

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

RECEIVED

OCT 11 2013

S.C. Supreme Court

FREDRICK E. JOHNSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000859

A P P E N D I X

LANELLE CANTEY DURANT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

SUZANNE H. WHITE
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 FREDRICK EUGENE JOHNSON,)
)
 DEFENDANT.)
 _____)

2010-GS-42-04671

TRANSCRIPT OF RECORD

OCTOBER 14, 2010
SPARTANBURG, SOUTH CAROLINA

BEFORE:

THE HONORABLE ROGER L. COUCH

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

DERRICK B. BULSA, DEPUTY SOLICITOR

ATTORNEY FOR DEFENDANT:

ANDREA PRICE, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

ATTORNEY GENERAL'S OFFICE

RECEIVED JUN 04 2012

ADDITIONAL INSTRUCTIONS

015-1-100-379

1. Vñ: _____ CUPITS: N/A

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PERMANENT RECORDS

OTHER:

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Court Reporter's Note: (State's exhibits 1 - 28 were returned to Mr. Bulsa, while State's exhibit 29, for the guilty plea, was filed with the Clerk's Office)

1 THE COURT: Mr. Bulsa, is the State ready to proceed?

2 MR. BULSA: Yes, sir.

3 THE COURT: Defense ready, Ms. Price?

4 MS. PRICE: Yes, Your Honor.

5 THE COURT: I will make you aware that juror number 49,
6 who is on the jury panel, has contacted the Clerk's Office.
7 And let me see if I can -- Kristy Gillie is her name. She
8 has expressed that she has some problem with proceeding as a
9 juror.

10 I have not inquired of her as to what that might be.
11 I'm going to bring her into the courtroom and ask her about
12 what issue she may have. I will give both of you an
13 opportunity to submit questions through the Court if you
14 wish to do so once I've talked with her. Bring juror number
15 49 in, please.

16 (Whereupon the juror entered the courtroom)

17 THE COURT: Ma'am, you can have a seat in that first
18 chair right there. That's fine. Your name is?

19 MS. GILLIE: Kristy Gillie.

20 THE COURT: You're going to have to speak up loud
21 enough for everyone out here to hear you, okay?

22 MS. GILLIE: Kristy Gillie.

23 THE COURT: Thank you. Now, Ms. Gillie, you apparently
24 have contacted the Clerk's Office about a concern that you
25 have concerning your service on the jury, is that right?

1 MS. GILLIE: Yes, sir.

2 THE COURT: Can you tell me what that concern is? And
3 before you do that, I'll remind you, you remain under oath
4 from our discussion earlier. Do you understand that?

5 MS. GILLIE: I do.

6 THE COURT: Okay. Thank you, ma'am.

7 MS. GILLIE: Okay. I don't know any of the parties
8 directly involved. I'm not familiar with this particular
9 case. But I was involved in something that was just very
10 upsetting several years ago pertaining to a murder case.

11 THE COURT: Okay.

12 MS. GILLIE: And I just -- I don't think I can do this.

13 THE COURT: All right. So you feel like you can't be
14 fair and impartial in this matter? Or is there -- I'm
15 trying to get some idea because for me to excuse you from
16 the jury, I must have some reason or something on the record
17 that would indicate a reason why I should do that. So
18 you're going to have to give me a little more detail and
19 some more information.

20 MS. GILLIE: I was just -- I was involved with someone
21 that was involved in a murder case several years ago. And I
22 just -- I went through a very traumatic experience. And for
23 that -- just involving courtroom settings and prosecution
24 and that type of thing. And I suffered a lot of emotional
25 problems from that. And I just -- it's just brought a lot

1 of it back. And ---

2 THE COURT: So this would -- you're saying this might
3 affect your impartiality in the matter?

4 MS. GILLIE: Yes, I'm afraid so.

5 THE COURT: Is that what you're telling me?

6 MS. GILLIE: (Affirmative nod).

7 THE COURT: All right. The State wish to submit any
8 questions to the juror?

9 MR. BULSA: Could we ask the name of the case?

10 THE COURT: Was the case in South Carolina?

11 MS. GILLIE: It was actually in Greenville County.

12 THE COURT: Greenville County?

13 MS. GILLIE: But it involved a former Spartanburg
14 County official.

15 THE COURT: All right.

16 MS. GILLIE: It was actually from 1987.

17 THE COURT: All right.

18 MS. GILLIE: I was only eighteen years old at the time,
19 but the person that I was involved with killed this
20 particular man. And it went to trial in Greenville. He was
21 convicted. And it was just a very ---

22 THE COURT: So you had a relationship with the
23 defendant who was convicted in this case?

24 MS. GILLIE: Yes.

25 THE COURT: Was that a murder case, manslaughter ---

1 MS. GILLIE: Yes.

2 THE COURT: --- case -- murder case.

3 MS. GILLIE: Well, it started out as murder, but they
4 pleaded for a manslaughter case.

5 THE COURT: Okay. All right. Any other questions from
6 the State?

7 MR. BULSA: No, Your Honor.

8 THE COURT: Any from the Defense?

9 MS. PRICE: No, Your Honor.

10 THE COURT: All right. Ma'am, I'm going to excuse you
11 from the jury. The bailiff will show you out. And they'll
12 take care of where you need to go. I think the jury's
13 assembling. So you may have to go back to the assembly room
14 at this time.

15 MS. GILLIE: I'm sorry I didn't speak up beforehand,
16 but it was just the questions that were asked, you know, I
17 don't know any of the parties involved and I'm not ---

18 THE COURT: Okay.

19 MS. GILLIE: --- related to anyone here. So I didn't
20 feel like it was ---

21 THE COURT: Well, if you have a concern about your
22 impartiality, I'd rather know that now than when we get at
23 the end of the case. So thank you very much.

24 MS. GILLIE: Okay. Thank you.

25 (Whereupon Ms. Gillie exited the courtroom)

1 THE COURT: Now, according to my records, since I have
2 excused her from the jury, our two alternates are juror
3 number 69 and 103. Is that correct, Madame Clerk?

4 MADAME CLERK: Yes, sir.

5 THE COURT: All right. I think it requires that we
6 determine those by drawing lots in this case. So I'm going
7 to ask the Clerk to prepare a couple of slips of paper with
8 those two numbers on it, please.

9 All right. Ma'am, if you'll fold those so that you
10 can't read the numbers. Okay. You got that. If you'll
11 hand them to my clerk, and I'm going to let him put them in
12 his hands and shake them up, and then I'll ask you to draw
13 one out.

14 MADAME CLERK: 69.

15 THE COURT: Number 69 will be added to the jury. Any
16 objection to the process from the State?

17 MR. BULSA: No, Your Honor.

18 THE COURT: Any from the Defense?

19 MS. PRICE: No, Your Honor.

20 THE COURT: All right. Are we ready to bring the jury
21 in?

22 MR. BULSA: Yes, sir.

23 MS. PRICE: Yes, sir.

24 THE COURT: Let's bring the jury in.

25 (Whereupon the jury entered the courtroom at 9:17 am)

1 **THE COURT:** All right. The record will reflect the
2 jury has returned to the courtroom. Let's see, Annie
3 Jackson-Maynard, ma'am, you were an alternate in this case.
4 I have excused one of the regular jurors in this matter. So
5 you are now part of the regular jury. So you no longer are
6 serving as an alternate. I'll just make you aware of that
7 situation. All right. ,

8 Hope everyone's had a good break and you've returned
9 ready to begin the trial of this case. At this point in
10 time I told you that you would be taking an oath concerning
11 your duties and responsibilities as jurors in this matter.
12 At this time, Madame Clerk, please swear the jury in this
13 case.

14 **MADAME CLERK:** Please stand and raise your right hand.
15 Do you swear or affirm in the case about to be tried to
16 truly try the issues that are joined in this case and a true
17 verdict rendered according to the law and evidence so help
18 you God?

19 **THE JURY:** I do.

20 **MADAME CLERK:** Thank you. You may be seated.

21 **THE COURT:** Now if any of the jury failed or refused to
22 take the oath just administered by the Clerk, please stand.

23 (No response)

24 **THE COURT:** All right. Our record then will reflect
25 that all jurors have been sworn for the purposes of this

1 case.

2 Before we begin the actual trial of this case, there's
3 some things that I'm going to go over with you this morning.
4 Probably for most of you, this is the first time that you've
5 actually been selected to serve on a jury in this type of a
6 matter..

7 And for those of you who have not had the experience of
8 serving on a jury, I'm going to go over some things with you
9 so that you'll understand the roles and responsibilities
10 that you have and that the other people that will be
11 participating in the trial have in this particular case.

12 For those who are new to this process, probably most of
13 what you know about the trial of a case by a jury you might
14 have learned from TV shows that you've seen, or movies that
15 you've watched, or books that you've read or perhaps from
16 your schooling. And while those sources of information are
17 interesting and in the case of books, and movies, and
18 television shows, they have interesting plots, and
19 interesting story lines, and they hold your attention.

20 It never ceases to amaze me that on television you can
21 have a crime committed and the case tried and completed in
22 the space of an hour and even have time for commercials. So
23 you can see that they take quite a bit of literary license
24 with the stories that you see in those settings and quite
25 often don't follow the rules and procedures that go on in a

1 regular courtroom.

2 Those particular forms of information are intended for
3 your entertainment. What you're engaged in today is
4 intended for anything but your entertainment. What you're
5 engaged in is a fundamental part of our democracy.

6 And I hope you realize that because in most legal
7 systems that exist in this world today, citizens are not
8 allowed to come into the courtroom and directly participate
9 in the important decisions that are made between the State
10 and individuals that are committed -- are accused of the
11 commission of a crime. So it's a fundamental part of our
12 democracy where citizens are taken from their day-to-day
13 lives, brought into the courtroom and placed in an important
14 decision-making capacity in this courtroom.

15 The attorneys that are going to appear before you today
16 are here to represent their client's interests. And I'm
17 sure that they'll do an excellent job in presenting their
18 client's cases before you, but first and foremost they are
19 also officers of this court.

20 They have appeared at some time before some tribunal
21 and taken an oath to assist you in your search for the truth
22 in this case. You can expect from them that they'll act in
23 a reasonable, professional and an ethical manner in the
24 presentation of their client's cases before you.

25 And I'm going to remind you too now that you've come

1 before this court as well. You have now taken an oath.
2 You're expected to act in a reasonable, professional and an
3 ethical manner in the discharge of your duties as jurors in
4 this case, that is, to decide this case based upon the
5 evidence and the law presented during the trial of the case.

6 I want to thank you very much for your willingness to
7 come forward and serve 'cause if it weren't for citizens
8 such as yourselves who are willing to answer the subpoenas
9 and come into court and participate, our system couldn't
10 function as it was designed under the Constitution as
11 instituted at the beginning of our Country.

12 This courtroom is a place of honor. It's dedicated to
13 the preservation of citizens' rights through that
14 Constitution and set of laws that have been set up both in
15 our State and our Nation.

16 Now, it'll be your responsibility at the close of this
17 trial to determine the facts in this case. What I'm telling
18 you now is not intended as a charge concerning the law. At
19 the close of the trial, once all the arguments have been
20 made and all the evidence has been presented, at that time I
21 will charge you concerning the law to be applied in this
22 case. Again, what I'm trying to do is to merely give you an
23 explanation of the procedures and responsibilities that we
24 all have in this case.

25 Now in this case the Defendant is charged in an

1 indictment that I went over with you earlier with the
2 offense of murder. I'm not going to read that indictment to
3 you again at this time. I'll do that later in the trial.
4 But the indictment is simply the charge that brings this
5 case into this court.

6 It is not in any sense evidence in this case and cannot
7 be used by you as evidence in this case either of guilt or
8 innocence in this matter. The indictment simply is the
9 charge that brings the case before the court.

10 Now to that indictment the Defendant has pled not
11 guilty. By that plea and under the law and the Constitution
12 of this State, that places the burden upon the State to
13 prove the Defendant's guilt beyond a reasonable doubt. And
14 I'll go through that standard of proof and the requirements
15 of proof during my charge at the close of this case. But
16 let me tell you, it's your duty, ladies and gentlemen, to
17 decide at the close of the trial whether or not the State
18 has met its burden of proof in this case.

19 Your purpose here is to find and determine the facts.
20 You're the sole judges of the facts. I am the presiding
21 officer in this case. And it will be my responsibility
22 during this trial to rule on questions of the admissibility
23 of evidence or the appropriateness of questions that may be
24 asked.

25 I will tell you now and I will tell you at the close of

1 the trial, don't take from anything that I do in the
2 discharge of my duties as the presiding officer of this
3 trial that I have any -- to indicate that I have any opinion
4 whatsoever as to how you determine the facts in this case.
5 You're the sole judges of the facts in this case.

6 Don't take from anything that I do that I have an
7 opinion one way or the other on that subject. You see, the
8 law doesn't allow me an opinion on that subject, and I do
9 not have an opinion concerning how you determine the facts
10 in this case to be.

11 I will tell you, however, it's especially important
12 that you perform your duty of determining the facts in this
13 case diligently and conscientiously because under our system
14 of law, generally, there is no way that an erroneous
15 determination of facts made by a jury can be overturned at a
16 later date.

17 Now the same law that makes you the sole judges of the
18 facts makes me the sole judge of the law to be applied in
19 this case. The law as given to you at the close of the
20 trial by this Court is the only law that you may consider in
21 reaching a verdict under the oath that you have taken as
22 jurors.

23 You must accept the law as I give it to you, apply it
24 to the facts as you find them to be. That's true even
25 though you may disagree with the law or have some notion as

18

1 to what the law is or what the law ought to be. Those
2 notions and ideas should be left outside of the jury room.

3 You should accept the law as I give it to you and then
4 apply it to the facts as you find them to be. That should
5 put you in a position to render a just and a true verdict
6 under the law and the Constitution of this State.

7 Now until I advise you to begin your discussions and
8 deliberations concerning this case, I will tell you not to
9 discuss this case in any fashion with anyone, even among
10 yourselves. You've been selected as fair and impartial
11 jurors with an open mind concerning the issues that will
12 arise during this trial.

13 And I want you to keep that open mind throughout the
14 trial, throughout all of the arguments, throughout all of
15 the presentation of evidence, throughout my charge on the
16 law. And only when I tell you to begin your deliberations
17 should you begin to discuss the case among yourselves and
18 begin to make up your mind concerning the issues in this
19 case.

20 So, again, keep that open mind. Don't begin any
21 discussions because even the most innocent conversation that
22 you may have among yourselves based on partial evidence that
23 you may have heard up to some point in time in this trial,
24 that could begin to color your decision-making process
25 before you have all the information necessary for you to

1 make that decision.

2 And also as I told you when you left the courtroom
3 earlier, this past Wednesday, excuse me, past Tuesday, do
4 not attempt to gather any information concerning this case
5 from any other source because your oath is to decide the
6 case based on the evidence and the law. The only evidence
7 that you're going to hear during this trial is testimony of
8 witnesses who've been sworn to tell the truth who will be
9 testifying from this witness stand and whatever documents or
10 other evidence comes into the record of the case through
11 their testimony.

12 So, again, do not attempt to gather any information
13 during this trial from any source whatsoever. And don't
14 discuss the case until I've advised you to do that.

15 At the close of this trial it's going to be your solemn
16 responsibility to determine the guilt or the innocence of
17 the Defendant. And your decision must be based solely upon
18 the evidence that's presented during the trial.

19 Now as to that evidence, let me explain. When we begin
20 this trial, we're going to allow the attorneys to make
21 what's called an opening statement. They'll explain to you
22 their position of what, perhaps, what they expect to prove
23 during the trial of the case at that time. Then we'll have
24 the presentation of evidence.

25 And at the close of the evidence the attorneys will

1 again make an argument or statement, a closing argument or
2 statement. And they'll sum up the evidence from their
3 client's perspective that you've heard and tell you their
4 position concerning that evidence in the closing statements.

5 Statements made by the attorneys both at the beginning
6 of the trial and at the close of the evidence are not
7 evidence. They're not to be used directly by you in
8 determining the guilt or the innocence of the Defendant.

9 Again, the only evidence that you'll hear is the
10 testimony of witnesses who've been sworn to tell the truth
11 and testify from the witness stand and whatever comes into
12 the record through that testimony. So you have a right to
13 listen to the attorneys and to listen to their positions,
14 but that does not constitute evidence in the case.

15 Now during the trial I've told you that my job is to
16 rule on the appropriateness of questions or the
17 admissibility of evidence that may be presented to be
18 admitted. If during my discussions concerning those matters
19 or if in my consideration of the question I believe that a
20 discussion with the attorneys on those issues might involve
21 a discussion concerning some matter that's not admissible
22 and shouldn't be considered by you in your reaching your
23 verdict, I may ask you during those occasions to step out of
24 the courtroom while I have those discussions with the
25 lawyers.

1 Again, I'll caution you, don't take from the fact that
2 I've asked you to step out of the courtroom that I have an
3 opinion one way or the other as to how you determine the
4 facts in this case. It's simply me doing my job to see to
5 it that you decide the case solely upon evidence that's
6 properly admitted under the rules and the laws that govern,
7 the operation of our courts.

8 So I'll have that discussion with the attorneys outside
9 of your presence. I'll make a ruling on whatever issue that
10 is. We'll ask you to step back into the courtroom. And at
11 that time I'll announce my ruling and we'll proceed.

12 But, again, don't take from the fact that I've asked
13 you to step out of the courtroom, again, that I have any
14 opinion about the facts in this case. It's just me doing my
15 job concerning the evidence that's to be presented during
16 the trial.

17 Now in determining the facts of the case, it's going to
18 be your job, ladies and gentlemen, to determine the
19 credibility or believability of the witnesses who testify.
20 Credibility means simply that, believability. And I will
21 tell you to use your own good common sense in that process.

22 Every day you make common sense decisions as to what
23 you choose to believe and what you choose not to believe.
24 And this trial will be no different in that you have the
25 right to make those decisions concerning the evidence and

1 testimony that you hear in this case.

2 You have the right to believe one witness against all
3 the others who testify. As the sole judges of the facts you
4 can believe all against one. As the sole judges of the
5 facts you have the right to believe all of what a witness
6 tells you, part of what a witness tells you or none of what
7 a witness tells you.

8 You're the sole judges of the facts. So, therefore,
9 you also are the sole judges of the credibility and
10 believability of the witnesses who will testify in this
11 case. So I'm going to caution you, try not to let your
12 thoughts wander during the process. Try to pay close
13 attention.

14 I'll take breaks from time to time to let you refresh
15 yourself, and stretch your legs and get your mind off the
16 subject for a little bit. But try to pay attention because
17 it's going to be your responsibility at the close of the
18 trial to listen -- to listen carefully and be able to
19 discuss the testimony with the other jurors that are in the
20 case.

21 Now I believe I've had a question concerning the
22 ability to take notes. The bailiff indicated that you are
23 asking whether you have the right to do that. I will allow
24 you to take notes in the case, however, I will have
25 instructions concerning the use of those notes at the close

1 of the trial.

2 The reason I'll have instructions is because people
3 don't always take complete notes. They don't always take
4 everything down that's being said. And so those notes will,
5 generally in my instructions, will be used to refresh your
6 memory and not as a tool to try to influence other jurors'
7 memories. They have a right to remember the case as they
8 remember it.

9 So I'll allow you to take notes, but those are only for
10 your purposes and your use only. And I'll explain that to
11 you more fully at the close of the trial.

12 Now you have a right to consider everything that's in
13 the record of the case. So, again, you have a right to
14 observe the witnesses, how they testify. You can consider
15 whether or not a witness has a stake in the outcome of the
16 case, whether or not a witness has a bias or prejudice one
17 way or the other, whether or not you believe the witness
18 actually had the ability to know the facts about which that
19 witness testifies.

20 You'll observe them as they testify, the way they
21 speak, how they deliver their testimony. Again, use your
22 own good common sense and take any factors that you think
23 are reasonable into consideration in making a determination
24 as to credibility and believability of the witnesses in this
25 case.

1 Now, you may think that the Judge has forgotten to
2 appoint a foreperson of the jury. I haven't forgotten that
3 because I don't do that until the close of the trial. I
4 know on television they appoint the foreman at the
5 beginning. I do that once I've had a chance to observe the
6 jury and observe the trial as it goes along.

7 I will tell you now, however, the foreperson has no
8 greater say in the outcome of this case than any single
9 juror who's sitting on the jury. The foreperson is simply
10 the person who writes notes to the Court, if that's
11 necessary, during your deliberation. They record the
12 verdict once it's reached. And, of course, they will
13 preside over the deliberations of the jury.

14 But your verdict at the close of the trial must be
15 unanimous. That means each and every one of you have to
16 agree upon the verdict before a verdict can be reached in
17 the case. So the foreperson has no greater say in the
18 outcome of the case.

19 And so I like for everybody to consider they might be
20 the foreperson during the trial before I appoint that
21 person. So I'll do that at the close of the trial when I
22 charge you concerning the law.

23 I want to be sure that I haven't violated anyone's
24 rights in my opening comments to you. Any objection from
25 the State?

1 MR. BULSA: No, Your Honor.

2 THE COURT: Any objection from the Defense?

3 MS. PRICE: No, Your Honor.

4 THE COURT: All right. Ladies and gentlemen, I'm going
5 to -- if you're going to be taking notes I'm going to take a
6 short break. I'll allow you to step back into the jury
7 room. If you need paper or pencil, let the bailiffs know.
8 They will make that available to you if you need that.

9 So we'll take a short break. And, again, as I always
10 will do when you leave the courtroom, don't begin any
11 discussions about this matter until I've advised you to do
12 so. We'll take a short break. You can step back to the
13 jury room. Thank you very much.

14 (Whereupon the jury exited the courtroom at 9:35 am)

15 THE COURT: All right. I'm going to stay on the bench.
16 We'll be in recess until the bailiffs tell us we're ready to
17 proceed.

18 (Whereupon court was in recess at 9:36 am)

19 (Whereupon State's exhibits 1 - 22 were marked for
20 identification)

21 (Whereupon court resumed at 9:46 am)

22 THE COURT: All right. We're about to begin the trial
23 of the case. I am going to caution -- there's a right good
24 many spectators here. I will caution you that reactions to
25 testimony, shaking of heads, nodding, things of that nature

1 are not tolerated in the court. So if you're going to be
2 here, you just need to sit quietly and observe.

3 If I appear that you -- if it appears to me that you're
4 trying to influence the jury by any type of demonstration or
5 motions during testimony or comments that are audible, I
6 will either hold you in contempt of court, if that occurs,
7 or remove you from the courtroom. So you're welcome to be
8 here as long as you can sit quietly, observe and not attempt
9 to participate in the trial. All right. At this time,
10 bring the jury in.

11 (Whereupon the jury entered the courtroom at 9:47 am)

12 THE COURT: All right. The record will reflect the
13 jury has returned to the courtroom. I will make you aware
14 of one thing. There's no assigned seating for you folks.
15 So as you come and go, you're welcome to sit in any seat,
16 except for you, sir, you're the alternate. You'll be in
17 that chair at all times. All right.

18 As I indicated to you, the Defendant has pled not
19 guilty to the indictment. And that places the burden of
20 proof upon the State. For that reason, the State is allowed
21 to go first in its arguments at the beginning of the trial,
22 also first in the presentation of evidence. So at this time
23 the State has the right to begin with the opening statement.
24 Mr. Bulsa, you may proceed for the State.

25 MR. BULSA: Thank you, Your Honor.

OPENING STATEMENTS - MR. BULSA

27

1 THE COURT: Yes, sir.

2 MR. BULSA: Good morning, ladies and gentlemen.

3 THE JURY: Good morning.

4 MR. BULSA: I also appreciate your time in the search
5 of justice, justice for Iris Rhinehart. Iris was also known
6 by Tina. She was a twenty-nine year old lady. She died
7 brutally on June 23rd of 2000.

8 This is an old case. You'll hear why it was so old.
9 It became a who done it? Nobody could -- there were little
10 leads as to what occurred. The police got a break in 2008,
11 which led to the charges against Mr. Johnson.

12 Ms. Rhinehart was found brutally murdered in some woods
13 behind -- it's Kapasi Glass Mart right now. It's the old
14 Community Cash on East Main Street, or excuse me, West Main
15 Street. You'll see a diagram. It's actually less than a
16 mile from the courthouse.

17 There were some woods back behind there. There was an
18 alleyway. And in the woods there was a gathering where
19 people often went back to do different things. She was
20 found in the shadows of that opening. You'll hear from some
21 family and friends about what occurred, how she might have
22 came to be there that evening.

23 The police responded shortly before midnight on June
24 the 23rd, very dark, searched for her body, found it. And
25 they will testify as to the collection of various pieces of

OPENING STATEMENTS - MR. BULSA

28

1 evidence from that scene.

2 Ms. Rhinehart, I'll tell you, unfortunately, she was a
3 prostitute. There were some issues that she had in her
4 life, but she did not deserve this death. No one does.
5 We're here seeking justice.

6 The Court acknowledged the oath you took just as I took
7 one. We're here seeking the truth. And that's what I ask
8 of you. Keep an open mind, listen to the witnesses and to
9 the evidence.

10 There'll be a number of pictures shown to help you
11 understand the scene and the process that took place to
12 identify the Defendant. There will also be a number of
13 people to establish the blood evidence that links Mr.
14 Rhinehart [sic] to the crime.

15 So it's not going to be like -- it's going to be like
16 Judge Couch says, it's not going to always be entertaining.
17 This kind of law is always interesting, but there are some
18 things that we've got to go through to present the evidence
19 to you. So keep an open mind.

20 This case will not last that long, but it is important.
21 It's a serious matter for both the Defendant as well as the
22 victim's family. Ms. Rhinehart was someone's daughter, she
23 was someone's mother, she was someone's sister. She was a
24 human being, and she did not deserve to die like this.

25 She had over fifty wounds, ladies and gentlemen, mostly

OPENING STATEMENTS - MS. PRICE

29

1 about her face and arms and hands. And she tried to fend
2 off her attacker. We submit to you at the front of this
3 case her attacker got cut himself in the altercation, left
4 his blood at the scene. And that is how he was identified
5 thanks to science. And that attacker, I submit, is Mr.
6 Fredrick Johnson. Thank you.

7 THE COURT: Ms. Price, for the Defense, you may
8 proceed.

9 MS. PRICE: Thank you, Your Honor. We met earlier on
10 Tuesday afternoon, but my name is Andrea Price. And I'm Mr.
11 Johnson's counsel.

12 And first of all, I'd like to apologize to you. I've
13 had for about two weeks hanging around some allergy, cough-
14 type symptoms that unfortunately are still with me. A lot
15 better now, but if I could make my paycheck last as long as
16 this has been hanging with me, I'd be okay.

17 Mr. Bulsa and I do agree on one thing today. We would
18 like to thank you for your service here today. And Mr.
19 Bulsa and I have a little bit different role than y'all
20 have. We've looked at this case. As you can see, we both
21 have lots of notebooks, lots of papers having to do with
22 this case, but because we're in adversarial roles, that's
23 where we turn it over to you. Y'all are the ones that are
24 going to find the facts of this case.

25 It's an awesome responsibility to have the

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

30

1 responsibility of somebody's future in your hands like
2 you've got for Mr. Johnson. We would just ask that you pay
3 close attention and render a just verdict in this case.
4 Thank you.

5 THE COURT: Mr. Bulsa, the State may call its first
6 witness.

7 MR. BULSA: The State calls Robin Forrest.

8 THE COURT: Come forward, please, ma'am, to my left and
9 be sworn.

10 Robin Forrest, being duly
11 sworn testified as follows:

12 THE COURT: Have a seat, please, ma'am, in the witness
13 stand. And once seated, I'll ask that you state your name.

14 MS. FORREST: Robin Forrest.

15 THE COURT: Mr. Bulsa, it's your witness.

16 MR. BULSA: Thank you.

17 **Direct Examination by Mr. Bulsa:**

18 Q. Ms. Forrest, who are you employed by?

19 A. Spartanburg County Coroner's Office.

20 Q. How long have you been with the Coroner's Office?

21 A. Approximately nine years.

22 Q. And what is your role with the Coroner's Office?

23 A. Chief investigator.

24 Q. Were you working with them back in June of 2000?

25 A. Yes, sir.

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. So you've been in there at least ten years?
- 2 A. Yes, sir.
- 3 Q. Do you recall going to a scene on June 23rd of 2000?
- 4 A. Yes, sir.
- 5 Q. Could you kind of orient the jury as to where you would
- 6 have responded to?
- 7 A. It's -- if you're on Main Street, there's Kapasi Glass
- 8 now. And right behind Kapasi Glass there's a small street,
- 9 York Street, I believe is what it's called. And just behind
- 10 York Street there's a wooded area, little tiny patch of
- 11 wooded area. And we parked our cars right outside of --
- 12 right off of York Street and we went down into this wooded
- 13 area.
- 14 Q. Okay. Was someone there to meet y'all to show you
- 15 where to go into the woods?
- 16 A. Yes, sir. There was a crime scene log that had already
- 17 been established right there at York Street.
- 18 Q. And why would you have responded to the scene?
- 19 A. They had already located Ms. Rhinehart's body.
- 20 Q. Okay. The Coroner responds to deaths, suspicious
- 21 deaths?
- 22 A. That's correct.
- 23 Q. Okay. So then your role is to do what?
- 24 A. With the Coroner's Office our -- my job or our job is
- 25 to establish cause of death, was it -- the medical reason

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

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1 that someone dies and then the manner of death, which would
2 be accident, homicide, suicide or natural death.

