

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

VOLUME 1 OF 2

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S.C. SUPREME COURT

Appeal from Darlington County
The Honorable Roger E. Henderson, Circuit Court Judge
Appellate Case No: 2026-000776

STATE OF SOUTH CAROLINA,

Petitioner,

v.

ERIC ANTON GRAHAM,

Respondent.

APPENDIX

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Jul 22 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable Roger E. Henderson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ERIC ANTON GRAHAM,

APPELLANT

APPELLATE CASE NO. 2023-000160

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA - COUNTY OF DARLINGTON
FOURTH JUDICIAL CIRCUIT

	)
	) Docket No.
STATE OF SOUTH CAROLINA	) 1997-GS-16-00224
	)
	)
V.	)
	)
	) HEARING FOR
ERIC ANTON GRAHAM	) RESENTENCING
	)
DEFENDANT.	)

January 19, 2023
Darlington, South Carolina

B-E-F-O-R-E:

THE HONORABLE ROGER E. HENDERSON

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

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Maria DiScioscia, RPR
Official Court Reporter

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1 THE COURT: Counsel, everybody ready?

2 MS. FRANKLIN-BEST: We are waiting for our
3 client to be brought in the courtroom.

4 We're ready.

5 THE COURT: Okay. Mr. Jackson, if you could
6 identify this matter, please, for the Court.

7 MR. JACKSON: Thank you, your Honor. If it
8 pleases the Court.

9 This is indictment 97-GS-16-0224. This is the
10 State versus Eric Graham. He was charged with the murder
11 of Curtisha Wingate. There was a trial, here, in
12 Darlington County. The dates were 24th through 27th,
13 August of 1998. That trial resulted in a conviction of
14 murder and a sentence of natural life by the Honorable
15 Paul Burch.

16 In 2012, the United States Supreme Court
17 issued a case called *Miller versus Alabama*, to all the
18 states. In 2014, the South Carolina State Supreme Court
19 issued, in adherence with *Miller versus Alabama*, a case
20 called *Aiken v Byers*, which entitled an inmate, such as
21 Mr. Graham, to a resentencing hearing. He timely filed
22 a request for a resentence hearing on the 9th of June of
23 2016. That's the matter before the Court today.

24 Your Honor, there are some stipulations.
25 We've already agreed to, I will put those on the record

1 at this time. First of all, I have a copy of the
2 transcript of the trial from 1998. It is pages 4
3 through 420. It also includes pretrial -- excuse me.
4 Post-trial motions that were made on the 4th of
5 September 1998. That's Court's Exhibit 1.

6 Then I have Court's Exhibit 2, which is a
7 certificate from the Official Court Reporter of the
8 trial.

9 And Court's Exhibit 3, which is a certificate
10 from the Court Reporter of the post-trial motions.

11 Your Honor, I will enter those in right now,
12 as stipulated by everyone, as Court's Exhibits 1, 2, and
13 3. They have been marked.

14 THE COURT: Okay.

15 MS. FRANKLIN-BEST: And that's accurate, your
16 Honor.

17 THE COURT: Those are received into evidence
18 then.

19 (Court's Exhibit 1, Transcript of trial
20 from 1998, was entered into evidence.)

21 (Court's Exhibit 2, Certificate of Court
22 Reporter Annette Herndon, was entered
23 into evidence.)

24 (Court's Exhibit 3, Certificate of Court
25 Reporter Grace Hurley, was entered into

1 evidence.)

2 MR. JACKSON: Your Honor, the next thing is
3 the trial exhibits from the original trial of 1998. The
4 Clerk of Court has brought them to the courtroom. They
5 are here behind the Court Reporter in that box. We've
6 all agreed that they should be incorporated into this
7 hearing and will be referred to as the original exhibit
8 numbers from the trial, which I believe are 1 through 18
9 on the Court Reporter's list.

10 Next your Honor, there are some documents that
11 the State has asked for stipulation and defense has
12 stipulated, can come in as evidence through the
13 documents from the Clerk of Court. And I would like to
14 read those into the record.

15 And Judge, I've started with State's Exhibits,
16 for this hearing, with the next number. So in the trial
17 the State's exhibits were 1 through 18. I will start at
18 19 for clarity of the record for this hearing.

19 THE COURT: All right.

20 MR. JACKSON: State's Exhibit 19 will be the
21 indictment for caring a weapon on school property from
22 1996.

23 State's Exhibit 20 is the plea sheet and
24 sentencing sheet for that charge.

25 State's Exhibit 21 is the original Bond Form

1 associated with that charge when he was arrested.

2 State's Exhibit 22 is a conviction for DUI
3 after that arrest. Two months later he was charged with
4 DUI. he was convicted of that. And that's the
5 conviction for DUI.

6 State's Exhibit 23 is a certified driving
7 record from the Department of Motor Vehicles, which
8 shows the penalty for the DUI and that being the
9 suspension for his privilege to drive.

10 State's Exhibit 24 will be a bond form from
11 the murder case that's before the Court. That bond form
12 is dated December 12, 1996.

13 State's Exhibit 25 is a bond certificate,
14 where the defendant's father, Raymond Graham, was
15 certified by the Clerk of Court to go on the bond.

16 State's Exhibit 26 is a copy of an armed
17 robbery indictment, which was nolle prossed when he was
18 sentenced to life.

19 State's Exhibit 27 is an indictment for
20 unlawful carrying of a weapon that had to do with the
21 arrest of the armed robbery. That was nolle prossed
22 because he plead in city court.

23 State's Exhibit 28 is the guilty plea from
24 city court that allowed that charge to be nolle prossed.

25 And State's 29 is the bond form where his bond

1 was denied when he was arrested for armed robbery in
2 1998.

3 And those are the 11 exhibits from the State.
4 They've been marked and stipulated to by the defense and
5 we'll enter those at this time.

6 THE COURT: That's 19 through what, sir?

7 MR. JACKSON: 29.

8 THE COURT: 29, okay.

9 MS. FRANKLIN-BEST: And that's right, your
10 Honor. Those are matters of public record. We do not
11 have any opposition to those being part of the record.

12 THE COURT: Okay. State's Exhibits 19 through
13 29 are admitted into evidence.

14 (State's Exhibit 19, Indictment
15 96-GS-16-2145, was entered into
16 evidence.)

17 (State's Exhibit 20, Plea/Sentencing
18 Indictment ending 2145, was entered into
19 evidence.)

20 (State's Exhibit 21, Bond form 7/19/96,
21 was entered into evidence.)

22 (State's Exhibit 22, Hartsville
23 Magistrate case history/DUI, was entered
24 into evidence.)

25 (State's Exhibit 23, DMV/10yr Driving

1 record, was entered into evidence.)

2 (State's Exhibit 24, Bond form 12/12/96,
3 was entered into evidence.)

4 (State's Exhibit 25, Bond
5 Certificate/Raymond Graham, was entered
6 into evidence.)

7 (State's Exhibit 26, Indictment
8 98-GS-16-1682, was entered into
9 evidence.)

10 (State's Exhibit 27, Indictment
11 98-GS-16-1698, was entered into
12 evidence.)

13 (State's Exhibit 28, Municipal
14 Court/Final Disposition, was entered into
15 evidence.)

16 (State's Exhibit 29, Bond form 6/10/98,
17 was entered into evidence.)

18 MR. JACKSON: Your Honor, Ms. Franklin-Best
19 was kind enough and gracious enough to let us stipulate
20 to those. She has pictures and some forms that she
21 would like to stipulate to and I'll let her address
22 those. And the State would stipulate to their
23 admissibility.

24 THE COURT: All right.

25 MS. FRANKLIN-BEST: Yes, your Honor. If I may

1 approach the Court Reporter. I left those documents
2 with her.

3 We have Defendant's Exhibit Number 1. These
4 are two certificates of completion. Since Eric has been
5 down in Mississippi, he has completed a course in
6 Cognitive Thinking, as well as, Anger Management. So
7 that would be Defendant's Exhibit Number 1.

8 And then, we have a couple of pictures of Eric
9 from when he was a young boy. So we would also like to
10 make that apart of this record as well.

11 THE COURT: Okay. You've already indicated
12 Mr. Jackson that --

13 MR. JACKSON: There's no objection to any of
14 them. We've already stipulated.

15 THE COURT: All right. They are received into
16 evidence.

17 (Defendant's Exhibit 1, Certificates, was
18 entered into evidence.)

19 (Defendant's Exhibit 2, Photographs, was
20 entered into evidence.)

21 (Defendant's Exhibit 3, List of
22 defendant's family members, was entered
23 into evidence.)

24 THE COURT: Anything else Mr. Jackson?

25 MR. JACKSON: Nothing from the State. Well, I

1 do want to tell your Honor, that one of the victim's,
2 Ms. Wanda Wingate, is here in the courtroom and many
3 members of her family for this proceeding.

4 THE COURT: Okay. Ms. Franklin-Best?

5 MS. FRANKLIN-BEST: Thank you, your Honor.

6 And I would also like to point out that Mr.
7 Graham has got, I'd say, an enormous number of people
8 who are here in support of him as well. His family,
9 which is quite extensive, cousins, and members of the
10 community.

11 THE COURT: Okay.

12 MS. FRANKLIN-BEST: Thank you, your Honor. May
13 it please the Court.

14 First of all, I would like to remark on the
15 fact that it is now 26 years since Ms. Wingate or
16 Birdie, that she was affectionately called, was killed.
17 And initially, this hearing was scheduled to occur on
18 the anniversary of her death. And we just want to make
19 it clear to this court and to Birdie's family, that we
20 are just so very deeply sorry for their loss. She was,
21 by all accounts, a loving person, who was much loved by
22 many. In the years up to now that I've been involved in
23 this case, we have not heard a single negative thing.
24 We know that she was a wonderful person. And we're just
25 so very sorry for the hurt that this process is causing

1 her family, your Honor.

2 In asking the Court to resentence Eric, we're
3 not arguing to the Court that Birdie's life was any less
4 valuable. We know the family's loss is deep and still
5 incredibly painful. We are here, today, because the
6 United States Supreme Court and then our State Supreme
7 Court recognized that individuals, like Eric, who were
8 given life without parole sentences for crimes that have
9 been committed when they were juveniles, are entitled to
10 sentencing hearings that acknowledge their youth at the
11 time the crimes were committed.

12 So today, we're going to be asking you to
13 sentence Eric for this crime, recognizing, that at the
14 time of the crime, he was a youth. He was a juvenile.

15 So taking into account all the hallmarks of
16 youth, this afternoon, we will have Dr. Cauffman address
17 this court. And she'll be able to explain how juvenile
18 brains are just so very different from adult brains.
19 Which shows that while juveniles are not just smaller
20 adults, they're fundamentally wired differently. And
21 this court should take that into account when imposing a
22 sentence in this case.

23 So thank you, your Honor, for your patience,
24 as this case has made it's way through the system.
25 Including the delay occasioned by COVID, as the Court

1 system ran to a halt. I know this delay has not been
2 easy on either Birdie or Eric's families. So I'm glad
3 we've reached this point, even though it's under such
4 sorrowful conditions. Today, we're going to be asking
5 this court for mercy.

6 Eric has now spent 26 years in the South
7 Carolina Department of Corrections. He has made
8 mistakes. SCDC is a difficult environment. It is hard
9 to imaging how someone navigates that environment
10 without having some difficulties. I know that he had
11 recent issues with cellphones and some other issues and
12 we're not disputing those issues have arisen. But
13 despite those issues, Eric is a man who has a family
14 that loves him and who wants him home.

15 At the conclusion of this hearing, your Honor,
16 we're going to be asking this court to impose a term of
17 years instead of a life sentence. Thank you, your Honor

18 THE COURT: Thank you, ma'am.

19 MS. FRANKLIN-BEST: With that, your Honor, I
20 would like to call Bobby-Gene Graham to the stand.

21
22 B O B B Y G E N E G R A H A M, the Witness herein,
23 having been sworn by the Clerk of Court, was examined
24 and testified as follows:

1 THE COURT: Ms. Graham, I'm going to ask you
2 to speak loudly and clearly. Please, answer questions
3 with a "yes" or "no" response. You can always explain
4 an answer, but please be mindful of what the question is
5 from the attorney. Okay.

6 MS. GRAHAM: Okay.

7
8 DIRECT EXAMINATION

9 BY MS. FRANKLIN-BEST:

10 Q. Ms. Graham, could you please state your name
11 for the record?

12 A. Bobby-Gene Graham.

13 Q. And could you please tell the Court what your
14 relationship is to Eric?

15 A. Eric is my son.

16 Q. Can you tell the Court, how long has your
17 family been in this community?

18 A. We have been in this community all my life
19 except 7 years. I was sent to New York, New Britain,
20 and then was in South Carolina.

21 Q. And what family members are here in this area?

22 A. My sisters, my mother before she deceased, my
23 father before he deceased, my cousin's daughter.

24 Q. What about your grandparents, are they from
25 this area?

1 A. Yes.

2 Q. And how old were you when you had Eric?

3 A. 22.

4 Q. Is he your only child?

5 A. No. I have a son, Raymond Jr.

6 Q. We'll talk about him in a few minutes. Can
7 you tell the Court, what kind of jobs you've held?

8 A. I worked at Galey and Lord for 20 years. Then
9 I left Galey and Lord, and opened up a daycare for two
10 years. Then I decided to go to school and got my
11 diploma in early childhood development and worked there
12 for 8 years.

13 Q. And what kind of work did you do when you had
14 your child development degree?

15 A. I could only have 6 kids, because I didn't
16 have my degree yet. So I had six kids and I had
17 afternoon kids. When those go, the afternoon kids come
18 in. So I had from age newborn until 12.

19 Q. Did you teach younger children?

20 A. Yes, I did. We had devotion that morning.
21 We'd go over a lesson. They had breakfast. I feed them
22 lunch and snack and I opened from 6:00 to 6:00.

23 Q. Were you involved in Head Start?

24 A. Yes, I was. I taught the 3 and 4 year olds
25 at Head Start. M.G. Bruno, Darlington County Community

1 Action Agency.

2 Q. You just mentioned that Eric has a brother,
3 Raymond?

4 A. Yes.

5 Q. And what has he done with his life?

6 A. Raymond was in the military. After he
7 graduated from school, he went into the Army. When he
8 was home, immediately he got into a car accident, which
9 they had to fly him to Columbia. It left him in a coma
10 for two weeks, a little over weeks, on March 27, 1999
11 and he came home from Columbia April 1999.

12 Q. Does he continue to have problems as a result
13 of that accident? ^ Maria stopped

14 A. Yes, he does. He has seizures. He has bad
15 headaches. We have to watch him very closely.

16 Q. Despite his difficulties, does he manage to
17 continue to be apart of this community?

18 A. Yes, he does. He still attends church. And
19 we try to find things for him to do, that's working on
20 the trailer park to keep him occupied.

21 Q. Where does he live?

22 A. He live next door to his parents.

23 Q. In addition to Eric and Raymond Jr., did you
24 raise any other children?

25 A. Yes, I raised three more. The oldest is

1 Sherry Graham, I raised her. She works in Florence with
2 disabled children. She has four beautiful kids. And
3 Earnestina McDonald-Hamlet, I raised her. She works in
4 the labs at a hospital. She has one son and a husband.
5 And than I raised Sheila Monique Graham. She lives in
6 Charlotte now and has a job.

7 Q. These are children who just, kind of, came
8 into your life and you've helped them develop?

9 A. Yes.

10 Q. And did they actually live under the same roof
11 with you for some period of time?

12 A. Yes.

13 Q. Turning back to the events around this time.
14 What can you tell us about Eric and Birdie's
15 relationship?

16 A. They had a beautiful relationship. She would
17 come over maybe five days out the week. I'd hear them
18 in there laughing and talking. I'd go in there and peep
19 at them. It was just so beautiful. She was a beautiful
20 person. When Eric had to have surgery for his mouth, I
21 spent hours of time with Birdie at the hospital. We
22 stayed there all night and we'd talk. And I really felt
23 her spirt and the kindness. And I loved her dearly and
24 I thought she was going to be into our life for a long
25 time.

1 Q. How long had Eric and Birdie dated?

2 A. It was coming up on a year.

3 Q. And did Birdie ever attend church with you?

4 A. Yes, she did. And when she left church, she
5 would come by and have dinner.

6 Q. How has her death impacted you?

7 A. I think about Birdie everyday. Not a day go
8 by that I don't think about Birdie. She was dear to my
9 heart. We talked and we laughed. She would come over
10 sometimes, Eric wasn't even there and we'd just sit and
11 talk until he get there. It had impacted my life so
12 much and my family life so much, the death of Birdie.

13 Q. So Eric has been sentenced to life for her
14 death. And how has his life sentence impacted you?

15 A. It's hard. Each and every day is hard. You
16 don't expect for things like this to happen to both
17 people that you love dearly. So it really has impacted
18 my life a lot.

19 Q. What would you like the judge to do in this
20 case?

21 A. I know Eric has been convicted for Birdie's
22 death and I'm so sorry. He is my son. And we love him
23 dearly. I'm asking the Court to please have mercy on
24 Eric.

25 MS. FRANKLIN-BEST: Thank you. Thank you

1 Bobby-Gene.

2 CROSS-EXAMINATION

3 BY MR. JACKSON:

4 Q. Good morning, Ms. Graham. I'm Kelley Jackson.
5 Just a few follow-up questions Ms. Graham. I know you
6 testified back in the trial of 1998. You talk a little
7 bit about your home and your home life. Could you tell
8 the Judge please, y'all have a nice home; is that
9 correct?

10 A. Yes.

11 Q. And where is your home?

12 A. It's [REDACTED] Sherrills Mill Road in Society Hill.

13 Q. Did y'all build that house, you and your
14 husband?

15 A. Yes, we did.

16 Q. How long have you been in it?

17 A. 46 years.

18 Q. Wow. And back at that time 22 years, I think.

19 A. Yes.

20 Q. You've raised two children of your own?

21 A. Yes, we did.

22 Q. And did you have rules that they had to follow
23 in the house?

24 A. Yes.

25 Q. Chores that they had to do?

1 A. Yes.

2 Q. Curfews by chance?

3 A. Yes.

4 Q. And y'all stuck to those?

5 A. Yes, we did.

6 Q. And they were taught that there were
7 consequences for their actions?

8 A. Yes, we did.

9 Q. And to be responsible. Y'all taught
10 responsibility?

11 A. Yes.

12 Q. Set a good example for them?

13 A. Yes.

14 Q. And not only did y'all do that, but in that
15 area, several family members live on adjacent
16 properties?

17 A. Yes, they do.

18 Q. I think your brother-in-law, John Graham, is
19 he still with us?

20 A. Yes.

21 Q. And he testified at the trial?

22 A. Yes.

23 Q. Military retiree, United States Air Force.

24 A. Yes.

25 Q. 20 years as an officer. One child in the

1 military at that time?

2 A. Yes.

3 Q. He was a mentor to Eric and your other son?

4 A. Yes.

5 Q. And you had other family members close by if
6 you needed help?

7 A. Yes.

8 Q. Where did y'all attend church, Ms. Graham?

9 A. New Hopewell Missionary Baptist Church.

10 Q. And that's where Reverend, is it Calvin
11 Daniels, is?

12 A. Yes.

13 Q. Y'all still going there?

14 A. Yes.

15 Q. Are y'all what we call "church-goers" or
16 y'all, involved in church?

17 A. I'm involved in church. I'm a trustee at the
18 church and I'm assistant treasurer at the church. I
19 usher. I'm an S.O.S., Sister Offer Support to each
20 other.

21 Q. And back in the 90s when Eric was growing up,
22 did y'all take him to church?

23 A. Yes.

24 Q. Did he go to Sunday school?

25 A. Every Sunday.

1 Q. Youth choir?

2 A. Yes.

3 Q. Youth groups?

4 A. Yes.

5 Q. And is it fair to say, that the values that
6 you taught in your home were reenforced at church?

7 A. Yes, it was.

8 Q. And the values that were taught in church were
9 reenforced at your home?

10 A. Yes.

11 Q. And that there are consequence for your
12 actions?

13 A. Yes.

14 Q. Where was he in high school back then
15 Ms. Graham?

16 A. (Nonverbal response.)

17 Q. Eric, where did he go to high school?

18 A. Darlington High.

19 Q. And he, academically, was very smart?

20 A. Yes, he was.

21 Q. Had middle to high grades in all of his
22 classes, most of his classes?

23 A. Yes.

24 Q. Promoted with his peers to the next level?

25 A. Yes.

1 Q. Had, other than what kids get into in high
2 school, didn't have major disciplinary infractions at
3 school?

4 A. No.

5 Q. Up until the gun incident in July of 1996,
6 when he was charged with the weapon on school property.
7 He just didn't have many disciplinary infractions at
8 school; correct?

9 A. Correct.

10 Q. And because of that incident, when he was
11 caught with the weapon at school, he was expelled from
12 school then?

13 A. Yes.

14 Q. And that was the summer of 96?

15 A. Yes.

16 Q. And I understand from what you were saying
17 this morning, you are an educator; is that correct?

18 A. Yes.

19 Q. And so inline with your parenting and your
20 education background, y'all tried get him into Poynor
21 Adult Education in Florence that fall?

22 A. Yes.

23 Q. To keep him going?

24 A. Yes.

25 Q. And unfortunately, this murder occurred in

1 December of that year and that disassociated him with
2 Poynor; is that correct?

3 A. Yes.

4 Q. And the two shots at education were both -- he
5 lost both shots at getting that education based on his
6 actions at that time?

7 A. They allowed him to go to Darlington County
8 Adult Ed, and got his diploma.

9 Q. He did?

10 A. Yes.

11 Q. Very good. Ms. Graham, so often in situations
12 like this we look back the at the family of the person
13 who was charged and there's drug dealing in the house
14 and alcoholism and drugs and all types of bad behavior
15 and bad examples and teaching kids to do wrong things.
16 That's not so at your home; is it?

17 A. No, it's not.

18 MR. JACKSON: That's all the questions I have,
19 your Honor.

20 THE COURT: Ms. Franklin-Best?

21

22 REDIRECT EXAMINATION

23 BY MS. FRANKLIN-BEST:

24 Q. Just to be the clear, you're not disputing
25 that a really terrible thing happened when Eric shot

1 Birdie?

2 A. No, I'm not.

3 MS. FRANKLIN-BEST: No further questions.

4 THE COURT: Anything else Mr. Jackson?

5 MR. JACKSON: Nothing further, your Honor.

6 THE COURT: You may step down, ma'am. Thank
7 you.

8 MS. FRANKLIN-BEST: Your Honor, we would call
9 Mr. Raymond Graham to the stand.

10 THE COURT: Raymond Graham.

11

12 R A Y M O N D G R A H A M, the Witness herein, having
13 been sworn by the Clerk of Court, was examined and
14 testified as follows:

15

16 THE COURT: Mr. Graham, as I told Ms. Graham,
17 please speak loudly and clearly when you're answering
18 these questions.

19 MR. GRAHAM: Okay.

20

21 DIRECT EXAMINATION

22 BY MS. FRANKLIN-BEST:

23 Q. Good morning.

24 A. Good morning.

25 Q. Would you just, please, put your name on the

1 record please.

2 A. (Nonverbal response.)

3 Q. Can you state your name for the record?

4 A. Raymond Charles Graham, Sr.

5 Q. Did you just recently have a tooth pulled?

6 A. Yes.

7 Q. And is it still quite painful?

8 A. Quite, yes.

9 Q. If you need anything, please let us know.

10 A. No, I'm good.

11 Q. Could you please tell the Court, what do you
12 do for a living?

13 A. I'm retired.

14 Q. What did you do before then?

15 A. I worked at Nucor Steel.

16 Q. And how long did you work at Nucor Steel?

17 A. 26 years.

18 Q. And you spent your entire career at Nucor, did
19 you do anything before?

20 A. Before I worked at Galey and Lord as an
21 electrician. Then I went to Nucor and I finished up
22 there as QA inspector.

23 Q. What do you do in your spare time now?

24 A. We have a few rental properties, mobile home
25 parks, small ones. So that pretty much keep me busy in

1 itself.

2 Q. And we heard this earlier, but you own the
3 home that you live in?

4 A. Yes.

5 Q. And did y'all build that home?

6 A. We did.

7 Q. And how long have you lived in this area, this
8 community?

9 A. 67 years.

10 Q. And what can you tell us about your
11 relationship with Birdie?

12 A. For the time that I known her, we had a good
13 relationship. We went fishing once or twice. I know at
14 least twice we would go fishing. She loved -- she loved
15 fried fish. I would always do that on Friday afternoon,
16 that was our special thing.

17 Q. Did she spend a lot of time at your home?

18 A. She did. She did.

19 Q. Did you ever have any problems with her, any
20 falling outs or anything?

21 A. No. The only problem I had was telling her,
22 it's time for her to go home.

23 Q. After Birdie's death, did Eric ever receive
24 psychiatric or other mental health treatment?

25 A. Not that I know of.

1 Q. There was an event when Eric was attacked by a
2 number of young men and was hospitalized. Do you recall
3 that?

4 A. Yes, I do recall.

5 Q. Can you just talk a little bit about what
6 happened?

7 A. You know, I kind of, like, was on the end of
8 that incident. So I can't really elaborate a whole lot
9 on it.

10 Q. But you are aware Eric spent time in a
11 hospital?

12 A. Yes.

13 Q. And received treatment?

14 A. Yes.

15 Q. And after Eric had that experience, did he
16 ever receive any psychiatric or mental health treatment
17 after that?

18 A. Not that I recollect.

19 THE COURT: Excuse me, ma'am. I need to take
20 a phone call.

21 MS. FRANKLIN-BEST: Okay.

22 (Whereupon, a brief discussion was held
23 off the record.)

24 THE COURT: Just remain seated please. I
25 apologize for that, ma'am.

1 There shouldn't be anymore interruptions from
2 my end.

3 Q. (By Ms. Franklin-Best) Mr. Graham, when we
4 left off we were talking about the fact that Eric had
5 spent time in a hospital --

6 A. Yes.

7 Q. -- after being injured.

8 A. Yes.

9 Q. And after he had that experience, he did not
10 receive any mental health counselling or psychiatric
11 treatment?

12 A. He did not.

13 Q. How did Birdie's death impact you?

14 A. It was bad. I was really hurt, really hurt.
15 I was at work when it happened.

16 Q. Can you speak a little more into the
17 microphone.

18 A. I was at work when that happened. I could
19 hardly drive home. It just impacted me so hard and I
20 just couldn't believe it. But yeah, it took something
21 out of me.

22 Q. And how has Eric's life sentence impacted you?

23 A. With that sentence, we not only lost Birdie, I
24 feel like I lost two kids at the same time. That
25 sentence was very hard.

1 Q. You have been able to visit Eric since he's
2 been in the Department of Corrections?

3 A. Yes. We go visit Eric every opportunity we
4 have and that was tough. That's tough too.

5 Q. And what would you like the judge to do in
6 this case?

7 A. I would like the judge, if he would, to have
8 mercy on my son Eric. Give him a second chance. And I
9 think he would be great for the community. I think he
10 would do well.

11 MS. FRANKLIN-BEST: Thank you.

12

13 CROSS-EXAMINATION

14 BY MR. JACKSON:

15 Q. Good morning, Mr. Graham.

16 A. Good morning.

17 Q. Mr. Graham, in Eric's formative years growing
18 up, you were in the home and part of his life; correct?

19 A. All of his life.

20 Q. All of his life?

21 A. Yes.

22 Q. Right. So many times in these case we have
23 what we call "deadbeat dads." You never see them or
24 they flow through or they cause problems here and cause
25 problems there. We don't have that situation here.

1 A. We don't.

2 Q. Yes, sir. You built the home that you and
3 your family live in?

4 A. Yes, me and my two sons.

5 Q. How many folks in the family live there next
6 to y'all, in different parcels, in different houses?

7 A. Next to us, probably eight.

8 Q. A close tight-knit family?

9 A. Yes.

10 Q. There to help each other?

11 A. Yes.

12 Q. You raised your children with discipline?

13 A. Yes.

14 Q. Teaching them that there are consequence for
15 your decisions?

16 A. For their actions, yes.

17 Q. And their actions. As Eric began to get
18 involved in criminal activity in 1996. There were three
19 incidence in '96 and then the arm robbery/driving under
20 suspension/unlawful weapon in '98. Did you take
21 measures at home to try to get him back on the right
22 path?

23 A. I did.

24 Q. Other family members were there to help you
25 and act as mentors?

1 A. Yes.

2 Q. I'll remind you that you're under oath on this
3 question. But your wife keeps a very nice, neat,
4 comfortable home for you, doesn't she? That would be a,
5 "yes, sir."

6 A. Yes, sir.

7 Q. That house is tidy. It reflects a home,
8 doesn't it?

9 A. Yes, it does.

10 Q. Not just a shelter?

11 A. No.

12 Q. And your kids never wanted for food, clothing,
13 shelter, or necessities, did they?

14 A. They did not.

15 Q. And you and your wife sought of that?

16 A. Yes.

17 Q. Who was more inclined to motivate the family
18 to get to church, you or Ms. Bobby-Gene or probably both
19 of you?

20 A. Ms. Bobby-Gene.

21 MR. JACKSON: Very good. That's all the
22 questions I have.

23 THE COURT: Thank you, Mr. Jackson.

24 Anything else?

25 MS. FRANKLIN-BEST: No further questions, your

1 Honor.

2 THE COURT: You can step down Mr. Graham.
3 Thank you, sir.

4 MS. FRANKLIN-BEST: Your Honor, if we could
5 please call Reverend Daniels to the stand.

6 THE COURT: Reverend Daniels.

7
8 R E V E R E N D W I L L I A M C. D A N I E L S,
9 the Witness herein, having been sworn by the Clerk of
10 Court, was examined and testified as follows:

11
12 THE COURT: Mr. Daniels, if you'll speak
13 loudly and clearly. Stay about two inches away from
14 that microphone and you ought to be in good shape. I'm
15 sure you're used to --

16 REVEREND DANIELS: Yes, we are.

17 THE COURT: -- projecting your voice.

18
19 DIRECT EXAMINATION

20 BY MS. FRANKLIN-BEST:

21 Q. Could you just, please, put your name on the
22 record for the Court Reporter?

23 A. William Calvin Daniels.

24 Q. And what do you do as your profession Reverend
25 Daniels?

1 A. I'm the Paster at New Hopewell Missionary
2 Baptist Church in Darlington, South Carolina.

3 Q. And how long have you been there?

4 A. I have completed 38 years of pastoring at New
5 Hopewell.

6 Q. And can you tell us a little bit about your
7 congregation. How many people do you have?

8 A. Well, prior to the pandemic we boasted about
9 350. Actively involved on Sunday morning, anywhere from
10 250 to 300. And if I might just add, both these
11 families, both the Graham and the Wingate family has
12 ties at New Hopewell.

13 Q. And that's what I was going to ask you. You
14 are sort of uniquely positioned as somebody that knows
15 everyone here.

16 A. Very much so. Very, very much so.

17 Q. What can you tell us about these families?

18 A. Two very similar families. Both God-Fearing
19 families. Families of love. There's a very tight bond
20 among both families. And it's just very unfortunate,
21 very unfortunate, that the incident that happened has
22 pretty much divided the families.

23 Q. And you're here today speaking on Eric's
24 behalf. Is that -- do you feel uncomfortable doing that
25 or is that difficult for you at all?

1 A. It's a different feeling, I'll put it that
2 way. Because I have to empathize. And I say, "I have
3 to empathize." But I do empathize with both families.
4 I'm here for both families, because in this situation
5 there is not a winner and loser. Both families have
6 lost. The community have lost. Humanity as lost. It's
7 very, very unfortunate.

8 Q. And how long have you known both of the these
9 families?

10 A. For 38 years. For 38 long years we have
11 interacted with both the Wingate and the Graham
12 families.

13 Q. And what you've seen, in this particular case,
14 is not the only time you've been confronted with
15 violence. And I just wanted to see if you had any
16 remarks about what it's like these days in this
17 community?

18 A. Yes, I have. As a matter of fact, from a
19 personal prospective. On August 21, 2022, Monday
20 morning, at 6:05 a.m. I received a phone call from my
21 son who said: "Dad, Sophia is dead." Sophia is my 27
22 year old oldest granddaughter. So, yes, I am personally
23 feeling the pain, the remorse, the anger. And it's only
24 by the grace of God that it hasn't become hate, only by
25 the grace of God.

1 Q. As we have explained to you, Eric has made
2 mistakes and we're going to be asking this Court to
3 extend some mercy in this case. And you, as a pastor,
4 and somebody who really sort of understands, only more
5 than most, the idea of mercy.

6 I was wondering, if maybe you could sort of
7 tell us what that means?

8 A. Sure. Sure.

9 We are, as individuals, both physical and
10 spiritual beings. We heard earlier questions as it
11 relates to church. Church is not a place. Church is an
12 experience that has to be within. We don't go to
13 church. We are the church. And as the church, we
14 believe in God who is a higher power than any part of
15 his creation. And as such, our desire has to be to
16 please him. Because all of us, beyond this courtroom,
17 will have to give an account for the things that we do
18 while we're here on earth. Knowing this, believing in
19 God, who is spirit and truth, we have to attempt to live
20 in this life in preparation for the afterlife. And to
21 do that, to do this effectively, requires us to live
22 what is called the "spiritual life". Because we believe
23 in God. God is spirit. Humanity, based upon our
24 knowledge of the truth, broke its relationship with God.
25 Jesus Christ came, sacrificed his life, died, to give us

1 another chance at living the life that God ordained for
2 us to live. And in doing that, God extended to us
3 something called "mercy". And what "mercy" is, mercy is
4 leniency. Mercy is applying another attribute of God,
5 which is called "grace". And grace is unmerited favor
6 from God.

7 In order to for us to obtain that grace, there
8 has to be leniency. God does not... God does not...
9 God did not... condemn us. He gave us another chance.

10 If I might just refer back to my personal
11 situation. The perpetrator that intentionally killed my
12 granddaughter has not yet been apprehended. And I'm
13 struggling moment-by-moment. My family is struggling
14 moment-by-moment, trying to deal with this situation
15 without incorporating or employing that hate factor.
16 Our prayers, my personal prayer to God, is that he would
17 convert the heart of the preparator. I can't do it. As
18 a pastor, I find myself wanting to be a superman, a
19 superperson. But I'm still human and we have these
20 human attributes. My prayer is that God will provide
21 the strength, that forgiveness in the form of mercy
22 would apply. That's pretty much a rendering of my
23 interpretation of grace.

24 Q. So mercy is something that can be extended to
25 those who have sinned and for those who have done acts

1 for which --

2 A. Correct. And according to the scriptures, the
3 authoritative word of God: "We all have sinned and
4 fallen short of the glory of the recognition of God."

5 Q. I appreciate very much your being here and
6 talking to us about that. Thank you.

7 A. God bless you.

8 THE COURT: Mr. Jackson?

9 MR. JACKSON: I have no questions, your Honor.

10 THE COURT: You may step down Reverend
11 Daniels. Thank you, sir.

12 MS. FRANKLIN-BEST: Your Honor, I spoke with
13 Mr. Jackson about this earlier. We have our zoom
14 presentation scheduled for 1 o'clock.

15 THE COURT: It is 1:00?

16 MS. FRANKLIN-BEST: And I'm sorry. I sort of
17 initially thought it was 11:00, but my mistake. So we'd
18 like to put that up. We would like for Eric to address
19 the Court at the appropriate time, but that is going to
20 be our case, your Honor.

21 THE COURT: Can we take them out of order and
22 go ahead and start with your case?

23 MR. JACKSON: That's fine, your Honor, to take
24 them out of order. The State's ready to call their
25 first witness.

1 Judge, I need one minute to get into the
2 exhibit box and arrange some stuff.

3 THE COURT: Sure. Yes, sir.

4 MR. JACKSON: Thank you, your Honor.

5 Your Honor, I believe I've got them lined up.

6 THE COURT: All right.

7 MR. JACKSON: The State calls Officer Bill
8 Huggins.

9
10 W I L L I A M H U G G I N S, the Witness herein,
11 having been sworn by the Clerk of Court, was examined
12 and testified as follows:

13
14 THE COURT: Remember to speak loudly and
15 clearly and into the microphone.

16 MR. HUGGINS: Yes, sir.

17

18 DIRECT EXAMINATION

19 BY MR. JACKSON:

20 Q. So you're Officer Bill Huggins?

21 A. That's correct.

22 Q. Who do you work with now Office Huggins?

23 A. South Carolina Department of Natural
24 Resources.

25 Q. How long have you been with DNR?

1 A. 26 years.

2 Q. And where were you before that?

3 A. Darlington County Sheriff's Office.

4 Q. Was that back in December 7, 1996?

5 A. Yes.

6 Q. And what position did you have at the
7 sheriff's department?

8 A. First responder, Deputy Sheriff.

9 Q. Did you participate in the investigation of
10 the murder case involving Eric Graham?

11 A. I did.

12 Q. And did you testify at trial back in 1998?

13 A. I did.

14 Q. And how were you involved in this case?

15 A. I was the first responder and the first person
16 on scene. I arrived -- I was called to dispatch in.

17 Q. And did another officer arrive closely in
18 proximity?

19 A. He did.

20 Q. Who was that?

21 A. Brian Lee.

22 Q. What did you encounter when you got to the
23 scene?

24 A. Well, I arrived on scene. I pulled in. I
25 went down the drive, by the house, and I pulled in

1 around to the back and went through a carport and went
2 in a hallway. A short hallway through the back door.
3 When I entered, I saw a person covered up next to me,
4 right at my left, on the couch, kind of slumped over.
5 Then I saw Mr. Graham, over there, on the floor with two
6 people holding him down.

7 Q. What was he doing?

8 A. Well, he was screaming, crying, carrying on.

9 Q. You said it took two people to hold him down?

10 A. Yes, sir.

11 Q. And they had to restrain him?

12 A. Yes, sir.

13 Q. Was there a pistol involved in this crime?

14 A. Yes, sir. There was.

15 Q. Was it located there at the scene?

16 A. It was.

17 Q. Where was the pistol in relation to where Mr.
18 Graham was on the floor?

19 A. Probably about two and-a-half to three feet in
20 front of him.

21 Q. So but for them holding him down, he could
22 have gotten that pistol?

23 A. Yes, sir.

24 Q. That pistol was recovered and secured; is that
25 correct?

1 A. That's correct.

2 Q. And were there any rounds in the chamber?

3 A. There was.

4 Q. How many?

5 A. One.

6 Q. One round in the chamber. It was locked and
7 loaded?

8 A. Yes, sir.

9 Q. In the fire position when it was recovered?

10 A. Yes, sir.

11 Q. Where was the victim?

12 A. The victim was laying -- was kind of slumped
13 over on the couch.

14 Q. You've talked briefly about that.

15 MR. JACKSON: Your Honor, I'd like to show you
16 photographs. I don't think you've seen this yet.

17 Q. (By Mr. Jackson) These would be State's
18 Exhibit 3, 7, 6, 14, 13, 15, 14(A) and 15(A).

19 Tell us what these pictures are and hand them
20 over to the Judge, if you would Mr. Huggins?

21 A. All right. This is the picture of the room
22 and the couch with the victim laying under a blanket.
23 This is as picture of the room where the glass doors
24 were and where the glass -- it indicates the glass is
25 broken and on the floor.

1 This is a picture of the french doors where
2 the glass too -- same doors, where the glass was broken
3 down at the bottom.

4 This is a picture of the victim's head laying
5 over on the armrest of the couch.

6 This is another picture of the victim with her
7 head in the same position indicating the entrance wound.

8 Q. You mean the entrance wound of the bullet?

9 A. Yes sir. And this too, is another slightly
10 larger picture of the victim leaning over with the
11 entrance wound with the bullet.

12 Q. I'll hand you State's Exhibit 15(A). Is that
13 a blowup of one of the prior exhibits, Number 15?

14 A. It is.

15 Q. And that would be the entrance wound?

16 A. That is correct.

17 Q. And 14(A), that a blowup of State's Exhibit
18 14.

19 A. With the exit wound.

20 Q. If you would, show those to the Judge please.

21 What investigators showed up at the scene?

22 A. Investigators Henry Milton and Monte Thompson.

23 Q. And both of those are deceased at this time;
24 is that correct?

25 A. That's correct.

1 Q. Was the father of Eric Graham, Mr. Raymond
2 Graham, present when you got there?

3 A. No, sir.

4 Q. But he did show up later coming from work?

5 A. Yes, sir.

6 Q. Other than the violent act that you
7 encountered, just to corroborate what Mr. and Mrs.
8 Graham said, what was the house like?

9 A. It was a nice house. It was a real nice
10 house. Well organized and neat. You could tell it was
11 well taken care of.

12 Q. No mess, no drug paraphernalia, that kind of
13 stuff that we see at other places?

14 A. No, sir.

15 Q. Orderly?

16 A. Yes.

17 Q. Pictures on the wall, all that kind of stuff?

18 A. Yes, sir.

19 Q. When you got there, what kind of demeanor did
20 Eric Graham display?

21 A. Well, he was upset, screaming. He was laying
22 on the floor. He was crying.

23 Q. Did he display any remorse?

24 A. No, sir. Not to me. No.

25 Q. Did he say anything sympathetic or remorseful

1 about what he had done?

2 A. No, sir. Not to me.

3 Q. Did you later transport Eric Graham to the
4 Department -- excuse me. To the Darlington County
5 Detention Center?

6 A. I did.

7 Q. By yourself?

8 A. Yes, sir.

9 Q. And what was his demeanor on the trip?

10 A. He was fine. He was just sitting there. He
11 didn't give me any trouble at all. He didn't say
12 anything. He just -- he cooperated.

13 Q. And did he say anything or show any remorse of
14 what he had done in route to the Darlington County
15 Detention Center?

16 A. No, sir. He just sat there.

17 Q. When y'all got to the detention center, was
18 there an attempt to interview Eric Graham?

19 A. There was.

20 Q. And who was it that was going to interview
21 him?

22 A. Investigator Henry Milton and Monte Thompson.

23 Q. Do you know if they read him his Miranda
24 Warnings?

25 A. They did.

1 MR. JACKSON: And your Honor, that would be
2 State's Exhibit No. 1.

3 Q. (By Mr. Jackson) Is this the Miranda Warnings
4 to your knowledge?

5 A. Yes, sir.

6 Q. Did he sign after he was Mirandized or he had
7 been Mirandized and understood his Miranda Warnings?

8 A. Yes, sir.

9 Q. Did he cooperate and give a statement and
10 answer questions or did he ultimately invoke his right
11 to request an attorney?

12 A. He invoked his right to request an attorney.

13 Q. That ended any questions or cooperation?

14 A. Yes, sir.

15 Q. States Exhibit 8 is the actual murder weapon.
16 You viewed this weapon before; is that correct?

17 A. That's correct.

18 Q. What kind of weapon do we have here?

19 A. Semiautomatic pistol.

20 Q. Semiautomatic pistol, as opposed to a
21 revolver?

22 A. That's correct.

23 Q. What's the significance of it being a
24 semiautomatic pistol?

25 A. Well, as opposed to a revolver, when you fire

1 this type of weapon, the next round is automatically
2 chambered and right back in the barrel.

3 Q. Meaning it's immediately ready to fire again?

4 A. That's correct.

5 Q. When you found this gun, there was a bullet
6 chambered, it was immediately ready to fire again?

7 A. That's correct. Yes, sir.

8 Q. There's no external safety on that gun?

9 A. No, sir.

10 Q. How many rounds were fired?

11 A. One.

12 Q. And that was the bullet that killed her?

13 A. Yes.

14 Q. How many shell casings were recovered?

15 A. One.

16 Q. How many bullets were found in the gun?

17 A. One.

18 Q. The shell casing would be State's Exhibit 10
19 and the bullet that was in the chamber also went along
20 with that; correct?

21 A. (Nonverbal response.)

22 Q. The one that was in the chamber?

23 A. Sir?

24 Q. You have one bullet that was in the chamber?

25 A. Yes, sir.

1 Q. Let's talk about, unlike a revolver, the steps
2 it takes to shoot a pistol like this. What's the first
3 step you've got to have?

4 A. Well, the first step is, you have to acquire
5 the firearm. And at that time, you had to be 21 years
6 of age or older.

7 Q. So the law at that time was -- for possession
8 of a pistol, you had to be 21 years or older?

9 A. That's correct.

10 Q. So that's the first step. The second step is
11 what?

12 A. When you acquire a pistol like this, you have
13 to acquire a magazine which holds your ammunition.

14 Q. All right. This is the magazine here. It's a
15 separate part?

16 A. Yes, sir.

17 Q. Okay. So you've got to acquire a magazine.
18 You've got to acquire a pistol. You've got to be over
19 21 and you've got to acquire ammunition?

20 A. That's correct. You have to acquire
21 ammunition.

22 Q. And then the ammunition loads where?

23 A. The ammunition loads in the magazine.

24 Q. In this magazine?

25 A. Yes.

1 Q. You put that bullet in that magazine?

2 A. That's correct.

3 Q. And then what do you have to do with the
4 magazine?

5 A. You have to insert the magazine into the
6 magazine well of the pistol.

7 Q. Where is that on the pistol?

8 A. That's this part right here.

9 Q. Next step is to put the magazine in the
10 pistol. Is it ready to fire yet?

11 A. Not yet.

12 Q. What else has to happen?

13 A. You have to rack the slide back. Then the
14 slide will go back and go forward and chamber a round in
15 the magazine -- put a round in the chamber.

16 Q. All those things have to be done
17 intentionally?

18 A. Yes, sir.

19 Q. And then it's ready to fire?

20 A. Yes, sir.

21 Q. What was the trigger pull --

22 A. -- six --

23 Q. -- in that particular pistol?

24 A. About six and three quarter pounds to seven
25 and a quarter.

1 Q. So you've got to apply that amount of pressure
2 to get that trigger to pull?

3 A. That's correct.

4 Q. And you said there was no external safety?

5 A. No, sir.

6 Q. That's called "hire trigger". That's a six
7 and three-quarter to a seven and a quarter pull?

8 A. That's correct.

9 Q. There were GSR kits done in this case, weren't
10 there?

11 A. That's correct.

12 Q. What, briefly, is a GSR kit?

13 A. It's a gunshot residue kit, test kit.

14 Q. What does it test for?

15 A. It tests on the defendant or victim's hand for
16 any residue from a fired firearm.

17 Q. Would also help determine if someone has
18 cleaned their hands?

19 A. Yes, sir.

20 Q. Was a test done on Curtisha Wingate?

21 A. There was.

22 Q. On her hands. And what was the result of that
23 test on her hands?

24 A. There was no indication that she had fired a
25 gun.

1 Q. No gunshot residue?

2 A. No gunshot residue.

3 Q. How about normal materials that you find on
4 her hands, were those indicative?

5 A. They were. She had, when you do the GSR it
6 also picks up any metallic type objects, anything you
7 handled, anything like that. That's what would be
8 considered normal, and she had that on her hands. That
9 indicates her jewelry or whatever was there. So she had
10 normal...

11 Q. And no gunshot residue, but normal materials
12 on the hand. What does that indicate?

13 A. That her hands had not been cleaned.

14 Q. Not be cleaned. And how about being in
15 proximity to the weapon when it was fired?

16 A. No, sir. Her hands weren't.

17 Q. Her hands weren't?

18 A. Right.

19 Q. Because there's no gunshot residue on the
20 hands?

21 A. That's correct.

22 Q. So that would be indicative if she had not
23 washed or cleaned her hands and her hands were not close
24 to the pistol when it was fired?

25 A. That's correct.

1 Q. Was GSR kits done on Eric Graham?

2 A. Yes, there was.

3 Q. And what was the result on Eric Graham's GSR?

4 A. It also showed that there was no gunshot
5 residue, but there was also no normal materials on his
6 hands.

7 Q. So there was no gunshot residue and he
8 admittedly shot the gun. And the normal materials that
9 you would find on your hands, like you did with Curtisha
10 was not on his hands?

11 A. That's correct.

12 Q. And what is that indicative of?

13 A. At some point in time his hands had been
14 washed, wiped off.

15 Q. Before the GSR kit --

16 A. Before the GSR kit was done.

17 Q. Obviously, an autopsy was conducted in this
18 particular case; correct?

19 A. That's correct.

20 MR. JACKSON: Your Honor, instead of going --
21 instead of asking questions about the autopsy, rather
22 then getting him to summarized to avoid inaccuracy, I
23 would like the Court's permission to take a few pages of
24 the transcript and publish that at this time about the
25 autopsy.

1 THE COURT: Any objection?

2 MS. FRANKLIN-BEST: No, your Honor. I think
3 it's already part of the record.

4 THE COURT: All right.

5 Q. (By Mr. Jackson) You've got that already in
6 your hands?

7 A. Yes, sir.

8 Q. I'll ask the questions, they're in orange and
9 if you'll respond accordingly with what the transcript
10 says.

11 MR. JACKSON: And your Honor, this would be
12 part of the transcript from the testimony of Dr. Proctor
13 who was the autopsy doctor. And they are in reference
14 to State's Exhibit 15(A) the blow-up of the entrance
15 wound.

16 "Question: I show you what's been marked as
17 State's Exhibit 15(A). What is that a photograph of?"

18 A. "This is a photograph of the victim that was
19 identified to me as Curtisha Wingate."

20 Q. "Would you hold up that photograph. And could
21 you explain to them why that entry wound is ripped
22 rather than rounded?"

23 A. "This is the entrance site at the base of the
24 chin. Here's the chin. Just at the base of the chin,
25 this is a somewhat oblong irregularly shaped wound, with

1 a very dark uniform rim around the edge there. This is
2 the entrance site with the surrounding muzzle imprint.
3 The muzzle imprint is the actual imprint of the barrel
4 of the gun around the actual wound site."

5 Q. "Is that what makes the dark rim?"

6 A. "Yes, ma'am. I was told this was a 9 mm
7 semiautomatic weapon. Somehow automatics will have what
8 we call slide mechanism that will actually move forward
9 and back that will accentuate these markings right here.
10 The presence of the muzzle imprint around the entrance
11 site indicates, that this wound was a contact wound. In
12 other words, the barrel of the gun was pressed up
13 against the skin under the chin. Now, the skin under
14 the chin is stretched between two bones, actually ridges
15 of the mandibula. And when it is pressed tight and
16 fired, the power, the gases, the smoke, as well as, the
17 projectile coming out of the barrel of that gun, it had
18 nowhere to go but straight through. The powder could
19 not seep around the edges. Now you can see the very
20 dark edges of this wound here. That is some of the
21 powder as it went through this wound site, due to the
22 significant force with all the powder and residue coming
23 through the skin. And sometimes would cause an
24 irregular shape as it did in this case."

25 Q. "Okay. Would there have been any difference

1 in this wound had there been any this distance between
2 the gun and her chin?"

3 A. "There would be two significant differences in
4 the appearance of that wound site had this not been a
5 contact wound. Had it been a wound administered within
6 six inches to a distance of approximately 18 inches to
7 two feet, you would have seen just the entrance site
8 without the muzzle imprint around it. In addition, you
9 would have seen powder residue, as well as, stippling
10 around the entrance site. Stippling is actual burns in
11 to the skin by the hot powder coming out of the end of
12 the gun and the powder residue is just smoke and soot
13 that would accumulate at the entrance site coming out
14 the end of the gun."

15 Q. "And during the course of your autopsy, did
16 you find any of that? "

17 A. "I found residue within the wound site itself,
18 but nothing around the wound."

19 Q. "And the fact that the residue was within the
20 wound site, that is significant -- what is the
21 significance of that?"

22 A. "That is significant in that is what you see
23 with a contact height wound."

24 Q. So the significance of this testimony is the
25 "contact wound"?

1 A. That's correct.

2 Q. Officer Huggins, whenever there's a case like
3 this, someone has the undaunting task of notifying the
4 victim's family. Who got that duty in this case?

5 A. I did.

6 Q. Would you tell a little bit about that and how
7 that effects you to the Judge?

8 A. Well, what happened was, I was back at the
9 sheriff's office, and one of the staff officers,
10 Lieutenant Herbert Lee was there. And Ms. Wingate's
11 mother, and I guess it was her father, was there too.
12 But anyway, I came in and we went in the back with one
13 of the officers. And I don't know if Ms. Wingate had
14 been told yet or not, but I remember when I was in there
15 and she was asking some questions. And then one of them
16 goes:

17 "Well, where is my daughter right now?"

18 And I don't know if she knew or not. And I
19 said: "Well, ma'am, your daughter's dead."

20 And then, she got -- I think realized what had
21 all happened.

22 Q. Is that an easy task for a law enforcement
23 officer to perform?

24 A. No, sir.

25 Q. How many times have you had to do that in your

1 career?

2 A. I know I've done it twice and I can remember
3 those vividly. That was, I think, probably the first
4 one and I know one more, maybe a third.

5 MR. JACKSON: Officer Huggins, that's all the
6 questions I have. If you would answer anything
7 Ms. Franklin-Best may have for you.

8

9 CROSS-EXAMINATION

10 BY MS. FRANKLIN-BEST:

11 Q. Thank you, Officer Huggins. You testified
12 earlier that when you arrived at the home where Birdie
13 had been shot, you saw Eric Graham on the floor crying
14 and screaming and that there were people sort of holding
15 him down.

16 A. Yes, ma'am.

17 Q. You've been an officer for how long?

18 A. In law enforcement all together 32 years.

19 Well, this November will be 32 years.

20 Q. So have you seen other people experiencing
21 grief?

22 A. Yes.

23 Q. And when you saw Eric that day, did that seem
24 consistent with grief?

25 A. Well, he was upset.

1 Q. He was upset. You remarked earlier that he
2 invoked his right to counsel?

3 A. That's correct.

4 Q. And did not give a statement that night to law
5 enforcement. Are you aware whether that was on the
6 advice of some other family member?

7 A. His father.

8 Q. So it was not his decision, necessarily, not
9 to speak, but he was doing what his family was advising
10 him to do at that time --

11 A. That's correct.

12 Q. -- is that accurate.

13 And regarding the gun. So there were two
14 bullets; is that accurate? There was one that fatally
15 shot Birdie and then there was another that was
16 chambered?

17 A. Yes, ma'am.

18 Q. So of the two bullets that were in the gun,
19 only one of them was fired?

20 A. Yes, ma'am.

21 Q. Regarding the gunshot residue. Now, you
22 testified that Birdie had, sort of, normal materials on
23 her hands and no gunshot residue. When you read that
24 testimony from Dr. Proctor about this being a contact
25 wound. Isn't it true that when you have a contact

1 wound, that the expression from the GSR does not leave
2 the gun in the same way as it would as if it were a
3 distant shot?

4 A. When it's a contact wound like that and that
5 barrels right up against your skin, there are areas of
6 the firearm where other gases can escape.

7 Q. So others can escape, but let's just say if
8 you were about 18 inches away or 6 inches away, would
9 you not expect there to be more GSR in that occasion?

10 A. Yes, ma'am.

11 THE COURT: Would you spoke up just a little
12 bit.

13 OFFICER HUGGINS: Yes, sir.

14 Yes, ma'am.

15 Q. (By Ms. Franklin-Best) Now, you mentioned that
16 there was no gunshot residue on Eric's hands. And
17 you've been an officer for over 30 years. Are you aware
18 that blood can also remove gunshot residue from
19 someone's hands?

20 A. I'm not aware of that. No, ma'am.

21 Q. You're not aware of blood ever being able to
22 remove gunshot residue from hands?

23 A. No, ma'am. I mean, I'm not expert at that,
24 but, no.

25 Q. What conditions under which would GSR, if it

1 were on hands, might be removed from the hand?

2 A. Washing your hands. Wiping your hands.

3 Q. How about wiping your hands?

4 A. Yes, ma'am. Something like that.

5 Q. So if you had blood on your hands and you
6 might want to wipe your hands, that's something that can
7 remove gunshot residue?

8 A. Yes, ma'am.

9 MS. FRANKLIN-BEST: I have no further
10 questions, your Honor.

11 THE COURT: Thank you.

12 MR. JACKSON: Judge, one follow-up.

13 THE COURT: All right, sir.

14

15 REDIRECT EXAMINATION

16 BY MR. JACKSON:

17 Q. You were asked about gunshot residue coming
18 out of the barrel. In this gun where is the round
19 ejected?

20 A. The round is ejected right here out of the
21 ejection port.

22 Q. And you mentioned that gunshot residue can
23 come out of other areas of the gun, is that what you're
24 referring to?

25 A. Yes.

1 Q. So when it shoots and ejects, it comes out the
2 sides?

3 A. That's correct. It will come out the ejection
4 port.

5 Q. That would be on your hands as best if you're
6 holding it right there?

7 A. That's correct.

8 Q. Very good.

9 THE COURT: Anything else, Mr. Jackson?

10 MR. JACKSON: Yes, sir.

11 Q. (By Mr. Jackson) She mentioned the questioning
12 down at the sheriff's department. He was being
13 questioned by the two -- the two investigators read the
14 Miranda warnings; correct?

15 A. That's correct.

16 Q. And then his father showed up at the sheriff's
17 department?

18 A. That's correct.

19 Q. And sent word in that he didn't want his son
20 to answer anymore questions?

21 A. That's correct.

22 Q. And then whose decision was it to not answer
23 anymore questions?

24 A. Mr. Graham's.

25 Q. Eric Graham?

1 A. Yes, sir.

2 MR. JACKSON: Thank you.

3 THE COURT: Anything else?

4

5 RE CROSS-EXAMINATION

6 BY MS. FRANKLIN-BEST:

7 Q. And at the time of this incident Eric Graham
8 was a juvenile, was he not?

9 A. Yes. Yes, ma'am.

10 MS. FRANKLIN-BEST: Thank you, your Honor.

11 THE COURT: You can step down. Thank you, sir.

12 MR. JACKSON: Your Honor, the State calls
13 Officer Ken Sumner.

14

15 W I L L I A M S U M N E R, the Witness herein, having
16 been sworn by the Clerk of Court, was examined and
17 testified as follows:

18

19 THE COURT: You know how to testify so...

20 OFFICER SUMNER: Yes, sir.

21

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q. If you would give us your name please?

25 A. Yes, sir. My name is William Sumner.

1 Q. And Officer Sumner, just for the record,
2 you're also known as Big-House?

3 A. I have been known for Big-House for over 30
4 years.

5 Q. Where are you employed?

6 A. I'm employed currently with the Darlington
7 County Sheriff's Department.

8 Q. And how long you been with the sheriff's
9 department?

10 A. I've been with the sheriff's office, probably
11 a little over 5 years now.

12 Q. Prior to that, who did you work with?

13 A. Prior to that I was with the Darlington City
14 Police Department.

15 Q. When did you start with Darlington P.D.

16 A. I started Darlington P.D. in '93; January 2,
17 1993.

18 Q. And what was your position there?

19 A. My position there to start with was patrolman.

20 Q. And then what later position did you take?

21 A. The later position that I took was a school
22 resource officer for the city and working for the county
23 school district.

24 Q. So you would have been the SRO at Darlington
25 High School?

1 A. Yes, sir. I was.

2 Q. Back in '96 when the first weapons charge
3 occurred?

4 A. Yes, sir.

5 Q. And working with the Darlington Police
6 Department?

7 A. Yes, sir.

8 Q. Did you know Eric Graham?

9 A. I did.

10 Q. And how did you know Eric Graham?

11 A. Eric Graham was a student at Darlington High
12 School.

13 Q. As was Curtisha Wingate?

14 A. Yes, sir.

15 Q. And on June 15, 1996 there was an incident
16 involving a weapon at Darlington High School. Are you
17 familiar with that case?

18 A. I am, sir.

19 Q. If you would briefly tell the Judge what
20 happened there?

21 A. Yes, sir. On July 15th at around 3:00 --
22 between 1 o'clock in the afternoon, 1:30 in the
23 afternoon, we had an incident at the high school where a
24 car pulled up. There was some -- there was two cars.

25 Basically, there was problems that was going

1 on. One of the cars was actually driven by Mr. Graham.
2 While on campus, it was reported that a gun was seen in
3 the car. They left the school campus went down --
4 Mr. Graham gave the gun to a one Derrick Benjamin who
5 fired a shot out of the glass or shot outside. And my
6 understanding was, it was due to an altercation that had
7 happened earlier with some guys.

8 Q. They had the gun on campus and then they left?

9 A. Yes, sir.

10 Q. And he gave the gun to one of the other
11 passengers in the car?

12 A. Yes.

13 Q. And that guy fired it?

14 A. Yes, sir.

15 Q. Was it two or three people in the car?

16 A. There was -- you want me to list the names or
17 tell you the number.

18 Q. Number is fine.

19 A. Number's fine. I'm looking at five people.

20 Q. What was the age to possess a handgun back in
21 1996?

22 A. 21 years of age.

23 Q. Who provided the pistol in this incident?

24 A. Eric Graham.

25 Q. Did Eric Graham use the pistol or give it to

1 someone else and direct them to use it?

2 A. Eric Graham gave it to another -- the
3 passenger to use the -- to shoot the gun.

4 Q. What kind of pistol was involved in this
5 incident?

6 A. A small caliber pistol.

7 Q. Revolver?

8 A. Revolver.

9 Q. Was that gun recovered?

10 A. No, sir. It was not.

11 Q. Why was that gun not recovered?

12 A. It was told it was thrown in a creek located
13 in the Hartsville area of Darlington County.

14 Q. And was that told to you in a statement that
15 Eric Graham gave to the police department?

16 A. Yes, sir. It is.

17 Q. When he was at the police department was he
18 Mirandized?

19 A. Yes, sir. He was.

20 Q. Did he sign a Darlington Police Department
21 Miranda form?

22 A. Yes, sir. He did.

23 Q. Do have you that form with you?

24 A. I do, sir.

25 Q. Will you show it to the Judge.

1 A. Yes, sir.

2 Q. Eric Graham signed it?

3 A. Yes, sir.

4 Q. Indicated he understood his rights?

5 A. Yes, sir.

6 Q. And did he completely cooperate and give a
7 statement and answer questions?

8 A. Yes, sir. He did.

9 Q. He also signed a consent form to let the
10 vehicle be searched?

11 A. Yes, sir. He did.

12 Q. So he cooperated in every way?

13 A. Yes, sir.

14 Q. Then he was charged in that incident?

15 A. Yes, sir. He was.

16 Q. Are you also familiar with an incident in
17 Darlington Police Department, 9th and 10th, June of
18 1998?

19 A. This would have been the armed robbery.

20 Q. That's correct.

21 A. Yes, sir.

22 Q. So there was an armed robbery reported in
23 Darlington that evening; correct?

24 A. Yes, sir.

25 Q. And I'm talking about 9th and 10th, June.

1 This was actually reported close to midnight on the 9th
2 and investigated right after midnight on the 10th?

3 A. Yes, sir.

4 Q. That's why we're talking about 9th and 10th?

5 A. Right.

6 Q. Was a description of the vehicle given by the
7 victim in some small description of suspects?

8 A. Basically, it was a small two-door car. Had
9 two suspects; one short, one medium height. A black
10 Mitsubishi Eclipse.

11 Q. That's enough. Was that car stopped in close
12 proximity to where the victim said the incident
13 occurred?

14 A. Yes, sir.

15 Q. Who was driving that car?

16 A. Eric Graham.

17 Q. Who was the car registered to?

18 A. The car was registered to -- hold on one
19 second, let me make sure -- to a Raymond Graham.

20 Q. Raymond Graham his father?

21 A. Yes, sir.

22 Q. Was he found to be driving under suspension?

23 A. Yes, sir. He was.

24 Q. And was arrested then for driving under
25 suspension?

1 A. Yes, sir. He was.

2 Q. Was a pistol recovered form the vehicle?

3 A. Yes, sir. It was.

4 Q. Where was the pistol found?

5 A. Located up under the driver's-side seat.

6 Q. And that's where he was sitting in the
7 driver's seat?

8 A. Yes, sir. It was.

9 Q. This pistol was recovered. What type of
10 pistol was it, a revolver or semiautomatic?

11 A. Semiautomatic.

12 Q. Is this a photograph of the pistol?

13 A. Yes, sir. It is.

14 Q. Would you show that to the Judge.

15 A. Yes, sir.

16 Q. Then he was charged with unlawful pistol,
17 driving under suspension, I think seatbelt and later,
18 the armed robbery; correct?

19 A. Yes, sir.

20 Q. And other occupants were also charged with
21 armed robbery?

22 A. Yes, sir.

23 Q. Was Eric Graham taken to the Darlington Police
24 Department for questioning?

25 A. Yes, sir. He was.

1 Q. And was he read his Miranda Warnings?

2 A. Yes, sir. He was.

3 Q. And did he sign a Miranda form at the police
4 department indicating he understood his Miranda
5 Warnings?

6 A. Yes, sir. He did.

7 Q. Did he give a statement or request an
8 attorney?

9 A. He requested a lawyer.

10 Q. And if you would show that to the Judge. So
11 he was given his Miranda Warnings off that form; is that
12 correct?

13 A. Yes, sir. It was.

14 Q. Signed that he understood them?

15 A. Yes, sir.

16 Q. And did he cooperate and answer questions?

17 A. No, sir.

18 Q. Instead he requested a lawyer?

19 A. Yes, sir.

20 MR. JACKSON: Mr. Sumner, that's all the
21 questions I have for you. Answer anything
22 Ms. Franklin-Best has.

23

24 CROSS-EXAMINATION

25 BY MS. FRANKLIN-BEST:

1 Q. Just a brief question about this armed
2 robbery. Is it true that one reason why that case ended
3 up being dismissed was because the alleged victim in
4 that case was found to have been untruthful?

5 A. I have no knowledge of that, because I was not
6 apart of when it went to court.

7 MS. FRANKLIN-BEST: Your Honor, I would ask
8 permission to maybe supplement the record with some
9 additional information regarding that, because I believe
10 that that is accurate. But I'll need to find the
11 documents to address that at the appropriate time.

12 MR. JACKSON: Judge, we've already put this in
13 the record. The armed robbery was nolle prossed and
14 that's the end of that. I don't know that it's
15 necessary is what I'm saying.

16 MS. FRANKLIN-BEST: I just wanted to make it
17 clear, it wasn't nolle prossed just because he picked up
18 these additional charges. That, in fact, the armed
19 robbery wasn't actually an armed robbery. For purposes
20 of this Court's decision on the matter, I'd just like to
21 have that cleared up. Or if the Court wants to just
22 give that the weight that it's due, that is owed, in
23 light of, sort of, the confusion about that particular
24 charge.

25 THE COURT: Anything else?

1 MR. JACKSON: It was nolle prosequed Judge.

2 THE COURT: I understand that. I'm gonna
3 allow you to present that Ms. Franklin-Best.

4 MR. JACKSON: That's all I have for
5 Mr. Sumner.

6 THE COURT: Anything else Ms. Franklin-Best?

7 MS. FRANKLIN-BEST: No, your Honor.

8 THE COURT: You may step down please.

9 MR. JACKSON: The State calls Ernest Ray.

10

11 E R N E S T R A Y, the Witness herein, having been
12 sworn by the Clerk of Court, was examined and testified
13 as follows:

14

15 THE COURT: Please, speak loudly and clearly,
16 sir.

17 MR. RAY: Yes, sir.

18

19 DIRECT EXAMINATION

20 BY MR. JACKSON:

21 Q. So you're Mr. Ernest Ray?

22 A. Yes.

23 Q. And please tell the Court where you work?

24 A. I work with the South Carolina Department of
25 Corrections.

1 Q. What is your position there Mr. Ray?

2 A. I'm currently the branch chief of inmate
3 citizens and release calculations. I'm also the
4 custodian of the records as needed for the Department of
5 Corrections.

6 Q. Have you had other jobs and positions at the
7 South Carolina Department of Corrections?

8 A. Yes, sir.

9 Q. Like what?

10 A. Previously -- well, currently, I'm the
11 statewide disciplinary hearing officer. I've previously
12 been the document processing supervisor for inmate
13 records office. I've also been in classification. Those
14 are the main jobs that I did within the last years that
15 I've been with the department.

16 Q. How long have you worked with SCDC?

17 A. I've been with the Department of Corrections
18 for 29 years and 3 days. My anniversary was on the 16th.

19 Q. You're what we call the "custodian of
20 records"; correct?

21 A. Yes, sir.

22 Q. And that includes disciplinary records?

23 A. Yes, sir.

24 Q. If you have some sort of infraction by an
25 inmate and a disciplinary action is initiated and it

1 goes to administrative hearing, is a record made of
2 that?

3 A. Yes, sir.

4 Q. All infractions don't make administrative
5 hearings; correct?

6 A. No, sir.

7 Q. But those that do, there's a record made of
8 it?

9 A. That is correct.

10 Q. What forms are used to make those records?

11 A. The initial form is the SCDC 1929 incident
12 report, which is written by the accusing officer, that's
13 that report. Then of course, we have two different
14 types of forms that we document that information on.
15 Which is once they go in front, we have an informal
16 resolution form, which is the SCDC 910-69 form. Those
17 forms are done for minor hearings. And then for our
18 major hearings, we have the disciplinary hearing records
19 form, which is the SCDC 1969 form all your major
20 hearings.

21 Q. An incident report is filled out by the
22 officer who's involved with it?

23 A. Correct.

24 Q. Based on that it maybe referred for an
25 administrative hearing. And if it's a minor hearing or

1 a minor infraction, you use the informal resolution or
2 administrative resolution as your form to write whether
3 they were found guilty or not guilty by the
4 administrator --

5 A. That's correct.

6 Q. -- hearing officer; is that right?

7 A. Yes.

8 Q. And if it's a major infraction, what y'all
9 classify as a major infraction, it's a different form
10 and it's called a disciplinary report hearing record?

11 A. Yes, sir. SCDC 1969 form.

12 Q. The hearing officer has one or two forms to
13 use, depending on the level of offense?

14 A. Most times a lot of the administrative ones
15 are done by the major responsible authority person at
16 that institution.

17 Q. So each incident report and the result that
18 the hearing officer makes becomes apart of the inmates
19 disciplinary record?

20 A. Yes.

21 Q. If it's dropped or dismissed, it may not
22 necessarily make it?

23 A. It's taken out. Yes, sir.

24 Q. And you have said you are a hearing officer?

25 A. Yes, sir. I'm the statewide person right now.

1 Q. Any idea how many hearings you've done?

2 A. I've been doing it since 2010 so...

3 Q. I know every time I've called you in the

4 A. -- I'm not certain --

5 Q. -- last 3 weeks, you've been in administrative
6 hearings.

7 A. Yes, sir. Doing all major hearings. Yes, sir.

8 Q. At my request, did you pull and review
9 disciplinary records for inmate Eric Graham?

10 A. Yes, sir.

11 Q. And that included incident reports,
12 disciplinary reports, informal resolutions?

13 A. Yes, sir.

14 Q. Did you bring those records to court today?

15 A. Yes, sir.

16 Q. You also provided me those forms and reports
17 earlier?

18 A. Yes, sir.

19 MR. JACKSON: Your Honor, for the record, I
20 have provided them to defense counsel.

21 Q. (By Mr. Jackson) These records, I think are
22 summarized on that computer printout called: A Record
23 Summary Report; correct?

24 A. Yes, sir.

25 Q. Do you know when Eric Graham entered the South

1 Carolina Department of Corrections?

2 A. He came August 7, 1998. He came as a youthful
3 offender.

4 Q. When was he transferred to Mississippi?

5 A. April 12, 2022.

6 Q. The records you have would be between August
7 7, 1998 and April 12, 2022?

8 A. Yes, sir.

9 Q. Without asking you to go through that volume
10 of information, let me give you the date and the
11 infraction of the offenses that he was charged and
12 convicted of and you simply respond accordingly, okay.

13 October 4, 1998 was there a charge and
14 conviction for refusing or failing to obey orders?

15 A. Yes.

16 Q. And also, "October 4, 1998, failing or
17 refusing to respond to employee questions."

18 A. Yes.

19 Q. "June 5, 1999, refusing or failing to obey
20 orders."

21 A. Yes.

22 Q. "June 6, 1999, failure to report for work."

23 A. Yes.

24 Q. "October 1, 1999, refusing to work."

25 A. Yes.

1 Q. "October 6, 1999, refusing to work."

2 A. Yes, sir.

3 Q. "January 14, 2001, use of obscene, vulgar, or
4 profane language."

5 A. Yes, sir.

6 Q. "January 6, 2006, use or possession of
7 distilling alcoholic beverages."

8 A. Yes.

9 Q. "June 26, 2006, possession of contraband."

10 A. Yes.

11 Q. "January 17, 2007, possession of contraband."

12 A. Yes.

13 Q. "March 11, 2007, possession of cellphone."

14 A. Yes.

15 Q. "October 31, 2007, possession of contraband."

16 A. Yes.

17 Q. "March 2, 2009, possession of contraband."

18 A. Yes, sir.

19 Q. "April 1, 2009, possession of cellphone."

20 A. Yes, sir.

21 Q. "April 14, 2011, possession of cellphone or
22 communicative equipment."

23 A. Yes.

24 Q. "March 23, 2013, refusing or failing to obey."

25 A. Yes.

1 Q. "May 22, 2013, possession of contraband."

2 A. Yes.

3 Q. "March 19, 2014, possession of cellphone."

4 A. Yes.

5 Q. "May 13, 2015, trafficking or use of
6 possession of marijuana."

7 A. Yes.

8 Q. Also, "July 13, 2015, trafficking use or
9 possession of marijuana and tobacco."

10 A. Yes.

11 Q. "January 27, 2016, use or possession of
12 distilled alcoholic beverages."

13 A. Yes.

14 Q. "July 11, 2018, possession of negotiable
15 instruments or purchasing instruments."

16 A. Yes.

17 Q. "July 11, 2018 also July 11, 2018, possession
18 of cellphone."

19 A. Yes.

20 Q. Again, "July 11, 2018, trafficking use or
21 possession of marijuana."

22 A. Uh-huh. Yes, sir.

23 Q. "September 29, 2019, possession of
24 contraband."

25 A. Yes.

1 Q. And "March 4, 2022, damaging or destroying
2 South Carolina Department of Corrections property."

3 A. Yes, sir.

4 Q. What is the total number of infractions we
5 just went over?

6 A. 26.

7 Q. How many of those are major?

8 A. 11 major charges.

9 Q. And how many minor offense?

10 A. 15.

11 Q. Did most of his offenses result from shakedown
12 searches of his cell?

13 A. Yes.

14 Q. What are the most dangerous items you're
15 looking for in a shakedown of a cell?

16 A. Between weapons, cellphones. Those are the
17 primary things that we are having a real problem with
18 right now.

19 Q. Well, weapons are self explanatory. Why are
20 cellphones so important?

21 A. Cellphones, they can use those to do outside
22 contact to do illegal things. We was advised also
23 within the last -- 2018, not 2018. I can't remember the
24 year. When one inmate had used a cellphone to contact
25 the outside to put out a hit on an officer. We have a

1 lot of problems with cellphones when it comes to
2 Department of Corrections.

3 Q. How many convictions for cellphones did he
4 have in the infractions that you talked about?

5 A. Five.

6 Q. How many times has he been transferred from
7 one institution to the next?

8 A. Approximately, five or six times.

9 Q. Is that a management tool that you have to
10 address problematic and dangerous inmates?

11 A. Yes, sir.

12 Q. And he is in Level III custody; is that
13 correct?

14 A. Yes, sir.

15 Q. What is the significance of Level III?

16 A. Level III is our highest level for our
17 inmates.

18 MR. JACKSON: That's all the questions I have
19 at this time Mr. Ray. Answer anything Ms. Franklin-Best
20 has for you.

21 THE COURT: Ms. Franklin-Best?

22 MS. FRANKLIN-BEST: And your Honor, I just had
23 a few follow-up questions.

24

25

CROSS-EXAMINATION

1 BY MS. FRANKLIN-BEST:

2 Q. You mentioned that Mr. Grahams' moved five or
3 six times. Understanding that's a tool that you use to
4 take care of population. Are there other reasons that
5 you also move them in addition to disciplinary problems?

6 A. Repeat that questions again. I didn't hear
7 the end portion.

8 Q. That's a terrible question. My question is,
9 are there other reasons that inmates transfer
10 institutions in addition to disciplinary issues?

11 A. Yes. There could be other reasons also.

12 Q. And Mr. Graham is in a Level III facility. Is
13 that because his conviction is for murder?

14 A. Yes. That could be part of the problem also.
15 Yes, ma'am.

16 Q. So it could be the nature of the conviction,
17 not behavior?

18 A. Could be. Yes, ma'am.

19 MS. FRANKLIN-BEST: Thank you, your Honor.

20 MR. JACKSON: Your Honor, that's all the
21 questions I have of Mr. Ray.

22 THE COURT: Thank you, sir. You may step down.

23 Y'all want to take about a ten minute break?

24 MR. JACKSON: Yes, sir. Originally, I was
25 under the impression that the next witness from the

1 defense witness would be 11 o'clock. So I told my next
2 witnesses to be here at 12:00. So I have exhausted the
3 witnesses I have in-house.

4 I certainly can get on the phone with the
5 others and see how close they are.

6 THE COURT: Okay. If you don't mind doing
7 that. How many more witnesses Mr. Jackson?

8 MR. JACKSON: Three. And they won't be long.

9 THE COURT: All right. We'll stand at ease.

10 (Whereupon, a short recess was taken.)

11 THE BAILIFF: All rise.

12 THE COURT: Thank you. Y'all can be seated.
13 We're back on the record.

14 MS. FRANKLIN-BEST: Your Honor, we call
15 Elizabeth Cauffman.

16 (Testimony presented by way of zoom.)

17

18 E L I Z A B E T H C A U F F M A N, P h D, the
19 Witness herein, having been sworn by the Clerk of Court,
20 was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MS. FRANKLIN-BEST:

24 Q. Dr. Cauffman, could you just sort of state
25 your name for the record please.

1 A. Elizabeth Cauffman, E-L-I-Z-A-B-E-T-H
2 C-A-U-F-F-M-A-N.

3 Q. And can you please tell the Court what your
4 occupation is?

5 A. I'm a professor of psychological science at
6 the University of California Irvine.

7 Q. And what is your educational background?

8 A. I have a PhD in developmental psychology from
9 Temple University.

10 Q. And after you received your PhD, did you gain
11 any specialty training?

12 A. Yes. It's what we call post-doctoral work.
13 That's two years of additional work after your PhD at
14 Stanford University, specializing in adolescent
15 development at the Center of Adolescent.

16 Q. Are you a clinical psychologist?

17 A. No. I'm a developmental psychologist. A
18 developmental psychologist studies how people change
19 over time.

20 Q. And so did you interview Eric Graham in
21 connection with this case?

22 A. No, I did not.

23 Q. Are you here solely to educate the Court on
24 adolescent development?

25 A. Yes. Most people, when they think of a

1 psychologist, they think of a clinical psychologist or a
2 therapist. That's not what I am. I'm a researcher. I
3 don't do forensic assessments or clinical assessments.
4 I'm solely here to provide information. What I sort of
5 do is as a teaching expert on what the science has to
6 say about adolescent development.

7 Q. Just to make that clear. You are here in the
8 role of a teaching expert in this case?

9 A. That's my understanding. Yes.

10 Q. How long have you been a professor at
11 University of California at Irvine?

12 A. I have been here since 2004. I guess that's
13 19 years now.

14 Q. Did you teach anywhere else prior to
15 University of California?

16 A. Yes. Prior to UC Irvine, I was a professor at
17 the University of Pittsburgh.

18 Q. Are you a member of any professional
19 organizations?

20 A. Yes. I am a member of the American
21 Psychologist Association. The American Psychological
22 Society. The Society for Research in Child Development
23 and Society for Research on Adolescence. Actually, I am
24 currently the president of the Society for Research of
25 Adolescence.

1 Q. Have you ever testified in court?

2 A. Yes.

3 Q. How many times approximately?

4 A. This is where I'm bad. This is not my
5 full-time job, so I don't keep track very well. So
6 please don't quote me on the number. I'd say probably
7 now up to 60 to 70 times in the course of my career.

8 Q. Have you conducted research in the area of
9 adolescent development and juvenile justice?

10 A. Yes. That's the primary area of my focus of
11 research.

12 Q. Have you ever received any grants to fund that
13 research?

14 A. Yes. I've received numerous grants from the
15 federal government, like the National Institute of
16 Mental Health. I've received grants from the National
17 Institute of Justice. I've also received grants from
18 foundations, like the MacArthur Foundation, the
19 Wellington Grant Foundation. I've also received state
20 funding from Orange County Mental Health Association and
21 different state-wide organizations, from a variety of
22 different places.

23 Q. Have you ever published any peer-review
24 articles in any professional publications?

25 A. Yes.

1 Q. And do you have sort of an estimate of how
2 many articles you've published?

3 A. Over 150 articles.

4 Q. And to your knowledge, has your work been
5 sited in any amicus briefs that have been filed with the
6 United States Supreme Court?

7 A. Yes. My research has been sited in Roper v
8 and Graham -- Roper v Simmons, sorry. And both, in
9 Graham and in Miller. Those three supreme court cases.

10 Q. I think -- and I'd like to go ahead and start
11 turning to your research, if you're ready.

12 A. Yes. I'll share my screen. Can everybody see
13 that okay?

14 THE COURT: Mr. Jackson, do you need to come
15 up here?

16 MR. JACKSON: I'm good, Judge.

17 Q. (By Ms Franklin-Best) Dr. Cauffman, before we
18 begin --

19 A. Yes.

20 Q. -- can you tell us what you mean by
21 "adolescence"? How do you define it? When does it
22 begin? When does it end?

23 A. This figure comes from the National Academy of
24 Sciences and if you were to pick up any adolescent
25 textbook, the average age of adolescence begins as young

1 as age 10 to as old as age 25. And what psychologist
2 typically do is demarcate that into what we call "early
3 adolescence," which can be about 10 to 12. "Middle
4 adolescence," which is about 13 to 15. "Late
5 adolescence," 16 to 19 and we get into what we call
6 "young adulthood" or "transitional age youth," which
7 would be like 20 up to age 25. The adolescent age range
8 really spans 10 to 25. So when we're talking about
9 adolescence, this is the age range we're talking about.

10 Q. Excellent. Now, turning to your research.
11 You published a research study in the American
12 Psychologist on whether adolescence are less mature than
13 adults. What did that study find?

14 A. In this particular study, we had close to a
15 thousand participants. Participants were as young as
16 age 10, if you look at the bottom here, to as old as age
17 30, so age is at the bottom. What you're looking at is
18 scores here that are higher scores, meaning more of what
19 we call "cognitive development". And what cognitive
20 development is, is the way you think. It's the way you
21 process information. It's your working memory, your
22 verbal fluency, remembering numbers. A task we use
23 called digit span. And cognition is just thought
24 processing and making meaning. And what we found in
25 that research was, around age 16, 17 adolescence are

1 very similar to adults in their cognitive ability. This
2 is important because cognition allows us to understand
3 people and process information. But it's important to
4 note, that cognitive development is only one part of
5 development. There are numerous parts of development.
6 This was just one piece of development that we focused
7 on.

8 Q. This finding focuses on youth's cognitive
9 development. But you mentioned that there are other
10 changes besides cognitive development that change during
11 adolescence. So what are those?

12 A. Right. So there's lots of changes that go on
13 during adolescence in addition to cognition. We refer
14 to them as maturity. What does it mean to be a mature
15 individual. How do we develop those capacities. Before
16 we measured these things, we had to define maturity.
17 Maturity can be defined as being responsible. And being
18 responsible means developing a sense of identity, a
19 sense of self, a sense of who you are. It also means
20 developing autonomy. Autonomy is becoming independent,
21 becoming self worth. Becoming an independent self. You
22 also develop what we call "prospective". Prospective is
23 that ability to think long-term. Can you think into the
24 future? But it's also the ability to be aware of
25 others, to have social prospective. To think about

1 other people. And it also means developing temprits,
2 which is impulse control. Are you able to self-regulate
3 or do you act without thinking? As we get older, these
4 are all things that continue to develop. And we have
5 defined these into maturity, a psychosocial or an
6 emotional development component.

