

VOL. I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY

Steven H. John, Circuit Court Judge

THE STATE,

RECEIVED
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SC Court of Appeals
RESPONDENT,

V.

CHRISTOPHER MILLER,

APPELLANT

APPELLATE CASE NO. 2011-197146

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
 2)
 3) (09-GS-22-00849) (as to Pope)
 4) (09-GS-22-00850) (as to Pope)
 5) (09-GS-22-00851) (as to Miller)
 6) (09-GS-22-00852) (as to Miller)

7 STATE)

8 VERSUS)

TRANSCRIPT OF RECORD

9 KERI FORE POPE and)
 10 CHRISTOPHER MILLER)

July 21, 22, 25, 26, 2011
 Georgetown, S. C.

11 B E F O R E:

12 HONORABLE STEVEN H. JOHN, Judge; AND A JURY.

13 A P P E A R A N C E S:

14 SCOTT R. HIXSON, ESQ.
 15 ASSISTANT SOLICITOR FOR GEORGETOWN COUNTY
 16 ATTORNEY FOR STATE

17 JOHN M. HILLIARD, III, ESQ.
 18 JULIA M. BASS, ESQ.
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21 WESLEY LOCKLEAR, ESQ.
 22 ATTORNEY FOR DEFENDANT, MILLER

23 DIXIE COX EUBANK
 24 CIRCUIT COURT REPORTER
 25 FIFTEENTH JUDICIAL CIRCUIT

VOLUME 1 OF 3
 (SEE VOLUME 1 FOR COMPLETE INDEX)

1 or don't believe until you've heard all the evidence, because
2 it's going to develop over a period of time, and also, you
3 need to know the law at the very end. I'm going to give you
4 the law that you are going to apply to the facts and evidence
5 you find to be true.

6 When we get done with the evidentiary portion we'll have
7 the closing arguments of the attorneys. Again, those
8 arguments are not evidence, can't be considered by you as
9 evidence. They are each side's summation to you of what they
10 believe the important facts are, what they believe was
11 presented, and then obviously ultimately what they are asking
12 you to do as a result of your unanimous decision. I will then
13 give you the law that you are going to use to apply to the
14 facts and evidence you find to be true, and then I'll submit
15 the case to you for your deliberation and your unanimous
16 decision in this particular matter.

17 In essence, you are trying two cases in one. There are
18 two Defendants, Ms. Pope, and Mr. Miller, and they are both
19 charged with two crimes, murder and criminal conspiracy. Your
20 decisions are separate as to each Defendant, and each matter
21 charged against them, because there are going to be different
22 matters presented on all of those. You are going to have to
23 make separate and independent decisions on all those matters.
24 So there's two cases, and each Defendant is charged with two
25 crimes. So, in essence, that will be four decisions that you

1 murdered.

2 I submit to you, after you hear the evidence, or more
3 importantly, the complete lack of evidence against Mr. Miller,
4 you are going to come back with a verdict of not guilty as to
5 both counts.

6 Thank you.

7 **THE COURT:** All right, Solicitor, your first witness,
8 please sir.

9 **MR. HIXSON:** Your Honor, may I approach, very, very,
10 very quickly, off the record?

11 **THE COURT:** Yes sir.

12 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)**

13 **RONALD LILLY,** being first duly
14 sworn, testifies as follows:

15 **DIRECT-EXAMINATION BY HIXSON:**

16 Q. Good morning, sir.

17 A. Good morning.

18 Q. Please tell the jury what you do for a living.

19 A. I'm a firefighter paramedic, now with the Murrells
20 Inlet/Garden City Fire District.

21 Q. Okay. So can we take you back in time, back around May
22 27th, 2003. Do you recall that time period?

23 A. I was an E.M.T. in Paramedic School, working for
24 Georgetown County E.M.S..

25 Q. Okay. And were you working on that date, or that day,

1 specifically direct your attention toward the evening hours of
2 May 27, 2003?

3 A. Yes. I was in the middle of a twenty-four hour shift.

4 Q. Okay. Please tell the jury what was going on that
5 evening, and what events transpired, as far as you can
6 remember.

7 A. Okay. My partner and I, Lesley Eastham, were called
8 out later in the evening -- it was at nighttime; we were in
9 the bed -- for a possible shooting, and we responded to a call
10 on Highmarket Street. The Police Department was on the scene.
11 The scene was safe. We always make sure they are there if we
12 are going to any kind of call like that.

13 We pulled in the parking lot, were directed into the
14 house, found a police officer and a female in a bedroom
15 working on a gentleman, and we continued to take over care,
16 started C.P.R., and transported him to the hospital.

17 Q. Okay. Well, let me ask you, is the -- did this -- the
18 scene that you wanted into, did that occur in Georgetown
19 County?

20 A. It did.

21 Q. Okay. Let me show you an item that's been marked as
22 State's Exhibit 19, see if you recognize this.

23 **MR. HIXSON:** It's just for identification only, Judge.

24 **THE COURT:** All right, sir.

25 Q. See if you recognize that. Be right back.

1 A. That's the area the call was -- the house here, and the
2 parking lot where the ambulance was.

3 MR. HIXSON: I've also shown the witness, Your Honor,
4 what has been marked as State's Exhibit 18, for identification
5 only.

6 Q. Please take a look at that first.

7 A. Well, that's the -- it's up here.

8 Q. Okay. And what is that you are looking at?

9 A. Highmarket in the City. There's the Police Department,
10 the area where we went to the house call up here.

11 Q. Let me be more specific. Are you looking at a
12 photograph?

13 A. A photograph of -- an aerial photograph of the City of
14 Georgetown.

15 Q. Okay. Now, are you familiar with the -- you indicated
16 your job is E.M.S., so are you familiar with the layout and
17 the roads, and the general environment around Georgetown?

18 A. Yes sir.

19 Q. Is that aerial photograph a fair and accurate
20 representation of, as far as you can tell, the layout of the
21 city streets of Georgetown?

22 A. Yes sir.

23 Q. Okay.

24 MR. HIXSON: At this time the State would move State's
25 Exhibit 18 into evidence, Your Honor.

1 **THE COURT:** Any objection?

2 **MS. BASS:** No, Your Honor.

3 **MR. LOCKLEAR:** No objection, Your Honor.

4 **THE COURT:** All right. 18 is in evidence without
5 objection.

6 (POSTER ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
7 18.)

8 Q. Okay. And let me show you again - I handed you 19
9 earlier. Please tell us, what is that?

10 A. That's just a section of that, closer down.

11 Q. Okay. A section of what? Is that a photograph?

12 A. Photograph, an aerial photograph of Highmarket street,
13 and surrounding areas with Reservoir and Duke.

14 Q. Okay. And is that a fair and accurate representation
15 of your understanding of the layout of the streets of
16 Georgetown in that area?

17 A. Yes sir.

18 Q. Okay.

19 **MR. HIXSON:** At this time the State would move State's
20 Exhibit 19 into evidence, Your Honor.

21 **THE COURT:** Any objection?

22 **MS. BASS:** No, Your Honor.

23 **MR. LOCKLEAR:** No objection, Your Honor.

24 **THE COURT:** All right. It's in evidence without
25 objection.

1 (POSTER ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
2 19.)

3 MR. HIXSON: May I publish this to the jury?

4 THE COURT: Any objection to publication?

5 MS. BASS: None.

6 MR. LOCKLEAR: No sir, Your Honor.

7 THE COURT: You may do so.

8 Q. Mr. Lilly, let's refer back to 19.

9 A. Okay.

10 Q. I believe you indicated that's the closer up version,
11 or you said that's the inset.

12 A. Yes sir.

13 Q. Can you show the jury -- could you turn that around so
14 the jury can see it? And just draw attention to the house
15 that you responded to that evening, if that's all right.

16 A. This house. (indicating)

17 Q. Okay. Just point to it a little bit longer.

18 A. Here. (indicating)

19 Q. Okay. And when you responded, can you see where the
20 ambulance and all that parked?

21 A. In this parking lot here, which I believe was a
22 chiropractor's office. There were police cars there, and we
23 came in through a fenced -- gate, in the side door, into the
24 kitchen.

25 Q. Okay. Thank you. Let me show you a couple of other

1 photographs as well. Mr. Lilly, let me show you a series of
2 photographs, just to help us for judicial efficiency, just to
3 speed things along.

4 Specifically handing the witness, Your Honor, State's
5 20, 21, 22, 23, 24, looks like 27 ---

6 Madame Court Reporter, I believe that's ---

7 ---27. Just look at those and see if you recognize
8 those.

9 A. Yes sir. That's the house we entered.

10 Q. Okay. And specifically, what are you looking at? Are
11 you looking at photographs?

12 A. I'm looking at photographs of the house there.

13 Q. Okay. Are those photographs a fair and accurate
14 representation of the scene that you saw that evening?

15 A. Yes sir.

16 Q. Okay. And what time are we talking -- do you recall
17 specifically what time your dispatch -- your dispatch time?

18 A. No sir. It was in the eleven o'clock hour, the best I
19 can remember.

20 Q. Fair enough. Fair enough.

21 **MR. HIXSON:** At this time the State would move State's
22 20 through -- excuse me, they are out of order -- 20, 21, 22,
23 23, 24 and 27 into evidence.

24 **THE COURT:** Is there any objection?

25 **MS. BASS:** No, Your Honor.

1 **MR. LOCKLEAR:** No objection, Your Honor.

2 **THE COURT:** All right. They are in evidence without
3 objection.

4 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
5 NUMBERS 20, 21, 22, 23, 24, AND 27.)

6 **MR. HIXSON:** May I publish these to the jury, Your
7 Honor?

8 **THE COURT:** Yes sir, you may.

9 **MR. HIXSON:** Can we pull up S-1, please.

10 **Q.** Please describe what that is, and show that to the jury
11 if you can.

12 **A.** That's the Highmarket Street view of the home.

13 **Q.** Okay, Mr. Lilly, look at that photograph. Does that
14 correspond with the picture on the screen?

15 **A.** No sir.

16 **Q.** It is not, not the same one that's been authenticated.
17 Let's refer to Item 1.

18 **MR. HIXSON:** May I publish that, Your Honor? That's
19 the -- already been authenticated.

20 **THE COURT:** Well, what's the exhibit number?

21 **MR. HIXSON:** That's Exhibit 24.

22 **THE COURT:** 24. Okay.

23 **MR. HIXSON:** It's number 1. And please describe that
24 for the jury. They are looking at the photograph as well, Mr.
25 Lilly, just ---

1 A. That's looking east on Highmarket Street, at the house
2 where the parking lot for the chiropractor's office, where the
3 ambulance parked.

4 Q. Okay. Thank you.

5 Mr. Brown, if you would pull up 1(A) please -- or excuse
6 me -- S-1. Apologize.

7 And please describe what that is.

8 A. The -- from Highmarket Street across the sidewalk, at
9 the house.

10 Q. Okay.

11 MR. HIXSON: That's 2, Mr. Brown.

12 Q. And I'm handing the witness item 21.

13 A. This part -- this side of the home was known to me when
14 I came back, but I didn't see that part when we went for the
15 call. We entered through the other side, and we had no reason
16 to be on that side of the home.

17 Q. Very good. I understand.

18 Now Mr. Brown, this is Item S-4, but that's State's
19 Exhibit 23. Would pull that, please.

20 A. Yes. That's where we were, and entered through the
21 gate into this door here, on the side of the home.

22 Q. Okay. And that's State's Exhibit 27. What is that?

23 A. That's the door of the home that we entered into the
24 kitchen.

25 Q. So you entered through that door?

1 A. We entered through that door. We went in and came out
2 through that door.

3 Q. Okay. And also S-3, Mr. Brown.

4 That's State's 22 I'm showing the witness. I'll show
5 you that in conjunction with another photograph.

6 A. I don't -- as I told you before, I don't have any
7 knowledge of that side of the home because I had no reason to
8 be around there ---

9 Q. Very good.

10 A. ---On that night.

11 Q. Thank you very much.

12 Let me show you a series of photographs -- don't
13 describe them yet. Let me show you a series of photographs to
14 see if you recognize those items. Okay.

15 A. Okay.

16 Q. Let me take these two out, and just refer to those
17 three.

18 A. Okay.

19 Q. Do you recognize those items?

20 A. Two I do. I wasn't there for that one.

21 Q. Okay. I'm specifically referring to State's Exhibit
22 39. That's for identification only.

23 A. Okay.

24 Q. And Item 41, for identification only at this time.

25 A. Yes, I'm ---

1 Q. And what is it that I handed you?

2 A. You handed me photographs of a deceased dog in the
3 floor, and the blood that was there that we had to move around
4 to go in to where our patient was.

5 Q. Okay.

6 MR. HIXSON: At this time -- excuse me, Your Honor ---

7 Q. Is this a fair and accurate representation of the scene
8 that you saw May 27, 2003?

9 A. Yes sir.

10 MR. HIXSON: At this time the State would move State's
11 39 and 41 into evidence.

12 THE COURT: Any objection?

13 MS. BASS: No, Your Honor.

14 MR. LOCKLEAR: Yes, Your Honor. We object under Rule
15 401.

16 THE COURT: I'm going to allow it into evidence over
17 the objection of the Defendant, Miller.

18 MR. LOCKLEAR: Thank you, Your Honor.

19 THE COURT: And those were State's -- again.

20 MR. HIXSON: State's 39, Your Honor, State's 41.

21 THE COURT: All right. Thank you.

22 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
23 NUMBER 39 AND 41.)

24 MR. HIXSON: At this time if I may publish State's 39
25 in evidence.

1 **THE COURT:** Yes sir.

2 **MR. HIXSON:** And that's Number 13.

3 That's Number 39, Madame Court Reporter.

4 Q. And please describe that scene for us.

5 A. That's the dog in the short hallway between the --
6 where you come around the living room, going toward the
7 bedroom.

8 Q. Okay. Can you -- since the jury most likely has never
9 been in that house before, can you describe the layout from
10 there, where that hallway goes, things like that, as to orient
11 the photograph.

12 A. Toward a rear bedroom and a closed door, and -- or two
13 closed doors, if I remember right, and straight in the back to
14 a bedroom, across a short -- and then more carpet into the
15 bedroom.

16 From the kitchen we came in and took a left, crossed the
17 dog, and went straight in the back to the bedroom where the
18 victim was on the bed.

19 Q. Okay. And also let's refer to State's 41. I believe
20 that's in evidence also; is that correct? May we publish it
21 to the jury at this time?

22 **THE COURT:** Yes sir, you may.

23 **MR. HIXSON:** Mr. Brown, that's the slide 14(B).

24 Q. Do you recognize that, what you are seeing on the
25 screen?

1 A. That would be from the bedroom back out around the
2 chair, you would take a right to go out to the kitchen, how I
3 came bringing equipment in and out of the home.

4 Q. Now what type of equipment did you bring in with you
5 when you went into that house?

6 A. We first entered the house with what would be our
7 carry-in bag, which is medical supplies, as far as some
8 cardiac drugs, and a cardiac monitor, and an oxygen bottle.

9 Q. Did you bring a gurney or stretcher of any kind?

10 A. Not in the beginning. That's what we carry in to find
11 out what we would have, what type of patient we were dealing
12 with, and then get the other equipment as we need it off the
13 ambulance.

14 Q. Okay. About how many people went in with you during
15 the course of your working on Mr. Pope?

16 A. Initially it was myself and Lesley Eastham, and then
17 another ambulance came, which was Jim Faulkenhagen and
18 Claudine Barr, so there were four of us that were taking care
19 for him that night.

20 Q. Okay. So the only access to the bedroom -- well, what
21 access is there to the bedroom? How do you get into that
22 bedroom you indicated before?

23 A. We went from that kitchen door, across the hallway, in
24 and out that way. I was the -- kind of the shuttle, to bring
25 in a spineboard, a backboard to carry him on, the secure him

RONALD LILLY - DIRECT BY HIXSON

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1 to do C.P.R., and that was -- straps to secure him down, and
2 then the gurney was left outside. It was never brought in.
3 He was hand-carried out, all the way out to the outside.

4 Q. Okay. Let me show you a series of photographs also, to
5 get some of this foundation and stuff in.

6 I'm referring to the witness, State's 28, 29, 30, 31,
7 32, and 34, Your Honor.

8 Mr. Lilly, if you can look at all of those all at once
9 and see if you recognize those items.

10 A. Yes sir.

11 Q. What are all those items?

12 A. The kitchen and the living room of -- this is the door
13 we entered to come in, things we passed along the way, and
14 where you see carpet you turn to the ---

15 Q. Just hold onto this. Just authenticate those first,
16 then we will show them to the jury later.

17 A. Okay. All right. Yes. From inside the home, things I
18 passed by just going in and out of the home that night.

19 Q. Okay. Are all of those photographs a fair and accurate
20 representation of the scene that you had entered May 27th,
21 2003?

22 A. Yes sir.

23 MR. HIXSON: Okay. Your Honor, I am referring to, and
24 would move these photographs into evidence. I'm referring to
25 State's Exhibit 28, State's Exhibit 29, State's Exhibit 30,

1 State's Exhibit 31, State's Exhibit 32, and finally, State's
2 Exhibit 34 in the series.

3 THE COURT: All right. Any objection?

4 MS. BASS: No, Your Honor.

5 MR. LOCKLEAR: I need to look at them first, Your
6 Honor. I ---

7 THE COURT: Very good.

8 MR. LOCKLEAR: Without objection, Your Honor.

9 THE COURT: All right. Very good. All right, they are
10 in evidence without objection.

11 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
12 NUMBERS 28, 29, 30, 31, 32 AND 34.)

13 Q. All right, Mr. Lilly, you indicated that you had come
14 through the side door. Is that -- you go out through the side
15 door; is that correct?

16 A. Yes sir.

17 Q. So if I can start -- just direct your testimony at that
18 reference point and go forward from there just to make it
19 easier to understand.

20 Can you please, Mr. Brown ---

21 May I publish these to the jury, Your Honor?

22 THE COURT: Yes sir.

23 MR. HIXSON: Number 5, Mr. Brown.

24 Q. I'm referring to State's 28. Just please describe and
25 orient that for the jury.

1 A. The door is open, looking into the kitchen, into the
2 living room of the house.

3 MR. HIXSON: Okay. Computer slide 5(A).

4 Q. That's State's 29. Do you recognize that?

5 A. That would be from the living room, looking back out to
6 where we traveled in and out of home.

7 Q. Okay. Can you -- looking through the door -- what do
8 you see in that photograph as you look through the doorway?

9 A. I see the parking lot where the ambulance would have
10 been parked, and I see a vehicle parked there, so ---

11 MR. HIXSON: Slide Number 6, Mr. Brown.

12 Q. I'm referring to State's Exhibit 30 in this.

13 A. The kitchen, coming in and out, would have been to my
14 left as I was coming in, or my right as I was going out.

15 Q. I'm referring the slide Number 7, which is State's
16 Exhibit 31. Do you recognize that? Or you already indicated
17 you did.

18 A. Yes. That's the counter. That -- just right on the
19 way, right -- as you would pass -- go past the counter and
20 take a left, and go to where the patient was.

21 MR. HIXSON: Slide Number 8, Mr. Brown, and that is
22 State's Exhibit 4.)

23 A. That was the door we came in and out of, looking back
24 at it across the kitchen.

25 MR. HIXSON: And finally, in this series, 7(A), slide

1 7(A), Mr. Brown.

2 Q. Which corresponds to State's Exhibit 32 in evidence.

3 A. Into the living room area of the house, take a left
4 through this door, go to the left, was the hallway where the
5 dog was, and where the patient was in the back.

6 Q. Okay.

7 MR. HIXSON: Thank you very much, Mr. Lilly.

8 Beg the Court's indulgence just for a moment, please.

9 THE COURT: Yes sir.

10 MR. HIXSON: I believe this will be your last series,
11 Mr. Lilly.

12 A. All right.

13 MR. HIXSON: Thank you for your patience.

14 Apologize, Your Honor.

15 THE COURT: Yes sir.

16 Q. All right, Mr. Lilly, let's take a look and make sure
17 the jury doesn't see these. All right. Take a look at that
18 those, look at those, and just tell me, do you recognize those
19 items?

20 A. Yes sir.

21 Q. Okay. Generally, what are they?

22 A. Scenes from inside the bedroom where -- pictures of
23 where -- pictures inside the bedroom where we had our patient.

24 Q. Okay. And I'm referring to State's 47, State's 48,
25 State's 49, State's 50 at this time, and describe that

1 photograph in a little bit more detail. I believe there are
2 some objections on this one. Describe what you are looking
3 at.

4 A. The floor beside the mattresses, where the patient was,
5 in the bedroom, just the foot of the mattress, with some -- a
6 pile of things there.

7 Q. Okay.

8 MR. HIXSON: At this time the State would move -- is
9 that a fair and accurate representation of the scene that you
10 saw?

11 A. Yes sir.

12 MR. HIXSON: At this time the State would move State's
13 50 into evidence.

14 THE COURT: Any objection?

15 MS. BASS: None, Your Honor.

16 MR. LOCKLEAR: No objection on that, Your Honor.

17 THE COURT: All right. State's 50 is in evidence
18 without objection.

19 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
20 NUMBER 50.)

21 Q. Take a look at State's 47. Describe that photograph as
22 well.

23 A. That was where we entered, going into the bedroom where
24 he was on the bed here.

25 Q. Okay. Is that a fair and accurate representation of

1 the scene that you saw on May 27, 2003?

2 A. Yes.

3 MR. HIXSON: At this time the State would move State's
4 47 into evidence.

5 THE COURT: Any objection?

6 MS. BASS: No, Your Honor.

7 MR. LOCKLEAR: No objection, Your Honor.

8 THE COURT: It's in evidence without objection.

9 MR. HIXSON: Thank you, Your Honor.

10 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 47.)

12 Q. Take a look at both of these. You already indicated
13 what -- what -- describe State's 48.

14 MR. HIXSON: The witness is looking at 48.

15 A. That's looking back out the hallway, where we saw the
16 dog earlier, and -- from the bedroom out.

17 Q. Okay. And is that a fair and accurate representation
18 of the scene that you saw?

19 A. Yes.

20 Q. And State's 49.

21 A. The same thing, just across the corner of the bed, at
22 the door, leaving the bedroom.

23 MR. HIXSON: At this time ---

24 Q. Is that a fair and accurate representation of the scene
25 that you saw?

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1 A. Yes.

2 MR. HIXSON: At this time the State would move State's
3 Exhibit 48 and 49 into evidence.

4 THE COURT: Any objection?

5 MS. BASS: No, Your Honor.

6 MR. LOCKLEAR: No objection, Your Honor.

7 THE COURT: All right. 48 and 49 are in evidence
8 without objection.

9 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
10 NUMBER 48, AND STATE'S EXHIBIT NUMBER 49.)

11 MR. HIXSON: Thank you, Your Honor. At this time we
12 would ask to publish these to the jury, Your Honor.

13 THE COURT: You may do so.

14 MR. HIXSON: Mr. Brown, can you please pull up slide
15 19(A) please.

16 Q. And describe that to the jury, Mr. Lilly.

17 A. From the hallway, looking into the bedroom, the door we
18 entered to gain access to our patient. He was in that room.

19 Q. Okay. Please look at ---

20 MR. HIXSON: Mr. Brown, 20, slide 20, Mr. Brown.

21 Q. And that's State's Exhibit 48.

22 A. That's a photograph from the bedroom, looking out the
23 same door, back down the hall. You can see the area where the
24 dog was.

25 MR. HIXSON: All right. Could you please pull up

1 20(A), Mr. Brown, please.

2 Q. Could you please describe that when it comes up, Mr.
3 Lilly.

4 A. The same door. It's just showing part of the bed
5 mattress.

6 Q. All right.

7 MR. HIXSON: And 21, please, Mr. Brown, which is
8 State's Exhibit 50.

9 A. A pile of linens at the bottom of the bed.

10 Q. Okay. Let me ask you this, when you -- or let's get in
11 this next photograph. We'll go from there. Okay.

12 Let me show you two more photographs, State's 51 and
13 State's 52 - don't show this to the jury - and see if you
✓ 14 recognize those items.

15 A. Yes sir.

16 Q. What are those?

17 A. It's Lesley Eastham doing bag valve mass ventilations
18 and Claudine Barr standing beside the patient secured to the
19 backboard I talked about earlier, and then it's the bed after
20 he has been removed.

21 Q. Okay. And is that a fair and accurate representation
22 of what you recall that scene to look like May 27th, 2003,
23 both of those photographs? And I'm referring to State's 51,
24 and State's 52.

25 A. Yes.

1 **MR. HIXSON:** At this time the State would move both of
2 these photographs, State's 51 and 52 in evidence, Your Honor.

3 **THE COURT:** Any objection?

4 **MS. BASS:** No, Your Honor.

5 **MR. LOCKLEAR:** Yes sir, Your Honor, to 51, and I don't
6 know if the Court would prefer to hear it now or at a later
7 point.

8 **THE COURT:** Let me see that.

9 All right. Well, 52 is in evidence without objection.

10 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 52.)

12 **THE COURT:** And at the present time I'm not going to
13 allow you to publish 51. I will reserve ruling on 51 until I
14 can take a break and I can hear arguments of counsel at that
15 time.

16 (PHOTOGRAPH MARKED STATE'S EXHIBIT NUMBER 51, FOR
17 IDENTIFICATION ONLY AT THIS TIME.)

18 **MR. HIXSON:** May I publish State's 52 at this time,
19 Your Honor?

20 **THE COURT:** 52. Yes, you may.

21 **MR. HIXSON:** Mr. Brown, that's Item 23, that is slide
22 23 for our computer, and State's Exhibit 52.

23 A. That's the bed after our patient was removed from it.

24 Q. Let me ask you some questions about this. Let me bring
25 you back to item 51 for your recollection. Don't show that to

1 the jury.

2 A. Okay.

3 Q. As you prepare to treat a patient, what's your process
4 relating to the bed clothes and the items around the patient?

5 A. Try not to disturb them as little as you can, but
6 sometimes you have to, but you try to remain everything
7 intact. If someone was shot then, you know, you always think
8 it's a possible crime scene, so you don't disturb anything, or
9 as little disturbance as you can, just to get them moved and
10 get them out, so ---

11 Q. Was Mr. Pope -- to your recollection, was Mr. Pope
12 moved from the position he was found in order for you to treat
13 him?

14 A. He was rolled to his side, and put upon that board.
15 That was his movement. Once he was secured to the board he
16 was taken out of the house.

17 Q. Okay. And this probably goes without saying. What's
18 your primary responsibility when you are called out on
19 something like this, when you are trying to save a man's life?

20 A. I don't know if I understand. I mean, ---

21 Q. Are you concerned about the integrity of the crime
22 scene at this time?

23 A. No sir. His life is the most important.

24 Q. And please follow up. Tell us what you did after that
25 picture was taken, and I think you indicated before, just to

1 finish your involvement in the case.

2 A. Up unto that point, was hand carried on that backboard
3 out to the gurney, loaded in an ambulance, and transported to
4 Georgetown Hospital where care was transferred to the
5 emergency room.

6 Q. At some point in time -- when was the last time that
7 you were in that house?

8 A. We had to go back a couple of hours later, I'm not sure
9 of the time, and meet with S.L.E.D. to have our bootprints
10 taken, because there were bootprints in the house, and we had
11 to make sure -- they wanted to see if they were E.M.S. tracks.

12 Q. Okay. What were you told as a result of that?

13 A. I was told that the ---

14 MR. LOCKLEAR: Objection, Your Honor, hearsay.

15 THE COURT: Sustained.

16 Q. Based on that, was it your understanding that you --
17 y'all had walked through that blood?

18 MS. BASS: Your Honor, that's still -- objection to
19 hearsay.

20 THE COURT: You need to rephrase your question,
21 Solicitor.

22 Q. Did you walk through the dog's blood in the hallway
23 that night?

24 A. I did.

25 Q. Was it necessary to walk through that dog's blood, with

1 the E.M.S. crew, in order to treat that patient?

2 A. Yes sir.

3 Q. Let's talk about Mr. Pope for a second. Talk about his
4 physical condition there, as well as getting him to whatever
5 advance medical care you gave to him.

6 A. From when we arrived?

7 Q. Yes sir.

8 A. I arrived to find Officer Oldham treating him with
9 C.P.R., and a female was there too. I didn't know who that
10 person was, but I knew Officer Oldham. He was a part of my
11 volunteer fire department. He said he felt a pulse, and I
12 trusted that's what he said, and we began treating Mr. Pope
13 accordingly at that time.

14 C.P.R. was initiated, and all advance care was given.
15 Once he was removed from the house he was intubated to control
16 his airway, and two I.V.s were established, and C.P.R. was
17 continued on the way to the hospital.

18 Q. At some point in time did Mr. Pope lose that battle?

19 A. At the hospital, after care was transferred. We worked
20 him as if we could save his life the whole time he was with us
21 in our ambulance.

22 Q. Okay. Do you recall about what time period you are
23 dealing with. I think you had indicated earlier roughly your
24 response time. Do you recall around what time that you
25 transferred care at the hospital and when Mr. Pope passed on?

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1 A. We were still at the hospital cleaning up when they
2 said he had expired.

3 Q. Okay. Can you roughly give a range of time?

4 MS. BASS: Your Honor, object. He -- two different
5 places, two different things. It's already been asked and
6 answered.

7 THE COURT: As to that objection it's overruled.

8 Q. Were you at the hospital after midnight? Were you at
9 the hospital after midnight?

10 A. Yes sir.

11 Q. Was it sometime after that you became aware of that
12 information?

13 A. Yes sir.

14 MR. HIXSON: Okay. Beg the Court's indulgence just for
15 a moment, Your Honor.

16 THE COURT: Yes sir.

17 MR. HIXSON: Your Honor, I'm showing the witness what
18 has been marked as State's Exhibit 27.

19 Mr. Brown, if you defendant, that's item 5(A).

20 Q. And Mr. Lilly, I think you already indicated -- we'll
21 just do it again. Where the ambulance was parked that evening

22 ---

23 A. Yes sir.

24 Q. If you would please indicate again for the benefit of
25 the jury.

1 A. It was in the -- on the concrete to the door, beyond
2 the fence.

3 Q. When you were on the scene can you recall about how
4 many people you believe were on -- at that location, including
5 law enforcement?

6 A. I can't say how many. There were -- I remember seeing
7 three law enforcement officers that I knew, and a couple that
8 I did know, so I can't say how many were there.

9 Q. Okay. How did you gain access to that house? You
10 indicated that before I believe.

11 A. We were let in through this side door right here.

12 Q. And can you -- how many folks came in and out that door
13 to that parking lot when you were there? How many trips do
14 you know you took?

15 A. I took at least three, gathering equipment and getting
16 the gurney ready outside.

17 Q. Do you know how many other folks accessed and egressed
18 through that point?

19 A. No sir. I mean, there were three others with E.M.S..
20 I can tell you that. As far as that, I don't know.

21 Q. Okay. You know at least multiple trips with -- for
22 E.M.S..

23 A. Yes.

24 MR. HIXSON: I have no further questions of this
25 witness at this time.

1 **THE COURT:** All right. Cross-examination.

2 **MS. BASS:** May it please the Court.

3 **THE COURT:** Yes Ma'am.

4 **CROSS-EXAMINATION BY MS. BASS:**

5 **MS. BASS:** Good morning. I'm Julia Bass. I just have
6 a couple of questions for you.

7 I'm going to be showing him State's Exhibit Number 24,
8 please.

9 Q. That photograph would have been taken the next morning,
10 or several hours after you were there; is that correct?

11 A. Yes Ma'am.

12 Q. Because when you went over there you were call, and
13 responded very quickly, correct?

14 A. Yes Ma'am.

15 Q. It was still pitch black dark, correct?

16 A. Yes Ma'am.

17 Q. Okay. So State's Exhibit Number 24 would have been
18 daylight hours. What time did you first get to the scene?

19 A. It -- as I told him, it was in the eleven o'clock hour.
20 I don't have the report to know exactly what the times were.

21 Q. But right before midnight; is that correct?

22 A. Yes Ma'am.

23 Q. And so this would have been -- that is not exactly how
24 the scene looked in State's Exhibit Number 24, because when
25 you arrived it was pitch black dark, correct?

1 A. Correct.

2 Q. But otherwise, 24 looks how the scene looked, other
3 than it being daylight, correct ---

4 A. Yes Ma'am.

5 Q. ---And you being able to see better.

6 A. Right.

7 Q. Okay. Thank you.

8 MS. BASS: I'm going to be showing Officer Lilly -- is
9 that your correct title?

10 A. Yes, I -- that's fine.

11 Q. Is that good. Okay.

12 MS. BASS: I'm going to be showing him State's Exhibit
13 Number 48, Your Honor.

14 Q. That back bedroom is a very small space; is it not?

15 A. Yes Ma'am.

16 Q. And it's difficult to move around in there; is it not?

17 A. It -- yes Ma'am.

18 Q. And it would be very crowded just with you and Ms.
19 Eastham in there; is that correct?

20 A. Well, there would have been enough room for us to be
21 there on each side of the bed because you ---

22 Q. But you are primarily working on the bed?

23 A. Yes Ma'am.

24 Q. But it's a tight space; is that fair enough?

25 A. It -- yes Ma'am. It's a small space.

1 **MS. BASS:** Okay. And that was Number 48.

2 And I'm going to be showing Officer Lilly Number 49,
3 please.

4 Q. This is the entrance into the bedroom; is that correct?

5 A. Yes Ma'am.

6 Q. And that would be -- could you just tell the jury --
7 they are going to be able to see it, but that -- where were
8 you standing in that area, and where was Ms. Eastham standing?

9 A. She was on the side of the bed here.

10 Q. Yes sir.

11 A. This is the bottom of the bed, looking toward the
12 door ---

13 Q. Yes sir.

14 A. ---So you have the bed that comes up, and there's a
15 space down each side.

16 Q. Yes sir.

17 A. The two people who were in the house when I arrived
18 were on -- which would be the patient's right side, which
19 would be the right side of the bed. That's where we went to.

20 Q. And that would be Keri and Officer Oldham?

21 A. It was Officer Oldham, and someone I cannot identify.
22 Okay. I'm -- I don't remember that -- I remember a female. I
23 can tell you that.

24 **MS. BASS:** Hold one moment, Your Honor, please.

25 Q. May I pass him up his report, Your Honor, just to

1 refresh his memory?

2 THE COURT: Yes Ma'am.

3 Any objection, Solicitor?

4 MR. HIXSON: No, Your Honor.

5 Q. If you could just read over your report I have a couple
6 of questions for you.

7 A. Okay.

8 Okay.

9 Q. Okay. and can you tell us what time you arrived,
10 please.

11 THE COURT: I'm sorry. Before you get started.

12 Did that help refresh your memory?

13 A. Yes sir.

14 THE COURT: Hand the report back to counsel.

15 MS. BASS: Okay. Thank you.

16 A. She is asking me the times. Can I read the times?

17 THE COURT: No sir. You can use the report to refresh
18 your memory. You cannot use it to testify from.

19 A. Okay.

20 Q. Can you give us your best guess now from reviewing your
21 report what time that you arrived?

22 A. Quarter till twelve.

23 Q. Eleven forty-five P.M..

24 A. About, on or about 11:45.

25 Q. And you responded very shortly after being called,

1 correct?

2 A. Yes Ma'am.

3 Q. And can you look at State's Exhibit Number 29 please.

4 A. Okay.

5 Q. And can you tell the jury what was over the glass part
6 of the door? What was -- do you remember what was over the
7 glass part of the door?

8 A. That door was always open. I don't remember anything
9 over that door.

10 Q. Okay. And you said Mr. Pope was rolled onto his side,
11 correct.

12 A. Yes Ma'am.

13 Q. And you said that you and Ms. Eastham worked to try to
14 save Joey's life.

15 A. Yes Ma'am.

16 Q. Okay. And then you said he was hand-carried. Do you
17 mean hand-carried on, like a stretcher?

18 A. No. On the backboard. He was rolled and put on a
19 spineboard to keep him in line.

20 Q. Okay. You were on the bed trying to save his life.

21 A. Yes Ma'am.

22 Q. Okay. At any time was the spineboard put on a gurney
23 and rolled out of the house?

24 A. The gurney wasn't brought in the house. It was
25 outside.

1 Q. Okay. So Mr. Pope was rolled over to his side ---

2 A. Yes Ma'am.

3 Q. ---Ya'll desperately tried to save his life ---

4 A. Yes Ma'am.

5 Q. ---Even up to the point he got to the hospital.

6 A. Yes Ma'am.

7 Q. Okay. You put him on that hard spineboard so he
8 wouldn't move his head and stuff, right?

9 A. To do C.P.R. effectively he has to be on a hard surface
10 ---

11 Q. Right. Because otherwise if you are going up and down
12 while somebody ---

13 A. ---Because you are -- correct.

14 Q. ---Is on a bed, on top of pillow ---

15 A. Correct.

16 Q. ---That could be a problem.

17 A. Correct.

18 Q. Okay. But he was never put on a gurney and taken
19 outside.

20 A. He was carried on that board out of the house, and set
21 on the gurney outside.

22 Q. Which is that really hard board, like harder than a
23 stretcher; it's the spineboard.

24 A. Yes Ma'am.

25 Q. Okay. And y'all carried him out.

- 1 A. Yes Ma'am.
- 2 Q. All four of you carried him out?
- 3 A. I think it was myself and Jim Faulkenhagen that carried
4 him out, who is on the report too, because we were the two men
5 there. It would not have been uncommon for two men to carry a
6 man out.
- 7 Q. Right. Because he was a big guy.
- 8 A. Right.
- 9 Q. Okay. And it was you, Officer Lilly, Lesley Eastham --
10 that's the lady in the picture, right, with the short hair ---
- 11 A. Yes.
- 12 Q. ---Officer -- and I don't want to butcher his name.
13 Officer. ---
- 14 A. It's Faulkenhagen.
- 15 Q. ---Faulkenhagen.
- 16 A. Yes Ma'am.
- 17 Q. And who was the fourth person there?
- 18 A. Claudine Barr.
- 19 Q. Claudine Barr. Okay. And you told Mr. Hixson that
20 when you walked in you went straight to the back bedroom.
- 21 A. That's where we were led to. Yes Ma'am.
- 22 Q. Okay. And that's a very short hallway.
- 23 A. Hallway. Yes. There's a -- right.
- 24 Q. You testified earlier that's a very short hallway.
- 25 A. You can see it in the photograph. It has a different

1 floor.

2 Q. Right. And there were two closed doors when you got
3 there, like two of the bedroom doors were closed. Did you see
4 the puppies, or the basket of puppies or anything?

5 A. No Ma'am.

6 Q. Did you see little baby Zoe ---

7 A. No Ma'am.

8 Q. ---In the crib? And you never went into any -- either
9 one of the bedrooms.

10 A. No Ma'am.

11 Q. Doors closed the whole time you were there.

12 A. To my recollection, yes Ma'am.

13 Q. Yes sir. Because I know this has been eight years.

14 Okay.

15 A. Right.

16 Q. All right. And did you see -- I know it's in the
17 pictures. Do you remember seeing a playpen, children's toys,
18 highchair, stuff like that as you walked through, or did you
19 pay attention?

20 A. I don't recall those things.

21 Q. That's not what you were there for, right.

22 A. Right.

23 Q. Okay. And the photograph the Solicitor entered in, it
24 was you and Eastham that were -- that came in after Officer
25 Oldham, right.

1 A. Yes Ma'am.

2 Q. Okay. That was you and Lesley Eastham. And y'all got
3 up on the bed and were trying to save his life, or around the
4 bed, and she's actually on the bed; is that correct?

5 A. I ---

6 Q. Do you remember?

7 **THE COURT:** I'm sorry. You need to answer, sir.

8 A. I don't recall. I can't say if she was on the bed, or
9 if her knee was just touching the bed.

10 **MS. BASS:** Just one question -- just one moment, Your
11 Honor.

12 Q. Were you there when the dog was moved, or do you
13 remember?

14 A. I don't remember. We had to step over the dog. I --
15 that's -- my memory is stepping over the dog.

16 Q. Okay. But you certainly didn't move the dog.

17 A. No Ma'am. I didn't move the dog.

18 Q. And Mr. Pope, when I say he's a big guy, he's a tall
19 guy, and he weighed more than -- like, he was around three
20 hundred pounds or so, right, big guy.

21 A. I would say over two fifty.

22 Q. Okay. And now that you've reviewed your report that's
23 refreshed your recollection, correct..

24 A. Yes Ma'am.

25 Q. Okay. And when E.M.S. arrived on the scene it was

1 Officer Oldham and our client, Keri Pope, that was performing
2 C.P.R..

3 A. Yes.

4 Q. And isn't it also true that what Officer Oldham was
5 doing with our client when you arrived there, was the same
6 exact thing that you, although more skilled, and Ms. Eastham
7 were doing is the same thing that Officer Oldham and Keri were
8 doing. Y'all took over.

9 A. Correct.

10 Q. Okay. And you don't have the bag with you, the air bag
11 or whatever you call it. What's the way that you perform
12 C.P.R.?

13 A. Mouth to mouth.

14 Q. And you do mouth to mouth resuscitation with
15 compressions on the chest, and breathing into the mouth,
16 right.

17 A. Correct.

18 Q. And now that you've reviewed your report, no question
19 it was Keri and Officer Oldham that were performing C.P.R.
20 when you arrived.

21 A. Correct.

22 Q. And Keri was up on the bed, and she was breathing into
23 his mouth, and he had blood and vomit coming out of his mouth,
24 correct.

25 A. Yes Ma'am.

1 Q. And even though he had blood and vomit coming out of
2 his mouth, she and Officer Oldham were actually performing
3 C.P.R. when you walked in the room.

4 A. Yes.

5 MS. BASS: No further questions. Thank you, Your
6 Honor.

7 THE COURT: Cross-examination, Mr. Locklear.

8 MR. LOCKLEAR: May it please the Court, Your Honor.

9 THE COURT: Yes sir.

10 CROSS-EXAMINATION BY MR. LOCKLEAR:

11 MR. LOCKLEAR: Good morning, sir. How are you today?

12 A. Good.

13 Q. I just have a few questions for you. You testified
14 earlier, I believe, there were three officers on scene you
15 knew, or two officers on scene you knew?

16 A. Two. Two or -- I mean, I knew their faces. I can tell
17 you that I knew -- I knew Jerry Oldham. He was -- I knew him
18 from away from work.

19 Q. Okay. And then there was -- how many others you say
20 you did recognize that you saw there ---

21 A. I can't -- I can't recall, sir.

22 Q. So I assume it's safe to say that you didn't recall
23 because obviously you had more important duties observing what
24 any police officers are doing at the time other than Officer
25 Oldham when he was performing the chest compressions, correct.

1 A. Correct.

2 Q. Which I have a question about that. Did you say on
3 direct that Officer Oldham said he felt a pulse?

4 A. Officer Oldham told us that when he first got there he
5 felt a faint pulse, and they began mouth to mouth breathing
6 because he wasn't breathing, and they began chest compressions
7 because you do begin chest compressions if you don't have an
8 adequate pulse rate, and on the report his pulse rate was only
9 forty-two.

10 Q. Okay, so it was real low, obviously.

11 A. Yes.

12 Q. Okay. So it's fair to say that you didn't see any
13 officers doing any sort of investigation outside, collecting
14 any evidence or anything of that nature, correct.

15 A. I didn't pay attention to what the police officers were
16 doing. My job was to take care of Mr. Pope.

17 Q. Yes sir.

18 MR. LOCKLEAR: Thank you.

19 That's all I have, Your Honor.

20 THE COURT: All right. Any redirect?

21 MR. HIXSON: No, Your Honor.

22 THE COURT: All right. Do you wish the witness to be
23 excused?

24 MR. HIXSON: Yes sir.

25 THE COURT: Any objection?

1 **MS. BASS:** No, Your Honor.

2 **MR. LOCKLEAR:** We have no objection to that, Your
3 Honor.

4 **THE COURT:** All right, sir, you are released from your
5 Subpoena, and you may go back to your regular duties, sir.

6 A. Thank you.

7 **THE COURT:** Your next witness, Solicitor.

8 **MR. HIXSON:** Keith Smalls, Georgetown Police
9 Department.

10 **MR. HILLIARD:** If we could, Judge, we've been in the
11 courtroom ---

12 **THE COURT:** I appreciate that, and we are going to go
13 through the next witness.

14 Thank you.

15 **MR. HILLIARD:** Thank you, Your Honor.

16 **THE COURT:** Come around to be sworn, sir.

17 **ROBERT SMALL**, being first duly
18 sworn, testifies as follows:

19 **DIRECT-EXAMINATION BY MR. HIXSON:**

20 **MR. HIXSON:** Good morning, sir.

21 A. Good morning.

22 Q. Please tell the jury what you do for a living.

23 A. I am a police officer with the Georgetown City Police
24 Department.

25 Q. And how long have you been in that capacity?

1 A. Approximately seventeen years.

2 Q. Okay. So the seventeen years means you probably were
3 working back in May of 2003; is that right?

4 A. Yes sir.

5 Q. Please tell us what your duties were back in those
6 days.

7 A. In 2003 I was actually just a patrol officer.

8 Q. Okay. Do you recall any specific events, if something
9 interested happened during your shift May 27th of 2003.

10 A. I responded to a call reference to gunshots, and a
11 victim who had been shot.

12 Q. Okay. Tell us about it.

13 A. Basically a call came out on the radio from dispatch
14 stating a 1082, which was a fight in progress, with somebody
15 with a gun. While we -- I was riding by myself, but as I
16 responded to the call then another radio call came out stating
17 that somebody had been shot, and that the complainant on the
18 phone stated that her husband had been shot. So continued and
19 responded to the area of the address, and got out at that
20 location.

21 Q. Okay. Let me show you what is already in evidence as
22 State's Exhibit 19. See if you can point out the location
23 where you responded to for your tour of duty that day.

24 A. All right. It's the house right here.

25 Q. And can you please just describe for the jury the

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1 location of the house, the layout, what geographically is
2 around that area.

3 A. Basically it's to the west of where the Police
4 Department is now, but it's close to where the Stereo/Video
5 Shack is, across Highmarket Street, and Dr. Owens' office is
6 the office that's adjoining in the parking lot that's right at
7 the side of the -- the west side of the house.

8 Q. Okay. On this side -- what is over on that -- this
9 side, toward me in this photograph?

10 A. This is a vacant field. I mean, it's been used for
11 different things over the years. It used to be a car lot and
12 stuff there. Cemetery is back on this street. This is Duke
13 Street. And then there was a junk yard, Mary Ann's Junk Yard
14 that's back on Duke Street.

15 Q. Okay. So tell us what you did when you arrived on
16 scene in response to that call.

17 A. When I responded on the scene basically I was about the
18 third person there. The first two officers went in the house
19 with the complainant who called the 911 call in. I basically
20 checked the exterior of the house to make sure cause we were
21 under the assumption that it -- freshly committed, that
22 somebody had fled the scene, so I tried to make sure that
23 there was nobody armed or around the corners of the house, or
24 back near the -- Dr. Owens' office.

25 Q. Okay. And did you do that?

1 A. Yes.

2 Q. Okay. Well, once you did that, tell us what you did
3 after you secured the scene.

4 A. Basically after I -- or actually as I was doing that,
5 in the process and after that, once it was determined that the
6 suspect fled toward the cemetery I had radioed the other units
7 that were also en route and responding, and tried to set up a
8 perimeter on Duke Street and back toward the junk yard,
9 because that was the way that the suspects were suppose to
10 have fled toward Duke Street.

11 Q. Okay. Lets ask about -- you indicated a telephone call
12 came. Do you recall the time that that occurred, the exact
13 time that call came in?

14 A. The 911 call, or the call on the radio?

15 Q. The 911 call.

16 A. I know ---

17 MR. LOCKLEAR: I would object. These are facts outside
18 his knowledge. He's not the 911 operator. The only
19 information he had would have come through the dispatcher.

20 THE COURT: Rephrase your question.

21 Q. Are you aware of when you were told to respond to this
22 incident?

23 A. It was around 23:38 hours.

24 Q. Okay. And for a lay person's terms, what is that?

25 A. It's 11:38 P.M..

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1 Q. Okay. Please go from there. And upon responding to
2 that, after you secured the scene, did you, at some point in
3 time, come in contact with Ms. Pope?

4 A. Eventually, yes sir.

5 Q. Okay. And tell us about that, where you saw her, what
6 she was doing, those things.

7 A. Basically the other two officers, which was Officer
8 Oldham and Officer Sparkman, went inside the residence. I
9 stayed out on the exterior, which -- where you saw Dr. Owens'
10 office, and the parking lot that's on the west side of the
11 house. I stayed basically out on that perimeter and secured
12 the exterior of the scene, making sure nobody else came back
13 in, and did that till the other units arrived, and E.M.S. was
14 eventually called for, made sure that they got to where they
15 needed to get to and which door to use. And once E.M.S. got
16 there it was sometime shortly after that is when Ms. Pope
17 was -- came outside the house to where the -- Dr. Owens'
18 parking lot was, and basically at that time I spoke with her,
19 and tried to get as much information as I could about what had
20 happened or transpired.

21 Q. Did you write that information down in an incident
22 report?

23 A. Yes sir.

24 Q. Based on that conversation with Ms. Pope, were you able
25 to determine the direction of travel where the assailants had

1 ran?

2 A. It was stated that they ran toward the cemetery.

3 Q. Okay. And if you can -- take you back to State's
4 Exhibit 19.

5 MR. HIXSON: It's already in evidence, Your Honor.

6 THE COURT: All right, sir.

7 Q. Can you point to the direction relating to the
8 cemetery?

9 A. The cemetery is back here, and the house would be here,
10 so that would show that they went basically toward the north.

11 Q. Okay. And you indicated earlier that you walked around
12 the doctor's office to -- for officers' safety; is that
13 correct?

14 A. That's correct. What I could walk around, because
15 there are, you know obstacles and barriers there. Basically
16 checking around the corner to make sure nobody was around
17 there, and checking the other side, you know, everywhere
18 within the immediate area.

19 Q. Okay. When you say obstacles and barriers, what do you
20 mean by that?

21 A. Just fences and other things that are back in that
22 area.

23 Q. Okay. Very good. Let me show you two photographs.

24 MR. HIXSON: I'm referring to State's Exhibit 25, Your
25 Honor, and State's Exhibit 26.

1 Q. See if you recognize those two items. What are those?

2 A. The -- Exhibit 25 is the pickup truck that was in the
3 yard that was for sale, and 26 is showing the side of the
4 house, toward the back gate, rear yard, which would be -- the
5 cemetery is behind that area.

6 Q. Okay. Are those photographs a fair and accurate
7 representation of the scene that you saw on or about May 27,
8 2003?

9 A. Yes sir.

10 MR. HIXSON: At this time State would move State's 26
11 and 25 into evidence.

12 THE COURT: Any objection?

13 MS. BASS: No, Your Honor.

14 MR. LOCKLEAR: No objection, Your Honor.

15 THE COURT: All right, in evidence without objection.

16 MR. HIXSON: Thank you, Your Honor.

17 (PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
18 NUMBERS 25 AND 26.)

19 MR. HIXSON: And Your Honor, may I publish State's 25
20 please?

21 THE COURT: You may so do.

22 MR. HIXSON: Mr. Brown, that's item number two, and it
23 should come up on the computer screen and you can -- the jury
24 will be able to see it at the same time.

25 Q. So, can you describe that photograph, and the relevance

1 of that photograph to the jury, where that's located?

2 A. The truck is actually parked on the east side of the
3 house. The cemetery and stuff would be behind it, or to the
4 front of the truck.

5 Q. Is it in this area?

6 A. Yes.

7 MR. HIXSON: And the area I'm referring to, Your Honor,
8 is just to the righthand side of the "For Sale" sign in the
9 back rear window of the truck.

10 Mr. Brown, can you pull up computer number three, item
11 three on the computer.

12 That's State's Exhibit 26.

13 Q. And can you orient that photograph? Just tell the jury
14 where that is located in the photographs -- or in the -- in
15 comparison to the house and the doctor's office.

16 A. I'm trying to ---

17 Q. If I show you another photograph would that refresh
18 your recollection?

19 A. Well, that one is a little too tight. It appears to be
20 the ---

21 Q. Take a look at those three, see if that refreshes your
22 recollection.

23 A. The best of my recollection that would be the west side
24 of the house.

25 Q. Okay. Do those photographs refresh your recollection?

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1 A. Yes sir.

2 Q. Now let's go back to make the record clear. State's
3 26, what is that photograph referring to?

4 A. The west side of the house.

5 Q. All right. Is that toward the back yard?

6 A. Yes sir.

7 Q. Tell us about what you normally do on a crime of this
8 magnitude when you show up. Tell us what normally happens in
9 relation to your duties as a road officer when you first
10 respond.

11 A. Well, the initial -- what you would end up doing depends
12 on basically when you get there and what person you are, and
13 on this particular night, since they had already made initial
14 contact with the complainant and the other two officers had
15 two officers and they went in the house, then I just fell in
16 line with what else needed to be done. Nobody else was on
17 scene yet, nobody checked the exterior to make sure there was
18 not somebody still around with a gun out by the house, and
19 then I just secured the scene, making sure that -- because any
20 time you have any crime scene you've always got people --
21 either family members get a phone call, or you've got
22 neighbors, or people walking by that will come into the area,
23 so basically I was trying to secure the scene, keep everybody
24 out, and also trying to get as much information as I could to
25 relay that to the other officers that were out on the scene

1 setting up perimeters, and giving that as much information as
2 what we could get on the suspects, any kind of information at
3 all that we could put out that people would have more
4 information about what they are looking for, what's going on,
5 and go from there, and basically I stayed with the position of
6 securing the scene for most of that time, even when the other
7 officers who were in the house were relieved they went out and
8 set up the parameter, but I stayed securing the scene.

9 Q. Do you normally call for assistance or investigators to
10 show up?

11 A. We called for -- obviously, with a case of this
12 magnitude, a murder, a serious case, we are going to call
13 supervisors for patrol, and investigations, and they are going
14 to notify the chain of command and an on-call investigator
15 comes in, and when it's something like this usually we call
16 for additional help because it's going to be an extensive,
17 long time to be out there, so they usually call whatever other
18 manpower is needed.

19 Q. Well, did a crime scene individual show up?

20 A. The investigations did show up.

21 Q. Okay. And are you aware of whether State Law
22 Enforcement Division responded?

23 A. Eventually, yes.

24 Q. And tell us about that.

25 A. The decision was made during the time that this scene

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1 was secured that S.L.E.D. was going to be called to come down
2 and process the scene, and basically I was told to maintain
3 the scene until S.L.E.D. arrived.

4 Q. Okay. You indicated before in your -- that you had
5 memorialized some of this in your Incident Report. Do you --
6 is it your procedure to relay the information that you have
7 learned to the other officers that appear on scene, to keep
8 them up to date?

9 A. Yes sir. But if it's something where, in this
10 particular case, could -- you know, the call that came out was
11 a freshly committed shooting where you've got people that,
12 when the officers were in the house obviously they still
13 weren't on the scene. They fled the scene, so I mean, as much
14 information as we can get out about, you know, where they
15 went, how they went, what they looked like, what they are
16 wearing, all that information we try to get it out and
17 broadcast it initially on our frequency, and then hopefully
18 have central dispatch or others broadcast it to Sheriff's
19 Department and neighboring law enforcement.

20 Q. And I think you indicated this earlier, that you were
21 told specifically about the assailant's direction of travel;
22 is that correct?

23 A. Yes sir.

24 Q. And what was that again?

25 A. Toward the cemetery.

1 **MR. HIXSON:** I have no further questions of this
2 witness, Your Honor.

3 **THE COURT:** All right. Cross-examination.

4 **MS. BASS:** May it please the Court.

5 **THE COURT:** Yes Ma'am.

6 **CROSS-EXAMINATION BY MS. BASS:**

7 Q. Investigator Small, I'm Julia Bass. I'm going to have
8 a couple of questions for you but I want to grab a couple of
9 pictures for you.

10 **MS. BASS:** I'm going to show Investigator Small State's
11 Number 25, please.

12 Q. And I want to ask you -- okay, that's the black Ford
13 pick-up truck that was for sale, with the "For Sale" sign in
14 the back, that you told the Solicitor about. How close is
15 that to that house, and ---

16 A. To this house?

17 Q. Yes sir, to the Pope's home.

18 A. I mean it's relatively close.

19 Q. Would you say within feet?

20 A. Yes, it's definitely within feet, I mean, feet -- you
21 can go infinity.

22 Q. And you've been an investigator for quite some time,
23 correct.

24 A. Yes.

25 Q. You've investigated home invasions, armed robberies,

1 burglaries; is that correct?

2 A. Yes.

3 Q. How easy would it be, if I was trying to case that
4 house, to go up and say I wanted to look at that pick-up
5 truck?

6 A. It's obviously easy enough to say.

7 Q. Okay. And from 25 is it fair to say if I'm telling
8 somebody I wanted to look at that truck, or people were asking
9 to see the truck on May 27th of '03, that's within feet of
10 this light on the left, correct, by that door.

11 A. This door.

12 Q. Yes sir. That's within feet.

13 A. Yes.

14 Q. Okay. It's also within feet of the window if I wanted
15 to look under the awning, correct.

16 A. This window.

17 Q. Yes sir.

18 A. Yes.

19 Q. Could I also see in the back yard where that fence is
20 from that ---

21 A. Back here.

22 Q. Yes sir.

23 A. Part of it. Not all of it, but part of it.

24 Q. Okay. And if I look to the left I could also see the
25 front of the house; is that correct?

1 A. Here.

2 Q. Yes sir.

3 A. Yes Ma'am.

4 Q. Okay. Thank you, sir. And this picture, what's number
5 -- it's been marked as Number 26, it would certainly be
6 possible to run down that side of the house, jump over that
7 fence if I wanted to get away, correct.

8 A. Yes Ma'am.

9 Q. Okay.

10 MS. BASS: That's Number 26.

11 Q. And I'm going to show you Number 23. Well, let me go
12 back to 26. Can you tell the jury what part of the house we
13 were looking at? Is this the left part of the house, the
14 right part of the house? Can you -- let me show it back --
15 and I'm going to ask you the same questions about 23.

16 A. My recollection is that that's the -- what I would call
17 the left side of the house.

18 Q. Yes sir. Now, is that closer to Dr. Owens' house ---

19 A. Yes.

20 Q. ---Or closer to the cemetery?

21 A. Well, the cemetery would actually be behind the
22 residence, not beside it, but behind it.

23 Q. Like in the front of the pickup truck.

24 A. Yes.

25 Q. Okay.

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1 A. So, for instance, the -- behind the pickup truck would
2 be Highway U.S. 521, Highmarket Street ---

3 Q. Yes sir.

4 A. ---Running to Andrews to Georgetown ---

5 Q. Yes sir.

6 A. ---Then you've got the front of the house, and then
7 behind the house would be the cemetery. ---

8 Q. So ---

9 A. ---Back toward the high school.

10 Q. So it's fair to say, if I was running away from that
11 house, or anyone was running away from that house, I could run
12 in front of the pickup truck, toward the cemetery, and that
13 little section kind of close to the Police Department.

14 A. That would be going toward the Police Department now,
15 yes Ma'am.

16 Q. Okay. All that little area past the -- I would be
17 heading past the cemetery, at night.

18 A. Well, if you go toward the way that you are talking,
19 back toward Georgetown ---

20 Q. Yes sir.

21 A. ---I mean, you would be paralleling the cemetery.

22 Q. All right. Let's try to go north, south, east and
23 west, and I apologize if I'm confusing you.

24 A. Okay.

25 Q. If I wanted to run away from this house, or anyone

1 wanted to run away from this house, with the black truck
2 parked it is pointing toward the cemetery.

3 A. Yes Ma'am.

4 Q. So in the pitch black dark I could run that way if I
5 wanted to.

6 A. Yes Ma'am.

7 Q. I could run to the left, over toward Dr. Owens'
8 chiropractor office.

9 A. Yes Ma'am.

10 Q. I could run to the right as if I were running down the
11 sidewalk, heading back in near Sue Black's house and all that
12 stuff.

13 A. Toward Highmarket Street, yes Ma'am. I mean, you could
14 run any direction you want to run.

15 Q. Okay. If I wanted to run behind you I would be running
16 toward the laundromat and Radio Shack and stuff; is that
17 correct?

18 A. Andrews, yes Ma'am.

19 Q. Okay. So I could run any of those ways?

20 A. Any way you wanted to go.

21 Q. Okay. I'm want to show you State's Number 29, please.
22 And you were one of the first officers to arrive there, right.

23 A. Yes Ma'am.

24 Q. Okay. So 29 accurately depicts the actual house, Joey
25 and Keri's house, right.

1 A. This would be the side door that was in question.

2 Q. Yes sir.

3 A. Yes.

4 Q. And -- but this daylight seen in Number 29, we want to
5 be clear, when you arrived it was pitch black dark, before
6 midnight.

7 A. Pitch black dark, yes Ma'am.

8 Q. Okay. And that picture, 29, shows the house that --
9 where Joey and Keri lived, but it was not daylight like that
10 in 29.

11 A. No Ma'am.

12 Q. Okay. And that particular door, would you tell the
13 jury what's over that, I guess you would call diamond shape,
14 what's covering that? Can you remember?

15 A. What are you talking about?

16 Q. I'm referring to this. What was covering that? Do you
17 remember?

18 A. On the night in question.

19 Q. Yes sir. Can you remember what's covering that?

20 A. I don't recall what's covering it. I know that that
21 door leads to Dr. Owens' parking lot, that side of the house.

22 Q. Okay. And that parking lot is a lot of concrete,
23 right.

24 A. Yes Ma'am.

25 Q. Okay. But do you remember -- if you don't just let me

1 know. Do you remember if that -- seeing that covered like
2 that?

3 A. I don't recall what was on the door at all.

4 Q. But you didn't let anybody mess with it that night ---

5 A. No. I stayed out in the parking lot and you know,
6 E.M.S. and everybody went into the house, I did not. The
7 reason that -- my big focus on this door was the fact that
8 that was the door that they were said to have gained entrance
9 to the house, and that was the door they were said to have
10 fled out of the house.

11 Q. Yes sir, but you don't recall what was covering the
12 window. You know that you didn't allow anyone -- S.L.E.D.
13 didn't touch that window above the peep hole, right, while you
14 were there.

15 A. Not while I was there.

16 Q. And none of your police officers did.

17 A. No Ma'am.

18 Q. Okay. So that is however that glass was at the time.

19 A. I don't recollect how it was. Nobody touched it. I
20 don't know when the picture was taken.

21 Q. Okay. And the officer -- you allowed -- obviously
22 E.M.S. was there, later on S.L.E.D. arrived, and that would be
23 the S.L.E.D. agents from Columbia coming to help the Police
24 Department with the crime scene, correct.

25 A. Yes Ma'am.

1 Q. Okay. And were you the gentleman that took Zoe, the
2 baby, to Keri? Were you the one that went and got the baby,
3 or you had -- do you remember that?

4 A. I remember, because I wrote in my report. I mean, I
5 know that the baby was found in the house, and we made sure
6 that the baby got with her because we were in the process of -
7 - the victim's father had arrived, and getting the victim's
8 father to take Keri to the hospital because they were getting
9 ready to transport Joey to the hospital, and -- but my
10 recollection is that somebody from in the house brought the
11 baby out.

12 Q. Okay. That wasn't you, but you were present when the
13 baby was brought to Keri.

14 A. Yes Ma'am.

15 Q. Okay. And the baby was unharmed.

16 A. Yes Ma'am.

17 Q. Okay. And Keri is the lady that called 911, correct.
18 That's who you listed as complainant. She's the one that
19 called 911 to get you there.

20 A. Yes Ma'am.

21 Q. And she gave you a brief synopsis, or she told you --
22 you asked her to briefly tell you what happened. She told you
23 so you could get it out kind of like on a B.O.L.O., or to go
24 ahead and get it over dispatch, to get some assistance out
25 there, right.

1 A. Yes Ma'am.

2 Q. Okay. And the officers that you allowed into the home
3 were Oldham, and is he in -- serving our Country right now in
4 Iraq or Afghanistan?

5 A. I'm not sure. I haven't spoke with him in years. I
6 know that he did some service overseas, whether it was private
7 or military -- my understanding was with a private contractor,
8 maybe, but I'm not sure what he is still doing today.

9 Q. Okay. But you allowed -- obviously E.M.S. was allowed
10 to come in, S.L.E.D. later in the night, Officer Oldham,
11 Sparkman, Steve Church, Investigator Altman, and you didn't
12 allow Joey's daddy in the house, but you allowed him to take
13 Keri away to the hospital, right.

14 A. That's correct.

15 Q. Okay. And were you there when Officer Oldham and Keri
16 were performing C.P.R., or did you come after Officer Oldham?

17 A. I would have been there, but I wasn't in the house.

18 Q. Okay. They were in the bedroom; you were out front.

19 A. Right. The first two officers on the scene went in the
20 house, which would have been Officer Sparkman and Officer
21 Oldham, and since there was two of them together, and they
22 went in the house, I stayed on the exterior.

23 Q. And you were trying to keep anyone from coming in, and
24 if you were to see the suspects you were out there to control
25 what was going on out in the yard.

1 A. That's correct.

2 Q. Okay. And Keri had blood, you noted in your report, on
3 her face, her neck and her hands, correct.

4 A. Yes Ma'am.

5 Q. Okay. And when she talked to you you stated in your
6 report that you found her -- what was her demeanor? How did
7 she act? What did you put in your report?

8 A. If you want me to read exactly what's in there I'll do
9 that, but basically she was upset.

10 Q. Okay. And take a moment just to review -- I have just
11 maybe two questions for you on page three, if you can refresh
12 your recollection, if you need to.

13 A. What's your question, Ma'am?

14 **THE COURT:** All right, now, you can use the report to
15 refresh your memory then -- but you can't use it to testify.

16 **MS. BASS:** Just one moment, Your Honor.

17 A. Okay.

18 Q. How did you describe her demeanor, and the way she was
19 acting, in your professional opinion, on May 27th of 2003,
20 eight years ago.

21 **MR. HIXSON:** Your Honor, I object about admission of
22 opinion testimony, as an expert. He's not qualified as an
23 expert to give opinion.

24 **THE COURT:** I'll allow him to testify as to his
25 observations at that point in time.

1 You may testify as to your observations.

2 A. She was very upset, and at one point what I noted was
3 that she -- she threw up while she was in my presence.

4 Q. She vomited while she was talking to you.

5 A. Yes.

6 Q. But that's after she gave -- called 911, she met with
7 your briefly, she had the baby back, and she threw up, and
8 then you allowed Mr. Pope to -- Joey's daddy to take him with
9 her (SIC) to the hospital.

10 A. Yes.

11 **MS. BASS:** Okay. No further questions. Thank you so
12 much.

13 **THE COURT:** Mr. Locklear.

14 **MR. LOCKLEAR:** May it please the Court, Your Honor.

15 **THE COURT:** Yes sir.

