THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

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APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

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Case No. 2025-000136

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Weldon W. Stewart, Jr., #295095 Petitioner,

v.

State of South Carolina, Respondent.

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# APPENDIX

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Weldon W. Stewart, Jr. #295095
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case, and that puts the burden of proof on the State. Ladies and gentlemen, burden of proof in this case by what we call beyond a reasonable doubt.

Under the law, a defendant is presumed innocent of all charges. Therefore, consistent with that burden, the defendant or the accused party shall be presumed innocent and that presumption of innocence is sufficient to compel a verdict of not guilty or a verdict of acquittal unless you the jury conclude that the State has satisfied its obligation to prove the Defendant guilty beyond a reasonable doubt.

This case will proceed as follows: First of all, I will allow both sides, beginning with the State in that they have the burden of proof, to make opening statements. Opening statements are required to be brief, to the point, and they are basically to outline the respective party's case to you.

There won't be any testimony given during the opening statements. It's just a brief outline or summary of the case to let you know, hopefully, how to follow the case as the particular side develops it. Opening statements are not mandatory. Either side or both sides can waive opening statements.

After opening statements will become or will come to you the evidentiary portion of the case where you will receive the evidence. That's where testimony, the evidentiary portion of the case, where you will receive the evidence. That's where

testimony that involves direct examination, cross-examination will carry forward with the witnesses.

After the evidentiary portion of the case will come the closing arguments. Both sides will be allowed to make arguments to try to persuade you to see the evidence as they see it. Closing arguments as well as opening arguments are not evidence, and I will give you a full charge concerning that later.

All right. After the closing arguments will be the Judge's charge on the law, where I will give you the law of the case. I will charge you, basically, on all the burden of proof, other principles of law that are standard in a criminal proceeding. I will also give you specific law on the crime charged or alleged by the State.

Only after all those phases are complete will you be asked to deliberate this case. So in regard to that, I instruct you do not discuss this case or deliberate this case until the proper time comes, and that is after the Judge's charge on the law.

Some judges do not allow note taking. I don't care. I have always told my jurors you're welcomed to keep notes if you so desire, but there is one rule you got to go by about those notes. You got to keep them to yourselves. Can't share them with another juror. Notes can be used to refresh your own memory, but not to share. So I'll leave that up to you.

All parts of the case are important. You don't know which witnesses in the case will most impress you, whether it's the first witness or the last witness. In reaching your final conclusion, you will need the guidance and judgment of other jurors, and you will need the guidance of the principles of law that I will provide to you in the Judge's charge on the law.

For all those reasons then, I once again need to instruct you that during any recess periods, when you retire to your jury room or we take an overnight or meal recess, you must not undertake to discuss this case amongst yourselves or with anyone else until you are given the go ahead for deliberations.

I will tell you at this time that when you are asked to deliberate and reach a verdict, the verdict in the case will have to be the unanimous verdict of all 12 deliberating jurors.

Now, as I told you I am the judge of the law. You are the finders of the facts. Sometimes an issue may come up in the Court usually triggered by an objection, and I have to make a decision on a matter of law. Often that will require me having to send you back to the jury room until I resolve that issue. We're not playing musical chairs with you or trying to aggravate you. It's just the way we have to handle it. So please understand that if we have to send you back to

the jury room.

From time to time, either side may make an objection to the Court. An objection is where the particular side feels like the other side is violating a rule of evidence or procedure, and I have to rule one way or the other. You shouldn't hold that against a particular side if they raise an objection or feel like I favored one side or the other on the way that I may rule on an objection.

Very seldom, but sometimes it happens in the heat of battle of a trial, respective attorney, respective sides will forget their proper role and they may in the heat of argument address each other, editorialize, make a comment that shouldn't be made. If I have to get on anybody about that, don't hold it against them. I mean, that's the heat of battle. The bottom line on that is decide this case on the evidence that's presented. Okay.

All right. All of you look like you're willing to get to work. Mr. Foreman, your duties will be just as other jurors. The only think I can tell you concerning that is formal about serving as a foreperson is that you will at time of the deliberations, you will need to record the verdict on the verdict form or the indictment, whichever is used here. It will be your duty to write that verdict down, date it, and sign your name to it.

In other words, you will in effect have to record what

the desire of the jury is. Your power is no more than any other juror when it comes down, you know, deciding possible guilt or innocence. But I can tell you that you are in effect the recorder for the jury, and you have to take care of the paperwork.

If you have any questions concerning anything else, feel free to ask me. Normally, everything will work together and after discussion and deliberation, you won't have any problem with that paperwork. And I will give you further instructions concerning that. Okay.

Mr. Clerk, anything else before we turn it over?

CLERK OF COURT: No, sir. I don't think so.

THE COURT: One thing I did overlook. We'll try to stick to business hours as close as possible. I know some of you have to tend to business in the evenings. You have families just as I do. I do try not to work late. Marlboro County is a lot like Chesterfield County. Even though you have a centralized county seat, unlike we do, it is still a fairly big county so we won't be starting real early either cause I commute from my home. I know many of you drive across the county.

We'll take periodic breaks. Make sure everybody stays awake and use the bathroom whenever you need to. We will also take a lunch break. Normally take anywhere from an hour to an hour and a half for that. So we'll try to proceed with

business hours as close as possible.

Madam Bailiff told me that some of you wanted to smoke earlier. I realize we're in the Pee Dee, and tobacco still has some prevalence around here as my court reporter can testify to.

Under the law, we can't allow smoking in the courthouse, however, we can allow you to step outside during your break. You can smoke out there where you won't hinder anybody else.

In regards to that, let me go ahead and tell you that when deliberations begin, if you want to take a smoke break, let the bailiff know and you can go outside and smoke, but deliberations, Mr. Foreman, have to stop. They have to cease until all 12 are back. Okay. So keep that in mind.

And that's true in any situation, bathroom break, whatever it is. If a juror has to step out, deliberations will need to cease until all 12 are back.

MR. FOREMAN: All 12 have to be present?

THE COURT: Yes, present, right. Solicitor, you're up first. The floor is yours.

MR. BLAKE: Thank you, Your Honor.

OPENING STATEMENT BY MR. BLAKE

Ladies and gentlemen of the jury, I know you haven't chosen to be here. We chose you for a very serious task. You understand this is a murder case. In the questions the Judge asked you before the case started, he said there might be some

disturbing evidence.

This happened back on December 6, 2000. It was between a 15-year-old girl and a 19-year-old man. Those two had been prohibited from being together by both sets of parents who sit here today. And you would not be sitting here if either of them had listened to their parents.

Now, some of the disturbing events may be disturbing for some of you. There is sex going on between the 19 year old and the 15 year old, and the 15 year old had sex with somebody else. You don't decide the case on that basis.

You decide on the evidence, and the State has ample evidence. Some of it is here. Some of it is elsewhere, but we will produce it to you.

During the incident, the Defendant admits to being there when she died. Hours later, he burns the body. What the Defendant wants us to tell you this was an accident. Only problem is, he's the only eye witness.

State contends that the burning of the body was to destroy evidence. No longer could we see on the victim's body if there were defensive wounds, bruises, cuts, scrapes.

Now, there were other people who happened upon this incident. They will testify and tell you what they saw. They will tell you what Mr. Stewart told them.

The State is presenting this case in really three parts, and this is a master draft. The first circle says "scene."

Scene witnesses, physical evidence from the scene, SLED investigators telling you about that physical evidence.

The next is "motive." Why did this happen. Well, the Defendant will tell you it happened because the victim was jealous because the Defendant had a child with another boy -- with another girl. That's kind of a misstatement.

And he will say she was mad, and that's how it happened. Evidence will be presented that the victim, [redacted] Allen, was attempting to leave the relationship with Mr. Stewart; that she had started seeing another boy; that she had actually had sex with that boy about a month before this killing.

Evidence will be presented that Mr. Stewart was enraged about this situation and called his close friend, rap artist partner, Andrenna Sutherland, and told her that he was off the charts enraged because of this situation. This was 9 o'clock that night. The killing occurred sometime in the morning around 4:00 a.m.

Well, you might ask how were they even together. How were they at this scene, which was [redacted] the home of the Defendant's parents. The killing and the burning both took place over there. Well, how it happened was that a friend of Mr. Stewart had a car and around midnight, he took Mr. Stewart over to [redacted], which is where the victim's family lived.

[redacted] Allen, the victim, came out. They took her back

to [redacted] I think it's admitted, they had sexual relations and then around 4 o'clock, some sort of argument. Ms. Allen is dead. Yes, this is serious.

Finally, the State will admit or put into evidence a number of different written statements by the Defendant, and during that testimony, the State intends to show how those statements about what happened that night, how contradictory they are.

Now, this case could go on for three weeks. It is not. I'm going to do my best to get all my evidence done in two days. That's all the SLED witnesses, everything. So it's going to be a little fast and furious sometimes.

Like the Judge said you should pay attention. That's why we've got -- going to deliberate 24 eyes, 24 ears, and 12 thinking people. If you think about the facts that are presented to you, there is no doubt that Weldon Stewart killed with malice aforethought his girlfriend, [redacted]Allen, on December 6, 2000. Thank you.

THE COURT: Thank you, sir. Mr. Stewart.

OPENING STATEMENT BY MR. STEWART

MR. STEWART: May it please the honorable Court. Good morning. My name is Weldon W. Stewart, Jr. I'm representing myself. Not because I want to be doing so, but because I feel like I have to fight for my life, and that's what I'm doing today.

Please allow me to offer each of you my sincere apology for how long it took to select the jury yesterday. Most of that was my fault. I am inexperienced with this type of thing. I have never done this before, and I was just trying to take my time and do what I need to do.

My defense is going to be based on the facts, and these facts that I am going to be presenting to you is going to be the truth. I am going to be telling the truth about myself, regardless if it makes me look bad or not.

I am going to be telling you the truth about my life, regardless if it makes me look bad or not. I'm going to be telling you the truth about what happened on the morning of December the 6th 2000, regardless if it makes me look bad or not.

I feel that that you, as individuals, deserve to know the truth and to base your decision as to whether I should lose the rest of my life on the truth. And that's what I'm going to be giving you in my defense.

My defense is not going to only be based on the one day of December 6, 2000. I'm going to take you back almost two years and show you a set pattern of behavior for myself and my girlfriend during those almost two years.

I'm gong to show you the type of relationship we shared, and our habits, and that out of the times we have been together as girlfriend and boyfriend, no matter what happened,

other boys, other girls, the good times, bad times, arguments, minor tragedies, we always stuck together. I never harmed her, never.

The evidence is going to show you this. Witnesses are going to tell you this. I'm going to show you that on the morning of December 6th 2000, my girlfriend's death was accidental. My opponent explained to you briefly about how my girlfriend came to see me that night.

Ladies and gentlemen, she had to come from her room, tip toe past her parents' room, come out the front door of her house, come down the steps, get in the back seat of a car where I was sitting, was sitting right next to Monique Bright, ride with me over to [redacted].

And when we dropped her off on the corner of [redacted] South Carolina, walk down one street with me, walk down another street, go to my backdoor, which is where everyone who's sneaking in my house. We had done this many, many times before, many, many times.

This is where she always had to enter the house because my room is at the back of the house. My parents' room was at the front. Go into the back door, climb over all the junk that was back there. It was messy, and go into my room. She had to do all this just to see me that night, ladies and gentlemen. We had to go though all this just to be together that night.

The evidence is going to show you this. The is going to show that, yes, we did get into a little argument that night. It was not because I was jealous or she was jealous. It was just that she -- we thinking about some things that had happened almost a year earlier. They were things that very much upset her, a very traumatic experience for her. And it had her upset on that night because it was almost exactly a year after what had happened. I'll be providing you with evidence of that later on, and this led to some things -- arguments.

She did not want to go back home when it was time for her to go back home. She never wanted to go back home when it was time for her to go back home. She wanted to stay with me, not to live with me, but she just sometimes forgot that she had to go back home when she was with me. And we just had an argument.

We argued and fussed all the time. This was normal for us. This was our habit. This was our usual pattern of behavior. We were like a brother and sister. We would argue. We would fuss, make right back up, argue and fuss again. Nothing unusual for us.

The evidence will show that I was just trying to convince my girlfriend that she needed to go back home. It was time for her to go back home, but she was upset. Things were bothering her, and she just wasn't ready to go back home yet.

So I picked my girlfriend up to try to carry her where we were going. We were in my parents' backyard, and we were trying to go through a path where we could gain access to the next yard over so that we could meet Stanton Wright so that he could take my girlfriend back.

I did not have a car, so I had to rely on someone else to get us back and forth. And I was trying to carry my girlfriend in my arms through a path. If you look at these photographs, you will see the path that I was trying to carry her through. You will notice that at the bottom of this path, there are a lot of boards.

And I was trying to carry my girlfriend through the path. I had her in my arms. And she was upset. Ladies and gentlemen, she is not just letting me hold her in my arms. Ladies and gentlemen, she was twisting and turning. She wasn't ready to go back home. She was a little upset. She wasn't a bad person. She wasn't a jealous person. She was just a little upset.

And I carried her through the path and I tripped and fell with her in my arms over one of the sticks in the path. Ladies and gentlemen, on that morning, I was a good bit larger than I am now. My girlfriend was about this tall, barely a hundred pounds.

I fell first. I fell with her in my arms. We fell face first. She fell. I fell on top of her. This was an

accident, ladies and gentlemen. I was not trying to harm my girlfriend. I did not intentionally harm my girlfriend. I have never harmed my girlfriend for almost two years.

All the times we argued and fussed, all the times people would try to separate us, our parents included, we stuck together. You're going to hear testimony about that. I was not trying to harm her, ladies and gentlemen. I was just trying to get her home. I was never -- for one, our parents did not know that we were together, as my opponent told you. And we were sneaking around, and the longer we wasted, the closer it brought us to getting caught by her parents.

And, ladies and gentlemen, that was the worst thing I imagined happening on that morning, the worst thing. Getting caught by our parents was the worst thing that I could imagine happening. That was a tragedy to me. That's what I thought a tragedy would be.

What happened, ladies and gentlemen, was an accident occurred. Now, this was not an accident where my girlfriend fell, I fell on top of her and she broke her fingernail or sprained an ankle. Ladies and gentlemen, this is an accident where we fell, and she lost her life as a result of this accident.

This was not a normal accident. This was not normal circumstances. It was not expected. I was not prepared for

this. My mind couldn't handle it. I was scared. I was confused. I was shocked. I panicked. I panicked, ladies and gentlemen. I panicked.

And in this panic state of mind, this scared, this shocked and confused state of mind, I made some poor, poor choices after my girlfriend died, I made some poor choices, ladies and gentlemen.

Yes, I should have called the police immediately. I can admit that, but I did not, ladies and gentlemen. I was scared. I was panicked. I was irrational. I was shocked. I just didn't know what to do. I made some poor choices after this tragedy occurred.

As the hours, after this tragedy went on, I became more scared. I started panicking more. I became more and more irrational as the hours went on after this tragedy, and this led to the desecration as my opponent described it, the burning of the body.

I would not try to make any excuses for that, ladies and gentlemen. It was wrong. It was wrong. It was wrong. I made a mistake. I'm human. I panicked. It was wrong. It was wrong for my girlfriend to lose her life. Just because it was an accident, it was still wrong.

I don't have any excuses to give you. I don't have any justification to give you. There is no justification. There is no excuse. But I am here today to give you the reasons why

things happened. And the reasons why things happened the way they did.

And I'm not giving you these reasons to say to you this makes it okay. This makes it any easier to deal with for the people who were affected by this tragedy. I'm simply giving you the reason to prove to you that I am not a murderer.

That I would not intentionally harm my girlfriend; that I would not intentionally harm another human being, period.

The evidence will show you this. The evidence will show you the type of person that I am from people who knew me my entire life. You will hear from young ladies who knew me and will tell you what type of person I am.

You will hear from witnesses who will describe for you the scared and panicked, nervous state of mind I was in on the date this thing occurred. Ladies and gentlemen, I do not have any excuse. I know that hearing about things like you're going to hear about in this case will upset anyone. It upsets me to reflect on it.

But, ladies and gentlemen, as His Honor told you, I ask that you weigh the facts in this case, ladies and gentlemen, the facts. The facts. And I ask that you search for the truth, and the facts are going to give you the truth.

And the fact is, ladies and gentlemen, as my opponent told you, I am the only person who was there. I am the only person who knows what happened. I am the only person who

knows the truth. I am the only person who can give you the truth.

These are facts, ladies and gentlemen. And the truth is that my girlfriend, [redacted] Nicole Allen, her death was accidental. It was totally unintentional, totally unexpected, and the evidence will show this.

Though I do not have the burden of proof, I'm innocent until proven guilty, I'm going to give you the truth, ladies and gentlemen, throughout this trial.

The trial process is going to make the truth known. And I trust that you moral individuals will recognize the truth for what it is and will accept the truth. Thank you.

MR. BLAKE: Your Honor, I need to get one exhibit marked before we start with this.

(STATE'S EXHIBIT NO. 21 MARKED FOR IDENTIFICATION.)

State calls Mr. Tony Allen to the stand.

TONY ALLEN, first being duly sworn, testified as follows:

CLERK OF COURT: Okay. Come around here and state your full name for the Court.

A. Anthony R. Allen.

DIRECT EXAMINATION BY MR. BLAKE

Q. Mr. Allen, please state your relationship to the victim, [redacted] Allen.

A. That's my daughter.

Q. Your daughter?

A. Yes, sir.

Q. You need to speak up. Does the P.A. not work at all?

A. My daughter.

Q. And I would ask the jury if anybody cannot hear, please just raise your hand so we know that. Handing you State's Exhibit 21. Who is that a picture of?

A. My daughter.

Q. Do you know when that was taken, Mr. Allen?

A. I think when -- I'm not sure. I think when she went to A[redacted] to see her aunt. She went and took that picture.

Q. That might have been six months or a year before she died?

A. Around November. We usually go down in November. Probably a couple months before.

Q. A couple of months.

MR. BLAKE: Permission to publish this to the jury, Your Honor.

