

Volume I of II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Alison Renee Lee, Circuit Court Judge

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S.C. Supreme Court

ERIC MANCE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case no. 2013-001039

APPENDIX

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

2006-GS-40-4738

2006-GS-40-4739

2006-GS-40-4741

THE STATE OF SOUTH CAROLINA

:

:

-VS-

:

TRANSCRIPT OF RECORD

:

ERIC D. MANCE

:

AUGUST 25 - 27, 2008

COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE, AND JURY:

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

KATHRYN "LUCK" CAMPBELL, ESQUIRE

DANIEL GOLDBERG, ESQUIRE

ATTORNEYS FOR THE STATE

DAVID B. TARR, ESQUIRE

ATTORNEY FOR THE DEFENDANT

DAPHNE D. HELMS

CIRCUIT COURT REPORTER

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County: Richland
 Date: 8-25-08

VOIR DIRE

Case No: 06-65-40-4741, 4739, Judge: Clifton Newman
4738
 Pl. / State: State State/Pl's. Atty: Daniel Goldberg
Kathryn "Jack" Campbell
 Defendant: Eric Mance Defense Atty: David Tarr

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff	Defense	Accept
229	Marvin Scott	M	B				✓
107	Maxine Murphy	F	B		✓		
220	Michelle Rich	F	W			✓	
278	Tonia Generette	F	B				✓
254	Cheryl Taylor	F	B		✓		
163	James Frank Martin	M	W			✓	
200	Geratha Pendarvis	F	B				✓
164	Rosemarie Matera	F	W				✓
165	Sharon Mathias	F	W				✓
1	Lyvonne Able	M	B		✓		
291	Kathleen Williams	F	W			✓	
113	Marsha Hendry	F	W			✓	
267	Suzanne Wall	F	W				✓
38	Andrew Brumbaugh	M	W				✓
167	Dale Mc Cray	F	B				✓
81	Cathy Flemming	F	B				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."

C-Court, P-Plaintiff, D-Defense

County: Richland
 Date: 8-25-08

VOIR DIRE

Case No: 06-65-40-4741, 4739, 4738 Judge: Newman
 Pl. / State: State State/Pl's. Atty: Goldberg, Campbell

Defendant: Eric Mance

Defense Atty: Tarr

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes		Accept
					Plaintiff	Defense	
228	Darryld Scott	M	B		✓		
239	Sonya Sims	F	B				✓
143	Robert Kahn	M	W			✓	
247	Joseph Solomon	M	B				✓
276	Olanda Watts	M	B				✓
- Alternates -							
77	Laura Fadelay	F	W				✓
69	Anthony Dove	M	B		✓		
179	Cynthia Miller	F	W			✓	
137	Cecil Jones, Jr.	M	B			✓	
234	Sandra Shealy	F	W				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."
 C-Court, P-Plaintiff, D-Defense

1 THE COURT: ALL RIGHT. REGARDING STATE VERSUS MANCE?

2 MS. CAMPBELL: YES, YOUR HONOR. I WOULD AT THIS TIME --
3 I HAD TO ADD A WITNESS TO THE LIST. IF I COULD HAND UP THE
4 CORRECTED WITNESS LIST FOR THE STATE.

5 THE COURT: WILL SOMEONE GO GET THE DEFENDANT?

6 OFFICER: HE'S ON HIS WAY.

7 THE COURT: HE'S ON HIS WAY? ALL RIGHT. I'M JUST GOING
8 TO STEP DOWN AND WAIT 'TIL THE DEFENDANT COMES IN.

9 MS. CAMPBELL: THANK YOU, YOUR HONOR.

10 THE COURT: AND THEN I'LL COME IN. ALL RIGHT.

11 MS. CAMPBELL: HE'S ALSO HANDED UP SOME VOIR DIRE. AT
12 SOME POINT I JUST WOULD LIKE TO HAVE AN OPPORTUNITY TO
13 ADDRESS THAT.

14 THE COURT: OKAY. WE'LL JUST DO IT ALL AFTER THE
15 DEFENDANT IS HERE.

16 MS. CAMPBELL: THAT'S FINE, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MS. CAMPBELL: THANK YOU.

19 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

20 THE COURT: THANK YOU VERY MUCH. PLEASE BE SEATED. ALL
21 RIGHT. THE STATE VERSUS MANCE. MR. TARR, ARE YOU READY?

22 MR. TARR: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. SOLICITOR, READY?

24 MS. CAMPBELL: YOUR HONOR, MAY IT PLEASE THE COURT? HE
25 HAS HANDED UP DEFENDANT'S REQUESTED VOIR DIRE AND IF I COULD

1 GO THROUGH THOSE WITH YOU. WE WOULD ASK THAT SOME OF THEM BE
2 MADE RECIPROCAL.

3 THE COURT: OKAY.

4 MS. CAMPBELL: SPECIFICALLY NUMBER TWO, YOUR HONOR, HE
5 ASKS: IS ANYONE EMPLOYED BY THE CITY ATTORNEY, THE ATTORNEY
6 GENERAL, THE SOLICITOR, OR ANY PROSECUTING OFFICE? WE WOULD
7 ALSO ASK THAT YOU INCLUDE ANY DEFENSE ATTORNEY, MR. TARR
8 SPECIFICALLY, AND THE PUBLIC DEFENDER'S OFFICE.

9 THE COURT: MR. TARR AND THE PUBLIC DEFENDER'S OFFICE.
10 WHAT ABOUT THAT, MR. TARR?

11 MR. TARR: AS LONG AS IT'S MADE CLEAR I'M NOT A MEMBER
12 OF THE PUBLIC DEFENDER'S OFFICE, I DON'T HAVE A PROBLEM WITH
13 IT.

14 MS. CAMPBELL: THAT'S FINE.

15 THE COURT: OKAY. WHAT IS YOUR OFFICE?

16 MR. TARR: THE LAW OFFICE OF DAVID TARR.

17 THE COURT: OKAY.

18 MR. TARR: LOCATED HERE IN COLUMBIA.

19 THE COURT: WE'LL DO THAT.

20 MS. CAMPBELL: THANK YOU, YOUR HONOR. NUMBER 4, HE
21 CITES LIMITED -- C.A.V.E., C.A.D.R.E., M.A.D.D., S.A.D.D.,
22 THOSE GROUPS, AND I WOULD ASK JUST ANY GROUPS ASSOCIATED WITH
23 PRISONERS' RIGHTS.

24 THE COURT: HOW ABOUT THAT, MR. TARR?

25 MR. TARR: I DON'T OBJECT TO THAT.

1 THE COURT: OKAY.

2 MS. CAMPBELL: NUMBER 5: DOES ANY MEMBER OF THE JURY
3 PANEL HAVE ANY RELIGIOUS, PROFESSIONAL, SOCIAL, OR BUSINESS
4 ASSOCIATIONS WITH ANY OF THE PROSECUTION WITNESSES OR THE
5 PROSECUTOR IN THIS CASE? AGAIN---

6 MR. TARR: YOU COULD JUST CHANGE THAT TO ANY OF THE
7 WITNESSES OR ANY OF THE ATTORNEYS INVOLVED IN THIS CASE.

8 MS. CAMPBELL: THAT'S FINE.

9 THE COURT: IS ANY MEMBER OF THE JURY PANEL...

10 MS. CAMPBELL: OR THE POTENTIAL WITNESSES.

11 THE COURT: ALL RIGHT.

12 MS. CAMPBELL: YOUR HONOR, I BELIEVE NUMBERS 6, 7, AND 8
13 YOU WOULD -- I THINK YOU GENERALLY DO THOSE IN YOUR GENERAL
14 CHARGE ANYWAY. BUT MOVING ON TO NUMBER 10 AND 11, ON NUMBER
15 10, YOUR HONOR, HE SAYS: HAS ANY MEMBER OF THE JURY PANEL
16 BEEN THE VICTIM OF A CRIME? IN THIS CASE IT IS A VIOLENT
17 OFFENSE. I DON'T -- I MEAN, I THINK WE COULD BE HERE FOR
18 AWHILE IF WE DO ANY CRIME. PERHAPS ANY VIOLENT CRIME SUCH AS
19 ASSAULT AND BATTERY WITH INTENT TO KILL OR ARMED ROBBERY...

20 THE COURT: MR. TARR?

21 MR. TARR: YOUR HONOR, WE DON'T BELIEVE -- OUR THEORY OF
22 THE CASE IS THAT IT WAS NOT A VIOLENT CRIME. I WOULD PREFER
23 TO INCLUDE ANY CRIMES. IF IT LOOKS LIKE THERE'S A BUNCH OF
24 PEOPLE STANDING UP, THEN WE COULD REVISIT IT.

25 THE COURT: ALL RIGHT.

1 **MS. CAMPBELL:** YOUR HONOR, IF THEY COULD ALSO MAKE THAT
2 **RECIPROCAL:** IF ANYONE HAS EVER BEEN ACCUSED OF A CRIME. I
3 **THINK BEING THE VICTIM OF A CRIME OR ACCUSED OF A CRIME...**
4 **AND THEN 11 I THINK JUST TAKES THAT ONE STEP FURTHER TO**
5 **EXTENDED FAMILY MEMBER OR CLOSE PERSONAL FRIEND WHO IS THE**
6 **VICTIM OF A CRIME AGAIN OR ACCUSED OF A CRIME.**

7 **THE COURT:** ANY PROBLEM WITH THAT, MR. TARR?

8 **MR. TARR:** NO, YOUR HONOR.

9 **THE COURT:** VERY WELL.

10 **MS. CAMPBELL:** YOUR HONOR, I DID INQUIRE OF THE DEFENSE
11 **-- I BELIEVE THE ONLY WITNESS THEY WOULD HAVE OTHER THAN**
12 **WHAT'S ON OUR LIST WOULD BE DR. TORA BRAWLEY.**

13 **THE COURT:** DR. TORA BRAWLEY.

14 **MS. CAMPBELL:** B-R-A-W-L-E-Y. CORRECT?

15 **MR. TARR:** THAT'S CORRECT. FIRST NAME IS T-O-R-A.

16 **THE COURT:** ALL RIGHT. AND, MR. TARR, HAVE YOU MADE MR.
17 **MANCE AWARE OF THE FACT THAT MY SON WAS RECENTLY HIRED AS A**
18 **CLERK IN THE SOLICITOR'S OFFICE?**

19 **MR. TARR:** YOUR HONOR, I HAVE NOT DISCUSSED THAT WITH
20 **HIM. I WOULD BE HAPPY TO IF YOU WOULD LIKE ME TO.**

21 **THE COURT:** IF YOU WOULD DISCUSS THAT WITH HIM AND LET
22 **ME KNOW IF THERE ARE ANY ISSUES ARISING FROM THAT THAT I**
23 **WOULD NEED TO HEAR.**

24 **(WHEREUPON, AN OFF-THE-RECORD DISCUSSION TAKES PLACE**
25 **BETWEEN MR. TARR AND MR. MANCE.)**

1 **MR. TARR:** NO, HE DOESN'T HAVE A PROBLEM WITH THAT.

2 **THE COURT:** IS THAT CORRECT, MR. MANCE?

3 **MR. MANCE:** YES, SIR. YES, YOUR HONOR.

4 **THE COURT:** ALL RIGHT. VERY GOOD. ARE WE READY TO HAVE
5 THE JURY COME IN?

6 **MS. CAMPBELL:** YES, SIR.

7 **THE COURT:** ALL RIGHT. LET'S CALL THEM UP.

8 (WHEREUPON, THE ENTIRE JURY PANEL WAS BROUGHT INTO THE
9 COURTROOM.)

10 **THE COURT:** GOOD AFTERNOON, LADIES AND GENTLEMEN. I AM
11 CLIFTON NEWMAN, ONE OF THE CIRCUIT COURT JUDGES ASSIGNED TO
12 HAVE COURT HERE IN RICHLAND THIS WEEK, AND YOU ALL HAVE BEEN
13 SENT OVER HERE CONCERNING A GENERAL SESSIONS COURT CASE. I'M
14 GOING TO HAVE THE STATE CALL THE CASE AT THIS TIME.

15 **MS. CAMPBELL:** MAY IT PLEASE THE COURT, YOUR HONOR?
16 THIS IS THE STATE VERSUS ERIC MANCE. HE'S CHARGED IN
17 INDICTMENT NUMBERS 2006-GS-40-4741, 2006-GS-40-4739, AND
18 2006-GS-40-4738. HE'S CHARGED WITH ARMED ROBBERY, ASSAULT
19 AND BATTERY WITH INTENT TO KILL, AND POSSESSION OF A PISTOL
20 BY A PERSON CONVICTED OF A CRIME OF VIOLENCE.

21 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, THE STATE
22 HAS CALLED FOR TRIAL THE CASE OF THE STATE VERSUS ERIC MANCE.
23 MR. MANCE, IF YOU WILL STAND AND FACE THE JURY PANEL.

24 **MR. MANCE:** YES, SIR.

25 **THE COURT:** AND HE IS REPRESENTED BY COUNSEL. AND,

1 COUNSEL, IF YOU'LL INTRODUCE YOURSELF TO THE JURY PANEL.

2 MR. TARR: MY NAME IS DAVID TARR. I REPRESENT MR.
3 MANCE.

4 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. AND THE
5 STATE LIKEWISE IS REPRESENTED BY COUNSEL. IF YOU'LL
6 INTRODUCE YOURSELVES TO THE PANEL AS WELL.

7 MR. GOLDBERG: MY NAME IS DANIEL GOLDBERG. I'M AN
8 ASSISTANT SOLICITOR HERE IN THE FIFTH CIRCUIT SOLICITOR'S
9 OFFICE.

10 MS. CAMPBELL: MY NAME IS LUCK CAMPBELL. I'M ALSO AN
11 ASSISTANT SOLICITOR HERE IN THE FIFTH CIRCUIT.

12 THE COURT: LADIES AND GENTLEMEN, THIS CASE COMES INTO
13 COURT AS A RESULT OF AN INDICTMENT RETURNED BY THE GRAND JURY
14 OF RICHLAND COUNTY CHARGING MR. MANCE WITH THE OFFENSES OF
15 ASSAULT AND BATTERY WITH INTENT TO KILL, ARMED ROBBERY, AND
16 POSSESSION OF A PISTOL BY A PERSON UNLAWFULLY -- DO YOU
17 STIPULATE TO THIS CHARGE AS WELL, MR. TARR?

18 MR. TARR: YES, YOUR HONOR.

19 THE COURT: ALL RIGHT. POSSESSION OF A PISTOL BY A
20 PERSON CONVICTED OF A CRIME OF VIOLENCE. THE CRIME OF
21 VIOLENCE---

22 MR. TARR: YOUR HONOR?

23 THE COURT: YES, SIR.

24 MR. TARR: MAY WE APPROACH?

25 THE COURT: ALL RIGHT.

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

2 THE COURT: THE DEFENDANT HAS PLED NOT GUILTY TO THESE
3 CHARGES. HE'S PRESUMED TO BE NOT GUILTY OF THESE CHARGES.
4 HE CANNOT BE FOUND GUILTY OF THESE CHARGES UNLESS EACH AND
5 EVERY JUROR WHO IS SELECTED AND SITS ON THIS CASE IS
6 CONVINCED BEYOND A REASONABLE DOUBT THAT HE IS GUILTY. AND
7 THAT IS THE PURPOSE OF THE TRIAL: TO DETERMINE WHETHER THE
8 STATE CAN MEET THAT BURDEN OF PROVING THE DEFENDANT GUILTY
9 BEYOND A REASONABLE DOUBT.

10 WE'RE GOING TO PROCEED WITH THE JURY SELECTION, BUT I
11 HAVE A NUMBER OF QUESTIONS TO ASK YOU FOR THE LAWYERS'
12 CONSIDERATION RELATED TO JURY SELECTION. FIRST OF ALL, I
13 WANT TO MAKE YOU ALL AWARE OF THE WITNESSES WHO MAY TESTIFY
14 IN THIS CASE, AND YOU WILL BE ASKED WHETHER OR NOT YOU ARE
15 ACQUAINTED WITH ANY OF THE PROSPECTIVE WITNESSES AND OTHER
16 POSSIBLE PARTICIPANTS IN THIS CASE.

17 THE PROSPECTIVE WITNESSES ARE AS FOLLOWS: FIRST THE
18 ALLEGED VICTIM AND I'LL NEED YOU TO STAND IF YOU'RE HERE:
19 MR. DARYL HAWKINS. ALL RIGHT. THANK YOU. INVESTIGATOR
20 KEVIN REESE FROM THE COLUMBIA POLICE DEPARTMENT.
21 INVESTIGATOR A.L. THOMAS FROM THE COLUMBIA POLICE DEPARTMENT.
22 OFFICER DARRING HICKS OF THE COLUMBIA POLICE DEPARTMENT.
23 CHRISTOPHER MILLHOUSE. MATTHEW -- IS IT THIELKER?

24 MS. CAMPBELL: (NODDED HEAD UP AND DOWN.)

25 THE COURT: KERMIT SCOTT, POLICE DEPARTMENT. TOMMY

1 THOMAS OF THE POLICE DEPARTMENT. INVESTIGATOR PAUL MEAD OF
2 THE POLICE DEPARTMENT. BOB BENSON, INVESTIGATOR WITH THE
3 POLICE DEPARTMENT. CAPTAIN ESTELLE YOUNG OF THE COLUMBIA
4 POLICE DEPARTMENT. LIEUTENANT DONNA K. MARTIN OF THE POLICE
5 DEPARTMENT. FORMER CHIEF DEAN CRISP OF THE POLICE
6 DEPARTMENT. J. STONER OF THE LEXINGTON COUNTY SHERIFF'S
7 DEPARTMENT. AND ALL OF THE FOLLOWING ONES -- THE NEXT FOUR
8 OR FIVE ARE WITH THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT:
9 CAPTAIN J. JOY, SERGEANT CALEB BLACK, DEPUTY WOMBLE, DEPUTY
10 GLOVER, COLONEL SEBOE, AND DEPUTY HENDRIX, ALL OF THE
11 LEXINGTON COUNTY SHERIFF'S DEPARTMENT.

12 PETE CURRIE, COLUMBIA POLICE DEPARTMENT. TIM WALSH.
13 OFFICER DOUGHERTY, D. DOUGHERTY, OF THE COLUMBIA POLICE
14 DEPARTMENT. LIEUTENANT SCOTTIE FRIER, LEXINGTON COUNTY
15 SHERIFF'S DEPARTMENT. G.B. SANDERS OF THE COLUMBIA POLICE
16 DEPARTMENT. W.C. ROSE OF THE COLUMBIA POLICE DEPARTMENT.
17 LIEUTENANT DESROCHERS, POLICE DEPARTMENT. SERGEANT C.O.
18 CLARK, COLUMBIA POLICE DEPARTMENT. W.T. PETOSKEY, COLUMBIA
19 POLICE DEPARTMENT. OFFICER G. ROSS, COLUMBIA POLICE
20 DEPARTMENT.

21 INVESTIGATOR MENENDEZ OF THE POLICE DEPARTMENT. JOANNE
22 BELCHER OF THE COLUMBIA POLICE DEPARTMENT. IRA PARNELL OF
23 S.L.E.D. KANA RAHMAN JOHNSON. KANA RAHMAN JOHNSON. IRENA
24 FULLER. SHERRY BOLIN. NICOLE PERRILL. BARBARA W. [REDACTED]
25 NICOLE PITTMAN. LETICIA GILMORE. ODESSA MANCE. SUZANNE

1 HAWKINS. JOHN W. SLOAN.

2 WILLIAM CEDARSTAFF OF THE RICHLAND COUNTY SHERIFF'S
3 DEPARTMENT. TENA GOFF, RICHLAND COUNTY. AMY STEPHENS OF
4 S.L.E.D. KATHLEEN AMICK OF S.L.E.D. JOHN BARRON OF THE
5 RICHLAND COUNTY SHERIFF'S DEPARTMENT. BENNIE JOHNSON.
6 ASHLEY CASTILLO. DR. GERALD WILSON. CHASITY SHIPMAN.
7 BARBARA SCOTT, CLERK OF COURT. BRENDA SLOAN, A COURT
8 REPORTER. PAMELA HAWKINS. JENNIFER BLAIR. KENNETH BROWN.
9 JIM TRUITT FROM THE RICHLAND COUNTY CLERK OF COURT, AND TORA
10 -- DR. TORA BRAWLEY OR TORA BRAWLEY.

11 IF ANY OF YOU PROSPECTIVE JURORS, IF YOU ARE A FRIEND,
12 AN ACQUAINTANCE, AN ASSOCIATE, OR IF YOU KNOW ANY OF THOSE
13 FOLKS WHO I HAVE CALLED -- WHOSE NAMES I'VE CALLED OUT WHO
14 MAY BE WITNESSES, PLEASE LET US KNOW THAT BY STANDING AT THIS
15 TIME. YES, MA'AM. YOU ARE JUROR NUMBER?

16 JUROR WILLIAMS: 291.

17 THE COURT: YES, MA'AM.

18 JUROR WILLIAMS: BARBARA SCOTT IS ON MY BOARD OF
19 DIRECTORS: SOUTH CAROLINA ASSOCIATION OF COUNTIES.

20 THE COURT: ALL RIGHT. AND WHAT IS YOUR -- WHAT DO YOU
21 DO AT THE COUNTY?

22 JUROR WILLIAMS: I'M THE ASSISTANT DIRECTOR OF THE
23 ASSOCIATION.

24 THE COURT: ALL RIGHT. AND WOULD THAT FACT AFFECT YOUR
25 ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

1 JUROR WILLIAMS: NO, SIR.

2 THE COURT: ALL RIGHT. THANK YOU. YES, SIR?

3 JUROR MARTIN: FRANK MARTIN. BARBARA SCOTT IS A PATIENT
4 OF MINE.

5 THE COURT: ALL RIGHT. AND WOULD THAT FACT AFFECT YOUR
6 ABILITY TO BE FAIR?

7 JUROR MARTIN: NO.

8 THE COURT: AND WHAT'S YOUR JUROR NUMBER?

9 JUROR MARTIN: 163.

10 THE COURT: ALL RIGHT. THANK YOU, SIR. ANYONE ELSE?

11 IF ANY MEMBER OF THE JURY PANEL IS RELATED BY BLOOD OR
12 MARRIAGE TO ANY LAW ENFORCEMENT OFFICER, STATE CONSTABLE, OR
13 ANY OTHER PERSON HAVING AUTHORITY TO ENFORCE THE LAWS OF THE
14 STATE, CITY, OR COUNTY OF RICHLAND -- IF SO, PLEASE STAND.
15 ANY RELATIVES IN LAW ENFORCEMENT? IF SO, PLEASE STAND.

16 JUROR ALLGOOD: YOU MEAN ONLY IN THE STATE OF SOUTH
17 CAROLINA?

18 THE COURT: ANY RELATIVE OR ANYONE IN LAW ENFORCEMENT.

19 JUROR ALLGOOD: I HAVE RELATIVES IN LAW ENFORCEMENT.

20 THE COURT: ALL RIGHT. WHAT'S YOUR JUROR NUMBER,
21 PLEASE?

22 JUROR ALLGOOD: 3.

23 THE COURT: JUROR NUMBER 3. YES, MA'AM.

24 JUROR ALLGOOD: I HAVE TWO BROTHERS AT THE FORT GORDON
25 POLICE DEPARTMENT. I HAVE A NIECE WHO IS A SERGEANT WITH THE

1 FORT WORTH POLICE DEPARTMENT.

2 THE COURT: FORT WORTH, TEXAS?

3 JUROR ALLGOOD: YES, SIR.

4 THE COURT: ALL RIGHT.

5 JUROR ALLGOOD: AND I HAVE A SISTER-IN-LAW WHO IS A
6 MAJOR IN MARION COUNTY, TEXAS.

7 THE COURT: ALL RIGHT. WOULD THAT FACT AFFECT YOUR
8 ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

9 JUROR ALLGOOD: NO, SIR.

10 THE COURT: THANK YOU. JUROR NUMBER 3. YES, MA'AM?

11 JUROR MURPHY: I HAVE A BROTHER-IN-LAW WHO IS WITH THE
12 CITY DEPARTMENT, POLICE DEPARTMENT.

13 THE COURT: CITY POLICE DEPARTMENT?

14 JUROR MURPHY: UH-HUH.

15 THE COURT: AND YOUR JUROR NUMBER, PLEASE?

16 JUROR MURPHY: 107.

17 THE COURT: AND WOULD THAT FACT AFFECT YOUR ABILITY TO
18 BE A FAIR JUROR IN THIS CASE?

19 JUROR MURPHY: NO, IT WON'T.

20 THE COURT: THANK YOU. YES, SIR?

21 JUROR JONES: I HAVE A SON THAT WORKS WITH THE COLUMBIA
22 METROPOLITAN POLICE DEPARTMENT.

23 THE COURT: AND YOUR JUROR NUMBER, PLEASE?

24 JUROR JONES: 137.

25 THE COURT: AND WOULD THAT FACT AFFECT YOUR ABILITY TO

1 BE A FAIR JUROR IN THIS CASE?

2 JUROR JONES: NO, SIR.

3 THE COURT: THANK YOU.

4 JUROR SMITH: IS SECURITY ENFORCEMENT IN THE MILITARY
5 CONSIDERED?

6 THE COURT: ALL RIGHT. WELL, SINCE YOU'RE STANDING,
7 TELL US ABOUT IT.

8 JUROR SMITH: HE'S IN THE AIR FORCE IN WYOMING.

9 THE COURT: ALL RIGHT. YOU HAVE A -- WHAT RELATION IS
10 HE TO YOU?

11 JUROR SMITH: MY SON.

12 THE COURT: AND HE DOES WHAT?

13 JUROR SMITH: HE ENFORCES SECURITY WHEREVER HE GOES.

14 THE COURT: HE'S IN THE AIR FORCE.

15 JUROR SMITH: I GUESS GUARD, BASICS, AND WHATEVER.

16 THE COURT: AND YOUR JUROR NUMBER IS?

17 JUROR SMITH: 244.

18 THE COURT: AND WOULD THAT FACT AFFECT YOUR ABILITY TO
19 BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

20 JUROR SMITH: NO.

21 THE COURT: THANK YOU. IS ANY MEMBER OF THE JURY PANEL
22 EMPLOYED BY, RELATED BY BLOOD OR MARRIAGE TO OR A FRIEND OR
23 ACQUAINTANCE OF ANYONE EMPLOYED BY THE CITY ATTORNEY'S
24 OFFICE, THE ATTORNEY GENERAL'S OFFICE, THE FIFTH CIRCUIT
25 SOLICITOR'S OFFICE, OR ANY OTHER PROSECUTOR'S OFFICE OR IF

1 YOU'RE RELATED BY BLOOD OR MARRIAGE OR A FRIEND OR
2 ACQUAINTANCE OR ASSOCIATE OF MR. TARR OR ANYONE EMPLOYED IN
3 HIS OFFICE OR BY ANYONE EMPLOYED BY THE FIFTH CIRCUIT PUBLIC
4 DEFENDER'S OFFICE? IF SO, PLEASE STAND. YES, MA'AM?

5 JUROR BOYD: I'M JUROR NUMBER 33, AND I KNOW DAN
6 GOLDBERG'S FAMILY.

7 THE COURT: YOU KNOW WHICH PERSON?

8 JUROR BOYD: DAN GOLDBERG'S FAMILY.

9 THE COURT: DAN GOLDBERG'S FAMILY, THE SOLICITOR'S
10 FAMILY. AND WOULD THAT FACT AFFECT YOUR ABILITY TO BE FAIR
11 AND IMPARTIAL IN THIS CASE?

12 JUROR BOYD: NO.

13 THE COURT: ALL RIGHT. THANK YOU, JUROR NUMBER 33.
14 ANYONE ELSE? IF YOU HAVE EVER BEEN EMPLOYED BY ANY CIVILIAN
15 OR MILITARY LAW ENFORCEMENT AGENCY, PLEASE STAND. IF YOU ARE
16 PERSONALLY INVOLVED IN OR A CONTRIBUTOR TO OR ANY MEMBER OF
17 YOUR IMMEDIATE FAMILY IS INVOLVED IN OR A CONTRIBUTOR TO ANY
18 GROUP THAT HAS AS ITS PRIMARY CONCERN THE PROMOTION OF LAW
19 ENFORCEMENT OR VICTIMS' RIGHTS OR PRISONERS' RIGHTS -- THESE
20 GROUPS WOULD INCLUDE C.A.V.E., M.A.D.D., S.A.D.D., OR ANY
21 SIMILAR ORGANIZATION. IF YOU ARE INVOLVED IN OR A
22 CONTRIBUTOR TO OR ANY OF YOUR IMMEDIATE FAMILY MEMBER IS
23 INVOLVED IN OR A CONTRIBUTOR TO ANY SUCH ORGANIZATION, PLEASE
24 STAND. YES, SIR.

25 JUROR STRONG: MY JURY NUMBER IS 251. MY WIFE'S THE

1 GUARDIAN AD LITEM COORDINATOR FOR KERSHAW COUNTY.

2 THE COURT: ALL RIGHT. AND WOULD THAT FACT AFFECT YOUR
3 ABILITY TO BE FAIR IN THIS CASE?

4 JUROR STRONG: NO.

5 THE COURT: ALL RIGHT. THANK YOU, SIR. DOES ANY MEMBER
6 OF THE JURY PANEL KNOW PERSONALLY OR HAVE ANY RELIGIOUS,
7 POLITICAL, SOCIAL OR BUSINESS ASSOCIATION WITH ANY POTENTIAL
8 WITNESS IN THIS CASE? IF SO, PLEASE STAND. NO ONE STANDING.

9 IN THIS CASE THE DEFENDANT IS ALLEGED TO HAVE COMMITTED
10 AN ASSAULT AND BATTERY WITH INTENT TO KILL UPON DARYL HAWKINS
11 AND IS ACCUSED TO HAVE ROBBED HIM WHILE ARMED OF A CHEVROLET
12 TAHOE OR OTHER U.S. CURRENCY, AND THIS IS -- THIS -- OR THESE
13 CRIMES ALLEGEDLY OCCURRED ON OR ABOUT JUNE 2ND, 2006, HERE IN
14 DOWNTOWN COLUMBIA. IF YOU HAVE HEARD ANYTHING ABOUT THIS
15 CASE PRIOR TO TODAY, PLEASE STAND.

16 IF YOU'VE HEARD ANYTHING OR HAVE HEARD ANYTHING ABOUT
17 THIS CASE ON TODAY OTHER THAN WHAT I HAVE JUST DISCLOSED TO
18 YOU HERE IN THIS COURTROOM, PLEASE STAND. NO ONE STANDING.
19 IF YOU HAVE FORMED AN OPINION ABOUT THE GUILT OR THE
20 INNOCENCE OF THE DEFENDANT, PLEASE STAND. NO ONE STANDING.
21 IS THERE ANYTHING ABOUT THE NATURE OF THE ALLEGATIONS OF THIS
22 CASE THAT WOULD CAUSE YOU ANY PROBLEMS IN SITTING AS A FAIR
23 AND IMPARTIAL JUROR IN THIS CASE? IF SO, PLEASE STAND.

24 IF ANY MEMBER OF THE JURY PANEL HAS EVER BEEN THE VICTIM
25 OF OR ACCUSED OF A CRIME -- IF YOU'VE EVER BEEN ACCUSED OF A

1 CRIME OR THE VICTIM OF A CRIME, PLEASE STAND. ALL RIGHT.
2 TELL US THE NATURE OF THE CRIME AND THEN YOU CAN HAVE YOUR
3 SEAT. JUROR NUMBER AND THE NATURE OF THE CRIME. YES, MA'AM.

4 JUROR RICH: I'M JUROR 220. MY HOUSE WAS BROKEN INTO
5 AND WE WERE BURGLARIZED.

6 THE COURT: ALL RIGHT. THANK YOU.

7 JUROR MILLER: I'M JUROR 179, AND MY SON'S HOME HAS BEEN
8 BURGLARIZED TWICE AND WE WERE VICTIMS OF A - I DON'T KNOW
9 WHAT YOU'D CALL IT - A ROBBERY WHEN WE WERE IN MEXICO ONCE.
10 WE WERE ROBBED OURSELVES.

11 THE COURT: ALL RIGHT. YES, SIR.

12 JUROR STRONG: JUROR 251. I'VE HAD MY HOME BURGLARIZED
13 AND BEEN THE VICTIM OF A ROBBERY.

14 THE COURT: ALL RIGHT. YES, SIR?

15 JUROR FRIERSON: 86. HOME BURGLARIZED AND A VEHICLE
16 STOLEN FROM THE PREMISES.

17 THE COURT: ALL RIGHT. ANYONE ELSE?

18 JUROR BARICHIVICH: HOME BURGLARIZED AND A BICYCLE
19 STOLEN.

20 THE COURT: ALL RIGHT. ANYONE ELSE? YOU MAY BE SEATED.
21 ANYONE ELSE? YOUR JUROR NUMBER, PLEASE, SIR?

22 JUROR BARICHIVICH: OH, I'M SORRY. JUROR NUMBER 13.

23 THE COURT: NUMBER 13. ANYONE ELSE? AS TO ANY OF THOSE
24 JURORS WHO STOOD, IF THAT -- IF THOSE FACTS WOULD AFFECT YOUR
25 ABILITY TO BE FAIR AND IMPARTIAL, PLEASE STAND. NO ONE

1 STANDING. IF YOU KNOW OF ANY REASON WHY YOU SHOULD NOT BE
2 CONSIDERED FOR SELECTION AS A JUROR IN THIS CASE, PLEASE
3 STAND. IF YOU ARE A FRIEND OR AN ASSOCIATE OF THE DEFENDANT,
4 MR. MANCE, PLEASE STAND OR IF YOU KNOW HIM, PLEASE STAND. NO
5 ONE STANDING. ANY ADDITIONAL QUESTIONS EITHER THE STATE OR
6 THE DEFENSE WOULD LIKE ME TO POSE?

7 **MS. CAMPBELL:** NOTHING FROM THE STATE, YOUR HONOR.

8 **MR. TARR:** NO, YOUR HONOR.

9 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, WE'LL
10 PROCEED NOW WITH JURY SELECTION. IF YOU'LL GIVE THE CLERK
11 YOUR ATTENTION.

12 **THE CLERK:** ONE ALTERNATE OR TWO ALTERNATES?

13 **THE COURT:** PROBABLY TWO.

14 **THE CLERK:** LADIES AND GENTLEMEN OF THE JURY PANEL, WHEN
15 I CALL YOUR NAME AND NUMBER PLEASE COME TO THE CENTER OF THE
16 ROOM HERE AT THE MICROPHONE. BRING ALL YOUR PERSONAL
17 BELONGINGS WITH YOU. YOU'RE GOING TO STATE YOUR NAME AND
18 YOUR OCCUPATION, PLEASE. MARVIN SCOTT, 229.

19 **JUROR SCOTT:** I'M MARVIN SCOTT. I'M IN INFORMATION
20 TECHNOLOGY.

21 **THE CLERK:** WHAT SAYS THE STATE?

22 **MR. GOLDBERG:** PLEASE PRESENT THE JUROR.

23 **THE CLERK:** WHAT SAYS THE DEFENSE?

24 **MR. TARR:** PLEASE SEAT THE JUROR.

25 **THE CLERK:** HAVE A SEAT IN THE JURY BOX, PLEASE. MAXINE

1 MURPHY, 107.

2 JUROR MURPHY: MAXINE MURPHY, MORRIS VILLAGE, A MENTAL
3 HEALTH SPECIALIST.

4 THE CLERK: WHAT SAYS THE STATE?

5 MR. GOLDBERG: PLEASE EXCUSE THE JUROR.

6 THE CLERK: HAVE A SEAT AT THE BACK OF THE COURTROOM,
7 PLEASE. MICHELLE RICH, 220.

8 JUROR RICH: I'M MICHELLE RICH. I'M A MANAGER OF
9 INFORMATION TECHNOLOGY AT C.S.C.

10 THE CLERK: WHAT SAYS THE STATE?

11 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MR. TARR: PLEASE EXCUSE THE JUROR.

14 THE CLERK: HAVE A SEAT AT THE BACK OF THE COURTROOM,
15 PLEASE. TONIA JENERETTE, 278.

16 JUROR JENERETTE: TONIA JENERETTE, ELEMENTARY SCHOOL
17 SECRETARY.

18 THE CLERK: WHAT SAYS THE STATE?

19 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

20 THE CLERK: WHAT SAYS THE DEFENSE?

21 MR. TARR: PLEASE SEAT THE JUROR.

22 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE. CHERYL
23 TAYLOR, 254.

24 JUROR TAYLOR: HI. MY NAME IS CHERYL TAYLOR. I'M WITH
25 THE B.P. S-MART, CAROLINA CONVENIENCE.

1 THE CLERK: WHAT SAYS THE STATE?

2 MR. GOLDBERG: PLEASE EXCUSE THE JUROR.

3 THE CLERK: HAVE A SEAT BACK AT THE BACK OF THE
4 COURTROOM. JAMES FRANK MARTIN, 163.

5 JUROR MARTIN: FRANK MARTIN, PHYSICIAN.

6 THE CLERK: WHAT SAYS THE STATE?

7 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

8 THE CLERK: WHAT SAYS THE DEFENSE?

9 MR. TARR: PLEASE EXCUSE THE JUROR.

10 THE CLERK: HAVE A SEAT AT THE BACK OF THE COURTROOM,
11 PLEASE. JEREATHA PENDARVIS, 200.

12 JUROR PENDARVIS: I'M JEREATHA PENDARVIS. I'M EMPLOYED
13 AT INTERNATIONAL PAPER.

14 THE CLERK: WHAT SAYS THE STATE?

15 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MR. TARR: PLEASE SEAT THE JUROR.

18 THE CLERK: HAVE A SEAT IN THE JURY BOX. ROSEMARIE
19 MATERA, 164.

20 JUROR MATERA: I'M ROSEMARIE MATERA. I'M A HOMEMAKER.

21 THE CLERK: WHAT SAYS THE STATE?

22 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

23 THE CLERK: WHAT SAYS THE DEFENSE?

24 MR. TARR: PLEASE SEAT THE JUROR.

25 THE CLERK: HAVE A SEAT IN THE JURY BOX. SHARON

1 MATHIAS, 165.

2 JUROR MATHIAS: ASHLEY MATHIAS AND I WORK AT THE
3 UNIVERSITY OF SOUTH CAROLINA PRESS.

4 THE CLERK: WHAT SAYS THE STATE?

5 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS THE DEFENSE?

7 MR. TARR: PLEASE SEAT THE JUROR.

8 THE CLERK: HAVE A SEAT. LYVONNE ABLE, JUROR NUMBER 1.

9 JUROR ABLE: LYVONNE ABLE, LANDSCAPE CONTRACTOR.

10 THE CLERK: WHAT SAYS THE STATE?

11 MR. GOLDBERG: PLEASE EXCUSE THE JUROR.

12 THE CLERK: KATHLEEN WILLIAMS, 291.

13 JUROR WILLIAMS: KATHLEEN WILLIAMS. I'M ASSISTANT
14 DIRECTOR FOR THE SOUTH CAROLINA ASSOCIATION OF COUNTIES.

15 THE CLERK: WHAT SAYS THE STATE?

16 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

17 THE CLERK: WHAT SAYS THE DEFENSE?

18 MR. TARR: PLEASE EXCUSE THE JUROR.

19 THE CLERK: MARSHA HENDRY, 113.

20 JUROR HENDRY: I'M MARSHA HENDRY. I'M A SALES ASSOCIATE
21 AT ASHLEY ROSE GIFTS.

22 THE CLERK: WHAT SAYS THE STATE?

23 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MR. TARR: PLEASE EXCUSE THE JUROR.

1 THE CLERK: SUZANNE WALL, 267.

2 JUROR WALL: I'M SUZANNE WALL AND I WORK FOR DUNBAR
3 FUNERAL HOME.

4 THE CLERK: WHAT SAYS THE STATE?

5 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS THE DEFENSE?

7 MR. TARR: PLEASE SEAT THE JUROR.

8 THE CLERK: HAVE A SEAT IN THE JURY BOX. ANDREW
9 BRUMBAUGH, 38.

10 JUROR BRUMBAUGH: ANDREW BRUMBAUGH. I'M A REAL ESTATE
11 AGENT.

12 THE CLERK: WHAT SAYS THE STATE?

13 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MR. TARR: PLEASE SEAT THE JUROR.

16 THE CLERK: HAVE A SEAT IN THE JURY BOX. GALE MCCRAY,
17 167.

18 JUROR MCCRAY: GALE MCCRAY. LOAN SPECIALIST.

19 THE CLERK: WHAT SAYS THE STATE?

20 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

21 THE CLERK: WHAT SAYS THE DEFENSE?

22 MR. TARR: PLEASE SEAT THE JUROR.

23 THE CLERK: HAVE A SEAT IN THE JURY BOX. CATHY
24 FLEMMING, 81.

25 JUROR FLEMMING: CATHY FLEMMING, U.S.C. SORORITY, KAPPA

1 DELTA SORORITY.

2 THE CLERK: WHAT SAYS THE STATE?

3 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAYS THE DEFENSE?

5 MR. TARR: PLEASE SEAT THE JUROR.

6 THE CLERK: DARYLD SCOTT, 228.

7 JUROR SCOTT: DARYLD SCOTT, D.M.H.

8 THE CLERK: WHAT SAYS THE STATE?

9 MR. GOLDBERG: PLEASE EXCUSE THE JUROR.

10 THE CLERK: SONJA SIMS, 239.

11 JUROR SIMS: SONJA SIMS, BENEFIT COORDINATOR.

12 THE CLERK: WHAT SAYS THE STATE?

13 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MR. TARR: PLEASE SEAT THE JUROR.

16 THE CLERK: HAVE A SEAT IN THE JURY BOX. ALLOW ME TO
17 REVIEW YOUR STRIKES. THE STATE FOUR, DEFENSE FOUR. ROBERT
18 KAHN, 143.

19 JUROR KAHN: ROBERT KAHN, RETIRED.

20 THE CLERK: WHAT SAYS THE STATE?

21 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS DEFENSE?

23 MR. TARR: PLEASE EXCUSE THE JUROR.

24 THE CLERK: HAVE A SEAT AT THE BACK OF THE COURTROOM.
25 JOSEPH SOLOMON, 247.

1 JUROR SOLOMON: JOSEPH SOLOMON, UNIVERSE CORPORATION.

2 THE CLERK: WHAT SAYS THE STATE?

3 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAYS THE DEFENSE?

5 MR. TARR: PLEASE SEAT THE JUROR.

6 THE CLERK: HAVE A SEAT IN THE JURY BOX. OLANDA WATTS,

7 276.

8 JUROR WATTS: OLANDA WATTS. I WORK FOR FEDERAL EXPRESS.

9 THE CLERK: WHAT SAYS THE STATE?

10 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

11 THE CLERK: WHAT SAYS THE DEFENSE?

12 MR. TARR: PLEASE SEAT THE JUROR.

13 THE CLERK: HAVE A SEAT IN THE JURY BOX. LAURA FADELEY,

14 77.

15 JUROR FADELEY: LAURA FADELEY, AUDITOR.

16 THE CLERK: WHAT SAYS THE STATE?

17 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. TARR: PLEASE SEAT THE JUROR.

20 THE CLERK: HAVE A SEAT IN THE JURY BOX. ANTHONY DOVE,

21 69.

22 JUROR DOVE: ANTHONY DOVE, INTERNATIONAL PAPER.

23 THE CLERK: WHAT SAYS THE STATE?

24 MR. GOLDBERG: PLEASE EXCUSE THE JUROR.

25 THE CLERK: HAVE A SEAT IN THE BACK OF THE COURTROOM,

1 PLEASE. CYNTHIA MILLER, 179.

2 JUROR MILLER: CYNTHIA MILLER. I'M A CONTRACTOR WITH A
3 PUBLISHING FIRM.

4 THE CLERK: WHAT SAYS THE STATE?

5 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS DEFENSE?

7 MR. TARR: PLEASE EXCUSE THE JUROR.

8 THE CLERK: CECIL JONES, 137.

9 JUROR JONES: CECIL JONES, JR., MAIL ROOM ASSOCIATE,
10 SOUTHEASTERN FREIGHT LINE.

11 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

12 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MR. TARR: PLEASE EXCUSE THE JUROR.

15 THE CLERK: HAVE A SEAT AT THE BACK OF THE COURTROOM,
16 PLEASE. SANDRA SHEALY, 234.

17 JUROR SHEALY: SANDRA SHEALY, COBBLESTONE PARK.

18 THE CLERK: WHAT SAYS THE STATE?

19 MR. GOLDBERG: PLEASE PRESENT THE JUROR.

20 THE CLERK: DOES THE DEFENSE CHALLENGE FOR CAUSE?

21 MR. TARR: NO.

22 THE CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE.

23 (WHEREUPON, THE JURY WAS IMPANELED AT 1:00 P.M.)

24 THE COURT: ARE THERE ANY MATTERS OF LAW REGARDING THE
25 JURY SELECTION?

1 **MR. GOLDBERG:** BEG THE COURT'S INDULGENCE, YOUR HONOR.

2 (PAUSE) NOTHING FROM THE STATE, YOUR HONOR.

3 **MR. TARR:** NO, YOUR HONOR.

4 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, YOU HAVE
5 BEEN SELECTED TO BE THE JURY IN THE TRIAL OF THIS CASE.

6 (JURORS NOT IMPANELED WERE EXCUSED FROM THE COURTROOM.)

7 **THE COURT:** WHAT TIME WILL WE NEED THESE FOLKS?

8 **MS. CAMPBELL:** MAY WE APPROACH, YOUR HONOR?

9 **THE COURT:** ALL RIGHT.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

11 **THE COURT:** ALL RIGHT. LADIES AND GENTLEMEN, YOU HAVE
12 BEEN SELECTED TO BE THE JURY IN THIS CASE, BUT WE HAVE A FEW
13 MATTERS THAT WE HAVE TO DEAL WITH OUTSIDE OF YOUR PRESENCE
14 WHERE WE WON'T NEED YOU TO BE IN THE COURTROOM OR WE CAN'T
15 HAVE YOU IN THE COURTROOM WHILE DEALING WITH THEM. SO WE'RE
16 GOING TO HAVE YOU ALL GO TO THE JURY ROOM WITH THE BAILIFFS.
17 THEN WE'RE GOING TO EXCUSE YOU FOR THREE HOURS TO COME BACK
18 AT 4:00, TO BE BACK IN THE JURY ROOM AT 4:00.

19 PLEASE DO NOT DISCUSS THE CASE. PLEASE DO NOT COME
20 THROUGH THE COURTROOM. PLEASE BE IN THE JURY ROOM AT 4:00 AT
21 WHICH TIME WE WILL HAVE YOU COME BACK OUT AND GIVE YOU AN
22 INTRODUCTION INTO THE TRIAL OF THIS CASE. WE THANK YOU FOR
23 YOUR COOPERATION. IF YOU'LL GO WITH THE BAILIFFS AND FOLLOW
24 THEIR INSTRUCTIONS AND BE BACK AT 4.

25 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 1:03

1 P.M.)

2 THE COURT: ALL RIGHT. THEY'RE OUT 'TIL 4. WHAT
3 PRETRIAL MATTERS DO YOU HAVE?

4 MS. CAMPBELL: YOUR HONOR, THERE WAS A CONFESSION BY THE
5 DEFENDANT, SO WE DO HAVE THREE WITNESSES ON THAT ISSUE.

6 THE COURT: ALL RIGHT.

7 MS. CAMPBELL: AND IN ADDITION TO THAT, I BELIEVE MR.
8 TARR HAS INDICATED TO ME THAT HE HAD SOMETHING HE WANTS TO
9 TAKE UP AS FAR AS THE INDICTMENT ON THE CRIME OF VIOLENCE.

10 THE COURT: ALL RIGHT. HOW ABOUT THE INDICTMENT, MR.
11 TARR? WHAT'S WRONG WITH IT?

12 MR. TARR: YOUR HONOR, IN ORDER FOR THE JURY TO CONVICT
13 MY CLIENT OF POSSESSION OF A WEAPON AFTER HAVING BEEN
14 CONVICTED OF A VIOLENT CRIME IN THE PAST, THE ONLY RELEVANT
15 FACT IS THAT HE WAS CONVICTED OF A VIOLENT CRIME IN THE PAST.
16 WHAT THAT VIOLENT CRIME WAS IS COMPLETELY IRRELEVANT. IT HAS
17 NO BEARING ON THEIR DECISION. THE FACT THAT WHAT HE WAS
18 CONVICTED OF IS EXACTLY THE SAME CHARGE THAT HE'S CHARGED
19 WITH HERE TODAY MAKES ME BELIEVE THEY BASICALLY JUST WANT IT
20 OUT THERE SO THEY CAN SAY, HEY, HE'S ALREADY BEEN CONVICTED
21 OF DOING THE SAME THING BEFORE. IT'S NOT RELEVANT.

22 YOUR HONOR, IF THIS WAS A BURGLARY CASE AND THEY HAD TO
23 MAKE A SHOWING THAT MY CLIENT HAD TWO PRIOR BURGLARIES IN
24 ORDER FOR THIS TO BE A BURGLARY FIRST, IT WOULD BE RELEVANT
25 TO WHAT THE CHARGE WAS BECAUSE IT'S REQUIRED UNDER THE LAW.

1 IN THIS SITUATION THERE IS NO RELEVANCY OF WHAT THE CHARGE
2 WAS JUST AS LONG AS IT WAS A VIOLENT CRIME.

3 THE COURT: AND WHAT'S---

4 MR. TARR: WE STIPULATE IT WAS A VIOLENT CRIME.

5 THE COURT: AND WHAT DO YOU WANT ME TO DO ABOUT IT?

6 MR. TARR: I WANT IT TO BE STRICKEN FROM THE INDICTMENT
7 THE ACTUAL CHARGE ITSELF, AND YOU CAN TELL THE JURY THAT
8 EITHER IN THE -- ON THE INDICTMENT OR JUST TELL THEM THE
9 PARTIES HAVE STIPULATED THAT MR. MANCE HAS BEEN CONVICTED OF
10 A VIOLENT CRIME IN THE PAST. THERE'S NO NEED TO TELL THEM
11 WHAT IT WAS. THAT DOES NOT HELP THEM MAKE THEIR DECISION.
12 IT IS NOT RELEVANT UNDER RULE 401. NOTHING ABOUT IT, TELLING
13 THEM WHAT IT IS, HELPS THEM MAKE A DETERMINATION OF WHETHER
14 HE'S GUILTY OR NOT GUILTY OF IT.

15 THE COURT: ALL RIGHT. WHAT SAYS THE STATE?

16 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR HONOR?

17 THE COURT: YES.

18 MS. CAMPBELL: IT IS AN ELEMENT OF THE INDICTMENT, ONE
19 OF THE INDICTMENTS WE ARE GOING FORWARD ON, THAT WE HAVE TO
20 PROVE -- I BELIEVE THIS IS THE IDENTICAL ISSUE THAT WAS TAKEN
21 UP IN SEPARATE CASES, AND I WOULD PULL THOSE OVER THE LUNCH
22 TIME. IT DIDN'T COME TO MY ATTENTION UNTIL WE WERE PICKING A
23 JURY THAT THIS WAS GOING TO BE AN ISSUE THAT WE WERE GOING TO
24 ARGUE.

25 IT'S MY UNDERSTANDING THAT THIS IS THE SAME ISSUE THAT

1 WAS TAKEN UP IN THE AGGRAVATING PART OF THE BURGLARY STATUTE,
2 THE BURGLARY FIRST STATUTE. IN THAT CASE THE DEFENSE MOVED
3 THAT THEY WOULD JUST STIPULATE THAT THERE WAS AN AGGRAVATING
4 CIRCUMSTANCE. THEY DIDN'T WANT ANY MENTION OF THE BURGLARY
5 TO BE DONE. IN THAT CASE, YOUR HONOR, I BELIEVE THERE HAVE
6 BEEN AT LEAST TWO CASES THAT HAVE COME DOWN THAT HAVE UPHELD
7 THE FACT THAT THE DEFENSE CANNOT FORCE THE STATE TO STIPULATE
8 TO THAT. IN FACT, SINCE IT IS AN ELEMENT OF THE INDICTMENT,
9 THEY HAVE THE RIGHT TO GO FORWARD AND PROVE THAT.

10 ALL WE WOULD BE ATTEMPTING TO DO, YOUR HONOR, IS TO PUT
11 IN THE FACT THAT HE WAS CONVICTED OF ASSAULT AND BATTERY WITH
12 INTENT TO KILL, NOT THE PRIOR ALLEGATIONS NOR THE CONTENT OF
13 THOSE ALLEGATIONS, BUT MERELY THE FACT THAT IT IS AN ELEMENT
14 OF THE OFFENSE WE ARE GOING FORWARD ON. I THINK THAT OUR
15 ANALYSIS WOULD BE THE SAME AS IT WAS HELD IN THOSE BURGLARY
16 CASES, AND I'LL BE GLAD TO PULL THOSE OVER LUNCH. AGAIN, I
17 APOLOGIZE; I DIDN'T REALIZE THIS WAS AN ISSUE.

18 THE COURT: WELL, THE STATUTE MENTIONED IN THIS
19 INDICTMENT SAYS 16 -- ALL IN VIOLATION OF 16-23-30. 16-23-30
20 IS CAPTIONED SALE OR DELIVERY OF HANDGUN TO AND POSSESSION BY
21 CERTAIN PERSONS UNLAWFUL AND THEN SEMI-COLON STOLEN HANDGUNS.

22 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

23 THE COURT: AND, FURTHER, IT IS UNLAWFUL FOR A -- IN
24 SECTION B. OF THAT, IT'S UNLAWFUL FOR A PERSON ENUMERATED IN
25 SUBSECTION A. TO POSSESS OR ACQUIRE A HANDGUN WITHIN THIS

1 STATE WHICH WOULD BE A PERSON WHO HAS BEEN CONVICTED OF A
2 CRIME OF VIOLENCE.

3 MR. TARR: YOUR HONOR, THAT'S THE ELEMENT OF THE
4 OFFENSE. IT'S A VIOLENT CRIME. IT'S NOT THIS PARTICULAR
5 VIOLENT CRIME. THE BURGLARY CASES -- THE RELEVANCE IS THEY
6 HAVE TO PROVE THAT THIS PERSON WAS CONVICTED OF BURGLARY
7 TWICE BEFORE, SO THAT'S OBVIOUSLY DIFFERENT THAN WHAT WE'RE
8 DEALING WITH HERE. ONCE THEY HAVE PROVEN HE WAS CONVICTED OF
9 A VIOLENT CRIME AND IF THEY PROVE HE HAD A GUN, THEY WIN THAT
10 CHARGE.

11 MS. CAMPBELL: WHICH IS THE SAME ARGUMENT THAT WAS MADE
12 IN THE BURGLARY CASES, YOUR HONOR. A CRIME OF VIOLENCE IS
13 DEFINED UNDER THE STATUTE I BELIEVE WHICH INCLUDES ASSAULT
14 AND BATTERY WITH INTENT TO KILL. IT'S THE SAME ANALYSIS THAT
15 WAS DONE IN THOSE CASES, AND AGAIN I'LL GET THOSE FOR YOU AS
16 SOON AS I LEAVE HERE. I APOLOGIZE.

17 THE COURT: OKAY. ALL RIGHT. WE'LL REVIEW WHATEVER IS
18 SUBMITTED, AND I'LL RULE ON THAT ISSUE.

19 MS. CAMPBELL: THANK YOU, YOUR HONOR.

20 THE COURT: THAT'S ONE ISSUE. WHAT'S THE OTHER ONE?

21 MR. TARR: WELL, WE'VE GOT OBVIOUSLY THE JACKSON V.
22 DENNO ISSUE REGARDING THE STATEMENT THAT'S GOING TO BE FAIRLY
23 LENGTHY BECAUSE I BELIEVE THEY HAVE THREE WITNESSES.

24 THE COURT: ALL RIGHT.

25 MR. TARR: I ASK THAT WE DO THAT AFTER LUNCH.

1 THE COURT: AFTER LUNCH, YEAH.

2 MR. TARR: THEN JUST THE GENERIC SEQUESTER THE
3 WITNESSES.

4 THE COURT: LET'S DEAL WITH THE GENERICS NOW BEFORE
5 LUNCH.

6 MR. TARR: YES, YOUR HONOR. I WOULD JUST MOVE THAT THE
7 STATE SEQUESTER THEIR WITNESSES.

8 MS. CAMPBELL: THE LAY WITNESSES?

9 MR. TARR: YEAH.

10 MS. CAMPBELL: WE'LL SEQUESTER THE LAY WITNESSES, YOUR
11 HONOR. THE VICTIM AND I BELIEVE HIS WIFE HAVE A RIGHT TO BE
12 IN HERE, BUT OTHER THAN THAT, WE'LL SEQUESTER ALL THE OTHER
13 WITNESSES.

14 MR. TARR: AND I HAVE NO PROBLEM WITH -- USUALLY THEY
15 PICK ONE INVESTIGATOR. I HAVE NO PROBLEM WITH BOTH OF THEM
16 BEING IN HERE.

17 THE COURT: ALL RIGHT. YOU SAID -- THEY'RE NOT LAY
18 WITNESSES. YOU'RE GOING TO SEQUESTER LAY WITNESSES EXCEPT
19 FOR THE VICTIM AND THE SPOUSE. IS THAT RIGHT?

20 MR. TARR: I HAVE NO PROBLEM WITH BOTH OF THEM BEING IN
21 HERE.

22 MS. CAMPBELL: WE'LL BE GLAD TO DO THAT, YOUR HONOR.

23 THE COURT: ALL RIGHT. WHAT ELSE?

24 MR. TARR: YOUR HONOR, THERE'S ONE MORE MOTION THAT I
25 HAVE. IT'S REGARDING -- THERE ARE A COUPLE OF WITNESSES THAT

1 THE STATE -- I HAVE INFORMATION THAT MAY BE COMING IN HERE TO
2 SAY THAT MY CLIENT SOME WEEKS PRIOR TO THIS INCIDENT HAD BEEN
3 TALKING ABOUT GOING DOWNTOWN TO TAKE SOMEBODY'S CAR AND SHOOT
4 SOMEBODY, AND WE WOULD ASK YOUR HONOR TO EXCLUDE ANY
5 TESTIMONY LIKE THAT BECAUSE THE REMOTENESS TO THE INCIDENT IN
6 QUESTION IS NOT RELEVANT AND EVEN IF YOUR HONOR WERE TO DEEM
7 IT RELEVANT IN SOME WAY THAT THE PROBATIVE VALUE IS FAR
8 OUTWEIGHED BY THE PREJUDICE TO MY CLIENT UNDER 403 OF ANY
9 SUCH TESTIMONY.

10 THE COURT: ALL RIGHT. WELL, THAT'S SOMETHING THAT MAY
11 COME UP LATER DURING THE TRIAL AND, IF SO, THEN WE CAN
12 ADDRESS IT AT THAT TIME.

13 MR. TARR: I WOULD JUST ASK THAT NOTHING BE MENTIONED
14 ABOUT THESE WITNESSES IN OPENING STATEMENT BY THE STATE
15 UNLESS WE'RE GOING TO HEAR THIS MOTION PRIOR TO OPENING
16 STATEMENTS.

17 THE COURT: ALL RIGHT. SO ORDERED.

18 MR. TARR: OTHER THAN THE JACKSON V. DENNO AND THEN YOUR
19 RULING ON THE MOTION TO BE ARGUED REGARDING THE INDICTMENT
20 AND MY PROPOSED STIPULATION, I GUESS THAT'S ALL.

21 THE COURT: ALL RIGHT. WE'LL RECONVENE AT 2:15.

22 MR. TARR: THANK YOU, YOUR HONOR.

23 MS. CAMPBELL: THANK YOU, YOUR HONOR.

24 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

25 THE COURT: ALL RIGHT. I'VE LOOKED AT THE THREE CASES

1 THAT WAS HANDED UP TO ME. ANY COMMENT BY EITHER SIDE?

2 MS. CAMPBELL: YOUR HONOR, OUT OF AN ABUNDANCE OF
3 CAUTION, I DID MEET WITH DEFENSE COUNSEL OVER LUNCH. BEFORE
4 WE -- IF YOU WOULD READ INTO THE RECORD THE STIPULATION
5 BETWEEN US THAT HE HAS JUST GENERALLY BEEN CONVICTED OF A
6 CRIME OF VIOLENCE.

7 THE COURT: ALL RIGHT.

8 MS. CAMPBELL: AND I'LL WRITE UP SOMETHING AND HAND IT
9 UP TO THE COURT. IF THE COURT CAN JUST PUBLISH IT TO THE
10 JURY, I WOULD JUST -- JUST TO BE SAFE.

11 THE COURT: ALL RIGHT. MR. TARR?

12 MR. TARR: YOUR HONOR, I WOULD JUST ASK OBVIOUSLY THAT
13 WE JUST NEED TO REDACT THAT PORTION OF THE INDICTMENT THAT
14 LISTS THE EVENTS.

15 MS. CAMPBELL: IF THE INDICTMENT GOES BACK.

16 THE COURT: OKAY. ALL RIGHT. JACKSON V. DENNO.

17 MS. CAMPBELL: MAY IT PLEASE THE COURT?

18 THE COURT: YES.

19 MS. CAMPBELL: AT THIS TIME WE'D HAVE TESTIMONY. WE
20 CALL INVESTIGATOR REESE.

21 THE COURT: INVESTIGATOR REESE.

22 KEVIN REESE, AFTER BEING DULY SWORN, TESTIFIED AS
23 FOLLOWS IN CAMERA:

24 THE CLERK: HAVE A SEAT AND STATE YOUR NAME FOR THE
25 RECORD, PLEASE.

1 **THE WITNESS:** I'M INVESTIGATOR KEVIN REESE.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q. INVESTIGATOR REESE, WHERE ARE YOU EMPLOYED?

5 A. COLUMBIA POLICE DEPARTMENT.

6 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

7 A. I'VE BEEN IN LAW ENFORCEMENT SINCE '78.

8 Q. SINCE 1978?

9 A. THAT'S RIGHT.

10 Q. AND WHAT DO YOUR DUTIES AS AN INVESTIGATOR WITH THE
11 COLUMBIA POLICE DEPARTMENT INCLUDE?

12 A. I'M ASSIGNED TO THE POLICE DEPARTMENT'S V-CAP UNIT,
13 VIOLENT CRIMES AGAINST PERSONS. I AM A HOMICIDE AND VIOLENT
14 CRIMES INVESTIGATOR.

15 Q. I WANT TO TURN YOUR ATTENTION BACK TO JUNE OF 2006. DID
16 YOU BECOME INVOLVED IN THE INVESTIGATION OF A SHOOTING THAT
17 TOOK PLACE AT 1634, I BELIEVE, MAIN STREET?

18 A. YES, MA'AM, I DID.

19 Q. AND THE VICTIM IN THAT CASE WAS WHOM?

20 A. I'D HAVE TO LOOK AT THE... THE VICTIM IS DARYL HAWKINS.

21 Q. DARYL HAWKINS?

22 A. THAT'S RIGHT.

23 Q. DURING THE COURSE OF YOUR INVESTIGATION, SPECIFICALLY ON
24 JUNE THE 4TH, SOME TWO DAYS AFTER THIS OCCURRED, DID YOU COME
25 INTO CONTACT WITH A MAN NAMED ERIC MANCE?

1 A. YES, MA'AM.

2 Q. AND AT THAT TIME WHEN YOU MADE CONTACT WITH ERIC MANCE
3 WERE YOU IN THE PROCESS OR HAD YOU GOTTEN WARRANTS FOR MR.
4 MANCE'S ARREST IN THIS CASE?

5 A. AT THE TIME I MADE CONTACT WITH HIM I WAS IN THE PROCESS
6 OF GETTING THE WARRANTS. I JUST HADN'T SIGNED THEM YET.

7 Q. WHAT TIME OF DAY WAS IT WHEN YOU CAME IN CONTACT WITH
8 MR. MANCE?

9 A. I BELIEVE IT WAS -- IT WAS A LITTLE AFTER 1:00. MAYBE
10 1:30 OR SO.

11 Q. WHEN MR. MANCE -- WHERE WAS CONTACT MADE WITH HIM?

12 A. WHEN I FIRST MADE CONTACT WITH HIM, IT WAS AT THE POLICE
13 DEPARTMENT.

14 Q. WAS IT THE COLUMBIA POLICE DEPARTMENT?

15 A. YES, MA'AM.

16 Q. AND DID MR. MANCE, IN FACT, BRING HIMSELF ALONG WITH HIS
17 WIFE TO THE COLUMBIA POLICE DEPARTMENT THAT DAY?

18 A. HE DID.

19 Q. AND AT THAT TIME WERE YOU WELL IN THE PROCESS OF
20 INTERVIEWING OTHER WITNESSES ABOUT THE CASE?

21 A. YES, MA'AM.

22 Q. WHEN YOU MADE CONTACT WITH MR. MANCE, WAS IT YOUR
23 INTENTION -- WAS HE GOING TO BE DETAINED THAT DAY BECAUSE THE
24 WARRANTS WERE BEING ACTUALLY ISSUED AT THE TIME?

25 A. THAT'S RIGHT.

1 Q. AND PRIOR TO INITIATING ANY SUBSTANCE OF ANY KIND OF
2 TALKS ABOUT WHAT HAD HAPPENED BACK ON JUNE THE 2ND, DID YOU
3 ADVISE HIM OF ANY RIGHTS?

4 A. I DID.

5 Q. CAN YOU TELL THE JUDGE HOW THAT OCCURRED?

6 A. HOW I ADVISED HIM OF HIS RIGHTS?

7 Q. WELL, HOW YOU -- WHO ALL WAS PRESENT AND WHAT YOU DID
8 WHEN YOU CAME IN CONTACT WITH HIM.

9 A. OKAY. YOUR HONOR, WE WERE IN THE PROCESS OF
10 INTERVIEWING A RELATIVE OF HIS I THINK BY MARRIAGE, AND MR.
11 MANCE AND HIS WIFE THEN CAME TO THE POLICE DEPARTMENT BEFORE
12 WE COULD FINISH OUR INTERVIEW. IT WAS OUR UNDERSTANDING THAT
13 HE CAME THERE TO INQUIRE WHAT THE POLICE WANTED OF HIM. WE
14 WERE NOTIFIED THAT HE WAS DOWN -- OUR OFFICE IS UP ON THE
15 SECOND FLOOR. WHEN WE WERE NOTIFIED THAT HE WAS THERE, I
16 BELIEVE MY PARTNER AND I IMMEDIATELY WENT DOWNSTAIRS AND IT
17 WASN'T -- WE ASKED HIM TO COME ON UPSTAIRS WITH US.

18 Q. WAS HE ALONE WHEN YOU MADE CONTACT WITH HIM DOWN IN THE
19 LOBBY?

20 A. HE WAS WITH HIS WIFE.

21 Q. THAT WOULD BE MS. ODESSA MANCE I BELIEVE IS HER NAME?

22 A. THAT'S RIGHT.

23 Q. WHEN YOU CAME UPSTAIRS, YOU MENTIONED THAT YOU ADVISED
24 HIM OF HIS RIGHTS PRIOR TO QUESTIONING HIM IN ANY WAY?

25 A. YES, MA'AM.

1 Q. AND WHO ALL WAS PRESENT WHEN YOU ADVISED HIM OF HIS
2 RIGHTS?

3 A. WHEN I ADVISED HIM OF HIS RIGHTS, INVESTIGATOR JOHN
4 SLOAN WAS IN THE ROOM WITH US.

5 Q. AND YOUR PARTNER IN THIS CASE WAS ACTUALLY INVESTIGATOR
6 THOMAS; IS THAT CORRECT?

7 A. THAT'S RIGHT.

8 Q. AND WHERE WAS HE AT THE TIME THAT YOU BROUGHT IN
9 INVESTIGATOR SLOAN TO WITNESS THE ADVICE OF RIGHTS?

10 A. HE WAS IN ANOTHER PART OF THE BUILDING, SAME FLOOR BUT
11 IN ANOTHER PART, ANOTHER OFFICE.

12 Q. AND WHEN YOU ADVISED HIM OF HIS RIGHTS THAT DAY, DID YOU
13 HAVE ANY KIND OF FORM THAT YOU WENT BY?

14 A. YEAH, THE ADVICE OF RIGHTS FORM.

15 Q. DO YOU HAVE THAT ORIGINAL WITH YOU RIGHT THERE?

16 A. I'VE GOT THE -- I BELIEVE THIS IS THE ORIGINAL, YES.
17 YES, IT'S THE ORIGINAL.

18 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WITH THE COURT'S
19 PERMISSION I'D MARK THIS AS WELL AS THE STATEMENT.

20 THE COURT: ALL RIGHT.

21 (STATE'S EXHIBITS 1 AND 2 WERE MARKED FOR IDENTIFICATION
22 ONLY.)

23 BY MS. CAMPBELL:

24 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED FOR
25 IDENTIFICATION PURPOSES FOR THIS HEARING AS STATE'S EXHIBIT

1 NUMBER 1. DO YOU RECOGNIZE THAT?

2 A. THAT WOULD BE THE ADVICE OF RIGHTS FORM.

3 Q. AND EXPLAIN TO THE JUDGE EXACTLY HOW YOU ADVISED ERIC
4 MANCE OF HIS RIGHTS THAT DAY.

5 A. YOUR HONOR, IT'S MY NORMAL PRACTICE WHEN I ADVISE AN
6 INDIVIDUAL OF THEIR RIGHTS I READ THE RIGHTS TO THEM. I
7 CHECK THE RIGHTS OFF AS I READ THEM. I ASKED HIM -- I ASK
8 THE INDIVIDUAL DO THEY UNDERSTAND THAT RIGHT I JUST READ. IF
9 THEY SAY YES, I CHECK IT OFF TO ACKNOWLEDGE THAT I DID READ
10 THAT, AND I GET THEM TO PUT THEIR INITIALS BY THE RIGHT
11 ITSELF AND I -- THAT'S WHAT I DID IN THIS CASE.

12 Q. AND SPECIFICALLY FOR THE RECORD CAN YOU GO THROUGH THE
13 RIGHTS THAT YOU EXPLAINED TO HIM THAT DAY?

14 A. OKAY. THE RIGHTS FORM FIRST STARTS OFF BY ACKNOWLEDGING
15 THAT BEFORE -- SAYING THAT BEFORE WE ASK YOU ANY QUESTIONS
16 YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO
17 REMAIN SILENT IS THE FIRST RIGHT ON THE SHEET. I READ THAT
18 TO THEM. I ASK THEM IF THEY UNDERSTAND IT AND I CHECK IT OFF
19 AND THEY INITIAL IT. ANYTHING YOU SAY CAN BE USED AGAINST
20 YOU IN COURT. SAME PROCESS. YOU HAVE THE RIGHT TO TALK TO A
21 LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE
22 THEM WITH YOU DURING QUESTIONING. SAME PROCESS. IF YOU
23 CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED TO YOU BEFORE
24 QUESTIONING IF YOU WISH. AND THE LAST ONE IS: IF YOU DECIDE
25 TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL

1 STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME.
2 YOU ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY
3 TIME UNTIL YOU TALK TO A LAWYER.

4 Q. AND DID HE ACKNOWLEDGE THAT HE UNDERSTOOD HIS RIGHTS?

5 A. RIGHT. HE ACKNOWLEDGED BY -- BY INITIALING.

6 Q. OKAY. AND WHERE ARE THE INITIALS?

7 A. THE INITIALS ARE ON THE LEFT SIDE OF THE SHEET AT THE
8 BEGINNING OF THE RIGHT ITSELF.

9 Q. AND THIS WRITING UP AT THE TOP, WHOSE WRITING IS THAT?

10 A. THAT WOULD BE MY WRITING. IT SIGNIFIES THAT THE RIGHTS
11 WERE READ TO HIM AT THE POLICE DEPARTMENT WHICH IS NUMBER ONE
12 JUSTICE SQUARE.

13 Q. AND WHAT TIME OF DAY WAS IT?

14 A. THE TIME OF DAY WAS 2:17 P.M. WHEN I READ HIM HIS
15 RIGHTS.

16 Q. AND I NOTICE THERE'S SOME CHECKMARKS OVER NEXT TO WHERE
17 THE INITIALS ARE. WHO MADE THE CHECKMARKS?

18 A. I MADE THE CHECKMARKS.

19 Q. AND IS THAT AS YOU WENT THROUGH THEM WITH HIM?

20 A. ABSOLUTELY.

21 Q. AND THEN HE'S THE ONE THAT ACTUALLY INITIALED E.M. ON
22 THAT -- NEXT TO THOSE RIGHTS?

23 A. THAT'S RIGHT.

24 Q. AFTER YOU ADVISED HIM OF WHAT HIS RIGHTS ARE, DID YOU GO
25 ONE STEP FURTHER AND ASK HIM WHETHER OR NOT HE WANTED TO

1 WAIVE HIS RIGHTS?

2 A. I DID.

3 Q. AND TELL THE JUDGE HOW YOU DID THAT.

4 A. I DON'T RECALL AT THIS POINT WHETHER HE READ THIS ON HIS
5 OWN, THE WAIVER OF RIGHTS, OR I READ IT TO HIM. IT'S NOT
6 CHECKED OFF. BUT AT SOME POINT EITHER THE INDIVIDUAL WILL
7 READ OR I WILL READ: "I HAVE READ THIS STATEMENT OF MY
8 RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO
9 MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A
10 LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING.
11 NO PROMISES OR THREATS HAVE BEEN MADE TO ME OR NO PRESSURE OR
12 COERCION OF ANY KIND USED AGAINST ME." AND NORMALLY AFTER
13 THAT THE INDIVIDUAL WILL BE ASKED TO SIGN THIS WAIVER IF HE
14 WANTS TO -- IF THEY WANT TO TALK.

15 Q. AND DID YOU, IN FACT, ASK HIM IF HE WANTED TO TALK TO
16 YOU AND DID HE SIGN THE WAIVER?

17 A. I ASKED HIM AND HE DID SIGN THE WAIVER. RIGHT.

18 Q. AND THAT WOULD BE HIS SIGNATURE ON THE RIGHT BOTTOM?

19 A. THAT'S CORRECT.

20 Q. AND THEN WHO ACTUALLY WITNESSED THAT ON THE FORM?

21 A. INVESTIGATOR SLOAN.

22 Q. AS WELL AS YOURSELF?

23 A. THAT'S RIGHT.

24 Q. AND WHAT TIME DID YOU ACTUALLY FINISH ADVISING HIM OF
25 HIS RIGHTS THAT DAY?

1 A. THE TIME IS 2:18 P.M.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D HAND UP
3 STATE'S EXHIBIT NUMBER 1 TO THE COURT.

4 THE COURT: ALL RIGHT.

5 BY MS. CAMPBELL:

6 Q. ONCE YOU ADVISED HIM OF HIS RIGHTS, DIDN'T YOU SAY THAT
7 YOU ASKED HIM IF HE WANTED TO TALK AND HE ACKNOWLEDGED BY
8 SIGNING? IS THAT CORRECT?

9 A. THAT'S RIGHT.

10 Q. AT ANY TIME DURING THE COURSE WHEN YOU WERE ADVISING HIM
11 OF HIS RIGHTS OR JUST SUBSEQUENT TO ADVISING HIM OF HIS
12 RIGHTS, DID YOU PROMISE HIM ANYTHING TO MAKE HIM TALK TO YOU?

13 A. NO, I DIDN'T.

14 Q. DID YOU THREATEN HIM IN ANY WAY?

15 A. NO, I DIDN'T.

16 Q. DID HE APPEAR TO BE COHERENT AND UNDERSTAND WHAT YOU
17 WERE SAYING?

18 A. YES, HE DID.

19 Q. AND IN YOUR OPINION -- DID YOU DEPRIVE HIM OF ANY
20 CREATURE COMFORTS OR GIVE HIM ANY -- CAUSE HIM ANY PHYSICAL
21 HARM?

22 A. NO, ABSOLUTELY NOT.

23 Q. AND IN YOUR OPINION AS AN INVESTIGATOR SINCE 1978 IN LAW
24 ENFORCEMENT, WAS HE SPEAKING TO YOU VOLUNTARILY AT THAT
25 POINT?

1 A. THAT'S RIGHT; HE WAS.

2 Q. ONCE YOU HAD ADVISED HIM OF HIS RIGHTS AND HE CHOSE TO
3 WAIVE THOSE RIGHTS AND TALK TO YOU, TELL THE JUDGE INITIALLY
4 WHAT HE SAID.

5 A. HE JUST STARTED TALKING. HE SAID THAT HE WENT INSIDE
6 THE TRUCK. WHILE HE WAS INSIDE THE TRUCK -- WHILE HE'S
7 TALKING TO ME, I'M WRITING THIS DOWN. HE SAID HE WENT INSIDE
8 THE TRUCK. HE SAID WHILE HE WAS INSIDE THE TRUCK HE SAW A
9 BRIEFCASE AND A DOLLAR BILL IN THE TRUCK IN THE FRONT OF THE
10 VEHICLE, BUT HE SAID HE DID NOT TAKE ANYTHING.

11 HE ALSO WENT ON TO SAY AT THAT TIME THAT HE HAD BEEN
12 DOWNTOWN AT KING'S BARBERSHOP. HE SAID HE GOT A SHAVE, AND
13 HE ALSO SAID IT WAS NOT CLOSING -- CLOSING TIME AT THAT
14 POINT, AND HE SAID THAT KING WAS DOING A FEMALE'S HAIR AND IT
15 WAS AROUND 5:00.

16 Q. AND THAT'S WHAT HE BASICALLY INITIALLY VERBALLY ADVISED
17 YOU OF?

18 A. THAT'S RIGHT.

19 Q. AND THOSE WERE HIS WORDS.

20 A. RIGHT.

21 Q. AND WHO WAS PRESENT AT THIS POINT IN THE TIME WHEN HE'S
22 MAKING THIS INITIAL STATEMENT ABOUT -- AND THE TRUCK -- WAS
23 THERE A TRUCK STOLEN AFTER THE VICTIM IN THIS CASE WAS SHOT?

24 A. RIGHT, THERE WAS.

25 Q. AND IS THAT THE TRUCK HE'S REFERRING TO IN THAT ORAL

1 STATEMENT OR THE S.U.V.?

2 A. YEAH. WHEN HE SAID HE WENT INSIDE THE TRUCK, THAT'S
3 RIGHT.

4 Q. AT THIS POINT WHO WAS PRESENT?

5 A. I'M NOT SURE IF INVESTIGATOR SLOAN HAD ALREADY LEFT AT
6 THAT TIME OR NOT. HE WAS JUST CALLED IN TO WITNESS THE
7 MIRANDIZING.

8 Q. AND THERE'S NO QUESTION INVESTIGATOR SLOAN WAS THERE FOR
9 THE ADVICE OF RIGHTS.

10 A. NO QUESTION, NO.

11 Q. ALL RIGHT. AND AT THIS POINT HAD INVESTIGATOR THOMAS
12 RETURNED INTO THE ROOM?

13 A. I THINK THOMAS HAD COME INTO THE ROOM THEN.

14 Q. AFTER MAKING THESE INITIAL ORAL STATEMENTS TO YOU, WHAT
15 HAPPENED?

16 A. AT SOME POINT HE BECAME UPSET. HE SIMPLY SAID HE DIDN'T
17 WANT TO TALK ANYMORE.

18 Q. AND AT THAT POINT WHAT DID YOU DO?

19 A. WHEN HE SAID HE DIDN'T WANT TO TALK ANYMORE, I JUST
20 TERMINATED THE -- ANY CONVERSATION WITH HIM, PERIOD.

21 Q. AND AT THAT POINT DID YOU ASK HIM ANY MORE QUESTIONS
22 ABOUT WHAT HAD HAPPENED ON JUNE THE 2ND?

23 A. NO, I DID NOT.

24 Q. AND DID ANYONE ELSE IN YOUR PRESENCE ASK HIM ANY MORE
25 QUESTIONS ABOUT WHAT HAD HAPPENED ON JUNE THE 2ND?

1 A. NO, NOBODY DID.

2 Q. WHAT HAPPENED NEXT WHILE YOU WERE -- WERE YOU STILL IN
3 THE SAME ROOM WITH HIM?

4 A. AFTER HE SAID THAT, THE WARRANTS WERE BEING PREPARED IN
5 THE WARRANT DIVISION. I LEFT AND THEN WENT OVER TO GET THE
6 WARRANTS AND SIGN THE WARRANTS AND BRING THEM BACK.

7 Q. OKAY. AND, IN FACT, DID YOU RETURN WITH THE WARRANTS
8 THAT AFTERNOON?

9 A. YES, MA'AM.

10 Q. AND WHAT HAPPENED NEXT?

11 A. I GAVE THE WARRANTS TO INVESTIGATOR THOMAS. I THINK
12 THOMAS WAS IN THE PROCESS OF FILLING OUT THE BOOKING REPORT
13 ON HIM. I ASKED THOMAS TO READ THE WARRANT AT WHICH TIME HE
14 STARTED READING THE WARRANT.

15 Q. AND IS THAT ACTUALLY WHAT WE CALL SERVING A WARRANT ON
16 SOMEONE?

17 A. THAT'S RIGHT.

18 Q. AND, IN FACT, SOMEONE OTHER THAN YOURSELF WOULD HAVE TO
19 ACTUALLY READ THEM TO HIM AND SERVE THEM ON HIM.

20 A. BECAUSE I SIGNED THE WARRANT.

21 Q. OKAY. AND WAS THOMAS DOING THAT WHILE YOU WERE STILL IN
22 THE ROOM?

23 A. YES, MA'AM.

24 Q. AND WHAT HAPPENED NEXT?

25 A. WHILE THOMAS WAS READING THE WARRANTS, THE SUBJECT

1 INDICATED THEN THAT HE WANTED HIS WIFE -- SAID HE WANTED HIS
2 WIFE AND HE WOULD TALK.

3 Q. WAS THAT IN RESPONSE TO YOU QUESTIONING HIM?

4 A. NO, HE JUST -- HE JUST OUT OF THE BLUE SAID THAT. WE
5 DIDN'T ASK HIM ANYTHING.

6 Q. NO ONE ASKED HIM ANYTHING.

7 A. THE ONLY THING THAT WAS GOING ON WAS THOMAS WAS READING
8 THE RIGHTS TO HIM.

9 Q. BUT NO ONE WAS ASKING -- READING THE WARRANTS?

10 A. READING THE WARRANTS, RIGHT.

11 Q. BUT NO ONE WAS ASKING HIM ANY QUESTIONS.

12 A. NO.

13 Q. AND, IN FACT, WHEN HE SAID -- WHAT DID HE SAY?

14 A. HE JUST INDICATED THAT HE WANTED HIS WIFE. I CAN'T
15 RECALL EXACTLY WHAT HE SAID BY MY NOTES, BUT HE INDICATED HE
16 WANTED HIS WIFE AND HE SAID HE WOULD TALK.

17 Q. OKAY. AT THAT POINT WHAT DID YOU SAY TO HIM?

18 A. I ADVISED HIM WHEN HE SAID THAT -- I TOLD HIM THAT
19 ALTHOUGH HE DID -- ALTHOUGH HE DID NOT REQUEST A LAWYER, HE
20 DID INVOKE HIS RIGHT TO REMAIN SILENT BY SAYING HE DIDN'T
21 WANT TO TALK ANYMORE.

22 Q. AND WHAT DID YOU TELL HIM ABOUT THAT?

23 A. AT THIS TIME HE ASKED IF -- I JUST TOLD HIM, YOU KNOW,
24 YOU INVOKED YOUR RIGHT TO REMAIN SILENT. AT THIS TIME HE
25 ASKED IF I WOULD CALL HIS WIFE ON MY CELL PHONE.

1 Q. OKAY.

2 A. WHEN HE ASKED THAT, I DID AS HE REQUESTED.

3 Q. SO, IN OTHER WORDS, HE WAS THE ONE ASKING YOU TO DO
4 THINGS FOR HIM AND THAT HE WANTED HIS WIFE AND THEN HE WOULD
5 TALK.

6 A. THAT'S RIGHT.

7 Q. IT WASN'T ANYTHING YOU INITIATED. IT WAS SOMETHING HE
8 INITIATED.

9 A. NO, WE INITIATED NOTHING.

10 Q. AT THAT POINT DID YOU MAKE CONTACT WITH HIS WIFE BY
11 PHONE?

12 A. I DID.

13 Q. AND DID YOU ALLOW THE DEFENDANT TO TALK TO HIS WIFE AT
14 THAT POINT?

15 A. I DID. HE SPOKE WITH HER ON MY PHONE.

16 Q. HOW DID YOU GET THE PHONE NUMBER FOR HIS WIFE?

17 A. HE GAVE IT TO ME.

18 Q. OKAY. DID HE HAVE A CONVERSATION WITH HER IN YOUR
19 PRESENCE?

20 A. YEAH, HE WAS -- HE WAS TALKING TO HER OVER THE PHONE.

21 Q. AND WHAT HAPPENED NEXT?

22 A. I HEARD HIM ASK HER IF SHE WOULD COME BACK TO THE POLICE
23 DEPARTMENT.

24 Q. HAD SHE BEEN AT THE POLICE DEPARTMENT WITH HIM EARLIER
25 THAT DAY?

1 A. YEAH, SHE CAME THERE WITH HIM.

2 Q. WHAT HAPPENED NEXT?

3 A. APPARENTLY SHE AGREED TO COME BACK. THAT'S WHAT HE TOLD
4 US. THEN WE SAT THERE AND WE WAS WAITING ON HIS WIFE TO COME
5 BACK. ALL OF A SUDDEN HE STARTED CRYING.

6 Q. HE STARTED CRYING?

7 A. RIGHT.

8 Q. AND AT THIS POINT ARE EITHER YOU OR INVESTIGATOR THOMAS
9 OR ANYONE QUESTIONING HIM IN ANY WAY?

10 A. NO.

11 Q. OKAY. WHAT HAPPENED NEXT?

12 A. WHILE HE WAS CRYING, HE SAID THAT, "I WOULD PLEAD TO THE
13 GUN." WHEN HE SAID THAT, I TOLD HIM THAT'S NOT A MATTER FOR
14 US TO DEAL WITH RIGHT NOW. I TOLD HIM -- ADVISED HIM AGAIN
15 THAT HE SHOULD SPEAK WITH HIS ATTORNEY ABOUT THOSE ISSUES.
16 AT THIS TIME WE JUST SAT BACK AND WAITED ON HIS WIFE TO
17 ARRIVE.

18 Q. AND SHORTLY THEREAFTER DID HIS WIFE ARRIVE?

19 A. SHE HAD GOT BACK WITHIN 10 MINUTES.

20 Q. AND AT THAT POINT DID SHE COME INTO THE ROOM WITH YOU
21 AND INVESTIGATOR THOMAS AND THE DEFENDANT?

22 A. YES, SHE DID.

23 Q. AND WERE THOSE THE PEOPLE THAT WERE ACTUALLY PRESENT AT
24 THAT POINT?

25 A. THAT'S RIGHT.

1 Q. OKAY. WHAT HAPPENED AFTER SHE GOT BACK?

2 A. THE FIRST THING THEY DID WAS THEY EMBRACED EACH OTHER,
3 AND IN THE PROCESS OF HUGGING ONE ANOTHER SHE ASKED HIM IN
4 FRONT OF US IF HE TOLD US WHAT HAPPENED YET. WHEN SHE SAID
5 THAT, HE SAID, "I'M GOING TO TELL THEM NOW," AND I WROTE THIS
6 DOWN AND THEN HE STARTED TALKING.

7 Q. AND AT THAT POINT DID Y'ALL, IN FACT, TALK TO HIM ABOUT
8 THE EVENTS OF JUNE THE 2ND?

9 A. THAT'S RIGHT.

10 Q. AND DID YOU REDUCE THAT TO WRITING IN SOME WAY?

11 A. I DID. AT THAT TIME I STARTED TAKING A STATEMENT FROM
12 HIM.

13 Q. OKAY. AND, IN FACT, ARE THOSE YOUR NOTES?

14 A. YEAH, THESE ARE MY JUST WRITTEN NOTES HERE.

15 Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
16 STATE'S EXHIBIT NUMBER 2. DO YOU RECOGNIZE THAT?

17 A. THIS WOULD BE THE STATEMENT.

18 Q. IT WAS GIVEN BY THE DEFENDANT, ERIC MANCE.

19 A. THAT'S RIGHT.

20 Q. AND THAT WAS AFTER HE INITIATED CONTACT WITH Y'ALL AND
21 WANTED HIS WIFE TO COME AND HE WOULD TALK AND, IN FACT,
22 THAT'S WHAT HE DID.

23 A. RIGHT.

24 Q. AT ANY TIME -- ONCE HE HAD BEEN ADVISED OF HIS RIGHTS,
25 AT ANY TIME AFTER THAT DID YOU THREATEN HIM IN ANY WAY?

1 A. NO.

2 Q. DID YOU EVER PROMISE HIM ANYTHING TO GET HIM TO TALK?

3 A. NO.

4 Q. DID YOU COERCE HIM IN ANY WAY?

5 A. NO.

6 Q. DID YOU PHYSICALLY BEAT HIM?

7 A. NO.

8 Q. DID HE APPEAR TO BE RESPONSIVE AND COHERENT WHEN YOU

9 ASKED HIM QUESTIONS---

10 A. IN MY---

11 Q. ---SUCH AS DATE OF BIRTH AND THINGS OF THAT NATURE?

12 A. RIGHT.

13 Q. AND, IN FACT, WHOSE IDEA WAS IT -- AFTER HE SAID HE

14 DIDN'T WANT TO TALK, WHOSE IDEA WAS IT THAT HE WANTED TO TALK

15 TO YOU AT THAT POINT?

16 A. IT WAS HIS IDEA.

17 Q. ONCE YOU HAD WRITTEN OUT THE STATEMENT WHICH IS STATE'S

18 EXHIBIT NUMBER 2 FOR I.D. PURPOSES, DID THE DEFENDANT HAVE AN

19 OPPORTUNITY TO REVIEW IT?

20 A. YES, HE DID.

21 Q. DID YOU GO OVER IT WITH HIM VERBALLY AS WELL AS LET HIM

22 REVIEW IT?

23 A. YEAH, I READ THE STATEMENT BACK TO HIM.

24 Q. OKAY. AND AT THAT POINT DID YOU ASK HIM WHETHER OR NOT

25 HE AGREED WITH THOSE -- WITH WHAT HE HAD TOLD YOU?

1 A. THAT'S RIGHT.

2 Q. AND DID HE, IN FACT, ACKNOWLEDGE THAT THAT WAS HIS
3 STATEMENT BY SIGNING IT?

4 A. YES, HE DID.

5 Q. AND DID HE SIGN EACH PAGE?

6 A. HE SIGNED EACH OF THE THREE-PAGE STATEMENT.

7 Q. OKAY. I NOTICE AT THE TOP HERE THERE'S JUST SOME
8 BACKGROUND INFORMATION, THE NAME OF THE DEFENDANT AND HIS
9 BIRTHDAY, ADDRESS, THINGS OF THAT NATURE?

10 A. RIGHT.

11 Q. THERE'S ALSO A TIME HERE. IS THAT THE ACTUAL CORRECT
12 TIME THE STATEMENT WAS INITIATED, THE WRITTEN STATEMENT?

13 A. NO. THAT WOULD BE AN ERROR ON INVESTIGATOR THOMAS'S
14 PART.

15 Q. INVESTIGATOR---

16 COURT REPORTER: I'M SORRY. REPEAT THAT STATEMENT.

17 THE WITNESS: THAT WOULD BE AN ERROR ON INVESTIGATOR
18 THOMAS'S PART, THE TIME ON THE STATEMENT.

19 BY MS. CAMPBELL:

20 Q. WHAT TIME SHOULD IT HAVE REFLECTED?

21 A. IT SHOULD HAVE REFLECTED AROUND 1500 INSTEAD OF 1400.
22 3:00 INSTEAD OF 2:00.

23 Q. BUT INVESTIGATOR THOMAS ACTUALLY HAD FILLED OUT THAT
24 PART; IS THAT CORRECT?

25 A. YES.

1 Q. I NOTICED AT THE BEGINNING OF THIS FIRST QUESTION THAT
2 YOU ASKED HIM ON HIS STATEMENT WAS WHAT?

3 A. "HAVE YOU BEEN ADVISED OF YOUR RIGHTS?"

4 Q. AND WHAT WAS HIS ANSWER TO THAT?

5 A. HIS ANSWER WAS, "YES, SIR."

6 Q. AND WHAT WAS THE NEXT SERIES OF QUESTIONS?

7 A. THE NEXT QUESTION AFTER THAT ONE WAS: "DID YOU
8 UNDERSTAND THOSE RIGHTS?" HE SAID, "YES, SIR." I THEN ASKED
9 HIM DURING THE QUESTIONING PHASE, "DID YOU TELL INVESTIGATORS
10 THAT YOU DID NOT WANT TO TALK ANYMORE?" HE SAID, "YES." I
11 THEN ASKED HIM, "DID I EXPLAIN TO YOU THAT YOU HAD EXERCISED
12 YOUR RIGHT TO REMAIN SILENT?" HE SAID, "YES, SIR." I ASKED
13 HIM, "DID WE ASK YOU ANY MORE QUESTIONS AT THIS TIME?" HE
14 SAID, "NO, SIR."

15 I ASKED HIM, "DID YOU LATER TELL US THAT YOU WANTED YOUR
16 WIFE IN THE INTERVIEW WITH YOU SO YOU COULD TELL US WHAT
17 HAPPENED?" HE SAID, "YES, SIR." I ASKED HIM THEN, "DID I
18 ADVISE YOU AGAIN ABOUT YOUR RIGHT TO REMAIN SILENT?" AND HE
19 SAID, "YES, SIR." I ASKED HIM, "AT ANY TIME DID YOU INDICATE
20 YOUR DESIRE TO TALK ABOUT THIS INCIDENT WITH YOUR WIFE
21 PRESENT?" HE SAID, "YES, SIR." "DID YOU REQUEST THAT I CALL
22 YOUR WIFE AND REQUEST HER TO COME BACK TO THE POLICE
23 HEADQUARTERS?" HE SAID, "YES, SIR." "IS YOUR WIFE PRESENT
24 AT THIS TIME?" "YES, SIR." "ARE YOU NOW WILLING TO TALK
25 ABOUT THIS INCIDENT?" AND HE SAID, "YES."

1 Q. AND THEN AFTER THAT I NOTICE IT'S NOT SO MUCH QUESTION-
2 AND-ANSWER FORM UNTIL AT THE END, BUT THERE'S A SERIES OF
3 PARAGRAPHS OR SEVERAL PARAGRAPHS OR PAGES ACTUALLY.

4 A. THAT'S RIGHT.

5 Q. AND WHAT DOES THAT INCLUDE?

6 A. THAT WAS HIS STATEMENT TO ME ABOUT WHAT HAPPENED THAT
7 NIGHT.

8 Q. OKAY. AND THEN AT THE END I NOTICE THERE'S SOME MORE
9 QUESTION AND ANSWER. WERE THOSE QUESTIONS THAT YOU ACTUALLY
10 ASKED HIM AGAIN?

11 A. THAT'S RIGHT. IT IS.

12 Q. AND IS THAT THE ORIGINAL STATEMENT THAT HE SIGNED THAT
13 DAY---

14 A. YES, IT IS.

15 Q. ---MEMORIALIZING HIS VERSION OF WHAT HAPPENED ON JUNE
16 THE 2ND?

17 A. YES, IT IS.

18 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I DON'T KNOW IF
19 YOU WISH ME TO PUBLISH OR JUST HAND UP TO THE COURT.

20 THE COURT: YOU CAN SUBMIT IT AS A COURT'S EXHIBIT.

21 MS. CAMPBELL: COURT'S (SIC) EXHIBIT NUMBER 2. IF I MAY
22 APPROACH, YOUR HONOR.

23 THE COURT: ALL RIGHT.

24 MS. CAMPBELL: THANK YOU, SIR.

25

1 BY MS. CAMPBELL:

2 Q. AT ANY TIME WHILE HE WAS WITH YOU, DID ANYONE PRESSURE
3 HIM OR COERCE HIM IN ANY WAY?

4 A. ABSOLUTELY NOT. NO.

5 Q. DID ANYONE THREATEN HIM TO MAKE HIM TALK?

6 A. NO, MA'AM.

7 Q. DID ANYONE DO ANY KIND OF PHYSICAL VIOLENCE TO HIM TO
8 MAKE HIM TALK?

9 A. NO.

10 Q. DID ANYONE DEPRIVE HIM OF ANY CREATURE COMFORTS TO MAKE
11 HIM TALK?

12 A. NO, MA'AM.

13 Q. AT ANY TIME DID HE EVER ASK FOR A LAWYER?

14 A. NO, HE NEVER ASKED FOR A LAWYER.

15 Q. AND EVEN WHEN HE TOLD YOU HE DIDN'T WANT TO TALK
16 ANYMORE, WHOSE IDEA WAS IT -- WHO WAS THE ONE THAT WANTED TO
17 TALK TO YOU?

18 A. IT WAS HIS IDEA.

19 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL
20 OR DRUGS THAT WOULD IMPAIR HIS JUDGMENT?

21 A. NO, HE DIDN'T APPEAR THAT WAY.

22 Q. DID HE APPEAR TO BE COHERENT WHEN YOU WOULD ASK HIM
23 QUESTIONS?

24 A. RIGHT, HE DID.

25 Q. HE RESPONDED APPROPRIATELY.

1 A. RIGHT.

2 Q. AND IN YOUR OPINION AS AN INVESTIGATOR DID HE APPEAR TO
3 BE TALKING TO YOU VOLUNTARILY OF HIS OWN FREE WILL?

4 A. YES, HE DID.

5 MS. CAMPBELL: BEG THE COURT'S INDULGENCE. THANK YOU,
6 SIR. I DON'T HAVE ANYTHING FURTHER ON THIS ISSUE.

7 THE COURT: YES, SIR, MR. TARR.

8 MR. TARR: MAY IT PLEASE THE COURT?

9 CROSS-EXAMINATION

10 BY MR. TARR:

11 Q. INVESTIGATOR REESE, I'D LIKE TO CLEAR UP A COUPLE OF
12 THINGS THAT I THINK I MISUNDERSTOOD FROM YOUR TESTIMONY.
13 WHEN ERIC FIRST CAME IN, DO YOU RECALL WHAT TIME IT WAS WHEN
14 HE FIRST CAME TO THE POLICE DEPARTMENT?

15 A. I'M NOT SURE WHAT TIME IT WAS THAT HE -- THAT HE CAME IN
16 WITHOUT GOING BACK THROUGH MY NOTES. I'M NOT EVEN SURE IF I
17 WROTE DOWN WHAT TIME IT WAS THAT HE CAME IN. I KNOW IT WAS
18 SOMETIME WHILE WE WERE INTERVIEWING SOMEBODY ELSE NOT WITH
19 THIS CASE. I'M NOT EXACTLY SURE AT ALL.

20 Q. OKAY. AND I BELIEVE YOU FIRST TESTIFIED THAT WHEN HE
21 FIRST GOT THERE HIS WIFE WAS WITH HIM.

22 A. YES, SHE WAS.

23 Q. SHE LEFT BEFORE Y'ALL STARTED TALKING TO HIM OR
24 QUESTIONING HIM?

25 A. NO, SHE DIDN'T LEAVE.

1 Q. THAT'S WHAT I'M TRYING TO FIGURE OUT BECAUSE YOU HAD
2 TESTIFIED ABOUT SOME NOTES THAT YOU HAD WHEN YOU FIRST
3 STARTED TALKING TO HIM. THAT'S WHEN HE SAID ABOUT GOING INTO
4 THE TRUCK AND SEEING THE DOLLAR BILL AND NOT TAKING ANYTHING
5 AND THE THING ABOUT KING'S BARBERSHOP?

6 A. RIGHT.

7 Q. AND THEN YOU SAID HE GOT UPSET AND STARTED CRYING AND
8 WANTED HIS WIFE TO BE THERE, BUT BASED ON WHAT YOU HAVE
9 TESTIFIED TO SHE WOULD HAVE ALREADY BEEN THERE.

10 A. WELL, SHE WAS THERE, BUT BY THAT TIME SHE HAD ALREADY
11 GONE.

12 Q. OKAY. BUT DID SHE JUST GET UP AND LEAVE? I'M TRYING TO
13 FIGURE OUT WHEN SHE WAS THERE AND WHEN SHE WASN'T THERE
14 BECAUSE IT DOESN'T MAKE ANY REFERENCE TO HER BEING THERE
15 WHILE Y'ALL ARE TALKING. ALL OF A SUDDEN THE ONLY REFERENCE
16 IS HE WANTS HER THERE.

17 A. I THINK AT SOME POINT HE ASKED US -- ASKED US WAS SHE
18 STILL THERE. OBVIOUSLY WE HAD TO TELL HIM THAT SHE WASN'T
19 THERE, AND THEN THAT'S WHEN HE WANTED HER BACK. SHE HAD
20 ALREADY GONE BY THE TIME, YOU KNOW, WE STARTED TALKING.

21 Q. OKAY. SO THEY CAME TOGETHER, BUT THEN WHEN YOU WENT TO
22 GO START TALKING TO HIM YOU WERE IN A SEPARATE ROOM?

23 A. RIGHT. SHE WAS---

24 Q. THEN SHE LEFT WHILE Y'ALL WERE TALKING? IS THAT...

25 A. I DON'T KNOW WHETHER SHE FELT THE NECESSITY TO GO ON AND

1 LEAVE AT THAT POINT. I THINK IT WAS CLEAR TO HER THAT HE WAS
2 NOT GOING TO BE LEAVING. SHE HAD JUST COMPLETED HER
3 INTERVIEW WITH INVESTIGATOR THOMAS, AND I THINK THAT'S WHY
4 SHE LEFT.

5 Q. OKAY. SO SHE WAS GIVEN AN INTERVIEW AT THE SAME TIME.

6 A. SHE WAS -- SHE WAS GIVEN AN INTERVIEW IN ANOTHER OFFICE
7 BY INVESTIGATOR THOMAS. I HADN'T EVEN STARTED INTERVIEWING
8 HIM YET.

9 Q. OKAY. SO WHEN YOU WERE INTERVIEWING MR. MANCE, SHE WAS
10 NOT THERE UNTIL HE STARTED CRYING AND SAYING THAT HE WANTED
11 HER THERE. AND THEN YOU CALLED -- HE CALLED HER WITH YOUR
12 PHONE AND SHE CAME BACK?

13 A. SHE WAS NOT IN THAT ROOM.

14 Q. OKAY.

15 A. NO, SHE WAS -- SHE WAS ONLY IN THE ROOM WITH HIM ONE
16 TIME AND THAT'S WHEN SHE WAS CALLED BACK -- CALLED BACK.

17 Q. OKAY. ALSO, YOU MAY -- THERE IS A FORM THAT WAS
18 INTRODUCED ENTITLED, "INTERROGATION. ADVICE OF RIGHTS," THE
19 ONE WITH ALL THE INITIALS AND THE SIGNATURE ON IT?

20 A. RIGHT.

21 Q. AND THEN THERE'S ANOTHER REFERENCE ONCE YOU STARTED
22 TRANSCRIBING THE QUESTION-AND-ANSWER STATEMENT THAT WAS
23 INTRODUCED THAT SAYS THAT YOU ADVISED HIM OF HIS RIGHTS
24 AGAIN. WAS THIS FORM THAT WAS FILLED OUT -- WAS THIS THE
25 FIRST TIME YOU ADVISED HIM OR THE SECOND TIME?

1 A. I DON'T -- I DIDN'T ADVISE HIM OF HIS RIGHTS BUT ONE
2 TIME. THAT WAS THE FORM THAT HE SIGNED OFF ON.

3 Q. OKAY. I'M TRYING TO FIGURE OUT -- BECAUSE WE'VE GOT
4 SOME DISCREPANCY YOU'VE ALREADY TESTIFIED TO ABOUT THE TIME,
5 THAT THE TIME MAY BE INCORRECT ON THIS FORM?

6 A. RIGHT.

7 Q. YOU SAID IT MAY BE 3:00 INSTEAD OF 2:15 OR 2:17?

8 A. RIGHT. RIGHT.

9 Q. OKAY. WOULD THIS HAVE BEEN DONE BEFORE YOU FIRST
10 STARTED TALKING TO HIM OR AFTER HE STARTED CRYING AND SAYING
11 HE WANTS HIS WIFE THERE?

12 A. NO. THAT FORM THERE WOULD HAVE BEEN -- THE RIGHTS WOULD
13 HAVE BEEN READ TO HIM AND COMPLETED AND SIGNED OFF BEFORE I
14 EVEN STARTED TALKING TO HIM.

15 Q. OKAY.

16 A. I THINK AT THAT TIME WHEN THE RIGHTS WERE READ TO HIM
17 INVESTIGATOR THOMAS WAS NOT EVEN IN THE ROOM.

18 Q. OKAY. SO THIS WAS BEFORE YOU STARTED TALKING TO HIM AT
19 ALL.

20 A. RIGHT.

21 Q. AND THERE WAS ONLY ONE FORM OF THESE -- ONE FORM DONE
22 AND YOU ONLY ADVISED HIM OF HIS RIGHTS ONCE.

23 A. THAT'S ALL. THAT'S RIGHT.

24 Q. OKAY. BECAUSE PAGE 1 OF THE THREE-PAGE STATEMENT THAT
25 WAS ENTERED AS A COURT EXHIBIT, IT SAYS -- WELL, THE VERY

1 LAST QUESTION SAYS, "DID I ADVISE YOU AGAIN ABOUT YOUR RIGHT
2 TO REMAIN SILENT?" AND HE SAYS, "YES, SIR."

3 A. RIGHT, NOT RIGHTS. I WOULD HAVE TOLD HIM THROUGHOUT THE
4 PROCESS OR AGAIN IN THE PROCESS: REMEMBER THAT YOU HAVE BEEN
5 ADVISED OF YOUR RIGHTS. I WAS TRYING TO BE FAIR TO HIM.

6 Q. OKAY.

7 A. REMINDING HIM OF WHAT HE'D DONE.

8 Q. OKAY. NOW, THERE WAS THIS POINT IN YOUR QUESTIONING
9 WHERE YOU SAY HE STARTED CRYING AND SAYING THAT HE WANTED
10 TO -- LET ME MAKE SURE I GOT IT RIGHT. HE BECAME UPSET AND
11 STATED HE DIDN'T WANT TO TALK ANYMORE.

12 A. RIGHT.

13 Q. OKAY. AND YOU SAY QUESTIONING HAD CEASED, BUT Y'ALL
14 KEPT TALKING TO HIM BECAUSE, I MEAN, HE WAS READING --
15 INVESTIGATOR THOMAS WAS READING WARRANTS TO HIM AFTER THAT
16 POINT?

17 A. I'M NOT SURE WHAT YOU'RE ASKING ME.

18 Q. IS IT YOUR TESTIMONY THAT NOTHING ELSE WAS SAID BY Y'ALL
19 OR JUST THAT YOU JUST STOPPED ASKING HIM QUESTIONS AT THAT
20 TIME?

21 A. WHEN HE SAID---

22 Q. WHEN HE SAID, "I DON'T WANT TO TALK ANYMORE."

23 A. YEAH. WHEN HE SAID, "I DON'T WANT TO TALK ANYMORE,"
24 THAT AUTOMATICALLY SHUT EVERYTHING DOWN. WE DIDN'T TALK TO
25 HIM ANYMORE ABOUT ANYTHING CONCERNING THIS CASE OTHER THAN

1 THE BOOKING REPORT AND THE RIGHTS BEING -- THE WARRANT BEING
2 READ TO HIM.

3 Q. YEAH, BUT YOU DID -- SOMEONE DID READ THE WARRANTS
4 SAYING THAT YOU'RE CHARGED WITH THIS AND READ OUT EVERYTHING
5 THAT HE WAS CHARGED WITH?

6 A. RIGHT.

7 Q. OKAY. YOU'RE JUST SAYING THAT NO FURTHER QUESTIONING
8 WAS DONE.

9 A. NO FURTHER QUESTIONING WAS DONE.

10 Q. AND THEN ON HIS OWN YOU'RE SAYING THAT MR. MANCE SAID HE
11 WANTED TO TALK TO HIS WIFE AND THEN EVENTUALLY TALKED TO HER
12 AND THEN EVENTUALLY SAID, "I WANT TO TALK NOW"?

13 A. YES, SIR.

14 Q. NOW, AS FAR AS WHENEVER YOU WERE GOING OVER THE RIGHTS
15 WITH MR. MANCE, HE NEVER READ ANY OF THOSE RIGHTS. YOU READ
16 THOSE TO HIM. ISN'T THAT CORRECT?

17 A. I BELIEVE THAT'S RIGHT.

18 Q. OKAY. AND HE NEVER WROTE ANYTHING ON ANY OF THESE FORMS
19 OTHER THAN HIS INITIALS AND SIGNING ON THE BOTTOM?

20 A. THAT'S RIGHT.

21 Q. YOU WROTE WHATEVER YOUR QUESTION WAS, AND THEN WHATEVER
22 HIS ANSWER WAS YOU WROTE.

23 A. RIGHT.

24 Q. AND THEN HE WOULD INITIAL OR SIGN.

25 A. RIGHT.

1 Q. WERE YOU AWARE THAT HE CAN'T REALLY READ OR WRITE VERY
2 WELL?

3 A. NO, I WASN'T AWARE OF THAT.

4 Q. IS THAT -- WOULD YOU NORMALLY DO ALL THE READING AND
5 WRITING OR WOULD YOU -- DID YOU DO THAT BECAUSE HE JUST
6 COULDN'T DO IT VERY WELL?

7 A. REALLY, MR. TARR, IT'S -- I DO THINGS DIFFERENTLY. I'VE
8 HAD SO MANY INTERVIEWS, AND I CAN'T TELL YOU WHY IT WAS DONE
9 THAT DAY. I DON'T -- I DON'T KNOW WHETHER I ASKED HIM CAN
10 YOU READ AND WRITE OR NOT. I PROBABLY DID. NORMALLY WE
11 WOULD PREFER THAT THE INDIVIDUAL WRITE OUT HIS OWN STATEMENT,
12 BUT WHEN THEY CAN'T, THEN WE'LL DO IT FOR THEM, BUT WE DON'T
13 ALWAYS ACKNOWLEDGE WHY WE DID IT FOR THEM.

14 Q. BUT AS AN INVESTIGATOR, SOMEBODY WHO'S TRYING TO TAKE A
15 STATEMENT AND WANTS TO MAKE SURE THAT THIS IS A VOLUNTARY
16 STATEMENT, THE FACT THAT SOMEONE WAS ILLITERATE OR NOT VERY
17 GOOD AT READING OR WRITING, THAT'S SOMETHING -- THAT'S
18 SOMETHING YOU WOULD WANT TO NOTE, ISN'T IT?

19 A. ASK THAT AGAIN.

20 Q. SO THAT -- SO THAT IF YOU NEEDED TO DO THE WRITING OR
21 THE READING YOU COULD DO THAT.

22 A. ABSOLUTELY. BUT IN THIS CASE I DON'T RECALL WHETHER I
23 ASKED HIM COULD YOU READ OR WRITE. I PROBABLY DID. AND IF
24 HE SAID NO, THEN THAT'S WHY I DID THAT.

25 Q. I KNOW YOU'VE ALREADY TESTIFIED TO THAT. I WAS JUST

1 ASKING YOU THAT'S SOMETHING YOU WOULD WANT TO KNOW---

2 A. RIGHT.

3 Q. ---AS AN INVESTIGATOR TAKING THE STATEMENT.

4 A. RIGHT.

5 Q. WOULD YOU ALSO BE INTERESTED TO KNOW WHEN YOU'RE TAKING
6 A STATEMENT FROM A DEFENDANT CERTAIN THINGS ABOUT THEIR
7 MENTAL STATUS AS FAR AS HOW THEIR -- THEIR THINKING PROCESS
8 AND THEIR INTELLIGENCE AND WHETHER THEY WERE -- THEY HAD ANY
9 MENTAL PROBLEMS?