3 Q. Did you go into the woods to see the body?

4 A. Yes, sir.

5 Q. Could you describe what the wooded area was like?

6 A. It was -- well, it was in, you know, the Summer months.
7 And so it was very dense and thick.

8 Q. A lot of vegetation?

9 A. Yes, sir.

10 Q. Was there a clearing inside the woods?

11 A. Yes, sir, there was.

12 Q. Did it appear to be a place where people gathered?

13 A. Yes, sir.

14 Q. Was Ms. Rhinehart's body in that clearing area?

15 A. It was just off from that clearing area.

16 Q. Okay. How was the lighting in that area?

17 A. You could not see without a flashlight.

18 Q. Okay. Did you observe the body while on the ground?

19 A. Yes, sir, I did.

20 Q. Okay. And what state was she in when she was found?

21 Describe how she was positioned.

22 A. She was lying -- we call it prone. She was lying on
23 her -- on her stomach when she was initially found.

24 Q. And was she rolled over onto her back at the scene?

25 A. Yes, sir.

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. And did you see any wounds to her?
- 2 A. She had a tremendous amount of wounds.
- 3 Q. About what part of her body?
- 4 A. Most of her wounds were to the -- to the upper portion
- 5 of her body, I would say the head, and her arms and hands.
- 6 Q. And how long did you stay on the scene?
- 7 A. If I remember correctly, I arrived at, I want to say,
- 8 approximately ten. And I think I left around four am.
- 9 Q. This would have been 10:00 in the evening, June the
- 10 23rd?
- 11 A. Yes, sir.
- 12 Q. And you stayed into Saturday or into the next morning,
- 13 which would have been ---
- 14 A. That's correct.
- 15 Q. --- the 24th?
- 16 A. Um-hum (affirmative).
- 17 Q. Okay. And did you oversee the removal of the body?
- 18 A. That's correct.
- 19 Q. Where did Ms. Rhinehart's body -- where was it taken?
- 20 A. To Spartanburg Regional Memorial.
- 21 Q. Was an autopsy conducted on the body?
- 22 A. Yes, sir, it was.
- 23 Q. Was her clothing still on her when she was at the
- 24 morgue?
- 25 A. Yes, sir.

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

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1 Q. And how was that taken off?

2 A. Dr. Wren, our pathologist, that conducts autopsies for
3 us, he's our forensic pathologist, it's our policy that
4 everything remains intact with -- with the decedent until he
5 has the opportunity to remove it during an autopsy so that
6 he can see the damages that are done. He likes to compare
7 where each -- like, for instance, Ms. Rhinehart was stabbed
8 numerous times. And so he could see -- compare those wounds
9 with the clothing and that kind of thing. So ---

10 Q. If there are any defects to the body, he could compare
11 them to the ---

12 A. With the clothing.

13 Q. To the clothing.

14 A. Yes, sir.

15 Q. Okay. All right. Now the clothing would have been
16 turned over to the police for collection of evidence?

17 A. The agency that is responding, yes, sir. And that
18 would be Spartanburg Public Safety Department.

19 Q. Now was Ms. -- did Dr. Wren collect any blood samples
20 from Ms. Rhinehart?

21 A. Yes, sir, he did.

22 Q. What -- what was done with that blood?

23 A. It was secured into the refrigerator at the morgue.

24 Q. And what would have been done with it after it was in
25 the refrigerator?

ROBIN FORREST - DIRECT EXAMINATION BY MR. BULSA

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1 A. At that point we have a -- one of the investigators
2 that handles transporting blood to and from -- to SLED,
3 packaging it up. And that -- at that time that was Dwayne
4 Corn, Jay Dwayne Corn, for our office. He -- he would come
5 once or twice a week, unlock that refrigerator and start a
6 blood log on that blood and he would package it up into --
7 they'd go into these special boxes that are provided by
8 SLED. Each individual sample goes in a certain box by
9 itself. And he packages it up and sends it off to SLED.

10 Q. Okay. So that is to ensure that there's no tampering
11 with the blood?

12 A. Right. Right. It's sealed with evidence tape and
13 mailed off to SLED.

14 Q. And is SLED called the South Carolina Law Enforcement
15 Division?

16 A. Yes, sir.

17 Q. And they're in Columbia?

18 A. Yes, sir.

19 Q. And they assist with certain matters of investigation?

20 A. Yes, sir. They provide us our toxicology reports.

21 Q. All right. Now was Ms. Rhinehart readily identifiable?

22 A. No, sir. Her -- the extent of her wounds were so
23 severe. She had -- I can't remember exactly how many, but I
24 want to say at least upwards of twenty-eight stab wounds and
25 gashes of her face that she was not visibly recognizable.

ROBIN FORREST - CROSS EXAMINATION BY MS. PRICE

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1 Q. Had she started to decompose?

2 A. Yes, sir. Yes. She had what we consider early decomp.

3 Q. So how was she identified?

4 A. The forensic technician on scene had rolled her
5 fingerprints before her body was removed from the scene.

6 And he ran her prints at ---

7 Q. So she was identified by her fingerprints?

8 A. Her fingerprints, yes, sir.

9 Q. Okay. And did you have any contact with the family?

10 A. Yes, sir. I -- that's part of what we have to do is
11 meet with the families and talk with them and get some
12 demographic information from them. And I remember that -- I
13 believe her name was Ms. Ida Mae. She -- I met with her and
14 some of the brothers and sisters.

15 Q. So Ida Mae was the mother?

16 A. The mother.

17 Q. Of course you didn't know who to contact until you
18 actually had the identification?

19 A. Right. Right.

20 Q. Thank you, Ms. Forrest. Answer any questions Ms. Price
21 may have for you.

22 THE COURT: Ms. Price, your witness.

23 **Cross Examination by Ms. Price:**

24 Q. Ms. Forrest, when you arrived at this scene on Forest
25 Street and you described this seating type area in the

ROBIN FORREST - CROSS EXAMINATION BY MS. PRICE

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1 woods, is that right?

2 A. Yes, ma'am.

3 Q. And that it was -- at the time it was littered with
4 some -- there was a lot of foliage, but there was also a lot
5 of man-made type items, right?

6 A. Yes, ma'am.

7 Q. And that those were Coke crates?

8 A. Yes, ma'am, there were some.

9 Q. And blankets?

10 A. Yes, ma'am.

11 Q. A bunch of empty bottles, cans, that type of thing?

12 A. Yes, ma'am.

13 Q. Some of those cans, in fact, had been used, indicated
14 they'd been converted to pipes for smoking crack cocaine, is
15 that right?

16 A. Yes, ma'am.

17 Q. So there was an indication there was a lot of activity
18 in this particular area where Ms. Rhinehart's body was
19 found?

20 A. Yes, ma'am.

21 Q. Okay. That's all I have. Thank you.

22 THE COURT: Redirect?

23 MR. BULSA: Nothing on redirect.

24 THE COURT: Ma'am, you may step down.

25 MR. BULSA: I ask that she be excused.

MELISSA KELLY - DIRECT EXAMINATION BY MR. BULSA

38

1 THE COURT: Any objection to this witness being
2 excused?

3 MS. PRICE: None.

4 THE COURT: Ma'am, you're free to go. Thank you very
5 much.

6 MR. BULSA: I call Melissa Kelly.

7 THE COURT: Come forward, please, ma'am. Step up here
8 to my left to be sworn, please.

9 Melissa Kelly, being duly
10 sworn testified as follows:

11 THE COURT: Have a seat, please. State your name for
12 the record.

13 MS. KELLY: Melissa Holbrook Kelly.

14 THE COURT: Mr. Bulsa, your witness.

15 Direct Examination by Mr. Bulsa:

16 Q. Ms. Kelly, I know this is difficult for you, but please
17 speak up for us, okay? What is your relationship with Ms.
18 Rhinehart?

19 A. She's my sister.

20 Q. And how old was she when she died?

21 A. Twenty-nine.

22 Q. And give us her full name, if you would.

23 A. Iris Denise Rhinehart.

24 Q. What did people call ---

25 A. Known as Tina.

MELISSA KELLY - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. Known as Tina?
- 2 A. (Affirmative nod).
- 3 Q. How often did you see your sister?
- 4 A. Two or three times a week.
- 5 Q. Where did she live?
- 6 A. Sometimes with me. Sometimes with her friend, Deloris
- 7 Martin.
- 8 Q. Did she have any children?
- 9 A. Two.
- 10 Q. How old were they when she passed?
- 11 A. Sixteen and fifteen.
- 12 Q. Where were they living?
- 13 A. One was living in Georgia and one was living with me.
- 14 Q. And where did you live back then?
- 15 A. In
- 16 Q. Is that in Spartanburg?
- 17 A. Yes.
- 18 Q. I mentioned it in my opening statement, but do you know
- 19 how she spent her days?
- 20 A. I mean, some days she would be home with me and some
- 21 days she would be out doing what she do.
- 22 Q. Did y'all approve of what she was doing?
- 23 A. No, we did not.
- 24 Q. Did she have some substance abuse problems?
- 25 A. Yes.

MELISSA KELLY - DIRECT EXAMINATION BY MR. BULSA

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1 Q. So you didn't always know where she would be?

2 A. No.

3 Q. Do you remember the day she was found?

4 A. I do.

5 Q. And in looking back at that day did you recall having
6 actually seen her shortly before she would have been killed?

7 A. I seen her Thursday at one am.

8 Q. Okay. Thursday evening would have been June the 22nd?

9 A. Well, Friday morning, one am.

10 Q. So it would have been June the 23rd?

11 A. 3rd.

12 Q. Thursday evening, Friday morning. Okay. You said
13 around one am?

14 A. Um-hum (affirmative).

15 Q. All right. And where were you when you saw her?

16 A. At a poker machine on Howard Street.

17 Q. And was she with anyone?

18 A. She was with a white female.

19 Q. Did you know who that was?

20 A. No, I do not.

21 Q. Did you speak with her then?

22 A. Yes, I did.

23 Q. Tell us what your conversation was about.

24 A. I said, hi. And then she asked me for money. And I
25 didn't give it to her 'cause I knew she was going to do

MELISSA KELLY - DIRECT EXAMINATION BY MR. BULSA

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- 1 drugs.
- 2 Q. Did you see which way she went when she left?
- 3 A. No, I did not.
- 4 Q. How close is the Li'l Cricket where you were playing
- 5 the machines to where her body was found?
- 6 A. Maybe four blocks.
- 7 Q. And you said she sometimes stayed with Barbara Martin?
- 8 A. Deloris Martin.
- 9 Q. I'm sorry, Deloris Martin. Did Deloris live nearby?
- 10 A. Yes.
- 11 Q. What street was she on? Do you remember the street?
- 12 A. Maybe
- 13 Q. ?
- 14 A. A couple of blocks from where she was.
- 15 Q. Okay. Did she drive?
- 16 A. No.
- 17 Q. How did she get most places?
- 18 A. Walk or catch a ride with someone.
- 19 Q. So this was the -- that was the last time you saw her
- 20 alive?
- 21 A. Yes.
- 22 Q. Was about 1:00 Friday morning?
- 23 A. (Affirmative nod).
- 24 Q. What was her -- how did she appear to you at that time?
- 25 A. She appeared fine.

MELISSA KELLY - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Do you remember what she might have had on?

2 A. I don't.

3 Q. Do you remember if she was wearing sandals or ...

4 A. I don't.

5 Q. You don't remember? Okay. Did she carry a purse?

6 A. No.

7 Q. Did not carry a purse.

8 A. (Negative nod).

9 Q. Was she in relatively good health?

10 A. Yes.

11 Q. Was she a strong lady?

12 A. Yes.

13 Q. You think she might have tried to defend herself if
14 attacked?

15 A. I know she did.

16 Q. Thank you, Ms. Kelly. Answer any questions Ms. Price
17 may have for you.

18 THE COURT: Ms. Price, your witness.

19 MS. PRICE: I don't have any questions for Ms. Kelly.

20 THE COURT: Ma'am, you may step down. Thank you very
21 much. The State may call its next witness.

22 MR. BULSA: The State calls Ms. Deloris Ann Cohen or
23 Martin.

24 THE COURT: Come forward, please, ma'am. Come over
25 here to my left to be sworn. Thank you.

DELORIS COHEN - DIRECT EXAMINATION BY MR. BULSA

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1 Deloris Cohen, being duly
2 sworn testified as follows:

3 THE COURT: Ma'am, have a seat in the witness stand.
4 State your name, please.

5 MS. COHEN: Deloris Ann Martin Cohen.

6 THE COURT: Mr. Bulsa, your witness.

7 MR. BULSA: Thank you, sir.

8 Direct Examination by Mr. Bulsa:

9 Q. Ms. Cohen, where do you live?

10 A. -- wait a minute. That's where
11 I live at.

12 Q. Street?

13 A. Um-hum (affirmative).

14 Q. Is that where you lived back in 2000?

15 A. Yes, sir.

16 Q. Do you live there by yourself?

17 A. Me and my baby sister.

18 Q. Did you know Ms. Rhinehart?

19 A. Yes. She was a good friend of mine.

20 Q. What name did you call her?

21 A. Tina.

22 Q. Did you see her often?

23 A. Yeah, seen her a lot.

24 Q. Would she sometimes stay with you?

25 A. Yeah. When she came from her sister's house she would

DELORIS COHEN - DIRECT EXAMINATION BY MR. BULSA

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1 come down to my house and stay.

2 Q. Would you sometimes give her things to wear?

3 A. Yes, I would.

4 Q. Do you remember the night she died?

5 A. She came by my house about -- between twelve and 12:30
6 and she asked me did I have any -- I told her to go in there
7 and fix her a sandwich. She asked me for a change of
8 clothes. I said, well, go and look in the drawer and get
9 you something out to wear.

10 And I asked where she was getting ready to go. She
11 said she was going to get her some money. And I told her
12 she needed to stop that. And that's the last time I seen
13 her.

14 Q. Okay. Slow down a little bit. You went kind of fast
15 there. This twelve or 12:30, was that midnight?

16 A. Yeah, midnight.

17 Q. Okay. That would have been the same evening that Ms.
18 Kelly saw her?

19 A. Most likely, yes.

20 Q. Okay. Was she walking?

21 A. Yes, she was walking.

22 Q. Was she with anybody at the time you saw her?

23 A. She was by herself.

24 Q. She got something to eat.

25 A. Um-hum (affirmative).

DELORIS COHEN - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. And she told you she was going to get some money.
- 2 A. Yes, sir.
- 3 Q. What did you take that to mean?
- 4 A. Well, I guess, you know, everybody got to pay her. So
- 5 I guess she went to do what she had to do.
- 6 Q. Was that to prostitute?
- 7 A. I guess so.
- 8 Q. Okay. Did you try to convince her that she needed to
- 9 stop ---
- 10 A. Yeah, I tried to get her to stay there with me, but,
- 11 you know, whatever Tina wanted to do, she did it.
- 12 Q. Did she leave out walking?
- 13 A. Yes, she left walking.
- 14 Q. Did you see which direction she went?
- 15 A. She went down toward Li'l Cricket.
- 16 Q. Do you remember what she was wearing?
- 17 A. She was wearing -- I think she got my green -- green
- 18 flower short set, if I'm not mistaken.
- 19 Q. Was she wearing white sandals?
- 20 A. I think she was. I really didn't pay no attention to
- 21 her feet 'cause it was dark. I was sitting on the porch.
- 22 And I told her to go on in the house and get what she
- 23 wanted.
- 24 Q. Do you know if she had any money?
- 25 A. Not that I know of.

DELORIS COHEN - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Okay. Because she said she was going to go get some
2 money?

3 A. Yes.

4 Q. Did she carry a purse?

5 A. No, she never -- no, she didn't carry no purse.

6 Q. Do you know if she carried a knife?

7 A. Yeah, she carried a knife.

8 Q. Do you know what kind of knife?

9 A. I believe it might be a straight razor or -- basically
10 a little straight razor.

11 Q. Maybe a silver blade?

12 A. Uh-huh (affirmative).

13 Q. Where would she carry that?

14 A. She -- most likely she'd put it in her bra. If she had
15 a pocket, she'd put it in her pocket.

16 Q. Was that the last time you saw her?

17 A. It's the last time I seen her.

18 Q. Thank you, ma'am. Answer any questions Ms. Price may
19 have.

20 THE COURT: Ms. Price, your witness.

21 MS. PRICE: I have no questions for Ms. Cohen.

22 THE COURT: Ma'am, you may step down. Thank you very
23 much. The State may call its next witness.

24 MR. BULSA: The State calls Anna Bell Jeter.

25 THE COURT: Come forward, please, to be sworn, to my

ANNA BELL JETER - DIRECT EXAMINATION BY MR. BULSA

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1 left.

2 Anna Bell Jeter, being

3 duly sworn testified as follows:

4 THE COURT: Have a seat, please. State your name.

5 MS. JETER: Anna Bell Jeter.

6 THE COURT: Thank you. Mr. Bulsa, your witness.

7 MR. BULSA: Thank you, Your Honor.

8 Direct Examination by Mr. Bulsa:

9 Q. Ms. Jeter, ---

10 A. Yes, sir.

11 Q. --- do you remember Ms. Rhinehart?

12 A. Yes, sir.

13 Q. How well did you know her?

14 A. She was a good friend of mine's.

15 Q. Did you hang out with her?

16 A. Yes, I did.

17 Q. Do you know where she lived?

18 A. No, not exactly.

19 Q. Tell us what her lifestyle was like.

20 A. Well, me and Tina, we hung out mostly every night. And
21 we did what we had to do out on the streets when we was out
22 there. But Tina was a good girl. She didn't bother nobody.
23 She didn't. She really, truly didn't. She didn't bother
24 nobody.

25 Q. Are you familiar with where she was found?

ANNA BELL JETER - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. No, sir.
- 2 Q. Do you know if she walked the area near Forest Street?
- 3 A. Yes, me and her both.
- 4 Q. Okay. When did you learn that she had died?
- 5 A. I didn't even know she was dead.
- 6 Q. Because you were out of town?
- 7 A. Yes, I did, I went out of town, but I didn't know she
- 8 was dead though.
- 9 Q. I know -- I know that. But when did you actually
- 10 learn, when you came back?
- 11 A. Yes.
- 12 Q. Did Ms. Rhinehart ever carry a knife of some sort?
- 13 A. Yes, she did.
- 14 Q. And why would she carry a knife?
- 15 A. I guess for protection.
- 16 Q. Do you carry one?
- 17 A. I toted one too. Yes, I did.
- 18 Q. When you're out on the street, you carry one?
- 19 A. Yes.
- 20 Q. Thank you. Answer any questions ---
- 21 A. Okay.
- 22 Q. --- Ms. Price has.
- 23 THE COURT: Ms. Price, your witness.
- 24 MS. PRICE: I don't have any questions for Ms. Jeter.
- 25 THE COURT: Ma'am, you may step down. Thank you very

MICHAEL MILLER - DIRECT EXAMINATION BY MR. BULSA

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1 much. Mr. Bulsa, you may call your next witness.

2 MR. BULSA: Michael Miller.

3 THE COURT: Come forward, sir, to my left to be sworn.

4 Michael Miller, being
5 duly sworn testified as follows:

6 THE COURT: Have a seat, please. State your name,
7 please.

8 MR. MILLER: Michael Anthony Miller.

9 THE COURT: Mr. Bulsa, your witness.

10 Direct Examination by Mr. Bulsa:

11 Q. Hey, Mr. Miller. Where do you live, sir?

12 A.

13 Q. Do you live with anybody?

14 A. Me and my old lady.

15 Q. How old are you?

16 A. Forty-nine -- forty-eight.

17 Q. Do you remember back June of 2000?

18 A. Yes, sir.

19 Q. Do you remember being in the area off of York Street?

20 A. Yes, sir.

21 Q. Could you describe that area to us?

22 A. It's wooded, a lot of cans, bottles and debris.

23 Q. Were there some crates back in there?

24 A. Yes, sir.

25 Q. Did you go in there often?

MICHAEL MILLER - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. Every so often.
- 2 Q. And why would people go in there?
- 3 A. You know, to get -- smoke crack, drink beer, do what
- 4 they got to do.
- 5 Q. Okay. So it's kind of a place people hung out?
- 6 A. Yes, sir, every once in a while.
- 7 Q. It's actually not far from here, is it?
- 8 A. No, sir.
- 9 Q. Sort of a patch of woods in the middle of town?
- 10 A. Yes, sir.
- 11 Q. Is it -- what time of day would you usually go out
- 12 there?
- 13 A. I usually go out there when I get off from work or
- 14 something like that, five or 6:00 in the evening.
- 15 Q. Okay. And how long would you usually stay?
- 16 A. About thirty-five, forty-five minutes.
- 17 Q. Okay. Do you remember anything particular about June
- 18 the 23rd, 2000?
- 19 A. No, sir, not really.
- 20 Q. Do you remember finding somebody?
- 21 A. Yes, sir.
- 22 Q. Describe for the jury what -- how you found that
- 23 person.
- 24 A. I was leaving out, fixin' to go -- fixin' to go get me
- 25 another beer 'cause I was fixin' to go to the house. So I

MICHAEL MILLER - DIRECT EXAMINATION BY MR. BULSA

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1 just -- so I smelled the odor and I seen a lot of flies to
2 my left on the ground after I was leaving. So I looked that
3 way and there's a body laying over there in the woods.

4 Q. Okay. And could you tell if it was a male or female?

5 A. I know it was a female. Yes, sir.

6 Q. Did you go touch the body ---

7 A. No, sir. I stayed right there where I was at. I was
8 just trying to figure out who it was.

9 Q. And how close was the body to the clearing area where
10 you were?

11 A. About from here to that lady right there.

12 Q. How is it that you didn't see it -- see her when you
13 walked in?

14 A. I don't know, sir.

15 Q. Is there a lot of brush?

16 A. No, sir, not really.

17 Q. Is it kind of -- is there a lot of shadows?

18 A. Yes, sir.

19 Q. And she -- what kind of -- was she wearing dark
20 clothing?

21 A. Yes, sir, I think so.

22 Q. Do you remember how she was laying?

23 A. She was laying on her stomach.

24 Q. Did you know who she was?

25 A. No, sir.

MICHAEL MILLER - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. What did you do when you found out or when you saw her?
- 2 A. I went and got me a beer and -- I was in shock. I was
- 3 in shock because I didn't know who it was.
- 4 Q. Did you tell somebody?
- 5 A. Yes, sir.
- 6 Q. Who?
- 7 A. I went and told this guy at the horseshoe pit, and I
- 8 went home and told my brother.
- 9 Q. And why didn't you call the police?
- 10 A. I didn't want to get involved. I kind of figured I
- 11 didn't know who it was. So I thought it might have been one
- 12 of my sisters or something. So I just had to tell somebody.
- 13 Q. All right. And your brother was who?
- 14 A. Frankie Miller.
- 15 Q. And did he tell the police?
- 16 A. Yes, sir.
- 17 Q. All right. And did the police question you about this?
- 18 A. Yes, sir, later on that night.
- 19 Q. Did you tell them what you told us?
- 20 A. Yes, sir.
- 21 Q. Did they think you might have had something to do with
- 22 it?
- 23 A. Yes, sir.
- 24 Q. Did you?
- 25 A. No, sir.

MICHAEL MILLER - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Did you ever find out who it was?

2 A. Yes, sir. I found out that night.

3 Q. Okay. And who did you learn it was?

4 A. I think the officer ---

5 MS. PRICE: Objection, Your Honor.

6 THE COURT: What's the objection?

7 MS. PRICE: The objection is is that he's not laid a
8 proper foundation for this client's testimony as to quote,
9 unquote, who this is.

10 THE COURT: It may elicit hearsay as well. So I'm
11 going to sustain the objection.

12 Q. Do you know Iris Rhinehart?

13 A. Yes, sir.

14 Q. How?

15 A. She stayed -- she stayed with Ms. Johnson, which I
16 stayed -- when I stayed at north side. So I met her through
17 her -- through her. She used -- I think that's her niece or
18 something like that.

19 Q. You said Ms. Johnson's niece?

20 A. Yes, I think so.

21 Q. And you knew her from over ---

22 A. Yes, sir, from the north side.

23 Q. From the north side?

24 A. Yes, sir.

25 Q. Is she related to you in any way?

MICHAEL MILLER - CROSS EXAMINATION BY MS. PRICE

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1 A. I think so. I'm not sure.

2 Q. Okay. Did you have any dealings with her in the past?

3 A. No, sir.

4 Q. She somebody you would recognize if you'd seen her
5 face?

6 A. Yes, sir.

7 Q. The person that you saw was lying face down?

8 A. Laying face down, yes, sir.

9 Q. So you couldn't tell who it was?

10 A. No, sir, I couldn't.

11 Q. All right. Thank you, sir. Answer any questions Ms.
12 Price has.

13 THE COURT: Ms. Price, your witness.

14 Cross Examination by Ms. Price:

15 Q. Good morning, Mr. Miller.

16 A. Good morning.

17 Q. When you were sitting -- when you were sitting in this
18 clearing area behind Kapasi, about what time of day was it,
19 if you remember?

20 A. About 6:00, six or 7:00.

21 Q. Six or 7:00 at night?

22 A. In the evening, yes, sir. Yes, ma'am.

23 Q. Okay. And after you saw Ms. Rhinehart's body in the
24 clearing you didn't call the police right away, did you?

25 A. No, sir. No, ma'am.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 Q. You went to the store and bought another beer, is that
2 right?

3 A. Yes, ma'am.

4 Q. And, in fact, it was your brother that called the
5 police?

6 A. Yes, ma'am.

7 Q. And that was several hours later, is that right?

8 A. Yes, ma'am.

9 Q. Okay. That's all I have.

10 THE COURT: Redirect.

11 MR. BULSA: None, Your Honor.

12 THE COURT: Sir, you may step down. Thank you very
13 much.

14 MR. MILLER: You're welcome.

15 THE COURT: You may call your next witness, Mr. Bulsa.

16 MR. BULSA: The State calls Ed Guthro.

17 THE COURT: Sir, step up and be sworn.

18 Edgar Guthro, being duly
19 sworn testified as follows:

20 THE COURT: Have a seat in the witness stand, please,
21 sir. Once you're seated I'll ask that you state your name.

22 MR. GUTHRO: Edgar Victor Guthro.

23 THE COURT: Mr. Bulsa, your witness.

24 MR. BULSA: Thank you.

25 Direct Examination by Mr. Bulsa:

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. Mr. Guthro, who are you employed by?
- 2 A. The Spartanburg Department of Public Safety.
- 3 Q. And how long have you been with Public Safety?
- 4 A. Going on twenty-two years.
- 5 Q. What is your current job with them?
- 6 A. I work as a forensic investigator.
- 7 Q. Back in 2000 what were your duties with the City
- 8 Police?
- 9 A. I was working as a regular criminal investigator at
- 10 that time.
- 11 Q. And were you called to a location on June 23rd?
- 12 A. Yes, sir.
- 13 Q. You remember when that was, approximately what time of
- 14 the evening?
- 15 A. Sometime a little after ten.
- 16 Q. And where exactly did you respond to?
- 17 A. We were called to -- Acme Produce is what it was called
- 18 at the time on York Street.
- 19 Q. Is that now known as Kapasi Glass Mart?
- 20 A. Yes.
- 21 Q. Okay. I'll show you a couple of items that's been
- 22 marked State's exhibits 1 and 2. Do you recognize those
- 23 documents?
- 24 A. Yes, sir. One is a map showing that area, and one is
- 25 an area I photographed showing that particular area.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 MR. BULSA: Your Honor, the State would offer State's 1
2 and 2 into evidence.

3 THE COURT: Any objection?

4 MS. PRICE: No, Your Honor.

5 THE COURT: Without objection, they'll be received into
6 evidence as marked.

7 (Whereupon State's exhibits 1 and 2 were admitted into
8 evidence)

9 Q. Officer, what was taking place when you arrived?

10 A. I was with another investigator, Investigator Raymond
11 Russell at the time. When we arrived there were other
12 police vehicles on the scene. We were taken and shown the
13 location of the body by another officer who had been shown
14 where the body was. And from there we went to interview the
15 person who had reported finding her.

16 Q. Was the crime scene cordoned off in any way?

17 A. Normally it is. I don't recall in this case. The way
18 that we went in was we walked directly around the right hand
19 side of that building and down the back of the building and
20 then on kind of a winding trail down into the woods. I
21 don't recall if they had that trail taped off or not at that
22 time.

23 Q. Okay. Let's look at some documents. State's exhibit
24 number 1, it's a map of the downtown area?

25 A. Yes, sir, it is.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 Q. I believe the courthouse location is on there. Could
2 you point that out for me?

3 A. I don't know if I can -- if I can make it out from here
4 or not. I'm too far away from my reading glasses.

5 Q. St. Johns and Daniel Morgan?

6 A. I can make out York Street. And so -- North Church,
7 St. John.

8 Q. Be in that block right there with Library Street and
9 Magnolia Street?

10 A. Yes.

11 Q. Okay. And the York Street, the crime scene was where?

12 A. Right there, roughly.

13 Q. Now this map shows West St. John curving around.
14 That's not how it was back in 2000, was it?

15 A. That's correct. It used to be -- I believe it was
16 Thompson Street that ran right there. And then this right
17 here is new.

18 Q. Okay. And Stevens Street actually would have been
19 connected, West St. John would cut through Stevens Street,
20 is that right?