7 Q. Did you find any differences between
8 adolescence and adults in these three areas of maturity
9 and emotional development?

10 A. Yes. Going back to that same study with those
11 participants ages 10 to age 30, in addition to measuring
12 their cognitive development, we also measured their
13 maturity, their emotional development. Again, higher
14 scores mean more development. And as you can see here,
15 as we get older we become more mature. I know that's
16 not surprise to any parent in the room. But this is
17 really important to understand, because as we get older
18 we develop impulse control. The ability to think long
19 term. A better sense of self. And these continue well
20 into our mid-20s.

21 Q. So how does the cognitive system that you
22 talked about earlier relate to the development of this
23 emotional system?

24 A. Right. When we put these two systems
25 together, again with those same participants, ages 10 up

1 until age 30, higher scores here mean more adult-like
2 levels. You want higher score. You want those lines to
3 be going up. And as a reminder, this red line is that
4 cognitive development we talked about earlier. And that
5 reaches adult level at about age 16. But that blue
6 line, that represents that emotional development, that
7 maturity that we just talked about. And that continues
8 to develop and doesn't reach adult levels until mid-20s.
9 So we have what we call "a gap" between cognitively what
10 we know and emotionally what we can control. So someone
11 can know the right thing to do, but still not have the
12 self-regulatory capacities to actually do the right
13 action. And as an adolescent researcher who understands
14 and researches on adolescent risk-taking, this really
15 allowed us to better understand why adolescence can know
16 the right answer but still engage in the more
17 risk-taking type of behavior.

18 So this disconnect between the cognitive and
19 emotional system was a really important understanding
20 for us when we're looking at adolescent behavior.

21 Q. Why are these two systems developing at
22 different times? Why does it take longer for kids to
23 learn how to control their emotions?

24 A. This is where a lot of the research when
25 you've probably been listening to the brain development

1 research. Many of us have heard about how the brain
2 continues to develop up until age 25. What people are
3 talking about in this area is really the frontal lobe,
4 that's where the red arrow is pointing. The frontal
5 lobe is the area right behind your forehead, it's the
6 prefrontal cortex. And the frontal lobe or the
7 prefrontal cortex, that's the part of the brain that's
8 like the CEO of the company. It's in charge of running
9 the business. It's in charge of impulse control,
10 thinking long term, that blue line I just showed you.
11 And it's really important to note that that part of the
12 brain isn't fully developed until roughly 25 years of
13 age.

14 What you're looking at here are scans of the
15 brain from ages 5 up until their 20s. And what you want
16 to see, is somebody developing as they're getting older.
17 Blue represents more development here. So the brain
18 actually develops from the back to the front with the
19 frontal lobe not being fully developed until roughly 25
20 years of age. So this is a nominative developmental
21 process that all young people go through with the
22 frontal lobe being fully developed around age 25.

23 Q. What types of changes are actually happening
24 in the brain during this time?

25 A. When we're looking at the brain and you're

1 actually seeing what's happening, the first thing you'll
2 see is what we call "synaptic pruning". When you're
3 born, during infancy, this picture here, you'll see you
4 have lots of synapsis. Synapsis, I like to make the
5 analogy of being like roads. They're like roads in your
6 brain that the messages travel on. With lots of roads
7 in the brain. As we get older, we prune away what's
8 unnecessary. It's like getting rid of the detour. We
9 know it's fast to take the direct route then to take a
10 detour. What's happening is, the brain is refining
11 itself and getting rid of those detours in the brain.
12 So the brain actually becomes much more efficient and
13 you actually see better connectivity going on because of
14 this pruning process.

15 Q. Besides the synaptic pruning, what else is
16 changing in the brain?

17 A. We also see here is what we call an increase
18 in myelination. And I'm just gonna pause for a minute.
19 Does the Court Reporter need me to spell this or can the
20 Court Reporter see this word on the screen?

21 Q. We've got it right here.

22 A. I just wanted to make sure. I can spell it.
23 If I go to fast, the Court Reporter can ring out for me
24 and I will slow down.

25 But what we see here is this increase in

1 myelination. Myelination is a white fatty sheath that
2 goes around the axons. Which in thinking of it, let's
3 go back to that road analogy. It's like putting
4 pavement on a dirt road. It's much faster to travel
5 down a paved road than a dirt road. Every time you have
6 an experience in your life as you're growing up, you're
7 laying down myelin. And that's insulating and improving
8 the speed of transmission. So now the messages can
9 travel faster. Myelin is laid down throughout our
10 lives. It's the increase in white matter in our brain.
11 Not only now do we see this white matter increasing, it
12 allows the messages to travel at a faster speed.

13 Q. The messages are now traveling in direct ways
14 and at a faster speed. How do these connections change
15 as we get older?

16 A. What we see is this increase connectivity
17 between what we call the cortical and subcortical
18 regions. The subcortical, now it's like if you took
19 your fingers and you stick them straight into your ears
20 and went into the center of your brain, that's the
21 subcortical. It's really where that yellow little dot
22 is. That's like the center of your brain. That is
23 where your limbic system is. Limbic is L-I-M-B-I-C.
24 Limbic is the emotional center of your brain. It's like
25 the primitive emotional spot. It's where the amygdala

1 is, A-M-Y-G-D-A-L-A. Maybe you've heard of the amygdala
2 as your fight or flight. This is your emotional
3 response center. And what's important to note here, is
4 our first emotional responses, the subcortical, that
5 connectivity that's improving goes out to the cortical.
6 It starts reaching out to the frontal lobe of the brain
7 and starts making these connections from subcortical to
8 the cortical. Now they're talking to each other.

9 I often use the analogy of a spider.
10 Sometimes when we see a spider we jump and run away or we
11 see a spider and we step on it. Well, maybe now we're
12 like: We're bigger than the spider, let's take the
13 spider outside. Like have more of the ability to
14 process and think through our actions more, as the
15 subcortical to cortical are making those connections.

16 Q. In addition to that Dr. Cauffman, are there
17 any other changes going on?

18 A. Yes. One of the other big changes is what we
19 call the density and distribution of dopamine. Dopamine
20 is a neurotransmitter in your brain that makes you feel
21 good. For instance, if you have lunch. Every time you
22 eat food, your dopamine level rises. The dessert cart
23 goes by in a restaurant and you see the chocolate cake
24 and all of a sudden you're like (indicating a sound.)
25 And then you eat the chocolate cake, dopamine goes up.

1 Any time you do something fun or exciting in your life,
2 dopamine levels rise.

3 What's important to note is that, during
4 adolescence, is the peek of this dopamine response
5 system. This is why kids will say things are awesome
6 because they're so awesome or why they're so bored. So
7 these heightened shifts in dopamine help explain some of
8 the response systems that are happening in adolescence
9 as well.

10 Q. Given all of these changes, what does this
11 look like as we develop?

12 A. What I have here, this is going to be a
13 time-lapse video from what we saw earlier, from
14 following somebody from age 5 into their 20s watching
15 their brain develop. And remember, you want to see more
16 blue here.

17 What you're looking at on this little video
18 now is all the synaptic pruning, myelination, with the
19 frontal lobe being the last part to develop. The brain
20 will be developing here with the pruning, the
21 myelination, the connectivity, and by age 25 that
22 frontal lobe, that part of the brain that's responsible
23 for that emotional connectivity that we talked about
24 earlier is then fully developed.

25 Q. Are there any research studies that have

1 connected these changes in the brain to actual behavior?

2 A. Yes. There's been numerous studies and the
3 way in which people do these studies, is using what we
4 call an FRI. That's Functional Magnetic Resonance
5 Imaging. You may have heard of an FMRI machine. This
6 is what it looks like. And you're put into one of these
7 big magnets and you can't move, you have to be very
8 still. What an FMRI does is it actually measures in
9 your brain blood flow. And this is really important
10 because when we're doing something, certain parts of our
11 brain are activated and we can measure that by measuring
12 the blood that is sent to the brain at that time. So we
13 can see what part of the brain you're using when you're
14 doing a task. So for instance, doing a self-regulation
15 task. Anti-saccade task. Saccade is S-A-C-C-A-D-E.
16 Saccade is an eye movement. Because, realize, you can't
17 move -- if anybody's ever been in an FMRI, you can't
18 move. You have to be still. You can't move your head.
19 So what you do is, you look at this red dot. So you're
20 looking at this red dot while you're in the machine.
21 And you're told, "don't follow the dot". In fact, you
22 have to look the other way. You have to inhibit. You
23 have to stop yourself. You have to self-regulate. If
24 the dot moves to the left, you need to look to the right
25 or if the dot moves to the right, you need to look to

1 the left and it's really hard to do.

2 So for instance, everybody just stay super
3 still and you can only move your eyes and you know you
4 have to look in the opposite direction. This dot's
5 gonna move, don't follow it. And in fact, look the
6 opposite way. So here's the dot.

7 Ready 1, 2, 3.

8 Dot moves. You should look the other way.
9 And what we see here, this research study and numerous
10 ones like it, have found two important things:

11 One, even though the adolescence know the
12 right answer, they know what they're suppose to do, they
13 still have a harder time doing it. Adults perform
14 better at all of these self-regulatory task.

15 And two, adolescence are using different parts
16 of their brain to do this task compared to adults, which
17 helps us better help understand why their
18 self-regulatory processes might not be as advanced as
19 adults.

20 Q. Since adolescence are more impulsive than
21 adults, what does this look like in terms of risk taking
22 behaviors?

23 A. When we look at risk taking. For instance,
24 this comes from the Institute For Highway Safety. What
25 you're looking at here is driver data. The higher

1 scores here are bad. This means that young people,
2 people from ages 16 to 17 getting into car accidents and
3 fatalities. What you'll see, boys are in blue and girls
4 are in pink, driver deaths peak around 18, 19 and then
5 decline. So what we see for risk taking, whether it's
6 risky driving, unprotected sex, substance use. Even if
7 you look at -- I study criminal behavior. This comes
8 from the FBI Uniform Crime reports.

9 Again, looking at kids as young as age 10,
10 adults into their 60s, higher scores mean more arrests.
11 Boys in blue, girls in pink. We see the same
12 phenomenon. Risk taking peaks about 18, 19, 20. Same
13 as true for girls, just at a lower base rate. And it's
14 not until about 25 years of age you start to see that
15 decline and that big dip in change in behavior. Risk
16 taking peaks during the late adolescent years and then
17 declines, whether you're looking at driving, unprotected
18 sex, substance use, criminal behavior. If you're going
19 to look at risk taking behavior, it's going to peak
20 during this time.

21 Q. Giving everything that you've just discussed,
22 what impact do these emotional changes have when youth
23 are with their friends?

24 A. This was a really interesting study. We call
25 it the "Driving Study". We have adolescences in red who

1 are age -- roughly, on average, 14 years of age. Young
2 adults in yellow, are average age about 20. And older
3 adults in their 30s in blue. And they're driving a car.
4 It's a little car game. It's a little video game. And
5 they're told not to hit the brick wall. And they have
6 to drive this car. And they play this task either alone
7 or they play this task with their friends.

8 When they play this task alone, and they're
9 doing this little video driving game, whether you're an
10 adolescent, a young adult or an older adult, they crash
11 the car about one to two times, there's no difference.
12 One of the most interesting findings from this study
13 was, the moment you introduce a peer. The moment a
14 friend is present, look what happens to the young
15 adolescence, as well as, the young adults. Now they
16 crash the car exponentially higher, even the young
17 adults in their 20s do. Notice by the time we're in our
18 30s, we're not as influenced by social factors. This is
19 really important because this helps us to understand why
20 adolescence may be more susceptible to peers and to
21 social situations than older adults.

22 Q. So is this social impact related to brain
23 development?

24 A. Yes. In fact, we were able to take this task
25 and put it into the scanner. So you're given a clicker

1 to try to stop the car, 'cause realize you can still
2 move your fingers. So you can stop the car with your
3 finger, but you can't fit your peer in the machine with
4 you. All you can know is that your friend is watching
5 behind the glass while you're in the FMRI. Here's the
6 amazing thing. The same findings emerge just knowing my
7 friend is watching. Just knowing that social influence
8 is there, you get the same exact finding. You'll see
9 more car crashes when the peer is present.

10 What we found is, when you're doing this task
11 alone there's no activation in the prefrontal cortex, it
12 shouldn't be, this task does not drop for this. But the
13 moment a friend is watching you, there's greater
14 activation, what we call the orbital frontal, prefrontal
15 cortex, and the ventral striatum.

16 The ventral striatum is particularly
17 interesting, because the ventral striatum, that's a
18 reward center in your brain. What we're seeing is that
19 when adolescence are with their peers, there is a social
20 reward that is being sent to the brain that this is
21 exciting, that this is fun. It's more responsive.
22 Notice with the adults, when our friends are watching us
23 as adults, we have no activations. Our brain looks like
24 this when our friends are watching us. This is only
25 true for the adolescence and embarked an entire new area

1 of research has emerged called the Social Brain of
2 Adolescence. Adolescence are more responsive to social
3 que's than adults are.

4 Q. How does substance abuse impact this behavior?

5 A. We see lots of changes in the brain, but the
6 moment you introduce substances. And first, we already
7 know, substance use in general effects emotional
8 development. We know it's going to make you more
9 impulsive. It will heighten that impulsivity. It's
10 going to impair your affect and your ability to
11 regulate. You're going to decrease in that inhibitory
12 control. You're just gonna have a harder time stopping
13 yourself. And we also see, obviously, more poor
14 judgment when we're drinking. So we see this regardless
15 in how people respond to substances.

16 Q. Do substances actually impact the brain
17 itself?

18 A. Yes. For instance, remember we talked about
19 dopamine, that reward system? What you're looking at
20 here, these little orange dots indicate dopamine.
21 Remember we talked about eating that chocolate cake for
22 dessert? When you do that, you get a burst of dopamine.
23 This is what it would look like. The moment you
24 introduce a drug, for instance, this visual shows the
25 influence of cocaine. Notice this is why drugs become

1 very addictive. They make us feel good. They really
2 produce that dopamine response system.

3 And this is really important to note, all
4 drugs, alcohol, marijuana, any type of drug creates that
5 same dopamine response system. We actually see heighten
6 levels of reward in the brain.

7 Q. Given the brain and behavioral impacts of
8 substance abuse, how does substances play a role in
9 development?

10 A. One of things we've done, this was on a study
11 we did with nearly a thousand participants. And we
12 followed them to look at the affects of substance use,
13 in particular, alcohol and marijuana on their emotional
14 development.

15 So for instance, what we were able to do is
16 look at their drug use and six months later look at
17 their emotional development. Remember the blue line we
18 talked about earlier? Remember most adolescence
19 eventually develop better impulse control. Remember
20 that adolescence are most immature then adults. What we
21 find is that adolescence who use substances are even
22 more immature than their counter parts who do not. This
23 is particularly pronounced for marijuana users. But
24 what you're seeing, is that alcohol and marijuana can
25 actually delay development even more.

1 I do always want to point out from the study
2 though, once we look at the long-term effects for
3 adolescence who stop using, it doesn't have a permanent
4 effect. That is, people can rebound. They can grow.
5 It's not a permanent deficit. It's just that when you
6 are using you will see more immature behavior, a bigger
7 delay. Stop using and you can rebound.

8 Q. Dr. Cauffman, just to kind of reiterate a
9 point that I think you made earlier. Around what age do
10 most people sort of meet or sort of achieve their final
11 state of maturity?

12 A. Right. I think what's most important to take
13 away from the research that we have found to date is,
14 that young people continue to change and that the way in
15 which they're changing in both emotional and social
16 systems, that continues up until age 25. And this is
17 really important whether you're looking at brain
18 development, emotional development, social development,
19 we're seeing that. It's not really until age 25 that we
20 really see this growth and maturity.

21 MS. FRANKLIN-BEST: Thank you, Dr. Cauffman.
22 and now, Mr. Kelley Jackson will be here for
23 cross-examination.

24
25 CROSS-EXAMINATION

1 BY MR. JACKSON:

2 Q. Dr. Cauffman, would you spell your name again
3 for me?

4 A. E-L-I-Z-A-B-E-T-H C-A-U-F-F-M-A-N.

5 Q. Dr. Cauffman, correct?

6 A. Correct.

7 Q. I understand you never met Eric Graham?

8 A. That is correct.

9 Q. And you've never spoken to Eric Graham?

10 A. That is correct.

11 Q. Can you share anything about this family and
12 home environment with the Court?

13 A. I'm not here to speak -- as I said in the
14 beginning, I am not a clinician. I am not here to
15 provide anything like that. I am a developmental
16 psychologist purely here to hopefully teach you the
17 science.

18 Q. So the answer to that question would be "no"?

19 A. Correct. I am not here to speak to that. No.

20 Q. Can you share anything about the circumstances
21 of the murder offense for which he's been convicted?

22 A. I am aware of what the circumstances are. I
23 am probably not the best person to give you facts about
24 it. I've been told what happened and I've read materials
25 about what transpired, but that's not my area of

1 expertise.

2 Q. So the answer to that question would be "no"?

3 A. Well, I know enough. Like I know that there
4 was -- I'm not quite sure how you'd like me to answer,
5 because I don't want to misrepresent. I do know a
6 little bit, but I'm not an expert in any of that.

7 Q. Do you know if he was able to deal with law
8 enforcement officers or assist his attorney in the
9 defense of this case?

10 A. I -- I -- again, I'm not a clinical
11 psychologist. That's really not my area of expertise.

12 Q. And do you know if he was able to appreciate
13 the risk and consequences of his criminal actions
14 between 1996 and 1998 of which there were multiple?

15 A. I can't -- again, developmental psychologist,
16 teaching expert. I am not here to speak to him at all.

17 Q. Can you share anything about the possibility
18 of his chances of rehabilitation?

19 A. Again, I am purely here as a teaching expert.

20 MR. JACKSON: Thank you very much doctor.

21 THE COURT: Ms. Franklin-Best?

22 MS. FRANKLIN-BEST: I have no additional
23 questions. I don't know if the Court has any questions.

24 THE COURT: I don't have any questions, no.

25 MS. FRANKLIN-BEST: Thank you, Dr. Cauffman.

1 THE COURT: Thank you, ma'am.

2 All right. Mr. Jackson?

3 MR. JACKSON: Thank you, your Honor.

4 Lieutenant Collazo.

5

6 F R A N C I S C O C O L L A Z O the Witness herein,
7 having been sworn by the Clerk of Court, was examined
8 and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. JACKSON:

12 Q. If you would, state your name for the record
13 please?

14 A. Francisco Collazo.

15 THE COURT: Would you spell that please?

16 MR. COLLAZO: Collazo, C-O-L-L-A-Z-O.

17 Q. (By Mr. Jackson) Lieutenant Collazo, where do
18 you work?

19 A. Lieber Correctional Institute.

20 Q. Where is Lieber Correctional Institution?

21 A. In Ridgville, South Carolina.

22 Q. A prison here in South Carolina?

23 A. Yes, sir.

24 Q. How long have you worked for South Carolina
25 Department of Corrections?

1 A. Six years.

2 Q. What's your position and rank at Lieber?

3 A. I am currently the contraband -- contraband
4 lieutenant.

5 Q. And what is a cell search, target cell search?

6 A. Target cell search is when we physically
7 search an inmates cell looking through all his property
8 and any belongings that would be in the cell.

9 Q. What are you searching for?

10 A. Weapons, cellphone, narcotics, that's the most
11 important things.

12 Q. What prompts you to target and search a
13 particular cell and its occupants?

14 A. A few things. It could be a social media tip.
15 We have agencies that reach out to us and inform us that
16 they've seen an inmate on social media, so we target
17 cell searches like that. Information received from
18 confidential informants. Information received from
19 other corrections officers.

20 Q. Confidential informations, typically other
21 inmates --

22 A. That's correct.

23 Q. -- that are ratting on somebody?

24 A. That's correct.

25 Q. And you also get information from your

1 corrections officers?

2 A. Yes, sir.

3 Q. And do you know Inmate Eric Graham?

4 A. Yes, sir.

5 Q. Was Inmate Eric Graham housed at Lieber while
6 you were working there?

7 A. Yes, sir.

8 Q. And have you participated in targeted cell
9 searches of his cell?

10 A. Yes, sir.

11 Q. Did you participate in such a search on
12 September 8, 2020?

13 A. Yes, sir.

14 Q. And if you would, briefly, share the facts of
15 that search with Judge Henderson?

16 A. It was a target cell search in our Edisto
17 Unit. We searched his cell at approximately -- a little
18 after 10:00 p.m. Inside the cell we recovered a
19 cellphone and a small amount of tobacco.

20 Q. And were you given tips to go in and do that
21 search?

22 A. That's correct.

23 Q. And was Eric Graham in the room when you did
24 the search?

25 A. Yes, sir.

1 Q. And who claimed ownership of the cellphone and
2 the contraband?

3 A. Mr. Graham.

4 Q. Were you also involved in a search on February
5 16, 2022?

6 A. Yes, sir.

7 Q. Would you tell the Judge, briefly, about the
8 facts of that search?

9 A. That was also a night mission target cell
10 search. When we entered the cell in Edisto Unit, Mr.
11 Graham was in possession of a cellphone. We opened the
12 door. He proceeded to the back of the cell. We went to
13 grab the inmate, had a small scuffle while he was trying
14 to destroy the cellphone and he was charged with a
15 cellphone that day.

16 Q. How many cellphones were in the room that day?

17 A. I believe there was two. Two cellphones.

18 Q. Was he using one at the time?

19 A. Yes. He currently had one in his possession.

20 He had an earbud in his ear and was --

21 Q. He had an earbud in his ear?

22 A. Yes, sir. And had a cellphone in his hand.

23 Q. And you say he was trying to destroy the
24 cellphone in the back of his cell?

25 A. Once we grappled with the inmate, towards when

1 we got him on the ground, he was attempting to brake the
2 cellphone.

3 Q. What do you do with confiscated cellphones
4 that you get from these searches?

5 A. We have an outside agency ViaPath who, they
6 basically collect our phones and we do cellphone
7 extractions.

8 Q. And what kind of things are you looking for in
9 cellphone extractions?

10 A. We're trying to get any dialog that they might
11 have with other inmates. Most importantly, we're trying
12 to get if they're talk to people on the street. And
13 just anything that might relate to contraband or
14 information that we could use per the agency.

15 Q. Telephone numbers that might be used calling
16 out?

17 A. Yes, sir.

18 Q. Telephone numbers used calling in?

19 A. That's correct.

20 Q. Any substance of intelligent information you
21 can find?

22 A. Yes, sir.

23 Q. What are the two most dangerous items you look
24 for in a cell search?

25 A. Cellphones and weapons.

1 Q. Why are cellphones so dangerous?

2 A. Just because they can continue with their
3 empire on the outside and contacting people and
4 arranging for all kinds of stuff, as far as, narcotics
5 or hits on people on the outside.

6 MR. JACKSON: That's all the questions I have
7 for you. If you would answer any questions
8 Ms. Franklin-Best has.

9 MS. FRANKLIN-BEST: No questions, your Honor.

10 THE COURT: You may step down, sir. Thank you.

11 MR. JACKSON: Your Honor, I call Brian
12 Kendall.

13

14 B R I A N K E N D A L L, the Witness herein, having
15 been sworn by the Clerk of Court, was examined and
16 testified as follows:

17

18 THE COURT: Speak loudly and clearly, sir.

19 MR. KENDALL: Yes, sir.

20

21 DIRECT EXAMINATION

22 BY MR. JACKSON:

23 Q. If you would, state your name please, sir.

24 A. My name is Brain Kendall.

25 Q. Spell Kendall for the record?

1 A. K. E. N. D. A. L. L.

2 Q. And you're employed where?

3 A. I'm employed with the South Carolina
4 Department of Corrections.

5 Q. Which prison are you assigned to?

6 A. Lieber Correctional Institution.

7 Q. And again, Lieber is where?

8 A. It's in Ridgeville, South Carolina.

9 Q. What is your prior corrections officer
10 background that brings you to SCDC?

11 A. I started corrections in 1993. Did it for the
12 Marine Corp for 21 years. I also worked for the
13 Virginia Department of Corrections, the Washington DC
14 Department of Corrections and now South Carolina, sir.

15 Q. And how long have you been with South
16 Carolina?

17 A. It's been four years and three months, sir.

18 Q. And your current rank is warden over Lieber?

19 A. That is correct.

20 Q. And Lieber is what level prison?

21 A. We're a Level III, close custody, sir.

22 Q. And what does Level III mean?

23 A. It's close custody, which basically means
24 maximum custody inmates.

25 Q. In your position as warden of Lieber, you

1 sometimes get a call from higher headquarters to
2 recommend an inmate to what we call a CoreCivic transfer
3 to an out-of-state prison?

4 A. Yes, sir. I do.

5 Q. What kind of inmates are you looking for when
6 you get told, "Give me a name."?

7 A. We're looking for the most problematic and
8 influential inmates.

9 Q. Were you contacted early 2022, last year, and
10 asked to submit an inmate name for consideration to be
11 transferred out-of-state?

12 A. Yes, sir. I was.

13 Q. So you were told: "We got a bed available."
14 "Get us a name."

15 A. Yes.

16 Q. Who did you recommend?

17 A. I recommended Eric Graham, sir.

18 Q. Who did the request come from?

19 A. It came from my immediate supervisor, Regional
20 Director, Randal Williams.

21 Q. And you say you recommended Eric Graham?

22 A. Yes, sir. I did.

23 Q. Why would you recommend Eric Graham?

24 A. I recommended Eric Graham because every time
25 that we got a target cell search or any intel that he

1 had a cellphone and we actually did a search of his cell
2 or his person, we kept getting cellphones off of him and
3 this happened multiple times.

4 Q. What are the most dangerous items found in a
5 search of a cell?

6 A. Cellphones and weapons.

7 Q. And I ask you the same question. Why are
8 cellphones so dangerous?

9 A. Basically, they can continue their criminal
10 "enterprise" if you will. They can contact people on
11 the street. They can orchestrate bringing narcotics and
12 tobacco and more cellphones into the institution. They
13 can pretty much continue their enterprise.

14 Q. And February 16, 2022 Lieutenant Collazo
15 testified to that incident. You're familiar with that
16 incident where they caught him with a cellphone try to
17 destroy it?

18 A. Yes, sir. I am.

19 Q. At that time had y'all made the request to
20 transfer him to Mississippi?

21 A. Yes, sir. I had.

22 Q. Was there any action taken immediately at
23 Lieber when y'all caught him with that phone when he was
24 trying to destroy it?

25 A. The very next morning we had him transferred

1 to Perry Correctional Institution, sir.

2 Q. And from Perry, is that where he was taken to
3 Mississippi?

4 A. Yes, it is.

5 MR. JACKSON: I have no more questions of you.
6 Answer anything Ms. Franklin-Best has for you.

7 THE COURT: Ms. Franklin-Best?

8 MS FRANKLIN-BEST: No questions, your Honor.

9 THE COURT: How do they get all that
10 contraband in?

11 MR. KENDALL: How do they get it all in?
12 There's multiple ways. They can get it in through
13 staff. They can get it in through hiding it in food
14 that comes in on the transportation vehicles into the
15 institution. And most importantly, they get it in
16 through drones, sir.

17 THE COURT: Thank you, sir.

18 MR. JACKSON: Mr. Williams.

19

20 R A N D A L L. W I L L I A M S, the Witness herein,
21 having been sworn by the Clerk of Court, was examined
22 and testified as follows:

23

24 DIRECT EXAMINATION

25 BY MR. JACKSON:

1 Q. Director Williams, if you will state your full
2 name for the record?

3 A. Randal L. Williams.

4 THE COURT: Will you speak a little more closer
5 to the microphone, so we can hear you good.

6 MR. WILLIAMS: Can you hear me now?

7 Q. (By Mr. Jackson) Where are you employed,
8 Mr. Williams?

9 A. I am employed with the South Carolina
10 Department of Corrections.

11 Q. How long have you been in South Carolina
12 department of corrections?

13 A. 31 years, 11 months.

14 Q. What is your current position?

15 A. My current position is Regional Director and I
16 am the Director of Region 1, which is eight of our 21
17 prisons.

18 Q. And out of those eight, how many are Level
19 III?

20 A. I have three, Level III, facilities in Region
21 1.

22 Q. And what is a Level III facility?

23 A. Level III is our most strictest custody level,
24 maximum security.

25 Q. And Eric Graham would be in a Level III

1 facility?

2 A. Yes.

3 Q. Tell the Judge what CoreCivic transfer program
4 is?

5 A. Repeat that question please.

6 Q. CoreCivic transfer program, if you could
7 explain that?

8 A. CoreCivic is a private company that manages
9 prisons and detention centers across the country. So
10 it's a management tool that we use where we send our
11 most difficult, problematic inmates.

12 Q. And you send them there and they house them in
13 other states?

14 A. Yes, sir.

15 Q. Do you reach out to them or do they come down
16 and tell you:

17 "Hey, we got a bed."?

18 A. The way it happens is, I get a call from my
19 supervision, because we contract with CoreCivic, that we
20 have a bed available. I just simply, since I have Level
21 III, which is our most strictest custody facilities. I
22 contact my Level III wardens and ask them for
23 recommendations.

24 Q. They send up names?

25 A. They send up names to me and I just simply

1 refer those names.

2 Q. And I'll ask you the same question. What are
3 the most dangerous items found in a cell?

4 A. Cellphones and weapons.

5 Q. And why cellphones?

6 A. Well, as was mentioned previously. Cellphones
7 is what our offenders use to continuously engaging in
8 criminal activity. Thus, making our prison environments
9 very unsafe because of probabilities of introduction of
10 contraband and weapons and other things into our
11 facility.

12 Q. And that would be unsafe for inmates and for
13 employees with the Department of Corrections?

14 A. Certainly, as well as, the public.

15 Q. Were you notified of an available bed space at
16 CoreCivic in early '22?

17 A. Yes, sir. I was notified.

18 Q. And did you notify your Level III wardens to
19 submit names?

20 A. I did.

21 Q. And who did you notify at Lieber?

22 A. Warden Kendall, who's the warden at Lieber.

23 Q. Which name did Warden Kendall submit?

24 A. He submitted two names, Mr. Jackson -- excuse
25 me. Mr. Graham and Tavarus Rodgers. Those were the two

1 names he submitted.

2 Q. And were those names forwarded up for
3 consideration to be transferred to another state?

4 A. Yes, sir. They were forwarded up.

5 Q. Were both of them selected?

6 A. Yes, sir. They were.

7 Q. So Eric Graham was selected to be transferred
8 out-of-state to a different prison?

9 A. Yes, sir.

10 Q. Why was that?

11 A. Repeat that please?

12 Q. Why was that?

13 A. Just based on criteria for management
14 purposes.

15 Q. Management purposes?

16 A. Yes, sir.

17 Q. Very good.

18 MR. JACKSON: I have no further questions of
19 Director Williams.

20 Please answer any questions of Ms.
21 Franklin-Best.

22 THE COURT: Ms. Franklin-Best?

23 MS. FRANKLIN-BEST: Just one quick question.

24

25 CROSS-EXAMINATION

1 BY MS. FRANKLIN-BEST:

2 Q. In addition to Mississippi, where else are
3 inmates being shipped to?

4 A. For CoreCivic purposes?

5 Q. Uh-huh.

6 A. That's the only facility we use with
7 CoreCivic.

8 Q. Is there places that you're -- other private
9 prisons, like, in South Dakota?

10 A. For South Carolina Department of Corrections,
11 right now, we're only using the Mississippi location for
12 CoreCivic.

13 Now, we do have inmates with our Interstate
14 Compact Policy, we do have inmates in other states.

15 Q. Are those inmates being moved because of
16 mandatory purposes?

17 A. Various reasons, yes.

18 Q. And how many other places throughout the
19 country are inmates going?

20 A. I can't answer that question. I don't know
21 that number.

22 MS. FRANKLIN-BEST: No further questions, your
23 Honor.

24 MR. JACKSON: Your Honor, that's all I have
25 for this witness.

1 THE COURT: You may step down, Mr. Williams.

2 Thank you, sir.

3 MR. JACKSON: Your Honor, that's all the
4 witness testimony I have to offer. The mother of
5 Curtisha Wingate, is Ms. Wanda Wingate and she would
6 like to address the Court. I'll be glad to bring her up.

7 THE COURT: Okay. Let's put her under oath.

8
9 W A N D A W I N G A T E, the Witness herein, having
10 been sworn by the Clerk of Court, was examined and
11 testified as follows:

12
13 THE COURT: I know this is difficult, but if
14 you will, speak as loud and clearly as you can.

15 MS. WINGATE: Can I ask one question about
16 testimony that came in via laptop?

17 THE COURT: Ma'am, you can't ask a question
18 about any previous testimony. You can just answer
19 questions on your examination, direct and cross.

20

21 DIRECT EXAMINATION

22 BY MR. JACKSON:

23 Q. Your name for the record please.

24 A. Wanda Wingate.

25 Q. And you are the mother of Curtisha Wingate?

1 A. Right.

2 Q. Thank you very much. You can address the
3 Court Ms. Wingate.

4 A. Thank you. I'm Birdie's mother and I want to
5 say some things and I want to be asked some things. But
6 then you just told me I couldn't say nothing about what
7 I want to say something about.

8 THE COURT: Go ahead and make whatever
9 statement you wish. If somebody wants to object they
10 can do so.

11 MS. WINGATE: If all that research and
12 testimony that Ms. Lady gave a few minutes ago, to a 17
13 year old brain. My baby was a 17 year old brain too,
14 but she didn't have the mind to blow out Eric's brain
15 and splatter them upside the wall, like he did hers. I
16 just want to make mention of that testimony.

17 Now, Birdie was a good girl. She was a real
18 good girl. She was my only girl. My only child. And
19 yeah, I had trusted her to go to Eric momma house. They
20 called me and asked me, because he was bad in school,
21 could she bring him home. That's how it started. I had
22 a car for her. So I said, yeah, she can take him home.
23 That how she started going to his house. And all them
24 fish-fry they was talking about, I don't know nothing
25 about it. She might have eaten piece of fish off their

1 table, but she wasn't going out there to no fish-fry.

2 Then I want to say this right here. She was
3 17. She was murdered. Her brains were blew upside the
4 wall. They tried to hide it and make like she killed
5 herself, which anybody know that she didn't. That was
6 all I had. One baby, no children -- I ain't never have
7 no problem out of her about having no baby or nothing
8 like that. That was everything I had and they took it.
9 And if he could kill her, why is it possible that he
10 could get out of jail and it's not possible for Birdie
11 to get up out the grave. That's my question. How can
12 she get up out the grave? Why would they want to let
13 you out of jail, can't let her out of the grave? And I
14 mean, you know, he was tried by a court of his peers or
15 whatever. He was sentenced by a judge. They gave him a
16 natural life without the possibility of parole. Well,
17 he has done a lot of stuff, because I get a letter on
18 everything he do. So why is he able to have me up here,
19 going through another trial with everything I had. I
20 ain't got nothing else. They got other stuff. He got
21 children. He got children in jail even while he was in
22 jail. What can I have? I was already an old woman when
23 he killed my baby. You know what I'm saying? And I
24 just don't think nothing needs to -- he don't need to
25 get out of jail.

1 Like I say, she had a 17 year old brain too.
2 She had a 17 year old brain. And since my baby been
3 gone, I done had a double aneurysms. I knew about
4 brains too, you know. I got all kinds of stuff in my
5 head and I just don't think it's right.

6 Now, I don't know what the questions are
7 you're gonna ask me, but that's what's in my heart.
8 Birdie can't come up out the ground, out the grave.

9 THE COURT: Mr. Jackson, any questions you want
10 gonna ask her?

11 MR. JACKSON: No, sir, your Honor.

12 THE COURT: Ms. Franklin-Best, any questions
13 you want to ask this lady?

14 MS. FRANKLIN-BEST: No, your Honor. It's
15 just that I'm very sorry for your loss.

16 MS. WINGATE: Thank you.

17 THE COURT: Is there anything else you want to
18 tell me?

19 MS. WINGATE: I think if Eric was sentenced to
20 life, natural life without the possibility of parole, he
21 don't have any business being able to be up here. Don't
22 care if the preacher, the teacher, the decan, or nobody
23 up here. Right is right and wrong is wrong.

24 If I go to Court and they sentenced me to
25 something, they can't come back off -- I don't know

1 whether your call it double jeopardy or what. But if
2 you done been tried, that should be it. Don't care
3 about he's 17. Birdie was 17. And right is right and
4 wrong is wrong. And you can look at all the other stuff
5 he did beforehand and then what he done afterwards. You
6 think he care? You think they care? No, I don't. I
7 don't think they care.

8 THE COURT: Thank you, ma'am.

9 MS. WINGATE: Thank you, sir.

10 THE COURT: You may step down.

11 MR. JACKSON: Your Honor, the next one is
12 Crystal Wingate.

13

14 K R Y S T A L W I N G A T E, the Witness herein,
15 having been sworn by the Clerk of Court, was examined
16 and testified as follows:

17

18 THE COURT: Ma'am, please speak loudly and
19 clearly as well.

20 MS. WINGATE: Yes, sir.

21

22 DIRECT EXAMINATION

23 BY MR. JACKSON:

24 Q. If you would state your name please, ma'am.

25 A. My name is Krystal Renee Wingate.

1 Q. And how do you spell Krystal?

2 A. Krystal with a K-R-Y-S-T-A-L.

3 Q. And you would be what relationship to
4 Curtisha?

5 A. Curtisha was my niece/daughter/best friend and
6 I could go on and on.

7 Q. Please, go ahead Ms. Krystal, share your
8 thoughts with the Judge.

9 A. So the first thing I want to say, I am a
10 Christian and everything that Reverend Daniels said is
11 true. We are to forgive and we are to show mercy. I
12 get all of that. But we also have to pay for the crimes
13 that we commit. We can choose what we want to do, but
14 we can't choose our consequences.

15 So You taken Birdie from me -- I'm not even
16 gonna talk about her mother. You took Birdie from a
17 family that -- we love Birdie. Birdie was the life of
18 our family. And Birdie was the one that would call me
19 when momma said, "no", Aunt Krystal said, "yes". Birdie
20 was my best friend. So when you took Birdie away, my 2
21 year old that Birdie named, Curtisha, Every time we came
22 to South Carolina, my daughter want to go to the funeral
23 home to visit Birdie. How do I explain that to my 2
24 year old, that you will never see her again. So not
25 only did she have to have counseling, so did I. I was

1 in the military on an aircraft carrier contemplating
2 taking my life because I couldn't deal with the pain
3 that you caused.

4 THE COURT: Ma'am, I'm gonna ask you, don't
5 address him directly. You can tell me.

6 MS. WINGATE: Okay. Well, I'll point at
7 myself. The pain that was caused -- the pains that was
8 caused. And so imagine drowning and you're not even in
9 water. How to deal with that pain. He took away me
10 being a mother to my daughter, because I didn't know how
11 to deal with and tell her that pain, until I got
12 counselling. But not only did it effect that
13 relationship, it also created a barrier, so I didn't let
14 love in and didn't let love out either.

15 So I forgive, but you still need to pay for
16 what you did. And I don't understand how, we as the
17 victims are being the ones that are treated the worst.
18 We're the ones having to go back and relive this. So
19 the law seems to be for the criminals or for the ones
20 that commit the crimes. So I understand leniency, I
21 understand grace, and I understand mercy. And I thank
22 God for giving me all of that everyday throughout the
23 day. But if I go out there and I do something wrong, I
24 make the choice to do something wrong, then I can't
25 choose what comes from that choice that I make. I

1 understand the brain and all of that, the lady talked
2 about. That's fine, well, and dandy. But if you didn't
3 think he was capable of making adult decisions back
4 then, you wouldn't have tried him as an adult. If you
5 didn't think 14 and 15 year olds are capable of making
6 adult decision, you wouldn't try them as an adult. But
7 the crimes are so heinous and so mean and evil, that it
8 has to come from somewhere. And so it didn't just
9 start. We all come from a background. We train up our
10 children in a way that they should go, when they're old
11 they don't depart, but they depart. So we-all living on
12 grace and mercy everyday.

13 But I think that if you were to commute that
14 sentence to 30 years, you're not only recommitting the
15 crime that happened to my sister and my family, you're
16 showing that the justice system really is not for we,
17 the people. Like I said, I served 28 years in the
18 military myself. I volunteered. I made a choice. What
19 wars and all of that stuff I had to participate in and
20 campaigns, I couldn't make that choice, but I made the
21 choice to raise my hand to serve these United States of
22 America. I made a choice at 17 years old to represent
23 and to serve in the United States. I can go fight a
24 war. I can go across seas and kill people and it was
25 okay. My brain was the same brain as a 17 year old.

1 So I think that it would be unjust. I think
2 he needs to continue doing what he's doing. You made a
3 decision in the beginning for him to serve all his
4 natural life. He needs to serve his natural life. My
5 best friend, my niece, my daughter, she's gone. And she
6 can't go back and have her sentence readjusted. She has
7 all of her life gone. She was supposed to leave and
8 come in the Navy in the spring to serve with her aunty,
9 but for whatever reason selfish, insecurity, not sure
10 what made him kill my niece, but she was not the type of
11 person that you could just wipe her out and you put a
12 gun pointblank to her chin and blow it out the top of
13 her head. She was smart. She was beautiful. She was
14 funny. She was all that to me and my entire family.
15 And so taking Birdie, like I said, it effected her
16 mother. But it effected all the relationships and the
17 dynamics of my family. Wanda won't have grandchildren.
18 Wanda won't be able to be the mother of the bride, all
19 of that.

20 I think his parents said, they can go to the
21 prison any time they wanted to or whenever it allotted
22 to see him. All she has is this picture, her senior
23 picture when she was supposed to graduate from high
24 school, but instead she buried her.

25 So, no, your Honor. No mercy. He's forgiven,

1 but he can't undo what he did. And at 17 years old, I
2 was fighting a war. 18 years old I was fighting a war.
3 I was in the Gulf War defending. I came back jacked up
4 in the head, but I still had no mind to kill anybody to
5 take away something I couldn't get back because I didn't
6 get my way or because somebody wanted to walk away from
7 me.

8 So like I said, I understand the Christianity
9 side of it. I forgive him, but I can't -- he has to pay
10 for what he did. If I go out there and go speeding and
11 tell you that I wasn't in my right mind and I'm doing
12 120 in a 35. You're gonna say, "I understand that," but
13 you're still possibly take me to jail or write me a
14 speeding ticket. I still have to pay for what I did
15 regardless of what my state of mind was, it does not
16 excuse me.

17 So, no, your Honor. Mercy is mercy. Grace is
18 grace. But right is right and I don't think he needs to
19 be released. I think he needs to continue on with his
20 life, natural life, living, seeing, can talk on the
21 cellphone, possibly go to the computer, can get on
22 social media. I think he needs to still do it wherever
23 he's doing it from, but you definitely can't do it from
24 the grave. So, that's all I have to say.

25 THE COURT: Wait just a minute. Any questions?

1 MS. FRANKLIN-BEST: No, sir.

2 THE COURT: Thank you, ma'am. And thank you
3 for your service as well.

4 MR. JACKSON: Your Honor, that's all I have.

5 THE COURT: Okay.

6 Ms. Franklin-Best, I understand your client
7 wishes to make a statement?

8 MS. FRANKLIN-BEST: He would like to make a
9 statement. I'm trying to figure out exactly where he
10 should to do this from.

11 THE COURT: Do you wish to have him sworn Mr.
12 Jackson?

13 MR. JACKSON: No, sir.

14 MS. FRANKLIN-BEST: Eric can be kind of
15 soft-spoken at times.

16 THE DEFENDANT: Can you hear me? First off, I
17 want to apologize to the family. Wanda, Kris, everybody
18 who came out. Like I said, it's a whole lot of love
19 here. My family love me. They love Birdie hundred
20 times more then that.

21 THE COURT: Would it be easier if you sat and
22 used this microphone? You look awfully uncomfortable
23 bent over. We've got two officers that can watch him.

24 THE DEFENDANT: Like I was saying, Birdie
25 family love her hundred times more then that. Anything

1 I say -- I don't want to disrespect, but there's nothing
2 I can say. As much as I wanted to see this day, I
3 dreaded this day as well because of the fact, because of
4 all the pain, all the hurt, all the shame. I hear
5 everything that they say. It's like the shame upon me.
6 I hold myself accountable for my actions that a
7 beautiful life was took. A beautiful life was taken --
8 lost. I can't bring that back.

9 The pastor talked about hate earlier. Pastor
10 Daniels talked about hate earlier --

11 THE COURT: If you'll just back up a little
12 from the microphone.

13 THE DEFENDANT: And I understand hate. I
14 understand hate. So everything y'all said, I understand
15 that. I feel that. That's what I live. I know that.
16 And I know that hate, as long as y'all -- the hate is
17 there. I know that gives y'all some kind of peace and
18 that gave me peace. But I'm empty. I hate myself. I'm
19 angry at myself.

20 I had a whole bunch of things that I wrote
21 down, you know. You think this day is coming and you
22 write it down. You think you're ready for it, but
23 you're never ready. I'm terrified right now sitting
24 looking at y'all face-to-face. But at the same time, I
25 want to look at each and every one of you. Chris, I

1 know you. Wanda, I knew you. And like I said, seeing
2 you now, I know nothing I say will make the pain --

3 MR. JACKSON: I'm fine with him making a
4 statement. Just not have him pick out family members by
5 name and address them. I'm fine to address the Court.

6 THE COURT: Don't address anybody directly.

7 THE DEFENDANT: I apologize.

8 THE COURT: Just address me.

9 THE DEFENDANT: I apologize. Like I said,
10 your Honor, I understand the hate. Everything they
11 said, I understand that. Everything they said, it
12 resonates within me. I wrote, just like my heart out.
13 But I know nothing I say is never enough. Nothing I can
14 do is never enough. Remorse, everyday. I still --
15 well, I don't want to say anything to disrespect, but I
16 feel that pain. I know my pain don't surmount to their
17 pain. But I feel pain everyday. Everyday I look in the
18 mirror, I don't like what I see, everyday. I know they
19 can't understand that and I know they never will. I
20 can't even ask them for forgiveness. Because asking
21 them for forgiveness, I know it's like a slap in the
22 face because I can't even forgive myself. I know
23 forgiveness comes with time and that's on them to do. I
24 can't bring myself to ask for that.

25 Just like I was saying, I wrote a whole bunch

1 of things down on paper and was just gonna read off
2 paper, but even that seemed cheap to me, because I
3 wanted to bring it. You know what I'm saying? I wanted
4 to bring it from the heart, from the sole.

5 I'm sorry. I know now. Then I was as boy.
6 I'm a man now. I hold myself accountable for my
7 reckless actions. I know because of me what happened.
8 I could never bring her back. I die inside everyday,
9 every night. When I look in the mirror -- I can't even
10 look at myself in the mirror sometimes knowing that.
11 This right here and what the family spoke on just now, I
12 felt every word, every word of that. And some of the
13 things they said, I don't agree with that. That's the
14 pain. That's the pain. I can't change that, your
15 Honor. I cannot change that.

16 My family -- the only thing that keeps me
17 going nowadays, is really the love that my family have
18 for me. A lot of times I stand strong. I do the things
19 I do and I'm not perfect. I wasn't perfect then, I'm
20 not perfect now. But a lot of times the things I do, I
21 tell myself:

22 "Okay. This is -- the means, justify the
23 end."

24 But a lot of times that's not the case. But a
25 lot of times I do things to myself because I'm hurting

1 on the inside. I'm hurt on the inside. At times -- I
2 know I don't deserve forgiveness, I don't. I don't.
3 That's why I can't bring myself to ask for forgiveness.
4 I don't. But at times, I bring myself to beg for mercy.
5 And even that's a slap in the face to them. I dread
6 this day. I dread this day 'cause there's love on both
7 sides and there's pain on both sides. There's hurt on
8 both sides. A lot of times you say:

9 "Okay. With time you can mend."

10 But I know some pain, some wounds, don't dull
11 the pain, only dulls the ache. That never heals. And
12 that's one of them. The pain I caused is a forever
13 hurt. A forever hurt, your Honor. I know that. I know
14 that.

15 I say, "I'm sorry" to Birdie everyday, every
16 night. And I don't want to disrespect her, but I still
17 love Birdie so much. There's so many things I want to
18 say, but I can't because I don't want to disrespect the
19 family. I will never disrespect them. I just want them
20 to know, I'm sorry for my actions. I apologize for my
21 actions. It's like I knew when we came -- like I said,
22 how terrified I am right now. I know this hearing, me
23 coming up here, it will open up all the old wounds.
24 Just like they said, I can be up here, but she can't. I
25 understand that. I know that. Since -- and it's

1 like --

2 Your Honor, it's like so many words going
3 through my mind right now, it's all getting jumbled up.
4 I can't -- I don't really know how to form the words to
5 convey my sincerity with being sorry, with my remorse.
6 I know that -- it's like without me being able to look
7 at them directly because some of them knew me. A lot of
8 them don't know me. A lot of them didn't know me at the
9 time. A lot of them don't know me now.

10 Like I said, I know I'm not perfect. But,
11 those were like the best years of my life, you know.
12 And they was right. Birdie beautiful, intelligent,
13 funny, best friend, niece, daughter. I can go on and
14 on. She was as beautiful person. She was a special
15 person. And I know this day is not only about me, but
16 for me, this day is about her family. I know their
17 peace of mind, that balance, that's first and foremost.
18 I know that. So I know them seeing me up here or just
19 seeing me in court, period, that just brings back all
20 the old hurt. I hurt too. And like I said, I don't
21 want to disrespect, but I hurt. I've never stopped
22 hurting. I was there. You know, it's like nobody knows
23 exactly what happened, but everybody speculating how
24 they want to speculate it. But that's to be understood,
25 that's understandable. But nobody knows but me. Nobody

1 actually truly knows but me. And I could never compare
2 the hurt or the pain, but I see that. I replay that.
3 That in itself, it adds to the hate that I have for
4 myself. I will never be the same again. I will never
5 stand up here and say, "I'm this" or "I'm that". I'm
6 holding myself accountable. I will never been the same.
7 I will never be whole again. I can never look at myself
8 -- since that incident, I could never look at myself the
9 same.

10 Like I said, I can't look at myself in the
11 mirror now. Because when I look in the mirror, I see
12 something that I don't like. I see that. I see the
13 hate, the anger. It will forever be in me. I will
14 never forgive myself. I could never forgive myself. I
15 know to them, they can understand that, but I live off
16 the hate, your Honor. I know a lot of people might not
17 be able to understand where I'm coming from for that.
18 But that's been what I stood on for the last X amount of
19 years, is the hate and her family getting peace of mind,
20 a balance.

21 And right about now, I don't want to keep
22 repeating myself, saying the same thing, because I'm
23 sorry. I don't know what else to say, anything other
24 than that. I don't know. I'm sorry for my actions. I
25 apologize to each and every family member of Birdie's

1 that's here right now. The ones that I know personally.
2 The ones that know me personally back then, I'm sorry.
3 I'm sorry. I'm sorry.

4 So right now, I mean I can't ask for nothing
5 else. I can't even ask for mercy. All I could do is
6 beg for it. All I could do is beg for it, your Honor.

7 THE COURT: Thank you, Mr. Graham.

8 MS. FRANKLIN-BEST: Your Honor, I guess I just
9 have some closing remarks. I don't know if I should go
10 first or if you want to go.

11 MR. JACKSON: Your Honor, there was the one
12 that you had mentioned supplementing. Supplementing the
13 record with something from one of the witnesses earlier.
14 Is that something we need to put in, we need to do that
15 before summations.

16 MS. FRANKLIN-BEST: Your Honor, I do have --
17 your Honor, they put some evidence in about the armed
18 robbery that was eventually nolle prosequi. I do believe
19 I have paperwork somewhere in my file about the
20 resolution of that case. It will take me some time to
21 find that. I would ask if I could have maybe 24 hours
22 to send that to everyone. I know that --

23 MR. JACKSON: Judge, I don't know what it is.
24 I know the outcome of the codefendant cases. We can
25 explore all that. But bottom line is, it was nolle

1 prosed. I don't know why -- you know.

2 THE COURT: It being nolle prosed is something
3 I won't take into consideration. There's no conviction,
4 so I can't take anything into consideration. It doesn't
5 matter to me what reason it was to be nolle prosed, it
6 was nolle prosed.

7 MS. FRANKLIN-BEST: If that is your
8 conclusion, your Honor, then we will just let that issue
9 go.

10 MR. JACKSON: And written on one of the Court
11 documents that we put in from the clerk's office, is the
12 reason it was nolle prosed. It's in the record.

13 It says: "Nolle prosed 'cause defendant
14 convicted of murder got life sentence."

15 MS. FRANKLIN-BEST: But If your Honor is not
16 going to consider it because it was nolle prosed then
17 that's --

18 THE COURT: Right.

19 MR. JACKSON: I have no intention of asking
20 you to consider that he was charged with armed robbery.
21 It simply was part of the reason he was arrested.

22 THE COURT: I see. It doesn't matter to me why
23 it was nolle prosed. It was nolle prosed. Not to be
24 considered by the Court in any shape, form, or fashion.

25 Since this is your motion, I'll let you make

1 closing summation first and then you can Mr. Jackson.

2 MR. JACKSON: Yes, sir.

3 MS FRANKLIN-BEST: Your Honor, I do have a
4 list of family members and community members who are
5 here on behavior of Mr. Graham. So I would like to make
6 this a part of the record.

7 MR. JACKSON: That's fine. No objection, your
8 Honor.

9 THE COURT: No problem.

10 MS. FRANKLIN-BEST: If I can approach?

11 THE COURT: Certainly, yes.

12 MR. JACKSON: While she's doing that, Judge, I
13 want she and I to approach about one thing off the
14 record.

15 THE COURT: Okay.

16 (Whereupon, a brief discussion was held
17 off the record.)

18 MS. FRANKLIN-BEST: Thank you, your Honor.
19 We're asking this Court to extend mercy on Eric and
20 impose a term of years sentence in this case. We're not
21 asking for a particular number. We're just asking for a
22 number, your Honor.

23 Our South Carolina Supreme Court has long held
24 that mercy can be the basis of imposing a sentence in
25 capitol cases. This Court can base a sentence in this

1 juvenile resentencing informed by mercy as well. Our
2 supreme court held that requesting mercy is not
3 inconsistent with the instruction that a jury should not
4 be guided by sympathy, prejudice, passion or public
5 opinion. This is obviously a bench proceeding, but the
6 sentiment is the same. This Court can impose a sentence
7 of less than life based on mercy alone. And there are
8 reasons to consider mercy in this case.

9 First of all, while we cannot legally argue
10 that this is not a murder case. I know this Court can
11 still consider how unaggravated this murder case was
12 relative to a number of -- I'm sure that your Honor, has
13 seen multiple murder cases.

14 This was a couple who were in love. They did
15 not have any arguments that night. This was their one
16 year anniversary. She bought a cake that night. He
17 bought her a ring. They were close, Eric's family loved
18 her. But Eric was a young man who was in trouble. And
19 he never received any mental health treatment after a
20 series of traumatic events in this life.

21 This Court can also extend mercy and sentence
22 Eric to a term of years based on his family. They are
23 hard working folks who have been productive members of
24 this community their entire lives. They're God-fearing,
25 church-going members of this community. They are a part

1 of this community story.

2 You can also impose mercy based on Eric's
3 profound remorse for the loss of Birdie's life. So
4 there are reasons this Court can find to impose a term
5 of years sentence in this case, your Honor, and we ask
6 you to do that.

7 Again, I just want to sort of thank the Court
8 for hearing this case. Especially since you didn't have
9 to given your retirement, your Honor. We are very
10 grateful that you've given us the opportunity and the
11 resources to put this case before you and that is the
12 conclusion of our case, your Honor.

13 THE COURT: Thank you Ms. Franklin-Best.

14 Mr. Jackson?

15 MR. JACKSON: Thank you Ms. Franklin-Best.
16 May it please the Court.

17 THE COURT: Yes, sir.

18 MR. JACKSON: Your Honor, first of all, I
19 would just like to acknowledge the family, the Wingate
20 family. They lost their daughter Curtisha Wingate, also
21 known as Birdie. And I want to thank them for being
22 present here and participating in the hearing.

23 It's my understanding they were greatly
24 involved in 1998 in the trial of this case, when the
25 late, Billy Blackman, represented the state. It's

1 humbling to see some many of them here and they're back
2 in full-force. And I just want to thank them for being
3 here and acknowledging them.

4 Before addressing the five features of youth,
5 which is what I understand we are supposed to be doing.
6 I want to reiterate on the families behalf. That it's
7 the families unwavering and unequivocal position that
8 the appropriate sentence in this case for Eric Graham
9 is, to be sentenced to nature life by this Court, as
10 Judge Burch sentenced him in 1998. That was their
11 position some six or more years when I began talking to
12 them. It's been their position over the years and it's
13 very clear, that it's still their position and request
14 today.

15 So your Honor, the five factors that were
16 handing down through those cases. I'd like to address
17 those.

18 The first one is, Family and Home Environment.
19 We're supposed to consider the family and home
20 environment that Eric Graham was a product of. And I
21 just want to say, they have a very nice home. It's off
22 Sherrills Mill Road in Society Hill, 3 bedrooms, baths.
23 Well kept, tidy, clean, family photos decorating walls
24 and the cabinets fully furnished. It's a home in every
25 sense that anybody would like to live in. It's situated

1 in kind of a family neighborhood. They've got an Uncle
2 John Graham and his wife next door. Grandmother, at the
3 time lived close by. Another Aunt Linda lived close by,
4 Cousins around. There was also somebody close by and
5 their neighbors were truly their family. Raymond
6 Graham, who's Eric Graham's father, was a provider.
7 Retired from Nucor Steel. Lived in the same home for
8 over 40 years that he built with his wife. They have
9 been married equal time. Two kids, Eric and his
10 brother, neither of whom had want ever for food,
11 clothes, shelter, or love. Ms. Bobby-Gene Graham, Eric
12 Graham's mother, is an educator, a nurturer. She
13 testified today that she raised three kids that weren't
14 hers. She's a mother, a wife, and she tends to her
15 family and she's got the church. Mr. Raymond Graham's
16 brother, John Graham is next door. Retired United
17 States Airforce Officer. Retired as a Major. Was a
18 mentor to Eric Graham.

19 Judge, these are all, not just church going
20 people as we talked about, they're involved in church.
21 The values at their church, they reinforce at home. The
22 values at home, they reinforce at church. Pastor Calvin
23 Daniels testified to these things. Had nothing but nice
24 things to say about both families.

25 Judge, these are people with good character.

1 It's a tight-knit family who provides a safe, secure,
2 and healthy environment to raise and mentor a young man.
3 That's important. What's more important, as we've seen
4 in our careers is the fact that they are not the
5 degenerates that we're used to working with. Raymond
6 Graham's not a kid beater or child abuser. He's not a
7 drug user, drug addict, drug dealer. He's not been in
8 and out prison, absent from their home or life. He's
9 provided financially for them. He didn't teach his kids
10 to steal and lie and sell drugs. He wasn't a drunk. He
11 was the complete opposite.

12 Ms. Bobby-Gene Graham, she's not abusive to
13 her husband or children. She's not a drug user or
14 alcoholic. She doesn't stay out at night at clubs and
15 bars and don't come home. She doesn't keep a house like
16 a pigsty. Now these are good, God-Fearing people.
17 They're church going productive people who try to follow
18 the rules of society and did all they could to instill
19 goodness in their children.

20 Judge, there is nothing, zero, for somebody --
21 one of these traveling social workers, doctor expert
22 types, to come in here and point back at the family
23 retrospectively and say:

24 But for that sorry, Bobby-Gene or that Raymond
25 Graham, Eric would have been raised the way he was, he

1 wouldn't have turned bad, committing these crimes. No
2 wonder he turned out the way he did. He had no family
3 and no upbringing. It's not the case, not the case.
4 These are good people and they've provided a good home.
5 And they've provided a healthy environment.

6 Your Honor, the next feature I want to discuss
7 is the circumstances of the homicide, including, the
8 extent of the offenders participation in the conduct and
9 how familiar and peer pressures may have effected him.
10 There's several things I want to address on that.

11 First of all, Judge, he killed someone he
12 knew, not a store clerk or a bank attendant or some
13 stranger that he had no ties too. In this case, it's
14 someone he knows and supposedly in a close relationship
15 with. He knows her family and everything about her. He
16 knows that she's an only child. The only child that
17 Wanda Wingate gave birth to. He stole the life of her
18 and the only child that was brought into this world by
19 Wanda Wingate. And I submit Judge, that killing a
20 stranger is horrible, but killing someone you know, is
21 far worse. He's the only participant in the crime.
22 There's no codefendant here. There's not a lookout man.
23 There's not a driver of the getaway vehicle. There's no
24 peer pressure, no outside influence. This isn't a gang
25 initiation stunt that went bad. There's no codefendant

1 hollering:

2 "Shoot her."

3 "Shoot her."

4 We don't have that here. There's no
5 comparative level of responsibility with anyone, but
6 Eric Graham. He acted alone. He's hundred percent
7 culpable. He's hundred percent responsible and he
8 should receive hundred percent of the punishment.

9 Judge, not only did he act alone, he prepared
10 alone. That pistol we looked at, it takes 7, 8, 9 steps
11 to get that thing ready to fire. He's under 21. The
12 first thing he's got to do is illegally possess the
13 firearm. Then he's got to find a magazine to go to it.
14 Then he's got to get ammunition. Then he's got to put
15 ammunition in the magazine. Then he's got to put the
16 magazine in the butt of the gun. Then you've got to
17 rack a round. None of that is accidental. It's all
18 prepared initially ahead of time. It's not a revolver
19 that you put one bullet in and pull the trigger. It's a
20 systematic step to prepare this gun to shoot. He acted
21 alone and he prepared alone.

22 Judge, I want to talk briefly about the
23 brutality of this crime. This was a brutal and
24 senseless murder. State's Exhibit 2 is the before
25 picture of Birdie. And State's Exhibit 14(a) and 15(a),

1 those are the after photos. Dr. Proctor testified at
2 the trial and Bill Huggins highlighted that testimony
3 today. She said the presence of a muzzle imprint around
4 this entrance site indicates this wound was a contact
5 wound. In other words, the barrel of the gun was
6 pressed up against the skin under the chin.

7 "I found residue within the wound site itself,
8 but nothing around the wound."

9 A brutal murder. Judge, I'd point out that
10 based on the GSR kits, she didn't have her hands around
11 that weapon. It was negative for GSR indicating her
12 hands were nowhere near the weapon when it was found.
13 She was defenseless.

14 So in summation on that features, Eric Graham
15 snuffed out the life of someone he knew in an emotional,
16 horrific, and brutal manner and he acted alone.

17 Two remaining factors of the youth are "the
18 chronological age of the offender and the hallmark
19 features of youth including, immaturity, impetuosity,
20 and failure to appreciate the risk of consequence and
21 incompetency is associated with youth such as the
22 ability to deal with police officers, prosecutors,
23 including plea agreements or the offenders incapacity to
24 assist his own attorneys."

25 Judge, testimony related to these are very

1 intertwined. I would like address both of them at the
2 same time instead of independently.

3 First of all, at the time of the murder, he
4 was 17 years and 7 months, right at 7 months; only 5
5 months shy of 18 years. So on the upper end of the age
6 barometer that Dr. Cauffman testified about. This is
7 compared to 13, 14, 15, 16 year olds. He's much further
8 along in brain development getting on closer to that
9 year 18. There's no history or evidence of mental
10 health issues, competency issues, truancy, Intake at
11 DJJ, no prescribed medications, no alleged use or abuse
12 of alcohol or illicit drugs other than the DUI
13 conviction, which happened two months after he was
14 arrested for the weapon on school property and three
15 months before the murder. There were no school
16 disciplinary records until he was expelled from
17 Darlington High School for having the weapon at school
18 and then again, when he entered Poyner he lost his
19 opportunity to continue Poyner when he was arrested for
20 murder. No disciplinary records other than those at
21 school. And in school, he was academically smart. He
22 was a good student. Mostly middle to high grades.
23 Promoted to the next class with his peers. Again,
24 indicates to me a level of maturity is a perfect thing.

25 Now I want to talk about some of the terms

1 associated with risk and consequences. Summer 1996 he
2 was expelled from school, from Darlington High School
3 for possession of a weapon on school property. That
4 ended his high school education.

5 In the fall of 1996 he attempted to reenter
6 Poyner Adult Education. That was going just fine until
7 he was terminated upon the charge of murder on December
8 1996.

9 So does he have appreciation for risk and
10 consequence? Now, twice he's lost in a six-month period
11 his ability to pursue his education. So let's look at
12 the first one. Let's say that when he got arrested for
13 the pistol on school property in July 96, let's say he
14 was immature and didn't realize the risks associated
15 with that. He certainly learned when he was arrested
16 and charged, he got kicked out of school is what would
17 happen. And in six months later the conduct repeated
18 itself. He's getting an adult education at Poyner and
19 he commits this murder and loses that opportunity again.

20 The first one let's say he was immature. The
21 second one, he knew what would happen if he got messed
22 up with a gun and was still in school. That's not
23 immaturity, that second one. That's indifference to the
24 law.

25 I want to review in the same terms some of the

1 clerk records that we've put in through stipulation.
2 The review of these records submitted through the Clerk
3 of Court, I submit will show a pattern of criminal
4 conduct that cannot be dismissed as immaturity,
5 impetuosity, or failure to appreciate risk with
6 consequences.

7 Your Honor, on July 15, 1996 he was arrested
8 for the weapons on school property. He went through a
9 bond hearing, got a surety bond. It was set. He posted
10 bond. He was released with the condition on all bonds.

11 "Be of good behavior in the community."

12 "Don't get in trouble again or you violate
13 this order."

14 Three months later, October 12, 1996 he's
15 arrested for DUI while he was out on bond. He gets out
16 on bond for the DUI with the same conditions:

17 "Be of good behavior or it violates the law or
18 the order that the judge has set to let you out on
19 bond."

20 November 14, 1996 was a bench trial. He was
21 found guilty and his license was suspended. There's a
22 consequence to his action. December 7, 1996 the DUIs
23 been disposed of. He's still out on bond from 5 months
24 earlier for the weapon on school property.

25 December 7, 1996 he's arrested for murder,

1 while out on bond for a crime he's now committed. Now,
2 it's up to a \$20,000 surety bond that he posts. Again,
3 he is released with the conditions:

4 "Be of good behavior in the community."

5 18 months later, he's arrested for armed
6 robbery, driving under suspension, seatbelt, and
7 unlawful pistol. This time he's out on two bonds for
8 crimes involving a weapon in a two-year period. This
9 makes Number 3. This time, bond is denied.

10 Over the two-year period from age 17 to age
11 19, his criminal behavior not only continued, but it
12 escalated. Again, there's a difference in immaturity
13 and plain indifference to the law.

14 My daddy always said:

15 "There's no education in the second kick of a
16 mule."

17 And that applies here. He was a leader, not a
18 follower. And he provided the gun in all three of these
19 incidents. Judge, he learned along the way to
20 communicate with and deal with police officers, the
21 prosecutor, and show that he was able to assist his
22 attorney.

23 I want to address first, dealing with law
24 enforcement. In the school problem case, which was the
25 very first encounter with law enforcement. He was

1 arrested, taken into custody, Mirandized, signed that he
2 understand and gave a complete statement. Told it all.
3 Cooperated. Told who the codefendants were. He even
4 signed a consent to search the vehicle. Cooperated
5 fully. Made a good solid case for the State. Three
6 months later he was arrested for DUI. Bonded out again.
7 License suspended for DUI when he was convicted. That's
8 not really big, but it was another encounter with law
9 enforcement and the process that he could learn from.

10 Two months later, he's arrested for murder.
11 And if already than, he knows to clean or wash his hands
12 after the murder. So that GSR, gunshot residue doesn't
13 shows up. He's taken to the Darlington County Sheriff's
14 Office and interviewed. He's Mirandized. He signs that
15 he understands and he requested a lawyer. He didn't
16 cooperate. Refused to cooperate. Third major encounter
17 with law enforcement.

18 Then 18 months later, he was stopped and
19 charged with driving under suspension of unlawful pistol
20 and armed robbery. Taken to the Darlington Police
21 Department for interview. Mirandized. Signed that he
22 fully understood his Miranda Warnings, requested a
23 lawyer, refused to cooperate.

24 These events, this sequence of events, shows
25 that he learned quickly how to deal with and communicate

1 with law enforcement or not communicate with them for
2 his own good and to request an attorney. That shows he
3 can deal with law enforcement and communicate with law
4 enforcement and make decisions for his best interest.
5 Dealing and communicating with or assisting his lawyer
6 or the prosecutor.

7 The case, as I talked about, began being
8 called for trial in July of 1998. July 23, 1998 the
9 State called the weapon on the school property case for
10 trial. Went all the way up to jury selection right here
11 in this room. He was working with a lawyer. At the
12 time they called the case, he changed his plea after all
13 this time from not guilty to guilty. He entered a plea.
14 Got an active YOA sentence. This indicates Graham
15 certainly understood how to communicate with his lawyer,
16 assist in his defense, and how to work in the process
17 and deal with the prosecutor.

18 One month later, August 24th through 27th of
19 1998, was the trial of this case. Again, in this
20 courtroom. And then a few days later, a week later, the
21 posttrial motion which was a five-day event total. That
22 was further evidence that Graham can ably assist his
23 attorney, communicate, and deal with the prosecutor and
24 understand the process. That resulted in a conviction
25 of a sentence and that left the issue of the armed

1 robbery and the unlawful pistol indictments.

2 The unlawful pistol indictment and that's one
3 of the indictments, we put into evidence. That charge
4 was nolle prosequi because he plead in city court
5 six-weeks prior. It was a duplicate charge in city
6 court. Somebody picked up on that and he plead to
7 unlawful carry in city court. That conviction we put in
8 today, which caused double jeopardy issue with the
9 indictment in general sessions and it was nolle prosequi
10 because he went down and plead in city court before it
11 was ever brought into general sessions. Somebody's been
12 hitting hard -- I might be giving more credit than they
13 deserve, but that was a good strategy and it worked and
14 that charge was dismissed. And the armed robbery was
15 nolle prosequi on the record after sentencing. Indicating
16 an ability, again, to communicate with his attorney and
17 deal with the prosecutor and that case was nolle prosequi.

18 And the last element on these two features,
19 again, deals with the appreciation of risk of
20 consequences. Investigator Maury Thompson, now
21 deceased, in this testimony on direct examination by
22 Assistant Solicitor Blackman was describing what he
23 encountered when he arrived at the seen at the Graham
24 house. And his answer to Ms. Blackman when she asked
25 him about showing up:

1 He said: "When I got there Mr. Eric Graham
2 was in the floor handcuffed and his daddy was standing
3 on top of him."

4 Ms. Blackman asked: "Were there any other
5 comments made at the time that you heard?"

6 He answered: "Yes, ma'am." "Mr. Graham on
7 the floor handcuffed was saying: "I shot her." "I shot
8 her." "I shot her.""

9 Question: "Did anybody else in the room make
10 any comments?"

11 Answer: "Yes, ma'am." "His father told him:
12 "I told you that damn gun was gonna get you in
13 trouble.""

14 Risk and consequences. Your Honor, the last
15 feature of youth is the possibility of rehabilitation.
16 And that's why we brought in the officers from the South
17 Carolina Department of Corrections.

18 In a two-year period Eric Graham's been locked
19 up four times. After at fourth time, bond was finally
20 denied. He was given four opportunities during a
21 two-year period to be of good behavior and he would not
22 do it. His weapon of choice in society repeatedly was a
23 pistol, which was illegal for him to even possess. And
24 in order to manage his behavior, as a result of these
25 crimes and provide safety and security of the public, he

1 was incarcerated at the South Carolina Department of
2 Corrections for his natural life.

3 Once in the South Carolina Department of
4 Corrections, he's accumulated numerous minor infractions
5 and numerous major infractions. His weapon of choice in
6 Department of Corrections is a cellphone, which is
7 illegal for him to possess. He has been caught at least
8 seven times with cellphones. Several of these
9 infractions have been since he filed for resentencing in
10 2016. The most resent being the February 16, 2022
11 incident, when he tried to destroy the cellphone to keep
12 investigators from searching it for intelligence
13 information.

14 Judge, if you were ever going to put your best
15 foot forward and you were Eric Graham, it would be the
16 day you filed for resentencing in the hopes of
17 impressing the judge at your day in Court sometime. He
18 put his best foot forward and instead of building a good
19 reputation, he built a reputation, which I hope greatly
20 impresses your Honor. He's dangerous. He's problematic
21 and he's a threat to the safety of the other inmates and
22 employees at the South Carolina Department of
23 Corrections. And he's built that, when he otherwise
24 should have been of good behavior, knowing he was gonna
25 come in front of you. In order to manage his behavior

1 and provide safety and security to those living in and
2 those working in the South Carolina prisons, it's been
3 necessary to transfer him out-of-state to another
4 facility in another state prison.

5 Your Honor, the State doesn't think there's a
6 possibility for rehabilitation. Based on the five
7 features of youth, we ask the Court to sentence Eric
8 Graham to natural life. Thank you, your Honor.

9 THE COURT: Thank you, sir. Anything else
10 from the defendant?

11 MS. FRANKLIN-BEST: No, your Honor.

12 THE COURT: Counsel, and ladies and gentlemen,
13 I am not going to make a decision at this moment. I'm
14 going to, what we call "take this matter under
15 advisement" and go back and consider all the testimony
16 that I've heard here today. I know that's probably
17 disappointing to both sides. I know you want this to be
18 brought to some resolution, but I want you to try to put
19 yourself in my shoes and realize what a difficult
20 decision I have before me.

21 I have had a chance to review the transcript
22 of the first trial and looked at all the exhibits and
23 whatnot, but I'm thrust, somewhat, in a position of a
24 jury. But there's only one of me and not 12 of me. I
25 want to make sure that I do the right thing. I want to

1 consider this matter carefully, because it's important
2 to everyone, to Eric Graham, and to the Wingate family.

3 So if you could, put your disappointment aside
4 for a couple of days. I'm not gonna take a long time,
5 because I have a good strong feel for this matter. As I
6 said, I've reviewed everything. I spent all last
7 weekend going through everything. Spent about three
8 days pulling through everything I had and I'm very
9 familiar with the facts and I've had an opportunity
10 today to hear from both sides and this is a very
11 emotional matter. And for both sides, this is a very
12 tough situation to deal with for the families and quite
13 frankly for me as well.

14 I want to commend the attorneys, Ms.
15 Franklin-Best and Mr. Jackson for the outstanding job
16 they have done, here today, presenting this matter to me
17 in covering all the factors that I have to look at and
18 consider in making my decision. And I will follow the
19 law as it has been handed down to me and all other
20 judges.

21 With that being said, this matter will be
22 taken under advisement. I will let you hear from me
23 very shortly. We've got a weekend coming up, so it may
24 be first couple days of next week. I don't know if I'll
25 be able to get everything out to the attorneys, but I'll

1 certainly be able to get things taken care of, I'll say
2 no later than Tuesday. So that gives you some idea,
3 some timeline, as to when you can expect a decision from
4 the Court.

5 Any questions, counsel?

6 MR. JACKSON: Nothing from the State, your
7 Honor.

8 MS. FRANKLIN-BESET: No, your Honor.

9 THE COURT: Thank you both. This court
10 session is adjourned.
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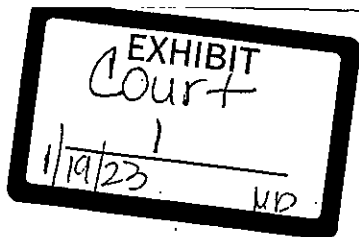
C E R T I F I C A T E

I, the undersigned Maria DiScioscia, Official Court Reporter for the Sixth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for Darlington, South Carolina, on the 19th day of January, 2022.

I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Maria DiScioscia". The signature is written in dark ink and is positioned above a horizontal dashed line.

Maria DiScioscia
Official Court Reporter



4

1 STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
2 COUNTY OF DARLINGTON)
3
4 STATE OF SOUTH CAROLINA)
5 Plaintiff)
6 -VS-) TRANSCRIPT OF RECORD
7 ERIC ANTON GRAHAM)
8 Defendant)
9
10 AUGUST 28, 1998
11 DARLINGTON, SOUTH CAROLINA
12 B E F O R E:
13 HONORABLE PAUL M. BURCH, JUDGE; AND A JURY.
14
15 A P P E A R A N C E S:
16 BILLIE E. BLACKMON, ASSISTANT SOLICITOR
17 REPRESENTING THE STATE
18
19 KARL H. SMITH, ESQUIRE
20 REPRESENTING DEFENDANT
21
22
23 ANNETTE W. HERNDON
24 OFFICIAL REPORTER
25

VOIR DIRE

5

1 (WHEREUPON THE FOLLOWING MATTERS WERE
2 HEARD BEFORE THE HONORABLE PAUL M. BURCH ON
3 MONDAY, AUGUST 24, 1998, DARLINGTON, SOUTH
4 CAROLINA.)

5 COURT: LADIES AND GENTLEMEN OF THE
6 JURY PANEL, I NEED YOUR CLOSE ATTENTION,
7 PLEASE.

8 WE'RE ABOUT TO COMMENCE THE TRIAL OF THE
9 CASE ENTITLED STATE OF SOUTH CAROLINA VERSUS
10 ERIC ANTON GRAHAM, CHARGED IN THE BILL OF
11 INDICTMENTS BY THE GRAND JURY OF DARLINGTON
12 COUNTY WITH THE OFFENSES OF MURDER AND
13 CARRYING A PISTOL. THE DEFENDANT IS PRESENT
14 IN COURT, REPRESENTED BY MR. SMITH. I NEED
15 THE DEFENDANT TO STAND AND FACE THE JURY
16 PANEL AT THIS TIME. (DEFENDANT RESPONDS.)

17 I POSE THE FOLLOWING QUESTIONS TO THE
18 JURY PANEL. ANY MEMBER OF THE JURY PANEL
19 RELATED BY BLOOD OR CONNECTED BY MARRIAGE
20 WITH THE DEFENDANT, ERIC ANTON GRAHAM, IF SO
21 PLEASE STAND AT THIS TIME.

22 YES, SIR, YOUR NAME.

23 JUROR: MONROE BENJAMIN.

24 COURT: AND YOUR NUMBER?

25 CLERK: NUMBER 5.

VOIR DIRE

6

1 COURT: HOW DOES THAT QUESTION APPLY?

2 MR. BENJAMIN: COUSINS.

3 COURT: CAN YOU TELL ME WHAT DEGREE?
4 FIRST COUSIN?

5 MR. BENJAMIN: NO.

6 COURT: SECOND COUSIN?

7 MR. BENJAMIN: THIRD.

8 COURT: THAT'S CLOSE KIN?

9 MR. BENJAMIN: YES, SIR.

10 COURT: ALL RIGHT. THE COURT WILL
11 STAND HIM ASIDE BECAUSE OF BLOOD
12 RELATIONSHIP.

13 ANY MEMBER OF THE PETIT JURY PANEL
14 RELATED BY BLOOD OR CONNECTED BY MARRIAGE
15 WITH ANY OF THE FOLLOWING INDIVIDUALS:
16 INVESTIGATOR MONTY THOMPSON WITH THE
17 SHERIFF'S DEPARTMENT; DEPUTY BRYAN LEE WITH
18 THE SHERIFF'S DEPARTMENT; WILLIAM K. HUGGINS
19 WITH THE SHERIFF'S DEPARTMENT; JOYCE EVERETT
20 WITH THE SHERIFF'S DEPARTMENT; DETECTIVE
21 HENRY MIDDLETON WITH THE SHERIFF'S
22 DEPARTMENT; JOHN GRAHAM, [REDACTED] [REDACTED]
23 SHERRILL [REDACTED] ROAD; BOBBY JEAN GRAHAM, SAME
24 ADDRESS, [REDACTED] [REDACTED] [REDACTED] MCDONALD OF
25 HARTSVILLE; JOHN P. BLACK WITH STATE LAW

VOIR DIRE

7

1 ENFORCEMENT DIVISION IN COLUMBIA; VELLO
2 PAAVEL WITH THE STATE LAW ENFORCEMENT
3 DIVISION IN COLUMBIA; LIEUTENANT JOSEPH
4 POWELL WITH SLED, COLUMBIA; GRAYSON AMICK
5 WITH SLED, FROM COLUMBIA; DR. EDWARD L.
6 PROCTOR, FORENSIC PATHOLOGIST, FROM GRAND
7 STRAND MEMORIAL IN MYRTLE BEACH; MARK KELLY
8 AND FRANK PRESTON, BOTH WITH SLED OF
9 COLUMBIA; GUY KEVIN HARRIS FROM HARTSVILLE;
10 WANDA BURRELL [REDACTED] DARLINGTON; PAUL G.
11 DUNDEE OF [REDACTED] OTTO [REDACTED] OF
12 DARLINGTON WITH THE SCHOOL DISTRICT;
13 SERGEANT JOEL GRIGGS, WITH THE SHERIFF'S
14 DEPARTMENT; IF SO, PLEASE STAND AT THIS
15 TIME.

16 JAMES NEWSOME, WITH DARLINGTON COUNTY
17 SCHOOL DISTRICT.

18 IF YOU ARE RELATED BY BLOOD OR CONNECTED
19 BY MARRIAGE WITH ANY OF THOSE PEOPLE WE NEED
20 TO KNOW IT NOW. LET ME EXTEND -- IF YOU'RE
21 CLOSE PERSONAL FRIENDS OR HAVE ANY BUSINESS
22 CONNECTION WITH THE DEFENDANT ERIC GRAHAM OR
23 ANY OF THOSE INDIVIDUALS WE NEED YOU TO
24 STAND AT THIS TIME. (NO RESPONSE).

25 LOOKING AT THE INDICTMENTS, LADIES AND

VOIR DIRE

8

1 GENTLEMEN, THE INDICTMENTS ALLEGE THAT THESE
2 OFFENSES OCCURRED HERE IN DARLINGTON COUNTY
3 ON OR ABOUT DECEMBER 7, 1996, WITH THE
4 ALLEGED VICTIM BEING A [REDACTED] [REDACTED] A
5 SHOOTING WAS ALLEGEDLY INVOLVED, OF COURSE,
6 HERE IN DARLINGTON COUNTY.

7 AND I ASK YOU, ANY MEMBERS OF THE PETIT
8 JURY PANEL FORMED OR EXPRESSED AN OPINION AS
9 TO THE GUILT OR INNOCENCE OF THE DEFENDANT,
10 ERIC ANTON GRAHAM, IF SO PLEASE STAND AT
11 THIS TIME BUT DO NOT MAKE ANY COMMENT. (NO
12 RESPONSE).

13 ARE ANY MEMBERS OF THE PETIT JURY PANEL
14 CONSCIOUS OF ANY INTEREST, ANY BIAS, OR ANY
15 PREJUDICE, FOR OR AGAINST THE DEFENDANT,
16 ERIC ANTON GRAHAM, IF SO PLEASE STAND AT
17 THIS TIME. (NO RESPONSE).