10 A. PROBABLY.

11 Q. WERE YOU AWARE OF ANYTHING LIKE THAT REGARDING MR.
12 MANCE?

13 A. NO, I WASN'T.

14 Q. OKAY. DID YOU -- YOU WEREN'T AWARE THAT HE WAS IN
15 SPECIAL ED -- SPECIAL EDUCATION CLASSES SINCE THE FIRST
16 GRADE?

17 A. NO.

18 Q. AND THAT HE HAD LEARNING PROBLEMS THROUGHOUT HIS
19 SCHOOLING?

20 A. NO.

21 Q. WERE YOU AWARE THAT HE HAD TO REPEAT THE NINTH GRADE?

22 A. NO, SIR.

23 Q. AND WERE YOU -- WERE YOU EVER MADE AWARE OF THE FACT
24 THAT HE WAS CONSIDERED TO BE MENTALLY RETARDED?

25 A. NO, SIR.

1 Q. AND HE HAS AN I.Q. OF 66?

2 A. NO, SIR.

3 Q. IF YOU HAD KNOWN THOSE THINGS, WOULD YOU HAVE DONE
4 ANYTHING DIFFERENTLY IN THIS CASE AS FAR AS TAKING A
5 STATEMENT TO MAKE SURE THAT HE DID UNDERSTAND EVERYTHING THAT
6 YOU WERE TELLING HIM?

7 A. I WOULD HAVE, YES.

8 Q. WHAT WOULD YOU HAVE DONE DIFFERENTLY?

9 A. IT DEPENDS ON THE SITUATION. I PROBABLY WOULD HAVE DONE
10 A FEW THINGS DIFFERENTLY. I JUST CAN'T TELL YOU RIGHT NOW.

11 MR. TARR: BEG THE COURT'S INDULGENCE, PLEASE. THAT'S
12 ALL I HAVE.

13 MS. CAMPBELL: MAY IT PLEASE THE COURT?

14 THE COURT: YES.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q. AND, IN FACT, INVESTIGATOR, HAD YOU NOTICED THAT HE WAS
18 SLOW OR IMPAIRED OR ANYTHING LIKE THAT, YOU WOULD HAVE MADE
19 NOTES ABOUT IT.

20 A. I WOULD HAVE. I PROBABLY WOULD HAVE TAKEN---

21 Q. WAS THERE ANYTHING IN THIS CONVERSATION THAT YOU HAD
22 WITH ERIC MANCE AS HE WAS TELLING YOU HOW HE SHOT AND ROBBED
23 THE MAN ON JUNE THE 2ND -- WAS THERE ANYTHING TO INDICATE
24 THAT HE DIDN'T UNDERSTAND WHAT YOU WERE TALKING ABOUT?

25 A. NO, THERE WAS NOT.

1 Q. DID HE APPEAR COHERENT?

2 A. YES, HE DID.

3 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY KIND OF
4 DRUGS OR ALCOHOL?

5 A. NO.

6 Q. DID HE APPEAR TO UNDERSTAND YOUR QUESTIONS AND ANSWER
7 APPROPRIATELY?

8 A. YES, HE DID.

9 Q. WAS THERE ANYTHING IN THE CONVERSATION THAT YOU HAD WITH
10 ERIC MANCE THAT WOULD MAKE YOU THINK THAT HE COULDN'T
11 UNDERSTAND WHAT WAS GOING ON?

12 A. ABSOLUTELY NOT.

13 Q. AND, IN FACT, IT WAS ERIC MANCE WHO KNEW ENOUGH AND
14 UNDERSTOOD HIS RIGHTS SO WELL THAT HE KNEW HE DIDN'T EVEN
15 HAVE TO TALK TO YOU ANYMORE.

16 A. THAT'S RIGHT.

17 Q. AND THEN HE WAS THE ONE THAT RE-INITIATED THE
18 CONVERSATION.

19 A. RIGHT.

20 Q. SO HE UNDERSTOOD WHAT HIS RIGHTS WERE BECAUSE HE
21 EXERCISED THOSE RIGHTS.

22 A. RIGHT.

23 Q. THANK YOU, INVESTIGATOR.

24 A. YOU'RE WELCOME.

25 THE COURT: ANYTHING FURTHER?

1 MR. TARR: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

3 THE WITNESS: THANK YOU, YOUR HONOR.

4 THE COURT: NEXT WITNESS.

5 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
6 INVESTIGATOR THOMAS.

7 A.L. THOMAS, AFTER BEING DULY SWORN, TESTIFIED AS
8 FOLLOWS IN CAMERA:

9 THE CLERK: HAVE A SEAT AND STATE YOUR NAME FOR THE
10 RECORD.

11 THE WITNESS: INVESTIGATOR A.L. THOMAS.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q. INVESTIGATOR THOMAS, WHERE ARE YOU EMPLOYED?

15 A. THE CITY OF COLUMBIA POLICE DEPARTMENT.

16 Q. WHAT DO YOU DO THERE, SIR?

17 A. HOMICIDE INVESTIGATOR.

18 Q. I WANT TO TURN YOUR ATTENTION BACK TO JUNE OF 2004. I
19 BELIEVE IT WAS JUNE THE 5TH? JUNE THE 5TH, DID YOU COME INTO
20 CONTACT WITH A MAN NAMED ERIC MANCE?

21 A. YES, I DID.

22 Q. SINCE JUNE THE 2ND HAD Y'ALL BEEN INVESTIGATING A
23 SHOOTING AND ROBBERY ON MAIN STREET?

24 A. YES, WE HAD.

25 Q. AND AS PART OF THAT INVESTIGATION, DID YOUR SUSPECT OR

1 ACTUALLY THE PERSON YOU WERE GETTING WARRANTS ON, WAS THAT
2 ERIC MANCE?

3 A. THAT'S CORRECT.

4 Q. AND THAT DAY DID HE AND HIS WIFE SHOW UP AT THE POLICE
5 HEADQUARTERS WANTING TO KNOW WHAT WAS GOING ON?

6 A. THAT'S CORRECT.

7 Q. AND TELL THE JUDGE BASICALLY ONCE THEY SHOWED UP IN THE
8 LOBBY, WHAT WERE Y'ALL DOING AT THE TIME WHEN THEY SHOWED UP?

9 A. PRIOR TO THEM SHOWING UP, WE WERE INTERVIEWING OTHER
10 WITNESSES INVOLVED IN THE CASE.

11 Q. WHEN YOU SAY WE WERE INTERVIEWING, WHO IS WE?

12 A. MYSELF AND INVESTIGATOR REESE.

13 Q. AND WERE Y'ALL THE TWO PRIMARY INVESTIGATORS IN THIS
14 CASE?

15 A. THAT'S CORRECT.

16 Q. AND Y'ALL WERE INTERVIEWING ANOTHER WITNESS IN THE CASE,
17 I BELIEVE?

18 A. THAT'S CORRECT.

19 Q. AND HE AND HIS WIFE, I BELIEVE, SHOWED UP IN THE LOBBY.

20 A. THAT'S CORRECT.

21 Q. AND AT THAT POINT WERE YOU ABLE TO FINISH UP YOUR
22 INTERVIEW WITH THE WITNESS YOU HAD ALREADY STARTED WITH?

23 A. WE WENT DOWNSTAIRS AND BROUGHT MR. MANCE AND HIS WIFE
24 UP. I DID FINISH UP WITH THE INTERVIEW WITH THE YOUNG LADY,
25 AND WE INITIATED THE INTERVIEW WITH THE WIFE.

1 Q. WITH WHOM?

2 A. WITH THE WIFE.

3 Q. WITH THE WIFE?

4 A. YES.

5 Q. YOU HAVE TO SPEAK UP IN HERE. IT'S JUST SO HARD TO
6 HEAR.

7 A. I APOLOGIZE.

8 Q. AND WHEN YOU SAY YOU INITIATED AN INTERVIEW WITH THE
9 WIFE, WHO -- WHAT WAS HER NAME?

10 A. I BELIEVE IT WAS ODESSA MANCE.

11 Q. ODESSA MANCE?

12 A. YES.

13 Q. AND WHILE YOU WERE INITIATING YOUR INTERVIEW WITH ODESSA
14 MANCE, DID INVESTIGATOR REESE -- WAS HE IN ANOTHER ROOM WITH
15 THE DEFENDANT, ERIC MANCE?

16 A. YEAH. WE SEPARATED THE PARTIES, AND I INITIATED THE
17 INTERVIEW WITH THE WIFE TO SEE HER STAND ON WHAT TRANSPIRED,
18 AND IT WASN'T UNTIL I FINISHED INTERVIEWING HER THAT I
19 BELIEVE WE BEGAN INTERVIEWING MR. MANCE.

20 Q. I WANT TO SHOW YOU THIS ITEM. IS THAT A STATEMENT?

21 A. YES.

22 Q. AND, IN FACT, IS THAT THE STATEMENT YOU TOOK FROM ODESSA
23 MANCE THAT DAY WHEN SHE CAME IN WITH HER HUSBAND?

24 A. THAT'S CORRECT.

25 Q. AND WHAT TIME DOES IT INDICATE ON THE TOP OF THAT

1 STATEMENT?

2 A. 1:25 P.M.

3 Q. AND IS THAT THE TIME THAT YOU INTERVIEWED HER?

4 A. THAT'S CORRECT.

5 Q. AND I BELIEVE THE MAJORITY OF IT'S JUST THIS ONE

6 PARAGRAPH ON THE FIRST PAGE?

7 A. THAT'S CORRECT.

8 Q. ONCE YOU HAD FINISHED INTERVIEWING ODESSA MANCE, WAS SHE

9 THEN FREE TO LEAVE AND, IN FACT, DID SHE LEAVE THE C.P.D.?

10 A. SHE WAS FREE TO LEAVE AND SHE, IN FACT, DID LEAVE.

11 Q. AT THAT POINT DID YOU THEN GO AND JOIN YOUR PARTNER IN

12 THE INTERVIEW OF ERIC MANCE?

13 A. THAT IS CORRECT.

14 Q. AND, IN FACT, WHEN YOU GOT IN THERE, DID YOU BECOME

15 AWARE OF WHETHER OR NOT MR. MANCE HAD ALREADY BEEN ADVISED OF

16 HIS RIGHTS?

17 A. YEAH. HE HAD ALREADY BEEN ADVISED. HE AND --

18 INVESTIGATOR REESE AND INVESTIGATOR SLOAN HAD ALREADY ADVISED

19 HIM OF HIS RIGHTS.

20 Q. SO YOU WEREN'T PRESENT FOR THAT.

21 A. NO, I WASN'T.

22 Q. ONCE YOU GOT IN THERE, TELL THIS JUDGE WHAT YOU SAW.

23 WHAT HAPPENED?

24 A. ONCE I CAME INTO THE INTERVIEW ROOM, WE INITIATED

25 CONVERSATION WITH MR. MANCE. HE STARTED TALKING ABOUT SOME

1 OF THE ELEMENTS OF WHAT TRANSPIRED OUT THERE. AFTER SAYING A
2 FEW WORDS, HE BECAME UPSET AND SAID HE DIDN'T FEEL LIKE
3 TALKING ANY LONGER.

4 COURT REPORTER: I DIDN'T UNDERSTAND -- DIDN'T HEAR YOU.

5 THE WITNESS: AFTER A FEW WORDS, HE BECAME UPSET AND
6 DECIDED HE DIDN'T WANT TO SPEAK ANY FURTHER. HE EXERCISED
7 HIS RIGHT.

8 BY MS. CAMPBELL:

9 Q. YOU MENTIONED THAT HE SAID A FEW WORDS. WITHOUT
10 SUMMARIZING AGAIN WHAT INVESTIGATOR REESE HAS ALREADY
11 TESTIFIED TO, HE TALKED A LITTLE BIT ABOUT THE TRUCK AND THEN
12 ABOUT GOING TO THE BARBERSHOP.

13 A. THAT'S CORRECT.

14 Q. AND THAT'S WHEN HE BECAME UPSET AND SAID HE DIDN'T WANT
15 TO TALK ANYMORE.

16 A. THAT'S CORRECT.

17 Q. AND AT THAT POINT WHAT DID Y'ALL DO?

18 A. WE ENDED THE INTERVIEW. WE OBTAINED THE WARRANTS.
19 INVESTIGATOR REESE ASKED COULD I SERVE THE WARRANTS, AND ONCE
20 HE WENT OVER AND GOT THE WARRANTS AND SIGNED THEM AND CAME
21 BACK, I INITIATED SERVING THE WARRANTS.

22 Q. AND HOW IS THAT DONE JUST FOR THE -- HOW IS THAT DONE,
23 FOR THE RECORD?

24 A. SIMPLY KEVIN CAME BACK IN THE ROOM. I HAD THE WARRANTS
25 IN HAND. I STARTED READING THE AFFIDAVIT OF WHAT HE'S BEING

1 ACCUSED OF, THE ELEMENTS OF THE CRIME. ONCE I STARTED
2 SERVING THE WARRANTS ON HIM, HE ASKED -- HE SAID HE WANTED TO
3 TALK TO US BUT HE WANTED TO KNOW WHERE HIS WIFE WAS AND
4 WANTED HER PRESENCE BEFORE SPEAKING WITH US.

5 Q. AND UP UNTIL THAT POINT, ONCE HE TOLD YOU HE DIDN'T WANT
6 TO TALK ANYMORE AND UP TO THE POINT WHERE YOU WERE READING
7 HIM THE WARRANTS, SERVING THEM ON HIM AS PER POLICE
8 PROCEDURE---

9 A. RIGHT.

10 Q. ---AT ANY POINT HAD ANYONE QUESTIONED HIM ABOUT THOSE
11 EVENTS?

12 A. NO, NO FURTHER QUESTIONS WERE ASKED---

13 Q. WERE THERE ANY QUESTIONS BY YOU, INVESTIGATOR REESE, OR
14 ANYONE ELSE?

15 A. NO, NO QUESTIONS.

16 Q. AND, IN FACT, WHO WAS THE PERSON THAT INITIATED OR
17 WANTED TO TALK?

18 A. MR. MANCE.

19 Q. ONCE HE TOLD Y'ALL THAT, DID INVESTIGATOR REESE TAKE ANY
20 FURTHER PRECAUTIONS TO MAKE SURE HE UNDERSTOOD?

21 A. WELL, HE REITERATED THE STANCE THAT MR. MANCE TOOK BY
22 WISHING TO REMAIN SILENT. MR. MANCE WANTED TO SPEAK WITH HIS
23 WIFE VIA TELEPHONE AFTER INVESTIGATOR REESE REITERATED THAT
24 FACT.

25 Q. UH-HUH.

1 A. THE PHONE CALL WAS MADE. HE SPOKE TO HER VIA TELEPHONE,
2 ASKED HER TO COME BACK, AND EVEN AT THAT POINT WE DID NOT
3 QUESTION HIM UNTIL SHE GOT BACK.

4 Q. OKAY. SO JUST FOR THE RECORD, EVEN AFTER HE SAID HE
5 WANTED TO TALK, INVESTIGATOR REESE WENT A STEP FURTHER AND
6 TOLD HIM AGAIN---

7 A. EXACTLY.

8 Q. ---WHAT YOU -- YOU SAID YOU DIDN'T WANT TO TALK WHICH IS
9 YOUR RIGHT.

10 A. EXACTLY.

11 Q. AND HE INDICATED HE DID WANT TO TALK NO MATTER WHAT.

12 A. THAT IS CORRECT.

13 Q. WERE YOU PRESENT WHEN HE WAS ABLE TO TALK TO HIS WIFE ON
14 THE PHONE?

15 A. YES.

16 Q. AND DID SHE, IN FACT, RETURN TO THE COLUMBIA POLICE
17 DEPARTMENT THAT AFTERNOON?

18 A. YEAH. APPROXIMATELY 10 OR 15 MINUTES LATER SHE
19 RETURNED.

20 Q. AND AT THAT POINT WHAT HAPPENED WHEN SHE CAME IN THE
21 ROOM?

22 A. WHEN SHE CAME BACK IN THE ROOM, THERE WAS AN EMBRACE BY
23 THE TWO OF THEM. SHE ASKED HIM, YOU KNOW, "DID YOU TELL THEM
24 THE TRUTH ABOUT WHAT HAPPENED?" AND HE TOLD HER, "WELL, I'M
25 ABOUT TO TELL THEM NOW."

1 Q. AND AT THAT POINT DID YOU START FILLING OUT THE
2 STATEMENT THAT WAS ULTIMATELY TAKEN?

3 A. YEAH, I BELIEVE THE INITIAL STATEMENT FORM---

4 Q. THE TOP PART?

5 A. YEAH, JUST THE TOP.

6 Q. AND I NOTE ON THAT TOP OF THAT STATEMENT IT SAYS 1400.
7 WAS THAT AN ERROR ON YOUR PART?

8 A. YEAH, THAT WAS AN ERROR ON MY PART.

9 Q. AND WHAT TIME SHOULD IT REFLECT?

10 A. IT SHOULD HAVE BEEN 1300 -- 3:00 WHICH IS 1500---

11 Q. 3:00 WHICH IS 1500. I'M NOT GOOD AT THAT, TOO. IN THE
12 INITIAL PART OF THE STATEMENT THAT WAS TAKEN FROM MR. MANCE,
13 DID INVESTIGATOR REESE AND YOURSELF AGAIN GO THROUGH HIS
14 RIGHTS AND HIS CHOICE TO WAIVE HIS RIGHTS?

15 A. AGAIN, TO INSURE THAT HE UNDERSTOOD EXACTLY WHAT HE WAS
16 DOING, INVESTIGATOR REESE TOOK GREAT CARE IN REITERATING THAT
17 HE -- IF HE WANTED TO REMAIN SILENT AND CONTINUE TO QUESTION
18 HIM ABOUT -- DID HE WANT TO SPEAK AND DID HE WANT TO SPEAK
19 WITH HIS WIFE PRESENT.

20 Q. AND HERE AT THE BOTTOM NOT TAKEN -- BUT TAKEN INTO
21 CONTEXT WITH EVERYTHING ELSE, IT SAID AGAIN, "DID I ADVISE
22 YOU AGAIN ABOUT YOUR RIGHT TO REMAIN SILENT?"

23 A. THAT'S CORRECT.

24 Q. THAT WAS THE INITIAL QUESTION INVESTIGATOR REESE HAD
25 ADVISED HIM OF AGAIN.

1 A. THAT'S CORRECT.

2 Q. REMINDING HIM THAT HE INVOKED HIS RIGHTS BUT HE COULD
3 GIVE IT UP.

4 A. EXACTLY.

5 Q. BUT HE DIDN'T GO THROUGH THE ENTIRE ADVICE OF RIGHTS
6 AGAIN.

7 A. NO. NO, WE DIDN'T GO THROUGH THE WHOLE THING.

8 Q. BUT HE WENT THROUGH THAT SPECIFIC ONE.

9 A. JUST SO THAT THERE WAS CLARITY, YES, MA'AM.

10 Q. AT THAT POINT AFTER DOING THAT INITIAL QUESTIONING PART
11 THAT'S REFLECTED ON THE STATEMENT, DID HE THEN GIVE Y'ALL
12 INITIAL INFORMATION WHICH IS REFLECTED IN THAT STATEMENT?

13 A. YES, HE DID.

14 Q. AND DID HE TALK ABOUT THE SHOOTING AND THE ROBBERY THAT
15 OCCURRED THREE NIGHTS EARLIER?

16 A. IN GREAT DETAIL.

17 Q. AND AT THE END DID YOU FOLLOW UP WITH SOME OTHER
18 QUESTIONS?

19 A. YES.

20 Q. AND IS THAT PRETTY STANDARD ROUTINE FOR THE COLUMBIA
21 POLICE DEPARTMENT?

22 A. YES, IT IS.

23 Q. AT ANY TIME WHEN YOU WERE THERE DID ANYONE PROMISE HIM
24 ANYTHING TO MAKE HIM TALK?

25 A. NO PROMISES WERE MADE TO HIM.

1 Q. DID YOU SPECIFICALLY PROMISE HIM ANYTHING TO MAKE HIM
2 TALK?

3 A. NO, I DIDN'T.

4 Q. DID YOU THREATEN OR COERCE HIM?

5 A. NO, I DIDN'T.

6 Q. DID YOU CAUSE HIM PHYSICAL HARM?

7 A. NO, WE DIDN'T.

8 Q. DID YOU DEPRIVE HIM OF ANY CREATURE COMFORTS?

9 A. NO, WE DIDN'T.

10 Q. AT ANY TIME DID YOU TRY TO INTIMIDATE HIM INTO TALKING?

11 A. NO, WE DID NOT.

12 Q. AND WHO IS THE PERSON THAT WANTED TO TALK TO YOU EVEN
13 AFTER INVOKING HIS RIGHTS THAT HE UNDERSTOOD?

14 A. ERIC MANCE.

15 Q. WERE YOU PRESENT WHEN HE ACTUALLY -- WHEN THE STATEMENT
16 -- WHEN Y'ALL WENT BACK THROUGH THE STATEMENT WITH HIM?

17 A. YES, I WAS.

18 Q. AND DID HE ACKNOWLEDGE IT BY SIGNING ALL THREE PAGES?

19 A. YES, HE DID.

20 Q. AND DOES THE STATEMENT ACCURATELY REFLECT THE
21 INFORMATION THAT HE GAVE Y'ALL?

22 A. YES, IT DOES.

23 Q. WAS HIS WIFE PRESENT FOR THE ENTIRE INTERVIEW?

24 A. YEAH, I BELIEVE SHE WAS THERE FOR THE ENTIRE INTERVIEW.

25 Q. DID HE RESPOND APPROPRIATELY TO THE QUESTIONS Y'ALL

1 POSED TO HIM?

2 A. YES, HE WAS VERY COHERENT.

3 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS,
4 ALCOHOL, OR ANYTHING?

5 A. NO, HE DID NOT.

6 Q. DID HE APPEAR TO BE TOO DUMB TO UNDERSTAND WHAT YOU WERE
7 SAYING?

8 A. NO, HE DID NOT.

9 Q. AND, IN FACT, HE KNEW ENOUGH TO INVOKE HIS RIGHT.

10 A. THAT IS CORRECT.

11 Q. AND HAD YOU NOTICED THAT HE HAD ANY MENTAL IMPAIRMENTS,
12 THAT HE WAS TOO SLOW TO UNDERSTAND, WOULD YOU HAVE NOTED
13 THAT?

14 A. WE WOULD HAVE DOCUMENTED THAT IN SOME WAY IF IT HAD BEEN
15 OBSERVED.

16 Q. AND, AGAIN, YOU'VE BEEN IN LAW ENFORCEMENT HOW LONG,
17 SIR?

18 A. EIGHTEEN YEARS.

19 Q. AND IN YOUR 18 YEARS OF EXPERIENCE, DID THIS DEFENDANT
20 VOLUNTARILY SPEAK TO Y'ALL THAT DAY?

21 A. YES, HE DID.

22 **MS. CAMPBELL:** THANK YOU, SIR.

23 **THE COURT:** MR. TARR?

24 **MR. TARR:** THANK YOU, YOUR HONOR.

25

1 CROSS-EXAMINATION

2 BY MR. TARR:

3 Q. INVESTIGATOR, YOU HEARD THE TESTIMONY OF INVESTIGATOR
4 REESE WHEN I WAS ASKING HIM QUESTIONS ABOUT WHETHER Y'ALL
5 WERE AWARE OF MR. MANCE'S MENTAL SITUATION?

6 A. I DID HEAR SOME OF THE QUESTIONS, YES.

7 Q. AND I'LL JUST ASK YOU: WERE YOU AWARE OF ANY MENTAL
8 SHORTCOMINGS HE MIGHT HAVE?

9 A. THERE WAS NO INDICATION GIVEN BY ANYONE THAT WE
10 INTERVIEWED TO ANY INABILITY TO COMPREHEND.

11 Q. BASICALLY ALL YOU CAN TESTIFY TO THOUGH IS IN YOUR
12 OPINION HE APPEARED TO UNDERSTAND. YOU CAN'T REALLY SAY
13 WHETHER HE UNDERSTOOD OR NOT.

14 A. HE ANSWERED THE QUESTIONS INTELLIGENTLY. HE ARTICULATED
15 HIMSELF QUITE WELL. THERE WAS NO INDICATION OF ANY
16 IMPAIRMENTS.

17 Q. WERE YOU -- DID YOU TAKE NOTE OF THE FACT THAT
18 EVERYTHING HAD TO BE READ TO HIM AND THAT EVERYTHING WAS
19 WRITTEN BY SOMEONE ELSE?

20 A. WELL, IT IS NOT UNCOMMON THAT WE READ THE QUESTIONS, BUT
21 IT'S ALSO COMMON THAT WE WOULD TURN IT AROUND AND ALLOW THEM
22 TIME TO READ IT THEMSELVES, AND EACH PERSON IS GIVEN THAT
23 OPPORTUNITY.

24 Q. OKAY. BUT THESE WERE ACTUALLY READ TO MR. MANCE.
25 RIGHT?

1 A. BUT HE WAS GIVEN AN OPPORTUNITY TO READ THEM HIMSELF
2 PRIOR TO SIGNING.

3 Q. OKAY. COULD YOU TELL WHETHER HE COULD READ THEM?

4 A. NOTHING INDICATED THAT HE HAD ANY PROBLEMS WITH READING
5 WHATEVER WAS ON THE PAPER. WE DIDN'T HAVE HIM READ IT OUT
6 LOUD OR ANYTHING..

7 Q. BUT INVESTIGATOR REESE READ IT TO HIM; CORRECT?

8 A. RIGHT, BUT THAT'S COMMON PRACTICE.

9 Q. OKAY.

10 A. READ THE QUESTIONS OVER AND THEN ALLOW HIM TIME TO
11 ACTUALLY READ THE STATEMENT HIMSELF PRIOR TO SIGNING IT.

12 Q. IF SOMEONE HAD MADE YOU AWARE THAT THERE MAY HAVE BEEN
13 SOME MENTAL ISSUES THERE THAT WEREN'T APPARENT TO YOU, WOULD
14 YOU HAVE DONE ANYTHING DIFFERENTLY?

15 A. I REALLY CAN'T SAY WHAT I WOULD HAVE DONE DIFFERENT
16 UNLESS I HAD SOME IN-DEPTH INFORMATION ABOUT WHAT THEY
17 PERCEIVED HIS IMPAIRMENT TO BE, BUT NONE OF THAT INFORMATION
18 WAS PROVIDED AT ALL.

19 Q. BUT YOU'VE COME ACROSS PEOPLE BEFORE THAT AS A LAY
20 PERSON TALKING TO THEM YOU CAN'T REALLY TELL THAT THEY MAY
21 NOT BE UNDERSTANDING YOU. CORRECT?

22 A. I GUESS IN LIFE'S PASSING, YES, THAT'S QUITE POSSIBLE.

23 Q. I MEAN, SOMETIMES IT'S NOT OBVIOUS THAT SOMEBODY HAS A
24 MENTAL IMPAIRMENT WHEN YOU'RE TALKING TO THEM.

25 A. THAT'S CORRECT.

1 MR. TARR: THAT'S ALL, YOUR HONOR.

2 REDIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q. ... JUST A COUPLE OF QUESTIONS. IN YOUR PAST WHEN YOU'VE
5 TALKED TO PEOPLE, IT'S OBVIOUS WHEN THEY CAN'T UNDERSTAND.

6 A. YES.

7 Q. THEY DON'T ANSWER -- THEIR ANSWERS DON'T MAKE SENSE.

8 A. RIGHT.

9 Q. THEIR IMPAIRMENT MAY BE APPARENT. THEY MAY BE SLOW.

10 A. RIGHT.

11 Q. WAS THERE ANY INDICATION IN YOUR CONVERSATIONS WITH ERIC
12 MANCE THAT HE HAD ANY IMPAIRMENTS?

13 A. NO, THERE WAS NO INDICATION.

14 MS. CAMPBELL: THANK YOU.

15 THE COURT: ANYTHING FURTHER?

16 MR. TARR: NO, YOUR HONOR.

17 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. NEXT
18 WITNESS.

19 MS. CAMPBELL: THE STATE CALLS INVESTIGATOR SLOAN.

20 JOHN W. SLOAN, JR., AFTER BEING DULY SWORN,
21 TESTIFIED AS FOLLOWS IN CAMERA:

22 THE CLERK: STATE YOUR NAME FOR THE RECORD, PLEASE.

23 THE WITNESS: JOHN W. SLOAN, JR.
24
25

DIRECT EXAMINATION

1
2 BY MS. CAMPBELL:

3 Q. INVESTIGATOR SLOAN, WHERE ARE YOU EMPLOYED?

4 A. COLUMBIA POLICE DEPARTMENT.

5 Q. HOW LONG HAVE YOU BEEN WITH THE POLICE DEPARTMENT?

6 A. NINETEEN YEARS.

7 Q. I WANT TO TURN YOUR ATTENTION BACK TO JUNE THE 5TH OF
8 2006. DID YOU GET CALLED INTO A ROOM WITH INVESTIGATOR REESE
9 AND A SUSPECT -- ACTUALLY THE SUSPECT IN THIS CASE, ERIC
10 MANCE?

11 A. I DID.

12 Q. AND WHAT WAS THE PURPOSE OF YOU GOING IN WITH
13 INVESTIGATOR REESE AT THAT POINT?

14 A. INVESTIGATOR REESE STOPPED ME JUST AS I WAS GETTING
15 READY TO ENTER THE ELEVATOR. HE ASKED ME WOULD I ASSIST HIM
16 REGARDING AN ADVICE OF RIGHTS FORM. I INDICATED THAT I
17 WOULD. THE INTERVIEW ROOM WAS RIGHT ADJACENT TO US. I
18 WALKED IN THE ROOM WITH INVESTIGATOR REESE FOR THE PURPOSE OF
19 WITNESSING THE ADVICE OF RIGHTS.

20 Q. OKAY. I WANT TO SHOW YOU THIS FORM THAT'S ACTUALLY BEEN
21 MARKED AS STATE'S EXHIBIT NUMBER 1 FOR I.D. PURPOSES. DO YOU
22 RECOGNIZE THAT?

23 A. I DO.

24 Q. AND IS THAT THE ACTUAL ADVICE OF RIGHTS FORM THAT WAS
25 USED THAT DAY WITH ERIC MANCE?

1 A. YES, IT IS.

2 Q. AND WERE YOU THERE WHEN INVESTIGATOR REESE WENT THROUGH
3 THE -- HIS RIGHTS WITH HIM?

4 A. YES.

5 Q. AND DID YOU WITNESS HIM AS HE INITIALED EACH OF THOSE
6 RIGHTS AS HE WENT THROUGH THEM WITH HIM?

7 A. YES, I DID.

8 Q. AND WERE YOU ALSO THERE WHEN HE WAS ADVISED OF HIS
9 WAIVER OF RIGHTS?

10 A. YES.

11 Q. AND DID HE INDICATE WHETHER OR NOT AT THAT POINT HE
12 WANTED TO TALK TO INVESTIGATORS?

13 A. YES, HE DID.

14 Q. AND DID HE INDICATE HE DID WANT TO TALK?

15 A. YES.

16 Q. AND AT THAT POINT DID HE SIGN OFF INDICATING HE WANTED
17 TO TALK?

18 A. YES, HE DID.

19 Q. AND WAS THAT WITNESSED BY YOU AND INVESTIGATOR REESE?

20 A. YES, IT WAS.

21 Q. AND DID YOU ACTUALLY STAY IN THE ROOM FOR THE INTERVIEW
22 ITSELF?

23 A. NO, I DID NOT.

24 Q. BUT DURING THE TIME WHEN YOU WERE IN THERE, DID ANYONE
25 THREATEN HIM TO MAKE HIM TALK?

1 A. NO.

2 Q. DID ANYONE COERCE HIM IN ANY WAY?

3 A. NO, THEY DIDN'T.

4 Q. DID ANYONE -- DID HE APPEAR TO BE UNDER THE INFLUENCE OF
5 ANY DRUGS OR ALCOHOL?

6 A. NO.

7 Q. WAS HE COHERENT WHEN ASKED QUESTIONS?

8 A. YES.

9 Q. DID ANYONE PROMISE HIM ANYTHING?

10 A. NO.

11 Q. AND IN YOUR OPINION WHEN HE INDICATED HE WANTED TO TALK,
12 WAS HE DOING THAT FREELY AND VOLUNTARILY?

13 A. YES, HE WAS.

14 Q. AND IT WAS ACTUALLY ERIC MANCE'S SIGNATURE YOU WITNESSED
15 THAT DAY?

16 A. YES, IT WAS.

17 Q. AND HE INDICATED HE WANTED TO TALK AT THAT POINT.

18 A. YES.

19 MS. CAMPBELL: THANK YOU, SIR. I HAVE NOTHING FURTHER.

20 THE COURT: CROSS-EXAMINATION?

21 CROSS-EXAMINATION

22 BY MR. TARR:

23 Q. INVESTIGATOR SLOAN, WHILE YOU WERE IN THE ROOM WHEN THIS
24 ADVICE OF RIGHTS FORM WAS GONE OVER, THOSE RIGHTS WERE READ
25 TO MY CLIENT?

1 A. YES, THEY WERE.

2 Q. AND HE JUST PUT HIS INITIALS BESIDE IT?

3 A. YES, SIR.

4 Q. AND THEN SIGNED AT THE BOTTOM?

5 A. YES, SIR.

6 MR. TARR: THAT'S ALL, YOUR HONOR.

7 THE COURT: ANYTHING FURTHER?

8 MS. CAMPBELL: NO, SIR.

9 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

10 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED FOR THE
11 DAY?

12 THE COURT: YES.

13 MS. CAMPBELL: THANK YOU.

14 THE COURT: ANY FURTHER WITNESSES BY THE STATE?

15 MS. CAMPBELL: NO, SIR.

16 THE COURT: WITNESSES BY THE DEFENSE?

17 MR. TARR: NO, YOUR HONOR.

18 THE COURT: ARGUMENTS? THE DEFENDANT?

19 MR. TARR: JUDGE---

20 THE COURT: AS THE MOVING PARTY.

21 MR. TARR: AS YOUR HONOR IS AWARE, THE JUDGE -- THE
22 COURT MAKES THE INITIAL DETERMINATION OF ADMISSIBILITY ON A
23 STATEMENT AND THEN IT'S ALLOWED INTO EVIDENCE, AND THEN THE
24 JURY ALSO HAS THE RIGHT TO PASS UPON THE VOLUNTARINESS AND
25 MAKE THEIR OWN DETERMINATION WHETHER THAT FACT WAS PRESENT,

1 THE VOLUNTARINESS IS PRESENT, BECAUSE THEY CAN -- THEY CAN
2 DISREGARD THE STATEMENT REGARDLESS OF WHETHER IT'S ADMITTED
3 INITIALLY. AND SO AT THIS TIME I'M NOT GOING TO OBJECT TO
4 THE STATEMENT BEING INTRODUCED, BUT I WILL RESERVE THE RIGHT
5 TO BRING UP EVIDENCE RELATED TO THE VOLUNTARINESS OF THE
6 STATEMENT FOR THE JURY TO CONSIDER AT A LATER TIME.

7 THE COURT: ALL RIGHT. I FIND THAT THE STATEMENT WAS
8 FREELY AND VOLUNTARILY GIVEN AFTER THE DEFENDANT WAS
9 APPROPRIATELY INFORMED OF HIS CONSTITUTIONAL RIGHTS UNDER
10 MIRANDA VERSUS ARIZONA. ALL RIGHT. ANY OTHER PRELIMINARY
11 MATTERS?

12 MS. CAMPBELL: I DON'T THINK THERE ARE ANY PRELIMINARY
13 MATTERS, YOUR HONOR. I THINK THAT'S IT.

14 MR. TARR: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 MR. TARR: NOTHING FROM THE DEFENSE.

17 THE COURT: THE JURY IS -- THE JURY IS COMING AT 4.

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: WE'LL BE READY FOR THEM AT THAT TIME.

20 MS. CAMPBELL: YES, SIR. YOUR HONOR, IF I MAY APPROACH
21 WITH THE CASE ON THAT OTHER ISSUE THAT'S STILL OUTSTANDING?

22 THE COURT: ALL RIGHT.

23 (PAUSE IN PROCEEDINGS.)

24 THE COURT: THIS IS PERTAINING TO WHAT ISSUE?

25 MS. CAMPBELL: THERE WERE SOME STATEMENTS MADE BY THE

1 DEFENDANT TO NEIGHBORS AND ONE ABOUT A WEEK AHEAD AND ONE A
2 COUPLE MORE WEEKS AHEAD ABOUT HOW HE WANTED TO GO INTO
3 COLUMBIA AND ROB SOMEONE AND SHOOT SOMEONE.

4 THE COURT: ALL RIGHT.

5 MS. CAMPBELL: THAT WOULD BE TO THAT ISSUE, YOUR HONOR.
6 I THINK WE'RE GOING TO TAKE IT UP AT A LATER TIME. I WILL
7 NOT MENTION IT IN OPENING.

8 THE COURT: OKAY.

9 MS. CAMPBELL: PURSUANT TO YOUR ORDER.

10 THE COURT: ALL RIGHT. WE'LL THEN TAKE A BREAK, AND
11 WHEN THE JURY GETS HERE WE'LL---

12 MS. CAMPBELL: YOUR HONOR, FOR PURPOSES -- WE'VE GOT
13 OPENING ARGUMENTS, OF COURSE. WE'LL HAVE OUR FIRST WITNESS
14 HERE WHO WILL BE THE VICTIM. I JUST DIDN'T KNOW IF YOU
15 WANTED ME TO TRY TO GET MORE WITNESSES IN TODAY OR IF THAT
16 WILL BE SUFFICIENT.

17 THE COURT: WE'LL START AT 4. WE'LL NOT GO PAST 5:15 OR
18 SO.

19 MS. CAMPBELL: OKAY. THEN THAT SHOULD BE -- I JUST
20 WANTED TO MAKE SURE WE WERE KIND OF...

21 THE COURT: RIGHT. OKAY. WE'LL TAKE A BREAK. WE'LL
22 START BACK ABOUT 4.

23 (WHEREUPON, A SHORT BREAK WAS TAKEN. STATE'S EXHIBITS 3
24 THROUGH 12 WERE MARKED FOR IDENTIFICATION ONLY.)

25 THE COURT: THANK YOU VERY MUCH. BE SEATED.

1 MS. CAMPBELL: YOUR HONOR, DO YOU HAVE THE INDICTMENTS?

2 THE COURT: YES.

3 MS. CAMPBELL: IF I MAY APPROACH AND PICK THEM UP FOR MY
4 OPENING.

5 THE COURT: ALL RIGHT.

6 MS. CAMPBELL: THANK YOU.

7 THE COURT: ANYTHING ELSE BEFORE WE -- DID YOU SAY THAT
8 YOU WANTED THEM?

9 MS. CAMPBELL: YES, SIR. I'LL JUST COME UP AND GET THEM
10 AFTER AWHILE.

11 THE COURT: OKAY. DO YOU WANT THEM NOW?

12 MS. CAMPBELL: NO, I'LL COME GET THEM FROM YOU. JUST
13 LEAVE THEM UP THERE.

14 THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE THE JURY
15 COMES? BRING THE JURY, PLEASE.

16 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 4:04
17 P.M.)

18 THE COURT: ALL RIGHT. VERY GOOD. LADIES AND
19 GENTLEMEN, IF YOU ALL WILL STAND AT THIS TIME TO BE SWORN.
20 MADAM CLERK?

21 (WHEREUPON, THE JURY WAS SWORN AT 4:05 P.M.)

22 THE COURT: I WANT TO WELCOME YOU BACK, LADIES AND
23 GENTLEMEN. I GUESS PROBABLY A FEW WEEKS AGO YOU RECEIVED A
24 JUROR SUMMONS TELLING YOU THAT YOU HAD TO COME HERE THIS WEEK
25 FOR JURY DUTY. YOU RESPONDED TO THAT JUROR SUMMONS AND

1 APPEARED THIS MORNING AT WHICH TIME YOU WENT THROUGH JUROR
2 QUALIFICATIONS TO DETERMINE WHETHER YOU WERE QUALIFIED TO
3 SERVE ON JURY DUTY HERE THIS WEEK. THEN YOU WERE PUT IN A
4 SMALLER POOL AND BROUGHT IN THIS COURTROOM WHERE YOU HAD A
5 JUROR VOIR DIRE PROCESS CONDUCTED. VARIOUS QUESTIONS WERE
6 POSED CONCERNING -- SO THAT THE LAWYERS COULD EVALUATE
7 WHETHER OR NOT YOU SHOULD BE SELECTED TO SERVE ON THIS JURY.
8 YOU'VE BEEN SELECTED TO SERVE ON THE JURY, AND YOU HAVE JUST
9 TAKEN AN OATH TO WELL AND TRULY TRY THIS CASE AND RENDER A
10 TRUE VERDICT ACCORDING TO THE LAW AND ACCORDING TO THE
11 EVIDENCE, AND OBVIOUSLY THAT'S A RESPONSIBILITY THAT YOU WILL
12 NOT TAKE LIGHTLY BECAUSE IT IS AN AWESOME RESPONSIBILITY.

13 SERVICE ON JURY DUTY IS A CONSTITUTIONAL RIGHT OF EACH
14 INDIVIDUAL JUROR. IT'S AN INTEGRAL PART OF OUR -- NOT ONLY
15 OUR JUDICIAL SYSTEM, BUT IT'S A FUNDAMENTAL RIGHT OF EACH
16 JUROR. IT'S PART OF THE CONSTITUTION OF THIS COUNTRY AS WELL
17 AS THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA, AND I
18 LOOK FORWARD TO SHARING IN THIS ROLE WITH YOU AND WORKING
19 WITH YOU AS YOU PERFORM YOUR JURY SERVICE THIS WEEK.

20 THE CASE YOU WERE SELECTED ON IS THE CASE OF THE STATE
21 VERSUS ERIC MANCE WHO WAS INDICTED BY THE GRAND JURY AND
22 CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL, WITH
23 ARMED ROBBERY, AND ALSO POSSESSION OF A PISTOL BY A PERSON
24 CONVICTED OF A CRIME OF VIOLENCE. HE HAS PLED NOT GUILTY TO
25 THESE THREE CHARGES, AND THAT PLEA PUTS THE BURDEN ON THE

1 STATE TO PROVE HIM GUILTY. NO PERSON CHARGED WITH COMMITTING
2 A CRIMINAL OFFENSE IS REQUIRED TO PROVE HIMSELF OR HER
3 INNOCENT. THE STATE MUST PROVE THE DEFENDANT GUILTY. THE
4 STATE MUST MEET THAT BURDEN OF PROOF BY PRESENTING EVIDENCE
5 WHICH CONVINCES EACH AND EVERY ONE OF YOU OF THE DEFENDANT'S
6 GUILT BEYOND A REASONABLE DOUBT, AND THAT'S WHAT THIS TRIAL
7 IS ABOUT AND WILL BE ABOUT: TO DETERMINE WHETHER THE STATE
8 CAN MEET THAT BURDEN OF PROOF.

9 YOUR ROLE AS JURORS, AS I INDICATED, IS AN INTEGRAL ROLE
10 BECAUSE YOU ARE THE ONE WHO WILL DECIDE WHETHER OR NOT THE
11 STATE MEETS THAT BURDEN WHETHER OR NOT THE DEFENDANT IS
12 GUILTY OR NOT GUILTY. YOU'LL MAKE THAT DECISION BY
13 EVALUATING THE EVIDENCE THAT IS PRESENTED DURING THE COURSE
14 OF THIS TRIAL, AND ONLY YOU, THE JURY, CAN MAKE THIS
15 DECISION. OUT OF ALL THE OTHER FOLKS WHO WERE SUMMONED FOR
16 JURY DUTY, OUT OF ALL THE OTHER CITIZENS OF SOUTH CAROLINA,
17 OUT OF ALL THE OTHER FOLKS IN THIS COUNTRY, ONLY THE 12 OF
18 YOU WHO WILL DELIBERATE CAN DECIDE THE FACTS OF THIS CASE.
19 IN ORDER TO BE IN A POSITION TO DECIDE THE FACTS OF THIS
20 CASE, YOU, THEREFORE, MUST PAY ATTENTION TO THE EVIDENCE THAT
21 IS OFFERED AND ALSO FOCUS ON THE TRIAL SO THAT YOU WILL BE IN
22 A POSITION TO PARTICIPATE IN JURY DELIBERATIONS AND TO HAVE
23 YOUR VOICE HEARD WHEN THE TIME COMES FOR YOU TO SPEAK.

24 NOW, JUST AS ONLY YOU CAN DECIDE THE FACTS OF THIS CASE,
25 AS THE TRIAL JUDGE I'M THE SOLE JUDGE OF THE LAW OF THIS

1 CASE, AND YOU MUST ACCEPT THE LAW EXACTLY AS I STATE IT TO
2 YOU AT THIS TIME DURING THE TRIAL AND IN GREATER DETAIL AT
3 THE END OF THE TRIAL. NOW, LATER IN THE PROCESS OR DURING
4 THE COURSE OF THIS TRIAL I WILL APPOINT ONE OF YOU TO SERVE
5 AS THE FOREPERSON OF THE JURY, AND THE FOREPERSON WILL HAVE
6 THE RESPONSIBILITY OF ACTING AS A SPOKESPERSON FOR THE JURY,
7 OF PRESIDING OVER THE JURY DELIBERATIONS, AND OF COMPLETING
8 THE VERDICT FORM REPRESENTING THE UNANIMOUS VERDICT OF THE
9 JURY ONCE THE JURY REACHES A UNANIMOUS VERDICT.

10 I WILL DO ALL THAT I CAN TO MINIMIZE ANY INCONVENIENCE
11 TO YOU BY KEEPING THIS CASE MOVING, BY STANDING AND
12 STRETCHING WHEN I THINK YOU MIGHT BE GETTING TIRED, AND
13 OTHERWISE KEEPING THINGS ON A STEADY PACE SO THAT WE CAN GET
14 THROUGH WITH THE CASE WITHOUT SACRIFICING ANY OF THE
15 IMPORTANT RIGHTS AND ROLES OF THE PARTIES INVOLVED. WE'LL
16 NOW MOVE TO OPENING STATEMENTS, FIRST BY THE STATE. MS.
17 CAMPBELL.

18 MS. CAMPBELL: MAY IT PLEASE THE COURT?

19 THE COURT: YES.

20 MS. CAMPBELL: THANK YOU, YOUR HONOR. ON JUNE THE 2ND
21 OF 2006 DARYL HAWKINS WAS LEAVING HIS OFFICE ON MAIN STREET
22 WHEN HE NOTICED A MAN WEARING A MASK ARMED WITH A GUN COME UP
23 BEHIND HIM. WITHIN SECONDS, DARYL HAWKINS HAD BEEN ROBBED,
24 SHOT MULTIPLE TIMES, AND LEFT IN THAT PARKING LOT AS HE
25 WATCHED THAT MASKED MAN DRIVE OFF IN HIS S.U.V. THE MAN THAT

1 ROBBED DARYL HAWKINS, THE MAN THAT SHOT DARYL HAWKINS AND
2 LEFT HIM FOR DEAD, HIS NAME IS ERIC MANCE. AND, LADIES AND
3 GENTLEMEN, THIS IS ERIC MANCE.

4 NOW, MY NAME IS LUCK CAMPBELL. I'M AN ASSISTANT
5 SOLICITOR HERE IN THE FIFTH JUDICIAL CIRCUIT. WHAT DOES THAT
6 MEAN? BASICALLY IT'S THE MIDLANDS AREA. THE FIFTH JUDICIAL
7 CIRCUIT IS MADE UP OF THE COLUMBIA AREA AS WELL AS THE
8 KERSHAW AREA OR CAMDEN. AND I WILL BE HERE BEFORE YOU OVER
9 THE NEXT SEVERAL DAYS PRESENTING EVIDENCE ALONG WITH DAN
10 GOLDBERG WHO IS ALSO AN ASSISTANT SOLICITOR IN OUR OFFICE.

11 AND AS THE JUDGE JUST WENT OVER WITH YOU THAT YOU'LL
12 HEAR REFERENCE TO DURING THIS TIME, THERE ARE THREE
13 INDICTMENTS THAT ARE GOING TO BE BEFORE YOU IN THIS CASE.
14 THAT DOESN'T MEAN THAT THERE ARE THREE SEPARATE EVENTS, JUST
15 THREE SEPARATE CHARGES ARISING OUT OF THE SAME COURSE OF
16 EVENTS THAT TOOK PLACE ON JUNE THE 2ND OF 2006 RIGHT HERE ON
17 MAIN STREET, LESS THAN A BLOCK FROM HERE.

18 AS THE JUDGE HAS TOLD YOU, WHAT DO THESE INDICTMENTS DO?
19 WELL, THEY'RE VERY IMPORTANT IN CERTAIN WAYS, BUT THE FIRST
20 THING I WANT TO TELL YOU IS THEY AREN'T EVIDENCE, LADIES AND
21 GENTLEMEN. WHAT THEY DO IS THEY ARE THE DOCUMENTS BY WHICH
22 THE STATE IS ABLE TO BRING A CASE TO COURT. THEY ARE THE
23 CHARGING PAPERS IN EFFECT, AND WHAT THEY DO IS KIND OF
24 TWOFOLD. FIRST, THEY PUT THE STATE ON NOTICE AS TO THE
25 ELEMENTS OF EACH AND EVERY CRIME WHICH WE ALLEGE TO HAVE BEEN

1 COMMITTED BY ERIC MANCE BACK IN 2006. AND, SECONDLY, IT
2 SERVES AS NOTICE FOR THE DEFENDANT SO THAT HE KNOWS EXACTLY
3 WHAT THE STATE INTENDS TO PROVE OF THE CRIMES HE COMMITTED
4 BACK ON JUNE THE 2ND.

5 AS THE JUDGE TOLD YOU, ALL THESE HAVE BEEN TRUE BILLED
6 BECAUSE THE GRAND JURY MUST HAVE A TRUE-BILLED INDICTMENT
7 BEFORE IT CAN GET TO YOU. AND WHAT ARE THE SEPARATE CHARGES?
8 AND AT THE END OF THE CASE I'LL TALK TO YOU A LITTLE BIT MORE
9 ABOUT THE LAW AND HOW IT APPLIES TO THE EVENTS THAT OCCURRED
10 ON THAT NIGHT.

11 THE FIRST CHARGE IS ARMED ROBBERY, THAT ERIC MANCE DID
12 WHILE IN RICHLAND COUNTY ON OR ABOUT JUNE THE 2ND OF 2006
13 COMMIT ROBBERY BY FELONIOUSLY - THAT MEANS UNLAWFULLY -
14 TAKING FROM THE PERSON OR PRESENCE OF DARYL HAWKINS BY MEANS
15 OF FORCE OR INTIMIDATION GOODS OR MONIES OF DARYL HAWKINS AND
16 IN THIS CASE THE MONEY OR GOODS BEING DESCRIBED AS A
17 CHEVROLET TAHOE, AN S.U.V., AND/OR U.S. CURRENCY. THAT IS
18 ONE INDICTMENT.

19 THE SECOND INDICTMENT THAT WILL BE BEFORE YOU - AND
20 THESE AREN'T IN ANY PARTICULAR ORDER - IS ASSAULT AND BATTERY
21 WITH INTENT TO KILL. AND THE EASIEST WAY TO KIND OF LOOK AT
22 THAT IS ATTEMPTED MURDER. WHAT IS ASSAULT AND BATTERY WITH
23 INTENT TO KILL? IN THIS CASE THE GRAND JURORS TRUE BILLED
24 THAT ERIC MANCE DID IN RICHLAND COUNTY ON OR ABOUT JUNE THE
25 2ND OF 2006 WITH MALICE AFORETHOUGHT - THAT MEANS MALICIOUSLY

1 - COMMIT AN ASSAULT AND BATTERY AND IN THIS CASE WITH THE USE
2 OF A GUN UPON ONE DARYL HAWKINS WITH THE INTENT TO KILL THE
3 VICTIM. NOW, LISTEN CAREFULLY TO THE JUDGE AT THE END
4 BECAUSE WE DON'T HAVE TO PROVE A SPECIFIC INTENT TO KILL.
5 HOWEVER, WE DO HAVE TO PROVE THAT THE MANNER, THE USE OF A
6 GUN, THAT ALONE IS ENOUGH TO INFER MALICE, AND I'LL GET BACK
7 TO THAT IN A LITTLE BIT.

8 THE FINAL CHARGE BEFORE YOU IS POSSESSION OF A PISTOL BY
9 A PERSON CONVICTED OF A CRIME OF VIOLENCE, THAT ERIC MANCE
10 DID IN RICHLAND COUNTY ON OR ABOUT JUNE THE 2ND OF 2006
11 WILLFULLY AND UNLAWFULLY, AFTER HAVING BEEN CONVICTED OF A
12 CRIME OF VIOLENCE, POSSESS A WEAPON, IN THIS CASE A .38
13 REVOLVER.

14 NOW, LADIES AND GENTLEMEN, I'M GOING TO BE THE FIRST TO
15 TELL YOU: THE BURDEN OF PROOF TO PROVE THIS DEFENDANT'S
16 GUILT BEYOND A REASONABLE DOUBT IS UPON THE STATE OF SOUTH
17 CAROLINA, JUST AS IT SHOULD BE. IT IS THE HIGHEST BURDEN OF
18 PROOF IN ANY COURT IN ANY STATE IN THIS COUNTRY. THE BURDEN
19 OF PROOF IS ON THE STATE TO PROVE TO YOU BEYOND A REASONABLE
20 DOUBT THAT THIS DEFENDANT BACK ON JUNE THE 2ND COMMITTED
21 THESE OFFENSES. AND, LADIES AND GENTLEMEN, IN THIS CASE WITH
22 THIS EVIDENCE I SUBMIT THAT IS A BURDEN THE STATE WELCOMES.

23 JUNE THE 2ND, DARYL HAWKINS -- HE'S A LOCAL ATTORNEY.
24 HE WAS IN HIS LAW OFFICE. THE BUILDING ACTUALLY FACES MAIN
25 STREET. THE PARKING IS BEHIND IT, MORE TOWARDS THE SUMTER

1 STREET SIDE. IT'S RIGHT NEXT DOOR TO WHAT USED TO BE THE
2 TAPP'S BUILDING. I THINK THEY CONVERTED IT INTO APARTMENTS
3 NOW.

4 HE WAS WORKING LATE THAT NIGHT WHICH WAS NOT UNUSUAL FOR
5 HIM. IT WAS AROUND 9:30. HE EXITED OUT THE BACK DOOR INTO
6 THE PARKING LOT AREA, NOT ON THE MAIN STREET SIDE BUT BACK
7 BEHIND IT. YOU COULD ACTUALLY LOOK OUT OF THE BACK SIDE OF
8 TAPP'S AND LOOK DOWN STRAIGHT INTO THAT PARKING LOT.

9 AS HE APPROACHED HIS TAHOE, HE NOTICED SOMEONE BEHIND
10 HIM, AND HE DIDN'T REALLY HEAR HIM SAY ANYTHING OR ANYTHING
11 BUT HE TURNED AROUND TO SEE WHAT WAS GOING ON. HE DIDN'T
12 THINK ANYTHING WAS WRONG AT THAT POINT. AND WHEN HE LOOKED
13 UP, THE FIRST THING HE SAW WAS A MAN WITH A WHITE MASK, LIKE
14 THE ONE OUT OF THAT MOVIE "SCREAM" OR SOMETHING, COVERING HIS
15 FACE, A HOODIE OR A DARK THING PULLED OVER.

16 HE COULD SEE A SMALL GUN IN HIS HAND, AND AT THAT POINT
17 DARYL HAWKINS KNEW THAT NOTHING GOOD WAS GOING TO HAPPEN THAT
18 NIGHT. SO HE REACTED AND HE JUMPED TOWARDS THE GUY. HE WAS
19 GOING TO TRY TO GET THE GUN AWAY FROM HIM. THE GUN WENT OFF,
20 NOT ONCE BUT A COUPLE OF TIMES. AND AT THAT POINT DARYL
21 HAWKINS REALIZED HE JUST NEEDED TO GET OUT OF THERE WITH HIS
22 LIFE AND HE STARTED BACKING OFF. AND AS HE BACKED AWAY, HE
23 THREW HIS CELL PHONE. HE THREW THE CAR KEYS. HE BEGGED WITH
24 HIM TO JUST TAKE WHATEVER YOU WANT AND LEAVE. HIS ACTUAL
25 CHECKBOOK ENDED UP ON THE GROUND.

1 YOU WILL HEAR FROM INDEPENDENT WITNESSES THAT AS HE KEPT
2 BACKING AWAY TRYING TO THROW THINGS AT THE MAN WITH THE MASK
3 WITH THE GUN WHO HAD JUST SHOT HIM THAT THE MAN WITH THE MASK
4 KEPT SHOOTING. SHOT SOMEWHERE BETWEEN FOUR AND SIX TIMES,
5 HITTING DARYL HAWKINS MULTIPLE TIMES. AND AT THAT POINT HE
6 PICKED UP HIS KEYS AND HE CAME TO FINISH THE JOB THAT HE CAME
7 FOR. HE CAME FOR THE CAR AND HE WAS LEAVING WITH THE CAR
8 BECAUSE HE NEEDED A RIDE HOME, AND HE DROVE OUT A LITTLE
9 ALLEY TOWARDS MAIN STREET LEAVING DARYL HAWKINS IN THE
10 PARKING LOT SHOUTING FOR HELP AS HE WAS SLOWLY BLEEDING WHAT
11 COULD HAVE BEEN TO DEATH.

12 LUCKILY IN THIS CASE, LADIES AND GENTLEMEN, WE AREN'T
13 HERE ON A MURDER CHARGE BECAUSE DARYL HAWKINS HAD THE
14 WHEREWITHAL TO IMMEDIATELY START LIMPING TOWARDS THE BAPTIST
15 HOSPITAL WHICH WAS LITERALLY A BLOCK AWAY. LUCKILY FOR DARYL
16 HAWKINS, ERIC MANCE CHOSE TO SHOOT HIM NEAR A HOSPITAL
17 BECAUSE YOU WILL HEAR FROM EXPERTS IN THIS CASE THAT IF HE
18 HADN'T GOTTEN THE TREATMENT HE DID WITHIN THE MATTER OF
19 MINUTES THAT IT HAPPENED, HE WOULD HAVE BLED OUT INTERNALLY
20 AND THIS WOULD BE A WHOLE DIFFERENT CASE.

21 AS HE APPROACHED THE HOSPITAL, A YOUNG MAN OUTSIDE SAW
22 HIM, REALIZED SOMETHING WAS WRONG. HE WAS SHOT IN THE
23 ABDOMEN, IN THE ARM, IN THE LEG, AND HELPED HIM INSIDE, AND
24 DOCTORS WERE ABLE TO RUSH HIM TO THE OPERATING ROOM. AND
25 YOU'LL HEAR FROM DR. WILSON WHO IS AN EXCELLENT SURGEON HERE

1 IN TOWN WHO LITERALLY SAVED DARYL HAWKINS' LIFE.

2 POLICE RESPOND. IT'S POURING RAIN. THE CRIME SCENE,
3 IT'S HARD TO FIND THINGS. THEY DON'T EVEN FIND ONE OF THE
4 SHELL CASINGS 'TIL THE NEXT DAY THAT. THEY CANVASS THE AREA
5 TRYING TO FIND OUT IF THERE ARE WITNESSES, TALKED TO SOME
6 PEOPLE WHO WERE ABLE TO GIVE INFORMATION ABOUT WHAT THEY SAW
7 WHEN THEY WERE LOOKING OUT THEIR WINDOWS AFTER HEARING THE
8 INITIAL ROUND OF SHOTS AND THEN SUBSEQUENT AS THEY LOOKED OUT
9 THEIR WINDOWS.

10 EVERYONE SAYS THE SAME THING: A MASK, DARK CLOTHING,
11 COULDN'T SEE ANYTHING ELSE, DROVE OFF IN THE TAHOE TOWARDS
12 MAIN STREET. THEY WERE ABLE TO COLLECT SHELL CASINGS AND
13 PROJECTILES. ONE OF THE BULLET ROUNDS ACTUALLY WENT INTO A
14 WALL THAT THEY WERE ABLE TO PHOTOGRAPH. YOU'LL HAVE ALL THAT
15 EVIDENCE. AND AT THAT POINT THEY GET INFORMATION -- BECAUSE
16 BEFORE THEY WHEELED THE VICTIM INTO THE OPERATING ROOM, ONE
17 OFFICER WAS ABLE TO GET IN THERE AND TALK TO HIM, AND BASED
18 ON INFORMATION THAT DARYL HAWKINS WAS ABLE TO GIVE TO HIM
19 THEY REALIZED HE HAD ONSTAR IN HIS CAR WHICH INCLUDES A
20 TRACKING SYSTEM.

21 POLICE NOTIFIED ONSTAR. AS A RESULT, ONSTAR WAS ABLE TO
22 WITHIN AN HOUR DETERMINE EXACTLY WHERE THAT VEHICLE WAS, AND
23 IT WAS NO LONGER IN RICHLAND COUNTY. IT HAD DRIVEN ACROSS
24 THE COUNTY LINE INTO LEXINGTON COUNTY. HAVING PROCESSED THE
25 SCENE THERE IN THE BACK AREA BEHIND TAPP'S IN THE BACK OF THE

1 OFFICE BUILDING, INVESTIGATORS REESE AND THOMAS, WHO YOU WILL
2 HEAR FROM, GO OUT TO THE SCENE. OFFICERS RESPOND THAT NIGHT
3 AND THE NEXT DAY. YOU WILL HEAR HOW WHEN THEY GO OUT THERE
4 THEY GO TO THIS AREA IN GASTON IN LEXINGTON COUNTY NEAR
5 PEELER ROAD. THE EXACT ADDRESS THAT COMES UP ON ONSTAR IS
6 ■■■ PEELER ROAD WHICH IS SIGNIFICANT, LADIES AND GENTLEMEN -
7 I'LL GET BACK TO THAT IN A MINUTE - BECAUSE ERIC MANCE AT THE
8 TIME WAS LIVING WITH HIS WIFE AT ■■■ PEELER ROAD.

9 WHEN THE DEPUTIES GOT OUT THERE, THEY FOUND THE CAR NOT
10 PARKED IN FRONT OF SOMEBODY'S HOUSE BUT PULLED OFF THE ROAD
11 DOWN A DIRT PATH INTO AN AREA WHICH YOU COULDN'T ACTUALLY SEE
12 FROM THE ROAD. THE CAR HAD BEEN DUMPED IN THE WOOD LINE
13 BEHIND THE AREA WHERE THERE ARE A ROW OF HOUSES IN THE 200
14 BLOCK OF PEELER ROAD WHICH INCLUDED ERIC MANCE'S.

15 THE NEXT DAY INVESTIGATORS REESE AND THOMAS GO BACK TO
16 THE SCENE. THEY'RE TRYING TO GET INFORMATION IF ANYONE SAW
17 ANYONE GET OUT OF THE CAR. THEY KNOW, YOU KNOW, THERE MAY BE
18 SOME AFFILIATION TO THAT AREA. WHY ELSE WOULD A CAR BE LEFT
19 THERE? AND AS INVESTIGATOR THOMAS IS WALKING THROUGH THE
20 WOOD LINE WHICH HAPPENS TO BE BEHIND ERIC MANCE'S HOUSE WHICH
21 HE DIDN'T KNOW AT THAT POINT, THIS MAN COMES OUT AND TAUNTS
22 HIM: "OH, YOU'RE THE POLICE. YOU'RE TOO DUMB TO FIND
23 ANYTHING. YOU DON'T KNOW WHAT YOU'RE DOING." DIDN'T THINK
24 IT HAD A THING TO DO WITH THIS CASE BUT NOTED IT JUST BECAUSE
25 THE VERY WAY IT HAPPENED.

1 THE INVESTIGATION CONTINUES. THE NEXT MORNING THE
2 RICHLAND COUNTY SHERIFF'S DEPARTMENT -- TWO YOUNG WOMEN WHO
3 HAPPENED TO LIVE ON PEELER ROAD JUST DOWN FROM WHERE ERIC
4 MANCE AND HIS FAMILY LIVED HAD COME FORWARD: SHERRY AND
5 IRENA. THEY HAD INFORMATION. THEY WERE FRIENDS WITH ERIC
6 MANCE'S 15-YEAR-OLD STEPDAUGHTER, HIS WIFE'S ACTUAL DAUGHTER.

7 THEY WERE ABLE TO RELAY THE INFORMATION THEY HAD THAT
8 THEY HAD GOTTEN DIRECTLY FROM THE DEFENDANT AS WELL AS FROM
9 OTHER PEOPLE. BASED ON THAT INFORMATION, INVESTIGATORS
10 STARTED CONTACTING OTHER FAMILY MEMBERS OF ERIC MANCE,
11 INCLUDING HIS SISTER-IN-LAW LETICIA, HIS WIFE, AND OTHER
12 PEOPLE. AND BY JUNE THE 5TH OF 2006, ERIC MANCE AND HIS
13 WIFE, ODESSA, SHOWED UP AT THE COLUMBIA POLICE DEPARTMENT.
14 THEY WANTED TO KNOW WHAT WAS GOING ON WHICH IRONICALLY AT
15 THAT POINT THE INVESTIGATION HAD PROCEEDED TO THE POINT THEY
16 WERE ACTUALLY GETTING WARRANTS FOR ERIC MANCE'S ARREST.

17 YOU WILL HEAR HOW AS INVESTIGATOR THOMAS INTERVIEWED MR.
18 MANCE'S WIFE, INVESTIGATOR REESE ADVISED ERIC MANCE OF HIS
19 RIGHTS, AND ONCE HE ADVISED HIM OF HIS RIGHTS, HE DECIDED
20 THAT WITH HIS WIFE'S PRESENCE HE WANTED TO TALK TO THE
21 INVESTIGATORS TO TELL THEM WHAT HAD HAPPENED. AND THAT DAY
22 HE TOLD THEM ABOUT HOW HE HAD COME TO TOWN TO GET A HAIRCUT,
23 HOW HE NEEDED A RIDE HOME, HOW HE'D GONE INTO THE PARKING
24 LOT, THAT HE HAD ON A MASK, THAT HE HAD A .38 CALIBER
25 REVOLVER, AND THAT HE HAD APPROACHED THE DEFENDANT (SIC)

1 BECAUSE HE WAS THE ONLY PERSON OUT THERE THAT HE SAW OUT WITH
2 A CAR -- THE VICTIM, EXCUSE ME -- BECAUSE HE WAS THE ONLY
3 PERSON OUT THERE HE SAW WITH A CAR, AND AT THAT POINT THE
4 VICTIM HAD JUMPED AT HIM AND SO HE HAD SHOT HIM. HE SAYS IN
5 HIS STATEMENT HE SHOT FIVE TIMES AND HE DIDN'T KNOW HOW MANY
6 TIMES HE HIT HIM. AND THOSE ARE GOING TO BE ERIC MANCE'S OWN
7 WORDS.

8 HE STATED HIS INTENTION WAS JUST TO ROB HIM. HE DIDN'T
9 MEAN TO SHOOT HIM SO MANY TIMES. BASED ON INFORMATION FROM
10 MRS. MANCE AS WELL AS ERIC MANCE, ERIC TOLD THEM WHERE THE
11 GUN WAS, WHERE THE REST OF THE BULLETS WERE, WHERE THE MASK
12 WAS, AND AT THAT POINT OFFICERS WENT AND GOT A SEARCH WARRANT
13 AS THEY SHOULD AND THEY WENT TO LEXINGTON COUNTY OR, EXCUSE
14 ME, A CONSENT TO SEARCH FROM THE MANCES. AT THAT POINT THEY
15 WENT THERE, AND UNDERNEATH THE BACK PORCH AT THEIR RESIDENCE
16 BURIED IN THE DIRT THEY DUG UP A BOX OF AMMUNITION FOR A .38,
17 THE .38 REVOLVER, AND THE MASK.

18 YOU WILL HEAR HOW THE TESTING WAS DONE IN THIS CASE.
19 YOU WILL HEAR HOW THEY ATTEMPTED TO GET D.N.A. AND WERE
20 SUCCESSFUL. THE D.N.A. FROM THE MASK MATCHES ERIC MANCE.
21 YOU WILL HEAR HOW THEY DID BALLISTICS COMPARISONS. EXPERTS
22 FROM S.L.E.D. WILL COME IN HERE AND WILL TELL YOU HOW
23 DIFFERENT AMMUNITION, SPENT SHELL CASINGS AND EVERYTHING THAT
24 WAS FOUND AT THE SCENE, MATCHES THE .38 CALIBER WEAPON THAT
25 WAS BURIED UNDER ERIC MANCE'S BACK PORCH JUST AS HE SAID IT

1 WOULD BE. AND, LADIES AND GENTLEMEN, THAT'S SOME OF THE
2 EVIDENCE YOU WILL HEAR.

3 NOW, ALL THE STATE ASKS IS THAT ONCE YOU'VE HEARD ALL
4 THE EVIDENCE, THE SWORN TESTIMONY, NOT SPECULATION OR
5 CONJECTURE BY THE LAWYERS, THE SWORN TESTIMONY, THAT YOU HOLD
6 HIM RESPONSIBLE FOR HIS CHOICES AND FOR HIS ACTIONS. THE
7 WORD VERDICT COMES FROM THE LATIN PHRASE VEREDICTO, AND ONE
8 TRANSLATION OF THAT IS SIMPLY TO SPEAK THE TRUTH, AND ALL WE
9 ASK IS THAT YOU HOLD HIM RESPONSIBLE FOR HIS DECISIONS, FOR
10 HIS ACTIONS, BACK ON JUNE THE 2ND OF 2006. THANK YOU.

11 THE COURT: MR. TARR?

12 MR. TARR: MAY IT PLEASE THE COURT? LADIES AND
13 GENTLEMEN, HE WAS CAUGHT IN THE RAIN AND HE NEEDED A RIDE
14 HOME. HE WAS CAUGHT IN THE RAIN AND HE NEEDED A RIDE HOME.
15 IT WAS POURING RAIN ON JUNE 2ND, 2006. MY CLIENT WHO LIVES
16 IN GASTON, AS YOU'VE HEARD, WAS STUCK IN DOWNTOWN COLUMBIA
17 SOAKING WET.

18 NOW, WHO IN THEIR RIGHT MIND WOULD EVER THINK MAYBE I
19 SHOULD PULL A GUN ON SOMEBODY AND USE THEIR CAR TO GET HOME?
20 I WOULDN'T THINK THAT. THE JUDGE WOULDN'T THINK THAT. YOU
21 WOULDN'T THINK THAT. THE STATE WOULDN'T THINK THAT. MY
22 CLIENT, ERIC MANCE, THOUGHT THAT. SOMETHING THAT WOULD NEVER
23 CROSS ANY OF OUR MINDS CROSSED HIS MIND.

24 LADIES AND GENTLEMEN, YOU'RE GOING TO HEAR MY CLIENT HAS
25 AN I.Q. OF 66. HE IS MENTALLY RETARDED. HE WAS STUCK IN

1 DOWNTOWN COLUMBIA IN THE POURING RAIN, AND SOMETHING THAT
2 WOULDN'T CROSS ANY OF OUR MINDS CAME RIGHT INTO HIS MIND AS A
3 WAY TO RESOLVE HIS PROBLEM.

4 YOU'RE NOT GOING TO HEAR ME STAND UP HERE AND SAY THAT
5 MR. MANCE DIDN'T DO THE THINGS THEY SAID HE DID. HE HAD A
6 GUN THAT NIGHT. HE USED A GUN THAT NIGHT. HE TOLD EVERYONE
7 WHO WOULD LISTEN AFTERWARDS THAT HE HAD NO INTENTION OF
8 SHOOTING ANYONE, DID NOT WANT TO SHOOT ANYONE, AND FELT
9 HORRIBLE AND AFTER IT HAPPENED ALL HE WANTED TO DO WAS ASK
10 FOR FORGIVENESS FROM MR. HAWKINS. HE DID NOT WANT TO HURT
11 ANYONE. HE JUST NEEDED THE TRUCK. HE WAS CAUGHT IN THE RAIN
12 AND HE WANTED TO GET HOME.

13 I'M NOT ASKING YOU TO FORGET ABOUT WHAT HAPPENED. I'M
14 NOT ASKING YOU TO HOLD HIM UNACCOUNTABLE. I'M JUST ASKING
15 YOU TO CONSIDER HIS SITUATION AS PART OF ALL THE FACTS THAT
16 YOU'RE GOING TO CONSIDER WHEN YOU MAKE A DECISION ABOUT WHAT
17 HE IS GUILTY OF BECAUSE, LADIES AND GENTLEMEN, JUST BECAUSE
18 THE STATE CHOOSES TO CHARGE SOMEONE WITH A CERTAIN CRIME DOES
19 NOT MEAN THEY'RE GUILTY OF IT.

20 WHEN SOMEONE COMMITS AN ACT THAT THE STATE THINKS IS
21 ILLEGAL, THEY CAN CHOOSE A LOT OF TIMES FROM ANY NUMBER OF
22 OFFENSES TO CHARGE THAT PERSON. THERE'S SEVERAL DIFFERENT
23 TYPES OF ASSAULT, FOR INSTANCE. IN THIS SITUATION THEY HAVE
24 CHARGED HIM WITH ASSAULT AND BATTERY WITH INTENT TO KILL.
25 WHAT YOU'RE GOING TO FIND OUT IS IN ORDER TO CONVICT HIM OF

1 THAT CHARGE, YOU HAVE GOT TO FIND THAT HE HAD MALICE IN HIS
2 HEART.

3 LADIES AND GENTLEMEN, AN EXAMPLE OF SOMEBODY WHO WOULD
4 BE GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL IS
5 SOMEBODY WHO WALKS UP AND SOMEBODY'S GOT THEIR HANDS UP
6 BACKING UP AND HE JUST STARTS SHOOTING THEM. THAT'S MALICE.
7 WHAT YOU'RE GOING TO HEAR FROM THIS STAND IS THAT EVERY
8 SINGLE TIME THAT GUN WENT OFF, MR. HAWKINS WAS EITHER
9 GRABBING THE GUN AND THEY WERE STRUGGLING OVER IT OR HE WAS
10 HITTING HIM OR HE WAS KICKING HIM OR THROWING A CELL PHONE AT
11 HIM. EVERY SINGLE TIME.

12 NOT ONCE WAS MR. MANCE HOLDING A GUN ON HIM AND SHOOTING
13 HIM WITHOUT BEING IN A STRUGGLE. DO I HOLD MR. HAWKINS
14 ACCOUNTABLE? NO. THIS IS A HORRIBLE THING THAT'S HAPPENED
15 TO HIM. BACK AT THE TIME THIS HAPPENED MY OFFICE WAS LESS
16 THAN A HALF A BLOCK FROM HIS. THAT COULD HAVE BEEN ME
17 WALKING TO THE CAR. THAT IS HORRIBLE. I FEEL VERY BADLY FOR
18 HIM. MY CLIENT HAS APOLOGIZED TO HIM IN HIS STATEMENT. I'M
19 APOLOGIZING FOR HIM NOW. I DON'T KNOW WHAT I WOULD DO.
20 NOBODY KNOWS WHAT THEY WOULD DO IN---

21 MS. CAMPBELL: OBJECTION, YOUR HONOR, TO HIS OPINIONS.

22 THE COURT: REFRAIN FROM YOUR PERSONAL OPINIONS,
23 COUNSEL.

24 MR. TARR: I DON'T KNOW WHAT I WOULD DO IF SOMEBODY
25 PULLED---

1 MS. CAMPBELL: OBJECTION, YOUR HONOR, TO HIS OPINION.

2 MR. TARR: IT'S NOT OPINION. I'M TALKING ABOUT IF
3 SOMEBODY PULLED A GUN ON ME.

4 THE COURT: THE OBJECTION IS OVERRULED.

5 MR. TARR: I DON'T KNOW WHAT I WOULD DO. I DON'T KNOW
6 IF I WOULD JUST THROW THE KEYS AND SAY, "PLEASE TAKE THE
7 CAR," OR IF I WOULD FIGHT. I MEAN, I PROBABLY WOULDN'T HAVE
8 TIME TO THINK. I'M NOT HOLDING HIM ACCOUNTABLE FOR THAT.
9 I'M JUST SAYING IT IS AN APPROPRIATE THING FOR YOU TO THINK
10 ABOUT. IT'S A BIG DISTINCTION TO MAKE: DID ERIC MANCE JUST
11 IN COLD BLOOD START SHOOTING HIM OR DID THE GUN GO OFF WHEN
12 THEY WERE STRUGGLING? THAT CAN BE THE DIFFERENCE BETWEEN
13 ASSAULT AND BATTERY WITH INTENT TO KILL OR SOME OTHER
14 ASSAULT, AND THAT'S JUST SOMETHING TO THINK ABOUT. LADIES
15 AND GENTLEMEN, THIS WHOLE THING STARTED BECAUSE MY CLIENT WAS
16 WET, STUCK IN THE RAIN, AND WANTED TO GET HOME. HE WANTED TO
17 USE THE TRUCK OF MR. HAWKINS.

18 ARMED ROBBERY REQUIRES THAT MR. MANCE INTENDED TO
19 PERMANENTLY DEPRIVE MR. HAWKINS OF THE TRUCK. LADIES AND
20 GENTLEMEN, MY CLIENT - WHEN HE FOUND OUT THEY WERE LOOKING
21 FOR HIM - TURNED HIMSELF IN. HE SAT DOWN AND TOLD THEM
22 EXACTLY WHAT HAPPENED. YOU'RE GOING TO GET THAT STATEMENT.
23 THE VERY FIRST SENTENCE IS: I WAS STUCK IN THE RAIN AND I
24 WANTED -- I NEEDED A RIDE HOME. HE HAD NO INTENTION OF
25 STEALING ANYTHING FROM MR. HAWKINS. HE DIDN'T TAKE ANYTHING

1 FROM THE TRUCK. THERE WAS MONEY IN THE TRUCK, BRIEFCASE, A
2 NUMBER OF OTHER THINGS. NOTHING WAS MISSING. HE TOOK THE
3 KEYS AND THE TRUCK AND WENT HOME AND PARKED IT RIGHT BY HIS
4 HOUSE.

5 POSSESSION OF A PISTOL BY A PERSON CONVICTED OF A CRIME
6 OF VIOLENCE. YOU WILL NOT HEAR ME ARGUE THAT MR. MANCE
7 DIDN'T POSSESS A PISTOL, AND WE HAVE STIPULATED THAT HE HAS
8 BEEN CONVICTED OF A CRIME OF VIOLENCE. HE'S GUILTY OF THAT
9 CHARGE. IF HE WERE ALLOWED TO PLEAD GUILTY TO THE THINGS
10 THAT HE DID, HE WOULD PLEAD GUILTY, BUT HE CAN'T. THEY HAVE
11 STUCK WITH THESE CHARGES. THAT'S WHAT HE'S FACING. AND
12 LUCKILY WE HAVE 12 MEMBERS OF THE COMMUNITY TO COME IN HERE
13 AND LISTEN TO ALL OF THE EVIDENCE AND MAKE A DECISION ON WHAT
14 HAPPENED THAT NIGHT AND ON WHAT HE IS GUILTY OF.

15 WHAT HAPPENED THAT NIGHT WAS HORRIBLE. I WOULDN'T WISH
16 IT UPON ANYBODY, BUT ALL WE ASK IS THAT YOU LISTEN TO ALL THE
17 STATE'S CASE. LISTEN TO DR. TORA BRAWLEY WHO I'M GOING TO
18 INTRODUCE WHO HAD A CHANCE TO EVALUATE MR. MANCE AND PUT HIM
19 THROUGH A NUMBER OF DIFFERENT PSYCHOLOGICAL TESTS AND HEAR
20 WHAT SHE SAYS IS THE TYPE OF MIND THAT HE HAS AND HOW SOMEONE
21 WITH A MIND LIKE HIM THINKS AND THE PROBLEMS THAT HE HAS
22 MAKING DECISIONS.

23 CONSIDER THAT. CONSIDER EVERYTHING YOU HEAR TODAY AND
24 TOMORROW, AS LONG AS THIS CASE GOES. I FEEL CONFIDENT THAT
25 AFTER YOU DO THAT YOU WILL REALIZE THAT ALTHOUGH THIS IS A

1 HORRIBLE TRAGEDY, MR. MANCE IS NOT GUILTY OF ARMED ROBBERY OR
2 ASSAULT AND BATTERY WITH INTENT TO KILL. THANK YOU.

3 THE COURT: ALL RIGHT. YOUR FIRST WITNESS?

4 MR. GOLDBERG: MAY IT PLEASE THE COURT? THE STATE CALLS
5 DARYL HAWKINS.

6 THE COURT: PLEASE STAND JUST FOR A MOMENT BEFORE HE
7 SWEARS HIM. PLEASE STAND JUST FOR A MOMENT AND TAKE A LITTLE
8 STRETCH.

9 DARYL G. HAWKINS, AFTER BEING DULY SWORN, TESTIFIED
10 AS FOLLOWS:

11 THE CLERK: HAVE A SEAT IN THE WITNESS BOX AND STATE
12 YOUR FULL NAME FOR THE RECORD, PLEASE.

13 THE WITNESS: MY NAME IS DARYL GENE HAWKINS.

14 DIRECT EXAMINATION

15 BY MR. GOLDBERG:

16 Q. MR. HAWKINS, GOOD AFTERNOON.

17 A. GOOD AFTERNOON.

18 Q. COULD YOU TELL THIS JURY A LITTLE BIT ABOUT WHO YOU ARE
19 AND WHERE YOU'RE FROM AND WHAT YOU DO?

20 A. SURE. I WAS BORN IN CHARLESTON, SOUTH CAROLINA. I GREW
21 UP MOSTLY DOWN IN THE LOW COUNTRY. I WENT TO HIGH SCHOOL
22 THERE, WENT TO COLLEGE AT WOFFORD, GRADUATED IN 1976, DID A
23 LOT OF DIFFERENT THINGS FOR ABOUT THREE OR FOUR YEARS, WORKED
24 IN A BANK. THEN I WENT TO LAW SCHOOL, GRADUATED IN DECEMBER
25 OF 1982. I CLERKED FOR A YEAR ON THE SOUTH CAROLINA SUPREME

1 COURT. I WORKED FOR JUSTICE BRUCE LITTLEJOHN WHO I WAS
2 PRIVILEGED TO BE WITH WHEN HE BECAME THE CHIEF JUSTICE. THEN
3 I WENT INTO PRIVATE PRACTICE, AND I'VE BEEN PRACTICING LAW --
4 LICENSED IN MAY OF 1983 TO THIS DAY, AND MY PRACTICE IS
5 FAIRLY GENERAL IN TERMS OF LITIGATION. I'VE BEEN INVOLVED IN
6 20, 30 TRIALS, HUNDREDS OF OTHER CASES THAT SETTLED OUT
7 THANKFULLY.

8 Q. AND YOUR OFFICE CURRENTLY IS IN COLUMBIA? IS THAT
9 CORRECT?

10 A. YES, IT IS.

11 Q. BACK IN 2006 WHERE WAS YOUR OFFICE LOCATED?

12 A. IT WAS AT 1634 MAIN STREET, CLOSE TO A BLOCK FROM WHERE
13 WE ARE NOW.

14 Q. I SHOW YOU WHAT'S BEEN---

15 A. I PROBABLY SHOULD MENTION THAT I'M MARRIED, AND MY WIFE,
16 SUZANNE, IS SEATED RIGHT OVER THERE AND MY TWO CHILDREN -- MY
17 DAUGHTERS, ASHLEY AND ALLISON, ARE IN THE AUDIENCE ALONG WITH
18 MY MOTHER.

19 Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
20 8. I'LL HAVE YOU TAKE A LOOK AT THIS. DO YOU RECOGNIZE
21 THAT?

22 A. I DO. I NEED TO GET ORIENTED. I SEE IT. I SEE WHERE
23 WE ARE.

24 Q. OKAY. YOU CAN USE THAT. CAN YOU GENERALLY DESCRIBE
25 THAT AREA FOR US, PLEASE?

1 A. SURE. WE'RE ALL SITTING RIGHT OVER HERE. THIS IS THE
2 RICHLAND COUNTY COURTHOUSE. THIS IS MAIN STREET THAT GOES
3 THIS WAY. THIS IS BLANDING STREET THAT COMES THIS WAY. THIS
4 IS THE OLD TAPP'S BUILDING ON THE CORNER. IT'S BEEN -- THE
5 FIRST FLOOR IS A WORKOUT PLACE CALLED THE FACTORY, AND THERE
6 ARE CONDOMINIUMS ON TOP OF IT. THERE'S A VERY SMALL PARK
7 RIGHT HERE, AND THIS IS MY OFFICE BUILDING. YOU WILL SEE AN
8 ALLEYWAY THAT GOES FROM MAIN STREET ALONG THE SIDE OF MY
9 BUILDING TO THE PARKING AREA BACK HERE. THIS BUILDING IS THE
10 KIMBRELL'S FURNITURE STORE, AND ALL OF WHAT WE'RE TALKING
11 ABOUT HAPPENED RIGHT IN THIS AREA HERE BEHIND THE BUILDING.

12 Q. ALL RIGHT. AND BACK IN JUNE OF '06, THAT'S WHERE YOUR
13 OFFICE WAS LOCATED?

14 A. THAT'S CORRECT. SUMTER STREET IS RIGHT THERE. YOU CAN
15 SEE PART OF SUMTER, AND IT COMES ON ALONG HERE. IF YOU GO
16 OUT THIS ALLEY AND SORT OF BEHIND MY BUILDING, IT HITS SUMTER
17 STREET RIGHT ALONG IN HERE SOMEWHERE.

18 MR. GOLDBERG: OKAY. YOUR HONOR, AT THIS TIME WE WOULD
19 OFFER STATE'S EXHIBIT 8 INTO EVIDENCE.

20 MR. TARR: NO OBJECTION.

21 THE COURT: IT'S ADMITTED.

22 (STATE'S EXHIBIT 8 WAS RECEIVED IN EVIDENCE.)

23 BY MR. GOLDBERG:

24 Q. BACK ON JUNE THE 2ND OF 2006, WERE YOU WORKING THAT DAY?

25 A. YES, I WAS.

1 Q. WHAT WERE YOU DOING THAT AFTERNOON?

2 A. I HAD A CASE THAT WAS ON THE DOCKET IN LEXINGTON COUNTY.
3 IT WAS A CONSTRUCTION LITIGATION MATTER. THERE WERE SOME
4 DEPOSITIONS THAT NEEDED TO BE TAKEN THAT HADN'T BEEN
5 FINISHED. SO I WAS OVER IN ANOTHER LAWYER'S OFFICE ON
6 ELMWOOD STREET WITH MY TWO CLIENTS AND HIS CLIENTS. WE
7 WORKED UNTIL ABOUT 7:00, AND THEN WE CAME BACK TO MY OFFICE.
8 I DROPPED THEM OFF.

9 Q. SO YOU WERE IN YOUR CAR AT HIS OFFICE?

10 A. THAT'S CORRECT.

11 Q. WHAT KIND OF CAR WAS THAT?

12 A. IT WAS A CHEVROLET TAHOE, WHITE.

13 Q. OKAY. ABOUT WHAT TIME DID YOU HEAD BACK TOWARDS YOUR
14 OFFICE?

15 A. I THINK WE GOT THERE APPROXIMATELY 7:00 P.M. IT WAS IN
16 THE EVENING.

17 Q. AND WHAT, IF ANYTHING, DID YOU NOTICE WHEN YOU PARKED
18 YOUR CAR IN THE PARKING LOT BEHIND 1634 MAIN STREET THAT
19 NIGHT?

20 A. THERE WAS ANOTHER CAR PARKED NEXT TO MINE. I JUST
21 REMEMBER IT WAS SORT OF A SMALL SILVER CAR. I DIDN'T PAY A
22 LOT OF ATTENTION TO IT AT THE TIME, BUT I REMEMBER IT HAD A
23 CAROLINA BUMPER STICKER OR SOMETHING LIKE SOME KIND OF
24 CAROLINA THING OR MAYBE MORE THAN ONE. I WENT INTO MY OFFICE
25 TO TAKE NOTES FROM THE DEPOSITION. WE JUST DEPOSED TWO OR

1 THREE PEOPLE THAT AFTERNOON AND, AS I WAS SAYING, UP UNTIL
2 ABOUT 6:30 OR 7 THAT NIGHT. I WANTED TO GET SOME OF THOSE
3 THOUGHTS DOWN BECAUSE WE THOUGHT WE WERE GOING TO TRIAL
4 MONDAY MORNING.

5 I HAPPENED TO CHECK MY VOICE MAIL MESSAGES AS I WAS
6 LEAVING THE OFFICE, AND I BECAME AWARE THAT THE CAR THAT WAS
7 PARKED BEHIND OUR OFFICE BELONGED TO A YOUNG INTERN, A YOUNG
8 LADY WHO WAS JUST -- SHE WAS GOING TO THE UNIVERSITY OF SOUTH
9 CAROLINA. I THINK SHE WAS A SOPHOMORE AT THE TIME. AND IT
10 HIT ME THAT WHY WASN'T -- WHERE WAS SHE? SHE HAD LEFT THIS
11 MESSAGE ABOUT BEING LOCKED -- YOU KNOW, LEAVING THE BUILDING.
12 SHE'S THE LAST ONE THERE. DIDN'T HAVE A KEY TO LOCK UP. IT
13 WAS ABOUT 6:30. SHE KNEW I WAS IN THE DEPOSITION AND WHAT
14 SHOULD SHE DO? THE MESSAGE HAD BEEN LEFT ON MY CELL PHONE.

15 SO I WONDERED WHERE WAS SHE, AND IT'S LIKE 9:30 NOW, 9
16 OR 9:30 AT NIGHT. SO THE FIRST THING I DID WAS LOOK AROUND
17 IN THE BUILDING TO SEE IF MAYBE SHE'D BEEN BUMPED ON THE HEAD
18 OR SOMETHING, AND I LOOKED IN THE LADIES' BATHROOM, THINGS
19 LIKE THAT, AND SHE WASN'T THERE. SO AS I WALKED OUT THE BACK
20 DOOR, MY CAR WAS PARKED NEXT TO HERS RIGHT IN THIS AREA. AND
21 THE BACK DOOR IS ON THIS SIDE---

22 Q. IF I COULD STOP YOU BRIEFLY.

23 A. SURE.

24 Q. I'M SORRY. I HATE TO INTERRUPT. LET ME SHOW YOU WHAT'S
25 BEEN MARKED AS STATE'S EXHIBIT 9. DO YOU RECOGNIZE THAT?

1 A. I DO. THIS IS THE REAR OF MY BUILDING. THE LIGHTER-
2 COLORED BUILDING IS MY OFFICE. MY ACTUAL OFFICE WAS THE
3 SECOND WINDOW FROM THE RIGHT, AND I WOULD HAVE COME OUT A
4 DOOR THAT, WHEN YOU HAVE THIS CLOSER, YOU'LL SEE IS AT THE
5 BOTTOM OF THIS SORT OF CREAM-COLORED BUILDING WITH ARCHED-
6 SHAPED WINDOWS ON TOP.

7 Q. AND LET'S BACK UP ALSO FOR A SECOND. YOU SAID IT WAS
8 ABOUT 9:30 WHEN YOU---

9 A. THAT'S CORRECT.

10 Q. IS THAT UNCOMMON FOR YOU TO WORK THAT LATE?

11 A. NO, BUT ESPECIALLY ON A TRIAL -- THIS ACTUALLY WAS A
12 FRIDAY NIGHT, SO IT WAS -- I PROBABLY DIDN'T ALWAYS WORK THAT
13 LATE ON FRIDAYS, BUT WE THOUGHT WE HAD A TRIAL THAT MONDAY.

14 Q. AND AGAIN THE REASONING WHY YOU WENT INTO THE OFFICE TO
15 DO WORK AFTER THE DEPOSITION?

16 A. TO TAKE THE THINGS I HAD JUST HEARD AND BEGIN PREPARING
17 MY EXAMINATIONS OF THOSE WITNESSES AT THE TRIAL ON MONDAY
18 WHILE IT WAS ALL FRESH IN MY MIND.

19 Q. WAS THERE ANYTHING ELSE YOU WERE DOING WHILE YOU WERE AT
20 YOUR DESK BEFORE YOU LEFT?

21 A. WELL, I SORT OF THINK OF THIS IN RETROSPECT, I REALIZE,
22 BECAUSE I -- WHEN I GOT OUTSIDE, I HAD MY CELL PHONE IN MY
23 HAND AND I HAD MY WALLET. AND WHAT I COMMONLY DID OR OFTEN
24 DID WAS I WOULD PAY BILLS BY PHONE, AND I THINK I HAD PAID MY
25 AMERICAN EXPRESS BILL AND MAYBE ANOTHER CREDIT CARD BY PHONE.

1 I THINK THAT'S WHY I HAD IT OUT AND CHECKED MY VOICE MAIL. I
2 SAW THAT -- YOU KNOW, MY PHONE GAVE ME A LITTLE PICTURE OF
3 SOMETHING THAT TOLD YOU YOU HAD A VOICE MAIL. AND SO I THINK
4 I WAS PAYING THOSE BILLS BY PHONE, AND THEN I SAW THE MESSAGE
5 LIGHT. SO I CHECKED THE MESSAGE AND THEN I WENT -- HER NAME
6 HAPPENED TO BE ASHLEY, ASHLEY CASTILLO, AND THAT'S WHEN I
7 STARTED LOOKING AROUND IN THE BUILDING FOR HER.

8 Q. AND WHEN YOU COULDN'T FIND HER, YOU ACTUALLY PLACED A
9 CALL TO HER PHONE? IS THAT RIGHT?

10 A. I DID. I CALLED HER AND LEFT A MESSAGE THAT SAID I HAD
11 GOTTEN HER MESSAGE WHICH HAD BEEN LEFT AT ABOUT 6:30,
12 ACCORDING TO HER MESSAGE. NOW IT'S LIKE 9:30 OR PROBABLY BY
13 NOW IT'S A LITTLE PAST 9:30, AND I CALLED AND LEFT HER A
14 MESSAGE SAYING, YOU KNOW, "I GOT YOUR MESSAGE. YOU'RE NOT
15 HERE. YOUR CAR IS IN THE BACK. I'M A LITTLE CONCERNED. TO
16 MAKE SURE YOU'RE ALL RIGHT, WILL YOU PLEASE CALL ME WHEN YOU
17 GET THIS MESSAGE AND LET ME KNOW YOU'RE OKAY?"

18 Q. AT THIS POINT DID YOU THEN EXIT YOUR OFFICE AND GO
19 TOWARD THE CAR?

20 A. I DID.

21 Q. PLEASE TELL THE JURY WHAT HAPPENED AS YOU WALKED OUT OF
22 THE BUILDING.

23 A. IT WAS -- OUR BACK AREA WAS NOT AS WELL LIT AS IT IS
24 TODAY AND IT WAS ALSO RAINING A LITTLE BIT. IT WAS NOT A
25 HARD DOWNPOUR AT THAT PARTICULAR MOMENT, BUT RAIN WAS COMING

1 DOWN. AS I WALKED AROUND HER CAR, FOR WHATEVER REASON I WAS
2 LOOKING IN HER CAR. I DON'T KNOW WHAT I WAS LOOKING FOR BUT
3 JUST -- I WAS -- MY ATTENTION WAS DISTRACTED. AS I WALKED
4 AROUND THE CAR, I GOT BETWEEN HER CAR AND MY CAR AND THERE
5 WAS A -- WELL, AS YOU CAN KIND OF SEE ON HERE...

6 Q. LET ME SHOW YOU ALSO WHAT'S BEEN MARKED AS STATE'S
7 EXHIBIT 11. DO YOU RECOGNIZE THAT?

8 A. YES. EXHIBIT 11 IS THIS WALL RIGHT HERE, AND YOU'RE
9 LOOKING INTO IT FROM HERE. THE DOOR WOULD BE TO THE LEFT.
10 THE DOOR THAT I CAME OUT OF RIGHT HERE WOULD BE JUST OUT OF
11 THIS PICTURE, AND IT'S THE DOOR THAT'S RIGHT THERE. I KNOW
12 SOME OF YOU ARE A PRETTY GOOD WAYS AWAY. YOU'LL HAVE TO SEE
13 THIS A LITTLE CLOSER IN A BIT.

14 Q. DO THESE -- I'M SORRY. DO THESE PHOTOS FAIRLY AND
15 ACCURATELY DEPICT THAT SCENE AS IT WAS ON THAT NIGHT EXCEPT
16 FOR IN STATE'S NUMBER 9 AS IT APPEARS TO BE DAYTIME?

17 A. THAT'S CORRECT. THAT'S A DAYLIGHT PHOTOGRAPH. THIS ONE
18 LOOKS TO ME LIKE IT WAS PROBABLY TAKEN AT NIGHT, BUT IT'S
19 PROBABLY A LITTLE BETTER LIT HERE THAN IT WOULD HAVE BEEN
20 THAT NIGHT.

21 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE WOULD OFFER
22 STATE'S 9 AND 11 INTO EVIDENCE.

23 MR. TARR: NO OBJECTION.

24 THE COURT: THEY ARE ADMITTED.

25 (STATE'S EXHIBITS 9 AND 11 WERE RECEIVED IN EVIDENCE.)

1 BY MR. GOLDBERG:

2 Q. IF YOU WOULD GO AHEAD AND CONTINUE USING THESE PICTURES
3 AND DIAGRAMS---

4 A. ALL RIGHT.

5 Q. ---DESCRIBING WHERE YOU ARE.

6 A. ALL RIGHT. LOOKING DOWN ON THIS, YOU CAN HOPEFULLY SEE
7 THAT THERE'S A WALL THAT COMES ALONG HERE AND THEN DOES A
8 LITTLE DOG LEG OUT, AND IT GOES DOWN AGAIN AND IT HITS SUMTER
9 STREET SOMEWHERE RIGHT AROUND HERE. AT THIS POINT THE WALL
10 -- AS YOU CAN SEE ON THIS PHOTOGRAPH, YOU CAN'T EVEN SEE THE
11 TOP OF THE WALL AND YOU CAN'T SEE IT IN THIS ONE EITHER. BUT
12 THAT WALL RIGHT HERE WHERE THE CARS ARE, IT'S PROBABLY ABOUT
13 20 FEET HIGH. IT STAYS AT THAT SAME HEIGHT WHEN YOU GET TO
14 THE CORNER AND COME AROUND IT, AND AS YOU COME DOWN THIS PART
15 OF THE WALL, IT BEGINS TO DESCEND, AND WHEN IT GETS TO SUMTER
16 STREET IT'S PROBABLY A THREE-OR-FOUR-FEET-HIGH WALL.

17 SO AS I CAME OUT OF HERE, I WALKED AROUND AND THIS -- I
18 DON'T KNOW IF THAT'S HER CAR OR NOT, BUT IT WAS A SMALL
19 SILVER-LOOKING CAR AS I REMEMBER IT LIKE THIS. I WALKED
20 AROUND THAT CAR, AND MY CAR WOULD HAVE BEEN PARKED IN THIS
21 EMPTY SPACE HERE. AND I STEPPED IN BETWEEN THEM AND I HAD MY
22 KEYS IN MY HAND. I HIT THE DOOR LOCK AND SO THE LIGHT CAME
23 ON, THE DOME LIGHT IN THE CAR, AND AS I TURNED TO GET INTO
24 THE CAR, FROM OUT OF MY PERIPHERAL VISION, YOU KNOW, IT SORT
25 OF FELT LIKE A BALLOON FLOATING IN THE AIR OR SOMETHING. IT

1 WAS---

2 Q. CAN YOU DESCRIBE GENERALLY WHAT IT LOOKED LIKE?

3 A. WELL, IT WAS WHITISH -- AT THE TIME IT WAS JUST KIND OF
4 WHITE-COLORED. I KNEW SOMETHING WAS COMING. IT WAS MOVING;
5 IT WAS COMING TOWARDS ME. I DIDN'T HAVE THE NOTION THAT IT
6 WAS A PERSON UNTIL HE GOT REALLY CLOSE, AND WHEN HE GOT ABOUT
7 FROM ME TO THIS JUROR, I REALIZED IT WAS SOMEBODY AND THAT
8 THEY WERE DRESSED PRETTY DARK, THAT HE HAD ON A -- IT WAS A
9 MASK, LIKE A HALLOWEEN SORT OF MASK, HAD THE SKULL-ISH
10 FEATURES ON IT.

11 AT THAT POINT I DON'T THINK I WAS NOTICING THE HOODIE,
12 BUT I DID LATER THAT IT HAD SOME KIND OF A HOOD ON TOP. HE
13 WAS COMING IN PRETTY QUICK. I STEPPED IN TO HIM AND BUMPED
14 HIM. IF I HIT HIS HAND, I WASN'T AWARE OF HITTING HIS HAND
15 PRECISELY, BUT I -- WE HIT ONE TIME. I KNOCKED HIM BACK A
16 STEP OR TWO.

17 AT THAT POINT HE WAS AT THE REAR OF WHERE THIS CAR IS
18 AND I WAS ABOUT HALFWAY DOWN THE CAR. I WAS JUST PAST THE
19 DRIVER'S DOOR. I HAD PROBABLY HIT HIM AT THE PASSENGER DOOR
20 ON MY TAHOE, BUT HE WENT BACK A STEP OR TWO TO ABOUT THE REAR
21 OF THIS CAR.

22 I LOOKED DOWN AND THEN I REALIZED THAT HE HAD A PISTOL
23 IN HIS HAND. I GREW UP WITH GUNS MY WHOLE LIFE. MY DAD WAS
24 A HUNTER; I'M A HUNTER. WE HAVE SHOT PISTOLS BEFORE. AND IT
25 WAS A REVOLVER AND I COULD SEE BULLETS IN THE CHAMBERS ON THE

1 REVOLVER, AND I KNEW WE WERE IN TROUBLE AT THAT TIME.

2 Q. AND YOU'RE SAYING THAT WHEN THIS INITIAL ENCOUNTER TOOK
3 PLACE, YOU WERE ABOUT HALFWAY DEEP ON THAT CAR AND HE WAS
4 BACK TOWARDS THE BACK BUMPER? IS THAT RIGHT?

5 A. THAT'S ABOUT RIGHT. HE WAS -- HE WAS FURTHER OUT. HE
6 WAS FURTHER OUT THAN THE BACK OF OUR CARS, AND I WAS IN
7 BETWEEN TWO CARS WITH THE WALL BEHIND ME.

8 Q. AND ONCE YOU TURNED AROUND AND SAW THAT HE HAD A PISTOL,
9 WHAT DID YOU DO?

10 A. I SAID OH SOMETHING AND THEN HE STARTED SHOOTING ME. IF
11 HE SAID ANYTHING, I DIDN'T REALLY UNDERSTAND IT. THERE WAS
12 NO, YOU KNOW, GIVE ME YOUR KEYS; THIS IS A STICK-UP. THERE
13 WAS NOTHING LIKE THAT. I HAD KNOCKED HIM BACK A STEP OR TWO.
14 I SAW THE GUN AND THEN HE SHOT.

15 Q. YOU TURNED AROUND---

16 A. AND HE KEPT SHOOTING.

17 Q. YOU TURN AROUND AND YOU SEE HIM. YOU MAKE A GESTURE
18 TOWARDS THE GUN. IT KNOCKS HIM BACK; IS THAT RIGHT?

19 A. THAT'S CORRECT.

20 Q. I JUST WANT TO MAKE SURE I HAVE THIS CLEAR.

21 A. I DIDN'T REALIZE HE HAD A GUN AT FIRST.

22 Q. OKAY. AND THEN AT THIS POINT YOU SEPARATE.

23 A. YES.

24 Q. WHEN YOU SEPARATE, YOU SEE THE GUN AND THEN HE FIRES.

25 A. THAT'S CORRECT.

1 Q. OKAY. HOW MANY TIMES DID HE FIRE?

2 A. YOU KNOW, PARTS OF THIS ARE REAL CLEAR IN MY MIND. SOME
3 OF IT IS A LITTLE FUZZIER. I KNOW HE SHOT MULTIPLE TIMES. I
4 KNOW HE HIT ME IN THE ARM AND THE CHEST. I'VE TOLD THIS
5 BEFORE. I DON'T KNOW IF ANYBODY REMEMBERS THIS, BUT FIVE OR
6 SIX YEARS AGO - I DON'T KNOW HOW LONG AGO - THERE WAS AN
7 INCIDENT WHERE A LAWYER CAME OUT OF A COURTROOM AND SOMEBODY
8 STARTED SHOOTING AT HIM WITH A PISTOL AND THERE WAS A PERSON
9 THERE WITH A VIDEO CAMERA, AND HE GOT BEHIND A LITTLE TREE
10 ABOUT THIS BIG AND HE STARTED JUMPING BACK AND FORTH LIKE
11 THIS, AND THAT PERSON SHOT AT HIM SIX TIMES. AND ALL THAT
12 HAPPENED WAS HE GOT SHOT IN HIS ELBOW A COUPLE OF TIMES, AND
13 THAT -- SOMETHING OF THAT IMAGE FLASHED IN MY BRAIN. AND
14 AFTER HE SHOT THE FIRST SHOT, I STARTED DANCING AND JUMPING
15 BACK AND FORTH ALL THAT I COULD.

16 AT SOME POINT I REALIZED THAT I WAS EITHER JUST GOING TO
17 STAND THERE AND GET SHOT TO DEATH OR DO SOMETHING ABOUT IT.
18 I COULDN'T GO BACKWARDS BECAUSE I HAD A WALL BEHIND ME. I
19 HAD THE TWO CARS BESIDE ME. AND I BEGAN TO THROW WHATEVER
20 WAS IN MY HANDS AT HIM. I KNOW I SMASHED MY CELL PHONE ON
21 HIM SOMEHOW. I KNOW MY KEYS WENT AT HIM. I THEN CHARGED HIM
22 AND RAN INTO HIM MYSELF.

23 BY THAT TIME WE WERE TOWARDS THE BACK OF MY CAR. I KNOW
24 THAT I WENT DOWN AND DID KIND OF A SUMMERSAULT ON THE GROUND,
25 AND WHEN I CAME UP, I WAS AT THE END OF MY CAR. AND I

1 STARTED RUNNING OUT TOWARDS SUMTER STREET AND I THINK I SAID,
2 "HELP. POLICE. I'VE BEEN SHOT," AND I THINK I YELLED THAT
3 TWO OR THREE TIMES. THE LAST BULLET HIT ME IN MY -- RIGHT
4 ABOUT HERE AND ONE -- AND I DON'T KNOW IF IT'S THE SAME ONE
5 THROUGH MY ARM INTO HERE OR NOT, BUT ONE WENT THROUGH MY ARM.
6 ONE WENT INTO MY -- BELOW -- RIGHT BELOW MY RIB CAGE HERE AND
7 ONE CAME IN HERE. AND SO I STARTED RUNNING OUT OF THERE AS
8 FAST AS I COULD.

9 Q. AND AS YOU WERE RUNNING AWAY FROM THIS AREA TOWARDS
10 SUMTER STREET, WHAT, IF ANYTHING, DID YOU SEE OR HEAR AT THAT
11 POINT?

12 A. I THINK HE SHOT AT ME AT LEAST ONE MORE TIME AS I WAS --
13 HAD MY BACK TO HIM AND I WAS RUNNING AWAY.

14 Q. AND THAT WOULD HAVE BEEN AS YOU WERE RUNNING TOWARDS --
15 IN THIS DIRECTION?

16 A. CORRECT.

17 Q. AND DID YOU ALSO SAY THAT THIS WALL AS IT GOES DOWN HERE
18 IT COMES OUT A LITTLE BIT? IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. OKAY.

21 A. IT DOES.

22 Q. OKAY. AND---

23 A. AND IT'S A FULL CAR LENGTH WHERE IT COMES OUT AND MAKES
24 THIS JAG. YOU CAN SEE SOME CARS ARE PARKED RIGHT HERE. THEY
25 ARE WHERE IT COMES OUT AND GOES DOWN, AND THESE ARE SORT OF

1 DOUBLE ROWS OF PARKING. SOMETIMES CARS PARK TWO TO A SPOT.

2 Q. AS YOU WERE RUNNING, DID YOU EVER LOOK BACK?

3 A. I DID AND, YOU KNOW, WHEN -- WHEN HE WAS SHOOTING AT ME,
4 I DIDN'T HAVE TIME TO BE SCARED, BUT WHEN I WAS RUNNING DOWN
5 THAT ALLY I LOOKED BACK AND MY CAR WAS BACKING UP. I THOUGHT
6 HE WAS GOING TO RUN ME OVER. MAY I HAVE A GLASS OF WATER?
7 ANYWAY... THANK YOU. THAT'S WHEN I WAS SCARED BECAUSE I
8 KNEW THERE WAS NOWHERE TO GO. I WAS STUCK BETWEEN THESE
9 WALLS. I WAS HOPING I COULD GET TO WHERE THE WALL GETS
10 LOWER. I'D BE ABLE TO JUMP OVER IT. AND THANKFULLY HE WENT
11 OUT THE OTHER WAY.

12 Q. I WANT TO SHOW YOU ALSO STATE'S NUMBER 10. TAKE A LOOK
13 AT THAT, PLEASE.

14 A. ALL RIGHT. THIS IS -- THIS IS LOOKING DOWN THE ALLEYWAY
15 FROM SUMTER STREET. THIS IS SUMTER STREET RIGHT HERE. THIS
16 LITTLE BEIGE KIND OF COLORED BUILDING BACK HERE IS THE BACK
17 OF MY BUILDING RIGHT HERE. AND AS I RAN OUT OF THE ALLEY --
18 OR RIGHT HERE IT'S VERY ALLEY-LIKE. YOU CAN'T REALLY SEE THE
19 WALL OVER HERE BECAUSE THERE'S TREES GROWN, BUT IT'S ONLY
20 ABOUT FOUR FEET HIGH RIGHT ALONG IN HERE.

21 WHEN I GOT TO THE CORNER, THERE WAS A GUY THAT WORKED AT
22 BAPTIST MEDICAL CENTER IN THE EMERGENCY ROOM. HIS NAME IS
23 CHRIS MILLHOUSE. HE WAS A FORMER MARINE. AND HE HEARD THE
24 SHOTS AND HE WAS OUT ON A BREAK, AND I THINK HE WAS PROBABLY
25 ON A SMOKE BREAK. THEY DON'T ALLOW THEM TO SMOKE OUT THERE.

1 SO HE -- WE'VE NEVER TALKED A LOT ABOUT WHAT HE WAS DOING OUT
2 THERE. BUT HE HEARD THE SHOTS AND HE RAN TO ME INSTEAD OF
3 AWAY, AND HE MET ME AT THE CORNER OUT HERE ON SUMTER STREET
4 AND THE TWO OF US, WITH MY ARM AROUND HIS SHOULDER -- WE MET
5 RIGHT AT THE CORNER OF THIS BUILDING. LIKE I SAID, IT WAS
6 NIGHTTIME; IT WAS RAINING SOME. WE KIND OF STAGGERED ACROSS
7 THE ROAD.

8 THE VERY NEXT CORNER IS TAYLOR STREET, TAYLOR AND
9 SUMTER. THERE'S A CHURCH ON THE CORNER, AND THE BAPTIST
10 HOSPITAL WRAPS AROUND THAT CHURCH. AND WE WENT AROUND THE
11 CHURCH AND IN THE BACK DOOR THAT HE HAD A KEY FOR, THAT KEY.

12 Q. LET ME ASK YOU, BEFORE WE GET INTO WHAT HAPPENED IN THE
13 HOSPITAL -- YOU STATED A MOMENT AGO AS YOU WERE FLEEING
14 TOWARD SUMTER STREET YOU LOOKED BACK AND YOU SAW THE CAR
15 BEING DRIVEN OFF. WHERE -- CAN YOU DESCRIBE IN THIS PICTURE
16 WHERE THAT CAR WAS BEING DRIVEN AND ON THERE?

17 A. YEAH. IF THIS IS THE BACK OF OUR BUILDING, I RAN OUT
18 THIS WAY. I WAS PROBABLY -- I WAS JUST PAST THE END OF THIS
19 BUILDING WHEN I REALIZED HE WAS BACKING OUT. I WAS KIND OF
20 ABOUT HERE, I THINK. HE DROVE OUT IN THIS DIRECTION TO MAIN
21 STREET. WHEN YOU LOOK AT THIS PHOTOGRAPH WHICH IS STATE'S
22 EXHIBIT 10, YOU'LL SEE THE FRONT OF -- YOU'LL SEE THE
23 ALLEYWAY THAT HE DROVE OUT THE EXIT.