THE COURT: Yes, sir.

Q. (BY MR. BLAKE): On December 6, 2000, how old was your daughter?

A. Fifteen.

Q. You need to speak up.

A. Fifteen.

Q. All right. Did she live at home with you?
A. Yes.
Q. Did you know about a prior relationship with the Defendant, between your daughter and the Defendant?
A. Yes.
Q. And did you want them to see each other?
A. No. No, sir.
Q. And did you go to certain things like having your phone blocked?
A. Yes, I did.
Q. And what number was blocked on that?
A. The Stewart's phone number and I think that was it. I think my wife really handled that.
Q. All right. Were there other ways that you tried to get them from seeing each other?
A. Yes. We kind of searched her pocketbook. They used to buy phone cards. When she used it to call that school on the phone card, it was long distance to the school.
Q. You said you searched her pocketbook?
A. Yes.
Q. Did you ever find a razor in there, a box cutter, knife?
A. No, sir.
Q. Did you ever know her to carry something like that?
A. No, sir.

Q. Did you ever see anything like that in her room?
A. No, sir.
Q. Now, the picture shows your daughter wearing glasses. Are these glasses familiar to you? Handing up State's Exhibit 18.
A. Yes, sir.
Q. Whose are they?
A. My daughter's.
Q. Thank you. Now, are these glasses something she just wore for reading?
A. No, sir. She had astigmatism in her eyes and had to really -- had to have them to get around.
Q. How often did she wear them?
A. All the time. On occasion, you might see her when she get up in the morning, she might not have them on to go to the restroom, do her face, or something like that, but if she left the house, she had to have them on.
Q. All right. You mentioned her purse or her bag.
A. Right.
Q. And did she take that with her when she left the house?
A. Yes, sir.
Q. And could you just tell us about her personal habits. Was she particular about how she looked?
A. Yes, sir. I don't usually buy her clothes, but I

mean I provided the money for them, but she was real neat. You can tell by her room that she was. She wouldn't really just walk out looking any kind of way.

Q. She use makeup?

A. Yes, sir, just starting to.

Q. Okay. Now, in his opening, the Defendant eluded to this tragic event that was a year ago. I think he's talking about the abortion?

A. Yes, sir.

Q. Do you remember approximately when that was?

A. Probably the last year before her death.

Q. All right. And this was -- your daughter had the abortion?

A. Yes, sir.

Q. Okay. And was it understood that that was Weldon's child?

A. No, sir. He didn't come forward. We tried to get her to say who he was. She never came forward.

Q. She never told you?

A. No, sir.

Q. Where did this abortion take place?

A. Charlotte, North Carolina.

Q. And who went up there with her?

A. Just me and my wife.

Q. Okay.

MR. BLAKE: No further questions.

THE COURT: Mr. Stewart, any questions of this witness?

CROSS-EXAMINATION BY MR. STEWART

Q. You say that you put a block on your phone; is that correct?

A. No, my wife did, but we had it done.

Q. But my number was blocked on your phone?

A. Yes.

Q. Therefore, if I wanted to call your house, somebody would have to remove the block; is that correct?

MR. BLAKE: Objection. This sounds like a conclusion. It may be just the form that he's asking.

A. I don't know how it worked.

Q. (BY MR. STEWART): Did either you or your wife ever remove the block from the phone?

A. No.

Q. You said that ---

A. I don't know how it works. I never removed -- I never got on the phone and removed no block from no phone.

Q. You said you disapproved of the relationship, is this correct?

A. Didn't we walk down to the river together. You know what I'm talking about.

Q. Yes, sir. How long -- about how long did the relationship go on that you know about?

A. I'm not sure. I just thought -- I thought it was just being friends at first, but then it started getting serious. I just tried to tell you to back off.

Q. So you did approve of the relationship at first; is that correct?

A. Yes. I told you that. No. I did not approve of the relationship.

Q. Please tell me in the time that you knew that your daughter was involved in a relationship with me, please tell me of a time when she's ever come home injured, harmed, bruised?

A. Never.

Q. Never?

A. Never.

Q. Didn't your daughter and I run away -- go all the way to [redacted] Connecticut?

A. Sure did.

Q. Did she come home injured, bruised, harmed?

A. No.

Q. You've never known me to harm your daughter?

A. No, sir. Sure didn't.

Q. When we were involved in a relationship together, but you're never known me to harm her?

A. Nope.

MR. STEWART: No further questions.

MR. BLAKE: No further questions.

THE COURT: You may step down.

MR. BLAKE: State calls Bobby Elvington.

ROBERT ELVINGTON, first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name.

DIRECT EXAMINATION BY MR. BLAKE

Q. Please state your full name for the record.

A. Robert Elvington.

Q. And where do you work?

A. For the South Carolina Law Enforcement Division out of Columbia.

Q. Some people call that SLED?

A. That's correct.

Q. And what is your role there?

A. I specialize in arson.

Q. How long have you been doing that?

A. With SLED, I've been with them seven years now.

Q. And you did it with another agency?

A. Correct. 18 years for the Florence County Sheriff's Office.

Q. Okay. Did you file a report in this case?

A. Yes, I did.

Q. Handing up State's Exhibit 8. Does that look like

your report?

A. Yes, sir, it does.

Q. About what time did you arrive on the scene?

A. I arrived on the scene here in [redacted] shortly before 3:00 p.m. on December the 6th.

Q. All right. And were you the first SLED agent on the scene?

A. To the best of my knowledge, yes, I was.

Q. Okay. And where was the Defendant at that time?

A. When I arrived, I was informed the Defendant was at the [redacted] Police Department being questioned.

Q. All right. And did you proceed to investigate?

A. Yes, I did.

Q. Okay. I'm going to hand up a number of different items to have you identify them. State's Exhibit 15. It's a silver can. Could you tell us what's in there, what the purpose of that is?

A. This is a can that I collected some evidence in. What's in the can is pieces of cloth that was on the victim, and also burnt debris that was around the edge of the victim's body.

Q. Okay. What was your reason for looking at that?

A. The reason I collected the samples is for the lab to try to determine if any flammable liquid was still left in the area.

Q. Did you determine that there was?
A. To the best of my knowledge, the lab did not determine any flammable liquids on it.
Q. Although you really will not be offering expert testimony in this case, for the record, let me take a step back, and you said that you've been at SLED doing arson for?
A. Seven years now.
Q. And prior to that, how many years?
A. Eighteen.
MR. BLAKE: State would move to qualify Mr. Elvington as an expert witness in arson investigation.
THE COURT: Any objections?
MR. STEWART: No, sir
THE COURT: So qualified.
MR. BLAKE: Thank you.
Q. (BY MR. BLAKE): Okay. You got there, you said around 3 o'clock?
A. Correct.
Q. And did you at any time enter the house, the Stewart house?
A. Yes, we did.
Q. When you say "we," that would be who?
A. Myself and officers with the Bennettsville Police Department.
Q. All right. Now, how did -- how is it that you came

to enter that house?

A. We had gained possession of a key to the residence after we got signed consent from the owners and made access to the residence with the key.

MR. BLAKE: Your Honor, could you hold on just one moment?

THE COURT: Sure.

MR. BLAKE: I don't think we've marked this one yet. Your Honor, we have another exhibit that needs to be marked.

(STATE'S EXHIBIT NO. 22 MARKED FOR IDENTIFICATION.)

Q. (BY MR. BLAKE): Handing up State's Exhibit 22. This is a photocopy entitled "Voluntary Consent to Search."

A. Yes, sir. This is the voluntary consent that was given to us and signed by Mrs. Stewart.

Q. Okay. You said you entered the premises by a key. How did you get the key?

A. If I'm not mistaken, the key was given to me by Lieutenant Boston with the police department who got it from either Mrs. Stewart or Mr. Stewart himself.

Q. Okay. And could you read for us the time down there, Mr. Elvington, when that was signed?

A. It was signed at date, December 7, 2000, time was 1536 p.m.

Q. And in normal, human time, what's that?

A. 3:36 p.m.

Q. Thank you. Were you present when this Consent to Search was signed?

A. Yes, I was.

Q. Okay. Who is this signature here if you can tell me?

A. No, sir. I could not. I don't remember who it was.

Q. But you were present when this happened?

A. Yes, sir.

Q. Any question in your mind about the voluntariness of her consent?

A. None whatsoever.

Q. Wasn't done at gunpoint?

A. No, sir.

Q. So you entered the premises?

A. Yes, sir, that's correct.

Q. Just kind of tell us from there.

A. When we entered the premises, we looked around the room. When we got to the bedroom that we was told belonged to the Defendant, we glanced around there and noticed a coat that was in the bedroom.

We examined the coat and noticed a dark stain that might be blood. So at that point, we backed off and called for a SLED Crime Scene Investigating Unit to come and processed the scene.

Q. Handing up State's Exhibit 13. Is this the coat

that you saw in the Defendant's bedroom?

A. Yes, sir, it appears to be.

Q. But you did not take that into evidence?

A. No, sir, I did not take possession of it.

Q. And I may have missed that as I was grabbing the box, but the reason you did not?

A. We didn't want to disturb any possible evidence. We called the Crime Scene Unit in to process and collect the evidence.

Q. So you have a separate department in SLED, the Crime Scene Unit, that processes the scene?

A. That's correct.

Q. And they were called to the scene?

A. Yes, sir.

Q. Okay. Handing up State's Exhibit 14. Does that look familiar? Does it have any identifying marks to tell you what it is? I know you brought to Court today.

A. Yes, sir, I did. This is the gas can that was found at the scene and collected by the officer, Lieutenant Boston and turned over to us.

Q. And you had that in custody?

A. Yes, sir.

Q. Now, as I understand it, you brought a big bag of stuff today, and I'm kind of going through it piece by piece. You may not have initially taken it into evidence, but you

have been holding it?

A. That's correct. I was the case agent. All the evidence came to my unit to be handled by me.

Q. And would go from out to various departments and then back?

A. Yes, sir.

Q. Okay. These are all pieces of evidence that you brought to the Court today?

A. Yes, sir.

Q. And could you describe what this is? What relevance it might have in the case?

A. This is a black tee shirt that was turned over to our agency by Lieutenant Boston that was worn by the Defendant.

Q. Thank you. And this?

A. This is a bandana that was also turned over to us by Lieutenant Boston.

MR. BLAKE: For the record, the black tee shirt is State's Exhibit 7, and the bandana is State's Exhibit 6.

Q. Do you recognize those?

A. Yes, sir.

Q. You brought them today?

A. Correct.

MR. BLAKE: Your Honor, just a moment. We're trying to locate the exhibit number for this.

COURT REPORTER: Number 12.

Q. State's Exhibit 12, a floral pattern bed sheet. Where was that at?

A. It was turned over to us. It was collected by ---

Q. Wait, wait, wait. Go ahead. Start back.

A. It was turned over to us. It was collected by the agents at the scene from the bed in the bedroom.

Q. But you've had it in your custody for about how long?

A. Ever since it's been through the lab. It was turned over to me.

Q. And you brought it to the Court today?

A. Yes, sir.

Q. So this was a part of your investigation?

A. That's correct. That's what I collected myself.

Q. But it did not really turn up any results in the lab?

A. That's correct. It did not.

Q. And I assume you took photographs at the scene?

A. Yes, sir, I did.

MR. BLAKE: No further questions.

THE COURT: Mr. Stewart.

(BENCH CONFERENCE HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: Ladies and gentlemen, let's take a ten minute

recess. Y'all step back to your room and relax. Court staff needs a recess.

(JURY EXCUSED TO JURY ROOM AT 12:01 P.M.)

(COURT IN RECESS AT 12:01 P.M. AND RECONVENES AT 12:19 P.M.)

(JURY ENTERS COURTROOM AT 12:19 P.M.)

CROSS-EXAMINATION BY MR. STEWART

Q. Please tell us your name again, sir.

A. Robert Elvington.

Q. And what is your position?

A. Senior agent for the South Carolina Law Enforcement Division.

Q. And you were one of the first or the first SLED agents to arrive on the scene?

A. To the best of my knowledge, yes, sir.

Q. Approximately, what time did you arrive on the scene?

A. Shortly before 3:00 p.m.

Q. Shortly before 3:00 p.m.?

A. Yes, sir.

Q. And who obtained the consent to search?

A. It was signed by officers with the Bennettsville Police Department. They obtained it.

Q. Did you request for this consent to search to be signed?

A. I told them I needed a consent to search or a search

warrant for me to go to the scene and process it, yes.

Q. And this consent to search was signed at approximately 3:36 p.m.?

A. Whatever time is on there. I don't remember. Yes, sir, 3:36 p.m. is the time that was written on it.

Q. Did either you or any other SLED agents or officers from the Bennettsville Police Department enter the residence prior to this consent to search being signed?

A. No, sir. Matter of fact, I stood outside the area until the consent was signed. I didn't even go to the backyard to process the body.

Q. What time did you say you arrived?

A. I arrived before 3:00 p.m.

Q. Could you give me an approximate time?

A. No, sir. I didn't document the time I arrived on the scene. I arrived on the scene shortly before 3:00 p.m.

Q. Shortly before 3:00 p.m.?

A. Yes, sir.

Q. In your definition, what is shortly?

A. Could have been quarter 'til. Could have been ten 'til.

Q. A quarter 'til, ten 'til?

A. Yes, sir.

Q. And from quarter 'til, ten 'til three, you could say that nobody entered the residence?

A. To my knowledge, they didn't. I did not enter the residence.

Q. But prior to that time, you don't have any knowledge of who was going in and out the residence?

A. No, sir. I don't.

Q. And you say you got a key to enter the residence. Who did you get this key from?

A. I got it from one of the Bennettsville Police Officers. I think it was Lieutenant Boston. I think he might have got it from either you or your mother. I'm not sure.

Q. Okay. And you mentioned a sheet. I think it's State's Exhibit 12, a sheet.

A. Okay.

Q. Where did you say this sheet was found?

A. You have to talk to the -- actually, the crime scene unit that collected it. I think it's a bed sheet. I don't now, but they collected it.

Q. So you don't actually know where it was collected from?

A. I didn't collect none of that evidence except for the can.

Q. You collected the can?

A. The can is the only thing I collected.

Q. You collected this can?

A. The pint can.

Q. This can?
A. Yes, sir.
Q. Okay. And you do not know where the sheet came from?
A. I did not collect it. I can't testify to that, no sir.
Q. Okay. When you entered the residence, and you went and searched the room that you thought to be my room, were you the first -- one of the first officers -- SLED agents to go into the room?
A. Myself, SLED Agent Billy Houser, and officers of the Bennettsville Police Department entered the house together and looked around.
Q. Was I present?
A. No, sir. You were not, not that I can remember. I don't think so. Not the first time we entered the house.
Q. I was not present when you entered the house to search it?
A. The first time, I don't believe so.
Q. Okay. Was I at any time to your knowledge brought back to the scene to point anything out?
A. Yes, sir, you were.
Q. Did officers -- members of the Bennettsville Police Department bring me to the scene?
A. Yes, sir. I don't know who it was, but they brought

you back to the scene.

Q. You don't know which officers it was?

A. No, sir. I'm not familiar with the officer's names at the Bennettsville Police Department.

Q. And when you entered the room you mentioned seeing a jacket, but you did not test the jacket; is that correct?

A. That's correct. We looked at it and examined it and called for SLED Crime Scene to come process it.

Q. To your knowledge, the jacket was removed from the house on that day?

A. Yes, sir.

Q. December 6, 2000?

A. Yes, sir.

Q. Thank you.

MR. BLAKE: One question, Your Honor.

REDIRECT EXAMINATION BY MR. BLAKE

Q. We just talked about the jacket and I believe in your testimony earlier, you stated that once you saw that jacket, perhaps with blood on it, that you backed off of it?

A. Correct.

Q. Okay. Why did you think that that jacket was significant?

A. Well, with the possible stain on it, that could have been blood. And we were told the description of the jacket, what he was wearing that night. We wanted to not disturb any

possible evidence of that crime scene in case it was connected with the crime itself.

Q. Do you remember where the description of the jacket came from as to what he was wearing that night?

A. It was given to me by the Bennettsville Police Department.

Q. Thank you.

THE COURT: Anything else?

MR. STEWART: No, sir.

THE COURT: You may step down. Thank you. May this witness be excused?

MR. BLAKE: Without objection from the State.

MR. STEWART: I do not object to it.

THE COURT: Thank you, sir.

MR. BLAKE: Al Stuckey.

AL STUCKEY, first being duly sworn, testified as follows:

CLERK OF COURT: All right. Come around and state your full name, please, sir.

A. Al Stuckey. S-T-U-C-K-E-Y.

DIRECT EXAMINATION BY MR. BLAKE

Q. Where do you work, Mr. Stuckey?

A. I'm employed with the South Carolina Law Enforcement Division, better known as SLED.

Q. And what do you do there?

A. I am a special agent assigned to the Latent Print Crime Scene Department.

Q. How long have you done latent prints?

A. Approximately six years.

Q. And what sort of training do you have in that area?

A. I have gone through an extensive two year on-the-job training program with regard to latent fingerprints and crime scene processing. In addition to that, a two year training program. I have completed approximately 500 hours of external training with regard to death scene reconstruction, crime scene processing, latent fingerprints.

Q. Have you ever been qualified as an expert in latent prints?

A. Yes, I have.

Q. Have you ever testified in court?

A. Yes, sir, I have.

MR. BLAKE: Move to qualify Mr. Stuckey as an expert witness in latent prints.

THE COURT: Any objections?

MR. STEWART: No, sir.

THE COURT: All right. So qualified. You may proceed.

MR. BLAKE: Thank you, Your Honor.

Q. (BY MR. BLAKE): I'm handing up State's Exhibit 14, the red gas can. Is that familiar to you?

A. Yes, sir, it is.

Q. Did you look at that or investigate it for fingerprints?

A. I processed that particular item for latent fingerprints, yes, sir.

Q. All right. Did you find any fingerprints?

A. No, sir. No residue drops were found on this particular item.

Q. Okay. Let's take a step back so you can let the jury understand a little bit about fingerprints and how it's done. It is unusual not to get fingerprints? Not to get residue stains?