18 ANY MEMBERS OF THE PETIT JURY PANEL
19 PRESENTLY REPRESENTED BY THE FOURTH CIRCUIT
20 SOLICITOR'S OFFICE OR BY MR. SMITH, IF SO
21 PLEASE STAND AT THIS TIME. (NO RESPONSE).

22 CAN EACH MEMBER OF THE PETIT JURY PANEL
23 GIVE THE STATE AND THE DEFENDANT, ERIC ANTON
24 GRAHAM, A FAIR AND IMPARTIAL TRIAL, IF NOT
25 PLEASE STAND. (NO RESPONSE).

1 ANY FURTHER INQUIRY FROM THE STATE?

2 SOLICITOR BLACKMON: NOT AS TO THE --

3 WE WOULD ASK IF ANY OF THEM ARE MEMBERS OF

4 ANY CHURCHES OR SOCIAL ORGANIZATIONS WITH

5 MR. GRAHAM OR ANY OF HIS FAMILY --

6 SPECIFICALLY, CHURCHES OR SOCIAL

7 ORGANIZATIONS OR ANYTHING LIKE THAT.

8 MR. SMITH: ALSO, YOUR HONOR, WITH THE

9 VICTIM'S FAMILY.

10 COURT: ALL RIGHT. ANY MEMBERS OF THE

11 PETIT JURY PANEL A MEMBER OF A CHURCH OR ANY

12 SOCIAL ORGANIZATION OR HAVE ANY BUSINESS

13 CONNECTION OR CLOSE SOCIAL CONNECTION WITH

14 THE DEFENDANT OR ANY OF HIS FAMILY MEMBERS,

15 OR THE ALLEGED VICTIM, [REDACTED] [REDACTED] IF

16 SO PLEASE STAND AT THIS TIME. YOUR NAME,

17 PLEASE.

18 JUROR: I GO TO CHURCH WITH HIS FAMILY.

19 NUMBER 88.

20 COURT: AND WHAT WAS YOUR NAME?

21 JUROR: JUDY PETERSON.

22 COURT: AND YOU GO TO CHURCH WITH WHO?

23 MS. PETERSON: THE DEFENDANT'S FAMILY.

24 COURT: ALL RIGHT. WITHOUT HAVING

25 YOU TO COME UP, LET ME ASK YOU THIS

VOIR DIRE

10

1 QUESTION. WOULD THE FACT THAT YOU ATTEND
2 THE SAME CHURCH, WOULD THAT EFFECT YOUR
3 ABILITY TO GIVE A FAIR AND IMPARTIAL TRIAL
4 IN THIS CASE?

5 MS. PETERSON: YES, SIR.

6 COURT: COME ON UP, PLEASE. COUNSEL,
7 YA'LL MAY APPROACH.

8 (WHEREUPON THE FOLLOWING BENCH
9 CONFERENCE WAS HELD ON THE RECORD, IN THE
10 PRESENCE OF THE JURY BUT OUTSIDE THE HEARING
11 OF THE JURY.)

12 COURT: I NEED FOR YOU TO TELL US WHY
13 YOU FEEL LIKE IT WOULD EFFECT YOUR ABILITY
14 TO GIVE A FAIR AND IMPARTIAL TRIAL.

15 MS. PETERSON: BECAUSE WE ARE REAL CLOSE
16 IN CHURCH, ME AND THE FAMILY.

17 COURT: AND THAT'S THE VICTIM'S FAMILY?

18 MS. PETERSON: NO, THE DEFENDANT'S
19 FAMILY.

20 COURT: ALL RIGHT. OKAY. WE'LL
21 STAND HER ASIDE.

22 (END OF BENCH CONFERENCE).

23 COURT: YOUR NAME, PLEASE.

24 JUROR: FREDERICK SELLERS. NUMBER 92.

25 COURT: AND HOW DOES THAT QUESTION

1 APPLY?

2 MR. SELLERS: I ATTEND THE SAME CHURCH
3 AS THE DEFENDANT.

4 COURT: ALL RIGHT. I'M GONE POSE THE
5 SAME QUESTION TO YOU. IF YOU WERE SEATED ON
6 THIS JURY, COULD YOU GIVE BOTH THE STATE AND
7 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

8 MR. SELLERS: YES, I CAN.

9 COURT: THANK YOU, VERY MUCH. ALL
10 RIGHT, ANYONE ELSE? (NO RESPONSE).

11 ANY FURTHER INQUIRY?

12 MR. SMITH: YOUR HONOR, IF IT PLEASE
13 THE COURT, BOTH OF THESE LADIES WERE IN
14 PRIVATE PRACTICE AT ONE TIME. I'D LIKE TO
15 KNOW IF ANY MEMBER OF THE JURY PANEL HAS
16 BEEN REPRESENTED BY EITHER ONE OF THEM AT
17 ONE TIME.

18 SOLICITOR BLACKMON: MAY IT PLEASE THE
19 COURT, AS TO MS. BAUGH HERE, SHE'S SIMPLY
20 HERE TO HELP ME DRAW THE JURY. SHE IS NOT
21 GOING TO PARTICIPATE IN THE CASE SO I THINK
22 THE QUESTION WOULD APPLY TO ME ONLY.

23 COURT: ANYBODY REPRESENTED IN THE PAST
24 OR PRESENTLY REPRESENTED BY FORMER MS.
25 POSTON, MS. BAUGH NOW, OR BY MS. BLACKMON,

VOIR DIRE

12

1 IF SO WE NEED YOU TO STAND AT THIS TIME.

2 (NO RESPONSE).

3 COURT: THE STRIKES ARE FIVE AND TEN.

4 SOLICITOR BLACKMON: MAY IT PLEASE THE
5 COURT, WE WOULD ASK THE SAME QUESTION OF THE
6 DEFENSE ATTORNEY. HE IS IN PRIVATE
7 PRACTICE.

8 COURT: I'LL ASK AGAIN. ANYBODY
9 PRESENTLY REPRESENTED OR REPRESENTED IN THE
10 PAST BY MR. SMITH, IF SO PLEASE STAND. YOUR
11 NAME?

12 JUROR: NUMBER 133, TROY ROGERS.

13 COURT: AND HOW DOES THAT QUESTION
14 APPLY?

15 MR. ROGERS: I WAS REPRESENTED BY MR.
16 SMITH IN THE PAST.

17 COURT: WOULD THAT EFFECT YOUR ABILITY
18 TO GIVE A FAIR AND IMPARTIAL IN THIS CASE?

19 MR. ROGERS: NO, IT WOULDN'T.

20 COURT: THANK YOU, SIR. DOES COUNSEL
21 AGREE TO WAIVE CAPSULES?

22 SOLICITOR BLACKMON: THE STATE WOULD
23 WAIVE.

24 MR. SMITH: THE DEFENSE WOULD WAIVE,
25 YOUR HONOR.

1 COURT: ALL RIGHT, YOU MAY PROCEED.

2 (WHEREUPON THE JURY WAS DRAWN, (DETAILED
3 LIST ATTACHED TO ORIGINAL TRANSCRIPT), THE
4 FOLLOWING MATTERS PUT ON RECORD DURING JURY
5 SELECTION.)

6 CLERK: #8 CONNIE BRADDOCK.

7 SOLICITOR BLACKMON: YOUR HONOR, THIS
8 IS MY SISTER-IN-LAW. I THINK WE NEED TO
9 STAND HER ASIDE.

10 COURT: THANK YOU, MA'AM. YOU'RE
11 EXCUSED BY THE COURT.

12 CLERK: #32 WOODROW DRIGGERS.

13 SOLICITOR BLACKMON: CAN WE APPROACH
14 THE BENCH?

15 (WHEREUPON A BENCH CONFERENCE WAS HELD
16 IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
17 HEARING OF THE JURY.)

18 COURT: I'M GONE EXCUSE YOU FROM
19 SERVICE.

20 ALL RIGHT, COUNSEL, ANY MOTIONS
21 CONCERNING THE SEATING OR DRAWING OF THE
22 JURY, FROM THE STATE?

23 SOLICITOR BLACKMON: NONE, YOUR HONOR.

24 COURT: DEFENSE?

25 MR. SMITH: NOTHING FROM THE DEFENSE,

VOIR DIRE

14

1 YOUR HONOR.

2 (END OF SELECTION OF JURY.)

3 COURT: VERY GOOD. ALL RIGHT, I WILL
4 NOT SWEAR THE JURY UNTIL WE RETURN FROM
5 LUNCH.

6 LADIES AND GENTLEMEN, WE'RE GOING TO
7 BREAK FOR LUNCH. I NEED YOU IN THE JURYROOM
8 AT 3:00. EVERYBODY REMAIN IN THE JURYROOM
9 WHILE THE JURY DEPARTS.

10 DO NOT DISCUSS THIS CASE WITH ANYONE.
11 DO NOT EVEN DISCUSS IT AMONGST YOURSELVES.
12 SHOULD ANYBODY TRY TO APPROACH YOU AND
13 DISCUSS THIS MATTER WITH YOU, DO NOT DISCUSS
14 IT WITH THEM AND LET ME KNOW ABOUT IT WHEN
15 YOU RETURN. BE BACK IN THE JURYROOM AT
16 3:00.

17 (WHEREUPON THE COURT BREAKS FOR LUNCH.)

18 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
19 THE PRESENCE OF THE JURY.)

20 (WHEREUPON THE FOLLOWING BENCH
21 CONFERENCE WAS HELD ON THE RECORD.)

22 COURT: THIS IS JUROR NUMBER 129,
23 OLIVIA CAIN.

24 JUROR CAIN: I DIDN'T KNOW AT THE TIME
25 WE WERE RELATED UNTIL MY MOTHER TOLD ME.

VOIR DIRE

15

1 I'M SO SORRY.

2 COURT: TELL ME WHAT THE PROBLEM IS.

3 JUROR CAIN: I'M RELATED TO THE
4 DEFENDANT, MR. GRAHAM. HE IS MY BLOOD
5 COUSIN ON MY MAMA'S SIDE OF THE FAMILY. HIS
6 MOTHER AND MY MOTHER ARE FIRST COUSINS.

7 SOLICITOR BLACKMON: SHE'S A SECOND OR
8 THIRD COUSIN.

9 COURT: YOUR MOTHER AND THE MOTHER OF
10 THE DEFENDANT ARE FIRST COUSINS?

11 MR. SMITH: YOUR MOTHER IS RELATED TO A
12 COUSIN OF HIS?

13 JUROR CAIN: YES, SIR. THEY'RE ALL
14 RELATED, IN THE SAME FAMILY.

15 COURT: IS THAT BY MARRIAGE?

16 JUROR CAIN: NOT BY MARRIAGE BUT BY
17 RELATION.

18 MR. SMITH: DO YOU KNOW HIM?

19 JUROR CAIN: I DIDN'T KNOW HIM AT THAT
20 TIME. MY MOTHER TOLD ME ABOUT IT AT LUNCH.

21 COURT: YOUR MOTHER TOLD YOU YOU'RE
22 RELATED?

23 JUROR CAIN: YES, SIR.

24 COURT: BUT YOU STILL DON'T KNOW
25 WHETHER YOU ARE OR NOT?

1 JUROR CAIN: WE ARE RELATED TO ROGER.

2 COURT: HOW ARE YOU RELATED?

3 JUROR CAIN: BY MARRIAGE.

4 COURT: BY MARRIAGE YOU'RE RELATED TO
5 ROGER?

6 JUROR CAIN: HIS FIRST WIFE IS MY
7 MOTHER'S BLOOD COUSIN.

8 MR. SMITH: ROGER GRAHAM'S FIRST WIFE
9 IS THE ONE YA'LL ARE RELATED TO?

10 JUROR CAIN: YES, SIR.

11 COURT: ROGER IS DIVORCED FROM HER?

12 JUROR CAIN: YES, SIR.

13 COURT: OKAY. TAKING THAT INTO MIND,
14 I'M GONE ASK YOU THIS QUESTION AND I NEED A
15 YES OR NO ANSWER.

16 IF YOU WERE TO SERVE ON THIS JURY, COULD
17 YOU GIVE BOTH THE STATE AND THE DEFENDANT A
18 FAIR AND IMPARTIAL TRIAL?

19 JUROR CAIN: NO, SIR, I COULDN'T.

20 COURT: ALL RIGHT, THAT ENDS IT. IF
21 YOU WILL STEP BACK THERE, PLEASE.

22 BRING THE NEXT ONE, PLEASE.

23 COURT: MR. JAMES TOLD ME YOU WERE
24 RELATED OR YOU KNEW SOMEBODY.

25 JUROR: I WORK WITH HIM.

VOIR DIRE

17

1 COURT: WORK WITH WHO?

2 JUROR: THE DEFENDANT.

3 COURT: THAT'S UNDERSTANDABLE. DOES
4 THAT CAUSE YOU ANY PROBLEM ABOUT SERVING ON
5 HIS JURY?

6 JUROR: NO, SIR.

7 COURT: YOU SURE? YOU CAN LISTEN AND
8 GIVE BOTH SIDES A FAIR AND IMPARTIAL TRIAL?

9 JUROR: I DON'T THINK -- I MEAN, YOU
10 KNOW. I USED TO WORK WITH HIM.

11 COURT: BUT I'M ASKING YOU, IF YOU
12 SERVE ON THE JURY, CAN YOU GIVE BOTH SIDES A
13 FAIR AND IMPARTIAL TRIAL?

14 JUROR: TO BE HONEST ABOUT IT, I THINK
15 MAYBE IT'D BE BEST NOT TO BE ON IT.

16 COURT: ARE YOU TELLING ME YOU CAN'T?

17 JUROR: I CAN, YOU KNOW. YES, I CAN.

18 COURT: YOU CAN?

19 JUROR: BUT I'D RATHER NOT BE ON IT.

20 COURT: I KNOW A BUNCH OF PEOPLE HAD
21 RATHER NOT BE ON THE JURY, BUT THE KEY
22 QUESTION I HAVE TO ASK YOU, IF YOU SERVE ON
23 IT, CAN YOU GIVE BOTH SIDES A FAIR AND
24 IMPARTIAL TRIAL?

25 JUROR: YES.

1 COURT: OKAY. VERY GOOD.

2 JUROR: BUT THIS IS MY FIRST TIME.

3 COURT: THAT'S ALL RIGHT. JUST RELAX.
4 GO BACK TO THE JURYROOM.

5 (JUROR IS RETURNED TO THE JURYROOM.)

6 COURT: BY STATUTE, YOU WILL PUT BOTH
7 ALTERNATES NAMES IN THE CAPSULES, DRAW ONE
8 OUT AND WHOEVER YOU DRAW OUT WILL TAKE THE
9 PLACE OF THE JUROR WE EXCUSED.

10 (END OF BENCH CONFERENCE)

11 COURT: ALL RIGHT, ANYTHING FOR THE
12 RECORD?

13 MR. SMITH: THE DEFENDANT MOVES FOR A
14 NEW JURY STRIKE, YOUR HONOR, DUE TO THE
15 DIFFICULTY THAT HAS OCCURRED WITH THIS JURY.
16 YOUR HONOR, THE JURORS WERE EXCUSED, WENT
17 OUT TOGETHER. APPARENTLY, THERE'S BEEN SOME
18 CONCERN OF SOME JUROR'S MOTHER CALLED THE
19 SOLICITOR'S OFFICE AND TALKED ABOUT BEING
20 RELATED TO THE DEFENDANT. YOUR HONOR, WE
21 FEEL LIKE THE PANEL HAS BEEN TAINTED BY ALL
22 THIS CONFUSION HERE. AND WE WOULD ASK, YOUR
23 HONOR, WHEN THE JURY COMES BACK IN TOMORROW
24 MORNING, IT WOULD BE THE MOST JUDICIAL
25 THING, TO AVOID ANY TYPE OF PREJUDICE, TO

VOIR DIRE

19

1 ALLOW THE DEFENDANT TO BE ABLE TO DRAW A NEW
2 JURY WITHOUT THESE INTERRUPTIONS. I THINK
3 IT PUTS THE APPEARANCE TO THE JURY THAT
4 SOMETHING'S WRONG, SOMETHING'S GOING ON,
5 WRONG IN THIS CASE AND WE DON'T NEED THAT,
6 YOUR HONOR.

7 COURT: I'D HAVE TO DENY THAT MOTION.
8 I'LL DOUBLE-CHECK WITH THE JURY TO MAKE SURE
9 THERE'S BEEN NO COMMUNICATION. AND, OF
10 COURSE, IT'S ON THE RECORD, SO EVERYBODY
11 WILL KNOW.

12 THE PROBLEM WITH ONE OF THE REGULAR
13 JURORS WAS, SHE'S BECOME AWARE THAT SHE'S
14 RELATED TO THE DEFENDANT AND ON THE RECORD
15 SHE STATED TO THE COURT THAT SHE DID NOT
16 WANT TO SERVE ON THE JURY, SHE FELT LIKE SHE
17 COULDN'T BE FAIR TO BOTH SIDES.

18 ALL RIGHT, WE'RE READY TO GO WITH THIS
19 CASE.

20 SOLICITOR BLACKMON: THE ONLY OTHER
21 THING WE NEED TO DO, YOUR HONOR, OUTSIDE THE
22 PRESENCE OF THE JURY, THERE IS A JACKSON
23 VERSUS DEENO MATTER. IT'S NOT AN OUTRIGHT
24 STATEMENT, HOWEVER THE STATEMENT THAT'S MADE
25 IS INCLUDED IN ONE OF THE INCIDENT REPORTS

VOIR DIRE

20

1 AND WAS MADE BY THE DEFENDANT CONCERNING
2 THIS. IT WOULD BE TESTIFIED TO BY THE
3 INVESTIGATORS WHO WERE THERE AND THERE WAS A
4 WAIVER, I DO BELIEVE. UNDER THE
5 CIRCUMSTANCES, WITH THE CHARGE BEING THE WAY
6 IT IS, A JACKSON VERSUS DEENO HEARING IS IN
7 ORDER.

8 MR. SMITH: YOUR HONOR, JUDGE
9 COTTINGHAM HAS ALREADY HEARD CONCERNING
10 THAT, AND HE'S ALREADY SAID IT WOULD NOT BE
11 ALLOWED. THAT WAS IN CHAMBERS, IN HIS
12 OFFICE, A MONTH AGO.

13 SOLICITOR BLACKMON: THAT WAS NOT A
14 JACKSON VERSUS DEENO HEARING. THAT WAS NOT
15 ON THE RECORD, AS A MATTER OF FACT. WE WERE
16 DEALING WITH A WHOLE ENTIRELY OTHER CHARGE,
17 TO WHICH THIS DEFENDANT PLED GUILTY AT THAT
18 POINT IN TIME.

19 COURT: WAS THIS ON THE RECORD?

20 SOLICITOR BLACKMON: NO, SIR, IT WAS
21 NOT. IT WAS IN CHAMBERS.

22 COURT: ANY ORDERS BEEN ISSUED?

23 SOLICITOR BLACKMON: NO, SIR. NO
24 ORDERS HAVE BEEN ISSUED. HE WAS NOT DEALING
25 WITH THIS CASE AND I'M ASKING FOR A JACKSON

VOIR DIRE.

21

1 VERSUS DEENO HEARING.

2 MR. SMITH: WE HAD A MOTION IN LIMINE
3 FILED AND HE HEARD IT.

4 SOLICITOR BLACKMON: THERE WAS A MOTION
5 IN LIMINE FILED BUT THAT WAS NOT A JACKSON
6 VERSUS DEENO. A JACKSON VERSUS DEENO IS
7 APPROPRIATE AT THIS POINT IN TIME, WHEN THE
8 CASE IS ACTUALLY CALLED.

9 COURT: WHATEVER IT WAS, IT'S NOT ON
10 THE RECORD, RIGHT?

11 SOLICITOR BLACKMON: NO, SIR, IT IS
12 NOT.

13 COURT: OKAY. WELL, WE'LL DO THAT NOW.

14 SOLICITOR BLACKMON: I'M PREPARED TO GO
15 FORWARD WITH THE JACKSON VERSUS DEENO RIGHT
16 NOW. I HAVE INVESTIGATOR MIDDLETON HERE.
17 HE'S PERFECTLY CAPABLE.

18 COURT: ALL RIGHT, LET'S MOVE ON THEN.
19 WE'LL GO AHEAD WITH THE DEENO HEARING AND
20 GET THAT OUT OF THE WAY AND ANY OTHER PRE-
21 TRIAL THINGS.

22 MR. SMITH: YOUR HONOR, ONE OTHER THING
23 WE'D LIKE TO BRING TO THE COURT'S ATTENTION.
24 WE WERE MADE AWARE THAT THERE IS A POSTER-
25 SIZED PICTURE OF THE VICTIM. WE WOULD

1 OBJECT TO THE POSTER, YOUR HONOR. WE DON'T
2 HAVE AN OBJECTION TO A PICTURE BEING USED,
3 BUT I NOTICE IT'S A POSTER-SIZE PHOTOGRAPH.
4 WE FEEL LIKE IT'S IMPROPER IN THIS TYPE
5 CASE.

6 SOLICITOR BLACKMON: THAT'S PERFECTLY
7 FINE, YOUR HONOR. HERE'S THE PHOTOGRAPH
8 WE'LL BE USING.

9 COURT: ALL RIGHT. CALL YOUR WITNESS.

10 SOLICITOR BLACKMON: THE STATE CALLS
11 HENRY MIDDLETON.

12 HENRY MIDDLETON

13 BEING FIRST DULY SWORN, TESTIFIED AS
14 FOLLOWS:

15 DIRECT EXAMINATION

16 BY

17 BY SOLICITOR BLACKMON.

18 Q WOULD YOU STATE YOUR NAME AND RANK FOR
19 THE RECORD, PLEASE.

20 A MY NAME IS HENRY MIDDLETON. I'M A
21 LIEUTENANT WITH DARLINGTON COUNTY SHERIFF'S
22 DEPARTMENT.

23 Q AND HOW LONG HAVE YOU BEEN EMPLOYED
24 THERE?

25 A APPROXIMATELY SIXTEEN YEARS.

1 Q I'D DIRECT YOUR ATTENTION TO THE
2 INCIDENT INVOLVING ERIC GRAHAM, WHICH
3 OCCURRED ON DECEMBER 7, 1996. WERE YOU
4 INVOLVED IN THE INVESTIGATION OF A MURDER
5 INVOLVING THIS INDIVIDUAL?

6 A YES, I WAS.

7 Q AND WHAT WAS YOUR INVOLVEMENT?

8 A MONTY THOMPSON WAS THE LEAD INVESTIGATOR
9 AND I WAS CALLED OUT TO ASSIST HIM THAT
10 NIGHT. MR. THOMPSON HAD JUST GOTTEN INTO
11 THE INVESTIGATION. HE REQUESTED THAT I COME
12 AND ASSIST HIM WITH IT.

13 Q SO AT ALL TIMES, WHEN MR. THOMPSON WAS
14 DOING THIS INVESTIGATION, YOU WERE WITH HIM?

15 A NO, MA'AM. THE ONLY TIME I WAS WITH HIM
16 WAS WHEN THE INITIAL INCIDENT OCCURRED.

17 Q YOU WERE WITH HIM AT THE RESIDENCE
18 INITIALLY?

19 A YES, I WAS.

20 Q WERE YOU ALSO WITH HIM AT THE DETENTION
21 CENTER?

22 A YES, I WAS.

23 Q WERE YOU AND HE AND MR. GRAHAM IN THE
24 SAME ROOM?

25 A YES, WE WERE.

1 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT #1 FOR IDENTIFICATION PURPOSES.

3 COULD YOU TELL ME WHAT THAT IS?

4 A THIS IS WHAT WE CALL A DARLINGTON COUNTY
5 SHERIFF'S DEPARTMENT MIRANDA WAIVER FORM.

6 THIS IS WHERE WE ADVISED HIM OF HIS RIGHTS
7 AND GET THE SUBJECT TO SIGN IT AND WITNESS
8 IT ALSO.

9 Q STARTING AT THE TIME, ON THE LEFT-HAND,
10 WHERE IT SHOWS PLACE, DATE, AND TIME. COULD
11 YOU READ THAT, PLEASE?

12 A PLACE WAS SHERIFF'S OFFICE. DATE WAS
13 12-7-96. TIME WAS 4:50 A.M.

14 Q GO AHEAD AND READ THE ENTIRE DOCUMENT.
15 IS THIS DOCUMENT WHAT YOU READ TO EVERY
16 DEFENDANT PRIOR TO TAKING THE STATEMENT ONCE
17 THEY'RE IN CUSTODY?

18 A YES, WE DO.

19 Q READ THE ENTIRE DOCUMENT, PLEASE.

20 A BEFORE WE ASK YOU ANY QUESTIONS YOU MUST
21 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT
22 TO REMAIN SILENT; ANYTHING YOU SAY CAN AND
23 WILL BE USED AGAINST YOU IN COURT; YOU HAVE
24 A RIGHT TO TALK TO A LAWYER FOR ADVICE
25 BEFORE WE ASK YOU ANY QUESTIONS AND HAVE HIM

1 WITH YOU DURING QUESTIONING. IF YOU CANNOT
2 AFFORD A LAWYER ONE WILL BE APPOINTED FOR
3 YOU BEFORE QUESTIONS IF YOU WISH. IF YOU
4 DECIDE TO ANSWER QUESTIONS NOW AND NOT HAVE
5 A LAWYER PRESENT, YOU STILL HAVE A RIGHT TO
6 STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO
7 A LAWYER.

8 Q NOW, ON THIS WAIVER, IS THERE A
9 PARAGRAPH THAT A DEFENDANT OR A PERSON WHO
10 IS BEING DETAINED THAT HE READS AND HE
11 SIGNS?

12 A RIGHT.

13 Q COULD YOU READ THAT PARAGRAPH, PLEASE.

14 A WAIVER. I'VE READ THIS STATEMENT OF MY
15 RIGHTS AND UNDERSTAND WHAT MY RIGHTS ARE.
16 I'M PREPARED TO MAKE A STATEMENT AND ANSWER
17 QUESTIONS. I DO NOT WANT A LAWYER AT THIS
18 TIME. I UNDERSTAND AND KNOW WHAT I'M DOING.
19 NO PROMISES OR THREATS HAVE BEEN MADE TO ME.
20 NO PRESSURE OR COERCION OF ANY KIND HAS BEEN
21 USED AGAINST ME.

22 Q AND IS THIS SIGNED?

23 A YES, IT IS.

24 Q BY WHO IS IT SIGNED?

25 A BY ERIC GRAHAM.

1 Q AND IS IT WITNESSED?

2 A YES, MA'AM. I WITNESSED IT AND MIKE
3 THOMPSON OF THE SHERIFF'S DEPARTMENT
4 WITNESSED IT.

5 Q I WOULD MOVE THAT IT BE ENTERED IN
6 EVIDENCE AS STATE'S EXHIBIT #1.

7 MIRANDA RIGHTS

8 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #1

9 Q AFTER YOU WENT THROUGH HIS RIGHTS WITH
10 HIM AND HE INDICATED HE UNDERSTOOD HIS
11 RIGHTS AND HE SIGNED THE STATEMENT AND IT
12 WAS WITNESSED, DID HE SAY ANYTHING TO YOU?

13 A YE,S MA'AM. MY RECOLLECTION WAS WE WERE
14 TRYING TO FIND OUT THE FACTS OF WHAT
15 HAPPENED THAT NIGHT. AND AT THAT POINT IN
16 TIME HE WAS TALKING TO US AND I THINK I MADE
17 SOME STATEMENT, YOU KNOW, TELL US, AS BEST
18 HE COULD, WHAT HAPPENED, BECAUSE WE WOULD
19 KNOW WHAT TYPE OF CHARGE, IF ANY TYPE OF
20 CHARGE.

21 Q AND WHAT DID HE SAY?

22 A I THINK I MADE, SOMETHING ABOUT, YOU
23 KNOW, DIFFERENT TYPE OF CHARGES LIKE MURDER,
24 VOLUNTARY MANSLAUGHTER, INVOLUNTARY
25 MANSLAUGHTER AND HE SPOKE UP AND SAID, WELL,

1 I'M GUILTY OF VOLUNTARY MANSLAUGHTER. HE
2 SAID, I'LL PLEAD WITH THAT.

3 Q DID HE INDICATE IN THAT STATEMENT THAT
4 HE SHOT HER?

5 A YEAH, HE SAID HE SHOT HER.

6 Q AND DID HE IDENTIFY WHO SHE WAS?

7 A HIS GIRLFRIEND.

8 Q AND WHAT WAS HER NAME?

9 A [REDACTED] [REDACTED]

10 Q AND WHAT HAPPENED AT THAT POINT IN TIME?

11 A RIGHT AFTER THAT THERE WAS A KNOCK AT
12 THE DOOR. I THINK HIS FATHER WAS OUT THERE
13 AND SAID THAT HE'D BETTER NOT SAY ANYTHING
14 ELSE UNTIL HE TALKED TO A LAWYER.

15 Q AND DID YOU STOP INTERROGATING MR.
16 GRAHAM?

17 A YES, WE DID.

18 Q WERE THERE ANY OTHER QUESTIONS ASKED?

19 A NO, MA'AM.

20 Q NOTHING FURTHER.

21 CROSS EXAMINATION

22 BY

23 MR. SMITH

24 Q WHEN YOU BEGAN YOUR QUESTIONING OF THE
25 DEFENDANT, WERE YOU AWARE HE WAS A MINOR?

1 A SIR?

2 Q WERE YOU AWARE THE DEFENDANT WAS A MINOR
3 WHEN YOU INITIATED YOUR INTERROGATION?

4 A NO, I WAS NOT.

5 Q SO YOU DID NOT REALIZE THAT HE WAS A
6 MINOR?

7 A NO, I DID NOT.

8 Q ALL RIGHT. IF YOU KNEW THE PERSON WAS
9 A MINOR, WOULD YOU NOT HAVE HAD ONE OF HIS
10 PARENTS PRESENT TO WAIVE HIS CONSENT?

11 A YES, SIR.

12 Q AND AFTER HIS FATHER STUCK HIS HEAD IN
13 THE DOOR AND SAID, STOP THIS, I'M HIS DADDY,
14 I WANT A LAWYER HERE, YOU STOPPED?

15 A YES, I DID.

16 Q WAS IT AT THAT POINT YOU REALIZED HE WAS
17 A MINOR?

18 A NO, SIR. AT THAT POINT IN TIME I
19 THOUGHT HE WAS INVOKING HIS RIGHTS.

20 Q AT WHAT TIME DID YOU REALIZE HE WAS A
21 MINOR?

22 A I DIDN'T UNTIL YOU TOLD ME.

23 Q BUT YOU REALIZED HE WAS STILL IN HIGH
24 SCHOOL. WERE YOU AWARE THAT HE WAS STILL IN
25 HIGH SCHOOL AT THE TIME OF THIS INCIDENT?

1 A NO, SIR. ALL I WAS TOLD WAS HE WAS
2 SEVENTEEN YEARS OLD.

3 Q DO YOU KNOW HIS DATE OF BIRTH TODAY?

4 A NO, I DON'T.

5 Q WHEN YOU BEGAN THE EXAMINATION, DID YOU
6 AT ANY TIME ASK HIM HIS AGE?

7 A NO, SIR.

8 Q SO, BASICALLY, WHEN YA'LL BROUGHT HIM
9 DOWN TO THE STATION YOU DIDN'T FIND
10 ANYTHING; ABOUT HIM OTHER THAN HIS NAME?

11 A I FOUND OUT FROM THE OFFICER THAT WAS
12 HELPING ME THAT HE SAID HE WAS SEVENTEEN
13 YEARS OLD.

14 Q AND WHO WAS THAT OFFICER?

15 A BILL HUGGINS.

16 Q WHAT WAS THE STATE OF MIND OF THE
17 DEFENDANT AT THE TIME YOU BEGAN THE
18 EXAMINATION?

19 A CALM.

20 Q HE WAS CALM?

21 A UH HUH (YES).

22 Q DID ANY OF THE OFFICERS TALK TO YOU
23 ABOUT HOW UPSET HE WAS AT THE SCENE?

24 A YES, SIR.

25 SOLICITOR BLACKMON: OBJECTION, YOUR

1 HONOR. THAT HAS NOTHING TO DO WITH THE
2 STATEMENT HE MADE. HE JUST TESTIFIED HE WAS
3 CALM WHEN HE WAS INTERVIEWING HIM.

4 COURT: THAT'S OKAY. WE'RE OUTSIDE THE
5 PRESENCE OF THE JURY

6 Q DID YOU SEE ANY TYPE OF REACTION OUT OF
7 HIM OTHER THAN CALM AT THE SHERIFF'S OFFICE?

8 A AT THE SHERIFF'S OFFICE? NO, SIR.

9 Q DID HE APPEAR TO UNDERSTAND WHAT YOU
10 WERE SAYING?

11 A YES, SIR.

12 Q YOU'RE CONFIDENT OF THAT?

13 A UH HUH (YES).

14 Q THEN WHY DID YOU STOP EXAMINING HIM WHEN
15 HIS FATHER CAME IN?

16 A HE REQUESTED FOR HIM TO HAVE A LAWYER
17 PRESENT AND NOT TO SAY ANYTHING ELSE.

18 Q WELL, YOU HAD ASKED HIM IF HE WANTED A
19 LAWYER AND HE SAID NO, RIGHT?

20 A THAT'S CORRECT.

21 Q YOU THOUGHT HE WAS OLD ENOUGH TO MAKE
22 HIS OWN DECISION AND THEN DADDY COMES IN AND
23 SAYS, STOP, WE WANT TO GET A LAWYER, AND
24 THEN YOU STOPPED?

25 A NO, SIR. HE STOPPED TALKING. HE DID

1 WHAT HIS DADDY SAID. THERE WAS A KNOCK AT
2 THE DOOR AND ONE OF THE DEPUTIES COME IN AND
3 SAID HIS FATHER TOLD HIM NOT TO SAY ANYTHING
4 ELSE AND HE DIDN'T SAY ANYTHING ELSE SO WE
5 STOPPED IT RIGHT THERE.

6 Q WAIT A MINUTE. I THOUGHT THE DADDY
7 STUCK HIS HEAD IN THE DOOR. ISN'T THAT WHAT
8 YOU SAID?

9 A NO, SIR.

10 Q OKAY. WHICH IS IT?

11 A THERE WAS A KNOCK AT THE DOOR. ONE OF
12 THE DEPUTIES SAID HIS DADDY WAS OUT THERE
13 AND FOR HIM NOT TO SAY ANYTHING ELSE UNTIL
14 HE TALKED TO A LAWYER.

15 Q DID YOU EVER SEE THE FATHER?

16 A YES, SIR. AFTER WE TOOK HIM UP TO THE
17 JAIL, WE STOOD UP THERE AND TALKED TO HIS
18 FATHER FOR A WHILE.

19 Q YOU DID TALK TO HIS FATHER?

20 A UH HUH (YES).

21 Q THAT'S ALL I HAVE, YOUR HONOR.

22 SOLICITOR BLACKMON: NOTHING FURTHER
23 FROM THE STATE, YOUR HONOR.

24 COURT: ANYTHING FOR THE RECORD?

25 SOLICITOR BLACKMON: YES, SIR, YOUR

1 HONOR. THE STATE FEELS WE'VE ESTABLISHED BY
2 A PREPONDERANCE OF THE EVIDENCE THAT THE
3 STATEMENT WAS KNOWING AND VOLUNTARILY MADE.
4 HE UNDERSTOOD HIS MIRANDA WAIVER. HE
5 UNDERSTOOD HIS RIGHTS. HE INDICATED SO. HE
6 SIGNED THE STATEMENT.

7 UNDER SOUTH CAROLINA LAW A SEVENTEEN
8 YEAR OLD IS CHARGED IN ADULT COURT AND DEALT
9 WITH AS AN ADULT. THEY NO LONGER GO TO
10 JUVENILE COURT. THAT IS STANDARD ADULT
11 PROCEDURES. EVERYTHING WAS DONE BY THE
12 BOOK.

13 HE MADE HIS STATEMENT AND WHEN HIS
14 FATHER INDICATED TO HIM NOT TO SAY ANYTHING
15 MORE THAT THEY WANTED A LAWYER, THE LAW
16 ENFORCEMENT OFFICERS DID EXACTLY WHAT THEY
17 WERE SUPPOSED TO DO; THEY QUIT QUESTIONING
18 HIM.

19 HAD HE NOT ASKED, THERE'S NO REASON THEY
20 COULDN'T HAVE CONTINUED. HE HAD BEEN
21 MIRANDIZED. HE CLEARLY UNDERSTOOD, BY HIS
22 OWN SIGNATURE WHAT HE HAD DONE. IT WAS
23 WITNESSED. IT WAS BY THE BOOK. IT WAS
24 CLEAN. THERE'S NO PROBLEM WITH IT AND I
25 BELIEVE THE STATE SHOULD BE ALLOWED TO

1 INTRODUCE IT.

2 MR. SMITH: YOUR HONOR, WE DON'T FEEL
3 LIKE THE STATEMENT IS ADMISSIBLE. NUMBER
4 ONE, YOUR HONOR, THE GENTLEMAN WHO WAS
5 INVOLVED IN THE INTERROGATION DIDN'T EVEN
6 KNOW THE AGE OF THE DEFENDANT AT THE TIME HE
7 GOT A WAIVER OF RIGHTS STATEMENT SIGNED. HE
8 STILL, TODAY, CAN'T TELL US WHETHER HE WAS A
9 MINOR OR AN ADULT AT THE TIME HE
10 INTERROGATED HIM.

11 WE DO KNOW THAT, IN FACT, WHEN THE BOY'S
12 FATHER SHOWED UP, AT THAT POINT, THEY
13 STOPPED. AND, YOUR HONOR, WE FEEL LIKE
14 THERE WAS NOT A WAIVER, THAT THIS YOUNG MAN
15 WAS NOT IN A POSITION TO WAIVE ANY OF HIS
16 RIGHTS AT THAT POINT.

17 AND FURTHER, YOUR HONOR -- SOME OF THIS
18 WAS ADDRESSED BEFORE JUDGE COTTINGHAM. I'M
19 NOT SURE WHAT MS. BLACKMON IS TRYING TO GET
20 INTO EVIDENCE, WHETHER IT'S AN ADMISSION
21 THAT HE SHOT HER OR WHAT, BUT, YOUR HONOR,
22 WE WOULD OPPOSE ANY TYPE OF TESTIMONY THAT
23 CAME FROM THE DEFENDANT HIMSELF..

24 COURT: HOW OLD WAS THE DEFENDANT?
25 SEVENTEEN?

1 SOLICITOR BLACKMON: YES, SIR. HE
2 WAS SEVENTEEN AT THE TIME.

3 COURT: ANYTHING TO DISPROVE THAT?

4 MR. SMITH: [REDACTED] [REDACTED]

5 SOLICITOR BLACKMON: HE WAS SEVENTEEN
6 IN MAY BEFORE THIS HAPPENED IN DECEMBER.

7 THE STATE IS NOT NECESSARILY ASKING,
8 YOUR HONOR, THAT HIS ADMISSION TO PLEADING
9 TO MANSLAUGHTER IS ADMISSIBLE, HOWEVER, THE
10 STATE'S POSITION IS HIS ADMISSION THAT, YES,
11 I SHOT HER AND HER NAME IS [REDACTED] [REDACTED]
12 IS ADMISSIBLE.

13 COURT: THAT'S THE PROBLEM I'M HAVING.
14 AND MY GUT REACTION TO IT, HEARING NOTHING
15 FURTHER, I BELIEVE IT COMES IN. BUT THAT
16 FIRST STATEMENT THAT WAS MADE GOES TO THE
17 ULTIMATE ISSUE, SAYING THE JURY MAY BE
18 INVOLVED.

19 SOLICITOR BLACKMON: YOUR HONOR, I HAVE
20 DISCUSSED THIS WITH LAW ENFORCEMENT.
21 EVERYBODY KNOWS BETTER THAN TO SAY THAT, BUT
22 I THINK WE ARE ENTITLED TO GET IN HIS
23 ADMISSION THAT HE SHOT HER AND WHO SHE WAS.

24 COURT: I'LL AGREE TO THAT. BUT YOU'LL
25 HAVE TO CLEAN IT UP AND LEAVE THAT OUT ABOUT

1 THE GUILTY OF MANSLAUGHTER.

2 SOLICITOR BLACKMON: I HAVE NO PROBLEM
3 WITH THAT, YOUR HONOR. THAT WAS OUR INTENT
4 IN THE FIRST PLACE.

5 COURT: ANYTHING ELSE FOR THE RECORD?

6 SOLICITOR BLACKMON: NOTHING FOR THE
7 STATE.

8 MR. SMITH: NOTHING FROM THE DEFENSE,
9 YOUR HONOR.

10 COURT: ALL RIGHT. BRING THEM IN,
11 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
12 PRESENCE OF THE JURY.)

13 COURT: ALL RIGHT, I NEED MR. WATFORD
14 TO TAKE THE FOREPERSON'S CHAIR AND I NEED
15 MR. POSTON TO STEP OVER AND TAKE THE OTHER
16 CHAIR.

17 ALL RIGHT, LADIES AND GENTLEMEN, I NEED
18 TO POLL YOU CONCERNING THIS. HAS ANYONE ON
19 THE JURY PANEL DISCUSSED THIS CASE WITH
20 ANYONE ELSE OR HAS ANYBODY APPROACHED YOU IN
21 ANY WAY OR COMMUNICATED WITH YOU IN ANY WAY,
22 ANYTHING CONCERNING THIS CASE, IF SO RAISE
23 YOUR RIGHT HAND. (NO RESPONSE).

24 ALL RIGHT. MR. WATFORD, I'M
25 APPOINTING YOU FOREPERSON OF THE JURY. MR.

1 CLERK, YOU MAY SWEAR THE JURY.

2 (WHEREUPON THE JURY WAS SWORN BY THE
3 CLERK OF COURT.)

4 COURT: LADIES AND GENTLEMEN, WE
5 APPRECIATE YOUR PATIENCE, YOUR WILLINGNESS
6 TO SERVE ON THIS JURY AND I HAVE A FEW
7 OPENING REMARKS TO MAKE TO YOU, TO BASICALLY
8 LET YOU KNOW HOW WE'RE GONNA PROCEED.

9 I'D POINT OUT TO YOU THAT BOTH THE STATE
10 AND THE DEFENDANT HAVE AN EQUAL RIGHT TO THE
11 OPPORTUNITY OF THIS JUDICIAL PROCEEDING AND
12 TO HAVE YOU AS A JURY SELECTED AND SWORN FOR
13 THE TRIAL OF THE CASE.

14 ONE OF THE MOST IMPORTANT ASPECTS OF
15 YOUR DUTY AS A JURY LIES ESSENTIALLY IN THE
16 OATH THAT YOU JUST TOOK -- AND THAT IS TO
17 WELL AND TRULY TRY AND DETERMINE THE FACTS
18 OF THIS CASE.

19 THAT OATH, IN A VERY ESSENTIAL WAY, SAYS
20 THAT YOU ARE THE SOLE JUDGES OF THE FACTS IN
21 THIS CASE. OBVIOUSLY, ANY CASE TRIED IN
22 COURT WILL INVOLVE A QUESTION ABOUT WHAT
23 HAPPENED OR HOW SOMETHING CAME TO HAPPEN, OR
24 WHO, IF ANYONE, DID ANYTHING IN A PARTICULAR
25 OCCURRENCE OR CIRCUMSTANCE.

1 FROM THIS POINT FORWARD THEN, NO ONE
2 CONCERNED WITH THIS TRIAL HAS THE RIGHT TO
3 DECIDE ANY QUESTION OF FACT IN THE TRIAL,
4 NOR THE TRUTH OF IT, EXCEPT YOU, THE JURY.

5 THE FACTS THEN, ARE FOR YOUR RESOLUTION
6 AND THAT IS YOUR DECISION AND YOURS ALONE.
7 AND AFTER YOU HEAR ALL THE EVIDENCE IN THE
8 CASE IT WILL BE YOUR DUTY, BY YOUR MUTUAL
9 AND JOINT DISCUSSION TO DETERMINE THE TRUTH
10 OF THE CASE BY DECIDING THE WEIGHT AND
11 BELIEVABILITY OF EACH PART OF THE EVIDENCE
12 AND BY APPLYING THE LAW OF THE CASE THERETO.

13 A TRIAL JUDGE IN THIS STATE, LADIES AND
14 GENTLEMEN, IS THE JUDGE OF THE LAW IN THE
15 CASE. I HAVE THE RESPONSIBILITY, AMONG
16 OTHER DUTIES, TO PRESIDE OVER THE TRIAL, TO
17 RULE ON THE ADMISSIBILITY OF EVIDENCE
18 OFFERED DURING THE PROGRESS OF THE TRIAL,
19 AND TO STATE TO THE JURY THE LAW APPLICABLE
20 TO THE CASE.

21 THE CONSTITUTION OF OUR STATE MANDATES
22 THE TRIAL JUDGE CANNOT, DIRECTLY OR
23 INDIRECTLY, COMMENT ABOUT THE FACTS OF THE
24 CASE. THE PROCESS OF A VERDICT IS SIMPLY
25 THAT YOU, THE JURY, FIRST DETERMINE WHICH IS

1 THE TRUE STATE OF FACTS AND THEN APPLY TO
2 THAT TRUE STATE OF FACTS THE PRINCIPLES OF
3 LAW THAT THE COURT WILL PROVIDE TO YOU, AND
4 BY THAT PROCESS DETERMINE AND REPORT TO THE
5 COURT YOUR FINAL VERDICT IN THE CASE,
6 SPEAKING THE TRUTH OF THE CASE AS YOU
7 DETERMINE IT.

8 I WILL FULLY AND MORE COMPLETELY STATE
9 TO YOU THE PRINCIPLES OF LAW APPLICABLE TO
10 THE CASE BEFORE IT IS SUBMITTED TO YOU FOR A
11 DECISION AND THAT IS WHAT WE CALL THE CHARGE
12 OF THE LAW, THAT WILL COME AT THE CONCLUSION
13 OF THE CASE.

14 THERE ARE CERTAIN PRINCIPLES OF LAW THAT
15 YOU DO NEED TO KNOW AHEAD OF TIME. THE
16 DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY
17 TO THE CHARGES IN THESE INDICTMENTS, AND I
18 TELL YOU, AT THIS TIME, THAT THE INDICTMENT
19 IS NOT EVIDENCE. IT IS SIMPLY THE WRITTEN
20 INSTRUMENT BY WHICH A CASE IS PROCESSED INTO
21 THE COURT.

22 A PLEA OF NOT GUILTY PLACES UPON THE
23 STATE THE BURDEN OF PROOF IN THIS CASE. AND
24 LET ME SPEAK WITH YOU BRIEFLY ABOUT THAT.

25 A DEFENDANT IS PRESUMED IN LAW INNOCENT

1 OF ALL CHARGES CONTAINED IN AN INDICTMENT OR
2 INDICTMENTS. THE BURDEN OF PROOF REQUIRES
3 THE STATE TO PROVE GUILT BEYOND A REASONABLE
4 DOUBT AND, THEREFORE, CONSISTENT WITH THAT
5 BURDEN, THE DEFENDANT OR THE ACCUSED PARTY
6 SHALL BE PRESUMED INNOCENT AND THAT
7 PRESUMPTION OF INNOCENCE IS SUFFICIENT TO
8 COMPEL A VERDICT OF NOT GUILTY OR A VERDICT
9 OF ACQUITTAL, UNLESS THE JURY CONCLUDES THAT
10 THE STATE HAS SATISFIED ITS OBLIGATION TO
11 PROVE THE DEFENDANT GUILTY BEYOND A
12 REASONABLE DOUBT.

13 THE CASE WILL BE OPENED BY THE
14 SOLICITOR, READING OR EXPLAINING TO YOU THE
15 INDICTMENT. AFTER THAT OPENING REMARK THE
16 DEFENSE WILL HAVE AN OPPORTUNITY TO MAKE AN
17 OPENING REMARK. AFTER THAT WILL COME THE
18 EVIDENTIARY PORTION OF THE TRIAL, WHERE YOU
19 WILL RECEIVE THE EVIDENCE.

20 AFTER THAT WILL COME THE ARGUMENT
21 PORTION OF THE TRIAL, WHERE BOTH SIDES WILL
22 RESPECTIVELY ARGUE THEIR POSITIONS OF THE
23 CASE. AFTER THAT IS COMPLETED WILL COME THE
24 JUDGES CHARGE ON THE LAW.

25 ALL PARTS OF THE CASE ARE IMPORTANT.

PRELIMINARY REMARKS BY THE COURT

40

1 THE KEY TO BEING A GOOD JUROR, LADIES AND
2 GENTLEMEN, IS TO LISTEN AND OBSERVE.

3 I DO NOT FORBID YOU TO TAKE NOTES,
4 HOWEVER, IF YOU DO HAPPEN TO TAKE NOTES, I
5 INSTRUCT YOU, YOU ARE NOT TO SHARE THEM WITH
6 ANYONE ELSE. THAT WOULD BE ONLY FOR YOUR
7 OWN PRIVATE USE.

8 I'LL ALSO TELL YOU THAT WHEN THIS CASE
9 IS GIVEN TO YOU FOR YOU TO DELIBERATE, THE
10 VERDICT THAT YOU WILL HAVE TO REACH IN THIS
11 CASE, NO MATTER WHAT IT IS, WILL HAVE TO BE
12 A UNANIMOUS VERDICT. IN OTHER WORDS, ALL
13 TWELVE JURORS WILL HAVE TO BE IN AGREEMENT
14 ON THE VERDICT.

15 ONCE AGAIN, LET ME REMIND YOU, DO NOT
16 DISCUSS THIS CASE EVEN AMONGST YOURSELVES
17 UNTIL THE TIME TO DELIBERATE COMES. SHOULD
18 ANYBODY TRY TO APPROACH YOU, DO NOT DISCUSS
19 THIS CASE WITH THEM AND IMMEDIATELY NOTIFY
20 THE COURT OF THAT APPROACH.

21 ALSO, WHILE I'VE GOT IT ON MY MIND, I
22 WANT YOU TO AVOID ANY LOCAL PRESS COVERAGE -
23 - NEWSPAPER, PRINT MEDIA, RADIO, TELEVISION,
24 WHATEVER, ANY LOCAL COVERAGE UNTIL THIS CASE
25 IS OVER. I KNOW WE HAVE SOME WEATHER

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1 CONCERNS NOW. I'M NOT GONE FORBID YOU FROM
2 WATCHING THE WEATHER REPORT, BUT LET'S AVOID
3 ANY LOCAL PRESS COVERAGE UNTIL THE CASE
4 CONCLUDES.

5 THAT'S ALL I HAVE TO SAY AT THIS TIME.
6 I'LL TURN IT OVER TO COUNSEL. SOLICITOR.

7 OPENING STATEMENT

8 BY

9 SOLICITOR BLACKMON

10 MAY IT PLEASE THE COURT, MR. SMITH,
11 LADIES AND GENTLEMEN OF THE JURY, MY NAME IS
12 BILLIE BLACKMON. I'M THE FULL-TIME
13 ASSISTANT SOLICITOR FOR DARLINGTON COUNTY.
14 THERE ARE FOUR COUNTIES IN THIS CIRCUIT --
15 DARLINGTON, MARLBORO, DILLON, AND
16 CHESTERFIELD. I AM AN ATTORNEY HERE. THIS
17 IS MY COUNTY.

18 WE ARE HERE TODAY BECAUSE MR. GRAHAM
19 OVER HERE IS CHARGED WITH MURDER. HE IS
20 CHARGED IN THE MURDER OF [REDACTED] [REDACTED]
21 HE IS ALSO CHARGED WITH THE UNLAWFUL
22 POSSESSION OF A WEAPON. IN THIS CASE IT WAS
23 A PISTOL.

24 NOW, I HAVE THE BURDEN OF PROVING TO YOU
25 BEYOND A REASONABLE DOUBT THAT MR. GRAHAM

1 MURDERED HER. TO PROVE THAT I HAVE TO SHOW
2 YOU MURDER AS DEFINED BY OUR LAW AS THE
3 UNLAWFUL KILLING OF ANOTHER HUMAN BEING WITH
4 MALICE AFORETHOUGHT AND WITHOUT JUST CAUSE.

5 I HAVE TO PROVE THAT TO YOU BEYOND A
6 REASONABLE DOUBT. I HAVE TO PROVE THAT HE
7 KILLED HER, THAT IT WAS MALICIOUS, AND THAT
8 THERE WAS NO JUST CAUSE.

9 ON THE UNLAWFUL CARRYING A WEAPON, I
10 HAVE TO SHOW YOU HE WAS CARRYING A WEAPON
11 AND IT WAS UNLAWFULLY CARRIED -- HE DIDN'T
12 HAVE A PERMIT FOR ONE. HE'S A MINOR. HE'S
13 NOT EVEN SUPPOSED TO HAVE A GUN. AND HE HAD
14 A 9MM, AUTOMATIC PISTOL.

15 WHAT HAD HERE -- AND THIS HAPPENED IN
16 DARLINGTON COUNTY -- IT HAPPENED IN [REDACTED]
17 [REDACTED] ON [REDACTED] ROAD IN [REDACTED]

18 MR. GRAHAM AND MS. [REDACTED] WERE
19 BOYFRIEND AND GIRLFRIEND. THIS OCCURRED AT
20 HIS HOUSE. THEY HAD BEEN OUT. THERE WAS
21 ONE OTHER PERSON IN THE ROOM AND THAT WAS
22 [REDACTED] MCDONALD, WHO IS A RELATIVE OF MR.
23 GRAHAM.

24 THERE WERE OTHER FAMILY MEMBERS IN THE
25 HOUSE BUT THEY WERE NOT IN THE LIVING ROOM

1 OR IN THE FAMILY ROOM AREA. I DON'T KNOW
2 WHERE THEY WERE.

3 WHAT HAPPENED WAS, THEY HAD BEEN OUT AND
4 THEY HAD COME BACK TO HIS HOUSE. IT WAS
5 ABOUT 1:15 A.M. WHEN THE SHOOTING ACTUALLY
6 OCCURRED. HE TOOK A GUN, A 9 MM, AUTOMATIC
7 PISTOL, AND PUT IT TO HER THROAT AND PULLED
8 THE TRIGGER. IT WAS A CONTACT WOUND. THAT
9 GUN WAS TOUCHING THE SKIN AT HER CHIN. IT
10 WAS TOUCHING IT.

11 MS. MCDONALD, WHO WAS IN THE ROOM, SAYS
12 SHE NEVER SAW A GUN. THAT WOULD BE UP TO
13 YOU TO DECIDE.

14 AND SPEAKING OF DECIDING THINGS, LET ME
15 TELL YOU THIS, WHAT I SAY AND WHAT MR. SMITH
16 SAYS IS NOT EVIDENCE. HE'S HERE TO DEFEND
17 HIS CLIENT BECAUSE THAT'S WHAT HE'S SUPPOSED
18 TO DO AND I'D BE DISAPPOINTED IF HE DID ANY
19 DIFFERENTLY, BUT IT'S NOT EVIDENCE.
20 OBVIOUSLY, BOTH OF US ARE APPROACHING IT
21 FROM DIFFERENT SIDES. I REPRESENT THE
22 PEOPLE OF THE STATE AND IT'S MY JOB TO
23 PROSECUTE; IT'S HIS JOB TO DEFEND HIS CLIENT
24 AND HE WILL AND HE SHOULD.

25 BUT WHAT I'M BEGGING EVERYONE OF YOU TO

1 LISTEN TO AND WATCH IS THE TESTIMONY FROM
2 ANY WITNESS ON THAT STAND AND ANY OTHER
3 PHYSICAL THING, LIKE TEST RESULTS OF THE GUN
4 OR ANYTHING LIKE THAT THAT IS PLACED INTO
5 EVIDENCE, DOCUMENTATION INTO EVIDENCE AND
6 YOU CAN SEE THAT. NOTHING I SAY AND NOTHING
7 MR. SMITH SAYS IS EVIDENCE.

8 NOW, I'M NOT GOING TO BELABOR THIS CASE.
9 THE FACT OF THE MATTER IS MS. [REDACTED]
10 [REDACTED] WAS SHOT RIGHT THROUGH, UNDERNEATH
11 HER CHIN AND EXITED THE BACK OF HER HEAD.
12 SHE IS DEAD. SHE IS NOT HERE. MR. GRAHAM
13 SHOT HER. AND THAT'S WHY WE ARE HERE.

14 IT'S MY JOB, AS I SAID TO YOU, TO PROVE
15 BEYOND A REASONABLE DOUBT EACH AND EVERY
16 ELEMENT OF EACH AND EVERY CHARGE AND IF I
17 FAIL THEN YOU CAN FIND HIM NOT GUILTY, BUT I
18 BELIEVE IN MY HEART, IF YOU LISTEN TO THE
19 EVIDENCE AND LOOK AT THE EVIDENCE AND LISTEN
20 TO THE TESTIMONY, YOU WILL CONVICT HIM OF
21 MURDER AND OF UNLAWFUL CARRYING A PISTOL.

22 AND AS FAR AS THE PISTOL GOES, A 17 YEAR
23 OLD IS NOT SUPPOSED TO HAVE A GUN, BUT HE
24 DID. AND HE USED IT. AND THE SIMPLE FACT
25 OF THE MATTER IS HE USED IT ON ANOTHER 17

1 YEAR OLD CHILD WHO IS DEAD.

2 I REALLY WANT YOU TO LISTEN AND YOU
3 DELIBERATE ON IT AND I BELIEVE WHEN YOU DO,
4 AND WHEN THIS IS DONE, YOU'LL FIND HIM
5 GUILTY OF MURDER AND UNLAWFULLY CARRYING A
6 PISTOL. THANK YOU.

7 OPENING STATEMENT

8 BY

9 MR. SMITH

10 MR. FOREMAN, LADIES AND GENTLEMEN, I'M
11 KARL SMITH. I'M AN ATTORNEY FROM HARTSVILLE
12 AND I'VE BEEN PRACTICING LAW TWENTY YEARS IN
13 HARTSVILLE.

14 I REPRESENT ERIC GRAHAM, WHO IS SEATED
15 HERE BESIDE ME. THIS IS HIS MOTHER,
16 BARBARA. THESE PEOPLE OUT HERE IN THE
17 COURTROOM ARE HIS FAMILY.

18 WE'RE HERE TODAY BECAUSE HE'S BEEN
19 CHARGED IN THE TWO INDICTMENTS MS. BLACKMON
20 HAS TOLD YOU ABOUT. ONE OF THEM IS MURDER.
21 IT'S A TERRIBLE SOUND -- MURDER.

22 EVERY TIME WE WATCH T.V. OR WE WATCH THE
23 NEWS WE HAVE MURDERS, IT SHOWS A BAD MURDER,
24 AND I THINK WE ALL HAVE A PRETTY GOOD IDEA
25 WHAT MURDER IS.

1 YOU'RE NOT GOING TO HEAR THAT DURING
2 THIS TRIAL. YOU'RE NOT GOING TO HEAR WHAT
3 YOU THINK MURDER IS DURING THIS TRIAL,
4 BECAUSE WE DON'T HAVE THAT.

5 NOW, I KNOW I REPRESENT THE DEFENDANT
6 AND I'M HIS ATTORNEY, BUT I'M JUST GONE ASK
7 YOU TO START RIGHT AT THE BEGINNING USING
8 YOUR COMMON SENSE AND LISTEN TO THE EVIDENCE
9 PRESENTED.

10 ERIC AND THE YOUNG LADY, WHO HAS PASSED
11 ON, THEY WERE BOYFRIEND/GIRLFRIEND AND HAD
12 BEEN FOR A YEAR. YOU'RE GONNA HEAR EVIDENCE
13 THEY WERE AT HIS HOUSE THAT NIGHT AND IT WAS
14 THEIR ONE-YEAR ANNIVERSARY AND WITH THEM AT
15 THEIR HOUSE WAS A YOUNG LADY, MS. MCDONALD,
16 WHO GAVE THE POLICE A STATEMENT.

17 SHE'S GONE TELL YOU THAT THEY WERE
18 WATCHING T.V. AND SHE GOT UP TO GO TO THE
19 KITCHEN TO FIX SOME POPCORN. THERE HAD BEEN
20 NO ARGUMENTS, THERE HAD BEEN NO PROBLEMS.
21 THEY WERE WATCHING T.V. THEY WERE GONNA
22 CHANGE A MOVIE AND SHE GOT UP TO WALK ABOUT
23 FIVE STEPS AWAY AND SHE HEARD A SHOT. AND
24 WHEN SHE TURNED AROUND SHE SAW BLOOD GUSHING
25 OFF THE DECEASED. SHE SAW THE DEFENDANT

1 GOING CRAZY, SCREAMING AND CRYING. AND
2 THAT'S GONNA BE THE MURDER CHARGE. THAT'S
3 IT.

4 THE POLICE ARE GONNA TELL YOU WHEN THEY
5 GOT THERE TO THE SCENE THAT THE DEFENDANT
6 WAS LAYING ON THE FLOOR, SCREAMING AND
7 CRYING.

8 NOW, THE WORST THING THAT CAN HAPPEN TO
9 A PARENT IS TO LOSE A CHILD. THAT'S THE
10 WORST THING THAT CAN HAPPEN. I'VE BEEN
11 THERE. I'VE LOST A CHILD, AND I KNOW.
12 LOSING A CHILD IS A PIECE OF YOUR HEART
13 BEING TORN AWAY. AND YOU WANT SOMEBODY TO
14 BLAME WHEN IT HAPPENS AND YOU WANT TO POINT
15 A FINGER AT THEM AND YOU WANT TO SAY, YOU
16 TOOK MY CHILD FROM ME AND IT'S YOUR FAULT.

17 WELL, SHE HAS SOMEBODY TO BLAME. BUT,
18 PEOPLE, WHEN YOU HEAR THIS EVIDENCE, IT'S
19 NOT GONNA BE A MURDER. IT'S NOT GOING TO BE
20 ANY INTENT TO HARM.

21 MS. BLACKMON SAID SHE WAS GONNA HAVE TO
22 PROVE BEYOND A REASONABLE DOUBT THAT THERE
23 WAS AN UNLAWFUL KILLING WITH MALICE
24 AFORETHOUGHT. YOU KNOW WHAT MALICE
25 AFORETHOUGHT IS. THE JUDGE IS GONNA INSTRUCT

1 YOU AS TO WHAT IT IS. SHE'S GONE HAVE TO
2 SHOW SOME PREVIOUS THREAT. SHE'S GONE HAVE
3 TO SHOW SOME TYPE OF GRUDGE. IF THERE WAS
4 AN ARGUMENT, THAT THERE WAS ILL WILL, FOR
5 THERE TO BE MURDER.

6 YOU'RE NOT GONNA HEAR ANY OF THAT. THEY
7 WERE SITTING ON THE COUCH, LOVING ON EACH
8 OTHER.

9 NOW, I GREW UP IN A DIFFERENT TIME,
10 WHERE GUNS WERE, YOU KNOW, YOUR FATHER HAD A
11 SHOTGUN AND IF YOU WERE LUCKY YOU GOT TO GO
12 HUNTING WITH YOUR DAD OR YOUR BROTHER OR
13 YOUR UNCLE AND MAYBE YOU GOT TO SHOOT A 410
14 FOR THE FIRST TIME. PISTOLS AND MACHINE
15 GUNS AND THOSE THINGS, THAT'S FOR OUR
16 YOUNGER GENERATION.

17 WE SEE HOW OUR SCHOOLS HAVE TURNED INTO
18 ALMOST A WAR GROUND. I HAVE GROWN CHILDREN
19 -- NOT GROWN BUT TEENAGERS.. ONE'S A SENIOR
20 IN HIGH SCHOOL AND THE THINGS THAT I HEAR
21 GOING ON IN HIGH SCHOOL TODAY SHOCKS ME. I
22 MEAN, YOU AND I, DURING OUR HIGH SCHOOL
23 DAYS, YOU COULD GO TO SCHOOL FOREVER OR YOU
24 GOT DETENTION OR YOU GOT WHIPPINGS. LAWYERS
25 LIKE ME AND MS. BLACKMON, WE'VE CHANGED ALL

1 OF THAT. YOU CAN'T WHIP A CHILD AT SCHOOL
2 ANY MORE. SEEMS LIKE DISCIPLINE HAS GONE
3 OUT THE WINDOW. THE SCHOOL IS A WHOLE
4 DIFFERENT CONCEPT FROM WHAT WE GREW UP IN,
5 JUST LIKE YOU.

6 I'M TOTALLY OPPOSED TO GUNS. I THINK
7 THE RIGHT TO BEAR ARMS, THAT'S IN OUR
8 CONSTITUTION, OUR FOREFATHERS SAW TO THAT,
9 BUT MINORS AND GUNS, NO. BUT YOU READ ABOUT
10 IT EVERY DAY AND YOU'RE GONNA HEAR ABOUT IT
11 IN THIS CASE, THAT THE DEFENDANT HAD A GUN.
12 YOU'RE GONNA HEAR THE OFFICER TESTIFY THEY
13 FOUND A GUN AT THE SCENE. BUT I SUBMIT TO
14 YOU THERE'S NOT ONE PERSON WHO IS GONNA
15 TESTIFY FROM THIS STAND WHO IS GONNA SAY
16 THERE WAS ANY INTENT IN THIS CASE FOR HIM TO
17 HURT HER -- NONE. THEY CAN'T. NOBODY WAS
18 THERE BUT THE DEFENDANT AND MS. MCDONALD.
19 NO ARGUMENT, NO FIGHT. IT WAS AN ACCIDENT.
20 THAT'S IT.

21 I ASK YOU TO LISTEN TO ALL THE EVIDENCE.
22 THIS IS ERIC'S DAY IN COURT. HIS
23 GIRLFRIEND, HE AFFECTIONATELY CALLED HER
24 BIRDIE. EVERY TIME ERIC AND I HAVE TALKED
25 ABOUT BIRDIE, IT'S BEEN A VERY EMOTIONAL

1 TIME FOR HIM. HE HAS BEEN UPSET,
2 REPEATEDLY, TO FEEL THAT SOMEONE HE CARED
3 ABOUT AND SPENT TIME IN HIS HOME AND HE
4 SPENT TIME IN HER HOME AND THEIR FAMILIES
5 WERE CLOSE THEN. IT HAS BEEN VERY UPSETTING
6 FOR HIM.

7 NOW, YOU KNOW, ERIC HAS HAD OTHER
8 PROBLEMS. YOU'RE GONNA HEAR, ABOUT SIX
9 MONTHS BEFORE THIS HE HAD A GUN AND HE WAS
10 ARRESTED AND HE PLED GUILTY TO IT. I DON'T
11 UNDERSTAND WHAT OUR KIDS GO THROUGH DAY TO
12 DAY.. I SEE THE PAPER HERE IN DARLINGTON AND
13 THE OTHER HIGH SCHOOLS IN THE AREA, AND I
14 KNOW THAT NOW, HAVING TO PUT SECURITY GUARDS
15 AND METAL DETECTORS IN THE SCHOOLS ---

16 SOLICITOR BLACKMON: OBJECTION. THE
17 HIGH SCHOOL HAS ABSOLUTELY NOTHING TO DO
18 WITH THIS. THIS IS IN NO WAY RELATED TO
19 SCHOOL. THIS HAPPENED AT HIS HOUSE. I
20 DON'T UNDERSTAND THE RELEVANCE OF HIGH
21 SCHOOL..

22 COURT: IF YOU'RE GONE CONTINUE, TIE IT
23 IN, PLEASE.

24 MR. SMITH: YOU'RE GONNA HEAR ABOUT SIX
25 MONTHS BEFORE THIS HE WAS INVOLVED AND

1 ARRESTED AND HE PLED GUILTY TO THAT AND,
2 LIKE MS. BLACKMON SAID, SHE'S JUST DOING HER
3 JOB AND I'M DOING MY JOB AND DON'T LET OUR
4 OBJECTIONS TO THE THINGS WE SAY INTERRUPT
5 YOUR COMMON SENSE, BECAUSE I'M GONE TELL YOU
6 WHAT WE'VE GOT HERE.

7 WE HAVE A DEATH. IT WAS AN ACCIDENT.
8 NOBODY IS GONE TELL YOU ANYTHING ANY
9 DIFFERENT. WE'RE SORRY IT HAPPENED. AND
10 THIS LADY AND HER FAMILY HAVE GOT SOMEBODY
11 TO POINT A FINGER AT AND I CAN'T SAY I
12 WOULDN'T BE RIGHT WHERE THEY ARE, POINTING A
13 FINGER, WANTING SOMETHING TO HAPPEN.

14 YOU'RE THE TRIERS OF THE FACTS, THE
15 TWELVE OF YOU TOGETHER. YOU'RE GONNA HAVE
16 TO SIT AND LOOK AT THIS EVIDENCE THAT'S
17 PRESENTED TO YOU AND ONCE YOU HEAR IT ALL
18 YOU'RE GONNA LOOK AT EACH OTHER AND YOU'RE
19 GONNA SAY -- BEYOND A REASONABLE DOUBT -- I
20 DON'T SEE IT. THANK YOU.

21 SOLICITOR BLACKMON: I'D CALL RHONDA

22

23

RHONDA

24

25

BEING FIRST DULY SWORN, TESTIFIED AS
FOLLOWS:

1 DIRECT EXAMINATION

2 BY

3 SOLICITOR BLACKMON

4 Q WOULD YOU STATE YOUR NAME.

5 A I'M RHONDA [REDACTED] I LIVE IN
6 DARLINGTON.

7 Q AND ARE YOU RELATED TO [REDACTED] [REDACTED]

8 A YES. BIRDIE WAS MY BABY; MY ONLY BABY.

9 Q AND YOU JUST REFERRED TO HER AS BIRDIE.
10 BIRDIE, WAS THAT A COMMON NICKNAME FOR HER?

11 A YES. THAT WAS HER NAME ALL OF HER LIFE.

12 Q IT WASN'T A SPECIAL NAME FOR MR. GRAHAM?

13 A NO.

14 Q WAS BIRDIE IN SCHOOL AT THE TIME THIS
15 INCIDENT OCCURRED?

16 A YES.

17 Q WHAT GRADE WAS SHE IN?

18 A SHE WAS PREPARING TO GRADUATE.

19 Q WHERE WAS SHE IN SCHOOL?

20 A SHE WAS AT DARLINGTON COUNTY HIGH.

21 Q DID SHE PARTICIPATE IN ACTIVITIES,
22 SPORTS AT SCHOOL?

23 A SHE WAS A CHEERLEADER. SHE WAS WELL
24 LIKED BY THE STUDENTS, ALL THE TEENS.

25 Q AND HAD SHE EVER BEEN IN ANY TROUBLE OF

1 ANY KIND?

2 A SHE NEVER CAUSED ME ANY TROUBLE; NO MORE
3 THAN THINGS THAT CHILDREN DO, BUT NOTHING
4 WITH THE LAW.

5 Q I HOW YOU WHAT'S BEEN MARKED AS STATE'S
6 #2 FOR IDENTIFICATION. COULD YOU TELL ME
7 WHAT IT IS, PLEASE, MA'AM?

8 A THIS IS MY BABY, BIRDIE.

9 Q AND HOW OLD IS BIRDIE IN THAT PICTURE?

10 A BIRDIE WAS SEVENTEEN YEARS OLD.

11 Q WHEN WAS THAT PICTURE TAKEN?

12 A IT WAS TAKEN DURING THE SCHOOL YEAR OF
13 '96.

14 Q I'D ASK THAT THIS BE MOVED INTO EVIDENCE
15 AS EXHIBIT #2.

16 COURT: WITHOUT OBJECTION.

17 PHOTOGRAPH

18 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #2

19 Q SO THAT PHOTOGRAPH WAS TAKEN A MATTER OF
20 MONTHS BEFORE SHE WAS SHOT AND KILLED?

21 A RIGHT.

22 Q HOW LONG HAD SHE BEEN SEEING MR. GRAHAM?

23 A IT WAS ONE YEAR.

24 Q DO YOU KNOW WHETHER THERE WAS ACTUALLY
25 AN ANNIVERSARY OF IT?

WILLIAM HUGGINS - DIRECT/BLACKMON

54

1 A I CAN'T BE EXACT, BUT IT WAS CLOSE TO A
2 YEAR.

3 Q I HAVE NO FURTHER QUESTIONS OF THIS
4 WITNESS AT THIS TIME.

5 MR. SMITH: I HAVE NO QUESTIONS FOR THIS
6 WITNESS AT THIS TIME.

7 COURT: STEP DOWN.

8 SOLICITOR BLACKMON: THE STATE CALLS
9 WILLIAM HUGGINS.

10 WILLIAM K. HUGGINS

11 BEING FIRST DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION

14 BY

15 SOLICITOR BLACKMON

16 Q COULD YOU STATE YOUR NAME AND WHERE
17 YOU'RE CURRENTLY EMPLOYED FOR THE RECORD?

18 A WILLIAM K. HUGGINS. I'M PRESENTLY
19 EMPLOYED BY NATURAL RESOURCES AS AN
20 ENFORCEMENT OFFICER.

21 Q AND HOW LONG HAVE YOU BEEN EMPLOYED
22 THERE?

23 A ALMOST TWO YEARS.

24 Q PRIOR TO THAT WHERE WERE YOU EMPLOYED?

25 A DARLINGTON COUNTY SHERIFF'S DEPARTMENT.

1 Q AND WHAT WAS YOUR CAPACITY?

2 A I WAS A DEPUTY SHERIFF.

3 Q I DIRECT YOUR ATTENTION SPECIFICALLY TO
4 DECEMBER 7, 1996. WERE YOU INVOLVED IN A
5 CALL RESPONDING TO OLD [REDACTED] ROAD?

6 A YES, I WAS.

7 Q AND WHO WAS IMMEDIATELY INVOLVED IN THAT
8 CALL WITH YOU?

9 A MY PARTNER, DEPUTY BRIAN LEE.

10 Q AND WHEN YOU WERE DISPATCHED, WHAT WAS
11 THE NATURE OF THE CALL?

12 A WELL, IN LAYMAN'S TERMS, A SHOOTING,
13 CODE 4.

14 Q AND DO YOU KNOW, DO YOU REMEMBER
15 ACTUALLY WHAT TIME YOU ARRIVED THERE?

16 A IT WAS SHORTLY AFTER ONE. TO BE EXACT
17 IT WAS 1:25 OR THEREABOUTS. THAT'S WHEN THE
18 DISPATCHER TOLD ME I ARRIVED.

19 Q AND HOW CLOSE TO YOUR ARRIVAL DID DEPUTY
20 LEE SHOW UP?

21 A SHORTLY THEREAFTER; A FEW SECONDS.

22 Q DID BOTH OF YOU GO INTO THE HOUSE?

23 A WE BOTH DID, YES.

24 Q AND WHEN YOU GOT INSIDE WHAT,
25 SPECIFICALLY DID YOU FIND?

1 A I ENTERED THE HOUSE FIRST. LEE CAME IN
2 BEHIND ME. WHEN I ENTERED THE HOUSE,
3 NATURALLY, IT BEING A SHOOTING SITUATION, AT
4 THE TIME THE CALL WE HAD WAS ISSUED, AND I
5 PREPARED FOR ANY PERSON WHO MIGHT HAVE A
6 WEAPON OR WHATNOT, BUT I ENTERED THE HOUSE,
7 AND AS SOON AS I ENTERED THE HOUSE I WENT
8 DOWN A SMALL HALLWAY -- IT WASN'T LONG AT
9 ALL -- AND THERE WAS A COUCH TO MY LEFT --
10 AND AS SOON AS I ENTERED I NOTICED A BODY
11 SLUMPED OVER ON THE COUCH AND THE DEFENDANT
12 WAS LAYING ON THE FLOOR WITH TWO PEOPLE
13 HOLDING HIM DOWN AND, OF COURSE, AT THAT
14 TIME OFFICER LEE CAME IN RIGHT BEHIND ME AND
15 HE SAID, GUN, AND I DIDN'T SEE THE GUN -- I
16 WAS PAYING ATTENTION TO THE DEFENDANT, AND
17 WHEN HE SAID GUN I IMMEDIATELY WENT TO THE
18 DEFENDANT TO SECURE HIM AND OFFICER LEE WENT
19 TO THE FIREARM.

20 Q DID YOU, PERSONALLY, EVER TOUCH THE
21 FIREARM?

22 A NO, I DID NOT.

23 Q ONCE YOU WENT TO THE DEFENDANT, WHAT DID
24 YOU DO?

25 A WELL, I APPROACHED THE DEFENDANT AND I

1 THINK I SAID, WHAT HAPPENED, WHAT'S GOING
2 ON.

3 Q DID ANYONE RESPOND TO THAT?

4 A YES, THEY RESPONDED, MORE OR LESS,
5 THERE'S BEEN A SHOOTING, SOMEBODY'S SHOT, OR
6 SOMETHING. I DON'T REMEMBER THE EXACT
7 TERMINOLOGY. BUT AT THAT POINT WHEN I SAW
8 HIM, I WENT AHEAD AND GOT ON TOP OF HIM AND
9 HANDCUFFED HIM TO SECURE HIM, BECAUSE I
10 DIDN'T KNOW IF HE WAS GONE TRY TO GET THE
11 GUN, ANOTHER GUN OR ANYTHING ELSE. WHEN YOU
12 GO IN A SITUATION LIKE THAT, YOU DON'T KNOW
13 WHAT'S LAYING AROUND.

14 Q AND WHAT DID YOU DO AT THAT POINT, ONCE
15 YOU HAD HIM CUFFED?

16 A I HAD HIM HANDCUFFED. OFFICER LEE
17 PICKED UP THE PISTOL AND SECURED IT, AND
18 THEN CAME BACK INSIDE, AND THEN I WENT BACK
19 OUT TO MY CAR, WHICH WAS PARKED NEAR THE
20 BACK DOOR AND IMMEDIATELY CALLED MY SERGEANT
21 AND ALSO TOLD HIM THAT IT WAS A CONFIRMED
22 SHOOTING AND TO CONTACT THE STAFF, WHICH
23 STAFF MEANS DETECTIVES.

24 Q I WAS GOING TO ASK YOU TO EXPLAIN THAT.
25 WHAT IS STAFF?

1 A STAFF OFFICER IS THE LIEUTENANT ON CALL,
2 T INVESTIGATORS AND PEOPLE ABOVE ME AND
3 ADMINISTRATIVE.

4 Q AND THEN WHAT DID YOU DO?

5 A THEN I TURNED AROUND AND, AS I SAID, I
6 SAW THE BODY WAS COVERED UP. SOMEBODY HAD
7 ALREADY COVERED IT UP. I UNCOVERED IT AND
8 TOOK THE BLANKETS OFF OF HER BODY AND THE
9 REALIZED AND LOOKED TO SEE IF IT WAS
10 DEFINITELY A SHOOTING.

11 Q OKAY. HOW LONG BEFORE YOUR
12 INVESTIGATORS ARRIVED? HOW LONG WERE YOU
13 THERE?

14 A I'M NOT REALLY SURE. MY CORPORAL GOT
15 THERE, WHO WAS MY IMMEDIATE ONE BETWEEN ME
16 AND THE SERGEANT. SHE GOT THERE AND I DON'T
17 KNOW HOW LONG IT WAS BEFORE THE
18 INVESTIGATORS GOT THERE. IT WASN'T TOO LONG.
19 THEY HAD TO CALL THEM OUT, OF COURSE. IT
20 WAS LATE AT NIGHT AND THEY WERE AT HOME.

21 Q AND HOW LONG BEFORE YOU TRANSPORTED MR.
22 GRAHAM TO THE DETENTION CENTER?

23 A AROUND FOUR O'CLOCK, I GUESS. I'M
24 TRYING TO REMEMBER. I'M NOT REAL CLEAR. I
25 LEFT THE SCENE AT FOUR O'CLOCK.

1 Q AND YOU ARE THE ONE WHO TRANSPORTED HIM?

2 A YES.

3 Q AT ANY TIME DID HE SAY ANYTHING DIRECTLY
4 TO YOU?

5 A HE DIDN'T SAY ANYTHING TO ME.

6 Q AT ANY TIME DURING THIS PERIOD BETWEEN
7 THE TIME YOU ARRIVED AT 1:25 AND FOUR
8 O'CLOCK WHEN YOU LEFT, DID ANYBODY ELSE SAY
9 ANYTHING DIRECTLY TO YOU?

10 A I SPOKE WITH THE COMPLAINANT, WHO
11 ACTUALLY MADE THE 9-1-1 CALL. I SPOKE TO
12 HIS RELATIVES, WHO LIVED NEXT DOOR TO HIM.
13 I SPOKE TO HIS MOTHER AND I BELIEVE I SPOKE
14 WITH HIS FATHER OR COUSIN.

15 Q AND DID ANY OF THEM INDICATE TO YOU
16 WHAT MIGHT HAVE HAPPENED?

17 A THE FIRST PERSON I SPOKE WITH WAS THE
18 COMPLAINANT.

19 Q AND WHO WAS THAT?

20 A THAT'S THE PERSON WHO ACTUALLY MADE THE
21 9-1-1 CALL. THAT WOULD BE MRS. [REDACTED]
22 MCDONALD. THAT'S THE VERY FIRST PERSON I
23 SPOKE WITH BECAUSE SHE WAS IN THE ROOM.

24 AFTER I WENT BACK INSIDE I SEPARATED
25 EVERYBODY AND I PULLED HER OFF -- GOT

1 EVERYBODY SEPARATED AND PULLED HER OFF AND
2 STARTED TALKING TO HER ABOUT WHAT HAPPENED.
3 SHE SAID THEY WERE ALL SITTING ON THE COUCH
4 WATCHING A MOVIE AND SHE GOT UP TO GO TO THE
5 KITCHEN FOR POPCORN OR A SNACK OR WHATEVER,
6 OR A DRINK.

7 Q BUT SHE SAID, SPECIFICALLY, THEY WERE
8 WATCHING A MOVIE?

9 A I FEEL SURE..

10 Q OKAY. GO AHEAD.

11 A THEY WERE WATCHING A MOVIE. SHE GOT UP
12 AND WALKED TO THE KITCHEN, HEARD A LOUD
13 BANG, TURNED AROUND AND SAW THE VICTIM
14 LAYING OR, HAD BEEN SHOT, SAW BLOOD.

15 Q AT THAT TIME SHE WAS IMMEDIATELY IN THIS
16 ROOM WHEN THIS GUN WENT OFF?

17 A YEAH. SHE WAS STILL IN THE ROOM BECAUSE
18 SHE SAID SHE WAS WALKING TO THE KITCHEN,
19 ACROSS THE ROOM WHEN SHE HEARD THE SHOT AND
20 SHE WASN'T IN THE KITCHEN YET.

21 Q WHERE DID SHE SAY THEY ALL WERE?

22 A ON THE COUCH. THEY WERE ALL ON THE
23 COUCH.

24 Q WHERE DID SHE SAY THEY WERE POSITIONED
25 ON THE COUCH?

1 A I CAN'T REMEMBER. BUT I BELIEVE IT WAS
2 THE DEFENDANT IN THE MIDDLE AND A FEMALE ON
3 EACH SIDE, I BELIEVE.

4 Q AND WHERE DID YOU SAY [REDACTED] [REDACTED]
5 BODY WAS ON THAT SOFA?

6 A HER BODY, WALKING INTO THE HOUSE, WAS ON
7 THE RIGHT SIDE OF THE SOFA. AS I WALKED IN,
8 HER HEAD WAS LEANED OVER, LIKE SLUMPED OVER
9 NEXT TO MY LEFT HAND.

10 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT #3 FOR IDENTIFICATION. IS THAT THE
12 SOFA?

