsibility is
12 examining firearms or firearms-related evidence as
13 submitted to the laboratory. This can include
14 firearms. It can include ammunition. It could
15 include fired ammunition components such as bullets
16 and cartridge cases.

17 The primary examination that I'm called upon to
18 do is to compare fired bullets and cartridge cases
19 with the specific suspect firearm to determine if
20 those items had been fired by that gun or by another
21 gun.

22 I'm also requested, when they don't have a
23 firearm available for me to examine, to compare items
24 of evidence with each other to determine if they were
25 fired by the same gun or by different guns or if

1 they -- if possible, to determine what type of
2 firearm fired them.

3 The way that we can do these comparisons is that
4 when a firearm is manufactured there are various
5 machine processes employed that leave microscopic
6 defects on the surfaces of those items. And those
7 microscopic defects will transfer or scratch
8 themselves onto the surface of the bullets and
9 cartridge cases that are fired in that gun. The
10 pattern of the markings left by those defects on
11 bullets and cartridge cases is unique to that
12 particular type of firearm. So, should I go further?

13 Q Let me stop you there. Prior to you coming to the
14 Richland County Sheriff's Department in your four
15 years, where were you before that?

16 A I was employed by the State Law Enforcement Division,
17 commonly known as SLED. And there I also worked as a
18 firearms and tool marks examiner in their forensics
19 laboratory for approximately 12 years.

20 Q Your education and training consists of what?

21 A My education consists of a bachelor's degree from the
22 Citadel in 1984. After I became employed at SLED I
23 entered an on-the-job training program in firearms
24 and tool marks analysis. That at the time was the
25 only way the receive training in that field. It was

1 in a sense like an apprenticeship. That program
2 lasts for approximately two years, and after
3 completion of that course I was certified by SLED as
4 a firearms examiner and given my own case load.

5 Also following that certification I joined our
6 professional association which is the Association of
7 Firearms and Tool Marks Examiners or AFTE, and
8 through that association I have received continuing
9 education and training in my field.

10 Q And about how many examinations have you performed on
11 guns in your time at SLED and at Richland County?

12 A It would be in the thousands.

13 Q Have you ever been offered as an expert in courts of
14 record of this state as an expert before in the field
15 of firearms examination?

16 A Yes, I have. I've qualified in that field as an
17 expert in the state or Circuit Courts of South
18 Carolina in excess of 200 times. I've also qualified
19 in the state courts of North Carolina and Georgia in
20 the federal court system and in the military court
21 system.

22 MR. MEADORS: Your Honor, at this time the State
23 would offer Investigator David J. Collins as an
24 expert in the field of firearms examination.

25 THE COURT: Any Voir Dire or objection?

1 **MS. DURANT:** No Voir Dire, no objection, Your
2 Honor.

3 **THE COURT:** You may proceed.

4 **Q** You all got your -- I say you all -- does Sheriff
5 Lott now have your own facilities where you can do
6 this testing?

7 **A** Yes, we do.

8 **Q** And how recent has that been?

9 **A** That facility was opened in stages. As time went by
10 and gained new disciplines or new capabilities,
11 starting with latent prints and crime scenes and then
12 they gained to the ability to do drug chemistry
13 analysis and firearms identification. And I started
14 my actual employment with the Sheriff's department in
15 April of 2002. Although they did not have the
16 physical facility there for me to do the work,
17 through an agreement with SLED I was allowed to do my
18 work at SLED actually in the same office that I used
19 when I was a SLED agent. And then in November of
20 2003 I was able to move my operations into the actual
21 Richland County Sheriff's Department headquarters.

22 **Q** And can you actually test fire there?

23 **A** Yes, I can.

24 **Q** And the procedure, go into a little more detail. If
25 you have a projectile and a shell casing and a gun,

1 what are you able to do to determine if the gun fired
2 the projectile and also tie that into the shell
3 casing?

4 A The first thing that I do in any case is I will
5 examine the items of evidence and takes notes as to
6 their condition, take measurements. And then
7 following that, in the case as described where you
8 have, for instance, a fired cartridge case and a
9 fired bullet in a suspect firearm, I will test fire
10 the firearm with ammunition similar to that which is
11 represented by the evidence cartridge case and
12 bullets. That will enable me to obtain test
13 standards that I can use for comparison with those
14 evidence bullets and cartridge cases.

15 What I will then do is, say, for instance, take
16 a bullet and place it, an evidence bullet, and place
17 it under a comparison microscope and then take a test
18 bullet that I fire from the suspect firearm and place
19 it under the same microscope that enables me to view
20 both items simultaneously at the same magnification.
21 I can rotate them independently of each other and
22 look for areas where the scratch marks that were left
23 by the barrel of the firearm -- and I was talking
24 before about those unique markings that were left on
25 the surface of a bullet -- I look for areas where

1 those match or perhaps in some cases they may not
2 match.

3 If I find sufficient agreement, then I can
4 conclude that that particular bullet was fired by
5 that particular firearm. The same thing goes for
6 cartridge cases. The same manufacturing processes
7 that were used to produce the barrel will also make
8 the other metal parts of the gun and leave behind
9 microscopic defects. One of the areas of interest
10 there is what we call the breach face of the firearm.
11 This is the area that the back of the cartridge rests
12 against when it is fired. When the cartridge is
13 fired, it is pressed back against that surface under
14 great pressure, and any defects that are on that
15 surface will be stamped or impressed into the back of
16 the cartridge case.

17 Other parts of the firearm that may mark a
18 cartridge case uniquely are the firing pin, the
19 ejector, the extractor. And any metal part of the
20 firearm has the potential to mark that cartridge case
21 if it comes into contact with it.

22 What I would also do with the cartridge case is,
23 just like the bullet, I would place an evidence
24 cartridge case under a comparison microscope stage
25 and then a test cartridge case that I fired from that

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1 gun under the same microscope and look for areas
2 where those markings that were left by the gun match
3 or don't match.

4 Q You love your job, don't you?

5 A Yes, I do.

6 Q Look in here at State's 76 and tell me if you
7 recognize that?

8 A Yes. This is the cartridge case that I examined in
9 this case.

10 Q How do you know that's the cartridge case you
11 examined in this case?

12 A There are markings that I placed on the cartridge
13 case in the laboratory so that I could identify it
14 later.

15 Q And that's State's 76?

16 A Mm-hmm (affirmative).

17 Q Look at what's marked State's 73, tell me if you
18 recognize that?

19 A The markings on these containers are markings that I
20 placed there to identify this item. And these are
21 the -- this appears to be the bullet that I examined
22 in this case. I could open it up if you would like
23 and physically examine the bullet itself if you
24 prefer. But --

25 Q As long as -- whatever it takes for you to say that'

1 the projectile that you examined.

2 A All the seals I placed on this package are intact,
3 and I am comfortable with stating that this is the
4 bullet that I examined in that case.

5 Q And State's 65?

6 A Yes. This is the firearm that I examined in this
7 case. And it's also -- in this case, because it's a
8 larger item, you can see the markings that I placed
9 on it in the laboratory so that I could identify it.

10 Q And State's 80?

11 A Yes. This is five unfired .9 millimeter caliber
12 cartridges and a magazine, pistol magazine assembly,
13 and these also bear my markings.

14 Q So now, you've got State's 65, the gun, State's 73,
15 the bullet from the body of Brian Anderson, and
16 State's 76, the shell casing. These come into your
17 possession. What, if anything, do you do with them?

18 A The first thing that I do, as I stated before, is I
19 take notes as to their condition as I receive them.
20 And then I would -- in this particular case I test
21 fired the firearm and then microscopically compared
22 those test fired specimens with the fired bullet and
23 the fired cartridge case.

24 Q What were the results of your examination? And did
25 you prepare a report, putting in your findings in a

1 document?

2 A Yes, I did. And my findings in this particular case
3 were that this fired bullet and this fired cartridge
4 case were fired by this gun.

5 Q And how many test fires did you make?

6 A In this particular case I fired four test fires.

7 Q Comparing those to the shell casing, you were able to
8 determine that the shell casing and the projectile
9 came from this gun, correct?

10 A Yes, I was.

11 Q Can you step down here? With the Court's permission?

12 THE COURT: Go ahead.

13 Q If you'd stand over here, sir, so the court reporter
14 can hear you. Tell the jury what type of gun this
15 is?

16 A This is a High Point Model C9 semi-automatic pistol.
17 It's chambered for .9 millimeter Luger caliber
18 ammunition. And this is what we call a single action
19 semi-automatic pistol. That is, that when it is
20 loaded, when you pull the trigger, it fires. The
21 trigger does nothing more than to discharge the
22 firearm. In some firearms you can pull the trigger,
23 it causes the hammer to come back and then fire the
24 gun. That is called a double action. This gun does
25 not have an exposed hammer, and so this is a single

1 action firearm.

2 Q So if you pull the trigger, what happens?

3 A If the gun is loaded and the safety is off and a
4 magazine is in the firearm, when you pull the
5 trigger, the gun will fire. When the gun fires, the
6 slide comes to the rear. It does so very quickly.
7 And as it does so, it brings with it the fired
8 cartridge case from the chamber and then it ejects
9 that cartridge case from this hole that you see in
10 her inside of the slide. It's called the ejection
11 port.

12 When the slide comes to the rear as far as it
13 can go it, it then returns back forward. It's under
14 spring pressure. So it comes back forward. And when
15 it does so, it picks up another cartridge from the
16 magazine and loads it into the chamber of the gun.
17 When the slide came to the rear, it also did
18 something else. It cocked the gun. So the gun is
19 now cocked again and loaded again and ready to fire
20 with another pull of the trigger.

21 Q How many bullets will this hold?

22 A If I could refer to my notes one moment?

23 Q Sure. Sure.

24 A When I tested the magazine capacity of this firearm,
25 it held eight cartridges in the magazine with a --

1 you could have an additional cartridge in the chamber
2 of the gun, which would give it a maximum capacity of
3 nine cartridges.

4 Q Let's say you fired this right now, investigator; the
5 shell casing would come out this way?

6 A Yes, sir. That gun ejects to the right. As far as
7 how far it rejects or in exactly what direction, I
8 couldn't tell you without doing additional testing.
9 But that is the way it typically ejects.

10 Q It would eject to the right?

11 A Yes.

12 Q Now, you've described a safety on here. And I think
13 everybody is familiar with that. But can you show us
14 how that works?

15 A This gun actually has two safeties. One safety
16 mechanism is here on the side. It's a switch or a
17 lever. If I were to pull this down, the slide is
18 trying to close. If the slide were unable to go all
19 the way forward, there is a notch here with a red
20 dot. This safety lever, if it had pressed up when
21 the slide is all the way forward, it will cover that
22 red dot up. And that means that the gun is in a
23 safety condition; that is, if you pull the trigger it
24 will not fire. If you pull the gun -- excuse me. If
25 you pull the lever down, it will expose the red dot,

1 which is an indication that the gun is now ready to
2 fire.

3 The second safety is actually internal. And it
4 is activated when the magazine is removed from the
5 gun. By removing the magazine from the gun, you can
6 prevent the gun from being fired. If you place the
7 magazine in the firearm, it presses the lever inside
8 the gun which then enables the gun to be fired so
9 long as this safety is also off.

10 Q If the magazine was in there and the safety was on,
11 show us how you'd have to take the safety off?

12 A It really can't be done fully with this mechanism in
13 place, the safety mechanism. But with the slide all
14 the way forward and if the safety was on, it would be
15 up. You would simply slide it down, usually with
16 your thumb; you just bring that lever down.

17 Q You couldn't fire it unless you took the safety off,
18 correct?

19 A That is correct.

20 Q And obviously a magazine would have to be in there?

21 A That is correct.

22 Q You can take a seat back. Thank you, Investigator.
23 As a part of your testing, Investigator Collins, were
24 you able to determine what's referred to as trigger
25 pull?

1 **A** Yes.

2 **Q** Would you explain that, what that is?

3 **A** Trigger pull describes the amount of pressure that
4 you have to place on the face of the trigger in order
5 to fire the gun. We measure that usually in pounds
6 or pounds and ounces. In this particular case I did
7 test the trigger pull, and the trigger bullet weight
8 was registered at nine pounds three ounces.

9 **Q** And is that -- based on your experience, your
10 training, is that consistent with this type of gun?

11 **A** Yes.

12 **Q** A .9 millimeter?

13 **A** That's about what I would expect with that type of
14 firearm.

15 **Q** Nine pounds of pressure to pull it?

16 **A** Yes, sir.

17 **MR. MEADORS:** Beg the Court's indulgence.

18 That's all. Thank you.

19 CROSS EXAMINATION

20 **BY MS. DURANT**

21 **Q** Mr. Collins, hi. I'm Lanelle Durant, one of the
22 attorneys representing Keith Sims.

23 **A** Good afternoon.

24 **Q** How are you?

25 **A** I'm fine. Thank you.

1 Q You've testified many times?

2 A Yes, ma'am, I have.

3 Q You've done a lot of investigations. So, are you
4 familiar with the term "stippling"?

5 A I am familiar with the term, ma'am, and know what it
6 is.

7 Q Pardon me?

8 A I am familiar with the term and know the definition
9 of it. Yes, ma'am.

10 Q Could you tell us the definition of stippling?

11 A Stippling occurs when hot particles of gunpowder or
12 burning powder impact the skin of an individual and
13 then leave a mark but fall away. They're not
14 embedded into the skin. If they were actually to be
15 forced under the skin, they would be called tattooing
16 because it leaves a more permanent mark.

17 Q Isn't it true that stippling can tell you; I mean,
18 the pattern of the stippling, how big it is, can tell
19 you how close the gun was to the victim?

20 A In theory, you can use the size and density of a
21 stippling pattern to determine a rough or a general
22 muzzle to target distance. However, the procedure
23 for doing that is very difficult. It's very
24 difficult to duplicate those conditions in a
25 laboratory environment.

1 Q But I think a general rule -- and I'm not an
2 expert -- but I think the general rule is that the
3 diameter of the stippling is probably a little bit
4 less than the distance of the gun to the victim?

5 A It would vary from gun to gun. The size of the
6 stippling pattern will vary from firearm to firearm.
7 And even within the same firearm, depending on what
8 ammunition you use, you could get varying sizes and
9 densities of stippling patterns.

10 Q Right. So, you -- have you shot stippling patterns?

11 A I have in the past fired patterns for stippling
12 analysis. But typically I provide those patterns to
13 the pathologist for him to render a conclusion.

14 Q So, what would you say was the general rule in all
15 the patterns that you shot as far as the size of the
16 stippling, the diameter as compared to the distance?

17 A There is no -- I mean, as a general rule, the further
18 you get from the firearm, the wider and the less
19 dense the pattern is going to become. As for exactly
20 how wide or how dense that pattern will be, again
21 that will vary from firearm to firearm. And
22 typically it's been shown in studies that the ability
23 to produce -- reproduce that pattern at distances of
24 greater than 18 inches is not really a viable thing
25 to do in the laboratory condition, environment.

1 Q So you just can't say basically what the general rule
2 is of the patterns that you've shot?

3 A There is no general rule. It's just -- as far as
4 from my experience, there is no general rule that you
5 can use to say that, for instance, at this distance
6 you could expect to get this sized pattern.

7 Q Okay. I think I did hear you say that the wider the
8 stippling, then the farther away the gun was. Is
9 that correct?

10 A Yes. That's correct.

11 Q Okay. I don't want to get outside your area, so
12 please tell me if I'm wrong. But you're familiar
13 with the velocity of the gun, blood spatter, those
14 kinds of things? You get into those?

15 A I'm familiar with the actual velocity of the
16 projectile and typically what that would be. As far
17 as blood spatter, that is outside the realm of my
18 expertise.

19 Q Okay. Generally, you would say that a .9 millimeter
20 bullet usually goes in the direction that it's shot?

21 A Yes, ma'am. A properly functioning and properly
22 functional firearm is going to go in the direction in
23 which the barrel was aimed.

24 Q Right. And this weapon was firing properly as far as
25 you could determine?

1 **A** Yes, it was.

2 **Q** Okay. So the bullet doesn't change direction when it
3 enters the body. If it doesn't hit a bone or
4 anything, as far as you know, it's just going in the
5 direction it was shot?

6 **A** It's going to tend to want to follow the same general
7 direction. But now we're getting into an area of
8 wound ballistics which I think would be more along
9 the lines of what a pathologist would be able to
10 testify about.

11 **Q** Okay. And that's all I wanted to ask. If I'm asking
12 something outside your expertise, please let me know.
13 Because, like I say, I'm not an expert in all of
14 this. Are you familiar with the trajectory in this
15 case?

16 **A** I am not.

17 **Q** Or the path of the bullet?

18 **A** No, ma'am. I don't have -- I have not received any
19 information regarding the autopsy results. So I'm
20 not -- I don't have any information on that.

21 **Q** Okay. I think you said also that the first safety on
22 this gun just slides down with your thumb. Is that
23 correct?

24 **A** Yes, ma'am.

25 **Q** So that's a fairly easy movement to make?

1 **A** It's not -- in a properly functioning firearm, it's
2 not a difficult -- it's not difficult to move the
3 lever, no.

4 **MS. DURANT:** Okay. I beg the Court's
5 indulgence, Your Honor.

6 **THE COURT:** Sure.