21 A. Correct.

22 Q. All right. Are you familiar with where Logan Street
23 is?

24 A. Yes, sir, if I can find it on there.

25 Q. If you need to step down to look ---

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. I do. I just can't read it from here.
- 2 Q. Go ahead and look at the sheet and then point it out if
- 3 you need to.
- 4 A. It's right here. Right here is Street, which
- 5 runs off of Vernon Street.
- 6 Q. Where would the Li'l Cricket be?
- 7 A. The Li'l Cricket sits right here, roughly.
- 8 Q. Okay. And if someone wanted to walk from there to
- 9 where Ms. Rhinehart was found would they come down -- would
- 10 Forest Street be a common route?
- 11 A. Yes.
- 12 Q. Show us Forest Street.
- 13 A. There is actually a trail that runs off of Vernon
- 14 Street and cuts across this field here. Li'l Cricket is
- 15 here. There would be multiple possible routes, but a common
- 16 way would be just cutting across over to Forest, right down
- 17 Folsom to Forest.
- 18 Q. Would you trace Forest Street down to where it
- 19 intersects?
- 20 A. Where it intersects with what?
- 21 Q. York Street.
- 22 A. Like that.
- 23 Q. Okay. All right. You can have a seat. So we've got
- 24 an area basically Stevens Street, Thompson Street, York
- 25 Street and Forest Street?

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. Correct.
- 2 Q. This general area. All right. Now I'm showing you
- 3 State's exhibit number 2. Is this an aerial photograph of
- 4 that location?
- 5 A. Yes, sir, it is.
- 6 Q. When did you actually -- did you drive to the location?
- 7 A. I was in a vehicle. I don't recall if I was driving or
- 8 the other investigator was.
- 9 Q. But you arrived in a vehicle?
- 10 A. Yes.
- 11 Q. Where would your vehicle have parked?
- 12 A. We arrived, we parked right in here. This is York
- 13 Street. This is -- the building's along York Street. And
- 14 there were multiple police vehicles right here. And we
- 15 would have parked right in this area right here.
- 16 Q. And the big building that's on the other side of York
- 17 Street, is that where Kapasi Glass is?
- 18 A. Right there?
- 19 Q. Yes, sir.
- 20 A. Yes, sir. Yes, sir.
- 21 Q. Also called Acme Market back then?
- 22 A. It was back then, yes.
- 23 Q. So you pulled in to that row of buildings and then
- 24 where did you enter?
- 25 A. We went around the building here. Right directly

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 behind the building there's a little trail that cuts down
2 through here and goes back this way. And somewhere right in
3 that vicinity would be where the body was.

4 Q. Were there any street lights or any kind of lighting
5 out there?

6 A. No, sir. Without a flashlight you couldn't see your
7 hand in front of your face. It's black.

8 Q. I'll show you some more photographs. This is a little
9 out of order. Let me show you these two, State's 9 and 11
10 first.

11 A. Number 9 is the alleyway that's running behind those
12 buildings. You can see the alleyway in that photograph
13 right there.

14 Q. Does the alleyway go all the way to where you would
15 have come in?

16 A. No, sir. It ends right about even with the -- with
17 these buildings right here somewhere. It's somewhere right
18 in here. Actually probably right about there it would end.

19 Q. Do you recall many officers going up the alleyway to
20 get to the scene?

21 A. No, sir.

22 Q. They all would have parked to the end of that building
23 and come around the other side?

24 A. All of them that I actually saw were parked right here.
25 And I didn't see anybody over in this area.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Look at State's 3 through 8, if you would. Just tell
2 me if you recognize them and if they depict the scene back
3 in 2000.

4 A. Number 3 is where the ---

5 Q. We'll go over them individually, officer. Just look at
6 them. Do they ---

7 A. Oh, yes. Okay.

8 Q. --- depict the scene back in 2000?

9 A. Yes, sir, they do.

10 MR. BULSA: Your Honor, I would offer --- let me add
11 one more.

12 Q. Does State's 10 also show a different view of the
13 alleyway?

14 A. That's correct.

15 MR. BULSA: I would offer State's 3 through 11 into
16 evidence.

17 MS. PRICE: Without objection.

18 THE COURT: Without objection, they'll be made a part
19 of the record as marked. You may proceed.

20 (Whereupon State's exhibits 3 - 11 were admitted into
21 evidence)

22 Q. So we can orient the jury to the actual layout, the
23 ground at the scene, start with State's 11. What view are
24 we looking at here?

25 A. That is that alleyway that I pointed out on the

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 previous picture that's running behind the long row of
2 buildings there on York Street.

3 Q. And on the end of the buildings we see to the right, is
4 that the side that the police would have come in?

5 A. The police would have been on the other side of that --
6 of this building that's on the right.

7 Q. Maybe I should show you this one, State's number 10.
8 Is this the alleyway?

9 A. It is.

10 Q. Now the police didn't enter this way, they entered the
11 back side of the building?

12 A. Correct. They came around the opposite end of that
13 building from the one that you're looking at and went down
14 into the woods.

15 Q. And that's State's 11?

16 A. Yes. They would have came around the opposite -- the
17 opposite end of that. And -- but you can't actually see it
18 from there. It goes on past that.

19 Q. Okay. Here is State's number 9. Is that showing the
20 alleyway back towards Thompson Street?

21 A. Yes.

22 Q. What are those placards we see in the road -- in the
23 alleyway?

24 A. Those placards are evidence placards marking individual
25 drops of what we believed were blood at the time.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. Okay. Now were those done the evening of June 23rd?
- 2 A. Those were done the following morning.
- 3 Q. Okay. When it was daylight?
- 4 A. Correct.
- 5 Q. And now had anybody been down that alleyway during the
- 6 initial investigation?
- 7 A. No, sir, not to my knowledge.
- 8 Q. Do you think -- could there have been any transfer of
- 9 any substance down that alleyway prior to the collection of
- 10 any items?
- 11 MS. PRICE: Your Honor, he's ---
- 12 A. Not that I'm aware of, sir.
- 13 MS. PRICE: --- so I'm going to object to that.
- 14 THE COURT: I'll ask that you lay a better foundation
- 15 as to his knowledge and time-frame.
- 16 Q. Was the scene remained intact after you left the scene?
- 17 A. When I left there were forensic investigators there,
- 18 yes.
- 19 Q. Okay. All right. And did you and forensics
- 20 investigator go back the next morning?
- 21 A. Correct. I don't think he had ever actually left. I
- 22 left to do an interview, returned the following morning to
- 23 see if I could be of some assistance.
- 24 Q. Okay. Had this already been processed before you
- 25 arrived?

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 A. No.

2 Q. Did you see anybody along that pathway during any time
3 you were there?

4 A. I did not.

5 Q. Now as we're looking at this view would the location of
6 the body have been off to the right?

7 A. The -- from that view, if you were standing directly in
8 the middle of that alley facing that direction the body
9 would have been back behind you and ---

10 Q. Okay.

11 A. --- just about straight back behind you, maybe a little
12 bit -- if you turned around it'd be to your left.

13 Q. Okay.

14 A. But just about ---

15 Q. So it'd been to my right?

16 A. Yes. If you were facing that way it'd be to your
17 right, but it would also be behind you.

18 Q. Okay. Now State's 3, does that show some sort of
19 pathway into the wooded area?

20 A. That's correct. That pathway leads to where the body
21 is located or from the body out to that alley.

22 Q. Now I've got a few more views just to show the extent
23 of the vegetation. State's 4, is that the path going into
24 it as well?

25 A. Yes, it would appear to be.

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 Q. And then State's 5, what does that show us?

2 A. That is me actually standing in part of that opening
3 right where that trail goes into it at.

4 Q. So we showed sort of a progression, did we not, from
5 the alleyway, to the woods, a little bit closer in and then
6 to where you are actually to the -- there's an opening, is
7 that right?

8 A. Yes, sir.

9 Q. Now State's number 6, is this a view of the opening?

10 A. That's correct.

11 Q. And what are those red things?

12 A. Those were like milk crates that -- they appeared to
13 have been used for seating by individuals.

14 Q. Can you estimate how large that opening would have
15 been?

16 A. It's really not very large. And I don't know that we
17 can see all of it in that picture, but maybe twenty feet by
18 twenty feet or something at the most. And that's -- kind of
19 goes from opening to a little bit thinner to extremely thick
20 in a short area. So ...

21 Q. We can see this picture appears to have been taken in
22 the evening?

23 A. Yes, it would appear to have been.

24 Q. Okay. Now the next two pictures, State's 7 and 8,
25 appear that they were taken in the daylight hours. State's

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 number 7, is that a general view of the path?

2 A. Yes. I think that's -- I have a hard time from here.

3 But if that's a vehicle right there, that's looking the

4 other direction. I believe that was Truman Williams. And

5 that trail came in on that side and went out the other side

6 onto that alley by York Street. That's the same place, just

7 viewing the opposite direction.

8 Q. And there appears to be a lot of shadows, difficult to

9 see?

10 A. Yes. Even in the daytime it's dark in there.

11 Q. Okay. And just to orient the jury, again, on State's

12 number 2, what view would that have been of? You mentioned

13 Truman. So that would be what we see in the distance on

14 State's exhibit number 7?

15 A. Yes, sir, I believe so.

16 Q. Okay. And State's number 8, that's a different view of

17 the pathway?

18 A. Yes.

19 Q. So even during the daylight hours it might have been

20 difficult to find somebody?

21 A. Yes.

22 Q. You said you arrived at the scene. Did you go in and

23 see Ms. Rhinehart's body?

24 A. Yes, sir.

25 Q. How was she positioned?

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 A. She was off of that opening maybe eight -- eight feet,
2 roughly, laying face down. When I first saw her I thought
3 it was a dress, turns out it was a jumper. She'd been drug
4 like into the thicket off of the opening. She was no longer
5 in the opening. She was in a thicket.

6 Q. Was access restricted to the area? Individual access,
7 was it restricted into the location where the body was?

8 A. I was taken in there by a patrol lieutenant, I believe,
9 at the time. It might have been a sergeant at the time.
10 And there were two ways in there. I'm not sure if the other
11 side was blocked and then you had police on this side where
12 I went in. So I'm not sure. There was nobody there but us.

13 Q. Okay. And did officer -- an officer come to collect
14 any forensic type evidence?

15 A. Yes.

16 Q. Who would that have been?

17 A. Investigator Talanges.

18 Q. Did he arrive before you left?

19 A. I believe he did.

20 Q. And you told us that you came back and you believe he
21 was still there?

22 A. Yes. I don't recall if he had came back to it or never
23 left. But, yes, I went back after it got daylight to see if
24 I could help him and he was still there. Yes.

25 Q. And what did you and he do that morning when you went

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 back?

2 A. He was, of course, looking for evidence and marking
3 evidence. And one way or another we had gained information
4 that Iris carried a knife. And it had obviously been a good
5 struggle. So we thought that maybe our suspect had been
6 injured. And so I was mostly trying to find blood that
7 appeared to belong to somebody other than Iris is what I was
8 doing.

9 Q. And once again, did you identify any areas that samples
10 were taken?

11 A. Yes. It was very thick. And while you're actually in
12 the woods you couldn't visibly see individual specs of
13 blood. You could where Iris was because there was a great
14 deal of blood. But when you got out away from where the
15 body was, something like blood became hard to see.

16 So what I was doing was just simply spraying some
17 peroxide, watching for it to foam. And when it foamed we
18 followed that. That foam trail led us to the alleyway off
19 of York Street, which is where you had -- showed the photo
20 with all the little orange circles.

21 Q. State's number 9?

22 A. Correct. We followed that foam until we got to that
23 alleyway and then we could see the individual drops of blood
24 on the asphalt going all the way to Thompson Street.

25 Q. And were samples taken of those drops?

EDGAR GUTHRO - DIRECT EXAMINATION BY MR. BULSA

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1 A. They were. Not by me, but the forensic investigator
2 collected them, yes.

3 Q. Officer Talanges?

4 A. Yes.

5 Q. Now you later did some other forensic work yourself in
6 the case, did you not?

7 A. Yes, sir.

8 Q. Before I get to that, this case was from 2000. And an
9 arrest wasn't made in 2000?

10 A. That's correct.

11 Q. Did you continue to work on the case in the subsequent
12 years?

13 A. Yes. I was not the lead investigator on this case, but
14 the investigator that was had left. So in 2004 I started
15 trying to do a review on the case, follow up any leads, see
16 if I could find stuff that hadn't already been done.

17 And then I think it was 2005 when I moved to forensics.
18 And after I'd moved to forensics a CODIS hit, which is a
19 database for blood ---

20 MS. PRICE: Your Honor, I'm -- may we approach?

21 THE COURT: You may.

22 (Whereupon a bench conference was held off the record
23 in the presence of the jury, but out of their hearing)

24 THE COURT: Ladies and gentlemen, this is one of the
25 situations where I told you I'd be sending you out. I'll

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1 ask you not to begin any discussions concerning this matter
2 during the break. And at this time I'll ask you to retire
3 to the jury room. Thank you very much.

4 (Whereupon the jury exited the courtroom at 10:42 am)

5 THE COURT: Ms. Price, you want to state your
6 objection?

7 MS. PRICE: Yes, Your Honor. I would object to any
8 testimony about a CODIS at this point. Your Honor, he is --
9 this witness is not the person that actually put it in
10 CODIS, number one. So there is a foundation problem.

11 There's another problem that if we get into the CODIS
12 issue later, then there's a foundational problem of what
13 exactly -- what the hit was on anyway.

14 Thirdly, I have an issue with the CODIS coming in
15 because that is database that was acquired from my client
16 while he was at the Department of Corrections.

17 Your Honor, my client does not have to testify. He
18 does not have to do anything. That would -- is an
19 insinuation that he does have a criminal record or for some
20 reason he was arrested at some point. So I do have an issue
21 with that.

22 THE COURT: Well, I'm not sure how far Mr. Bulsa was
23 going at this time. Maybe we can talk about that, Mr.
24 Bulsa.

25 MR. BULSA: I'm not going to go into that with Officer

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1 Guthro. CODIS may become an issue with some other
2 witnesses, Your Honor.

3 THE COURT: Yes, sir.

4 MR. BULSA: We're certainly not going to imply the
5 Department of Corrections stays by the Defendant ---

6 THE COURT: Just how far -- how far are you going with
7 this witness ---

8 MR. BULSA: Just with Mr. Guthro to show that the
9 investigation continued. I didn't actually expect him to
10 mention CODIS because he wasn't involved in that part of it.

11 THE COURT: So -- well, why don't we take a little
12 break. And to the ---

13 MS. PRICE: That is just my concern, now that it's come
14 up, how far this was going to go.

15 THE COURT: Well, to the extent that you -- I'll allow
16 you to discuss it with the witness. I'll ask that you
17 instruct him, perhaps, not to discuss that at this point in
18 time, that, perhaps, that's a better subject for other
19 witnesses.

20 MS. PRICE: Just let me put on the record, I do not
21 have an issue with Mr. Bulsa going into this case, that this
22 was a 2000 case, that the investigation continued and there
23 was an arrest made in 2008. That's not an issue. What is
24 an issue is how that arrest came to be as far as CODIS.

25 THE COURT: Well, and I'm not sure exactly to what

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1 extent he participated in that, maybe none. And, perhaps,
2 you can give him the appropriate cautions, Mr. Bulsa.

3 MR. BULSA: Yes, sir.

4 THE COURT: We'll take a brief break at this time.
5 Other than what I've discussed with you, Mr. Bulsa, this
6 witness should not discuss his testimony otherwise with
7 anyone. We'll be in recess for about five to ten minutes.

8 MS. PRICE: Thank you, Your Honor.

9 (Whereupon court was in recess at 10:45 am)

10 (Whereupon court resumed at 10:58 am)

11 (Whereupon State's exhibits 23 and 24 were marked for
12 identification)

13 THE COURT: All right. The witness can resume the
14 witness stand.

15 (Whereupon Edgar Guthro returned to the witness stand)

16 THE COURT: Thank you, sir. The State ready to
17 proceed?

18 MR. BULSA: Yes, sir.

19 THE COURT: The Defense ready?

20 MS. PRICE: Yes, Your Honor.

21 THE COURT: Let's bring the jury in.

22 (Whereupon the jury entered the courtroom at 10:59 am)

23 THE COURT: The record will reflect the jury has
24 returned to the courtroom. We were in the process of the
25 State examining this witness. Mr. Bulsa, you may proceed.

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1 MR. BULSA: Thank you, Your Honor.

2 Direct Examination by Mr. Bulsa Continued:

3 Q. Officer, as a detective you worked on this case back in
4 2000?

5 A. That's correct.

6 Q. And who was the lead investigator?

7 A. Raymond Russell.

8 Q. Is he with the Police Department still?

9 A. No, sir. He's teaching school somewhere.

10 Q. So he left the police department after this case?

11 A. That's correct.

12 Q. And you picked it up again in 2004 and did some more
13 work on it?

14 A. Yes, sir, from 2004 to sometime in 2007.

15 Q. Okay. And still it remained what we call a cold case?

16 A. Yes, sir.

17 Q. Unsolved?

18 A. I was doing everything as far as -- if I could find any
19 loose leads, I was trying to follow up on them.

20 Q. And even as soon as just the past few weeks you've done
21 some more work on it?

22 A. That's correct. I have submitted the items that were
23 not submitted to SLED previously, items of blood evidence
24 and cuttings from the victim's clothing.

25 Q. Okay. So you worked on it as an investigator and

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- 1 detective in 2000 ---
- 2 A. And 2004.
- 3 Q. And then as a forensics officer ---
- 4 A. From 2007.
- 5 Q. And then in this year you actually did some forensics
- 6 work as well?
- 7 A. That's correct.
- 8 Q. And you mentioned the jumpsuit clothing of the victim.
- 9 A. Yes, sir.
- 10 Q. Would that have been collected at the initial crime
- 11 scene?
- 12 A. It was removed from her at autopsy and then turned over
- 13 to us and placed into evidence.
- 14 Q. Okay. And this is a little out of order of the
- 15 sequence of things, but since you're testifying, did you
- 16 take that -- the clothing that was on Ms. Rhinehart's body
- 17 and conduct any examination of it yourself?
- 18 A. Looking for blood. And I cut some blood out of it, an
- 19 area that was stained with blood.
- 20 Q. Okay. I'll show you State's exhibit number 23 for
- 21 identification. Does that show a picture of the clothing?
- 22 A. Yes, sir, it does.
- 23 Q. Okay. Is that how it was laid out when you made the
- 24 cuttings?
- 25 A. Yes.

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1 MR. BULSA: Your Honor, the State would offer State's
2 23 into evidence.

3 THE COURT: Any objection?

4 MS. PRICE: No, Your Honor.

5 THE COURT: Without objection, it'll be received into
6 evidence as marked. You may proceed.

7 (Whereupon State's exhibit 23 was admitted into
8 evidence)

9 Q. Were you looking for blood in any certain area?

10 A. Yes, I was.

11 Q. What area in particular?

12 A. I was looking for blood on the right buttock area. And
13 as that thing is cut off of her it's kind of hard to
14 understand that, but what this is, this is the crotch of
15 that jumpsuit. This whole section here would be a leg
16 opening. And this whole section here, it's just simply been
17 cut.

18 The straps are up here. And there would be a belt at
19 the back line. I guess you'd call it a ribbon, not really a
20 belt or a tie right there. The seam runs right here through
21 the middle of this, right up beside that first cutting. The
22 first cutting was taken from right there, which would be
23 about the center buttock area, right buttock. And this one
24 was taken slightly lower to the right.

25 Q. And let me show you State's exhibit 24. Do you

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1 recognize that photograph?

2 A. I do.

3 Q. Is that the picture of the victim at the scene?

4 A. That's correct. That's the way she was found at the
5 scene.

6 Q. Okay. It shows the clothing that she was wearing?

7 A. It does.

8 MR. BULSA: Your Honor, we would offer State's 24 into
9 evidence.

10 THE COURT: Any objection?

11 MS. PRICE: No, Your Honor.

12 THE COURT: Without objection, it'll be admitted as
13 marked.

14 (Whereupon State's exhibit 24 was admitted into
15 evidence)

16 Q. Now this doesn't show the wounds to Ms. Rhinehart, does
17 it?

18 A. No, sir, it does not.

19 Q. It's taken from the back view to view the clothing as
20 she was wearing it?

21 A. That's correct.

22 Q. And in this view are you able to determine the part of
23 the fabric that you would have cut out?

24 A. Yes.

25 Q. Okay. Just so the jury can have an understanding of

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1 where you were looking for blood and where you found or
2 suspected blood and where you found it. Okay. Point to us
3 -- if she were wearing that fabric that you -- and show us
4 where you would have made the cuttings.

5 A. Cutting number one would have come from just right
6 about the center of the buttock area. Cutting number two as
7 I labeled it would have been slightly lower to the right,
8 somewheres right in this area.

9 Q. Okay. And when you made those cuttings what did you do
10 with them?

11 A. I packaged them, put them into evidence and submitted
12 them. The following day I actually -- I put them into
13 evidence the following day and actually carried them to SLED
14 myself.

15 Q. And what is SLED?

16 A. State Law Enforcement Division.

17 Q. And for what purpose did you carry those to that
18 agency?

19 A. So they could do a DNA analysis.

20 Q. To analyze to see if there was any blood and whose it
21 might be?

22 A. That's correct.

23 Q. Did you take any other items with you on that trip?

24 A. I did. I took items -- I think they're marked as items
25 twelve on the evidence sheet. They were items of -- they

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1 were bloody sticks, bloody leaves, a broken bottle, things
2 that had not been submitted to SLED earlier in the case,
3 those items that were collected from around the body.

4 Q. And those, you said, were items that had been placed
5 into evidence?

6 A. Correct. They were in evidence and had just never been
7 submitted to SLED.

8 Q. Okay.. So they would have been retained in the City
9 evidence department?

10 A. That's correct.

11 Q. And you were able to use the evidence sheets to
12 identify what objects had been collected at the scene?

13 A. The evidence sheets like in -- it describes what the
14 evidence is, yes.

15 Q. Okay. And then showing you copies of those evidence
16 sheets, what did you take to the State Law Enforcement
17 Division along with your cuttings?

18 A. The actual items -- other than the cuttings were a
19 broken bottle with blood on it or apparent blood, a bloody
20 stick, another bloody stick, another bloody stick, a bloody
21 leaf, more bloody leaves, and then another set of bloody
22 leaves, and then a set of bloody leaves that were actually
23 collected from under the victim's body.

24 Q. And those bloody sticks and leaves are identified as
25 being in the area of the opening?

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1 A. Yes. Either in that little small opening or actually
2 right there at the body ---

3 Q. In the opening or near the body?

4 A. Yes.

5 Q. Okay. And tell us the process you undertook when you
6 actually arrived in Columbia with these items.

7 A. When I arrived at Columbia, I went into SLED. You have
8 to log in there, sign in there. And I took them back. And
9 when you go to the -- their evidence tech there, she puts
10 them into a plastic SLED bag after she does her -- filling
11 out her paperwork. And then you seal that bag. You sign
12 that bag.

13 Q. To your -- or did you ever come into contact with any
14 of the Defendant's blood yourself?

15 A. No.

16 Q. You didn't have a vile of his blood anywhere?

17 A. No, sir.

18 Q. These items that you took from the City Police evidence
19 room, took down to SLED, were they sealed in some sort of
20 fashion when they got to SLED?

21 A. Yes. The cuttings, I did myself in our evidence bags.
22 And the other items were packaged in our City evidence bags
23 and had been in there -- had been there since 2000 in
24 evidence.

25 Q. Were they then sealed at SLED themselves?

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1 A. Yes.

2 Q. Then transported to what department?

3 A. It would be their serology, DNA.

4 Q. Did you actually give those to Ken Bogan, ---

5 A. Yes, I did.

6 Q. All right. And the purpose you took these items to
7 SLED was what?

8 A. Because we had blood that did not belong to Iris. And
9 I was trying to match that blood.

10 Q. Okay. Just continued the investigation?

11 A. That's correct.

12 Q. All right. Thank you. Answer any questions that Ms.
13 Price has of you, Mr. Guthro.

14 THE COURT: Ms. Price, your witness.

15 MS. PRICE: I don't believe I have anything for Mr.
16 Guthro.

17 THE COURT: Sir, you may step down. The State may call
18 its next witness.

19 MR. BULSA: The State calls Robert Talanges.

20 THE COURT: Come forward, sir. Come forward to my left
21 and be sworn in.

22 Robert Talanges, being
23 duly sworn testified as follows:

24 THE COURT: Have a seat, please, sir. Once you're
25 seated, state your name for the record.

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1 MR. TALANGES: Robert Charles Talanges.

2 THE COURT: Mr. Bulsa, it's your witness.

3 MR. BULSA: Thank you.

4 Direct Examination by Mr. Bulsa:

5 Q. Officer Talanges, who are you employed by?

6 A. At the present time, Spartanburg County Sheriff's
7 Office.

8 Q. And how long have you been with the Sheriff's Office?

9 A. Going on approximately five years.

10 Q. What are your duties with the Sheriff's Office?

11 A. I do crime scene processing for Spartanburg County.

12 Q. And where were you employed prior to the Sheriff's
13 Office?

14 A. At Spartanburg Public Safety Department.

15 Q. And how long have you been employed there or were you
16 employed there?

17 A. I was there fifteen years, two months, twenty-one days.

18 Q. And in June of 2000 what department within the City
19 Police Department did you work?

20 A. I worked in the forensics division, investigations.

21 Q. Explain to the jury exactly what that is.

22 A. Well, basically it's the crime scene division for the
23 investigations.

24 Q. Were you called to major crime scenes to investigate
25 and collect evidence?

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1 A. That is correct.

2 Q. Do you recall on June the 23rd arriving at the area in
3 question concerning these photographs?

4 A. Yes, I do.

5 Q. Where did you actually arrive? Where did you drive and
6 park?

7 A. I parked at the Forest Street and York Street. That
8 corner intersection there's a -- there was a grass field
9 next to the building. And that was our entry point for
10 anybody coming into the scene. That's where we kept the
11 crime scene log at.

12 Q. Is that the area where Officer Guthro identified?

13 A. Yes. There's a parking area.

14 Q. Okay. And what's the purpose of designating a certain
15 area to enter the scene?

16 A. Not to track in any other evidence into the scene, to
17 keep it pristine as possible.

18 Q. You were in the courtroom and you saw the pictures of
19 the alleyway?

20 A. Yes, sir.

21 Q. That we actually see behind the long building
22 structure. Did anybody use the alleyway to enter the scene?

23 A. Not to my knowledge, no.

24 Q. Were you sort of in charge of the scene and collecting
25 the evidence?

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1 A. I was.

2 Q. How long do you recall being there?

3 A. I guess the call came in a little after 10:00, between
4 ten and eleven. I think I arrived somewhere around between
5 ten and 11:00, entered the scene. Several hours, I would
6 say.

7 Q. And the photographs we've been seeing, the majority of
8 those you took, is that correct?

9 A. That is correct.

10 Q. And you took a lot of them in the evening hours?

11 A. Nighttime hours.

12 Q. Nighttime. How were you able to get anything to come
13 out?

14 A. You have to use alternative lighting and an alternative
15 flash on your camera.

16 Q. We saw the pathway entering into the clearing area
17 inside the woods. Is that where you centered the majority
18 of your collection of evidence?

19 A. I guess that's where most of it was located at.

20 Q. Okay.

21 A. Yes.

22 Q. Is that what you called your crime scene, the clearing,
23 and where Ms. Rhinehart's body was?

24 A. You're dealing with a heavily traveled area, as you've
25 seen like the Coca-Cola crates. It was a large hangout area

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1 or hangout area for people coming. You've got paths going
2 through there. You've got trash, broken bottles, papers as
3 the pictures stipulate.

4 Q. Okay. How do you go about deciding what to take, what
5 to collect?

6 A. We were mainly concerned with the -- what we found is
7 some blood evidence at the scene.

8 Q. Okay. Do you start at her body and then move outward?

9 A. Yes.

10 Q. So her body was still there when you were there?

11 A. What do you mean by everybody?

12 Q. No. Her body, Ms. Rhinehart ---

13 A. Yeah, her body ---

14 Q. You took the picture of her ---

15 A. Yes, sir.

16 Q. --- lying on the ground?

17 A. Her body was at that location when I arrived. That's
18 correct.

19 Q. Okay. And then you start with her body and begin
20 looking. And did you find items in a certain area that you
21 collected?

22 A. Towards her feet we found like larger areas of the red
23 substance, blood. We found blood on leaves, sticks.

24 Towards her feet area and also around her we found that.

25 Q. Did any of the blood appear to follow a certain trail

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1 or path?

2 A. Just to where she was at.

3 Q. If you're looking at it -- if you're at her body and
4 you're looking at the items you collected, did it take you
5 back to the open area?

6 A. Yes, it did.

7 Q. Okay. And did you photograph the items?

8 A. I took several photographs.

9 Q. Okay. And did you mark the blood evidence with certain
10 placards?

11 A. White placards.

12 Q. We've seen the yellow placards in some of the
13 photographs, but you had different white placards for the
14 blood?

15 A. Yes. The white placards actually stood up. They were
16 more visible than the yellow placards. The yellow placards
17 are a ground type unit where the stick or stick-type white
18 ones were -- you could put in the ground and photograph that
19 way where the items are located.

20 Q. I'll show you a series of photographs marked State's 12
21 through 22. See if you recognize those.

22 A. Yes, I do.

23 MR. BULSA: I would offer State's 12 through 22 into
24 evidence.

25 MS. PRICE: Without objection.

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1 THE COURT: Without objection, they'll be received into
2 evidence as marked.

