

No Respondent's Brief Filed
VOLUME I OF III

STATE OF SOUTH CAROLINA

ANDERS RESPONSE BRIEF

In The Court of Appeals

ANDERS

APPEAL FROM CHARLESTON COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ORAN SMITH,

APPELLANT

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2007-GS-10-13172

STATE OF SOUTH CAROLINA)
)
VS.)
)
ORAN SMITH,)
)
DEFENDANT.)
_____)

JURY TRIAL

VOLUME 1 OF 4

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Monday, June 15, 2009, Commencing at 11:17 a.m.

SUSAN "MIA" PERRON, CCR, CVR-CM
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PROCEEDINGS

THE COURT: Thank you. Be seated.

Mr. Voight, anything before we bring the panel
in?

MR. VOIGHT: No, ma'am.

THE COURT: Didn't you have a question about the
victim's mother?

MR. VOIGHT: I'm sorry, Your Honor?

THE COURT: A question about the victim's mother
being present?

MR. VOIGHT: Daughter?

THE COURT: Mother? Daughter?

MS. TAYLOR: Daughter.

THE BAILIFF: Ms. Purcell wants to come forward.

MR. VOIGHT: I believe the victim's daughter has
asked that she be present during jury selection.

THE COURT: All right.

MR. VOIGHT: And so I put that to you, Your
Honor -- whether she be allowed to remain.

THE COURT: If there is room in your --

[Off the record momentarily]

THE COURT: Mr. Voight, I have no problem with
her being seated or whatever. You make the appropriate
-- if people need to move, then you tell them that they
need to move.

1 MR. VOIGHT: Thank you very much, Your Honor. I
2 think that was it, Your Honor.

3 THE COURT: And just for scheduling purposes, we
4 have a Jackson v. Denno, and that's the only motion; is
5 that correct?

6 MS. TAYLOR: That is the primary motion.

7 Judge, there are some issues now with
8 photographs, so we will have --

9 MR. VOIGHT: I think there will be a brief
10 motion in limine. I have given the substance of that,
11 of the State's position, to your clerk. We have
12 eliminated I think five or seven photographs. There
13 are three that were --

14 MR. SIMPSON: Two. Just two were --

15 MR. VOIGHT: -- two that were -- just two, two
16 photographs that we have an issue with.

17 THE COURT: All right. But nothing will impact
18 our jury selection if --

19 MR. VOIGHT: Nothing whatsoever.

20 THE COURT: -- we go ahead and begin jury
21 selection; is that correct?

22 MS. TAYLOR: Your Honor, I might ask if the
23 victim's daughter is going to be in, we have our family
24 here in this little room [indicates]. Would his
25 parents be allowed to be in here for jury selection if

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1 there's going to be family members? They're all there
2 in their respective rooms.

3 THE COURT: Ms. Taylor, is your client in
4 custody?

5 MS. TAYLOR: He is.

6 THE COURT: I'm going to say no only because of
7 the security issue that it would create with the
8 additional -- with the deputies and an additional
9 person.

10 MS. TAYLOR: I'm just concerned about the
11 imbalance, if we have family members present.

12 THE COURT: I'm looking over. I don't know who
13 all is over there. I don't know that it's going to be
14 so glaring to the --

15 MS. TAYLOR: I don't either --

16 THE COURT: -- to the jury.

17 MS. TAYLOR: -- it's just a concern if it
18 becomes apparent at some point that there is family in
19 and family out. But whatever you decide, Judge. I
20 just wanted to put that on the record.

21 THE COURT: Thank you, Ms. Taylor.

22 Anything before we bring in the panel?

23 MR. VOIGHT: No, Your Honor.

24 THE COURT: Please bring in the panel. Thank
25 you.

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1 [Whereupon, the jury panel enters the courtroom
2 at 11:22 a.m.]

3 - - - - -

4 JURY VOIR DIRE

5 THE COURT: Do we have all the jurors?

6 THE BAILIFF: I think we do.

7 THE COURT: You think we have them all?

8 Madam Clerk, if you'll call the roll, just to
9 ensure that we have them all. Thank you.

10 THE CLERK OF COURT: I'll do a quick head count.

11 [Off the record momentarily]

12 THE COURT: Good morning again, ladies and
13 gentlemen. I am Judge Kristi Harrington. I am going
14 to preside over, as I stated, this week of general
15 sessions.

16 Our first trial that we have on the docket is
17 indictment 2007-GS-10-13172. It is the State vs. Oran
18 Lamar Smith.

19 Mr. Smith has been indicted for murder. I will
20 explain -- if you are selected for the jury, I will
21 explain what all of those legal terms mean, but just
22 for now, an indictment is the paper that brings us to
23 court here today.

24 Ms. Taylor, does your client request formal
25 arraignment?

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1 MS. TAYLOR: He does not, Your Honor. He enters
2 a not guilty plea by asking for a trial.

3 THE COURT: Thank you.

4 Mr. Smith has pled not guilty to this
5 indictment. Ladies and gentlemen, the State alleges
6 that on or about June 3rd, 2007, with malice
7 aforethought, Mr. Smith did kill and murder Cheryl Snow
8 by means of strangling her and that Cheryl Snow did die
9 in Charleston County as a proximate result thereof.

10 Ladies and gentlemen, is there any member of the
11 jury panel who has read, seen, or heard anything
12 concerning this or relating to the incident on
13 television, radio, or the internet? If so, please
14 stand.

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Ms. Taylor, if you would please stand, introduce
18 yourself, the persons seated at your table, and any
19 persons that may be assisting you throughout this
20 trial.

21 MS. TAYLOR: Thank you, Your Honor.

22 My name is Donna Taylor. I practice here in
23 Charleston with the firm of Taylor, Shoun, Bowley &
24 Byrd. My client is here, is Oran Smith. His family is
25 not in here now, but you'll see them later. And

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1 assisting me or helping me today is William Nixon, who
2 also is an attorney here in the Charleston area. And
3 the names of my firm members are Sharon Howe, Lynn
4 Bowley, and Catherine Byrd.

5 THE COURT: Ladies and gentlemen of the jury, is
6 there any member of the jury panel related by blood,
7 marriage, close personal friend, to Mr. Oran Smith? If
8 so, please stand.

9 [Whereupon, there is no response]

10 THE COURT: Thank you. There are none.

11 Is there any member of the jury panel related by
12 blood, marriage, close personal friend, any business,
13 professional, social dealings, ever been represented
14 by, either Ms. Taylor or Mr. Nixon? If so, please
15 stand.

16 Yes, sir. If you'll please stand.

17 MR. ARRANTS: I think I know Ms. Taylor's --

18 THE COURT: All right, sir.

19 MR. ARRANTS: -- brother.

20 THE COURT: I'm going to need you to stand --

21 MR. ARRANTS: My name is Juror 6, John Arrants.
22 I think I know Ms. Taylor's brother, Gregory.

23 THE COURT: All right. And is there anything
24 about you knowing -- or perhaps knowing Ms. Taylor's
25 brother that will affect your ability to be fair and

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1 impartial in this case?

2 MR. ARRANTS: No. It shouldn't.

3 THE COURT: All right. And, sir, your juror
4 number is juror number 6?

5 MR. ARRANTS: 6.

6 THE COURT: Thank you, sir.

7 Is there anyone else?

8 [Whereupon, there is no response]

9 THE COURT: Thank you. There are none.

10 Mr. Voight, if you will please stand, introduce
11 yourself, the persons seated at your table, and anyone
12 that will be assisting you throughout this trial.

13 MR. VOIGHT: Thank you, Your Honor.

14 My name is Greg Voight. I'm an assistant
15 solicitor here in Charleston. Assisting me today will
16 be Chad Simpson, who is also an assistant solicitor.
17 And you may see Jessica Baldwin [phonetic] from our
18 office, who is a paralegal who may be helping us with
19 some technical issues. Not in the courtroom is my
20 investigator, Jim Neesmith [phonetic], who will be
21 assisting me, as well.

22 THE COURT: Is there any member of the jury
23 panel related by blood, marriage, close personal
24 friend, have any business, professional or social
25 dealings with either Mr. Voight or Mr. Simpson? If so,

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1 please stand.

2 [Whereupon, there is no response]

3 THE COURT: Thank you. There are none.

4 Is there any member of the jury panel related by
5 blood, marriage, close personal friend, ever had any
6 business, professional, social dealings with anyone
7 employed within the Ninth Circuit Solicitor's Office?
8 The elected solicitor is Scarlett Wilson, and that
9 office consists of attorneys in Berkeley and in
10 Charleston Counties.

11 If you have ever been employed by, have any
12 close personal friends, family members employed by, or
13 had any business dealings with the solicitor's office,
14 please stand.

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Ladies and gentlemen, I'm going to call a list
18 of potential witnesses that may be called to testify in
19 this case. If you know any of these individuals or if
20 you are related to them by blood, marriage, close
21 personal friend, please stand once I call their names.
22 Scott Hille, with the North Charleston Police
23 Department; Angie Bunker, with the North Charleston
24 Police Department; Andy Coker, North Charleston Police
25 Department; Scott Wyant, North Charleston Police

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1 Department; Ray Garrison, with the North Charleston
2 Police Department; Al Hallman, North Charleston Police
3 Department; Karl Mastantuno, North Charleston Police
4 Department; Eric Jourdan, North Charleston Police
5 Department; James Hill, North Charleston Police
6 Department; Erin Presnell, with MUSC; Jan Bryson, with
7 SLED, State Law Enforcement Division; Lillian Gallman,
8 with SLED; Shawn Patrick, North Charleston Police
9 Department; Keith Elmore, North Charleston Police
10 Department; Janet Smith.

11 Any members of the jury panel related by blood,
12 marriage, close personal friend, any business,
13 professional, social dealings with any of those
14 individuals? If so, please stand.

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Is there any member of the jury panel related by
18 blood, marriage, close personal friend, of anyone
19 employed by the North Charleston Police Department,
20 Medical University, or SLED, State Law Enforcement
21 Division? If so, please stand.

22 MS. BALL: My husband is a nurse at MUSC.

23 THE COURT: All right. I'm going to need you to
24 state your name and your juror number.

25 MS. BALL: Anne Ball, and I'm juror 9.

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1 THE COURT: All right. And your husband is a
2 nurse at MUSC?

3 MS. BALL: Yes.

4 THE COURT: And, ma'am, there is a doctor that's
5 listed that is employed by MUSC. Is there anything
6 about your husband working at MUSC that will affect
7 your ability to be fair and impartial in this case?

8 MS. BALL: No.

9 THE COURT: All right. Thank you, ma'am.
10 Yes, ma'am?

11 MS. GREENBERG: I'm juror 105, Leah Greenberg.
12 My husband is president of the Medical University.

13 THE COURT: And is there anything about your
14 husband being the president of MUSC that will affect
15 your ability to be fair and impartial in this case?

16 MS. GREENBERG: No.

17 THE COURT: All right. Thank you.

18 Yes, sir. Your juror number and name?

19 MR. TERWILLIGER: Juror 270, Don Terwilliger.
20 My wife works in radiation pathology at MUSC, and I'm
21 close friends with Dave Wallenger from the North
22 Charleston Police Department.

23 THE COURT: All right. And is there anything
24 about your wife working at MUSC and your friendship
25 with the North Charleston police officer that will

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1 affect your ability to be fair and impartial in this
2 case?

3 MR. TERWILLIGER: No.

4 THE COURT: Thank you, sir.

5 Yes, ma'am. Your juror number and name.

6 MS. HILL: 129, Jacqueline Frazier Hill, and my
7 daughter works at MUSC.

8 THE COURT: And what does your daughter do at
9 MUSC, Ms. Hill?

10 MS. HILL: She is in medical records.

11 THE COURT: And will that affect your ability to
12 be fair and impartial in this case?

13 MS. HILL: No.

14 THE COURT: All right. Thank you, Ms. Hill.

15 Yes, ma'am?

16 MS. WASHINGTON: 283, Jacqueline Washington, and
17 I work at MUSC.

18 THE COURT: And what do you do at --

19 MS. WASHINGTON: Financial counselor.

20 THE COURT: -- MUSC? Pardon?

21 MS. WASHINGTON: Financial counselor.

22 THE COURT: Is there anything about you working
23 at MUSC, and having a doctor testify from MUSC, that
24 will affect your ability to be fair and impartial in
25 this case?

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1 MS. WASHINGTON: No.

2 THE COURT: Thank you, Ms. Washington.

3 Yes, ma'am?

4 MS. WINKEL: 297, Marilyn Winkel. I'm a nurse
5 at MUSC. My daughter is also a nurse at MUSC.

6 THE COURT: And will -- your employment and your
7 daughter's employment at MUSC, will that in any way
8 affect your ability to be fair and impartial in this
9 case?

10 MS. WINKEL: No.

11 THE COURT: Thank you. And your juror number
12 one more time?

13 MS. WINKEL: 297.

14 THE COURT: Thank you.

15 Is there any member of the jury panel that has
16 ever been in law enforcement or you have a very close
17 friend or a family member that is in law enforcement?
18 If so, please stand at this time.

19 Yes, ma'am?

20 MS. HILL: Juror number 129, Jacqueline Frazier
21 Hill. My brother is a retired county policeman.

22 THE COURT: And was that Charleston County?

23 MS. HILL: Yes.

24 THE COURT: And what was your brother's name?

25 MS. HILL: Eugene Frazier.

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1 THE COURT: And is there anything about your
2 brother being in law enforcement- that will affect your
3 ability to be fair and impartial in this case?

4 MS. HILL: No.

5 THE COURT: Thank you, Ms. Hill.

6 Yes, sir?

7 MR. JOHNSON: My son-in-law is in law
8 enforcement. He lives in Augusta -- in Augusta,
9 Georgia.

10 THE COURT: And I'm going to need your name and
11 jury number, sir.

12 MR. JOHNSON: My name is Thomas Johnson, and my
13 juror number is 147.

14 THE COURT: All right, sir. And your son is a
15 law enforcement officer --

16 MR. JOHNSON: Son-in-law.

17 THE COURT: Son-in-law. In Augusta; is that
18 correct?

19 MR. JOHNSON: Right. In North Augusta.

20 THE COURT: All right, sir. And is there
21 anything about that that will affect your ability to be
22 fair and impartial in this case?

23 MR. JOHNSON: No, ma'am.

24 THE COURT: All right. Thank you, sir.

25 Yes, ma'am?

1 MS. CHISHOLM: I'm juror number 45. My son-in-
2 law is a police officer in Boswell, Maryland, and my
3 sister is the district attorney in Martinsville,
4 Virginia.

5 THE COURT: All right. Is there anything about
6 your --

7 And it was your brother?

8 MS. CHISHOLM: My son-in-law.

9 THE COURT: -- your son-in-law being in law
10 enforcement that will affect your ability to be fair
11 and impartial in this case?

12 MS. CHISHOLM: No, ma'am.

13 THE COURT: Thank you, ma'am. Is there anyone
14 else? Thank you.

15 [Whereupon, there is no response]

16 THE COURT: There are --

17 MS. TAYLOR: Excuse me. I believe she said her
18 sister was a DA, as well. If you could inquire about
19 that.

20 THE COURT: All right, Ms. Taylor.

21 Ma'am?

22 MS. CHISHOLM: Yes, ma'am?

23 THE COURT: Yes, ma'am. Your --

24 MS. CHISHOLM: My sister.

25 THE COURT: Your sister is a DA in which county?

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1 MS. CHISHOLM: Martinsville, Virginia.

2 THE COURT: Okay. And how long has she been a
3 DA?

4 MS. CHISHOLM: She's been a DA for ten years.

5 THE COURT: All right. Is there anything about
6 that that will affect your ability to be fair and
7 impartial in this case?

8 MS. CHISHOLM: No, ma'am.

9 THE COURT: All right. Thank you. And just for
10 the record, your jury number?

11 MS. CHISHOLM: 45.

12 THE COURT: Thank you, ma'am.

13 Was there anyone else that has any members of
14 your family employed by law enforcement?

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Is there any member of the jury panel or a close
18 family member that is affiliated with or supports law
19 enforcement or has contributed to such a group such as
20 Mothers Against Driving -- excuse me -- Students
21 Against Drunk Driving, Citizens Against Violence,
22 People Against Rape, or the National Rifle Association?
23 Any of those types of organizations, if you or a family
24 member are members of those, please stand.

25 Yes, ma'am. Your jury number and name.

1 MS. DENNIS: Number 66, Nancy Dennis. MADD.

2 THE COURT: All right.

3 MS. DENNIS: I'm a member.

4 THE COURT: Thank you. And how long have you
5 been a member of MADD?

6 MS. DENNIS: Probably ten years, off and on.

7 THE COURT: All right. And you're juror 66?

8 MS. DENNIS: [Indicates affirmatively]

9 THE COURT: Thank you, ma'am.

10 Is there anyone else?

11 [Whereupon, there is no response]

12 THE COURT: Thank you. There are none.

13 Is there any member of the jury panel that has
14 ever been employed at a hospital emergency room or a
15 hospital trauma center or a coroner's office? If so,
16 please stand.

17 [Whereupon, there is no response]

18 THE COURT: Thank you. There are none.

19 All right. Ladies and gentlemen, just as I did
20 in the big jury panel room, I'm going to give you an
21 opportunity to come forward. I'm going to ask a series
22 of questions that I have determined that you need to
23 speak with me personally about, and so I need for you
24 to pay attention to these questions so that you may --
25 if they apply to you and you need to answer, you may

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1 come forward at this time.

2 Is there any member of the jury panel who has
3 ever had criminal charges prosecuted or adjudicated by
4 the solicitor's office?

5 Is there any member of the jury panel that would
6 have a problem following the law as I give it? Perhaps
7 you have a religious conviction, a philosophical or
8 moral believe, or a political orientation that would
9 make it difficult for you to sit in judgment of another
10 person.

11 If there is some reason why you feel that you,
12 as a juror, cannot render a fair and impartial verdict
13 in this case, please come forward and see me at the
14 appropriate time.

15 If there is any member of the jury panel who has
16 a relative or a close friend currently in prison.

17 If there is any member of the jury panel that
18 has been a victim of a crime of violence. And a crime
19 of violence would include burglary, sexual assault, or
20 murder. If you or a family member have been a victim
21 of a violent crime.

22 If you disapprove of an African-American man
23 having a sexual relationship with a white female,
24 please come forward at the appropriate time.

25 Does any member of the jury panel have a feeling

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1 about drug use or drug abuse that would affect your
2 ability to give both the prosecution and the defense a
3 fair and impartial trial.

4 And have you ever been accused of a crime, other
5 than speeding or perhaps just a minor traffic ticket --
6 although there are no minor traffic tickets this days.
7 Careless driving, perhaps, or driving -- perhaps you
8 forgot your driver's license or something, something
9 such as that.

10 If any of those questions you need to answer,
11 please come forward at this time.

12 It's going to be a little tight, so I'm going to
13 need you to stand up and go to the middle.

14 And if there's just something, some reason,
15 again, that you feel that you need to come forward that
16 sitting in this particular case would constitute
17 extreme hardship for you at this time.

18 THE BAILIFF: Juror number 129.

19 THE COURT: Please come forward

20 [Whereupon, juror number 129, Ms. Hill, comes
21 forward]

22 [Whereupon, a bench conference is held with the
23 Court, Ms. Hill, and counsel]

24 THE BAILIFF: Juror number 58.

25 [Whereupon, juror number 58, Mr. Davis, comes

1 forward]

2 [Whereupon, a bench conference is held with the
3 Court, Mr. Davis, and counsel]

4 THE BAILIFF: Juror number 280.

5 [Whereupon, juror number 280, Ms. Walasek, comes
6 forward]

7 [Whereupon, a bench conference is held with the
8 Court, Ms. Walasek, and counsel]

9 THE BAILIFF: Juror number 242.

10 [Whereupon, juror number 242, Ms. Shuler, comes
11 forward]

12 [Whereupon, a bench conference is held with the
13 Court, Ms. Shuler, and counsel]

14 THE BAILIFF: 223.

15 [Whereupon, juror number 223, Ms. Reid, comes
16 forward]

17 [Whereupon, a bench conference is held with the
18 Court, Ms. Reid, and counsel]

19 THE BAILIFF: Number 205.

20 [Whereupon, juror number 205, Mr. Odom, comes
21 forward]

22 [Whereupon, a bench conference is held with the
23 Court, Mr. Odom, and counsel]

24 THE BAILIFF: 99.

25 [Whereupon, juror number 99, Ms. Goodwine, comes

1 forward]

2 [Whereupon, a bench conference is held with the
3 Court, Ms. Goodwine, and counsel]

4 THE BAILIFF: 320

5 THE COURT: Please come forward.

6 [Whereupon, juror number 320, Ms. Mayes, comes
7 forward]

8 [Whereupon, a bench conference is held with the
9 Court, Ms. Mayes, and counsel]

10 THE BAILIFF: Number 6.

11 [Whereupon, juror number 6, Mr. Arrants, comes
12 forward]

13 [Whereupon, a bench conference is held with the
14 Court, Mr. Arrants, and counsel]

15 THE BAILIFF: 180

16 [Whereupon, juror number 180, Mr. Mazurek, comes
17 forward]

18 [Whereupon, a bench conference is held with the
19 Court, Mr. Mazurek, and counsel]

20 THE BAILIFF: 105.

21 [Whereupon, juror number 105, Ms. Greenberg,
22 comes forward]

23 [Whereupon, a bench conference is held with the
24 Court, Ms. Greenberg, and counsel]

25 THE BAILIFF: 270

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1 [Whereupon, juror number 270, Mr. Terwilliger,
2 comes forward]

3 [Whereupon, a bench conference is held with the
4 Court, Mr. Terwilliger, and counsel]

5 THE COURT: Any additional questions?

6 MR. VOIGHT: No.

7 MS. TAYLOR: No.

8 THE COURT: Anything further from the State?

9 MR. VOIGHT: No, Your Honor.

10 THE COURT: From the defense?

11 MS. TAYLOR: No, ma'am.

12 THE COURT: Any objection to the clerk drawing
13 the jury?

14 MR. VOIGHT: No, Your Honor.

15 MS. TAYLOR: No.

16 - - - - -

17 STRIKING OF THE JURY

18 THE CLERK OF COURT: Okay. Ladies and
19 gentlemen, as your name is called if you would please
20 gather your belongings, bring it forward, come and
21 stand in front of this podium.

22 Juror number 19, Richard Bomar.

23 [Whereupon, Mr. Bomar comes forward]

24 THE CLERK OF COURT: What say ye for the State?

25 MR. VOIGHT: Please present this juror.

1 THE CLERK OF COURT: What say ye for the
2 defendant?

3 MS. TAYLOR: Court's indulgence for just one
4 moment.

5 THE COURT: Yes, ma'am.

6 [Whereupon, Ms. Taylor and Mr. Nixon confer]

7 MS. TAYLOR: Please swear Mr. Bomar.

8 THE CLERK OF COURT: Sir, please have a seat in
9 the jury box. You've been selected for the trial of
10 this case.

11 [Whereupon, Mr. Bomar is seated in the jury box
12 as a juror]

13 THE CLERK OF COURT: Juror number 102, Randell
14 Graham.

15 [Whereupon, Mr. Graham comes forward]

16 THE CLERK OF COURT: What say ye for the State?

17 MR. VOIGHT: Please present this juror.

18 THE CLERK OF COURT: What say ye for the
19 defendant?

20 MS. TAYLOR: Please swear this juror.

21 THE CLERK OF COURT: Please, sir, have a seat in
22 the jury box. You've been selected for the trial of
23 this case.

24 [Whereupon, Mr. Graham is seated in the jury box
25 as a juror]

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1 Juror number 92, Susan Fryar.

2 [Whereupon, Ms. Fryar comes forward]

3 THE CLERK OF COURT: What say ye for the State?

4 MR. VOIGHT: Please present this juror.

5 THE CLERK OF COURT: What say ye for the
6 defendant?

7 MS. TAYLOR: Court's indulgence.

8 THE COURT: Yes, ma'am.

9 [Whereupon, Ms. Taylor and Mr. Nixon confer]

10 MS. TAYLOR: Please excuse Ms. Fryar.

11 THE CLERK OF COURT: Madam Juror, please have a
12 seat back in the audience. You've been excused from
13 the trial of this case.

14 [Whereupon, Ms. Fryar returns to the audience]

15 THE CLERK OF COURT: Juror number 297, Marilyn
16 Winkel.

17 [Whereupon, Ms. Winkel comes forward]

18 THE CLERK OF COURT: What say ye for the State?

19 MR. VOIGHT: Please present this juror.

20 THE CLERK OF COURT: What say ye for the
21 defendant?

22 MS. TAYLOR: Please swear Ms. Winkel.

23 THE CLERK OF COURT: Please, ma'am, have a seat
24 in the jury box. You've been selected for the trial of
25 this case.

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1 [Whereupon, Ms. Winkel is seated in the jury box
2 as a juror]

3 THE CLERK OF COURT: Juror number 280, Caroline
4 Walasek.

5 [Whereupon, Ms. Walasek comes forward]

6 THE CLERK OF COURT: What say ye for the State?

7 MR. VOIGHT: Please present this juror.

8 THE CLERK OF COURT: What say ye for the
9 defendant?

10 MS. TAYLOR: The Court's indulgence.

11 [Whereupon, Ms. Taylor and Mr. Nixon confer]

12 MS. TAYLOR: One question, Your Honor. I
13 understand Ms. Walasek is a paralegal. Can we inquire
14 where she works?

15 MS. WALASEK: Clawson and Staubes.

16 MS. TAYLOR: Thank you.

17 THE COURT: Thank you.

18 MS. TAYLOR: Please excuse Ms. Walasek.

19 THE CLERK OF COURT: Madam Juror, please have a
20 seat back in the audience. You've been excused from
21 the trial of this case.

22 [Whereupon, Ms. Walasek returns to the audience]

23 THE CLERK OF COURT: Juror number 205, Joel
24 Odom.

25 [Whereupon, Mr. Odom comes forward]

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1 THE CLERK OF COURT: What say ye for the State?

2 MR. VOIGHT: The State would thank, but excuse,
3 this juror.

4 THE CLERK OF COURT: Sir, please have a seat
5 back in the audience. You've been excused from the
6 trial of this case.

7 [Whereupon, Mr. Odom returns to the audience]

8 THE CLERK OF COURT: Juror number 181, Albert
9 Mazurek.

10 [Whereupon, Mr. Mazurek comes forward]

11 THE CLERK OF COURT: What say ye for the State?

12 MR. VOIGHT: Please present this juror.

13 THE CLERK OF COURT: What say ye for the
14 defendant?

15 MS. TAYLOR: Please excuse Mr. Mazurek.

16 THE CLERK OF COURT: Please, sir, have a seat
17 back in the audience. You've been excused from the
18 trial of this case.

19 [Whereupon, Mr. Mazurek returns to the audience]

20 THE CLERK OF COURT: Juror number 66, Nancy
21 Dennis.

22 [Whereupon, Ms. Dennis comes forward]

23 THE CLERK OF COURT: What say ye for the State?

24 MR. VOIGHT: Please present this juror.

25 THE CLERK OF COURT: What say ye for the

1 defendant?

2 MS. TAYLOR: Court's indulgence.

3 THE COURT: Yes, ma'am.

4 [Whereupon, Ms. Taylor and Mr. Nixon confer]

5 MS. TAYLOR: Please excuse Ms. Dennis.

6 THE CLERK OF COURT: Please, ma'am, have a seat
7 back in the audience. You've been excused from the
8 trial of this case.

9 [Whereupon, Ms. Dennis returns to the audience]

10 THE CLERK OF COURT: Juror number 180, Doc
11 Matthews.

12 [Whereupon, Mr. Matthews comes forward]

13 THE CLERK OF COURT: What say ye for the State?

14 MR. VOIGHT: Please present this juror.

15 THE CLERK OF COURT: What say ye for the
16 defendant?

17 MS. TAYLOR: Please seat Mr. Matthews.

18 THE CLERK OF COURT: Please, sir, have a seat in
19 the jury box. You've been selected for the trial of
20 this case.

21 [Whereupon, Mr. Matthews is seated in the jury
22 box as a juror]

23 THE CLERK OF COURT: Juror number 60, Charles
24 Dean.

25 [Whereupon, Mr. Dean comes forward]

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1 THE CLERK OF COURT: What say ye for the State?

2 MR. VOIGHT: Please present this juror.

3 THE CLERK OF COURT: What say ye for the
4 defendant?

5 MS. TAYLOR: Court's indulgence.

6 [Whereupon, Ms. Taylor and Mr. Nixon confer]

7 MS. TAYLOR: Please swear Mr. Dean.

8 THE CLERK OF COURT: Please, sir, have a seat in
9 the jury box. You've been selected for the trial of
10 this case.

11 [Whereupon, Mr. Dean is seated in the jury box
12 as a juror]

13 THE CLERK OF COURT: Juror number 170, Jennifer
14 Ludwick.

15 [Whereupon, Ms. Ludwick comes forward]

16 THE CLERK OF COURT: What say ye for the State?

17 MR. VOIGHT: Please present this juror.

18 THE CLERK OF COURT: What say ye for the
19 defendant?

20 MS. TAYLOR: Court's indulgence.

21 [Whereupon, Ms. Taylor and Mr. Nixon confer]

22 MS. TAYLOR: I'm sorry. Court's indulgence just
23 one more second.

24 THE COURT: Yes, ma'am.

25 MS. TAYLOR: Please swear Ms. Ludwick.

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1 THE CLERK OF COURT: Please, ma'am, have a seat
2 in the jury box. You've been selected for the trial of
3 this case.

4 [Whereupon, Ms. Ludwick is seated in the jury
5 box as a juror]

6 THE CLERK OF COURT: Juror number 12, Jodi
7 Barteat.

8 [Whereupon, Ms. Barteat comes forward]

9 THE CLERK OF COURT: What say ye for the State?

10 MR. VOIGHT: Please present this juror.

11 THE CLERK OF COURT: What say ye for the
12 defendant?

13 MS. TAYLOR: Please excuse Ms. Barteat.

14 THE CLERK OF COURT: Please, ma'am, have a seat
15 back in the audience. You've been excused from the
16 trial of this case.

17 [Whereupon, Ms. Barteat returns to the audience]

18 THE CLERK OF COURT: Juror number 18, Brian
19 Bocock.

20 [Whereupon, Mr. Bocock comes forward]

21 THE CLERK OF COURT: What say ye for the State?

22 MR. VOIGHT: Please present this juror.

23 THE CLERK OF COURT: What say ye for the
24 defendant?

25 MS. TAYLOR: Court's indulgence.

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1 THE COURT: Yes, ma'am.

2 [Whereupon, Ms. Taylor and Mr. Nixon confer]

3 MS. TAYLOR: Please excuse this juror.

4 THE CLERK OF COURT: Please, sir, have a seat
5 back in the audience. You've been excused from the
6 trial of this case.