7 **MS. DURANT:** Thank you, Mr. Collins. We have no
8 further questions, Your Honor.

9 **MR. MEADORS:** Just a couple of follow-ups,
10 please.

11 **THE COURT:** Yes, sir.

12 REDIRECT EXAMINATION

13 **BY MR. MEADORS**

14 **Q** Investigator, does the firearm when it's fired
15 produce gasses?

16 **A** Yes, it does.

17 **Q** And is that what could result in stippling?

18 **A** Actually, the stippling comes from the burning or hot
19 particles of gunpowder as they come out of the
20 barrel.

21 **Q** And the farther you are away, the less likely you are
22 to have stippling on something?

23 **A** That's correct. There will come a distance beyond
24 which you will not receive a stippling pattern on
25 human tissue.

1 Q And that, you say there's no rule of thumb, but you
2 said 18 inches I think?

3 A The 18-inch distance that I gave is the longest
4 distance at which we will fire test patterns.
5 Because studies have shown that the test media that
6 we fire the patterns into does not duplicate human
7 tissue reliably beyond it just a distance of
8 18 inches. And so for that reason and for the
9 reasons of having the variability that you can have
10 even from shot to shot using the ammunition, we
11 typically try not to use stippling patterns very much
12 because they're so hard to duplicate in a laboratory
13 environment.

14 Q And just practically, I mean, you don't have skin to
15 shoot into to truly duplicate it, correct?

16 A That's correct. That's the real limiting factor. We
17 haven't found any test subjects that are going to let
18 us fire into them.

19 Q Thank you. That's all.

20 MS. DURANT: Just one, Your Honor, please.

21 RE CROSS EXAMINATION

22 BY MS. DURANT

23 Q Mr. Collins, I think you said the maximum distance
24 for stippling would be 18 inches. It could be less
25 than that, the gun from the victim?

1 **A** It's conceivable that you could get a stippling
2 pattern at a distance of greater than 18 inches.
3 However, the media that we use to test fire into does
4 not duplicate human tissue when fired into from a
5 distance of greater than 18 inches according to the
6 studies that we have read.

7 **Q** Right. But, I mean, it could be less than 18 inches?

8 **A** Oh, you could definitely get a stippling pattern at
9 less than 18 inches. Yes, ma'am.

10 **MS. DURANT:** That's all, Your Honor. Thank you.

11 **THE COURT:** All right. Mr. Collins, thank you
12 very much. You may come down, sir. Let me see you.

13 (Whereupon, a bench conference is had)

14 **THE COURT:** All right, ladies and gentlemen.
15 Just conferring with the attorneys about the
16 scheduling, it looks like the State had planned to
17 have a number of witnesses here in the morning. I
18 think that was the plan, that the witnesses who have
19 testified this afternoon, that concludes the
20 witnesses that they had planned to testify this
21 afternoon.

22 So I'm going to excuse you now until 9:30 in the
23 morning. I'm going to ask you again -- I looked
24 around to see if anybody from the press was here --
25 not to read or listen or watch any accounts of this

1 trial if they do appear in the press. And I'll ask
2 you not to discuss the case among yourselves when you
3 return to the jury room or with anyone else over the
4 evening hours. Have a pleasant evening. I'll see
5 you at 9:30 in the morning. Everyone else remain
6 seated.

7 (Jury out at 4:58 p.m.)

8 **THE COURT:** All right, counsel. I want to
9 revisit the defense motion to exclude 77, 78, 79.
10 Ms. Owings objected on the grounds that the -- 79 is
11 11 rounds of Wolfe ammunition, a .12 gauge shotgun
12 shell. And 77 and 78 are clothes but they're not
13 bloody clothes.

14 And, Mr. Bryant, I overruled that objection
15 without hearing from you as to what the relevance of
16 those things -- I'm concerned about the relevance of
17 those items as it applies to this case. So I'm going
18 to ask you, if you will -- Ms. Owings, I've heard
19 your objection.

20 **MS. OWINGS:** Thank you, sir.

21 **THE COURT:** I'm thinking about changing my
22 ruling and just ruling them out of evidence. But I
23 need to know if the State has some -- other than the
24 fact they were found at the scene or at the
25 defendant's home, what's the relevance of those

1 items?

2 **MR. BRYANT:** Judge, I think clearly they were
3 looking for any type -- any evidence that could be
4 linked to this homicide.

5 **THE COURT:** Well, we've got a .9 millimeter here
6 and we've got 11 rounds of Wolfe ammunition. Their
7 caliber is not identified. So, I mean, what's the
8 relevance of those items?

9 **MR. BRYANT:** Judge, --

10 **THE COURT:** Or is there any relevance to this
11 case? Remember the definition of relevance is
12 evidence having any tendency to make the existence of
13 any fact that is of consequence to the determination
14 of the action. That is, it's got to have some
15 relationship to what we're talking about here. Or,
16 otherwise, we're just -- we could go out in the
17 garden and pick carrots, you know.

18 So, I mean, tell me what the relationship of
19 those shells is, other than to possibly try to
20 prejudice this jury that Mr. -- the defendant is
21 somehow a person who regularly deals in guns or does
22 something with guns.

23 **MR. BRYANT:** No, sir. The intention of the
24 State was not to in any way influence the jury or
25 prejudice anything. The search warrant called for

1 certain items to be retrieved pursuant to a homicide
2 investigation. They included ammunition, clothing or
3 anything else that might be relevant to the case.

4 The State submits that the clothing retrieved
5 could possibly have been worn and/or used during the
6 commission of the crime or to cover up the following.
7 At the time they don't know, the investigators do not
8 know if the blood can be seen with the naked eye or
9 through other tests, so they can seize it for
10 testing.

11 **THE COURT:** Were you planning to link it up?

12 **MR. BRYANT:** Sir?

13 **THE COURT:** I said do you plan to link it up,
14 either the shells or the clothing? I mean, if you
15 do, we'll just mark them for identification until
16 such time as they are linked up. We can do that.

17 **MR. BRYANT:** Judge, maybe after consultation
18 with Mr. Meadors, we can link it up. If not, we can
19 revisit the issue in the morning.

20 **THE COURT:** Do you want to think about it?

21 **MR. BRYANT:** Yes, sir.

22 **MR. MEADORS:** Your Honor, it clearly would go to
23 the weight and not the -- the State's position, it
24 would go to the weight and not the admissibility.
25 They could argue they have a search warrant looking

1 for weapons, looking for items that might be
2 consistent if they find it. We think like if you
3 found a car, a car was the search warrant.
4 Everything in the car, which we've gotten in without
5 objection miscellaneous papers, all that's already
6 been introduced into evidence and goes to the weight
7 and not the admissibility in the State's opinion.

8 **THE COURT:** Well I'm just trying to find -- and
9 let me say this. Most of that evidence was not
10 objected to. Now here is an objection based on
11 relevance. I think I need to consider it or at least
12 have the State show what the relevance is before I
13 send it to this jury.

14 **MR. MEADORS:** Yes, sir, Judge. If you can keep
15 that open until in the morning, thank you.

16 **THE COURT:** I'll be glad to do that. If you've
17 got some case law or if Ms. Owings has some case law
18 that says it should not be sent to the jury. So, as
19 to 78, 79 -- 77, 78 and 79, I'm going to withdraw my
20 earlier ruling and just hold the matter open. I'm
21 not going to rule one way or other until I see that
22 there's some relevance to the case. Ms. Owings, does
23 that suit?

24 **MS. OWINGS:** Thank you, sir.
25

1 (WHEREUPON, State's Exhibit No. 76 was withdrawn
2 from evidence.)

3 (WHEREUPON, State's Exhibit No. 77 was withdrawn
4 from evidence.)

5 (WHEREUPON, State's Exhibit No. 78 was withdrawn
6 from evidence.)

7 **THE COURT:** All right. Now, how about
8 scheduling for tomorrow or a continuation of the
9 trial? What does it look like?

10 **MR. MEADORS:** Your Honor, I think we'll be
11 through by lunch. We have one -- the pathologist,
12 Dr. Sexton, who initially -- right now he's supposed
13 to be here at 3:00 tomorrow. I'm going to leave
14 right now and see if I can get him here first thing
15 in the morning. I will advise the Court of that and
16 counsel just as soon as I hear from him.

17 **THE COURT:** Is that your only witness?

18 **MR. MEADORS:** No, sir. I think we may have one
19 or two other witnesses. Quite frankly, I don't know.
20 We're going to determine that --

21 **THE COURT:** Well, the reason I ask, of course
22 the jury is gone now, but we could tell them not to
23 come in until after lunch or something if we need to
24 do that.

25 **MR. MEADORS:** Oh. You mean notify them?

1 **THE COURT:** Well, I guess -- well, it's we'll
2 just leave it like it is.

3 **MS. DURANT:** I mean, that's fine with us if we
4 need to do that.

5 **MR. MEADORS:** The only other, of course I'm
6 going to go try to get Dr. Sexton right now.

7 **THE COURT:** All right. Well, let's leave it
8 alone. But the State plans on finishing tomorrow?

9 **MR. MEADORS:** Yes, sir. Without question.

10 **THE COURT:** And the defense may or may not
11 finish tomorrow?

12 **MS. DURANT:** Your Honor, I don't think we're
13 going to finish tomorrow. We have -- I think Mr.
14 Sims is planning to testify. And then in addition to
15 that, we probably have three or four others.

16 **THE COURT:** All right.

17 **MS. DURANT:** We will know more tomorrow, but
18 that's tentatively right now.

19 **THE COURT:** All right. Well, I'm just concerned
20 that we finish this week.

21 **MS. DURANT:** Yes, sir.

22 **THE COURT:** And take enough time so we don't
23 have to start another one.

24 **MR. MEADORS:** I don't think that will be a
25 problem.

1 **MS. DURANT:** No. I don't think so.

2 **THE COURT:** The court reporter told me to say
3 that. All right. We'll stand at ease until 9:30.

4 (Whereupon, the proceedings are concluded for
5 the day, to be reconvened tomorrow morning)

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1 Wednesday, March 22, 2006

2 **THE COURT:** The State ready to proceed?

3 **MR. BRYANT:** The State is ready to proceed, Your
4 Honor.

5 **THE COURT:** All right. Defense ready to
6 proceed?

7 **MS. DURANT:** Yes, Your Honor.

8 **THE COURT:** Bring the jury, please.

9 **THE BAILIFF:** Be glad to, Your Honor.

10 (Jury in at 9:35 a.m.)

11 **THE BAILIFF:** The jury is all present, Your
12 Honor.

13 **THE COURT:** All right. Thank you. Good
14 morning, ladies and gentlemen. I hope you had a
15 pleasant evening. We're ready to continue with the
16 trial. Solicitor, call your next witness.

17 **MR. BRYANT:** Thank you, Your Honor. The State
18 would call John Ortuno.

19 **MANUEL J. ORTUNO,** after being duly sworn,
20 testifies as follows:

21 **THE CLERK:** Please have a seat there, sir, and
22 state your full name for the record.

23 **WITNESS:** Manuel John Ortuno, O-R-T-U-N-O.

24 DIRECT EXAMINATION

25 **BY MR. BRYANT**

1 Q Is it Agent, Special Agent Ortuno?

2 A It's Senior Agent.

3 Q Senior Agent Ortuno, would you tell us where you're
4 employed?

5 A I am employed at the South Carolina Law Enforcement
6 Division, commonly referred to as SLED.

7 Q How long have you been with SLED?

8 A It will be close to 16 years, 16 years this August.

9 Q What are your duties at the South Carolina Law
10 Enforcement Division?

11 A I am currently a forensic serologist and DNA analyst.

12 Q How long have you been doing the DNA?

13 A I have been doing DNA analysis for eight years.

14 Q Let me take you back a few years. Tell this jury a
15 little bit about your education?

16 A I graduated with honors from the American University
17 in Washington, D.C., with a bachelor's of science
18 degree majoring in chemistry. I also have a master's
19 degree also majoring in chemistry from the University
20 of South Carolina here at Columbia. I was hired as a
21 researcher at the University here in Columbia in the
22 molecular genetics laboratory where I performed
23 experiments on DNA for approximately three and a half
24 years. This led to two publications in peer review
25 journals.

1 I am also -- I completed the training at SLED in
2 the field of DNA analysis. I have completed training
3 at the FBI academy in genetics DNA analysis in
4 Quantico, Virginia; completed training also from
5 Applied Biosystems which is the maker of the
6 instrument that we use, and attended numerous
7 conferences and seminars on a regular basis.

8 Q Have you ever testified before?

9 A Yes. I have been qualified as an expert here in this
10 court as well as other courts throughout the state.

11 Q Have you ever been called in any federal court or
12 tribunal?

13 A I testified in a military court as well, qualified as
14 an expert there.

15 Q How many times have you been qualified as an expert
16 in forensic serology and DNA analysis?

17 A In forensic serology and DNA analysis, I have
18 testified 28 prior times, been qualified as an expert
19 28 times prior to today.

20 MR. BRYANT: Your Honor, at this time the State
21 would offer Special Agent Ortuno as an expert in
22 forensic serology and DNA analysis.

23 MS. OWINGS: No Voir Dire, no objections, Your
24 Honor.

25 THE COURT: Thank you very much.

1 Q Special Agent, could you tell us, just strip it down
2 for me, please, sir, because obviously science isn't
3 my field, what DNA is?

4 A DNA stands for deoxyribonucleic acid. It's a very
5 large, complex molecule that's found in essentially
6 every cell of the human body. It's found packaged
7 within the nucleus of what we call chromosomes. We
8 each have 23 pairs of chromosomes, each pair being an
9 equal contribution from our mother and our father.

10 Now, most of the DNA is the same. In fact,
11 99 percent of our DNA is identical between two
12 individuals. But it's that one percent that is not
13 identical that we focus on in forensics. And because
14 that molecule is just so large, there is plenty of
15 DNA left to distinguish between people.

16 In forensics we focus on regions that are called
17 STR sites. STR stands for short tandem repeat. If
18 you go to an STR site along the DNA molecule, what
19 you discover is that different people have different
20 sizes, size fragments at that site. An analogy of
21 this would be shoe sizes. I wear a size 11 men's
22 shoe. Other men in this courtroom might have a size
23 9 or a size 10 or so on.

24 So we can distinguish between individuals by the
25 sizes of their shoes. But unlike shoe sizes where

1 both my left and right foot are the same size, on an
2 STR site we have different sizes. That's because our
3 mother gives us one size and our father gives us
4 another one. It might be the same size. It might be
5 different. And we don't just look at just one STR
6 site. We look at 13 different locations along the
7 DNA molecule, each one having a contribution from our
8 mother and our father.

9 So when you hear the term DNA profile, whether
10 you read it in a magazine or a newspaper or you hear
11 it on CSI, a DNA profile is precisely that. It's the
12 combination of these fragments that are given by our
13 mother and our father, and together they make up the
14 individual. And of course the frequency of
15 occurrence of all these fragments along these 13
16 locations along the population is extremely rare. So
17 we basically have what's called a source identity.
18 It's that person to the exclusion of others within
19 reasonable scientific certainty.

20 We take evidence that we receive in a case and
21 we develop a DNA profile. We look at the people that
22 are believed to have been involved in the case. We
23 develop their DNA profile. And then it's very
24 simple. You have a table, and you simply match at
25 each location the fragments for the evidence to the

1 fragments of the individuals. If they match, it came
2 from them. If they didn't match, it could not have
3 come from them.

4 Q The evidence you receive in a case, take me through
5 that in terms of the sample what you would do
6 generally in your lab?

7 A The first thing we do is the serology component which
8 is to determine if there is anything of human origin
9 there. And typically what we're asking is, is there
10 anything that is either a blood source or saliva or
11 semen, sometimes hairs as well. Those are the usual
12 things that we look for.

13 Once we determine that they're of human origin,
14 then we go and develop the DNA profile. We do that
15 by extracting the DNA from the cells. Then through
16 chemistry we can target these sites that I mentioned
17 earlier, and we make millions and millions of copies
18 of these little fragments. We then run them through
19 an instrument which identifies the fragments. It
20 tells if it's a 7 or it's an 8 or it's a 9. And then
21 we compile that evidence into a table and then just
22 simply compare once again the evidence with the
23 standards that are submitted.

24 Q If you get evidence in from a crime scene of, say,
25 blood, something of that nature, do you use the

1 entire sample in testing?

2 **A** Based on my experience, I know how much I need to
3 develop a DNA profile. I can look at a blood stain,
4 for example. I know how much I'm going to have to
5 cut to extract sufficient DNA to develop a profile.
6 So, to answer your question, it depends on the amount
7 that's there. I'll examine it. I'll take a small
8 cutting to determine if it. in fact it is probably
9 blood, and then from there I'll take another cutting
10 to develop the DNA profile. If there is left over,
11 it remains of course.

12 **Q** Let me turn your attention, please, sir, to the case
13 at hand. Did you do a report in this case?

14 **A** Yes, I did.

15 **Q** When you received the materials in this case, I take
16 it you itemize and make the report based upon what
17 you do on those materials?

18 **A** Yes. The report is divided into a serology analysis
19 section and a DNA analysis section.

20 **Q** And I know you received a number of items, but to
21 make this simple, did you do DNA analysis on a
22 certain number of items that were submitted;
23 specifically, if you would refer to your report,
24 items number 15, 19 and 21 which came from Molly's
25 Rock Park?