16 **CROSS-EXAMINATION BY MR. LOCKLEAR:**

17 Q. Good morning, Investigator Small. How are you today?

18 A. Good.

19 Q. I won't be long with you at all. Who would be
20 considered the lead officer on the case? Does it work that
21 way when somebody arrives? Is there somebody who takes like
22 tactical charge of a crime scene?

23 A. Sometimes. I mean, it depends on what part of it it
24 is. I would say at that initial stage I was kind of setting
25 up everything, as far as setting up the other responding units

1 to set up a parameter and that type of thing.

2 Q. So since you were outside you would be the person they
3 would access. You were kind of at a point so to speak.

4 Q. Yes sir.

5 Q. Okay. Who made the decision to call an investigator
6 from the Georgetown Police Department, or is that standard
7 operating procedure in this kind of case?

8 A. It's pretty much standard, given the circumstances of
9 the case, being a murder case, or a shooting or whatever, a
10 series felony type of case, we would call in investigations.

11 Q. And is that because investigations has been trained in
12 certain evidentiary collection techniques and some other
13 things that maybe a patrol officer isn't trained in?

14 A. Yes sir.

15 Q. Who actually called for investigations that evening, if
16 you can remember?

17 A. I don't recall who called, whether it was done via the
18 radio, somebody just saying notify chain of command. I'm not
19 sure exactly how it was done.

20 Q. Okay. You stated that S.L.E.D. was called in to come
21 process the scene.

22 A. Yes sir.

23 Q. Who made the decision to call in S.L.E.D. to process
24 the scene?

25 A. My recollection was that that was done once the chain

1 of command got there, the Captains, that level made the
2 decision to call S.L.E.D. in.

3 Q. Does the Georgetown Police Department have people who
4 are trained, and have whatever tools to be necessary to
5 process crime scenes?

6 A. Yes sir.

7 Q. Y'all know how to take fingerprints, right.

8 A. Yes sir.

9 Q. Y'all know how to collect fluids.

10 A. Yes sir.

11 Q. Y'all know how to collect shell casings.

12 A. Yes sir.

13 Q. Y'all know how to look for footprints and disturbed
14 items in the home.

15 A. Yes sir.

16 Q. What does S.L.E.D. know how to do that the Georgetown
17 Police Department investigation team does not know how to do?

18 A. S.L.E.D. would have more equipment at their disposal --
19 at their disposal, things that we don't have, and they would
20 probably have more experience working this type of crime
21 because they do crimes all over the State, so they work, you
22 know, for instance, a murder, they probably work, you know,
23 ten times the murders, or more, than one of our investigators
24 work, because we've just got a small area that we deal with,
25 so they work a lot more crime scenes.

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1 Q. So would it be fair to say then that, I guess the
2 S.L.E.D. was better equipped to handle the crime scene than
3 the Georgetown Police Department, as far as the training of
4 the officers and the actual physical equipment itself?

5 A. I think that's a fair statement, yes sir.

6 Q. Were you around, and personally able to observe
7 S.L.E.D. when they were processing the crime scene?

8 A. Once S.L.E.D. arrived on the scene basically I was
9 relieved of securing the scene, because it was turned over to
10 them, and I left. I actually went and started writing the
11 initial report.

12 Q. And while you were on the scene did you collect any
13 evidence?

14 A. No sir.

15 Q. Did you observe any other officers of the Georgetown
16 Police Department collect any evidence from the crime scene?

17 A. The biggest thing that I was aware of - and I didn't
18 observe him do it, but I know that he did it because he told
19 me and I put it in my report was where Officer Oldham had
20 moved some of the shell casings because the E.M.S. was going
21 to have to come through the side door and go down that
22 hallway, and he removed those from the floor so they wouldn't
23 get trampled over or misplaced, or lost.

24 Q. And I would assume he collected those for evidence and
25 placed them in an evidence bag and later turned them over to

1 S.L.E.D., or put them in y'all's evidence room.

2 A. Yes sir.

3 Q. Other than Officer Oldham removing shell casings, are
4 you aware of anybody else who collected any evidence at the
5 scene on behalf of the Georgetown Police Department?

6 A. Not while I was there, sir.

7 Q. Are you aware of anybody at the Georgetown Police
8 Department dusting for any fingerprints?

9 A. No sir.

10 Q. There was a pickup truck that was parked out at the
11 side. Are you aware of anybody from Georgetown Police
12 Department or S.L.E.D. taking fingerprints from the interior
13 and exterior of that pickup truck?

14 A. The scene was basically secured and held sterile until
15 S.L.E.D. arrived. That was the intent.

16 MR. LOCKLEAR: Thank you.

17 That's all the questions I have of this witness, Your
18 Honor.

19 THE COURT: Redirect.

20 MR. HIXSON: Yes, Your Honor, just a follow-up on ---

21 Q. You indicated that you were aware that Officer Oldham
22 had moved shell casings in the hallway to prevent them from
23 getting kicked around; is that correct? Is that what you
24 testified to?

25 A. Yes sir.

1 Q. Are you also aware that the pitbull in the hallway was
2 pulled out of the way so E.M.S. could get out of there? Are
3 you aware of that?

4 A. No sir.

5 MR. HIXSON: Okay.

6 No further questions, Your Honor.

7 THE COURT: Do you wish the witness to be excused?

8 MR. HIXSON: Yes, please.

9 THE COURT: Any objection?

10 MS. BASS: No, Your Honor.

11 MR. LOCKLEAR: No objection, Your Honor.

12 THE COURT: All right, sir. You may be released from
13 your Subpoena and go back to your regular duties.

14 A. Thank you, sir.

15 THE COURT: You may step down.

16 All right. We are going to take a short break at this
17 time.

18 Mr. Foreman, if you would take your jury to the jury
19 room, please.

20 Everyone else remain seated.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 THE COURT: All right. We'll take a short break for
24 about five minutes.

25 Thank you very much.

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1 **MR. HIXSON:** Your Honor, there is one other matter I
2 call the Court -- that I may need to -- apologize, Your Honor.

3 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
4 **JURY.)**

5 **THE COURT:** All right, Ms. Jackson, Ms. Jennifer
6 Jackson, you -- the Court has, pursuant to it's authority and
7 reasons presented, removed one of the jurors in this case.
8 You are now -- and have been selected the replace that juror,
9 so you will move to that seat over, and you are now a member
10 of the -- one of the regular members of the twelve jurors in
11 this case, and therefore, Ms. Rollinson, you remain as the
12 lone alternate in this case. All right.

13 All right, Solicitor, are you ready to proceed with your
14 next witness?

15 **MR. HIXSON:** I am, Your Honor.

16 **THE COURT:** All right.

17 **MR. HIXSON:** At this time the State would call Special
18 Agent Diane Bodie, retired.

19 **DIANE BODIE,** being first duly
20 sworn, testifies as follows:

21 **DIRECT-EXAMINATION BY MR. HIXSON:**

22 Q. Ma'am, please tell us what you do for a living.

23 A. I presently am -- work a parttime job with the local
24 county in Columbia, South Carolina, Richland County, however,
25 I retired from the South Carolina Law Enforcement Division,

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1 commonly referred to as S.L.E.D., after thirty-two years
2 service with S.L.E.D..

3 I began my career in 1971 with the F.B.I., and had six
4 years service with them.

5 Q. Okay. Please let me take you back in time to the time
6 period relevant for this case, which was around May 27th of
7 2003. Do you recall that time period?

8 A. Yes sir.

9 Q. Okay. And did you have a -- you were working for
10 S.L.E.D. during that time; is that correct?

11 A. Yes sir.

12 Q. And tell us about the events -- at some point in time
13 did you receive a call from Georgetown Police Department for
14 an agency assistance?

15 A. Yes sir, around one o'clock in the morning. Our
16 officer-on-duty notified me at my home to respond to
17 Georgetown County for -- in reference to a death
18 investigation.

19 Q. And did you, in fact, do that?

20 A. Yes sir, I did.

21 Q. Okay. And so please tell the jury what -- what
22 transpired.

23 A. If -- Your Honor, if I may refer to my notes.

24 THE COURT: Is there any objection to that, Mr.
25 Hilliard?

1 **MS. BASS:** No, Your Honor.

2 **THE COURT:** All right. And Mr. Locklear.

3 **MR. LOCKLEAR:** No sir, as long as she uses them just to
4 refresh her recollection and not to testify to, Your Honor.

5 **THE COURT:** All right, so you will ---

6 **MR. LOCKLEAR:** We would, prior to cross-examination,
7 like to be able to review her notes though, Your Honor,
8 pursuant to the Rules of Evidence.

9 **THE COURT:** All right.

10 Ma'am, you can use your notes to refresh your memory,
11 but you cannot testify directly from them.

12 A. Yes sir.

13 **THE COURT:** All right. Go ahead.

14 A. I responded to the scene. I arrived at the scene with
15 another agent. He and I work side by side working crime
16 scenes as we are requested to.

17 I arrived at the scene around 3:45 in the morning, and I
18 believe I met with Investigator Altman. He briefed me on
19 the -- what had occurred.

20 Q. Let me show you a couple of photographs that have been
21 admitted into evidence and see if you recognize the area we
22 are referring to.

23 **MR. HIXSON:** I'm showing the witness what's been
24 already introduced as State's Exhibit 23.

25 **MR. HIXSON:** That is item S-4, Mr. Brown. It should

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1 come up on the screen right there.

2 Q. This is what I am referring to. See if you recognize
3 that, S-4.

4 A. Yes sir. This is the house that I responded to that
5 morning, the side of the house.

6 Q. And please tell the jury, for the uninformed such as
7 myself, what you do when you first get there, and you first
8 are called out to analyze a scene, take a look at the scene.

9 A. Well, the first thing we do is we meet with the local
10 agency that requested our response, and then we will do what
11 we call a survey of the scene, or a walk through the scene to
12 see what items we might have to protect or look for in the
13 scene, and that's what we did at first. We would have walked
14 around the scene to locate anything, and then gone through --
15 walked through the house to see what we -- was at the scene,
16 and we also photograph the scene.

17 Q. Okay. Let me show you State's 27.

18 MR. HIXSON: And that's slide number four.

19 Q. Do you recognize that?

20 MR. HIXSON: This all -- this -- 27 is in evidence
21 already, Your Honor.

22 THE COURT: That's S-4, or 4.

23 MR. HIXSON: Just Number 4.

24 A. Yes sir. That is the side door which we were told
25 where entry was made into the house.

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1 Q. Okay. Let me show you State's 28.

2 MR. HIXSON: Which is slide number 5.

3 A. This is just inside that door, the kitchen area, into a
4 living room type area of the home.

5 Q. Okay. Did you look for any items of evidentiary value
6 as you go through the house during this period of time?

7 A. Well, we try to observe what the condition of
8 everything is in the house, and some things that might have
9 been suggested that we look for, we try to locate in the
10 house, which some of our pictures reflect.

11 Q. Okay. Let's have a look at State's 29.

12 MR. HIXSON: That's slide number 5(A).

13 Q. Do you recognize that as well?

14 A. Yes sir. This is that same kitchen, just the other
15 side of the kitchen, photographing through the side door.

16 Q. Okay. And State's 31.

17 MR. HIXSON: That is item number seven. It's slide
18 number seven, excuse me, Mr. Brown.

19 A. Yes sir. This is kitchen again, the kitchen counter,
20 and kind of the threshold from the kitchen to the living room.

21 Q. Those slides -- these photographs represent the
22 condition that you found when you were there.

23 A. Yes sir.

24 Q. Also bring your attention to State's 32.

25 MR. HIXSON: And that is slide 7(A).

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1 A. Another picture that was taken standing in the kitchen
2 photographing through into the living room area.

3 Q. Let me show you an item that is not in evidence yet,
4 State's Exhibit 33 for identification only. Tell me what that
5 is. Tell the jury what that is.

6 A. This is a type of necklace that was lying on the floor
7 in between -- in the kitchen area, right at the rug area
8 between the kitchen and the living room.

9 Q. Okay. Does that photograph -- is that a fair and
10 accurate representation of the scene that you saw on the early
11 morning hours now of May 28th, 2003?

12 A. This would have been a photograph of how this -- where
13 this necklace was when we arrived at the scene around 3:45 in
14 the morning.

15 MR. HIXSON: At this time the State would move State's
16 Exhibit 33 into evidence.

17 THE COURT: Any objection?

18 MS. BASS: No, Your Honor.

19 MR. LOCKLEAR: No objection, Your Honor.

20 THE COURT: All right. It's in evidence without
21 objection.

22 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
23 NUMBER 33.)

24 MR. HIXSON: May I publish it, Your Honor?

25 THE COURT: Yes sir.

1 **MR. HIXSON:** This is 7(B), slide 7(B), Mr. Brown.

2 **Q.** And please describe for the jury. This is the first
3 time they get to see it, Ms. Bodie, so can you explain what
4 they are looking at.

5 **A.** It's a necklace lying on the floor. It's on the
6 hardwood part of the floor, the kitchen area, right between
7 the kitchen and the living room area. If you came in the side
8 door, straight through would be kitchen, to the living room.
9 That's the entrance we see right from the doorway through to
10 the living room. It's right there at that entrance. And the
11 necklace was broken and lying on the floor at that -- in that
12 condition when we arrived.

13 **Q:** Perhaps it's my age, or testimony, when you arrive on a
14 scene like this is it procedure to carry what's known as a
15 crime scene sketch?

16 **A.** Yes sir.

17 **Q.** Okay. And what is the purpose for that?

18 **A.** Just to know the general layout of where the evidence
19 was that we collected, and the place that we -- that we
20 actually processed for evidence.

21 **MS. BASS:** No objections, Your Honor.

22 **MR. LOCKLEAR:** No objections from Defendant, Miller,
23 either, Your Honor.

24 **THE COURT:** All right. Very good. And the exhibit
25 again is.

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1 **MR. HIXSON:** This is Item 63.

2 **THE COURT:** It's in evidence without objection.

3 **(PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT**
4 **NUMBER 63.)**

5 Q. All right, Ms. Bodie, now we can refer to it. Do you
6 recognize that?

7 A. Yes sir. This is a crime scene sketch, just the layout
8 of the house, and the different numbers on the sketch
9 represent the different items of evidence that we collected
10 from the scene.

11 Q. Okay. And you just testified relating to a location of
12 a necklace. That's State's 33. That's in evidence. Does
13 that correspond to a location on the crime scene sketch you
14 did?

15 A. Yes sir. It's number three. It's stated as a
16 necklace, and it's right there between the doorway of the
17 kitchen and the living room.

18 Q. Okay. Can you point to that on that -- what number is
19 that?

20 A. May I stand up?

21 **THE COURT:** Yes. You need to speak up though.

22 A. This number three, right here.

23 Q. And I'll refer you to State's 32.

24 **MR. HIXSON:** That's slide number 7(A).

25 That item is already in evidence.

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1 Q. And where is that item located in relation to that
2 photograph? Where is the necklace located in relation to that
3 photograph?

4 A. The necklace is laying right at the edge of the carpet,
5 the living room door and the kitchen area.

6 Q. And let the record reflect I'm pointing at a crime
7 scene diagram to the jury, to where item number three is,
8 where the witness pointed out on the diagram.

9 MR. HIXSON: I apologize, Mr. Brown. That is the crime
10 scene sketch slide that you have. Would you please place that
11 up on the screen for us.

12 A. Yes sir. The item number three in the crime scene
13 sketch, over in the legend it states "necklace", and that was
14 the approximate location of where it was located when we
15 collected it.

16 MR. HIXSON: Thank you, Ms. Bodie.

17 Q. As we advance down the hallway, Ma'am -- well, before
18 we get to the hallway let's take a ---

19 MR. HIXSON: We have item number 34. I believe that's
20 in evidence.

21 Q. Can you please describe this item number 34 for the
22 jury.

23 MR. HIXSON: That is slide number 8.

24 A. This is a photograph inside the kitchen, on the other
25 side of the breakfast bar, but it's inside the kitchen, facing

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1 the door that goes to the outside.

2 Q. All right. I'm going to show you a series of
3 photographs, just for judicial efficiency, see if you can look
4 through those photographs all at once, and if you recognize
5 them then we will go through them, authenticate them
6 individually if that's all right.

7 Do you recognize those items?

8 A. I recognize the items. I can say for sure the first
9 three are my photographs because of the S.L.E.D. stamp on
10 them.

11 Q. Okay. And specifically, so that it's clear for the
12 record, referring to State's 35 for I.D. only, State's 36,
13 State's 37, all these for identification only, State's 38,
14 State's 40 and State's 42. Are all these photographs -- did
15 you see the -- have you seen the subject matter of these
16 photographs before?

17 A. Yes sir. I recognize the floor in the ones that I'm
18 not sure were taken by me.

19 Q. Okay. Did you see the subject matter -- in other
20 words, were they -- did you see the door?

21 A. Yes sir.

22 Q. Are those photographs a fair and accurate
23 representation of the scene that you saw that night, whether
24 you took them or not?

25 A. Yes sir.

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1 Q. Okay.

2 MR. HIXSON: At this time the State would move State's
3 35, 36, 37, 38, and 42 into evidence.

4 THE COURT: Is that 40?

5 MR. HIXSON: Not yet.

6 THE COURT: All right. Very good. All right, so
7 State's 35, 36, 37, 38, 42. Any objection to those?

8 MS. BASS: No objections, Your Honor, to those numbers.

9 MR. LOCKLEAR: If I could see these specific exhibits,
10 please.

11 No objections from Defendant, Miller, Your Honor, as to
12 those exhibits.

13 THE COURT: All right. 35, 36, 37, 38 and 42 are in
14 evidence without objection.

15 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
16 NUMBERS 35, 36, 37, 38 AND 42.)

17 MR. HIXSON: Your Honor, counsel -- and also now I will
18 move State's 40 in based on his indication no objection on
19 State's 40.

20 MR. LOCKLEAR: No objection on 40 from the Defendant,
21 Miller, Your Honor.

22 MS. BASS: No objection, Your Honor.

23 THE COURT: All right. It's in evidence without
24 objection.

25 MR. HIXSON: Thank you, Your Honor.

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1 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
2 NUMBER 40.)

3 MR. HIXSON: May I publish these, Your Honor?

4 THE COURT: Yes sir.

5 MR. HIXSON: Let's refer to State's 35.

6 And that is slide number nine, Mr. Brown.

7 I think the jury should see that.

8 Q. Please tell us what that is. What's the relevance of
9 that general photograph? What does that scene depict?

10 A. This is the door, the side door where entrance was to
11 have been made into the house. There is a gun on the kitchen
12 counter there with the dishes, sitting to the left of the
13 dishes on a towel, and also some cartridges are sitting there.
14 You can't see them very well in the picture, but there are
15 other closeup pictures.

16 Q. Let's refer to State's Exhibit 37. That is Item Number
17 11.

18 A. And this is the door right by the kitchen counter that
19 I was -- referenced to a minute ago.

20 Q. Now let me ask you, during the time you were processing
21 the scene were there attempts to take fingerprints from the
22 scene?

23 A. Yes sir. We processed that door.

24 Q. And do you recall what the results of that processing
25 were?

1 A. When we processed the entrance door we collected a
2 latent print from the scene, however, I was unable to identify
3 those prints to anyone, not because -- I was unable to
4 identify them because they were not of sufficient ridge detail
5 to identify anyone. If you had told me they were your prints
6 I couldn't prove they were your prints because of the detail
7 left in the print.

8 Q. Okay. Let me show you State's Exhibit 38 in evidence.

9 MR. HIXSON: Item 12, slide 12.

10 Q. See if you recognize that.

11 A. This is the door, the inside of the door at the kitchen
12 counter, and the entranceway.

13 Q. Was there any indication of forced entry into the Pope
14 home that evening?

15 A. We photographed it. It didn't appear to be. There's -
16 - the door is not in great condition, but it didn't appear
17 like it was bent in or anything, didn't make note of forced
18 entry.

19 Q. You mentioned already that you had tried to use
20 fingerprint technology to obtain fingerprints. Did you do any
21 kind of inspection for blood or any other biological matter at
22 the door and the surrounding area?

23 A. We would have looked for blood, knowing that someone
24 had been shot in the scene, but we didn't locate any blood.

25 Q. I'm showing you an item that's been marked State's

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1 Exhibit 36. It's in evidence.

2 MR. HIXSON: That is S.L.E.D. -- or excuse me -- slide
3 number 10.

4 A. This is, again, on the kitchen counter, right to the
5 left if you were coming in the side door it would have been on
6 the left, with the dishes that were on the dish towels there.
7 This gun was sitting there, and the three cartridges were
8 sitting right next to the gun when we arrived at the scene.

9 Q. Does that photograph reflect the condition you found
10 that firearm in?

11 A. Yes sir.

12 Q. And what was the status of that handgun? By -- I mean,
13 was it -- was there a found in the chamber, empty, was it
14 unloaded, loaded?

15 A. The chamber was empty, and there were two rounds in the
16 magazine that was still in the gun.

17 Q. Okay. Let me show you items in evidence, State's 40.

18 MR. HIXSON: That is slide 14(A).

19 You are going to see it on the scene. I'm sorry.

20 A. This is the inside, the living room area. When you
21 walk through the kitchen you walk through the hall -- the
22 large doorway entrance, the arch there, into the living room,
23 and to the left, going down the hallway, the dog is right
24 there at the edge of the living room and the hallway. The dog
25 was dead, and appeared to have been moved from the hallway

1 into the living room area, and this is the condition when we
2 arrived on the scene.

3 Q. Okay. Let me take you back to State's 39.

4 MR. HIXSON: And that is slide 13.

5 Q. When you arrived on scene, the very first time that you
6 entered the house, in what position was the deceased canine,
7 the dog named Raven?

8 A. In the picture you showed me before, in the previous
9 picture, in the living room area.

10 Q. Okay. We were advised why the dog was moved from that
11 location over to the living room.

12 A. For E.M.S. purposes, to get the gurney in there.

13 Q. Okay. Let me show you an item that's been marked as
14 State's Exhibit 42.

15 MR. HIXSON: That is slide number 15.

16 That should come up on the screen.

17 That's in evidence also.

18 A. This is the floor in the hallway, and there appears to
19 be a cartridge case at that -- on that -- on the floor.

20 MR. HIXSON: I have another series of photos, Your
21 Honor.

22 Q. Would you like to take a look at those, see if you
23 recognize those. Look at those, and I'll be right back.

24 A. Those four I recognize. I recognize all of the
25 photographs. Those four I know were our pictures. They are

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1 stamped with the S.L.E.D. stamp. These exhibits I recognize,
2 and I know we have pictures we took of these areas, so I can't
3 say for sure they are exactly our pictures, but I imagine they
4 are.

5 MR. HIXSON: And what the witness is referring to, Your
6 Honor, is State's 44, 45 and 46 to begin with.

7 Q. And these photographs that you looked at fair and
8 accurate representation of the scene that you saw inside that
9 Pope home -- Pope home May 27th, 2003?

10 A. Yes sir, they are.

11 Q. Okay. Please describe to the jury.

12 MR. HIXSON: That's slide 17. That's State's 44.

13 THE COURT: I'm sorry. Are they in evidence?

14 MR. HIXSON: I apologize, Your Honor. They are not.
15 Thank you, Your Honor. I apologize for that.

16 At this time State would move State's 44, 45 and 46 into
17 evidence.

18 MS. BASS: Without objection, Your Honor.

19 MR. LOCKLEAR: No objection, Your Honor.

20 THE COURT: All right. State's 44, 45 and 46 are in
21 evidence without objection.

22 You may proceed.

23 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
24 NUMBERS 44, 45 AND 46.)

25 MR. HIXSON: Thank you, Your Honor.

1 Mr. Brown, could you please pull up item 17.

2 A. This is a photograph of a child's room. There's a crib
3 in the picture, and it's at the end of the hall next to the
4 bathroom. If you go down the hall where the door was lying in
5 one of the picture, you go down the hall and to the left is
6 where this room is located.

7 Q. Okay.

8 MR. HIXSON: And can you pull up the sketch, Mr. Brown.

9 Q. Could you please indicate on that diagram the child's
10 room you are referring to.

11 A. To the left of the -- on the diagram, to the left. It
12 says "baby's room", and the bathroom is next to it, at the end
13 of the hall.

14 Q. Okay.

15 MR. HIXSON: Could you please pull up slide 18, please.

16 A. This is the bathroom at the end of the hall, next to
17 the baby's room. If you go down the hallway from the living
18 room, make a left, it's at the end of that hall.

19 Q. Okay. Could you please describe what you would
20 consider the overall condition of the house to be as you
21 advanced through the home.

22 A. I guess the best way to describe it, it looked lived
23 in. There were things -- you know, dishes, there was baby
24 bottles, a crib, stuff in the crib. There were items on the
25 floor, clothes, shoes. There was a game in one of the rooms.

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1 Nothing that really threw up any red flags of anything out of
2 the ordinary.

3 Q. Okay. Let's have State's 46.

4 MR. HIXSON: That is slide 19.

5 A. This is the kitchen sink. The kitchen sink -- I'm
6 sorry. This is the bathroom sink, with some items around the
7 sink, and a wash cloth in the sink.

8 Q. Okay. Now at this point in time I believe you advanced
9 to the -- into the bedroom; is that correct? Don't we have --
10 tell us about if -- anything you found of evidentiary value in
11 the bedroom.

12 A. When I walked into the bedroom the bed -- you know, the
13 bed had blood on the sheets. There were some sheets and
14 pillows off to the left side of the bed that appeared to be
15 some of them from the bed, because they had blood on them.
16 There was several pillows on the bed. I believe there was a
17 pillow even on the headboard of the bed.

18 There was some clothing lying on the floor. There was -
19 - on both corners of the end of the bed shoes and bedding
20 material, things like that, surrounding the bed, but the
21 victim had been removed from the scene when I arrived, so the
22 victim was not there when I did arrive at the scene, so I just
23 had the bed with some bloodied sheets and pillows.

24 Q. Okay.

25 MR. HIXSON: We were referring to State's Exhibit 49.

1 And that's item 20(A).

2 A. That picture would have been taken toward the headboard
3 of the bed, shooting toward the exit of the bedroom into the
4 hallway.

5 Q. And is that adequate description I guess you gave prior
6 to looking at the photo, of what you saw from the -- what that
7 photograph means?

8 A. Yes sir, on the -- if you are looking at the
9 photograph, the left side of the bed, there appears to be some
10 clothing, boots, socks, and next to the dresser, on the right
11 side, there was a lot of the bedding that appeared to have
12 been -- had possibly moved when E.M.S. came in.

13 MR. HIXSON: If you would refer to slide 21.

14 And that is State's Exhibit 15, Your Honor.

15 THE COURT: All right.

16 A. Yes sir. If you are facing the headboard of the bed,
17 on that side furthest away from the entrance to the bedroom,
18 there is the pillows and pillow cases on the floor.

19 Q. And do you have an indication on the top -- top of that
20 by a little small piece of furniture at the top, what that
21 appears to be in that photograph? Can you tell from that
22 photograph?

23 A. I think there's a dresser on both sides of the bed.

24 MR. HIXSON: Let's go to slide 23, which is State's 52.

25 A. This photograph was taken at the -- in the doorway of

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1 the bedroom, facing the headboard of the bed, so that would
2 be the outside wall, or the furthestest wall from the entrance
3 of the bedroom, and the bedding and all I was talking about
4 would be on the left side, and then clothing and other items
5 were on the right side of the bed.

6 You can see a pair of boots, it looks like, at the
7 bottom of the photograph.

8 Q. Okay. Was there anything of evidentiary value
9 discovered in that mattress?

10 A. We located a hole in the mattress, so we photographed
11 the hole in the mattress, and then tried to find out possibly
12 where that hole led to, and we found a hole in the boxspring.
13 We started cutting away from the hole in the boxspring till we
14 found a bullet in the boxspring, and we collected it.

15 Q. I believe I handed these to you before, but let's be
16 concise. That's State's Exhibits 54, 55, 56 and 57 I'm
17 handing the witness. I think I'm being redundant, but do you
18 recognize those items?

19 A. This would be the mattress where the hole in the
20 mattress is what we were checking, to see if a bullet had
21 passed through the mattress, and ---

22 MR. HIXSON: Your Honor, at this time the State would
23 move State's 54 into evidence.

24 Q. Is this a fair and accurate representation of the scene
25 that you saw when that photograph was taken?

1 A. Yes sir.

2 THE COURT: Any objection?

3 MS. BASS: No objection, Your Honor.

4 MR. LOCKLEAR: No objection, Your Honor.

5 THE COURT: All right. 54 is in evidence without
6 objection.

7 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
8 NUMBER 54.)

9 Q. State's 55. Is that a fair and accurate representation
10 of the scene that you saw?

11 A. Yes sir.

12 MR. HIXSON: Okay. That's ---

13 THE COURT: Any objection to 55?

14 MS. BASS: No, Your Honor.

15 MR. LOCKLEAR: No objection, Your Honor.

16 THE COURT: All right. 55 is in evidence without
17 objection.

18 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 55.)

20 Q. State's 56. Is that photograph, and State's 57, is
21 that a phot -- is that photograph -- both of those, are they
22 fair and accurate representations of the scene that you saw
23 when you were working on that crime scene in May 27, 2003?

24 A. Yes sir.

25 Q. Okay.

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1 **THE COURT:** All right. 56 and 57, any objection?

2 **MS. BASS:** No, Your Honor.

3 **MR. LOCKLEAR:** No objection, Your Honor.

4 **THE COURT:** All right. They are in evidence without
5 objection.

6 (PHOTOGRAPHS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
7 NUMBERS 56 AND 57.)

8 **MR. HIXSON:** All right. May I publish them to the
9 jury, Your Honor?

10 **THE COURT:** Yes sir.

11 **MR. HIXSON:** All right. Number 25, Mr. Brown.

12 A. This is a photograph of the mattress I referred to. It
13 has the bullet hole, or a hole, in the mattress.

14 Q. And 55.

15 **MR. HIXSON:** That is slide 25(A).

16 A. 55 is where we cut away from that hole to see where it
17 led, and it went to the foam in the mattress, so we just keep
18 following that hole.

19 Q. Okay. And the next one is 56.

20 **MR. HIXSON:** That's 56, and that corresponds to 25(B),
21 slide 25(B).

22 A. That is the boxspring underneath the mattress, or the
23 top part of the bed. There's an area there that we -- at the
24 top of the boxspring where we saw what appeared to be a hole
25 as well, so we started cutting away at that and did find a

1 bullet lodged in the boxspring area.

2 Q. And finally, State's 57.

3 MR. HIXSON: And that is slide 26.

4 A. Yes sir. This photograph you can see at the top of the
5 boxsprings where we started cutting, and didn't see anything
6 right away, and we kept getting wider and wider until we
7 located the bullet at the boxspring, and it's right underneath
8 one of the coils.

9 Q. Okay. Let me show you an item that's been marked
10 State's 53, and I believe that is for identification only. I
11 don't believe this one is in evidence.

12 Do you recognize that?

13 A. I recognize this as the bed that we -- the boxspring
14 and mattress were on.

15 Q. Okay. And is that photograph a fair and accurate
16 representation of the scene you saw on that day?

17 A. Yes sir.

18 Q. Okay.

19 MR. HIXSON: At this time the State would move State's
20 53 into evidence.

21 THE COURT: Any objection?

22 MR. LOCKLEAR: Your Honor, we have an objection to
23 State's 53.

24 THE COURT: All right. Let me -- let me see it,
25 please.

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1 Y'all come up and talk to me for a second, please.

2 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

3 THE COURT: All right, after conducting a 403 analysis
4 I do find that it's proper that State's 53 should be allowed
5 into evidence over the objection of the Defendant, Pope, and
6 over the objection of the Defendant, Miller.

7 Thank you very much. You may proceed.

8 MR. LOCKLEAR: Thank you, Your Honor.

9 MR. HIXSON: Your Honor, at this time, may I publish
10 this to the jury?

11 THE COURT: Yes sir.

12 MR. HIXSON: State's 53 is in evidence.

13 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
14 NUMBER 53.)

15 MR. HIXSON: That is slide 24.

16 A. This is a photograph of the bed with the sheets, a
17 bloody -- two pillows are on the bed, and from my perspective,
18 observing the scene, the blood on the pillowcase just appears
19 to have been propped up, by the way the blood is flowing on
20 the pillowcase in that particular picture.

21 Q. Did you take any -- do any other additional processing
22 in that crime scene in addition to these photographs and the
23 aforementioned bullets that you talked about?

24 A. We collected two magazines -- two magazines -- we
25 collected two cartridge cases in the hallway, near a lamp. I

1 collected swabs, swabs from the -- I'll have to refer to
2 this -- from the bed, I believe, and swabs from the hallway
3 for blood analysis, and of course we collected the bullets
4 from the mat -- boxsprings. We did process the blood with a
5 process, Amido Black, where it will stain blood prints on the
6 floor and developed a possible impression that we eliminated
7 to E.M.S., and the E.M.S. worker had actually stated they had
8 walked right there as well.

9 Q. Let me show you this photograph to finish this line of
10 thought.

11 MR. HIXSON: State's 43, Your Honor.

12 Q. Do you recognize that?

13 A. Yes sir. This is a photograph of the hallway. If you
14 are going down the hallway toward the bedroom, the bedroom is
15 straight ahead - it would be the left side of the hallway -
16 and we collected two cartridge cases on the floor there by the
17 lamp.

18 Q. Okay. And is this photograph a fair and accurate
19 representation of the scene you saw on May 27th, 2003?

20 A. Yes sir.

21 MR. HIXSON: We would move this into evidence, Your
22 Honor. This is State's 43.

23 THE COURT: Any objection to 43?

24 MS. BASS: No objections, Your Honor.

25 MR. LOCKLEAR: No objection, Your Honor.

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1 **THE COURT:** All right. It's in evidence without
2 objection.

3 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
4 NUMBER 43.)

5 **MR. HIXSON:** Mr. Brown, that's slide 16.

6 Q. Now what is that, Ms. Bodie?

7 A. This is that -- the picture of the cartridge cases we
8 collected in the hallway, by the lamp in the hallway, that
9 leads to the bedroom.

10 Q. What kind of processing -- did you do any processing
11 outside, and around the exterior of the house?

12 A. We did try to locate footwear, and we did make a cast
13 of a footwear impression near the front -- near the entrance,
14 not the front door, but the door where the witness said the
15 suspects came in. We made a photograph and cast of it, as
16 well as another photograph of a footwear impression over by
17 the doctor's office, but it was in more -- higher traffic
18 area. We didn't cast it, but we did -- we do have two
19 photographs and a cast of footwear impressions from the scene.

20 Q. What is the process that you do if you receive a
21 footwear impression like this and you take a cast of it? Tell
22 us what the process, generally speaking, is.

23 A. Well, we'll photograph it, and then we will cast it to
24 see if it's an -- if it's a footwear impression that we can
25 cast, and we will collect it, and in our report we request

1 standard shoes be submitted so that we can compare to the
2 impressions from the scene.

3 Q. Okay. So it is a comparison process; is that safe to
4 say?

5 A. Yes sir, if we receive shoes, but have to receive a
6 known standard to compare to the crime scene prints.

7 Q. So did you ever receive a known standard to compare it
8 for confirmation of elimination purposes?

9 A. No sir. I never received any known shoes.

10 Q. At some point in time did you receive a -- let me back
11 up. The bullet that you recovered from the headboard, or
12 excuse me, the boxspring area in the mattress, what did you do
13 with that?

14 A. I would have collected it that night at the scene, and
15 then I would return it. Whenever I returned to S.L.E.D.
16 headquarters I would have it logged into evidence at the
17 S.L.E.D. lab, and it would have gone to a firearms examiner.

18 Q. Okay. Let me show you an item.

19 MR. HIXSON: It has to be marked.

20 Q. Let me show you an item that's been marked as State's
21 Exhibit 64, see if you recognize that. I know there's a fair
22 amount of packaging there.

23 A. Well, I recognize it because on the outside of the
24 container, inside of the sealed envelope, is my writing,
25 saying "one bullet collected at Georgetown Animal Hospital

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1 from the dog", I collected at 9:40 A.M. on 5/28/03, with my
2 initials next to the date.

3 Q. Okay. And then what did you do with that? Once you
4 received it, what did you do with it after that?

5 A. This bullet would have been turned in to firearms as
6 well. The same thing, I would have logged it in with the
7 bullet I collected from the mattress, in separate containers,
8 of course, but they would have been both logged in to go to a
9 firearms examiner.

10 Q. Okay. Once you log it in what does that process
11 entail? Where do you place it?

12 A. We have a log-in section where we have evidence
13 custodians receiving the evidence that we bring back for other
14 departments within the lab to do examination, and in the Crime
15 Scene Unit I was an examiner as it relates to impression
16 evidence, which would have been fingerprints and footwear, but
17 I'm not an examiner as it relates to firearms, or DNA or trace
18 items, so any evidence from the scene that I would receive
19 that would have to go to another examiner that I was not
20 qualified to do examinations I would log it in to their
21 department, and an examiner would be assigned, and come down
22 and get the evidence, or receive it from a contained area.

23 Q. And so what procedural safeguards do you have there to
24 insure the integrity of those items?

25 A. Sealing them, sealing the items, and when the officer -

1 - the agent that would have received it, it would have been
2 either handed directly from agent to agent, or chain of
3 custody through log-in, where they would seal it up and the
4 agent would receive it that way.

5 Q. Once you received that item from the -- did you
6 maintain the integrity of that item?

7 A. Yes sir. I logged it in on 5/29/03.

8 Q. Did you secure the item, make sure no one else tampered
9 with it?

10 A. Yes sir.

11 Q. Okay. So you, yourself, didn't do any testing on that
12 item; that's correct.

13 A. That's correct.

14 MR. HIXSON: Beg the Court's indulgence just for a
15 moment, Your Honor.

16 THE COURT: Yes sir.

17 MR. HIXSON: May I approach, Your Honor?

18 THE COURT: Yes sir.

19 Come on, counsel.

20 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

21 Q. Ms. Bodie, let me hand you up an item that's been
22 marked State's Exhibit 66, see if you recognize that.

23 A. Yes sir. On the container inside that's sealed is my
24 handwriting, "One bullet collected from right side of bed,
25 facing headboard and boxspring, 5/28/03", and my initials.

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- 1 **MR. HIXSON:** Okay. Your Honor, she's referring to
2 State's Exhibit 66 of identification.
- 3 Q. What did you do with that item once you recovered it?
4 A. The bullet would have gone to firearms as well.
- 5 Q. Okay. So you logged that in; is that correct?
6 A. Yes sir.
- 7 Q. While it was in your custody and control did you
8 maintain the integrity of that item?
9 A. Yes sir.
- 10 Q. Did you alter it as to former content?
11 A. No sir.
- 12 Q. Did you assure that no one else altered that item?
13 A. Yes sir.
- 14 Q. Let me hand you two other items. I'm handing up
15 State's 65 and State's 67. Do you recognize those?
16 A. State's 65 is cartridge case collected by lamp in
17 hallway floor. It was a Winchester 9 millimeter Luger. It
18 has 5/28/02, and my initials.
- 19 Q. Okay.
20 A. State Exhibit 67 is one cartridge, one 9 millimeter
21 Luger collected by the lamp in the hallway, 6/28/03, and my
22 initials.
- 23 Q. Okay. Thank you.
- 24 **MR. HIXSON:** Your Honor, at this time the State would
25 move State's 65 and State's 66 in to evidence.

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1 THE COURT: Any objection?

2 MS. BASS: No, Your Honor.

3 MR. LOCKLEAR: No objections, Your Honor.

4 THE COURT: All right. In evidence without objection.

5 (CARTRIDGE IN SILVER CONTAINER ADMITTED INTO EVIDENCE AS
6 STATE'S EXHIBIT NUMBER 65.)

7 (CARTRIDGE IN SILVER CONTAINER ADMITTED INTO EVIDENCE AS
8 STATE'S EXHIBIT NUMBER 66.)

9 MR. HIXSON: At this time the State would move State's
10 64 and State's 66 into evidence.

11 MS. BASS: No objection, Your Honor.

12 MR. LOCKLEAR: Without objection, Your Honor.

13 THE COURT: All right. In evidence without objection.

14 (SMALL SILVER CONTAINER CONTAINING ONE BULLET INSIDE
15 ZIPLOC BAG ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
16 64.)

17 (SMALL SILVER CONTAINER CONTAINING ONE BULLET INSIDE
18 ZIPLOC BAG ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
19 66.)

20 MR. HIXSON: Your Honor, at this time I have a firearm
21 that I would like to place into evidence, and I think,
22 pursuant to Justice Toal's rule I have to attest to the Court
23 that it has been made inoperable and unloaded, and I believe I
24 am prepared to do that.

25 THE COURT: All right. Very good.

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(PISTOL BEARING SERIAL NUMBER P748925 MARKED STATE'S
EXHIBIT NUMBER 68, FOR IDENTIFICATION ONLY.)

Q. Ms. Bodie, do you recognize these items that I'm
referring -- refer to that's been marked for identification as
State's 68?

A. Yes sir. I have L035522 and my initials engraved on
the firearm, as well as in my notes this serial number.

Q. Okay. And ---

COURT REPORTER: I need the serial number, please.

MR. HIXSON: Yes.

A. The serial number is "P" as in Paul, 748925.

Q. And where was that recovered from?

A. This was on the kitchen counter.

Q. And are you able to determine what caliber that weapon
is?

A. Well, it has 380 on the side, High Points Firearm 380.

Q. Okay. And where was this recovered?

A. On the counter, kitchen counter.

MR. HIXSON: Your Honor, at this time the State would
move State's 68 into evidence.

THE COURT: Any objection?

MS. BASS: No, Your Honor.

MR. LOCKLEAR: No objections, Your Honor.

THE COURT: It's in evidence without objection.

(PISTOL MARKED PREVIOUSLY AS STATE'S EXHIBIT NUMBER 68

1 FOR IDENTIFICATION NOW ADMITTED INTO EVIDENCE AS STATE'S
2 EXHIBIT NUMBER 68.)

3 Q. Let me show you what's been marked as State's Exhibit
4 69. Do you recognize those items?

5 A. The outer container has my lab number, the item number,
6 and the date that I sealed it. There's five cartridges in the
7 bag, and one magazine. My number is -- my initials and writing
8 is also on the sealed cartridges. They are in the bag.

9 Q. Okay.

10 MR. HIXSON: At this time the State would move State's
11 69 into evidence.

12 THE COURT: Any objection?

13 MS. BASS: No objection.

14 MR. LOCKLEAR: No objection, Your Honor.

15 THE COURT: In evidence without objection.

16 (FIVE CARTRIDGES AND ONE MAGAZINE PREVIOUSLY MARKED FOR
17 IDENTIFICATION AS STATE'S EXHIBIT NUMBER 69 FOR IDENTIFICATION
18 NOW ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 69.)

19 MR. HIXSON: Beg the Court's indulgence just for a
20 moment, Your Honor.

21 THE COURT: Yes sir.

22 Q. Ms. Bodie, at some point in time after you left were
23 you provided an item of evidence from Georgetown Police
24 Department to take a look at?

25 A. Yes sir. I was provided several items.

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1 Q. And I'm specifically referring to a pillow. Do you
2 recall that?

3 A. Yes sir.

4 Q. Can you please tell the jury what exactly you did with
5 that pillow?

6 A. Well, my job would have been to look for any blood
7 stain on the pillow, as well as, I believe, there was a pillow
8 they found with a bullet hole in it that I believe they
9 submitted to me later. I would have examined it for a blood
10 stain, but it was brought to processing, and actually put into
11 a refrigerator there for a trace person to analyze, and then I
12 analyzed it for the blood stain.

13 Q. Okay. Let me draw your attention to an item that has
14 not been marked for identification yet, but it will be soon.

15 (PILLOW MARKED STATE'S EXHIBIT NUMBER 70 FOR
16 IDENTIFICATION ONLY.)

17 It has been marked for identification as State's Exhibit
18 Number 70. Do you recognize that item?

19 I'll put that in front of you and I'll give you gloves
20 if you want.

21 A. This is stated item 32. The S.L.E.D. item number is
22 Item 32, which is now State Exhibit 70. It has my initials
23 and the case number, and the item number.

24 Q. Okay. Tell us what you would do if you received an
25 item of evidence like that, how you would handle it.

1 A. This particular item had what appeared to be a bullet
2 hole, and I sent it to the Trace Department where a trace
3 analyst could examine it for a bullet hole, and she would have
4 done her part, and then I -- it was resubmitted and I examined
5 the item for blood.

6 Q. Okay. Did you find blood on those items, on that item?

7 A. Yes sir.

8 Q. Did you find anything, as far as blood spatter is
9 concerned, that is of any evidentiary value in this case?

10 A. No sir.

11 MR. HIXSON: Your Honor, at this time the State would
12 move State's Exhibit 70 into evidence.

13 THE COURT: Any objection?

14 MS. BASS: No objection, Your Honor.

15 MR. LOCKLEAR: No objections, Your Honor.

16 THE COURT: In evidence without objection.

17 (PILLOW PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER 70, FOR
18 IDENTIFICATION ONLY, NOW ADMITTED INTO EVIDENCE AS STATE'S
19 EXHIBIT NUMBER 70.)

20 MR. HIXSON: May I display this to the jury, Your
21 Honor?

22 THE COURT: Yes sir.

23 MS. BASS: Your Honor, may we approach?

24 THE COURT: Absolutely.

25 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

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1 Q. Ms. Bodie, do you recognize that item?

2 A. It has my initials, along with the case number, and the
3 item.

4 Q. Could you please recall what you did with that pillow
5 after you were done analyzing it yourself.

6 A. I transferred it to D-16, which is a refrigerated
7 storage unit, for evidence storage.

8 MR. HIXSON: Begging the Court's indulgence just for a
9 moment, Your Honor.

10 THE COURT: Yes sir.

11 MR. HIXSON: Your Honor, I have no further questions
12 for this witness.

13 THE COURT: Cross-examination.

14 MS. BASS: Thank you, Your Honor.

15 CROSS-EXAMINATION BY MS. BASS:

16 Q. Good afternoon, Agent.

17 A. Good afternoon.

18 MS. BASS: As we have had you subpoenaed to be a
19 witness for us ---

20 Your Honor, I'm going to need to ask her some questions
21 to have her qualified as an expert.

22 THE COURT: All right. Very good.

23 Q. Agent Bodie, you worked previously for the F.B.I., at
24 the beginning of your career; is that correct?

25 A. Yes Ma'am.

1 Q. For six years.

2 A. Yes Ma'am.

3 Q. And you also worked for the South Carolina Law
4 Enforcement Division, S.L.E.D., in Columbia.

5 A. Yes Ma'am.

6 Q. You traveled the State doing crime scene for police
7 departments throughout our State; is that correct?

8 A. Yes Ma'am.

9 Q. Okay. Could you please tell the jury how many times
10 you've been qualified as an expert in the field of footwear
11 and footprint in the State of South Carolina in Federal and
12 State Court.

13 MR. HIXSON: Your Honor, I'll certainly stipulate to
14 Ms. Bodie's training and expertise. There's no question about
15 that.

16 MS. BASS: Your Honor, we are moving to have her
17 declared as an expert in the field of footwear, shoeprints,
18 latent prints and crime scene investigation.

19 THE COURT: Latent prints.

20 MS. BASS: Yes sir.

21 THE COURT: Crime scene investigation.

22 MS. BASS: And then the footprint, footwear, Your
23 Honor.

24 THE COURT: Is there any objection to any of those
25 categories, Solicitor?

1 **MR. HIXSON:** Yes, Your Honor. I don't believe that
2 crime scene investigation is a recognized area of expertise in
3 South Carolina, specifically there's been several Supreme
4 Court cases about that...

5 **THE COURT:** I ---

6 **MR. HIXSON:** Apologize. Yes, I make an exception to
7 the crime scene investigation. I don't make an exception as
8 it relates to footwear.

9 **THE COURT:** How about latent prints?

10 **MR. HIXSON:** I don't make an exception to latent prints
11 either.

12 **THE COURT:** And Mr. Locklear, as to those two issues,
13 footwear and latent prints.

14 **MR. LOCKLEAR:** Your Honor, we would certainly stipulate
15 to her qualifications, that she is an expert witness in those
16 fields.

17 **THE COURT:** All right. She is qualified to give her
18 opinion in the areas of footwear and footprint impressions,
19 and latent prints.

20 As to the other issue, y'all come up and talk to me for
21 just a second.

22 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)**

23 **THE COURT:** All right. Could you ask her a couple of
24 questions about the qualification about crime scene
25 investigation, please Ma'am.

1 **MS. BASS:** Yes, Your Honor.

2 **Q.** Agent Bodie, how many crime scenes, total, have you --
3 while working at the F.B.I. and the South Carolina Department
4 of Law Enforcement how many crime scenes have you visited and
5 performed investigative work at over these thirty some odd
6 years?

7 **A.** When I was assigned to the F.B.I. I was a fingerprint
8 examiner, so I didn't respond to crime scenes, but when I
9 became an agent with S.L.E.D., and assigned to the Crime Scene
10 Unit I have probably processed in excess of three hundred
11 death investigation, primarily death investigations, crime
12 scenes, across the State.

13 **Q.** And how many of those -- all -- throughout all the
14 forty-six counties.

15 **A.** Yes Ma'am.

16 **Q.** And you have been qualified as an expert in the field
17 of crime scene investigation, both Federal, State and --
18 Federal and State court by Solicitor's Office and Defense over
19 fifty times in your career; is that correct, since coming to
20 S.L.E.D.?

21 **A.** I have been qualified over fifty times. It may be in
22 sub-disciplines. It's not -- sometimes it's in -- all the
23 disciplines, or may just, you know, a couple of times might
24 have been just latent prints or footwear, but it's a total of
25 over fifty times I've been qualified in one of the areas, and

1 I have been qualified in crime scene investigation.

2 Q. And in this particular case you did not know Keri Pope
3 or Joey Pope; is that correct?

4 A. No Ma'am, I do not know.

5 Q. And you are not related by blood, marriage, or close
6 personal friend to anyone in the Solicitor's Office, or anyone
7 for the Defense; is that correct?

8 A. That is correct.

9 MS. BASS: Your Honor, I move to have her qualified
10 also in the field of crime scene investigation, forensic crime
11 scene investigation.

12 THE COURT: Mr. Locklear, do you wish to qualify the
13 witness as to her qualifications?

14 MR. LOCKLEAR: No sir. We would stipulate to her
15 qualifications as an expert in crime scene investigation.

16 THE COURT: Solicitor, do you wish to question her
17 about her qualifications?

18 MR. HIXSON: No, I don't question her qualifications at
19 all.

20 THE COURT: All right. Do you maintain your objection
21 to her being qualified as an expert in the field of crime
22 scene investigation?

23 MR. HIXSON: Not at -- I do not -- I object to it if it
24 results in conclusions of what happened, not the process that
25 she's an expert at, at how to do a crime scene. That's the

1 difficulty. I don't know how to say that any other way.

2 THE COURT: Well, you'll just have to object to the
3 particular question. I understand what you are saying,
4 certainly cognizant of that, and by qualification I am not
5 allowing her, at that point in time, to do that, so you need
6 to raise your objection, if there is one, at the appropriate
7 time.

8 MR. HIXSON: Thank you, Your Honor.

9 THE COURT: I'll allow her to give her opinion about
10 crime scene investigation.

11 MS. BASS: And Your Honor, while I'm asking her
12 questions we could speed things up if I could have Number 22
13 out of evidence, the shoe cast.

14 THE COURT: All right.

15 MS. BASS: We can take it ---

16 THE COURT: Do you know where 22 is?

17 MR. HIXSON: The evidence is downstairs and voluminous,
18 and it apparently is downstairs.

19 MS. BASS: I can ask the questions, Your Honor, without
20 having it. I can do that.

21 THE COURT: All right. Very good.

22 MS. BASS: Speed things up.

23 THE COURT: All right. Go ahead.

24 Q. Agent Bodie, you were dispatched to Georgetown, South
25 Carolina after twelve A.M. on May 28th of 2003; is that

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1 correct?

2 A. Yes Ma'am, approximately one A.M..

3 Q. One A.M., and you arrived at Georgetown County at Mr.
4 and Mrs. Pope's house at what time?

5 A. Approximately 3:45 A.M..

6 Q. Three forty-five A.M.. So anything that had happened
7 that night from the time E.M.S. and the police arrived at
8 11:45, anything that had been moved, or anything laying on the
9 counter, anything like that, you wouldn't know until you got
10 there at 3:45 and you began to process the scene at that time.

11 A. When I photographed the scene that is how the scene was
12 when I arrived.

13 Q. And I want to talk to you about the truck outside that
14 had the "For Sale" sign. I want to ask you if anyone -- and
15 I'm just asking you directly -- if anyone from the Georgetown
16 City Police Department, or the Georgetown Police Department in
17 charge of this investigation, ever asked you to go out and
18 swab, or to take fingerprints, to dust, anything to do with
19 the black truck that I'm going to show you in just a moment,
20 or did they ask you to swab anything having to do with the
21 pickup truck that was for sale in the yard?

22 A. No Ma'am, not to my recollection.

23 Q. And in reference to the dog, Raven, the dog had been
24 moved when you arrived; is that correct?

25 A. Yes Ma'am, from the hallway into the living room.

1 Q. Okay. And did anyone from the Georgetown Police
2 Department ever ask you to process -- I'm just asking you
3 directly -- did anyone ever ask you, from the Georgetown City
4 Police Department, the Georgetown Police Department, whether
5 it was Altman, anyone here from the Police Department, did
6 they ask you personally to take a swab and wipe the mouth or
7 the teeth of the dog so we could find out if the dog bit
8 anyone, and if there was any DNA of a suspect?

9 A. No Ma'am.

10 Q. If someone from the Police Department had asked you to
11 swab the mouth of the dog, let me ask you, have you ever dealt
12 with a murder case before we a dog was on the scene, or had
13 been on the scene, in question?

14 A. I have worked scenes where the dog has been on the
15 scene. I don't recall if it ended in murder. I think my
16 victims were still alive, but the dog was dead, and I didn't
17 swab the mouth.

18 Q. Okay. And I'm not blaming you. I'm just wanting to
19 know since you were called in from the Police Department, do
20 you recall, or is there anything in your notes where Oldham,
21 Sparkman, Altman, anyone at the Police Department asked you to
22 swab the teeth of the dog, or the mouth of the dog so we could
23 see if the dog bit somebody, and that's why somebody shot the
24 dog.

25 A. Ma'am, I don't remember anyone asking me, and I didn't

1 write it in my notes, so I -- if they did it I don't remember.

2 Q. Well, let me ask you this, did anyone from the

3 Georgetown Police Department bring you anything from the

4 animal hospital? After the dog, Raven, died, obviously the

5 dog was taken to the animal hospital, correct?

6 A. Yes Ma'am, and I actually met -- I went to the animal

7 hospital and picked up the bullet that was recovered from the

8 animal, at the animal hospital, from an officer with the

9 Georgetown ---

10 Q. Okay. And did that officer give you any swab, cotton

11 sample, anything where the dog's teeth or mouth had been

12 swabbed to see if it had bitten anybody?

13 A. No Ma'am.

14 Q. And you had been called in from Columbia, South

15 Carolina in the middle of the night to come down here and

16 process this scene, correct?

17 A. Yes Ma'am.

18 Q. And you turned in every single piece of evidence that

19 the Georgetown Police Department gave you, correct.

20 A. Yes Ma'am.

21 Q. And that you received from the animal hospital,

22 correct.

23 A. Yes Ma'am.

24 Q. And a -- you found a necklace on the floor that

25 belonged to Ms. Pope; is that correct?

1 A. I found a necklace on the floor. I was told it was her
2 necklace, yes Ma'am.

3 Q. And it had a -- I believe a dolphin and a mom charm on
4 it? Okay, I'm sorry -- I'm going to show you -- and I don't
5 have anyone to show my exhibits, so I'm going to show you
6 what's been marked, I believe, State's Number 33. Is that the
7 necklace that you found?

8 A. State Exhibit 33 is a necklace lying on the floor in
9 the kitchen area, leading to the living room. Yes Ma'am. And
10 I recall it was broken.

11 Q. Okay. It was broken. And would you please tell the
12 jury what you did, in your capacity at S.L.E.D., assisting the
13 Police Department, what did you do with this necklace to try
14 to get any evidence off of it?

15 A. I swabbed the necklace for DNA.

16 Q. You swabbed the necklace for DNA.

17 A. Yes Ma'am.

18 Q. And that's State's Number 33.

19 And did you also do some -- you also did some shoe casts
20 in this particular case. Well, I won't ask you a ton of
21 questions. Let me just -- you did some shoe casts, and you
22 even eliminated one of the E.M.S. officers. Tell the jury
23 about that, please.

24 A. We cast a footwear impression outside of the entrance
25 door in a grassy, kind of muddy area. There was an area void

1 of grass where we could see a partial footwear impression, and
2 we cast that impression, and we also had an impression in the
3 hallway where the dog had been shot, and it was an impression
4 in blood. It looked like a E.M.S. worker's shoe, and an
5 E.M.S. worker had stated where she had walked, and that's
6 right where we found the impression. I -- I -- the agent that
7 went with me to the scene, he and I looked at her shoe. I
8 believe it was a woman. We looked at her shoe and the
9 footwear impression on the tile, and eliminated the E.M.S.
10 worker's shoe inside the scene.

11 The cast. We collected the cast and in our report
12 submitted, please submit known shoes for examination purposes.

13 MS. BASS: And this has not been marked yet, Your
14 Honor. We are going to mark it ---

15 Q. I tell you what, I'm just going to ask you if you can
16 look over this and see, without telling -- without letting the
17 jury see it can you just -- did you do a shoe -- is that the
18 shoe cast you did in this case?

19 MR. HIXSON: Your Honor, I object to that. It's not
20 marked for identification for any ---

21 MS. BASS: We'll mark it, Your Honor, as Defense Number
22 1, for I.D. only.

23 THE COURT: All right. Well, are you going to ask her
24 to testify about it?

25 MS. BASS: Your Honor, I'm going to ask her some

1 questions without opening up the box.

2 THE COURT: Okay. Very good.

3 MS. BASS: Thank you, Your Honor.

4 Q. I just want to know, this happened -- Mr. Pope was
5 killed May 27th of 2003. At any time in 2003 did the Police
6 Department bring you any shoes to compare for potential
7 suspects in this case?

8 A. No Ma'am. I never received shoes for examination.

9 Q. And that would be -- you are telling the jury, from
10 2003, '04, '05, '06, '07, '08, '09, '10 to today's date, you
11 have never received any shoes from the Police Department to
12 compare with the ones you took at the scene the night of the
13 shooting.

14 A. No Ma'am. I never did.

15 Q. And in regard to the necklace, were any samples of any
16 DNA, or any suspect ever given to you, or anyone at S.L.E.D.,
17 to compare the necklace that was Ms. Pope's, that you found on
18 the floor in 2003, up to today's date?

19 A. After the initial crime scene investigation any samples
20 would never come via me anyway. I did not receive any samples
21 the night of the crime scene. In the future point an officer
22 would have had to log them into log-in, and they would go
23 directly to DNA. They wouldn't go through me.

24 Q. But the necklace was put in S.L.E.D. custody and you
25 swabbed the necklace in case there was any DNA on it, on that

1 necklace, in 2003.

2 A. Yes Ma'am.

3 Q. Early morning hours of May 28th of 2003.

4 A. I need to refer to my notes. I may have -- I may have
5 swabbed it in our lab, but I did the swabbing and submitted it
6 to our DNA section.

7 Q. And that was State's 33 that I showed you. You turned
8 that into evidence when you returned to S.L.E.D., the
9 necklace. In 33 that I showed you, you -- you put that in
10 S.L.E.D. evidence when you returned from Georgetown County.

11 A. Right. Yes Ma'am. Or the swab.

12 Q. And I want to show you what's been marked as State's
13 Exhibit Number 44. Did you find any evidence of a struggle,
14 or any blood, or bullets or anything in the baby's room?

15 A. No Ma'am.

16 Q. Did you find anything out of the order whatsoever in
17 the baby's room?

18 A. The only thing I recall was just, you know, baby toys,
19 clothes on the floor, different things like that, but nothing
20 to raise a red flag.

21 Q. Thank you. And in regards to a gurney, you testified
22 earlier you saw -- is it true you saw gurney marks going
23 through the blood in the hallway, or I don't -- I don't want
24 you to -- tell us what you testified.

25 A. Possible. I wrote in my crime scene notes, "possible

1 gurney tracks", because when I did Amido Black on the floor,
2 which enhances blood impressions that are left on the floor,
3 you could see -- it looked like a wheel rolling through the
4 tile, from going through the blood, which the gurney would
5 have come back through where the dog had bled on the floor in
6 the hallway.

7 Q. And let me also ask you, the casing that you found in
8 the hallway where -- or that came into evidence, where the dog
9 was shot, you turned those into S.L.E.D., and they were in
10 evidence at S.L.E.D.. If there be any -- if there be any
11 comparison to any suspects in the world, you turned them in
12 when you returned to Columbia.

13 A. Yes Ma'am. I collected them, and I also processed the
14 casings for fingerprints, and turned them in -- then
15 transferred them to firearms.

16 Q. And in reference to Mr. Pope, any of the evidence that
17 you previously testified to, those items you turned over to
18 S.L.E.D..

19 A. Yes Ma'am.

20 Q. And you never altered them in any way while they were
21 in your care, custody and control, and after you turned them
22 into S.L.E.D. that was the end of your involvement with that.

23 A. Some items I would have processed at the lab for
24 fingerprints. It wouldn't alter them though, as far as going
25 to firearms or anywhere else.

1 Q. Did you see any evidence of a robbery in that home that
2 night?

3 A. Definitely not.

4 Q. And tell the jury why you -- your opinion is that it
5 was definitely not a robbery.

6 A. Well, there were items just right on the kitchen
7 counter you would think someone would take for robbery.

8 Q. Like a Citadel class ring, a wallet, a purse, those
9 type things, right.

10 A. Yes Ma'am.

11 Q. And ---

12 MS. BASS: I'm showing her Number 29.

13 Q. And what you see in item -- State's Exhibit Number 29,
14 that's how the scene looked the early morning hours, after you
15 had been there a couple of hours; is that correct?

16 A. Yes Ma'am. You can see the sun is up now.

17 Q. And when you arrived it was pitch black dark, in the
18 middle of the night; is that correct?

19 A. Yes Ma'am.

20 Q. And I want to ask you a couple of questions about the
21 firearm. I'm not going to get it out and play with it or any
22 of that good stuff, but what's been marked as State's Exhibit
23 Number 68.

24 A. Yes Ma'am.

25 Q. Okay. And this gun was not the gun used to kill the

1 dog, correct?

2 A. I don't do the testing on that. I just collected it.

3 Q. Okay. You collected it because it was at the home, and
4 you don't know when it was placed on the kitchen counter.

5 A. And I don't know if it was used to kill the dog. Yes
6 Ma'am.

7 Q. Okay. So I won't ask you any firearm questions. Okay.

8 In regards to the pillow that the -- the brown pillow
9 that the -- Mr. Hixson just showed you, what you told the jury
10 is, you found no evidentiary -- anything of any evidentiary
11 nature in regards to that pillow; is that correct?

12 A. In relation to blood impact spatter, you know, high
13 velocity or something. I examined the pillow, and it was just
14 passive flowing blood, or transfer blood.

15 Q. Okay. And I don't want to -- I want to ask you a
16 couple of questions. When you say impact blood, you are
17 talking about somebody is shot like that.

18 A. Well, shot from a high power -- you know, a high force,
19 causing the blood to spray out with high force.

20 Q. And what you found on that pillow that the Solicitor
21 just walked up and down in front of the jury holding, that
22 brown pillow with the spots on it, what you found was, that
23 was passive blood, is what you found in your expert opinion,
24 correct.

25 A. Yes Ma'am.

1 Q. And would you tell the jury what passive blood is.

2 A. Blood coming from a source flowing out. It's passive
3 blood.

4 Q. Right. For instance, and my shirt has black and red
5 you would see that that's from where it was running out of my
6 stomach or out of my shirt, right.

7 A. Yes Ma'am.

8 Q. Okay. So that same pillow that went up and down like
9 that, you found passive blood, or transfer blood.

10 A. Yes Ma'am.

11 Q. Tell the jury what transfer blood means, in your expert
12 opinion.

13 A. Transfer is when blood is on a source, and another
14 source comes in contact with that blood and it's transferred
15 to another item, and this pillow actually was one of the
16 pillows lying on the floor when we arrived, that had been
17 removed from the bed.

18 Q. And did you find quite a few pillows, according to your
19 report. There were pillows on the floor, on the bed, they had
20 been moved, and all that good stuff, by E.M.S. and whatnot; is
21 that correct?

22 A. Yes Ma'am.

23 Q. Okay. Just one moment.

24 MS. BASS: Your Honor, just one moment. I may be
25 finished.

1 Q. I'm going to show you what's been marked as State's
2 Number 29. Could you tell the jury what you recall about the
3 triangle glass, if it was covered, uncovered, clean, dirty,
4 see through, beveled, whatever. What do you recall about
5 the -- if anything, about the door in State's Number 29?

6 A. I don't -- don't really recall.

7 Q. Okay. Well, is it -- did anyone alter that door at any
8 time while you were on the scene. Did they change that
9 triangle, put anything over it so people couldn't look in?
10 Did you put anything over it so the public, or the press, or
11 neighbors couldn't look in? Did you alter that door in any
12 way?

13 A. No Ma'am.

14 Q. Would you please tell the jury where the found the
15 fingerprint that you lifted.

16 A. I actually found the fingerprint that I lifted on the
17 inside of this storm door.

18 Q. Could you please turn that around -- and I apologize,
19 but if -- could you please stand up, because I don't know if
20 they can see you and ---

21 A. Okay.

22 Q. ---I don't have anyone to show pictures for me.

23 A. May I step down, Your Honor, and show ---

24 THE COURT: Do you need to step down?

25 A. Well ---

- 1 **THE COURT:** If you do, you can.
- 2 A. If you can see. This is the storm door, and I found a
- 3 fingerprint impression on the inside of the storm door by the
- 4 handle.
- 5 Q. And normally when you get a fingerprint, if it's a good
- 6 fingerprint you can put it into AFIS, right?
- 7 A. Yes Ma'am.
- 8 Q. Can you please tell this jury what AFIS is, and what
- 9 that has to do with fingerprints?
- 10 A. AFIS is the Automated Fingerprint Identification System
- 11 whereas you can take crime scene -- prints from crime scenes
- 12 and enter that print, and it searches a known fingerprint
- 13 database to possibly identify that latent impression.
- 14 Q. And when you lifted -- can you tell this jury how you
- 15 lifted the fingerprint, and what you did with it after you
- 16 lifted it.
- 17 A. After I lifted it I examined it and realized I couldn't
- 18 do anything with it, other than to save. It was ridge detail.
- 19 Q. All right, when you say ridge detail, you can see
- 20 markings in the finger, like the ridges of my finger, right.
- 21 A. When I say ridge detail I can see that it's the fine
- 22 ridges that run along your hands, your fingers, and the bottom
- 23 of your feets -- your feets -- the bottom of your feet, and --
- 24 but what we look for is examining them, not just a pattern.
- 25 You know, you've probably heard a lot on stories and T.V.