7 [Whereupon, Mr. Bocock returns to the audience]

8 THE CLERK OF COURT: Juror number 136, Jeffrey
9 Horne.

10 [Whereupon, Mr. Horne comes forward]

11 THE CLERK OF COURT: What say ye for the State?

12 MR. VOIGHT: Please present this juror.

13 THE CLERK OF COURT: What say ye for the
14 defendant?

15 MS. TAYLOR: Please swear Mr. Horne.

16 THE CLERK OF COURT: Please, sir, have a seat in
17 the jury box. You've been selected for the trial of
18 this case.

19 [Whereupon, Mr. Horne is seated in the jury box
20 as a juror]

21 THE CLERK OF COURT: Juror number 274, Thomas
22 Tisdale.

23 [Whereupon, there is no response]

24 THE CLERK OF COURT: Juror number 9, Anne Ball.

25 [Whereupon, Ms. Ball comes forward]

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1 THE CLERK OF COURT: What say ye for the State?

2 MR. VOIGHT: Please present this juror.

3 THE CLERK OF COURT: What say ye for the
4 defendant?

5 MS. TAYLOR: Court's indulgence one moment.

6 THE COURT: Yes, ma'am.

7 [Whereupon, Ms. Taylor and Mr. Nixon confer]

8 MS. TAYLOR: Please swear Ms. Ball.

9 THE CLERK OF COURT: Please, ma'am, have a seat
10 in the jury box. You've been selected for the trial of
11 this case.

12 [Whereupon, Ms. Ball is seated in the jury box
13 as a juror]

14 THE CLERK OF COURT: Juror number 223, Linda
15 Reid.

16 [Whereupon, Ms. Reid comes forward]

17 THE CLERK OF COURT: What say ye for the State?

18 MR. VOIGHT: The State would thank, but excuse,
19 this juror.

20 THE CLERK OF COURT: Please, ma'am, have a seat
21 back in the audience. You've been excused from the
22 trial of this case.

23 [Whereupon, Ms. Reid returns to the audience]

24 THE CLERK OF COURT: Juror number 129,
25 Jacqueline Frazier Hill.

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1 [Whereupon, Ms. Hill comes forward]

2 THE CLERK OF COURT: What say ye for the State?

3 MR. VOIGHT: The State would thank, but excuse,
4 this juror.

5 THE CLERK OF COURT: Please, ma'am, have a seat
6 back in the audience. You've been excused from the
7 trial of this case.

8 [Whereupon, Ms. Hill returns to the audience]

9 THE CLERK OF COURT: Juror number 269, Laura
10 Terry.

11 [Whereupon, Ms. Terry comes forward]

12 THE CLERK OF COURT: What say ye for the State?

13 MR. VOIGHT: The State would thank, but excuse,
14 this juror.

15 THE CLERK OF COURT: Please, ma'am, have a seat
16 back in the audience. You've been excused from the
17 trial of this case.

18 [Whereupon, Ms. Terry returns to the audience]

19 THE CLERK OF COURT: Juror number 215, Erick
20 Pauls.

21 [Whereupon, Mr. Pauls comes forward]

22 THE CLERK OF COURT: What say ye for the State?

23 MR. VOIGHT: Please present this juror.

24 THE CLERK OF COURT: What say ye for the
25 defendant?

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1 MS. TAYLOR: Court's indulgence one second.

2 THE COURT: Yes, ma'am.

3 [Whereupon, Ms. Taylor and Mr. Nixon confer]

4 MS. TAYLOR: Please excuse Mr. Pauls.

5 THE CLERK OF COURT: Please, sir, have a seat
6 back in the audience. You've been excused from the
7 trial of this case.

8 [Whereupon, Mr. Pauls returns to the audience]

9 THE CLERK OF COURT: Juror number 142, Ramona
10 Jefferson.

11 MS. TAYLOR: What was that number?

12 THE COURT: 142.

13 [Whereupon, Ms. Jefferson comes forward]

14 THE CLERK OF COURT: What say ye for the State?

15 MR. VOIGHT: Please present this juror.

16 THE CLERK OF COURT: What say ye for the
17 defendant?

18 MS. TAYLOR: The Court's indulgence for a
19 moment.

20 THE COURT: Yes, ma'am.

21 [Whereupon, Ms. Taylor and Mr. Nixon confer]

22 MS. TAYLOR: Please swear Ms. Jefferson.

23 THE CLERK OF COURT: Please, ma'am, have a seat
24 in the jury box. You've been selected for the trial of
25 this case.

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1 [Whereupon, Ms. Jefferson is seated in the jury
2 box as a juror]

3 THE CLERK OF COURT: Juror number 182, Suzanne
4 McClary.

5 [Whereupon, Ms. McClary comes forward]

6 THE CLERK OF COURT: What say ye for the State?

7 MR. VOIGHT: Please present this juror.

8 THE CLERK OF COURT: What say ye for the
9 defendant?

10 MS. TAYLOR: Please excuse Ms. McClary.

11 THE CLERK OF COURT: Please, ma'am, have a seat
12 back in the audience. You've been excused from the
13 trial of this case.

14 [Whereupon, Ms. McClary returns to the audience]

15 THE CLERK OF COURT: Juror number 295, Terasa
16 Wilson.

17 [Whereupon, Ms. Wilson comes forward]

18 THE CLERK OF COURT: What say ye for the State?

19 MR. VOIGHT: Please present this juror.

20 THE CLERK OF COURT: What say ye for the
21 defendant?

22 MS. TAYLOR: Court's indulgence.

23 THE COURT: Yes, ma'am.

24 [Whereupon, Ms. Taylor and Mr. Nixon confer]

25 MS. TAYLOR: Please excuse Ms. Wilson.

1 THE CLERK OF COURT: Please, ma'am, have a seat
2 back in the audience. You've been excused from the
3 trial of this case.

4 [Whereupon, Ms. Wilson returns to the audience]

5 THE CLERK OF COURT: Juror number 22, Pera
6 Bowler.

7 [Whereupon, Ms. Bowler comes forward]

8 THE CLERK OF COURT: What say ye for the State?

9 MR. VOIGHT: Please present this juror.

10 THE CLERK OF COURT: What say ye for the
11 defendant?

12 MS. TAYLOR: Court's indulgence.

13 [Whereupon, Ms. Taylor and Mr. Nixon confer]

14 MS. TAYLOR: Please swear Ms. Bowler.

15 THE CLERK OF COURT: Please, ma'am, have a seat
16 in the jury box. You've been selected for the trial of
17 this case.

18 [Whereupon, Ms. Bowler is seated in the jury box
19 as a juror]

20 THE CLERK OF COURT: Juror number 323, Elizabeth
21 Waycaster.

22 [Whereupon, Ms. Waycaster comes forward]

23 THE CLERK OF COURT: What say ye for the State?

24 MR. VOIGHT: Please present this juror.

25 THE CLERK OF COURT: What say ye for the

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1 defendant?

2 MS. TAYLOR: Court's indulgence.

3 [Whereupon, Ms. Taylor and Mr. Nixon confer]

4 MS. TAYLOR: Please swear Ms. Waycaster.

5 Please, ma'am, have a seat in the box. You've
6 been -- excuse me. Please have a seat in the jury box.
7 You've been selected for the trial of this case.

8 [Whereupon, Ms. Waycaster is seated in the jury
9 box as a juror]

10 THE CLERK OF COURT: Juror number 162, Martha
11 Lee.

12 [Whereupon, Ms. Lee comes forward]

13 THE CLERK OF COURT: What say ye for the State?

14 MR. VOIGHT: Please present this juror.

15 THE CLERK OF COURT: What say ye for the
16 defendant?

17 MS. TAYLOR: Please swear Ms. Lee.

18 THE CLERK OF COURT: Please, ma'am, have a seat
19 in the jury box. You've been selected for the trial of
20 this case.

21 [Whereupon, Ms. Lee is seated in the jury box as
22 a juror]

23 THE CLERK OF COURT: We will now select from the
24 alternates.

25 Juror number 247, Ervin Smalls.

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1 [Whereupon, Mr. Smalls comes forward]

2 THE CLERK OF COURT: What say ye for the State?

3 MR. VOIGHT: Please present this juror.

4 THE CLERK OF COURT: What say ye for the
5 defendant?

6 MS. TAYLOR: Court's indulgence.

7 [Whereupon, Ms. Taylor and Mr. Nixon confer]

8 MS. TAYLOR: Please swear Mr. Smalls.

9 THE CLERK OF COURT: Please, sir, have a seat in
10 the jury box. You've been selected for the trial of
11 this case.

12 [Whereupon, Mr. Smalls is seated in the jury box
13 as an alternate juror]

14 THE CLERK OF COURT: We will now select
15 alternate number two.

16 Juror number 147, Thomas Johnson.

17 [Whereupon, Mr. Johnson comes forward]

18 THE CLERK OF COURT: What say ye for the State?

19 MR. VOIGHT: Please present this juror.

20 THE CLERK OF COURT: What say ye for the
21 defendant?

22 MS. TAYLOR: Please excuse Mr. Johnson.

23 THE CLERK OF COURT: Please, sir, have a seat
24 back in the audience. You've been excused from the
25 trial of this case.

1 [Whereupon, Mr. Johnson returns to the audience]
2 THE CLERK OF COURT: Juror number 218, Amanda
3 Posey.

4 [Whereupon, Ms. Posey comes forward]
5 THE CLERK OF COURT: What say ye for the State?
6 MR. VOIGHT: Please present this juror.

7 THE CLERK OF COURT: What say ye for the
8 defendant?

9 MS. TAYLOR: Please swear Ms. Posey.

10 THE CLERK OF COURT: Please, ma'am, have a seat
11 in the jury box. You've been selected for the trial of
12 this case.

13 [Whereupon, Ms. Posey is seated in the jury box
14 as an alternate juror]

15 THE COURT: Any motions or matters pertaining to
16 the selected jury? From the State?

17 MR. VOIGHT: None, Your Honor.

18 THE COURT: From the defense?

19 MS. TAYLOR: None from the defense.

20 THE COURT: And, counsel, just approach for
21 scheduling.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 THE COURT: Ladies and gentlemen of the jury,
25 you are excused until 2:30, so that you may go ahead

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1 and have your lunch, and we will resume with the trial
2 of this case at 2:30.

3 We will stop, just for scheduling purposes,
4 somewhere between 5:00 and 5:15 at a natural stopping
5 point, for those of you who need to make other
6 arrangements for child care or to have a ride or just
7 so you know what we will be doing for the rest of the
8 afternoon.

9 The bailiff will show you where you -- your jury
10 room where you need to report. Please be back at 2:30.
11 We cannot begin until all fourteen of you are here.
12 Thank you.

13 [Whereupon, the jury exits the courtroom at
14 12:20 p.m.]

15 THE COURT: Thank you. Please be seated.

16 Ladies and gentlemen of the jury panel, you are
17 excused for the afternoon. Please call back after 6:00
18 p.m. today to get instructions for the rest of the
19 week. And, again, thank you for your service here
20 today. Thank you. Have a good afternoon.

21 [Whereupon, the jury panel exits the courtroom
22 at 12:20 p.m.]

23 - - -

24 - - -

JACKSON V. DENNO HEARING

1 THE COURT: Are we ready on our Jackson v.
2 Denno?
3

4 MR. VOIGHT: Your Honor, we have a witness for
5 the second statement. We have two statements. The
6 witness for the first statement is in route.

7 THE COURT: All right.

8 MR. VOIGHT: So we'll start with the second
9 statement first.

10 THE COURT: Okay.

11 MS. TAYLOR: Your Honor, may we please get our
12 family in the courtroom, Judge?

13 THE COURT: Yes, ma'am.

14 [Off the record momentarily]

15 MR. VOIGHT: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. VOIGHT: At this time the State calls
18 Detective Shawn Patrick.

19 [Whereupon, Mr. Patrick comes forward]

20 THE CLERK OF COURT: Please raise your right
21 hand.

22 [Whereupon, Mr. Patrick is duly sworn by the
23 clerk of court as follows: "do you swear or affirm that
24 the testimony that you shall give shall be the truth,
25 the whole truth, and nothing but the truth, so help you

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1 God]

2 THE WITNESS: I do.

3 THE CLERK OF COURT: Thank you, sir. Please be
4 seated.

5 [Whereupon, Mr. Patrick takes the witness stand]

6 THE CLERK OF COURT: For the record, please
7 state your name and spell your last name.

8 THE WITNESS: Shawn Patrick. P-A-T-R-I-C-K.

9 - - - - -

10 SHAWN PATRICK,

11 Having Been First Duly Sworn,

12 was Examined and Testified as Follows:

13 DIRECT EXAMINATION

14 BY MR. VOIGHT:

15 Q. Detective, how are you assigned?

16 A. I'm sorry?

17 Q. How are you assigned, currently?

18 A. I'm a detective with the North Charleston Police
19 Department.

20 Q. And how were you assigned on the 18th of July,
21 2007?

22 A. I was a detective with the North Charleston
23 Police Department, assigned to the persons crimes unit.

24 Q. And in your assignment to the persons crimes
25 unit, were you tasked to investigate the homicide of

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1 Cheryl Snow?

2 A. Yes, I was.

3 Q. And on the 18th of July, approximately how long
4 had you been investigating that particular homicide?

5 A. Approximately a little over a month.

6 Q. Were you the lead detective on that
7 investigation?

8 A. Yes.

9 Q. During the course of your investigation, did you
10 have reason to suspect one Oran Smith of perpetrating the
11 homicide?

12 A. Yes.

13 Q. Did you have the occasion to go meet with
14 Mr. Smith?

15 A. Yes.

16 Q. And when did you do that?

17 A. Initially -- I'm not sure, exactly, of the date.
18 Refresh my memory. I don't have it in front of me.

19 Q. Were you present during any statements that
20 Mr. Smith would have given?

21 A. Yes.

22 Q. And was that -- were you present at the initial
23 statement of Mr. Smith that occurred on June 5th?

24 A. No, sir, I was not.

25 Q. Okay. Were you present on the second statement

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1 of Mr. Smith, which occurred on July 18th?

2 A. Yes.

3 Q. Who was present with you on that day?

4 A. Detective Keith Elmore.

5 Q. And how did you come into contact with Mr. Smith
6 that day?

7 A. Detective Elmore and I drove to his house, met
8 him at his house, and asked him to come back to the
9 station with us to speak with us.

10 Q. Where was his house?

11 A. It's in Moncks Corner.

12 Q. Did he reside there with family members?

13 A. Yes.

14 Q. Was he present at the house when you arrived?

15 A. Yes.

16 Q. Do you recall who answered the door?

17 A. I believe his sister came to the door first.

18 Q. And how did you first see Mr. Smith?

19 A. I believe he came out the back door and came
20 around the side of the residence and met us there in the
21 front.

22 Q. How was he dressed? Do you recall?

23 A. I don't recall, sir.

24 Q. Was he seemingly dressed appropriately for the
25 weather, if you can recall?

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1 A. Oh, yes. Yes.

2 Q. Did you engage in any conversation at that time?

3 A. Yes.

4 Q. Did he appear to understand the reason for your

5 visit?

6 A. Yes.

7 Q. Did he appear at that time to be under the

8 influence of any drugs or alcohol, or any psychiatric

9 condition?

10 A. No.

11 Q. Did he cooperate with you?

12 A. Yes.

13 Q. Did you bring him back to the North Charleston

14 Police Department?

15 A. Yes.

16 Q. During the time that you spent -- whose car was

17 it; do you recall?

18 A. My car.

19 Q. Were you driving?

20 A. Yes, sir.

21 Q. During the time that you brought him back, did

22 you and Detective Elmore engage Mr. Smith in any

23 conversation?

24 A. Yes.

25 Q. Do you recall what y'all may have talked about?

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1 A. We talked about a lot of different things, one
2 of which was Detective O.J. Phason [phonetic] -- I think
3 they're related in some way, shape, or form. They have
4 family members that live out in that area together.

5 Q. And Detective Phason [Phonetic] is a North
6 Charleston detective?

7 A. Yes. And I believe Detective Elmore may have
8 had some sort of relations, as well, through cousins and
9 close friends.

10 Q. Did you talk about the case at all --

11 A. No.

12 Q. -- during that car ride?

13 A. No.

14 Q. What was Mr. Smith's demeanor during those
15 conversations?

16 A. He was fine. He spoke freely and, you know --

17 Q. Did he seem to understand the give-and-take of
18 the conversation?

19 A. Yes.

20 Q. Did he contribute freely to the conversation?

21 A. Yes.

22 Q. Was he under arrest at that time?

23 A. No, he was not.

24 Q. Had anyone -- during those conversations, did
25 you learn anything of any investigative value for this

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1 case?

2 A. No.

3 Q. When you brought him back to North Charleston,
4 where was Mr. Smith placed?

5 A. In the interview room located on the third
6 floor.

7 Q. Was he handcuffed?

8 A. No.

9 Q. Did you read him his rights?

10 A. Yes.

11 Q. Do you recognize what rights those were?

12 A. It's the North Charleston Police Department's
13 advice to constitutional rights.

14 Q. I'm going to show you what I am going to mark,
15 for ID purposes or for purposes of this hearing, as
16 State's 1.

17 [Whereupon State's Exhibit Number 1, rights
18 form, is marked by the court reporter]

19 MR. VOIGHT: Thank you.

20 Q. [Mr. Voight] Ask you to take a look at that and
21 see if you can identify that.

22 A. Yes, sir. This is the advice of constitutional
23 rights form that myself and Detective Elmore read to
24 Mr. Smith.

25 Q. Does your name appear anywhere on that advice of

1 rights forms?

2 A. Yes, sir, it does.

3 Q. And where does that --

4 A. As the second witness for both top and bottom.

5 Q. If you can, for the record, tell us who read --
6 was this -- did you read from this form, or did you have
7 him read this form silently?

8 A. Detective Elmore read the form aloud to him.

9 Q. Were you present when Detective Elmore read this
10 form?

11 A. Yes, I was.

12 Q. Would you tell us, for the record, which rights
13 Detective Elmore advised him of?

14 A. She advised -- he advised him of, of course, as
15 you see on the form here, advice one through five.

16 Q. If you just could for the record, so that the
17 record is complete, what one through five actually state.

18 A. Okay. Number one is: [reading] I have an
19 absolute right to remain silent and do not have to answer
20 questions or give a statement. This fact cannot be used
21 against me.

22 Two: [reading] if I do answer questions or give
23 a statement, anything I say can and will be used against
24 me in a court of law.

25 Three: [reading] I have the right to consult

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1 with a lawyer of my choice before I answer questions or
2 give a statement, and also have him present while I'm
3 being questioned.

4 Four: [reading] if I wish to talk to a lawyer
5 and have him present but am unable to afford to hire a
6 lawyer, one will be appointed to represent me free of
7 charge.

8 Five: [reading] if I decide to answer questions
9 or give a statement without having a lawyer present
10 representing me, I have the absolute right during this
11 interview to stop answering questions and to remain
12 silent.

13 Q. Okay. And were those the rights that Detective
14 Elmore read?

15 A. Yes.

16 Q. And that you heard?

17 A. Yes.

18 Q. Did Mr. Smith ask Detective Elmore to pause,
19 stop, or reread any of those rights?

20 A. No.

21 Q. Did he appear to understand each and every one
22 of those rights?

23 A. Yes.

24 Q. And how did he make his understanding known to
25 you?

1 A. Verbally. And also he initialed next to each
2 right that was read to him, put his initials there, he
3 understands what was read to him. It also says at the
4 bottom, below the rights, I fully understand each of the
5 rights explained to me. He did sign, stating that he did
6 understand his rights.

7 Q. Okay. And that language underneath includes a
8 waiver, as well?

9 A. Yes.

10 Q. And does your signature appear below that as a
11 witness, as well?

12 A. Yes, it does.

13 Q. And did he sign that rights form? Oran Smith
14 did?

15 A. Yes.

16 Q. Did either you or Detective Elmore promise him,
17 or make any promises to him at all, in order to obtain
18 that waiver of rights?

19 A. No.

20 Q. Did you make any threats to him?

21 A. No.

22 Q. Threaten him in any way?

23 A. No.

24 Q. Was he as cooperative with you at that time as
25 he had been earlier when you were chit-chatting about

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1 various relatives he may or may not have had in the North
2 Charleston Police Department?

3 A. Yes, he was.

4 Q. Did he appear to understand these rights and did
5 he have -- his speech wasn't slurred, was it?

6 A. No.

7 Q. He didn't appear to be under the influence of
8 any medication or any drug or narcotic, did he?

9 A. No, he didn't appear to be.

10 Q. Did he appear to be over-tired?

11 A. No.

12 Q. About what time in the afternoon would it have
13 been when you picked him up?

14 A. I would say around 10:30.

15 Q. Now, on that day did Mr. Smith give a statement
16 after he -- after you -- after he waived his rights?

17 A. Yes, he did.

18 Q. And were you the person who was questioning him
19 during that statement?

20 A. Detective Elmore was.

21 Q. What was your role?

22 A. I was kind of sitting back and I would key in on
23 certain points that I thought needed to be -- or certain
24 questions that I thought need to be asked of him. That's
25 when I would key in. I also took notes on the side, as

1 well.

2 Q. And ultimately, the statement that Mr. Smith
3 gave, that was recorded -- that was reduced to writing,
4 wasn't it?

5 A. Correct.

6 Q. And who would have done that?

7 A. Who wrote -- I believe I wrote that statement,
8 with Detective Elmore as a witness.

9 [Whereupon, State's Exhibit Number 2, statement,
10 is marked by the court reporter]

11 Q. [Mr. Voight] Show you what I've marked for
12 purposes of this hearing as State's 2, ask you if you
13 could identify that.

14 A. This is Mr. Smith's statement that I wrote for
15 him.

16 Q. Now, did you write down everything that was said
17 in that room?

18 A. Not everything, no. Just the main points.

19 Q. Did you give Mr. Smith the opportunity to read
20 what you had written?

21 A. Yes. It was read back to him, and he also was
22 allowed to review it prior to signing it.

23 Q. Did Mr. Smith make any corrections or
24 alterations?

25 A. On the second page, there's some scratch marks

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1 on there. He put his initials above those scratch marks.
2 And it could have been misspelled words or what-have-you.

3 Q. And did Mr. Smith appear to understand that this
4 was his statement?

5 A. Yes.

6 Q. In other words, what was written there was his
7 statement --

8 A. Yes.

9 Q. -- not something that you had concocted for him?

10 A. Right.

11 Q. And were you the person who had instructed him
12 to make corrections if he thought that there were
13 misspellings or something was not stated correctly?

14 A. Yes.

15 Q. Did he follow those instructions?

16 A. Yes. When I read it back to him, after --
17 before he signed, I had him go back and look at all the
18 scratch marks and also place his initials above the
19 scratch marks --

20 Q. And he --

21 A. -- to show that it wasn't altered after.

22 Q. And did he sign that statement --

23 A. Yes.

24 Q. -- again?

25 A. Yes, he did.

1 Q. Now, as the lead detective in this case, you
2 were aware of a previous statement that he had given?

3 A. Yes.

4 Q. Is that previous statement referred to at all in
5 the statement that you have in front of you?

6 A. Very little. And the initialed part of it said
7 everything in the first statement taken was truthful. And
8 then this statement, the second statement, goes into the
9 actual incident.

10 Q. Okay. So this statement then supplements that
11 original statement?

12 A. Correct.

13 Q. And what would have been different about this
14 statement and the first statement, as you understood it?

15 A. This statement goes into details, as far as the
16 incident was concerned and what happened to Ms. Snow and
17 the reason it happened.

18 Q. In this statement did Oran Smith admit to
19 killing Cheryl Snow?

20 A. Yes, it did.

21 Q. And if you can tell us what Mr. Smith said that
22 indicated that.

23 A. He said that on his way back from the store he
24 heard a voice telling him to kill Cheryl. He goes back to
25 her apartment, sits on her bed, again hears the voice. He

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1 gets up behind her, wraps his arm around her neck,
2 commences choking her, and they fall to the ground. He
3 says that he let her go. The voice told her -- told him
4 to stop. He let her go. And her arms were moving next to
5 her side. He then thinks to himself that if she is
6 allowed to live, then she would call the police and notify
7 the police in reference to what happened. So he proceeded
8 to take the pajama bottoms from her dresser, the top of
9 her dresser, tied them around her neck, then left, leaving
10 her head by the closet door and her feet by the entrance
11 to the bedroom.

12 Q. During the course of your conversations with
13 Mr. Smith, both in the car when you picked him up, and
14 then later at the station, did he appear to be suffering
15 from any auditory hallucinations? any sounds?

16 A. No.

17 Q. During the time that you talked to Mr. Smith in
18 the car, did he tell you that he had been hearing voices?

19 A. No.

20 Q. When you initially got him into the state [sic]
21 and after he had waived his rights, did he tell you that
22 he was hearing voices?

23 A. No.

24 Q. When was the first time he mentioned having
25 heard voices?

1 A. In this statement here, towards the end of his
2 statement.

3 Q. After you were done giving the statement -- or
4 Mr. Smith was done giving the statement, did you allow him
5 to make a telephone call?

6 A. Yes.

7 Q. Is that standard policy?

8 A. No.

9 Q. Was that done as a favor or a courtesy to
10 Mr. Smith?

11 A. Yes.

12 Q. At the time he had -- after he had given a
13 statement, was he placed under arrest?

14 A. Yes.

15 Q. So after he admitted to having killed Ms. Snow,
16 he was no longer free to leave?

17 A. Correct.

18 Q. Now, prior to having gone and talked to
19 Mr. Smith at all, Detective, were you aware of any
20 forensic evidence that would have linked Mr. Smith to
21 this homicide?

22 A. Yes.

23 Q. And what would that have evidence -- what
24 evidence would that have been?

25 A. Initially the ligature was sent to SLED for DNA

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1 analysis where it appeared that someone would have grabbed
2 the pant legs, cinched, and let them go. Those cutouts
3 were sent to SLED and requested DNA was to be searched
4 for. And we were notified that two profiles were
5 developed, one being Ms. Snow and one being Mr. Smith.

6 Q. And that was knowledge that you had prior to
7 going into this -- prior to interviewing Mr. Smith?

8 A. Yes.

9 Q. Now, getting back to you allowing him to have
10 the telephone call after he gave his statement, were you
11 privy -- did you hear anything he may have said during the
12 course of that conversation?

13 A. Yes.

14 Q. And what did you hear?

15 A. Initially when the phone call was made, at least
16 to his girlfriend in Louisiana, as soon as she answered
17 the phone he said, they got me.

18 Q. During -- approximately how long did this
19 interview process begin from the time you picked him up at
20 the house to the time that he made that telephone call?
21 Approximately how much time did you spend with him?

22 A. I would say about two hours.

23 Q. Did he give you any indication in those two
24 hours that he did not understand what he was doing in
25 giving you that statement?

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1 A. No.

2 Q. In the two hours that you were with him, did he
3 ever give you any indication that it was anything but his
4 desire to help you and assist you in giving that
5 statement?

6 A. Right.

7 Q. At any time, from the time you initially picked
8 him up in Moncks Corner to the time that he made that
9 phone call, did he ask to speak to an attorney?

10 A. No.

11 Q. At any time did he ask to speak to anyone else?

12 A. His mother. I think he wanted to -- towards the
13 end of his statement he wanted to talk to his mother and I
14 told him, let's finish the statement and I'll -- this is
15 after he had already broke and told me what happened. I
16 said, let's finish the statement and you can call your
17 mother. Also provided bathroom, cigarette breaks, drinks,
18 stuff like that, too, during the course.

19 Q. So if he needed to use the restroom, he was
20 allowed to use the restroom?

21 A. Yes.

22 Q. And if he was thirsty, you provided him with
23 drink?

24 A. Yes.

25 Q. Do you recall what you may have provided him?

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1 A. I don't recall. Usually a short interview like
2 this, water. We've got a water fountain next to the
3 bathroom so --

4 MR. VOIGHT: One moment, Your Honor.

5 THE COURT: Yes, sir.

6 [Whereupon, Mr. Voight and Mr. Simpson confer]

7 MR. VOIGHT: The State would tender, Your Honor.

8 THE COURT: Ms. Taylor?

9 MS. TAYLOR: Good morning, Detective.

10 THE WITNESS: Good morning.

11 MS. TAYLOR: Or afternoon.

12 THE WITNESS: Yeah.

13 CROSS-EXAMINATION

14 BY MS. TAYLOR:

15 Q. You said you were not present at all on June 6th
16 when the first statement was taken?

17 A. I don't believe I was present with that. I
18 think that was Detective Hill and Detective Elmore that
19 spoke with him. I was in the area, in the office, but not
20 in the interview room, I don't believe.

21 Q. You don't think you ever went into the interview
22 room?

23 A. I may have, but I didn't really have much to do
24 with the statement, more than advice of rights, in that
25 first initial statement.

1 Q. And can you describe this interview room? Is it
2 the same interview room each time?

3 A. No. We've got two interview rooms. I would say
4 they're ten by ten, maybe a little bigger. It's got a
5 viewing room and it's got a table with two chairs, one for
6 whoever you're talking to and one for a detective.

7 Q. One door?

8 A. Yes, sir. Yes, ma'am. I'm sorry.

9 Q. On the 18th when you were involved with taking
10 the second statement, how was the arrangement? Was
11 Detective Elmore, you, and Oran in the room?

12 A. Yes.

13 Q. And who was sitting where?

14 A. Detective Elmore was sitting at the table. It's
15 kind of hard without a diagram or something to draw on.
16 Detective -- there's a table in front of Detective Elmore;
17 a wall here; door is behind us; Mr. Smith is right here
18 next to the table; and I'm over here behind the door.
19 Detective Elmore is here; Mr. Smith is here; there's a
20 table here.

21 Q. So Oran would have been in one area of the room,
22 with both you and Detective Elmore on the other side of
23 him and in between him and the door?

24 A. Right. With a table between us, as well.
25 There's a table on the right side of us.

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1 Q. Did you have a warrant for his arrest at that
2 time prior to the statement?

3 A. I did not.

4 Q. And that was only received after the statement?

5 A. Yes.

6 Q. And what reason -- there was some indication in
7 direct examination what had happened between June 6th,
8 when he gave his first statement which -- well, let me ask
9 you this. Were you aware of the contents of the first
10 statement?

11 A. Yes. As the case agent, I review most of my
12 statements that the detectives give me.

13 Q. Essentially, that first statement -- which would
14 have been two or three days after Ms. Snow's death; is
15 that right?

16 A. Yeah. Yeah. As I'm looking at it, it's --

17 Q. And, essentially, that statement -- which,
18 again, someone went to Oran's home, asked him to come down
19 to the station. And he did so voluntarily --

20 A. Yes.

21 Q. -- is that right?

22 A. Yes.

23 Q. And that statement was somewhat a lengthier
24 period of time, I believe, than the 18th?

25 A. Correct.

1 Q. But it was about a three-page statement which
2 just recounted his weekend?

3 A. Right.

4 Q. And he admitted being with Cheryl Snow?

5 A. Yes.

6 Q. Spending the night with her, having sex several
7 times with her, always consensual?

8 A. Yes.

9 Q. And then leaving sometime Sunday?

10 A. Right.

11 Q. Calling his mom, who came and picked him up
12 somewhere else --

13 A. Yes, ma'am.

14 Q. -- in North Charleston --

15 A. Yes.

16 Q. What happened following that, prior to the 18th,
17 to motivate y'all to go back and want to question him
18 again?