A. No, sir, it's not unusual at all.

Q. Is this the kind of surface that would lend itself to fingerprints?

A. No, sir. A ridged surface like this would not be conducive to leaving latent fingerprints on an item -- on this particular item.

Q. And when you're actually getting prints, what is it that you are actually seeing in terms of the ridges?

A. What we're seeing is on your fingers and on your palms, you have a mountain range looking formation. These are ridges. These ridges contain tiny little pores that are constantly extruding sweat. This sweat in combination with other contaminants like oils from your head and from your arms and what not, when you touch something, it is possible to

leave behind an outline of those ridges.

We process those items that you may touch for latent fingerprints because they are hidden and must be developed. I look -- what I mean by that is when you leave an impression behind, it's invisible, and it's an invisible outline of your particular ridges. And they're unique and permanent to you.

Q. Do different surfaces fingerprint better than others?

A. Yes, sir, some do, but it is all -- there are several different factors that go into processing a piece of evidence. The cleanliness of your hands, the cleanliness of the particular item, the environment which it was left in, those are just some of the factors that go into -- factors that could effect whether you leave a latent fingerprint behind or not.

Q. Well, I know we all watch t.v., and seems like you can get a fingerprint off anything?

A. Yes, sir, that's a common misnomer that most crimes are solved within the hour of a show like CSI or Law And Order, but that's not always the case. A latent fingerprint is a chance impression. It's not always left behind no matter how hard you process it. It's a chance impression and there are chances you may not get it.

Q. But you did process this gas can for prints?

A. Yes, sir, I did.

Q. And found no ridge details?
A. No ridge detail was developed, no, sir.
Q. You were the crime scene person for SLED?
A. For this particular case, yes, sir, I was.
Q. Could you explain to the court what that is?
A. Well, at SLED, the Latent Print Crime Scene Department has a two-fold function. First, we have a lab function in that we process items such as that gas can for latent fingerprints. We also do tire tread, footwear examinations, blood splatter interpretation and other ---
MR. BLAKE: Mr. Stuckey, could you slow down a little bit for the court reporter.
A. We also have a field function in that we process crime scenes to assist local, state, and federal authorities in processing crime scenes with a specialization in violent crimes and the collection of forensic evidence.
Q. Do you remember about what time you arrived at this crime scene?
A. Let me look. Your Honor, may I be allowed to look at my notes?
THE COURT: Yes, sir.
A. Thank you. I arrived at approximately 8:20 p.m.
Q. On what day?
A. It was December 6, 2000.
Q. In the evening? 8 o'clock in the evening?

A. Yes, sir, 8:22 p.m.

Q. All right. Did you get these items from the crime scene?

A. The gas can was actually transferred to me by Lieutenant J.W. Boston, I think with the Bennettsville Police Department.

Q. All right. And how about the bandana, which is State's No. 6 as well as the tee shirt, which is State's Exhibit 7.

A. Yes, sir, those were transferred at the same time as the gas can.

Q. Okay. So you got all these from Lieutenant Boston?

A. Yes, sir, that is correct.

Q. All right. And as for the blue and black Fubu jacket?

A. That was an item that I collected from inside the residence. I tested it for blood. It was positive for blood, so I collected it for DNA analysis.

Q. Okay. Let's take a step back. This is State's Exhibit 13, and where did you test it for blood?

A. I don't recall the exact area I tested for blood. I just have in my notes that I tested it for blood and it was positive.

Q. Did you test it right on the scene there?

A. Yes, sir.

Q. Okay. So you used some sort of chemical process and it showed up blood?

A. Yes, sir, that's correct.

Q. And did you find this in the house?

A. Yes, sir, I did.

Q. Okay. And where did you find it?

A. I don't remember the exact location of where I located that particular jacket. It was somewhere inside the residence.

Q. Okay. Why was this jacket significant?

A. As opposed to?

Q. My coat?

A. Because it was inside the residence as I recall.

Q. All right. You took this in custody?

A. Yes, sir, I did.

Q. And you said something about blood and DNA. Where did it go from there?

A. Once I collected it at the scene, I log it into our SLED Log-in Department. From there it will go to our SLED Evidence Processing Area where they will collect areas of blood and from there to our DNA Department.

Q. About how long were you at the scene?

A. I departed the scene at 10:45 p.m. on the same date, December 6th.

Q. All right. I'm sorry. You arrived at the scene at

8:00?

A. 8:20 p.m.

Q. All right. And left at?

A. Approximately 10:45 p.m.

Q. Okay. And you took items with you when you left?

A. Yes, sir, I did.

Q. And took them back to [redacted] with you?

A. Yes, sir, I did.

Q. You took crime scene photos?

A. Yes, sir, I did.

Q. All right. And those are the photos that have been submitted by SLED ---

A. Yes, sir.

Q. --- for this case?

A. They have my case number or stamp out on the particular -- on the actual photo.

Q. And so those photographs would have been taken between 8:20 p.m. and 10:45 p.m.?

A. Yes, sir, that's correct.

MR. BLAKE: I have no further questions for this witness.

THE COURT: Any questions for this witness, Mr. Stewart?

CROSS-EXAMINATION BY MR. STEWART

Q. You said that you found the jacket inside the residence; is that correct?

A. Yes, sir.

Q. Did you take this jacket into custody that same day?
A. Yes, sir, I did.
Q. State's Exhibit 13. You took this jacket into custody on December 6, 2000?
A. May I see it, please. Yes, sir.
Q. You are saying you took this blue, red, and black Fubu jacket, State's Exhibit 13 into custody. You removed it from the residence on December 6, 2000?
A. Yes, sir. In fact, it's been noted as Item 8, one blue and black Fubu jacket on my evidence log-in sheet.
Q. You said that you tested the jacket for blood; is that correct?
A. Yes, sir.
Q. And you found blood on the jacket?
A. The jacket tested positive for blood, yes, sir.
Q. Where was the blood located on the jacket?
A. I do not recall.
Q. Did you photograph the jacket?
A. When we get to a scene, we photograph the scene, and then any items of evidence we collect we also photograph.
Q. Will you answer that question yes or no?
A. I'm sorry. What was the question?
Q. Did you photograph that jacket?
A. Yes, sir. There are photographs of the jacket.
Q. Did you photograph the jacket?

A. Did I photograph the jacket personally?
Q. Yes, sir.
A. Either I photographed the jacket or the -- Special Agent Green, who accompanied me on the scene photographed that jacket.
Q. And you tested the jacket for blood?
A. Yes, sir.
Q. And you took the jacket into custody?
A. Yes, sir.
Q. But you do not now where it was at in the residence?
A. I don't recall. This was December 6, 2000, and I did not note down where the actual jacket was located.
Q. Thank you.
MR. BLAKE: Ask that this witness be excused.
THE COURT: Any objection?
MR. STEWART: Yes, sir. I might need to recall this witness back at a later point in the trial.
THE COURT: All right.
MR. BLAKE: Well, I ask that this witness be allowed to return to his work since we don't know when Mr. Stewart might be calling him.
THE COURT: Let him return to work ---
MR. BLAKE: He's still under subpoena.
THE COURT: -- or we can call him.
MR. STEWART: Yes, sir.

THE COURT: If you'll let the Solicitor know where you can be reached.

MR. STEWART: Could I be allowed to speak with this witness at the lunch break?

THE COURT: Yes, sir.

MR. BLAKE: State calls Cecil Bradstreet.

CECIL BRADSTREET, first being duly sworn, testified as follows:

CLERK OF COURT: Come on around and state your full name.

A. Cecil K. Bradstreet.

DIRECT EXAMINATION BY MR. BLAKE

Q. Where do you work?

A. I work for SLED, which is the South Carolina Law Enforcement Division.

Q. What department?

A. In the Evidence Processing Department.

Q. How long have you worked there?

A. I have been with the agency for almost ten years. I've been in Evidence Processing for three years.

Q. What is the general function of Evidence Processing?

A. Evidence Processing is a department that looks for -- the examination various types of evidence for the presence of hair, fibers, and bodily fluids, mainly blood and semen.

Q. Did you go out to the crime scene in this case?

A. No, sir, I did not.

Q. So you work in Columbia?

A. Yes, sir, I do.

Q. So you're not a crime scene person?

A. No, sir, I'm not.

Q. And in this case, which of course, you have lab numbers for and you have a report, at some point were you given this jacket to process?

A. Yes, sir, I was.

Q. And I believe that's State's Exhibit 13?

A. Yes, it is.

Q. And what did you do with this jacket?

A. This jacket was processed for hair, which was hung up and sprayed down, and anything that fell on a piece of white lint cloth paper was saved. Then, for the presence of blood, it was a visual exam, which if there is something that looks like blood, we do a chemical test called phenol saline.

We will swab the area, drop the chemical on there, and then drop hydrogen peroxide, and then a chemical reaction will produce. If it turns pink, then it's a productive positive for blood. That means if the swab did not change color, then it's a definitive negative for blood.

Q. Mr. Bradstreet, if you could slow down just a little bit so the court reporter can get everything down. Did you find blood on the jacket?

A. Yes, sir, I did.

Q. Did you take a cutting from this jacket?
A. Yes, sir, I did.
Q. Do you have a diagram indicating where you took that cutting?
A. Yes, sir, I do.
Q. And where was it?
A. It was on the sleeve.
Q. Sorry. Right or left sleeve?
A. The right sleeve.
Q. Okay. Is that why all the down is now all over the courtroom?
A. Yes, sir. When you cut it, the feathers fly out.
Q. Now, what did you do with that cutting?
A. The cutting was placed in a small gold coin envelope and sealed in a heat sealed pouch, which I then dropped in a locked refrigerator box in our Evidence Log-In Department, that is routed to the DNA Department.
Q. So you didn't test the DNA?
A. No, sir, I did not.
Q. Okay. Handing you up State's Exhibit 9.
A. Yes, sir, this is the hair that was collected from the bandana.
Q. That being State's Exhibit 6? And I'm handing that up to you. I note that it has some spots on it, some circles, some writing on it. Would you please explain what that is?

A. This is the bandana that I processed. This stain here was -- looked to be -- appeared blood, so I swabbed the area. The area came up negative so I circled it. This here is a positive with a circle around it saying that it was negative, and the chemical that we use is phenol, which is phenol saline. And we also -- here are my initials stating that I did process it.

Q. Mr. Bradstreet, did you find any blood on the bandana at all?

A. No, sir, I did not.

Q. Did you collect any hair from the bandana?

A. Yes, sir. This is the hair right here.

Q. Now, handing up State's Exhibit 11. I believe it has your initials on it?

A. Yes, sir, it does. This is the hair and debris collected from the floral fitted sheet.

Q. Handing up State's Exhibit 12. Is this the sheet that ---

A. Yes, sir, it is. And these are my initials on the outside of the bag.

Q. Thank you. Did you process the sheet for hair?

A. Yes, sir, I did. And this -- what this is -- this is all the hair and debris that fell on the white lint cloth paper. It's been folded up and sealed inside this envelope with my initials on the back.

Q. Handing up State's Exhibit 10.

A. This is the hair and debris that was collected from the jacket. Again, the butcher-block paper was kept. Everything was kept slid in here. These are my initials along with the agency lab number and the item number.

Q. This has some writing on it. This is State's Exhibit 7, and I believe you also processed that?

A. Yes, sir. This is a black tee shirt. These are my initials, our Item No. 10 in the column. It is a black tee shirt that I processed for hair and blood. This area here has blood on it. There was a presumptive positive, and also this area I cut these out. I placed those cuttings in separate gold envelopes and routed those to DNA.

Q. So you took two cuttings from the tee shirt?

A. Yes, sir.

Q. You took one cutting from the jacket?

A. Yes, sir.

Q. And those went to DNA for them to test?

A. Yes, sir.

Q. Okay. Did you also process -- the bag will probably help you. I believe it's Item 15, State's Exhibit 17. Did you process this? Do you recognize this?

A. Yes, sir, I do. These are my initials. Item 15 with C.W.B., which are my initials.

Q. And did you find anything there?

A. No, sir.

Q. No hair?

A. No hair. No blood.

Q. No hair. No blood. Which is really in this case what you were looking for?

A. Yes, sir.

Q. I don't want to take it out of the box. It's a burnt limb. Sorry for all the noise. It's State's Exhibit 16.

A. These are my initials right there with SLED lab number, the item number, my initials, and the date it was processed.

Q. All right. Now, did you find any blood or hair on them?

A. No, sir, I did not.

Q. But you did not take these things from the crime scene?

A. No, sir, I did not.

Q. You're sitting in your lab in Columbia, things come to you, you process them, and then send them on to someone else for more detailed testing?

A. Yes, sir, that's correct.

Q. And in this case, you sent two cuttings from the black tee shirt and one from the jacket to DNA?

A. Yes, sir, that's correct.

MR. BLAKE: No further questions.

CROSS-EXAMINATION BY MR. STEWART

Q. Sir, State's Exhibit 7, this black tee shirt you said you found blood on this tee shirt?

A. That's correct.

Q. Where did you say you found it at?

A. These two cuttings here, according to my notes, they were -- the bottom one was my first cutting. The one above it was my second cutting. And both the cuttings were taken from the inside of the tee shirt.

Q. The stains were on the inside of the shirt?

A. Yes, sir, the blood was obtained from the inside of the shirt.

Q. The blood and stains were on the inside of the shirt; is that correct?

A. Yes, sir, that is correct.

Q. You don't know how they got there?

A. No, sir, I do not.

Q. You were just in Columbia in the lab?

A. Yes, sir.

Q. But the blood on the shirt was on the inside, is that what you said?

A. Yes, sir.

Q. On the front -- front side of the shirt?

A. Yes, sir, that's correct, front side of the shirt.

Q. This bandana, State's Exhibit 6, you said there was spots on it?

A. Yes, sir. These stains that are circled in black are negative areas for the presence of blood.

Q. So these stains or whatever on this bandana is not blood?

A. Correct.

Q. You are sure of this?

A. It's a chemical test. If it comes up negative, it's a definitive test. That is not blood.

Q. You do not know where this scarf came from?

A. No, sir, I do not.

Q. Was there hair found on this scarf?

A. Yes, sir, there was.

Q. And you do not know -- do you know whose hair?

A. No, sir, I do not. I just collected it.

Q. You said that blood was found on the right arm of the jacket; is that correct?

A. Yes, sir.

Q. Hair was found on the jacket; is that correct?

A. Jacket? There was no hair found on the jacket.

Q. No hair found on the jacket?

A. Correct.

Q. No hair found on -- no hair or blood found on State's Exhibit 17, this piece of ---

A. On the log, no.

Q. Nor the other -- the other burned limb?

A. No, sir.

Q. Thank you.

MR. STEWART: No further questions.

MR. BLAKE: Judge, I just have one point of clarification.

REDIRECT EXAMINATION BY MR. BLAKE

Q. I understand you said that the blood on the tee shirt is on the inside?

A. Yes, sir.

Q. Are you saying that it did not soak through to the outside? There was no blood on the outside?

A. On my visual exam, I routinely turn clothing inside and out to see. The stains were taken from the inside of the shirt.

Q. Does that mean that there was no stain on the outside?

A. There was no visible stain on the outside.

Q. Could you interpret that for me?

A. Could a variety of factors. This shirt could have been inside out when it was worn. It basically the best guess I have that the shirt could have been inside out. Also, with it being such with a black shirt, blood is difficult to see. Sometimes we have to use a magnifying glass to look for blood

or any minute stains of blood.

Q. That's after the chemical test with phenol?

A. That's before the chemical test. The blood is visually examined, so on a black tee shirt, it could be difficult to see. So that's why we used a magnifying glass.

Q. Thank you.

MR. BLAKE: No further questions.

THE COURT: Anything further, Mr. Stewart?

MR. STEWART: Sir?

THE COURT: Anything further of this witness?

RECROSS-EXAMINATION BY MR. STEWART

Q. When did you -- what was the date that you did your tests on, on this evidence?

A. My exams were done on March 16th of 2001.

Q. March the 16th of 2001?

A. Yes, sir.

Q. And this evidence was turned over to you by whom?

A. I received -- all of our evidence is kept in a locked refrigerator in the Evidence Processing Department. A technician from the Evidence Control Department would have placed that evidence in D-16, which is a large walk-in refrigerator, and that's where I retrieved it from. According to my chain of custody, it was placed in D-16 by Christine Montgomery on December the 2nd of 2000.

Q. Excuse me. December the what?

A. I believe the 2nd.
Q. The 2nd?
A. The 2nd. Actually, my copy is very hard to see.
Q. That's what it says on the paper?
A. Yes, sir.
Q. Thank you.

SURREBUTTAL EXAMINATION BY MR. BLAKE

Q. Mr. Bradstreet, you just said you're not looking at an original?
A. No, I'm not. These copies are about four sheets thick.
Q. If I told you the crime occurred on December 6, 2000?
A. It could be the 12th. Like I said, this is a very difficult piece to see.
Q. Thank you.
A. These are so light I can barely make them out.
THE COURT: Anything else?
MR. STEWART: No, sir.
THE COURT: May this witness be excused?
MR. BLAKE: Without objection.
MR. STEWART: I do not object, sir.
THE COURT: We'll stop now for lunch. Ladies and gentleman of the jury, let's break until 2:15. Go out and have a sandwich, whatever you need. Be back in the jury room

at 2:15. Everybody else remain seated while the jury departs for lunch.

(JURY EXCUSED FOR LUNCH AT 12:58 P.M.)

THE COURT: We're in recess until 2:15.

(COURT IN RECESS AT 12:59 P.M. AND RECONVENES AT 2:15 P.M.)

THE COURT: We got all the jurors back in? All right. Bring them in.

(JURY ENTERS COURTROOM AT 2:22 P.M.)

THE COURT: Any potential witnesses in the courtroom? Just double checking.

MR. BLAKE: May we approach, Your Honor?

THE COURT: All right.

(BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

MR. BLAKE: State calls Dr. Russell Harley.

RUSSELL HARLEY, first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name.