1 shoes, different patterns. We all have the same pattern, but
2 what is unique about your print, that differentiates your
3 print from my print is the fact that the alignment of these
4 ridges, and the end -- they end sometime, they bifurcate, they
5 are shore, they flow up, circle around or go out one side of
6 the hand to the other side, and those unique factors are what
7 we have to have present in a latent print to be able to
8 positively say that I left that print at the scene, or that
9 you left the print at the scene, and in this case this print
10 was of insufficient ridge detail, meaning there wasn't enough
11 material, or what we call minutia points, characteristics in
12 that print, for me to positively say it belonged to one
13 person, and only one person.

14 MS. BASS: Your Honor, just one moment.

15 THE COURT: Yes Ma'am.

16 Q. Agent, as an expert in fingerprint analysis, if we
17 handed this to you after court would you be -- and I've put my
18 fingerprint like that, would you be able to get my fingerprint
19 off this document, for sure?

20 A. Never for sure. Only until I processed it would I know
21 if I could get your print.

22 Q. What -- well, is it -- isn't it true that one of the
23 reasons it's difficult to be able to put fingerprints into
24 AFIS is because it could have something to do with weather,
25 the weather can affect whether or not you can get a good

1 print, the condition of the hands, whether the person was
2 sweaty. What -- could you just tell the jury what some of the
3 reasons are you might not be able to get a print sufficient to
4 send in as a suspect in AFIS.

5 A. Well, you can get a print that might not be submit --
6 be able to enter into AFIS, but can be identified, so -- but
7 to get a print to be able to identify it, I may see you touch
8 that counter several times today and not get your print on the
9 counter, and it has a lot of -- a lot of factors can bear on
10 that being put -- you know, being able to develop a print, you
11 know, the conditions of your hands, the pressure you apply to
12 the surface when you touch the surface, you know, do you sweat
13 a lot, do you not produce any residue to leave an impression,
14 the weather, you know, could it be raining, however, in my
15 experience I've processed prints that have been submerged in
16 water and still process and develop prints that can be
17 identified, and then I've watched, like she said, touch this
18 photograph, know right where to go, process it, and not get
19 any ridge detail, so the key to any of this is processing it
20 and getting that ridge detail, and we go from there to
21 identify it. So there are numerous factors that can explain
22 why you may not get them, but the absence of a print on that
23 doesn't mean someone didn't touch it.

24 Q. The absence of a print doesn't mean that someone didn't
25 go into that door.

1 A. Correct.

2 Q. Did you find anything inconsistent -- well, let me ask
3 you this. The Police Department told you what they were
4 bringing you down there for, and that -- what they had been
5 told from Ms. Pope that happened at the home, correct.

6 A. I was told Ms. Pope's statement, yes Ma'am.

7 Q. Okay. And you aren't friends with her, don't know her
8 family, never heard of her.

9 A. No Ma'am.

10 Q. Okay. And in your thirty some odd years with law
11 enforcement, declared as an expert witness in Federal and
12 State court, your view of this crime scene from 2003, on May
13 28th, early morning hours, to today's date, was there any --
14 you didn't find anything inconsistent with what Keri Pope told
15 the police happened; is that fair to say?

16 MR. HIXSON: Your Honor, I object to -- this calls for
17 conclusions based on those statements.

18 THE COURT: Sustained.

19 MS. BASS: One moment, Your Honor.

20 No further questions. Thank you so much, Agent Bodie.

21 THE COURT: Mr. Locklear.

22 MR. LOCKLEAR: Your Honor, I would move under Rule 12
23 to have her notes provided to me prior to my cross-examination
24 since they were used to refresh her recollection.

25 THE COURT: Do you have your notes there?

DIANE BODIE - CROSS BY LOCKLEAR

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1 A. Yes sir.

2 THE COURT: All right. Hand them to Mr. Locklear.
3 Continue on with your cross-examination.

4 MR. LOCKLEAR: Thank you.

5 CROSS-EXAMINATION BY MR. LOCKLEAR:

6 Q. And you collected one foot impression and two foot
7 photos, correct.

8 A. I collected one cast, and two photographs, yes sir.

9 Q. And where was the cast made again?

10 A. It was outside the side door, where Ms. Pope said the
11 intruders came in.

12 Q. And where was the other one that you just took a
13 picture of? I believe that was from blood.

14 A. The photograph in blood was inside the hallway, where
15 the dog was shot.

16 Q. You mentioned something about there was Amido Black.

17 A. Amido Black.

18 Q. Could you please explain exactly what that is, and the
19 process that that entails for finding where there's blood.

20 A. It's a reagent we use to spray on an item that we
21 believe there is blood, and we definitely had blood in the
22 hallway. We would spray it -- it actually acts to the protein
23 in the blood, so we spray the hallway, and I believe in my
24 notes we sprayed the -- into the bedroom a little bit, and
25 into the living room, to see if there was tracking of blood,

1 and the only impression that we found was the E.M.S. shoe.

2 MR. LOCKLEAR: May I approach, Your Honor, and hand her
3 her notes back?

4 THE COURT: Yes sir.

5 MR. LOCKLEAR: Thank you, Special Agent, for that.

6 A. Thank you.

7 Q. You said something about the Amido Black showed a
8 gurney track.

9 A. I believe what appeared, in my opinion, to possibly be
10 a gurney track. It was just a -- like if you were to roll
11 this stand that you are walk -- standing at, roll it through
12 blood, it might leave the trail of that ball on the floor.

13 Q. So in your expert opinion it was some type of wheel, or
14 something that went through the blood; you just can't
15 determine exactly what because obviously you weren't there
16 when it happened.

17 A. Right. Yes sir. It was a straight line. I mean it
18 might not have even been that.

19 Q. But can you say for sure that something was --
20 something went through the blood after the blood was on the
21 floor?

22 A. It appeared that way, unless it was part of the dog,
23 you know, when it was drug from the hallway to the living
24 room.

25 Q. I guess what I'm getting to is, the Amido Black, or

1 whatever you call it, that would only show blood, so whatever
2 you saw had -- it was blood from somewhere, correct.

3 A. Yes sir.

4 Q. Okay. You said that most of the evidence you collected
5 yourself that there were what, three bullet casings, or three
6 bullets, three bullet casings that a Georgetown police officer
7 collected.

8 A. The cartridge cases, yes sir.

9 Q. And did you obtain those directly from the evidence
10 custodian of the Georgetown Police Department?

11 A. I received them from one of the officers. There is a
12 chain of custody form with his name on it. I don't recall his
13 name right now.

14 Q. Okay. I saw on your notes that obviously you had
15 spoken with the investigators from Georgetown and gotten
16 copies of their Incident Reports, correct.

17 A. Yes sir.

18 Q. What, if anything, did you find at the crime scene, or
19 in your later investigation that ended up being inconsistent
20 with the statement given by the victim, Keri Pope, in this
21 case?

22 A. I didn't find anything.

23 **MR. LOCKLEAR:** That's all I have for this witness, Your
24 Honor. Thank you.

25 **THE COURT:** All right. Redirect.

1 **REDIRECT-EXAMINATION BY MR. HIXSON:**

2 Q. You indicated, in relation to footwear impressions,
3 what is the evidentiary value of taking footwear impressions
4 in a public high-traffic area?

5 A. You may have a lot of shoes to eliminate, I mean, a lot
6 of people could have walked that path.

7 Q. As you entered that home was that the main point of
8 egress and exit from that home when you were there?

9 A. Yes sir.

10 Q. As it relates to fingerprints on the exterior of homes,
11 or in the public realm, what's the evidentiary value of taking
12 fingerprints in areas exposed to public?

13 A. Well, if anyone had been at that door at any time I
14 couldn't say that they left a print exactly that night. I
15 can't put a time stamp on a fingerprint that's left on an item
16 if I were to develop it, so, you know, at any time that print
17 could have been there. Outside of weather and everything else
18 -- you could tell me it's pouring down rain and I may still
19 get a fingerprint, and you might have touched it a week ago.

20 Q. The areas on the outside of the house, are those
21 exposed to any passerby that could touch the house, unrelated
22 to this case; is that possible?

23 A. Well, any -- it's possible. There's a fenced area, but
24 you could certainly walk in the fence.

25 Q. As it relates to the processing developed now, you

1 indicated that you had never done that before. What are some
2 of the problems if you were to try to take a swab of a dog's
3 mouth, for example?

4 A. Well, if I had been asked to do swabs of the dog's
5 mouth I would have referred it to the veterinarian who took
6 the bullet out.

7 Q. Okay.

8 MR. HIXSON: Beg the Court's indulgence for a moment.

9 THE COURT: Yes sir.

10 Q. And let's go back to the very beginning, very briefly.
11 When you walk into a crime scene for the very first time what
12 information -- how do you decide how to investigate that crime
13 scene? Is it based on information that you are given?

14 A. When you have an eyewitness that's usually a good point
15 to start, yes sir.

16 Q. Okay. So do you advance the investigation of that
17 crime scene based on the statement of a witness in the case?

18 A. Well, certainly the physical evidence can change the
19 story totally around, and you know, just because a witness
20 tells me something, if I see something that is out of the
21 ordinary that doesn't support what I've been told, I call it a
22 red flag, and that's going to be what I'm going to
23 investigate. You know, I don't ignore it, you know. It would
24 be, like well, this might have been in the statement but, you
25 know -- for instance, the gold necklace, if it's not on the

1 floor, you know, I'm going to say, well, I don't see a gold
2 necklace, so where is it, but it was on the floor, so, you
3 know, you just -- it's kind of like dotting your "i"s and
4 crossing your "t"s.

5 MR. HIXSON: I have no further questions, Your Honor.

6 THE COURT: Anything on the questions asked by the
7 Solicitor.

8 MS. BASS: No, Your Honor.

9 THE COURT: Mr. Locklear.

10 MR. LOCKLEAR: No sir, Your Honor.

11 THE COURT: Do you wish the witness to be excused?

12 MR. HIXSON: Yes sir.

13 THE COURT: Any objection?

14 MS. BASS: No. Your Honor, we have her under Subpoena
15 as well. We would ask that she be allowed to -- we don't need
16 to recall her at this point, so ---

17 THE COURT: Okay. I got confused there. Do you want
18 to release her from her Subpoena or not?

19 MS. BASS: We want to release her from our Subpoena.

20 THE COURT: All right. Very good.

21 All right, and Mr. Locklear.

22 MR. LOCKLEAR: No objection to that, Your Honor.

23 THE COURT: All right, Ma'am, you are released from all
24 your subpoenas, and you are free to go back to your regular
25 activities.

1 A. Thank you.

2 **THE COURT:** All right, ladies and gentlemen, I
3 apologize. We went a little bit longer than I had expected,
4 but we will break now. I'm going to ask that you be back in
5 your jury room at 3:20, please. Be back in your jury room at
6 3:20. Thank you very much.

7 Everyone else remain seated.

8 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
9 **JURY.)**

10 **THE COURT:** All right. We need to do something about
11 our photograph, correct.

12 **MR. HIXSON:** Yes, Your Honor.

13 **THE COURT:** Which number is it?

14 **MR. HIXSON:** As I recall it's 52 -- 51.

15 **THE COURT:** All right, Mr. Locklear, you have an
16 objection to it.

17 **MR. LOCKLEAR:** Yes sir. That photograph is calculated
18 to arouse the sympathy or prejudice to the jury. It's
19 irrelevant, it's unnecessary to substantiate facts in the
20 case. Your Honor, obviously there is no fact in issue about
21 where he was found. There's other stuff that can corroborate
22 where he was found. This is -- this does not go directly to
23 the crime, the position he is in as -- when he's receiving
24 E.M.S. treatment, it doesn't help the jury to ascertain any
25 specific fact, or help them in coming to a verdict. With all

1 the intubation and the other things going on with him we think
2 it's unduly prejudicial, and it certainly doesn't help to add
3 any fact whatsoever to their case that's not already been
4 established through testimony, and because of the highly
5 prejudicial nature it clearly outweighs any limited probative
6 value that it could possibly have, and we would therefore ask
7 that the Court exclude that photograph from evidence.

8 Thank you, Your Honor.

9 **THE COURT:** All right. I do not find that it's unduly
10 prejudicial, but I do find that the State has not sufficiently
11 given any rationale for the introduction of the photograph at
12 this point in time as to it's evidentiary value to the jury.
13 I do not find it, in any way, to be unduly prejudicial, but
14 the State has not sufficiently tied it to any rational purpose
15 regarding the investigation, so at this point in time I'm not
16 allowing it into evidence.

17 I'll see y'all back at 3:15. Thank you very much.

18 **MR. HILLIARD:** Thank you, Your Honor.

19 **MR. HIXSON:** Thank you, Your Honor.

20 **MS. BASS:** Thank you, Your Honor.

21 (THE FOLLOWING TAKES PLACE AFTER A LUNCH BREAK, AND
22 OUTSIDE THE PRESENCE OF THE JURY.)

23 **THE COURT:** Is the State ready for the jury?

24 **MR. HIXSON:** Yes sir, Your Honor.

25 **THE COURT:** And Mr. Hilliard?

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1 MR. HILLIARD: Yes sir, Your Honor.

2 THE COURT: And Mr. Locklear?

3 MR. LOCKLEAR: Yes sir, Your Honor.

4 THE COURT: Very good.

5 Ask the jury to come in, please.

6 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
7 JURY.)

8 THE COURT: All right, Solicitor, your next witness,
9 please.

10 MR. HIXSON: Thank you. At this time the State would
11 call Dr. Erin Presnell from the Medical University of South
12 Carolina.

13 THE COURT: All right, sir.

14 SUSAN ERIN PRESNELL, being first
15 duly sworn, testifies as follows:

16 DIRECT-EXAMINATION BY MR. HIXSON:

17 Q. Good afternoon, Ma'am.

18 A. Good afternoon.

19 Q. Please tell us what you do for a living.

20 A. I'm a Forensic Pathologist. I work down the road at
21 M.U.S.C. in Charleston.

22 Q. And please, for the world, tell us what a forensic
23 pathologist does.

24 A. I think -- well, a lot more people are becoming
25 familiar with Forensic Pathology with all the T.V. shows and

1 all, but I'll just back up a little bit and kind of explain
2 how you get to Forensic Pathology. Forensic Pathology is
3 actually a sub-specialty of the broad field of Pathology, so
4 the pathologist is the doctor that, if you go as a patient to
5 one of your family doctors, or a surgeon or whatnot, any kind
6 of tissue that they take off of you, a biopsy, if you go to
7 surgery, anything they remove goes to the pathologist, and the
8 pathologist looks at it, looks on the microscope and diagnoses
9 what's going on, like is it cancer or not cancer, infection or
10 not infection, so I trained as a General Pathologist, and then
11 I did sub-specialty training in Forensic Pathology, and that,
12 of course, is not where we are just looking at just a piece of
13 tissue, or an organ or a smaller portion of tissue, but of
14 course we are looking at the whole entire body of somebody
15 that has passed on, and of course the procedure is called an
16 autopsy, and ultimately we are trying to interpret the cause
17 and manner of death.

18 Q. Well, that sounds pretty specialized. Have you had any
19 additional training or experience in that field?

20 A. Well, let's see, to get -- to become a Board Certified
21 Forensic Pathologist you go through college, you go through
22 medical school, you do the -- at the time it was five years
23 General Pathology training, and then the additional year in
24 sub-specialty forensic training, so I'm Board Certified in
25 General Pathology, and Board Certified in Forensic Pathology.

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1 Q. All right. And in order to be the I guess you have to
2 start out as a doctor to begin with; is that correct?

3 A. Right, you graduate medical school, yes.

4 Q. Okay. And as far as your experience in this area of
5 Forensic Pathology now can you tell us about that, how long
6 you have worked, how many autopsies you have performed, and
7 you've testified in court.

8 A. I started doing forensic autopsies when I was in
9 training, so in 1995, and then I finished my sub-specialty
10 training in '99 and got Board Certified then, so ever since
11 1999 I stay on -- at M.U.S.C. as faculty.

12 As far as -- I've probably done around two thousand
13 autopsies, and probably gone to court about eighty times.

14 Q. And that was my next question, and that's how many
15 times you've been qualified as an expert in the area of
16 Forensic Pathology.

17 A. An estimate of about eighty.

18 MR. HIXSON: At this time the State would offer Dr.
19 Erin Presnell as an expert in the area of Forensic Pathology,
20 Your Honor.

21 THE COURT: All right. Mr. Hilliard, Ms. Bass, do you
22 want to examine the witness as to her qualifications?

23 MR. HILLIARD: No sir, Your Honor, we stipulate.

24 And thank you for being with us, Doctor.

25 A. You are welcome.

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1 **THE COURT:** And Mr. Locklear.

2 **MR. LOCKLEAR:** No sir. We stipulate that Dr. Presnell
3 is an expert in the area of Forensic Pathology.

4 **THE COURT:** All right. She is qualified to give her
5 opinion in the area of Forensic Pathology.

6 You may proceed, Solicitor.

7 **MR. HIXSON:** Thank you, Your Honor.

8 Q. Doctor, did you have an occasion to perform an autopsy
9 on the person of Joey Pope?

10 A. Yes, Mr. Joseph Pope, Jr..

11 Q. And please tell us about -- not about the process,
12 about any significant findings that you were able to determine
13 with Mr. Pope.

14 A. Well, his major significant finding was his cause of
15 death. Mr. Pope -- and what I'll do is, I'll kind of give a
16 general over view and then we can go through each injury.

17 But Mr. Pope had four gunshot wounds. He had three to
18 the head and one to kind of the upper chest, lower neck area.
19 Two of the wounds were really the fatal wounds, and two were
20 pretty superficial wounds, and I'll now go through them.

21 He had a superficial wound to the top of his head, kind
22 of on the left side, that went in the back of his head, a
23 gunshot wound, went through the scalp and exited right -- a
24 little bit in a forward direction, but it just went through
25 scalp.

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1 He also had a gunshot wound that was kind of at the
2 right upper chest, and connected with the gunshot wound at the
3 mid-back, and those two connected. Those just went through
4 the soft tissue as well, just the muscle and whatnot.

5 Then he had the two fatal gunshot wounds that were right
6 in the back of his head. Both those bullets entered pretty
7 much side by side, and then together. They went toward the
8 left side of the brain. One of the bullets actually
9 separated, the jacket came off of it, it's grey lead
10 projectile, and came to rest inside the left part of the
11 brain. The other bullet went through the skull part on the
12 left side, and came to rest in the scalp.

13 We retrieved both of those bullets, well, the intact
14 bullet and then the bullet that had separated, the inner part
15 from the jacket, from -- at the time of autopsy we retrieved
16 that.

17 So ultimately, again, he had the four gunshot wounds,
18 two in the back of the head that were considered fatal, one
19 superficial, one to the top of the left head, and then one
20 that was between the back and the upper chest.

21 (PHOTOGRAPHS MARKED STATE'S EXHIBITS 71, 72, 73, 74, 75,
22 76, 77, 78 AND 79, FOR IDENTIFICATION ONLY.)

23 Q. Let's talk about those in a little bit more detail now.
24 I'm going to hand you a series of photographs, if that's all
25 right with you. Take a look at all those en masse, if you

1 can, and just, without commenting on them, familiarize
2 yourself with those photographs.

3 A. Yes. These are photographs taken at the time of
4 autopsy.

5 Q. Okay.

6 MR. HIXSON: And what I've handed up to the witness,
7 Your Honor, for exhibit numbers, for the Court, item 71, item
8 number 72, item number 73, item number 74, item number 75 --
9 these are State Exhibit Numbers, Your Honor -- State's 76,
10 State's 77, 78, and finally, Your Honor, State's 79.

11 Q. Are these photographs that you looked at, are these all
12 fair and accurate representations of the scene that you saw
13 when these photographs were taken at the time of -- on or
14 about the time of the autopsy?

15 A. Yes. They are -- some of them are pretty blurry, but
16 they are accurate representations, yes.

17 MR. HIXSON: Okay.

18 At this time the State would move those photographs into
19 evidence. I'll read back through them if necessary, Your
20 Honor.

21 THE COURT: All right. It's 71 through 79.

22 MR. HIXSON: That's correct, Your Honor.

23 THE COURT: Any objection, Mr. Hilliard?

24 MR. HILLIARD: No sir, Your Honor.

25 THE COURT: Any objection, Mr. Locklear?

1 **MR. LOCKLEAR:** Yes sir, Your Honor.

2 **THE COURT:** All right, ladies and gentlemen of the
3 jury, go to your jury room, please.

4 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
5 **JURY.)**

6 **THE COURT:** Where are those photographs now, the
7 photographs?

8 All right, Mr. Hilliard, let me hear from you.

9 **MR. HILLIARD:** Thank you, Your Honor.

10 Judge, those are gruesome and awful, and serve no
11 evidentiary purpose, as well as being cumulative. There is a
12 diagram which is available to the Doctor. She did it, in
13 fact, and provided it to us by the prosecution, which would
14 serve the same purpose, and be a lot less inflammatory.

15 **THE COURT:** All right, Solicitor.

16 I'm sorry, Mr. Locklear.

17 **MR. LOCKLEAR:** Your Honor, we join in that objection,
18 and I haven't had a chance key cite it to see if it's still
19 good law, but I know there is State v. Middleton that said
20 color autopsy photos were an error if the defense is going to
21 stipulate to the facts, and there's no need to corroborate the
22 forensic evidence, which we would certainly be willing -- I
23 don't know if Mr. Hilliard -- to stipulate to the facts as
24 found in her autopsy. There would be no need for any
25 corroboration of her testimony because it would be then taken

1 as true, and therefore there would be no need for those to
2 come in. They are obviously just meant to inflame the passion
3 and prejudice of the jury in hopes that they will come back
4 with a verdict on an improper basis. They don't add anything
5 to the case.

6 While we haven't hear Dr. Presnell's testimony yet I've
7 reviewed her Report many times. It's very thorough. She is
8 very educated and has extensive training, so I'm sure that,
9 through her testimony and through her Report that any and all
10 details can be clearly conveyed to the jury without the need
11 for those prejudicial photos.

12 Thank you, Your Honor.

13 THE COURT: I'm sorry. So you want to stipulate to her
14 Report. Is that what you are saying to me?

15 MR. LOCKLEAR: I want to stipulate as to the factual
16 findings in her Report as far as my Defendant is concerned,
17 because they -- they -- in our case it is what it is.

18 THE COURT: Mr. Hilliard, what's your position on that?

19 MR. HILLIARD: I'm willing to stipulate to her
20 testimony, Judge. I don't know that I'm ---

21 THE COURT: To the factual findings in here report.

22 MR. HILLIARD: Yes sir, Your Honor. I'm willing to
23 stipulate to the factual findings in her Report.

24 THE COURT: All right. Is there anything in her Report
25 that you object to?

1 **MR. HILLIARD:** Nothing in her Report that we object to,
2 Your Honor.

3 **THE COURT:** Mr. Locklear, is there anything in the
4 Doctor's Report that you object to?

5 **MR. LOCKLEAR:** No sir, Your Honor.

6 **THE COURT:** All right. Do y'all have copies of the
7 photographs?

8 **MR. LOCKLEAR:** Black and white copies were provided in
9 discovery, but they are basically -- you can't see them.

10 **THE COURT:** All right. How about y'all come -- how
11 about y'all look at, if you would, at least 77, 78 and 79.
12 Tell me if you have an objection to those.

13 **MR. LOCKLEAR:** I don't have an objection to those, Your
14 Honor.

15 **MR. HILLIARD:** Well, did she identify these, Judge?
16 Maybe I was -- but ---

17 **THE COURT:** She said all these were the autopsy --
18 taken at the time of autopsy, were a fair and accurate
19 representation of what was depicted.

20 Now, you know, I'll be glad for there to be further
21 examination of those three photographs.

22 **MR. HILLIARD:** All right, sir.

23 **THE COURT:** Would you want me to do that? Would you
24 want me to have that done?

25 **MR. HILLIARD:** Yes sir.

1 **THE COURT:** All right.

2 Give those to the Solicitor.

3 **MR. HIXSON:** Your Honor, I also would like -- would
4 like to ask to be heard at the appropriate time on those
5 stipulations.

6 **THE COURT:** All right. Very good. Okay. Go ahead.
7 Ask her to talk about those three photographs, please.

8 **MR. HIXSON:** Okay.

9 **DIRECT BY HIXSON CONTINUED:**

10 Q. Doctor, I'm going to hand up three photographs, State's
11 77, 78 and 79, if you -- see if you recognize those items.

12 A. The first -- 77 and 78 are photographs of the bullets
13 that we retrieved at autopsy, with out autopsy label in the
14 photographs, and then 79 is a photograph of the x-ray taken at
15 the time of autopsy.

16 Q. And all those photographs are fair and accurate
17 representations of the scene you saw at the time those
18 photographs were taken.

19 A. Yes.

20 **THE COURT:** All right. So, as to those three, is there
21 any objection to those three, from the Defendant, Pope?

22 **MR. HILLIARD:** We don't object to the bullet
23 photographs. As to the x-ray photo, we would object as to
24 relevance.

25 **THE COURT:** Do you want to ask her some questions about

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1 the purpose of that photograph, Solicitor?

2 MR. HIXSON: Certainly, Your Honor.

3 DIRECT BY MR. HIXSON CONTINUED:

4 Q. As part of your routine autopsies do you take x-rays of
5 your decedent?

6 A. We do when there is a case of a gunshot wound, because
7 we use them to locate the bullets, so it shows the location of
8 the bullets, and in this particular one you can see the
9 pathway through the head.

10 THE COURT: So it's prior to you removing them ---

11 A. Yes.

12 THE COURT: ---Where they were located.

13 A. Yes.

14 THE COURT: Anything else, Solicitor?

15 MR. HIXSON: No, Your Honor. And I no problem
16 withdrawing 79. 79 is -- I'll withdraw that from offering
17 that for evidence, and move toward the other photos,
18 conversation on the other photographs.

19 THE COURT: Well, why don't you ask her some questions
20 then about 71 through 76.

21 MR. HIXSON: Yes sir.

22 THE COURT: Before you go any further, 77 and 78 are in
23 evidence without objection.

24 You may proceed.

25 (PHOTOS PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER 77, AND

1 STATE'S EXHIBIT NUMBER 78 FOR IDENTIFICATION ONLY ARE NOW
2 ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 77 AND 78.)

3 MR. HIXSON: Thank you, Your Honor.

4 DIRECT BY MR. HIXSON CONTINUED:

5 Q. Let me show you a series of photographs, or two
6 photographs specifically I'm referring to. Let's start with
7 Number 71. That photograph, what does that depict?

8 A. 71 is a photograph of the entrance and exit gunshot
9 wound. That's the superficial gunshot wound to the top of the
10 scalp.

11 MR. HILLIARD: Can I stand over there, Judge, and look
12 at this while she's talking about it?

13 THE COURT: Absolutely.

14 MR. HILLIARD: Thank you, sir.

15 MR. HIXSON: Your Honor, I can place the -- pull these
16 up on the screen, since the jury is not in the room, so we can
17 ---

18 THE COURT: All right. Well, that would be good. Why
19 don't you do that.

20 MR. HIXSON: All right. Okay. 71 is (A)(1), Mr.
21 Brown.

22 A. All right. So 71 is the photograph of the entrance,
23 which is (B), and the exit (A), of the superficial gunshot
24 wound to the scalp.

25 Q. Okay. And was there anything of specific interest that

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1 you recovered from that particular wound?

2 A. I -- embedded within this wound was this foamy,
3 cushion-like material, that we recovered and transferred over
4 to law enforcement.

5 Q. Okay. Now, when you talk about (A) and (B), is that
6 one -- describe in more detail what caused the passage of that
7 wound in your professional opinion, what caused that wound?

8 A. Well, the -- it's a gunshot wound, and (B) is the
9 entrance, and (A) is the exit, so it's a single gunshot wound.

10 Q. Okay.

11 MR. HILLIARD: Judge, if I may, I would rather look at
12 the photograph, if I ---

13 MR. HIXSON: I'll hand it over, Your Honor.

14 THE COURT: All right. And Mr. Hilliard, you indicated
15 you have a black and white copy of this.

16 MR. HILLIARD: Yes sir.

17 THE COURT: And Solicitor, do you have any black and
18 white copies?

19 MR. HIXSON: No, Your Honor. We ---

20 THE COURT: How about find me yours, Mr. Hilliard, and
21 hand the exhibit back to the Solicitor.

22 MR. HILLIARD: Yes sir. Judge, we have several
23 thousand pages of documents, and -- well, never mind. They
24 are telling me they can get it, so ---

25 MR. HIXSON: Your Honor, we provided the scanned color

1 copies of the disks to defense counsel, and ---

2 **THE COURT:** I appreciate that. He indicated he's got a
3 black and white copy, and I'm trying to find the black and
4 white copy.

5 Continue on.

6 **MR. HIXSON:** Thank you, Your Honor.

7 **DIRECT BY HIXSON CONTINUED:**

8 Q. Dr. Presnell, can I bring your attention to what has
9 been marked as State's 72. I believe it's in front of you at
10 this time.

11 A. Yes. 72 shows two entrance gunshot wounds to the back
12 of the head, labeled (C) and (D).

13 Q. Okay.

14 **MR. HIXSON:** And I can bring that up as (A)(2), Mr.
15 Brown.

16 Q. In this photograph what do (C) and (D) denote?

17 A. There are two -- (C) is an entrance gunshot wound, and
18 (D) is an entrance gunshot wound, so two gunshot wounds.

19 Q. Now in your testimony did you indicate, based on the x-
20 rays that we are -- that's on that photograph, are these the
21 fatal shots that you were referring to?

22 A. Yes.

23 Q. You indicated that the wound depicted in 71 was -- what
24 did you say about the wound in 71 ---

25 A. It was a superficial injury, going only through scalp.

1 Q. Let me draw your attention to what has been marked as
2 State's Exhibit 73, and please describe to the Court the
3 significance of that photograph.

4 A. This is a photograph of the gunshot wound that we
5 labeled (F), and the associated contusions and abrasions that
6 are around it.

7 Q. Okay.

8 MR. HIXSON: And that, specifically, Your Honor, is
9 (A) (3).

10 Q. And can you please tell -- tell the Court what the
11 significance of those contusions that you see on the
12 deceased's neck and chin area.

13 A. What was -- the contusions are the area of bruising,
14 and there's also some abrasion there as well, but if you were
15 to turn the decedent's head to the right, where the head is
16 laying up against the gunshot wound, that kind of follows on
17 the path of the gunshot -- where the bullet went, so that the
18 bullet might actually have caused what -- had caused those
19 abrasions and contusions on the face and neck.

20 Q. All right. Let me draw your attention to what has been
21 marked as State's Exhibit 75.

22 A. This is the gunshot wound that's on the mid back, but
23 connects to the one on the upper chest, that we just
24 discussed, Exhibit 75.

25 MR. HIXSON: Okay. And I'm specifically referring to

1 the Court -- the slide (A)(5).

2 Q. And now I'm going to hand you a photograph labeled
3 State's Exhibit 74.

4 A. This is another photograph -- 74 is another photograph
5 of the gunshot wound to the right upper chest.

6 Q. Okay. And what did you label that particular wound as?

7 A. This is labeled (F), and that other -- in Exhibit 73 it
8 is not labeled with us, but in Exhibit 74 it is labeled with
9 the autopsy label and the label (F), which is what we call it
10 in the Autopsy Report.

11 Q. Okay. Now based on -- can you please describe to the
12 Court what a braided exit wound -- what does that mean in
13 scientific parlance?

14 A. A shored abrasion or a braided exit wound. So one of
15 the things, of course, when we are doing autopsy is to try to
16 differentiate an entrance gunshot wound and an exit gunshot
17 wound, and entrance ones have certain characteristics, and one
18 of them is what you call an abrasion border. When the bullet
19 goes in through the skin it abrades the skin around where it's
20 going in, so you see a scratches off area around the entrance
21 gunshot wounds. When the bullets come out of skin they
22 typically push the skin apart, but they don't necessarily hit
23 the outside of the skin, so you don't see this abrasion border
24 on your classic exit wounds.

25 Now, that being said -- and there's always exceptions --

1 if you have something pressing against the skin on an exit
2 wound when the bullet exits it can actually push the skin up
3 against whatever it's pressing on, and that can actually cause
4 an abrasion, or what they call the shore abrasion, or it's
5 kind of a -- meaning it's held up, the skin is held up by
6 something else. So -- and as far as in reference to this case
7 ---

8 **THE COURT:** All right. We don't need to develop the
9 entirety of her testimony. So let's continue on.

10 **MR. HIXSON:** Your Honor, that's the basis for my
11 specific corroboration that that -- the nature of those wounds
12 are significant corroboration to the facts of the case, and
13 corroboration of the victim's statement as to what happened
14 that evening. That's why I'm trying to put the photographs
15 in.

16 **THE COURT:** And y'all didn't talk about 76.

17 **MR. HIXSON:** Yes.

18 Q. 76 is this one. Let me show you that, see if you
19 recognize that item.

20 A. 76 is a view that's further back at autopsy. Well,
21 it's pretty blurry, but it shows the superficial gunshot wound
22 to the scalp - it's here in the back of the head - and the one
23 in the mid-back.

24 Q. Is that an orienting photograph of ---

25 A. It shows where the location of the bullets -- or the

1 gunshot wounds are, yes.

2 MR. HIXSON: That's the essence of testimony, obviously
3 in more details on certain subjects, but that's the essence of
4 it, and it's corroboration.

5 THE COURT: Regarding those particular ---

6 MR. HILLIARD: Well, Judge, before you issue your
7 ruling I would like to ---

8 THE COURT: I haven't issued a ruling.

9 MR. HILLIARD: All right, sir, I just -- I didn't want
10 to get behind the ruling, Judge.

11 THE COURT: All right. Do you want to say something?

12 MR. HILLIARD: Right. I wanted to make my position a
13 little more clear through cross-examination.

14 THE COURT: You can make your position clear to me, not
15 through cross-examination. It's not time for cross-
16 examination.

17 MR. HILLIARD: I just wanted to ask her a couple of
18 questions about a document, whether the document is exactly
19 the same as the photographs, and whether there's anything in
20 the photographs that's not in the document. That's my
21 question. I'd like to ask her that, to develop the fact that
22 the document is, in fact, as good as the photographs as
23 depicting what's depicted in the photographs.

24 THE COURT: All right. Mark your exhibit.
25 Show it to the Solicitor.

1 Now, let's be clear about this. First, Solicitor,
2 you've looked at the exhibits.

3 MR. HIXSON: Yes, the documentary evidence.

4 THE COURT: What's it marked as?

5 MR. HILLIARD: It hasn't been marked yet.

6 THE COURT: All right. Well, get it marked, please.
7 I'm sorry.

8 MR. HILLIARD: May I staple it first, Your Honor?

9 THE COURT: Sure.

10 MR. HILLIARD: Thank you. And it doesn't need to be
11 reflected in the record, but I'll just point out, I got this
12 from the Solicitor, so ---

13 THE COURT: I appreciate that.

14 COURT REPORTER: Is this for both Defendants?

15 THE COURT: Mr. Locklear, is this for both Defendants,
16 or just for Defendant, Pope?

17 MR. LOCKLEAR: It's for both Defendants, Your Honor.

18 THE COURT: All right.

19 MR. LOCKLEAR: And I join in the argument Mr. Hilliard
20 makes as well.

21 THE COURT: All right.

22 COURT REPORTER: Defendants' 8, for both.

23 (PHOTOGRAPHS MARKED DEFENDANTS' EXHIBIT NUMBER 8, TWO
24 PAGES, AS TO DEFENDANTS, POPE AND MILLER, FOR IDENTIFICATION
25 ONLY.)

1 **THE COURT:** All right. Defendant's 8.

2 Now, Solicitor, have you looked at Defendants' 8?

3 **MR. HIXSON:** If that's what he just handed me, I sure
4 have, Your Honor.

5 **THE COURT:** All right. Was it your intention to
6 introduce, through this witness, that particular document?

7 **MR. HIXSON:** No sir.

8 **THE COURT:** The only way that the jury can logically go
9 forward with your argument, Mr. Hilliard and Mr. Locklear then
10 is for the document to be introduced into evidence, and the
11 State doesn't intend to introduce it into evidence.

12 So, for the Court to even consider substituting the
13 photographs for their document it would have to be one that is
14 coming into evidence, so is it your intention to, on behalf of
15 the Defendant, Pope, and Mr. Locklear on behalf of the
16 Defendant, Miller, to introduce this into evidence at this
17 time?

18 **MR. HILLIARD:** Judge, the reason that matters is
19 because if we don't introduce anything into evidence we get to
20 argue last.

21 **THE COURT:** I understand the significance, but the
22 problem is, you want me to substitute that document for
23 photographs that the State wants to introduce into evidence,
24 so to do that then this document will have to come into
25 evidence. The State doesn't intend to introduce it.

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1 **MR. LOCKLEAR:** Your Honor, let me make my position
2 clear. First off, I want the pictures completely excluded
3 under my former argument, however, since I can tell Your Honor
4 is inclined not to do that, if you choose not to do that ---

5 **THE COURT:** What former argument was that? I'm sorry.

6 **MR. LOCKLEAR:** Sir?

7 **THE COURT:** What former argument was that?

8 **MR. LOCKLEAR:** That they were highly prejudicial, my
9 cite to State v. Middleton, where when you corro -- when there
10 is un -- when you don't need corroboration for the forensic
11 pathologist's testimony, and the facts aren't stipulated, the
12 clear error to let in color autopsy photos, that argument.

13 And I just argue that -- I also said they were unduly
14 prejudicial, they are solely there to inflame the jury,
15 because everything that could come can come through her
16 testimony, so that would be our position.

17 **THE COURT:** All right, sir.

18 Go ahead, Mr. Hilliard.

19 **MR. HILLIARD:** Thank you, Your Honor.

20 Judge, what I'm asking the Court to do is to require the
21 Prosecutor, if he intends to elicit this information, to use a
22 form which is not unduly and unnecessarily prejudicial.

23 **THE COURT:** You are asking me to require the Solicitor
24 to introduce, and to tell the State what evidence it should
25 introduce in this case, or that's -- is that what you are

1 asking me to do?

2 **MR. HILLIARD:** Well, Judge, I recognize that when you
3 phrase it that way it sounds sort of unreasonable. On the
4 other hand, it is oftentimes the case where, if the Solicitor
5 were to offer, for example, these color photographs, the Court
6 could say, well, Solicitor, you can't use the color
7 photographs, but you can use black and white photographs. I
8 would submit to the Court that there is no difference in
9 saying to the Solicitor, you can't use those color
10 photographs, they are unduly prejudicial, and to say to the
11 Solicitor, you can get the same information which he is
12 attempting to elicit ---

13 Let me point -- pass this up for the Judge.

14 **THE COURT:** Yes sir.

15 **MR. HILLIARD:** ---With that document. I would be
16 perfectly happy for him not to put it in at all, but he wants
17 to put it in, and he wants to put it in through these
18 photographs, I would submit to the Court that this allows him
19 to do those things which his office requires, and yet prevents
20 him from doing things which the Court says that he should not
21 do.

22 **THE COURT:** What do you say to that, Solicitor?

23 **MR. HIXSON:** I'm not aware -- if these facts are
24 contested, the facts are at issue, specifically, Ms. Pope's
25 version of the events that occurred, then certainly where

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1 bullets impact the body of the victim is of utmost performance
2 of the prosecution -- important in the prosecution of this
3 case. Certainly we have a 403 analysis that you have to go
4 through, Your Honor, but the probative value of these
5 particular photographs highly outweigh their prejudicial
6 impact in that the only witness to the murder itself is Ms.
7 Pope, and if there's anything inconsistent that can be
8 developed during the course of the trial based on these then
9 they are highly, highly probative of it, and that's our
10 argument, that they are, in fact, highly probative of it.

11 That's specifically why I withdrew the x-ray photograph,
12 Your Honor, because if we do have photographs of the other
13 wounds we don't need to see, you know, inside Mr. Pope, and I
14 withdrew that photograph.

15 **THE COURT:** Yes sir, Mr. Hilliard.

16 **MR. HILLIARD:** Thank you, Your Honor.

17 If that be true he should be able to articulate for the
18 Court something in the picture that's not on the diagram. If
19 he can't articulate for the Court something in the picture
20 that's not on the diagram, then I would submit to the Court
21 that he hasn't really said anything at all.

22 **THE COURT:** Do you have 71, please Ma'am?

23 Also hand me that 71 again, please Ma'am.

24 **MR. HILLIARD:** Can I look over her shoulder, Judge?

25 **THE COURT:** She can see it and then I'm going to --

1 don't testify to anything just yet, so he can see what the
2 photograph is.

3 All right, go ahead, Ma'am.

4 A. 71 shows the entrance gunshot wound at (B), traveling
5 forward, and exiting at the wound labeled (A).

6 **THE COURT:** All right. You said something, and I made
7 some notes about it, that it contained some foamy, cushioning
8 material.

9 A. Along the bullet pathway there was this foamy, cushion-
10 like material imbedded like within the -- under -- like when
11 we reflect the scalp forward at autopsy to go inside there's
12 the foamy, cushioning material.

13 **THE COURT:** Okay. All right. Thank you.

14 Look at what's been marked as Defendants' Exhibit 8,
15 please Ma'am. Is that your document?

16 A. Yes sir. That's a copy of my doc -- of my diagram I
17 did at the time of autopsy.

18 **THE COURT:** All right. You have been qualified as a
19 Forensic Pathologist, and to explain to the jury your autopsy
20 in this particular matter. That being the purpose that you
21 are here, do you need State's 71 through 76 to explain those
22 matters to the jury, or can you do it completely without those
23 photographs, and rely solely on that exhibit?

24 A. The diagram is, of course, my attempt to draw the
25 injuries. I'm no artist. It certainly does demonstrate the

1 location of the wounds. I think where the photographs come in
2 most helpful is the one labeled 74, and 73, that show the
3 bruising along the neck and the cheek, to kind of demonstrate
4 how his head could -- if his head is moved to the side those
5 injuries match up, and I think that's -- the pictures show
6 that better than my diagram.

7 **THE COURT:** All right.. And how about the location of
8 the foamy, cushioning material, does your diagram adequately
9 show that, and indicate that to the jury?

10 A. I -- well, the picture nor the diagram indicate the
11 foamy cushion material..

12 **THE COURT:** Very good.

13 All right, I am -- 77 and 78 are in evidence. I'm going
14 to allow into evidence 73 and 74.

15 Those are the two you identified to me.

16 A. Yes. 73 and 7 -- yes sir -- 74..

17 **THE COURT:** All right. And over the State's objecting,
18 I am forcing the State -- whether this is error or not, based
19 on the defense's request, forcing the State not to put in 71,
20 72, 75 and 76, and requiring the Doctor to use whatever that
21 exhibit is going to be later.

22 Now, in doing so, Mr. Hilliard and Mr. Locklear, you
23 need to be very careful about the questions that you ask of
24 the Doctor regarding these particular matters, because it
25 could very well lead to a motion by the State to use the

1 photographs I have not now allowed into evidence, based on
2 your questions, so you ask whatever questions you are, with
3 that caution.

4 MR. LOCKLEAR: Thank you, Your Honor.

5 MR. HILLIARD: Thank you, Your Honor.

6 THE COURT: All right, Solicitor.

7 MR. HIXSON: May I approach just one moment to clarify
8 what ---

9 THE COURT: You will need to mark that one document as
10 a State's exhibit.

11 COURT REPORTER: I have 71, 72, 75 and 76.

12 THE COURT: All right. For identification, State's
13 identification only, and 79 was withdrawn.

14 COURT REPORTER: Yes sir.

15 (PHOTOS PREVIOUSLY MARKED STATE'S EXHIBITS 73 AND 74 FOR
16 IDENTIFICATION ONLY NOW ADMITTED INTO EVIDENCE AS STATE'S
17 EXHIBITS 73 AND 74.)

18 (PHOTO PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER 79 NOW
19 WITHDRAWN.)

20 COURT REPORTER: I need those to make sure they are
21 marked properly and I have them.

22 71, 72, 75 and 76.

23 THE COURT: For I.D. only.

24 (PHOTOS PREVIOUSLY MARKED STATE'S EXHIBITS 71, 72, 75
25 AND 76 REMAIN FOR IDENTIFICATION ONLY.)

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1 **THE COURT:** 73 and 4 are in evidence over the objection
2 of the Defendants, and again, you've got to mark Defendant's 8
3 as a State's exhibit, in that I -- I'm sorry, what did I do
4 now?

5 **COURT REPORTER:** State's 73 and 4 are admitted, right.

6 **THE COURT:** Yes Ma'am, over the objection of the
7 Defendants.

8 **MR. HIXSON:** And 77 and 78 are in.

9 **THE COURT:** Without objection.

10 (PHOTOS PREVIOUSLY MARKED STATE'S EXHIBITS 77 AND 78 FOR
11 IDENTIFICATION ONLY NOW ADMITTED INTO EVIDENCE AS STATE'S
12 EXHIBITS 77 AND 78.)

13 **MR. HIXSON:** Judge, do we need to write something on
14 Defendants' 8? That's the diagram. I don't know if
15 somebody -- I don't think I'm going to use that, but if ---

16 **THE COURT:** All right. Very good.

17 **MR. HIXSON:** Is that all right?

18 **THE COURT:** If you don't want to use it then ---

19 **MR. HIXSON:** I can mark it if I need to.

20 **THE COURT:** Yes sir.

21 **MR. HIXSON:** Okay.

22 **COURT REPORTER:** Defendants' 8 is for I.D. only, right,
23 sir?

24 **THE COURT:** Yes Ma'am.

25 All right. Ask the jury to come back in, please.

1 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
2 JURY.)

3 THE COURT: All right. For the record, State's 77 and
4 78 are in evidence without objection, State's 73 and 74 are in
5 evidence over the objection of the Defendants, Pope and
6 Miller.

7 You may proceed, Solicitor.

8 MR. HIXSON: Thank you, Your Honor.

9 DIRECT BY MR. HIXSON CONTINUED:

10 Q. Doctor, let's get back to the conversation we were
11 having. If I recall you were talking about the location of
12 certain wounds that you were able to discern from the body of
13 Mr. Pope; is that correct?

14 A. Yes.

15 Q. Okay. Specifically -- and if you need to refer to your
16 notes, or refresh your recollection that's great.

17 Let's talk about the injuries that you noticed on Mr.
18 Pope's head. Let's talk about those first.

19 A. Okay. Like I said before, he had the superficial
20 gunshot wound to the scalp up here, and then the two ones that
21 entered into the brain, on the back of the head.

22 The one to the top left of the head, the superficial
23 one, actually had -- within the pathway, had this foamy,
24 cushion-like material that we recovered from that and
25 transferred to law enforcement.

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1 Q. Okay. Was there a bullet recovered in that wound?

2 A. No. This is a superficial, all the way in and out.
3 The bullet went in and out.

4 Q. Let me hand up to you an item that's been marked as
5 State's Exhibit 80. See if you recognize that item.

6 A. Well, this is a container with our autopsy label on it,
7 with our autopsy number, and the name of the deceased,
8 labeled, "the material from gunshot wound (B)", so this is
9 that foamy, cushiony material that we retrieved.

10 Q. Okay. When you recovered that item from Mr. Pope what
11 did you do with that?

12 A. We transferred it ---

13 MR. HILLIARD: We object to that question.

14 THE COURT: Overruled.

15 MR. HILLIARD: Argument, Judge.

16 THE COURT: What rule would it be based upon?

17 MR. HILLIARD: It's not in evidence.

18 THE COURT: I appreciate that. It's been marked by the
19 State as an exhibit, correct.

20 MR. HIXSON: That's what I'm trying to lay the
21 foundation for, to have it admitted into evidence just now.

22 THE COURT: All right. Very good. I'm going to allow
23 the questions, and allow the witness to examine the exhibit.

24 Go ahead.

25 Q. I apologize, Ma'am. I'm referring back to State's

1 Exhibit 80. I think you indicated that you recovered that
2 from -- where did you recover that?

3 A. I recovered that from the superficial gunshot wound to
4 the scalp.

5 Q. Okay. And once you recovered that, what did you do
6 with that?

7 A. I transferred it to law enforcement, Officer Steven
8 Church, with the Georgetown City Police Department.

9 Q. Okay. And obviously, during the time it was in your
10 custody and control did you tamper with that item in any way?

11 A. No sir.

12 Q. Did you manipulate that as to form and content?

13 A. No sir.

14 Q. Okay. Maintain it, make sure that no one else did.

15 A. It was well secured.

16 Q. Thank you. Now, aside from wound (A) and (B), that you
17 indicated was the pathway of one bullet; is that correct?

18 A. Yes.

19 Q. Please talk about any other significant findings and
20 wounds to Mr. Pope.

21 A. All right. And so we -- again, the other two gunshots
22 wounds to the head were the two to the back of the head, and
23 the bullets went in. One of them separated into it's jacket,
24 and the projectile remained in the brain, and the other one
25 went through the scalp -- excuse me -- not the scalp --

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1 through the skull, and we recovered it from the scalp, on the
2 left side.

3 Q. Did you identify, so we can talk precisely about one
4 versus the other, the next wound, wound (C); is that correct?

5 A. Wounds (C) and (D) are the two to the back of the head.
6 They are so close together that we can't tell which bullet
7 goes with -- I mean, pretty much the pathways were almost
8 identical, so we can't tell which bullet goes with gunshot
9 wound (C) or gunshot wound (D). We -- when we recovered the
10 bullets we labeled them bullet number one and bullet number
11 two, just arbitrarily.

12 Q. Okay. All toll, how much -- how far apart are we
13 talking about, wounds (A), (C) and (D), that -- were you able
14 to determine how far apart any of those on the back of the
15 deceased's head?

16 A. Well, (A) is -- is -- well, eventually -- really the
17 entrance is (B), to -- it's more at the top of the head. (C)
18 and (D), which are at the back of the head -- let's see, (C)
19 is point two inch to the right of midline, all right, and then
20 (D) is point two inch to the left of midline, so they are only
21 separated by half an inch.

22 Q. Okay. Let me show you two items, the first one has
23 been marked State's Exhibit 81, and the second one is State's
24 Exhibit 82. Take a look at those and tell us what those are.

25 A. These are our make-shift bullet containers - they are

1 containers for film - that have our autopsy label, with the
2 appropriate name and the autopsy number, and they are in with
3 the bullet, number one, that we recovered, as well as what we
4 call bullet number two, which was the jacket and that
5 separated from the rest of the bullet, and that would belong
6 to Exhibit -- State's Exhibit 81 and 82, respectfully --
7 respectively.

8 Q. Okay. Did you remove both of those items from the
9 person of Mr. Pope?

10 A. Yes. These are the two bullets we removed from the
11 head.

12 Q. Okay. While they were in your custody and control did
13 you maintain the integrity of those items?

14 A. Yes sir. We photographed them, wrapped them up and
15 transferred them to law enforcement.

16 Q. All right. Did you have an opportunity to observe any
17 other injuries on Mr. Pope?

18 A. He has one additional gunshot wound, which is the one
19 that -- there's a hole in right upper chest, lower neck area,
20 that connects with the hole in the mid-back, mid upper back.
21 This, again, is kind of a -- more of a superficial gunshot
22 wound, meaning that it doesn't strike any bony tissue, or
23 bones or organs, or vital structures like big vessels or
24 anything, and explicitly, it's just soft tissue and muscle.

25 Q. And did you observe any other injuries relating to that

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1 gunshot wound on Mr. Pope?

2 A. Well, the gunshot wound that is (F), the one to the
3 right upper chest, left neck, has some abrasions or scratches,
4 and contusions, or -- which are bruises associated with it.
5 It goes up the neck, and up onto the face. And I believe we
6 will be able to show you this more graphically, but it
7 suggests -- if you turn the deceased's head to the right, like
8 this, it -- there's two -- there's two rectangular abraded
9 contused areas, lying up, like his head was kind of to the
10 right like that, so that if the bullet is along that pathway -
11 - which is right along the bullet's pathway, the bullet,
12 underneath the skin, could actually cause the bruising on the
13 skin overlying it.

14 Again, I think it will be a little more obvious in the
15 photograph.

16 Q. Let me show you what's been marked as item 73.

17 MR. HIXSON: I believe that's in evidence, Your Honor.

18 THE COURT: Yes sir.

19 Q. Do you recognize that?

20 A. Yes. This is a photograph of the gunshot wound labeled
21 (F), to the right upper chest.

22 Q. Okay.

23 MR. HIXSON: At this time could you please pull up
24 (A) (3), please, Mr. Brown.

25 THE COURT: Go ahead, Solicitor.

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1 Q. Okay. I'm sorry. And please describe that photograph
2 to the jury, what you were referring to in the photograph.

3 A. I don't have a mouse.

4 If you kind of just get oriented. The tatoo is on his
5 shoulder. You see the -- his chest where his nipple is, and
6 then the top of the shoulder, top chest, slash shoulder, there
7 is that pink oval-looking wound. That's the entrance gunshot
8 wound. And then the markings that look almost black in this
9 picture, kind of that purple-black, are the bruising along
10 that. Now try and imagine moving his head so that his chin
11 goes toward the his right side, and you can see where those
12 two lines of contusions would match up, and again, that's
13 along the path of the bullet that's going in the soft tissue
14 in the -- between the chest and back, again, so the bullet
15 could have created those marks just by passing that close to
16 the skin surface.

17 Q. Okay. And you indicated -- I show you what's been
18 marked as State's Exhibit 74. That's in evidence. What wound
19 did you label that?

20 A. This is the same gunshot wound that we were just
21 talking about, but there actually is a label on this one that
22 we call the gunshot wound (F).

23 Q. Okay. And is there a corresponding wound to (F)?

24 A. Yes sir, much as -- the pathway reaches between the
25 upper chest and the mid-back, which is the -- labeled (E).

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1 Q. Okay. And could you please tell the jury what the
2 significance of a shore exit wound is? What does that mean to
3 you?

4 A. Well, one of the things that we do when we get more
5 than one hole is to try to figure out what's entrance and
6 what's exit. Typically an entrance wound -- of course there's
7 a lot of classic, and there's always exceptions, but typically
8 an entrance gunshot wound, when the bullet goes through the
9 skin it actually scrapes the skin around the side where it's
10 going in, so you can have what we call an abrasion border, or
11 a scraped edge around the entrance wound as the bullet goes in
12 and enters the skin. Now, as the bullet travels through the
13 body and if it exits, when it exits the skin it pushes the
14 skin apart, but it doesn't actually touch the outer surface of
15 the skin, so you don't see that -- typically see that abrasion
16 border.

17 In this case he had -- he had some relatively irregular
18 wounds. The gunshot wound (E) that's on the -- his mid-back,
19 again, matches up to the one that's on the upper right chest.
20 Both of them have areas of abrasion, or abrasion border. Now,
21 as to whether it's actually (E) is the entrance that goes to
22 (F), or (F) is the entrance that goes to (E), it could be
23 either way. (F) -- originally (F) has a larger abrasion
24 border, and I propose that (F), perhaps, was the entrance
25 wound.

1 Remember how we were talking about his head being tilted
2 to the right, how those contusions match up, those two lines.
3 This is where we get into the explanation of a shored
4 abrasion. Remember when I was saying that a bullet -- when a
5 bullet exits it pushes the skin away and you don't necessarily
6 get the abrasion. Now if there's something supporting the
7 skin on the other side, whether it's another piece of skin, a
8 bra, a wall, a floor, when the bullet exits the bullet is
9 still not necessarily touching the outside of the skin, but it
10 pushes that skin up against whatever is pressing on it, and
11 it's this part, whatever is pressing on it, that can actually
12 cause the abrasion on the outside, so re-evaluating the (F)
13 and (E) gunshot wounds, both of them have abrasions, and then
14 certainly (E) could be an entrance, and could travel and exit
15 at (F), and also, as I originally had proposed, (F) could be
16 an entrance and exit at (E).

17 Q. I believe these are in evidence, just to show -- bring
18 this to your attention. 77 and 78, those photographs, just to
19 clear up that matter, what are those?

20 A. They are photographs of the bullets that we recovered
21 at autopsy.

22 Q. Okay.

23 **MR. HIXSON:** And Mr. Brown, that's (A) (7). That's
24 State's 77, the photograph, as well as (A) (8).

25 Beg the Court's indulgence.

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1 **THE COURT:** Yes sir.

2 Q. Let me ask you this question relating to -- is it
3 normal for you to evaluate the results of toxicology during
4 the course of your autopsy?

5 A. We typically draw blood and body fluids on all of our
6 cases, and send them for toxicology, which we did in this
7 case. We don't perform the actual analysis, but we include
8 the results in our report.

9 Q. Okay. And based on that, what were the results of the
10 toxicology screen as to ---

11 **MR. LOCKLEAR:** Objection to hearsay, Your Honor.

12 **MR. HIXSON:** Your Honor, under 702 I'm allowed to talk
13 about the underlying basis for an expert's opinion, and what
14 she relies on to form her opinion.

15 **THE COURT:** Why don't you cover that. Why don't you
16 ask the question that elicits that, and then we will go from
17 there.

18 **MR. HIXSON:** Thank you. Thank you, Your Honor.

19 Q. Ma'am, is it normal, during the course of your being
20 prosector on a particular autopsy, do you take a variety of
21 different information in -- in order for you to write an
22 accurate report?

23 A. Yes sir.

24 Q. Okay. And could you tell the Court some of the items
25 that you take advantage of in determining what you believe

1 happened in this -- in this case?

2 A. I'm not sure I understand.

3 Q. Okay. Whatever infor ---

4 **THE COURT:** Why don't you be more specific, Solicitor.

5 Q. Do you look at a toxicology report when you write your
6 report ---

7 **MR. LOCKLEAR:** Objection to leading, Your Honor.

8 **THE COURT:** I'm going to allow it.

9 **MR. LOCKLEAR:** Thank you, Your Honor.

10 Q. Do you look at a toxicology report when you -- before
11 you form your opinion or draft your autopsy report?

12 A. Yes. I mean, we do look at toxicology then do
13 interpretation of toxicology, in cases where the person has
14 died from using drugs, or medications, or alcohol. In this
15 case obviously that wasn't the cause of death, and we did
16 include the toxicology results, but it really didn't affect
17 the cause or manner of death in this case.

18 Q. Is that something normal for experts in your field to
19 rely on when you base your opinion? Specifically I'm
20 referring to toxicology reports.

21 A. I mean we -- I -- I ---

22 **MR. LOCKLEAR:** Your Honor, I'm objecting in this entire
23 line of questioning. She has just said it doesn't affect the
24 cause of death. It's a waste of time ---

25 **THE COURT:** I appreciate it. I'm going to allow it

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1 over the objection of the Defendant, Christopher Miller. I'm
2 going to allow you to ask the question about the results.

3 You may continue.

4 MR. HIXSON: Thank you, Your Honor.

5 MR. HILLIARD: We object to that also, Judge. We join
6 that.

7 THE COURT: It's over the objection of the Defendant,
8 Keri Fore Pope.

9 MR. HILLIARD: Thank you.

10 Q. Ms. Presnell, let me start by asking, what information
11 about the circumstances surrounding an incident like this are
12 you privy to when you start the autopsy?

13 A. Well, when the coroner refers a case to us for autopsy,
14 and transports the person down to M.U.S.C. to get autopsy we
15 rely on information available from the coroner, what they know
16 at the time, and if law enforcement comes, from the law
17 enforcement as well.

18 Q. So you are privy, basically, to initial incident report
19 of basic facts of what they believe transpired?

20 A. Very basic.

21 Q. In this particular case were you given a basic fact
22 pattern of what law enforcement told you happened?

23 A. Just a general outline of what happened, yes.

24 Q. And what was that general outline?

25 A. That this man has sustained multiple gunshot wounds

1 during a home invasion, about 11:38 in the evening.
2 Apparently the family dog was shot as well. The wife called
3 911, and the decedent was transported to the hospital where he
4 was pronounced dead despite his resuscitative efforts.

5 Q. So you take that information into account as you are
6 trying to formulate your expert opinion; is that correct?

7 A. Yes.

8 Q. And I believe you also indicated it is normal practice
9 for experts in your field to take other results of other tests
10 into account as you are performing this autopsy and issuing
11 your report; is that correct?

12 A. Yes.

13 Q. Okay. And ultimately the question I would ask you
14 then, were you privy to toxicology screens in this case?

15 A. Yes. They were -- blood and urine were negative for
16 drugs of abuse, and also negative for alcohol.

17 MR. HIXSON: Beg the Court's indulgence just for a
18 brief moment.

19 THE COURT: Yes sir.

20 MR. HIXSON: I have no further questions for this
21 witness.

22 Thank you, Ma'am.

23 THE COURT: Cross-examination, Mr. Hilliard.

24 MR. HILLIARD: Thank you, Your Honor.

25 CROSS-EXAMINATION BY MR. HILLIARD:

1 Q. When was the last time that you spoke with the
2 Solicitor about this case before coming here today?

3 A. I think I have my -- I think it was April 13th. It's
4 been a while, but I have my conference reservation sheet.

5 Q. And when you were going through the case history that
6 you got prior to doing the autopsy, you said were multiple
7 gunshot wounds during a home invasion, apparently two men
8 entered the home, shot the family dog and the decedent; is
9 that right?

10 A. Right.

11 Q. So there is an indication at that time that two men
12 entered the home and committed this crime; is that -- that
13 would be ---

14 A. That's -- that's the information that was relayed to
15 us.

16 Q. But when you talked to the Solicitor in April you knew
17 that that wasn't his theory of the case at this time.

18 A. You know, I'm trying to remember what the theory was,
19 and I wish I had jotted it down, but I don't recall.

20 Q. You don't remember what the theory of the case was.

21 A. The theory. No.

22 Q. At this -- today.

23 A. Right now. Yes.

24 Q. At the time that you created the report from the
25 autopsy, tell me about -- well, actually, could you come down

1 here and point out on me -- that would be helpful to me.

2 Judge, she's looking for your permission. Is that all
3 right?

4 **THE COURT:** Just -- I need for you to ask the question.
5 I haven't heard your question yet.

6 **MR. HILLIARD:** Well, what I would like for you to point
7 out on me is the entrance, exit, and ---

8 Q. Well, let me ask this question first. Joey Pope, how
9 big of a fellow was he?

10 A. He was approximately -- he was two hundred and seventy-
11 seven pounds, and a little over six feet.

12 Q. Well, I'm -- would you agree with me that I'm not quite
13 that big, but almost?

14 A. I'll take your word.

15 Q. So if you would come down and point out on me the
16 entrance and the exit wounds, so we can kind of see on a
17 person. You could do that; is that correct?

18 A. Yes sir.

19 **MR. HILLIARD:** Would you allow her to do that, Judge?

20 **THE COURT:** Yes sir.

21 **MR. HILLIARD:** Thank you.

22 **THE COURT:** Ma'am, why don't you -- y'all go to that
23 microphone, pull the microphone out, please, and do it right
24 there, and speak up.

25 A. Yes sir.

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1 All right. What we will do is, I'll -- I've been kind
2 of pointing to my body the whole time, and it gets kind of
3 awkward, I guess, when it's the back of your head, but if you
4 could turn around and face the back of the court.

5 THE COURT: Y'all just stop for one second. Y'all come
6 over here and talk to me, please.

7 MR. HILLIARD: Yes sir.

8 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

9 Q. Without that piece of paper ---

10 MR. HILLIARD: Thank you, Ma'am.

11 Q. Now, if you would, please, can you -- I'll face the
12 back of the courtroom, and if you could point out on me ---

13 A. This -- well ---

14 MR. HILLIARD: Face this way. Okay. All right.

15 A. All right. So we have the superficial gunshot wound
16 that enters in this portion of the scalp, and exits that
17 portion of the scalp. That's where ---

18 Q. Before we get beyond that one, that's the one where the
19 foamy stuff was; is that right?

20 A. Yes. That is the one where we recovered that foamy,
21 cushiony material.

22 Q. And that didn't actually go into the -- that didn't go
23 into the bone.

24 A. No. This was a superficial, through the scalp only.

25 Q. Well, did it -- when you say through the scalp, I mean,

1 it -- did it separate the skin from the bone, and leave a
2 channel, or what ---

3 A. Yes. There is a channel along that pathway. There is
4 also a lot of hemorrhage on the soft tissues underlying the
5 scalp as well.

6 Q. Okay. And so the foamy material would have been just
7 on that spot; is that right?

8 A. Within -- within the hole. It's like a -- imagine a
9 little tunnel, a little small, short tunnel, and the foamy,
10 cushiony stuff is within that tunnel.

11 Q. Okay. And then -- so the other two to the back.

12 A. One, two.

13 Q. All right. And then ---

14 A. And then the fourth one -- and not necessarily in this
15 order. Here the wounds are -- and this is where you saw the
16 picture of the one that we labeled (F), was in this area, and
17 you had those contusions up the side of the face and neck
18 there, and (E) was right here, so the two connect right
19 through here in the soft tissue.

20 And this is the way I was trying to explain that.
21 Originally this one had -- because it had so much more of an
22 abrasion that I assume this is the entrance. This one also
23 has an abrasion, and this may be the entrance and this could
24 just be a shored exit wound because of the face down this way,
25 so basically I can't tell which one is the entrance and which

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1 one is the exit, definitively, on the (F) and (E), the two
2 that match up here.

3 Q. So back originally when you knew the answer, this was
4 the front, and this was the back; is that right?

5 A. At the time that I did the autopsy I said, assume
6 that -- and I've done this, not just with this case, but there
7 are several times that you can't tell the difference. But
8 assuming that the (E) is the entran -- or excuse me -- (F),
9 which is right here, is the entrance, this is the pathway.
10 Looking back at it, and looking at -- with the markings on the
11 face, could this be actually the exit, yes, it can.

12 MR. HILLIARD: And if you could have your seat again,
13 please.

14 Q. Looking back at it, do you recollect what it was that
15 caused you to look back at it?

16 A. Oh yes. Now when I met with the Solicitor, and they
17 were talking about -- you know, and we went through each of
18 the injuries, and the question came up, you know, could one be
19 an entrance and one -- flipflop, the answer is yes. None of
20 the others are like that, but this one is a possibility, yes.

21 Q. Okay. So -- and maybe I unartfully phrased my
22 question, but even though you don't know what the theory of
23 the case is, when the Solicitor met with you, in the beginning
24 of your conversation the entrance was on the front, and the
25 exit was on the back, but at the conclusion of your

1 conversation with the Solicitor your conclusion was
2 inconclusive.

3 A. That sounds right. You know, the hole is still on the
4 front, and there's a hole still in the back. It's not that
5 one twist or the other. It's my interpretation of them. I
6 mean, you know, (A) -- excuse me -- (F) may still have been
7 the entrance, and (E) still may be the exit, but clearly
8 looking, you know, at it, could it be the other way around,
9 yes, it could, and yes, you are right, by the -- after meeting
10 with the Solicitor I did decide that that could be a
11 possibility.

12 Q. And what is it about the Solicitor's medical background
13 that -- that he went through with you, and what skill set did
14 he bring to the meeting that caused you to change your medical
15 opinion?