13 A THAT IS; YES.

14 Q AND WOULD YOU STAND UP AND APPROACH THE
15 JURY FOR A MOMENT, PLEASE, SIR. COULD YOU
16 HOLD THAT PHOTOGRAPH UP SO THEY CAN SEE IT.

17 ALL RIGHT, EXPLAIN TO THEM.

18 A THIS IS THE HALLWAY. THAT'S THE BACK
19 DOOR, STRAIGHT DOWN THERE, AND THIS IS THE
20 SMALL HALLWAY, I THINK CALLED A FOYER OR
21 SOMETHING LIKE THAT.

22 Q AND WHEN YOU CAME INTO THE ROOM WHERE
23 WAS MS. [REDACTED]

24 A SHE WAS RIGHT HERE, ON THE RIGHT SIDE.
25 RIGHT THERE.

1 Q SO MR. GRAHAM WAS IN THE MIDDLE,
2 ACCORDING TO MS. MCDONALD?

3 A THAT'S MY UNDERSTANDING.

4 Q AND SHE WOULD HAVE BEEN ON THIS END?

5 A SHE WOULD HAVE BEEN ON THAT END, YES,
6 MA'AM.

7 Q OKAY. I'D ASK THAT THIS BE MOVED INTO
8 EVIDENCE AS STATE'S EXHIBIT #3.

9 MR. SMITH: NO OBJECTION.

10 PHOTOGRAPH

11 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #3

12 Q ALL RIGHT, NOW EXPLAIN TO ME -- YOU
13 SAID SHE GOT UP OFF THE SOFA, IS THAT
14 CORRECT?

15 A THAT'S CORRECT.

16 Q AND SHE WAS WALKING TOWARDS THE KITCHEN?

17 A THAT'S RIGHT.

18 Q ON THAT PHOTOGRAPH, IN RELATION TO THE
19 SOFA, WHERE IS THE KITCHEN DOOR?

20 A OFF TRIANGULAR FROM THE COUCH, TO THE
21 RIGHT. IF YOU'RE SITTING ON THE COUCH IT'S
22 TO THE RIGHT.

23 Q LET ME ASK YOU THIS WAY. FROM WHERE MS.
24 MCDONALD WAS SITTING, WHEN SHE GOT UP, WAS
25 SHE TURNING AWAY?

1 MR. SMITH: OBJECTION. LEADING.

2 Q WHAT DIRECTION WOULD SHE HAVE BEEN
3 TURNING TO GO TO THE KITCHEN?

4 A TO THE RIGHT. GOING ACROSS THE ROOM,
5 IN FRONT OF THE COUCH. IS THAT WHAT YOU
6 MEAN?

7 Q IN FRONT OF?

8 A THE DEFENDANT AND THE GIRL.

9 Q THANK YOU. SO SHE WAS WALKING RIGHT BY
10 THEM?

11 A RIGHT. THE BEST I CAN EXPLAIN IT IS THE
12 WAY I SHOWED THE PICTURE. SHE WAS ON THE
13 FAR LEFT END OF THE COUCH AND WOULD HAVE
14 GOTTEN UP TO WALK LIKE THAT, TO GO TO THE
15 DOOR, BECAUSE THE DOOR WAS ON THE RIGHT SIDE
16 OF THE OPPOSITE WALL, KIND OF IN THE LINE OF
17 THE HALLWAY.

18 Q SO SHE WAS WALKING IN A CADDY-CORNER
19 LINE, PAST THEM ON HER RIGHT?

20 A THAT'S THE WAY SHE WOULD HAVE HAD TO GO
21 TO GET THERE.

22 Q AND WHERE WAS THE GUN FOUND?

23 A THE GUN WAS FOUND NEXT TO THE T.V. ON
24 THE OPPOSITE SIDE OF THE ROOM.

25 Q AND SHE SAID SHE GOT UP TO TALK ACROSS.

1 DID SHE EVER INDICATE THAT SHE SAW A WEAPON?

2 A NO, SHE DIDN'T.

3 Q DID ANYONE ELSE INDICATE THAT THEY SAW A
4 WEAPON, TO YOU DIRECTLY?

5 A PREVIOUSLY OR AT THAT TIME?

6 Q AT ANY TIME WHILE YOU WERE THERE.

7 A I HEARD SOMEBODY MENTION HE HAD A PISTOL
8 EARLIER THAT NIGHT, OR SOMETHING SIMILAR TO
9 THAT, BUT I CAN'T REMEMBER WHO SAID IT.

10 Q WAS IT WHILE YOU WERE THERE DURING THE
11 COURSE OF THE INVESTIGATION?

12 A I DON'T REMEMBER WHERE IT CAME FROM.

13 Q AND WHO WERE THE PEOPLE THERE THAT WOULD
14 HAVE INDICATED TO YOU THAT HE HAD THE GUN
15 EARLIER?

16 MR. SMITH: OBJECTION. CALLS FOR
17 SPECULATION UNLESS HE KNOWS.

18 Q WHO WAS IN THE HOUSE?

19 A HIS MOTHER. WHEN I GOT THERE HIS MOTHER
20 WAS IN THE HOUSE. TWO OF HIS RELATIVES,
21 JOHN GRAHAM AND JAMES GRAHAM. THOSE WERE
22 THE TWO SITTING ON TOP OF HIM.

23 Q AND MS. MCDONALD?

24 A AND MS. MCDONALD.

25 Q I HAVE NOTHING FURTHER OF THIS WITNESS.

1 CROSS EXAMINATION

2 BY

3 MR. SMITH

4 Q OFFICER HUGGINS, IF YOU'LL STEP DOWN
5 FOR ME, PLEASE, SIR. IF YOU'LL KIND OF
6 STAND BACK, RIGHT OVER HERE. AND I'LL HAND
7 YOU THIS. I BELIEVE YOU STATED THAT YOU
8 WERE DISPATCHED AROUND 1:25.

9 A YES, SIR.

10 Q IN THE MORNING?

11 A YES, SIR.

12 Q AFTER 12:00 MIDNIGHT?

13 A AFTER 12:00 MIDNIGHT.

14 Q OKAY. AND AS YOU APPROACHED THE HOME,
15 DO YOU REMEMBER WHAT THE ADDRESS WAS?

16 A I DON'T -- I ALREADY KNEW WHICH HOUSE IT
17 WAS. I KNEW THE BASIC AREA OF WHICH HOUSE
18 IT WAS. I KNEW SOME GRAHAMS OUT THERE.

19 Q OKAY. AND WHEN YOU ARRIVED AT THE
20 SCENE, WHEN YOU APPROACHED THE HOME, DID YOU
21 COME INTO THE FRONT DOOR OR THE BACK DOOR?

22 A THE BACK DOOR.

23 Q LET'S LOOK AT THE FIRST CHART I HAVE
24 OVER HERE. NOW, THIS BIG BLACK LINE IS
25 GONNA BE THE FRONT OF THE HOUSE.

1 A UH HUH (YES)..
 2 Q AND IS THE ROAD TO THE FRONT OF THE
 3 HOUSE?
 4 A THE ROAD IS TO THE FRONT OF THE HOUSE.
 5 Q AND IS THERE A DRIVEWAY RUNNING DOWN THE
 6 SIDE OF THE HOUSE?
 7 A THERE IS.
 8 Q DID YOU PULL YOUR CAR INTO THE DRIVEWAY?
 9 A I PULLED MY CAR UP TO ABOUT RIGHT HERE.
 10 SOMEWHERE IN THAT AREA. I'M NOT SURE
 11 EXACTLY.
 12 Q SO YOU STOPPED YOUR CAR SOMEWHERE IN
 13 HERE?
 14 A SOMEWHERE IN THERE.
 15 Q AND WHAT DID YOU DO NEXT?
 16 A I GOT OUT OF MY CAR, CAME UP UNDER THE
 17 CARPORT AND WENT IN THE BACK DOOR.
 18 Q THIS BEING THE BACK DOOR RIGHT HERE?
 19 A YES, SIR.
 20 Q AND THIS IS THE ONE YOU CAME THROUGH?
 21 A THAT'S THE ONE I CAME THROUGH.
 22 Q AND YOU TALKED ABOUT, IN DIRECT
 23 EXAMINATION THERE BEING A LITTLE HALLWAY.
 24 Q THAT'S THE LITTLE HALLWAY WE'RE TALKING
 25 ABOUT.

1 Q AND I BELIEVE THE PHOTOGRAPH THAT WAS
2 PUT INTO EVIDENCE BY THE STATE, I BELIEVE IT
3 SHOWS THIS LITTLE HALLWAY BACK HERE, DOES IT
4 NOT? SO IT'S BACK TOWARDS THE DOOR IN THIS
5 PHOTOGRAPH, IS THAT CORRECT?

6 A YES.

7 Q SO IF I'M LOOKING AT STATE'S EXHIBIT #3
8 AND THIS PHOTOGRAPH SHOWS -- LOOKING AT MY
9 DIAGRAM, WHERE IS THE COUCH IN RELATION TO
10 THAT?

11 A RIGHT HERE.

12 Q SO I'M GONE DO A LITTLE DIAGRAM RIGHT
13 HERE. SO THE COUCH IS LIKE THIS, IS THAT
14 RIGHT?

15 A THAT'S RIGHT.

16 Q AND SO LOOKING AT THIS PHOTOGRAPH, I
17 GUESS YOU HAVE TO TURN IT LIKE THIS, BUT THE
18 COUCH IS AGAINST THIS WALL AND THIS IS WHERE
19 YOU ENTERED?

20 A RIGHT.

21 Q NOW, WHEN YOU ENTERED THE DOOR AND YOU
22 WERE ADVISED THERE WAS A SHOOTING, I ASSUME
23 YOU ENTERED WITH CAUTION?

24 A YES, I DID.

25 Q DID YOU HAVE YOUR GUN DRAWN?

1 A I DON'T THINK I DID HAVE MY GUN DRAWN.
2 I PROBABLY HAD MY HAND ON IT AND IT WAS
3 UNSNAPPED, BUT I DON'T THINK I HAD IT DRAWN.

4 Q OKAY. WHEN YOU ENTERED THE BACK DOOR,
5 BEFORE YOU COULD ACTUALLY SEE, WHAT COULD
6 YOU HEAR?

7 A A LOT OF SCREAMING AND YELLING.

8 Q WAS THAT WHY THERE WERE TWO GENTLEMEN
9 HOLDING DOWN MR. GRAHAM?

10 A I GUESS.

11 Q WASN'T HE LAYING ON THE FLOOR CRYING?

12 A HE WAS.

13 Q AND WAS IT NOT HOLDING DOWN DUE TO HIS
14 EMOTIONAL OUTBURSTS?

15 A THEY WERE ON TOP OF HIM AND HE WAS
16 CRYING, YEAH. I DON'T KNOW.

17 Q OKAY. WHERE WAS HE? ALL RIGHT, LET'S
18 GO BACK TO THIS PICTURE RIGHT HERE. THIS
19 PHOTOGRAPH I'VE BLOWN UP. THIS COUCH IS
20 RIGHT HERE, COMPARED TO THIS CHART, IS THAT
21 CORRECT?

22 A THAT'S RIGHT.

23 Q OKAY. AND, OF COURSE, THIS COUCH HAS,
24 IN THIS PHOTOGRAPH, HAS A COVER OVER IT,
25 WHICH IS DIFFERENT FROM THE WAY YOU FOUND IT

1 THAT NIGHT, CORRECT?

2 A THAT'S RIGHT.

3 Q NOW, AS YOU ENTERED, DO ANY OF THESE
4 PHOTOGRAPHS THAT I'VE PLACED HERE, DO THEY
5 SHOW WHERE THE DEFENDANT WAS LAYING ON THE
6 FLOOR?

7 A HE WOULD HAVE BEEN LAYING SOMEWHERE
8 RIGHT HERE. IF THAT'S THE KITCHEN DOOR, HE
9 WAS LAYING SOMEWHERE RIGHT HERE. KIND OF
10 CLOSE TOWARDS THE DOOR.

11 Q ALL RIGHT. GOING BACK TO THIS CHART
12 OVER HERE THEN, IF THIS IS THE KITCHEN,
13 WHICH IS THE NEXT ROOM TO THE FAMILY ROOM,
14 AND LOOKING AT THE PHOTOGRAPH, THE T.V. IS
15 OVER IN THE CORNER, IS IT NOT?

16 A THAT'S RIGHT.

17 Q IS THAT WHERE IT WAS THAT NIGHT WHEN YOU
18 CAME?

19 A AS FAR AS I CAN REMEMBER, YES.

20 Q OKAY. DOES THAT LOOK ABOUT RIGHT TO
21 YOU?

22 A THAT LOOKS ABOUT RIGHT.

23 Q AND IF THIS IS THE DOOR TO THE KITCHEN,
24 CAN YOU PUT ME A LINE OF HOW HE WAS
25 PROTRUDED OUT ON THE FLOOR? MAKE IT ABOUT

1 AS LONG AS THE COUCH.

2 A I THINK HE WAS ABOUT LIKE THAT. HE WAS
3 LAYING ABOUT LIKE THAT.

4 Q OKAY. STEP BACK AND LET THE JURORS SEE
5 THAT. SO THIS WOULD HAVE BEEN HIS HEAD AND
6 THIS IS THE WAY HE WOULD HAVE BEEN LAYING?

7 A I CAN'T REMEMBER. I REMEMBER HIM LAYING
8 DOWN THERE LIKE THAT, AND I THINK HE WAS
9 LAYING WITH HIS HEAD BACK THIS WAY, BUT I
10 CAN'T BE POSITIVE. I KNOW HE WAS LAYING ON
11 THE FLOOR.

12 Q OKAY. AND WHEN OFFICER LEE CAME IN, I
13 BELIEVE YOU SAID THE ISSUE OF THE GUN WAS
14 BROUGHT OUT.

15 A RIGHT.

16 Q WHERE WAS THE GUN? IF YOU COULD, PUT A
17 'G' ON HERE.

18 A IT WAS SOMEWHERE IN THIS AREA RIGHT
19 HERE. I DIDN'T SEE IT. OFFICER LEE
20 HOLLERED, BILL, GUN.

21 Q DID YOU DRAW YOUR PISTOL?

22 A NO.

23 Q NOW DO YOU RECALL IF THESE CHAIRS WERE
24 ALSO SITUATED IN THE ROOM IN THAT POSITION?

25 A I THINK THEY WERE, YES.

1 Q AND YOU CAN SEE IN THIS PHOTOGRAPH THE
2 T.V. IS HERE AND IT LOOKS LIKE THERE IS THE
3 OPENING TO THE KITCHEN RIGHT THERE. DO YOU
4 RECALL IF THERE WERE THESE TYPE ORNAMENTS ON
5 THE FLOOR AT THAT TIME?

6 A NO. I DON'T RECALL. THERE MAY HAVE
7 BEEN, BUT I DON'T RECALL IT.

8 Q OKAY. NOW, YOU INTERVIEWED MS. MCDONALD
9 AND SHE WAS THE ONE THAT SAID ALL THREE OF
10 THEM WERE ON THE COUCH?

11 A RIGHT.

12 Q AND I BELIEVE WHEN MS. BLACKMON DID THE
13 DIRECT EXAMINATION, YOU DETERMINED OR PLACED
14 MS. [REDACTED] POSITION ON THE COUCH RIGHT AT
15 THIS CORNER HERE?

16 A THE DECEASED?

17 Q YES.

18 A SHE WAS RIGHT THERE.

19 Q OKAY. I'M GONE PUT AN 'X' RIGHT HERE.
20 SHE WAS HERE?

21 A YES, SHE WAS.

22 Q AND I BELIEVE STATE'S EXHIBIT SHOWED A
23 TYPE OF COVER OR A BLANKET.

24 A ON HER. SHE WAS SLUMPED OVER. I
25 BELIEVE THERE WAS A BLANKET AND A SMALL

1 JACKET, BUT I JUST REMEMBER HER BEING
2 COVERED.

3 Q WAS SHE SITTING UP?

4 A SHE WAS SLUMPED OVER.

5 Q WHAT I MEAN, WAS SHE SITTING AT THE
6 TIME? WAS SHE IN A SITTING POSITION?

7 A SHE WAS IN A SITTING POSITION.

8 Q AND WHEN YOU SAY SLUMPED OVER, WAS SHE
9 SLUMPED TOWARD THE DOOR?

10 A WHEN I WALKED IN THIS HALLWAY SHE WAS IN
11 A SITTING POSITION, SLUMPED OVER, WITH HER
12 HEAD AT MY LEFT HAND.

13 Q NOW, YOU WERE THERE APPROXIMATE TWO
14 HOURS, THREE HOURS?

15 A (NODS HEAD YES.) YES.

16 Q NOW, WHEN YOU SPLIT UP OR DIVIDED THE
17 WITNESSES, THE PEOPLE WHO WERE THERE, WHERE
18 DID YOU PUT THEM, IF YOU RECALL?

19 A I DON'T REALLY RECALL. I SEPARATED
20 THEM. I THINK MOST OF THEM WENT OUTSIDE. I
21 BELIEVE MOST OF THEM.

22 Q WHEN YOU WERE TALKING WITH MS. MCDONALD,
23 WHO WAS THE YOUNG LADY WHO WAS SEATED ON THE
24 COUCH WITH THEM, DO YOU REMEMBER WHEN YOU,
25 WHERE YOU TALKED TO HER?

1 A I THINK IT WAS OUTSIDE NEXT TO MY PATROL
2 CAR. I CAN'T REMEMBER.

3 Q ALL RIGHT. WHEN YOU INTERVIEWED MS.
4 MCDONALD, DID SHE INDICATE TO YOU THAT THERE
5 HAD BEEN ANY TYPE ARGUMENT THAT NIGHT?

6 A I DON'T RECALL, IF SHE DID.

7 Q ALL RIGHT. DID SHE TELL YOU THAT THEY
8 HAD HAD A FIGHT?

9 A SHE REALLY DIDN'T SAY A WHOLE LOT. IT
10 WAS ALL I COULD DO TO GET WHAT I GOT FROM
11 HER.

12 Q SHE SEEMED UPSET ALSO?

13 A SHE WAS UPSET.

14 Q DID YOU FIND ANYBODY THAT WASN'T UPSET
15 THERE?

16 A NOT REALLY, NO. SOME WERE CALMER THAN
17 OTHERS.

18 Q NOW, YOU TOLD THE JURY EARLIER THAT YOU
19 HANDCUFFED ERIC.

20 A RIGHT.

21 Q IS THAT PROCEDURE?

22 A THAT'S PROCEDURE. THERE WAS A SHOOTING
23 AND A WEAPON AND I DIDN'T WANT TO BE NEXT.

24 Q DID YOU FEEL THREATENED?

25 A I WOULDN'T SAY I FELT THREATENED, BUT I

1 ALLEVIATED ANY THREAT THAT MIGHT STILL EXIST
2 THERE. AND IT COULD HAVE BEEN.

3 Q HE WAS EXTREMELY UPSET?

4 A HE WAS UPSET.

5 Q AND WERE YOU ABLE TO DETERMINE WHEN THE
6 ACTUAL SHOOTING TOOK PLACE, LIKE THE TIME OF
7 THE SHOOTING?

8 A WELL, IT HAD TO BE, HAD TO BE SHORTLY
9 AFTER ONE, BECAUSE I GOT THE CALL AND IT
10 DIDN'T TAKE LONG TO GET THERE.

11 Q SO YOU WOULD HAVE ARRIVED PRETTY QUICK
12 AFTER THE SHOOTING?

13 A RIGHT. YES.

14 Q DID YOU SPEAK WITH MS. BARBARA GRAHAM,
15 THE MOTHER OF ERIC?

16 A YES, I DID.

17 Q I BELIEVE IN YOUR REPORT YOU INDICATED
18 YOU SPOKE WITH HER?

19 A YES, I DID.

20 Q DO YOU RECALL HER TELLING YOU SHE WAS IN
21 HER BEDROOM AT THE TIME IT TOOK PLACE?

22 A SHE DID.

23 Q DID YOU EVER GO IN THE HOUSE AND LOOK TO
24 SEE WHERE THAT BEDROOM WAS?

25 A NO, I DID NOT.

1 Q LOOKING AT THIS CHART, IS THIS AN
2 ACCURATE REFLECTION THAT THE BEDROOMS WERE
3 IN THE OTHER PART OF THE HOUSE?

4 A I NEVER WENT FURTHER THAN RIGHT HERE. I
5 ASSUME THAT'S WHERE THEY WERE.

6 Q ABOUT THIS FAR?

7 A NO, I WENT THIS FAR. I DIDN'T GO TO THE
8 BEDROOMS.

9 Q DO YOU RECALL SEEING ROOMS OFF THIS WAY?

10 A I BELIEVE THERE WERE.

11 Q ALL RIGHT. IF YOU'LL TAKE YOUR SEAT
12 AGAIN, PLEASE, SIR.

13 AT ANY TIME WHILE YOU WERE THERE AT THE
14 HOME, WERE YOU ABLE TO DETERMINE THE AGE OF
15 ERIC?

16 A HIS MOTHER TOLD ME HE WAS SEVENTEEN
17 YEARS OLD.

18 Q AND DID SHE TELL YOU HOW OLD THE
19 DECEASED WAS?

20 A I DON'T REMEMBER. I DON'T REMEMBER.

21 Q DID ANYONE TELL YOU THEY WERE
22 BOYFRIEND/GIRLFRIEND?

23 A SOMEBODY DID.

24 Q YOU WERE AWARE OF THAT SOMEHOW?

25 A SOMEHOW.

1 Q OKAY. YOU TALKED WITH MS. GRAHAM AT THE
2 SCENE, THE MOTHER. DID YOU EVER SPEAK WITH
3 ERIC AT THE SCENE?

4 A I DON'T THINK SO.

5 Q DO YOU REMEMBER IF OFFICER LEE SPOKE
6 WITH ERIC AT THE SCENE?

7 A I DON'T THINK HE DID. IF HE DID I
8 DIDN'T SEE HIM.

9 Q DID YOU TALK WITH MS. MCDONALD AT THE
10 SCENE?

11 A YES, I DID.

12 Q THAT'S TWO OF THE THREE PEOPLE YOU
13 ACTUALLY REMEMBER SPEAKING TO?

14 A AND THE TWO GENTLEMEN THAT WERE SITTING
15 ON TOP OF HIM.

16 Q AND, AGAIN, THEY WERE SITTING ON HIM
17 BECAUSE OF HIS SCREAMING AND CRYING? NOT
18 BECAUSE HE WAS FIXING TO HURT SOMEBODY?

19 A THEY WERE SITTING ON HIM AND HE WAS
20 SCREAMING AND CRYING. I DON'T KNOW IF
21 THAT'S WHY.

22 Q ALL RIGHT. FROM YOUR DISCUSSIONS AND
23 THE TIMES THAT YOU WERE THERE, DID IT EVER
24 COME TO YOUR ATTENTION THAT THEY HAD HAD ANY
25 TYPE OF ARGUMENT?

1 A I DON'T RECALL IF ANYBODY SAID ANYTHING
2 ABOUT AN ARGUMENT.

3 Q DID IT COME TO YOUR ATTENTION AT ANY
4 TIME WHILE YOU WERE THERE AT THE TIME, DID
5 ANYBODY MENTION TO YOU THAT THEY HAD HAD
6 SOME TYPE OF FIGHT?

7 A I DON'T REMEMBER IF THEY DID.

8 Q THAT'S A NO?

9 A NO.

10 Q DID ANYONE INDICATE THAT THERE HAD BEEN
11 A GUN PULLED OUT AND POINTED AT HER?

12 A THE ONLY THING ABOUT THE GUN THAT CAME
13 UP WAS THAT HE HAD ONE -- SOMEBODY SAID HE
14 HAD A GUN EARLIER THAT NIGHT.

15 Q THAT'S IT?

16 A YEAH. SOMEBODY SAID HE HAD A GUN
17 EARLIER.

18 Q AND MS. MCDONALD WAS ACTUALLY IN THE
19 ROOM WHEN IT TOOK PLACE?

20 A SHE WAS.

21 Q LOOKING BACK AT THE CHART, IF YOU WOULD
22 -- STEP UP ONE MORE TIME. I BELIEVE YOU
23 STATED IN DIRECT EXAMINATION THAT SHE GOT
24 OFF THE FAR END OF THE COUCH?

25 A RIGHT.

1 Q AND SHE PROCEEDED TOWARD THE KITCHEN?

2 A RIGHT.

3 Q WHICH IS -- SHE WOULD HAVE BEEN
4 APPROXIMATELY IN THIS POSITION?

5 A SHE WOULD HAVE BEEN WALKING ACROSS IN
6 FRONT OF THOSE TWO.

7 Q WALKING ACROSS THE ROOM TO THIS DOOR?

8 A RIGHT.

9 Q AND FROM YOUR INVESTIGATION HAD SHE
10 EXITED THE ROOM BY THE TIME SHE HEARD THE
11 GUNSHOT?

12 A WHEN I ASKED HER WHAT HAPPENED, SHE
13 SAID, I DON'T KNOW, I WAS WALKING TO THE
14 KITCHEN, WHEREAS TO ME IT DIDN'T SOUND LIKE
15 SHE WAS IN THE KITCHEN. SHE SAID, I HEARD A
16 LOUD BANG AND I TURNED AROUND AND SAW WHAT
17 SHE SAID SHE SAW.

18 Q OKAY. DID SHE TELL YOU ANYTHING ABOUT
19 ERIC'S DEMEANOR RIGHT AFTER THAT?

20 A I DON'T THINK SO, NO.

21 Q YOU HAVE YOUR INCIDENT REPORT WITH YOU,
22 DO YOU NOT?

23 A I DO, YES.

24 Q AND THIS REPORT WAS PREPARED AT THE TIME
25 YOU CONDUCTED THE INVESTIGATION?

1 A YES.

2 Q WOULD YOU LOOK AT PAGE 3 OF YOUR REPORT,
3 PLEASE.

4 A OKAY.

5 Q ALL RIGHT, YOU'RE LOOKING AT PAGE 3?

6 A PAGE 3.

7 Q AND CAN YOU SEE ON THAT PAGE WHERE YOU
8 INTERVIEWED THE MOTHER AT THE SCENE?

9 A YES, I SEE IT.

10 Q CAN YOU TELL THIS JURY WHAT SHE TOLD YOU
11 AT THE SCENE?

12 A I WAS INTERVIEWING THE MOTHER, AND THE
13 MOTHER THEN STATED -- SHE ASKED WHAT
14 HAPPENED AND THE SUBJECT REPLIED, SHE
15 GRABBED THE GUN. IS THAT WHAT YOU'RE
16 TALKING ABOUT?

17 Q OKAY. GO AHEAD.

18 A THE MOTHER THAN SAID, CALL 9-1-1 AND THE
19 COMPLAINANT ADVISED SHE HAD ALREADY DONE SO.

20 Q RIGHT ABOVE THAT. THE MOTHER THAN
21 STATED SHE DID WHAT?

22 A AFTER THE COMPLAINANT RAN BACK TO HER
23 ROOM AND TOLD HER ---

24 Q NO. LOOKING ON PAGE 3. LINE 3 OF PAGE
25 3. IT SAYS, THE MOTHER THEN STATED.

1 A THE MOTHER THEN STATED SHE RAN TO THE
2 LIVING ROOM AND OBSERVED THE SUBJECT HOLDING
3 THE VICTIM AND SCREAMING.

4 Q ALL RIGHT. THAT'S WHAT SHE REPORTED
5 TO YOU AT THAT TIME THAT NIGHT?

6 A THAT'S WHAT SHE REPORTED TO ME THAT
7 NIGHT, YEAH.

8 Q YOU WERE THE ONE WHO ACTUALLY
9 TRANSPORTED ERIC TO THE DETENTION CENTER?

10 A YES.

11 Q WHAT WAS HIS PHYSICAL APPEARANCE WHEN
12 YOU TRANSPORTED HIM? WAS HE COVERED IN
13 BLOOD?

14 A I CAN'T REMEMBER. I DON'T REMEMBER.

15 Q YOU CANNOT RECALL ANYTHING ABOUT HIS
16 PHYSICAL APPEARANCE?

17 A NO, SIR.

18 Q WHILE HE WAS IN THE CAR DID HE SAY
19 ANYTHING OR DID YOU SEE ANY REACTION OUT OF
20 HIM WHILE HE WAS IN THE CAR?

21 A HE DIDN'T SAY ANYTHING TO ME. HE JUST
22 SAT THERE, AS FAR AS REACTION.

23 Q THANK YOU. ANSWER ANY QUESTIONS THE
24 SOLICITOR MIGHT HAVE.

25 REDIRECT EXAMINATION

1

BY

2

SOLICITOR BLACKMON

3

Q MR. HUGGINS, GOING TO PAGE 3 IN THE

4

INCIDENT REPORT IN REFERENCE TO THE

5

SCREAMING, DID ANYBODY EVER INDICATE IT WAS

6

IN ANGER?

7

A NO.

8

Q DID THEY INDICATE HE WAS NOT IN A RAGE?

9

A NO.

10

Q DID SHE EVER INDICATE ANYTHING ABOUT

11

WHETHER SHE, PERSONALLY, SAW OR HEARD

12

ANYTHING OTHER THAN WHAT WAS REPORTED TO HER

13

BY MS. MCDONALD ABOUT THE DEFENDANT?

14

A NO, SHE DIDN'T. SHE HAD ABSOLUTELY NO

15

FIRST-HAND KNOWLEDGE OF ANYTHING. IN MY

16

REPORT I HAVE ALSO SHE STATED SHE DIDN'T

17

EVEN HEAR A GUNSHOT.

18

Q AND SHE WAS IN THE HOUSE?

19

A AND SHE WAS IN THE HOUSE, RIGHT.

20

Q WHAT DID SHE SAY SHE HEARD AFTER THIS

21

COME TO HER ATTENTION?

22

A THE COMPLAINANT, THE PERSON WHO CALLED

23

9-1-1 RAN BACK TO THE BEDROOM AND BANGED ON

24

THE BEDROOM DOOR AND I ASSUME HOLLERED FOR

25

HER TO COME OUT THERE OR WHATEVER. I DON'T

1 KNOW WHAT SHE TOLD HER. THAT'S HOW HIS
2 MOTHER CAME OUT THERE.

3 Q THE COMPLAINANT BEING MS. MCDONALD?

4 A THE COMPLAINANT BEING MS. MCDONALD.

5 Q SO THE MOTHER NEVER HEARD THE 9MM GO OFF
6 IN HER HOUSE?

7 A NO, SHE DID NOT.

8 Q SHE HAD ABSOLUTELY NO FIRST-HAND
9 KNOWLEDGE OF ANYTHING THAT OCCURRED IN THAT
10 ROOM?

11 A SHE WASN'T IN THERE, NO.

12 Q AND SHE DID NOT INDICATE THAT THE
13 SCREAMING WAS NOT A RAGE. I HAVE NOTHING
14 FURTHER.

15 RECROSS EXAMINATION

16 BY

17 MR. SMITH

18 Q OFFICER HUGGINS, I BELIEVE IN YOUR
19 REPORT YOU SAID THAT WHENEVER YOU GOT TO THE
20 HOUSE HE WAS ON THE FLOOR CRYING?

21 A THAT'S CORRECT.

22 Q DID YOU SEE RAGE IN HIS CRYING? WAS IT
23 ANGER IN HIS CRYING OR JUST CRYING?

24 A HE WAS JUST CRYING, HOLLERING AND
25 YELLING. IF HE WAS MAD, UPSET, OR WHATEVER,

BRYAN LEE - DIRECT/BLACKMON

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1 I DON'T KNOW. WHAT I SAW WAS HE WAS LAYING
2 ON THE FLOOR. HE WAS CRYING. AND HE WAS
3 UPSET.

4 Q HE WAS UPSET AND CRYING. THANK YOU.

5 SOLICITOR BLACKMON: NOTHING FURTHER.

6 MR. SMITH: YOUR HONOR, I UNDERSTAND
7 OFFICER HUGGINS IS A PART OF THE HURRICANE
8 WATCH. THE DEFENSE WOULD NOT HAVE ANY
9 OBJECTION TO HIM BEING EXCUSED TO RETURN TO
10 HIS DUTIES IN THAT REGARD.

11 SOLICITOR BLACKMON: THE STATE HAS NO
12 OBJECTIONS.

13 COURT: THANK YOU, SIR.

14 SOLICITOR BLACKMON: BRYAN LEE.

15 BRYAN LEE

16 BEING FIRST DULY SWORN, TESTIFIED AS
17 FOLLOWS:

18 DIRECT EXAMINATION

19 BY

20 SOLICITOR BLACKMON

21 Q COULD YOU STATE YOUR NAME AND WHERE
22 YOU'RE EMPLOYED FOR THE RECORD, PLEASE.

23 A MY NAME IS BRYAN LEE. I WORK FOR
24 DARLINGTON COUNTY SHERIFF'S OFFICE.

25 Q HOW LONG HAVE YOU WORKED THERE?

1 A ABOUT 3-1/2 YEARS.

2 Q IN WHAT CAPACITY?

3 A I'M A DEPUTY SHERIFF.

4 Q I'D DIRECT YOUR ATTENTION TO DECEMBER 7,
5 1996. DID YOU ALSO RESPOND TO A CALL AT THE
6 GRAHAM RESIDENCE ON [REDACTED] FIELD ROAD IN
7 [REDACTED] [REDACTED]

8 A THAT'S CORRECT. MYSELF AND OFFICER
9 HUGGINS RESPONDED AT THE SAME TIME.

10 Q OKAY. DID YOU GO IN THE HOUSE, PRETTY
11 MUCH SIMULTANEOUSLY?

12 A YES, MA'AM. I FOLLOWED DEPUTY HUGGINS
13 AS WE ENTERED THE RESIDENCE.

14 Q AND WHEN YOU -- I'D ASK YOU TO GO OVER
15 TO THE LITTLE CHART AND SHOW ME EXACTLY
16 WHERE YOU WENT IN. COULD YOU POINT AND SHOW
17 ME WHERE YOU WENT IN?

18 A WE ENTERED THROUGH THE CARPORT AND INTO
19 THE BACK ENTRANCE, RIGHT HERE.

20 Q AND WHEN YOU WALKED IN, WHERE DID YOU
21 ACTUALLY WALK IN TO?

22 A AS WE ENTERED THE ROOM, WE WALKED
23 DIRECTLY INTO WHAT THEY CALL THE FAMILY
24 ROOM, RIGHT HERE.

25 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S

1 EXHIBIT #3. THAT IS THE LOCATION OF THE
2 SOFA. IS IT EXACTLY WHERE MR. SMITH HAS
3 DRAWN IT OR IS IT CLOSER TO THE DOOR?

4 A WELL, THE NIGHT THAT WE RESPONDED IT WAS
5 RIGHT HERE, AT THE EDGE OF THE WALL.

6 Q OKAY. COULD YOU PLEASE MOVE THE SOFA
7 EXACTLY WHERE IT WAS, USING THIS YELLOW
8 MARKER.

9 A (WITNESS RESPONDS.)

10 Q WOULD YOU PUT THE SOFA WHERE IT ACTUALLY
11 WAS WHEN YOU WALKED IN THE ROOM.

12 ALL RIGHT, IN LOOKING AT THE
13 TELEVISION, IS THAT EXACTLY WHERE IT WAS
14 THAT NIGHT?

15 A NO. ACTUALLY, THE TELEVISION WAS A
16 LITTLE BIT CLOSER TO THE MIDDLE. PROBABLY
17 RIGHT IN HERE.

18 Q AND WAS THERE ANYTHING IN BETWEEN THE
19 TELEVISION AND THE KITCHEN DOOR?

20 A NO. IT WAS OPEN RIGHT HERE.

21 Q JUST A PLAIN WALL?

22 A RIGHT.

23 Q MOVE THE TELEVISION WHERE IT WAS. IF
24 YOU HAVE TO MOVE THE GUN, MOVE THE GUN JUST
25 A HAIR.

1 Q WHEN YOU WALKED IN THE ROOM WHAT WAS THE
2 FIRST THING YOU SAW?

3 A WHEN I WALKED INTO THE ROOM, THE VERY
4 FIRST THING I LAID MY EYES ON WAS, I SAW THE
5 DEFENDANT, MR. GRAHAM, LAYING ON THE FLOOR
6 AND THE TWO GENTLEMEN, MR. JOHN GRAHAM AND
7 MR. JAMES GRAHAM, WAS HOLDING HIM DOWN,
8 BECAUSE HE WAS ACTING KIND OF WILD, LIKE
9 THEY DIDN'T KNOW IF HE WAS GONE GET UP OR
10 EXACTLY WHAT HE WAS DOING.

11 Q WHAT WAS THE NEXT THING YOU SAW?

12 A AT THAT POINT IN TIME, AS I ENTERED THE
13 ROOM, I WAS LOOKING AT MR. GRAHAM BEING HELD
14 DOWN ON THE FLOOR. I LOOKED DIRECTLY BEHIND
15 HIM AND I SAW A GUN.

16 Q THIS WAS BEYOND MR. GRAHAM?

17 A THAT'S CORRECT.

18 Q HOW CLOSE WAS MR. GRAHAM TO THAT GUN?

19 A THAT'S PROBABLY PRETTY ACCURATE RIGHT
20 HERE, WHERE THEY HAVE IT.

21 Q WELL, IN ACTUAL FEET, SINCE YOU WERE
22 THERE AND WE WEREN'T. JUST A GUESS.

23 A MAYBE 2-1/2, MAYBE THREE FEET, AT THE
24 MOST.

25 Q SO THE GUN COULD HAVE BEEN IN HIS ARM'S

1 REACH?

2 A CORRECT.

3 Q WAS THERE ANYTHING -- ALL RIGHT, HE'S
4 GOT THE TELEVISION IN THE CORNER. WAS THERE
5 ANYTHING ON THAT SIDE OF THE TELEVISION AT
6 THAT TIME?

7 A TO MY KNOWLEDGE, I CAN'T RECALL ANYTHING
8 BEING ON THE OTHER SIDE.

9 Q THAT'S FINE. WHEN DID YOU SEE [REDACTED]
10 OR WHEN DID YOU KNOW WHERE [REDACTED] WAS
11 LOCATED?

12 A THE VERY FIRST THING I DID, I ENTERED
13 THE ROOM AND I SAW MR. GRAHAM. AT THAT
14 POINT IN TIME I DISCOVERED THE GUN. I LET
15 DEPUTY HUGGINS KNOW WE HAD A GUN AND I SAID,
16 GUN, GUN. I WENT OVER AND IT WAS IN MY BEST
17 INTEREST TO SECURE THE WEAPON BECAUSE WE
18 DIDN'T WANT ANYBODY TO PICK IT UP. WE
19 DIDN'T WANT ANYBODY TO MOVE IT OR MESS THE
20 EVIDENCE UP IN ANY WAY AT ALL.

21 WE HAD NO WAY TO SECURE IT SO THE ONLY
22 THING I COULD DO WAS -- I WENT OVER WITH MY
23 PEN AND I PICKED UP -- THROUGH THE TRIGGER
24 PART I PICKED THE WEAPON UP AND TOLD DEPUTY
25 HUGGINS I WAS GOING TO SECURE THE WEAPON BY

1 TAKING IT OUT TO ME CAR AND PLACING IT IN A
2 BAG AND LOCKING IT IN MY TRUNK UNTIL AN
3 INVESTIGATOR OR UNTIL LATER DURING THE NIGHT
4 WE COULD PROCESS IT OR DO WHATEVER WE HAD TO
5 DO WITH IT. AT THAT TIME I CAME BACK IN THE
6 RESIDENCE AND DEPUTY HUGGINS WAS STANDING
7 SOMEWHERE IN THIS AREA AND THAT'S WHEN I
8 NOTICED THE BODY.

9 Q AND WOULD YOU TELL US WHERE, ON THAT
10 SOFA, SHE WAS?

11 A SHE WAS RIGHT ON THE VERY CORNER. RIGHT
12 HERE WHERE I DREW THAT 'X'.

13 Q ON THE PICTURE, IF YOU COULD BACK UP.

14 A IT'S A DIFFERENT SOFA, I KNOW THAT. BUT
15 IS THAT 'X' ACCURATE?

16 A THAT'S CORRECT.

17 Q AND WHAT WAS HER POSITION ON THAT SOFA?

18 A SHE WAS ON THE END.

19 Q BUT WAS SHE LYING, WAS SHE SITTING?

20 A WHEN SHE WAS SITTING DOWN SHE WAS
21 SITTING ON THE END OF THE SOFA, LIKE THIS.
22 AND SHE WAS KIND OF SLUMPED OVER, LIKE THIS.

23 Q ALL RIGHT. DID YOU SPEAK WITH ANYBODY
24 THERE?

25 A NO, MA'AM. DEPUTY HUGGINS WAS

1 CONDUCTING THE INVESTIGATION AND HE SPOKE
2 WITH THE COMPLAINANT AND SOME OF THE FAMILY
3 MEMBERS.

4 Q DID YOU HEAR WHAT WAS GOING ON IN ANY OF
5 THIS?

6 A NOTHING THAT I CAN RECALL, NO, MA'AM.

7 Q DID YOU EVER HEAR HIM MENTION THAT HE
8 HAD A GUN?

9 MR. SMITH: OBJECTION. LEADING.

10 COURT: REPHRASE YOUR QUESTION.

11 Q WAS IT EVER CALLED TO YOUR ATTENTION
12 THAT HE HAD HAD A GUN?

13 A YES, MA'AM. SOMEBODY IN THE ROOM MADE A
14 STATEMENT THAT MR. GRAHAM HAD THE WEAPON OR
15 HAD A WEAPON AND HE HAD HAD IT AT THE CLUB
16 EARLIER THAT NIGHT.

17 Q WAS ANY OTHER REFERENCE MADE TO MR.
18 GRAHAM AND THAT GUN?

19 A THERE WAS A REFERENCE TO THE WORDING OF
20 MR. GRAHAM HAD THE WEAPON ON HIM THAT NIGHT
21 AND MAYBE HE WAS JUST TRYING TO ---

22 MR. SMITH: YOUR HONOR, I'M NOT SURE
23 THE DEPUTY IS TESTIFYING FROM MEMORY HERE OR
24 RECOLLECTION.

25 COURT: WE DON'T NEED TO BE

1 SPECULATING. IF YOU HEARD A SPONTANEOUS
2 REMARK THAT'S ONE THING, BUT YOU DON'T NEED
3 TO BE SPECULATING.

4 MR. SMITH: THAT'S MY OBJECTION, YOUR
5 HONOR.

6 COURT: I'LL SUSTAIN IT UNLESS YOU'VE
7 GOT SOMETHING CONCRETE.

8 Q WAS THERE EVER A REMARK -- DID YOU HEAR
9 A REMARK DURING THE COURSE OF THAT
10 INVESTIGATION IN THAT HOUSE AS RELATED TO
11 THAT GUN?

12 MR. SMITH: OBJECTION. LEADING.

13 Q WHAT REMARK DID YOU HEAR IN THAT HOUSE
14 RELATING TO THAT GUN OTHER THAN HE HAD IT?

15 MR. SMITH: OBJECTION. LEADING. YOUR
16 HONOR, IF MS. BLACKMON WANTS TO TESTIFY,
17 LET'S PUT HER ON THE WITNESS STAND.

18 COURT: THINK ABOUT YOUR QUESTION.

19 Q WHAT COMMENTS RELATED TO THAT GUN DID
20 YOU HEAR THAT NIGHT?

21 A DURING THAT NIGHT, A COMMENT IN THE
22 HOUSE WAS MADE THAT MR. GRAHAM HAD A WEAPON
23 ON HIM.

24 Q WERE THERE ANY OTHER COMMENTS MADE ABOUT
25 A GUN?

1 A NOT TO MY KNOWLEDGE.

2 Q BUT THE PEOPLE IN THE HOUSE KNEW HE HAD
3 IT?

4 MR. SMITH: OBJECTION. CALLS FOR
5 SPECULATION.

6 COURT: THAT WAS A LEADING QUESTION.

7 Q DID YOU HEAR ANY OTHER STATEMENTS MADE
8 IN THAT HOUSE THAT NIGHT BY ANY OTHER
9 PEOPLE? WERE THERE ANY OTHER SPONTANEOUS
10 STATEMENTS MADE?

11 A NOT TO MY KNOWLEDGE.

12 Q ONCE YOU SECURED THE GUN, WHAT DID YOU
13 DO?

14 A AFTER I SECURED THE GUN IN THE BACK OF
15 MY VEHICLE I CAME BACK INTO THE RESIDENCE
16 AND WE JUST TRIED TO MAINTAIN ORDER UNTIL
17 THE STAFF OFFICERS AND INVESTIGATORS AND
18 OTHER OFFICERS COULD ARRIVE.

19 Q AND ONCE THEY ARRIVED, HOW LONG DID YOU
20 REMAIN THERE?

21 A I REMAINED THERE DURING THE ENTIRE
22 INCIDENT. UNTIL WE LEFT. AND DEPUTY
23 HUGGINS TOOK MR. GRAHAM DOWN TO THE JAIL.

24 Q DID MR. GRAHAM EVER MAKE ANY STATEMENTS
25 WHILE YOU WERE THERE?

1 A NOT TO ME, NO, MA'AM.

2 Q DID ANYONE ELSE MAKE ANY STATEMENTS TO
3 YOU WHILE YOU WERE THERE?

4 A NO, MA'AM. NO.

5 Q I HAVE NO FURTHER QUESTIONS.

6 CROSS EXAMINATION

7 BY

8 MR. SMITH

9 Q DEPUTY LEE, YOU STATED AFTER YOU ARRIVED,
10 AND YOU SAW THE WEAPON ON THE FLOOR THAT YOU
11 SECURED IT?

12 A THAT'S CORRECT.

13 Q AND WHEN YOU SECURED IT, DID YOU CROSS
14 THE ROOM TO PICK IT UP?

15 A THAT'S CORRECT.

16 Q AND WHEN YOU PICKED IT UP, I BELIEVE YOU
17 DESCRIBED YOU PICKED IT UP WITH A PEN OR
18 PENCIL OR SOMETHING?

19 A THAT'S CORRECT.

20 Q AND AT THAT POINT DID YOU CARRY IT ON
21 THE PEN OR PENCIL OUT TO YOUR CAR?

22 A THAT'S CORRECT.

23 Q AS YOU TURNED TO EXIT THE ROOM, DID YOU
24 GO BACK OUT THE BACK DOOR?

25 A THAT'S CORRECT.

1 Q ALL RIGHT, YOU ENTERED THROUGH THE BACK
2 DOOR AND YOU EXITED THROUGH THE BACK DOOR?

3 A THAT'S CORRECT.

4 Q YOU DID NOT SEE THE VICTIM'S BODY, THE
5 DECEASED' BODY UNTIL YOU CAME BACK IN THE
6 HOME, IS THAT CORRECT?

7 A THAT'S CORRECT.

8 Q IS THAT BECAUSE IT WAS COVERED?

9 A THAT'S CORRECT.

10 Q HAD YOU OR DEPUTY HUGGINS COVERED THE
11 BODY?

12 A NO, SIR.

13 Q NOW, TALKING ABOUT SECURING THE ROOM,
14 WAS IT YOUR JOB TO SEE NOTHING GOT MOVED OR
15 CHANGED AT THE SCENE?

16 A THAT'S CORRECT.

17 Q WERE YOU CONCERNED ABOUT YOUR SAFETY AT
18 ANY TIME?

19 A WELL, UNTIL THE GUN WAS SECURED AND IT
20 WAS COMPLETELY OUT OF THE ROOM, UNTIL MR.
21 GRAHAM WAS HANDCUFFED. AFTER THAT POINT
22 EVERYTHING SEEMED TO BE OKAY.

23 Q HE WAS CRYING AND UPSET WHEN YOU CAME IN
24 THERE, WASN'T HE?

25 A HE WAS, YEAH. HE WAS CRYING AND UPSET,

1 YEAH.

2 Q AND OTHER PEOPLE IN THE ROOM WERE CRYING
3 AND UPSET?

4 A YES, SIR.

5 Q THE WHOLE ROOM WAS VERY SOMBER, WAS IT
6 NOT?

7 A THE WHOLE ROOM WAS, YEAH. IT WAS KIND
8 OF A WILD SITUATION THAT WE HAD TO TRY TO
9 KEEP UNDER CONTROL.

10 Q YOU DID NOT MAKE ANY INCIDENT REPORTS IN
11 YOUR INVESTIGATION OF THIS CASE, DID YOU?

12 A I JUST DID A BRIEF SUPPLEMENTAL REPORT,
13 AS TO WHAT I DID.

14 Q AND THAT'S IT?

15 A YES, SIR.

16 Q YOU DID NOT CONDUCT ANY INTERROGATION OR
17 INTERVIEWED WITH ANY OF THE WITNESSES?

18 A NO, SIR.

19 Q THANK YOU.

20 A THE ONLY THING THAT WE DID DO, MYSELF
21 AND INVESTIGATOR, HE WAS SERGEANT AT THAT
22 TIME -- SERGEANT MIDDLETON CAME TO THE SCENE
23 AND WE WERE TRYING TO SEE IF MAYBE WE COULD
24 FIND OUT WHERE THE BULLET WENT AND WE DID A
25 LITTLE BIT OF SEARCHING AROUND IN THE ROOM

1 TO SEE IF WE COULD FIND IT. WE WENT OUTSIDE
2 -- CAN I STAND UP AND SHOW YOU?

3 Q YES, SIR. PLEASE.

4 A BECAUSE OF THE WAY HER BODY WAS
5 POSITIONED, WE FINALLY ESTABLISHED THERE WAS
6 ONLY ONE WAY THAT THE BULLET COULD HAVE
7 GONE, SO WE WENT BACK INTO THIS LAUNDRY ROOM
8 BACK HERE AND WE WERE ABLE TO FIND A HOLE IN
9 THE WALL, WHERE FROM THE DIRECTION OR THE
10 WAY HER HEAD WAS LAYING, WHEN THE BULLET
11 CAME THROUGH -- CAME OUT THE TOP OF HER
12 HEAD, IT ENDED UP BACK IN THIS LAUNDRY ROOM
13 SOMEWHERE. WE SEARCHED FOR THE HOLE AND WE
14 FOUND THE HOLE AND AT THAT POINT SERGEANT
15 MIDDLETON WAS TRYING TO FIND IT. WE JUST
16 WENT FROM THERE.

17 Q YOU'RE POINTING TO THE, I GUESS LOOKING
18 AT THE CHART, TO THE LEFT SIDE. WAS THE
19 HOLE IN THE WALL TO THE LEFT SIDE?

20 A THAT'S CORRECT. WELL, IT WAS BACK HERE.
21 I THINK SHE HAS A PICTURE, AND IT WAS FOUND
22 IN THIS WALL BACK HERE.

23 Q DID YOU TAKE THIS PHOTOGRAPH?

24 A NO.

25 Q DO YOU KNOW WHO DID?

1 A NO, SIR.

2 Q OKAY. AND THIS IS THE WAY THE SCENE
3 LOOKED THAT NIGHT?

4 A THAT'S CORRECT.

5 Q SHOW ME ON THIS PHOTOGRAPH, STATE'S
6 EXHIBIT #3, WHERE THE HOLE IN THE WALL WAS.

7 A IT WAS FOUND BEHIND HER, UP HERE BEHIND
8 HER.

9 Q ALL RIGHT, COME OVER HERE.

10 A UP HERE BEHIND HERE, BEING RIGHT ABOVE
11 THIS BLANKET AREA.

12 Q BACK IN HERE?

13 A YES, SIR. I CAN'T RECALL EXACTLY. I
14 JUST KNOW IT WAS FOUND IN THIS BACK WALL,
15 BACK HERE BEHIND HER.

16 Q IT WAS IN THE BACK WALL. OKAY, BUT YOU
17 WERE POINTING EARLIER, LIKE TO THIS SIDE OF
18 THE COUCH. THE ONLY THING YOU CAN TELL US
19 IS IT WAS ON THIS WALL?

20 A RIGHT. SOMEWHERE ON THAT WALL.

21 Q OKAY. NOTHING ELSE AT THIS TIME, YOUR
22 HONOR.

23 REDIRECT EXAMINATION

24 BY

25 SOLICITOR BLACKMON

1 Q WAS THERE ANY OTHER DAMAGE INSIDE THAT
2 ROOM THAT YOU NOTICED?

3 A I THINK THERE WERE TWO FRENCH DOORS AND
4 THE BOTTOM OF THOSE FRENCH DOORS, THE GLASS
5 WAS BROKEN OUT OF THE BOTTOM.

6 Q AND WHERE WERE THOSE DOORS ON THIS
7 PHOTOGRAPH? WHICH ROOM DO THOSE DOORS GO
8 TO?

9 A I THINK THEY ARE RIGHT IN HERE. I'D
10 HAVE TO LOOK, MAYBE AT THE PICTURE. I
11 SUPPOSE THAT'S WHERE THE DOORS WERE AT,
12 RIGHT THERE.

13 Q WHAT WAS THE DAMAGE TO THOSE DOORS?

14 A THE BEST OF MY KNOWLEDGE, JOHN GRAHAM,
15 MR. JAMES GRAHAM STATED, I THINK, THAT THE
16 DEFENDANT --

17 MR. SMITH: OBJECTION.

18 Q THEY'RE BOTH SUBPOENAED. THEY'RE HERE
19 FOR SPONTANEOUS REMARKS.

20 MR. SMITH: I DON'T SEE EITHER ONE OF
21 THEM.

22 SOLICITOR BLACKMON: THEY'RE BOTH UNDER
23 SUBPOENA.

24 MR. GRAHAM (IN AUDIENCE): I'M JOHN
25 GRAHAM.

1 Q HE'S HERE.

2 MR. SMITH: IS THE TESTIMONY GONE BE
3 WHAT THIS GENTLEMAN SAID, OR DO YOU KNOW?

4 A IT WAS STATED.

5 MR. SMITH: YOU DON'T KNOW WHO SAID IT.

6 A NOT DIRECTLY.

7 MR. SMITH: I'D CONTINUE MY OBJECTION.

8 COURT: YOU'LL HAVE TO ASK HIM.

9 Q OKAY. ONE LAST QUESTION. GOING BACK TO
10 THE GUN AND ITS POSITION. HOW CLOSE TO HIM
11 WAS IT TO MR. GRAHAM?

12 A TWO TO THREE FEET. THREE FEET AT THE
13 MOST.

14 Q AND YOU SECURED IT. WHY DID YOU SECURE
15 THE GUN?

16 A WELL, FOR ONE REASON I DIDN'T WANT
17 SOMEBODY ELSE TO GET THEIR HANDS ON THE GUN.
18 FOR OFFICERS' SAFETY AND FOR THE SAFETY OF
19 THE OTHER INDIVIDUALS IN THE ROOM.

20 Q AND THE GUN WAS WITHIN ARM'S REACH?

21 A THAT'S CORRECT.

22 Q NOTHING FURTHER.

23 MR. SMITH: NOTHING FURTHER, YOUR
24 HONOR.

25 COURT: COUNSEL, YA'LL APPROACH,

1 PLEASE.

2 (WHEREUPON A BENCH CONFERENCE WAS HELD
3 IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
4 HEARING OF THE JURY.)

5 COURT: LADIES AND GENTLEMEN OF THE
6 JURY, WE'RE GONNA STOP NOW. IT'S ALMOST
7 FIVE AND THE NEXT WITNESS COULD BE RATHER
8 LENGTHY AND WE DON'T WANT TO RISK GOING INTO
9 THE EVENING. SO I'LL ASK YOU TO BE BACK AT
10 TEN IN THE MORNING. REPORT TO THE JURYROOM
11 AT TEN IN THE MORNING.

12 REMEMBER MY REMARKS TO YOU ABOUT PRESS
13 COVERAGE AND ALSO ANY CONTACTS. EVERYBODY
14 ELSE REMAIN SEATED IN THE COURTROOM WHILE
15 THE JURY DEPARTS FOR THE EVENING.

16 (WHEREUPON THE COURT RECESSED FOR THE
17 DAY, RETURNING TUESDAY, AUGUST 25, 1998.)

18 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
19 PRESENCE OF THE JURY.)

20 COURT: GOOD MORNING, LADIES AND
21 GENTLEMEN. WE'RE READY TO PROCEED,
22 SOLICITOR.

23 SOLICITOR BLACKMON: THE STATE CALLS
24 MONTY THOMPSON.

25 MONTY THOMPSON

1 BEING FIRST DULY SWORN, TESTIFIED AS
2 FOLLOWS:

3 DIRECT EXAMINATION

4 BY

5 SOLICITOR BLACKMON

6 Q COULD YOU STATE YOUR NAME FOR THE
7 RECORD?

8 A MONTY THOMPSON. I'M AN INVESTIGATOR FOR
9 DARLINGTON COUNTY SHERIFF'S OFFICE.

10 Q AND HOW LONG HAVE YOU BEEN EMPLOYED WITH
11 THE DARLINGTON COUNTY SHERIFF'S OFFICE?

12 A APPROXIMATE 8-1/2 YEARS.

13 Q AND HOW LONG HAVE YOU BEEN IN
14 INVESTIGATION?

15 A THREE YEARS.

16 Q DIRECTING YOUR ATTENTION TO AN
17 INVESTIGATION THAT YOU WERE INVOLVED IN THAT
18 OCCURRED ON DECEMBER 7, 1996, AT [REDACTED]
19 ROAD IN [REDACTED] -- COULD YOU TELL ME
20 WHAT COUNTY THAT'S LOCATED IN?

21 A DARLINGTON COUNTY.

22 Q AND WHEN YOU RECEIVED THE CALL DID
23 SOMEONE GO WITH YOU ON THAT INVESTIGATION?

24 A YES, MA'AM.

25 Q AND WHO WAS THAT?

1 A SERGEANT HENRY MIDDLETON, BRYAN LEE,
2 BILL HUGGINS, DENNIS CARTER.

3 Q WHEN YOU ARRIVED AT THE SCENE, AT THE
4 HOME, AT MR. GRAHAM'S HOME, COULD YOU TELL
5 US WHAT WAS HAPPENING THERE?

6 A YES, MA'AM. WHEN I GOT THERE, MR. ERIC
7 GRAHAM WAS IN THE FLOOR HANDCUFFED, AND HIS
8 DADDY WAS STANDING ON TOP OF HIM. AND I
9 TALKED TO DEPUTY BRYAN LEE ABOUT THE
10 INCIDENT THAT WENT ON.

11 Q AND WHAT DID HE SAY?

12 A HE TOLD ME THAT THERE HAD BEEN A
13 SHOOTING IN THE HOUSE.

14 Q AND WHAT HAPPENED NEXT?

15 A I LOOKED ON THE COUCH AND THERE WAS A
16 VICTIM ON THE COUCH. MS. [REDACTED] HAD BEEN
17 SHOT. AND I ASKED BRYAN WHY WAS MR. GRAHAM
18 HANDCUFFED.

19 Q AND WHAT DID HE SAY?

20 A HE TOLD ME THAT HE WAS THE ONE THAT DID
21 THE SHOOTING.

22 Q WERE THERE ANY OTHER COMMENTS MADE AT
23 THE TIME, THAT YOU HEARD?

24 A YES, MA'AM. MR. GRAHAM ON THE FLOOR,
25 HANDCUFFED, WAS SAYING, I SHOT HER, I SHOT

1 HER, I SHOT HER.

2 Q DID ANYBODY ELSE IN THE ROOM MAKE ANY
3 COMMENTS?

4 A YES, MA'AM. HIS FATHER TOLD HIM, SAID,
5 I TOLD YOU THAT DAMN GUN WAS GONE GET YOU IN
6 TROUBLE.

7 Q AND WERE THERE ANY OTHER THINGS THAT
8 WERE SAID AT THE TIME?

9 A NO, MA'AM.

10 Q DID YOU SEE THE GUN?

11 A YES, MA'AM.

12 Q AND WHO ACTUALLY HAD THE GUN?

13 A I GOT THE GUN FROM BILL HUGGINS, AND
14 THEN I TOOK IT IN MY POSSESSION AND PUT IT
15 IN A KIT THAT WE HAVE AND SENT IT TO SLED.

16 Q NOW, WHO TRANSPORTED MR. GRAHAM TO THE
17 SHERIFF'S DEPARTMENT?

18 A IT WAS EITHER BILL OR BRYAN.

19 Q AND DID YOU SEE HIM AFTER HE ARRIVED AT
20 THE SHERIFF'S DEPARTMENT?

21 A YES, MA'AM. WE CALLED INVESTIGATOR
22 CARTER TO COME THERE AND DO A G-S-R KIT.

23 Q AND WHO IS WE?

24 A INVESTIGATOR SERGEANT MIDDLETON AND
25 MYSELF.

1 Q AND WHERE WERE YOU WHEN YOU CALLED
2 INVESTIGATOR CARTER?

3 A WE WERE AT THE GRAHAM'S RESIDENCE,
4 BEFORE WE LEFT, SO HE'D BE ABLE TO MEET US
5 AT THE SHERIFF'S OFFICE WHEN WE LEFT.

6 Q AND DURING THE COURSE OF THE TIME THAT
7 YOU WERE WITH MR. GRAHAM, AT THE SHERIFF'S
8 DEPARTMENT, WAS HE MIRANDIZED?

9 A YES, MA'AM.

10 Q I SHOW YOU WHAT'S BEEN MARKED AND
11 ENTERED INTO EVIDENCE AS STATE'S EXHIBIT #1.
12 IS THIS HIS MIRANDA STATEMENT?

13 A YES, MA'AM.

14 Q COULD YOU READ THE DOCUMENT TO THE JURY,
15 STARTING WITH THE DATE, TIME AND PLACE?

16 A THE TOP OF IT IS, DARLINGTON COUNTY
17 SHERIFF'S DEPARTMENT; STATEMENT OF RIGHTS
18 AND MIRANDA WAIVERS. PLACE, SHERIFF'S
19 OFFICE; DATE IS 12-7-96. TIME WAS 4:50 A.M.
20 IT SAYS, BEFORE I ASK YOU ANY QUESTIONS YOU
21 MUST UNDERSTAND YOUR RIGHTS.

22 YOU HAVE THE RIGHT TO REMAIN SILENT;
23 ANYTHING YOU SAY CAN AND WILL BE USED
24 AGAINST YOU IN COURT. YOU HAVE A RIGHT TO
25 TALK TO A LAWYER FOR ADVICE BEFORE WE ASK

1 YOU ANY QUESTIONS AND HAVE HIM WITH YOU
2 DURING ANY QUESTIONS. IF YOU CANNOT AFFORD
3 A LAWYER ONE WILL BE APPOINTED FOR YOU
4 BEFORE QUESTIONS IF YOU WISH. IF YOU DECIDE
5 TO ANSWER QUESTIONS NOW WITHOUT HAVING A
6 LAWYER PRESENT YOU STILL HAVE THE RIGHT TO
7 STOP ANSWERING AT ANY TIME. YOU ALSO HAVE A
8 RIGHT TO STOP ANSWERING AT ANY TIME TO TALK
9 TO A LAWYER.

10 DOWN AT THE BOTTOM IT'S GOT, WAIVER OF
11 RIGHTS. I'VE READ THIS STATEMENT OF MY
12 RIGHTS AND UNDERSTAND WHAT MY RIGHTS ARE.
13 I'M WILLING TO MAKE A STATEMENT AND ANSWER
14 QUESTIONS. I DO NOT WANT TO TALK TO A
15 LAWYER AT THIS TIME. I UNDERSTAND AND KNOW
16 WHAT I'M DOING. NO PROMISES OR THREATS HAVE
17 BEEN MADE TO ME AND NO PRESSURE OF ANY KIND
18 HAS BEEN USED AGAINST ME. SIGNED BY ERIC
19 GRAHAM, SERGEANT MIDDLETON AND MYSELF.

20 Q DID YOU GET TO QUESTION MR. GRAHAM AFTER
21 HE WAS MIRANDIZED?

22 A NO, MA'AM, NOT REALLY.

23 Q DID HE MAKE ANY STATEMENT AFTER HE WAS
24 MIRANDIZED?

25 A HE JUST TOLD US THAT HE HAD SHOT HER.

1 Q AND DID HE SAY WHO 'HER' WAS?

2 A MS. [REDACTED]

3 Q AND THEN WHAT HAPPENED?

4 A HIS DADDY KNOCKED ON THE DOOR AND OPENED
5 THE DOOR AND HE SAID THAT HE'D LIKE FOR ALL
6 QUESTIONS TO STOP. HE WANTED HIS SON TO
7 TALK TO A LAWYER.

8 Q AND DID ALL QUESTIONING STOP?

9 A YES, MA'AM, WE STOPPED THE QUESTIONING
10 AND I TOOK HIM OVER TO THE JAIL AND BOOKED
11 HIM IN FOR THE HOMICIDE.

12 Q AND AS FAR AS PROCEEDING GOES,
13 EVERYTHING THAT YOU AND INVESTIGATOR
14 MIDDLETON -- WAS IT DONE BY PROCEDURE?

15 A YES, MA'AM.

16 Q BY THE BOOK?

17 A YES, MA'AM.

18 Q AND DID HE INDICATE TO YOU ON MORE THAN
19 ONE OCCASION --

20 MR. SMITH: OBJECTION. LEADING.

21 Q HOW MANY TIMES DID HE INDICATE,
22 APPROXIMATE, THAT HE SHOT HER?

23 A FROM THE WHOLE TIME THAT I HAD HIM?

24 Q YES, SIR.

25 A I BELIEVE SEVEN OR EIGHT.

1 Q NOTHING FURTHER.

2 COURT: MR. SMITH.

3 CROSS EXAMINATION

4 BY

5 MR. SMITH

6 Q DETECTIVE THOMPSON, WHAT TIME DID YOU
7 ARRIVE AT THE SCENE?

8 A I'D SAY APPROXIMATE FOUR O'CLOCK.

9 Q AND DID YOU DETERMINE WHAT TIME THE
10 SHOOTING HAD TAKEN PLACE?

11 A NO, SIR. I WASN'T ABLE TO DO THAT.

12 Q YOU WERE INVOLVED IN THE INTERVIEW WITH
13 ERIC AT THE DETENTION CENTER?

14 A YES, SIR.

15 Q DID YOU KNOW HOW OLD HE WAS AT THE TIME?

16 A YES, SIR.

17 Q HOW OLD WAS HE?

18 A HE WAS APPROXIMATE 17 YEARS OLD.

19 Q DURING THE TIME -- HOW LONG WAS HE IN
20 THE ROOM WITH YA'LL?

21 A INVESTIGATOR CARTER DID THE G-S-R KIT ON
22 HIM.

23 Q WHAT'S A G-S-R KIT?

24 A THAT'S WHERE THEY CHECK FOR GUN RESIDUE
25 ON HIS HANDS. TO SEE IF HE HAD BEEN AROUND

1 A FIRED WEAPON.

2 Q WAS THAT DONE PRIOR TO FOUR A.M.?

3 A THAT WAS DONE AT THE SHERIFF'S OFFICE.

4 Q AT THE SHERIFF'S OFFICE?

5 A YES, SIR.

6 Q WHAT WAS MR. GRAHAM'S PHYSICAL
7 APPEARANCE AT THE TIME THE G-S-R WAS DONE,
8 AS FAR AS CLOTHING?

9 A CLOTHING. HE WAS CLOTHED AND HE WAS
10 ATTENTIVE.

11 Q WAS IT THE SAME CLOTHING HE HAD HAD ON
12 EARLIER IN THE EVENING?

13 A YES, SIR.

14 Q WHAT WAS THE APPEARANCE OF HIS HANDS?
15 WAS THERE BLOOD STAINS ON HIS HANDS?

16 A NOT THAT I KNOW OF.

17 Q DO YOU RECALL?

18 A NO, SIR.

19 Q OKAY. WHILE HE WAS IN YOUR CUSTODY, AT
20 ANY TIME PRIOR TO THE G-S-R, WAS HE LEFT
21 ALONE?

22 A NO, SIR.

23 Q AND OFFICER HUGGINS WAS THE FIRST ONE TO
24 ARRIVE ON THE SCENE?

25 A I DON'T KNOW THAT. THEY WAS THERE WHEN

1 I GOT THERE.

2 Q NOW, YOU RECEIVED THE GUN FROM OFFICER
3 HUGGINS?

4 A YES, SIR.

5 Q WHERE DID YOU RECEIVE THE GUN AT?

6 A AT THE RESIDENCE.

7 Q AND HOW DID OFFICER HUGGINS GIVE IT TO
8 YOU?

9 A I BELIEVE IT WAS IN A BAG.

10 Q AND WAS IT A PLASTIC BAG?

11 A YES, SIR.

12 Q DID HE BRING IT TO YOU OR WAS IT IN THE
13 HOME?

14 A I BELIEVE HE HAD IT ON HIS POSSESSION.

15 Q AND THIS WAS OFFICER HUGGINS?

16 A YES, SIR.

17 Q WHEN YOU WERE INTERVIEWING ERIC, I
18 BELIEVE YOU SAID HIS FATHER KNOCKED ON THE
19 DOOR?

20 A YES, SIR.

21 Q DID YOU ACTUALLY SEE THE FACE OF HIS
22 FATHER?

23 A YES, SIR.

24 Q AND HIS FATHER ASKED THAT ALL
25 QUESTIONING STOP?

1 A YES, SIR.

2 Q AND DID YA'LL STOP AT THAT TIME?

3 A YES, SIR.

4 Q YOU ARRIVED AT THE SCENE AT APPROXIMATE
5 FOUR O'CLOCK?

6 A I WOULD SAY ABOUT.

7 Q DID YOU HAVE A CHANCE TO INTERVIEW MS.
8 MCDONALD AT THE SCENE?

9 A YES, SIR.

10 Q DID YOU ACTUALLY CONDUCT HER
11 INTERROGATION?

12 A YES, SIR.

13 Q WAS THE CORONER SUMMONED TO THE SCENE?

14 A YES, SIR.

15 Q DID HE COME OUT TO THE SCENE?

16 A YES, SIR.

17 Q DID THE CORONER FILE A REPORT IN THIS
18 CASE?

19 A I FEEL SURE HE DID.

20 Q DO YOU HAVE A COPY OF THE REPORT?

21 A YOU'D HAVE TO LOOK IN THE FILE.

22 Q HAVE YOU SEEN THE REPORT OF THE CORONER?

23 A NO, SIR, I HAVEN'T.

24 Q ARE YOU THE LEAD INVESTIGATOR IN THIS
25 CASE?

- 1 A YES, SIR.
- 2 Q YOU'RE NOT AWARE THAT THE CORONER
- 3 DETERMINED THIS AN ACCIDENTAL DEATH?
- 4 A NOT TO MY KNOWLEDGE.
- 5 Q SO YOU HAVEN'T SEEN HIS REPORT AT ALL?
- 6 A I CAN'T REMEMBER RIGHT NOW. I DON'T
- 7 REMEMBER SEEING IT..
- 8 Q BUT HE DID COME OUT THERE?
- 9 A YES, SIR.
- 10 Q AND IF HE FILED A REPORT IT WOULD BE IN
- 11 YOUR FILE?
- 12 A AS FAR AS I KNOW IT WOULD.
- 13 Q CAN YOU TAKE YOUR FILE AND LOOK THROUGH
- 14 IT, PLEASE?
- 15 A SURE.
- 16 Q DO YOU HAVE YOUR FILE WITH YOU?
- 17 A IT'S ON THE DESK. I DON'T SEE ONE.
- 18 Q EXCUSE ME. I'M SORRY?
- 19 A NO, SIR, THERE'S NOT A CORONER'S REPORT
- 20 IN THERE.
- 21 Q NOW, THE CORONER DID COME OUT TO THE
- 22 SCENE?
- 23 A YES, SIR.
- 24 Q AND IN YOUR EXPERIENCE, WHEN THE CORONER
- 25 COMES TO THE SCENE, DOES HE NOT FILE A

1 REPORT WITH THE SHERIFF'S DEPARTMENT?

2 A PROBABLY SO.

3 Q AND YOU DON'T HAVE ONE IN YOUR FILE?

4 A NO, SIR.

5 Q DO YOU KNOW WHY?

6 A NO, SIR.

7 Q DO YOU KNOW IF ERIC WAS MIRANDIZED AT
8 THE GRAHAM RESIDENCE?

9 A NO, SIR, I DON'T KNOW THAT.

10 Q WHEN YOU WERE TALKING WITH ERIC WHAT WAS
11 HIS EMOTIONAL STATE?

12 A HE WAS COERCIVE. HE WAS UPSET. HE
13 COULD UNDERSTAND WHAT WAS GOING ON.

14 Q WAS HE CRYING?

15 A NOT AT THIS TIME HE WASN'T.

16 Q HAD HE BEEN CRYING IN YOUR PRESENCE?

17 A YES, SIR.

18 Q JUST ONE MORE QUICK REPEAT QUESTION. IT
19 WAS OFFICER HUGGINS WHO GAVE YOU THE PISTOL?

20 A YES, SIR, I THINK SO.

21 Q THANK YOU.

22 REDIRECT EXAMINATION

23 BY

24 SOLICITOR BLACKMON

25 Q INVESTIGATOR THOMPSON, LET ME ASK YOU.

1 YOU SAY YOU INTERVIEWED MS. MCDONALD?

2 A THAT'S CORRECT.

3 Q AND DID SHE SPEAK TO YOU WHILE SHE WAS
4 AT THE HOUSE OR DID SHE COME TO THE
5 SHERIFF'S DEPARTMENT?

6 A SHE CAME TO THE SHERIFF'S OFFICE.

7 Q AND SHE GAVE A STATEMENT?

8 A YES, MA'AM.

9 Q AND WHO WAS IN THE ROOM WHEN SHE GAVE
10 THE STATEMENT?

11 A JUST ME AND HER.

12 Q WAS SHE MIRANDIZED?

13 A YES, MA'AM.

14 Q DID SHE SIGN A WAIVER

15 A YES, MA'AM.

16 Q AND HOW WAS THE STATEMENT TAKEN? WAS IT
17 RECORDED?

18 A YES, MA'AM.

19 Q I SHOW YOU WHAT HAS BEEN MARKED AS
20 STATE'S EXHIBIT #4 FOR IDENTIFICATION.

21 COULD YOU PLEASE TELL US WHAT THAT IS?

22 A THAT'S A DARLINGTON COUNTY SHERIFF'S
23 OFFICE STATEMENT OF RIGHTS, MIRANDA
24 WARNINGS, FOR MS. MCDONALD.

25 Q AND AS FAR AS THE BODY, IT IS THE SAME

1 AS THE ONE MR. GRAHAM SIGNED?

2 A YES, MA'AM.

3 Q OKAY. GIVE US DATE, TIME, AND LOCATION
4 AND THE SIGNATURES.

5 A 12-7-96, 2:50 A.M., AT THE GRAHAM'S
6 RESIDENCE.

7 Q WE'D MOVE THIS BE ADMITTED INTO EVIDENCE
8 AS STATE'S EXHIBIT #4.

9 COURT: WITHOUT OBJECTION.

10 MIRANDA RIGHTS OF MCDONALD

11 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #4

12 Q HOW LONG DID YOU INTERVIEW HER? HOW
13 LONG DID THAT INTERVIEW TAKE, DO YOU KNOW?

14 A I'D SAY APPROXIMATE 30-35 MINUTES.

15 Q AND DO YOU REMEMBER WHO SHE SAID WAS IN
16 THE ROOM WHEN [REDACTED] WAS SHOT?

17 A YES, MA'AM. SHE SAID HER, MS. [REDACTED]
18 AND MR. GRAHAM WERE IN THE ROOM.

19 Q IN HER STATEMENT DID SHE INDICATE WHO
20 SHOT ---

21 MR. SMITH: OBJECTION. LEADING.

22 Q WHO DID SHE SAY SHOT MS. [REDACTED]

23 A SHE SAID SHE DIDN'T SEE WHO SHOT. SHE
24 STATED THAT THEY WERE SEATED ON THE COUCH.

25 Q THEY, BEING WHO?

1 A HER, MS. [REDACTED] AND MR. GRAHAM. AND
2 THEY WERE FIXING TO WATCH A MOVIE.

3 Q AND WHERE WAS SHE?

4 A SHE STATED SHE DIDN'T WANT TO WATCH THE
5 MOVIE. SHE DIDN'T LIKE THAT KIND OF MOVIE
6 AND SHE GOT UP AND SHE WALKED TO THE DOOR.
7 SHE HEARD A BIG BANG SOUND AND WHEN SHE
8 TURNED AROUND SHE SEEN SMOKE COME OUT OF MS.
9 [REDACTED] MOUTH.

10 Q AND THAT LEFT WHO ON THE COUCH?

11 A MR. GRAHAM AND MS. [REDACTED]

12 Q AND GOING BACK TO EARLIER, DID ANYONE AT
13 THAT RESIDENCE INDICATE WHO SHOT [REDACTED]
14 [REDACTED] THAT NIGHT?

15 A MR. GRAHAM, HIMSELF, DID.

16 Q NOTHING FURTHER.

17 RECROSS EXAMINATION

18 BY

19 MR. SMITH

20 Q DETECTIVE, YOU STATED YOU ARRIVED AT
21 THE RESIDENCE AT FOUR O'CLOCK,
22 APPROXIMATELY?

23 A YES, SIR.

24 Q AND HOW DID YOU DO THE STATEMENT WITH
25 MS. MCDONALD AT 2:50 A.M.?

1 A I THINK WHAT IT WAS, I ADVISED HER OF
2 HER RIGHTS AND EVERYTHING THEN. AND THEN
3 INSTEAD OF DOING THE STATEMENT THAT'S WHEN
4 SHE SIGNED THE MIRANDA STATEMENT. AND WHEN
5 I GOT TO THE SHERIFF'S OFFICE I GOT HER TO
6 SIGN ANOTHER ONE BEFORE I TOOK THE
7 STATEMENT.

8 Q SO YOU HAD TO BE AT THE RESIDENCE AT
9 2:50 A.M.?

10 A YES, SIR, IT WAS EARLY IN THE MORNING.
11 I MIGHT BE WRONG ON THE EXACT TIME, BUT IT
12 WAS IN THE MORNING WHEN I GOT THE CALL.

13 Q WELL NOW, THE STATE HAS INTRODUCED A
14 DOCUMENT SAYING 2:50 A.M., SO YOU WERE THE
15 ONLY ONE THAT INTERVIEWED HER, RIGHT?

16 A YES, SIR.

17 Q SO YOU HAD TO BE THERE AT 2:50 INSTEAD
18 OF 4:00 IN THE MORNING?

19 A YES, SIR.

20 Q THANK YOU.

21 REDIRECT EXAMINATION

22 BY

23 SOLICITOR BLACKMON

24 Q IS FOUR O'CLOCK WHEN YOU GOT THERE, OR
25 WHEN YOU LEFT THERE?

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1 A IT'S PROBABLY GONE BE WHEN WE LEFT.

2 Q THANK YOU. NOTHING FURTHER.

3 COURT: YOU MAY STEP DOWN. THANK YOU.

4 SOLICITOR BLACKMON: THE STATE CALLS
5 DENNIS CARTER.

6 DENNIS CARTER

7 BEING FIRST DULY SWORN, TESTIFIED AS
8 FOLLOWS:

9 DIRECT EXAMINATION

10 BY

11 SOLICITOR BLACKMON

12 Q INVESTIGATOR CARTER, COULD YOU STATE
13 YOUR NAME AND WHERE YOU WORK FOR THE RECORD,
14 PLEASE?

15 A MY NAME IS DENNIS CARTER. I WORK FOR
16 DARLINGTON COUNTY SHERIFF'S OFFICE.

17 Q AND HOW LONG HAVE YOU BEEN THERE?

18 A I'VE BEEN SERVING DARLINGTON COUNTY
19 SINCE 1989.

20 Q AND YOUR CURRENT POSITION IS?

21 A MY CURRENT POSITION, RIGHT NOW, I'M WITH
22 DARLINGTON COUNTY COMBINED DRUG UNIT.

23 Q AT THE TIME THIS INCIDENT OCCURRED, WHAT
24 WAS YOUR POSITION?

25 A I WAS A CRIMINAL INVESTIGATOR.

1 Q SPECIFICALLY, WHAT WAS YOUR INVOLVEMENT
2 IN THIS?

3 A ON THE DATE IN QUESTION I WAS CALLED AT
4 MY RESIDENCE. IT WAS A LITTLE BIT BEFORE
5 4:00 A.M., OR RIGHT AT 4:00 A.M. IN THE
6 MORNING. TO MEET WITH SERGEANT MIDDLETON
7 AND INVESTIGATOR THOMPSON AT THE SHERIFF'S
8 OFFICE, TO DO A G-S-R KIT ON THE DEFENDANT.

9 Q AND ARE YOU QUALIFIED TO DO G-S-R KITS?

10 A THERE'S NO CERTAIN QUALIFICATION FOR G-
11 S-R KITS. IT'S BASICALLY A DIRECTIONAL
12 THING. YOU READ A SET OF INSTRUCTIONS AND
13 GO THROUGH IT STEP-BY-STEP.

14 Q HOW MANY OF THOSE HAVE YOU DONE, WOULD
15 YOU SAY, OVER A YEARS?

16 A I'VE PROBABLY DONE TWELVE OR BETTER.

17 Q OKAY. AND HOW MANY G-S-R KITS WERE DONE
18 IN THIS PARTICULAR CASE?

19 A THERE WERE TWO G-S-R KITS DONE IN THIS
20 CASE.

21 Q AND WHO DID YOU DO THOSE ON?

22 A I DID IT ON THE DEFENDANT, MR. GRAHAM,
23 AND THE VICTIM, MS. [REDACTED]

24 Q AND WHY DID YOU DO THOSE?

25 A WELL, IN SPEAKING WITH INVESTIGATOR

1 THOMPSON AND SERGEANT MIDDLETON ABOUT THE
2 CASE BEFORE WE STARTED, THERE WAS SOME
3 QUESTION IN THAT MS. [REDACTED] HAD TOUCHED THE
4 GUN OR HAD HER HAND ON THE GUN PRIOR TO IT
5 DISCHARGING.

6 Q AND WHERE DID YOU GET THAT INFORMATION
7 FROM?

8 A FROM INVESTIGATOR THOMPSON.

9 Q WHY WOULD THAT HAVE BEEN SIGNIFICANT?

10 A IF MS. [REDACTED] HAND WAS ON THE GUN
11 PRIOR OR DURING THE TIME OF DISCHARGING SHE
12 WOULD HAVE HAD GUNSHOT POWDER RESIDUE ON HER
13 HANDS.

14 Q OKAY. AND WHY DID YOU DO ONE ON MR.
15 GRAHAM?

16 A WHENEVER YOU DISCHARGE A FIREARM THE
17 BLACK POWDER THAT'S IN THE BULLET ITSELF,
18 SOME WILL EXPEL FROM THE GUN AND IT WILL
19 EXPEL ON THE PERSON'S HAND THAT IS FIRING
20 THE GUN.

21 Q WHY WOULD GUNSHOT RESIDUE ON MS.

22 [REDACTED] HANDS INTEREST YOU?

23 A THAT WOULD TELL US IF SHE HAD HER HAND
24 ON THE GUN OR NOT AT THE TIME OF DISCHARGE
25 OR PRIOR.

1 Q AND WHY WOULD THAT BE SIGNIFICANT TO YOU
2 AT THIS POINT IN TIME?

3 A WELL, DURING THE INVESTIGATION, IT WAS
4 TOLD TO ME THAT SHE ---

5 MR. SMITH: OBJECTION.

6 COURT: YOU'RE GONE HAVE TO BE MORE ---

7 Q WHAT INFORMATION DID YOU RECEIVE THAT
8 WOULD MAKE YOU CONCERNED FOR THE GUNSHOT
9 RESIDUE ON MS. [REDACTED] HANDS?

10 A INVESTIGATOR THOMPSON TOLD ME THAT THE
11 VICTIM, MS. [REDACTED] HAD TOUCHED THE GUN AT
12 THE TIME OF THE DISCHARGING.