1 **A** Yes. I did analyze those samples.

2 **Q** Based upon your analysis, what were the results? And
3 let me back up. Don't you need something to compare
4 those samples to?

5 **A** Yes. Typically we will not perform DNA analysis if
6 we have no standards, no known samples from
7 individuals to compare. So, yes. There was one
8 known standard that was submitted as well.

9 **Q** And the known sample submitted was from the victim,
10 Brian Anderson?

11 **A** Yes, sir.

12 **Q** Now, let me go back to those three swabs from Molly's
13 Rock, numbers 15, 19 and 21 which have already been
14 submitted into evidence. Did you compare those,
15 analyze those against the standard?

16 **A** Yes, I did.

17 **Q** And what were the results of your analysis or
18 comparisons? And please correct me if I'm saying it
19 incorrectly.

20 **A** The results of the analysis of those three items, and
21 they were collected from Molly's Rock at the dock, at
22 the parking area, and there's another swab that just
23 says Molly's Rock, they were found to all three of
24 them match Brian Anderson. And then the frequency or
25 probability or rarity of the sample that was

1 identified and matched Brian Anderson is 1 in 200
2 quintillion.

3 Q Meaning that Brian Anderson's blood was found at
4 different areas at Molly's Rock Park or Molly's Rock
5 Park Pond?

6 A Based on my analysis, within reasonable scientific
7 certainty, the samples that were found there, the
8 blood samples that were found there do in fact match
9 Brian Anderson. Yes.

10 Q One in 200 quintillion?

11 A Yes, sir.

12 Q Now, did you also perform testing on what would be
13 your item number 34 which was a swab from the front
14 passenger's seat of Mr. Anderson's car?

15 A Yes, I did.

16 Q What were the results of that analysis?

17 A That sample also matched Brian Anderson with the same
18 frequency.

19 Q And that was 1 in 200 quintillion?

20 A Yes, sir.

21 Q Compared to the earth's population, what is a
22 quintillion?

23 A Well, a quintillion is -- it would be 200 followed by
24 18 zeroes. The world's population is approximately
25 6.5 billion at this time. So, we're looking at

1 something that is more than a billion times the
2 earth's population.

3 Q So based upon your analysis, the blood at the Molly's
4 Rock Park pond and in the car belonged to Brian
5 Anderson?

6 A Yes, sir.

7 Q Court's indulgence. Special Agent Ortuno, thank you.
8 I have no further questions at this time. I'm sorry.
9 Senior Agent Mr. Meadors pointed out.

10 THE COURT: Cross examination.

11 MS. OWINGS: We have no questions for this
12 witness, Your Honor.

13 THE COURT: Thank you very much. Mr. Ortuno,
14 you may come down.

15 WITNESS: Thank you, Your Honor.

16 THE COURT: May this witness with excused?

17 MS. OWINGS: Yes, sir. We have no objections.

18 (Whereupon, a bench conference is had)

19 THE COURT: Ladies and gentlemen, we're having
20 some logistics problems with witnesses. So just bear
21 with me for a few minutes.

22 (Pause)

23 THE COURT: Because this is a matter that took
24 place over several jurisdictions, people are coming
25 from those jurisdictions, and that -- things just

1 don't -- trains just don't always run on time. If
2 you'd rather sit in the jury room. Mr. Foreman, if
3 you'd rather just take a break and go to the jury
4 room. If you'd rather just sit here, you just came
5 out of the jury room. The jury room is not all that
6 pleasant a place.

7 **FOREPERSON:** We'll stay here. It's cooler.

8 **MR. MEADORS:** Your Honor, it will just be a few
9 minutes.

10 **THE COURT:** That's all right.

11 (Pause)

12 **MR. MEADORS:** Beg the Court's indulgence.

13 **THE COURT:** Yes, sir.

14 (Pause)

15 **MR. MEADORS:** Your Honor, at this time the State
16 would call Lieutenant Dewitt McCraw.

17 **THE COURT:** Come around, Mr. McCraw.

18 **ELDON D. MCCRAW, JR.,** after being duly sworn,
19 testifies as follows:

20 **THE CLERK:** Please have a seat there, sir.
21 State your full name for record.

22 **WITNESS:** It's Eldon, E-L-D-O-N, Dewitt,
23 D-E-W-I-T-T, McCraw, M-C-C-R-A-W, Jr., also known as
24 "Spike".

25 DIRECT EXAMINATION

1 BY MR. MEADORS

2 Q And you're a Lieutenant?

3 A Yes, sir.

4 Q And you're known as "Spike"? Everybody knows you as
5 "Spike", right?

6 A Yes, sir.

7 Q How long -- where are you from?

8 A From Gaffney.

9 Q Born and raised there?

10 A Yes, sir.

11 Q Go to school there?

12 A Yes, sir.

13 Q Tell these folks about yourself; specifically, about
14 your schooling and your education and your law
15 enforcement training, if you will, "Spike"?

16 A I graduated Gaffney High School, graduated University
17 of South Carolina. While I was in Carolina I was
18 working for SLED. I was first assigned to SLED
19 narcotics, from there went to OSEDEF task force here
20 in Columbia, then went back to narcotics; when the
21 State Grand Jury was formed, went to state Grand
22 Jury, stayed there approximately seven years. Then I
23 was transferred back to Gaffney in the criminal
24 division. Piedmont region is what they call it.
25 We've got 12 counties in our region. And we do

1 criminal investigations.

2 Q Besides your undergraduate training, did you receive
3 specific training in law enforcement?

4 A Yes, sir. I graduated the Criminal Justice Academy,
5 been to numerous schools in narcotics, criminal
6 investigation, homicide investigations, classes, and
7 then on-the-job training.

8 Q And you're in the Piedmont region. So, are you
9 basically on call for anything that happens in that
10 region?

11 A Yes, sir.

12 Q And would Newberry be in your region?

13 A It is.

14 Q And do you have an occasion to work with the Newberry
15 County Sheriff's Department and/or the City on a
16 regular basis?

17 A Yes, sir.

18 Q They call you in on a regular basis?

19 A Yes, sir.

20 Q Would it be unusual usual for you to just stop by?

21 A No, sir.

22 Q I want to direct your attention to this case,
23 Lieutenant. Did you come from Gaffney this morning?

24 A Yes, sir.

25

1 (WHEREUPON, State's Exhibit No. 83 is marked for
2 identification.)

3 Q Did you have an occasion on January 2nd of 2004 to --
4 and I'm showing you what's marked State's 83 at this
5 time -- to go by the Newberry County Sheriff's
6 Department?

7 A I did.

8 Q And do you remember why you were there?

9 A I was working on another case there. And part of my
10 duties is I have to go around to each county and
11 visit the Chiefs or the Sheriffs of that county to
12 see if they need any manpower or any help on any
13 investigation. And I was in Newberry County on
14 another case. But I had responded on December 31st,
15 2003 to a call. I was on call that weekend. And
16 myself and several agents responded to the Molly's
17 Rock area of Newberry County where a body was found
18 in a pond.

19 Q I believe your name was read out yesterday on the
20 log. So you actually went to the scene at Molly's
21 Rock?

22 A Yes, sir.

23 Q So you were aware of the basic situation?

24 A Yes, sir.

25 Q On January 2nd of 2004, did you have an occasion to

1 meet with Keith Sims?

2 A I did.

3 Q And where did that take place specifically,
4 Lieutenant?

5 A In Major Dan Gilliam's office at the Newberry County
6 Sheriff's Office.

7 Q Tell us about that office?

8 A It's probably about a 14-by-14 room. It's got a
9 desk. It's got I want to say a couch in there, too,
10 and a chair, and a TV in a TV stand type thing with
11 one window in it.

12 Q So this is actually the Major's office?

13 A Right.

14 Q And it was you, the Major and Keith Sims?

15 A That's correct.

16 Q And you've been doing this how long?

17 A 26 years, five months and about 15 days.

18 Q All right.

19 A I'm currently retired in the system. I retired and
20 came back to work.

21 Q And is it during that course of those 26 years so
22 many days, do you have a procedure that have you used
23 and still use as far as reading a suspect his Miranda
24 rights?

25 A Yes, sir.

1 Q It's just the way you do it?

2 A Yes, sir.

3 Q And is there a form that you use to do that? And in
4 this case did Newberry have a form?

5 A I used one of Newberry County's. I didn't know that
6 I was going to be doing an interview on this day. I
7 was there just visiting to see what they needed, see
8 how the case was going. And then Todd Johnson who I
9 think is a Captain there now, Wesley Boland and
10 Robert Dennis were there. And Keith Sims was already
11 there. I think they had already locked him up and
12 charged him in this case.

13 Q Yes, sir.

14 A So they were going to interview him. So Major
15 Gilliam said, "While you're here, do you mind sitting
16 down with me and trying to talk to him?" I said,
17 "No, I don't mind at all."

18 Q And that's the way it happened, came about with you?

19 A Yes, sir.

20 Q So you read him his rights?

21 A I read him his rights; yes, sir.

22 Q Can you do it to the jury like you did that day with
23 Keith Sims?

24 A Yes, sir. Basically he came in. I asked him if he
25 wanted anything to drink or eat. He said he wanted a

1 cup of water. I got him a cup of water. He remained
2 in Major Gilliam's office. I came back. He was
3 sitting down in a chair right there in front of Major
4 Gilliam's desk. I told him before we talk to him I
5 need to read him his rights. I got a form from Major
6 Gilliam. And this is the form here.

7 And it says Newberry County Sheriff's Office,
8 your rights. The date, I put January 2nd, 2004. The
9 time: 11:28 a.m. Name: Keith Antonio Sims. Social
10 security number: 248-67-0989. Date of birth:
11 10-3-83. Address: [REDACTED] Winnsboro,
12 South Carolina, 29180. He told me it was in Richland
13 County.

14 Q He told you it was in Richland County?

15 A Yes, sir. All this information is coming from him.
16 I'm asking him.

17 Q And that's my next question. So when you're asking
18 him this background information, did he appear to you
19 to understand what you were asking him?

20 A Yes, sir.

21 Q And would he give you what you thought were
22 appropriate responses? In other words, when you
23 said, Keith, what's your social security, did he --

24 MS. DURANT: Objection, Your Honor. Leading
25 him.

1 **THE COURT:** Just ask him the questions.

2 **Q** When you asked him for his social security number,
3 what did he do, if anything?

4 **A** He gave me his social security number.

5 **Q** Was it in a timely manner?

6 **A** Yes, sir.

7 **Q** And did you have any trouble understanding him when
8 he gave you his number?

9 **A** No, sir.

10 **Q** And you said a minute ago about, he told you it was
11 in Richland County. Do you remember testifying to
12 that?

13 **A** Yes, sir.

14 **Q** Did you actually note that in here?

15 **A** Yes, sir.

16 **Q** How did you do that?

17 **A** I put it in parentheses and wrote Richland County out
18 to the side of it.

19 **Q** Now, keep going, please.

20 **A** He gave me his home phone number: (803)735-9111.

21 His work phone: He didn't work. Other phone:

22 (803)414-1214. It's his sister's cell phone. And

23 "I, Keith Sims, am 20 years old."

24 **Q** Let me stop you there. When he was giving you these
25 cellphones, did he have any trouble in your opinion

1 giving you these numbers back?

2 A No, sir.

3 Q Did he have to look for them, or was he able to
4 recite them?

5 A He recited them to me.

6 Q And what's next on the?

7 A "I, Keith Sims, am 20 years. My address is [REDACTED]
8 [REDACTED] Winnsboro, South Carolina. I
9 finished the eleventh grade in school and can read."
10 I asked him what grade. He said he currently is in
11 12th grade at Eau Clair High School.

12 Q So you --

13 A And I put that in parentheses at the bottom.

14 Q You asked him about his educational background?

15 A Yes, sir.

16 Q And did you make any observations yourself then as
17 far as his ability to communicate with you? Did you
18 feel he could?

19 A Yeah. I felt he could understand what I was saying
20 and what he was doing.

21 Q All right. And would you please read the rights to
22 the jury the way you read them to Keith Sims that
23 day?

24 A What I do is when I read each line I have them
25 initial each line that they understand it. So first

1 I read him: "You have the right to remain silent."

2 And then I had him put his initials. And he put

3 K.A.S. beside that line.

4 Q Why did have you him put his initials there, "Spike"?

5 A So he would -- if he didn't understand that part of
6 it, I was going to explain it to him, what it meant.

7 Q So, did he indicate to you he understood it?

8 A Yes, sir.

9 Q And you said he signed his initials?

10 A Right.

11 Q What's next?

12 A "Anything you say ask can and will be used against
13 you in a court of law." And he initialled that line.

14 "You have the right to a lawyer for advice before we
15 ask you any questions and to have him or her present
16 with you during questioning." He initialed that

17 line. "If you have no money for lawyer's fees, the
18 court will appoint one to represent you without cost
19 to you if you wish." And he initialed that line.

20 "If you decide to answer questions now without a
21 lawyer present, you will still have the right to stop
22 the questions at any time. You also have the right
23 to stop answering questions at any time until you
24 talk to a lawyer." And he initialed that line.

25 And then the next line: "I have read this

1 statement of my rights and I understand what my
2 rights are." And he signed Keith A. Sims, 1-2-04,
3 and then I had him initial that, to put his initials
4 over the date.

5 Q So, in your opinion, based on your training and
6 experience, and actually based on being there with
7 Keith Sims on January 2nd, 2004, did he understand
8 his rights?

9 A Yes, sir.

10 Q After that I believe is a waiver of rights. Can you
11 read that? Or how did you and Mr. Sims deal with
12 that?

13 A I was sitting beside him when I read him his waiver.
14 It basically says: "I am willing to make a statement
15 and answer questions. I do not want a lawyer at this
16 time. I understand and know what I am doing. No
17 promises or threats have been made to me, and no
18 pressure or coercion has been used against me." And
19 he signed and dated it. And then I signed under
20 that, and then Major Gilliam signed under my name.

21 Q And did you actually see Keith Sims sign his name?

22 A Yes, sir.

23 Q During this process of you reading the rights to
24 Keith Sims, you testified he appeared to understand
25 them?

1 **A** Yes, sir.

2 **Q** Did he appear to you, based on your training and
3 experience and your location that day of where you
4 were, to be under the influence of anything?

5 **A** No, sir.

6 **Q** Did he appear to be under the influence of alcohol,
7 drugs or any other intoxicating substance?

8 **A** No, sir.

9 **Q** In fact, did you promise him anything?

10 **A** No, sir.

11 **Q** Did you threaten him?

12 **A** No, sir.

13 **Q** Did you coerce him?

14 **A** No, sir.

15 **Q** Did you hold out any hope of reward whatsoever?

16 **A** No, sir.

17 **Q** Did he say, "Spike", I don't want to talk to you?

18 **A** No, sir.

19 **Q** Did he say when you were reading him his rights and
20 starting, I don't want to talk to you, give me a
21 lawyer?

22 **A** No, sir.

23 **Q** If he had, what would you have done?

24 **A** Would have stopped.

25 **Q** After you read him his rights, and you said he

1 signed, did he talk to you?

2 A He did.

3 Q And do people talk to you? Did you ask him about the
4 incident at Molly's Rock?

5 A We did.

6 Q Okay. Could you tell the Ladies and Gentlemen of the
7 Jury what he told you?

8 A Can I refer to my --

9 Q Yes, sir.

10 A This is my writing of the interview we did with Keith
11 Sims. And it says: "To case file from "Spike"
12 McCraw. Basically on January 2nd, 2004, Major
13 Gilliam and this writer interviewed Keith Sims in
14 inference to the murder of Brian Anderson. This
15 interview took place at the Newberry County Sheriff's
16 Office. Prior to the interview Sims was advised of
17 his rights. Sims asked for a cup of water.

18 "Sims stated that on December 30th, 2003,
19 approximately 8:00 p.m. Terrence Hutchinson, Chris
20 Page and John Lee, that's Lee and Hutchinson are
21 brothers, picked him up at his home on Monticello
22 Road. Sims stated that they came to his house in
23 Hutchinson's Cadillac. Sims stated that they then
24 went to the Adams Mark Hotel on Main Street in
25 Columbia.

1 "Sims stated that prior to going to the hotel
2 they stopped at John Lee's house to get a Play
3 Station and a stereo. Sims stated that they got to
4 the hotel a little before 9:00 p.m. He stated that
5 Hutchinson paid for the room and it should have been
6 in his name. Sims stated that Hutchinson got the
7 hotel room so they could party because he was home on
8 break from the Army.

9 "Sims stated that around 11:00 p.m. Brian
10 Anderson and his home boy, Jay, arrived at the hotel
11 room. Sims stated that he and Anderson had been
12 beefing/arguing but that they had worked everything
13 out.

14 "Sims stated that later on, probably around
15 12:00 midnight, Brian Anderson and John Lee
16 Hutchinson left to carry Anderson's home boy, Jay,
17 home. Sims stated that Anderson and John Lee
18 Hutchinson arrived back later without Jay. Sims
19 stated that while Anderson and John Lee were gone,
20 his, Sims' girlfriend, Natalie, last name unknown,
21 called him and told him he'd better get back home.

22 "Sims stated that Anderson told him that he
23 would carry him home. Sims stated that he talked
24 with Anderson and Anderson agreed to carry him home.
25 Sims stated that they left the hotel around 1:00 a.m.