3 (Whereupon State's exhibits 12 - 22 were admitted into
4 evidence)

5 Q. Now let's go through these with the jury.

6 A. You want me to step down?

7 Q. If you can see it from where you are, just stay there,
8 but if you need to step down, let me know. Let me show you
9 first off -- get started with the opening here. Do you see
10 several milk crate or Coke crate type objects?

11 A. Yes, sir.

12 Q. They appear to be used for seats? What's the blue
13 object in the middle?

14 A. Are we talking light blue or dark blue?

15 Q. Light blue.

16 A. It's a blanket.

17 Q. Blanket?

18 A. It would appear to be a blanket, a cloth material.

19 Q. Okay. I'll show you State's exhibit 12. You see that
20 cloth material and -- so this is where you began your
21 placards?

22 A. Yes.

23 Q. The white placards that stand up. Are those to know
24 what's the suspected blood?

25 A. Suspected blood, correct.

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- 1 Q. And then we see two off in the distance?
- 2 A. Yes, sir.
- 3 Q. Could you give us an estimation as to how far Ms.
- 4 Rhinehart was from this location, number one?
- 5 A. I'd say maybe eight feet.
- 6 Q. Okay. But we can't see her in this picture?
- 7 A. No, sir.
- 8 Q. Here's another closer picture of item one. And I want
- 9 to ask you about two and three. What are those denoting?
- 10 A. You're looking at -- number three is going to be a
- 11 white sandal. I can't tell what number two is.
- 12 Q. Does it appear to have any evidentiary value later in
- 13 the case?
- 14 A. I don't think it did.
- 15 Q. Okay. Now when you found the victim she did not have
- 16 any shoes on, did she?
- 17 A. No, sir, did not. No, sir.
- 18 Q. We see placard number three marks one sandal. Was
- 19 there another sandal found nearby that matched that?
- 20 A. Yes, sir, there was.
- 21 Q. State's 14 we see two, which we saw two there beyond
- 22 one. Now we're looking at two going out further. Those are
- 23 other -- we have two, three -- point those out to the jury,
- 24 if you would.
- 25 A. Two, three, four and five back in there.

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1 Q. Okay. And these were suspected blood?

2 A. Correct.

3 Q. And what did you actually collect from these locations?

4 A. It was marked evidence item number twelve. And it's
5 going to be number two. There was blood on a stick. Number
6 four, blood on a stick. Number five, blood on a stick.
7 Number -- also number six, seven and eight and nine were
8 also collected, were either leaves and/or blood on a stick
9 or the red substance on sticks.

10 Q. Okay. So you did say number one and number three?

11 A. Yes, sir.

12 Q. You determined that those weren't blood?

13 A. My evidence sheets don't ---

14 Q. So while they were initially marked and photographed,
15 nothing was actually collected from those locations?

16 A. That's possible.

17 Q. And you marked item twelve, those were the items that
18 Officer Guthro testified that he later took to the South
19 Carolina Law Enforcement Division?

20 A. Yes, sir. Item twelve, which would be the blood on the
21 sticks and leaves, that's correct.

22 Q. Okay. Now we've got some closer views of some of these
23 objects. Number two, it may be hard to see from where
24 you're sitting.

25 A. It's right there.

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1 Q. Okay. Here's -- you don't have any blood sample from
2 three, but here's another white sandal marked with placard
3 four?

4 A. Correct.

5 Q. Does that appear to match the sandal from placard
6 three?

7 A. Yes, it does.

8 Q. Okay. And we saw that placard was to the lower left?

9 A. Right there.

10 Q. Whereas the first sandal was closer to the -- to the
11 blanket?

12 A. Yeah, that cloth material blanket.

13 Q. And were these going towards the body, these placards
14 and items ---

15 A. Yeah, everything is going ---

16 Q. --- going toward the body?

17 A. Is going toward the body, that's correct.

18 Q. Okay. Was item four taken a sample of?

19 A. It's over here.

20 Q. And five?

21 A. Right there.

22 Q. It's showing item six, but you actually didn't collect
23 anything there, is that right?

24 A. That's correct.

25 Q. It may be upside down.

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1 A. Well, item six is blood on a leaf is what it stipulates
2 on my evidence sheet.

3 Q. Oh, okay. So you did collect that?

4 A. Yes. It's right there if you want to see it. I think
5 it's right in there.

6 Q. Item seven?

7 A. That's a larger area.

8 Q. Is that closer to the body?

9 A. Yes, it is.

10 Q. Use the corner if you would to ---

11 A. Right here. It's also up on this -- this downed log or
12 tree branch.

13 Q. Item nine. I also have a placard twelve. Describe
14 that, if you would.

15 A. This is a location per my evidence sheet -- is what's
16 located under victim. And which is going to be also a
17 broken beer bottle here.

18 Q. So would that bottle have been under the victim's body?

19 A. Yes, sir.

20 Q. And that's the bottle that Investigator Guthro would
21 have taken to the South Carolina Law Enforcement Division?

22 A. Let me check. I believe so -- it is.

23 Q. Is that the only broken bottle you collected?

24 A. I believe so. Yes, sir, ---

25 Q. Other bottles and cans, but only one broken?

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1 A. One broken bottle.

2 Q. And this was the one that was up under her body?

3 A. Yes, sir.

4 Q. How were you -- how would you have secured these items
5 to be placed into evidence?

6 A. After photographing each one they're either stuck in
7 envelopes and packaged into evidence envelopes or evidence
8 bags and sealed.

9 Q. Are they -- well, we learned they stayed in evidence.
10 They weren't taken until years later. So you would not have
11 transported those to Columbia, would you?

12 A. I did not transfer them, no.

13 Q. But you did transfer some other items though, right?

14 A. Yes, I did.

15 Q. We'll get to those in a second. Now Officer Guthro
16 talked about going out the next morning when it was
17 daylight. Did you respond out there with him?

18 A. Yes, I did.

19 Q. For what purpose?

20 A. We were searching for more evidence, searching the
21 whole area.

22 Q. Did you take additional samples, pieces of evidence?

23 A. Additional photographs and marked other items of
24 evidence, yes.

25 Q. Okay. You saw those earlier, the placards along the

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1 alleyway. Did you take swabbings of all of these locations?

2 A. I believe I did.

3 Q. Do you have it noted on your report?

4 A. It's Thompson alley off York Street. There was twenty-
5 one swabbings taken from that area.

6 Q. And we see twenty-one placards?

7 A. Yes, we do.

8 Q. And also noted on that same evidence sheet did you
9 collect any sticks with blood?

10 A. Three sticks with blood were collected from off
11 Thompson alley area and York Street.

12 Q. And how were these items then secured into evidence?

13 A. They would have been placed in smaller envelopes, item
14 collected, then placed into evidence envelopes.

15 Q. Are these some of the items that you took to the South
16 Carolina Law Enforcement Division yourself?

17 A. According to -- I took -- on the 25th, excuse me,
18 February 24th, or, no, excuse me, 7/19/2000 I took two
19 suspect kits or it said suspect kit number. And then number
20 three was a suspect kit, twenty-four swabs or number four
21 through number twenty-four are swabs, bloody socks,
22 jumpsuit, panties. I can't make out what that is. Flash
23 pipe, shoes, fingernail scrapings, and four rectal, vaginal
24 swab slides recovered were all taken down.

25 Q. So you took a number of items down shortly after this

ROBERT TALANGES - DIRECT EXAMINATION BY MR. BULSA

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- 1 case occurred, ---
- 2 A. Yeah, ---
- 3 Q. --- correct?
- 4 A. 7/19/2000, yes.
- 5 Q. And of those items you sent these swabbings to SLED?
- 6 A. Correct.
- 7 Q. Were they secured and kept tamper proof before you took
- 8 them to SLED?
- 9 A. Yes. They were in the original containers that I
- 10 packaged them in and took them down.
- 11 Q. And when you took them to SLED were they packaged
- 12 again?
- 13 A. Yes. SLED does the -- they repackage the items. And
- 14 then they heat-seal them and they make you sign on the
- 15 package as well as they sign it as -- they sign it as well.
- 16 Q. So to your knowledge there was no tampering down at
- 17 your evidence room, you transport them down and they were
- 18 sealed again?
- 19 A. That is correct.
- 20 Q. To prevent any tampering?
- 21 A. Yes, sir.
- 22 Q. At that point did you have any sample from Mr. Johnson?
- 23 A. No, sir. It was an unknown at this time.
- 24 Q. Okay. Now did you attend the autopsy?
- 25 A. Yes, I did.

ROBERT TALANGES - DIRECT EXAMINATION BY MR. BULSA

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- 1 Q. And did you collect anything while at the autopsy?
- 2 A. I collected clothing. And they did a CSC kit on her.
- 3 And that was also collected.
- 4 Q. And those were the swabbings that you mentioned that
- 5 you took to the Law Enforcement Division?
- 6 A. That's the -- yes -- yes, it is.
- 7 Q. Swabbings of what areas of Ms. Rhinehart?
- 8 A. Four rectal, vaginal swabs and also slides.
- 9 Q. Now you recovered Ms. Rhinehart's jumpsuit, jumper or
- 10 jumpsuit and panties?
- 11 A. Yes, sir.
- 12 Q. And the item that we saw as Officer Guthro described
- 13 that he took cuttings of, was that the jumpsuit?
- 14 A. Yes, it is.
- 15 Q. And did you secure that jumpsuit into evidence?
- 16 A. Yes, I did.
- 17 Q. Did it ever come into contact with any of the swabbings
- 18 that you took from the alleyway?
- 19 A. No, sir.
- 20 Q. So was there any mingling of the evidence within the
- 21 evidence while it was within your custody?
- 22 A. No, no cross contamination was present whatsoever.
- 23 Q. And is that important?
- 24 A. Yes, it is.
- 25 Q. Why?

ROBERT TALANGES - DIRECT EXAMINATION BY MR. BULSA

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1 A. Cross contamination, if you have blood on a stick and
2 it goes onto the material or to the jumpsuit, it's a
3 possibility that you could have blood transfer from one
4 piece of evidence to the other piece of evidence.

5 Q. And are security measures taken to make sure that
6 doesn't happen?

7 A. As soon as you package it, yes, it is.

8 (Whereupon State's exhibit 25 was marked for
9 identification)

10 Q. Let me show you what's been marked as State's exhibit
11 25. Do you recognize this box?

12 A. It was collected on 6/24, approximately fifteen or
13 thirteen, fifteen hours. I collected it at the morgue.
14 Came off of the victim. And it is a jumper style, woman's
15 outer clothing.

16 MR. BULSA: Your Honor, the State would offer this into
17 evidence, State's 25.

18 THE COURT: Any objection?

19 MS. PRICE: No, Your Honor.

20 THE COURT: Without objection, it'll be admitted into
21 evidence as marked.

22 (Whereupon State's exhibit 25 was admitted into
23 evidence)

24 Q. Now is this an example of how you would secure and
25 protect the items once they're in your custody?

ROBERT TALANGES - DIRECT EXAMINATION BY MR. BULSA

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1 A. Packaging, yes, it is. You've got SLED markings on it
2 and you also have our markings on it as well.

3 Q. Okay. And that's secured so it doesn't come into
4 contact with any other item that you have?

5 A. That's correct.

6 Q. And other items are secured in similar fashion?

7 A. Yes, they are.

8 Q. So when they go to SLED for analysis they're looking at
9 individual items?

10 A. Yes, sir, they receive individual items.

11 Q. Okay. And this 25 is actually the jumpsuit and the
12 panties, the clothing that came off of Iris Rhinehart?

13 A. Collected together because they were in contact with
14 one another.

15 Q. Okay. Officer, did you do a thorough processing of the
16 wooded scene?

17 A. Yeah, we searched the wooded area for several, several
18 hours.

19 Q. Okay. We see pictures of it at night. Did you go back
20 to the area during the daylight hours?

21 A. Yes, we did.

22 Q. Did you search again?

23 A. That's when we started finding more blood evidence.

24 Q. And did you ever locate a -- some sort of weapon?

25 A. No, we did not.

ROBERT TALANGES - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Not a knife?

2 A. No.

3 Q. No razor?

4 A. No razor.

5 Q. Are you confident that you would have found it or ...

6 A. As many of us that were out there searching, 'cause we
7 had a lot of the investigators were there, if there was a
8 knife present we -- we would have found it.

9 Q. We've been talking about the location. Is this within
10 the City limits of Spartanburg County?

11 A. Yes, it is.

12 Q. Okay. Just so we -- I'll use this as an example,
13 State's number 22, you used the white placards to mark the
14 blood and the yellow placards to mark other items ---

15 A. Other items, ---

16 Q. --- of interest?

17 A. --- that's correct.

18 Q. Okay. Now everything wasn't sent to the South Carolina
19 Law Enforcement Division?

20 A. No, sir.

21 Q. Okay. In fact, the blood items around the scene were
22 not taken initially, just the items from the alleyway were
23 taken?

24 A. Correct.

25 Q. And you left the Department when?

ROBERT TALANGES - CROSS EXAMINATION BY MS. PRICE

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1 A. 2000 -- I think 2004.

2 Q. Did you ever receive the victim's -- a vile of the
3 victim's blood?

4 A. I don't know how much blood was left, but we wouldn't
5 receive it. It would have went with the Coroner's Office.
6 And they would have submitted it to SLED.

7 Q. Okay. So there's no way the victim's blood was in a
8 vile that ever got -- that would have ever contaminated
9 anything either?

10 A. Correct.

11 Q. So you had no victim's blood, you had no Defendant's
12 blood?

13 A. That is correct.

14 Q. You just had the items collected from the scene?

15 A. Yes, sir.

16 Q. And were they sealed and kept secure?

17 A. Yes, they were.

18 Q. Thank you. Answer any questions that Ms. Price may
19 have.

20 THE COURT: Ms. Price, it's your witness.

21 MS. PRICE: Thank you.

22 Cross Examination by Ms. Price:

23 Q. Officer Talanges, how you doing today? I haven't seen
24 you in a while.

25 A. Good to see you.

ROBERT TALANGES - CROSS EXAMINATION BY MS. PRICE

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1 Q. I just have a few questions about the proximity of the
2 bloody items that ended up at SLED in relationship to Ms.
3 Rhinehart's body. And you've testified that you were on
4 scene there the night that this was called in, ---

5 A. Yes.

6 Q. --- or in the morning this was called in, is that
7 right?

8 A. That's correct.

9 Q. And that you actually saw her there?

10 A. Yes, ma'am.

11 Q. And that as you all started your investigation you
12 actually saw some foliage, sticks, that type of thing that
13 you at that time purported to be blood and it turned out to
14 be blood at a later date, is that right?

15 A. That's correct.

16 Q. Okay. Just as a general idea, can you give us -- do
17 you have in your notes or do you remember the vicinity that
18 those items were to her body?

19 A. Which items are you referring to?

20 Q. Okay. Specifically about the sticks. Do you remember?

21 A. Sticks were either around her or back towards her feet
22 area is where we were looking.

23 Q. Okay. And do you remember if you ever saw any of them
24 touching her other than what you've already testified was
25 under her body?

ROBERT TALANGES - CROSS EXAMINATION BY MS. PRICE

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- 1 A. The ones where blood were located, touching her, no.
- 2 Q. Did any of your crime scene technicians or you,
- 3 yourself, take any pictures of those in relation to her
- 4 body?
- 5 A. With the wooded -- how thick the area is, ---
- 6 Q. Right.
- 7 A. --- it was kind of difficult to photograph because, you
- 8 know, your camera is either focusing on either the blood
- 9 droplets that were there or it's focusing on the trees. And
- 10 then you're dealing with nighttime hours, which is a very
- 11 heavily area -- very, I guess, heavy canopied area and
- 12 darkness takes over.
- 13 Q. Right. I understand. But y'all went back during the
- 14 day?
- 15 A. Yes.
- 16 Q. And that's when y'all took some more pictures ---
- 17 A. Yes.
- 18 Q. --- and things like that? But as far as being in your
- 19 notes or anything, you have a general description of where
- 20 those were found, but there's not any measurements or
- 21 anything of that nature, is that right?
- 22 A. I don't have my report with me, no, ma'am.
- 23 Q. Okay.
- 24 MS. PRICE: That's all I have for Officer Talanges.
- 25 THE COURT: Redirect?

ALICIA FOSTER - DIRECT EXAMINATION BY MR. BULSA

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1 MR. BULSA: None, Your Honor.

2 THE COURT: Sir, you may step down. Thank you very
3 much. You may call your next witness.

4 MR. BULSA: The State calls Alicia Foster.

5 THE COURT: Come forward, please, to be sworn. To my
6 left, please, ma'am.

7 Alicia Foster, being duly
8 sworn testified as follows:

9 THE COURT: Have a seat, please. I'll ask that you
10 state your name, please, ma'am.

11 MS. FOSTER: Alicia Jean Foster Parks.

12 THE COURT: Mr. Bulsa, your witness.

13 Direct Examination by Mr. Bulsa:

14 Q. Ms. Foster, where do you live?

15 A. I stay now at in Greenville.

16 Q. In Greenville County?

17 A. Yes, sir.

18 Q. And how old are you?

19 A. I'm fifty-three years old, sir.

20 Q. Did you know Ms. Rhinehart?

21 A. Yes, sir. That's my best friend.

22 Q. Do you know the Defendant?

23 A. Yeah, I don't know him personally, but I have seen him
24 around Spartanburg.

25 Q. You've seen him around?

ALICIA FOSTER - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. Yes, sir.
- 2 Q. Do you remember when you would have seen him around?
- 3 A. During the time we all was running around down and
- 4 around the neighborhood and stuff over on Forest Street and
- 5 on up.
- 6 Q. Had you ever spent any time with him yourself?
- 7 A. Not personally, no I didn't spend no time, but we all
- 8 have been in the same place together.
- 9 Q. Okay. What place?
- 10 A. It's a place called -- they call it a crack house.
- 11 Q. Did you ever see Ms. Rhinehart with him?
- 12 A. We always kept busy sitting around the same circle.
- 13 Q. Okay. So he would have been in areas where you and Ms.
- 14 Rhinehart would have been?
- 15 A. Yes, sir.
- 16 Q. Are you familiar with the area where Ms. Rhinehart's
- 17 ---
- 18 A. Yes, sir.
- 19 Q. --- body was found? Why would she have been in there?
- 20 A. Ms. Tina, she don't hang in no bushes. She don't do
- 21 the bushes. If we get -- if anybody get high or anything,
- 22 then we go to a place, you know, like a crack house or
- 23 places like that. But hang in the bushes, she do not do
- 24 bushes.
- 25 Q. Did she carry a knife?

ALICIA FOSTER - CROSS EXAMINATION BY MS. PRICE

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1 A. Yes, sir.

2 Q. Why?

3 A. Tina -- we -- Tina carried the knife to keep for
4 protecting her or somebody tried to rob her or rape her.
5 She used it for protection.

6 Q. So she would fight back?

7 A. Yes, sir, she would fight you back.

8 Q. But you're sure you've seen the Defendant ---

9 A. Yes, sir.

10 Q. --- in Spartanburg before?

11 A. Yes, sir.

12 Q. Was it around the time of her death?

13 A. It was early that week.

14 Q. Thank you, ma'am.

15 A. You welcome, sir.

16 Q. Please answer any questions Ms. Price has.

17 THE COURT: Ma'am, stay right there. Thank you. Ms.

18 Price, your witness.

19 Cross Examination by Ms. Price:

20 Q. Ms. Foster, you said you'd seen Ms. Rhinehart with my
21 client?

22 A. We all be in the same circle, sit in the same house.

23 Q. Oh, same house. And that's a crack house?

24 A. That's a crack house.

25 Q. Okay. So did you ever see my client, Mr. Johnson,

ALICIA FOSTER - CROSS EXAMINATION BY MS. PRICE

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1 smoking crack with Ms. Rhinehart?

2 A. I ain't say sell, did I? I said we all ---

3 Q. No, I said -- I said smoke.

4 A. Smoke. Yes, sir. Yes, ma'am, we have.

5 Q. Okay. And do you -- Ms. Rhinehart, did you see her
6 smoke ---

7 A. Yes, sir. Yes, ma'am.

8 Q. Did you smoke it with them?

9 A. We all sat at the same table and we all smoked crack.

10 Q. Oh, okay.

11 A. Okay.

12 Q. That's all I have.

13 A. Yes, ma'am.

14 THE COURT: Anything on redirect?

15 MR. BULSA: No, sir, Your Honor.

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

17 MS. FOSTER: You're welcome.

18 MR. BULSA: I ask that she be allowed to be excused.

19 THE COURT: Any objection?

20 MS. PRICE: No, Your Honor.

21 THE COURT: You're free to go, ma'am. Call your next
22 witness, Mr. Bulsa.

23 MR. BULSA: Thank you, Your Honor. The State calls
24 Russell Porter.

25 THE COURT: Come forward, please.

RUSSELL PORTER - DIRECT EXAMINATION BY MR. BULSA

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1 Russell Porter, being

2 duly sworn testified as follows:

3 THE COURT: Have a seat, please, sir. Once you're
4 seated, state your name.

5 MR. PORTER: Russell Porter.

6 THE COURT: Mr. Bulsa, your witness.

7 Direct Examination by Mr. Bulsa:

8 Q. Who are you employed with?

9 A. Spartanburg Public Safety Department.

10 Q. In what capacity?

11 A. I'm a criminal investigator.

12 Q. And how long have you been an investigator?

13 A. I've been an investigator for about ten years.

14 Q. How long have you been in law enforcement?

15 A. About eighteen years.

16 Q. And how many of those have been with the Spartanburg
17 Public Safety Department?

18 A. All those years.

19 Q. All those years. Were you involved in the
20 investigation of this case back in 2000?

21 A. I was not.

22 Q. Did you pick up the investigation any time after that?

23 A. I did. I picked it up about 2007 or so.

24 Q. And did you begin trying to interview people?

25 A. I did.

RUSSELL PORTER - DIRECT EXAMINATION BY MR. BULSA

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1 Q. And did the Defendant's name come across as a potential
2 suspect?

3 A. It did.

4 Q. Did you attempt to meet with him?

5 A. I did interview him, yes.

6 Q. And did you question him whether he'd been in -- well,
7 where is he from?

8 A. He's from Greer, in the Greer area. Actually, close to
9 the line between Spartanburg and Greenville.

10 Q. Which county would he have lived in?

11 A. He lived in Greenville County.

12 Q. In Greenville County. Okay. And during your interview
13 with him did you have an occasion to ever ask him about
14 being in Spartanburg?

15 A. I did.

16 Q. And how did he respond?

17 A. He denied being here or knowing anybody here.

18 Q. You weren't involved in the scene investigation, you
19 were involved in primarily Mr. Johnson?

20 A. That's correct. It was a -- considered a cold case at
21 that time. And we reopened the case.

22 Q. So you're the one that actually signed the warrant?

23 A. That's correct.

24 Q. And in your contact with him, he denied ever being in
25 Spartanburg?

RUSSELL PORTER - DIRECT EXAMINATION BY MR. BULSA

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1 A. That's correct.

2 Q. And your contact with him would have been when?

3 A. 2008, I think it was, when I interviewed him.

4 Q. Did you attempt to get any sort of swab from him?

5 A. We have a buccal swab from him, which was a mouth swab
6 with a Q-tip.

7 Q. Okay. We had another -- you had another officer go do
8 that, correct?

9 A. That's correct.

10 Q. And was that to compare to the evidence collected at
11 the scene?

12 A. That's correct.

13 Q. Thank you. Answer any questions Ms. Price has.

14 MS. PRICE: Your Honor, may I beg the Court's
15 indulgence for about two minutes, please. I'm trying to
16 find ---

17 THE COURT: Yes, ma'am.

18 (Pause)

19 MR. BULSA: May we approach, Your Honor?

20 THE COURT: You may.

21 (Whereupon a bench conference was held off the record
22 in the presence of the jury, but out of their hearing)

23 THE COURT: Ladies and gentlemen, it looks like we're
24 going to need to locate a document. And so I'm going to --
25 it's about fifteen til twelve. I'll go ahead and break for

RUSSELL PORTER - DIRECT EXAMINATION BY MR. BULSA

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1 lunch at this point in time.

2 Same instructions that I gave you yesterday, when you
3 leave the courtroom don't attempt to gather any information
4 outside the courtroom, don't discuss the case with anyone,
5 don't watch, listen to or read any media reports about the
6 case. If anyone attempts to contact you or speak with you
7 about the case, please report that to the Court. I'll see
8 that the proper investigation takes place.

9 We'll begin again at 1:00. Be back in the jury room at
10 that time. Thank you very much. You're free to go. Remain
11 seated until the jury leaves.

12 (Whereupon the jury exited the courtroom at 11:48 am)

13 THE COURT: All right. Court is in recess until 1:00.
14 I'll caution the witness not to discuss his testimony with
15 anyone during that time. Thank you very much. Court's in
16 recess.

17 (Whereupon court was in recess at 11:49 am)

18 (Whereupon court resumed at 1:06 pm)

19 THE COURT: Thank you very much. You can be seated.
20 The witness can resume the stand. I'm trying to see -- is
21 he in the courtroom?

22 THE BAILIFF: He's not here.

23 (Pause)

24 THE COURT: You can come back to the witness stand.
25 The State ready to proceed?

RUSSELL PORTER - CROSS EXAMINATION BY MS. PRICE

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1 MR. BULSA: Yes, sir.

2 THE COURT: Defense ready?

3 MS. PRICE: Yes, Your Honor.

4 THE COURT: Let's bring the jury in.

5 (Whereupon the jury entered the courtroom at 1:11 pm)

6 THE COURT: The record will reflect the jury has
7 returned to the courtroom. I trust everyone had a good
8 lunch. We're ready to resume with the cross examination of
9 this witness. Ms. Price, you may proceed.

10 MS. PRICE: Thank you, Your Honor.

11 Cross Examination by Ms. Price:

12 Q. Mr. Porter, how you doing today?

13 A. I'm fine.

14 Q. Thank you. How long have you been with the Department
15 again?

16 A. Eighteen years.

17 Q. And of those eighteen years how long have you been in
18 homicide?

19 A. About ten.

20 Q. Okay. And during those ten years you've had the
21 opportunity to talk to a lot of people who have been charged
22 with homicides and other crimes, is that right?

23 A. That's correct.

24 Q. And you interviewed them down at the station, is that
25 right?

RUSSELL PORTER - CROSS EXAMINATION BY MS. PRICE

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- 1 A. Usually, yes.
- 2 Q. Right over here on Broad Street?
- 3 A. Yes.
- 4 Q. Okay. And you've had the opportunity, as you've
- 5 testified on your direct examination, to talk to Mr. Johnson
- 6 after his arrest, is that right?
- 7 A. That's correct.
- 8 Q. And you talked to him down -- down at the station?
- 9 A. That's correct.
- 10 Q. In an interview room?
- 11 A. Yes.
- 12 Q. And Investigator Gardiner was there also, is that
- 13 right?
- 14 A. I believe so, yes.
- 15 Q. Okay. And in your procedures you have with the Public
- 16 Safety Department y'all have a form called a
- 17 preinterrogation waiver form, is that right?
- 18 A. That's correct.
- 19 Q. And on that waiver form it has in writing the suspect
- 20 or the Defendant's Miranda rights?
- 21 A. That's correct.
- 22 Q. And they initial right beside it?
- 23 A. That's correct.
- 24 Q. And you also read them those rights also if they have a
- 25 problem with -- a literacy problem, is that right too?

RUSSELL PORTER - CROSS EXAMINATION BY MS. PRICE

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1 A. I read either way.

2 Q. Okay. So in this case you did read those to Mr.

3 Johnson?

4 A. Yes.

5 Q. Okay. And did he -- he seemed to understand that he
6 had the right to remain silent?

7 A. Yes.

8 Q. And he also seemed to understand that you were there to
9 question him for what he had been arrested for and that was
10 his possible involvement in a homicide, was that correct?

11 A. That's correct.

12 Q. Okay. And Mr. Johnson, he initialed all of his rights
13 beside each one of them, and they're five, is that right?

14 A. That's correct.

15 Q. Okay. And down -- there's also a part for the suspect
16 or the Defendant also just to sign saying that they
17 understand that they're waiving their rights if they choose
18 to talk to you, is that right?

19 A. That's correct.

20 Q. And, in fact, Mr. Johnson refused to sign, is that
21 right?

22 A. That's correct.

23 Q. Because he wanted to invoke his -- all of his rights,
24 his right to remain silent and that sort of thing, is that
25 right?

RUSSELL PORTER - CROSS EXAMINATION BY MS. PRICE

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- 1 A. That's correct.
- 2 Q. And you've noted on here, and if you need this just let
- 3 me know, that he refused to give you a statement?
- 4 A. That's correct.
- 5 Q. And that was after his arrest?
- 6 A. That's correct.
- 7 Q. But you actually testified on direct examination that
- 8 he did speak to you?
- 9 A. About? He spoke, yes. He spoke.
- 10 Q. Okay. And he just told you that he'd never been in
- 11 Spartanburg before?
- 12 A. That's correct.
- 13 Q. And that's true lately, isn't it?
- 14 A. Yes.
- 15 Q. Okay. But a few minutes later he actually told you
- 16 that he had been to Spartanburg before when he worked with a
- 17 moving company, isn't that right?
- 18 A. I don't -- I don't recall that.
- 19 Q. Okay. Was this interview taped?
- 20 A. Yes.
- 21 Q. Okay. Did you review that tape in preparation for
- 22 court today?
- 23 A. Yes.
- 24 Q. Okay. But you don't remember him saying that he had
- 25 been here before with a moving company?