13 Q AND DO YOU KNOW WHERE HE RECEIVED THAT
14 INFORMATION?

15 A FROM MY UNDERSTANDING, IT WAS ---

16 MR. SMITH: OBJECTION.

17 Q MR. THOMPSON IS RIGHT OVER THERE, YOUR
18 HONOR.

19 MR. SMITH: WELL, YOUR HONOR, MR.

20 THOMPSON HAS ALREADY TESTIFIED.

21 Q YOU DID RECEIVE INFORMATION THAT SHE HAD
22 TOUCHED THE GUN?

23 A THAT'S CORRECT.

24 Q WERE YOU EVER AT THE SCENE ITSELF?

25 A YES, MA'AM. EARLIER IN THE MORNING. IT

1 WAS PROBABLY DAYBREAK. IN THIS CRIME SCENE
2 THERE WAS SO MUCH CHAOS GOING ON AT THE TIME
3 WHEN THE DEPUTIES ARRIVED, THAT FOR OFFICER
4 SAFETY AND INDIVIDUAL SAFETY THEY HAD HAD TO
5 REMOVE THE FIREARM FROM THE POSITION IT WAS
6 FOUND AT THE RESIDENCE.

7 WHAT WE DID WAS, I WENT BACK WITH DEPUTY
8 LEE AND INVESTIGATOR THOMPSON AND DID A
9 SCALE, NOT TO SCALE, BUT A DRAWING, OF THE
10 INSTANT LOCATION OF THE GUN ITSELF.

11 Q THAT ONE ROOM?

12 A THAT ONE ROOM ONLY.

13 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
14 EXHIBIT #5 FOR IDENTIFICATION PURPOSES. IS
15 THIS A COPY OF YOUR DRAWING?

16 A THAT'S CORRECT.

17 Q AND IT IS NOTED, IT'S NOT TO SCALE?

18 A IT'S NOT TO SCALE, CORRECT.

19 Q I'D MOVE THAT THAT BE ADMITTED INTO
20 EVIDENCE AS STATE'S EXHIBIT #5.

21 COURT: WITHOUT OBJECTION.

22 DRAWING

23 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #5

24 Q ALL RIGHT, AND IF YOU WOULD STAND UP.
25 WE'RE GONE HAVE TO BRING IT CLOSER TO THE

1 JURY. YOU DO HAVE FEET AND INCHES MARKED ON
2 THAT, CORRECT?

3 A THAT IS CORRECT.

4 Q ALL RIGHT. STARTING WITH THE ENTRY
5 HALL, DESCRIBE THE ROOM.

6 A THE ENTRY HALL IS LOCATED HERE. THAT'S
7 AT THE BACK DOOR, AT THE CARPORT. YOU WOULD
8 COME DOWN THE WALL THAT IS ADJOINING TO THE
9 LIVING ROOM. IT'S 12'6" AND THE WALL HERE
10 IS 6'5". AND ONCE YOU TURN THE CORNER HERE
11 TO GO DOWN THIS WALL IT'S 8'7".

12 THE COUCH, FROM THE OUTSIDE WALL, THE
13 COUCH STARTED AT 2'6" AND THE COUCH WAS 6'
14 LONG. AND MS. [REDACTED] WAS POSITIONED ON
15 THIS END OF THE COUCH.

16 Q AND WHERE WAS THE GUN? IF YOU SIT HERE
17 ---

18 MR. SMITH: OBJECTION, YOUR HONOR. I
19 DON'T BELIEVE THIS WITNESS CAN TESTIFY TO
20 THAT. WE'VE ALREADY RECEIVED TESTIMONY THE
21 GUN WAS REMOVED FROM THE SCENE.

22 Q OKAY. LET ME REPHRASE THE QUESTION.

23 COURT: OKAY.

24 Q WHERE DID BRYAN LEE INDICATE TO YOU THE
25 WEAPON WAS?

1 A DEPUTY LEE INDICATED THE PISTOL WAS
2 LOCATED IN THIS POSITION HERE.

3 Q IF YOU LOOK, THE BUTT OF THE PISTOL,
4 FROM THIS WALL HERE, WAS 4'6". THE BARREL
5 TIP OF THE PISTOL, FROM THE KITCHEN WALL WAS
6 7".

7 Q AND WHERE WAS THE T.V.?

8 A THE TELEVISION WAS POSITIONED HERE. IT
9 WAS 2'6" WIDE.

10 Q AND IT'S NOT IN THE CORNER OF THE ROOM?

11 A NO, MA'AM.

12 Q HOW FAR FROM THE CORNER IS THE T.V.?

13 A AT THE TIME, FROM 1'1" FROM THE OUTSIDE
14 WALL, THERE WAS A 4'8" OPENING THAT APPEARED
15 TO BE IN THE KITCHEN. AND THE TELEVISION
16 WAS POSITIONED ABOUT HALF WAY OF THE
17 OPENING.

18 Q ALL RIGHT. YOU'VE GOT SOMETHING
19 MARKED HERE. WHAT IS THAT?

20 A FROM THE KITCHEN WALL, TWO FEET OVER IS
21 THE BEGINNING OF DOUBLE DOORS, A SET OF
22 DOUBLE GLASS DOORS LEADING INTO THE LIVING
23 ROOM. AND THE DOUBLE GLASS DOORS WAS 5'11"
24 WIDE.

25 Q WAS THERE ANYTHING UNUSUAL THAT YOU

1 NOTICED ABOUT THOSE DOORS?

2 A THERE WAS A PANE BUSTED OUT OF ONE OF
3 THE BOTTOM DOOR GLASSES.

4 Q DO YOU KNOW WHY OR HOW?

5 A WHEN I WAS AT THE RESIDENCE DOING THE
6 SKETCH, THE GRAHAMS INDICATED THAT ---

7 MR. SMITH: OBJECTION.

8 Q THEY'RE HERE, YOUR HONOR. IT'S WHAT
9 THEY SAID DURING THE INVESTIGATION.

10 MR. SMITH: THERE'S A LOT OF GRAHAMS,
11 YOUR HONOR. I NEED TO KNOW WHICH ONE.

12 A MR. AND MRS. GRAHAM, THE FATHER AND THE
13 MOTHER.

14 COURT: GO AHEAD.

15 A INDICATED THAT THE DEFENDANT HAD HIT THE
16 GLASS AND BUSTED THE GLASS OUT WITH HIS
17 FIST.

18 Q DID THEY INDICATE WHEN?

19 A IT WAS AFTER THE SHOOTING.

20 PHOTOGRAPHS

21 MARKED FOR IDENTIFICATION AS STATE'S
22 EXHIBITS #6 AND #7

23 Q ALL RIGHT. HAVE A SEAT. I SHOW YOU
24 WHAT'S BEEN MARKED FOR IDENTIFICATION
25 PURPOSES AS STATE'S EXHIBITS 6 AND 7 AND ASK

1 YOU TO TELL US WHAT THOSE ARE.

2 A THESE ARE THE TWO GLASS DOORS THAT I
3 INDICATED ENTERING INTO THE LIVING ROOM, OFF
4 THE LIVING ROOM WALL. AND IT SHOWS WHERE
5 THE GLASS HAD BEEN BUSTED OUT OF THE BOTTOM
6 PANES.

7 Q AND THAT IS THOSE DOUBLE FRENCH DOORS?

8 A THESE DOUBLE FRENCH DOORS HERE.

9 Q I'D ASK THAT THESE BE ADMITTED INTO
10 EVIDENCE AS STATE'S EXHIBITS #6 AND #7.

11 MR. SMITH: DID YOU TAKE THE
12 PHOTOGRAPHS?

13 A NO, SIR.

14 MR. SMITH: YOUR HONOR, I OBJECT.

15 Q I'LL HOLD ON TO THEM. BUT THOSE ARE
16 THE DOORS?

17 A THAT'S CORRECT.

18 Q AND THAT IS THE DAMAGE?

19 A THAT'S CORRECT.

20 Q OKAY. I HAVE NOTHING FURTHER OF THIS
21 WITNESS AT THIS TIME, YOUR HONOR.

22 CROSS EXAMINATION

23 BY

24 MR. SMITH

25 Q DENNIS, IF ANYONE CAN DO THE G-S-R, WHY

1 DID THEY GET YOU OUT OF BED TO COME DOWN
2 THERE?

3 A IF I'M NOT MISTAKEN, OUR STOCK WAS LOW
4 AND I WAS THE ONLY ONE THAT HAD SOME IN THE
5 TRUNK OF MY VEHICLE SO THEY HAD TO CALL ME
6 TO COME OUT. WHILE I WAS THERE, I DONE
7 THEM.

8 Q YOU ACTUALLY COLLECTED THE EVIDENCE AT
9 THE GRAHAM RESIDENCE?

10 A NO, SIR. THE EVIDENCE COLLECTED ON
11 THE DEFENDANT WAS DONE AT THE SHERIFF'S
12 OFFICE. THE EVIDENCE COLLECTED ON THE
13 VICTIM WAS DONE AT THE MORGUE AT THE BYERLY
14 HOSPITAL IN HARTSVILLE.

15 Q APPROXIMATELY WHAT TIME WAS IT DONE ON
16 MR. GRAHAM?

17 A APPROXIMATELY, I'D SAY ANYWHERE FROM --
18 IF THEY CALLED MY RESIDENCE AT FOUR O'CLOCK,
19 ANYWHERE FROM 4:30 TO 5:00.

20 Q AND HOW ABOUT THE VICTIM?

21 A THE VICTIM WAS DONE, PROBABLY 6:30 OR
22 7:00, BECAUSE I HAD LEFT THE SHERIFF'S
23 OFFICE, WENT AND DONE THE SKETCH OF THE
24 GRAHAM'S RESIDENCE AND THEN WENT TO THE
25 MORGUE.

- 1 Q NOW, HAD YOU HAD A CHANCE TO VIEW THE
2 PISTOL OR THE GUN?
- 3 A NO, SIR.
- 4 Q DID YOU KNOW WHAT TYPE IT WAS WHEN YOU
5 CONDUCTED THE G-S-R TEST?
- 6 A IT WAS A 9MM?
- 7 Q WAS IT SIGNIFICANT FOR A 9MM -- IS IT A
8 REVOLVER, IS IT AN AUTOMATIC?
- 9 A IT'S A SEMI-AUTOMATIC PISTOL.
- 10 Q ALL RIGHT. IN YOUR EXPERIENCE DOING
11 G-S-R KITS, IS THERE MORE POWDER OR LESS
12 POWDER THAT CAN BE FOUND WHEN YOU'RE DOING
13 AN AUTOMATIC WEAPON COMPARED TO A REVOLVER?
- 14 A I HAVE NO WAY OF TELLING YOU THAT.
- 15 Q SO ALL YOU DO IS COLLECT THE SAMPLE.
16 YOU CAN'T TELL ME WHAT THE RESULTS OR WHAT
17 YOU'RE GONNA FIND FROM THE TYPE OF WEAPON?
- 18 A EXACTLY.
- 19 Q WERE YOU INVOLVED IN ANY OF THE
20 INTERROGATION OF ANY OF THE WITNESSES?
- 21 A NO, SIR.
- 22 Q WHICH HAND DID YOU DO OF THE VICTIM?
- 23 A WE DID BOTH HANDS.
- 24 Q WHICH HAND DID YOU DO OF THE DEFENDANT?
- 25 A BOTH HANDS.

DENNIS CARTER - CROSS/SMITH

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1 Q DO YOU KNOW WHETHER THE VICTIM WAS LEFT
2 OR RIGHT-HANDED?

3 A NO, I DON'T.

4 Q DO YOU KNOW WHETHER THE DEFENDANT IS
5 LEFT OR RIGHT-HANDED?

6 A NO, SIR, I DON'T.

7 Q CAN YOU TELL ME THE CONDITION OF THE
8 VICTIM'S CLOTHING AT THE TIME YOU DID THE
9 TEST?

10 A I KNOW HE WAS IN STREET CLOTHES. I DO
11 REMEMBER THAT.

12 Q DO YOU REMEMBER IF THERE WAS BLOOD ON
13 HIS CLOTHES?

14 A NO, SIR.

15 Q YOU DON'T RECALL?

16 A I DON'T RECALL.

17 COURT: WAIT A MINUTE NOW. YOU SAID
18 VICTIM. NOW YOU'RE SAYING HIS.

19 Q I APOLOGIZE. THE DEFENDANT, ERIC, WAS
20 THERE BLOOD ON HIS CLOTHES?

21 A I DON'T RECALL.

22 Q THANK YOU.

23 REDIRECT EXAMINATION

24 BY

25 SOLICITOR BLACKMON

1 Q COULD YOU EXPLAIN TO THE JURY WHAT THE
2 G-S-R KIT -- WHAT IT'S PURPOSE IS, SO
3 THEY'LL UNDERSTAND WHAT YOU'RE TALKING ABOUT
4 HERE?

5 A A G-S-R KIT STANDS FOR GUNSHOT RESIDUE
6 KIT. WE SWAB THE HANDS, THE BACK SIDE AND
7 THE PALM AND THE FINGERS, TO PICK UP POWDER
8 RESIDUE. AND WE SEAL THE PACK UP AND SEND
9 IT TO SLED FOR IT TO BE ANALYZED.

10 Q YOU DON'T DO ANY ANALYSIS?

11 A NO, MA'AM.

12 Q SO WHAT'S SPECIFICALLY YOUR JOB?

13 A JUST TO COLLECT THE EVIDENCE.

14 Q WHEN YOU GOT TO MS. [REDACTED] HANDS,
15 WERE THEY BAGGED?

16 A YES, MA'AM. BOTH HANDS WERE BAGGED IN
17 BROWN PAPER BAGS.

18 Q AND WHY PAPER BAGS?

19 A THE PAPER BAG, YOU DON'T HAVE MOISTURE
20 WITH A PAPER BAG. WITH PLASTIC, IF YOU BAG
21 HER HANDS WITH PLASTIC BAGS YOU WOULD HAVE
22 MOISTURE FROM THE PLASTIC BAGS.

23 Q AND WHY WOULD THAT BE A PROBLEM?

24 A IT WOULD RUIN THE EVIDENCE, IF THERE WAS
25 ANY.

1 Q AND YOU INDICATED YOU DID BOTH HANDS?

2 A BOTH HANDS; FRONT AND BACK, PALM AND TOP
3 SIDE.

4 Q ON THE VICTIM AND THE DEFENDANT?

5 A VICTIM AND DEFENDANT. THAT'S STANDARD.

6 Q AND THE PROCEDURE OF BAGGING, IS THAT
7 STANDARD?

8 A YES, MA'AM.

9 Q AND WHY WERE HER HANDS BAGGED? WHAT'S
10 THE SIGNIFICANCE OF THE BAGGING?

11 A NOT TO DISTURB ANY EVIDENCE THAT MAY BE
12 FOUND ON HER HANDS FROM THE GUNSHOT RESIDUE.

13 Q AND IS THAT DONE IN EVERY INCIDENCE
14 WHERE THERE IS A DEATH BY GUNSHOT OF THE
15 VICTIM?

16 A IT DEPENDS. BUT, NORMALLY, YES,
17 ESPECIALLY WHEN YOU HAVE INFORMATION
18 POSSIBLY THE VICTIM HAD HER HANDS ON THE GUN
19 DURING THE DISCHARGE OR PRIOR.

20 Q NOTHING FURTHER.

21 RECROSS EXAMINATION

22 BY

23 MR. SMITH

24 Q YOU DID NOT DO THE BAGGING OF THE
25 VICTIM, DID YOU?

JOHN BLACK - DIRECT/BLACKMON

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1 A NO, SIR. THE HANDS WERE ALREADY BAGGED.
2 BY THE TIME WE GOT TO THE MORGUE.

3 Q DO YOU KNOW WHO BAGGED THEM?

4 A NO, I DON'T.

5 Q NOTHING FURTHER.

6 COURT: YOU CAN STEP DOWN.

7 SOLICITOR BLACKMON: THE STATE CALLS
8 JOHN BLACK.

9 JOHN PHILLIP BLACK

10 BEING FIRST DULY SWORN, TESTIFIED AS
11 FOLLOWS:

12 DIRECT EXAMINATION

13 BY

14 SOLICITOR BLACKMON

15 Q AGENT BLACK, WOULD YOU STATE YOUR FULL
16 NAME AND WHERE YOU WORK FOR THE RECORD.

17 A YES. MY NAME IS JOHN PHILLIP BLACK AND
18 I'M EMPLOYED WITH THE SOUTH CAROLINA STATE
19 LAW ENFORCEMENT DIVISION, WHICH IS ALSO
20 KNOWN AS SLED IN COLUMBIA, SOUTH CAROLINA.

21 Q AND HOW LONG HAVE YOU WORKED WITH THEM?

22 A APPROXIMATELY FIVE YEARS.

23 Q AND IN WHAT DEPARTMENT DO YOU WORK?

24 A I'M CURRENTLY ASSIGNED TO THE LATENT
25 FINGERPRINT AND CRIME SCENE DEPARTMENT.

1 Q COULD YOU GIVE US YOUR EDUCATIONAL
2 BACKGROUND, PLEASE.

3 A YES. I HAVE A BACHELOR OF SCIENCE
4 DEGREE IN FORENSIC CHEMISTRY FROM OHIO
5 UNIVERSITY IN AKRON, OHIO AND HAVE SOME
6 GRADUATE LEVEL EDUCATION IN THE FIELD OF
7 CHEMISTRY ALSO FROM INDIANA UNIVERSITY,
8 HUNTINGTON, INDIANA.

9 Q AND HOW LONG DID YOU SAY YOU'VE WORKED
10 AT SLED?

11 A I'VE BEEN AT SLED APPROXIMATELY FIVE
12 YEARS.

13 Q AND HOW LONG HAVE YOU WORKED IN THIS
14 PARTICULAR AREA?

15 A I'VE BEEN IN THE LATENT PRINT CRIME
16 SCENE DEPARTMENT FOR THE PAST 3-1/2 YEARS.

17 Q AND HAVE YOU TESTIFIED IN COURT BEFORE
18 AS THE PRINTS AS AN EXPERT, AS TO LATENT
19 PRINTS OR PRINTS?

20 A YES, I HAVE.

21 Q HAVE YOU EVER BEEN QUALIFIED TO TESTIFY
22 AND TESTIFIED IN COURT AS IT RELATES TO
23 CRIME SCENE INVESTIGATION?

24 A YES, I HAVE.

25 Q HOW ABOUT AS AN EXPERT IN BLOOD SPATTER?

1 A YES, I HAVE.

2 Q COULD YOU TELL ME APPROXIMATELY HOW MANY
3 TIMES?

4 A WITH RESPECT TO EACH DIFFERENT FIELD?

5 Q YES.

6 A WITH RESPECT TO FINGERPRINTS AND CRIME
7 SCENES, SIX TIMES EACH ONE. WITH RESPECT TO
8 BLOOD STAIN PATTERN ANALYSIS, TWICE.

9 Q HAVE ANY OF THOSE OCCURRED IN THIS
10 CIRCUIT?

11 A YES, THEY HAVE.

12 Q THE REST OF THEM, WERE THEY IN THE STATE
13 OF SOUTH CAROLINA?

14 A YES, THEY WERE.

15 Q HOW MANY PRINT CASES WOULD YOU SAY
16 YOU'VE EVER WORKED?

17 A I'VE WORKED FINGERPRINT CASES NUMBERING
18 UP INTO THE HUNDREDS, DEFINITELY.

19 Q CRIME SCENES?

20 A APPROXIMATELY 185 TO DATE.

21 Q BLOOD SPATTERS?

22 A BLOOD SPATTERS IS A LITTLE DIFFERENT.
23 IT'S NOT NECESSARILY IMPORTANT OR REQUIRED
24 IN ALL CASES. NUMEROUS CASES HAVE INVOLVED
25 BLOOD STAIN PATTERN ANALYSIS WHICH I'VE BEEN

1 A PART OF.

2 Q DID YOU EVER RECEIVE EVIDENCE CONCERNING
3 THE DEATH OF THIS CASE WE'RE TRYING NOW,
4 [REDACTED] AND ERIC GRAHAM?

5 A YES, I DID.

6 Q AND COULD YOU TELL US WHAT EVIDENCE WAS
7 SUBMITTED TO YOU?

8 A I DID RECEIVE A 9MM CALIBER HANDGUN IN
9 CONNECTION WITH THIS CASE.

10 Q DID YOU RECEIVE, ALSO RECEIVE AN UNFIRED
11 ROUND?

12 A YES. CONTAINED IN THE CHAMBER OF THE
13 GUN WHICH I RECEIVED, THAT WAS AN UNFIRED
14 CARTRIDGE IN THE CHAMBER.

15 Q ALL RIGHT. I SHOW YOU THIS BOX MARKED
16 STATE'S EXHIBIT #8 FOR IDENTIFICATION
17 PURPOSES. COULD YOU TELL ME WHAT THAT IS?

18 A YES. THIS IS A WHITE CARDBOARD GUN BOX,
19 WHICH BEARS MY SLED LABORATORY NUMBER L-96-
20 15566 AND MY INITIALS. THIS WOULD BE THE
21 BOX THAT I RECEIVED, WHICH CONTAINED THE
22 WEAPON, WHICH I'VE JUST DISCUSSED.

23 Q AND YOUR INITIALS ARE ON THE BOX?

24 A YES, THEY ARE.

25 Q COULD YOU OPEN THIS BOX FOR ME.

1 A I HAVE IT OPEN.

2 Q AND WHAT IS IN THAT BOX?

3 A CONTAINED IN THIS BOX ARE A BLACK
4 HANDGUN, A COUPLE OF WHITE PLASTIC TIE
5 WRAPS, AND ALSO A SMALL ZIP-LOK BAG WHICH
6 CONTAINS ONE UNFIRED CARTRIDGE.

7 Q IS THE CLIP IN THE GUN?

8 A YES. THE CLIP, OR THE MAGAZINE, IS
9 INSERTED INTO THE GUN.

10 Q I'D MOVE THAT THAT BE ADMITTED INTO
11 EVIDENCE AS STATE'S EXHIBIT #8.

12 MR. SMITH: YOUR HONOR, I'M NOT SURE
13 WHERE HER TESTIMONY IS GOING CONCERNING THAT
14 EVIDENCE. I DON'T THINK A PROPER FOUNDATION
15 HAS BEEN LAID AND I WOULD OBJECT TO ANY
16 FURTHER TESTIMONY UNTIL THAT'S DONE.

17 COURT: YOU MAY WANT TO DEVELOP IT A
18 LITTLE BIT FURTHER.

19 Q WHERE DID YOU RECEIVE THE GUN FROM? HOW
20 DID THE GUN GET TO YOU?

21 A I RECEIVED THE GUN AT SLED FORENSIC
22 LABORATORY.

23 COURT: JUST A SECOND. ARE YOU
24 CONCERNED ABOUT THE CHAIN OF CUSTODY OR
25 WHERE SHE WAS HEADED?

1 MR. SMITH: BOTH, YOUR HONOR.

2 COURT: GO AHEAD.

3 A I RECEIVED THE GUN IN THIS CARDBOARD
4 BOX, WHICH WAS IN A SEALED CONDITION IN THE
5 SLED FORENSIC LABORATORY, IN THE LOG-IN
6 DEPARTMENT.

7 Q DO YOUR NOTES INDICATE HOW THE GUN WAS
8 DELIVERED TO SLED? WHO DELIVERED IT?

9 A THE SIGNATURE ON THE PAPERWORK, WHICH
10 INDICATES WHO DELIVERED THE EVIDENCE IS
11 PRINTED THE NAME OF MONTY C. THOMPSON AND THE
12 SIGNATURE FOLLOWS.

13 Q THANK YOU NOW, I ASK YOU TO REMOVE THE
14 GUN FROM THE BOX.

15 A THE WEAPON IS UNLOADED.

16 Q ALL RIGHT. WHAT IS THE SIGNIFICANCE
17 OF THAT LITTLE TIE-TAG RUN THROUGH THE
18 CHAMBER AND OUT THROUGH THE BARREL? WHY IS
19 THAT THERE?

20 A I'M NOT REALLY SURE I CAN ANSWER YOUR
21 QUESTION BECAUSE THIS IS NOT THE CONDITION
22 IN WHICH I RECEIVED IT OR SOMETHING I WOULD
23 HAVE DONE TO THE WEAPON.

24 Q WHEN YOU RECEIVED THE GUN, WAS IT
25 LOADED?

1 A YES, IT WAS.

2 Q THERE WAS A BULLET IN THE CHAMBER?

3 A THERE WAS ONE UNFIRED CARTRIDGE IN THE
4 CHAMBER. THE MAGAZINE DID NOT CONTAIN ANY
5 AMMUNITION.

6 Q AND HOW DO YOU KNOW THAT GUN WAS LOADED
7 WHEN YOU RECEIVED IT?

8 A FIRST OF ALL, THE BOX WAS MARKED, LOADED
9 WEAPON BUT, OF COURSE, WE ALWAYS CHECK, AND
10 I ALWAYS CHECK FIREARMS WHEN I DO RECEIVE
11 THEM, TO MAKE SURE THEY'RE UNLOADED BEFORE I
12 PROCEED TO WORK ON THEM. IN THIS CASE I DID
13 CHECK IT AND, PERSONALLY, DID REMOVE THE
14 UNFIRED CARTRIDGE FROM THE CHAMBER.

15 Q AND THE CARTRIDGE THAT'S IN THE LITTLE
16 BAGGIE IN THE BOX, IS THAT THE CARTRIDGE YOU
17 REMOVED?

18 A YES. THIS SMALL ZIP-LOK BAG BEARS THE
19 DATE OF DECEMBER 10, 1996, WITH THE
20 MARKINGS, REMOVED FROM CHAMBER OF GUN, BY
21 J.P.B. -- THAT'S MY INITIALS.

22 THE BAG BEARS MY SAME SLED LABORATORY
23 NUMBER -- L9615566, AN UNFIRED CARTRIDGE
24 CONTAINED INSIDE ALSO BEARS MY INITIALS AND
25 THE SAME SLED LABORATORY NUMBER. SO THIS IS

1 THE CARTRIDGE I REMOVED FROM THE CHAMBER.

2 Q AND YOU PERFORMED WHAT EXAMINATION ON
3 THAT GUN?

4 A IT WAS REQUESTED BY THE SUBMITTING
5 AGENCY, THE DARLINGTON COUNTY SHERIFF'S
6 OFFICE, THAT THIS PARTICULAR GUN BE
7 PROCESSED FOR FINGERPRINTS.

8 Q AND DID YOU DO THAT?

9 A YES, I DID.

10 Q DID YOU PROCESS THE CLIP AS WELL?

11 A YES, I DID.

12 Q WERE THERE ANY PRINTS?

13 A I DID DEVELOP SOME PARTIAL FINGERPRINTS,
14 SOME PARTIAL RIDGE DETAIL, BUT IT WAS
15 INSUFFICIENT TO EFFECT ANY TYPE OF
16 IDENTIFICATION.

17 Q IS THAT UNUSUAL?

18 A NO, IT'S NOT.

19 Q IS IT EVEN UNCOMMON?

20 A NO, IT'S NOT.

21 Q WHY IS THAT?

22 A WHEN YOU'RE DEALING WITH FINGERPRINTS,
23 AND I THINK I NEED TO GO INTO THIS A LITTLE
24 BIT. WHEN WE'RE TALKING ABOUT FINGERPRINTS,
25 IF YOU LOOK AT THE SURFACES OF YOUR FINGERS

1 AND PALMS, AND EVEN ON THE SOLES OF YOUR
2 FEET, YOU'VE GOT A TYPE OF SKIN WHICH IS
3 UNIQUE ONLY IN THESE AREAS OF THE BODY. THE
4 SKIN IS NOT SMOOTH. IT'S ROUGH AND
5 CORRUGATED AND CONSISTS OF A SERIES OF
6 RAISED LINES AND ALSO A SERIES OF
7 DEPRESSIONS OR VALLEYS. IT LOOKS LIKE A
8 FRESHLY PLOWED FIELD.

9 NOW, ALONG THE SURFACES OF THESE RAISED
10 LINES, WHICH WE CALL RIDGES, ARE A SERIES OF
11 PORES, OPENINGS, AND CONSTANTLY BEING
12 SECRETED OUT OF THESE PORES IS MOISTURE, ALL
13 THE TIME.

14 YOU CAN ALSO BRING YOUR HANDS INTO
15 CONTACT WITH YOUR FACE, ANY PART OF YOUR
16 FACE -- NOSE OR OTHER SURFACES WHERE YOU CAN
17 PICK UP SOME TYPE OF GREASE, OIL, OR
18 CONTAMINANT, AND IF YOU THEN TOUCH
19 SOMETHING, IT'S POSSIBLE TO LEAVE AN OUTLINE
20 OF THESE FINGERPRINT RIDGES AND THIS RIDGE
21 DETAIL ON THE SURFACE.

22 NOW, THE PROBLEM IS, WITH THE LATENT
23 PRINT, WHICH IS AN UNKNOWN OR CHANCE PRINTS,
24 WHICH I'VE JUST DESCRIBED, IT'S
25 APPROXIMATELY 99 PERCENT MOISTURE. IT'S

1 VERY FRAGILE EVIDENCE.

2 YOU ALSO HAVE TO CONSIDER THE NATURE OF
3 THE SURFACE WHICH IS BEING CONTACTED BY THE
4 HANDS. YOU HAVE TO CONSIDER WHETHER A
5 PERSON WAS BARE-HANDED OR WHETHER THEY HAD
6 ON GLOVES. YOU HAVE TO CONSIDER THE NATURE
7 OF THE HANDS THEMSELVES, WHETHER THEY WERE
8 SWEATY OR DRY.

9 YOU ALSO HAVE TO CONSIDER PACKAGING
10 FACTORS AND YOU ALSO HAVE TO CONSIDER
11 DIFFERENT ENVIRONMENTAL FACTORS, AS FAR AS
12 HUMIDITY TYPE OF MOISTURE, EXCESSIVE HEAT.
13 THERE ARE A NUMBER OF FACTORS THAT COME INTO
14 PLAY WHEN YOU'RE DEALING WITH LATENT
15 FINGERPRINT EVIDENCE.

16 Q AS FAR AS THE HANDS BEING WET OR DRY,
17 SWEATY OR DRY, WHAT DIFFERENCE WOULD THAT
18 MAKE?

19 A AS I SAID BEFORE, YOU'RE CONSTANTLY
20 SECRETING PERSPIRATION THROUGH YOUR PORES.
21 THIS SWEATY CONDITION ON THE HANDS OR IF THE
22 HANDS ARE WET, LENDS A GREATER CHANCE OR
23 GREATER PROBABILITY OF LEAVING A LATENT
24 FINGERPRINT IMPRESSION AS OPPOSED TO THE
25 HANDS BEING DRY. POSSIBLY VOID OF ANY

1 MOISTURE OR PERSPIRATION.

2 Q AS FAR AS ACTUAL ATMOSPHERE, HUMIDITY
3 ITSELF, HOW WOULD THAT, WHY WOULD THAT
4 EFFECT?

5 A IT CAN EFFECT IT IN A NUMBER OF WAYS.
6 EXCESSIVE HUMIDITY. SAY, IN A CONTAINER IN
7 A PACKAGE, COULD CAUSE EXCESSIVE MOISTURE
8 BUILD-UP OR CONDENSATION WHICH COULD,
9 INTERFERE.

10 ON THE OTHER HAND, EXCESSIVE HEAT,
11 DIRECT SUNLIGHT, THINGS LIKE THAT CAUSE
12 MOISTURE TO EVAPORATE. AS I SAID, A LATENT
13 FINGERPRINT IS ABOUT 99 PERCENT MOISTURE, SO
14 THAT'S THE OTHER END OF THE SPECTRUM ON
15 THAT.

16 Q YOU DID MENTION PACKAGING. WAS THE GUN
17 PROPERLY PACKAGED?

18 A FIRST OF ALL, THE GUN WAS SECURED IN THE
19 SEALED CARDBOARD BOX. IT WAS SECURED TO THE
20 BASE OF THE INSIDE BOTTOM OF THAT BOX WITH
21 TWO OF THE WHITE, PLASTIC STRAPS, WHICH I'VE
22 INDICATED. SO IT WAS SECURE, WHICH IS GOOD,
23 BECAUSE WE DID HAVE A LOADED WEAPON. BUT
24 THE FACT THAT PART OF THE GUN WAS IN CONTACT
25 WITH THE CARDBOARD SURFACE, A LATENT PRINT

1 IS 99 PERCENT MOISTURE AND CARDBOARD IS
2 SOMETHING THAT WILL ABSORB MOISTURE. SO IT
3 COULD HAVE BEEN PACKAGED A LITTLE BIT
4 BETTER.

5 THE BEST WAY TO PACKAGE A GUN, AND THE
6 WAY I'D DO IT WOULD BE TO SIMPLY SUSPEND THE
7 GUN IN MID AIR WITH A WIRE, SECURE IT TO TWO
8 ENDS OF A BOX. THAT WOULD BE THE WAY THAT I
9 WOULD DO IT.

10 Q IS THAT PACKAGING UNUSUAL?

11 A IT'S NOT UNUSUAL, THE WAY WE GET STUFF
12 IN THE LABORATORY.

13 Q I REALIZE THAT THERE WAS INSUFFICIENT
14 RIDGE DETAIL. AS A MATTER OF FACT, LET ME
15 SHOW YOU WHAT HAS BEEN MARKED FOR
16 IDENTIFICATION AS STATE'S EXHIBIT #9. COULD
17 YOU TELL US WHAT THAT IS?

18 A YES. STATE'S EXHIBIT #9 IS A COPY OF
19 THE REPORT THAT I ISSUED FROM THE LATENT
20 CRIME SCENE DEPARTMENT IN CONNECTION WITH
21 THIS CASE AND, AGAIN THE SLED LABORATORY
22 NUMBER IS L9615566 AND DOES BEAR MY
23 SIGNATURE, JOHN P. BLACK AT THE BOTTOM.

24 Q SO THIS IS A COPY OF THE RESULTS OF YOUR
25 TEST?

1 A YES, MA'AM.

2 Q WE'D MOVE TO ADMIT THAT AS STATE'S
3 EXHIBIT #9.

4 MR. SMITH: THE DEFENDANT WOULD OBJECT
5 TO THE EXHIBIT, YOUR HONOR.

6 COURT: OKAY, LADIES AND GENTLEMEN, IF
7 YOU'LL STEP OUT.

8 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
9 THE PRESENCE OF THE JURY.)

10 MR. SMITH: YOUR HONOR, IF IT PLEASE
11 THE COURT, I WOULD OBJECT TO MR. BLACK'S
12 TESTIMONY AND INTRODUCTION OF THE EVIDENCE,
13 AS HE HAS NEVER BEEN TENDERED TO THIS COURT
14 AS AN EXPERT.

15 SOLICITOR BLACKMON: MAY IT PLEASE THE
16 COURT, , THE STATE'S POSITION WOULD BE THAT
17 HE HAS INDICATED HE'S DONE THIS FOR FIVE
18 YEARS. HE'S DONE THOUSANDS OF FINGERPRINT
19 ANALYSIS. BASICALLY, THAT IS A COPY OF THE
20 REPORT THAT HE DID. THAT HE HAS BEEN
21 QUALIFIED IN THIS CIRCUIT AS AN EXPERT AND
22 HE'S TESTIFIED TO THAT. AND THAT HE'S
23 ENTITLED TO RENDER AN OPINION.

24 COURT: I'M NOT IRON-CLAD ABOUT THAT
25 KIND OF THING. WE'RE ALL HERE TO SEEK

1 JUSTICE AND TRY THE CASE TO THE BEST OF OUR
2 ABILITY.

3 JUST LIKE WE'VE GOT THIS PISTOL THAT IS
4 NOT IN EVIDENCE, BECAUSE WE'RE DEVELOPING A
5 RECORD ON IT. TECHNICALLY, MR. SMITH IS
6 RIGHT; HE HAS NOT BEEN QUALIFIED AS AN
7 EXPERT. IT'S CERTAINLY NOT TOO LATE FOR YOU
8 TO CORRECT THAT IN MY COURT. AND I
9 UNDERSTAND THE PROBLEM. YOU WERE CALLED AND
10 I WAS GOING TO CALL YA'LL UP HERE TO THE
11 BENCH. THE COURT WAS GOING ON THE
12 ASSUMPTION THAT THERE WERE SOME LATER TESTS
13 RUN ON THIS PISTOL, BECAUSE OF HIS
14 TESTIMONY CONCERNING THAT IT WASN'T IN THE
15 CONDITION THAT HE LEFT IT.

16 SOLICITOR BLACKMON: THAT IS CORRECT.

17 COURT: AND I THOUGHT THAT YOU WERE
18 GOING TO DEVELOP IT ALL AND THEN MOVE TO
19 INTRODUCE THIS.

20 I GUESS TO MAKE THE RECORD CLEAR I'M
21 SUSTAINING MR. SMITH'S OBJECTION, BUT IT'S
22 NOT FATAL IN THAT YOU STILL CAN STRAIGHTEN
23 IT OUT AND THAT YOU'VE STILL GOT HIM ON THE
24 STAND.

25 THAT'S THE WAY I ALWAYS HANDLE THESE

1 THINGS. YA'LL NEED A LITTLE BREATHER?

2 LET'S TAKE ABOUT TEN MINUTES WHILE THE

3 JURY'S OUT.

4 (WHEREUPON A BREAK WAS TAKEN BY THE
5 COURT.)

6 COURT: BRING THEM IN.

7 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
8 PRESENCE OF THE JURY.)

9 SOLICITOR BLACKMON: MAY IT PLEASE THE
10 COURT. MR. BLACK, LET'S GO BACK FOR JUST A
11 SECOND. HOW MANY CASES DID YOU SAY YOU'VE
12 DONE?

13 A AS I SAY, I'VE WORKED SEVERAL HUNDRED
14 FINGERPRINT CASES. APPROXIMATELY 185 TO
15 DATE.

16 Q AND BLOOD SPATTERS?

17 A NUMEROUS. DEFINITELY LESS THAN A
18 HUNDRED.

19 Q THE STATE WOULD MOVE TO HAVE HIM
20 QUALIFIED AS AN EXPERT WITNESS IN THOSE
21 THREE AREAS.

22 COURT: ANY OBJECTIONS, QUESTIONS, OR
23 ANYTHING?

24 MR. SMITH: NONE AT THIS TIME, YOUR
25 HONOR.

1 COURT: ALL RIGHT, HE'S SO QUALIFIED.

2 Q THANK YOU, YOUR HONOR. GOING BACK
3 TO STATE'S EXHIBIT #9, I'LL ASK YOU AGAIN,
4 WHAT IS THAT?

5 A STATE'S EXHIBIT #9 IS A COPY OF THE
6 REPORT THAT I GENERATED IN THIS CASE.
7 AGAIN, MY SLED LABORATORY NUMBER IS L9615566
8 AND IT DOES BEAR MY SIGNATURE, JOHN P.
9 BLACK, AT THE BOTTOM.

10 Q AND THAT BASICALLY STATES THE FINDINGS
11 AS YOU'VE TESTIFIED TO HERE TODAY?

12 A YES, IT DOES.

13 Q AS TO THE FIREARM?

14 A AS TO THE RESULTS OF THE FINGERPRINT
15 EXAMINATION ON THE FIREARM.

16 Q WE'D MOVE TO ADMIT THAT AS STATE'S
17 EXHIBIT #9.

18 COURT: ALL RIGHT, WITHOUT OBJECTION?

19 MR. SMITH: YOUR HONOR, CONTINUING MY
20 EARLIER OBJECTION.

21 COURT: SUBJECT TO THE EARLIER
22 OBJECTION I'LL ALLOW IT IN.

23 SLED REPORT
24 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #9

25 Q I HAVE NOTHING FURTHER OF THIS WITNESS

1 AT THIS TIME.

2 CROSS EXAMINATION

3 BY

4 MR. SMITH

5 Q AGENT BLACK, IT'S MY UNDERSTANDING FROM
6 YOUR TESTIMONY YOU WERE UNABLE TO MAKE ANY
7 IDENTIFICATION IN YOUR INVESTIGATION?

8 A THAT'S CORRECT. I COULD NOT POSITIVELY
9 IDENTIFY, NOR COULD I ELIMINATE ANYBODY
10 BASED ON THE RESULTS OF MY EXAMINATION.

11 Q AND YOU ATTRIBUTE THAT TO, PARTIALLY DUE
12 TO IMPROPER PACKAGING?

13 A THAT'S PART OF IT, YES.

14 Q THANK YOU.

15 REDIRECT EXAMINATION

16 BY

17 SOLICITOR BLACKMON

18 Q AGAIN, I ASK YOU, IS IT UNCOMMON TO
19 FIND INSUFFICIENT RIDGE DETAIL ON WEAPONS?

20 MR. SMITH: OBJECTION. LEADING.

21 COURT: THAT'S BEEN ASKED AND ANSWERED,
22 TOO. I'LL SUSTAIN THE OBJECTION.

23 Q IS IMPROPER PACKAGING THE ONLY REASON
24 YOU DID NOT FIND SUFFICIENT RIDGE DETAIL?

25 A THAT IS ONE FACTOR TO BE CONTRIBUTED TO

1 MY FINDINGS.

2 Q AND YOU STILL CANNOT IDENTIFY OR
3 ELIMINATE ANYONE AS TO THE RIDGE DETAIL THAT
4 YOU DID FIND?

5 MR. SMITH: OBJECTION. LEADING.

6 COURT: REPHRASE YOUR QUESTION.

7 Q BASED ON YOUR EXAMINATION, CAN YOU
8 IDENTIFY OR ELIMINATE ANYONE?

9 A NO, I CANNOT.

10 Q NOTHING FURTHER.

11 COURT: YOU MAY STEP DOWN. THANK YOU.

12 SOLICITOR BLACKMON: THE STATE CALLS
13 AGENT VELLO PAAVEL.

14 VELLO PAAVEL

15 BEING FIRST DULY SWORN, TESTIFIED AS
16 FOLLOWS:

17 DIRECT EXAMINATION

18 BY

19 SOLICITOR BLACKMON

20 Q AGENT PAAVEL, COULD YOU STATE YOUR NAME
21 AND WHERE YOU WORK FOR THE RECORD?

22 A YES, MA'AM. MY NAME IS VELLO PAAVEL. I
23 WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT
24 DIVISION, WHICH IS COMMONLY KNOWN AS SLED.
25 IN PARTICULAR, I WORK IN THE FORENSIC

1 SERVICES LABORATORY, IN THE FIREARMS
2 DEPARTMENT.

3 Q AND HOW LONG HAVE YOU WORKED THERE?

4 A I'VE BEEN IN THE FIREARMS DEPARTMENT FOR
5 JUST OVER ELEVEN YEARS.

6 Q HOW LONG HAVE YOU WORKED FOR SLED?

7 A THE SAME AMOUNT OF TIME I'VE BEEN IN THE
8 FIREARMS, THE ENTIRE TIME.

9 Q COULD YOU GIVE YOUR EDUCATIONAL BACK
10 GROUND, PLEASE?

11 A YES, MA'AM. I HAVE A BACHELOR OF
12 SCIENCE DEGREE FROM THE UNIVERSITY OF SOUTH
13 CAROLINA, WHERE I MAJORED IN CHEMISTRY.

14 I'VE ATTENDED SOUTH CAROLINA CRIMINAL
15 JUSTICE ACADEMY. I'VE ATTENDED SEVERAL
16 SCHOOLS AND COURSES IN AREA CRIME SCENE
17 PROCESS AND LATENT FINGERPRINT
18 IDENTIFICATION, PHOTOGRAPHY. I'VE ATTENDED
19 SPECIALIZED COURSES IN FIREARMS
20 IDENTIFICATION. I'VE ALSO ATTENDED ARMOR
21 SCHOOLS WHERE I'VE LEARNED HOW TO TAKE GUNS
22 APART. I'VE LEARNED HOW TO REPAIR THE GUN
23 AND TO RECOGNIZE PROBLEMS WITH THE GUN. AND
24 I ALSO LEARNED HOW THESE GUNS ARE
25 MANUFACTURED AND HOW THAT MAY EFFECT THE

1 FIREARMS IDENTIFICATION FIELD.

2 ALSO, DURING MY INITIAL EMPLOYMENT AND
3 ASSIGNMENT TO THE SPECIFIC FIREARMS
4 DEPARTMENT, I HAD TO PARTICIPATE IN A
5 TRAINING PROGRAM, WHERE I WORKED UNDER THE
6 SUPERVISION OF COURT-QUALIFIED FIREARMS
7 EXAMINERS. AND WHAT I DID WAS HELP THEM
8 PREPARE CASES. I DID SOME READING AND
9 STUDYING AND WAS TESTED ON MATERIALS THAT I
10 WAS STUDYING AND READING. AND AFTER I
11 SUCCESSFULLY COMPLETED THAT, I WAS ALLOWED
12 TO WORK FIREARMS AND TOOL MARK CASES ON MY
13 OWN.

14 SINCE BEING ALLOWED TO WORK THOSE TYPES
15 OF CASES ON MY OWN, I'VE TESTIFIED
16 APPROXIMATELY 200 TIMES IN SOUTH CAROLINA
17 GENERAL SESSIONS COURT IN THE AREA OF
18 FIREARMS AND TOOL MARKS, AS AN EXPERT IN
19 THOSE FIELDS.

20 Q AND HAVE YOU TESTIFIED WITHIN THIS
21 CIRCUIT AS AN EXPERT AND BEEN QUALIFIED
22 WITHIN THIS CIRCUIT AS AN EXPERT?

23 A YES, MA'AM.

24 Q THE STATE WOULD MOVE TO HAVE HIM
25 QUALIFIED AS AN EXPERT IN FIREARMS.

1 MR. SMITH: WHAT PART OF FIREARMS? IF
2 I COULD, YOUR HONOR. WHAT'S YOUR AREA OF
3 EXPERTISE IN THE FIREARMS AREA?
4 A THAT WOULD BE FIREARMS IDENTIFICATION.
5 THE FUNCTIONING OF FIREARMS. I CAN ALSO
6 TALK ABOUT SERIAL NUMBER RESTORATIONS. I
7 CAN TALK ABOUT TOOL MARKS, WHICH IS A
8 GENERAL FIELD, FRACTURES, MUSCLE TO TARGET,
9 DISTANCE DETERMINATION BASED ON PHYSICAL
10 PATTERNS. I BELIEVE I'VE COVERED IT ALL.

11 MR. SMITH: NO OBJECTION, YOUR HONOR.

12 COURT: ALL RIGHT, SO QUALIFIED.

13 Q DID YOU RECEIVE ANY EVIDENCE CONCERNING
14 SLED LAB NUMBER L-96-1556?

15 A YES, MA'AM, I DID.

16 Q AND WOULD YOU TELL ME WHAT THAT EVIDENCE
17 WAS?

18 A I RECEIVED ONE HIGH POINT, WHICH IS THE
19 BRAND, MODEL-C PISTOL. IT'S A 9MM RUGER
20 CALIBER. THE SERIAL NUMBER WAS 032764.

21 I ALSO RECEIVED ONE FIRED 9MM RUGER
22 CALIBER CARTRIDGE CASE, WHICH IS A C-C-I
23 BRAND CARTRIDGE CASE.

24 Q I SHOW YOU WHAT'S ADMITTED AS STATE'S
25 EXHIBIT #8. IS THAT THE WEAPON?

1 A YES, MA'AM, THIS IS THE FIREARM THAT I
2 EXAMINED IN REFERENCE TO THIS PARTICULAR
3 INCIDENT.

4 Q AND HOW DO YOU KNOW THAT'S THE FIREARM?

5 A BY ITS' SERIAL NUMBER, MAKE, AND MODEL.
6 ALSO, IT BEARS MY LABORATORY CASE NUMBER, MY
7 ITEM NUMBER AND MY INITIALS.

8 Q AND IS IT IN SUBSTANTIALLY THE SAME
9 CONDITION IT WAS IN WHEN YOU RECEIVED IT?

10 A YES, MA'AM. IT DOES NOT APPEAR TO BE
11 ALTERED IN ANY FASHION.

12 Q AND I SHOW YOU THIS ENVELOPE. COULD YOU
13 TELL ME WHAT THAT IS?

14 A THIS IS THE FIRED CARTRIDGE CASING THAT
15 WAS SUBMITTED TO ME.

16 Q AND HOW DO YOU KNOW THAT'S THE CARTRIDGE
17 CASING THAT WAS SUBMITTED TO YOU?

18 A IT IS THE SAME CALIBER. THE CONTAINER
19 HAS MY INITIALS, ITEM NUMBER. THE EVIDENCE
20 ITSELF HAS MY MARKINGS ON IT.

21 Q I'D LIKE THIS MARKED.

22 CARTRIDGE CASING
23 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
24 #10.

25 MR. SMITH: AGENT PAAVEL, DID YOU WRITE

1 IN BLACK INK ON THIS?

2 A COULD YOU BRING IT CLOSER AND LET ME SEE
3 THE CONTAINER? I DON'T WANT TO GIVE YOU THE
4 WRONG ANSWER HERE.

5 MY WRITING IS RIGHT HERE, IN GREEN INK.
6 L-96-15566. I-4-VP. THOSE ARE THE BLACK
7 LOOKING MARKINGS ALREADY ON THE CONTAINER
8 WHEN I RECEIVED IT.

9 MR. SMITH: YOUR HONOR, I'D OBJECT TO
10 THE INTRODUCTION OF THIS EXHIBIT.

11 SOLICITOR BLACKMON: I HAVEN'T MOVED TO
12 INTRODUCE IT YET, YOUR HONOR.

13 Q IS THIS THE CASING YOU RECEIVED?

14 A YES, MA'AM, IT IS.

15 Q AND WHAT DID YOU DO WHEN YOU RECEIVED
16 THIS GUN? WHAT WAS THE PURPOSE OF THE TEST
17 YOU DID?

18 A NORMALLY, WHEN I RECEIVE A GUN AND A
19 PIECE OF EVIDENCE, A FIRED PIECE OF
20 EVIDENCE, I GENERALLY TRY TO DETERMINE
21 WHETHER OR NOT THAT PARTICULAR FIRED PIECE
22 OF EVIDENCE WAS FIRED BY THIS PARTICULAR
23 GUN.

24 ALSO, IN THE NORMAL COURSE OF MY
25 EXAMINATION AND DOCUMENTATION OF THE

1 FIREARM, I WILL INDICATE WHAT THE CONDITION
2 OF THE GUN IS AND WHETHER OR NOT THE GUN IS
3 IN PROPER WORKING ORDER.

4 Q AND WAS THIS GUN IN PROPER WORKING
5 ORDER?

6 A YES, MA'AM, IT WAS.

7 Q AND DID YOU FIRE IT?

8 A YES, I DID.

9 Q AND DID THAT GUN FIRE THAT CASING?

10 A YES, MA'AM, THIS PARTICULAR CASING,
11 WHICH IS INDICATED AS STATE'S EXHIBIT #10,
12 WAS FIRED BY THE 9MM PISTOL THAT'S IN THE
13 BOX.

14 Q WAS THERE ANY OTHER ANALYSIS DONE ON
15 THAT PISTOL?

16 A OTHER THAN DID IT FIRE?

17 Q WAS THERE ANYTHING ELSE YOU WERE ASKED
18 TO DO?

19 A I DON'T THINK THERE'S ANYTHING SPECIFIC
20 THAT WAS ASKED OTHER THAN MY NORMAL COURSE
21 OF TYPE OF EXAMINATION THAT I DO.

22 Q OKAY. WHAT OTHER EXAMINATION DID YOU
23 PERFORM ON THIS GUN OTHER THAN TO SEE IF IT
24 SPECIFICALLY FIRED THAT BULLET?

25 A AGAIN, AS I SEE IT, IN THE COURSE OF MY

1 INVESTIGATION OR EXAMINATION, I DOCUMENT THE
2 CONDITION OF THE GUN AND WHETHER OR NOT THE
3 GUN IS IN WORKING ORDER. IN ADDITION TO
4 THAT, I DETERMINE WHAT THE TRIGGER PULL
5 WEIGHT IS FOR THE FIREARM. I DETERMINE HOW
6 MANY CARTRIDGES IT WILL HOLD AND INDICATE IF
7 THERE ARE ANY PROBLEMS OR DIFFICULTIES WITH
8 WHETHER THE GUN MALFUNCTIONED WHEN I TEST
9 FIRED IT?

10 Q HOW MANY CARTRIDGES WILL THAT HOLD?

11 A IT WILL HOLD EIGHT IN THE MAGAZINE AND
12 ONE IN THE CHAMBER, MAKING A TOTAL OF NINE.

13 Q WAS IT IN WORKING ORDER WHEN YOU TESTED
14 IT?

15 A YES, IT WAS.

16 Q WHAT WAS THE POUND TRIGGER PULL?

17 A IT REQUIRED ANYWHERE FROM 6-3/4 TO 7-1/4
18 POUNDS OF PRESSURE ON THE TRIGGER TO MAKE
19 THE GUN FIRE.

20 Q AND WHAT IS THE SIGNIFICANCE OF THAT?

21 A IT SIMPLY INDICATES HOW MUCH PRESSURE IS
22 REQUIRED ON THE TRIGGER TO MAKE THE
23 PARTICULAR GUN FIRE. IT ALSO GIVES ME AN
24 IDEA OF WHETHER OR NOT THE GUN IS WORKING
25 PROPERLY. MOST HIGH POINTS THAT I'VE SEEN

1 HAVE A TRIGGER PULL OF ANYWHERE BETWEEN 5 -
2 5-1/2 POUNDS UP TO AS HIGH AS 10 POUNDS.
3 THIS PARTICULAR ONE, 6-3/4 TO 7-1/4 POUND
4 PULL IS WITHIN THAT RANGE, WHICH IS AVERAGE
5 FOR THIS TYPE OF GUN.

6 Q AND WHEN YOU REFER TO TRIGGER PULL, CAN
7 YOU EXPLAIN -- THE POUNDS TO PULL THE
8 TRIGGER? CAN YOU EXPLAIN THAT A LITTLE
9 BETTER FOR US SO THAT WE CAN UNDERSTAND
10 EXACTLY WHAT THAT IS, WHAT YOU'RE TALKING
11 ABOUT?

12 A YES, MA'AM. WHEN THE GUN IS LOADED AND
13 THE SAFETY IS DISENGAGED, IT REQUIRES
14 ANYWHERE FROM 6-3/4 TO 7-1/4 POUNDS OF
15 PRESSURE WITH SOME OBJECT, WHETHER IT'S A
16 FINGER, STICK OR WHATEVER, TO PULL THE
17 TRIGGER BACK FAR ENOUGH TO CAUSE THE SEAR TO
18 RELEASE THE STRIKER AND MAKE THE GUN FIRE.
19 THAT IS THE AMOUNT OF WEIGHT OR THE AMOUNT
20 OF PRESSURE THAT IS REQUIRED TO PULL THE
21 TRIGGER TO MAKE THE GUN SHOOT.

22 Q SO IT DOES REQUIRE SOME EFFORT TO
23 DISCHARGE THAT WEAPON?

24 A YES, MA'AM, IT REQUIRES 6-3/4 TO
25 APPROXIMATELY 7-1/4 POUNDS.

1 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT #11 AND ASK YOU WHAT THAT IS.

3 A THAT IS A COPY OF THE FIREARMS REPORT
4 THAT I GENERATED IN REFERENCE TO THIS
5 EXAMINATION.

6 Q AND, BASICALLY, THE REPORT DOES WHAT?

7 A THE REPORT INDICATES THAT THE GUN WAS
8 EXAMINED AND FIRED AND FOUND THE BE IN
9 WORKING ORDER. THAT THE TRIGGER PULL WEIGHT
10 IS 6-3/4 TO 7-1/4 POUNDS. AS I INDICATED,
11 THIS WEIGHT IS NORMAL FOR THIS TYPE OF
12 PISTOL. IT ALSO INDICATED THAT THE TEST-
13 FIRED THE GUN AND I COMPARED THE FIRED
14 CASING TO THE TEST-FIRED CASING AND I
15 DETERMINED THAT THIS PARTICULAR CASING WAS,
16 IN DEED, FIRED BY THIS PARTICULAR GUN. AND
17 THEN I ALSO SAID THAT THE UNFIRED CARTRIDGE
18 THAT WAS SUBMITTED WITH THE GUN WAS THE SAME
19 CALIBER, THE SAME BRAND AND THE SAME TYPE AS
20 THIS PARTICULAR CASING.

21 Q DO YOUR NOTES INDICATES HOW THIS GUN AND
22 THIS CASING CAME TO YOU?

23 A YES, MA'AM. I RECEIVED THIS GUN
24 DIRECTLY FROM WHAT IS KNOWN AS OUR FIREARMS
25 LOCKER, WHICH IS EVIDENCE LOCKER, WHICH IS

1 FOUND IN THE FIREARMS DEPARTMENT. I
2 PHYSICALLY TOOK THE PACKAGE FROM THE
3 FIREARMS LOCKER AND OPENED THE CONTAINER AND
4 WORKED THE CASE AND THEN I RETURNED IT TO
5 THE FIREARMS LOCKER WHERE THE EVIDENCE
6 CUSTODIAN PICKED IT UP.

7 IN REFERENCE TO THE CARTRIDGE CASING,
8 SAME THING. I TOOK IT OUT OF THE FIREARMS
9 LOCKER, EVIDENCE LOCKER.

10 Q YOUR RECORDS INDICATE WHERE IT HAD BEEN
11 PREVIOUSLY AND HOW IT HAD GOTTEN TO SLED?

12 A ACCORDING TO THE CHAIN OF CUSTODY THAT
13 WAS IN THE COMPUTER -- MOST OF OUR CHAINS OF
14 CUSTODY ARE IN A COMPUTER SYSTEM THERE THAT
15 WE HAVE -- AT LEAST FROM 1994 ONWARD. IT
16 INDICATES THAT MONTY THOMPSON BROUGHT IT TO
17 SLED. IT WENT TO JOHN BLACK. JOHN BLACK
18 PUT IT IN THE FIRE LOCK. I GOT IT OUT OF
19 FIRE LOCK. I PUT IT BACK IN THE FIRE LOCK.
20 IT WENT FROM FIRE LOCK TO SUSIE WILSON, WHO
21 IS ONE OF THE EVIDENCE CUSTODIANS AND SUSIE
22 GAVE IT BACK TO MR. GRIGGS AND THAT WAS FOR
23 THE GUN.

24 THE CARTRIDGE CASING WENT FROM MONTY
25 THOMPSON TO SLED. SUSIE WILSON TO FIRE

1 LOCK; FIRE LOCK TO ME; ME BACK TO FIRE
2 LOCK. FIRE LOCK TO SUSIE, AND SUSIE TO MR.
3 GRIGGS.

4 Q THE STATE WOULD MOVE TO ADMIT THE REPORT
5 AND THE FIRED [REDACTED] CASING INTO EVIDENCE.

6 COURT: ANYTHING ELSE AS FAR AS
7 INTRODUCTION AT THIS TIME? LET'S TAKE THEM
8 ONE AT THE TIME. THE CARTRIDGE, ANY
9 OBJECTION?

10 MR. SMITH: OBJECTION, YOUR HONOR.

11 COURT: I'LL OVERRULE THE OBJECTION
12 BASED ON THE INTEGRITY OF THE ACTUAL
13 EVIDENCE. THAT'S ON THE ENVELOPE. HOW
14 ABOUT THE DOCUMENT?

15 MR. SMITH: NO OBJECTION.

16 COURT: NO OBJECTION TO THAT. OKAY.
17 THEY'RE IN EVIDENCE.

18 CARTRIDGE CASING
19 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #10

20 SLED REPORT
21 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #11

22 Q I HAVE NO FURTHER QUESTIONS OF THIS
23 WITNESS AT THIS TIME.

24 MR. SMITH: NO QUESTIONS, YOUR HONOR.

25 COURT: THANK YOU, MR. PAAVEL.

1 SOLICITOR BLACKMON: GRAYSON AMICK.

2 GRAYSON AMICK

3 BEING FIRST DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 DIRECT EXAMINATION

6 BY

7 SOLICITOR BLACKMON

8 Q WOULD YOU STATE YOUR NAME AND WITH WHOM
9 YOU'RE EMPLOYED?

10 A MY NAME IS GRAYSON AMICK. I WORK FOR
11 SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

12 Q SPECIFICALLY, WHERE WITHIN SLED DO YOU
13 WORK?

14 A I WORKED IN TOXICOLOGY WHEN THIS CASE
15 CAME TO SLED. BUT AT THIS TIME ---

16 Q YOU WERE WHERE?

17 A I WAS IN THE TOXICOLOGY UNIT.

18 Q AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

19 A I'VE GOT A B.S. IN BIOLOGY. I'VE GOT A
20 PHD. IN BIO-CHEMISTRY FROM U-S-C. I'VE ALSO
21 ATTENDED THE SOUTH CAROLINA CRIMINAL JUSTICE
22 ACADEMY. I HAVE BEEN TRAINED BY COURT-
23 QUALIFIED EXPERTS IN THE FIELD OF TOXICOLOGY
24 AND I'M IN SUB-FIELDS OF DRUG-SCREENING
25 IDENTIFICATION. AND, AS WELL, I'M PUBLISHED

1 IN THE FIELD OF TOXICOLOGY IN JOURNALS. AS
2 FAR AS TOXICOLOGY GOES, I'VE ATTENDED
3 SEMINARS AND CONFERENCES ON THE SUBJECT.

4 Q I DON'T REMEMBER IF I ASKED YOU, BUT HOW
5 LONG DID YOU WORK IN TOXICOLOGY?

6 A I WORKED IN TOXICOLOGY FOR 4-1/2 YEARS.

7 Q DID YOU HAVE OCCASION TO TESTIFY WHILE
8 YOU WERE IN TOXICOLOGY?

9 A YES, I TESTIFIED IN TOXICOLOGY
10 APPROXIMATELY 20 TIMES.

11 Q WERE YOU QUALIFIED AS AN EXPERT?

12 A YES, I WAS.

13 Q WAS THIS TESTIMONY EVER IN THE FOURTH
14 CIRCUIT -- DILLON, CHESTERFIELD, MARLBORO,
15 OR DARLINGTON COUNTIES?

16 A I DON'T THINK SO.

17 Q BUT YOU HAVE BEEN QUALIFIED TO TESTIFY
18 AS AN EXPERT IN TOXICOLOGY IN THE STATE?

19 A YES, IN THIS STATE.

20 Q WE WOULD MOVE TO QUALIFY MR. AMICK AS AN
21 EXPERT WITNESS IN TOXICOLOGY, YOUR HONOR.

22 MR. SMITH: YOUR HONOR, MAY WE APPROACH
23 THE BENCH?

24 (WHEREUPON A BENCH CONFERENCE WAS HELD
25 ON THE RECORD IN THE PRESENCE OF THE JURY

1 BUT OUTSIDE THE HEARING OF THE JURY.)

2 COURT: ALL RIGHT, MADAM COURT
3 REPORTER, AS FAR AS THE CARTRIDGE IS
4 CONCERNED, I'M REVERSING MYSELF
5 CONCERNING THE INTRODUCTION OF THE
6 CARTRIDGE AND SUSTAIN THE OBJECTION.
7 HOWEVER, IT MAY COME IN LATER WITH THE
8 PROPER EXAMINATION AND TESTIMONY.

9 I'M DOING THIS BECAUSE I WAS
10 FOCUSING ON THE INTEGRITY OF THE ACTUAL
11 EVIDENCE BEING OFFERED, NOT THE
12 ENVELOPE, BUT THEN I REALIZED WE HAD A
13 GAP IN THE CHAIN OF CUSTODY, SO I'M
14 REVERSING MYSELF AT THIS POINT.

15 (END OF BENCH CONFERENCE)

16 SOLICITOR BLACKMON: YOUR HONOR, WE'D
17 ASK THAT MR. AMICK BE QUALIFIED AS AN EXPERT
18 AS TO TOXICOLOGY AND THE RESULTS OF THE
19 TESTS HE DID.

20 COURT: MR. SMITH?

21 MR. SMITH: YOUR HONOR, WE'LL STIPULATE
22 TO HIS QUALIFICATIONS. I DON'T BELIEVE I
23 CAN STIPULATE TO HIS FINDINGS AT THIS TIME.

24 COURT: ALL RIGHT, LET ME HEAR IT.

25 Q DID YOU RECEIVE EVIDENCE CONCERNING LAB

1 NUMBER L-96-15566 INVOLVING [REDACTED] [REDACTED]
2 AS THE VICTIM AND ERIC GRAHAM AS THE
3 DEFENDANT?

4 A YES. I RECEIVED IN THIS CASE FOUR GRAY-
5 TOP TUBES OF BLOOD, ONE TUBE OF OCULAR FLUID
6 AND ONE BOTTLE OF URINE.

7 Q COULD YOU TELL US WHAT TESTS WERE YOU TO
8 PERFORM ON THAT?

9 A IN A DEATH INVESTIGATION, THIS TYPE
10 CASE, WE WOULD PERFORM A BLOOD ALCOHOL
11 DETERMINATION ON ALL THOSE BODY FLUIDS AND A
12 DRUG SCREEN WITH THE URINE.

13 Q AND DID YOU PERFORM THOSE TESTS?

14 A I DID.

15 Q AND WHAT WERE THE RESULTS OF THOSE TESTS

16 A READING FROM MY REPORT, BLOOD LABELED,
17 [REDACTED] [REDACTED] 0.021 PERCENT BLOOD
18 ALCOHOL FOUND.

19 Q AND IN REAL TERMS, WHAT DOES THAT MEAN?

20 A WELL, FOR LIKE A 150 POUND MAN, THAT'S
21 ABOUT ONE DRINK; A LITTLE MORE FOR A WOMAN.

22 Q AND NEXT TO THE DRUG SCREEN.

23 A THE DRUG SCREEN IS DONE ON THE URINE.
24 NEGATIVE FOR ETHANOL; NEGATIVE FOR SCREENING
25 OF BARBITURATES; NEGATIVE SCREENING FOR

1 COCAINE; NEGATIVE SCREENING FOR SUCH AS
2 MORPHINE, CODEINE. NEGATIVE SCREENING FOR
3 ANTI-DEPRESSANTS.

4 Q IN YOUR OPINION, WAS MS. [REDACTED] NEITHER
5 DRUNK NOR HIGH?

6 A THAT'S CORRECT. THE BLOOD ALCOHOL
7 READING .021 IS CONSISTENT, LIKE I SAID, FOR
8 150 POUND MAN, AS A GENERALIZATION, ABOUT
9 ONE DRINK; A LITTLE MORE FOR A WOMAN.

10 Q I WOULD ASK YOU TO LOOK AT THIS COPY.
11 CAN YOU TELL ME WHAT THAT IS?

12 A THIS IS A COPY OF THE REPORT I JUST READ
13 FROM WITH MY SIGNATURE.

14 Q AND THAT IS AN ACCURATE COPY OF YOUR
15 REPORT?

16 A THAT'S RIGHT.

17 SLED REPORT

18 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
19 #12

20 Q WERE ANY TESTS DONE ON MR. GRAHAM?

21 A NOT THAT I'M AWARE OF.

22 MR. SMITH: YOUR HONOR, I DON'T THINK A
23 FOUNDATION HAS BEEN MADE FOR AN INTRODUCTION
24 OF THIS DOCUMENT, AS TO THE CHAIN OF
25 CUSTODY.

1 COURT: SUSTAINED.

2 Q OKAY. LET'S GO BACK. CAN YOU TELL ME
3 WHERE YOU RECEIVED THIS BLOOD AND FLUID?
4 WHERE DID YOU RECEIVE THE VIALS?

5 A THE DELIVERY OFFICER OF THIS CASE, MONTY
6 C. THOMPSON, 12-10-96. THIS EVIDENCE WAS
7 PUT IN A REFRIGERATOR, A LOCKED REFRIGERATOR
8 IN OUR DEPARTMENT, AFTER IT HAD BEEN
9 SUBMITTED BY MONTY THOMPSON IN THE EVIDENCE
10 LOG-IN DEPARTMENT.

11 SO THE AGENCY BRINGS THE EVIDENCE IN,
12 IT'S LOGGED IN BY THE EVIDENCE LOG-IN
13 DEPARTMENT. HE WILL ACTUALLY PLACE THESE
14 ITEMS IN A LOCKED REFRIGERATOR IN THAT ROOM
15 AND THE TOXICOLOGISTS HAVE ACCESS TO THAT
16 REFRIGERATOR. THEY TOOK IT FROM THERE, PUT
17 IT ON AN APPROPRIATE SHELVES IN ANOTHER
18 LOCKED REFRIGERATOR UP IN THE LABORATORY.

19 SO THE DELIVERING OFFICER, MONTY C.
20 THOMPSON, BRINGS IT, PUTS IT IN A LOCKED
21 REFRIGERATOR, AND I RECEIVED IT ABOUT THE
22 10TH OF DECEMBER, 1996.

23 Q AND THEN WHERE DID IT GO?

24 A FROM THERE IT CAME TO ME IN THIS BAG, IN
25 A SEALED CONDITION. EVERY TIME I OPEN IT, I

1 INITIAL AND DATE IT AFTER I FINISH THE
2 ANALYSIS. I PEEL THE LABEL FROM THE BLOOD
3 TUBE THAT I TESTED, WITH MY INITIALS, AND
4 THE EVIDENCE IS SEALED WITH EVIDENCE TAPE.
5 AGAIN, I INITIAL AND TAPE AND IT IS KEPT IN
6 THE SAME LOCKED REFRIGERATOR FOR A YEAR FOR
7 ARCHIVE PURPOSES, AND THEN IT'S DESTROYED.

8 Q OKAY. I HAVE NOTHING FURTHER OF THIS
9 WITNESS.

10 MR. SMITH: YOUR HONOR, I'D CONTINUE MY
11 OBJECTION CONCERNING THAT EVIDENCE. I
12 DON'T KNOW WHETHER SHE'S STILL TENDERING IT
13 OR NOT.

14 COURT: IT'S STILL SUSTAINED, TOO.

15 Q AT THIS POINT I'M NOT TENDERING IT INTO
16 EVIDENCE.

17 CROSS EXAMINATION

18 BY

19 MR. SMITH

20 Q DO YOU KNOW WHETHER MR. THOMPSON HAND
21 DELIVERED IT OR WAS IT MAILED, DO YOU KNOW?

22 A IT WAS HAND DELIVERED. IF IT WAS MAILED
23 IT WOULD SAY CORONER. THE DELIVERING
24 OFFICER HAS PRINTED IT AND SIGNED ON THIS
25 FORM.

1 Q AND IT'S DELIVERED TO WHICH AGENT?

2 A THE AGENT THAT LOGGED THE EVIDENCE IN,
3 IN THE LOG-IN DEPARTMENT. THE DELIVERING
4 AGENT ACTUALLY PLACES THIS BAG, ONCE HE'S
5 SEALED IT -- HIS INITIALS ARE HERE, THE
6 ORIGINAL SEAL, AND PUTS IT IN A LOCKED,
7 TOXICOLOGY REFRIGERATOR IN THAT DEPARTMENT
8 AND THEN IT'S RETRIEVED FROM THERE.

9 Q WHEN IT'S DELIVERED TO SLED, HOW IS IT
10 PACKAGED?

11 A I DON'T KNOW THE ANSWER TO THAT. HE
12 PUTS IT IN THIS BAG WHEN HE GETS TO SLED AND
13 SEALS IT.

14 Q THANK YOU.

15 SOLICITOR BLACKMON: THE STATE RECALLS
16 MONTY THOMPSON.

17 MR. SMITH: YOUR HONOR, I'M GOING TO
18 OBJECT TO THIS WITNESS BEING RECALLED AT
19 THIS TIME.

20 COURT: NOTED. SINCE IT'S A CHAIN OF
21 CUSTODY MATTER, I'LL ALLOW IT.

22 MONTY THOMPSON

23 BEING FIRST DULY SWORN, TESTIFIED AS
24 FOLLOWS:

25 DIRECT EXAMINATION

BY

SOLICITOR BLACKMON

Q I HAVE SOME VERY LIMITED QUESTIONS I'D
LIKE TO ASK.

I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
EXHIBIT #10, AN ENVELOPE WITH A SPENT [REDACTED]
CASING IN IT. DO YOU RECOGNIZE THAT
ENVELOPE?

A YES, MA'AM.

Q TELL ME WHERE THAT ENVELOPE CAME FROM?

A IT CAME FROM ME, WHEN WE WAS AT THE
SCENE, THE CASING WAS ON THE FLOOR IN THE
ROOM WHERE THE INCIDENT OCCURRED.

Q AND WHO PICKED UP THAT CASING?

A I DID.

Q AND WHAT DID YOU DO WITH THAT CASING?

A I PUT IT IN THIS BAG AND MARKED IT.

Q AND HOW DO YOU KNOW THAT THAT'S THE BAG?

A BECAUSE IT HAS MY HANDWRITING ON IT.

Q AND WHAT DID YOU DO WITH THE BAG, ONCE
YOU PUT THE CASING IN THE BAG?

A IT STAYED IN MY POSSESSION UNTIL I GOT
TO SLED AND I TURNED IT OVER TO THEM, TO
THEIR EVIDENCE ROOM.

Q AND WHAT OTHER EVIDENCE INVOLVED IN THIS

1 CASE DID YOU DELIVER TO SLED?

2 A THE GUN AND THE SPECIMENS FROM THE
3 VICTIM.

4 Q DID YOU DELIVER THE G-S-R KIT?

5 A YES, MA'AM.

6 Q WAS THERE ANY OTHER EVIDENCE YOU
7 DELIVERED TO SLED IN RELATION TO THIS
8 PARTICULAR INCIDENT?

9 A I ALSO DELIVERED SOME PICTURES TO MR.
10 JOHN BLACK.

11 Q DO YOU KNOW HOW MANY PICTURES YOU
12 DELIVERED TO MR. JOHN BLACK?

13 A NO, MA'AM.

14 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBITS #6 AND #7 FOR IDENTIFICATION
16 PURPOSES ONLY. COULD YOU TELL ME WHAT THOSE
17 ARE?

18 A YES, MA'AM. THOSE ARE PICTURES I TOOK
19 OF THE DOUBLE-DOORS IN THE ROOM WHERE THE
20 INCIDENT OCCURRED AT THE GRAHAM RESIDENCE.

21 Q AND WHAT IS THE SIGNIFICANCE OF THOSE
22 DOORS?

23 A THE GLASS IS BROKEN OUT OF THE DOORS.

24 Q AND THIS IS THE GUN IN THE GUN BOX THAT
25 YOU DELIVERED TO SLED?

1 A YES, MA'AM.

2 Q HOW DO YOU KNOW THAT?

3 A BECAUSE MY SIGNATURE IS ON IT, RIGHT
4 HERE AND RIGHT HERE.

5 Q OKAY. THE STATE WOULD MOVE TO ADMIT
6 ITEMS #6, #7, AND #10 INTO EVIDENCE.

7 COURT: LET'S TAKE THEM ONE BY ONE.
8 WHAT IS #6?

9 Q #6 IS A PHOTOGRAPH OF THE BROKEN FRENCH
10 DOOR.

11 COURT: ANY OBJECTION TO THE
12 PHOTOGRAPH?

13 MR. SMITH: YOU TOOK THAT PHOTOGRAPH?

14 A YES.

15 MR. SMITH: NO OBJECTION.

16 Q #7 IS A PHOTOGRAPH OF THE DOOR.

17 MR. SMITH: YOU TOOK THAT PHOTOGRAPH

18 ALSO?

19 A YES, SIR.

20 MR. SMITH: NO OBJECTION, YOUR HONOR.

21 COURT: IT'S ENTERED.

22 PHOTOGRAPHS

23 ENTERED IN EVIDENCE AS STATE'S EXHIBITS #6

24 AND #7

25 A #8 IS THE GUN.

1 MR. SMITH: I OBJECT TO THAT, YOUR
2 HONOR.

3 COURT: ALL RIGHT. THE CHAIN IS
4 ESTABLISHED NOW. I'LL ALLOW THE GUN IN.
5 GUN

6 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #8
7 A THE SPENT CARTRIDGE CASING AND THE
8 ENVELOPE.

9 MR. SMITH: IS IT YOUR TESTIMONY YOU
10 ACTUALLY RETRIEVED THE CARTRIDGE FROM THE
11 FLOOR?

12 A NO, SIR. I BELIEVE LIEUTENANT
13 MIDDLETON DID.

14 MR. SMITH: OBJECTION, YOUR HONOR.

15 COURT: HE SAID LIEUTENANT MIDDLETON
16 ACTUALLY RETRIEVED IT FROM THE FLOOR.

17 A WHEN WE WAS AT THE SCENE, HE IDENTIFIED
18 THE CARTRIDGE ON THE FLOOR. I REACHED DOWN
19 WITH MY PEN AND PICKED IT UP AND PUT IT IN
20 THE BAG.

21 Q SO YOU PICKED UP THE CARTRIDGE AND YOU
22 PUT IT IN THE BAG AND THAT IS YOUR
23 HANDWRITING?

24 A YES, MA'AM.

25 Q THE STATE WOULD MOVE TO ADMIT IT INTO

1 EVIDENCE.

2 MR. SMITH: WITH THAT CLARIFICATION,
3 YOUR HONOR.

4 COURT: NO OBJECTION. ALL RIGHT, IT'S
5 ENTERED.

6 CARTRIDGE CASING

7 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #10

8 Q ONE LAST QUESTION. YOU ALSO ENTERED THE
9 G-S-R KITS TO SLED?

10 A YES, MA'AM.

11 Q AND FROM WHOM DID YOU GET THOSE?

12 A FROM DENNIS CARTER.

13 Q THANK YOU. NOTHING FURTHER.

14 CROSS EXAMINATION

15 BY

16 MR. SMITH

17 Q DETECTIVE, WHO DID YOU SAY GAVE YOU THE
18 GUN, OFFICER HUGGINS?

19 A IT'S GONE BE EITHER HUGGINS OR THE OTHER
20 OFFICER, BRYAN LEE, THAT WAS AT THE SCENE.

21 Q DO YOU KNOW WHICH ONE?

22 A NO, SIR, NOT WITHOUT LOOKING AT MY
23 RECORDS, I DON'T.

24 Q DO YOU HAVE YOUR RECORDS WITH YOU?

25 A THEY'RE ON THE DESK. (RETRIEVES

1 RECORDS). IT'S NOT IN HERE.

2 MR. SMITH: YOUR HONOR, I'D CONTINUE MY
3 OBJECTION.

4 COURT: OKAY. NOW THAT IS CONCERNING?

5 MR. SMITH: THE GUN ITSELF, YOUR
6 HONOR, THE CHAIN OF CUSTODY AS TO THE GUN.

7 COURT: LADIES AND GENTLEMEN OF THE
8 JURY, STEP BACK IN THE ROOM JUST A MINUTE.
9 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
10 THE PRESENCE OF THE JURY.)

11 COURT: MY MIND WAS ON THE G-S-R KIT.
12 THE GUN RESIDUE. HOW DOES THAT EFFECT THE
13 GUN?

14 MR. SMITH: AS TO THE CHAIN OF CUSTODY
15 INVOLVING THE GUN AND ALL THEREAFTER
16 EVIDENCE AND TESTIMONY WE HAVE IS THAT
17 OFFICER LEE STATED THAT HE WAS THE ONE WHO
18 RETRIEVED THE GUN BY SOME MEANS OF A PEN OR
19 A PENCIL, PICKED IT UP AND TOOK IT TO THE
20 TRUNK OF HIS CAR, PLACED IT IN THE TRUNK OF
21 HIS CAR. THERE IS NO FURTHER TESTIMONY FROM
22 HIM, AS I RECALL, OTHER THAN IT WAS
23 DELIVERED TO THE SHERIFF'S DEPARTMENT.

24 THIS GENTLEMEN, IN HIS FIRST DIRECT
25 EXAMINATION, TESTIFIED HE RECEIVED THE GUN

1 AT THE SCENE FROM OFFICER HUGGINS.

2 NOW, WHEN I ASKED HIM, FOR THE SECOND
3 TIME, ON CROSS EXAMINATION, WHO HE RECEIVED
4 THE GUN FROM, HE CANNOT TELL US, NOR DO HIS
5 NOTES REFLECT. THEREFORE, YOUR HONOR, WE'D
6 MOVE TO STRIKE THE GUN FROM THE EVIDENCE AND
7 ALL RELATED EVIDENCE THERETO THAT'S BEEN
8 INTRODUCED IN RELATION TO ANY FINDINGS FROM
9 THE GUN ITSELF AND ALL RELATED EVIDENCE TO
10 THE GUN.

11 SOLICITOR BLACKMON: MAY IT PLEASE THE
12 COURT, , DEPUTY LEE TESTIFIED THAT HE SAW
13 THE GUN. DEPUTY HUGGINS CLEARLY TESTIFIED
14 HE DID NOT SEE THE GUN, THAT DEPUTY LEE
15 SECURED THE GUN, PUT IT IN A PLASTIC BAG AND
16 PUT IT IN THE TRUNK AND INDICATED, BOTH OF
17 THEM TESTIFIED THAT DEPUTY LEE GAVE THAT GUN
18 TO MONTY THOMPSON.

19 ON PAGE 6 OF THE INCIDENT REPORT, DEPUTY
20 LEE DID, IN FACT, INDICATE THAT WILLIAM
21 HUGGINS INDICATED DEPUTY LEE WAS THE ONE WHO
22 REMOVED THE GUN AND PUT IT IN THE BAG.

23 MR. SMITH: THAT'S NOT IN EVIDENCE,
24 YOUR HONOR. NOR WAS THAT IN THE TESTIMONY.

25 SOLICITOR BLACKMON: DEPUTY LEE

1 TESTIFIED HE REMOVED THE GUN, PICKED IT UP
2 WITH A PENCIL. YOU JUST SAID THAT YOURSELF,
3 THAT HE PUT IT IN THE BAG AND PUT IT IN HIS
4 TRUNK AND HE GAVE IT TO MONTY THOMPSON.

5 COURT: DID DEPUTY LEE TESTIFY THAT HE
6 GAVE IT TO THIS MAN?

7 SOLICITOR BLACKMON: I BELIEVE HE DID,
8 YOUR HONOR. I WOULD SUBMIT THAT WE CAN GO
9 BACK TO THE RECORD.

10 COURT: ALL RIGHT, I'M GONE SEND THE
11 JURY TO LUNCH. THAT MEANS MADAM COURT
12 REPORTER IS GONE HAVE TO GO BACK AND CHECK
13 THAT TESTIMONY AND I WANT TO MEET WITH ALL
14 THREE ATTORNEYS INVOLVED IN THIS CASE BACK
15 IN MY CHAMBERS RIGHT NOW.

16 (WHEREUPON A BREAK WAS TAKEN BY THE
17 COURT.)

18 COURT: LET'S BREAK FOR LUNCH. ANY
19 OBJECTION?

20 MR. SMITH: NO OBJECTION FROM THE
21 DEFENSE, YOUR HONOR.

22 COURT: MR. JAMES, BRING THE JURY IN,
23 PLEASE.

24 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
25 PRESENCE OF THE JURY.)