16 A. Well, it was -- he just asked if it was a possibility
17 that one was -- it was the opposite of what I had had in the
18 original assumption. I mean, I don't think that -- he didn't
19 apply any medical knowledge that I was aware of.

20 Q. Well, he -- he had a autopsy which you had prepared,
21 and the Report; is that correct?

22 A. Yes. I can't remember if he had the diagram or not,
23 but he had the Report.

24 Q. All right. And he made an appointment to come and
25 speak with you about that, right.

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1 A. Yes.

2 Q. And he said to you, well, could that gunshot that you
3 have listed in your Report, going from front to back, is it
4 possible that that gunshot went from back to front.

5 A. Yes.

6 Q. And you looked at it and said, well, you know what, now
7 that you mention it, maybe it did.

8 A. Yes.

9 Q. Did you prepare an additional report to that effect?

10 A. No sir.

11 Q. Did you do anything to that effect, any writing,
12 anything at all?

13 A. No.

14 Q. You just gave him that conversation.

15 A. Yes.

16 Q. Is it still possible that you were right the first
17 time?

18 A. Yes. It could be either way.

19 Q. Is any one more likely than the other?

20 A. I don't have any evidence that supports one over the
21 other.

22 Q. And when you say evidence, are you talking about
23 medical evidence, physiological evidence ---

24 A. Yes. I ---

25 Q. ---Or what?

1 A. I'm sorry. I'm talking of evidence from autopsy.
2 There is nothing on the skin or the injury that shed --
3 supports one being entrance over the other.

4 Q. How long, from the time that Joey was shot in the back
5 of the head until he was -- and when I say shot in the back of
6 the head I'm talking about the two that go right into his
7 brain -- the two that go into his brain, how long after he got
8 shot right there was it before he was dead?

9 A. We have -- the information that was relayed to me at
10 the time of autopsy said the incident occurred about eleven --
11 about eleven thirty-eight P.M., and he's transported to the
12 hospital where they tried to resuscitate him, but it doesn't
13 work and he's pronounced dead at 12:27, so less than an hour.

14 Q. Right. And I'm sorry, I had unartfully crafted my
15 question again. I recognize that he was pronounced dead at
16 that point, but in terms of his ability to move, and that sort
17 of thing, are you able to tell us whether he would be able to
18 move, and try to get away. Could he jump up and run, or
19 anything like that, with the two bullets lodged in his brain?

20 A. Highly unlikely. No, he should not be able to get up
21 and move. He had, not only hemorrhage and disruption of the
22 brain itself, but there was hemorrhage within the brain stem,
23 which is what leads -- connects the brain to the spinal cord
24 and the rest of the body, so ---

25 MR. HILLIARD: Excuse me for a second, Judge.

1 Q. As to the chain of custody on these things that you
2 were talking here -- that's 80 -- 80, 81 and 82, for I.D., is
3 that -- what is it that causes you to know that you have had
4 that before?

5 A. I don't understand. To know what -- that I've had what
6 before?

7 Q. That ---

8 A. Oh. Oh. That I've seen this before.

9 Q. Yes.

10 A. Well, this is our autopsy label, the container that we
11 collected the specimen in, and how -- and appears to be foamy,
12 cushiony material.

13 THE COURT: Which one was that?

14 A. 80.

15 Q. And it's just open; is that right?

16 A. It appears to be open, yes.

17 Q. Did you open it today?

18 A. No sir.

19 Q. And what does that red tape say across the top of it?

20 A. The red tape says, "Evidence Gtown Police Department",
21 and then the rest of the wording on the other side, "as", and
22 "George" on the -- on the other side.

23 Q. Does that cause you to be able to think about what that
24 might be, Georgetown Police Department evidence, you think.

25 A. Yes sir.

1 Q. All right. And that was open?

2 A. Yes.

3 Q. And you can't specifically say - or perhaps you can -
4 that what's in there is the same thing that was in there when
5 you put it in there.

6 A. No, I can't say that somebody didn't come and switch
7 out foamy pieces of material.

8 Q. Okay. But on the other hand, that 81 and 82 are still
9 closed.

10 A. They ---

11 Q. Is that right?

12 A. Yes.

13 Q. And they say South Carolina -- or S.L.E.D., on the top
14 of them.

15 A. Yes. And then there's a red tape also evidence,
16 Georgetown Police Department underlying that. I don't know if
17 they had been opened previously.

18 MR. HILLIARD: Thank you, Ma'am.

19 THE COURT: Mr. Locklear.

20 MR. LOCKLEAR: No questions of this witness, and we
21 have no objection to her being excused.

22 MR. HILLIARD: None from us either, Judge.

23 THE COURT: Any redirect, Solicitor?

24 MR. HIXSON: Yes sir.

25 REDIRECT-EXAMINATION BY MR. HIXSON:

1 Q. Doctor, when you are forming your basis for your
2 opinion as to specifically the wounds we are referring to --
3 Doctor, when you are forming your basis for a determination as
4 you did in your Report, of trying to determine what is an
5 entrance or an exit wound, what do you rely on?

6 A. Well, I mean, typically we -- typically we use the
7 autopsy itself to differentiate entrance and exit wounds.
8 When they start to get real irregular, then we may rely on
9 some scene investigation type information.

10 Q. If you are not present at the autopsy are you able to
11 rely on photographs to try to make a determination?

12 A. If I'm not present at autopsy?

13 Q. Excuse me -- after the autopsy, once the autopsy is
14 passed, and you review photographs of it, are you able to use
15 those to aid your determination?

16 A. It can help. I mean, the best way is to do it at the
17 time of autopsy. Nothing replaces real life, but certainly a
18 description autopsy -- description of something you have seen
19 before, with the photographs, can help reassess.

20 Q. Do you rely on information given to you by law
21 enforcement about what happened in a room to make your
22 determination over an entrance or an exit wound?

23 A. We try to interpret it -- we try to interpret of what
24 we see at autopsy and assimilate it together, and then --
25 either then get more information and see what scenario is

1 supported more over the other. It's not that necessar -- I
2 mean, like for example, the superficial gunshot wound, the in
3 and out, there's no way that the end is an out, and there's no
4 way that the out is in. I mean, that's a clear-cut entrance
5 and exit. Again, when you get to the more ambiguous ones
6 you -- you may rely on outside information to actually offer
7 an interpretation of it, or as in this case, you know, my
8 interpretation is it could be either way.

9 MR. HIXSON: Your Honor, I'm going to hand the witness
10 up photographs that at not in evidence, Your Honor,
11 specifically State's Exhibit 4 for identification purposes
12 only. Excuse me -- State's 74, I believe is in evidence
13 already, Your Honor. I apologize.

14 THE COURT: 74 is in evidence.

15 Q. And that's depicting wound (F); is that correct?

16 A. Yes sir.

17 MR. HIXSON: I'm referring to State's 75 that is for
18 identification purposes only.

19 Now that's not in evidence.

20 Q. Take a look at that, and please don't show that to the
21 jury.

22 A. 75 is -- do you want me to tell you what I -- it is?

23 Q. Please.

24 A. Okay. I'm sorry. 75 is of the entrance to the -- or
25 excuse me -- the gunshot wound to the back.

1 Q. And based on your evaluation of those photographs, can
2 you give more of a description -- or a description of what we
3 are referring to?

4 MR. HIXSON: Let me back up.

5 Your Honor, at this time the State would move State's
6 Exhibit 75 into evidence.

7 THE COURT: Let me see it, please.

8 All right.

9 MR. HIXSON: 74, Your Honor.

10 THE COURT: That's already in evidence.

11 All right, Mr. Hilliard, do you want to see which one it
12 is? Do you know which one it is?

13 MR. HILLIARD: All right, sir.

14 THE COURT: All right. Mr. Locklear, do you know which
15 one it is also?

16 MR. LOCKLEAR: Yes, I know which one it is, Your Honor.

17 THE COURT: All right. Very good.

18 Is there any objection to State's 75, Mr. Hilliard?

19 MR. HILLIARD: Yes sir, Your Honor.

20 THE COURT: In addition to any argument you made
21 previously, do you have additional arguments?

22 MR. HILLIARD: Yes sir.

23 THE COURT: All right.

24 Mr. Foreman, ladies and gentlemen of the jury, go to
25 your jury room.

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SUSAN ERIN PRESNESS - REDIRECT BY HIXSON CONTINUED

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1 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
2 JURY.)

3 THE COURT: All right, Mr. Hilliard, let me hear from
4 you.

5 MR. HILLIARD: Excuse me just one second, Judge.

6 THE COURT: Yes sir, Mr. Hilliard.

7 MR. HILLIARD: Thank you, Your Honor.

8 Judge, the Solicitor has laid no foundation for there
9 being -- and the witness has not said anything about that
10 picture being something that she used -- and I recognize this
11 is where he's going, and he probably could get her to say it,
12 but she hasn't said it yet, that that picture is something
13 that she used to change her mind during the conversation with
14 the Prosecutor.

15 THE COURT: Solicitor.

16 MR. HIXSON: Argument, Your Honor. I apologize.

17 THE COURT: No. To ask her a question about 75.

18 REDIRECT BY MR. HIXSON CONTINUED:

19 Q. Doctor, during the course of our discussions relating
20 to the autopsy that you performed on Mr. Pope, and the course
21 of trial preparation, did I ask you to review photographs
22 relating to this autopsy?

23 A. Yes.

24 Q. And did you, in fact, review those photographs?

25 A. Yes.

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SUSAN ERIN PRESNESS - REDIRECT BY HIXSON CONTINUED

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1 Q. Did you, in fact, review any of the photographs that I
2 provided to you in court?

3 A. Yes.

4 Q. Okay. And did you use those photographs as basis for
5 your opinion or testimony relating to this autopsy?

6 A. Yes.

7 MR. HIXSON: Specifically, Your Honor, State's 75, as
8 well as State's 74, as well as ---

9 THE COURT: Well, that's the one you are trying to get
10 into evidence.

11 A. Yes.

12 THE COURT: Let's not go any further. All right.
13 All right, Mr. Hilliard, any other arguments you want to
14 make?

15 MR. HILLIARD: The only thing she said, Judge, is that
16 she looked at the picture before she changed her mind. She
17 still didn't say -- and I know she will -- but she still
18 hasn't said that because she had the opportunity to look at
19 the pictures, and have a conversation with the Solicitor, that
20 she changed her mind. She said she looked at them, but that's
21 it. She looked at the other pictures.

22 THE COURT: Rephrase your question, Solicitor.

23 Q. Ms. Presnell, based on a review of your written report
24 relating to your determination of entrance and exit wound, and
25 based on looking at the photographs as we were talking about

1 this and I posed a question to you relating to entrance or
2 exit, what was your response to those questions, and what was
3 our discussion relating to that?

4 A. What -- I'm sorry.

5 THE COURT: All right. Let's -- all right. You had a
6 discussion with the Solicitor about this case in April,
7 correct.

8 A. Yes.

9 THE COURT: And he showed you that photograph, Exhibit
10 75.

11 A. Yes.

12 THE COURT: After looking at it, and talking to the
13 Solicitor, did you then change your opinion?

14 A. Yes.

15 THE COURT: And did that photograph help you in making
16 that decision?

17 A. It did.

18 THE COURT: Very good.

19 Further questions, Mr. Hilliard.

20 MR. HILLIARD: Judge, I knew that you could get it into
21 evidence. I didn't know whether the Solicitor could.

22 That's all.

23 THE COURT: Mr. Locklear.

24 MR. LOCKLEAR: Nothing from us, Your Honor. I would
25 just join in his motion for the record.

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1 **THE COURT:** All right. The main reason the Court is
2 going to allow Exhibit 75 into evidence is that, based upon
3 the questions that Mr. Hilliard asked on cross-examination he
4 opened the door, and regarding those questions then I find
5 that Exhibit 75 is now proper to be introduced into evidence
6 in this matter, besides what the Doctor has now additionally
7 testified to, but the main reason is your questions, Mr.
8 Hilliard, now allow Exhibit 75 to come into evidence,
9 secondarily. The Doctor obviously indicated that helped her
10 in forming her opinion.

11 I'm going to allow 75 into evidence over the objection
12 of the Defendant, Keri Fore Pope, and the Defendant,
13 Christopher Miller.

14 **MR. HILLIARD:** Thank you, Your Honor.

15 (PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER 75
16 FOR IDENTIFICATION NOW ADMITTED INTO EVIDENCE AS STATE'S
17 EXHIBIT NUMBER 75.)

18 **THE COURT:** All right. Let's take five minutes, five
19 minutes. Thank you very much.

20 (THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE
21 THE PRESENCE OF THE JURY.)

22 **THE COURT:** All right. Is the State ready to proceed?

23 **MR. HIXSON:** Yes, Your Honor.

24 **THE COURT:** Mr. Hilliard.

25 **MR. HILLIARD:** Yes sir, Your Honor.

JURY IN
SUSAN ERIN PRESNESS - REDIRECT BY HIXSON CONTINUED

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1 **THE COURT:** And where is Mr. Locklear? Do we know
2 where Mr. Locklear got to?

3 **MR. LOCKLEAR:** I apologize, Your Honor.

4 **THE COURT:** That's all right.

5 Ask the jury to come in, please.

6 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
7 **JURY.)**

8 **THE COURT:** All right, Solicitor, you may continue.

9 **MR. HIXSON:** Thank you, Your Honor.

10 **REDIRECT BY MR. HIXSON CONTINUED:**

11 Q. Doctor, let me draw your attention to those two
12 photographs, State's Exhibit (E) and State's Exhibit -- excuse
13 me -- that's State's Exhibit 75, depicting wound (E). Could
14 you please ---

15 **MR. HIXSON:** That is (A) (5), but hold on before you do
16 that. Just a second.

17 Your Honor, is State's 75 in evidence? I want to make
18 absolutely sure I don't ---

19 **THE COURT:** It is in evidence over the objection of the
20 Defendant, Keri Fore Pope, and the Defendant, Christopher
21 Miller.

22 If you want to ask some questions of the witness you may
23 do so.

24 **MR. HIXSON:** Okay. And also 74 is in evidence. I just
25 make sure ---

JURY IN
SUSAN ERIN PRESNESS - REDIRECT BY HIXSON CONTINUED

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1 **THE COURT:** That was previously in evidence.

2 **MR. HIXSON:** Okay.

3 Can you please bring up (A) (5), Mr. Brown, and refer to
4 that as well.

5 Q. Doctor, can you, just briefly, very briefly, describe
6 when you are trying to make wound determinations of entrance
7 and exit wounds what things you look at, and referring to that
8 photograph.

9 A. Well, we had discussed the abrasion border, the
10 abrasion that you can get around an entrance ---

11 **MR. HILLIARD:** Your Honor, this -- interpose an
12 objection. This is redirect. She has already been through
13 this and I ---

14 **MR. HIXSON:** I'll rephrase that question. I'll just
15 rephrase.

16 **THE COURT:** All right. Go ahead.

17 Q. In your expert opinion relating to the photograph that
18 is up on the screen now, and the photograph, State's 74 ---

19 **MR. HIXSON:** That's (A) (4), Mr. Brown.

20 Q. ---In your expert opinion, are there significant
21 similarities in both of those wounds to make entrance and exit
22 wound determinations difficult?

23 A. Yes. They both demonstrate abrasion borders, they both
24 have true defects, instead of just being spread apart, and so,
25 again, my expert opinion is that I can't definitively

1 differentiate which one is entrance and which one is exit.

2 Q. And Doctor, finally, to a reasonable degree of medical
3 certainty -- you indicated this before, just to summarize ---

4 MR. HILLIARD: Objection.

5 THE COURT: I'm going to -- again, let me hear the
6 question.

7 MR. HILLIARD: He said he already -- she already ---

8 THE COURT: I appreciate that.

9 MR. HILLIARD: Yes sir.

10 THE COURT: You cross-examined the witness. I can't
11 make a determination without hearing the question.

12 MR. HILLIARD: Thank you, Your Honor.

13 THE COURT: Then you can raise an objection.

14 MR. HILLIARD: Thank you, Your Honor.

15 THE COURT: Go ahead, Solicitor.

16 Q. To a reasonable degree of medical certainty, the bullet
17 wounds in Mr. Pope's head cause his death?

18 A. Yes.

19 MR. HIXSON: I have no further questions, Your Honor.

20 THE COURT: Anything on the questions asked by the
21 Solicitor in redirect, Mr. Hilliard?

22 MR. HILLIARD: Yes sir, Your Honor. The last question
23 that he asked was on redirect. It had nothing to do with any
24 question that I asked on cross-examination.

25 THE COURT: I'm sorry. Was that a question for this

1 witness?

2 MR. HILLIARD: No sir, Your Honor. I was objecting to
3 his question. Your Honor said you had to hear his question --

4 -
5 THE COURT: I know, and I heard the question and she
6 answered it, and then it's done and over with. After he asked
7 the question that was the time to object. You didn't, she
8 answered it. It's in evidence.

9 All right. Anything as to the questions asked by the
10 Solicitor in redirect?

11 RECROSS-EXAMINATION BY MR. HILLIARD:

12 Q. You have previously testified that nothing replaced his
13 real life; is that correct?

14 A. Yes.

15 MR. HILLIARD: Thank you.

16 THE COURT: All right. Do you wish the witness to be
17 excused, Solicitor?

18 MR. HIXSON: Yes sir.

19 THE COURT: And any objection to that, Mr. Hilliard?

20 MR. HILLIARD: No objection.

21 THE COURT: And Mr. Locklear.

22 MR. LOCKLEAR: No objection, Your Honor.

23 THE COURT: All right, Ma'am, you are released from
24 your Subpoena. You may go back to your regular activities.

25 Thank you.

1 A. Thank you.

2 THE COURT: Please make sure you don't take any
3 exhibits with you.

4 All right, Solicitor, your next witness, please.

5 MR. HIXSON: Tom Digsby.

6 TOM DIGSBY, being first duly sworn,
7 testifies as follows:

8 DIRECT-EXAMINATION BY MR. HIXSON:

9 Q. Good afternoon, sir.

10 A. Afternoon.

11 Q. Please tell the jury what you do for a living.

12 A. I'm an investigator with the Columbia County Sheriff's
13 Office in Georgia.

14 Q. Okay. And back -- way back in May 27th of 2003, what
15 did you do for a living?

16 A. Then I was an investigator here at the Georgetown
17 County Sheriff's Office.

18 Q. And back at that time, what were your responsibilities
19 for the Sheriff's Department?

20 A. My primary responsibility was that of a criminal
21 investigator, however, I was also a member of the SWAT team,
22 and of the bloodhound tracing team.

23 Q. And did you have the occasion to respond to a call
24 concerning a fatality on Highmarket Street in Georgetown
25 County?

TOM DIGSBY - DIRECT BY HIXSON

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1 A. Yes, I did.

2 Q. Please tell the Court about your involvement in that.

3 A. I was on the tracking team, as I mentioned. My
4 responsibility on that team, most nights, and that night in
5 particular, was as a man tracker, and what that means
6 basically is, it's my responsibility on the team to be
7 visually searching for sign, or track of a human being passing
8 through an area, whether it's in the woods or any other area
9 where we might be tracking for someone. Other people on the
10 team would be handling the blood hound and working security
11 and stuff, but I was the man tracker on the team that night.

12 Q. Okay. And did you, in fact, exercise that role as a
13 man tracker that evening?

14 A. I did. We were called out there. We were briefed as
15 to what the victim's wife said the suspects had done, or where
16 they had gone. We were given a general area, basically a
17 "they went that way" kind of an area to search.

18 I remember while we were standing there being briefed
19 that I was glad to see the area they had gone, because as I
20 looked at it from where we were being briefed I could tell it
21 was not going to be a difficult place for me to track, I was
22 - I was going to easily be able to find some tracks and set
23 the dog on the track.

24 Q. Let me interrupt you.

25 A. Yes.

1 Q. Tell us what -- why you say that. What environment did
2 you observe that made you feel that way?

3 A. This environment was -- the ground appeared to be very
4 fresh, and when I got over there I found what it was, and what
5 I mean by fresh was that it wasn't criss crossed with a lot of
6 footprints or, you know, traffic, tire traffic marks or
7 anything like that, it was -- it was pretty clean ground. It
8 had rained not too long ago, the ground was fairly moist,
9 there was moisture on the grass. All these make it conditions
10 where you -- you could imagine yourself, you know, if you are
11 looking at wet grass, or wet ground it's not difficult to see
12 whether or not somebody has walked through that area.

13 Some places I have to track, like through the woods, or
14 in dry ground, or on a piney forest or something, it can be
15 very difficult to track, but in a place like that, that night,
16 I could see right away, this was -- this was not going to be
17 difficult, this is going to be an easy track to pick up, and
18 then I could set the dog on the track.

19 When we pick up a track, when we see exactly -- when we
20 know where we are going that's when we set the dog. We'll put
21 the dog there and scent the dog on the track, give him the
22 command, which then was "skeet", to Skeet, and then the dog
23 will start tracking from there.

24 Q. Let me show you an item that's already in evidence, and
25 I believe it's State's Exhibit 19, and that's correct, that's

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1 what it is, see if you recognize this item. Let me move over
2 here so the jury can see what you are talking about. See if
3 you recognize that item.

4 A. It's an overhead photograph of the area where we were
5 that night.

6 Q. Okay. And could you please point to it, so the jury
7 can see what you are talking about.

8 A. Sure. It's ---

9 Q. Okay. Go ahead.

10 MR. HIXSON: Just to make sure defense can see it.

11 A. Right in here is where we started to track, somewhere -
12 - and it's kind of hard to tell overhead, looking through the
13 bushes and stuff.

14 Q. So just start with the general area, you know, general
15 reference to the whole ---

16 A. It was in this area. There was a business nextdoor.
17 We parked all of our cars, you know, the cars we were
18 responding in in the parking lot of the business, and then we
19 were told that the track -- that the people came out of the
20 house, I believe on the west side of the house, and then they
21 went -- they went around -- I don't recall -- like I said, you
22 know, my concern was looking at the ground and the track, and
23 that sort of thing. I don't recall who gave us his briefing,
24 I don't recall, you know, a lot of the details. I just
25 remember there was like, "they went that way" kind of a thing,

1 and that's where we were set to start looking for, or
2 tracking. We were told they went back in toward the cemetery.

3 As we started tracking we starting cutting the area, and
4 cutting is basically what I just did with my finger there.
5 What I'll do -- I say we, it's me and the team commander,
6 that's likely right behind me. What I'll do is, I'll start
7 cutting, walking back and forth, back and forth, so if they
8 said they went this way I would start by going back and forth
9 until I found a track. Once I found a track, or a sign, then
10 I would try to determine which direction that was going, and I
11 would stop cutting and try to follow. Well, you start cutting
12 kind of small, and as you are going out you are getting bigger
13 and bigger, and we weren't finding anything, and we cut -- we
14 went way out into the cemetery, even where it was quite a bit
15 of grass. I remember getting down low with my flashlight and
16 shining it across the grass, and there was moisture on the
17 grass. You could see it as -- as clearly, no one had walked
18 through the grass.

19 So after we cut that area for quite a while, longer
20 probably than we would have for any other type of call, and we
21 didn't find anything, we then cut everywhere else. We then --
22 you know, we just said, well, maybe she's mistaken in which
23 direction they ran, and we checked the other directions from
24 the house as well, and we didn't find anything. We didn't
25 find any track or any indication that someone had ran -- run

1 away from that house or fled on foot at all.

2 Q. Did you, in fact, engage a dog team?

3 A. We did put the dog out, and I think at that point, I
4 mean to -- not to be trite about it, but at that point we were
5 kind of putting on a little bit of a dog and pony show just
6 because we hadn't found anything, and this -- you know, and we
7 -- we didn't know what was going on. We don't know anything
8 about the case. I still know very little about the case, I
9 just know that we didn't find any track, and it was very clear
10 that we weren't going to find any track. It was -- you know,
11 to put it simply, a ten year old kind of could have done my
12 job that night. It was not a difficult place to find track,
13 and since there was no track, we weren't finding track, we are
14 like, well, let's put the dog on the phone just in case a
15 Mir -- on the ground just in case a miracle happens and he
16 takes off somewhere, or something like that. And we did put
17 him on the ground, and we walked him all through, back and
18 forth, all through the cemetery and everywhere. We looked all
19 over the place for track that night, and there was nothing.

20 MR. HIXSON: I have no further questions, Your Honor.

21 THE COURT: All right. Cross-examination, Mr.
22 Hilliard.

23 MR. HILLIARD: Thank you, Your Honor.

24 CROSS-EXAMINATION BY MR. HILLIARD:

25 Q. So is it your belief that there was nobody in the house

1 that night but Keri? Is that your belief?

2 A. I have no idea who was in the house. I don't know
3 anything about the inside of the house. I was never a part of
4 this investigation beyond what I just explained to you.

5 Q. You brought your dog and looked everywhere there was to
6 look, and you couldn't find where anybody left the house,
7 right?

8 A. No. I looked where -- the area where we were told
9 people fled the house; and that's correct, I couldn't find any
10 indication that anyone had fled from the house.

11 Q. Well, I thought you said that you looked -- after you
12 looked where -- who was it that told you where to look to
13 start with?

14 A. Like I said, I don't remember who briefed the team. I
15 was just -- I don't know whether it was one of the city
16 officers on scene. I don't remember whether it was our com --
17 I don't remember who briefed the team. I just remember where
18 we were told to look.

19 Q. So after you stopped looking where you were told to
20 look then you say you started looking everywhere else; isn't
21 that right?

22 A. We started looking in the other direction. We looked
23 in the direction back in the cemetery where we were initially
24 told that they ran, and when that didn't pan out we looked in
25 the other directions from the house to -- to the east and the

1 west. I guess if the cemetery is north, then we looked to the
2 east and west. We did not cross over Highmarket Street and
3 look on the other side of Highmarket Street.

4 Q. Well, you couldn't find anything at all?

5 A. I didn't find any indication of anyone running away, no
6 sir.

7 Q. All right. And you indicate you don't know anything
8 about the case, but in fact, you read about it in the
9 newspaper, right?

10 A. Right. I know what I read in the newspaper. I read
11 one article that Ms. Pope had been arrested. Back in 2008 I
12 read that article.

13 Q. All right, sir, and after you read the article about
14 her being arrested, then you contacted Glenn Kufen and said, I
15 have information.

16 A. The fact that I had information -- well, the
17 information I just told you came up in the conversation. I
18 called him to talk about the case, and to make sure he had
19 this information, because I knew he wasn't on the case at that
20 time. I believe he was working narcotics back then, I
21 thought, and I didn't know what was in the case file, and I
22 had moved away from here, and I used to work with Glenn, and
23 when I saw his name in the paper in the article I was curious
24 about what happened in the case. I called him up, we started
25 talking, and I found out he didn't have the information on the

1 tracking team in the case. I knew it was -- it was not
2 procedure back then for us to do like an after-action report
3 or anything like that. I don't know whether the tracking team
4 does that now, I know a lot of teams do, and we may have
5 implemented that, we were only a couple of years into it, and
6 the vast majority of our tracks we ran for ourselves, for the
7 Sheriff's Office. We didn't usually run -- we didn't often
8 run for the City, so I expected he probably didn't have any
9 kind of after-action report or anything like that in his case
10 file when I was reading that article, and it seemed to me that
11 it was pretty important information, so I called to let him
12 know, to make sure that the City investigators were aware that
13 the County's tracking team never found any track that night.

14 Q. How certain are you today, sitting here in front of the
15 jury, that the Georgetown City Police Department did not know
16 that the dog track team had been out that night?

17 A. I'm certain that the Georgetown City Police Department,
18 all the officers on the scene that night, knew that the dog
19 team was out there. There's no way you couldn't have known
20 that we were out there that night. What I did not know is
21 whether or not Kufen was -- I did not remember seeing Kufen on
22 that scene, so when I saw that he was the investigator on the
23 case I wanted to make sure he had gotten the -- that he had
24 been aware of the information I just shared with you.

25 Q. And when you spoke with him he didn't know about the

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1 dog team, right.

2 A. He didn't know the information. I just told him that
3 there was no track. There's a lot of -- there's a lot of ways
4 that you could try to track a suspect and it not work out.
5 What I thought was important about this case was that there
6 was no tracks. What I figured -- what I kind of, in my mind,
7 probably thought was going to happen on a case like this, just
8 because of knowing the area, I figured we were going to find a
9 track, and we were going to track them to the other side of
10 the cemetery where it was going to be -- where it was going to
11 disappear, because they probably had a car there that they
12 were going to get into. That was my guess. That's often how
13 a track ends up. You track someone from where they committed
14 the crime to the place they got in the car and then the track
15 is over, and you know, it's kind of like the tracking team ran
16 the track and didn't find anything, or didn't find the
17 suspect. I wanted to make sure that he knew that that was not
18 the case here; it was not a case of the track fizzled out, or
19 the track didn't go anywhere, we didn't catch the guy. It
20 wasn't that case. The case in this situation was, there was
21 no track, which is different than the other ways that I just
22 explained, obviously.

23 Q. All right, sir. So you wanted to be certain that you
24 were to participate in his investigation, you wanted to be
25 sure he knew that; is that right?

1 A. Yes. Obviously I considered it important information
2 that I think the investigator on the case should know, yes.

3 Q. All right. And the rest of that was a dog and pony
4 show; is that right?

5 A. Well, it's kind of what I call it whenever we have
6 nothing, and we -- we all on the team know we have nothing,
7 but the tracking team is there, and people want to see a
8 bloodhound on the ground. You know, when I'm -- when you are
9 working on the team like this, and I'm -- I'm the tracker, and
10 it's a situation like it was, and it is clear as day that as a
11 man tracker -- and like I said, you know, anyone -- you don't
12 have to be a man tracker to see that, in this part of -- this
13 kind of ground nobody ran across it, and I think there was
14 multiple people that we were suppose to be looking for; that
15 multiple people did not run across it. There's no way. You
16 can see that plain as day with your eyes; however, when people
17 call the tracking team out they want to see a bloodhound on
18 the ground. So when -- when we can't find anything and
19 there's no -- you know, and I say they -- when I -- talking
20 like this happens now -- this, of course, was eight years ago,
21 I don't know how the teams run now -- but at that point, if we
22 were there, even when there was no track we were going to put
23 the dog on the ground, especially when we are there for --
24 trying to assist another agency, you know, just to show them
25 that we are giving it the old college try, so to speak, but

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1 there was no track there to put the dog on, to scent the dog
2 on in the first place.

3 Q. So once they called you they wanted to see a dog, and
4 you showed them a dog.

5 A. I have no idea what they wanted to see. It's not like
6 they told us, put the dog on. They just asked us to come and
7 try to find a -- run a track. They didn't try to tell us how
8 to conduct our business, but that was just the decision that
9 was made, to put the dog on the ground, even after we didn't
10 find the track. And it's just kind of one of those things.
11 It's not going to hurt anything to get the dog out and walk
12 the dog on the ground, even after you see there's no track.
13 It's not going to hurt anything to walk him back, to see if we
14 can find something, but of course he didn't.

15 Q. All right. Can you identify State's Exhibit Number 23
16 at all?

17 A. It's a -- I mean, it's a house with crime scene tape
18 around it. I don't have any specific memory of this view of
19 the house.

20 Q. All right, sir, so you can't identify that as the house
21 we are talking about here?

22 A. No.

23 Q. All right. Which one of these did y'all look at? Was
24 it 19 or 18? Do you remember?

25 Do you remember, Solicitor?

1 A. Yes. Let me stand up and see it.

2 Q. Do you think it was 19 that you looked at?

3 A. Yes.

4 Q. All right, sir. Let's use 19. I've got some little
5 stickies here in my pocket. Put a purple sticky, if you will,
6 please, on the house where you started.

7 All right, sir. And put a green sticky, if you will, on
8 the cemetery.

9 A. Well, it's all back here, so I'll put it in the middle,
10 I guess.

11 Q. All right, sir. And so put a sticky, if you will, on
12 the parking lot of Dr. Owens.

13 A. I don't know who Dr. Owens is, but I believe there was
14 a doctor's office or something next to -- if you are talking
15 about the place we all parked our vehicles when we arrived, it
16 was right here.

17 Q. All right. And if you could show, on the basis of
18 those stickies, what you -- your dog -- just a second --
19 excuse me just one second.

20 I'm sorry, sir. Sir -- and I'll kind of hold this with
21 you -- so the house is the purple sticky, and the green --
22 that's where you guys all parked; is that right?

23 A. I believe that's where we parked. It's -- I remember
24 parking in a parking lot, and I assume it was the one right
25 next to the house.

1 Q. All right, sir. And the place where you guys parked,
2 is that where the bad guys were -- are alleged to have come
3 out of the house? Is that the same side? Do you remember?

4 A. No, I don't remember what exactly side. I don't
5 remember for sure. Like I said, my focus is on the ground,
6 and I'm not real concerned with the house and all that kind of
7 stuff. I'm concerned with where we start tracking. When you
8 are called there you are not concerned with, you know, all the
9 other events of the crime that you might be as my other role
10 as an investigator. That wasn't my job. I'm concerned with,
11 where do we start tracking.

12 Q. When they said -- when they -- let me interrupt you.

13 THE COURT: No. You may not interrupt his answer, so
14 let him finish his answer.

15 MR. HILLIARD: All right, sir.

16 A. We were told that the track began, and headed somewhere
17 in this direction, kind of in the north direction, behind the
18 house, into the cemetery. As far as what was the exact point
19 around the house that they had said it began, I don't recall
20 that. I just know we were kind of -- we were led to an area
21 there, basically told, she said that they went this way, and
22 we started looking where we were told that she said they went
23 through.

24 Q. All right, sir. And when you say, they went that-a-
25 way, point what-a-way they went. Show me the way.

1 A. They went that way. Of course it was dark. It was
2 night time, and when you are standing here you can't see all
3 this, so we weren't told, you know, they went over here and
4 they went over here, or anything like. We were just told,
5 they went in this kind of short general direction, kind of
6 toward the back of the house.

7 Q. And once they got to that spot they could have gone
8 anywhere.

9 A. Right. But the problem was, as we started cutting from
10 the point, and we cut back and forth, and back and forth, and
11 back and forth, there's nothing -- there's nothing here, and
12 it's good ground to find a track in, I mean, it was real good
13 ground to find a track in, and there was nothing.

14 Q. And what you are talking about is the part of the
15 purple sticker that's on the side opposite from the green
16 sticker where you parked; is that right. When you were just
17 pointing to it for the jury you were pointing on the side
18 that's opposite the green stick where you parked.

19 A. Well, behind the house, back here, right, is where --
20 I'm pointing behind the house, I mean, I'm not -- I'm showing
21 you a general area. I'm not like narrowing it down super
22 specific and saying, this is exactly where we started the
23 trail. I don't remember exactly where we started. I just --
24 we were brought to, you know, a general area and said, this is
25 where they went, they went in this direction, and we started

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1 cutting, as I described, from there. As far as exactly where
2 that starting point was on the property, I don't remember
3 that.

4 MR. HILLIARD: That's all I have. Thank you.

5 THE COURT: All right. Thank you.

6 Mr. Locklear.

7 MR. LOCKLEAR: Thank you, Your Honor. May it please
8 the Court.

9 THE COURT: Yes sir.

10 CROSS-EXAMINATION BY MR. LOCKLEAR:

11 Q. Now, Investigator Digsby ---

12 A. Yes.

13 Q. So, Investigator Digsby, when you -- I'm going to go
14 over some of the stuff Mr. Hilliard went over as well.

15 When you got there they took you to a specific point in
16 the yard; they didn't take you to a door and say, this is
17 where they exited the house.

18 A. They may have shown us what door they exited the home.
19 I don't -- I don't recall whether they did or not.

20 Q. Okay. And obviously I'm not a man tracker, but it
21 would just sort of seem like common sense to me that the place
22 to start would be the last definitively, for sure, known spot
23 that they came out of, which was would have been the side
24 door. Why didn't y'all start there?

25 A. If they showed us the last door they came out of -- a

1 dog is not -- you know, it's not like you see on T.V., the dog
2 is not magic. He cannot tell the difference between the smell,
3 of the bad guys and the E.M.T.s that also went through that
4 door, or the ---

5 Q. Let me correct -- why didn't -- I mean, you didn't --
6 not the dog. Why didn't you start -- you said first you
7 tracked them, then you -- you don't even need the dog till you
8 find track, right.

9 A. Right.

10 Q. So why didn't you start at the door? The dog stayed in
11 the truck till you find a track, right?

12 A. Right, because you have to scent the dog on the track.

13 **THE COURT:** All right. Let's not talk over each other.

14 **MR. LOCKLEAR:** Yes sir, Your Honor.

15 **THE COURT:** All right. The attorney asks the
16 questions. You answer them to the best of your ability, and
17 when you are done, then Mr. Locklear can ask another question.

18 Let's continue on.

19 Q. So you start without the dog first, correct.

20 A. Correct.

21 Q. Then you find a track you go to your dog, correct.

22 A. Correct.

23 Q. The only time you bring the dog out without a track is
24 for what you called a dog and pony show because people expect
25 to see a dog on the ground.

1 A. No, that's not true.

2 Q. I'm sorry.

3 A. There are plenty of situations where I won't start a
4 track, the dog will. For example, one of our most common
5 things is what we call a bush bond, and that's a car chase
6 that has ended in someone running into the woods, and now we
7 are going to chase the person in the woods. I don't need to
8 look for a track in that situation. What we will do is, we
9 will get there, we will immediately put the bloodhound in the
10 driver's seat of the car, he will get a scent of that driver,
11 and no one else, from that driver's seat of the car, and we
12 will set the track from right there. There's no reason for me
13 to look for any footprints or anything. The reason I'm
14 looking for footprints in track is for a definitive place to
15 start the dog. If it's a type of call where you already have
16 a definitive place to start the dog, like a bush bond, then I
17 won't start looking for a track, the dog will start.

18 Q. Okay. But obviously this was not one of the case in a
19 situation like this, you've got to find track before the dog
20 is ever going to be used, correct.

21 A. Correct.

22 Q. So why didn't you start at the door that they left the
23 house from, that everybody, every cop knew they left the house
24 from, why didn't you start looking for tracks there?

25 A. It's incredibly difficult, if not impossible, to find a

1 track on a door that somebody has gone through, where other
2 people have gone through. By the time we get there E.M.S. has
3 already come and maybe gone, there's other rescue personnel,
4 there's responding deputies, there's investigators, there's a
5 lot of people who have come and gone in and out of doors, and
6 front yards and everything else.

7 Where I want to start looking for a track is where
8 there's not going to be other tracks interfering, where --
9 even if -- even if they had gone that way and there were
10 tracks, and that was a high traffic area, between like say
11 kids going to school, it would have been a very hard place,
12 and I might have wanted to go beyond it and make a wider cut,
13 looking for a place where there is not a lot of other people
14 tracking. So you want to start your track in the first place
15 where there's not other people interfering, if that makes
16 sense.

17 Q. How far from the side door did you start your track?

18 A. We started our track somewhere close to the house. We
19 were still close to the house. I don't remember exactly
20 where, but I remember we were close to the house, and we went
21 back there when we started other -- kind of cutting in other
22 directions and stuff, but we weren't too far from the house
23 when we started because we didn't need to be. It was good
24 ground to find a track. Once we had found -- once we were
25 told kind of, you know, they went that way kind of thing, it

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1 was a good place to start looking, we were like, so let's
2 start looking right here.

3 Q. You said earlier your dog -- I believe you just said,
4 where I want to start looking for a track. But isn't it true
5 in this case it wasn't your decision where to start looking
6 for a track. You said it was told to you by somebody with
7 Georgetown County Police -- or Georgetown Police Department.

8 A. No. They told us what direction that the victim's wife
9 said they went. The Georgetown Police Department did not try
10 to tell us how to -- how to run the bloodhound team. They
11 didn't try to tell us where to start. They just told us which
12 direction they were told the suspects had fled, and then we
13 decided -- I decided where the best place was to start looking
14 for a track.

15 Q. But didn't you just tell Mr. Hilliard that you were
16 brought to a general area and told, this is where they went?

17 A. Correct.

18 Q. So they told you where to start, correct?

19 A. They told me where the people ran to, where they were -
20 - fled. They didn't tell me, start right here. If they had
21 been standing in a parking lot, let's say, and they said, they
22 ran right though here, well, I wouldn't have started right
23 there in the middle of that gravel parking lot or concrete
24 parking lot, even if they said they started right here. I
25 would have gone to the outside of the parking lot and started

1 cutting it in the grass, and that would have been my choice.
2 In this case, when they said, they ran right here, where we
3 were was a good place to start, so I chose to start there. I
4 chose to start where they told me they ran, but that was
5 because that was a good place to start, not because they told
6 me to start there.

7 Q. When you come out of that side door that would be right
8 where the parking lot was that you parked your car, correct.

9 A. Like I said, I'm saying side door because you say side
10 door. I don't recall the doors that people went in and out of
11 at the house. I don't recall the house real well. My focus
12 is the ground. I'm focused on the ground when I'm on a scene
13 like this.

14 Q. Let me show you what's been admitted as State's 19.
15 The purple sticker is the house, correct.

16 A. Correct.

17 Q. Assuming the house faces this street, and assuming this
18 street is Highmarket Street, would that parking lot be on the
19 front, the side, or the back of the house, assuming this is
20 the front, facing the ---

21 A. Right. It would -- that parking lot would be on the
22 west side of the house.

23 Q. That would be the west side. And it was said that they
24 ran out of the west side of the house and then went north,
25 correct, west ---

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1 A. Right. Well, I don't know whether they went west and
2 then turned north directly, or went around the other side of
3 the -- I don't know ---

4 Q. Okay.

5 A. You know what I mean.

6 Q. That's a big parking lot right there, right.

7 A. Correct.

8 Q. Y'all tracked where, back in this way?

9 A. Yes.

10 Q. Because you tracked this way.

11 A. No, I don't believe we tracked -- we didn't try to
12 track across the parking lots. We may have cut the -- we may
13 have cut around that area, the parking lots and stuff, walked
14 around the parking lots, but we didn't -- I don't think we
15 ever brought the dog over there.

16 Q. Okay. But had somebody exited and run across all this
17 concrete here and over here, did y'all go and track over here,
18 or cut over here?

19 A. We did cut all the way across the back of the parking
20 lot, and then we went all the way to that street on the other
21 side of the parking lot ---

22 Q. Over here.

23 A. ---Because I remember we walked along -- no, the back -
24 - is that Duke Street?

25 Q. Duke Street back here, yes sir.

1 A. And we walked all down Duke Street looking, because you
2 know, we are going with the theory of, well, if we did somehow
3 -- if they did miraculously somehow get through the cemetery
4 without leaving any tracks they probably had a car parked
5 along Duke Street, so we walked all the way down Duke Street
6 looking for any indication of a car on the side of the road
7 and people getting in a car, and what we would be looking for
8 there would be like pivot marks of a toe, and there's certain
9 things you can see. You can see a couple of pivot marks of
10 toes, and tire tracks of a car driving away. It's something
11 you've seen many times but you've never noticed, because you
12 don't know what you are looking at, but what that would be
13 would be people pivoting, sitting in a car and you know,
14 driving away, and we are looking for something like that all
15 along the back of the parking lot to see if maybe, you know,
16 we can find anything back there, and then -- and if we could
17 find something like that then we would have tried cutting back
18 from that location and see if maybe we could reverse find the
19 track. We didn't find anything that way either.

20 Q. Okay. Did y'all track through the front of the parking
21 lot out to the front of Highmarket Street?

22 A. We did not go out into Highmarket Street, no.

23 Q. So if somebody had come out of the house and even if
24 they cut this way, cut back this way to the parking lot, and
25 went east or west on Highmarket Street, y'all didn't cut or

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1 track those areas.

2 A. We did not.

3 Q. In either direction.

4 A. No. We didn't look on the concrete anywhere. We
5 didn't cross Highmarket Street, we didn't go in either
6 direction on Highmarket Street.

7 Q. You didn't cut any of this area over here.

8 A. No. We were told that the victim -- the witness was
9 pretty sure that they had gone to the back of the house, they
10 had run out of the house and gone to the back of the house, so
11 we were looking all around the back of the house. And we did
12 look along this line on the side -- this empty lot on the side
13 of the house, because also, as you can see and imagine, it
14 would be a pretty good place to see a track as well, so we
15 checked there, and there was nothing there.

16 Q. Were you informed that the victim was very, very upset
17 according to the police report, and was even vomiting at some
18 point?

19 A. I was not informed of that.

20 Q. Okay. Would that have maybe gone into whether you
21 consider how reliable her recollection of where he went might
22 have been?

23 A. No. The reason we checked those other places that
24 weren't where she said they went is because, you know, all of
25 us on the tracking team, like myself, have other primary

1 duties as an investigator. I know that witnesses are not
2 terribly reliable all the time, so when we were told that she
3 knows they went this way, and we didn't find anything that
4 way, we just kind of assumed that, I mean, she was mistaken,
5 and we started looking in all the other areas that could have
6 gone off -- they could have run off into the dark in the back
7 of the house, so that's why we checked everywhere because, you
8 know, you never know how good someone might remember those
9 details.

10 Q. Let me correct you. You didn't check everywhere, did
11 you?

12 A. Everywhere behind the house.

13 Q. Behind the house.

14 A. Yes.

15 Q. But y'all failed to check anything out here, correct.

16 A. We did not check on Highmarket Street. There's no --
17 there's very, very -- I don't know, maybe some people can, but
18 I can't find a track on a stone road, on Highmarket Street,
19 and there's no way to set a dog on that, so there's really
20 nothing we can do on that.

21 Q. So if they had gone this way there's basically -- not
22 to sound mean, but you would have been useless in trying to
23 track them anywhere up here because no tracker can do it,
24 correct, or no tracker that you know.

25 A. I can't do it. There might be some trackers who can

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1 track in fine sand, but I can't do it, so ---

2 Q. All right.

3 MR. LOCKLEAR: That's all I have for this witness, Your
4 Honor.

5 Thank you, Investigator Digsby.

6 THE COURT: Redirect.

7 MR. HIXSON: No, Your Honor.

8 THE COURT: Do you wish the witness to be excused?

9 MR. HIXSON: I do, Your Honor.

10 THE COURT: Any objection?

11 MR. HILLIARD: No objection, Your Honor.

12 Thank you, Mr. Digsby.

13 MR. LOCKLEAR: No objection, Your Honor.

14 THE COURT: All right, sir, you are released from your
15 Subpoena. You may go back to your regular activities, sir.

16 A. Thank you.

17 THE COURT: Thank you.

18 All right, Solicitor, who is your next witness?

19 MR. HIXSON: Beg the Court's indulgence for just a
20 second.

21 THE COURT: Yes sir.

22 MR. HIXSON: James Goude.

23 JAMES DELTON GOUDE, JR., being
24 first duly sworn, testifies as follows:

25 DIRECT-EXAMINATION BY MR. HIXSON:

1 Q. Good afternoon, sir.

2 A. How are you doing.

3 Q. How are you doing for a liv -- how are you doing today?

4 A. I'm doing all right.

5 Q. Okay. Please tell us what you do for a living.

6 A. Commercial fisherman.

7 Q. Okay. And about how long you -- you from Georgetown?

8 A. Yes.

9 Q. And about how long have you lived here in Georgetown?

10 A. All my life.

11 Q. Let's get right to it, shall we. So did you live in
12 Georgetown then obviously back the period of time around May
13 27th, 2003?

14 A. Yes.

15 Q. Okay.

16 MR. HIXSON: Please speak up. The Court Reporter has
17 to hear everything you are saying. Okay.

18 A. Is that better?

19 MR. HIXSON: That sure is, sir.

20 Q. Let me start over. Did you live here around May 27th
21 of 2003?

22 A. Yes.

23 Q. Okay. And you know -- do you know Keri Pope?

24 A. Yes.

25 Q. Did you know her before she became Ms. Pope?

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1 A. Maybe from school, but not really..

2 Q. All right. Okay. How about Mr. Miller, Chris Miller;
3 do you know him?

4 A. Yes.. I mean, I went to school with him all my life,
5 sir, until I dropped out in the seventh grade.

6 Q. Okay. Okay. So let's go back in time a little bit,
7 prior to May 27th, 2003. Tell us about one of the first times
8 that you came to know Keri Fore Pope.

9 A. I don't know exactly when they got married, but I met
10 her a couple of times when her and Joey was dating, and then,
11 you know, they got married or whatever, and moved into the
12 house, and that's when I really got to know her.

13 Q. Okay. Let me be clear. Do you know Joey Pope?

14 A. Yes.

15 Q. And how do you know Joey Pope?

16 A. I grew up maybe half a mile from him. We grew up
17 together. All through elementary school we was in the same
18 class, and then right on in Beck, and I've known him all my
19 life.

20 Q. Would you consider yourself good friends with Mr. Pope?

21 A. Oh yeah.

22 Q. Okay. Let's go forward again. Do you know whether or
23 not Mr. Miller and Mr. Pope knew each other?

24 A. Yes.

25 Q. Tell us about their relationship.

1 A. They had a pretty close relationship. I mean, Chris
2 stayed over there at Joey's every day, I mean, they was --
3 from when Joey and them moved in that house we quite kind of -
4 - not hanging out as much, you know, but shoot, as long as
5 they lived there Chris was going there, to my knowledge --
6 every time I would go by there Chris would be there.

7 Q. Let me show you just a couple of items quickly. Do you
8 recog -- I'm going to just show you an item that's already in
9 evidence, State's Exhibit 23. Just see if you recognize that
10 photograph.

11 A. Yes.

12 MR. HIXSON: And I am referring to S-4.

13 And that should come up on the screen, Mr. Goude, and
14 see if you -- is it Goude or Goude?

15 A. Goude.

16 Q. Goude.

17 And you recognize that.

18 A. Yes.

19 Q. What is that?

20 A. That's the side view of Joey's house.

21 Q. Okay. So you've been over there before.

22 A. Yes.

23 Q. And about how many times do you think?

24 A. Bunches of times. I've been in that house before Joey
25 and them even lived in it. His grand-daddy lived there.

1 Q. Okay. Whose house was it?

2 A. Mr. Pope's.

3 Q. I'm sorry. Mr. Pope.

4 A. Mackie -- Mackie Pope's dad.

5 Q. Okay. And talking about the times that you were over
6 there, are you -- are you familiar with Keri and Joey's
7 pitbull? Do you recall the name of that dog?

8 A. Yes. I think it was Raven. Yes.

9 Q. Tell us about how you know that dog.

10 A. Pretty much from Joey getting her a puppy, I meant, me
11 going by there every other day, I mean, I knew the dog cause -
12 - from Shane and Joey, you know, the mama and daddy of the
13 dogs, I meant, I knew the dog pretty good, but I mean, I
14 couldn't just go in Joey's house, you know, he would have to -
15 --

16 Q. Why not?

17 A. Because you just didn't walk in the house. That dog
18 would, you know, bite you, I meant, Joey could tell her it was
19 all right, I mean, and she would be fine, but I know she would
20 bite you.

21 Q. How about -- have you been over there when Chris Miller
22 had been over to the house?

23 A. Yes.

24 Q. Do you know how that -- Raven acted around Mr. Miller?

25 A. Normal, because I mean, he was there every -- every

1 day, I meant, so he -- he already had a bond with the dog, I
2 mean, it just wasn't like that with me, I mean, I didn't stay
3 over there long period of time each time I went there, so ---

4 Q. And how do you feel -- how was the dog around Keri?
5 When you were watching that stuff, how did the dog act around
6 Keri?

7 A. The dog was real close with her, I mean, just fooling
8 around, you know, Joey could act like he was going to get her
9 or something and she would, you know, protect her, like she
10 was going to eat him up, you know, she would just be playing
11 around, but you really didn't mess with her or that young'un.

12 Q. I apologize, but you are using some pronouns there, so
13 if could you kind of use some names there when you are saying
14 she and she and stuff. You are -- you are referring to Keri
15 or ---

16 A. Yes, I was referring to the dog and her together, I
17 mean, and the baby. The baby was -- I want to say, the last
18 time that me and my wife and my little girl -- I can't
19 remember exactly how old Joey's little girl was, but we had
20 went to the beach and, you know, spent the day with them, and
21 then we come back there and cooked and hung out till probably
22 eleven or so that -- at night that time, but I want to say my
23 little girl was, I think a year, maybe two years old. She
24 might have been -- she was walking, so -- but Joey's young'un,
25 I don't think was walking yet.

1 But I'm saying, the dog -- the dog was more, you know,
2 with Keri than it was Joey, because Joey wasn't home every day
3 working and stuff like that, so I meant ---

4 Q. Have you been over there when someone had knocked on
5 the door, or came around, and saw how the dog reacted? Have
6 you ever been involved in anything like that?

7 A. Yeah, cause they normally use the side door, and me and
8 my brother-in-law, James, went there one day, and we went up
9 to the front door, by the highway, and knocked on the -- you
10 know, the door, and the window is right there, and she was all
11 up in the window, the curtains hanging behind the -- raising
12 cane. Joey was asleep on the couch, and once Keri come to the
13 door, you know, she hushed, but -- and Joey -- woke Joey up,
14 you know, and he was playing around, telling her to get us,
15 and stuff like that, I mean, but I mean, yeah, the dog was
16 real aggressive at who come in until, you know, the owner of
17 the dog tells the dog it's all right. It's just about like
18 every pitbull.

19 Q. Let me ask you that. You mentioned about doors that
20 you used. You mentioned something about normally go to the
21 side door. Let me show you an item that's State's Exhibit 27,
22 see if you recognize this.

23 **MR. HIXSON:** This is already in evidence, I believe,
24 Your Honor.

25 And that item is item number four, Mr. Brown.

1 Q. Do you -- what is that?

2 A. That's a side view door.

3 Q. Okay. What door in the house do folks -- friends
4 usually use?

5 A. That -- this door right here that you are showing.

6 Q. Okay. You also mentioned something about a front door,
7 I believe. Let me show you items marked State's Exhibit 20.

8 That is slide 50 -- excuse me -- S-1 for the jury.
9 That's in evidence.

10 Q. Okay. Tell us about that front door. Did folks
11 usually use that front door?

12 A. No. They -- they -- I mean they never really -- you
13 might have seen them, every now and then, hanging out on the
14 front porch, but everybody parks over in the doctor's parking
15 lot, Dr. Owens, so most of the time everybody went through
16 that door on the side.

17 Q. Okay. And one last picture. Let me show the witness
18 State's 22.

19 I believe that's in evidence.

20 And that is slide S-3.

21 Q. Do you recognize that door?

22 A. I know where it's at, but I -- no, I never used that
23 door. I meant, this is on the side facing the hardware store,
24 and I believe it goes into that -- where they had the T.V.. I
25 guess they would call it the living room.

1 Q. Let me show you this one, State's Exhibit 21.

2 MR. HIXSON: That's in evidence.

3 That's slide S-2.

4 Q. See if that aids you in your testimony ---

5 A. Right.

6 Q. ---As it relates to that door. Can you ---

7 A. Yes.

8 Q. ---Explain to the jury where the door is in that
9 photograph?

10 A. Yes. That's on -- it's on the same -- the hardware,
11 that used to be a mobile home parking lot right here, and the
12 graveyard is directly behind it. But if you were sitting in
13 front of the house it would be on your left, and the door they
14 usually use was on the right.

15 Q. Okay. Let me show you what's been marked State's 24.

16 That's slide number one.

17 And that's another orienting photograph.

18 A. All right.

19 Q. And now could you describe the relationship of those
20 doors on that -- that slide, that photograph?

21 A. Pretty much, there's one on either side, I mean, just
22 about the same spot.

23 Q. And so which door is it that you say that you normally
24 used?

25 A. The right door, the parking lot of the doctor's office.

1 Q. Okay. The one -- if you look at that photograph it's
2 on the ---

3 A. Yes. If you are standing in front of the house,
4 looking toward the road, it would be on your right.

5 Q. Okay. If you were standing on the front porch looking
6 toward the road it's on your right.

7 A. Yes sir. Doctor's Owens is a chiropractor.

8 Q. Okay. Now, let's talk about the May 27, 2003. That's
9 the night, I believe, that Mr. Pope was killed.

10 A. Right.

11 Q. Do you recall that evening?

12 A. Yes sir.

13 Q. Can you please tell the Court what was going on that
14 night for you.

15 A. Well, earlier that day, I'll say around one or two
16 o'clock, I was working for Kent Rogerson, doing flooring, and
17 he's got a warehouse right behind Blade and Barrel, and we had
18 to go there and get a load of lumber and stuff. Well, the
19 forklift run out of propane so we went down to Gene Ward's to
20 get something to eat, and when we was on the way down there
21 the traffic light, you know, always stops. In the middle of
22 the day it's busy. And Joey was outside raking leaves. I
23 hadn't talked to him in a couple of weeks then, and we was
24 just hollering and joking around, you know, and he told me to
25 stop by that night.

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1 Well, I think I got off late, 7:30, 8:00. My wife come
2 and picked me up right there in Pawleys, and I think we went
3 to WalMart, something else, and then we decided to go eat at a
4 Mexican restaurant, so -- I'd say that was around 8:45 or so
5 that we went and ate, and I was telling her that Joey wanted,
6 you know, us to stop by and everything. And I'll say around
7 9:30, maybe 9:45, something like that, I think we was going to
8 stop by Joey's and my wife was already saying it was late and
9 everything, and I slowed down to turn into the driveway and I
10 seen, you know, that they had somebody out front, and the
11 headlights was on and all, and it was Chris's car, and as I --
12 Angel said, well, there's people here, it's late anyway, let's
13 just go home, so as I start to roll off again, I mean, I seen
14 Keri at the door, and Chris, and I -- I thought for sure it
15 was Nick Lambert that was walking behind him, but you know --
16 that's who had been hanging out with Chris a good bit. I just
17 assumed it wasn't nothing unusual, so we went home and me and
18 my little girl made a pallet in the living room. Angel went
19 straight to bed. And she had a Disney movie she wanted me to
20 watch with her. I forgot what it was, but I had just dozed
21 off, and I think it was like 11:15, 11:20, something like
22 that, Joey Mishoe called me, and told me that -- I'm sorry,
23 I'll just take a minute.

24 **MR. HILLIARD:** Objection to the hearsay.

25 **THE COURT:** Why don't you rephrase your question.

1 Q. Let me show you a picture, State's Exhibit 27, Mr.
2 Goude.

3 That is slide number four.

4 A. Right.

5 Q. Do you recognize that?

6 A. Yeah.

7 Q. Can you please tell the Court, what door did you see --
8 -

9 A. This door right here on the right.

10 Q. Okay. And tell us what you saw happening at that door.

11 A. I seen Keri at the door, and that would have been with
12 her left arm holding the door, and Chris and me assuming it
13 was Nick, walking in.

14 Q. And you say you assume. Don't assume. What can --
15 what can you testify to that you saw? I mean, could you see
16 Mr. Lambert's face?

17 A. Yeah, I could -- I mean, I could see -- he's got -- I
18 mean, you know, I went -- I mean, I've known him just as long.
19 Even though it was dark, I mean the light from the doctor's
20 office and everything, I mean, and then the headlights was
21 facing the house, so I mean, it wasn't shaded none, but his --
22 his height and the jacket he was wearing, I mean I just -- I
23 had seen them the last few days together so ---

24 Q. Okay. Let's just go back a little bit then, kind of
25 slow down a little bit. You say you went to go eat Mexican;

1 is that what you said?

2 A. Yes.

3 Q. Where did you go? Where did you ---

4 A. El Cerro Grande.

5 Q. Okay. Do you recall about what time you think, just
6 roughly speaking, that you got there, and how long you stayed,
7 and things like that.

8 A. We stayed about -- I know an hour. We got there at
9 8:30, 8 o'clock, something like that, and we left, and it
10 was -- like I say, it was 9:00 -- 9:30, 9:45 when I passed to
11 come up to Joey's, or -- and then from Joey -- where Joey
12 lived to my house, that's a good thirty minute ride, and, you
13 know, changing the young'uns to their pajamas and all that,
14 and it was eleven something when Mr. Mishoe called me.

15 Q. Okay. And at some point in time you received -- did
16 you receive a telephone call that Mr. Pope passed on.

17 A. Right. That's -- that's what I got upset about a
18 minute -- I was just thinking about Mr. Mishoe calling me. He
19 told me that ---

20 MR. HILLIARD: Objection to the hearsay.

21 THE COURT: Don't say what he told you.

22 A. Okay.

23 THE COURT: Go ahead.

24 Q. But just based on that phone call that you got ---

25 A. Right.

1 Q. What did you do then, after you got that phone call?

2 A. I jumped straight up, grabbed my young'un, run back
3 there and got my wife, and took on a t-shirt, pair of pants
4 real quick, and we all three went to the hospital.

5 Q. When you got to the hospital what was that like? Let's
6 start -- who was there?

7 A. Every -- everybody, I meant, family, most of Joey's
8 friends, Keri, her friends, Chris, and B.J., Shane and Joe,
9 Joey Mishoe, Daryl Banks.

10 Q. Okay. When you got there were folks talking about what
11 happened?

12 A. No. Not exactly when we first got there, cause we went
13 in and tried to, you know, see what ---

14 MR. HILLIARD: Objection to what the folks were talking
15 about, Your Honor.

16 THE COURT: I didn't hear that, that that's what he
17 said, so just ---

18 Just continue on.

19 A. Okay. We were just trying to see where Ms. Velma and
20 Mackie and Brenda, her sister, and where the immediate family
21 was, Keri. She was inside at that time. And really hadn't
22 got a scoop on nothing what happened right then, because I
23 mean, you ain't really wanting to ask people -- you don't
24 really know what to say, you know, and they had just
25 pronounced him dead when we got there, so me and Angle and

1 Daryl, we had walked outside to smoke, and at that time Keri
2 had walked outside too, and I know that my wife and Chris and
3 Daryl and Shane, we was all kind of standing, you know, in the
4 ten foot area, and he was -- he was a nervous wreck then, I
5 mean, he ---

6 Q. When you say he, use a pronoun, who are you referring
7 to, Chris Miller?

8 A. Yeah.

9 Q. Okay.

10 A. And they started asking what happened, and you know, I
11 was also talking to Shane and Daryl, so the only thing I
12 understood, that he had run in ---

13 MR. HILLIARD: Objection as to what he understood from
14 his conversation with Shane and Daryl.

15 THE COURT: Be specific ---

16 A. Right.

17 THE COURT: ---About who is staying what, please sir.

18 A. Right. That's what I said. He was talking to my wife
19 and I was ---

20 THE COURT: You have to say ---

21 A. ---Actually talking to Daryl.

22 THE COURT: I'm sorry. I -- when you say he, you've
23 got to be specific.

24 A. Okay. Chris.

25 THE COURT: All right.

1 A. Chris Miller.

2 THE COURT: All right. Go ahead.

3 A. Chris Miller and my wife was talking, and then Shane
4 and Daryl was, you know, trying to talk to me too, because I
5 was just wanting to know what all happened, and it was told
6 that, you know, two black males ---

7 MR. HILLIARD: Your Honor, I recognize that I'm trying
8 the Court's patience, but when he says, it was told -- if he's
9 saying Chris said, that's one thing; if he's saying Shane and
10 Daryl said, that's something different.

11 A. I'm sorry.

12 THE COURT: That's all right, sir. I appreciate that.
13 Just again, as best you can, try and be specific as to who it
14 is that is saying something before you say what they said.
15 Okay.

16 A. Okay.

17 THE COURT: Thank you, sir.

18 A. Well, what I was trying to say is, what had been told
19 from the family, everybody that was there.

20 Q. And so you were told of the general events of what your
21 understanding was there at the hospital, there was some
22 discussion over generally the events that -- what you thought
23 had transpired at that time; is that correct?

24 A. Right. Yes sir.

25 Q. At some point in time did you have a conversation with

1 Chris Miller at the hospital?

2 A. Not just me and him personally, no.

3 Q. That's okay. Did Chris Miller have anything to say to
4 you? Did you hear Chris Miller say anything about those
5 events?

6 A. No. He was -- he wasn't talking directly to me. I
7 just know he was talking. I don't know what was said.

8 Q. Was he talking to your wife?

9 A. Yes.

10 Q. Did you overhear anything he said to your wife?

11 MR. HILLIARD: He has asked that question. He said he
12 didn't hear what he said.

13 THE COURT: I appreciate that. I'm going to allow that
14 question.

15 Go ahead, Solicitor.

16 Q. Did you overhear anything Mr. Miller said to your wife?

17 A. Just, you know, it would be like three people standing
18 there talking and you know, you might overhear bits, pieces of
19 certain sentences, but I mean, I cannot say that I heard him
20 say everything directly.

21 Q. That's fine. That's fine. Just whatever you heard
22 Chris say, Mr. Miller say or not say, that's fine.

23 A. I know I heard him say that Keri was ---

24 Q. That's fine. Let's not get into that.

25 A. ---Outside.

1 Q. Just testify from your personal knowledge of what you
2 heard, okay ---

3 A. Right.

4 Q. ---Or what you observed and saw.

5 MR. HILLIARD: Your Honor, we have a matter of law at
6 this time.

7 THE COURT: All right, ladies and gentlemen of the
8 jury. Please go to the jury room.

9 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
10 JURY.)

11 THE COURT: Yes sir, Mr. Hilliard.

12 MR. HILLIARD: As I understood what he was starting to
13 say was that he overheard Chris say something about something
14 that Keri had said, and I ---

15 THE COURT: He didn't say anything. All he said was,
16 "Keri was...". That's all he said, and then the Solicitor
17 interrupted him, but he didn't say a thing. Okay. He had
18 previously said Keri was out there. You didn't object to
19 that, and then he said, Keri was -- and the Solicitor started
20 asking the questions, so he hadn't said a thing about any
21 conversation.

22 What's your objection?

23 MR. HILLIARD: Well, the objection is that -- well, I
24 believe that the path that they were going on was going to put
25 him in a position where he was going to be talking about the

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1 things -- something that he overheard people talking about.
2 The question that the Solicitor asked him was, can you
3 identify something specific that Chris said. He answered that
4 question no.

5 **THE COURT:** No, that's not what he said. He said he
6 heard bits and pieces, and then the Solicitor asked him
7 another question, to be specific about what he heard Chris
8 say. That was the Solicitor's question.

9 **MR. HILLIARD:** And what was the answer, Judge?

10 **THE COURT:** There wasn't one.

11 **MR. HILLIARD:** Well, could we have that ---

12 **THE COURT:** That's when -- that's when the Solicitor
13 said something and you objected, so we never got there.

14 Would you like the Solicitor to ask some questions now,
15 outside the presence of the jury?

16 **MR. HILLIARD:** Yes sir, Your Honor. Thank you very
17 much.

18 **THE COURT:** Very good. Go ahead, Solicitor.

19 **MR. HIXSON:** Your Honor, I stopped at a line of
20 questioning. I'll continue to ask those questions. He
21 indicated to me he wasn't sure what was said, and I stopped
22 pursuing that line of questions.