RUSSELL PORTER - CROSS EXAMINATION BY MS. PRICE

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1 A. I don't recall him telling me about moving -- well, I
2 know that he worked for the moving company, yes.

3 Q. Okay. And at that point Mr. Johnson, like I said
4 before, was under arrest?

5 A. That's correct.

6 Q. He was cuffed and shackled?

7 A. Yes.

8 Q. And he still at the time refused to talk to you?

9 A. That's correct.

10 Q. 'Cause he doesn't have to, ---

11 A. Right.

12 Q. --- is that correct?

13 A. That's correct.

14 Q. Okay. So even after he refused to give you a statement
15 you still kept talking to him, is that right?

16 A. Once he invoked his right, no, we were done.

17 Q. Once he signed this paper you were finished?

18 A. Once he told me or invoked his right to not talk, ---

19 Q. Right.

20 A. --- so we were done. Maybe some casual conversation,
21 but nothing particular.

22 Q. Did that casual conversation include telling him what
23 he's under arrest for?

24 A. I think Investigator Gardiner read his warrant to him.

25 Q. Okay. Would that casual conversation include telling

RUSSELL PORTER - REDIRECT EXAMINATION BY MR. BULSA

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1 him that he would feel better if he got some things off his
2 mind and off of his heart? Do you recall telling him that?

3 A. Yes.

4 Q. Okay. So you did keep talking to him?

5 A. Yes.

6 Q. Okay. That's all I have.

7 THE COURT: Redirect?

8 MR. BULSA: Yes, sir.

9 Redirect Examination by Mr. Bulsa:

10 Q. The question asked about him being in Spartanburg, was
11 that a preliminary question?

12 A. Yes.

13 Q. And that was essentially one of the questions he chose
14 to answer, is that correct?

15 A. That's correct.

16 Q. And that was that he was not -- had not been in
17 Spartanburg?

18 A. That's correct.

19 Q. Did you inform him of the time-frame you were talking
20 about?

21 A. Actually, I did not. Just any time.

22 Q. Okay. So you left it open for him?

23 A. Right.

24 Q. So he never acknowledged being here?

25 A. Right.

RUSSELL PORTER - RECROSS EXAMINATION BY MS. PRICE

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1 Q. Okay. Thank you.

2 THE COURT: Recross?

3 Recross Examination by Ms. Price:

4 Q. Are -- are you saying, investigator, that he said that
5 he was never in Spartanburg ever?

6 A. That's what he initially told me, yes.

7 Q. Well, did he tell you something else later?

8 A. After talking I don't know if he mentioned -- maybe
9 mentioned about the moving company being here or he may have
10 did a job here, I'm not sure.

11 Q. So he did, but your recollection is not exactly clear,
12 but he may have mentioned something about working here
13 previously?

14 A. Right.

15 Q. Okay. That's all I have.

16 THE COURT: Anything further, Mr. Bulsa?

17 MR. BULSA: No, sir.

18 THE COURT: You may step down, sir. The State may call
19 its next witness.

20 MR. BULSA: The State calls Meg Vassey.

21 THE COURT: Come forward, please, ma'am, to my left to
22 be sworn.

23 Meg Vassey, being duly
24 sworn testified as follows:

25 THE COURT: Have a seat, please. Once you're seated

MEG VASSEY - DIRECT EXAMINATION BY MR. BULSA

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1 I'd ask that you state your name, please.

2 MS. VASSEY: Meg Vassey.

3 THE COURT: Mr. Bulsa, your witness.

4 MR. BULSA: Thank you, Your Honor.

5 Direct Examination by Mr. Bulsa:

6 Q. Ms. Vassey, who are you employed with?

7 A. Spartanburg City Fire Department at the present.

8 Q. Okay. And how long have you been with the Fire
9 Department?

10 A. Five years.

11 Q. Were you previously employed with the City in another
12 occupation?

13 A. Yes. I was a police officer for ten of those years.

14 Q. So you were an officer -- a police officer for ten
15 years and a fireman five years?

16 A. Yes.

17 Q. So back in the year 2000 you were employed by the City?

18 A. Yes, I was.

19 Q. Were you ever assigned to the evidence room?

20 A. Yes.

21 Q. Do you recall the time-frame in which you were there?

22 A. The year 2000 I was pregnant with my first child.

23 Q. Okay. And as an evidence officer would you describe
24 your duties to the jury?

25 A. Yes. I would log in the evidence that was dropped, you

MEG VASSEY - DIRECT EXAMINATION BY MR. BULSA

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1 know, the day prior or the day of. They would drop the
2 evidence off with me. I would check it as far as the item
3 and the quantity, make sure it was correct, log it into
4 evidence and place it in the secured area in the back in the
5 evidence room.

6 Q. How many people have access to the evidence room?

7 A. Only myself and maybe one other person. That would be
8 the Major.

9 Q. Major?

10 A. Um-hum (affirmative).

11 Q. Major of the City Police Department?

12 A. Yes.

13 Q. Did he ever have an occasion to go in?

14 A. Not unless there was something -- if I was absent or
15 wasn't able to come in that day, he would -- he would have
16 to go in there.

17 Q. Okay. So pretty much it was you and nobody else?

18 A. Correct, at that time.

19 Q. Officers -- did the officers themselves actually go in
20 when they brought the evidence?

21 A. No.

22 Q. How did they get it to you?

23 A. They -- we have a sliding window there. As they walk
24 in they could either hand it to me directly or if no one's
25 there, if the evidence room's locked up there's a box that

MEG VASSEY - DIRECT EXAMINATION BY MR. BULSA

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1 they can drop evidence into that's locked. And then when we
2 do come back or I'd come back, unlock the cabinet and get
3 the evidence out, take it into the evidence room, log it in
4 and place it on the appropriate shelf.

5 Q. And the box that you described, is that like a metal
6 box ---

7 A. It's a -- it's a big metal box, yes.

8 Q. Okay. So you can get it in, but you can't get it out?

9 A. That's correct.

10 Q. All right. What's the reason for these processes?

11 A. Chain of evidence. You don't want -- once you drop
12 something off pertaining to a case, you want to make sure
13 it's secure and, you know, not handled by too many people.

14 Q. Okay. And were those procedures followed in this case?

15 A. Yes. As far as I can see, yes.

16 Q. Are you reviewing evidence ---

17 A. Yes.

18 Q. --- records?

19 A. These are the ones -- evidence that I've logged -- that
20 I logged into the evidence room.

21 Q. Back in June of 2000 you received items of evidence
22 from Robert Talanges?

23 A. Yes. I've got -- let me make sure -- yes.

24 Q. Specifically, you received evidence, ---

25 A. Officer ---

MEG VASSEY - DIRECT EXAMINATION BY MR. BULSA

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1 Q. --- items of evidence?

2 A. Oh, I'm sorry. I also received Raymond Russell -- I

3 also received ---

4 Q. Okay. Specifically, Robert Talanges, you received
5 items labeled from the wooded area behind York Street?

6 A. Yes, sir.

7 Q. And those would include items that might have some
8 blood type substance on them?

9 A. Yes, sir. I took, it looks like, several swabs, blood
10 on a stick, blood on leaf, different items that either were
11 soiled or had blood on them, yes.

12 Q. Okay. And those are specifically from the wooded area?

13 A. Yes, sir, that's what it says.

14 Q. And then you also received items turned in by Officer
15 Talanges from the Thompson alley off York Street?

16 A. Let's see. Thompson alley off of York Street, yes.

17 Q. Those would include items that possibly contained
18 blood?

19 A. Yes.

20 Q. Okay. And similarly you received items that would have
21 been received from the hospital, East Wood Street?

22 A. Yes.

23 Q. Those were also from Robert Talanges?

24 A. Correct.

25 Q. Were any of these items ever co-mingled or were they

MEG VASSEY - DIRECT EXAMINATION BY MR. BULSA

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1 handled separately?

2 A. I have several different sheets that they were logged
3 in at the same -- on the same date, at different times, but
4 as far as ---

5 Q. What about individual packaging, would they have been
6 packaged separately?

7 A. The blood would be in an envelope, yes.

8 Q. Okay.

9 A. But it would be labeled as to where it was found and
10 what it was.

11 Q. Okay. So each individual item would be in a separate
12 package?

13 A. (Affirmative nod).

14 Q. Okay. And would you, yourself, have any occasion to
15 actually open those items?

16 A. I would only do the evidence that -- say a bracelet,
17 money items, I would have to actually check and make sure
18 that the amount of money in that evidence bag was correct.
19 But as far as the blood contaminating things, I would not.

20 Q. So you didn't have occasion to even open those bags?

21 A. No, sir.

22 Q. Okay. And they would have been -- how would they have
23 been secured in your ---

24 A. They were already secured in a plastic bag inside the
25 brown evidence bag.

COURTNEY WESTFALL - DIRECT EXAMINATION BY MR. BULSA

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1 Q. All right. And do your records show that several of
2 these items were retrieved from -- by Officer Talanges to be
3 taken to the South Carolina Law Enforcement Division?

4 A. Yes, sir.

5 Q. Okay. All right. Thank you, ma'am. Answer any
6 questions Ms. Price has.

7 MS. PRICE: I don't have any questions for this
8 witness.

9 THE COURT: You may step down.

10 MS. VASSEY: Thank you.

11 THE COURT: Wish to excuse the witness?

12 MR. BULSA: Yes, sir, we do.

13 THE COURT: Any ---

14 MS. PRICE: No objection.

15 THE COURT: You're free to go. Thank you very much.

16 MR. BULSA: The State calls Courtney Westfall.

17 THE COURT: Come forward, please, ma'am, to the left
18 here to be sworn.

19 Courtney Westfall, being
20 duly sworn testified as follows:

21 THE COURT: Have a seat, please. State your name for
22 the record.

23 MS. WESTFALL: Courtney Westfall.

24 THE COURT: Mr. Bulsa, your witness.

25 MR. BULSA: Thank you, Your Honor.

COURTNEY WESTFALL - DIRECT EXAMINATION BY MR. BULSA

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1 Direct Examination by Mr. Bulsa:

2 Q. Ms. Westfall, please tell us what your occupation is.

3 A. I'm a forensic technician with Spartanburg Public
4 Safety.

5 Q. Are you a police officer?

6 A. No, I'm not. I'm a civilian.

7 Q. What is your training?

8 A. I went to West Virginia University where I got a
9 bachelor of science in forensics.

10 Q. And then later came to Spartanburg to work?

11 A. Yes, sir.

12 Q. How long have you been working the City Police
13 Department?

14 A. It'll be five years in February.

15 Q. Now, so you weren't employed back in 2000 when this
16 case actually occurred?

17 A. No.

18 Q. Were you asked to go take a sample from a Fredrick
19 Johnson?

20 A. Yes, I was. On December 22nd, 2008 I collected a
21 buccal swab or just a mouth swab from Fredrick -- Fredrick
22 Johnson.

23 Q. And what was the purpose of collecting that?

24 A. For DNA confirmation.

25 Q. So explain what you would have done.

COURTNEY WESTFALL - DIRECT EXAMINATION BY MR. BULSA

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1 A. Basically gloved up, take a sterile Q-tip and just swab
2 the inside of his cheeks in his mouth to collect skin cells.
3 That Q-tip would then be placed into a box, which would be
4 put into an evidence envelope, sealed and placed into
5 evidence.

6 Q. What's the reason for sealing it in such a fashion?

7 A. Just to maintain the integrity of the sample so that
8 nothing can be cross contaminated with it.

9 Q. And what would you have done with that once you
10 obtained it?

11 A. It was placed into evidence. It should have been
12 submitted to SLED to be compared to any unknown blood that
13 was found on the crime scene.

14 Q. But you didn't yourself take it to ---

15 A. No, I didn't.

16 Q. When you took it to the City evidence it was in a
17 secured fashion?

18 A. Correct.

19 Q. Did you have any occasion to deal with any of the other
20 evidence in this case?

21 A. Not really. When we began a cold case grant, I
22 collected samples from other possible suspects. They were
23 sent to a private lab and analyzed. They did not match any
24 of the unknown samples that we had. So nothing else was
25 done with those samples.

COURTNEY WESTFALL - CROSS EXAMINATION BY MS. PRICE

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1 Q. You actually work with Officer Guthro now, right?

2 A. I do.

3 Q. Both of you are the forensics team?

4 A. Correct.

5 Q. Okay. Did you assist him in the cuttings?

6 A. Yes. I was there when he collected cuttings from the
7 victim's jumpsuit, dress, outfit that she was wearing. I
8 was there when he collected the cuttings.

9 Q. He's the one that actually did it, secured it and took
10 it to SLED?

11 A. Yes.

12 Q. Okay. Thank you. Answer any questions Ms. Price may
13 have.

14 THE COURT: Ms. Price, your witness.

15 Cross Examination by Ms. Price:

16 Q. Ms. Westfall, when you went to the jail to talk to Mr.
17 Johnson or to take your buccal swab from Mr. Johnson, he
18 gave you that freely and voluntarily, didn't he?

19 A. Yes, he did.

20 Q. And he signed his consent form?

21 A. He did.

22 Q. And pursuant to that consent form you swabbed his mouth
23 and sent it off?

24 A. I did.

25 Q. Okay. Well, in regards to this Cellmark issue, that's

COURTNEY WESTFALL - CROSS EXAMINATION BY MS. PRICE

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1 a private lab that you sent some other samples to in Dallas,
2 is that right?

3 A. Yes.

4 Q. And you just got a profile from those, is that right?

5 A. Correct.

6 Q. You didn't send any comparisons, did you?

7 A. No. The way -- it's kind of a long story the way the
8 grant was set up. But any of the samples that had already
9 been tested by SLED, we couldn't send those to Orchid
10 Cellmark to have them compared because SLED had already
11 processed them.

12 So what -- I think what was actually done was the
13 profiles that we got back from those suspects were -- I
14 believe they were sent along to SLED so that SLED could look
15 at them and compare them to the unknowns.

16 Q. Do you know that for sure?

17 A. I -- I don't know for sure. I wasn't present.

18 Q. Okay. So you're not sure exactly what happened to
19 those?

20 A. Correct.

21 Q. But they just sent them -- they sent them back to you
22 from Dallas, is that correct?

23 A. Yes.

24 Q. And from there you don't know exactly what happened to
25 them?

COURTNEY WESTFALL - REDIRECT EXAMINATION BY MR. BULSA

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1 A. They were placed into evidence.

2 Q. Okay.

3 A. And with the case file.

4 Q. Okay. That's all -- but you didn't do anything with
5 them?

6 A. No.

7 Q. Okay. That's all I have. Thank you.

8 THE COURT: Mr. Bulsa, anything further from the
9 witness?

10 Redirect Examination by Mr. Bulsa:

11 Q. But to your knowledge there was no other items that
12 matched anybody else?

13 A. Correct, not to my knowledge.

14 Q. Thank you.

15 THE COURT: Any other questions?

16 MS. PRICE: No, Your Honor.

17 THE COURT: Ma'am, you may step down. The State may
18 call its next witness.

19 MR. BULSA: The State calls Mylnor Beach.

20 THE COURT: Come forward, sir, to my left to be sworn.

21 Mylnor Beach, being duly
22 sworn testified as follows:

23 THE COURT: Have a seat, please. Once you're seated,
24 I'd ask that you state your name.

25 MR. BEACH: Mylnor Beach.

MYLNOR BEACH - DIRECT EXAMINATION BY MR. BULSA

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1 THE COURT: Mr. Bulsa, your witness.

2 MR. BULSA: Thank you.

3 Direct Examination by Mr. Bulsa:

4 Q. Mr. Beach, who are you employed with?

5 A. Spartanburg Public Safety.

6 Q. In what capacity?

7 A. I'm a property and evidence technician.

8 Q. And are you an officer?

9 A. No, sir. I'm a civilian.

10 Q. Okay. And how long have you been with Public Safety?

11 A. A little over four and a half years.

12 Q. Has all of that been with property and evidence?

13 A. Yes, sir.

14 Q. Do you have any law enforcement background?

15 A. No, sir.

16 Q. What are your duties with the evidence?

17 A. Primarily to receive, check, verify all the evidence
18 and property that's turned in and then -- in our work area.

19 We sign off on it, barcode everything, assign locations to
20 it for safekeeping and file paperwork.

21 Q. Okay. Now you were here when Meg Vassey testified,
22 right?

23 A. Yes, sir.

24 Q. She was actually an officer when she was in the
25 evidence room?

MYLNOR BEACH - DIRECT EXAMINATION BY MR. BULSA

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1 A. Yes, sir.

2 Q. You were never -- you never worked with her?

3 A. No, sir.

4 Q. Okay. To your knowledge did they essentially take that
5 from an officer position to technician positions?

6 A. I couldn't say. When I was hired there was one other,
7 what we call, civilian officer working there. I came in as
8 a civilian also.

9 Q. Okay. All right. You heard the process that she
10 described.

11 A. I really couldn't hear back in the back.

12 Q. You couldn't hear -- well, I was going to save you some
13 talking, but tell us the measures you take to make sure the
14 integrity of the evidence is secure.

15 A. Okay. All evidence and property is dropped in what we
16 call our drop area, which is a secured area that only the
17 officers, you know, have access to. And it goes into a
18 locked bin or a lockable locker. Mr. Reeves, who is my
19 partner, myself and our Major are the only ones that have a
20 key to access the lockers or the drop-box itself.

21 Normally our procedure is whoever comes in on the early
22 shift in the morning removes all the evidence. There is a
23 sign-in book, which we call our log where the officers have
24 to list each piece of evidence and case number that they
25 drop.

MYLNOR BEACH - DIRECT EXAMINATION BY MR. BULSA

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1 We take our evidence and we verify to the log that it's
2 there. And once we verify that, we sign and date it. Then
3 it's brought into our work area in the office. And the
4 evidence envelopes and evidence sheets have to be signed by
5 us, date and time that we received it, then we barcode it.
6 There's a barcode that goes on the evidence sheet and a
7 barcode that goes on the evidence envelope or boxes,
8 whatever the packaging may be.

9 At that time we assign a location to it. Then
10 everything is entered into the computer. Our evidence
11 sheets are filed so that we have a paper file and a computer
12 file for backup. So we have a double checkpoint there.

13 Q. Is there -- let's talk specifically about this case.
14 Did you receive the buccal swab from ---

15 A. Yes, sir.

16 Q. --- Ms. Westfall?

17 A. Ms. Westfall dropped that on December the 22nd, 2008.
18 The evidence sheet was filled out at 1530 hours, which would
19 be 3:30 in the afternoon. The following morning, December
20 23rd, I received it from our drop-box area at 1600 hours.

21 Q. Was it in ---

22 A. That was afternoon, I'm sorry, 1600 hours.

23 Q. Was it in a sealed condition when you received it?

24 A. Pardon?

25 Q. Was it in a sealed condition when you received it?

GEORGE DAVID REEVES - DIRECT EXAMINATION BY MR. BULSA

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1 A. Yes, sir, in an evidence envelope.

2 Q. Did you have an occasion to take that item to the South
3 Carolina Law Enforcement Division?

4 A. Yes, sir, on -- bear with me just a minute. On January
5 the 2nd, 2009 I took it down to SLED. It was logged in down
6 there at 8:56 am.

7 Q. Did you at any time while it was in your possession
8 open it?

9 A. No, sir.

10 Q. Did you ever co-mingle any of the evidence in this
11 case?

12 A. Did I what, sir?

13 Q. Ever co-mingle it, mix it together?

14 A. No, sir. No, sir.

15 Q. All right. Thank you. Answer any questions Ms. Price
16 has for you.

17 THE COURT: Ms. Price?

18 MS. PRICE: I have no questions of Mr. Beach.

19 THE COURT: You may step down.

20 MR. BULSA: David Reeves.

21 THE COURT: Come forward, sir, and be sworn.

22 George David Reeves,

23 being duly sworn testified as follows:

24 THE COURT: Have a seat, please, sir. State your name
25 for the record.

GEORGE DAVID REEVES - DIRECT EXAMINATION BY MR. BULSA

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1 MR. REEVES: My name is George David Reeves.

2 THE COURT: Mr. Bulsa, your witness.

3 MR. BULSA: Thank you, Your Honor.

4 Direct Examination by Mr. Bulsa:

5 Q. Mr. Reeves, are you employed with the City?

6 A. Yes, I am.

7 Q. Are you Mr. Beach's partner?

8 A. Yes, I am.

9 Q. How long have you been there?

10 A. I've been here ten years.

11 Q. When would you have started?

12 A. I would have started September of 2000.

13 Q. Okay. So just after this case happened?

14 A. Yes.

15 Q. Did you actually work some with Ms. Vassey?

16 A. Yes, I did.

17 Q. And did you take over after she left the evidence room?

18 A. Yes, I did.

19 Q. And you actually had it by yourself for a while, didn't
20 you?

21 A. Yes, I did.

22 Q. Okay. Now this case has been going on for ten years,
23 this specific case we're talking about. Did you ever have
24 an occasion yourself or have any reason to go into that
25 evidence, specific evidence involving this case?

GEORGE DAVID REEVES - DIRECT EXAMINATION BY MR. BULSA

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1 A. Whenever we're required to have an officer look at the
2 property, whenever we're required to take it to SLED, those
3 are the times that we go into it. Otherwise, we have a
4 least handled, best handled policy where we try to leave
5 everything in the exact same condition as we received it.

6 Q. Okay. So you basically store it?

7 A. Yes.

8 Q. You, yourself, had no reason to go into it?

9 A. That's correct.

10 Q. All right. Now we've heard about items being taken to
11 the Law Enforcement Division down in Columbia. Did you take
12 any items yourself?

13 A. Yes, I did.

14 Q. Explain and describe which items you would have taken
15 and when. Let's -- let me make it more specific.

16 A. Okay.

17 Q. Did you take the jumpsuit and panties of the victim's
18 to SLED?

19 A. I'll have to look.

20 Q. Okay.

21 A. Yes, I did.

22 Q. Okay. When do you show yourself taking those down?

23 A. I took it down February 2nd, 2009.

24 Q. February of 2009.

25 A. Yes.

GEORGE DAVID REEVES - DIRECT EXAMINATION BY MR. BULSA

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1 Q. We know it went down in 2000 and it came back to SLED
2 or did it come back to the City Police Department?

3 A. Yes, it did. That's a recent mission, I assume.

4 Q. Yes, sir.

5 A. I'm also showing that it went down in -- Robert
6 Talanges took it originally.

7 Q. Okay. And you received it back in May of '01?

8 A. Yes, I did.

9 Q. Okay. And then it would have stayed in the City
10 evidence for eight, nine more years before it was sent back
11 down?

12 A. Yes.

13 Q. Okay. Now State's 25 is the actual packaging and item.
14 Is that pretty much the same condition it was in?

15 A. Yes.

16 Q. Other than the different varying colors of tape?

17 A. Yes.

18 Q. Have you reviewed the evidence records?

19 A. Partially.

20 Q. Do you show your agency ever having any of the
21 Defendant's blood?

22 A. We're only having it, to my knowledge, in a buccal
23 swab.

24 Q. Okay. That would be the only sample that your office
25 ever had of the Defendant's?

GEORGE DAVID REEVES - DIRECT EXAMINATION BY MR. BULSA

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1 A. As a known sample, yes.

2 Q. Okay. All right. That's all I have. Answer any
3 questions Ms. Price has.

4 MS. PRICE: No questions for Mr. Reeves.

5 THE COURT: Sir, you may step down.

6 MR. REEVES: Thank you, Your Honor.

7 THE COURT: You may call your next witness.

8 MR. BULSA: May we approach, Your Honor?

9 THE COURT: You certainly may.

10 (Whereupon a bench conference was held off the record
11 in the presence of the jury, but out of their hearing)

12 THE COURT: Ladies and gentlemen, there's going to be a
13 little break. We have some witnesses coming from out of
14 town. They should be here shortly.

15 So we'll take a break right now and allow you to step
16 back to the jury room. As always, I'll instruct you not to
17 begin any discussions about this case until I advise you to
18 do so. You may retire.

19 (Whereupon the jury exited the courtroom at 1:40 pm)

20 THE COURT: All right. Mr. Bulsa, if you'll let me
21 know when and where we can expect them.

22 MR. BULSA: Yes, sir.

23 THE COURT: All right. We'll take a brief break.

24 Court's in recess.

25 (Whereupon court was in recess at 1:40 pm)

BETTY BUTLER - DIRECT EXAMINATION BY MR. BULSA

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1 (Whereupon court, resumed at 2:17 pm)

2 THE COURT: Thank you very much.

3 THE BAILIFF: Thank you. Please be seated.

4 THE COURT: All right. Mr. Bulsa, is the State ready
5 to proceed?

6 MR. BULSA: Yes, sir.

7 THE COURT: Defense ready?

8 MS. PRICE: As soon as the Defendant gets here, Your
9 Honor.

10 THE COURT: Okay.

11 (Pause)

12 (Whereupon the Defendant entered the courtroom at 2:22
13 pm)

14 THE COURT: Bring the jury in.

15 (Whereupon the jury entered the courtroom at 2:22 pm)

16 THE COURT: All right. The record will reflect the
17 jury has returned to the courtroom. The State may call its
18 next witness.

19 MR. BULSA: The State calls Betty Butler.

20 THE COURT: Come forward, ma'am, to my left to be sworn
21 in.

22 Betty Butler, being duly
23 sworn testified as follows:

24 THE COURT: Have a seat, please, ma'am. And once
25 you're seated, state your name for the record.

BETTY BUTLER - DIRECT EXAMINATION BY MR. BULSA

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1 MS. BUTLER: Betty Walker Butler.

2 THE COURT: Mr. Bulsa, your witness.

3 MR. BULSA: Thank you, sir.

4 Direct Examination by Mr. Bulsa:

5 Q. Ma'am, who are you employed with?

6 A. I'm employed with the South Carolina State Law
7 Enforcement Division, also known as SLED.

8 Q. And what are your duties right now?

9 A. My duties now is in the evidence processing department
10 in DNA.

11 Q. Okay. And how long have you been employed by the Law
12 Enforcement Division?

13 A. Fourteen years.

14 Q. Back in the year 2000 what were your duties?

15 A. One of my duties back in 2000 would be to log in
16 evidence in our tracking system, which is called -- was
17 called at that time SLIMS. We would take in evidence from
18 various agencies where we would -- we call a tracking
19 system, where we would give every item a item number and
20 every case have to have a case number.

21 Q. And do you have your records relating to the case
22 number L007262?

23 A. Yes, I do.

24 Q. Okay. And is that involving a victim identified as an
25 Iris Rhinehart?

BETTY BUTLER - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. Yes.
- 2 Q. Okay. And I believe you received the actual -- the
- 3 first item submitted, did you not?
- 4 A. Yes, I did.
- 5 Q. And what was that item?
- 6 A. That item was blood.
- 7 Q. Okay. And was it something that had been mailed into
- 8 the agency?
- 9 A. Yes, it was mailed into the agency.
- 10 Q. What condition would it have been in?
- 11 A. At that time it would have been in a toxicology box.
- 12 It was a sealed box that they used to mail in evidence at
- 13 that time.
- 14 Q. Okay. And did you have any occasion to open that box?
- 15 A. Yes, I did.
- 16 Q. What did you do?
- 17 A. When I opened the box I inventoried, it was blood.
- 18 What we do in that case, we use a heat-sealed pouch, we put
- 19 the blood into a heat-sealed pouch. We have to seal it up.
- 20 And once we give it a case number, which in this case
- 21 is L007262, we had to give it an item number. In this case
- 22 it's item one. We seal it up. We route it to toxicology,
- 23 which is -- at that time it was a drop-box within our
- 24 evidence control department with a lock on it.
- 25 And what we did, once we log into our system we would

BETTY BUTLER - DIRECT EXAMINATION BY MR. BULSA

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1 drop it into that toxicology box. We have to always have it
2 sealed where they have their initials, the date and sign and
3 date it.

4 Q. So you would have broken the seal and then just
5 transferred it to another sealed pouch?

6 A. Yes.

7 Q. Okay. And that would remain sealed until you dropped
8 it in the box?

9 A. Yes.

10 Q. And you don't know what happened to it after that?

11 A. No, I don't.

12 Q. Okay. All right. Now that would have been, when, in
13 early July of 2000?

14 A. Yes.

15 Q. And your records show that on July 19th an officer from
16 the Spartanburg Public Safety Department brought in a number
17 of items?

18 A. Yes, he did.

19 Q. Okay. And who would have been in evidence intake at
20 that time?

21 A. At that particular time it was a forensic technician,
22 Dana Fowler.

23 Q. And where is she now?

24 A. She now is, I've heard, in Japan.

25 Q. So unavailable for court?

BETTY BUTLER - DIRECT EXAMINATION BY MR. BULSA

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1 A. Unavailable.

2 Q. Okay. What would the process have been with those
3 items that she would have taken in?

4 A. She would have -- when the officer brought it in,
5 normally they bring it into one of their, maybe bags. What
6 she would do, she would always put it into a heat-sealed
7 pouch. It's a pouch where we have to -- we have to seal all
8 evidence before it leaves.

9 If she -- she would have put all the evidence into a
10 pouch, first decide what department it goes to. Sometimes
11 it goes to the tox department, sometimes it would go to DNA,
12 sometimes it will go to trace. She would determine where
13 the evidence goes.

14 She would put them in separate pouches, seal the
15 pouches, have the officer initial and date across the seal.
16 He will also sign the heat-sealed pouch. And he will
17 physically drop it into the either DNA box, the tox box or
18 we would route it to the trace department.