24 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE'D OFFER
25 STATE'S 10 INTO EVIDENCE.

1 MR. TARR: NO OBJECTION.

2 THE COURT: IT'S ADMITTED.

3 (STATE'S EXHIBIT 10 WAS RECEIVED IN EVIDENCE.)

4 BY MR. GOLDBERG:

5 Q. SO I BELIEVE YOU WERE TALKING ABOUT HOW YOU MET MR.
6 MILLHOUSE AT THE CORNER AND HE HELPED YOU ALONG TOWARDS
7 BAPTIST?

8 A. CORRECT.

9 Q. CAN YOU DESCRIBE PHYSICALLY WHAT YOU WERE FEELING AT
10 THIS POINT?

11 A. WELL, I KNOW ABOUT EVERY STEP I TOOK THAT IT WAS GETTING
12 HARDER TO DO IT. THE BULLET IN MY ARM AND MY CHEST, NEITHER
13 ONE OF THOSE REALLY HURT. YOU KNOW, IT'S HARD TO EXPLAIN
14 WHAT ANY OF THAT IS LIKE. I KNEW I HAD BEEN SHOT. I KNEW IT
15 WAS THERE AND I SAW THE BLOOD COMING OUT OF MY SHIRT GOING
16 DOWN, AND I KNEW I HAD BEEN HIT IN THE ARM BECAUSE I COULD
17 FEEL IT IN THE ARM A LITTLE BIT.

18 THE ONE IN MY THIGH HURT FROM THE MINUTE IT HAPPENED
19 UNTIL THEY PUT ME UNDER AT THE HOSPITAL. IF CHRIS MILLHOUSE
20 HAD NOT MET ME AT THE CORNER, I DOUBT THAT I COULD HAVE MADE
21 IT TO THE HOSPITAL BY MYSELF. I HAD MY ARM AROUND HIS
22 SHOULDER, AND HE WAS HOLDING ON TO IT. WE LIMPED ALONG
23 TOGETHER TO THE BACK OF THE E.R.

24 Q. CAN YOU TELL THE JURY WHAT YOU WERE WEARING THAT NIGHT?

25 A. I HAD ON A BLUE BLAZER, A TIE WITH SOME STRIPES ACROSS

1 IT, BLUE AND KIND OF GOLD. I HAD A WHITE SHIRT ON, KHAKI
2 PANTS, AND A BRAND-NEW BELT AND BRAND-NEW PAIR OF SHOES.

3 Q. LET ME SHOW YOU A FEW ITEMS HERE. THIS IS STATE'S
4 EXHIBIT NUMBER 3. LET ME HAVE YOU TAKE A LOOK AT THAT AND
5 SEE IF YOU CAN IDENTIFY IT.

6 A. THIS IS THE BLAZER, BRASS BUTTONS. IT FEELS A LITTLE
7 MOIST. THERE IS A HOLE IN THE SLEEVE THAT I'M SURE IF I PUT
8 IT ON IT WOULD MATCH UP WITH THE HOLE IN MY ARM, AND THERE'S
9 A HOLE RIGHT HERE ON THE LEFT BREAST THAT MATCHES PRETTY WELL
10 WITH WHERE THAT HOLE IS.

11 Q. ALL RIGHT. I SHOW YOU STATE'S EXHIBIT NUMBER 4 AND ASK
12 YOU IF YOU CAN IDENTIFY THAT AS WELL.

13 A. THIS IS THE SHIRT I WAS WEARING. IT'S PRETTY CUT UP.
14 YOU KNOW, AS I GOT INTO THE E.R., THEY THREW ME UP ON A
15 TABLE. THEY STARTED CUTTING EVERYTHING OFF OF ME WITH
16 SCISSORS WHILE I WAS THERE, AND I SEE THE LABEL. THIS IS MY
17 SHIRT.

18 Q. ALL RIGHT. AND WE'VE GOT THREE MORE THINGS HERE.
19 STATE'S EXHIBIT 5, IF YOU COULD TAKE A LOOK AT THESE.

20 A. WELL, THERE'S MY BRAND-NEW BELT. YEAH, THESE ARE THE
21 PANTS THAT I WAS WEARING THAT NIGHT, AND THERE'S A HOLE WHERE
22 THE BULLET CAME IN ON THE SIDE.

23 Q. THERE'S TWO OTHERS AND... STATE'S EXHIBIT 6 - I DON'T
24 KNOW THAT YOU HAVE TO PULL THIS ONE OUT OF THE BAG - BUT IF
25 YOU COULD JUST IDENTIFY IT.

1 A. I BELIEVE THIS IS MY UNDERWEAR.

2 Q. ALL RIGHT.

3 A. WE SHOULD SPARE THEM THAT AS WELL.

4 Q. AND STATE'S NUMBER 7.

5 A. THIS IS MY TIE THAT I WAS WEARING THAT NIGHT.

6 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE'D OFFER
7 STATE'S 3, 4, 5, 6, AND 7 INTO EVIDENCE.

8 MR. TARR: NO OBJECTION, YOUR HONOR.

9 THE COURT: ALL RIGHT. THEY'RE ADMITTED.

10 (STATE'S EXHIBITS 3 THROUGH 7 WERE RECEIVED IN
11 EVIDENCE.)

12 BY MR. GOLDBERG:

13 Q. SO MR. MILLHOUSE HELPED YOU ALONG. HE HAD A KEY CARD TO
14 THE EMERGENCY ROOM.

15 A. THAT'S CORRECT.

16 Q. AND ONCE YOU ENTERED THE EMERGENCY ROOM, WHAT HAPPENED?

17 A. WE CAME IN THE BACK AND I HAD -- YOU KNOW, AS WE WERE
18 GOING DOWN SUMTER STREET, I HAD -- I DIDN'T EVEN KNOW THERE
19 WAS ANOTHER ENTRANCE TO THE EMERGENCY ROOM ON THAT SIDE. I
20 THOUGHT YOU HAD TO ENTER OFF HAMPTON STREET, BUT I REMEMBER
21 BEING -- I REMEMBER SEEING A PICKUP TRUCK STOPPED AT A
22 TRAFFIC LIGHT WITH THE TAILGATE DOWN THINKING, BOY, IF HE
23 COULD JUST LAY ME IN THE BACK OF THAT PICKUP, WE COULD RIDE
24 OVER THERE TO THE E.R. THAT WOULD BE SO GREAT. THE LIGHT
25 CHANGED RIGHT WHEN WE GOT THERE; THAT TRUCK DROVE OFF.

1 SO WE CROSSED OVER, AND THE HOSPITAL I GUESS IS ABOUT
2 RIGHT HERE, AND WE CAME IN THE BACK DOOR. AND THERE WAS A
3 GUY BACK THERE -- THERE WAS A DOCTOR THAT I KNEW NAMED RICK
4 GLADDEN, AND I DON'T REMEMBER WHAT HE SAID BUT HE THOUGHT HE
5 KNEW ME AT THE MOMENT BUT, YOU KNOW, THEY DIDN'T HAVE TIME TO
6 THINK ABOUT STUFF.

7 IT WAS LIKE IN A MOVIE. THERE WAS A GURNEY THERE. RICK
8 BRINGS ME IN THE BACK DOOR AND HE SAYS, "THIS GUY HAS BEEN
9 SHOT." NOT RICK. I'M SORRY. CHRIS MILLHOUSE BRINGS ME IN
10 THE DOOR. RICK TOOK HIS ARM AND SWEEPED EVERYTHING OFF THAT
11 GURNEY AND SAID, "PUT HIM UP THERE." CHRIS JUST PICKED ME UP
12 AND THREW ME ON THE GURNEY, AND THEY IMMEDIATELY STARTED
13 CUTTING OFF AND COUNTING BULLET HOLES AND ANYBODY SEE AN EXIT
14 WOUND AND THINGS LIKE THAT AS THEY WHEELED ME ON INTO SOME
15 KIND OF ROOM. WE WERE IN A HALLWAY INITIALLY, AND THEN WE
16 WENT INTO A ROOM.

17 AND I SAW A POLICE OFFICER IN THERE OR LAW ENFORCEMENT
18 PERSONS. YOU KNOW, I DON'T KNOW IF HE WAS JUST A HOSPITAL
19 SECURITY GUARD OF SOME SORT OR WAS HE A CITY OF COLUMBIA
20 POLICE OFFICER. BUT SHORTLY AFTER I GOT IN THAT ROOM THERE
21 WAS A PERSON THAT I TOOK TO BE A POLICE OFFICER THAT WAS IN
22 THERE WITH US. AND WHILE THEY WERE DOING THEIR THING, THE
23 DOCTORS AND THE NURSES, I SAW THE POLICE OFFICER AND I
24 STARTED TELLING HIM, YOU KNOW, WHAT I THOUGHT THE GUY WAS
25 BUILT LIKE AND---

1 Q. WHAT KIND OF A DESCRIPTION DID YOU GIVE HIM?

2 A. YOU KNOW, AT THE TIME -- YOU KNOW, IN RETROSPECT I'VE
3 GONE BACK. I REALIZED THERE WAS A LITTLE BIT OF AN ANGLE
4 WHERE WE WERE. I THOUGHT THE GUY WAS MAYBE A LITTLE BIT
5 SHORTER THAN ME AND I'M RIGHT AT SIX FOOT. SO I THINK I PUT
6 HIM AROUND 5'9" OR 5'10" AND 170 TO 180 POUNDS.

7 Q. WERE YOU ABLE TO TELL AT ALL WHAT HIS RACE WAS?

8 A. I COULD SEE HIS HANDS REAL CLEARLY THAT WAS HOLDING THE
9 GUN. HE DIDN'T HAVE ON A GLOVE AND THAT -- I KNEW IT WAS A
10 BLACK MAN. I REMEMBER TELLING THEM THAT THE GUY I
11 THOUGHT WAS A -- MY WIFE SHOWED UP DURING SOME OF THIS,
12 TELLING HIM THAT MY CAR HAD ONSTAR, AND I EVEN GAVE THEM
13 SOMEBODY'S NAME THEY COULD CALL THAT WOULD TELL THEM HOW TO
14 GET ACCESS TO IT AND THAT THEY COULD TRACK THAT CAR WITH THE
15 ONSTAR, AND I DON'T KNOW HOW THEY DID IT BUT... I DID -- I
16 TOLD THE LAW-ENFORCEMENT-TYPE PERSON, WHATEVER HE WAS, THAT
17 THEY SHOULD TAKE A CRACK AT THAT BECAUSE THEY COULD FIND THAT
18 CAR.

19 Q. DID YOU EVENTUALLY GO INTO SURGERY THAT NIGHT?

20 A. I DID.

21 Q. HOW LONG WERE YOU IN THE HOSPITAL?

22 A. I WAS IN THE HOSPITAL TEN DAYS AND THEN AT HOME TWO OR
23 THREE MONTHS.

24 Q. HOW LONG WAS IT UNTIL YOU WERE FULLY RECOVERED?

25 A. WELL, I TRIED A CASE OCTOBER THE 16TH OF THAT YEAR AND I

1 WAS PROBABLY NOT FULLY RECOVERED THEN, BUT I WAS GOOD ENOUGH
2 TO BE ABLE TO COME IN AND DO WHAT YOU GUYS ARE DOING.

3 Q. OKAY. I'D LIKE TO GO BACK TO JUST A FEW THINGS AT THE
4 SCENE BEFORE WE FINISH UP. YOU DESCRIBED IN YOUR PERIPHERAL
5 A BALLOON-LIKE ITEM FLOATING. WHEN YOU TURN AROUND, YOU SEE
6 A MASK WHITE AND BLACK. IS THAT RIGHT?

7 A. THAT'S RIGHT. MOSTLY WHITE IT SEEMED LIKE.

8 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT---

9 A. IT HAD KIND OF SOME SKULL FEATURES.

10 Q. STATE'S EXHIBIT 12, DO YOU RECOGNIZE THAT?

11 A. THAT LOOKS LIKE THE MASK OR ONE VERY, VERY, VERY SIMILAR
12 TO IT.

13 Q. OKAY.

14 A. AND HE HAD A HOOD ON.

15 Q. ALSO, ABOUT WHEN YOU FIRST GOT OUT TO YOUR CAR, YOU
16 INDICATED THAT YOU CLICKED THE BUTTON TO UNLOCK THE CAR AND
17 THE DOME LIGHT CAME ON. DID YOU EVER ACTUALLY GO INTO YOUR
18 CAR?

19 A. NO.

20 Q. TO YOUR KNOWLEDGE, DID THE MEDICAL STAFF EVER GIVE YOU
21 ANY PAIN MEDICATION OR ANYTHING BEFORE OR WHILE YOU WERE
22 TALKING TO THE POLICE OFFICER?

23 A. NOT THAT I RECALL OR KNOW OF.

24 Q. OKAY. DID YOU ALSO SPEAK WITH INVESTIGATORS REESE AND
25 THOMAS?

1 A. I DID.

2 Q. AND WHEN WAS THAT?

3 A. I THINK IT WAS THE NEXT MORNING, BUT, YOU KNOW, I WAS
4 FAIRLY HEAVILY MEDICATED FOR AWHILE. I MEAN, I REMEMBER
5 THAT---

6 Q. THAT WOULD HAVE BEEN AFTER YOUR SURGERY?

7 A. PARDON?

8 Q. THAT WOULD HAVE BEEN AFTER THE SURGERY?

9 A. THAT'S CORRECT, ALTHOUGH I THOUGHT I WAS CLEAR-HEADED
10 WHEN I WAS TALKING TO HIM. I RECOGNIZE BOTH OF THEM. I
11 REMEMBER THEM BEING THERE AND I REMEMBER HOW PROFESSIONAL I
12 THOUGHT THEY WERE.

13 Q. BEG THE COURT'S INDULGENCE. JUST ONE MORE LINE OF
14 QUESTIONING I WANT TO GO THROUGH SO IT CAN BE CLEAR IN MY
15 MIND. YOU TALKED ABOUT WHEN YOU FIRST ENCOUNTERED THE MAN IN
16 THE PARKING LOT. WHEN YOU TURN AROUND AND YOU SEE HIM, YOU
17 MAKE SOME SORT OF MOVEMENT TOWARDS HIM. IS THAT CORRECT?

18 A. THAT'S CORRECT.

19 Q. AND THAT'S BEFORE ANY SHOTS ARE FIRED?

20 A. THAT'S CORRECT.

21 Q. AND AFTER THAT TAKES PLACE, YOU THEN ARE SEPARATED
22 SOMEHOW.

23 A. ABSOLUTELY.

24 Q. OKAY. AND IS IT AT THAT POINT WHEN YOU'RE SEPARATED
25 THAT A SHOT IS FIRED AT YOU?

1 A. NO QUESTION ABOUT IT.

2 Q. WERE YOU STRUCK WITH THAT SHOT?

3 A. I BELIEVE THE VERY FIRST SHOT HIT ME IN THE ARM.

4 Q. WHILE YOU WERE SEPARATED.

5 A. WE WERE SEPARATED BY PROBABLY AGAIN ABOUT THE SAME
6 DISTANCE I AM FROM THIS NICE LADY ON THE FRONT ROW ON THE
7 RIGHT.

8 Q. AND IT WAS ONLY AFTER THAT THAT YOU THEN, I BELIEVE AS
9 YOU PUT IT, CHARGED AT HIM AND THREW THINGS AT HIM.

10 A. THAT'S CORRECT.

11 Q. AND THEN ADDITIONAL SHOTS WERE FIRED.

12 A. I BELIEVE HE HAD FIRED TWO TO THREE TIMES BEFORE I TRIED
13 TO GET -- I DIDN'T KNOW WHERE ELSE TO GO. I COULDN'T BACK UP
14 ANY FURTHER. I COULDN'T GO SIDE TO SIDE. IT WAS EITHER GO
15 THROUGH HIM OR JUST STAND THERE.

16 Q. AND THEN YOU ALSO BELIEVED THAT THERE WAS A SHOT -- YOU
17 HEARD A SHOT FIRED AS YOU WERE FLEEING TOWARDS -- IN THE
18 DIRECTION OF SUMTER STREET.

19 A. YES, AND I ALWAYS THOUGHT THERE WAS A BULLET HOLE IN THE
20 WALL OUT THERE AS WELL. THERE'S A HOLE IN THE WALL; I'LL SAY
21 THAT.

22 MR. GOLDBERG: ALL RIGHT. I BELIEVE THOSE ARE ALL MY
23 QUESTIONS. THANK YOU, SIR.

24 THE COURT: ALL RIGHT. YES, SIR.

25 MR. TARR: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. TARR:

Q. HOW ARE YOU DOING, MR. HAWKINS?

A. GOOD DAY.

Q. I'M NOT HERE TO BEAT UP ON YOU. YOU HEARD IN MY OPENING STATEMENT I UNDERSTAND THAT WHAT YOU HAVE GONE THROUGH IS A HORRIBLE THING. I JUST WANT TO CLEAR UP A FEW THINGS. A COUPLE OF THINGS ARE DISCREPANCIES IN THE INFORMATION I WAS GIVEN. YOU WOULD AGREE THAT IT WAS RAINING VERY HARD ON THE NIGHT OF JUNE 2ND?

A. AT THE TIME WHEN I CAME OUTSIDE IT WAS RAINING, BUT I DON'T BELIEVE IT WAS RAINING PARTICULARLY HARD AT THAT TIME.

Q. IT HAD BEEN RAINING---

A. FOR EXAMPLE, I DIDN'T RUN TO MY CAR.

Q. OKAY. BUT IT HAD BEEN RAINING THAT DAY AND CONTINUED TO RAIN THROUGHOUT THE NIGHT?

A. THAT'S -- WELL, I ONLY CAN TELL YOU WHAT WAS GOING ON UP UNTIL ABOUT 10:15 OR SO.

Q. RIGHT. BUT AT THAT TIME THAT YOU WERE AWARE OF IT, IT WAS RAINING?

A. YES, IT WAS.

Q. OKAY. AND YOU RECALL SPEAKING WITH THE INVESTIGATORS I GUESS THE NEXT DAY WHEN THEY CAME AND TALKED TO YOU?

A. I THINK IT WAS THE NEXT DAY, BUT I WAS -- TO MY RECOLLECT -- I KNOW I WAS SORT OF MEDICATED THEN. SOME OF

1 THE CONVERSATIONS I HAD WITH MEMBERS OF MY FAMILY AND WHOEVER
2 ELSE, YOU KNOW -- PEOPLE SAY THEY CAME TO SEE YOU AND YOU
3 DON'T REALLY REMEMBER THEM EVEN BEING THERE. THAT OCCURRED
4 OVER A COUPLE OF DAYS.

5 Q. ALL RIGHT. AND YOU NEVER GAVE LIKE AN OFFICIAL
6 STATEMENT WHERE IT WAS ALL WRITTEN OUT AND YOU SIGNED LIKE
7 THIS IS WHAT HAPPENED ON THAT NIGHT.

8 A. I DON'T BELIEVE SO.

9 Q. OKAY. DO YOU RECALL TELLING THE POLICE THAT YOU WERE
10 STARTLED, WHEN YOU TURNED AROUND THAT MAN WAS POINTING A GUN
11 AT YOU?

12 A. WELL, YOU KNOW, I BELIEVE I WOULD HAVE TOLD THEM PRETTY
13 MUCH THE SAME THING I TOLD EVERYBODY HERE.

14 Q. OKAY. DO YOU RECALL---

15 A. I DON'T THINK -- IT WOULD NOT BE LIKE ME TO TELL
16 SOMEBODY I WAS STARTLED.

17 Q. DO YOU RECALL SAYING THAT YOU SWUNG AT THE SUSPECT WHO
18 THEN SHOT YOU ONCE?

19 A. I KNOW THAT I WRESTLED WITH HIM ON SOME LEVEL. WE HAD
20 CONTACT OR NEAR CONTACT WHEN WE FIRST MET WHEN I REALIZED
21 THERE WAS SOMEBODY THERE, AND I THINK I PUSHED HIM, NOW AS I
22 THINK BACK ON IT. I REMEMBER I KICKED AT HIM ONE TIME, TOO.
23 I AGREE WITH THAT.

24 Q. SO -- AND THEN AFTER THAT DO YOU REMEMBER SAYING YOU
25 WERE SHOT AGAIN AFTER YOU THREW YOURSELF ON HIM?

1 A. THAT MAY -- YOU KNOW, I DON'T REMEMBER IT THAT DETAILED
2 AT THIS TIME.

3 Q. OKAY.

4 A. IF I -- IF THAT'S WHAT THEY WROTE DOWN, THAT'S PROBABLY
5 WHAT I SAID.

6 Q. AND THEN ONCE AGAIN AFTER TRYING TO KICK THE SUSPECT.

7 A. AGAIN, IF THAT'S WHAT I SAID THE NEXT DAY AND THAT'S
8 WHAT THEY WROTE DOWN, I WOULD -- I WOULD PROBABLY DEFER TO
9 WHAT I SAID WITHIN 24 HOURS OF WHEN IT HAPPENED, WHETHER I
10 WAS ON MORPHINE OR NOT.

11 Q. AND DO YOU RECALL EVER TELLING THEM THAT AFTER YOU FELL
12 TO THE GROUND AND BEGAN TO GET UP AND RUN THAT HE SHOT AT YOU
13 AGAIN?

14 A. I BELIEVE ONE MORE SHOT WAS FIRED AS I WAS -- AT LEAST
15 ONE. I WAS NEVER SURE HOW MANY TIMES HE SHOT. I'LL TELL YOU
16 THAT, YOU KNOW, WHEN IT WAS OVER -- WHEN WE GOT TO THE
17 EMERGENCY ROOM, I REMEMBER THEM SAYING -- THEY WERE TRYING TO
18 COUNT BULLET HOLES AND THEY WANTED TO KNOW HOW MANY TIMES I
19 HAD BEEN SHOT, AND THEY WERE LOOKING FOR EXIT WOUNDS. AND
20 SOMEBODY SAID, "HOW MANY SHOTS WERE THERE?" AND I SAID, "I
21 THINK THERE WERE THREE." AND I REMEMBER CHRIS MILLHOUSE
22 SAYING, "NO, THERE WERE FIVE." AND HE WAS A COMBAT VETERAN,
23 SO I TRUSTED HIS JUDGMENT OVER MINE.

24 Q. OKAY. AND WE'LL GET INTO THE MEDICAL PART, BUT I THINK
25 EVEN THE MEDICAL PERSONNEL WERE NOT SURE HOW MANY TIMES

1 BECAUSE ONE OF THE BULLETS MAY HAVE ACTUALLY GONE THROUGH
2 TWICE SO... DO YOU RECALL THAT?

3 A. THEY NEVER TOLD ME THAT BUT...

4 Q. OKAY.

5 A. I KNOW HOW MANY HOLES I HAD.

6 Q. DO YOU RECALL -- THIS IS AFTER THE SHOOTING WHEN YOU
7 WERE ON THE GROUND THAT YOU SAID YOU TURNED AROUND TO SEE
8 YOUR VEHICLE BEING DRIVEN TOWARD MAIN STREET?

9 A. WHAT I FIRST SAW IS THE CAR BACKING UP.

10 Q. OKAY.

11 A. AND AT THAT TIME I THOUGHT HE WAS GOING TO COME AND RUN
12 ME OVER, AND I HOBBOLED FASTER AS WELL AS I COULD. AND WHEN I
13 LOOKED BACK THE NEXT TIME, HE HAD BACKED IT IN THE DIRECTION
14 WHERE I COULD SEE HE WAS GOING TO GO TOWARDS MAIN STREET AND
15 NOT TOWARDS ME.

16 Q. DO YOU RECALL TELLING ANOTHER INVESTIGATOR THAT YOU HIT
17 THE SUSPECT THREE TIMES AND WERE SHOT EACH TIME?

18 A. NO, I DON'T.

19 Q. WITH REGARD TO WHAT WAS TAKEN FROM YOU, MR. HAWKINS, IS
20 IT SAFE TO SAY THAT THE ONLY THING THAT YOU DIDN'T GET BACK
21 WERE OBVIOUSLY THE NEW BELT AND SHOES AND THE CLOTHES YOU
22 WERE WEARING BUT THE -- ACTUALLY YOU DID GET IT BACK. THE
23 KEYS AND THE TRUCK WERE THE ONLY THING THAT WERE TAKEN.

24 A. I NEVER GOT MY KEYS BACK. I HAD TO CHANGE ALL THE LOCKS
25 ON MY HOUSE AND EVERYWHERE ELSE WE HAD A LOCK BECAUSE WE

1 NEVER GOT THE KEYS BACK.

2 Q. THERE WAS NOTHING ELSE MISSING FROM THE TRUCK.

3 A. NOTHING THAT I CAN -- THAT I EVER REMEMBER TAKING NOTE
4 OF.

5 Q. I MEAN, THERE WAS MONEY IN THE TRUCK AND THAT WAS STILL
6 THERE.

7 A. WELL, THE TRUCK WAS WORTH ABOUT \$37,000.

8 Q. RIGHT. BUT WHAT I'M SAYING IS THAT OF THE THINGS OF
9 VALUE THAT WERE IN THE TRUCK, NOTHING WAS TAKEN.

10 A. IF IT WAS, I DIDN'T TAKE NOTE OF IT.

11 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

12 THE COURT: ANYTHING FURTHER?

13 MR. GOLDBERG: NOTHING FROM THE STATE.

14 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THAT WILL
15 DO IT FOR THIS DAY. WE'LL BE IN RECESS UNTIL 9:30 TOMORROW
16 MORNING. I NEED YOU TO COME DIRECTLY INTO THE JURY ROOM AT
17 9 -- BE THERE BY 9:30 TOMORROW MORNING.

18 I WANT TO CAUTION YOU THAT YOU'RE NOT TO VIEW ANY MEDIA
19 ACCOUNTS OF THIS CASE. I DON'T KNOW IF ANY MIGHT BE ON T.V.,
20 RADIO OR OTHERWISE, BUT YOU'RE NOT TO VIEW ANY OF THAT OR
21 EXPOSE YOURSELF TO THAT, READ ANY ARTICLES ABOUT IT BECAUSE
22 YOU MUST DECIDE THE CASE SOLELY BASED ON THE EVIDENCE
23 PRESENTED HERE IN THIS COURTROOM.

24 IN ADDITION TO THAT, YOU'RE NOT ALLOWED TO DISCUSS THE
25 CASE AT ALL WITH ANYONE. YOU CANNOT DISCUSS IT WITH EACH

1 OTHER. YOU CANNOT DISCUSS IT WITH ANYONE THAT YOU MAY SEE
2 AFTER YOU LEAVE HERE, INCLUDING FAMILY MEMBERS. THAT WOULD
3 CONSTITUTE PREMATURE DELIBERATIONS, AND YOU'RE NOT ALLOWED TO
4 DISCUSS THIS CASE.

5 THE SYSTEM IS DESIGNED FOR YOU TO LISTEN TO THE ENTIRE
6 TRIAL, TO LISTEN TO THE ENTIRE CASE, AND RECEIVE THE
7 INSTRUCTION OF LAW BEFORE DISCUSSING A CASE. PLEASE DO NOT
8 VIOLATE THAT RESPONSIBILITY, AND TO DO SO WOULD BE A
9 VIOLATION OF THE OATH THAT YOU HAVE TAKEN AS JURORS. SO HAVE
10 A GOOD EVENING. WE LOOK FORWARD TO SEEING YOU ALL BACK AT
11 9:30 TOMORROW MORNING.

12 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE
13 DAY AT 5:14 P.M.)

14 THE COURT: ALL RIGHT. ANY OTHER MATTERS WE NEED TO
15 TALK ABOUT TODAY?

16 MS. CAMPBELL: NO, SIR.

17 THE COURT: ALL RIGHT. WE'LL BE IN RECESS 'TIL 9:30.

18 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:15 P.M.
19 AND RESUMED THE FOLLOWING DAY, AUGUST 26, 2008, AS FOLLOWS.
20 STATE'S EXHIBITS 13 THROUGH 37 AND 40 THROUGH 70 WERE MARKED
21 FOR IDENTIFICATION ONLY.)

22 THE COURT: THANK YOU VERY MUCH. PLEASE BE SEATED.
23 GOOD MORNING. IS THERE ANYTHING BEFORE WE BRING THE JURY?

24 MR. GOLDBERG: JUDGE, THE ONLY THING WE HAVE -- I
25 NOTICED YESTERDAY -- I BELIEVE ONE OF THE ALTERNATES WAS

1 ACTUALLY SITTING IN THE MAIN JURY GROUP. I DON'T KNOW IF
2 THEY NEED TO BE SITTING ON THE BACK ROW, BUT I JUST WANTED TO
3 BRING THAT TO THE COURT'S ATTENTION.

4 THE COURT: ALL RIGHT. IT REALLY DOESN'T MATTER UNTIL
5 THE FINAL GROUP IS CONSTITUTED, BUT WE HAVE TO KNOW WHO THE
6 ALTERNATES ARE OBVIOUSLY. I NOTICED THAT AS WELL, AS I WAS
7 PERUSING THE JURORS AND ASSESSING WHO MIGHT BE APPOINTED
8 FOREPERSON, AND SHE LOOKED PRETTY GOOD BUT THEN I REALIZED
9 SHE WAS AN ALTERNATE SO... BUT IT DOESN'T MATTER TO ME.
10 OFTENTIMES THE BAILIFF WILL PUT THEM IN CERTAIN SEATS, BUT IT
11 DOESN'T MATTER. ANYTHING ELSE?

12 MS. CAMPBELL: NO, SIR.

13 THE COURT: I NOTICED IN THE DEFENSE'S OPENING A DEFENSE
14 SIMILAR OR SORT OF LIKE INCOMPETENCY WAS RAISED. HAS THERE
15 BEEN A BLAIR HEARING?

16 MR. TARR: NO, YOUR HONOR, AND WE -- I THINK WE HAVE
17 INTENDED -- I THINK WE JUST -- IT SLIPPED BOTH OF OUR MINDS.
18 WE'RE GOING TO INTRODUCE JUST FOR A COURT'S EXHIBIT AN
19 EVALUATION REPORT BY DR. DONNA SCHWARTZ-WATTS THAT SAID HE
20 WAS COMPETENT.

21 THE COURT: ALL RIGHT.

22 MR. TARR: SO THERE'S NO ISSUE AS TO COMPETENCY.

23 THE COURT: ALL RIGHT.

24 MS. CAMPBELL: IT WOULD PROBABLY BE A GOOD IDEA TO MAKE
25 THAT A COURT EXHIBIT FOR PURPOSES OF THE RECORD SINCE HE HAS

1 RAISED MENTAL ISSUES.

2 THE COURT: ALL RIGHT. WAS HE ORDERED TO BE EXAMINED BY
3 A CIRCUIT COURT JUDGE?

4 MR. TARR: NO, YOUR HONOR.

5 THE COURT: IT WAS JUST A---

6 MR. TARR: IT WAS A PRIVATE EVALUATION. SHE FOUND HIM
7 COMPETENT. I PROVIDED THE STATE WITH A COPY OF HER FINDINGS.

8 THE COURT: ALL RIGHT.

9 MR. TARR: HE WASN'T EXAMINED FOR ISSUES REGARDING
10 CRIMINAL RESPONSIBILITY, BUT HE WAS EXAMINED FOR COMPETENCY
11 AND HE WAS FOUND TO BE COMPETENT.

12 THE COURT: ALL RIGHT. SO YOU'RE RAISING THE ISSUE
13 PRETTY MUCH TO NEGATE SOME ELEMENT OF -- FOR THE DEFENSE---

14 MR. TARR: FOR TWO REASONS. YES, YOUR HONOR, FOR TWO
15 REASONS. ONE: IT GOES TO THE VOLUNTARINESS OF HIS STATEMENT
16 AND, TWO, IT GOES TO THE SPECIFIC INTENT THAT MUST BE PRESENT
17 TO INTEND TO DEPRIVE SOMEBODY PERMANENTLY OF THEIR PROPERTY
18 IN TERMS OF THE ARMED ROBBERY, AND ALSO IT HAS SOME RELEVANCE
19 IN TERMS OF -- WE'LL BE ASKING YOUR HONOR TO CHARGE THE JURY
20 WITH ABHAN AS A LESSER INCLUDED TO ASSAULT AND BATTERY WITH
21 INTENT TO KILL AND ALSO IT'S RELEVANT TO THAT.

22 THE COURT: BUT YOU -- BUT YOU STIPULATE THAT HE IS
23 CRIMINALLY RESPONSIBLE AND ALSO COMPETENT TO STAND TRIAL.

24 MR. TARR: YES, YOUR HONOR.

25 THE COURT: ALL RIGHT. MR. -- WHAT'S YOUR NAME? MANCE?

1 MR. MANCE. IT'S MANCE. MR. MANCE, I'LL JUST SWEAR YOU IN
2 AND TALK TO YOU FOR JUST A MOMENT. IF YOU WOULD RAISE YOUR
3 RIGHT HAND.

4 ERIC MANCE, AFTER BEING DULY SWORN, TESTIFIED AS
5 FOLLOWS IN CAMERA:

6 EXAMINATION BY THE COURT

7 Q. AND, MR. MANCE, YOU WERE EXAMINED BY A PSYCHIATRIST OR A
8 MENTAL-HEALTH-TYPE DOCTOR?

9 A. YES, SIR.

10 Q. ALL RIGHT. DO YOU REMEMBER TALKING WITH THE DOCTOR?

11 A. YES, SIR.

12 Q. HOW FAR DID YOU GO IN SCHOOL?

13 A. TO THE NINTH.

14 Q. NINTH GRADE. AND DO YOU UNDERSTAND THE PROCEEDINGS
15 HERE? THE TRIAL?

16 A. A LITTLE BIT OF IT.

17 Q. AND YOUR LAWYER SAYS THAT YOU AGREE THAT YOU ARE
18 COMPETENT TO STAND TRIAL. DO YOU AGREE WITH THAT?

19 A. YES, SIR.

20 Q. AND HAVE YOU BEEN ASSISTING HIM WITH WORKING ON YOUR
21 DEFENSE IN THIS TRIAL?

22 A. YES, SIR.

23 Q. AND HE ALSO SAYS THAT HE IS STIPULATING THAT YOU KNOW
24 THE DIFFERENCE BETWEEN RIGHT AND WRONG AND THAT YOU
25 UNDERSTAND WHAT IT MEANS TO BE CRIMINALLY RESPONSIBLE FOR

1 YOUR ACTIONS.

2 A. YES, SIR.

3 Q. AND DO YOU AGREE WITH THAT?

4 A. YES, SIR.

5 Q. ALL RIGHT. AND HAVE YOU -- ARE YOU TODAY UNDER THE
6 INFLUENCE OF ANY DRUGS OR ALCOHOL OR ANYTHING THAT MIGHT
7 AFFECT YOUR ABILITY TO UNDERSTAND WHAT'S GOING ON?

8 A. NO, SIR.

9 Q. DO YOU BELIEVE YOU UNDERSTAND EVERYTHING, ALMOST
10 EVERYTHING, THAT'S GOING ON IN THIS TRIAL?

11 A. A LITTLE BIT OF IT.

12 Q. ALL RIGHT. WHEN YOU SAY A LITTLE BIT OF IT, WHAT DO YOU
13 MEAN?

14 A. I DON'T UNDERSTAND ALL OF IT. BY KNOWING WHAT'S GOING
15 ON---

16 COURT REPORTER: I CAN'T HEAR HIM.

17 BY THE COURT:

18 Q. TALK A LITTLE LOUDER.

19 A. I'M TRYING TO GET AN UNDERSTANDING OF IT.

20 Q. ALL RIGHT. WHAT PART THAT YOU DON'T UNDERSTAND?

21 A. THERE'S A LOT OF LIES.

22 Q. YOU DON'T UNDERSTAND WHAT PEOPLE -- THE TESTIMONY OR
23 YOU'RE SAYING YOU DON'T UNDERSTAND OR YOU DON'T AGREE WITH
24 IT?

25 A. I DON'T AGREE WITH IT.

1 Q. OH, OKAY. WELL, THERE'S A DIFFERENCE---

2 MR. TARR: THAT'S KIND OF WHAT I THINK HE MEANT, YOUR
3 HONOR.

4 THE COURT: ALL RIGHT. AND YOU HAVE A REPORT THAT YOU
5 WANT ME TO TAKE A LOOK AT---

6 MR. TARR: YES, YOUR HONOR.

7 THE COURT: ---FROM DR. SCHWARTZ-WATTS?

8 MR. TARR: THIS REPORT -- IT HAS A DATE THAT'S INCORRECT
9 ON IT. IT'S SUPPOSED TO BE APRIL 6TH, 2008, AND IT SAYS 2007
10 ON THE TOP.

11 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN MR.
12 TARR AND MS. CAMPBELL.)

13 MR. TARR: YOUR HONOR, THIS IS A -- I'LL HAND THIS UP.
14 THIS IS SUPPOSED TO BE APRIL OF THIS YEAR, NOT '07, BECAUSE
15 IT REFERENCES THAT SHE SAW HIM JUST A FEW MONTHS AGO.

16 THE COURT: ALL RIGHT.

17 MR. TARR: THE SECOND TO THE LAST PARAGRAPH IS WHERE SHE
18 SAYS HE'S COMPETENT, I BELIEVE.

19 THE COURT: WHAT DID YOU SAY ABOUT THE DATE OF THE
20 LETTER?

21 MR. TARR: IT SHOULD BE APRIL OF 2008 OR JUNE --
22 WHATEVER IT'S---

23 THE COURT: THIS SAYS -- YEAH, THIS SAYS APRIL 6TH,
24 2007.

25 MR. TARR: YES, SIR, AND YOU CAN SEE IN THERE SHE

1 REFERENCES SEEING HIM DURING 2008 IN ONE OF THE PARAGRAPHS,
2 SO IT'S OBVIOUSLY A TYPO.

3 THE COURT: ALL RIGHT. SHE SAW HIM ON 6/3/07. THEN SHE
4 -- THINGS WERE COMPLETED 3/13/08. SHE MAKES REFERENCES TO
5 4/26/08. SO THAT'S APRIL 26TH, '08. LET'S SEE. HE WAS
6 EVALUATED AGAIN BY MY FORENSICS FELLOW, DOUG MORRIS, AND
7 RESIDENT JASON BUCKLAND AT THE DETENTION CENTER ON 4/26/08.

8 MR. TARR: YES, YOUR HONOR.

9 THE COURT: SO WHAT---

10 MR. TARR: THE DATE IS SUPPOSED TO BE IN MAY OF '08,
11 YOUR HONOR, ON THE LETTER. IT'S JUST INCORRECT.

12 THE COURT: IT APPEARS THAT THE DATE OF THE FAX TO YOU
13 WAS 4/7/08, ACCORDING TO THE TOP.

14 MR. TARR: THERE'S SOME CONFUSION THERE, YOUR HONOR, BUT
15 THE LETTER IS FROM APRIL OR MAY OF THIS YEAR.

16 THE COURT: ALL RIGHT.

17 MR. TARR: SHE SAW -- THERE HAVE BEEN A TOTAL OF THREE
18 OTHER DOCTORS THAT SAW HIM. SHE INITIALLY SAW HIM. SHE
19 REFERRED HIM TO DR. TORA BRAWLEY WHO WILL BE TESTIFYING, AND
20 THEN SHE REFERRED HIM TO DR. KENNETH GAINES, A NEUROLOGIST,
21 AND THEN HE WENT TO PALMETTO RICHLAND FOR SOME TESTING AND
22 ALL OF WHICH WERE CONSIDERED BY DR. WATTS BEFORE SHE MADE
23 THIS FINAL OPINION THAT HE WAS COMPETENT TO STAND TRIAL. AND
24 I CAN SAY I'VE CONFERRED WITH HIM THROUGHOUT THE ENTIRE
25 TRIAL. HE HAS BEEN ABLE TO ASSIST ME IN HIS DEFENSE, AND THE

1 ONLY THING THAT HE HAS A PROBLEM WITH IS HE DISAGREES WITH
2 SOME OF THE TESTIMONY THAT HE'S HEARD.

3 THE COURT: ALL RIGHT. ANY OTHER EVIDENCE THAT YOU
4 WANT -- WANT TO OFFER ON THE ISSUE OF HIS COMPETENCY TO STAND
5 TRIAL AND ON THE ISSUE OF CRIMINAL RESPONSIBILITY?

6 MR. TARR: NO, YOUR HONOR.

7 THE COURT: ANYTHING THE STATE WANTS TO OFFER ON THAT
8 ISSUE?

9 MS. CAMPBELL: YOUR HONOR, MAY I JUST REVIEW THAT
10 LETTER? I'VE GOT ONE DATED DIFFERENT.

11 MR. TARR: YEAH, I...

12 MS. CAMPBELL: AND I JUST HAVEN'T BEEN PROVIDED THAT
13 LETTER I DON'T BELIEVE.

14 MR. TARR: IT'S THE SAME LETTER AND I HAD ONE -- I DON'T
15 KNOW WHAT HAPPENED.

16 MR. GOLDBERG: IS THAT THE...

17 MR. TARR: YEAH, THAT'S THE SAME LETTER.

18 MR. GOLDBERG: IT'S THE SAME ONE?

19 MR. TARR: I COULD NOT FIND THAT INITIAL LETTER THAT I
20 GOT, SO I HAD THEM SEND ME ANOTHER COPY. AND THEY JUST HAD
21 TWO DIFFERENT DATES, BUT THE LETTER IS EXACTLY THE SAME.

22 THE COURT: ALL RIGHT.

23 MS. CAMPBELL: THIS IS THE LETTER WE WERE PROVIDED WHICH
24 HAS A DIFFERENT DATE AT THE TOP.

25 THE COURT: ALL RIGHT. ALL RIGHT. ONE SAYS MAY 6TH.

1 ONE SAYS APRIL 6TH. THE ONE DATED MAY 6TH IS THE ONE WE'LL
2 MAKE PART OF THE RECORD IN THIS CASE.

3 MR. TARR: AND I THINK -- I THINK IT SAYS MAY 6TH, 2008.

4 THE COURT: YES.

5 MR. TARR: YEAH.

6 MS. CAMPBELL: CAN I JUST GET A COPY TO PUT IN THE
7 RECORD?

8 THE COURT: SURE.

9 MS. CAMPBELL: THANK YOU.

10 THE COURT: I'LL JUST HOLD ON TO THIS ONE.

11 MS. CAMPBELL: AND, JUDGE, THE ONLY OTHER THING I WOULD
12 ASK THAT BE INQUIRED OF THE DEFENSE IS THAT IN THIS DR.
13 SCHWARTZ-WATTS MENTIONED A G.B.M.I. DEFENSE AT THE END OF IT.
14 I JUST WOULD LIKE THE DEFENSE COUNSEL TO PUT ON THE RECORD
15 THAT THEY HAVE EXPLORED THAT OPTION AND IT'S NOT AN OPTION IN
16 THIS CASE.

17 THE COURT: ALL RIGHT. MR. TARR?

18 MR. TARR: THAT IS TRUE, YOUR HONOR. THAT IS NOT --
19 THAT DEFENSE WOULD NOT HELP US IN THIS CASE BECAUSE IT WOULD
20 NOT DO ANYTHING TO ALLEVIATE THE PROBLEM OF THIS BEING A LIFE
21 WITHOUT PAROLE. SO EVEN IF HE WAS G.B.M.I. AND THE JURY
22 FOUND HIM G.B.M.I., THAT WOULD NOT HELP HIM. AND SO WE'RE
23 NOT -- WE'RE NOT EXPLORING THAT AS AN OPTION IN THIS CASE.
24 BY THE COURT:

25 Q. ALL RIGHT. MR. MANCE, G.B.M.I. REFERS TO GUILTY BUT

1 MENTALLY ILL, AND YOUR LAWYER SAYS THAT THAT IS NOT A DEFENSE
2 THAT YOU'RE SEEKING TO RAISE IN THIS CASE. DO YOU AGREE WITH
3 THAT?

4 A. YES, SIR.

5 Q. ALL RIGHT. ALL RIGHT. WELL, THE REPORT OF DR.
6 SCHWARTZ-WATTS GIVES HIS HISTORY OF BEING TREATED AND NOTES
7 THE MEDICATIONS THAT HE IS ON. ARE YOU ON ANY MEDICINE NOW
8 -- MEDICATIONS NOW?

9 A. YES, SIR.

10 Q. WHAT ARE YOU ON NOW? WHAT'S THE NAME OF THE MEDICINE
11 YOU'RE TAKING?

12 A. I DON'T KNOW THE NAME OF IT.

13 Q. WHAT ARE YOU TAKING IT FOR?

14 A. FOR MY NERVES.

15 Q. IS IT -- ARE YOU TAKING MEDICATION FOR SOME KIND OF
16 THYROID DISORDER?

17 A. YES, SIR.

18 THE COURT: ALL RIGHT. THAT'S WHAT'S REFERENCED IN THIS
19 LETTER FROM DR. SCHWARTZ-WATTS, UNIVERSITY SPECIALTY CLINICS
20 AT THE U.S.C. SCHOOL OF MEDICINE. AND SHE SAYS THAT BASED ON
21 ALL OF THE INFORMATION THAT SHE RECEIVES, INCLUDING THE PRIOR
22 ASSESSMENT THAT SHE DID WITH THE PRIOR VISITS REFERENCED IN
23 THE LETTER, THAT SHE IS OF THE OPINION WITH A REASONABLE
24 DEGREE OF MEDICAL CERTAINTY THAT MR. MANCE HAS A RATIONAL AND
25 A FACTUAL UNDERSTANDING OF THE PROCEEDINGS AND THE CAPACITY

1 TO ASSIST IN HIS DEFENSE. SHE SAYS THAT HE HAS LIMITED
2 INTELLECTUAL FUNCTIONING AND A PSYCHOTIC DISORDER WHICH IS
3 CLEARLY MITIGATING AND MAY ARISE TO A GUILTY BUT MENTALLY ILL
4 DEFENSE, AND THAT IS HER CONCLUSION THOUGH SHE SAID THAT SHE
5 WOULD NEED TO REVIEW VARIOUS INCIDENT REPORTS RELATED TO THIS
6 PARTICULAR INCIDENT AS WELL AS ANY STATEMENTS IN HIS JAIL
7 RECORDS TO RENDER A FINAL OPINION.

8 MR. TARR: YES, YOUR HONOR. SHE WAS NOT SAYING THAT
9 THIS WAS A G.B.M.I. SHE WAS JUST SAYING THAT SHE COULDN'T
10 SAY, WELL, IT MIGHT BE. SHE JUST -- SHE WAS NOT ASKED TO DO
11 THAT, SO SHE NEVER REVIEWED ANY OF THE INCIDENT REPORTS OR
12 ANYTHING RELATED TO THIS CASE.

13 THE COURT: WELL, BASED ON THESE RECORDS AS WELL AS THE
14 INFORMATION PROVIDED HERE IN COURT, I FIND THAT THE DEFENDANT
15 WAS SANE AT THE TIME OF THE ALLEGED OFFENSE, MEANING THAT HE
16 IS CRIMINALLY RESPONSIBLE FOR ACTIONS THAT HE MAY HAVE TAKEN
17 ON JUNE 2ND, 2006. I FURTHER FIND THAT HE IS COMPETENT TO
18 STAND TRIAL, MEANING THAT HE HAS A SUFFICIENTLY RATIONAL
19 UNDERSTANDING OF THE PROCEEDINGS AND THE ABILITY TO ASSIST
20 COUNSEL WITH HIS DEFENSE.

21 MR. TARR: THANK YOU, YOUR HONOR.

22 MS. CAMPBELL: YOUR HONOR, MAY I APPROACH WITH A COPY?

23 THE COURT: YES.

24 MS. CAMPBELL: COULD WE MAKE IT A COURT'S EXHIBIT WITH
25 THE COURT'S PERMISSION?

1 **THE COURT:** WE WILL MAKE DR. SCHWARTZ-WATTS' -- GIVE IT
2 TO THE REPORTER. MAKE THAT A COURT'S EXHIBIT, NOT TO GO TO
3 THE JURY.

4 (COURT'S EXHIBIT 1 WAS MARKED FOR IDENTIFICATION ONLY.)

5 **MS. CAMPBELL:** YOUR HONOR, THE ONLY OTHER THING WE WOULD
6 HAVE IS IF, IN FACT, HE DOES PRESENT SOME EVIDENCE AS TO THE
7 DEFENDANT'S MENTAL STATE, AS HE INDICATED HE WOULD IN OPENING
8 ARGUMENT, THAT WE WOULD JUST ASK FOR SOME TYPE OF INSTRUCTION
9 - THAT THIS IS JUST SOMETHING TO THINK ABOUT IN THE FUTURE -
10 TO THE JURY THAT THIS IS NOT A NOT GUILTY BY REASON OF
11 INSANITY CASE. I JUST DON'T WANT THE JURY TO GET CONFUSED ON
12 THAT ISSUE BECAUSE THAT IS NOT GOING TO BE AN OPTION FOR THEM
13 AND THEY SHOULD NOT CONSIDER THAT.

14 **THE COURT:** WELL, THEY'LL BE GIVEN THEIR OPTIONS AS TO
15 WHAT THE VERDICTS CAN BE, AND WE'LL WORK ON THE INSTRUCTIONS
16 AT THE APPROPRIATE TIME.

17 **MS. CAMPBELL:** YEAH. I JUST THOUGHT I MIGHT BRING THAT
18 TO THE COURT'S ATTENTION.

19 **THE COURT:** ALL RIGHT. LET'S BRING THE JURY.

20 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:52
21 A.M.)

22 **THE COURT:** GOOD MORNING. WELCOME BACK. THE STATE IS
23 CONTINUING WITH ITS CASE, AND YOU MAY CALL YOUR NEXT WITNESS.

24 **MS. CAMPBELL:** MAY IT PLEASE THE COURT? THE STATE CALLS
25 OFFICER HICKS.

1 DARRING X. HICKS, AFTER BEING DULY SWORN, TESTIFIED
2 AS FOLLOWS:

3 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
4 FULL NAME FOR THE RECORD, PLEASE.

5 COURT REPORTER: AND WILL YOU SPELL YOUR FIRST NAME,
6 PLEASE?

7 THE WITNESS: DARRING XAVIER HICKS. D-A-R-R-I-N-G.

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q. OFFICER HICKS, WHERE ARE YOU EMPLOYED?

11 A. COLUMBIA POLICE DEPARTMENT.

12 Q. HOW LONG HAVE YOU BEEN WITH THE POLICE DEPARTMENT, SIR?

13 A. ABOUT 18 YEARS.

14 Q. AND WHAT ARE YOUR CURRENT DUTIES WITH THE POLICE
15 DEPARTMENT?

16 A. STREET PATROL AND CANINE.

17 Q. OKAY. AND AS STREET PATROL AND CANINE, YOU ACTUALLY
18 HAVE A DOG?

19 A. YES.

20 Q. THAT IS ASSIGNED TO YOU?

21 A. YES.

22 Q. DOES HE LIVE WITH YOU?

23 A. YES.

24 Q. BACK IN 2006, SPECIFICALLY JUNE THE 2ND OF 2006, WHERE
25 WERE YOU ASSIGNED?

1 A. METRO REGION DOWNTOWN AREA.

2 Q. AND THAT -- WHAT SHIFT WERE YOU WORKING ON JUNE THE 2ND?
3 DO YOU RECALL?

4 A. MIDNIGHT SHIFT.

5 Q. AND MIDNIGHT SHIFT REPORTS AT WHAT TIME, SIR?

6 A. 6 P.M. TO 6 A.M.

7 Q. SO IT WOULD BE 6 P.M. ON THE EVENING OF THE 2ND INTO THE
8 EARLY MORNING HOURS OF THE 3RD; IS THAT CORRECT?

9 A. YES.

10 Q. WHAT WAS THE WEATHER LIKE THAT EVENING?

11 A. RAINY.

12 Q. DID YOU RESPOND TO A CALL AT 1634 MAIN STREET?

13 A. YES, I DID.

14 Q. AND IS THAT HERE IN RICHLAND COUNTY?

15 A. YES, IT IS.

16 Q. AND WHAT KIND OF CALL WERE YOU RESPONDING TO THAT NIGHT?

17 A. THE ORIGINAL CALL WAS SHOTS FIRED. AS I WAS RESPONDING
18 TO THE SCENE, IT UPGRADED TO SHOTS FIRED AND A PERSON
19 POSSIBLY HIT.

20 Q. AND WHEN YOU RESPONDED TO THE MAIN STREET ADDRESS, WERE
21 YOU THE FIRST OFFICER THERE?

22 A. YES, I WAS.

23 Q. AND WHAT DID YOU DO IMMEDIATELY?

24 A. I TRIED TO LOCATE THE CRIME SCENE, THE VICTIM OR EITHER
25 A SUSPECT, WHICH NEITHER ONE WAS THERE AT THE TIME.

1 Q. AND AT THAT POINT WAS THERE A WHITE TAHOE THERE IN THE
2 PARKING LOT?

3 A. NO, THERE WASN'T.

4 Q. AND DID YOU THEN INTERVIEW SOME WITNESSES FROM THE
5 TAPP'S BUILDING NEXT DOOR AND DIFFERENT PEOPLE THERE?

6 A. NOT ME SPECIFICALLY. THEY WERE STILL ON THE PHONE WITH
7 CENTRAL GIVING US UPDATES, AND THEN THAT'S WHEN THE HOSPITAL
8 CALLED ABOUT THE VICTIM POSSIBLY BEING AT THE HOSPITAL FROM
9 THE SHOOTING.

10 Q. AND WERE YOU ABLE TO DETERMINE WHERE THE ACTUAL CRIME
11 SCENE THAT IS REFERRED TO WAS?

12 A. YES, MA'AM.

13 Q. AND WHERE WAS THAT, SIR?

14 A. THAT WAS IN THE REAR OF 1634.

15 Q. YOU MENTIONED THAT YOU ALSO GOT INFORMATION THAT EVENING
16 THAT THE VICTIM WAS AT THE HOSPITAL. WHAT HOSPITAL WAS THAT?

17 A. BAPTIST.

18 Q. ONCE YOU HAD LOCATED THE CRIME SCENE WHICH IS THAT
19 PARKING LOT AREA, DID YOU DO ANYTHING TO MAKE SURE IT WAS
20 SECURED SO IT COULD BE PROCESSED?

21 A. YES.

22 Q. AND WHAT WAS DONE IN THAT REGARD?

23 A. NOT LET ANYBODY APPROACH THE AREA WHERE I SAW SHELL
24 CASINGS AT.

25 Q. YOU MENTIONED EARLIER THAT IT WAS RAINING THAT EVENING.

1 WAS IT RAINING HARD WHEN YOU GOT THERE?

2 A. NO, MA'AM.

3 Q. WHAT KIND OF -- WHAT WAS GOING ON WHEN YOU ACTUALLY
4 RESPONDED?

5 A. MORE OF A MIST.

6 Q. AND YOUR JOB DOESN'T INCLUDE PROCESSING THE CRIME SCENE
7 OR COLLECTING PROJECTILES OR SHELL CASINGS OR ANYTHING OF
8 THAT NATURE, DOES IT?

9 A. NO, MA'AM.

10 Q. WHAT TIME WERE YOU DISPATCHED THAT NIGHT? DO YOU
11 RECALL?

12 A. IT WAS ABOUT 9:30.

13 Q. 9:30? AND HOW LONG DID IT TAKE YOU TO GET THERE?

14 A. ABOUT TWO AND A HALF MINUTES.

15 Q. YOU ALREADY STATED THAT WHEN YOU GOT THERE NEITHER THE
16 VICTIM NOR A SUSPECT WERE THERE. IS THAT CORRECT?

17 A. CORRECT.

18 Q. ONCE YOU GOT THE INFORMATION THAT THE VICTIM WAS AT THE
19 BAPTIST HOSPITAL, WHAT DID YOU DO?

20 A. TURNED THE CRIME SCENE OVER TO ANOTHER OFFICER AND
21 RESPONDED TO THE HOSPITAL.

22 Q. WHAT WAS THE PURPOSE OF YOU GOING TO THE HOSPITAL THAT
23 NIGHT?

24 A. TO TRY TO MAKE CONTACT WITH THE VICTIM TO GET THE
25 VICTIM'S CONDITION.

1 Q. DID YOU MAKE CONTACT WITH THE VICTIM THAT NIGHT?

2 A. YES, I DID.

3 Q. WHAT WAS HIS CONDITION WHEN YOU MADE CONTACT WITH HIM?

4 A. HE WAS CONSCIOUS, ABLE TO SPEAK BRIEFLY, BUT HE HAD BEEN
5 INJURED. HE HAD BEEN STRUCK BY A BULLET.

6 Q. HE HAD BEEN INJURED?

7 A. YES.

8 Q. AND WAS HE, IN FACT, BEING WORKED ON WHEN YOU WERE
9 TALKING TO HIM?

10 A. YES.

11 Q. WHEN YOU SPOKE WITH HIM, WHAT KIND OF INFORMATION WERE
12 YOU TRYING TO GET?

13 A. I WAS FIRST TRYING TO GET A DESCRIPTION OF THE PERSON
14 THAT ASSAULTED HIM AND EXACTLY WHAT WAS SAID PRIOR TO HIM
15 BEING ASSAULTED.

16 Q. AND WHAT INFORMATION WAS HE ABLE TO GIVE YOU AS FAR AS A
17 DESCRIPTION OF THE PERSON THAT ASSAULTED HIM?

18 A. BLACK MALE, 5'5" OR BETTER, ABOUT A 170, 180 POUNDS.

19 Q. 5'9" OR BETTER?

20 A. 5'9". YES, 5'9". I'M SORRY.

21 Q. AND WAS HE ABLE TO GIVE YOU ANY FURTHER DETAILS ABOUT
22 THE PHYSICAL APPEARANCE OF THE PERSON?

23 A. NO.

24 Q. DID YOU KNOW WHY?

25 A. I DIDN'T ASK. AFTER HE GAVE ME THE DESCRIPTION, I ASKED

1 HIM WHAT ACTUALLY HAPPENED, WHAT WAS SAID PRIOR TO HIM BEING
2 ASSAULTED.

3 Q. WAS HE ABLE TO TELL YOU ANYTHING THAT WAS SAID PRIOR TO
4 HIM BEING ASSAULTED?

5 A. HE SAID AS HE WAS GETTING IN HIS VEHICLE SOMEBODY
6 MUMBLED SOMETHING BEHIND HIM. I ASKED HIM DID HE UNDERSTAND
7 WHAT THEY MUMBLED, AND HE SAID NO.

8 Q. WAS HE ABLE TO TELL YOU ANYTHING ELSE ABOUT WHAT
9 HAPPENED THAT NIGHT?

10 A. NOT THAT I REMEMBER.

11 Q. DID YOU GET ANY INFORMATION ABOUT A CAR?

12 A. YES. ONCE WE -- ONCE WE CONFIRMED THAT IT WAS HIS
13 VEHICLE, A WHITE VEHICLE FROM THE WITNESSES, I ASKED DID HE
14 OWN A WHITE VEHICLE, AND HE SAID, YES, IT WAS A WHITE TAHOE.

15 Q. AND BASED ON THAT INFORMATION, WERE Y'ALL ABLE TO FOLLOW
16 UP ON THE WHITE TAHOE?

17 A. YES.

18 Q. AND YOU DIDN'T ASK HIM SPECIFICS ABOUT THE WHITE TAHOE,
19 DID YOU?

20 A. NO. HUH-UH.

21 Q. HOW DID YOU GET THE INFORMATION?

22 A. I ASKED HIM ABOUT IT, GOT HIS NAME AND ADDRESS, AND I
23 TURNED IT OVER TO MY SUPERVISOR. AT THAT TIME HE HAD OUR
24 FRONT DESK RUN A NAME, CHECK BY ADDRESS AND COUNTY, WHICH
25 CAME BACK WITH THE TAG NUMBER.

1 Q. AND WERE YOU ALSO GIVEN ANY OTHER INFORMATION FROM THE
2 VICTIM ABOUT WHAT'S CALLED ONSTAR?

3 A. YES.

4 Q. AND WAS THAT AN AVENUE Y'ALL WANTED TO PURSUE?

5 A. YES.

6 Q. WHY IS THAT, SIR?

7 A. BECAUSE ONSTAR ACTUALLY CAN TRACK A VEHICLE, TELL THE
8 LOCATION, ACTUALLY HOW FAST IT'S GOING, THE AREA IT'S GOING,
9 AND THE ROAD THAT'S BEING TRAVELED.

10 Q. IS THAT BASICALLY THE INFORMATION YOU GOT WHILE YOU WERE
11 AT THE HOSPITAL?

12 A. UH-HUH.

13 Q. AND WERE YOU THERE TO TAKE A DETAILED STATEMENT FROM THE
14 VICTIM AT THAT POINT?

15 A. NO, MA'AM.

16 Q. WHY NOT?

17 A. JUST TRYING TO GET A BRIEF STATEMENT, GET THE B.O.L.O.
18 OUT SO WE COULD FIND THE SUSPECT.

19 Q. AND WHEN YOU SAY YOU WANTED TO GET THE B.O.L.O. OUT,
20 WHAT DOES THAT STAND FOR?

21 A. BE ON THE LOOK OUT.

22 Q. AND WHAT KIND OF INFORMATION ARE YOU TRYING TO GET OUT
23 THERE?

24 A. SUSPECT DESCRIPTION, VICTIM -- VICTIM'S VEHICLE
25 DESCRIPTION THAT THE SUSPECT MIGHT BE IN POSSESSION OF.

1 Q. YOU ALSO WERE GETTING INFORMATION FROM EYEWITNESSES THAT
2 HAD SEEN THE VEHICLE AT THE SCENE?

3 A. NOT ME PERSONALLY. THIS WAS COMING THROUGH OUR DISPATCH
4 OFFICE FROM WHAT THE WITNESSES ACTUALLY SAW.

5 Q. ONCE YOU GOT THE INFORMATION FROM THE VICTIM, DID YOU GO
6 BACK TO THE SCENE AND REPORT BACK TO ANYONE?

7 A. YES, I WENT BACK TO THE CRIME SCENE.

8 Q. AND WHO DID YOU GIVE THE INFORMATION TO?

9 A. SERGEANT C.O. CLARK.

10 Q. AND WHO WOULD HAVE ACTUALLY PUT OUT THE B.O.L.O. ABOUT
11 THE CAR AND THE DESCRIPTION OF THE SHOOTER?

12 A. I ACTUALLY PUT THE B.O.L.O. OUT ONCE WE CONFIRMED
13 EVERYTHING.

14 Q. AND WHAT INFORMATION WERE YOU ABLE TO PUT OUT ABOUT THE
15 CAR?

16 A. THAT IT WAS A WHITE CHEVROLET TAHOE, POSSIBLY BEING
17 DRIVEN BY A BLACK MALE. IT WAS A 2006 VEHICLE.

18 Q. AND---

19 A. AND THE LAST FOUR -- AND ALSO I PUT OUT THE---

20 Q. AND INFORMATION ABOUT THE TAG---

21 A. YES, AND WE PUT OUT THE LAST ON THE V.I.N. NUMBER.

22 Q. AND THE TAG NUMBER?

23 A. AND THE TAG NUMBER.

24 Q. WHAT WAS THE TAG NUMBER ON THAT CAR?

25 A. THE TAG NUMBER WAS SOUTH CAROLINA TAG 750 H. HOTEL, R.

1 ROBERT, M. MIKE.

2 Q. AND WHO WAS THAT VEHICLE REGISTERED TO?

3 A. TO THE VICTIM, A DARYL HAWKINS.

4 MS. CAMPBELL: THANK YOU, SIR. I DON'T HAVE ANYTHING
5 FURTHER.

6 THE COURT: MR. TARR?

7 MR. TARR: THANK YOU, YOUR HONOR.

8 CROSS-EXAMINATION

9 BY MR. TARR:

10 Q. HOW ARE YOU DOING THIS MORNING, OFFICER?

11 A. I'M DOING FINE.

12 Q. THIS IS OVER TWO YEARS AGO, SO I'M SURE THINGS AREN'T
13 TOTALLY FRESH IN YOUR MEMORY.

14 A. NO.

15 Q. LIKE IT HAPPENED YESTERDAY.

16 A. RIGHT.

17 Q. RIGHT. AND YOU WERE THE FIRST PERSON TO RESPOND ON THE
18 SCENE?

19 A. YES, SIR.

20 Q. AND YOU SAID IT WAS RAINING OUTSIDE?

21 A. AT THE TIME I RESPONDED IT WAS ACTUALLY MISTING. IT HAD
22 JUST FINISHED RAINING PROBABLY ABOUT 15 MINUTES...

23 Q. OKAY. SO IT WAS RAINING BEFORE, AND THEN IT WAS MISTING
24 WHEN YOU RESPONDED.

25 A. RIGHT.

1 Q. OKAY. AND THEN IT CAME RAINING THROUGHOUT THE NIGHT?

2 A. RIGHT. IT WAS ON AND OFF.

3 Q. OKAY. AND BASICALLY YOU JUST -- YOU WENT TO THE
4 HOSPITAL TO TALK TO THE VICTIM JUST TO KIND OF FIND OUT --
5 YOU WANTED TO FIND OUT HOW TO GO ABOUT FINDING THE PERSON WHO
6 DID THIS?

7 A. RIGHT.

8 Q. AND THE VICTIM TOLD YOU THAT SOMEBODY CAME UP BEHIND HIM
9 AND MUMBLED SOMETHING?

10 A. UH-HUH.

11 Q. HE DIDN'T KNOW WHAT IT WAS?

12 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)

13 Q. TURNED AROUND AND SAW THAT THE GUY HAD A GUN?

14 A. HE TURNED -- I BELIEVE WHAT HE TOLD ME WAS WHEN HE
15 TURNED HE ACTUALLY TURNED AND THE PERSON WAS UP ON HIM SO
16 CLOSE THAT HE SWUNG INTO THE WEAPON.

17 Q. SO HE SWUNG AND HIT THE PISTOL.

18 A. NO, HE DIDN'T SWING. WHEN HIS BODY MOTION TURNED...

19 Q. OKAY. WELL, YOUR REPORT SAYS THE VICTIM TURNED TOWARD
20 THE SUSPECT AND HIT THE SUSPECT PHYSICALLY.

21 A. UH-HUH.

22 Q. OKAY. AND THEN THE SUSPECT SHOT HIM.

23 A. I BELIEVE SO, YES.

24 Q. OKAY. I MEAN, THAT'S WHAT IT SAYS; I'M JUST READING
25 YOUR REPORT. AND THEN -- AND AT NO TIME DID HE EVER SAY THAT

1 HE RAN AWAY FROM THE SCENE AND THE SUSPECT KEPT SHOOTING.

2 A. NO. I ASKED HIM HOW MANY SHOTS DID HE ACTUALLY HEAR,
3 AND I DON'T REMEMBER GETTING A COUNT. I DON'T REMEMBER HIM
4 RESPONDING.

5 Q. HE NEVER TOLD YOU THAT HE RAN AWAY AND THAT THE SUSPECT
6 SHOT HIM FROM BEHIND.

7 A. NO.

8 MR. TARR: THAT'S ALL I HAVE.

9 REDIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q. JUST A COUPLE OF FOLLOW-UPS. HE WAS ASKING YOU -- HE
12 KEPT INDICATING WITH HIS MOTIONS... THE VICTIM NEVER TOLD
13 YOU THAT HE PUNCHED...

14 A. NO.

15 Q. AND WHAT DID HE TELL YOU ABOUT WHEN HE TURNED WHEN HE
16 HEARD THE PERSON MUMBLING BEHIND HIM?

17 A. HIS MOTION WAS TURNING AWAY FROM ENTERING HIS VEHICLE.
18 HE WAS ENTERING HIS VEHICLE, AND HIS MOTION TURNED BACK
19 TOWARD THE VOICE THAT HE HEARD.

20 Q. OKAY. AND AT THAT POINT YOU INDICATED IN YOUR REPORT HE
21 HIT HIM?

22 A. YEAH, HE STRUCK HIM IN---

23 Q. WHAT DID HE INDICATE TO YOU HE HIT HIM WITH?

24 A. HIS BODY.

25 Q. HIS BODY. SO THE VICTIM'S BODY HIT---

1 A. THE PISTOL.

2 Q. AND HE ALSO ASKED YOU ABOUT HE DIDN'T TELL YOU THAT HE
3 RAN FROM THE SCENE? ISN'T THAT IN YOUR REPORT?

4 A. THAT HE RAN FROM THE SCENE?

5 Q. UH-HUH. THE VICTIM HIMSELF.

6 A. YES, I DID WRITE IT AND SAY THAT HE RAN AWAY AFTER BEING
7 STRUCK.

8 Q. AFTER BEING SHOT.

9 A. AFTER BEING SHOT, YES.

10 Q. AND HE TOLD YOU THAT THAT NIGHT AND THAT'S WHY IT'S IN
11 YOUR REPORT.

12 A. RIGHT. YES.

13 Q. AND DID HE INDICATE WHAT THE SUSPECT DID?

14 A. DROVE OFF IN THE VEHICLE.

15 Q. AND THAT WOULD BE THE TAHOE.

16 A. RIGHT.

17 Q. SO HE GAVE YOU ALL THAT INFORMATION.

18 A. RIGHT.

19 MS. CAMPBELL: THANK YOU.

20 RECROSS EXAMINATION

21 BY MR. TARR:

22 Q. AND HE NEVER SAID HE WAS SHOT AT WHEN HE RAN AWAY FROM
23 THE SCENE.

24 A. I DON'T REMEMBER IF HE SAID HE WAS SHOT AT WHEN HE RAN
25 AWAY FROM THE SCENE OR NOT.

1 Q. THAT'S SOMETHING THAT YOU WOULD PUT IN YOUR REPORT. IF
2 HE HAD SAID, "HE KEPT SHOOTING WHEN I WAS RUNNING," THAT'S AN
3 IMPORTANT FACT, ISN'T IT?

4 A. WELL, IT WASN'T A QUESTION THAT I ASKED, SO THAT'S
5 PROBABLY WHY.

6 Q. AND YOU WOULDN'T BE CONCERNED WITH THAT.

7 A. I WAS TRYING TO GET THE INFORMATION ON THE SUSPECT.

8 Q. BUT HE NEVER TOLD YOU THAT HE WAS SHOT AT WHEN HE WAS
9 RUNNING.

10 A. I NEVER ASKED THAT QUESTION, SIR.

11 Q. HE NEVER TOLD YOU THAT.

12 A. NO, SIR.

13 Q. WHETHER YOU ASKED HIM OR NOT.

14 A. (WITNESS NODDED HEAD UP AND DOWN.)

15 MR. TARR: THAT'S ALL I HAVE.

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

17 MS. CAMPBELL: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

18 MR. TARR: NO OBJECTION, YOUR HONOR.

19 THE COURT: HE MAY BE EXCUSED. NEXT WITNESS.

20 MR. GOLDBERG: THE STATE CALLS SERGEANT CLARK.

21 CHARLES O. CLARK, AFTER BEING DULY SWORN, TESTIFIED
22 AS FOLLOWS:

23 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
24 NAME FOR THE RECORD.

25 THE WITNESS: SERGEANT CHARLES O. CLARK.

DIRECT EXAMINATION

BY MR. GOLDBERG:

Q. SERGEANT, WHERE ARE YOU EMPLOYED?

A. COLUMBIA POLICE DEPARTMENT.

Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. I'M IN MY 27TH YEAR.

Q. AND WHAT ARE YOUR DUTIES WITH THE DEPARTMENT?

A. AT THIS TIME I'M A SERGEANT IN THE NORTH REGION OVER A SQUAD.

Q. AND BACK IN JUNE OF 2006 WHAT WERE YOUR DUTIES BACK THEN?

A. I WAS IN THE METRO REGION WHICH IS THE DOWNTOWN AREA OVER -- WORKING AS A SUPERVISOR OVER A SQUAD.

Q. WERE YOU WORKING BACK ON JUNE THE 2ND, 2006?

A. YES, SIR, I WAS.

Q. DO YOU RECALL WHAT SHIFT YOU WERE WORKING?

A. WE WERE WORKING MIDNIGHTS.

Q. WHAT TIME---

A. THAT TIME IS FROM 6 A.M. TO 6 P.M. I'M SORRY. 6 P.M. TO 6 A.M..

Q. DID YOU RECEIVE A CALL ABOUT AN INCIDENT AT 1634 MAIN STREET?

A. YES, WE DID.

Q. CAN YOU TELL THE JURY A LITTLE BIT ABOUT THAT?

A. WE RECEIVED A CALL FIRST OF SHOTS FIRED AT AROUND THE

1 1600 BLOCK OF MAIN STREET. ADDITIONAL CALLS CAME INTO OUR
2 DISPATCH CENTER THAT SAID THAT THE INCIDENT HAD OCCURRED
3 BEHIND THE BUILDING THERE IN AN ALLEYWAY OR A PARKING LOT.
4 WE RESPONDED TO THE SCENE. AS CALLS WERE COMING IN, WE
5 RECEIVED INFORMATION THAT SOMEBODY WAS POSSIBLY SHOT.
6 OFFICER HICKS WAS THE FIRST ON THE SCENE, AND I WAS
7 RESPONDING. I BELIEVE I WAS OUT ON TWO NOTCH ROAD WHICH IS
8 ALSO PART OF THE AREA THAT I WAS OVER AT THE TIME, AND I WAS
9 RESPONDING AS OFFICER HICKS AND OTHER OFFICERS ARRIVED ON THE
10 SCENE.

11 Q. AND WHEN YOU ARRIVED ON THE SCENE, WHAT DID YOU DO?

12 A. WE HAD INFORMATION FROM DISPATCH THAT THERE WERE TWO
13 DIFFERENT WITNESSES TO THIS INCIDENT. I, OF COURSE,
14 DISPATCHED AN OFFICER TO EACH OF THEM AND MADE SURE THAT THE
15 WITNESSES DID NOT TALK TO ANYBODY, THAT THEY DID NOT GET
16 TOGETHER, AND THAT THEY WERE KEPT THERE UNTIL WE COULD GET AN
17 INVESTIGATOR THERE. I ALSO SECURED THE SCENE AND CALLED OUT
18 FOR INVESTIGATIONS AND OUR CRIME SCENE PEOPLE TO RIDE TO THE
19 SCENE.

20 Q. WHEN YOU SAY THAT YOU SECURED THE SCENE, CAN YOU TELL
21 THE JURY EXACTLY WHAT THAT MEANS?

22 A. WE HAVE -- I'M SURE LIKE ON T.V. YOU'VE SEEN PRETTY MUCH
23 CRIME SCENE TAPE AND THINGS SUCH AS THAT WHERE WE BELIEVE THE
24 INCIDENT OCCURRED, AND WE TRY TO ROPE OFF OR TAPE OFF ENOUGH
25 AREA THAT THE CRIME SCENE IS CONTAINED WITHIN THE TAPED-OFF

1 AREA SO NOBODY CAN ENTER OR LEAVE THAT AREA.

2 Q. WOULD YOU HAVE BEEN CONSIDERED THE SUPERVISING OFFICER
3 AT THE SCENE?

4 A. YES, I WAS.

5 Q. OKAY. AND YOU MENTIONED A MOMENT AGO THAT YOU CONTACTED
6 THE C.S.I. UNIT AS WELL AS OTHER INVESTIGATORS?

7 A. THAT IS CORRECT.

8 Q. WHAT WAS THE PURPOSE OF THAT?

9 A. THIS WAS AFTER WE FOUND OUT THAT THERE WAS A VICTIM AND
10 GUNSHOT. THIS IS EVIDENTLY A MAJOR CRIME. SO CRIME SCENE
11 WAS GOING TO BE NEEDED TO PROCESS THE SCENE, AND
12 INVESTIGATIONS WOULD BE, OF COURSE, CALLED TO DO YOUR IN-
13 DEPTH INTERVIEWS AND FIND OUT PARTICULARS OTHER THAN THE WHO,
14 WHAT, WHERE, WHEN, AND HOW THAT WE'RE LOOKING FOR.

15 Q. WHEN YOU SAID PROCESS THE SCENE, WHAT DOES THAT MEAN?

16 A. PROCESS THE SCENES MEANS BASICALLY IT'S FORENSICS. WHAT
17 THE C.S.I. -- WHAT THE CRIME SCENE PEOPLE WILL DO IS THEY'LL
18 GO IN AND THEY'LL LOOK FOR THE BULLETS. THEY'LL LOOK FOR
19 FINGERPRINTS AND EVIDENCE THAT CAN BE USED LATER IN TRIAL TO
20 IDENTIFY WHO MAY HAVE DONE THIS.

21 Q. AND IS THAT THE REASON FOR PUTTING UP THE CRIME SCENE
22 TAPE?

23 A. THAT IS CORRECT. THAT IS WHY WE MAKE SURE THAT NOBODY
24 CAN PUT ANYTHING IN THE SCENE OR TAKE ANYTHING AWAY FROM THE
25 SCENE.

1 Q. AND TO YOUR KNOWLEDGE, WHILE YOU WERE AT THE SCENE WAS
2 ANYTHING AT THE CRIME SCENE DISTURBED IN ANY WAY?

3 A. NO, SIR.

4 Q. WHAT WAS THE WEATHER LIKE THAT NIGHT WHEN YOU GOT OUT
5 THERE?

6 A. IT WAS A LIGHT MIST WHEN THE CALL CAME OUT, BUT WHILE WE
7 WERE THERE AT THE SCENE IT WAS A VERY, VERY -- IT TURNED TO A
8 VERY HEAVY DOWNPOUR.

9 Q. AT SOME POINT WHILE YOU WERE AT THE SCENE, DID YOU MAKE
10 CONTACT WITH SERGEANT HICKS?

11 A. YES, I DID.

12 Q. EXCUSE ME. OFFICER HICKS.

13 A. WHAT WE WERE TRYING TO DO, WE WERE TRYING TO GET OUT THE
14 INFORMATION TO THE SURROUNDING AGENCIES AND OFFICERS WHAT
15 KIND OF VEHICLE THAT THE SUSPECT WAS IN, WAS IT THE VICTIM'S
16 VEHICLE, AND WHO THE SUSPECT MAY HAVE BEEN IN THIS CASE. WE
17 WOULD LEARN FROM WITNESSES THAT IT IS A WHITE VEHICLE.

18 OFFICER HICKS AT THE HOSPITAL WAS ABLE TO FIND OUT THAT IT
19 WAS A G.M. PRODUCT. I OWN -- PERSONALLY OWN A G.M. PRODUCT
20 AND I'M AWARE OF ONSTAR. WE STARTED BACKTRACKING

21 INFORMATION, TRYING TO GET THE TAG NUMBER, AND ALL WHILE
22 OFFICER HICKS WAS TALKING WITH MR. HAWKINS AT THE HOSPITAL.

23 WE WERE ABLE TO COME UP WITH THE CARD -- WITH THE
24 IDENTIFICATION CARD. IF YOU HAVE A G.M. PRODUCT, IT'S LIKE A
25 CREDIT CARD, IT LOOKS LIKE, BUT IT HAS A NUMBER ASSIGNED --

1 AN IDENTIFIER NUMBER, AND EACH NUMBER IN THAT CARD SAYS THAT
2 THIS CAR GOES WITH THIS VEHICLE. OFFICER HICKS CALLED ME.
3 HE GAVE ME THE NUMBER THAT BELONGED TO THAT VEHICLE. I
4 CALLED ONSTAR AFTER WE VERIFIED THAT I WAS WITH THE POLICE
5 DEPARTMENT, AND THEY WERE THEN -- STARTED TO TRACK THE
6 VEHICLE FOR US IN REAL TIME.

7 Q. AND WERE YOU ACTUALLY OFFICER HICKS' I GUESS APPROVING
8 OFFICER OVER THE REPORT THAT HE FILED THAT NIGHT?

9 A. THAT'S CORRECT.

10 Q. ARE YOU AWARE OF WHAT TIME HE ACTUALLY ARRIVED ON THE
11 SCENE THAT EVENING?

12 A. A LITTLE AFTER 9:30. ABOUT 9:33 IS WHAT THE REPORT
13 SAYS.

14 Q. THAT WOULD BE 9:33 P.M.; CORRECT?

15 A. P.M., YES, SIR.

16 MR. GOLDBERG: THANK YOU, SIR.

17 MR. TARR: NO QUESTIONS.

18 THE COURT: YOU MAY STEP DOWN.

19 MR. GOLDBERG: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

20 THE COURT: ANY OBJECTION?

21 MR. TARR: NO PROBLEM.

22 THE COURT: YES, SIR.

23 MS. CAMPBELL: THE STATE WOULD CALL SERGEANT SCOTT.

24 KERMIT SCOTT, AFTER BEING DULY SWORN, TESTIFIED AS
25 FOLLOWS:

1 **THE CLERK:** HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
2 FULL NAME FOR THE RECORD, PLEASE.

3 **THE WITNESS:** KERMIT SCOTT.

4 DIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q. SIR, WHERE ARE YOU EMPLOYED?

7 A. WITH THE CITY OF COLUMBIA POLICE DEPARTMENT.

8 Q. WHAT DO YOU DO THERE, SIR?

9 A. I'M A CRIME SCENE SUPERVISOR.

10 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR
11 QUALIFICATIONS AND YOUR EDUCATION AS A CRIME SCENE
12 INVESTIGATOR?

13 A. I'M A GRADUATE OF LOMA HIGH SCHOOL. I HAVE AN
14 ASSOCIATE'S DEGREE FROM PIKES PEAK COMMUNITY COLLEGE IN
15 COLORADO. I HAVE A BACHELOR'S DEGREE IN CRIMINAL JUSTICE
16 FROM FLORIDA, AND CURRENTLY I'VE BEEN WITH THE CRIME SCENE
17 UNIT FOR SEVEN YEARS, O.J.T. IN CRIME SCENE MATTERS,
18 FINGERPRINT OPERATOR, AVIS OPERATOR, ALSO RIDGELOGY WHICH IS
19 FINGERPRINT -- ADVANCED FINGERPRINT IDENTIFICATION.

20 Q. AND PRIOR TO BEING EMPLOYED WITH THE COLUMBIA POLICE
21 DEPARTMENT, WHERE WERE YOU EMPLOYED?

22 A. RICHLAND COUNTY DETENTION CENTER FOR FIVE YEARS.

23 Q. HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN CRIME
24 SCENE INVESTIGATION?

25 A. YES, I HAVE.

1 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE OFFER HIM AS
2 AN EXPERT IN CRIME SCENE INVESTIGATION.

3 MR. TARR: NO OBJECTION.

4 THE COURT: HE IS SO QUALIFIED... LADIES AND GENTLEMEN,
5 WHEN A PERSON IS QUALIFIED AS AN EXPERT IN ANY PARTICULAR
6 FIELD, THEY ARE ABLE TO OFFER OPINIONS REGARDING MATTERS THAT
7 ORDINARY LAY WITNESSES CANNOT OFFER OPINIONS, AND THIS
8 WITNESS IS AN EXPERT IN THE FIELD OF CRIME SCENE
9 INVESTIGATION. YOU MAY PROCEED.

10 MS. CAMPBELL: THANK YOU, YOUR HONOR.

11 BY MS. CAMPBELL:

12 Q. I WANT TO TURN YOUR ATTENTION BACK TO JUNE THE 2ND OF
13 2006. DID YOU RESPOND TO 1634 MAIN STREET THAT NIGHT?

14 A. YES, I DID, MA'AM.

15 Q. AND WHAT WAS THE PURPOSE OF YOU GOING THERE?

16 A. THEY HAD A CALL GO OUT FOR SHOTS BEING FIRED AND AN
17 INDIVIDUAL BEING HIT OR A WOUND.

18 Q. AND WHEN YOU GOT THERE, HAD THE CRIME SCENE ALREADY BEEN
19 SECURED?

20 A. YES, MA'AM, IT HAD.

21 Q. AND IS THAT IMPORTANT IN ORDER FOR YOU TO BE ABLE TO DO
22 YOUR JOB?

23 A. YES, MA'AM, IT IS.

24 Q. WHAT WERE THE WEATHER CONDITIONS THAT NIGHT?

25 A. WHEN I ARRIVED ON THE SCENE, THERE WAS A HEAVY DOWNPOUR.

1 AT THAT POINT, RIGHT, IT STARTED GETTING CLOUDY AND DARK.

2 Q. AND THAT NIGHT HAD OTHER OFFICERS ALREADY BEEN TO THE
3 SCENE AND THEY HAD SECURED IT BEFORE YOU GOT THERE?

4 A. YES, MA'AM, THEY HAD.

5 Q. WHEN YOU GOT THERE INITIALLY, WHAT DID YOU DO?

6 A. THE FIRST THING I DO WHEN WE GET ON THE SCENE IS TO TAKE
7 PHOTOGRAPHS OF THE LOCATION. YOU KNOW, A PHOTOGRAPH IS
8 BASICALLY A -- I PHOTOGRAPH THE SCENE IN THE CONDITION IT'S
9 IN WHEN WE ARRIVE. THEN AFTER I GOT THERE, WE STARTED DOING
10 THE COLLECTION WHICH IS DOCUMENTATION OF THE ACTUAL SCENE
11 ITSELF.

12 Q. AND THAT NIGHT WAS YOUR ABILITY TO PHOTOGRAPH THE SCENE
13 SOMEWHAT INHIBITED BECAUSE OF THE WEATHER?

14 A. YES, MA'AM, IT WAS.

15 Q. I WANT TO SHOW YOU A SERIES OF PHOTOGRAPHS. FIRST, IT'S
16 GOING TO BE STATE'S EXHIBITS NUMBER 13 THROUGH 25. I JUST
17 ASK YOU TO LOOK AT THOSE FIRST AS WELL AS STATE'S EXHIBIT
18 NUMBER 29.

19 A. (THE WITNESS COMPLIES.)

20 Q. DO YOU RECOGNIZE THOSE PHOTOGRAPHS?

21 A. YES, MA'AM.

22 Q. AND ARE THOSE PHOTOGRAPHS YOU ACTUALLY TOOK THAT NIGHT
23 WHEN YOU RESPONDED TO THE SCENE?

24 A. YES, MA'AM, THEY ARE.

25 Q. DO YOU RECALL APPROXIMATELY WHAT TIME IT WAS WHEN YOU

1 GOT THERE?

2 A. THE TIME I GOT THERE WAS RIGHT ABOUT 10:00.

3 Q. I WANT TO SHOW YOU ALSO WHAT'S ALREADY BEEN PUT INTO
4 EVIDENCE AS STATE'S EXHIBIT NUMBER 11 AND ASK YOU IF YOU
5 RECOGNIZE THAT ALSO.

6 A. YES, I DO, MA'AM.

7 Q. AND IS THAT ALSO A PHOTOGRAPH YOU TOOK THAT NIGHT?

8 A. YES, MA'AM.

9 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
10 STATE'S EXHIBITS 13 THROUGH 25 AND THEN STATE'S EXHIBIT 29.

11 MR. TARR: NO OBJECTION, YOUR HONOR.

12 THE COURT: ADMITTED.

13 (STATE'S EXHIBITS 13 THROUGH 25 AND STATE'S EXHIBIT 29
14 WERE RECEIVED IN EVIDENCE.)

15 BY MS. CAMPBELL:

16 Q. WHY DO YOU PHOTOGRAPH THE CRIME SCENE FIRST?

17 A. SO YOU CAN HAVE AN ACTUAL IMAGE OF EXACTLY HOW THE CRIME
18 SCENE WAS WHEN WE ARRIVED AT THE SCENE.

19 Q. AND DO YOU ALSO IN SOME CASES PREPARE A DIAGRAM OF THE
20 SCENE?

21 A. YES, MA'AM, WE DO.

22 Q. WHAT'S THE PURPOSE OF PREPARING A DIAGRAM?

23 A. ON THE DIAGRAM, THE DIAGRAM IS ALSO -- IT'S EXACTLY
24 WHERE WE LOCATED ITEMS WITHIN THE CRIME SCENE, AND WHAT IT
25 SHOULD DO IS ALSO IT SHOULD REPLICATE WHAT THE PHOTOGRAPHS

1 ARE.

2 Q. OKAY. AND I WANT TO SHOW YOU WHAT'S BEEN MARKED AS
3 STATE'S EXHIBIT 57 AND 60. FIRST OF ALL, DO YOU RECOGNIZE
4 THESE TWO DOCUMENTS? THESE ARE ENLARGEMENTS.

5 A. YES, MA'AM, I DO.

6 Q. AND OTHER THAN THIS BEING NOT TO SCALE, IS THIS A
7 DOCUMENT YOU PREPARED?

8 A. YES, MA'AM, IT IS.

9 Q. AND IS IT A DIAGRAM OF THE CRIME SCENE AND THEN KIND OF
10 A LEGEND TO GO WITH IT?

11 A. YES, MA'AM, IT IS.

12 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER THESE
13 INTO EVIDENCE.

14 MR. TARR: NO OBJECTION, YOUR HONOR.

15 THE COURT: ADMITTED WITHOUT OBJECTION.

16 COURT REPORTER: WHAT NUMBERS ARE THOSE TWO EXHIBITS?

17 MS. CAMPBELL: NUMBERS 57 AND 60.

18 (STATE'S EXHIBITS 57 AND 60 WERE RECEIVED IN EVIDENCE.)

19 MS. CAMPBELL: YOUR HONOR, MAY THE WITNESS STEP DOWN?

20 THE COURT: YES.

21 MS. CAMPBELL: THANK YOU.

22 BY MS. CAMPBELL:

23 Q. FIRST OF ALL, I WANT TO SHOW YOU WHAT'S BEEN MARKED AS
24 STATE'S EXHIBIT NUMBER 57 AND IF YOU'LL STAND OVER HERE.
25 JUST SPEAK LOUD SO THE COURT REPORTER CAN HEAR YOU. WHAT

1 AREA DOES THIS SHOW ON STATE'S EXHIBIT NUMBER 57?

2 A. WHAT THIS SHOWS, MA'AM, IS THIS IS THE 1600 BLOCK OF
3 MAIN STREET. ON THE BACK SIDE HERE'S THE 1600 BLOCK OF
4 SUMTER STREET. THIS HERE IS BUILDING 1634, AND THIS IS THE
5 REAR PARKING AREA OF 1634.

6 Q. AND AGAIN FOR THE RECORD, THIS IS NOT TO SCALE, IS IT?
7 LIKE THIS AREA WOULD BE MUCH LONGER.

8 A. YES, MA'AM, IT WOULD BE.

9 Q. BUT DOES THIS PRETTY ACCURATELY REPRESENT WHERE YOU
10 FOUND PIECES OF EVIDENCE THAT NIGHT?

11 A. YES, MA'AM, IT WOULD.

12 Q. AND I NOTICE THAT AT ONE POINT HERE -- WHAT IS THIS
13 RIGHT HERE?

14 A. THIS IS A PARTIAL WALL THAT -- THIS WALL HERE COMES
15 DOWN. THIS IS A PARTIAL WALL IN THE BACK PART OF THE PARKING
16 LOT.

17 Q. I WANT TO SHOW YOU SOME PHOTOGRAPHS. THIS IS STATE'S
18 NUMBER 11?

19 A. YES, MA'AM.

20 Q. IS THAT DEPICTED ON YOUR DIAGRAM?

21 A. YES, MA'AM, IT IS.

22 Q. AND WAS THAT VEHICLE THERE PARKED IN THAT SPACE WHEN YOU
23 GOT THERE THAT NIGHT?

24 A. NO, MA'AM.

25 Q. AND IT'S NOT DEPICTED IN THE DIAGRAM---

1 A. IT'S NOT DEPICTED ON THERE.

2 Q. BUT IT WAS THERE.

3 A. IT WAS THERE; YES, MA'AM.

4 Q. AND THAT'S HOW IT APPEARED WHEN YOU GOT THERE THAT NIGHT
5 AFTER THE CRIME SCENE HAD BEEN SECURED?

6 A. YES, MA'AM.

7 Q. AND I NOTICE THERE'S SOME OTHER PHOTOGRAPHS WHERE YOU
8 TRIED TO SHOW THE SAME AREA, STATE'S EXHIBIT 29?

9 A. YES, MA'AM.

10 Q. AND YOU MENTIONED THAT YOU HAD DIFFICULTY ACTUALLY
11 PHOTOGRAPHING THAT NIGHT?

12 A. YES, MA'AM, I DID.

13 Q. AND WHAT AFFECTED YOUR ABILITY TO PHOTOGRAPH THAT NIGHT?

14 A. BECAUSE OF THE RAIN THAT WAS COMING DOWN THAT NIGHT AND
15 ALSO THE FLASH WOULD NOT GO THROUGH THE RAIN THAT WE HAD THAT
16 NIGHT. SO BASICALLY WE HAVE A BACKLASH ON THE LENS THAT WILL
17 CAUSE THE PICTURES TO NOT COME OUT WELL.

18 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 13. DOES THAT
19 SHOW THAT SAME AREA?

20 A. YES, MA'AM, IT DOES.

21 Q. AND FINALLY STATE'S EXHIBIT NUMBER 14, WHAT AREA DOES
22 THAT SHOW?

23 A. THIS HERE IS THE PARTIAL WALL THAT IS DOWN HERE ON THE
24 BACK SIDE.

25 Q. SHOW ME WHERE THE WALL WOULD BE ON THIS -- THIS WALL

1 WITH THE BULLET ON IT.

2 A. THAT WOULD BE THIS WALL LOCATED RIGHT HERE.

3 Q. RIGHT HERE?

4 A. YES, MA'AM.

5 Q. SO THAT WALL RIGHT THERE.

6 A. YES, MA'AM.

7 Q. AND---

8 A. IT'S THE SHORT WALL.

9 Q. AND THAT WALL RUNS PARALLEL TO THE BACK---

10 A. TO THE BACK.

11 Q. IS THAT CORRECT?

12 A. YES, MA'AM. YES, MA'AM.

13 Q. AND WERE YOU AWARE THAT NIGHT WHAT DIRECTION THE VICTIM
14 HAD RUN AFTER HE HAD BEEN SHOT?

15 A. NO, MA'AM. I KNEW NOTHING EXACTLY ABOUT THE INCIDENT
16 OTHER THAN THAT A SHOOTING HAD OCCURRED.

17 Q. AND YOUR JOB IS JUST TO CHRONICLE WHAT EVIDENCE IS
18 THERE.

19 A. YES, MA'AM.

20 Q. I NOTICE THAT YOU HAVE MARKERS ON HERE.

21 A. YES, MA'AM.

22 Q. ARE THOSE REFERENCED IN YOUR LEGEND HERE?

23 A. YES, MA'AM, THEY ARE.

24 Q. AND WHAT'S THE PURPOSE OF MAKING THE MARKERS?

25 A. WHAT THIS DOES IS IT ALSO TELLS ME WHAT TYPE OF EVIDENCE

1 I COLLECTED AT THE CRIME SCENE THAT NIGHT AND EXACTLY WHAT
2 LOCATION I COLLECTED THOSE ITEMS FROM.

3 Q. MARKER NUMBER ONE THAT IS DEPICTED HERE IN THESE PARKING
4 PLACES---

5 A. YES, MA'AM.

6 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 19.

7 A. YES, MA'AM.

8 Q. WHAT DOES THAT SHOW?

9 A. THAT SHOWS A WALLET AND ALSO A CHECKBOOK.

10 Q. AND CAN YOU SHOW THIS JURY WHERE THOSE ITEMS WERE FOUND
11 APPROXIMATELY ON YOUR DIAGRAM?

12 A. THAT'S LOCATED RIGHT HERE IN THIS AREA. THE VEHICLE --
13 AT THE FRONT PART OF THE VEHICLE IN THE PARKING LOT A WALLET
14 WAS FOUND RIGHT HERE AT THIS LOCATION.

15 Q. AND WERE YOU ABLE TO IDENTIFY WHO THOSE ITEMS BELONGED
16 TO?

17 A. YES, MA'AM, I WAS.

18 Q. AND WHOSE ITEMS WERE THOSE?

19 A. THOSE WERE MR. HAWKINS, DARYL HAWKINS.

20 Q. HAWKINS?

21 A. YES, MA'AM.

22 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 20 WHICH HAS
23 THE NUMBER TWO MARKER ON IT?

24 A. YES, MA'AM.

25 Q. WHERE WERE THOSE ITEMS FOUND IN THE PARKING LOT THAT

1 NIGHT?

2 A. THAT WAS LOCATED RIGHT HERE IN THE SECOND SPACE OVER ON
3 THE BACK PART OF THE PARKING LOT.

4 Q. AND WERE YOU ABLE TO DETERMINE WHO THE PEN BELONGED TO?

5 A. IT WAS LATER IDENTIFIED AS THE VICTIM'S PEN.

6 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 3, EXCUSE ME,
7 21 WHICH IS MARKED NUMBER THREE.

8 A. YES, MA'AM.

9 Q. WHERE WAS THAT LOCATED IN THE PARKING LOT WHEN YOU GOT
10 THERE THAT NIGHT?

11 A. THAT WAS LOCATED HERE AT THE BACK CORNER OF THE PARKING
12 LOT NEAR THE -- WHERE THE ROAD GOES THROUGH FROM MAIN STREET
13 TO SUMTER STREET.

14 Q. AND WERE YOU ABLE TO DETERMINE WHO THIS PHONE BELONGS
15 TO?

16 A. YES, MA'AM. THAT WAS ALSO LATER IDENTIFIED AS THE
17 VICTIM'S.

18 Q. WERE YOU AWARE THAT NIGHT THAT THERE HAD BEEN A
19 SHOOTING?

20 A. YES, MA'AM. I HEARD IT ON THE RADIO.

21 Q. AND TYPICALLY IN A SHOOTING WHAT TYPE OF EVIDENCE ARE
22 YOU LOOKING FOR AT THE SCENE?

23 A. I'M LOOKING FOR ANYTHING OF A NATURE SUCH AS D.N.A.,
24 FINGERPRINTS. I WANT TO TRY TO TAKE ANY PHOTOGRAPHS WE HAVE,
25 IF WE HAVE TIRE MARKINGS AT THAT LOCATION, FOOT IMPRESSIONS,

1 ANYTHING THAT WOULD HELP IDENTIFY A SUSPECT OR AT THAT SAME
2 TIME PUT THE VICTIM AT THAT LOCATION.

3 Q. AND ON THIS NIGHT WERE YOU ABLE TO FIND ANY BLOOD OR
4 ANY OTHER D.N.A. EVIDENCE IN THE PARKING LOT?

5 A. NO, MA'AM, BASICALLY BECAUSE OF THE RAINFALL.

6 Q. HOWEVER, WHEN YOU'RE TALKING ABOUT BALLISTICS, WHAT TYPE
7 OF EVIDENCE ARE YOU LOOKING FOR?

8 A. I'M LOOKING FOR PROJECTILE HEADS OR THE TOP PORTION OF
9 THE BULLET, THE CASING OF THE BULLET, THE FIREARM ITSELF IF
10 IT WAS LEFT AT THE SCENE.

11 Q. WERE YOU ABLE TO FIND THE FIREARM IN THIS CASE AT THE
12 SCENE?

13 A. NO, MA'AM. IT WAS NOT AT THE SCENE.

14 Q. YOU MENTIONED THAT YOU WERE TRYING TO FIND SHELL
15 CASINGS. EXPLAIN TO THE JURY WHY YOU MIGHT FIND A SHELL
16 CASING. WHAT PART OF THE BULLET -- I DON'T UNDERSTAND THAT.

17 A. OKAY. A SHELL CASING -- OKAY. YOU HAVE -- THE CASING
18 OF A BULLET IS THE LOWER PART, IS THE ACTUAL HOUSING. THE
19 TOP PORTION IS CALLED THE PROJECTILE. THIS IS THE ROUND-
20 TIPPED PORTION THAT'S ON THE TOP PORTION OF THE BULLET.

21 Q. OKAY. AND WERE YOU ABLE TO FIND ANY SHELL CASINGS AT
22 THE SCENE?

23 A. NO, MA'AM, I WAS NOT.

24 Q. AND, HOWEVER, WERE YOU ABLE TO FIND EVIDENCE THAT SHOTS
25 HAD BEEN FIRED AT THE SCENE?

- 1 A. OH, YES, MA'AM.
- 2 Q. AND WHAT KIND OF EVIDENCE WERE YOU ABLE TO FIND?
- 3 A. WE WAS ABLE TO FIND SEVERAL FRAGMENTS FROM THE BULLETS
- 4 ITSELF AND ALSO A PART OF A JACKET THAT GOES OVER THE TOP OF
- 5 A PROJECTILE ITSELF.
- 6 Q. AND, AGAIN, YOU DIDN'T FIND ANY SHELL CASINGS?
- 7 A. NO, MA'AM, WE DID NOT.
- 8 Q. AND IS THAT UNUSUAL?
- 9 A. IT COMES IN TWO WAYS.
- 10 Q. YES, SIR.
- 11 A. OKAY? ONE, IF YOU'RE USING A REVOLVER, THEY DO NOT
- 12 LEAVE SHELL CASINGS AT THE LOCATION. IF YOU HAVE A
- 13 SEMIAUTOMATIC WEAPON, WHAT IT DOES -- IT'S LIKE A MILITARY-
- 14 STYLE ASSAULT WEAPON. IT KICKS THE CASINGS OUT, AND A LOT OF
- 15 TIMES THEY WOULD BE LEFT AT THE SCENE.
- 16 Q. SO THERE'S A DIFFERENCE BETWEEN A REVOLVER AND A
- 17 SEMIAUTOMATIC.
- 18 A. YES, MA'AM, THERE IS.
- 19 Q. AND IF YOU'RE USING A REVOLVER, YOU WOULD NOT EXPECT TO
- 20 FIND SHELL CASINGS?
- 21 A. NO, MA'AM.
- 22 Q. BECAUSE THEY WOULD STAY IN THE BARREL.
- 23 A. THEY WOULD STAY IN THE BARREL.
- 24 Q. BUT IF IT'S SEMIAUTOMATIC, THOSE WOULD BE EXPELLED.
- 25 A. YES, MA'AM.

- 1 Q. AND, AGAIN, YOU FOUND NO SHELL CASINGS.
- 2 A. FOUND NO SHELL CASINGS, CORRECT.
- 3 Q. I'M GOING TO REFER TO YOUR MARKER FOUR, FIVE, AND SIX
- 4 HERE.
- 5 A. YES, MA'AM.
- 6 Q. WERE YOU ABLE TO FIND EVIDENCE---
- 7 A. YES, MA'AM.
- 8 Q. ---AS TO FOUR, FIVE, AND SIX THAT'S DEPICTED HERE?
- 9 A. YES, MA'AM. THOSE WERE ALL PARTIAL FRAGMENTS LEFT FROM
- 10 THE BULLETS.
- 11 Q. I WANT TO SHOW YOU STATE'S EXHIBIT 23 AND I JUST SHOWED
- 12 YOU 22.
- 13 A. YES, MA'AM.
- 14 Q. IS 23 A CLOSE-UP OF WHAT YOU WERE ABLE TO PHOTOGRAPH IN
- 15 22?
- 16 A. YES, MA'AM, IT IS.
- 17 Q. AND WHAT DOES THAT DEPICT?
- 18 A. THAT DEPICTS A PORTION OF A FRAGMENT OF A BULLET HEAD
- 19 ITSELF.
- 20 Q. AND WAS THAT HOW IT WAS THERE AT THE SCENE WHEN YOU
- 21 FOUND IT?
- 22 A. YES, MA'AM, IT WAS.
- 23 Q. CAN YOU TELL THIS JURY WHERE ON YOUR DIAGRAM IN THE
- 24 PARKING LOT YOU FOUND THAT ITEM?
- 25 A. THAT WAS LOCATED IN THE THIRD PARKING SPACE OVER FROM

1 THE BACK OF THE BUILDING NEAR THE BACK OF THE PARKING LOT.

2 Q. OKAY. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
3 EXHIBIT NUMBER 24 WHICH IS ALSO DEPICTED IN STATE'S EXHIBIT
4 NUMBER 22.

5 A. YES, MA'AM.

6 Q. WHERE WAS THAT ITEM LOCATED AND WHAT IS IT?

7 A. THAT'S ALSO ANOTHER FRAGMENT THAT'S LOCATED TWO BLOCKS
8 OVER -- TWO SPACES OVER AND TO THE BACK PART OF THE PARKING
9 LOT -- PARKING SPACE.

10 Q. FINALLY, STATE'S EXHIBIT NUMBER 25, WHAT DOES THAT
11 DEPICT? YOU HAVE TO LOOK HARD AT THAT.

12 A. THAT'S ALSO A FRAGMENT, I BELIEVE. LET ME SEE. THAT'S
13 ALSO A FRAGMENT ALSO.

14 Q. IT'S JUST A LITTLE HARDER TO SEE---

15 A. YES, MA'AM.

16 Q. ---IN THIS PHOTOGRAPH. AND, AGAIN, SOME OF YOUR
17 PHOTOGRAPHS DIDN'T TURN OUT.

18 A. YES, MA'AM.

19 Q. AND WHERE WAS THAT LOCATED IN THAT PARKING LOT THAT
20 NIGHT?

21 A. THAT WAS ALSO LOCATED DOWN HERE BEHIND SPACE NUMBER TWO.

22 Q. AS A CRIME SCENE INVESTIGATOR, DO YOU ALSO LOOK FOR ANY
23 EVIDENCE OF WHAT DIRECTION A BULLET MAY HAVE TRAVELED?

24 A. YES, MA'AM, WE DO.

25 Q. AND WHAT EXAMINATION DID YOU DO OF THE BUILDING, THE

1 FACE OF THE BUILDINGS, AND THESE WALLS?

2 A. OKAY. WE GO BACK IN AND WE'LL TAKE A LOOK AT THE --
3 LOOK FOR STRIKE MARKS. WE LOOK FOR HOLES OR INDENTATIONS IN
4 THE WALL WHERE THE BULLET MAY HAVE HIT. BY CHECKING ALL
5 THESE AREAS, THAT'S WHAT WE DO.

6 Q. AND YOU WOULD HAVE CHECKED THIS WALL, THIS WALL, AND
7 THIS WALL.

8 A. YES, MA'AM.

9 Q. WHEN YOU DID THAT, DID YOU FIND ANY EVIDENCE?

10 A. YES, MA'AM, WE DID.

11 Q. WHERE WAS THAT?

12 A. THERE WAS A BULLET HOLE ON THE SHORT WALL THAT WE TALKED
13 ABOUT.

14 Q. I SHOW YOU STATE'S EXHIBIT NUMBER 15. DOES THIS SHOW
15 THE BULLET HOLE?

16 A. YES, MA'AM, IT DOES.

17 Q. DOES IT SHOW ANOTHER MARKER?

18 A. IT SHOWS A -- WHAT APPEARS TO BE A RICOCHET MARK AT THE
19 BOTTOM.

20 Q. AND WHAT DOES THIS APPEAR TO BE?

21 A. THAT'S A STRIKE MARK AT THAT POINT.

22 Q. AND WHICH WALL DID YOU FIND THIS ON?

23 A. THIS WAS ON THE SHORT WALL AT THE REAR BEHIND --
24 DIRECTLY BEHIND BUILDING 1634.

25 Q. SO THAT WOULD HAVE BEEN, IF YOU'RE STANDING AT THE BACK

1 OF THE BUILDING, GOING THAT WAY.

2 A. YES, MA'AM.

3 Q. AND WHICH WAY IS SUMTER STREET AND THE HOSPITAL?

4 A. YES, MA'AM, IT IS.

5 Q. IS THAT WAY.

6 A. YES, MA'AM.

7 Q. I SHOW YOU STATE'S EXHIBIT NUMBER 16 AND 17. WHAT IS
8 THIS A CLOSE-UP OF?

9 A. LET ME SEE IT, MA'AM.

10 Q. I'M SORRY.

11 A. OKAY. THAT'S THE WALL ITSELF AND A CLOSE-UP OF THE
12 ACTUAL HOLE IN THE WALL.

13 Q. YOU ALSO MENTIONED THE RICOCHET MARK. I SHOW YOU
14 STATE'S EXHIBIT NUMBER 18.

15 A. YES, MA'AM.

16 Q. WHAT DOES THAT SHOW?

17 A. THAT SHOWS RIGHT WHERE YOU HAVE A STRIKE MARK THAT
18 APPEARS TO HAVE GONE ALONG THE BOTTOM PORTION OF THE WALL.

19 Q. NOW, I WANT TO TALK A LITTLE BIT MORE ABOUT STATE'S
20 EXHIBIT NUMBER 17, THIS BULLET HOLE. ONCE YOU PHOTOGRAPHED
21 IT AND LOCATED IT, AFTER THAT DID YOU DO ANY FURTHER
22 EXAMINATIONS?

23 A. NO, MA'AM. BASICALLY THE ONLY THING WE DO IS WE TAKE
24 ANY EVIDENCE THAT'S LEFT THERE LIKE THE -- A BULLET
25 PROJECTILE HEAD THAT'S REMOVED FROM IT AND THEN WE'LL TAKE

1 IT...

2 Q. AND IN THIS CASE WERE YOU ABLE TO GET ANY EVIDENCE
3 FROM---

4 A. YES, MA'AM.

5 Q. ---FROM THE BULLET HOLE?

6 A. WE REMOVED THE PORTION OF THE JACKET RIGHT FROM THAT
7 LOCATION.

8 Q. A PORTION OF THE JACKET?

9 A. YES, MA'AM.

10 Q. AND WHEN YOU'RE TALKING ABOUT THAT AGAIN, WHAT PUTS THE
11 JACKET THERE?

12 A. THAT IS THE TIP OF THE BULLET, AS WE TALKED ABOUT
13 EARLIER, RIGHT AS IT GOES OVER THE TOP OF THE ACTUAL -- THE
14 LEAD ITSELF. WHAT HAPPENED WAS ONCE IT STRIKES, IT WILL BEND
15 DOWN. A PORTION OF IT WILL COME OFF. THIS HERE WILL REMAIN
16 IN PLACE.

17 Q. AND COULD YOU TELL WHAT DIRECTION THAT SHOT HAD BEEN
18 FIRED FROM?

19 A. YES, MA'AM. IT APPEARS THAT IT WOULD BE THAT IT WAS
20 FIRED DIRECTLY DOWN, RIGHT, WHICH HIT THIS WALL AT THIS
21 LOCATION.

22 Q. AND, AGAIN, IF A BULLET -- IF IT TRAVELS AND HITS
23 SOMETHING, IT MAY STOP.

24 A. IT MAY STOP.

25 Q. IT MAY FIRE.

1 A. IT MAY FIRE.

2 Q. IT MAY BOUNCE.

3 A. BOUNCE, YES, MA'AM.

4 Q. IN THIS CASE THE FRAGMENT WAS LOCATED IN THIS WALL.

5 A. YES, MA'AM.

6 Q. IF A BULLET DOESN'T HIT SOMETHING, SAY, THAT IF IT'S
7 SHOT INTO THE AIR, IT CAN CONTINUE---

8 A. IT CONTINUES AND IT'S AN INDEFINITE THING. IT HAS TO BE
9 DETERMINED BY THE ACTUAL -- THE POWDER ITSELF, HOW MUCH
10 POWDER AND HOW FAR IT ACTUALLY GOES.

11 Q. NOW, IN YOUR EXPERIENCE AS A CRIME SCENE INVESTIGATOR,
12 CAN AN ACTUAL SHOOTING TAKE PLACE AND YOU MAY FIND NO
13 EVIDENCE?

14 A. YES, MA'AM.

15 Q. WERE YOU MADE AWARE THAT EVENING THAT THERE WERE
16 ACTUALLY FRAGMENTS INSIDE THE VICTIM, THE BULLETS?

17 A. I DID NOT GET A CHANCE TO GET WITH THE VICTIM BECAUSE OF
18 THE FACT HE HAD ALREADY WENT INTO SURGERY.

19 Q. THE NEXT DAY DID YOU GO BACK TO THE SCENE AND TAKE SOME
20 MORE PHOTOGRAPHS?

21 A. YES, MA'AM, I DID.

22 Q. AND WHY DID YOU DO THAT, SIR?

23 A. BECAUSE -- DUE TO THE FACT THAT IT WAS RAINING THAT
24 NIGHT AND I KNOW I DID NOT GET ALL THE PICTURES I NEEDED TO
25 DEPICT THE SCENE ITSELF, I COME BACK OUT THE FOLLOWING

1 MORNING, RIGHT, TO ALSO TAKE PHOTOGRAPHS OF THE BASIC ENTRY
2 POINT COMPARED TO THE LOCATION OF WHERE I WAS.

3 Q. WHILE YOU'RE STANDING, SO YOU DON'T HAVE TO GET BACK
4 DOWN, I WANT TO SHOW YOU STATE'S EXHIBITS 26 THROUGH 28. DO
5 YOU RECOGNIZE THOSE?