A. My name is Russell Aubrey Harley, Jr., MD.

DIRECT EXAMINATION BY MR. BLAKE

Q. Dr. Harley, where do you work?

A. I work in the Pathology Department at the Medical University of South Carolina.

Q. How long have you worked there?

A. About 30 years this time.
Q. Goodness. As a pathologist?
A. Right.
Q. And as a forensic pathologist?
A. Correct.
Q. Had any special training in that?
A. My training has been in anatomic pathology. I've never taken boards in forensic pathology, but I have been the director of the Combined Medical and Forensic Pathology Department at the University.
Q. So you're training residents as they come through or interns, I guess it is?
A. Correct.
Q. Cause I know there is -- you call it an intern program or how does that work?
A. We call them fellows, but the first year is still called interns, sometimes, and then we have residents, years one through four, and fellows after that.
Q. Have you ever qualified as an expert before in Court?
A. Yes, I have.
Q. About how many times?
A. A lot, but in forensic homicide trial only about six times. I try to get out of those.
Q. Well, you seem like you've been very cooperative in

this case.

A. Well, I just try to do what I do.

Q. All right. Have you ever testified before in a criminal trial for pathology?

A. Yes, sir, I have.

Q. About how many of those?

A. Probably, about 50 or 75 criminal trials. Homicide trials, only about a half dozen in court.

Q. And that dates back 30 years?

A. That's correct.

Q. I move to qualify Dr. Harley as an expert in forensic pathology.

THE COURT: Any objection on qualification, Mr. Stewart?

MR. STEWART: No, sir, I don't have no objection.

THE COURT: So qualified. You may proceed.

MR. BLAKE: Your Honor, I have something to deal with these pictures in terms of exhibit. If I can take just a moment.

(STATE'S EXHIBIT NO. 26 MARKED FOR IDENTIFICATION.)

Q. Having marked these pictures as State's Exhibit 26, Dr. Harley, they have a sort of number there on the bottom. What does that correspond to?

A. "FA" stands for forensic autopsy. "00" stands for the year 2000. "686" stands for the number of autopsies done up to that point that year.

Q. Okay. Now, this is just for your reference in terms of aiding you in the testimony. Did you or someone on your staff take those photographs?

A. Correct.

Q. Okay. And when did you perform the autopsy on [redacted] Allen?

A. December 7, 2000.

Q. So the day after the killing?

A. The day we understood she died.

Q. Okay. Where did you perform the autopsy?

A. In the Autopsy Suite at the Medical University Hospital.

Q. In Charleston?

A. In Charleston.

Q. Did you personally accompany the body from Bennettsville to Charleston?

A. No, I did not.

Q. Did you have anybody working with you during the autopsy?

A. I had our current forensic fellow. We have fellows who do a year for forensic autopsies. Her name is Debra Curry. I also had the autopsy technician. A very experienced man named Herbert Duffy.

Q. When did you take these photographs? Was it some taken before, some during, or when were they taken, basically?

A. They were taken when the remains were brought to the Autopsy Room, and then various points during the examination.

Q. When you say "remains", what did they look like?

A. Charred. The -- most of the flesh was gone. You can see the intestines. You can see the brain. The heat had been intense. There had been fractures of a number of bones. All the ribs was broken. The skull had some cracks and fractures in it. The left hand was missing. Both feet were missing.

Q. Given the fact that those bones were broken, could you tell how those bones were broken on the legs, various places on the ribs?

A. My assumption is that this was from fire because the body was so severely charred. Totally black from top to bottom. I couldn't say what might have happened to, for instance, the hands because they weren't there.

Q. And you said the ribs were broken, could they have been broken from some other cause?

A. I don't think so. Even though the body was badly charred on the outside, from the inside, we would see evidence of bleeding had there been any bleeding there. I think it was from the heat.

Q. But you did find evidence of quite a bit of internal bleeding in the skull?

A. In the skull, in the right-hand side under the

parietal bone right here where I'm pointing. There was a fracture here that was epidermal hemorrhage, which is hemorrhage on top of the heavy lining of the surface of the brain. And there was subdural hemorrhage as well so there was a big blood clot in the ear.

Q. And you photographed that?

A. Yes.

Q. Is that what contributed to your finding of blunt force trauma?

A. Yes, it did. The exact nature of the injury, I couldn't say exactly what the thing was that hit her head or that her head hit. I couldn't see the shape of it.

If there had been a scalp there, for instance, you could see the shape and the bruise and that sort of thing. All we had was the skull and the bleeding under it. So something cracked her skull here, and she bled underneath that.

Q. Internal bleeding?

A. Right.

Q. Did she bleed externally from that?

A. I don't know. The scalp was gone.

Q. Do you know if she bled externally from anywhere?

A. No. She was totally charred, so I couldn't see.

Q. Didn't know about any bruises on the body?

A. No.

Q. Any defensive wounds where she was trying to defend

herself?

A. No, couldn't see those.

Q. Now, in your report you talked about -- you break it down into sections. You got the neck, etc. You stated in the neck that there was no abnormalities, that the hyoid bone and the larynx were intact?

A. The importance in stating that was to say that if somebody was strangled, often times, the hyoid bone is broken. It was not broken in this case. If there had been other injury there, external injury, we really couldn't see it.

Q. Okay. So relative to the strap muscles there, you couldn't really see that very clearly?

A. That's correct.

Q. But the hyoid bone was not broken?

A. That's right. Yes, sir.

Q. Let me refer you to Page 3 of your report, and in that section called "Neck," it says, "Examination of the soft tissues of the neck including the strap muscles, thyroid gland, and large vessels reveal no abnormalities."

A. That means reveals no abnormalities as far as we could see. There had been a lot of charring there. I remember in this particular case there was a question about whether the thyroid was there at all, but we took some sections of where we thought it might be, and there was some in there.

Q. Okay. You had indications in there about fluids and organs and things like that. Does that give you any indication of how long it might have been since she had eaten?

A. She had only a small amount of fluid in her stomach. No food, and she might have drunk something within minutes to an hour or so before she died, but she hadn't eaten anything significant. Anything that was there was gone, been digested.

Q. And it's your professional opinion that she died from blunt force trauma to the right parietal?

A. Yes, sir, that's our conclusion.

Q. Do you have an idea of how long it took for her to die?

A. In this case, it's really hard to say. The size of the blood clot there, it was considerable, but people can withstand a good bit of pressure there for a while. And it's very unpredictable as to how long a blood clot of that size might have been there before it compressed the brain to the point that she stopped breathing.

Q. Would not have been immediate though?

A. Not necessarily, however, the fact that she had this degree of trauma here suggests she may have had further trauma through the brain and again, the brain we had a good bit of brain tissue to look at, but it wasn't entirely intact. So she could have died very quickly or it could have taken a matter of hours.

Q. By quickly, literally meaning within (snaps fingers) then?

A. Quite possibly.

Q. Thank you.

THE COURT: Mr. Stewart.

CROSS-EXAMINATION BY MR. STEWART

Q. Dr. Harley, if you will please look at the front of your autopsy report.

A. I have it here.

Q. There is a section labeled "interval - seconds, minutes?"

A. Right. That's our best guess and seconds covers the snap of the fingers. You know, it could have happened very quickly, and minutes goes up to, and really, beyond an hour. In my interpretation, I think she died fairly quickly, but I can't be very precise about that.

Q. However, you don't have anything in there about possibly being hours?

A. I didn't say anything about that. It is possible. I think it's much more likely she died within a matter of less than an hour, in a matter of minutes, but again, I really can't be precise there.

Q. In your opinion, is it possible that the skull fracture could have occurred as a result of a fall?

A. It could have. This really, perhaps, gets to the

heart of this case. The body was very thoroughly burned, so there was a lot we could not see on the surface. What we're going with is what we can see.

And what I did see was a skull fracture right here, fairly sizeable. It might have enlarged because of the heat, but it was as it was, a fairly sizeable fracture right in the parietal bone on the right-hand side and the fracture was caused by something hitting her skull.

Whether something hit her skull or her skull hit something, I can't say. There was contact between her skull and something hard fractured the bone.

Q. Was the answer to that question yes?

A. Yes.

Q. So in your opinion, it is possible that the skull fracture could have occurred as a result of a fall?

A. It could have if it involved her skull hitting something hard.

Q. Thank you.

MR. BLAKE: Just a couple of questions, Your Honor.

REDIRECT EXAMINATION BY MR. BLAKE

Q. You realize that the victim was about five feet tall?

A. Right.

Q. Weighed less than a hundred pounds?

A. Right.

Q. No rocks were found in the area. No sharp objects found in the area? You said she'd fallen on something. This falling on a piece of wood that way laying there, that could actually cause that?

A. If she fell hard enough on something like a root or a rock, something like that, it could have done it. I would not think that falling on ordinary turf, earth would have done it.

Q. How about just an ordinary branch of a tree?

A. I think it would depend on the nature of the branch. Was there any give there or was it hard? Could it hit her skull hard enough to fracture it? This is a small, thin skull, and it wouldn't take a whole lot of force to fracture it.

I can't say exactly how much, but pretty good bit of force. But it would depend on the consistency, the nature of the branch and how hard she hit it. It think this is clear. I think people understand what I'm saying.

Q. Thank you.

THE COURT: Anything else from the Doctor?

RECROSS-EXAMINATION BY MR. STEWART

Q. You said that if she fell on a root or a rock or something, that would have been enough to fracture the skull?

A. She had to fall hard. I think we've all fallen down and hit out heads, and we know what it's like to have our head

hit hard. This would be very, very hard and have to be on something very, very hard.

Q. Do you think that it could have been caused if she fell by herself?

A. It's possible. I think it's unlikely.

Q. But it is possible?

A. It's possible. It's possible if she fell exactly wrong and hit her head very hard, then it could have fractured her skull.

Q. So she could have fallen by herself and fractured the skull enough to cause death; is that correct?

A. It's possible. I don't think it's very likely, but it's possible.

Q. If she were to fall and I were to fall on top of her, being almost 200 pounds, would that make it more probable?

A. It would.

Q. And for the two of us to fall on a root or a rock or a tree limb, that could have produced a skull fracture sufficient enough to cause death?

A. Whatever this thing was, it's something fairly sizeable and hard it could do it. Like I said, if her skull hit something hard and fairly big or something hit her skull hard, which way I can't tell.

Q. You said it would have to be fairly large; is that

correct?

A. Not a pebble. It's got to be something big enough to give a fracture and as big around as a lemon.

Q. What type -- what size do you think it would have to be?

A. This is best guess, but my thought is this would have to be something about six inches wide by six or more inches long. It would have to be something there. Now again, without the scalp, I can't see the scalp wound. So I can't get a good idea of the shape of this, so I'm being pretty imprecise here. But there is just a lot I couldn't see.

Q. But in your opinion it would have to be something about six inches wide?

A. Let me -- it could be three by six, something in that range, something several inches by more than several inches. About that size.

Q. Thank you.

MR. BLAKE: No further questions.

THE COURT: May the Doctor be excused?

MR. BLAKE: No objection from the State.

MR. STEWART: No objection.

THE COURT: Thank you.

MR. BLAKE: John Ortuno.

JOHN ORTUNO, first being duly sworn, testified as follows:

CLERK OF COURT: Okay. Come over here and state your full name.

A. Manuel John Ortuno. O-R-T-U-N-O.

DIRECT EXAMINATION BY MR. BLAKE

Q. Mr. Ortuno, we have no P.A. system and one very large courtroom, so you're probably going to have to yell for everybody to hear you.

A. I'll do my best, sir.

Q. Thank you.

A. If I get a little hoarse, I might need some water.

Q. Certainly.

A. Thank you, sir.

Q. You're welcomed. Where do you work?

A. At the South Carolina Law Enforcement Division, commonly referred to as SLED.

Q. Okay. What do you do there?

A. I'm a DNA analyst.

Q. And what sort of training background do you have in that area?

A. I graduated with honors from the American University in Washington, D.C. with a bachelor's degree, major in chemistry. I have a master's degree, also majoring in chemistry from the University of South Carolina in Columbia.

I was hired as a researcher at the University where I performed experiments on DNA for three and a half years. This

led to two publications and peer review journals. I'm a graduate of the South Carolina Criminal Justice Academy. I also completed the In-house Training Program at SLED in forensic serology and DNA analysis.

I've taken courses in advanced DNA training at the FBI Academy in Quantico, Virginia. I've also trained under the Armed Forces Human Education Division. I attended numerous conferences and seminars throughout the United States in the field of forensic serology and DNA analysis.

Q. How long have you worked at SLED?

A. I've been at SLED -- it will be 13 years next month in August.

Q. Have you ever been qualified as an expert witness?

A. Yes, sir, many times.

Q. And have you ever testified in a trial before?

A. Yes, sir, many times.

MR. BLAKE: At this point, the State would move to qualify Mr. John Ortuno as an expert in forensic DNA analysis.

THE COURT: Any objection?

MR. STEWART: No, sir.

THE COURT: So qualified. You may proceed.

Q. (BY MR. BLAKE): Now, let's just kind of set the table a little bit so everybody understands. Did you go out to the scene and collect these various pieces of evidence?

A. No, sir.

Q. Okay. Where do you do your work?
A. In the DNA Department at the SLED Forensic Building.
Q. In Columbia?
A. In Columbia.
Q. And for this case, did you process cuttings from a tee shirt ---
A. Yes, sir.
Q. --- which we have here as State's No. 7?
A. I received the actual cuttings. The garment, when it was submitted to us, goes to the Processing Department. They then test the garment and send the cuttings from the article of clothing to us in the DNA Department. And that's what I have with me.
Q. Could you produce those cuttings from the tee shirt.
A. Yes, sir, they are contained in this concealed pouch.
Q. Let me mark the first one State's Exhibit 28 and the second one ---
(STATE'S EXHIBIT NOS. 28 AND 29 MARKED FOR IDENTIFICATION.)
A. They're all there. There are two cuttings from the tee shirt and one cutting from the jacket.
Q. They're all in there?
A. All three are in there.
Q. And you just brought this here today?
A. Yes, sir, I did.

Q. Okay. Got a bunch of writing on it and initials and everything else.

A. Yes, sir. That's my initials when I sealed them right here, and then inside they will have individual cuttings also containing initials and indications in this particular case. Every item in SLED has a barcode that's assigned to it. These three have been combined with this barcode, so there is reference to that barcode so there is no misunderstanding as to the location of the evidence and for chain purposes.

Q. And for tampering?

A. Sir?

Q. For tampering?

A. Of course. That's why we -- whenever we heat seal them, we always have to initial and date. So this tells me the last person. I'm the last person that sealed this after I completed the analysis.

Q. Can that be opened without it being obvious?

A. It would be difficult. Certainly, if you opened it, there will be some sort of indication of a slice and there are none visible.

Q. That's a sealed package?

A. This is a sealed package and sealed on the 17th of this month by me.

Q. And it contains three different items that you tested for DNA?

A. That is correct. The three items that were requested for testing in this particular case.

Q. And those three items are again?

A. There is one cutting from jacket -- a jacket, and two cuttings from a tee shirt.

Q. Okay. And the jacket itself, how big was that cutting?

A. I couldn't tell you accurately. I'd have to open this pouch and look at it. They're typically, if I had to guess, they're typically around this size. Sometimes, they're sizeable.

I'm indicating maybe a two inch by two inch, two inch by three inch. It's only that part of the garment that contained a human blood, a potential human blood sample. Typically, blood or semen, sometimes saliva.

Q. I think we're all going to need a little education on how that process works, if you could explain the chemical analysis and basic terms.

A. When evidence comes into SLED, such as a jacket, it goes to the Evidence Processing Department. There we have technicians that do a presumptive test. That means if the test is positive, it's a good indication it's probably, say, human blood or semen, but they're not absolutely sure.

But that's enough for them to cut the item out, recontainerize it in a pouch such as this, and send it to

whomever is assigned the case in the DNA Department. I received this pouch. I then take that cutting out of the envelope and I retest a small part of it for definitive human identification, which I did in this case.

All three of these items I mentioned earlier were positive for human blood. Once that's performed, the next step is to do a DNA analysis. And what we do there is take the remainder of the cutting and put it through a series of steps, chemical steps in which we first separate the DNA from the cells.

We then, once we have the pure DNA, we determine how much DNA is there. Depending on how much DNA is there, we identify 13 locations along this huge DNA strand. Then we look in forensics to develop a DNA profile. We make millions, literally millions of copies of these DNA fragments so that when we run it through an instrument the instrument can detect those 13 locations.

And by doing this, we arrive at a DNA profile, which, because we're running 13 locations, it's so unique that it's essentially the identity of an individual. And the evidence, we don't know who that is yet. To do DNA testing, we also need standards.

In other words, who could it possibly be. And so in this case we had two standards submitted, and we do the same thing with the standards. We developed the DNA profile, and when

we're done, all we do, simply, is to match up the profile from the standards to the profile in the evidence.

If they match, we give it a frequency of occurrence. In other words, how rare is the profile. And because we do 13, the numbers are millions of times the world's population. So either they match the person or they don't match the person. And that's basically what we do.

Q. Thank you. And what were the two standards that were submitted? Who were they from?

A. I received standards, Weldon Stewart and [redacted] Allen.

Q. And did you compare those standards to the DNA profile that you found in the tee shirt cuttings and the jacket cutting?

A. Yes, I did.

Q. And what were your results for the tee shirt cuttings?

A. For the tee shirt, I had two results. One of the stains that was identified as human blood did in fact match in its entirety to [redacted] Allen. And the frequency of rareness value is one person out of every 87 quadrillion people.

To give you some idea of what that is, over 10 million times the world's population. The second item, was a mixture. And here what we have is the cutting that I took out, there is one person that's clearly there, and that is also [redacted]

Allen. And her numbers are the same because the profile is the same.

And there is a little bit of contamination in the mixture of this pure sample of her, someone else. That's not uncommon a shirt because what happens is, for example, either the wearer of the shirt if I've got an undershirt, it's rubbing against my skin. So a few of the cells from my skin transfer to the shirt.