19 A. The information that we received from SLED
20 saying that there was DNA located on the ligature of the
21 pant legs, one matching a profile. See, I'm not much on
22 the DNA thing, but I know they told us that a profile was
23 developed from the victim and there was a profile, also --
24 or they could not exclude Oran Smith as being the second
25 DNA profile.

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1 Q. And there were two, I think, types of DNA we're
2 talking about here. One was skin?

3 A. Yes.

4 Q. And the other one's semen?

5 A. Yes.

6 Q. And you are talking about which one now?

7 A. I'm talking about the skin, skin cells on the
8 pants.

9 Q. And so essentially what you're telling us now is
10 that it wasn't identified as Oran Smith's?

11 A. I don't know. All I -- all I know is we
12 conference-called the SLED agent and they said that, we've
13 got two profiles: one matches Oran Smith, and one is the
14 victim's. That's what I was told. You would have to let
15 her testify to that.

16 Q. Okay. Now, that's fine. What you just told me
17 was that Oran Smith was not excluded.

18 A. Right.

19 Q. There's a big difference between identifying
20 and --

21 A. Okay. As I said initially, I can't -- you know,
22 I'm not into the DNA thing so I don't know if it was
23 developed fully as a profile matching him. I don't know.
24 I don't know what the -- you know what they -- how they do
25 that, I'm not sure of.

1 Q. I'm just trying to understand your thought
2 process --

3 A. Right.

4 Q. -- in getting that statement.

5 At that time, whatever the accuracy of it was,
6 you believed there was some skin DNA that matched --

7 A. Correct.

8 Q. -- Oran Smith --

9 A. Right.

10 Q. -- on those pajamas?

11 A. Otherwise, we'd a never gone back to him and
12 picked him up.

13 Q. Do you recall at any point, in the investigation
14 that you were involved with, whether photographs of the
15 victim or the scene were displayed to Oran Smith?

16 A. No.

17 Q. Was there any discussion about what happened to
18 Cheryl Snow?

19 A. No. Well, I think he did ask if something
20 happened, and Detective Elmore said that she's deceased.

21 Q. You're talking about in y'all's statement or --

22 A. No.

23 Q. -- the first time?

24 A. In initially talking to him, he asked if
25 something had happened to her and Detective Elmore told

1 her -- told him that she had been deceased, she was
2 deceased, and that's why he was being talked to,
3 questioned.

4 Q. You're talking about back in June?

5 A. Yeah, I believe so.

6 Q. Okay. Sorry.

7 A. That's when I --

8 Q. I just wanted to make sure I'm with you.

9 And moving back to just this statement on July
10 18th.

11 A. Okay.

12 Q. And I think you already testified he was never
13 handcuffed?

14 A. No, not until after the statement was taken.

15 Q. Okay. And do you have the rights form?

16 A. Yes, I do.

17 Q. You obviously witnessed this, but I believe you
18 told us Detective Elmore actually read it to Oran?

19 A. Yes.

20 Q. Now, before or at any point in time during the
21 interview, did you talk to Oran? Did you know that he was
22 a special-education student throughout school?

23 A. No.

24 Q. Did you know that he did not graduate from high
25 school?

1 A. No. Well, there's a portion up at the top of
2 the advice form that asks what grade he completed. I'm
3 not sure what that is, but --

4 Q. Ninth.

5 A. Ninth grade. Okay.

6 Q. Did y'all question him at all about why he only
7 had a ninth-grade education?

8 A. No.

9 Q. Did you know that he did not pass his GED test?

10 A. No.

11 Q. Did you talk about the fact that he had been
12 shot in the head when he was eighteen and suffered brain
13 damage?

14 A. I believe he mentioned that in the car ride or
15 either in the first initial statement with Detective
16 Elmore.

17 Q. Did you talk about the extent of his brain
18 damage?

19 A. No.

20 Q. Whether it had any impact on his ability to hear
21 what was said or understand it?

22 A. No.

23 Q. Did you realize that he was blind in one eye
24 and --

25 A. Yes.

1 Q. Did you know that he's deaf in one ear?

2 A. No, did not know that.

3 Q. When you just described a moment ago to us that,
4 using where you're sort of --

5 A. Uh-huh.

6 Q. -- sitting. And I understand it may not be
7 proportionate --

8 A. Uh-huh.

9 Q. -- as the interview room: this corner that is
10 closest to me would have been where Oran Smith would be?

11 A. Yes.

12 Q. Was Detective Elmore immediately in front of
13 him?

14 A. No. That would be me.

15 Q. Okay. So Detective Elmore would have been --

16 A. To my right. I'm next to the table.

17 Q. Right. So he would have been across from Oran?

18 A. Correct.

19 Q. Could you describe Detective Elmore? His size?

20 A. Man. He's about six two, two-thirty, black
21 male, bald-headed I believe at the time.

22 Q. Do you remember Oran's size back then?

23 A. Oran's size?

24 Q. Oran's --

25 A. Yeah. He's actually put on some weight, if I

1 recall.

2 Q. Two years in the county jail would do that to
3 him?

4 A. Right.

5 Q. Do you have any idea how much weight he may have
6 put on?

7 A. I don't.

8 Q. But he was smaller back then than he is now?

9 A. Yes. Slightly.

10 Q. Was anyone other than Oran's sister at the home
11 when you picked him up?

12 A. I don't know. That's the only person I saw was
13 his sister.

14 Q. When he came outside, did he ask to go back in
15 and get anything? or he was basically ready to go?

16 A. I believe he went back and said, let me go tell
17 my sister where I'm going. And he went back. He was
18 allowed to walk back to the back, told his sister that he
19 was leaving, and I believe to tell his mother. And then
20 when he came back out, we left.

21 Q. Do you know whether his mother was at home?

22 A. I don't know that. I believe she was working,
23 if I'm not mistaken, because he had to call her from the
24 station prior -- after the statement was taken.

25 Q. And did y'all have any conversation with Oran

1 about whether he worked at the time?

2 A. No. No. I gathered that in an interview with
3 his mother I believe during the first statement we took
4 from Mr. Smith. His mother came to the station with him
5 and I spoke with her, and she kind of filled me in about
6 what he was into and what he was doing.

7 Q. And did she clue you into that he is disabled
8 and receives SSI and that's his income?

9 A. I believe she said he receives SSI, but she
10 didn't go into details of any other mental illness or
11 issues he may have, other than he did drugs and things of
12 that nature from time to time.

13 Q. There was an addiction issue and depression?

14 A. Right.

15 Q. Now, you mentioned that on the way in, there
16 were conversations about two North Charleston detectives,
17 Detective Osborn and Detective Phason [phonetic].

18 A. Phason [phonetic] and Elmore. I believe Elmore
19 had -- they had mentioned about family and friends that
20 they know, because I think Elmore is from that area. Or
21 Cottageville, actually. And Detective Phason [phonetic]
22 is from Moncks Corner. So they talked about different
23 people that they knew, and maybe family members and stuff
24 like that.

25 Q. And this would have been Oran in the back seat

1 and you two --

2 A. No. Detective Elmore sat in the back, I drove,
3 and Mr. Smith sat in the passenger side.

4 Q. By you?

5 A. Yes.

6 Q. Do you remember his demeanor when Detective
7 Phason's [phonetic] name came up?

8 A. Yeah. Yeah, I do. He was actually laughing
9 about an incident in high school with -- Phason [phonetic]
10 and him got into a fight or an altercation of some sort
11 when they were both in school.

12 Q. Right. And what did he tell you happened in
13 that altercation?

14 A. He said Phason [phonetic] punched him.

15 Q. Broke his nose?

16 A. I don't know the details. He was -- it was in a
17 joking manner. And he was like, that's a big boy. I
18 remember in high school something about they got into a
19 fight and Phason [phonetic] punched him. He said, Phason
20 [phonetic] punched me.

21 Q. And Detective Phason [phonetic] is a big boy,
22 isn't he?

23 A. Yeah. Yeah, he's a good-sized fellow.

24 Q. Now, on this advice form --

25 A. Uh-huh.

1 Q. -- you read it out loud for us just a few
2 minutes ago. Can you remember how that was presented by
3 Detective Elmore? Did he read it like you just read it to
4 us?

5 A. Yeah. Actually, what we normally do is sit
6 there at the table where he was sitting. You tilt it
7 towards whoever you're talking to and you let them follow
8 along as you read it aloud. Sometimes I like to let them
9 read the first right aloud, you know, to themselves, and
10 then I'll read the rest of them. Each right, after it's
11 read you stop and say do you understand that right, yes or
12 no. yes. And to that point you give them a pen and you
13 say, initial next to the rights; after I read it to you,
14 initial next to them. Yeah. Let me know that you
15 understand each right.

16 Q. And is that what Detective Elmore did that day?

17 A. If I recall correctly. That's usually -- it's
18 something we kind of stay strict to. Everybody is the
19 same, pretty much. That's how you -- I can't remember
20 that day, if that's exactly how it went down, but if it
21 was different, I would have -- I would have -- I would
22 have said something to Detective Elmore. He knows better,
23 so --

24 Q. And there would be a table in between him and
25 Oran?

1 A. There's actually a corner. The corner of the
2 table would be protruding out. Detective Elmore would be
3 here and Mr. Smith would have been here, and there's a
4 table, a square table, in the corner of the room so they
5 both could write.

6 Q. About how far apart would they have been?

7 A. I would say from about me to the microphone to
8 the face.

9 Q. I'm going to need an estimate of feet, just for
10 the record.

11 A. Feet? I'd say three feet, four feet.

12 Q. Do you ever remember Detective Elmore raising
13 his voice to Oran?

14 A. No. It wasn't that type of interview.

15 Q. No yelling at all?

16 A. No.

17 Q. And every one of these -- there are five
18 waivers, constitutional rights, that --

19 A. Uh-huh.

20 Q. -- were ultimately waived. Do you remember any
21 question being asked on any one of those by Oran?

22 A. I don't remember any questions being asked.

23 Q. So essentially it was Detective Elmore would
24 read it and Oran would sign it?

25 A. Right.

1 Q. No conversation really between about what any of
2 them meant?

3 A. No, other than do you understand that right.
4 And if it -- you know, yes, or no, what do you not
5 understand about the right.

6 Q. And what time did you tell us you went to his
7 house?

8 A. I'm guessing around 10:30, because the initial
9 advice of rights is 11:03 and that's the first thing you
10 do when you go to interview somebody is the advice of
11 rights form and --

12 Q. And how long --

13 A. -- after it's been read and the top portion has
14 been filled out and the rights have been read, that's when
15 I witnessed and dated the top.

16 Q. How long does it take to get from his home in
17 Moncks Corner to the North Charleston --

18 A. I don't know. I'm guessing twenty, thirty
19 minutes. I can't say for sure, but I'm guessing. That's
20 why I said around 10:30.

21 Q. Was there any conversation or questions from
22 Oran about why do you have to talk to me again, I've
23 already told you everything?

24 A. You know, initially there wasn't any questions.
25 That's what struck both myself and Detective Elmore as

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1 odd, that he didn't ask anything about why he was being
2 taken to the station --

3 Q. He just complied?

4 A. -- we just -- we just told him we had to talk to
5 him, we wanted to go back over his statement, and we were
6 going to -- and speaking with everybody in the same
7 fashion.

8 Q. And he complied?

9 A. Yes.

10 Q. And you also talked about after the statement
11 was taken that there was a telephone call that was allowed
12 to be made?

13 A. Yes.

14 Q. And you said that was not usual protocol?

15 A. Sometimes you do, sometimes you don't. I mean,
16 it's -- he just asked to speak to his mother and also make
17 a phone call to his girlfriend, and we had time so I just
18 gave him the phone and let him talk.

19 Q. And where would you have been in relation to
20 him?

21 A. I would have been probably in the next cubicle.
22 He's at my cubicle. I'd say five, six feet away from him,
23 I would say. Not hovering over behind him.

24 Q. So this would have been in the general --

25 A. In the --

1 Q. -- detective area?

2 A. -- detective phase. At this point he was still
3 uncuffed.

4 Q. Did you have any conversation with the lady on
5 the other end of the phone?

6 A. I did not.

7 Q. And I think what you quoted him as saying is,
8 they got me?

9 A. Yes.

10 Q. Anything else said in that conversation?

11 A. No. He just -- you know, call my mama; my mom
12 will have a number that -- give her your phone number and
13 that way I can talk through mother to girlfriend in
14 Louisiana.

15 Q. Was he handcuffed at that point?

16 A. He was not.

17 Q. Had you told him he was going to be placed under
18 arrest?

19 A. Yes. Once his statement was taken, yes.

20 Q. Did you ask him at any point what he meant by
21 that comment --

22 A. I did not.

23 Q. -- they got me?

24 In your best estimate, is this entire process
25 once -- are you including in your two-hour estimate the

1 travel time?

2 A. Travel time.

3 Q. So then the statement itself would have happened
4 very quickly?

5 A. Yes. Once the advice of rights was done, it's
6 11:05 a.m. And what normally happens is you talk to the
7 person you're going to take the statement from. You don't
8 write while they're talking. You get a story out of them,
9 and then you do the statement. And the statement was --
10 the top portion was completed at 13:35, and that was prior
11 to the rest of the statement being written out. I always
12 time it as I'm filling the top portion out with the names
13 and date of birth and address and stuff like that.

14 Q. And you talked with Mr. Voight about corrections
15 or alterations in the statement?

16 A. Yes.

17 Q. Do you have a copy up there?

18 A. Yes, I do.

19 Q. On the first page I don't see any. Are there
20 any that I'm missing?

21 A. On page 2?

22 Q. On the first page.

23 A. On the first page? Not that I can see.

24 Q. And then on page 2, a couple of lines down, six
25 lines down --

1 A. Yeah.

2 Q. -- there's a couple of words that are struck
3 out.

4 A. Right.

5 Q. What were those words?

6 A. I can only make out: [reading] tied them around
7 her.

8 I don't know what the first and last are.

9 Q. And, let's see. And what are the six words
10 immediately prior to that struck-out area?

11 A. Give me one second. [Reading] off the top of
12 her dresser. I tied the bottoms around her neck.

13 Q. Do you recall why the duplicate couple of words
14 about tying around her neck were struck and --

15 A. Because it's a duplicate. I sometimes do that
16 when I'm writing. It's just a -- as I'm writing and
17 talking and so forth.

18 Q. So that was a correction that you made because
19 it --

20 A. Yeah. Any --

21 Q. -- it was a duplicate?

22 A. Anything that I strike, I always have them go
23 back and initial it.

24 Q. Oran didn't point that out to you?

25 A. Oh, no. No, because I read -- I read the

1 statement back to them.

2 Q. And you just ask him to initial it because
3 that's what you do when the statement is taken?

4 A. Yeah. It just shows that it was done at the
5 time of the interview, rather than later.

6 Q. Is there any other correction or change on that
7 page that Oran noticed and asked you to correct?

8 A. No. There's one more on the fourth from the
9 last, fourth line from the last. That's just a scratch
10 mark.

11 Q. Okay. And there's one other. Again, that other
12 indication with his initials on it --

13 A. Right.

14 Q. -- can't really tell what was under there.

15 A. Correct.

16 Q. But that is just you, again, cleaning up, what,
17 your handwriting?

18 A. Yeah, pretty much.

19 Q. So there are no corrections or changes that Oran
20 Smith asked to be made on this statement?

21 A. No.

22 Q. Did you have any conversations with Oran
23 following this interview?

24 A. No, not that I can recall, other than small --
25 you know, small talk.

1 Q. Were any other officers in the interview room at
2 any point in time during the hour and a half or so that
3 y'all were in there with Oran --

4 A. No.

5 Q. -- on the 18th?

6 A. No. Not to my knowledge.

7 Q. And when in the conversation or the interview
8 did he ask to speak with his mother?

9 A. Towards the end. We had already -- I had
10 already talked to him and pretty much, you know, got the
11 story. And then he said, let me talk to my -- can I talk
12 to my mom, and I said, yeah, let's finish this, let me
13 finish writing this out and you can speak with your mom.

14 Q. Now, in North Charleston do y'all have the
15 ability to tape-record statements?

16 A. No, not at the time. We're getting those --
17 we're getting that now, but were not -- at the time of
18 this incident we didn't have the ability.

19 Q. So in the summer of 2007 there were no tape
20 recorders in North Charleston Police Department?

21 A. Well, there may have been, but usually it's not
22 protocol or it's not policy for us to tape-record, so we
23 don't.

24 Q. When did that policy change?

25 A. Well, it hasn't changed yet, but they're buying

1 the equipment now to put in the new building for recording
2 so --

3 Q. Are you aware that North Charleston detectives
4 have on occasion audio-taped confessions or statements?

5 A. The first one was done -- that I know of --
6 about two months ago by Detective Hill.

7 Q. And you are unaware of prior times when that
8 would have occurred?

9 A. At North Charleston, yeah.

10 Q. No video camera or anything like that in the
11 interview room?

12 A. No.

13 Q. You don't use a tape recorder yourself just to
14 make notes or anything?

15 A. No.

16 Q. And what do you recall when the -- did I give
17 you that advice of rights back?

18 A. Yes.

19 Q. Okay. I just didn't want to get it in my
20 paperwork.

21 What was Oran Smith's responses, if you recall,
22 when those questions were posed to him?

23 A. Which questions?

24 Q. That when Detective Elmore was reading one, two,
25 three, four, five --

1 A. Uh-huh.

2 Q. -- would Oran Smith respond verbally in any way?

3 A. Yes. You have to. Yeah.

4 Q. And what were his responses?

5 A. Yes, I understand. Do you understand your
6 right. Yes. Some nod, some verbal. You know, yeah, I
7 understand.

8 Q. You think he actually said the words, yes, I
9 understand?

10 A. I'm pretty positive, because usually that's what
11 you do. You make them verbalize it instead of a head nod.
12 Or either yes or no. Do you understand your right. Yes.
13 And had he not, that would have been notated.

14 Q. And I understand that there was an affirmative
15 answer in some form or fashion on each one of those
16 according to you.

17 A. Yes.

18 Q. But my question is was there anything beyond
19 that affirmative answer yes, or nodding.

20 A. Not that I recall, no.

21 Q. And you had indicated that your role primarily
22 in this interview or interrogation, part of it was you
23 were mainly watching --

24 A. Uh-huh.

25 Q. -- but there were some questions you wanted

1 asked?

2 A. Yeah. Every now and then if Detective Elmore
3 would ask a question that would spike my, you know,
4 interest, or I would have a question to ask, as well.

5 Q. So what questions were asked?

6 A. I don't -- I don't recall the questions. In
7 general speaking, going back through his statement
8 Detective Elmore would go back through his old statement
9 and ask him where he was at, and I would say, what store,
10 was it the Hot Spot or the Food Lion or, you know, just
11 clarifying the questions.

12 Q. So that was pertaining to that first statement?

13 A. Yes.

14 Q. And as this second statement progressed --

15 A. Uh-huh..

16 Q. -- were there questions that were asked that --

17 A. Same clarifying questions to see -- same
18 clarifying questions. Like I said, well, what store were
19 you at. Although we already know in his first statement
20 it was the Hot Spot or Food Lion, we -- you know, he would
21 say, I went to the store. Well, what store did you go to.
22 Questions like that.

23 Q. Do you remember anything else of significance
24 that was asked?

25 A. No.

1 Q. And did you take notes during the interview
2 process?

3 A. Yeah, I may have. I -- yeah, I'm sure I did.
4 Some small scribbling, yeah. Nothing lengthy.

5 Q. Do you have any of those notes with you?

6 A. I may. I would have to look in my binder.

7 MS. TAYLOR: Could we allow him to check and see
8 if he has those notes?

9 [Whereupon, the witness exits the witness stand,
10 reviews notes, and retakes the witness stand]

11 MS. TAYLOR: The Court's indulgence, Your Honor.
12 I might can save some time if I could just see if those
13 are the notes that were previously provided to me.

14 THE COURT: You may approach the witness, Ms.
15 Taylor.

16 [Whereupon, Ms. Taylor and the witness confer]

17 THE COURT: Ms. Taylor, are you satisfied, or do
18 we need to get on with the inquiry?

19 MS. TAYLOR: I'm checking, Judge, as fast as I
20 can. He's got a little more I think than I may have.

21 THE WITNESS: Let me check and make sure all
22 these are notes. There might be some different things
23 in between.

24 THE COURT: Ms. Taylor, do you need the notes to
25 continue with this hearing?

1 MS. TAYLOR: Only as they relate to the
2 interview itself.

3 THE COURT: All right.

4 Q. [Ms. Taylor] There are a lot of notes. And
5 that's what I'm looking for, Detective, is --

6 A. Okay. Yes.

7 Q. -- if it was during the interview.

8 A. Oh. During the interview?

9 Q. Yeah. Not all of them.

10 A. Let me see if I can find something specific.

11 [Whereupon, the witness reviews documents]

12 THE WITNESS: Let me go look again and see if
13 there's another -- is that okay?

14 MS. TAYLOR: Yeah. Do it as quickly as you can.

15 [Whereupon, the witness exits the witness stand,
16 reviews documents, and retakes the witness stand]

17 [Whereupon, Ms. Taylor and Mr. Voight confer]

18 A. I don't see anything else.

19 Q. [Ms. Taylor] Okay. So you don't have any notes
20 from the interview itself?

21 A. I do not.

22 MS. TAYLOR: Thank you. That's all the
23 questions I have for you.

24 - - -

25 - - -

REDIRECT EXAMINATION

BY MR. VOIGHT:

Q. During any of the time that you were with him, did he give you any indication that he was deaf or couldn't hear you?

A. No, because he answered everything we asked. And it wasn't a screaming match or anything like that, so he responded -- he responded normally.

Q. You were able to converse with him in a normal loudness of voice?

A. Yes.

Q. At any time during the time you were with him, did he seem to have some sort of -- did he appear not to understand you, or not to have the ability to understand you, based on some cognitive defect?

A. No.

MR. VOIGHT: At this time the State would offer, file, and introduce S-1 and S-2 for purposes of this motion.

MS. TAYLOR: No objection to that, Your Honor.

THE COURT: All right.

[Whereupon, State's Exhibit Number 1, advice of rights form, is admitted into evidence by the Court].

[Whereupon, State's Exhibit Number 2, statement, is admitted into evidence by the Court]

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1 THE COURT: Ms. Taylor, do you have any
2 additional questions for this witness?

3 MS. TAYLOR: No, ma'am.

4 THE COURT: Detective, you may step down. Thank
5 you.

6 [Whereupon, the witness is excused and exits the
7 witness stand]

8 THE COURT: Call your next witness.

9 MR. VOIGHT: The State calls Detective Hill to
10 the stand.

11 [Whereupon, State's Exhibit Number 3, advice of
12 rights, is marked by the court reporter]

13 [Whereupon, State's Exhibit Number 4, statement,
14 is marked by the court reporter]

15 [Whereupon, Mr. Hill comes forward]

16 THE CLERK OF COURT: Place your left hand on the
17 Bible, raise your right hand.

18 [Whereupon, Mr. Hill is duly sworn by the clerk
19 of court as follows: do you swear or affirm that the
20 testimony that you shall give shall be the truth, the
21 whole truth, and nothing but the truth, so help you
22 God]

23 THE WITNESS: Yes, I do.

24 THE CLERK OF COURT: Thank you, sir. Please be
25 seated.

1 [Whereupon, Mr. Hill takes the witness stand]

2 THE CLERK OF COURT: For the record, please
3 state your name and spell your last name.

4 THE WITNESS: Yes, ma'am. James Hill. H-I-L-L.

5 - - - - -

6 JAMES HILL,

7 Having Been First Duly Sworn,
8 was Examined and Testified as Follows:

9 DIRECT EXAMINATION

10 BY MR. VOIGHT:

11 Q. Detective Hill, did you have an occasion to
12 assist in the investigation of the homicide of Cheryl Snow
13 in June of 2007?

14 A. Yes, sir.

15 Q. Was one of the -- did you have the occasion on
16 the 5th of June, 2007, to participate in taking the
17 statement of an Oran Smith?

18 A. Yes, I did.

19 MR. VOIGHT: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 Q. [Mr. Voight] I'm going to show you a document
23 that's been marked as State's Exhibit 3. Could you take
24 look at that and tell me what that is?

25 A. Yes, sir. It's a North Charleston Police

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1 Department advice of constitutional rights.

2 Q. Does your name appear on that form?

3 A. Yes, sir.

4 Q. And how does your name appear on that form?

5 A. Signed as a witness to both the advisement of
6 the rights and the waiving of the rights.

7 Q. Were you the person who administered that form
8 to Mr. Smith or were you the -- or did you witness
9 Detective Elmore?

10 A. I believe Detective Elmore read it to him and I
11 witnessed it. But I filled the document out, the top
12 portion and the bottom portion.

13 Q. How did Detective Elmore read those rights out
14 to Mr. Smith?

15 A. He went over each right individually, asked him
16 if he understood each right as he read it.

17 Q. For the record, so that the record is complete,
18 could you tell us what each of those five rights are?

19 A. Yes, sir. The first being: [reading] I have
20 the absolute right to remain silent and do not have to
21 answer any questions or give a statement and this fact
22 cannot be used against me. If you do answer questions or
23 give a statement, anything I say can and will be used
24 against me in a court of law. I have the right to consult
25 with a lawyer of my choice before I answer questions or

1 give a statement, and also have him present while I am
2 being questioned. If you wish to talk to a lawyer or have
3 him present but am unable to afford to hire a lawyer, one
4 will be appointed to represent me free of charge. If I
5 decide to answer questions or give a statement without
6 having a lawyer present representing me, I have the
7 absolute right during the interview to stop answering
8 questions and to remain silent. And they'll -- last:
9 [reading] do you fully understand each of the rights
10 explained to you.

11 And it's signed and witnessed.

12 Q. Okay. Did Mr. Smith give any indication to you
13 that he understood the rights that Detective Elmore had
14 read to him?

15 A. Yes. He indicated that he understood each
16 right.

17 Q. Did he do that verbally, or did he do that in
18 writing? How did he do that?

19 A. Verbally, as each right is read, and then he
20 acknowledged that he understood all of them by signing.

21 Q. And did he sign that portion indicating that he
22 was waiving his rights?

23 A. Yes, he did.

24 Q. And was that portion read out to him, as well?

25 A. Yes, it was.

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1 Q. Were there any gaps, any periods of time -- did
2 it take him a long time to respond to any of those rights?

3 A. No, sir.

4 Q. Do you recall where this interview took place?

5 A. It was in one of the interviews rooms, at the
6 North Charleston Police Department, on the third floor.

7 Q. Was that your first encounter with Mr. Smith was
8 in that interview room?

9 A. I believe so, yes, sir.

10 Q. Did Mr. Smith appear to understand what you and
11 Detective Elmore were asking?

12 A. Yes, sir.

13 Q. Did he appear to have any difficulty hearing you
14 at any time?

15 A. No, sir.

16 Q. Did he appear to have any difficulty
17 understanding what you were saying --

18 A. No, sir.

19 Q. -- or what Detective Elmore was saying?

20 A. No, sir.

21 Q. Did he claim to hear voices or have any auditory
22 hallucinations during the time that you spent with him?

23 A. No, sir.

24 Q. Did either you or Detective Elmore promise
25 Mr. Smith anything in order to get him to give a

1 statement?

2 A. No, sir.

3 Q. Did you coerce him or threaten him in any way,
4 or did Detective Elmore coerce or threaten him in any way,
5 in order to get him to give a statement?

6 A. No, sir.

7 Q. I'm going to show you what's been marked as
8 State's Exhibit 4 and ask you if you could identify that.

9 A. It's a statement, that Oran had given, that
10 Detective Elmore written -- had written.

11 Q. Were you present when that statement was
12 written?

13 A. I might have walked in and out of the room, but
14 I was there for most of this statement, correct.

15 Q. Okay. Is your name anywhere on that statement?

16 A. Yes. I witnessed it.

17 Q. And is that the statement that Mr. Smith gave
18 immediately after the advice of rights form?

19 A. I believe so, yes, sir.

20 Q. And in whose handwriting is that statement?

21 A. Detective Elmore.

22 Q. And you've had -- have you had the ability --
23 have you had the opportunity, rather, prior to testifying
24 here today, to review that statement?

25 A. It's been a while since I've read it but I

1 remember the statement, yes, sir.

2 Q. And is that substantially -- is that
3 substantially the same statement that you recall?

4 A. Yes, sir.

5 Q. And what was the tone of the conversation like
6 between Detective Elmore and Oran Smith when Detective
7 Elmore was questioning Mr. Smith about those events?

8 A. Would you clarify what you're asking when you
9 say "the tone"?

10 Q. Did Detective Elmore shout with Mr. Smith?

11 A. No, sir.

12 Q. Did he yell at Mr. Smith?

13 A. No, sir.

14 Q. Did he try to trick or deceive Mr. Smith?

15 A. No, sir.

16 Q. Was it a tense conversation?

17 A. No, sir.

18 Q. At any time during that statement, was Mr. Smith
19 in handcuffs?

20 A. I don't believe so.

21 Q. After that statement was given, was Mr. Smith
22 free to go?

23 A. I don't recall, because I didn't bring him up
24 there. I don't remember. Some other -- he was up there
25 when I started interviewing him.

1 Q. But you don't know if he was arrested on that
2 date?

3 A. I don't think he was but I don't know for sure,
4 no.

5 Q. And what was the date that he gave that
6 statement?

7 A. It says 6/6 at 10:00 p.m.

8 Q. So that would have been several days after the
9 homicide?

10 A. Yes, sir.

11 MR. VOIGHT: At this time the State would offer,
12 file, and introduce S-3 and 4.

13 MS. TAYLOR: Without objection.

14 MR. VOIGHT: The State --

15 THE COURT: S-3 and 4, for the purposes of this
16 hearing.

17 [Whereupon, State's Exhibit Number 3, advice of
18 rights, is admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 4, statement,
20 is admitted into evidence by the Court]

21 THE COURT: Ms. Taylor?

22 MS. TAYLOR: Thank you, Your Honor. Good
23 afternoon, Detective Hill.

24 THE WITNESS: How are you doing, Ms. Taylor?

25 MS. TAYLOR: Good.

CROSS-EXAMINATION

1
2 BY MS. TAYLOR:

3 Q. Do you -- did you prepare any notes related to
4 this interview?

5 A. No, ma'am.

6 Q. Did you prepare a report of any type?

7 A. No, ma'am.

8 Q. So what you are testifying to is just from your
9 memory today?

10 A. Correct.

11 Q. Anything else that's backing up or supporting
12 your memory in any way?

13 A. Just the documents.

14 Q. On this statement are there any changes or
15 corrections, that were made following its conclusion, by
16 Oran Smith that you recall?