1 Sims stated that as they were traveling down Main
2 Street Anderson drives through the drive-thru at
3 McDonald's. Sims stated that as Anderson was waiting
4 on his order, he, Sims, jumps out of the car and
5 walks over to the trash container to urinate and gets
6 back in the car as Anderson is getting his food.

7 "Sims states that they then traveled in route to
8 his house. Sims stated that he doesn't remember
9 Anderson eating any of the food he had just ordered
10 from McDonald's. Sims stated that as they're
11 traveling down Monticello Road in route to Sims' home
12 Anderson stops at someone's house whom he didn't know
13 anyone who lived there. Sims stated that it was a
14 crack house.

15 "Sims stated that he went in the house with
16 Anderson. Sims stated that he sat in the living room
17 with the unknown black male while Anderson was in the
18 back room with another unknown black male. Sims
19 stated that they stayed at this house for
20 approximately ten to fifteen minutes.

21 "Sims stated that as they were leaving, Anderson
22 stated the one of the unknown black males that he
23 wanted his money the next day. Sims stated that
24 Anderson then took him to his house, arriving around
25 1:30 a.m. to 2:00 a.m. Sims stated that he didn't

1 have a house key and that he had to knock on the
2 door. Sims stated that his girlfriend, Natalie,
3 opened the door.

4 "Sims stated that he had on his black Timberland
5 boots with gold trim, black Timberland button-up
6 shirt, khaki jeans with zip pockets. He stated that
7 these clothes should still be in his bedroom or in
8 the laundry room. Sims stated that all he could
9 remember Anderson wearing was blue jeans, either a
10 shirt or a jersey and a black coat.

11 "Sims stated that later on in the day Natalie
12 brought him to Newberry and dropped him off. He
13 stated that he went to Pat Ash" -- I've got a
14 question mark -- "Willingham's house, then to Lisa
15 Mathis Wilson's. He stated that he then went to
16 Buster Wilkins' (sic) Club with Zack Bates and "Boo".
17 They later go to Waffle House to eat. He stated that
18 his sister picked him up around 5:00 p.m. to 6:00
19 p.m., and they go back to their home in Columbia.

20 "Sims stated that he forgot that he also went to
21 Miller Street and saw Shannon Jackson. When he left
22 he called his sister, Michele, and she came and got
23 him in her Mountaineer truck."

24 "When asked, 'Why did you do it? Why did you
25 kill Brian', Sims became agitated, very nervous,

1 wouldn't look at us, kept swallowing, crossing his
2 arms and legs and looking at his cup of water that he
3 had placed on the floor.

4 "Sims then stated that he might need an
5 attorney. We asked him who would be his attorney,
6 and he stated that he didn't know his name but that
7 his dad was going to get him one that was in the
8 Shriners with him from Charleston. Sims then asked
9 if that was all the questions we had. We then asked
10 him if we could see his hands and take fingernail
11 clippings from him. Sims stated no. At this time a
12 search warrant was obtained for his fingernails. The
13 interview was terminated and his fingernail clippings
14 were taken."

15 Q "Spike" McCraw, those were notes you took --
16 Lieutenant McCraw; I'm sorry -- those were notes that
17 you took from the oral interview you had with Keith
18 Sims?

19 A That's correct.

20 Q You said in there I think that you gave him a cup of
21 water. So if he asked for something to drink or
22 asked to use -- you gave him something to drink?

23 A Yes, sir.

24 Q If he had needed to use the bathroom or something,
25 were there facilities there for him to use the

1 bathroom?

2 **A** There were.

3 **Q** And would you have let him?

4 **A** And I think he did.

5 **Q** Okay. I didn't know. Did you have any other
6 involvement in this case?

7 **A** No, sir.

8 **Q** I have just substituted -- is this the original of
9 the copy you just testified from?

10 **A** Yes, sir.

11 **Q** Your Honor, at this time we would offer State's 83,
12 the advice of rights. And before I get to that, is
13 the individual that you have referred to as Keith
14 Sims and the individual that you talked to and took
15 this oral statement from, is that individual in the
16 courtroom?

17 **A** Yes, sir.

18 **Q** Would you please point him out?

19 **A** He is sitting between the two females here at the
20 table with the white banner on his head.

21 **MR. MEADORS:** We'd like the record to so
22 reflect, please, Your Honor.

23 **THE COURT:** The record will so reflect.

24 **MR. MEADORS:** At this time we would offer
25 State's 83, I think without objection.

1 **MS. DURANT:** No objection, Your Honor.

2 (WHEREUPON, State's Exhibit No. 83 is admitted
3 into evidence.)

4 **MR. MEADORS:** That's all we have. Thank you,
5 Lieutenant.

6 **THE COURT:** Cross examination.

7 CROSS EXAMINATION

8 **BY MS. DURANT**

9 **Q** May I call you "Spike"?

10 **A** Yes, ma'am.

11 **Q** Thank you. Lieutenant McCraw, I just heard them
12 refer to you that way. I'm Lanelle Durant. I'm one
13 of Keith Sims' attorneys. And I hope you're enjoying
14 a little bit of your retirement anyway.

15 **A** Yes, ma'am.

16 **Q** Probably not today too much. I wanted to ask you
17 about this statement. This was in your writing,
18 correct?

19 **A** That's correct.

20 **Q** It's not something that Keith Sims wrote?

21 **A** No, ma'am.

22 **Q** And Keith did not sign this, correct?

23 **A** Correct.

24 **Q** Okay. So this is what he told you that day?

25 **A** Right. As he was talking I was taking notes. And

1 when we finished, I wrote up this interview here.

2 Q He didn't read your notes after you had written them,

3 did he?

4 A No, ma'am.

5 Q Okay. So he doesn't know for sure what you wrote?

6 A I wrote what he told us.

7 Q Right. Okay.

8 A Right.

9 Q At that time he was in custody, correct?

10 A Yes, ma'am.

11 Q Was he incarcerated?

12 A Yes, ma'am.

13 Q On the Advice of Rights form, do you still have a

14 copy?

15 A No, ma'am.

16 Q Well, I think you said you testified that it says

17 he's 20 years old?

18 A Mm-hmm (affirmative).

19 Q And currently in the 12th grade?

20 A That's what he told me. Yes, ma'am.

21 Q Okay. And I wanted to go back to your notes just a

22 little bit. Do you still have them?

23 A Yes, ma'am.

24 Q Okay. I know you read -- I think you read all of the

25 notes. I wanted to go back to a couple of things.

1 You said that on the second page -- I'm sorry, the
2 first new paragraph on the second page, "Sims said
3 that Anderson told him he would carry him home"?

4 A Yes, ma'am.

5 Q Okay. And further on down that page it says: "Sims
6 stated that they stopped somewhere and it was a crack
7 house"?

8 A Towards the bottom?

9 Q Yes, sir.

10 A Yes, ma'am.

11 Q Okay. What is crack?

12 A It's a form of cocaine that people smoke.

13 Q It's an illegal drug?

14 A Yes, ma'am.

15 Q So a crack house would be where people get crack?

16 A Or sell crack, yes, ma'am. Or buy it, you know.

17 Q So most people go to a crack house to buy or sell
18 crack, right?

19 A Yes, ma'am.

20 Q Further on in this statement it stated that "Sims
21 stated he stayed in the living room, that Anderson
22 went into the back room with someone"?

23 A That's correct.

24 Q And that as they were leaving Anderson stated to one
25 of the unknown males that he wanted his money the

1 next day, correct?

2 A Correct.

3 Q And I think on the last page of your notes you said
4 that Sims became agitated, very nervous towards the
5 end of the questioning when you started talking about
6 Brian?

7 A We asked him why he did it, why he killed him.

8 Q Right. And it doesn't say in -- he doesn't deny it
9 to you, correct?

10 A Correct.

11 Q He just doesn't answer the question, right?

12 A Right.

13 Q So he was just very nervous and just --

14 A His whole demeanor changed from the earlier interview
15 'til we asked him. Because we had been trying get as
16 much detail as we can to do the investigation as best
17 as they could. And then we just -- when Major
18 Gilliam told him, said, "Why did you do it? Why did
19 you kill him" his whole demeanor completely changed
20 from what it was.

21 Q So he just became very agitated and nervous. But he
22 didn't deny that he had killed him. He just didn't
23 answer your question?

24 A Right.

25 Q Okay. And one more thing, please. He says that when

1 he asked for an attorney that his dad was going to
2 get him one?

3 A Correct.

4 Q It appeared that his dad was going to hire an
5 attorney for him?

6 A From what we understood an attorney that was in the
7 Shriners with him from Charleston.

8 MS. DURANT: Okay. Beg the Court's indulgence,
9 Your Honor. We have no further questions. Thank
10 you.

11 THE COURT: Redirect.

12 MR. MEADORS: Just one.

13 REDIRECT EXAMINATION

14 BY MR. MEADORS

15 Q On page 2 of your notes, Lieutenant -- or 3. I
16 apologize. At the end of the first paragraph, what
17 time, if any, did he say that Keith Sims dropped him
18 off?

19 A Around 1:30 to 2:00 a.m.

20 Q And who, if anybody, did he say opened the door and
21 let him in?

22 A His girlfriend, Natalie.

23 Q Did he say that he shot Brian Anderson there?

24 A No, sir.

25 MR. MEADORS: Thank you.

1 **THE COURT:** Anything else?

2 **MS. DURANT:** No further questions, Your Honor.

3 **THE COURT:** You may come down, Mr. McCraw.

4 Thank you very much. May Mr. McCraw be excused?

5 **MR. MEADORS:** We'd ask Lieutenant McCraw please
6 be excused, if no objections.

7 **MS. DURANT:** No objections, Your Honor.

8 **MR. MEADORS:** Judge, Dr. Sexton's has called.
9 He finished his surgery. He is on his way and should
10 be here at 11.

11 **THE COURT:** All right.

12 **MR. MEADORS:** And I apologize.

13 **THE COURT:** Ladies and gentlemen, Dr. Sexton is
14 a pathologist I believe in Newberry, apparently has
15 some testimony to offer in this case. He had -- we
16 were -- counsel informed me he had an operation that
17 was somewhat of an emergency that he had to do this
18 morning. That's why he's not here now. The State
19 has informed me that he is called in and he will be
20 here at 11. So I think we just -- he is -- are there
21 other witnesses that -- at this point he would be
22 your next and perhaps your last witness?

23 **MR. MEADORS:** Perhaps. Yes, Your Honor.

24 **THE COURT:** Perhaps. I think we're just going
25 to have to wait on the doctor. We don't have much

1 choice. So I'm going to ask you to retire to your
2 jury room. We have -- Mr. Hollis, we got some
3 refreshments or coffee or something back there?

4 **THE BAILIFF:** I think they'll have them when
5 they go back, Your Honor.

6 **THE COURT:** Maybe find a newspaper or something
7 to occupy -- I mean, the USA Today, not The State
8 paper. Something. Maybe they've got a book or
9 something. Anyway, we're just going to have to take
10 recess until 11:00 'til the doctor gets here. So
11 I'll ask you to go to your jury room. Don't discuss
12 the case among yourselves while you're in the jury
13 room. We'll call you as soon as the doctor gets
14 here. Thank you.

15 (Jury out at 10:23 a.m.)

16 **THE COURT:** All right. Let's stand at ease
17 until we are notified that the doctor is here. I'm
18 going to ask that you take him back down to the
19 holding cell.

20 **MS. OWINGS:** Yes, sir.

21 **THE COURT:** Counsel, is there anything else that
22 needs to be taken up on the record while we wait?

23 **MS. DURANT:** Not from the defense, Your Honor.

24 **MR. MEADORS:** No, sir.

25 **THE COURT:** All right.

1 (Whereupon, a break is taken)

2 **THE COURT:** Ms. Durant, let me see you and
3 counsel just a minute.

4 (Whereupon, a bench conference is had)

5 **THE COURT:** Mr. Sims, I need you to stand,
6 please. Mr. Sims, I realize at this stage of the
7 proceedings the State has not completed their case.
8 But your attorneys advised me -- well, I should say
9 the State's advised me their next witness in all
10 probability will be the last. And your attorneys
11 advise me that when you -- when the defense starts
12 its case that you will be the first witness. Do you
13 understand that?

14 **MR. SIMS:** Yes, sir.

15 **THE COURT:** All right. Just to save time with
16 this jury, since they've been out for a good while, I
17 won't have to send them out again, I don't have to
18 prior to your testimony, I need to give you what's
19 known as your Fifth Amendment rights. Do you
20 understand that?

21 **MR. SIMS:** Yes, sir.

22 **THE COURT:** I need to advise you now that you
23 have the right, or you will have the right when your
24 turn comes, to invoke the protections given to you by
25 the Fifth Amendment to the Constitution of the United

1 States of America and a similar counterpart of the
2 Constitution of the State of South Carolina.

3 The Fifth Amendment to the Constitution to the
4 United States and the South Carolina Constitution
5 provides in part that no person shall be compelled in
6 any criminal case to testify against himself. This
7 provision of Constitutional law means that you cannot
8 be required or compelled to testify in this case.
9 This is a right and privilege which the law extends
10 to you. This is a personal privilege, and no one can
11 waive this right except you. You have the right not
12 to testify, but you also have the right to testify.

13 The Court will grant you the right to consult
14 further with your attorneys before you make that
15 decision, if you've not already made that decision.
16 If you elect not to testify, your failure to testify,
17 or your not testifying, cannot be used by the State
18 or the jury as any inference of guilt, and your
19 failure to testify cannot even be considered by the
20 jury in its deliberations.

21 If you elect to testify and waive the privilege
22 extended to you by the Fifth Amendment to the
23 Constitution of the United States, I advise you now
24 that you will then assume the role of any other
25 witness in this case, and you will then waive or give

1 up your Constitutional privilege against
2 self-incrimination.

3 This means that if you voluntarily take the
4 witness stand and testify, you will then subject
5 yourself to the same rules that govern any other
6 witness, and you may be examined and cross examined
7 on any relevant issue in this case and you may be
8 impeached to the same extent as any other witness;
9 all of which, however, are subject to the rules of
10 evidence of the courts of the state of South
11 Carolina.

12 I further advise you that if you elect to take
13 the witness stand and testify that this decision on
14 your part must be freely, voluntarily, intelligently,
15 and with knowledge of the protections given to you by
16 the Fifth Amendment to the Constitution of the United
17 States and with the knowledge of the consequences of
18 your election to testify.

19 Have you discussed with your lawyer whether or
20 not you should testify?

21 **MR. SIMS:** Yes, sir.

22 **THE COURT:** Do you understand what I have
23 explained to you?

24 **MR. SIMS:** Yes, sir.

25 **THE COURT:** Do you have any questions about what

1 I have explained to you?

2 **MR. SIMS:** No, sir.

3 **THE COURT:** All right. Do you wish to testify
4 when your turn comes?

5 **MR. SIMS:** Yes, sir.

6 **THE COURT:** All right. Well, you can confer
7 further with your attorneys, and that's not a binding
8 decision. If you elect not to testify, then I'll do
9 exactly what I said in these instructions. But I
10 wanted to give you at this point in time the
11 instructions and give you -- tell you what your
12 rights are in this regard. Do you understand?

13 **MR. SIMS:** Yes, sir.

14 **THE COURT:** All right. Thank you very much.
15 The State ready to proceed?

16 **MR. MEADORS:** Yes, sir.

17 **THE COURT:** Defense ready to proceed?

18 **MS. DURANT:** Yes, Your Honor.

19 **THE COURT:** Bring the jury, please.

20 **THE BAILIFF:** Be glad to, Your Honor.

21 (WHEREUPON, State's Exhibit No. 84 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 85 is marked for
24 identification.)

25

1 (WHEREUPON, State's Exhibit No. 86 is marked for
2 identification.).

3 (Jury in at 11:25 a.m.)

4 **THE BAILIFF:** The jury is all present, Your
5 Honor.

6 **THE COURT:** All right. Thank you very much.
7 Ladies and gentlemen, we're now ready to continue
8 with the trial. Solicitor, call your next witness.

9 **MR. MEADORS:** May it please the Court. The
10 State would call Dr. Joel Sexton.

11 DR. JOEL S. SEXTON, after being duly sworn,
12 testifies as follows:

13 **THE CLERK:** Please have a seat there, sir, and
14 state your full name for the record.

15 **WITNESS:** I'm Dr. Joel Steven Sexton.

16 DIRECT EXAMINATION

17 **BY MR. MEADORS**

18 **Q** Good morning, Dr. Sexton.

19 **A** Good morning.

20 **Q** Could you please tell the jury a little bit about
21 yourself; specifically, where you're from, as I do
22 with all witnesses; beyond that, your background,
23 your educational background, your training and
24 specifically today your training in the area of
25 expertise we're asking you to testify about today?

1 A Born in Spartanburg, South Carolina, attended the
2 Medical College of South Carolina after being an
3 officer in the Navy for three years because I was on
4 a Naval scholarship; and at that time received a
5 master's in chemistry from the Medical College of
6 South Carolina.

7 Then I attended the Medical University,
8 graduating in 1970 -- I'm sorry -- 1968 with an M.D.
9 degree and became licensed here in this state. I
10 then trained in the field of pathology in the
11 Department of Pathology at the Medical University,
12 receiving a board certification nationally from the
13 American Academy of Forensics of Pathology. And that
14 was in anatomic pathology, clinical pathology and
15 forensic pathology.