19 Q. So anything she would have done would have been done in
20 the presence of Officer Talanges?

21 A. Yes.

22 Q. Okay. And he would have witnessed the seal, actually
23 signed the seal and then deposited it himself?

24 A. Yes, he would.

25 Q. Okay. All right. Nonetheless, once it left evidence

SAMUEL REIGHLEY - DIRECT EXAMINATION BY MR. BULSA

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1 intake it would have been sealed. And what was the purpose
2 for sealing it?

3 A. To make sure it wasn't tampered with.

4 Q. Okay. And then the various departments would collect
5 the evidence and do what they needed to do with it?

6 A. That's correct.

7 Q. All right. That's all I have at this time. Answer any
8 questions Ms. Price has.

9 MS. PRICE: I have no questions for Ms. Butler.

10 THE COURT: Ma'am, you may step down. The State may
11 call its next witness.

12 MR. BULSA: The State calls Cal Reighley.

13 THE COURT: Come forward to my left to be sworn,
14 please.

15 Samuel Reighley, being
16 duly sworn testified as follows:

17 THE COURT: Have a seat, please, sir. And once you're
18 seated, I'd ask that you state your name.

19 MR. REIGHLEY: My name is Samuel C. Reighley, Jr.

20 THE COURT: Mr. Bulsa, your witness.

21 Direct Examination by Mr. Bulsa:

22 Q. You go by Cal, don't you?

23 A. That's correct.

24 Q. And you're also employed with the Law Enforcement
25 Division, State Law Enforcement Division?

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- 1 A. Yes, sir, I am.
- 2 Q. And what is your current occupation with them?
- 3 A. Currently I'm a lieutenant in our intelligence center
- 4 with the State police.
- 5 Q. You have a degree in -- what is your degree in?
- 6 A. I have a degree in biology from Western Carolina
- 7 University.
- 8 Q. And were you formerly a toxicologist with SLED?
- 9 A. Yes, I was.
- 10 Q. And when were you a toxicologist?
- 11 A. I was in the toxicology unit from 1998 until
- 12 approximately 2005.
- 13 Q. Okay. And did you receive some blood in the case
- 14 number that Ms. Butler mentioned?
- 15 A. Yes, I did.
- 16 Q. So you would have received your package from the drop-
- 17 box?
- 18 A. That's correct.
- 19 Q. What did you actually receive?
- 20 A. In this particular case I would have -- and just to
- 21 give a background on how we get it to take it through is
- 22 when it drops -- we have a refrigerated box down in our
- 23 evidence area downstairs that we would retrieve our evidence
- 24 from. That's a locked box that only the personnel within
- 25 our toxicology unit have access to.

SAMUEL REIGHLEY - DIRECT EXAMINATION BY MR. BULSA

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1 So one of our technicians would have gone down,
2 physically taken it from that refrigerated box, placed it in
3 a refrigerator in our unit upstairs. They don't manipulate
4 the evidence. They just basically carry it from one place
5 to the other.

6 At that point I would retrieve it from our refrigerator
7 within the department and then start my analysis or -- of
8 the actual sample. In this particular case I received one
9 gray topped tube of blood.

10 Q. So someone would have walked the package upstairs, but
11 you actually opened it?

12 A. That's correct. Whenever I receive that package, go
13 into our refrigerated area, which is also secured within our
14 department, I would examine the actual package to make sure
15 it was still sealed, hasn't been tampered with in any way
16 before I would begin any analysis on that particular sample.

17 Q. Did you receive any other items in this case?

18 A. No, I didn't.

19 Q. Okay. So all you have is a vile of what's noted as the
20 victim's blood?

21 A. That's correct.

22 Q. Did you take a portion of that blood to submit it to
23 any other location?

24 A. Yes, I did. I took a small portion of that blood,
25 which then I transferred to our DNA department. I would

SAMUEL REIGHLEY - DIRECT EXAMINATION BY MR. BULSA

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1 have taken that sample and recontainered it into another
2 vile, which in this particular case I recontainered it into
3 an evidence number of 144434 into a gray topped tube of
4 blood, taken that, sealed it up in a -- in one of our
5 evidence bags, heat-sealed it, initialed, signed it, taken
6 it back down physically to our log-in area and dropped it
7 into the DNA box downstairs.

8 Q. So you would have left it in a sealed condition?

9 A. That's correct.

10 Q. What was the purpose for transferring a portion of the
11 blood?

12 A. In many cases when -- in toxicology we receive samples
13 in those cases. And they would need evidence for the DNA
14 unit for comparison. We would take a portion or aliquot an
15 amount of blood out of our case or our portion of the
16 samples and turn that over to them where they could use it
17 for their analysis.

18 Q. Is this because you're the one that got the blood?

19 A. That's correct.

20 Q. You would separate it out?

21 A. That's correct.

22 Q. So was it tampered with in any way?

23 A. No, it was not.

24 Q. Thank you. Answer any questions Ms. Price has.

25 THE COURT: Ms Price, your witness.

SAMUEL REIGHLEY - CROSS EXAMINATION BY MS. PRICE

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1 Cross Examination by Ms. Price:

2 Q. Agent Reighley, you were the one that actually signed
3 -- what we would call signed off on the toxicology report,
4 is that right?

5 A. On the toxicology report?

6 Q. Uh-huh (affirmative).

7 A. That's correct.

8 Q. And you actually, during the course of your work on
9 this case, ran the analysis of the blood of Ms. Rhinehart,
10 isn't that right?

11 A. That's correct.

12 Q. And you actually submitted a report back to the
13 Coroner's Office in August of 2000, is that right?

14 A. That is correct.

15 Q. Have you -- have you reviewed that report in
16 anticipation of your testimony today?

17 A. Yes, I have.

18 Q. It's a ten year old case. Okay. What exactly did you
19 find in Ms. Rhinehart's ---

20 MR. BULSA: Your Honor, ---

21 Q. --- blood?

22 MR. BULSA: --- I'm going to object. I'm not sure
23 that's relevant to the matters at hand.

24 THE COURT: Relevance?

25 MS. PRICE: If it's not relevant, what's he doing here,

SAMUEL REIGHLEY - CROSS EXAMINATION BY MS. PRICE

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1 Judge?

2 THE COURT: Beg your pardon?

3 MR. BULSA: May we approach?

4 THE COURT: You may.

5 (Whereupon a bench conference was held off the record
6 in the presence of the jury, but out of their hearing)

7 THE COURT: Ladies and gentlemen of the jury, this is
8 one of the occasions I'll ask you to step back to the jury
9 room while I discuss the matter with the attorneys. Don't
10 begin any discussions until I've advised you to do so.
11 Thank you very much.

12 (Whereupon the jury exited the courtroom at 2:35 pm)

13 THE COURT: All right. Ms. Price, at the bench you
14 indicated to the Court that you're intending to go into a
15 line of questioning involving the blood alcohol level or any
16 drugs that were found in the blood of the victim. Is that
17 right?

18 MS. PRICE: That's correct, Your Honor.

19 THE COURT: And the State's objection was relevance as
20 to that particular information.

21 MS. PRICE: Yes, Your Honor, that's correct.

22 THE COURT: And the relevance of that information is?

23 MS. PRICE: Your Honor, what I'm -- what I'm trying to
24 do here is to show that there was a lot of blood found at
25 this scene. Ms. Rhinehart was found -- she was found lying

SAMUEL REIGHLEY - CROSS EXAMINATION BY MS. PRICE

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1 face-down on the ground. There was a lot of blood trailing
2 behind the scene, there was a lot of blood. And what I'm
3 trying to show is the possibility that she was intoxicated
4 at the time which could have led to some of this blood
5 smearing.

6 THE COURT: The issue's not whether or not she bled,
7 but whether or not she was murdered.

8 MS. PRICE: I understand that, Your Honor. But what
9 I'm trying to elicit in front of the jury and part of this
10 is that maybe in her intoxication that she stumbled, fell,
11 rolled on the grass. I'm just trying to explain that.

12 THE COURT: Mr. Bulsa.

13 MR. BULSA: We've already had testimony that she had an
14 addiction problem. I don't know what her actual levels were
15 at at the time of her death. I just don't see how that's
16 relevant.

17 THE COURT: We haven't had testimony from anyone
18 describing the exact nature of the wounds that she had. I
19 don't know if any of them indicate that they might be as a
20 result of her falling. Is that the issue that you're trying
21 to get to?

22 MS. PRICE: Yes, Your Honor.

23 THE COURT: That she may have had that number of
24 injuries from a fall?

25 MS. PRICE: No, Your Honor, that's not what -- what the

SAMUEL REIGHLEY - CROSS EXAMINATION BY MS. PRICE

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1 testimony was earlier today is that her -- there was blood
2 found in one part of this wooded area and then there was
3 also blood that was found in another part of this wooded
4 area.

5 THE COURT: That's not yet been identified as to who
6 that -- was the source of the blood, is that correct? I ---

7 MR. BULSA: No, it's going to -- it's ---

8 THE COURT: I know that's going to play out, I assume,
9 somewhere down the line, but I haven't heard where that's
10 going. You probably know more about that than I do. Tell
11 me.

12 MS. PRICE: Well, that's -- that's where we're going,
13 Your Honor.

14 THE COURT: Well, was her blood found in various
15 locations around the scene?

16 MS. PRICE: That seems to be the indication, yes.

17 THE COURT: Okay.

18 MR. BULSA: As it left the central area ---

19 MS. PRICE: Yes, Your Honor.

20 MR. BULSA: --- to where her body was. There were some
21 spots where her blood was ---

22 MS. PRICE: That's correct.

23 THE COURT: Okay. All right. I'm not sure that the
24 prejudicial value would outweigh its probative effect given
25 the fact that she was an admitted drug user.

SAMUEL REIGHLEY - CROSS EXAMINATION BY MS. PRICE

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1 MR. BULSA: Yes, Your Honor.

2 THE COURT: So I'm going to allow the line of
3 questioning, but it needs to -- I don't know if we need to
4 spend a lot of time on that. I mean, that's -- it seems ---

5 MS. PRICE: I'm just going to ask him what those levels
6 were ---

7 THE COURT: Okay.

8 MS. PRICE: --- as a result of his testing and that's
9 all.

10 THE COURT: Let's bring the jury in. It's very
11 tenuous, but I'll allow it. It is the defense.

12 (Whereupon the jury entered the courtroom at 2:39 pm)

13 THE COURT: All right. The record will reflect the
14 jury has returned to the courtroom. I've overruled the
15 objection. I'll allow the cross examination to continue.

16 MS. PRICE: Thank you, Your Honor.

17 Cross Examination by Ms. Price Continued:

18 Q. Mr. Reighley, you did perform the toxicology test on
19 Ms. Rhinehart's blood sample, is that right?

20 A. Yes, I did.

21 Q. And did you discover any alcohol in her system?

22 A. Yes.

23 Q. How much? Well, what was her percentage? Excuse me.

24 A. It was a zero point one three zero (0.130) percent
25 weight by volume blood alcohol found.

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 Q. And did you also find some cocaine in her system?

2 A. Yes, I did.

3 Q. Okay. Thank you. That's all.

4 THE COURT: Redirect?

5 MR. BULSA: No, sir.

6 THE COURT: You may step down, sir. The State may call

7 its next witness.

8 MR. BULSA: The State calls Amy Stephens.

9 THE COURT: Come forward and be sworn, please, ma'am.

10 Amy Stephens, being duly

11 sworn testified as follows:

12 THE COURT: Have a seat, please. State your name.

13 MS. STEPHENS: Amy Stephens.

14 THE COURT: Mr. Bulsa, your witness.

15 Direct Examination by Mr. Bulsa:

16 Q. Ms. Stephens, who are you employed with?

17 A. I'm employed with the South Carolina Law Enforcement

18 Division, also known as SLED.

19 Q. And is that located in Columbia?

20 A. Yes, it is.

21 Q. How long have you been with them?

22 A. I've been employed with SLED since March of 2006.

23 Q. What are your duties with them?

24 A. I'm a forensic technician in the evidence control

25 department. Our basic duties are to log in, package and

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 transfer evidence for forensic analysis.

2 Q. You've been in that position the whole time you've been
3 there?

4 A. Yes, I have.

5 Q. Did you receive any items of evidence in this case in
6 question?

7 A. Yes, I did.

8 Q. Okay. You were not employed back in 2000?

9 A. No, I was not.

10 Q. But you received items when?

11 A. I received items on January 2nd of 2009, February 20th
12 of 2009 and September 28th of 2010.

13 Q. What did you receive on January 2nd?

14 A. On January 2nd I received a buccal swab from Fredrick
15 Johnson.

16 Q. Okay. And how would that have been received by you?

17 A. In a sealed condition, however the agency would have
18 packaged it when they collected it.

19 Q. And when it came to your office what happened to it?

20 A. When it comes to my office I would have entered the
21 information into our computer system. I would have then
22 taken the evidence, put it in a heat-seal pouch, sealed the
23 pouch and have the submitting officer initial and date the
24 heat-seal as well as sign and date the front of the heat-
25 seal pouch.

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 Q. So everything you did on that was done in front of the
2 officer?

3 A. That's correct.

4 Q. Okay. So you never had a reason to open the buccal
5 swab?

6 A. No, I did not.

7 Q. Okay. And where was that distributed to?

8 A. I transferred the evidence directly to our forensic
9 technician, Patricia Crooks.

10 Q. She works with what department?

11 A. Evidence control.

12 Q. Okay. Was it packaged to go eventually to the DNA
13 department?

14 A. Yes. She transferred it directly to a DNA technician.

15 Q. All right. Now on February 20th of 2009 what did you
16 receive?

17 A. On February 20th of 2009 I received a jumpsuit of
18 victim's, panties of victim's, a plastic pipe of victim's,
19 fingernail scrapings, oral swabs, slides, rectal swabs,
20 slides, and vaginal swabs or slides.

21 Q. Do you have a forensic request, excuse me, forensic
22 services request form with those items?

23 A. Yes, I do.

24 Q. Who submitted those items?

25 A. I received these items from David Reeves with the

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 Department of Public Safety in Spartanburg.

2 Q. Okay. Was there any correlating agency item numbers
3 for those items of evidence?

4 A. I have our SLED item numbers.

5 Q. Okay. You have no other connections with the
6 Spartanburg numbers, right?

7 A. Not on the paperwork that I received.

8 Q. Okay. All right. And what was done with those items?

9 A. The jumpsuit of the victim and the panties of the
10 victim, once I logged them in and packaged them in a box and
11 had the submitting officer initial and date the seal, I
12 would have transferred the evidence to an intake shelf, an
13 evidence processing intake shelf in our evidence room.

14 Q. Let me show you State's exhibit 25. Is this the sort
15 of box it would have been in?

16 A. Yes.

17 Q. That item was actually submitted in 2000?

18 A. That's correct.

19 Q. Okay. But then was resubmitted in 2009?

20 A. That's correct.

21 Q. But it would have been in a sealed condition when you
22 received it?

23 A. Yes. It still had the original seal, SLED seal tape on
24 it when I received it.

25 Q. And then you directed it to where it needed to go?

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 A. That's correct. I put it in an intake shelf in our
2 evidence room.

3 Q. So you would not have opened it up?

4 A. No.

5 Q. And the other items?

6 A. The fingernail scrapings, the oral rectal and vaginal
7 swabs or slides, I placed in our DNA refrigerator in our
8 evidence room.

9 Q. Those would have been in a sealed condition?

10 A. Yes.

11 Q. And all of that sealing would have been done in front
12 of the agency officer?

13 A. Yes.

14 Q. And then the last submission was made in September of
15 2010?

16 A. That's correct.

17 Q. And what was received?

18 A. I received three sticks with possible blood on it, a
19 leaf with possible blood on it, three leaves with blood on
20 them, two cuttings from the victim's jumpsuit and a broken
21 bottle with possible blood on it.

22 Q. Do you have your forensic services request form?

23 A. Yes, I do.

24 Q. Did you assign lab numbers, SLED lab numbers to those
25 items?

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 A. This case already had a previous lab number, but item
2 numbers were assigned.

3 Q. Item numbers, okay. Item numbers. Your item numbers
4 actually -- there were agency item numbers, that would be
5 the Public Safety Department's numbers?

6 A. That's listed on the packing slip. It does say item
7 number, which would be what Spartanburg DPS entered.

8 Q. Okay. You're looking at -- is this a copy of what
9 you're looking at?

10 A. I'm looking at the packing slip that I received from
11 the officer.

12 Q. Do you have this form?

13 A. Yes, I do.

14 Q. What -- let me get this marked.

15 (Whereupon State's exhibit 26 was marked for
16 identification)

17 MS. PRICE: No objection, Judge.

18 THE COURT: Without objection then, it'll be received
19 as marked. Mr. Bulsa.

20 MR. BULSA: It's State's 26.

21 THE COURT: Thank you.

22 (Whereupon State's exhibit 26 was admitted into
23 evidence)

24 Q. Do you prepare that document when the items are brought
25 into SLED?

AMY STEPHENS - DIRECT EXAMINATION BY MR. BULSA

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1 A. It's an electronic document that is formed once we
2 enter the information into our computer system and have a
3 submitting officer sign.

4 Q. So the officer signed and you also signed, correct?

5 A. Yes.

6 Q. Okay. So that helps us designate or identify which
7 agency item relates to which SLED item number, right?

8 A. That's correct.

9 Q. Okay. And that's helpful when you have a number of
10 items like this?

11 A. To the agency it is, yes.

12 Q. Okay. All right. And what did you do with these items
13 when they were submitted?

14 A. Once I packaged them and had the submitting officer
15 initial and date the heat-seal and sign and date the front
16 of the heat-seal bag, I transferred the evidence directly to
17 forensic scientist, Ken Bogan.

18 Q. Okay. And why do they go directly to Mr. Bogan?

19 A. That's just the process we sometimes take. He was
20 waiting on the evidence.

21 Q. Okay. And basically it was just sealed and then handed
22 over?

23 A. That's correct.

24 Q. All right. Thank you. That's all I have.

25 THE COURT: Any questions?

VERONA GIBSON - DIRECT EXAMINATION BY MR. BULSA

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1 MS. PRICE: No questions for Ms. Stephens.

2 THE COURT: All right, ma'am, you may step down. Thank
3 you very much.

4 MS. STEPHENS: Thank you, Your Honor.

5 THE COURT: Mr. Bulsa, you may call the next witness.

6 MR. BULSA: The State calls Verona Gibson.

7 THE COURT: Come forward, ma'am, to be sworn.

8 Verona Gibson, being duly
9 sworn testified as follows:

10 THE COURT: Have a seat, please. State your name.

11 MS. GIBSON: Verona Gibson.

12 THE COURT: Mr. Bulsa, your witness.

13 Direct Examination by Mr. Bulsa:

14 Q. Ms. Gibson, tell us where you're employed.

15 A. I'm employed with the South Carolina Law Enforcement
16 Division, commonly referred to as SLED.

17 Q. And what department are you in?

18 A. I'm in the evidence processing DNA department.

19 Q. And what do you do in the evidence processing?

20 A. I'm a forensic technician.

21 Q. And as a technician what are your duties?

22 A. We usually get in larger pieces of evidence or
23 clothing, bed linens and look for biological fluids, hairs
24 or fibers.

25 Q. How long have you been in that position?

VERONA GIBSON - DIRECT EXAMINATION BY MR. BULSA

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- 1 A. Approximately two and a half years.
- 2 Q. And after you examine items what do you do? Do you
- 3 take samples?
- 4 A. Yes, sir.
- 5 Q. Okay. All right. And did you receive some items in
- 6 this case in question?
- 7 A. I did, yes, sir.
- 8 Q. What did you receive?
- 9 A. A jumpsuit, a pair of panties and a pipe.
- 10 Q. Okay. Did you receive it on two separate occasions?
- 11 A. No, sir.
- 12 Q. Just one, okay. When did you actually receive it?
- 13 A. I processed them on 9/1/2009.
- 14 Q. Okay. So when it came in the first time it never went
- 15 to -- it was never opened?
- 16 A. Correct.
- 17 Q. All right. So you actually got this box, State's 25?
- 18 A. Yes, sir.
- 19 Q. And inside it was what?
- 20 A. I'm sorry?
- 21 Q. What was inside?
- 22 A. A jumpsuit, a pair of panties and a pipe.
- 23 Q. And in 2009 you examined it. And what were you looking
- 24 for?
- 25 A. Blood and semen.

VERONA GIBSON - DIRECT EXAMINATION BY MR. BULSA

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1 Q. All right. How many samples did you take?

2 A. Three from the jumpsuit, two from the panties and then
3 there was some possible hair collected from all the items
4 since they were packaged together.

5 Q. And these items were given a SLED item number and you
6 gave your cuttings a sub-number?

7 A. Correct, yes.

8 Q. Okay. And what would you do with your cuttings?

9 A. They're packaged inside of a coin envelope, sealed,
10 dated and initialed by me on the back. On the front we fill
11 in the relevant information of item and sub-item number,
12 parent -- what the parent item was and the lab number.

13 Q. Do you perform or do you have some charts or diagrams
14 that would help us understand where you took your cuttings?

15 A. I do, yes, sir.

16 Q. May I see those?

17 MS. PRICE: Without objection.

18 THE COURT: Have they been already marked?

19 MR. BULSA: No, sir. I was going to ask ---

20 Q. You gave me copies, but my copies are marked up.

21 A. That's the only copies I have.

22 Q. Can we make you copies before you leave?

23 A. Yes.

24 Q. Okay.

25 THE COURT: Without objection, they'll be admitted as

VERONA GIBSON - DIRECT EXAMINATION BY MR. BULSA

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1 State's evidence.

2 (Whereupon State's exhibits 27 and 28 were marked and
3 admitted into evidence)

4 MR. BULSA: State's 27 and 28, Your Honor.

5 THE COURT: Thank you, sir.

6 Q. So those show which cuttings or where the cuttings you
7 made came from, right?

8 A. Correct.

9 Q. And they also correlate to an item number that you
10 placed beside the cutting or the designation?

11 A. Yes, sir.

12 Q. All right. So let's look at the item with the panties.
13 What's the ---

14 A. 27. State's 27.

15 Q. Item 27, okay. So you took the cutting from the front
16 of those panties and the rear?

17 A. Correct.

18 Q. All right. One is designated 27.1 and one 27.2?

19 A. That's correct.

20 Q. So when the SLED -- when the DNA analyst testifies we
21 can make the connection?

22 A. Correct. Those numbers follow the item as long as it's
23 in the laboratory.

24 Q. Okay. All right. And in the same regards you took
25 cuttings from the jumpsuit?

VERONA GIBSON - DIRECT EXAMINATION BY MR. BULSA

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1 A. Correct.

2 Q. Now you weren't in the courtroom when we had an officer
3 testify earlier. I believe we met with you prior to court.

4 A Spartanburg officer actually took additional cuttings.

5 A. Correct.

6 Q. Does that sometimes happen, agencies take their own
7 cuttings?

8 A. Yes, that's very common.

9 Q. Okay. So you received this in a sealed condition.
10 Would you have sealed it back up?

11 A. I would, yes, sir.

12 Q. For it to be sent back ---

13 A. Correct.

14 Q. --- to the agency? And your cuttings, did you seal
15 those?

16 A. Those are sealed in the coin envelopes. They're also
17 sealed in a plastic heat-sealed pouch, which I initial and
18 date, and sign and date. And then it's sent usually to the
19 DNA -- there's a storage area in the DNA department where we
20 put those.

21 Q. So they would have left your department sealed?

22 A. Correct.

23 Q. If you would, answer any questions that Ms. Price has.

24 THE COURT: Ms. Price, your witness.

25 MS. PRICE: I have no questions for this witness.

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 THE COURT: Ma'am, you may step down. Thank you.

2 MR. BULSA: State calls Ken Bogan.

3 THE COURT: Come forward, sir, to my left to be sworn.

4 Kenneth Bogan, being duly
5 sworn testified as follows:

6 THE COURT: Have a seat, please. And, sir, state your
7 name.

8 MR. BOGAN: My name is Kenneth Bogan.

9 THE COURT: Mr. Bulsa, your witness.

10 MR. BULSA: Thank you.

11 Direct Examination by Mr. Bulsa:

12 Q. Mr. Bogan, who are you employed with?

13 A. I'm employed with the South Carolina Law Enforcement
14 Division.

15 Q. And in what capacity?

16 A. I'm currently assigned to the forensic DNA analysis
17 section. I'm a forensic scientist.

18 Q. And how long have you been a scientist with SLED?

19 A. Since 1984.

20 Q. Could you give us the benefit of your education?

21 A. Yes. I have a bachelor of science degree from the
22 University of Central Florida. My degree is in medical
23 technology. I worked as a medical technologist for
24 approximately six years before becoming hired with SLED. My
25 duties as a medical technologist involved doing diagnostic

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 tests in a hematology lab in a hospital setting. Hematology
2 is the study of blood.

3 After going to work for SLED I attended the Federal
4 Bureau of Investigations school for basic forensic serology.
5 I also received some advanced training in blood
6 identification and blood characteristics from the
7 Serological Research Institute in Emeryville, California.
8 I've also received training from court qualified experts in
9 the field of forensic serology from SLED forensic experts.

10 In 1990 I began my training as a DNA analyst by
11 attending the Federal Bureau of Investigations school on DNA
12 analysis typing methods. I continued training also with
13 forensic experts at the South Carolina Law Enforcement
14 Division, began accepting my own cases for DNA analysis in
15 approximately 1991. And I've received continuing education
16 in topics dealing with forensic serology, DNA analysis and
17 population genetics almost on a yearly basis since 1991.

18 Q. Have you ever testified in court before as an expert?

19 A. Yes, I have.

20 Q. You've been qualified as an expert in what field?

21 A. Forensic serology and DNA analysis typing methods.

22 MR. BULSA: Your Honor, we would offer the agent as an
23 expert in those fields.

24 MS. PRICE: No objection.

25 THE COURT: Without objection, he'll be qualified as

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 such. Ladies and gentlemen, let me explain to you, this
2 witness is being qualified as an expert witness within a
3 certain field or calling.

4 Normally when witnesses testify they are not allowed to
5 give their opinions on subjects. An exception to that
6 general rule is made for those witnesses who are designated
7 as an expert within a certain field.

8 Within that field this witness then will be allowed to
9 state his opinions as well as the supporting information for
10 those opinions. This witness has been qualified as an
11 expert within the field for which he's been offered. I'll
12 give you further instructions concerning how you can treat
13 expert testimony during my charge. You may proceed, Mr.
14 Bulsa.

15 MR. BULSA: Thank you, Your Honor.

16 Q. All right. Are you called an agent?

17 A. Sometimes, yes.

18 Q. Okay. All right. Agent Bogan, did you receive items
19 of evidence in this case?

20 A. Yes, I did.

21 Q. And I believe you received several items on different
22 occasions, is that correct?

23 A. Yes. I received evidence on -- there were four
24 different submissions of evidence in this case.

25 Q. Do you have those dates?

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 A. I do. The first evidence was submitted in July of the
2 year 2000. The second submission was January of 2009. The
3 third submission was February of 2009. The fourth
4 submission was September of 2010.

5 Q. So just after the crime occurred in June you received
6 items in July?

7 A. That's correct.

8 Q. And what type items specifically did you obtain?

9 A. I received a blood standard from the victim in this
10 case, Iris Rhinehart. I also received some other blood
11 standards from other individuals.

12 I received some evidence that was collected at the
13 crime scene, which included a number of swabs, approximately
14 twenty swabs. I received some swabs of some sticks that
15 were also collected at the crime scene.

16 I also received some fingernail scrapings, some oral
17 swabs and oral smears, rectal swabs, rectal smears, vaginal
18 swabs and smears. And I -- there was another blood standard
19 from another individual also submitted.

20 Q. Okay. When these items actually made their way to your
21 department, in what condition were they?

22 A. All the evidence I received was in sealed containers.

23 Q. What would you have done if they had been unsealed?

24 A. I would have not proceeded with analysis and notified
25 the submitting agency to determine my next step.

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 Q. Okay. And the victim's standard, you received that
2 from within your own department?

3 A. Within my own department, yes.

4 Q. Okay. Now specifically the blood swabs or the items
5 with suspected blood, the July submission, July 2000, were
6 you able to make any determinations?

7 A. Yes. I examined most of them. I think there were two,
8 maybe three that I did not perform any analysis on. The
9 others, I -- some I was able to determine that there was no
10 blood detected on those items.

11 The ones that I did detect blood samples on them, I
12 proceeded to do DNA analysis. And some of the samples,
13 there was, by my judgment at the time, there was an
14 insufficient amount for me to even do a presumptive test
15 because I would have consumed some of the samples. So I
16 took them straight to a DNA extraction.

17 So I did various things on similar evidence. The
18 swabs, some of them I did no analysis, some of them I was
19 able to do some presumptive testing to determine if there
20 was blood present. And those I took to DNA, some of them I
21 started and did DNA extractions on them directly.

22 Q. Were you at that time able to identify who that blood
23 came from?

24 A. No. I was able to develop DNA profiles from quite a
25 number of the swabs that were collected at the crime scene.

KENNETH BOGAN - DIRECT EXAMINATION BY MR. BULSA

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1 I did not have a DNA standard that matched the DNA profile
2 developed from those items.

3 Q. Okay. But at that time you did have a standard from
4 the victim?

5 A. That's correct.

6 Q. So none of those matched the victim?

7 A. They did not match the victim. The only identifying
8 characteristic I could determine was that the DNA profile
9 was from a male individual.