23 **THE COURT:** And be very clear about a question, and
24 since we are outside the presence of the jury, find out if he
25 heard the Defendant, Christopher Miller, at that time, say

1 anything; did he hear, in his presence. Whether he's talking
2 to Chris directly, or Chris is talking to him directly, but in
3 his presence, did he hear Chris Miller say anything. Ask the
4 question and let's find out, and then we'll go from there.

5 Q. Did you hear that colloquy from the Court -- colloquy
6 from the Court, in that, did you hear Chris Miller say
7 anything while you were at the hospital?

8 A. No sir.

9 MR. HILLIARD: May we stop there, Judge?

10 THE COURT: Well, I don't know what else the Solicitor
11 wants to ask of the witness. That might stop him from saying
12 now did Chris say anything. He just said he didn't hear Chris
13 saying anything in the presence. Fine. There may be, very
14 well, other questions that the Solicitor wants to ask. I
15 don't know.

16 MR. HILLIARD: My belief in that regard, Judge, is that
17 that's the second or third time that he's said the same thing.
18 That's the part of the inquiry that I want to stop.

19 Thank you, Judge.

20 THE COURT: All right. Very good.

21 Ask the jury to come back in.

22 While the jury is out, Solicitor, you come on up and
23 talk to me.

24 Mr. Hilliard, Mr. Locklear, y'all come on up.

25 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

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1 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
2 JURY.)

3 THE COURT: All right, Solicitor, you may continue,
4 sir.

5 MR. HIXSON: Thank you.

6 DIRECT BY HIXSON CONTINUED:

7 Q. While you were at the hospital, Mr. Goude, did you say
8 anything to Chris Miller, confront him about the fact that you
9 had just seen him at the house?

10 A. No, not that I can recall.

11 Q. Very good.

12 Let's talk about after -- after the fact, specifically,
13 I guess, your discussions or anything like that with the
14 Police Department after Mr. Pope passed on. At some point in
15 time did you talk to law enforcement about -- about this?

16 A. Yes sir.

17 Q. And tell us about that.

18 A. I can't exactly remember the officer. I know one of
19 them was Dustin Morris, I think, and I want to say -- I can't
20 remember the other officer, I mean, I know him, but they come
21 to see me on the job at Debordieu, asked me some questions
22 about what I seen that night, and what I heard, and I just
23 told them what I knew, I mean, I didn't say, you know, I know
24 for sure that this is what happened and all that. I just told
25 them what I knew, and that was it.

1 Q. Okay.

2 MR. HIXSON: Beg the Court's indulgence for just one
3 moment, Your Honor.

4 THE COURT: Yes sir.

5 MR. HIXSON: I have no further questions at this time,
6 Your Honor.

7 THE COURT: All right, Mr. Hilliard, cross-examination.

8 MR. HILLIARD: Thank you, Your Honor.

9 CROSS-EXAMINATION BY MR. HILLIARD:

10 MR. HILLIARD: Good evening.

11 A. How are you doing.

12 Q. You say you are a commercial fisherman; is that right?

13 A. Yes sir.

14 Q. What kind of commercial fishing are you doing?

15 A. Shrimping right now.

16 Q. Shrimping.

17 A. Yes sir.

18 Q. Brown shrimp.

19 A. Yeah. Well, the white shrimp is already showing up, so
20 it's getting ready to change.

21 Q. Any size to them?

22 A. Yeah, they are pretty big, twenty-one twenty-fives
23 right now.

24 Q. Are you catching pretty good?

25 A. Yes sir.

- 1 Q. You got a big -- do you work for somebody, or were you
2 working ---
- 3 A. Yeah. For Larry Owens, Captain Andrew. It's a ninety
4 footer.
- 5 Q. Captain Andrew.
- 6 A. Yes sir.
- 7 Q. Larry Owens.
- 8 A. Senior.
- 9 Q. Larry Owens.
- 10 A. Senior. Yes.
- 11 Q. That's Jody Owens' daddy.
- 12 A. Father. Yes sir.
- 13 Q. Do you know Jody pretty good?
- 14 A. Yes sir. I grew up two roads over from him. He's
15 known me since I was just a little boy.
- 16 Q. All right, sir. And he and Joey were friends; is that
17 right?
- 18 A. Yes sir.
- 19 Q. And they liked to hang around together and do stuff
20 together.
- 21 A. Yes.
- 22 Q. Go off periodically together.
- 23 A. Yeah, they was hanging out pretty tight there at one
24 time in that ---
- 25 Q. And there was a lot of stuff that they would do that

1 Keri didn't know anything about, right?

2 A. I wouldn't especially say, you know, that. I mean, I
3 don't know if Joey was hanging out with him at night, and
4 stuff like that, but I mean, during the day. The only thing I
5 know of them doing was him down there working on the boat with
6 Jody's daddy, helping them do something at Mr. Larry's. Other
7 than that -- I mean, I don't know if they was partying
8 together and everything.

9 Q. You don't know about them partying together.

10 A. No.

11 Q. How about Jody Ward?

12 A. I ain't never know -- I meant, like Joey and Jody
13 hanging out; is that what you are asking me?

14 Q. Well, you know Jody Ward.

15 A. Yes sir.

16 Q. And you know that Jody Ward was in the crabbing
17 business.

18 A. Right.

19 Q. The commercial fishing business in Georgetown is a
20 pretty small and close-knit community; is that fair to say?

21 A. Yeah, you can say that.

22 Q. And mostly folks know each other.

23 A. Right.

24 Q. So Jody Ward was doing some crabbing ---

25 A. Right.

1 Q. ---At various points in time back then, in 2002 and
2 2003.

3 A. I don't know exactly when it was. I know it was during
4 channel net season now, and that's in the winter ---

5 Q. Right.

6 A. ---That Jody Ward, you know, was sent to prison, so I
7 just don't -- I mean, I don't recall him and Joey ever being
8 any kind of buddy-buddy, you know, just knowing of him, but --

9 -

10 Q. Right. But how about Jody Ward and Jody Owens.

11 A. Yes. They was friends in the past.

12 Q. They was pretty tight.

13 A. Yeah.

14 Q. All right, sir. So Jody Ward and Jody Owens were
15 pretty tight.

16 A. Right.

17 Q. And Jody Owens and Joey Pope were pretty tight.

18 A. Right.

19 Q. All right, sir. And I think you said that Chris was
20 good friends with Joey; is that right?

21 A. Yes sir.

22 Q. And so -- and I apologize, but it's been a while,
23 today, really since you ---

24 A. Right.

25 Q. ---Told me -- told me what happened, but where were you

1 -- and you remember these events because you were at the
2 hospital that night.

3 A. Right.

4 Q. Where were you earlier in the day?

5 A. I was at work until like seven something, seven twenty.

6 Q. All right, sir, and the working that you do, you have
7 to have a forklift with some propane in it.

8 A. Yes sir. Yes sir.

9 Q. And you went, while you were working, to get some
10 propane from Gene's Country Store.

11 A. No sir. Somebody -- Kent Rogerson was going to come
12 bring us another tank, and we went to Gene Ward's to grab a
13 bite to eat because we hadn't took lunch yet.

14 Q. All right. So -- and it was at sort of a lunch that
15 you were at -- went to Gene Ward's Country Store; is that
16 right?

17 A. Yes sir.

18 Q. And that was when you saw Joey raking the leaves at his
19 house?

20 A. No. I actually seen Joey when we was on the way to
21 Gene Ward's, before we got to Gene Ward's.

22 Q. Right, sir. So you were on your way to Gene Ward's
23 Country Store and you saw Joey raking leaves at his house.

24 A. Yes sir. We was on a -- we was stopped in traffic
25 right in front of his house, with the red light.

1 Q. So you were stopped in traffic in front of his house
2 and you saw him raking leaves on your way to Gene Ward's
3 Country Store to get you some lunch.

4 A. Right.

5 Q. Do you recollect about what time that was?

6 A. I know it was after one. In between one and two
7 o'clock.

8 Q. In between one and two o'clock in the afternoon.

9 A. Right.

10 Q. All right. And he was out there raking leaves.

11 A. Right.

12 Q. And did you -- you had some conversation -- you were in
13 the vehicle ---

14 A. Yeah. Well, we was in a box truck and we just hoot and
15 hollered at him, told him to, you know, do something, and we
16 was just joking around, and what few seconds we had to talk he
17 just told me to stop by later so ---

18 Q. Y'all never got out the truck.

19 A. No. No.

20 Q. You just stopped at the light, hooted and hollered, and
21 say, yeah, what you doing, you lazy or something.

22 A. Yeah. We was stopped in traffic, you know, and time of
23 the light to change. I mean, we didn't get out.

24 Q. Right. But you -- and you were telling him that you
25 were going to come by his house later on that night.

- 1 A. Right.
- 2 Q. All right, sir. And later on that night -- tell me
- 3 about the Mexican -- you went somewhere and had Mexican; is
- 4 that right?
- 5 A. Yes sir.
- 6 Q. So you got off work at about what time?
- 7 A. Seven, seven-thirty, something like that.
- 8 Q. And you went to ---
- 9 A. We went to WalMart first.
- 10 Q. To Walmart.
- 11 A. Yes sir. To get some things for the house, and I'm
- 12 pretty sure to buy my daughter some kind of toy or something,
- 13 but -- and then I talked her into going to eat Mexican food
- 14 when we left WalMart.
- 15 Q. You talked your daughter into eating Mexican food ---
- 16 A. And my wife.
- 17 Q. And your wife.
- 18 A. Yes sir.
- 19 Q. Both of them.
- 20 A. Yes.
- 21 Q. And at that point you went to the El Cerro to eat ---
- 22 A. Yes sir.
- 23 Q. ---And when you finished up -- did you have anything of
- 24 an alcoholic nature to drink ---
- 25 A. No.

1 Q. ---Or you -- you don't drink alcohol?

2 A. No, I didn't during, and I don't drink now, sir.

3 Q. All right, sir. So, what time was it when you left El
4 Cerro?

5 A. I want to say nine, nine-fifteen, might -- something
6 like that.

7 Q. Did you go directly by Joey's house at that point?

8 A. Yes sir. From the time we pulled out of El Cerro
9 Grande to the time we slowed down at his house, I mean, I went
10 straight there, nowhere else.

11 Q. You say you slowed down before then, where were you
12 going to pull -- you were going to pull into ---

13 A. On the -- on -- at Joey's house, on the right side, or
14 the doctor's office, the parking lot.

15 Q. All right. When you face Joey -- when you are on
16 Highmarket Street and you face Joey's house, what side is
17 the -- Doctor Owens' parking lot on?

18 A. It would be on the side of the courtroom doors. That
19 would be your right, facing that way.

20 Q. Can you look at State's 19 and make any sense out of
21 that? Does that look like anything you recognize?

22 A. Yeah. I mean, I know exactly where it's at.

23 Q. All right, sir. And ---

24 A. Do you want me to tell you?

25 Q. Yes sir.

- 1 A. All right. This right here is ---
- 2 Q. When you say this right here.
- 3 A. Well, the car lot. That's Jeremy -- Jeremy's car lot,
- 4 it's Georgetown Auto Sales.
- 5 Q. With all the cars in it, that's Jeremy's car lot.
- 6 A. Right.
- 7 Q. All right, sir.
- 8 A. And let's see, the three little houses right there, I
- 9 don't know who lived in them, but the right top building,
- 10 that's the carpet place, and ---
- 11 Q. I tell you what, let me -- let me hold them right here
- 12 so ---
- 13 A. Okay.
- 14 Q. All right, sir.
- 15 A. This right here is the car lot ---
- 16 Q. All right, sir.
- 17 A. ---And there's three little houses right here, and this
- 18 is something carpet, and I don't know exactly the name ---
- 19 Q. All right, sir.
- 20 A. ---But this right here is Dr. Owens' parking lot right
- 21 here.
- 22 Q. Where the green sticker is.
- 23 A. Yes sir, and I -- I was coming from this way ---
- 24 Q. All right, sir.
- 25 A. ---And I slowed to turn in in here, and this is Joey's

1 house right here.

2 Q. All right, sir, so -- so Dr. Owens' -- if you are
3 standing right here Dr. Owens' parking lot is on the left.

4 A. Yes sir.

5 Q. All right, sir. Very good.

6 A. Going this way, right. If you are going into town it's
7 on your left, if you are coming out it's on your right.

8 A. I see. All right, sir. We were saying the same thing
9 two different ways.

10 A. Right.

11 Q. And you know Chris.

12 A. Yes sir.

13 Q. You fellows -- y'all have been friends for some period
14 of time.

15 A. Just went to school together, and I know him from
16 hanging out at Joey's.

17 Q. But not really friends.

18 A. No. We never hung out.

19 Q. All right, sir. And the car that you saw, what -- that
20 was in Dr. Owens' parking lot; is that right?

21 A. Yes sir.

22 Q. What kind of car was that?

23 A. I want to say it was a Honda. It was just a regular --
24 I mean, the old, old style, square body, I mean, it wasn't no
25 new car or nothing like that, and it had, I think, three-star

1 rims or something low profile, just a black regular Honda,
2 like a -- maybe a '90, '91 or something like that.

3 Q. And you recognized that as Chris's car ---

4 A. Yes sir.

5 Q. ---Parked in Dr. Owens' parking lot.

6 A. Right.

7 Q. At what time?

8 A. Say nine, nine-thirty, nine-forty-five, something like
9 that.

10 Q. You didn't pull in.

11 A. No sir. I just come to almost a complete stop to turn
12 up into the driveway, and once we seen there was people, you
13 know, Chris and Keri at the door -- they already had company -
14 - my wife was just ready to go, because it was already so
15 late, so I just -- I never went up in it, I just, you know,
16 went to turn my tire and turned it right back, because there
17 wasn't no traffic coming behind us or nothing.

18 Q. State's Exhibit Number 27, that's the door that you saw
19 them in; is that right?

20 A. Yes sir.

21 Q. And you say you saw Keri in the doorway?

22 A. Yes sir. Holding the door open with her left arm.
23 That would be her left.

24 Q. Holding the door -- the -- the ---

25 A. Pushing it open, next the highway.

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1 Q. Is that the storm door?

2 A. Yes sir.

3 Q. And Chris and Nick Lambert coming in the house?

4 A. Right.

5 Q. You didn't stop. Y'all just went on. That ---

6 A. Right.

7 Q. You were working at Debordieu at some point in time,
8 and the police came and spoke with you about it.

9 A. Yes sir, but before the flooring company I was just
10 doing -- we was doing the house in Debordieu.

11 Q. You don't recollect who it was that came and talked to
12 you.

13 A. I want to say that fellow sitting right there, looks
14 like one of them, right ---

15 Q. The guy with the glasses.

16 A. Yes sir. I wanted to say that a minute ago but -- I
17 know the other one was Dusty Morris, or Mr. Morris, I meant --
18 -

19 Q. Right. And when they talked to you -- well, let me ask
20 you that question directly. Are you certain that's the guy
21 you talked to, or you are not certain.

22 A. He just favors him. I ain't for sure now.

23 Q. Whoever it is that you talked to, a representative of
24 law enforcement, you told them everything that you just told
25 us here.

1 A. Yes sir.

2 Q. You told them that Chris and Keri and Nick were right
3 there at that point in time.

4 A. Yes sir.

5 Q. Were they taking any notes?

6 A. Yes. They had me -- they was recording me.

7 Q. They were recording you.

8 A. Yes sir.

9 Q. Audio and video.

10 A. No, just ---

11 Q. Just audio.

12 A. Right.

13 Q. All right. And did you say that you saw Nick Lambert's
14 face?

15 A. No sir.

16 Q. You didn't see his face?

17 A. No, I mean just -- him, looking directly at me, no. I
18 just know -- I meant, from what he was wearing, and his -- or
19 a little -- like a sweatshirt thing he always wore, like a
20 hoodie, but I mean, he wasn't wearing no big jacket or nothing
21 like that, because I mean it was, you know, a little bit cool
22 out at night, but it was still hot in the day.

23 Q. Are you saying you recognized him because of what he
24 had on?

25 A. Yes sir, and his height, I mean, but I was -- I knew it

1 was Chris or -- because I could see his face good, and Keri.
2 He -- Nick was at the bottom of the step so I was more or less
3 looking at who was at the door.

4 Q. When you were talking to the Solicitor you said that
5 you had been over to the house to Joey and -- well, I guess at
6 the time that it was Matthew's daddy's house Keri wasn't even
7 involved in the situation.

8 A. Right. I've been there several times with Joey, you
9 know, to go see his grand-daddy. I mean, we've watched
10 western shows with him and everything, just hang out with him
11 for a little while.

12 Q. You and Joey were good friends.

13 A. Yes sir. I considered us best friends, but ---

14 Q. Best friends.

15 A. Yeah.

16 Q. You knew that Joey was buying drugs for the police?

17 A. No, not really. I say, we separated, you know, more or
18 less when I got married, and he got married, had kids, I mean,
19 we didn't hang out like we used to, I meant, it's just like
20 his black truck. I didn't even know he was going to get a
21 truck and he showed up at my house with it one day, and I
22 hadn't seen him in a while.

23 Q. There was one occasion when you were talking to the
24 Solicitor and you said that -- I think it was you, maybe,
25 knocking on the door and the dog was raising cane at the

1 door ---

2 A. Right.

3 Q. ---And Keri came to the door, and Joey was asleep on
4 the couch.

5 A. Yeah.

6 Q. So Joey was sleeping on the couch while the dog was
7 raising cane, and Keri was telling the dog to hush up.

8 A. Yeah, I meant, he didn't like -- he didn't sleep
9 through the whole thing, I meant, once the dog was raising so
10 much cane I mean, he was aware that we was at the door.

11 Q. Eventually he woke up.

12 A. Yeah.

13 Q. And you say he was also good friends with Shane Prince;
14 is that right?

15 A. Well, that's his family. Yes sir.

16 Q. That's his cousin.

17 A. Right. But they was really close.

18 Q. The dog, I think you said, was more protective of Keri
19 than the dog was protective of Joey; is that right?

20 A. Right.

21 Q. And you believe that the dog would -- do you know about
22 the marital difficulties that Keri and Joey had?

23 A. Yes sir, I mean, just about like any other young
24 marriage, and with kids, I meant, you have your good days and
25 then you have your bad times, I mean, you fuss and argue, not

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1 like grown folks, but ---

2 Q. He was a big guy.

3 A. Right.

4 Q. Three hundred pounds, would you guess.

5 A. Yes. I weighted two thirty.

6 Q. What?

7 A. I said, I weighted two thirty at the time, so yeah, I
8 know Joey was probably ---

9 Q. He was bigger than you?

10 A. Yeah.

11 Q. And you know about the times that he would beat on
12 Keri. Do you know about that?

13 A. No. I mean I -- I can't say that I knew times of that,
14 but like I say, there was signs of it at times, you know, but
15 I mean I'm saying, he never told me, and I never seen it, but
16 you can just tell by a couple's reaction, in the wife and in
17 the husband, I mean, and I know Joey would get carried away
18 sometimes, you know.

19 Q. Joey would get carried away sometimes.

20 A. Yeah, when he gets mad, you know, I mean, just about
21 like any young, you know, father or husband acts like around
22 here. Huh. Under stress for bills, I mean, it's -- I mean,
23 it's just -- I ain't saying he flipped out and beat nobody up
24 or nothing, but I'm saying, he would get mad, he would get
25 mad.

1 **MR. HILLIARD:** Excuse me just one second, Judge.

2 Q. Did you see anybody else over there at Joey and Keri's
3 on that night?

4 A. No sir.

5 Q. The day that you are talking about, that you saw Chris
6 and Nick Lambert, they would go over to the house very often;
7 is that right?

8 A. Yes sir.

9 Q. Isn't it possible that the things that you are talking
10 about combines with the leaves raking and seeing Nick and
11 Chris over there, that that happened actually on a different
12 day than the day that Joey got killed?

13 A. No.

14 Q. All right. No possible way.

15 A. Nope.

16 Q. None at all.

17 A. None at all.

18 Q. You are certain you saw him raking the leaves.

19 A. Yeah.

20 Q. Where was Joey working back then?

21 A. I know he was working out there at the -- at the
22 jailhouse, I mean, that's the only job that I know he had.

23 Q. All right. So how about if he was working and not
24 raking leaves, what does that do?

25 A. Well, I can probably say that, you know, it could have

1 been a day before that that I talked to Joey, but I know
2 exactly the night that I seen Chris Miller and them going in
3 the house, and Nick Lambert. I know that was on that same
4 exact day, you know, that I ate Mexican food and -- because I
5 mean, I'll never forget that phone call that I got that night.

6 Q. All right, sir. So if you are wrong about the raking
7 leaves you are not wrong about the other stuff; is that what
8 you are telling me?

9 A. Right.

10 Q. Had you told the police that you were at the Mexican
11 place, that you ---

12 A. Yeah.

13 Q. You did.

14 A. Yeah.

15 Q. Did you pay cash, or credit card?

16 A. Yeah, cash.

17 Q. Okay. Did you know that you were a suspect in this
18 case at one time?

19 A. No.

20 Q. You didn't.

21 A. No.

22 Q. Did the police ask you if you participated in the
23 murder of Joey Pope?

24 A. No, not that I can remember.

25 Q. Any -- sir.

1 A. Not that I can remember.

2 Q. All right. So let me ask the question a different way.
3 On October the 22nd of 2004, did any representative of law
4 enforcement ask you did you participate in the murder of Joey
5 Pope in any way?

6 A. I kind of recall like what you are saying now, before
7 they -- before they started asking me questions about what I
8 had to tell them they asked me if I knew anything, or had done
9 anything that would, you know, recall of what had happened.

10 Q. But before they asked you any questions ---

11 A. Right.

12 Q. That's October the 22nd of 2004.

13 A. Right.

14 Q. All right. When -- so in relation to the time that
15 Joey was murdered, and October the 22nd of 2004, when did you
16 make your statement to the police?

17 A. That's the only people I had ever talked to, so that
18 had to have been then.

19 Q. All right, sir. So when you are talking about when you
20 -- when you are saying you made a statement to the police what
21 you are saying is, you made the statement that we are here
22 talking about today, about what happened on the day that Joey
23 was murdered, the first time you told police about it was
24 October the 22nd of 2004.

25 A. Right.

1 Q. And your recollection, on October the 22nd of 2004, was
2 the recollection that you gave them.

3 A. Right.

4 Q. Not the recollection from the time of the event, right.

5 A. Well, I don't know. You need to ask that a little bit
6 different. I don't understand what you are saying. You are
7 saying, from the time that it happened till the time that they
8 come and seen me, was it -- how long in between that time.

9 THE COURT: Why don't you rephrase your question.

10 MR. HILLIARD: I apologize, Judge. Thank you very
11 much.

12 Thank you, sir. I don't have any other questions.

13 A. That's it.

14 MR. HILLIARD: That's all.

15 THE COURT: Mr. Locklear.

16 MR. LOCKLEAR: May it please the Court, Your Honor.

17 THE COURT: Yes sir.

18 CROSS-EXAMINATION BY MR. LOCKLEAR:

19 Q. How well do you know Jody Owens?

20 A. I've known him all my life. He was actually engaged to
21 my sister, I want to say, four or five years. They just never
22 got married, and you know, went their separate ways, but
23 they've got two kids together. I mean, ---

24 Q. So you are pretty close.

25 A. Yeah.

1 Q. How much do you know about his drug dealings?

2 A. Anybody that lives in Georgetown, I meant, Jody has
3 always got in and out of trouble. I meant ---

4 Q. It's not secret that Joey has been involved in the drug
5 trade for a while, kind of common knowledge on the streets of
6 Georgetown ---

7 A. Right.

8 Q. ---If you are into that sort of stuff, right.

9 A. Yeah.

10 Q. Okay. Do you know if Joey if had any involvement with
11 him in that sort of stuff?

12 A. I didn't, you know, like recall what he was saying, did
13 I know Joey was buying, you know, dope for the police, I
14 meant, I know that Joey was smoking dope, I meant, more or
15 less anybody that hangs out with, you know, Jody -- shoot, I
16 mean, I even smoked dope too, so -- at that time.

17 Q. Well, you know of Joey selling any dope?

18 A. No, I never really knew about him selling dope or
19 anything like that.

20 Q. Do you know anything about Mark, the Myers brothers in
21 Georgetown, the Meyers brothers?

22 MR. HIXSON: Your Honor, I'm start -- object to
23 relevance a little bit.

24 THE COURT: I'm going to allow that particular
25 question.

1 **MR. LOCKLEAR:** I moved on. He said he didn't know him,
2 Your Honor, so it's obviously -- he had nothing to follow that
3 up.

4 **THE COURT:** All right. Very good.

5 Q. And you are sure that you saw Chris at Keri and Joey's
6 house on the night that Joey was killed?

7 A. Yes sir.

8 Q. You don't recall when you talked to Investigator Morris
9 and whatever other officer you talked to, did you?

10 A. I mean, I know it was a while after it had already
11 happened.

12 Q. Okay. And what would you say if I told you, back when
13 you talked to them, which I don't know either because they
14 didn't bother to date it, that you told them that you did not
15 see Chris Miller at the house.

16 A. No.

17 **MR. LOCKLEAR:** Your Honor, if I can have a minute. I
18 will need to set up some equipment to play his prior
19 statement, or in order to impeach him. but I don't -- it's not
20 time to answer -- not to play the whole statement.

21 **THE COURT:** No sir. You are just going to play the
22 relevant part.

23 **MR. LOCKLEAR:** Yes. Once we reach the relevant part,
24 obviously, Your Honor, we would cut it off.

25 And I don't have all their technology, so I'm just kind

1 of playing it on my laptop, unless there's a way for me to
2 hook it up somewhere in the courtroom.

3 THE COURT: I don't know. Did you investigate that
4 before?

5 MR. LOCKLEAR: I wasn't planning on having to play it,
6 Your Honor.

7 THE COURT: All right.

8 MR. LOCKLEAR: And of course, Your Honor, we don't have
9 access to all the stuff the State has access to.

10 THE COURT: Do you know exactly where it is that you
11 need to go to in your ---

12 MR. LOCKLEAR: No sir, I don't, because I wasn't
13 expecting them ---

14 THE COURT: Okay. And you've got to find it. You
15 can't play the whole thing.

16 MR. LOCKLEAR: If I could move for a recess to look for
17 it, Your Honor.

18 THE COURT: Well, just go ahead and sit down and work
19 on it.

20 MR. LOCKLEAR: Yes sir. Thank you, Your Honor.

21 THE COURT: All right, ladies and gentlemen, go to your
22 jury room. I will tell you that we will finish this witness
23 and another one before we leave tonight.

24 Thank you very much.

25 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE

1 JURY.)

2 THE COURT: All right, Mr. Locklear, you tell us when
3 you are ready.

4 Thank you.

5 (THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE
6 THE PRESENCE OF THE JURY.)

7 THE COURT: All right. Just so that y'all know,
8 apparently the Clerk has told me there is some kind of
9 programming issue and at about seven o'clock the lights might
10 go out for a second, and the Assistant Clerk will take care of
11 that, but obviously they didn't think anybody would be able to
12 work then, so ---

13 MR. HILLIARD: Without objection, Your Honor.

14 THE COURT: Well, if we don't work late I will be here
15 three weeks from now.

16 MR. HILLIARD: Yes sir, I understand.

17 THE COURT: Ask the jury to come in, please.

18 MR. LOCKLEAR: Would you like the witness back on the
19 stand, Your Honor.

20 THE COURT: I'm sorry.

21 MR. LOCKLEAR: Would you like the witness ---

22 THE COURT: Where is he?

23 MR. LOCKLEAR: I believe the Solicitor has put him back
24 outside.

25 THE COURT: Okay.

1 So you found the particular point you need.

2 **MR. LOCKLEAR:** Yes, Your Honor.

3 **THE COURT:** All right. Great.

4 **MR. LOCKLEAR:** And I'll be probably five minutes or
5 less on this witness and I'll be done.

6 **THE COURT:** That's good, and then we can finish that
7 other witness and then we can go.

8 All right. Ask the jury to come in, please. Thank you.

9 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
10 **JURY.)**

11 **THE COURT:** All right, Mr. Locklear.

12 **BY MR. LOCKLEAR CONTINUED:**

13 Q. Mr. Goude, I want to change the subject real quick.
14 Who were you talking to during the break?

15 A. Sir.

16 Q. Who were you talking to during the break we just had in
17 court?

18 A. Did I -- did -- just been in here.

19 Q. Yes. When you went out in the hall, who were you
20 talking to in the hall? Who was the woman?

21 A. No, that's my wife.

22 Q. What were y'all talking about?

23 A. We were just talking about how long ---

24 Q. Nothing to do with the case?

25 A. No.

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1 Q. Okay. Now you are sure you didn't see Chris back when
2 you talked to them several years ago, like back in 2004, I
3 think you said maybe it was you talked to them.

4 A. Yeah. I think it was 2004, I meant, when they come to
5 visit me in Debordieu.

6 Q. And would it be fair to say, back in 2004 your memory
7 is probably a little better about the events that transpired
8 on the night of May 27, 2003, than your memory is going to be
9 today about what happened on May 27, 2003, correct.

10 A. I wouldn't say that, I mean ---

11 Q. So you think your memory is better seven years later.

12 A. No. I'm just saying I ain't forgot that night.

13 Q. You are sure you saw Chris.

14 A. I'm sure.

15 Q. And you are sure you didn't tell the cops you didn't.

16 A. No, I ain't sure that I did tell them I didn't, but I
17 know in that somewhere that, you know, that I did.

18 Q. Well, when you got interviewed by the cops and they
19 recorded you, did you tell them you saw Chris on the porch, or
20 did you tell them you didn't see Chris on the porch?

21 A. No. I told them that I seen Chris walking in the
22 house.

23 Q. Okay. I'm going to play a portion from your statement
24 that you gave the police and see if this might refresh your
25 recollection for you.

1 (AT THIS TIME A PORTION OF THE RECORDED STATEMENT OF
2 THIS WITNESS WAS PLAYED IN OPEN COURT.)

3 Q. Now that you've heard your voice on that tape made over
4 seven years ago, would you like to change your answer for the
5 jury about what you remember happening that night?

6 A. No, because I remembered that part right there. I
7 mean, I just listened to the same thing, I meant ---

8 Q. So did you lie to them then, or are you lying to the
9 jury today?

10 A. No. No, to tell you the truth I mean, I was really,
11 you know, worried about even talking to the cops, period, I
12 meant, it wasn't really something I wanted to do, but I mean,
13 I know that you say things one minute, you know what I mean,
14 and I meant -- when you've got your bossman beating on the car
15 window, you know, hollering at you, and you've got two cops
16 sitting in front of you saying this and that, I mean ---

17 Q. So you are alleging that your bossman was beating on
18 the car window while you are sitting there being interviewed
19 by two cops.

20 A. Oh, he was. He was throwing money all over the hood.

21 Q. Okay. We just couldn't hear the beating on there,
22 right.

23 A. No, I mean, he wasn't banging the window now, he was
24 just being a butt.

25 Q. Let me ask you this. Just when you -- who got you to

1 change your testimony?

2 A. Nobody has got me to change my testimony. I mean, just
3 because you think something one minute, and then you sit there
4 and actually think it over, I mean, you don't think you ever -
5 - man, I think I sat my drink right over there, that's where I
6 left it, and you walk there, but you really did sit it where
7 you wasn't thinking.

8 Q. And you are comparing a drink as to whether you saw
9 somebody at the house of one of your best friends when he got
10 murdered.

11 A. No. I was comparing that to you. I was saying, you
12 ain't -- you know, everybody ain't perfect.

13 Q. Once again, were you lying to the cops or are you lying
14 to the jury ---

15 A. No, I was not lying.

16 MR. LOCKLEAR: Your Honor, could -- could I finish my
17 question, please, Your Honor.

18 A. You were asking me, and I'm telling you.

19 THE COURT: All right. Just a second. Let's -- well,
20 go ahead and ask your question.

21 MR. LOCKLEAR: I'll move on, Your Honor. I've made my
22 point. No more questions for this witness.

23 THE COURT: All right.

24 Redirect, Solicitor.

25 MR. HIXSON: Yes, Your Honor.

1 REDIRECT-EXAMINATION BY MR. HIXSON:

2 Q. Mr. Goude, please describe to the Court the
3 circumstances surrounding you giving that statement. Do you
4 recall giving that statement that Mr. Locklear played for the
5 Court?

6 A. Yes sir. Yes sir.

7 Q. Please tell us about your job, who was working for the
8 company, things like that.

9 A. All right. I was working for Kent Rogerson, and we was
10 putting in, I think Brazilian Cherry on this three-story house
11 when they come there, and we was suppose to already have had
12 it done a week ago, so we was behind, and Shane actually
13 called them and told them, you know, that I would speak to
14 them and they could come in there, and they come there and
15 we -- they wasn't there five minutes and my bossman pulled up,
16 Kent, and we was out on the edge of the road, and the bushes
17 is right beside the car. He kept coming out there, I mean
18 every few seconds, in front of the car, you know, because I
19 remember Mr. Morris, not when the recording is going on, just
20 asking, you know, what's his problem, I mean, but yeah, he was
21 throwing money at the hood, you are wasting my money, that's
22 what he was saying, I mean, you know, like they needed to do
23 this on their time, not his time, I mean ---

24 Q. Who else -- who else worked for the flooring company,
25 the company that you are referring to?

1 A. Shane. Are you saying who else as a boss or ---

2 Q. No, no, just other individuals. Were there any other
3 individuals kind of involved in this case that worked for that
4 company that would have been around the work site, or be privy
5 to what you were talking about?

6 A. Nobody that -- worked there that's involved in this
7 except Shane.

8 Q. Okay. Well, I'll ask you this. You had mentioned
9 before, based on questioning, why would you be concerned or
10 afraid to come forward and talk to the police?

11 A. Because I mean, I wasn't really sure what had happened.
12 There was all kind of rumors going around, I mean, and just
13 because you hear one thing, and you know, around here it could
14 be ten different things.

15 Q. Well, I'm specifically referring to the fact that Mr.
16 Locklear played a recording that says one thing, and testimony
17 here is saying the other, and I'm just asking you questions to
18 give you an opportunity to explain what there's that
19 difference.

20 A. Right. Well, I think that because at the beginning of
21 the tape they asked me certain questions, and then they asked
22 it different ways, and I mean, like I say, it was said --
23 well, I can't -- I mean, you already said I can't say certain
24 things, but I just know -- I mean, I might have not been sure
25 about on that video, right there, recording, but I know what I

1 seen that night.

2 MR. HIXSON: I have no further questions, Your Honor.

3 THE COURT: All right. Yes sir, on those questions
4 asked by the Solicitor.

5 MR. HILLIARD: Thank you, Your Honor.

6 RECROSS-EXAMINATION BY MR. HILLIARD:

7 Q. The Shane you are talking about is Shane Prince; is
8 that right?

9 A. Yes sir.

10 Q. He was also employed by the same company that you were
11 employed by?

12 A. At the time he was.

13 Q. And the statement that you made on the tape, Shane told
14 them they -- and them, that's the police.

15 A. Yeah, he ---

16 Q. Shane told police they could come and talk to you.

17 A. Yeah, he had called them. He called them on his cell
18 phone and told them that, yeah, I would be willing to talk to
19 them.

20 Q. So Shane Prince calls the police and says, why don't
21 y'all come down here and talk to Mr. Goude, he will talk to
22 you.

23 A. Right.

24 Q. This is a murder investigation.

25 A. Right.

1 Q. And the police come with a recorder, a tape recorder,
2 to tape your statement; is that right?

3 A. Right. Right.

4 Q. And certain questions they asked you, and certain
5 different things that they did caused you to say something
6 then that's different than what you say now.

7 A. Right.

8 Q. And what you say now is the truth.

9 A. What I'm -- it's -- that's not the whole thing though,
10 is what I'm saying. The whole recording is -- I mean, it
11 lasts thirty, forty minutes long, I mean, you just found the
12 first little ---

13 Q. When was the last time you heard that recording?

14 A. I think ten minutes before I come in here.

15 Q. Ten minutes before you came in.

16 A. Right.

17 Q. And who was with you?

18 A. The secretary.

19 Q. When was the first time that you told any member of law
20 enforcement that you did, in fact, see Chris Miller at Joey's
21 house that night?

22 A. It was that -- that day right there, was the first time
23 I ever talked to the law.

24 Q. You heard what you said on the tape; is that right?

25 A. Right. Right.

1 Q. And it's different than what you are saying today,
2 right?

3 A. Yeah, it is. I mean, it's different.

4 Q. And when the Solicitor gave you an opportunity to
5 explain the difference, what you said was, I wasn't sure of
6 what happened; is that right?

7 A. Right.

8 Q. And your boss was throwing money on the hood of the
9 police car.

10 A. Yes sir. He was throwing it at the car. It was
11 landing on the grass, blowing in the bushes. He was saying
12 that they was wasting his money because I'm not up there
13 working. They come and talked to me on his time, not my time.
14 You got me, I was on the crop.

15 Q. Right. And they didn't say -- the police officers
16 didn't say, hey buddy, it's a murder investigation.

17 A. No. No, all they asked me is who it was, and I'm
18 pretty sure it was Mr. Morris, you know, said why is he acting
19 like a -- you know, the way he's acting, I mean, that's all
20 that was said.

21 Q. And that's not on the tape.

22 A. No sir. That was -- they wasn't recording that, I
23 mean, when he asked me that.

24 Q. So there is some of this they didn't record, and some
25 they did.

1 A. Well, there were certain times it was being recorded
2 and then he would cut it off and ask me certain questions, and
3 you know, let me know what he was going to ask me.

4 Q. So he would turn it off for a while, and then he would
5 tell you what -- and he would turn it off and then he would
6 tell you what he was going to ask you.

7 A. Right. I mean, just explain to me, you know, like what
8 he wants me to say, but you know, I didn't have to go on -- on
9 about certain things.

10 Q. He was explaining to you what he wants you to say.

11 A. What I've already told him. I'm saying, he was saying
12 certain things and, you know, I just didn't need to go all
13 about that and -- it would be just like me recording anybody
14 in here and you know, they would feel uncomfortable about
15 doing it at first.

16 Q. Do you recall which secretary it was that played the
17 tape for you?

18 A. The young lady sitting right there in the third seat.

19 MR. HILLIARD: Identify her for the record, please.
20 Sitting next to the guy in the tan suit.

21 A. Right.

22 Q. When you ---

23 MR. HILLIARD: I don't have any other questions.

24 THE COURT: Mr. Locklear, anything else?

25 MR. LOCKLEAR: Yes sir, Your Honor, just a few points

1 that were brought out on redirect.

2 **RECROSS-EXAMINATION BY MR. LOCKLEAR:**

3 Q. You just stated a little bit ago you were scared to
4 talk to the police because you didn't know -- not sure what's
5 going on; is that right?

6 A. Right.

7 Q. And now I just want to go back and ---

8 A. I hadn't talked ---

9 Q. ---Get this ---

10 **THE COURT:** Wait a minute.

11 A. I'm sorry.

12 **THE COURT:** Finish -- go ahead and finish your answer.

13 A. I -- well, what you are saying, that I wasn't sure of
14 talking to them the -- from when it first happened to when I
15 did talk to them because of what I meant by what I didn't know
16 what happened, I didn't know the full -- I mean, people were
17 saying it was because of drugs, it was because of, you know,
18 Joey working for the law, I mean, it was all kind of things.

19 Q. Okay. But when you finally talked to them were you
20 still scared?

21 A. Yeah, I mean ---

22 Q. So you were so scared to talk to them that you decided
23 it would be a good idea to lie to them; is that correct?

24 A. No. I didn't say I was lying to them.

25 Q. Okay. Well, how do you characterize saying I didn't

1 see Chris there?

2 A. It's just like this, I ain't -- he asked me the same
3 thing when they first seen me. I told him I wouldn't want to
4 put Chris or her in jail for anything that they didn't do. I
5 put it to them that way, so I mean, why would I be sitting
6 here trying to lie to you.

7 Q. Well, that's a good question I'm trying to get to the
8 bottom of. You said to the prosecutor that they -- beginning
9 of the tape they are asking certain questions and at the end
10 they asked you again. So are you claiming on this tape you
11 say you saw Chris Miller at that house?

12 A. I know on that tape I said I seen his car, the
13 headlights was on. I know I said -- I didn't say any other
14 thing at that time.

15 Q. Yeah you did, you said you didn't see him there. You
16 said specifically, I didn't ---

17 A. That's what I just said. I just said I seen his car
18 with the headlights on. Did I say I seen Chris, with his car,
19 with the headlights on?

20 Q. And just to go back on the car ---

21 A. All right. Just ---

22 Q. ---You saw a black Honda, right?

23 A. Yes.

24 Q. How did you know it was Chris'?

25 A. I knew it was his because I see it every day. I mean,

1 everybody ain't got that kind of car, with the rims and
2 everything.

3 Q. I believe you said he had three-star rims on it.

4 A. Yes sir.

5 Q. You are sure that's correct, three-star rims.

6 A. It was just aluminum, three says, I mean, that's what -
7 - I mean, I don't know exactly what three-stars -- you know,
8 you might be talking about a little star, but I could show
9 you, if you want me to draw it for you.

10 Q. Basically three, quote, spokes or whatever, three
11 pieces of metal coming from the center.

12 A. No. I mean, it was actually -- they are kind of "Y",
13 and they go up to one.

14 Q. Okay. Let's assume that Chris didn't have those rims
15 on his car at the time. Would you still be certain it was his
16 car?

17 A. Yes. I mean, he had other things on the car.

18 Q. No, no, I'm saying, if he didn't have those rims, and
19 you saw a car with those rims, how could it be his car?

20 A. You said, would I still notice the car.

21 Q. Would you still know it was his car? Would you know
22 that it was Chris' car ---

23 A. Yeah, because the painting, I meant ---

24 MR. HIXSON: It's argumentative. Objection on ---

25 MR. LOCKLEAR: I'll move on. This is my last question.

1 Once again, so I ask do you know, were you lying to the cops
2 then, or are you lying to the jury today?

3 A. No. I wasn't lying to the cops; I ain't lying to the
4 jury.

5 Q. So you didn't see Chris, or you did see Chris. Both of
6 them are true.

7 A. No. What I'm saying is, you are only listening to one
8 part of the tape and ---

9 Q. Tell me what part to play. I'll be more than happy to
10 play the whole thing for you if there's a part on it that says
11 you saw Chris.

12 A. All right. Just go with what you, you know ---

13 MR. LOCKLEAR: Your Honor, I need to publish the whole
14 tape. It's only ten minutes long. This witness is obviously
15 dancing around the answer, trying to mislead the jury, and the
16 tape is the best evidence.

17 THE COURT: Mr. Locklear ---

18 MR. LOCKLEAR: Yes sir.

19 THE COURT: ---Don't do that again. That's not a
20 proper comment for you to make in the presence of the jury.
21 Don't do that again in this trial.

22 MR. LOCKLEAR: I apologize, Your Honor.

23 THE COURT: Are you done questioning the witness?

24 MR. LOCKLEAR: I just made a motion the publish the
25 tape.

1 THE COURT: Denied.

2 MR. LOCKLEAR: Thank you, Your Honor.

3 I have no further questions for this witness.

4 THE COURT: Solicitor, do you have anything else?

5 MR. HIXSON: No, Your Honor.

6 THE COURT: You may step down, sir.

7 MR. HIXSON: Your Honor, may I release Mr. Goude from
8 the Subpoena also, Your Honor?

9 THE COURT: Any objection to that?

10 MR. HILLIARD: No objection, Your Honor.

11 THE COURT: Any ---

12 MR. LOCKLEAR: I would like him to remain and be
13 subject to recall.

14 THE COURT: Have you subpoenaed him?

15 MR. LOCKLEAR: No, but you asked if I had an objection,
16 but I don't have him under subpoena, so it's your call, Your
17 Honor.

18 THE COURT: Solicitor, do you wish to release him from
19 the Subpoena?

20 MR. HIXSON: Yes, I do, Your Honor. I know he has to
21 make a living for -- I moved him up the witness list so he can
22 go shrimping tonight at ten o'clock, and make a living for his
23 family.

24 THE COURT: All right. I'm going to release him from
25 his Subpoena. That doesn't -- obviously this trial is going

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1 to go on for some period of time, Mr. Locklear. You are free
2 to subpoena him if you want to.

3 Thank you very much.

4 MR. LOCKLEAR: Thank you, Your Honor.

5 THE COURT: Go ahead, sir. You are released.

6 Final witness for the day, Solicitor.

7 MR. HIXSON: Angel Goude.

8 ANGEL GOUDE, being first duly
9 sworn, testifies as follows:

10 DIRECT-EXAMINATION BY MR. HIXSON:

11 Q. Good evening, Ma'am. Please tell us what you do for a
12 living.

13 A. I'm a stay at home mom.

14 Q. So you have any kids then, obviously.

15 A. Yes, I have three.

16 Q. What are their names?

17 A. Alisa, JoAnn and Dawson.

18 Q. Okay. And who is your husband?

19 A. James Goude.

20 Q. All right. And how long have you two been married?

21 A. September will be ten years.

22 Q. Okay. Congratulations on that.

23 A. Thank you.

24 Q. Let's go back to -- just to speed things up a little
25 bit, and get right to the point. Do you know Joey Pope?

1 A. Yes, I do.

2 Q. Or did you know Joey Pope.

3 A. Yes.

4 Q. Okay. Are you familiar with Keri Pope?

5 A. Yes.

6 Q. Are you familiar with Christopher Miller?

7 A. Yes.

8 Q. Okay. Do you recall being in Georgetown -- how long
9 have you lived in Georgetown?

10 A. Since I was three.

11 Q. Okay. So you were living here back May 27th of 2003;
12 is that right?

13 A. Yes.

14 Q. Okay. Do you recall being down in the city limits of
15 Georgetown on that day, specifically May 27th, 2003?

16 A. Yes, that evening.

17 Q. Okay. Tell the Court about what happened that evening.

18 A. My husband and I went out to dinner and it was getting
19 late so we were going home, and he said, I want to stop by and
20 see Joey, and I didn't want to, and when we were going by he
21 said, well, Chris's car is there, and I said, well, good,
22 they've got company, let us come back tomorrow, and we went on
23 home.

24 Q. Okay. Do you recall about what time you went to eat
25 Mexican food?

1 A. I don't really know what time it was we went, but on
2 our way home I know it was past nine, because my son was
3 getting really fussy.

4 Q. Okay. Then let's go forward after you left. Did you
5 see anybody over at the Popes' house?

6 A. No, I didn't -- I saw a car, but I didn't like make out
7 what kind it was. I just kind of glanced out the window and
8 was like, let's go home.

9 Q. Okay. Did -- let's not talk about what your husband
10 said. What did you do after you went past the Popes' house?

11 A. On our way home?

12 Q. Yes.

13 A. We just went straight home.

14 Q. Okay. And what did you do when you got home?

15 A. I got the kids in their pajamas, and got them laid
16 down, and started a movie.

17 Q. Okay. At some point in time did something other --
18 something else interesting happen that evening?

19 A. Yes. Joey Mishoe called and said that ---

20 MR. HIXSON: Hold on. We will get -- get an objection
21 from this. You can only talk about -- you can't say what
22 somebody else said, unless it's the Defendant speaking. Okay.

23 A. Okay.

24 Q. So you can -- did you get a phone call that evening?

25 A. Yes.

1 Q. And based on information that you heard on that phone
2 call, what was the mood in the house?

3 A. We were getting ready to go to bed. We were all laying
4 down, lights out, in our PJs, and were about to go to sleep.

5 Q. Okay. And then the phone rang ---

6 A. Uh huh (**indicating positive**)

7 Q. ---Somebody talked on the phone.

8 A. Yes.

9 Q. And what kind of news, good or bad news, did you get on
10 that telephone call?

11 A. We got news about Joey, so we loaded the kids up and we
12 went straight to the hospital.

13 Q. Okay. Do you recall about what time you got that
14 telephone call?

15 A. Somewhere around ten-ish, I guess, because -- between
16 ten and eleven maybe.

17 Q. Okay. About what time do you believe you got to the
18 hospital?

19 A. I have no idea.

20 Q. Okay. Once you got to the hospital do you recall who
21 else was there?

22 A. Keri, Ms. Velma and Mackie, and Chris, and a bunch of
23 other people. Shane, Joe, a bunch of people that we know.

24 Q. Let me take you back to when you were -- when you were
25 leaving the Mexican restaurant, on the way past the Pope

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1 house, okay. Do you recall seeing any police cars on your
2 drive home?

3 A. No.

4 Q. Okay. Let's go back to the -- once you got to the
5 hospital, okay. You indicated -- you started to name some
6 people that were at the hospital. Do you recall seeing Chris
7 Miller there?

8 A. Yes, I do.

9 Q. Do you recall engaging in any conversation with Chris
10 Miller?

11 A. Yes, and my husband and I -- there was a bunch of
12 people just all talking at one time, but I heard Chris say
13 something about he was the one that found Joey, and that he
14 called 911.

15 Q. Okay. Do you recall any more details about what Mr.
16 Miller said?

17 A. No. I just remember that he said that he was there,
18 and he found Joey.

19 Q. Okay. Do you recall Mr. Miller saying anything about
20 why he was over there?

21 A. No.

22 Q. Okay.

23 MR. HIXSON: I have no further questions for this
24 witness, Your Honor.

25 THE COURT: All right, Mr. Hilliard.

1 CROSS-EXAMINATION BY MR. HILLIARD:

2 Q. You say you got a call at ten o'clock.

3 A. Between ten and eleven.

4 MR. HILLIARD: Excuse me just one second.

5 THE COURT: Yes sir.

6 MR. HILLIARD: I don't have any other questions.

7 THE COURT: Mr. Locklear.

8 MR. LOCKLEAR: No questions, Your Honor.

9 THE COURT: All right. Very good.

10 All right, Ma'am, you ---

11 I'm sorry. Solicitor, do you wish to excuse the
12 witness?

13 MR. HIXSON: Yes sir.

14 THE COURT: And do you have any objection to that, Mr.
15 Hilliard?

16 MR. HILLIARD: No objection, Your Honor.

17 THE COURT: And Mr. Locklear.

18 MR. LOCKLEAR: No objection to this witness, Your
19 Honor.

20 THE COURT: All right, Ma'am, you are released from
21 your Subpoena. You may go about your regular activities. You
22 may leave.

23 A. Thank you.

24 THE COURT: All right, ladies and gentlemen, we are
25 going to stop for the evening. I appreciate we have been here

1 STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 2 COUNTY OF GEORGETOWN) No. 2009 GS 22 849; 850;
) 851; 852
 3

4 STATE OF SOUTH CAROLINA)
)
 5)
)
 6 versus) TRANSCRIPT OF RECORD
) (Partial)
 7)
)
 8 CHRISTOPHER MILLER)
 and KERI FORE POPE)
 9)
 Defendants)

Georgetown, South Carolina
 July 27, 2011

12 B E F O R E :

13 HONORABLE STEVEN H. JOHN, Judge, and a Jury
 14

15 A P P E A R A N C E S :

16 For the State: SCOTT HIXSON, Esq.
 Assistant Solicitor
 17 For Defendant Miller: WESLEY LOCKLAIR, Esq.
 18 For Defendant Pope: JOHN HILLARD, Esq.
 JULIA BASS, Esq.
 19 Reporter: KESHIA REED
 20

21
 22 HARRIET P. BENNETT
 Reporter, S. C. Court Administration
 23 P. O. Box 86
 Ladson, S. C. 29456
 24
 25

1 giving of a heads-up about what's going to come up.
2 He's giving the Court information that I expect this
3 to come up or I expect to do this, so we can be ready
4 for it.

5 He's telling you all at the same time that you
6 need to be ready for it. Okay?

7 All right, very good. Anything further from the
8 State?

9 SOLICITOR: Not at this time, Your Honor.

10 THE COURT: Anything else from the Defense?

11 MR. LOCKLAIR: No, sir, not from us.

12 MR. HILLARD: No, sir.

13 THE COURT: All right. Ask the jury to come in,
14 please.

15 (Whereupon, the jury returned to the Courtroom)

16 THE COURT: All right. Good morning, ladies
17 and gentlemen.

18 Solicitor, your next witness, please, sir.

19 SOLICITOR: We'd call Mr. Steven Church with
20 the Georgetown Police Department.

21 STEVEN CHURCH, being
22 duly sworn, testified as follows:

23 CLERK: Thank you. Please be seated and state
24 your full name for the record, spelling your first
25 and last names.

1 WITNESS: My name is Steven Church, S T E V E N
2 C H U R C H.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Good morning, sir.

6 A. Good morning, sir.

7 Q. Please tell us what you do for a living.

8 A. I am a Sergeant at the Georgetown Police Depart-
9 ment. I'm currently a team leader.

10 Q. How long have you done that?

11 A. I've been a team leader for four and a half
12 years.

13 Q. How long have you been a police officer?

14 A. I've been a police officer with the City of
15 Georgetown for approximately twelve years, and be-
16 fore that I had eight years in the United States Army
17 as a military police officer.

18 Q. Okay. So that sounds like you were working at
19 the time stated, back around May 27, 2003. Is that
20 right?

21 A. Yes, sir.

22 Q. Were you working that day?

23 A. I was actually -- I had just passed from patrol
24 duties into investigation, and I was -- I started
25 in investigations either Monday afternoon or Tuesday

SGT. CHURCH ON DIRECT

1 afternoon.

2 Q. Did you have an opportunity to become involved
3 in the investigation of the cases that are before
4 the Court today?

5 A. Yes, sir, I did.

6 Q. Please tell the jury about your involvement in
7 that case.

8 A. On the day that it happened, I was called by
9 Investigator Altman. He was actually not called an
10 investigator at that time but with my training I was
11 called to come in. All the investigators went in
12 so they could conduct interviews.

13 He called me in reference to a -- I believe it
14 was an armed robbery, and he asked me to respond and
15 meet him over by the bus depot.

16 Q. At some point in time, did you have occasion to
17 go into the Pope home after the murder?

18 A. Yes, sir. We actually saw the police cars go
19 by and heard the dispatch on the radio, so we then
20 responded there.

21 When I arrived on the scene, I started to go in
22 the house but Lieutenant Altman beat me to the door,
23 and he turned around and looked at me and said, Church,
24 secure the house; nobody comes in and nobody goes
25 out.

SGT. CHURCH ON DIRECT

1 And so I stood at the front door. The house was
2 secured with crime scene tape, and nobody came in and
3 nobody went out.

4 Q. In the subsequent days after that point, did you
5 return to that home to look for anything of an evi-
6 dentiary nature?

7 A. Yes, sir, I did.

8 Q. Would you tell us about that?

9 A. Can I look at my notes for the date?

10 Q. You sure can.

11 A. I know it was a couple of days afterward . .

12 Q. You can refresh your recollection if you need to.

13 THE COURT: You can look at your notes to refresh
14 your memory, but you cannot testify from your notes.

15 A. On June third, I went back to the house.

16 Q. What did you do when you went back to the house?

17 A. I went back to assist with collecting evidence
18 that the investigators wanted to collect.

19 Q. Could you tell me what you did when you went in
20 there to look for evidence? What did you do when you
21 went back to the house that day?

22 A. May I look at my notes -- refer to that?

23 Q. Not specifically what you collected but what you
24 did when you went in there. Just tell us what you did.

25 A. I went in when I went back with Lieutenant Altman

SGT. CHURCH ON DIRECT

1 and other investigators. I don't remember the exact
2 order, but I actually was behind Lieutenant Altman.

3 They actually were discussing the crime scene, so
4 I kind of stood back. If they said they needed some-
5 thing, I would take it and put it into a paper bag so
6 I could transport it.

7 Q. All right.

8 A. That is what I was doing.

9 Q. Let me show you what's marked State's Number 23.
10 Look at that and see if you recognize State's 23?

11 A. Yes, sir, I do.

12 Q. What is that?

13 A. . . .

14 SOLICITOR: Referring the witness to State's Ex-
15 hibit 23.

16 A.

17 Q. Is that the officer that you reported to on
18 that day, June third?

19 A. Yes, sir.

20 Q. Did you go to the back bedroom once you went to
21 the house on June third?

22 A. Yes, sir.

23 Q. Let me show you what's been marked as State's
24 Exhibit 47. Do you recognize that?

25 A. Yes, sir, I do.

SGT. CHURCH ON DIRECT

1 Q. What is that?

2 A. It's the bedroom of Mr. Pope.

3 Q. Did you all collect anything in that room, the
4 back bedroom?

5 A. Yes, sir.

6 Q. Let me show you what's been marked -- previously
7 marked and introduced in evidence -- as, I believe,
8 State's 70.

9 A. . .

10 SOLICITOR: Showing the witness what has been
11 marked State's Exhibit 70.

12 BY SOLICITOR:

13 Q. Mr. Church, do you recognize what that is?

14 A. Yes, sir.

15 Q. And what is that you're looking at?

16 A. A pillow.

17 Q. And did you recover that from the back bedroom?

18 A. Yes, I did.

19 SOLICITOR: Your Honor, what I have just shown
20 to the witness I believe is already in evidence, 70.

21 Q. From the Pope residence?

22 A. Yes.

23 Q. What did you do with the items that you recovered?
24 Do you recall? What did you do with the pillow?

25 A. The items I recovered in the house that day,

SGT. CHURCH ON DIRECT

1 the items I collected, they just couldn't be taken
2 and put into an evidence locker. They had to be
3 taken back and wrapped.

4 They were soiled with body fluids, so in order
5 to protect people that had to handle the evidence we
6 had to take it back and make it -- we had to make
7 sure it was packaged safely.

8 So items were placed in paper bags and I trans-
9 ported them to the sub-station and that's when I
10 wrapped them.

11 Q. Once you went through that process or once you
12 handled that, did you determine there was anything
13 of evidentiary value inside that pillow?

14 A. Yes, sir. When I set the pillow down I heard a
15 distinct click. Then I actually picked the pillow
16 back up and put it down and heard the clink again;
17 picked it up and there was a bullet underneath the
18 pillow.

19 Q. Well, let me show you an item that's been marked
20 -- it's not been marked yet.

21 (Brief pause in proceeding)

22 BY SOLICITOR:

23 Q. I show you an item that has just been marked
24 for identification as State's 83. Look at that and
25 see if you recognize that, Mr. Church?

SGT. CHURCH ON DIRECT

1 A. Yes, I do.

2 Q. What is that?

3 A. That is a slug in a container. Once the bullet
4 was under the pillow, I notified Investigator Altman,
5 and he produced an empty pill container and said you
6 need to make sure there is something in there to soften
7 the blow and put the bullet in there. That's what I
8 did, and I labeled it.

9 Q. While it was in your possession, custody and
10 control, did you ensure the integrity of that item?

11 A. Yes, I did.

12 Q. Did you alter in any way the content?

13 A. No, sir, I did not.

14 Q. Did you make sure that no one else did?

15 A. Yes, sir.

16 Q. And then what did you do with it? Where did you
17 put it?

18 A. I locked it into an evidence locker at our sta-
19 tion.

20 Q. Okay. Thank you.

21 A. Yes, sir.

22 SOLICITOR: Your Honor, I would move 83 in evi-
23 dence.

24 THE COURT: Any objection?

25 MR. HILLARD: No, sir.

SGT. CHURCH ON DIRECT

1 MR. LOCKLAIR: No objection.

2 THE COURT: Without objection, State's Number 83.

3 (Bullet in pill container entered in evidence
4 without objection as State's Exhibit 83)

5 BY SOLICITOR:

6 Q. Sergeant Church, I want to direct your atten-
7 tion to a couple of days after that, to June 6th.
8 Do you recall going back to the Pope house on that
9 day?

10 A. . .

11 Q. We were speaking about June third -- let me back
12 up and ask another question.

13 Did you find anything of an evidentiary value
14 on a search of that house that day?

15 A. On the day -- on the first day I went back to
16 the house, I was not searching. That was not my role
17 at that time. Of course, I used my eyes to look
18 around the house and at what things were pointed out.
19 My role -- I was doing what I was told. I was in
20 investigations for a few days and I was not making
21 any decisions at tha titme.

22 Q. Okay. Let me be more direct then. Did you
23 have occasion to search the bathroom of the Pope
24 home?

25 A. A couple of days later we went back. There was

SGT. CHURCH ON DIRECT

1 -- I know they had a meeting and I was working on some
2 other cases.

3 I was told they were going back and were going
4 to do the house one more time from front to rear, do
5 a search.

6 At that time, I did participate in a search, and
7 one of the rooms I was told to search was the bath-
8 room.

9 Q. Can you tell us about that in a little more de-
10 tail?

11 A. Before we left the house I believe it was Ser-
12 gent Burke who actually looked at me and said to me,
13 Church, you search the bathroom.

14 And he was in front of me and he said, go back
15 and search it again; you're taking too long.

16 In searching the bathroom, there's the commode
17 and there's a shelf. It's not permanent. It's like
18 a temporary that is put up behind it for extra stor-
19 age, and on the very top of that there was a book or a
20 diary that I looked at.

21 Q. Let me show you a photograph and see if that
22 helps. I'm not sure if it will but . .

23 SOLICITOR: State's Exhibit 45 I'm going to show
24 the witness that's in evidence. That is slide 18.

25 Q. Does that help or aid you in your testimony to

SGT. CHURCH ON DIRECT

1 describe what's in that picture?

2 The jury can see the same thing also as you are
3 looking at that.

4 A. It looks like the bathroom.

5 Q. But does it show that shelf?

6 A. I don't think it goes all the way to the top
7 because it was at the top. It was all the way to
8 the top of the ceiling because I had to stand on the
9 toilet to reach up there.

10 Q. Let me have this marked.

11 (Brief pause)

12 BY SOLICITOR:

13 Q. Let me show you an item that's been marked as
14 State's Exhibit 84. Let me show you an item marked
15 State's Exhibit 84 and see if you recognize that?

16 A. Yes, sir, I do.

17 Q. And what is that?

18 A. This is the book that I found.

19 Q. Okay, and I hand you what has been marked State's
20 Exhibit 85. Take a look at that. Tell the Court
21 what it is that you're looking at ?

22 A. I'm looking at a picture of the front of the
23 diary, the beginning of it, where it identifies whose
24 diary it is, on which it says Keri L. Fore.

25 It also has a date on it, and on the back page

SGT. CHURCH ON DIRECT

1 it looks like an entry from February 27, 2002.

2 Q. Could you please turn to the last entry in this
3 diary? Don't read it -- don't read it, but just make
4 sure -- take your time and make sure this is an exact
5 copy of it.

6 A. Okay.

7 (Brief pause)

8 A. Yes, sir, this is an exact copy.

9 SOLICITOR: Okay. Your Honor, at this time the
10 State would have this marked as State's Exhibit 84
11 for identification, and have State's Exhibit 85 ad-
12 mitted into evidence.

13 THE COURT: All right. Any objection to State's
14 85?

15 MR. HILLARD: Objection as to relevance, Your
16 Honor.

17 (Discussion at the bench off the record between
18 counsel and the Court)

19 MR. HILLARD: No objection, Your Honor.

20 MR. LOCKLAIR: No objection.

21 THE COURT: As to State's Exhibit 85, it is in
22 evidence without objection.

23 (Photo of diary admitted without objection s
24 State's Exhibit 85)

25 SOLICITOR: Beg the Court's indulgence.

SGT. CHURCH ON DIRECT

1 THE COURT: Yes, sir.

2 BY SOLICITOR:

3 Q. Mr. Church, did you have an opportunity to at-
4 tend your first autopsy in this case?

5 A. Yes, sir.

6 Q. Did you have an opportunity to collect some
7 items of evidence at that autopsy?

8 A. Yes, sir. After the autopsy was performed, the
9 Doctor gave me a bag with items in it that I brought
10 back to the police department and put directly into
11 evidence.

12 Q. Let me show you a couple of items which have
13 been marked as State's Exhibit A and B. Do you recog-
14 nize that?

15 A. Yes. This is one of the items given to me by
16 the Doctor.

17 Q. You received it from Dr. Presnell?

18 A. Yes, sir.

19 Q. And what did you do with it after receiving it?

20 A. I drove directly back to the police department
21 and put it into evidence in the evidence locker.

22 Q. While it was in your possession, custody and
23 control, did you maintain the integrity of that item?

24 A. Yes.

25 Q. Did you alter it at all as to form or content?

SGT. CHURCH ON DIRECT

1 A. No, sir.

2 Q. Did you allow anybody else in the whole world
3 to alter that item?

4 A. No.

5 Q. Let me show you a couple of other items. First,
6 what did you say you did with that?

7 A. Put it into evidence.

8 Q. Okay. I show you what's marked State's 81. Do
9 you recognize that item?

10 A. Yes, sir.

11 Q. What is this item?

12 A. I'm looking also at a container and a bullet
13 that I received from the Doctor that day also.

14 Q. And that was given to you after the autopsy?

15 A. Yes, sir.

16 Q. Let me show you State's 82. What is that?

17 A. It's a bullet jacket and a bullet.

18 Q. Who did you receive that from?

19 A. The Doctor from the autopsy.

20 Q. As to both these items, State's 81 and 82, did
21 you maintain the integrity of those items?

22 A. Yes, sir.

23 Q. Did you alter them in any way as to form or
24 content?

25 A. No, sir.

SGT. CHURCH ON DIRECT

1 Q. Did you allow anyone else to do so?

2 A. No, sir.

3 Q. What did you do with them after you received
4 them?

5 A. I put them directly into evidence in a locked
6 and secure locker.

7 Q. Okay.

8 SOLICITOR: Your Honor, at this time the State
9 would move State's Exhibits 81 and 82 in evidence.

10 THE COURT: Was that 80, 81 and 82?

11 SOLICITOR: Just 81 and 82.

12 THE COURT: All right, 81 and 82 -- any objec-
13 tions?

14 MR. LOCKLAIR: We're talking about 81 and 82?

15 THE COURT: That's correct.

16 SOLICITOR: That's correct.

17 MR. LOCKLAIR: We have no objection to 81 and
18 82.

19 MR. HILLARD: No objection.

20 THE COURT: All right, 81 and 82 will be in evi-
21 dence without objection.

22 (Bullet from autopsy, State's 81, and jacket
23 and bullet, State's 82, admitted into evidence with-
24 out objection)

25 SOLICITOR: At this time, I'd move State's 80

SGT. CHURCH ON DIRECT

1 into evidence.

2 MR. LOCKLAIR: I have some questions about 80,
3 Your Honor.

4 THE COURT: All right. You have some argument on
5 that. Is that what you're saying to me?

6 MR. LOCKLAIR: On Cross Examination. If we
7 have a motion, we would make it at a later time.

8 THE COURT: Very good.

9 SOLICITOR: Beg the Court's indulgence for a mo-
10 ment.

11 THE COURT: Yes, sir.

12 (Brief pause in proceeding)

13 BY SOLICITOR:

14 Q. Mr. Church, just to tidy things up, when you
15 took possession of this thing, and I'm referring
16 to Item 81, how did you receive it?