16 I then stayed on starting in 1972 and taught at
17 the Medical University and functioned as the
18 Charleston County medical examiner which meant that,
19 like the coroner, we examined all the bodies that
20 died suddenly or violently and helped decide which
21 ones would be autopsied. And we did approximately
22 650 cases a year for the state. And about 125 of
23 those were for Charleston County.

24 I also functioned as a consulting forensic
25 pathologist and head of the forensic section until

1 1983 when I moved to Newberry. In Newberry I am the
2 director of the pathology department and consulting
3 forensic pathologist for about 26 of the 46 county
4 coroners. And we do about 830 cases a year there in
5 Newberry for those coroners, as well as practice the
6 area of hospital pathology where we examine tissue
7 removed at surgery to determine if a person has
8 cancer or some other condition and helps your surgeon
9 and your physician understand better how to treat.

10 We also supervise the laboratory where various
11 procedures are done on urine, blood and spinal fluid
12 to help make sure it's done accurately and also to
13 help interpret those results for your physician to
14 know whether you have a particular illness or disease
15 and whether you're getting better or worse.

16 Q And forensic pathology, how much of your time is
17 divided up between lab work and cases like this when
18 you come in in the criminal justice system?

19 A It's about 50/50 because I have other associates that
20 help me with the forensic side and the surgical side.

21 Q How many times -- how many autopsies have you done,
22 Doctor?

23 A Over 8,000. And I've supervised more than that since
24 I was head of the forensic section at the university.
25 And I'm the senior pathologist in our group there in

1 Newberry.

2 **Q** Is it fair to say you've been statewide testifying?

3 **A** Yes. That's correct.

4 **Q** Have you been offered and accepted as an expert in
5 the field of forensic pathology in this state and
6 courts of record before?

7 **A** Yes. Over 700 times.

8 **MR. MEADORS:** Your Honor, at this time we'd
9 offer Dr. Joel Sexton as an expert in the field of
10 forensic pathology.

11 **THE COURT:** Any Voir Dire or objections?

12 **MS. DURANT:** No Voir Dire, no objections, Your
13 Honor.

14 **THE COURT:** Thank you.

15 **Q** What condition, if any, do you like to see the body
16 in relation to when law enforcement have found it?

17 **A** Once the body is pronounced dead we like that it be
18 left just as it is and brought to us so that we can
19 see if there's any evidence on the external surface
20 as well as to understand more about the circumstances
21 surrounding death. Because it's pretty obvious if
22 somebody is shot that they died of a gunshot wound in
23 most cases, but we try to find out more facts from
24 the body that might help in the investigation.

25 **Q** And in this case did you have the occasion to perform

1 an autopsy on the body of one Brian Anderson?

2 A I did. That was on New Year's Day of 2004.

3 Q Are you pretty much on call all the time, or somebody
4 in your practice?

5 A That's correct.

6 Q And where do you perform your autopsies?

7 A We do it in the hospital there at Newberry in the
8 autopsy room that we have.

9 Q And can you tell the jury, on New Year's Day of 2004
10 what's the first thing you did, Doctor, with the body
11 of Brian Anderson?

12 A What we first do is take photographs to show the
13 condition the body is in just as it arrives. And he
14 was wearing a pair of shorts and pants that were down
15 around his knees. The belt that he had on, the
16 buckle was missing. It had been obviously torn off
17 at some point in time. And the t-shirt and
18 sleeveless undershirt he had was up around his
19 shoulders. But we took photographs to show the
20 condition of the body.

21 Q And do you also -- do you do an external examination
22 first?

23 A Yes. That's correct.

24 Q Take pictures? Do you weigh and measure the person?

25 A We don't weigh the person. We measure and estimate

1 the weight based on height and appearance.

2 Q Okay. And as a part of that external examination,
3 how tall was Brian Anderson?

4 A He was five-feet-ten inches in length, and we
5 estimated his weight at 250 pounds.

6 Q Now, the clothing that you have described, what do
7 you do with it after you photograph it, Doctor?

8 A We try to dry it if it's got wetness to it and then
9 transfer it to the law enforcement that come with the
10 body.

11 Q Could you please tell the jury about the rest of your
12 external examination, your findings on the body, with
13 the body of Brian Anderson, please, Doctor?

14 A I found on the forehead on the right side was an
15 abrasion. There was another one on the right thigh,
16 on the front of the right thigh. And this abrasion
17 was the type that occurs after death. If you fall
18 and skin your knee on the pavement, it bleeds. And
19 if you dry it off, you see a red color. If a person
20 is dead at the time the abrasion occurs, we see a
21 white or yellow color because there's no bleeding.
22 There's no pumping of blood into that area. And
23 these abrasions were white here on the forehead and
24 sort of a whitish yellow on the thigh, indicating
25 they occurred after death.

1 We also saw a single gunshot wound that entered
2 here just below the lateral aspect of his right eye
3 and passed into the skull towards the base of the
4 skull. And of interest is, it had around it some
5 powder tattooing and stippling.

6 When a gun fires, in addition to the bullet
7 coming out, if you ever see a gun fired at flight,
8 there are flames. Flames will go a good distance
9 with a shotgun. With most revolvers and
10 semi-automatics, they go a shorter distance. In
11 addition, there is completely burned powder in the
12 form of a gas that we call jail soot, and it will
13 coat the skin but can easily be washed away.

14 And then there are powder particles that are
15 either burning or not burning that when they hit the
16 skin they either chemically tattoo the skin which
17 requires surgery to remove if the person survives or
18 they cause little indentations or stipple marks if
19 they're unburned, and these require healing to
20 disappear.

21 So, no matter what happens to the body before we
22 see it, the stippling and tattooing would still be
23 there. And there was a three and a half inch pattern
24 of this around the entrance wound, indicating the gun
25 was reasonably close at the time the shot was fired.

1 Usually we don't see that sort of stippling and
2 tattooing beyond about a foot and a half with
3 handguns. So it was somewhere in my opinion less
4 than a foot and a half, maybe as much as a little
5 more, up to two feet, but somewhere between a foot
6 and a half to two feet or less between the end of the
7 gun, the muzzle of the gun where the bullet comes
8 out, and the decedent's right cheek where the bullet
9 entered.

10 The bullet passed on into his brain damaging the
11 base of the brain which we refer to as the pons and
12 the medulla. And these portions of the brain control
13 your heartbeat and respiration. So, in my opinion he
14 would have certainly been rendered unconscious
15 immediately and would probably have died in a fairly
16 short period of time.

17 Although it's difficult at times to know what
18 injuries to the brain will result in, there have been
19 people that have been shot or shot themselves and
20 survived for years. But generally those are up in
21 the frontal lobes of the brain. Anything down at the
22 base of the brain certainly renders them unconscious
23 immediately and generally causes death in a very
24 short period of time, generally a matter of minutes.

25 Q Let me go back initially to the abrasions you talked

1 about. And those were, as I think you said,
2 postmortem?

3 **A** That's correct.

4 **Q** And I think you had -- was there also an abrasion on
5 his private parts, on his penis?

6 **A** Yes. There was abrasion on his penis on the right
7 side as well.

8 **Q** Would these abrasions postmortem, what would those
9 injuries be consistent with in your opinion and
10 training?

11 **A** When you look at the whole body and you see the shirt
12 pulled up around the armpits and the pants pulled
13 down around the knees and the abrasions on the front
14 of the body, it's most consistent with somebody
15 dragging him by pulling on the arms or the shirt and,
16 therefore, pulling the pants down and causing the
17 abrasions on the front of the forehead and the front
18 of the thigh and the right side of the penis.

19 **Q** And you took pictures of those?

20 **A** That's correct.

21 **Q** You described the bullet. And I believe it's your
22 testimony that based on the stippling it would have
23 been around a foot and a half?

24 **A** It's hard to know exactly --

25 **Q** It could have been a little more?

1 **A** -- without firing that gun with that ammunition. I
2 would say it would be less than a foot and a half,
3 maybe less than eight or ten inches because the
4 pattern is about three and a half inches.

5 What happens is the powder comes out. It's
6 similar to a garden hose with a nozzle on it. It is
7 very close together near the nozzle and it spreads as
8 it gets further away. And the same is true of the
9 powder. As they slow down, they tend to spread out.
10 So the greatest distance that you would have powder
11 hit the skin would give you the largest pattern. And
12 oftentimes that will be larger than the size of the
13 head. So I'd say that it's probably less than that
14 foot and a half.

15 **Q** Doctor, let me ask you, I believe you said the bullet
16 transected the brain stem?

17 **A** That's correct.

18 **Q** Would that cause somebody to -- and if you said this,
19 I apologize -- go unconscious immediately?

20 **A** Yes. It would generally cause them to become
21 immediately unconscious.

22 **Q** And timing, I mean, how long would he live? Is there
23 a way to tell that?

24 **A** There is no way to know exactly. But I said earlier,
25 it would probably be a very short period, probably in

1 the neighborhood of minutes.

2 **MS. DURANT:** No objection, Your Honor.

3 **MR. MEADORS:** Ms. Durant does not object to
4 this. State's 84 and 85 we'd offer without
5 objection.

6 **THE COURT:** All right.

7 (WHEREUPON, State's Exhibit No. 84 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 85 is admitted
10 into evidence.)

11 **Q** Do you recognize these?

12 **A** Yes. These are copies of the photographs that I took
13 of the x-rays showing the bullet in the head.

14 **Q** So you not only take just regular pictures. You took
15 x-rays showing the path of the bullet, if you will?

16 **A** Mostly the location of it. But you can see little
17 fragments along the paths. So it tends to show both.

18 **MR. MEADORS:** With Your Honor's permission,
19 could I ask the doctor to step down?

20 **THE COURT:** (Nods head affirmatively).

21 **Q** Doctor, if you wouldn't mind standing on this side so
22 Madam Court Reporter can hear you. I'd like to start
23 off with what's been entered as State's 84. Doctor,
24 could you explain this, State's 48, to the Ladies and
25 Gentlemen of the Jury, please?

1 **A** I'll start over here on this side. 84 shows an x-ray
2 of the body, just the head of the body. You can see
3 here I think the teeth. You can see here one of the
4 eye sockets, the other eye socket. And here in the
5 middle is a dark -- actually, it's a white area which
6 means it's radio opaque, meaning the x-rays don't
7 pass through it, so it shows up as white. That's the
8 bullet.

9 The bullet entered here just below the right eye
10 at this location and went slightly downward to the
11 left and to the rear to come to rest at this
12 location. This is an x-ray of the head of the
13 decedent showing the bullet here near the middle of
14 the skull, above the teeth and just between the two
15 eye sockets. And the area that it entered is here
16 just below the right eye socket. And it goes in very
17 slightly downward to the rear and to the left. So
18 sort of in this direction.

19 **Q** Does State's 85 show that also?

20 **A** 85 shows the same thing from a lateral view.
21 Recognize the head is slightly tilted. In other
22 words, you can't go by the edge of the paper. This
23 is the head in the proper position. Here you can see
24 the bullet. Here you can see the eye socket. It
25 comes in at the bottom of the eye socket and goes

1 almost straight to the rear but slightly downward.

2 Again, here is the bullet at the base of the
3 skull. Here are the eye sockets at this location.
4 Here are your teeth down here. It comes in at the
5 bottom of the right eye and goes back slightly
6 downward to the rear and to the left, sort of in this
7 path that I'm demonstrating.

8 Q Using what's marked as State's 86, can you show them
9 with this?

10 A The bullet enters here just below and at the edge of
11 the eye on the right side, goes toward this portion
12 of the back of the skull at this location, very
13 slightly downward and to the left and to the rear.
14 So it's going slightly downward, over to the left.
15 So it ends up here in the middle of the back of the
16 head and to the left in that direction. And the
17 pattern of stippling was in a roughly circular
18 pattern all over this side of the face, the right
19 side of the face.

20 Q Show again, the stippling is where?

21 A I've got one. Thank you. There are little tiny
22 punctures, some of which are pigmented and some are
23 not. The pattern was about three and a half inches
24 with the greatest concentration here near the center.
25 So about like that.

1 (Witness drawings on styrofoam head).

2 Q Doctor, assume these facts: That I am sitting behind
3 the steering wheel of a vehicle and then I received a
4 shot like that in the right said of my head. Can you
5 determine where my head would have been based on
6 viewing that body of Brian Anderson, what angle it
7 would have been?

8 A Recognize the head is mobile. You can move forward.
9 You can turn to the left. You can turn to the right.
10 All that I can say is that the gun would be in this
11 location, approximately -- this is about a foot and a
12 half, somewhere less than a foot and a half directed
13 as you see it. It was directed toward the head
14 slightly downward.

15 I can't say what position the head was in. The
16 person may have been looking out of the driver's
17 window and conceivably could be shot there. It would
18 be easier to be shot from the passenger's side
19 because that's the side of the head that it enters
20 on. But I don't know whether he was bent forward or
21 looking up.

22 Or if somebody is shooting from the passenger's
23 side, you normally expect them just to extend their
24 arm. So you would think that the person seated would
25 probably be sitting upright to get this shot. But

1 the person may have been seated in the passenger's
2 seat and holding the gun in their lap and shooting
3 up. But all I can say is it's at about this point
4 and in this direction toward the head, depending on
5 what position their head might be in.

6 Q So it would be consistent, one -- your opinion is it
7 would be consistent with receiving a gunshot wound
8 from an individual in the passenger's side if the
9 victim was sitting behind the wheel this way, be
10 consistent with your findings and the body of Brian
11 Anderson?

12 A Correct. As long as the person who was shot, Mr.
13 Anderson, looked to their left a little bit. If it's
14 coming, it's not coming in straight from the side..
15 It's coming in in this fashion. You would have to
16 look to his right so that it could come in as it did.
17 Because it's going to the left. He would have to
18 look to his right.

19 Q Like this?

20 A To some degree.

21 Q To some degree?

22 A And a person seated either in the seat or reaching
23 through the window could have inflicted this shot.

24 Q Either sitting in this seat or reaching through the
25 window and shooting?

1 **A** Correct.

2 **Q** Thank you, Doctor.

3 **MR. MEADORS:** And we'd offer State's 86, I
4 believe without objection.

5 **MS. DURANT:** No objection.

6 (WHEREUPON, State's Exhibit No. 86 is admitted
7 into evidence.)

8 **Q** Now, as a part of -- oh. Would you look at this and
9 tell me if you recognize that?

10 **A** I need to take it out. Here we go. This bag has a
11 date that I wrote and has my initials, has the name
12 of the decedent with one of our labels. It's in one
13 of our containers with one of our labels that bears
14 my initials. The bullet bears my label. And the
15 bullet matches the four photographs that I took of
16 each side and the base. This is the bullet that I
17 removed from the head of Brian Anderson.

18 **MR. MEADORS:** Your Honor, I think we'd now offer
19 this as State's 73.

20 **MS. DURANT:** That's the bullet? No objection,
21 Your Honor.

22 **THE COURT:** Without objection.

23 (WHEREUPON, State's Exhibit No. 73 is admitted
24 into evidence.)

25 **Q** You removed the bullet from Brian's head. And then

1 where does that go?

2 **A** In this case it went to one of the local law
3 enforcement personnel, Robert Dennis with the local
4 law enforcement.

5 **Q** Now, Doctor, in addition to that, do you all -- in
6 addition to the examination of the body and looking
7 for evidence of how a person may have been killed, do
8 you also draw fluids?

9 **A** We do.

10 **Q** And what do you do with the -- what type of fluids do
11 you draw? Well, what do you draw, and where do you
12 send it, if anywhere?

13 **A** We draw blood, urine. We try to get some bile if
14 there's some present. As well as vitreous which is
15 fluid in the eye. And all of this is transferred to
16 law enforcement who then carry it to SLED. And
17 again, Robert Dennis from the Newberry County
18 Sheriff's Office picked that up. And I received
19 reports back from SLED on what we had sent. We also
20 swabbed the hands, and that was sent to SLED as well.

21 **Q** And explain the swabbing of the hands, please,
22 Doctor.

23 **A** In a case like this, where the person was found in
24 water, the water may have washed away any primer
25 residue. But we always check anyway just to make

1 sure. In this case what we do is take a swab that's
2 coated with a strong but dilute acid solution and
3 wipe it on the palms of the hand, one swab, and one
4 on the back of the hand; the same on the other hand
5 and at a control area after we have taken those
6 studies and studied the hands to make sure that we
7 collect anything that might be there that can be
8 examined with a scanning electron microscope.

9 This is all to see if there is any of the
10 material that comes out of the gun from the primer on
11 the hands of a person. It helps to have some
12 understanding of whether they were near the shot when
13 it was fired, whether their hands were up in front of
14 the shot, or whether they actually fired a gun.

15 Q So it could show either whether somebody had fired a
16 gun, handled a gun, or perhaps a defensive wound; the
17 other way, correct?

18 A I should clarify that and say that you can't
19 distinguish which of those. But each of those
20 scenarios can cause primer residue to be on the
21 hands.

22 Q And is it your practice that you swab every hand that
23 comes into you when there's been someone who has been
24 killed in this incident, that dead bodies come in?
25 Is that just what you do as part of your practice?

1 **A** That's correct.

2 **Q** And those swabs were sent on to SLED, correct?