17 A. No, ma'am. Because when I -- I witnessed it,
18 came in, and Detective Elmore read the statement to him,
19 read the body, bottom admonition, asked him if he
20 understood his statement. And then I witnessed it, and he
21 didn't ask for any changes, any additions, or deletions.

22 Q. So any scribbles in here, or changes, you're
23 presuming would not be Oran Smith? I don't see any with
24 his initials. Do you?

25 A. Detective Elmore wrote the statement, so you

1 would have to ask him. When I witnessed the statement, it
2 was exactly how you see it now. The scratches were there.

3 Q. Do you see any initials of Oran Smith, anywhere
4 in the body of that statement, that I'm overlooking?

5 A. No, ma'am.

6 Q. And I think you told us you did not pick him up
7 or take him back home afterwards, you just were in the
8 interview room?

9 A. Yes, ma'am. I was asked to interview him, yes,
10 ma'am.

11 Q. Any conversations, other than what is contained
12 within this statement, that you're aware of? Any other
13 statements or things that were said?

14 A. During this interview?

15 Q. During the interview, while you were in the
16 room.

17 A. No, ma'am. I believe we got an oral swab from
18 him that day.

19 Q. Were there any photographs displayed to him?

20 A. I don't believe so. Not while I was there. I
21 mean, I don't -- I didn't show him any photos.

22 Q. Do you remember at the beginning of the
23 interview whether Oran Smith knew what he was there
24 for --

25 A. Yes.

1 Q. -- how he was informed?

2 A. Yes. Detective --

3 Q. How?

4 A. -- Elmore told him.

5 Q. What did he tell him?

6 A. That we were investigating the death of

7 Ms. Snow.

8 Q. Do you recall questions about, perhaps prior to
9 that explanation, can you tell us where Cheryl is, can you
10 get her on the phone, is she going to tell us the same
11 thing you're telling us?

12 A. I don't recall Detective Elmore saying anything
13 like that.

14 Q. How long do you think this entire process took?
15 Do you know when he got picked up by North Charleston
16 police that day?

17 A. No, ma'am.

18 Q. And, again, you state that the statement -- I'm
19 sorry. What time is it on the advice of rights form?

20 A. 9:34.

21 Q. And then the statement indicates --
22 Do you have a copy of that up there with you?

23 A. Yes, ma'am.

24 Q. -- 10:00 p.m.; is that correct?

25 A. Yes, ma'am.

1 Q. Do you have any idea when it was concluded?

2 A. No, ma'am.

3 Q. Or what time you left the interview room?

4 A. No, ma'am.

5 Q. And you don't know how Mr. Smith got home that
6 day?

7 A. No, ma'am.

8 Q. But you did not transport him?

9 A. I don't believe so. I don't remember.

10 Q. And were you aware at any point in time about
11 Mr. Smith's gunshot wound to the head when he was
12 eighteen, why he was --

13 A. I believe he told us that he had gotten shot
14 before, yes.

15 Q. Did you know that he did not graduate from high
16 school?

17 A. He may have told us. I don't remember.

18 Q. And did you know that he was on SSI?

19 A. No.

20 Q. Did you know that he suffers from depression?

21 A. No.

22 Q. Did you ask him whether he had consumed any
23 alcohol, drugs, or was on prescription medication?

24 A. I didn't ask him that.

25 MS. TAYLOR: The Court's indulgence, Your Honor.

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1 THE COURT: Yes, ma'am.

2 [Whereupon, Ms. Taylor and Mr. Nixon confer]

3 MS. TAYLOR: Just a few more, Detective.

4 THE WITNESS: Yes, ma'am.

5 Q. [Ms. Taylor] Do you recognize Oran Smith here
6 today?

7 A. Yes, ma'am.

8 Q. Does he look substantially the same as he did
9 back on June, 2007?

10 A. He looks like he's gained a little bit of
11 weight.

12 Q. How about just his face and that area?

13 A. Yes, ma'am.

14 Q. And was there any other officer in the room,
15 that you're aware of, other than Detective Elmore?

16 A. Myself.

17 Q. And other than you?

18 A. No, ma'am.

19 Q. And you've told us you were not there the entire
20 time of the interview?

21 A. I think I stepped out while Detective Elmore and
22 Mr. Smith were going -- you know, when he was initially
23 writing the statement.

24 Q. Do you have any idea how long he would have been
25 out of the room?

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1 A. Just a few minutes.

2 Q. And that's it? one time out? a few minutes?

3 A. Probably a couple.

4 Q. A couple of minutes or --

5 A. No.

6 Q. -- a couple of times?

7 A. A couple of times in and out.

8 Q. And when you would leave the room, that would
9 leave just Detective Elmore and just Oran Smith in that
10 room?

11 A. Correct.

12 Q. Were you present for Detective Patrick's
13 testimony?

14 A. No, ma'am.

15 Q. Can you just tell us very quickly and briefly
16 what the interview room that y'all were in -- how y'all
17 were arranged in it?

18 A. I believe Oran was sitting to the left, and then
19 Detective Elmore and I would have been sitting at a table.
20 He's actually beside the table. The table -- not across
21 from us. It's like I'm sitting here. Elmore could have
22 been there. Or vice versa. I don't remember.

23 Q. You don't remember.

24 A. And then Oran would have been to the left.
25 That's generally how we seat each other. I just don't

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1 remember whether I was at the table or whether Elmore was.

2 Q. But Detective Elmore was the one writing the
3 statement?

4 A. Correct.

5 Q. Is that correct?

6 A. Correct.

7 Q. You don't recall whether he was writing on the
8 table or on his lap or --

9 A. I actually believe Detective Elmore started
10 writing his statement when I left. We talked to Oran for
11 a short time, and then Detective Elmore started taking the
12 statement. I exited the room, probably came back in the
13 room to see if they were done yet because I knew I was
14 going to be the person witnessing the statement.

15 Q. Was there any conversation about whether Oran
16 was charged or facing the charge of murder?

17 A. Not during -- not during the time I was in
18 there.

19 MS. TAYLOR: Thank you. That's all I have.

20 THE WITNESS: Yes, ma'am.

21 MR. VOIGHT: Nothing further. We pass the
22 witness, Your Honor.

23 THE COURT: May this witness step down?

24 MR. VOIGHT: [No response]

25 MS. TAYLOR: [No response]

1 THE COURT: Detective, you may step down. Thank
2 you.

3 THE WITNESS: Yes, ma'am.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

6 MR. VOIGHT: The State would submit on these two
7 statements, Your Honor.

8 THE COURT: All right. Thank you.

9 [Whereupon, Ms. Taylor, Mr. Nixon, and Mr. Smith
10 confer]

11 MS. TAYLOR: We would ask Oran Smith, Your
12 Honor --

13 [Off the record momentarily]

14 [Whereupon, Mr. Smith comes forward]

15 THE CLERK OF COURT: Place your left hand on the
16 Bible and raise your right, please.

17 [Whereupon, Mr. Smith is duly sworn by the clerk
18 of court as follows: do you swear or affirm the
19 testimony you shall give the Court in the trial of this
20 case shall be the truth, the whole truth, and nothing
21 but the truth, so help you God]

22 THE WITNESS: Yes, I do.

23 THE CLERK OF COURT: Thank you. Please be
24 seated.

25 [Whereupon, Mr. Smith takes the witness stand]

1 THE CLERK OF COURT: For the record, if you will
2 please state your name, spelling your last name.

3 THE WITNESS: Oran Smith. S-M-I-T-H.

4 - - - - -

5 ORAN SMITH,

6 Having Been First Duly Sworn,
7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MS. TAYLOR:

10 Q. Oran, you've been in the courtroom through all
11 the testimony we just heard; right?

12 A. Yes, ma'am.

13 Q. I am going to show to you what is marked as
14 State's Exhibit 3 and ask you if you recognize what this
15 is. It's a North Charleston Police Department advice of
16 constitutional rights form.

17 A. Yes.

18 Q. Okay. Is that your signature?

19 A. Yes.

20 Q. And do you see on there any initials of yours?

21 A. No.

22 Q. Do you see these little checks over here?

23 A. Uh-huh.

24 Q. And the numbers one through five?

25 A. Right.

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1 Q. Now, you were in here when the police told you
2 that they read these to you.

3 A. Right.

4 Q. Do you remember that occurring?

5 A. No, I don't remember that occurring.

6 Q. If I were to say to you you have the absolute
7 right to remain silent and do not have to answer any
8 questions, what does that mean to you?

9 A. That I don't have to speak to you.

10 Q. Okay. Did you understand what -- if you answer
11 questions, anything you say can be used against you?

12 A. I didn't know. At the time, I didn't know that.

13 Q. What about the right to consult with a lawyer
14 and if you can't afford one, one will be appointed to you?

15 A. Yes.

16 Q. I'm sorry?

17 A. Yeah.

18 Q. Yes, you understand that?

19 A. Yes.

20 Q. Okay. And the final one is: [reading] if I
21 decide to answer questions or give a statement without
22 having a lawyer present representing me, I have the
23 absolute right during the interview to stop answering
24 questions and to remain silent.

25 A. Yes.

1 Q. Do you remember them telling you that you could
2 stop the interview at any point?

3 A. No. I don't remember them telling me that,
4 either.

5 Q. Did you understand that once you started to
6 talk, you could have stopped the interview at any time?

7 A. No, I didn't know that.

8 Q. You were questioned by the police on June 6th
9 and you gave a written statement; is that correct?

10 A. Yes, ma'am.

11 Q. And have you and I reviewed that statement
12 previously?

13 A. Yes, ma'am.

14 Q. Is there anything in that statement which is
15 incorrect?

16 A. No, ma'am.

17 Q. And do you remember how long you were with the
18 police that day?

19 A. I know they came and picked me up like early
20 that morning, and I got out like late that night.

21 Q. Oran, you suffered a gunshot wound to your head
22 in 1994 I think?

23 A. Yes, ma'am.

24 Q. What was your injury as a result of that?

25 A. I can't smell, and I can't hear out of my left

1 ear, and I have memory problems.

2 Q. And you have memory problems?

3 A. Yes, ma'am.

4 Q. And what about your eye?

5 A. And I lost my right eye.

6 Q. Did you spend some time in the hospital?

7 A. Yes.

8 Q. And then rehab?

9 A. Yes, ma'am.

10 Q. Were you ever able to work after that?

11 A. No, ma'am.

12 Q. Were you employed prior to that?

13 A. Yes, ma'am.

14 Q. Where did you work?

15 A. North Charleston Sewer District.

16 Q. For about how long?

17 A. About a year.

18 Q. Did you graduate from high school?

19 A. No, ma'am.

20 Q. Did you attempt to take the GED?

21 A. Yes, ma'am.

22 Q. Did you pass it?

23 A. No, ma'am.

24 Q. And do you receive SSI?

25 A. Yes, ma'am.

1 Q. Now, again, on July 18th, the police talked with
2 you?

3 A. Yes, ma'am.

4 Q. Detective Elmore was in the room with Detective
5 Patrick; is that right?

6 A. Yes, ma'am.

7 Q. You heard Detective Patrick testify about what
8 happened in that room?

9 A. Yes, ma'am.

10 Q. Is there anything that you recall that is
11 different than what he said here today that happened?

12 A. Well, I know Elmore was screaming at me, telling
13 me that I did this and I did that. So I just -- that's
14 what I said.

15 Q. And did that happen at the beginning of the
16 interview?

17 A. No, it didn't happen at the beginning. He
18 wasn't saying anything at first.

19 Q. Is he the one that went over those rights with
20 you that I just went over with you?

21 A. I don't remember.

22 Q. So you don't remember whether that person was
23 yelling or not?

24 A. No. I know he was the one yelling at me.

25 Q. I'm talking about when they were asking you

1 about those rights.

2 A. No.

3 Q. Okay. At what point in the interview did
4 Detective Elmore yell at you, and what did he yell?

5 A. He told me that -- like in the middle of the
6 interview he was telling me that I did it and I might as
7 well go ahead and said it, I only was going to get six
8 months in jail, and be -- I already -- they already got me
9 for murder anyway. So that's why I went ahead and said
10 what he said.

11 Q. And why did he say you would only serve six
12 months in jail?

13 A. Because I had a head injury.

14 Q. Is there anything that is incorrect in your
15 second statement, the July 18th statement? Do you need a
16 copy of that?

17 A. [No response]

18 Q. Do you remember the one I'm talking about?

19 A. [No response]

20 Q. Show you State's Exhibit Number 2.

21 [Whereupon, the witness reviews documents]

22 A. Everything is wrong in this statement from the
23 point where it says that I came back to the apartment and
24 I went back to the grocery store and I called my mama at
25 the pay phone. All that's wrong.

1 Q. [Ms. Taylor] So, essentially, the part where it
2 would be considered your confession to killing Ms. Snow?

3 A. Right.

4 Q. Why would you sign a statement that said you
5 admitted killing a woman you did not kill, Oran?

6 A. First of all, I had no hard feeling against her.
7 I ain't never -- we ain't never had no arguments, no
8 fights, no nothing. And because this man tell me that I
9 might as well go ahead and say that I did it, that I only
10 would get a little bit of time -- which meaning that I
11 knew I didn't do it but he told me that I would only get
12 six months in the county jail, that I wouldn't go to
13 prison, so I figured I was going to be arrested anyways so
14 that's why I said what I said.

15 Q. And who is that man that you're referring to?

16 A. Elmore.

17 Q. Okay. You ever been to prison before?

18 A. No, ma'am.

19 Q. Are you afraid of prison?

20 A. Yes, ma'am.

21 Q. You heard also -- I think it was Detective
22 Patrick talk about a conversation that y'all had in route,
23 prior to the statement, where you were discussing
24 Detective Phason [phonetic]?

25 A. Yes, ma'am.

1 Q. Do you know Detective Phason [phonetic]?

2 A. Yes, ma'am.

3 Q. How do you know him?

4 A. Well, I knew he played football in high school.
5 And I went to high school -- well, I didn't go to high
6 school. I was in middle school. And I got there and get
7 my brother -- to pick my brother up from football
8 practice. And he came up, and he didn't ask me no
9 questions. He just punched me in my nose and broke my
10 nose in three places.

11 Q. And how does he compare to you size-wise?

12 A. He's big. Way bigger than me.

13 Q. Did you see Detective Phason at [phonetic] the
14 police statement [phonetic] on July 18th, 2007?

15 A. Yes, ma'am.

16 Q. Did you have any conversation with him?

17 A. He said what's up, or something like that, to
18 me.

19 Q. Did you have any concerns that he was going to
20 interrogate you?

21 A. That's what I thought was going to happen next
22 if I didn't tell Elmore what he wanted.

23 Q. Why would you think that, Oran?

24 A. Because I figured that's the only way that they
25 could get me.

1 MS. TAYLOR: The Court's indulgence.

2 [Whereupon, Ms. Taylor and Mr. Nixon confer]

3 MS. TAYLOR: That's all the questions I have for
4 you, Oran. Mr. Voight may have some.

5 CROSS-EXAMINATION

6 BY MR. VOIGHT:

7 Q. Oran, when Ms. Taylor asked you what the effect
8 of your injury was, your gunshot injury, you said that you
9 have memory problems, you lost the use of your right eye,
10 your left ear, and that you can't smell.

11 A. Right.

12 Q. Do you remember saying that?

13 A. Right.

14 Q. You didn't say anything about voices; right?

15 A. No.

16 Q. You don't hear voices, do you?

17 A. No.

18 Q. So who made up that part about you hearing
19 voices to kill Cheryl? Was that you, or was that
20 Detective Elmore?

21 A. Elmore.

22 Q. Did you tell him that?

23 A. Can I tell him that?

24 Q. Did you tell him that you heard voices?

25 A. No, I did not tell him that.

1 Q. Now, I think -- can I see what you've got?

2 [Whereupon, the witness proffers documents to
3 Mr. Voight]

4 [Whereupon, Mr. Voight reviews documents]

5 Q. [Mr. Voight] I think Ms. Taylor was showing you
6 Defense [sic] Exhibit 3, which is an advice of rights form
7 from North Charleston. Do you remember talking to her
8 about that?

9 A. Yeah.

10 Q. And you told her that you didn't remember any of
11 those five rights being read to you?

12 A. No, I don't remember.

13 Q. Are you saying that you don't -- that it didn't
14 happen, or that you don't remember?

15 A. I'm saying that I don't remember them being read
16 to me.

17 Q. Okay. So it could have been read to you but
18 maybe this memory problem that you have prevents you from
19 remembering it?

20 A. Yes.

21 Q. So it's very possible that you were read your
22 rights?

23 A. Could have been.

24 Q. Okay. And you have no problem hearing me, do
25 you?

1 A. No.

2 Q. And you had no problems hearing Detective
3 Patrick when he testified, did you?

4 A. No.

5 Q. And you had no problem hearing Detective Hill
6 when he testified, did you?

7 A. No.

8 Q. And you had no problem hearing Detective Elmore
9 in that room, did you?

10 A. No.

11 Q. And no one has to talk loud to you for you to be
12 able to hear them, do you?

13 A. If they're talking on this side. I can't hear
14 out of my left hear.

15 Q. Okay. But you're not having a hard time hearing
16 me; right?

17 A. No.

18 Q. And did Ms. Smith -- or excuse me -- Ms. Taylor
19 showed you State's Exhibit 1. And this is another advice
20 of rights form. Do you remember seeing that? It looks
21 very similar to the other one, State's 3.

22 A. [No response]

23 Q. Do you recall -- do you recall going back and
24 talking to them the second time on the 18th?

25 A. Yes, I do recall.

1 Q. You weren't under the influence of any drugs or
2 alcohol at that time, were you?

3 A. No, sir.

4 Q. When they approached the front door, you went
5 out the back door; isn't that right?

6 A. Yes, sir.

7 Q. But you didn't go anywhere. You drove downtown
8 with Detective Elmore and Detective Patrick; right?

9 A. Right.

10 Q. Did they threaten you in any way?

11 A. No, sir.

12 Q. Did they make you any promises in that car ride
13 on the way down?

14 A. Not in the car ride.

15 Q. You went with them willingly, didn't you?

16 A. Yes, sir.

17 Q. Did you know why they were there?

18 A. Yes, sir.

19 Q. Why did you think they were there?

20 A. To ask me some more questions.

21 Q. Hadn't you already answered all the questions?

22 A. Yes, sir.

23 Q. Well, why didn't you tell them that, that you
24 had answered all their questions?

25 A. I thought I had to go.

1 Q. Okay. You weren't under arrest, were you?

2 A. No, sir.

3 Q. Did they put you in handcuffs?

4 A. No, sir.

5 Q. Were you riding in the front seat or the back
6 seat?

7 A. Front seat.

8 Q. Okay. So when Detective Patrick said you were
9 riding in the front seat of his car, he was telling the
10 truth; right?

11 A. Yes, sir.

12 Q. And when Detective Patrick said that during that
13 car ride down to the North Charleston Police Department
14 they didn't promise you, threaten you, coerce you to make
15 any statements, he was telling the truth; right?

16 A. Yes, sir.

17 Q. And when he said that you understood everything
18 that they were talking about in that car ride, he was
19 telling the truth; right?

20 A. Yes, sir.

21 Q. And when he said that y'all were having kind of
22 a friendly conversation in the car, even about Detective
23 Phason [phonetic], he was telling the truth about that;
24 right?

25 A. I don't remember me having a friendly

1 conversation with him.

2 Q. Okay. So that's -- your memory stops you from
3 remembering that part of what Detective Patrick testified
4 to?

5 A. No. I just don't remember that happening at
6 all.

7 Q. Okay. And you think that's -- that that memory
8 problem is due to your injury, or do you think that
9 Detective Patrick -- or do you think that didn't happen?

10 A. I don't recall that happening.

11 Q. But you recall everything else that Detective
12 Patrick said happened?

13 A. Yes, sir.

14 Q. And at the very end when you called someone and
15 Detective Patrick says that you say, they got me, that
16 happened; right?

17 A. Yes, sir.

18 Q. That was truthful?

19 A. Yes, sir.

20 Q. Now, on the 18th of July, the second time you
21 went down there, do you remember any of those rights being
22 read to you?

23 A. I don't recall that happening.

24 Q. Okay. So if Detective Patrick testified that he
25 heard Detective Elmore read you those rights, are you

1 saying that that didn't happen? Or that you don't
2 remember?

3 A. I don't remember.

4 Q. Do you remember telling Detective Patrick and
5 Detective Elmore that you grabbed Cheryl around the neck
6 with your arm?

7 A. Yes, I remember telling them that.

8 Q. You remember telling Detective Patrick and
9 Detective Elmore that when Cheryl was on the ground and
10 her arms were moving, that you grabbed her pajama bottoms
11 from on top of the dresser?

12 A. Yes.

13 Q. Do you remember telling them that?

14 A. Yes.

15 Q. And do you remember telling them that you tied
16 the pajama bottoms around her neck?

17 A. Yeah.

18 Q. Then you -- do you remember telling them that
19 you don't remember tying them tight?

20 A. Yeah.

21 Q. And you remember telling them these things
22 because you did tell them these things; right?

23 A. I made it up.

24 Q. Do you remember making up that her head was
25 facing the dresser and her feet were by the door?

1 A. Yes, sir.

2 Q. You made that up?

3 A. Yes, sir.

4 Q. When did Detective Elmore say that you were only
5 going to get six months?

6 A. He told me that before I made the statement.

7 Q. Was that before you signed the advice of rights
8 form?

9 A. I don't remember.

10 Q. And you don't remember when --

11 A. I don't remember signing --

12 Q. -- whether it was before or after the advice of
13 rights?

14 A. I don't remember signing the advice of rights
15 form.

16 Q. Now, on each of these advice of rights forms, do
17 they have your signature on them in two places?

18 A. Yes, they do.

19 Q. And that is your signature?

20 A. Yes, it is.

21 Q. And you did sign them?

22 A. Yes, I did.

23 Q. But you don't remember signing them?

24 A. Right.

25 Q. On the 6th of June you weren't hearing voices,

1 were you?

2 A. No, sir.

3 Q. On the 18th of July you weren't hearing voices,
4 were you?

5 A. No, sir.

6 Q. On the 6th of June you weren't under a doctor's
7 care, taking any prescribed medications, were you?

8 A. No, sir.

9 Q. And on the 18th of July, 2007, you weren't under
10 a doctor's care, taking any prescribed medications, were
11 you?

12 A. No, sir.

13 Q. You weren't high, stoned, or drunk, were you --

14 A. No, sir.

15 Q. -- on either of those dates?

16 A. No, sir.

17 Q. You're as sober and as clear then as you are
18 today, aren't you?

19 A. Yes, sir.

20 MR. VOIGHT: Beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 [Whereupon, Mr. Voight and Mr. Simpson confer]

23 MR. VOIGHT: No further questions of this
24 witness, Your Honor.

25 THE COURT: Ms. Taylor?

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1 MS. TAYLOR: Thank you.

2 REDIRECT EXAMINATION

3 BY MS. TAYLOR:

4 Q. Oran, Mr. Voight asked you about this
5 information in the July 18th statement.

6 A. Right.

7 Q. He just went through it with you on the account
8 of things that you said you had heard in Cheryl Snow's
9 apartment?

10 A. Right.

11 Q. Between June 6, when you first spoke with the
12 police officers and talked with them about what you had
13 done with her that weekend, and July 18th, did you have
14 the opportunity to read any newspaper accounts of her
15 murder?

16 A. Yes, I did.

17 Q. Did you see anything on TV?

18 A. No.

19 Q. Did you hear anything from people on the street,
20 or neighbors or friends or anything like that?

21 A. No.

22 Q. You read the newspaper article and that's it?

23 A. Yes.

24 Q. Okay. Why would you say these things if they
25 were not true?

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1 A. Because I said it because he told me if I would
2 say it, I was only going to get six months in jail.
3 That's the only reason why I said it.

4 Q. Is this statement on July 18th the truth?

5 A. No.

6 Q. Did you kill Cheryl Snow in her apartment?

7 A. No, I did not.

8 Q. But you admitted to the police that you did?

9 A. Yes, I did.

10 MS. TAYLOR: Thank you.

11 THE COURT: Mr. Voight?

12 MR. VOIGHT: Can we approach, Your Honor?

13 THE COURT: Yes.

14 MR. VOIGHT: Oh. I have nothing further -- I
15 have nothing further of this witness. He can step
16 down. That's probably what you were going to ask.

17 THE COURT: Yes. Mr. Smith, you may step down.

18 MS. TAYLOR: Come on down.

19 THE COURT: Thank you.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22 THE COURT: Ms. Taylor, do you have any
23 additional witnesses?

24 MS. TAYLOR: No, ma'am.

25 THE COURT: Mr. Voight, you have a rebuttal

1 witness?

2 MR. VOIGHT: I do, Your Honor.

3 THE COURT: We're going to go ahead and take
4 albeit now a short lunch break. We'll be back at 2:30
5 and we'll finish with the hearing and -- the Jackson v.
6 Denno hearing.

7 You have one witness you anticipate, and then
8 we'll address the two photographs. All right?

9 Thank you. We'll be in recess until 2:30.

10 [Whereupon, a recess is taken from 1:52 p.m. to
11 2:27 p.m.]

12 THE COURT: Mr. Voight, call your witness.

13 MR. VOIGHT: Detective Keith Elmore.

14 [Whereupon, Mr. Elmore comes forward]

15 THE CLERK OF COURT: Place your left hand on the
16 Bible, raise your right, please.

17 [Whereupon, Mr. Elmore is duly sworn by the
18 clerk of court as follows: do you swear or affirm that
19 the testimony that you shall give shall be the truth,
20 the whole truth, and nothing but the truth, so help you
21 God]

22 THE WITNESS: I do.

23 THE CLERK OF COURT: Thank you, sir. Please be
24 seated.

25 [Whereupon, Mr. Elmore takes the witness stand]

1 THE CLERK OF COURT: For the record, state your
2 name and spell your last name, please.

3 THE WITNESS: Keith Elmore. E-L-M-O-R-E.

4 - - - - -

5 KEITH ELMORE,

6 Having Been First Duly Sworn,
7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MR. VOIGHT:

10 Q. Detective Elmore, did you have the occasion to
11 take the statement of Oran Smith on June 6th, 2007, and
12 again on July 18th, 2007?

13 A. Yes, sir.

14 Q. I'm going to show you what's been previously
15 marked as State's Exhibit 1 and State's Exhibit 3 and see
16 if you can take a look at those and identify them.

17 [Whereupon, the witness reviews documents]

18 Q. [Mr. Voight] What are those, sir?

19 A. This is a North Charleston Police Department
20 advisement of constitutional rights.

21 Q. Is that the form that you used when you
22 interviewed Mr. Smith?

23 A. Correct. This is the one we used to advise him
24 of his constitutional rights before we interviewed him.

25 Q. Did you advise Mr. Smith of his constitutional

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1 rights?

2 A. Yes, I did, on the 18th. July 18th.

3 Q. Do you know if you did it on the 6th, as well?

4 A. On the 5th -- we have James Hill, Detective
5 James Hill, did it on the 5th. I was a witness to that.

6 Q. And on each of those dates did Mr. Smith -- do
7 you remember those rights being read on each of those
8 dates?

9 A. Yes, sir.

10 Q. And do you remember if Mr. Smith seemed to
11 understand those rights on those dates?

12 A. Yes, he did.

13 Q. And did he answer verbally, or orally, when each
14 of those rights was read?

15 A. Yes. He -- after we read the rights to him, we
16 asked him if he understand what we just said. And we also
17 advised him while we were reading it, after each sentence,
18 do you understand what we just read. He'll say, yes, he
19 did. Then we'll read him the second, third, fourth,
20 fifth. And then once we're done, we'll ask again do you
21 understand the rights we just read to you. He stated,
22 yes. We had him initial each sentence, sign and date, and
23 then also sign again at the bottom where he waived his
24 rights.

25 Q. I'm going to show you what's been previously

1 marked as State's Exhibit 4, ask you if could take a look
2 at that.

3 [Whereupon, the witness reviews documents]

4 A. Yes, sir.

5 Q. [Mr. Voight] Is that the statement of Oran
6 Smith that was given on the 6th of June, 2007?

7 A. Yes, sir, it is.

8 Q. Is that written in your handwriting?

9 A. Yes, sir, it is.

10 Q. Are you the person who transcribed what
11 Mr. Smith told you in the interview room?

12 A. Yes, sir.

13 Q. When you were having the conversation with
14 Mr. Smith on that day, did he seem to -- did he seem to
15 understand what was going on? -

16 A. Yes.

17 Q. Was he calm?

18 A. Yes, he was.

19 Q. Did you yell at him?

20 A. No.

21 Q. Did you allow Detective Hill to yell at him?

22 A. No.

23 Q. On that date was anything promised to Oran Smith
24 to get him to give that statement?

25 A. No, there wasn't nothing promised to him.

1 Q. Were there any threats made to him?

2 A. No, sir.

3 Q. Did he appear to suffer from any auditory
4 hallucinations? Did he appear to be hearing any voices?

5 A. No, he did not.

6 Q. Did he appear to understand everything that was
7 said in the interview room?

8 A. Yes.

9 Q. I'm going to show you what's been previously
10 marked as State's Exhibit 2. Can you take a look at that,
11 and do you know what that is?

12 A. Yes, sir.

13 Q. And what is that?

14 A. This is another North Charleston Police
15 Department defendant's statement, in Detective Patrick's
16 handwriting, which I witnessed of the statement of Oran.

17 Q. And that's from the second statement that y'all
18 took of Oran Smith; isn't that right?

19 A. Yes, sir.

20 Q. And who led the questioning of Oran Smith on
21 that second time? On July 18th.

22 A. I did.

23 Q. Did you yell at Oran Smith?

24 A. No, sir.

25 Q. Did you threaten Oran Smith?

1 A. No, sir.

2 Q. Did you promise Oran Smith anything?

3 A. No, sir.

4 Q. Did you promise Oran Smith that he would -- if
5 he admitted to killing Cheryl Snow, he would only have to
6 serve six months in jail?

7 A. No, I did not.

8 Q. Did you advise him that this was a homicide?

9 A. Yes.

10 Q. Did he seem to understand what was going on?

11 A. Yes, sir.

12 Q. Did he remember talking to you from the month
13 before?

14 A. Yes, he did.

15 Q. Did you -- what was his outward demeanor? How
16 did he appear to you when he was giving you that statement
17 on the 18th? The second statement.

18 A. He was calm, relaxed. His memory was very well
19 because the same exact lie he told us on the first one was
20 the same lie he told us on the second one when I gave him
21 the opportunity to, you know, tell his side of the story
22 of what happened the night that he -- from the incident.

23 When we talked to him the first time, he stated
24 the same thing that he told Detective Patrick and I and
25 Hill the first time that we spoke to him which was, if I

1 recall, a couple of weeks later. So his memory was well.
2 He was calm, relaxed. We had just picked him up from his
3 home, Detective Patrick and I. We had a good little ride
4 from Moncks Corner back to North Charleston where we
5 talked about things.