6 A. YES, MA'AM, I DO. YES, MA'AM. YES, MA'AM.

7 Q. AND WERE THOSE PHOTOGRAPHS YOU TOOK THE NEXT DAY?

8 A. YES, MA'AM, THEY WERE.

9 Q. DO THOSE FAIR AND ACCURATELY DEPICT THE AREA WE'RE
10 TALKING ABOUT?

11 A. YES, MA'AM, THEY DO.

12 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER THEM
13 INTO EVIDENCE.

14 MR. TARR: NO OBJECTION.

15 THE COURT: ADMITTED WITHOUT OBJECTION.

16 (STATE'S EXHIBITS 26 THROUGH 28 WERE RECEIVED IN
17 EVIDENCE.)

18 BY MS. CAMPBELL:

19 Q. I WANT TO SHOW YOU THIS ONE FIRST, STATE'S EXHIBIT
20 NUMBER 27. WHAT DOES THAT SHOW?

21 A. THIS SHOWS -- LET ME STEP... THIS SHOWS THE ALLEYWAY
22 THAT GOES BACK OUT TO MAIN STREET. THIS SHOWS THE REAR OF
23 BUILDING 1634. THIS IS THE KIMBRELL BUILDING. IT'S LOCATED
24 TO THE REAR OF THE PARKING LOT. THE ACTUAL LOCATION IS
25 COMING OUT -- THIS DIRECTION WOULD BE FROM THE SUMTER STREET

1 SIDE.

2 Q. SO THIS IS ACTUALLY THE ALLEY TO MAIN STREET.

3 A. YES, MA'AM.

4 Q. TAKING IT A LITTLE FURTHER OUT, STATE'S EXHIBIT NUMBER
5 26, WHAT DOES THAT SHOW YOU?

6 A. THIS IS A SHOT FROM THE SUMTER STREET SIDE GOING DOWN
7 INTO THE BACK -- TO THE REAR OF 1634 MAIN, AND THIS IS THE
8 ALLEYWAY THAT GOES OUT INTO MAIN STREET ITSELF.

9 Q. AND DOES IT DEPICT THE TAPP'S BUILDING IN THIS
10 PHOTOGRAPH?

11 A. YES, MA'AM. THE TAPP'S BUILDING IS LOCATED TO THE RIGHT
12 SIDE.

13 Q. FINALLY STATE'S EXHIBIT NUMBER 28, WHAT DOES THAT SHOW?

14 A. THIS IS A SHOT FROM THE MAIN STREET SIDE OUT TO THE
15 SUMTER STREET SIDE WHERE THE ACTUAL PARKING GARAGE IS.

16 Q. SO THAT WOULD BE LOOKING, SAY, FROM THIS---

17 A. THAT'S FROM THIS END.

18 Q. TOWARDS?

19 A. OUT TO SUMTER STREET. THE PARKING GARAGE IS LOCATED
20 HERE.

21 Q. WHEREAS STATE'S EXHIBIT NUMBER 26 IS LOOKING FROM WHERE?

22 A. LOOKING FROM THE SUMTER STREET SIDE BACK DIRECTLY INTO
23 TOWARD MAIN STREET.

24 Q. YOU CAN TAKE THE STAND. THAT EVENING, ONCE YOU HAD
25 PROCESSED THE CRIME SCENE AND COLLECTED THESE BULLET

- 1 FRAGMENTS WE'RE REFERRING TO---
- 2 A. YES, MA'AM.
- 3 Q. ---THE CHECKBOOK, THE PHONE, EVERYTHING LIKE THAT---
- 4 A. YES, MA'AM.
- 5 Q. ---DID YOU RESPOND TO ANOTHER SCENE INVOLVING THIS CASE?
- 6 A. YES, MA'AM.
- 7 Q. AND WHERE WAS THAT, SIR?
- 8 A. THAT WAS LOCATED ON PEELER -- I BELIEVE IT WAS PEELER
- 9 ROAD IN GASTON.
- 10 Q. GASTON, SOUTH CAROLINA?
- 11 A. YES, MA'AM.
- 12 Q. WHAT COUNTY IS THAT IN?
- 13 A. THAT'S IN LEXINGTON COUNTY.
- 14 Q. AND WHY DID YOU GO TO LEXINGTON COUNTY THAT NIGHT?
- 15 A. THAT WAS UPON THE REQUEST OF THE INVESTIGATORS RIGHT AT
- 16 THE SCENE. THEY HAD LOCATED A -- LOCATED A TAHOE THAT BORE
- 17 THE -- THE TAKEN VEHICLE FROM THAT LOCATION.
- 18 Q. AND THEY HAD LOCATED THAT PRETTY QUICKLY THAT NIGHT?
- 19 A. YES, MA'AM, THEY DID.
- 20 Q. AND THEY ACTUALLY HAD TO HOLD IT FOR YOU TO COME
- 21 PROCESS---
- 22 A. YES, MA'AM.
- 23 Q. ---IT LATER SO YOU COULD FINISH THE FIRST CRIME SCENE.
- 24 A. YES, MA'AM.
- 25 Q. I WANT TO SHOW YOU A SERIES OF PHOTOS, 30 THROUGH -- 30

1 THROUGH 36 AND THEN 39 THROUGH 41. FIRST LOOK AT THOSE.

2 A. (THE WITNESS COMPLIES.) YES, MA'AM.

3 Q. ARE THOSE THE PHOTOGRAPHS YOU ACTUALLY TOOK ONCE YOU
4 RESPONDED OUT TO LEXINGTON COUNTY THAT NIGHT?

5 A. YES, MA'AM, IT IS.

6 Q. DO YOU REMEMBER APPROXIMATELY WHAT TIME IT WAS WHEN YOU
7 GOT THERE?

8 A. IT WAS MY BIRTHDAY, JUNE THE 3RD, APPROXIMATELY ABOUT
9 12:00. I THINK I HAD RESPONDED TO THE SCENE ABOUT 12 OR A
10 LITTLE BIT AFTER 12.

11 Q. AND DO THOSE FAIRLY AND ACCURATELY DEPICT THE TAHOE THAT
12 WAS FOUND IN LEXINGTON?

13 A. YES, MA'AM, IT DOES.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER 30
15 THROUGH 36 AND THEN 39 THROUGH 41.

16 MR. TARR: NO OBJECTION, YOUR HONOR.

17 THE COURT: THEY'RE ADMITTED WITHOUT OBJECTION.

18 (STATE'S EXHIBITS 30 THROUGH 36 AND 39 THROUGH 41 WERE
19 RECEIVED IN EVIDENCE.)

20 BY MS. CAMPBELL:

21 Q. YOU MENTIONED THAT THIS WAS ON PEELER ROAD. DID YOU DO
22 ANYTHING IN STATE'S EXHIBIT 30 JUST TO MEMORIALIZE THE
23 GENERAL AREA WHERE YOU WENT THAT NIGHT?

24 A. YES, MA'AM. I TOOK THE INTERSECTION OF BASICALLY WHERE
25 I WAS COMING INTO IT WHICH WAS AT PEELER AND WILD BIRD.

1 COURT REPORTER: I'M SORRY. PEELER AND WHAT?

2 THE WITNESS: PEELER AND WILD BIRD.

3 BY MS. CAMPBELL:

4 Q. WILD BIRD?

5 A. YES, MA'AM.

6 Q. AND DESCRIBE THE AREA WHERE THE CAR WAS LOCATED THAT
7 NIGHT.

8 A. IT WAS LOCATED DOWN A ROAD AND LIKE A LITTLE MOUND TO GO
9 DOWN A DIRT ROAD, AND AS YOU CROSS INTO A ROW OF TREES TO THE
10 RIGHT-HAND SIDE, THE VEHICLE WAS LEFT INTO AN OPEN FIELD
11 AREA.

12 Q. COULD YOU ACTUALLY SEE THAT FROM THE ROAD?

13 A. YOU COULDN'T SEE IT FROM THE ROAD.

14 Q. AND WHEN YOU SAY IT WAS DOWN A ROAD, WHAT KIND OF ROAD
15 WAS IT DOWN?

16 A. IT WAS A DIRT ROAD, MA'AM.

17 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
18 EXHIBIT NUMBER 31. WHAT DOES THAT SHOW, SIR?

19 A. THAT SHOWS THE LEXINGTON COUNTY POLICE CAR ALONG THE
20 DIRT ROAD TOWARD...

21 Q. AND THIS WOULD BE THE DIRT ROAD THAT RAN OFF PEELER. IS
22 THAT CORRECT?

23 A. YES, MA'AM, IT IS.

24 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 32. WHAT DOES
25 THAT SHOW?

1 A. THAT IS THE VEHICLE OUT IN -- OUT IN THE DISTANCE ALONG
2 THE DIRT ROAD.

3 Q. AND, AGAIN, WERE YOU ABLE TO SEE THIS CAR FROM ANY ROAD?

4 A. NO, MA'AM. YOU WOULD NOT BE ABLE TO SEE IT FROM THE
5 ROAD.

6 Q. STATE'S EXHIBIT NUMBER 33 THROUGH 36, WHAT ARE THOSE
7 GENERAL PHOTOS OF?

8 A. THOSE ARE GENERAL PHOTOGRAPHS OF THE VEHICLE AND THE
9 LOCATION. THE PURPOSE THERE WAS WANTED TO MAKE SURE WE GOT A
10 PHOTOGRAPH OF THE TAG TO IDENTIFY THAT THAT WAS THE VEHICLE
11 THAT THEY HAD DESCRIBED.

12 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 33. DOES THAT
13 HAVE THE TAG NUMBER ON IT?

14 A. YES, MA'AM, IT DOES.

15 Q. WHAT'S THAT TAG NUMBER?

16 A. 750 HOTEL ROMEO MIKE.

17 Q. AND THAT EVENING DID YOU PROCESS THE CAR?

18 A. NO, MA'AM, I DID NOT PROCESS IT FOR FINGERPRINTS THAT
19 NIGHT DUE TO THE FACT OF THE HEAVY RAIN THAT WE HAD, BUT I
20 DID GO AHEAD AND COLLECT -- ATTEMPT TO COLLECT D.N.A. FROM
21 THE VEHICLE.

22 Q. AND WHERE DID YOU ATTEMPT TO COLLECT D.N.A. FROM?

23 A. FROM THE STEERING WHEEL AREA AND ALSO THE DOOR HANDLE
24 AREA OF THE VEHICLE FROM THE DRIVER'S SIDE.

25 Q. AND HOW DO YOU DO THAT PROCEDURE? JUST DESCRIBE IT TO

1 THE JURY.

2 A. WHAT WE HAVE IS STERILIZED SWABS, LOOKS LIKE Q-TIPS, AND
3 YOU TAKE THEM OUT OF THE PACKAGE. WHAT YOU DO IS YOU PLACE
4 SOME DISTILLED WATER ON THEM AND YOU WILL GO OVER THE
5 STEERING WHEEL AREA, SWAB AN AREA. YOU'LL PLACE THOSE BACK
6 IN THE EVIDENCE ENVELOPES. I LABEL IT WHAT TIME YOU -- WHAT
7 AREA YOU COLLECTED IT FROM AND THE TIME. THE SAME THING IS
8 DONE ALSO ON THE DOOR HANDLE AREA BECAUSE THESE ARE THE MOST
9 LIKELY AREAS THAT D.N.A. WOULD BE LEFT. IT WOULD EITHER BE
10 ON THE STEERING WHEEL OR THE DOOR HANDLE, ENTERING AND
11 EXITING THE VEHICLE.

12 Q. SO EVEN IF I TOUCH A STEERING WHEEL, IT'S NOT
13 NECESSARILY GOING TO LEAVE D.N.A.?

14 A. NO, MA'AM, IT'S NOT.

15 Q. AND IF SOMEONE WIPES DOWN AN AREA, IT WOULDN'T LEAVE IT.

16 A. YES, MA'AM.

17 Q. THAT NIGHT DID YOU PROCESS IT FOR FINGERPRINTS?

18 A. NO, MA'AM, I DID NOT.

19 Q. BUT DID YOU HAVE THE CAR TOWED?

20 A. YES, MA'AM, I DID.

21 Q. WHAT WAS THE PURPOSE IN TOWING THE CAR THAT NIGHT?

22 A. SO THAT WE COULD ALSO GET IT BACK INTO A DRY ENVIRONMENT
23 TO ALLOW THE VEHICLE TO DRY OUT AND AT THAT TIME TO ATTEMPT
24 TO GET FINGERPRINTS.

25 Q. WAS THERE ANY OTHER EVIDENCE THERE AT THE SCENE THAT YOU

1 ATTEMPTED TO PHOTOGRAPH THAT NIGHT?

2 A. YES, MA'AM.

3 Q. SPECIFICALLY IN 39, 40, AND 41?

4 A. YES, MA'AM, IT WAS.

5 Q. AND WHAT DO THESE SHOW?

6 A. THERE WAS A PARTIAL SHOE IMPRESSION IN THE GROUND AREA
7 BEHIND THE FIELD.

8 Q. AND YOU ACTUALLY PHOTOGRAPHED THOSE THAT NIGHT?

9 A. YES, MA'AM, I DID.

10 Q. WERE YOU ABLE TO DO ANY COMPARISONS AT A LATER DAY WITH
11 THESE?

12 A. NO, MA'AM.

13 Q. WHY NOT?

14 A. BECAUSE THE IMPRESSIONS THAT WE COLLECTED WAS REALLY NOT
15 GOOD ENOUGH FOR IDENTIFICATION PURPOSES.

16 Q. THAT NIGHT PRIOR TO LEAVING THE FIRST SCENE - I LEFT
17 THIS OUT - DID YOU ALSO COLLECT THE VICTIM'S CLOTHING I
18 BELIEVE FROM OFFICER HICKS?

19 A. YES, MA'AM. YES, MA'AM, I DID.

20 Q. AND THAT WAS PUT INTO EVIDENCE?

21 A. YES, MA'AM, IT WAS.

22 Q. AFTER YOU PHOTOGRAPHED THE FOOTWEAR IMPRESSION, YOU EVEN
23 TRIED TO GET A CAST OF THE FOOTWEAR IMPRESSION.

24 A. YES, MA'AM, I DID.

25 Q. WAS IT SUITABLE FOR ANY FURTHER COMPARISON?

1 A. NO, MA'AM, IT WAS NOT.

2 Q. WHILE YOU WERE DOWN THERE AT THE SCENE, DID
3 INVESTIGATORS REQUEST THAT YOU COME AND DO A G.S.R. KIT?

4 A. YES, MA'AM, THEY DID.

5 Q. AND WHO WERE YOU DOING THAT ON THAT NIGHT, SIR?

6 A. THAT WAS AN INDIVIDUAL BY THE NAME OF NORRIS JOSEPH
7 REED.

8 Q. NORRIS JOSEPH REED?

9 A. YES, MA'AM.

10 Q. SO HE WAS SOMEONE THAT HAD BEEN STOPPED THAT NIGHT IN
11 THAT GENERAL AREA OF PEELER ROAD?

12 A. YES, MA'AM, HE WAS.

13 Q. AND WHAT WAS THE PURPOSE IN DOING A GUNSHOT RESIDUE KIT,
14 SIR?

15 A. THE PURPOSE OF THAT IS TO SEE IF ANY GUNSHOT RESIDUE IS
16 LEFT ON AN INDIVIDUAL'S HAND FROM FIRING A WEAPON.

17 Q. AND THE PERSON THAT YOU WERE GETTING THE GUNSHOT RESIDUE
18 KIT FROM THAT NIGHT, HE WAS COOPERATIVE?

19 A. YES, MA'AM, VERY COOPERATIVE.

20 Q. AND DO YOU HAVE TO DO A GUNSHOT RESIDUE KIT WITHIN A
21 CERTAIN AMOUNT OF TIME?

22 A. YES, MA'AM.

23 Q. WHY IS THAT, SIR?

24 A. BECAUSE THE -- IT REDUCES IN VALUE AS TIME GOES ON.

25 Q. IN OTHER WORDS, AS TIME GOES ON---

1 A. IT DISSIPATES FROM THE HAND OR YOU MIGHT WASH YOUR HANDS
2 OR THINGS OF THIS NATURE.

3 MS. CAMPBELL: BEG THE COURT'S INDULGENCE. I WANT TO
4 MARK THESE.

5 (STATE'S EXHIBITS 71 THROUGH 74 WERE MARKED FOR
6 IDENTIFICATION ONLY.)

7 BY MS. CAMPBELL:

8 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBITS 71,
9 72, 73, AND 74. I JUST FIRST ASK IF YOU RECOGNIZE THOSE.

10 A. YES, MA'AM.

11 (STATE'S EXHIBITS 75 AND 76 WERE MARKED FOR
12 IDENTIFICATION ONLY.)

13 BY MS. CAMPBELL:

14 Q. AND WHAT ARE THOSE ITEMS, SIR?

15 A. THESE WERE THE FRAGMENTS THAT WERE COLLECTED FROM THE
16 ACTUAL SCENE ITSELF.

17 Q. FROM THE SCENE ITSELF?

18 A. YES, MA'AM.

19 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER 71
20 THROUGH 74 INTO EVIDENCE.

21 MR. TARR: NO OBJECTION, YOUR HONOR.

22 THE COURT: ADMITTED WITHOUT OBJECTION.

23 (STATE'S EXHIBITS 71 THROUGH 74 WERE RECEIVED IN
24 EVIDENCE.)

25

1 BY MS. CAMPBELL:

2 Q. AND THESE ARE THE ACTUAL FRAGMENTS THAT ARE DEPICTED IN
3 THOSE PHOTOGRAPHS.

4 A. YES, MA'AM, IT IS.

5 Q. I ALSO FOR I.D. PURPOSES WANT TO SHOW YOU STATE'S
6 EXHIBIT NUMBER 75. DO YOU RECOGNIZE THAT?

7 A. YES, MA'AM.

8 Q. AND THEN STATE'S EXHIBIT NUMBER 76?

9 A. YES, MA'AM.

10 Q. AND STATE'S EXHIBIT NUMBER 75 IN THE WHITE BOX, WHAT IS
11 THAT?

12 A. THAT IS A REVOLVER, MA'AM.

13 Q. A REVOLVER?

14 A. YES, MA'AM.

15 Q. AND STATE'S EXHIBIT NUMBER 76, WHAT IS THAT?

16 A. THAT IS A BOX OF BULLETS.

17 Q. AND IN TERMS OF THE CHAIN, AT SOME LATER DATE WERE YOU
18 ASKED TO TRANSPORT THESE ITEMS TO GET SOME BALLISTICS
19 COMPARISONS DONE?

20 A. YES, MA'AM, I WAS.

21 Q. IN ADDITION TO THAT, DID YOU ALSO TRANSPORT A WHITE MASK
22 TO BE TESTED FOR D.N.A.?

23 A. YES, MA'AM.

24 Q. AND WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 12?

25 A. YES, MA'AM.

1 Q. AND YOU ALSO TRANSPORTED THAT FOR TESTING?

2 A. YES, MA'AM, I DID.

3 Q. AND DURING THE TIME PERIOD THAT THESE ITEMS WERE IN YOUR
4 CUSTODY AND YOU WERE TRANSPORTING THEM, DID ANYONE ALTER THEM
5 OR TAMPER WITH THEM OR DO ANYTHING?

6 A. NO, MA'AM, THEY DID NOT.

7 Q. EITHER THE MASK OR THE GUN AMMUNITION---

8 A. NO, MA'AM.

9 Q. ---AND THE SHELL CASINGS. EXCUSE ME. PROJECTILES.

10 THANK YOU, SIR.

11 A. ALL RIGHT.

12 THE COURT: MR. TARR?

13 MR. TARR: THANK YOU, YOUR HONOR.

14 CROSS-EXAMINATION

15 BY MR. TARR:

16 Q. HOW ARE YOU DOING, INVESTIGATOR SCOTT?

17 A. PRETTY GOOD.

18 Q. YOU WOULD BE WHAT WE WOULD COMMONLY REFER TO AS A C.S.I.
19 LIKE WE SEE ON T.V.?

20 A. SERGEANT SCOTT, SIR.

21 Q. SERGEANT SCOTT.

22 A. YES, SIR.

23 Q. BUT YOU DO CRIME SCENE INVESTIGATION?

24 A. I ASSIST WITH CRIME SCENES; YES, SIR.

25 Q. OKAY. BUT -- SO WHEN WE SEE ON T.V. C.S.I. PEOPLE COME

1 OUT AND TAKE THINGS FROM THE CRIME SCENE AND DOCUMENT THINGS,
2 THAT'S WHAT YOU DO.

3 A. OKAY. THAT'S TELEVISION. RIGHT? WHAT WE DO IS FOR
4 REAL.

5 Q. OKAY. RIGHT. EXACTLY.

6 A. YES, SIR.

7 Q. BUT JUST... NOW, WHEN YOU CAME OUT TO THE SCENE OUT
8 THERE BETWEEN SUMTER AND MAIN STREET IN THE PARKING LOT, YOU
9 FOUND A WALLET AND A CHECKBOOK?

10 A. YES, I DID, SIR.

11 Q. OKAY. SO THE CHECKBOOK WAS NOT TAKEN BY THE SUSPECT.

12 A. WHAT I COLLECTED ON THE SCENE WAS A WALLET AND A
13 CHECKBOOK.

14 Q. AND THE WALLET, AS FAR AS YOU KNOW, HAD ALL OF ITS
15 CONTENTS INTACT INCLUDING ALL CREDIT CARDS AND DEBIT CARDS
16 AND MONEY?

17 A. WHAT I COLLECTED AT THE SCENE WAS LATER IDENTIFIED BY
18 THE VICTIM. I HEARD ANYTHING -- I DIDN'T HEAR ANYTHING ABOUT
19 ANYTHING WAS MISSING; NO, SIR.

20 Q. OKAY. AND THERE WAS A CELL PHONE THERE, TOO, THAT WAS
21 NOT TAKEN BY THE SUSPECT.

22 A. YES, SIR, THERE WAS.

23 Q. NOW, YOU TESTIFIED A LITTLE BIT ABOUT A BULLET HOLE THAT
24 YOU FOUND ON A WALL INSIDE OF THE BUILDING?

25 A. YES, SIR, AT THE BACK -- AT THE REAR OF THE BUILDING,

1 YES, SIR.

2 Q. THAT BULLET HOLE DOES NOT TELL YOU ANYTHING ABOUT WHERE
3 THE PERSON WITH THE GUN WAS OR WHERE THE PERSON WHO WAS SHOT
4 AT WAS, DOES IT?

5 A. IT GIVES US AN IDEA, SIR, RIGHT, OF WHICH DIRECTION THE
6 TRAJECTORY WAS. OKAY? BECAUSE IF HE WAS STANDING AT THE
7 BACK SIDE OF THE WALL, RIGHT, THEN THE BULLET HOLE WOULDN'T
8 BE ON THAT END.

9 Q. RIGHT.

10 A. LOOKING AT THE BULLET HOLE ITSELF, RIGHT, IT WAS
11 APPARENTLY MADE FROM THE END OF THE BUILDING TOWARDS THE
12 SUMTER STREET SIDE.

13 Q. RIGHT. YOU CAN TELL WHERE THE BULLET CAME FROM, BUT YOU
14 CAN'T TELL WHERE THE TWO PEOPLE WERE IN RELATIONSHIP TO EACH
15 OTHER OR WHAT THEY WERE DOING.

16 A. NO, SIR. IT JUST GIVES ME A DIRECTION.

17 Q. SO THAT BULLET HOLE DOESN'T TELL YOU WHETHER SOMEBODY
18 WAS STRUGGLING WITH SOMEBODY THAT HAD A GUN THAT WAS POINTED
19 IN THAT DIRECTION OR WHETHER THEY WERE RUNNING FROM SOMEBODY
20 WHO WAS SHOOTING AT THEM FROM THE BACK.

21 A. NO, SIR. IT JUST TELLS ME DIRECTION.

22 Q. OKAY. HOW FAR AWAY WOULD YOU SAY THE PEELER ROAD SCENE
23 WHERE YOU FOUND THE TAHOE WAS FROM THE PARKING LOT? JUST A
24 GUESS.

25 A. I COULDN'T EVEN -- I DON'T WANT TO GUESS, SIR. I DON'T

1 KNOW.

2 Q. WAS IT MORE THAN 15 MILES?

3 A. I WOULD SAY, YES, SIR.

4 Q. TWENTY? SOMEWHERE AROUND 20 TO 25 MILES?

5 A. OVER 15 MILES, SIR.

6 Q. OKAY. AND SO YOU FOUND THE TAHOE OUT THERE. DID YOU --
7 YOU SAID YOU DIDN'T PROCESS FOR FINGERPRINTS, BUT DID YOU
8 INVENTORY THE CAR AND ITS CONTENTS?

9 A. WHAT I DID: I PHOTOGRAPHED IT IN THE LOCATION, SIR,
10 RIGHT, AND WENT AHEAD AT THAT POINT TO GET THE VEHICLE BACK
11 TO THE HEADQUARTERS AREA, WAS JUST TO GO AHEAD AND TEST THE
12 D.N.A. AT THAT LOCATION AND THEN BRING THE VEHICLE IN, AND AT
13 THAT TIME WE WOULD DO ANY ADDITIONAL SEARCH THAT WE NEEDED TO
14 DO.

15 Q. WERE YOU INVOLVED IN THE INVENTORY OF THE CONTENTS OF
16 THE VEHICLE?

17 A. NO, SIR, I WAS NOT.

18 Q. SO YOU DON'T -- YOU DON'T KNOW WHAT WAS TAKEN OUT OF THE
19 VEHICLE?

20 A. NO, SIR.

21 Q. OKAY. TO YOUR KNOWLEDGE, WAS THERE ANYTHING SUPPOSEDLY
22 MISSING FROM THE VEHICLE?

23 A. NO, SIR, NOT THAT I KNOW OF.

24 Q. WAS THERE A GUN RECOVERED IN THE VEHICLE?

25 A. NO, SIR, THERE WAS NOT.

1 Q. WHEN YOU CAME UPON THE TAHOE, DID IT APPEAR TO BE
2 ABANDONED?

3 A. IT HAD BEEN PARKED OUT IN THE MIDDLE OF THE WOODS, SIR.
4 YES, SIR, IT WAS JUST LEFT IN THE OPEN.

5 Q. NOW, YOU SAID THAT YOU TOOK SOME FOOTWEAR FOOTPRINT
6 IMPRESSIONS THAT DIDN'T REALLY TURN OUT VERY WELL?

7 A. SOME CASTINGS, YES, SIR.

8 Q. SO YOU WEREN'T -- YOU WERE UNABLE TO TEST THEM AGAINST
9 SHOES THAT WERE VOLUNTARILY TURNED OVER---

10 A. YES, SIR.

11 Q. ---BY MY CLIENT.

12 A. YES, SIR.

13 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

14 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS.

15 THE COURT: ALL RIGHT.

16 REDIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q. HE ASKED YOU ABOUT -- YOU FOUND A WALLET AT THE SCENE?

19 A. YES, MA'AM.

20 Q. YOU FOUND A CHECKBOOK?

21 A. YES, MA'AM.

22 Q. DID YOU FIND THE TAHOE AT THE SCENE?

23 A. NO, MA'AM, I DID NOT.

24 Q. DID YOU FIND THE KEYS TO THE TAHOE AT THE SCENE?

25 A. NO, MA'AM, I DIDN'T.

1 Q. AND DID YOU EVER FIND THE KEYS THAT NIGHT?

2 A. NO, MA'AM, I DIDN'T.

3 MS. CAMPBELL: THANK YOU.

4 THE COURT: ANYTHING FURTHER?

5 MR. TARR: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. THANK YOU, SIR.

7 THE WITNESS: THANK YOU, SIR.

8 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

9 THE COURT: ANY OBJECTION?

10 MR. TARR: NO OBJECTION, YOUR HONOR.

11 THE COURT: THE WITNESS IS EXCUSED. NEXT WITNESS.

12 MR. GOLDBERG: THE STATE CALLS OFFICER DESROCHERS.

13 THE COURT: LET'S STAND FOR A MOMENT AS THE NEXT WITNESS
14 COMES.

15 SCOTT D. DESROCHERS, AFTER BEING DULY SWORN,
16 TESTIFIED AS FOLLOWS:

17 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
18 FULL NAME FOR THE RECORD.

19 THE WITNESS: LIEUTENANT SCOTT DESROCHERS.

20 (STATE'S EXHIBIT 77 WAS MARKED FOR IDENTIFICATION ONLY.)

21 DIRECT EXAMINATION

22 BY MR. GOLDBERG:

23 Q. LIEUTENANT, WHERE ARE YOU EMPLOYED?

24 A. COLUMBIA POLICE DEPARTMENT.

25 Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

1 A. OVER 24 YEARS.

2 Q. AND WHAT ARE YOUR DUTIES WITH THE DEPARTMENT?

3 A. CURRENTLY I'M ASSIGNED AS THE METRO REGION EXECUTIVE
4 OFFICER.

5 Q. BACK IN JUNE OF 2006 WERE YOU WITH THE DEPARTMENT THEN?

6 A. YES, SIR. I WAS A STREET SERGEANT.

7 Q. STREET SERGEANT? WHAT DOES THAT ENTAIL?

8 A. IT'S THE SAME JOB AS SERGEANT C.O. CLARK WAS EARLIER. I
9 WAS ON THE DAY SHIFT THAT RELIEVED HIM ON THAT DAY.

10 BASICALLY I'M IN CHARGE OF A SQUAD OF OFFICERS WHO ARE
11 RESPONSIBLE FOR ALL POLICE FUNCTIONS IN THE METRO REGION.

12 Q. SO YOU WOULD NOT HAVE BEEN WORKING ON THE NIGHT OF
13 JUNE 2ND, 2006.

14 A. NO, SIR.

15 Q. WHEN DID YOU COME ON DUTY?

16 A. AT 6 A.M. THAT NEXT MORNING.

17 Q. AND TELL THIS JURY HOW YOU BECAME INVOLVED IN THIS CASE.

18 A. AS ALWAYS, WE CONDUCT A ROLL CALL BRIEFING WITH THE
19 OFFICERS. WE REVIEW THEIR INCIDENT REPORTS FROM THE PREVIOUS
20 SHIFT AND INFORM THE OFFICERS OF THINGS THAT HAVE GONE ON,
21 THINGS TO BE LOOKING FOR, YOU KNOW, ON THEIR TOUR OF DUTY.
22 ON THIS PARTICULAR MORNING I WAS ALSO BRIEFED BY SERGEANT
23 CLARK AS TO AN INCIDENT THAT HAD OCCURRED AT 1634 MAIN
24 STREET. HIS CONCERN WAS THAT THEY DID NOT RECOVER A WEAPON
25 AND THAT THE CONDITIONS OUT THERE BEING RAINY AND DARK, HE

1 MAY HAVE MISSED SOME EVIDENCE. SO HIS CHARGE TO OUR SQUAD
2 WAS THAT TO STAY OUT THERE ON THE SCENE AND CONDUCT A MORE
3 THOROUGH SEARCH, YOU KNOW, IN THE DAYLIGHT TO SEE IF THERE
4 WAS ANY EVIDENCE OUT THERE THAT HE MAY HAVE MISSED.

5 Q. SO DID YOU, IN FACT, RESPOND TO 1634 MAIN STREET?

6 A. MYSELF -- I DID RESPOND OUT THERE. I HAD MY OFFICERS
7 WHO WERE ASSIGNED TO THAT AREA -- THEY ALSO WENT OUT THERE,
8 AND AFTER I FINISHED UP WITH PAPERWORK, I ALSO WENT OUT THERE
9 TO SUPERVISE AND SEE WHAT THE CRIME SCENE LOOKED LIKE.

10 Q. DO YOU RECALL ABOUT WHAT TIME YOU WENT OUT THERE?

11 A. IT WAS FIRST THING AS SOON AS WE HIT THE STREET, ABOUT
12 6:30, 7:00 I WOULD IMAGINE.

13 Q. WHEN YOU GOT OUT THERE, WHAT, IF ANYTHING, DID YOU FIND?

14 A. NOT KNOWING COMPLETELY THE FACTS OF THE CASE -- YOU
15 KNOW, I WASN'T OUT THERE, DIDN'T KNOW WHERE THE VEHICLES WERE
16 PARKED OR WHERE ANYTHING MAY HAVE HAPPENED. WE WERE JUST
17 SEARCHING THE PARKING LOT FOR ANYTHING THAT MAY APPEAR TO BE
18 EVIDENCE. I FOUND WHAT APPEARED TO BE MAYBE A CELL PHONE
19 BATTERY, SOMETHING ELSE. I THINK I POINTED IT OUT TO ONE OF
20 MY OFFICERS WHO CALLED AND HAD IT COLLECTED. NOT REAL
21 SURE -- I'M SORRY TO BE SO VAGUE ON THIS, BUT, YOU KNOW, THIS
22 WAS TWO YEARS AGO AND...

23 Q. DID YOU GENERATE A REPORT BASED ON WHAT YOU DID THAT
24 DAY?

25 A. I BELIEVE A REPORT WAS GENERATED. I DON'T KNOW WHETHER

1 I WROTE IT OR ONE OF MY OFFICERS WROTE IT.

2 Q. IF I SHOWED IT TO YOU, WOULD IT HELP REFRESH YOUR
3 MEMORY?

4 A. I HOPE IT WOULD.

5 Q. OKAY.

6 A. (THE WITNESS LOOKS AT THE INCIDENT REPORT.) YES, SIR, I
7 WROTE THIS.

8 Q. YOU WROTE THAT REPORT?

9 A. YES, SIR.

10 Q. OKAY. AND BASED UPON THAT REPORT, WHAT ELSE DID YOU
11 FIND AT THE SCENE THAT MORNING?

12 A. A SPENT SHELL CASING JACKET.

13 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 77
14 AND ASK YOU IF YOU RECOGNIZE THIS.

15 A. YES, SIR. LIKE I SAID, I WASN'T REAL SURE WHAT IT WAS.
16 I THOUGHT IT MAY APPLY TO THE CASE. THAT'S WHY WE WENT AHEAD
17 AND COLLECTED IT.

18 Q. AND ONCE YOU COLLECTED IT, WHAT DID YOU DO WITH IT?

19 A. HAD IT -- EITHER MYSELF OR ANOTHER OFFICER TRANSPORTED
20 IT TO THE EVIDENCE ROOM.

21 MR. GOLDBERG: OKAY. YOUR HONOR, AT THIS TIME WE WOULD
22 OFFER STATE'S 77 INTO EVIDENCE.

23 MR. TARR: LET ME SEE IT. NO OBJECTION.

24 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

25 (STATE'S EXHIBIT 77 WAS RECEIVED IN EVIDENCE.)

1 BY MR. GOLDBERG:

2 Q. I WANT TO SHOW YOU THE PACKAGE THAT THIS IS LOCATED IN.
3 IS THAT YOUR HANDWRITING ON THERE?

4 A. I DON'T BELIEVE IT IS.

5 Q. OKAY. THANK YOU. ONCE YOU COLLECTED THESE ITEMS, DID
6 YOU HAVE ANY OTHER OR FURTHER INVOLVEMENT IN THE CASE?

7 A. NO, SIR.

8 MR. GOLDBERG: THAT'S ALL I HAVE, SIR. THANK YOU.

9 CROSS-EXAMINATION

10 BY MR. TARR:

11 Q. JUST BRIEFLY. YOU TESTIFIED THAT YOU DIDN'T REALLY KNOW
12 ANYTHING ABOUT THE CASE ITSELF. YOU WERE JUST OUT THERE TO
13 SEE IF YOU COULD FIND ANYTHING?

14 A. YES, SIR.

15 Q. IN YOUR OPINION, WOULD A SPENT SHELL CASING JACKET BE
16 FOUND IF A REVOLVER WAS THE ONLY GUN THAT WAS USED?

17 A. LIKE I SAID, I'M NOT REAL SURE WHAT TYPE OF EVIDENCE I
18 WAS LOOKING FOR. THIS LOOKED LIKE IT WAS FRESH LIKE IT
19 WASN'T, YOU KNOW, JUST PART OF TRASH THAT WAS ON THE STREET.
20 THIS LOOKED LIKE IT WAS SOMETHING FRESH, SO I FIGURED IT MAY
21 HAVE HAD SOME EVIDENTIARY VALUE.

22 Q. SO THAT'S WHY YOU PICKED IT UP.

23 A. YES, SIR.

24 Q. YOU HAVE NO IDEA WHETHER IT WAS USED OR NOT.

25 A. RIGHT. I WASN'T THERE, I DON'T KNOW.

1 Q. YOU JUST THOUGHT IT MIGHT HAVE BEEN.

2 A. YES, SIR.

3 MR. TARR: THAT'S ALL, YOUR HONOR.

4 THE COURT: ANYTHING FURTHER?

5 MR. GOLDBERG: NOTHING FROM THE STATE.

6 THE COURT: YOU MAY STEP DOWN, SIR.

7 MR. GOLDBERG: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

8 MR. TARR: NO OBJECTION.

9 THE COURT: HE'S EXCUSED. NEXT WITNESS.

10 MR. GOLDBERG: THE STATE CALLS INVESTIGATOR PETOSKEY.

11 W. TREVOR PETOSKEY, AFTER BEING DULY SWORN,

12 TESTIFIED AS FOLLOWS:

13 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR

14 FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME, PLEASE.

15 THE WITNESS: TREVOR PETOSKEY. P-E-T-O-S-K-E-Y.

16 DIRECT EXAMINATION

17 BY MR. GOLDBERG:

18 Q. WHERE ARE YOU EMPLOYED, SIR?

19 A. COLUMBIA POLICE DEPARTMENT.

20 Q. HOW LONG HAVE YOU BEEN THERE?

21 A. I'M IN MY ELEVENTH YEAR.

22 Q. CAN YOU TELL THE JURY A LITTLE BIT ABOUT YOUR DUTIES

23 WITH THE POLICE DEPARTMENT?

24 A. I'M AN INVESTIGATOR. ON THE NIGHT OF THIS INCIDENT I

25 WAS THE INVESTIGATOR ON CALL FOR THE ENTIRE CITY OF COLUMBIA.

1 Q. WHAT EXACTLY DOES THAT MEAN?

2 A. THAT'S THE ON-SCENE INVESTIGATOR. IF AN INCIDENT
3 HAPPENS AND THEY NEED STATEMENTS TAKEN FROM WITNESSES OR
4 VICTIMS OR IF THERE'S A POTENTIAL INCIDENT WHERE A SUSPECT IS
5 IN CUSTODY FOR A CRIME THAT A GENERAL PATROL OFFICER WOULD
6 NOT HANDLE, THEY WOULD CALL AN INVESTIGATOR OUT TO THE SCENE
7 WHO WOULD TAKE THE WITNESSES' STATEMENTS, VICTIMS' STATEMENTS
8 AND/OR SUSPECT STATEMENTS IF THERE'S ONE ON THE SCENE.

9 Q. AS THE ON-CALL INVESTIGATOR THAT NIGHT, HOW DID YOU
10 BECOME INVOLVED IN THIS PARTICULAR CASE?

11 A. I GOT A CALL FROM THE FRONT DESK AT THE COLUMBIA POLICE
12 DEPARTMENT THROUGH SERGEANT CLARK THAT THEY HAD A SHOOTING
13 INCIDENT AT 1634 MAIN STREET AND THEY HAD A COUPLE OF
14 POTENTIAL WITNESSES THERE WHO PROBABLY NEEDED TO BE
15 INTERVIEWED, AND I RESPONDED TO THE SCENE.

16 Q. WHAT TIME DID YOU ARRIVE ON THE SCENE?

17 A. I ARRIVED ON THE SCENE ABOUT 22:10 WHICH IS ABOUT 10:10
18 P.M.

19 Q. WHEN YOU GOT TO THE SCENE, WHAT DID YOU DO?

20 A. WHEN I ARRIVED ON THE SCENE, I SPOKE WITH A WITNESS,
21 MATTHEW THIELKER, WHO STATED HE WAS STANDING IN ONE OF THE
22 WINDOWS OF THE TAPP'S BUILDING AND APPARENTLY HEARD SOME
23 SHOTS. SO I GOT A WRITTEN SWORN STATEMENT FROM MR. THIELKER.

24 Q. OKAY. AFTER TAKING THAT STATEMENT, DID YOU REMAIN AT
25 THE SCENE?

1 A. I GOT A GENERAL STATEMENT FROM HIM, TOLD HIM WE'D BE
2 BACK IN TOUCH. THERE WAS ALSO ANOTHER WITNESS THERE THAT ONE
3 OF THE OTHER OFFICERS HAD ALREADY STARTED ON WITH A STATEMENT
4 BEFORE I ARRIVED. AT THAT POINT ONCE ONSTAR WAS ACTIVATED
5 WITH THE VEHICLE, THERE WAS ENOUGH OFFICERS AND CRIME SCENE
6 PEOPLE ON THE SCENE SHOWING UP TO MAINTAIN THE SECURITY OF
7 THE CRIME SCENE, AND THEN I HEADED TOWARDS LEXINGTON COUNTY.

8 Q. AND YOU INDICATED YOU WERE THE ON-CALL INVESTIGATOR. IS
9 IT UNUSUAL AT ALL FOR YOU TO THEN I GUESS TURN OVER THE SCENE
10 TO OTHER INVESTIGATORS?

11 A. NO, IT'S NOT UNUSUAL.

12 Q. CAN YOU DESCRIBE THAT PROCESS A LITTLE BIT?

13 A. AS AN ON-CALL INVESTIGATOR, YOU MAY GET A DOZEN OR MORE
14 CALLS IN A NIGHT ABOUT INCIDENTS THAT ARE HAPPENING. THERE
15 WOULD BE NO POSSIBLE WAY FOR ME TO HANDLE ALL THOSE CRIMES.
16 IF THEY HAD A CRIME WHERE THERE'S A SUSPECT IN CUSTODY AND
17 THEY NEEDED TO BE ARRESTED RIGHT THEN, I WOULD PROBABLY BE
18 THE INVESTIGATOR TO HANDLE THAT CRIME. OTHERWISE, IT WOULD
19 GO TO THE SPECIALIZED INVESTIGATORS WHO HANDLE THAT
20 PARTICULAR CRIME TO FOLLOW UP ON LATER IF THERE'S MORE TO
21 FOLLOW UP ON.

22 Q. AND IN THIS PARTICULAR CASE THAT ENDED UP BEING
23 INVESTIGATORS REESE AND THOMAS?

24 A. THAT'S CORRECT.

25 Q. I BELIEVE YOU INDICATED ONCE YOU LEFT THE SCENE YOU

1 HEADED OUT TOWARDS LEXINGTON?

2 A. THAT'S CORRECT.

3 Q. WHAT WAS YOUR PURPOSE THERE?

4 A. WELL, THEY WERE LIVE-TRACKING THE TAHOE BY ONSTAR. SO
5 WHEN I WAS ACTUALLY ON THE WAY, THEY WERE STILL GIVING TURN-
6 BY-TURN DIRECTIONS OF THE VEHICLE. PATROL OFFICERS WERE
7 ATTEMPTING TO CATCH UP WITH IT. WE WERE ALSO CONTACTING
8 LEXINGTON COUNTY TO SEE IF THEY COULD HELP US CATCH UP WITH
9 THE CAR BECAUSE IT WAS STILL ROLLING AT THAT TIME.

10 Q. THE AREA OF LEXINGTON YOU RESPONDED TO, WAS THAT THE
11 GASTON AREA?

12 A. THAT'S CORRECT.

13 Q. IS THAT PEELER ROAD?

14 A. THAT'S CORRECT.

15 Q. ONCE YOU GOT OUT THERE, WHAT DID YOU DO?

16 A. I WENT OUT THERE, MET WITH SOME OF THE LEXINGTON COUNTY
17 DEPUTIES. THEY KIND OF ADVISED US OF WHERE THE VEHICLE WAS,
18 WHAT THEY HAD DONE PRIOR TO US ARRIVING. THEY HAD ADVISED US
19 THAT THEY COVERED UP SOME POTENTIAL FOOTPRINTS. AT THAT
20 POINT IT WAS RAINING VERY HARD. THEY HAD SOME SHOE BOXES
21 THEY WERE TRYING TO COVER UP THE PRINTS WITH.

22 THEY SHOWED US EXACTLY WHERE THE CAR WAS. THEY ADVISED
23 US, IF I'M NOT MISTAKEN, THE VEHICLE WAS LOCKED. AND SO
24 WE -- WE STARTED GETTING CRIME SCENE OUT TO US. LEXINGTON
25 COUNTY HAD ALSO SET UP -- IT'S ONE WAY IN AND ONE WAY OUT OF

1 THAT NEIGHBORHOOD, AND THEY HAD SET UP ON THE SIDES OF THE
2 ONE WAY IN/ONE WAY OUT AND WERE SPEAKING TO RESIDENTS AS THEY
3 WERE COMING IN AND OUT OF THE NEIGHBORHOOD.

4 Q. DID YOU ACTUALLY GO TO WHERE THE CAR WAS FOUND? ---

5 A. I DID.

6 Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S 58. DO
7 YOU RECOGNIZE THAT?

8 A. I DO.

9 Q. AND CAN YOU DESCRIBE TO THE JURY WHEREABOUTS YOU CAME IN
10 AND WHERE THE---

11 A. OKAY.

12 Q. ---ACTUALLY WHERE THE VEHICLE WAS FOUND?

13 A. IT WAS ALONG THIS DIRT ROAD. I BELIEVE IT WAS BEHIND
14 THE HOUSES. IS THAT CORRECT?

15 Q. YOU MEAN THIS DIRT ROAD?

16 A. RIGHT, THAT DIRT ROAD RIGHT THERE, AND IT WAS NOT QUITE
17 IN THIS TURN, MAYBE ABOUT HALFWAY THROUGH THE TURN THERE.

18 Q. SO IT'S BACK IN THIS GENERAL VICINITY HERE?

19 A. RIGHT. RIGHT. WE HAD TO -- I HAD TO WALK BACK TO IT.

20 Q. YOU HAD TO WALK BACK TO IT.

21 A. THAT'S RIGHT.

22 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE'D OFFER
23 STATE'S EXHIBIT 58 INTO EVIDENCE.

24 MR. TARR: NO OBJECTION, YOUR HONOR.

25 THE COURT: ADMITTED WITHOUT OBJECTION.

1 (STATE'S EXHIBIT 58 WAS RECEIVED IN EVIDENCE.)

2 BY MR. GOLDBERG:

3 Q. AND YOU INDICATED THAT WHEN YOU ARRIVED AT THE VEHICLE
4 IT WAS LOCKED?

5 A. THAT'S CORRECT.

6 Q. SO WHAT HAPPENED ONCE YOU GOT TO THE CAR?

7 A. ONCE WE GOT UP TO THE CAR, WE HAD CONTACTED ONSTAR TO
8 HAVE THEM UNLOCK IT. WHILE WE WERE STANDING THERE, ONSTAR
9 UNLOCKED THE VEHICLE. I THEN, WITH GLOVES ON, OPENED UP THE
10 DRIVER DOOR. I PEEPED INSIDE TO MAKE SURE THERE WAS NO ONE
11 INSIDE THE VEHICLE AND THEN CLOSED IT BACK.

12 Q. AT ANY POINT DID YOU SEE THE KEYS TO THE CAR INSIDE THE
13 VEHICLE?

14 A. I DIDN'T. I JUST STUCK MY HEAD IN ENOUGH JUST TO MAKE
15 SURE THERE WERE NO PEOPLE IN THERE.

16 Q. AND THEN YOU CLOSED THE DOOR.

17 A. THAT'S CORRECT.

18 Q. WAS A TOW CALL MADE TO TOW THE CAR?

19 A. THAT'S CORRECT.

20 Q. DURING THE TIME THAT YOU WERE WITH THE CAR, WAS IT
21 TAMPERED WITH IN ANY WAY?

22 A. NO. WE STAYED SECURITY ON TOP OF THE CAR WAITING FOR
23 THE TOW.

24 Q. WAS ANYTHING REMOVED FROM THE CAR?

25 A. NO, SIR.

1 Q. YOU ALSO TALKED ABOUT THERE WAS SOME LEXINGTON COUNTY
2 DEPUTIES OUT THERE?

3 A. THAT'S CORRECT.

4 Q. AND THEY WERE STOPPING SOME PEOPLE COMING INTO THE AREA?

5 A. THAT'S RIGHT, COMING AND GOING.

6 Q. CAN YOU DESCRIBE ON STATE'S 59 HERE WHERE THAT WAS
7 LOCATED?

8 A. RIGHT OFF OF FISH HATCHERY ROAD THERE WAS A ONE WAY IN
9 AND ONE WAY OUT. I BELIEVE IT WAS WILD BIRD LANE WHERE THEY
10 WERE STOPPING VEHICLES AS THEY WERE COMING IN AND OUT OF THE
11 COMPLEX.

12 Q. OKAY. AND THAT WAS THE ONLY WAY INTO THE AREA, PEELER
13 ROAD?

14 A. BY PAVED ROAD, THAT WAS THE ONLY WAY IN AND OUT.

15 Q. DID YOU BECOME AWARE OF LEXINGTON COUNTY ACTUALLY
16 STOPPING AN INDIVIDUAL AT THAT TIME?

17 A. I DID. WE HAD HAD A GENERAL DESCRIPTION WHICH OFFICER
18 HICKS GAVE EARLIER THAT WAS PUT OUT OVER THE RADIO, AND I
19 BELIEVE LEXINGTON COUNTY HAD STOPPED AN INDIVIDUAL EITHER
20 COMING TO OR FROM THE COMPLEX INTO THE NEIGHBORHOOD.

21 Q. DID YOU ACTUALLY MAKE CONTACT WITH THAT INDIVIDUAL?

22 A. I DID.

23 Q. WHAT WAS THE NATURE OF THAT?

24 A. JUST BRIEFLY SPOKE WITH HIM, EXPLAINED KIND OF WHAT WE
25 HAD GOING ON, EXPLAINED THAT WE MAY HAVE SOME INVESTIGATORS

1 ADDITIONALLY BESIDES MYSELF THAT MAY WANT TO COME OUT AND
2 SPEAK WITH HIM. HE WAS VERY COOPERATIVE. HE HUNG OUT AND
3 WAITED ON ADDITIONAL INVESTIGATORS TO GET THERE TO SPEAK WITH
4 HIM IN REGARDS TO THE INCIDENT.

5 Q. TO YOUR KNOWLEDGE, DID THE LEXINGTON COUNTY SHERIFF'S
6 DEPARTMENT ALSO MAKE A REQUEST FOR A CANINE TRACK THAT
7 EVENING?

8 A. THAT'S CORRECT.

9 Q. DID YOU BECOME AWARE OF WHAT HAPPENED WITH THAT TRACK?

10 A. FROM MY UNDERSTANDING, THEY TRACKED FROM THE VEHICLE
11 WITH THEIR CANINE UNIT AND I DON'T BELIEVE THAT ANY
12 SPECIFIC -- THEY TRACKED TO NEAR THE REAR OF SHADOW DALE
13 DRIVE, BUT I DON'T THINK IT WAS A SPECIFIC AREA THAT I KNEW
14 OF THAT NIGHT.

15 Q. AND THEY WEREN'T ABLE TO -- SO, IN OTHER WORDS, THEY
16 WEREN'T ABLE TO LOCATE ANY SORT OF SIGNIFICANT TRACK.

17 A. NOT THAT I REMEMBER.

18 Q. THANK YOU. THAT'S ALL I HAVE.

19 A. OKAY.

20 THE COURT: MR. TARR?

21 CROSS-EXAMINATION

22 BY MR. TARR:

23 Q. INVESTIGATOR PETOSKEY, JUST BRIEFLY. YOU SAID WHEN YOU
24 INITIALLY ARRIVED TO THE SCENE YOU INTERVIEWED MATTHEW
25 THIELKER? IS THAT...

- 1 A. IF THAT'S HOW YOU PRONOUNCE IT. MATTHEW---
- 2 Q. I DON'T KNOW---
- 3 A. RIGHT. THAT'S CORRECT.
- 4 Q. AND YOU SAID YOU WERE STARTING -- SOMEBODY ELSE HAD
- 5 ALREADY STARTED INTERVIEWING SOMEONE ELSE?
- 6 A. THAT'S CORRECT. ONE OF THE PATROLMAN WHO WAS THERE WAS
- 7 GETTING A STATEMENT FROM ANOTHER WITNESS.
- 8 Q. WAS THAT TIM WALSH?
- 9 A. I DON'T---
- 10 Q. DO YOU KNOW---
- 11 A. ---REMEMBER IF I READ THE STATEMENT.
- 12 Q. YOU DON'T REMEMBER WHAT THE NAME OF THE PERSON WAS HE
- 13 WAS INTERVIEWING?
- 14 A. NO, SIR.
- 15 Q. DO YOU KNOW WHICH OFFICER IT WAS?
- 16 A. VANOUTTEN (PHONETIC).
- 17 Q. OKAY. AND THEN YOU WENT TO LEXINGTON?
- 18 A. THAT'S CORRECT.
- 19 Q. AND CAN YOU GIVE A ROUGH ESTIMATE HOW FAR AWAY THAT IS?
- 20 A. I HAD A G.P.S. IN MY VEHICLE. I DIDN'T KNOW WHERE IT
- 21 WAS. I JUST PLUGGED IN THE ADDRESS AND IT TOOK ME THERE. I
- 22 DON'T -- I DON'T REMEMBER. IT WAS...
- 23 Q. FIFTEEN? TWENTY MILES? SOMETHING LIKE THAT?
- 24 A. IT WAS -- IT WAS A GOOD WAYS, YEAH, AT LEAST.
- 25 Q. OKAY. NOW, DID YOU -- I KNOW YOU GOT THE VEHICLE -- YOU

1 GOT ONSTAR TO UNLOCK IT. DID YOU HAVE ANYTHING TO DO WITH
2 INVENTORYING THE VEHICLE?

3 A. NO, SIR.

4 Q. DID YOU HAVE ANYTHING ELSE TO DO WITH THIS CASE OTHER
5 THAN WHAT YOU'VE TESTIFIED TO?

6 A. NO, SIR. I WAS THE ON-CALL INVESTIGATOR, AND IT WAS
7 PASSED ON ONCE I LEFT.

8 Q. AND YOU DIDN'T DO ANY WRITTEN NOTES OR ANYTHING ALONG---

9 A. I DID NOTES ON WHAT I JUST TESTIFIED TO.

10 Q. BUT NO OFFICIAL WRITTEN REPORT WAS TURNED IN?

11 A. I MEAN, I WROTE A -- WROTE NOTES AND THEY WERE TURNED
12 IN.

13 MR. TARR: OKAY. ALL RIGHT. THAT'S ALL, YOUR HONOR.

14 MR. GOLDBERG: JUST BRIEFLY, SIR.

15 REDIRECT EXAMINATION

16 BY MR. GOLDBERG:

17 Q. DO YOU RECALL WHAT TIME YOU ACTUALLY ARRIVED OUT IN
18 GASTON?

19 A. ABOUT 11:04.

20 Q. AND WHAT TIME WAS THAT VEHICLE STOPPED WITH THE
21 POTENTIAL SUSPECT?

22 A. ABOUT 11:34.

23 MR. GOLDBERG: THANK YOU.

24 THE COURT: ANYTHING FURTHER?

25 MR. TARR: NO, YOUR HONOR.

1 **THE COURT:** ALL RIGHT. STEP DOWN, SIR.

2 **MR. GOLDBERG:** YOUR HONOR, MAY THE WITNESS BE EXCUSED?

3 **MR. TARR:** NO OBJECTION.

4 **THE COURT:** HE MAY BE EXCUSED. LADIES AND GENTLEMEN,
5 WE'LL HAVE YOU GO TO THE JURY ROOM FOR A BREAK OF ABOUT 15
6 MINUTES. PLEASE DO NOT DISCUSS THE CASE WHILE YOU'RE IN THE
7 JURY ROOM.

8 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
9 11:07 A.M.)

10 **THE COURT:** WE'LL TAKE A 15-MINUTE RECESS.

11 **MS. CAMPBELL:** YOUR HONOR, JUST ONE THING ABOUT
12 SCHEDULING. WE HAD ANTICIPATED -- THE TRIAL IS GOING MUCH
13 QUICKER THAN WE THOUGHT. THE DOCTOR WE WERE GOING TO TRY TO
14 SET UP FOR TOMORROW MORNING WITH THE COURT'S PERMISSION. IS
15 THAT OKAY? I MEAN, I THINK HE COULD POSSIBLY BE ONE OF OUR
16 LAST WITNESSES.

17 **MR. TARR:** YOUR HONOR, WITH REGARDS TO THAT, MY WITNESS,
18 DR. TORA BRAWLEY, I'VE INFORMED THE STATE IS ONLY AVAILABLE
19 REALLY IN THE MORNINGS AND CAN'T BE HERE LATER THAN 2:00 EACH
20 DAY, AND I WAS SUPPOSED TO CALL HER TONIGHT AND LET HER KNOW
21 WHETHER IT WOULD BE TOMORROW MORNING OR THURSDAY MORNING. IF
22 THEY'RE TALKING ABOUT MAYBE HAVING ONE OF THEIR LAST
23 WITNESSES IN THE MORNING, I THINK WE MAY BE ABLE TO GO GET
24 HER IN TOMORROW. I JUST DON'T -- I DON'T WANT TO HAVE HER
25 HERE AND, YOU KNOW, IF WE'RE NOT GOING TO GET TO HER. BUT I

1 DON'T WANT TO HAVE TO WAIT ALL DAY LONG DOING NOTHING AND
2 THEN COME BACK THURSDAY MORNING JUST FOR THAT. SO I DON'T
3 KNOW WHAT THE COURT'S -- I WOULD SEEK GUIDANCE FROM THE
4 COURT.

5 THE COURT: WELL, YOU KNOW, WE DIDN'T RESERVE THE ENTIRE
6 WEEK FOR THIS CASE. IF IT SHOULD ONLY TAKE TWO DAYS OR THREE
7 DAYS, THEN IT SHOULD ONLY TAKE TWO DAYS OR THREE DAYS.

8 MR. TARR: RIGHT. IF EVERYTHING IS GOING LIKE IT IS,
9 I'LL JUST BRING HER IN IN THE MORNING.

10 THE COURT: SOUNDS GOOD TO ME.

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 THE COURT: ALL RIGHT. BE SEATED, PLEASE. IS THERE
13 ANYTHING BEFORE WE BRING THE JURY BACK?

14 MR. TARR: NOT FROM THE DEFENSE, YOUR HONOR.

15 THE COURT: READY FOR THE JURY.

16 MS. CAMPBELL: YOUR HONOR, MAY I GET ONE WITNESS IN HERE
17 REAL QUICK?

18 THE COURT: ALL RIGHT.

19 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
20 11:29 A.M.)

21 THE COURT: YOUR NEXT WITNESS, PLEASE?

22 MS. CAMPBELL: MAY IT PLEASE THE COURT?

23 THE COURT: YES.

24 MS. CAMPBELL: THE STATE CALLS NICOLE PERRILL.

25 NICOLE PERRILL, AFTER BEING DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
3 FULL NAME FOR THE RECORD, PLEASE.

4 THE WITNESS: MY FULL NAME IS NICOLE CHRISTINE PERRILL.

5 COURT REPORTER: WILL YOU STATE YOUR LAST NAME AGAIN?

6 THE WITNESS: PERRILL. P-E-R-R-I-L-L.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q. MS. PERRILL, WHERE ARE YOU EMPLOYED?

10 A. I'M EMPLOYED WITH WALKER DENTAL CARE.

11 Q. OKAY. YOU'RE GOING TO HAVE TO SPEAK UP A LITTLE IN
12 HERE. IT'S HARD TO HEAR FOR SOME REASON WITH THE ACOUSTICS.

13 WHERE ARE YOU EMPLOYED?

14 A. I'M EMPLOYED WITH WALKER DENTAL CARE.

15 Q. AND WHAT DO YOU DO THERE, MA'AM?

16 A. I'M A DENTAL HYGIENIST.

17 Q. AND BACK IN JUNE OF 2006 WHERE WERE YOU LIVING?

18 A. I WAS LIVING IN THE TAPP'S BUILDING ON MAIN AND BLANDING
19 STREET.

20 Q. AT THE CORNER OF MAIN AND BLANDING?

21 A. YES.

22 Q. AND ARE THOSE CONDOMINIUMS OR APARTMENTS OR WHAT ARE
23 THOSE LIKE?

24 A. THEY'RE LOFT-STYLE CONDOMINIUMS I WOULD SAY.

25 Q. AND WHICH ONE WERE YOU LIVING IN?

1 A. I WAS LIVING IN APARTMENT [REDACTED].

2 Q. IN WHAT CORNER OF THE BUILDING WAS THAT LOCATED?

3 A. IF YOU ARE ON BLANDING STREET AND YOU'RE FACING THE
4 TAPP'S BUILDING, I'M IN THE -- IT'S ON THE FIFTH FLOOR, ON
5 THE VERY TOP FLOOR, IN THE BACK LEFT CORNER.

6 Q. IN THE BACK LEFT CORNER?

7 A. YES.

8 Q. SO YOU WEREN'T ACTUALLY FACING MAIN STREET.

9 A. NO. NO.

10 Q. NOR ARE YOU FACING ACTUALLY BLANDING STREET.

11 A. NO.

12 Q. YOU'RE KIND OF IN THE BACK CORNER.

13 A. YES, I'M FACING -- ACTUALLY I WOULD HAVE BEEN FACING
14 TAYLOR.

15 Q. AND AS YOU LOOK OUT THE WINDOW AT [REDACTED] OR CERTAIN
16 WINDOWS, CAN YOU SEE THE PARKING LOT OF A LAW OFFICE NEXT TO
17 YOU?

18 A. YES.

19 Q. AND, IN FACT, IS THAT DIRECTLY BELOW WHERE YOUR
20 APARTMENT BUILDING WOULD BE?

21 A. YES.

22 Q. LET ME SHOW YOU -- WE MIXED THEM ALL UP. STATE'S
23 EXHIBIT NUMBER 26, DO YOU RECOGNIZE THAT?

24 A. YES.

25 Q. AND IS YOUR APARTMENT SHOWN THERE?

1 A. YES. ACTUALLY I BELIEVE IT'S THAT ONE RIGHT THERE AT
2 THE TOP.

3 Q. AT THE TOP?

4 A. YES, TOP CORNER THERE.

5 Q. IS THAT RIGHT?

6 A. YES, MA'AM.

7 Q. SO IN STATE'S EXHIBIT NUMBER 26 YOUR APARTMENT WOULD BE
8 THAT CORNER RIGHT THERE ON THE TAPP'S BUILDING? IS THAT
9 CORRECT?

10 A. YES.

11 Q. AND SO IS THERE ANYTHING OBSTRUCTING YOUR VIEW INTO THE
12 PARKING LOT NEXT TO YOU?

13 A. NO. I WAS UP HIGH ENOUGH TO WHERE I COULD SEE VERY
14 WELL.

15 Q. I WANT TO TURN YOUR ATTENTION TO JUNE THE 2ND OF 2006.
16 WERE YOU HOME THAT EVENING?

17 A. I BELIEVE I WAS.

18 Q. AND THAT EVENING AROUND 9:30 DID ANYTHING CAUSE YOU TO
19 CALL THE POLICE?

20 A. YES.

21 Q. TELL THE JURY WHAT YOU REMEMBER.

22 A. WHEN I WAS SITTING IN MY APARTMENT, I WAS ON MY COMPUTER
23 AND IT WAS RAINING OUT. IT WAS -- I BELIEVE I REMEMBER I WAS
24 JUST DOING SOME ROUTINE E-MAIL, AND I HEARD GUNSHOTS AND I
25 IMMEDIATELY KNEW IT WAS A GUNSHOT. I COULD JUST TELL. AND

1 IT PROMPTED ME TO JUMP UP OUT OF MY SEAT AND I -- ALL OF A
2 SUDDEN I HEARD SOMEONE WAILING AND CRYING AND I MEAN A LOUD,
3 LONG WAIL. IT SOUNDED TERRIBLE. AND I WENT OVER TO THE
4 WINDOW CAREFULLY AND LOOKED OUT THE WINDOW AND I -- THAT'S
5 WHEN I SAW...

6 Q. AND I'LL GET TO WHAT YOU SAW IN A MINUTE.

7 A. OKAY.

8 Q. YOU MENTIONED THAT IT WAS RAINING. WAS IT RAINING SO
9 HARD THAT YOU COULDN'T SEE OUT YOUR WINDOW?

10 A. NO. IT WAS -- IT WAS RAINING PRETTY WELL, BUT I COULD
11 DEFINITELY SEE.

12 Q. AND THE LIGHTING OUTSIDE IN THAT PARKING LOT, IS IT --
13 SUFFICIENT SO THAT YOU CAN SEE DOWN THERE?

14 A. YES.

15 Q. YOU MENTIONED THAT YOU WENT TO A WINDOW TO LOOK OUT. ON
16 WHAT SIDE OF THE APARTMENT WERE YOU LOOKING OUT THE WINDOW?

17 A. OKAY. THERE WAS -- MY APARTMENT HAD ONE WINDOW.

18 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER 26.

19 A. YES.

20 Q. IS THAT EASIER?

21 A. IT WOULD HAVE BEEN THOSE TWO UP THERE.

22 Q. RIGHT THERE?

23 A. YES.

24 Q. SO IT WOULD HAVE BEEN THOSE TWO WINDOWS RIGHT THERE?

25 A. UH-HUH.

1 Q. AND IS THAT ON THE SIDE NEXT TO THE PARKING LOT?

2 A. YES, MA'AM.

3 Q. AND WHEN YOU LOOKED, YOU LOOKED DIRECTLY DOWN?

4 A. YES, MA'AM.

5 Q. AND TELL THIS JURY -- YOU MENTIONED THAT YOU HEARD A
6 WAIL OR A HORRIBLE SOUND.

7 A. UH-HUH.

8 Q. COULD YOU TELL WHAT DIRECTION IT WAS COMING FROM?

9 A. I COULD TELL IT WAS COMING FROM THE BACK OF THE
10 BUILDING, AND WE HAD HAD SOME BREAK-INS BEFORE. ACTUALLY MY
11 CAR HAD RECENTLY BEEN BROKEN INTO, SO I WAS VERY -- KIND OF
12 ON ALERT AND I KNEW IT WAS COMING FROM THERE.

13 Q. SO YOU HEARD THE GUNSHOTS. DO YOU REMEMBER EXACTLY HOW
14 MANY YOU HEARD INITIALLY?

15 A. I HEARD -- IN MY STATEMENT I HAVE WRITTEN THAT I HEARD
16 FOUR, AND I REMEMBER IT WAS MULTIPLE.

17 Q. IT WAS MULTIPLE.

18 A. YES.

19 Q. AND AT THAT POINT YOU WENT IMMEDIATELY TO THE WINDOW.

20 A. YES.

21 Q. AND WHAT DID YOU SEE WHEN YOU LOOKED DOWN AT THE PARKING
22 LOT NEXT TO YOU?

23 A. WHEN I WENT TO THE WINDOW, I LOOKED DOWN AND I SAW --
24 THE FIRST THING I SAW WAS A VICTIM YELLING AND CRYING AND HE
25 HAD ON SOME -- HE JUST -- HE HAD ON WHAT LOOKED LIKE WORK

1 KIND OF DARKER CLOTHES, AND I SAW A MAN FACING HIM AND THE
2 MAN THAT WAS FACING HIM WAS ALSO FACING MY DIRECTION AND HE
3 HAD A WHITE MASK ON AND HE HAD SOME DARK CLOTHES ON AND HE
4 HAD A PISTOL. AND THE VICTIM WAS CRYING, AND I SAW HIM
5 POINTING THE GUN AT HIM SO...

6 Q. AND WHERE IN THE PARKING LOT WERE THEY LOCATED? I SHOW
7 YOU STATE'S EXHIBIT NUMBER 57. DOES THAT HELP YOU?

8 A. YES. THE VICTIM WAS RIGHT HERE. I WOULD HAVE BEEN UP
9 HERE. THIS IS WHERE THE TAPP'S BUILDING IS. I WAS FACING
10 THIS DIRECTION. THE VICTIM WAS HERE; HE WAS FACING THIS
11 DIRECTION. AND THE PERSON HOLDING THE GUN WAS STANDING ABOUT
12 HERE AND FACING TOWARDS ME.

13 Q. AND YOU MENTIONED THAT YOU HAD HEARD GUNSHOTS AT THAT
14 POINT. AND WHEN YOU LOOKED DOWN, THAT'S WHERE YOU SAW THE
15 TWO OF THEM. WERE THEY TOUCHING?

16 A. NO.

17 Q. WERE THEY STRUGGLING?

18 A. NO.

19 Q. AND HOW FAR APART WERE THEY APPROXIMATELY?

20 A. THEY WERE QUITE -- THEY WERE QUITE A BIT A WAYS APART
21 BECAUSE THE VICTIM ACTUALLY ALMOST LOOKED LIKE HE WAS BACKING
22 UP AWAY ALMOST AGAINST THE WALL PRETTY MUCH, UP AGAINST THIS
23 WALL RIGHT HERE, AND I WOULD SAY THEY WERE A GOOD SIX TO
24 SEVEN FEET APART, A GOOD MAN'S HEIGHT APART AT LEAST.

25 Q. AND AS YOU LOOKED DOWN, YOU SAW THE TWO OF THEM THAT WAY

1 AND YOU SAW THE ONE WITH THE GUN?

2 A. YES.

3 Q. COULD YOU SEE HIS FACE?

4 A. NO, I COULDN'T SEE HIS FACE. HE HAD---

5 Q. WHY NOT?

6 A. HE HAD A MASK ON.

7 Q. WHAT KIND OF MASK? DO YOU REMEMBER?

8 A. IT WAS A WHITE MASK AND IT HAD TWO BIG DARK HOLES IN IT
9 FOR THE EYES.

10 Q. AND AT THAT POINT YOU WERE ABLE TO SEE A GUN?

11 A. YES.

12 Q. AND WHAT DID YOU SEE NEXT?

13 A. AFTER THAT, I SAW SOMETHING FLY IN THE AIR. IT LOOKED
14 LIKE THE VICTIM THREW SOMETHING UP INTO THE AIR, AND I THINK
15 IT CAUGHT THE LIGHT. AND IT WAS RAINING, SO IT MIGHT HAVE
16 BEEN WET. BUT IT SPUN AROUND AND I DIDN'T KNOW WHAT IT WAS,
17 BUT I COULD TELL HE WAS PROBABLY TRYING TO, YOU KNOW, GIVE UP
18 SOMETHING, AND THEN THE GUN FIRED TWO OR THREE MORE TIMES. I
19 SAW IT. AND THEN THE VICTIM BEGAN TO CONTINUE TO CRY AND
20 SCREAM AND SAY, "HELP ME. OH, MY GOD. HELP ME. SOMEBODY
21 PLEASE HELP ME. OH, MY GOD. HELP ME."

22 Q. WHAT DID YOU DO AT THAT POINT?

23 A. I RAN AWAY FROM THE WINDOW AND I SCRAMBLED FOR MY PHONE,
24 AND I REMEMBER HAVING DIFFICULTY FINDING IT FOR PROBABLY
25 ABOUT 30 SECONDS. AND I FINALLY FOUND IT, CALLED 9-1-1, AND

1 TOLD THEM WHAT WAS GOING ON, SAID IT WAS REALLY URGENT, YOU
2 KNOW, AND EXPLAINED I HAD JUST SEEN SOMEONE GET SHOT AND
3 WHERE IT WAS, AND THEN I WENT BACK TO THE WINDOW AND THE
4 VICTIM WAS STILL CRYING THROUGH THIS WHOLE THING. HE WAS
5 CRYING WHILE I WAS ON THE PHONE; I COULD HEAR HIM. AND WHEN
6 I WENT BACK TO THE WINDOW, THE VICTIM WAS LIMPING OFF TOWARDS
7 SUMTER STREET AND CRYING CONTINUALLY WHILE HE WAS RUNNING,
8 AND THEN -- AND THE VEHICLE WAS GONE.

9 Q. YOU MENTIONED THE VEHICLE. WHEN YOU SAW THE VICTIM UP
10 AGAINST THE WALL AND THE OTHER PERSON WITH THE GUN, DID YOU
11 NOTICE ANY VEHICLES DOWN THERE?

12 A. YEAH, THERE WAS -- THERE WAS A BIG WHITE G.M. TYPE
13 VEHICLE, I BELIEVE LIKE A SUBURBAN, AND THEN THERE WAS
14 ANOTHER LITTLE SMALL CAR THERE. AND I COULDN'T QUITE TELL
15 WHAT IT WAS; IT WAS SO SMALL.

16 Q. BUT IT WAS NEXT TO IT?

17 A. YES.

18 Q. AND THE PLACE WHERE HE HAD HIM WHERE HE WAS UP AGAINST
19 THE WALL, WERE THEY -- WHERE WERE THEY IN RELATION TO THE TWO
20 CARS?

21 A. I BELIEVE IT WAS IN BETWEEN. IT WAS IN BETWEEN. THEY
22 WERE ON THE DRIVER'S SIDE OF THE SUBURBAN OR WHATEVER IT
23 WOULD HAVE BEEN.

24 Q. SO YOU HEARD THE INITIAL SHOTS. THEN YOU WENT DOWN AND
25 LOOKED DOWN AND SAW HIM SHOOT AT LEAST ONE MORE TIME?

1 A. YES.

2 Q. DO YOU KNOW IF YOU HEARD ANY MORE GUNSHOTS?

3 A. WHEN I WENT TO THE WINDOW AFTER HEARING THE GUNSHOTS THE
4 FIRST TIME, WHEN I GOT UP AND WENT TO THE WINDOW, I SAW HIM
5 SHOOT HIM AT LEAST TWICE, IF NOT THREE MORE TIMES.

6 Q. AND THEN YOU IMMEDIATELY WENT TO GET TO THE PHONE?

7 A. YES.

8 Q. SO WHEN YOU WENT BACK AND LOOKED BACK OUT, YOU SAID YOU
9 SAW THE VICTIM LIMPING OFF?

10 A. YES. YES.

11 Q. AND DID YOU SEE THE WHITE VEHICLE ANYMORE AT THAT POINT?

12 A. NO.

13 Q. IT WAS GONE?

14 A. YES.

15 Q. WE'RE TALKING ABOUT THIS AND HOW FACING OUT... HOW FAST
16 DID THIS HAPPEN?

17 A. FROM THE TIME I HEARD THE GUNSHOTS TO THE TIME THAT I
18 WENT BACK TO THE WINDOW AND SAW THE VICTIM LIMPING OFF, I
19 WOULD GUESS -- I'M TRYING TO THINK. IT WAS PROBABLY --
20 PROBABLY A LAPSE OF TWO, TWO AND A HALF -- MAYBE TWO TO TWO
21 AND A HALF MINUTES, POSSIBLY THREE. I THINK IT TOOK ME A
22 GOOD MINUTE TO FIND MY PHONE. I REMEMBER SCRAMBLING FOR IT
23 AND BEING FRUSTRATED.

24 Q. AND, AGAIN, AS YOU'RE RECOUNTING THIS TO THE JURY, THIS
25 IS WHAT YOU REMEMBER, THE PARTS YOU SAW.

1 A. YES.

2 Q. DO YOU REMEMBER GIVING A STATEMENT TO THE POLICE?

3 A. OH, YES. UH-HUH. THEY HAD ME WRITE A WRITTEN
4 STATEMENT.

5 Q. I'M GOING TO SHOW YOU A COPY OF THIS. IS THAT THAT
6 STATEMENT?

7 A. YES, MA'AM. YES, MA'AM.

8 Q. DID YOU GIVE IT TO THEM THAT NIGHT?

9 A. YES.

10 Q. YOU DIDN'T KNOW ANYONE THAT WAS DOWN THERE IN THE
11 PARKING LOT, DID YOU?

12 A. NO.

13 MS. CAMPBELL: THANK YOU. THAT'S ALL I HAVE.

14 THE COURT: MR. TARR.

15 MR. TARR: THANK YOU, YOUR HONOR.

16 CROSS-EXAMINATION

17 BY MR. TARR:

18 Q. MS. PERRILL, YOU SAID IT WAS RAINING THAT NIGHT?

19 A. YES, SIR.

20 Q. FAIRLY HARD BUT NOT TOO HARD, THAT YOU DIDN'T THINK IT
21 GAVE YOU ANY TROUBLE SEEING?

22 A. NO. NO, I DON'T BELIEVE SO. HUH-UH.

23 Q. I'M GOING TO APPROACH JUST FOR A MINUTE. I COULD NOT
24 SEE WHERE YOU WERE POINTING TO.

25 A. OKAY.

1 Q. WHICH WINDOWS YOU SAID WERE YOURS?

2 A. THESE WINDOWS UP HERE. THIS WOULD HAVE BEEN MY CLOSET
3 RIGHT THERE, AND THEN THESE WERE THE WINDOWS THAT WERE --
4 THAT'S WHERE MY LIVING ROOM WAS, AND I WAS LOOKING DOWN THAT
5 WAY.

6 Q. SO YOU WERE LOOKING FROM HERE AND THEN WHERE---

7 A. THOSE TWO DOUBLE WINDOWS RIGHT THERE.

8 Q. WHERE WERE THE CARS?

9 A. THE CARS WERE DOWN OVER HERE BY THIS BUILDING WITH THE
10 ARCHED -- ARCHED WINDOWS THERE. THEY WERE DOWN -- WAY DOWN
11 THERE RIGHT NEXT TO IT.

12 Q. SO---

13 A. RIGHT OUTSIDE THE DOOR.

14 Q. SO YOU WERE ON THE TOP FLOOR.

15 A. UH-HUH.

16 Q. AT THE FARTHEST POSSIBLE END OF THE BUILDING YOU COULD
17 BE FROM WHERE THIS HAPPENED.

18 A. UH-HUH. BUT IT WAS---

19 Q. YOU LOOKED DOWN AND THERE WERE TREES IN BETWEEN?

20 A. YEAH, BUT IT WAS RIGHT BELOW ME. WHERE IT HAPPENED, IT
21 WAS RIGHT BELOW ME. IT WAS RIGHT WITHIN THAT PARKING LOT
22 THERE AND IT WAS -- I MEAN, I COULD SEE STRAIGHT DOWN. I
23 REMEMBER TELLING SOMEONE THAT.

24 Q. BUT RIGHT BELOW YOU WOULD BE RIGHT DOWN IN HERE,
25 WOULDN'T IT?

1 A. NO. ACTUALLY IF YOU LOOK, RIGHT BELOW ME WOULD HAVE
2 BEEN ABOUT RIGHT THERE.

3 Q. OKAY.

4 A. RIGHT THERE.

5 Q. AND WHERE WAS THE CARS PARKED?

6 A. THEY WERE PARKED WHERE THOSE CARS ARE, ABOUT RIGHT THERE
7 SO...

8 Q. AND SO YOU SAID THIS HAPPENED ON THE DRIVER'S SIDE OF
9 THE TAHOE?

10 A. YEAH, I REMEMBER THE TAHOE. IT WAS TO THE LEFT OF --
11 WELL, WHEN I'M LOOKING DOWN, THE DRIVER'S SIDE WAS WHERE THE
12 -- WAS WHERE THIS WAS HAPPENING.

13 Q. WAS THE CAR BACKED IN OR PULLED IN FORWARD?

14 A. I BELIEVE IT WAS PULLED IN FORWARD.

15 Q. WAS THERE ANOTHER CAR BESIDE IT OR...

16 A. NOT ON EITHER -- NOT ON EITHER SIDE, I DON'T BELIEVE.
17 IT WAS -- I'M NOT -- I'M NOT SURE OF THAT. IT JUST -- I
18 REMEMBER THE---

19 Q. DO YOU UNDERSTAND THAT ALL THE TESTIMONY WE HAVE HEARD
20 SO FAR IS THAT IT ALL HAPPENED BETWEEN THAT CAR---

21 A. YES.

22 Q. ---AND THE TAHOE?

23 A. YEAH.

24 Q. AND SO THERE WOULD HAVE BEEN A CAR RIGHT BESIDE IT.

25 A. I DON'T KNOW IF THERE WAS ONE CAR SPACE BETWEEN THERE OR

1 WHETHER THEY WERE RIGHT BESIDE EACH OTHER. THAT'S WHAT I'M
2 TRYING TO SAY. THERE WERE TWO CARS.

3 Q. OKAY. OKAY. SO -- BUT IF THE VEHICLE WAS PARKED IN
4 SPACE 100, AS HAS BEEN TESTIFIED TO, AND THIS CAR WAS THERE
5 THEN -- THE TAHOE IS A PRETTY BIG CAR.

6 A. IT IS, BUT WITH THIS TAHOE BEING THAT BIG I COULDN'T SEE
7 WHAT THE NUMBER WAS WHERE IT WAS PARKED. SO THAT -- THAT
8 PART I DON'T REMEMBER, BUT THEY WERE RIGHT -- THEY WERE RIGHT
9 NEXT TO EACH OTHER. THEY WERE EITHER WITHIN ONE SPACE OF
10 EACH OTHER OR RIGHT NEXT TO EACH OTHER, AND WHERE THIS
11 HAPPENED WAS IN BETWEEN THE TWO.

12 Q. OKAY. BUT IT'S A BIG DIFFERENCE IF THERE'S A FOOT OR A
13 FOOT AND A HALF BETWEEN THE TWO CARS OR AN ENTIRE SPACE, AND
14 YOU JUST DON'T REMEMBER.

15 A. FROM -- FROM THE TIME, NO.

16 Q. OKAY. NOW, YOU SAID IN YOUR STATEMENT THAT THERE WERE
17 FOUR SHOTS FIRED BEFORE YOU SAW ANYTHING.

18 A. (WITNESS NODDED HEAD UP AND DOWN.)

19 Q. AND THEN YOU WENT TO THE WINDOW AND THERE WERE AT LEAST
20 TWO OR THREE MORE SHOTS FIRED.

21 A. (WITNESS NODDED HEAD UP AND DOWN.)

22 Q. OKAY. ARE YOU AWARE THAT THE GUN RECOVERED IN THIS CASE
23 ONLY HOLDS FIVE BULLETS?

24 A. YES, I AM.

25 Q. SO YOU COULD BE MISTAKEN ABOUT THE NUMBER OF SHOTS.

1 A. YES, BUT IT WAS AT LEAST -- HAD TO HAVE BEEN AT LEAST
2 FIVE IN TOTAL. I KNOW I HEARD AT LEAST THREE OR FOUR THE
3 FIRST TIME, AND WHEN I WENT TO THE WINDOW THERE WAS AT LEAST
4 TWO MORE THAT WENT OFF SO...

5 Q. AND YOU HAVE NO IDEA WHAT HAPPENED BETWEEN THESE TWO
6 INDIVIDUALS PRIOR TO GOING AND LOOKING OUT THE WINDOW.

7 A. NO, SIR.

8 Q. YOU JUST HEARD A FEW SHOTS.

9 A. YES, SIR.

10 Q. MAYBE THREE OR FOUR.

11 A. THAT'S CORRECT.

12 Q. OKAY. AND YOU NEVER SAW THE PERSON WITH THE GUN SHOOT
13 AT THE PERSON WHO GOT SHOT AS HE WAS LIMPING AWAY OR WALKING
14 AWAY.

15 A. NOT AS HE WAS LIMPING AND WALKING AWAY. MOSTLY JUST
16 WHILE HE WAS STANDING THERE WHEN I INITIALLY GOT TO THE
17 WINDOW.

18 Q. AND YOU NEVER HEARD A SHOT AFTER YOU WALKED AWAY FROM
19 THE WINDOW.

20 A. NO.

21 Q. THE SECOND TIME.

22 A. NO.

23 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.
24
25

REDIRECT EXAMINATION

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BY MS. CAMPBELL:

Q. JUST ONE FOLLOW-UP. WHEN YOU SAW THE PERSON ACTUALLY --
YOU ACTUALLY SAW HIM SHOOT AT THE OTHER INDIVIDUAL UP AGAINST
THE WALL?

A. YES.

Q. THEY WERE HOW FAR APART?

A. SEVEN FEET, SIX OR SEVEN FEET, SOMETHING LIKE THAT AND I
SAW THE---

Q. THANK YOU.

A. I SAW HIM SHOOT HIM.

MS. CAMPBELL: THANK YOU.

RECROSS EXAMINATION

BY MR. TARR:

Q. AND YOU DON'T -- YOU CAN'T EVEN TELL WHETHER THERE WAS A
CAR PARKED BESIDE THEM.

A. I KNOW THERE WAS A CAR PARKED IN THE PROXIMITY OF IT.
WHETHER IT WAS A PARKING SPACE OR SEVEN OR EIGHT OR, YOU
KNOW, FOUR FEET, IT'S KIND OF -- IT'S DIFFICULT FOR ME TO
TELL.

MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

THE COURT: YOU MAY STEP DOWN. THANK YOU.

MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

MR. TARR: NO OBJECTION.

THE COURT: WITHOUT OBJECTION, YOU MAY BE EXCUSED. NEXT

1 WITNESS.

2 MR. GOLDBERG: THE STATE CALLS CALEB BLACK.

3 CALEB J. BLACK, AFTER BEING DULY SWORN, TESTIFIED
4 AS FOLLOWS:

5 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
6 FULL NAME FOR THE RECORD, PLEASE.

7 THE WITNESS: CALEB JAMES BLACK.

8 DIRECT EXAMINATION

9 BY MR. GOLDBERG:

10 Q. WHERE ARE YOU EMPLOYED, SIR?

11 A. LEXINGTON COUNTY SHERIFF'S DEPARTMENT.

12 Q. HOW LONG HAVE YOU BEEN WITH LEXINGTON COUNTY?

13 A. ABOUT EIGHT AND A HALF YEARS.

14 Q. HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT ALTOGETHER?

15 A. ABOUT NINE AND A HALF.

16 Q. WHAT ARE YOUR DUTIES WITH THE SHERIFF'S DEPARTMENT IN
17 LEXINGTON?

18 A. I'M A PATROL SERGEANT, SO I'M RESPONSIBLE FOR A SHIFT OF
19 DEPUTIES THAT COVER A CERTAIN GEOGRAPHIC AREA OF THE COUNTY.

20 Q. WERE THOSE YOUR DUTIES IN JUNE OF 2006?

21 A. THEY WERE.

22 Q. AND DID YOU COME INTO INVOLVEMENT WITH THIS CASE BACK ON
23 THAT DATE?

24 A. I DID.

25 Q. HOW DID YOU BECOME INVOLVED IN THIS CASE?

1 A. OUR DISPATCH RECEIVED A CALL FROM THE CITY OF COLUMBIA
2 ABOUT A POSSIBLE LOCATION OF A CAR THAT WAS TAKEN DURING A
3 CARJACKING IN WHICH THE INDIVIDUAL HAD BEEN SHOT. DISPATCH
4 TOLD US THAT ONSTAR WAS TRACKING IT, AND IT WAS SOMEWHERE
5 NEAR WILD BIRD OFF OF FISH HATCHERY ROAD. AND THAT'S WHEN
6 MYSELF AND SEVERAL OTHER OFFICERS STARTED GOING IN THAT
7 DIRECTION.

8 Q. AND WHEN YOU HEADED OUT IN THAT DIRECTION, WHAT DID YOU
9 DO WHEN YOU GOT THERE?

10 A. THE INDIVIDUAL WHO WAS MY CORPORAL AT THAT TIME, JASON
11 STONER, ACTUALLY MADE IT OUT THERE BEFORE I DID. HE HAD
12 ALREADY LOCATED THE CAR. I DON'T RECALL IF I ACTUALLY MADE
13 IT TO THE SCENE WHERE THE CAR WAS PARKED AT, BUT MYSELF AND
14 ANOTHER DEPUTY STOPPED AT FISH HATCHERY -- WILD BIRD AND FISH
15 HATCHERY AND STARTED CHECKING CARS THAT WERE GOING IN AND OUT
16 OF THE COMPLEX.

17 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S 59 FOR
18 I.D. THERE'S A POINTER RIGHT THERE. IF YOU COULD JUST KIND
19 OF DESCRIBE FOR THE JURY TO GET THEM ORIENTED WITH WHERE YOU
20 WERE AND WHERE THE CAR WAS, WHERE THE SCENE WAS.

21 A. FISH HATCHERY ROAD IS RIGHT HERE. THERE'S ONLY ONE WAY
22 INTO WILD BIRD. LIKE I SAID, I DON'T RECALL IF I ACTUALLY
23 WENT TO WHERE THE CAR WAS. THE CAR WAS LOCATED RIGHT HERE IN
24 THAT AREA, BUT I STOPPED RIGHT HERE. THAT'S WHERE I WAS AT.

25 Q. AND WHAT WAS YOUR PURPOSE IN STOPPING IN THAT AREA?

1 A. WELL, THERE'S ONE WAY AND ONE WAY -- ONE WAY IN AND ONE
2 WAY OUT ON PAVEMENT, SO WE WERE GOING TO CHECK THE VEHICLES
3 AS THEY CAME IN AND OUT OF THE NEIGHBORHOOD FOR PEOPLE WITH
4 -- THAT FIT THE DESCRIPTION GIVEN TO US.

5 Q. DO YOU RECALL WHAT THAT DESCRIPTION WAS?

6 A. ABOUT 5'9", BLACK MALE, MEDIUM BUILD WITH CORN ROLLS
7 (SIC).

8 Q. AND AS YOU WERE IN THAT AREA CHECKING VEHICLES, DID YOU
9 ACTUALLY COME ACROSS SOMEBODY WHO GENERALLY MET THAT
10 DESCRIPTION?

11 A. WE DID.

12 Q. AND CAN YOU TELL THE JURY A LITTLE BIT ABOUT THAT?

13 A. I NOTICED AND ANOTHER OFFICER NOTICED THAT THERE WAS A
14 WHITE SUBURBAN THAT CAME IN THE NEIGHBORHOOD WHILE WE WERE UP
15 THERE. IT WAS THERE A VERY BRIEF PERIOD OF TIME AND THEN
16 WENT TO EXIT. THE PASSENGER IN THE VEHICLE FIT THE GENERAL
17 DESCRIPTION OF BLACK MALE, MEDIUM BUILD WITH CORN ROLLS.

18 Q. DO YOU RECALL WHERE YOU STOPPED THE VEHICLE ACTUALLY?

19 A. IT WAS RIGHT THERE. IT WAS RIGHT -- RIGHT IN THIS
20 GENERAL VICINITY RIGHT HERE.

21 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE'D OFFER
22 STATE'S 59 INTO EVIDENCE.

23 MR. TARR: NO OBJECTION, YOUR HONOR.

24 THE COURT: ADMITTED WITHOUT OBJECTION.

25 (STATE'S EXHIBIT 59 WAS RECEIVED IN EVIDENCE.)

1 BY MR. GOLDBERG:

2 Q. ONCE YOU STOPPED THE VEHICLE, TELL US WHAT HAPPENED.

3 A. I EXPLAINED TO HIM THAT HE FIT THE DESCRIPTION OF
4 SOMEBODY THAT WE WERE LOOKING FOR AND I ASKED HIM IF HE'D
5 MIND TALKING TO US. HE WAS VERY COMPLIANT, AND HE ACTUALLY
6 WAITED 'TIL THE DETECTIVES FROM THE POLICE DEPARTMENT CAME
7 AND SPOKE WITH HIM.

8 Q. DID HE STAY WITH YOU THE WHOLE TIME HE WAS WAITING
9 FOR---

10 A. HE DID.

11 Q. ---THE POLICE DEPARTMENT TO ARRIVE?

12 A. YES, SIR.

13 Q. AND DID HE ACTUALLY PROVIDE YOU WITH A SHOE?

14 A. HE DID.

15 Q. AND THEN C.P.D. RESPONDED? IS THAT RIGHT?

16 A. CORRECT.

17 Q. WHAT HAPPENED WHEN THEY RESPONDED?

18 A. I REMEMBER DETECTIVE REESE SPOKE WITH HIM AND I REMEMBER
19 G.S.R. BEING CONDUCTED ON HIM, BUT HE JUST HUNG OUT WITH ME
20 UNTIL THEY GOT THERE.

21 Q. WAS THE CANINE UNIT CALLED OUT TO THAT AREA?

22 A. WE DID CALL OUR CANINES OUT TO THAT AREA.

23 Q. DO YOU KNOW WHAT THE RESULT WAS OF THEIR INVOLVEMENT?

24 A. WELL, THEY ACTUALLY CAME TWICE. THE FIRST TIME THEY
25 CAME, THEY STARTED OFF ON A TRACK BUT DIDN'T GO VERY FAR, BUT

1 IT WAS RAINING.

2 Q. WHERE WAS THAT TRACK ORIGINATING FROM?

3 A. FROM THE TAHOE, AND ACCORDING TO THEIR REPORT, IT WENT
4 DOWN PEELER ON TO SHADOW HILL JUST A SHORT PIECE AND THAT'S
5 WHERE THEY LOST IT.

6 Q. OKAY. AND THEN THEY ALSO RESPONDED A SECOND TIME?

7 A. THEY DID. THERE WAS VERY HEAVY RAINS, BUT WE RECEIVED A
8 CALL FROM SOMEBODY SAYING THEY SAW SOMEBODY IN THE AREA AND
9 WE REQUESTED THEM TO COME BACK OUT THERE AND THEY DID.

10 Q. AND TO YOUR KNOWLEDGE, DID THEY GET ANY RESULTS FROM
11 THAT TRACK?

12 A. NO, SIR.

13 MR. GOLDBERG: I BELIEVE THAT'S ALL I HAVE. THANK YOU.

14 CROSS-EXAMINATION

15 BY MR. TARR:

16 Q. THIS GUY THAT YOU STOPPED AND DID THE G.S.R. -- HAD THE
17 G.S.R. KIT DONE AND HE GAVE HIS SHOE, HE HAS NOTHING TO DO
18 WITH THIS CASE, DOES HE?

19 A. NO, SIR.

20 Q. HE WAS JUST AN INNOCENT PERSON WHO CAME THROUGH AND WAS
21 QUESTIONED BY POLICE.

22 A. WELL, HE WAS VERY COMPLIANT. HE SAID VOLUNTARY, BUT,
23 YES, SIR, HE WAS...

24 MR. TARR: THAT'S ALL.

25 THE COURT: ALL RIGHT. THANK YOU, SIR.

1 MR. GOLDBERG: MAY THIS WITNESS BE EXCUSED?

2 THE COURT: YES.

3 MS. CAMPBELL: THE STATE CALLS PETE CURRIE.

4 PETE CURRIE, AFTER BEING DULY SWORN, TESTIFIED AS
5 FOLLOWS:

6 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
7 NAME FOR THE RECORD.

8 THE WITNESS: MY NAME IS PETE CURRIE. THAT'S SPELLED
9 C-U-R-R-I-E.

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q. INVESTIGATOR CURRIE, WHERE ARE YOU EMPLOYED?

13 A. WITH THE COLUMBIA POLICE DEPARTMENT.

14 Q. WHAT DO YOU DO THERE, SIR?

15 A. I'VE BEEN THERE ALMOST 19 YEARS.

16 Q. AND WHAT DO YOU DO?

17 A. OH, I'M SORRY. I WORK IN THE CRIME SCENE UNIT.

18 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR DUTIES IN
19 THE CRIME SCENE UNIT?

20 A. I RESPOND TO CRIME SCENES. I PHOTOGRAPH, COLLECT, AND
21 PROCESS EVIDENCE.

22 Q. JUST FOR THE RECORD, ON JUNE THE 2ND OF 2006 YOU DID NOT
23 RESPOND TO THE SCENE AT MAIN STREET OR THE ONE IN LEXINGTON,
24 DID YOU?

25 A. NO, I DID NOT.

1 Q. IN FACT, YOU DID NOT BECOME INVOLVED IN THIS CASE I
2 BELIEVE UNTIL JUNE THE 4TH.

3 A. THAT IS CORRECT.

4 Q. AND WHAT WERE YOUR DUTIES IN THIS CASE?

5 A. I WAS REQUESTED TO PROCESS A 2004 CHEVROLET TAHOE, SOUTH
6 CAROLINA TAG 7-5-0 H-R-M WHICH WAS AT HEADQUARTERS.

7 Q. AND IS IT UNUSUAL, SIR, FOR AN AUTOMOBILE TO BE TOWED
8 FOR FURTHER PROCESSING?

9 A. NO. IT'S DONE MOST OF THE TIMES.

10 Q. AND IN THIS CASE YOU WERE DOING A TAHOE. IS THAT
11 CORRECT?

12 A. THAT IS CORRECT, MA'AM.

13 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
14 EXHIBIT NUMBER 61 THROUGH 70 AND FIRST ASK YOU TO REVIEW
15 THOSE AND SEE IF YOU RECOGNIZE THOSE.

16 A. THOSE ARE THE PHOTOGRAPHS I TOOK AT HEADQUARTERS OF THE
17 VEHICLE THAT I WAS ABOUT TO PROCESS.

18 Q. AND THOSE WERE ACTUALLY TAKEN AT HEADQUARTERS?

19 A. YES, MA'AM.

20 Q. WHERE THE CAR HAD BEEN SECURED.

21 A. THAT IS CORRECT.

22 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER THEM
23 INTO EVIDENCE.

24 MR. TARR: NO OBJECTION.

25 THE COURT: IT'S ADMITTED.

1 (STATE'S EXHIBITS 61 THROUGH 70 WERE RECEIVED IN
2 EVIDENCE.)

3 BY MS. CAMPBELL:

4 Q. AND, AGAIN, THE TAG ON STATE'S EXHIBIT NUMBER 63 IS
5 WHAT?

6 A. IS 7-5-0 H-R-M.

7 Q. AND THAT WAS THE CAR THAT WAS PROCESSED.

8 A. CORRECT.

9 Q. AND WHAT WERE YOU PROCESSING -- YOU WERE AWARE THAT
10 SERGEANT SCOTT HAD ALREADY DONE SOME D.N.A. SWABS ON THE CAR?

11 A. I WAS AWARE THAT HE HAD DONE SOME SWABBING FOR D.N.A. ON
12 THE INSIDE OF THE VEHICLE, AND I WAS REQUESTED TO DO -- SEE
13 IF I COULD FIND ANY FINGERPRINTS ON IT.

14 Q. AND WERE YOU ABLE TO RECOVER ANY FINGERPRINTS FROM THAT
15 VEHICLE?

16 A. NO, I WAS NOT.

17 Q. IS THAT UNUSUAL?

18 A. NOT DUE TO THE CIRCUMSTANCES OF THERE WAS A LOT OF RAIN,
19 HEAVY RAIN, FOR SEVERAL HOURS ON THE VEHICLE. IT WOULD
20 PRETTY MUCH WASH AWAY ANY FINGERPRINTS ON THE OUTSIDE OF IT.
21 ON THE INSIDE OF IT THERE ARE JUST A FEW PLACES THAT YOU CAN
22 ACTUALLY PROCESS. IN THE NEWER MODEL VEHICLES NOWADAYS,
23 BETWEEN CLOTH AND TEXTURE INSIDE THE VEHICLE, YOU WILL NOT
24 LIFT A FINGERPRINT FROM THAT.

25 Q. AND IN THIS CASE, IN FACT, SERGEANT SCOTT HAD ALREADY

1 TESTED IT FOR D.N.A. IN THE POSSIBLE PLACES. IS THAT
2 CORRECT?

3 A. THAT IS CORRECT.

4 Q. AND YOU JUST COMPLETED IT BY PROCESSING THE -- FOR
5 FINGERPRINTS.

6 A. THAT IS CORRECT.

7 MS. CAMPBELL: THANK YOU, SIR.

8 CROSS-EXAMINATION

9 BY MR. TARR:

10 Q. WAS THE VEHICLE INVENTORIED BEFORE OR AFTER YOU
11 PROCESSED FOR PRINTS?

12 A. I DO NOT KNOW IF IT WAS PROCESS -- WHETHER IT WAS
13 INVENTORIED BEFORE OR AFTER REALLY.

14 Q. SO YOU DIDN'T HAVE ANYTHING TO DO WITH THAT.

15 A. THAT IS CORRECT.

16 MR. TARR: NO OTHER QUESTIONS.

17 THE COURT: ANYTHING FURTHER?

18 MS. CAMPBELL: JUST ONE QUESTION.

19 REDIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q. EVEN IF THEY -- IF I WERE IN A VEHICLE OR AROUND A
22 VEHICLE OR TOUCHED THE OUTSIDE OF A VEHICLE, WOULD I
23 NECESSARILY LEAVE PRINTS?

24 A. I'M SORRY?

25 Q. EVEN IF I AM IN A VEHICLE OR AROUND A VEHICLE OR TOUCH

1 IT, AM I NECESSARILY GOING TO LEAVE A FINGERPRINT THERE?

2 A. NOT NECESSARILY, NO, MA'AM.

3 Q. CAN YOU EXPLAIN THAT TO THE JURY JUST BRIEFLY?

4 A. WELL, THERE'S SOME PEOPLE THAT DON'T LEAVE FINGERPRINTS
5 TO START OFF WITH. IF YOU DON'T SWEAT, IF YOU DON'T SECRETE,
6 OR IF YOU DON'T HAVE SOME OIL OR SOMETHING ON YOUR HANDS,
7 CHANCES ARE YOU'RE NOT GOING TO LEAVE A FINGERPRINT. YOU CAN
8 TOUCH SOMETHING VERY LIGHTLY. YOU PICK YOUR HAND UP. YOU'RE
9 NOT GOING TO LEAVE A FINGERPRINT. CHANCES ARE YOU MIGHT
10 LEAVE A LITTLE SMUDGE OR SOMETHING BUT YOU'RE NOT---

11 MR. TARR: OBJECTION, YOUR HONOR.

12 THE COURT: SIR?

13 MR. TARR: RELEVANCE. HE'S ADMITTED USING THE CAR. IT
14 DOESN'T MATTER WHETHER THERE WERE FINGERPRINTS IN IT OR NOT.

15 THE COURT: ALL RIGHT.

16 MS. CAMPBELL: YOUR HONOR, I DON'T BELIEVE HIS OPENING
17 STATEMENT IS TESTIMONY.

18 THE COURT: PARDON ME?

19 MS. CAMPBELL: I DON'T BELIEVE HIS OPENING STATEMENT IS
20 EVIDENCE.

21 THE COURT: I OVERRULE THE OBJECTION. YOU MAY PROCEED,
22 SIR.

23 MS. CAMPBELL: THANK YOU.

24 BY MS. CAMPBELL:

25 Q. YOU CAN CONTINUE.

1 A. OF COURSE, A LOT OF TIMES YOU WON'T FIND FINGERPRINTS.
2 BECAUSE FOLKS HAVE LEARNED TO PUT GLOVES ON THEIR HANDS TO
3 KEEP FROM LEAVING FINGERPRINTS. AGAIN, IF YOU HAVE A LOT OF
4 RAIN, MOISTURE, DEW, IT WILL EAT A FINGERPRINT UP BECAUSE
5 PRETTY MUCH 97 PERCENT OF A FINGERPRINT IS MADE UP OF
6 SECRETIONS THAT COMES OFF YOUR FINGERS. UNLESS YOU HAVE SOME
7 OTHER FOREIGN OBJECT ON YOUR HANDS, OIL OR WHATEVER, WHEN YOU
8 MIX WATER WITH A SECRETION, IT DOESN'T LEAVE MUCH.

9 MS. CAMPBELL: THANK YOU, SIR. I DON'T HAVE ANYTHING
10 FURTHER.

11 THE COURT: ANYTHING FURTHER?

12 MR. TARR: NO, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN.

14 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

15 THE COURT: ANY OBJECTION?

16 MR. TARR: NO, YOUR HONOR.

17 THE COURT: YOU ARE EXCUSED.

18 MS. CAMPBELL: THE STATE CALLS INVESTIGATOR ROSE.

19 WALTER C. ROSE, AFTER BEING DULY SWORN, TESTIFIED
20 AS FOLLOWS:

21 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
22 FULL NAME FOR THE RECORD.

23 THE WITNESS: MY NAME IS WALTER ROSE.
24
25

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q. INVESTIGATOR ROSE, WHERE ARE YOU EMPLOYED?

A. CITY OF COLUMBIA.

Q. WHAT DO YOU DO THERE, SIR?

A. I WORK IN THE CRIME SCENE UNIT.

Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR TRAINING AND YOUR EDUCATION IN CRIME SCENE?

A. YES, MA'AM. IT'S ALL IN-HOUSE TRAINING WITH THE ACADEMY AND VARIOUS CLASSES THAT THEY SEND US TO. I'VE BEEN THERE 18 YEARS. I'VE BEEN WITH THE CRIME SCENE UNIT FOR FOUR YEARS.

Q. JUST FOR THE RECORD, ON JUNE THE 2ND OF 2006 YOU DID NOT RESPOND TO EITHER THE CRIME SCENE AT MAIN STREET OR IN LEXINGTON. IS THAT CORRECT?

A. I DID NOT.

Q. IN FACT, YOU BECAME INVOLVED IN THIS CASE ON JUNE THE 5TH OF 2006. IS THAT CORRECT?

A. YES, MA'AM.

Q. AND WHERE WERE YOU ASKED TO RESPOND TO?

A. THE PEELER ROAD LOCATION. [REDACTED], I BELIEVE IT WAS. [REDACTED] PEELER ROAD.

Q. [REDACTED] PEELER ROAD? WERE YOU AWARE OF WHOSE RESIDENCE THAT WAS?

A. I WAS NOT.

Q. AND WHO HAD ASKED YOU TO RESPOND TO THAT RESIDENCE WITH

1 THEM?

2 A. INVESTIGATOR THOMAS.

3 Q. IS THIS INVESTIGATOR THOMAS?

4 A. YES, MA'AM.

5 Q. NEXT TO INVESTIGATOR REESE?

6 A. IT IS.

7 Q. WERE BOTH OF THEM OUT THERE AT THAT SCENE THAT DAY?

8 A. YES, MA'AM.

9 Q. AND WHEN YOU RESPONDED TO THE SCENE, DID YOU GET ANY
10 DIRECTION ON WHAT YOU WERE LOOKING FOR?

11 A. I DID.

12 Q. AND WHAT WERE YOU LOOKING FOR, SIR?

13 A. THEY WANTED PHOTOGRAPHS OF THAT AREA AND TO LOOK FOR A
14 GUN, A MASK, OR ANY BULLETS OR ANYTHING SIMILAR TO THAT.

15 Q. SO WHEN YOU GOT TO THE SCENE, DID YOU PHOTOGRAPH THE
16 EXTERIOR OF THE HOUSE?

17 A. I DID.

18 Q. AS WELL AS THE AREA IN THE BACKYARD?

19 A. YES, MA'AM.

20 Q. I WANT TO SHOW YOU FIRST A SERIES OF PHOTOGRAPHS,
21 STATE'S EXHIBITS 42, 43, AND 44. DO YOU RECOGNIZE THOSE?

22 A. I DO.

23 Q. AND DOES THAT DEPICT THE RESIDENCE AT [REDACTED] PEELER ROAD?

24 A. IT DOES.

25 Q. AS IT WAS WHEN YOU WENT OUT THERE ON JUNE THE 5TH?

1 A. YES, MA'AM.

2 Q. AND ARE THOSE PHOTOGRAPHS YOU ACTUALLY TOOK THAT DAY?

3 A. YES.

4 MS. CAMPBELL: YOUR HONOR, WE WOULD OFFER THESE INTO
5 EVIDENCE.

6 MR. TARR: NO OBJECTION.

7 THE COURT: THEY'RE ADMITTED WITHOUT OBJECTION.

8 (STATE'S EXHIBITS 42 THROUGH 44 WERE RECEIVED IN
9 EVIDENCE.)

10 MS. CAMPBELL: THANK YOU, YOUR HONOR.

11 BY MS. CAMPBELL:

12 Q. STATE'S EXHIBIT NUMBER 42, WHAT DOES THAT SHOW?

13 A. THE TRAILER AT THAT LOCATION.

14 Q. AND WHAT ANGLE IS THIS?

15 A. IT'S THE FRONT OF THE RESIDENCE.

16 Q. SPECIFICALLY, WERE YOU TAKEN AROUND TO THE BACK AREA?

17 A. YES.

18 Q. AND I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
19 EXHIBIT 43 AND 44. WHAT DO THOSE SHOW?

20 A. THAT'S THE BACK OF THE RESIDENCE AND A DECK, A REAR
21 DECK.

22 Q. WAS THAT DECK OF PARTICULAR INTEREST TO YOU THAT DAY?

23 A. YES, MA'AM.

24 Q. AND WERE YOU AWARE OF WHETHER OR NOT INVESTIGATORS HAD
25 GOTTEN CONSENT TO SEARCH THIS AREA FROM THE DEFENDANT AND HIS

1 WIFE?

2 A. YES.

3 Q. AND THAT WOULD BE PROPER POLICE PROCEDURE---

4 A. YES, MA'AM.

5 Q. ---PRIOR TO DOING ANY KIND OF SEARCH. WERE YOU GIVEN
6 FURTHER INFORMATION ABOUT AN AREA UNDER THE PORCH?

7 A. YEAH. IT WAS POINTED OUT TO ME. THERE'S A SPOT ABOUT
8 MIDWAYS UNDER THE PORCH.

9 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
10 45, 46, AND 47. DO YOU RECOGNIZE THOSE?

11 A. I DO.

12 Q. AND ARE THOSE PHOTOGRAPHS YOU ALSO TOOK THAT DAY?

13 A. YES, MA'AM.

14 Q. AND SPECIFICALLY -- YOUR HONOR, AT THIS TIME WE'D OFFER
15 THEM INTO EVIDENCE.

16 MR. TARR: NO OBJECTION.

17 THE COURT: THEY'RE ADMITTED.

18 (STATE'S EXHIBITS 45 THROUGH 47 WERE RECEIVED IN
19 EVIDENCE.)

20 BY MS. CAMPBELL:

21 Q. SPECIFICALLY WITH STATE'S EXHIBIT NUMBER 45 -- AND YOU
22 CAN SEE IT BETTER ACTUALLY IN STATE'S EXHIBIT NUMBER 46. WAS
23 THERE AN AREA OF DIRT UNDER THERE THAT CAUGHT YOUR ATTENTION
24 AND WHY?

25 A. YES, MA'AM. YOU CAN SEE WHERE THE DIRT HAD BEEN

1 DISTURBED. IT'S DIFFERENT THAN EVERYTHING AROUND IT.

2 Q. WHEN YOU SAY DISTURBED, WHAT DO YOU MEAN?

3 A. LOOKED LIKE IT HAD BEEN TURNED UPSIDE-DOWN LIKE THERE
4 HAD BEEN A HOLE DUG THERE AND REFILLED.

5 Q. ONCE YOU DETERMINED THAT THAT AREA LOOKED LIKE IT HAD
6 BEEN DISTURBED OR A HOLE DUG AND REFILLED, DID YOU DO ANY
7 DIGGING YOURSELF?

8 A. I DID.

9 Q. AND WHAT WERE YOU LOOKING FOR?

10 A. ANY -- ANY OF THE EVIDENCE THAT INVESTIGATORS WERE
11 LOOKING FOR, LOOKING FOR THE GUN OR A GUN OR AMMUNITION, THE
12 MASK.

13 Q. I'M GOING TO SHOW YOU STATE'S EXHIBITS NUMBER 48, 49,
14 50, AND 51. IS THAT A CLOSE-UP OF THE AREA WE'RE TALKING
15 ABOUT?

16 A. THAT IS.

17 Q. AND ARE THOSE PHOTOGRAPHS YOU ACTUALLY TOOK THAT DAY?

18 A. YES, MA'AM.

19 Q. THE FIRST TWO ARE BEFORE YOU DUG THE HOLE?

20 A. IT IS.

21 Q. AND THE SECOND TWO ARE AFTER YOU DUG?

22 A. YES, MA'AM.

23 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER THESE
24 INTO EVIDENCE.