17 A. I'm sorry. State the Exhibit Number again.

18 Q. State's 80.

19 A. . .

20 THE COURT: I thought you said 81.

21 SOLICITOR: I apologize. State's 81 and 82 are
22 in evidence.

23 Q. I'm asking about State's 80.

24 THE COURT: All right, sir.

25 A. I receipted that from the Doctor, and it had

SGT. CHURCH ON DIRECT

1 items in it. I could inventory what she has in there
2 of what she has marked, but I did not open her bag.
3 I completed it at the evidence locker. She gave me
4 that before I went to my office.

5 She said she was handing the contents to me,
6 and I took it back to my evidence locker. I did not
7 open it to inspect them or anything.

8 Q. Okay. They were sealed when placed in the evi-
9 dence locker?

10 A. Correct.

11 Q. I have no further questions.

12 THE COURT: Cross examination.

13 MR. HILLARD: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. HILLARD:

16 Q. Good morning, sir. This was your first autopsy,
17 is that right?

18 A. Yes.

19 Q. Okay, and the pathologist that did the autopsy,
20 she's the one who collected the evidence from the
21 body?

22 A. Yes, sir.

23 Q. And when she collected the evidence from the
24 body, she retains it in some fashion and gives it to
25 you, and you are there in part to collect evidence?

SGT. CHURCH ON CROSS

1 A. Yes, sir.

2 Q. So she collects it and she gives it to you, and
3 you move it on down the line. Is that right?

4 A. Yes, sir.

5 Q. When you were talking to the Solicitor earlier
6 you said when you collected it from the pathologist
7 you didn't change the bag; she gave the items to you
8 -- gave you all the evidence in one bag?

9 A. They were in different containers.

10 Q. All right, sir.

11 A. And that . . .

12 Q. I just wanted to make sure I understood.

13 A. These are the items I collected and took back
14 to the police department. If you refer to my evidence
15 voucher, it will explain there were different items
16 packaged separately.

17 Q. I don't have any objection to your referring to
18 your evidence voucher. Do you have that?

19 A. I don't have a copy. I know there was one in
20 the case file.

21 Q. Do you have a recollection as you sit here? I
22 mean, do you have a recollection today in the absence
23 of a reminder of how -- well, let me ask you this
24 way.

25 What evidence did you get from her? Do you

SGT. CHURCH ON CROSS

1 recollect everything you got from her?

2 A. I'd rather refer to the document.

3 Q. All right, sir.

4 THE COURT: Solicitor, do you have that?

5 SOLICITOR: I do.

6 THE COURT: All right, go ahead.

7 WITNESS: Can I read this and tell you every-
8 thing that was brought back?

9 THE COURT: I'm sorry. I didn't hear what you
10 said.

11 WITNESS: Can I read this and . .

12 THE COURT: Does that refresh your recollection
13 about what you collected?

14 WITNESS: Yes, sir, it does.

15 BY MR. HILLARD:

16 Q. What did you collect from her?

17 A. If I could read from it -- I'm sorry but I'm
18 afraid if I try to memorize it I might leave some-
19 thing out.

20 Q. I understand. Let me just ask you a different
21 question.

22 State's Exhibit Number 81 that is now in evidence,
23 you testified that you did collect this, and it was in
24 -- you kept it in your care and control until you
25 passed it along. Is that correct?

SGT. CHURCH ON CROSS

1 A. Yes, sir.

2 Q. Your care, custody and control?

3 A. Yes, sir.

4 Q. And what is there on that from which you recollect what you are telling the jury today?

6 A. The information from the Doctor.

7 Q. And where exactly?

8 A. On the container itself.

9 Q. It's on the film container?

10 A. Yes, sir.

11 Q. And the thing that lets you recollect that is the information from the doctor on the film container?

13 A. Yes, sir.

14 Q. You collected a film container from the doctor, is that right?

16 A. Not only is it just the film container but I put down what was in the container, the plastic container with the bullet.

19 Q. That was a bullet?

20 A. Yes.

21 Q. All right, sir. Then State's Exhibit Number 82 is also a film container with the contents of a bullet that you collected from her, is that right?

24 A. Yes, sir.

25 Q. And that package was sealed?

SGT. CHURCH ON CROSS

1 A. Yes, sir.

2 Q. And you collected it from the pathologist and
3 carried it to evidence and put it in evidence, mak-
4 ing you in the chain?

5 A. Yes, sir.

6 Q. Is that right?

7 A. Yes, sir.

8 Q. And as to State's 80 for identification, what
9 about that situation? Is that in the container, a
10 plastic tube?

11 A. Yes, sir, it is.

12 Q. And it is not sealed in any form or fashion,
13 is that correct?

14 A. Not now, sir. It's not.

15 Q. And so the only way you can tell the folks on
16 the jury about that is the tube -- the only identi-
17 fying marks on that that you can talk about are the
18 tube. Is that right?

19 A. One second, sir.

20 Q. Yes, sir.

21 (Brief pause)

22 A. The markings on the tube stand out and also when
23 you look at the material that is inside, which is
24 familiar.

25 Q. The material inside is familiar?

SGT. CHURCH ON CROSS

1 A. Yes, sir.

2 Q. And what is it about the material inside that
3 is familiar?

4 A. I don't know how to answer that, Judge.

5 THE COURT: You go ahead and answer the ques-
6 tion.

7 A. I took it from the Doctor and it seems familiar
8 to me. I had observed and watched them collect the
9 evidence, and I can tell you what they collected just
10 from this.

11 When they collected these, that's when the Doc-
12 tor or the tech looked at me and said, Mr. Church,
13 you can wait over there, and there is a room away from
14 that room, and I finished observing the autopsy from
15 there. The room is just out of that room.

16 Q. So you left the room? You were out of the room?

17 A. Yeah.

18 Q. And that was your first autopsy?

19 A. Yes, sir.

20 Q. And when you collected it, you are basing that
21 statement from looking into the tube, is that cor-
22 rect?

23 A. Yes.

24 Q. All right, sir. In connection with your earlier
25 testimony, you indicated that there was an armed robbery.

MR. CHURCH ON CROSS

1 A. I believe that's what it was. Yes, sir, out by
2 the bus station in that area.

3 Q. Where is that in relation to this crime scene?

4 A. About five blocks away.

5 Q. The armed robbery -- what was the allegation as
6 to the persons who were responsible for the armed
7 robbery?

8 A. . .

9 SOLICITOR: Your Honor, I would object as to
10 relevance.

11 THE COURT: Come up and talk to me.

12 (Conference at the bench between counsel and
13 the Court off the record)

14 THE COURT: You may proceed.

15 BY MR. HILLARD:

16 Q. The allegations in connection with the armed
17 robbery was what, please?

18 A. . .

19 Q. Do you remember what the allegation of the armed
20 robbery was?

21 A. No, sir, I don't. I think with this other case
22 I pretty much forgot everything that was going on. I
23 know I was there at first when they called me to do
24 a canvas in the area, but as far as all the facts, I
25 mean, I never got into all that.

MR. CHURCH ON CROSS

1 Q. How about -- do you know the actual suspects in
2 the armed robbery?

3 A. I don't. I don't remember doing any initial or
4 follow-ups on it.

5 Q. All right, sir, but you did have a report of an
6 armed robbery within five blocks of the crime scene,
7 is that correct?

8 A. It was referred to as an armed robbery when I
9 was called out five blocks away for something else
10 before this call came in here.

11 Q. In connection with the crime scene, you secured
12 the crime scene so nobody could go in or out?

13 A. Correct.

14 Q. You identified item 70, which is a pillow.
15 Do you recall where you collected that from in the
16 house?

17 A. I think it was the bedroom but if I can look at
18 the evidence I can tell you.

19 Q. All right, sir, but your recollection is you
20 collected it from the bedroom?

21 A. Yes.

22 Q. But other than that, not specifically?

23 A. Not today, no, sir.

24 Q. You were searching the bathroom -- do you remem-
25 ber when you went to search the bathroom?

MR. CHURCH ON CROSS

1 A. May I look at my notes for the date?

2 Q. Sure. Yes, sir.

3 A. I believe it was the 26th of June that I searched
4 the bathroom.

5 Q. And when you searched the bathroom, you found a
6 diary that is State's Exhibit Number 84. Is that
7 correct?

8 A. Yes, sir.

9 Q. And the front page which is in evidence says the
10 diary belongs to Keri L. Fore on the day of July 5th, 1996?

11 A. Yes, sir, that's the date from what the front
12 page says.

13 Q. Did you read her diary?

14 A. No, sir.

15 Q. Can you identify this page which is dated February
16 27th of 2002, which is out of the diary?

17 A. Yes.

18 Q. Is that correct?

19 A. Correct.

20 Q. And it says, if you'll just look over my shoulder
21 here, I don't know what I have done. He has really
22 crossed the line. It hurts so bad. My lip and nose
23 and eye. I don't want to be with him any more. It
24 has gotten out of control. I am really scared. I
25 can't leave him. He will kill me. I want somebody

MR. CHURCH ON CROSS

1 to help me so bad. I am so scared to have my
2 daughter. I am afraid he will lose his temper and
3 hurt her. What have I done? I have ruined my life
4 and probably my daughter's. I have ruined my body,
5 my life, everything. I really cannot believe all
6 the pain. I fear for her life now after she's born.
7 She's going to have enough problems. God, I wish
8 someone would help me.

9 A. Yes, sir.

10 Q. Is that what it says?

11 A. Yes, sir.

12 Q. That's all I have. Thank you.

13 THE COURT: Mr. Locklair?

14 MR. LOCKLAIR: No questions, Your Honor.

15 THE COURT: All right, Solicitor. Redirect?

16 SOLICITOR: Yes, Your Honor. The State would
17 move State's Exhibit 80 into evidence.

18 THE COURT: Do you have objection to State's 80
19 coming into evidence?

20 MR. LOCKLAIR: I do, Your Honor.

21 THE COURT: All right, sir. You all come and
22 talk to me for just one second.

23 (Conference at the bench between counsel and the
24 Court off the record)

25 THE COURT: All right. The request of the State

1 to introduce State's 80 is denied at this time.

2 Anything else for this witness?

3 SOLICITOR: No, Your Honor.

4 THE COURT: All right. Do you wish the witness
5 to be excused?

6 SOLICITOR: I do, Your Honor.

7 THE COURT: Any objection?

8 MR. HILLARD: No objection, Your Honor.

9 MR. LOCKLAIR: No objection.

10 THE COURT: You may be excused.

11 (Witness leaving stand)

12 THE COURT: All right, Solicitor. Who is your
13 next witness?

14 SOLICITOR: Craig Young.

15 CRAIG YOUNG, being duly

16 sworn, testified as follows:

17 CLERK: Please be seated. State your full name
18 for the record, spelling your last name.

19 WITNESS: Craig, initial F, Young, Y O U N G.

20 DIRECT EXAMINATION

21 BY SOLICITOR:

22 THE COURT: We will need you to speak up. All
23 right. Solicitor.

24 Q. Good morning.

25 A. Good morning.

MR. YOUNG ON DIRECT

1 Q. Please tell the jury what you do for a living.

2 A. Right now in a Magistrate's Office.

3 Q. In what capacity?

4 A. I serve papers.

5 Q. Okay, and were you doing that back around May
6 of 2003?

7 A. No, sir. I was with the Georgetown Police De-
8 partment.

9 Q. And what was your capacity with the Georgetown
10 Police Department?

11 A. In one of my capacities I was the evidence cus-
12 todian.

13 Q. Explain to the jury what an evidence custodian
14 does.

15 A. Pick up and maintain an inventory of all the
16 evidence that's picked up in conjunction with numer-
17 ous types of investigations.

18 I also -- it was my responsibility to submit
19 the evidence to SLED for examination if, you know, an
20 examination was warranted.

21 Q. Okay. Did you have an opportunity as the evi-
22 dence custodian to view and continue the integrity
23 of the items in your possession . .

24 A. Yes.

25 Q. . . as evidence custodian?

MR. YOUNG ON DIRECT

1 A. Yes, sir.

2 Q. Did you have occasion to come in contact with
3 some evidence in this case before the Court today,
4 which is the murder of Joey Pope?

5 A. Yes, I did.

6 Q. And I would draw your attention specifically
7 to a couple of items, and did you maintain the cus-
8 tody of those items?

9 A. Yes, sir, I did.

10 SOLICITOR: Your Honor, just for the purpose of
11 efficiency, I will direct the witness' attention to
12 this voucher 355.

13 BY SOLICITOR:

14 Q. Let me show you an item that has been marked
15 as State's Exhibit 80. It is not in evidence yet.
16 See if you recognize that?

17 A. Yes, I do. I signed this in at 3:46 on the 29th
18 of May of '03, and these are my initials.

19 Q. All right, and do you reference those numbers
20 on the report?

21 A. Yes, I do.

22 Q. And does that indicate what you did with that
23 item?

24 A. On the 6th of June of '03, I submitted it to
25 SLED.

MR. YOUNG ON DIRECT

1 Q. Okay, and do you indicate more specifically why
2 it was submitted to SLED for evaluation?

3 A. Yes. It was in conjunction with their case num-
4 ber L03-5522.

5 Q. And while it was in your custody and control,
6 that specific item, did you maintain its integrity?

7 A. Yes, I did.

8 Q. Did you alter it as to form or content?

9 A. No.

10 Q. And did you allow anyone else to alter it as to
11 form of content?

12 A. No, sir.

13 Q. Did you open it? Were those items sealed when
14 you received it?

15 A. If you'll give me my list . .

16 Q. Yes.

17 A. No.

18 Q. How did you receive it?

19 A. I received the container.

20 Q. And then what did you do with it? Did you re-
21 containerize it or anything after you received the
22 container?

23 A. I believe I put it in this evidence bag.

24 Q. And did you seal the bag at that time?

25 A. Yes, I did.

MR. YOUNG ON DIRECT

1 SOLICITOR: Beg the Court's indulgence.

2 THE COURT: All right, sir.

3 (Brief pause in the proceeding)

4 BY SOLICITOR:

5 Q. Mr. Young, when you say you took it to SLED, do
6 you recall specifically what place or what area you
7 took it?

8 A. I put it in the trace mail box.

9 Q. Just generally speaking, what is a mail box?

10 What . .

11 A. It's not really like a -- like what you'd call
12 a mail box. It's a metal container in a wall that
13 is locked by whatever section of SLED it is that
14 would have access to it.

15 Q. So similar to a mail box, if you put something
16 in then you can't get it out?

17 A. Correct. First you go through log-in and you
18 get it logged in.

19 Q. And then you dropped it in the box?

20 A. Yes, I did.

21 Q. I have no further questions of this witness,
22 Your Honor.

23 THE COURT: Any cross examination?

24 MR. HILLARD: Thank you, Your Honor.

25 CROSS EXAMINATION

MR. YOUNG ON CROSS

1 BY MR. HILLARD:

2 Q. Are you enjoying your semi-retirement?

3 A. Really.

4 Q. There is two parts to Exhibit 80 -- two parts.
5 The bag, right?

6 A. Right. To the best of my recollection I put it
7 in the bag.

8 Q. All right, sir. So you would have received the
9 vial, is that correct?

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

11 Q. All right, sir, and the thing about the vial
12 that you recollect is the vial itself. Is that cor-
13 rect?

14 A. Let me see it.

15 Q. That is number 2 A.

16 A. Yes, sir. Some of this is from the forensic
17 lab that I don't do anything about.

18 Q. But the point of that is you got it in the vial
19 but the vial could have been opened before you got
20 it. Is that correct?

21 A. . .

22 SOLICITOR: Your Honor, the question is asking
23 the witness to speculate.

24 Q. Was there any seal on the vial?

25 A. I don't see one, no, sir. It's been tagged.

MR. YOUNG ON CROSS

1 Q. The vial has been tagged but there is no seal on
2 it that you see, is that correct?

3 A. No, sir.

4 Q. All right, sir. In any event, there is no seal
5 on it?

6 A. No, sir. Once you put it in this bag it is
7 sealed.

8 Q. Once you put it in this bag and sealed it, you
9 maintain the chain of custody?

10 A. Yes, sir.

11 Q. But before it gets in the bag it is not sealed?

12 A. . .

13 Q. Is that right?

14 A. Yes.

15 Q. Okay, and from what you said, this is -- the
16 tape that's on here is the evidence tape?

17 A. The Georgetown Police Department evidence tape.

18 Q. I see. And those are your initials right on
19 there?

20 A. Yes, it is.

21 Q. When you sealed this, it was fifteen thirty-six
22 hours on 5 29 03?

23 A. Yes, sir.

24 Q. And when it left you it was sealed?

25 A. Yes.

MR. YOUNG ON CROSS

1 Q. And where did it go from you?

2 A. I took it to SLED.

3 Q. But what happened after that, you don't know?

4 A. Just that I sent it to SLED.

5 Q. After that you don't know?

6 A. No, sir, I don't.

7 Q. Thank you, sir. That's all I have.

8 THE COURT: Mr. Locklair?

9 MR. LOCKLAIR: No questions.

10 THE COURT: Any Redirect?

11 SOLICITOR: No, Your Honor.

12 THE COURT: Do you wish the witness to be ex-
13 cused?

14 SOLICITOR: I do, Your Honor.

15 THE COURT: Any objection?

16 MR. HILLARD: No objection, Your Honor.

17 MR. LOCKLAIR: No objection.

18 THE COURT: You may go back to your regular ac-
19 tivities.

20 (Witness leaving stand)

21 THE COURT: Make sure all th Exhibits go back
22 to the Court Reporter, Solicitor.

23 SOLICITOR: Yes, sir.

24 THE COURT: Call your next witness, please.

25 SOLICITOR: Kimberly Black, State Law Enforcement

1 Division.

2 KIMBERLY BLACK, being duly
3 sworn, testified as follows:

4 CLERK: Please have a seat. State your full
5 name, spelling your first and last name.

6 WITNESS: My name is Kimberly Black, K I M B E R
7 L Y B L A C K.

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Good morning, maam.

11 A. Good morning.

12 Q. What do you do for a living?

13 A. Currently?

14 Q. Yes, maam.

15 A. I'm a stay at home mom and home-maker.

16 Q. In your previous occupation, what did you do
17 for a living?

18 A. Before that I was a forensic scientist with the
19 South Carolina Law Enforcement Division, commonly
20 known as SLED, in Columbia. I was assigned to the
21 trace evidence department.

22 Q. What is trace evidence?

23 A. Trace evidence is a term that is used for items
24 of evidence that are found at a crime scene which us-
25 ually exist in very small amounts.

MS. BLACK ON DIRECT

1 That is why the term was coined, trace evidence.
2 During my years in the trace evidence department,
3 there were specific areas or disciplines of evidence
4 that our department received. There were several dif-
5 ferent areas.

6 I received gunshot residue kits. I received
7 material for gunpowder analysis. I received fibers,
8 hairs, paint samples, explosive samples.

9 We also had another category which we referred
10 to as trace evidence which was a miscellaneous cate-
11 gory. Those were really things like poisons, plastics,
12 anything unusual found at a crime scene that wasn't
13 blood evidence or fingerprints, things of that sort
14 that might be of evidentiary value. They were de-
15 livered to the trace evidence department for physical
16 or chemical analysis, to identify the materials, or
17 to just do a comparison to a known standard.

18 Q. And were you engaged in that capacity at SLED
19 in May of 2003, or around that time period?

20 A. Yes, I was.

21 Q. Let's talk about your training and experience
22 with SLED. Please tell us about that.

23 A. I received a Bachelor of Science degree in chem-
24 istry from Francis Marion College in 1989. After
25 that I taught in the organic chemistry laboratory at

MS. BLACK ON DIRECT

1 the University of South Carolina for a year. I then
2 worked for a private company for a year and a half
3 as an analyst assigned to their instrumental labora-
4 tory.

5 I began at SLED in 1992, at which time I was as-
6 signed to the drug analysis department. I worked in
7 that capacity for about three and a half years and
8 then I transferred in 1995 to the trace evidence de-
9 partment where I was assigned until I resigned in
10 July of 2004.

11 As part of my trace evidence training, I com-
12 pleted an extensive three year in-house training pro-
13 gram with the trace evidence department where I was
14 trained in instrumental instrumentation as it speci-
15 fically applies to the areas I mentioned before, the
16 items of trace evidence that I would receive in the
17 laboratory.

18 Throughout my career at SLED in the drug analy-
19 sis unit and the trace evidence department, I parti-
20 cipated in a continuous education program where I
21 routinely attended workshops, classes, seminars in
22 the field of analytical chemistry, as well as foren-
23 sic chemistry.

24 Those classes were sponsored and conducted by
25 manufacturers of the instrumentation that we usually

MS. BLACK ON DIRECT

1 use, as well as federal agencies, such as DEA, ATF,
2 FBI.

3 Q. Have you testified in Courts in South Carolina
4 where you have been qualified as an expert in this
5 area?

6 A. Yes, I have.

7 Q. How many times have you been so qualified?

8 A. Specifically in trace evidence approximately
9 fifty times.

10 SOLICITOR: At this time, the State would offer
11 Kimberly Black as an expert in the area of forensic
12 examinations and specifically in trace evidence,
13 Your Honor.

14 THE COURT: Do you wish to voir dire her, or do
15 you consent to her qualification?

16 MS. BASS: Your Honor, we have no objection
17 to her testifying as an expert.

18 THE COURT: I appreciate that, but do you have
19 an objection to her being qualified as an expert in
20 the field of trace evidence as a forensic scientist
21 or technician?

22 MS. BASS: No, sir.

23 THE COURT: Mr. Locklair?

24 MR. LOCKLAIR: No voir dire and no objection,
25 Your Honor.

MS. BLACK ON DIRECT

1 THE COURT: She is so qualified to give an opin-
2 ion then in that area.

3 SOLICITOR: Thank you, Your Honor.

4 BY SOLICITOR:

5 Q. Did you have an opportunity to receive items in
6 relation to an investigation for Keri Pope?

7 A. I did.

8 Q. Please tell us your recollection as to those
9 items.

10 A. I received in this particular case, which was
11 given a SLED lab number as all cases are where evi-
12 dence is sent to our laboratory, and this was L03 5502.

13 I received two gunshot residue kits, one from
14 Keri Pope and one from Joseph Pope.

15 I received material that was taken from a gun-
16 shot wound of Mr. Pope during at autopsy.

17 MS. BASS: Your Honor, we would object to
18 her reading from her report.

19 THE COURT: All right, maam. You cannot read
20 from your report, but you can read the report and
21 then answer questions from the Solicitor.

22 You may not read from it but you may use it to
23 refresh your memory.

24 Thank you.

25 WITNESS: Yes, Your Honor.

MS. BLACK ON DIRECT

1 A. I received two gunshot residue kits, one from
2 Keri Pope and one from Mr. Pope.

3 I received material that was recovered from a
4 wound at autopsy of Mr. Pope.

5 I also received two pillows and one pillow case.

6 I believe those are the items that I received
7 in this particular case.

8 BY SOLICITOR:

9 Q. Let me show you an item that's been marked as
10 State's Exhibit 80, which is not in evidence as yet.
11 See if you recognize that item, Ms. Black?

12 A. Yes, this is -- this is the material that was
13 taken from the gunshot wound of Mr. Pope, and it
14 bears the number which corresponds to this case, with
15 my initials.

16 MS. BASS: Your Honor, may we approach?

17 THE COURT: Come up.

18 (Conference at the bench between counsel and
19 the Court off the record)

20 THE COURT: Go ahead, Solicitor.

21 BY SOLICITOR:

22 Q. Please continue with regard to item 80.

23 A. This is an item, my item number twenty-three,
24 which is the material that was taken from the gunshot
25 wound of Mr. Pope. It has my initials, the SLED log

MS. BLACK ON DIRECT

1 number, as well as the date I would have actually
2 open and actually closed the evidence after the
3 analysis.

4 Q. Did you receive the item -- where did you receive
5 it from?

6 A. At the laboratory we have a log-in department
7 located on the first floor of the building. All the
8 evidence brought to the building has to go first
9 through the log-in department.

10 At the log-in department, the evidence or the
11 items are entered in our computer system and assigned
12 a lab number. After being logged in, it would be
13 placed in a trace box, which is actually a mailbox
14 that works under the same premise as the big mailboxes
15 that you see around, the big blue mailboxes.

16 Once the evidence is placed inside the box, it
17 actually drops to the bottom, and I would have re-
18 trieved it from the bottom.

19 Trace examiners have a key to that box in order
20 to get items from that trace box.

21 Q. When you received it from the trace box -- let
22 me ask you this. What is SLED's policy relating to
23 performing an analysis on opened items?

24 A. We don't perform exams on any items that have
25 not been sealed properly.

MS. BLACK ON DIRECT

1 Q. And why is that?

2 A. Because of the integrity of the evidence in
3 question. So all of the items that are received are
4 to be sealed either with evidence tape or sealed in
5 some fashion.

6 It has to be secured in the envelope that it is
7 sent in.

8 Q. And was that item secured properly?

9 A. Yes, it was.

10 Q. Please tell us about your -- about what you did
11 with that item?

12 A. This particular material I performed a physical
13 examination on, just to look at the physical charac-
14 teristics of the material.

15 I also performed chemical analysis as well as
16 instrumental analysis on it, just to get an idea of
17 what the material may be.

18 I was not able to positively identify it. How-
19 ever, I had standards that had been submitted, the
20 two pillows that were submitted to me for an
21 examination.

22 I did a physical examination on the outer cov-
23 ering as well as the stuffing in both of the pillows,
24 and physically this material found in the wound was
25 consistent with the stuffing of one of the pillows.

MS. BLACK ON DIRECT

1 I believe it's the pillow that I have listed as
2 item number thirty-two in my SLED report.

3 I then proceeded to do a chemical, physical,
4 as well as instrumental, analysis of the two mate-
5 rials, and I determined that this material was con-
6 sistent with the pillow stuffing in the pillow I have
7 numbered item thirty-two.

8 Q. Let me show you an item that's in evidence as
9 State's Exhibit 70. See if you recognize that?

10 A. Yes. My initials are here on the corner of it,
11 with the item number thirty-two, which corresponds
12 to it, and this does appear to be the pillow -- pil-
13 low that I received.

14 SOLICITOR: Beg the Court's indulgence.

15 THE COURT: Yes, sir.

16 (Brief pause)

17 BY SOLICITOR:

18 Q. As a part of your processing, were cuttings
19 taken from these pillows?

20 A. . .

21 Q. Do you recall?

22 A. Let me look at this first. I believe these
23 items were processed for hair, fire and blood prior
24 to my analysis. Those cuttings would have been
25 taken by them.

MS. BLACK ON DIRECT

1 Also, I may have had to cut the material into
2 the stuffing to get a decent sample or an acceptable
3 sample of the stuffing that I could use.

4 Q. Okay, so you are testifying related to your ex-
5 pertise to a reasonable degree of medical certainty
6 or, excuse me, scientific certainty that the item 80
7 is consistent with the stuffing from that item 70?

8 A. Yes, that is correct. I have here that the mate-
9 rial is consistent with the stuffing from that pillow.
10 State's Exhibit 80 that I have here, that
11 material is consistent with the stuffing from that
12 pillow.

13 SOLICITOR: Beg the Court's indulgence, Your
14 Honor.

15 THE COURT: Yes, sir.

16 (Brief pause)

17 SOLICITOR: I have no further questions at this
18 time, Your Honor.

19 THE COURT: All right. Cross examination.

20 MS. BASS: Your Honor, may it please the Court?

21 THE COURT: Yes, maam.

22 CROSS EXAMINATION

23 BY MS. BASS:

24 Q. Good morning. I'm Julia Bass. How are you?

25 A. I'm doing just fine.

MS. BLACK ON CROSS

1 Q. I have a few questions for you, and they are all
2 similar to your other questions.

3 Do you have your case file with you?

4 A. I do.

5 Q. And you have reviewed . . .

6 A. I believe I have given answers from it.

7 Q. So you have reviewed the records at a previous
8 point?

9 A. Yes.

10 Q. I will show you what I'm going to ask you about
11 so that you will know what we're discussing.

12 You were the only trace evidence agent in the
13 South Carolina Law Enforcement Division on this par-
14 ticular case?

15 A. Yes. I was specifically assigned that case in
16 the trace evidence department. Other examiners from
17 other departments were assigned to the case as well.

18 Q. Okay, but my question is that it was just you as
19 an agent doing the gunshot residue and everything
20 you testified today was just you.

21 You didn't have a partner?

22 A. No.

23 Q. I take it there are specialties, is that right?

24 A. Yes.

25 Q. Okay. So this is your volume of work?

MS. BLACK ON CROSS

1 A. Yes, it is.

2 Q. And this is -- these are your initials as both
3 the processor at SLED and analyst at SLED. Correct?

4 A. Yes. Christine Montgomery's initials also ap-
5 pear. She was a technician who was assisting me in
6 just note-taking and that sort of thing, but she is
7 not an analyst in the trace evidence department.

8 Q. And this very neat handwriting belongs to who?

9 A. It belongs to me.

10 Q. Okay, and what exactly did you mean when you
11 record that you were unsure of where the pillows were
12 at the time of the shooting?

13 A. That those items were submitted for gunpowder
14 analysis which is not typical. A gunpowder analysis
15 is typically utilized on clothing that comes from a
16 victim.

17 The purpose of the test is to look at the gar-
18 ments, the clothing, to determine if there is any
19 pattern of gunpowder, and, if possible, use that pat-
20 tern to determine the muzzle to target distance that
21 the gun was fired.

22 Every now and then we receive items of evidence
23 that were not garments, like blankets or pillows, and
24 because those are not items that are going to be fixed
25 on an individual it is not possible to determine just

MS. BLACK ON CROSS

1 by gunpowder examination any kind of information as
2 it relates to the crime scene.

3 On clothing, there is a front and back to a
4 shirt or front and back to pants, you know, so that
5 we can reasonably reconstruct that because the gar-
6 ments actually go on the victim in a certain way.
7 You know where the victim was at the crime scene.

8 With pillows and blankets, things of that na-
9 ture, you can't do that because they can be moved
10 around.

11 Q. And that is especially true because you are a
12 special agent at Columbia and the crime scene is in
13 Georgetown?

14 A. That is correct. I was not privy to the crime
15 scene.

16 Q. Okay. Let's look at some items the Solicitor
17 just asked you about. As to item thirty-two.

18 In your report, you stated that the bloodstain
19 suggests the pillow was under the body of the victim.
20 Is that correct?

21 A. On that sheet I did make that note, and that is
22 just a notation that I made. Once again, I am not
23 -- I did not have access in this particular case to
24 the crime scene photos, but it would be a possibility
25 that it was behind or somewhere obviously where the

MS. BLACK ON CROSS

1 victim would be bleeding in order for the blood to
2 get on the pillow.

3 But that was just a notation that I made strictly
4 when I was looking at the items and the presence of
5 blood.

6 Q. And you did not know the Defendants or the vic-
7 tims or any of their families while you were at SLED.
8 Correct?

9 A. No, maam.

10 Q. Isn't it true that it is SLED policy if you do
11 know or have a family friend or relative of the vic-
12 tim or suspect that you are not allowed to work on the
13 case?

14 A. I don't know that to be the case. I don't re-
15 call a specific protocol, but I know that would be a
16 concern in that situation.

17 Q. But you don't know anyone in this case? Cor-
18 rect?

19 A. No, maam.

20 Q. And you never came to the crime scene because
21 that is not your job? You are in Columbia and you
22 analyze after the crime scene?

23 A. Typically. I have been to some scenes in some
24 situations, but I did not routinely go to crime
25 scenes, no.

MS. BLACK ON CROSS

1 Q. You did not respond to this one, correct?

2 A. No, I did not.

3 Q. Okay, and the results of your report were --
4 would you tell the jury whether or not the gunshot
5 residue kit that was performed on Ms. Keri Pope on
6 May 27th of '03 -- did that indicate the presence of
7 gunshot residue?

8 A. It did not.

9 Q. And the gunshot residue kit that was taken of
10 the victim in this case, Mr. Joey Pope, that was
11 taken at the hospital on Joey Pope -- what was the
12 result as to whether or not there was the presence
13 of gunshot residue in his case?

14 A. I did not detect metals that would be consistent
15 with gunshot residue.

16 Q. And even on item thirty-one, on the second page
17 of your report, you didn't find any gunshot residue
18 or lead around the holes on the pillow case or the
19 pillow which is thirty-one?

20 No gunshot residue found or lead detected around
21 the holes on number thirty-one, which are the pillow
22 and pillow case?

23 A. No. That is correct.

24 Q. And item thirty-two, the pillow, when the Soli-
25 citor stood there with the blue gloves on and

MS. BLACK ON CROSS

1 showed it to you, the findings on that were consist-
2 ent with the passage of the bullet?

3 A. Yes. I found seven holes, and of the seven
4 holes there were four holes that I found blood resi-
5 due around the hole that would be consistent with
6 the passage of a bullet.

7 The reason I say seven or there could be seven
8 is because a bullet, once it goes, it can go wher-
9 ever it wants to go. I mean, it can go -- it forms a
10 path and it can go wherever it makes its path.

11 It can make more than one -- a bullet can make
12 more than one hole in a pillow case or in a person.

13 Q. So you can have more holes in a pillow or cloth-
14 ing because of the number of bullets and from
15 the entrance and exit, and because of the path of the
16 bullet? The travel of the bullet?

17 A. Yes, that is true. You can have more than one
18 hole generated by the bullet.

19 Q. I only have three or four more questions.

20 Tell the jury what years you worked at SLED as
21 an expert in gunshot residue and worked in trace?

22 A. From 1995 through 2004.

23 Q. From '95 through 2004?

24 A. That's right.

25 Q. So nine years?

MS. BLACK ON CROSS

1 A. Yes.

2 Q. So at any time when you were working there, did
3 Glenn Cooper try to resubmit the pillows that you
4 had already tested?

5 A. No. Not during my time there, no.

6 Q. Okay, and no one -- during your time there, no
7 one resubmitted the pillows that you had already
8 tested?

9 A. No.

10 Q. Okay.

11 A. Not that I know about.

12 Q. And would you tell the jury, while you were
13 there at SLED in 2003 and 2004, other than

14 Joey Pope, the victim in this case, and his wife,
15 Keri Pope, how many other GSI, gunshot residue kits,
16 were submitted to you, or suspect tests, were sub-
17 mitted to you during 2003?

18 A. I don't have a record that there were any others
19 submitted.

20 Q. Do you have any paperwork with you indicating
21 any other analysis of any other gunshot residue kits
22 of any other potential suspects under that lab num-
23 ber in 2003 and 2004?

24 A. No, I do not.

25 Q. No further questions.

MS. BLACK ON CROSS

1 THE COURT: Mr. Locklair.

2 MR. LOCKLAIR: No further questions.

3 THE COURT: Redirect?

4 SOLICITOR: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY SOLICITOR:

7 Q. Gunshot residue -- please tell us about what
8 that is?

9 A. When a gun is fired, there is a cloud of mate-
10 rial that is expelled . .

11 MR. LOCKLAIR: I'm going to object. That is
12 not proper for Redirect.

13 THE COURT: I'm going to allow this particular
14 question.

15 You may continue, maam.

16 WITNESS: Thank you, Your Honor.

17 A. When a gun is fired, there is a cloud of mate-
18 rial that is expelled from any opening in the gun,
19 and this cloud is composed of microscopic particles
20 that originate in the gunpowder formulation used in
21 the ammunition.

22 Typically, barium, antimony and lead are the
23 most common items of interest in the gunshot residue
24 cloud.

25 Most of the gunpowder cloud is expelled from

MS. BLACK ON REDIRECT

1 barrel since that is the largest opening, but it
2 may also come from an opening around the cylinder or,
3 depending on the kind of gun, some of the cloud can
4 be generated from other openings.

5 Basically, most of it is going to be expelled
6 around the area that is in close proximity to the
7 gun.

8 Any object that is located in this cloud you
9 will have gunshot residue deposited from it, so I
10 would expect to find gunshot residue on the gun it-
11 self, and I would expect to find gunshot residue on
12 the hands of the shooter.

13 If the victim is in close enough proximity or
14 their hands or body are within that cloud, I would
15 expect to find gunshot residue on the hands of the
16 victim, as well anyone else near that gun when it is
17 fired.

18 As I stated before, these microscopic particles
19 are deposited, and any deposit on other areas be-
20 sides the hands and chest itself is actually used
21 specifically for samples collected from hands because
22 the idea is just to determine if someone fired a gun
23 or handled a gun or was nearby when a gun was fired.

24 Q. Are these -- is gunshot residue something that
25 can be easily removed? Easily eliminated?

MS. BLACK ON REDIRECT

1 A. These particles are just lightly deposited . .

2 MS. BASS: Your Honor, I'm going to object, Your
3 Honor, to any new matter going to the firing . .

4 THE COURT: I believe it to be proper Redirect
5 and I'm going to allow it. Thank you very much. I
6 believe it to be new matter that was raised on Cross
7 Examination.

8 A. The microscopic particles deposited on the sur-
9 face of the skin is like if you get flour on your
10 hands, just it is there, and just like flour when
11 there is movement some of the particles are going to
12 be removed.

13 Some of the particles can actually be absorbed
14 through the skin into the body. So there are sev-
15 eral ways the material can be eliminated. It doesn't
16 just stay there.

17 As a matter of fact, in the trace evidence de-
18 partment we have a policy that a gunshot residue kit
19 needs to be collected as soon as possible after the
20 shooting, because as more time passes the more parti-
21 cles are going to be removed and the test is going
22 to be less accurate.

23 So our policy in the laboratory is that if the
24 kit is taken six hours or more after the shooting it
25 is our policy not to do the examination because there

MS. BLACK ON REDIRECT

1 are documented cases where someone fired a weapon
2 and due to just normal activity, such as putting the
3 hands in their pocket, rubbing their hands on their
4 pants leg, rubbing their hands together -- many factors
5 can serve to remove particles so that the kit came out
6 actually with a negative result.

7 So we have to take those factors into consider-
8 ation when we run the test, and the material, aside
9 from normal activity, can be washed away -- water
10 can wash the materials away, as well as wiping your
11 hands on your pants, as I say, or on any kind of sur-
12 face, a towel.

13 After time passes, the material is not going to
14 be able to adhere to the skin.

15 Q. And the material taken from the pillow
16 ...

17 MS. BASS: Your Honor, I object. I didn't go
18 into that.

19 THE COURT: Rephrase your question. The Cross
20 Examination on the issue was on bed residue found on
21 the pillow.

22 SOLICITOR: Thank you, Your Honor.

23 BY SOLICITOR:

24 Q. I think you indicated on Cross Examination that
25 you found several -- I believe you testified that

MS. BLACK ON REDIRECT

1 you found seven bullet holes? Is that what you've
2 said?

3 A. I found seven holes that were actually in that
4 item thirty-two.

5 Q. Can you describe to the jury the significance
6 of those holes as related simply to residue?

7 A. . .

8 MS. BASS: Your Honor, I'm going to object. May
9 we approach?

10 THE COURT: Yes, maam.

11 (Conference at the bench between counsel and
12 the Court off the record)

13 THE COURT: All right, Solicitor.

14 BY SOLICITOR:

15 SOLICITOR: Thank you, Your Honor.

16 Q. Can you describe for the jury the significance
17 of what you perceive as seven holes in item
18 thirty two?

19 A. Yes. There were -- as I stated, there were
20 seven holes found in the pillow. Five were found on
21 one side of the pillow and two on the other.

22 Of those seven holes, I found residue around
23 the holes. A bullet is composed primarily -- well,
24 even a jacketed bullet, whenever that is fired, that
25 jacket will be expelled. You would have the core

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1 that would pass through items of clothing into the
2 victim, a lead core. When this lead material, this
3 lead bullet, passes through specifically fabric,
4 very often the residue is wrapped around the circum-
5 ference of the hole or around the edge of the hole.

6 I tested the material, using a chemical examina-
7 tion, to determine if there is any residue present
8 that would suggest that, and what I found is consist-
9 ent with and supports the idea that in fact the hole
10 in the pillow is consistent with the bullet hole, as
11 opposed to a hole that would be caused by a cigarette
12 burn or a tear or some other factor.

13 With the presence of a bullet right around the
14 hole just strongly supports that that bullet was in
15 fact through the hole.

16 Q. Thank you.

17 SOLICITOR: No further questions from this wit-
18 ness.

19 THE COURT: All right. Questions on any of the
20 matters in response by the Solicitor?

21 MS. BASS: Yes, sir.

22 RE CROSS EXAMINATION

23 BY MS. BASS:

24 Q. Just a few questions. In response to Mr.

25 Hixson here, you said that normally after six hours

MS. BLACK ON RECROSS

1 you would not recommend that gunshot residue -- that
2 a kit be performed. Right?

3 A. Yes. I need to clarify that that is with regard
4 to living individuals, not deceased individuals. Ob-
5 viously, you are not going to have activity there,
6 so we do receive kits that are in excess -- we do
7 receive kits from victims beyond six hours, where
8 there is no activity, no perspiration and such.

9 Q. And did you not know that Mr. Pope's GSR was
10 done according to the -- that it was done in less
11 than two and a half hours, which is less than the six
12 hours?

13 A. Yes, that's correct.

14 Q. And did the Georgetown Police Department or did
15 this Solicitor's Office submit any guns to you to look
16 for gunshot residue in this case?

17 A. I don't routinely receive guns themselves to
18 look for gunshot residue. I expect every gun will
19 have gunshot residue on it, because of the ammuni-
20 tion.

21 Q. You just testified to Mr. Hixson when he got
22 back up the second time -- you started talking about
23 gunshot residue on guns. Right? You testified to
24 that?

25 A. No, I testified -- I believe I testified to the

MS. BLACK ON RECROSS

1 fact that the gunshot residue could be deposited on
2 the gun itself as well as the hands of the shooter,
3 so it is the cloud itself.

4 I don't test weapons looking for the gunshot re-
5 sidue.

6 Q. Okay, so the gun that they have entered into
7 evidence here with the red lock on it, Number 68, you
8 never tested this gun in this case?

9 A. No.

10 Q. The police never sent you the gun that's in
11 evidence? They never sent you this?

12 A. No.

13 Q. No further questions.

14 THE COURT: All right. Mr. Locklair, anything?

15 MR. LOCKLAIR: No, sir.

16 THE COURT: Do you wish the witness to be ex-
17 cused?

18 SOLICITOR: I do, Your Honor.

19 THE COURT: Any objection?

20 MS. BASS: No, Your Honor. She was also on our
21 witness list and we would not call her in our case.

22 THE COURT: Mr. Locklair.

23 MR. LOCKLAIR: No objection.

24 THE COURT: Ma'am, you are released to go back
25 to your normal activities. Thank you.

1 (Witness excused from stand)

2 THE COURT: All right, ladies and gentlemen, we
3 are going to take a short break here. Mr. Foreman,
4 if you would take your jury to your jury room, please.

5 Everyone else will remain seated.

6 (Jury excused from Courtroom)

7 THE COURT: All right, we'll take a short break
8 for five or ten minutes.

9 (Whereupon, the Court took a short recess, after
10 which the case was continued)

11 THE COURT: All right. Solicitor, anything be-
12 fore we call in the jury?

13 SOLICITOR: Yes, sir, Your Honor.

14 THE COURT: What's the issue?

15 SOLICITOR: We would offer State's Exhibit 80
16 into evidence.

17 THE COURT: Any objection to that?

18 MR. HILLARD: Yes, Your Honor.

19 THE COURT: And the ground would be?

20 MR. HILLARD: Chain of custody as to this evi-
21 dence, Your Honor.

22 THE COURT: All right.

23 MR. HILLARD: I would like to cite law related
24 to that.

25 THE COURT: As I understand, it is not the type

1 of -- you haven't provided the chain, and
2 I understand it is not the type of evidence that is
3 functional, such as blood or that type of evidence,
4 but you have to provide a chain of custody of the
5 evidence that is as complete as possible.

6 You haven't got the item back from SLED yet, and
7 where the chain now remains is at SLED. She put it
8 back in their lock-up but we haven't gotten it back
9 from their lock-up, back to here.

10 So I find you have not provided as complete a
11 chain as possible to do. I find you've got a chain
12 up at SLED through the testing and to their lock-up
13 but you haven't got it any further than that.

14 At this point in time, I'm not going to allow
15 it in evidence.

16 MR. HILLARD: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MR. HILLARD: Yes, sir. I would say this for
19 the record, that on some number of occasions Your
20 Honor has made rulings in connection with various
21 matters that we've brought to the Court's attention,
22 and I have asked permission to say something further,
23 and the Court has indicated that once you have ruled
24 that is sort of the end of it.

25 In this particular case, the Court ruled, so I

1 assume that is the end of it as well, Your Honor.

2 The record will bear me out on this, but the
3 Solicitor and the Court engaged in a discussion which
4 seemed to me at least that the Court was sort of tell-
5 ing the Solicitor what it hadn't done, A-B-C and D;
6 just imparting instructions on the next things to do
7 on the evidence in order to get it into evidence.

8 I don't have any particular motion as to that,
9 but this is just for the record as how it struck me.
10 If I am wrong, you can correct me and I apologize for
11 that.

12 THE COURT: Well, I appreciate what you're say-
13 ing, but the purpose of me saying it was to give an
14 Appellate Court a basis or a reason for my ruling as
15 to that point in time.

16 MR. HILLARD: Thank you, Your Honor.

17 THE COURT: Now, the -- there was one matter,
18 Ms. Bass, where you came up and had a bench confer-
19 ence, and you had raised a matter about an objection
20 when the person from SLED was on the stand, about
21 her giving some conclusions.

22 Now, I don't know if that ever made it on the
23 record or not. Do you want to put that on the record
24 At this point in time?

25 MS. BASS: Yes, Your Honor. I approached when

1 Mr. Hixson began questioning the retired Agent after
2 qualifying her as an expert. I objected and told
3 Your Honor that if he asked her anything with regard
4 to, I believe, Number 80 I would object based on the
5 fact that it had been opened -- the package was open.
6 I believe Presnell testified to that, and also Craig
7 Young.

8 I said that if he began to ask her for any con-
9 clusions I was going to object. Your Honor did not allow
10 me -- Your Honor, we approached again and . .

11 THE COURT: Sometime during her testimony?

12 MS. BASS: Yes, sir, and I was objecting to a
13 question as calling for a conclusion from the wit-
14 ness as to Ms. Keri Pope, because I was not allowed to.

15 THE COURT: Yes, maam.

16 MS. BASS: Your Honor, at this point I think
17 -- I wanted that to be on the record.

18 THE COURT: Yes, maam.

19 MS. BASS: Your Honor, while the jury is out,
20 there are a couple of other objections as to Retired
21 Agent Black because she referred to items which are
22 not in evidence and gave conclusions about items
23 of evidence that have not been entered into the Court's
24 record where the chain of custody has not been estab-
25 lished.

1 I think at this point it would be necessary for
2 me to move to strike all the testimony of the retired
3 Special Agent Black because she referred to items not
4 admitted in evidence and gave her conclusions about
5 those items.

6 Those items not been entered into the Court's evi-
7 dence and chain of custody had not been established.
8 My concern with that, Your Honor, is -- I certainly
9 don't want to be a burden on the Court, but in refer-
10 ring to Number 80 -- and these Defendants are on trial
11 for their lives rather than criminal conspiracy.

12 THE COURT: All right, I . . .

13 MS. BASS: Your Honor, also I would move to strike
14 her testimony because even after objecting the Solici-
15 tor went beyond my Cross Examination and went through
16 additional items.

17 He went through evidence again, Your Honor, and
18 I object at this point because what she testified to
19 was opened as Dr. Presnell already testified that it
20 was not what she had, and it would be absurd, we would
21 argue on behalf of our client today, for this woman
22 to testify to what occurs there when she hasn't worked
23 for SLED since 2004, or that this is what she tested.

24 Dr. Presnell testified yesterday to Mr. Hillard,
25 and I can find you that quote, that that was not the

1 way she gave it to the police officer, and that she
2 would not say whether someone has put something in or
3 taken it out.

4 THE COURT: Okay. Well, it's clear it isn't in
5 the same condition as when she gave it to the officer
6 because the SLED agent tested it. So it could not
7 be in the same condition she gave it to the officer.

8 I mean, that goes without saying, so -- but as
9 to . .

10 MS. BASS: Your Honor, just very briefly.

11 THE COURT: All right, do you have another ground?

12 MS. BASS: Yes, sir. Judge, . .

13 THE COURT: I mean, is there some . .

14 MS. BASS: I just want to clarify what I've said
15 earlier. (Counsel and The Court both speaking)

16 THE COURT: Maam, . .

17 MS. BASS: Your Honor, this goes to what the
18 Court has . .

19 THE COURT: That kind -- I'm not going to tol-
20 erate that.

21 MS. BASS: I'm trying to . .

22 (The Court and Counsel both speaking)

23 THE COURT: Maam, I'm giving you an opportunity.
24 Now, your attitude -- I'm not going to tolerate that
25 and I'm not throwing my pencil. I have it in my hand.

1 I'm not throwing it at you.

2 It is how you are presenting your point. If
3 you want to say something, I'm giving you the
4 opportunity to do so.

5 MS. BASS: I would like to say something else.
6 I object to the tone you use with me, and I ask that
7 the tape be preserved. I asked that you recuse
8 yourself.

9 I have handled over nine thousand cases since I
10 started practicing law in 1992, and I've never asked
11 for any Judge to ever recuse himself or herself.

12 As a matter of fact, I have never taken that tone
13 with a Judge ever since I started clerking in 1988.

14 I don't do that. I never have done that.

15 Your Honor, at this point you've raised your voice,
16 you pointed your pencil at me, and I ask that this tape
17 be preserved because when it's in black and white it
18 will not show how you've treated me.

19 I have been nice, professional, kind and thought-
20 ful to everyone in this Courtroom, and I have never
21 been unkind or unprofessional or rude in this Court-
22 house to any person, and I won't, but, Your Honor, I
23 object to how you have just treated me and I want the
24 record to reflect it, because in black and white it
25 won't reflect how you have treated me, the comments you

1 made about Mr. Hillard, how you treated Mr. Locklair.

2 At this point, I move for mistrial because I
3 don't know any way we can continue to go forward, and
4 I object to Your Honor trying the case instead of the
5 Solicitor trying the case.

6 THE COURT: Thank you, maam.

7 All right, what I objected to was the attitude
8 that you displayed by your physical actions and in re-
9 sponse to the Court.

10 That's what I was objecting to, your display of
11 discourtesy. If you like me or not, it has nothing
12 to do with the situation. You must act in a profes-
13 sional manner, and it was my opinion at that point in
14 time that you were not acting in a professional man-
15 ner.

16 As to your motion to recuse myself, I don't be-
17 lieve I have done anything in this Courtroom which
18 would cause the Court to recuse myself. I have brought
19 proper matters to the Attorneys' attention that needed
20 to be brought to their attention.

21 Again, the comment about Mr. Hillard was never
22 meant in a derogatory fashion. He is, and his style
23 of practice is, to be dramatic. It always has been.
24 That's his style. That is not meant in a derogatory
25 fashion.

1 Now, as to the issue you have presented, the rea-
2 son I didn't allow you to ask the question of the par-
3 ticular SLED agent was how you phrased the question.

4 You were asking the agent to draw the ultimate
5 conclusion that was in the province of the jury.

6 You were invading the province of the jury by
7 how you were asking the witness to respond to the ques-
8 tion, so I didn't allow it.

9 As to the Redirect questions, I found those to
10 be proper based on the issues that you raised.

11 As to your motion to strike all or part of the
12 testimony of Ms. Black, I will take that under advise-
13 ment.

14 There is still the issue of whether or not State's
15 80 is going to come into evidence, and it may or may
16 not. I haven't made that decision. I'll be glad for
17 you all to bring that back to the Court's attention at
18 the appropriate time.

19 I do not believe that I have in any way singled
20 you out, acting inappropriately in any way. I have
21 to have to wave my hands around. I have to have my
22 pen in my hand.

23 Whether you took that as pointing it at you, I'm
24 sorry, but that was not the intention of the Court.
25 I take notes as to what's going on in my handwriting.

1 I don't do it by use of a computer, so I normally have
2 a pen in my hand. My habit is to wave my hands around
3 which I was doing.

4 So if that was offensive to you, I'm sorry, but
5 it wasn't meant to be in any fashion.

6 All right. Are there any matters you want to
7 bring to the Court's attention?

8 MR. HILLARD: Things are moving a little fast for
9 me, and I just want some clarification. You said with
10 Agent Brody you didn't allow because it called for an
11 ultimate issue to be decided by the tryer of facts.

12 I just wanted some clarification of that.

13 THE COURT: As to -- it was how she phrased her
14 question. Thank you. That is what I sustained the
15 objection on.

16 MR. HILLARD: I would note for the record that I
17 believe at side bar you said you sustained the objection
18 because you are asking a question that called for a
19 conclusion of fact to be decided by the jury.

20 THE COURT: In the way she phrased the question.

21 MR. HILLARD: Yes, sir.

22 MS. BASS: If I may, Your Honor, . . .

23 THE COURT: Yes, ma'am.

24 MS. BASS: Rule 704 states, Opinion on Ultimate
25 Issue -- testimony in the form of an opinion or inference

1 otherwise admissible is not objectionable because it
2 embraces an ultimate issue to be decided by the tryers
3 of facts.

4 I just want that on the record, and I also would
5 like to say, Your Honor -- I would also like the Court
6 to name on the record every single person that has been
7 present in Court during this -- these matters that we
8 have heard outside the presence of the jury.

9 Your Honor has accused me of being unprofessional
10 and also made a comment whether I like you or not.
11 There is no person on the face of the planet that can
12 say that I have ever said anything about you but a
13 very professional comment. My comments have always
14 been very nice and very positive about you.

15 At this point, Your Honor, you have accused me of
16 being unprofessional, and no one has ever accused me
17 of being unprofessional. At this point, I would like
18 every person in the room to state their name and spell
19 their name for the Court record in case this is reviewed
20 later.

21 If that motion is denied, I would like someone
22 from my office to go around the room and take the name
23 of every person in this room.

24 THE COURT: I will be happy for everybody to do
25 so. All right, let's start with the State. Please

1 state your name, sir.

2 (NOTE: Persons in Courtroom stating their names,
3 with most names being inaudible on tape.)

4 THE COURT: All right, Solicitor. Your next wit-
5 ness, please, sir.

6 SOLICITOR: Your Honor, the State would call
7 Jimmy Burke.

8 THE COURT: All right, sir. Please come forward
9 to be sworn.

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1 JIMMY BURKE, being duly
2 sworn, testified as follows:

3 CLERK: Please be seated and state your name,
4 spelling your first and last names.

5 WITNESS: My name is Sergeant Jimmy Burke, J I
6 M M Y B U R K E.

7 DIRECT EXAMINATION

8 BY SOLICITOR:

9 Q. Good morning, sir. Please tell the jury what
10 you do for a living?

11 A. I'm the sergeant over investigations for the
12 City of Georgetown Police Department.

13 Q. How long have you been in that capacity?

14 A.. Since 2003.

15 Q. Okay, and what part of 2003?

16 A. The beginning of May.

17 Q. Okay. How long have you been a police officer?

18 A. Seventeen years.

19 Q. Seventeen years. So that must mean you were
20 working for the Georgetown Police Department back in
21 May of 2003? May 27, 2003?

22 A. Yes, sir, I was.

23 Q. And did anything of significance occur on that
24 day? Anything of significant interest happen?

25 A. Yes, sir. We had a murder. A murderer out on

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1 the street.

2 Q. All right, and did you participate in that inves-
3 tigation?

4 A. I did.

5 Q. Let me take care of this. I call your attention
6 to around May of 2009 -- May 29, 2009. Did you have
7 an opportunity to come in contact with Keri Fore
8 Pope?

9 A. Yes, I did. Myself and Investigator Lewis and
10 David Altman interviewed her at the police sub-station
11 that night at the housing authority.

12 Q. And please tell us the circumstances surround-
13 ing when you talked to Ms. Pope?

14 A. Well, she was there -- she was interviewed the
15 night that this happened to her husband, and we gave
16 her a couple of days to kind of compose herself, and
17 then we asked her to go over some more of the details
18 of what happened that night.

19 So we had had her come to the sub-station.

20 Q. So at the time that you talked to her was in a
21 couple of days after the murder. Is that correct?

22 A. Yes, sir.

23 Q. How would you characterize her status in the in-
24 vestigation?

25 A. She was a victim. I mean, she clearly was a victim

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1 at that time.

2 Q. Please continue with the circumstances surround-
3 ing the interview.

4 A. Okay. I brought some notes just to refresh my
5 memory so I could go chronological with the interview.
6 Do you want me to talk about the interview in general
7 or . .

8 Q. No, just let me ask some questions to get to the
9 point.

10 Did you mirandarize her at that time or give her
11 her rights concerning . .

12 A. No, sir. She was a victim.

13 Q. Did she come in of her own accord?

14 A. She did.

15 Q. And did she cooperate with you during the course
16 of that interview?

17 A. Yes.

18 Q. Okay. Let's talk about -- let me ask you this.

19 Was that interview memorialized in any way?

20 A. Yes, we recorded it on audio recorder. We didn't
21 have a video camera to do it so we audio-recorded it.
22 It is all recorded.

23 Q. And do you know whether or not that audio record-
24 ing has been transcribed?

25 A. Yes, it has.

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1 Q. Let me show you what has been . .

2 SOLICITOR: This is marked only for identifica-
3 tion at this time, Your Honor. That's State's 15 for
4 ID only.

5 BY SOLICITOR:

6 Q. See if you recognize that, Mr. Burke?

7 A. Yes, that is a transcription of the interview.

8 Q. Okay.

9 SOLICITOR: If Your Honor please, I believe De-
10 fense Counsel will stipulate to the accuracy of this
11 transcript.

12 THE COURT: Is that correct, counselor?

13 MR. HILLARD: That is correct.

14 THE COURT: Mr. Locklair, I'm sorry but I didn't
15 hear you.

16 MR. LOCKLAIR: That's correct, Your Honor.

17 THE COURT: Thank you.

18 Q. Do you have a copy of the typed transcript?

19 A. Yes, sir, I do.

20 Q. Is this the same exact copy of the transcript?

21 A. Same exact copy.

22 SOLICITOR: Your Honor, I would hand to the Court
23 State's 15 in case you wish to review it.

24 THE COURT: Yes, sir.

25 Q. During your discussions with Ms. Pope, did she

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1 tell you, I guess, her version -- did she tell you --
2 what did she say happened that night?

3 A. . . .

4 Q. I believe at the beginning of the interview --
5 what did she say transpired before Mr. Pope being
6 killed? Prior to Mr. Pope being killed?

7 A. We started from her picking him up at work at
8 the detention center a few minutes after six o'clock.
9 She said that they left the detention center and went
10 down Brick Chimney Road; that at a stop light at his
11 mother's house and they decided or he decided halfway
12 there that he didn't want to stop, so they went to the
13 house. As they pulled up in the driveway he decided
14 he wanted to go to WalMart to get a video game at the
15 Blockbuster in the bottom of WalMart.

16 So they went directly -- without going in the
17 house they went directly to WalMart and went in the
18 store and walked around a little bit.

19 Q. Did she give you any indication as to what time
20 she said she picked Mr. Pope up?

21 A. She said it was a few minutes after six; that he
22 gets off at six o'clock and it was a few minutes af-
23 ter six o'clock.

24 Q. Please continue with what she said happened after
25 they got to WalMart.

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1 A. She said that they were in WalMart approximately
2 twenty minutes from the time it takes to leave the de-
3 tention center, so approximately six fifteen to six
4 thirty or somewhere around there.

5 They walked around the store for a little while,
6 bought a ball for their daughter, and then they went
7 to Blockbuster in the front.

8 She spoke to a friend of hers who worked there,
9 and Joey rented a game.

10 Q. Do you remember who that friend was?

11 A. I believe it was Tiffany. Yes, her best friend,
12 Tiffany.

13 Q. You can read it off that transcript if you wish
14 to.

15 A. Yes, it was Tiffany. She stated it was her best
16 friend, Tiffany, who worked at Blockbuster.

17 Q. Does it indicate whether or not they got in a
18 little bit of a discussion about any other items that
19 Keri wanted him to get for her?

20 A. Yes, she said when they got into the store she
21 had asked him to put some money down on her layaway.
22 She had a bathing suit or something on layaway, and,
23 of course, he said, no, I can't help you with that,
24 there in the store.

25 Q. Okay. At some point in time, did they leave the

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1 store?

2 A. They left the store and she said they got home at
3 approximately around seven o'clock or seven fifteen,
4 and she stated that she made him some sandwiches --
5 two ham sandwiches to be exact, one with pimento
6 cheese on it, which kind of stood out to me.

7 And she said that he ate and then he went in and
8 began playing his game and she watched TV in the
9 kitchen.

10 She told me exactly what time she was watching
11 TV. She told me it was at seven fifteen to seven
12 twenty, and she knew that because the Simpsons were
13 on that had started at seven o'clock, and she said it
14 was about halfway through that, so she watched the rest
15 of the Simpsons and then King of the Hill which is the
16 show that came on afterwards at seven thirty, and she
17 said she watched there in its entirety.

18 So it was eight o'clock when she finished watch-
19 ing TV.

20 Q. And at that time, did Ms. Pope say there was a
21 knock on the door?

22 A. Yes. It was after King of the Hill. Right
23 shortly after eight o'clock there was a knock at the
24 front door, and she went up and there was two black
25 males at the front door. She opened the door and saw

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1 someone that she knew from school named Germane, and
2 she talked to him. He didn't realized she lived there.
3 They had a conversation -- I didn't know you lived
4 here.

5 They were interested in looking at the truck
6 that they had for sale, so she went in and got Joey
7 who had been playing the game; said, there's two guys
8 here who want to look at the truck you have for sale;
9 can you come out and show it to them?

10 So Joey had taken off his uniform from the jail,
11 but it was right there with him. He pulled up his
12 uniform pants and threw on his, his uniform shirt,
13 but didn't button it up, and walked out front and
14 told her to stay in the house but she didn't. She
15 went out on the porch, she said, to have a cigarette,
16 I believe.

17 He showed the car and tried to get it cranked;
18 it took a few times to crank. She at one point went
19 back in because her baby was in the house. So she, I
20 guess, was going back and forth and checking.

21 And they looked at the car and when they left the
22 two of them walked back in the house and had a brief
23 conversation.

24 Q. Who is they?

25 A. Joey and Keri went back in the house and he told

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1 her he needed to park his car inside the fence, and
2 she asked why, and he said, because them boys asked
3 me if I wanted to buy a CD player or something to
4 that effect, so he thought that they might come back
5 and steal the stereo out of the car.

6 And at that point she believed he went to bed.

7 Q. Okay. What time period are we talking about when
8 these men or this Germane came over to the house?

9 A. Eight o'clock.

10 Q. And did Keri tell you what she did after that?

11 A. He went in to bed, and she believed she finished
12 cleaning up. She was cooking pork chops and feeding
13 herself and the baby.

14 She went in and tried to mess with him in the
15 bedroom to get him to get back up and he didn't want
16 to, so he pretty much told her to get out of the room,
17 and at that point she came back out.

18 A time frame went by and the next time frame she
19 received a phone call.

20 Q. Was there any discussion about -- let me refer
21 you to page eleven of the transcript. See if you can
22 find a specific time at this point.

23 A. Yeah. She said she received a phone call from
24 Shane Prince which was Joey's first cousin, and it was
25 nine thirty-five or maybe nine forty.

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1 She went in and told Joey that Shane was on the
2 phone; do you want to talk to him. Joey was asleep
3 at this point and he kind of waved to her and said,
4 tell him to call me back in thirty minutes.

5 So she went back and told him to call back. She
6 said he called back in less than thirty minutes. She
7 gives the time he talked to Shane at ten twenty, so
8 she said he called back a second time and she took
9 the phone in and gave it to Joey; said, here, talk to
10 him; if you don't talk to him he'll keep calling back.
11 She said he talked to him for about a minute and then
12 he rolled over and went back to sleep.

13 Q. So at that point in time -- what did Ms. Pope say
14 the time period would have been at this time?

15 A. She said Joey talked to him at ten twenty.

16 Q. Okay. Did she give any indication as to how long
17 that conversation lasted?

18 A. She said it was only about a minute. He only
19 talked to him about a minute and then hung the phone
20 up and went back to sleep.

21 Q. And does the transcript indicate what she did
22 after that?

23 A. Yes. At ten thirty she put the baby down to go
24 to sleep, and then at about ten minutes later or ten
25 forty she went to take the trash out. She took it out.

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1 She was in the front -- took it through the front which
2 she normally goes out the side but this time she went
3 out the front to take the trash.

4 She walked out the front and that's when she saw
5 Chris and Nick riding by in the car.

6 Q. Who is Chris and Nick?

7 A. According to the transcript, it was Chris Miller
8 and Nick Lambert.

9 Q. Okay.

10 A. She wasn't sure of Nick's last name and she said
11 he had a goatee, and we suggested it was Lambert or we
12 asked her if it was Lambert, and she said Nick Lambert.

13 Q. Okay. What specifically did she say happened, on
14 page twelve? Read that to us.

15 A. Okay.

16 Q. When you asked about the time.

17 A. Her first response was, yeah, it had to be around
18 -- yeah, around ten thirty -- around somewhere -- I
19 walked outside and lit a cigarette. She said she
20 opened the gate to the front yard to walk through the
21 front yard, and that's when Nick and Chris rode by.

22 Q. All right.

23 A. Then I asked her, I said, let me ask you this.

24 When you were out there, did you go out the side door
25 or the front door, and her response was I went out the

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1 front door. Her response was, I went out the front
2 door. I said, okay, and she stated, I walked right
3 in front of the house and got the trash, and my response
4 was, and pulled it out front -- just trying to clarify
5 which door she went in and out of.

6 She stated, yeah, because it sits right there be-
7 side the side door, and I said, okay, and you saw Nick
8 and -- she said Chris rode by and Chris yelled, and I
9 asked, who is Chris.

10 She said, Miller, and my response was Chris Miller,
11 okay, and she said uh huh.

12 I asked, who was driving, and she said Nick -- that's
13 his Jimmy, and then . .

14 Q. That's fine. Go to the second entry from the bot-
15 tom. Pick up at that point.

16 A. Yeah, Chris yelled something and I just kind of
17 like looked, and, you know, waved; threw my hand up at
18 them, and I kind of looked, because I'm like, are you
19 going to turn around, because I wanted them to turn
20 around so I could get Joey up out of the bed.

21 I turned around and I locked the fence. (Reading
22 from transcript of statement)

23 Raven is outside in the yard with me and I locked
24 the fence; I tell her to go to the bathroom; she goes
25 to the bathroom, and I put the cigarette out and walked

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1 in the house. I locked the door, the front door, and
2 I leave the light on because, you know, I'm going to
3 go back out there and smoke a cigarette anyway.

4 Q. Okay. Just the next point.

5 A. Okay. Then she goes, I can't remember if I went
6 in the kitchen or -- I'm sorry -- I'm trying to think
7 if I went in the kitchen and picked up my plate and
8 stuff and threw it away. Then I went in the den and
9 sat down in the recliner and started playing the Play
10 Station.

11 My response was, okay, how long were you in there
12 before you heard the knock, and her response was, like
13 ten minutes.

14 Q. Okay. So based on that statement it was your un-
15 derstanding she indicated that she took the trash out
16 around ten thirty. Is that right?