So a little bit of the DNA from my skin is going to be on that shirt when I make the cutting. If, let's say, if my mother comes and just puts her arm on my chest on the shirt, she could possibly transfer a few cells on the shirt. So it's a little bit of something there, but there is also definitively a perfect profile of [redacted] Allen in the same rarity.

Q. Thank you. Now, you had Weldon Stewart's blood sample and you did his DNA profile?

A. Yes, I did.

Q. Was that DNA profile found in that mixture that you're talking about?

A. The -- in the mixture, which was the second stain, there was a very weak -- there was a little bit of DNA in these 13 locations that I mentioned earlier. In two of them, there was a little bit of DNA that popped up, very small amount.

The small amount that did pop up matched Mr. Stewart at those two locations, but because it's only two and not more than two, it's not proper to say it's definitive to him, but it could be -- it's consistent with being -- I just can't say for a fact it has to be him.

Q. And you don't know what human tissue that was necessarily. You said it could have been cells from touching a shirt. It could be blood. I'm asking. It could be semen. It could be saliva.

A. I didn't test for semen on the stain because the test request was for blood. I know blood is there, and because we have a strong profile from [redacted] Allen, that could be the only source of blood or it could be blood from somewhere else or it could be skin cells or it could be semen. I didn't test for the presence of semen in that location. But there is a little bit of someone else. I use the word contaminant, meaning we got this pure profile. You got someone else that's there a little bit.

Q. Moving on to the cutting from the jacket, what did you find there?

A. The cutting from the jacket, which is SLED Item 8.1, also matched [redacted] Allen. It was a single source of just one person, and it also matched in all 13 locations to [redacted] Allen. And the frequency number is also 87 quadrillion.

Q. Kind of a big number?

A. Yes, sir, it is. It's 15 zeros, I believe.
Q. Would be a pretty high degree of certainty?
A. Yes, with a reasonable scientific certainty, the blood deposited in these three samples is from [redacted] Allen.
Q. You have been referring to your report. Now, State's Exhibit 29, and that looks like a four-page report?
A. May I see that exhibit, sir?
Q. Certainly.
A. Yes, this is a fax of my original report.
Q. Did you sign that report?
A. Yes, sir, I did. Yes.
MR. BLAKE: At this time, the State would move to enter the serology analysis report into evidence.
THE COURT: Any objection?
MR. STEWART: No, sir.
THE COURT: All right. Entered without objection.
(STATE'S EXHIBIT NO. 29 ADMITTED INTO EVIDENCE.)
MR. BLAKE: No further questions.
THE COURT: Your witness, Mr. Stewart.
CROSS-EXAMINATION BY MR. STEWART
Q. So you said Item 10.2, that was a mixture?
A. Yes, sir.
Q. And you said that this mixture was consistent with the sample taken from me in two columns?
A. That's correct. Two locations.

Q. And the mixture was very weak; is that correct?

A. Yes, sir, it was very weak.

Q. Therefore, you wouldn't say that -- would you say that it wouldn't be from me bleeding from an open wound or something like that since it was so weak?

A. The amount of whomever it is that's in this mixture, that's so weak that deposited on the stain, it's very small. A person can be bleeding profusely, but if only a small amount of that person's body fluid falls on the stain, it's very weak.

Q. So the other part that was in the mixture was actually on the stain?

A. The other part of the mixture, the main -- what we call the main contributor, the main profile, which matched Candice Allen is very strong relative to this very weak profile.

Q. Saliva is a source of DNA; is that correct?

A. Yes, sir, it is.

Q. And if it were saliva, the other weak part on there, then would it have shown up the same way as that mix -- in that mixture if saliva was in that mixture?

A. Yes, sir, it could be saliva. Saliva is one of the possibilities.

Q. So it is a possibility that saliva was in that mixture?

A. It's possible. I didn't test for saliva, but it's certainly possible.

MR. STEWART: No further questions.

MR. BLAKE: Ask that this witness be excused.

MR. STEWART: I do not object.

THE COURT: Thank you, sir. You are excused.

MR. BLAKE: Stanton Wright, Jr.

STANTON WRIGHT, JR., first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name, please.

A. Stanton Efrin Wright.

DIRECT EXAMINATION BY MR. BLAKE

Q. Mr. Wright, I know you speak softly, but unfortunately, the P.A. system's not working at all, so you're going to have to really speak up for both the court reporter to hear you and, of course, the people in the jury.

A. Yes.

Q. You were subpoenaed to be here today?

A. Yes.

Q. Do you know the Defendant, Weldon Stewart, Jr.?

A. Yes.

Q. How long did you know him prior to this incident, December 6, 2000?

A. A little over ten years.

Q. Ten years.

MR. STEWART: Sir, we cannot hear the witness.

THE COURT: You're going to have to speak up. We got thunder now to compete with, so you're really going to have to pick up the pitch here.

Q. (BY MR. BLAKE): What is your address? Where do you live?

A. [redacted].

Q. And where does Weldon Stewart live?

A. Couple houses down. I don't know the address.

Q. [redacted]

A. Yes.

Q. Almost across the street from you?

A. Yes.

Q. So the two of you basically grew up together?

A. Yes.

Q. Best friends?

A. Yes.

Q. You have to talk. She can't hear you unless you talk. Back on December 5th 2000, did you see Mr. Stewart that day?

A. Yes.

Q. Okay. Now, at that time, did you have a car?

A. Yes.

Q. What kind of car was it?

A. A Pontiac Bonneville.

Q. All right. And were you making payments on that car?

A. Yes.

Q. Speak up.

A. Yes.

Q. Okay. And were you working at the time?

A. Yes.

Q. Where were you working?

A. At Marley Electric.

Q. Okay. At what time did Mr. Stewart ask you for a ride over to Cheraw?

MR. STEWART: Objection, Your Honor. The State is assuming facts not in evidence.

MR. BLAKE: Your Honor, this is the reason I'm leading is it's difficult to get this witness to say anything. I don't mind asking him more general questions.

THE COURT: That wasn't a leading question though.

MR. BLAKE: Didn't suggest a yes or no answer.

THE COURT: I think were the problem was maybe you hadn't established that -- never mind. Go ahead. I'll overrule the objection.

Q. (BY MR. BLAKE): Did you talk to Mr. Stewart that night?

A. Yes, I did.

Q. Did he ask you for a ride?
A. Yes.
Q. Where?
A. To [redacted].
Q. Why?
A. To pick up [redacted].
Q. [redacted] who?
A. [redacted] Allen.
Q. Who's that?
A. His ex-girlfriend.
Q. Yeah. She's dead, isn't she?
A. Yes.
Q. Did you take Mr. Stewart over there?
A. Yes.
Q. Did you go alone?
A. No, I didn't.
Q. Who did you go with?
A. Weldon Stewart and my girlfriend at the time, Monique Bright.
Q. Monique Bright. About what time did you leave [redacted] to go over t [redacted]?
A. Around 11:30, 12:00 o'clock.
Q. Did you drive directly to the Allen's house in [redacted]?
A. No.

Q. What did you do?

A. We went to the payphone at a store.

Q. What store?

A. Texaco.

Q. Texaco?

A. Yes.

Q. Where's that located?

A. I don't know.

Q. Is it in [redacted] Is it in [redacted]

A. [redacted].

THE COURT: You see Mr. Crow sitting over there in the blue. He can't hear you. Visualize him over there and speak loud enough so you know he can hear you.

A. It's in [redacted]

Q. (BY MR. BLAKE): All right. So you stopped at the Texaco Station and somebody used the payphone?

A. Yes.

Q. Who?

A. Weldon Stewart.

Q. For what purpose?

A. To call [redacted] Allen.

Q. And why would he bother to call her from a payphone?

A. To get her out the house, tell her to come out.

Q. When he asked you for a ride earlier that night, had you had this planned for a week for him to go over and meet

[redacted] Allen?

A. No.

Q. Spontaneous? He asked you for a ride?

A. Yes.

Q. But you didn't give him a ride immediately?

A. No.

Q. Okay. How long was it between him asking you and you leaving Bennettsville?

A. Maybe an hour or more.

Q. What did you do in that meantime?

A. I was with my girlfriend.

Q. All right. Did Mr. Stewart give you an idea of what time he wanted to go over to [redacted]

A. Not a specific time.

Q. But he didn't want to at 9 o'clock?

A. I don't know. No, I don't think so.

Q. You knew [redacted] was sneaking out of the house?

A. Yes.

Q. In fact, you saw Monique approach the Allen's house?

A. Yes.

Q. Correct?

A. Yes.

Q. And you saw [redacted] come out?

A. Yes.

Q. Did you make any other stops on your way to [redacted]

A. No.

Q. Did not?

A. No.

Q. Why didn't you just pull up in the drive and somebody go up and knock on the front door and say, "Hey, is [redacted] here?"

A. Cause she was sneaking out.

Q. Now, Weldon and [redacted] are together in the back seat?

A. Yes.

Q. You're the driver?

A. Yes.

Q. Where do you go?

A. We came back to [redacted]

Q. All right. Showing you State Exhibit 20. Most of us don't read maps too much, can you look at this and tell me the neighborhood that you live in?

A. Yes. Right here.

MR. BLAKE: The witness is pointing to the area between [redacted] and where [redacted] becomes [redacted]

Q. Now, you dropped Weldon and [redacted] off; is that correct?

A. Yes.

Q. Did you just drive up to the Stewart's house and into the driveway and park the car?

A. No.
Q. Well, where did you drop them?
A. On the corner of Woodrow and Jordan.
Q. Oh, they wanted to take a little walk?
A. I'm not sure.
Q. You're not sure. You know she was sneaking out?
A. Yes.
Q. So you dropped him off, and then what did you do?
A. I went to my girlfriend at Monique's niece's house.
Q. Okay. About what time did you get there?
A. Around 1:00, a little after 1:00.
Q. And how many blocks is that from where you dropped Weldon and [redacted] off?
A. Maybe about three miles.
Q. Three miles. And you stayed there for how long?
A. Until a couple of hours. Almost 5:00 in the morning.
Q. Until 5:00 in the morning. What did you do at 5:00 in the morning?
A. I was on my way home.
Q. On your way home. Did you see anybody on your way home?
A. Yes.
Q. Who did you see?
A. I seen Weldon.

Q. See anybody else driving a car the opposite way?
A. Yes.
Q. Who was that?
A. My mother and stepfather.
Q. Okay. Was Weldon waving at you or did you just -- tell us?
A. Yeah. He was trying to get my attention to stop for him.
Q. All right. But you didn't stop?
A. No.
Q. Why?
A. Cause I seen my mother coming towards me, and I didn't want to talk to her at the time, so I kept going.
Q. You say this is around 5 o'clock or you say you left Monique's niece's place around 5:00?
A. Yeah.
Q. Did you go directly home?
A. No, I didn't go directly home.
Q. What did you do?
A. I took -- I had took a friend home and I took Monique home.
Q. What's the friend's name?
A. Bryant.
Q. And then you went home?
A. Yes.

Q. So about what time was it when you got back in the neighborhood?

A. Around ten or 20 minutes after five.

Q. Did that pretty quick. Now, at what point did you see Weldon right after that?

A. When I was on my way into the house.

Q. Excuse me?

A. When I was on my way into the house.

Q. And what, what happened?

A. He called me from his house.

Q. Oh, it's that close in the neighborhood that you call from one house to the other?

A. Yes.

Q. That was really close. All right. He called you and what happened?

A. And I went to meet him.

Q. How was he acting?

A. Shocked, scared, that's about it.

Q. He talk to you?

A. We talked, yeah.

Q. What did he say?

A. He told me to walk with him.

Q. Okay. Was it -- sun had already risen and it was daylight or what?

A. Not quite.

Q. All right. Not quite. So did you -- what did you do? Did you -- where did you walk? What did you use? Did you use anything to light the way?

A. We walked around the back of the block with two flashlights.

Q. Where did you get the two flashlights?

A. He got them out of his house.

Q. Where did you go with those flashlights?

A. We walked around to [redacted] and to the backyard of 706 Woodrow.

Q. That is adjoining [redacted] It's right next to it?

A. No, it's right -- it's almost directly behind it, but it's behind it.

Q. So you didn't walk through the backyard of Weldon's? You walked around?

A. Yes.

Q. All right. And then you got to this path?

A. Um-hum.

Q. And what did you see?

A. Weldon shined the light on the path, and I seen [redacted] Allen's body in the path.

Q. And you said you saw her body?

A. Yes.

Q. Was she alive or dead?

A. I can't really say. I don't know.

Q. Did you have any conversations with Weldon as you were walking towards what he wanted to show you?

A. Yes.

Q. And they were?

A. He was asking me was I his friend, and that was basically about it.

Q. Well, in your statement didn't you say, "You my homeboy, right?"

A. Yes.

Q. And what did you say?

A. I said, "Yes."

Q. All right.

MR. BLAKE: Please mark this as an exhibit.

(STATE'S EXHIBIT NO. 30 MARKED FOR IDENTIFICATION.)

MR. STEWART: Your Honor, I would like to request a bench conference.

THE COURT: All right.

(A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY).

(STATE'S EXHIBIT NO. 31 MARKED FOR IDENTIFICATION.)

Q. (BY MR. BLAKE): Mr. Wright, you gave two statements to law enforcement; is that correct?

A. Yes.

Q. And handing you State's Exhibit 30, is this your signature at the bottom here?

A. Yes.
Q. Is this your handwriting?
A. Yes.
Q. Did you make this statement?
A. Yes.
Q. Handing you State's Exhibit 31, same question. Is this your signature?
A. Yes.
Q. Did you write this statement?
A. Yes.
Q. Why are there two statements?
A. Because after I wrote the first one, I was told to be more specific.
Q. Okay. So you added more detail in the second statement?
A. Yes.
Q. Does that second statement tell the whole story?
A. Yes.
Q. It does?
A. Um-hum.
Q. And since you haven't answered the question, when I've asked it, I'm going to ask you to read your statement, starting right here, just one sentence.
MR. STEWART: Sir, I would like to object.
THE COURT: I'll have to overrule the objection. It's

noted.

Q. (BY MR. BLAKE): You have any questions about what I'm talking about? Starting with "as."

THE COURT: Let me see it first.

MR. STEWART: Your Honor, sir, the Defendant requests to approach the bench, sir.

THE COURT: Pardon?

MR. STEWART: The Defendant requests to approach the bench, sir.

THE COURT: No, sir. Go ahead.

A. "After we walked ---

Q. No, no, no, no. You got to speak up. Okay. You're competing with the thunder. You're competing with the courtroom. The jury needs to hear you.

A. "As we walked towards the path, he told me that [redacted] said that she had sex with another dude before she had sex with him and she didn't shower. And then he -- and then he said that he flipped."

Q. Flipped. What does that mean? Like a dolphin? Flipped. What does it mean?

A. I can't really say.

Q. Oh, come on now. You don't know what flipped means?

A. He said he flipped.

Q. All right. Have you ever used that word?

A. Yeah.

Q. Okay.

MR. STEWART: Objection, sir. Calling for speculation.

THE COURT: I'll sustain that objection. He can't ask him what was in his mind.

Q. (BY MR. BLAKE): Okay. So that's just flipper. We'll just say he flippered like a big whale or something. Now, I'm going to have you read something else again, which you don't seem to want to talk too much. Right there. Last sentence.

A. "I seen the back of her. I turned around, fell on my knees, and started crying. Then I got up, ran home, and went to my house."

Q. Down on your knees crying, but you weren't sure if she was alive or dead?

A. No.

Q. Because later Weldon Stewart didn't ask you to help him dispose of the body and take it to [redacted] Tell the truth.

A. Yes.

Q. That's not in your statement, is it?

A. No.

Q. And why not?

A. I was scared at the time. I didn't want to incriminate myself.

Q. So why don't you tell us the whole story. What

happened after you saw that body? What went on between you and Mr. Stewart? Tell the Court.

THE COURT: You've got to answer the question.

A. I had -- we walked -- we had walked to my car and we pulled -- we got in my car and I pulled in the backyard, and as soon as he stepped out the car, I left.

Q. No conversation between you and Mr. Stewart about that at that time?

A. I can't really remember what the conversation was about.

Q. Now you can recall. Yesterday -- last week you could recall, but today you don't recall.

THE COURT: Ladies and gentlemen of the jury, if y'all step back to your jury room just a minute, please.

(JURY EXCUSED TO JURY ROOM AT 3:30 P.M.)

THE COURT: Are you all right?

A. My nerves, man. My nerves.

THE COURT: Okay. I think, obviously, the record reflects we're having a great difficulty obtaining answers from the witness. He's obviously under tremendous stress, and I feel like the Court needs to inquire a few things here.

Do you feel intimidated by anybody? Has anybody threatened you in any way or promised you anything?

A. No, sir.

THE COURT: Let me take them one at a time. Do you feel

threatened by anybody?

A. No, sir.

THE COURT: Nobody has threatened you up to this point?

A. No, sir.

THE COURT: All right. Let me explain something. That's one of the few times in my years on the bench I've denied a bench conference. Mr. Stewart understands the reason I denied it. This witness is under stress and it was obvious to the Court, and I did not want him to approach this bench. Now, we're outside the presence of the jury. Is there something that I can hear now?

MR. STEWART: Sir, it appears that the witness does not want to -- it appears more that Mr. Blake is testifying to me than the witness, and I would just like to say that it seems that the witness does not want to say certain things and he's being coerced or some type of intimidation is going on here. And I don't think it's appropriate.

We're trying to ascertain the truth in this trial for people to feel coerced, harassed or intimidated into testifying, they are not -- or they do not recall if it's something that is untrue, they may have said earlier, then I think that we need to find out the truth here and not Mr. Blake forcing witnesses to say what they may have said in the past -- may or may not have said in the past.

THE COURT: Well, part of it, I may agree with what you

just said, and other parts, I don't. Mr. Blake's job is to prosecute this case. Once a witness is called up here, he has to answer the questions as long as it doesn't violate the Fifth Amendment right of incrimination.

And every witness is under oath, and the ideal situation that you have in a courtroom is the question is posed, supposedly, and the witness under oath answers that question truthfully.