25 MR. TARR: NO OBJECTION, YOUR HONOR.

1 THE COURT: THEY'RE ADMITTED WITHOUT OBJECTION.

2 (STATE'S EXHIBITS 48 THROUGH 51 WERE RECEIVED IN
3 EVIDENCE.)

4 BY MS. CAMPBELL:

5 Q. STATE'S EXHIBIT NUMBER 48, IS THAT A CLOSE-UP OF THE
6 AREA WHERE YOU ENDED UP DIGGING A HOLE?

7 A. IT IS.

8 Q. AND THEN IN STATE'S EXHIBIT NUMBER 50, WAS THAT TAKEN
9 AFTER YOU STARTED DIGGING?

10 A. YES, MA'AM.

11 Q. AND WHAT IS THAT DEPICTED IN STATE'S EXHIBIT 50? DO YOU
12 NEED TO LOOK AT IT AGAIN?

13 A. THIS ONE HERE? WHEN I FIRST STARTED DIGGING, I FELT
14 SOMETHING BUT DID NOT FEEL THE SOFTNESS OF SOIL AND STOPPED
15 AND THAT HAD -- THERE WAS A WHITE PLASTIC BAG WITH THE
16 BULLETS -- A BOX OF BULLETS INSIDE THE BAG.

17 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 51.

18 A. YES, MA'AM.

19 Q. IS THAT A CLOSE-UP?

20 A. YEAH, IT IS.

21 Q. IS THAT AFTER YOU PULLED OUT THE BAG?

22 A. YES, MA'AM. I ROLLED THE BAG OUT, AND THE ACTUAL BOX OF
23 BULLETS WERE ACTUALLY UNDERNEATH THE BOTTOM OF THE BAG.

24 Q. WAS THERE ANYTHING ELSE THAT YOU RECOVERED IN THAT HOLE?

25 A. YES.

1 Q. AND WHAT ELSE DID YOU RECOVER IN THAT HOLE?

2 A. THERE WAS A PIST -- A REVOLVER, A SMALL GUN, AND THE BOX
3 OF BULLETS AND A WHITE MASK WITH A BLACK LIKE A HOOD ON IT.

4 Q. DID YOU LATER TAKE SOME PHOTOGRAPHS OF THESE ITEMS?

5 A. I DID.

6 Q. YOU DIDN'T PHOTOGRAPH THEM THERE AT THE SCENE. YOU
7 ACTUALLY TOOK THEM BACK TO HEADQUARTERS?

8 A. YES.

9 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 52 AND 53.
10 DO YOU RECOGNIZE THOSE?

11 A. YES. THAT WAS IN THE BAG.

12 Q. WHEN WERE THESE PHOTOS TAKEN?

13 A. THEY WERE TAKEN THAT DAY OR THE NEXT DAY.

14 Q. AND WHERE WAS THIS TAKEN?

15 A. INSIDE OF THE LAB AT THE POLICE DEPARTMENT.

16 COURT REPORTER: INSIDE THE WHAT?

17 THE WITNESS: THE LAB. THE LAB AREA OF THE POLICE
18 DEPARTMENT.

19 BY MS. CAMPBELL:

20 Q. AND WHERE DID YOU RECOVER THESE ITEMS?

21 A. THOSE WERE RECOVERED OUT OF THE HOLE IN THE OTHER
22 PICTURE.

23 Q. THAT'S SHOWN IN STATE'S EXHIBIT NUMBER 51?

24 A. YES, MA'AM.

25 Q. THESE ARE THE ACTUAL ITEMS THAT YOU RECOVERED THAT DAY?

1 A. THEY ARE.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
3 STATE'S EXHIBIT 52, 53 THROUGH 56.

4 MR. TARR: NO OBJECTION.

5 THE COURT: THEY ARE ADMITTED.

6 (STATE'S EXHIBITS 52 THROUGH 56 WERE RECEIVED IN
7 EVIDENCE.)

8 BY MS. CAMPBELL:

9 Q. STATE'S EXHIBIT NUMBER 54, WHAT DOES THAT SHOW?

10 A. THAT'S THE MASK WITH A SCALE.

11 Q. AND THAT WAS FOUND BURIED WHERE?

12 A. UNDERNEATH THE DECK OF THAT TRAILER.

13 Q. STATE'S EXHIBIT NUMBER 55, WHAT DOES THAT SHOW?

14 A. IT'S A REVOLVER.

15 Q. AND WHERE DID YOU FIND THAT?

16 A. SAME LOCATION. IN THE BAG UNDER THE DECK AT PEELER
17 STREET.

18 Q. STATE'S EXHIBIT NUMBER 56, WHAT IS THAT?

19 A. A BOX OF BULLETS.

20 Q. AND WHERE DID YOU FIND THAT?

21 A. SAME LOCATION. UNDER THE DECK.

22 Q. I SHOW YOU WHAT'S BEEN MARKED FOR I.D., I BELIEVE,
23 STATE'S EXHIBIT NUMBER 12. DO YOU RECOGNIZE THAT?

24 A. YES. THAT'S THE MASK. THAT WAS IN THAT---

25 Q. DID YOU COLLECT THAT THAT DAY?

1 A. YES, MA'AM.

2 Q. AND IT WAS ACTUALLY IN THAT HOLE?

3 A. YES, MA'AM.

4 MS. CAMPBELL: YOUR HONOR, I BELIEVE WE'D OFFER STATE'S
5 EXHIBIT 12 AT THIS TIME OR IS IT IN?

6 MR. TARR: NO OBJECTION.

7 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

8 (STATE'S EXHIBIT 12 WAS RECEIVED IN EVIDENCE.)

9 BY MS. CAMPBELL:

10 Q. STATE'S EXHIBIT NUMBER 76, WILL YOU LOOK AT THAT?

11 A. (THE WITNESS COMPLIES.)

12 Q. AND STATE'S EXHIBIT NUMBER 75, DO YOU RECOGNIZE THAT ITEM?

13 A. YES.

14 Q. AND 75 AND 76, ARE THOSE THE GUN AND THE BULLETS THAT
15 YOU RECOVERED THAT DAY?

16 A. YES, MA'AM.

17 MS. CAMPBELL: YOUR HONOR, WE'D OFFER THESE.

18 MR. TARR: NO OBJECTION.

19 THE COURT: THEY'RE ADMITTED WITHOUT OBJECTION.

20 (STATE'S EXHIBITS 75 AND 76 WERE RECEIVED IN EVIDENCE.)

21 BY MS. CAMPBELL:

22 Q. STATE'S EXHIBIT NUMBER 75, HOW WOULD YOU DESCRIBE THAT?

23 A. THAT'S AN OLDER REVOLVER WITH THE TRIGGER GUARD MISSING.

24 Q. IS THAT IN THE SAME CONDITION OTHER THAN IT WAS BURIED
25 IN THE GROUND---

1 A. YES.

2 Q. ---AS WHEN YOU GOT IT? AND STATE'S EXHIBIT NUMBER 76,
3 WHAT CALIBER IS IT?

4 A. A .38 SPECIAL, 125 GRAIN.

5 Q. AND ALL THREE OF THESE ITEMS, INCLUDING STATE'S EXHIBIT
6 NUMBER 12, WERE BURIED UNDERNEATH THAT PORCH.

7 A. YES, MA'AM.

8 Q. AND YOU ACTUALLY DUG THEM UP.

9 A. YES, MA'AM.

10 Q. ONCE YOU TOOK THOSE ITEMS INTO YOUR POSSESSION, DID YOU
11 THEN KEEP THEM WITH YOU UNTIL YOU COULD LOCK THEM INTO
12 EVIDENCE?

13 A. I DID.

14 Q. DURING THE TIME PERIOD THAT YOU HANDLED THE MASK, THE
15 BULLETS AND THE GUN, DID ANYONE ALTER THEM, CHANGE, OR DO
16 ANYTHING TO THEM OR HAVE ANY ACCESS TO THEM?

17 A. NO, MA'AM.

18 Q. SO NO ONE COULD TAMPER WITH THEM.

19 A. NO, MA'AM.

20 Q. AND THEN YOU LOGGED THEM INTO EVIDENCE AT THE COLUMBIA
21 POLICE DEPARTMENT?

22 A. YES.

23 Q. DID YOU ALSO HAVE AN OCCASION THAT DAY TO GO INTO THE
24 INTERIOR OF THE HOUSE?

25 A. YES.

1 Q. AND WERE YOU SPECIFICALLY LOOKING FOR -- YOU HAD ALREADY
2 GOTTEN THE GUN AND THE MASK, BUT WERE YOU LOOKING FOR SOME
3 CLOTHING?

4 A. YES. I WAS AND INVESTIGATOR ARTHUR THOMAS.

5 Q. INVESTIGATOR THOMAS?

6 A. YES.

7 MS. CAMPBELL: YOUR HONOR, BEG THE COURT'S INDULGENCE.
8 I HAVE GOT TO MARK THESE.

9 (STATE'S EXHIBITS 78 THROUGH 83 WERE MARKED FOR
10 IDENTIFICATION ONLY.)

11 BY MS. CAMPBELL:

12 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT 78 THROUGH 83.
13 WERE THOSE PHOTOGRAPHS YOU TOOK THAT DAY?

14 A. THEY ARE.

15 Q. AND THOSE WERE OF THE INTERIOR OF THE HOUSE?

16 A. YES, MA'AM.

17 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER THEM
18 INTO EVIDENCE.

19 MR. TARR: NO OBJECTION, YOUR HONOR.

20 THE COURT: THEY'RE ADMITTED.

21 (STATE'S EXHIBITS 78 THROUGH 83 WERE RECEIVED IN
22 EVIDENCE.)

23 BY MS. CAMPBELL:

24 Q. STATE'S EXHIBIT NUMBER 83 -- OOPS. WRONG ONE. 82, WHAT
25 DOES THAT SHOW?

1 A. A PAIR OF JEANS DRAPED OVER A PIECE OF FURNITURE.

2 Q. DO YOUR NOTES REFLECT WHAT AREA OF THE HOUSE THAT WAS
3 IN?

4 A. IN THE FRONT ROOM OF THE HOUSE.

5 Q. IN THE FRONT ROOM OF THE HOUSE?

6 A. YES, MA'AM.

7 Q. AND IS THAT HOW THEY WERE DRAPED IN THE FRONT ROOM OF
8 THE HOUSE?

9 A. YES.

10 Q. DID THEY APPEAR TO BE DRYING?

11 A. YES.

12 Q. STATE'S EXHIBIT NUMBER 81, WAS THIS IN THE SAME ROOM?

13 A. YES, MA'AM. IT'S A TEE SHIRT, BLACK TEE SHIRT.

14 Q. AND IS THAT HOW IT WAS WHEN YOU GOT THERE THAT DAY?

15 A. YES, MA'AM.

16 Q. AND HOW DOES IT APPEAR TO BE DRAPED?

17 A. JUST LAID OVER, POSSIBLY DRYING.

18 Q. DID YOU ALSO PHOTOGRAPH A CLOSET?

19 A. I DID. YES, MA'AM.

20 Q. AND THAT'S STATE'S EXHIBIT 80?

21 A. YES.

22 Q. WHERE WAS THAT LOCATED?

23 A. I'M NOT SURE WHICH ONE OF THE ROOMS. IT'S IN ONE OF THE
24 BEDROOMS THERE.

25 Q. AND IN STATE'S EXHIBIT 80, DOES IT SHOW THE INTERIOR?

1 A. IT DOES.

2 Q. WHAT DOES IT SHOW?

3 A. JUST CLOTHES INSIDE THE ROOM THERE AND THE BLACK --
4 THERE'S A BLACK HOODIE INSIDE THE CLOSET.

5 Q. I SHOW YOU STATE'S EXHIBIT NUMBER 83.

6 A. THAT'S THE BLACK HOODIE THAT WAS INSIDE THE CLOSET.

7 Q. THAT'S DEPICTED IN STATE'S EXHIBIT NUMBER 80? THEN YOU
8 ALSO INDIVIDUALLY PULLED DOWN THE TEE SHIRT AND JEANS IN 79
9 AND 78?

10 A. YES, MA'AM.

11 Q. AND PHOTOGRAPHED THOSE.

12 A. YES.

13 Q. YOU MENTIONED THAT YOU ALSO PHOTOGRAPHED THE AREA BEHIND
14 THE HOUSE?

15 A. YES, THE WHOLE PERIMETER.

16 (STATE'S EXHIBITS 84 THROUGH 86 WERE MARKED FOR
17 IDENTIFICATION ONLY.)

18 BY MS. CAMPBELL:

19 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 84
20 THROUGH 86. I FIRST ASK: DO YOU RECOGNIZE THOSE?

21 A. YES, MA'AM.

22 Q. AND DID YOU ACTUALLY TAKE THOSE PHOTOGRAPHS?

23 A. I DID.

24 Q. AND WHAT DO THEY DEPICT?

25 A. THE BACKYARD BASICALLY OF THE -- OF THAT RESIDENCE.

1 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER THEM
2 INTO EVIDENCE.

3 MR. TARR: NO OBJECTION, YOUR HONOR.

4 THE COURT: ADMITTED WITHOUT OBJECTION.

5 (STATE'S EXHIBITS 84 THROUGH 86 WERE RECEIVED IN
6 EVIDENCE.)

7 BY MS. CAMPBELL:

8 Q. THE FIRST ONE I WOULD SHOW YOU IS STATE'S EXHIBIT NUMBER
9 86. DOES THAT SHOW THE BACKYARD IN RELATION TO THE BACK
10 DECK?

11 A. YES.

12 Q. AND THAT WOULD BE WHAT WAS ACTUALLY BEHIND THE HOUSE?

13 A. IT IS.

14 Q. THE AREA? AND THEN STATE'S EXHIBITS NUMBER 84 AND 85?

15 A. JUST A WIDER -- WIDER VIEW---

16 Q. WIDER, PANORAMIC VIEW.

17 A. ---AS YOU PAN THE CAMERA TO TAKE THE BACKYARD SHOT.

18 Q. AND YOU WEREN'T THERE WHEN THE CAR WAS RECOVERED BEHIND
19 THERE.

20 A. NO, MA'AM.

21 MS. CAMPBELL: BEG THE COURT'S INDULGENCE. THANK YOU.
22 I DON'T HAVE ANYTHING FURTHER.

23 CROSS-EXAMINATION

24 BY MR. TARR:

25 Q. INVESTIGATOR ROSE, Y'ALL WEREN'T THE LEAST BIT SURPRISED

1 TO FIND THOSE ITEMS IN THE DIRT UNDER THE STAIRS, WERE YOU?

2 A. I DON'T UNDERSTAND. I WAS DIRECTED TO GO THERE---

3 Q. ISN'T IT TRUE THAT MY CLIENT -- MY CLIENT TOLD

4 INVESTIGATOR REESE, "I BURIED THEM UNDER THE STAIRS IN THE
5 DIRT."

6 A. I'M NOT SURE HOW HE GOT THE INFORMATION, BUT I WAS
7 DIRECTED THERE BY THE INVESTIGATORS.

8 Q. THE INVESTIGATORS TOLD YOU WHERE TO GO.

9 A. YES.

10 Q. SO IT WASN'T THE FACT THAT YOU WERE DOING AN
11 INVESTIGATION AND YOU FOUND THIS---

12 A. NO.

13 Q. ---STUFF THERE. SOMEBODY TOLD YOU WHERE TO GO. ...

14 A. I WAS DIRECTED TO RECOVER IT.

15 Q. DID THEY ALSO TELL YOU THAT MY CLIENT HAD TOLD THEM THAT
16 HE PUT THE KEYS TO THE CAR IN AN AIR VENT IN THE HOUSE?

17 A. NO, SIR.

18 Q. SO Y'ALL DIDN'T EVEN LOOK FOR THOSE.

19 A. I'M NOT FAMILIAR WITH THAT.

20 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

21 REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. JUST ONE FOLLOW-UP. AND NO KEYS WERE EVER RECOVERED.

24 A. NO, MA'AM.

25 Q. THAT YOU'RE AWARE OF.

1 A. NOT TO MY KNOWLEDGE.

2 Q. AND YOU DID THIS SEARCH PURSUANT TO A CONSENT TO SEARCH.

3 A. YES, I DID.

4 MS. CAMPBELL: THANK YOU.

5 THE COURT: ANYTHING FURTHER?

6 RECROSS EXAMINATION

7 BY MR. TARR:

8 Q. SO THAT CONSENT WAS GIVEN BY MY CLIENT.

9 A. IT WAS GIVEN BY THE OWNER OF THE HOUSE.

10 MR. TARR: THAT'S ALL I HAVE.

11 THE COURT: YOU MAY STEP DOWN.

12 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

13 MR. TARR: NO OBJECTION, YOUR HONOR.

14 THE COURT: YOU MAY BE EXCUSED.

15 MS. CAMPBELL: THE STATE WOULD CALL TENA GOFF.

16 THE COURT: LET'S STAND FOR A MOMENT AS SHE COMES.

17 TENA GOFF, AFTER BEING DULY SWORN, TESTIFIED AS
18 FOLLOWS:

19 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
20 NAME FOR THE RECORD, PLEASE.

21 THE WITNESS: TENA GOFF.

22 DIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q. INVESTIGATOR GOFF, WHERE ARE YOU EMPLOYED?

25 A. THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

1 Q. WHAT DO YOU DO THERE?

2 A. I'M THE EVIDENCE CUSTODIAN.

3 Q. AND AS THE EVIDENCE CUSTODIAN, WHAT DO YOUR DUTIES
4 INCLUDE?

5 A. MY DUTIES INCLUDE TO ACCEPT, STORE, AND MAINTAIN
6 EVIDENCE AS WELL AS SUPERVISE THE OTHER EMPLOYEES WHO ARE
7 ASSIGNED TO THE EVIDENCE ROOM AND THEN MAINTAIN A CHAIN OF
8 CUSTODY ON THE EVIDENCE AS IT COMES IN AND GOES OUT.

9 Q. AND IN THIS CASE WERE CERTAIN ITEMS SUBMITTED TO YOUR
10 AGENCY BY THE COLUMBIA POLICE DEPARTMENT TO BE TESTED FOR
11 D.N.A.?

12 A. YES, MA'AM.

13 Q. AND DID THAT INCLUDE SOME SWABS FROM AN AUTOMOBILE AS
14 WELL AS A MASK?

15 A. YES.

16 Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
17 NUMBER 12. WAS THAT ONE OF THOSE ITEMS THAT WAS SUBMITTED?

18 A. YES, MA'AM.

19 Q. AND WHEN THOSE ITEMS WERE SUBMITTED, WOULD THEY HAVE
20 BEEN SEALED AND PROPERLY PACKAGED?

21 A. YES.

22 Q. AND DURING THE TIME PERIOD THAT THEY WERE KEPT IN YOUR
23 EVIDENCE ROOM BEFORE THE D.N.A. TESTING WAS DONE BY I THINK
24 IT'S AN INVESTIGATOR BARRON, DID ANYONE HAVE ACCESS TO THOSE
25 THINGS OR ALTER THEM IN ANY WAY?

1 A. NO.

2 Q. SO THE CHAIN OF CUSTODY WAS INTACT.

3 A. YES.

4 Q. AND THOSE ITEMS WERE SUBSEQUENTLY TURNED OVER TO
5 INVESTIGATOR BARRON FOR D.N.A. TESTING.

6 A. YES, THEY WERE.

7 MS. CAMPBELL: THANK YOU. I DON'T HAVE ANY FURTHER
8 QUESTIONS.

9 MR. TARR: NO QUESTIONS, YOUR HONOR.

10 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

11 MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

12 MR. TARR: NO OBJECTION.

13 THE COURT: YOU MAY BE EXCUSED.

14 MS. CAMPBELL: THANK YOU.

15 MR. GOLDBERG: THE STATE CALLS KATHLEEN AMICK.

16 KATHLEEN AMICK, AFTER BEING DULY SWORN, TESTIFIED
17 AS FOLLOWS:

18 THE COURT: YOU MAY BE SEATED. IF YOU'LL STATE YOUR
19 FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

20 THE WITNESS: MY NAME IS KATHLEEN AMICK. A-M-I-C-K.

21 DIRECT EXAMINATION

22 BY MR. GOLDBERG:

23 Q. MS. AMICK, WHERE ARE YOU EMPLOYED?

24 A. AT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION IN THE
25 TRACE DEPARTMENT.

1 Q. AND WHAT DO YOU DO THERE?

2 A. I ANALYZE EVIDENCE THAT'S COLLECTED AT CRIME SCENES
3 RIGHT BEFORE IT'S RELATED TO THAT EVIDENCE AND TESTIFY IN
4 COURT.

5 Q. AND CAN YOU TELL THE JURY A LITTLE BIT ABOUT YOUR
6 EDUCATION AND YOUR TRAINING IN THIS FIELD OF TRACE EVIDENCE?

7 A. YES. I HAVE A BACHELOR'S DEGREE IN CHEMISTRY FROM
8 CONVERSE COLLEGE, AND I HAVE WORKED AT S.L.E.D. FOR JUST OVER
9 TWO YEARS DURING WHICH TIME I HAVE COMPLETED IN-HOUSE
10 TRAINING AND ALSO BEEN TO OUTSIDE TRAINING.

11 Q. AND APPROXIMATELY HOW MANY G.S.R. KITS HAVE YOU
12 PROCESSED IN YOUR TIME AT S.L.E.D.?

13 A. ABOUT 500.

14 Q. AND ABOUT HOW MANY CASES HAVE YOU WORKED ON IN THE TRACE
15 DEPARTMENT?

16 A. PROBABLY ABOUT 250 G.S.R. KITS.

17 MR. GOLDBERG: YOUR HONOR, AT THIS TIME WE'D OFFER HER
18 AS AN EXPERT IN TRACE EVIDENCE.

19 MR. TARR: NO OBJECTION.

20 THE COURT: SHE'S ADMITTED AS AN EXPERT IN THE FIELD OF
21 TRACE EVIDENCE.

22 MR. GOLDBERG: THANK YOU, YOUR HONOR.

23 BY MR. GOLDBERG:

24 Q. CAN YOU DESCRIBE FOR THE JURY WHAT A GUNSHOT RESIDUE KIT
25 IS?

1 A. YES. A GUNSHOT RESIDUE KIT CONSISTS OF PARTICLE LIFTS
2 AND SWABS THAT ARE TAKEN FROM BOTH HANDS, AND THE AREAS OF
3 THE HANDS THAT IT'S TAKEN FROM ARE THE RIGHT BACK AND THE
4 RIGHT PALM AND THE LEFT PALM AND THE LEFT BACK. THE PARTICLE
5 LIFTS ARE TAKEN FIRST AND THEN THE SWABS ARE TAKEN.

6 Q. AND CAN YOU DESCRIBE A LITTLE BIT ABOUT WHY THIS IS
7 IMPORTANT, LIKE WHAT HAPPENS WHEN YOU FIRE A WEAPON AND HOW
8 THESE MATERIALS MAY OR MAY NOT END UP ON SOMEONE'S HANDS?

9 A. YES. WHEN A WEAPON IS FIRED, A CLOUD OF SMOKE IS
10 EMITTED FROM THE BARREL OF THE GUN, AND THE PARTICLES OF THAT
11 SMOKE CAN LAND ON ANYTHING IN THE VICINITY OF THE WEAPON WHEN
12 IT IS FIRED. AND THE GUNSHOT RESIDUE KIT CAN THEN BE USED TO
13 COLLECT THOSE PARTICLES.

14 Q. AND ONCE THESE MATERIALS ARE DEPOSITED ON YOUR HAND OR
15 -- WELL, COULD IT BE ON SOMETHING OTHER THAN YOUR HAND?

16 A. IT COULD BE.

17 Q. AND ONCE IT GETS ON YOUR HAND OR WHATEVER OTHER PART OF
18 THE BODY THAT IT LANDS ON, IS IT THERE FOREVER?

19 A. NO. GUNSHOT RESIDUE IS FAIRLY FRAGILE EVIDENCE. IT CAN
20 BE REMOVED FROM THE HANDS BY WASHING YOUR HANDS. IT CAN BE
21 ABSORBED THROUGH THE SKIN. IT CAN BE REMOVED BY PUTTING YOUR
22 HANDS IN AND OUT OF YOUR POCKETS OR RUBBING THEM ON YOUR
23 CLOTHING, AND SWEAT CAN REMOVE IT, ET CETERA.

24 Q. ALSO, HOW ABOUT TIME? IS THERE A CERTAIN TIME PERIOD
25 WHERE IT WOULD BE SOMEWHAT USELESS TO ACTUALLY CONDUCT THE

1 TEST ON THIS?

2 A. YES. AFTER SIX HOURS WE DO NOT ANALYZE A G.S.R. KIT.

3 Q. AND WHY IS THAT?

4 A. AFTER SIX HOURS -- MOST OF THE TIME YOU PROBABLY WENT TO
5 THE REST ROOM WITHIN SIX HOURS, BUT AFTER SIX HOURS IT WILL
6 BE ABSORBED BY THE SKIN, IF NOTHING ELSE. SO WE DON'T
7 ANALYZE A KIT AFTER THAT AMOUNT OF TIME.

8 Q. AND SO DURING AN ONGOING INVESTIGATION, IF THE SUSPECT
9 ISN'T EVEN APPREHENDED FOR A DAY OR TWO DAYS OR SEVERAL DAYS
10 AFTER THE INCIDENT, WOULD THERE BE ANY REASON TO ACTUALLY
11 CONDUCT A G.S.R. KIT FOR TESTS ON THAT SUSPECT?

12 A. NO.

13 Q. IN FACT, ANYTHING AFTER SIX HOURS YOU WOULDN'T BE ABLE
14 -- YOU WOULDN'T EXPECT TO FIND ANYTHING.

15 A. CORRECT.

16 Q. IN THIS CASE DID YOU RECEIVE, I BELIEVE, L-0810340, A
17 G.S.R. KIT ON A SUBJECT NAMED JOSEPH REED? NORRIS REED?

18 A. YES, I DID.

19 Q. AND DID YOU ANALYZE THAT KIT?

20 A. I DID.

21 Q. HOW DID YOU GO ABOUT DOING THAT?

22 A. THE SWABS ARE ANALYZED USING NITRIC ACID, FIVE PERCENT
23 NITRIC ACID, TO DISSOLVE THE PARTICLES THAT HAVE BEEN
24 COLLECTED ON THE SWABS, AND WE USE INSTRUMENTATION IN OUR LAB
25 TO DETECT WHETHER OR NOT THE PARTICLES ARE PRESENT.

1 Q. AND ONCE YOU CONDUCTED YOUR ANALYSIS, WHAT WERE YOUR
2 FINDINGS IN REGARDS TO THE SUBJECT NORRIS JOSEPH REED?

3 A. MY FINDINGS WERE THAT THE QUANTITIES OF METALS FOUND DID
4 NOT INDICATE THE PRESENCE OF GUNSHOT RESIDUE ON ANY AREA OF
5 HIS HANDS.

6 Q. YOU DIDN'T FIND ANYTHING.

7 A. NO.

8 Q. THAT WAS THE ONLY SUBJECT THAT YOU PERFORMED THE TEST IN
9 REGARDS TO. IS THAT CORRECT?

10 A. YES.

11 Q. SO IN LAYMEN'S TERMS, THAT'S SAYING THAT HE DIDN'T FIRE
12 A GUN.

13 A. I CAN'T RULE OUT -- I CAN'T SAY WHETHER HE FIRED A
14 WEAPON OR NOT. LIKE I SAID, IT'S EASILY REMOVED FROM THE
15 HANDS, THE GUNSHOT RESIDUE IS, BUT MY DATA IS CONSISTENT WITH
16 HIM NOT FIRING A WEAPON.

17 Q. NOT FIRING A WEAPON.

18 A. UH-HUH.

19 MR. GOLDBERG: THANK YOU.

20 CROSS-EXAMINATION

21 BY MR. TARR:

22 Q. IT'S ALSO CONSISTENT WITH HIM BEING A COMPLETELY
23 INNOCENT BYSTANDER WHO HAD NOTHING TO DO WITH THIS CASE.

24 A. MY DATA IS CONSISTENT WITH HIM NOT FIRING A WEAPON.

25 Q. WHICH YOU WOULD EXPECT IF SOMEBODY DIDN'T FIRE A WEAPON

1 AND HAD NOTHING TO DO WITH THE CASE THAT WE'RE HERE FOR.

2 A. YES.

3 MR. TARR: THAT'S ALL, YOUR HONOR.

4 THE COURT: ANYTHING FURTHER?

5 MR. GOLDBERG: NOTHING FURTHER.

6 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

7 MR. GOLDBERG: MAY SHE BE EXCUSED, YOUR HONOR?

8 MR. TARR: NO OBJECTION, SIR.

9 THE COURT: YOU MAY BE EXCUSED.

10 MR. GOLDBERG: THE STATE CALLS AMY STEPHENS.

11 AMY STEPHENS, AFTER BEING DULY SWORN, TESTIFIED AS
12 FOLLOWS:

13 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
14 FULL NAME FOR THE RECORD, PLEASE.

15 THE WITNESS: AMY STEPHENS.

16 DIRECT EXAMINATION

17 BY MR. GOLDBERG:

18 Q. MS. STEPHENS, WHERE ARE YOU EMPLOYED?

19 A. I'M EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT
20 DIVISION WHICH IS ALSO KNOWN AS S.L.E.D.

21 Q. HOW LONG HAVE YOU BEEN THERE?

22 A. MARCH 2ND WILL BE THREE YEARS.

23 Q. AND WHAT ARE YOUR DUTIES WITH S.L.E.D.?

24 A. I'M A FORENSIC TECHNICIAN IN THE EVIDENCE CONTROL
25 DEPARTMENT. WE LOG IN ALL THE EVIDENCE THAT COMES IN FROM

1 AGENCIES IN SOUTH CAROLINA. WE PACKAGE IT AND STORE IT IN
2 OUR EVIDENCE ROOM.

3 Q. DID YOU, IN FACT, RECEIVE SOME ITEMS THAT WERE SUBMITTED
4 TO YOU FROM THE COLUMBIA POLICE DEPARTMENT IN REGARDS TO THIS
5 CASE?

6 A. I DID.

7 Q. AND DO YOU KNOW WHAT THOSE ITEMS WERE?

8 A. I DO.

9 Q. WHAT WERE THEY?

10 A. I RECEIVED EIGHT ITEMS FROM SERGEANT KERMIT SCOTT OF THE
11 COLUMBIA POLICE DEPARTMENT. I RECEIVED ITEM NUMBER --
12 S.L.E.D. ITEM NUMBER 1 WHICH IS DESCRIBED AS FIRED BULLETS
13 WHICH IS BULLET FRAGMENTS. ITEM NUMBER 2, A BULLET FRAGMENT.
14 ITEM NUMBER 3, A BULLET FRAGMENT. ITEM NUMBER 4, A BULLET
15 PROJECTILE. ITEM NUMBER 5, A G.S.R. KIT FROM NORRIS JOSEPH
16 REED. ITEM NUMBER 6 WAS A HANDGUN DESCRIBED AS CHARTER ARMS
17 REVOLVER, .38 CALIBER, SERIAL NUMBER 4862882. ITEM NUMBER 7
18 WAS UNFIRED CARTRIDGES AND SHOT SHELLS DESCRIBED AS PARTIAL
19 BOX OF WINCHESTER 125 G-R-J-S-R .38 SPECIAL UNFIRED BULLETS,
20 AND S.L.E.D. ITEM NUMBER 8, CARTRIDGE CASES DESCRIBED AS
21 SHELL CASINGS.

22 Q. WHEN YOU RECEIVED THOSE ITEMS, WERE THEY SEALED AND
23 PROPERLY PACKAGED?

24 A. YES.

25 Q. AND DID ANYONE ELSE HAVE ACCESS TO THEM WHEN YOU

1 RECEIVED THEM?

2 A. NO.

3 Q. ONCE YOU GOT THEM, WHAT DID YOU DO WITH THEM?

4 A. WHEN I RECEIVED THEM FROM SERGEANT SCOTT, I PACKAGED
5 THEM IN A GUN BOX AND THEN A G.S.R. KIT WOULD HAVE BEEN
6 PACKAGED IN AN ENVELOPE, AND I GAVE THE FIREARMS EVIDENCE TO
7 IRA PARNELL WHICH IS THE FIREARMS ANALYST AND I GAVE THE
8 TRACE EVIDENCE TO KATHLEEN AMICK.

9 Q. AND WHILE THOSE ITEMS WERE IN YOUR CONTROL, WERE THEY
10 ALTERED IN ANY WAY?

11 A. NO.

12 Q. ONCE YOU SUBMITTED THEM TO THE INVESTIGATORS FOR
13 TESTING, DID YOU COME IN CONTACT WITH THE ITEMS AGAIN?

14 A. I DID.

15 Q. OKAY. HOW DID THAT HAPPEN?

16 A. I RECEIVED THE ITEMS AGAIN FROM OUR EVIDENCE ROOM WHERE
17 THEY ARE STORED AND RETURNED THEM TO SERGEANT SCOTT OF THE
18 COLUMBIA POLICE DEPARTMENT.

19 Q. AFTER THEY HAD BEEN TESTED.

20 A. CORRECT.

21 MR. GOLDBERG: THANK YOU. THAT'S ALL I HAVE.

22 MR. TARR: NO QUESTIONS.

23 THE COURT: YOU MAY STEP DOWN.

24 MR. GOLDBERG: MAY SHE BE EXCUSED?

25 MR. TARR: NO OBJECTION, YOUR HONOR.

1 THE COURT: YOU MAY BE EXCUSED.

2 MS. CAMPBELL: THE STATE CALLS JOANNE LEWIS.

3 JOANNE LEWIS, AFTER BEING DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
6 FULL NAME FOR THE RECORD, PLEASE.

7 THE WITNESS: JOANNE LEWIS.

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q. MS. LEWIS, WHERE ARE YOU EMPLOYED?

11 A. CITY OF COLUMBIA POLICE DEPARTMENT, PROPERTY AND
12 EVIDENCE UNIT.

13 Q. IN THE EVIDENCE UNIT?

14 A. YES.

15 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT WHAT YOUR
16 DUTIES ARE?

17 A. MY DUTIES IS TO MAINTAIN CHAIN OF CUSTODY OF EVIDENCE,
18 TO SECURE EVIDENCE, RECEIVE EVIDENCE FROM OFFICERS, AND
19 DISPOSITION EVIDENCE AS FAR AS DISPOSE OF EVIDENCE.

20 Q. I WANT TO TURN YOUR ATTENTION TO THIS CASE INVOLVING AN
21 INCIDENT OF JUNE THE 2ND OF 2006. DID YOU RECEIVE -- YOU
22 WERE ACTUALLY IN CHARGE OF THE EVIDENCE ROOM. IS THAT
23 CORRECT?

24 A. THAT'S CORRECT.

25 Q. AND DID YOUR EVIDENCE ROOM RECEIVE CERTAIN ITEMS?

1 A. YES.

2 Q. INCLUDING A MASK?

3 A. YES.

4 Q. FOR THE RECORD, STATE'S EXHIBIT NUMBER 12?

5 A. OKAY.

6 Q. A MASK?

7 A. YES.

8 Q. AND THEN STATE'S EXHIBIT NUMBER 75 WHICH IS A .38

9 CALIBER REVOLVER?

10 A. YES.

11 Q. STATE'S EXHIBIT NUMBER 76 WHICH IS A BOX OF AMMUNITION?

12 A. YES.

13 Q. AND THEN STATE'S EXHIBITS NUMBER 71, 72, 73, AND 74

14 WHICH ARE BULLET FRAGMENTS FROM THE SCENE?

15 A. THAT'S CORRECT.

16 Q. AND THEN 77, A STATE'S EXHIBIT, WHICH IS ANOTHER

17 SUBMISSION BY INVESTIGATOR DESROCHERS.

18 A. YES.

19 Q. AS WELL AS SOME D.N.A. SWABS FROM SERGEANT SCOTT?

20 A. YES.

21 Q. AND WHEN THOSE ITEMS WERE SUBMITTED TO YOUR EVIDENCE

22 ROOM, WERE THEY PACKAGED PROPERLY?

23 A. THAT'S CORRECT. YES.

24 Q. AND DURING THE TIME PERIOD THAT THEY STAYED IN YOUR

25 CUSTODY, DID ANYONE TAMPER WITH THEM OR ALTER THEM IN ANY

1 WAY?

2 A. NO.

3 Q. AND WERE THOSE ITEMS SUBSEQUENTLY CHECKED BACK OUT FOR
4 FURTHER TESTING BY SERGEANT SCOTT AND TRANSPORTED?

5 A. YES.

6 MS. CAMPBELL: THANK YOU. I DON'T HAVE ANYTHING
7 FURTHER.

8 MR. TARR: NO QUESTIONS.

9 THE COURT: THANK YOU. YOU MAY STEP DOWN.

10 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: ALL RIGHT.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

13 THE COURT: LADIES AND GENTLEMEN, WE'RE GOING TO BREAK
14 FOR LUNCH NOW AND START BACK AT 2:00, AND WHEN YOU RETURN AT
15 2:00, MS. PENDARVIS, I'M GOING TO APPOINT YOU TO SERVE AS THE
16 FOREPERSON OF THE JURY AND YOU WILL TAKE THE SEAT ON THE
17 FRONT ROW. THE BAILIFF -- IS IT THE FIRST ONE THERE, MR.
18 BAILIFF? I THINK IT IS THE VERY FIRST SEAT RIGHT THERE.
19 THAT WILL BE THE FOREPERSON'S SEAT.

20 AS THE FOREPERSON, IT IS YOUR RESPONSIBILITY TO PRESIDE
21 OVER THE JURY DELIBERATIONS WHEN THE JURY BEGINS THEIR
22 DELIBERATIONS OR YOUR DELIBERATIONS, TO COMPLETE THE VERDICT
23 FORM REPRESENTING THE UNANIMOUS VERDICT OF THE JURY, AND ALSO
24 SERVE AS A SPOKESPERSON FOR THE JURY IN RELATION TO ANY
25 COMMUNICATIONS THAT THE JURY MIGHT NEED TO MAKE WITH THE

1 COURT.

2 THANK YOU VERY MUCH, AND Y'ALL HAVE A GOOD LUNCH. I
3 NEED YOU BACK AT 2:00. PLEASE DO NOT DISCUSS THE CASE OR
4 ALLOW ANYONE TO TALK ABOUT IT WITH YOU OR IN YOUR PRESENCE.

5 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO GO
6 TO LUNCH AT 12:31 P.M.)

7 THE COURT: ARE THERE ANY OTHER MATTERS THAT WE NEED TO
8 TALK ABOUT?

9 MS. CAMPBELL: NO, SIR.

10 THE COURT: ALL RIGHT. OKAY. WE'LL BREAK 'TIL 2.

11 MR. TARR: THANK YOU, YOUR HONOR.

12 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

13 THE COURT: ALL RIGHT. THANK YOU. PLEASE BE SEATED.
14 ANY MATTERS FROM THE STATE OR THE DEFENSE?

15 MS. CAMPBELL: YOUR HONOR, ONE THING WE MIGHT WANT TO
16 TAKE UP AT THIS JOINT IS THE WITNESSES, AS FAR AS WHAT MR.
17 MANCE SAID TO THEM THE WEEK BEFORE ABOUT HIS INTENTIONS ON I
18 BELIEVE GETTING A CAR AND HE WANTED TO SHOOT SOMEONE I
19 BELIEVE TO -- THAT MAY NOT BE THE COMPLETE STATEMENT, BUT
20 THAT'S THE GIST OF THE STATEMENT. THIS MIGHT BE A GOOD TIME
21 TO TAKE THAT UP SO THAT...

22 THE COURT: OKAY. MR. TARR?

23 MR. TARR: YOUR HONOR, WE WOULD OBJECT TO ANY STATEMENTS
24 LIKE THAT COMING INTO EVIDENCE. YOUR HONOR, YOU WERE HANDED
25 TWO CASES BY THE STATE. I'VE HAD AN OPPORTUNITY TO REVIEW

1 THEM, AND I THINK THIS CASE IS -- CAN BE DISTINGUISHED FROM
2 THOSE. THE STATE -- THE BLAKELY VERSUS STATE CASE, 2004
3 SOUTH CAROLINA SUPREME COURT, THEY ALLOWED IN A SPECIFIC
4 THREAT MADE A FEW MONTHS BEFORE THE INCIDENT - I THINK IT WAS
5 A MURDER - THAT SOMEBODY MADE TO A SPECIFIC PERSON. AND THIS
6 GUY HAD THREATENED TO DO SOMETHING TO MY FAMILY LIKE KILLING
7 US AND BLOWING UP THE HOUSE. SO THIS WAS A THREAT MADE TO A
8 SPECIFIC PERSON. THAT'S HOW THIS CASE IS DIFFERENT FROM THAT
9 BECAUSE THEY'RE ALLEGING SOME TYPE OF GENERAL THREAT TO JUST
10 ANYBODY.

11 THE BECK CASE IS A CASE WHERE THE STATE SOUGHT TO
12 INTRODUCE EVIDENCE THAT SOMEONE HAD ASKED SOMEBODY ELSE TO
13 HELP HIM GO ROB SOME -- LET ME SEE. BASICALLY HELP HIM GO
14 ROB SOME PEOPLE. IN THIS SITUATION THEY FOUND THAT THAT
15 EVIDENCE WAS MORE PROBATIVE THAN PREJUDICIAL BECAUSE THE
16 STATE HAD NO WAY OF PLACING THE DEFENDANT AT THE SCENE OF THE
17 CRIME. AND SO THIS EVIDENCE WAS HIGHLY PROBATIVE BECAUSE IT
18 SHOWED THAT THIS GUY HAD AN INTENT TO DO THIS EXACT SAME
19 THING. IN THIS SITUATION WE'RE ARGUING THAT THE -- WE'RE
20 ARGUING---

21 THE COURT: EXCUSE ME.

22 MR. TARR: OH.

23 THE COURT: YES, SIR.

24 MR. TARR: IN THIS SITUATION WE'RE ARGUING THE
25 PREJUDICIAL VALUE FAR OUTWEIGHS ITS PROBATIVE VALUE BECAUSE

1 THERE'S NO DENYING THAT MR. MANCE WAS PRESENT AT THE SCENE.
2 SO THERE'S NO IDENTITY ISSUE HERE LIKE THERE WAS IN THE BECK
3 CASE. AND, YOUR HONOR, JUST GIVEN THIS IS A CLOSE CALL HERE,
4 I WOULD THINK THAT IN A CASE WHERE THERE'S THIS AMOUNT OF
5 OVERWHELMING EVIDENCE THAT ALLOWING THIS IN IS VERY RISKY,
6 AND WE WOULD OBJECT. I JUST THINK THAT THE PREJUDICIAL VALUE
7 FAR OUTWEIGHS ANY PROBATIVE VALUE IN THIS CASE BECAUSE OF THE
8 REASONS THAT I'VE STATED PREVIOUSLY.

9 THE COURT: ALL RIGHT. WHAT'S A CLOSE CALL?

10 MR. TARR: ABOUT WHETHER OR NOT THESE STATEMENTS SHOULD
11 BE ALLOWED IN. I DON'T THINK IT'S -- I DON'T THINK IT'S
12 CLEAR-CUT, ESPECIALLY BASED ON THE TWO CASES THAT WERE HANDED
13 UP BY THE STATE. THIS CASE IS CLEARLY DISTINGUISHABLE AND I
14 JUST -- I THINK A GENERAL THREAT THAT WAS MADE A WEEK - ONE
15 OF THE WITNESSES IS GOING TO SAY A WEEK BEFORE AND ONE IS
16 GOING TO SAY SEVERAL WEEKS BEFORE - IS JUST NOT SPECIFIC
17 ENOUGH AND THERE'S NO ISSUE REGARDING THE IDENTITY. SO IT
18 DOES NOT FALL UNDER THIS BECK CASE, AND THE BLAKELY CASE IT
19 WAS A THREAT MADE TO A SPECIFIC FAMILY TO DO HARM, AND HARM
20 WAS DONE TO THAT FAMILY. SO IT WENT TO THE IDENTITY OF THE
21 DEFENDANT AS WELL.

22 THE COURT: ALL RIGHT. WHAT SAYS THE STATE?

23 MS. CAMPBELL: MAY IT PLEASE THE COURT?

24 THE COURT: YES.

25 MS. CAMPBELL: YOUR HONOR, THE EXACT STATEMENT, JUST TO

1 GIVE YOU A KIND OF BACKGROUND OF THE -- ONE OF THE WITNESSES
2 IN THE CASE WAS WITH THE DEFENDANT BEFORE THIS HAPPENED. SHE
3 HAD BEEN GIVING HER (SIC) A RIDE TO WORK. HE STARTED TALKING
4 ABOUT GOING DOWNTOWN. HE SAID, "I'M GOING DOWNTOWN TO GET ME
5 A CAR. I'M GOING TO ROB ME SOMEBODY. THEN LAST SATURDAY HE
6 MADE SOME ADDITIONAL STATEMENTS INCLUDING HE GOT UPSET
7 BECAUSE HE COULDN'T FIND HIS GUN. HE STARTED TALKING ABOUT
8 SHOOTING HIS MOTHER AGAIN." HE SHOT HIS MOTHER 13 YEARS AGO.
9 OF COURSE, WE KNOW WE CANNOT GO INTO THAT, YOUR HONOR; WE DO
10 NOT INTEND TO.

11 HE SAID HE WAS NOT LEAVING THIS WORLD UNTIL HE KILLED
12 SOMEBODY. YOUR HONOR, THE DEFENSE IN THIS CASE COULDN'T MAKE
13 THESE STATEMENTS MORE PROBATIVE ABOUT HIS INTENT TO GO ROB
14 SOMEBODY. THEIR -- AS I LISTENED - AND THIS IS JUST MY
15 INTERPRETATION, JUDGE - TO THE OPENING ARGUMENT IS THAT HE
16 DIDN'T INTEND TO ROB ANYONE. HE JUST NEEDED A RIDE HOME,
17 THAT HE HAD NO INTENT TO DEPRIVE ANYONE.

18 THE FACT THAT HE STATED TO SOMEONE AHEAD OF TIME THAT
19 I'M GOING DOWNTOWN TO GET ME A CAR AND I'M GOING TO ROB
20 SOMEONE CLEARLY DEMONSTRATES WHAT HIS INTENT ACTUALLY IS AND
21 WHAT HE THEN CARRIED OUT. IT WASN'T JUST THAT HE WAS WET AND
22 NEEDED A RIDE HOME. I DON'T SEE HOW IT COULD BE MORE
23 PROBATIVE, AND WE AREN'T SAYING IT'S PROBATIVE AS TO
24 IDENTITY, YOUR HONOR. WE'RE SAYING IT'S PROBATIVE AS TO HIS
25 INTENT AND, IN FACT, WHAT HE DID BASED ON THE DEFENSE THAT

1 HAS BEEN PRESENTED HERE.

2 AGAIN, THEY STILL HAVE TESTIMONY TO PUT UP, BUT BASED ON
3 WHAT I INTERPRETED - AND I DON'T MEAN TO PRESUME ON THE COURT
4 - BUT WHAT I HEARD THE DEFENSE TO BE WAS THAT HE JUST NEEDED
5 A RIDE, HE DIDN'T MEAN TO SHOOT ANYBODY, AND HE SURE DIDN'T
6 MEAN TO ROB ANYBODY. HE DID NOT INTEND TO PERMANENTLY
7 DEPRIVE ANYONE OF ANY GOODS. AND I DON'T MEAN TO MISQUOTE,
8 IF I'M MISCHARACTERIZING WHAT HIS OPENING STATEMENT WAS.

9 HOWEVER, YOUR HONOR, WE THINK IT IS EXTREMELY PROBATIVE
10 IN THIS CASE FOR THAT ISSUE AND COULD NOT BE MORE PROBATIVE,
11 AND AGAIN WE DO NOT FEEL LIKE ITS PREJUDICIAL VALUE OUTWEIGHS
12 ITS PROBATIVE.

13 THE COURT: WHAT DO YOU SAY, MR. TARR?

14 MR. TARR: I AGREE THAT IS WHAT MY DEFENSE IS, YOUR
15 HONOR. SHE HEARD IT RIGHT. AND ALL I'M SAYING TO YOU, YOUR
16 HONOR, IS THAT THESE TWO CASES ARE NOT ANYTHING AT ALL LIKE
17 THE SITUATION THEY'RE TRYING TO DO HERE, AND I JUST -- WE
18 STRENUOUSLY OBJECT TO THIS, YOUR HONOR.

19 THE COURT: WELL, THE ONE CASE, STATE V. BLAKELY, IS A
20 P.C.R. CASE AND WHERE THE DEFENDANT APPARENTLY WAS CLAIMING
21 SELF-DEFENSE AND ACCIDENT AND THE COURT ALLOWED -- THE LAWYER
22 DID NOT OBJECT DURING THE TRIAL TO TESTIMONY REGARDING THE
23 PREVIOUS THREATS AND THE -- OF COURSE, IN FACT, IN THAT CASE
24 THE JUDGE AT THE P.C.R. HEARING GRANTED THE RELIEF, AND THE
25 SUPREME COURT REVERSED STATING THAT THE PRIOR THREATS WOULD

1 BE EVIDENCE AS TO INTENT AND NOT -- NOT AN ACCIDENT.

2 YOU HAVE SOME ELEMENT OF THIS -- IT'S NOT REALLY A CLAIM
3 OF ACCIDENT BUT, YOU KNOW, HIS OPENING ARGUMENT'S LACK OF
4 INTENT TO -- I'M NOT SURE WHETHER YOU WERE ARGUING LACK OF
5 INTENT TO ROB. I DIDN'T GET A CLEAR PICTURE OF EXACTLY WHAT
6 YOUR DEFENSE IS ON THAT POINT.

7 THE OTHER CASE WHERE THE -- IT APPEARS HERE IN RICHLAND
8 COUNTY THE -- IT'S A ROBBERY OF AN ESCORT SERVICE AND THE
9 DEFENDANT APPARENTLY CLAIMED THAT IT WASN'T HIM AND HE WASN'T
10 INVOLVED, AND THE PRIOR -- HIS PRIOR CONVERSATIONS WITH HIS
11 ROOMMATE IN WHICH HE SOLICITED HIS ROOMMATE TO HELP HIM
12 COMMIT THIS ROBBERY AND DO APPARENTLY THE EXACT THING THAT HE
13 LATER DID, THE COURT FOUND THAT THAT WAS ADMISSIBLE TO SHOW
14 HIS IDENTITY AND ON PERHAPS SOME MOTIVE AND THAT THE
15 PROBATIVE VALUE OUTWEIGHED THE PREJUDICIAL EFFECT.

16 IF IT'S A CLOSE CALL IN THIS CASE, IT'S ONLY A CLOSE
17 CALL BASED ON COUNSEL'S OPENING STATEMENTS SORT OF OUTLINING
18 THIS DEFENSE OF THAT HE DIDN'T INTEND TO SHOOT AND HE DIDN'T
19 INTEND TO ROB, BUT WHEREAS THE STATEMENTS OF COUNSEL CAN BIND
20 THE DEFENDANT IN THIS PARTICULAR INSTANCE I DON'T THINK THAT
21 IT SHOULD BIND THE DEFENDANT TO THE EXTENT OF ALLOWING IN
22 THIS EVIDENCE. I THINK THAT BASED ON THE CURRENT STATE OF
23 THE EVIDENCE PRESENTED IN THIS TRIAL THAT THE PREJUDICIAL
24 EFFECT OF ALLOWING SUCH TESTIMONY -- DEPENDING EXACTLY ON
25 WHAT THE TESTIMONY IS, OF COURSE, I THINK THAT THE STATE IS

1 GOING TO -- THE STATE'S POSITION IS THAT HE TOLD SOME FOLKS
2 HE WAS GOING TO GO DOWNTOWN AND ROB SOMEONE. IN EFFECT,
3 HE -- THERE'S NO QUESTION THAT THAT'S WHAT HE DID. THE
4 QUESTION IS WHETHER IT CONSTITUTES ROBBERY OR SOMETHING ELSE,
5 AND I THINK THE PREJUDICIAL EFFECT OUTWEIGHS THE PROBATIVE
6 VALUE ABSENT SOMETHING ELSE IN THE RECORD, FOR THE MOST PART
7 COMING FROM THE DEFENSE AS OPPOSED TO FROM THE STATE.

8 MR. TARR: THANK YOU, YOUR HONOR.

9 THE COURT: ALL RIGHT.

10 MR. GOLDBERG: BEG THE COURT'S INDULGENCE, YOUR HONOR.

11 THE COURT: ALL RIGHT. I THINK TO ALLOW THAT TESTIMONY
12 WOULD JUST PLACE THE DEFENDANT'S CHARACTER INTO ISSUE.

13 MS. CAMPBELL: YES, YOUR HONOR. PERHAPS THIS MIGHT BE
14 AN ISSUE THAT'S MORE APPROPRIATELY REVISITED WHEN WE PUT HIS
15 STATEMENT IN. AT THAT TIME I THINK IT MIGHT BECOME MORE
16 PROBATIVE THAN PREJUDICIAL.

17 THE COURT: ALL RIGHT. WE'LL REVISIT IT THEN, IF NEED
18 BE.

19 MS. CAMPBELL: THANK YOU, SIR. I'M SORRY, YOUR HONOR.
20 WE JUST WERE REARRANGING THE...

21 THE COURT: ALL RIGHT. ARE YOU READY FOR THE JURY?

22 MS. CAMPBELL: YES, SIR.

23 THE COURT: LET'S BRING THEM ON.

24 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 2:27
25 P.M.)

1 THE COURT: ALL RIGHT. THE JURY IS BACK. CONTINUING
2 WITH THE STATE'S CASE, NEXT WITNESS.

3 MR. GOLDBERG: MAY IT PLEASE THE COURT? THE STATE CALLS
4 MATTHEW THIELKER.

5 MATTHEW E. THIELKER, AFTER BEING DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
8 FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME FOR US,
9 PLEASE.

10 THE WITNESS: MATTHEW E. THIELKER. T-H-I-E-L-K-E-R.

11 DIRECT EXAMINATION

12 BY MR. GOLDBERG:

13 Q. MR. THIELKER, HOW ARE YOU DOING?

14 A. ALL RIGHT.

15 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT WHO YOU ARE,
16 WHAT YOU DO FOR A LIVING, AND WHERE YOU LIVE?

17 A. LET'S SEE. I WORK PART-TIME AT A CREDIT UNION AND I'M A
18 FULL-TIME STUDENT AT U.S.C. WORKING ON MY SECOND BACHELOR'S
19 DEGREE.

20 Q. YOU LIVE HERE IN COLUMBIA?

21 A. YES, ON WINDSOR LAKE.

22 Q. BACK IN JUNE OF 2006 DID YOU ALSO LIVE IN COLUMBIA AT
23 THAT TIME?

24 A. YES.

25 Q. AND DID YOU HAVE I BELIEVE IT WAS A COUSIN THAT LIVED

1 OVER IN THE TAPP'S BUILDING OFF OF MAIN STREET?

2 A. UH-HUH. HE'S IN LAW SCHOOL.

3 Q. OKAY. AND DID YOU VISIT HIM ON JUNE THE 2ND, 2006, AT
4 HIS APARTMENT?

5 A. I DID.

6 Q. AND TELL THE JURY WHAT YOU WERE DOING AND WHAT YOU
7 OBSERVED WHILE YOU WERE AT HIS APARTMENT THAT NIGHT.

8 A. WE WERE JUST SITTING DOWN WATCHING T.V., AND THEN WE
9 HEARD THREE LOUD POPS LIKE GUNSHOTS. AND WE LOOKED OUT THE
10 WINDOW AND SAW A GENTLEMAN IN A MASK GET INTO A WHITE TAHOE
11 AND DRIVE AWAY TOWARDS MAIN STREET. THEN WE SAW ANOTHER
12 INDIVIDUAL KIND OF HOBBLING, LIMPING, HUNCHED OVER GOING OVER
13 MAIN STREET TOWARDS THE HOSPITAL.

14 Q. TOWARDS SUMTER STREET?

15 A. YEAH, IN THAT DIRECTION.

16 Q. YOU SAID THE FELLOW HAD A MASK ON?

17 A. UH-HUH.

18 Q. DID YOU GET A GOOD LOOK AT THE MASK?

19 A. YEAH. IT WAS WHITE -- WHITE FACE AND KIND OF LOOKED
20 LIKE...

21 Q. YOU SAID YOU HEARD THREE SHOTS?

22 A. UH-HUH.

23 MR. GOLDBERG: BEG THE COURT'S INDULGENCE. THANK YOU,
24 SIR.

25

CROSS-EXAMINATION

1

2 BY MR. TARR:

3 Q. MR. THIELKER, COULD YOU DESCRIBE THE SHOTS? LIKE HOW
4 RAPID IN SUCCESSION DID YOU HEAR THEM?

5 A. I HONESTLY DON'T REMEMBER. I JUST KNOW I HEARD THREE.

6 Q. OKAY. I MEAN, YOU CAN'T RECALL WHETHER IT WAS BAM, BAM,
7 BAM OR ANOTHER WAY?8 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.) SORRY. I DON'T
9 REMEMBER. IT WAS TWO YEARS AGO, BUT I KNOW THERE WAS THREE
10 SHOTS.11 Q. OKAY. BUT AFTER -- WAS IT RIGHT AFTER YOU HEARD THE
12 LAST ONE THAT YOU LOOKED OUT THE WINDOW?13 A. I MEAN, WE HEARD THE SHOTS. WE KIND OF LOOKED AT EACH
14 OTHER FOR A SECOND AND THEN LOOKED OUT THE WINDOW, YEAH.15 Q. OKAY. AND YOU SAW ONE PERSON GETTING INTO A TRUCK AND
16 ONE PERSON HOBBLING OFF?17 A. YEAH. I MEAN, YES. I SAW ONE PERSON ACTUALLY GET INTO
18 A WHITE TAHOE, AND THE OTHER PERSON -- AFTER DRIVING AWAY, I
19 SAW THE OTHER PERSON.20 Q. SO EXACTLY WHAT HAPPENED PRIOR TO LOOKING OUT THE
21 WINDOW, ALL YOU KNOW IS YOU HEARD THREE SHOTS.

22 A. UH-HUH.

23 Q. AND YOU NEVER SAW -- WHEN YOU LOOKED OUT THE WINDOW, YOU
24 NEVER SAW WHEN THE GUY WAS HOBBLING AWAY ANYBODY SHOOTING AT
25 HIM.

1 A. NO.

2 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

4 MR. GOLDBERG: MAY THIS WITNESS BE EXCUSED?

5 MR. TARR: NO OBJECTION.

6 THE COURT: ALL RIGHT. THE WITNESS MAY BE EXCUSED.

7 NEXT WITNESS.

8 MR. GOLDBERG: THE STATE CALLS SERGEANT STONER.

9 JASON J. STONER, AFTER BEING DULY SWORN, TESTIFIED
10 AS FOLLOWS:

11 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
12 NAME FOR THE RECORD, PLEASE.

13 THE WITNESS: SERGEANT JASON J. STONER WITH THE
14 LEXINGTON COUNTY SHERIFF'S DEPARTMENT.

15 DIRECT EXAMINATION

16 BY MR. GOLDBERG:

17 Q. SERGEANT, HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
18 DEPARTMENT?

19 A. SIX AND A HALF YEARS.

20 Q. WHAT ARE YOUR DUTIES WITH THE LEXINGTON DEPARTMENT?

21 A. RIGHT NOW I'M A ROAD SUPERVISOR DOING ROUTINE PATROL,
22 ANSWERING CALLS, SUPERVISING THE SHIFT.

23 Q. HOW ABOUT BACK IN JUNE OF 2006? WHAT WERE YOU DOING
24 BACK THEN?

25 A. I WAS A CORPORAL, MUCH THE SAME DUTIES AS I HAVE NOW.

1 Q. IN FACT, ON JUNE THE 2ND OF 2006 WERE YOU ACTUALLY ON
2 PATROL THAT NIGHT?

3 A. I WAS.

4 Q. WHAT AREA OF LEXINGTON COUNTY WERE YOU PATROLLING?

5 A. AT THAT PARTICULAR NIGHT I WAS PATROLLING THE SOUTH
6 REGION WHICH IS THE DIXIEANNA, GASTON, PELION, SWANSEA AREA
7 OF LEXINGTON COUNTY.

8 Q. GASTON? DOES THAT INCLUDE THE FISH HATCHERY ROAD AREA?

9 A. YES, IT DOES.

10 Q. DID YOU RECEIVE A CALL OVER DISPATCH IN REGARDS TO A
11 SHOOTING IN COLUMBIA?

12 A. I DID.

13 Q. WHAT WAS THE NATURE OF THAT CALL?

14 A. DISPATCH ADVISED ME THAT THERE HAD BEEN A SHOOTING AND A
15 CARJACKING IN THE CITY OF COLUMBIA AND THAT THEY WERE LOOKING
16 FOR A WHITE CHEVROLET TAHOE THAT HAD BEEN TAKEN DURING THE
17 CARJACKING. THEY ACTUALLY TOLD ME THAT ONSTAR WAS ACTUALLY
18 TRACKING THE VEHICLE AND IT WAS IN THE AREA OF PEELER ROAD
19 AND WILD BIRD ROAD.

20 Q. I SHOW YOU WHAT'S ALREADY BEEN MARKED AS STATE'S 59 AND
21 IT'S IN EVIDENCE. CAN YOU DESCRIBE GENERALLY WHAT THIS AREA
22 IS WHERE PEELER ROAD IS AND HOW YOU GOT THERE? THERE'S A
23 POINTER RIGHT THERE BEHIND YOU.

24 A. PEELER ROAD IS THIS ROAD RIGHT HERE. IT RUNS BACK AND
25 FORTH HERE.

1 Q. HOW DID YOU GET INTO THAT AREA?

2 A. WHEN THEY GAVE ME THE INITIAL RADIO CALL, I WAS
3 TRAVELING ON FISH HATCHERY ROAD COMING FROM SAND MOUNTAIN
4 ROAD PASSING CINDER HILL. I DROVE LITERALLY RIGHT DOWN FISH
5 HATCHERY ROAD AND TURNED ON WILD BIRD LANE AND TURNED RIGHT
6 ON PEELER ROAD -- TURNED LEFT. EXCUSE ME.

7 Q. NOW, WHEN YOU TURNED ON THAT AREA, WHAT AGAIN WAS THE
8 INFORMATION YOU HAD ABOUT THE LOCATION OF THE VEHICLE?

9 A. AT THAT TIME INITIALLY THEY HAD -- I BELIEVE THEY HAD
10 TOLD ME THAT IT WAS IN THE GENERAL AREA OF PEELER ROAD AND
11 WILD BIRD LANE, HEAD TO THAT AREA. WHEN I RESPONDED THERE, I
12 SAID DID THEY HAVE ANYTHING FURTHER. THEY SAID IT WAS
13 ACTUALLY AT THE ADDRESS OR IN THE AREA OF THE ADDRESS OF 211
14 PEELER ROAD WHICH HAPPENS TO BE RIGHT HERE, THIS INTERSECTION
15 RIGHT HERE.

16 Q. SO AS YOU TRAVELED DOWN THAT AREA, YOU WERE LOOKING FOR
17 THE VEHICLE?

18 A. I WAS LOOKING FOR A WHITE CHEVROLET TAHOE; YES, SIR.

19 Q. AND WHERE DID YOU GO AND WHAT DID YOU FIND?

20 A. INITIALLY WHEN I WENT PAST THE [REDACTED] ADDRESS, THERE WAS NO
21 WHITE CHEVROLET TAHOE, NO WHITE S.U.V.'S AT ALL THERE. I
22 CONTINUED ON DOWN PEELER ROAD THINKING -- I DON'T -- DIDN'T
23 KNOW AT THAT TIME HOW SPECIFIC ONSTAR COULD BE WITH THEIR
24 G.P.S. LOCATER.

25 I TRAVELED ON DOWN PEELER ROAD DOWN TO ACTUALLY PEELER

1 COURT WHICH IS THE NEXT ROAD DOWN JUST TO MAKE SURE I DIDN'T
2 SEE IT ANYWHERE IN THAT AREA. I DOUBLED BACK AND RECONFIRMED
3 WITH DISPATCH THAT IT WAS AT [REDACTED] PEELER ROAD AT WHICH TIME
4 WHEN I RODE BACK UP THE ROAD THERE'S A SHORT -- THE PAVEMENT
5 ACTUALLY GOES MAYBE THREE OR FOUR CAR LENGTHS AND THEN ENDS,
6 AND THERE'S A DIRT ROAD THAT TRAVELS UP TO A WOOD LINE RIGHT
7 THERE, A TREE LINE. I HAPPENED TO THINK, YOU KNOW, IF
8 THEY'RE GOING TO HIDE A VEHICLE, WHERE WOULD YOU PUT IT? I
9 ACTUALLY TRAVELED UP 'TIL THE PAVEMENT ENDED. I NOTICED
10 FRESH VEHICLE TRACKS DUE TO THERE WAS SOME HIGH GRASS LEADING
11 BACK INTO THE TREE LINE. I GOT OUT OF MY PATROL CAR, WALKED
12 TO THE TREE LINE. WHEN I LOOKED TO THE RIGHT, I COULD SEE
13 THE TAHOE PARKED BACK THERE IN THE FIELD, ABOUT 50 YARDS IN
14 THE FIELD.

15 Q. ABOUT 50 YARDS DEEP?

16 A. YES, SIR.

17 Q. OKAY. AND ONCE YOU SPOTTED THE TAHOE, WHAT DID YOU DO?

18 A. I ADVISED MY DISPATCH THAT WE HAD THE VEHICLE -- WE HAD
19 LOCATED THE VEHICLE. I APPROACHED THE VEHICLE AND CLEARED
20 THE VEHICLE AT GUNPOINT FOR ANY SUSPECTS OR ANY VICTIMS OR
21 ANYTHING IN THE VEHICLE.

22 Q. AND IT WAS CLEAR?

23 A. YES, SIR, IT WAS.

24 Q. AT THAT POINT DID YOU CONTACT THE CITY OF COLUMBIA
25 POLICE DEPARTMENT?

1 A. I DID. I ADVISED MY DISPATCH TO CALL THEM AND ADVISE
2 THEM THAT I HAD LOCATED THE TAHOE AND THAT THERE WAS NO
3 SUSPECTS IN THE VEHICLE OR NO OTHER VICTIMS.

4 Q. AND YOU AWAITED THEIR ARRIVAL AT THAT SCENE?

5 A. THAT IS CORRECT.

6 Q. DID YOU STAY WITH THE VEHICLE THE WHOLE TIME?

7 A. I DID.

8 Q. AND WAS IT TAMPERED WITH IN ANY WAY WHILE YOU WERE WITH
9 IT?

10 A. NO, SIR. THE VEHICLE WAS ACTUALLY LOCKED. SO I --
11 THERE WAS NO OTHER WAY TO -- NO WAY TO TAMPER WITH IT.

12 Q. AT SOME POINT WAS THE LEXINGTON COUNTY CANINE UNIT
13 CALLED OUT TO THE SCENE?

14 A. YES, SIR, THEY WERE. THE BLOODHOUNDS WERE CALLED OUT AT
15 THE REQUEST OF THE CITY OF COLUMBIA TO TRACK TO SEE IF THEY
16 COULD FIND ANY TRACK.

17 Q. TO YOUR KNOWLEDGE, WERE THEY ABLE TO FIND ANYTHING?

18 A. NO, SIR. TO MY KNOWLEDGE, THEY WERE NOT.

19 Q. WAS IT STILL RAINING AT THAT POINT?

20 A. IT HAD -- WHEN I MADE INITIALLY CONTACT WITH THE
21 VEHICLE, IT WAS NOT RAINING. SHORTLY THEREAFTER IT JUST --
22 IT CUT LOOSE AND POURED.

23 Q. AND WHAT ULTIMATELY HAPPENED TO THE VEHICLE AT THE
24 SCENE?

25 A. ONE OF THE CITY OF COLUMBIA OFFICERS - I BELIEVE IT WAS

1 CORPORAL SANDERS - RESPONDED. AT THAT TIME THEIR CRIME SCENE
2 UNIT ALSO RESPONDED, AND I BASICALLY TURNED EVERYTHING OVER
3 TO THEM AT THAT TIME.

4 Q. THE VEHICLE WAS THEN TOWED---

5 A. YES, SIR.

6 Q. ---FROM THAT LOCATION?

7 A. IT WAS TOWED FROM THAT AREA.

8 Q. DO YOU RECALL WHAT TIME YOU ACTUALLY ARRIVED TO THIS
9 PARTICULAR AREA, WHAT TIME OF NIGHT IT WAS?

10 A. I BELIEVE IT WAS -- 22:07 IS WHEN I GOT THE INITIAL CALL
11 WHICH IS 10:07 P.M., AND I GOT IN THE AREA AND LOCATED THE
12 VEHICLE AT ABOUT 10:17 P.M.

13 Q. THAT WOULD HAVE BEEN ON THE 2ND; CORRECT?

14 A. YES, SIR.

15 Q. JUST TO BE CLEAR, WHEN YOU GOT THAT CALL AT 10:07, WHAT
16 WERE YOU TOLD ABOUT THE LOCATION OF THE VEHICLE AT THAT
17 POINT?

18 A. THAT -- OF COURSE, THE SITUATION AND THAT ONSTAR WAS
19 TRACKING IT AND THAT IT WAS IN THE AREA OF WILD BIRD LANE AND
20 PEELER ROAD.

21 Q. AND THEN AS YOU CONTINUED OVER THAT AREA, YOU GOT
22 ANOTHER CALL THAT SPECIFIED [REDACTED]? IS THAT RIGHT?

23 A. YES, SIR, THAT IT HAD ACTUALLY STOPPED AND WAS
24 STATIONARY.

25 Q. BY THE TIME YOU ACTUALLY GOT THERE AT 10:17 IT HAD

1 ALREADY BEEN STATIONARY FOR SOME TIME.

2 A. YES, SIR.

3 MR. GOLDBERG: OKAY. THANK YOU.

4 THE COURT: YES, SIR.

5 CROSS-EXAMINATION

6 BY MR. TARR:

7 Q. WAS IT 10:17 OR 10:07?

8 A. I RECEIVED THE INITIAL RADIO CALL AT 10:07, AND THEN I
9 ARRIVED -- LOCATED THE VEHICLE AT 10:17.

10 Q. THIS IS A VERY SMALL AREA WHERE THE VEHICLE WAS FOUND
11 AND WHERE THEY SAID IT WAS AT FIRST AT 10:07?

12 A. YES, SIR.

13 Q. IT WAS JUST WITHIN A FEW HUNDRED FEET?

14 A. YES, SIR.

15 Q. OKAY. AND HOW FAR IS DOWN -- RIGHT WHERE WE ARE RIGHT
16 NOW TO THE AREA WHERE THE CAR WAS FOUND IN YOUR ESTIMATION?
17 HOW MANY MILES?

18 A. I'D PROBABLY SAY ABOUT 15 OR SO.

19 Q. OKAY.

20 A. I'M NOT GOOD AT DISTANCE SO...

21 Q. OKAY. AND SO BASICALLY THIS INCIDENT OCCURRED AT 9:33
22 RIGHT ACROSS THE STREET FROM HERE. YOU -- WOULD YOU EXPECT
23 THE CAR, IF YOU WENT STRAIGHT THERE, TO BE IN THAT AREA ABOUT
24 THE TIME YOU GOT THE CALL?

25 A. THAT'S POSSIBLE; YES, SIR.

1 Q. OKAY. NOW, EVERYTHING THAT'S IN YOUR REPORT WOULD HAVE
2 BEEN ABOUT WHAT HAPPENED OVER HERE IN COLUMBIA, WOULD HAVE
3 BEEN RELAYED TO YOU BY LAW ENFORCEMENT. RIGHT?

4 A. BY RADIO TRAFFIC, YES, SIR.

5 Q. OKAY. LET ME ASK YOU SOMETHING: WHAT DO YOU CONSIDER
6 IN YOUR EXPERIENCE AS A POLICE OFFICER TO BE POINTBLANK
7 RANGE?

8 A. POINTBLANK?

9 Q. LIKE IF YOU'RE SHOOTING SOMEBODY, WHAT'S POINTBLANK
10 RANGE?

11 A. WITHIN ARM'S DISTANCE POSSIBLE CONTACT SHOT.

12 Q. OKAY. AND IN YOUR REPORT IT SAYS THAT THE VICTIM WAS
13 SHOT THREE TIMES AT NEAR POINTBLANK RANGE. THAT WAS
14 INFORMATION RELAYED TO YOU BY THE COLUMBIA POLICE DEPARTMENT.

15 A. THAT WAS RELAYED OVER THE DISPATCH; YES, SIR.

16 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

17 THE COURT: ANYTHING FURTHER?

18 MR. GOLDBERG: JUST BRIEFLY.

19 REDIRECT EXAMINATION

20 BY MR. GOLDBERG:

21 Q. YOU DIDN'T HAVE ANY DIRECT KNOWLEDGE OF HOW FAR APART
22 THE SHOTS TOOK PLACE, DID YOU?

23 A. NO, SIR.

24 MR. GOLDBERG: THANK YOU.

25 THE COURT: YOU MAY STEP DOWN, SIR.

1 MR. GOLDBERG: MAY THIS WITNESS BE EXCUSED?

2 MR. TARR: NO OBJECTION, YOUR HONOR.

3 THE COURT: THE WITNESS MAY BE EXCUSED. YOUR NEXT
4 WITNESS, PLEASE.

5 MS. CAMPBELL: THANK YOU, YOUR HONOR. THE STATE WOULD
6 CALL JOHN BARRON.

7 JOHN C. BARRON, AFTER BEING DULY SWORN, TESTIFIED
8 AS FOLLOWS:

9 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
10 FULL NAME FOR THE RECORD, PLEASE.

11 THE WITNESS: JOHN C. BARRON. B-A-R-R-O-N.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q. INVESTIGATOR BARRON, WHERE ARE YOU EMPLOYED?

15 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

16 Q. WHAT DO YOU DO THERE, SIR?

17 A. I WORK IN THE D.N.A. LAB AS A D.N.A. ANALYST.

18 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
19 AND YOUR TRAINING IN D.N.A. ANALYSIS?

20 A. WELL, I HAVE A BACHELOR OF SCIENCE DEGREE IN
21 MICROBIOLOGY FROM CLEMSON UNIVERSITY. I WAS EMPLOYED AT
22 S.L.E.D. OR SOUTH CAROLINA LAW ENFORCEMENT DIVISION FOR A
23 NUMBER OF YEARS IN D.N.A. AND SEROLOGY. I BEGAN MY D.N.A.
24 TRAINING ACTUALLY IN 1999. I BECAME QUALIFIED TO BE A D.N.A.
25 ANALYST ABOUT A YEAR LATER. IN 2004 I CAME TO THE RICHLAND

1 COUNTY SHERIFF'S DEPARTMENT TO HELP SET UP THE D.N.A.
2 LABORATORY THERE. I'VE BEEN TESTIFYING ON D.N.A. IN THESE
3 YEARS SINCE MY TRAINING, AND I HAVE TESTIFIED ABOUT 25 TIMES
4 IN COURT IN SOUTH CAROLINA.

5 Q. AS AN EXPERT IN D.N.A. ANALYSIS.

6 A. THAT'S CORRECT.

7 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER HIM
8 AS AN EXPERT IN D.N.A. ANALYSIS.

9 MR. TARR: NO OBJECTION, YOUR HONOR.

10 THE COURT: HE IS ADMITTED AS AN EXPERT IN THE FIELD OF
11 D.N.A. ANALYSIS.

12 MS. CAMPBELL: THANK YOU, YOUR HONOR.

13 BY MS. CAMPBELL:

14 Q. INVESTIGATOR, CAN YOU TELL THIS JURY A LITTLE BIT ABOUT
15 WHAT YOU DO WHEN YOU DO TESTING FROM, SAY, SAMPLES TAKEN FROM
16 A CRIME SCENE? HOW DOES THAT WORK?

17 A. WELL, THERE ARE DIFFERENT TYPES OF SAMPLES TAKEN FROM A
18 CRIME SCENE, BUT TYPICALLY WE RECEIVE SWABS OR WE SWAB THE
19 ITEM AND THEN PROCEED TO TAKE THE -- CUT THE SWAB OUT, PUT IT
20 IN A TUBE, EXTRACT THE D.N.A., FREE IT FROM ALL OF ITS
21 BINDING AND THE CELLULAR MATERIAL AND PURIFY IT.

22 WE QUANTITATE IT, FIGURE OUT HOW MUCH WE HAVE, AND
23 SOMETIMES WE DON'T HAVE ENOUGH AT ALL TO TYPE, AND THEN WE
24 PROCEED TO DEVELOP A PROFILE FROM IT, AND THAT PROFILE THEN
25 IS COMPARED TO KNOWN SAMPLES THAT ARE SUBMITTED FOR -- TO

1 DETERMINE IF IT'S THAT PERSON'S D.N.A. OR NOT.

2 Q. LET'S SAY IF I'M AT A CRIME SCENE AND I GET CUT OR
3 SOMETHING LIKE THAT AND LEAVE BLOOD. THAT BLOOD CAN BE
4 COLLECTED FROM THE CRIME SCENE AND LATER COMPARED TO A KNOWN
5 SAMPLE OF MINE?

6 A. YES.

7 Q. AND YOU WORK FOR THE RICHLAND COUNTY SHERIFF'S
8 DEPARTMENT, BUT ON REQUEST YOU'LL ALSO DO TESTING FOR OTHER
9 AGENCIES AS WELL?

10 A. YES, WE DO.

11 Q. AS WELL AS THE COLUMBIA POLICE DEPARTMENT?

12 A. THAT'S CORRECT.

13 Q. AND IN THIS CASE DID YOU RECEIVE CERTAIN ITEMS THAT WERE
14 SUBMITTED FOR TESTING BY YOUR LABORATORY?

15 A. I DID.

16 Q. AND WHAT ITEMS DID YOU SUBMIT -- DID YOU RECEIVE TO BE
17 TESTED?

18 A. I RECEIVED A SWAB FROM THE STEERING WHEEL, A SWAB FROM
19 THE DRIVER'S DOOR HANDLE, A MASK THAT HAD A SKELETON FACE ON
20 IT, AND A BUCCAL SWAB FROM ERIC MANCE. A BUCCAL SWAB IS
21 SIMPLY A SWABBING FROM THE INSIDE OF YOUR MOUTH TO GET THE
22 BUCCAL CELLS WHICH CONTAIN A LOT OF D.N.A.

23 Q. SO WHEN YOU'RE TALKING ABOUT A BUCCAL SWAB FROM ERIC
24 MANCE, THAT WOULD BE A KNOWN SAMPLE TAKEN FROM THE DEFENDANT?

25 A. THAT'S CORRECT.

1 Q. IN ADDITION, I'VE HEARD IT REFERRED TO AS BLOOD. YOU
2 ACTUALLY HAVE TO TAKE -- WHAT'S A BUCCAL SWAB?

3 A. IT IS A SWAB FROM INSIDE YOUR MOUTH. IT'S JUST TAKING
4 THE CELLS THAT ARE INSIDE AND DEVELOPING THE D.N.A. FROM
5 THAT. YOU CAN ALSO USE BLOOD. THE THING ABOUT D.N.A. IS
6 IT'S THE SAME THROUGHOUT ALL YOUR BODY. SO WHETHER I TAKE
7 BLOOD OR A BUCCAL SWAB OR EVEN, YOU KNOW, A TISSUE SAMPLE OR
8 EVEN THE ROOT OF A HAIR, IT WOULD BE THE SAME D.N.A. THAT
9 CAME FROM THAT PERSON.

10 Q. AND IN THIS CASE THE KNOWN SAMPLE WAS FROM -- COLLECTED
11 BY I BELIEVE SERGEANT SCOTT FROM ERIC MANCE. IS THAT
12 CORRECT? ERIC MANCE?

13 A. THAT'S CORRECT.

14 Q. OKAY. AND YOU DID SOME TESTING ON THREE ITEMS. I
15 BELIEVE YOU MENTIONED TWO OF THEM WERE SWABS, ONE FROM A
16 STEERING WHEEL AND ONE FROM A DOOR HANDLE?

17 A. CORRECT.

18 Q. AS WELL AS FROM A MASK. I WANT TO SHOW YOU WHAT'S BEEN
19 MARKED AS STATE'S EXHIBIT NUMBER 12. DO YOU RECOGNIZE THIS?

20 A. YES, I DO.

21 Q. AND FOR THE RECORD FOR THE CHAIN OF CUSTODY, WHEN YOU
22 WERE -- WHEN ALL THESE ITEMS WERE SUBMITTED TO YOU FOR YOUR
23 TESTING, YOU ACTUALLY GOT THEM OUT OF THE RICHLAND COUNTY
24 SHERIFF'S DEPARTMENT EVIDENCE ROOM WHICH IS RUN BY TENA GOFF?

25 A. THAT'S CORRECT.

1 Q. AND WERE THEY ALL PACKAGED PROPERLY AND SUBMITTED
2 PROPERLY?

3 A. THEY WERE.

4 Q. SO THERE WAS NO EVIDENCE OF ANY TAMPERING OR ALTERATION.

5 A. NO, THERE WAS NOT.

6 Q. WHEN YOU RECEIVED THOSE ITEMS, WHAT'S THE FIRST THING
7 YOU DID AS FAR AS THE MASK WENT?

8 A. THE MASK IS AN EXAMPLE OF A PIECE OF EVIDENCE THAT IS
9 SUBMITTED FOR OUR EXAMINATION TO DETERMINE WHAT PART OF THIS
10 SAMPLE MAY CONTAIN D.N.A. WITH THIS MASK I NOTED ON THE
11 INSIDE THAT THERE WAS A PORTION WHERE YOU COULD INSERT YOUR
12 MOUTH PERHAPS TO STABILIZE THE MASK ON YOUR FACE AND, OF
13 COURSE, THIS WOULD BE AN EXCELLENT SOURCE OF D.N.A. I
14 SWABBED THAT AREA AND WAS ABLE TO DEVELOP A D.N.A. PROFILE
15 FROM IT.

16 Q. OKAY. YOU MENTIONED THAT THERE'S AN ACTUAL -- INSIDE
17 THAT MASK WHICH IS STATE'S EXHIBIT NUMBER 12 THERE'S A PLACE
18 THAT YOU CAN ACTUALLY PLACE IT INSIDE YOUR MOUTH?

19 A. THAT'S WHAT IT APPEARED TO BE TO ME.

20 Q. AND EXPLAIN TO THE JURY HOW THAT WOULD BE AN EXCELLENT
21 SOURCE OF D.N.A.

22 A. ANYTHING YOU PUT YOUR MOUTH ON, A CIGARETTE BUTT, DRINK
23 CAN, LIKE I SAID, WHEN YOU SWAB THE INSIDE OF YOUR MOUTH,
24 YOU'RE COLLECTING THOSE SAME TYPE OF CELLS. THAT WOULD BE AN
25 EXCELLENT SOURCE OF DEVELOPING A D.N.A. PROFILE.

1 Q. ONCE YOU HAD FIGURED OUT THAT THERE WAS ACTUALLY D.N.A.
2 THAT COULD BE TESTED ON THE MASK, DID YOU ALSO DO ANY TESTING
3 ON THE TWO SWABS THAT WERE SUBMITTED?

4 A. I DID.

5 Q. AND WERE YOU ABLE TO GET ANY D.N.A. FROM THOSE SWABS?

6 A. I WAS NOT. I ATTEMPTED TO EXTRACT D.N.A. FROM THOSE
7 OTHER TWO SAMPLES - THE SWAB FROM THE STEERING WHEEL AND THE
8 DRIVER'S DOOR HANDLE - AND THERE WAS NO D.N.A. ON THEM TO BE
9 TESTED.

10 Q. AND, SAY, IF I'M IN MY CAR AND I'M HOLDING MY STEERING
11 WHEEL, ARE THERE FACTORS THAT ARE GOING TO GO INTO WHETHER OR
12 NOT D.N.A. CAN BE COLLECTED FROM THAT STEERING WHEEL?

13 A. WELL, YES. YOU KNOW, THERE ARE A LOT OF UNKNOWN FACTORS
14 INVOLVED IN COLLECTING TOUCH D.N.A. THAT'S WHAT WE CALL
15 THAT. WHEN YOU TOUCH AND LEAVE YOUR SKIN CELLS, THEY ALSO
16 CONTAIN D.N.A. WE CAN'T SEE IT. SO I DON'T KNOW IF THE
17 STEERING WHEEL HAS BEEN WIPED DOWN OR WHETHER THE PERSON WAS
18 ACTUALLY, YOU KNOW, LEAVING ENOUGH D.N.A.

19 MY TESTING AND MY EXPERIENCE IN DOING STEERING WHEELS:
20 WE GET A LOT OF TIMES NOTHING AND THEN SOMETIMES WE GET
21 PLENTY OF D.N.A. SO IT PROBABLY DEPENDS ON THE INDIVIDUAL
22 AND THEN WHETHER OR NOT THE STEERING WHEEL HAS BEEN WIPED
23 DOWN OR ANYTHING LIKE THAT.

24 Q. AND IN THIS CASE YOU WERE NOT ABLE TO GET A D.N.A.
25 PROFILE, BE IT FROM THE VICTIM WHO OWNED THE CAR OR FROM

1 ANYONE ELSE WHO MAY HAVE DRIVEN THE CAR THAT NIGHT.

2 A. I DID NOT EXTRACT ANY D.N.A. FROM THE SAMPLES -- THE
3 SWABS THAT WERE ALLEGEDLY SWABBED FROM THESE ITEMS.

4 Q. OKAY... BUT YOU WERE ABLE TO GET D.N.A. FROM THE MASK --
5 FROM THE MASK?

6 A. YES, I WAS.

7 Q. FROM THAT AREA YOU TALKED ABOUT.

8 A. THAT'S CORRECT.

9 Q. ONCE YOU KNEW THAT D.N.A. WAS PRESENT, TELL THIS JURY
10 WHAT KIND OF TESTING YOU DID TO COMPARE THE KNOWN SAMPLE FROM
11 ERIC MANCE TO THE SAMPLE FROM THE MASK.

12 A. WELL, THERE ARE STEPS INVOLVED IN D.N.A. ANALYSIS WHICH
13 INVOLVES COPYING PORTIONS OF THE D.N.A. MOLECULE THAT ARE
14 UNIQUE TO THE INDIVIDUAL. MOST OF THE D.N.A. OF A SPECIES
15 LIKE THE HUMAN SPECIES IS PRETTY MUCH THE SAME. IT DEFINES
16 YOU AS A HUMAN BEING. IT TELLS YOU YOU HAVE, YOU KNOW, TWO
17 EYES AND A MOUTH AND TWO EARS AND WHETHER YOU'RE MALE OR
18 FEMALE, THAT TYPE OF THING, BUT THERE ARE PORTIONS OF THE
19 D.N.A. MOLECULE THAT ARE UNIQUE AND THIS IS A PORTION THAT IS
20 TARGETED FOR IDENTIFICATION PURPOSES.

21 ALL FORENSIC SCIENCE LABORATORIES WITHIN THE UNITED
22 STATES AND IN THE WORLD USE THE SAME TYPE OF ANALYSIS,
23 TARGETING THE SAME POSITIONS ON THE D.N.A. MOLECULE. THOSE
24 POSITIONS ARE COPIED AND THEN THE PARTICULAR PROFILE IS
25 DEVELOPED FROM THE UNKNOWN SAMPLE AND THEN IT IS COMPARED TO

1 THE PROFILE THAT WE GET FROM THE KNOWN SAMPLE WHICH WE GET A
2 HUNDRED PERCENT OF THE TIME OF D.N.A. PROFILE FROM THE KNOWN
3 SAMPLE. AND IF THE -- THE SAME PROFILE IS DEVELOPED, THEN IT
4 IS A MATCH AND IT IS THAT PERSON'S D.N.A.

5 Q. IS IT UNUSUAL WHEN YOU'RE DEVELOPING D.N.A. FROM A
6 FORENSIC SCENE TO GET MORE THAN ONE PERSON'S D.N.A. MIXED
7 TOGETHER?

8 A. IT IS NOT UNUSUAL.

9 Q. HOW DOES THAT HAPPEN, SIR?

10 A. IT'S A MIXTURE OF PEOPLE INVOLVED. THAT MEANS THAT MORE
11 THAN ONE PERSON CAME IN CONTACT WITH THAT PARTICULAR PIECE OF
12 EVIDENCE OR THAT PARTICULAR AREA THAT WAS SWABBED. IT IS
13 VERY COMMON TO SEE D.N.A. FROM MORE THAN ONE PERSON.

14 Q. AND IN THE CASE WHEN YOU HAVE A MIXTURE, ARE YOU
15 FAMILIAR WITH THE TERMS MAJOR CONTRIBUTOR VERSUS MINOR
16 CONTRIBUTOR?

17 A. YES.

18 Q. WHAT DO THOSE MEAN? EXPLAIN IT TO THE JURY.

19 A. A MAJOR CONTRIBUTOR IS THE PROFILE THAT IS PREDOMINANT.
20 IT IS THE ONE THAT'S CLEAREST. IT IS THE ONE THAT IS CLEARLY
21 SEEN ABOVE THE OTHER ONE. THE OTHER IS -- A MINOR
22 CONTRIBUTOR MEANS THERE'S SOMETHING ELSE THERE AND IT IS NOT
23 INTERFERING WITH THE MAJOR CONTRIBUTOR, BUT IT IS
24 ACKNOWLEDGED TO BE THERE.

25 Q. AND, SAY, IN A MASK, SOMETHING WHERE SOMEONE MAY HAVE

1 TOUCHED SOMETHING WITH THEIR MOUTH, THE MAJOR CONTRIBUTOR
2 MIGHT BE THE MORE RECENT CONTRIBUTOR?

3 A. CORRECT.

4 Q. IN THIS CASE WERE YOU ABLE TO DEVELOP A D.N.A. PROFILE
5 FROM THE MASK THAT YOU WERE ABLE TO COMPARE TO ERIC MANCE?

6 A. YES.

7 Q. AND WHAT WERE THE RESULTS OF WHEN YOU COMPARED THE
8 D.N.A. FROM THE MASK TO ERIC MANCE'S KNOWN SAMPLE?

9 A. WELL, THE D.N.A. PROFILE FROM THE MAJOR CONTRIBUTOR ON
10 THIS MASK MATCHED ERIC MANCE. THE FREQUENCY -- WHAT WE DO IS
11 WE DEVELOP THE STATISTICAL FREQUENCY OF HOW COMMON IS THAT
12 PROFILE, HOW RARE IS THAT PROFILE. WELL, THE FREQUENCY OF
13 THIS PROFILE IS 180 -- 890 TRILLION IN THE CAUCASIAN
14 POPULATION AND ONE IN 14 TRILLION IN THE AFRICAN AMERICAN
15 POPULATION. SO THAT'S A RARE -- A RARE PROFILE. IT OCCURRED
16 ONCE IN THE HUMAN POPULATION. FOR IT TO OCCUR AGAIN, THAT'S
17 THE FREQUENCY WHICH WE EXPECT TO SEE IT. SO THAT FREQUENCY
18 IS SO RARE THAT STATISTICALLY SPEAKING AND IN MY OPINION THAT
19 IS ERIC MANCE'S D.N.A.

20 Q. SO THE STATISTICAL -- SO, FIRST OF ALL, WHAT YOU DO IS
21 YOU DO THE -- THE PROFILE ITSELF IS DEVELOPED?

22 A. YES.

23 Q. AND THEN THERE IS A COMPARISON.

24 A. CORRECT.

25 Q. AND AT FIRST YOU MUST DETERMINE THAT THERE IS A MATCH.

1 A. YES.

2 Q. IS THAT CORRECT? WAS THAT DONE IN THIS CASE?

3 A. YES.

4 Q. AND THE MAJOR CONTRIBUTOR ON THE D.N.A. FROM THE MASK
5 WAS MATCHED TO ERIC MANCE'S PROFILE.

6 A. IT WAS.

7 Q. AND, IN OTHER WORDS, THE TWO D.N.A. PROFILES WERE THE
8 SAME.

9 A. CORRECT.

10 Q. AND THEN YOU GO ONE STEP FURTHER AND DO THE STATISTICAL
11 PROBABILITY OF IT OCCURRING ANYWHERE ELSE IN THE POPULATION?

12 A. YES. WE DETERMINE THE FREQUENCY OF HIS PROFILE.

13 Q. AND WHAT WAS THAT NUMBER?

14 A. IN CAUCASIANS IT'S ONE IN 890 TRILLION AND AFRICAN
15 AMERICANS ONE IN 14 TRILLION.

16 Q. HOW MANY ZEROS ARE IN TRILLIONS?

17 A. NINE -- I MEAN 12, EXCUSE ME. ONE MORE.

18 Q. THANK YOU. HOW MANY PEOPLE ARE ON EARTH?

19 A. APPROXIMATELY SIX BILLION.

20 Q. IS SIX BILLION LESS THAN 14 TRILLION?

21 A. YES, IT IS MUCH LESS.

22 Q. HOW MANY ZEROS IN A BILLION?

23 A. NINE.

24 Q. AND HOW MANY PEOPLE ARE ON EARTH?

25 A. SIX BILLION.

1 Q. AND IT'S THAT MUCH MORE. SO, IN YOUR OPINION, THE
2 D.N.A. FROM THE MASK FROM THE MAJOR CONTRIBUTOR IS ERIC
3 MANCE'S. WERE YOU ABLE TO DO ANY DETERMINATIONS ON THE MINOR
4 CONTRIBUTOR IN THIS CASE?

5 A. I WAS NOT.

6 Q. WHY IS THAT?

7 A. THE MINOR CONTRIBUTOR WAS VERY, VERY MINOR. IT WAS
8 THERE, JUST A COUPLE OF SMALL ALLELES - WHICH IS THE D.N.A.
9 TERM - WERE PRESENT. I COULDN'T -- TO DETERMINE WHO THAT
10 D.N.A. BELONGED TO WOULD BE IMPOSSIBLE.

11 Q. IT WAS TOO WEAK TO INTERPRET?

12 A. RIGHT. EXACTLY.

13 Q. AND, FINALLY, D.N.A. CAN BE USED TO IMPLICATE SOMEONE IN
14 A CRIME?

15 A. YES.

16 Q. AS WELL AS EXONERATE THEM?

17 A. YES. D.N.A. HAS BEEN USED TO BOTH EXONERATE AND
18 IMPLICATE IN A CRIME.

19 Q. AND IN THIS CASE THE D.N.A. FROM THE MASK IS ERIC
20 MANCE'S.

21 A. IT IS A MATCH TO ERIC MANCE.

22 MS. CAMPBELL: THAT'S ALL I HAVE.

23 CROSS-EXAMINATION

24 BY MR. TARR:

25 Q. ERIC MANCE GAVE A STATEMENT TO THE POLICE AND SAID, "I

1 WORE THAT MASK AND I BURIED IT UNDER THE STAIRS OF MY HOUSE,"
2 AND THEY WENT AND DUG IT UP AND YOU TESTED IT. WOULD IT
3 SURPRISE YOU TO FIND HIS D.N.A. ON IT?

4 A. NO, OF COURSE NOT.

5 Q. THANK YOU.

6 A. IF HE SAID IT WAS HIS.

7 MR. TARR: THAT'S ALL I HAVE.

8 THE COURT: ANYTHING FURTHER FROM THIS WITNESS?

9 MS. CAMPBELL: NO, SIR.

10 THE COURT: ALL RIGHT. THANK YOU, SIR.

11 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

12 MR. TARR: NO OBJECTION, YOUR HONOR.

13 THE COURT: HE MAY BE EXCUSED.

14 MS. CAMPBELL: THE STATE WOULD CALL IRA PARNELL.

15 IRA B. PARNELL, JR., AFTER BEING DULY SWORN,

16 TESTIFIED AS FOLLOWS:

17 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
18 FULL NAME FOR THE RECORD, PLEASE.

19 THE WITNESS: MY NAME IS IRA BYRD PARNELL, JR.

20 P-A-R-N-E-L-L.

21 DIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. AGENT PARNELL, WHERE ARE YOU EMPLOYED?

24 A. I'M EMPLOYED BY THE SOUTH CAROLINA LAW ENFORCEMENT
25 DIVISION ALSO KNOWN AS S.L.E.D.

1 Q. HOW LONG HAVE YOU WORKED THERE, SIR?

2 A. THIRTY-SIX YEARS.

3 Q. WHAT DO YOU DO FOR S.L.E.D.?

4 A. I'M ASSIGNED TO THE FIREARM AND TOOL MARK IDENTIFICATION
5 LABORATORY AT S.L.E.D. HEADQUARTERS.

6 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
7 AND YOUR TRAINING IN THAT FIELD?

8 A. THERE'S REALLY NO COURSE - WELL, THERE WASN'T A COURSE
9 WHEN I WAS COMING ALONG - TO RECEIVE A DEGREE IN THE AREA OF
10 FIREARM AND TOOL MARK IDENTIFICATION. SO I HAVE A BACHELOR'S
11 DEGREE FROM THE UNIVERSITY OF SOUTH CAROLINA IN THE GENERAL
12 STUDIES PROGRAM WHICH AT THAT TIME WAS THE CONTINUATION OF
13 CRIMINAL JUSTICE. I'M A GRADUATE OF THE F.B.I. NATIONAL
14 ACADEMY WHERE I RECEIVED FIREARMS TRAINING, OUR STATE ACADEMY
15 OF COURSE, NUMEROUS COURSES AROUND THE NATION WHERE FIREARM
16 AND TOOL MARK IDENTIFICATION IS TAUGHT AND STUDIED.

17 I'M A MEMBER OF THE ASSOCIATION OF FIREARM AND TOOL MARK
18 EXAMINERS WHICH IS AN INTERNATIONAL ORGANIZATION OF FIREARMS
19 EXAMINERS WHO MEET ONCE A YEAR FOR A WEEK TO DISCUSS THE
20 LATEST DEVELOPMENTS IN THE AREA OF FIREARM AND TOOL MARK
21 IDENTIFICATION. I'VE TESTIFIED APPROXIMATELY 575 TIMES AS AN
22 EXPERT WITNESS IN FIREARMS, AND I'VE TESTIFIED IN STATE,
23 FEDERAL, AND NORTH CAROLINA STATE COURTS.

24 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER HIM
25 AS AN EXPERT IN FIREARMS AND TOOL MARKS.

1 MR. TARR: NO OBJECTION, YOUR HONOR.

2 THE COURT: HE IS SO QUALIFIED.

3 BY MS. CAMPBELL:

4 Q. AGENT PARNELL, DID YOU RECEIVE SOME EVIDENCE INVOLVING
5 THIS CASE? I BELIEVE IT'S -- YOUR CASE NUMBER IS, EXCUSE ME,
6 L-0810340?

7 A. YES, MA'AM.

8 Q. AND SPECIFICALLY WHAT EVIDENCE DID YOU RECEIVE?

9 A. I RECEIVED FOUR FIRED BULLET AND JACKET FRAGMENTS, A
10 FIRED BULLET CORE, AND A REVOLVER ALONG WITH 35 UNFIRED .38
11 SPECIAL CALIBER CARTRIDGES.

12 Q. OKAY. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
13 EXHIBIT 75. I FIRST ASK IF YOU RECOGNIZE THAT.

14 A. YES, MA'AM. THE TAGS -- THE EVIDENCE ITSELF HAS MY CASE
15 NUMBER, SPECIMEN NUMBER, AND INITIALS. THIS WOULD BE THE .38
16 SPECIAL REVOLVER RECEIVED IN CONNECTION WITH THIS CASE.

17 Q. THANK YOU, SIR. I'M GOING TO SHOW YOU WHAT'S BEEN
18 MARKED AS STATE'S EXHIBIT NUMBER 76 AND ASK ALSO IF YOU
19 RECOGNIZE THAT.

20 A. YES, MA'AM. THIS IS THE PARTIAL BOX OF CARTRIDGES THAT
21 I RECEIVED ALSO FOR EXAMINATION IN THIS CASE.

22 Q. I'M GOING TO SHOW YOU STATE'S EXHIBITS NUMBER 71, 72,
23 73, AND 74. FOR THE RECORD, JUST SEE IF YOU RECOGNIZE THOSE.

24 A. IT WAS WELL WRAPPED. YES, MA'AM. THE BULLET FRAGMENTS
25 CONTAINED IN STATE'S EXHIBITS 71, 72, 73, AND 74 WERE

1 SUBMITTED IN CONNECTION WITH THIS CASE AND I DID EXAMINE
2 THEM.

3 Q. AND FINALLY STATE'S EXHIBIT NUMBER 77, DO YOU RECOGNIZE
4 THAT?

5 A. YES, MA'AM. STATE'S EXHIBIT 77 WAS ALSO SUBMITTED IN
6 CONNECTION WITH THIS CASE AND IT WAS ALSO EXAMINED BY ME, AND
7 EACH OF THESE ITEMS HAS MY CASE NUMBER, SPECIMEN NUMBER, AND
8 INITIALS SCRIBED ON THEM.

9 Q. AND IN THIS CASE TELL THIS JURY GENERALLY WHEN YOU
10 RECEIVE, SAY, PROJECTILES FROM A SCENE AND ITEMS LIKE THIS
11 THAT WERE SUBMITTED TO YOU WHAT KIND OF TESTING YOU CAN DO.

12 A. WELL, GENERALLY THE QUESTION IS ASKED WHETHER OR NOT
13 PARTICULAR FIRED COMPONENTS - IN THIS CASE STATE'S EXHIBITS
14 71, 72, 73, 74, AND 77 - WERE OR WERE NOT FIRED FROM THE
15 FIREARM SUBMITTED, STATE'S EXHIBIT 75. IN ORDER TO DO THAT,
16 I HAD TO CONDUCT CERTAIN EXAMINATIONS. I FIRST EXAMINED
17 STATE'S EXHIBIT 75, THE REVOLVER HERE, TO SEE IF THERE WAS
18 ANYTHING UNUSUAL ABOUT IT OR WAS THERE ANY SAFETY FACTORS
19 THAT MIGHT MAKE IT UNSAFE FOR ME TO TEST-FIRE AND SO FORTH.
20 I DID THAT. I DETERMINED THAT THERE WERE A COUPLE OF UNUSUAL
21 CIRCUMSTANCES INVOLVED WITH STATE'S EXHIBIT 75, SPECIFICALLY
22 THAT THE TRIGGER GUARD WAS MISSING AND THAT ANOTHER SCREW WAS
23 MISSING FROM THE GUN. HOWEVER, THESE DID NOT PREVENT STATE'S
24 EXHIBIT 75 FROM BEING TEST-FIRED BY ME.

25 ONCE I OBTAINED TEST SPECIMENS FROM STATE'S EXHIBIT 75,

1 I WAS THEN ABLE TO MICROSCOPICALLY COMPARE THESE TWO OR THESE
2 FOUR TESTS, RATHER, WITH EACH OTHER TO DETERMINE IF STATE'S
3 EXHIBIT 75 WAS, IN FACT, MARKING EACH FIRED COMPONENT AS IT
4 CAME OUT OF THE BARREL IN THE SAME WAY. I CONCLUDED THAT IT
5 WAS MARKING EACH FIRED TEST BULLET IN MUCH THE SAME FASHION
6 AND IN AN IDENTIFIABLE FASHION, AND THEN I WAS ABLE TO
7 MICROSCOPICALLY COMPARE THE OTHER FIRED COMPONENTS THAT WERE
8 SUBMITTED.

9 Q. BEFORE WE GET THE RESULTS, I WANT TO BACK UP A LITTLE
10 BIT. THIS WAS A -- YOU REFERRED TO IT AS A REVOLVER?

11 A. YES, MA'AM.

12 Q. CAN YOU EXPLAIN TO THE JURY THE DIFFERENCE BETWEEN A
13 REVOLVER AND A SEMIAUTOMATIC HANDGUN?

14 A. A REVOLVER, AS ILLUSTRATED BY STATE'S EXHIBIT 75, HAS A
15 CYLINDER OR A ROUND OBJECT IN THE MIDDLE OF THE GUN WHICH HAS
16 CHAMBERS OR INDIVIDUAL HOLES WITHIN THAT CYLINDER. THE
17 ACTUAL CYLINDER REVOLVES; THE HAMMER STAYS STILL. THE
18 TRIGGER, WHEN IT IS PULLED, BRINGS THE HAMMER BACK AND ALLOWS
19 THE HAMMER TO FALL FORWARD ON A CARTRIDGE, ACCOMPLISHING
20 FIRING OF THAT CARTRIDGE ONCE UNDER THE HAMMER. ANOTHER PULL
21 OF THE TRIGGER CAUSES THE CYLINDER TO ROTATE AND PUT A FRESH
22 CARTRIDGE UNDERNEATH THE HAMMER IN THE -- WHAT WE CALL THE
23 BATTERY OR THE FIRING POSITION.

24 THIS PARTICULAR FIREARM WILL HOLD FIVE UNFIRED
25 CARTRIDGES IN THE CHAMBER, AND IT WILL, IN FACT, SHOOT FIVE

1 TIMES FROM ONE TIME WITH EACH PULL OF THE TRIGGER, THE
2 DIFFERENCE BEING THAT THE FIRED CARTRIDGE CASE REMAINS IN THE
3 CYLINDER AND MUST BE MANUALLY REMOVED BY SOMEONE, GENERALLY
4 THE SHOOTER.

5 A SEMIAUTOMATIC HANDGUN, AS WE KNOW, WILL EXTRACT AND
6 EJECT THE FIRED CARTRIDGE CASES AND THROW THEM OUT OF THE GUN
7 AUTOMATICALLY BY ACTION OF THE INTERNAL COMPONENTS OF THE
8 GUN, AND THEY GENERALLY FEED FROM A MAGAZINE OR A CLIP WHICH
9 IS INSERTED INTO THE GRIP AREA OF THE FIREARM. THE MAIN
10 DIFFERENCE IS IS THAT THE CARTRIDGE CASES REMAIN IN THE GUN
11 IN A REVOLVER, AND THE SEMIAUTOMATIC THROWS THE CARTRIDGE
12 CASES, AS THEY'RE EXPENDED, OUT OF THE GUN GENERALLY TO THE
13 RIGHT OF THE SHOOTER.

14 Q. AND JUST FOR THE RECORD, TOO, THIS GUN NOW IS NOT
15 LOADED, IS IT?

16 A. IT'S RATCHETED DOWN IN THIS BOX, BUT IT WASN'T LOADED
17 WHEN I PUT IT IN THERE; NO, MA'AM.

18 Q. WHEN YOU RECEIVED THAT GUN, DID IT HAVE ANY SPENT SHELL
19 CASINGS IN IT?

20 A. LET ME CHECK MY NOTES, BUT I DON'T BELIEVE IT DID. NO,
21 MA'AM, IT WAS EMPTY AS RECEIVED.

22 Q. OKAY. SO IF SOMEONE -- IF THIS GUN HAD BEEN FIRED, SAY,
23 FIVE TIMES IN A ROW, SOMEONE HAD REMOVED THE CARTRIDGE
24 CASINGS PRIOR TO YOU GETTING IT.

25 A. YES, MA'AM.

1 Q. AND YOU ALSO MENTIONED THAT WHEN YOU FIRE THIS GUN YOU
2 HAVE TO PULL BACK ON THE TRIGGER?

3 A. THERE'S TWO WAYS YOU CAN FIRE A REVOLVER SUCH AS STATE'S
4 EXHIBIT 75. THIS IS WHAT WE CALL A DOUBLE-ACTION REVOLVER.

5 Q. OKAY.

6 A. YOU CAN EITHER THUMB COCK IT WHICH MAINTAINS THE HAMMER
7 IN A COCKED POSITION AND REQUIRES SIGNIFICANTLY LESS TRIGGER
8 PULL TO MAKE THE HAMMER FALL INTO FIRE OR YOU CAN SIMPLY PULL
9 THE TRIGGER WHICH SIMULTANEOUSLY TURNS THE CYLINDER AND
10 CAUSES THE HAMMER TO COME BACK AND GO FORWARD AND FIRE IT
11 THAT WAY.

12 Q. AND WHEN YOU SAID YOU THUMB COCK IT, THAT PULLS THE
13 HAMMER BACK?

14 A. YES, MA'AM.

15 Q. AND THEN IT'S EASIER TO PULL THE TRIGGER?

16 A. YEAH. THE TRIGGER PULL IS SIGNIFICANTLY LESS, USUALLY
17 AT LEAST A -- PROBABLY TWO-THIRDS LESS THAN A DOUBLE-ACTION
18 PULL.

19 Q. OKAY. AND IN ORDER -- BUT EVERY TIME YOU FIRE IT, THEN
20 DO YOU THEN HAVE TO PULL THE HAMMER BACK AGAIN?

21 A. YOU DON'T. YOU CAN, BUT YOU DON'T. YOU CAN SIMPLY PULL
22 THE TRIGGER.

23 Q. BUT IF SOMEONE PULLS BACK THE HAMMER, THAT WOULD MAKE IT
24 EASIER FOR THEM TO SHOOT IT.

25 A. YES.

1 Q. SO THAT WOULD BE IN PREPARATION FOR SHOOTING.

2 A. GENERALLY SO, YES, MA'AM.

3 Q. BUT, STILL, THEY WOULD HAVE TO CONTINUALLY PULL THE
4 TRIGGER BACK FOR EACH SHOT.

5 A. THAT'S CORRECT.

6 Q. AND THEN THEY CAN STILL SHOOT IT IF THEY DON'T PULL BACK
7 THE HAMMER.

8 A. YES, MA'AM.

9 Q. AND, AGAIN, YOU HAVE TO PULL ON THE TRIGGER FOR EACH
10 SHOT.

11 A. THAT'S CORRECT.

12 Q. SO IT'S NOT ONE OF THOSE WHERE YOU JUST PULL BACK ON THE
13 TRIGGER AND SAY YOUR FINGER GETS STUCK AND KEEPS SHOOTING.

14 A. NO, MA'AM.

15 Q. YOU ALSO MENTIONED THAT THIS ONE HAD A SCREW THAT WAS
16 MISSING?

17 A. THAT'S CORRECT.

18 Q. DID THAT IN ANY WAY INTERFERE WITH ITS ABILITY TO SHOOT?

19 A. NO, MA'AM.

20 Q. DID IT IN ANY WAY INTERFERE WITH ITS -- IN ANY OF ITS
21 MECHANISMS?

22 A. NO, MA'AM, NOT FUNCTIONALITY OF SHOOTING, NO.

23 Q. AND ALSO YOU MENTIONED THAT PART OF THE TRIGGER -- IS IT
24 THE GUARD?

25 A. TRIGGER GUARD, YES, MA'AM.

1 Q. IS MISSING. IN ANY WAY DOES THAT AFFECT HOW THIS GUN
2 WORKS?

3 A. NO, MA'AM.

4 Q. AND THE GUARD ITSELF, WAS IT BROKEN OFF OR COULD YOU
5 TELL?

6 A. I COULDN'T REALLY TELL. IT WAS MISSING. THE TRIGGER
7 NORMALLY HAS THE TRIGGER WHICH IS HANGING DOWN RIGHT HERE.
8 IT NORMALLY HAS A CIRCULAR STEEL OR ALLOY GUARD ON IT. THIS
9 PARTICULAR FIREARM DID NOT HAVE IT PRESENT, AND I COULD NOT
10 TELL WHETHER IT HAD BEEN BROKEN OFF OR INTENTIONALLY
11 SAWED-OFF OR -- AT ANY RATE, IT HAD BEEN SMOOTHED SO THAT
12 WHEN YOU SHOOT IT IT WON'T CUT YOUR FINGER.

13 Q. OKAY. AND THE TRIGGER GUARD IS THERE BECAUSE IT WILL
14 HELP HOLD YOUR FINGER IN POSITION?

15 A. IT'S ACTUALLY THERE TO PREVENT THE TRIGGER FROM BEING
16 PULLED.

17 Q. OKAY. AND IN THIS CASE THIS GUN WAS FULLY OPERABLE.

18 A. EXCUSE ME. I DIDN'T UNDERSTAND YOUR QUESTION.

19 Q. THIS GUN WAS FULLY OPERABLE?

20 A. YES, MA'AM.

21 Q. THE ITEMS THAT WERE SUBMITTED TO YOU AND TAKING THEM IN
22 THE ORDER THAT'S IN YOUR REPORT, ITEM NUMBER 1 WAS A FIRED
23 BULLET JACKET FRAGMENT?