1 COURT: LADIES AND GENTLEMEN OF THE
2 JURY, RATHER THAN KEEP YOU BACK THERE FOR AN
3 EXTENDED PERIOD OF TIME, EVERYBODY INVOLVED
4 IN THE CASE HAS DECIDED THE BESET THING TO
5 DO RIGHT NOW IS TO LET YOU ALL GO TO LUNCH.
6 IT'S ALMOST TWENTY TO ONE NOW. WE'LL LET
7 YOU ALL GO ON TO LUNCH AND ASK YOU TO BE
8 BACK HERE AT TWO.

9 REMEMBER, DON'T DISCUSS THE CASE WITH
10 ANYONE. SHOULD ANYBODY TRY TO APPROACH YOU,
11 DON'T DISCUSS IT AND LET ME KNOW ABOUT THE
12 APPROACH.

13 EVERYBODY ELSE REMAIN SEATED WHILE THE
14 JURY GOES TO LUNCH.

15 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
16 THE PRESENCE OF THE JURY.)

17 COURT: ANYTHING BEFORE WE BREAK FOR
18 LUNCH?

19 SOLICITOR BLACKMON: I DON'T THINK SO.

20 MR. SMITH: NOTHING FURTHER FROM THE
21 DEFENSE, YOUR HONOR.

22 SOLICITOR BLACKMON: THE PHOTOGRAPHS
23 THAT THE PATHOLOGIST IS GOING TO BE WORKING
24 OFF OF ARE PHOTOGRAPHS THAT HE TOOK., BUT
25 THOSE ARE THE ONES THAT WILL SHOW THE

1 CONTACT.

2 COURT: IS THAT SOMETHING WE CAN
3 RESOLVE NOW AND LET HIM KNOW?

4 SOLICITOR BLACKMON: THE PHOTOGRAPHS
5 THE PATHOLOGIST IS GOING TO BE USING IS THE
6 GUNSHOT WOUND, TO DESCRIBE IT AS A CONTACT
7 WOUND.

8 COURT: IN OTHER WORDS, DO YOU HAVE ANY
9 CONCERNS OR OBJECTIONS IF THE PATHOLOGIST
10 TESTIFIES DIRECTLY FROM THOSE PHOTOGRAPHS,
11 OR DO YOU NEED SOMETHING FROM HIM?

12 MR. SMITH: DO WE HAVE THOSE
13 PHOTOGRAPHS AT THIS TIME?

14 YOUR HONOR, WHY HAVEN'T WE DONE THAT
15 BEFORE NOW? THIS WITNESS HAS BEEN UP TWICE.
16 WHY HASN'T HE TESTIFIED TO EVERYTHING
17 INVOLVING HIS PART IN THIS CASE? THE
18 COLLECTION OF PHOTOGRAPHS, THE EVIDENCE
19 MARKED FOR IDENTIFICATION, WHATEVER.

20 COURT: YOU'RE ASKING ME A QUESTION I
21 CAN'T ANSWER. BUT IF WE NEED HIM, WE'VE GOT
22 HIM NOW. SO IF YA'LL WILL LOOK AT THEM. IF
23 SHE INTENDS TO INTRODUCE THE DOCTOR'S
24 PHOTOGRAPHS, HE'S GOT TO BE THE ONE TO KEEP
25 THE CHAIN PROPER.

1 MR. SMITH: AND IT SHOULD HAVE BEEN
2 DONE BEFORE NOW, YOUR HONOR.

3 COURT: WHAT I'M ASKING, IF YOU'LL LOOK
4 AT THEM AND YOU'ALL CONVERSE A MINUTE. IS
5 THERE ANY POSSIBILITY WE MAY RESOLVE THIS OR
6 DO I NEED TO ASK MR. THOMPSON TO COME BACK
7 AFTER LUNCH?

8 MR. SMITH: YOUR HONOR, AS BAD AS I
9 HATE TO ASK HIM TO COME BACK, I WOULD
10 APPRECIATE IT IF HE WOULD.

11 COURT: OKAY. IF YA'LL WILL WORK ON
12 THOSE MATTERS. MS. HERNDON AND I WILL WORK
13 ON THIS OTHER. TWO O'CLOCK.

14 WHEREUPON THE COURT RECESSED FOR LUNCH.)

15 COURT: ALL RIGHT, MR. THOMPSON, YOU
16 CAN RE-TAKE THE STAND. I'D REMIND YOU,
17 YOU'RE STILL UNDER OATH. BRING THE JURY
18 IN.

19 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
20 PRESENCE OF THE JURY.)

21 COURT: THANK YOU VERY MUCH FOR YOUR
22 PATIENCE, LADIES AND GENTLEMEN. WE'RE READY
23 TO GET BACK TO THE TESTIMONY.

24 REDIRECT EXAMINATION

25 BY

SOLICITOR BLACKMON

Q WERE THERE A NUMBER OF PHOTOGRAPHS TAKEN
AT THE CRIME SCENE?

A YES, MA'AM.

Q YOU TOOK ALL THE PHOTOGRAPHS?

A YES, MA'AM.

Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
EXHIBITS #13, #14, AND #15 FOR

IDENTIFICATION PURPOSES AT THIS POINT. DID
YOU TAKE THOSE PHOTOGRAPHS?

A YES, MA'AM.

Q AND WHERE WERE THOSE PHOTOGRAPHS TAKEN?

A AT MR. GRAHAM'S RESIDENCE.

Q AND WHAT ARE THEY PHOTOGRAPHS OF?

A MS. [REDACTED]

Q AND DID YOU TAKE THESE PHOTOGRAPHS AND
HAVE THEM DEVELOPED?

A YES, MA'AM.

Q AND HAVE YOU HAD THESE PHOTOGRAPHS SINCE
THEN?

A YES, MA'AM.

Q THE STATE WOULD MOVE THAT THESE BE
ADMITTED INTO EVIDENCE AS STATE'S #13, #14,
AND #15.

COURT: ANY OBJECTION?

1 MR. SMITH: AS TO ADMISSION INTO
2 EVIDENCE, YES, YOUR HONOR. WE BELIEVE THE
3 PHOTOGRAPHS WOULD BE MORE PREJUDICIAL THAN
4 SERVE...

5 COURT: LET ME TAKE A LOOK AT THEM.

6 SOLICITOR BLACKMON: MAY IT PLEASE THE
7 COURT, , THE STATE'S POSITION ON THAT IS
8 THIS. OUR PATHOLOGIST WILL BE TESTIFYING
9 FROM ENLARGEMENTS OF THOSE PARTICULAR
10 PHOTOGRAPHS. HE'S GOING TO PRESENT
11 SCIENTIFIC EVIDENCE BASED ON THOSE
12 PHOTOGRAPHS OR ENLARGEMENTS THEREFROM, AND I
13 THINK THEY'RE ADMISSIBLE.

14 MR. SMITH: YOUR HONOR, WE, AGAIN,
15 OBJECT. IS SHE PLANNING TO PUT TWO SETS IN?
16 IS THAT WHAT I'M HEARING?

17 COURT: YOU'RE PLANNING ON PUTTING
18 THESE IN AND ENLARGEMENTS IN CASE THE DOCTOR
19 NEEDS TO DO SO FOR SOME LEGITIMATE
20 SCIENTIFIC REASON?

21 SOLICITOR BLACKMON: YES, SIR.

22 COURT: ALL RIGHT, ON THAT BASIS, I'LL
23 ALLOW THEM IN.

24 SOLICITOR BLACKMON: THANK YOU, YOUR
25 HONOR.

PHOTOGRAPHS

ENTERED IN EVIDENCE AS STATE'S EXHIBITS #13,
#14, AND #15.

SOLICITOR BLACKMON: NOTHING FURTHER OF
THIS WITNESS, YOUR HONOR.

MR. SMITH: WE WOULD HAVE NO QUESTIONS,
YOUR HONOR.

BRYAN LEE

BEING FIRST DULY SWORN, TESTIFIED AS
FOLLOWS:

DIRECT EXAMINATION

BY

SOLICITOR BLACKMON

Q DEPUTY LEE, YOU TESTIFIED EARLIER THAT
YOU PICKED UP THE GUN AT THE GRAHAM HOME, IS
THAT CORRECT?

A THAT'S CORRECT.

Q AND WHAT DID YOU DO WITH THE GUN?

A THE WEAPON WAS SECURED IN A BAG AND
PLACED IN THE BACK OF MY VEHICLE.

Q I BELIEVE YOU PREVIOUSLY TESTIFIED YOU
GAVE IT TO THE INVESTIGATOR?

A THAT'S CORRECT.

Q WHO DID YOU GIVE THE GUN TO?

A INVESTIGATOR MONTY THOMPSON AT THE

1 SHERIFF'S OFFICE.

2 Q I HAVE NO FURTHER QUESTIONS OF THIS
3 WITNESS.

4 CROSS EXAMINATION

5 BY

6 MR. SMITH

7 Q IS IT YOUR TESTIMONY THAT YOU GAVE IT TO
8 MONTY THOMPSON AT THE SHERIFF'S OFFICE OR
9 THE GRAHAM HOME, LIKE HE TESTIFIED TO?

10 A THE WEAPON WAS SECURED IN MY VEHICLE AND
11 WHEN I GOT TO THE SHERIFF'S OFFICE THAT'S
12 WHEN THE WEAPON WAS GIVEN TO HIM.

13 Q DID YOU PLACE THE GUN IN A PLASTIC SEE-
14 THROUGH BAG?

15 A THAT'S CORRECT.

16 Q AND IT STAYED IN THAT BAG UNTIL YOU
17 ARRIVED AT THE SHERIFF'S DEPARTMENT?

18 A THAT'S CORRECT.

19 Q AND YOU, PERSONALLY, HANDED IT TO
20 DETECTIVE THOMPSON?

21 A THAT'S CORRECT.

22 Q DID YOU SEE IT AGAIN AFTER THAT?

23 A NO, SIR.

24 Q THANK YOU.

25 SOLICITOR BLACKMON: WE'D MOVE THAT THE

1 GUN, MARKED AS STATE'S EXHIBIT #8 BE MOVED
2 INTO EVIDENCE.

3 COURT: ALL RIGHT, , LADIES AND
4 GENTLEMEN OF THE JURY, THE COURT, ON ITS
5 OWN, IS GONE TAKE UP A MATTER OF LAW AT THIS
6 TIME. I'D ASK YOU TO STEP BACK TO YOUR
7 ROOM. JUST RELAX A MINUTE AND I'LL HAVE YOU
8 BACK OUT IN A MINUTE OR TWO.

9 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
10 THE PRESENCE OF THE JURY.)

11 COURT: OKAY, COUNSEL, ANYTHING YOU
12 WANT TO PUT ON THE RECORD AT THIS POINT
13 CONCERNING WHAT HAS JUST DEVELOPED,
14 CONCERNING ANY OBJECTIONS YOU MAY HAVE
15 ALREADY HAD?

16 MR. SMITH: YOUR HONOR, I'D CONTINUE MY
17 OBJECTION TO THE GUN BEING PUT INTO
18 EVIDENCE, ALONG WITH ALL RELATED EVIDENCE
19 HERETO, FROM THE POINT THAT THE GUN AND
20 EVERYTHING RELATED TO IT, ANY PHOTOGRAPHS,
21 ANY BULLETS, ANY TESTIMONY RELATED THERETO.
22 YOUR HONOR, THE DEFENDANT DOESN'T HAVE TO
23 TRY THE CASE. THE STATE HAS TO TRY THE
24 CASE. THEY'RE THE ONES THAT HAVE TO GO BY
25 THE PROPER PROCEDURES TO INTRODUCE EVIDENCE,

1 DEMONSTRATIVE EVIDENCE INTO THE TRIAL OF THE
2 CASE.

3 WE HAD TO GO BACK AND CORRECT THIS CASE
4 SEVERAL TIMES, JUST TO TRY AND MEET
5 PROCEDURAL REQUIREMENTS. YOUR HONOR, I
6 THINK ALL THAT HAS BEEN VERY PREJUDICIAL TO
7 MY CLIENT, EXTREMELY PREJUDICIAL TO MY
8 CLIENT, BECAUSE I CAN SEE THE CONFUSION IN
9 THE JURY TRYING TO SEE WHERE WE'RE GOING.

10 NOW, YOUR HONOR, THERE IS CLEARLY A
11 CONTRADICTION IN THE TESTIMONY AS TO THE
12 CHAIN OF CUSTODY ON THIS GUN. THE CHIEF
13 DETECTIVE, OR THE INVESTIGATOR ON THIS CASE,
14 WHO HAS BEEN ACKNOWLEDGED AS THE
15 INVESTIGATOR, CANNOT TESTIFY WHO GAVE HIM
16 THE GUN. MATTER OF FACT, HE CAN'T EVEN
17 TESTIFY AS TO WHERE HE GOT THE GUN, OR HIS
18 TESTIMONY IS DIFFERENT FROM THE OTHER
19 OFFICERS AS TO GIVING HIM THE GUN.

20 WE'VE HEARD DETECTIVE THOMPSON STATE
21 THAT HE RECEIVED IT AT THE HOME. HE DOESN'T
22 KNOW WHETHER HE RECEIVED IT FROM EITHER
23 HUGGINS OR LEE. HUGGINS, OF COURSE, TOLD US
24 -- MY REMEMBRANCE OF THE TESTIMONY IS THAT
25 HE NEVER HAD POSSESSION OF THE GUN AT ANY

1 TIME, EVEN THOUGH IN THE FIRST TESTIMONY
2 DETECTIVE THOMPSON SAID HE DIDN'T. NOW, WE
3 UNDERSTAND NOW, SINCE WE'VE PUT OFFICER LEE
4 BACK ON THE STAND, THAT HE GAVE IT TO HIM AT
5 THE SHERIFF'S DEPARTMENT. WE THINK THE
6 CHAIN HAS BEEN BREACHED, AND ANY EVIDENCE
7 RELATED TO THE GUN WOULD BE PREJUDICIAL TO
8 THE DEFENDANT AND WE'D ASK THE COURT TO
9 EXCLUDE IT AND ALL MATTERS RELATED THERETO.

10 YOUR HONOR, I THINK WE'VE GOT A RIGHT TO
11 REQUIRE THAT UNDER SLIGHE VERSUS JOHNSON.

12 SOLICITOR BLACKMON: MAY IT PLEASE THE
13 COURT, , AS I'M SURE THE COURT IS AWARE, YOU
14 DON'T HAVE TO HAVE A PRECISE CHAIN ON
15 ANYTHING, BUT DEPUTY LEE TESTIFIED, THE VERY
16 FIRST TIME HE TESTIFIED, THAT HE TOOK THE
17 GUN, HE PUT IT IN HIS CAR AND HE GAVE IT TO
18 THE INVESTIGATOR. INVESTIGATOR MIDDLETON
19 INDICATED, AND SO DID INVESTIGATOR THOMPSON,
20 THAT INVESTIGATOR THOMPSON WAS THE
21 INVESTIGATOR. THAT'S THE FIRST FULL ROUND,
22 WITHOUT HAVING TO GO BACK AND CORRECT
23 ANYTHING OR ADD ANYTHING TO IT.

24 MR. SMITH: MIDDLETON HASN'T TESTIFIED,
25 YOUR HONOR.

1 COURT: OKAY.

2 SOLICITOR BLACKMON: AND CONTINUING,
3 YOUR HONOR. INVESTIGATOR THOMPSON. THE
4 INCONSISTENCIES, THOSE ARE QUESTIONS OF FACT
5 FOR THE JURY. I DON'T THINK THE DEFENDANT
6 IS ENTITLED TO EXCLUDE ANYTHING, BECAUSE A
7 CHAIN DOES NOT HAVE TO BE PERFECT, DOES NOT
8 HAVE TO BE COMPLETE. EVERYTHING INDICATED,
9 DEPUTY LEE HAS GONE BACK AND CORRECTED,
10 WHICH WAS HE WAS THE INVESTIGATOR. AS FAR
11 AS THAT IS CONCERNED, AS FAR AS WHAT
12 INVESTIGATOR MIDDLETON HAS SAID -- HE HAS
13 NOT TESTIFIED HERE IN OPEN COURT, HOWEVER AT
14 THE DEENO HEARING HE DID INDICATE THAT MONTY
15 THOMPSON WAS THE PRIMARY INVESTIGATOR AND HE
16 WAS TESTIFYING AT THE DEENO HEARING BECAUSE
17 MR. THOMPSON HAD A MEDICAL EXCUSE AND THE
18 STATE ASKED THE COURT TO ORDER HIM HERE AND
19 HE IS HERE AGAINST HIS DOCTOR'S ORDERS.

20 MR. MIDDLETON DID TESTIFY ON THAT STAND,
21 AT THAT DEENO HEARING, THAT MONTY THOMPSON
22 WAS THE PRIMARY INVESTIGATOR, THAT HE WAS
23 THERE TO ASSIST MONTY. IT'S ON THE RECORD.
24 THE FACT THAT IT MIGHT NOT HAVE BEEN IN
25 FRONT OF THE JURY DOESN'T EXCLUDE IT FROM

1 THE RECORD.

2 THE STATE BELIEVES WE HAVE ESTABLISHED
3 CHAIN OF CUSTODY ON THE GUN AND WE'RE FULLY
4 ENTITLED TO HAVE THAT GUN ADMITTED INTO
5 EVIDENCE AND ANYTHING RELATED THERETO. IT'S
6 SUBSTANTIALLY THE SAME AS IT WAS AND THAT
7 HAS BEEN ESTABLISHED.

8 COURT: OKAY. INVESTIGATOR THOMPSON
9 DID INITIALLY SAY WHAT MR. SMITH REFERRED TO
10 BUT THEN HE BACKED UP AND SAID HE DIDN'T
11 REMEMBER. AND THEN, THROUGH DEPUTY LEE'S
12 TESTIMONY, THE CHAIN WAS ESTABLISHED TO MY
13 SATISFACTION.

14 AFTER REVIEWING THE TESTIMONY FROM
15 YESTERDAY OF DEPUTY LEE, HE STATED HE TURNED
16 IT OVER TO THE INVESTIGATOR, AND I WAS
17 FALSELY UNDER THE ASSUMPTION THAT HE HAD
18 NAMED WHO IT WAS, AND IT DIDN'T PAN OUT THAT
19 WAY, SO I MAY HAVE BEEN PREMATURE TO RULE IN
20 ALLOWING THE GUN INTO EVIDENCE WHEN I DID.

21 BUT NOW THAT THAT HAS BEEN STRAIGHTENED
22 OUT AND WE HAVE THAT TESTIMONY ESTABLISHED,
23 I DON'T HAVE ANY PROBLEM WITH IT SO I STAND
24 BY WHAT I'VE DONE ON THAT.

25 NOW, BEFORE I BRING THE JURY BACK IN

1 HERE, I KNOW WE HAVE A PROBLEM NOW ABOUT THE
2 TOXICOLOGY. WE HAVE A PROBLEM WITH THAT IN
3 THAT WE HAVE TESTIMONY IN EVIDENCE BEFORE
4 THE JURY. MR. SMITH, YOU HAVE AN OBJECTION
5 CONCERNING THAT, TOO?

6 MR. SMITH: YES, SIR, YOUR HONOR. JUST
7 TO MAKE IT CLEAR ON THE RECORD, I'M MOVING
8 TO STRIKE, AND I REALIZE YOUR HONOR HAS
9 OVERRULED MY MOTION TO STRIKE EVIDENCE
10 RELATED TO THE GUN, BUT I'D ALSO OBJECT TO
11 THE INTRODUCTION OF ANY TOXICOLOGY REPORT
12 AND TESTIMONY RELATED THERETO BECAUSE THERE
13 WAS NO PROPER FOUNDATION LAID.

14 COURT: ALL RIGHT. NOW, MY QUESTION
15 TO THE STATE -- DO YOU HAVE ANYTHING FURTHER
16 IN REGARDS TO THAT?

17 SOLICITOR BLACKMON: NO, SIR, YOUR
18 HONOR, AT THIS TIME I DON'T THINK THAT'S
19 NECESSARILY A KEY ELEMENT AT THIS POINT.
20 AND WE WOULD WITHDRAW ADMITTING THAT INTO
21 EVIDENCE.

22 COURT: ALL RIGHT. LET'S NOT PLAY
23 WITH THE CASE, BUT I THINK MR. SMITH'S RIGHT
24 ON POINT WITH THAT.

25 SOLICITOR BLACKMON: I DON'T DISAGREE

1 WITH THAT.

2 MR. SMITH: YOUR HONOR, ONE OTHER
3 THING. IF THE COURT'S NOT GRANTING OUR
4 MOTION TO STRIKE, WE'D MOVE FOR A MISTRIAL
5 DUE TO THE PREJUDICIAL NATURE OF THE WAY THE
6 EVIDENCE HAS BEEN PRESENTED AND REPRESENTED
7 AND CORRECTED. YOUR HONOR, WE APPEAR TO BE
8 THE BAD GUYS IN THIS CASE BECAUSE WE HAVE TO
9 KEEP OBJECTING TO PROCEDURES BEING USED AND
10 I'M SURE IT'S CONFUSING TO THE JURY. WE
11 FEEL LIKE IT'S CREATING A PREJUDICE AGAINST
12 THE DEFENDANT IN THIS CASE.

13 COURT: WELL, I DON'T AGREE WITH THAT.
14 YOU'VE GOT MANY OFFICERS INVOLVED AND IT'S
15 DIFFICULT TO DOT EVERY "I" AND CROSS EVERY
16 "T" AND THAT'S WHY I TRY TO WORK AT
17 ATTORNEYS ON BOTH SIDES, TO SEE THAT JUSTICE
18 IS DONE AND SEE THAT EVERYTHING POSSIBLE IS
19 BROUGHT OUT. AND I THINK WE'VE DONE THAT
20 HERE.

21 IN SOME CASES YOU DON'T HAVE BUT ONE OR
22 TWO OFFICERS WORKING AND IN OTHER CASES YOU
23 MAY HAVE TEN OR FIFTEEN. WHAT I DON'T WANT
24 TO DO IS LEAVING SOMETHING HANGING OUT THERE
25 ON A LIMB THAT WE HAVEN'T COVERED. AND I

1 KNOW ONE THING RIGHT NOW, JUST WHAT WE WERE
2 TALKING ABOUT, THE TOXICOLOGY. NOW, CAN
3 YA'LL THINK OF ANYTHING ELSE?

4 SOLICITOR BLACKMON: NOTHING FROM THE
5 STATE.

6 MR. SMITH: YOUR HONOR, I BELIEVE I
7 WANT TO SAVE THE REST OF IT. I DON'T WANT
8 TO GIVE THEM A CHANCE TO FIX ANY MORE.

9 IN ANY EVENT, YOUR HONOR, WE DO MAKE A
10 MOTION FOR A MISTRIAL, FROM YOUR HONOR'S
11 ORDER, ASSUMING YOU DENY THAT.

12 COURT: I DENY THAT. ALL RIGHT, ANY
13 OTHER OUTSTANDING MOTIONS, MR. SMITH, THAT I
14 HAVE NOT ADDRESSED, OTHER THAN THE
15 TOXICOLOGY?

16 MR. SMITH: NOT AT THIS TIME, YOUR
17 HONOR.

18 COURT: TO YOUR KNOWLEDGE, SOLICITOR?

19 SOLICITOR BLACKMON: NOTHING, YOUR
20 HONOR, EXCEPT IS THE GUN ACTUALLY ADMITTED
21 AT THIS POINT?

22 COURT: YES. I HAD ALREADY DONE THAT.

23 SOLICITOR BLACKMON: I JUST WANTED TO
24 MAKE SURE.

25 COURT: ALL RIGHT, BRING THEM IN.

1 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
2 PRESENCE OF THE JURY.)

3 COURT: LADIES AND GENTLEMEN, AT THIS
4 TIME I HAVE AN INSTRUCTION FOR YOU. ALL OF
5 THE TESTIMONY IN EVIDENCE CONCERNING THE
6 TOXICOLOGY REPORT BY SLED AGENT AMICK, AND
7 ANY AND ALL OTHER WITNESSES THAT TESTIFIED
8 CONCERNING THE TOXICOLOGY SAMPLES OR ANY
9 TESTS RESULTS, OR ANYTHING TO DO WITH THAT,
10 YOU ARE TO DISREGARD. I'M STRIKING THAT
11 FROM THE RECORD, BASED ON AN OBJECTION
12 BEFORE THE COURT THAT I AM IN AGREEMENT
13 WITH, THAT IS NOT IN EVIDENCE, AND WILL NOT
14 EVEN BE CONSIDERED BY THE JURY.

15 I'M INSTRUCTING YOU TO DISREGARD THAT.
16 I DON'T BELIEVE THE ACTUAL REPORT'S IN
17 EVIDENCE SO I DON'T HAVE TO ADDRESS THAT.

18 MR. SMITH: IT WAS MARKED AS AN
19 EXHIBIT.

20 COURT: THAT'S WHAT I WAS STATING. IT
21 IS NOT IN EVIDENCE.

22 SOLICITOR BLACKMON: THAT'S CORRECT.
23 IT WAS MARKED FOR IDENTIFICATION ONLY.

24 COURT: ALL RIGHT, SOLICITOR.

25 SOLICITOR BLACKMON: THE STATE CALLS

JOSEPH POWELL - DIRECT/BLACKMON

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1 JOE POWELL.

2 JOSEPH D. POWELL

3 BEING FIRST DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 DIRECT EXAMINATION

6 BY

7 SOLICITOR BLACKMON

8 Q STATE YOUR NAME FOR THE RECORD.

9 A MY NAME IS JOSEPH D. POWELL.

10 Q WHERE ARE YOU EMPLOYED?

11 A I'M EMPLOYED WITH THE SOUTH CAROLINA LAW
12 ENFORCEMENT DIVISION, COMMONLY KNOWN AS
13 SLED.

14 Q WHAT DEPARTMENT ARE YOU IN?

15 A I'M CURRENTLY A SUPERVISOR OF WHAT'S
16 CALLED THE TRACE EVIDENCE DEPARTMENT.

17 Q AND HOW LONG HAVE YOU BEEN IN TRACE?

18 A I'VE BEEN INVOLVED, WORKING AT SLED FOR
19 APPROXIMATELY 16-1/2 YEARS. DURING THAT
20 TIME I'VE BEEN DOING TRACE EVIDENCE ANALYSIS
21 FOR THAT ENTIRE TIME.

22 Q SO YOU'VE BEEN IN TRACE FOR 16-1/2
23 YEARS?

24 A YES, MA'AM.

25 Q WHAT KIND OF EDUCATIONAL BACKGROUND DO

1 YOU HAVE INVOLVING YOUR CURRENT OCCUPATION?

2 A I RECEIVED MY AMERICAN CHEMICAL [REDACTED]
3 CERTIFICATION IN THE AREA OF CHEMISTRY FROM
4 THE UNIVERSITY OF SOUTHERN MISSISSIPPI. AND
5 AFTER RECEIVING MY DEGREE IN CHEMISTRY I
6 CAME TO SOUTH CAROLINA, BEGAN AN EXTENSIVE
7 IN-HOUSE TRAINING PROGRAM IN THE AREA OF
8 BOTH TRACE AREA ANALYSIS AND ALSO DRUG
9 EVIDENCE ANALYSIS.

10 AFTER COMPLETING MY TRAINING, I THEN
11 TOOK ON A CASELOAD BUT CONTINUED MY
12 EDUCATION OVER THE YEARS. I'VE ATTENDED
13 VARIOUS SCHOOLS AROUND THE COUNTRY,
14 SPECIFICALLY AT STATE UNIVERSITY IN NEW
15 YORK; ALSO RESEARCH INSTITUTE. I'VE
16 ATTENDED SEVERAL SYMPOSIUMS BY THE F-B-I
17 ACADEMY ON GUN POWDER AND GUN POWDER RESIDUE
18 ANALYSIS. ALSO, TRAINED TO TALK ABOUT THE
19 FINDINGS AT SYMPOSIUMS BY THE F-B-I.

20 Q AND HAVE YOU EVER TESTIFIED IN COURT
21 BEFORE?

22 A YES, MA'AM, I HAVE.

23 Q HOW MANY TIMES?

24 A I HAVE TESTIFIED APPROXIMATELY 550
25 TIMES.

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1 Q HOW MANY TRACE CASES HAVE YOU ACTUALLY,
2 TRACE EXAMINATIONS HAVE YOU DONE?

3 A I'VE ANALYZED THOUSANDS OF CASES
4 INVOLVING TRACE ANALYSIS.

5 Q AND HAVE YOU EVER BEEN QUALIFIED TO
6 TESTIFY AS AN EXPERT IN THE FOURTH CIRCUIT?

7 A YES, I HAVE.

8 Q IN THIS COURT?

9 A YES, I HAVE.

10 Q THE STATE WOULD MOVE TO HAVE HIM
11 QUALIFIED AS AN EXPERT WITNESS AS IT RELATES
12 TO TRACE GUNPOWDER RESIDUE.

13 COURT: TRACE AND GUNPOWDER RESIDUE.

14 MR. SMITH: NO OBJECTION.

15 COURT: WITHOUT OBJECTION. YOU MAY
16 PROCEED. HE'S SO QUALIFIED.

17 Q ALL RIGHT. I SHOW YOU AN ENVELOPE
18 MARKED STATE'S EXHIBIT #16. CAN YOU TELL ME
19 WHAT THAT IS?

20 A STATE'S EXHIBIT #16 IS AN ENVELOPE WHICH
21 BEARS OUR LABORATORY NUMBER L-96-15566.
22 OTHER IDENTIFYING MARKS ARE MY INITIALS AND
23 PROPER SEALS AND OTHER INFORMATION. INSIDE
24 THIS ENVELOPE IS CONTAINED KITS WHICH WERE
25 SUBMITTED TO OUR LABORATORY FOR ME TO

1 ANALYZE ON SEVERAL INDIVIDUALS INVOLVED IN
2 THIS CASE.

3 Q AND WHO WERE THE INDIVIDUALS INVOLVED?

4 A THE VICTIM, [REDACTED] [REDACTED] SUBJECT,
5 ERIC GRAHAM.

6 Q AND DID YOU, IN FACT, TEST THESE PRIMA
7 KITS?

8 A YES, MA'AM, I DID.

9 Q AND COULD YOU TELL ME WHAT YOUR FINDINGS
10 WERE?

11 A I ANALYZED TWO OR THREE KITS ORIGINALLY
12 SUBMITTED TO OUR LABORATORY. THERE WAS ONE
13 KIT FROM ERIC GRAHAM AND THERE WERE TWO KITS
14 SUBMITTED FROM [REDACTED] [REDACTED] I ANALYZED
15 BOTH KITS AND FOUND THAT BOTH KITS DID NOT
16 HAVE ANY GUN PRIMA RESIDUE THAT WAS
17 SUFFICIENT TO DETERMINE ANY GUN PRIMA
18 RESIDUE.

19 Q BEFORE I GO ANY FURTHER COULD YOU TELL
20 ME HOW YOU CAME INTO POSSESSION OF THESE
21 KITS?

22 A ORIGINALLY, THOSE KITS WERE SUBMITTED TO
23 OUR LABORATORY, PLACED IN THE EVIDENCE
24 LOCKER, BROUGHT TO MY LABORATORY AT A LATER
25 TIME, RECEIVED BY ME. WHEN I LOOKED AT THE

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1 EVIDENCE, I LOOKED TO SEE IF IT WAS STILL
2 SEALED, THAT THERE HAD BEEN NO TAMPERING OR
3 ALTERING WITH IT.

4 ONCE I DETERMINED THAT, I OPENED IT,
5 TOOK THE CONTENTS FROM WITHIN AND ANALYZED
6 IT. ONCE I COMPLETED MY ANALYSIS, I PLACED
7 IT BACK IN THE ENVELOPE AND SENT IT BACK
8 DOWNSTAIRS TO BE RETURNED TO THE AGENCY.

9 Q DO YOUR RECORDS INDICATE WHO DELIVERED
10 IT TO THE AGENCY, PRECISELY, THE CHAIN IT
11 WENT THROUGH BEFORE IT GOT TO YOU, BEFORE
12 YOU PUT IT IN THE BOX TO GO BACK?

13 A YES, MA'AM.

14 Q COULD YOU TELL US WHAT THAT IS?

15 A MY RECORDS INDICATE THAT OFFICER
16 THOMPSON BROUGHT IT TO OUR LABORATORY, I
17 BELIEVE IT LOOKS LIKE THE 12-9-96. THE
18 NUMBERS ARE SOMEWHAT FADED ON THE ORIGINAL
19 SHEET.

20 ONCE IT HAD BEEN RECEIVED INTO OUR
21 LABORATORY IT WAS BROUGHT TO MY DEPARTMENT
22 ON 12-9-96. ONCE I RECEIVED IT INTO MY
23 DEPARTMENT I OPENED IT ON 12-9-96, COMPLETED
24 MY ANALYSIS AND RETURNED IT BACK DOWNSTAIRS
25 TO BE RETURNED ON 12-30-96.

1 Q THE STATE WOULD MOVE THAT THESE KITS BE
2 ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
3 #16.

4 COURT: ANY OBJECTION?

5 MR. SMITH: DID YOU SAY IT WAS
6 DELIVERED BY DETECTIVE THOMPSON TO SLED?
7 A THAT'S CORRECT.

8 MR. SMITH: NO OBJECTION.

9 GSR KITS

10 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #16

11 Q OKAY. LET'S GO BACK TO OUR ANALYSIS.
12 WHAT DID YOU SAY ABOUT THE ANALYSIS AGAIN?

13 A THE ANALYSIS IN ALL THE KITS SUBMITTED
14 TO ME WAS THAT THE QUANTITY OF METALS WE
15 LOOKED FOR ON THE HANDS WERE NOT SUFFICIENT
16 TO DETERMINE THE PRESENCE OF GUNSHOT
17 RESIDUE.

18 Q DID YOU ANALYZE ALL THREE KITS?

19 A NO, MA'AM. I ONLY ANALYZED TWO OF THE
20 KITS.

21 Q WHICH TWO?

22 A ONE KIT FROM ERIC GRAHAM AND THE KIT
23 THAT WAS CLOSEST ASSOCIATED WITH OR THE
24 FIRST KIT TAKEN FROM [REDACTED] [REDACTED]
25 THERE HAD BEEN TWO KITS TAKEN FROM HER. ONE

1 WAS TAKEN AT A POINT, ACCORDING TO MY NOTES,
2 BEFORE AUTOPSY, AND THERE WAS ONE, THE NOTES
3 HERE SAID TAKEN AT AUTOPSY.

4 Q AND WHY DID YOU ONLY ANALYZE THE ONE ON
5 MS. [REDACTED]

6 A ONCE THE KIT HAS BEEN ADMINISTERED, ANY
7 MATERIALS ON THE HANDS HAS BEEN CAPTURED OR
8 COLLECTED. SO IF YOU REPEAT THE KIT THERE
9 WILL BE NO RESIDUE MATERIAL FOUND ON THE
10 HANDS.

11 Q SO THERE WAS NO POINT IN ANALYZING THE
12 SECOND KIT?

13 A THAT IS CORRECT.

14 Q WAS THERE ANYTHING UNUSUAL ABOUT THE
15 ANALYSIS OF [REDACTED] [REDACTED] KIT?

16 A UNUSUAL?

17 MR. SMITH: OBJECTION TO THE FORM OF
18 THE QUESTION.

19 COURT: I'M GONE OVERRULE THAT. HE'S
20 AN EXPERT. GO AHEAD.

21 A THERE WAS NOTHING I NOTED ON OPENING THE
22 KIT THAT WAS UNUSUAL ABOUT THE SAMPLES
23 SUBMITTED. EVERYTHING WAS IN ORDER.
24 EVERYTHING WAS SEALED PROPERLY. THERE WAS
25 NOTHING WHICH I FOUND UNUSUAL OTHER THAN THE

1 FACT THERE WERE TWO KITS SUBMITTED RATHER
2 THAN ONE.

3 Q WITH REGARD TO HER KIT AND THE FACT
4 THERE WAS NO RESIDUE ---

5 MR. SMITH: OBJECTION, YOUR HONOR.
6 LEADING.

7 COURT: COMPLETE THE QUESTION. THINK
8 ABOUT IT. COMPLETE THE QUESTION, PLEASE.

9 Q WAS THERE ANYTHING ELSE ON HER HANDS?

10 A YES, THERE WAS OTHER MATERIAL THAT I
11 FOUND ON HER HANDS. THERE WAS DEBRIS
12 MATERIAL THAT I FOUND FROM OBJECTS SHE HAD
13 TOUCHED AND OTHER THINGS THAT I FOUND ON HER
14 HANDS.

15 Q WAS THERE ANY EVIDENCE THAT HER HANDS
16 HAD BEEN WASHED OR CLEANED?

17 A NO. IF YOU HAD CLEANED OR WASHED HER
18 HANDS THERE WOULD BE NO MATERIAL LEFT ON HER
19 HANDS. I FOUND SUFFICIENT MATERIALS ON HER
20 HANDS TO INDICATE THEY HAD NOT BEEN WASHED
21 OR CLEANED.

22 Q WAS THERE NORMAL CONTAMINATION ON HER
23 HANDS OTHER THAN NO GUNSHOT RESIDUE?

24 A YES. NORMAL IS A RELATIVE TERM, BUT I
25 FOUND MATERIALS WHICH I FIND NORMALLY ON

1 PEOPLE. THERE'S EVIDENCE OF JEWELRY
2 FRAGMENTS, METALS FROM HANDLING OBJECTS, ANY
3 TYPE OF METALLIC OBJECT, ANYTHING THAT YOU
4 HANDLE AFTER WASHING YOUR HANDS, THERE'S A
5 SMALL AMOUNT OF RESIDUE ON YOUR HANDS. AND
6 I FOUND NORMAL ENVIRONMENTAL MATERIALS ON
7 HER HANDS.

8 Q IN YOUR OPINION, WOULD YOU THINK, IF SHE
9 HAD GRABBED THE GUN THAT SHE WAS SHOT WITH,
10 THAT THERE WOULD HAVE BEEN GUNSHOT RESIDUE
11 ON HER HANDS?

12 A IF SHE HAD GRABBED THE WEAPON AT THE
13 MOMENT OF DISCHARGE, I WOULD HAVE EXPECTED
14 MATERIALS TO BE ON HER HANDS. AND IF I MAY
15 EXPLAIN.

16 WHEN A WEAPON IS DISCHARGED, THERE IS A
17 CLOUD OF MATERIAL THAT'S EXPELLED BY THIS
18 WEAPON. THERE'S TWO PRINCIPAL AREAS WHERE
19 IT'S EXPELLED FROM. ONE IS FROM THE END OF
20 THE BARREL, AND THIS IS WHERE THE MAJORITY
21 OF THE MATERIAL THAT'S ACTUALLY BLASTED OUT.
22 THE OTHER AREA IS AROUND EITHER A CYLINDER
23 GAP OR AN INJECTOR PORE. THIS IS BACK
24 TOWARDS THE HANDLE. AND IF YOU GRAB IN THIS
25 AREA AND YOU DISCHARGE A WEAPON, THERE WILL

1 BE VERY DISTINCT RESIDUE THAT CAN BE FOUND
2 ON YOUR HANDS. YOU WILL EITHER FIND BURNING
3 OR YOU WILL FIND TEARING OR YOU WILL FIND
4 BOTH, BUT YOU WILL FIND RESIDUE MATERIAL AT
5 THE POINT OF WHEN THAT WEAPON IS DISCHARGED.

6 IF YOU GRAB AWAY FROM THE WEAPON OR HIT
7 A WEAPON WITHOUT IT BEING DISCHARGED AND
8 MOVE YOUR HAND AWAY, YOU WILL NOT
9 NECESSARILY HAVE THIS MATERIAL ON YOUR HANDS
10 SO IT DEPENDS AT WHICH POINT THE HAND WAS IN
11 RELATION TO THE GUN AT THE MOMENT OF
12 DISCHARGE.

13 Q LET ME JUST SHOW YOU THIS GUN, THAT'S
14 BEEN ENTERED INTO EVIDENCE AS STATE'S
15 EXHIBIT #8.

16 A THIS WEAPON IS EMPTY.

17 Q EVEN IF SOMEONE HAD GRABBED THE SIDE OF
18 THE GUN, AWAY FROM THE INJECTOR PORT, AND IT
19 FIRED, IS THERE A POSSIBILITY THAT THERE
20 WOULD HAVE BEEN SOMETHING ON HER HANDS?

21 A YES, MA'AM. AND IF I MAY EXPLAIN. WHEN
22 YOU DISCHARGE THIS WEAPON, THE RESIDUE WILL
23 COME OUT THE END OF THE BARREL. IT'LL ALSO
24 COME OUT THE LITTLE PORT ON THE SIDE. IF
25 YOU PLACE YOUR HAND HERE AND YOU DISCHARGE

1 THE WEAPON, THE FIRST THING THAT WILL HAPPEN
2 IS THIS SLIDE MECHANISM WILL SLIDE BACK AND
3 WILL CAUSE THE BULLET TO BE INJECTED OUT AND
4 THERE WILL BE A FIREBALL THAT WILL BE A
5 BLAST OF DEBRIS AND MATERIAL THAT WILL COME
6 OUT IN THE PALM OF YOUR HAND -- IT'S ABOUT
7 RIGHT THERE. YOU'RE VERY CLOSE. YOU'RE
8 CLOSER THAN THIS, THAN YOUR HANDS WOULD BE
9 IF YOU JUST DISCHARGED IT.

10 YES, I WOULD HAVE EXPECTED THE MATERIAL
11 TO BE THERE. NOT AS HIGH AS IF YOU'D
12 GRABBED AROUND THE WEAPON IN THIS POSITION.
13 I HAVE MY HAND WRAPPED COMPLETELY AROUND THE
14 INJECTOR PORT. IF I HELD IT THIS WAY AND
15 PULLED THE TRIGGER, I COULD ALSO HAVE
16 TEARING OF MY HANDS BECAUSE OF THE SIGHTS.

17 Q AND THERE WAS NO GUNSHOT RESIDUE AT ALL
18 ON MS. [REDACTED] HANDS?

19 A I DID NOT FIND ANY AMOUNT OF MATERIALS
20 WHICH WOULD LEAD ME TO INDICATE THAT THEY
21 HAD ANY GUN PRIMA RESIDUE ON THE HANDS. I
22 CANNOT SAY THERE WAS ABSOLUTELY NONE, DUE TO
23 THE FACT THAT THIS TEST WOULD ALSO PICK UP A
24 CERTAIN AMOUNT OF ENVIRONMENTAL METALS. I
25 CANNOT DISTINGUISH THAT FROM JUST NORMAL

1 CONTAMINANTS YOU PICK UP. SO I CAN'T SAY,
2 ABSOLUTELY ZERO, BUT THERE WAS NOT ANY TYPE
3 OF MATERIAL FOR US TO MAKE ANY KIND OF
4 CONCLUSION.

5 Q CAN YOU SAY, WITH ANY DEGREE OF
6 CERTAINTY, THAT THERE WAS NOT ANY AMOUNT
7 THAT YOU WOULD HAVE EXPECTED TO HAVE FOUND
8 SHOULD SHE HAVE GRABBED THE GUN?

9 A IF SHE HAD GRABBED THAT WEAPON AT THE
10 POINT OF BEING DISCHARGED, I WOULD HAVE
11 FOUND A SIGNIFICANT AMOUNT OF MATERIAL, EVEN
12 TO THE POINT OF BEING AN OVERLOAD.

13 Q ALL RIGHT, LET'S GO TO MR. GRAHAM.
14 AGAIN, I ASK, WAS THERE ANY ON HIS HANDS?

15 A NO, MA'AM.

16 Q WAS THERE EVIDENCE THAT HIS HANDS HAD
17 BEEN WASHED?

18 A HE HAD VERY LITTLE RESIDUE ON HIS HANDS
19 FROM OTHER ENVIRONMENTAL MATERIALS. THE
20 INDICATION WOULD BE THE HANDS WERE
21 RELATIVELY CLEAN WHEN THE SAMPLES WERE
22 TAKEN. THAT WOULD BE CONSISTENT IF HE HAD
23 WASHED HIS HANDS OR WIPED HIS HANDS OR
24 SOMETHING TO THAT EFFECT, FOR HIS HANDS WERE
25 VERY CLEAN.

1 Q HIS HANDS WERE CLEANER THAN HERS WERE?

2 A HIS HANDS WERE CLEANER THAN HERS. YES,
3 MA'AM, THAT'S ABSOLUTELY TRUE.

4 Q I HAVE NOTHING FURTHER OF THIS WITNESS
5 AT THIS TIME. YES, I DO. WAIT A MINUTE, I
6 TAKE THAT BACK.

7 I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
8 EXHIBIT #17 FOR IDENTIFICATION.

9 A YES, MA'AM, STATE'S EXHIBIT #17 IS THE
10 REPORT ISSUED BY THE SOUTH CAROLINA LAW
11 ENFORCEMENT DIVISION. IT IS A REPORT THAT I
12 HAVE ISSUED WITH MY INVOLVEMENT WITH THIS
13 CASE. IT BEARS MY NAME AND THE DATE THAT I
14 SIGNED THE REPORT.

15 Q BASICALLY, IT STATES THE RESULTS OF YOUR
16 TESTS?

17 A THAT IS CORRECT.

18 Q I'D MOVE TO INTRODUCE IT INTO EVIDENCE
19 AS STATE'S EXHIBIT #17.

20 COURT: THAT'S WITHOUT OBJECTION. IT'S
21 IN.

22 SLED REPORT

23 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #17

24 Q NOTHING FURTHER.

25 CROSS EXAMINATION

1 BY

2 MR. SMITH

3 Q LIEUTENANT POWELL, DO DIFFERENT TYPES OF
4 GUNS LEAK MORE RESIDUE THAN OTHERS?

5 A YES, SIR. THIS IS THE GUN AND UPON
6 BOTH THE SIZE OF THE WEAPON AND SOMETIMES
7 THE AMMUNITION ITSELF, A .22 WILL GIVE A
8 RELATIVELY SMALL AMOUNT OF MATERIAL AS
9 COMPARED TO A .44 MAGNUM OR SOME VERY LARGE
10 WEAPON. AND SAY YOU HAVE A SCALE, SO SMALL
11 CALIBER WEAPONS TEND TO GIVE SMALLER AMOUNTS
12 AND EVEN WITHIN THE GUN FAMILY YOU MAY HAVE
13 VARIATIONS WHICH OCCUR WITH THE AMMUNITION
14 ITSELF. SO IF YOU TAKE A WEAPON AND
15 DISCHARGE IT WITH ONE BRAND OF AMMUNITION,
16 IT MAY GIVE A LITTLE HIGHER LEVEL THAN
17 ANOTHER BRAND OF AMMUNITION.

18 Q HOW DOES A 9 MM FIT INTO THAT SCALE?

19 A THE 9 MM WOULD FIT AS AN AVERAGE WEAPON.
20 IT WOULD BE THE SAME AS A .38 OR A WEAPON OF
21 THAT SIZED CALIBER. IT'S ON THE VERGE OF
22 BEING A LARGE CALIBER BUT IT DOESN'T GIVE
23 OFF AS MUCH AS A .44 OR .44 MAGNUM.

24 Q A SEMI-AUTOMATIC, SUCH AS THE GUN WE
25 HAVE HERE, DOES IT GIVE OFF LESS POWDER

1 THAN, SAY, A REVOLVER?

2 A THE AMOUNT OF POWDER THAT THE WEAPON

3 WOULD GIVE OFF IS GOING TO BE REALLY

4 RELATIVE OF WHERE THE SAMPLES ACTUALLY COME

5 FROM. WITH BOTH A REVOLVER AND A SEMI-

6 AUTOMATIC, BOTH ACTUALLY GENERATE THE SAME

7 AMOUNT OF RESIDUE. THE ISSUE IS GOING TO BE

8 IS, DOES IT GET TO THE HANDS OR IS IT

9 ACTUALLY DEPOSITED ON THE HANDS? IN MOST

10 CASES, WITH A REVOLVER, BECAUSE IT'S GOT A

11 GAP ON THE SIDE TOWARDS THE BACK, YOU TEND

12 TO GET MORE OF THE GASES BLASTED OUT FROM

13 THE SIDE AND YOU TEND TO GET MORE RESIDUE.

14 HOWEVER, BOTH WEAPONS GENERATE THE SAME

15 AMOUNT OF RESIDUE. IT'S JUST HOW IT'S

16 DEPOSITED ON THE HANDS.

17 Q WITH A SEMI-AUTOMATIC, SUCH AS A 9 MM,

18 IF A PERSON, LIKE YOU DESCRIBED EARLIER,

19 GRABBED IT ON THE TOP, THAT WOULD BE THE

20 BURNING PRINTS?

21 A YES, SIR. IF YOU GRABBED IT ON THE TOP

22 OF THE SLIDE AND CUPPED YOUR HANDS AROUND

23 THAT EJECTOR PORT THE MOMENT THAT WEAPON IS

24 DISCHARGED, THE ENERGY BEING RELEASED

25 WOULD BE BLASTED THROUGH THAT EJECTOR PORT

1 AND WOULD LEAVE A DARING, REDDENING BURNING.

2 YOU'D HAVE PARTICLES ACTUALLY DRIVEN INTO

3 THE SKIN. YOU WOULD ACTUALLY BE ABLE TO

4 MEASURE THE SIDE OF THE EJECTOR PORT BASED

5 UPON THE PATTERN THAT YOU FOUND ON THE

6 HANDS.

7 Q IS IT POSSIBLE TO HIT THE BOTTOM OF THE

8 GUN AND NOT HAVE ANY TRACE EVIDENCE ON THE

9 HANDS?

10 A AS YOU MOVE FURTHER AND FURTHER AWAY

11 FROM THE SOURCE OF THE RESIDUE, YES, THE

12 MATERIAL DIMINISHES. THE AMOUNT THAT WAS

13 THERE DIMINISHES.

14 IF SOMEONE HAS A WEAPON AND YOU GRAB

15 THEIR ELBOW OR GRAB THEIR ARM, YOU MAY NOT

16 HAVE ANY RESIDUE ON YOUR HANDS AT ALL,

17 BECAUSE YOU'RE SO FAR AWAY FROM THE WEAPON

18 THAT THERE IS NO MATERIAL THAT CAN REACH

19 YOU. THE CLOSER YOU ARE TO THE WEAPON THE

20 MORE MATERIAL YOU'LL HAVE ON YOUR HANDS.

21 Q SO, IN FACT, THEN, IT'S POSSIBLE TO

22 STRIKE THE LOWER PART OF THE ARM, UP NEAR

23 THE WRIST, AND NOT HAVE ANY TRACE EVIDENCE?

24 A AGAIN, IT DEPENDS UPON YOUR POSITIONING

25 OF THE WEAPON, TOO BUT, YES, SIR, IT IS

1 POSSIBLE TO STRIKE A WEAPON WITH THE
2 EXTENDED ARM OR SOMETHING AND BE ABLE TO
3 CAUSE IT TO DISCHARGE WITHOUT ACTUALLY
4 HAVING ANY RESIDUE ON YOUR HANDS. BUT THE
5 CLOSER YOU GET TO THE WEAPON THE MORE YOU'LL
6 GET RESIDUE ON YOUR HANDS. AND ONCE YOU GET
7 TO THAT WEAPON YOU'LL GET RESIDUE ON YOUR
8 HANDS.

9 Q ALL RIGHT, SIR. THIS -- YOU SAID IT WAS
10 UNLOADED?

11 A IT WAS WHEN I LAST CHECKED IT, SIR.
12 (CHECKS WEAPON AGAIN.) YES, SIR, IT IS.

13 Q IF YOU'D LEAVE IT LIKE THAT, PLEASE,
14 SIR.

15 IF THE GUN WAS IN THIS POSITION, WHERE
16 WOULD MOST OF THE DISCHARGE BE?

17 A MOST OF THE DISCHARGE WOULD DEPOSIT
18 ITSELF ON THE BACK OF YOUR HANDS. WHAT
19 YOU'RE DESCRIBING RIGHT NOW IS IF YOU'RE
20 HOLDING THE WEAPON FOR NORMAL DISCHARGE, THE
21 MATERIAL WOULD DEPOSIT ITSELF ON THE BACK OF
22 THE HANDS, THERE WOULD BE SOME RESIDUE ON
23 THE PALM OF THE HANDS BECAUSE OF THE
24 PROXIMITY TO THE TRIGGER. THERE WOULD BE
25 SOME TO ACTUALLY BLAST OUT FROM THE TRIGGER,

1 BUT THE MAJORITY WILL TEND TO DEPOSIT ITSELF
2 ON THE BACK OF THE HANDS BECAUSE THAT'S
3 WHAT'S EXPOSED. THAT'S WHAT'S GONE BE
4 EXPOSED, JUST COMING OUT OF THE WEAPON. SO
5 THE BOTTOM OF MY HAND MAY HAVE NO TRACE
6 EVIDENCE AND IT WILL DIMINISH THE FURTHER
7 AWAY YOU GET FROM THE SOURCE OF IT. SO AS
8 YOU GET TO THE AREA AROUND THE BASE OF THE
9 GUN, IT WILL DIMINISH.

10 THERE IS NO REAL SCIENTIFIC WAY TO BE
11 ABLE TO TELL FROM SHOT TO SHOT WHETHER THERE
12 WILL BE RESIDUE THERE OR NOT, DUE TO THE
13 POSITION OF THE WEAPON. IS IT A CONTACT
14 SHOT, NOT A CONTACT SHOT. ALL OF THESE
15 VARIABLES MUST BE TAKEN INTO ACCOUNT. EVEN
16 THEN, THERE'S TOO MANY DYNAMICS INVOLVED TO
17 BE ABLE TO REALLY UNDERSTAND, TO KNOW IF
18 THERE WILL BE MATERIAL THERE OR NOT. I WILL
19 SAY, THOUGH, IT DIMINISHES THE FURTHER AWAY
20 YOU ARE FROM THE WEAPON AND THE LESS
21 MATERIAL YOU'LL FIND.

22 Q SO I GUESS, DUE TO THE COMPLEXITY OF
23 WHAT YOU DO, YOU CAN'T REALLY GIVE US A
24 HUNDRED PERCENT ACCURATE STATEMENT AS TO, IF
25 MS. [REDACTED] ACTUALLY, SOMEHOW, CAME IN THE

1 VICINITY OF THIS GUN OR NOT?

2 A I CAN GIVE YOU AN ACCURATE STATEMENT ON
3 CAPTURING THE WEAPON OR GRABBING THE WEAPON.
4 ONCE YOU STEP AWAY FROM THE WEAPON, I COULD
5 DRAW CONCLUSIONS AND TELL YOU THE
6 POSSIBILITIES. THAT'S ABOUT THE EXTENT OF
7 IT. THE FURTHER AWAY YOU MOVE FROM THE
8 WEAPON, THE MORE RANDOM IS INVOLVED WITH IT,
9 TO THE POINT THERE'LL BE NO RESIDUE DEPOSIT
10 AT ALL.

11 Q SO WHAT WE DO KNOW IS THE GUN WAS NOT
12 GRABBED BY HER?

13 A YES, WE KNOW THAT.

14 Q AND WE KNOW IT WASN'T GRABBED HERE.

15 A WE KNOW THAT, SIR. THAT IS CORRECT.

16 Q AND IT WASN'T GRABBED ON THE SIDE?

17 A THAT IS CORRECT.

18 Q EITHER SIDE?

19 A THAT IS CORRECT.

20 Q BUT IT COULD HAVE BEEN GRABBED SOMEWHERE
21 ELSE AND THERE'D BE NO TRACE EVIDENCE?

22 A YES, SIR, IT COULD HAVE.

23 Q WHEN YOU EXAMINED MR. GRAHAM, ERIC'S
24 HAND, YOU SAID YOU DID FIND SOME RESIDUE
25 THERE OR SOME TRACE, BUT IT WAS CLEAN?

1 A WELL, HIS HANDS WERE CLEANER. THE
2 RESIDUE WE'RE DESCRIBING IS ACTUALLY METALS
3 LIKE IRON AND GOLD, SILVER, THINGS WHICH ARE
4 NORMALLY DEPOSITED ON THE HANDS FROM NORMAL
5 ACTIVITY. I FOUND A LOT LESS OF THESE
6 MATERIALS ON HIS HANDS THAN I FOUND ON THE
7 VICTIM'S HANDS.

8 THERE ARE VIRTUALLY 29 DIFFERENT
9 MATERIALS. I WAS LOOKING FOR ELEMENTS. AND
10 THERE WAS NONE OF THEM THERE WITH THE
11 EXCEPTION OF TWO OR THREE ON HIS HANDS.

12 Q OKAY. WOULD TEARS CLEANSE THE HANDS?

13 A YES, SIR. YOUR TEARS CAN ACT JUST AS
14 WATER IF YOU'RE CRYING OR BLEEDING EVEN.
15 YOU CAN ALSO SIT DOWN HERE AND COAT THE
16 HANDS WITH THIS FLUID AND IT WILL DIMINISH
17 THE MATERIAL. PRIMARILY, THOUGH, IT'S THE
18 WIPING ACTION. IF SOMEBODY WIPES THEIR
19 HANDS OR DOES SOMETHING TO REMOVE THE
20 MOISTURE, THEY WILL ALSO REMOVE THE
21 MATERIALS ON THE HANDS.

22 Q IF I'M CRYING, AS A MAN SOMETIMES I'M
23 EMBARRASSED BY CRYING, AND I PUT MY HANDS
24 OVER MY FACE, AND I PULL MY HANDS AWAY, AND
25 I DO THIS, WHAT HAPPENS TO MY HANDS?

1 A WHAT YOU HAVE JUST DESCRIBED, BY RUBBING
2 YOUR HANDS ACROSS YOUR JACKET IS THE SAME
3 ACTION AS WIPING YOUR HANDS OFF. YOU ARE
4 DIMINISHING THE AMOUNT OF MATERIAL ON THE
5 HANDS.

6 ONE OF THE THINGS YOU RUN INTO
7 CONTINUOUSLY IS PEOPLE CAN LOSE THIS
8 MATERIAL. IF THEY DISCHARGE A WEAPON THIS
9 MATERIAL WILL GO AWAY JUST BY NORMAL
10 ACTIVITY. ANY TIME YOU RUB YOUR HANDS
11 AGAINST SOMETHING, YOU'RE REMOVING THE
12 MATERIALS THERE.

13 Q STAND UP FOR A SECOND, PLEASE, SIR. IF
14 YOU WOULD, STEP AROUND. RIGHT THERE WILL BE
15 FINE. THANK YOU.

16 IF I'M CRYING AND I CONTINUE TO WIPE MY
17 FACE AND I'M ON THE FLOOR AND I'M LAYING
18 PRONE DOWN, AND I'M BEATING THE FLOOR, THE
19 CARPET WITH MY HANDS, AND PUT MY HANDS OVER
20 MY HEAD AND I GET UP OFF THE FLOOR AND I GET
21 UP PULLING MY HANDS ACROSS THE CARPET, WHAT
22 HAVE I DONE TO MY HANDS?

23 A THIS ACTION THAT YOU HAVE PERFORMED
24 DIMINISHES THE AMOUNT OF THE MATERIAL ON THE
25 HANDS.

1 Q THANK YOU, SIR. I DON'T HAVE ANYTHING
2 ELSE AT THIS TIME.

3 REDIRECT EXAMINATION

4 BY

5 SOLICITOR BLACKMON

6 Q IF YOU DID ALL THAT, WHAT THAT WOULD
7 SIMPLY MEAN IS THE POWDER THAT HAD BEEN
8 THERE, WOULD THAT REMOVE THAT?

9 A THAT'S CORRECT. THIS PROCESS OF MOVING
10 YOUR HANDS AND WIPING YOUR HANDS DOWN IS A
11 PROCESS OF REMOVING THE PRIME OR RESIDUE OR
12 THE MATERIAL DEPOSITED ON THE HANDS. ANY
13 METALS OR ANY TYPE OF MATERIALS ON YOUR
14 HANDS IS BEING WIPED OFF.

15 Q AND THERE IS NO EVIDENCE THAT MS.

16 [REDACTED] ---

17 MR. SMITH: OBJECTION. LEADING.

18 Q WHAT EVIDENCE IS THERE THAT MS. [REDACTED]
19 WIPED OR TOUCHED ANYTHING?

20 A ACCORDING TO THE EVIDENCE I HAVE HERE,
21 THERE'S NO INDICATION THAT HER HANDS WERE
22 WASHED OR WIPED AT ALL.

23 Q AND EVEN WITH MR. SMITH'S ASSUMPTION
24 THAT YOU'RE HOLDING A GUN LIKE THIS, HAD SHE
25 TOUCHED IT, EVEN DOWN AT THE BOTTOM, THERE

1 IS STILL -- COULD SHE STILL HAVE GOTTEN
2 RESIDUE ON HER HANDS?

3 A YOU CAN'T GET THE RESIDUE AS YOU'RE
4 DESCRIBING. YOU'RE ACTUALLY CUPPING YOUR
5 HANDS AROUND, TOWARDS THE BACK OF THE HAND
6 AND, YES, AS YOU'RE GETTING YOUR FINGERS AND
7 HANDS CLOSER TO THE SOURCE OF THIS MATERIAL
8 YOU'RE GONNA GET THIS MATERIAL ON YOU.

9 Q IS THIS POSSIBLE?

10 A SHE COULD HAVE GOTTEN PRIMA ON HER
11 HANDS JUST FROM CUPPING AT THE BOTTOM.

12 Q NOW, GOING BACK, SINCE MR. SMITH DID
13 THIS, IF THIS GUN DISCHARGES AND IT COMES
14 BACK LIKE THIS, THE SLIDE GOES FORWARD,
15 WHERE DOES THE POWDER GO ON THE SHOOTER'S
16 HAND, PRIMARILY?

17 A IT GOES, PRIMARILY, ON THE BACK OF THE
18 HAND AND SOME ON THE PALM OF THE HAND BY THE
19 TRIGGER MECHANISM.

20 Q SO THAT WOULDN'T NECESSARILY BE EFFECTED
21 BY THIS, WOULD IT?

22 A NO. JUST WIPING YOUR PALMS. IF YOU
23 TURN YOUR HAND BACKWARDS. BUT IF YOU JUST
24 DO IT ON YOUR PALMS, NO, IT'S NOT GOING TO
25 EFFECT WHAT'S ON THE PALM.

1 Q WOULD NOT EFFECT THIS UNLESS HE DID
2 SOMETHING TO THE BACK OF HIS HAND?

3 A THAT'S CORRECT.

4 Q NOTHING FURTHER.

5 A OR YOU WAIT SIX HOURS OR SO AND THEN IT
6 GOES AWAY NATURALLY.

7 Q NOTHING FURTHER.

8 RECROSS EXAMINATION

9 BY

10 MR. SMITH

11 Q I GUESS WE'RE GONE BOUNCE UP AND DOWN.
12 STATE'S EXHIBIT #3 HAS BEEN INTRODUCED AS A
13 PHOTOGRAPH COVERING THE VICTIM, WITH A
14 BLANKET OVER HER.

15 A YES, SIR, THAT IS CORRECT. STATE'S
16 EXHIBIT #3 IS A COLOR PHOTOGRAPH OF WHAT
17 APPEARS TO BE A ROOM. THERE'S A COUCH
18 PICTURED IN IT WITH A BLUE PRINT BLANKET
19 LAYING OVER HER.

20 Q REMOVING A BLANKET FROM A VICTIM COULD
21 CROSS THE HANDS AND REMOVE ANY BY-PRODUCT ON
22 IT, COULD IT NOT?

23 A YES, SIR. ANY OBJECT LIKE THAT CAN BE
24 USED LIKE A TOWEL AND A TOWEL IS USED TO
25 WIPE BOTH PALM AND BACK.

1 Q THANK YOU, SIR.

2 REDIRECT EXAMINATION

3 BY

4 SOLICITOR BLACKMON

5 Q WOULD IT WIPE OFF ALL THE REST OF THE
6 DIRT THAT SHOWED JUST NORMAL DIRT THERE, THE
7 BLANKET?

8 A YES, IT WOULD WIPE OFF ANY TYPE OF
9 MATERIAL. BECAUSE IF YOU'RE WIPING YOUR
10 HANDS, YOU'RE CLEANING ALL THE MATERIALS OFF
11 YOUR HANDS.

12 Q SO, IN YOUR OPINION, WOULD THE REMOVAL
13 OF THAT BLANKET HAVE TAKEN ONLY THE GUNSHOT
14 RESIDUE OFF HER HANDS?

15 A NO. NO. ONLY GUNSHOT RESIDUE, NO,
16 MA'AM.

17 Q IN YOUR OPINION, DID REMOVING THAT
18 BLANKET IN ANY WAY EFFECT THE RESULTS OF
19 YOUR TESTS FOR GUNSHOT RESIDUE OR NORMAL
20 DIRT OR TRACES, THE 29 THINGS YOU LOOK FOR?

21 A UNLESS SOME ONE AGGRESSIVELY USES IT AS
22 A TOWEL. JUST MOVING IT ANOTHER WAY DOES
23 NOT REMOVE THE MATERIAL. IF YOU USE IT AS A
24 TOWEL YOU CAN REMOVE THE MATERIAL.

25 Q SO JUST LIFTING THE BLANKET WOULD DO

1 NOTHING?

2 A THAT WOULD BE, IN EFFECT -- REMOVING THE
3 MATERIAL, IT HAS TO BE SOME TYPE OF ACTION
4 TO BE ABLE TO WIPE IT OFF.

5 Q THANK YOU. NOTHING FURTHER.

6 RECROSS EXAMINATION

7 BY

8 MR. SMITH

9 Q AND, AGAIN, YOU'RE TALKING ABOUT
10 POSSIBILITIES AND PROBABILITIES?

11 A THAT'S CORRECT.

12 Q YOU CAN'T GIVE US A ONE HUNDRED PERCENT
13 GUARANTEE ON ANYTHING YOU'VE SAID, CAN YOU?

14 A I CAN GIVE YOU A GUARANTEE THE HANDS
15 WERE NOT AROUND THE CYLINDER WHEN
16 DISCHARGED. THE WEAPON WAS NOT UP AGAINST
17 THE HAND AT THE MOMENT OF DISCHARGE. BEYOND
18 THAT, I JUST KNOW THE FACT THAT SHE DID NOT
19 HAVE RESIDUE ON THE HANDS. BUT I CAN JUST
20 GIVE YOU SCENARIOS OF POSSIBILITIES.

21 Q THANK YOU. NOTHING FURTHER.

22 COURT: YOU MAY STEP DOWN.

23 SOLICITOR BLACKMON: AT THIS POINT,
24 YOUR HONOR, UNTIL WE CAN GET OUR PATHOLOGIST
25 HERE, WE HAVE NOTHING FURTHER.

1 COURT: ALL RIGHT, LADIES AND
2 GENTLEMEN OF THE JURY, IF YOU'LL STEP BACK
3 TO YOUR ROOM AND TAKE A RECESS. I NEED TO
4 CHECK IN WITH MY EMERGENCY PREPAREDNESS
5 DIVISION. I'LL BE RIGHT BACK WITH YOU.

6 (WHEREUPON A BREAK WAS TAKEN BY THE
7 COURT TO CHECK ON STATUS OF HURRICANE
8 BONNIE.)

9 COURT: MR. FOREMAN, LADIES AND
10 GENTLEMEN OF THE JURY, I WANT TO SINCERELY
11 THANK YOU FOR YOUR PATIENCE FOR THE LAST
12 HOUR OR SO I'VE KEPT YOU BACK THERE AND
13 DON'T BE UPSET WITH ANYBODY IN THE
14 COURTROOM, BUT WITH ME, BECAUSE I DID IT,
15 AND THE REASON I DID IT IS BECAUSE WE HAVE
16 TWO PROBLEMS.

17 THE NEXT WITNESS IS DR. PROCTOR FROM
18 Horry COUNTY, WHO IS PRESENTLY AT THE
19 HOSPITAL. HE WAS GONNA COME IN AT FOUR THIS
20 EVENING. THEY'VE ISSUED A VOLUNTARY
21 EVACUATION PLAN THAT CLOGGED THE HIGHWAYS.
22 WE ALSO UNDERSTAND THE GOVERNOR IS PROBABLY
23 GOING TO ISSUE A MANDATORY EVACUATION FOR
24 THE COUNTY. SO ABOUT 45 MINUTES AGO I
25 CALLED THE SHERIFF'S DEPARTMENT IN Horry

1 COUNTY AND CONFIRMED THAT AND THEY TOLD ME
2 IN A JUST A FEW MINUTES THE GOVERNOR IS GONE
3 COME ON WITH AN ANNOUNCEMENT, SO WE'VE BEEN
4 WAITING SO WE COULD PLAN THIS OUT FOR YOUR
5 CONVENIENCE. AND I HOPE THAT YOU WILL BEAR
6 WITH ME, AND THAT'S WHY I ASK YOUR
7 FORGIVENESS AND PATIENCE ABOUT THIS THING.

8 THE GOVERNOR DID COME ON. HE HAS
9 DECLARED A MANDATORY EVACUATION FOR Horry
10 AND GEORGETOWN COUNTIES. NOBODY KNOWS
11 EXACTLY RIGHT NOW WHERE LANDFALL IS GONNA
12 BE. THE EXPERTS IN MIAMI BELIEVE IT'S GOING
13 TO TAKE A NORTHERLY TRACK AND HEAD SOMEWHERE
14 AROUND MOREHEAD CITY, FROM WILMINGTON TO
15 MOREHEAD CITY, BUT OUR LOCAL PEOPLE, WITH
16 THE LAST MOVEMENT OF THE EYE, THEY BELIEVE
17 THAT IT CAN STILL HIT Horry COUNTY. AND
18 JUST WATCHING IT ON T.V., THERE IS A
19 POSSIBILITY, SO I THINK THAT'S WHY THE
20 GOVERNOR HAS TAKEN THE ACTION HE HAS.

21 SO THIS IS WHAT WE'RE GONNA DO. DR.
22 PROCTOR IS ON DUTY AT THE HOSPITAL. WE
23 CAN'T GET HIM HERE. MY DECISION WAS AS TO
24 WHAT TIME WE WOULD DELAY UNTIL TOMORROW
25 AFTERNOON, BUT NOW THAT I HAVE WATCHED THE

1 REPORT AND GOTTEN ALL THE LASTED UP-TO-DATE
2 FROM THE EMERGENCY PREPAREDNESS, I'VE GOT TO
3 MAKE A CALL AND I THINK THE BEST THING WE
4 CAN DO, TO PROTECT EVERYBODY'S INTEREST,
5 INCLUDING PROPERTY INTEREST, WE'RE GONE LET
6 YA'LL GO OVER NIGHT AND WE'LL TRY OUR BEST
7 TO RESUME THIS TRIAL AT TEN O'CLOCK
8 THURSDAY. BECAUSE IF THAT HURRICANE EVEN
9 HITS WHERE THEY SAY IT'S GOING TO HIT, THE
10 EDGE OF DARLINGTON COUNTY IS GOING TO GET
11 SUBSTANTIAL WINDS, THE EASTERN SIDE, AND I
12 KNOW EVERYBODY WILL BE CONCERNED ABOUT
13 TAKING CARE OF PROPERTY.

14 IF IT COMES IN ANY LOWER THAN THAT, IT'S
15 GONE BE EVEN WORSE BECAUSE THE STORM IS THE
16 SIZE OF THE STATE OF TEXAS NOW.

17 SO REMEMBER MY INSTRUCTIONS. DON'T
18 DISCUSS THIS CASE WITH ANYONE. IF ANYBODY
19 TRIES TO CONTACT YOU, DON'T DISCUSS IT WITH
20 THEM AND NOTIFY YOUR LAW ENFORCEMENT OF
21 THAT.

22 NOW, SHOULD THINGS REALLY GET OUT OF
23 HAND, LIKE IT DID WITH HUGO, WE WILL BE BACK
24 IN TOUCH WITH YOU INDIVIDUALLY. WE'RE ALL
25 HOPING AND PRAYING THAT DOESN'T HAPPEN, BUT

1 SHOULD THAT HAPPEN SOMEBODY WILL BE IN TOUCH
2 WITH YOU TOMORROW AFTERNOON ABOUT ANY
3 FURTHER DELAY.

4 FOR RIGHT NOW, LET'S PLAN FOR TEN
5 O'CLOCK THURSDAY, UNLESS YOU RECEIVE FURTHER
6 NOTICE FROM THE CLERK'S OFFICE.

7 I'M SORRY FOR HAVING TO DO THIS, BUT
8 THIS IS NOT THE FIRST TIME I'VE GONE THROUGH
9 THIS. I WAS IN HORRY COUNTY WHEN FRAN CAME
10 TROUGH AND WE HAD TO TAKE THE SAME
11 PROCEDURE AND THERE WAS NO WAY WE COULD HOLD
12 COURT THE NEXT DAY WITH A MANDATORY
13 EVACUATION IN PLACE. SO WE JUST DELAYED A
14 DAY AND A HALF AND WERE ABLE TO COMPLETE THE
15 TRIAL.

16 ANYTHING FURTHER FROM COUNSEL CONCERNING
17 OUR PLANNING?

18 SOLICITOR BLACKMON: NOTHING FROM THE
19 STATE.

20 MR. SMITH: NOTHING FROM THE DEFENSE.

21 COURT: I APOLOGIZE. I HOPE EVERYBODY
22 UNDERSTANDS THE CIRCUMSTANCES. ANY
23 PROBLEMS, CONTACT THE CLERK'S OFFICE.
24 HOPEFULLY, WE'LL SEE YOU THURSDAY MORNING.

25 (WHEREUPON THE COURT RECESSED FOR THE

1 DAY, RETURNING THURSDAY, AUGUST 27, 1998.)
2 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
3 THE PRESENCE OF THE JURY.)

4 COURT: ALL RIGHT, WE ORIGINALLY
5 INTRODUCED INTO EVIDENCE AND ALLOWED IN BY
6 THE COURT, OVER OBJECTION, PHOTOGRAPHS #13,
7 #14, AND #15. THEY ARE IN BUT THEY HAVE NOT
8 BEEN PUBLISHED OR SEEN BY THE JURY.

9 NOW, OF THESE THREE, THERE'S PHOTOGRAPHS
10 THAT BECAUSE OF SCIENTIFIC EVIDENCE WOULD BE
11 MORE THAN SUFFICIENT FOR DR. PROCTOR THAN
12 THE SMALLER ONES.

13 I KNOW IT'S UNUSUAL TO DO THIS, BUT WHAT
14 I'M GONNA DO -- STILL UNDER OBJECTION BY MR.
15 SMITH -- SINCE THE JURY HAS NOT SEEN THEM,
16 I'M GOING TO SUBSTITUTE EXHIBIT #15, THE
17 ENLARGEMENT -- I'M GONE SUBSTITUTE THE
18 ENLARGEMENT OF #15. #15 WILL NOT BE
19 PUBLISHED TO THE JURY AND WILL BE A COURT
20 EXHIBIT NOW. 15-A WILL BE THE ACTUAL
21 EXHIBIT. AND 15 IS CHANGED TO COURT'S
22 EXHIBIT #1. AND THE SAME, #14 WILL BE A
23 COURT EXHIBIT AND WILL NOT BE IN EVIDENCE TO
24 GO TO THE JURY. AND #14-A WILL BE THE ONE
25 THAT TAKES ITS PLACE. I REVERSE MYSELF ONCE

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1 AGAIN ON #13. THAT IS NOT IN EVIDENCE. IT
2 HAS NOT BEEN PUBLISHED TO THE JURY AND
3 REALLY IT'S A DUPLICATE.

4 #13, 14, AND 15 WILL NOW BE COURT'S
5 EXHIBITS #1, #2, AND #3.

6 (PHOTOGRAPHS ORIGINALLY MARKED STATE'S
7 EXHIBITS #13, #14, AND #15, WITHDRAWN AND
8 ENTERED AS COURT'S EXHIBITS #1, #2, AND #3.)

9 LARGE PHOTOGRAPHS
10 ENTERED IN EVIDENCE AS STATE'S EXHIBITS #14-
11 A AND #15-A

12 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
13 PRESENCE OF THE JURY.)

14 SOLICITOR BLACKMON: THE STATE CALLS
15 DR. PROCTOR.

16 EDWARD LEE PROCTOR, JR., M.D.,
17 BEING FIRST DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 DIRECT EXAMINATION

20 BY

21 SOLICITOR BLACKMON

22 Q COULD YOU PLEASE STATE YOUR NAME FOR THE
23 RECORD.

24 A YES, MA'AM. I'M EDWARD LEROY PROCTOR,
25 JR.

1 Q WHAT IS YOUR OCCUPATION?

2 A I'M A PHYSICIAN.

3 Q AND HOW LONG HAVE YOU BEEN A DOCTOR?

4 A I RECEIVED MY M.D. DEGREE FROM THE
5 MEDICAL UNIVERSITY OF SOUTH CAROLINA IN 1978
6 AND COMPLETED A RESIDENCY IN ANATOMIC AND
7 CLINICAL PATHOLOGY IN 1982. HAVE BEEN BOARD
8 CERTIFIED IN ANATOMIC AND CLINICAL PATHOLOGY
9 SINCE '82. SUBSEQUENTLY BOARD CERTIFIED IN
10 FORENSIC PATHOLOGY IN 1994.

11 Q WHERE DO YOU CURRENTLY WORK?

12 A I'M SELF-EMPLOYED AND PRACTICE PATHOLOGY
13 AT GRAND STRAND REGIONAL MEDICAL CENTER AT
14 MYRTLE BEACH.

15 Q AND WHAT SPECIFIC POSITION IS IT THAT
16 YOU HOLD?

17 A I AM ONE OF A TWO-PATHOLOGIST
18 PARTNERSHIP. WE PRACTICE PATHOLOGY THERE AT
19 THE HOSPITAL.

20 Q HOW LONG HAVE YOU ACTUALLY BEEN
21 LICENSED?

22 A I'VE BEEN A LICENSED PHYSICIAN IN THE
23 STATE OF SOUTH CAROLINA SINCE 1978. '78 OR
24 '79. NINETEEN OR TWENTY YEARS.

25 Q ARE YOU LICENSED TO PRACTICE MEDICINE IN

1 ANY OTHER STATES?

2 A YES, MA'AM. I HOLD A LICENSE TO
3 PRACTICE MEDICINE IN THE STATE OF NORTH
4 CAROLINA.

5 Q ARE YOU A MEMBER OF ANY SPECIAL
6 PROFESSIONAL ORGANIZATIONS?

7 A YES, MA'AM. AS A RESULT OF BEING BOARD
8 CERTIFIED, I'M A FELLOW IN THE COLLEGE OF
9 AMERICAN PATHOLOGISTS. I'M A FELLOW IN THE
10 AMERICAN [REDACTED] OF CLINICAL PATHOLOGISTS.
11 I'M ALSO A MEMBER OF THE SOUTH CAROLINA
12 MEDICAL ASSOCIATION AS WELL AS THE HORRY
13 COUNTY MEDICAL [REDACTED]

14 MR. SMITH: YOUR HONOR, I'D STIPULATE
15 TO HIS QUALIFICATIONS.

16 COURT: ALL RIGHT, IT'S STIPULATED
17 HE'S QUALIFIED AS A FORENSIC PATHOLOGIST.

18 Q I DIRECT YOUR ATTENTION OR ASK YOU, HAVE
19 YOU EVER PERFORMED AN AUTOPSY ON [REDACTED]

20 [REDACTED]

21 A YES, MA'AM, I DID.

22 Q COULD YOU TELL ME THE DATE OF THAT
23 AUTOPSY?

24 A YES, MA'AM. I PERFORMED AN AUTOPSY ON
25 [REDACTED] [REDACTED] ON DECEMBER 7, 1996 AT THE

1 REQUEST OF MR. ELDRIDGE NORTON, THE
2 DARLINGTON COUNTY CORONER.

3 Q AND DURING THE COURSE OF THAT AUTOPSY
4 WERE YOU ABLE TO DETERMINE THE TIME OF
5 DEATH?

6 A TIME OF DEATH; NO, MA'AM. THE TIME OF
7 DEATH WAS GIVEN TO ME BY THE CORONER.

8 Q WHAT TIME DID YOU ACTUALLY PERFORM THE
9 AUTOPSY?

10 A I PERFORMED THE AUTOPSY AT APPROXIMATELY
11 12:45 P.M. IN THE AFTERNOON, ON DECEMBER 7.

12 Q FROM YOUR AUTOPSY WERE YOU ABLE TO
13 DETERMINE A CAUSE OF DEATH?

14 A YES, MA'AM.

15 Q AND COULD YOU TELL US WHAT THAT WAS?

16 A MS. [REDACTED] DIED AS A RESULT OF A
17 GUNSHOT WOUND TO THE BASE OF THE CHIN AREA,
18 WITH THE PROJECTILE PASSING THROUGH THE
19 FLOOR OF THE MOUTH, THE ROOF OF THE MOUTH,
20 THE BASE OF THE SKULL, SINUSES, AND THE
21 BRAIN AND EXITING THE FRONTAL BRAIN. THIS
22 PROJECTILE CAUSED EXTENSIVE FRACTURES AS
23 WELL AS LACERATION OR FRAGMENTATION OF THE
24 BRAIN MATTER AS WELL AS HEMORRHAGING,
25 SWELLING TO THE BRAIN.

1 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT #15-A. WHO IS THAT A PHOTOGRAPH OF?

3 A THIS IS A PHOTOGRAPH OF THE VICTIM THAT
4 WAS IDENTIFIED TO ME AS [REDACTED] [REDACTED]

5 Q IS THAT THE PERSON YOU PERFORMED THE
6 AUTOPSY ON?

7 A YES, MA'AM.

8 Q COULD YOU EXPLAIN -- WILL YOU APPROACH
9 THE JURY, PLEASE.

10 A YES, MA'AM.

11 Q WOULD YOU HOLD UP THAT PHOTOGRAPH.

12 COULD YOU EXPLAIN TO THEM WHY THAT ENTRY
13 WOUND IS RIPPED RATHER THAN ROUNDED?

14 A THIS IS THE ENTRANCE SITE AT THE BASE OF
15 THE CHIN. HERE IS THE CHIN. JUST AT THE
16 BASE OF THE CHIN. THIS IS A SOMEWHAT OBLONG
17 IRREGULARLY SHAPED WOUND, WITH A VERY DARK
18 UNIFORM RIM AROUND THE EDGE THERE. THIS IS
19 THE ENTRANCE SITE WITH THE SURROUNDING
20 MUSCLE IMPRINT. THE MUSCLE IMPRINT IS THE
21 ACTUAL IMPRINT OF THE BARREL OF THE GUN,
22 AROUND THE ACTUAL WOUND SITE.

23 Q IS THAT WHAT MAKES THE DARK RIM?

24 A YES, MA'AM. I WAS TOLD THIS WAS A 9MM
25 SEMI-AUTOMATIC WEAPON AND SOMEHOW AUTOMATICS

1 HAVE WHAT WE CALL A SLIDE MECHANISM THAT
2 WILL ACTUALLY MOVE FORWARD AND BACK AND THAT
3 WILL ACCENTUATE THESE MARKINGS RIGHT HERE.

4 THE PRESENCE OF A MUSCLE IMPRINT AROUND
5 THIS ENTRANCE SITE INDICATES THAT THIS WOUND
6 WAS A CONTACT WOUND. IN OTHER WORDS, THE
7 BARREL OF THE GUN WAS PRESSED UP AGAINST THE
8 SKIN, UNDER THE CHIN.

9 NOW, THE SKIN UNDER THE CHIN IS
10 STRETCHED BETWEEN TWO BONES, ACTUALLY RIDGES
11 OF THE MANDIBLE. AND WHEN IT WAS PRESSED
12 TIGHT AND FIRED THE POWDER, THE GASES, THE
13 SMOKE, AS WELL AS THE PROJECTILE COMING OUT
14 OF THE BARREL OF THAT GUN, IT HAD NOWHERE TO
15 GO BUT STRAIGHT THROUGH. THE POWDER COULD
16 NOT SEEP AROUND THE EDGES.