3 **A** They were given over to Robert Dennis who did send
4 them to SLED.

5 **Q** And you're aware that Ila Simmons -- that it was
6 found negative, correct?

7 **A** That's the report I have here.

8 **Q** And to say that, you said earlier that the body was
9 actually found in the water. Is that your
10 understanding?

11 **A** Yes. That's correct.

12 **Q** So would that make it difficult to find anything
13 anyway?

14 **A** Correct. If a live person washes their hands, it
15 generally gets rid of it. But not invariably. So we
16 always check for it just in case.

17 **Q** Getting back to the fluids, are you aware of whether
18 or not there was any ethanol found in the blood of
19 the victim, Brian Anderson?

20 **A** There was.

21 **Q** And according to the report, I believe there was
22 .051 percent. Is that correct?

23 **A** Yes. That's correct.

24 **Q** Can you explain that to the jury, that amount?

25 **A** Yes. There is -- alcohol, when you consume it, is

1 absorbed into your bloodstream. If you get up to a
2 certain level, you start having behavior that makes
3 it dangerous for you to drive. And we refer to that
4 as being legally intoxicated. And that's a level
5 above this .051. It used to be .1. Now it's down to
6 a .08. But it's still above this level of .051.

7 Q And would that be consistent in your opinion and
8 training, maybe everyday living; I don't know, but
9 with someone having been to a party the night before,
10 Doctor, and consumed some alcohol?

11 A Depending on how much you drank the night before, the
12 vitreous fluid level, which is the fluid in the eye,
13 and we collect it because it's isolated. It doesn't
14 change like the fluid in the blood can. If a person
15 gets decomposed for a long enough period of time, you
16 will generate alcohol in your blood but not in the
17 eye.

18 The eye level takes a while to build up when
19 you're drinking; whereas, the level is always lower
20 in the eye until it finally reaches a point where
21 you're sobering up and it's disappearing out of your
22 blood stream. Then it becomes higher in the eye. In
23 this case it was a little bit higher, at .063,
24 indicating he was sobering up. But depending on how
25 much he drank the night before, it could have been

1 the night before.

2 Q And or even into the early evening. When I say
3 evening, the night before.

4 A Correct. The early evening.

5 Q And, Your Honor -- excuse me. Doctor. And help me
6 this with. There was 8.8 U.G.L. and 11 carbox,
7 C-A-R-B-O-X T.H.C. metabolite --

8 A Right.

9 Q -- found in the blood?

10 A Right.

11 Q Please explain that to the jury?

12 A This is metabolite of marijuana which sometimes
13 lingers around for a day or two. It's hard to say
14 when you have a level like that as to whether the
15 person was under the influence at the time they died
16 or whether they had smoked it sometime earlier and it
17 was still being metabolized. But certainly within
18 the last 24 hours he smoked some marijuana because
19 some of the metabolite is still in his bloodstream.

20 MR. MEADORS: Beg the Court's indulgence.

21 (WHEREUPON, State's Exhibit No. 87 is marked for
22 identification.)

23 Q Doctor, as is my practice, I'm going to ask you to
24 look at what's marked as State's 87 for I.D. only.
25 And is that the body of Brian Anderson that you

1 performed an autopsy on?

2 A Yes, it is.

3 Q And do you have an opinion to a reasonable degree of
4 medical certainty as to the cause of death of Brian
5 Anderson?

6 A I do.

7 Q Would you please tell the jury?

8 A In my opinion within reasonable medical certainty Mr.
9 Anderson died of the injury to his brain, the brain
10 stem caused by the gunshot wound to the right side of
11 his head.

12 Q Doctor, thank you for being here.

13 A You're welcome.

14 THE COURT: Cross examination.

15 CROSS EXAMINATION

16 BY MS. DURANT

17 Q Dr. Sexton, how are you?

18 A Fine. How are you this morning?

19 Q My name is Lanelle Durant and I'm glad to meet you.
20 I've heard about you for years.

21 A Thank you.

22 Q Dr. Sexton, you said you had done 8,000 autopsies?

23 A Over 8,000.

24 Q About that number?

25 A Over 8,000. And I've supervised at least that many

1 or more.

2 Q How many of those were gunshot wounds probably? How
3 many can you estimated?

4 A Sad to say, a significant number. In fact, early on
5 we primarily did violent deaths. With education, the
6 coroners are now sending us more sudden deaths.
7 Certainly at least 2,000 of those I'm sure or more
8 and probably 2 or 3,000 are the ones that I
9 supervised.

10 Q Do you have a copy of your autopsy report?

11 A I do.

12 Q You said you did an external examination of the
13 victim, Brian Anderson?

14 A Yes.

15 Q I think didn't you say there were some tattoos on his
16 body? Or were there some tattoos on his body?

17 A Yes, there were.

18 Q One of those was a tattoo of the Grim Reaper. Is
19 that correct?

20 A That's correct.

21 Q You noted that?

22 A On the palmer aspect of his right forearm was a large
23 tattoo there.

24 Q And I think there was another one with a woman's face
25 with the name Oly Mack, I think another name with

1 some dates on it. Is that correct?

2 **A** Well, the dates were around that tattoo. That was on
3 the left forearm, a picture of a female with the
4 dates 1997 and 2003 below it.

5 **Q** Now, you talked about the abrasions on the body. I
6 just want to clarify that the abrasions on the
7 forehead and the abrasions on the penis were caused
8 from dragging the body, correct?

9 **A** In my opinion they were caused from dragging the body
10 after death because of the color. It had no
11 contusion or hemorrhage in them, indicating the heart
12 had already stopped beating.

13 **Q** I also want to go back to the last thing they talked
14 about. Then I have a couple of other questions. The
15 alcohol and marijuana that were in his system, you
16 said the alcohol, the eye measurement -- the legal
17 limit for intoxication was .08, correct?

18 **A** Yes.

19 **Q** And the level of alcohol in his blood was .05,
20 correct?

21 **A** That's correct.

22 **Q** But the level in his eye was .063?

23 **A** Correct.

24 **Q** Did I understand you to say that the eye, the ocular
25 measurement, meaning eye -- and I'm certainly not an

1 expert, so you correct me, please -- was -- is
2 probably a more accurate measurement. Is that
3 correct?

4 **A** No. What I was saying is it rises more slowly. As
5 the blood rises, the level in the blood rises and
6 then it has to cross a barrier to get into that area
7 inside the eye. And so the eye level is always a
8 little behind the level in the blood. And once the
9 level in the blood starts dropping, then the eye
10 level actually is above because the other is
11 dropping.

12 And in this case the level in the eye was
13 less -- I'm sorry. The level in the blood was less
14 than the eye, indicating he was sobering up. The eye
15 level may be more accurate as far as telling whether
16 you're really intoxicated, but we can't sample the
17 eye. We have to sample the blood.

18 And so, based on the blood level, he was not
19 intoxicated; but as I said, I can't tell whether he
20 was under the influence of the marijuana. And
21 certainly the marijuana, if he was under the
22 influence at that time with the alcohol, could have
23 had him acting as though he were intoxicated.

24 But all we can say about the marijuana is it was
25 sometime in the last 24 hours, can't say whether it

1 was active and elevated at the time he died or
2 whether it occurred earlier and was still being
3 metabolized from that time.

4 Q And you can't tell from that measurement of marijuana
5 how much he had smoked?

6 A Correct.

7 Q You just know it's probably within the last 24 hours?

8 A That's correct.

9 Q So, are you saying that the alcohol in his blood had
10 probably been at the .06 level at some point?

11 A Yes.

12 Q Okay. Or could have been higher?

13 A Could have been higher.

14 Q But the alcohol and the marijuana together could have
15 caused him to act intoxicated? Is that what ~~you're~~
16 saying, these levels?

17 A Correct. If the marijuana was smoked at the time he
18 had the elevated level. Like I say, I don't know.
19 It may have been 15 hours before or it could have
20 been at the same time he was drinking the alcohol.

21 Q You talked about the stippling. And I want to make
22 sure I get this right. May I approach up here, Your
23 Honor, please?

24 THE COURT: (Nods head affirmatively).

25 Q Try to tear this off. I think you said stippling,

1 the tattooing around the face, the powder from the
2 gunshot wound; is that correct, that indents the
3 skin?

4 **A** Right. It either indents and falls out, and we call
5 that stippling; or it chemically reacts with the skin
6 and causes a tattoo that has to be surgically
7 removed.

8 **Q** Okay. So the stippling on Brian Anderson's face was
9 3.5 inches, the diameter, correct?

10 **A** Correct.

11 **Q** Okay. So based on that, you could tell, without
12 doing actual tests, I think you're saying it's
13 difficult to simulate that in a lab, that you can't
14 tell for sure how far the gun was from his face,
15 correct?

16 **A** Correct. But in my opinion, it would be less than a
17 foot and a half and probably closer, because when
18 it's at the maximum distance of a foot and a half to
19 two feet, the stippling generally is larger than the
20 size of the head. And this was confined to an area
21 of three and a half inches.

22 **Q** So would it be -- I mean, generally speaking, this
23 diameter of the stippling is probably a little bit
24 less than the distance of the gun from the wound?

25 **A** It's not necessarily a direct correlation with the

1 diameter and a distance because when you have a three
2 and a half stipple pattern that doesn't mean the
3 muzzle is three and a half inches away. But it tends
4 to get larger as the gun is further away. And so the
5 only way to really tell is to test fire the gun with
6 that particular ammunition multiple times to see what
7 sort of pattern you would have.

8 Q I think you said it could have been as little as
9 eight inches?

10 A Yes. Could have been.

11 Q And I think you said it was probably more like this?

12 A Well, that's about eight inches that you have there.

13 Q Right.

14 A So it's probably a little further than that, but it
15 could have been that close.

16 Q So could we say probably a rough estimate somewhere
17 maybe eight to ten inches?

18 A I'd say eight to twelve at least. And that's
19 strictly an estimate.

20 Q Right. From the face?

21 A Right.

22 Q Correct? Okay. And I just want to verify. You did
23 say that he probably died very quickly, that the
24 brain went -- I mean, the bullet went to the brain
25 stem, correct?

1 **A** Right. He would be unconscious immediately and in my
2 opinion probably die very quickly.

3 **Q** Dr. Sexton, I wanted to -- I think this was -- let me
4 show this to the solicitor, please. Your Honor, may
5 I approach?

6 **THE COURT:** Certainly.

7 **Q** Dr. Sexton, do you recognize those diagrams?

8 **A** Yes. This is a diagram that I drew at the time of
9 the autopsy. I've since modified it a little bit
10 after looking at the x-ray just prior to coming here.

11 **Q** Okay. Would you -- I'd like to have this marked as
12 an exhibit, please.

13 **THE COURT:** Sure.

14 (WHEREUPON, Defendant's Exhibit No. 4 is marked
15 for identification.)

16 **Q** Dr. Sexton, do you have your copy?

17 **A** I do.

18 **Q** Could you describe for the -- I think the first one
19 is the stippling. Those dots around there, does that
20 show the stippling?

21 **A** That's correct. Shows the stippling and tattooing
22 and shows the entrance wound just below the lateral
23 aspect of the right eye and the bullet nearly in the
24 midline.

25 **Q** And then the next, then I'll go to the last one on

1 the bottom left, that shows the path of the bullet?

2 **A** Right. Shows it from the side. As I mentioned, I
3 modified my copy a little after looking at the x-ray
4 because I had it going down more than it really is in
5 the body. But it still goes to the rear and still
6 has the same stippling pattern around it.

7 **MS. DURANT:** Your Honor, I'd like to offer into
8 evidence Defendant's Exhibit 4.

9 **MR. MEADORS:** No objection.

10 **THE COURT:** Without objection.

11 (WHEREUPON, Defendant's Exhibit No. 4 is
12 admitted into evidence.)

13 **MS. DURANT:** And may I publish it to the jury,
14 Your Honor?

15 **THE COURT:** Sure.

16 **MS. DURANT:** Could I have this marked, please?

17 (WHEREUPON, Defendant's Exhibit No. 5 is marked
18 for identification.)

19 **MS. DURANT:** May I approach the witness, Your
20 Honor?

21 **THE COURT:** Certainly.

22 **Q** Dr. Sexton, this is a -- do you recognize this?

23 **A** Right. That's a blow up of my original diagram of
24 the lower right.

25 **Q** Okay.

1 A Showing the lateral view.

2 Q So, Dr. Sexton, I just want to clarify for all of us,
3 the bullet enters the right cheek?

4 A Yes. That's correct.

5 Q Right below the eye. And I think you said the
6 person, Mr. Anderson, was probably facing to the
7 right a little bit?

8 A Yes. That's correct.

9 Q Towards the passenger's seat, correct? And the
10 bullet goes down and to the left and lodges in the
11 back?

12 A Correct. Not quite as far down as you see because
13 when I looked at the x-ray I could see that the
14 bullet on the x-ray is just below the little hollow
15 area in your ear, the external auditory canal. And
16 so it's a little higher than that. About an inch
17 higher is where the bullet was found.

18 Q And I think you said if the bullet is pointing, which
19 as you demonstrated, if a person sitting in the
20 passenger's seat, --

21 A Correct.

22 Q -- is it more likely than not for the bullet to go
23 down that the head was probably tilted forward
24 slightly?

25 A It's hard to say because, like I say, you normally

1 expect someone firing a gun to point it toward the
2 individual as opposed to hold it down in their lap.
3 And for it to go in that path, he would -- if he bent
4 forward a little bit and turned to the right and the
5 gun was horizontal, that would be the path that we
6 see.

7 Q Okay.

8 A So it's probably more consistent with him bending his
9 head some and turning to the right if the person is
10 holding it straight out.

11 MS. DURANT: Okay. Beg the Court's indulgence,
12 Your Honor. I have no further questions, Your Honor.
13 But may I publish this to the jury? It's not
14 necessarily entered into evidence, please, as
15 Defendant's Exhibit No. 5?

16 THE COURT: Is it admitted?

17 MR. MEADORS: I have no objection. That's fine.

18 THE COURT: All right. Go ahead.

19 MS. DURANT: Thank you, Your Honor.

20 (WHEREUPON, Defendant's Exhibit No. 5 is
21 admitted into evidence.)

22 MR. MEADORS: I just have one follow up, Your
23 Honor. State's Exhibit No. 88.

24 (WHEREUPON, State's Exhibit No. 88 is marked for
25 identification.)

REDIRECT EXAMINATION

BY MR. MEADORS

Q Doctor, just specifically toward this diagram which is being passed around right now for the ladies and gentlemen, you've said you have since modified that from when you first drew that, correct?

A Yes. That's correct.

Q And why did you modify it?

A When I was preparing for court I looked at the x-rays as well as the diagrams and realized that I had drawn the path on that particular side view with the bullet going a little too much downward and still going downward but just not quite as much.

Q Have you done another one?

A Yes, I have.

Q And looking at State's 88, is that that one?

A It is.

Q Did you prepare that recently?

A Yesterday in preparing for court.

Q And does that show the --

MS. DURANT: Your Honor, may we approach, please?

(Whereupon, a bench conference is had)

Q I'm going to show you what's marked State's 88 which is the exact same thing as Defense's 4. Okay?

1 **A** Okay.

2 **Q** So I won't -- and this is what you had prepared prior
3 to today, correct?

4 **A** Correct. That is when I was sitting dictating in the
5 office. And from memory I drew the one that you have
6 there before you.

7 **Q** In preparing for court, as I know you prepare your
8 testimony, did you have an occasion to review the
9 x-rays?

10 **A** I did.

11 **Q** Did you alter that in your mind? And can you show us
12 on State's 88 how you would alter the path on this
13 after you reviewed the x-rays?

14 **A** Yes, I did. And it simply --

15 **MS. DURANT:** Your Honor, may I please?

16 **THE COURT:** What's the objection?

17 **MS. DURANT:** If the chart is not coming into
18 evidence, Your Honor, we would rather it not be
19 published.

20 **MR. MEADORS:** This is the same State's -- this
21 is the original chart that you all raised.

22 **THE COURT:** It's not the one?

23 **MS. DURANT:** That's the original, not the
24 revised one.

25 **MR. MEADORS:** That's correct. Yes, ma'am.

1 Q And I believe you've testified previously, and it's
2 actually in evidence, that shows the path, correct?
3 The x-rays?

4 A That is correct.

5 Q And you demonstrated on 86?

6 A Yes. That's correct.

7 Q Did you based on your findings and observations --
8 don't take this bad -- did you do wrong on that? I
9 mean, did you put the wrong angle on that?

10 A I did.

11 Q Okay. Can you show us on State's 88 how you would
12 correct that today?

13 A It would be slightly upward. And the angle is of
14 some significance, to recognize if a person is about
15 to be shot or about to be injured in any fashion,
16 without thinking about it, that they tend to go into
17 a sort of fetal position. If nothing else is
18 available to do, they sort of curl up in a ball. So
19 it's not uncommon for us to see a shot from the front
20 when the person knows they're being shot to come in
21 at that angle.

22 Of course this also could mean the person is
23 bending forward to do something intentional as
24 opposed to just hiding from the gun. But the angle
25 in this case is slightly different from what we have

1 here. But both angles indicate his head was possibly
2 tilted forward depending on where the gun was. If
3 the gun is straight at him, then you would expect his
4 head to be tilted forward a little bit in order for
5 this downward path. But I can't say what he was
6 doing with tilting his head forward, whether he was
7 doing something intentional, as far as, say, reaching
8 for something or whether he was just ducking.