24 A. YES, MA'AM.

25 Q. AND TELL ME AGAIN EXACTLY HOW IS IT YOU GO ABOUT

1 COMPARING THE EVIDENCE COLLECTED AT THE SCENE OF A FIRED
2 BULLET JACKET FRAGMENT TO THE GUN TO DETERMINE WHETHER OR NOT
3 IT WAS FIRED BY THIS GUN.

4 A. WHEN FIREARMS SUCH AS STATE'S EXHIBIT 75 ARE
5 MANUFACTURED, THE BARRELS AND ALL THE OTHER COMPONENTS ARE
6 MADE IN ASSEMBLY-LINE FASHION. THEY'RE NOT ALL -- ONE GUN IS
7 NOT MADE ALL AT ONE TIME. THEY'RE MADE IN PARTS AND THE
8 PARTS ARE ASSEMBLED. THE BARREL ON STATE'S EXHIBIT 75 IS
9 TOTALLY UNIQUE IN THE MARKINGS THAT ARE LEFT INSIDE OF IT
10 WHEN THAT MANUFACTURING PROCESS TAKES PLACE.

11 THE FIRST OPERATION THAT'S DONE ON A BARREL BLANK IS A
12 DRILL THAT RUNS DOWN THE MIDDLE OF A ROUND PIECE OF STEEL
13 STOCK. THIS IS PRIMARILY WHERE THE INDIVIDUAL MARKINGS ARE
14 LEFT INSIDE OF AN INDIVIDUAL GUN BARREL BY THIS DRILL. A
15 DRILL IS UNIQUE; IT'S UNUSUAL. IT CANNOT BE CONTROLLED OTHER
16 THAN TO MAKE IT GO STRAIGHT DOWN THE MIDDLE OF THE BARREL
17 BLANK. DURING THIS ROTATING, BITS AND PIECES OF THE DRILL
18 BIT BREAK OFF IN A MICROSCOPIC FASHION. LITTLE CHIPS OF
19 STEEL GET CAUGHT BEHIND THE BIT THAT MAKE LITTLE INDIVIDUAL
20 MARKS IN EACH LITTLE SHORT SECTION OF THE GUN BARREL.

21 WHEN A BULLET IS FIRED OUT OF THAT BARREL, THESE LITTLE
22 INDIVIDUAL UNIQUE AND IDENTIFIABLE CHARACTERISTICS ARE
23 TRANSFERRED TO THE OUTSIDE SURFACE OF THE BULLET. AND WHEN
24 WE GET PARTS AND PIECES OF BULLETS LIKE WE RECEIVED IN THIS
25 CASE THAT CAME INTO CONTACT WITH THE INSIDE OF THE GUN

1 BARREL, THOSE CHARACTERISTICS HAVE BEEN TRANSFERRED TO THOSE
2 FRAGMENTS. AND BY MICROSCOPICALLY COMPARING THE BULLET
3 FRAGMENTS THAT I RECEIVED TO THE TEST THAT I FIRED THROUGH
4 STATE'S EXHIBIT 75, I SAW ENOUGH SIMILARITY TO KNOW BASED ON
5 MY EXPERIENCE AND TRAINING THAT THE BULLET FRAGMENTS RECEIVED
6 IN THIS CASE WERE, IN FACT, FIRED THROUGH THE GUN BARREL OF
7 STATE'S EXHIBIT 75, SPECIFICALLY ITEMS 1 AND THE OTHERS YOU
8 MENTIONED.

9 Q. AND YOU'VE GOT THOSE IN FRONT OF YOU?

10 A. YOU ASKED ME ABOUT ITEM 1 FROM MY REPORT. THAT'S
11 STATE'S EXHIBIT 74.

12 Q. STATE'S EXHIBIT NUMBER 74? SO STATE'S EXHIBIT 74 THAT
13 WAS COLLECTED FROM THE SCENE IN THIS CASE WOULD HAVE BEEN
14 FIRED BY THAT WEAPON. IS THAT CORRECT?

15 A. THAT IS CORRECT.

16 Q. IN YOUR EXPERT OPINION.

17 A. YES, MA'AM.

18 Q. AND THIS WOULD BE THE ITEM YOU EXAMINED.

19 A. THAT'S CORRECT.

20 Q. THE SECOND ITEM THAT YOU EXAMINED IN THIS CASE I BELIEVE
21 IS YOUR ITEM NUMBER 2 WHICH IS STATE'S EXHIBIT NUMBER 73?

22 I'LL GET IT OUT. THIS IS THE ITEM?

23 A. YES, MA'AM.

24 Q. AGAIN, THIS FRAGMENT COLLECTED AT THE SCENE WAS FIRED BY
25 WHAT GUN?

1 A. BY STATE'S EXHIBIT 75, THIS REVOLVER.

2 Q. THE NEXT ITEM THAT YOU EXAMINED WAS STATE'S EXHIBIT
3 NUMBER 72? WHAT IS THIS ITEM?

4 A. THAT'S MY ITEM 3.

5 Q. YOUR ITEM 3.

6 A. THIS -- STATE'S EXHIBIT 72 IS A -- BASICALLY A CHUNK OF
7 LEAD AS IT'S RECEIVED HERE. IT IS MOST CONSISTENT WITH BEING
8 THE LEAD INTERIOR OF A JACKETED BULLET THAT HAS BEEN FIRED
9 AND STRUCK A HARD OBJECT CAUSING THE LEAD CORE OF THE INSIDE
10 OF THE BULLET TO SEPARATE FROM THE OUTER SURFACE OR THE
11 JACKET. IT DOES NOT COME INTO CONTACT WITH THE INTERIOR
12 PORTION OF THE GUN BARREL, SO THERE ARE NO MICROSCOPIC MARKS
13 TO COMPARE IN AN ITEM SUCH AS THIS.

14 Q. BUT WOULD THIS ITEM BE CONSISTENT WITH THE .38
15 AMMUNITION THAT WOULD BE USED BY THIS GUN?

16 A. I CAN'T REALLY SAY THAT. IT COULD BE, CERTAINLY, BUT I
17 COULD NOT ISOLATE THAT---

18 Q. IT COULD BE CONSISTENT WITH OTHER CALIBERS AS WELL.

19 A. YES, MA'AM, OTHER SOURCES.

20 Q. THE NEXT ITEM THAT YOU LOOKED AT WAS STATE'S EXHIBIT
21 NUMBER 71, I BELIEVE?

22 A. THAT'S ITEM 4.

23 Q. EXCUSE ME, ITEM 4, WHICH WOULD BE STATE'S EXHIBIT NUMBER
24 77.

25 A. YES, MA'AM. THAT'S -- THAT'S PART OF THE EVIDENCE IN

1 THIS CASE.

2 Q. WERE YOU ABLE TO MAKE A DETERMINATION FROM THIS AS TO
3 WHAT THIS IS?

4 A. YES, MA'AM. IT ALSO WAS FIRED BY STATE'S EXHIBIT 75,
5 THIS REVOLVER.

6 Q. AND THE FINAL -- STATE'S EXHIBIT NUMBER 71, DID YOU ALSO
7 DO AN EXAMINATION ON IT?

8 A. YES, MA'AM. THIS IS MY ITEM 8---

9 Q. YES.

10 A. ---ON THE REPORT, AND IT WAS ALSO FIRED IN STATE'S
11 EXHIBIT 75, THIS REVOLVER.

12 Q. AND IT WAS INITIALLY LISTED AS A FIRED CARTRIDGE CASE,
13 BUT IT'S ACTUALLY A BULLET FRAGMENT AS WELL?

14 A. YES, MA'AM. IT'S A JACKET FRAGMENT.

15 Q. JACKET FRAGMENT.

16 A. THAT'S CORRECT.

17 Q. AND IT WAS ALL FIRED BY THE SAME GUN.

18 A. YES, MA'AM.

19 Q. SO ALL THE ITEMS YOU WERE ABLE TO DO A COMPARISON TO
20 THAT WERE SUBMITTED TO YOU FROM THE SCENE MATCHED THE GUN
21 THAT WAS SUBMITTED TO YOU FOR COMPARISON.

22 A. WITH THE EXCEPTION OF THE CORE, MY ITEM 3, YES, MA'AM;
23 THAT'S CORRECT. ALL THE OTHER FOUR ITEMS WERE FIRED IN
24 STATE'S EXHIBIT 75.

25 Q. ITEM 3, JUST BECAUSE IT'S THE LEAD CENTER, YOU CAN'T SAY

1 ONE WAY OR THE OTHER.

2 A. THAT'S CORRECT.

3 Q. THE FINAL ITEM THAT WAS SUBMITTED TO YOU TO EXAMINE, I
4 BELIEVE, WAS A BOX OF AMMUNITION?

5 A. YES, MA'AM.

6 Q. WHAT DETERMINATIONS ARE YOU ABLE TO TELL THIS JURY ABOUT
7 THAT?

8 A. WELL, THE BOX -- THE PARTIAL BOX OF AMMUNITION CONTAINED
9 IN STATE'S EXHIBIT 76 IS CONSISTENT BOTH IN CONSTRUCTION AND
10 APPEARANCE WITH THE OTHER FIRED FRAGMENTS IN THE OTHER
11 CONTAINERS, AND THEY ARE THE PROPER CALIBER TO BE FIRED IN
12 STATE'S EXHIBIT 75, THIS REVOLVER. IN FACT, I USED FOUR OF
13 THESE AS TESTS TO CONDUCT MY EXAMINATION ON STATE'S EXHIBIT
14 75 AND THE OTHER ITEMS IN THIS CASE.

15 Q. AND EVERY GUN, BE IT A REVOLVER OR SEMIAUTOMATIC OR
16 WHATEVER, THERE'S CERTAIN SAFETY FEATURES AND OTHER FEATURES
17 TO PREVENT -- YOU CAN'T PREVENT EVERYTHING BUT ACCIDENTAL
18 SHOOTINGS?

19 A. YES, MA'AM. IN MOST CASES THAT'S CORRECT.

20 Q. AND JUST FOR THE RECORD, IN THIS CASE IN ORDER FOR THIS
21 GUN TO FIRE ONE, TWO, THREE, FOUR OR FIVE TIMES, EACH TIME
22 THE TRIGGER WOULD HAVE HAD TO HAVE BEEN PULLED.

23 A. THAT'S CORRECT. YES, MA'AM.

24 Q. AND THIS GUN DIDN'T MALFUNCTION IN ANY WAY WHERE YOU
25 JUST PULLED ONCE AND IT JUST KEPT FIRING.

1 A. NO, IT DID NOT DO THAT.

2 MS. CAMPBELL: THANK YOU, SIR. PLEASE ANSWER ANY
3 QUESTIONS FROM THE DEFENSE.

4 THE COURT: MR. TARR?

5 MR. TARR: NO QUESTIONS.

6 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

7 THE WITNESS: THANK YOU, YOUR HONOR.

8 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO HAVE YOU
9 GO TO THE JURY ROOM FOR A BREAK NOW. PLEASE DO NOT DISCUSS
10 THE CASE.

11 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 3:15
12 P.M.)

13 THE COURT: ALL RIGHT.

14 MS. CAMPBELL: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

15 MR. TARR: NO OBJECTION.

16 THE COURT: YES.

17 MS. CAMPBELL: OKAY.

18 THE COURT: YES, YOU MAY BE EXCUSED. ALL RIGHT.

19 MR. GOLDBERG: JUDGE, WE HAVE ONE OTHER SCHEDULING
20 ISSUE.

21 THE COURT: ALL RIGHT.

22 MR. GOLDBERG: IN REGARDS TO DR. WILSON, HE WAS
23 ORIGINALLY SCHEDULED FOR TOMORROW. AT THE PACE WE'RE MOVING,
24 WE'VE TRIED TO MOVE HIM UP. I'VE BEEN IN CONTACT WITH HIS
25 OFFICE. HE HAS TO BE IN EMERGENCY SURGERY IN THE MORNING.

1 HE TELLS US THOUGH THAT HE CAN BE HERE THIS AFTERNOON AROUND
2 5:00 OR A FEW MINUTES THEREAFTER IN ORDER TO TESTIFY AT THAT
3 POINT. I DON'T KNOW IF YOU WANT TO KEEP THE JURY LATE TO DO
4 THAT, BUT HE'S WILLING TO COME HERE AT THAT TIME AND GET IT
5 DONE THEN. I JUST NEED TO GET IN CONTACT WITH HIM AND LET
6 HIM KNOW IF WE NEED HIM HERE THEN. I JUST WANT TO ADVISE YOU
7 AND LET YOU KNOW.

8 THE COURT: ALL RIGHT. TELL HIM TO COME ON. 5:00.

9 MR. GOLDBERG: WE'LL DO SO.

10 THE COURT: OR AS SOON AS HE CAN GET HERE.

11 MR. GOLDBERG: THANK YOU.

12 THE COURT: ALL RIGHT. ANY OTHER -- I WANT TO PUT ON
13 THE RECORD THIS NOTE FROM A JUROR WHO SAYS -- NUMBER -- IT
14 SAYS THE LAST LADY ON THE STAND HAS BEEN AT MY CHURCH AND I
15 HAVE SPOKE TO HER, BUT I DON'T KNOW HER NAME OR REALLY KNOW
16 HER. ANY COMMENT BY THE STATE OR THE DEFENSE?

17 MR. TARR: NO, YOUR HONOR. SHE DOESN'T EVEN KNOW HER
18 NAME AND DOESN'T KNOW HER. I DON'T HAVE A PROBLEM WITH HER
19 SITTING AS A JUROR.

20 THE COURT: ALL RIGHT. ANYTHING BY THE STATE?

21 MR. GOLDBERG: NO, SIR, NOTHING FROM THE STATE.

22 THE COURT: ALL RIGHT. WE'LL GIVE IT TO THE COURT
23 REPORTER TO MAKE IT AS A PART OF THE RECORD. OKAY. WE'LL
24 TAKE ABOUT 10 MINUTES.

25 (COURT'S EXHIBIT 2 WAS MARKED FOR IDENTIFICATION ONLY.)

1 WHEREUPON, A SHORT BREAK WAS TAKEN.)

2 THE COURT: THANK YOU. PLEASE BE SEATED. ARE WE READY
3 FOR THE JURY?

4 MS. CAMPBELL: YES, YOUR HONOR. I JUST WANT TO MARK
5 SOMETHING.

6 THE COURT: OKAY.

7 (STATE'S EXHIBITS 87 AND 88 WERE MARKED FOR
8 IDENTIFICATION ONLY. WHEREUPON, THE JURY WAS BROUGHT INTO
9 OPEN COURT AT 3:36 P.M.)

10 THE COURT: YOUR NEXT WITNESS, PLEASE.

11 MS. CAMPBELL: MAY IT PLEASE THE COURT?

12 THE COURT: YES.

13 MS. CAMPBELL: THE STATE CALLS JOHN SLOAN.

14 JOHN SLOAN, AFTER BEING DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
17 NAME FOR THE RECORD, PLEASE.

18 THE WITNESS: JOHN SLOAN.

19 DIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q. INVESTIGATOR SLOAN, WHERE ARE YOU EMPLOYED?

22 A. COLUMBIA POLICE DEPARTMENT.

23 Q. WHAT DO YOU DO THERE, SIR?

24 A. INVESTIGATIONS.

25 Q. BACK IN JUNE OF 2006, WERE YOU ALSO WORKING IN

1 INVESTIGATIONS?

2 A. YES, I WAS.

3 Q. AND ARE YOU FAMILIAR WITH INVESTIGATOR REESE?

4 A. YES, I AM.

5 Q. AND DOES HE WORK WITH YOU IN THAT SAME INVESTIGATIVE
6 DEPARTMENT?

7 A. THAT'S CORRECT.

8 Q. AS WELL AS INVESTIGATOR THOMAS?

9 A. YES, MA'AM.

10 Q. AND YOU WERE NOT ONE OF THE PRIMARY INVESTIGATORS IN
11 THIS CASE, WERE YOU?

12 A. NO.

13 Q. I WANT TO TURN YOUR ATTENTION TO JUNE THE 5TH OF 2006.
14 DID YOU COME IN CONTACT WITH INVESTIGATOR REESE AND HE MADE A
15 REQUEST OF YOU?

16 A. YES.

17 Q. AND CAN YOU EXPLAIN THAT TO THE JURY HOW THAT HAPPENED
18 AND WHAT HAPPENED?

19 A. YES. I WAS PREPARING TO GET ON THE ELEVATOR, AND
20 INVESTIGATOR REESE BASICALLY STOPPED ME AND INDICATED THAT HE
21 HAD A DEFENDANT THAT HE WAS PREPARING TO READ THE ADVICE OF
22 RIGHTS STATEMENTS TO. AND HE ASKED ME IF I WOULD BE WILLING
23 TO ASSIST HIM, AND I TOLD HIM THAT I WOULD.

24 Q. AND DID YOU BECOME AWARE OF WHO THAT DEFENDANT WAS?

25 A. YES, I WAS.

1 Q. AND IS THAT ERIC MANCE?

2 A. YES.

3 Q. AND DO YOU SEE HIM HERE IN THE COURTROOM?

4 A. YES, I DO.

5 Q. CAN YOU POINT HIM OUT FOR THE JURY?

6 A. SITTING RIGHT THERE.

7 Q. AT THAT TIME WAS YOUR ROLE JUST TO WITNESS THE ADVICE OF
8 RIGHTS?

9 A. CORRECT.

10 Q. AND WHERE WAS MR. MANCE WHEN YOU CAME IN CONTACT WITH
11 HIM THAT DAY?

12 A. MR. MANCE WAS IN AN INTERVIEW ROOM, AND HE WAS SEATED
13 WAITING WITH INVESTIGATOR REESE AND MYSELF.

14 Q. OKAY. AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 1. FIRST OF ALL, I ASK YOU: DO YOU RECOGNIZE
16 THAT FORM?

17 A. YES, I DO.

18 Q. AND WHAT IS THAT FORM, SIR?

19 A. THIS IS THE COLUMBIA POLICE DEPARTMENT'S INTERROGATION
20 SLASH ADVICE OF RIGHTS FORM.

21 Q. AND TELL THIS JURY WHY IS IT WHEN YOU'RE GETTING READY
22 TO QUESTION A PERSON WHO MAY BE A SUSPECT OR WHO IS IN
23 CUSTODY WHY YOU ADVISE THEM OF THEIR RIGHTS.

24 A. WE WANT TO MAKE SURE THAT BEFORE WE BEGIN TO ATTEMPT TO
25 INTERVIEW OR INTERROGATE A POTENTIAL VICTIM OR A WITNESS THAT

1 THEY UNDERSTAND THEIR RIGHTS. IN THIS CASE THE DEFENDANT --
2 WE WANTED TO MAKE SURE THAT HE UNDERSTOOD HIS RIGHTS AND THAT
3 HE KNEW WHAT HE WAS DOING, AND WE ALLOWED HIM TO DO THAT
4 PRIOR TO US ASKING QUESTIONS.

5 Q. AND, IN FACT, I BELIEVE THE DATE AND TIME ARE REFLECTED
6 ON THAT FORM WHEN THAT ADVICE OF RIGHTS BEGAN? UP HERE AT
7 THE TOP?

8 A. YES. IT'S DATED JUNE THE 5TH, 2006, AND THE TIME WAS
9 2:17 P.M.

10 Q. AND THAT WOULD BE 2:17 IN THE AFTERNOON.

11 A. YES, MA'AM.

12 Q. AND IS THAT THE TIME THEN -- WERE YOU PRESENT WHEN
13 INVESTIGATOR REESE ADVISED HIM OF HIS RIGHTS?

14 A. YES, I WAS.

15 Q. AND WITHOUT GOING THROUGH EACH ONE OF THEM - I'LL DO
16 THAT WITH INVESTIGATOR REESE - ARE THE RIGHTS HE WENT THROUGH
17 WITH THE DEFENDANT INITIALLY, ARE THOSE ALL PRINTED OUT ON
18 THIS FORM?

19 A. YES, THEY ARE.

20 Q. AND DID HE GO THROUGH THOSE RIGHTS WITH THE DEFENDANT
21 VERBATIM?

22 A. YES, HE DID, EACH ONE.

23 Q. AND AS HE WENT THROUGH THE RIGHTS, DID HE, IN FACT,
24 CHECK THOSE RIGHTS OFF?

25 A. YES, HE DID.

1 Q. AND, IN FACT, DID HE GET THE DEFENDANT TO DO SOMETHING
2 FURTHER TO INDICATE HE HAD HEARD HIS RIGHTS AND UNDERSTOOD
3 THEM?

4 A. YES.

5 Q. AND WHAT DID HE DO OVER HERE ON THE SIDE WITH THE
6 DEFENDANT?

7 A. AS INVESTIGATOR REESE READ THROUGH EACH LINE OF THE
8 ADVISEMENT OF RIGHTS, AS HE GOES THROUGH HE CHECKS AND HE
9 ALSO ASKS THE DEFENDANT TO INITIAL EACH ONE AS HE'S READING
10 THROUGH THEM.

11 Q. AND, IN FACT, IN THIS CASE DID THE DEFENDANT INITIAL
12 EACH RIGHT AS HE WENT THROUGH THEM?

13 A. HE DID. HE WROTE INITIALS E.M. AS INVESTIGATOR REESE
14 CHECKED OFF ON EACH ONE.

15 Q. AND THAT WAS DONE WHERE EACH SEPARATE LINE OR SEPARATE
16 SENTENCE WAS READ TO HIM. IS THAT CORRECT?

17 A. YES.

18 Q. AND AT THE BOTTOM OF THAT FORM THERE'S ANOTHER SECTION
19 THAT'S LABELED THE WAIVER OF RIGHTS?

20 A. YES.

21 Q. AND WHAT IS THAT, SIR?

22 A. THE WAIVER OF RIGHTS -- ONCE WE'VE ADVISED THE DEFENDANT
23 OF THEIR RIGHTS, WE READ THEM VERBATIM THE WAIVER OF RIGHTS.
24 THIS IS BASICALLY AN ACKNOWLEDGMENT BY THEM THAT THEY
25 UNDERSTAND THEIR RIGHTS AND THEY'RE BASICALLY ACKNOWLEDGING

1 THAT THEY UNDERSTAND THAT, YOU KNOW, IF THEY WANT TO STOP
2 TALKING, THEY CAN STOP. IF THEY WANT AN ATTORNEY, THEY
3 CAN... BASICALLY THEY'RE SIGNING BELOW THIS TO INDICATE THAT
4 I UNDERSTAND AND I WOULD LIKE TO TALK WITH YOU. I WOULD LIKE
5 TO TELL YOU WHAT HAPPENED.

6 Q. AND DID INVESTIGATOR REESE VERBATIM WORD FOR WORD GO
7 THROUGH THAT ADVICE OF RIGHTS WITH THE DEFENDANT?

8 A. HE DID.

9 Q. AND DID THE DEFENDANT INDICATE WHETHER OR NOT HE WISHED
10 TO COOPERATE OR TALK OR NOT?

11 A. YES. THE DEFENDANT INDICATED THAT HE WOULD LIKE TO
12 TALK.

13 Q. AND AT THAT POINT DID HE MEMORIALIZE THAT BY SIGNING IT?

14 A. YES, THE DEFENDANT SIGNED.

15 Q. AND AT THAT POINT DID YOU AS WELL AS INVESTIGATOR REESE
16 WITNESS HIS SIGNATURE AFTER HE SIGNED IT?

17 A. WE DID. INVESTIGATOR REESE WITNESSED THE FIRST LINE AND
18 I WITNESSED THE SECOND LINE, PRINTED MY NAME AND SIGNED IT.

19 Q. AND YOU WERE WITH THE DEFENDANT FOR JUST A FEW MINUTES
20 TO GO THROUGH HIS RIGHTS AND FOR HIM TO AGREE TO TALK TO THE
21 INVESTIGATORS?

22 A. YES.

23 Q. AND DID YOU STAY AND ACTUALLY PARTICIPATE IN THE
24 QUESTIONING OF THE DEFENDANT?

25 A. NO.

1 Q. AND, IN FACT, YOU'RE FAMILIAR WITH INVESTIGATOR THOMAS?

2 A. YES, I AM.

3 Q. AND WAS HE FINISHING UP WITH ANOTHER WITNESS AND CAME IN
4 AFTER YOU?

5 A. YES.

6 Q. SO YOU WERE NOT THERE WHEN THE ACTUAL QUESTIONING OF THE
7 DEFENDANT HAPPENED, BUT YOU WERE THERE FOR THE ADVICE OF
8 RIGHTS.

9 A. YES.

10 Q. AT THE TIME WHEN YOU WERE WITH THE DEFENDANT AND HE WAS
11 BEING ADVISED OF HIS RIGHTS AND HE AGREED TO WAIVE HIS
12 RIGHTS, DID ANYONE PRESSURE HIM TO GET HIM TO DO THAT?

13 A. NO.

14 Q. DID ANYONE, EITHER YOU OR THE OTHER INVESTIGATOR --
15 THERE WERE THE ONLY THREE OF YOU PRESENT DURING THE ADVICE OF
16 RIGHTS; RIGHT?

17 A. DURING THE ADVICE OF RIGHTS IT WAS JUST THE TWO OF US,
18 MYSELF AND INVESTIGATOR REESE.

19 Q. AS WELL AS THE DEFENDANT.

20 A. AND THE DEFENDANT.

21 Q. DID ANYONE THREATEN HIM IN ANY WAY?

22 A. NO.

23 Q. DID ANYONE PROMISE HIM ANYTHING TO MAKE HIM TALK?

24 A. NO.

25 Q. DID ANYONE TRY TO COERCE HIM IN ANY MANNER?

1 A. NO, MA'AM.

2 Q. WAS HE DEPRIVED OF ANY CREATURE COMFORTS?

3 A. NO.

4 Q. YOU'VE BEEN IN LAW ENFORCEMENT FOR HOW LONG, SIR?

5 A. NINETEEN YEARS.

6 Q. AND IN YOUR OPINION AS AN INVESTIGATOR, WAS HE FREELY
7 AND VOLUNTARILY GIVING UP HIS RIGHTS AND AGREEING TO TALK?

8 A. YES, MA'AM. HE FREELY GAVE THEM UP. HE SAID HE WANTED
9 TO TALK.

10 Q. DURING THE COURSE THERE WAS A CONVERSATION ABOUT HIS
11 RIGHTS AS WELL AS -- DID HE APPEAR TO RESPOND COHERENTLY?

12 A. YES.

13 Q. WAS THERE ANYTHING THAT ALARMED YOU AS TO HIS MENTAL
14 STATE IN ANY WAY?

15 A. NONE WHATSOEVER.

16 Q. AND HE AGREED TO TALK AT THAT POINT AND THEN YOU LEFT.

17 A. YES.

18 Q. AND AFTER THAT IS WHEN INVESTIGATOR THOMAS CAME IN.

19 A. YES. AS I LEFT -- AS INVESTIGATOR THOMAS WALKED IN,
20 THAT'S WHEN I EXITED.

21 Q. AND THAT'S BEEN YOUR ENTIRE INVOLVEMENT IN THIS CASE WAS
22 WITNESSING THE ADVICE OF RIGHTS.

23 A. YES.

24 Q. AT ANY TIME DID YOU BECOME CONCERNED ABOUT THE MENTAL
25 STATUS OF THIS DEFENDANT IN THE TIME PERIOD YOU WERE WITH

1 HIM?

2 A. NO, NONE WHATSOEVER.

3 MS. CAMPBELL: THANK YOU, SIR.

4 CROSS-EXAMINATION

5 BY MR. TARR:

6 Q. INVESTIGATOR SLOAN, WERE YOU AWARE AT THE TIME THAT MR.
7 MANCE IS A LITTLE SLOW?

8 A. NO.

9 Q. ALL RIGHT. SO YOU DIDN'T KNOW THAT HE HAD BEEN FOUND TO
10 BE MENTALLY RETARDED AFTER AN I.Q. TEST?

11 A. NO. NO. NOTHING GAVE ME ANY INDICATION OF THAT.

12 Q. AND -- BUT THE FORM HAD TO BE READ TO HIM, DIDN'T IT?

13 A. YES, SIR.

14 MR. TARR: OKAY. THAT'S ALL I HAVE, YOUR HONOR.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q. YOU ALWAYS READ THE FORM TO EVERY DEFENDANT, DON'T YOU?

18 A. YES.

19 MS. CAMPBELL: THANK YOU.

20 THE COURT: ALL RIGHT. ANYTHING FURTHER?

21 MR. TARR: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. YOU CAN STEP DOWN, SIR.

23 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

24 MR. TARR: NO OBJECTION, YOUR HONOR.

25 THE COURT: YES, HE MAY BE EXCUSED.

1 MS. CAMPBELL: THE STATE WOULD CALL INVESTIGATOR REESE.

2 KEVIN REESE, AFTER BEING DULY SWORN, TESTIFIED AS

3 FOLLOWS:

4 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
5 NAME FOR THE RECORD, PLEASE.

6 THE WITNESS: I'M INVESTIGATOR KEVIN REESE.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q. INVESTIGATOR REESE, FOR THE RECORD WHERE ARE YOU
10 EMPLOYED?

11 A. COLUMBIA POLICE DEPARTMENT.

12 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT, SIR?

13 A. I'VE BEEN IN LAW ENFORCEMENT SINCE 1978.

14 Q. SINCE 1978?

15 A. THAT'S RIGHT.

16 Q. AND YOU'RE CURRENTLY ASSIGNED TO, I BELIEVE, THE MAJOR
17 CRIME UNIT?

18 A. THE V-CAP UNIT, MA'AM, IS WHAT IT'S CALLED. I'M
19 ASSIGNED TO INVESTIGATE HOMICIDES AND VIOLENT CRIMES.

20 Q. BACK IN 2006 WERE YOU ALSO INVOLVED IN THE SAME UNIT?

21 A. YES, MA'AM.

22 Q. AND DO YOU USUALLY WORK WITH A PARTNER?

23 A. I DO.

24 Q. WHO IS THAT, SIR?

25 A. INVESTIGATOR THOMAS.

1 Q. IS THIS INVESTIGATOR THOMAS SITTING HERE AT THE TABLE?

2 A. YES.

3 Q. I WANT TO TURN YOUR ATTENTION TO THE CASE AT HAND. ON
4 JUNE THE 2ND OF 2006, DID YOU GET CALLED IN ON A SHOOTING?

5 A. I DID.

6 Q. AND THIS IS ONE WE'RE HERE FOR TODAY?

7 A. RIGHT.

8 Q. AND WHERE DID YOU RESPOND INITIALLY AS A RESULT OF THE
9 INFORMATION -- YOU CAN'T SAY WHAT WAS SAID TO YOU OVER THE
10 PHONE, BUT AS A RESULT OF THAT INFORMATION, WHERE DID YOU
11 HEAD?

12 A. I HEADED TO LEXINGTON.

13 Q. TO LEXINGTON COUNTY?

14 A. RIGHT.

15 Q. SO INITIALLY YOU DIDN'T GO TO THE CRIME SCENE ITSELF,
16 BUT YOU HEADED TO LEXINGTON COUNTY? AND WHY WAS THAT, SIR?

17 A. I WAS TOLD THAT LEXINGTON COUNTY HAD A VEHICLE OVER
18 THERE THAT WAS TAKEN DURING A SHOOTING. ALSO A SUBJECT HAD
19 BEEN DETAINED.

20 Q. OKAY. AND AT THAT POINT THE VICTIM IN THIS CASE WOULD
21 HAVE BEEN IN SURGERY - IS THAT CORRECT - THAT NIGHT?

22 A. THAT'S RIGHT.

23 Q. SO YOU WENT OVER TO LEXINGTON COUNTY, AND YOU'RE
24 FAMILIAR WITH THE AREA CALLED PEELER ROAD?

25 A. YES, I AM.

1 Q. YOU MAY NOT HAVE BEEN FAMILIAR WITH IT BEFORE THEN, BUT
2 YOU ARE NOW?

3 A. NOT THEN BUT I AM NOW.

4 Q. AND THAT'S NEAR FISH HATCHERY ROAD?

5 A. RIGHT.

6 Q. AND WHEN YOU GOT TO THE LEXINGTON COUNTY PEELER ROAD,
7 WHAT DID YOU DO?

8 A. AT FIRST I MADE CONTACT WITH THE LEXINGTON COUNTY
9 DEPUTIES OVER THERE.

10 Q. AND THAT WOULD BE SERGEANT BLACK, I BELIEVE?

11 A. SERGEANT BLACK. CALEB BLACK.

12 Q. AFTER THAT YOU MENTIONED THEY HAD SOMEONE POSSIBLE IN
13 CUSTODY OR SOMETHING?

14 A. THEY HAD SOMEBODY DETAINED, AND HE WAS VOLUNTARILY
15 THERE.

16 Q. HE WAS VOLUNTARILY THERE?

17 A. YEAH.

18 Q. DID YOU MAKE CONTACT WITH MR. NORRIS REED?

19 A. I DID.

20 Q. AND DID YOU ACTUALLY SPEAK WITH HIM?

21 A. I DID.

22 Q. AND THAT NIGHT WAS HE ELIMINATED AS BEING IN ANY WAY
23 INVOLVED IN THIS CASE?

24 A. YES, HE WAS.

25 Q. AND THAT WAS PRIOR TO ANY GUNSHOT RESIDUE KITS COMING

1 BACK.

2 A. THAT'S RIGHT.

3 Q. DURING THE COURSE OF TALKING TO PEOPLE OUT THERE AT THE
4 SCENE, WERE Y'ALL ALSO TRYING TO CANVASS THE AREA?

5 A. NOT THAT NIGHT. IT WAS RAINING PRETTY BAD.

6 Q. OKAY. EXPLAIN THAT -- WHAT TYPE OF AREA THIS WAS WHERE
7 THE CAR WAS FOUND AND WHAT THE RAIN WAS LIKE AT THAT POINT.

8 A. IT WAS RAINING PRETTY HEAVILY, PRETTY STEADILY BY THE
9 TIME MYSELF AND MY PARTNER GOT THERE. WE ARRIVED AT
10 DIFFERENT TIMES. I GOT THERE FIRST. THE AREA IS WOODED.
11 IT'S A LITTLE SUBDIVISION OF TRAILER-TYPE HOUSES, WOODS,
12 WOODED AREA AROUND IT AND ALL AROUND IT. ONE WAY IN, ONE WAY
13 OUT.

14 Q. AND HAD THEY ALREADY BY THE TIME YOU GOT THERE SET UP
15 KIND OF A PERSON TO STATION THE ONE WAY IN AND ONE WAY OUT ON
16 THE PAVED ROAD?

17 A. YOU MEAN THE OFFICERS?

18 Q. THE LEXINGTON COUNTY PEOPLE.

19 A. YEAH, THEY DID.

20 Q. WHILE YOU WERE THERE, DID YOU BECOME AWARE OF SOME
21 INFORMATION WHERE SOMEONE MAY HAVE BEEN SEEN ON A WOOD LINE?

22 A. YES, I DID.

23 Q. AND I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT NUMBER 58. WERE THE DOGS CALLED BACK OUT THEN AT
25 THAT POINT?

1 A. AFTER I GOT THE INFORMATION I REQUESTED, THE LEXINGTON
2 COUNTY DOGS WOULD BE BROUGHT BACK OUT, THE TRACKING DOGS.

3 Q. AND ON THIS CASE THIS IS THE PEELER ROAD AREA RIGHT
4 HERE?

5 A. RIGHT.

6 Q. AND THIS IS THE APPROXIMATE LOCATION OF WHERE THE
7 DEFENDANT WAS LIVING AT THE TIME?

8 A. THAT'S RIGHT.

9 Q. YOU DIDN'T KNOW THAT THAT NIGHT THOUGH.

10 A. I DIDN'T, NOT THAT NIGHT.

11 Q. AND APPROXIMATELY -- THERE'S A DIRT ROAD THAT GOES BACK
12 IN HERE. WHERE WAS THAT CAR FOUND APPROXIMATELY? CAN YOU
13 SEE?

14 A. THE CAR WOULD HAVE BEEN FOUND APPROXIMATELY---

15 Q. THIS IS LEADING IN?

16 A. ---BACK HERE SOMEWHERE.

17 Q. BACK IN HERE?

18 A. RIGHT. HE WENT DOWN THIS DIRT ROAD, AND IT WAS BACK IN
19 THAT AREA HERE OFF THE ROAD IN THE WOODS.

20 Q. AND COULD YOU SEE THE ACTUAL AREA WHERE THE CAR HAD BEEN
21 LEFT FROM THE ROAD?

22 A. NO, NOT FROM THE ROAD.

23 Q. AND, IN FACT, THAT WOULD BE IN THE WOOD LINE BEHIND
24 WHERE YOU ULTIMATELY FOUND OUT THE DEFENDANT IS LIVING.

25 A. RIGHT.

1 Q. BUT THAT NIGHT YOU HAD NO...

2 A. NO IDEA.

3 Q. WHEN THE DOGS WERE BROUGHT BACK OUT, DID THEY PICK UP
4 ANY SCENT?

5 A. I DON'T THINK THEY PICKED UP ANY SCENT. THE SUPERVISOR
6 OF THE DOG TRACKING TEAM THAT WAS OUT THAT NIGHT PRETTY MUCH
7 ASSURED ME THAT SOMEBODY HAD BEEN BACK IN THAT AREA. HE
8 BASED THAT -- THAT ON THE FACT THAT THERE WAS GRASS AND WEEDS
9 THAT WAS PRESSED DOWN, INDICATIVE OF SOMEBODY WALKING ON IT
10 LIKE THAT.

11 Q. AND WHEN WE'RE TALKING ABOUT THE WOOD LINE, ARE WE
12 TALKING ABOUT THE WOOD LINE BACK HERE?

13 A. THAT'S RIGHT.

14 Q. BUT THEY WEREN'T ABLE TO ACTUALLY TRACK ANYONE THAT
15 NIGHT.

16 A. NO.

17 Q. AND IS THAT UNUSUAL WHEN IT'S RAINING LIKE THAT?

18 A. I DON'T THINK SO; IT'S NOT.

19 Q. THE NEXT MORNING DID YOU HAVE A MEETING WITH
20 INVESTIGATORS TO BASICALLY TRY TO FOLLOW UP ON THIS CASE?

21 A. RIGHT. I HAD ALREADY ASSUMED THE ROLE OF LEAD
22 INVESTIGATOR IN THIS CASE.

23 Q. UH-HUH.

24 A. SO WE HAD A BRIEFING THE NEXT MORNING, AND I ISSUED OUT
25 THE ASSIGNMENTS.

1 Q. SUBSEQUENT TO THAT MEETING, DID YOU THEN GO TO THE
2 ACTUAL CRIME SCENE AT 1634 MAIN STREET?

3 A. RIGHT, MY PARTNER AND I.

4 Q. YOU AND INVESTIGATOR THOMAS?

5 A. RIGHT.

6 Q. AND THAT'S HERE IN RICHLAND COUNTY, IS IT NOT?

7 A. THAT'S RIGHT.

8 Q. AND WHEN YOU WENT TO THE SCENE, WHAT EXACTLY WERE YOU
9 TRYING TO BECOME FAMILIAR WITH?

10 A. IT'S OUR PRACTICE -- YOU KNOW, A LOT OF TIMES WE'RE AT
11 HOME WHEN WE'RE CALLED OUT BECAUSE OF A PARTICULAR CRIME. SO
12 WE DON'T ALWAYS IMMEDIATELY GO TO THE CRIME SCENE ITSELF.
13 SOMETIMES WE MAY HAVE TO GO TO THE HOSPITAL FOR WHATEVER
14 REASONS OR GO TO HEADQUARTERS, OUR OFFICE FOR WHATEVER
15 REASON. THIS PARTICULAR NIGHT WE DID NOT GET A CHANCE TO GO
16 TO THE CRIME SCENE WHEN WE FIRST RESPONDED. SO AS OUR
17 PRACTICE, WE'LL -- AS SOON AS WE GET THE CHANCE WE'LL GO TO
18 THE CRIME SCENE, POST-OBSERVATION KIND OF THING.

19 Q. AND AT THAT POINT THE CRIME SCENE HAD ALREADY BEEN
20 PROCESSED. PROJECTILE OR WHETHER -- BULLET JACKETS HAD BEEN
21 COLLECTED AND ALL THAT HAD BEEN COLLECTED AT THAT POINT.

22 A. THAT'S RIGHT.

23 Q. AFTER GOING TO THE CRIME SCENE AT 1634 MAIN STREET,
24 WHERE DID YOU PROCEED?

25 A. FROM THE CRIME SCENE WE WENT TO -- WE MET WITH LEXINGTON

1 COUNTY AND WE WENT BACK OUT TO THE AREA WHERE THE VEHICLE WAS
2 LOCATED.

3 Q. OKAY. LET ME BACK UP. PRIOR TO GOING TO LEXINGTON
4 COUNTY, DID YOU GO BY THE HOSPITAL AND ATTEMPT TO---

5 A. I'M SORRY. YEAH, WE DID GO TO THE BAPTIST HOSPITAL.

6 Q. AND WHAT WAS THE VICTIM'S CONDITION WHEN YOU GOT TO THE
7 BAPTIST HOSPITAL THAT MORNING?

8 A. HE WAS -- WE GOT A CHANCE TO TALK TO HIM, BUT HE WAS
9 PRETTY MUCH DRUGGED UP AND YOU COULD TELL BY ALL THE NEEDLES
10 AND I.V.'S AND STUFF AND ALL.

11 Q. WAS HE STILL ABLE TO GIVE YOU SOME INFORMATION?

12 A. YES.

13 Q. AND YOU CAN'T SAY EXACTLY WHAT HE SAID BUT WAS -- DID
14 YOU TAKE A WRITTEN STATEMENT FROM HIM AT THAT POINT?

15 A. NO, NOT A WRITTEN STATEMENT.

16 Q. WHY NOT?

17 A. WE TOOK NOTES BECAUSE A WRITTEN STATEMENT WOULD HAVE
18 REQUIRED HIM TO HAVE TO SIGN AND IT WOULD REQUIRE SOME -- A
19 MORE FORMAL KIND OF THING. THE BEST THING TO DO AT THAT
20 POINT IN TIME WOULD HAVE BEEN TO JUST TAKE NOTES DOWN OF WHAT
21 HE WAS TELLING US.

22 Q. AND WAS THAT BECAUSE OF HIS CONDITION AND THE DRUGS HE
23 WAS ON?

24 A. ABSOLUTELY.

25 Q. SO AFTER TAKING SOME INITIAL NOTES, DID YOU TERMINATE

1 THAT INTERVIEW PRIOR TO TAKING ANY WRITTEN STATEMENT?

2 A. YES, MA'AM.

3 Q. YOU SAID THEN YOU WENT AND MET WITH LEXINGTON COUNTY?

4 A. RIGHT.

5 Q. AND I BELIEVE THAT WAS WITH -- YOU MET WITH A SERGEANT
6 BLACK?

7 A. RIGHT.

8 Q. AND WHERE DID Y'ALL GO WITH LEXINGTON COUNTY?

9 A. WE -- ONCE WE GOT IN THE AREA WHERE THE CAR WAS FOUND,
10 WE WENT DOOR TO DOOR KNOCKING ON DOORS TO SEE IF WE CAN
11 LOCATE ANYBODY THAT MAY HAVE SOME INFORMATION TO TELL US.

12 Q. MAY HAVE SOME INFORMATION ABOUT THE TAHOE THAT WAS LEFT
13 IN THOSE WOODS THE NIGHT BEFORE?

14 A. RIGHT, OR SEEN ANYTHING THAT NIGHT.

15 Q. AND DURING THAT COURSE DID INVESTIGATOR THOMAS GO OVER
16 THE WOOD LINE TOWARDS WHERE THE CAR WAS FOUND?

17 A. RIGHT.

18 Q. AND YOU WEREN'T WITH HIM WHEN HE WENT DOWN TO THAT AREA,
19 WERE YOU?

20 A. I WAS CLOSE BY HIM, BUT I WASN'T EXACTLY WITH HIM, NO.

21 Q. OKAY. AND DID YOU NOTICE ANYTHING UNUSUAL WHEN HE WAS
22 WALKING BACK IN THAT AREA?

23 A. INVESTIGATOR THOMAS?

24 Q. UH-HUH.

25 A. I DIDN'T SEE WHAT HE SAW. HE JUST TOLD ME ABOUT IT---

1 Q. OKAY.

2 A. ---AFTERWARDS.

3 Q. BUT YOU WEREN'T THERE WHEN THAT HAPPENED.

4 A. NO.

5 Q. I WANT TO TURN YOUR ATTENTION TO THE NEXT DAY, JUNE THE
6 4TH OF 2006. DID YOU RECEIVE A CALL FROM THE RICHLAND COUNTY
7 SHERIFF'S DEPARTMENT THAT MORNING?

8 A. YES, I DID.

9 Q. AND WHAT WAS THE -- WHAT WERE THEY CALLING ABOUT?

10 A. THE SHERIFF'S DEPARTMENT?

11 Q. YES, SIR.

12 A. THEY HAD A COUPLE OF FEMALES OVER THERE THAT APPARENTLY
13 THEY THOUGHT THEY WERE IN THE RIGHT LOCATION AND WANTED TO
14 TALK TO INVESTIGATORS ABOUT THIS CASE.

15 Q. SO THE SHERIFF'S DEPARTMENT -- THE TWO FEMALES -- AND
16 WHAT WERE THEIR NAMES?

17 A. WHEN WE WENT TO TALK TO THEM, THEY IDENTIFIED THEMSELVES
18 AS IRENA FULLER---

19 Q. UH-HUH.

20 A. ---AND SHERRY BOLIN.

21 Q. DID THEY INDICATE WHERE THEY LIVED?

22 A. YES, THEY DID.

23 Q. AND WHERE WAS THAT?

24 A. GIVE THE ADDRESS?

25 Q. YES.

- 1 A. THEY LIVED AT [REDACTED] PEELER ROAD IN LEXINGTON.
- 2 Q. [REDACTED] PEELER ROAD?
- 3 A. THAT'S RIGHT.
- 4 Q. AND, AGAIN, IS THIS THE 200 BLOCK OF PEELER ROAD?
- 5 A. YES, IT IS.
- 6 Q. AND IF [REDACTED] IS OVER HERE, WHERE WOULD BE?
- 7 A. IT WOULD BE ACROSS THE STREET.
- 8 Q. RIGHT HERE?
- 9 A. THAT'S RIGHT.
- 10 Q. NOT IN THE WOOD LINE -- IN THE WOODS RIGHT HERE BUT
- 11 ACROSS THE STREET.
- 12 A. NO, ACROSS THE STREET FROM IT.
- 13 Q. AND DID THEY INDICATE WHETHER OR NOT THEY HAD
- 14 INFORMATION ABOUT THE SHOOTING THAT HAD TAKEN PLACE IN
- 15 DOWNTOWN COLUMBIA?
- 16 A. YES, THEY DID.
- 17 Q. WERE THEY TAKEN TO THE COLUMBIA POLICE DEPARTMENT AND
- 18 INTERVIEWED?
- 19 A. YES, THEY WERE.
- 20 Q. AND AS A RESULT OF THAT INTERVIEW, DID YOU DEVELOP A
- 21 SUSPECT IN THIS CASE?
- 22 A. YES, I DID.
- 23 Q. AND WHO WAS THAT?
- 24 A. ERIC MANCE.
- 25 Q. SPECIFICALLY, DID -- AS A RESULT OF TALKING TO IRENA AND

1 SHERRY, DID YOU SEEK TO TALK TO A FAMILY MEMBER OF ERIC
2 MANCE?

3 A. YES, WE DID.

4 Q. AND WHO WAS THAT?

5 A. HIS STEPDAUGHTER.

6 Q. HIS STEPDAUGHTER.

7 A. RIGHT.

8 Q. AND HOW OLD WAS SHE AT THE TIME?

9 A. FIFTEEN.

10 Q. AND THE INFORMATION THAT IRENA AND SHERRY WERE ABLE TO
11 SHARE WITH YOU, WHERE HAD THEY GOTTEN THAT INFORMATION?

12 A. THEY HAD GOTTEN THAT INFORMATION FROM THE 15-YEAR-OLD
13 DAUGHTER.

14 Q. THE 15-YEAR-OLD STEPDAUGHTER?

15 A. THAT'S RIGHT.

16 Q. SO AT THAT POINT, AS PART OF YOUR INVESTIGATION DID YOU
17 WANT TO INTERVIEW THE 15-YEAR-OLD STEPDAUGHTER?

18 A. ABSOLUTELY.

19 Q. AND, AGAIN, THIS IS ON JUNE THE 4TH OF 2006; CORRECT?

20 A. THAT'S RIGHT.

21 Q. THE INTERVIEW TOOK PLACE IN THE DAYTIME. LATER THAT
22 EVENING WERE YOU ABLE TO MAKE CONTACT WITH THE 15-YEAR-OLD
23 STEPDAUGHTER OF ERIC MANCE?

24 A. YES.

25 Q. WHERE DID THAT CONTACT TAKE PLACE?

- 1 A. WE MET WITH HER AT [REDACTED] PEELER ROAD.
- 2 Q. AND WHOSE RESIDENCE WAS THAT AGAIN?
- 3 A. THAT WAS MS. FULLER AND MS. BOLIN'S RESIDENCE.
- 4 Q. OKAY.
- 5 A. THEY LIVED TOGETHER.
- 6 Q. WHAT WAS THE RELATIONSHIP BETWEEN MS. FULLER AND MS.
- 7 BOLIN AND WHAT WAS THE 15-YEAR-OLD'S NAME?
- 8 A. BARBARA W [REDACTED]
- 9 Q. BARBARA W [REDACTED]?
- 10 A. THAT'S RIGHT.
- 11 Q. AND YOU MADE CONTACT WITH HER OUT AT PEELER ROAD AT THE
- 12 FULLER AND BOLIN RESIDENCE; IS THAT RIGHT?
- 13 A. RIGHT. RIGHT.
- 14 Q. AND AT THAT POINT DID YOU INTERVIEW HER?
- 15 A. YES, WE DID.
- 16 Q. AND WITHOUT GOING INTO EXACTLY WHAT SHE TOLD YOU, WAS
- 17 SHE ABLE TO GIVE YOU INFORMATION?
- 18 A. YES.
- 19 Q. DID YOU REDUCE THAT INFORMATION TO WRITING?
- 20 A. ONLY IN NOTES, CASE NOTES. NOT A STATEMENT.
- 21 Q. WHY DIDN'T YOU TAKE A STATEMENT FROM 15-YEAR-OLD BARBARA
- 22 W [REDACTED]?
- 23 A. WHEN SHE TALKED TO US, SHE WAS -- IT WAS CLEAR AND TO
- 24 SEE -- SHE ALSO TOLD US SHE WAS VERY CONCERNED ABOUT HER
- 25 SAFETY. SHE DIDN'T WANT TO GET INVOLVED ANY MORE THAN WHAT

1 SHE WAS ALREADY, BUT SHE WAS CONCERNED ABOUT HER SAFETY.

2 Q. AFTER INTERVIEWING IRENA, SHERRY, AND BARBARA W [REDACTED] AT
3 THAT POINT DID YOU STILL HAVE THE SAME SUSPECT?

4 A. YES, WE STILL HAD THE SAME SUSPECT.

5 Q. BUT YOU HAD MORE INFORMATION.

6 A. YES, MA'AM.

7 Q. YOU CAN'T GO INTO WHAT SHE SAID BECAUSE IT'S HEARSAY.

8 A. RIGHT.

9 Q. AND, AGAIN, YOU DIDN'T TAKE A WRITTEN STATEMENT FROM HER
10 BECAUSE OF SAFETY ISSUES.

11 A. RIGHT.

12 Q. AS A RESULT OF THE TALKING TO BARBARA W [REDACTED], THE 15-
13 YEAR-OLD STEPDAUGHTER OF ERIC MANCE, DID YOU MAKE CONTACT
14 WITH ANOTHER FAMILY MEMBER OF ERIC MANCE'S?

15 A. YES, WE DID.

16 Q. AND WHO WAS THAT?

17 A. THAT WOULD HAVE BEEN LETICIA GILMORE.

18 Q. AND WHAT WAS HER RELATIONSHIP TO ERIC MANCE?

19 A. SHE WOULD BE HIS SISTER-IN-LAW.

20 Q. FOR THE RECORD -- LET ME BACK UP. WHEN YOU INTERVIEWED
21 BARBARA W [REDACTED] AT THAT POINT, ALTHOUGH SHE WAS SCARED WAS SHE
22 COOPERATIVE AT THAT POINT?

23 A. SHE WAS VERY COOPERATIVE.

24 Q. WHEN YOU MADE CONTACT THE NEXT MORNING WITH LETICIA
25 GILMORE, WAS SHE COOPERATIVE AT THAT POINT?

1 A. THE ONLY WAY TO DESCRIBE IT---

2 MR. TARR: YOUR HONOR, MAY WE APPROACH BRIEFLY?

3 THE COURT: ALL RIGHT.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

5 MS. CAMPBELL: THANK YOU, SIR.

6 BY MS. CAMPBELL:

7 Q. AND THAT MORNING WAS LETICIA GILMORE ACTUALLY
8 INTERVIEWED BY SOMEONE WITH THE COLUMBIA POLICE DEPARTMENT?

9 A. YES, SHE WAS.

10 Q. YOU CAN'T GO INTO WHAT SHE SAID, BUT WHO INTERVIEWED
11 HER?

12 A. ARE YOU TALKING ABOUT AT HER RESIDENCE OR AT THE POLICE
13 DEPARTMENT?

14 Q. DID SHE ACTUALLY COME DOWN TO THE POLICE DEPARTMENT THAT
15 MORNING?

16 A. YES.

17 Q. AND SO YOU INTERVIEWED HER INITIALLY AT HER RESIDENCE
18 AND THEN AT THE POLICE DEPARTMENT?

19 A. RIGHT.

20 Q. AND WHO WAS ACTUALLY DOING THAT INTERVIEW THAT MORNING?

21 A. AT HER RESIDENCE THOMAS AND I BOTH TALKED TO HER. AT
22 OUR OFFICE SHE WOULD HAVE BEEN INTERVIEWED BY INVESTIGATOR
23 THOMAS.

24 Q. SO AT THIS POINT YOU HAD MADE CONTACT WITH BARBARA
25 W. [REDACTED] HIS STEPDAUGHTER?

1 A. THE STEPDAUGHTER, RIGHT.

2 Q. AND THEN LETICIA GILMORE, HIS SISTER-IN-LAW?

3 A. THAT'S RIGHT.

4 Q. THAT WOULD BE HIS WIFE'S SISTER?

5 A. HIS WIFE'S SISTER.

6 Q. DURING THE INTERVIEW THAT WAS ACTUALLY TAKING PLACE --
7 AND YOU CAN'T TALK ABOUT WHAT SHE SAID TO YOU. BUT DURING
8 THAT INTERVIEW THAT MORNING DID YOU -- HOW DID YOU COME IN
9 CONTACT WITH ODESSA MANCE AND ERIC MANCE? EXPLAIN TO THE
10 JURY HOW THAT HAPPENED.

11 A. WHILE WE WERE INTERVIEWING LETICIA, ERIC MANCE AND HIS
12 WIFE, ODESSA, CAME TO THE POLICE HEADQUARTERS WHEN THEY
13 CALLED US FROM DOWN -- OUR OFFICE IS UP ON THE SECOND FLOOR.
14 WHEN THEY CALLED US FROM DOWNSTAIRS, THEY SAID HE WAS THERE
15 AND HE WANTED TO FIND OUT WHAT THE POLICE WANTED TO TALK WITH
16 HIM ABOUT.

17 Q. SO AT THAT POINT HE CAME DOWN WITH HIS WIFE TO THE
18 COLUMBIA POLICE DEPARTMENT.

19 A. RIGHT.

20 Q. ON WHAT ROAD ARE Y'ALL? ON WASHINGTON?

21 A. WASHINGTON STREET.

22 Q. AND AT THAT POINT YOU'RE IN THE MIDST OF INTERVIEWING
23 LETICIA.

24 A. I THINK BY THAT TIME WE WERE -- THOMAS HAD ALREADY
25 FINISHED IT. I HAD BEEN APPRISED OF THE INFORMATION THAT WE

1 HAD GOTTEN FROM HER, AND I HAD PREPARED THE AFFIDAVIT FOR
2 ARREST WARRANTS.

3 Q. OKAY. SO AT THAT POINT YOU WERE ACTUALLY PREPARING THE
4 AFFIDAVITS FOR ARREST WARRANTS?

5 A. ALREADY HAD THEM PREPARED. SENT THEM OVER TO OUR
6 WARRANT DIVISION TO BE TYPED UP. THEY WERE JUST THERE
7 WAITING FOR HIM.

8 Q. SO THAT MORNING, PRIOR TO YOU MAKING CONTACT WITH THE
9 DEFENDANT, YOU HAD ALREADY MADE THE REQUEST AND/OR THE
10 WARRANTS HAD BEEN SIGNED OFF BY A JUDGE?

11 A. RIGHT. WELL, NOT SIGNED OFF JUST YET. WE HAD ALREADY
12 GOT ENOUGH WHAT'S CALLED PROBABLE CAUSE AND WE CLEARED IT
13 WITH THE SOLICITOR'S OFFICE TO SECURE ARREST WARRANTS. I HAD
14 TYPED UP MY AFFIDAVIT. THE PROCESS IS: AFTER ALL THAT'S
15 DONE, I TYPE UP MY AFFIDAVIT, SEND -- FAX IT OVER TO OUR
16 WARRANT DIVISION. THEY TYPE UP THE WARRANT, AND ALL I'VE GOT
17 TO DO IS GO OVER AND SIGN IT BECAUSE THEY CAN SIGN IT IN THE
18 PLACE OF JUDGES.

19 Q. AND THAT WAS DONE DURING THE COURSE OF THE DAY?

20 A. RIGHT.

21 Q. OKAY. DID YOU MAKE CONTACT WITH ERIC MANCE AFTER HE
22 CAME TO THE POLICE STATION?

23 A. YES, I DID.

24 Q. AND DID INVESTIGATOR THOMAS MAKE CONTACT WITH ODESSA
25 MANCE, HIS WIFE?

1 A. YES.

2 Q. AND WHAT HAPPENED ONCE Y'ALL MADE CONTACT WITH THE TWO
3 OF THEM?

4 A. WE IMMEDIATELY SEPARATED THEM. WE TOOK MS. MANCE,
5 ODESSA, TO ONE INTERVIEW ROOM AND ERIC TO ANOTHER INTERVIEW
6 ROOM.

7 Q. AND IS THAT UNUSUAL?

8 A. NO, IT'S NOT UNUSUAL.

9 Q. AND WHAT WAS THE PURPOSE OF YOU TAKING MRS. MANCE TO ONE
10 INTERVIEW ROOM?

11 A. BECAUSE WE NEEDED TO INTERVIEW HER TO SEE IF SHE HAD ANY
12 INFORMATION THAT WAS GERMANE TO WHAT WAS GOING ON.

13 Q. OKAY. AND AT THAT POINT YOU WERE WITH ERIC MANCE?

14 A. RIGHT.

15 Q. AND DID YOU IMMEDIATELY ADVISE HIM OF HIS RIGHTS OR WAS
16 THAT OR -- OR WAS THERE SOME TIME IN BETWEEN?

17 A. YOU MEAN AT THE TIME HE GOT INTO THE ROOM? DID I JUST
18 JUMP RIGHT IN?

19 Q. UH-HUH.

20 A. NO. I HAD TO FIND SOMEBODY TO WITNESS THE ADVISEMENT OF
21 RIGHTS.

22 Q. AND YOU WERE STILL DEALING WITH THE WARRANTS AND ALL THE
23 OTHER PAPERWORK AS WELL; IS THAT CORRECT?

24 A. YEAH, I WAS STILL DEALING WITH THE PAPERWORK.

25 Q. OKAY. BUT AT THAT POINT WAS HE IN CUSTODY FOR ALL...

1 A. FOR ALL PRACTICAL PURPOSES HE WAS. HE WASN'T IN CUFFS
2 OR ANYTHING LIKE BUT---

3 Q. YOU HADN'T PUT HIM IN CUFFS?

4 A. NO.

5 Q. AND AT THAT POINT YOU HAD NOT FORMALLY ARRESTED HIM.

6 A. NO.

7 Q. BUT THE WARRANTS HAD ALREADY BEEN AUTHORIZED.

8 A. RIGHT.

9 Q. DID INVESTIGATOR THOMAS THAT MORNING TAKE A STATEMENT
10 FROM ODESSA MANCE?

11 A. YES, HE DID.

12 Q. AND PRIOR TO INTERVIEWING ERIC MANCE, DID YOU ALL THINK
13 IT WAS IMPORTANT TO GET WHAT INFORMATION YOU COULD FROM
14 ODESSA MANCE PRIOR TO INTERVIEWING HIM?

15 A. RIGHT.

16 Q. AND WAS THAT DONE?

17 A. THAT WAS DONE.

18 Q. SO YOU WERE EVEN WAITING TO GET THE INFORMATION FROM
19 ODESSA MANCE BEFORE INTERVIEWING HIM.

20 A. ANYTHING TO AUGMENT THE CASE, YES.

21 Q. AND AT THAT POINT WAS MRS. MANCE COOPERATIVE?

22 A. YES, SHE WAS.

23 Q. AROUND 2:00 WAS INVESTIGATOR THOMAS WRAPPING UP HIS
24 INTERVIEW WITH MRS. MANCE?

25 A. YES.

1 Q. AND SO AT THAT POINT YOU SAID YOU NEEDED TO GET SOMEONE
2 TO WITNESS THE ADVICE OF RIGHTS SO YOU COULD GO AHEAD AND GET
3 THAT DONE?

4 A. YES.

5 Q. AND WHO DID YOU ASK TO ASSIST YOU IN THAT?

6 A. THAT WOULD HAVE BEEN INVESTIGATOR SLOAN.

7 Q. AND TELL THE JURY: WHY IS IT IMPORTANT FOR YOU TO HAVE
8 MORE THAN ONE PERSON THERE WHEN YOU'RE ADVISING SOMEONE OF
9 HIS RIGHTS?

10 A. OBVIOUSLY FOR -- SO THAT THERE WOULD BE A WITNESS OTHER
11 THAN YOURSELF THAT THE RIGHTS WERE ADVISED AND THAT THEY WERE
12 DONE PROPERLY.

13 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AT THIS POINT
14 FOR I.D. PURPOSES AS STATE'S EXHIBIT NUMBER 1. DO YOU
15 RECOGNIZE THAT?

16 A. YES, I DO.

17 Q. AND IS THAT THE ACTUAL ADVICE OF RIGHTS FORM THAT YOU
18 USED WITH ERIC MANCE THAT DAY?

19 A. YES, THAT IS.

20 Q. AND IS THE DATE AT THE TOP OF THAT?

21 A. THE DATE? YES.

22 Q. AND WHAT'S THE DATE ON THAT?

23 A. THE DATE IS JUNE THE 5TH, 2006.

24 Q. AND WHAT TIME WAS IT APPROXIMATELY THAT YOU STARTED
25 GIVING HIM HIS RIGHTS?

1 A. 2:17 P.M.

2 Q. TELL THIS JURY: IS IT IMPORTANT TO TELL THE
3 DEFENDANT HIS RIGHTS -- ARE THEY REFERRED TO AS MIRANDA
4 RIGHTS?

5 A. RIGHT.

6 Q. AND IS IT IMPORTANT TO ADVISE A DEFENDANT OF HIS RIGHTS
7 PRIOR TO DOING ANY QUESTIONING?

8 A. YES, IT IS.

9 Q. AND DID YOU DO THAT IN THIS CASE?

10 A. YES, I DID.

11 Q. AND CAN YOU GO THROUGH WITH THIS JURY EXACTLY HOW YOU
12 ADVISED HIM OF HIS RIGHTS THAT DAY AND HAD HIM ACKNOWLEDGE
13 THAT HE UNDERSTOOD HIS RIGHTS?

14 A. CERTAINLY. THIS FORM HERE IS -- IT'S WHAT IT SAYS.
15 IT'S AN INTERROGATION AND ADVICE OF RIGHTS FORM. BEFORE WE
16 INTERVIEW ANYBODY, IF THEY'RE IN CUSTODY, WE'RE OBLIGATED AND
17 WE'RE REQUIRED TO READ THEIR RIGHTS FROM THIS FORM, AND THAT
18 IS EXACTLY WHAT I DID - READ IT TO HIM.

19 Q. JUST READ IT EXACTLY AS YOU DID IT THEN.

20 A. ALL RIGHT. I'M GOING TO READ IT TO YOU. THE WAY THAT I
21 DID IT -- AND IT STARTS OUT BY SIMPLY SAYING, "BEFORE WE ASK
22 YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS." THE
23 FIRST RIGHT IS YOU HAVE THE RIGHT TO REMAIN SILENT. THAT
24 MEANS YOU DON'T EVEN HAVE TO TALK TO US IF YOU DON'T WANT TO.

25 WHEN I -- GENERALLY WHEN I READ A RIGHT TO A PERSON, I

1 WILL ASK THEM IF THEY UNDERSTAND THAT. IF THEY TELL ME THEY
2 DON'T UNDERSTAND IT, THEN I WILL DO MY BEST TO EXPLAIN IT TO
3 THEM WHERE THEY DO UNDERSTAND IT. IN THIS CASE I READ THE
4 RIGHT TO HIM. I ASKED HIM IF HE UNDERSTOOD IT. HE SAID,
5 "YES." AND YOU CAN ALWAYS TELL MY CHECKS BECAUSE MY CHECKS
6 ARE ALWAYS BACKWARDS. I CHECK OFF THE RIGHT AS I READ IT,
7 AND I ASK THE INDIVIDUAL, "IF YOU UNDERSTAND THE RIGHT THAT I
8 HAVE READ TO YOU, INITIAL IT." I DON'T WAIT UNTIL THE WHOLE
9 THING IS DONE. DO YOU UNDERSTAND THE RIGHT? I TURN THE
10 PAPER AROUND AND LET THEM INITIAL IT, AND THIS IS WHAT HE DID
11 ON THAT RIGHT.

12 THE NEXT RIGHT IS: ANYTHING YOU SAY CAN BE USED AGAINST
13 YOU IN COURT. SAME PROCESS. I CHECKED OFF. HE INITIALED IT
14 INDICATING THAT HE UNDERSTOOD. YOU HAVE A RIGHT TO TALK TO A
15 LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE
16 HIM WITH YOU DURING QUESTIONING. SAME PROCESS. I CHECKED IT
17 OFF. HE INITIALED IT.

18 IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED TO
19 YOU BEFORE QUESTIONING IF YOU WISH. SAME PROCESS. I
20 CHECKED; HE INITIALED IT. IF YOU DECIDE TO ANSWER QUESTIONS
21 NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT
22 TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU ALSO HAVE THE
23 RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME UNTIL YOU TALK
24 TO A LAWYER. THE SAME PROCESS: I CHECKED IT OFF; HE
25 INITIALED IT.

1 I DON'T DEVIATE FROM THIS SHEET. I DON'T KNOW OF ANY
2 INVESTIGATORS THAT DOES, AND THE REASON FOR THAT IS IF IT
3 COMES UP IN COURT LATER ON, YOU WANT TO KNOW EXACTLY HOW I
4 DID IT AND WHAT I DID. WE'LL BE BETTER ABLE TO EXPLAIN IT
5 RATHER THAN TRYING TO GO FROM MEMORY WHAT THEY SAID AND HOW
6 WE SAID IT.

7 Q. AND AT ANY TIME DID MR. MANCE IN THIS CASE INDICATE HE
8 DID NOT UNDERSTAND ANY RIGHTS?

9 A. HE INDICATED JUST THE REVERSE, THAT HE DID UNDERSTAND
10 THEM.

11 Q. AND, IN FACT, IF HE TOLD YOU HE DIDN'T UNDERSTAND IT,
12 YOU WOULD HAVE NOTED IT?

13 A. RIGHT.

14 Q. AND HE UNDERSTOOD OR ACKNOWLEDGED EACH OF THE RIGHTS AS
15 YOU WENT THROUGH THEM?

16 A. RIGHT.

17 Q. AND HE INITIALED THAT HE ACKNOWLEDGED THOSE. IS THAT
18 CORRECT?

19 A. THAT'S RIGHT.

20 Q. AND DOWN AT THE BOTTOM OF THAT PAGE IS A SECTION CALLED
21 THE WAIVER OF RIGHTS. WHAT IS THAT -- WHAT DOES THAT DO?

22 A. THAT GIVES HIM A CHANCE -- NORMALLY WHAT I LIKE TO DO IS
23 LET A SUSPECT READ THAT SO I CAN TEST HIS -- GAUGE HIS LEVEL
24 OF COMPREHENSION IN READING OR SOMETIMES I WOULD READ IT TO
25 HIM MYSELF AND I'LL READ IT TO YOU. THE WAIVER OF RIGHTS

1 SAYS, "I HAVE READ THIS STATEMENT OF MY RIGHTS AND I
2 UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A
3 STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT
4 THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO
5 PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE OR
6 COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

7 Q. AND---

8 A. I READ THOSE -- I READ THAT WAIVER TO HIM.

9 Q. YOU READ THAT TO HIM?

10 A. YES.

11 Q. AND AT THAT POINT DID HE INDICATE WHETHER OR NOT HE
12 WANTED TO TALK TO YOU?

13 A. YEAH. BY SIGNING IS AN INDICATION THAT YOU WANT TO TALK
14 TO ME. I CAN'T EXPLAIN TO YOU WHY I DON'T HAVE THAT CHECKED
15 OFF OR HE INITIALED IT, BUT THIS WOULD NOT HAVE BEEN A CASE
16 WHEN I WOULD NOT READ THIS TO HIM OR HIM READING---

17 Q. HE WOULD HAVE READ IT HIMSELF.

18 A. ---IT HIMSELF. RIGHT.

19 Q. AND IN THIS CASE HE DID SIGN OFF AT THE BOTTOM?

20 A. YEAH, HE SIGNED THIS---

21 Q. AND WHO---

22 A. ---WITH HIS NAME ON IT.

23 Q. AND WHO WAS THERE WHEN HE SIGNED OFF ON IT?

24 A. MYSELF AND INVESTIGATOR SLOAN.

25 Q. AND ARE YOUR SIGNATURES ALSO WITNESSING THAT SIGNATURE?

1 A. RIGHT.

2 Q. AND THAT'S THE ACTUAL ORIGINAL THAT YOU USED WITH ERIC
3 MANCE BACK ON JUNE THE 5TH. IS THAT CORRECT?

4 A. THAT'S RIGHT.

5 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD OFFER
6 STATE'S EXHIBIT NUMBER 1 INTO EVIDENCE.

7 MR. TARR: NO OBJECTION.

8 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

9 (STATE'S EXHIBIT 1 WAS RECEIVED IN EVIDENCE.)

10 BY MS. CAMPBELL:

11 Q. ONCE HE HAD BEEN ADVISED OF HIS RIGHTS, DID INVESTIGATOR
12 SLOAN STAY IN THE ROOM WITH YOU OR DID HE LEAVE?

13 A. HE STAYED A FEW SECONDS, A FEW MOMENTS, AND THEN BY THAT
14 TIME INVESTIGATOR THOMAS ARRIVED.

15 Q. AFTER ADVISING HIM OF HIS RIGHTS AND HE ACKNOWLEDGED
16 THAT HE WANTED TO TALK TO YOU, DID YOU PROMISE HIM ANYTHING
17 TO MAKE HIM TALK TO YOU?

18 A. NO.

19 Q. DID YOU PRESSURE HIM IN ANY WAY?

20 A. NO.

21 Q. DID YOU USE ANY COERCION?

22 A. NO.

23 Q. PHYSICAL FORCE?

24 A. NO, MA'AM.

25 Q. DID YOU DEPRIVE HIM OF ANY CREATURE COMFORTS TO MAKE HIM

1 TALK TO YOU?

2 A. NO, I DID NOT.

3 Q. AND, IN FACT, IN YOUR YEARS OF LAW ENFORCEMENT, WAS HE
4 TALKING TO YOU FREELY AND VOLUNTARILY AT THAT POINT?

5 A. YES, HE WAS.

6 Q. DID INVESTIGATOR THOMAS RETURN TO THE INTERVIEW ROOM
7 WHERE YOU WERE TALKING TO MR. MANCE?

8 A. YES.

9 Q. AND THAT WAS PRIOR TO ANY QUESTIONING ACTUALLY GOING ON?

10 A. RIGHT.

11 Q. SO AT THIS POINT YOU HAVE ADVISED HIM OF HIS RIGHTS.
12 HE'S BEEN AT THE POLICE DEPARTMENT FOR A LITTLE WHILE, BUT
13 YOU STILL HAVEN'T QUESTIONED HIM OF ANY SPECIFICS ABOUT THE
14 CASE. IS THAT CORRECT?

15 A. THAT'S RIGHT.

16 Q. BUT ONCE INVESTIGATOR THOMAS CAME BACK IN -- AND IT'S
17 CUSTOMARY WHEN TWO OF YOU ARE WORKING A CASE THAT YOU MIGHT
18 BOTH TALK TO THE DEFENDANT?

19 A. YEAH, THAT'S WHAT WE DO. WE DON'T INTERVIEW IN THIS --
20 PARTICULARLY IN CASES LIKE THIS WE GO TWO ON ONE IN
21 INTERVIEWS.

22 Q. OKAY. AND IN THIS CASE WHEN INVESTIGATOR THOMAS GOT
23 THERE, DID HE PROMISE HIM ANYTHING?

24 A. NO, HE DIDN'T.

25 Q. DID HE FORCE HIM TO TALK TO HIM?

1 A. NO, HE DIDN'T.

2 Q. DID HE DO ANYTHING IMPROPER?

3 A. NO, NOTHING IMPROPER.

4 Q. DID YOU START ASKING HIM ABOUT THE TRUCK?

5 A. YES, I DID.

6 Q. AND SPECIFICALLY WHEN YOU TAKE A STATEMENT INITIALLY, DO
7 YOU JUST GET SOME INFORMATION FIRST ORALLY AND THEN MAYBE
8 REDUCE IT TO WRITING AFTERWARDS?

9 A. RIGHT.

10 Q. AND IN THIS CASE DID YOU START AN INITIAL CONVERSATION
11 ABOUT THE TRUCK THAT WAS FOUND BEHIND HIS HOUSE?

12 A. YES, WE DID.

13 Q. AND WHAT INFORMATION WAS HE GIVING YOU INITIALLY IN THIS
14 CASE?

15 A. INITIALLY HE SAID THAT HE SAW THE TRUCK IN THE BACK OF
16 HIS HOUSE, AND HE SAID HE WENT INTO IT -- WENT INSIDE THE
17 TRUCK AFTER HE SAW IT.

18 Q. HE SAID HE SAW THE TRUCK IN THE BACK OF HIS HOUSE AND
19 THAT HE WENT INTO THE TRUCK AFTER HE SAW IT?

20 A. YEAH.

21 Q. AND DID HE SAY ANYTHING ELSE ABOUT THE TRUCK?

22 A. HE SAID THAT INSIDE THE TRUCK HE SAW A BRIEFCASE --
23 BRIEFCASES, BUT HE SAID HE DIDN'T BOTHER ANYTHING.

24 Q. AND AT THAT POINT WAS HE ADMITTING TO YOU THAT HE HAD
25 SHOT AND ROBBED THE VICTIM IN THE CASE?

1 A. NO, NOT AT THAT POINT.

2 Q. AND, IN FACT, ALL -- WHAT WAS HE TELLING YOU HE HAD
3 DONE, ALL HE HAD DONE?

4 A. THAT -- THAT -- WHAT I JUST SAID IS ALL HE SAID HE HAD
5 DONE UNTIL I CHALLENGED HIM ON IT A LITTLE.

6 Q. AND WHEN YOU SAY YOU CHALLENGED HIM ON IT A LITTLE, HOW
7 DID THAT GO, SIR?

8 A. I BELIEVE AT THIS POINT I TOLD HIM THAT WE KNEW HE HAD
9 BEEN IN THE DOWNTOWN AREA---

10 Q. DID YOU SAY---

11 A. ---WHERE THE TRUCK WAS STOLEN FROM..

12 Q. DID YOU TELL HIM HOW YOU KNEW THAT?

13 A. I DON'T THINK I TOLD HIM EXACTLY HOW I KNEW IT.

14 Q. WAS HE AWARE AT THAT POINT THAT YOU HAD TALKED TO
15 BARBARA, ODESSA - HIS WIFE, AND HIS SISTER-IN-LAW.

16 A. I DON'T THINK HE HAD A CLUE.

17 Q. WELL, HE WAS AWARE ENOUGH THAT HE KNEW YOU ALL WERE
18 LOOKING FOR HIM BECAUSE HE CAME DOWNTOWN.

19 A. WELL, HE WASN'T MADE AWARE OF THAT FROM US. FROM THEM,
20 HIS FAMILY, I THINK---

21 Q. FROM HIS FAMILY.

22 A. RIGHT.

23 Q. OKAY. AND WHEN YOU SAID YOU CHALLENGED HIM, YOU SAID
24 YOU KNEW HE HAD BEEN DOWNTOWN?

25 A. RIGHT.

1 Q. AND AT THAT POINT DID HE START EXPLAINING TO YOU WHY HE
2 WAS DOWNTOWN?

3 A. HE WENT -- YEAH, HE DID.

4 Q. AND WHAT EXACTLY DID HE SAY TO YOU?

5 A. HE SAID HE HAD BEEN DOWNTOWN IN THE AREA OF THE SHOOTING
6 EARLIER IN THE DAY. HE SAID HE HAD BEEN TO KING'S BARBER-
7 SHOP, AND KING'S BARBERSHOP WAS ON TAYLOR STREET AT THE TIME.
8 HE SAID HE HAD BEEN THERE. HE SAID HE HAD GOTTEN A SHAVE OR
9 SOMETHING.

10 Q. HE HAD GOTTEN A SHAVE?

11 A. YES, MA'AM.

12 Q. AT THAT POINT DID HIS DEemeanOR CHANGE?

13 A. YEAH. HE BECAME A BIT UPSET AND SAID HE...

14 Q. WHEN HE SAID HE HAD BEEN IN THE AREA OF THE SHOOTING,
15 THOSE WERE HIS WORDS?

16 A. I COULD HAVE BEEN PARAPHRASING IT, BUT HE DID PUT
17 HIMSELF IN THAT AREA AND HE ALSO PUT HIMSELF IN THE BACK OF
18 THAT -- IN THE AREA WHERE THE SHOOTING OCCURRED.

19 Q. AND AT THAT POINT HAD YOU TOLD HIM WHAT AREA THE
20 SHOOTING HAD OCCURRED?

21 A. I THINK HE -- NO. HE WAS SAYING THAT HE HAD BEEN IN
22 THE -- I THINK HE WAS TRYING TO DESCRIBE -- YOU HAVE TO KNOW
23 THE RELATIONSHIP, THE AREA THAT KING'S BARBERSHOP IS IN IN
24 RESPECT TO THE AREA THAT THE SHOOTING HAPPENED IN. AND HE
25 WAS PUTTING HIMSELF IN THAT GENERALIZED AREA, BUT THERE WAS

1 NO QUESTION IN THE WAY HE WAS TRYING TO EXPLAIN IT TO ME THAT
2 I KNEW WHAT HE WAS SAYING.

3 Q. AND THAT WOULD BE THE AREA WHERE THE ACTUAL SHOOTING
4 TOOK PLACE.

5 A. RIGHT.

6 Q. YOU MENTIONED THAT AFTER HE STARTED EXPLAINING HOW HE
7 WAS DOWNTOWN GETTING A SHAVE AT A BARBERSHOP THAT HIS
8 DEMEANOR CHANGED?

9 A. RIGHT. HE GOT A BIT UPSET AND...

10 Q. AND THEN WHAT DID HE SAY?

11 A. HE SAID HE DIDN'T WANT TO TALK ANYMORE.

12 Q. AND AT THAT POINT WHAT DID YOU DO?

13 A. WHEN HE SAID HE DIDN'T WANT TO TALK ANYMORE TO US, THAT
14 MEANS I'M EXERCISING MY RIGHT TO REMAIN SILENT, NOT TO SAY
15 ANYTHING. WE TERMINATED THE INTERVIEW IMMEDIATELY.

16 Q. DID YOU CONTINUE TO WORK ON THE PAPERWORK?

17 A. YES, I DID.

18 Q. AND WHAT WAS ONE OF THE THINGS THAT YOU NEEDED TO DO
19 THAT DAY AS FAR AS MR. MANCE WAS CONCERNED?

20 A. MY BOOKING REPORT, SERVE THE WARRANTS ON HIM, THOSE KIND
21 OF THINGS.

22 Q. AND WERE THE WARRANTS ACTUALLY SIGNED OFF BY A
23 MAGISTRATE OR A CITY JUDGE THAT DAY?

24 A. YES, IT WAS.

25 Q. AND DID YOU ACTUALLY GO AND RETRIEVE THE WARRANTS

1 THEMSELVES?

2 A. I LEFT THE INTERVIEW ROOM AND PICKED THE WARRANTS UP AND
3 BROUGHT THEM BACK.

4 Q. AND WHO WAS ACTUALLY SERVING THE WARRANTS ON MR. MANCE
5 THAT DAY?

6 A. THAT WOULD HAVE BEEN INVESTIGATOR THOMAS.

7 Q. AND WHEN HE WAS SERVING THE WARRANTS, TELL THE JURY HOW
8 YOU ACTUALLY SERVE A WARRANT ON SOMEBODY.

9 A. YOU WOULD ADVISE THE PERSON OF THE CHARGES AGAINST THEM,
10 AND THEN YOU WOULD READ THE NARRATIVE PART OF THE AFFIDAVIT
11 ITSELF WHICH INFORMS A PERSON OF THE PROBABLE CAUSE OF WHY A
12 WARRANT WAS SIGNED ON HIM IN PERSON.

13 Q. AND AS INVESTIGATOR THOMAS -- IT'S NOT A QUESTION-AND-
14 ANSWER THING THOUGH, IS IT?

15 A. NO, IT'S NOT.

16 Q. YOU'RE JUST READING THE WARRANT TO THEM.

17 A. THAT'S RIGHT.

18 Q. AND THAT'S THE PROPER WAY TO DO IT.

19 A. THAT'S RIGHT.

20 Q. AS INVESTIGATOR THOMAS READ THE WARRANT AND READ HIM THE
21 PROBABLE CAUSE, DID ERIC MANCE SAY SOMETHING TO YOU---

22 A. YES.

23 Q. ---OR TO INVESTIGATOR THOMAS?

24 A. AT FIRST HE STARTED CRYING WHEN THOMAS READ THE WARRANTS
25 TO HIM, AND THEN AT SOME POINT HE ASKED ME -- I THINK HE

1 ASKED US WAS HIS WIFE GONE YET. I TOLD HIM, "YES." HE ASKED
2 ME IF I WOULD CALL HIS WIFE ON MY -- ON MY CELL PHONE. HE
3 SAID, I'LL TALK TO YOU WHEN SHE COMES BACK HERE OR SOMETHING
4 LIKE THAT OR EITHER AFTER I CALL HER ON THE PHONE. AT ANY
5 RATE, HE ASKED ME WOULD I CALL HER ON THE PHONE AND, YOU
6 KNOW, I TOLD HIM, "CERTAINLY." I CALLED HER ON THE TELEPHONE
7 AND LET HIM TALK TO HER.

8 Q. AND AT THAT POINT YOU STILL HADN'T ASKED HIM ANY
9 QUESTIONS, HAD YOU?

10 A. NO QUESTIONS, NO, MA'AM.

11 Q. EVER SINCE HE TOLD YOU HE DIDN'T WANT TO TALK TO YOU.

12 A. NO QUESTIONS..

13 Q. WERE YOU PRESENT WHEN HE WAS TALKING TO HIS WIFE ON THE
14 TELEPHONE?

15 A. YES, I WAS.

16 Q. AND, IN FACT, HE WAS USING YOUR PHONE.

17 A. RIGHT.

18 Q. AND COULD YOU HEAR WHAT HE WAS ASKING HER?

19 A. YEAH. HE WAS ASKING HER TO COME BACK TO THE POLICE
20 DEPARTMENT.

21 Q. AND DID SHE, IN FACT, COME BACK TO THE POLICE DEPARTMENT
22 THAT DAY, THAT AFTERNOON?

23 A. YES. AS A MATTER OF FACT, SHE WAS BACK WITHIN 10 OR 15
24 MINUTES.

25 Q. AT THAT POINT DID YOU ALLOW MR. MANCE TO SEE HIS WIFE,

1 ODESSA MANCE?

2 A. YES, I DID.

3 Q. AND WHERE DID THAT TAKE PLACE?

4 A. IN THE SAME INTERVIEW ROOM THAT HE WAS IN.

5 Q. AND WHAT HAPPENED WHEN SHE CAME TO THE ROOM?

6 A. THE FIRST THING THAT HAPPENED WAS THEY EMBRACED ONE
7 ANOTHER, AND THEN SHE ASKED HIM, "HAVE YOU TOLD THEM YET?"

8 Q. AND WHAT DID HE SAY?

9 A. HE SAID, "I'M GOING TO TELL THEM NOW."

10 Q. AT THAT POINT DID YOU DO ANYTHING FURTHER TO ADVISE HIM
11 OF HIS RIGHTS AGAIN?

12 A. YEAH. I REMINDED HIM THAT HE HAD BEEN ADVISED OF HIS
13 RIGHTS AND THAT HE HAD EXERCISED HIS RIGHT TO REMAIN SILENT.

14 Q. AND DID HE INDICATE WHETHER OR NOT HE WANTED TO TALK TO
15 YOU AT THAT POINT?

16 A. YEAH, HE WANTED TO GO ON WITH IT.

17 Q. WITH HIS WIFE PRESENT?

18 A. RIGHT, WITH HER PRESENT.

19 Q. DID YOU OR INVESTIGATOR THOMAS OR ANYONE IN THE POLICE
20 DEPARTMENT OR ANYONE ANYWHERE PROMISE HIM ANYTHING TO GET HIM
21 TO TALK TO YOU?

22 A. NO.

23 Q. DID YOU PRESSURE HIM IN ANY WAY?

24 A. NO, MA'AM.

25 Q. DID YOU EVER EVEN QUESTION HIM AFTER HE TOLD YOU HE

1 DIDN'T WANT TO TALK?

2 A. NO, MA'AM.

3 Q. DID YOU DEPRIVE HIM OF ANY CREATURE COMFORTS?

4 A. NO, WE DID NOT.

5 Q. DID YOU THREATEN HIM?

6 A. NO.

7 Q. USE PHYSICAL FORCE?

8 A. NO, WE DID NOT.

9 Q. AND WHO WAS IT THAT WANTED TO TALK TO YOU TO TELL YOU
10 HIS STORY?

11 A. ERIC MANCE HIMSELF.

12 Q. PRIOR TO ACTUALLY TAKING HIS STATEMENT, DID YOU GO SOME
13 STEPS FURTHER TO INSURE HE UNDERSTOOD HIS RIGHTS IN THE
14 ACTUAL STATEMENT QUESTIONING HIMSELF?

15 A. YES, I DID.

16 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
17 EXHIBIT NUMBER 2. DO YOU RECOGNIZE THAT?

18 A. YEAH, THAT WOULD BE THE STATEMENT.

19 Q. AND THAT WOULD BE ERIC MANCE'S WRITTEN STATEMENT THAT HE
20 GAVE YOU THAT AFTERNOON AFTER HE TOLD YOU HE WANTED TO TALK?

21 A. YES, MA'AM.

22 Q. AND WHAT TIME WAS THAT STATEMENT ACTUALLY TAKEN?

23 A. THIS STATEMENT WAS TAKEN AT AROUND 3:00, 3:00 P.M.

24 Q. AND IS THAT ACTUALLY MIS-NUMBERED ON THAT -- WHO
25 ACTUALLY FILLED THAT IN?

1 A. THE TOP PART HERE, INVESTIGATOR THOMAS FILLED THAT PART
2 IN.

3 Q. OKAY. AND IS THE TIME ACTUALLY LISTED WRONG - IT'S
4 MILITARY TIME - BY AN HOUR?

5 A. YEAH, IT'S WRONG.

6 Q. BUT -- AND THIS DOCUMENT, THIS THREE-PAGE DOCUMENT, IS
7 THE STATEMENT THAT YOU TOOK FROM HIM THAT DAY?

8 A. YES, MA'AM.

9 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D OFFER
10 STATE'S EXHIBIT NUMBER 2 INTO EVIDENCE.

11 MR. TARR: NO OBJECTION, YOUR HONOR.

12 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

13 (STATE'S EXHIBIT 2 WAS RECEIVED IN EVIDENCE.)

14 BY MS. CAMPBELL:

15 Q. THE FIRST PART OF THIS STATEMENT, INVESTIGATOR, IS A
16 QUESTION-AND-ANSWER FORM?

17 A. RIGHT.

18 Q. AND WHAT GENERALLY ARE YOU GOING THROUGH WITH HIM AGAIN
19 PRIOR TO LETTING HIM MAKE ANY STATEMENTS?

20 A. BASICALLY I'M ASKING HIM ABOUT HIS RIGHTS, HAS HE BEEN
21 ADVISED OF HIS RIGHTS.

22 Q. AND ARE YOU REQUIRED TO DO THAT?

23 A. NO.

24 Q. BUT YOU DID IT TO MAKE SURE THAT HE UNDERSTOOD THEM.

25 A. RIGHT.

1 Q. WHEN HE WAS TALKING TO YOU, WHEN HE REQUESTED TO TALK TO
2 HIS WIFE, WHEN HE TALKED TO HIS WIFE ON THE PHONE, WHEN THEY
3 MET INSIDE, DID HE APPEAR TO BE COHERENT?

4 A. YES, VERY COHERENT.

5 Q. DID HE APPEAR TO BE HAVING TROUBLE UNDERSTANDING ANYONE?

6 A. NO, HE DID NOT.

7 Q. DID HE ANSWER QUESTIONS APPROPRIATELY?

8 A. YES, HE DID.

9 Q. IF YOU HAD HAD ANY INDICATION THAT HE HAD ANY PROBLEMS,
10 WOULD YOU HAVE ADDRESSED THAT?

11 A. YES, I WOULD HAVE.

12 Q. IF HIS WIFE HAD BROUGHT TO YOUR ATTENTION THAT HE HAD
13 ANY PROBLEMS, WOULD YOU HAVE ADDRESSED THAT?

14 A. YES, I WOULD HAVE.

15 Q. AND WERE THERE ANY PROBLEMS?

16 A. NO, NONE THAT I KNOW.

17 Q. STATE'S EXHIBIT 2, CAN YOU GO THROUGH EXACTLY THE
18 QUESTION AND ANSWER AS YOU DID PRIOR TO WRITING DOWN WHAT HE
19 TOLD YOU THAT DAY?

20 A. CERTAINLY. THE FIRST QUESTION I ASKED HIM WAS, "HAVE
21 YOU BEEN ADVISED OF YOUR RIGHTS?" BECAUSE I HAD ADVISED HIM
22 OF HIS RIGHTS EARLIER, AND HIS ANSWER WAS, "YES, SIR." AND
23 THE NEXT QUESTION IS, "DID YOU UNDERSTAND THOSE RIGHTS?" HIS
24 ANSWER WAS, "YES, SIR." AND THE NEXT QUESTION WAS, "DURING
25 THE QUESTIONING PHASE, DID YOU TELL INVESTIGATORS THAT YOU

1 DID NOT WANT TO TALK ANYMORE?" HIS ANSWER WAS, "YES."

2 QUESTION: "DID I EXPLAIN TO YOU THAT YOU HAD EXERCISED
3 YOUR RIGHT TO REMAIN SILENT?" HIS ANSWER WAS, "YES, SIR."

4 QUESTION: "DID WE ASK YOU ANY MORE QUESTIONS AT THIS TIME?"
5 HIS ANSWER WAS, "NO, SIR." QUESTION: "DID YOU LATER TELL US
6 THAT YOU WANTED YOUR WIFE IN THE INTERVIEW ROOM WITH YOU SO
7 THAT YOU COULD TELL US WHAT HAPPENED?" HIS ANSWER WAS, "YES,
8 SIR." NEXT QUESTION WAS: "DID I ADVISE YOU AGAIN ABOUT YOUR
9 RIGHT TO REMAIN SILENT?" AND HE SAID, "YES, SIR."

10 QUESTION: "AT THIS TIME DID YOU INDICATE YOUR DESIRE TO
11 TALK ABOUT THE INCIDENT WITH YOUR WIFE PRESENT?" HIS ANSWER
12 WAS, "YES, SIR." QUESTION: "DID YOU REQUEST THAT I CALL
13 YOUR WIFE AND REQUEST HER TO COME BACK TO THE POLICE
14 HEADQUARTERS?" HIS ANSWER WAS, "YES, SIR." QUESTION: "IS
15 YOUR WIFE PRESENT AT THIS TIME?" AND HIS ANSWER WAS, "YES,
16 SIR." AND THE LAST QUESTION THAT I ASKED HIM AT THAT POINT
17 WAS: "ARE YOU NOW WILLING TO TALK ABOUT THIS INCIDENT THEN?"
18 AND HE SAID, "YES."

19 Q. SO THE ONLY PERSON HE REQUESTED TO SEE THAT DAY WAS HIS
20 WIFE?

21 A. THAT WAS THE ONLY PERSON.

22 Q. AND Y'ALL CALLED HER ON HIS BEHALF.

23 A. YES.

24 Q. BUT HE'S THE ONE THAT ACTUALLY SPOKE TO HER?

25 A. RIGHT.

1 Q. AND IT WAS AT HIS REQUEST THAT SHE CAME BACK.

2 A. RIGHT.

3 Q. AND SHE WAS PRESENT FOR THE ENTIRE INTERVIEW.

4 A. YES, SHE WAS.

5 Q. ONCE YOU HAD GONE THROUGH TO MAKE SURE THAT HE
6 UNDERSTOOD HIS RIGHTS AND EVERYTHING --- AND, AGAIN, WAS HE
7 RESPONDING COHERENTLY?

8 A. YES, HE WAS.

9 Q. APPROPRIATELY?

10 A. RIGHT.

11 Q. ANY INDICATION HE HAD ANY KIND OF MENTAL ISSUE?

12 A. NO, THERE WAS NONE.

13 Q. DID HE THEN TELL YOU HIS VERSION OF WHAT HAPPENED?

14 A. YES, HE DID.

15 Q. AND WAS THAT MEMORIALIZED ON THAT THREE-PAGE STATEMENT?

16 A. YES, IT IS.

17 Q. AND CAN YOU TELL THE JURY EXACTLY WHAT INFORMATION HE
18 RELAYED TO YOU AS TO WHAT HAPPENED THAT DAY?

19 A. DO YOU WANT ME TO JUST READ IT TO THEM?

20 Q. YES, SIR.

21 A. HE SAID, "I WAS CAUGHT IN THE RAIN OVER BY KING'S
22 BARBERSHOP AND NEEDED A RIDE HOME. I WAS WALKING THROUGH
23 THIS PARKING LOT ON TAYLOR AND SUMTER STREET WHEN I SEEN THE
24 LIGHTS ON THE INSIDE OF THIS TRUCK COME ON. I WENT UP TO THE
25 TRUCK AND SAW THIS MAN STANDING NEXT TO IT. I GOT UP ON HIM

1 AND I HAD MY GUN OUT. I HAD A MASK ON. THE MAN TURNED
2 AROUND AND SAW ME. HE YELLED AT ME. HE CAME AT ME TRYING TO
3 KNOCK THE GUN OUT OF MY HAND. THAT'S WHEN I SHOT HIM." HE
4 SAID, "I SHOT THE GUN FIVE TIMES. IT'S A FIVE-SHOT .38
5 CALIBER." HE SAID, "I KNEW I HIT HIM." HE SAID, "I KNEW I
6 HIT HIM. I DIDN'T KNOW HOW MANY TIMES I HIT HIM." I STARTED
7 RUNNING -- I'M SORRY. "HE STARTED RUNNING AND FELL. I GOT
8 IN HIS TRUCK AND DROVE OFF." HE SAID, "I WENT DOWN THE ALLEY
9 AND GOT ON MAIN STREET AND WENT STRAIGHT HOME. I PARKED IT
10 IN THE BIG FIELD IN THE BACK OF MY HOUSE AND GOT OUT AND WENT
11 HOME. I DIDN'T WANT TO SHOOT THE MAN. ALL I WANTED WAS THE
12 TRUCK SO THAT I COULD GET HOME."

13 HE SAID THEY COULD -- "THEY COULD FIND IT IN THE BACK
14 FIELD. LATER ON I SAW THE POLICE CARS OUTSIDE RIDING UP THE
15 STREET. I SAW THEM TOW THE TRUCK OUT OF THE WOODS. I TOLD
16 MY WIFE WHAT HAD HAPPENED. LATER ON I PUT THE GUN AND MASK
17 UNDER THE BACK STAIRS AT MY HOUSE. I BURIED IT IN THE DIRT."
18 THAT WAS WHAT HE SAID TO ME IN HIS STATEMENT.

19 Q. AND THAT WAS HIS STATEMENT TO YOU ABOUT WHAT HAD
20 HAPPENED?

21 A. THAT'S RIGHT. THAT WAS HIS SCENARIO.

22 Q. AND DID YOU FOLLOW UP WITH ANY QUESTIONS?

23 A. YES, I DID.

24 Q. AND GO THROUGH THOSE EXACTLY AS IT WAS DONE.

25 A. THE FIRST QUESTION AFTER HIS STATEMENT, HIS SCENARIO,

1 WAS: "DID YOU TAKE ANYTHING FROM THE CAR?" HE SAID,
2 "NOTHING BUT THE KEYS." QUESTION: "WHERE ARE THE KEYS TO
3 THE CAR?" HIS ANSWER WAS, "I PUT THEM IN THE AIR VENT IN MY
4 HOUSE." QUESTION: "IS THERE ANYTHING ELSE YOU WANT TO SAY?"
5 HE SAID, "I HOPE HE FORGIVES ME. I DIDN'T MEAN TO DO THAT TO
6 HIM. I HOPE HE'S ALL RIGHT." AND THAT WAS THE END OF THE
7 INTERVIEW STATEMENT FORM ANYWAY.

8 Q. AND WHO ACTUALLY WROTE OUT THE STATEMENT?

9 A. I WROTE THE STATEMENT OUT.

10 Q. AND DID HE ACKNOWLEDGE THAT WAS HIS STATEMENT IN ANY
11 WAY?

12 A. HE ACKNOWLEDGED BY SIGNING IT. I SWORE HIM IN. I'M A
13 NOTARY ALSO, AND I SWORE HIM IN AND HE SIGNED IT.

14 Q. OKAY. AND THAT'S HIS SIGNATURE ON EACH PAGE OF THE
15 STATEMENT?

16 A. YES, IT IS.

17 Q. IN TWO PLACES, I BELIEVE?

18 A. RIGHT, TWO PLACES.

19 Q. AND HIS WIFE WAS THERE WHEN HE WAS GIVING THE STATEMENT.

20 A. YES, MA'AM.

21 Q. AT ANY TIME DID THE DEFENDANT INDICATE TO YOU HE HAD
22 TROUBLE UNDERSTANDING YOU?

23 A. AT NO TIME.

24 Q. AT ANY TIME DID HIS WIFE INDICATE THAT HE COULDN'T
25 UNDERSTAND YOU?

1 A. NO.

2 Q. AT ANY POINT DID YOU BECOME CONCERNED ABOUT ANY KIND OF
3 MENTAL STATUS OR MENTAL PROBLEMS OF THE DEFENDANT?

4 A. NO.

5 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS OR
6 ALCOHOL?

7 A. NO, HE DID NOT.

8 Q. AND, IN FACT, ONCE HE WAS READ THE WARRANT, HE WANTED
9 HIS WIFE AND HE WANTED TO TELL YOU HIS STORY.

10 A. RIGHT.

11 Q. AND THE INFORMATION ABOUT WHAT HAPPENED THAT NIGHT WERE
12 HIS WORDS.

13 A. HIS WORDS, RIGHT.

14 Q. BASED ON THE INFORMATION THAT YOU HAD RECEIVED, NOT ONLY
15 FROM HIM BUT FROM OTHER PEOPLE, DID YOU ALSO -- WERE Y'ALL
16 ALSO IN THE PROCESS OF GETTING A SEARCH WARRANT FOR
17 PEELER?

18 A. YES, WE WERE.

19 Q. IS THERE ANOTHER WAY TO DO A LEGAL SEARCH HERE IN SOUTH
20 CAROLINA?

21 A. YOU CAN SIMPLY ASK PERMISSION, GET WHAT'S CALLED A
22 CONSENT TO SEARCH.

23 Q. AND DID YOU, IN FACT, DO THAT IN THIS CASE?

24 A. YES, WE DID.

25 Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S

1 EXHIBITS 87 AND 88. WHILE MR. AND MRS. MANCE WERE IN YOUR
2 INTERVIEW ROOM, DID YOU ALSO ASK THEM PERMISSION TO GO SEARCH
3 THE -- THEIR HOME?

4 A. YES, WE DID.

5 Q. AND DID BOTH OF THEM CONSENT TO HAVING YOU SEARCH FOR
6 CERTAIN ITEMS?

7 A. RIGHT, THEY BOTH DID.

8 Q. AND WHAT ITEMS WERE YOU LOOKING FOR SPECIFICALLY?

9 A. WE INFORMED THEM THAT WE WOULD BE LOOKING FOR A GUN -- A
10 GUN, A MASK, SHIRT AND JEANS AND BULLETS.

11 Q. THINGS OF THAT NATURE?

12 A. THAT'S RIGHT.

13 Q. AND DID BOTH MR. AND MRS. MANCE CONSENT?

14 A. THEY BOTH DID, RIGHT.

15 Q. AND DID THEY BOTH SIGN OFF?

16 A. YES, THEY DID.

17 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER 87
18 AND 88.

19 MR. TARR: NO OBJECTION, YOUR HONOR.

20 THE COURT: THEY'RE ADMITTED WITHOUT OBJECTION.

21 (STATE'S EXHIBITS 87 AND 88 WERE RECEIVED IN EVIDENCE.)

22 BY MS. CAMPBELL:

23 Q. AFTER GETTING THE CONSENT TO SEARCH, DID YOU AND SOME
24 OTHER OFFICERS PROCEED TO PEELER ROAD?

25 A. YES, WE DID.

1 Q. AND, IN FACT, YOU AND I BELIEVE INVESTIGATOR ROSE AND
2 OTHERS ACTUALLY DID THE SEARCH?

3 A. INVESTIGATOR THOMAS, MYSELF, AND CRIME SCENE
4 INVESTIGATOR ROSE.

5 Q. AND ONCE YOU GOT THERE, WERE Y'ALL ABLE TO LOCATE THE
6 GUN, THE MASK, AND SOME BULLETS?

7 A. YES, WE DID.

8 Q. AND WERE THOSE IN THE AREA WHERE HE SAID IT WAS?

9 A. RIGHT. THEY WERE.

10 Q. DID Y'ALL MAKE ANY ATTEMPT TO RETRIEVE THE TRUCK KEYS
11 WHERE HE HAD HIDDEN THEM?

12 A. WE DID CHECK THERE. HE TOLD US THAT THE KEYS WERE
13 HIDDEN IN THE AIR VENT. WE THOUGHT ABOUT IT, BUT WE KNEW
14 THAT WOULD DAMAGE THE HOUSE A LOT MORE THAN WHAT WE WERE
15 WILLING TO DO. WE'D HAVE TO TEAR THE WALLS UP JUST TO GET
16 THE KEYS, SO WE DIDN'T MESS WITH IT.

17 Q. DID YOU ALSO PHOTOGRAPH SOME CLOTHING THERE AT THE
18 SCENE?

19 A. ROSE DID; YES, MA'AM.

20 Q. AND YOU DIDN'T ACTUALLY ORDER ANY D.N.A. TESTING ON THAT
21 CLOTHING?

22 A. NO, I DIDN'T.

23 Q. WHY WAS THAT?

24 A. IT WAS OUR UNDERSTANDING THAT THE CLOTHES HAD ALREADY
25 BEEN WASHED ANYWAY, SO IT WOULDN'T HAVE BEEN OF ANY USE.

1 Q. AND ARE YOU AWARE OF HOW MANY ADULT MALES WERE LIVING IN
2 THAT HOUSE?

3 A. TO MY KNOWLEDGE, JUST ONE. THAT WOULD BE MR. MANCE,
4 ERIC MANCE HIMSELF.

5 Q. WERE THE KEYS TO THE TAHOE EVER RECOVERED?

6 A. NO, THEY WERE NOT.

7 Q. BEG THE COURT'S INDULGENCE. THE PERSON THAT YOU
8 INTERVIEWED THAT YOU REFERRED TO AS ERIC MANCE, DO YOU SEE
9 HIM HERE IN THE COURTROOM?

10 A. YES, I DO.

11 Q. CAN YOU IDENTIFY HIM FOR THE JURY?

12 A. HE'S SITTING AT THE DEFENSE TABLE WITH THE BLUE SHIRT ON
13 AND WHITE TEE SHIRT NEXT TO HIS LAWYER, MR. TARR.

14 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S
15 IDENTIFIED THE DEFENDANT?

16 THE COURT: YES, IT DOES.

17 MS. CAMPBELL: THANK YOU, SIR.

18 CROSS-EXAMINATION

19 BY MR. TARR:

20 Q. INVESTIGATOR REESE, COULDN'T YOU JUST HAVE WENT IN THE
21 AIR VENT THAT THE KEYS WERE IN, GET SOMETHING YOU COULD PICK
22 UP, PUT YOUR HAND IN AND PULL THE KEYS OUT?

23 A. NO.

24 Q. DID YOU LOOK?

25 A. YES.

1 Q. DID ANY OTHER OFFICER LOOK?

2 A. YES.

3 Q. WHICH ONES?

4 A. INVESTIGATOR -- CRIME-SCENE INVESTIGATOR ROSE AND.
5 INVESTIGATOR THOMAS.

6 Q. HE ALREADY TESTIFIED AND SAID THAT HE DIDN'T LOOK --
7 DIDN'T EVEN KNOW TO LOOK - MR. ROSE.

8 A. WELL, I DON'T KNOW. MAYBE HE DIDN'T. HE WAS THERE.

9 Q. OKAY. LET ME ASK YOU: YOU'RE THE LEAD INVESTIGATOR ON
10 THIS CASE?

11 A. YES, SIR.

12 Q. OKAY. SO YOU'RE PRETTY MUCH AWARE OF ANY INVESTIGATION
13 THAT WAS DONE ON THIS CASE?

14 A. PRETTY MUCH, YEAH.

15 Q. YOU'RE AWARE THAT OFFICER DOUGHERTY HAD INTERVIEWED A
16 WITNESS WHO BASICALLY HAD INFORMATION TO SHARE WHO ALSO LIVED
17 IN THE TAPP'S BUILDING NAMED TIM WALSH?

18 A. I KNEW ABOUT THAT NAME IN HIS REPORT.

19 Q. HE WAS ACTUALLY IN APARTMENT [REDACTED] WHICH WAS A LITTLE BIT
20 CLOSER THAN THE [REDACTED] APARTMENT NICOLE PERRILL WAS IN?

21 A. OKAY.

22 Q. ARE YOU FAMILIAR WITH WHAT HE TOLD Y'ALL?

23 A. IF I SAW THE STATEMENT, IF HE WROTE A STATEMENT, I
24 PROBABLY WOULD BE. I DON'T RECALL IT RIGHT NOW.

25 Q. OKAY. LET ME ASK YOU: WHEN YOU WENT TO THE BAPTIST

1 HOSPITAL TO INTERVIEW MR. HAWKINS, HE TOLD YOU WHAT HAPPENED,
2 DIDN'T HE?

3 A. YES, SIR.

4 Q. OKAY. AND MR. HAWKINS SAID THAT HE TURNED AROUND AND
5 SWUNG AT THE PERSON WHEN HE SAW THAT HE HAD A GUN.

6 A. YES, SIR.

7 Q. OKAY. AND HE WAS SHOT ONE TIME THAT TIME.

8 A. YES, SIR.

9 Q. AND THEN HE SAID HE WAS SHOT AGAIN AFTER HE THREW HIS
10 CELL PHONE AT HIM.

11 A. THAT'S RIGHT.

12 Q. AND THEN HE SAID HE WAS SHOT ONCE AGAIN AFTER HE TRIED
13 TO KICK THE SUSPECT.

14 A. RIGHT.

15 Q. AND HE NEVER ONCE SAID THAT HE WAS SHOT WHEN HE WAS
16 RUNNING AWAY FROM THE INCIDENT.

17 A. NO, NOT TO ME.

18 Q. LET ME ASK YOU: MR. MANCE CAME DOWN TO THE STATION. I
19 BELIEVE YOU HAVE TESTIFIED YOU HAD ALREADY DEVELOPED HIM AS A
20 SUSPECT, BUT YOU HADN'T CONTACTED HIM.

21 A. NO, WE HADN'T CONTACTED HIM.

22 Q. HE CAME ON HIS OWN. YOU'VE TESTIFIED THAT YOU ADVISED
23 HIM OF HIS RIGHTS, BUT YOU READ THOSE RIGHTS TO HIM?

24 A. THAT'S RIGHT.

25 Q. AND REALLY WHEN YOU STARTED QUESTIONING HIM, YOU WROTE

1 OUT ALL THE QUESTIONS AND ALL THE ANSWERS YOURSELF.

2 A. ON THE STATEMENT FORM?

3 Q. YES.

4 A. RIGHT.

5 Q. OKAY. SO THE ONLY THING THAT MR. MANCE EVER WROTE WERE
6 HIS INITIALS ON THE ADVICE OF RIGHTS FORM AND HIS SIGNATURE
7 AT THE BOTTOM OF EACH PAGE OF THE STATEMENT.

8 A. RIGHT.

9 Q. AND MR. MANCE TOLD YOU -- I BELIEVE YOU ALREADY READ IT
10 INTO THE RECORD, BUT HE SAID -- HIS FIRST STATEMENT SAID HE
11 WAS CAUGHT IN THE RAIN AND HE NEEDED A RIDE HOME.

12 A. RIGHT.

13 Q. OKAY. AND HE TOLD YOU THAT HE DIDN'T WANT TO SHOOT THE
14 MAN BUT THAT HE HAD SWUNG AT HIM TRYING TO TAKE THE PISTOL
15 FROM HIM AND SHOT HIM.

16 A. YEAH. IF THAT'S IN THE STATEMENT, THAT'S WHAT HE SAID.

17 Q. AND HE TOLD YOU HE DIDN'T TAKE ANYTHING BUT THE CAR AND
18 THE KEYS. THE TAHOE AND THE KEYS.

19 A. RIGHT.

20 Q. OKAY. AND HE ALSO SAID THAT HE HOPED THAT MR. HAWKINS
21 WOULD FORGIVE HIM AND HE DIDN'T MEAN TO DO THAT TO HIM.

22 A. YES, SIR.

23 Q. OKAY. AND, IN FACT, THERE WERE A NUMBER OF VALUABLE
24 ITEMS THAT WERE COLLECTED AT THE SCENE THAT WEREN'T TAKEN BY
25 MR. MANCE: NAMELY THE WALLET, THE CELL PHONE, AND EVERYTHING

1 IN THE WALLET AND THE CHECKBOOK.

2 A. WHICH SCENE ARE YOU TALKING ABOUT?

3 Q. THE SCENE AT SUMTER STREET, THE PARKING LOT ON SUMTER
4 STREET.

5 A. THE VEHICLE WAS TAKEN.

6 Q. RIGHT. RIGHT. OTHER THAN THE VEHICLE, THERE WERE A
7 NUMBER OF VALUABLE ITEMS LEFT RIGHT THERE ON THE GROUND
8 INCLUDING A WALLET AND A CHECKBOOK AND SO ON.