17 NOW, YOU CAN SEE THE VERY DARK EDGES OF
18 THIS WOUND HERE. THAT IS SOME OF THE POWDER
19 AS IT WENT THROUGH THIS WOUND SITE, DUE TO
20 THE SIGNIFICANT FORCE WITH ALL THE POWDER
21 AND RESIDUE COMING THROUGH THE SKIN. AND
22 SOMETIMES WILL CAUSE AN IRREGULAR SHAPE, AS
23 IT DID IN THIS CASE.

24 Q OKAY. WOULD THERE HAVE BEEN ANY
25 DIFFERENCE IN THIS WOUND HAD THERE BEEN ANY

1 DISTANCE BETWEEN THE GUN AND HER CHIN?

2 A THERE WOULD BE TWO SIGNIFICANT
3 DIFFERENCES, IN THE APPEARANCE OF THAT WOUND
4 SITE HAD THIS NOT BEEN A CONTACT WOUND. HAD
5 IT BEEN A WOUND ADMINISTERED WITHIN SIX
6 INCHES TO A DISTANCE OF APPROXIMATELY
7 EIGHTEEN INCHES TO TWO FEET, YOU WOULD HAVE
8 SEEN JUST THE ENTRANCE SITE WITHOUT THE
9 MUSCLE IMPRINT AROUND IT. IN ADDITION, YOU
10 WOULD HAVE SEEN POWDER RESIDUE AS WELL AS
11 STIPPLING AROUND THE ENTRANCE SITE.
12 STIPPLING IS ACTUAL BURNS INTO THE SKIN BY
13 THE HOT POWDER COMING OUT OF THE END OF THE
14 GUN AND POWDER RESIDUE IS JUST SMOKE AND
15 SOOT THAT WOULD ACCUMULATE AT THE ENTRANCE
16 SITE COMING OUT OF THE END OF THE GUN.

17 Q AND DURING THE COURSE OF YOUR AUTOPSY,
18 DID YOU FIND ANY OF THAT?

19 A I FOUND RESIDUE WITHIN THE WOUND SITE
20 ITSELF BUT NOTHING AROUND THE WOUND.

21 Q AND THE FACT THAT THE RESIDUE WAS WITHIN
22 THE WOUND SITE, WHAT IS THE SIGNIFICANCE OF
23 THAT?

24 A THAT IS SIGNIFICANT IN THAT IT IS WHAT
25 YOU SEE WITH A CONTACT-TYPE WOUND.

1 Q CAN YOU TELL FROM THE MEASUREMENTS YOU
2 DID DURING THE COURSE OF YOUR EXAMINATION,
3 DO YOU HAVE AN OPINION AS TO THE ANGLE THAT
4 THE BULLET ITSELF ACTUALLY TRAVELED?

5 A THE BULLET TRAVELED STRAIGHT, BASICALLY
6 FROM THE ENTRANCE SITE INFERIOR TO INFERIOR,
7 STRAIGHT UP, PENETRATING THE FLOOR OF THE
8 MOUTH, ROOF OF THE MOUTH, ALL OF THE SINUSES
9 BEHIND THE NOSE, AS WELL AS THE BASE OF THE
10 SKULL AND BRAIN FRONTAL AREA.

11 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
12 EXHIBIT #14-A AND I ASK YOU, WHAT IS THAT?
13 WHAT DOES THAT DEPICT?

14 A STATE'S EXHIBIT #14-A DEPICTS THE FACE
15 OF THE VICTIM, SHOWING THE NECK SITE AND THE
16 MIDLINE OF THE FRONTAL SKULL.

17 Q WOULD YOU STAND UP AND APPROACH THE JURY
18 WITH THAT, PLEASE. IS THERE ANYTHING
19 UNUSUAL ABOUT HER FACE? IS THERE ANYTHING
20 ELSE REMARKABLE ABOUT THE FACE AS IT RELATES
21 TO THE GUNSHOT WOUND ITSELF?

22 A THERE'S A LOT OF LIGHT REFLECTING OFF
23 THIS PHOTOGRAPH, BUT WHAT IS REMARKABLE
24 ABOUT THIS PHOTOGRAPH IS YOU CAN SEE EDEMA
25 OR SWELLING OF THE EYELIDS AND THE

1 BEGINNINGS OF DARK DISCOLORATION OR BRUISING
2 AROUND EACH OF THE EYES. THAT BRUISING
3 AROUND THE EYELIDS IN THIS FASHION WITH THE
4 SWELLING IS WHAT MEDICAL TERMS WOULD CALL
5 RACCOON EYES, SORT OF LIKE BLACK EYES OF A
6 RACCOON, AND THAT USUALLY OCCURS AS AN
7 INDICATION OF A BASAL SKULL FRACTURE.

8 Q AND IN THIS CASE WERE THERE UNDERLYING
9 BASAL SKULL FRACTURES?

10 A YES, MA'AM, THERE WERE.

11 Q CAN YOU DESCRIBE THE DAMAGE THAT WAS
12 DONE TO HER FACE AS THE BULLET TRAVELED
13 THROUGH HER HEAD OR THE DAMAGE THAT WAS DONE
14 TO HER HEAD AS THE BULLET TRAVELED THROUGH
15 IT?

16 A YES, MA'AM. THE DAMAGE DONE TO THIS
17 VICTIM, FIRST, PENETRATED ALL OF THE SOFT
18 TISSUES IN THE BASE OF THE SKIN, THE BASE OF
19 THE TONGUE, THE HARD PALATE OR THE BONY PART
20 OF THE ROOF OF YOUR MOUTH, THE SINUSES JUST
21 BEHIND THE NOSE. THE NOSE, YOU COULD
22 LITERALLY GRAB THE NOSE AND MOVE IT AROUND
23 BECAUSE OF THE FRACTURES OF THE SINUSES AND
24 THEN THE BASAL SKULL, OVERLYING THE AREA OF
25 THE EYES AND THEN THE FRONTAL SKULL WHERE

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1 THE BULLET EXITED. PLUS, THE SWELLING AND
2 HEMORRHAGE AND FRAGMENTATION OF THE BRAIN
3 MATTER IN THE FRONTAL SKULL.

4 Q BASED ON YOUR EXAMINATION, WHAT DID YOU
5 DETERMINE WAS THE ACTUAL CAUSE OF DEATH?

6 A THE ACTUAL CAUSE OF DEATH WAS A GUNSHOT
7 WOUND WITH THE SUBSEQUENT PASSING OF THE
8 BULLET THROUGH THE BRAIN, CAUSING THE
9 EXTENSIVE SWELLING AND FRAGMENTATION AND
10 HEMORRHAGING TO THE BRAIN MATTER ITSELF.

11 Q AND WHAT DID YOU CLASSIFY AS THE MANNER
12 OF DEATH?

13 A MANNER OF DEATH WAS CLASSIFIED AS A
14 HOMICIDE.

15 Q IS THAT DIFFERENT THAN ACCIDENT, IN YOUR
16 TERMINOLOGY?

17 A IN FORENSIC PATHOLOGY, CAUSE AND MANNER
18 OF DEATH, THAT'S THE PURPOSE OF US
19 PERFORMING AN AUTOPSY AND BASED UPON WHAT I
20 FIND AT THE TIME OF AUTOPSY AND WHAT I'VE
21 BEEN TOLD BY THE INVESTIGATING AUTHORITIES,
22 BASED UPON MY EXAMINATION OF THE VICTIM, WE
23 COME UP WITH A CAUSE AND MANNER OF DEATH,
24 STATED CAUSE BEING THE GUNSHOT WOUND WITH
25 ALL THE FRACTURES AND DAMAGE TO THE BRAIN.

1 MANNER OF DEATH, IN MY OPINION, IS FOUND TO
2 BE HOMICIDE.

3 WE USE SEVERAL CHARACTERIZATIONS. WE
4 USE NATURAL, WHICH APPLIES TO JUST WHAT IT
5 IS, NATURAL CAUSE OF DEATH. ACCIDENTAL,
6 WHICH MEANS ACCIDENT. HOMICIDE, BY
7 DEFINITION, IS DEATH AT THE HANDS OF
8 ANOTHER. SUICIDE IS DEATH AT YOUR OWN
9 HANDS. AND WE HAVE A FIFTH CATEGORY,
10 UNDETERMINED.

11 Q COULD YOU HAVE A DETERMINED CAUSED OF
12 DEATH?

13 A YES, MA'AM. BASED UPON MY EVALUATION
14 AND THE INFORMATION I HAVE FROM THE OFFICE
15 OF THE CORONER, I DETERMINED THIS TO BE A
16 HOMICIDE.

17 Q IN THE COURSE OF YOUR EXAMINATION DO YOU
18 HAVE AN OPINION AS TO THE ACTUAL POSITION
19 THE GUN WOULD HAVE BEEN IN TO LEAVE THAT
20 KIND OF WOUND?

21 A THE GUN WOULD HAVE HAD TO HAVE THE
22 MUZZLE DIRECTLY UNDER THE CHIN, POINTING
23 STRAIGHT TO THE STOP OF THE VICTIM'S HEAD.

24 Q SO THERE WOULD HAVE BEEN NO SLANT?

25 A THE ACTUAL PATH WAS PRETTY STRAIGHT

1 LINE, FROM THE AREA OF THE MUZZLE IMPRINT TO
2 THE EXIT IN THE HEAD, WHICH WAS STRAIGHT UP.
3 HAD IT BEEN ANGLED AT 45 DEGREES, YOU WOULD
4 HAVE EXPECTED THE EXIT WOUND TO BE AT THE
5 BACK OF THE HEAD RATHER THAN LITERALLY ON A
6 STRAIGHT LINE FROM THE BASE OF THE CHIN TO
7 THE FRONT OF THE SKULL.

8 Q I WANT TO ASK YOU TO LOOK AT THIS. CAN
9 YOU TELL ME WHAT THAT IS? IT'S BEEN MARKED
10 AS STATE'S EXHIBIT #18 FOR IDENTIFICATION
11 PURPOSES.

12 A YES, MA'AM. THIS IS A COPY OF MY
13 AUTOPSY REPORT.

14 Q THIS IS A COMPLETE COPY OF YOUR AUTOPSY
15 REPORT?

16 A YES, MA'AM, IT IS.

17 MR. SMITH: IS THIS A REPRODUCTION OF
18 YOUR NOTES?

19 A I DICTATE THAT FROM MY NOTES AND
20 RECOLLECTIONS OF WHAT I DO AT THE TIME OF
21 AUTOPSY.

22 MR. SMITH: THIS IS A NARRATIVE OF YOUR
23 DICTATION?

24 A THAT IS THE OFFICIAL AUTOPSY REPORT,
25 YES, SIR.

1 MR. SMITH: AND YOU REVIEWED IT AND
2 SIGNED IT?

3 A YES, I DID.

4 MR. SMITH: NO OBJECTION.

5 Q THE STATE WOULD MOVE TO HAVE THIS
6 ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
7 #18.

8 COURT: WITHOUT OBJECTION.

9 AUTOPSY REPORT
10 ENTERED IN EVIDENCE AS STATE'S EXHIBIT #18

11 Q DR. PROCTOR. THIS GUN IS NOT LOADED; I
12 JUST CHECKED IT. I WANT TO ASK YOU TO TAKE
13 THIS GUN AND SHOW WHERE IT WOULD HAVE BEEN
14 ON HER THROAT.

15 MR. SMITH: I'M SORRY, YOUR HONOR,
16 I COULDN'T HEAR HIM.

17 A IT'S PROBABLY JUST AS EASY FOR ME TO SIT
18 HERE AND DO IT. THIS IS THE MUZZLE OF THE
19 GUN. IT WOULD HAVE BEEN UNDER THE THROAT,
20 IN THIS MANNER; POSSIBLY THIS MANNER. BUT
21 FLUSH AGAINST THE SKIN, POINTING STRAIGHT
22 UP.

23 Q THANK YOU. I HAVE NOTHING FURTHER OF
24 THIS WITNESS AT THIS TIME.

25 CROSS EXAMINATION

1 BY MR. SMITH

2 Q DOCTOR, IS IT POSSIBLE THAT A CONTACT
3 GUNSHOT WOUND CAN BE BY ACCIDENT?

4 A YES, SIR, IT'S POSSIBLE.

5 Q AND ISN'T IT POSSIBLE THAT A CONTACT
6 GUNSHOT WOUND CAN BE CAUSED BY THE MOVEMENT
7 OF THE VICTIM?

8 A DEPENDING UPON THE CONDITION OF THE
9 WEAPON, YES, IT'S POSSIBLE.

10 Q SO YOU CAN'T REALLY TELL US HOW THE GUN
11 CAME TO MAKE CONTACT, CAN YOU?

12 A NO, SIR.

13 Q ONLY THAT IT DID MAKE CONTACT?

14 A THAT GUN DEFINITELY MADE CONTACT. THERE
15 WAS A MUZZLE IMPRINT.

16 Q NOW, YOU SHOWED US THE POSITION THAT THE
17 GUN WAS IN UNDER THE CHIN.

18 A YES, SIR.

19 Q AND YOU ARE SEATED.

20 A YES, SIR.

21 Q AND YOU ARE SEATED FORWARD. IF YOU WERE
22 SEATED AT A COUCH, HOW WOULD YOU BE
23 RECLINING IN THAT CHAIR, APPROXIMATELY?

24 A POSSIBLY, LIKE THIS. POSSIBLY LAYING
25 DOWN.

1 Q OKAY. AND WOULD THAT EFFECT THE ANGLE
2 OF HOW IT PASSED THROUGH THE VICTIM?

3 A IN THIS VICTIM? NO, SIR, BECAUSE THE
4 ANGLE WAS STRAIGHT. IT WAS A STRAIGHT LINE
5 FROM HERE TO HERE. NO DEVIATION WHATSOEVER.

6 Q SO WHATEVER ANGLE SHE WAS SITTING AT
7 WOULD BE THE ANGLE THAT IT PASSED STRAIGHT
8 THROUGH?

9 A THAT'S CORRECT.

10 Q DOCTOR, IF I UNDERSTAND YOU CORRECTLY,
11 BASED ON WHAT YOU'RE TELLING ME, IT'S ALSO
12 POSSIBLE THAT A CONTACT WOUND COULD BE
13 UNINTENTIONAL?

14 A AS I'VE SAID, ANYTHING'S POSSIBLE.

15 Q YES, SIR, THANK YOU.

16 REDIRECT EXAMINATION

17 BY

18 SOLICITOR BLACKMON

19 Q IS IT POSSIBLE, GIVEN THE TRAJECTORY AND
20 THE LOCATION OF THE WOUNDS, THAT IT WAS AN
21 ACCIDENT, IN YOUR OPINION?

22 A IN MY OPINION, BASED UPON MY FINDINGS AT
23 THIS AUTOPSY AND BASED UPON THE INFORMATION
24 I HAD AT THE TIME OF AUTOPSY, IN MY OPINION
25 IT IS MORE PROBABLE THAT IT WAS HOMICIDE AND

1 NOT ACCIDENTAL.

2 RECROSS EXAMINATION

3 BY

4 MR. SMITH

5 Q AND HOMICIDE BEING DEATH AT THE HANDS OF
6 ANOTHER?

7 A DEATH AT THE HANDS OF ANOTHER IN THE
8 STRICTEST TERMS OF PATHOLOGY.

9 Q SO SHE WAS SHOT BY SOMEONE ELSE?

10 A THAT'S CORRECT.

11 Q AND THAT'S WHAT YOU WERE TOLD BY THE
12 OFFICERS?

13 A THAT'S WHAT I WAS TOLD BY THE OFFICERS.

14 Q SO, THEREFORE, YOU TERMED IT A HOMICIDE
15 BASED ON WHAT WAS TOLD TO YOU BY THE
16 OFFICERS. ALL YOU'RE HERE TODAY IS TO TELL
17 US IT WAS A CONTACT WOUND?

18 A I'M HERE TO TELL YOU THAT I MAKE A
19 DETERMINATION OF CAUSE AND MANNER OF DEATH
20 AND MY MANNER OF DEATH IS NOT MADE SOLELY ON
21 THE INFORMATION FROM ANY ONE INDIVIDUAL.

22 AS I'VE STATED IN DIRECT EXAMINATION TO
23 THIS JURY, MY CAUSE AND MANNER OF DEATH WAS
24 BASED UPON INFORMATION AND MY FINDINGS AT
25 THE TIME OF AUTOPSY , AND MY FINDINGS AT

1 THE TIME OF AUTOPSY AND MY EXPERIENCE AS A
2 FORENSIC PATHOLOGIST AND MY EXPERIENCE IN
3 DEALING WITH LAW ENFORCEMENT AND CORONERS
4 THAT, IN MY OPINION, THE CAUSE OF DEATH WAS
5 AS I STATED, WAS THE GUNSHOT WOUND WITH THE
6 BRAIN DAMAGE AND THE MANNER OF DEATH,
7 HOMICIDE.

8 Q YOU'RE NOT SAYING ANYTHING DIFFERENT
9 FROM ME, DOCTOR.

10 A YOU'RE SAYING, BASED UPON WHAT THE
11 OFFICERS SAID, THAT I CALLED IT A HOMICIDE.
12 IT'S NOT BASED UPON WHAT THE OFFICERS SAID,
13 IT'S BASED UPON WHAT HE SAID AND WHAT I
14 FOUND AT THE TIME OF AUTOPSY.

15 Q YOU FOUND SHE DIED BY THE HANDS OF
16 ANOTHER.

17 A ABSOLUTELY.

18 Q OKAY. DID YOU EXAMINE HER HANDS?

19 A HER HANDS APPEARED UNREMARKABLE TO ME.

20 Q YOU CAN'T TELL US WHETHER SHE PULLED THE
21 TRIGGER OR NOT, CAN YOU?

22 A I DID NOT PERFORM A RESIDUE EXAMINATION
23 ON HER, NO, SIR.

24 Q SO, ANSWERING MY QUESTION, YOU CAN'T
25 TELL US WHETHER SHE PULLED THE TRIGGER OR

1 NOT?

2 A I HAVE NO IDEA WHO PULLED THE TRIGGER ON
3 THAT GUN.

4 Q EXACTLY. YOU CAN'T TELL US WHETHER THE
5 CONTACT WAS BY INTENTIONAL ACT OR
6 UNINTENTIONAL ACT?

7 A IN MY EXPERIENCE AS A PATHOLOGIST,
8 CONTACT WOUNDS --

9 Q YOUR HONOR, I'D ASK THAT HE ANSWER MY
10 QUESTION.

11 A I'M ANSWERING YOUR QUESTION, SIR. IN MY
12 OPINION, AS A PATHOLOGIST, CONTACT WOUNDS
13 ARE MORE PROBABLE HOMICIDE RATHER THAN
14 ACCIDENTAL.

15 Q AND MORE PROBABLE STILL ALLOWS THE
16 POSSIBILITY OF ANOTHER WAY.

17 A ANYTHING IS POSSIBLE.

18 Q THANK YOU, SIR. NO MORE QUESTIONS OF
19 THIS WITNESS.

20 REDIRECT EXAMINATION

21 BY

22 SOLICITOR BLACKMON

23 Q GOING BACK TO HER HANDS. GIVEN THE
24 LOCATION OF THE WOUND, IF SHE HAD HAD HER
25 HAND ON THE GUN, WOULD THERE HAVE BEEN BLOOD

1 SPLATTER ON HER HAND?

2 A MORE THAN LIKELY THERE WOULD HAVE BEEN,
3 YES, MA'AM.

4 Q DID YOU FIND ANY?

5 A NO, MA'AM.

6 Q AND THAT IS WHY YOUR IS UNREMARKABLE ---

7 MR. SMITH: OBJECTION. LEADING.

8 Q IS THAT WHY YOUR NOTATION IS
9 UNREMARKABLE?

10 A YES, MA'AM.

11 Q SO THERE'S NO EVIDENCE -- IS THERE ANY
12 EVIDENCE THAT YOU FOUND THAT SHE HAD HER
13 HANDS ON THE GUN?

14 A NO, MA'AM.

15 Q IS THERE ANY EVIDENCE THAT YOU FOUND IN
16 THAT EXAMINATION, IN THOSE PHOTOGRAPHS, ON
17 THAT BODY, BASED ON YOUR INFORMATION AND
18 YOUR EXPERTISE ---

19 MR. SMITH: OBJECTION TO THE ;FORM OF
20 THE QUESTION.

21 Q DID YOU FIND ANYTHING THAT INDICATED TO
22 YOU THAT THAT WAS AN ACCIDENT?

23 A NO, MA'AM.

24 Q OR THAT IT DID NOT REQUIRE SOME
25 INTENTIONAL MOVEMENT?

1 A BASED UPON THE FINDINGS THAT I FOUND AT
2 THIS EXAMINATION, I FOUND NOTHING IN MY
3 OPINION TO SUGGEST THAT THIS WAS ACCIDENTAL.

4 Q THANK YOU. I HAVE NOTHING FURTHER OF
5 THIS WITNESS, YOUR HONOR.

6 COURT: ANYTHING FURTHER, MR. SMITH?

7 MR. SMITH: NO, SIR.

8 COURT: THANK YOU, DOCTOR.

9 SOLICITOR BLACKMON: WE WOULD ASK THAT
10 HE BE EXCUSED DUE TO HIS UNUSUAL
11 CIRCUMSTANCES.

12 MR. SMITH: YOUR HONOR, I WANT TO THINK
13 ABOUT THAT. I'D ASK THAT HE REMAIN.

14 COURT: IF YOU'D STAY A FEW MINUTES,
15 PLEASE.

16 SOLICITOR BLACKMON: THE STATE RESTS,
17 YOUR HONOR.

18 COURT: ALL RIGHT, LADIES AND
19 GENTLEMEN OF THE JURY, I'M GONE HAVE TO ASK
20 YOU TO STEP BACK TO YOUR ROOM. I'VE GOT TO
21 TAKE UP A MATTER OF LAW AND ANOTHER MATTER
22 I'VE GOT TO WORK IN. IT MAY BE JUST A FEW
23 MINUTES SO PLEASE BE PATIENT WITH US.
24 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
25 THE PRESENCE OF THE JURY.)

MOTIONS

242

1 MR. SMITH: YOUR HONOR, WE WOULD MOVE
2 TO DISMISS, FIRST OF ALL, THE INDICTMENT OF
3 MURDER, 16-3-10, 16-3-20. YOUR HONOR, THE
4 ELEMENTS OF THAT CRIME, THE KILLING OF A
5 HUMAN BEING WITH MALICE AFORETHOUGHT. YOUR
6 HONOR, BASED ON THE EVIDENCE PRESENTED BY
7 THE STATE, THE KEY ELEMENT IS MALICE
8 AFORETHOUGHT.

9 MALICE, YOUR HONOR, IS TO SHOW THAT
10 THERE WAS ILL WILL. THE MAIN INGREDIENT IN
11 MURDER IS MALICE, WHICH MAY BE PROVED BY
12 PREVIOUS THREATS, FORMER GRUDGES, HATRED AND
13 ILL WILL. IT CAN BE SHOWN BY CRUEL AND
14 VINDICTIVE TEMPER OR SOME TYPE OF
15 INTENTIONAL ACT ON THE PART OF THE DEFENDANT.
16 THAT SHOWS MALICE.

17 NOW, YOUR HONOR, WE'VE HAD SEVERAL
18 WITNESSES COME UP, BY THE STATE. NONE OF
19 THEM WERE PRESENT AT THE SCENE. NONE OF
20 WHOM -- WE'VE HEARD FROM NO ONE THAT WAS IN
21 THE ROOM ITSELF AND THE WITNESSES THAT WE DO
22 HAVE, THAT WE'VE HEARD FROM, CANNOT TELL US
23 ANYTHING ABOUT HOW -- WE HEARD NO EVIDENCE
24 ABOUT AN ARGUMENT PRIOR TO THIS. WE'VE
25 HEARD NO EVIDENCE ABOUT SOME TYPE OF THREAT.

MOTIONS

243

1 WE'VE HEARD NO EVIDENCE ABOUT ANY TYPE OF,
2 BY LEGAL DEFINITION, MALICE, IN THIS CASE,
3 YOUR HONOR.

4 THE STATE BEARS THE BURDEN OF PROVING
5 THEIR CASE, YOUR HONOR. IN THIS CASE THE
6 ONLY THINGS WE DO KNOW -- WE KNOW THE VICTIM
7 DIED BY GUNSHOT. WE DO KNOW IT WAS A
8 CONTACT WOUND. WE DO KNOW THAT SHE WAS
9 PRESENT IN THE ROOM WITH THE DEFENDANT AND
10 ANOTHER WITNESS, WHO IS HERE IN THE
11 COURTROOM, YOUR HONOR, THAT THE STATE DID
12 NOT PUT UP. OTHER THAN THAT, YOUR HONOR, WE
13 DON'T HAVE ANYTHING FROM THE STATE. NOTHING
14 TO SHOW MALICE.

15 THEY COULD HAVE PUT FORTH ANY TYPE OF
16 EVIDENCE, YOUR HONOR, TO SHOW THERE WAS SOME
17 TYPE OF CONFRONTATION, IF THERE WAS ANYTHING
18 IN THIS CASE THAT WOULD HAVE INDICATED OR
19 EVEN GAVE THE SLIGHTEST HINT THERE WAS
20 MALICE. IN THIS CASE, YOUR HONOR, WE DO NOT
21 HAVE IT.

22 YOUR HONOR, THERE ARE OTHER CHARGES IN
23 OUR LAW THAT FALL MORE INTO THE FACTS THAT
24 HAVE BEEN PRESENTED TO THIS COURT THAN THE
25 INDICTMENT OF MURDER, AND YOUR HONOR, WE

MOTIONS

244

1 WOULD MOVE FOR A DISMISSAL OF THAT
2 INDICTMENT.

3 COURT: I'LL DENY THAT.

4 SOLICITOR BLACKMON: MAY IT PLEASE THE
5 COURT, , FOR THE RECORD, MALICE IS AN
6 ESSENTIAL DEGREE OF MURDER. THAT'S STATED
7 IN STATE VERSUS MOUZON, 99 SE2ND 72. IT
8 ALSO INDICATES THAT MALICE DOES NOT
9 NECESSARILY IMPORT ILL WILL TO THE
10 INDIVIDUAL. IT SIGNIFIES A GENERAL
11 MALIGNANT RECKLESSNESS OF THE LIFE AND
12 SAFETY OF OTHERS OR A CONDITION OF THE MIND
13 WHICH SHOWS A HEART DEVOID OF SOCIAL DUTY
14 AND FATALLY BENT ON MISCHIEVOUS. AND IF
15 STICKING A LOADED GUN TO A GIRL'S THROAT AND
16 SHOOTING HER IS NOT EVIDENCE OF GENERAL
17 MALIGNANT RECKLESSNESS, I DON'T KNOW WHAT
18 IS. THE STATE DOES NOT HAVE TO PROVE --
19 MALICE DOESN'T REQUIRE THE STATE TO PROVE AN
20 ACTUAL INTENT TO TAKE A HUMAN LIFE.

21 AGAIN, AS STATED IN STATE VERSUS MOUZON,
22 IT MAY BE INFERENTIAL OR IMPLIED INSTEAD OF
23 POSITIVE. IT'S WHERE AN ACT IMPORTS DANGER
24 TO ANOTHER AND DONE SO RECKLESSLY, WILLFULLY
25 AND WANTONLY.

1 IN REGARD TO DEPRAVITY OF MIND, WHEN HE
2 TOOK THE GUN AND PUT IT TO HER THROAT,
3 THERE'S NOBODY CONTROVERTING THAT. THE
4 EVIDENCE IS THERE. I BELIEVE THE STATE HAS
5 MET ITS' BURDEN OF PROOF AS FAR AS MALICE
6 AND I THINK THE INDICTMENT IS PROPER.

7 COURT: I'VE HEARD ENOUGH. THE USE OF
8 A DEADLY WEAPON AND THE GENERAL PRINCIPLE OF
9 INFERRED MALICE WOULD PREVENT ME FROM
10 GRANTING THAT MOTION.

11 SOLICITOR BLACKMON: THANK YOU, YOUR
12 HONOR.

13 MR. SMITH: YOUR HONOR, WE'D ALSO MOVE
14 FOR A DISMISSAL ON THE SECOND INDICTMENT,
15 WHICH IS POSSESSION OF A WEAPON. I BELIEVE
16 THE SECOND INDICTMENT IS CARRYING A WEAPON,
17 16-23-20. TO MY KNOWLEDGE, YOUR HONOR,
18 THERE IS NO DIRECT TESTIMONY INVOLVING THIS
19 DEFENDANT. THE GUN WAS TESTED. THERE ARE
20 NO FINGERPRINTS. WE HAVE NO DIRECT
21 TESTIMONY THAT INDICATES THE DEFENDANT IN
22 THIS CASE OF BEING THE ONE WHO POSSESSED THE
23 GUN. THIS ONE SAYS CARRYING A PISTOL. IN
24 FACT, WHEN THE OFFICER ARRIVED THE PISTOL
25 WAS ON THE FLOOR.

MOTIONS

246

1 COURT: WHAT WOULD THE STATE LIKE TO
2 SAY IN REGARD TO THAT MOTION?

3 SOLICITOR BLACKMON: WITH REGARD TO
4 THAT MOTION, YOUR HONOR, THERE IS DIRECT
5 TESTIMONY IN EVIDENCE BY THE INVESTIGATOR
6 MONTY THOMPSON THAT INDICATES WHEN THEY CAME
7 INTO THE ROOM THE FATHER AND ANOTHER
8 GENTLEMAN WERE SITTING ON THE DEFENDANT AND
9 THE FATHER SAID, I TOLD YOU THAT DAMN GUN
10 WAS GONE GET YOU IN TROUBLE. THAT RIGHT
11 THERE WOULD BE IMPLIED THAT HE WAS IN
12 POSSESSION. THAT WAS AN ADMISSION BY PEOPLE
13 WHO WERE THERE AND KNEW HE HAD THE GUN.

14 COURT: WELL, YOU'VE GOT THE STATEMENT,
15 TOO, FROM THE DEFENDANT. WAIT A MINUTE.
16 I'VE ALREADY DONE SOME RESEARCH HERE.

17 YOUR CLIENT LIVED IN THE HOME?

18 MR. SMITH: YES, YOUR HONOR.

19 COURT: I ALREADY FORESAW A PROBLEM
20 WITH THIS AND IT BOILS DOWN TO THIS. UNDER
21 THIS PARTICULAR CHARGE YOU'VE GOT A PROBLEM
22 UNDER 16-23-20, SUB-SECTION 8. EVEN THOUGH
23 HIS AGE REALLY DOESN'T BEAR UPON IT, SUB-
24 SECTION 8, ANY PERSON IN HIS HOME OR UPON
25 HIS REAL PROPERTY OR AFFIXED PLACE OF

MOTIONS

247

1 BUSINESS, A CHARGE OF POSSESSION OF A
2 FIREARM BY A MINOR, THERE IS NO EXCEPTION
3 SHOWN. THAT HE WAS UNDER INSTRUCTION FROM
4 AN ADULT OR A PARENT MAY HAVE BEEN
5 APPROPRIATE BUT THIS PARTICULAR CHARGE IS
6 NOT AND I AGREE WITH MR. SMITH AND THAT
7 INDICTMENT IS DISMISSED BY THE COURT AT THIS
8 TIME.

9 SOLICITOR BLACKMON: THANK YOU, YOUR
10 HONOR.

11 (WHEREUPON A BREAK WAS TAKEN BY THE
12 COURT.)

13 COURT: MR. SMITH, I USED THE WRONG
14 TERMINOLOGY A WHILE AGO ON THAT MOTION. I
15 SAID, DISMISSED. IT SHOULD BE GRANT YOUR
16 MOTION OR DIRECTED VERDICT. AS FAR AS THE
17 PAPERWORK, I'LL DO THAT AT THE END OF THE
18 CASE.

19 MR. SMITH: YOUR HONOR, ONE OTHER
20 THING, TOO, THAT I'M NOT SURE IS ON THE
21 RECORD. THERE WERE FOUR INDICTMENTS AGAINST
22 MY CLIENT. THE STATE INFORMED ME THAT TWO
23 WERE GOING TO BE NOLLE PROSSED. IS THAT
24 CORRECT?

25 SOLICITOR BLACKMON: THAT'S CORRECT.

1 COURT: NOTED. THE JURY'S ON THE WAY
2 BACK NOW.

3 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
4 PRESENCE OF THE JURY.)

5 MR. SMITH: YOUR HONOR, AT THIS TIME
6 THE DEFENSE WOULD CALL [REDACTED] MCDONALD.

7 [REDACTED] MCDONALD

8 BEING FIRST DULY SWORN, TESTIFIED AS
9 FOLLOWS:

10 DIRECT EXAMINATION

11 BY

12 MR. SMITH.

13 Q [REDACTED] I'M GONE NEED FOR YOU TO
14 SPEAK LOUD FOR ME. OKAY?

15 A OKAY.

16 Q THAT'S NOT LOUD ENOUGH. GET CLOSER TO
17 THE MICROPHONE.

18 STATE YOUR NAME FOR THE RECORD.

19 A [REDACTED] MARIA MCDONALD.

20 Q AND, MS. MCDONALD, WHERE DO YOU LIVE?

21 A [REDACTED], HARTSVILLE, SOUTH
22 CAROLINA.

23 Q AND HOW OLD ARE YOU?

24 A NINETEEN.

25 Q AND ARE YOU IN SCHOOL AT THIS TIME?

1 A NO, SIR, NOT CURRENTLY.

2 Q DO YOU WORK?

3 A I'M TAKING A NURSE'S AIDE CLASS RIGHT
4 NOW.

5 Q WHERE ARE YOU TAKING THAT AT, ██████████

6 A MORRELL CONVALESCENT CENTER.

7 Q WHAT DO YOUR FRIENDS CALL YOU,

8 ██████████

9 A YES, SIR.

10 Q ALL RIGHT. AND ARE YOU A GRADUATE OF
11 HIGH SCHOOL?

12 A YES, SIR.

13 Q WHERE DID YOU GRADUATE FROM HIGH SCHOOL?

14 A HARTSVILLE SENIOR HIGH.

15 Q ALL RIGHT. AND DO YOU KNOW THE
16 DEFENDANT IN THIS CASE, ERIC GRAHAM?

17 A YES, SIR.

18 Q HOW DO YOU KNOW ERIC?

19 A HE'S MY FIRST COUSIN.

20 Q OKAY. DO YOU KNOW THE VICTIM IN THIS
21 CASE, MS. ██████████

22 A YES, SIR.

23 Q HOW LONG HAVE YOU KNOWN HER?

24 A FOR ABOUT SIX, SEVEN YEARS.

25 Q HOW WOULD YOU CATEGORIZE YOUR

1 RELATIONSHIP WITH THE VICTIM, MS. [REDACTED]

2 A WE WERE VERY CLOSE.

3 Q WERE YOU FRIENDS WITH HER WHEN SHE BEGAN
4 DATING ERIC?

5 A YES, SIR.

6 Q WHERE DID SHE GO TO SCHOOL?

7 A I THINK SHE ATTENDED MAYO AT THE TIME.

8 Q HOW DID YOU -- STRIKE THAT -- YOU
9 ATTENDED HARTSVILLE, IS THAT CORRECT?

10 A YES, SIR.

11 Q AND SHE WAS ATTENDING MAYO?

12 A YES, SIR.

13 Q HOW DID YOU KNOW HER THEN?

14 A BECAUSE A FEW YEARS BEFORE, BOTH OF US
15 HAD GONE TO COKER COLLEGE FOR A PROGRAM.
16 EVER SINCE FIFTH, SIXTH GRADE.

17 Q AND THE FRIENDSHIP CONTINUED OVER THE
18 YEARS?

19 A YES, SIR.

20 Q HOW OFTEN DO YOU FEEL LIKE YOU SAW HER
21 PRIOR TO HER DATING ERIC?

22 A WE WOULD SEE EACH OTHER EVERY SUMMER,
23 BUT BETWEEN SUMMERS WE DIDN'T REALLY GET A
24 CHANCE TO SEE EACH OTHER.

25 Q AND DO YOU RECALL WHEN SHE STARTED

1 DATING ERIC?

2 A THE SUMMER -- WELL, I DIDN'T KNOW SHE
3 WAS DATING HIM UNTIL THAT SUMMER BEFORE HER
4 DEATH.

5 Q AND HOW OFTEN WOULD YOU SEE HER DURING
6 THE SUMMER MONTHS WHEN HE WAS DATING HER?

7 A PROBABLY EVERY DAY; EVERY OTHER DAY.

8 Q WHY?

9 A BECAUSE SHE WAS OVER THERE A LOT.

10 Q SHE WAS AT THE GRAHAM HOUSE?

11 A YES, SIR.

12 Q WAS ERIC WORKING AT THE TIME?

13 A NO, SIR, I DON'T THINK HE WAS WORKING AT
14 THE TIME.

15 Q THIS IS DURING THE SUMMER I'M TALKING
16 ABOUT.

17 A YES, SIR.

18 Q ALL RIGHT. WERE YOU WORKING AT THE
19 TIME?

20 A NO, SIR.

21 Q WHAT WOULD YA'LL DO TOGETHER?

22 A ME AND ERIC?

23 Q AND MS. ██████████

24 A MOST OF THE TIME WE'D SIT AROUND THE
25 HOUSE, WATCH MOVIES, OR HER AND ERIC WOULD

1 GO SOMEWHERE. MOST OF THE TIME WE SAT
2 AROUND AND PLAYED GAMES, WATCHED MOVIES,
3 DOUBLE-DATED -- AT THE HOUSE, MOSTLY.

4 Q DURING THE SCHOOL -- SEPTEMBER THROUGH
5 DECEMBER OF 1996, HOW OFTEN DID YOU SEE HER?

6 A EVERY WEEKEND.

7 Q AND WHY?

8 A BECAUSE I WAS MOSTLY THERE ON THE
9 WEEKENDS, BECAUSE I WAS ATTENDING SCHOOL AT
10 THE TIME. AND SO WHENEVER I WAS THERE,
11 MAINLY ON THE WEEKENDS, I WOULD SEE HER.

12 Q OKAY. NOW, WAS THERE ANY PARTICULAR
13 REASON WHY YOU'D SPEND THE WEEKENDS AT THE
14 GRAHAM HOUSE?

15 A ME AND MY AUNT AND UNCLE ARE VERY CLOSE.
16 AND THEN I WAS JUST THERE EVERY WEEKEND.

17 Q WHEN YOU WERE THERE ON THE WEEKENDS, DID
18 YOU SPEND TIME WITH ERIC AND MS. ██████████

19 A YES, SIR.

20 Q HOW WOULD YOU CHARACTERIZE THE
21 RELATIONSHIP THAT YOU OBSERVED?

22 A THEY WERE, BASICALLY, LOVEY-DOVEY ALL
23 THE TIME. THEY WERE REALLY CLOSE. NEVER HAD
24 ARGUMENTS OR ANYTHING.

25 Q WERE YOU AWARE, PERSONALLY AWARE, WHEN

1 ERIC WOULD GO TO HER HOUSE?

2 A YES, SIR.

3 Q ON THE WEEKEND OF DECEMBER 7, DO YOU
4 RECALL -- OF 1996, DO YOU RECALL WHAT DAY OF
5 THE WEEK IT WAS?

6 A NO, SIR.

7 Q WERE YOU AT THE GRAHAM HOUSE THAT NIGHT?

8 A YES, SIR.

9 Q AND HOW LONG HAD YOU BEEN AT THE GRAHAM
10 HOUSE THAT NIGHT?

11 A I HAD BEEN THERE ALL DAY LONG, EVER
12 SINCE MY AUNT PICKED ME UP AT MY HOUSE
13 EARLIER, AND WE HAD GONE UPTOWN SHOPPING,
14 GROCERY SHOPPING, AND I HAD BEEN HOME EVER
15 SINCE THEN, AT THE HOUSE.

16 Q HOME, BEING THE GRAHAM'S RESIDENCE?

17 A YES, SIR.

18 Q DO YOU RECALL SEEING ERIC THAT DAY?

19 A YES, SIR.

20 Q DO YOU RECALL SEEING HIM PRIOR TO THE
21 SHOOTING?

22 A YES, SIR. BEFORE HE LEFT THE HOUSE.

23 Q ██████████ YOU'RE IN THIS COURTROOM
24 TODAY BY SUBPOENA, ARE YOU NOT?

25 A YES, SIR.

1 Q WHO SUBPOENAED YOU TO BE HERE?

2 A THE STATE.

3 Q THE STATE DID NOT CALL YOU AS A WITNESS,
4 DID THEY?

5 A NO, SIR.

6 Q [REDACTED] WERE YOU IN THE ROOM WHEN
7 THIS SHOOTING HAPPENED?

8 A YES, SIR.

9 Q IF YOU'LL STEP DOWN HERE A SECOND,
10 PLEASE, MA'AM. STAND ON THAT SIDE, IF YOU
11 WILL, PLEASE, MA'AM. I'M GONE HAND YOU THIS
12 POINTER, SO YOU WON'T STEP INTO THE LIEN OF
13 THE JURY'S SIGHT, OKAY? THESE PHOTOGRAPHS,
14 CAN YOU TELL THE JURY WHAT THOSE PHOTOGRAPHS
15 ARE?

16 A THEY'RE PICTURES OF THE SITTING ROOM AT
17 THE GRAHAM RESIDENCE.

18 Q OKAY. SITTING ROOM. ON THIS CHART OF
19 THE HOME, WHICH ROOM WOULD THAT BE?

20 A RIGHT HERE.

21 Q AND IS THAT ROOM LOCATED NEAR THE REAR
22 OF THE HOME?

23 A YES, SIR.

24 Q WE'VE LABELED IT ON THIS CHART AS THE
25 FAMILY ROOM. DID YOU SPEND A LOT OF TIME IN

1 THAT ROOM?

2 A YES, SIR.

3 Q WHAT WENT ON IN THAT ROOM?

4 A NORMALLY, T.V., WATCHING MOVIES OR
5 PLAYING GAMES OR JUST CONVERSATION.

6 A NOW, ON THE NIGHT OF THE SHOOTING, WERE
7 YOU PRESENT IN THAT ROOM?

8 A YES, SIR.

9 Q TELL THIS JURY, LOOKING AT THESE
10 PHOTOGRAPHS, WHERE YOU WERE.

11 A I WAS SITTING RIGHT THERE.

12 Q AND YOU'RE POINTING TO THE RIGHT SIDE OF
13 THE COUCH.

14 A YES, SIR.

15 Q WHERE WAS ERIC SEATED?

16 A ERIC WAS SITTING RIGHT THERE.

17 Q IN THE MIDDLE OF THE COUCH?

18 A YES, SIR.

19 Q AND WHERE WAS MS. ██████████ SEATED?

20 A RIGHT HERE WHERE THE 'X' IS.

21 Q OKAY. WAS ANYBODY ELSE IN THE ROOM WITH
22 YA'LL?

23 A NO, SIR.

24 Q NOW, WHAT WERE YA'LL DOING?

25 A WE WERE WATCHING A MOVIE.

1 Q OKAY. LOOKING AT THE THIRD PHOTOGRAPH,
2 GOING DOWN. DOES THAT SHOW THE T.V. IN THE
3 ROOM?

4 A YES, SIR.

5 Q WERE YA'LL WATCHING A MOVIE ON THAT
6 TELEVISION SET?

7 A IT WASN'T -- IT WAS THAT T.V., BUT IT
8 WAS A DIFFERENT --

9 Q CONSOLE?

10 A YES, SIR.

11 Q AND YOU'RE SAYING IT'S BASICALLY THE
12 SAME T.V., JUST IN A DIFFERENT HOLE?

13 A YES, SIR.

14 Q ALL RIGHT. AND YOU HAD BEEN AT THE
15 HOUSE FOR HOW LONG THAT DAY PRIOR TO THE
16 SHOOTING, APPROXIMATELY?

17 A I'D SAY FROM LIKE 5:00 OR THEREABOUTS.

18 Q OKAY. DID ERIC LEAVE THE HOUSE DURING
19 THE TIME THAT YOU WERE THERE, FROM 5:00
20 UNTIL LATER THAT EVENING?

21 A YES, SIR.

22 Q DO YOU RECALL WHEN HE CAME BACK?

23 A WHEN HE CAME BACK, HIM AND ██████████ CAME
24 BACK TOGETHER.

25 Q OKAY. WERE YOU WITH HIM OR THEM WHEN

1 THEY GOT TOGETHER?

2 A NO, SIR. NOT THAT PARTICULAR NIGHT.

3 Q OKAY. THIS PARTICULAR NIGHT, YOU WERE
4 STILL AT THE HOUSE?

5 A YES, SIR.

6 Q DO YOU RECALL WHAT TIME THEY CAME BACK
7 TO THE HOME?

8 A IT HAD TO BE AROUND 12:00.

9 Q TELL ME WHAT YA'LL DID ONCE THEY GOT
10 BACK TO THE HOME.

11 Q WHEN SHE GOT BACK AND ERIC GOT BACK IN
12 THE HOUSE, I LET THEM IN. THEY WERE SITTING
13 THERE ON THE COUCH AND ERIC PUT IN A MOVIE.

14 Q OKAY. WAS IT A RENTAL MOVIE?

15 A YES, SIR. ██████████ HAD RENTED IT.

16 Q YOU CALLED HER BIRDIE, DIDN'T YOU?

17 A YES, SIR.

18 Q SO BIRDIE HAD RENTED THIS MOVIE?

19 A YES, SIR.

20 Q AND WHAT WAS THE PLAN FOR THAT EVENING?

21 A TO JUST SIT AND WATCH MOVIES ALL NIGHT.

22 Q WAS BIRDIE PLANNING TO STAY LATE THAT
23 NIGHT?

24 A YES, SIR, I ASSUME SO BECAUSE IT WAS
25 ALREADY LATE AND WE WERE STARTING TO WATCH A

1 MOVIE.

2 Q WAS THAT A NORMAL THING, FOR HER TO STAY
3 LATE AT THE GRAHAM HOME?

4 A YES, SIR.

5 Q HAVE YOU EVER KNOWN HER TO SPEND THE
6 NIGHT AT THE GRAHAM HOME?

7 A NOT TO SPEND THE NIGHT AS IN ROOM AND
8 BOARD, YOU KNOW, BUT JUST BEING THERE AT
9 NIGHT UNTIL MORNING, YES, SIR.

10 Q AND ON OCCASIONS WHEN SHE WOULD STAY
11 OVERNIGHT, YOU WOULD BE THERE, TOO?

12 A YES, SIR.

13 Q HOW DID THE FAMILY RECEIVE HER?

14 A THEY WELCOMED HER. SHE WAS JUST LIKE A
15 PART OF OUR FAMILY.

16 Q ██████████, AND I APOLOGIZE FOR ASKING
17 YOU ALL THESE QUESTIONS ABOUT THAT NIGHT. I
18 KNOW YOU'RE HAVING A DIFFICULT TIME, BUT
19 TELL THIS JURY WHAT HAPPENED OR WHERE YOU
20 WERE JUST PRIOR TO THIS SHOOTING.

21 A I WAS SITTING ON THE COUCH, WATCHING A
22 MOVIE.

23 Q WHAT DID YOU DO NEXT?

24 A I WAS GETTING READY TO GET UP AND GO TO
25 BED.

1 Q AND HOW WOULD YOU HAVE LEFT THE ROOM TO
2 GO TO BED? IF YOU'LL SHOW ME ON THIS CHART.

3 A HE WAS HERE AND ██████████ WAS HERE. BY
4 CROSSING IN FRONT OF THE T.V. AND GOING INTO
5 THE KITCHEN, RIGHT HERE.

6 Q ALL RIGHT. AND THESE PHOTOGRAPHS,
7 APPROXIMATELY, WELL, FROM YOUR RECOLLECTION,
8 HOW FAR IS IT FROM THE COUCH TO THE DOOR?

9 A A COUPLE OF FEET.

10 Q HOW LONG, TIME-WISE, WOULD IT TAKE YOU
11 TO CROSS THE ROOM?

12 A A FEW SECONDS.

13 Q YOU SAY YOU WERE GETTING READY TO GO TO
14 BED?

15 A YES, SIR.

16 Q WERE YOU NOT PLANNING TO WATCH THE
17 MOVIE?

18 A NO, SIR.

19 Q HAD YOU STARTED WATCHING THE MOVIE?

20 A YES, SIR.

21 Q DID YOU TELL ERIC AND BIRDIE THAT YOU
22 WERE GOING TO BED?

23 A YES, SIR.

24 Q PRIOR TO YOU GOING TO BED AND GETTING UP
25 FROM THE COUCH, WHAT HAD THE MOOD IN THE

1 ROOM BEEN?

2 A PRIOR TO ME GETTING UP, PLAYING AND
3 LAUGHING. BECAUSE WHEN I GOT UP TO LEAVE, I
4 SAID, I'M NOT WATCHING THIS MOVIE ANY MORE
5 AND THEY LAUGHED, YOU KNOW. YOU KNOW, HA,
6 HA.

7 Q OKAY.. HAD THERE BEEN ANY ARGUMENTS
8 BETWEEN THEM PRIOR TO YOU GETTING UP TO
9 LEAVE THE ROOM?

10 A NO, SIR.

11 Q HAD THEY BEEN AFFECTIONATE TOWARD EACH
12 OTHER?

13 A YES, SIR.

14 Q YOU EARLIER CATEGORIZED THAT THEY WERE
15 AFFECTIONATE TOWARD EACH OTHER. WAS THAT
16 NORMAL?

17 A YES, SIR.

18 Q TELL ME WHAT HAPPENED NEXT AS YOU GOT UP
19 FROM THE COUCH.

20 A AS I GOT UP FROM THE COUCH, I TOOK A FEW
21 STEPS AND I HEARD THE GUN GO OFF. AND
22 BEFORE I EVEN TURNED AROUND I HEARD ERIC
23 SCREAMING. HE SAID, ██████████ YOU KNOW,
24 JUST SCREAMING. AND SO I TURNED AROUND AND
25 I STILL DIDN'T KNOW WHAT WAS GOING ON,

1 BECAUSE AT THAT TIME I DIDN'T SEE ANYTHING.

2 AND HE WAS JUST SCREAMING AND GOING ON.

3 Q I KNOW IT'S TOUGH, BUT WE NEED YOU TO GO
4 THROUGH THIS FOR US. AS YOU GOT UP FROM THE
5 COUCH, WOULD YOUR BACK HAVE BEEN TO THEM?

6 A YES, SIR.

7 Q AND YOU CROSSED THE ROOM WITH YOUR BACK
8 TO THEM?

9 A YES, SIR.

10 Q HAD YOU EXITED THE ROOM BY THE TIME YOU
11 HEARD THE SHOT?

12 A NO, SIR, BUT I WAS CLOSE TO THE DOORWAY.

13 Q AND HOW LONG A TIME PERIOD DO YOU FEEL
14 LIKE IT TOOK YOU TO CROSS THE ROOM?

15 A JUST SECONDS. A COUPLE OF SECONDS.

16 Q OKAY. PRIOR TO YOU GETTING UP FROM THE
17 SOFA, DID YOU EVER SEE A GUN?

18 A NO, SIR.

19 Q AFTER YOU HEARD THE SHOT, DID YOU EVER
20 SEE A GUN?

21 A NO, SIR.

22 Q AT ANY TIME PRIOR TO THE SHOT, DID YOU
23 HEAR ERIC THREATEN BIRDIE?

24 A NO, SIR.

25 Q DID YOU HEAR HER YELL OR ARGUE WITH HIM?

1 A NO, SIR.

2 Q YOU STATED THAT THEY LAUGHED RIGHT
3 BEFORE YOU GOT UP?

4 A YES, SIR.

5 Q DO YOU RECALL WHERE ERIC'S HANDS WERE?

6 A NO, SIR.

7 Q DO YOU RECALL IF THEY WERE BEHIND HIM?

8 SOLICITOR BLACKMON: ASKED AND
9 ANSWERED.

10 Q LET ME REPHRASE THE QUESTION. WAS THERE
11 ANYTHING UNUSUAL ABOUT ERIC'S HANDS, IF YOU
12 RECALL?

13 A NO, SIR.

14 Q DO YOU RECALL SEEING HIS HANDS?

15 A NO, SIR.

16 Q NOW, DO YOU RECALL HIM MAKING ANY
17 THREATS TO HER?

18 A NO, SIR.

19 Q DO YOU RECALL ANY COMMENTS ABOUT A GUN?

20 A NO, SIR.

21 Q ALL RIGHT. AS YOU CROSSED THE ROOM AND
22 YOU HEARD THE SHOT, WHAT DID YOU THINK
23 HAPPENED?

24 A I THOUGHT THEY WERE PLAYING OR SOMEONE
25 HIT THE WALL OR SOMETHING.

1 Q AND WHEN YOU TURNED, WHAT DID YOU SEE?

2 A I SAW ERIC SCREAMING. AND HE WAS JUST
3 SCREAMING AND GOING ON.

4 Q ALL RIGHT. WHEN YOU FIRST TURNED AND
5 SAW HIM, WAS HE STILL ON THE COUCH?

6 A NO, SIR. WELL, WHEN I TURNED AROUND
7 AND SAW HIM HE WAS STILL ON THE COUCH AND HE
8 WAS SCREAMING. HE WAS JUST CRAZY, YOU KNOW;
9 JUST OUT OF CONTROL.

10 Q WHEN YOU'RE TALKING ABOUT SCREAMING,
11 TELL ME WHAT HE WAS SCREAMING.

12 A I COULDN'T EXACTLY UNDERSTAND WHAT HE
13 WAS SCREAMING. HE WAS SAYING, OH, MY GOD,
14 YOU KNOW, BIRDIE, BIRDIE, BIRDIE. THAT'S
15 ALL YOU COULD UNDERSTAND HIM SAYING.

16 Q DID HE REACH OUT FOR HER?

17 A YES, SIR.

18 Q HOW DID HE REACH OUT FOR HER?

19 A HE WAS TOUCHING HER AND HOLDING HER.

20 Q OKAY. TAKE YOUR SEAT AGAIN, PLEASE,
21 MA'AM. WAS BIRDIE STILL ON THE COUCH?

22 A YES, SIR.

23 Q WAS ERIC BESIDE HER, CALLING HER, OR HAD
24 HE ---

25 SOLICITOR BLACKMON: OBJECTION, YOUR

██████████ MCDONALD -- DIRECT/SMITH
HONOR, HE'S LEADING.

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COURT: SUSTAINED.

Q WHAT WAS ERIC'S POSITION AS YOU FIRST
TURNED?

A HE WAS SITTING BESIDE HER, SCREAMING.

Q OKAY. HE WAS SCREAMING. WAS IT AN
ANGRY SCREAM?

A NO, SIR. IT WAS NOT MORE OF AN ANGRY.
IT WAS MORE OF A SHOCKED AND UPSET.

Q WHAT DID YOU DO?

A AT FIRST I JUST KIND OF LOOKED, TO SEE
WHAT WAS GOING ON, AT FIRST, AND HE JUST
COULDN'T CALM DOWN AND LET ME KNOW WHAT WAS
GOING ON AT FIRST. AND WHEN I FINALLY
REALIZED WHAT WAS GOING ON, HE SAID, YOU
KNOW, SHE WAS SHOT AND EVERYTHING. I CALLED
9-1-1.

Q DID YOU THINK FOR YOURSELF TO CALL 9-1-1
OR DID SOMEONE TELL YOU TO DO IT?

A I DID IT ON MY OWN.

Q HOW SOON AFTER THAT SHOT DO YOU FEEL
LIKE, IN TIME, THAT YOU CALLED 9-1-1?

A A MINUTE, MAYBE.

Q DID YOU EVER APPROACH BIRDIE YOURSELF?

A YES, SIR.

1 Q WHAT DID YOU DO?

2 A I TOUCHED HER, YOU KNOW, TO SEE IF SHE
3 WAS ALIVE OR WHATEVER, BECAUSE AT THAT TIME
4 I HADN'T EVEN FIGURED OUT WHERE SHE HAD BEEN
5 SHOT OR ANYTHING. AND I TOUCHED HER AND
6 CHECKED HER PULSE TO SEE IF SHE WAS
7 BREATHING AND FELT HER HANDS AND EVERYTHING
8 TO SEE IF SHE WAS STILL BREATHING, TO SEE IF
9 HER PULSE WAS STILL GOING.

10 Q IN CHECKING HER PULSE, WHERE DID YOU
11 TOUCH HER?

12 A I TOUCHED HER RIGHT HERE ON HER WRIST.

13 Q WAS HER HEAD -- WHAT WAS THE CONDITION
14 OF HER HEAD WHEN YOU TOUCHED HER ON THE
15 WRIST?

16 A IT WAS TILTED BACK.

17 Q COULD YOU SEE THIS WOUND IN HER NECK?

18 A NO, SIR.

19 Q WHAT DID YOU DO NEXT?

20 A AFTER I CALLED 9-1-1 I WENT TO THE ROOM,
21 BECAUSE I COULDN'T CALM ERIC DOWN MYSELF, SO
22 I WENT TO THE ROOM TO GET MY AUNT AND I
23 KNOCKED ON THE DOOR.

24 Q OKAY. IF YOU'D STEP UP AGAIN, PLEASE.
25 HERE IS A DIAGRAM OF THE HOUSE. WHERE WAS

1 YOUR AUNT LOCATED?

2 A SHE WAS IN THIS BEDROOM.

3 Q IS THE BEDROOM IN THE BACK OF THE HOME?

4 A YES, SIR. SHE WAS IN THIS BEDROOM.

5 Q OKAY. AND HOW DID YOU GET TO THAT
6 BEDROOM?

7 A BY GOING THROUGH THE KITCHEN, DOWN THIS
8 HALLWAY RIGHT HERE.

9 Q OKAY. AND WHAT DID YOU DO WHEN YOU GOT
10 TO HER BEDROOM? WAS THE DOOR OPENED OR
11 CLOSED?

12 A IT WAS CLOSED.

13 Q AND WHAT DID YOU DO?

14 A I KNOCKED ON THE DOOR AND WENT IN. I
15 WAS TRYING TO EXPLAIN TO HER WHAT WAS GOING
16 ON, BUT I COULD BARELY GET IT OUT SO I SAID,
17 COME LOOK AT BIRDIE, COME LOOK AT BIRDIE,
18 AND SHE CAME AROUND TO SEE WHAT WAS GOING
19 ON.

20 Q HOW LONG WERE YOU GONE FROM ERIC DURING
21 THAT TIME?

22 A A MINUTE AT THE MOST.

23 Q WHEN YOU WERE AT THE BACK OF THE HOME,
24 COULD YOU STILL HEAR HIM?

25 A YES, SIR.

1 Q AND WHAT WAS GOING ON?

2 A HE WAS SCREAMING, BIRDIE. CALLING OUT
3 HER NAME CONSTANTLY.

4 Q WHAT HAPPENED NEXT AFTER YOU GOT YOUR
5 AUNT?

6 A SHE CAME AROUND. SHE WAS TRYING TO ASK
7 ERIC, TRYING TO CALM HIM DOWN, ASKING HIM
8 WHAT HAPPENED AND EVERYTHING. AND AFTER
9 THAT I THINK SHE CALLED MY UNCLE, YOU KNOW.
10 I THINK SHE CALLED UNCLE JOHN AFTER THAT.

11 Q IS HE PRESENT IN THE COURTROOM?

12 A YES, SIR.

13 Q WOULD UNCLE JOHN STAND UP. OKAY, IS
14 THAT HIM?

15 A YES, SIR.

16 Q ALL RIGHT. YOU HAD ALREADY CALLED 9-
17 1-1?

18 A YES, SIR.

19 Q DID YOU CALL 9-1-1 PRIOR TO GETTING YOUR
20 AUNT?

21 A YES, SIR.

22 Q AND WHERE WAS SHE IN THE BEDROOM?

23 A MY AUNT BOBBIE JEAN -- SHE WAS IN THE
24 BED ASLEEP.

25 Q SO YOU WOKE HER UP?

1 A YES, SIR.

2 Q WHEN SHE CAME OUT INTO THE FAMILY ROOM -
3 - EXCUSE ME, WHERE WAS THE TELEPHONE THAT
4 YOU USED?

5 A THE TELEPHONE'S RIGHT HERE. (INDICATES
6 ON CHART.)

7 Q WHERE IT IS IN THIS PICTURE? IN THIS
8 CORNER BY THE SOFA?

9 A YES, SIR.

10 Q AND WHEN YOU CALLED 9-1-1, DID YOU GET
11 AN ANSWER?

12 A YES, SIR.

13 Q DO YOU KNOW APPROXIMATELY WHAT TIME THIS
14 WAS?

15 A NO, SIR.

16 Q BUT YOU KNOW IT WAS AFTER TWELVE?

17 A YES, SIR.

18 Q NOW, DID YOU CALL YOUR UNCLE JOHN OR DID
19 MS. GRAHAM, BARBARA, CALL HIM?

20 A BOBBIE JEAN CALLED HIM.

21 Q YOU CALL HER BOBBIE JEAN?

22 A YES, SIR.

23 Q WAS ANYONE ELSE AT THE HOME AT THIS
24 TIME?

25 A NO, SIR.

1 Q HOW LONG DID IT TAKE FOR YOUR UNCLE JOHN
2 TO GET THERE?

3 A PROBABLY LESS THAN A MINUTE.

4 Q WHERE DOES HE LIVE IN RELATIONSHIP TO
5 THIS HOME?

6 A HE LIVES RIGHT NEXT DOOR.

7 Q AND DO YOU KNOW HOW HE GOT TO THE HOUSE?

8 A HE WALKED.

9 Q AND WHAT HAPPENED WHEN HE CAME IN?

10 A HE WAS TRYING TO GET ERIC CALM. YOU
11 KNOW, IT WAS PRETTY MUCH HIM TAKING OVER
12 AFTER THAT.

13 Q ALL RIGHT. ONCE BOBBIE JEAN CAME IN
14 THE ROOM, ONCE YOUR UNCLE JOHN CAME IN THE
15 ROOM, WHERE DID YOU GO IN THE HOUSE?

16 A I SAT IN THE KITCHEN.

17 Q WHAT WAS YOUR EMOTIONAL STATE?

18 A CONFUSED, UPSET. BECAUSE I REALLY -- IT
19 JUST HAPPENED SO FAST. IT WAS JUST SUCH A
20 SHOCK, YOU KNOW.

21 Q YOU'VE HAD OPPORTUNITIES TO OBSERVE ERIC
22 AND BIRDIE TOGETHER?

23 A YES, SIR.

24 Q IN YOUR OPINION DID HE LOVE HER?

25 A YES, SIR.

1 SOLICITOR BLACKMON: OBJECTION, YOUR
2 HONOR. SPECULATION.

3 MR. SMITH: NO IT'S NOT, YOUR HONOR.
4 IT'S HER OBSERVATIONS.

5 COURT: I'LL ALLOW IT ON THAT QUESTION.

6 Q AS YOU SAT IN THE KITCHEN, WHO WAS IN
7 THE FAMILY ROOM?

8 A AFTER UNCLE JOHN ARRIVED?

9 Q RIGHT.

10 A UNCLE JOHN, AUNT BOBBIE JEAN, AND ERIC.

11 Q OKAY. TELL ME WHAT YOU HEARD GOING ON
12 IN THERE.

13 A JUST WHAT HAPPENED, ASKING ERIC WHAT
14 HAPPENED AND TRYING TO GET HIM TO CALM DOWN.

15 Q DID YOU CALL 9-1-1? WAS 9-1-1 CALLED
16 AGAIN?

17 A I BELIEVE SO.

18 Q HOW LONG BEFORE THE POLICE ARRIVED?

19 A I'M NOT EXACT. BUT WITHIN AN HOUR.

20 Q WITHIN AN HOUR?

21 A YES, SIR.

22 Q DID ANYONE ELSE IN THE FAMILY COME TO
23 THE HOME BEFORE THE POLICE ARRIVED?

24 A I THINK MY BROTHER, JAMES, CAME OVER.
25 HE WAS THERE.

1 Q IS JAMES IN THE COURTROOM?

2 A NO, SIR.

3 Q ALL RIGHT. YOU HEARD NO ARGUMENTS?

4 A NO, SIR.

5 Q YOU HEARD NO FUSSING?

6 A NO.

7 Q SAW NO GUN?

8 A NO, SIR.

9 Q ██████████ DID THE POLICE TALK WITH YOU

10 AT THE HOME?

11 A YES, SIR.

12 Q WHICH ROOM DID THEY TALK WITH YOU IN?

13 A ONE OFFICER TALKED WITH ME IN THE BACK

14 ROOM.

15 Q POINT OUT THE ROOM HE TALKED WITH YOU

16 IN.

17 A ONE OFFICER TALKED WITH ME BACK HERE IN

18 THE LIVING ROOM. ONE TALKED TO ME IN THE

19 KITCHEN. WELL, TWO TALKED TO ME IN THE

20 LIVING ROOM AND ONE TALKED TO ME IN THE

21 KITCHEN.

22 Q THAT NIGHT?

23 A YES, SIR.

24 Q DO YOU SEE THOSE OFFICERS IN THE

25 COURTROOM?

1 A I TALKED TO INVESTIGATOR MONTY THOMPSON
2 THAT NIGHT.

3 Q DID YOU TALK WITH HIM AT THE HOME?

4 A I BELIEVE SO.

5 Q ALL RIGHT. HOW ABOUT THIS GENTLEMAN
6 OVER HERE, OFFICER LEE? DID YOU TALK WITH
7 HIM AT THE HOME?

8 A I DON'T REMEMBER.

9 Q OKAY. BUT YOU RECALL TALKING TO TWO IN
10 THE LIVING ROOM?

11 A YES, SIR.

12 Q AND YOU TOLD THEM WHAT YOU OBSERVED?

13 A YES, SIR.

14 Q AND THEN ANOTHER OFFICER TALKED WITH YOU
15 IN THE KITCHEN?

16 A YES, SIR.

17 Q OKAY. WHAT ELSE HAPPENED WITH YOU THAT
18 NIGHT?

19 A LATER ON, AFTER EVERYTHING HAD CALMED
20 DOWN AND THEY HAD TAKEN ERIC DOWN TO
21 DARLINGTON, ALL OF US WENT DOWN TO THE
22 DETENTION CENTER.

23 Q ALL OF US, BEING WHO?

24 A MYSELF, BOBBIE JEAN, UNCLE RAYMOND.

25 Q YOUR UNCLE RAYMOND WAS AT THE HOME?

1 A NOT AT THE TIME OF THE SHOOTING, BUT
2 AFTER THE POLICE HAD ARRIVED HE GOT THERE.

3 Q AND DID SOMEONE CALL HIM?

4 A YES, SIR.

5 Q AND WHERE WAS HE?

6 A HE WAS AT WORK.

7 Q NOW, YOU SAID ALL OF YOU WENT TO THE
8 DETENTION CENTER?

9 A YES, SIR.

10 Q HOW DID YA'LL GO THERE?

11 A WE DROVE.

12 Q DID YOU DRIVE IN ONE CAR?

13 A WE DROVE IN ONE CAR.

14 Q WHAT HAPPENED ONCE YOU GOT TO THE
15 DETENTION CENTER?

16 A I WAS ESCORTED INTO A LITTLE ROOM AND
17 QUESTIONED BY INVESTIGATOR MONTY THOMPSON.

18 Q DID HE TAKE A STATEMENT FROM YOU?

19 A YES, SIR.

20 Q WAS THAT A RECORDED STATEMENT?

21 A YES, SIR.

22 Q AND YOU TOLD HIM THE SAME THING YOU'VE
23 TOLD THIS JURY?

24 A YES, SIR.

25 Q THERE'S BEEN SOME REFERENCE THAT AS YOU

1 TURNED THAT YOU SAW SMOKE.

2 A YES, SIR.

3 Q TELL ME ABOUT THAT.

4 A WELL, AFTER THE SHOT HAD BEEN FIRED,
5 THERE WAS SMOKE AROUND HER FACE.

6 Q AND THESE DEPUTIES THAT ACTUALLY
7 QUESTIONED YOU AT THE DETENTION CENTER --

8 A YES, SIR.

9 Q -- DID THEY CALL YOUR MOTHER BEFORE THEY
10 QUESTIONED YOU?

11 SOLICITOR BLACKMON: OBJECTION, YOUR
12 HONOR. THERE IS NO NECESSITY FOR THEIR
13 HAVING CALLED HER MOTHER. THERE HAS BEEN NO
14 -- IT'S JUST IRRELEVANT WHETHER HER MOTHER
15 WAS CALLED.

16 COURT: WHAT WAS THE QUESTION AGAIN?

17 Q PRIOR TO THEM QUESTIONING YOU, DID THEY
18 CALL YOUR PARENTS?

19 A NO, SIR, NOT TO MY KNOWLEDGE.

20 Q HOW OLD WERE YOU AT THE TIME OF THIS
21 INCIDENT?

22 A I HAD JUST TURNED EIGHTEEN.

23 Q OKAY. DID THEY ASK YOU WHO YOUR PARENTS
24 WERE?

25 A I THINK THE FIRST POLICEMAN THAT

1 QUESTIONED ME, HE ASKED ME MY PARENTS' NAMES
2 AND WROTE IT DOWN.

3 Q OF COURSE, YOU HAD ALREADY TURNED
4 EIGHTEEN.

5 A YES, SIR.

6 COURT: WHAT IS THE RELEVANCY?

7 MR. SMITH: YOUR HONOR, I WAS GOING
8 FROM ONE QUESTION TO THE NEXT.

9 Q DID THEY ASK YOU WHY YOU WERE OVER AT
10 THE HOME THAT EVENING?

11 A NO, SIR.

12 COURT REPORTER: YOU'VE GOT TO SPEAK UP.

13 Q DO YOU RECALL ANYONE ASKING YOU WHY YOU
14 WERE AT THE HOME THAT EVENING?

15 A NO, SIR.

16 Q YOU DIDN'T GIVE A RECORDED STATEMENT?

17 A YES, SIR.

18 Q HAVE YOU LATER SEEN A COPY OF THAT
19 RECORDED STATEMENT?

20 A YES, SIR.

21 Q IS YOUR TESTIMONY TODAY BASICALLY WHAT
22 YOU TOLD HIM IN THAT RECORDED STATEMENT?

23 A YES, SIR.

24 Q THANK YOU. ANSWER ANY QUESTIONS THE
25 SOLICITOR MAY HAVE.

CROSS EXAMINATION

BY

SOLICITOR BLACKMON

Q WHAT TIME DID YOU SAY THAT ERIC AND
BIRDIE GOT TO THE HOUSE?

A THAT WOULD BE AFTER TWELVE, AROUND
TWELVE. IT HAD TO BE AROUND TWELVE.

Q YOU'VE INDICATED YOU GAVE A STATEMENT TO
THE DARLINGTON COUNTY SHERIFF'S DEPARTMENT,
IS THAT NOT CORRECT?

A YES, MA'AM.

Q YOU INDICATED YOU'VE SEEN A COPY OF THE
STATEMENT, IS THAT CORRECT?

A YES, MA'AM.

Q DO YOU RECALL IN THE STATEMENT, WHEN YOU
WERE ASKED WHAT TIME THEY GOT HOME, THAT YOU
ANSWERED THEY GOT THERE ABOUT ONE?

A I DON'T RECALL.

Q I SHOW YOU A COPY OF THE STATEMENT AND
ASK YOU TO LOOK AT IT. I DIRECT YOUR
ATTENTION TO PAGE TWO, A LITTLE MORE THAN
MID-WAY DOWN THE PAGE. THE QUESTION WAS
ASKED BY INVESTIGATOR THOMPSON, OKAY, ABOUT
WHAT TIME DID THEY GET TO THE HOUSE. WOULD
YOU READ YOUR RESPONSE?

1 A THEY GOT TO THE HOUSE ABOUT ONE, I
2 THINK. I THINK ABOUT ONE.

3 Q SO THEY DIDN'T GET THERE AT TWELVE, DID
4 THEY? ALL RIGHT, YOU SAID YOU WERE AT THE
5 HOUSE FROM WHEN TO WHEN?

6 A THE TIME I GOT TO THE HOUSE?

7 Q UH HUH (YES).

8 A I GOT TO THE HOUSE RIGHT AFTER WE HAD
9 GONE GROCERY SHOPPING. IT HAD TO BE AROUND
10 FIVE O'CLOCK.

11 Q AND YOU NEVER LEFT?

12 A NO, MA'AM.

13 Q BUT ERIC DID LEAVE?

14 A YES, MA'AM.

15 Q HOW DID YOU SAY YOU WERE RELATED TO
16 ERIC, AGAIN, YOU'RE HIS COUSIN?

17 A YES, MA'AM. MY FIRST COUSIN.

18 Q OKAY, AND WHO OF YOUR ---

19 A AND MY MOTHER IS HIS FATHER'S SISTER.

20 Q OKAY. IS YOUR TESTIMONY TODAY THAT YOU
21 STOOD UP -- ACTUALLY, LET ME CHANGE THAT.

22 WHY DID YOU STAND UP AND LEAVE THE ROOM?

23 A I DIDN'T LIKE THE MOVIE.

24 Q SO IT WASN'T JUST TO GO TO BED?

25 A I WAS GOING TO BED. MY INTENTION WAS TO

1 GO TO BED.

2 Q BUT IN YOUR STATEMENT YOU INDICATED YOU
3 DIDN'T LIKE THE MOVIE, IS THAT CORRECT?

4 A YES, MA'AM.

5 Q YOU DIDN'T INDICATE IN YOUR STATEMENT
6 ANYWHERE THAT YOU GAVE THAT YOU WERE GOING
7 TO BED OR THAT YOU SAID YOU WERE GOING TO
8 BED, DID YOU?

9 MR. SMITH: OBJECTION. ARGUMENTATIVE.

10 COURT: RE-STATE YOUR QUESTION.

11 Q IN THE STATEMENT THAT YOU GAVE LAW
12 ENFORCEMENT, DID YOU EVER INDICATE THAT YOU
13 TOLD THEM YOU WERE GOING TO BED?

14 A MAYBE NOT IN THAT PARTICULAR STATEMENT.

15 Q BUT YOU DID INDICATE YOU DIDN'T LIKE THE
16 MOVIE?

17 A YES, MA'AM.

18 Q IN YOUR STATEMENT THAT YOU GAVE
19 IMMEDIATELY AFTER THIS, DID YOU EVER TELL
20 THEM THAT THEY WERE LAUGHING AND JOKING AND
21 THAT THE MOOD WAS LIGHT?

22 A YES, MA'AM.

23 Q LOOK THROUGH THIS STATEMENT. WOULD YOU
24 TELL ME WHERE, IN THIS STATEMENT, THAT IS?
25 IS THERE ANYWHERE IN THAT STATEMENT THAT YOU

1 SAID YA'LL WERE ALL JOKING AND LAUGHING?

2 A NO, MA'AM. BUT ON PAGE 2, WHEN HE ASKED
3 ME, AFTER HE ASKED ME, WHEN I WAS TELLING
4 HIM WHAT HAPPENED AFTER THE GUN WENT OFF, I
5 TOLD HIM I THOUGHT IT WAS A JOKE BECAUSE WE
6 ALWAYS JOKED.

7 Q BUT THAT'S NOT WHAT YOU TESTIFIED HERE
8 TODAY. YOU TESTIFIED YOU THOUGHT SOMEBODY
9 HIT A WALL.

10 A I DID. IN MY STATEMENT I TOLD HIM I
11 DIDN'T KNOW WHAT IT WAS AT THE TIME.

12 Q YOU ALSO TESTIFIED HERE TODAY THAT YOU'D
13 GOTTEN UP OFF THE END OF THE COUCH AND
14 STARTED ACROSS THE ROOM, IS THAT NOT
15 CORRECT?

16 A YES, MA'AM.

17 Q DO YOU RECALL, IN YOUR STATEMENT, --
18 AGAIN, ON PAGE 2 -- MR. THOMPSON ASKED,
19 "NOW, WHO IS ALL OF US." AND YOUR ANSWER
20 WAS, "██████████ WAS ON THE END HERE, ERIC WAS
21 IN THE MIDDLE AND I WAS ON THE OPPOSITE END.
22 AND THEY PUT IN A TAPE." AND THEN, SKIPPING
23 DOWN, "I DIDN'T LIKE IT SO I WAS ABOUT TO
24 LEAVE THE ROOM AND I STOOD UP TO WALK OUT.
25 I'D JUST STOOD UP AND I HEARD THE FIRE." DO

1 YOU REMEMBER THAT?

2 A YES, MA'AM.

3 Q THAT DOESN'T INDICATE ANY STEPS ACROSS
4 THE ROOM, DOES IT?

5 A NO, MA'AM.

6 Q AGAIN, IN YOUR STATEMENT, YOU INDICATED
7 YOU STOOD UP BUT YOU DIDN'T WALK.

8 MR. SMITH: OBJECTION, YOUR HONOR,
9 THAT'S A MIS-QUOTE OF THE STATEMENT.. IF SHE
10 WANTS TO PUT IT IN THE RECORD, LET'S READ
11 THE WHOLE THING.

12 COURT: OKAY.

13 Q HERE IS THE QUESTION. THOMPSON, PAGE 2.
14 "NOW WHAT TIME DID YOU DECIDE TO GET UP AND
15 LEAVE THE ROOM BECAUSE YOU DIDN'T LIKE THE
16 MOVIE?" WOULD YOU PLEASE READ THAT ANSWER,
17 RIGHT THERE.

18 A "AS SOON AS THEY PUT IT IN, I HEARD A
19 SONG. IT WAS PLAYING A RAP SONG. I DIDN'T
20 TOO MUCH CARE FOR THAT KIND OF RAP AND I
21 STOOD UP TO LEAVE, BUT I DIDN'T WALK. I
22 JUST STOOD UP OUT OF MY SEAT. MY BACK WAS
23 FACING THEM. I WASN'T FACING THEM. MY BACK
24 WAS FACING THEM."

25 Q SO TWICE IN THIS STATEMENT YOU SAID THAT

1 YOU NEVER WALKED, IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q BUT YOU'VE TESTIFIED THAT YOU HAD
4 STARTED ACROSS THE ROOM, DIDN'T YOU?

5 A YES, MA'AM.

6 Q WHICH STATEMENT IS TRUE? THE ONE YOU
7 MADE THEN OR THE ONE YOU'VE MADE NOW?

8 A THE ONE I'M MAKING NOW.

9 Q OKAY. ON THAT SAME PAGE, PAGE 2, MR.
10 THOMPSON ASKED YOU, "OKAY, NOW WHO IS ALL OF
11 US?" ██████████ WAS ON THE END, ERIC WAS IN
12 THE MIDDLE, I WAS ON THE OPPOSITE END. AND
13 THEY PUT IN A TAPE, SOME KIND OF TAPE, I
14 DON'T KNOW WHAT IT WAS, BUT I DIDN'T LIKE IT
15 SO I WAS ABOUT TO LEAVE THE ROOM. AND I
16 STOOD UP TO WALK -- I JUST STOOD UP OUT OF
17 MY SEAT. I HEARD THE FIRE. I HEARD THE
18 SHOT. I HEARD ERIC HOLLER. I TURNED
19 AROUND. I DIDN'T SEE ANYTHING. I JUST
20 THOUGHT IT WAS A JOKE BECAUSE I DIDN'T SEE
21 ANY WEAPON OR ANYTHING. HE WAS GOING CRAZY,
22 SCREAMING AND STUFF. I WALKED TO THE END,
23 WALKED TO THE DOOR TOWARD THE KITCHEN. WHEN
24 I GOT TO THE DOOR ERIC WAS STILL HOLLERING
25 STUFF AND I TURNED AROUND AND SAW SMOKE

1 COMING OUT OF ██████████ MOUTH AND I SAW THE
2 BLOOD COME, JUST BLOOD EVERYWHERE." IS THAT
3 NOT WHAT THIS STATEMENT SAYS? RIGHT HERE.

4 A YES, MA'AM.

5 Q THAT'S WHAT IT SAYS?

6 A YES, MA'AM.

7 Q YOU TESTIFIED HERE THAT YOU DIDN'T KNOW
8 WHAT WAS WRONG WITH HER UNTIL YOU WALKED
9 BACK OVER AND CHECKED HER PULSE. IS THERE
10 ANYTHING IN THIS STATEMENT ABOUT CHECKING
11 HER PULSE, LOOKING AT HER AND NOT KNOWING
12 THAT SHE HAD BEEN SHOT?

13 A NO, MA'AM.

14 Q WHICH STATEMENT IS TRUE? THIS
15 STATEMENT, THE ONE YOU'RE TESTIFYING TO
16 TODAY?

17 A I'M ONLY TELLING YOU WHAT I REMEMBER,
18 FROM WHAT I RECALL.

19 Q WELL, GIVEN THE TIME, WHICH WOULD BE THE
20 MORE ACCURATE INTERPRETATION, DO YOU THINK,
21 THE ONE THAT MORNING OR NOW?

22 A SOMETIMES, WITH A LITTLE TIME, YOU
23 REMEMBER IT CLEARER AND YOU REMEMBER MORE
24 THAN YOU REMEMBER FROM THE FIRST NIGHT WHEN
25 IT ACTUALLY HAPPENS.

1 Q SOMETIMES IT FADES TOO, DOESN'T IT?
2 WHERE DID ERIC PULL THE GUN FROM?

3 A I DON'T KNOW.

4 Q AND IT'S YOUR TESTIMONY THAT YOU WERE
5 NOT OUT WITH HIM AT ANY TIME THAT NIGHT?

6 A YES, IT IS.

7 Q YOU'RE ABSOLUTELY SURE OF THAT?

8 A YES, I AM.

9 Q YOU TESTIFIED EARLIER THAT YOU THOUGHT
10 SOMEBODY HAD HIT A WALL. IS THAT NOT
11 CORRECT?

12 A YES, MA'AM.

13 Q IN THE STATEMENT YOU SAID SOMETHING
14 ABOUT FIRECRACKERS. IS THAT NOT CORRECT?

15 A THAT'S CORRECT. I DIDN'T KNOW WHAT IT
16 WAS.

17 Q BUT WE'VE GONE FROM FIRECRACKERS TO
18 HITTING A WALL?

19 A I DIDN'T KNOW WHAT IT WAS.

20 Q I BELIEVE YOU TESTIFIED WHEN YOU GOT
21 BACK TO ERIC'S MOTHER'S BEDROOM THAT SHE WAS
22 ASLEEP, RIGHT?

23 A YES, MA'AM.

24 Q THE DOOR WAS CLOSED, RIGHT?

25 A YES, MA'AM.

1 Q HOW HARD DID YOU HAVE TO BEAT ON THAT
2 DOOR TO GET HER AWAKE?

3 A I ONLY KNOCKED A COUPLE OF TIMES AND
4 WALKED IN.

5 Q DID SHE INDICATE TO YOU THAT SHE HEARD
6 ANY NOISE, ANY GUNSHOTS OR ANYTHING IN THE
7 FRONT? DID SHE KNOW ANYTHING HAD HAPPENED?

8 A I DON'T RECALL.

9 Q BUT SHE DID NOT WAKE UP AND COME OUT
10 BECAUSE OF THE SHOT, DID SHE?

11 A RIGHT. NO, MA'AM.

12 Q SHE DIDN'T WAKE UP AND COME OUT BECAUSE
13 THERE WAS SCREAMING AND HOLLERING ERIC WAS
14 SUPPOSEDLY DOING?

15 A NO, MA'AM.

16 Q YOU HAD TO GO GET HER, RIGHT?

17 A YES, MA'AM.

18 Q BUT IT'S YOUR TESTIMONY THAT STANDING AT
19 THAT DOOR YOU COULD HEAR EVERY WORD HE WAS
20 SCREAMING CLEAR AS A BELL, RIGHT?