9 Q Can you show on 88 how you would correct that?

10 (Witness draws on Exhibit 88)

11 MR. MEADORS: We'd now offer State's 88. Let me
12 mark that so she can tell which one. There we go.

13 THE COURT: We do have an objection, Your Honor.

14 MR. MEADORS: We'd offer State's 88.

15 THE COURT: I think we'd better take this up on
16 the record. Ladies and Gentlemen of the Jury, just
17 go to your -- I'm going to ask you to go to the jury
18 room for just a minute. Let me take this up with the
19 attorneys. We'll only be a few minutes. We're going
20 to break for lunch shortly anyway. But I just need a
21 few minutes with the attorneys to talk this matter
22 over. I'll call you in just a minute. Don't discuss
23 the case among yourselves while you're in the jury
24 room.

25 (Jury out at 12:16 p.m.)

1 **THE COURT:** All right, Ms. Durant.

2 **MS. DURANT:** Your Honor, I'll use the
3 prosecutor's term. I think it's a back door way to
4 get in new evidence if he submits the revised drawing
5 to the jury. Because we did not have a copy of Dr.
6 Sexton's latest version. And I understand that Mr.
7 Meadors may not have gotten it either. But,
8 nevertheless, it is new evidence. And I think
9 allowing Dr. Sexton to make that correction on there
10 is still allowing new evidence in.

11 **MR. MEADORS:** Your Honor.

12 **MS. DURANT:** I mean, he can talk about it, but I
13 would have -- I do object for it, that revised
14 drawing, to go to the jury.

15 **MR. MEADORS:** Your Honor, for --

16 **THE COURT:** Just tell me, what -- the blow up, I
17 mean, the blow up.

18 **MR. MEADORS:** Defendant's 5.

19 **THE COURT:** You're offering that?

20 **MR. MEADORS:** Defendant's 4 is the same thing.

21 **MS. DURANT:** These are the same. Where is the
22 one that you revised that you were trying to get in?

23 **MR. MEADORS:** Which is the same thing. And it
24 was either right on hers and show how he corrected
25 that or put in our own. I don't know how else I can

1 do it. So this is the same thing as that.

2 **THE COURT:** Well, let me see what you're talking
3 about.

4 **MS. DURANT:** It changes the pattern of the
5 bullet as it enters the head, Your Honor.

6 **MR. MEADORS:** And that was his testimony on
7 direct. And I'm getting him to show how he made a
8 mistake on that form. And I don't know how else to
9 do it except to draw on hers, which she wouldn't
10 like.

11 **MS. DURANT:** Well, Your Honor, it does go to a
12 major point in the defense, Your Honor.

13 **THE COURT:** Well, it could.

14 **MR. MEADORS:** Judge, those are all three the
15 same thing, the exact same documents.

16 **THE COURT:** And his testimony is that he
17 recalculated the angle from the x-ray.

18 **MS. DURANT:** Yes, sir.

19 **THE COURT:** Is that correct?

20 **MS. DURANT:** And we agree to allow his testimony
21 in. I'm just having trouble --

22 **THE COURT:** Well, all right.

23 **MR. MEADORS:** I may not understand. But, I
24 mean, I think I could have gotten her 5 and say draw
25 on here, Defendant's 5. You just made a mistake on

1 the angle.

2 **THE COURT:** The same objection. The same
3 objection. The same objection.

4 **MR. MEADORS:** Well, how could you not -- I mean,
5 if any witness says, I made a mistake; it's actually
6 like this -- and for the record, I did not have the
7 other document until I came up here. And I was
8 actually in the process of marking that so he could
9 show the change. I didn't know he'd produced one.
10 This shows that, with all due respect to the doctor
11 who makes very few mistakes, initially when this came
12 on, he just drew it wrong. He has testified
13 consistent with this drawing. So this is actually
14 how it should look. So it's something that was
15 produced here in court by his live testimony. So, I
16 mean, that's ...

17 **THE COURT:** Well, it may or may not be
18 significant in terms of wherever the defendant may
19 be, where the gun was, where the gun was not.

20 **MR. MEADORS:** But she's had a right to cross him
21 on that.

22 **THE COURT:** Oh, she has yet to have a right to
23 cross him, hasn't done that yet.

24 **MR. MEADORS:** Sure. And he's on the stand
25 prepared to testify. I think he's admitted he just

1 drew it wrong to start with. I don't know how else
2 to do it.

3 **THE COURT:** Well, that's not the issue, how to
4 do it. The issue is what can go to the jury.

5 **MR. MEADORS:** And, Your Honor, --

6 **THE COURT:** This is based on his revised
7 testimony.

8 **MR. MEADORS:** Sure. Well, Judge, it would be
9 like anything else in court, if we draw a diagram in
10 court, what happened here, I offer this as evidence.

11 **THE COURT:** I'm thinking that's probably true,
12 Ms. Durant. What's the difference in putting it on
13 paper and drawing it on the blackboard?

14 **MS. DURANT:** Well, Your Honor, I think the
15 difference is --

16 **THE COURT:** Or let's say he even drew it on the
17 x-ray.

18 **MS. DURANT:** I think the difference is he had a
19 copy where he had made a correction. I mean, he had
20 a corrected copy. And we objected to that going in
21 because that wasn't in evidence. That's new
22 discovery basically that we did not have.

23 **THE COURT:** What if he draws it on the x-ray?

24 **MS. DURANT:** I think it's the same thing, Your
25 Honor.

1 **THE COURT:** All right. The question is whether
2 he can testify to something that he discovered
3 between the time he did the first drawing and the
4 time he did the second drawing that you were
5 surprised by.

6 **MS. DURANT:** No. I'm not objecting to his
7 testimony, Your Honor.

8 **THE COURT:** Well, if you're not objecting to his
9 testimony -- wait a minute now. If you're not
10 objecting to his testimony which puts it in front of
11 the jury, then I see to reason to object to the
12 amended drawing. It's the evidence, quote, that may
13 or may not be damaging to your client. The evidence
14 is either he can testify that he changed his mind and
15 he revised his angle of fire, whatever you want to
16 call it, or he can't.

17 If he can testify to that, he can diagram it for
18 the jury and the jury can see it. If he cannot
19 testify to that, if that's new evidence, then, you
20 know, you -- I might give you the opportunity to call
21 a rebuttal expert witness to challenge the doctor's
22 revised theory because you're surprised by it.
23 That's not a problem. I mean, that's an option, to
24 be fair to your client.

25 But I don't see the difference between him

1 testifying that I recalculated the angle and putting
2 it on a piece of paper, putting it on a diagram,
3 putting it on an x-ray. If he recalculated his
4 theory as to the entrance, angle of the projectile,
5 you certainly have a right to cross examine him on
6 it, and you have a right to challenge him if you wish
7 to challenge him. But I don't see the difference --
8 if you say he can say it but he can't draw it, I
9 don't see that that's a difference.

10 **MS. DURANT:** Your Honor, could we do this?

11 **THE COURT:** Sure.

12 **MS. DURANT:** If it's new evidence and you can
13 draw whatever, can you just draw it on the board
14 instead of writing on the piece of discovery that we
15 have?

16 **THE COURT:** So he takes the drawing on the board
17 and gives it --

18 **MS. DURANT:** Yes, sir. Draws it on the board.
19 Yes, sir.

20 **THE COURT:** What if he wants to give that to the
21 jury?

22 **MS. DURANT:** Well, I mean, we still object.
23 But, I mean, that's new evidence, new testimony. I
24 do have a problem with him correcting the diagram
25 that we had because I think that is getting in the

1 back door a new piece of discovery.

2 **THE COURT:** Well, maybe you're not -- maybe I'm
3 not being clear.

4 **MS. DURANT:** Maybe I'm not being clear.

5 **THE COURT:** If you say he can testify to it and
6 you say he can draw it on the board, why can't he
7 draw it on a piece of paper? In other words, if it's
8 new evidence -- you say it is and I'll accept that --
9 then it shouldn't come in -- either it should come in
10 under some theory or it should not come in at all.
11 But if it's coming in, and coming from an expert, we
12 tend to give them some latitude.

13 But by the same token, we can't prejudice your
14 client by not giving you the opportunity to challenge
15 it, whether it be by cross examination or bringing in
16 your own expert. If it's that significant a change
17 in the angle of the bullet which may or may not
18 support the testimony that you know that you have, I
19 can certainly make arrangements for you to have the
20 opportunity to challenge it.

21 But as I said, if he can say it, if he can put
22 it on the board, he can put it on a piece of paper.

23 **MS. DURANT:** Well, Your Honor, I think if he
24 wants to draw it on the board and you need to give
25 that to the jury, that's okay. I would have a

1 problem with him -- I would rather have the new piece
2 of evidence than correct the one that he had.

3 **THE COURT:** I'm sorry. I'm having a problem
4 following you.

5 **MS. DURANT:** Sir, okay. I think this is the
6 new -- or this is the one -- no. This is the one we
7 had.

8 **MR. MEADORS:** That's yours, Defense, in your
9 left hand.

10 **MS. DURANT:** Right. This is the defense here.
11 And this is what he drew, the new one, correct?

12 **MR. MEADORS:** That is the same one as you have.
13 And he just did that in front of the jury, State's
14 88, because you objected to the new one.

15 **MS. DURANT:** Right. Where is the new one?

16 **THE COURT:** What if he puts it on your chart?

17 **MR. MEADORS:** I think I gave it back.

18 **THE COURT:** On your blow up?

19 **MS. DURANT:** Well, I think that's something I am
20 objecting to, Your Honor, is that he's changing the
21 piece of discovery that we had.

22 **THE COURT:** I know. But you just said you don't
23 object to that.

24 **MS. DURANT:** No. I'm sorry, Your Honor. I said
25 I would rather -- okay. I'm trying to compromise.

1 **THE COURT:** Don't try to compromise.

2 **MS. DURANT:** Could he just draw it on the board;
3 and if he wants to give that to the jury that's fine?

4 **THE COURT:** Could he draw it on -- you object to
5 him drawing it on your exhibit?

6 **MS. DURANT:** Yes, sir.

7 **THE COURT:** I don't see the difference.

8 **MS. DURANT:** Well, --

9 **THE COURT:** It's just -- it's illustrative of
10 his analysis. Whether you draw it on the Defense
11 Exhibit or you draw it on the -- whatever the -- I
12 don't see the difference.

13 **MS. DURANT:** Your Honor, I will do whatever the
14 Court rules, Your Honor.

15 **THE COURT:** Well, I understand that. But you've
16 got a right to make an objection, preserve it in this
17 record.

18 **MS. DURANT:** Well, my only concern is that it's
19 a new piece of evidence, his new drawing.

20 **THE COURT:** The new evidence is his new
21 testimony. How he illustrates it is sort of
22 immaterial. It's not immaterial. The new evidence
23 is the new testimony. The new angle, angle one,
24 angle two, this is the new evidence.

25 **MS. DURANT:** Right.

1 **THE COURT:** And how he demonstrates that, if you
2 allow the new evidence which is the new angle, --

3 **MS. DURANT:** Right.

4 **THE COURT:** -- you say you have no objection to
5 that. Either you object to that as being a
6 surprise --

7 **MS. DURANT:** Well, we do --

8 **THE COURT:** -- and you've been ambushed. And I
9 say, if you are surprised, then you certainly have a
10 right to challenge it any way you see fit.

11 **MS. DURANT:** Well, we are surprised by that,
12 Your Honor. And because they obviously had the new
13 drawing, I mean, I don't know that he had it but it
14 did exist.

15 **THE COURT:** I think it existed within the last
16 24 or 36 hours.

17 **MS. DURANT:** Right. But I think even then the
18 prosecutor had an obligation to get it and we needed
19 to see it. And I understand, you know, the problems
20 that go along with trial preparation. That's my
21 concern, is that --

22 **THE COURT:** I'll give you all the time -- I'm
23 going to let the doctor explain it any way, and if
24 it's on a Defense Exhibit or on the board; I mean,
25 it's just easier to do it on the Defense Exhibit. It

1 becomes more visible, more easily understood by the
2 jury.

3 **MS. DURANT:** And that's my concern, Your Honor.
4 I mean, it's new evidence. It's new testimony. It's
5 just new.

6 **THE COURT:** I've been through that.

7 **MS. DURANT:** Yes, sir. I'm sorry.

8 **MR. MEADORS:** Can I say one thing? We sent him
9 a disk I think with all this on it. It had the
10 x-rays, everything. The angle hadn't changed. The
11 angle is the same that's on the x-ray. The doctor
12 just wrote the wrong -- wrote the line the wrong way.
13 The x-ray still shows the same thing. It's into
14 evidence. And I just asked him after review and
15 preparation, and I think he said yesterday, within
16 the last 24 hours --

17 **THE COURT:** Well, there's no angle on the x-ray.

18 **MR. MEADORS:** Your Honor, I beg to differ. I
19 think that he showed that you could see in here which
20 way the bullet went. This is consistent after --

21 **THE COURT:** Show it to me. But I thought there
22 was just a bullet, not an angle of --

23 **MR. MEADORS:** Well, he can show where the
24 bullet -- I think based on that, Your Honor, he was
25 able to say that I just put the line wrong in the

1 first diagram when I was doing the notes initially.

2 **THE COURT:** It's not on here.

3 **MR. MEADORS:** His testimony based on that shows
4 that I put the line down wrong. This didn't change.
5 That's all I'm saying.

6 **THE COURT:** You just told me that that showed
7 the angle of where the bullet entered and where the
8 bullet ended up. It does not.

9 **MR. MEADORS:** It just shows the direction of it
10 based on his experience and training. Yes, sir. And
11 I think that's what he after reviewing this said, I
12 just wrote this line down wrong. I think that's what
13 he's saying. And they can't --

14 **THE COURT:** Doctor -- just hold on a minute.

15 EXAMINATION

16 **BY THE COURT**

17 **Q** To illustrate your testimony, can you look at the
18 x-ray and project, according to everything you know,
19 the path of that bullet?

20 **A** Yes. In fact, I testified to the jury a moment ago
21 by looking at the eye sockets and knowing the bullet
22 enters below the eye socket and seeing the bullet
23 here at the base of the nose to see that it went to
24 the rear.

25 **Q** Could you do it on the x-ray?

1 **A** You're saying could I draw it on the x-ray?

2 **Q** Yeah.

3 **A** Certainly I could do that.

4 **Q** All right. That's what we'll do. That is about as
5 bottom line of his testimony as there is. We'll take
6 a minute. You get the x-rays and --

7 **A** Can I do that at this time, before the jury comes
8 back?

9 **Q** Yes. While the jury is out. Somebody assist the
10 doctor with whatever you need. Do you need a ruler
11 or a straight edge or something?

12 **A** All I need is that evidence.

13 **COURT REPORTER:** Excuse me, Your Honor. I think
14 we may need to mark State's 88, the first one marked,
15 as State's 88-A. I just need to -- we've got two
16 88's.

17 **MR. MEADORS:** Yeah. I was going to get rid of
18 that.

19 **A** And if I may mention, Your Honor, I testified a
20 moment ago that because of the mobility of the head,
21 it's clear the head may have been bent depending on
22 what the shooter was doing, whether he was
23 outstretched arms. But I can't say what the person
24 was doing with that or whether they were just --

25 **Q** I'm not asking you to do that.

1 **A** -- protecting themselves or trying to reach for
2 something.

3 **Q** This is a clinical analysis. Everything else is
4 subjective.

5 **MR. MEADORS:** I am not offering this.

6 **COURT REPORTER:** I know.

7 **MR. MEADORS:** Okay. They object. So I'm not
8 offering this one.

9 **COURT REPORTER:** It's just going to be weird for
10 the record if we don't mark it as 88-A. It's not
11 going to make sense, I think. So if I can mark it
12 88-A for I.D. Thank you.

13 **MR. MEADORS:** I want the record to reflect we're
14 not offering 88-A, but I understand for record
15 purposes it may help.

16 **THE COURT:** To understand what we're doing.

17 (WHEREUPON, State's Exhibit No. 88 previously
18 marked for identifications is re-marked as State's
19 Exhibit No. 88-A is marked for identification.)

20 (WHEREUPON, State's Exhibit No. 88 is marked for
21 identification.)

22 **Q** I'll offer you a straight edge, whatever you need,
23 doctor.

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

25 (Witness draws on document)

1 **MR. MEADORS:** So, Your Honor, just so I'm --
2 State's 88 which we offered and we're discussing, is
3 Your Honor ruling that out, not allowing that in?
4 I'm asking. Is it --

5 **THE COURT:** 88 being ...

6 **MR. MEADORS:** You're objecting to 88. And that
7 was the one where he did the correction on the
8 diagram.

9 **THE COURT:** All right. I sustain the objection.

10 **MR. MEADORS:** And now the doctor has prepared or
11 added with His Honor's pen to State's 84 and 85 the
12 direction on the x-ray that he believes the bullet --
13 the path the bullet took.

14 **THE COURT:** On both of them?

15 **MR. MEADORS:** Yes, sir.

16 **THE COURT:** Have you seen that, Ms. Durant?

17 **MS. DURANT:** Yes, sir. Yes, sir, I did.