6 He and I knew some people, some family members
7 of mine, that grew up where he grew up. I think they were
8 related to him on some part of his family. Another one of
9 my cousins is a detective with us, Detective O.J. Phason
10 [phonetic]. Went to high school with him. We spoke
11 about, you know, things that they had done in high school
12 together. We had a good conversation to and from, you
13 know.

14 Q. Did he tell you about the fight that he had
15 gotten into with Detective Phason [phonetic] when he was
16 in middle school or high school?

17 A. Yes, he did.

18 Q. Did he express to you that he was scared of
19 Detective Phason [phonetic]?

20 A. He said, oh, I wouldn't mess with that guy; he's
21 a big guy.

22 Q. When you went to the station on the 18th, did
23 you -- did he see Detective Phason [phonetic]? Did they
24 come into contact at all?

25 A. When he walked into the station and we took him

1 to the interview room, he saw Detective Phason [phonetic].
2 They greeted each other like, hey, how you doing; hey.
3 You know, they remembered each other, of course. Other
4 than that, that was it.

5 Q. Were you present -- did you witness Detective
6 Phason [phonetic] threaten Oran Smith in any way?

7 A. No.

8 Q. Did Detective Phason [phonetic] make any
9 threatening gestures or say anything threatening to Oran
10 Smith in any way?

11 A. No. They shook hands, and they smiled and
12 laughed with each other, and talked about old times.

13 Q. Did you promise Oran Smith any special treatment
14 to get him to say he killed Cheryl Snow?

15 A. No. I can't offer that.

16 Q. Did you provide Oran Smith with any details of
17 the murder of Cheryl Snow to use in his statement?

18 A. No, I did not.

19 Q. During the time that you rode down in the car
20 and in the time in the interview room, did Oran Smith
21 appear to suffer from any auditory hallucinations or did
22 he appear to hear voices in any way?

23 A. No, he did not.

24 Q. Did he appear to hear everything that you said?

25 A. Yes, he did.

1 MR. VOIGHT: I would tender at this time, Your
2 Honor.

3 THE COURT: Ms. Taylor?

4 MS. TAYLOR: Thank you, Your Honor.
5 Good afternoon, Detective Elmore.

6 THE WITNESS: Hi. How are you?

7 CROSS-EXAMINATION

8 BY MS. TAYLOR:

9 Q. Did you know Oran Smith before June 5th or 6th,
10 2007?

11 A. No, ma'am.

12 Q. Never had any dealings with him at all?

13 A. No.

14 Q. Didn't know anything about him?

15 A. No, ma'am.

16 Q. And you went to his home to get him?

17 A. No, ma'am. That was some uniform officer went
18 there that night.

19 Q. Okay.

20 A. Well, Detective Patrick and I did go there the
21 day of the second interview that we conducted on him.
22 Yes, I did that time.

23 Q. But on the first one, you did not?

24 A. No, ma'am.

25 Q. The first time you ever met him would have been

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1 in the interview room?

2 A. Yes, ma'am.

3 Q. Who else was in the interview room with you?

4 A. Just Detective Hill and I.

5 Q. And you were not present for Detective Hill's
6 testimony? Or were you?

7 A. I was -- no. I was out -- no, I was not.

8 Q. And you were not present for Detective Patrick's
9 testimony?

10 A. No, ma'am.

11 Q. Does North Charleston have the ability to tape-
12 record statements?

13 A. No, we don't. It's not policy.

14 Q. I'm sorry?

15 A. It's not policy. We don't record no audio.

16 Q. It's not policy? Is that what you're saying?

17 A. Correct.

18 Q. Okay. So you don't have any tape recorders
19 available to you?

20 A. No.

21 Q. And no video camera?

22 A. No, ma'am.

23 Q. Did you make any notes at any course throughout
24 the interrogations? Either one of them?

25 A. No, ma'am.

1 Q. Did you do any reports?

2 A. I probably did a supplemental report, which
3 should be in the case file. But Detective Patrick
4 normally takes care of all of that stuff.

5 Q. Okay. You don't have any reports with you?

6 A. No, ma'am.

7 Q. Were you aware that Oran was in special
8 education throughout his schooling?

9 A. I think he might have stated that he was. We
10 asked him about his grade of education and before we
11 advised them of their rights, of whether they graduated or
12 whatnot, and I think he might have stated that he was.
13 But he stated he finished -- he completed the ninth grade.

14 Q. Were you aware that he went to night school and
15 took a GED but did not pass it?

16 A. No, ma'am.

17 Q. Were you aware that he had a gunshot wound to
18 his head when he was eighteen and suffered brain damage as
19 a result of that?

20 A. He stated that he was shot, had lost his eye and
21 some smell and some other senses.

22 Q. Were you aware that one of those senses was a
23 loss of hearing in his left ear?

24 A. He might have stated that he had -- was hard of
25 hearing, but I talked loud enough so he could hear me.

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1 When I talked to him, he could hear me.

2 Q. Okay. Mr. Voight went through with you the
3 constitutional waiver form that was filled out.

4 A. Yes, ma'am.

5 Q. Do you have a specific recollection of going
6 over that with Oran, and his responses?

7 A. Yes, ma'am.

8 Q. And what were his responses to each one of those
9 questions?

10 A. After reading each question to him -- for
11 instance, I read number one and at the end of that
12 sentence I would ask him, do you understand what I just
13 read. He'd say yeah.

14 Q. So his responses were yeah?

15 A. Yeah, yes, or however you want to put it.

16 After I read all five of them -- after I -- you
17 know, and after reading each sentence I would ask him, do
18 you understand what I just read. He'd say yeah or yes,
19 with a nod in the yes position, nod his head yes. And
20 then after I read all five I asked him again, do you
21 understand all your constitutional rights, what I just
22 read. He stated yes. And I said okay. I turned the
23 paper over to him in this manner and I said, put your
24 initials by each line stating that you understand what I
25 just read to you. And that's what he did: put his

1 initials down by each, one through five. I said, sign and
2 date it down at the bottom where it says signature. And
3 that's what he did. He signed his name, date it, and down
4 at the bottom also.

5 Q. And you were present at both of the statements
6 that Oran gave?

7 A. Yes, ma'am.

8 Q. Is that right?

9 Do you remember him asking any questions at
10 either one of those times?

11 A. Yeah, he did. He asked if something happened to
12 Ms. Snow.

13 Q. And that would have been at the first statement?

14 A. Yes.

15 Q. So when y'all had him in the interview room at
16 first, what did you tell him he was there for?

17 A. That we needed to talk to him about an incident
18 that had took place.

19 Q. And did you tell him that it involved Ms. Snow?

20 A. Yes, ma'am.

21 Q. What else did you tell him?

22 A. That she's dead. That she was dead.

23 Q. When in the conversation did you tell him that?

24 A. After we got him into the interview room, kind
25 of talked to him for a little minute and explained to him

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1 that, you know, there was an incident that took place; we
2 just want to talk to you, find out if you can help us with
3 this case; told him that he wasn't in trouble, being
4 arrested, but we wanted to advise him of his
5 constitutional rights just to be on the safe side; that it
6 was -- you know, that's what we do as investigators. We
7 advised him of his constitutional rights, and then we
8 started questioning him about where he was during the time
9 of her murder.

10 Q. Do you remember ever having conversations with
11 him -- prior to you explaining that Ms. Snow had been
12 killed -- where you said to him, if we get her on the
13 phone right now, is she going to tell us the same thing
14 you're telling us about being with her?

15 A. Yeah, I might have asked him that question.

16 Q. Do you remember asking him if he could -- if he
17 knew her phone number and if he could get her on the
18 phone?

19 A. Right. Yes.

20 Q. What was his response?

21 A. To the first question -- let me repeat it one
22 more time, please, so I make sure I'm answering it
23 correctly. About calling -- if I got her on the phone,
24 would he be able to talk to her?

25 Q. Well, the first one was if we get her on the

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1 phone, is she going to tell us the same thing you're
2 telling us.

3 A. Right.

4 Q. What was his response to that?

5 A. He didn't know.

6 Q. And then the second one was do you know her
7 phone number, can you get her on the phone.

8 A. Right.

9 Q. And did he tell you her phone number?

10 A. Yeah. I think he remembered it.

11 Q. And did he -- do you remember what else he said
12 about go ahead and call her?

13 A. I couldn't answer that right now. I don't
14 remember.

15 Q. Did you talk to him about what he did for a
16 living, if anything?

17 A. He pretty much told us he was disabled due to
18 his gunshot injury and he collected an SSI check or
19 something, a disability check.

20 Q. And this conversation about your -- was it your
21 cousin, Detective Phason [phonetic]?

22 A. Yeah. He's a relative of mine, also.

23 Q. What did Oran tell you happened between him and
24 Detective Phason [phonetic] when Oran was younger?

25 A. They were about fifteen, sixteen years old.

1 They went to school together. Oran supposedly made a
2 comment about O.J.'s girlfriend at the particular time.
3 O.J. confronted him about it. Oran denied it. Something
4 along those lines. They got into a tussle, and O.J.
5 karate-kicked him in the side of the head.

6 Q. And broke his nose? Do you remember that?

7 A. I don't know what kind of injuries he sustained,
8 because I was laughing at that point.

9 Q. But you remember the karate kick to the side of
10 the head?

11 A. Yeah. They were joking -- Oran was laughing, I
12 was laughing.

13 Q. And where did this take place?

14 A. At school, I would imagine. It was --

15 Q. No. I'm sorry. The conversation.

16 A. Oh. When we were in the interview room.

17 Because he asked us, he said, don't y'all got a guy
18 named detective O.J. Phason [phonetic] that work here. I
19 said -- hadn't seen each other at this time. I said,
20 yeah, he works here. He says, I went to school with that
21 guy; he's a pretty good guy; he's tough or whatever. We
22 was like, oh, yeah; why you say that. He say, well, he
23 kicked me in my face when we was in school over a girl or
24 something, he said. And that's when he told the story.
25 We laughed over it, and that was that.

1 Q. And your recollection is that conversation took
2 place in the interview room at the police station?

3 A. That's when -- that's when I first met Oran.

4 Q. And that would have been, just for the record,
5 which interview? June 5th?

6 A. The first one.

7 Q. The first one?

8 A. Correct.

9 Q. What about the second one, July 18th? Was
10 anything said or done about Detective Phason [phonetic] --

11 A. They saw each other. When we came in the
12 interview room, they spoke, and at the end of the
13 interview they spoke to each other.

14 Q. And who are you referring to when you say when
15 he came in the interview room they saw each other? Whose
16 he?

17 A. Well, when he came in -- when Oran -- when
18 Detective Patrick and I brought Oran into the interview
19 room, like walking into the interview room Detective
20 Phason [phonetic] was sitting at his desk and, you know,
21 he waved. He was like, what's up, you know, like that, as
22 we went into the interview room.

23 Q. So Detective Phason's [phonetic] desk was right
24 outside that interview room?

25 A. Not right outside, but just in the vicinity. We

1 have an open area so you can see that area where my desk
2 is, Detective Phason [phonetic], Detective Hill's desk.
3 You can kind of see people when they're walking by.

4 Q. During the second interview on July 18th, did
5 you or Detective Patrick have any discussions with Oran
6 Smith about how you were going to help him out if he would
7 just tell you what happened?

8 A. No, we did not.

9 Q. Do you recall him ever asking for an attorney or
10 to talk with anyone else?

11 A. He asked -- he wanted to speak to his mother at
12 one point.

13 Q. Do you remember what point that was?

14 A. When he confessed that what he had done to --
15 the strangulation of Ms. Snow.

16 Q. And do you -- Mr. Voight asked you a question
17 did you say anything to Mr. Smith at any time to Oran
18 that, you're crazy, you're hearing voices, you can go
19 ahead and tell us what happened, you're only going to get
20 about six months in jail if you're crazy.

21 A. If I said that?

22 Q. Uh-huh.

23 A. I'm not a psychologist. I wouldn't have been
24 able to deem him crazy.

25 Q. So you didn't have any conversations with him

1 about anything to help him out, or in any way to encourage
2 him to make a confession?

3 A. I told him, I said, you'll feel a lot better if
4 you told us the truth, because we know you're lying. I
5 said if anything that I asked him to do that would -- that
6 he might have confused for me saying something along those
7 lines, like you'll feel better if you tell us the truth
8 because we know that you're lying, we know that you killed
9 her and you need to tell us the truth of what really
10 happened that day.

11 Q. And so you told him all that, I know you're
12 lying, that kind of stuff?

13 A. Yes, I did.

14 Q. Did you tell him or did Detective Patrick tell
15 him that, prior to any confession statements, that you had
16 enough information on him to arrest him right now?

17 A. Yes. We told him that he was going to be
18 arrested.

19 Q. Regardless?

20 A. Yes.

21 Q. And what was the information that was different
22 on July 18th when you had him in the interview room, as
23 opposed to June 5th when he gave that first statement and
24 left?

25 A. We received the evidence back from SLED with the

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1 skin graft; the DNA information that came back. That's
2 what led us to going back to talking to him a second time.

3 Q. And what was your understanding of what that
4 evidence was?

5 A. That there was DNA evidence that was -- and I'm
6 not a DNA expert -- that was linked, or Oran's DNA.

7 Q. And did you communicate that to him?

8 A. Yes, I did.

9 Q. So essentially y'all told him in that interview
10 room that, we have some scientific evidence that proves
11 that you killed Cheryl Snow?

12 A. Yes.

13 Q. And it's your understanding that that evidence
14 was some forensic, either skin or semen? Do you remember
15 which it was that you thought convinced you?

16 A. Well, I was talking more -- when I conducted my
17 interview, I was more along the lines of the skin graft.
18 The semen: we already knew that, you know, they had had
19 sexual intercourse that day, and she had the pajamas on so
20 -- and of course it was his semen. But it was more along
21 the skin graft and how it got there.

22 Q. And it's your understanding that the skin flakes
23 that were taken from the pajama bottoms matched Oran
24 Smith?

25 MR. VOIGHT: Objection.

1 A. I couldn't answer that.

2 THE COURT: Hold on. Hold on one second,
3 Detective.

4 What's the basis?

5 MR. VOIGHT: I believe we've gone past the scope
6 of this particular motion. I don't know how that goes
7 to the voluntary nature of this motion.

8 THE COURT: I'm going to sustain it.

9 Q. [Ms. Taylor] But you told him that you had
10 enough information to arrest him prior to him making any
11 statements admitting to anything; is that right?

12 A. I'm sorry. One more time.

13 Q. You told him you had sufficient evidence to
14 arrest him, there was some scientific evidence that proved
15 he was lying, and you said all this to him prior to him
16 making any sort of a statement that could be --

17 A. That we had DNA evidence, yes.

18 Q. Okay. Were there -- in the July 18th statement,
19 were there any changes or corrections that you recall Oran
20 asking Detective Patrick to make?

21 A. I see here where Detective Patrick scratched
22 through a certain sentence and initialed or had Oran
23 initial. Other than that, that's all I see.

24 Q. Other than what you see on that form, do you
25 have any independent recollection of why those marks were

1 made?

2 A. It may have been an error that -- normally after
3 Detective Patrick reads a statement back, if there's
4 something there. Maybe he wrote something wrong. I
5 really couldn't understand -- tell you why he would
6 scribble through this particular sentence. But he had
7 Oran initial beside it.

8 Q. And on June 5th or 6th when the first statement
9 was taken, do you recall any conversations where you or
10 Detective Patrick or any other police officer who may have
11 been there -- I'm sorry. Not Detective Patrick --
12 Detective Hill would have communicated, at that point in
13 time, to Oran that Cheryl Snow had been strangled with the
14 pajama bottoms?

15 A. We never told him how she died. He told me.

16 Q. And you had indicated when Mr. Voight was
17 talking to you that you also told him at some point that,
18 we know you lied, you lied in your first statement. Is
19 that correct?

20 A. Yes.

21 Q. What was the lie in the first statement? What
22 are you talking about when you say that?

23 A. That he did not kill her.

24 Q. And where is that in the first statement?

25 A. Well, it was -- he didn't write it down that --

1 he didn't write down how he did not kill her, he just
2 stated that he did not kill her.

3 Q. Okay. And you were present on that first
4 statement; right?

5 A. Yes.

6 Q. It's almost three pages long?

7 A. Yes, ma'am.

8 Q. And is it a fair representation for me to say
9 that it covers all of Saturday and most of Sunday, and
10 where he was, and how he got to Cheryl's house, and what
11 he and Cheryl did while he was at her house?

12 A. Yes. Other than the fact that he killed her,
13 not how he killed her.

14 Q. But what it does contain -- is there anything
15 that you know of that's in that statement that is a lie?

16 A. No. Everything that he gave us in the statement
17 that he Detective Hill to -- wrote and that Detective Hill
18 witnessed was the truth, with that hole in the middle of
19 the actual murder taking place and how. He left that out.
20 But he said that's all that happened was what he wrote
21 down in the statement.

22 Q. Right.

23 A. And to me, if you telling me you did this all
24 day and you didn't put that part in, then that statement
25 is a lie if that's what you're saying is the truth.

1 MS. TAYLOR: Court's indulgence one moment.

2 THE COURT: Yes, ma'am.

3 [Whereupon, Ms. Taylor and Mr. Nixon confer]

4 Q. [Ms. Taylor] Do you recall how long that first
5 interview took?

6 A. First interview? I really couldn't say.

7 Q. And do you recall: were you present for a phone
8 call that was allowed for Oran to make after the July 18th
9 statement? Do you know anything about that?

10 A. I think we allowed him -- I think he tried to --
11 Detective Patrick allowed him to call his mom and tell him
12 [sic] that -- I think he called her, or either he called
13 her. There was a young lady that he also called. I
14 couldn't -- I wasn't the one who dialed the number or -- I
15 don't know if he was actually talking, but he was on the
16 phone with some lady saying something about, they got me,
17 they -- you know, they know; they got me.

18 Q. Were you present to hear that?

19 A. Yes, ma'am.

20 Q. And what do you think was said?

21 A. He said that something along the lines of they
22 got me, they know. And it was a very short conversation,
23 from what I can remember. But they got me; they know.

24 Q. And, again, do you have any notes from that --

25 A. No, ma'am.

1 Q. -- exchange?

2 A. I didn't take notes.

3 Q. And this was all the summer of 2007, about two
4 years ago; is that right?

5 A. Yes, ma'am.

6 Q. Does Mr. Smith look essentially the same as he
7 looked two years ago to you?

8 MR. VOIGHT: Objection --

9 THE COURT: I'll allow it.

10 A. He look like he put on a couple of pounds but,
11 yes. He looks a lot cleaner and cleaned up.

12 Q. [Ms. Taylor] Did you see his scar on his head
13 in 2007 when you were talking to him?

14 A. Yes, ma'am.

15 Q. And that he was missing one eye?

16 A. Yes, ma'am.

17 Q. And that's the same today?

18 A. Yes, ma'am.

19 MS. TAYLOR: Thank you.

20 MR. VOIGHT: No redirect, Your Honor.

21 THE COURT: Detective, you can step down. Thank
22 you.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25 MR. VOIGHT: The State would submit, Your Honor,

1 the issue of the two statements. I believe the State
2 has proven that they are knowing and voluntary -- that
3 they were knowing and voluntary waivers of his full
4 constitutional rights.

5 THE COURT: Ms. Taylor, I'll be happy to hear
6 from you.

7 MS. TAYLOR: Thank you, Your Honor.

8 Our position is that these officers, all three
9 of the ones who testified before Your Honor, knew at
10 least different amounts of his condition: that he was
11 disabled, that he had a brain injury, that he was blind
12 in one eye. I'm not for sure they knew about the
13 deafness. But they were well aware that he also did
14 not complete high school, and there was some issue
15 involving his ability to understand kind of what was
16 going on.

17 The testimony that you've heard from Oran
18 regarding promises that were made, or things that were
19 said to him, essentially coerced him into admitting
20 something that he did not do, based on a police officer
21 telling him, according to him -- I understand that
22 Detective Elmore denies this -- that he was essentially
23 crazy; he heard voices; he wouldn't be punished very
24 long; if he would go ahead and admit it, he would do
25 about six months in jail.

1 Those officers admitted on the stand that they
2 were, in fact, and had told him, they had sufficient
3 evidence to arrest him prior to any statement and they
4 intended to arrest him. So here he knows that he's
5 about to go to jail, which also in consideration of
6 this Detective Phason [phonetic], who was right outside
7 before and after the interrogation, who he had had an
8 altercation with in high school where he karate-kicked
9 him to the head and now he's a detective in North
10 Charleston, was there right before they come and take
11 him into the second interview. All of which, under the
12 totality of everything going on, considering his
13 condition, as well as what is going on with the police
14 department, create his susceptibility that they
15 exercised very well; and that the second statement, the
16 July 18th confession, was against his will in that he
17 did not voluntarily waive his right to have counsel or,
18 as he had testified to Your Honor, interrupt the
19 interrogation once it had begun; that he didn't
20 understand that once he started talking, when it went
21 somewhere he didn't want it to go and these things were
22 being said and he was being yelled at, that he could
23 not at that point stop it.

24 THE COURT: Mr. Voight?

25 MR. VOIGHT: Your Honor, I understand that

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1 sometimes we have to stake out positions that are
2 difficult to maintain. I think the defense is actually
3 doing that. They're having to peg and craft a very
4 careful argument as to why these perfectly voluntarily
5 statements are around the testimony of Oran Smith.
6 Oran Smith's self-serving testimony. It frankly
7 doesn't hold much water.

8 These officers, if they were intent on getting a
9 confession -- they certainly didn't seem intent on
10 getting a confession back on June 6th. It seems as
11 though they read him his rights. He conveniently
12 doesn't remember that, but he remembers other parts
13 about the statement. He remembers telling them that he
14 killed Cheryl Snow.

15 Think that the -- that Detectives Hill,
16 Detectives Patrick and Detectives Elmore are all very
17 clear that there were no promises made, there were no
18 threats made. The defense is making something out of
19 Detective Phason's [phonetic] even being present. When
20 Oran Smith was arrested, he was thirty-one years old.
21 And if you believe his testimony, he got into an
22 altercation when he was in middle school.

23 There has been no testimony that that particular
24 event so scarred him that he ever sought protection
25 from Detective Phason [phonetic], or that they had had

1 any sort of relationship whatsoever, hostile or
2 otherwise, since then. And the only testimony, the
3 uncontradicted testimony, is that they greeted each
4 other on fairly friendly terms when they saw each
5 other, and I believe it was quite by coincidence, when
6 Mr. Smith arrived at the North Charleston Police
7 Department.

8 Each of the detectives was very clear that the
9 rights were read. Each of the detectives is very clear
10 that Oran Smith seemed to understand those rights and
11 then made a knowing, intelligent, and voluntary waiver
12 of those rights.

13 What is inconvenient for him is that two years
14 later he wishes he could take it back. Well, he can't.

15 I believe that we have met our threshold burden
16 of proof in this hearing.

17 THE COURT: The Court must look at the totality
18 of the circumstances. And I'm going to -- of course, I
19 looked at the circumstances individually with the two
20 statements, but the Court did factor in the fact that
21 there were two separate statements given. Mr. Smith
22 was taken two separate times to the North Charleston
23 Police Department.

24 The Court did take into consideration, when
25 reaching a decision, as to the lack of education of Mr.

1 Smith, the fact that he was in night school, did not
2 pass the GED test, and that he evidently dropped out in
3 the ninth grade. I took into consideration the fact
4 that Mr. Smith had a head injury and had indicated that
5 he had been hearing voices.

6 When I looked at the -- or heard the testimony
7 from the three detectives as to the details of the
8 interrogation, the interrogation neither time was
9 lengthy. All the detectives were clear that Mr. Smith
10 was allowed to use the phone call -- use the phone,
11 made phone calls, allowed to use the bathroom, to get a
12 drink. Detective Patrick stated that the second
13 statement -- he's not sure, he believes there was the
14 water fountain down the hallway. Not sure if he was
15 allowed to get anything other than water.

16 The three detectives were clear that there was
17 no threat or force, or an implied promise, or any
18 improper influence. There was mention of Detective
19 Phason [phonetic], that the defendant was laughing when
20 he saw him the first time, according to Detective
21 Patrick.

22 The second time the defendant did not inquire as
23 to why they were going. It appeared that he knew. He
24 went willingly with the detectives.

25 Detective Hill was clear that the defendant was

1 sober, he was clearly thinking.

2 And all of the detectives were clear as to how
3 they advised the defendant of his rights, what rights
4 he was advised of.

5 Based upon all of those things, even taking into
6 consideration the fact that the police -- during the
7 interrogation there may have been some
8 misrepresentation, I do find that both of the
9 statements were freely, voluntarily given. There was
10 no improper influence, threats, or use by any of the
11 detectives.

12 And as to the two statements, I do find that
13 they are both freely and voluntarily given.

14 Anything further regarding the two statements?

15 MS. TAYLOR: No, ma'am. We just, of course,
16 respectfully except.

17 THE COURT: And we have two photographs. Let's
18 go ahead and take care of those.

19 MR. SIMPSON: Your Honor, in discussing it with
20 defense counsel, I believe we settled all issues
21 related to the photographs except for these two.

22 THE COURT: All right.

23 MR. SIMPSON: With permission, I would like to
24 approach and hand the two at issue to Your Honor.

25 THE COURT: You may.

1 [Whereupon, Mr. Simpson proffers documents to
2 the Court]

3 MR. SIMPSON: Your Honor, we've also submitted a
4 written memorandum on the subject prior to trial. I
5 would rely on that written memoranda as a basis for
6 admissibility of these photographs. I think the case
7 law makes clear when you have a graphic crime,
8 oftentimes graphic evidence is required to prove that
9 crime.

10 We, in discussing it with defense counsel, have
11 removed several pictures of this nature by consent, and
12 we think at least that the two you have in front of you
13 that show the manner of death that corroborate both
14 what we intend to be the pathologist's testimony as
15 well as the responding crime scene. And I would think
16 it's laid out pretty well for you in the memorandum
17 that that sort of testimony is allowable as long as
18 it's not excessive. And submitting just a couple of
19 photographs of that nature that corroborates that
20 evidence is permissible under case law.

21 THE COURT: Ms. Taylor?

22 MS. TAYLOR: Thank you, Your Honor.

23 What I would ask the Court to do at this time is
24 to -- in addition to reviewing those two that I did
25 object to, to review the others that I did not object

1 to because I think you can only make the decision that
2 is currently before you looking over all -- at all of
3 these types of photographs.

4 Obviously, we are not contesting any nature of
5 the death itself. And while I do understand that they
6 are entitled to some descriptive submissions, I do
7 question, since we've -- since it's several crime-scene
8 photographs, that these two are highly inflammatory,
9 extremely graphic, they are cumulative, and I don't
10 understand the probative value.

11 THE COURT: Yes?

12 MR. SIMPSON: And these are the photos that
13 we've agreed to remove. Would you like to also --

14 MS. TAYLOR: Yeah. I just want to make sure
15 we're all seeing the same things.

16 MR. SIMPSON: These are the photographs we've
17 agreed to remove, Your Honor.

18 THE COURT: To remove. Okay.

19 MS. TAYLOR: And I would like to see --

20 MR. SIMPSON: Photos that we've agreed to admit.

21 [Off the record momentarily]

22 MR. SIMPSON: Your Honor, I apologize. We have
23 three that are subject to this motion.

24 THE COURT: I was going to --

25 MS. TAYLOR: It's fine to look at them, Your

1 Honor.

2 MR. SIMPSON: My mistake, Your Honor.

3 MS. TAYLOR: I don't have any objections to
4 anything other than shots of her body.

5 MR. SIMPSON: And if I could respond to the
6 point Ms. Taylor just made: you can see, from what
7 we've consented to admit, that the only picture of the
8 body they have consented to admit was the overhead shot
9 here, and rather than -- other than it appearing that
10 something is laying on the body, you don't have a good
11 view of the ligature and cause of death.

12 MS. TAYLOR: Now, there was one that I did
13 consent to, though, actually, with the picture on it.

14 [Off the record momentarily]

15 MR. SIMPSON: Was it this?

16 MS. TAYLOR: It might have been that one. It
17 was one of those.

18 MR. SIMPSON: To that point they have consented
19 to enter this photograph. I would submit that that
20 doesn't depict, even nearly, the items that we're
21 arguing over now.

22 THE COURT: We need to mark these.

23 [Whereupon, State's Exhibit Number 7,
24 photograph, is marked by the court reporter]

25 [Whereupon, State's Exhibit Number 8,

1 photograph, is marked by the court reporter]

2 [Whereupon, State's Exhibit Number 10,
3 photograph, is marked by the court reporter]

4 MR. SIMPSON: Your Honor, for the purposes of
5 the record, I would just point out that what's being
6 disputed is what's been marked for ID only as State's
7 7, 8, and 10.

8 THE COURT: All right. Thank you. Can I have
9 7, 8, and 10?

10 MR. SIMPSON: Yes.

11 THE COURT: Thank you.

12 [Whereupon, Mr. Simpson proffers documents to
13 the Court]

14 THE COURT: Ms. Taylor, anything further?

15 MS. TAYLOR: If I could just --

16 [Whereupon, Ms. Taylor reviews documents]

17 MS. TAYLOR: And, again, as to Exhibit 7, not
18 only because it is -- I don't understand what the
19 probative value is, but it is not -- she has been moved
20 in this shot. This is not a crime-scene photograph.
21 They moved her body or repositioned in a location
22 different than what the police encountered that day. I
23 would object to that, as well.

24 As to -- and the same would go as to what is
25 State's Exhibit Number 10, which appears to just be

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1 another close-up of the same photograph. Again, we are
2 not contesting the manner of death at all.

3 As to Exhibit 8, again, I think that is because
4 of the lividity that is in her face, an inaccurate
5 photograph that is -- again, I don't understand the
6 probative value of what it is you're attempting to
7 prove with that. It is cumulative and highly
8 inflammatory.

9 THE COURT: Mr. Simpson, anything further?

10 MR. SIMPSON: I would just note that the case
11 law presented in our memorandum, Your Honor, what --
12 what Ms. Taylor calls cumulative we would call
13 corroborative. And the case law makes it clear that
14 when photographs such as these corroborate important
15 testimony as to manner of death and how a crime scene
16 was found, responded, or left by the defendant, it is
17 admissible, Your Honor.

18 THE COURT: Mr. Simpson, you handed me a
19 different picture.

20 MR. SIMPSON: May I approach?

21 THE COURT: You may.

22 MR. SIMPSON: I understand 9 has been consented
23 to.

24 THE COURT: Okay. That one has been --

25 MR. SIMPSON: Consented to. And the general

1 picture has been consented to. These are the only
2 three that are in dispute.

3 [Whereupon, State's Exhibit Number 9,
4 photograph, is marked by the court reporter]

5 THE COURT: Anything further, Ms. Taylor?

6 MS. TAYLOR: The only thing I would say in
7 response to that, Judge, is that the words
8 corroboration and cumulative have very distinct
9 meanings. When I consented to the photographs that I
10 consented to, I think that is more than sufficient to
11 be used as factual and accurate corroboration for
12 either crime-scene techs or a pathologist if they
13 relied on those photographs in determining their
14 conclusions. I think that's the only way it's related
15 to the pathology. If they didn't -- if the pathologist
16 didn't see these photos, then I see really no basis
17 whatsoever for these. But, again, I think it's
18 disingenuous to say that cumulative is the same as
19 corroboration. There's a reason that we don't allow
20 cumulative evidence. That's all. Thank you.