Now, you're going to need to get ahold of yourself. We're not through yet. You're going to have to answer these questions. We're having a hard time hearing you. I know friendships are involved here. I know that close proximity already from the testimony of where you lived, some of the folks involved.

You've got a victim's family out here and directly in front of you, and you got the Defendant over immediately to the left. But you got to lay aside any intimidation that you may feel for anybody and tell the truth.

Okay. All right. When I say intimidation, friendship and relationship, kinship, whatever, all that is to be laid aside.

(JURY ENTERS COURTROOM AT 3:36 P.M.)

THE COURT: All right. You may continue.

MR. BLAKE: Thank you, Your Honor.

Q. (BY MR. BLAKE): Mr. Wright, did we have a

conversation yesterday back in my office?

A. Yes.

Q. Okay. And at that time did you say that the statement here, the second statement was incomplete; that you left a part out?

A. Yes.

Q. Okay. And do you remember that conversation?

A. Yes.

Q. Could you relay it to the Court, please?

A. Repeat that question. What conversation? The one ---

Q. You were just talking about it. About what happened after you saw Ms. Allen's body and your interactions with Mr. Stewart.

A. Just want me to start from where I saw [redacted] at? I don't recall the conversation we was having during that time.

Q. So you just got -- you together walked over to your car and backed it up to where the body was?

A. Yes.

Q. No talking going on between y'all?

A. It was talking going on, but I can't remember the exact -- what the conversation was about.

Q. Why were you backing the car?

A. Besides he asked me to help him move the body.

Q. Thank you. And you agreed on the surface?

A. Yes.

Q. So were you in the car together going from your house getting into his yard or how did you do that? Did you go around Woodrow or did you go through his driveway?

A. We went around [redacted]

Q. Around. Okay. And you backed up near the path?

A. Yes.

Q. Now, that path where Ms. Allen was at the time, I'm not going to ask you to look at this map, but we do have a map from the Tax Assessor here. It's State's Exhibit 19. Where Ms. Allen's body was, is that directly behind, was it four doors down, where was her body?

A. It was in the middle in the center. She was in the center of the path.

Q. And the path, the part of the path that you're talking about, is it the part of the path that's right behind the Stewart's house or ---

A. Yes, sir, right behind the Stewart's house.

Q. Not down a ways, cause there are different paths that go through there?

A. Um-hum.

Q. I mean y'all get from Point A to Point B a lot of times by using those paths?

A. Um-hum.

Q. Now, once Weldon got out of the car, what did you do?

A. I pulled out.

Q. Just kind of pulled out?

A. Yeah, I drove off real fast.

Q. Real fast?

A. Yes.

Q. Okay. Were you scared?

A. Yes.

Q. Was Weldon scaring you?

A. Yes.

Q. Were you afraid of what might happen to you?

A. Yes.

MR. BLAKE: No further questions.

THE COURT: Mr. Stewart.

CROSS-EXAMINATION BY MR. STEWART

Q. Mr. Wright, how long have you known me?

A. A little over ten years.

Q. Little over ten years?

A. Yes.

Q. Were the two of us friends?

A. Yes.

Q. Were we around each other on a regular basis?

A. Yes.

Q. How often?

A. About everyday.

Q. Did you know about my relationship with [redacted]

A. Yes.

Q. How long had that relationship been going on to the best of your knowledge?

A. Almost two years.

Q. Almost two years. Had you ever known me to harm my girlfriend during those two years?

A. No.

Q. Had you ever known us to argue, fuss?

A. Yes.

Q. Had you ever known her to get upset about things?

A. Yes.

Q. Had you ever known her to have little temper tantrums, things like that?

A. Yes.

Q. You've seen these things with your own eyes?

A. Yeah.

Q. You seen us argue, fuss?

A. Yes.

Q. Seen her get upset about things?

A. Yes.

Q. Seen her have little temper tantrums and fits?

A. Yes.

Q. This is during those almost two years; is that

correct?

A. Yes.

Q. But you've never seen me harm my girlfriend before; is that correct?

A. No.

Q. Even when we were arguing and fussing?

A. No.

Q. Now, when my girlfriend and I would get into an argument or fuss, what was my usual reaction?

A. I don't know. Like I said, basically try to calm her down or talk to her.

Q. Would I ever physically restrain her?

A. No, I never seen you put your hands on her in front of me.

MR. BLAKE: I'm sorry, Your Honor. I can't hear him.

THE COURT: "I've never seen you put your hands on her."

Q. (BY MR. STEWART): Have you ever seen me hold her down?

A. Yes.

Q. So when she's been upset before, we've maybe been arguing or fussing. You've seen me hold her down before?

A. Yes.

Q. You've seen this with your own eyes before, but you never seen me harm her?

A. No.

Q. Arguing, fussing, fits, temper tantrums?
A. Yes.
Q. Never seen me harm her. How long do you say you've known me?
A. Little over ten years.
Q. Little over ten years, and we were together hanging around and other things like that and almost daily basis; is that right?
A. Yeah.
Q. Ever known me to be a violent person?
A. No.
Q. As a matter of fact, haven't you seen people actually strike me, hit me, and me not touch them back?
A. Yes.
Q. You've known this about me?
A. Yes.
Q. Now, directing your attention to December 5th. What did we do that night? Where were we at before we went to Cheraw?
A. We were at [redacted] house.
Q. [redacted] who?
A. Rollerson.
Q. What did we do while we were there?
A. I can't really remember.
Q. Do you remember any point calling [redacted] s house

for me from that residence?

A. Yes.

Q. What happened when you called the house?

A. I can't really remember.

Q. Did she answer the phone?

A. I don't think so. I can't remember.

Q. Did she at any time call back to the residence?

A. Yes.

Q. She did?

A. Yes.

Q. Did I talk to her?

A. Yes.

Q. Did you hear any of our conversation?

A. Um-hum.

Q. Now, when we went to [redacted] to pick her up, did she act like she wanted to be there?

A. Yes.

Q. She acted like she wanted to come with me?

A. Yes.

Q. We didn't put a gun to her head and drag her out the house?

A. No.

Q. She came on her own free will; is that right?

A. Yes.

Q. What type of mood was she in? Did it seem like she

was upset about anything?

A. No.

Q. How often had you been around me and my girlfriend?

A. It's been various times when we were together, but not too often.

Q. Isn't it true that we snuck out the house? Snuck girls over from [redacted], her and some of her friends at various times?

A. Yes.

Q. So you have spent enough time around my girlfriend and pretty much know what's normal for her and what's not normal?

A. Yes.

Q. Was she acting like she normally acted on that night? On that night when she came with us, was she acting like she normally acted whenever we were sneaking around, things like that?

A. Yes.

Q. She acted like she wanted to be there?

A. Yes.

Q. Wanted to be with me?

A. Yes.

Q. Anything unusual about it?

A. No.

Q. What about me? Was I acting like I was upset, mad,

anything was on my mind?

A. No.

Q. Was I acting normal?

A. Yes.

Q. Didn't seem angry?

A. No.

Q. Now, you've known me for a while. How do girls, when they're sneaking in my house, how do they usually enter the house?

A. Through the backdoor.

Q. Through the backdoor. You know why that is?

A. Cause they were sneaking in.

Q. Where is my room located?

A. In the rear of the house.

Q. Is it close to the backdoor?

A. Yes.

Q. Where is my parents' room located?

A. In the front of the house.

Q. Is it close to the front door?

A. Yes.

Q. So my room is close to the backdoor, and my parents' room is close to the front door?

A. Yes.

Q. And over the years, you have known me to always sneak girls in and out of my house through the backdoor?

A. Yes.
Q. Now, on that night, December 6th, you were sleepy, weren't you? When you were going back to your house after you dropped all those people off, you were sleepy, weren't you?
A. Yes.
Q. You had just gotten up, hadn't you?
A. Yes.
Q. When you saw me, tell the jury how I was looking.
A. Afraid.
Q. Afraid.
A. Confused.
Q. Confused.
MR. BLAKE: Excuse me, Your Honor, but the repetition isn't necessary.
THE COURT: Sustained. You got to pose the question. Let him answer it.
MR. STEWART: Excuse me, sir.
Q. (BY MR. STEWART): Answer the question, please.
A. Afraid.
Q. What time was this when you saw me?
A. It was after 5:00 a.m.
Q. So I wasn't looking like I as in a rage?
A. No.
Q. Wasn't looking like I was mad about anything?
A. No.

Q. Wasn't looking like I had just flipped?
A. Not exactly.
Q. I was looking scared and confused; is that correct?
A. Yes.
Q. When you -- when I - when we walked around to the path and you saw the body, was -- did it look like she had been treated roughly or?
A. No, not that I can recall.
Q. Did the clothes look like they were ruffled up or?
A. No.
Q. Did she look like she'd been beat up?
A. No.
Q. She didn't? When you saw the body, what did you do?
A. I started crying.
Q. You started crying and you were tired, weren't you?
A. More sleepy than tired.
Q. You were sleepy. And you were on your knees crying; is that correct?
A. Yes.
Q. And you were sleepy?
A. Yes.
Q. Can you say with reasonable certainty that I didn't tell you I tripped?
A. I don't understand the question.
Q. When you were on your knees crying, and you said I

told you I flipped, can you say with reasonable certainty that I didn't tell you I tripped?

A. No.

Q. So there is a possibility that I could have said I tripped?

A. Yeah, it could have, yeah.

Q. So what you're saying is that you're not sure. You were crying; is that correct?

A. Say that again.

Q. You were crying; is that correct?

A. Yeah.

Q. You weren't really focusing on what was being said to you; is that correct?

A. Yes.

Q. You were tired; is that correct?

THE COURT: You remember what I warned both of y'all about ---

MR. STEWART: Yes, sir.

THE COURT: --- before I started this trial?

MR. STEWART: Yes, sir. Yes, sir. And I apologize. Yes, sir.

THE COURT: Go ahead.

Q. (BY MR. STEWART): Mr. Wright, when -- we went and got your car?

THE COURT: Hold up. Go ahead.

Q. When we went and got your car, did we just go straight to [redacted] or did we stop somewhere else?

A. We stopped somewhere else.

Q. Why didn't you say that earlier?

A. I don't know.

Q. Where did we stop at?

A. Stopped at Monique's house.

Q. What did you do when we got there?

A. I went to go see her.

Q. Did she come to the door?

A. No.

Q. Then where did we go?

A. Then we went to [redacted]

Q. Isn't it true that you got out the car also?

A. No, I did not get out.

Q. You didn't? You sure?

A. I'm positive.

Q. Now, let's talk about your arrest. When were you taken into police custody?

A. The next night.

Q. The next night. You know the date?

A. The 6th.

Q. The 6th. When you were taken into police custody, where were you at?

A. I was at the police department.

Q. Where were you at when they came to get you?
A. I went to them.
Q. You went to them?
A. Yes.
Q. You just went to the police department?
A. No. I had -- my grandmother told me they came looking for me.
Q. And then you went to the police department?
A. No. I went to [redacted] where they were.
THE COURT: You've got to speak up.
Q. (BY MR. STEWART): You went to [redacted] where the police were?
A. Yes.
Q. And then what happened?
A. And then I went to the police station.
Q. You went to the police station. Is that what you said?
A. Yes.
Q. When you got to the police station, did you indicated that you wanted to talk?
A. Yes.
Q. Isn't it true that some of the police were threatening you?
A. No, I wouldn't say threatened.
Q. What type things were they telling you?

A. That I needed to tell the truth.

Q. That you need to tell the truth. Any police tell you about doing a lot of time?

A. I really can't remember.

Q. Any police tell you it's going to be either you or him?

A. No.

Q. They just told you to tell the truth?

A. Yes.

Q. Did you tell the truth?

A. Yes.

Q. In both of your statement?

A. No. I told the truth, but I just didn't tell all of it.

Q. You told the truth? Which statement?

A. The second one.

Q. The second one. So you just got up and ran home after you finished crying?

A. No.

Q. Why did you tell the police that?

A. Scared, ready to go.

Q. You just said you told them the truth in your second statement. Isn't that in your second statement?

A. I said I told the truth, but I didn't tell all of it .

Q. So did you at any point in time run home?
A. No.
Q. Why did you tell the police that?
A. Cause I was ready to go, and I didn't -- I was just scared. I was ready to go home. I just wanted to write my statement and leave.
Q. You were scared?
A. Yes.
Q. Why were you scared?
A. Cause I never been in any kind of trouble before.
Q. That night, did I at any time threaten you?
A. No.
Q. At any time seem like I was in a rage or angry?
A. No, not that I can recall.
Q. At no time during that night, either before or after you saw the body?
A. No.
Q. So you were very scared when you were writing your statement; is that correct?
A. Yes.
Q. You have a charge, don't you?
A. Yeah.
Q. What's that charge?
A. Accessory after the fact.
Q. Accessory after the fact?

A. Of murder.

Q. You were very nervous when you were writing your statement, weren't you?

A. Yes.

Q. You wanted to tell the police something they wanted to hear so you wouldn't get in trouble; is that correct?

A. Yes.

Q. Your only concern was not getting in trouble; is that correct?

A. Yes.

Q. So you would tell the police what they wanted to hear so you wouldn't get in trouble; is that correct?

A. No. I told them -- no, you have -- just to get me home. I was scared. I was ready to go home.

Q. You just wanted to go home?

A. Yes.

Q. So whatever you could do to get home, and today on the stand, your testimony, whatever you could do to get home?

A. No, it's not whatever I can do to get home.

MR. STEWART: No further questions.

MR. BLAKE: I have a couple of follow-up questions, Your Honor. At this time, the State would move to enter into evidence State's Exhibit 30 and 31. Been cross-examined on it and certainly is important with there being two statements, and certainly been questioned by the Defendant.

THE COURT: All right. Mr. Stewart has some concerns earlier about possible hearsay within that. Are there any hearsay statements from their parties in that?

MR. BLAKE: I see a statement from Mr. Stewart. I don't see any.

THE COURT: Any for the record, Mr. Stewart?

MR. STEWART: I would like to object to that. In that statement, he's basically I told him, someone else told me. By his own testimony today, his statement is not true.

Parts of it anyway, by his own admission. And I just object to it being admitted into evidence. They've heard his testimony from the statement, and I don't that …

THE COURT: Parts, of course, have come out in the testimony. Solicitor, if there is any other angles to it that you know to question him on?

That may be a possibility that you can do, but under Rule 613, State v. Lynn, Millin v. Ridges, included in the footnote, I'm going to have to sustain his objection.

MR. STEWART: Thank you, sir.

REDIRECT EXAMINATION BY MR. BLAKE

Q. I'm reading from your second statement, Mr. Wright. And you say, "You my homeboy." He said to you, "You my homeboy," right? What is this word here?

A. Twice.

Q. Twice. You said that twice. And you said, "Yeah.

As we were walking towards the path, he said to me that [redacted] said to me she had sex with another dude before she had sex with him and that she didn't shower." Then he said that he flipped or tripped."

You, of course, weren't really paying attention. So he could have said he tripped after she made this statement. Do you recall that at all?

A. Yeah.

Q. Did she say -- did he say he flipped or he tripped?

A. If I recall, he said he flipped.

Q. Now, before we didn't know what that meant, but I heard your interchange with Mr. Stewart and that's a word you guys use all the time. So what does it mean?

A. It can mean different things. It can mean like he said. I don't know. I guess it means flipped.

Q. Flipped. Flipped a coin? Flipped. You mean get angry, don't you? Get upset? Hello. Speak up.

A. Yeah. It could mean that, yes.

Q. Ever seen Weldon get upset, get angry?

A. Yes.

Q. Flip?

A. Yes.

Q. Pretty common occurrence, isn't it?

A. Um-hum.

Q. In fact, he had to leave your school there in

Bennettsville because he had some problems like that; is that correct?

A. Yes.

Q. And then, certainly know about the other school down there in Georgia that he went to and had problems again?

A. Yes.

Q. But he's a non-violent person. What about that incident in [redacted] High School when he stabbed a guy and pled guilty to it. Would you call that violent?

A. Yes.

Q. You seem like quite a lady's man with all those girls traipsing in and out of the backdoor at the house. He have any girlfriends at the time he had this romantic relationship with [redacted]

A. I did.

Q. Did he?

A. No.

Q. No. So that time when he made a baby by Octavia Harper, that was -- that wasn't a girlfriend?

A. No.

Q. Okay. So all these women traipsing in and out and you going over to -- he going to your house and there are women coming in, none of this happened during that two years with [redacted]

A. Yeah.

Q. More than once?
A. Um-hum.
Q. Thank you. Now, in your statement that as we just read, it continues "He flashed a light through the path. I seen the back of her."
A. Um-hum.
Q. The back of her. How much did you see?
A. I want to say from the waist up in here down.
Q. Down. Didn't see up in the head area?
A. No.
Q. Did you see any skin at all?
A. No.
Q. Saw clothing?
A. Yes.
Q. Didn't spend a lot of time observing it, did you?
A. No.
Q. Your reaction was pretty instantaneous, wasn't it?
A. Yes.
Q. Down on your knees and crying?
A. Yes.
Q. Because it was upsetting?
A. Yes.
Q. Cause you knew, whether he said it to you or not, you knew he's just killed her.
A. Yes.

Q. At least you knew [redacted] was dead?
A. At least I knew that.
Q. And he led you to that body?
A. Yes.
Q. So Mr. Stewart said that he used to hold [redacted] down. That's pretty physical. That's pretty controlling. What was she going to do?
A. What was she going to do?
Q. Yeah.
A. I don't know.
Q. Well, let's ask the further question. Did you ever see her carry a knife?
A. No.
Q. But you knew her all these two years.
A. Um-hum.
Q. And you and Weldon, you were best buddies?
A. Yes.
Q. Did you ever see her carry a box cutter?
A. No, not that I recall.
Q. Or a razor?
A. No.
MR. BLAKE: One moment, Your Honor. No further questions.
THE COURT: Mr. Stewart.
RECROSS-EXAMINATION BY MR. STEWART

Q. Mr. Wright, you said something about school in Georgia. Were you at that school?

A. No.

Q. You weren't there?

A. No.

Q. You said something about [redacted] High School. Were you at that school?

A. No.

Q. Did you see what happened?

A. No.

Q. Did you see anything that happened at the school in Georgia?

A. No.

Q. No?

A. No.

Q. Didn't you just say I got kicked out for being violent in those two schools?

A. Did I say it?

Q. Yes.

A. No, I didn't say it.

Q. So what were your answers to the questions when he asked you do you know anything about me getting kicked out of school in Georgia for being violent? What's your answer to that question, sir?