18 **MR. MEADORS:** And I'll just simply ask him if
19 he's shown that on 84 and 85 and sit down.

20 **THE COURT:** All right.

21 **MS. DURANT:** That's fine, Your Honor.

22 **THE COURT:** All right.

23 **MS. DURANT:** Thank you.

24 **MR. MEADORS:** Oh, Judge, before we bring them
25 back, I think this may save time, too. There were

1 some other matters for I.D. I think we could clarify
2 them, and if not, we could argue about them. The
3 initial pictures, I think 31, 34, 28 and one of the
4 jacket, I think 43, were just marked for I.D. I just
5 wanted the record to reflect we're not trying to get
6 those in.

7 I wanted to go down. The next one was item 48
8 which was a tag which has been testified, I think
9 that Sergeant Robert Dennis found. We went through
10 the chain. We now offer State's 48 which was the tag
11 that the gloves came on that Robert Dennis found at
12 Molly's Rock. I think the chain's been complete on
13 that. We're just offering 48.

14 **MS. DURANT:** That's -- I'm sorry -- the tag from
15 the glove that was found in the pond?

16 **MR. MEADORS:** No. It was found right either in
17 or right outside the pond.

18 **MS. DURANT:** Right. No objection, Your Honor.

19 **THE COURT:** Without objection.

20 (WHEREUPON, State's Exhibit No. 48 is admitted
21 into evidence.)

22 **MR. MEADORS:** Next would be the flashlight which
23 was just found as part of the evidence. It was
24 marked as I.D. I think we've completed the chain on
25 that if we needed to. We just would offer 50.

1 **THE COURT:** What?

2 **MR. MEADORS:** It's a flashlight.

3 **MS. DURANT:** And I don't know that that's been
4 connected in any way. I think we question the
5 relevance of that.

6 **MR. MEADORS:** I'm just going through
7 housekeeping here, Your Honor. It was part of the
8 crime scene they thought. They collected it.

9 **THE COURT:** What's the relevance?

10 **MR. MEADORS:** I don't know that it is. I'm just
11 going through.

12 **THE COURT:** I sustain the objection.

13 **MR. MEADORS:** Thank you. Next is item No. 53
14 which I think were the -- I have D.T., and I think
15 they were the dog tags. I thought I had entered
16 them. We have established the chain. And they got
17 them out of the dumpster. We'd offer them, I think
18 without objection at this point.

19 **MS. DURANT:** No objection, Your Honor.

20 **COURT REPORTER:** I've got 53 as duct tape.

21 **MR. MEADORS:** Duct tape. We'd offer 53 as the
22 duct tape. I apologize.

23 **MS. DURANT:** And I don't know that that's been
24 connected in any way, Your Honor.

25 **MR. MEADORS:** It was at the scene. Again, we'd

1 argue it goes to the weight and not the
2 admissibility. It was on the dock I think. As is
3 any evidence --

4 **THE COURT:** Was there any duct tape on the body?

5 **MR. MEADORS:** I don't believe so. No, sir.

6 **MS. DURANT:** No, sir.

7 **THE COURT:** Relevance?

8 **MS. DURANT:** Relevance. Yes, sir.

9 **THE COURT:** Sustained.

10 **MR. MEADORS:** 54 is the cigarette butt. 55 is
11 the acorn. And 56 I believe is the filter. I think
12 I've got that right.

13 **COURT REPORTER:** Yes.

14 **MR. MEADORS:** It would be the cigar filter I
15 think.

16 **COURT REPORTER:** I've got, yeah, cigar filter.

17 **THE COURT:** Ms. Durant, as to each?

18 **MS. DURANT:** Your Honor, the only one we would
19 raise an objection to is the acorn. I think the DNA
20 shows that there was no blood detected on that one.

21 **MR. MEADORS:** That didn't. There was nothing we
22 could test. That's true.

23 **THE COURT:** Sustained. The objection is
24 sustained.

25 **MR. MEADORS:** So 54 and 56 then we offer.

1 (WHEREUPON, State's Exhibit No. 54 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 56 is admitted
4 into evidence.)

5 **MR. MEADORS:** 58 is the jewelry chain I think,
6 Your Honor. We had not -- that was for I.D. And
7 we'd offer that.

8 **MS. DURANT:** We have no objection to that, Your
9 Honor.

10 **THE COURT:** Okay.

11 (WHEREUPON, State's Exhibit No. 58 is admitted
12 into evidence.)

13 **MR. MEADORS:** 64 was the -- beg the Court's
14 indulgence. Your Honor, we have 64 and 65. I think
15 one of them is a picture of the McDonald's bag and
16 the other is the actual McDonald's bag.

17 **COURT REPORTER:** 65 is the gun.

18 **MR. MEADORS:** Moving ahead to the rest of them
19 while we're looking for that, Your Honor, there's a
20 note, I.D. 70, of course I'm not offering that I just
21 want the record to reflect. That was a copy of a
22 statement, I think. Dr. Sexton, 73, the bullet, is
23 in. Your Honor, as far as the stuff we were
24 discussing yesterday, I believe items 76, 77, 78 and
25 79, I think we have reached a compromise on those.

1 **MS. DURANT:** Yes, sir. I think we agreed that
2 the ammunition would not come in, but I don't believe
3 we had -- and I don't know what number that was.

4 **COURT REPORTER:** I had 79, ammunition, as in
5 evidence.

6 **THE COURT:** No. No. I withdrew that at 5:00
7 yesterday afternoon. I withdrew 77, 78 and 79. I
8 just said they would be marked for I.D.

9 **MR. MEADORS:** We were not trying to --

10 **THE COURT:** Unless they were linked up in some
11 way, I would not admit them.

12 **MR. MEADORS:** And, Your Honor, --

13 **THE COURT:** It was clothing.

14 **MR. MEADORS:** Yes, sir. And I think they got
15 linked up through "Spike" McCraw when he said they
16 were the Timberland boots and the khaki pants and
17 blue shirt which the defendant told him in that
18 statement. So I think that's how we linked them.
19 And I think he even stated, he said they were either
20 in the laundry room or closet, and that's where we
21 found them. So I guess we'd offer that as to
22 relevance, just to the clothes, not the ammunitions.

23 **MS. DURANT:** Your Honor, we have no objection to
24 the clothes, I think 77 and 78. But I think we
25 agreed that the ammunition was not coming in, Your

1 Honor. We go long along with that.

2 **MR. MEADORS:** So we just offer 77 and 78. And
3 we understand 79 is not coming in.

4 (WHEREUPON, State's Exhibit No. 77 is admitted
5 into evidence.)

6 (WHEREUPON, State's Exhibit No. 78 is admitted
7 into evidence.)

8 **COURT REPORTER:** What about 76?

9 **MR. MEADORS:** That's already in I think.

10 **COURT REPORTER:** Well, it came in, and I thought
11 that was what was ruled out by the judge.

12 **MR. MEADORS:** 76 was the shell casing, Your
13 Honor, which has been testified now finally with
14 Investigator Collins. And we offered that yesterday.
15 We'd offer it again.

16 **MS. DURANT:** That's the .9 millimeter?

17 **MR. MEADORS:** Right. The shell.

18 **MS. DURANT:** We have no objection to that, Your
19 Honor.

20 (WHEREUPON, State's Exhibit No. 76 is admitted
21 into evidence.)

22 **THE COURT:** So whatever the bullets were from
23 some other caliber and a shotgun shell --

24 **MR. MEADORS:** We understand.

25 **THE COURT:** -- are excluded, not in evidence.

1 I'm not sure about the number.

2 **MR. MEADORS:** It's 79.

3 **COURT REPORTER:** Ammunition. That's right.

4 **MR. MEADORS:** That's it. It's 79, Your Honor.

5 And the only other thing was the cellphone, 81, which
6 we've marked. And we haven't tied that up. And I
7 think you all are objecting to that.

8 **THE COURT:** The cellphone, object to the
9 relevance?

10 **MS. DURANT:** Yes, sir.

11 **THE COURT:** All right. Sustained.

12 **MS. DURANT:** Thank you, Your Honor.

13 **THE COURT:** I'm going to allow you during the
14 lunch hour --

15 **MR. MEADORS:** That's all. 64 is left. And
16 we're ready.

17 **THE COURT:** The question is whether you plan to
18 rest before lunch, in which I'd suggest that you
19 don't; review all the -- since there seem to be
20 numerous -- how many exhibits have you got listed so
21 far?

22 **COURT REPORTER:** 88 for the State.

23 **THE COURT:** 88. I think they ought to be
24 reviewed --

25 **MS. DURANT:** Yes, sir.

1 **THE COURT:** -- before you announce you rest. So
2 I'll just dismiss the jury for lunch.

3 **MR. MEADORS:** We'll do that immediately after.
4 I think everything is -- I think everything except
5 64. I think we're square. But thank you. We'd like
6 to review it over lunch. Thank you.

7 **THE COURT:** Ready for the jury?

8 **MR. MEADORS:** If I can find those drawings; yes,
9 sir.

10 **THE COURT:** This is redirect. Correct?

11 **MR. MEADORS:** Yes. Yes, sir. No. Yes, sir.
12 Yes, sir. Yes, sir.

13 **THE COURT:** You're in the process of redirect.
14 You finished your cross. Did you finish your cross?

15 **MS. DURANT:** Yes, sir; I finished my cross.

16 **THE COURT:** It's redirect.

17 **MR. MEADORS:** Two questions. Thank you.

18 (Jury in at 12:45 p.m.)

19 **THE BAILIFF:** The jury is all present, Your
20 Honor.

21 **THE COURT:** All right. You may redirect the
22 doctor.

23 **MR. MEADORS:** May it please the Court.

24 REDIRECT EXAMINATION

25 **BY MR. MEADORS**

1 Q If I may approach, Doctor, I show you what's been
2 entered as State's 84 and 85. During the break have
3 you drawn on here -- based on your review of the body
4 of Brian Anderson and the review of the x-rays of the
5 head of Brian Anderson, have you drawn on here what
6 in your expert opinion was the direction of the
7 projectile?

8 A The path of the bullet?

9 Q Yes, sir.

10 A Yes, I have.

11 Q Could you show that to the jury?

12 A This is Exhibit 85 that I showed you earlier. What
13 I've done is during the break drawn a circle here
14 just below the eye where the bullet entered and point
15 the arrow to where the bullet ended up. And when you
16 have the top of the head level, which is slightly
17 different from the top of the page, you can see that
18 it's going fairly horizontal, very slightly downward.

19 Just to make sure the group on this side can
20 see. I've just drawn a circle at the base of the
21 orbit of the eye which would correspond to where the
22 bullet entered on the right cheek just below the eye
23 and drawn an arrow back to where the bullet is
24 located in the skull just below the external auditory
25 canal which is the opening in your ear, your ear

1 canal.

2 Q On State's 84, could you also show that?

3 A 84 shows the same thing from the front. And I've
4 outlined the right orbit which is the same as the
5 left orbit and drawn a circle here just below that
6 right eye and drawn an arrow back to where the bullet
7 came to rest in the back of the skull to the left and
8 to the rear of where it ended.

9 Over here you can see the same thing. I've
10 outlined the right orbit. You can see the left
11 orbit. I've drawn a circle where the bullet entered
12 just below the eye and then drawn an arrow back to
13 where the bullet was located in the skull by x-ray.

14 Q And I think to get a whole different proper angle you
15 said it doesn't fit. Do you look at the top of the
16 head and hold it?

17 A Right. You have to look at the top of the head and
18 recognize that the top of the head is flat. When we
19 take the x-ray the head may not be exactly oriented
20 in that fashion. But as you look at the head, you
21 can see it going nearly horizontally back but
22 slightly downward.

23 Q Thank you so much, Doctor.

24 A You're welcome.

25 Q I have no more questions.

1 **THE COURT:** Ms. Durant.

2 **MS. DURANT:** We have no further questions, Your
3 Honor.

4 **THE COURT:** All right. Thank you very much,
5 Doctor. You may come down. You may be excused. Any
6 objection?

7 **MS. DURANT:** No objection.

8 **THE COURT:** So you don't want to recall him?

9 **MS. DURANT:** No, sir.

10 **WITNESS:** Thank you, Your Honor.

11 **MR. MEADORS:** Thank you, Doctor.

12 **THE COURT:** All right. Ladies and gentlemen,
13 I'm going to -- it's time for our lunch break. I'm
14 going to excuse you now for the lunch hour. Let's
15 try to be back in the jury room by 2:15. It's a
16 little before 1. That will give you a full hour,
17 maybe a little travel time one way or the other,
18 start right on time at 2:15.

19 Again, don't discuss the case among yourselves
20 when you return to the jury room or with anyone else
21 over the lunch hour. I hope you have a pleasant
22 lunch. We'll see you at 2:15. Thank you.

23 (Jury out at 12:50 p.m.)

24 **THE COURT:** All right, counsel. I want somebody
25 to use the lunch hour to check these exhibits to make

1 sure that everything the State is offering is in or
2 out or that the defense, whatever their objections
3 are, can be heard at 2:15. Get this evidence.
4 straightened out. It's a lot for this jury to have
5 to plow through. So we'll stand at ease until 2:15.

6 (Whereupon, a lunch break is taken)

7 **THE COURT:** All right, counsel. Is the State
8 complete with the offer of exhibits?

9 **MR. BRYANT:** Yes, sir, Your honor. And for the
10 record, I have consulted with Ms. Owings. No.
11 State's 64 is going to be part of the DNA. There is
12 some already in evidence. This is No. 64, DNA. I
13 would move that in. I believe that's without
14 objection.

15 (WHEREUPON, State's Exhibit No. 64 is admitted
16 into evidence.)

17 **MS. OWINGS:** And the other thing that was in
18 question was what No. 43 was. And I believe it's the
19 coat that's just in for I.D. right now. I don't
20 think it's actually in evidence.

21 **THE COURT:** It never was.

22 **MS. OWINGS:** Right. I mean, that was the only
23 thing. We couldn't quite tell what was. We think
24 the coat is 43. The bag wasn't marked.

25 **THE COURT:** What's the question?

1 **MS. OWINGS:** There is no question. You just
2 asked us. We're just letting you know we went over
3 all the issues. Those are the only things we had in
4 issue.

5 **MR. BRYANT:** And 43 was the one we couldn't
6 find. I think it might have fallen off, Judge,
7 marked for I.D. only when Mr. Walker took the stand.
8 It's not in. Everything else we've been through and
9 I think agreed upon.

10 **THE COURT:** Are you satisfied with everything
11 that's in evidence that you sought to put in evidence
12 that is not objected to?

13 **MR. BRYANT:** Yes, sir.

14 **THE COURT:** All right. Defense satisfied?

15 **MS. OWINGS:** Yes, sir.

16 **THE COURT:** Well, let's move on.

17 **MR. BRYANT:** Yes, sir.

18 **MR. MEADORS:** Your Honor, do you want for time
19 purposes to rest now, go ahead and make the arguments
20 before we bring the jury out?

21 **THE COURT:** I think that would probably be the
22 best use of our time if the State's ready to rest.
23 You can announce it to the jury.

24 **MR. MEADORS:** Sure. Right.

25 **THE COURT:** But as far as you are concerned at

1 this point in time, is the State ready to rest?

2 **MR. BRYANT:** Your Honor, at this time the State
3 rests.

4 **THE COURT:** All right. Defense have any
5 motions?

6 **MS. DURANT:** Yes, Your Honor. First we renew
7 all of our objections pretrial and during the trial,
8 Your Honor. And we do make a motion for a directed
9 verdict. Viewing the evidence in the light most
10 favorable to the State, we'd move for a directed
11 verdict because we believe the State has not produced
12 sufficient evidence for it to go to the jury.

13 The fact that there were no witnesses to the
14 shooting, there has been no testimony as to what
15 happened in the car. The only testimony is from a
16 witness who has been charged in the case and
17 obviously was trying to benefit from her testimony we
18 believe.

19 There have been no fingerprints of the defendant
20 found on any item or anything that would connect him
21 to these other than that testimony, Your Honor. And
22 we would just move for a directed verdict.

23 **THE COURT:** I thought Mr. Elkins testified that
24 the defendant admitted shooting the deceased.

25 **MS. DURANT:** Yes, sir. That's --

1 **THE COURT:** Mr. Elkins is not charged.

2 **MS. DURANT:** No, sir. That is true.

3 **THE COURT:** Okay.

4 **MS. DURANT:** And Mr. Elkins would be the only
5 one.

6 **THE COURT:** Well, there are other charged
7 witnesses --

8 **MS. DURANT:** Yes, sir.

9 **THE COURT:** -- who also said that, I believe.

10 **MS. DURANT:** I think there was one, Ms. Davis.

11 **THE COURT:** One. Ms. Davis.

12 **MS. DURANT:** Yes, sir.

13 **THE COURT:** All right. What's the State's
14 position?

15 **MR. BRYANT:** The State's position, Your Honor,
16 is that there is clearly enough evidence to submit
17 this case to the jury. The Court heard testimony
18 from Newberry County officers who investigated, then
19 learned through their investigation that the shooting
20 actually occurred at the -- they believe the shooting
21 occurred at the defendant's residence which was in
22 Richland County.

23 Mr. Bernard Elkins saw the defendant that night.
24 The defendant told him, as Mr. Elkins testified, that
25 the defendant had shot someone at his, that being the