9 A. RIGHT.

10 Q. OKAY. AND THERE HASN'T BEEN ANY TESTIMONY YET ABOUT
11 WHAT Y'ALL FOUND IN THE CAR WHEN YOU FOUND THE TAHOE. WHAT
12 ELSE WAS IN THE TAHOE?

13 A. TO BE FRANK WITH YOU, I NEVER WENT THROUGH THE TAHOE.
14 THAT WAS -- WE DON'T NECESSARILY INTERFERE WITH WHAT THE
15 CRIME SCENE INVESTIGATORS DO. THAT WOULD HAVE BEEN THEIR
16 JOB. I DON'T WANT TO CONTAMINATE ANYTHING OR INTERFERE WITH
17 ANYTHING THAT THEY'VE GOT IN THE WORKS BY GOING INTO THE
18 VEHICLE ITSELF. IT WOULD NOT HAVE BEEN NECESSARY.

19 Q. WERE YOU EVER MADE AWARE OF WHAT WAS TAKEN OUT OF THE
20 TAHOE?

21 A. WHATEVER WAS IN THE REPORT, THAT'S WHAT I KNOW ABOUT.

22 Q. BASICALLY WHAT I'M GETTING AT IS WE HAVEN'T HEARD
23 ANYBODY TESTIFY HERE TODAY OF WHAT WAS TAKEN OUT OF THE
24 TAHOE, WHETHER THERE WERE VALUABLES IN THE CAR THAT WERE NOT
25 TAKEN BY MY CLIENT. ARE YOU AWARE OF ANY VALUABLES IN THE

1 CAR AFTER THE CAR WAS FOUND AND INVENTORIED?

2 A. I KNOW ABOUT A GUN THAT WAS IN THE CAR.

3 Q. WHERE WAS THAT GUN?

4 A. I DON'T EVEN KNOW WHO TOOK THE GUN OUT. I KNOW THE GUN
5 WAS TAKEN OUT BY AN OFFICER, I BELIEVE, AND PLACED IN THE
6 PROPERTY ROOM.

7 Q. WAS IT IN THE GLOVE COMPARTMENT?

8 A. I DON'T KNOW.

9 Q. SO THERE WAS A WEAPON IN THE CAR AND THAT WASN'T TAKEN
10 OUT.

11 A. NO.

12 Q. DO YOU KNOW WHO FOUND THAT WEAPON IN THE CAR?

13 A. NO, NOT OFFHAND.

14 Q. YOU WOULD AGREE THAT JUST BECAUSE SOMEBODY SAYS THEY
15 UNDERSTAND SOMETHING DOESN'T MEAN THEY ACTUALLY DO? YOU HAVE
16 NO WAY OF KNOWING WHETHER HE ACTUALLY UNDERSTOOD YOU, DO YOU?

17 A. NO, I WOULDN'T HAVE ANY---

18 Q. YOU'RE JUST GOING BY WHAT HE SAID.

19 A. UH-HUH.

20 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

21 THE COURT: REDIRECT?

22 MS. CAMPBELL: THANK YOU, YOUR HONOR.

23 REDIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q. HE ASKED YOU ABOUT THE FIRST STATEMENT THE DEFENDANT

1 MADE TO YOU THAT HE JUST WAS IN THE RAIN AND NEEDED A RIDE.
2 HIS FIRST STATEMENT WAS HE WASN'T ANYWHERE NEAR THIS CRIME
3 SCENE.

4 A. RIGHT.

5 Q. AND THAT'S WHAT HE TOLD YOU INITIALLY.

6 A. RIGHT.

7 Q. AND IN HIS SECOND STATEMENT HE WAS TRYING TO EXPLAIN TO
8 YOU WHY HE MIGHT HAVE BEEN SEEN IN THE DOWNTOWN AREA.

9 A. I'M SORRY. WHY WHAT?

10 Q. WHY HE WAS SEEN IN THE DOWNTOWN AREA.

11 A. RIGHT.

12 Q. HE WAS OVER THERE GETTING A SHAVE.

13 A. THAT'S RIGHT.

14 Q. AND THEN HE DECIDED HE'D BETTER NOT TALK TO YOU.

15 A. RIGHT.

16 Q. AND THEN HE WAS READ THE WARRANTS WITH THE PROBABLE
17 CAUSE AND HE DECIDED HE NEEDED TO TELL YOU HIS STORY.

18 A. RIGHT.

19 Q. DID HE APPEAR TO UNDERSTAND THE PROCESS?

20 A. YES, HE DID.

21 Q. HE ASKED YOU ABOUT WHETHER OR NOT YOU KNOW -- CAN TELL
22 IF SOMEBODY UNDERSTANDS YOU. IF YOU ASK THEM A QUESTION AND
23 IF THEY RESPOND APPROPRIATELY -- WAS THERE ANYTHING
24 INAPPROPRIATE ABOUT ERIC MANCE IN YOUR INTERVIEW WITH HIM?

25 A. NO. I GATHERED HE UNDERSTOOD EXACTLY EVERYTHING I WAS

1 SAYING TO HIM.

2 Q. AND HE DEFINITELY UNDERSTOOD ENOUGH THAT HE WANTED TO
3 TELL YOU HIS VERSION OF EVENTS.

4 A. RIGHT.

5 Q. AND HE WAS ABLE TO ARTICULATE THAT TO YOU.

6 A. RIGHT.

7 Q. AT ANY POINT DID HIS WIFE INDICATE THAT HE WAS HAVING
8 TROUBLE UNDERSTANDING?

9 A. NO, AT NO POINT.

10 Q. HE ASKED YOU ABOUT VALUABLE ITEMS THAT WERE LEFT AT THE
11 SCENE. THE WALLET.

12 A. RIGHT.

13 Q. SO AT THIS POINT WHEN THESE ITEMS BECAME DOWN ON THE
14 FLOOR HE'S SHOT SOME FIVE BULLETS.

15 A. (WITNESS NODDED HEAD UP AND DOWN.)

16 Q. AND IN YOUR EXPERTISE AS AN INVESTIGATOR, GETTING AWAY
17 FROM THE SCENE IS PRETTY IMPORTANT?

18 A. RIGHT. YES, IT IS.

19 Q. QUICKLY.

20 A. VERY QUICKLY.

21 Q. WOULD YOU SAY THE MOST VALUABLE ITEM THAT WAS IN THAT
22 PARKING LOT THAT AFTERNOON WAS THE TAHOE?

23 A. YES.

24 Q. AND THAT CERTAINLY WASN'T LEFT AT THE SCENE.

25 A. NO. THAT WAS DRIVEN AWAY.

1 Q. YOU'RE AWARE THROUGH THE COURSE OF YOUR INVESTIGATION
2 THAT ONSTAR WAS INVOLVED IN THIS INVESTIGATION?

3 A. YES, I AM.

4 Q. AND THE LEXINGTON COUNTY POLICE DEPARTMENT RESPONDED
5 QUICKLY IN LOCATING THAT CAR.

6 A. YES, THEY DID.

7 Q. WAS THE CAR PARKED WHERE IT WAS VISIBLE FROM THE STREET?

8 A. NO, YOU COULDN'T SEE IT.

9 Q. SO HE DIDN'T JUST DRIVE HIS RIDE UP INTO HIS FRONT YARD.

10 A. NO.

11 MS. CAMPBELL: THAT'S ALL I HAVE. THANK YOU, YOUR
12 HONOR.

13 MR. TARR: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN, SIR.

15 THE WITNESS: THANK YOU, YOUR HONOR.

16 MS. CAMPBELL: YOUR HONOR, MAY I APPROACH?

17 THE COURT: YES.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

19 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO TAKE A
20 RECESS NOW. PLEASE GO TO THE JURY ROOM. WE'RE GOING TO
21 CONTINUE ON WITH SOME MORE TESTIMONY TODAY. PLEASE GO TO THE
22 JURY ROOM. PLEASE DO NOT DISCUSS THE CASE. I'LL HAVE YOU
23 COME BACK WITHIN ABOUT FIVE MINUTES.

24 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 4:45
25 P.M.)

1 THE COURT: ALL RIGHT. WE'LL TAKE A BREAK FOR ABOUT
2 FIVE MINUTES OR SO.

3 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4 THE COURT: MADAM SOLICITOR?

5 MS. CAMPBELL: WE ARE READY, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 MS. CAMPBELL: THE DOCTOR IS HERE.

8 THE COURT: THANK YOU.

9 MS. CAMPBELL: FOR SCHEDULING PURPOSES, WOULD THAT BE
10 THE LAST WITNESS OF THE DAY?

11 THE COURT: YES.

12 MS. CAMPBELL: OKAY. THANK YOU.

13 THE COURT: ALL RIGHT. LET'S BRING THE JURY.

14 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 5:00
15 P.M.)

16 THE COURT: YOUR NEXT WITNESS, PLEASE.

17 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
18 DR. GERALD WILSON.

19 THE COURT: ALL RIGHT. DR. WILSON, IF YOU'LL COME TO
20 HERE.

21 DR. GERALD A. WILSON, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 THE CLERK: IF YOU WILL, STATE YOUR NAME FOR THE RECORD
24 AND SPELL YOUR LAST NAME, PLEASE.

25 THE WITNESS: GERALD ANTHONY WILSON. W-I-L-S-O-N.

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q. DR. WILSON, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED BY MIDLANDS SURGICAL ASSOCIATES, P.A.

Q. WHAT DO YOU DO FOR A LIVING, SIR?

A. I'M A GENERAL THORACIC AND VASCULAR SURGEON.

Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
AND TRAINING IN THE MEDICAL FIELD?

A. I RECEIVED MY UNDERGRADUATE DEGREE IN BIOLOGY AT THE
UNIVERSITY OF SOUTH CAROLINA IN 1971. MY MEDICAL SCHOOL
TRAINING WAS AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA,
GRADUATING IN 1975. I DID A GENERAL SURGERY RESIDENCY AT
RICHLAND MEMORIAL HOSPITAL, COMPLETED THAT IN 1979. I WAS ON
THE FACULTY OF THE U.S.C. SCHOOL OF MEDICINE IN THE
DEPARTMENT OF SURGERY FROM 1979 TO 1980. I THEN FORMED
MIDLANDS SURGICAL ASSOCIATES WITH DR. EVERETT DOUGHERTY.

Q. YOUR HONOR, AT THIS TIME I'D OFFER HIM AS AN EXPERT IN
GENERAL THORACIC SURGERY?

A. YES.

MS. CAMPBELL: THANK YOU.

MR. TARR: NO OBJECTION.

THE COURT: ALL RIGHT. SO ORDERED.

BY MS. CAMPBELL:

Q. DOCTOR, I WANT TO TURN YOUR ATTENTION BACK TO THE
EVENING OF JULY (SIC) THE 2ND OF 2006. DID YOU GET CALLED IN

1 TO BAPTIST HOSPITAL FOR EMERGENCY SURGERY?

2 A. YES, I DID.

3 Q. AND WHAT WAS THE SITUATION WHEN YOU GOT TO THE HOSPITAL?

4 A. I WAS CALLED BY THE EMERGENCY ROOM PHYSICIAN. A PATIENT
5 HAD BEEN -- HAD SUSTAINED GUNSHOT WOUNDS, AND THE EMERGENCY
6 ROOM PHYSICIAN HAD STABILIZED HIM BY STARTING I.V. FLUIDS ON
7 HIM AND HE HAD SUSTAINED -- HE HAD FOUR ENTRY WOUNDS -- FOUR
8 WOUNDS THAT WE COULD DETERMINE. HE HAD A THROUGH-AND-THROUGH
9 INJURY TO THE LEFT UPPER EXTREMITY OF THE LEFT ARM.

10 Q. TO HIS LEFT ARM?

11 A. YES.

12 Q. OKAY.

13 A. HE HAD AN ENTRANCE WOUND ON HIS LEFT UPPER ABDOMEN.

14 Q. THAT WOULD BE ABOUT HERE?

15 A. YES.

16 Q. OKAY.

17 A. AND HE HAD AN ENTRANCE WOUND ON HIS LEFT ANTERIOR THIGH,
18 ON THE UPPER PART OF HIS THIGH.

19 Q. THE FRONT OR THE BACK OF THE THIGH?

20 A. THE FRONT OF THE THIGH.

21 Q. OKAY. AND AT THAT POINT WERE YOU ABLE TO DETERMINE --
22 THE THROUGH-AND-THROUGH, OF COURSE, WAS AN ENTRANCE AND EXIT
23 WOUND. IS THAT CORRECT?

24 A. IT APPEARED TO BE SO.

25 Q. AND THE OTHER TWO WOUNDS THAT YOU NOTED ON THE ABDOMEN

1 AND THE THIGH AREA, WERE THOSE ENTRANCE WOUNDS?

2 A. THEY APPEARED TO BE ENTRANCE WOUNDS.

3 Q. WHAT WAS THE VICTIM'S CONDITION WHEN YOU MADE CONTACT
4 WITH HIM PRIOR TO SURGERY?

5 A. ACCORDING TO MY CHART REVIEW, HE WAS ALERT, STABLE,
6 HAVING ABDOMINAL TENDERNESS. HE WAS SOMEWHAT SORE. HE WAS A
7 BIT SHOCKY IN THAT HIS INITIAL BLOOD PRESSURE WAS NORMAL
8 BLOOD PRESSURE. HIS HEART RATE WAS NORMAL. BUT HE BEGAN TO
9 BECOME SOMEWHAT DIAPHORETIC. HIS BREATHING RATE INCREASED.
10 HE WAS HAVING ABDOMINAL TENDERNESS. AND WE SUSPECTED THAT HE
11 WAS HAVING BLEEDING INSIDE HIS ABDOMEN FROM THE TRAJECTORY OF
12 THE BULLETS.

13 Q. PRIOR TO TAKING HIM INTO SURGERY, WERE THERE ANY KIND OF
14 X-RAYS OR SCREENINGS THAT YOU NEEDED TO DO?

15 A. YES. HIS -- WHEN YOU TRACK THE TRAJECTORY OF THE
16 MISSILES, THE BULLETS, HE HAD TWO THAT WERE LOCATED IN THE
17 RIGHT GLUTEUS AREA. SO WHEN TRACKING THOSE, IT APPEARED THAT
18 THE ONE IN THE LEFT ABDOMEN DESCENDED IN A DOWNWARD TO THE
19 RIGHT DIRECTION IN THE LEFT ANTERIOR THIGH, THE FRONT PART OF
20 THE THIGH. IT WENT ACROSS THE MIDLINE. IT WENT ACROSS THE
21 PELVIS TO THE RIGHT SIDE.

22 SO WE SUSPECTED HE MAY HAVE MAJOR ABDOMINAL INJURIES
23 INCLUDING VASCULAR INJURIES THAT COULD BE CAUSING HIM TO BE
24 SHOCKY. DR. BRUGH, THE UROLOGIST, HAD BEEN CALLED BY THE
25 EMERGENCY ROOM PHYSICIAN ALSO BECAUSE WHEN THEY PUT A FOLEY

1 CATHETER IN HIS BLADDER, HE HAD GROSS BLOOD. SO WE SUSPECTED
2 HE HAD AN INJURY TO THE BLADDER ALSO.

3 WITHIN CONSULTATION WITH DR. BRUGH, WE TOOK HIM TO THE
4 X-RAY DEPARTMENT WHERE WE DID A C.T. SCAN, A CAT SCAN, AND
5 GAVE HIM SOME DYE TO DETERMINE WHETHER OR NOT HE HAD AN
6 INJURY TO HIS UROLOGICAL SYSTEM: HIS KIDNEY, BLADDER, AND
7 URETER. AND FROM THERE WE TOOK HIM IMMEDIATELY TO THE
8 OPERATING ROOM.

9 Q. AND ONCE YOU GOT HIM IN THE OPERATING ROOM, DID YOU
10 ACTUALLY PERFORM SURGERY THAT EVENING?

11 A. YES, WE DID. WE DID AN EXPLORATORY LAPAROTOMY. DR.
12 BRUGH ASSISTED ME. WE MADE A MIDLINE INCISION IN THE ABDOMEN
13 FROM JUST BELOW THE BRESTBONE TO THE HIP TO THE PELVIS,
14 OPENED HIS ABDOMEN AND FOUND A LARGE QUANTITY OF BLOOD AND
15 CLOTS. WE WASHED THAT OUT. WE DETERMINED THAT HE HAD AN
16 INJURY TO THE OMENTUM WHICH IS THE FATTY TISSUE THAT
17 LIES OVER THE STRUCTURES OF THE ABDOMEN WHICH WAS ACTUALLY
18 STILL BLEEDING, AND HE HAD TWO INJURIES THROUGH AND THROUGH
19 TO THE SMALL BOWEL. YOU HAVE ABOUT 23 FEET OF SMALL BOWEL,
20 AND THERE WERE TWO INJURIES WHERE BULLETS -- THE BULLET WENT
21 THROUGH AND THROUGH IN THE PROXIMAL, THE FIRST PART OF THE
22 SMALL BOWEL, AND THEN THE DISTAL PART OF THE SMALL BOWEL.

23 WE PRESUMED THAT THAT WAS ONE OF THE ONES WHERE THE
24 BULLET WAS LODGED IN THE RIGHT GLUTEUS, AND DR. BRUGH FOUND A
25 THROUGH-AND-THROUGH INJURY TO THE BLADDER WHERE THE BULLET

1 HAD GONE FROM THE LEFT THIGH TO THE RIGHT SIDE.

2 I REMOVED TWO PORTIONS OF BOWEL AND SEWED IT BACK
3 TOGETHER, AND I TOOK A PORTION OF THE OMENTUM OUT. DURING
4 THE COURSE OF THE OPERATION, HE RECEIVED 3,000 CC'S -- ABOUT
5 THREE LITERS OF FLUID, I.V. FLUIDS, AND FOUR AND A HALF UNITS
6 OF BLOOD. SO HE RECEIVED ABOUT FOUR LITERS OF FLUID
7 ALTOGETHER. HE WAS FAIRLY STABLE AT THE END OF THE
8 PROCEDURE, BUT HIS BLOOD PRESSURE DID DROP TO ABOUT 90 OVER
9 40 DURING THE OPERATION. THAT'S WHY WE HAD TO TRANSFUSE THE
10 BLOOD.

11 Q. AND WAS IT NECESSARY FOR YOU TO ACTUALLY HAVE TO OPERATE
12 ON HIM THAT NIGHT?

13 A. IMMEDIATELY. WE HAD TO.

14 Q. AND WHY WAS THAT, SIR?

15 A. HE WAS BEGINNING TO BECOME UNSTABLE DESPITE HAVING I.V.
16 FLUIDS GOING, AND WE SUSPECTED HE HAD A VASCULAR INJURY, A
17 BLOOD VESSEL INJURY.

18 Q. AND DID HE, IN FACT, HAVE AN INJURY THAT WAS BLEEDING?

19 A. HE HAD THE BLOOD VESSEL IN THE OMENTUM IS WHAT WAS
20 BLEEDING.

21 Q. AND IF HE HAD NOT RECEIVED THE EMERGENCY SURGERY HE GOT
22 THAT NIGHT, WHAT WAS HIS PROGNOSIS?

23 A. IT WOULD HAVE -- HE WOULD HAVE DIED.

24 Q. WERE YOU AWARE OF THE TIME PERIOD THAT LAPSED BETWEEN
25 THE TIME HE WAS SHOT AND HE WAS ABLE TO GET TO THE EMERGENCY

1 ROOM?

2 A. I WAS TOLD BY THE EMERGENCY ROOM PHYSICIAN THAT
3 FORTUNATELY HE WAS ALMOST IMMEDIATELY OUTSIDE OF THE
4 EMERGENCY ROOM WHEN IT HAPPENED... THERE WAS A TECH WHO WORKED
5 IN THE EMERGENCY ROOM THAT HEARD THE GUNSHOTS AND IMMEDIATELY
6 SAW HIM AND BROUGHT HIM DIRECTLY INTO THE EMERGENCY ROOM. SO
7 FROM THE TIME HE CAME IN UNTIL THE TIME I GOT THERE IT WAS
8 ABOUT 20 MINUTES, AND WE IMMEDIATELY PROCEEDED TO THE X-RAY
9 DEPARTMENT AND FROM THERE TO SURGERY.

10 Q. AND DID THAT PLAY A SIGNIFICANT ROLE IN HIS ABILITY TO
11 SURVIVE THESE WOUNDS?

12 A. I THINK SO.

13 Q. AND, IN FACT, HAD ANY SIGNIFICANT PERIOD OF TIME
14 ELAPSED, WOULD HIS PROGNOSIS BE MUCH WORSE?

15 A. I BELIEVE HE WOULD HAVE -- IF HE HAD NOT BEEN SEEN OR
16 FOUND IMMEDIATELY, HE PROBABLY WOULD HAVE DIED THERE WHERE HE
17 HAD BEEN INJURED, AND FORTUNATELY WE WERE ABLE TO TAKE HIM
18 IMMEDIATELY TO THE OPERATING ROOM AFTER THE X-RAYS. IN THOSE
19 INJURIES, TIME IS OF THE ESSENCE. THE SOONER YOU CAN TAKE
20 THEM TO SURGERY AND CONTROL THE BLEEDING, THE GREATER THE
21 LIKELIHOOD HE WILL SURVIVE.

22 Q. APPROXIMATELY HOW LONG DID THE SURGERY TAKE THAT NIGHT
23 OR DO YOU KNOW?

24 A. I THINK WE STARTED ABOUT 10 -- ACCORDING TO THE RECORDS,
25 IT WAS 10:40 P.M. AND WE FINISHED ALMOST 2:00 IN THE MORNING.

1 Q. AND AFTER HE CAME OUT OF SURGERY, WAS HE STILL ON THE
2 VENTILATOR?

3 A. WE KEPT -- WE KEPT HIM ON THE VENTILATOR OVERNIGHT
4 BECAUSE WITH SOMEONE WHO HAS HAD THAT MUCH FLUID VOLUME
5 REPLACED AND BLOOD VOLUME REPLACED IT'S EASIER FOR US TO MAKE
6 SURE THE PATIENT REMAINS STABLE BY KEEPING THEM COMPLETELY
7 SEDATED ON MEDICATION SO THEY DON'T WAKE UP AND KEEP THEM ON
8 THE VENTILATOR BREATHING FOR THEM. AND WE WERE ABLE TO GET
9 HIM EXCAVATED, GET HIM OFF OF THE VENTILATOR THE FOLLOWING
10 MORNING.

11 Q. AT THAT POINT, ONCE HE HAD BEEN TAKEN OFF THE VENTILATOR
12 THAT MORNING, WOULD HE HAVE STILL BEEN HEAVILY MEDICATED?

13 A. OH, HE WAS PRETTY SEDATED. I MEAN, HE WAS RECEIVING
14 PAIN MEDICATION BECAUSE OF THE INCISIONS FROM THE SURGERY,
15 AND THE SEDATION MEDICINE WE STARTED DECREASING SO WE COULD
16 GET HIM OFF THE VENTILATOR, BUT HE STILL WAS FAIRLY WELL
17 SEDATED.

18 Q. SO HIS ABILITY TO RECALL EVENTS CLEARLY WOULD HAVE BEEN
19 SOMEWHAT COMPROMISED?

20 A. IT WOULD HAVE BEEN COMPROMISED. AND THE REASON WE DO
21 THAT IS BECAUSE WHILE YOU'RE ON THE VENTILATOR WITH THE TUBE
22 IN, BREATHING IS VERY UNCOMFORTABLE, AND SO YOU DON'T WANT TO
23 REMEMBER THAT.

24 Q. SO HE WOULD HAVE BEEN WEANED OFF THAT MEDICINE GRADUALLY
25 AS THE DAY PROGRESSED.

1 A. YES.

2 Q. BUT HE STILL WOULD HAVE BEEN ON PAIN MEDICATION NO
3 MATTER WHAT?

4 A. CORRECT.

5 Q. DID HE STAY -- I BELIEVE IMMEDIATELY HE WAS IN THE
6 INTENSIVE CARE UNIT?

7 A. YES. HE WAS BEING MONITORED CONSTANTLY. SO HE WAS IN
8 THE INTENSIVE CARE UNIT FOR ABOUT THREE OR FOUR DAYS POST-
9 OPERATIVELY.

10 Q. AND THEN SUBSEQUENT TO THAT, HE REMAINED IN THE HOSPITAL
11 FOR ANOTHER PERIOD OF TIME?

12 A. YES. WE TRANSFERRED HIM FROM THERE TO THE FLOOR WHERE
13 THEN WE WERE ABLE TO BEGIN HIM ON A DIET, GET HIM UP, HAVE
14 PHYSICAL THERAPY. WE HAVE TO WORK WITH HIM IN WALKING AND
15 MOVING ABOUT.

16 Q. AND HIS ABILITY TO RECOVER FROM THESE WOUNDS, WOULD IT
17 HAVE BEEN IMMEDIATE OR WOULD IT TAKE HIM A PERIOD OF TIME?

18 A. IT TAKES USUALLY TWO TO THREE MONTHS AFTER SOMETHING
19 LIKE THAT TO RECOVER, WHEN YOU CAN RECOVER WITHOUT
20 COMPLICATIONS.

21 Q. DOCTOR, THIS MAY BE KIND OF A STUPID QUESTION. EVERY
22 GUNSHOT WOUND CAN BE POTENTIALLY FATAL. WERE THE WOUNDS IN
23 THIS CASE -- WERE THEY LIFE-THREATENING?

24 A. THESE WOUNDS WERE LIFE-THREATENING.

25 Q. AND HAD HE NOT RECEIVED THE IMMEDIATE TREATMENT THAT HE

1 HAD GOTTEN, COULD HE HAVE SURVIVED?

2 A. NO.

3 Q. SO IF HE HAD COLLAPSED IN THE PARKING LOT WHERE HE WAS
4 SHOT AND NOT BEEN FOUND FOR, SAY, A MATTER OF 30 MINUTES, 40
5 MINUTES, HE WOULDN'T HAVE LIVED.

6 A. WELL, FROM OUR PRESUMPTION OF HOW HE WAS PROGRESSING, HE
7 WAS RECEIVING I.V. FLUIDS WHEN HIS PRESSURE STARTED DROPPING.
8 SO MY PRESUMPTION IS THAT HE WOULD HAVE LIKELY NOT HAVE
9 SURVIVED IF HE HAD NOT BEEN FOUND IMMEDIATELY.

10 Q. THE BULLETS -- YOU MENTIONED THAT THERE WERE TWO
11 ENTRANCE WOUNDS BUT NO EXIT WOUNDS? DID YOU EVER REMOVE
12 THOSE AND TURN THEM OVER TO THE POLICE?

13 A. NO, WE DID NOT.

14 Q. AND WHY IS THAT, SIR?

15 A. USUALLY IN INSTANCES LIKE THIS IT IS MORE DANGEROUS TO
16 TRY TO PROBE AND RETRIEVE THE BULLETS. THEY WERE NOT IN A
17 POSITION WHERE THEY APPEARED TO BE HARMFUL, THOUGH HE MAY
18 STILL HAVE SOME PROBLEM WITH PAIN PERIODICALLY, BUT IT WOULD
19 CAUSE MORE DAMAGE TO TRY TO RETRIEVE THEM FROM A LARGE MUSCLE
20 THAN IT WOULD BE TO LEAVE THEM IN PLACE.

21 Q. SO THE ACTUAL PROJECTILES OR BULLETS THEMSELVES ARE
22 STILL IN HIS BODY?

23 A. YES.

24 MS. CAMPBELL: THAT'S ALL I HAVE.

25

CROSS-EXAMINATION

BY MR. TARR:

Q. DR. WILSON, I JUST HAVE ONE QUESTION PROBABLY. ALL THREE BULLET WOUNDS CAME FROM THE FRONT PART OF THE BODY, ENTERED THE FRONT OF THE BODY?

A. FROM THE -- WELL, FROM THE PROJECTION OF IT, IT APPEARED THAT THEY CAME FROM SOMEWHAT TO THE FRONT AND SIDE, FROM THE LEFT SIDE AND FRONT.

Q. BUT NOT THE BACK.

A. NO.

MR. TARR: OKAY. THAT'S ALL, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

MS. CAMPBELL: NO, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU, DR. WILSON.

MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

MR. TARR: NO OBJECTION, YOUR HONOR.

THE COURT: YES.

MS. CAMPBELL: THANK YOU.

THE COURT: COUNSEL, APPROACH.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: LADIES AND GENTLEMEN, THAT WILL DO IT FOR THIS DAY. WE'RE GOING TO BREAK NOW, HAVE YOU ALL LEAVE NOW. THEN WE'LL START BACK AT 9:30 TOMORROW MORNING. HAVE A GOOD EVENING. 9:30 TOMORROW MORNING.

(WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE

1 DAY AT 5:13 P.M.)

2 THE COURT: ARE THERE ANY OTHER MATTERS THAT YOU ALL
3 WOULD LIKE TO ADDRESS TODAY?

4 MS. CAMPBELL: NO, SIR.

5 MR. TARR: YOUR HONOR, WOULD YOU LIKE TO GO AHEAD AND
6 REVISIT THE ISSUE REGARDING THE TWO WITNESSES THAT THEY WERE
7 GOING TO INTRODUCE NOW OR IN THE MORNING?

8 THE COURT: OKAY.

9 MR. TARR: I MEAN, THAT'S UP TO YOU. I'M JUST ASKING
10 WHAT YOU WOULD LIKE TO DO.

11 THE COURT: WELL, ANY MATTERS THAT YOU ALL WOULD LIKE TO
12 PRESENT I'M HERE TO HEAR.

13 MR. TARR: YOUR HONOR, I WOULD -- MY POSITION HASN'T
14 CHANGED ON THE MATTER. THE ARGUMENTS THAT I MADE WITH
15 RESPECT TO BOTH CASES HANDED UP BY THE SOLICITOR ARE THE
16 SAME. I DON'T BELIEVE THE INTRODUCTION OF THE STATEMENT IN
17 AND OF ITSELF OR COUPLED WITH ANYTHING ELSE INTRODUCED IN THE
18 RECORD IS SUFFICIENT TO OVERRIDE WHAT I'VE ALREADY STATED.
19 MY UNDERSTANDING OF YOUR ANALYSIS OF THE ISSUE I DON'T THINK
20 HAS CHANGED BY THE INTRODUCTION OF THE STATEMENT, AND SO WE
21 -- I WOULD BASICALLY JUST REST ON THE ARGUMENTS THAT I'VE
22 MADE, YOUR HONOR.

23 THE COURT: ALL RIGHT. THE STATE?

24 MS. CAMPBELL: NO, SIR. WE WOULD JUST HAND UP A COPY OF
25 THE STATEMENT OR IT'S IN EVIDENCE FOR YOU TO REVIEW WHICH

1 WOULD HAVE THE INFORMATION INCLUDING THAT I JUST NEEDED A
2 RIDE. ALL I WANTED WAS A TRUCK SO I COULD GET HOME, WHICH I
3 BELIEVE, AS YOU POINTED OUT BEFORE, WAS NOT IN EVIDENCE. IT
4 WAS JUST ARGUMENT.

5 THE COURT: WHAT WOULD THESE WITNESSES SAY?

6 MS. CAMPBELL: THEY SAID THAT IN WEEKS BEFORE THAT -- A
7 WEEK OR SO BEFORE THAT HE SAID HE WANTED TO GO TO DOWNTOWN --
8 I DON'T WANT TO MISQUOTE. HE SAID, "I'M GOING DOWNTOWN TO
9 GET ME A CAR. I'M GOING TO ROB ME SOMEBODY," WHICH WOULD --
10 I'M NOT USING HIS OPENING ANYMORE, BUT HIS STATEMENT CLEARLY
11 SAYS, "I WAS CAUGHT IN THE RAIN OVER BY KING'S BARBERSHOP. I
12 NEEDED A RIDE HOME." THEN HE GOES ON TO SAY, "I DIDN'T WANT
13 TO SHOOT THAT MAN. ALL I WANTED WAS A TRUCK SO I COULD GET
14 HOME," WHICH WOULD BE I BELIEVE THE DEFENSE ARGUMENT IN
15 SAYING THAT IT WAS NOT AN ARMED ROBBERY; HE DIDN'T INTEND TO
16 PERMANENTLY DEPRIVE HIM. HE WAS JUST BORROWING THE TRUCK TO
17 GET HOME WHEREAS WE HAVE SPECIFIC INTENT IN THAT ONE
18 STATEMENT, AND I'LL LIMIT IT TO THE ONE STATEMENT WHERE HE
19 SAYS, "I'M GOING TO ROB SOMEBODY."

20 THE COURT: AND YOU HAVE STATEMENTS FROM THESE OTHER
21 WITNESSES?

22 MS. CAMPBELL: YES, SIR. I CAN HAND THOSE UP TO THE
23 COURT.

24 THE COURT: ALL RIGHT. I'LL TAKE THOSE STATEMENTS OF
25 THOSE PROSPECTIVE WITNESSES AND THE STATEMENT THAT THE

1 DEFENDANT GAVE AND REVIEW THEM ALONG WITH ANYTHING ELSE YOU
2 ALL HAVE---

3 MR. CAMPBELL: THANK YOU, YOUR HONOR.

4 THE COURT: ---TO OFFER.

5 MS. CAMPBELL: THANK YOU, YOUR HONOR.

6 MR. TARR: YOUR HONOR, I'LL DO SOME MORE RESEARCH
7 TONIGHT AND BE HAPPY -- IF I CAN FIND OTHER CASES, I'LL BE
8 HAPPY TO TURN THEM IN IN THE MORNING.

9 THE COURT: ALL RIGHT.

10 MR. TARR: WOULD YOU LIKE US BACK HERE BEFORE SO THAT WE
11 CAN FINISH THIS OR...

12 THE COURT: WELL, IT WON'T TAKE LONG TO FINISH THIS IN
13 THE MORNING. WE CAN FINISH IT RIGHT BEFORE WE START WITH THE
14 JURY, I THINK.

15 MS. CAMPBELL: YEAH. HERE ARE THE TWO WITNESSES'
16 STATEMENTS. I'LL GET A CLEAN COPY OF THE DEFENDANT'S
17 STATEMENT.

18 THE COURT: ALL RIGHT. NOW, MR. TARR, IF YOU FIND
19 SOMETHING AND YOU WANT TO E-MAIL IT TO MY CLERK, YOU CAN DO
20 THAT OVERNIGHT, AND THAT MIGHT SAVE A MOMENT OR TWO IN THE
21 MORNING. C. NEWMAN, L.C., AT S.C. COURTS DOT ORG.

22 MR. TARR: C. NEWMAN.

23 THE COURT: L.C., LAW CLERK. L.C. AT S.C. COURTS DOT
24 ORG.

25 MS. CAMPBELL: YOU CAN E-MAIL IT TO US AS WELL. I DON'T

1 KNOW WHAT HIS E-MAIL IS.

2 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN MR.
3 GOLDBERG AND MR. TARR.)

4 THE COURT: ALL RIGHT. THANKS. ALL RIGHT. AND WITH
5 THAT, WE WILL -- LET'S SEE. WELL, DO YOU ALL WANT TO TALK
6 ABOUT PROPOSED CHARGES NOW?

7 MS. CAMPBELL: THERE ARE JUST A COUPLE I DON'T HAVE,
8 YOUR HONOR. IF I COULD HAVE OVERNIGHT, IF I COULD BRING
9 THOSE TO YOUR CLERK AT 9 IN THE MORNING.

10 THE COURT: ALL RIGHT.

11 MS. CAMPBELL: IF THAT'S OKAY.

12 MR. TARR: I'M JUST ASKING FOR THE LESSER INCLUDED OF
13 ABHAN TO BE CHARGED ALONG WITH ASSAULT AND BATTERY WITH
14 INTENT TO KILL BECAUSE IF THE JURY CANNOT FIND MALICE -- IT'S
15 OBVIOUSLY NOT A SIMPLE ASSAULT, BUT THE NEXT -- IN ASSAULT
16 AND BATTERY OF A HIGH AND AGGRAVATED NATURE, ONE OF THE
17 CIRCUMSTANCES OF AGGRAVATION THAT CAN BE CONSIDERED BY A JURY
18 IS THE USE OF A DEADLY WEAPON. SO IN THAT REGARD IT'S VERY
19 SIMILAR TO ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE
20 YOU'RE USING A GUN ON BOTH CHARGES. THE DIFFERENCE IS
21 MALICE. IF THEY FIND THE STATE HASN'T PROVED MALICE, THEY
22 CAN FIND HIM GUILTY OF THE LESSER.

23 THE COURT: ALL RIGHT. AND WHAT'S THE STATE'S POSITION
24 ABOUT THAT?

25 MS. CAMPBELL: I THINK THAT WOULD PROBABLY BE

1 APPROPRIATE, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 MS. CAMPBELL: THE ABSENCE OF MALICE WOULD MAKE IT
4 ABHAN---

5 THE COURT: ALL RIGHT.

6 MS. CAMPBELL: ---ACCORDING TO THE DEFENSE THEORY.

7 THE COURT: HE'S NOT CLAIMING ACCIDENT.

8 MS. CAMPBELL: (SHOOK HEAD FROM SIDE TO SIDE.)

9 MR. TARR: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. TARR: AND I WASN'T GOING TO ARGUE THAT.

12 THE COURT: OKAY. ALL RIGHT. WELL, WE'LL BREAK 'TIL IN
13 THE MORNING.

14 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:20 P.M.
15 AND RESUMED THE FOLLOWING DAY, AUGUST 27, 2008, AS FOLLOWS.
16 STATE'S EXHIBIT 89 WAS MARKED FOR IDENTIFICATION ONLY.)

17 THE COURT: THANK YOU VERY MUCH. PLEASE BE SEATED.
18 GOOD MORNING. ON THIS ISSUE ABOUT THE TESTIMONY OF THESE
19 OTHER WITNESSES ABOUT THE DEFENDANT'S INTENT EXPRESSED TO
20 OTHERS, ANYTHING FURTHER FROM THE DEFENSE?

21 MR. TARR: NO, YOUR HONOR. I THINK YOUR LAW CLERK
22 INDICATED THAT SHE DID RECEIVE MY E-MAIL LAST NIGHT AFTER
23 HAVING A CHANCE TO DO SOME FURTHER RESEARCH. NOTHING FURTHER
24 ON THAT, YOUR HONOR.

25 THE COURT: ALL RIGHT. SHE RECEIVED -- SHE SENT IT TO

1 ME, AND I READ IT AS WELL. LET ME HEAR THE STATE'S ARGUMENT
2 ON THIS POINT AGAIN.

3 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR HONOR? AS
4 WE'VE HEARD AND AS WE ANTICIPATED THE DEFENSE AND NOW THAT
5 THE STATEMENT IS INTO THE RECORD, IN THE STATEMENT HE
6 INDICATES THAT HE JUST NEEDED A RIDE AND THAT'S THE ONLY
7 REASON HE TOOK THE CAR, THAT HE DIDN'T HAVE ANY INTENT TO
8 PERMANENTLY DEPRIVE ANYONE, AND THAT WOULD BE AN ISSUE IN
9 THIS CASE ON WHETHER OR NOT HE INTENDED TO ROB ANYONE. THE
10 FACT THAT IN THE WEEK OR SO BEFORE THIS INCIDENT OCCURRED HE
11 SAYS, I'M GOING TO GO DOWNTOWN AND I'M GOING TO ROB SOMEBODY
12 OR GET ME A CAR -- AND I'M PARAPHRASING, YOUR HONOR. I THINK
13 YOU'VE GOT THE ACTUAL STATEMENT IN FRONT OF YOU. I DO NOT
14 MEAN TO MISQUOTE IT. IT'S NOT IN THAT ORDER; I JUST SAID IT,
15 I KNOW. BUT HE USES THE WORD ROB. HE SAYS, I'M GOING TO GO
16 DOWNTOWN AND GET A CAR.

17 I THINK THOSE ARE HIGHLY PROBATIVE AS TO WHETHER OR NOT
18 HE, IN FACT, INTENDED TO PERMANENTLY DEPRIVE ANYONE OF THEIR
19 AUTOMOBILE IN THIS CASE, AND THE DEFENSE ARGUES IT'S NOT
20 SPECIFIC AS TO -- HE DIDN'T SAY, "I'M GOING TO ROB DARYL
21 HAWKINS." HOWEVER, HE WAS SPECIFIC TO SAY I WAS GOING TO GO
22 DOWNTOWN AND GET ME A CAR. I'M GOING TO ROB SOMEBODY. I
23 THINK THAT THE STATE HAS A RIGHT TO BRING IN EVIDENCE -- THAT
24 IT IS RELEVANT, NUMBER ONE, TO SHOW WHAT HIS INTENT WAS, TO
25 SHOW -- I THINK WE HAVE THE RIGHT TO PROVE MOTIVE, ALTHOUGH

1 WE DON'T HAVE TO SHOW THAT HE DID HAVE A MOTIVE, THAT HE
2 TALKED ABOUT DOING THIS. I THINK IT IS RELEVANT AS TO WHAT
3 HIS INTENT WAS AND WHAT HE SUBSEQUENTLY DID BECAUSE, IN FACT,
4 ON JUNE THE 2ND HE GOES DOWNTOWN TO GET A CAR AND HE ROBS
5 SOMEBODY AT GUNPOINT.

6 THE DEFENSE WILL ARGUE BASED ON HIS STATEMENT THAT ALL
7 HE WANTED TO DO WAS GET HOME. HE WAS JUST WET AND TIRED AND
8 HE JUST NEEDED A RIDE HOME. NOW THAT THE STATEMENT IS IN
9 EVIDENCE, THAT IS HOW HE TOLD THE OFFICERS WAS ALL HIS INTENT
10 WAS WAS JUST TO GET A RIDE HOME.

11 WE DO HAVE TO PROVE ALL THE ELEMENTS OF ARMED ROBBERY,
12 INCLUDING THE FACT THAT HE TOOK THE ITEMS AND CONVERTED THEM
13 TO HIS OWN USE WITH THE INTENT TO KEEP THOSE ITEMS. WE FEEL
14 LIKE THIS IS EXTREMELY PROBATIVE AND COULD NOT BE MORE
15 PROBATIVE IN ANY OTHER DEFENSE THAN IN THIS CASE BECAUSE THE
16 DEFENSE HAS RAISED THE ISSUE OF WHETHER OR NOT HE INTENDED TO
17 ROB ANYONE OR IF HE WAS JUST BORROWING THE CAR AND DID NOT
18 INTEND TO CONVERT IT TO HIS OWN USE AND TO KEEP IT. THE
19 WORDS HE USES, YOUR HONOR, NEGATES THAT DEFENSE. I DON'T
20 KNOW OF A SCENARIO OR A DEFENSE AVAILABLE THAT THIS WOULD BE
21 MORE PROBATIVE THAN IN THIS CASE.

22 THE COURT: ALL RIGHT.

23 MR. TARR: YOUR HONOR---

24 THE COURT: CONCERNING HIS PART OF THE STATEMENT THAT --
25 WHEREIN HE SAID THAT HE WAS GOING TO KILL SOMEONE BEFORE HE

1 LEAVES THIS EARTH...

2 MS. CAMPBELL: YOUR HONOR, AGAIN THAT WOULD BE THE
3 SECOND PRONG OF MY ARGUMENT. WE FEEL LIKE THAT AGAIN -- THE
4 DEFENSE -- IN THE STATEMENT AGAIN HE SAYS, "I DIDN'T MEAN TO
5 SHOOT ANYONE. I SHOT HIM FIVE TIMES, BUT I DIDN'T MEAN TO
6 SHOOT HIM." AGAIN, THAT WOULD NEGATE THAT.

7 WE HAVE TO PROVE MALICE IN ANY WAY WHATSOEVER FROM THE
8 CIRCUMSTANCES SURROUNDING IT, AND WE ALSO CAN USE THE
9 DEFENDANT'S OWN WORDS TO PROVE MALICE. IN THIS CASE IT IS
10 NOT TOO REMOTE. IT'S NOT EVEN FOUR MONTHS BEFORE. IT'S
11 MERELY A MATTER OF A WEEK OR SO BEFORE. AND AS FAR AS -- AND
12 I AGREE, YOUR HONOR, THAT WE CANNOT GO INTO THE FACT THAT HE
13 WANTED TO KILL SOMEONE LIKE HE KILLED -- LIKE HE TRIED TO
14 KILL HIS MOTHER OR ANY OF THAT LANGUAGE BUT JUST THAT ONE
15 STATEMENT ABOUT I'M GOING TO KILL SOMEONE BEFORE I LEAVE THIS
16 EARTH.

17 HE GOES DOWNTOWN; HE'S ARMED WITH A GUN. HE PUTS ON A
18 MASK. HE WALKS UP BEHIND DARYL HAWKINS, AND WITHIN SECONDS
19 DARYL HAWKINS' LIFE IS IN DANGER. I MEAN, AS YOU HEARD THE
20 DOCTOR'S TESTIMONY YESTERDAY, HAD DARYL HAWKINS NOT BEEN
21 FORTUNATE ENOUGH TO HAVE SOMEONE OUTSIDE THE BAPTIST HOSPITAL
22 TO HELP HIM IN THERE, HE WOULD HAVE DIED AS A RESULT OF HIS
23 INJURIES.

24 I JUST CANNOT IMAGINE A DEFENSE WHERE IT WOULD BE MORE
25 PROBATIVE. THE DEFENSE HAS ALREADY REQUESTED AND -- THAT

1 THEY GET A CHARGE OF ABHIAN. IT IS UP TO THE STATE TO PROVE
2 MALICE. YOUR HONOR, I JUST DON'T KNOW WHAT A MORE
3 PROBATIVE -- ANYTHING THE DEFENDANT COULD HAVE SAID WOULD BE
4 MORE PROBATIVE AS TO SHOW MALICE, AND IT IS AN ELEMENT OF THE
5 OFFENSE WE HAVE TO PROVE.

6 THE COURT: ALL RIGHT. EXCUSE ME A MOMENT. ALL RIGHT.
7 YES, SIR.

8 MR. TARR: YOUR HONOR, I JUST WANT TO POINT OUT TO THE
9 COURT: OUR HIGH COURTS ARE ALWAYS MORE LENIENT IN ALLOWING
10 THIS TYPE OF EVIDENCE IN WHEN THE ISSUE OF IDENTITY IS THERE.
11 IN BOTH OF THESE CASES THAT WERE SUBMITTED, THERE'S AN ISSUE
12 OF WHO THE PERSON WAS THAT PERPETRATED THE ACTS, AND THE
13 STATEMENTS THEMSELVES WENT TO PROVE IDENTITY. AND THAT'S
14 TRUE WITH THE LYLE LINE OF CASES AS WELL AS THESE INTENT LINE
15 OF CASES THAT---

16 THE COURT: IN THIS BLAKELY CASE THERE'S NO -- THERE'S
17 NO ISSUE OF IDENTITY. THE GUY SHOT HIS GIRLFRIEND. HE'S
18 CLAIMING SELF-DEFENSE AND ACCIDENT.

19 MR. TARR: YES, YOUR HONOR.

20 THE COURT: THERE'S NO QUESTION ABOUT THE IDENTITY OF
21 THE PERSON---

22 MR. TARR: WELL, IN THAT CASE---

23 THE COURT: THE DEFENDANT BEING THE PERSON WHO DID IT.

24 MR. TARR: IN THAT CASE THE THREAT WAS A SPECIFIC THREAT
25 OF HARM.

1 **THE COURT:** WELL, YOU'RE SHIFTING YOUR ARGUMENT NOW.
2 YOU SAID IN ALL THESE CASES IDENTITY IS THE ISSUE. IT'S NOT
3 THE ISSUE IN THE BLAKELY CASE.

4 **MR. TARR:** WELL, THAT'S MY MISTAKE, YOUR HONOR, BUT I
5 MEAN, I STILL STAND BY WHAT I -- MY DISTINCTION THAT I MADE
6 EARLIER ABOUT THE BLAKELY CASE AND A SPECIFIC THREAT WAS
7 MADE. YOU KNOW, I CAN'T SAY ANYTHING MORE THAN I'VE SAID
8 THAT UNDER 403 AND LOOKING AT THE RECORD AS A WHOLE THE
9 PREJUDICIAL VALUE OF ALLOWING THIS IN IS MUCH GREATER THAN
10 THE PROBATIVE VALUE.

11 IT'S AN EXTREMELY CLEAN RECORD RIGHT NOW. IT'S A LIFE
12 WITHOUT PAROLE CASE, YOUR HONOR. I BELIEVE THERE'S EVIDENCE
13 ALREADY SUBMITTED BY THE STATE THAT THE JURY CAN ACCEPT OR
14 REJECT REGARDING MALICE THAT'S IN THE RECORD. THEY CAN FIND
15 MALICE OR THEY CANNOT FIND MALICE. ALLOWING THIS TYPE OF
16 TESTIMONY IN IS HIGHLY INFLAMMATORY, AND WE STRENUOUSLY
17 OBJECT.

18 **THE COURT:** ALL RIGHT.

19 **MS. CAMPBELL:** AND, YOUR HONOR, IF HE WERE WILLING TO
20 STIPULATE THAT THERE WAS MALICE, WE WOULDN'T BE HERE. WE
21 WOULD NOT BE ASKING FOR THIS TO COME IN. I FEEL LIKE THAT IS
22 THE CONTESTED ISSUE AS FAR AS THE ASSAULT AND BATTERY WITH
23 INTENT TO KILL.

24 **MR. TARR:** YOUR HONOR, THEY HAVE TESTIMONY FROM THE
25 VICTIM IN THIS CASE THAT, IF THE JURY BELIEVES, THEY'VE GOT

1 THE MALICE. I MEAN, THIS ISSUE -- I MEAN, IF THE JURY
2 BELIEVES WHAT THE VICTIM SAID HAPPENED, THAT'S MALICE. I
3 THINK THE ISSUE -- WHAT THEY HAVE TO WRESTLE WITH IS: IS
4 WHAT THE VICTIM SAID HERE IN COURT WHAT HAPPENED OR IS WHAT
5 HE TOLD POLICE THE DAY AFTER WHAT HAPPENED? THAT'S THE CRUX
6 OF THE ISSUE AND THAT'S -- THAT'S -- THAT'S FAIR. THAT'S
7 SOMETHING THAT WE'RE WILLING TO LET THEM DECIDE.

8 MS. CAMPBELL: IN DEFERENCE TO DEFENSE COUNSEL, I JUST
9 DON'T THINK HE CAN LIMIT THE COURT ON WAYS TO SHOW MALICE. I
10 BELIEVE WE HAVE THE RIGHT TO SHOW MALICE UNLESS HE'S WILLING
11 TO STIPULATE THAT HE ACTED WITH MALICE IN ANY WAY POSSIBLE.
12 HE JUST PUT ON THE RECORD THAT HE'S DISPUTING THE VICTIM'S
13 VERSION OF WHAT HE TESTIFIED TO IN COURT.

14 THE COURT: WELL, AS THE CASE BEGAN AND THIS ISSUE WAS
15 PRESENTED TO ME INITIALLY, THE ONLY THING IN THE RECORD WAS
16 THE OPENING STATEMENT OF THE DEFENSE COUNSEL AS TO WHAT THE
17 DEFENDANT INTENDED OR DIDN'T INTEND, BUT AS THE EVIDENCE
18 UNFOLDED, IN EFFECT THE DEFENSE HAS SOUGHT TO BLAME THE
19 VICTIM FOR BEING SHOT, THAT THE DEFENDANT DID NOT INTEND TO
20 DO IT. HE ONLY INTENDED TO GET A RIDE HOME. HE WOULDN'T
21 HAVE SHOT BUT FOR THE FACT THAT THE VICTIM THREW KEYS AT HIM.
22 HE WOULDN'T SHOT -- HE WOULD NOT HAVE SHOT AGAIN BUT FOR THE
23 FACT THE VICTIM THREW THE CELL PHONE AT HIM. HE WOULD NOT
24 HAVE SHOT INITIALLY BUT FOR THE FACT THE VICTIM TRIED NOT --
25 TRIED TO KNOCK THE GUN OUT OF HIS HAND.

1 THAT MAKES ALL OF THIS TESTIMONY RELEVANT. INITIALLY I
2 WAS DOING A SORT OF A LYLE ANALYSIS AS A PRIOR BAD ACT, BUT
3 REALLY THIS IS NOT A PRIOR BAD ACT. IT'S JUST A STATEMENT---

4 MR. TARR: YES, YOUR HONOR.

5 THE COURT: ---OF INTENT AND -- AND IT CAN BE USED --
6 THE STATEMENT OF INTENT CAN BE USED TO ASSIST THE STATE IN
7 PROVING ELEMENTS OF THE CRIME THAT THE STATE HAS THE BURDEN
8 OF PROVING BEYOND A REASONABLE DOUBT. SO I FIND THAT THE
9 TESTIMONY IS RELEVANT TO PROVE THE DEFENDANT'S INTENT TO ROB
10 AS IT RELATES TO THE ROBBERY CHARGE. I FIND THAT THE
11 TESTIMONY IS RELEVANT IN SHOWING MALICE, THE STATEMENT OF
12 INTENDING TO KILL SOMEONE, BECAUSE WHAT UNFOLDED WAS
13 REMARKABLY SIMILAR TO WHAT THE DEFENDANT TOLD OTHERS THAT HE
14 WAS GOING TO DO. AND SINCE THAT'S THE CRUX OF THE ISSUES NOW
15 BEFORE THE JURY, THEN I CAN'T HAMSTRING THE STATE IN NOT
16 PRESENTING ITS ENTIRE CASE AGAINST THIS DEFENDANT.

17 OBVIOUSLY THE TESTIMONY IS DAMAGING TO THE DEFENDANT BUT
18 THESE -- THESE WERE STATEMENTS THAT HE MADE, JUST AS THE ACTS
19 COMMITTED BY HIM WERE DAMAGING TO HIM AS FAR AS INDICATING
20 POSSIBLY HIM BEING GUILTY OF THESE CRIMES, AND I FIND THAT
21 THE PREJUDICIAL EFFECT DOES NOT OUTWEIGH THE PROBATIVE VALUE
22 OF ALLOWING IN THIS TESTIMONY. IT SHOWS HIS INTENT AS WELL
23 AS POSSIBLY SHOWS HIS MALICE, IF BELIEVED BY THE JURY. AND
24 ALL OF THIS HAS BEEN BROUGHT ABOUT BASED ON THE PRESENTATION
25 OF EVIDENCE BY THE DEFENSE, AND I'M GOING TO ALLOW THE STATE

1 TO INTRODUCE THIS EVIDENCE.

2 MR. TARR: THANK YOU, YOUR HONOR. I WOULD JUST POINT
3 OUT MY CLIENT DENIES MAKING THE STATEMENT. SO, I MEAN,
4 THEY'RE ALLEGED STATEMENTS AT THIS POINT.

5 THE COURT: IT'S IN EVIDENCE. WHETHER OR NOT HE MADE
6 THE STATEMENT, THE WEIGHT TO BE GIVEN TO THE STATEMENT,
7 THAT'S ALL FOR THE JURY TO WEIGH---

8 MR. TARR: YES, YOUR HONOR.

9 THE COURT: ---NOT FOR ME. THAT GOES TO WEIGHT, NOT
10 ADMISSIBILITY.

11 MR. TARR: AND THE ONLY OTHER THING---

12 THE COURT: HE HASN'T DENIED MAKING IT. HE HASN'T
13 TESTIFIED.

14 MR. TARR: NO, YOUR HONOR. AND I WOULD OBJECT TO THE
15 CHARACTERIZATION THAT I BLAMED THE VICTIM FOR GETTING SHOT.
16 I'M ASKING THE JURY TO FIND HIM GUILTY OF ASSAULT AND BATTERY
17 OF A HIGH AND AGGRAVATED NATURE.

18 THE COURT: YOU DON'T NEED TO OBJECT TO ME. YOU CAN
19 ARGUE WHATEVER YOU WANT TO TO THE JURY. I'M TELLING YOU THAT
20 THE INFERENCES TO BE DRAWN FROM THE TESTIMONY IS WHAT -- IS
21 THE INFERENCE THAT I HAVE DRAWN, AND BASED ON ALL OF THAT I
22 BELIEVE THE TESTIMONY IS RELEVANT AND ADMISSIBLE.

23 MS. CAMPBELL: YOUR HONOR, WITH THE COURT'S PERMISSION
24 IF WE COULD JUST GO INSTRUCT THE WITNESS TO MAKE SURE SHE
25 DOESN'T MAKE REFERENCE TO THE SHOOTING OF THE MOTHER 13 YEARS

1 AGO AND THAT HE'S GOING TO DO THAT AGAIN.

2 **THE COURT:** ALL RIGHT.

3 **MS. CAMPBELL:** OKAY. WE JUST NEED TO MAKE SURE SHE
4 KNOWS NOT TO SAY THAT.

5 (PAUSE IN PROCEEDINGS.)

6 **THE COURT:** ARE YOU READY FOR THE JURY?

7 **MS. CAMPBELL:** YES, SIR. I JUST WANT TO MAKE SURE HE'S
8 INSTRUCTED HER...

9 **MR. TARR:** YOUR HONOR, DO YOU WANT TO TALK ABOUT THESE
10 CHARGES NOW OR...

11 **THE COURT:** WELL, LET'S DEAL WITH THEM LATER.

12 **MR. TARR:** ALL RIGHT.

13 **THE COURT:** ALL RIGHT. LET'S BRING THE JURY IN.

14 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
15 10:04 A.M.)

16 **THE COURT:** ALL RIGHT. GOOD MORNING. WELCOME BACK TO
17 DAY NUMBER THREE OF THIS CASE. NEXT WITNESS, PLEASE.

18 **MS. CAMPBELL:** MAY IT PLEASE THE COURT?

19 **THE COURT:** YES.

20 **MS. CAMPBELL:** THE STATE CALLS INVESTIGATOR THOMAS.

21 ARTHUR L. THOMAS, AFTER BEING DULY SWORN, TESTIFIED
22 AS FOLLOWS:

23 **THE CLERK:** HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
24 FULL NAME FOR THE RECORD, PLEASE.

25 **THE WITNESS:** INVESTIGATOR ARTHUR L. THOMAS.

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q. INVESTIGATOR THOMAS, WHERE ARE YOU EMPLOYED?

A. THE CITY OF COLUMBIA POLICE DEPARTMENT.

Q. WHAT DO YOU DO THERE, SIR?

A. I'M A HOMICIDE INVESTIGATOR.

Q. HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

A. FOR 18 YEARS.

Q. DO YOU NORMALLY WORK WITH SOMEONE ELSE WHO IS ALSO
ASSIGNED TO THE HOMICIDE TASK FORCE?

A. YES, MY PARTNER, INVESTIGATOR KEVIN REESE.

Q. I WANT TO TURN YOUR ATTENTION BACK TO JUNE THE 2ND OF
2006. THAT EVENING DID YOU GET CONTACTED ABOUT A SHOOTING
THAT OCCURRED IN DOWNTOWN COLUMBIA?

A. YES, I DID. INVESTIGATOR KEVIN REESE CONTACTED ME IN
REFERENCE TO A SHOOTING INCIDENT ALONG WITH SERGEANT THOMAS,
OUR SUPERVISOR AT THE TIME, ADVISING THAT WE HAD A SHOOTING
INCIDENT AND A VEHICLE WAS TAKEN AND THE VEHICLE WAS BEING
TRACKED BY ONSTAR.

Q. SO AT THE TIME YOU WERE CONTACTED, THE VEHICLE WAS
ALREADY BEING TRACKED BY ONSTAR?

A. THAT'S CORRECT.

Q. AND WERE YOU THE TWO PRIMARY INVESTIGATORS IN THIS CASE?

A. YES, WE WERE.

Q. BUT, OF COURSE, OTHER PEOPLE WITHIN THE DEPARTMENT HELP

1 YOU OUT, TOO.

2 A. THAT IS CORRECT.

3 Q. AS A RESULT OF THE COMMUNICATIONS THAT WERE GIVEN TO YOU
4 THAT NIGHT, DID YOU GO TO THE SCENE AT 1634 MAIN STREET?

5 A. NO. INVESTIGATOR REESE AND I BOTH HEADED TOWARD THE
6 VEHICLE ITSELF. IT HAD STOPPED OUT IN LEXINGTON COUNTY, AND
7 THEY WERE TRYING TO TRACK THE INDIVIDUAL. SO WE DID NOT GO
8 TO THE ACTUAL CRIME SCENE.

9 Q. SO YOU ACTUALLY WENT OUT TO THE PEELER ROAD AREA IN
10 LEXINGTON OR GASTON ACTUALLY IN LEXINGTON COUNTY?

11 A. THAT'S CORRECT.

12 Q. AND WHEN YOU GOT THERE, DID YOU MAKE CONTACT WITH
13 LEXINGTON COUNTY DEPUTIES?

14 A. YES, WE DID.

15 Q. ONCE YOU GOT THERE, DID YOU AND INVESTIGATOR REESE MAKE
16 CONTACT WITH A PERSON WHO WAS THERE BEING HELD AT THAT POINT?

17 A. YES. LEXINGTON COUNTY HAD DETAINED AN INDIVIDUAL THAT
18 FIT THE GENERAL DESCRIPTION IN A WHITE S.U.V. THE INDIVIDUAL
19 WAS QUITE COOPERATIVE. WE WENT THROUGH A GOOD PROTOCOL AS
20 FAR AS TAKING THE SHOE AND SOME GUNSHOT RESIDUE ANALYSIS, AND
21 HE COOPERATED THE WHOLE TIME.

22 Q. AND WAS HE ELIMINATED AS BEING INVOLVED IN THIS CASE IN
23 ANY WAY THAT NIGHT?

24 A. YES, HE WAS.

25 Q. WHAT WERE THE WEATHER CONDITIONS THAT NIGHT BY THE TIME

1 YOU GOT OUT TO LEXINGTON?

2 A. BY THE TIME WE GOT TO LEXINGTON, THE RAIN STARTED COMING
3 DOWN RELATIVELY HARD. THEN IT STARTED POURING SOMETIME
4 LATER.

5 Q. WAS ANYONE CALLED IN TO PROCESS THE CAR THAT WAS
6 RECOVERED?

7 A. OUR C.S.I. OFFICER SCOTT, SERGEANT SCOTT, WAS ASKED TO
8 COME PROCESS THE CAR.

9 Q. THE AREA WHERE THE CAR WAS RECOVERED, CAN YOU DESCRIBE
10 IT FOR THE JURY?

11 A. IT WAS AN AREA OFF A DIRT ROAD IN THAT GASTON AREA IN A
12 WOOD LINE ACTUALLY HIDDEN FROM THE ROADWAY FROM COMMON SIGHT.

13 Q. SO IT WASN'T JUST ON THE SIDE OF THE ROAD PULLED OVER OR
14 ANYTHING OF THAT NATURE.

15 A. OH, NO. NO. IT'S OBVIOUSLY HIDDEN.

16 Q. AND WERE YOU AWARE THAT THE CAR HAD BEEN LOCKED?

17 A. I WAS TOLD THAT IT WAS SECURED.

18 Q. AND THAT NO KEYS WERE FOUND IN THE VEHICLE.

19 A. THAT'S CORRECT.

20 Q. AND SERGEANT SCOTT WOULD HAVE BEEN IN CHARGE OF
21 PROCESSING THE CAR TO SOME EXTENT THAT NIGHT AND THEN GETTING
22 IT TOWED.

23 A. THAT'S CORRECT.

24 Q. AFTER Y'ALL GOT THERE, DID YOU GET SOME MORE INFORMATION
25 WHERE YOU CALLED SOME TRACKING DOGS BACK IN?

1 A. YEAH. INVESTIGATOR REESE CONTACTED LEXINGTON COUNTY,
2 ASKED THEM COULD THEY BRING THE DOGS BACK OUT DUE TO SOME
3 INFORMATION GIVEN BY THE INDIVIDUALS THAT WE HAD DETAINED.
4 THEY SAW A SUBJECT POSSIBLY FLEEING IN THE WOOD LINES WHILE
5 OFFICERS WERE OUT THERE, SO THE DOGS CAME BACK AND TRACKED
6 FROM THE VEHICLE AGAIN AND---

7 Q. AND WERE THEY ABLE TO PICK ANY TRACKS THAT NIGHT?

8 A. NO. DUE TO THE WEATHER CONDITIONS, THE ONLY THING THAT
9 WAS GIVEN TO US BY THE TRACKING AGENT WAS THAT THERE WAS SOME
10 BRUSH AND GRASS THAT HAD BEEN FRESHLY LAID AS THOUGH SOMEONE
11 HAD RAN THROUGH THAT AREA.

12 Q. AND I WANT TO SHOW YOU WHAT'S BEEN MARKED, AS YOU CAN
13 STAY UP THERE, STATE'S EXHIBIT NUMBER 58. DOES THIS SHOW THE
14 CORNER OF SHADOW DALE AND PEELER ROAD?

15 A. YES, IT DOES.

16 Q. AND IS THERE A MARKER KIND OF CLOSE TO WHERE THE
17 DEFENDANT'S HOUSE ACTUALLY WAS AT THAT TIME?

18 A. YES, IT IS.

19 Q. AND DID HE LIVE THERE WITH HIS WIFE AND HER CHILDREN?

20 A. YES, AT THAT TIME HE DID.

21 Q. AND THE AREA OF THE ROAD THAT COMES OFF THIS -- THIS IS
22 A PAVED ROAD?

23 A. CORRECT.

24 Q. AND THIS IS A PAVED ROAD.

25 A. CORRECT.

1 Q. HOWEVER, UP HERE IS WHERE THE CAR WAS FOUND?

2 A. CORRECT.

3 Q. AND THAT'S NOT A PAVED ROAD.

4 A. NO, IT'S NOT. IT'S A DIRT ROAD.

5 Q. IT'S NOT A ROAD.

6 A. IT'S NOT EVEN A ROAD ACTUALLY WHEN YOU GET TO THAT
7 PORTION OF IT.

8 Q. AND ARE THERE TREES IN THIS TREE LINE?

9 A. YES.

10 Q. AND AS FAR AS BEING ABLE TO SEE ANYTHING FROM ANY OF
11 THESE PAVED ROADS, UNLESS YOU'RE WILLING TO GO DOWN THIS DIRT
12 PATH, WOULD YOU BE ABLE TO FIND THAT CAR?

13 A. NO, YOU WOULD NOT.

14 Q. THE NEXT MORNING -- THAT NIGHT WERE Y'ALL ABLE TO
15 CANVASS ANYTHING?

16 A. NOT THAT NIGHT. THE WEATHER CONDITION WAS TOO BAD TO
17 BE---

18 Q. AND WHAT TIME OF NIGHT WAS IT BY THE TIME YOU TALKED TO
19 THE INDIVIDUAL, GOT THE DOGS BACK OUT THERE AND---

20 A. OH, IT HAD TO BE A GOOD 1:30, ALMOST 2:00 IN THE
21 MORNING.

22 Q. SO Y'ALL DIDN'T DO A DOOR-TO-DOOR THAT NIGHT.

23 A. NO, WE DID NOT.

24 Q. THE NEXT MORNING WHERE DID Y'ALL GO ADDITIONALLY?

25 A. THE NEXT MORNING, BECAUSE KEVIN AND I HAD NOT ACTUALLY

1 GONE TO THE CRIME SCENE, WE WENT BACK TO THE CRIME SCENE TO
2 GET A FULL VIEW OF EXACTLY WHAT TRANSPIRED OUT THERE AND ALSO
3 SEE IF THERE WAS ANY ADDITIONAL EVIDENCE.

4 Q. AND THAT MORNING DID YOU ALSO GO BY THE HOSPITAL AND
5 ATTEMPT TO TALK TO THE VICTIM IN THE CASE?

6 A. YES, WE DID.

7 Q. WERE YOU AWARE WHEN YOU WERE INITIALLY STARTING TO TALK
8 TO HIM THE EXTENT OF HIS MEDICATIONS?

9 A. NO. WE KNEW HE HAD SEVERE INJURIES AND WAS SURELY
10 MEDICATED. WE JUST TRIED TO POOL AS MUCH INFORMATION AS WE
11 COULD PRIOR TO GOING BACK OUT TO---

12 Q. DID YOU TERMINATE THE CONVERSATION WITHOUT REDUCING IT
13 TO WRITING FIRST?

14 A. YES, WE DID. APPROXIMATELY EIGHT TO TEN MINUTES INTO IT
15 WE COULD TELL THAT HE WAS MEDICATED. HE WAS DOING THE BEST
16 THAT HE COULD TO RECOUNT WHAT WAS GOING ON, BUT WE CHOSE NOT
17 TO DOCUMENT IT IN ANY WRITTEN FORM OUTSIDE THE NOTES.

18 Q. LATER THAT MORNING DID YOU MEET BACK UP WITH SERGEANT
19 BLACK FROM THE LEXINGTON COUNTY---

20 A. YES, WE DID.

21 Q. ---SHERIFF'S DEPARTMENT? AND DID YOU GO BACK TO VIEW
22 IT?

23 A. YES, WE DID.

24 Q. WHAT WAS THE PURPOSE OF Y'ALL GOING BACK TO THE PEELER
25 ROAD AREA?

1 A. AGAIN, THIS TIME WE WANTED TO GO BACK TO THE LOCATION
2 WHERE THE VEHICLE WAS LOCATED. ALSO WE WANTED TO GO AHEAD
3 AND CANVASS THE AREA THOROUGHLY NOW WITH BETTER WEATHER
4 CONDITIONS AND KIND OF TRACK POSSIBLE AREAS WHERE THE SUSPECT
5 COULD HAVE FLED AND SO FORTH, LOOKING FOR ADDITIONAL
6 EVIDENCE.

7 Q. AND AT THIS POINT DO YOU EVEN KNOW WHO ERIC MANCE IS?

8 A. NO. AT THIS POINT WE HAVE NO IDEA WHO THE PERPETRATOR
9 WAS. WE WERE JUST FOLLOWING THE EVIDENCE.

10 Q. AND WHEN YOU SAY CANVASS AN AREA, WHAT DOES THAT MEAN?

11 A. A LOT OF TIMES WHEN A CRIME IS COMMITTED, PEOPLE OBSERVE
12 THINGS IN THE NEIGHBORHOOD THAT MAY HAVE STOOD OUT TO THEM.
13 WE'LL GO AND WE'LL DO DOOR KNOCKING. WE'LL GO DOOR TO DOOR,
14 HOW EVER MANY DOORS WE HAVE TO, TO SEE IF ANYBODY SAW SOMEONE
15 RUNNING OR OBSERVED VEHICLES SPEEDING OR SAW SOMEONE GET IN A
16 VEHICLE AND TAKE OFF. IT'S JUST TRYING TO ALLOW THE
17 NEIGHBORS TO HELP US DO OUR JOB.

18 Q. AND IN THAT SAME VEIN, DO YOU ALSO KIND OF SPREAD OUT
19 AND KIND OF SEARCH THE GENERAL AREA AROUND WHERE THE CAR WAS
20 FOUND?

21 A. LOOKING FOR ANY ADDITIONAL EVIDENCE, ANY ADDITIONAL
22 FOOTPRINTS, TRACKS, ANY LAY EVIDENCE THAT MAY HAVE FALLEN AS
23 THE PERPETRATOR EXITED THE VEHICLE AND SO FORTH. SINCE THERE
24 WAS SOME -- SINCE THE BRUSH WAS LAID THAT NIGHT, I DECIDED TO
25 FOLLOW WHAT I COULD CONSIDER SOME MORE LAYING OF BRUSH AS A

1 TRAIL.

2 Q. OKAY. AND WHEN YOU WERE FOLLOWING DOWN THAT AREA WHERE
3 YOU OBSERVED -- AND THE WEATHER INHIBITED Y'ALL SOMEWHAT IN
4 THIS.

5 A. DEFINITELY THAT EVENING IT DID.

6 Q. BUT YOU STILL -- IT ACTUALLY HELPED YOU AS FAR AS THE
7 GRASS BEING CRUSHED.

8 A. CORRECT.

9 Q. AND WHEN YOU WERE WALKING DOWN KIND OF IN THIS AREA,
10 WERE THERE A ROW OF HOUSES THAT YOU WALKED BEHIND?

11 A. YES. AS I LEFT THE AREA WHERE THE VEHICLE WAS, I
12 STARTED FOLLOWING SOME OF THE LAID GRASS. THERE WAS A FENCE
13 THAT HAD AN OPENING. I WENT THROUGH THERE, AND AS I ENTERED
14 THAT AREA I COULD SEE A ROW OF HOUSES OR TRAILERS. I WAS
15 KIND OF IN THE BACKYARD OR BACK AREA OF THOSE TRAILERS.

16 Q. AND WERE YOU WALKING BY YOURSELF AT THAT POINT?

17 A. YEAH, AT THIS POINT I HAD STRAYED OFF. INVESTIGATOR
18 REESE WAS IN ONE LOCATION. OFFICER BLACK, I BELIEVE, WAS IN
19 ANOTHER AREA. WE KIND OF -- KIND OF PANNED OUT.

20 Q. AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
21 NUMBER 85, THE BACKYARD?

22 A. YEAH. IT HAD THE POOL IN IT.

23 Q. IS THAT THE AREA WHERE YOU WERE WALKING?

24 A. YES. UP ON THE HILL CREST THE LITTLE BLUE POOL -- THERE
25 WAS SOME CHILDREN PLAYING IN THE POOL AS I WAS ON THE HILL

1 CREST FOLLOWING THE FALLEN GRASS AND SO FORTH.

2 Q. AND WHAT CAME TO YOUR ATTENTION AS YOU WERE JUST -- WERE
3 YOU SAYING ANYTHING TO ANYBODY AT THIS POINT?

4 A. NO. NO, JUST FOCUSING ON THE TRACK.

5 Q. HOW WERE YOU DRESSED?

6 A. DRESSED IN JEANS AND A POLO-STYLE SHIRT WITH MY BADGE
7 AND GUN SHOWING.

8 Q. SO YOU HAD IDENTIFYING THINGS SHOWING YOU WERE POLICE?

9 A. YES, I DID.

10 Q. AND AS YOU WALKED THROUGH THIS AREA BEHIND WHERE THIS
11 BLUE POOL IS, WHAT HAPPENED?

12 A. THE CLOSER I GOT TO THAT POOL AND THE TRACK, A GENTLEMAN
13 CAME OUT ON THE BACK PORCH, STARTED YELLING OBSCENITIES
14 TOWARD ME, CUSSING ME OUT, SAYING, "THE POLICE ARE STUPID.
15 YOU'RE NOT GOING TO FIND ANYTHING BACK HERE. GET OUT OF MY
16 YARD." JUST SEVERAL OBSCENITIES. I JUST ASKED HIM TO, "BE
17 QUIET, SIR. I'M JUST TRYING TO DO MY JOB," AND I CONTINUED
18 TO SEARCH THE AREA, AT THAT TIME AGAIN NOT KNOWING WHO THIS
19 INDIVIDUAL WAS OR WHY HE CHOSE TO COME OUT AND YELL THOSE
20 OBSCENITIES TO ME.

21 Q. AND, AGAIN, WHEN YOU SAID HE CAME BACK ON THE BACK PORCH
22 -- LET ME SHOW YOU A PHOTOGRAPH. AND AT THAT POINT AGAIN,
23 DID YOU KNOW WHO ERIC MANCE WAS?

24 A. NO, AGAIN NOT KNOWING WHO HE WAS.

25 Q. AND I SHOW YOU STATE'S EXHIBIT NUMBER 86.

1 A. YES.

2 Q. DOES THAT SHOW THE PORCH AREA WHERE HE CAME OUT?

3 A. EXACTLY.....

4 Q. AND IS THIS THE PORCH?

5 A. THAT'S THE PORCH.

6 Q. AND WHERE WOULD YOU HAVE BEEN APPROXIMATELY?

7 A. AGAIN, UP ON THE TOP OF THE HILL AREA WHERE YOU COULD
8 SEE ME NOW CLEARLY COMING CLOSER TO THE BACKYARD, AND I THINK
9 THAT'S WHAT STARTLED -- STARTLED HIM AS I WAS AGAIN TRYING TO
10 FOLLOW THE TRAIL.

11 Q. AND HE TOLD YOU YOU WERE THE POLICE; YOU WERE STUPID?

12 A. THAT'S CORRECT, AND HE SAID SOME OTHER OBSCENITIES I'M
13 NOT GOING TO REPEAT.

14 Q. DURING THE COURSE OF YOUR CANVASS IN THAT AREA, DID YOU
15 FIND ANYTHING OF EVIDENTIARY VALUE AS FAR AS THIS CASE IS
16 CONCERNED?

17 A. NOTHING OTHER THAN THE FADED TRAIL AT THAT POINT AND I
18 MADE NOTE TO INVESTIGATOR REESE AND BLACK OF THE GENTLEMAN
19 COMING ON THE BACK PORCH AND HIS OBSCENITIES AT THAT TIME.

20 Q. THE NEXT MORNING ON JUNE THE 4TH OF 2006, DID Y'ALL
21 RECEIVE A CALL FROM RICHLAND COUNTY SHERIFF'S DEPARTMENT?

22 A. WE DID.

23 Q. AND AT THAT POINT DID YOU MAKE CONTACT WITH TWO YOUNG
24 WOMEN NAMED IRENA FULLER AND SHERRY BOLIN?

25 A. YES, WE DID.

1 Q. DID YOU THEN TRANSPORT THEM TO THE COLUMBIA POLICE
2 DEPARTMENT?

3 A. YES.

4 Q. WHAT WERE THE PURPOSES OF Y'ALL TAKING THEM TO THE
5 COLUMBIA POLICE DEPARTMENT?

6 A. UPON SPEAKING WITH THE YOUNG LADIES, THEY PROVIDED US
7 WITH WHAT WE THOUGHT TO BE CREDIBLE INFORMATION IN REFERENCE
8 TO A SUSPECT IN THIS CASE.

9 Q. DID YOU, IN FACT, TAKE STATEMENTS FROM THEM?

10 A. YES, WE DID.

11 Q. AND AS A RESULT OF TALKING TO THEM, DID Y'ALL ATTEMPT TO
12 MAKE CONTACT WITH A RELATIVE OF ERIC MANCE?

13 A. YES, THE STEPDAUGHTER.

14 Q. AND WHY WERE YOU TRYING TO MAKE CONTACT WITH THE
15 STEPDAUGHTER?

16 A. THE INFORMATION PROVIDED BY THEM WAS PROVIDED THROUGH
17 THE STEPDAUGHTER. WE WANTED TO CORROBORATE THE INFORMATION
18 WHICH WAS IDENTIFYING A SUSPECT AT THIS TIME.

19 Q. DID YOU MAKE ARRANGEMENTS THAT AFTERNOON AFTER TAKING
20 THE STATEMENTS FROM MS. FULLER AND MS. -- WHAT'S HER NAME?
21 BOLIN. DID YOU MAKE ARRANGEMENTS TO MEET UP WITH MS. WILSON?

22 A. WE DID. SHE WAS A BIT AFRAID TO ACTUALLY SPEAK TO LAW
23 ENFORCEMENT. WE LITERALLY HAD TO SNEAK INTO THE COMMUNITY
24 AND SNEAK BEHIND THE TRAILERS OF THE TWO YOUNG LADIES AND
25 THEN HAVE THE YOUNG LADY COME OVER BY INVITATION. SO WE --

1 WE LITERALLY HAD TO KIND OF GO IN A STEALTH MODE TO ACTUALLY
2 DO THE INTERVIEW.

3 Q. AND SHE WAS 15 YEARS OLD AT THE TIME?

4 A. THAT'S CORRECT.

5 Q. AND WHEN YOU MADE CONTACT WITH HER, WHOSE HOUSE DID YOU
6 -- YOU DIDN'T GO TO HER HOUSE.

7 A. NO, WE DID NOT.

8 Q. WHOSE HOUSE DID YOU GO TO?

9 A. WE WENT TO THE YOUNG LADIES', IRENA AND THE OTHER YOUNG
10 LADY. THEY WERE ROOMMATES AT THE TIME.

11 Q. DID THEY ALSO LIVE ON PEELER?

12 A. YES, THEY DID.

13 Q. BUT THEY DIDN'T LIVE ON THE SAME SIDE OF THE ROAD AS MR.
14 MANCE.

15 A. NO. I BELIEVE IT WAS PEELER WHICH WAS ACROSS THE
16 STREET. THAT WAS THE REASON FOR HAVING TO SNEAK IN. WE HAD
17 TO BYPASS THE SUSPECT'S HOUSE.

18 Q. AND YOU CAN'T SAY WHAT MS. W SAID TO YOU---

19 A. NO.

20 Q. ---BUT AS A RESULT, WAS SHE ABLE TO GIVE YOU
21 INFORMATION?

22 A. YES. SHE CORROBORATED THE INFORMATION GIVEN BY THE
23 OTHER TWO YOUNG LADIES, AND HER CORROBORATION HAD MORE WEIGHT
24 BECAUSE SHE WAS ACTUALLY A FAMILY MEMBER AND GAVE GREAT
25 DETAIL.

1 Q. AND AT THAT POINT DID YOU REDUCE ANYTHING TO WRITING, A
2 WRITTEN STATEMENT WITH HER?

3 A. NO. BECAUSE OF HER AGE AND HOW AFRAID SHE WAS IN EVEN
4 GIVING US THE VERBAL STATEMENT, WE DID NOT REDUCE HER
5 STATEMENT INTO WRITING, BUT SHE PROVIDED US WITH OTHER NAMES
6 OF OTHER FAMILY MEMBERS.

7 Q. DID YOU ALSO MAKE HER ANY ASSURANCES ABOUT BEING
8 INVOLVED IN THE FUTURE?

9 A. YEAH. WE ADVISED HER THAT WE WOULD TRY TO LIMIT HER
10 INVOLVEMENT AT ALL IN THE FUTURE AGAIN BECAUSE OF HOW SCARED
11 SHE WAS AT THE TIME.

12 Q. THE NEXT MORNING ON JUNE THE 5TH OF 2006, DID YOU MAKE
13 CONTACT WITH ANOTHER -- WELL, NOT REALLY RELATIVE BUT FAMILY
14 MEMBER OF ERIC MANCE?

15 A. YES, WE DID.

16 Q. AND AT THIS POINT WHY ARE YOU TRYING TO GATHER MORE AND
17 MORE INFORMATION BEFORE YOU MAKE DIRECT CONTACT WITH MR.
18 MANCE HIMSELF?

19 A. AGAIN, TRYING TO CORROBORATE THE FACTS, TRYING TO
20 CORROBORATE THE STATEMENTS, TRYING TO BUILD THE CASE AS
21 STRONG AS POSSIBLE, AND THE MORE WITNESSES THAT ARE DIRECTLY
22 LINKED TO ANY STATEMENTS OR GESTURES MADE BY THE PERPETRATOR
23 HIMSELF, IT MAKES THE CASE STRONGER.

24 Q. DID YOU MAKE CONTACT WITH LETICIA GILMORE?

25 A. YES, WE DID.

1 Q. AND DID SHE COME DOWN TO POLICE HEADQUARTERS AND GIVE
2 Y'ALL A STATEMENT?

3 A. SHE DID.

4 Q. WHAT WAS HER RELATIONSHIP TO ERIC MANCE?

5 A. SHE WAS A SISTER-IN-LAW. A SISTER OF HIS WIFE, I
6 BELIEVE.

7 Q. HIS WIFE, ODESSA?

8 A. ODESSA.

9 Q. DID YOU AND INVESTIGATOR REESE TAKE A FORMAL STATEMENT
10 FROM MS. GILMORE?

11 A. YES, WE DID.

12 Q. AND WITHOUT SAYING WHAT SHE SAID TO YOU, DID SHE HAVE
13 DIRECT KNOWLEDGE OF SOME OF THIS?

14 A. SHE DID. SHE CORROBORATED ALL INFORMATION THAT WE
15 RECEIVED UP TO THAT POINT.

16 Q. AND AT THAT POINT WAS SHE COOPERATIVE?

17 A. EVERYONE WAS QUITE COOPERATIVE AT THAT TIME.

18 Q. WHILE YOU WERE FINISHING UP THE INTERVIEW WITH MS.
19 GILMORE AT THE COLUMBIA POLICE DEPARTMENT, DID YOU BECOME
20 AWARE THAT THERE WERE OTHER PEOPLE IN THE LOBBY LOOKING FOR
21 YOU?

22 A. YEAH. DURING THE INTERVIEW, MR. MANCE AND HIS WIFE
23 ACTUALLY PULLED UP AND WE WERE NOTIFIED THAT THEY WERE ON THE
24 POLICE HEADQUARTERS PROPERTY AND WANTED TO KNOW WHY WE WERE
25 SPEAKING TO THE FAMILY MEMBERS.

1 Q. AT THAT POINT, BASED ON YOUR ENTIRE INVESTIGATION, HAD
2 Y'ALL STARTED DRAWING UP AFFIDAVITS TO GET WARRANTS IN THIS
3 CASE?

4 A. RIGHT. BASED ON THE CORROBORATIVE INFORMATION THAT WE
5 RECEIVED, INVESTIGATOR REESE HAD ALREADY TYPED UP AN
6 AFFIDAVIT AND HAD IT SHIPPED OVER TO THE WARRANT DIVISION,
7 AND ALL HE HAD TO GO -- HAD TO DO WAS GO OVER AND ACTUALLY
8 SIGN THE AFFIDAVIT AT THIS POINT, BUT WE HAD NOT SPOKEN TO
9 MR. MANCE YET.

10 Q. FOR THE RECORD, Y'ALL CAN'T JUST SIGN AN ARREST WARRANT
11 YOURSELF. YOU SIGN IT AND THEN IT IS COUNTERSIGNED BY A
12 JUDGE?

13 A. THAT'S CORRECT.

14 Q. AND THAT WAS DONE IN THIS CASE.

15 A. THAT'S CORRECT.

16 Q. SO THE JUDGE ACTUALLY ISSUES THE WARRANT.

17 A. CORRECT.

18 Q. WHEN Y'ALL CAME IN CONTACT WITH ERIC MANCE AND HIS WIFE,
19 ODESSA, DID YOU TAKE ODESSA MANCE INTO A SEPARATE INTERVIEW
20 ROOM AS MR. MANCE?

21 A. YES. WE SEPARATED THE TWO PARTIES UPON THEIR ARRIVAL
22 WHICH IS WHAT WE ALWAYS DO. I WANTED TO INTERVIEW MRS. MANCE
23 FIRST. KEVIN AND I LIKE TO SPEAK WITH THE SPOUSE SEPARATE TO
24 SEE WHAT SHE'S GOING TO PROVIDE US PRIOR TO ACTUALLY
25 INTERVIEWING THE SUSPECT, AND SO I INITIATED THAT INTERVIEW.

1 Q. AND DID YOU ACTUALLY GET A SWORN STATEMENT FROM ODESSA
2 MANCE?

3 A. YES, I DID.

4 Q. AND WITHOUT SAYING WHAT SHE SAID TO YOU, IS THAT
5 INFORMATION THAT YOU LATER USED IN YOUR INTERVIEW WITH MR.
6 MANCE?

7 A. YES, IT IS.

8 Q. AFTER TAKING A STATEMENT FROM ODESSA MANCE, DID YOU THEN
9 JOIN INVESTIGATOR THOMAS IN INTERVIEWING THE DEFENDANT, ERIC
10 MANCE?

11 A. I JOINED INVESTIGATOR REESE.

12 Q. EXCUSE ME.

13 A. HE AND INVESTIGATOR SLOAN WERE ALREADY IN THE INTERVIEW
14 ROOM. THEY HAD ALREADY ADVISED MR. MANCE OF HIS MIRANDA
15 RIGHTS. INVESTIGATOR REESE AND I ALWAYS INTERVIEW OUR
16 SUBJECTS TOGETHER, AND AT THE POINT OF MY ENTRY SLOAN LEFT.

17 Q. WERE YOU AWARE WHEN YOU ENTERED -- OR AFTER YOU ENTERED
18 THE ROOM, DID YOU BECOME AWARE WHETHER OR NOT THE DEFENDANT
19 WAS BEING COOPERATIVE AT THAT POINT?

20 A. YEAH. UPON ENTERING THE ROOM, THERE WAS SOME BRIEF
21 CONVERSATION BETWEEN THE DEFENDANT AND INVESTIGATOR REESE.
22 WE STARTED TALKING ABOUT THE CASE. HE INITIALLY MADE MAYBE
23 TWO STATEMENTS. ONE WAS THAT HE SAW THE TRUCK IN HIS
24 BACKYARD, WENT UP THERE PROBING CURIOUSLY, SAW A BRIEFCASE
25 AND MAYBE A DOLLAR BILL IN IT. THEN HE -- REESE CHALLENGED

1 THAT BY SAYING, "WELL, WE KNOW YOU WERE DOWNTOWN AT A CERTAIN
2 TIME. WE HAVE INFORMATION TO THIS FACT."

3 HE TRIED TO COME BACK WITH ANOTHER STATEMENT, A BRIEF
4 ONE THAT, "WELL, I WAS AT THE BARBERSHOP. I HAD GOTTEN A
5 SHAVE AT I THINK KING'S OR SOMETHING OF THAT NATURE AND
6 THAT'S WHY I WAS DOWNTOWN." AND THEN HE STARTED GETTING
7 UPSET WHEN WE TRIED TO TALK TO HIM FURTHER ABOUT THE CASE,
8 AND HE DECIDED HE DID NOT WANT TO TALK.

9 Q. AGAIN, FOR THE RECORD, WHEN YOU WERE INITIALLY TALKING
10 TO HIM, HAD ANYONE PROMISED HIM ANYTHING TO MAKE HIM TALK,
11 THAT YOU'RE AWARE?

12 A. NO.

13 Q. HAD ANYONE THREATENED HIM IN ANY WAY?

14 A. NO.

15 Q. DID YOU TRY TO FORCE HIM TO GET HIM TO TALK?

16 A. NO.

17 Q. DID YOU USE PHYSICAL FORCE OR VIOLENCE TOWARDS HIM?

18 A. NO, WE DID NOT.

19 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL
20 OR DRUGS?

21 A. NO, HE DID NOT.

22 Q. WHEN Y'ALL WERE TALKING TO HIM AND ASKING HIM QUESTIONS
23 FIRST ABOUT THE CAR AND THEN YOU TOLD HIM THAT YOU PUT HIM
24 DOWNTOWN, DID HE RESPOND COHERENTLY?

25 A. HE WAS VERY COHERENT, ACTUALLY VERY ARTICULATE DURING

1 THE INTERVIEW.

2 Q. AND WAS THERE ANYTHING ABOUT HIS MANNER THAT MADE YOU
3 SUSPECT THAT HE WASN'T RIGHT MENTALLY?

4 A. NO, NOTHING.

5 Q. AFTER HE BECAME UPSET, WHAT HAPPENED?

6 A. ONCE HE BECAME UPSET, WE LOOKED AT THAT AS INVOKING HIS
7 RIGHT TO SILENCE ONCE HE SAYS HE DOESN'T WANT TO TALK. WE
8 TERMINATED THE INTERVIEW AT THAT POINT. INVESTIGATOR REESE
9 LEFT OUT. HE WENT AHEAD AND SIGNED THE WARRANTS, THE
10 WARRANTS THAT WERE WAITING ON HIM, AND I SERVED THE WARRANTS
11 ONCE HE CAME BACK.

12 Q. AND AT THIS POINT ERIC MANCE WAS IN THE INTERVIEW ROOM.

13 A. THAT'S CORRECT.

14 Q. WAS HE HANDCUFFED AT THAT POINT?

15 A. NO. ACTUALLY WE HADN'T HANDCUFFED HIM. HE CAME IN ON
16 HIS OWN, AND THERE DIDN'T SEEM TO BE ANY AGITATION WHERE WE
17 NEEDED TO ACTUALLY HANDCUFF HIM AT THAT POINT. HE WAS VERY
18 CALM AND RELAXED, SO WE DIDN'T HANDCUFF HIM.

19 Q. SO YOU STAYED WITH HIM WHILE INVESTIGATOR REESE WENT AND
20 GOT THE WARRANTS AND CAME BACK WITH THEM?

21 A. THAT'S CORRECT.

22 Q. AND THE AREA WHERE THE WARRANTS WERE, THAT'S RIGHT NEXT
23 TO THE POLICE STATION.

24 A. THAT'S CORRECT.

25 Q. IS IT CONNECTED? AND ONCE HE GOT BACK, YOU ACTUALLY

1 STARTED READING THE WARRANTS TO HIM?

2 A. THAT'S CORRECT.

3 Q. AND IS THAT HOW A WARRANT GETS SERVED ON SOMEONE IS IT'S
4 READ TO THEM?

5 A. THE AFFIDAVIT ITSELF IS READ IN DETAIL TO THE ELEMENTS
6 OF THE CRIME AND TO THE ALLEGATIONS OF WHAT HE'S BEEN ACCUSED
7 OF.

8 Q. DOES IT ALSO INCLUDE THE PROBABLE CAUSE---

9 A. YEAH.

10 Q. ---THE REASONS?

11 A. EXACTLY. ALL ELEMENTS OF THE PROBABLE CAUSE.

12 Q. AND AS YOU FINISHED UP READING ONE OF THE INDICTMENTS,
13 DID THE DEFENDANT SAY SOMETHING TO YOU?

14 A. YES. AFTER GIVING THE ELEMENTS AND THE WITNESSES
15 INVOLVED IN THE CASE, MR. MANCE DECIDED THAT HE WANTED TO
16 TALK. HE SAID THAT HE WANTED TO KNOW WHERE HIS WIFE WAS AT
17 THE TIME. WE HAD ADVISED HIM THAT SHE HAD ALREADY LEFT.

18 INVESTIGATOR REESE PROVIDED HIM WITH HIS TELEPHONE, HIS
19 CITY CELL PHONE, TO CALL HIS WIFE. HE DID SO. HE ASKED HER
20 TO RETURN TO HEADQUARTERS. SHE DID IN APPROXIMATELY 10
21 MINUTES OR BETTER. UPON HER RETURN, THEY DID AN EMBRACE. WE
22 ALLOWED HER IN THE INTERVIEW ROOM. SHE EMBRACED HIM. HE
23 STARTED CRYING. SHE ASKED HIM, "DID YOU TELL THEM?" AND HE
24 SAID, YOU KNOW, "I'M ABOUT TO TELL THEM NOW."

25 Q. LET ME BACK UP A MINUTE. SO Y'ALL WERE ABLE TO MAKE

1 CONTACT WITH MRS. MANCE, ODESSA MANCE, HIS WIFE.

2 A. CORRECT.

3 Q. BY USING A PHONE?

4 A. THAT'S CORRECT.

5 Q. SO IT WAS THROUGH A CELL PHONE. SHE HAD A CELL PHONE?

6 A. CORRECT.

7 Q. AND HE WAS ALLOWED TO HAVE A CONVERSATION WITH HER.

8 A. THAT'S CORRECT.

9 Q. AND HE REQUESTED THAT SHE RETURN.

10 A. THAT'S CORRECT.

11 Q. AND SHE WAS ABLE TO RETURN. SO SHE HAD A CAR.

12 A. YES.

13 Q. AFTER HE TOLD HER THAT HE WAS ABOUT TO TELL Y'ALL WHAT
14 HAPPENED, DID YOU OR INVESTIGATOR REESE TAKE ANY FURTHER
15 STEPS TO MAKE SURE THAT YOU ABIDED BY HIS CONSTITUTIONAL
16 RIGHTS?

17 A. YEAH. INVESTIGATOR REESE TOOK IT UPON HIMSELF TO EXTEND
18 THE QUESTIONS PRIOR TO ASKING ANY QUESTIONS ABOUT THE ACTUAL
19 CRIME ITSELF, SIMILAR TO WHAT HE MENTIONED TO YOU GUYS ON
20 YESTERDAY. HE READ QUESTIONS, ASKED HIM, YOU KNOW: "HAVE
21 YOU BEEN ADVISED OF YOUR RIGHTS EARLIER?" THE ANSWER WAS,
22 "YES." "DO YOU UNDERSTAND THAT YOU INVOKED YOUR RIGHTS TO
23 SILENCE EARLIER?" "YES." "DO YOU NOW WISH WITH YOUR WIFE
24 PRESENT TO GIVE A STATEMENT VOLUNTARILY?" "YES." AND WITH
25 ALL THOSE QUESTIONS ANSWERED, WHICH WE DON'T HAVE TO DO BUT

1 BECAUSE OF THE CIRCUMSTANCES - INVESTIGATOR REESE TOOK THAT
2 EXTRA STEP - WE THEN INITIATED THE ACTUAL INTERVIEW.

3 Q. SO YOU WANTED TO MAKE SURE THAT YOU ABIDED BY HIS
4 RIGHTS.

5 A. EXACTLY.

6 Q. AND IN THIS CASE YOU WENT THE EXTRA STEP AND MADE SURE
7 YOU WENT THROUGH IT AGAIN WITH HIM.

8 A. THAT IS CORRECT.

9 Q. AND OTHER THAN REQUESTING TO SPEAK TO HIS WIFE, DID HE
10 EVER REQUEST TO SPEAK TO ANYONE ELSE?

11 A. NO, HE DID NOT.

12 Q. OTHER THAN Y'ALL.

13 A. EXACTLY. HE JUST WANTED HIS WIFE PRESENT DURING THE
14 TIME.

15 Q. AND THE QUESTIONING -- THE LINE OF QUESTIONS THAT
16 INVESTIGATOR REESE WENT THROUGH WITH HIM, THAT'S SEEN ON THE
17 FIRST PAGE OF STATE'S EXHIBIT NUMBER 2 AND PART OF THE SECOND
18 PAGE.

19 A. THAT IS CORRECT. THOSE WERE THE QUESTIONS ASKED.

20 Q. AND, AGAIN, AS HE WAS GOING THROUGH THESE QUESTIONS,
21 SOME ARE YES; SOME ARE NO. DID HE HAVE ANY PROBLEM ANSWERING
22 THOSE QUESTIONS?

23 A. OH, NO, HE DID NOT.

24 Q. AT ANY TIME WHILE YOU WERE WITH HIM, WHEN INVESTIGATOR
25 REESE LEFT TO GET THE WARRANTS, WHILE Y'ALL WERE READING HIM

1 THE WARRANTS, AT ANY TIME DID ANYONE PROMISE HIM ANYTHING TO
2 GET HIM TO TALK?

3 A. NO, NO ONE DID.

4 Q. DID ANYONE THREATEN HIM IN ANY WAY?

5 A. NO.

6 Q. DID HE APPEAR CLEAR, LUCID, AND UNDERSTANDING WHAT Y'ALL
7 WERE TALKING ABOUT?

8 A. OH, YES, VERY.

9 Q. AND, IN FACT, HE'S THE ONE THAT SAID HE WANTED TO TALK
10 BUT HE WANTED TO TALK TO HIS WIFE.

11 A. EXACTLY.

12 Q. SO HE INITIATED THAT.

13 A. THAT'S CORRECT.

14 Q. ONCE YOU HAD GONE THROUGH THAT SET OF QUESTIONS AGAIN TO
15 MAKE SURE HIS RIGHTS WERE BEING PRESERVED, DID HE THEN GIVE
16 YOU HIS VERSION OF WHAT HAPPENED?

17 A. YES, HE DID.

18 Q. AND IS THAT MEMORIALIZED IN STATE'S EXHIBIT NUMBER 2?

19 A. YES, IT IS.

20 Q. EARLIER HE HAD SAID HE'D BEEN DOWN GETTING A SHAVE AT
21 KING'S BARBERSHOP. IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND DOES HE ALSO REFERENCE KING'S BARBERSHOP IN HIS
24 STATEMENT?

25 A. HE DOES.

1 Q. DO YOU KNOW WHAT HOURS KING'S BARBERSHOP KEEPS?

2 A. THEY CLOSE AT 6.

3 Q. ONCE HE HAD GIVEN YOU HIS VERSION OF EVENTS, DID Y'ALL
4 THEN WRITE IT DOWN IN THAT FORM IN STATE'S EXHIBIT 2?

5 A. YES. KEVIN ACTUALLY WROTE THE ACTUAL STATEMENT.

6 Q. AND AFTER HE GAVE HIS VERSION, THEN Y'ALL DID SOME
7 FOLLOW-UP QUESTIONS. IS THAT CORRECT?

8 A. THAT'S CORRECT.

9 Q. DID HE EVER TELL YOU HOW HE GOT DOWNTOWN?

10 A. NO, I DON'T BELIEVE HE MENTIONED, THAT I CAN RECALL, HOW
11 HE GOT DOWNTOWN.

12 Q. DID HE EVER TELL YOU WHY HE HAPPENED TO HAVE A .38
13 WEAPON WITH HIM TO GET A SHAVE?

14 A. NO, HE NEVER CLEARED WHY HE HAD THAT WEAPON.

15 Q. DID HE EVER SAY WHY HE HAD TAKEN HIS MASK WITH HIM TO
16 GET A SHAVE?

17 A. NO, HE NEVER CLARIFIED WHY HE HAD THOSE ITEMS WITH HIM.

18 Q. AND, IN FACT, Y'ALL JUST FOLLOWED UP WITH A FEW
19 QUESTIONS, BUT BASICALLY YOU WERE JUST MEMORIALIZING WHAT HE
20 WANTS TO TELL YOU.

21 A. YES.

22 Q. AND THOSE WORDS AND THAT STORY WERE HIS WORDS. HE WAS
23 ABLE TO ARTICULATE THAT TO YOU.

24 A. YES, QUITE WELL ACTUALLY.

25 Q. WITHOUT ANY PROBLEMS.

1 A. NO PROBLEMS WHATSOEVER.

2 Q. AND, IN FACT, HE UNDERSTOOD ENOUGH ABOUT HIS RIGHTS AND
3 EVERYTHING ELSE TO TELL YOU HE DIDN'T WANT TO TALK ANYMORE
4 AND THEN TO CHANGE HIS MIND WHEN HE WAS READ THE WARRANTS.

5 A. EXACTLY, ONCE HE FOUND THE ELEMENTS AND PROBABLE CAUSE.

6 Q. ONCE Y'ALL HAD REDUCED WHAT HE WANTED TO TELL YOU INTO
7 WRITING, DID YOU THEN REVIEW IT WITH HIM?

8 A. YES.

9 Q. AND DID Y'ALL ACTUALLY READ IT BACK TO HIM AND DID YOU
10 GIVE HIM THE OPPORTUNITY TO REVIEW IT?

11 A. THAT'S CORRECT.

12 Q. AND AFTER THAT, IN ORDER TO SAY IT'S HIS, IS THE
13 DEFENDANT -- DOES HE SIGN OFF ON IT?

14 A. YEAH. HE'S ALSO SWORN THAT EVERYTHING IN THE STATEMENT
15 IS TRUE TO HIS KNOWLEDGE. SO NOT ONLY DOES HE SIGN IT, BUT
16 HE SWEARS TO THE FACT THAT THAT'S THE TRUTH AS FAR AS HE
17 KNOWS.

18 Q. AND, AGAIN, THOSE ARE HIS WORDS, NOT YOURS.

19 A. THAT IS CORRECT.

20 Q. WAS ODESSA MANCE IN THE ROOM THE ENTIRE TIME YOU WERE
21 INTERVIEWING HIM AFTER SHE CAME BACK?

22 A. SHE WAS. HE REQUIRED THAT SHE BE THERE WHILE HE GAVE
23 HIS SIDE OF THE STORY, AND FOR COMFORT SAKE WE ALLOWED THAT.

24 Q. AT ANY TIME DID SHE TELL YOU HE WASN'T UNDERSTANDING
25 WHAT WAS GOING ON?

1 A. OH, NO, AT NO TIME.

2 Q. AND AT THAT POINT WAS SHE COOPERATIVE?

3 A. EVERYONE WAS COOPERATIVE, YES.

4 Q. AT THAT TIME.

5 A. YES.

6 Q. AFTER YOU TOOK THE STATEMENT, WERE Y'ALL ALSO DRAWING UP
7 A SEARCH WARRANT FOR 217 PEELER?

8 A. YEAH. INVESTIGATOR PAYGRAM (PHONETIC) WAS ACTUALLY
9 TYPING UP A SEARCH WARRANT FOR THE RESIDENCE WHILE WE WERE IN
10 THE INTERVIEW.

11 Q. AND AS IT SHOULD BE BY THE CONSTITUTION, DO YOU HAVE TO
12 GET A SEARCH WARRANT BEFORE YOU CAN ENTER SOMEONE'S
13 RESIDENCE?

14 A. THAT'S CORRECT.

15 Q. UNLESS YOU HAVE A CONSENT TO SEARCH.

16 A. UNLESS YOU HAVE CONSENT BY THE OWNERS, YES.

17 Q. AND WHO ARE THE TWO ADULTS LIVING AT PEELER?

18 A. MR. MANCE AND ODESSA MANCE, HIS WIFE.

19 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
20 EXHIBIT NUMBER 87 AND 88. DO YOU RECOGNIZE THOSE?

21 A. YES. THESE ARE THE CONSENT TO SEARCH FORMS THAT BOTH
22 PARTIES SIGNED.

23 Q. ONCE THEY SIGNED THAT CONSENT TO SEARCH, DID YOU
24 INDICATE TO THEM WHAT TYPES OF THINGS YOU WOULD BE LOOKING
25 FOR?

1 A. YES. ON THE CONSENT TO SEARCH IT WAS SPECIFIC: THE
2 MASK, SHIRT, JEANS, BULLETS, AND A GUN.

3 Q. AND BOTH ERIC MANCE AND ODESSA MANCE SIGNED OFF ON THAT.

4 A. THAT'S CORRECT.

5 Q. ONCE YOU HAD GOTTEN THE -- IF YOU GET A CONSENT TO
6 SEARCH, THEN YOU DON'T HAVE TO GO GET A SEARCH WARRANT
7 SIGNED.

8 A. THAT'S CORRECT.

9 Q. AT THAT POINT DID YOU AND OTHER INVESTIGATORS GO TO
10 PEELER?

11 A. YES, WE DID.

12 Q. AND HAD THE DEFENDANT GIVEN YOU INFORMATION ABOUT WHERE
13 HE HAD HIDDEN CERTAIN ITEMS?

14 A. YEAH. HE WAS DETAILED IN THE STATEMENT AND HE ADVISED
15 US THAT HE HAD HIDDEN THE MASK, THE GUNS, AND THE BULLETS
16 UNDER HIS BACK PORCH AND BURIED IT BY DIGGING A HOLE AND THEN
17 COVERING IT WITH DIRT.

18 Q. OKAY. AND WHEN Y'ALL WENT TO THE RESIDENCE, IN FACT, AS
19 INVESTIGATOR ROSE TESTIFIED, Y'ALL WERE ABLE TO---

20 A. RECOVER THOSE ITEMS FROM THAT VERY LOCATION.

21 Q. DID HE ALSO INDICATE WHAT HE HAD DONE WITH THE KEYS TO
22 THE CAR?

23 A. HE INDICATED THAT HE THREW THE VEHICLE KEYS IN A VENT IN
24 THE HOME. THE PORTION OF THE VENT IS VERY OPEN, BUT AS IT
25 CONTINUED, IT GOT MUCH SMALLER. WE DECIDED NOT TO TEAR THE

1 HOME UP BY TRYING TO RETRIEVE THE KEYS OUT OF THAT VENT. WE
2 COULD NOT GET IT BY MERELY REACHING INSIDE, SO WE NEVER
3 RETRIEVED THE KEYS.

4 Q. YOU WERE NEVER ABLE TO GET THAT?

5 A. RIGHT.

6 Q. WAS THERE ALSO SOME CLOTHING YOU OBSERVED IN THE HOME?

7 A. YES. WE OBSERVED SOME JEANS, A HOODIE, AND I THINK
8 THERE WAS A TEE SHIRT IN THE HOME.

9 Q. AND WITHOUT GOING -- I THINK YOU'RE ACTUALLY IN ONE OF
10 THE PICTURES. HERE WE GO. THOSE WERE THE ITEMS?

11 A. YES.

12 Q. DID Y'ALL DO ANY D.N.A. TESTING ON ANY OF THOSE ITEMS?

13 A. NO. THE INFORMATION GIVEN BY INDIVIDUALS ADVISED THAT
14 THE CLOTHING HAD BEEN WASHED UPON HIS ARRIVAL AT HOME. SO WE
15 FELT THAT ANY D.N.A. MAY HAVE BEEN WASHED AWAY.

16 Q. WHEN SOMEONE IS ARRESTED, Y'ALL ALSO FILL OUT WHAT'S
17 KNOWN AS A BOOKING FORM? IS THAT CORRECT?

18 A. THAT'S CORRECT.

19 Q. AND THE PERSON'S INFORMATION IS PUT ON THAT?

20 A. THAT'S CORRECT.

21 Q. AND WAS THE DEFENDANT ABLE TO PROVIDE YOU WITH HIS
22 SOCIAL SECURITY NUMBER?

23 A. YES.

24 Q. DID HE ALSO ADVISE YOU -- PROVIDE YOU WITH INFORMATION
25 ABOUT HIS HEIGHT, HIS WEIGHT, AND THINGS OF THAT NATURE?

1 A. YES.

2 Q. AND HOW MUCH DID ERIC MANCE WEIGH WHEN YOU ARRESTED HIM
3 BACK IN JUNE OF '06?

4 A. HE WAS HEAVIER AT THAT TIME. HE WORE ABOUT 230 POUNDS.
5 HE'S LOST A GOOD BIT OF WEIGHT.

6 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER
7 89. IS THAT HOW HE APPEARED?

8 A. YEAH. YEAH. HE WAS MUCH STOCKIER.

9 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
10 STATE'S EXHIBIT 89 INTO EVIDENCE.

11 THE COURT: ANY OBJECTION?

12 MR. TARR: NO, YOUR HONOR.

13 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

14 (STATE'S EXHIBIT 89 WAS RECEIVED IN EVIDENCE.)

15 BY MS. CAMPBELL:

16 Q. WHEN YOU WERE WITH ERIC MANCE THAT AFTERNOON FOR A
17 PERIOD OF AN HOUR OR TWO HOURS, HOW EVER LONG IT WAS, DID HE
18 APPEAR TO UNDERSTAND WHAT YOU WERE SAYING?

19 A. YES.

20 Q. DID HE APPEAR TO WANT TO TALK TO YOU?

21 A. OH, YES.

22 Q. THAT NIGHT YOU MENTIONED THAT YOU WERE NOTIFIED ABOUT
23 THE SHOOTING.

24 A. THAT'S CORRECT.

25 Q. IT WAS BEFORE MIDNIGHT?

1 A. THAT'S CORRECT.

2 Q. AND BEFORE YOU COULD EVEN GET TO THE CRIME SCENE, THEY
3 HAD ALREADY RECOVERED THAT OR KNEW WHERE THAT VEHICLE WAS AND
4 THE POLICE WERE THERE.

5 A. THAT IS CORRECT.

6 Q. BEG THE COURT'S INDULGENCE. YOU TOLD THIS JURY EARLIER
7 ABOUT THE MAN ON THE BACK PORCH WHO YELLED AT YOU?

8 A. YES.

9 Q. WERE YOU ACTUALLY IN HIS BACKYARD AT THAT POINT OR
10 WALKING IN THAT HILL LINE BEHIND IT?

11 A. I WAS ON THE HILL LINE COMING DOWN. THE KIDS WERE
12 PLAYING IN THE LITTLE BLUE POOL THAT YOU SAW OUT THERE. I
13 BELIEVE THEY MAY HAVE BEEN HIS KIDS; I'M NOT CERTAIN. AND AS
14 I GOT CLOSER TO THE YARD ITSELF IS WHEN HE APPEARED ON THE
15 PORCH AND STARTED YELLING.

16 Q. AND HE SPECIFICALLY KNEW YOU WERE POLICE.

17 A. THAT'S CORRECT.

18 Q. AND WHAT DID HE SAY TO YOU?

19 A. HE YELLED OUT SOME OBSCENITIES AND SAID THAT YOU'RE NOT
20 GOING TO FIND ANYTHING BACK HERE, THE POLICE ARE TOO STUPID
21 TO FIND ANYTHING, AND STARTED USING SOME OTHER PROFANE
22 LANGUAGE. AND I JUST ASKED HIM TO GO BACK IN THE HOUSE AND
23 SO FORTH, AGAIN NOT KNOWING WHO HE WAS.