A. I don't know if you got kicked out. You were there.

Q. You know about -- that's all you know that I went to a school in Georgia; is that correct?

A. Yes.

Q. What about [redacted]High School?

A. What about it?

MR. BLAKE: Your Honor, these answers have been given in normal cross-examination. That's -- the answer is taken as given. I don't believe the Defendant has a right to go back into these matters since they really involve character.

THE COURT: Well, I'm giving him some leadway. Go ahead.

Q. (BY MR. STEWART): What about [redacted]igh School, sir? Were you there?

A. No, I wasn't there.

Q. Did you see me stab anybody?

A. No.

Q. Why did you say yes to that question?

A. Cause that's what I was told.

Q. That's what you were told?

A. Yes.

Q. That's what you heard?

A. Yes.

Q. But you don't actually know what happened?

A. No.

Q. So you just going by he said, she said?

A. No, I didn't say that.

Q. Well, were you there?
A. No, I wasn't there
Q. You say I used to flip all the time. Is that what you said?
A. No, I didn't say that.
Q. You didn't say that?
A. I said you used to flip all the time?
Q. Yes.
A. No, I didn't say that.
Q. You didn't say that?
A. No.
Q. Say I used to get angry all the time, is that true?
A. No.
Q. Which one is it, Mr. Wright?
A. I did not say you flipped all the time or you got angry all the time. I did not say that.
Q. So that's not true about me, is it?
A. No.
Q. Did you know me to be a person to get into a lot of fights?
A. No -- not -- no -- uh-huh.
Q. You hung around me everyday since we were little boys?
A. Yes.
Q. Everyday since we were little boys whenever I wasn't

off in school in Georgia or something like that, you were around me?

A. Yes.

Q. I was around you?

A. Yes.

Q. Didn't know me to get into a lot of fights?

A. No.

Q. Seen people hitting me before. Me not hitting them back?

A. Yes.

Q. You have actually seen people strike me before, and me not strike them back?

A. No.

MR. BLAKE: Your Honor, this is about the fourth time that we've dealt with the same question.

MR. STEWART: Excuse me, sir. Excuse me.

THE COURT: Go ahead. Watch the repetitious questions, now.

MR. STEWART: Yes, sir.

Q. (BY MR. STEWART): Whenever I would hold my girlfriend down, what would she usually be doing?

A. Swinging at you.

Q. So she would be swinging at me, but rather than hit her back, I would just hold her down; is that correct?

A. Yes.

Q. I would strike her back; is that correct?
A. Yes.
Q. Even if she was swinging at me, I wouldn't hit her back; is that correct?
A. Yes.
Q. You've seen this with your own eyes; haven't you?
A. Yeah.
Q. I would just hold her down?
A. Yes.
Q. Arguing, fussing, just hold her down?
A. Yes.
Q. Now, you've known my girlfriend for almost two years or almost two years we were involved in our relationship, didn't you?
A. Yes.
Q. Did you ever know her to be a dirty person?
A. No.
Q. She always took care of her body, didn't she?
A. Yes. I guess so.
Q. As far as her appearance?
A. Yes.
Q. She was always a clean person, wasn't she?
A. Yes.
Q. She wasn't the type of girl to not wash, was she?
A. I don't know about that.

Q. From your observations of her, she was always clean, wasn't she?

A. Yes.

Q. What about as far as around me? How did you from being around my girlfriend and being around me, how would you say she felt about me?

A. I would say she was in love. She loved you.

Q. That's what you would say from being around us. How would you say I felt about her?

A. You felt the same.

Q. And you've never known me to harm her?

A. No.

Q. Have you ever known my girlfriend to do anything just out of spite or jealousy or anything like that to me?

A. Not that I can recall.

Q. You've never known her to just go out and have sex with another boy and come back and tell me, have you? She wasn't that type of girl, was she?

A. No.

Q. You knew that about her, didn't you?

A. Yeah, I knew.

Q. She wasn't the type of girl to do something like that, was she?

A. No. I wouldn't think so.

Q. She wasn't the type of girl to do something like

that to me, especially, was she?

A. I wouldn't think so.

Q. Would you say that she was loyal to me from being around us?

A. Yeah. I would think she would be.

Q. Would you say that we stuck together?

A. Meaning what? What do you mean by stuck together?

Q. Would you say that we were close?

A. Yes.

Q. We have had some -- from you knowing us, we have had some rough times in our relationship at times, haven't we?

A. Yeah.

Q. But, nevertheless, we still always worked it out, didn't we?

A. Yes.

Q. We always worked out our problems?

A. Um-hum.

Q. And even when we were arguing and fussing, even when she was swinging at me, I always tried to work things out, hold her down, talk to her, didn't I?

A. Yeah.

Q. Never harmed her?

A. No.

Q. Out of all of the times that you knew me, all the times that you seen my girlfriend and I arguing and fussing,

her swinging at me, whatever, you've never known me to harm her have you?

A. No.

MR. STEWART: No further questions.

THE COURT: Witness may step down. Thank you. We need to take a recess. Take ten minutes.

(JURY EXCUSED TO JURY ROOM AT 4:20 P.M.)

(COURT IN RECESS AT 4:20 P.M. AND RECONVENES AT 4:31 P.M.)

THE COURT: Ready everybody?

MR. STEWART: Yes, sir.

MR. CROW: Yes, sir.

(JURY ENTERS COURTROOM AT 4:35 P.M.)

THE COURT: We're ready.

MR. BLAKE: Monique Bright.

MONIQUE BRIGHT, first being duly sworn, testified as follows:

CLERK OF COURT: Go on around to this seat over here and state your full name, please, ma'am.

A. Monique Bright.

DIRECT EXAMINATION BY MR. BLAKE

Q. Have a seat. Ms. Bright, the P.A. system does not work. And it's such a big courtroom that you're probably going to end up feeling like you're yelling so that the jurors in the back can hear you. So if you just speak up loudly.

A. Okay.

Q. Did you give a statement with regards to this case?

A. Yes.

Q. Okay. And when did you give that statement?

A. I'm not sure exactly the date, but I gave a statement the day pointed out he burned her body.

Q. Okay. And what was ---

MR. STEWART: Excuse me. Could she speak up. My stand by counsel can't hear her.

Q. (BY MR. BLAKE): Why did they ask you to give a statement?

A. They asked me for a statement because Stanton told me that during the time that Stewart, well, Weldon was supposed to have murdered the girl.

Q. Was Stanton Wright with you that night?

A. Yes, sir.

Q. Did you go in the car with Stanton Wright over to Cheraw?

A. Yes, sir.

Q. Did you see [redacted] Allen leave out her house?

A. Yes, sir.

Q. Did you even get out of the car and approach the house?

A. Yes, sir. I went -- well, after we set there for a little while, she didn't come outside, so Weldon went and used the telephone and after he used the telephone, he said that

she was coming out. And I went and knocked on her window to make sure she was coming. She came to the window and lifted the blinds and told me wait a minute.

Q. All right. Ms. Bright, you said you went somewhere to use the phone?

A. Yes, sir.

Q. Where was that?

A. It was a store, like, right down the street from where she lived at.

Q. Okay. When you were driving from [redacted] to [redacted], did Stanton stop the car anywhere or did you go straight to the house?

A. We stopped at Wendys and I got something to eat.

Q. Did at any point, Mr. Stewart make a phone call?

A. No, sir.

Q. Or did you see that?

A. Well, I seen him make the phone call after he approached the house and she didn't come outside. I don't know if he talked to her or not, but I know he used the telephone.

Q. Do you have an idea of about what time it was that you got over to [redacted]

A. I'd say it was a little after 12:00.

Q. All right. And the time then that you picked up [redacted] Allen?

A. Yes, sir.

Q. Would be?

A. I'm not sure exactly, but I know it was after 12:00.

Q. Was it after 12:00 meaning 12:30 or 1 o'clock or what?

A. About, I'd say about 12:30.

Q. 12:30? And once [redacted] got in the car, what happened then?

A. Well, she got in the car, and we left and came back to [redacted].

Q. Okay. And what happened then?

A. We dropped -- when we got back t [redacted] we dropped her and Weldon off [redacted]

Q. Over in the neighborhood?

A. Yes, sir.

Q. But not in front of Weldon's house?

A. No, sir.

Q. Had you met [redacted] before?

A. No, sir.

Q. Did you know anything about [redacted] and Weldon, their relationship?

A. Well, I knew that that was his girlfriend, but I didn't know anything about her relationship.

Q. You dropped Weldon and [redacted] off. It was Bo's car. Where did you go then?

A. We left and went to my sister's house.
Q. Okay. Is that also where your niece is?
A. Yes, sir.
Q. Okay. And about what time did you get there?
A. It was about 1:00. Well, however long it take to get from [redacted]e to [redacted]. When we dropped them off, we went to my sister's house.
Q. So you went straight to there. You didn't drive around?
A. No, sir.
Q. And what time did you leave your sister's house?
A. We left about 4:45 in the morning. My niece's boyfriend woke us up and told us it was time to go cause it was about time for my sister to get home and got to my house about 5 o'clock.
Q. All right. So who was the one who woke you up?
A. Bryant, my niece's boyfriend.
Q. Bryant?
A. Um-hum.
Q. And the reason you were wanting to leave before your sister got home?
A. Because she didn't know that we'd be there at night when she was at work.
Q. She was working?
A. Yes, sir.

Q. You guys snuck in there?
A. Yes.
Q. How far did you go in school?
A. How far?
Q. Yeah.
A. Did I go to school?
Q. Um-hum.
A. I went to school in [redacted].
Q. Did you graduate from high school?
A. Yes, sir.
Q. Did you go to college after that?
A. Yes, sir.
Q. Did you get a degree?
A. Well, I didn't finish my intern, so I got to go back for another month and a half.
Q. Did you ever have any fights with Bo?
A. Yes, sir.
Q. Did you spend much time hanging around with Stewart?
A. Well, I didn't spend much time with him, but I spent time with him when I spent time with Bo when he was around.
Q. And did Bo, who is Stanton Wright, did he -- what did he do after you left your sister's?
A. Well, he left me, and I guess he went home.
Q. So he left you there?
A. He dropped me off. We was at my sister's house

together ---

Q. Okay.

A. --- but we was together. After he dropped me off home, I don't know where he went when he left.

Q. All right. So between the hours of about 1:00 and 5 o'clock, he was with you at your sister's?

A. Yes, sir.

Q. You have any doubt about that?

A. No, sir. We was sleeping together, so I know he was with me.

Q. But you did both fall asleep?

A. Yes.

Q. So I guess in the realm of possibilities, he could have gotten up, gotten dressed, left, killed [redacted], and come back?

A. He was with me. I know -- well, he was in the bed when we fell asleep, and he was in the bed when we woke up. So if he left, I don't know.

Q. Are you such a sound sleeper that you wouldn't notice him getting up?

A. I sleep hard, but I don't sleep that hard.

Q. Thank you.

CROSS-EXAMINATION BY MR. STEWART

Q. Monique, you said that you were -- you went with us to [redacted] to get my girlfriend; is that correct?

A. Yes.
Q. How was she acting when she got in the car?
A. She was happy. Y'all were in the backseat playing.
Q. We were playing around with each other?
A. She was giggling, so I guess.
Q. She was giggling. She seemed happy?
A. Yes, sir.
Q. She seemed like she wanted to be there?
A. Yes.
Q. You saw this?
A. Well, when she got in the car, I was laying down in Bo's lap because I had a headache. But from what I heard, I guess she wanted to be there. She was laughing.
Q. So you heard her in the backseat laughing?
A. I heard her in the backseat laughing.
Q. Okay. And what about when you dropped us off? Were we still -- how were we acting then?
A. When we dropped y'all off, you put your arm around her and y'all walked around the car and y'all walked off.
Q. So I had my arm around her?
A. Um-hum.
Q. And she was just walking with me voluntarily?
A. Yes.
Q. I wasn't dragging her with me?
A. No.

Q. Was she still laughing and giggling when we got out the car?

A. I guess. The window was up, so I don't know if she was laughing. But I know you put your arm around her.

Q. You said that you spent -- how long -- how long have you known me?

A. Well, I've known you since middle school, but I really learned about you in high school. So I'd say about four or five years.

Q. Before this incident happened?

A. About four or five years.

Q. And the times that you've known me, been around me, ever known me to be a violent person?

A. No.

Q. What type of person have you known me to be in the times that you've been around me?

A. You talk -- I mean you -- you been yourself. You make us laugh, tell jokes, be rhyming, just be yourself like any other normal person.

Q. Was I acting like I usually act on the morning of December 6th when we went to [redacted]

A. Well, I don't know how you was acting that morning. But I know that night when you got in the car, you were acting fine, joking, playing, whatever.

Q. So I was acting like I normally act?

A. Yes.

MR. STEWART: No further questions.

MR. BLAKE: Ask that this witness be excused.

MR. STEWART: I have no objections.

THE COURT: Thank you. You may step down.

MR. BLAKE: Robert Moore.

ROBERT MOORE, first being duly sworn, testified as follows:

CLERK OF COURT: Come around here and state your full name, please.

THE COURT: We need for you to speak real loud. Our P.A. system is gone, and it's hard to hear.

A. Yes, sir. My name is Robert Roshawn Moore.

DIRECT EXAMINATION BY MR. BLAKE

Q. Could you spell your middle name, please.

A. R-O-S-H-A-W-N.

Q. Mr. Moore, did you give a statement in this case?

A. Yes, sir.

Q. Is that a voluntary statement?

A. Yes, sir.

Q. You remember when you gave that statement?

A. I don't remember the exact date. It was sometime in December.

Q. Have you been charged in this case?

A. Yes, sir.

Q. With what?
A. Misprison of a felon.
Q. What does that mean?
A. I guess withholding information.
Q. You live on [redacted]?
A. Yes, sir.
Q. Is that in Weldon's neighborhood?
A. Yes, sir.
Q. Okay. How old are you?
A. Twenty-five.
Q. So you're older than Weldon?
A. Yes, sir.
Q. You didn't go to school with him?
A. No, sir.
Q. But you know him from the neighborhood?
A. Um-hum.
Q. You spend a lot of time hanging out with him or did you?
A. Well, at times, we hung out pretty good.
Q. Now, let's clear a couple things up before we go any further. It appears that in 1996, you were convicted of distribution of crack cocaine; is that correct?
A. Yes, sir.
Q. And the same thing in 1997?
A. Yes, sir.

Q. Did you know [redacted]?

A. No, sir.

Q. How many times did you see [redacted]?

A. Once.

Q. Where?

A. At a club, Chocolate City.

Q. So you didn't observe [redacted] and Weldon much?

A. No.

Q. Just that one time?

A. Um-hum.

Q. Where do you work?

A. I work with my uncle. We have a backhoe service.

Q. I want to try something with you. I don't know if it's going to be successful, but I'm at least going to try it. State's Exhibit 19 from the Tax Assessor's map of the area you live in.

And if I could just orient you for a minute. Down in orange is the police department.

A. Um-hum. I see my street here.

Q. Okay. It's in yellow then?

A. Um-hum.

Q. Can you locate over by looking at this, this is each lot. Then you got the trees in the picture and all that. This is [redacted]

A. Um-hum.

Q. Can you tell me what that is?
A. [redacted].
Q. Yes. Can you tell me?
A. That's where Weldon stays.
Q. That's Weldon's house?
A. Um-hum.
Q. Do you know that address?
A. Not right off the top of my head, I don't.
Q. But you recognize that?
A. Um-hum.
Q. Now, traveling around there, you travel on the street or do you take paths a lot?
A. I take paths.
Q. Lots of people take paths?
A. Um-hum.
Q. Are there paths behind Weldon's house?
A. Yes, sir.
Q. All right. So all the way behind [redacted]; is that correct?
A. Yes, sir.
Q. Now, that night you came upon a pretty gruesome scene?
A. Sir?
Q. You said a body burning?
A. Yeah, it was in the afternoon.

Q. Okay. Excuse me. Correct me. About what time was it?

A. Probably 12:30, 12:45.

Q. How did you know what time it was?

A. Because my mother didn't come pick me up until 12 o'clock.

Q. So sometime between 12:00 and 1:00?

A. Um-hum.

Q. Did you see Weldon around that time?

A. Yes, sir.

Q. Did you talk to Weldon?

A. I talked to him when I come through the path. I saw him. He was like going through the front yard, so I go to his front yard and he's coming. He asked me for a cigarette, and I gave him a cigarette.

Q. What happened next?

A. Then he was acting like, shaking -- shakified. I gave him the cigarette. He was acting like he was hiding something or something. He said no but burning a body and that was it.

Q. You have any reaction to someone telling you he was burning a body?

A. I don't know cause I be with him a lot. I was like don't lie to me man. I was like go ahead, man. I ain't got time for that type of stuff. He always kidding around and I

said I ain't got time for that type of stuff. He said, "For real. For real." I said, "No, I ain't got time for that."

Q. So he likes to play like that?

A. Not particularly like that, but you know, cutting the fool all the time.

Q. Playing with people's minds?

A. Yeah.

Q. Did you see the body?

A. Yes, sir, it was a skeleton when I did see it. I saw it and took off running.

Q. Were you scared?

A. Yes, sir.

Q. Where did you go?

A. I got on -- by the time I got in front of his home and got to [redacted], he came behind me asking me what should he do. I said, "I don't care what you do, but I know what I'm going to do." So he turned around.

I guess he turned around and went home and called the police himself. I went to the store and by the time I got to the store, I saw the police going over there. I went to the path and talk to the person -- the police at the scene and talked to them. And then he was like we got him in custody. Don't worry about it. I said, "Okay."