21 THE COURT: I am going to allow State's Exhibit
22 Number 8. Although it is graphic in nature, it is --
23 it does depict the victim's body in the same state that
24 it was found. I am going to exclude State's Exhibits 7
25 and 10. Based upon my review of the pictures that have

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1 been consented to, there is -- they would be
2 duplicitous. And there is nothing contained in this
3 picture. It is -- both of them are very -- 7 and 8 --
4 or, excuse me. 7 and 10 are substantially the same
5 photograph. One is closer, and it does not depict
6 anything that is not depicted in the other photographs.
7 So 7 and 10 excluded; 8 admitted.

8 [Whereupon, State's Exhibit Number 8,
9 photograph, is admitted into evidence by the Court]

10 THE COURT: Anything before we bring in the
11 jury?

12 MR. SIMPSON: Your Honor, may I approach?

13 THE COURT: You may.

14 Anything before we bring in the jury, Mr.
15 Simpson?

16 MR. SIMPSON: Nothing from the State.

17 [Whereupon, a bench conference is held]

18 THE COURT: We'll take a seven minute break and
19 then we're going to go until --

20 Mr. Voight, how many witnesses do you have?

21 MR. VOIGHT: More than we can fit in, Judge.

22 THE COURT: All right. Do you anticipate we --
23 you want to go until 5:30 today?

24 MR. VOIGHT: That will be fine.

25 THE COURT: Okay. Let's anticipate going to

1 5:30, then. So please plan your break accordingly.
2 Thank you.

3 [Whereupon, a recess is held from 3:17 p.m. to
4 3:22 p.m.]

5 [Whereupon, State's Exhibit Number 11,
6 photograph, is marked by the court reporter]

7 THE COURT: Anything before we bring in the
8 jury? From the State?

9 MR. VOIGHT: No, Your Honor.

10 - - - - -

11 JURY TRIAL

12 THE COURT: All right. Please bring in the
13 jury.

14 [Whereupon, the jury enters the courtroom at
15 3:24 p.m.]

16 THE COURT: Please be seated.

17 THE BAILIFF: Jury is all present, Your Honor.

18 THE COURT: Thank you.

19 Ladies and gentlemen of the jury, please rise,
20 and you will now be administered your oath.

21 THE CLERK OF COURT: Please raise your right
22 hand.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: do you swear or affirm that you
25 shall -- excuse me -- do you swear or affirm that you

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1 shall well and truly try and a true deliverance make
2 between the State of South Carolina and the defendant
3 at the bar, whom you shall have in charge, and a true
4 verdict render according to the evidence and the law,
5 so help you God]

6 THE CLERK OF COURT: Please respond by saying, I
7 will.

8 [Whereupon, jurors comply]

9 THE CLERK OF COURT: You may be seated.

10 THE COURT: Good afternoon, ladies and
11 gentlemen. The case that we are about to try is the
12 case of the State vs. Oran Lamar Smith.

13 Before we begin this trial, I want to tell you
14 this trial will probably be different from what you may
15 expect. Often we don't have -- you may not have had
16 the opportunity to be in court and to observe a trial,
17 so typically what most jurors' understanding of what
18 happens in court is through books or television or
19 movies, and typically those are exciting and riveting
20 circumstances and high drama.

21 While all of those things may be true at times
22 during a real trial, this trial is not for
23 entertainment. It is a fundamental part of our
24 democracy. It is a search for the truth, in an effort
25 to make sure that justice is done between the parties

1 before the Court. Searching for the truth and making
2 sure that justice is done is often slow and repetitive,
3 exactly the opposite of what you may have seen on
4 television or read in books. This courtroom is a place
5 of honor. It is dedicated to the protection and the
6 preservation of citizens' rights through what many have
7 called the greatest justice system ever created.

8 The attorneys that appear before you represent
9 and are advocates for the parties that they do
10 represent in court here today, but first and foremost
11 they are officers of this Court that are sworn to
12 uphold the integrity and the fairness of our judicial
13 system. You should expect them to be professional,
14 competent, and ethical in the representation of their
15 clients' interest. Remember that you just have taken
16 an oath, and you are also expected to be professional,
17 reasonable, and ethical. Thank you again for accepting
18 the most important responsibility of jury service and
19 for your contributions here today to our justice
20 system.

21 What I now say is intended to serve as an
22 introduction to the trial of this case. These remarks
23 are not a charge on the law. I will instruct you on
24 the law applicable to this case at the end of the trial
25 before you retire to consider your verdict. This is

1 merely an explanation of the procedure that we will
2 follow so that you may better understand what is
3 happening.

4 You will be allowed to take notes throughout
5 this trial, and you have been given your notebooks.
6 But I always caution -- I thought that you had been
7 given your notebooks. You will be given your notebooks
8 in just a moment. But I caution jurors some of us were
9 better note takers in school than others. And these
10 are your notes. They are not to be intended -- these
11 are your personal notes. And I also caution you that
12 while you are taking notes, you may miss something that
13 is happening and you would not observe the witness
14 perhaps on the witness stand. So while you may take
15 notes and you will be allowed to take notes, just
16 understand that there are some pitfalls in taking
17 notes, as well. The bailiffs will hand you the notes
18 [sic] as soon as I get done on my charge.

19 The defendant is charged by an indictment, which
20 I explained briefly before, filed in this Court. He is
21 charged with the crime of murder. I will explain the
22 elements to you of that crime later. The indictment is
23 simply the charge by which the case is brought into
24 court. It is not in any sense evidence of the
25 allegation it contains.

1 The defendant has pled not guilty to this
2 indictment. The State therefore has the burden of
3 proving each of the elements of the indictment beyond a
4 reasonable doubt. It would be your duty, ladies and
5 gentlemen, to decide whether the State has met that
6 burden.

7 Your purpose as jurors is to find and determine
8 the facts. You are the sole judge of the facts, which
9 is why, ladies and gentlemen, as the judge of the facts
10 -- just as when I walk into the courtroom, y'all stood.
11 When you walk into the courtroom as the judge of the
12 fact, the attorneys, as well as the audience members,
13 will stand for you out of respect for your new role as
14 judges of the facts. So please come in and take your
15 seats, because they will remain standing until all of
16 you are seated.

17 If at any time I make any comment regarding the
18 facts, you must disregard it. You are to determine the
19 facts from the testimony you hear and any other
20 evidence that is introduced in court. It is then up to
21 you to determine the inferences which you feel may be
22 properly drawn from the evidence.

23 It is especially important that you perform your
24 duty of determining the facts diligently and
25 conscientiously, because ordinarily there is no way to

1 correct an erroneous determination of the facts by a
2 jury. On the other hand, and with equal emphasis, the
3 same law that makes you the judge of the facts in this
4 case makes me the judge of the law. The law as given
5 by this Court is the only law that you may consider.
6 You must accept it and follow it, even though you may
7 disagree with it.

8 I cannot tell you what the facts are, and you
9 cannot disagree with me about what the law is or what
10 the law should be. Your job is to take the law as I
11 give it to you, apply it to the facts as you find them
12 from the testimony of the witnesses and any other
13 evidence that is introduced. After doing that, you
14 will render your verdict, a true and just verdict,
15 under the solemn oath that you just took.

16 Until I advise you to begin your deliberations,
17 you must not discuss this case with anyone, including
18 your fellow jurors, friends, family members, anyone
19 else involved in this case. After the case is
20 submitted to you, you must discuss it only in the jury
21 room with your fellow jurors.

22 The attorneys and all the parties in the case
23 have been advised that they are not to talk to you at
24 all. So if you see anyone involved in the case and
25 they do not even say hello, they are not being

1 unfriendly. They are merely following the Court's
2 instructions.

3 During the trial do not read, listen to, watch
4 any news reports about this case, if there are any.
5 This includes anything that might be on the television,
6 radio, internet, or in the newspapers. You must not
7 consider anything that you have read or heard about
8 this case outside of the courtroom, whether before or
9 during the trial. You must not do any independent
10 research during this trial.

11 It is important that you keep an open mind and
12 not decide any issue in the case until all of the
13 evidence has been presented, the parties have made
14 their closing arguments, and I have instructed you on
15 the law in this case. It is your solemn responsibility
16 to determine the guilt or innocence of the defendant,
17 and your verdict must be based solely on the evidence
18 as it is presented to you during this trial and on the
19 law as I instruct you during and at the close of this
20 trial.

21 In just a moment the solicitor will make what is
22 called an opening statement in which the solicitor will
23 explain to you the issues in the case, or at least what
24 the solicitor thinks the issues in the case are. The
25 attorney for the defendant may also make an opening

1 statement, although the defendant is not required to do
2 so. What the attorneys tell you in their opening
3 statements are not evidence in this case. It is only
4 their contention as to what the issues are.

5 The evidence in this case will be presented to
6 you from the testimony of sworn witnesses from the
7 witness stand and by any exhibits that may be
8 introduced into evidence.

9 From time to time during the trial you may hear
10 one of the lawyers say something like, Your Honor, I
11 believe we have a question of law, matter of law, to
12 discuss with you; may we approach the bench. Or I
13 myself might find it necessary to excuse you for a
14 brief moment so that I can discuss the issues that are
15 brought before me. The reason why I might find it
16 necessary to excuse you, or the lawyers approach the
17 bench, is not that we are hiding anything from you or
18 keeping anything from you. It is sometimes necessary
19 for me, in making a ruling on the law, to discuss the
20 facts. And as I told you before, I cannot have an
21 opinion, nor may I tell you what I think the facts are
22 or what they should be, so I will excuse you from the
23 courtroom so that while these discussions take place,
24 anything that I say or do will not influence you.

25 In determining what the true facts are in this

1 case, you must decide whether or not the testimony of
2 the witnesses is believable. It will be my
3 responsibility to rule, as a matter of law, as to
4 whether certain testimony is admissible or not. But
5 once the testimony is admitted, whether or not you
6 believe it is solely for you to determine. In deciding
7 whether to believe a witness, you have the right to
8 consider the interest of any witness, the bias of any
9 witness, the prejudice of any witness, the opportunity
10 for the witness to have seen the matters and things
11 about which the witness may testify, as well as the way
12 the witness acts on the witness stand. You have a
13 right to consider anything that is in the record that
14 will help you evaluate the testimony of the witnesses.
15 That means it is your duty to pay close attention to
16 these witnesses, to observe them, to listen to them, as
17 well as to pay close attention to the attorneys and to
18 the Court.

19 Please give your strict attention to the
20 testimony in this case so that at the end of the
21 testimony after the arguments of counsel, as well as
22 the Court's charge on the law, you will then be in a
23 position to determine what the true facts are and to
24 apply the law to those facts and render a true and just
25 verdict.

1 It is your added duty, Ms. Foreperson, to be the
2 jury spokesperson here in court. It will also be your
3 duty to write the verdict, but I'll give you further
4 information on that when I charge you on the law.

5 Please give your attention to the attorney from
6 the State.

7 Mr. Voight?

8 MR. VOIGHT: May it please the Court.

9 THE COURT: If you'll wait just one moment and
10 let them pass out their notebooks. Thank you.

11 [Off the record momentarily]

12 THE COURT: You may proceed. Thank you.

13 MR. VOIGHT: Thank you.

14 - - - - -

15 OPENING STATEMENT

16 MR. VOIGHT: Ladies and gentlemen, on June 3rd
17 of 2007, Oran Smith knocked a domino, and that domino
18 knocked another domino, all the way to here, in a
19 series of events. I wish it were as simple, as
20 innocent, as a game of dominos. But what he did was he
21 wrapped his arm around the woman's neck until she was
22 unconscious and then seeing her twitch, he wrapped her
23 pajama bottoms around her neck and tightened it until
24 she died.

25 She's not with us anymore. Her mother, her

1 relatives, people sitting there. You may hear at times
2 -- she may be referred to as the body, the deceased,
3 the decedent, the victim, but her name was Cheryl Snow,
4 a very a real person in a very real-life. Not a
5 perfect life, but real life, a life that we will submit
6 ended. And the dominos went far throughout North
7 Charleston. That's where this happened.

8 And you will hear about the investigation that
9 brings us back here, because it wasn't immediately
10 simple. It wasn't immediately apparent what had
11 happened. North Charleston's police department has got
12 several different units that all work together, some to
13 prevent crime and some to solve crimes, and they all
14 came into play here.

15 The unit that had the least amount of
16 interaction was the patrol unit. They're the guys who
17 were driving down the street looking for things that
18 are wrong, looking for someone breaking into a window,
19 looking for a car that's speeding, or responding to
20 calls for assistance or help. And that's what Scott
21 Hille was doing on the 4th of June. And he got the
22 call to go investigate Cheryl Snow's apartment, that
23 something was wrong. There had been a 911 call;
24 something was dramatically wrong. And he's going to
25 come tell you what he found. And he is the first part

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1 of the investigation.

2 The next group are North Charleston's crime-
3 scene people, because it was immediately apparent that
4 Cheryl Snow was dead. She was cold, she was purple,
5 her face was distorted, she had the beginnings of what
6 you may have heard of as rigor mortis, a stiffening
7 after a body has been dead for a while. And crime
8 scene had to come to her apartment, a small, cluttered,
9 but ultimately kind of neat in a sense that there were
10 a lot of things there but a lot could be more
11 unorganized. But they had to go through and sift
12 through everything because they are looking for clues,
13 because the person who killed Cheryl Snow didn't write
14 a note, didn't stick around for the police to come.
15 That person got away, or did for a while.

16 And crime scene came and they started looking
17 methodically through every inch of that apartment for
18 every fingerprint, for every sample of some fluid or
19 something that would connect somebody to this crime.
20 They hit upon something almost immediately. And to
21 their credit, they kept investigating. They didn't
22 make a rush to judgment or make a snap judgment. They
23 had one bit of information almost immediately after
24 processing the crime scene: Oran Smith's fingerprints.

25 So they did what they had to do, which was let's

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1 go look for Oran Smith. And you're going to hear from
2 Detective Patrick about what -- that's the next group,
3 the detectives. They're the ones who come in and try
4 to put all this together. Matter of fact, the
5 detective -- you know, while the crime scene is doing
6 their dusting for fingerprints and looking for clues,
7 they don't even let the detectives in the building.
8 The detectives only get to come in later.

9 Well, Detective Patrick takes over this case.
10 And it's his job to take over everything that crime
11 scene has learned in the initial investigation. Some
12 things take weeks. You know, tests take weeks to come
13 back. But of everything they initially learned and of
14 everything they initially think, the photographs they
15 think are important, the items that they think -- that
16 they think are important, sometimes they are and
17 sometimes they are not. He has to sift through all of
18 that and go down one path or another trying to find who
19 killed Cheryl Snow.

20 Well, he's looking for Oran Smith. Oran is not
21 too hard to find. Within a day he's found at his
22 parents' house, and he agrees to come down and talk to
23 some detectives. He talks to Detective Hill, he talks
24 to Detective Elmore. They only learned a little bit
25 about what happened in the day or so before Cheryl

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1 died.

2 Oran had known Cheryl for a while. They were
3 friends, occasional lovers, and he had seen her just
4 before she died. And he said that. That's all he
5 said. I mean, when he left her apartment, she was
6 alive and he went home. Well, that's consistent with
7 what Detective Patrick knew at the time. All he had
8 was a fingerprint. You're going to hear a lot about
9 how fingerprints are lifted and the science of
10 fingerprints. And you're going to see that evidence.
11 But that's what they had.

12 Not acquiring tunnel vision in an investigation
13 like this is probably a skill that not every detective
14 possesses. But there was more than one fingerprint in
15 that apartment. And Detective Patrick had to go down
16 every one of these roads. And he had other detectives
17 assist him. And they went and they executed search
18 warrants in other peoples houses, and took clothes from
19 them. You may hear testimony from that witness stand
20 about all that. I may not introduce all those things,
21 because I'm not sure what evidentiary value they have.
22 But they talked to people's employers to verify their
23 stories, talked to people's ministers to verify their
24 stories, talked to other individuals about what they
25 knew about the last few hours of Cheryl's life.

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1 And weeks passed, and we don't have an arrest,
2 and there's an unsolved murder in Charleston. But
3 Detective Patrick had done something because he had
4 more than a hunch, an educated guess, that the person
5 who had strangled Cheryl Snow and then taken that last
6 bit of life from her had left a mark, a calling card, a
7 trace, on what he used to strangle her. And you're
8 going to hear the word ligature. It's what -- a
9 ligature can be anything. But it's what was used to
10 strangle Cheryl Snow. It was her pajama bottoms. And
11 he sent this off to SLED.

12 Now, SLED in South Carolina is the State agency
13 that does most of our forensic testing, the real
14 science, DNA, the kind of thing that we have them test.
15 And you're going to hear that eventually, in July, the
16 results of that test came out, came back, and the
17 results of that test made it very necessary to go visit
18 Oran Smith again. He had been out. Nobody had
19 arrested him. He frankly wasn't suspected probably any
20 more than any number of different dead ends. But
21 you're going to get to hear the expert testimony of
22 this, and you're going to get to see the results of
23 what those --

24 But Oran Smith's DNA is on that ligature. And
25 there is also -- and what they were looking for when

1 they tested that were two things. They expected to
2 find semen, and they do, and it's Oran Smith's. And
3 they really wanted to find skin cells, epithelial
4 cells, from where the ligature was grasped. And I
5 would have to say that I don't have an expert who is
6 going to come in and say that those skin cells are a
7 hundred percent positive Oran Smith's. All right? I'm
8 going to leave for later, probably tomorrow, for that
9 expert to explain exactly what they found when they
10 were looking for those skin cells. It's not nothing.
11 And later, when I get to talk to you at the very end of
12 this case, I'll argue what I think they found.

13 But based on those tests, Detective Elmore --
14 Detective Patrick went back and talked with Oran Smith
15 again. And Oran agreed to come downtown and he agreed
16 to talk to them again, and he told them kind of the
17 same story he had told them a month earlier about how
18 he had gone over, she was treating him kind of -- he
19 left, and calls her up. And they knew -- and that's
20 when the burden was lifted from his shoulder, because
21 he told the truth. He just flipped. And he admitted
22 to putting his arm around her neck, wrestling her to
23 the ground, and then when she twitched and he thought
24 she was going to be able to go to the police and say
25 what happened, that's when he said, I grabbed the

1 pajama bottoms and tied them around her neck; I don't
2 remember tying them tight --

3 The evidence is going to show -- and I've got
4 this burden. I've got this burden. The State of South
5 Carolina has to show you beyond a reasonable doubt
6 evidence that will prove each and every element --
7 we've got to prove. We'll talk about those elements
8 later when the judge reads you the law and I get to
9 address you again. But the evidence you're going to
10 see from the witness stand, as well as that comes from
11 the box, are going to show you beyond a reasonable
12 doubt that Oran Smith killed Cheryl Snow. Thank you.

13 THE COURT: Ms. Taylor?

14 MS. TAYLOR: Thank you. May it please the Court

15 --

16 THE COURT: Yes, ma'am.

17 MS. TAYLOR: -- Mr. Voight.

18 - - - - -

19 CROSS-EXAMINATION

20 MS. TAYLOR: Ladies and gentlemen, good
21 afternoon. As you know from earlier, my name is Donna
22 Taylor. This is Bill Mixon. We are here today
23 representing Oran Smith. Oran is here in court with
24 his family. Behind him are his dad, Harry, his mom,
25 Janet, some of his siblings and some friends and his

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1 pastor.

2 Oran is a thirty-three-year-old man. He grew up
3 in Moncks Corner, a ninth-grade education. You'll hear
4 about this from this witness stand right here. This is
5 what Judge Harrington was talking about when she said
6 where you will receive the evidence that comes before
7 you in this court. You will find out that he did not
8 graduate from high school. You'll find out that he was
9 himself a victim of a gunshot wound when he was
10 eighteen. You'll sort of see some of the damage Oran
11 has had. He's missing one eye, he's deaf in one ear,
12 also lost his sense of smell. Even though he didn't
13 graduate from high school and just barely did not pass
14 his GED, he did have a job the year before he was shot.
15 He worked, for just about a year, for North Charleston
16 Sewer. After the shooting, he was in the hospital, had
17 rehab, moved back into this family's home, and that's
18 where he has lived since that time until his arrest in
19 this case back in July of 2007.

20 As Mr. Voight indicated to you, he knew Cheryl
21 Snow. Oran has had difficulties in his life and, as
22 you'll hear, Ms. Snow had difficulties in her life.
23 They met together at Palmetto Behavioral Hospital.
24 They became friends. They understood each other's
25 complicated and difficult lives. They had a

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1 relationship. Mr. Voight told you they were friends.
2 They were, from time to time, actual lovers. They knew
3 each other for several years.

4 We all have different roles here that Judge
5 Harrington told you about. Mr. Voight's interest is
6 the government. You will hear from him, his witnesses,
7 from many criminal justice professionals. You'll hear
8 from police officers, detectives, crime-scene
9 technicians, you'll hear from some SLED agents who do
10 forensic evaluation of evidence, and you'll hear from a
11 pathologist who will present evidence about Ms. Snow's
12 autopsy. This is all complicated stuff. Judge
13 Harrington told you about this is not TV. That's where
14 most of us get our experience about this kind of stuff.

15 We are going to ask you, all of us, to put all
16 of that aside. In the roles that we all play here,
17 probably the most difficult, and clearly the most
18 important, is yours. As I was preparing yesterday to
19 come before you today, I realized it was Flag Day. I
20 was watching a show on TV and it talked about -- said
21 that it was Flag Day, and all of this week throughout
22 our country people will be paying homage to our flag
23 and what it stands for. Other than to lose your life
24 in battle, I don't know of any duty that is more
25 important or more of an honor to our flag and to what

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1 it stands for. And for whatever complaints anybody in
2 the world -- and I guess there are a few of them these
3 days -- but have against America, no one would
4 disagree.

5 And the judge told you this, too: our criminal
6 justice system is the best in the world. There are
7 reasons for the rules that we have and there are
8 reasons that it has worked so well for well over 200
9 years. I may have missed when Judge Harrington was
10 talking to you during the introduction, but one of the
11 single most important differences in our country and
12 many countries throughout the world is that we don't
13 trust the government's decisions. We don't say, okay,
14 you guys know everything, y'all are professionals, you
15 go out there and you solve those crimes and you take
16 care of them from there on, too. We require them to be
17 held to a standard, like people like you, citizens of
18 this country. No bias, no preconceived notions, sit in
19 judgment of other accused persons.

20 The police will come in and the technicians will
21 come in and they will tell you what either they
22 discovered or what they think they know, their
23 theories.

24 We're going to ask you -- and, again, this is no
25 easy task, and it is quite inconvenient -- to put aside

1 all your own problems, all your own daily requirements
2 and obligations, and the things that you aren't able to
3 do because you're sitting in here with us today. Put
4 aside any biases you may have, any personal
5 perceptions, anything at all, and everything except
6 your ability to listen carefully, closely.

7 Another thing that's very important in any kind
8 of testimony that is being offered is the demeanor of
9 the witness. And you're allowed to gauge whether you
10 believe or trust what they say, based on just how they
11 deliver it to you from that chair. You are the
12 complete arbiters of fact in this case. No one else.
13 The government will bring in what they think the facts
14 are, and they are going to present them to you. Part
15 of my role here is to challenge those facts, and I'm
16 going to ask you to challenge them, as well.

17 Mr. Voight talked to you about the evidence as
18 he intends to present it. Judge Harrington told you
19 we, as the defendants, are not required to present any
20 evidence at all. The evidence that will come before
21 you, again, is mostly scientific. He talked about DNA.
22 And all I'm going to say at this point is to ask you to
23 listen very closely and to make your own determination
24 as to the value, if any, of any of that scientific
25 evidence.

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1 He talked to you about Cheryl Snow's apartment,
2 that Oran Smith knew her. And I think I will have the
3 days right. There's a weekend in early June. She was
4 discovered dead in her apartment on that following
5 Monday. Oran Smith was with her that weekend. He
6 spent Saturday afternoon, Saturday night, and most of
7 Sunday morning with her in her apartment. You'll hear
8 the statement that he gave. He admitted to having a
9 relationship with her. He admitted to having sex with
10 her several times, that -- through the course of that
11 evening he had with her.

12 You will also hear, like Mr. Voight told you you
13 would, that he was not the only one who was with Cheryl
14 Snow that weekend that before she died. There were
15 other individuals who were in her home who had sex with
16 her. There were other individuals who called her or
17 came by her apartment at different times. There are
18 fingerprints within that apartment that cannot be
19 identified. Some of them were these other guys, some
20 of them were Ms. Snow's, some of them we don't know
21 whose they are. All of that, again, which will
22 transpire in the next couple of days. We ask that you
23 just pay very close attention,

24 The other piece of evidence that will be
25 presented is this statement. And as Mr. Voight told

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1 you, there are two of them. Oran did -- the police
2 came to his home on the first occasion. He went with
3 them voluntarily. He was not arrested, he was not
4 charged, and he spent hours with detectives at the
5 North Charleston Police Department. And he told
6 them -- not unlike some of the other guys that they
7 talked to, he admitted that he knew Cheryl, he admitted
8 that he had been with her, he admitted that he was in
9 her home, he admitted that he had sex with her, he
10 admitted that he had smoked some Newport cigarettes
11 that they found a package of. He didn't deny any of
12 that. He stayed and he talked with them for hours. At
13 the conclusion of that interview, he went back home.

14 Only a month and a week later after they had, in
15 Mr. Voight's words, chased a bunch of dead ends and
16 gotten this mysterious DNA evidence back, did they go
17 back to talk to Oran Smith. And, again, they went to
18 his home, he came voluntarily, went down to the police
19 station. And, yes, you will see a statement that was
20 taken from him at that time, by two officers, that he
21 signed.

22 What I'm going to ask you to do is to reserve
23 judgment on why he might have signed that until the
24 conclusion of this trial. And also what, if any, doubt
25 in that statement, under the circumstances in which it

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1 was taken, you may have.

2 You're going to hear, and it is unfortunate,
3 things that -- and you're going to see photographs that
4 we wish never had to be taken. And for that we
5 apologize. No trial of any case is an easy task, but
6 any time it's a case involving an untimely and violent
7 death, it's particularly -- and we appreciate that and
8 we appreciate that you are taking the time away from
9 your own life to sit in this room and to weigh this
10 evidence for Oran, but also for Cheryl Snow.

11 You are here to find the truth and once you then
12 find that truth, to render justice. Oran Smith
13 deserves justice, and Cheryl Snow deserves justice.
14 But for justice to be just, it must first be right.
15 Thank you.

16 THE COURT: Mr. Voight, call your first witness.

17 MR. VOIGHT: At this time, Your Honor, I believe
18 the State and the defense are going to enter into a
19 stipulation regarding the 911 tape.

20 THE COURT: All right. And that's State's 1?

21 MR. VOIGHT: That would be State's 1 [sic].

22 THE COURT: Do you wish to read this to the
23 jury, or do you wish the Court to read it.

24 MR. VOIGHT: However you wish it to be done,

25 Your Honor.

1 THE COURT: All right. Ladies and gentlemen, a
2 stipulation is simply an agreement between the two
3 parties. And so in this particular instance -- it's
4 typically done to save time. And so in this instance,
5 State's Exhibit 1 has been stipulated to as a true and
6 accurate recording of the 911 telephone call from
7 Thomas Stender to North Charleston Police Department
8 dispatch. If called to testify, both Thomas Stender
9 and Tonya Mallard, communication supervisor for the
10 City of North Charleston, would be able to testify to
11 the same and that said recording inexplicably fails to
12 record after Stender is transferred to EMS.

13 [Whereupon, State's Exhibit Number 5, CD of 911
14 call, is marked by the court reporter]

15 [Whereupon, State's Exhibit Number 6, CD of
16 crime scene, is marked by the court reporter]

17 MR. VOIGHT: Your Honor, at this time the State
18 would like to offer, file, and introduce and publish to
19 the jury what's now been marked as State's 5, based on
20 pretrial motions. It's gone from Exhibit 1 to 5.

21 THE COURT: All right.

22 MS. TAYLOR: No objection to that.

23 THE COURT: States 5 into evidence.

24 [Whereupon, State's Exhibit Number 5, CD of 911
25 call, is admitted into evidence by the Court]

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THE COURT: And you may publish it now.

MR. VOIGHT: Thank you very much, Your Honor.

[Whereupon, State's Exhibit Number 5, CD of 911
call, is played for the jury from 4:02 p.m. to 4:06
p.m.]

MR. VOIGHT: That's it, Your Honor.

THE COURT: Thank you.

MR. VOIGHT: The State calls Scott Hille.

[Whereupon, Mr. Hille comes forward]

THE CLERK OF COURT: Place your left hand on the
Bible, and raise your right.

[Whereupon, Mr. Hille is duly sworn by the clerk
of court as follows: do you swear or affirm that the
testimony that ye shall give the Court and jury in the
trial of this case shall be the truth, the whole truth,
and nothing but the truth, so help you God]

THE WITNESS: I do, so help me God.

THE CLERK OF COURT: Thank you. Please be
seated.

[Whereupon, Mr. Hille takes the witness stand]

THE CLERK OF COURT: For the record, if you will
please state your name, spelling your last name.

THE WITNESS: My name is Scott Hille, H-I-L-L-E.

MR. VOIGHT: Thank you, Judge.

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SCOTT HILLE,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. VOIGHT:

Q. Officer Hille, how are you assigned currently
with the North Charleston Police Department?

A. My current assignment is in K-9.

Q. And how were you assigned in June of 2007?

A. In June of 2007, I had an assignment on street
patrol.

Q. And how long have you been with the North
Charleston Police Department?

A. For about eight years.

Q. Now, did you have the occasion to investigate an
incident that occurred at 1253 Sumner Avenue, in North
Charleston, on June 4th, 2007?

A. Yes.

Q. Can you please describe for the jury what action
you took.

A. Yes. We received a dispatched radio call for an
unknown emergency-type situation. We were on patrol on
Sumner Avenue, and we were able to arrive almost
immediately following the radio dispatch. And we made
contact with the complainants in this case, who were

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1 neighbors, to the resident of -- the residence in
2 question, and they explained that they had found her door
3 ajar and they went inside to make a welfare check on her
4 and found her lying on the floor of the bedroom and
5 notified police.

6 Q. Were you the first unit to respond?

7 A. Yes.

8 Q. What did you see at the apartment when you got
9 there?

10 A. After talking with the complainants, we noticed
11 that the door was, in fact, ajar. Upon entering the
12 residence -- we weren't quite sure what was transpiring or
13 what to find. We produced our service weapons and made a
14 tactile entry, myself and my partner at the time, and
15 entering we noticed that the air conditioner was on high,
16 that the apartment was very cold, especially for June.
17 And we swept through the immediate room, which was like a
18 living room, into the kitchen, into the bedroom where we
19 discovered a lady laying on the floor.