24 Q. AND THAT WOULD HAVE BEEN THE DAY AFTER THE SHOOTING. IS
25 THAT CORRECT?

1 A. THAT IS CORRECT, DURING OUR CANVASS.

2 Q. DID YOU EVER SEE THAT MAN AGAIN?

3 A. YES, I DID.

4 Q. AND WHO WAS IT?

5 A. IT WAS ERIC MANCE.

6 Q. WHEN YOU WALKED INTO THAT LOBBY AND SAW ERIC MANCE FOR
7 THE FIRST TIME, DID YOU RECOGNIZE HIM?

8 A. YES, I DID. I RECOGNIZED HIM AS THE GENTLEMAN YELLING
9 AT ME FROM THE BACK PORCH.

10 Q. AND THAT HAPPENS IN THE BACK PORCH OF [REDACTED] PEELER ROAD.

11 A. THAT IS CORRECT.

12 Q. THE PERSON YOU KNOW AS ERIC MANCE, THE PERSON THAT YOU
13 INTERVIEWED THAT YOU SAW ON THE BACK PORCH, DO YOU SEE HIM
14 HERE TODAY?

15 A. YES, I DO.

16 Q. CAN YOU IDENTIFY HIM FOR THE JURY?

17 A. THE GENTLEMAN RIGHT THERE NEXT TO HIS DEFENSE ATTORNEY
18 IN THE WHITE SHIRT.

19 MS. CAMPBELL: THANK YOU, SIR.

20 THE COURT: YES, SIR.

21 CROSS-EXAMINATION

22 BY MR. TARR:

23 Q. INVESTIGATOR THOMAS, YOU WENT TO THE HOSPITAL THE DAY
24 AFTER THE INCIDENT TO MEET WITH MR. HAWKINS?

25 A. YES, I DID.

1 Q. AND YOU TOOK SOME NOTES FROM THAT EIGHT TO TEN MINUTES
2 THAT YOU MET WITH HIM?

3 A. YEAH. I PROBABLY DID SOME LITTLE BULLET NOTES.

4 Q. AND IN YOUR NOTES YOU INDICATED THAT HE TOLD YOU THAT --
5 IT SAYS, "VICTIM HIT SUSPECT THREE TIMES AND WAS SHOT EACH
6 TIME."

7 A. THAT STATEMENT IS AGAIN BULLET NOTES THAT I MAKE. HE
8 ACTUALLY ELABORATED WHAT WAS TRANSPIRING. I JUST DO THAT AS
9 A REFERENCE FOR MYSELF. BUT WHAT HE WAS SAYING IS HE THREW
10 OBJECTS: A WALLET, PHONE. I THINK ONE TIME HE WAS ACTUALLY
11 ABLE TO KICK HIM, BUT EACH TIME HE THREW IT AT THE SUSPECT.
12 SO I JUST MADE NOTES FOR MY REFERENCE TO THAT, YES.

13 Q. BUT YOUR NOTES SAY, "VICTIM HIT SUSPECT THREE TIMES AND
14 WAS SHOT EACH TIME."

15 A. RIGHT.

16 Q. AND THERE'S NO OTHER NOTES YOU MADE REGARDING WHAT HE
17 TOLD YOU AND---

18 A. NO.

19 Q. ---THERE WAS NO FORMAL STATEMENT MADE.

20 A. NO FORMAL STATEMENT. AGAIN, JUST -- JUST JOTTING DOWN
21 IN LITTLE BULLET STATEMENTS WHICH ARE REFERENCE POINTS FOR
22 MYSELF.

23 Q. AND NOWHERE IN YOUR NOTES DOES IT SAY THAT HE EVER
24 BACKED UP AND HELD HIS HANDS UP AND SAID, "PLEASE DON'T
25 SHOOT."

1 A. NOTHING IN MY NOTES, NO, INDICATING---

2 Q. NOTHING THAT SAID HE WAS RUNNING AWAY, GETTING SHOT AT
3 AS HE WAS RUNNING AWAY?

4 A. ONLY THAT HE WAS HIT WHEN HE WAS RUNNING TO THE SUMTER
5 STREET SIDE ALREADY. HE HAD ALREADY BEEN STRUCK AT LEAST
6 THREE TIMES.

7 Q. AND YOU'RE AWARE THAT THERE WERE A NUMBER OF VALUABLE
8 ITEMS, INCLUDING A CHECKBOOK AND WALLET AND CELL PHONE, THAT
9 WERE AT THE SCENE ON THE GROUND THAT WEREN'T TAKEN BY THE
10 SUSPECT?

11 A. THOSE WERE THE ITEMS THAT HE THREW AT THE SUSPECT DURING
12 THE TIME OF THE ROBBERY, YES.

13 Q. OKAY. HE DIDN'T -- THE SUSPECT, MR. MANCE, DIDN'T PICK
14 THEM UP AND TAKE THEM WITH HIM.

15 A. HE ACTUALLY TOOK THE MOST VALUABLE THING WHICH WAS THE
16 VEHICLE.

17 Q. HE DIDN'T TAKE ANY OF THE THINGS I JUST MENTIONED.

18 A. NO.

19 Q. AND YOU -- YOU'RE FAMILIAR WITH PEOPLE TAKING WALLETS
20 THAT HAVE CREDIT CARDS AND DEBIT CARDS AND STEALING A LOT OF
21 MONEY WITH THOSE CARDS?

22 A. ON A BASIC FOOT ROBBERY, YES.

23 Q. ON A BASIC FOOT ROBBERY?

24 A. YEAH. IF YOU FLEE ON FOOT, YOU MIGHT TAKE THOSE ITEMS,
25 BUT IF YOU TAKE THE VEHICLE...

1 Q. YOU WOULDN'T WANT ANY MONEY IF YOU HAD THE CAR?

2 A. SAY IT AGAIN.

3 Q. YOU WOULDN'T WANT THE MONEY IF YOU HAD THE CAR.

4 A. AGAIN, HE TOOK THE MOST VALUABLE THING THERE.

5 Q. YOUR ASS IS PRETTY VALUABLE RIGHT NOW, TOO, ISN'T IT?

6 NOW, YOU WENT OUT TO THE PEELER ROAD AREA WHERE THE TAHOE WAS
7 FOUND?

8 A. YES, I DID.

9 Q. OKAY. THAT WAS ACTUALLY TAKEN BACK TO C.P.D. TO BE
10 INVENTORIED?

11 A. IT WAS TAKEN TO BE PROCESSED, YES.

12 Q. PEOPLE WERE SUPPOSED TO DOCUMENT WHAT THEY FOUND IN THE
13 CAR; RIGHT?

14 A. SCOTT AND THE C.S.I. OFFICERS HANDLED THAT, AND THEY
15 DOCUMENTED WHATEVER THEY PROCESSED AND LOCATED AS FAR AS
16 EVIDENCE.

17 Q. DO YOU KNOW WHAT VALUABLES WERE LEFT IN THE CAR?

18 A. I CAN'T SAY, NO, IF ANY.

19 Q. YOU ARE AWARE THAT A GUN WAS FOUND IN THE CAR.

20 A. YEAH, TO MY KNOWLEDGE. YES.

21 Q. DO YOU KNOW WHERE IT WAS FOUND?

22 A. I'M ALMOST CERTAIN -- I THINK INVESTIGATOR REESE MADE
23 NOTES TO THAT. I BELIEVE THE WEAPON BELONGED TO THE VICTIM,
24 BUT I'M NOT CERTAIN WHERE IT WAS LOCATED.

25 Q. OKAY. YOU'RE NOT AWARE OF ANYTHING BEING ALLEGED TO

1 HAVE BEEN STOLEN FROM MR. HAWKINS OTHER THAN THE CAR THAT WAS
2 TAKEN. THAT'S THE ONLY THING.

3 A. YEAH, TO MY KNOWLEDGE. YES.

4 Q. NOW, YOU MENTIONED SOMETHING. ARE YOU SURE IT WAS ERIC
5 THAT GAVE YOU HIS SOCIAL SECURITY NUMBER?

6 A. YEAH.

7 Q. ARE YOU---

8 A. I'M PRETTY CERTAIN IT WAS HIM. DURING THE BOOKING
9 PROCESS.

10 Q. ARE YOU SURE YOU DIDN'T GET IT FROM ANYWHERE ELSE?

11 A. NOT TO MY KNOWLEDGE, NOT AT THIS MOMENT. NORMALLY WHEN
12 I BOOK A PERSON IN, I SIT IN FRONT OF THEM AND I ASK THOSE
13 QUESTIONS.

14 Q. DID YOU EVER MEET WITH ANY OF THE WITNESSES THAT GAVE
15 STATEMENTS THAT LIVED IN THE TAPP'S BUILDING?

16 A. DID I MEET WITH THEM PERSONALLY?

17 Q. UH-HUH.

18 A. NO, SIR, I DID NOT.

19 Q. OR GET ANY OTHER STATEMENTS?

20 A. I THINK A FEW OF THE STATEMENTS, YES, SIR.

21 Q. DO YOU REMEMBER REVIEWING THE STATEMENT THAT TIM WALSH
22 GAVE THE COLUMBIA POLICE DEPARTMENT?

23 A. NOT OFFHAND I CAN'T SAY. WE HAD A NUMBER OF STATEMENTS,
24 AND I CAN'T SAY THAT I REMEMBER SPECIFICALLY HIS, NO.

25 Q. DO YOU REMEMBER THAT HE LIVED IN APARTMENT [REDACTED]?

1 A. TO BE HONEST WITH YOU, IF I DIDN'T PERSONALLY TAKE A
2 STATEMENT FROM AN INDIVIDUAL, MY IN-DEPTH RECALL OF WHAT
3 MIGHT HAVE BEEN SAID IS LIMITED. I BELIEVE SEVERAL OTHER
4 INVESTIGATORS TOOK STATEMENTS FROM PERSONS WHERE THEY DID A
5 CANVASS, AND SO I REALLY COULDN'T GIVE YOU ANY DETAIL.

6 Q. BUT THIS IS A PERSON WHO CALLED THE COLUMBIA POLICE
7 DEPARTMENT OR CALLED 9-1-1, WALKED DOWNSTAIRS AND TALKED TO A
8 POLICE OFFICER, OFFICER DOUGHERTY IN THIS SITUATION?

9 A. UH-HUH.

10 Q. AND SAID I SAW WHAT I SAW?

11 A. OKAY.

12 Q. ISN'T THAT SOMEBODY THAT THE JURY SHOULD HEAR FROM?

13 A. AGAIN, NOT KNOWING THE PURPOSE OF HIS STATEMENT AND WHAT
14 WAS SAID BECAUSE SOMEONE ELSE TOOK IT, I CAN'T SAY.

15 Q. BUT IF THREE PEOPLE LIVE IN AN APARTMENT BUILDING AND
16 ALL THREE SEE THINGS OUT OF THEIR WINDOW, SHOULDN'T THE JURY
17 HEAR FROM EACH ONE OF THEM?

18 A. I DON'T MAKE THOSE CHOICES, COUNSELOR.

19 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

20 THE COURT: REDIRECT?

21 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS.

22 REDIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q. HE ASKED YOU ABOUT WHAT WAS TAKEN. WHEN THE CAR WAS PUT
25 IN THE FIELD HIDDEN FROM THE ROAD BEHIND HIS HOUSE, IT WAS

1 LOCKED.

2 A. YES, IT WAS.

3 Q. AND THE KEYS WEREN'T IN IT.

4 A. NO, THEY WEREN'T.

5 Q. AND WHO HAD THE KEYS?

6 A. MR. MANCE.

7 Q. AND IF SOMEONE IS GOING TO GO BACK AND GO THROUGH A CAR
8 AT A LATER TIME, WOULD IT BE PRUDENT TO TAKE THE KEYS?

9 A. YES, IT WOULD.

10 Q. ONCE YOU MAKE SURE IT'S SAFE.

11 A. THAT'S CORRECT.

12 MS. CAMPBELL: THAT'S ALL I HAVE, YOUR HONOR.

13 RECROSS EXAMINATION

14 BY MR. TARR:

15 Q. AND ACCORDING TO YOUR TESTIMONY, HE WOULD HAVE HAD TO
16 HAVE TORN UP HIS HOUSE TO GET THE KEYS.

17 A. IN ORDER TO LOCATE WHERE HE SAID HE PLACED THE KEYS, NOT
18 KNOWING SPECIFICALLY WHERE -- HE KNEW SPECIFICALLY WHERE HE
19 PLACED THEM. THE VENTILATION SYSTEM GOES THROUGHOUT THE
20 ENTIRE TRAILER. WE WENT TO THE LARGEST PORT, AND FROM THAT
21 PORT WE COULDN'T REACH ANYTHING.

22 Q. I'M SAYING BOTH YOU AND INVESTIGATOR REESE HAVE
23 TESTIFIED THAT THE HOUSE WOULD HAVE HAD TO HAVE BEEN TORN UP
24 TO GET THE KEYS, BUT ERIC WOULD HAVE HAD TO HAVE TORN UP THE
25 HOUSE TO GET THE KEYS, TOO.

1 A. NOT HAVING -- NOT BY KNOWING EXACTLY WHERE HE PLACED
2 THEM -- HE WASN'T THAT SPECIFIC. HE SAID HE PUT THEM IN THE
3 VENT.

4 Q. WELL, WHY DIDN'T YOU TAKE HIM OVER THERE AND LET HIM
5 SHOW YOU WHERE THEY WERE?

6 A. HE WAS ALREADY -- HE WAS ALREADY ARRESTED AND PLACED IN
7 CUSTODY AND TAKEN TO JAIL.

8 Q. YOU CAN TAKE HIM ANYWHERE YOU WANT.

9 A. WE CHOSE NOT TO.

10 MR. TARR: THANK YOU. THAT'S ALL I HAVE.

11 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN.

12 THE WITNESS: ALL RIGHT. THANK YOU.

13 THE COURT: NEXT WITNESS.

14 MR. TARR: YOUR HONOR, MAY WE APPROACH?

15 THE COURT: LADIES AND GENTLEMEN, WE'LL HAVE YOU STEP TO
16 THE JURY ROOM JUST FOR A FEW MINUTES. PLEASE DO NOT DISCUSS
17 THE CASE.

18 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
19 10:47 A.M.)

20 THE COURT: YES, SIR?

21 MR. TARR: YOUR HONOR, I JUST WANTED TO CLEAR UP EXACTLY
22 WHAT YOUR HONOR'S RULING WAS WHAT THEY WERE GOING TO BE ABLE
23 TO GO INTO FROM THE STATEMENT. ARE THEY GOING TO BE ABLE TO
24 GO INTO THE SENTENCE ABOUT I'M GOING TO KILL SOMEBODY BEFORE
25 I LEAVE THIS WORLD OR IS IT JUST THE STATEMENTS REGARDING I'M

1 GOING TO GO GET ME A CAR? I WAS UNCLEAR ABOUT THAT.

2 THE COURT: I ASSUME THEY HAVE WITNESSES TO TESTIFY AND
3 THEY'RE NOT---

4 MR. TARR: WELL, THE STATEMENTS YOU WERE GIVEN WERE---

5 THE COURT: JUST A MOMENT, SIR. AFTER I GET THROUGH,
6 THEN YOU CAN ASK ANY OTHER QUESTIONS YOU WANT TO. I ASSUME
7 THEY HAVE WITNESSES TO TESTIFY TO WHAT'S CONTAINED IN THE
8 STATEMENT, AND WHAT I HAVE RULED IS THAT THE STATEMENTS
9 CONCERNING THE INTENT TO COME AND ROB SOMEONE IS ADMISSIBLE.
10 THE STATEMENT CONCERNING I'M GOING TO KILL SOMEONE BEFORE I
11 LEAVE THIS WORLD IS ADMISSIBLE. THE TESTIMONY -- THAT
12 TESTIMONY WOULD BE ADMISSIBLE.

13 MR. TARR: THANK YOU, YOUR HONOR. I JUST DIDN'T KNOW
14 ABOUT THE SECOND STATEMENT.

15 THE COURT: YES, SIR. ALL RIGHT. WE'LL TAKE ABOUT A
16 TWO-MINUTE STRETCH AND THEN PRESS ON.

17 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

18 THE COURT: THANK YOU. BE SEATED. ALL RIGHT. ALL
19 RIGHT. IF YOU'LL BRING THE JURY, PLEASE.

20 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
21 10:59 A.M.)

22 THE COURT: YOUR NEXT WITNESS, PLEASE.

23 MR. GOLDBERG: MAY IT PLEASE THE COURT? THE STATE CALLS
24 SHERRY BOLIN.

25 SHERRY BOLIN, AFTER BEING DULY SWORN, TESTIFIED AS

1 FOLLOWS:

2 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
3 FULL NAME FOR THE RECORD, PLEASE.

4 THE WITNESS: SHERRY BOLIN.

5 DIRECT EXAMINATION

6 BY MR. GOLDBERG:

7 Q. MS. BOLIN, WHERE ARE YOU FROM?

8 A. I GREW UP IN NORTH CAROLINA.

9 Q. AND WHERE DO YOU LIVE NOW?

10 A. IN GASTON.

11 Q. WHAT'S YOUR ADDRESS OUT THERE IN GASTON?

12 A. [REDACTED] PEELER ROAD.

13 Q. IS THAT THE -- WHAT'S THE NAME OF THAT SUBDIVISION?

14 A. WILD MEADOWS.

15 Q. WILD MEADOWS? AND ARE YOU FAMILIAR WITH AN INDIVIDUAL
16 NAMED ERIC MANCE?

17 A. I AM.

18 Q. HOW DO YOU KNOW HIM?

19 A. HE IS MY GIRLFRIEND'S COUSIN'S HUSBAND.

20 Q. GIRLFRIEND'S COUSIN'S HUSBAND?

21 A. HUSBAND.

22 Q. OKAY. AND WHERE DOES HE LIVE OR WHERE---

23 A. WHERE DID HE LIVE?

24 Q. ---DID HE LIVE BACK IN 2006?

25 A. HE LIVED LIKE KITTY-CORNERED FROM OUR HOUSE.

- 1 Q. RIGHT ACROSS THE STREET ALMOST?
- 2 A. UH-HUH.
- 3 Q. AND WHO ELSE, TO YOUR KNOWLEDGE, LIVED WITH HIM BACK IN
- 4 MAY AND JUNE OF 2006?
- 5 A. HIS WIFE AND HER THREE CHILDREN.
- 6 Q. DO YOU KNOW THEIR NAMES?
- 7 A. YES. KEASIA (PHONETIC), THE YOUNGEST. MARQUIS IS THE
- 8 MIDDLE, AND BARBARA IS THE OLDEST.
- 9 Q. AND HOW ABOUT HIS WIFE?
- 10 A. ODESSA.
- 11 Q. AND AT SOME POINT IN EARLY JUNE OF '06 DID YOU COME IN
- 12 CONTACT WITH HIS DAUGHTER OR I GUESS IT WOULD BE
- 13 STEPDAUGHTER, BARBARA W [REDACTED]?
- 14 A. I DID.
- 15 Q. AND HOW DID YOU COME IN CONTACT WITH HER?
- 16 A. SHE CAME OVER TO OUR HOUSE ONE NIGHT SAYING THAT THEY---
- 17 MR. TARR: OBJECTION.
- 18 BY MR. GOLDBERG:
- 19 Q. YOU CAN'T GO INTO WHAT SHE SAID.
- 20 A. OKAY.
- 21 Q. I JUST WANT TO KNOW HOW YOU ENDED UP TALKING TO HER THAT
- 22 DAY.
- 23 A. SHE CAME TO ME, AND I WENT OVER TO THE HOUSE.
- 24 Q. OKAY. DID YOU ALREADY KNOW HER BEFORE SHE CAME TO TALK
- 25 TO YOU?

- 1 A. OH, YES.
- 2 Q. YOU KNEW HER PRETTY WELL?
- 3 A. YES.
- 4 Q. AS A RESULT OF THE CONVERSATION THAT YOU HAD WITH HER
- 5 AND WITHOUT SAYING WHAT SHE TOLD YOU, WHAT DID YOU DO AFTER
- 6 THAT?
- 7 A. MYSELF AND IRENA WENT OVER THERE TO THE HOUSE.
- 8 Q. WHO IS IRENA?
- 9 A. MY GIRLFRIEND.
- 10 Q. SHE LIVES THERE AT -- ON PEELER ROAD WITH YOU?
- 11 A. SHE DOES.
- 12 Q. YOU SAID YOU WENT TO THE POLICE?
- 13 A. WE WENT TO THE HOUSE, THEIR HOUSE, ACROSS THE STREET.
- 14 Q. OKAY. AND WHEN YOU WENT -- DO YOU RECALL WHAT DATE THIS
- 15 WAS?
- 16 A. THIS WAS ABOUT MAY THE 27TH.
- 17 Q. MAY 27TH?
- 18 A. AROUND THAT TIME.
- 19 Q. 2006?
- 20 A. IT IS.
- 21 Q. OKAY. AND YOU WENT OVER TO THE MANCE HOUSE.
- 22 A. UH-HUH.
- 23 Q. WHERE -- DID YOU GO IN THE HOUSE?
- 24 A. NO, WE COULDN'T.
- 25 Q. OKAY. WHERE DID YOU END UP?

1 A. IN THE DRIVEWAY.

2 Q. WHEN YOU WERE STANDING IN THE DRIVEWAY OF MR. MANCE'S
3 HOME ON MAY 27TH, WHAT DID YOU SEE?

4 A. I SAW ERIC IN THE DOORWAY.

5 Q. WHAT WAS HE DOING IN THE DOORWAY?

6 A. HE KEPT OPENING AND CLOSING THE DOOR REALLY FAST LIKE IN
7 ANGER.

8 Q. WHAT DID HIS DEemeanor APPEAR TO YOU AS?

9 A. EXTREMELY ANGRY.

10 Q. YOU SAID HE WAS OPENING AND CLOSING THE DOOR?

11 A. YES.

12 Q. WHAT, IF ANYTHING, DID YOU HEAR HIM SAY AT THIS POINT?

13 A. HE WAS YELLING A LOT OF THINGS, ONE OF THE THINGS BEING
14 HE'S NOT GOING TO LEAVE THIS WORLD UNTIL HE GETS HIM
15 SOMEBODY.

16 Q. UNTIL HE GETS HIM SOMEBODY?

17 A. YES.

18 Q. AND HAD YOU ALSO, PRIOR TO THIS, EVER HEARD HIM SAY
19 ANYTHING ELSE ABOUT WHAT HIS PLANS WERE?

20 A. YES. A FEW WEEKS PRIOR, PROBABLY TWO OR THREE, I USED
21 TO TAKE HIM TO WORK. HE WORKED AT MCDONALD'S. AND WE'D KIND
22 OF GOTTEN INTO A LITTLE DISAGREEMENT AND I SAID I WOULDN'T
23 TAKE HIM TO WORK ANYMORE, AND AT THAT TIME HE STATED THAT HE
24 WOULD GO DOWNTOWN AND GET HIM A CAR.

25 Q. WHAT ELSE DID HE SAY HE WAS GOING TO DO WHEN HE WENT

1 DOWNTOWN?

2 A. GET HIM SOMEBODY.

3 Q. GET HIM SOMEBODY?

4 A. YEAH.

5 Q. DID HE TELL YOU HE WAS GOING TO ROB SOMEBODY?

6 A. YEAH. THAT'S HOW HE PUT IT.

7 Q. AND DID YOU HAVE AN OPPORTUNITY ABOUT A WEEK LATER ON

8 JUNE -- I GUESS JUNE 3RD OF '06 TO COME IN CONTACT AGAIN WITH

9 BARBARA W [REDACTED]?

10 A. I DID.

11 Q. AND HOW DID YOU END UP COMING IN CONTACT WITH HER AGAIN?

12 A. THIS IS ACTUALLY A DIFFERENT DAUGHTER.

13 Q. A DIFFERENT DAUGHTER.

14 A. A DIFFERENT DAUGHTER. THE FIRST IT WAS KEASIA; NOW IT'S

15 BARBARA.

16 Q. THE FIRST INCIDENT THE DAUGHTER THAT CAME AND TOLD YOU

17 ABOUT SOMETHING GOING ON ON MAY 27TH WHERE YOU WERE IN HIS

18 DRIVEWAY, THAT WAS?

19 A. KEASIA.

20 Q. KEASIA.

21 A. RIGHT.

22 Q. THAT'S A DIFFERENT DAUGHTER.

23 A. RIGHT.

24 Q. AND THEN YOU CAME IN CONTACT WITH BARBARA ON JUNE THE

25 3RD?

1 A. RIGHT.

2 Q. OKAY. HOW DID YOU END UP TALKING TO HER?

3 A. WE WERE LEAVING TO GO TO LOWE'S AND SHE KIND OF FLAGGED
4 US DOWN AND ASKED COULD SHE RIDE WITH US.

5 Q. WHILE SHE RODE WITH YOU, DID SHE GIVE YOU SOME
6 INFORMATION?

7 A. SHE DID.

8 Q. WHAT DID YOU DO WITH THAT INFORMATION?

9 A. MYSELF AND IRENA WENT TO THE POLICE DEPARTMENT.

10 Q. DID YOU TELL THE POLICE WHAT SHE HAD TOLD YOU?

11 A. YES.

12 Q. DID YOU, IN FACT, GIVE A STATEMENT TO THE POLICE
13 ABOUT---

14 A. I DID.

15 Q. ---EVERYTHING THAT YOU KNEW?

16 A. I DID.

17 Q. INCLUDING THE COMMENTS THAT MR. MANCE HAD SAID?

18 A. I DID.

19 Q. MS. BOLIN, THIS MIGHT BE A LITTLE BIT AWKWARD FOR YOU.
20 HAVE YOU EVER BEEN IN TROUBLE BEFORE?

21 A. YES, WHEN I WAS 17.

22 Q. WHEN YOU WERE 17?

23 A. YES.

24 Q. WHAT DID YOU DO?

25 A. I STOLE SOME CHECKS FROM MY MOM AND GOT FORGERY CHARGES,

1 AND I WAS SHOPLIFTING AT WAL-MART.

2 Q. WHEN YOU WERE 17?

3 A. WHEN I WAS 17.

4 Q. HAVE YOU BEEN IN TROUBLE SINCE THEN?

5 A. NOT SINCE THEN.

6 Q. THANK YOU. PLEASE ANSWER ANY OF MR. TARR'S QUESTIONS.

7 A. OKAY.

8 CROSS-EXAMINATION

9 BY MR. TARR:

10 Q. MS. BOLIN, YOUR GIRLFRIEND IS IRENA FULLER?

11 A. SHE IS.

12 Q. SHE'S RELATED TO ODESSA MANCE?

13 A. RIGHT. THAT'S HER COUSIN.

14 Q. OKAY. AND YOU AND IRENA HAVE NEVER GOTTEN ALONG WITH
15 ERIC, HAVE YOU?

16 A. NO, WE ACTUALLY DID FOR A VERY LONG TIME.

17 Q. IRENA WORKED WITH ERIC AT MCDONALD'S, DIDN'T SHE?

18 A. RIGHT.

19 Q. AND THEY WOULD GET INTO ARGUMENTS A LOT.

20 MR. GOLDBERG: OBJECTION. THIS WITNESS DOESN'T KNOW IF
21 THEY GOT INTO ARGUMENTS AT MCDONALD'S.

22 THE COURT: OBJECTION IS OVERRULED. IF YOU KNOW.

23 BY MR. TARR:

24 Q. THEY WOULD GET INTO ARGUMENTS A LOT, WOULDN'T THEY?

25 A. I WOULDN'T SAY A LOT.

1 Q. BUT THEY GOT INTO IT EVERY ONCE IN AWHILE.

2 A. SOMETIMES WORK-RELATED THINGS.

3 Q. IN FACT, A WEEK BEFORE THIS INCIDENT THAT WE'RE HERE FOR
4 TODAY, SHE GOT HIM FIRED FROM HIS JOB AT MCDONALD'S.

5 A. NO, SHE DIDN'T GET HIM FIRED. HE WOULDN'T WORK, SO THEY
6 FIRED HIM BECAUSE HE WOULDN'T WORK.

7 Q. AND WHO TOLD YOU THAT? IRENA?

8 A. YES.

9 Q. BECAUSE YOU WEREN'T THERE.

10 A. RIGHT, BUT I WASN'T THERE WHEN THEY ARGUED EITHER.

11 Q. OKAY. BUT YOU KNOW ABOUT THAT.

12 A. RIGHT.

13 Q. ALL RIGHT. YOU WERE CONVICTED IN 1998 FOR?

14 A. FORGERY.

15 Q. HOW MANY COUNTS?

16 A. TWO.

17 Q. THAT'S FROM STEALING YOUR MOM'S CHECKS---

18 A. YES.

19 Q. ---AND FORGING THEM? AND THEN CONVICTED OF SHOPLIFTING?

20 A. RIGHT. IT WAS ABOUT TWO MONTHS LATER.

21 Q. YOU SAID THAT ERIC MADE THE STATEMENT ABOUT A WEEK
22 BEFORE THE INCIDENT?

23 A. WHICH STATEMENT?

24 Q. ABOUT GOING DOWNTOWN TO GET SOMEBODY.

25 A. RIGHT. IT WAS AFTER I HAD SAID I WOULDN'T TAKE HIM TO

1 WORK ANYMORE AND HE DIDN'T HAVE A RIDE TO GET THERE.

2 Q. OKAY. SO -- BUT IN YOUR STATEMENT YOU SAID IT WAS TWO
3 TO THREE WEEKS AGO.

4 A. WELL, THAT WAS A DIFFERENT COMMENT. HE MADE TWO -- TWO
5 COMMENTS AND BASICALLY TO THE SAME EFFECT.

6 Q. YOUR STATEMENT SAYS TWO TO THREE WEEKS AGO AND THEN YOU
7 GO INTO SAYING WHAT HE SAID.

8 A. WHICH STATEMENT?

9 Q. YOUR STATEMENT THAT YOU GAVE ON PAGE 3. DO YOU HAVE A
10 COPY OF IT?

11 A. I DO.

12 Q. OKAY.

13 A. IT'S BEEN SO LONG AGO.

14 Q. I UNDERSTAND. BUT NOWHERE IN THIS STATEMENT DOES IT SAY
15 THAT THE STATEMENT THAT YOU'RE SAYING HE MADE WAS A WEEK
16 BEFORE THE INCIDENT.

17 A. THE ONE THAT WAS A WEEK BEFORE THE INCIDENT WAS WHEN WE
18 WERE IN THE DRIVEWAY AND HE WAS YELLING A LOT OF THINGS AND
19 HE SAID THAT, "BEFORE I LEAVE THIS EARTH, I'M GOING TO KILL
20 ME SOMEBODY." THAT WAS A WEEK BEFORE BECAUSE IT WAS -- AND I
21 KNOW---

22 Q. YOU TESTIFIED THAT HE SAID THAT A WEEK BEFORE THIS
23 INCIDENT HE WAS GOING TO GO DOWNTOWN AND GET A CAR AND GET
24 SOMEBODY.

25 A. IF I SAID A WEEK BEFORE, I WAS INCORRECT. IT WAS ABOUT

1 TWO TO THREE WEEKS BEFORE.

2 Q. JUST BEFORE HE LOST HIS JOB AT MCDONALD'S.

3 A. RIGHT.

4 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

5 REDIRECT EXAMINATION

6 BY MR. GOLDBERG:

7 Q. I JUST WANT TO GO BACK THROUGH THAT REAL QUICKLY, THAT
8 LINE OF QUESTIONING THERE. YOU TESTIFIED THE INCIDENT WHERE
9 HE WAS ON THE PORCH OR AT HIS DOOR---

10 A. UH-HUH.

11 Q. THAT HE SAID THAT HE WAS NOT LEAVING THIS WORLD UNTIL HE
12 KILLED SOMEBODY---

13 A. RIGHT.

14 Q. ---WAS ABOUT A WEEK BEFORE THIS INCIDENT.

15 A. RIGHT.

16 Q. AROUND MAY THE 27TH, 2006.

17 A. RIGHT, AND I KNOW THAT FOR A FACT BECAUSE IT WAS HIS
18 STEPDAUGHTER'S BIRTHDAY AND IT WAS AROUND THAT TIME.

19 Q. THERE MAY HAVE BEEN SOME CONFUSION ABOUT THE OTHER
20 COMMENTS THAT HE MADE ABOUT GOING DOWNTOWN AND ROBBING
21 SOMEBODY.

22 A. RIGHT.

23 Q. PLEASE DESCRIBE WHEN YOU HEARD HIM MAKE THOSE COMMENTS.

24 A. IT WAS ABOUT TWO OR THREE WEEKS PRIOR.

25 Q. NOT THE WEEK BEFORE.

1 A. NOT THE WEEK BEFORE.

2 Q. AND THAT'S WHAT YOU SAID IN YOUR STATEMENT TO THE
3 POLICE.

4 A. RIGHT, THAT IS.

5 Q. THANK YOU.

6 A. YOU'RE WELCOME.

7 RECROSS EXAMINATION

8 BY MR. TARR:

9 Q. YOU ALSO SAID IN YOUR STATEMENT BARBARA AND ODESSA HEARD
10 THE STATEMENT?

11 A. WHICH ONE? THE ONE THE WEEK BEFORE?

12 Q. THE ONE TWO TO THREE WEEKS BEFORE.

13 A. WHICH PAGE IS THAT?

14 Q. IT'S THE LAST PAGE, PAGE 3.

15 A. THEY HEARD THE COMMENT WHERE HE SAID HE'S NOT GOING TO
16 LEAVE THIS EARTH UNTIL HE KILLED SOMEBODY BECAUSE WE WERE ALL
17 IN THE DRIVEWAY TOGETHER.

18 Q. OKAY. AND BEFORE YOU MADE YOUR STATEMENT TO THE POLICE,
19 YOU AND IRENA HAD ALREADY SEEN THESE ACCOUNTS OF THE INCIDENT
20 ON T.V., HADN'T YOU?

21 A. WE DID. THAT'S WHEN WE DECIDED WE'D GO TO THE POLICE.

22 MR. TARR: THANK YOU, YOUR HONOR.

23 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MA'AM.

24 THE WITNESS: THANK YOU.

25 MR. GOLDBERG: MAY THIS WITNESS BE EXCUSED?

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1 THE COURT: ANY OBJECTION?

2 MR. TARR: NO OBJECTION.

3 THE COURT: YOU MAY BE EXCUSED.

4 THE WITNESS: THANK YOU.

5 MR. GOLDBERG: THE STATE CALLS IRENA FULLER.

6 IRENA D. FULLER, AFTER BEING DULY SWORN, TESTIFIED
7 AS FOLLOWS:

8 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
9 FULL NAME FOR THE RECORD, PLEASE.

10 THE WITNESS: IRENA DENISE FULLER.

11 DIRECT EXAMINATION

12 BY MR. GOLDBERG:

13 Q. MS. FULLER, HOW ARE YOU DOING?

14 A. OKAY.

15 Q. WHERE DO YOU LIVE, MA'AM?

16 A. PEELER.

17 Q. PEELER ROAD?

18 A. YES, SIR. YES, SIR.

19 Q. IS THAT IN GASTON?

20 A. GASTON.

21 Q. OKAY. BACK IN 2006 WERE YOU LIVING THERE?

22 A. YES.

23 Q. AND WAS THAT -- WHERE WAS YOUR HOUSE IN RELATION TO ERIC
24 MANCE?

25 A. ACROSS THE STREET.

1 Q. OKAY. DID YOU KNOW ERIC MANCE?

2 A. YES.

3 Q. HOW DID YOU KNOW HIM?

4 A. HE'S MARRIED TO MY FIRST COUSIN.

5 Q. HE'S MARRIED TO YOUR FIRST COUSIN?

6 A. YES, SIR.

7 Q. AND AT THAT TIME WERE YOU LIVING WITH SHERRY BOLIN?

8 A. BOLIN, YES, SIR.

9 Q. BACK IN MAY OF 2006, MAY 27TH, I BELIEVE, 2006, DID YOU
10 HAVE AN OPPORTUNITY TO COME IN CONTACT WITH MR. MANCE?

11 A. YES, SIR.

12 Q. OKAY. HOW DID YOU END UP COMING IN CONTACT WITH HIM?

13 A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)

14 Q. DID SOMEONE COME TO YOUR HOUSE?

15 A. YES, SIR.

16 Q. WHO WAS THAT?

17 A. BARBARA.

18 Q. OKAY. DID YOU END UP GOING TO MR. MANCE'S HOUSE?

19 A. WHAT DO YOU MEAN?

20 Q. AT SOME POINT DID YOU END UP IN MR. MANCE'S DRIVEWAY?

21 A. YES.

22 Q. OKAY. AND WHEN YOU GOT TO HIS DRIVEWAY, WHAT, IF
23 ANYTHING, DID YOU SEE HIM DOING?

24 A. HE WAS SLAMMING THE DOOR BACK AND FORTH.

25 Q. WHAT WAS HIS DEMEANOR LIKE AT THE TIME?

1 A. HE WAS ANGRY. HE WAS UPSET.

2 Q. AND WHAT, IF ANYTHING, DID YOU HEAR HIM SAY AT THIS
3 POINT?

4 A. LIKE HE WAS SO ANGRY HE SAID HE WAS GOING TO HURT
5 SOMEBODY, TAKE SOMEBODY OUT BEFORE HE LEAVES THIS WORLD.

6 Q. OKAY. HAVE THERE BEEN OTHER TIMES THAT YOU'VE HEARD MR.
7 MANCE MAKE COMMENTS?

8 A. YES.

9 Q. AND, IN FACT, WHERE WERE YOU WORKING BACK AT THIS TIME
10 IN JUNE OF '06?

11 A. MCDONALD'S.

12 Q. DID MR. MANCE EVER WORK AT MCDONALD'S?

13 A. YES, I GOT HIM A JOB THERE.

14 Q. YOU GOT HIM A JOB THERE?

15 A. YES.

16 Q. AND DID HE CONTINUE TO WORK THERE WHILE YOU WORKED
17 THERE?

18 A. NO, HE GOT FIRED.

19 Q. DO YOU KNOW WHY HE GOT FIRED?

20 A. HE DIDN'T WANT TO WORK.

21 Q. AND AT SOME POINT DID HE EVER INDICATE TO YOU THAT HE
22 WANTED TO GET A CAR?

23 A. YES.

24 Q. WHAT DID HE SAY TO YOU ABOUT THAT?

25 A. HE WANTED A CAR. HE WAS GOING TO GET HIM A CAR.

1 Q. WHAT DID YOU TAKE THAT TO MEAN?

2 A. I MEAN, HE DON'T HAVE A LICENSE. HOW IS HE GOING TO GET
3 A CAR? HE'S GOING TO TAKE IT.

4 Q. HE'S GOING TO TAKE IT?

5 A. RIGHT.

6 MR. TARR: I WOULD OBJECT TO SPECULATION, YOUR HONOR.

7 THE COURT: OBJECTION IS SUSTAINED.

8 BY MR. GOLDBERG:

9 Q. IN JUNE OF '06 - I BELIEVE IT MIGHT HAVE BEEN JUNE 3RD,
10 '06 - DID YOU COME INTO CONTACT AGAIN WITH BARBARA W [REDACTED]?

11 A. YES, SIR.

12 Q. DID SHE GIVE YOU SOME INFORMATION?

13 A. YES, SIR.

14 Q. AND BASED ON WHAT SHE TOLD YOU, WITHOUT SAYING WHAT SHE
15 TOLD YOU, DID YOU GO TO THE POLICE?

16 A. YES.

17 Q. DID YOU TELL THEM WHAT SHE TOLD YOU?

18 A. YES.

19 Q. YOU GAVE THEM A STATEMENT ABOUT EVERYTHING YOU KNEW?

20 A. YES, SIR.

21 MR. GOLDBERG: THANK YOU, MA'AM. THAT'S ALL I HAVE.

22 PLEASE ANSWER ANY OF MR. TARR'S QUESTIONS.

23 CROSS-EXAMINATION

24 BY MR. TARR:

25 Q. IRENA, YOU'RE ODESSA'S COUSIN?

1 A. FIRST COUSIN.

2 Q. FIRST COUSIN? AND YOU LIVE ACROSS THE STREET?

3 A. YES, SIR.

4 Q. AND YOU AND ERIC HAVE NEVER REALLY GOTTEN ALONG, HAVE
5 YOU?

6 A. NEVER GOT ALONG?

7 Q. YEAH.

8 A. HOW IS THAT WHEN I GOT HIM A JOB? I HAD TO GET ALONG
9 WITH HIM. I MEAN, I GOT HIM A JOB.

10 Q. WEREN'T YOU DOING THAT FOR ODESSA'S SAKE?

11 A. NO, I WASN'T DOING IT FOR ODESSA'S SAKE. I WAS---

12 Q. ISN'T IT TRUE -- GO AHEAD. I'M SORRY.

13 A. ANY MAN NEEDS A JOB. HE'S A MAN; HE HAD A FAMILY. SO I
14 HELPED HIM OUT.

15 Q. OKAY. AND Y'ALL USED TO GET INTO IT A LOT WHEN YOU WERE
16 WORKING AT MCDONALD'S, DIDN'T YOU?

17 A. NO, SIR.

18 Q. NEVER GOT INTO IT.

19 A. NEVER GOT INTO IT.

20 Q. NEVER GOT INTO AN ARGUMENT.

21 A. NO. WHEN THEIR LIGHTS WAS OFF, I FED THEM. I TOOK CARE
22 OF THEM. NO, I DIDN'T -- NO.

23 Q. Y'ALL JUST WERE GREAT FRIENDS.

24 A. SIR?

25 Q. YOU NEVER HAD ANY PROBLEMS WITH HIM.

1 A. WITH ERIC?

2 Q. YEAH.

3 A. NEVER.

4 Q. SO YOU'RE NOT THE ONE THAT GOT HIM FIRED THE WEEK BEFORE
5 THIS INCIDENT HAPPENED.

6 A. GOT HIM WHAT, SIR?

7 Q. FIRED FROM MCDONALD'S.

8 A. I GOT HIM FIRED?

9 Q. THAT'S WHAT I'M ASKING YOU.

10 A. NO, I DID NOT.

11 Q. BECAUSE Y'ALL NEVER HAD EVER BEEN IN AN ARGUMENT.

12 A. IN AN ARGUMENT?

13 Q. YEAH.

14 A. NO, WE NEVER BEEN IN AN ARGUMENT.

15 MR. TARR: THAT'S ALL I HAVE, YOUR HONOR.

16 THE COURT: ANYTHING FURTHER?

17 MR. GOLDBERG: NO, SIR.

18 THE COURT: YOU MAY STEP DOWN.

19 MR. GOLDBERG: MAY THIS WITNESS BE EXCUSED?

20 MR. TARR: NO OBJECTION, YOUR HONOR.

21 THE COURT: YOU MAY BE EXCUSED. NEXT WITNESS.

22 MS. CAMPBELL: YOUR HONOR, THE STATE WOULD REST AT THIS
23 POINT.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THAT'S THE
25 STATE'S CASE. I'M GOING TO HAVE YOU GO TO THE JURY ROOM ONCE

1 AGAIN WHILE I TAKE UP SOME MATTERS OUTSIDE OF YOUR PRESENCE,
2 AND WE'LL HAVE YOU COME BACK SOON. PLEASE DO NOT DISCUSS THE
3 CASE.

4 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
5 11:19 A.M.)

6 THE COURT: ARE THERE ANY MATTERS OF LAW AT THIS TIME?

7 MR. TARR: YOUR HONOR, AT THIS TIME THE DEFENSE WOULD
8 MOVE FOR A DIRECTED VERDICT ON THE ASSAULT AND BATTERY WITH
9 INTENT TO KILL. TAKING THAT EVIDENCE IN THE LIGHT MOST
10 FAVORABLE TO THE STATE, WE WOULD STATE THAT THE STATE FAILED
11 TO MEET THEIR BURDEN IN SHOWING MALICE FOR THAT CHARGE AND IT
12 SHOULD BE SENT TO THE JURY AS AN ABHAN. AND AS TO THE ARMED
13 ROBBERY, I THINK THEY FAILED TO SHOW THE INTENT TO DEPRIVE
14 MR. HAWKINS PERMANENTLY OF ANY ITEMS THAT MAY HAVE BEEN TAKEN
15 OR USED IN THIS CASE. AND WE HAVE NO MOTIONS REGARDING THE
16 OTHER CHARGE INVOLVING THE POSSESSION OF A WEAPON.

17 THE COURT: ANY ARGUMENT BY THE STATE?

18 MS. CAMPBELL: YOUR HONOR, WE FEEL IN THE LIGHT MOST
19 FAVORABLE TO THE STATE WE HAVE PROVEN THE ELEMENTS. I THINK
20 WHETHER OR NOT THERE IS MALICE WOULD BE A JURY QUESTION. THE
21 INFERENCE OF THE USE OF A DEADLY WEAPON ALONE INFERS MALICE,
22 CAN BE AN INFERENCE. YOUR HONOR, ONE THING I FORGOT WAS THE
23 STIPULATION. WE HAVE THAT TYPED UP. I DON'T KNOW IF MAYBE
24 WHEN THEY COME BACK WOULD BE THE APPROPRIATE TIME TO DO THAT
25 OR AT THE END OF THE CASE, PERIOD.

1 THE COURT: ALL RIGHT. WHAT SAYS THE DEFENSE REGARDING
2 THE STIPULATION?

3 MR. TARR: REGARDING THE STIPULATION?

4 THE COURT: YES, SIR.

5 MR. TARR: YOUR HONOR, I LOOKED AT IT EARLIER.

6 MS. CAMPBELL: HE SAW IT EARLIER.

7 MR. TARR: YEAH. I HAVE NO PROBLEMS WITH WHAT THEY'VE
8 TYPED UP.

9 MS. CAMPBELL: MAY I APPROACH?

10 THE COURT: ALL RIGHT. YES. ALL RIGHT. THIS IS A
11 STIPULATION THAT YOU AGREE TO?

12 MR. TARR: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. VERY WELL. I'LL INFORM THE JURY
14 OF THE STIPULATION. I CAN DO IT DURING THE CLOSING ARGUMENTS
15 OR I CAN DO IT NOW -- I MEAN DURING THE JURY CHARGE.

16 MR. TARR: THAT WOULD BE FINE.

17 THE COURT: I'LL JUST DO IT DURING THE JURY CHARGE ON
18 THAT SPECIFIC OFFENSE.

19 MS. CAMPBELL: THANK YOU, YOUR HONOR.

20 THE COURT: ALL RIGHT. AND REGARDING THE MOTIONS, I
21 RESPECTFULLY DENY THE MOTIONS FOR A DIRECTED VERDICT. THESE
22 ARE ISSUES FOR THE JURY TO DETERMINE BASED ON THE EVIDENCE
23 PRESENTED. I FIND THAT THERE IS SUFFICIENT EVIDENCE FOR THE
24 JURY TO FIND HIM GUILTY OF ARMED ROBBERY AND ASSAULT AND
25 BATTERY WITH INTENT TO KILL AND POSSESSION OF A PISTOL, IF

1 THE JURY BELIEVES THE STATE'S EVIDENCE. ALL RIGHT. YES,
2 SIR.

3 MR. TARR: DID YOU WANT TO TAKE UP THE CHARGES NOW OR
4 AFTER THE DEFENDANT'S CASE?

5 THE COURT: YOU HAVE TORA BRAWLEY HERE; RIGHT?

6 MR. TARR: YES, SHE'S HERE.

7 THE COURT: ALL RIGHT.

8 MR. TARR: WE'RE READY TO GO.

9 THE COURT: WE DON'T WANT TO DETAIN HER UNNECESSARILY.

10 MR. TARR: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. ALL RIGHT. WE'LL TAKE A TWO-
12 MINUTE STRETCH. MS. FULLER, I WANT TO ASK YOU SOMETHING.
13 COME HERE A MOMENT.

14 (PAUSE IN PROCEEDINGS.)

15 THE COURT: THANK YOU VERY MUCH. BE SEATED. Y'ALL
16 READY FOR THE JURY?

17 MR. TARR: YOUR HONOR, I JUST HAVE ONE REQUEST. SEVERAL
18 MEMBERS OF MY CLIENT'S FAMILY WERE ON THE STATE'S WITNESS
19 LIST, AND THEY HAVE HAD TO REMAIN OUTSIDE THE COURTROOM. I
20 WOULD LIKE FOR THEM TO COME IN. I'M NOT GOING TO BE CALLING
21 ANY OF THEM.

22 THE COURT: ALL RIGHT.

23 MR. TARR: AND I DON'T KNOW IF THEY -- THE ONLY WITNESS
24 I'M CALLING IS DR. BRAWLEY.

25 MS. CAMPBELL: I DON'T KNOW WHAT SHE'S GOING TO SAY. I

1 DON'T KNOW IF THEY WOULD BE REPLY WITNESSES FOR WHATEVER
2 REASON.

3 THE COURT: ALL RIGHT. WELL, LET'S LET THEM COME ON IN.

4 MS. CAMPBELL: THAT'S FINE.

5 THE COURT: IT'S NOT GOING TO HURT ANYTHING.

6 MS. CAMPBELL: I JUST DIDN'T WANT TO BE PROHIBITED FROM
7 USING THEM---

8 THE COURT: NO, YOU CAN STILL USE THEM. YOU UNDERSTAND
9 THAT, MR. TARR.

10 MR. TARR: YES, YOUR HONOR. NO PROBLEM.

11 THE COURT: ALL RIGHT. LET'S BRING THE JURY.

12 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
13 11:33 A.M.)

14 THE COURT: LADIES AND GENTLEMEN, YOU HAVE NOW HEARD THE
15 STATE'S CASE. IT'S NOW THE DEFENSE'S TURN. COUNSEL, YOU MAY
16 PROCEED.

17 MR. TARR: JUST ONE MOMENT. WE CALL -- THE DEFENSE
18 CALLS DR. TORA BRAWLEY.

19 THE COURT: DR. BRAWLEY.

20 DR. TORA BRAWLEY, AFTER BEING DULY SWORN, TESTIFIED
21 AS FOLLOWS:

22 THE CLERK: HAVE A SEAT IN THE WITNESS BOX. STATE YOUR
23 FULL NAME FOR THE RECORD, PLEASE.

24 THE WITNESS: I'M TORA BRAWLEY.
25

DIRECT EXAMINATION

BY MR. TARR:

Q. DR. BRAWLEY, DID I GET YOU TO -- HIRE YOU BASICALLY TO
HELP ME ON THIS CASE?

A. YEAH. I BELIEVE THE REFERRAL CAME FROM DR. SCHWARTZ-
WATTS.

Q. OKAY. AND THAT WAS A PSYCHIATRIST THAT I---

A. CORRECT.

Q. ---TALKED TO---

A. YES.

Q. ---IN REFERENCE TO MR. MANCE? OKAY. COULD YOU TELL THE
JURY A LITTLE BIT ABOUT YOUR EDUCATION AND QUALIFICATIONS?

A. I HAVE MY BACHELOR'S DEGREE IN PSYCHOLOGY FROM THE
UNIVERSITY OF TEXAS AT AUSTIN, MY MASTER'S AND PH.D. FROM
CALIFORNIA SCHOOL OF PROFESSIONAL PSYCHOLOGY. I DID A
PRE-DOCTORAL INTERNSHIP AT BAYLOR COLLEGE OF MEDICINE,
HOUSTON, TEXAS, AND A POST-DOCTORAL FELLOWSHIP AT DUKE
UNIVERSITY MEDICAL CENTER.

Q. AND WHAT ARE YOUR -- ARE YOU LICENSED?

A. I'M CURRENTLY LICENSED IN THE STATE OF SOUTH CAROLINA.

Q. AS WHAT?

A. AS A CLINICAL PSYCHOLOGIST.

Q. AND WOULD YOU RELAY SOME OF YOUR PROFESSIONAL EXPERIENCE
TO THE JURY?

A. I'VE BEEN ON FACULTY AT VARIOUS MEDICAL SCHOOLS.

1 CURRENTLY I'M AN ASSISTANT PROFESSOR WORKING PART-TIME HERE
2 AT THE UNIVERSITY OF SOUTH CAROLINA DEPARTMENT OF NEURO-
3 PSYCHIATRY. I DO PRIMARILY -- WELL, ONLY NEUROPSYCHOLOGICAL
4 EVALUATIONS FOR LEGAL SETTINGS. I'M ALSO AN EXAMINER FOR THE
5 FEDERAL AVIATION ADMINISTRATION. I ADMINISTER NEURO-
6 PSYCHOLOGICAL BATTERIES TO PILOTS.

7 Q. AND DO YOU HAVE ANY RESEARCH EXPERIENCE?

8 A. WHEN I WAS AT HOUSTON IN HOUSTON, TEXAS, AT THE
9 ALZHEIMER'S DISEASE AND RESEARCH CENTER I HAD ONGOING
10 RESEARCH IN ALZHEIMER'S AND POST-CONCUSSION SYNDROME.

11 Q. HAVE YOU BEEN PUBLISHED IN---

12 A. I'VE HAD A COUPLE OF PUBLICATIONS, PRIMARILY MOSTLY
13 INVITED LECTURES.

14 MR. TARR: YOUR HONOR, AT THIS TIME I WOULD OFFER DR.
15 TORA BRAWLEY AS AN EXPERT IN NEUROPSYCHOLOGY.

16 THE COURT: IN NEUROPSYCHOLOGY?

17 MR. TARR: YES, YOUR HONOR.

18 THE COURT: ALL RIGHT. WHAT SAYS THE STATE?

19 MS. CAMPBELL: I MAY HAVE MISUNDERSTOOD. I THOUGHT YOU
20 WERE A LICENSED PSYCHOLOGIST.

21 THE WITNESS: YES. MY AREA OF EXPERTISE IS NEURO-
22 PSYCHOLOGY.

23 MS. CAMPBELL: THAT'S FINE.

24 THE COURT: ALL RIGHT. SO ADMITTED.

25 MR. TARR: THANK YOU, YOUR HONOR.

1 BY MR. TARR:

2 Q. AND DID YOU, IN FACT, INTERVIEW AND EVALUATE AND MEET
3 WITH MY CLIENT ON JUNE 19TH, 2007?

4 A. YES, I DID.

5 Q. OKAY. AND WHAT WERE YOU ASKED TO DO?

6 A. DR. WATTS HAD ASKED ME TO SEE HIM BECAUSE OF HIS
7 HISTORY, HIS HISTORY FROM CHILDHOOD OF LEARNING DIFFICULTIES,
8 ATTENTION DEFICIT, LOW I.Q., AND HEAD INJURY.

9 Q. AND COULD YOU TELL THE JURY WHAT YOU DID IN THIS CASE?

10 A. BASICALLY A PATIENT IS BROUGHT TO MY OFFICE. I DO AN
11 EXTENDED CLINICAL INTERVIEW WHERE I GATHER A LOT OF
12 BACKGROUND INFORMATION, AND THEN I ADMINISTER A BATTERY OF
13 TESTS, TESTS THAT LOOK AT SPECIFIC AREAS OF BRAIN FUNCTION -
14 THINGS LIKE MEMORY, ATTENTION, CONCENTRATION, LANGUAGE, AND
15 THE MOTOR SKILLS.

16 Q. OKAY. WHAT DID YOU FIND AS A RESULT OF YOUR TESTS?

17 A. IN SUMMARY, MR. MANCE HAS SIGNIFICANTLY COMPROMISED
18 BRAIN FUNCTION. HIS I.Q. ON MY EVALUATION WAS 66, AND THAT
19 BREAKS DOWN TO TWO I.Q.'S: A VERBAL I.Q. AND A PERFORMANCE
20 I.Q. HIS VERBAL I.Q. WAS 63 AND HIS PERFORMANCE I.Q. WAS 77.
21 THAT PLACES HIM OVERALL IN THE EXTREMELY LOW OR MENTAL
22 RETARDATION RANGE OF FUNCTIONING AND AT THE FIRST PERCENTILE.

23 Q. AND WOULD YOU EXPECT SOMEONE WITH A VERBAL I.Q. OF 63 TO
24 BE ABLE TO READ OR WRITE VERY WELL, IF AT ALL?

25 A. IT VARIES. IT'S USUALLY CERTAINLY NOT AT A PROFICIENT

1 LEVEL. AND I ASKED MR. MANCE ABOUT THIS, ABOUT HIS READING
2 AND WRITING, AND HE TOLD ME IT WAS SO-SO. CERTAINLY ON MY
3 TESTING I DIDN'T SPECIFICALLY ASSESS READING AND WRITING
4 LEVELS THAT HAD BEEN ASSESSED PREVIOUSLY IN SCHOOL
5 EVALUATIONS AND FOUND TO BE SIGNIFICANTLY BEHIND
6 EXPECTATIONS. THINGS LIKE HIS EXPRESSIVE VOCABULARY AND
7 COMPREHENSION WERE IMPAIRED ON MY EVALUATION.

8 Q. THOSE WERE EVALUATIONS THAT -- THE PREVIOUS EVALUATIONS
9 THAT YOU REVIEWED?

10 A. I REVIEWED ONE PREVIOUS EVALUATION THAT WAS CONDUCTED AT
11 WILLIAM S. HALL PSYCHIATRIC INSTITUTE IN 1987.

12 Q. OKAY. COULD YOU BRIEFLY -- I'LL GO BACK FOR A SECOND.
13 COULD YOU BRIEFLY EXPLAIN TO THE JURY WHAT A FIRST PERCENTILE
14 -- WHAT THAT MEANS?

15 A. PERCENTILES ARE DIFFERENT FROM PERCENTS. YOU KNOW, WE
16 THINK ABOUT, YOU KNOW, 75 PERCENT BEING A C., BUT WITH
17 PERCENTILES -- PERCENTILE IS IF YOU TAKE A HUNDRED PEOPLE
18 YOUR SAME AGE AND YOU ADMINISTER THE TEST, THE NORMAL CURVE
19 THAT YOU WOULD EXPECT IS AVERAGE WOULD BE THE 25TH TO THE
20 75TH PERCENTILE. THAT'S THE AVERAGE RANGE, AND ABOVE THAT
21 WOULD BE ABOVE AVERAGE, HIGH AVERAGE, SUPERIOR. AND FIRST
22 PERCENTILE IS THE WORST THAT YOU CAN DO. THAT MEANS OUT OF
23 THOSE 100 PEOPLE, ALL OF THEM DID BETTER THAN YOU DID. IF
24 YOU SCORED IN THE 50TH PERCENTILE, YOU'RE RIGHT SMACK-DAB IN
25 THE MIDDLE. YOU'RE IN THE AVERAGE LEVEL. IF YOU PERFORMED

1 AT THE 99 PERCENTILE, THAT MEANS THAT YOU DID BETTER THAN
2 EVERYBODY IN THE GROUP.

3 Q. AND WHAT OTHER AREAS OF DEFICIT DID YOU FIND DURING YOUR
4 EVALUATION?

5 A. HE HAD VERY POOR VERBAL MEMORY. THAT'S -- I TELL THE
6 STORY, ASK HIM TO TELL IT BACK TO ME, REPEAT IT, AND HAVE HIM
7 TELL IT BACK TO ME AGAIN. HIS NAMING ABILITY, ABILITY TO
8 NAME FAMILIAR OBJECTS WAS SEVERELY IMPAIRED. HIS VERBAL
9 FLUENCY WAS BORDERLINE. THAT IS, YOU KNOW, I WANT YOU TO
10 TELL ME AS MANY FRUITS AND VEGETABLES AS YOU CAN THINK OF IN
11 A FEW SECONDS. HE HAD POOR TRAIL-MAKING WHICH IS A BASICALLY
12 CONNECT THE DOTS WHERE YOU HAVE TO DO VISUAL SCANNING AND
13 MOTOR SPEED. SEVERELY IMPAIRED MENTAL ARITHMETIC. HIS
14 EXPRESSIVE VOCABULARY WAS SEVERELY IMPAIRED. HIS MANUAL
15 SPEED, MEANING HIS FUNCTION OF HIS HANDS WHICH IS TESTED BY
16 THE MOTOR STRIP IN THE FRONTAL CORTEX. ABSTRACT REASONING
17 WAS SEVERELY IMPAIRED, AND HIS CODING ABILITY WHICH IS
18 ANOTHER MULTITASKING MOTOR TASK WAS SEVERELY IMPAIRED.

19 Q. SOMETIMES QUESTIONS ARE RAISED WHEN PEOPLE TAKE
20 EVALUATIONS LIKE THIS AS TO WHETHER OR NOT THEY'RE FAKING OR
21 ACTING DUMB?

22 A. RIGHT.

23 Q. OR MALINGERING?

24 A. RIGHT.

25 Q. CAN YOU TELL THE JURY: DO YOU DO ANYTHING TO MAKE SURE

1 THAT'S NOT HAPPENING IN YOUR EVALUATIONS?

2 A. ABSOLUTELY. IN CASES LIKE THESE OR WHEN I'M DOING A
3 PERSONAL INJURY CASE, I ALWAYS ASSESS FOR EFFORT BECAUSE IF
4 SOMEONE TELLS YOU THEY DON'T KNOW THE ANSWER OR IF THEY GET
5 IT WRONG, YOU WANT TO KNOW: DO THEY REALLY NOT KNOW THAT
6 ANSWER OR ARE THEY JUST PRETENDING LIKE THEY DON'T? SO WE
7 HAVE TESTS THAT ARE WORKED INTO THE BATTERY THAT LOOK AT
8 EFFORT. THESE ARE TESTS THAT HAVE BEEN NORMED AND
9 STANDARDIZED ON VARIOUS PATIENT POPULATIONS AND VARIOUS
10 NORMAL PEOPLE. THEY'RE TESTS THAT LOOK HARD BUT ARE NOT
11 HARD, AND WE HAVE CERTAIN CUT-OFF SCORES. AND IF THE PERSON
12 FALLS BELOW THAT CUT-OFF SCORE, THAT TELLS US THAT THEY'RE
13 NOT GIVING ADEQUATE EFFORT, AND IF IT FALLS WAY BELOW, THEN
14 IT TELLS US PRETTY MUCH OUTRIGHT FAKING.

15 Q. AND WHAT DID YOU FIND IN THIS CASE AS FAR AS MR. MANCE'S
16 EFFORT?

17 A. MR. MANCE SCORED COMPLETELY WITHIN NORMAL LIMITS. HE
18 WAS ALMOST NEAR PERFECT SCORE.

19 Q. SO HE WAS TRYING HARD---

20 A. YES.

21 Q. ---TO DO HIS BEST.

22 A. HE WAS TRYING HARD AND HE WAS POLITE. HE PUT FORTH GOOD
23 EFFORT, YES.

24 Q. WHAT WAS HIS Demeanor LIKE? WHAT WAS HIS Affect LIKE?

25 A. HE OFTENTIMES DOESN'T HAVE MUCH OF AN EXPRESSION, VERY

1 QUIET, VERY POLITE. YES, MA'AM. NO, MA'AM. HE TRIES TO
2 PLEASE. HE WOULD STRUGGLE FOR WORDS. IT WAS CLEAR THAT HE
3 HAD HAD PROBLEMS FINDING WORDS, BUT HE DID HIS BEST TO GIVE
4 ME INFORMATION THAT HE COULD.

5 Q. YOU SAID SOMETHING IN YOUR REPORT ABOUT VEGETATIVE
6 SYMPTOMS THAT HE EXHIBITED. WHAT DOES THAT MEAN?

7 A. WELL, ONE OF THE THINGS THAT I NEED TO ASSESS FOR WHEN
8 I'M SEEING A PATIENT, TOO, IS WE LOOK AT THINGS LIKE
9 DEPRESSION, ANXIETY BECAUSE ALL -- THERE ARE MANY, MANY
10 DIFFERENT -- A HUNDRED DIFFERENT REASONS FOR MEMORY LOSS OR
11 FOR COGNITIVE FUNCTION, AND SO I NEED TO FIGURE OUT IS IT
12 SOMETHING GOING ON WITH THE BRAIN OR IS IT SOMETHING EXTERNAL
13 LIKE A DEPRESSION. YOU KNOW, IF YOU'RE DEPRESSED OR YOU'RE
14 ANXIOUS, YOU'RE NOT GOING TO THINK AS CLEARLY. YOU'RE NOT
15 GOING TO BE AS QUICK ON YOUR FEET. SO I NEED TO ASSESS FOR
16 THOSE.

17 SO THAT'S PART OF MY INTERVIEW THAT I DO. IN ADDITION
18 TO GETTING BACKGROUND INFORMATION, I ASK ABOUT SIGNS AND
19 SYMPTOMS OF DEPRESSION AND ANXIETY AND OTHER THINGS THAT CAN
20 AFFECT THE WAY YOUR BRAIN IS WORKING. AND HE WAS -- HE
21 REPORTED SEVERAL VEGETABLE -- WHAT WE CALL VEGETATIVE
22 SYMPTOMS OF DEPRESSION. WOULD YOU LIKE FOR ME TO RUN DOWN
23 THOSE?

24 Q. SURE.

25 A. OKAY. FOR INSTANCE, HE TOLD ME HE HAD DECREASED

1 APPETITE. YOU KNOW, FOOD JUST DIDN'T TASTE GOOD TO HIM
2 ANYMORE. SO WHEN PEOPLE HAVE CHANGES IN APPETITE OR WEIGHT,
3 THAT'S A SIGN OF VEGETATIVE -- SOMETIMES ARE SYMPTOMS OF
4 DEPRESSION. LOW ENERGY LEVEL. HE SAID HE WAS HAVING LOW
5 ENERGY LEVEL. THAT HE KIND OF KEEPS TO HIMSELF. HE'S
6 WITHDRAWN, VERY SOCIALLY WITHDRAWN. HE DID -- SAID HE WAS
7 FEELING SAD, AND HE SAID MOST OF THE TIME HE WAS FEELING SAD
8 AND DEPRESSED. DENIED ANY SYMPTOMS OF ANXIETY BUT DID SAY
9 THAT THE SETTING THAT HE'S IN MAKES HIM A LITTLE BIT
10 IRRITABLE WITH SOME OF THE ANTICS OF THE OTHER FOLKS GOING ON
11 AROUND HIM AND JUST THAT HE WASN'T AS TOLERANT AS HE USED TO
12 BE. AND THOSE WERE -- THOSE WERE THE MAIN VEGETATIVE
13 SYMPTOMS THAT HE REPORTED TO ME.

14 Q. CAN PEOPLE LIKE ERIC LEARN TO MASK THEIR SHORTCOMINGS
15 SUCH THAT PEOPLE MIGHT NOT BE AWARE OF HOW MENTALLY DEFICIENT
16 THEY ARE?

17 A. ALL OF US CAN LEARN TO MASK THINGS AND, YOU KNOW, TO NOT
18 NECESSARILY REPORT THOSE. SOMETIMES THE MASKING IS
19 INTENTIONAL AND SOMETIMES IT'S NOT. FOR INSTANCE, MY
20 ALZHEIMER'S PATIENTS WOULD OFTENTIMES BE VERY WHAT I CALL
21 CONVERSATIONALLY INTACT. YOU CAN CARRY ON A CONVERSATION
22 WITH THEM ABOUT THE WEATHER OR, YOU KNOW, THINGS LIKE THAT,
23 BUT THEN WHEN YOU STARTED TO PROBE AND TO TEST MEMORY AND
24 THINGS LIKE THAT, THEN THAT'S WHEN YOU WOULD FIND THE
25 DEFICIT. SO I WOULD SAY THAT, YOU KNOW, SOME OF THE DEFICITS

1 CAN BE MASKED TO OTHERS WHO AREN'T, YOU KNOW, SPECIFICALLY
2 TESTING THOSE DIFFERENT AREAS. IT MIGHT NOT BE READILY
3 APPARENT.

4 Q. YOU REFERENCED A 1987 EVALUATION PERFORMED ON MR. MANCE
5 AT WILLIAM S. HALL?

6 A. YES.

7 Q. DID YOU CONSIDER IT AND REVIEW IT AS PART OF YOUR
8 EVALUATION?

9 A. THAT'S CORRECT. I ALWAYS LIKE TO SEE WHERE THEY WERE
10 BEFORE SO I CAN GET AN IDEA THAT WHAT WE HAVE NOW IS A
11 CHANGE.

12 Q. THIS IS ROUGHLY 20 YEARS BEFORE YOUR EVALUATION.

13 A. CORRECT. IT WAS IN '87, YES.

14 Q. AND YOURS WAS IN 2007?

15 A. CORRECT.

16 Q. OKAY. COULD YOU TELL THE JURY WHAT YOU FOUND RELEVANT
17 IN THAT EVALUATION TO YOUR DETERMINATION?

18 A. WELL, I LOOK AT SCORES BECAUSE I.Q. SCORES ARE SUPPOSED
19 TO REMAIN PRETTY STABLE ACROSS OUR LIFETIME EVEN THOUGH THE
20 TESTS CHANGE FROM CHILD TO ADULT. THEY ARE NORMED IN A
21 FASHION SO THAT AN 87 WHEN YOU'RE 15 SHOULD BE AN 87 WHEN
22 YOU'RE, YOU KNOW, 87. SO, YOU KNOW, I LOOK TO SEE IF THOSE
23 THINGS HAVE CHANGED, AND I FOUND THAT -- AND IN THIS REPORT
24 THEY GAVE I.Q.'S GOING BACK AS FAR AS 1982 AND ALL, YOU KNOW,
25 FAIRLY CONSISTENT. SOME OF THEM WERE A LITTLE BIT HIGHER

1 THAN WHAT I GOT, BUT, I MEAN, HIS I.Q.'S WERE IN THE 68...
2 HE HAD A COUPLE IN THE LOW EIGHTIES OR AN 87 BUT MOST OF THEM
3 68 TO 69, 77.

4 SO THAT TELLS ME HE HAS -- HE'S HAD SOME OF THESE BRAIN
5 PROBLEMS -- YOU KNOW, HE WAS DIAGNOSED WITH A LEARNING
6 DISABILITY. HE'D HAD A FALL WHEN HE WAS TWO YEARS OLD, A
7 FALL FROM A PORCH THAT RESULTED IN A LOSS OF CONSCIOUSNESS.
8 SO HE'S HAD LONG-STANDING PROBLEMS WITH COGNITION, LONG-
9 STANDING PROBLEMS WITH ACADEMIC THINGS.

10 HE WAS REFERRED FOR THIS EVALUATION BECAUSE HE WAS
11 HAVING SOME PROBLEMS IN SCHOOL AND THE TEACHERS WERE HAVING
12 TROUBLE COMMUNICATING WITH HIM. SO, YOU KNOW, THAT -- THAT
13 HELPS ME TO UNDERSTAND AND TAKE INTO CONTEXT -- YOU KNOW, IF
14 THESE EVALUATIONS HAD SAID HIS I.Q. WAS A HUNDRED BACK THEN,
15 THEN I WOULD THINK THAT THERE'S BEEN SOMETHING BETWEEN THEN
16 AND NOW THAT HAS HAPPENED TO CAUSE -- TO HAVE THAT MUCH OF A
17 SIGNIFICANT DECLINE.

18 Q. SPECIFICALLY ON THAT EVALUATION, WAS THERE REFERENCE TO
19 MR. MANCE BEING CONVERSATIONALLY INTACT OR THE ABILITY TO
20 MASK SOME PROBLEM?

21 A. WELL, IT SAID THAT HE HAS A NUMBER OF - AND I'M READING
22 - PROBLEMS RESPONDING TO ORAL LANGUAGE DIRECTED AT HIM. SAYS
23 HE CAN'T RELIABLY INTERPRET THE MEANING OF PRONOUNS AND
24 SUBORDINATING CONCEPTS. SAID HE HAS TROUBLE WITH NOVEL OR
25 UNUSUAL DIRECTIONS OR THINGS WITH MULTIPLE SUBPARTS THAT THEY

1 SAID WOULD BAFFLE HIM. IT SAYS IT'S EASY TO IMAGINE THAT
2 ERIC OFTEN HAS TROUBLE DECIPHERING THE INTENT OF
3 COMMUNICATIONS DIRECTION BY HIS TEACHERS. AND AS FAR AS
4 MASKING, IT SAYS HE'S LEARNED A FEW BEHAVIORAL SEQUENCES THAT
5 KIND OF MIMIC THE OTHER CHILDREN THAT MAKE IT -- GIVE THE
6 APPEARANCE THAT HE'S PARTICIPATING AND UNDERSTANDING, BUT
7 HE'S -- HE'S -- HE'S NOT.

8 Q. SO BASICALLY IT'S SAYING THAT HE HAD LEARNED AT THAT AGE
9 TO ACT LIKE OTHER KIDS?

10 A. NO DOUBT.

11 Q. SO IT LOOKED LIKE HE WAS UNDERSTANDING.

12 A. RIGHT.

13 Q. AND YOU HAD INDICATED HE HAD LEARNING PROBLEMS
14 THROUGHOUT SCHOOL? WAS HE IN SPECIAL ED?

15 A. HE WAS IN SPECIAL ED, YES, AND I BELIEVE HE HAD TO
16 REPEAT THE NINTH GRADE IS INFORMATION THAT HE PROVIDED TO ME.

17 Q. AND WHEN DID HE START IN THE SPECIAL ED?

18 A. I THINK IT WAS FIRST GRADE WHERE HE WAS IDENTIFIED TO
19 HAVE LEARNING PROBLEMS BACK IN 1978, I BELIEVE.

20 Q. LET ME ASK YOU ONE MORE QUESTION. HOW WOULD SOMEBODY
21 SITUATED LIKE ERIC MENTALLY -- HOW WOULD HIS DECISION-MAKING
22 SKILLS BE IMPAIRED COMPARED TO JUST REGULAR PEOPLE?

23 A. WELL, ANY TIME THAT YOU HAVE A LOWER I.Q., YOU KNOW,
24 IT'S GOING TO AFFECT YOUR ABILITY TO MAKE DECISIONS AND TO
25 THINK ABOUT CONSEQUENCES AND TO THINK AHEAD. THOSE THINGS,

1 YOU KNOW, CAN CERTAINLY BE IMPACTED BY A LOWER I.Q.

2 Q. IT COULD ALSO BE RELEVANT TO HOW -- HOW GOOD SOMEONE IS
3 AT FORMING AN INTENT TO DO SOMETHING?

4 A. I'M NOT SURE I UNDERSTAND YOUR QUESTION.

5 Q. WOULD A LOW MENTAL FUNCTIONING AFFECT THE WAY SOMEBODY
6 JUST FORMS AN INTENT TO DO SOMETHING?

7 A. YEAH. INTENT IS A LEGAL TERM, BUT I MEAN, IN
8 GENERALITY, YES, YOU'RE STARTING AT A LOWER LEVEL IF YOU HAVE
9 A BRAIN THAT'S NOT WORKING THAT GREAT. YOU'RE NOT
10 NECESSARILY GOING TO THINK AHEAD THAT IF I DO A., THEN B. IS
11 GOING TO HAPPEN AND KIND OF REASON THINGS OUT AND SEQUENCE
12 THINGS THAT COULD BE AFFECTED, YES.

13 MR. TARR: PLEASE ANSWER ANY QUESTIONS THAT THE
14 SOLICITOR MAY HAVE.

15 CROSS-EXAMINATION

16 BY MS. CAMPBELL:

17 Q. GOOD MORNING.

18 A. GOOD MORNING.

19 Q. LET ME GET A FEW THINGS STRAIGHT. YOU JUST TALKED ABOUT
20 INTENT, ABILITY TO REASON AND EVERYTHING. IF A PERSON MAKES
21 A STATEMENT, "I'M GOING TO ROB SOMEBODY; I'M GOING TO GET ME
22 A CAR," WOULD THAT SHOW INTENT?

23 A. I -- AGAIN, YOU GUYS ARE TALKING LEGAL TERMS.

24 Q. NO. THE WORD ROB IS NOT A LEGAL TERM.

25 A. NO. IF YOU'RE TALKING ABOUT WOULD IT SHOW INTENT, DID

1 HE MEAN TO DO SOMETHING, CERTAINLY. I MEAN I...

2 Q. OKAY. IF A PERSON SAYS, "I'M GOING TO ROB SOMEONE; I'M
3 GOING TO GO DOWNTOWN AND GET ME A CAR," AND THEN A WEEK OR
4 TWO LATER HE GOES DOWNTOWN AND ROBS SOMEONE AND GETS HIM A
5 CAR...

6 A. I THINK IT COULD CERTAINLY MEAN THAT, BUT I THINK PEOPLE
7 ALSO ALL THE TIME MAKE IDLE THREATS OR SAY THINGS THAT THEY
8 DON'T MEAN, SO...

9 Q. THAT'S TRUE. PEOPLE DO MAKE IDLE THREATS, BUT THEN WHEN
10 THEY CARRY THEM OUT, THEY'RE NO LONGER IDLE THREATS. IS THAT
11 CORRECT?

12 A. THAT'S CORRECT.

13 Q. AND IF SOMEONE SAYS, "I'M GOING TO SHOOT ME SOMEBODY
14 BEFORE I LEAVE THIS EARTH," AND THEN A WEEK LATER THEY GO AND
15 SHOOT SOMEONE FIVE TIMES, THAT'S NOT AN IDLE THREAT, IS IT?

16 A. NO.

17 Q. OKAY. GETTING BACK TO THINGS, WE'RE TALKING ABOUT ERIC
18 MANCE AND YOU HAVE DIAGNOSED HIM - I'LL GET BACK TO THE
19 DIAGNOSIS IN A MINUTE - WITH AN I.Q. OF 66, I BELIEVE?

20 A. THAT'S CORRECT.

21 Q. JUST BECAUSE SOMEONE IS NOT AS SMART AS ANOTHER PERSON
22 DOESN'T MEAN THAT THEY'RE VIOLENT, DOES IT?

23 A. NO, NOT AT ALL.

24 Q. AND, IN FACT, THERE'S NO GREATER POPULATION WITH A
25 MENTALLY RETARDED PERSON THAN IN THE REGULAR POPULATION.

1 A. CORRECT.

2 Q. SO JUST BECAUSE ERIC MANCE SUFFERS OR MAY SUFFER - AND
3 I'LL GET BACK TO WHERE HIS I.Q. REALLY IS - DOESN'T MEAN THAT
4 THAT EXCUSES HIM FROM GOING OUT AND COMMITTING VIOLENT
5 CRIMES.

6 A. CORRECT.

7 Q. THAT THAT IS NOT AN EXCUSE.

8 A. CORRECT.

9 Q. DOES NOT MITIGATE IT.

10 A. NO.

11 Q. YOU MENTIONED SOME RECORDS THAT YOU REVIEWED.

12 A. YES.

13 Q. AND THIS CASE WAS REFERRED TO YOU BY WHOM?

14 A. DR. SCHWARTZ-WATTS.

15 Q. AND IS SHE HERE TODAY?

16 A. NO.

17 Q. AND YOU ALSO MADE ANOTHER REFERENCE, AND I'LL GET BACK
18 TO DR. GAINES' REPORT IN A MINUTE. HE WAS REFERRED TO DR.
19 GAINES. IS THAT CORRECT?

20 A. I FOUND THAT OUT THIS MORNING, YES.

21 Q. AND, IN FACT, THE REFERENCE -- YOU MADE THE
22 RECOMMENDATION---

23 A. I DID.

24 Q. ---THAT DR. GAINES SEE HIM.

25 A. I DID.

1 Q. AND WHY DID YOU WANT DR. GAINES, A NEUROLOGIST -- YOU'VE
2 GOT A PH.D. IN PSYCHOLOGY; RIGHT?

3 A. CORRECT.

4 Q. AND THEN DONNA SCHWARTZ-WATTS, SHE'S A PSYCHIATRIST?

5 A. CORRECT.

6 Q. SO SHE HAS AN M.D. WITH A SPECIALTY IN PSYCHIATRY.

7 A. CORRECT.

8 Q. AND SHE'S NOT HERE.

9 A. CORRECT.

10 Q. AND THEN DR. GAINES, HE'S ALSO A MEDICAL DOCTOR.

11 A. CORRECT.

12 Q. AND HIS SPECIALTY IS WHAT?

13 A. NEUROLOGY.

14 Q. WHAT DOES THAT MEAN?

15 A. HE -- HE ASSESSES DISORDERS OF THE BRAIN.

16 Q. AND, IN FACT, AFTER YOUR INITIAL ASSESSMENT, YOUR I.Q.
17 WAS SO DIFFERENT FROM WHAT HE HAD TESTED BEFORE THAT YOU
18 THOUGHT IT PRUDENT TO SEE IF PERHAPS HE'D SUFFERED SOME KIND
19 OF INJURY TO THE BRAIN FROM THE TIME PERIOD YOU WERE
20 REVIEWING RECORDS TO WHAT YOUR FINDINGS WERE.

21 A. IT WAS SLIGHTLY LOWER, AND I JUST WANTED TO MAKE SURE
22 THERE WASN'T AN ACTIVE ORGANIC PROCESS GOING ON.

23 Q. AND LET ME REFER TO YOUR REPORT. I'M SORRY; I'VE GOT SO
24 MANY PAPERS HERE. IT IS RECOMMENDED -- IT SAYS IT IS
25 STRONGLY RECOMMENDED THAT HE BE EVALUATED BY A NEUROLOGIST

1 AND FULLY ASSESSED FOR POTENTIAL BRAIN ORGANICITY. SOME OF
2 THOSE WORDS I DON'T UNDERSTAND, BUT IN OTHER WORDS, YOU
3 THOUGHT BECAUSE OF THE CHANGE IN WHAT YOUR TESTING SHOWED AND
4 WHAT HE TESTED ALL PRIOR TO THAT THAT IT WAS SIGNIFICANT AND
5 SHOULD BE -- AND IT COULD BE, SAY, A PROBLEM WITH HIS BRAIN.

6 A. I WANTED TO MAKE SURE HE WASN'T HAVING SEIZURES OR
7 LITTLE STROKES OR THINGS LIKE THAT.

8 Q. SO HE GOT AN E.E.G. AT YOUR RECOMMENDATION?

9 A. YEAH.

10 Q. HE GOT A C.T. SCAN?

11 A. YES.

12 Q. THEY DID A FULL EVALUATION; DR. GAINES DID.

13 A. YES.

14 Q. AND WHAT WERE HIS FINDINGS?

15 A. I'VE READ OVER THEM THIS MORNING. THEY -- HE CAME BACK
16 NORMAL WITH THE E.E.G. AND THE CAT SCANS AND NOW ACTIVE
17 PROCESSES.

18 Q. SO THE DIFFERENCE BETWEEN HIS I.Q. WHEN HE WAS TESTED BY
19 -- AND I'LL GET BACK TO WILLIAM S. HALL IN A MINUTE WHO WERE
20 -- IS AN ORGANIZATION YOU USED TO WORK WITH.

21 A. THAT'S CORRECT.

22 Q. AND, IN FACT, TYPICALLY IN THE SYSTEM, RATHER THAN
23 HIRING A PRIVATE CONSULTANT SUCH AS YOURSELF, THERE CAN BE A
24 COURT ORDER AND MR. MANCE COULD BE REFERRED TO BE EVALUATED
25 BY PSYCHOLOGISTS SUCH AS YOURSELF THAT ARE ALL EMPLOYED BY

1 THE STATE.

2 A. WELL, THEY DON'T HAVE ANY NEUROPSYCHOLOGISTS THERE
3 ANYMORE. SO OFTENTIMES---

4 Q. ARE YOU FAMILIAR WITH DR. MUSICK?

5 A. HE'S NOT A NEUROPSYCHOLOGIST. HE'S A FORENSIC
6 PSYCHOLOGIST, AND FREQUENTLY I EVALUATE -- WHEN D.M.H. NEEDS
7 A NEUROPSYCHOLOGIST, THEY WILL SEND SOMEONE TO ME.

8 Q. THAT'S WHERE YOU GOT ALL YOUR TRAINING THOUGH.

9 A. THAT'S WHERE I GOT MY TRAINING IN FORENSICS. I GOT MY
10 NEUROPSYCHOLOGICAL TRAINING AT EVERY PLACE BUT HERE.

11 Q. WELL---

12 A. AT BAYLOR AND DUKE.

13 Q. ---DR. SCHWARTZ-WATTS, SHE GOT HER TRAINING THERE BEFORE
14 Y'ALL WENT INTO THE PRIVATE SECTOR.

15 A. CORRECT. WELL, SHE'S AT THE -- WE'RE BOTH AT THE
16 MEDICAL SCHOOL.

17 Q. YOU'RE GETTING PAID FOR YOUR SERVICES HERE TODAY.

18 A. CORRECT.

19 Q. AND THEY DO THAT ON A REGULAR BASIS PURSUANT TO COURT
20 ORDERS.

21 A. YES.

22 Q. PURSUANT TO REQUESTS OF DEFENSE ATTORNEYS AND THAT
23 WASN'T DONE IN THIS CASE.

24 A. TO MY KNOWLEDGE, I HAVE NOT SEEN A REPORT.

25 Q. INSTEAD, PRIVATE FUNDS ARE PAYING FOR YOU, DR.

1 SCHWARTZ-WATTS, AND DR. GAINES.

2 A. CORRECT.

3 Q. AND YOU MENTIONED -- AND WE'LL GO BACK THROUGH THE
4 PREVIOUS I.Q.'S. YOU MENTIONED THE I.Q. THAT YOU CAME UP
5 WITH.

6 A. YES.

7 Q. AND YOU PUT HIM AT A -- YOU MENTIONED SEVERAL NUMBERS,
8 AND LET'S TALK ABOUT THOSE FOR A MINUTE.

9 A. SURE.

10 Q. AT A 66. ISN'T THERE A -- I WAS LOOKING AT THE DSM-IV.
11 WHAT IS THE DSM-IV?

12 A. THAT'S THE DIAGNOSTIC MANUAL THAT PSYCHIATRISTS USE FOR
13 DIAGNOSING THEIR PATIENTS.

14 Q. I JUST HAVE IT RIGHT HERE. AND ISN'T THERE WHEN YOU'RE
15 TALKING ABOUT PEOPLE THAT MAY BE MENTALLY RETARDED -- IT'S
16 NOT A MAGIC NUMBER. SOMEONE CAN TEST HIGHER THAN A 70 AND
17 STILL QUALIFY AS MENTALLY RETARDED, AND SOMEONE CAN TEST
18 LOWER THAN A 70 AND STILL MAYBE HAVE MENTAL RETARDATION?

19 A. THAT'S CORRECT. AND MENTAL RETARDATION -- I'M NOT
20 DIAGNOSING HIM WITH MENTAL RETARDATION.

21 Q. OKAY. WELL, I MISUNDERSTOOD. HE'S JUST GOT AN I.Q. OF
22 66, ACCORDING TO YOU.

23 A. HE -- IT PLACES HIM OVERALL IN THE EXTREMELY LOW SLASH
24 MENTAL RETARDATION RANGE OF FUNCTIONING. YOU CAN HAVE AN
25 I.Q. IN THAT RANGE AND NOT BE MENTALLY RETARDED. FOR

1 EXAMPLE, MY ALZHEIMER'S PATIENTS WOULD FREQUENTLY SCORE IN.
2 THE SIXTIES BECAUSE OF THEIR DEMENTIA.

3 Q. BUT AS FAR AS ASSESSING SOMEONE WHO MIGHT BE A LITTLE
4 BELOW AVERAGE VERSUS SOMEONE WHO IS MENTALLY RETARDED -- AND
5 THERE ARE DIFFERENT LEVELS OF MENTAL RETARDATION; WE'LL TALK
6 ABOUT THAT.

7 A. CORRECT.

8 Q. SEVENTY IS KIND OF A -- TRADITIONALLY IT'S STILL IN THE
9 BOOK. WHERE DID I PUT THE BOOK? HERE IT IS. IT'S STILL IN
10 THE BOOK, ISN'T IT? SEVENTY IS KIND OF A NUMBER THAT'S
11 IMPORTANT.

12 A. THAT'S CORRECT.

13 Q. BECAUSE IF A PERSON IS OVER 70, TYPICALLY - AND THERE
14 ARE EXCEPTIONS AND I'LL GET BACK TO THIS - YOU AREN'T
15 MENTALLY RETARDED, BUT IF YOU'RE UNDER 70, SAY AT A 66, THEN
16 YOU FALL INTO THE MILDLY MENTALLY RETARDED RANGE. IS THAT
17 CORRECT?

18 A. THAT'S CORRECT.

19 Q. BECAUSE EVEN WHEN YOU GET BELOW 70 THERE ARE DIFFERENT
20 LEVELS OF MENTAL RETARDATION.

21 A. CORRECT.

22 Q. BECAUSE IF YOU TEST -- ACCORDING TO HOW I READ THIS,
23 MILD MENTAL RETARDATION IS 50 TO 70, IS A MILD MENTAL
24 RETARDATION, AND IT CAN BECOME MUCH MORE PROFOUND AND MORE
25 DISABLING THAN THAT. CORRECT?

1 A. CORRECT.

2 Q. AND THEN IF YOU HAVE AN I.Q. OF 35 TO 50 APPROXIMATELY,
3 WITH VARIATIONS, IT'S MODERATE MENTAL RETARDATION. IS THAT
4 CORRECT?

5 A. YES.

6 Q. OKAY. AND THEN WE GET TO SEVERE MENTAL RETARDATION
7 WHICH WOULD BE 20 TO 35?

8 A. YES.

9 Q. APPROXIMATELY?

10 A. APPROXIMATELY.

11 Q. AND THEN PROFOUND MENTAL RETARDATION. SO THERE ARE
12 ACTUALLY FOUR CATEGORIES, THREE OF WHICH ARE BELOW WHERE YOU
13 EVEN TESTED ERIC MANCE.

14 A. CORRECT.

15 Q. AND YOU ARE NOT HERE TO TELL THIS JURY EVEN IF SOMEONE
16 TESTED AT 60 THAT THEY AREN'T CAPABLE OF FUNCTIONING AND
17 BEING PRODUCTIVE MEMBERS OF SOCIETY BECAUSE, AGAIN, THEY
18 AREN'T MORE VIOLENT THAN OTHER PEOPLE.

19 A. THAT'S CORRECT.

20 Q. OKAY. YOU HAD TWO DIFFERENT NUMBERS YOU REFERRED TO
21 WHEN COMING TO YOUR 66 NUMBERS. WHAT WERE THOSE TWO NUMBERS?

22 A. VERBAL I.Q. WAS 63.

23 Q. THE FIRST NUMBER YOU CAME UP WITH WAS 63.

24 A. UH-HUH.

25 Q. THIS IS BASED ON YOUR ASSESSMENT OF TESTING.

1 A. CORRECT.

2 Q. OKAY.

3 A. PERFORMANCE WAS 77.

4 Q. AND TAKING THE COMBINATION OF THOSE TWO NUMBERS, YOU
5 CAME UP WITH A TOTAL I.Q. OF 66; CORRECT?

6 A. CORRECT.

7 Q. AND THAT'S BASED ON YOUR INTERVIEW OF HIM, AND HOW LONG
8 DID YOU SPEND WITH HIM?

9 A. THE INTERVIEW LASTED APPROXIMATELY AN HOUR AND THE
10 TESTING ANOTHER THREE HOURS.

11 Q. AND DID YOU ACTUALLY ADMINISTER THE TEST?

12 A. I DID.

13 Q. OKAY. SO -- AND THE FIRST HOUR IS FOR YOU TO GET A
14 BACKGROUND.

15 A. CORRECT.

16 Q. AND THAT'S INFORMATION HE CHOOSES TO GIVE YOU.

17 A. CORRECT.

18 Q. AND IT'S IMPORTANT.

19 A. YES.

20 Q. BECAUSE IN ASSESSING ANYONE'S I.Q., THE MORE INFORMATION
21 YOU HAVE, THE BETTER OFF YOU ARE.

22 A. CERTAINLY.

23 Q. WHAT RECORDS WERE PROVIDED TO YOU IN THIS CASE?

24 A. I HAD ASKED FOR ANY PREVIOUS -- A RECORD OF PREVIOUS
25 TESTING.

1 Q. A RECORD OF PREVIOUS TESTING?

2 A. RIGHT. AND I'VE REVIEWED THE PSYCHOLOGICAL EVALUATION
3 DONE BY DR. LITMAN (PHONETIC).

4 Q. BY DR. LITMAN?

5 A. YES.

6 Q. YOU DIDN'T WANT ANY ADDITIONAL RECORDS THAT MAY HAVE
7 HELPED YOU?

8 A. I DIDN'T FEEL LIKE I NEEDED ADDITIONAL RECORDS. I WAS
9 SPECIFICALLY LOOKING AT I.Q. AND BRAIN FUNCTION, AND DR.
10 LITMAN REVIEWS IN HER REPORT THE PREVIOUS I.Q.'S.

11 Q. AND WHAT DATE WAS THAT REPORT?

12 A. DR. LITMAN'S REPORT WAS 1987.

13 Q. AND WERE YOU AWARE THAT THERE WERE RECORDS AVAILABLE FOR
14 YOU ABOUT MR. MANCE FROM 1987 THROUGH 2004?

15 A. NO, I WAS NOT.

16 Q. DID YOU EVER REQUEST ALL THE RECORDS ON HIM?

17 A. NO, I DID NOT.

18 Q. YOU DIDN'T THINK THAT WAS IMPORTANT FOR YOU TO REVIEW?
19 EVEN DR. SCHWARTZ-WATT'S GOT ADDITIONAL RECORDS, DIDN'T SHE?

20 A. I BELIEVE GENERALLY THE WAY THIS WORKS, BECAUSE I THINK
21 IT'S BEING TAKEN A LITTLE OUT OF CONTEXT, IS---

22 Q. I DON'T MEAN TO TAKE IT OUT OF CONTEXT.

23 A. BUT IT'S LIKE DR. GAINES. THEY ASK HIM TO DO HIS PART,
24 SO I DO MY PART AND MY PART IS THE COGNITIVE EVALUATION. I
25 DON'T REVIEW ANY OF THE LEGAL RECORDS, THE REPORTS, THE

1 POLICE REPORTS, NONE OF THAT. IT'S KIND OF DIFFERENT FROM
2 WHAT I DID AT D.M.H. AT D.M.H. I WAS DOING THE WHOLE THING,
3 BUT NOW I'M FOCUSING -- I DO JUST THE COGNITIVE EVALUATION
4 AND THEN I GIVE MY RESULTS TO DR. SCHWARTZ-WATTS.

5 Q. SO IT WOULD NOT BEHOOVE YOU TO HAVE MORE RECORDS. DID
6 YOU EVER LOOK AT THE STATEMENT FROM THE VICTIM IN THIS CASE?

7 A. I DON'T REVIEW ANY OF THOSE. I DON'T EVEN KNOW WHAT THE
8 CHARGES ARE WHEN I---

9 Q. JUST TO MAKE IT CLEAR: YOU DON'T KNOW WHAT THE CHARGES
10 ARE?

11 A. NO.

12 Q. YOU DON'T KNOW WHAT HE SAID HE DID.

13 A. WELL, JUST FROM WHAT I'VE HEARD HERE THIS MORNING.
14 THAT'S THE FIRST I'VE HEARD OF IT.

15 Q. YOU SAT HERE THIS MORNING.

16 A. YES.

17 Q. AND YOU DON'T KNOW WHAT EYEWITNESSES SAW HIM DO?

18 A. NO.

19 Q. AND YOU DIDN'T REVIEW ANY OF THAT.

20 A. NO.

21 Q. BECAUSE YOU DON'T---

22 A. THAT'S NOT MY---

23 Q. ---NEED THAT INFORMATION.

24 A. THAT'S NOT MY AREA.

25 Q. BUT IN ORDER TO DETERMINE SOMEONE'S I.Q., ISN'T IT

1 IMPORTANT TO UNDERSTAND HOW THEY FUNCTION IN THE COMMUNITY,
2 WHAT LEVEL THEY'RE ABLE TO, YOU KNOW, MAINTAIN?

3 A. WELL, YOU'RE TALKING DIFFERENT -- YOU'RE TALKING, YOU
4 KNOW, A NUMBER I.Q. VERSUS FUNCTIONAL ASSESSMENT, AND THAT IS
5 ASSESSED BY DR. SCHWARTZ-WATTS.

6 Q. I WAS READING IN HERE AND IT TALKED ABOUT HOW I.Q.'S CAN
7 VARY WHEN PEOPLE ARE TRAINABLE. CERTAIN PEOPLE CAN FUNCTION.

8 A. UH-HUH.

9 Q. THAT THE I.Q. CAN BE ASSESSED DIFFERENTLY BASED ON HOW
10 THEY ADAPT AND ARE ABLE TO ABIDE IN THE COMMUNITY.

11 A. IF YOU'RE LOOKING AT -- IF YOU WANT AN EVALUATION FOR
12 MENTAL RETARDATION, THAT'S NOT WHAT I WAS ASKED TO DO. IF
13 THERE'S EVER A QUESTION OF -- FOR INSTANCE, IN DEATH PENALTY
14 CASES MENTAL RETARDATION IS A BIG DEAL AND SO THEY WILL CALL
15 IN A DEVELOPMENTAL SPECIALIST. I'M A NEUROPSYCHOLOGIST. I
16 LOOK AT BRAIN FUNCTION FROM THE NEUROPSYCHOLOGICAL
17 STANDPOINT.

18 Q. SO DID I JUST READ THIS WRONG, THAT YOU DON'T NEED THAT
19 INFORMATION IN ORDER TO DETERMINE I.Q.?

20 A. NOT TO DETERMINE I.Q. I.Q. THAT I MEANT IS BASED ON---

21 Q. JUST MENTAL RETARDATION.

22 A. THAT'S FOR MENTAL RETARDATION, AND I'M NOT ASSESSING
23 MENTAL RETARDATION. I'M NOT---

24 Q. SO YOU AREN'T---

25 A. ---DIAGNOSING MENTAL RETARDATION.

1 Q. I DIDN'T MEAN TO INTERRUPT YOU.

2 A. THAT'S OKAY.

3 Q. SO YOU AREN'T HERE TO TELL THIS JURY YOU THINK HE'S
4 MENTALLY RETARDED.

5 A. NO, I'M NOT.

6 Q. AND AS FAR AS HOW HE -- YOU KNOW, HE -- WHETHER HE'S
7 MARRIED OR NOT, WHETHER HE'S HAD JOBS OR NOT, ALL THOSE ARE
8 FACTORS THAT CAN AFFECT WHERE HE REALLY LIES IN THIS
9 PARAMETER OF HOW HE FUNCTIONS.

10 A. IF A DEVELOPMENTAL PSYCHOLOGIST WHO WAS ASSESSING M. R.
11 WOULD TAKE ALL THAT INTO ACCOUNT, THEY WOULD LOOK AND SEE IF
12 HE'S GOT A DRIVER'S LICENSE, WHAT KIND OF JOBS HE'S HELD.
13 THEY WOULD PROBABLY INTERVIEW THE MOTHER, DO SOMETHING CALLED
14 THE VINELAND ADAPTIVE SCALE, BUT THAT'S -- THAT'S NOT THE
15 KIND OF EVALUATION THAT I DO. THAT'S NOT THE KIND OF
16 EVALUATION... I LOOK AT CURRENT BRAIN FUNCTION. DR.
17 SCHWARTZ-WATTS ASKS ME TO LOOK -- BECAUSE SHE'S GENERALLY
18 ASSESSING COMPETENCY AND THINGS LIKE THAT AND SHE WANTS TO
19 KNOW HOW THEY'RE FUNCTIONING NOW.

20 Q. OKAY. AND BEFORE I GO ANY FURTHER ABOUT YOUR TESTING,
21 THE RECORDS YOU REVIEWED, THEY DID HAVE PRIOR I.Q.'S THAT
22 WERE DONE BY INDEPENDENT PEOPLE AT WILLIAM S. HALL WHO WERE
23 JUST ASSESSING I.Q.

24 A. CORRECT.

25 Q. THEY WEREN'T HIRED BY THE DEFENSE ATTORNEY.

1 A. THAT'S CORRECT.

2 Q. OKAY. AND WHAT WERE SOME OF THOSE I.Q.'S THAT YOU'VE
3 MENTIONED EARLIER? THEY ARE NUMBERS I HAVEN'T SEEN.

4 A. LET'S SEE. LET'S SEE. HE WAS EVALUATED IN THE SCHOOL
5 DISTRICT IN '82 AND '85. THE FIRST ONE, HIS VERBAL I.Q. WAS
6 68, PERFORMANCE WAS 84, AND FULL SCALE WAS 74. IN '85 HIS
7 VERBAL I.Q. WAS 69, PERFORMANCE 87, AND FULL SCALE 77.

8 Q. WHAT YEAR WAS THAT?

9 A. THAT WAS IN '85.

10 Q. THANK YOU. WOULD IT BE SAFE TO SAY ALL PRIOR I.Q.'S
11 CAME OUT TO BE 74 AND ABOVE?

12 A. FULL SCALE, YES. 77. 74.

13 Q. AND WOULD YOU SAY, DOCTOR, THAT IT'S A SIGNIFICANT --
14 YOU TESTIFIED ON DIRECT THAT THIS IS SOMETHING -- YOU KNOW,
15 IF YOUR I.Q. AT ONE POINT IS, SAY, 77 WHEN YOU'RE FIVE, IT
16 SHOULD BE 77 WHEN YOU'RE 85 WITHOUT SOME BRAIN PROBLEMS;
17 RIGHT?

18 A. WITHIN A 15 -- THERE'S GENERALLY A 15-POINT STANDARD
19 DEVIATION.

20 Q. SOME PEOPLE PUT---

21 A. YEAH.

22 Q. ---A FIVE-POINT DEVIATION.

23 A. YEAH.

24 Q. YOU CAN PUT A 15. AND UP UNTIL THE TIME YOU SAW HIM --
25 WHICH WAS WHEN?

1 A. I SAW HIM IN JUNE OF 2007.

2 Q. HAVE YOU TALKED TO HIM SINCE THEN?

3 A. NO, I HAVE NOT.

4 Q. AND SUDDENLY HIS IQ DROPS ANYWHERE FROM 8 TO 11
5 POINTS.

6 A. (WITNESS NODDED HEAD UP AND DOWN.)

7 Q. AND HIS -- WHAT'S THE TOP ONE? 63?

8 A. VERBAL.

9 Q. HIS VERBAL HAS DROPPED FROM 68 OR 69 TO 63 AND HIS --
10 WHAT'S THAT ONE?

11 A. PERFORMANCE.

12 Q. THANK YOU. PERFORMANCE HAS DROPPED FROM 84 TO 87 TO 77,
13 AND YOU DON'T CONSIDER THOSE SIGNIFICANT DROPS?

14 A. IT'S WITHIN THE STANDARD DEVIATION, AND THAT'S WHY I
15 WANTED HIM TO SEE DR. GAINES, JUST TO MAKE SURE THAT THERE
16 WASN'T SOMETHING GOING ON.

17 Q. BECAUSE IT WAS SO SIGNIFICANT THAT YOU THOUGHT THERE'S
18 SOMETHING WRONG WITH THIS MAN'S BRAIN TO CAUSE THIS.

19 A. I WANTED TO MAKE SURE THERE WASN'T.

20 Q. AND THERE WASN'T.

21 A. RIGHT, BECAUSE HE HAS THE PREVIOUS HISTORY. HE ALSO
22 HAD, LIKE WE TALKED ABOUT EARLIER, SOME SIGNS AND SYMPTOMS OF
23 DEPRESSION AND ANXIETY WHICH CAN LOWER MY TEST SCORES, TOO.

24 Q. THAT'S A GOOD POINT; I WANT TO GET TO THAT. THERE ARE
25 JUST ENVIRONMENTAL FACTORS OUT THERE THAT CAN LOWER TEST

1 SCORES.

2 A. THAT'S CORRECT.

3 Q. MAYBE NOT THIS SIGNIFICANTLY BUT SIGNIFICANTLY.

4 A. CORRECT.

5 Q. IF A PERSON IS TIRED WHEN THEY TAKE THE TEST.

6 A. YES.

7 Q. IF A PERSON HAS POOR COMMUNICATION WITH A PERSON. SOME
8 PEOPLE COMMUNICATE WELL WITH SOME PEOPLE AND NOT WITH OTHERS.

9 A. CORRECT.

10 Q. IF A PERSON IS DEPRESSED, IT CAN AFFECT THEIR SCORES.

11 A. YES.

12 Q. IF A PERSON HAS LEGAL CHARGES PENDING, IT CAN AFFECT
13 THEIR SCORES.

14 A. YES.

15 Q. IF A PERSON HAS BEEN THROUGH THE SYSTEM BEFORE. IF A
16 PERSON HAS MOTIVATION TO TRY TO LOWER THEIR SCORE.

17 A. THAT'S CORRECT.

18 Q. WERE YOU AWARE THAT ERIC MANCE WAS MARRIED?

19 A. YES.

20 Q. WITH CHILDREN?

21 A. YES.

22 Q. LIVING INDEPENDENTLY?

23 A. YES.

24 Q. HAD HELD JOBS?

25 A. PLEASE HELP ME. I WANT TO GO TO MY SPECIFIC NOTES SO

1 I'M NOT GOING FROM MEMORY FROM A YEAR AGO. HE TOLD ME THAT
2 HE'D BEEN MARRIED FOR TWO YEARS. SAID HE DIDN'T HAVE ANY
3 BIOLOGICAL CHILDREN. SAID HIS LAST JOB WAS AT MCDONALD'S FOR
4 THREE WEEKS AND HE WAS FIRED. HIS LONGEST WAS AT FAMILY
5 DOLLAR FOR ONE MONTH. AT THE TIME OF THE INCARCERATION HE
6 WAS LIVING IN A TRAILER IN GASTON WITH HIS WIFE.

7 Q. AND FOR THE RECORD JUST TO CLEAR THIS UP, THIS ISN'T A
8 CASE WHERE NOT GUILTY BY REASON OF INSANITY IS AN OPTION
9 YOU'RE AWARE OF.

10 A. NO, NOT THAT I'M AWARE OF.

11 Q. THERE'S NO QUESTION AS TO HIS COMPETENCE TO STAND TRIAL
12 HERE TODAY, IS THERE?

13 A. NOT THAT I'M AWARE OF.

14 Q. AND THERE'S NO QUESTION AS TO HIS CRIMINAL
15 RESPONSIBILITY FOR WHAT HE DID BACK IN JUNE 2006.

16 A. THAT'S -- NOT THAT I'M AWARE OF, BUT THAT'S NOT WHAT I
17 -- THAT WOULD BE DR. SCHWARTZ-WATTS' ASSESSMENT.

18 Q. AND ARE YOU AWARE OF HER CONCLUSIONS ON THAT? I THINK
19 YOU ARE NOW.

20 A. YEAH.

21 Q. AND SHE FOUND HIM -- HE'S FINE.

22 A. YES.

23 Q. WHEN DR. GAINES SAW HIM -- YOU TESTIFIED ON DIRECT THAT
24 HE HAS PROBLEMS REMEMBERING STORIES HE'S TOLD AND THINGS OF
25 THAT NATURE. IS THAT RIGHT?

1 A. YES. THAT'S ONE OF THE WAYS I ASSESS VERBAL MEMORY.

2 Q. ARE YOU AWARE THAT WHEN DR. GAINES DID HIS NEUROLOGICAL
3 EXAM THAT HE WAS ORIENTED TO TIME, PLACE, AND PERSON?

4 A. YES.

5 Q. RECENT AND REMOTE MEMORY IS NORMAL?

6 A. HE WAS ORIENTED TO TIME, PERSON---

7 Q. PLACE AND PERSON?

8 A. WITH ME HE DIDN'T KNOW THE PREVIOUS PRESIDENT, BUSH. HE
9 DIDN'T KNOW THE DATE, BUT HE KNEW THE MONTH, THE YEAR. DR.
10 GAINES' MINI MENTAL STATUS EVALUATION DOESN'T GO INTO THE
11 DEPTH THAT THESE TESTS DO, SO---

12 Q. CAN I JUST TALK ABOUT HIS POINT---

13 A. SURE.

14 Q. ---AND WE'LL TALK ABOUT YOURS?

15 A. SURE.

16 Q. AND WHEN HE'S MEETING WITH YOU, DOES HE KNOW WHY HE'S
17 MEETING WITH YOU?

18 A. YES.

19 Q. DOES HE KNOW THAT YOU'RE THERE TO TEST HIM TO SEE IF
20 HE'S GOING TO HAVE TO FACE THESE CHARGES?

21 A. NO, I CERTAINLY DON'T EVER GO INTO THAT. I JUST TELL
22 THEM THAT DR. WATTS HAS ASKED ME TO DO SOME EVALUATIONS ON
23 YOUR BRAIN FUNCTION BECAUSE YOU HAD PROBLEMS IN SCHOOL AND
24 YOU HAVE A HEAD INJURY. I DON'T KNOW IF THEY'RE COMING TO ME
25 BECAUSE IT'S A COMPETENCY ISSUE OR IF IT'S CRIMINAL

1 RESPONSIBILITY OR N.G.R.I. YOU KNOW, I...

2 Q. AND NONE OF THOSE WERE IN THIS CASE.

3 A. NO.

4 Q. AND BASICALLY HIS NEUROLOGICAL EXAM WAS PRETTY MUCH
5 NORMAL.

6 A. YES.

7 Q. HIS MOTOR EXAM WAS NORMAL. HIS CRANIAL NERVE EXAM WAS
8 NORMAL.

9 A. YES.

10 Q. ALL HIS EXAMS WERE NORMAL.

11 A. CORRECT.

12 Q. AND HIS FINDINGS WERE: I DO NOT FIND EVIDENCE OF
13 SIGNIFICANT NEUROLOGICAL FALLITY (PHONETIC) ON RECENT ONSET.

14 A. CORRECT.

15 Q. HIS RECENT MEMORY CURRENTLY IS NOT SEVERELY IMPAIRED.

16 C.T. SCAN WAS NORMAL. E.E.G., NORMAL.

17 A. CORRECT.

18 Q. SO YOUR CONCERNS ABOUT SOMETHING HAVING CAUSED THIS DROP
19 IN HIS I.Q. WERE NOT SOMETHING INSIDE HIS HEAD.

20 A. DR. GAINES DID NOT FIND ANYTHING WHICH, YOU KNOW, FROM A
21 BRAIN STANDPOINT FOR MR. MANCE IS GOOD NEWS. THERE'S NOT AN
22 ONGOING PROCESS GOING ON THERE.

23 Q. HOW DO DRUGS AFFECT SOMEBODY'S I.Q.?

24 A. IT CAN CERTAINLY AFFECT OVERALL COGNITION.

25 Q. AND, IN FACT, THAT'S SOMETHING THAT YOU DIDN'T GO INTO

1 ON DIRECT EXAMINATION, BUT DID HE GIVE YOU ANY INFORMATION
2 ABOUT HIS DRUG USE?

3 A. HE DID..

4 Q. WHAT DID HE TELL YOU?

5 A. AND I PUT IN MY REPORT: EXTENSIVE HISTORY OF DRUG USE.
6 HE SAID HE STARTED SMOKING CRACK AT AGE 20.

7 Q. AND IN HIS REPORT DID HE ALSO TELL YOU THAT HE WAS USING
8 CRACK COCAINE THE DATE OF THE INCIDENT?

9 A. NO, I DON'T ASK ABOUT THE INCIDENT OR ASK THEM TO TELL
10 ME THEIR VERSION.

11 Q. DID YOU REVIEW DR. SCHWARTZ-WATTS -- WHO ACTUALLY WORKS
12 IN THE SAME DEPARTMENT AS YOU, DOESN'T SHE?

13 A. THAT'S NOT THE WAY THAT IT WORKS. MY RESULTS GO TO DR.
14 SCHWARTZ-WATTS. SHE'S THE REFERRING PHYSICIAN, SO SHE'LL ASK
15 FOR THIS TEST OR THAT TEST. I DON'T GET HER RECORDS BACK. I
16 DO MY PART AND SEND IT TO HER, JUST LIKE IF SHE HAD ASKED FOR
17 AN X-RAY OF THE LEG, YOU KNOW, THE RADIOLOGIST DOESN'T X-RAY
18 THE LEG AND SEND IT TO HER BUT THEN DOESN'T SAY, WELL, I WANT
19 TO SEE YOUR RECORDS. THAT'S JUST NOT THE FUNCTION -- I'M A
20 CONSULTANT.

21 Q. I UNDERSTAND. BUT WOULD THAT -- HOW WOULD THAT AFFECT A
22 PERSON WHETHER THEY'RE MENTALLY RETARDED OR NOT?

23 A. HOW WOULD WHAT?

24 Q. CRACK COCAINE USED THAT DAY.

25 A. WELL, IT CERTAINLY IS GOING TO IMPAIR JUDGMENT, AFFECT