Q. When you said you know what you're doing, what did you mean?

A. I'm going to the store to call the police myself.

Q. So he knew you were going to go call the police?

A. I don't know if he knew I was going to go call them or what, but by the time I got there, I saw the police going there already.

Q. Did you ever see Weldon with a gas container?

A. Yes, sir.

Q. Tell us about that.

A. When my mother come pick me up, it was -- by the time we get from [redacted] to [redacted] -- by the time we get from [redacted] to the police station, we seen him in front of the police station going towards the gas station.

Q. He's on Main Street there in front of the police station walking on the sidewalk and carrying this can?

A. I don't know. It was something similar to it, but I don't know if it's that direct one.

Q. What time was that?

A. That was probably right at 12 o'clock.

Q. All right. What direction was he going?

A. Going -- coming back down this way.

Q. All right. So he was coming from downtown where we are ---

A. No. He was come from towards [redacted] He was coming from that way.

Q. He was approaching towards us, where we are?

A. Past the funeral home.

Q. What side of the street was he on?

A. On the same side as the police station.

Q. How much longer was it -- how do you know that -- do you know where he was going with that?

A. No. I just seen him with the gas canister. I thought he was going to the gas station.

Q. Do you have any idea what that would be for?

A. No, sir.

Q. About how much later did he come to your house?

A. Probably 20 minutes, 15 minutes, something like that.

Q. When he was walking along there in front of the police station with the gas can, I mean, was he like swinging it crazy and stuff?

A. Just walking. I don't recall.

Q. Okay. When he came to your house, how was he acting?

A. He just came back like what's up, man. I said, "What's up?" He asked me for some reefer. I told him I ain't have none. I went over through my shorts, what not. I told him I'd see if I could get a bag. That's actually what I told him. Then after that, I finished my chores around the house.

Q. How long did that take?

A. I had to feed -- I had a lot of dogs. I fed all the

dogs and took the trash out and stuff, and that's when he came across and asked me for the reefer and all that. Then he went and left. So I stopped by my momma's house and talked with her for a little bit.

Then I walked through the path and walked where I was going to get my reefer from, but ain't nobody was there either. So I come back down [redacted] and walk through the path. That's where I seen him standing next to a fire.

Q. All right. You said earlier something about asking you for a cigarette, and he was shaking.

A. Yeah.

Q. Where was that?

A. That was after I'd been walking -- that was after I seen him standing beside the fire.

Q. That's when he was shaking?

A. Um-hum.

Q. He wasn't shaking when he came to your house?

A. Oh, no, sir.

Q. He wasn't shaking when he was walking down the street with the gas can?

A. No, sir.

Q. Just looked like he was walking?

A. Um-hum.

Q. But after the body had been burned, he was shaking? Answer the question.

A. Yes, sir.

MR. BLAKE: No further questions.

CROSS-EXAMINATION BY MR. STEWART

Q. Where were you at when you saw me walking down the street?

A. When I saw you walking down the street, right in front of the police station.

Q. Where were you at?

A. In the car with my mother.

Q. So you weren't like right up on me, were you?

A. No, I wasn't right up on you.

Q. So if I was shaking, like I was on the porch, you -- would you have been able to tell from the car you were in?

A. No. Not riding past, I couldn't tell if you were shaking or not.

Q. All right. Would you say that like maybe I was just walking, meaning I was just walking?

A. Just walking as far as I could see, you were just walking to the store.

Q. Well, was I walking fast or running there?

A. You weren't walking fast or running or nothing.

Q. The path that you came through, do people usually use that path?

A. Yeah, a pretty good bit.

Q. A good bit?

A. Um-hum.
Q. Everyday?
A. Basically.
Q. All hours of the day?
A. Well, depends on whoever, you know, if you standing behind -- on that barrel we usually burn ---
Q. Um-hum.
A. --- if you walking back there, then people walking through the path then.
Q. Before this incident occurred, people used the path on a regular basis?
A. A good bit.
Q. All the times of hours of the night?
A. Um-hum.
Q. They were in my backyard all times of hours of the night?
A. Excuse me. Repeat that again.
Q. You had to go through my backyard to go to the path, right?
A. Yes.
Q. So people were in my backyard all times of hours of the night?
A. Um-hum.
Q. If you were trying to stash a body, trying to hide it, do you think that my yard, the path, would be a safe place

to do that?

A. No, cause people walk through there a good bit.

Q. People come through there all the time?

A. Um-hum.

Q. So if you were planning to hide a body back there, that wouldn't be a good place, would it?

A. No, cause people walk through there too much.

Q. Okay. Now, when you came through the path and you saw me, where was I at?

A. Standing by a fire by the barn.

Q. Was I jumping around or anything like that?

A. No. Not when I seen you standing by the fire.

Q. Singing and dancing, anything like that?

A. No.

Q. Just standing there?

A. Yes.

Q. When I came to the front porch, I was shaking real bad; is that correct?

A. Yeah.

Q. Did I seem angry?

A. No. It was more like scared or something like that.

Q. Scared?

A. Yeah, and nervous acting.

Q. Real nervous?

A. Um-hum. And I was like Dog, what's wrong. You

acting like you hiding something. You said, "No, but burning a body."

Q. I was real nervous?

A. Um-hum.

Q. Shaking real bad? How long have you known me?

A. I know you a real good while since you moved up there, but I ain't start hanging out with you until '99.

Q. 1999?

A. Yeah.

Q. Up until the time this incident happened in 2000?

A. Yeah.

Q. Would you said you were around me on a pretty regular basis?

A. Whatever time I come up from my kid's mother's house, I come hang out with you and Stanton.

Q. Hang out with me and Stanton Wright?

A. Yeah.

Q. What type of person do you know me to be in the time that you knew me?

A. It was a pretty cool fellow towards me. Pretty cool fellow. You ain't never got no arguments or nothing like that. We ain't had the best of times and we ain't had the worst of times.

Q. Have you known me to be a violent person in the time that you've known me?

A. No.
Q. You don't know me to be violent?
A. Not as like you at a club or something. If somebody wants to start something within the crowd among us, that's when, you know, but other than that, no.
Q. Every known me to be the type of person to attack people?
A. No.
Q. Harm people?
A. No.
Q. Harm females?
A. No.
Q. Never known me to be the type of person to kill someone?
A. No.
Q. 1999, 2000, that's when you knew me; is that correct?
A. Yeah.
Q. Hung around me on a pretty regular basis?
A. Yeah.
Q. You said after you ran, I came back up the street looking for you, asking you what should I do?
A. Um-hum.
Q. That's what you said?
A. Yes.

Q. Did I seem like I was confused?

A. You was like, what should I do. I said, "I don't care what you do. I know what I'm going to do."

Q. Did you ever actually tell me that you were going to call the police?

A. No.

Q. You never actually told me that?

A. Uh-huh.

Q. So you never threatened to call the police when you were around me?

A. No.

Q. You just said I know -- you know what I'm going to do?

A. Yes.

Q. That could have mean -- meant anything; is that correct?

A. That could have meant anything.

Q. So you never said to me, "Stewart, I'm going to call the police?"

A. I ain't never said that.

Q. But when you got to the store, you already saw the police.

A. By the time I got to the store, yeah. By the time I got to the store and I saw the guy named James Bethea, and he saw it and we both walked up and talked to Officer Lucas and

Officer Crossland.

Q. So how long will you say it was after you saw me, talk to me and left, how long would you say after that the police were called?

A. I'm not sure what time it was called, but it was around about 1:00 something.

Q. Let me ask you something. That time of day, are people usually walking around our neighborhood?

A. Yeah, all the time.

Q. All the time? That time ---

A. At that time of day, yeah, all the time.

Q. --- people usually coming through the path that time of day?

A. Yeah.

Q. 11 o'clock?

A. I don't know about 11:00, but I was like over Skut and them house and sit over there. And if I walked back home, I go through that path and go home.

Q. So that time of day, someone who was trying to just not let anyone know that something is going on or they're planning this to cover up something so that people won't know that's their plan, do you think it would be logical for them to start a fire in the middle of our neighborhood that time of day if they're trying to take attention away from them?

A. I'm not sure.

Q. They brought you back there, didn't they?
A. Who's that?
Q. When you saw the smoke and stuff?
A. Oh, yeah.
Q. It drew your attention?
A. I already talked to you already, and I told you I was going to come back with some smoke. And by the time I come back through the path, that's when you were standing there by the fire.
Q. When I was standing there, did I seem like I was angry or ---
A. You were just standing there like you was in the front yard. I'm coming and that was that.
Q. Now, you said that I was the type person that joked around a lot?
A. Um-hum.
Q. Played around a lot?
A. Yeah.
Q. Type of -- would you say happy, happy type person?
A. Yeah. You love to laugh about something. Now, you love to laugh about something.
Q. So, I was a person that laughed a lot?
A. Yeah.
Q. Joked a lot?
A. Yeah.

Q. Pretty easy going fellow?

A. Yeah.

Q. Known me to be a person who had a temper or go off on somebody for little or nothing or anything like that?

A. Not to my knowledge, you never acted that way around me.

Q. And when you saw me on the porch shaking and stuff, was that how I usually act?

A. No. That's why I asked you, I said, "Dog, you acting like you're hiding something." You said, "No, but I'm burning a body." I'm like man, go ahead with that crazy mess. I ain't got time for that.

Q. You think I was joking?

A. I thought you were joking. I said, "I ain't got time for that."

Q. So you've never knew me to be the type of person that just haul off and kill somebody?

A. No.

MR. STEWART: No further questions.

MR. BLAKE: Just a minute, Your Honor.

REDIRECT EXAMINATION BY MR. BLAKE

Q. Mr. Moore, when Mr. Stewart came up to your house there sometime between 12:00 and 1:00?

A. It was right about a little after 12:00.

Q. Okay. When he came up there and he talked to you,

greeted you, did he say anything like, "Golly, I just slipped and fell and my girlfriend is dead?"

A. No, sir. He never said nothing like that.

Q. Did he say, "Oh, my girlfriend's dead. What should I do?"

A. No, sir.

Q. Did he say, "Call 911, maybe the ambulance can help?"

A. No, sir.

Q. Passing up State's Exhibit 33 and 34. Is this basically what you saw when you came upon the body?

A. I couldn't really tell because it was so many flames from the fire.

Q. There are some flames in this one.

A. But it was really high.

Q. The flames were real high?

A. Yeah, I could tell it was something unusual, so I just took away running.

Q. Now, Mr. Stewart is making a big point about being -- not a violent person. Did you ever see him arguing?

A. Sir?

Q. Argue. Did you ever see him argue?

A. Maybe once or twice with a guy in the neighborhood, but it wasn't nothing serious.

Q. Now, you started to say something about an incident

at the club. Was that a fight he got into?

A. No. I'm just saying like in case me and him and other guys go to the club together, and someone else say something to one of us, you know, we all hold each other down. We got each other's back. Stuff like that. He never got in no fight with me when I was around him.

Q. Would it change your opinion if you knew that he slapped his mom at church?

MR. STEWART: Objection, Your Honor. He's talking about something that's not even ---

MR. BLAKE: I'll produce the witness.

MR. STEWART: That's hearsay. It's not in evidence, and ---

MR. BLAKE: You've asked him to form an opinion about whether you're violent or not. I'm simply saying if these things were true, would that change your opinion. That's all I'm asking.

A. Yes. If it were true, yeah, it would.

Q. (BY MR. BLAKE): If you knew that he had ---

THE COURT: Wait just a minute, now. I got an objection on the floor. What -- I got to know. I didn't half hear the question. What was the question, specifically, was he present or did he know?

MR. BLAKE: No. I said, "Would your opinion about his non-violence be different if you knew that he -- that he had

slapped his mother at church."

MR. STEWART: Hypothetical question for a lay witness.

THE COURT: I'm going to sustain that objection. Move on. Just disregard that, that response. Move on.

MR. BLAKE: Well, Your Honor, are you telling me to discontinue this entire line of questioning?

THE COURT: No, that question. Go on with whatever you want to next.

Q. (BY MR. BLAKE): Would it change your opinion to know that he ---

MR. STEWART: Objection, sir. He's still -- hypothetical questions.

THE COURT: He hasn't posed the question yet. Let me hear it.

MR. BLAKE: And these are not hypothetical questions.

MR. STEWART: "Would it change your opinion if."

MR. BLAKE: That's the proper form, isn't it?

THE COURT: I'm not concerned about his opinions on anything. He's not an expert witness. You better be careful.

MR. BLAKE: Well, Your Honor, we do have opinion and reputation, and we just spent quite a while listening to Mr. Moore's opinion about the non-violent character. I should have a chance to rebut that.

MR. STEWART: Sir, if I may be allowed to address the Court. Opinion reputation, he was speaking about stuff that

he actually observed; that he was there to observe. My opponent is trying to ask him would it change your opinion if you knew about this, something he has no personal knowledge of, hypothetical questions. It's not appropriate.

THE COURT: You should lay some foundation before you head into that avenue. I have to agree with Mr. Stewart.

MR. BLAKE: I'll call the witness, Your Honor. No further questions.

THE COURT: Anything further?

RECROSS-EXAMINATION BY MR. STEWART

Q. Defendant's Exhibit 1. You recognize that?

A. Yeah, that's Bryant Skut's house.

Q. Is that the path you came through?

A. Um-hum.

Q. Is this the path that people use on a regular basis?

A. Yes.

Q. Is this the path?

A. Them boards and stuff, there was a car stuck on that tree right here, and we put boards up under it, but his father put boards up under it and the path is right there.

Q. The path is right there?

A. Yeah.

Q. Is that the path you came through?

A. Yep.

Q. This is the that path -- that it would be unsafe to

try to hide a body in there?

A. It would be totally unsafe cause we all come through the path a good bit. Not just you and me, but a lot of us use that path.

MR. STEWART: For the record, Mr. Moore has identified the path shown in Defense Exhibit 1.

THE COURT: All right.

MR. BLAKE: May I look at it.

THE COURT: All right. Gentlemen, you've got to be careful. The jurors can't hear when y'all block their view of the witness cause it's so hard to hear in here right now.

MR. BLAKE: No further question, Your Honor.

THE COURT: You may step down. Thank you. All right. It's 20 after five. It's getting close to quitting time. Let me talk to you gentlemen up here for just a minute.

(A BENCH CONFERENCE WAS HELD OFF THE RECORD IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: All right. Court will be in recess until 10:00 in the morning. Remember my previous instructions about press coverage. Avoid any local newscast, radio, t.v., until after this trial. Remember my instructions to anybody contacting you in any way. Immediately notify the Sheriff's Department of any such contact. Y'all have a good night. Everybody else remain seated in the courtroom while the jury departs for the afternoon. 10 o'clock.

(JURY EXCUSED FROM COURTROOM AT 5:16 P.M.)

THE COURT: All right. 10 o'clock in the morning.

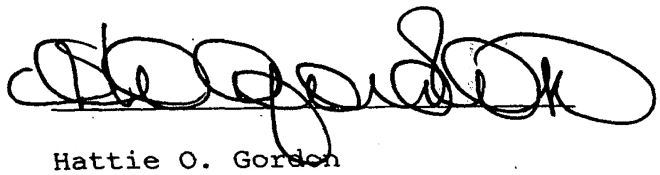
(COURT IN RECESS AT 5:20 P.M.)

- - - END OF TRANSCRIPT OF RECORD - - -

C E R T I F I C A T E

I, the undersigned Hattie O. Gordon, Official Court Reporter for the Fourth 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 case, relative to appeal, in the Circuit Court for Marlboro County, South Carolina, on the 29th day of July 2003.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Hattie O. Gordon

Circuit Court Reporter

September 13, 2003

Wallace, South Carolina

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF MARLBORO 02-GS-34-1919

STATE OF SOUTH CAROLINA )
)
- vs - ) TRANSCRIPT OF RECORD
)
WELDON W. STEWART, JR. )

July 28 - August 1, 2003
Marlboro, South Carolina
VOLUME 3 OF 5

B E F O R E:

The Honorable PAUL M. BURCH, Judge and a jury.

A P P E A R A N C E S:

DANIEL BLAKE, Assistant Solicitor
Attorney for the State

WELDON W. STEWART, JR., Pro Se Defendant

WADE R. CROW, Public Defender
Stand By Attorney for the Defendant

State's Witnesses
GAIL HEATH, SLED
JOHN ORTUNO, SLED
ROBERT ELVINGTON, SLED
AL STUCKEY, SLED
CECIL BRADSTREET, SLED

*HATTIE O. GORDON*
*CIRCUIT COURT REPORTER*
*FOUR* *AL* [redacted]
*WALLACE, SC 29596-0597*

State's Witnesses (continued)
DALLAS GURLEY, Bennettsville Police Department
JOHN BOSTON, Bennettsville Police Department
JOHN VALDALISO, Bennettsville Police Department
ALVIN WORSLEY, Bennettsville Police Department
SAMMY CROSSLAND, Bennettsville Police Department
DR. RUSSELL HARLEY, Medical University of South Carolina
SORAYA ALLEN, Victim's Mother
TONY ALLEN, Victim's Father
ANTHONY ALLEN, Victim's Brother
DR. RICHARD OWENS, Ophthalmologist
ROBERT MOORE
ANTHONY WATSON
DELORIS WATSON
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CLARISSA BRIDGES
STANTON WRIGHT, JR.
MONIQUE BRIGHT
ANDRENNA SUTHERLAND

Defense Witnesses
CARRIE HUGHES
MARY McLAUGHLIN
ANASTASIA LOVE
JAMES ELLERBE
DENEKA HARRINGTON
DALLAS GURLEY, Bennettsville Police Department
VIRGINIA STEWART, Defendant's Mother
Weldon Stewart, Sr., Defendant's Father

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| C-19 | TRANSCRIPT: OPENING STATEMENT BY MR. STEWART | | |
| C-20A | JURY QUESTION NO. 4 | | |
| C-20B | JURY QUESTION NO. 5 | | |

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| S-12 | FLORAL FITTED BED SHEET | | |
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