17 A. Yes.

18 Q. And the knock was something like ten minutes after
19 that? Is that your understanding of it?

20 A. Yes. At ten forty she saw Nick and Chris and came
21 in directly after that.

22 Q. Tell us what she said happened after that?

23 A. She said she went in, sat down and played the
24 Play Station for about ten minutes, and that's when she
25 heard the knock on the side door.

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1 She said she got up and just putting it into words
2 -- she assumed that it was Chris and Nick coming back
3 to see her. She went to the door and she looked out
4 the peephole. Chris was standing by, and she said,
5 who is it. Nobody answered, so she said she turned
6 and put her foot in the door,
7 off the deadlock/and opened it up and stuck her face
8 out, and when she did she saw a black male standing on
9 the step, the little one step.

10 She said it caught her off guard because she was
11 expecting it to be Chris.

12 Q. Did she indicate anything about that area of the
13 house as far as light?

14 A. She said that part of the house was lit; that
15 there is a chiropractor's office next door that abuts up
16 to the parking lot. He has a big overhead light that
17 lights up the whole parking lot, and that lit up the
18 part of her house.

19 Q. Okay. I think you indicated earlier that she
20 thought it was Chris and Nick coming back?

21 A. Yes.

22 Q. Does she indicate whether or not she had ever seen
23 these two individuals before?

24 A. She said she had never seen these two guys before.

25 Q. Okay. On the third line from the bottom, does
26 she indicate whether -- except for Mr. Germane Jenkins

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1 who had come by to look at the truck, did she indi-
2 cate whether anybody else had been by to look at the
3 truck or been by the house that day?

4 A. I'm sorry. What part of this is that?

5 Q. Let me just direct your attention to the fifth
6 line from the bottom where you ask the question about
7 whether anybody else had been around the house that day?

8 A. Okay., Yeah. I asked her -- I said, and I'll read
9 directly -- when he said we had talked to him earlier,
10 could it have been the same guy that was with Germane
11 earlier? Don't you think it's kind of weird that he
12 said, we talked to him earlier, when somebody actually
13 did talk to him earlier about the truck?

14 That's the first thing the guy at the door had said,
15 that they were there to see -- we kind of skipped the
16 point where he said they were there to see, and they
17 couldn't give a name, and she said, you know, are you
18 here to see about the -- and they said, the truck; the
19 truck that's for sale; we've been wanted to see it.

20 So she said to them, what do you want, and they
21 wanted to talk about the truck.

22 Then at that point I asked her if she -- she knew
23 Germane but didn't know the guy with Germane earlier,
24 and I asked her, could it have been the same guy that
25 was with Germane earlier looking at the truck, and

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1 she said that it wasn't. She didn't get a good look
2 at him, but she had never seen these two guys before.
3 That's what she said.

4 Q. Did you also ask -- I believe the third line from
5 the bottom . .

6 A. Yeah, but that was the only people that came to
7 the house that day, and she said, yeah.

8 Q. Referring to the two fellows who came earlier?

9 A. Two fellows that came to look at the truck.

10 Q. At that point in time, did you ask whether or not
11 these individuals wore any disguise of any kind?

12 A. I did. I asked for a description of the guy. She
13 said she really couldn't see the second guy because he
14 was kind of in the shadow behind the first guy, but as
15 to the first guy she said he had a round face, not --
16 he was not skinny but not fat; kind of a baby face with
17 not a real big head.

18 And she kind of described not a big head, not a
19 little head, kind of an in-between head.

20 Q. If you could just read that last line on the
21 page there? That would take to the middle of the next
22 page.

23 A. The one that shot Joey was the boy that was tall;
24 he had like a round face. It was kind of like -- it
25 wasn't skinny, it wasn't -- it was kind of like a baby

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1 face; kind of like not real big head; not a little tiny
2 head. I didn't mean -- I don't really -- and I asked,
3 was he wearing a hat. I don't think so. I mean, I
4 don't remember him wearing a hat, no.

5 I said, do you remember what his hair looked like?
6 Was it nice looking hair or was it kind of scruffy
7 looking, or was it right tight, short? You've seen
8 black guys' hair, the way they do it.

9 She said, yeah, I thought it was -- I thought it
10 was short and tight but I got to thinking about it last
11 night and he could have had hair, and Mr. Lewis said,
12 he could have had hair -- question -- and she said, I
13 mean I don't -- not long hair but he could have had a
14 little bit of hair. I mean, I don't know. It wasn't
15 long; it wasn't like a big furl, you know; it wasn't,
16 you know, in braids; wasn't corn-rowed. It -- I mean,
17 he could have had a little bit of hair.

18 I asked, what about facial hair, goatee, mustache,
19 and her response was, I don't remember. I asked about
20 glasses, and she said he didn't have glasses.

21 I asked if they were fat dudes or skinny dudes --
22 about medium. I asked about his teeth, you know, when
23 he talked to her, and she said she had never seen his
24 teeth. So I asked her again -- you never seen his
25 teeth while he was talking, and she said, he never --

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1 -- he just -- I mean, just no expression, nothing.

2 Q. Okay. Please tell us what she said transpired at
3 that point from when she went to the door.

4 A. Okay. She stated that when they asked about Joey --
5 where he was -- if she was home by herself, she said,
6 no, he was asleep, and the guy said good, and he then
7 reached in, in the door, with his left hand and grabbed
8 -- started pushing on the door.

9 She was trying to push it back and she said her
10 dog was there barking. She never yelled, and that
11 was one of the questions, if she ever yelled, and she
12 said, no, she never yelled; that she was concentrat-
13 ing on keeping the door closed.

14 She said he pushed his way in and he grabbed --
15 she had on a low cut shirt, and she said he grabbed
16 the necklace that she had around her neck and pulled
17 her back with that; that he then pushed her back into
18 the house with it before it broke, and her -- him and
19 her went down the hallway, and she said she didn't
20 feel like she had met him; she didn't know if he knew
21 where the bedroom was; she didn't know whether she had
22 led him to Joey or if he had led her to Joey, where
23 he was in the bedroom asleep.

24 She said as she's walking in the doorway of the
25 bedroom she flips the light on and yells, Joey, get up.

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1 She starts screaming at him to get up, and she said
2 that Joey wakes up and kind of turns over, puts his
3 hand up to kind of block the light, the light in the
4 bedroom when someone has been asleep, and she said the
5 guy stepped beside of her, fired a shot into the stom-
6 ach. She said Joey rolled over and grabbed his stom-
7 ach.

8 He fired a second shot in the stomach and the end
9 of the bed. She said that he just very slowly walked
10 his way around the bed, and she said at that point --
11 she said he was sleeping on his stomach originally.

12 She said he walked around the left side of the bed
13 and through the mess in the room, and she said he shot
14 him three more times in the head.

15 She said he just nonchalantly walked up and fired.
16 She said she saw the bullet go in his head from that
17 point blank range.

18 She said after the second shot in his head she
19 heard a gun out in the hallway go off, and so she then
20 looked and the other guy was shooting the dog out in
21 the hallway.

22 She said that he was just lifeless, and she said
23 that she knew that at least one more shot was fired in
24 Joey's head.

25 She said there were two shots from the bottom of

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1 the bed and three rounds in the head at point blank
2 range, and she said the guy in the hallway shot five,
3 six or seven times at the dog. She said when he got
4 finished in the room with Joey he walked out right past
5 her and didn't say a word to her; walked down the hall-
6 way, told the other guy, come on; we've got to go.

7 At that point, she offers what money she has;
8 says, take what you want because she thought he was
9 going to look through the rest of the house. She said
10 they just nonchalantly walked straight out the door,
11 out the side door.

12 Q. What did she do once they walked out the door?

13 A. She was a little confused. She said she didn't
14 know if she ran back to Joey first or if she picked
15 up the phone and dialed nine one one.

16 She said she picked up the phone and dialed nine
17 one one, and then she waited and decided to go get a
18 gun in the kitchen closet or medicine cabinet, so she
19 went and got it out of there, and she locked the slide
20 and a bullet ejected; she locked it again and another
21 bullet ejected, and she went to the door to see if they
22 had got away and never saw them.

23 So at that point she said she believed she picked
24 up the phone and dialed nine one one and either hung
25 up or got disconnected, and she ran back to the room

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1 where Joey was at and found a cordless phone and she
2 dialed nine one one, or nine one one called back because
3 she had hung up, and that's when she got the actual
4 dispatcher.

5 Q. At some point in time did she tell you that law
6 enforcement arrived?

7 A. She did. She said that the dispatcher tried to
8 keep her on the phone but she doesn't believe -- she
9 doesn't remember if she did but she doesn't believe
10 she stayed on the phone.

11 She said that two officers pulled up out on the
12 street. They parked out there looking for the residence,
13 and she said she screamed, in here, and two officers
14 came running across. She went out and screamed, in
15 here, and two officers came running across, and she
16 told them, my husband's been shot; he's in the bedroom,
17 and the officers went down the hallway to him.

18 I don't know if she offered them a description,
19 but at that point they were more concerned with getting
20 back to Joey.

21 Originally I think they were coming to what they
22 thought was a fight, and, of course, when she said my
23 husband's been shot then a whole different level of
24 -- they went in the house to check on him.

25 Q. I direct your attention to what Ms. Pope said on

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1 page 20 of the transcript. Did Ms. Pope indicate whe-
2 ther or not she relayed that story to the two officers,
3 and I'm referring specifically to where he was asking
4 her about . .

5 A. Did he say anything about the door?

6 Q. Go two lines up and . .

7 A. What's the other guy doing? He's helping push
8 -- was he helping push the door, and her response was,
9 I don't know; I didn't see the guy. I mean, I don't
10 know if he was just standing there or what, because
11 whenever he and I -- and if I just let go of the door
12 he grabbed me by my neck, and Raven is just sitting
13 there barking. She's barking like crazy and she's not
14 trying to jump on the door or nothing -- just barking.

15 And I asked, did he say anything to the dog, like
16 get the dog away or I'll shoot it, or -- and she said,
17 no, they didn't say nothing about the -- Raven wouldn't
18 bite. Raven was just barking like this, you know, and
19 pouncing, you know -- you know how they just hop up
20 and down. She was showing us at that point, and I say,
21 excuse me, okay, so he's pouncing up and down and the
22 guy has still got ahold of you, and then what, and she
23 said . .

24 Q. Keep going. I'm sorry.

25 A. He had me by the neck and he just -- I don't know --

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1 I mean, he was just -- he like -- he wasn't done with
2 where he was going -- like he didn't know where he was
3 going, but I was trying to get to Joey too.

4 Like, I mean, he didn't tell me -- show me where
5 he's at.

6 I said, did he shove you down the hallway, and
7 she said, he might have.

8 Q. On page 22 -- I believe you've already testified
9 they then just walked out of the house?

10 A. Yes.

11 Q. On page 23, third line down, that comment there.

12 A. Ms. Pope says I walked over there and I pulled
13 it out of -- I mean, I was just shaking. I pulled it
14 out. I always told Joey don't leave the gun loaded, and
15 I never -- I don't like loaded guns. He always kept
16 it loaded but on safety, and I took the safety off and
17 pulled it back and a bullet popped out and it got on
18 two bullets that was going into the chamber that got
19 jammed.

20 So I had to pull it back again and popped another
21 bullet out, and whenever I did that I opened the door
22 outside, you know, to go after them if they were there,
23 and they were gone.

24 I mean, I walked out about halfway towards the
25 ground and looked around and didn't see nobody.

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1 I walked back in the house and I dropped it right
2 there -- on the side of the counter right there and my
3 phone rang and it was nine one one, and I told them . .

4 Q. All right, go to page twenty-three -- read that
5 what Ms. Pope responded. I believe you asked her what
6 happened when law enforcement officers got there.

7 A. Are you talking about when I asked about the guns
8 out?

9 Q. That reference to the responding officers.

10 A. I asked did the officers have their guns out, and
11 at first she said, no, I don't think so, and that when
12 she walked out the door she just started screaming help
13 and they started running over there.

14 And I told them, you know, go help him; they shot
15 him, you know, and then they run in there and the white
16 cop with the brown or blond hair -- I can't remember --
17 they run into the bedroom, and he asked the other cop,
18 you got a pair of gloves, and I said, I got gloves
19 right here, Joey's gloves in his pouch in his back
20 pants, and I grabbed it and said, here, here's the
21 gloves, put them on; and he said, I need you to come
22 over here because I need you to breathe for him, and,
23 I mean, he already had blood coming out of his nose and
24 ears, and I asked was he still moving; no, he wasn't
25 moving at all.

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1 Do you want me to go on?

2 Q. Please.

3 A. Okay. All right, so now what? You were breath-
4 ing for him and the other guy was doing -- she said,
5 he told me he was going to pump his chest five times
6 and I want you to breathe hard for me once or twice.
7 I said, okay, pump his chest, and every time I'd breathe
8 he'd go, and she made a sound, right back out, and I
9 think I did that like five or maybe six times, and the
10 last time I did it, I mean, whenever I blew the last
11 time it seemed like a little -- like a bunch of liquid
12 was coming out of his nose and out of his mouth, and
13 I told him, I can't do this, and I stood back off of
14 the bed, and that's whenever EMS walked into the bed-
15 room.

16 Q. Keep going, please.

17 A. And then, I mean, I walked back outside, and I was
18 like, I can't -- I walked through the hallway and they
19 were like, we need you to walk outside, and I was like,
20 my baby is in the bedroom asleep, and my response was,
21 the baby didn't wake up through all the gunshots or
22 anything, and Ms. Pope said, she woke up after I walked
23 out of the house. They brought her out to me after I
24 was talking to the officers in the parking lot.

25 Q. And if you would read your question to Ms. Pope

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1 in the context of four o'clock in the morning?

2 A. I said, okay, why do you think they didn't or
3 weren't scared of the dog barking at them? I mean,
4 that's a pretty good-size pitbull.

5 Her response was, I don't know. I thought about
6 that, and my question was, you know, jumping around,
7 barking, and she responded, I think that is why -- I
8 think she might have bit him or she might have tried
9 to bite him. That might have been why he started to
10 shoot her, Raven.

11 Q. All right.

12 A. She said, she was constantly barking or whatever,
13 and she has never bit anybody except when she was a
14 little tiny pup. She never bit anybody.

15 Q. Okay.

16 SOLICITOR: Beg the Court's indulgence for a
17 moment.

18 (Brief pause in the proceeding)

19 BY SOLICITOR:

20 Q. To go back, when she said the man walked around
21 the house, did you ask her any questions in that re-
22 gard?

23 A. . .

24 Q. I'm specifically pointing to questions you asked
25 her in the second line from the top of the page on

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1 page thirty of this transcript.

2 A. Okay. Yeah, my question was, when the guy fin-
3 ishes his last shot and he walks by you, does he look
4 you in the face when he walks by you? Does he say
5 anything or does he mumble anything or look at you like
6 wild-eyed or anything, and her response was, if he did
7 I didn't see him. I mean, I don't remember him looking
8 at me. I mean, my attention was like this -- when
9 he walked past me he kind of brushed my arm like that.
10 I mean, not -- you know, I mean, he just kind of brushed
11 my arm and I turned around and the other guy was still
12 shooting Raven, and he grabbed his arm and said, come
13 on, you know, come on; and the man -- because the man
14 was just sitting there shooting the dog and that's
15 whenever I told him, you know, I got more puppies
16 right in here; you all take the puppies, because I
17 thought they was about to go through the house and my
18 wallet and pocketbook was sitting there anyway right
19 on the bar.

20 I mean, my wallet and my pocketbook, Joey's wal-
21 let, were all sitting right there on the bar. My bar
22 was cleaned off, and, I mean, my keys and everything
23 was just sitting right there.

24 My question was, and they didn't touch nothing,
25 and her remark was they didn't touch nothing. They

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1 just walked out the door.

2 Q. Okay. On page 31, you specifically asked her a
3 question relative to at what point in time her necklace
4 came off?

5 A. Yes..

6 Q. You asked her about that?

7 A. Yes.

8 Q. And did she answer those questions, and are her
9 answers contained in this transcript?

10 A. Yes, they are..

11 Q. What did you ask her about the necklace coming
12 off? Six lines from the bottom.

13 A. Did the necklace feel like he was choking you, I
14 mean, or did it just -- I mean, did it feel like it
15 popped just as soon as he yanked on it, and her
16 response was that whenever he yanked on it and walked
17 into the house is where it popped.

18 She tried to yank like this, this way, and that's
19 whenever it popped.

20 Q. And did you ask her questions relative to turn-
21 ing on the lights?

22 A. Yeah, why did you cut the light, and he response
23 was to get Joey up because whenever I turned that light
24 --whenever I cut that light on he'd wake up.

25 I asked her when he walked her back to the bedroom

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1 like he was pushing her or he knew where the bedroom
2 was or how did that happen, and she stated he wasn't
3 following behind me. He was right -- I mean, right
4 here, you know. I wasn't leading him into the bedroom.
5 She said she was trying to get to Joey but then again
6 he was right there like he knew where he was going.

7 She said, I mean, I wasn't trying to, you know,
8 break free, and I put in, you mean, he was pushing
9 you and the dog didn't go after him when the dog saw
10 him pushing you around or shoving you or anything like
11 that, and her response was, she won't do that.

12 Q. Was there a conversation about what door they nor-
13 mally used?

14 A. Yeah, I had asked her when people come to visit
15 you where do they normally come, and she said, the
16 side door because the parking lot is right there.

17 She said unless someone was coming to look at the
18 truck. They would come to the front door but most of
19 their friends would come in the side.

20 Q. Okay. Let me show you a photograph.

21 SOLICITOR: Your Honor, I'm showing him what has
22 been marked as State's Exhibit 22, and that is slide
23 S-three.

24 BY SOLICITOR:

25 Q. Do you recognize that?

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1 A. That would be the side of the house -- the far
2 side of the house that the truck was on.

3 Q. Okay, let me draw your attention to -- are there
4 questions that you asked her about the
5 doors to the house?

6 A. Yes.

7 Q. Please refer to page thirty-three.

8 A. I asked her about the doors to the house, and
9 she had told me that the door, the one you just showed
10 me a picture of, was nailed shut because they had been
11 burglarized back in, I believe, January, and some guns
12 were stolen, so Joey got mad and nailed the door com-
13 pletely shut.

14 Q. I'm sorry. Go ahead with the bottom of the ques-
15 tion.

16 A. The door was nailed shut. When they broke into
17 the house, that door had a deadbolt lock on it. She
18 said Joey had nailed it shut and excluded the kitchen
19 door.

20 I said, did anybody know that the door had been
21 nailed shut in the house -- any of his friends or bud-
22 dies that used to come by the house, and her response
23 was the only people that know that door was nailed shut
24 is me, Joey and Chris and Kayla.

25 Q. I asked her who was Kayla, and she said Kayla was

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1 her best friend. One of her friends.

2 Q. At some point did you ask her why she opened the
3 door when she didn't know who was on the other side?

4 A. She just -- she said that she assumed it was
5 Chris who had come by the house with Nick.

6 Q. All right.

7 A. I asked if Chris had done that before, and she
8 said he had done that before and that he didn't answer
9 the first time but when she asked the second time he
10 said to open the door.

11 SOLICITOR: Beg the Court's indulgence for a mo-
12 ment, Your Honor.

13 (Brief pause in the proceeding)

14 BY SOLICITOR:

15 Q. Did she ever indicate to you anything about the
16 person who had come in and shot the dog?

17 A. She did not. I don't recall her giving me a de-
18 scription of him. She had given a description to In-
19 vestigator Altman so I didn't go over as much the de-
20 scription with her. I was bringing out parts of her
21 story that I needed clarification on.

22 Q. Okay. Let me ask you this question. Did she in-
23 dicate or did you ask her assistance with the weapons
24 or a description of the weapons that were used, the
25 guns?

SGT. BURKE ON DIRECT

1 A. Yeah, that was one of the things that I had ques-
2 tions about because when she had called it in, she
3 called in that the guy that had shot her husband used
4 a small caliber handgun. It kind of was weird to me
5 that someone would say a small caliber handgun who was
6 in that type of situation where you had witnessed this
7 traumatic experience with guns and things like that.

8 For someone to say a small caliber handgun, it
9 really floored me, so I particularly asked about that,
10 about why she used the term rather than saying just it
11 was a small gun or black gun or silver gun.

12 I asked her why she said that, and she tried to
13 explain she has been around guns; that Joey's dad had
14 a gun; that she had talked to her father about what
15 kind of gun he thought it might have been on the phone
16 the night before I talked to her.

17 She said they were talking about a twenty-two as
18 opposed to a twenty-five, and she doesn't know why she
19 said caliber. She didn't remember saying it.

20 Q. Did you have any other involvement with this case
21 after you took that statement from Ms. Pope?

22 A. I was just -- I was in charge of investigations,
23 so I kind of oversaw what the investigators did in the
24 case.

25 I wasn't too directly involved in too many other

SGT. BURKE ON DIRECT

1 things that might be needed because at that time we
2 had David Altman and Dusty Morris, and we had a brand
3 new investigator, Steven Church. In fact, the day
4 this happened was his first day in investigations.

5 So David was kind of given the case to run with
6 with Mr. Morris' assistance, and he could come to me
7 and say, hey, I need this or I need that and I would
8 make it happen for him to try to give him the resources
9 that he needed.

10 So they kind of reported back to me on a regular
11 basis as to where they were at in their investigation.

12 Q. At some point in time, did you -- you can't give
13 an opinion, but based on your conversation and going
14 through this interview with Ms. Pope, did you feel like
15 there were questions that needed to be resolved based
16 on the interview?

17 A. There were things that as an investigator bothered
18 me in this case originally. No gloves, and I asked
19 her about if the guy was wearing gloves -- he was not
20 wearing any kind of gloves. No masks. They walked in
21 with their faces shown to the victim to do what they
22 had supposedly done.

23 The dog there at the door, you know, barking at
24 them and they walked right by the doorway there.

25 These are just things that to me seemed a little

SGT. BURKE ON DIRECT

1 bit strange. They didn't threaten her other than when
2 they were coming in the door. She said they may have
3 made a threat while opening the door.

4 They killed her husband right there in front of
5 her and never made any threats to her. Thinking about
6 it after the fact, that seemed kind of strange.

7 Q. Let me ask you this. At some point in time in
8 the interview, did she indicate to you that she had
9 heard someone matching the description was seen in the
10 area a couple of days after the killing?

11 A. Yes, she said toward the end of the interview as
12 we were getting ready to close it -- she said, did you
13 all catch those guys that I called in the other night
14 about. I said, what are you talking about, and that
15 was the first I had heard about it.

16 She said she was at the Citgo station and there
17 were two black males standing at the gas station that
18 looked like the guys that may have done it. I told
19 her I didn't at that point but I would check on it and
20 find out, follow up to find out.

21 She said she had called it in on nine one one,
22 and if we needed to ask her mother about the informa-
23 tion -- I believe she was on the phone with her mother
24 at the time, and that we could get a time frame as to
25 when it was.

SGT. BURKE ON DIRECT

1 Q. Okay.

2 A. So I gave that to Steven after the interview, and
3 he followed up on it the next day.

4 Q. And specifically how far would you say is the gas
5 station she was referring to from her house? Do you
6 have ...

7 A. A couple hundred yards.

8 Q. A couple hundred yards?

9 A. Yes.

10 Q. And this was two days after the murder took place?

11 A. Correct. She said, did you all go out there last
12 night, and I said, out -- she said the guys that were
13 walking across from Citgo. I told her, I don't know
14 what you're talking about.

15 Then she said me and my mother were going to Chili's
16 last night and I about run them over. They were walk-
17 ing and I couldn't see them walking in the middle of
18 the road, and that it was guys about the same height
19 and everything; one had on a black shirt but it was
20 like a jersey shirt.

21 She said the other guy was skinny and had on a
22 pullover but the hood was up. I mean, I could see --
23 he was second and I about hit the one in the jersey. I
24 couldn't see him walk across the road and I slammed on
25 the brakes.

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1 The other one had on a hood but I could see here
2 and here but not here. It was like twigs -- like
3 dreds or something. (Reading from report)

4 She said the one with the hoody had a goatee and
5 like Snoop Dog braids. My response was, okay, did the
6 guy have a goatee that came to your house, and she
7 said she didn't remember.

8 She said they were walking from Citgo to Exxon,
9 and I said, Angler's, right here, and she said, yeah,
10 the one over here.

11 Right by your house? Yeah, the one by my house.
12 So I told her at any time in the future you see any-
13 body that you think is them, let us know or call nine
14 one one.

15 SOLICITOR: I have no further questions of this
16 witness, Your Honor.

17 THE COURT: All right, Cross Examination.

18 MR. HILLARD: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. HILLARD:

21 Q. And when did this murder occur if you recollect
22 exactly?

23 A. On the 27th.

24 Q. About what time?

25 A. I don't have the exact time, but I believe it was

SGT. BURKE ON CROSS

1 -- I don't know what the time was but I believe it was
2 eleven thirty P.M.

3 Q. All right, sir, and so the next day would have
4 been the 28th? Joey died at the hospital on the 28th
5 or that's when they pronounced him dead?

6 A. Yes.

7 Q. And did you participate -- did they call you on
8 the 27th?

9 A. Yes, sir. I was about the last one to get to the
10 scene.

11 Q. Do you remember an armed robbery that took place
12 blocks from there that night?

13 A. All I know is that one of the investigators had
14 got called in -- Taft, I believe it was -- for an armed
15 robbery and was out on the scene.

16 Normally when they get called out they get to a
17 point where they can fill me in on details about what
18 went down, so at that point I didn't have more informa-
19 tion.

20 Q. And was the armed robbery about five blocks away,
21 if you remember?

22 A. As far as I remember.

23 Q. All right, sir. In this interview, my copy says
24 Investigator Morris was at the scene. That's a scribe-
25 ner's error and it was not Investigator Morris?

SGT. BURKE ON CROSS

1 A. No, sir.

2 Q. All right, sir, and it starts out -- do you have
3 your copy there with you?

4 A. Yes, sir.

5 Q. It starts out today is May 29th, so this would
6 be the next -- if Joey were at the hospital being pro-
7 nounced dead on the 28th, that would be the next day
8 after that?

9 A. Yes, sir.

10 Q. And it is approximately ten O five A.M., and at
11 this point you all had called Keri in to speak with
12 her in more detail to try to investigate this case,
13 to try to find who did this. Correct?

14 A. Yes.

15 Q. Dave Altman was there and Tracy Lewis from the
16 Sheriff's Office was there?

17 A. Yes.

18 Q. And the quote is, look here, Keri. What we're
19 going to do, we're going to start off and we're going
20 to take you back to the night -- actually we'll take
21 you back earlier than that.

22 What I want you to do is to start back from that
23 afternoon the day before yesterday during the after-
24 noon, and tell me where you were, where your husband
25 was, what time you all came home, and just start all

SGT. BURKE ON CROSS

1 the way, beginning before all this started happening.

2 That's the way you started it out?

3 A. Yes, sir.

4 Q. Keri at that time was eighteen years old?

5 A. I believe so.

6 Q. And her husband had been right in front of her
7 shot within a short period of time before that?

8 A. Yes, sir.

9 Q. And her dog also?

10 A. That's correct.

11 Q. Did you look at -- did you go into the crime
12 scene -- did you actually go into the crime scene and
13 look around?

14 A. I did.

15 Q. Based on -- what was it that Keri said happened
16 and your review of the crime scene -- how long do you
17 suppose it would have taken for all that to take
18 place?

19 A. From the time they entered the house to the time
20 they left the house?

21 Q. From the (sound of knock) to the walk out.

22 A. . .

23 SOLICITOR: Your Honor, I would object. It is
24 calling for a conclusion.

25 THE COURT: I'm going to allow the question. Can

SGT. BURKE ON CROSS

1 you ask the question again?

2 MR. HILLARD: Yes, sir.

3 BY MR. HILLARD:

4 Q. What I'm asking you to do is -- the question is
5 from the time (sound of knocking) of the rap on the
6 door by what Keri said and what you saw at the crime
7 scene, to the time they walked out the door, how long
8 did that take?

9 A. A matter of minutes, I would guess.

10 Q. All right, sir, and how many times in your inves-
11 tigation and as you investigated this case -- the gun
12 that was used to shoot Joey was a revolver. Do you
13 know that?

14 A. That's what I was told. That's what Keri said
15 it was. We didn't find the shell casings in the bed-
16 room, if that's what you're asking.

17 Q. So you don't really know that one way or the other
18 because you didn't find shell casings?

19 A. Right.

20 Q. How many times did that gun go off in that bed-
21 room?

22 A. She . . .

23 Q. With whatever your investigation revealed, how
24 many times did the gun go off in the bedroom?

25 A. I don't know. I don't know how to answer that.

SGT. BURKE ON CROSS

1 Q. And . . .

2 A. I didn't directly investigate. I would be guess-
3 ing if I told you how many times.

4 Q. All right, sir. It didn't take very long for
5 all of this to happen?

6 That's a fair statement, isn't it?

7 A. If it happened the way Keri Pope said it did, it
8 did not.

9 Q. Okay. As to the nine one one call that you were
10 talking about and the small caliber aspect of that,
11 you've got that nine one one -- the Georgetown Police
12 Department has that nine one one call recorded and in
13 evidence. Is that correct?

14 A. Yes, sir.

15 Q. And Keri told you that Joey was shot in the bed?

16 A. Yes.

17 Q. And Joey was in fact shot in the bed?

18 A. Yes, as far as we can tell.

19 Q. All right, and Joey -- I'm sorry. Kery told you
20 that there were two different guns that were used?

21 A. Yes, sir.

22 Q. You believe that to be true, is that correct?

23 A. Yes.

24 Q. Did you see the necklace on the floor in the
25 house?

SGT. BURKE ON CROSS

1 A. I saw pictures of it. I don't know if I actually
2 saw it when it was in place or not.

3 Q. You know that their house had previously been
4 burglarized, isn't that true?

5 A. Yes, sir.

6 Q. It had been previously burglarized?

7 A. Yes.

8 Q. How old a person are you?

9 A. How old am I?

10 Q. Yes.

11 A. I'm forty-one.

12 Q. Is it fair for me to say that you don't necessar-
13 ily -- I guess the better question is how old were
14 you back then.

15 A. You're messing with my math here. I'll have to
16 . . .

17 Q. I'll ask the question a different way. Is it
18 fair to say that even in 2003 you didn't speak the
19 language of an eighteen year old?

20 A. It would probably be safe to say that.

21 Q. And when you say a small caliber handgun, what
22 does that mean to you?

23 A. . . .

24 Q. What is the-- if you were to tell me something
25 about a small caliber handgun, what does it mean?

SGT. BURKE ON CROSS

1 A. To me, it would be the size of the weapon and
2 the bullet, and if you're asking, I guess, why I ques-
3 tioned that, it's because -- I think I even explained
4 as to that.

5 As a police officer, I don't know that I would
6 say a small caliber handgun. If something happened
7 in my life, I either would say a big gun or a little
8 gun.

9 So I -- it stood out to me that an eighteen year
10 old would say -- would use the word caliber when she
11 is calling in this traumatic experience that she just
12 witnessed.

13 So it just kind of stood out to me as a bit
14 strange, not that it couldn't -- not that someone would
15 not speak like that but it just stood out to me as
16 being strange.

17 Q. Okay, but the thing about it is that we're all
18 in Court here today and this is testimony from you in
19 that regard, and the fact that it's strange -- I mean,
20 clearly she said it. Is that right?

21 A. Yes.

22 Q. It's on the nine one one tape?

23 A. Yes.

24 Q. But it doesn't have to imply to you that she's
25 guilty of some kind of thing, does it?

SGT. BURKE ON CROSS

1 A. No, sir. It was just for clarification purposes
2 only.

3 Q. Now, in your conversation with the Prosecutor,
4 you also were curious about the big, huge pitbull?

5 A. Yes..

6 Q. Clearly Keri told you that the pitbull may well
7 have bitten one of the individuals?

8 A. She did say that.

9 Q. And yet the Georgetown City Police Department
10 did absolutely nothing to try to determine whether
11 there was any genetic material or DNA possibility from
12 the teeth on the pitbull?

13 A. At the point when that came up, that was two days
14 after anything had been done so I -- no. If you are
15 asking did we do any kind of DNA testing on the dog,
16 no, we did.

17 Q. The dog was carried to the vet?

18 A. Yes, sir.

19 Q. A bullet was retrieved from Raven, the dog?

20 A. Yes.

21 Q. And certainly two days later the dog's teeth were
22 still available for some DNA swab to be done?

23 A. I suppose so, yes.

24 Q. Nobody did that?

25 A. No, sir.

SGT. BURKE ON CROSS

1 Q. And when you say it was a big, huge pitbull,
2 what does that mean to you?

3 A. Well, I had a pitbull before and I had a small
4 pitbull, not nearly the size of the dog there that I
5 saw at the house. To me, that was a big dog.

6 Q. And . . .

7 A. Seventy-five to ninety pounds would be a big dog
8 to me, because the dog I had was more of a runt. It
9 was a lot smaller than that.

10 Q. Did you know that this pitbull had just had pup-
11 pies?

12 A. Not at the time. I mean, after she stated that
13 to me, yes, sir.

14 Q. Does that make it a little bit more sensible to
15 you that while the pitbull was not as enthusiastic as
16 it might otherwise have been because it had puppies?

17 A. I couldn't say.

18 Q. All right, sir. While you were going through the
19 conversation with Keri during your investigation, did
20 you determine that Joey was working at the detention
21 center that day?

22 A. Yes, sir.

23 Q. So she said she left the house at five -- I'm on
24 page one -- she left the house at five to go get Joey.
25 He tells me to be there by five forty-five, and he

SGT. BURKE ON CROSS

1 don't even get off until six. Correct?

2 A. Yes.

3 Q. And then she said she went there and she picked
4 him up, is that right?

5 A. Yes, sir.

6 Q. And so is it fair to say that he was not on this
7 day -- that on the day he was murdered he didn't rake
8 leaves in his yard that day? Is that a fair state-
9 ment?

10 A. All I can say is that she picked him up.

11 Q. Okay, so you don't know whether he was raking
12 leaves in the middle of the day or not?

13 A. No, sir.

14 Q. All right, sir, and when you're going through
15 this process of trying to determine times, in an inves-
16 tigation like this -- when you're talking to somebody
17 it's a three part process.

18 You've got the individual who is trying to ..

19 SOLICITOR: Your Honor, I would object. I'm not
20 sure there's a question in there.

21 THE COURT: I'm going to allow it. I appreciate
22 that. Continue, Mr. Hillard.

23 MR. HILLARD: Thank you, Your Honor.

24 BY MR. HILLARD:

25 Q. Let me suggest to you that it is a three step

SGT. BURKE ON CROSS

1 process, and if it's not you say, well, no, that's not
2 right. Okay?

3 It is a process where you have what is the indi-
4 vidual's recollection of the time. You have the things
5 you can go to like the Simpsons or some specific thing
6 that you know the time, and you have logic that tries
7 to connect those things.

8 It's like what do you remember as to this or that,
9 but it is a collective and collaborative that you are
10 going through to get the timing. Is that correct?

11 A. That sounds fair.

12 Q. Sir, on page three -- Keri Pope, on page three at
13 the very top -- Keri Pope, one, two, three, four, and
14 then that next Keri Pope -- you were asking her -- I'm
15 sorry.

16 Number two, Investigator Morris -- sorry -- about
17 what time would you think that was? Then you say,
18 how long had you all been driving or did you go straight
19 down the road or circle around and come to WalMart,
20 And Keri, in response to that question, said I can't
21 really remember what time we were in there. Right?

22 A. Well, before that she said we'd go down Decamp towards
23 WalMart.

24 Q. Okay. We'd go down Decamp toward WalMart -- I
25 can't really remember what time we were in there.

SGT. BURKE ON CROSS

1 You were asking her a question as to what time
2 they were in there, and she said, I can't remember?

3 A. Yes, sir.

4 Q. All right, and one of the things she's got on her
5 mind while all this conversation with you is going on,
6 while she's trying to relate information and to help
7 you with your investigation -- what's happening in her
8 mind is picking out a burial plot for her husband, is
9 that true?

10 A. That was part of it, yes. She got a -- she was
11 supposed to go that day, yes.

12 Q. So part of her head is thinking about, well, I
13 have to go pick out a burial plot, and part of her head
14 is thinking about I want to try to help these guys
15 find who killed my husband?

16 A. It very well could have.

17 Q. And she is eighteen years old?

18 A. Yes.

19 Q. And she said, I don't remember what time we were
20 in there?

21 A. Yes.

22 Q. And you say, he came out from six o'clock at work,
23 and then you go through the process of trying to recon-
24 struct the event or path so you can try to figure out
25 the time. Is that correct?

SGT. BURKE ON CROSS

1 A. Yes.

2 Q. And then at the bottom you say, how long would
3 you say that you were in WalMart? Roughly an hour,
4 two hours, twenty minutes, thirty minutes?

5 And she's trying to help you, and she says twenty
6 to thirty minutes at the most?

7 A. Yes, sir.

8 Q. And at the bottom she says, I mean, I don't know
9 what time it was. I remember I talked to my friend
10 Tiffany?

11 A. Yes, sir.

12 Q. On page four, you are trying to set the time of
13 events, and you say at the very bottom of page four,
14 the last two lines, about what time was that when you
15 left WalMart -- you left Walmart six thirty and took
16 two minutes to get home? Would have been between six
17 thirty and seven o'clock? Probably.

18 And then she says, I believe so. It could have
19 been -- I mean, I wasn't paying attention to the time.

20 You are trying to set a time frame but she doesn't
21 really know and she's trying to help you. Is that
22 right?

23 A. Yes.

24 Q. And then on page five -- the Simpsons she had
25 watched; they didn't have cable. Is that right?

SGT. BURKE ON CROSS

1 A. Yes.

2 Q. Joey was playing a video game, is that right? He
3 is still -- your last line on page five, he's still
4 playing the game the whole time, is that right?

5 A. Yes, sir.

6 Q. She's telling you that she was trying to inter-
7 est him in playing with her instead of playing with
8 the game, is that right?

9 A. Yes, sir.

10 Q. But he wasn't interested?

11 A. He wanted to play the game.

12 Q. All right, and then on page seven it indicates
13 that -- you are talking at this point about the two
14 individuals who in fact came and looked at the truck.
15 The information is that it was -- you were saying --
16 I'm sorry.

17 This is you talking. Let me stop you real quick.
18 Was it dark at this point? We're after eight o'clock
19 now. Was it dark outside, and she says, I think --
20 no, it was right before dark -- just starting to get
21 dark, and then it says starting to get dark; I mean,
22 it was still light; I mean, I could still see.

23 That was Keri talking at that point?

24 A. Yes, sir.

25 Q. And it is mis-marked on the transcript -- it

SGT. BURKE ON CROSS

1 says, yes, sir?

2 A. Yeah. Yes, sir, I think that's right.

3 Q. And then you say, you didn't have lights on out-
4 side, and she says, no. You say, okay, and she says,
5 on -- and you say, so he tells you to go back in the
6 house, and that's Joey talking to her at that time, is
7 that right?

8 A. Yes, sir.

9 Q. You were asking -- you asked her if he, being
10 Joey, knows Germane. Is that right?

11 A. Yes, sir, I did.

12 Q. And her response to you at that point about whe-
13 ther or not Joey knew Germane -- Germane was one of
14 the individuals who in fact came to look at the truck,
15 is that correct?

16 A. That's right.

17 Q. You determined that to be true?

18 A. Yes, sir.

19 Q. And so Keri says, I don't think he knows Germane
20 personally. He knows Germane because of me, because
21 every time I see him I -- like I wave to him, and he
22 says, who's that, and I say, that's Germane -- he's
23 say who's Germane, and I was like, I went to school
24 with him.

25 Then you say, he didn't know the other guy either,

SGT. BURKE ON CROSS

1 and Keri says, I don't think he did. I mean, Germane
2 knew him because everybody called him Big Joey, but
3 Germane didn't know him, I don't believe -- knew him
4 personally.

5 A. Correct.

6 Q. And would you agree with me that that sounds kind
7 of like eighteen-year-old speak for whether Germane
8 knew Joey or didn't know Joey?

9 A. Sure.

10 Q. And then on page nine, the very first -- the be-
11 ginning of your conversation here -- let me stop you
12 real quick.

13 At this point you're trying to get information
14 in a type to connect it so you can do further investi-
15 gation?

16 A. I'm trying to get as much information from her
17 as I can. Yes, sir.

18 Q. You all go outside and these boys come to the
19 door -- this is the killers at this point, when these
20 boys come to the door. Right?

21 A. . . .

22 Q. Or is this still Germane?

23 A. This is still Germane.

24 Q. All right. This is Germane -- so this is Germane
25 and the other one. The dog didn't -- this is you --

SGT. BURKE ON CROSS

1 so the dog didn't go after these guys, and Keri says,
2 she'll bark; that's it, and you say, was she barking
3 then or did she just kind of sit because you all were
4 out there and she felt comfortable.

5 Keri says, no, and you say, when they first had
6 knocked on the door, did the dog bark, and Keri says,
7 yeah, whenever anybody knocks on the door Raven will
8 start, you know, going crazy, and if I let her out
9 she'll run up to the fence and bark a couple of times,
10 and I say, Raven, come here now; get in the house.

11 Q. Were they scared of her?

12 A. It was like it didn't even phase them. She says,
13 I mean, they didn't jump.

14 You say, well, aren't some people scared to death
15 of dogs, and Keri says, they didn't jump. I mean
16 Germane didn't even ask me -- you know, say, Keri,
17 that's a nice dog, and Germane had seen the dog before
18 whenever she was a pup, and you say, right.

19 SOLICITOR: Objection to relevance as to -- I
20 object to his just continuing on reading.

21 THE COURT: Let's try to get a question in there,
22 please.

23 MR. HILLARD: Thank you, Your Honor.

24 BY MR. HILLARD:

25 Q. Is it fair to say that the dog has been a great

SGT. BURKE ON CROSS

1 deal of the focus of the Georgetown City Police Depart-
2 ment investigation?

3 A. A great focus?

4 Q. Yeah.

5 A. I would say it was a piece of it. I wouldn't say
6 it was a great focus.

7 Q. Every time the Georgetown City Police Department
8 talked to anybody that knew Keri or Joey and their
9 house, they talked about that dog. Is that fair?

10 A. Probably.

11 Q. And the point of this whole thing is, how come
12 she's alive when her husband and her dog are dead,
13 and the dog didn't jump anybody? Is that right?

14 A. Sounds good.

15 Q. And in fact it is how come Joey, if the dog is
16 barking at the door -- how come Joey didn't hop up out
17 of bed. Right?

18 A. That is neither here or there. Some people are
19 heavy sleepers and some aren't. I couldn't say on
20 that.

21 Q. Okay.

22 A. And if the dog barks on a regular basis, then it
23 probably wouldn't have woke him up.

24 Q. Okay. So that point becomes how come that dog
25 didn't eat up whoever it was who came in?

SGT. BURKE ON CROSS

1 A. Is that -- are you asking me a question?

2 Q. Yes. Is that -- I mean, is that the question you
3 have in your mind about why didn't the dog eat up who-
4 ever came in there?

5 A. Why weren't they scared of the dog is more in my
6 thought processes, my mind. If that dog was barking,
7 why weren't they scared of the dog?

8 Whether the dog would or would not bite, why
9 weren't they scared of the dog. That is my concern.

10 Q. All right. If the dog is jumping up and down and
11 barking and I have my nine milimeter sub-automatic
12 handgun, and the dog is then laying on the ground dead
13 then I'm pretty safe at that point?

14 That's kind of . .

15 A. Yeah, you would be, but that's not the way it
16 went down by her admission.

17 Q. Okay. Well, expand on that a little bit for me.

18 A. Well, her story is that she was grabbed by the
19 throat, with the dog right there, and . .

20 Q. Yes, sir.

21 A. . . taken down a hallway; that her husband was
22 shot several times with the dog out in the hallway,
23 and at that point the dog starts getting shot at after
24 her husband had already been shot four or five times.
25 Then the dog got shot.

SGT. BURKE ON CROSS

1 So these guys in that scenario would have had to
2 pass by the dog with her in their hands, so to speak,
3 taking her down the hallway past the dog and start
4 shooting before they put that dog to rest.

5 Not the time they walked in the door, they shot
6 the dog and did what they were there to do. There's a
7 difference.

8 Q. Sure. So what you are telling the folks on the
9 jury is it is impossible for that to have happened?

10 A. I wouldn't say impossible. Improbable would be
11 a better word.

12 Q. And while she's looking at them -- and about how
13 long would you say this whole thing took?

14 A. I would say several minutes if it happened the
15 way Ms. Pope said it happened. Several minutes.

16 Q. From the knock on the door to the walk out the
17 door, after shooting the dog, would have been several
18 minutes?

19 A. At least several minutes.

20 MR. HILLARD: Excuse me just one second, Judge.

21 THE COURT: Yes, sir.

22 (Brief pause in proceeding)

23 BY MR. HILLARD:

24 Q. On September 17th of 2008 were you an investigatory
25 supervisor at that point in time?

SGT. BURKE ON CROSS

1 A. September of 2008?

2 Q. Yes.

3 A. Yes, sir.

4 Q. So you would have been Lynn Cothen's supervisor,
5 is that right?

6 A. Yes, sir, I believe. I would have to see the
7 dates because there was a time when we switched. I'm
8 not sure exactly.

9 Q. All right, sir, and so let me just show you this
10 and ask if -- don't say anything about what it is, but
11 look at it. I ask if you have seen it before?

12 A. Yes, sir.

13 MR. HILLARD: Please mark it for identification.

14 (Item marked for ID by Reporter)

15 BY MR. HILLARD:

16 Q. Again, I'm not asking about the contents but it
17 is marked Defendant's Number 9 for identification. You
18 indicated that you have seen it, Defendant's Exhibit
19 Number 9 for identification, and it's on your computer
20 at the Georgetown City Police Department?

21 A. Yes, sir.

22 Q. Did you approve of this letter to be sent?

23 A. No, sir.

24 Q. Can you tell me how it exists on your Email and
25 you didn't approve it to be sent?

SGT. BURKE ON CROSS

1 A. At the time that I received that Email, it was
2 after it had already been sent to my knowledge.

3 I was told the letter was sent, and knowing Inves-
4 tigator Cothen's writing abilities I asked him to for-
5 ward me a copy of it so I could see what kind of let-
6 ter was sent, and he immediately copied that letter to me.

7 Q. And when was that?

8 A. I don't recall what the date is on the Email, but
9 it is dated on the Email.

10 Q. Within the time frame of -- about how long in
11 weeks or months or days from the time it was sent to
12 the time you found out about it?

13 A. I don't know what date he sent it. I just know
14 that in talking he said that he had sent a letter, and
15 I immediately said to send me a copy of the letter
16 you sent.

17 When he worked directly under me as an investiga-
18 tor I did approve anything that he sent. I corrected,
19 you know, grammatical, typos, everything in his inci-
20 dent reports and any kind of letter he sent out.

21 At that point he wasn't going through me. He
22 was assigned to work on the case and he wasn't report-
23 ing to me at that point.

24 I was over general investigations and he had been
25 assigned to the task of working on that case. He was

SGT. BURKE ON CROSS

1 reporting to the chief of police at that point.

2 So he didn't clear that letter through me before
3 it got sent out.

4 Q. All right, sir. So on September 17, 2008, his
5 assignment at that time was working only on what?

6 A. To go over the -- at that point the whole case
7 -- work on the Joey Pope case.

8 Q. I understand you don't recollect exactly the date,
9 but if it was dated September 17 of 2008, do you think
10 it was in 2008 that you got it at least?

11 A. That I got the Email?

12 Q. Yes, sir.

13 A. Yes, sir. I mean, it should be time-stamped.

14 MR. HILLARD: Excuse me just one second, Your
15 Honor. THE COURT: Yes, sir.

16 (Brief pause)

17 BY MR. HILLARD:

18 Q. The convenience stores that are near the home where
19 Joey and Keri lived, did anybody get videos from those
20 stores on the night -- on this night to see if these
21 folks had been around?

22 A. I don't recall. David Altman and Dustin Marks
23 were following up on all the leads that we had, so
24 that would be something you should probably ask them
25 to be specifically sure.

SGT. BURKE ON CROSS

1 Q. When you were having a conversation with Keri af-
2 ter her husband was killed, in the next day or so --
3 in any event, did you see her neck or a mark on her
4 neck where the chain had been pulled off?

5 Did you see that?

6 A. I saw -- I don't recall if the mark was there that
7 next day or if I saw a picture of it, but I do know
8 what you're referring to. I don't recall whether it
9 was from the night of or the next morning.

10 Q. All right, sir. You guys have a photograph of
11 that?

12 A. Yes, sir.

13 Q. Thank you, sir.

14 THE COURT: Cross, Mr. Locklair.

15 MR. LOCKLAIR: May it please the Court, Your
16 Honor.

17 THE COURT: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. LOCKLAIR:

20 Q. Good morning, Sergeant Burke. How you doing to-
21 day, sir?

22 A. Good.

23 Q. Were you aware that the Pope's house was broken
24 into some six months prior to Mr. Pope's death?

25 A. Yes, sir.

SGT. BURKE ON CROSS

1 Q. And at that point did you know the dog here was
2 a wedding gift from Joey to Keri?

3 A. I did not know that.

4 Q. Okay. Were you aware when Quinny Sarge and Terry
5 Jones, and (inaudible) broke into their house that they
6 took Raven and physically put the dog locked into a
7 bathroom?

8 A. I didn't know that. Not to say it didn't happen
9 but I just don't know that.

10 Q. All right.

11 MR. LOCKLAIR: That's all I have, Your Honor.
12 Thank you.

13 THE COURT: Any Redirect, Solicitor?

14 SOLICITOR: Yes, sir, Your Honor.

15 REDIRECT EXAMINATION

16 BY SOLICITOR:

17 Q. Mr. Burke, the individuals that committed that
18 burglary that Defense Counsel was referring to, do you
19 know if they were arrested and prosecuted; convicted
20 of those charges?

21 A. I do not know, no, sir.

22 Q. That's fine. Mr. Hillard mentioned something
23 about an eighteen year old being under the stress of
24 this process, specifically referring to a cemetery plot.
25 in the course of that.

SGT. BURKE ON CROSS

1 Do you recall what her demeanor was during the
2 course of that interview while it was being recorded
3 on tape?

4 A. Yes, sir. I mean, when Keri came in, she came
5 in friendly. I mean, not distraught that I was expect-
6 ing.

7 She came in, and it was just like she was tell-
8 ing the story, and I don't believe she got choked up
9 until maybe forty-five minutes, fifty minutes in when
10 she got a little bit choked up, but then continued on
11 telling the story.

12 It all -- looking back at it now, it is all a
13 little unusual to me, to see that, but it was no cry-
14 ing, no -- not like I would have thought, whether it
15 was an eighteen year old or sixty year old.

16 She wasn't distraught like -- we expected that
17 it was going to be tough to have her go back to that
18 night and tell us what happened, and it wasn't, so
19 to me that stands out, that it wasn't difficult in my
20 eyes for her to go through that whole story all over
21 again, two days after it happened.

22 Q. Do you recall whether or not at any time during
23 the interview Ms. Pope was laughing?

24 A. She seemed to cut up with us a little bit here
25 and there.

SGT. BURKE ON REDIRECT

1 Q. Mr. Hillard brought up the fact about this prior
2 burglary. Did Keri embellish on the fact obviously
3 that Mr. and Mrs. Pope knew that their house had been
4 burglarized prior to this incident?

5 A. Yes, sir.

6 Q. Did she give any indication to you of whether it
7 had caused her to be more aware of someone knocking
8 on the door at eleven thirty at night?

9 A. Yes, sir. Well, she said that Joey told her that
10 she needed to be more but she wasn't. She didn't give
11 any concern about it.

12 Q. Okay. Once again, Mr. Hillard brought up a few
13 comments relating to a necklace being found on the
14 floor.

15 Did you confront her about what seemed to be in-
16 consistencies in her stories?

17 A. Yes, sir.

18 Q. Tell us about that.

19 A. Looking at what I saw, there was a line that
20 didn't go all the way around her neck. My question was
21 more along the lines of how that mark could have got-
22 ten there.

23 When I think of a necklace, I think of a rope
24 chain, and her saying that he grabbed her by the rope
25 chain and pulled her with it, I just couldn't imagine

SGT. BURKE ON REDIRECT

1 how big this chain had to have been to do that, but
2 I assumed she was mistaken; that he had grabbed her by
3 the shirt, but then when she explained that she had
4 the low cut shirt on, he wouldn't have been able to
5 grab a collar. It would only have been the shirt.

6 So there was just a red line going across her
7 neck, and it just didn't -- it stood out to me that if
8 someone were to put that much pressure on holding a
9 chain it would have popped a lot sooner than it -- to
10 leave that kind of mark.

11 Q. No further questions.

12 THE COURT: All right, Mr. Hillard.

13 MR. HILLARD: Yes, sir, Judge.

14 RE CROSS EXAMINATION

15 BY MR. HILLARD:

16 Q. I was asking you questions about the mark on her
17 neck and you didn't have a recollection of it, but now
18 you do? Right?

19 A. No, my recollection was whether I saw it in per-
20 son or in a picture. I did question her about it in
21 the interview.

22 Q. All right, sir. So did you see it? You said you
23 saw it in person or in the picture?

24 A. I don't remember which. Whether I saw it that
25 night or whether it was in a picture.

SGT. BURKE ON RECROSS

1 Q. And that . . .

2 A. But I know I did question her about it.

3 Q. Do you have the picture?

4 A. Do I have the picture?

5 Q. Is there a picture here in this stuff?

6 A. I don't know what evidence has been entered, no,
7 sir.

8 Q. Did you handle the evidence?

9 A. No, sir.

10 Q. Tell the jury everything you know about the neck-
11 lace.

12 A. I don't recall how thick the necklace was. My
13 question was to her the mark that was on her neck,
14 which was a very thin mark.

15 Q. Right.

16 A. And it was more of an interpretation because I
17 was trying to find out how someone could grab a neck-
18 lace and lead you back as you were pushing forward,
19 trying to hold the door closed.

20 I wasn't saying she was lieing. I was just try-
21 ing to clarify whether he had her collar along with her
22 necklace when he was pulling her backwards, because
23 she said that he shoved her back.

24 Q. So you . . .

25 A. What I saw on the neck was I assumed -- it was

SGT. BURKE ON RECROSS

1 just me assuming -- someone would have pushed forward
2 on her neck to make that mark, rather than pull the
3 necklace from the back of the neck.

4 But that is just my interpretation of it. I was
5 trying to clarify with her whether he pulled her, pushed her

6 Q. Come down and show me what the difference would
7 be in what you would think.

8 A. . . .

9 THE COURT: Be sure to stand close to the micro-
10 phone.

11 BY MR. HILLARD:

12 Q. This is what I'm asking. The mark that you saw
13 from the necklace . . .

14 A. Right around the corner of her neck.

15 Q. . . caused you to in some form or fashion ques-
16 tion which it was that she said took place?

17 A. Question how it took place. Yes, sir.

18 Q. And so -- show me first what it was that you felt
19 like she was telling you had happened.

20 A. That she said when he reached in the door with
21 his hand he would have grabbed like this, grabbed only
22 the necklace, and pulled her back.

23 Q. All right, sir, and in your thinking that would
24 have left a mark on her neck?

25 A. It would have left a mark -- my thinking was that

SGT. BURKE ON RECROSS

1 the necklace would have broke prior to her taking sev-
2 eral steps back. That if I'm wearing a chain necklace
3 and someone grabs me, it should break right there and
4 I would think there would leave a full mark on the
5 neck.

6 So my question was did he have hold of your col-
7 lar pulling you backward and the collar pulled the
8 chain up against your neck, leaving a mark. That's
9 what my question was, and then when she said, no, I
10 had a low cut collar, it couldn't have happened that
11 way, and that was the question.

12 It wasn't that she was lieing about the necklace.
13 It was the fact that I was trying to visualize the
14 way she said it. The way I visualized it was that
15 when he reached he grabbed only the necklace and he
16 pulled her backwards with it, forced her several steps
17 into the kitchen, and I just -- with it not being a
18 big rope chain like that, I would have thought the
19 necklace would have broke.

20 Q. So show me what it is that you think happened to.

21 . .

22 SOLICITOR: This has been asked and answered,
23 Your Honor, several times.

24 THE COURT: I'm going to . .

25 MR. HILLARD: That's okay, Judge. I withdraw it.

SGT. BURKE ON RECROSS

1 Have a seat.

2 BY MR. HILLARD:

3 Q. On page 19, the middle of the page. Keri Pope
4 says, and he had like, I guess -- he could have grabbed
5 -- he thought he could have grabbed my shirt like this
6 but because there was nothing there he grabbed my neck-
7 lace and like the side of my collar, and he went and
8 pushed on the door.

9 A. Yes, sir.

10 Q. Is there something about where the necklace was
11 on the floor that causes you some concern as well?

12 A. No, sir.

13 Q. That's all. Thank you.

14 THE COURT: Mr. Locklair.

15 MR. LOCKLAIR: Nothing further.

16 THE COURT: All right, sir. Do you wish the
17 witness to be excused, Solicitor?

18 SOLICITOR: Yes, sir.

19 THE COURT: Any objection?

20 MR. HILLARD: No objection.

21 MR. LOCKLAIR: No objection.

22 THE COURT: All right, sir. You are released from
23 your subpoena and you may go back to your regular acti-
24 vities, sir.

25 (Witness excused)

1 THE COURT: All right, Mr. Foreman and ladies and
2 gentlemen of the jury, the Clerk of Court has been so
3 kind as to order some lunch. I'm not sure it is quite
4 here. It's supposed to be here at one o'clock.

5 So go back to your jury room. You can take a nap
6 if you would like to. I would have you to be back in
7 the jury room by two fifteen. Be back in the jury
8 room at two fifteen and eat the lunch or whatever it
9 is you want to do.

10 Everyone else remain seated.

11 (Jury excused from Courtroom for lunch recess)

12 THE COURT: All right. Anything at this point in
13 time, Solicitor?

14 SOLICITOR: No, Your Honor.

15 THE COURT: Mr. Hillard.

16 MR. HILLARD: Judge, I understand the jury is back
17 there and . . .

18 THE COURT: I understand, Mr. Hillard, and it may
19 not be that you can do that over lunch. If you need to
20 do it-- whenever we leave for the evening, they can
21 delay transporting him wherever he's going to be out.

22 I will be glad to have you do it whenever it will
23 be convenient for you. Apparently he is here so you
24 deal with that however you need to.

25 MR. HILLARD: Thank you, Your Honor.

1 THE COURT: Anything else?

2 MS. BASS: No, Your Honor.

3 THE COURT: Mr. Locklair.

4 MR. LOCKLAIR: No, Your Honor.

5 THE COURT: Then I'll see you back at two fifteen.

6 (Whereupon, the Court stood in recess until 2:15

7 P.M.)

8 THE COURT: Is there an issue?

9 SOLICITOR: Yes, Your Honor. It has been brought

10 -- may we approach?

11 (Discussion between counsel and the Court off

12 the record)

13 SOLICITOR: Your Honor, I would ask to call David

14 Altman back for the limited purpose of chain of cus-

15 tody, if that is admissible.

16 I am not sure what arguments the Defense is going

17 to make in relation to the chain of custody. I would

18 propose to call Mr. Altman next for the limited pur-

19 pose of that.

20 THE COURT: All right. Mr. Hillard?

21 MR. HILLARD: Thank you, Your Honor. I don't

22 have any objection to Mr. Altman testifying for the

23 limited purpose of chain of custody on that particular

24 item, and as to Larry Ward at the conclusion of that

25 I guess we can try to figure out what, if anything -- and

1 I have respect for Mr. Ward in his situation.

2 Chain of custody is an important part of this, and
3 we don't really know the answer to that question.

4 THE COURT: All right, sir. Mr. Locklair?

5 MR. LOCKLAIR: Your Honor, I am fine with doing
6 it that way.

7 THE COURT: Okay, very good. Are you ready for
8 the jury?

9 SOLICITOR: Yes, Your Honor.

10 THE COURT: Mr. Locklair?

11 MR. LOCKLAIR: Yes, sir. Just one question for
12 the Court. I understand Mr. Hillard might use the
13 video here, and obviously me and my client wouldn't
14 be able to see it.

15 THE COURT: Okay. Would there be any problem with
16 just putting some chairs someone in front of the de-
17 fense table basically on the other side of where Mr.
18 Hillard is going to be so it won't be obstructing him
19 in any way?

20 MR. LOCKLAIR: Yes, sir, that would be fine.

21 THE COURT: Okay, we'll just need to have a chair
22 for your client and you can position yourself however
23 you need to in regard to what's going on.

24 MR. LOCKLAIR: Thank you.

25 THE COURT: Okay, ask the jury to come in.

1 (Jury returned to Courtroom)

2 THE COURT: All right, Solicitor.

3 SOLICITOR: Your Honor, we'd call David Altman.

4 DAVID ALTMAN, being duly
5 sworn, testified as follows:

6 CLERK: Please have a seat. State your name and
7 spell your name for us.

8 WITNESS: My name is David Altman, D A V I D
9 A L T M A N.

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 SOLICITOR: Your Honor, it's the State's under-
13 standing that we are questioning Mr. Altman for a
14 limited purpose.

15 THE COURT: At this point in time, yes.

16 Q. Detective Altman, you work for the Georgetown
17 Police Department?

18 A. I do.

19 Q. And were you working for the Georgetown Police
20 Department back on May 27, 2003?

21 A. I was.

22 Q. And did you have an opportunity to go to the
23 State Law Enforcement Division for the purpose of retriev-
24 ing evidence?

25 A. I did.

DET. ALTMAN ON DIRECT

1 Q. Tell us about that.

2 A. As a part of my duties when I am assigned an in-
3 vestigation is the assisting with evidence.

4 When Craig Young retired I became the evidence
5 custodian or assumed that responsibility. A part of
6 that was transferring evidence from the police depart-
7 ment to SLED and retrieving evidence from SLED and
8 returning it to the police department.

9 Q. Okay. Let me show you an item which has been
10 marked as State's Exhibit 80, and I want to see if you
11 recognize it.

12 A. Yes, sir.

13 Q. Let me hand up an item -- let me show you an
14 item that has been marked State's Exhibit 86. Let me
15 show you items 86, 87 marked for identification only,
16 and see if you recognize those items.

17 A. I do.

18 Q. What are those?

19 A. This is an evidence chain -- an evidence custody
20 chain form, and this would be a SLED bag, similar to
21 the one we receive when we pick up items.

22 Q. The numbers or markings on them indicate what
23 belongs to this . .

24 MR. LOCKLAIR: Objection.

25 THE COURT: First identified it. I wasn't real

DET. ALTMAN ON DIRECT

1 clear on which document he was talking about.

2 So do that first, Solicitor.

3 SOLICITOR: I'll do it step by step.

4 BY SOLICITOR:

5 Q. Item 87, what is that you are looking at?

6 A. This is an evidence form that shows the chain of
7 custody of items placed on this particular evidence
8 form.

9 Q. Okay. Give me some numbers on what you are refer-
10 ring to.

11 A. This item 80 that has been previously identified
12 as pillow of stuffing from the autopsy of Joseph Pope.

13 Q. Okay, is there any number on there that the pol-
14 ice department uses to help you track the case when
15 evidence is received and when it comes back?

16 A. . .

17 MR. LOCKLAIR: Judge, I hate to interrupt but I
18 would like to take one more look at that thing.

19 THE COURT: All right. Very good.

20 (Brief pause)

21 BY SOLICITOR:

22 Q. First off, does the police department use any
23 numbering system on evidence to indicate -- what
24 is a police department evidence ID number?

25 A. Yes, sir. It is 35503 that is indicated as the

DET. ALTMAN ON DIRECT

1 document number. It is associated with case number
2 0300854.

3 Q. Okay, so the item we're discussing is item two.

4 A. Okay.

5 Q. Does that correspond to Number 80 that I handed
6 to you?

7 A. That would be one of the items you discussed with
8 me. I saw it yesterday.

9 SOLICITOR: Specifically for the Court, Your Honor,
10 referring to the fibrous material that Dr. Presnell
11 testified to.

12 A. Yes, sir, that is on the description.

13 BY SOLICITOR:

14 Q. Okay, and does that indicate -- let me go to the
15 next one. What is item 86?

16 A. Item 86 is a SLED evidence bag.

17 Q. Okay, and describe that for the Court. What's
18 the significance of that?

19 A. It is labeled by SLED and indicates their case
20 number which is 0305522.

21 Q. Does that correspond with your documentation
22 there?

23 A. Yes, that is the SLED item number.

24 Q. Look at the chain of custody information sheet,
25 that appears to be multiple pages. Is that correct?

DET. ALTMAN ON DIRECT

1 A. Yes, sir.

2 Q. Is that the original document?

3 A. Yes, it is.

4 Q. Does that indicate through which individual's
5 hands State's/Exhibit 80 has traveled while at the
6 State Law Enforcement Division?

7 A. You want me to start at the beginning?

8 MR. HILLARD: How long is this going to take,
9 Judge, because we -- may we approach?

10 THE COURT: Sure.

11 (Conference at the bench between counsel and
12 the Court off the record)

13 MR. HILLARD: At this time, Your Honor, we have a
14 matter of law.

15 THE COURT: All right. Ladies and gentlemen of
16 the jury, please go to the jury room.

17 Thank you.

18 (Jury excused from Courtroom)

19 THE COURT: Yes, sir, Mr. Hillard.

20 MR. HILLARD: Thank you, Your Honor.

21 Judge, State's Exhibit Number 87 for identifica-
22 tion, which is the original piece of paper that is a
23 custody document -- the Solicitor handed it to me here
24 in Court, asking me if we had any objection to him
25 talking to the witness about it.

DET. ALTMAN IN CAMERA

1 He indicated to us that he had provided that to
2 us before, and as the questioning was going on it was
3 indicated to me that this is a two page document. We
4 have not seen that evidence.

5 We have had numerous documents as we have been
6 through on numerous occasions, and if you can give us
7 a minute or two -- it is our position we don't have
8 that page.

9 Of course, we didn't have David Altman in the
10 chain of custody of this particular thing, and they
11 started talking about it, and when I looked on this
12 back page in fact his name does appear on it.

13 That's why I'd like to ask him some questions.

14 THE COURT: Go ahead.

15 QUESTIONS BY MR. HILLARD, out of the presence of the
16 jury:

17 Q. Where was this document before it came here to
18 Court today?

19 A. In the evidence room.

20 Q. And was it -- let me ask the question this way.
21 Number 80, the item in question you have testified
22 about -- you said that you saw it -- when he was ask-
23 ing the question, you said you saw it yesterday?

24 A. That's right.

25 Q. Had you seen this before yesterday?

DET. ALTMAN IN CAMERA

1 A. Yes.

2 Q. When had you seen it before yesterday?

3 A. It was maintained in this sealed container.

4 Q. When you say it was maintained in this sealed
5 container, you are talking about State's Exhibit Num-
6 ber 86, is that correct?