10 Q. Okay. So what would you have done with those swabs
11 after you performed these tests?

12 A. I would repackage them and resealed them, returned them
13 to the submitting agency.

14 Q. Okay. And so from July of 2000 til 2009 you don't know
15 what was going on?

16 A. No.

17 Q. Okay. You had no involvement until you got a new
18 submission?

19 A. That's correct.

20 Q. And in January of 2009 what did you obtain?

21 A. On the second submission I received a buccal swab from
22 Fredrick Johnson. Let me explain what a buccal swab is. It
23 sounds like the buckle like on your belt, but it's spelled a
24 little bit differently. It's spelled b-u-c-c-a-l. That is
25 a swab that is collected from the inside cheek area of

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1 someone's mouth.

2 Q. Okay. So that would have been submitted as being from
3 a Fredrick Johnson. And what would you have done with that
4 buccal swab in relation to the evidence?

5 A. I developed a DNA profile from that swab. And then I
6 compared the DNA profile developed from that swab to the DNA
7 profiles that I had developed in the year 2000 to 2001.

8 Q. Did you need to retest the initial swabbing?

9 A. No.

10 Q. Why not?

11 A. I had already developed a profile in early 2000 or
12 2001. I don't remember the exact date when I did my
13 analysis. I could find that for you.

14 I started my DNA analysis in -- January the 3rd of
15 2001. So I developed profiles from the crime scene evidence
16 shortly after that.

17 The profiles were full profiles in most instances. I
18 had one partial profile, but I was able to compare those
19 profiles to the sample that was submitted in 2009.

20 Q. So they're not going to change. So you don't need to
21 redo them?

22 A. That's correct.

23 Q. And you still had the information that you had obtained
24 in the past?

25 A. Yes.

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1 Q. And did you make a comparison between the profile
2 developed from the buccal swab and Mr. Johnson and the
3 previous profiles?

4 A. Yes.

5 Q. What did you determine?

6 A. I determined that the DNA profiles from the crime scene
7 samples matched the DNA profile of Fredrick Johnson. I also
8 calculated probability of -- finding an unrelated individual
9 having the same DNA profile. And that probability is
10 approximately one in seven hundred and thirty quadrillion.

11 Q. Do you have a report ---

12 A. Yes.

13 Q. --- listing that information?

14 A. Yes, I do.

15 Q. May I see it?

16 (Pause)

17 MS. PRICE: Can we approach?

18 THE COURT: You certainly may.

19 (Whereupon a bench conference was held off the record
20 in the presence of the jury, but out of their hearing)

21 THE COURT: Ladies and gentlemen, I'm going to ask you
22 to step back to the jury room. And, again, as usual, don't
23 begin any discussions until I advise you to do so. You may
24 retire to the jury room. Thank you very much.

25 (Whereupon the jury exited the courtroom at 3:06 pm)

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1 **THE COURT:** All right. We're going to take a break and
2 allow the Defense an opportunity to try to locate your
3 copies of that report. We're in recess for a moment, but
4 I'll stay on the bench.

5 (Whereupon court was in recess at 3:07 pm)

6 (Whereupon court resumed at 3:15 pm)

7 **THE COURT:** I'm going to allow the witness to step
8 down. I'll remind him he's in the midst of his testimony
9 and he should not discuss his testimony with anyone. Court
10 will be in recess for about ten to fifteen minutes.

11 (Whereupon court was in recess at 3:15 pm)

12 (Whereupon court resumed at 3:50 pm)

13 **THE COURT:** You can be seated. I've been informed by
14 counsel that perhaps this case will go to a plea. Is that
15 correct, Mr. Bulsa?

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

17 **THE COURT:** And, Ms. Price?

18 **MS. PRICE:** That's correct, Your Honor. May we
19 approach the bar?

20 **THE COURT:** Approach the bar, please.

21 (Whereupon State's exhibit 29 was marked for
22 identification)

23 **THE COURT:** All right, Mr. Bulsa.

24 **MR. BULSA:** Your Honor, the Defendant is pleading
25 guilty to voluntary manslaughter.

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1 THE COURT: State's willing to accept a plea to that
2 offense?

3 MR. BULSA: Yes, sir. And we do have family members
4 that wish to speak at the appropriate time. And, Your
5 Honor, I would like to -- I guess you need to go over his
6 rights. And then I've got a couple of things to add.

7 THE COURT: All right, sir. Please swear the
8 Defendant.

9 MADAME CLERK: Please raise your right hand, sir. Do
10 you swear or affirm the testimony you'll give will be the
11 truth, whole truth and nothing but the truth so help you
12 God?

13 MR. JOHNSON: I do.

14 THE COURT: Your name is Fredrick Eugene Johnson, is
15 that right?

16 MR. JOHNSON: Yes.

17 THE COURT: Mr. Johnson, do you suffer from any mental,
18 physical, nervous conditions or any other problems that
19 would affect your ability to understand what you're doing
20 today?

21 MR. JOHNSON: No, sir.

22 THE COURT: Have you taken or used any drugs or any
23 other substances that would affect your ability to
24 understand what you're doing today?

25 MR. JOHNSON: No, sir.

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1 THE COURT: All right, sir. You're here today with
2 your attorney, Ms. Price. Have you had an opportunity to
3 fully discuss your case with her?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: And has she answered all of your questions?

6 MR. JOHNSON: Yes, sir.

7 THE COURT: Has she done the things that you've asked
8 her to do?

9 MR. JOHNSON: Yes, sir.

10 THE COURT: Is there anything else that you feel that
11 you need to discuss with her at this point in time?

12 MR. JOHNSON: No, sir.

13 THE COURT: And are you satisfied with her services at
14 this time?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: Sir?

17 MR. JOHNSON: Yes.

18 THE COURT: All right, sir. Now the State has
19 indicated to me that they are willing to accept your plea to
20 voluntary manslaughter. That is a lesser included offense
21 of the indicted offense, which I have the indictment, was
22 for murder. That particular offense carries a potential
23 sentence of anywhere from two, minimum of two, up to thirty
24 years. Do you understand that, sir?

25 MR. JOHNSON: Yes.

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1 THE COURT: Now, I'll also inform you that this
2 particular crime, the voluntary manslaughter, is considered
3 a violent and a most serious offense under the law of this
4 State. That means it would qualify as one of your strikes,
5 what is commonly known as a strike.

6 That means in the future if you were found guilty of or
7 pled guilty to other crimes that carried with them a similar
8 designation that it could result in a more serious penalty,
9 up to life imprisonment without the possibility of ever
10 being paroled. Do you understand that?

11 MR. JOHNSON: Yes.

12 THE COURT: Also, because of its designation I believe
13 this carries with it a limited possibility of parole. Is
14 that correct?

15 MS. PRICE: That is correct.

16 MR. BULSA: Yes, sir.

17 THE COURT: Okay. And have you discussed that with
18 your attorney as well?

19 MR. JOHNSON: Yes.

20 THE COURT: Okay, sir. Now the State's not making any
21 further recommendations concerning the case. So it's a
22 straight up plea as to that particular charge. Do you
23 understand that?

24 MR. JOHNSON: Yes.

25 THE COURT: That means I have the authority to sentence

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1 you up to the full extent allowed by the law if I choose to
2 do that.

3 MR. JOHNSON: Yes.

4 THE COURT: You understand that, sir?

5 MR. JOHNSON: Yes.

6 THE COURT: All right, sir. Now, as to the charge of
7 voluntary manslaughter you have the right to plead guilty or
8 not guilty. How do you wish to plead?

9 MR. JOHNSON: Guilty.

10 THE COURT: And, counselor, have you had an opportunity
11 to fully discuss this matter with your client?

12 MS. PRICE: Yes, Your Honor.

13 THE COURT: And among the many things that I would
14 think that you would have discussed with your client, you
15 would have discussed such things as the nature and the
16 penalties for the original charge as well as the nature of
17 the offense and the penalties for the charge to which he's
18 pleading.

19 You would have also discussed any defenses that he
20 might have had to the charges, any -- and also the
21 possibility of probation and parole, and also the -- his
22 rights under the Constitution. Is that a correct statement?

23 MS. PRICE: That's correct, Your Honor.

24 THE COURT: Are you satisfied that Mr. Johnson's
25 understood the advice that you've given to him?

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1. MS. PRICE: Yes, Your Honor.

2 THE COURT: He tells me that he's made the decision to
3 plead guilty to voluntary manslaughter. Do you agree with
4 the decision that he's made?

5 MS. PRICE: Very much so, Your Honor.

6 THE COURT: Now, Mr. Johnson, my information is that
7 you are forty years of age. Is that correct?

8 MR. JOHNSON: Yes.

9 THE COURT: How far did you go in your schooling?

10 MR. JOHNSON: The tenth, tenth grade.

11 THE COURT: Yes, sir. Did you ever get a GED?

12 MR. JOHNSON: No, sir.

13 THE COURT: Are you married?

14 MR. JOHNSON: No, sir.

15 THE COURT: Do you have children?

16 MR. JOHNSON: Yes, sir.

17 THE COURT: How many?

18 MR. JOHNSON: One.

19 THE COURT: What age is that child?

20 MR. JOHNSON: She'll be eleven on October the 30th.

21 THE COURT: All right. Is that child currently living
22 where you would be a person responsible to care for her or
23 is she living with other people?

24 MR. JOHNSON: She's living with her mama.

25 THE COURT: Okay. Now were you employed before you

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1 were incarcerated?

2 MR. JOHNSON: Yes.

3 THE COURT: And where did you last work?

4 MR. JOHNSON: Through two temp services.

5 THE COURT: Okay. Now, Mr. Johnson, has anyone
6 threatened you, coerced you, put pressure on you, tried to
7 intimidate you, done anything at all to you to try to force
8 you to offer a plea?

9 MR. JOHNSON: No, sir.

10 THE COURT: So you've thought about this case, is that
11 correct?

12 MR. JOHNSON: Yes.

13 THE COURT: And is this your free and voluntary act, to
14 plead guilty?

15 MR. JOHNSON: Yes.

16 THE COURT: Have you had enough time to consider your
17 case and think about defenses?

18 MR. JOHNSON: Yes.

19 THE COURT: And has anyone made any promises,
20 guarantees or assurances to you in an effort to get you to
21 plead about any matters whatsoever, including, but not
22 limited to, such things as pardon, parole, probation, early
23 release or length of sentence? Has anybody made any
24 promises, ---

25 MR. JOHNSON: Oh, no, sir.

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1 THE COURT: --- guarantees or assurances about any of
2 those things?

3 MR. JOHNSON: No, sir.

4 THE COURT: Okay, sir. Or about anything whatsoever?

5 MR. JOHNSON: No, sir.

6 THE COURT: No promises or guarantees?

7 MR. JOHNSON: No, sir.

8 THE COURT: Okay, sir. Now I have to be sure that you
9 understand your rights under the Constitution because by
10 pleading guilty you waive or give up most of those rights as
11 they would relate to this charge. I'm going to explain
12 those rights to you because you must make a knowing and
13 intelligent waiver of your Constitutional rights. I want to
14 be sure you understand them.

15 First of all, you have a right to have the case
16 presented to a grand jury. That happened on the greater
17 charge. You have a right to an attorney. And your attorney
18 is present and available to you throughout this process.

19 As you're aware, we're in the process of a jury trial.
20 You have a right to a trial by jury. At the trial you'd be
21 presumed to be innocent until the State proved your guilt
22 beyond a reasonable doubt. The State has the only burden of
23 proof in criminal cases. A defendant has no burden of
24 proof. You're presumed innocent until proven guilty.

25 You would have the right at a trial to subpoena

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1 witnesses to testify for you. You would have the right to
2 question or confront anyone who testified against you.

3 You would have the right to present whatever defenses
4 you might have to the charges. And you would be given the
5 opportunity to try to suppress any evidence the State has in
6 its possession against you.

7 You always have the right to remain silent. And if you
8 decided to remain silent during the jury trial, the judge is
9 obligated to instruct the jury that your silence could not
10 be used against you. Now, Mr. Johnson, are you aware of
11 those rights?

12 MR. JOHNSON: Yes.

13 THE COURT: Do you understand them?

14 MR. JOHNSON: Yes, sir.

15 THE COURT: Do you have any questions concerning any of
16 them?

17 MR. JOHNSON: No, sir.

18 THE COURT: Do you realize that by pleading guilty you
19 give up all of those rights with the exception of the right
20 of having your lawyer continue -- continue to represent you?
21 Do you understand that?

22 MR. JOHNSON: Yes.

23 THE COURT: Now does that fact in any way change your
24 plea?

25 MR. JOHNSON: No, sir.

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1 THE COURT: Then are you pleading guilty to this charge
2 because you are guilty of it?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: Tell me the facts, Mr. Bulsa.

5 MR. BULSA: Thank you, Your Honor. Your Honor has
6 heard the majority of the case. As you know, there were no
7 eyewitnesses to this matter. Ms. Rhinehart was found in the
8 woods on July, excuse me, July -- June 23rd of 2000.

9 Your Honor, we've introduced several photos. Your
10 Honor's seen some of them. I would like to add one photo,
11 while not admissible to the jury, I think is important for
12 sentencing.

13 THE COURT: Would you pass it up?

14 MR. BULSA: And even that photograph does not set out
15 the extent of the wounds. The autopsy photographs are
16 actually even more gruesome, Your Honor. Ms. Rhinehart had
17 over twenty-five wounds to her face and neck area. Many of
18 them large and gaping. It was pretty -- pretty terrible
19 situation.

20 And then even more wounds, over thirty wounds to both
21 forearms, hands, both sides that are noted as defensive
22 wounds. Most of those were gaping as well. She apparently
23 was trying to fight off her attacker.

24 We don't know how she wound up in the position she was
25 in. She, of course, was out of her shoes. She may have

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1 been trying to flee. She could have even been drug out of
2 the area to be hidden.

3 It's just a horrible way to die. She died from
4 bleeding out. So none of her wounds were immediately fatal.
5 Also, there's no telling how long she had to suffer either,
6 Your Honor.

7 The Defendant was connected by the DNA when we got a
8 CODIS hit in 2008 off one of the samples taken from the
9 alleyway. And that's what the discussion was prior to the
10 plea -- plea arrangement here.

11 The suspect's sample was collected and sent to SLED.
12 Mr. Bogan was testifying that many of the other standards he
13 collected from the alleyway matched the Defendant.

14 We submitted additional evidence including the jumper
15 back. His DNA was found on the jumper and the panties, the
16 rear part of her panties, which appears basically he would
17 have been bleeding over her and would have soaked through
18 the jumpsuit to the panties.

19 And then there was also his blood on some of the
20 locations inside the general crime scene area as well as
21 some blood, a mixture of blood, his blood and her blood
22 together. Agent Bogan was going to testify to all of that.
23 So identification was established through the forensic
24 evidence and the DNA testing.

25 **THE COURT:** All right. Mr. Johnson, did you hear what

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1 the Solicitor just told me?

2 MR. JOHNSON: Yes.

3 THE COURT: Is that information correct?

4 MR. JOHNSON: Well, I will -- okay, yeah, I'll go along
5 -- yeah, yes, sir.

6 THE COURT: Is there ---

7 MR. JOHNSON: I mean, I want to voice my opinion. I
8 got something I want ---

9 MS. PRICE: Okay.

10 MR. JOHNSON: --- to say, Your Honor.

11 THE COURT: Yes, sir.

12 MS. PRICE: Your Honor, -- you need to talk to me ---

13 THE COURT: You need to talk to her and then let me
14 know if there's something ---

15 MR. JOHNSON: No, everything's straight. Okay.

16 MS. PRICE: Okay.

17 MR. JOHNSON: Yeah, you're right.

18 THE COURT: Well, let's go back. I'm going to ask that
19 question again. He just went over some information with me.
20 Is that information true?

21 MR. JOHNSON: Yes.

22 THE COURT: All right, sir. Have you told me the truth
23 today?

24 MR. JOHNSON: Yes.

25 THE COURT: Did anyone tell you how to answer any of my

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1 questions?

2 MR. JOHNSON: No, sir.

3 THE COURT: So all of the answers I've received from
4 you came from you?

5 MR. JOHNSON: Yes.

6 THE COURT: Is there any part of what you and I have
7 discussed that you want to go back and change anything that
8 you've told me?

9 MR. JOHNSON: No, sir.

10 THE COURT: All right. Then I'm accepting the plea.
11 It's freely and voluntarily given. The Defendant is aware
12 of the charges, and the penalties, had the advice of
13 counsel, is satisfied with the legal advice he's received.
14 There's a factual basis for the plea that he's offering.
15 I'll be happy to hear from counsel for the Defense.

16 MS. PRICE: Thank you, Your Honor. As you've heard
17 from Mr. Johnson, at the time of his arrest back in 2008 he
18 was working at the time. And he does have one child, a
19 daughter, whom, in my discussions with him, I've been
20 representing him for about the last year or so, he really
21 does seem to love that little girl a lot.

22 Currently he is in the Department of Corrections on a
23 twenty-five year sentence from some unrelated charges that
24 occurred up in the Lyman area that really don't -- don't
25 have anything to do with this case.

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1 Your Honor, we would ask that at this time that you
2 would take that in consideration and whatever sentence that
3 the Court deems sufficient for this that it be run
4 concurrently with what he's already serving down at
5 McCormick.

6 He's forty years old. He's probably about halfway
7 through his life span. So thirty years for him is a pretty
8 long time to spend in prison. We would just ask, again,
9 Your Honor, that you run this concurrently with what he's
10 serving now at McCormick.

11 THE COURT: Mr. Johnson, is there anything you'd like
12 to tell me?

13 MR. JOHNSON: No, sir.

14 THE COURT: Prior record?

15 MR. BULSA: Yes, sir, Your Honor. 1988, auto breaking,
16 received a youthful offender sentence, suspended, 1989,
17 burglary in the first degree and larceny. He did a fifteen
18 year sentence.

19 Year 2000, possession of drug paraphernalia, 2000,
20 giving false information, 2000, domestic violence, 2006,
21 burglary, second degree, non-violent, grand larceny, ---

22 THE COURT: I'm sorry, I didn't hear that one.

23 MR. BULSA: Burglary, 2006, ---

24 THE COURT: Burglary, okay.

25 MR. BULSA: --- burglary in the second degree, non-

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1 violent, grand larceny, breaking into motor vehicles.

2 And then earlier this year, Your Honor, he pled guilty
3 to an unrelated charge out of Landrum. He pled guilty to
4 common law robbery and aggravated assault and battery, which
5 involved the assault of a young lady.

6 She had stopped to give him a ride. Actually, she was
7 giving him a ride because he ran out of gas. And he was in
8 the stolen vehicle. He told her not to stop. She left the
9 area. He began assaulting her, trying to push her out of
10 the vehicle to take her car.

11 He received fifteen plus ten years on that charge.
12 Those are actually paroleable. So he is potentially up for
13 parole on those charges.

14 THE COURT: All right.

15 MR. BULSA: But he had received the maximum sentence on
16 each of those.

17 THE COURT: Now, does -- you said some victims would
18 like to speak, family members.

19 MR. BULSA: Yes, sir.

20 THE COURT: If they'll come forward at this time.
21 Ma'am, I need your name on the record.

22 MS. KELLY: Melissa Holbrook Kelly.

23 THE COURT: Yes, ma'am.

24 MS. KELLY: I'm the victim's sister. We ask that you
25 give him the maximum sentence and let this be consecutive.

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1 He's a violent person. He didn't think about my sister nor
2 her two children when he took her life. She was twenty-nine
3 years old.

4 No matter what she's done, she didn't deserve to have
5 her demise where we never got to see her for the last time.
6 Everybody has to die, but we could have at least appreciated
7 it and we would have got to say bye to her.

8 He mutilated her body. We couldn't -- not her
9 children. He didn't think about if her kids were going to
10 have grandkids for her to ever see them. And we just ask
11 that you impose the maximum sentence that you can so he can
12 never ever get back out to hurt anyone else.

13 THE COURT: Thank you, ma'am. Any other members of the
14 family wish to speak?

15 MR. BULSA: No.

16 (Pause)

17 THE COURT: I'm going to have the photograph that's
18 been passed up to the Court made an exhibit for the plea.
19 It's number 29 for the State.

20 (Whereupon State's exhibit 29 was admitted into
21 evidence)

22 THE COURT: Mr. Johnson, in review of your record, your
23 prior record, it does indicate as the victim's family has
24 mentioned, a history of violence, serious offenses,
25 burglary, first, is a very serious offense. And it's gone

SENTENCE OF THE COURT

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1 on for a long period of time, for numbers of years, decades
2 at this point in time.

3 To me that indicates that you have very little regard
4 for society and its rules. For that reason I do find that
5 the maximum sentence would be appropriate, that is thirty
6 years. And I have run it consecutive to your current
7 sentences. Good luck to you, sir.

8 MR. JOHNSON: Thank you.

9 MR. BULSA: Thank you, Your Honor.

10 THE COURT: Sir, you have ten days from the date of
11 this plea to appeal if you wish to do so.

12 (Whereupon the Defendant exited the courtroom)

13 THE COURT: All right. We'll need the -- everyone to
14 be seated. I'm going to bring the jury in and dismiss them.
15 Bring the jury in.

16 (Whereupon the jury entered the courtroom at 4:08 pm)

17 THE COURT: Ladies and gentlemen of the jury, we had a
18 rather long, lengthy break. And the reason is is that
19 during that break I've accepted a guilty plea in this case.

20 The guilty plea was to the offense of voluntary
21 manslaughter. I will advise you that I imposed a sentence
22 of thirty years in the case. So the case has been ended.

23 Also, you'll be happy to know that the remainder of the
24 jury panel's already been dismissed for the remainder of the
25 week. So this will end your service on the jury for this

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Spartanburg County, South Carolina, on the 14th day of October 2010.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

June 1, 2012


Circuit Court Reporter

Circuit Court Reporter

71896

2011-CP-42-1788

STATE OF SOUTH CAROLINA

County of Spartanburg

In the Court of Common Pleas

Fredrick E. Johnson 163457
Full name and prison number (if any) of Applicant,

vs.

State of South Carolina
Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
McMORMICK CORRECTIONS INSTITUTION
2. Name and location of Court which imposed sentence SPARTANBURG COUNTY COURT
House.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2010654204671
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 10/13/10
 - (b) 30 years
 - (c) _____

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CLERK OF COURT
SPARTANBURG COUNTY
2011 APR 21 AM 9:08
F. HOPE BLACKLEY

5. Check whether a finding of guilty was made

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

N/A

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i. NA

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) BECAUSE I PLEAD GUILTY I DIDN'T THINK I COULD APPEAL MY

(b) GUILTY PLEAD.

(c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) IN EFFECTED ASSISTANCE OF COUNSEL.

(b) BECAUSE THE STATE FAILED TO COMPLY WITH RULE 5 MOTION

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) BECAUSE MY LAWYER DIDN'T SHOW ANY CONCERN ON MY CASE.

(b) BECAUSE THE STATE FAILED TO DISCLOSE EVIDENCE PRIOR TO TRIAL

(c) _____

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APR 21 9:08

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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SPARTANBURG COUNTY
2011 APR 21 AM 9:08
M. HOBE BLACKLEY

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

192 If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) N/A
- (b) _____
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Robert Hall 366 North Church Street Suite 3000
Spartanburg South Carolina 29303
- ii. Andrea Price 366 North Church Street Suite 3000
Spartanburg South Carolina 29303
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Andrea Price pre-trial and trial proceedings
- ii. Robert Hall - arraignment
- iii. _____

18. State clearly the relief you seek in filing this application.

Seeking sentence adjustment and to have the two
convictions be served concurrently.

19. Are you now under sentence from any other court that you have not challenged?

Yes

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CLERK OF COURT
SPARTANBURG COUNTY
2011 APR 21 AM 9:08
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

County of

SPARTANBURG

VERIFICATION

I, Frederick E. Johnson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Frederick E. Johnson

SWORN to and subscribed before me this

18

day of

April

19

2011

(L.S.)

Notary Public

My Commission Expires:

5-28-2011

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Frederick E. Johnson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Frederick E. Johnson
Applicant

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 APR 21 AM 9:08
M. HOSE BLACKLEY

SWORN or affirmed to and subscribed before me this

18

day of

April

19

2011

Notary Public

My Commission Expires

8-28-2011

Frederick Johnson # 165421
 McCormick Corr Inst F-3-0-133
 386 Redemption way
 McCormick Sic 29899

AUGUSTA GA 306

19 APR 2011 PM 1 L



MS. M. Hope Blackley

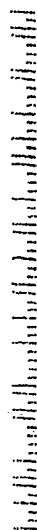
CLERK OF COURT, SPARTANBURG COUNTY

POST OFFICE BOX 3483

SPARTANBURG, SOUTH CAROLINA

29304-3483

29304/3483



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Frederick E Johnson, #163457	)	2011-CP-42-1788
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 21, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the August 2010 session of the Spartanburg County Grand Jury for murder (10-GS-42-4671). He was represented by Andrea Price, Esquire. On October 13, 2010, the Applicant pled guilty to the lesser-included offense of voluntary manslaughter and was sentenced by The Honorable Roger L. Couch to a sentence of thirty years, set to run consecutive to the SCDC sentence the Applicant was currently serving. The Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the transcript from his trial and subsequent guilty plea. The Respondent reserves the right to amend this Return upon receipt of any relevant materials or

submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel; and
2. "Because the State failed to comply with Rule 5 Motion."

III.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

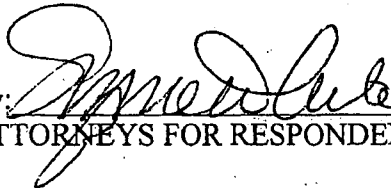
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 17, 2012.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Frederick E. Johnson,

)

2011-CP-42-1788

Applicant,

)

)

v.

)

CERTIFICATE OF SERVICE BY MAIL

)

State of South Carolina,

)

)

Respondent.

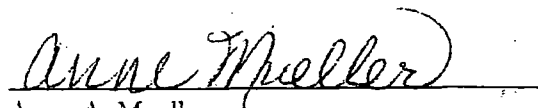
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1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

W. Sterling Anderson, II, Esquire
Sterling Lapham & Moore, LLC
240 Magnolia Street
Spartanburg, South Carolina 29306



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 17th day of July, 2012.

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Frederick E. Johnson,) 2011-CP-42-1788
7 Defendant.) January 8, 2013
8) Spartanburg, South Carolina
9
10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE
13
14

15 A P P E A R A N C E S:

16 W. STERLING ANDERSON, ESQUIRE
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the State
20

21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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1	<u>EXHIBITS</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u> <u>EV.</u>
3	A-1	Inmate grievance form	8
4	A-2	Inmate grievance form	8
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1 MS. WHITE: This is the case of Frederick Johnson vs.
2 the State. It's case No. 2011-CP-42-1788.

3 He's represented today by Sterling Anderson.

4 Mr. Johnson was indicted August of 2010 for murder. I
5 believe the actual crime may have been committed in the
6 year 2000; and began with a trial. And during the trial
7 based on some evidence that was presented it ended up being
8 a guilty plea on October the 13th of 2010 to the lesser
9 included charge of voluntary manslaughter.

10 He received a 30-year sentence. It was run
11 consecutive to the current D.O.C. sentence that he was
12 currently serving.

13 He's raised allegations of ineffective assistance of
14 counsel and state's failure to comply with Rule 5.

15 And I will turn it over to Mr. Anderson at this time.

16 THE COURT: All right. Mr. Anderson.

17 MR. ANDERSON: Good morning, Your Honor.

18 THE COURT: Good morning.

19 MR. ANDERSON: We're ready to proceed, Your Honor.

20 THE COURT: Okay.

21 MR. ANDERSON: We'd call Mr. Johnson.

22 THE COURT: Mr. Johnson, come around to the witness
23 stand, please, sir.

24 THE COURT: You are Frederick Johnson.

25 THE APPLICANT: Yes, sir.

Frederick Johnson
Direct examination by Mr. Anderson

1 FREDERICK E. JOHNSON, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. ANDERSON

4 Q Would you please state your name?

5 A Frederick Eugene Johnson.

6 Q Okay. Are you currently incarcerated in the
7 Department of Corrections?

8 A Yes, sir.

9 Q Could you tell us what you're incarcerated for?

10 A Manslaughter, I mean, involuntary manslaughter,
11 voluntary. One of them.

12 Q Voluntary manslaughter.

13 A Voluntary manslaughter.

14 Q Okay. And what was the sentence you received for
15 that?

16 A 30-year sentence.

17 Q Okay. You're also serving time for another offense as
18 well, correct?

19 A Yes, sir.

20 Q Do you know what that is?

21 A I don't -- common-law robbery, assault and battery,
22 something, something like that.

23 Q ABHAN?

24 A ABHAN.

25 Q Okay. And those together were a 25-year sentence,

Frederick Johnson
Direct examination by Mr. Anderson

1 correct?

2 A Yes.

3 Q And all of your sentences were run consecutive.

4 A Yes, sir.

5 Q Correct?

6 A Yes, sir.

7 Q Okay. Now, you're here today on a post conviction
8 relief matter. You're alleging your attorney didn't
9 represent you correctly. Is that --

10 A Yes.

11 Q And who was your attorney?

12 A Ms. Andrea Price.

13 Q Do you see her in the courtroom?

14 A Yes.

15 Q Okay. And specifically you're alleging that Ms. Price
16 didn't provide discovery to you on a timely basis, is that
17 correct?