20 I have some prior medical training, and made
21 contact with her. She was cold to the touch. She had a
22 good bit of rigor mortis. There was obvious signs of
23 lividity. I checked for a pulse and for respiration --

24 Q. And what is lividity?

25 A. Lividity has been described to me in my medical

1 training as the pooling of blood and blood fluids at the
2 lowest point in a body.

3 We made a check for a pulse and respirations.
4 There were none.

5 And we were able to clear almost the entire
6 apartment, with the exception of one door which could not
7 be opened because of where the body was laying.

8 Q. And what do you mean when you say clear the
9 apartment?

10 A. When you arrive on a scene, your first priority
11 is your own safety and the safety of others around. So
12 what we want to do is we want to make sure that there is
13 no immediate threats to our safety, you know, a potential
14 victim's safety, any civilian safety. So we want to check
15 and make sure behind every closed door, any place where
16 somebody could hide, that there isn't somebody lying in
17 wait to potentially do you harm, somebody else harm.

18 Q. After you made contact with what turned out to
19 be Ms. Snow, what was your duties as first responding
20 officer?

21 A. My duties would be to, again, clear the
22 residence, make sure that there is no other people there;
23 that immediately there is no evidence that is in danger of
24 being destroyed. The job then becomes to protect
25 absolutely every piece of evidence possible. We would

1 limit any entry into the place, cordon off an area that is
2 large enough that it would protect the crime scene, any
3 evidence in the area, and then begin a log which would
4 basically note and show every officer, every medically-
5 related person, every fire-related person, that would come
6 in and out of that scene that we created.

7 Q. And once you've secured the scene, is it your
8 job to wait, then, for the next responding unit?

9 A. It's our job to notify our supervisors, who will
10 respond and make any necessary notifications. And then we
11 kind of follow their direction from there. But ultimately
12 it's to protect, and wait for the remaining of the
13 investigators to get there.

14 Q. And you were able to do that until the rest of
15 the units arrived?

16 A. Yes.

17 MR. VOIGHT: The State would tender this witness
18 at this time.

19 THE COURT: Ms. Taylor?

20 MS. TAYLOR: Thank you, Your Honor.

21 Good afternoon.

22 CROSS-EXAMINATION

23 BY MS. TAYLOR:

24 Q. Do you know what time you arrived there?

25 A. I can refer to the report.

1 [Whereupon, the witness reviews documents]

2 A. We were dispatched via police radio at 1920
3 hours, which is 7:20 p.m. And I remember very clearly
4 being within an extremely proximity, within a half mile,
5 quarter mile. So we probably arrived within a minute or
6 less.

7 Q. [Ms. Taylor] And what time is that in civilian
8 time?

9 A. It would be 7:20, 7:21.

10 Q. Do you remember that time of year if it would
11 have been daylight?

12 A. Yes.

13 Q. And you were referring to a report there?

14 A. Yes, ma'am.

15 Q. And may I see that?

16 A. Yes, ma'am.

17 [Whereupon, Ms. Taylor reviews documents]

18 Q. [Ms. Taylor] And that is a two-page report? Or
19 about one-and-a-quarter page?

20 A. It's a two-page report, correct, and a quarter.

21 Q. And is that the only report that you prepared as
22 a part of this investigation?

23 A. Yes, ma'am. This is the incident report which I
24 wrote on the evening of June 4th.

25 Q. And was Ms. Snow's apartment in an apartment

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1 complex?

2 A. Can I ask you to qualify that a little more?
3 It's a series of small apartment buildings, single-story.
4 I believe some of the buildings are connected, but it's on
5 a cul-de-sac off of Sumner Avenue.

6 Q. So there are -- do you have any idea how many
7 little homes are in there?

8 A. I could venture a guess but in fear of being
9 incorrect, I -- I know there are several. This was
10 apartment one or two at 1253 Sumner Avenue.

11 Q. And you also mentioned that someone -- I don't
12 know if it was you or not -- would be responsible for a
13 log?

14 A. Uh-huh.

15 Q. Would that be you?

16 A. We initially were, yes.

17 Q. And do you have that log?

18 A. It's part of the crime-scene paperwork.

19 Q. Would that be included in CADS operation report,
20 or is that a separate log?

21 A. That would be a separate log that -- the CADS
22 would be the dispatcher's notes of the radio traffic that
23 evening. This would be a crime-scene log which we would
24 have furnished to the crime-scene technicians or the
25 investigating detectives once we were released from the

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1 scene.

2 Q. Did you interview anyone there, neighbors,
3 friends of Ms. Snow?

4 A. Traditional interview, just -- no. We just
5 received, you know, basic, simple contact like, you know,
6 hey, we called the police, well, what did you find, and
7 they would explain, you know, we found the door open; when
8 we went to check on her, she's lying on the floor; and we
9 called you guys.

10 Q. Did you participate in getting formal taking of
11 written statements from any of those witnesses?

12 A. Not that I recollect.

13 Q. Do you remember who you spoke to?

14 A. I can refer back to the complainant, who in here
15 is labeled as Tommy Albert Stender.

16 Q. And that would have been Mr. Stender who we
17 heard just now on the 911 tape?

18 A. I didn't hear the tape.

19 Q. Oh, you -- that was the gentleman who discovered
20 Ms. Snow's body?

21 A. Yes. Yes.

22 Q. Thank you.

23 And did you take into custody any actual
24 evidence from the apartment, or you just sort of cordoned
25 it off and protected it?

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1. A. It was -- from my recollection, all I did was
2. cordon everything off: produced crime-scene tape, made a
3. large enough perimeter where, you know, we could protect
4. the immediate scene and there wouldn't be any issues from
5. people coming inside.

6. MS. TAYLOR: Thank you very much.

7. MR. VOIGHT: No further questions of this
8. witness. I would ask that he be excused.

9. THE COURT: Any objection to this witness --

10. MS. TAYLOR: None, Your Honor.

11. THE COURT: You may step down. You are free to
12. remain in the courtroom, but you are also free to
13. leave. Thank you.

14. THE WITNESS: Thank you.

15. [Whereupon, the witness is excused and exits the
16. witness stand]

17. THE COURT: Call your next witness.

18. MR. VOIGHT: The State would call Angela Bunker.

19. [Whereupon, Ms. Bunker comes forward]

20. THE CLERK OF COURT: Place your left hand on the
21. Bible. Raise your right.

22. [Whereupon, Ms. Bunker is duly sworn by the
23. clerk of court as follows: do you swear or affirm that
24. the testimony that ye shall give this Court and jury in
25. the trial of this case shall be the truth, the whole

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1 truth, and nothing but the truth, so help you God]

2 THE WITNESS: Yes, ma'am.

3 THE CLERK OF COURT: Thank you. Please be
4 seated.

5 [Whereupon, Ms. Bunker takes the witness stand]

6 THE CLERK OF COURT: For the record, please
7 state your name, spell your last name.

8 THE WITNESS: Angela Bunker. B-U-N-K-E-R.

9 MR. VOIGHT: May it please the Court.

10 THE COURT: Yes, sir.

11 - - - - -

12 ANGELA BUNKER,

13 Having Been First Duly Sworn,

14 was Examined and Testified as Follows:

15 DIRECT EXAMINATION

16 BY MR. VOIGHT:

17 Q. Officer Bunker, how are you currently assigned?

18 A. I am currently assigned to the south patrol,
19 midnights unit.

20 Q. Where were you assigned in June of 2007?

21 A. June 2007 I was currently assigned to the
22 forensic unit of North Charleston Police Department.

23 Q. Is the forensic unit what we commonly refer to
24 as crime scene and crime lab?

25 A. Yes, sir.

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1 Q. And approximately how long have you been with
2 the North Charleston Police Department?

3 A. Since 2000.

4 Q. And how much of that time did you spend with the
5 forensic unit?

6 A. Approximately four and a half years.

7 Q. Did you have the occasion on June 4th, 2007, to
8 respond to a crime scene at 1253 Sumner Avenue, Apartment
9 102?

10 A. Yes, sir.

11 Q. How many people from the forensic unit were
12 called out to that particular scene? Do you recall?

13 A. I believe the entire unit was called out to
14 that, sir.

15 Q. Were you the first to arrive?

16 A. As a forensics unit, yes, sir.

17 Q. And what are your duties when you're the first
18 to arrive as the forensics unit?

19 A. As a forensics unit, when I first arrive I need
20 to ensure that the unit -- the scene has been secured by
21 patrol, a crime-scene log has been started, and also to
22 take the initial pictures at the scene.

23 Q. Do you recall what you did when you first got to
24 the scene?

25 A. May I have a copy of my report?

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1 Q. Would it refresh your recollection to look at
2 your report?

3 A. Yes, sir.

4 [Whereupon, Mr. Voight and Ms. Taylor confer]
5 MS. TAYLOR: The Court's indulgence, Your Honor.
6 THE COURT: Yes, ma'am.

7 [Whereupon, Mr. Voight and Ms. Taylor confer]
8 MR. VOIGHT: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 [Whereupon, Mr. Voight proffers documents to the
12 witness]

13 Q. [Mr. Voight] Do you recall what the first thing
14 was you did when you responded to the scene?

15 A. The first thing that I did was to confirm that a
16 crime log had been started. Upon arrival, one of the
17 patrol officers, Officer Hille, had already started
18 placing crime-scene tape around the residence and then PFC
19 Hille directed me through the scene, the initial scene
20 itself.

21 Q. Now, did there come a time when you took a video
22 of the scene?

23 A. Yes, sir.

24 Q. Was that earlier on in the investigation that
25 night or was that later, after other things had occurred?

1 A. It was later, after other items had occurred,
2 after some processing had been done.

3 Q. And who assisted you in that process?

4 A. The other forensic units, Corporal Coker, and
5 also Sargent Garrison.

6 Q. If you can recall, approximately how soon after
7 you arrived did they arrive?

8 A. It was a good hour, I believe.

9 Q. And when more of the until arrived, did you then
10 begin to process the scene?

11 A. Yes, sir.

12 Q. And did you take photographs at the scene?

13 A. Yes, sir.

14 MR. VOIGHT: May I approach the court reporter,
15 Your Honor?

16 THE COURT: You may.

17 [Whereupon, State's Exhibit Number 12,
18 photograph, is marked by the court reporter]

19 [Whereupon, State's Exhibit Number 13,
20 photograph, is marked by the court reporter]

21 [Whereupon, State's Exhibit Number 14,
22 photograph, is marked by the court reporter]

23 Q. [Mr. Voight] Officer Bunker, I'm going to show
24 you what's been marked as State's Exhibit 12, 13 and 14,
25 and ask you if you could identify those.

1 A. This picture was taken in the bedroom.

2 Q. May I just ask you if you can identify -- are
3 you the person who took those pictures?

4 A. Yes.

5 Q. Is that part of your initial canvassing of the
6 scene, the -- with your camera?

7 A. Yes, sir.

8 Q. May I have those pictures back?

9 [Whereupon, the witness proffers documents to
10 Mr. Voight]

11 MR. VOIGHT: At this time the State would offer,
12 file, and introduce State's 12, 13, 14.

13 MS. TAYLOR: Without objection.

14 THE COURT: Mr. Voight, the exhibit numbers?

15 MR. VOIGHT: They are 12, 13 and 14, Your Honor.

16 THE COURT: 12, 13 and 14 into evidence without
17 objection.

18 [Whereupon, State's Exhibit Number 12,
19 photograph, is admitted into evidence by the Court]

20 [Whereupon, State's Exhibit Number 13,
21 photograph, is admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 14,
23 photograph, is admitted into evidence by the Court]

24 THE COURT: You may publish.

25 MR. VOIGHT: Thank you very much, Your Honor.

1 Q. [Mr. Voight] I am putting on the screen here
2 what has been previously marked as State's 12. What is
3 that a picture of, Officer Bunker?

4 A. That is a picture of a beer can that was on a
5 shelf to the left of the doorway. It's a 2.11 beer can.

6 MR. VOIGHT: May I approach the court reporter
7 again, Your Honor?

8 THE COURT: You may.

9 [Whereupon, State's Exhibit Number 15, bag
10 containing beer can, is marked by the court reporter]

11 Q. [Mr. Voight] Officer Bunker, I'm going to show
12 you what's been marked as State's Exhibit 15 and ask you
13 if you can identify that.

14 A. This is my packaging of the items of the Steel
15 Reserve beer can that's in that photograph.

16 Q. So what you are holding as State's Exhibit 15 is
17 the very same beer can that is found in that picture?

18 A. Yes, sir.

19 MR. VOIGHT: At this time the State would offer,
20 file, and introduce State's Exhibit 15.

21 MS. TAYLOR: Without objection.

22 THE COURT: State's 15 into evidence without
23 objection.

24 [Whereupon, State's Exhibit Number 15, bag
25 containing beer can, is admitted into evidence by the

1 Court]

2 Q. [Mr. Voight] Was that particular can processed
3 for latent fingerprints?

4 A. Yes, sir.

5 Q. I'm going to place on the screen here what's
6 been previously marked as State's Exhibit 13. Officer
7 Bunker, what does that depict?

8 A. Stacks of CDs that were located on top of a
9 dresser area.

10 MR. VOIGHT: May I approach the court reporter
11 again, Your Honor?

12 THE COURT: You may.

13 [Whereupon, State's Exhibit Number 16, CDs, is
14 marked by the court reporter]

15 MR. VOIGHT: May I approach the witness, Your
16 Honor?

17 THE COURT: You may.

18 MR. VOIGHT: This is like a ballet, sometimes.

19 Q. [Mr. Voight] I would hand that to you and ask
20 you if you could identify that.

21 A. This is miscellaneous CDs and some plastic
22 casings that's located in that picture right there.

23 Q. I'm going to put on the screen here what's been
24 previously marked as State's Exhibit 14. And, again, what
25 is that? What picture is that there? What is that?

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1 A. That's a picture of the bed that was located in
2 the room, towards the bottom where the feet would go.

3 Q. Were the CDs that you have --

4 MR. VOIGHT: Did we already put those in
5 evidence?

6 [Whereupon, Mr. Voight and Ms. Taylor confer]

7 MR. VOIGHT: Number 16. At this time the State
8 would offer, file and introduce 16 into evidence, Your
9 Honor.

10 MS. TAYLOR: Without objection.

11 THE COURT: State's 16 into evidence without
12 objection.

13 MR. VOIGHT: Thank you very much, Your Honor.

14 [Whereupon, State's Exhibit Number 16, CDs, is
15 admitted into evidence by the Court]

16 Q. [Mr. Voight] The CDs that were -- that you have
17 here in State's 16, were those tested for fingerprints, as
18 well?

19 A. Yes, sir.

20 Q. And who did that fingerprint test?

21 A. The fingerprints were lifted --

22 Q. Do you know who did the lifting?

23 A. It would be on the back on the fingerprint cards
24 which Sargent Hallman would have.

25 Q. But these were items -- who determined that

1 these were items of interest? Was that -- would that have
2 been your decision on the scene?

3 A. Yes, sir.

4 Q. Approximately how long were you on the scene?

5 A. For quite some time. Several hours.

6 MR. VOIGHT: May I approach the court reporter
7 again, Your Honor?

8 THE COURT: You may.

9 [Whereupon, State's Exhibit Number 17, Newport
10 box, is marked by the court reporter]

11 [Whereupon, State's Exhibit Number 18, coffee
12 mug, is marked by the court reporter]

13 Q. [Mr. Voight] I'm going to hand you what's been
14 marked as State's Exhibit 18 and State's Exhibit 17, ask
15 you if you could identify those things.

16 A. This is a Newport box which was located in the
17 room, and also a coffee mug.

18 Q. Was that --

19 MR. VOIGHT: At this time the State would offer,
20 file, and introduce State's 17 and 18.

21 MS. TAYLOR: Without objection.

22 THE COURT: 17 and 18?

23 MR. VOIGHT: And 18. Yes.

24 THE COURT: 17 and 18, without objection.

25 [Whereupon, State's Exhibit Number 17, Newport

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1 box, is admitted into evidence by the Court]

2 [Whereupon, State's Exhibit Number 18, coffee
3 mug, is admitted into evidence by the Court]

4 Q. [Mr. Voight] Was the coffee mug tested for
5 fingerprints, as well? Do you know?

6 A. Yes, sir.

7 Q. And did you dust for prints while you were out
8 there?

9 A. Yes, sir. The entire unit did.

10 Q. The entire unit did.

11 And can you describe just briefly to the jury
12 what that means, to dust for prints?

13 A. On most surfaces such as any of the ones that
14 have been brought forth, the beer can, any CDs, any cases,
15 they're surfaces that can be processed with black powder,
16 which is simply using a volcanic powder and a brush to
17 brush this powder onto the surface, which will illuminate
18 a -- not illuminate, but will bring forth a latent print,
19 if there is one, or any latent details. And then you
20 simply place -- lay tape on that, which will bring the
21 latent off of the surface, and you place it onto a card
22 which will be sent to the identification people at a later
23 time.

24 MR. VOIGHT: May I approach the court reporter
25 again, Your Honor?

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1 THE COURT: You may.

2 [Whereupon, State's Exhibit Number 19, video, is
3 marked by the court reporter]

4 Q. [Mr. Voight] I'm going to show you what's been
5 marked as State's Exhibit 19, ask you if you could
6 identify that. What is that?

7 A. This is the original tape that I videoed while
8 on-scene.

9 Q. I'm going to show you what's been marked as
10 State's Exhibit 6 and ask you if you can identify that.

11 A. State's Exhibit 6 is going to be a copy of the
12 tape onto DVD, simply because it's a more modern way of
13 transactioning it.

14 MR. VOIGHT: At this time the State would offer,
15 file, introduce State's 19 and 6.

16 MS. TAYLOR: Without objection, Your Honor.

17 MR. VOIGHT: At this time, Your Honor --

18 THE COURT: State's 6 and 19 into evidence
19 without objection.

20 [Whereupon, State's Exhibit Number 6, DVD, is
21 admitted into evidence by the Court]

22 [Whereupon, State's Exhibit Number 19, video, is
23 admitted into evidence by the Court]

24 MR. VOIGHT: At this time, Your Honor, the State
25 requests publishing State's 6 to the jury.

1 THE COURT: You may.

2 Q. [Mr. Voight] While we're setting this up,
3 Officer Bunker, what is the purpose of videotaping the
4 crime scene?

5 A. The purpose of videotaping the crime scene is
6 for several reasons. It gives the detectives a chance to
7 see the scene, because we don't bring every person who
8 needs to see the scene into it simply because whatever you
9 bring in you can leave something, also. So it gives more
10 people the opportunity to see the scene. It also helps us
11 to recall exactly where things were. Sometimes you can't
12 recall where a certain item was located. In a video you
13 can more or less pan through and see exactly where that
14 was located. It's more use for follow-ups and for
15 discovery items more than anything.

16 Q. Is this the -- a copy of the video that you
17 filmed that night?

18 A. Yes, sir.

19 Q. What kind of camera did you use?

20 A. It's a high-8 regular camera like you would use
21 for family vacations.

22 Q. Do you normally narrate these, or are these done
23 silently?

24 A. They're supposed to be done silently.

25 [Whereupon, State's Exhibit Number 6, DVD, is

1 played for the jury from 4:30 p.m. to 4:44 p.m.]

2 Q. [Mr. Voight] Officer Bunker, we're going to
3 pause it just briefly. What is all that? What are all
4 those black marks on the door?

5 A. The darker marks that you see on the door is the
6 volcanic powder that I was speaking of when we
7 fingerprint. We were trying to locate any fingerprints
8 that might have been on the front door.

9 Q. Okay. So that's North Charleston forensic
10 unit's police work right there on the front door?

11 A. Yes, sir.

12 Q. Okay. In the lower part of that screen, Officer
13 Bunker, is that a North Charleston forensic-unit camera?

14 A. Yes, sir.

15 Q. So that was not obviously there?

16 A. No, sir. Whenever we start the video, whoever
17 is doing the video pretty much keeps everybody off the
18 scene, where you don't have any distractions or anything,
19 and you just kind of stop where you're at when the video
20 is done and then you pick back up.

21 Q. So if anybody was doing work in that room, they
22 would have gotten out so that you could walk through with
23 the video?

24 A. Yes, sir.

25 Q. What is that in the cage there? Do you know?

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1 A. It's a bunny.

2 Q. Officer Bunker, what did you believe the
3 significance of that that you just filmed --

4 A. Through experience, I've learned that a lot of
5 times the defendants would rip out the phone cord where
6 they can't dial 911 or where they can't call for any kind
7 of help.

8 Q. Officer Bunker, is one of those mugs the mug
9 that we've entered into evidence and that you've testified
10 about?

11 A. Yes, sir.

12 Q. Officer Bunker, is that the can that you
13 previously testified to?

14 A. Yes, sir.

15 Q. Officer Bunker, why are the bags placed over her
16 hands?

17 A. Bags are placed on the hands in reference to a
18 gunshot residue kit. It protects any other items from
19 getting on there prior to the gunshot residue being
20 completed.

21 [Whereupon, State's Exhibit Number 6, DVD,
22 concludes]

23 MR. VOIGHT: The State would tender this
24 witness, Your Honor.

25 THE COURT: Ms. Taylor?

1 MS. TAYLOR: Thank you, Your Honor.

2 Good afternoon.

3 CROSS-EXAMINATION

4 BY MS. TAYLOR:

5 Q. Ms. Bunker, are you a police officer?

6 A. Yes, ma'am.

7 Q. I'm sorry. What is the appropriate title for me
8 to call you? Officer Bunker or --

9 A. Yes.

10 Q. Officer? Thank you.

11 I think you told us that you were with the
12 forensic unit. Was it four-and-a-half years?

13 A. Yes, ma'am.

14 Q. And that was starting in 2000?

15 A. No, ma'am. I've worked for the -- I've worked
16 for the police department since 2000.

17 Q. And when did you start with the forensic unit?

18 A. I don't know. '03, I believe. Or, no. I'm not
19 quite sure when. I think it --

20 Q. But you were with them for some period of time
21 for --

22 A. Yes, ma'am.

23 Q. -- for four-and-a-half years. Are you still
24 with them now?

25 A. No, ma'am. I've just been transferred back to

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1 the street.

2 Q. When did you get transferred out of the forensic
3 unit?

4 A. In March.

5 Q. In March. Okay.

6 So if we count back, then, that puts us --

7 A. Yeah, pretty much.

8 Q. Right? Okay.

9 And you said also that you thought all of the
10 forensic team was brought out that evening. How many of
11 y'all are there?

12 A. That night we had Sargent Hallman, Sargent
13 Garrison, Corporal Coker, and myself. And those are
14 the -- I don't believe Scott Wyant actually came to the
15 incident location.

16 Q. So there would be five of you all together, and
17 four were at the incident location?

18 A. Yes.

19 Q. And you said that the purpose of making the
20 video was essentially to preserve a record?

21 A. Yes, ma'am.

22 Q. And, obviously, we all just saw the video. Is
23 this a special kind of video camera, or is it just like
24 the same ones most of us would use?

25 A. It's the same kind of camera, that you could go

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1 buy just about anywhere, that take the small high-8 tapes.

2 Q. And does it have the ability to pick up sound if
3 you need to?

4 A. Yes, ma'am.

5 Q. You just turned it off, for whatever reason,
6 while you're doing the crime scene?

7 A. Yes, ma'am.

8 Q. Do you know how many of those video cameras
9 North Charleston has?

10 A. Currently? No, ma'am.

11 Q. Is it more than one?

12 A. I believe so, yes, ma'am.

13 Q. And in that -- somewhere about in the middle of
14 it you are shooting, and you're in the bedroom and the
15 camera is on what appears to be cloth, white cloth with
16 some blue flowers. Do you remember that?

17 A. Yes, ma'am.

18 Q. What is that?

19 A. If I'm correct, it was a pajama shirt or some
20 kind of pajamas.

21 Q. Did you -- do you know whether that would have
22 been the pajama top that would have been matched to the
23 pajama bottoms that were found on Ms. Snow?

24 A. I don't have that documented, ma'am. I can't
25 tell you for sure.

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1 Q. And it was found, again -- would that have been
2 to the left side of the bed on the floor of the bedroom?

3 A. No, ma'am. That was located on the bed, the
4 side that was next to the wall.

5 Q. So the pajama top is just on top of the bed?

6 A. Yes, ma'am.

7 Q. Did you do any testing on the pajama top?

8 A. No, ma'am.

9 Q. That wasn't even sent to SLED?

10 A. I do not believe so, ma'am.

11 Q. And the photograph that you talked about the
12 telephone, could you tell if it was yanked out, cut out?

13 A. No, ma'am. I personally could not tell. The
14 only thing that concerned me is that it was not connected.
15 It was unable to be used at the time.

16 Q. Was that the only phone in the apartment?

17 A. Yes, ma'am.

18 Q. Do you know if the phone is pulled out and it
19 appeared that the wires were yanked out of the little plug
20 that's still in the wall? Is that your recollection?

21 A. Yes, ma'am.

22 Q. Do you know whether that is done, that if
23 someone calls that phone it will ring? Or will we get
24 that, I'm sorry, the number has been disconnected?

25 A. I have no clue, ma'am.

1 Q. You didn't try to call the number of anything
2 while you were there?

3 A. No, ma'am.

4 Q. And you had indicated that on the front door, at
5 least, there had been some dusting for fingerprints; is
6 that correct?

7 A. Yes, ma'am.

8 Q. Were any latent prints taken from the door?

9 A. I am -- I cannot guarantee you that, ma'am. I
10 wasn't the only one lifting prints.

11 Q. But that's what all that marking is for?

12 A. Yes, ma'am.

13 Q. When you see the dust, somebody thought they saw
14 something?

15 A. No, ma'am. You don't have to be able to see any
16 latent prints to process for it. You can have something
17 in front of you and if it's that kind of material, you can
18 print and the powder will present the latent, if there is
19 one.

20 Q. So you put the dust up so you can see better
21 what you might can find?

22 A. Yes, ma'am.

23 Q. Was all of that done prior to you doing the
24 crime-scene video, or was some done after? If you know.

25 A. Not all the processing was completed when I did
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1 the video. It was just an appropriate time to be able to
2 do it.

3 Q. Did you have anything to do with securing that
4 telephone? taking it into custody?

5 A. No.

6 Q. Do you know whether that was done by someone?

7 A. No, ma'am, I'm not positive.

8 Q. Do you know whether anyone dusted the phone?

9 A. The phone was dusted.

10 Q. And do you know whether any latents were
11 recovered from the phone?

12 A. I am not sure, ma'am.

13 Q. And the door was ajar when you filmed. How did
14 it become ajar at that point?

15 A. By that time, there had already been officers.
16 First-responding officer PFC Hille had already been in the
17 residence, and he had also searched the residence for any
18 unknown defendants or anything abnormal, a perp.

19 Q. So obviously the door had been opened and people
20 had been in the apartment?

21 A. Yes, ma'am.

22 Q. And then it was closed and then ajar for
23 purposes of filming?

24 A. Yes, ma'am.

25 Q. And who, if anyone, directed you to close it and

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1 then open it ajar --

2 A. I closed it, for the purposes where you are able
3 to see the numerics on the door, to get the outside area.
4 And I closed it once I entered for the same purposes, to
5 be able to close it to see what it would look like, and
6 also to keep the outside -- where the detectives, the
7 other forensic units, and the officers are outside. That
8 way it cuts the noise down, and also it didn't disrupt
9 anything.

10 Q. And there appeared from the video, in one area
11 of the door above the knob, that's some sort of
12 indentation on the door itself. Do you know what that
13 was?

14 A. On the exterior?

15 Q. Yes.

16 A. On the exterior of the door there was a small
17 dent above the knob. And then there was also some damage
18 -- I believe that maintenance told us it was prior damage,
19 if I'm correct on that.

20 Q. Do you have any idea what would have caused that
21 small dent?

22 A. No, ma'am.

23 Q. And do you know when the prior damage had
24 occurred?

25 A. No, ma'am.

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1 Q. The body of Cheryl Snow as depicted in that
2 video was not the way that she was found; is that correct?

3 A. Correct.

4 Q. She had been moved, turned over, and bags had
5 been placed. Anything else done that you're aware of?

6 A. She was turned over at that point other than --
7 nothing was removed from her, or any of that, at that
8 point --

9 Q. Do you have any idea why that would have been
10 done prior to the preservation of the crime scene?

11 A. It depends on what the sargent's call is if we
12 actually do the video while the body is still on scene or
13 if we wait for transport. And she was about to be
14 transported and we decided to go ahead and do the video,
15 where you could see the ligature prior to transport.

16 Q. And you prepared a report?

17 A. Yes.

18 Q. Is it just one dated June 5th, 2007?

19 A. I'm sorry?

20 Q. Was it just one report that's written and typed
21 dated June the 5th, 2007?

22 A. Yes, ma'am, I believe so.

23 Q. Do you have that with you?

24 A. Yes, ma'am.

25 Q. And I think just reviewing that, there was no

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1 indication from what you could tell at the scene -- you
2 indicated in the second paragraph down that all clothing
3 that she was wearing was worn as designed to be worn.

4 A. Correct.

5 Q. She had on a pair of panties and she had on a
6 camisole top?

7 A. Yes, ma'am.

8 Q. Any indication to any kind of damage to either
9 of those articles of clothing

10 A. Not as I could tell on the scene, ma'am.

11 Q. And farther down in the next paragraph there's
12 an indication that there was a wooden, round container
13 with several bottles of medication prescribed to Ms. Snow.
14 Could you tell whether -- do you see where I am?

15 A. No, ma'am.

16 Q. I'm sorry. It's the third paragraph, the last
17 line.

18 A. Yes, ma'am.

19 Q. Is there any indication that any pills were
20 missing from those medications? Were they intact?

21 A. They were intact.

22 Q. And do you remember how many there were?

23 A. No, ma'am. I believe the coroner would have
24 that information.

25 Q. I'm sorry?

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1 A. I believe the coroner would have that
2 information.

3 Q. Thank you.

4 And then at the top of the second page it
5 indicates, third line down, that there was miscellaneous
6 medication taken from the dresser. Was that a different
7 set of medication, or is that the same stuff we just
8 talked about?

9 A. I believe it's going to be a different set.

10 Q. And was that prescription medication, as well?

11 A. I am unable to be sure on that.

12 Q. And there's also indicated that a love letter
13 written to the victim was taken from the dresser. Do you
14 know who wrote that letter to her?

15 A. No, ma'am.

16 Q. And the only other thing: down in the next-to-
17 the-last paragraph, is that -- indicated from trash can,
18 there were several -- I'm sorry. This is the next to the
19 last paragraph, last -- next to the last line: two red
20 Lifestyle condom packages from the trash, and two black
21 Lifestyle condom packages from the trash. Did you recover
22 those?

23 A. Yes, ma'am.

24 Q. And those were used condom packages?

25 A. Yes. They were opened, yes, ma'am.

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1 Q. Empty?