7 A. Yes, sir. That particular evidence bag was
8 opened yesterday by the evidence custodian Ward in my
9 presence. It was still sealed at that time.

10 Q. All right, and when you opened 86 and it was
11 sealed at that time, what was in it?

12 A. There were a couple of things in it. What you've
13 got in your hand was in it. There was a piece of
14 cardboard in it that I saw that was pulled out.

15 Q. What else was in there?

16 A. That's all I seen.

17 Q. So you've never seen State's 80?

18 A. No, sir.

19 Q. And State's 87 was inside of State's 86 yester-
20 day?

21 A. No, sir.

22 Q. It was not?

23 A. No, sir.

24 Q. So when you -- your signature on State's Exhibit
25 87 is dated -- what is that?

DET. ALTMAN IN CAMERA

1 A. Seven 19 07.

2 Q. Well, tell me how -- help me understand in
3 this chain of custody thing on the back page of State's
4 Exhibit Number 87 -- I'm not saying there is not a
5 reasonable explanation, but where it says SLED to
6 Craig Young, returned from SLED -- then that would
7 theoretically be the end of the chain of custody and
8 at the time Craig Young is the evidence custodian. Is
9 that right?

10 A. All of the items listed on the front would not
11 have been returned at that time.

12 Q. All right, sir. On the front there is an item
13 one and item two. Is that right?

14 A. Yes, sir.

15 Q. So if item one and item two -- how do we know
16 what Craig Young got? Let me ask another way. If
17 you look in the bag to see what it was, how do we know
18 what was in that bag he receipted for?

19 A. This is on the description of the evidence that is
20 signed at SLED.

21 Q. That's not this?

22 A. No, sir.

23 Q. So from what the Judge has today to look at,
24 and what you have testified, you can't really say that
25 A and B was in 86? You can't say that from what we

DET. ALTMAN IN CAMERA

1 have here?

2 A. If I can see the evidence chain from SLED, I can
3 say, yes.

4 Q. That's the document we don't have right here.

5 A. It should be local.

6 Q. All right, sir. Is this . .

7 MR. HILLARD: I would mark this for identifica-
8 tion. Do you have a problem with that being marked
9 State's 88?

10 MR. LOCKLAIR: No, sir.

11 THE COURT: Is that fine with you, Solicitor?

12 SOLICITOR: Yes, sir.

13 THE COURT: Mr. Locklair?

14 MR. LOCKLAIR: No problem, Your Honor.

15 THE COURT: All right. Obviously now it is
16 State's Exhibit 88 for identification.

17 (SLED chain of custody form marked State's Exhibit
18 88 for identification)

19 THE COURT: Just so we're clear, and the Soli-
20 citor hasn't said anything, so I am fine with you
21 continuing on, but you have basically jumped in the
22 middle of what the Solicitor was doing.

23 So, Solicitor, were you done with your examina-
24 tion?

25 SOLICITOR: Your Honor, he's proving my chain

DET. ALTMAN IN CAMERA

1 for me, so I'm going to let me do it.

2 THE COURT: Well, continue on, Mr. Hillard.

3 QUESTIONS IN CAMERA out of the presence of the jury
4 by Mr. Hillard, continuing:

5 Q. So with 88, point to the spot on 88 that helps
6 me with this.

7 A. Eighty-eight is a South Carolina Law Enforcement
8 Division chain of custody . .

9 MR. HILLARD: Our position is, Judge, that we never
10 saw this or saw that page or that piece of paper.

11 THE COURT: That being 87?

12 MR. HILLARD: Yes, sir. Sorry.

13 SOLICITOR: Your Honor, if I could contemporan-
14 eously follow up on that so the record is clear?
15 Our records would indicate that our computer scanned
16 everything and the original documents were maintained
17 at the police department.

18 THE COURT: We'll deal with that at a later time.
19 Let's just get through this part of it.

20 SOLICITOR: Thank you, Your Honor.

21 A. The SLED number that appears in the right hand
22 corner . .

23 Q. Before we get to that, would you say this is the
24 SLED number on State's Exhibit 86?

25 A. It's hard to see.

DET. ALTMAN IN CAMERA

1 Q. That being 94 -- nine four . .

2 A. It's eighty one nine four two zero zero.

3 This document shows the chain with that number.

4 The chain while it was in SLED's custody, and then it
5 was transferred to me.

6 Q. Can you help me here? This is State's Exhibit
7 Number 88, which is the South Carolina Law Enforcement
8 Division -- is that right?

9 A. Yes, sir.

10 Q. And it says nine four two zero zero?

11 A. Here is eight one nine four two zero zero.

12 Q. Then it says it's a sealed envelope described
13 as material from gunshot wound. Is that right?

14 A. Yes.

15 Q. Is that correct?

16 A. Yes, sir.

17 Q. So in State's Exhibit 87, does it have somewhere
18 written on it eight one nine four two zero zero?

19 A. No, sir.

20 Q. All right, sir. So although we have the South
21 Carolina Law Enforcement Division print-out, State's
22 Exhibit Number 88 for identification has a list of in-
23 formation on it with eight one nine four two zero zero,
24 and we have an envelope with that number on it, the
25 evidence voucher, the police evidence property document,

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1 does not have that number on it, nor does -- does State's
2 Exhibit Number 80 have . .

3 A. It has the main case number assigned by SLED on
4 it.

5 Q. The L035522, item 23? (Reading rapidly)

6 A. Yes, sir. Which corresponds to . .

7 Q. Well, the main case-- and there's a -- for lack of
8 a better expression -- a garb of documents . .

9 A. And with that case number, and every document
10 that goes to SLED in this case has that case number
11 on it. It has the lab number too associated with the
12 particular piece of evidence.

13 Q. All right, sir. So what we have is E14920, and
14 we have a South Carolina Law Enforcement Division printed
15 piece of paper with nobody's signature on it that has
16 that number, and then we have the State's Exhibit Num-
17 ber 87 which is a police evidence property custody
18 document that does not have that number, and then we
19 have State's Exhibit Number 80 for identification which
20 is open and does not have that number on it.

21 Is that a fair assessment?

22 A. Correct.

23 Q. All right, sir, and we don't have page two, and
24 we scanned every piece of paper that we have. We do
25 not have it.

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1 THE COURT: Let's move on with that part of it.

2 MR. HILLARD: Yes, sir.

3 THE COURT: As to -- that goes to your argument
4 about it, so let's preserve that for the argument.

5 MR. HILLARD: All right.

6 THE COURT: Mr. Locklair, do you want to jump in
7 here?

8 MR. LOCKLAIR: No questions, Your Honor.

9 THE COURT: All right. Solicitor, do you wish to?
10 QUESTIONS of Mr. Altman out of the presence of the
11 jury, by Solicitor.

12 SOLICITOR: Thank you, sir.

13 Q. When the documents come back from SLED when you
14 send them up there to be analyzed, . .

15 MR. HILLARD: Objection as to procedure other
16 than this specific case, Judge.

17 SOLICITOR: I'm just trying to lay a foundation
18 to try to get to the point of the matter, without
19 testifying myself.

20 THE COURT: I'm going to allow that question.

21 BY SOLICITOR:

22 Q. When you received this information, specifically
23 referring to State's Exhibit 86, was this sealed and
24 secured?

25 A. Yes, sir.

DET. ALTMAN IN CAMERA

1 Q. Were there items inside this envelope?

2 A. Yes, there was.

3 Q. And were multiple items inside this envelope?

4 A. Based on yesterday, yes.

5 Q. On the face of that envelope, does it indicate
6 to you who received that item -- a person's name or
7 agency?

8 A. The label shows trace evidence.

9 MR. HILLARD: Objection. That's hearsay.

10 THE COURT: I'm sorry. I thought he was asking
11 what was on the label on the exhibit. If that's what
12 it is, I will allow him to read what's on the face of
13 the exhibit.

14 BY SOLICITOR:

15 Q. Could you please read what's on the face of the
16 exhibit?

17 A. It says SLED zero three, and it has a case num-
18 ber of L0305522. Trace evidence, and it's got K. Black,
19 primer, trace, other, and it has Jimmy Burke, George-
20 town Police Department 038544, May 29, 2003.

21 It has a V for victim, and it has Joseph Pope.

22 Q. Are there any initials located on the top right-
23 hand corner there?

24 A. Under L0305522 dash two three, the initials KTB,
25 6 11 04.

DET. ALTMAN IN CAMERA

1 Q. In what manner was the entrance to that document
2 secured? Was it secured with any evidence tape or
3 anything like that?

4 A. There is multiple pieces of evidence tape on it.

5 Q. And do you recall whether that evidence tape was
6 on there at the time you received it?

7 A. When I received it, this envelope was sealed,
8 from SLED.

9 Q. When you received that document from SLED, were
10 the original chain of custody documents in that envel-
11 ope?

12 A. No, they were printed and given to me by SLED at
13 SLED log-out.

14 Q. You indicated a SLED log-out number, I believe,
15 on that envelope. Is that correct?

16 A. Yes, sir. That number is E194200.

17 Q. I hand you what's been marked as Exhibit 88 for
18 identification purposes only, and does that document
19 correspond with the number on that package of evidence
20 you brought back?

21 A. Yes, it does.

22 Q. Is there a description of the items contained, spe-
23 cifically referring to State's Exhibit Number 80. Is
24 there a physical description of that on that SLED docu-
25 ment?

DET. ALTMAN IN CAMERA

1 A. Yes, there is.

2 Q. And what is that physical description?

3 A. Item twenty-three, one sealed item containing
4 (inaudible word) item described as material from gun-
5 shot wound removed from Pope during autopsy.

6 Q. And does that -- when did you pick that item up
7 from SLED, and what did you do with it when you had
8 it in your custody?

9 A. I picked it up from SLED log-out and returned it
10 to the evidence room where it was secured.

11 Q. While it was in your custody and control, did you
12 do anything to that item in any way?

13 A. No, I did not.

14 Q. Did you alter it as to form or content?

15 A. No, I did not.

16 Q. Did you protect the integrity of that item?

17 A. Yes, I did.

18 Q. Did you allow anyone else to do anything with that
19 item or dilute that item?

20 A. No, I did not.

21 Q. Once you placed that package into evidence, are
22 you aware of what happened to it after that point?

23 A. ...

24 Q. Let me back up and rephrase that to be more
25 clear. You picked up the evidence from SLED, and

DET. ALTMAN IN CAMERA

1 when was that?

2 A. It says 7 19 04.

3 Q. Yes, sir, and do you specifically know when you
4 placed that evidence in the Georgetown Police Depart-
5 ment?

6 A. I placed them that same day.

7 SOLICITOR: I have no further questions of the
8 witness at this time.

9 At this time, the State would move State's 80
10 into evidence.

11 THE COURT: Mr. Hillard, do you have some other
12 questions of the witness?

13 MR. HILLARD: I'm not sure. I think I remember --
14 the witness saying '04.

15 WITNESS: Yes, sir, that's what I said, from the
16 SLED document.

17 THE COURT: The document that came from your of-
18 fice said 07, is that right?

19 WITNESS: That could be an '04. That's my hand-
20 writing.

21 FURTHER QUESTIONS out of the presence of the jury,
22 by Mr. Hillard:

23 Q. Before we -- are we talking about 07 or 04?

24 A. I picked it up from SLED in 04 and placed it in
25 evidence in 04.

DET. ALTMAN IN CAMERA

1 Q. And this date that says March 7th of 08 -- what
2 is that?

3 A. I have no idea with no documentation of that.

4 Q. And when you say you have no idea, if you didn't
5 have State's Exhibit 88 you would have no idea about
6 this either. Is that right?

7 A. When those items were returned from SLED they were
8 sealed. We did not tamper with them or anything.

9 Q. That's all the questions I have.

10 THE COURT: Mr. Locklair?

11 MR. LOCKLAIR: No questions, Judge.

12 THE COURT: All right, sir. Hold on a second.

13 (Brief pause in proceeding)

14 THE COURT: All right. The State has moved State's
15 80 into evidence. Do you have an objection, Mr. Hillard?

16 MR. HILLARD: We do, Your Honor.

17 THE COURT: All right, sir.

18 MR. HILLARD: The objection is as to the chain of
19 custody. The pathologist testified in this case that
20 she could not say that that was the material that she
21 removed, and thereafter the item that we had -- I did
22 not open it, Judge. When I walked up there I noticed
23 that it was open.

24 So it was open, and it is my experience in a chain
25 of custody with things like that is that they are not

1 open, so it is remarkable to me.

2 Nobody so far has explained that, and it is in my
3 ordinary experience that it hasn't been open, so that
4 -- and there is no connection that has been established
5 between when the evidence voucher from the City Police
6 Department and the South Carolina Law Enforcement Divis-
7 ion on this chain of custody which this officer is
8 testifying about.

9 I mean, that is just a piece of paper, a print-
10 out from SLED. It is not his. It's got really nothing
11 to do with him other than it has his name on it, and
12 there is no signatures on it or anything else. It is
13 just merely a piece of paper.

14 That is connected to the envelope but there is no-
15 thing to connect the evidence to the piece of paper,
16 Number 88, and there is nothing that connects to 87.

17 And, Judge, on the face of 87, the purpose of --
18 I can just sort of pass this up -- 87 indicates that
19 there is a number of things here. There is item number
20 one, a plastic bag; item number two, a plastic bag with
21 a clear plastic tube containing material from gunshot
22 wound.

23 There's a tube of blood with a purple top, a
24 plastic container containing a bullet, a plastic con-
25 tainer that contains a bullet jacket, and yet on the

1 back page there are a number of items that were returned
2 in this case but there is no identification as to what
3 was returned on the front to what person on the back.

4 SLED sent something back to Craig Young. SLED
5 sent back something it looks like to David Altman, and
6 then there is Smalls' name on here too, but there is
7 no connection as to which thing went to which person.

8 THE COURT: All right, sir. Mr. Locklair?

9 MR. LOCKLAIR: I will leave it with Mr. Hillard's
10 argument. I have no position on it.

11 THE COURT: Solicitor, be glad to hear from you.

12 SOLICITOR: Yes, sir, Your Honor. The first pos-
13 ition, just to give some cites on there -- State ver-
14 sus Glover and State versus Chisolm, and I have cites
15 for them.

16 It is our position that we are not required to
17 prove the chain of custody back to the police depart-
18 ment because once the analyst testifies it's what the
19 material is determined to be or what it is at that point
20 in time.

21 However, specifically with regard to -- we are able
22 able to carry the burden from that point in time, and
23 to continue on we would draw the Court's attention to
24 the Supreme Court case of State versus Hatcher. South
25 Carolina Supreme Court, March 21, 2011.

1 I would hand that case up to the Court to review.

2 THE COURT: Do you have a copy for opposing coun-

3 sel?

4 SOLICITOR: I do, Your Honor.

5 THE COURT: All right, sir.

6 (Brief pause in proceeding)

7 SOLICITOR: The chain of custody testimony came

8 from Mr. Altman taking it, the trace evidence, from

9 Ms. Black and placing it back in evidence at the

10 Georgetown Police Department. We have the return back

11 to the police department through the testimony, so the

12 testimony evidence is complete.

13 The only issue remaining is whether or not there

14 is any tampering or anything like that. There has been

15 no indication that it has been tampered with.

16 It is the weight of the evidence, not the admis-

17 sibility of the evidence, Your Honor, which has been

18 made clear, I think, specifically by her.

19 Once again, as to chain of custody, it is the

20 weight of the evidence, and a break in the chain goes

21 to credibility of the evidence.

22 We think we have shown the Court a sufficiency of

23 the chain of custody and that we have gone beyond what

24 is required by Hatcher. We have identified all those

25 that have handled the evidence, brought it down to

1 SLED, what was done with it there, as well as Mr.
2 Altman picking it up from State Law Enforcement Division and brings it back, placing it in evidence at the
3 Georgetown Police Department.
4

5 I could talk more about merits of documentary
6 evidence. The documentary evidence supports that as
7 well.

8 The SLED chain of custody shows Mr. Altman picking
9 it up from the trace evidence box and bringing
10 it back to the police department.

11 Item two was the main item, item two A and two B,
12 two D. Those go to different locations within SLED,
13 DNA, trace evidence, firearms. The bullets go to
14 ballistics.

15 Mr. Altman testified that on the face of the document
16 it indicates gunshot residue, trace, and also a
17 description of those items. That item returned indicates
18 Kim Black -- it came from Kim Black, and he had
19 signed for it and received it and brought it back to
20 the custody and control of the police department.

21 As a result, I would respectfully request that
22 Your Honor allow the evidence.

23 THE COURT: All right, sir. In this particular
24 matter, the Court would find that a proper chain of
25 custody has been established as to State's Exhibit 80, and

1 that any issues raised by the Defense in this matter
2 have obviously been raised to the jury in this parti-
3 cular matter, but as far as it being allowed in evi-
4 dence I'm going to allow it.

5 I find that the State has produced a proper chain
6 of custody on this particular item, and, therefore, I
7 am going to allow it in evidence over the objections
8 of the Defendant, Keri Fore Pope.

9 Anything else on that, Mr. Hillard?

10 MR. HILLARD: No, sir, Your Honor. Thank you.

11 THE COURT: Anything else, Mr. Locklair?

12 MR. LOCKLAIR: No, sir, Your Honor.

13 SOLICITOR: Your Honor, may I place something on
14 the record at this time as to Mr. Ward?

15 THE COURT: Yes, sir.

16 SOLICITOR: I am not asking what they are going
17 to do, but I would ask the Court to let Mr. Ward be
18 excused from the subpoena so that his presence will not
19 be required.

20 THE COURT: And Mr. Ward's full name is . . .

21 SOLICITOR: Larry Ward. He is the current evi-
22 dence custodian with the Georgetown Police Department.
23 He has assigned those duties to another officer to
24 bring the evidence back and forth to Court.

25 THE COURT: All right. Mr. Hillard.

1 MR. HILLARD: Thank you, Judge. The -- I would
2 certainly want to be able to go to that we do have
3 concerns and have objected to evidence handling in
4 this case.

5 It is not really a question of Mr. Ward being in
6 the chain of custody as much as there are evidentiary
7 irregularities in handling of the evidence in the case,
8 and I think that only Mr. Ward, the current evidence
9 custodian, can explain.

10 When does he need to leave, Judge?

11 (Discussion between counsel and the Court off the
12 record)

13 SOLICITOR: By eleven tomorrow morning.

14 THE COURT: He needs to leave by eleven tomorrow
15 morning?

16 SOLICITOR: His flight tomorrow morning.

17 THE COURT: So obviously he needs to leave con-
18 siderably before eleven o'clock?

19 SOLICITOR: Yes, sir. I am happy to let Mr.
20 Ward be excused so he can attend his son's Naval Academy
21 graduation.

22 If they intend to raise storage issues or chain
23 issues with him -- Larry Ward is on here in the chain
24 of evidence.

25 MR. HILLARD: Mr. Ward has been the evidence

1 custodian, I believe, for some period of time, and I
2 don't know whether Mr. Ward took over from -- I don't
3 know exactly what the procedure was there, but it is
4 something Mr. Ward could explain.

5 MR. HILLARD: When is he coming back?

6 THE COURT: Has he scheduled a return flight at
7 this point in time?

8 SOLICITOR: He'll get back on Monday morning,
9 Your Honor.

10 MR. HILLARD: Well, we would certainly have to
11 let him go and come back on Monday morning.

12 THE COURT: I don't have any idea whether we will
13 be here Monday morning or not. I can't tell you that,
14 and I don't know anybody can tell you that. So . . .

15 (Brief pause in proceeding)

16 MR. HILLARD: Judge, is there another individual
17 who would be responsible for the chain of custody? What
18 I mean by that, Judge, is somebody who can testify on
19 the documents and things like that, as to the accuracy
20 of Mr. Ward's signature on the things contained on the
21 evidence log that is maintained at the City Police
22 Department?

23 Essentially the same sort of thing that happens
24 when the evidence custodian changes from one person to
25 the next, and a new person signs on for the old person,

1 and there is designated an individual to be responsible
2 in that manner.

3 Could we use that individual as our witness? We
4 would agree for Mr. Ward to leave at whatever point
5 they want, Your Honor, based on that.

6 THE COURT: Do you understand what Mr. Hillard
7 is saying, Solicitor?

8 SOLICITOR: I think so. From my understanding
9 Mr. Brown is going to be responsible and I assume there
10 is documentary evidence that he can identify as to
11 the evidence, that Mr. Ward signed it.

12 MR. HILLARD: We would stipulate to that person
13 if he recognizes the signature of Mr. Ward where he
14 has signed.

15 THE COURT: Mr. Locklair?

16 MR. LOCKLAIR: I would certainly have no objection,
17 Your Honor, to Mr. Ward leaving.

18 THE COURT: Very good. Based on that, then, he
19 is released from the subpoena to go to his son's gradua-
20 tion from the Naval Academy.

21 SOLICITOR: Thank you, Your Honor.

22 THE COURT: He would certainly be available if
23 you need him on Monday.

24 MR. HILLARD: Thank you, Your Honor.

25 THE COURT: All right.

1 SOLICITOR: We have no further questions of this
2 witness, Your Honor.

3 THE COURT: Okay.

4 MR. HILLARD: Excuse me. We may want to recall
5 this witness at a later time.

6 THE COURT: I mean, that goes without saying. What
7 is it that you propose the Court do so that the jury
8 knows that 80 is in evidence?

9 SOLICITOR: Your Honor, I would just have Your
10 Honor indicate to the jury that item 80 is in evidence.

11 THE COURT: Over the objections of the Defendant?

12 SOLICITOR: I could ask those questions of the
13 witness in front of the jury, Your Honor.

14 THE COURT: Well, I don't -- Mr. Hillard, what
15 is it that you propose the Court do?

16 I mean, I've made my ruling and is it your posi-
17 tion you need to go through this whole process now
18 again in front of the jury, or are you in agreement
19 that the Court tell the jury that State's 80 is in
20 evidence in this case over objection of the Defendants,
21 Keri Fore Pope and Christopher Miller?

22 What's your position?

23 MR. HILLARD: I think we have to go through it
24 again, Judge.

25 THE COURT: All right. Mr. Locklair?

1 MR. LOCKLAIR: I'm fine either way, Judge. I
2 would be willing to consent for you to just tell the
3 jury but obviously we need to do what is best for all
4 concerned.

5 THE COURT: All right, sir.
6 Bring us the jury, please.

7 MR. HILLARD: I have changed my mind, Judge,
8 since you have made your rulings and the matters are
9 on the record.

10 THE COURT: Very good. Then with that, Mr.
11 Altman, you may step down at this time.

12 (Witness David Altman excused from witness stand)

13 THE COURT: Let's take five minutes now.

14 (Whereupon, the Court took a brief recess and
15 thereafter resumed)

16 THE COURT: Now please bring in our jury.

17 (Jury returned to Courtroom)

18 THE COURT: Ladies and gentlemen of the jury,
19 for the record State's Exhibit 80 is in evidence over
20 the objection of the Defendant Keri Fore Pope and the
21 Defendant Christopher Miller.

22 All right, next witness, Solicitor.

23 SOLICITOR: Thank you, Your Honor. We'd call
24 Antwhaun Bowser.

25 ANTWHHAUM BOWSER, being duly

1 sworn, testified as follows:

2 CLERK: Please have a seat and state your name
3 for the record, spelling your first and last names.

4 WITNESS: Antwhaun Bowser.

5 THE COURT: Please speak into the microphone.

6 DIRECT EXAMINATION

7 BY SOLICITOR:

8 Q. Good afternoon, sir. Please make sure you speak
9 up because sometimes it gets hard to hear.

10 A. Yes, sir.

11 Q. Where are you from?

12 A. Georgetown.

13 Q. Okay, and how long have you lived in Georgetown?

14 A. Twenty-five years.

15 Q. How old are you?

16 A. (inaudible)

17 Q. You were living here in Georgetown back around
18 May 27th of 2003, is that right?

19 A. Uh hm.

20 THE COURT: You'll need to say yes or no.

21 A. Yes, sir.

22 Q. Okay, did you have an occasion on May 27th of
23 2003 to know a fellow by the name of Germane Jenkins?

24 A. Yes, sir.

25 Q. And were you all friends?

MR. BOWSER ON DIRECT

1 A. Yes, sir.

2 Q. Please tell us about May 27th. Do you recall
3 going to look at a pickup truck?

4 A. Yeah. Me and him went and saw a pickup truck.

5 Q. Was the truck by this home, and let me show you
6 some pictures to make sure -- let me show you what is
7 marked State's Exhibit 21 -- that is S two --
8 see if you recognize that?

9 A. Yes, I do.

10 Q. Is that the pickup truck you guys were talking
11 about?

12 A. Yes.

13 Q. Okay, and let me show you what has been marked
14 as State's Exhibit 25, which is slide number two. Do
15 you recognize that?

16 A. Yes, sir.

17 Q. What is that?

18 A. The pickup truck we was looking at.

19 Q. Okay. Finally, let me show you a picture that's
20 been marked as State's Exhibit 20, slide S one. See
21 if you recognize that?

22 A. That's the house we went to.

23 Q. Okay. Tell us about going to look at the pickup
24 truck?

25 A. Okay, we walked up to the front door and I told

MR. BOWSER ON DIRECT

1 him I was going by the fence, so he knocked on the
2 front door, and as I walked by the side of the fence
3 someone came to the door.

4 Then we asked about the truck and she said we
5 wanted her husband; that he just got off work.

6 Q. Did you know the person he was talking to?

7 A. No, sir.

8 Q. Okay, go ahead. I'm sorry.

9 A. Well, he came outside and cranked up the truck
10 and everything, and we talked with him and give it a
11 look.

12 Q. Showing you State's Exhibit 20, is that the
13 fence you were talking about?

14 A. Yes, sir.

15 Q. Where did you walk, as you were testifying about?

16 A. On the right side of the house where the truck
17 was parked there.

18 Q. Let me also show you State's Exhibit 25. You said
19 the right side. See if that helps you.

20 A. That's beside the truck, where the sign is.

21 SOLICITOR: Let the record reflect he's pointing
22 his finger right around where the for sale sign is and
23 the right rear side of the truck.

24 BY SOLICITOR:

25 Q. So did you buy the truck?

MR. BOWSER ON DIRECT

1 A. No, we didn't buy the truck.

2 Q. And so you and Germane left?

3 A. Yes, sir.

4 Q. And at some point in time did you find out some-
5 thing had happened at that house you went to?

6 A. He told me, the officer.

7 SOLICITOR: I have no further questions, Your
8 Honor.

9 THE COURT: All right, Mr. Hillard. Cross
10 examination.

11 MR. HILLARD: May it please the Court, Ms. Bass
12 will examine the witness.

13 THE COURT: All right, Ms. Bass.

14 CROSS EXAMINATION

15 BY MS. BASS:

16 Q. Mr. Bowser, good afternoon. I'm Julia Bass.

17 How are you?

18 A. Good.

19 Q. You doing okay? I just have a very few questions
20 for you.

21 Mr. Hillard and I represent Ms. Keri Pope. Okay?

22 A. Okay.

23 Q. Let me know if you have trouble hearing me.

24 A. Okay.

25 Q. So no question on May 27 of 2003 you and Germane

MR. BOWSER ON CROSS

1 went to Joey and Keri Pope's house? No question about
2 that. Right?

3 A. Yes, we did.

4 Q. Okay, and the dog was outside then, right?

5 A. No, the dog was inside the house.

6 Q. The dog was inside the house?

7 A. Uh hm.

8 Q. Okay, and when you heard the dog inside the house
9 you didn't plan to go inside?

10 A. No, maam.

11 Q. And had you ever been there before?

12 A. No.

13 Q. Okay, but Keri was nice to you and Germane. Cor-
14 rect?

15 A. Uh hm.

16 Q. And when you wanted to look at the truck she then
17 went and got her husband. Right?

18 A. Yes.

19 Q. And that's Joey. Right?

20 A. Yes.

21 Q. And he's a big fellow?

22 A. Yes.

23 Q. The picture that -- the picture, Number 25, is
24 the black pickup truck you look at?

25 A. Yes.

MR. BOWSER ON CROSS

1 Q. And Joey asked her to get him the keys, and Teri
2 went and got him the keys, and you all walked around
3 and looked at it. Is that right?

4 A. He cranked the truck up.

5 Q. He cranked the truck up for you?

6 A. Yes.

7 Q. So you could see how it ran or how it sounded?

8 A. Yes.

9 Q. And you all looked at the seats and everything,
10 is that right?

11 A. No, we didn't get inside the truck. We looked
12 under the hood when he opened the hood up.

13 Q. Okay, but he cranked it up so you could hear it
14 run, and he let you look under the hood, but you didn't
15 open the door and look inside?

16 A. No.

17 Q. And it was just you and Germane?

18 A. Uh huh. Yes.

19 Q. How did you get over there?

20 A. We walked through -- we walked on the street by
21 the green car -- by the back side of the green car.

22 Q. Okay.

23 MS. BASS: May I approach, Your Honor.

24 THE COURT: That's fine.

25 Q. I just want to show you this -- this is State's

MR. BOWSER ON CROSS

1 Exhibit 25. Are you pretty familiar with Georgetown?

2 A. Yes.

3 Q. You grew up here?

4 A. That's right.

5 Q. And you still live here now?

6 A. That's right.

7 Q. Okay. Could you -- I want to get you to look at
8 this and I'll ask you some questions.

9 If I was over there with you and Germane, and
10 we looked at the truck, . . .

11 A. Yes, maam.

12 Q. . . okay, if we went in front of the truck --
13 went in front of the truck where the engine is, looking
14 that way what all is behind there?

15 A. . .

16 Q. Sort of like -- if I'm standing in front of the
17 truck and we head toward the street, what all is behind
18 there, behind the front of the truck?

19 A. Tombstones.

20 Q. Tombstones. Okay. The cemetery?

21 A. Yes.

22 Q. Are there any roads or anything back there?

23 A. That's Duke Street.

24 Q. Okay, and how far is all this, say, from Big Rock's
25 house -- how far is Big Rock's house from here?

MR. BOWSER ON CROSS

1 A. I'm not too sure.

2 Q. But you know who I'm talking about?

3 A. Yes.

4 Q. In that area a good number of people have houses
5 there. Right?

6 A. Yes, they do.

7 Q. And if we -- if we like went down the road head-
8 ing right, tell the jury where we'd be going?

9 A. Further down on Duke Street.

10 Q. Further down on Duke Street. Okay. If I turn
11 right, could I also be going -- if I start running
12 back where the truck is and start running that way,
13 could I be heading back into Georgetown on Highmarket?

14 A. You would have to go by the truck toward the
15 from of the house.

16 Q. Okay. All right. So if I'm on Number 25 and I
17 am standing in front of the truck, and I go this way
18 . .

19 A. In front of the truck.

20 Q. In front of the truck, I'm behind the cemetery,
21 Duke Street, and there's some more houses back there?

22 A. Yes.

23 Q. And are there some industrial buildings behind
24 that road too?

25 A. In front of the truck.

MR. BOWSER ON CROSS

- 1 Q. All right. I'm going to show you now Number 10.
2 Look at it, please. Can you see it?
3 A. Yes.
4 Q. And if I stand here, can you still see it?
5 A. Yes, maam.
6 Q. Okay, and if I'm standing in the front right here
7 -- right here if I made a right, I'm going this way,
8 like towards this way -- which if I'm standing with
9 my back toward the front of the house, where am I going
10 if I go towards that way?
11 A. Towards town.
12 Q. Towards town. Okay. Is that also toward Duke
13 Street?
14 A. You'd have to make a left to go on Duke Street.
15 Q. Okay. Turn left to go to town?
16 A. Yes.
17 Q. To go back into town?
18 A. Yes.
19 Q. Closer to the Courthouse?
20 A. Yes, maam.
21 Q. If I went -- standing in front of the house, if
22 I went to the right, toward Dr. Owens' office, where
23 all can I go?
24 A. What you mean? You mean if you go right toward
25 the front of the house?

MR. BOWSER ON CROSS

1 Q. If I'm standing in front of the house just like
2 this, and I want to go right, where am I going?

3 A. Towards Andrews.

4 Q. Towards Andrews. Okay, and there's concrete all
5 in that area, right?

6 A. Right.

7 Q. And if you and I wanted to jog, we could jog
8 straight down that street. Right?

9 A. Yes, maam.

10 Q. Okay, and I'm sure you'd beat me, but if we jogged
11 this way, we've got sidewalks in the way, is that right?

12 A. Yes, maam.

13 Q. We've also got Dr. Owens' parking lot. Right?

14 A. Yes.

15 Q. Anything preventing me and you from running that
16 way if we want to?

17 A. I don't think so.

18 Q. Anything preventing me or anybody from running
19 toward town on the sidewalk?

20 A. No, maam.

21 Q. Could we leave behind the house in front of the
22 truck and go to the cemetery and all that stuff, go to-
23 ward Duke Street. Right?

24 A. Yes, maam.

25 Q. And, sir, if you and I are in front of the house,

MR. BOWSER ON CROSS

1 and we want to go straight across the street to Radio
2 Shack and some of that stuff, tell me about that stuff
3 across the street from the house?

4 A. . . .

5 Q. Like the house is here and you and I are at the
6 front of the house, or this officer and I are at the
7 front of the house and we want to go that way, like
8 to the back of the jury box, where would we -- tell
9 us about the stores and stuff over there?

10 A. Duke Street runs in front.

11 Q. Okay.

12 A. There's a laundromat.

13 Q. Are there houses and stuff behind the laundro-
14 mat?

15 A. Yes, there are.

16 Q. Could we, this officer and I, park our car behind
17 the laundromat?

18 A. There ain't a parking lot behind the laundromat.

19 Q. So could we run to the laundromat and jump in a
20 car behind the laundromat and take off?

21 A. Yes.

22 Q. And how many -- how fast could you do it? I'm
23 not accusing you of anything -- you're not -- but how
24 fast could you get there just from the sidewalk in
25 front of Keri's house to the sidewalk across the street,

MR. BOWSER ON CROSS

1 across -- how long do you think it would take?

2 A. . .

3 SOLICITOR: Your Honor, I would object to spec-
4 ulation.

5 THE COURT: Rephrase your question.

6 BY MS. BASS:

7 Q. Would there be anything preventing anyone from
8 going north, south, east, west from Keri and Joey's
9 house?

10 A. Traffic.

11 Q. Okay, what about at fifteen to twelve at night?

12 A. . .

13 Q. Less traffic?

14 A. Yes, maam.

15 Q. And it's dark in that area. Right?

16 A. Not when I was there.

17 Q. You were there late afternoon?

18 A. Yes, maam.

19 Q. Okay, but there is no question the two of you
20 wanted to look at the truck? That was it?

21 A. Yes, maam.

22 Q. Okay, and is there any question that Keri talked
23 to Germane because she had gone to school with him, is
24 that right?

25 A. Yes, maam.

MR. BOWSER ON CROSS

1 Q. Okay. You didn't know Keri or Joey. Right?

2 A. I knew of her but I didn't know her.

3 Q. You didn't go to school with her?

4 A. No.

5 Q. You and Germane asked to look at the truck, and
6 you are there to look at the truck. How long did it
7 take?

8 A. I'd say fifteen minutes.

9 Q. Okay, and the whole time you are there Joey and
10 Keri get along fine? No problems whatsoever?

11 A. It seemed like it to me.

12 Q. Okay. Did you see any arguments, cusses, fights
13 or anything between Joey and Keri?

14 A. Not when I was there.

15 Q. The dog was in the house?

16 A. The dog was still barking.

17 Q. Still barking in the house?

18 A. Yes.

19 Q. All right, and the dog never looked out the win-
20 dow at you or anything?

21 A. Not that I know of.

22 Q. Okay. Did you ever see the baby or hear the baby
23 cry, or did Keri ever have the baby with her while
24 you were out there?

25 A. No.

MR. BOWSER ON CROSS

1 Q. Did you see a little baby at all?

2 A. No, maam.

3 Q. And you never have been inside the house?

4 A. No, maam.

5 Q. Okay.

6 MS. BASS: Just one minute, please.

7 THE COURT: Yes, maam.

8 (Brief pause)

9 BY MS. BASS:

10 Q. Tell the jury, please, how you got over there
11 to look at the truck?

12 A. We walked from Church Street and made a right.

13 Q. Okay. So Church Street -- would that be behind
14 the cemetery? I mean, you walked Church Street, Duke
15 Street, and the cemetery is beside the house?

16 A. Yes.

17 Q. Okay, and tell the jury -- I'm going to show you
18 Number 20, and you knocked at the front door. Right?

19 A. Yes, maam.

20 Q. And you all knocked and she came to the front door,
21 or someone came to the front door?

22 A. She did.

23 Q. And she just stuck her head out. Right?

24 A. Yes.

25 Q. Just looked out to see what you wanted?

MR. BOWSER ON CROSS

1 A. Yes.

2 Q. And when she saw Germane and recognized him, she
3 stepped out to talk to you all?

4 A. Yes.

5 Q. Okay, and when you left, how did you leave? By
6 car, by bike?

7 A. No, we were on foot.

8 Q. Okay, and which way did you go?

9 A. Left through the cemetery.

10 Q. Thank you so much. I don't have any further ques-
11 tions.

12 THE COURT: Mr. Locklair.

13 MR. LOCKLAIR: May it please the Court?

14 CROSS EXAMINATION

15 BY MR. LOCKLAIR:

16 Q. Good afternoon, Mr. Bowser.

17 A. How you doing?

18 Q. Good. I won't take long with you.

19 Did you all go to the front door or the side door
20 when you all . .

21 A. Front door.

22 Q. Okay. Now, when you all came up to the house,
23 you're sure you went through the graveyard?

24 A. Yes, sir.

25 Q. And you're sure you went through it on the way

MR. BOWSER ON CROSS

1 back?

2 A. Excuse me?

3 Q. Are you sure you all went through it on the way
4 back?

5 A. Yes, sir.

6 Q. I show you what's been previously marked as State
7 Exhibit 19, and ask if you recognize this area?

8 A. Yes, sir.

9 Q. Okay, and would that be the house you went to to
10 look at the truck?

11 A. Yes, sir.

12 MR. LOCKLAIR: Your Honor, I'd ask for permission
13 for the witness to step down and point this out for
14 the jury.

15 THE COURT: Any objection, Solicitor?

16 SOLICITOR: No, Your Honor.

17 THE COURT: Yes, sir.

18 BY MR. LOCKLAIR:

19 Q. Let me ask you to step down and show the jury
20 -- this is the house and this is Duke Street. Show
21 the jury what you all did?

22 A. . .

23 THE COURT: You'll need to speak up now.

24 A. We came to the house and this is where the truck
25 was.

MR. BOWSER ON CROSS

1 Q. Where did you go through the graveyard?

2 A. This is the driveway, and we went this way

3 Q. So you all went down Duke Street and down this
4 driveway, I guess?

5 A. No, we didn't go on the street.

6 Q. But you went through the graveyard down here?

7 A. Yes, sir.

8 Q. On this side of the house?

9 A. Yeah.

10 Q. And you all went back the same way?

11 A. Yes, sir.

12 Q. And would it be safe to assume it was not rain-
13 ing on you all?

14 A. No, it was not raining.

15 Q. Do you remember the weather that day?

16 A. It was pretty good but I don't really remember.

17 Q. But you know it wasn't raining?

18 A. Yes, sir.

19 MR. LOCKLAIR: That's all I have for this witness,
20 Your Honor.

21 THE COURT: Redirect, Solicitor?

22 SOLICITOR: No, Your Honor.

23 THE COURT: All right, do you wish the witness
24 to be excused?

25 SOLICITOR: I do.

1 THE COURT: Any objection?

2 MS. BASS: No, Your Honor.

3 MR. LOCKLAIR: No, sir.

4 THE COURT: Very good. Sir, you are released
5 from the subpoena. You may go back to your regular
6 activities.

7 (Witness excused)

8 THE COURT: All right, Solicitor. Your next
9 witness, please.

10 SOLICITOR: State would call Tabitha Hanna.

11 TABITHA HANNA, being duly
12 sworn, testified as follows:

13 CLERK: Please be seated and state your name,
14 spelling your first and last names.

15 WITNESS: Tabitha Hanna, T A B I T H A
16 H A N N A.

17 DIRECT EXAMINATION

18 BY SOLICITOR:

19 Q. How are you doing, maam?

20 A. All right.

21 Q. Make sure you speak into the microphone.

22 THE COURT: Move your chair up a little and speak
23 directly into the microphone.

24 Okay, sir.

25 Q. Where do you live?

MS. HANNA ON DIRECT

1 A. Georgetown.

2 Q. How long have you lived here?

3 A. Twenty-five years.

4 Q. Most of your life?

5 A. All of it.

6 Q. And do you know Joey Pope?

7 A. Yes, sir.

8 Q. And do you also know Keri Fore Pope?

9 A. Yes, sir.

10 Q. Were you all friends?

11 A. Probably, yes, sir.

12 Q. And you and Joey, were you two friends?

13 A. I was.

14 Q. Did you used to go over to his house fairly of-
15 ten?

16 A. There for about eight weeks.

17 Q. And back around May 27 of 2003, how old were you
18 back then?

19 A. Sixteen.

20 Q. And did you have a driver's license then?

21 A. No.

22 Q. Did you do what sixteen year olds did?

23 A. Yes, sir.

24 Q. Let's talk about Joey and Keri's house. You said
25 you went there fairly often?

MS. HANNA ON DIRECT

1 A. Yes, sir.

2 Q. How often?

3 A. A few days a week.

4 Q. Let me draw your attention specifically to May 27
5 of 2003. Do you recall that day?

6 A. Yes, sir.

7 Q. Okay. Did you stop by Joey's house that day?

8 A. Yes, sir.

9 Q. Can you please tell the jury what you recall
10 about that?

11 A. I stopped by and knocked on the door and nobody
12 answered, so I left. I didn't hear the dog barking.

13 Q. Do you specifically remember about what time it
14 was when you knocked on the door and didn't hear any-
15 body?

16 A. Between nine forty-five and ten fifteen or so.

17 Q. Okay. You didn't hear the dog barking?

18 A. No, sir.

19 Q. When you had gone there and knocked on the door
20 before, did you hear the dog barking?

21 A. Yes.

22 Q. Okay. After you left about ten fifteen, did you
23 go back to the house?

24 A. . .

25 Q. I think you said you went between nine forty-five

MS. HANNA ON DIRECT

1 and ten fifteen. Is that right?

2 A. Yes, sir, and then I had gone to the store and
3 hung out for a second and then gone back to the house,
4 and that's whenever the cops were over there.

5 Q. Okay. Did you know what was going on?

6 A. Not until after. About ten minutes later I did.

7 Q. Okay. How did you find out what happened?

8 A. I got a phone call.

9 Q. What did you learn from that phone call?

10 A. That Joey had been shot.

11 Q. Did you talk to anybody else about it that you --
12 when was that phone call?

13 A. About ten thirty.

14 Q. You got the phone call . . .

15 A. I found out what happened about ten thirty.

16 Q. Okay.

17 A. I saw the cops there.

18 Q. Let me back up a little bit. You went by the
19 house about nine forty-five to ten fifteen, and it was
20 after that that you went to the store. Is that right?

21 A. Yes, sir.

22 Q. And you went back to the house? Do you know what
23 time you went back after you went to the store and
24 came back?

25 A. About forty-five minutes later. I'm not sure.

MS. HANNA ON DIRECT

- 1 Q. Do you recall talking to anybody else on the tele-
2 phone after you got the news about Joey?
- 3 A. Yeah, I called Chris and I called my cousin,
4 Sharon.
- 5 Q. What happened after that? What did you do after
6 that?
- 7 A. I went to the hospital.
- 8 Q. Who did you see at the hospital?
- 9 A. Oh, friends.
- 10 Q. Family members and things like that?
- 11 A. Yes, sir.
- 12 Q. Okay. What I'd like to do now -- do you remember
13 telling law enforcement the story you just told me?
- 14 A. Yes, sir.
- 15 Q. All right. Do you recall who you talked to?
- 16 A. I don't remember the officer.
- 17 Q. Do you remember whether or not you gave him a
18 written statement?
- 19 A. Yes, sir.
- 20 Q. When did you give a written statement?
- 21 A. Two weeks after it happened.
- 22 Q. Do you recall what specific date it was?
- 23 A. No, sir.
- 24 Q. If I show you something, could that refresh your
25 recollection?

MS. HANNA ON DIRECT

1 A. . .

2 Q. Would you remember if I showed you a document?

3 A. I would assume so.

4 Q. All right, I show you this. Don't read it but
5 take a look at it.

6 Tell me when you're done and I'll ask you another
7 question. Okay?

8 A. Yes. This is my statement.

9 (Brief pause)

10 BY SOLICITOR:

11 Q. What date did you give that statement?

12 A. It says 6 13 03.

13 Q. Does it tell you who you gave that statement to?

14 A. No, sir.

15 Q. You just know it was a police officer?

16 A. Yes, sir.

17 Q. All right, is that statement you wrote there --
18 is that consistent with what you have testified here
19 today?

20 A. Yes, sir.

21 Q. And what is the exact time you said you drove
22 by that house?

23 A. . .

24 MR. HILLARD: Objection.

25 THE COURT: Let Ms. Hanna look at the document,

MS. HANNA ON DIRECT

1 and if she needs to refresh her memory she may do so,
2 but she cannot testify from it.

3 SOLICITOR: Yes, sir.

4 BY SOLICITOR:

5 Q. Look at that document and see if it refreshes
6 your recollection.

7 A. Yes, sir.

8 Q. And what time would you say you drove by that
9 house?

10 A. The first time it was between nine forty-five
11 and ten fifteen.

12 Q. Okay.

13 A. And when I went back by it was about eleven
14 thirty.

15 Q. Thank you very much. Did some other officer
16 talk to you later on about this case?

17 A. In 08.

18 Q. When was it?

19 A. In 2008.

20 Q. Okay. Did you give a statement at the Georgetown
21 Police Department in 2008?

22 A. Yes.

23 Q. Do you recall what you told the officers then?

24 A. Yes, sir. I would -- yes, sir.

25 Q. Okay, can you recall what you told them in 2008?

MS. HANNA ON DIRECT

1 A. . .

2 MR. HILLARD: Objection.

3 THE COURT: I'm sorry. The grounds would be . .

4 MR. HILLARD: He's asking what she said before,
5 not what she recollects as to what occurred.

6 THE COURT: I'm not certain . . .

7 MR. HILLARD: I would object to the relevance as
8 other than some attempt to bolster the pre-existing
9 statement.

10 THE COURT: This one time, I'm going to allow it,
11 what she said in 2008.

12 BY SOLICITOR:

13 Q. I know it was a long time ago but you said you
14 gave this statement to the Georgetown Police Depart-
15 ment I think 6 13 03. Is that right?

16 A. Yes, sir. That was two weeks after this happened.

17 Q. And at some other time, in 2008, did you give a
18 second statement to the Georgetown Police Department?

19 A. Yes, I did. About five years later, and I don't
20 -- I don't remember it.

21 Q. No further questions, Your Honor.

22 THE COURT: All right, cross examination.

23 MR. HILLARD: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. HILLARD:

MS. HANNA ON CROSS

1 Q. Five years later?

2 A. Yes. Five years and two kids later.

3 Q. Before he became a police officer, you and Joey
4 used to smoke pot together. Is that right?

5 A. Yes, sir.

6 SOLICITOR: Objection as to relevance.

7 A. I was sixteen.

8 THE COURT: Let's move along, Mr. Hillard.

9 Don't ask any more questions of that nature.

10 Would you like to argue it further?

11 MR. HILLARD: Yes, sir.

12 THE COURT: Very good. Ladies and gentlemen, go
13 to your jury room, please.

14 (Jury excused from Courtroom)

15 THE COURT: All right, the objection was rele-
16 vance, Mr. Hillard, to the matters.

17 Do you need to ask some other questions of the
18 witness?

19 MR. HILLARD: I do, Judge, yes, sir.

20 THE COURT: All right.

21 MR. HILLARD: Thank you.

22 QUESTIONS of the witness out of the presence of the
23 jury, by Mr. Hillard:

24 Q. How often did you and Joey smoke pot together?

25 A. I can't tell you how many times.

MS. HANNA IN CAMERA

1 Q. A lot?

2 A. I can't remember how many times.

3 Q. I understand you can't remember, but you and Joey
4 smoked a lot of pot, didn't you -- a lot?

5 A. Often.

6 Q. Often -- and as you and Joey smoked pot together,
7 were you smoking pot on the day Joey was killed?

8 A. I don't believe -- I mean, . .

9 Q. That's all right, and essentially what you're
10 saying is that to the best of your recollection today
11 you went by their house on that day. Right?

12 A. Yes, sir, between nine forty-five and ten fifteen
13 or so.

14 Q. And then you went back at one time?

15 A. Eleven thirty.

16 Q. That's your recollection -- that's not what you
17 said when you first testified?

18 A. . .

19 SOLICITOR: Your Honor, I would object. Mr.
20 Hillard is getting a free cross examination of the
21 witness.

22 THE COURT: You need to stick on the issue of the
23 cannibus. That was the objection.

24 BY MR. HOLLARD:

25 Q. You don't remember whether you were smoking pot

MS. HANNA IN CAMERA

1 on 6 13 03, is that correct?

2 A. Correct.

3 Q. So you could have been smoking pot on 6 13 03?

4 A. I was by myself and I don't smoke by myself.

5 Q. And you made the statement on -- the events oc-
6 curred on May 27, 2003, is that right?

7 A. When the statement was taken?

8 Q. When Joey was killed, were you smoking pot that
9 day?

10 A. I was by myself, and I don't -- I just said I
11 don't smoke pot by myself.

12 Q. When you made a statement on 6 13 03 were you
13 smoking on that day?

14 A. No, sir.

15 MR. HILLARD: She gave this statement -- do you
16 want to hear anything about that? That is kind of
17 preliminary.

18 THE COURT: Let's hear the argument.

19 MR. HILLARD: She's got a statement from 6 13 03
20 where she testified that she and Joey smoked a lot of
21 pot together, but she doesn't remember whether she was
22 smoking pot on the day he was killed which would affect
23 her recollection.

24 And she doesn't remember . .

25 WITNESS: I was by myself and I wouldn't have been

MS. HANNA IN CAMERA

1 smoking . .

2 THE COURT: Hold on, maam. The questioning and
3 answering is done for right now. Thank you, maam.

4 Go ahead.

5 MR. HILLARD: So essentially what's happened is
6 she's -- she says she doesn't remember if she was
7 smoking pot on 6 13 03.

8 The reason that matters is that she's testified
9 originally as to a different time coming back around
10 the house which doesn't fit the time-line.

11 THE COURT: She said a different time when?

12 MR. HILLARD: In her original testimony . .

13 THE COURT: Here today?

14 MR. HILLARD: Here today.

15 THE COURT: Is that her statement of 6 13 03?

16 MR. HILLARD: Yes. In her statement of 6 13 03
17 she said eleven thirty.

18 THE COURT: All right.

19 WITNESS: When I went back by and that's when the
20 cops were there.

21 THE COURT: Maam, again, I appreciate it, but he
22 is not asking you any questions at the moment, so do
23 not make any statements any more, please, until you're
24 being asked questions.

25 Do you understand that?

MS. HANNA IN CAMERA

1 WITNESS: Yes, sir.

2 THE COURT: Now, please, Mr. Hillard, let me ask
3 because I'm confused. You said that she gave some
4 other time other than eleven thirty.

5 Do you mean in her direct testimony today or . .

6 MR. HILLARD: Yes, sir.

7 THE COURT: . . in her statement of 6.13.03?

8 MR. HILLARD: In her direct testimony today.

9 THE COURT: All right. She said she went by be-
10 tween nine forty-five and ten fifteen and there was
11 no answer, the dog didn't bark.

12 She said she went to the store; she came back
13 and the officers were there. She talked about a phone
14 call, and she did indicate that it was -- to me it was
15 unclear whether she was talking about the phone call
16 or when she came back.

17 She did say ten thirty. The Solicitor asked her
18 how long was it, and she said forty-five minutes, and she
19 then said eleven thirty.

20 So is that what you are trying to bring out?

21 MR. HILLARD: Yes, sir.

22 THE COURT: All right.

23 MR. HILLARD: And the phone call . .

24 THE COURT: You can ask her that.

25 MR. HILLARD: The point is that at this point she

MS. HANNA IN CAMERA

1 knows what it is the Solicitor wants her to say from
2 her statement. She originally said the phone call
3 was at ten thirty, and the phone call we're talking
4 about here is a phone call to Chris saying that Joey
5 is dead.

6 That's the phone call she's talking about. That
7 is part of her original statement.

8 THE COURT: Well, you can ask her about that. I
9 will allow you, since you -- I will allow the question
10 and the answer before that about she and Mr. Pope
11 smoking dope, and then you can ask her was she doing
12 some, you know, on that date, 5 27; was she doing it
13 on 6 13 -- on those dates which obviously are import-
14 ant to you, you can ask her if she was doing it on
15 those dates. That's clear, and it's for the jury to
16 take whatever they want to out of it.

17 You can ask her all these questions about the
18 times and everything.

19 MR. HILLARD: Thank you, Your Honor.

20 THE COURT: I don't see any problem with that.

21 MR. HILLARD: Thank you.

22 THE COURT: All right, ask the jury to come in.

23 Mr. Locklair, do you want to jump in and argue
24 anything?

25 MR. LOCKLAIR: No, sir, Your Honor.

1 THE COURT: All right, ask the jury to come in,
2 please.

3 (Jury returned to the Courtroom)

4 THE COURT: You may continue, Mr. Hillard.

5 CROSS EXAMINATION CONTINUED in the presence of the
6 jury.

7 BY MR. HILLARD:

8 Q. You and Joey used to smoke marijuana together?

9 A. Yes, sir.

10 Q. How long was he working at the jail before he
11 was killed?

12 A. Maybe a month. I'm not certain.

13 Q. But up until the time he started working at the
14 jail, you and he smoked marijuana together?

15 A. Until he started working at the jail -- before
16 that.

17 Q. All right. Back in 2003, is it fair to say that
18 you smoked a lot of marijuana?

19 A. . .

20 Q. Let me rephrase the question. Is it fair to say
21 that you smoked marijuana fairly often back in 2003?

22 A. I would have been, depending on what day of the
23 week it was.

24 Q. I understand. Do you recollect whether on the day
25 that Joey was killed you were smoking marijuana or

MS. HANNA ON CROSS

1 not?

2 A. No, sir. I was by myself and I didn't smoke by
3 myself.

4 Q. How about the day after that?

5 A. I don't recall.

6 Q. On the day of this original statement to the po-
7 lice department, do you recall about the day you made
8 the statement?

9 A. No, sir.

10 Q. When you came up to the house -- what you're say-
11 ing is that the day Joey was killed you went by Joey's
12 house. Is that right?

13 A. Yes, sir. Between nine forty-five and ten fifteen
14 or ten thirty.

15 Q. You knocked on the door?

16 A. No dog barked and nobody answered. Then I went
17 to the store and when I came back around eleven thirty
18 is when the cops was there. That's whenever I called
19 Jean and said Joey had been shot.

20 Q. Which store did you go to?

21 A. I was hanging out in the parking lot, and smoking.

22 Q. Hanging out in the parking lot?

23 A. Yes, sir.

24 Q. By yourself?

25 A. I was most likely talking to somebody.

MS. HANNA ON CROSS

1 Q. Okay.

2 A. Probably talking to a friend.

3 Q. But you weren't by yourself at the store?

4 A. There's a clerk there and other customers.

5 Q. What I'm trying to get at is you went to the
6 store to hang out but did you go to buy something?

7 A. I got a soda.

8 Q. You went in the store and got a soda and left and
9 came back?

10 A. I probably ran into a couple of friends and sat
11 there and talked to them for a little while and then
12 left, came back.

13 Q. Did you smoke a joint then?

14 A. . .

15 SOLICITOR: Objection, Your Honor.

16 THE COURT: I'm going to allow that.

17 A. I don't think it would be smart to smoke pot in
18 a store parking lot.

19 Q. Pardon?

20 A. It wouldn't be smart to smoke pot in a store
21 parking lot.

22 Q. All right. Your recollection you are telling
23 the folks on the jury here today is based on a review
24 of the statement. Isn't that true?

25 A. Yes.

MS. HANNA ON CROSS

1 Q. And not what you really remember?

2 A. I remember what happened back then as well as I
3 did then.

4 Q. And when you went to -- where did you park?

5 A. In front of the trash dump.

6 Q. In front of the trash dump?

7 A. Dump or dumpster, where the trash is.

8 Q. What kind of car did you have?

9 A. I don't recall what I was driving then.

10 Q. You don't recall?

11 A. Probably an S-ten.

12 Q. Where was the trash can that you parked in front
13 of?

14 A. At the store. The trash can about three parking
15 spots over from the front door.

16 Q. I'm sorry. Perhaps we're mis-communicating. I'm
17 talking about . . .

18 A. At the house I parked beside Joey's truck, and I
19 went to his front door.

20 Q. You parked beside Joey's truck?

21 A. Yes, sir.

22 Q. Where was Joey's truck parked?

23 A. On the opposite side of the house.

24 Q. How close was it to the house?

25 A. Ten feet.

MS. HANNA ON CROSS

1 Q. All right.

2 A. Ten feet from the house.

3 Q. Let me show you State's Exhibit Number 25. Take
4 a look at that. Show the jury where you were parked,
5 the folks on the jury where you were parked.

6 A. Parked on the side of the truck where he's stand-
7 ing.

8 Q. What time was that?

9 A. It was like nine twenty-five at night.

10 Q. Were there lights on that side of the house?

11 A. No, sir. Just the front porch light was on, I
12 think. Yeah. I didn't park in the parking lot beside
13 the house.

14 Q. Were there any other cars there?

15 A. I didn't go on that side of the house. I know
16 Joey's truck was there but I didn't go around the
17 house to see whether the car was there.

18 Q. They didn't take the dog off with them on any
19 occasion, did they?

20 A. No, sir. Not that I know of.

21 Q. So if you came to the house and nobody was home
22 and nobody came to the door, the dog would still bark?
23 Right?

24 A. Right. The times I was there, the dog would
25 bark.

MS. HANNA ON CROSS

1 Q. So did you -- did it strike you as odd when you
2 knocked on the door and nobody came to the door?

3 A. I didn't think nothing about it.

4 Q. You didn't go around to the other side of the
5 house?

6 A. No, sir, I did not. I parked and went straight
7 to the front door and knocked. In thirty to forty-
8 five seconds no one came to the door, so I left. I
9 was there all of three minutes at the most, parking the
10 the car, going to the door and knocking, come back
11 to the car.

12 Q. State's Exhibit Number 21 -- is that . .

13 A. That's the house.

14 Q. And where did you go?

15 A. To the front door.

16 Q. Did you go behind the truck or in front of the
17 truck?

18 A. I don't know. I probably went behind the truck
19 in about two minutes.

20 Q. Did you stop by the house when you saw all the
21 police cars?

22 A. Yes, sir. I didn't go up to the house. I parked
23 in the median. I didn't go up to the house. I was
24 just being nosy. I went and looked.

25 Q. And then you went on?

MS. HANNA ON CROSS

1 A. Yes.

2 MR. HILLARD: No further questions, Your Honor.

3 THE COURT: All right, Mr. Locklair.

4 CROSS EXAMINATION

5 BY MR. LOCKLAIR:

6 Q. Ms. Hanna, when you went by I know you said you
7 didn't see any cars over in the doctor's office, but
8 did you see the headlights of any cars that were parked
9 over there?

10 A. No.

11 Q. Do you recall if you saw Chris Miller's car over
12 there? Do you know what Chris Miller was driving in
13 2003?

14 A. I believe his car was broke at that time.

15 Q. What do you think was wrong with his car?

16 A. Not really but . .

17 Q. To your knowledge, Chris' car was broken in
18 2003?

19 A. It was in the yard and broke down.

20 Q. Thank you, maam.

21 MR. LOCKLAIR: That's all I have, Your Honor.

22 THE COURT: Any Redirect?

23 SOLICITOR: No, sir.

24 THE COURT: Do you wish the witness to be excused?

25 SOLICITOR: Yes, sir.

1 THE COURT: Any objection?

2 MR. HILLARD: Give me just one second, Judge.

3 That's all we have, maam.

4 THE COURT: Any objection?

5 MR. LOCKLAIR: No, sir, Your Honor.

6 THE COURT: You may be excused and go back to your
7 regular activities.

8 (Witness excused)

9 THE COURT: Next witness, Solicitor.

10 SOLICITOR: Tiffany Cooper, Your Honor.

11 TIFFANY COOPER, being
12 duly sworn, testified as follows:

13 CLERK: Please be seated and state your name for
14 the record, spelling your first and last names.

15 WITNESS: Tiffany Dawn Cooper, T I F F A N Y
16 C O O P E R.

17 DIRECT EXAMINATION

18 BY SOLICITOR:

19 Q. Good afternoon, maam.

20 A. Good afternoon.

21 Q. So tell us about yourself. Where do you live?

22 A. In Georgetown.

23 Q. How long have you lived here?

24 A. Almost all my life.

25 Q. Okay, and how old are you?

MS. COOPER ON DIRECT

1 A. Twenty-nine.

2 Q. Do you have a family?

3 A. Yes.

4 Q. Tell us about -- all your life means you were
5 living here back on May 27, 2003. Is that right?

6 A. Yes, sir.

7 Q. Okay, and do you know Keri Pope?

8 A. I do.

9 Q. Did you know Joey Pope?

10 A. Yes, I did.

11 Q. And do you know Christopher Miller?

12 A. Yes, I do.

13 Q. And about how long have you known them?

14 A. I'm not sure. Probably about twelve or thir-
15 teen years.

16 Q. Okay.

17 A. I didn't know Joey as long as I've known Keri,
18 but I've known Chris as long as I've known Keri.

19 Q. How do you recall back when you first came to know
20 Keri Pope? Keri Fore I believe at that time?

21 A. What do you mean?

22 Q. Where did you first meet her?

23 A. It was a long time ago.

24 Q. You all go to school together, things like that?

25 A. Yes.

MS. COOPER ON DIRECT

1 Q. Would you all consider yourselves friends?

2 A. Yes.

3 Q. Let's talk about -- were you friends with Keri
4 or around Keri at the time that she met or got married
5 to Joey Pope?

6 A. Yes, I was.

7 Q. And tell us about your relationship with Keri and
8 your relationship with Joey around that period of time
9 when you first got married.

10 A. Me and Keri were very close while they dated, and
11 when they got married me and Keri wasn't as close. We
12 spoke and went out a couple of times but it wasn't as
13 it was before the marriage.

14 Q. And why so?

15 A. Uh, Joey didn't care for me too much. He was
16 -- it was kind of a jealousy thing that me and Keri
17 was so close. I think he thought that I was trying
18 to take her away from him.

19 Q. Okay. Did Keri often confide in you about things
20 going on, the relationship, or did you yourself know
21 things that were going on in the relationship?

22 A. Yes.

23 Q. Were you aware of any abuse or anything like
24 that?

25 A. Yes, I was.

MS. COOPER ON DIRECT

1 Q. Did you ever see on Keri any physical manifesta-
2 tions of that abuse?

3 A. A couple of times, yes.

4 Q. Did anything happen in your presence; anything
5 you actually saw yourself?

6 A. Just one occasion.

7 Q. I don't want to get into details, specific de-
8 tails, of what transpired, but based on what you have
9 heard from Keri, did she ever make any statements to
10 you about how she was -- about what was happening
11 with Mr. Pope?

12 A. Yes.

13 Q. And what did she say?

14 A. . .

15 MR. HILLARD: Objection.

16 THE COURT: The rules or the grounds?

17 MR. HILLARD: Relevance. All she said was that
18 statements were made.

19 THE COURT: Why don't you clarify a little bit,
20 Solicitor?

21 SOLICITOR: Your Honor, I will. I'm just trying
22 to avoid details about some of the disputes, and that
23 is the only reason . .

24 THE COURT: Well, I appreciate that, but . .

25 BY SOLICITOR:

MS. COOPER ON DIRECT

1 Q. Would you please tell me the details specifically
2 but don't -- tell me about when you saw or heard about
3 some of these abusive situations?

4 A. There was an occasion that Joey punched her in
5 her stomach. Do you want me to describe what I seen?

6 Q. No, I don't want you to. Do you recall about
7 what period of time that was?

8 A. They weren't married yet.

9 Q. And during that period of time did she ever tell
10 you how she felt about this abusive situation?

11 A. Yes, she did.

12 Q. What did she say?

13 A. That she just didn't see where it was going to
14 be able to be fixed. On several occasions I do know
15 she tried to file for divorce, or she tried to leave.

16 Q. And what was the result of those?

17 A. Threatening remarks from Mr. Pope on one occas-
18 ion when she tried to leave, and I'm not exactly sure
19 if she ever did actually file for divorce. It is just
20 what she had told me.

21 Q. Do you specifically recall what Mr. Pope told her
22 -- Ms. Pope's understanding of what Mr. Pope would do
23 if she tried to leave?

24 A. He told her -- he told her, she told me, that he
25 said that he would cut her up if she ever went to

MS. COOPER ON DIRECT

1 leave him.

2 Q. How about the night of the incident we are talk-
3 ing about, May 27, 2003. Do you recall that day?

4 A. Yes, I do.

5 Q. Let me ask you this before I get to that. Did
6 Keri ever tell you about her and Chris having a rela-
7 tionship?

8 A. . .

9 MR. LOCKLAIR: Objection. Ever?

10 THE COURT: I appreciate that. I'm going to allow
11 the question and the answer. Then I'll hear the next
12 question from the Solicitor.

13 Go ahead, Solicitor.

14 BY SOLICITOR:

15 Q. Did Keri ever talk to you about her
16 and Christopher's relationship?

17 A. Yes, she did.

18 Q. Around what time period did she have that conver-
19 sation with you?

20 A. . .

21 MR. LOCKLAIR: My objection would continue, Your
22 Honor.

23 THE COURT: You are objecting now to this ques-
24 tion then?

25 MR. LOCKLAIR: Yes, sir.

MS. COOPER ON DIRECT

1 THE COURT: All right. Overruled.

2 MR. LOCKLAIR: Thank you.

3 THE COURT: Go ahead, Solicitor.

4 BY SOLICITOR:

5 Q. Did Keri ever tell you that she and Christopher
6 had a physical relationship?

7 A. Yes.

8 Q. Let's go to May 27, 2003.

9 A. Yes, sir.

10 Q. Where were you working during that time period?

11 A. Where was I working? Blockbuster Video. At
12 the time it was inside of WalMart.

13 Q. Okay, and on that day did you see Keri and Joey
14 on that day?

15 A. Yes, I did.

16 Q. What happened?

17 A. I seen them walk inside WalMart and they walked
18 into Blockbuster because Joey was wanting to rent a
19 video game.

20 Me and Joey just said hello, and me and Keri spoke.

21 Q. How did it seem that they were?

22 A. They seem distant at that time. They seemed like
23 they was okay but they seemed a little distant, like
24 maybe they had got into an argument.

25 Q. Okay. Do you recall about what time it was when