18 A Yes, sir.

19 Q Okay. Did you make any request of Ms. Price for this
20 discovery?

21 A Yes, sir, yes, sir.

22 Q Okay. And did you make any requests in writing?

23 A Yes, sir.

24 Q Okay.

25 MR. ANDERSON: Your Honor, if I may, I'd like to

Frederick Johnson
Direct examination by Mr. Anderson

1 approach.

2 THE COURT: You may.

3 Q I'm going to hand you a sheet of paper, Mr. Johnson.
4 Could you tell me what that is?

5 A That's a copy of me writing her concerning my motion,
6 trying to get a copy of my motion in discovery.

7 Q Okay. And is there a date on that?

8 A Yes, sir.

9 Q What's the date?

10 A 11/6/09.

11 Q Okay. Now, I'm going to hand you another sheet of
12 paper.

13 Does that appear to be an exact copy of the sheet of
14 paper that you're holding?

15 A Yes, sir.

16 Q Okay. Let me have that copy back. I'll take this one
17 too.

18 MR. ANDERSON: Your Honor, at this time we would like
19 to admit this into evidence.

20 MS. WHITE: No objection, Your Honor.

21 THE COURT: Okay.

22 MR. ANDERSON: Your Honor, just for the record, I'm
23 admitting a copy because, as you can see, the original is
24 rather tattered and torn.

25 THE COURT: Okay.

Frederick Johnson
Direct examination by Mr. Anderson

1 MR. ANDERSON: And opposing counsel has been provided
2 a copy.

3 (Inmate grievance form marked Applicant's Exhibit No.
4 1.)

5 Q All right. Mr. Johnson, I'm going to hand you another
6 sheet of paper here. If I may, can you tell me what that
7 is?

8 A It's a -- it's another copy asking her when is she
9 going to bring me a copy of my motion -- motion in
10 discovery.

11 Q Okay. Now, is that one dated?

12 A Yes, sir.

13 Q What's the date?

14 A 2/10/10.

15 Q Okay. And I'm going to hand you another sheet of
16 paper. Can you tell me what that is? Does that appear to
17 be an exact copy of what you're holding?

18 A Yes, sir.

19 Q Okay. And let me take them both back.

20 MR. ANDERSON: Your Honor, at this time we'd like to
21 admit, again, a copy because the original is tattered.

22 MS. WHITE: No objection, Your Honor.

23 (Inmate grievance form marked Applicant's Exhibit No.
24 2.)

25 Q All right. Mr. Johnson, did you eventually receive

Frederick Johnson
Direct examination by Mr. Anderson

1 your discovery paperwork?

2 A Yes, sir, I did.

3 Q Okay. And do you recall the date when you received
4 it?

5 A It was probably two weeks or a week before my court
6 time, to go to court.

7 Q And was your trial in October of 2010?

8 A I'm not sure, but whatever date it is.

9 Q All right. Did your attorney ever go over the
10 discovery with you?

11 A Yes, sir, she did.

12 Q When did that happen?

13 A When -- when she brought it to me.

14 Q Okay. And-but are we talking a week before trial or
15 six months before trial?

16 A A couple of weeks or a week, something like that.

17 Q Before the trial in late 2010, correct?

18 A Yes.

19 Q Okay. Did you eventually plead guilty?

20 A Yes, sir.

21 Q Okay. Let me back up for just a second.

22 How many times do you recall meeting with her before
23 trial?

24 A Not many at all.

25 Q Can you -- was it one time?

Frederick Johnson
Direct examination by Mr. Anderson

1 A Probably about two.

2 Q Was it more than once?

3 A About, yes, sir.

4 Q Was it five times?

5 A About two or three.

6 Q Two or three times.

7 A Yes, sir.

8 Q Okay. And you stated you pled guilty. Did your
9 attorney advise you to plead guilty?

10 A Yes, sir.

11 Q Okay. Do you feel that Ms. Price, your attorney,
12 prior to trial was available to speak with you when you
13 needed to discuss your case with her?

14 A No, sir.

15 Q Can you explain that just a little bit to the court?

16 A Well, the only time that I seen Ms. Price is when she
17 was coming to see an inmate. I used to have to holler out
18 the door, "Hey, Ms. Price, Ms. Price, can I speak to you?"

19 A lot of times she would speak to me, and a lot of
20 times she wouldn't.

21 I even asked Mr. Teague, the one that come to the jail
22 to appoint you lawyers, I said do y'all have, you know, a
23 problem with Ms. Price. He said yes, sir. He said -- I
24 said, well, I was going to write whatever, Allen, Clay
25 Allen, or whatever his name. I was going to write him

Frederick Johnson
Cross-examination by Ms. White

1 concerning that, but, I mean, I didn't, you know.

2 Q Okay. And do you feel that if you -- if Ms. Price had
3 not persuaded you to plead guilty and if you had had more
4 time to review your discovery that you would not have pled
5 guilty?

6 A Yes, sir.

7 Q Okay.

8 MR. ANDERSON: No further questions, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. WHITE

11 Q Mr. Johnson, you said that you didn't receive your
12 discovery until a couple of weeks before your trial.

13 A Yes.

14 Q I'm going to approach. I'm going to show you a
15 document and see if you recall ever receiving that. It's a
16 document from your attorney dated May 7th of 2010.

17 A I don't remember receiving that.

18 Q Okay. So your attorney never sent you any documents
19 while you were in jail?

20 A Yes, yes, ma'am. She did.

21 Q Okay. Were those part of the discovery?

22 A The discovery I'm talking about is what they had at
23 the beginning.

24 That was later on when I was at Kirkland that she had
25 sent me, you know, the copies saying that they done came up

Frederick Johnson
Cross-examination by Ms. White

1 with this and that and that, you know.

2 But as far as the motion-discovery period, she didn't
3 send me that until it was time for me to go to court.

4 Q Okay. And this letter was dated May 10th, I mean, May
5 of 2010. But you went to trial October of 2010.

6 A Yeah, yes, ma'am.

7 Q So that was about five months prior to going to trial
8 you received some documentation from your attorney.

9 A I don't -- I don't recall that.

10 Q Okay. But you said she did send you some things.

11 A After I had caught my time. I mean, when -- while I
12 was at Kirkland doing my other time when -- you know, as
13 time before I went to trial on this, she did send me some
14 documents. But that, I don't recall that.

15 Q Okay. And that's what I'm trying to clarify, because
16 that was sent to you at Kirkland, the letter I just showed
17 you.

18 A Well, I mean --

19 Q But you're acknowledging that you did receive some
20 documents from her --

21 A I did receive, yes, ma'am.

22 Q -- at Kirkland --

23 A Yes, ma'am.

24 Q -- related to this case.

25 A Yes, ma'am.

Frederick Johnson
Cross-examination by Ms. White

1 Q And that was prior, months prior, to your trial, is
2 that correct?

3 A Yes, ma'am.

4 Q Okay. And do you not consider that discovery
5 materials?

6 A No, ma'am. I don't really know.

7 Q Okay. What specifically are you alleging she didn't
8 show you until right before the trial?

9 A It was a paper. It was evidence, some more evidence,
10 you know, that supposedly had came up. And I was asking
11 her, you know, why didn't I receive this before my court.
12 And she was saying something about Robert, you know, Robert
13 might have got it, you know, Mr. Robert Hall might have got
14 it prior. But he didn't -- you know, I said, no, you know,
15 look at the date. You know what I'm saying? It didn't
16 come up until it was -- until I was in court.

17 Q Okay. And are you referencing too the SLED reports
18 that matched your D.N.A.?

19 A Yes, ma'am.

20 Q Okay. And the date of those were dated right before
21 your trial, is that right?

22 A Yes, ma'am. I mean --

23 Q Okay. And, in fact, after testimony where the D.N.A.
24 evidence and the match to you at the scene of the crime
25 came up, that is when a continuance was held and you ended

Frederick Johnson
Cross-examination by Ms. White

1 up pleading guilty, is that right?

2 A Yes, ma'am.

3 Q Okay. So at the time you pled guilty you acknowledged
4 to the Court that you were aware of your rights to proceed
5 with the jury trial, aware of your rights to attack the --
6 provide a defense, confront the witnesses. And you agreed
7 to give up those rights at that time, is that right?

8 A Oh, yes, ma'am, yes, ma'am.

9 Q Okay. You also agreed that nobody coerced you into
10 pleading guilty or threatened you or made you any promises.

11 A Yes, ma'am.

12 Q Okay. And you were advised as to how this could
13 affect you, because, in fact, you had been facing
14 previously a potential life-without-parole sentence, is
15 that right?

16 A I don't recall. I never did receive a copy. You
17 know, on my other paper with the first charge I had they
18 sent me a copy of me receiving a life sentence. But on
19 this one I didn't ever receive nern.

20 Q Did you ever talk with your attorney about the fact
21 that the state could potentially seek a life-without-parole
22 sentence if they chose to?

23 A Well, the only thing I recall her saying to me was 30
24 years. I don't -- she didn't say nothing about no life
25 sentence.

Frederick Johnson
Cross-examination by Ms. White

1 Q Okay. So you never talked about the fact that there
2 had been an offer to take LWOP off the table for you to
3 plead guilty to murder earlier?

4 A No, ma'am.

5 Q Okay. All right. Now, ultimately, they allowed you
6 to plead guilty to voluntary manslaughter, which is not a
7 day-for-day sentence, is that right?

8 A What?

9 Q Murder, you serve every day of your sentence. But you
10 actually -- voluntary manslaughter?

11 A It still is the same thing. It's considered as
12 violent. You don't get no -- you do day for day for that.

13 Q Okay. And maybe it's not clear to you. I know that
14 violent is one of the classifications. But there still is
15 eligibility for parole, is there not?

16 A No. They don't give you no parole on no violent
17 charge.

18 Q Okay. Can you get good time credits or anything like
19 that?

20 A No, ma'am, no, ma'am.

21 Q You were read the facts of the case, weren't you --

22 A I was.

23 Q -- at your guilty plea?

24 A I was read the fact?

25 Q The facts were read into the record.

Frederick Johnson
Cross-examination by Ms. White

1 A What you talking about, what Mr. Anderson read to me?

2 Q Mr. Bulsa, the prosecutor at the time, went through
3 and kind of went through the facts of the case. Do you
4 recall that when you pled guilty?

5 A No, ma'am.

6 Q You don't recall him going through the attack and how
7 they had the D.N.A. match?

8 A No, ma'am.

9 Q Okay. So you don't recall. Do you recall your guilty
10 plea at all?

11 A I recall me pleading guilty.

12 Q Okay. And you recall acknowledging that you wanted to
13 plead guilty at that time and you were doing it freely and
14 voluntarily?

15 A Yes, ma'am.

16 Q Okay. And you weren't under the influence of
17 anything.

18 A No, ma'am.

19 Q And, in fact, you said you were satisfied with counsel
20 and everything she had done with you at that time.

21 A Yes, ma'am.

22 Q Okay.

23 MS. WHITE: Your Honor, I think that's all the
24 questions I have for this witness.

25 MR. ANDERSON: No further questions, Your Honor.

Andrea L. Price
Direct examination by Mr. Anderson

1 THE COURT: You may step down.

2 MR. ANDERSON: Your Honor, at this time we call Andrea
3 Price.

4 ANDREA L. PRICE, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. ANDERSON

7 Q Would you please state your name?

8 A Andrea Price.

9 Q And your current job?

10 A I am an assistant public defender with the 7th Circuit
11 Public Defender's Office in the Spartanburg office.

12 Q Okay. And how long have you been at that office?

13 A It will be six years next month.

14 Q Okay. Do you recall Mr. Johnson, my client?

15 A I do.

16 Q Okay. Do you recall representing him for these
17 charges?

18 A I do.

19 Q Okay. Did Mr. Johnson ever make a request for his
20 discovery paperwork from you?

21 A He did.

22 Q Okay. Do you recall how many requests he made?

23 A I don't right off.

24 Q Okay.

25 MR. ANDERSON: If I may approach, Your Honor.

Andrea L. Price
Direct examination by Mr. Anderson

1 THE COURT: You may.

2 Q I'm going to show you what's been admitted as
3 Applicant's Exhibit No. 1. Do you recognize that?

4 A That looks like a letter to me from Mr. Johnson on a
5 jail grievance form.

6 Q Do you remember receiving that at all?

7 A The file was so voluminous, if I look through it I can
8 probably locate it. But this was dated 11/6/09, received
9 by the officer 12/6/09.

10 Q Okay. And that would have been approximately a year
11 before trial, is that correct?

12 A Before the murder trial, yes. It was in October of
13 2010.

14 Q Okay. Thank you.

15 And then I'm going to hand you what's been marked as
16 exhibit -- or Applicant's Exhibit No. 2.

17 A Okay.

18 Q And do you recognize that?

19 A This is a letter to me from Mr. Johnson --

20 Q Okay. And --

21 A -- on a jail grievance form.

22 Q Okay. And can you -- can you tell the Court what it
23 says or what it is? Is it a request for discovery?

24 A It is.

25 Q Okay. And what's the date?

Andrea L. Price
Direct examination by Mr. Anderson

1 A 2/10/10.

2 Q Okay. So that would have been about three months
3 after the initial request?

4 A Thereabouts.

5 Q Okay. And, again, about -- let's call it eight months
6 before trial, or so.

7 A Yes.

8 Q Okay. Thank you.

9 Did you indeed provide Mr. Johnson with discovery?

10 A Yes, sir.

11 Q Do you recall when?

12 A Yes. On 4/11/10 I personally delivered it by hand to
13 Mr. Johnson in the jail.

14 Q Okay. And what jail was that?

15 A Spartanburg County.

16 Q Okay. And did you ever discuss his discovery or the
17 Rule 5 items that you had received from the solicitor's
18 office with Mr. Johnson?

19 A I did. It's something I customarily do with all of
20 the clients.

21 Q Okay. And do you recall how many times you discussed
22 it with him?

23 A I don't right off. I do recall however visiting with
24 him several times. Sometimes when I do go see my clients
25 they'll see me and say, hey, can we talk for a few minutes.

Andrea L. Price
Cross-examination by Ms. White

1 If I have time I customarily do that.

2 Q Okay. Do you recall meeting with Mr. Johnson a number
3 of times, or can you put your finger on how many times you
4 met with him?

5 A I met with him before his trial, before his plea on
6 his charges in the spring of 2010, the unrelated stuff from
7 Landrum, and before his trial for his murder trial, and of
8 course at 4/11/10. So I met with him at least three times.

9 Q Okay. And did you represent him for these other
10 charges that you're talking about?

11 A Yes. I believe so.

12 Q Okay. In this case, it eventually went to trial, of
13 course, correct?

14 A It did.

15 Q Okay. And at some point in the trial did you
16 recommend to him that he plead guilty to the charge of --
17 is it voluntary manslaughter?

18 A That's correct.

19 Q Okay.

20 MR. ANDERSON: I don't have any further questions at
21 this time, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. WHITE

24 Q Ms. Price, in your working with Mr. Johnson you said
25 you had represented him in the spring of 2010 as well on

Andrea L. Price
Cross-examination by Ms. White

1 other charges. Do you recall about how long a period of
2 time you represented him prior to this October of 2010?

3 A I had been representing him -- as I recall, there was
4 a conflict in the office and I had to swap cases with
5 Mr. Robert Hall. He got a case that I had, and I received
6 Mr. Johnson's case.

7 It was -- it was at least prior to April of 2010 when I
8 started representing him, because I did represent him at
9 that plea also.

10 Q Okay. And maybe -- I know that they've put into
11 evidence something from October of '09 where he writes you.
12 So perhaps about a year maybe total.

13 A Perhaps, yes, approximately, yes.

14 Q And did you have a chance to review with him most of
15 the discovery?

16 A Yes.

17 Q All right. And at what point did you recommend to him
18 that he might consider a plea in this case?

19 A At the point that the D.N.A. expert from SLED
20 testified that he found his D.N.A. at the scene. It was --
21 matches -- it's a conclusive match to a buccal swab that he
22 gave in 2009. I did not receive that report prior to
23 trial.

24 Q Okay. So is that perhaps you think the document that
25 he keeps mentioning that he didn't get and you didn't

Andrea L. Price
Cross-examination by Ms. White

1 review with him until trial?

2 A I think that's probably it.

3 Q Okay. So you received that during trial, I guess.

4 A I had never seen this before trial.

5 Q Okay. So at the time the testimony was presented, was
6 when you both found out about the match.

7 A That's the conclusive match, yes, that's correct.

8 Q All right. And at that point what was your -- I guess
9 what was your option or what was your thought process as to
10 what to do for Mr. Johnson?

11 A At that point in the trial I asked to approach the
12 judge and told him the situation, at which point Mr. Bulsa
13 offered the voluntary manslaughter plea. And I took it to
14 him.

15 Q Okay. And at that point did you explain the
16 difference between a murder and a voluntary manslaughter
17 plea?

18 A I did.

19 Q Okay. And do you feel like he understood that?

20 A Yes.

21 Q And once you presented him with that option did you
22 talk with him any more about it? Was he willing to take
23 it? Did he --

24 A I explained to him what the offer was, what he was
25 looking at if he was convicted, the differences between

Andrea L. Price
Redirect examination by Mr. Anderson

1 those two, at which point he said if -- if they have that
2 report I'll plead guilty.

3 Q And ultimately he did plead guilty. Did you -- from
4 your impression was it a free and voluntary plea?

5 A It was.

6 MS. WHITE: Your Honor, that's all the questions I
7 have.

8 MR. ANDERSON: Just a couple of more questions if I
9 may, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. ANDERSON

12 Q Ms. Price, you indicated that you received this
13 evidence of a conclusive match just prior to trial or going
14 to trial?

15 A No, during.

16 Q Okay. How long did this trial last?

17 A I'm sure whatever the transcript says.

18 Q Two or three days?

19 A I believe -- I know at least into a second day because
20 we had an overnight break.

21 Q All right. And can you explain how the prosecutor --
22 did they bring you this evidence and say we now have this
23 or did they --

24 A No.

25 Q Can you explain how that happened in the trial?

Andrea L. Price
Redirect examination by Mr. Anderson

1 A Okay.

2 Q Just briefly if you will.

3 A Mr. Guthro received -- well, it was addressed to him
4 from SLED.

5 It had several items that were submitted from Mr. Bogan
6 who is the forensic scientist at SLED who was called to
7 testify during this case.

8 He was also the forensic scientist who did the initial
9 reports back in 2002.

10 Q Do you have that report in front of you you're talking
11 about?

12 A I do.

13 Q What's the date if you don't mind?

14 A It is dated from SLED October the 1st of 2010.

15 Q Okay. And is it addressed to the solicitor's office?

16 A It is addressed to Mr. Edgar Guthro at the Spartanburg
17 Public Safety.

18 Q Okay. All right. Go on. I'm sorry.

19 A At this time during the trial Mr. Bulsa called
20 Mr. Bogan as an expert in D.N.A., which I expected that
21 because of the previous discovery that had been given to
22 me. And he starts talking about this that I've never seen
23 before.

24 Q At that point in time did you object?

25 A I asked for -- to approach the bench.

Andrea L. Price
Redirect examination by Mr. Anderson

1 Q Okay. And I know you went -- you didn't really go
2 into it. You indicated that you asked to approach the
3 bench and explained the situation to the judge at the time,
4 the trial judge, that you did not have that evidence
5 previous to trial.

6 A That's correct.

7 Q Can you tell us what that discussion was at the trial
8 bench?

9 A Sure. I went up there and I said, "Judge, he's
10 talking about something that I've never seen before and my
11 client knows nothing about, my client and I have never
12 discussed because I've never seen it before," at which
13 point I saw something I'd never seen before and never
14 since. I saw the color drain of Derrick Bulsa's face. And
15 at that point he said we can offer voluntary manslaughter.
16 And Judge Couch said, "Go talk to your client about that,
17 Ms. Price."

18 Q So did you ever realize an objection on the record
19 before this admission of this testimony?

20 A Going back to this, it does not appear that I did. I
21 just asked to approach.

22 THE COURT: If you're referring to a transcript, tell
23 me what page.

24 THE WITNESS: Yes, sir. It's on page 169 about
25 two-thirds of the way down, sir, line 17.

Andrea L. Price
Recross-examination by Ms. White

1 Q So at that time you approached the bench, informed the
2 court that you didn't have that, that piece of evidence,
3 and then the offer was brought forth by the state.

4 A Yes.

5 Q Okay. And, again, I don't mean to hamper this, but I
6 don't feel like I've gotten a straight answer out of you.
7 Did you object to that testimony coming in at trial?

8 A No, not according to this.

9 Q Okay.

10 MR. ANDERSON: That's all we have, Your Honor.

11 MS. WHITE: Just brief followup.

12 RECROSS-EXAMINATION

13 BY MS. WHITE

14 Q Once you did find out about the report and hear the
15 testimony about the match, your testimony is that you
16 discussed with your client and he said if there's a report
17 that matches me and my D.N.A. I'll plead guilty?

18 A That's right.

19 Q Okay. To your understanding has he seen the report,
20 or did you have a chance to discuss it with him after?

21 A We did. Derrick Bulsa provided me with a copy of that
22 right there in the courtroom. And we went over to the jail
23 room that's here off of our holding room, and I showed it
24 to him and shared that with him.

25 Q Okay. All right. Thank you.

1 MS. WHITE: That's all I have, Your Honor.

2 MR. ANDERSON: One second, Your Honor.

3 (Pause.)

4 MR. ANDERSON: Your Honor, that's all we have.

5 THE COURT: All right. You may step down.

6 MR. ANDERSON: No further witnesses, Your Honor.

7 MS. WHITE: And the state has no other witnesses, Your
8 Honor.

9 THE COURT: All right. I'll review the record in the
10 case and issue an order.

11 END OF REQUESTED TRANSCRIPT OF RECORD

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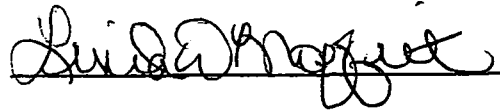
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 8th day of January 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 5, 2013

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

RECEIPT FOR EXHIBITS

Case # 11 GSTCP/DR-42-1738Judge ColeState/
Plaintiff Fredrick JohnsonP's atty AndersonDefendant StateD's atty White

Received from Linda D. Moffitt, Circuit Court Reporter, the following exhibits:

A1 Inmate Grievance FormA2Received by A. Deary / C. Jones, Clerk of Court1-82012 13

S. ANDREA L. PRICE Public Defender of

INMATE GRIEVANCE / REQUEST FORM

INMATE'S NAME (PRINT) Fredrick JohnsonYOUR CELL # 6-38-4 TODAY'S DATE 11/06/09

IN KEEPING WITH THE DIRECTOR'S POLICY OF OPEN COMMUNICATIONS BETWEEN THE STAFF AND INMATES, THIS FORM IS TO BE USED BY ANY INMATE WHO WISHES TO CONVEY A COMPLAINT, GRIEVANCE, OR SPECIAL REQUEST. IF THE SITUATION CAN BE RESOLVED IMMEDIATELY BY AN OFFICER, A REPLY WILL BE MADE ON THIS FORM, AND RETURNED TO THE INMATE AS SOON AS POSSIBLE. IF THE OFFICER CANNOT RESOLVE THE SITUATION, THE INMATE COMPLAINT, GRIEVANCE, OR REQUEST WILL BE FORWARDED TO THE SUPERVISOR AND/OR THE DIRECTOR FOR HIS REVIEW.

DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

I have wrote you 1 letter And one Request
wondering why I can't get A copy of my motion
of Discovery. I really need that I would really
Appreciate IT IF you put This In consideration. your
Kindness Is highly Appreciated. Thank you!

INMATE'S SIGNATURE

Fredrick Johnson

RECEIVED BY OFFICER

CallawayDATE 12/6/09 TIME 1836

INMATE SHOULD NOT WRITE BELOW THIS LINE

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ACTION/RESPONSE

DIRECTOR/ STAFF MEMBER'S SIGNATURE _____

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RECEIVED OFFICE MR. ANDREW L. PO

INMATE GRIEVANCE / REQUEST FORM

INMATE'S NAME (PRINT) Freddie JohnsonYOUR CELL # 6-384 TODAY'S DATE 2/10/10

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DESCRIBE THE COMPLAINT, GRIEVANCE, REQUEST, ECT. (NOTE: USE BACK IF MORE ROOM IS NEEDED.)

I AM writing concerning my motion of Discovery. you told me you was going to bring me a copy. I was wondering why haven't you brought me a copy of my motion of Discovery yet. I would really appreciate if if you put it's in consideration. thank you!

INMATE'S SIGNATURE Freddie JohnsonRECEIVED BY OFFICER [Signature]DATE 2/10/10TIME 2:51

INMATE SHOULD NOT WRITE BELOW THIS LINE

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B/D

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Frederick E Johnson, #163457)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2011-CP-42-1788

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 21, 2010. The Respondent made its Return on or about July 17, 2012. An evidentiary hearing into the matter was convened on January 8, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by W. Sterling Anderson II, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Andrea Price, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the trial/plea transcript.

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SPARTANBURG COUNTY
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M. HOPKINS

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the August 2010 session of the Spartanburg County Grand Jury for murder (10-GS-42-4671). He was represented by Andrea Price, Esquire. On October 13, 2010, following the beginning of a trial for murder, the Applicant pled guilty to the lesser-included offense of

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Page 1 of 7

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voluntary manslaughter and was sentenced by the Honorable Roger L. Couch to a sentence of thirty years, set to run consecutive to the SCDC sentence the Applicant was currently serving. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel; and
2. "Because the State failed to comply with Rule 5 Motion."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that he was currently service a thirty year sentence for voluntary manslaughter, which was set to run consecutive to the sentences totaling twenty-five years. Applicant had previously received for charges of common law robbery and assault and battery of a high and aggravated nature. Applicant testified that Counsel failed to provide discovery materials to him in a timely manner. Applicant submitted copies of jail requests to Counsel for discovery materials as Exhibits #1 and #2. Applicant testified that he received discovery only one to two weeks prior to the trial, but acknowledged that Counsel did review the discovery materials with him at that time. However, Applicant testified that he did not receive the discovery regarding the DNA results until trial. Overall, Applicant testified that he met with Counsel two or three times. Applicant testified that Counsel did advise him to plead guilty, but

acknowledged that he pled guilty without any threats or coercion.

Counsel testified that she met with the Applicant approximately three times. Counsel testified that she has notes in her file indicating that on April 11, 2010, she delivered discovery materials to the Applicant and personally reviewed them with him. Counsel noted that sometime in spring of 2010 was when the Applicant pled to the prior unrelated charges. Counsel acknowledged that the DNA matching results were not provided by the State until it was mentioned during testimony at trial. In fact, as the record reflects, Counsel objected and there were numerous discussions before the bench about the revelation of those results. Counsel testified that once the DNA report from SLED came back with a match to the Applicant, she did recommend that Applicant consider pleading guilty to the lesser-included charge. The State was willing to offer a plea to voluntary manslaughter at that time. Counsel testified that she had the opportunity to meet with the Applicant to explain the options and differences between a murder conviction and voluntary manslaughter. Counsel also testified that during the meeting she reviewed the DNA report with the Applicant.

This Court finds the testimony of Counsel to be more credible than the testimony of the Applicant. The Applicant's allegations that Counsel did not provide discovery materials or meet with him enough are without merit. Following testimony and review of the transcript, it is clear that Counsel did review the discovery materials she had been provided with the Applicant. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210,

481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must also show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990). The Applicant failed to point to any specific matters Counsel failed to discover, or any defenses that could have been pursued had Counsel been more fully prepared. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation or lack of meetings. Accordingly, this allegation is dismissed.

Rule 5 Violation

This Court finds that this allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The record reflects that the jury was removed from the room and discussions were held at the bench, once the testimony about the DNA results was presented. The remedies for a failure to comply with the requirements of the rule are: "the court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing evidence not disclosed, or it may enter such other order as it deems just under the circumstances." Rule 5(d)(2), SCRCrimP. As testimony reflects, Counsel had the opportunity to review the document and discuss with the Applicant, which led to the Applicant choosing to plead guilty. The Applicant had the opportunity to

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request a continuance, continue with the trial and raise this issue through an objection at trial and then on appeal. His failure to do so has waived this allegation as a ground for relief. Furthermore, the record fully supports the knowing and voluntary nature of the Applicant's plea. Accordingly, this Court finds that the Applicant has failed to meet his burden of proof as to this claim. Therefore, this claim is denied and dismissed.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony is not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in her representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in her representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland and that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier *supra*. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed.

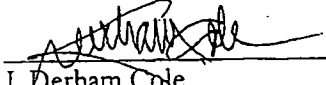
with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 2nd day of April, 2013.


J. Derham Cole
Presiding Judge

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 12 PM 4:48
M. HOPE BLACKLEY

WITNESSES

SDPS

[Signature]

ARREST WARRANT NUMBER

M183370

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *8-19-10*

SENTENCE MADE

VERDICT

Computer

1. REPORTED

2. CARD PULLED

3. INDEXED

CHECKED WARRANTS

RECEIVED SIGNATURE

On of Petit Jury
RECEIVED AND
REMADE

Computer

238

VERO ATTORNEY COPY

[Initials]

DOCKET NO.

10-GS-42-4671

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

AUG 23 2010

TERM

THE STATE

VS.

Fredrick Eugene Johnson

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 AUG 25 AM 11:25
M. HOPE BLACKLEY

STATE (SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At Court of General Sessions, convened on AUG 19 2010, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

The defendant, Fredrick Eugene Johnson, did in Spartanburg County on or about June 23, 2000, feloniously, willfully, and with malice aforethought, kill one Iris Denise Rhinehart by stabbing the victim and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended)

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


Deputy Solicitor