21 A YES, MA'AM.

22 Q DOES THAT NOT SEEM A LITTLE ODD TO YOU?

23 A WELL, SOMETIMES SHE TAKES REST MEDICINE.

24 I DON'T KNOW WHAT THE CASE WAS THAT NIGHT.

25 EVERYBODY IS NOT THE SAME. JUST BECAUSE I

1 COULD HEAR IT DOES NOT MEAN THAT SHE COULD
2 HEAR IT.

3 Q BUT YOU COULD HEAR EVERY WORD AND IT
4 APPEARS THAT SHE HEARD NOTHING?

5 A I DIDN'T SAY I COULD HEAR EVERY WORD.

6 Q YOU COULD UNDERSTAND WHAT HE WAS
7 SCREAMING. THAT'S WHAT YOU TESTIFIED TO.

8 A NOT EVERYTHING HE WAS SCREAMING.
9 CERTAIN PARTS OF IT.

10 Q YEAH. CERTAIN PARTS OF IT. YEAH, UH
11 HUH, OKAY. YOUR INDULGENCE, YOUR HONOR.
12 DO YOU KNOW WHERE THE POLICE FOUND THE GUN?
13 WHEN THEY FOUND THE GUN, DO YOU KNOW WHERE
14 THE GUN WAS LYING?

15 A NO, MA'AM.

16 Q SO YOU'RE SAYING YOU NEVER SAW THE GUN?

17 A I NEVER SAW THE GUN.

18 Q ALL RIGHT, I'M GONE ASK YOU TO STAND UP
19 ONE MORE TIME BECAUSE I NEED TO MAKE SURE
20 THIS IS CORRECT. YOU'RE ON THE FAR END OF
21 THE COUCH, RIGHT?

22 A YES, MA'AM.

23 Q AND ERIC'S IN THE MIDDLE, RIGHT?

24 A YES, MA'AM.

25 Q BIRDIE'S ON THIS END WHERE THE 'X' IS?

1 A YES, MA'AM.

2 COURT REPORTER: SPEAK UP.

3 Q YOU GOT UP OFF THIS END OF THE COUCH TO
4 COME ACROSS HERE TO GO OUT THIS DOOR? IS
5 THAT NOT YOUR TESTIMONY?

6 A YES, MA'AM.

7 Q WHEN YOU FINALLY GOT TO THIS DOOR, WHERE
8 WAS ERIC?

9 A WHEN I GOT TO THE DOOR?

10 Q UH HUH (YES).

11 A WHEN I FIRST LOOKED HE WAS STILL ON THE
12 COUCH, SCREAMING.

13 Q SO YOUR TESTIMONY IS THAT YOU STOOD UP
14 FROM THIS CUSHION AND YOU HADN'T MOVED AND
15 THE SHOT WAS FIRED AND SOMEHOW YOU GOT FROM
16 HERE TO HERE AND NEVER SAW A GUN?

17 A I NEVER SAW A GUN.

18 Q YOU NEVER SAW THE GUN ON THE FLOOR BY
19 THE DOOR?

20 A NO, MA'AM.

21 Q AND WHEN YOU GOT UP YOU HAD TO TURN TO
22 YOUR RIGHT. YOU HAD TO WALK RIGHT BY THEM
23 TO COME ACROSS THAT ROOM?

24 A IT WAS NOT MY INTENTION TO LOOK AT THEM.

25 Q IN YOUR STATEMENT YOU SAID YOU HEARD THE

1 FIRE AND YOU HEARD THE GUN. ARE YOU TELLING
2 US YOU WALKED ACROSS THAT ROOM AND DIDN'T
3 LOOK BACK TO SEE WHAT IT WAS?

4 A WHEN I HEARD IT I LOOKED TO SEE WHAT IT
5 WAS. I SAW NO GUN.

6 Q WELL, ACCORDING TO YOUR STATEMENT, YOU
7 HAD NOT MOVED FROM THAT POSITION. YOU WERE
8 STANDING THERE AND YOU HAD NOT STARTED
9 ACROSS THE ROOM. NOW, IS IT POSSIBLE THAT
10 HE SHOT HER WITH YOU STANDING ONE SOFA
11 CUSHION AWAY AND YOU DIDN'T SEE IT?

12 A I CAN'T EXPLAIN IT MYSELF. I DON'T
13 KNOW.

14 Q I HAVE NOTHING FURTHER OF THIS WITNESS.

15 REDIRECT EXAMINATION

16 BY

17 MR. SMITH

18 Q ██████████ HAVE A SEAT. YOU WERE
19 INTERVIEWED THREE TIMES THAT NIGHT?

20 A YES, SIR.

21 Q THEY ASKED YOU QUESTIONS?

22 A YES, SIR.

23 Q THE OFFICER, HUGGINS, ASKED YOU
24 QUESTIONS?

25 A YES, SIR.

1 Q AND HE QUESTIONED YOU AT THE HOUSE?

2 SOLICITOR BLACKMON: OBJECTION, YOUR
3 HONOR. SHE'S NEVER SAID OFFICER HUGGINS
4 QUESTIONED HER, PERIOD. THE ONLY ONE SHE'S
5 IDENTIFIED AS QUESTIONING HER WAS
6 INVESTIGATOR THOMPSON. SHE DIDN'T EVEN
7 RECOGNIZE DEPUTY LEE AND MR. HUGGINS IS NOT
8 HERE. ANYTHING SHE SAYS HE MIGHT HAVE SAID
9 IS HEARSAY.

10 Q THE STATE TOLD US HE WAS HERE. LEE AND
11 THOMPSON CAME LATER. THEY TOLD US HE WAS
12 HERE.

13 SOLICITOR BLACKMON: ADDITIONALLY, YOUR
14 HONOR. THIS IS NOT CROSS, THIS IS RE-DIRECT.

15 Q THAT'S WHERE I'M GOING, YOUR HONOR.

16 COURT: ALL RIGHT, BE CAREFUL WITH THE
17 LEADING.

18 Q YES, SIR. YOU TALKED WITH TWO OFFICERS
19 TWO DIFFERENT TIMES AT THE HOME?

20 A YES, SIR.

21 Q AND YOU TOLD ONE OF THEM WHEN YOU GOT UP
22 OFF THE COUCH YOU WALKED TO THE KITCHEN WHEN
23 IT HAPPENED?

24 A YES, SIR.

25 Q AND THAT'S IN THEIR REPORT RIGHT THERE,

1 ISN'T IT?

2 SOLICITOR BLACKMON: OBJECTION, YOUR
3 HONOR. HE'S TESTIFYING. HE NEEDS TO ASK A
4 DIRECT QUESTION.

5 COURT: YOU'RE ON RE-DIRECT NOW AND
6 YOU'RE LEADING HER EVERY QUESTION.

7 Q YES, SIR. SO YOU TOLD HIM EXACTLY WHAT
8 YOU'VE SAID HERE TODAY?

9 A YES, SIR.

10 Q AND THEY'VE GOT IT IN THEIR REPORTS?

11 A YES, SIR.

12 Q NOW, BY THE TIME YOU GOT TO THE POLICE
13 STATION FOR THIS RECORDED STATEMENT, IT'S
14 FIVE IN THE MORNING.

15 SOLICITOR BLACKMON: OBJECTION, YOUR
16 HONOR. HE'S STILL NOT ASKING HER A
17 QUESTION.

18 COURT: MR. SMITH.

19 Q STRIKE THAT QUESTION. WHAT TIME DID YOU
20 GET TO THE POLICE STATION?

21 A IT WAS OVER IN THE MORNING.

22 Q WAS IT DAYLIGHT?

23 A YES, SIR.

24 Q HAD YOU HAD ANY SLEEP THAT NIGHT?

25 A NO, SIR.

1 Q AND THIS GENTLEMAN ASKED YOU QUESTIONS?

2 A YES, SIR.

3 Q AND THAT WAS THE THIRD TIME?

4 A YES, SIR.

5 SOLICITOR BLACKMON: YOUR HONOR, IT

6 AIN'T DIRECT.

7 COURT: ALL RIGHT. I KNOW BUT TO GET
8 TO THE POINT SOMETIMES YOU'RE TEMPTED TO ASK
9 LEADING QUESTIONS. MR. SMITH, YOU'VE GOT TO
10 BE CAREFUL NOW.

11 Q YES, SIR. [REDACTED] I'M JUST ABOUT
12 THROUGH. YOU'RE HERE BECAUSE THEY
13 SUBPOENAED YOU TO BE, CORRECT?

14 A YES, SIR.

15 Q THANK YOU.

16 SOLICITOR BLACKMON: NO QUESTIONS.

17 MR. SMITH: YOUR HONOR, I'D ASK THAT
18 THIS WITNESS BE EXCUSED.

19 SOLICITOR BLACKMON: WE HAVE NO
20 OBJECTION, YOUR HONOR.

21 COURT: ALL RIGHT, THANK YOU, MA'AM.
22 ALL RIGHT, LET'S BREAK FOR LUNCH.

23 LADIES AND GENTLEMEN, IT'S PRACTICALLY
24 1:30. LET'S ALL BE BACK AT 2:30 AND WE'LL
25 START BACK UP WITH THE TRIAL AT THAT TIME.

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1 EVERYBODY ELSE REMAIN SEATED WHILE THE JURY
2 DEPARTS FOR LUNCH.

3 (WHEREUPON A LUNCH BREAK WAS TAKEN BY
4 THE COURT.)

5 COURT: YOU READY WITH YOUR NEXT
6 WITNESS?

7 MR. SMITH: YES, SIR, WE'RE READY.

8 COURT: BRING IN THE JURY.

9 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
10 PRESENCE OF THE JURY.)

11 COURT: ALL JURORS ARE HERE, MR. SMITH.

12 MR. SMITH: THANK YOU, YOUR HONOR.
13 JOHN GRAHAM, PLEASE.

14 JOHN L. GRAHAM

15 BEING FIRST DULY SWORN, TESTIFIED AS
16 FOLLOWS:

17 DIRECT EXAMINATION

18 BY

19 MR. SMITH

20 Q PLEASE STATE YOUR NAME FOR THE RECORD.

21 A JOHN L. GRAHAM.

22 Q AND, MR. GRAHAM, WHERE DO YOU LIVE?

23 A I LIVE AT [REDACTED] CHERYLS [REDACTED] ROAD, RIGHT
24 NEXT TO MY BROTHER, RAYMOND GRAHAM.

25 Q RAYMOND'S SON IS WHO?

1 A ERIC GRAHAM.

2 Q THE DEFENDANT IN THIS CASE?

3 A YES, IT IS.

4 Q HOW LONG HAVE YOU LIVED AT YOUR
5 RESIDENCE?

6 A EXCEPT FOR A TIME I WAS IN THE AIR
7 FORCE, I WAS AT THAT LOCATION SINCE JANUARY
8 OF '94. THE HOUSE WAS BUILT AND MOVED INTO
9 IT IN JANUARY. PRIOR TO THAT I LIVED ABOUT
10 500 FEET AWAY WITH MY SISTER, LINDA AT [REDACTED]
11 CHERYLS [REDACTED] ROAD.

12 Q DO YOU HAVE A LOT OF FAMILY THAT LIVE ON
13 THAT ROAD?

14 A MY MOTHER, AT THE TIME, MY SISTER,
15 LINDA, MY BROTHER AND SISTER-IN-LAW, THEIR
16 TWO CHILDREN AND ALSO MYSELF, MY WIFE, AND
17 AT THE TIME ONE OTHER SON WHO LIVED IN THE
18 HOUSE.

19 Q WHERE DO YOU WORK, JOHN?

20 A CURRENTLY, I'M IN BETWEEN JOBS. I'M
21 STILL TEMPORARILY WORK FOR THE BUREAU OF
22 CENSUS, A CENSUS ENUMERATOR. I'M OUT OF THE
23 AIR FORCE. I DID TWENTY YEARS. I RETIRED
24 AS A MAJOR. NEXT WEEK I START WORK WITH D-
25 S-S IN HARTSVILLE, WORKING WITH FOOD STAMP

1 RECIPIENTS.

2 Q AND YOU STATED YOU'RE MARRIED?

3 A YES, I'M MARRIED. 26 YEARS.

4 Q HOW MANY CHILDREN DO YOU HAVE?

5 A I HAVE TWO SONS. ONE IS 25 YEARS OLD;

6 HE'S IN THE ARMY, STATIONED AT FORT HOOD.

7 THE OTHER IS 22 YEARS OLD. HE'S A SENIOR AT

8 COKER COLLEGE.

9 Q JOHN, SINCE 1994, HOW OFTEN HAD YOU HAD

10 A CHANCE TO BE AROUND ERIC?

11 A WELL, I GET TO SEE HIM ALMOST EVERY DAY.

12 THERE'S HARDLY A DAY THAT GOES BY THAT I

13 DON'T SEE HIM.

14 Q AND WERE YOU FAMILIAR WITH MS. [REDACTED]

15 A YES, I WAS.

16 Q HOW DID YOU KNOW HER?

17 A WELL, I SAW HER NEXT DOOR. I WOULD SEE

18 HER QUITE FREQUENTLY DURING VARIOUS TIMES OF

19 THE DAY AND AT NIGHT I MADE A HABIT OF

20 ALWAYS CHECKING ON MY MAMA WHO LIVES -- MY

21 BROTHER LIVES BETWEEN MY MAMA AND MYSELF SO

22 I'M SORT OF A CARETAKER WHEN RAYMOND IS AT

23 WORK, SO WE TAKE TURNS KEEPING AN EYE ON

24 MAMA SO I, AT VARIOUS TIMES DURING THE

25 NIGHT, I MADE IT MY BUSINESS TO WALK ACROSS

1 AND CHECK ON MAMA.

2 Q IS YOUR MOTHER HERE IN THE COURTROOM?

3 A NO, HE'S NOT. SHE'S 79 YEARS OLD AND
4 SHE'S AT HOME.

5 Q HAVE YOU HAD AN OPPORTUNITY TO BE AROUND
6 ERIC AND MS. [REDACTED] TOGETHER?

7 A YES, I HAVE.

8 Q TELL ME ABOUT THAT.

9 A WELL, IT BRINGS BACK MEMORIES WHEN I WAS
10 YOUNG AND I MET LUCILLE. I THOUGHT THEY
11 WERE IN LOVE AND I FELT THAT THEY HAD A
12 SPECIAL RELATIONSHIP. IT WAS SOMETHING I
13 ADMIRER. AND, LIKE I SAID, I THOUGHT IT WAS
14 SPECIAL.

15 Q WERE YOU EVER INVOLVED IN ANY TYPE OF
16 PURCHASE OF ANY GIFTS BETWEEN THEM?

17 A THERE WAS A GIFT THAT ERIC HAD PURCHASED
18 FOR BIRDIE FOR THEIR UPCOMING ANNIVERSARY,
19 AND I UNDERSTOOD IT WAS THE FOLLOWING WEEK.
20 AND IT WAS A LITTLE RING THAT FIT ON HER
21 FINKIE, AND I THINK IT HAD TWO HEARTS IN IT.
22 AND THAT IS THE RING THAT, WITH BIRDIE'S
23 MOTHER'S PERMISSION, SHE ALLOWED ME TO PUT
24 ON HER FINGER WHEN SHE WAS IN THE CASKET.

25 THERE WAS ALSO A ROSE, ONE ROSE, WHICH I

1 TOOK UPON MYSELF TO PURCHASE ON BEHALF OF
2 ERIC AND TO PLACE IN THE CASKET WITH HER.

3 Q DID YOU HAVE AN OPPORTUNITY TO WATCH
4 BIRDIE AROUND ERIC'S FAMILY?

5 A YES, I DID. BUT TO BE MORE POINT BLANK,
6 OR WHATEVER, EXCUSE ME -- I HAD AN
7 OPPORTUNITY TO TALK TO BIRDIE ABOUT A
8 SITUATION ---

9 SOLICITOR BLACKMON: OBJECTION, YOUR
10 HONOR. ANYTHING HE SAYS THAT BIRDIE SAID IS
11 CLEARLY HEARSAY.

12 MR. SMITH: EXCEPTION, YOUR HONOR. CAN
13 WE APPROACH THE BENCH?

14 (WHEREUPON A BENCH CONFERENCE WAS HELD
15 IN THE PRESENCE OF THE JURY BUT OUTSIDE THE
16 HEARING OF THE JURY.)

17 Q JOHN, WITHOUT TELLING ME WHAT WAS SAID
18 TO YOU, HOW CLOSE WAS IT TO THIS INCIDENT
19 THAT TOOK PLACE, THAT WAS A FEW MONTHS
20 BEFORE?

21 SOLICITOR BLACKMON: HEARSAY.

22 COURT: SUSTAINED.

23 Q IN TALKING AND OBSERVING THE COUPLE, DID
24 YOU HAVE OPINIONS ABOUT THEIR RELATIONSHIP?

25 A SAY THAT AGAIN, PLEASE.

1 Q IN TALKING WITH THE COUPLE AND OBSERVING
2 THEM, DID YOU HAVE OPINIONS ABOUT THE
3 COUPLE?

4 A YES, I DO. A WEEK BEFORE THAT INCIDENT
5 HAPPENED I WAS OVER AT MY BROTHER'S. I WENT
6 IN FOR SOME REASON. I DIDN'T STAY A LONG
7 TIME. AND RAYMOND WAS THERE, ERIC,

8 [REDACTED] AND BIRDIE. AND THEY WERE ALL
9 SITTING AROUND IN THE FAMILY ROOM. THIS IS
10 WHERE THE SHOOTING TOOK PLACE. AND THEY
11 WERE DISCUSSING OR PREPARING A LIST OF WHAT
12 EACH ONE WANTED FOR CHRISTMAS. AND THEY
13 WERE VERY HAPPY AND THEY WERE LAUGHING. AND
14 I THOUGHT IT WAS A VERY HAPPY OCCASION.

15 Q YOU WERE CALLED ON THE NIGHT OF THIS
16 INCIDENT?

17 A YES, I WAS.

18 Q DO YOU RECALL WHO CALLED YOU?

19 A MY SISTER-IN-LAW, BOBBIE JEAN, CALLED
20 ME.

21 Q DO YOU RECALL THE TIME?

22 A IT WAS CLOSE TO 1:30.

23 Q TELL ME WHAT YOU DID AFTER YOU RECEIVED
24 THE CALL.

25 A WELL, MY WIFE PICKED UP THE PHONE AND

1 SHE GAVE IT TO ME. BOBBIE JEAN ASKED TO
2 SPEAK TO ME. AND SHE SAID, BUD -- I'M ALSO
3 KNOWN AS BUD -- SHE SAID, YOU NEED TO COME
4 UP HERE QUICKLY; SOMETHING BAD HAS HAPPENED.
5 SO I JUMPED UP OUT OF BED, WITH MY PAJAMA
6 SHORTS ON, BAREFOOTED, AND I RAN NEXT DOOR.

7 WHEN I ENTERED IN THE HOUSE, ERIC WAS
8 SCREAMING. HE WAS SAYING, MAMA, MAMA, I'M
9 SORRY. MAMA, I'M SORRY. LOOK WHAT I'VE
10 DONE. IT'S MY FAULT. AND HIS MOTHER WAS
11 THERE, TRYING TO CALM HIM DOWN AND SHE WAS
12 SAYING, NO, ERIC, NO, ERIC, IT WAS AN
13 ACCIDENT. AND SHE WAS STANDING THERE AND I
14 WAS ASKING QUESTIONS, TRYING TO DETERMINE
15 WHAT HAPPENED. HE BROKE LOOSE FROM HIS MAMA
16 AND HE FELL DOWN ON HIS KNEES IN FRONT OF
17 BIRDIE. SHE WAS LYING BACK WITH HER HEAD ON
18 THE COUCH AND HE WAS SAYING, BIRDIE, BIRDIE,
19 BIRDIE, LOOK WHAT YOU MADE ME DO.

20 AND HE WAS ON THE FLOOR. WHEN HE WAS ON
21 THE FLOOR MY NEPHEW CAME IN AND WE KEPT HIM
22 ON THE FLOOR. AND THE REASON WE DID THAT,
23 WE TRIED TO RESTRAIN HIM TO KEEP HIM FROM
24 HURTING HIMSELF.

25 Q WAS ERIC MAD WITH HIMSELF?

1 A HE WASN'T ANGRY. HE WAS SAYING, I'M
2 SORRY, I'M SORRY. AND HE WAS CRYING. HE
3 WAS CRYING UNCONTROLLABLY AND HE WAS
4 STANDING THERE AND HIS MOTHER WAS TRYING TO
5 HOLD ON TO HIM.

6 Q WHAT DID YOU DO NEXT?

7 A WELL, ONCE WE HAD HIM ON THE FLOOR, WE
8 KEPT HIM ON THE FLOOR, WHERE HE WAS. THERE
9 WAS A PORTABLE TELEPHONE THERE AND I USED
10 THAT AND I, TOO, CALLED 9-1-1 JUST TO
11 CONFIRM THAT 9-1-1 HAD BEEN CALLED. AND THE
12 LADY SAID THEY WERE SENDING SOMEBODY OUT
13 HERE. SO THEN, AT THE SAME TIME, WHILE WE
14 WERE STILL WAITING FOR THE POLICE, I USED
15 THE TELEPHONE TO PAGE MY BROTHER AND ASK HIM
16 TO HURRY HOME. AND HE WANTED TO KNOW WHAT
17 HAD HAPPENED, AND I TOLD HIM I COULDN'T GO
18 INTO DETAILS. HE ASKED ME IF THERE WAS
19 SOMETHING WRONG WITH BOBBIE JEAN. HE SAID,
20 IS THERE ANYTHING WRONG WITH [REDACTED] OR
21 ERIC. I SAID, NO. I'LL EXPLAIN WHEN YOU
22 GET HERE, BUT YOU NEED TO GET HERE AS FAST
23 AS YOU CAN AND AS SAFE AS YOU CAN. AND WHEN
24 THE OFFICER CAME INTO THE HOUSE I WAS STILL
25 ON THE FLOOR WITH JAMES. JAMES IS MY

1 NEPHEW. HE'S IN THE ARMY, STATIONED IN
2 KOREA AT THIS TIME AND THAT'S WHY HE'S NOT
3 HERE.

4 AND THE OFFICER CAME IN AND I WAS AT
5 ERIC'S HEAD. HE WAS AT THE BACK SIDE OF
6 ERIC. WE WERE ON OPPOSITE SIDES. AND THE
7 OFFICER CAME IN AND HE ASKED WHAT HAD
8 HAPPENED AND I EXPLAINED TO HIM AND I
9 POINTED THE GUN OUT TO HIM. AND THEN
10 OFFICER LEE CAME IN BEHIND HIM AND PICKED UP
11 THE GUN WITH A PENCIL OR A PEN AND HE
12 REMOVED THE GUN FROM THE SCENE. BUT DURING
13 ALL THAT TIME WHEN WE HAD HIM ON THE FLOOR,
14 HE WAS JUST CRYING UNCONTROLLABLY AND HE WAS
15 SAYING, I'M SORRY, I'M SORRY, I'M SORRY.

16 Q DID THE POLICE INTERVIEW YOU THAT NIGHT?

17 A NO MORE THAN TO ASK ME WHAT HAD HAPPENED
18 AND WHEN MY BROTHER CAME IN, THIS IS AFTER
19 THE PARAMEDICS -- MY BROTHER CAME IN AND
20 THERE WAS SOME OTHER OFFICERS THAT CAME, IN
21 ADDITION TO THE TWO THAT WAS ALREADY THERE,
22 SO THEY SEPARATED US AND I TOLD THE OFFICER
23 I NEEDED TO GO HOME AND PUT SOME CLOTHES ON.
24 SO I LEFT THE SCENE AND MY BROTHER WALKED IN
25 AND I ASKED HIM, I SAID, IS EVERYTHING GONE

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1 BE ALL RIGHT, CAN YOU HANDLE THINGS, AND HE
2 SAID, YEAH, I'LL TAKE IT FROM HERE. AND AT
3 THAT TIME I LEFT OUT OF THE HOUSE AND WENT
4 HOME AND CHANGED CLOTHES AND CAME BACK.

5 HE DID TELL ME IT WAS OKAY TO LEAVE BUT
6 NOT TO LEAVE AND NOT COME BACK.

7 WHEN I CAME BACK I WENT OVER TO MY
8 MOTHER'S AND KIND OF WANDERED OUTSIDE, BACK
9 AND FORTH.

10 Q AT A LATER TIME DID YOU GO DOWN TO THE
11 DETENTION CENTER?

12 A NO, I NEVER WENT TO THE DETENTION
13 CENTER.

14 Q WAS A RECORDED STATEMENT EVER TAKEN FROM
15 YOU?

16 A NOT TO MY KNOWLEDGE.

17 Q DID AN OFFICER SPEAK WITH YOU?

18 A ONLY WHEN HE APPROACHED AND I WAS IN THE
19 HOUSE, HOLDING ERIC DOWN. HE ASKED ME WHAT
20 HAD HAPPENED AND THEN LATER ON HE DID COME
21 BACK AND GOT MY NAME AND ADDRESS. BUT AS
22 FAR AS ASKING ANY OTHER QUESTIONS PERTAINING
23 TO THE SHOOTING OR WHAT HAPPENED, THERE
24 WEREN'T NO OTHER QUESTIONS.

25 Q WHAT WAS THE MOOD IN THE HOME?

1 A IT WAS VERY EMOTIONAL. VERY TENSE.
2 PEOPLE REALLY NOT KNOWING WHAT TO DO. BUT
3 AS FAR AS, I THINK, EVERYBODY WAS JUST --
4 ERIC WAS REALLY UNCONTROLLABLE. I DON'T
5 WANT TO SAY MAKING A SCENE. HE WAS CRYING
6 AND GOING ON AND TALKING. AND I RECKON I
7 WAS MORE CONCERNED WITH ERIC'S SAFETY AND
8 WELFARE THAN ANYTHING ELSE.

9 Q DID YOU HAVE AN OPPORTUNITY TO LOOK AT
10 MS. [REDACTED]

11 A WHEN I ENTERED INTO THE HOUSE SHE WAS
12 LYING THERE, WITH HER HEAD BACK, LIKE THIS.
13 AND FOR SOME REASON, SHE, BOBBIE JEAN
14 INDICATED THAT SHE HAD BEEN SHOT, BUT I
15 COULDN'T SEE ANY BULLET WOUNDS. I WAS
16 LOOKING ON THE FACE, THE FRONT OF HER BODY.
17 I WAS CLOSE ENOUGH TO SEE IF SHE WAS
18 BREATHING AND I CAN'T RECALL IF I TOUCHED
19 HER TO SEE IF SHE HAD A PULSE. BUT I JUST
20 ASSUMED SHE WAS DEAD. THERE WAS A TRICKLE
21 OF BLOOD, I THINK, FROM THE LEFT SIDE OF HER
22 MOUTH AND THEN, LIKE I SAID, AFTER I DID
23 THAT, IN THE PROCESS OF DOING THAT, ERIC
24 GRABBED HER AND WAS SHAKING HER
25 UNCONTROLLABLY AND WHEN HE LET GO OF HER IS

1 WHEN SHE FELL BACK, LIKE THIS, WITH HER HEAD
2 SWUNG TO THE RIGHT.

3 Q ONE MOMENT, YOUR HONOR. I APOLOGIZE FOR
4 SHOWING YOU SOME OF THESE PHOTOGRAPHS. THIS
5 IS STATE'S EXHIBIT #15-A. WHEN YOU LOOKED
6 AT MS. [REDACTED] HOW COULD YOU NOT SEE THAT?

7 A I WASN'T LOOKING THERE FOR A BULLET
8 WOUND. IT NEVER OCCURRED TO ME THAT THE
9 WOUND WOULD HAVE BEEN UNDER HER CHIN.

10 Q CLEARLY, BY THAT PHOTOGRAPH, HER HEAD
11 WAS TILTED BACK.

12 A YES, IT IS.

13 Q CLEARLY VISIBLE.

14 A YES, IT IS.

15 Q IS IT YOUR TESTIMONY THAT WHEN YOU
16 EXAMINED HER, YOU DID NOT SEE THAT WOUND,
17 LIKE THAT?

18 A NO, I DID NOT SEE IT LIKE THIS.

19 Q WHO COVERED THE BODY?

20 A ERIC'S MOTHER, BOBBIE JEAN.

21 Q WHAT DID SHE COVER THE BODY WITH?

22 A I THINK IT WAS A BLUE BLANKET.

23 Q DID SHE DO THAT BEFORE THE POLICE
24 ARRIVED OR AFTER?

25 A THIS WAS AFTER THE POLICE ARRIVED. IT

1 WAS ALSO AFTER THE PARAMEDICS ARRIVED.
2 BECAUSE WHEN THEY ENTERED INTO THE HOUSE
3 THEY CHECKED HER VITALS FOR LIFE SIGNS AND
4 THEY ALSO CHECKED ERIC. AND FOR SOME
5 REASON, AFTER THEY FINISHED THAT, THEN SHE
6 SLUMPED OVER TO THE ARM OF THE CHAIR. AND
7 THAT'S WHEN BOBBIE JEAN COVERED HER UP.

8 Q WHEN ERIC SHOOK MS. [REDACTED] WAS SHE
9 STILL ON THE COUCH?

10 A SHE WAS STILL ON THE COUCH.

11 Q DO YOU KNOW THE POSITION THAT HER BODY
12 WAS IN BEFORE HE SHOOK HER?

13 A I CAN'T SAY FOR SURE.

14 Q I DON'T HAVE ANYTHING ELSE AT THIS TIME,
15 YOUR HONOR.

16 CROSS EXAMINATION

17 BY

18 SOLICITOR BLACKMON

19 Q MR. GRAHAM --

20 A YES, MA'AM.

21 Q -- THE FACT THAT EVERYBODY WAS PREPARING
22 A CHRISTMAS LIST AND REALLY HAPPY A WEEK
23 BEFOREHAND DOESN'T REALLY GIVE YOU ANY
24 INSIGHT AS TO WHAT HAPPENED THAT NIGHT,
25 IMMEDIATELY, WHEN SHE GOT SHOT, DOES IT?

1 A IF I WAS LOOKING FOR A MOTIVE, YES, IT
2 WOULD.

3 Q WERE YOU IN THE ROOM?

4 A NO, MA'AM.

5 Q DID YOU TALK TO THEM IMMEDIATELY BEFORE?

6 A NO, MA'AM.

7 Q DID YOU SEE THEM THAT DAY?

8 A I CAN'T RECALL.

9 Q DID YOU SEE THEM WITHIN AN HOUR THAT
10 NIGHT?

11 A NO, MA'AM.

12 Q SO YOU HAVE NO IDEA WHAT THEIR MOOD WAS
13 AT THAT TIME, DO YOU?

14 A NO, MA'AM.

15 Q THANK YOU. YOU SAY THAT MS. GRAHAM
16 CALLED YOU ABOUT 1:30, IS THAT CORRECT?

17 A YES, THAT'S RIGHT.

18 Q AND YOU TESTIFIED THAT WHEN YOU WALKED
19 IN THERE, ERIC WAS SAYING, AND I QUOTE,
20 "LOOK WHAT I'VE DONE; IT'S MY FAULT."

21 A HE WAS SAYING, MAMA, MAMA, LOOK WHAT
22 I'VE DONE; IT'S MY FAULT, MAMA. I'M SORRY,
23 MAMA. HE NEVER SAID, LOOK WHAT I'VE DONE;
24 IT'S MY FAULT. I DON'T RECALL HIM SAYING
25 THAT, MA'AM.

1 Q AND YOU'VE JUST REPEATED IT. HE MAY
2 HAVE BEEN SAYING HE WAS SORRY, BUT THAT WAS
3 REPEATED BY, LOOK WHAT I'VE DONE, IT'S MY
4 FAULT, WAS IT NOT? IS THAT NOT WHAT YOU
5 TESTIFIED TO?

6 A HE WAS NOT SAYING THOSE THINGS IN ANY
7 SORT OF ORDER, MA'AM. HE WAS SAYING THEM --

8 -

9 Q YOU TESTIFIED TO THEM IN AN ORDER.

10 MR. SMITH: OBJECTION, YOUR HONOR.
11 SHE'S NOT GIVING HIM A CHANCE TO ANSWER.

12 COURT: GIVE HIM TIME TO ANSWER.

13 Q GO AHEAD.

14 A WHAT IS YOUR QUESTION?

15 Q MY QUESTION IS, YOUR PRIOR TESTIMONY WAS
16 THAT WHEN YOU CAME IN, AFTER YOU WERE CALLED
17 AT 1:30, ERIC WAS SAYING, LOOK WHAT I'VE
18 DONE, IT'S MY FAULT, I'M SORRY, I'M SORRY.
19 IS THAT NOT WHAT YOU TESTIFIED TO?

20 A YES, MA'AM.

21 Q WAS THERE ANY INDICATION BY ANYBODY THAT
22 WAS THERE AT THAT HOUSE IN ALL THAT STATE OF
23 EXCITEMENT THAT ANYBODY OTHER THAN ERIC
24 GRAHAM HAD THAT GUN?

25 A I DON'T KNOW.

1 Q WAS ANYBODY ELSE UPSET AND SAYING THEY
2 WERE SORRY AND IT WAS THEIR FAULT AND
3 APOLOGIZING?

4 A NO, MA'AM.

5 Q IS IT YOUR TESTIMONY THAT SHE WAS
6 COVERED BEFORE THE POLICE ARRIVED?

7 A SHE WAS NOT COVERED BEFORE THE POLICE
8 ARRIVED.

9 Q THAT'S WHAT I THOUGHT YOU SAID. I JUST
10 WANTED TO MAKE SURE I GOT THAT RIGHT.

11 ALL RIGHT, YOU SAID WHEN YOU CAME IN,
12 YOU SAID HER HEAD WAS BACK, CORRECT?

13 A YES, MA'AM.

14 Q I'LL ASK THE SAME QUESTION MR. SMITH
15 ASKED. HOW IN THE WORLD, IF SHE WAS SITTING
16 THERE, AS YOU'VE TESTIFIED, WITH HER HEAD
17 BACK, COULD YOU POSSIBLY HAVE MISSED THAT
18 HOLE IN HER THROAT?

19 A I CAN'T TELL YOU, MA'AM. I MISSED IT.

20 Q BUT IT WAS THERE.

21 A I CAN'T TELL YOU IF IT WAS THERE THEN
22 WHEN I WALKED IN THE HOUSE OR NOT.

23 Q DID HE SHOOT HER AFTER YOU GOT THERE?

24 A NO, MA'AM.

25 Q SO IT'S SAFE TO ASSUME IT WAS ALREADY

1 THERE, RIGHT?

2 A YES.

3 Q I BELIEVE YOU TESTIFIED THAT MS. GRAHAM
4 EVEN INDICATED, TOLD YOU THAT SHE HAD BEEN
5 SHOT.

6 A YES.

7 Q THAT YOU SAW THAT SHE WASN'T BREATHING.
8 I JUST DON'T UNDERSTAND HOW YOU COULD HAVE
9 MISSED THAT.

10 MR. SMITH: OBJECTION.

11 Q I DON'T.

12 COURT: SUSTAINED. THE JURY WILL
13 DISREGARD THE STATEMENT BY COUNSEL. YOU
14 NEED TO POSE QUESTIONS, COUNSEL.

15 Q WHEN, EXACTLY, WAS SHE COVERED?

16 A TO THE BEST OF MY KNOWLEDGE, IT WAS
17 AFTER THE PARAMEDICS ENTERED THE ROOM,
18 BECAUSE THEY ARRIVED SHORTLY AFTER THE FIRST
19 TWO POLICEMEN HAD ARRIVED.

20 Q THE PARAMEDICS ARRIVED SHORTLY AFTER THE
21 POLICEMEN AND SHE WAS COVERED AFTER THE
22 PARAMEDICS GOT THERE?

23 A TO THE BEST OF MY KNOWLEDGE, MA'AM.

24 Q HOW DO YOU EXPLAIN THE FACT THAT DEPUTY
25 LEE TESTIFIED ---

1 A I HEARD WHAT HE SAID, MA'AM, AND I
2 DISAGREE WITH WHAT HE SAID. MA'AM, WHEN THE
3 PARAMEDICS CHECKED HER HANDS, I COULD SEE
4 THAT THEY DID NOT HAVE TO REMOVE THE
5 BLANKET.

6 Q I BELIEVE YOU TESTIFIED THAT YOU
7 EXAMINED HER AND YOU DIDN'T SEE THE WOUND
8 UNDER HER CHIN. ARE YOU A DOCTOR OR ARE YOU
9 QUALIFIED TO EXAMINE HER WOUNDS?

10 A NO, MA'AM.

11 Q AND EVEN WITH ERIC DOING ALL THIS
12 GRABBING AND SHAKING, YOU SAY YOU NEVER SAW
13 THE WOUND ON HER CHIN?

14 A I NEVER SAW THE WOUND, MA'AM.

15 Q AND YOU DIDN'T SEE ALL THAT BLOOD?

16 A MAY I EXPLAIN?

17 Q I'M JUST ASKING A QUESTION. DID YOU SEE
18 THE BLOOD, YES OR NO.

19 A THE ONLY BLOOD I RECALL SEEING WAS THE
20 BLOOD THAT WAS TRICKLING FROM THE MOUTH.

21 Q IN SPITE OF THE FACT THAT MS. MCDONALD
22 TESTIFIED THAT THERE WAS JUST BLOOD
23 EVERYWHERE?

24 MR. SMITH: OBJECTION.

25 COURT: YOU'RE FITTING THE WITNESSES.

1 Q WHEN YOU WERE SITTING ON ERIC AND
2 HOLDING HIM DOWN ---

3 A I WASN'T SITTING ON HIM, MA'AM.

4 Q WHEN YOU WERE HOLDING ERIC DOWN,
5 RESTRAINING HIM, I BELIEVE YOU SAID YOU WERE
6 AT ---

7 A AT HIS HEAD.

8 Q DID YOU NOTICE ANYTHING UNUSUAL ABOUT
9 ERIC?

10 A NOTHING BUT HE WAS CRYING AND MAKING
11 THOSE STATEMENTS.

12 Q YOU DIDN'T NOTICE ANY BLOOD ON HIS
13 HANDS?

14 A NO, MA'AM.

15 Q YOU DIDN'T NOTICE ANY CUTS ON HIS
16 KNUCKLES?

17 A NO, MA'AM.

18 Q NO CUTS ON HIS ARMS?

19 A NO, MA'AM.

20 Q YOU DIDN'T NOTICE ANY BROKEN WINDOW IN
21 THE FRENCH DOOR IN THE MIDDLE OF THAT WALL?

22 A I DID NOTICE THAT THE WINDOW WAS BROKEN
23 BUT I HAD NO WAY OF KNOWING HOW IT BECAME
24 BROKEN.

25 Q SO IN THE MIDDLE OF ALL THIS, YOUR

1 TESTIMONY IS YOU DID NOT SEE HER WOUND, NOR
2 DID YOU SEE HIS CUT-UP KNUCKLES AND ARMS?

3 A MA'AM, I DID NOT SEE HER WOUND.

4 Q WHAT ABOUT HIS CUT UP KNUCKLES AND ARMS?

5 A NO, MA'AM, I DID NOT NOTICE HIS CUT UP
6 KNUCKLES AND ARMS, IF THEY WERE CUT.

7 Q AND WHEN YOU CAME IN THAT NIGHT, DID YOU
8 SEE THE GUN?

9 A I SAW THE GUN WHEN WE HAD ERIC ON THE
10 FLOOR, AND IT WAS TO MY RIGHT, NEAR THE
11 WALL, A LITTLE WAYS FROM THE TELEVISION.

12 Q IS THAT A LITTLE WAYS FROM ERIC?

13 A IF ERIC HAD WANTED TO, HE COULD HAVE
14 REACHED OUT AND PICKED THE GUN UP. IT WAS
15 THAT CLOSE TO ALL OF US.

16 Q HAD YOU EVER SEEN THAT GUN BEFORE?

17 A NO, MA'AM.

18 Q AND YOU WERE NOT IN THE HOUSE
19 IMMEDIATELY PRIOR TO THIS SHOOTING?

20 A NO, MA'AM.

21 Q AND YOU HAD NOT SEEN THEM IMMEDIATELY
22 PRIOR TO THE SHOOTING?

23 A NO, MA'AM.

24 Q SO YOU CAN'T SAY WHAT WAS GOING ON
25 IMMEDIATELY PRIOR TO THAT SHOOTING WITH

1 THEM, CAN YOU?

2 A THAT IS CORRECT.

3 Q NOTHING FURTHER OF THIS WITNESS.

4 REDIRECT EXAMINATION

5 BY

6 MR. SMITH

7 Q MS. BLACKMON ASKED YOU WHAT, IF
8 ANYTHING, YOU HEARD THAT WOULD HAVE CAUSED
9 YOU TO BELIEVE THAT ERIC DID NOT SHOOT HER.
10 WHAT DID YOU LEARN ABOUT HOW IT HAPPENED?

11 A I CAN'T REALLY SAY AS TO WHO SAID WHAT
12 OR WHEN IT WAS SAID, BUT MY UNDERSTANDING
13 WAS THAT ERIC HAD PULLED THE GUN OUT AND
14 THAT BIRDIE HAD, SOMEHOW, REACHED FOR IT AND
15 IT WENT OFF.

16 Q THANK YOU.

17 RECROSS EXAMINATION

18 BY

19 SOLICITOR BLACKMON

20 Q WELL, IN YOUR LEARNING THAT ERIC HAD
21 PULLED THE GUN OUT AND BIRDIE REACHED FOR IT
22 AND IT WENT OFF, DID ANYBODY TELL YOU HOW,
23 EXACTLY, THAT GUN GOT PRESSED UNDERNEATH
24 THAT CHIN?

25 A NO, MA'AM. AND I DON'T KNOW IF THE GUN

1 WAS PRESSED UNDERNEATH HER CHIN. AS I SAID,
2 BEFORE, I DIDN'T SEE THE WOUND.

3 Q BUT YOU DID HEAR ERIC HAD THE GUN AND HE
4 PULLED IT OUT AND BIRDIE GOT SHOT, AND HE
5 SHOT HER?

6 A MA'AM, LIKE I SAID ---

7 Q YES OR NO?

8 A YES.

9 Q NOTHING FURTHER.

10 MR. SMITH: NOTHING FURTHER, YOUR
11 HONOR.

12 COURT: YOU MAY STEP DOWN.

13 MR. SMITH: YOUR HONOR, EXCUSE ME. IF
14 I COULD ASK ---

15 REDIRECT EXAMINATION

16 BY

17 MR. SMITH

18 Q JOHN, DID YOU HAVE A SUBPOENA TO BE
19 HERE?

20 A YES.

21 Q THE STATE ASKED YOU TO BE HERE?

22 A YES.

23 Q BUT THEY DIDN'T CALL YOU AS A WITNESS?

24 A NO. AND AS FAR AS ASKING ME QUESTIONS
25 PERTAINING TO THIS INCIDENT, SHE'S NEVER

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1 CALLED OR ASKED ME QUESTIONS.

2 SOLICITOR BLACKMON: OBJECTION, YOUR
3 HONOR. THAT'S NOT RELEVANT.

4 COURT: THAT'S BEYOND THE SCOPE OF
5 QUESTIONING.

6 MR. SMITH: THAT'S FINE. THANK YOU,
7 JOHN.

8 I'D CALL BOBBIE JEAN GRAHAM TO THE
9 STAND.

10 BOBBIE JEAN GRAHAM
11 BEING FIRST DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION

14 BY

15 MR. SMITH

16 Q PLEASE STATE YOUR NAME FOR THE RECORD.

17 A MY NAME IS BOBBIE JEAN GRAHAM.

18 Q IS IT BOBBIE OR BARBARA?

19 A BOBBIE.

20 Q AND YOU GO BY BOBBIE JEAN?

21 A OR BOBBIE.

22 Q BOBBIE, WHERE DO YOU WORK?

23 A I'M NOT EMPLOYED AT THE MOMENT. I WAS
24 WORKING AT GALEY & LLOYD'S AT [REDACTED] [REDACTED]

25 Q AND YOU'RE MARRIED TO WHOM?

- 1 A RAYMOND C. GRAHAM, SR.
- 2 Q NOW, HOW MANY CHILDREN DO YOU HAVE?
- 3 A TWO.
- 4 Q HOW LONG HAVE YOU BEEN MARRIED?
- 5 A 22 YEARS.
- 6 Q IS YOUR HUSBAND EMPLOYED?
- 7 A YES, HE IS.
- 8 Q WHERE IS HE EMPLOYED?
- 9 A NU-COR STEEL.
- 10 Q AND HOW LONG HAS HE BEEN EMPLOYED THERE?
- 11 A 11 YEARS.
- 12 Q WHERE IS YOUR RESIDENCE?
- 13 A [REDACTED] CHERYLS [REDACTED] ROAD, [REDACTED] [REDACTED]
- 14 Q AND HOW LONG HAVE YOU LIVED THERE?
- 15 A 22 YEARS.
- 16 Q YOU'VE HAD A CHANCE TO OBSERVE THE
- 17 DIAGRAM WE'VE USED IN THIS CASE. IS THAT A
- 18 FAIRLY ACCURATE DESCRIPTION OF YOUR HOME?
- 19 A YES, IT IS.
- 20 Q THREE BEDROOMS?
- 21 A YES.
- 22 Q ONE BATHROOM? IS THAT CORRECT?
- 23 A YES.
- 24 Q THE FAMILY ROOM, IS AT THE REAR OF THE
- 25 HOUSE?

1 A YES, IT IS.

2 Q IF I COULD ASK YOU TO STAND UP A SECOND,
3 PLEASE, MA'AM. YOU'VE LOOKED AT THE
4 PHOTOGRAPHS. THOSE PHOTOGRAPHS REFLECT YOUR
5 LIVING ROOM AS IT IS OR AS IT WAS? WHO TOOK
6 THOSE PICTURES?

7 A MY SISTER.

8 Q WERE YOU PRESENT WHEN THE PICTURES WERE
9 TAKEN?

10 A YES.

11 Q YOU'RE GONE NEED TO SPEAK LOUD FOR THIS
12 JURY. WHEN WERE THOSE PHOTOGRAPHS TAKEN,
13 THE THREE PHOTOGRAPHS IN FRONT OF YOU?

14 A I'M NOT SURE OF THE DATE THEY WERE
15 TAKEN.

16 Q HOW LONG AGO?

17 A MAYBE TWO MONTHS.

18 Q TWO MONTHS AGO?

19 A UH HUH (YES).

20 Q BETWEEN DECEMBER OF 1996 AND TWO MONTHS
21 AGO, HAS YOUR ROOM CHANGED MUCH?

22 A NO, IT HASN'T.

23 Q THE MIDDLE PICTURE ON THERE, WHAT DOES
24 THAT SHOW, THAT PICTURE?

25 A THIS ONE? A LONG CHAIR AND TWO SMALLER

1 CHAIRS. THESE ARE FAMILY PICTURES UP HERE.
2 THIS IS THE WINDOW.

3 SOLICITOR BLACKMON: MAY IT PLEASE THE
4 COURT, , SHE NEEDS TO SPEAK UP.

5 A THIS IS THE LONG CHAIR. THIS IS TWO
6 SMALLER CHAIRS. THIS IS THE WINDOW. THIS
7 IS MY GOD-DAUGHTER. THIS IS MY SISTER AND
8 HER HUSBAND AND HER FAMILY. THIS IS
9 [REDACTED] HER PROM PICTURE, KNOWN AS BIRDIE.

10 Q EXCUSE ME, THIS IS A PICTURE OF BIRDIE
11 ON YOUR WALL?

12 A YES, IT IS. AND THIS IS MY NEPHEW
13 THAT'S IN SERVICE. AND THIS IS THE T.V.

14 Q OKAY. NOW, THOSE ARE FAMILY PICTURES?

15 A YES, THEY ARE.

16 Q THANK YOU, MA'AM. IF YOU'LL RETURN TO
17 YOUR SEAT.

18 HOW LONG HAVE YOU KNOWN MS. [REDACTED]

19 A FOR ABOUT A YEAR AND A HALF.

20 Q AND HOW DID YOU GET TO KNOW HER?

21 A WELL, AT FIRST, I'D SEE HER CAR AND ERIC
22 WOULD BE OUT THERE AND THEY'D BE TALKING AND
23 SHE'D LEAVE. AND THEN AFTER THAT, ABOUT
24 THREE MONTHS, YOU KNOW, SHE CAME TO THE
25 HOUSE WHEN I WAS THERE AND HE INTRODUCED ME

1 TO HER AS HIS FRIEND. AND FROM THEM ON, YOU
2 KNOW, I PRACTICALLY SEEN HER EVERY DAY.

3 Q WAS SHE WELCOME IN YOUR HOUSE?

4 A YES, SHE WAS.

5 Q HOW OFTEN WAS SHE IN YOUR HOME?

6 A SOMETIMES SIX DAYS A WEEK.

7 Q DID SHE SHARE MEALS WITH YOU?

8 A YES, SHE DID.

9 Q DID YOU HAVE A CHANCE TO OBSERVE HER AND
10 ERIC'S RELATIONSHIP?

11 A EVERY TIME SHE CAME THERE, I OBSERVED
12 IT. WE ALWAYS SAT IN THE FAMILY ROOM IF WE
13 WASN'T EATING DINNER. IF WE WAS EATING
14 DINNER WHEN SHE GOT THERE I'D INVITE HER TO
15 HAVE DINNER. SOMETIMES SHE WOULD EAT AND
16 SOMETIMES SHE'D TELL ME SHE JUST ATE. IF
17 HER AND ERIC WERE GONE GO SOMEWHERE HE'D GO
18 AND GET DRESSED AND I'D SIT IN THERE AND
19 TALK TO BIRDIE AND WE'D HAVE LONG
20 CONVERSATIONS ABOUT FAMILIES WHILE HE WAS
21 GETTING DRESSED.

22 Q DID YOU HAVE AN OPPORTUNITY TO SEE HER
23 ON THE DAY OF DECEMBER 7, 1996?

24 A NO, I DID NOT.

25 Q WHY NOT? EXCUSE ME, STRIKE THAT. DID

1 SHE CAME TO YOUR HOME WHILE YOU WERE AWAKE
2 THAT DAY?

3 A NO, SHE DIDN'T COME TO MY HOME WHILE I
4 WAS AWAKE THAT DAY. BUT I DID TALK TO HER,
5 BUT I DIDN'T SEE HER.

6 Q HOW DID YOU TALK TO HER?

7 A AFTER WE CAME BACK FROM DOWN TOWN AND WE
8 PUT THE GROCERIES UP, ONE OF THE GUYS CAME
9 AND WANTED ERIC TO GO DOWN THERE AND PLAY
10 POOL, THEY WERE GONE HAVE A POOL MATCH, SO
11 HE TOLD ME BIRDIE HAD RUN TO FLORENCE AND
12 WHEN SHE CALLED TO TELL HER HE ALREADY WENT
13 TO THE STORE AND THAT'S WHERE HE WOULD BE
14 AT. SO WHEN SHE CALLED AND I GAVE HER THE
15 MESSAGE, I SAID, ERIC SAID HE ALREADY WENT
16 TO THE STORE, THEY WERE HAVING A POOL MATCH.
17 I SAID, ARE YOU COMING OVER HERE? SHE SAID,
18 NO, I'M GOING DOWN TO THE STORE WHERE ERIC
19 IS. AND I SAID, OKAY, I'LL SEE YOU LATER.

20 Q WAS [REDACTED] AT YOUR HOME THAT NIGHT?

21 A YES, SHE WAS.

22 Q WAS SHE THERE THE WHOLE EVENING?

23 A YES, SHE WAS.

24 Q EXCUSE ME, STRIKE THAT. WAS SHE THERE
25 WHILE YOU WERE AWAKE?

1 A YES, SHE WAS.

2 Q WHAT TIME DID YOU GO TO BED?

3 A ABOUT 12:30.

4 Q WHEN YOU WENT TO BED AT 12:30, WAS
5 ANYONE AT THE HOME AT THAT TIME OTHER THAN
6 [REDACTED]

7 A NO, THERE WASN'T.

8 Q TELL ME WHAT HAPPENED NEXT.

9 A I LEFT THE T.V. ON. WHEN I GO TO BED,
10 CAUSE I KNOWED MY HUSBAND WAS WORKING OVER A
11 COUPLE OF HOURS AND HE'D BE LATE. SO I WENT
12 IN AND CLOSED MY DOOR AND WENT TO BED.

13 Q WHEN YOU WENT TO BED DID YOU LEAVE
14 [REDACTED] UP?

15 A YES, I DID.

16 Q WHAT ROOM DID YOU LEAVE HER IN?

17 A THE FAMILY ROOM.

18 Q WHAT HAPPENED NEXT?

19 A THEN I HEAR [REDACTED] CALLING ME, SAYING
20 AUNT BOBBIE JEAN, COME SEE WHAT'S WRONG WITH
21 BIRDIE. AND I JUMPED UP AND I SAID, WHAT?
22 AND SHE SAID, COME SEE WHAT'S WRONG WITH
23 BIRDIE. AND I SAID, WHAT'S WRONG WITH
24 BIRDIE? SO I GOT UP OUT THE BED AND STARTED
25 DOWN THE HALL AND AT THE TIME I HEAR

1 HOLLERING AND CRYING. AND SO I KIND OF LIKE
2 RUSH ON TO THE ROOM. AND THEN I SEE ERIC
3 WAS JUST HOLLERING AND CRYING OVER BIRDIE,
4 YOU KNOW, JUST HOLDING HER AND STUFF LIKE
5 THAT. AND I SAID, WHAT'S WRONG, WHAT'S
6 WRONG, WHAT'S WRONG WITH BIRDIE? I THOUGHT
7 MAYBE SHE HAD A SEIZURE OR WAS SICK OR
8 SOMETHING. I KEPT ASKING WHAT'S WRONG WITH
9 BIRDIE. AND THAT'S WHEN HE TOLD ME, HE SAY,
10 THE GUN WENT OFF, SHE GOT SHOT. I SAY,
11 WHAT, WHAT? [REDACTED] CALL 9-1-1. SHE
12 SAID, I ALREADY CALLED 9-1-1. AND I WAS
13 TRYING TO GET HIM SETTLED DOWN AND TRY TO
14 PULL HIM OFF OF HER. YOU KNOW, I BE TRYING
15 TO CATCH HER HANDS AND HOLD HER HAND, TRYING
16 TO PULL HIM OFF OF HER, CAUSE HE WAS HOLDING
17 HER AND I COULDN'T HARDLY PULL HIM OFF OF
18 HER.

19 AND SO FINALLY I GOT HIM LOOSE OF HER
20 AND SNATCHED HIM BACK AND HE WENT BACK AND
21 HIT THE DOOR AND THE GLASS BROKE. HE JUMPED
22 UP AND COME BACK TO HER AND I WAS STILL
23 TRYING TO PULL HIM. THAT'S WHEN I CALLED MY
24 BROTHER-IN-LAW, BECAUSE I COULDN'T HOLD HIM.
25 AND I TOLD MY BROTHER-IN-LAW, YOU KNOW, I

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1 SAID, LET ME SPEAK TO JOHN, LET ME SPEAK TO
2 JOHN, AND SHE GAVE HIM THE PHONE. AND I
3 SAID, COME OVER HERE, COME OVER HERE. AND
4 SO HE CAME OVER AND HELPED ME WITH ERIC.
5 BUT DURING THE WHOLE TIME I NEVER SEEN THE
6 GUN. DURING THE WHOLE TIME I WAS CONCERNED
7 ABOUT HIM AND I WAS CONCERNED ABOUT BIRDIE
8 BECAUSE I DIDN'T KNOW WHAT WAS GOING ON, ALL
9 THE CRYING AND ALL AND CONFUSION. I DIDN'T
10 KNOW WHAT WAS GOING ON.

11 Q DID YOU LOOK AT MS. [REDACTED]

12 A YES, I DID.

13 Q HOW DID YOU LOOK AT HER?

14 A WELL, I LOOKED AT HER AND THEN, YOU
15 KNOW, I RUBBED HER, LIKE THAT, YOU KNOW. I
16 DID SEE A LITTLE BIT OF BLOOD BUT I DIDN'T
17 KNOW WHERE THE BLOOD, YOU KNOW, WHAT
18 HAPPENED TO HER TO CAUSE HER TO HAVE BLOOD.

19 Q COULD YOU SEE THE WOUNDS IN THIS
20 PICTURE?

21 A NO, I DID NOT.

22 Q AND HOW LONG WERE YOU IN THIS ROOM
23 BEFORE THE POLICE ARRIVED?

24 A MAYBE 15 MINUTES.

25 Q WHEN THE POLICE ARRIVED, WHO ELSE WAS IN

1 THE ROOM WITH YOU?

2 A [REDACTED] JOHN, JAMES, AND ERIC.

3 Q AND WHERE WAS ERIC WHEN THEY ARRIVED?

4 A HE WAS ON THE FLOOR, STILL CRYING. AND
5 JOHN AND JAMES HAD HIM ON THE FLOOR.

6 Q HAD YOU SEEN THE GUN AT THIS TIME?

7 A NO, I DID NOT.

8 Q DO YOU RECALL IF YOU COVERED MS.

9

10 A I'M NOT SURE. I WAS SO UPSET AND SO
11 CONCERNED ABOUT HER AND ERIC. I REMEMBER
12 HIM ASKING FOR A BLANKET BUT WHETHER I
13 COVERED HER UP OR NOT, I WAS SO EMOTIONAL,
14 I'LL NOT SAY I DID BECAUSE I'M NOT SURE.

15 Q THE BLANKET THAT COVERED HER, WAS IT A
16 BLANKET FROM YOUR HOME?

17 A YES, IT WAS.

18 Q TELL ME ABOUT THE EMOTIONS, THE MOOD OF
19 THE HOME.

20 A IT WAS VERY EMOTIONAL WITH THIS CRYING,
21 YOU KNOW, AND TRYING TO HELP BIRDIE AND ERIC
22 AT THE SAME TIME. AND, LIKE I SAY, I SAW A
23 LITTLE BIT OF BLOOD, BUT I DIDN'T THOUGHT IT
24 WAS ANYTHING SERIOUSLY, YOU KNOW, WRONG, AT
25 THE TIME.

1 Q DID YOU CHECK TO SEE IF THERE WAS A
2 PULSE OR BREATHING?

3 A WELL, I CAUGHT HER HANDS, YOU KNOW, HELD
4 OF HER HANDS, LIKE THAT. BUT AS FAR AS
5 CHECKING HER PULSE OR ANYTHING, NO, I DID
6 NOT.

7 Q TELL ME WHAT HAPPENED WHEN THE POLICE
8 ARRIVED.

9 A WHEN THE POLICE CAME IN THEY WAS ASKING
10 JOHN QUESTIONS AND STUFF. AND THEY JUST
11 CAME IN AND THAT'S WHEN ONE OF THE POLICE
12 SAID, HERE GO THE GUN, AND TOOK IT WITH A
13 PENCIL AND THAT'S WHEN I SEEN IT. I HADN'T
14 SEEN IT BEFORE THEN. AND THEY WAS JUST ALL
15 IN THERE, AND HE TOLD ME TO GO OUT. HE TOLD
16 ME TO GO OUT THE ROOM SO THEY COULD GET
17 ERIC. SO I WENT IN THE LIVING ROOM. AND
18 THEN THE LADY COP, SHE CAME, AND SHE WAS
19 SAYING SOMETHING TO ME, YOU KNOW. SHE WAS
20 TALKING, I COULD HEAR HER TALKING, YOU KNOW,
21 BUT I WANTED TO GET BACK AROUND THERE IN THE
22 ROOM TO SEE WHAT WAS GOING ON AND SHE WAS
23 QUESTIONING ME AND STUFF LIKE THAT, AND I
24 TOLD HER I DON'T REALLY KNOW WHAT HAPPENED.
25 AND HE SAID HE TOOK THE GUN OUT AND SHE HIT

1 HIS ARM OR SOMETHING AND IT ACCIDENTALLY
2 WENT OFF. HE SAID, I'M SORRY, I'M SORRY,
3 YOU KNOW, I DIDN'T MEANT TO DO IT, IT
4 ACCIDENTALLY WENT OFF. I SAID, IT'S AN
5 ACCIDENT, IT'S NOT LIKE YOU MEANT TO DO IT.
6 IT'S AN ACCIDENT.

7 Q WHAT HAPPENED NEXT WITH THE POLICE?

8 A THEY TOOK ERIC OUT AND PUT HIM IN THE
9 CAR. AND I WENT OUTSIDE. AND SEEM LIKE I
10 COULDN'T HARDLY BREATHE. I NEEDED SOME
11 AIR. AND I MUST HAVE PASSED OUT. AND THEY
12 MUST HAVE TOOK ME IN THE ROOM AND PUT ME ON
13 THE BED. AND THEN LATER ON, YOU KNOW, THEY
14 TOLD ME THEY TOOK ERIC DOWN TOWN. THEY WERE
15 TRYING TO GET ME SO I COULD GET UP. AND
16 THEY SAID THEY'D TAKE ME DOWN THERE SO I
17 COULD SEE HIM.

18 Q DO YOU RECALL WHEN YOUR HUSBAND ARRIVED?

19 A IT WAS PROBABLY FIFTEEN MINUTES AFTER
20 HIS BROTHER CALLED.

21 Q DO YOU RECALL WHETHER OR NOT THE POLICE
22 WERE THERE?

23 A YES, HE WAS.

24 Q DO YOU RECALL IF THE POLICE WERE THERE
25 WHEN HE ARRIVED?

1 A YES, HE WAS.

2 Q WHAT FOLLOWED AFTER ERIC WAS REMOVED?

3 A THEY STARTED QUESTIONING THE ONES THAT
4 WAS IN THE HOME. THEY JUST ASKED ME A FEW
5 QUESTIONS.

6 Q WHO DID THEY QUESTION?

7 A [REDACTED] MOSTLY.

8 Q DO YOU RECALL THEM ASKING ERIC ANY
9 QUESTIONS?

10 A NO, I DO NOT.

11 Q DO YOU RECALL WHEN THEY ASKED JOHN SOME
12 QUESTIONS?

13 A I DON'T RECALL.

14 Q NOW, ERIC WAS REMOVED FROM THE HOME AND
15 TAKEN TO THE DETENTION CENTER?

16 A YES, HE WAS.

17 SOLICITOR BLACKMON: YOUR HONOR, THIS
18 IS DIRECT.

19 COURT: CAREFUL. YOU'RE LEADING.

20 Q YES, SIR. DID YOU GO TO THE DETENTION
21 CENTER?

22 A WE WENT LATER ON THAT MORNING.

23 Q HOW WERE YOU DRESSED DURING ALL THIS?

24 A IN MY NIGHT CLOTHES. THEN WHEN I GOT
25 READY TO GO, THEY GOT ME UP OFF THE BED, MY

1 HUSBAND HAD TO PUT ME ON SOME CLOTHES AND
2 THEN WE WENT DOWN THERE.

3 Q WHAT WAS ERIC'S PHYSICAL APPEARANCE?

4 A HE WAS VERY UPSET, CRYING.

5 Q HOW ABOUT HIS PERSON? WHAT DID HE HAVE
6 ON?

7 A JEANS AND A SHIRT. I DON'T REMEMBER
8 WHAT COLOR THE SHIRT WAS.

9 Q HOW ABOUT HIS PERSON ITSELF, HIS
10 PHYSICAL APPEARANCE? WAS THERE ANYTHING
11 UNUSUAL ABOUT HIS PHYSICAL APPEARANCE?

12 A HE HAD SOME BLOOD ON HIS HANDS WHERE HE
13 MUST HAVE WAS, LIKE, HOLDING HER AND MOVING
14 HER. AND HER BLOOD WAS ON HIS CLOTHES.

15 Q DID YOU OBSERVE ANY BLOOD ANYWHERE ELSE
16 IN THE HOME?

17 A NO, I DID NOT.

18 Q WHEN THIS INCIDENT HAPPENED WAS YOUR
19 SOFA COVERED AS IT IS IN THESE PICTURES?

20 A NO, IT WASN'T.

21 Q HERE ARE STATE'S EXHIBITS #6 AND #7.
22 TELL ME WHAT THOSE PHOTOGRAPHS ARE.

23 A THOSE ARE PICTURES OF THE DOORS AT MY
24 DINING ROOM.

25 Q AND WE'VE HEARD SOME TALK ABOUT A BROKEN

1 WINDOW. WHEN DID THAT TAKE PLACE?

2 A AFTER I GOT IN THE ROOM.

3 Q AND WHO BROKE IT?

4 A ERIC.

5 Q AND HOW DID HE BREAK IT?

6 A BY PUSHING, TRYING TO HOLD HIM, TRYING
7 TO GET HIM OFF [REDACTED] SO WE COULD SEE
8 WHAT WAS GOING ON.

9 Q PLAINTIFF'S EXHIBIT #3. TELL ME WHAT'S
10 IN THAT PHOTOGRAPH.

11 A THAT'S A COMFORTER.

12 Q AND WHAT ELSE IS IN THAT PICTURE? WHAT
13 PIECE OF FURNITURE IS IN THE PICTURE?

14 A MY LONG CHAIR AND THAT'S A PILLOW.

15 Q IS THAT THE WAY YOUR LONG CHAIR OR SOFA
16 APPEARED THAT EVENING?

17 A YES, IT WAS.

18 Q AND WHAT IS ON THAT SOFA?

19 A SOME COVER.

20 Q AND WHO IS THAT COVERED?

21 A [REDACTED]

22 Q I BELIEVE I ASKED YOU BUT I'M NOT SURE
23 IF I RECALL YOUR ANSWER. ARE YOU THE ONE
24 THAT ACTUALLY COVERED THE BODY?

25 A I'M NOT SURE. I REMEMBER HIM ASKING FOR

1 SOME COVER BUT I'M NOT SURE IF I COVERED HER
2 UP. NOW, WHEN YOU ASKED ME WAS THERE ANY
3 COVER ON THE CHAIR, IT WASN'T LIKE A COVERED
4 CHAIR, BUT I HAD ONE OF THOSE THINGS THAT
5 YOU LAY ON THE BACK OF CHAIRS. I DID HAVE
6 THAT ON THE BACK OF THE CHAIR.

7 Q YOUR HONOR, THAT'S ALL I HAVE AT THIS
8 TIME.

9 CROSS EXAMINATION

10 BY

11 SOLICITOR BLACKMON

12 Q I BELIEVE YOU SAID WHEN ERIC WAS
13 TRANSPORTED HIS HANDS HAD BLOOD ON THEM?

14 A YES, THERE WAS.

15 Q HIS HANDS HAD BLOOD ON THEM?

16 A A LITTLE BIT.

17 Q AND THERE WAS NO BLOOD ANYWHERE ELSE?

18 A NO, THERE WASN'T.

19 Q I SHOW YOU WHAT'S MARKED AS STATE'S
20 EXHIBIT #14-A. WHAT IS THAT?

21 A THAT'S BIRDIE.

22 Q AND WHAT IS BIRDIE'S HEAD LAYING ON?
23 IT'S THE ARM OF YOUR SOFA, ISN'T IT?

24 A IT LOOKS LIKE THAT TO ME.

25 Q AND THERE'S BLOOD ON IT TOO, ISN'T

1 THERE? THERE'S BLOOD ALL DOWN HERE.

2 THERE'S A LOT OF BLOOD.

3 A BUT I DID NOT SEE ANY BLOOD.

4 Q YOU JUST SAW A LITTLE BIT OF BLOOD ON
5 ERIC?

6 A YES, I DID.

7 Q DID THE LITTLE BIT OF BLOOD THAT YOU SAW
8 ON ERIC HAPPEN TO COME FROM THE CUTS ON HIS
9 HANDS WHILE HE WAS HAVING HIS FIT AND
10 BUSTING THE WINDOWS OUT OF YOUR DOOR?

11 A I DID NOT SEE ANY CUTS ON HIM.

12 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
13 EXHIBIT #15-A. WHAT IS THAT?

14 A THAT'S BIRDIE.

15 Q AND WHERE IS BIRDIE LYING? IT'S STILL
16 YOUR SOFA, ISN'T IT?

17 A YES, IT IS.

18 Q IS THERE NO BLOOD ALL OVER BIRDIE'S
19 CLOTHES AND ALL OVER THAT SOFA? ARE YOU
20 TELLING ME YOU DIDN'T NOTICE ALL OF THIS BUT
21 YOU NOTICED A LITTLE BIT OF BLOOD ON HIS
22 HANDS?

23 A I WAS PULLING HIM, THE REASON I NOTICED
24 BLOOD ON HIS HANDS, BUT I DID NOT NOTICE, AT
25 THAT TIME, THE BLOOD ON BIRDIE. LIKE I

1 SAID, IT WAS EMOTIONAL. I WAS TRYING TO
2 HELP HER, I WAS TRYING TO HELP ERIC. I WAS
3 THERE. I DIDN'T HAVE NOBODY TO HELP ME TRY
4 TO PULL ERIC OFF AND I DIDN'T SEE THE BLOOD.
5 I'M NOT SAYING IT WASN'T THERE BUT I DID NOT
6 SEE IT. I WAS MORE CONCERNED ABOUT THEM
7 INSTEAD OF LOOKING FOR SOMETHING ELSE. I
8 WANTED TO HELP HER. AND SO, NO, I DIDN'T
9 SEE ANY BLOOD ON HER.

10 Q YOU'RE NOT SURE WHETHER YOU COVERED HER
11 OR SOMEBODY ELSE COVERED HER, IS THAT
12 CORRECT?

13 A YES, THAT'S CORRECT.

14 Q WHO ASKED YOU TO COVER HER?

15 A I THINK JOHN.

16 Q YOU NEVER SAW BIRDIE AND ERIC TOGETHER
17 THAT NIGHT, DID YOU, WHILE YOU WERE AWAKE?

18 A NO.

19 Q YOU'VE ALREADY TESTIFIED TO THAT?

20 A YES.

21 Q YOU DON'T EVEN KNOW WHAT TIME THEY CAME
22 IN, DO YOU?

23 A NO, I DON'T.

24 Q YOU DON'T KNOW WHAT HAPPENED BEFORE
25 BIRDIE GOT SHOT?

1 A I KNOW IT WAS BEFORE ONE BECAUSE THAT'S
2 HIS CURFEW TIME, IS ONE.

3 Q BUT YOU DON'T KNOW WHAT HAPPENED WITH
4 THEM.

5 MR. SMITH: OBJECTION, YOUR HONOR.

6 SHE'S NOT ALLOWING HER TO ANSWER THE
7 QUESTION.

8 Q IF SHE'D ANSWER THE QUESTION.

9 MR. SMITH: SHE HASN'T FINISHED.

10 COURT: HAVE YOU FINISHED?

11 A I KNOW IT WAS BEFORE ONE BECAUSE THAT IS
12 CURFEW TIME. AND I KNOW IF THERE WAS
13 ANYTHING WRONG I WOULD HAVE HEARD IT IN
14 BIRDIE'S VOICE WHEN I TALKED TO HER. WHY
15 WOULD SHE WANT TO GO DOWN TO THE STORE IF
16 THEY WAS ARGUING OR IF THEY WAS UPSET WITH
17 EACH OTHER?

18 Q WHAT TIME DID YOU TALK TO HER?

19 A I'M NOT SURE. I DIDN'T LOOK AT THE
20 CLOCK WHEN SHE CALLED.

21 Q YOU DON'T KNOW WHAT HAPPENED BETWEEN
22 BIRDIE AND ERIC WHEN BIRDIE WENT TO THE
23 STORE, DO YOU?

24 A NO, I DO NOT.

25 Q YOU DON'T KNOW WHAT HAPPENED BETWEEN

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1 BIRDIE AND ERIC WHEN THEY CAME INTO THE
2 HOUSE, DO YOU?

3 A NO, I DON'T.

4 Q ALL YOU CAN REALLY SAY IS THAT WHEN MS.
5 MCDONALD WOKE YOU UP AND YOU WALKED INTO
6 THAT ROOM BIRDIE WAS SHOT AND ERIC HAD SHOT
7 HER, IS THAT NOT CORRECT?

8 A WELL, I KNOW THIS: THEY'VE NEVER HAD AN
9 ARGUMENT IN MY PRESENCE.

10 Q YES OR NO.

11 MR. SMITH: YOUR HONOR ---

12 Q SHE'S NOT ANSWERING THE QUESTION, YOUR
13 HONOR.

14 MR. SMITH: SHE HAS A RIGHT TO ANSWER
15 THE QUESTION AND EXPLAIN.

16 Q SHE DIDN'T ANSWER THE QUESTION.

17 MR. SMITH: WELL, WHAT'S YOUR QUESTION?

18 COURT: WAIT A MINUTE. THE LAWYERS
19 POSE TO QUESTIONS. THE WITNESS ANSWERS THE
20 QUESTION DIRECTLY AND THEN YOU CAN EXPLAIN
21 YOUR ANSWER.

22 A I'M SORRY, YOUR HONOR.

23 COURT: PLEASE FOLLOW THAT PROCEDURE.

24 Q THANK YOU, YOUR HONOR. OF YOUR OWN
25 PERSONAL KNOWLEDGE YOU HAVE NO IDEA WHAT

1 TRANSPIRED BETWEEN ERIC AND BIRDIE WHEN THEY
2 GOT TO YOUR HOUSE, DO YOU?

3 A NO, I DON'T.

4 Q OF YOUR OWN PERSONAL KNOWLEDGE, THE ONLY
5 THING YOU KNOW IS THAT WHEN YOU WALKED INTO
6 THE ROOM BIRDIE WAS SHOT AND ERIC HAD SHOT
7 HER?

8 A YES.

9 Q NOTHING FURTHER.

10 REDIRECT EXAMINATION

11 BY

12 MR. SMITH

13 Q WHEN YOU WALKED INTO THE ROOM WHAT
14 POSITION WAS MS. [REDACTED] IN ON YOUR SOFA?

15 A IT'S KIND OF HARD TO SAY WHAT POSITION
16 SHE WAS, BECAUSE ERIC WAS CRYING OVER HER
17 AND HE WAS HOLDING HER AND MOVING HER. IT'S
18 KIND OF HARD TO SAY WHAT POSITION SHE WAS
19 IN.

20 Q WAS SHE SLUMPED OVER ON THE ARM OF THE
21 SOFA?

22 A NO, SHE WASN'T SLUMPED.

23 Q THANK YOU.

24 SOLICITOR BLACKMON: NOTHING FURTHER
25 FROM THE STATE.

1 COURT: YOU MAY STEP DOWN. LADIES AND
2 GENTLEMEN, STEP BACK TO YOUR ROOM. WE'RE
3 GONNA TAKE ABOUT A TEN MINUTE RECESS.

4 (WHEREUPON A BREAK WAS TAKEN BY THE
5 COURT.)

6 (WHEREUPON THE FOLLOWING TAKES PLACE OUTSIDE
7 THE PRESENCE OF THE JURY.)

8 MR. SMITH: YOUR HONOR, AT THIS
9 TIME THE DEFENSE WOULD REST.

10 YOUR HONOR, I HAVE HAD AN OPPORTUNITY TO
11 TALK WITH THE DEFENDANT ABOUT HIS TESTIMONY
12 AND HIM TAKING THE WITNESS STAND. AT THIS
13 POINT WE HAVE ELECTED FOR HIM NOT TO DO SO.

14 COURT: ALL RIGHT. BEFORE WE
15 FINALIZE THAT THEN, LET ME GO OVER IT WITH
16 HIM.

17 MR. GRAHAM, IF I COULD HAVE YOUR
18 UNDIVIDED ATTENTION, PLEASE. YOUR ATTORNEY
19 HAS ADVISED ME THAT YOU DON'T WISH TO
20 TESTIFY AT THIS TIME AND I NEED TO SPEAK
21 WITH YOU ABOUT YOUR FIFTH AMENDMENT RIGHTS.

22 THE CONSTITUTION OF THE UNITED STATES
23 AND ALSO SIMILAR COUNTERPART PROVISIONS THAT
24 WE HAVE IN OUR STATE CONSTITUTION PROVIDES,
25 IN PART, NO PERSON SHALL BE COMPELLED IN ANY

1 CRIMINAL CASE TO BE A WITNESS AGAINST
2 HIMSELF. THIS MEANS THAT YOU CANNOT BE
3 COMPELLED OR REQUIRED TO TESTIFY IN THIS
4 CASE.

5 IT IS A RIGHT AND A PRIVILEGE TO WHICH
6 THE LAW EXTENDS TO YOU AND IT IS A PERSONAL
7 PRIVILEGE. NO ONE CAN WAIVE THE RIGHT
8 EXCEPT YOU. YOU HAVE THE RIGHT NOT TO
9 TESTIFY BUT YOU ALSO HAVE THE RIGHT TO
10 TESTIFY AND I WILL GRANT YOU TIME TO CONSULT
11 YOUR ATTORNEY BEFORE YOU MAKE A FINAL
12 DECISION.

13 IF YOU ELECT NOT TO TESTIFY, YOUR
14 FAILURE TO TESTIFY CANNOT BE USED BY THE
15 STATE AS AN INFERENCE OF GUILT AND YOUR
16 FAILURE TO TESTIFY CANNOT BE CONSIDERED BY
17 THE JURY IN ITS DELIBERATIONS. IF YOU ELECT
18 TO TESTIFY AND WAIVE THE PRIVILEGE EXTENDED
19 TO YOU BY THE FIFTH AMENDMENT OF THE
20 CONSTITUTION OF THE UNITED STATES, I'D
21 ADVISE YOU THAT YOU WOULD THEN ASSUME THE
22 ROLE OF A WITNESS IN THIS CASE AND YOU THEN
23 WAIVE OR GIVE UP YOUR CONSTITUTIONAL
24 PRIVILEGE AGAINST SELF INCRIMINATION.

25 THIS MEANS THAT IF YOU VOLUNTARILY TAKE

1 THE WITNESS STAND AND TESTIFY. YOU WILL THEN
2 SUBJECT YOURSELF TO THE SAME RULES THAT
3 GOVERN OTHER WITNESSES AND YOU MAY BE
4 EXAMINED OR CROSS-EXAMINED ON ANY RELEVANT
5 ISSUE IN THE CASE AND YOU MAY BE IMPEACHED
6 TO THE SAME EXTENT AS ANY OTHER WITNESS, ALL
7 OF WHICH IS SUBJECT, HOWEVER, TO THE RULES
8 OF EVIDENCE AND PROCEDURE.

9 I ADVISE YOU THAT IF YOU ELECT TO TAKE
10 THE STAND AND TESTIFY THIS DECISION ON YOUR
11 PART MUST BE MADE FREELY AND VOLUNTARILY AND
12 INTELLIGENTLY AND WITH KNOWLEDGE OF
13 PROTECTIONS GIVEN TO YOU BY THE FIFTH
14 AMENDMENT OF THE CONSTITUTION OF THE UNITED
15 STATES AND WITH KNOWLEDGE OF THE
16 CONSEQUENCES OF YOUR ELECTION TO TESTIFY.

17 I ASK YOU NOW, DO YOU WISH TO CONSULT
18 WITH YOUR ATTORNEY AT THIS TIME?

19 MR. GRAHAM: NO, SIR.

20 COURT: HAVE YOU DISCUSSED WITH YOUR
21 ATTORNEY YOUR RIGHTS TO TESTIFY OR NOT
22 TESTIFY?

23 MR. GRAHAM: YES, SIR.

24 COURT: YOU UNDERSTAND WHAT I'VE
25 EXPLAINED TO YOU?

1 MR. GRAHAM: YES, SIR.

2 COURT: YOU UNDERSTAND WHAT HE HAS
3 EXPLAINED TO YOU?

4 MR. GRAHAM: YES, SIR.

5 COURT: I ASK YOU NOW, DO YOU WISH TO
6 TESTIFY?

7 MR. GRAHAM: NO, SIR.

8 COURT: VERY GOOD.

9 MR. SMITH: THE DEFENSE RESTS.

10 COURT: ANYTHING IN REPLY OR REBUTTAL?

11 SOLICITOR BLACKMON: YES, SIR, YOUR
12 HONOR, THE STATE WOULD CALL BRYAN LEE.

13 COURT: ALL RIGHT, WE NEED THE JURY.
14 (WHEREUPON THE FOLLOWING TAKES PLACE IN THE
15 PRESENCE OF THE JURY.)

16 COURT: ALL RIGHT, THE DEFENSE RESTS.
17 SOLICITOR, ANYTHING IN REBUTTAL OR REPLY?

18 SOLICITOR BLACKMON: YES, SIR. THE
19 STATE CALLS BRYAN LEE.

20 COURT: YOU'RE STILL UNDER OATH, MR.
21 LEE.

22 BRYAN LEE

23 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED
24 AS FOLLOWS:

25 DIRECT EXAMINATION

BY

SOLICITOR BLACKMON

Q DEPUTY LEE, WHEN YOU AND DEPUTY HUGGINS
ARRIVED, WHO WAS AT THE HOUSE?

A WHEN WE ARRIVED, IT WAS MYSELF, DEPUTY
HUGGINS, THE DEFENDANT, MR. GRAHAM, HIS
UNCLE, AND THE OTHER GENTLEMAN THAT WAS
THERE, AND [REDACTED]

Q WAS E-M-S THERE WHEN YOU ARRIVED?

A NO. E-M-S ARRIVED SHORTLY AFTER WE DID.

Q WAS BIRDIE ALREADY COVERED UP WHEN YOU
GOT THERE?

A WHEN I ENTERED THE ROOM SHE WAS COVERED
UP. THAT'S WHY I DIDN'T NOTICE HER AT
FIRST.

Q AND THAT WAS BEFORE E-M-S ARRIVED?

A THAT'S CORRECT.

Q WHEN YOU REMOVED THE BLANKET, WHAT DID
YOU NOTICE?

A WHEN I REMOVED THE BLANKET, LATER I
OBSERVED THE GUNSHOT WOUND HERE AND WAS ALSO
ABLE TO SEE THE EXIT.

Q IT WAS CLEARLY VISIBLE TO YOU?

A THAT'S CORRECT.

Q WOULD YOU PLEASE DESCRIBE ERIC GRAHAM'S

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1 STATE?

2 A MR. GRAHAM WAS BEING HELD DOWN ON THE
3 GROUND. HE SEEMED RATHER AGITATED.

4 Q NOTHING FURTHER.

5 COURT: ANY QUESTIONS, MR. SMITH?

6 MR. SMITH: NONE.

7 COURT: YOU MAY STEP DOWN.

8 SOLICITOR BLACKMON: THE STATE WOULD
9 CALL PAUL DUNDEE.

10 PAUL DUNDEE

11 BEING FIRST DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION

14 BY

15 SOLICITOR BLACKMON

16 Q COULD YOU STATE YOUR NAME AND WHERE YOU
17 WORK, FOR THE RECORD?

18 A PAUL GLENN DUNDEE. I WORK FOR SOUTH
19 CAROLINA PLUM COMPANY.

20 Q DO YOU KNOW [REDACTED] MCDONALD, ERIC
21 GRAHAM AND BIRDIE [REDACTED]

22 A YES, MA'AM.

23 Q AND DO YOU WORK AT OR DO YOU OWN THE
24 STORE THAT THEY WERE AT, THE PLACE THAT THEY
25 WERE AT?