2 A. Uh-huh.

3 Q. And do you have the Newport pack of cigarettes
4 with you?

5 A. Yes, ma'am.

6 Q. Do you remember whether it had any cigarettes in
7 it?

8 A. I don't recall it having any, but I cannot
9 guarantee it.

10 MS. TAYLOR: May we open this, Your Honor?

11 THE COURT: Mr. Voight, any objection --

12 MR. VOIGHT: I'm sorry?

13 THE COURT: -- to opening the evidence?

14 MS. TAYLOR: I just want to open the cigarettes.

15 MR. VOIGHT: Oh. No objection.

16 MS. TAYLOR: I'm going to let you --

17 THE COURT: You may open.

18 Q. [Ms. Taylor] Are there any cigarettes in it?

19 A. No, ma'am.

20 Q. And that would have been the way you found it;
21 is that correct?

22 A. Yes, ma'am.

23 Q. Thank you.

24 Now, other than what you've already told us,

25 Ms. Bunker, about taking the crime-scene video -- and did

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1 you tell us you took still shots, as well?

2 A. Yes, ma'am.

3 Q. Have we looked at those with you yet?

4 A. For the most part, yes, ma'am.

5 Q. So they're sort of the same?

6 A. Yes, ma'am.

7 Q. Other than that, did you do anything else in the
8 investigation of this case?

9 A. I also met with detectives in reference to a
10 search warrant on the defendant's residence.

11 Q. And that would be Oran Smith?

12 A. Yes.

13 Q. And did you go to his residence, as well?

14 A. Yes.

15 Q. And did you photograph his bedroom?

16 A. Yes, ma'am.

17 Q. And that was at his parents' house up in Moncks
18 Corner?

19 A. Yes, ma'am.

20 Q. And did you take anything that we have with us
21 in court today from his apartment?

22 A. A cigar wood box I collected, along with a
23 black-and-white composition book, a Bank of America debit
24 card with the name Stephanie Austin --

25 Q. I'm sorry. What was the name?

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1 A. Stephanie Austin.

2 Q. Stephanie Austin?

3 A. Yes, ma'am.

4 Q. Also the defendant's identification card,
5 another cigar case, and a white tank top which
6 presumptively tested for blood.

7 Q. Whose blood was on that tank top?

8 A. I believe it came back to be the defendant, but
9 I don't have the study in front of me.

10 Q. Can I see the report that you're looking at?
11 [Whereupon, the witness proffers documents to
12 Ms. Taylor]

13 [Whereupon, Ms. Taylor reviews documents]

14 Q. [Ms. Taylor] I'll ask you just to look one more
15 time. That Austin, is it Stephanie or is it Stephen?

16 A. Oh. Stephen. I'm sorry.

17 Q. And were you also involved with taking consent
18 to body search for any individuals involved in the
19 investigation of this case?

20 A. I did do a swab. Yes, ma'am.

21 Q. Okay. And did you actually take them, or you
22 were just a witness to the consent?

23 A. I did an oral swab on Mr. Creech.

24 Q. And what about the other one?

25 A. I believe I might have been a witness on that

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1 one. I don't have the consent in front of me.

2 [Whereupon, Ms. Taylor proffers documents to the
3 witness]

4 Q. [Ms. Taylor] For identification purposes --

5 A. Thank you.

6 Q. -- to assist you in your recollection.

7 Is that your signature on it?

8 A. Yes, ma'am. I was a witness on this one.

9 Q. Okay. And what is that?

10 A. That just states that I was present when the
11 consent was given.

12 Q. And the consent was given to do what?

13 A. It was for a body search, but it's no invasive
14 movements or anything like that, just strictly a DNA swab
15 of the mouth, of a cheek.

16 Q. And who consented?

17 A. I didn't -- I'm sorry, ma'am.

18 Q. I should have left it with you.

19 A. This is by Mr. Gettis.

20 Q. And what are y'all looking for with those
21 consent to body searches? What are you taking from them
22 to compare for?

23 A. DNA.

24 Q. Other than what we've talked about here this
25 afternoon, is there anything else that you are aware of

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1 that you had your hands on, as far as the investigation?

2 A. No, ma'am.

3 Q. And you communicated with the folks within your
4 department, as well as SLED; is that right?

5 A. Yes, ma'am.

6 Q. And do you remember --

7 MS. TAYLOR: Court's indulgence, Your Honor.

8 THE COURT: Yes, ma'am.

9 [Whereupon, Ms. Taylor and Mr. Voight confer]

10 Q. [Ms. Taylor] Did you collect -- there are two
11 pieced of clothing that were wrapped around Ms. Snow's
12 neck from her and sent it to SLED. Was that someone else?

13 A. That would have been Corporal Wyant.

14 Q. I'm sorry?

15 A. Corporal Wyant.

16 Q. Wyant. Okay.

17 MS. TAYLOR: Court's indulgence one moment, Your
18 Honor.

19 [Whereupon, Ms. Taylor and Mr. Nixon confer]

20 MS. TAYLOR: Thank you very much, Officer.

21 MR. VOIGHT: Briefly.

22

23

24

25

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1 someone is going to ask you what kind of case you're
2 sitting on. You are not allowed to discuss what has
3 gone on, or begin your deliberations.

4 Again, also do not read, watch, listen to, or do
5 any independent research regarding this case. As I
6 indicated to you, everything must come from the witness
7 stand and any exhibits, not from anything outside
8 should there be anything on the television, internet or
9 newspapers.

10 We will not begin -- I have some matters
11 unrelated to this case that I must take up in the
12 morning. And we will begin at noon. And so what that
13 means is that you need to eat a hardy breakfast, and we
14 will go until about 5:00. So we will not have a lunch
15 break, since we're getting a later start than normal.

16 Again, have a wonderful evening, and maybe some
17 of you will get to sleep in since you don't have to go
18 to your normal scheduled job. But I will see you
19 tomorrow at noon. Thank you.

20 Please rise for the jury.

21 [Whereupon, the jury exits the courtroom at
22 5:09 p.m.]

23 THE COURT: Thank you. Be seated.

24 Any matters before we recess?

25 MR. VOIGHT: No, Your Honor.

REDIRECT EXAMINATION

BY MR. VOIGHT:

Q. Officer Bunker, do you know who took the DNA swab from the defendant Oran Smith?

A. No, ma'am.

MR. VOIGHT: Thank you. No further questions of this witness.

THE COURT: Ms. Taylor?

MS. TAYLOR: Nothing further.

THE COURT: Officer, you may step down.

[Whereupon, the witness is excused and exits the witness stand]

MR. VOIGHT: I believe we need to approach, Your Honor.

THE COURT: All right.

[Whereupon, an off-the-record bench conference is held]

THE COURT: Ladies and gentlemen, we're going to go ahead and break for the evening. We were just discussing if we could have another witness on the witness stand and be out of here by 5:30, but we are going to go ahead and break for the evening.

Again, please remember my admonition. Do not discuss this case amongst yourselves, or with friends, family members. I know you're going to go home and

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1 THE COURT: Do you anticipate anything that we
2 will need to discuss before we bring the jury in in the
3 morning?

4 MR. VOIGHT: I don't anticipate anything, Your
5 Honor.

6 MS. TAYLOR: I don't have anything, Your Honor.

7 THE COURT: We will be in recess until noon.
8 Should there be anything that you think that we need to
9 address, if you would just e-mail my clerk and we'll
10 attempt -- if we can do it just quickly before the jury
11 comes in. Okay? Thank you. Have a good evening.

12 [JURY TRIAL ADJOURNS AT 5:09 P.M.]
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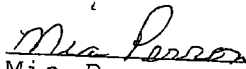
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Monday, June 15, 2009.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 4th day of June, 2010.


Mia Perron, CCR, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CCR, CVR-CM

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) INDICTMENT NO.: 2007-GS-10-13172

STATE OF SOUTH CAROLINA)
)
VS.)
)
ORAN SMITH,)
)
 DEFENDANT.)

JURY TRIAL

VOLUME 2 OF 4

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Tuesday, June 16, 2009, Commencing at 11:57 a.m.

SUSAN "MIA" PERRON, CCR, CVR-CM
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PROCEEDINGS

THE COURT: Thank you. Be seated.

We are still waiting on one juror. Are there any matters before we bring the jury in? From the State?

MR. VOIGHT: No, Your Honor.

THE COURT: From the defense?

MS. TAYLOR: No, ma'am. Thank you.

[Whereupon, a recess is taken from 11:52 a.m. to 12:01 p.m.]

MS. TAYLOR: May we approach?

THE COURT: You may.

[Whereupon, an off-the-record bench conference is held]

THE COURT: Be seated.

[Whereupon, the defendant enters the courtroom at 12:02 p.m.]

[Off the record momentarily]

THE COURT: Anything before we bring in the jury? From the State?

MR. VOIGHT: No, Your Honor.

THE COURT: From the defense?

MS. TAYLOR: [No response]

THE COURT: Ms. Taylor, are you ready to bring in the jury?

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1 MS. TAYLOR: Yes, ma'am.

2 THE COURT: All right. Please bring in the
3 jury.

4 Please rise for the jury.

5 [Whereupon, the jury enters the courtroom at
6 12:12 p.m.]

7 THE BAILIFF: Jurors are all present, Your
8 Honor.

9 THE COURT: Thank you. Please be seated.
10 Mr. Voight?

11 MR. VOIGHT: Thank you very much, Your Honor.

12 At this time the State and the defense have
13 entered into a stipulation, Your Honor. The
14 stipulation is that if we call to the stand North
15 Charleston police officer Angie -- Angela Bunker would
16 testify that State's Exhibit 8, 9, 11, 20, 21, 22, 23,
17 and 24 are prints of pictures that she took on June 4th
18 when she initially went to the crime scene.

19 THE COURT: And that was 8, 9, 11, 21, 22, 23,
20 and 24; is that correct?

21 MR. VOIGHT: As well as 20. 20, 21, 22, 23 and
22 24.

23 THE COURT: And no objection, Ms. Taylor?

24 MS. TAYLOR: Without objection.

25 THE COURT: Thank you.

1 MR. VOIGHT: At this time the State would move
2 those exhibits into evidence.

3 THE COURT: State's 8, 9, 11, 20, 21, 22, 23 and
4 24 are in evidence without objection.

5 [Whereupon, State's Exhibit Number 8,
6 photograph, is admitted into evidence by the Court]

7 [Whereupon, State's Exhibit Number 9,
8 photograph, is admitted into evidence by the Court]

9 [Whereupon, State's Exhibit Number 11,
10 photograph, is admitted into evidence by the Court]

11 [Whereupon, State's Exhibit Number 20,
12 photograph, is admitted into evidence by the Court]

13 [Whereupon, State's Exhibit Number 21,
14 photograph, is admitted into evidence by the Court]

15 [Whereupon, State's Exhibit Number 22,
16 photograph, is admitted into evidence by the Court]

17 [Whereupon, State's Exhibit Number 23,
18 photograph, is admitted into evidence by the Court]

19 [Whereupon, State's Exhibit Number 24,
20 photograph, is admitted into evidence by the Court]

21 MR. VOIGHT: Thank you very much.

22 MS. TAYLOR: Excuse me, Your Honor. May we
23 approach briefly?

24 THE COURT: You may.

25 [Whereupon, an off-the-record bench conference

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1 is held]

2 THE COURT: And State's 8 is in evidence
3 pursuant -- and over defense objection, pursuant to our
4 previous motions.

5 Mr. Voight?

6 MR. VOIGHT: Thank you, Your Honor.

7 MR. SIMPSON: Your Honor, at this time the State
8 would call Officer Scott Wyant, from the North
9 Charleston Police Department.

10 MR. SIMPSON: Permission to approach the
11 evidence, please.

12 THE COURT: You may.

13 [Whereupon, Mr. Wyant comes forward]

14 THE CLERK OF COURT: Place your left hand on the
15 Bible, and raise your right.

16 [Whereupon, Mr. Wyant is duly sworn by the clerk
17 of court as follows: do you swear or affirm that the
18 testimony that you shall give this Court and jury in
19 the trial of this case shall be the truth, the whole
20 truth, and nothing but the truth, so help you God]

21 THE WITNESS: I do.

22 THE CLERK OF COURT: Thank you, sir. Please be
23 seated.

24 [Whereupon, Mr. Wyant takes the witness stand]

25 THE CLERK OF COURT: For the record, please

1 state your name, and spell your last name.

2 THE WITNESS: Scott Cameron Wyant. W-Y-A-N-T.

3 MR. SIMPSON: How are you today, Officer Wyant?

4 THE WITNESS: Good. How are you?

5 - - - - -

6 SCOTT WYANT,

7 Having Been First Duly Sworn,

8 was Examined and Testified as Follows:

9 DIRECT EXAMINATION

10 BY MR. SIMPSON:

11 Q. What agency do you work for?

12 A. North Charleston Police Department.

13 Q. And what unit are you assigned to?

14 A. The crime-scene unit.

15 Q. And how long have you been assigned to that
16 unit?

17 A. A little over eleven years now.

18 Q. So you were working in that capacity in June of
19 2007?

20 A. That's correct.

21 Q. Do you recall becoming involved in a case on
22 June 6th of 2007?

23 A. That's correct. I was.

24 Q. And what was your involvement in that case?

25 A. I attended the autopsy of the victim.

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1 Q. Would it help refresh your recollection if you
2 had a copy of your report?

3 A. I have one.

4 Q. You have it?

5 A. Yes, sir.

6 Q. And, now, what is the purpose of having a crime-
7 scene officer respond to an autopsy?

8 A. We go to the autopsy so we can -- as part of the
9 investigation we can take photographs, we collect
10 evidence. And we can also see firsthand, and get
11 firsthand, usually what the cause of death was.

12 Q. Can you describe to the jury the -- what you
13 observed in regard to the body when you responded to this
14 victim?

15 A. Yeah. When I responded there, the victim didn't
16 have any clothes on. She had a ligature around her neck,
17 tied around her neck, made out of her -- I guess out of a
18 pair of pajama bottoms.

19 Q. And can I stop you briefly. I'm going to show
20 you what's previously been moved into evidence as State's
21 Exhibit 8. It's going to be displayed behind you. It's a
22 photograph taken from the crime scene. You described the
23 ligature as pajama bottoms. Is that an accurate
24 representation of how the pajama bottoms were situated
25 when you arrived at the autopsy?

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1 A. That's correct.

2 Q. And during the course of the autopsy, was that
3 ligature removed?

4 A. Yes. Eventually the doctor removed the ligature
5 from her neck.

6 Q. And when we refer to that as a ligature, what do
7 we -- what do we mean by that phrase?

8 A. An object tied around her neck. Could be a
9 noose, phone cord, and in this case pajama bottoms.
10 Something used to strangle.

11 MR. SIMPSON: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 Q. [Mr. Simpson] Officer, I'm handing you what's
15 been marked, for ID purposes only, as State's Exhibit 25.
16 Could you take a moment and review that item.

17 A. It's okay if I open it?

18 Q. Yes, sir.

19 A. Okay.

20 Q. Officer, can you identify that item?

21 A. These are the pajama bottoms that were used
22 to -- tied around the victim's neck.

23 Q. And was that taken from the autopsy room and by
24 yourself?

25 A. Yes, sir, it was.

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1 Q. And what was done with that item once it was
2 taken?

3 A. Once it was taken -- once it was taken, I
4 packaged it up -- packaged it up in this bag, and sealed
5 it, and put my name and all on it. And it was
6 subsequently sent to SLED for examination.

7 MR. SIMPSON: Your Honor, at this time we would
8 move in -- ask to move in State's 25.

9 MS. TAYLOR: Without objection.

10 THE COURT: State's 25 into evidence without
11 objection.

12 [Whereupon, State's Exhibit Number 25, pajama
13 bottoms, is admitted into evidence by the Court]

14 MR. SIMPSON: You can take a moment to repackage
15 that.

16 [Whereupon, the witness complies]

17 Q. [Mr. Simpson] Officer Wyant, did you also seize
18 other items of an evidentiary value from the autopsy?

19 A. Yes, sir, I did.

20 Q. If you could please explain to the jury what
21 items you seized and the purpose of seizing those items.

22 A. Okay. Each one?

23 Q. Each one.

24 A. Okay. Of course I took eighty-two photographs,
25 while I attended the autopsy, throughout the entire

1 procedure. I also did major case prints on the victim's
2 hands. And those are to compare to any prints that are
3 lifted from the scene. So I fingerprinted her.

4 Three hair clips from the victim. That was just
5 something she wears -- was wearing. A lot of items were
6 taken from her because they don't -- they don't go with
7 the body to the morgue.

8 Oral swabs from the victim's mouth, for DNA
9 purposes, in case she had some sort of physical contact
10 with someone else.

11 Rectal swabs from the victim, also for DNA
12 purposes, in case she had some sort of physical, intimate
13 contact with someone.

14 Also, vaginal swabs for the same thing.

15 A fragment from her vulva.

16 A pulled head hair. Hair from the victim's
17 neck. They collected a hair from the victim's neck in
18 case they had some sort of evidentiary purpose. Pubic
19 hair from the victim. Hair from the victim's left hand,
20 which could also have belonged to a suspect.

21 Fingernail clippings and scrapings from the
22 victim's right hand, in case she had gotten into a
23 altercation with the person she's -- you know, who
24 murdered her and there might be some skin follicles or
25 skin cells under her fingernails.

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1 There were some hairs found on the victim's
2 buttocks. Those were collected, also, for identification.

3 Fingernail clippings and scrapings from the
4 victim's right hand.

5 Two purple-top tubes of blood from the victim.
6 Those are collected for also DNA purposes in case you need
7 it for -- it's kind of crude, but once she's buried you
8 can't get the blood. So we take the tubes of blood for
9 DNA purposes in case the defendant is found and he's got
10 blood on his clothing, we can use that blood for DNA
11 comparison.

12 Paper bags from the victim's hands. Those bags
13 were placed on her hands to preserve any evidence that
14 might have been on her hands.

15 A camisole she was wearing; a pair of panties;
16 and the ligature from around her neck.

17 That was it.

18 MR. SIMPSON: And, Your Honor --

19 THE COURT: Hold on one second. Counsel, please
20 approach.

21 [Whereupon, an off-the-record bench conference
22 is held]

23 Q. [Mr. Simpson] And these items that you
24 mentioned are collected, are they sealed?

25 A. I'm sorry?

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1 Q. Are these items sealed in any way as you collect
2 them?

3 A. Once they're collected, they're placed in
4 individual bags and they're eventually sealed individually
5 and placed into the evidence room.

6 Q. And as you mentioned with the pajama bottoms,
7 the purpose of seizing these -- this evidence is to send
8 it to SLED?

9 A. Yes. We send it to SLED to see if there's any
10 kind of evidence on it, skin cells, anything that could
11 help pinpoint us to someone other than the victim, perhaps
12 the defendant, the suspect.

13 Q. And do you have knowledge that all of the items
14 you seized on this list were, in fact, subsequently sent
15 to SLED?

16 A. I believe so. Yeah, I believe they were.

17 MR. SIMPSON: Thank you, Officer. Please answer
18 any questions that Ms. Taylor might have for you.

19 THE WITNESS: Thank you.

20 THE COURT: Ms. Taylor?

21 MS. TAYLOR: Thank you, Your Honor.

22 Good afternoon.

23 THE WITNESS: Good afternoon. How are you
24 doing?

25

- - -

CROSS-EXAMINATION

BY MS. TAYLOR:

Q. Other than what you've just explained to us, did you have any other involvement in this case?

A. No, ma'am, I did not.

Q. You never went to the scene of the homicide?

A. No, I did not.

Q. And at the autopsy, who was the pathologist? Do you remember?

A. It was Dr. Kaplan.

Q. And was there anyone else present assisting him or participating in any way?

A. Yeah. There's usually an autopsy technician who actually does the physical dissection -- dissecting of the body, and then and Dr. Kaplan would actually examine each organ and anything found like -- any kind of trauma found to the victim, he actually would stop and come over and start examining it.

Q. And were you the only police officer there, or was someone else from North Charleston there?

A. As far as I know, I was the only one there.

Q. So there would have been three people there while you were there?

A. Yes, ma'am.

Q. And you were present when the ligature was

1 removed?

2 A. Yes, ma'am.

3 Q. The pajama bottoms?

4 A. Yes, ma'am.

5 Q. And I hate to ask you to have to take those out
6 again, but I'm going to have to. I'm sorry.

7 A. That's fine.

8 [Whereupon, the witness complies]

9 Q. [Ms. Taylor] While you're taking those
10 out: did you take those from around her neck, or did
11 someone else?

12 A. No. Someone else did --

13 Q. In the autopsy?

14 A. Yes, ma'am.

15 Q. But you were there for it?

16 A. Yes, ma'am.

17 Q. You watched them?

18 A. [No response]

19 Q. And once that would have been removed, you would
20 have then packaged it yourself?

21 A. Yeah. Once they remove it, they actually place
22 each individual item in a paper bag of their own and then
23 they sign those items over to me on a chain of custody.
24 And then when I get to the police department, if something
25 needs to be dried because it's bloody -- because it's

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1 bloody or whatever, I'll hang it in the forensic dryer.
2 Otherwise, if it's not bloody, I'll just seal the
3 packaging, put a label on it with my name, and, you know,
4 continue the chain on and put it in the property room.

5 Q. And those are some of those labels we see on
6 that bag that you have in front of you?

7 A. Yes, ma'am. That's correct.

8 Q. And there are actually two different items in
9 that package?

10 A. Yes, ma'am.

11 Q. Two pairs of bottoms?

12 A. I don't know if this is considered a camisole or
13 what. This is -- there's actually three portions of it.

14 Q. Okay. And that appears to be one pair of pajama
15 bottoms --

16 A. Pajama bottoms.

17 Q. -- that you just had?

18 A. Yeah.

19 Q. And then that appears to be part of the other
20 one?

21 A. Part of the other one. Yes, ma'am.

22 Q. It looks like that was cut off.

23 So there are two different pairs of pajama
24 bottoms. Do you know which of those two was inside and
25 which was outside?

1 A. [No response]

2 Q. She was wearing them both at one time,
3 presumably?

4 A. No, ma'am, I don't know which ones were inside
5 or outside. I know they placed them sort of -- I believe
6 Dr. Kaplan placed them sort of -- or maybe SLED put some
7 sort of markings on it indicating some things, perhaps
8 where it was tied and, you know, put the marks. But I'm
9 not sure.

10 Q. So when you got them, they had already been
11 pulled out of each other? They were like we're seeing
12 them right there?

13 A. Well, when I originally got there, it was still
14 around her neck. And I photographed all that. And then
15 during the autopsy, at some point they went ahead and
16 untied it and removed it from her neck.

17 Q. Do you remember when you received them were they
18 still one inside the other, or had they already been
19 pulled out and separated?

20 A. I believe they had been pulled out and
21 separated, but I don't recall.

22 Q. And do you recall who would have done that?

23 A. I imagine it would have been Dr. Kaplan, but I
24 can't say for sure.

25 Q. And you went through with Mr. Simpson a list of

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1 evidence that you took during the autopsy. You packaged
2 that up and then you sent it up to SLED?

3 A. I packaged it up and I put it into the evidence
4 room, and then I provided the list of what I collected to
5 I believe Angela Bunker, who was the main crime-scene
6 person on this case at the scene, and she types up the
7 SLED form. Because in this instance, if I had typed up
8 the SLED form, she types it up, you know, there's
9 confusion. So it's easier to let her do it.

10 Q. Did you do any sort of scientific investigation
11 on any of those objects that you talked to us about?

12 A. No, ma'am, I did not.

13 Q. Could you identify -- just as an example, one of
14 the things that you collected was hair from the victim's
15 neck --

16 A. Okay.

17 Q. -- you said.

18 And did you literally go up and take that from
19 her neck?

20 A. No. The doctor would have done that. You know,
21 I would have been there and photographed it. And the
22 doctor will collect it and put it in a container, and then
23 they signed it over to me.

24 Q. But you're there to see where -- so there's an
25 indication of where something was taken from, you know

1 that that is where it was taken from?

2 A. That's correct.

3 Q. Okay. And when you see again, for example that
4 hair off her neck, is there any way when you see it that
5 you can tell gender of the owner of the hair or even race?

6 A. No, I can't.

7 Q. And you don't have responsibility for any of the
8 results. You sent it off and it comes back to somebody
9 else? Or how does that work?

10 A. That's correct. It gets sent off to SLED and
11 they do DNA and serology, toxicology, all their
12 examinations, and send the results back.

13 Q. But you in this case don't have -- don't know
14 what those results are and wouldn't be able to talk to us
15 about those?

16 A. No, ma'am, I have no idea.

17 MS. TAYLOR: Just one moment, please.

18 [Whereupon, Ms. Taylor and Mr. Nixon confer]

19 MS. TAYLOR: That's all. Thank you very much.

20 THE COURT: Mr. Simpson?

21 MR. SIMPSON: No further questions of this
22 witness.

23 THE COURT: All right. May this witness step
24 down?

25 MR. SIMPSON: Yes, ma'am. May this witness be

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1 excused?

2 MS. TAYLOR: No objection.

3 THE COURT: Officer Wyant, you may be excused.
4 Thank you.

5 [Whereupon, the witness is excused and exits the
6 witness stand]

7 MR. SIMPSON: Your Honor, at this time the State
8 would call Officer Al Hallman, with the North
9 Charleston Police Department.

10 Your Honor, may I approach the evidence --

11 THE COURT: You may.

12 MR. SIMPSON: Thank you.

13 [Whereupon, Mr. Hallman comes forward]

14 THE CLERK OF COURT: Place your left hand on the
15 Bible, raise your right.

16 [Whereupon, Mr. Hallman is duly sworn by the
17 clerk of court as follows: do you swear or affirm that
18 the testimony that you shall give this Court and jury
19 in the trial of this case shall be the truth, the whole
20 truth, and nothing but the truth, so help you God]

21 THE WITNESS: I do.

22 THE CLERK OF COURT: Thank you, sir. Please be
23 seated.

24 [Whereupon, Mr. Hallman takes the witness stand]

25 THE CLERK OF COURT: For the record, please

1 state your name and spell your last name.

2 THE WITNESS: Al Hallman. H-A-L-L-M-A-N.

3 MR. SIMPSON: Sargent Hallman, how are you
4 today?

5 THE WITNESS: Good.

6 - - - - -

7 AL HALLMAN,

8 Having Been First Duly Sworn,
9 was Examined and Testified as Follows:

10 DIRECT EXAMINATION

11 BY MR. SIMPSON:

12 Q. What agency do you work with?

13 A. North Charleston Police Department.

14 Q. And what is your -- the nature of your work for
15 North Charleston?

16 A. I'm currently a supervisor of the forensic
17 investigations unit.

18 Q. And is that also sometimes referred to as the
19 crime scene unit?

20 A. Yes, sir.

21 Q. How long have you been doing work in crime scene
22 investigation?

23 A. Approximately sixteen years.

24 Q. What sort of an educational and training
25 background do you have to qualify you for that work?

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1 A. I've attended advanced courses in the areas of
2 crime scene -- or evidence collection and preservation,
3 evidence processing, shooting-incident reconstruction,
4 latent fingerprint comparison and identification, friction
5 ridge analysis, and I've also got a degree from the
6 American Institute of Applied Sciences in forensic
7 science.

8 Q. I believe you mentioned this, but you also have
9 special training in the area of fingerprint collection and
10 comparison and identification?

11 A. Yes, sir.

12 Q. As a member of the crime scene unit supervisor
13 over that unit, have you ever had the occasion to collect
14 fingerprints from a crime scene?

15 A. Yes, sir.

16 Q. And if you had to approximate, how many times
17 would that be?

18 A. Tens of thousands.

19 Q. And have you also had occasions to -- using
20 latent prints, to make identifications with known ink
21 samples?

22 A. Yes, sir.

23 Q. And if you had to guess, how many times have you
24 performed that kind of work?

25 A. Thousands. I don't have an actual number.

1 Q. And have you ever testified as an expert in this
2 area in a court?

3 A. Yes, sir.

4 Q. And how many times have you testified in court
5 as an expert in this area?

6 A. In excess of fifty times.

7 MR. SIMPSON: Your Honor, at this time we would
8 offer Sargent Hallman as an expert in latent print
9 collection and identification.

10 MS. TAYLOR: No objection, Your Honor.

11 THE COURT: Ladies and gentlemen, ordinarily a
12 person cannot testify and give opinion testimony.
13 Normally when a person testifies, they must testify as
14 to what they either saw, heard, or sensed by smell, or
15 something of that nature; however, there is an
16 exception. When someone is qualified because of their
17 education or their experience, they are permitted to
18 give their opinion in certain areas if the Court
19 qualifies them that way.

20 Sargent Hallman will be qualified as an expert
21 in the area of latent print examination and collection.
22 Sargent Hallman will be allowed to give opinion
23 testimony in that area. That does not mean that you
24 must accept the opinion. It is evidence for you to use
25 in any way that you see fit.

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1 Mr. Simpson?

2 MR. SIMPSON: Thank you, Your Honor.

3 Q. [Mr. Simpson] Sargent Hallman, how did you
4 become involved in the present investigation?

5 A. I was notified of a homicide on Sumner Avenue
6 and responded to such.

7 Q. Was this on June 4th of 2007?

8 A. Yes, it was.

9 Q. And were there any other crime scene officers at
10 the scene when you arrived?

11 A. Yes. And investigator Bunker was on scene.

12 Q. Could you describe a little bit to the jury
13 about what you observed when you arrived on that scene?

14 A. When I arrived, I noticed that the complex was
15 similar to a residential retirement-area type complex.

16 Q. Could I stop you briefly right there?

17 A. Sure.

18 Q. I'm going to show you what's previously been
19 entered into evidence as State's Exhibit 11.

20 A. Yes. That's a photograph of the front of the
21 victim's apartment.

22 Q. And that's part of other units? It is sort of
23 an apartment complex?

24 A. Yes, sir. And it's like a horseshoe effect, so
25 to speak, with other apartments similar to that one.

1 Q. Please continue.

2 A. When I arrived I met with Investigator Bunker,
3 and other detectives that were on scene, to get a basic
4 synopsis of what the scene entailed and what had occurred.
5 Investigator Bunker and I then went in the scene and did a
6 cursory examination of the scene. The residence was very
7 cluttered. There were a lot of items in the residence.
8 The victim was located in the bedroom off to the left of
9 the living room, and she was found laying face down with
10 her head towards a closet and her feet towards the door,
11 the entranceway, into the bedroom.

12 Q. And, Officer, if I could stop you just briefly.
13 Show you what's previously been moved into evidence as
14 State's Exhibit 23. Is that an accurate reflection of the
15 victim's body as you found it?

16 A. Yes, it is.

17 Q. You indicated that her head was positioned --

18 A. Towards the closet area. Up here.

19 Q. And the door where you can see the victim's
20 feet, that's the entrance to the bedroom --

21 A. Yes.

22 Q. -- I believe you said?

23 A. Yes, sir.

24 Q. Show you now what's previously been entered into
25 evidence as State's Exhibit 9.

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1 A. That is a close-up photograph of the victim's
2 head, with blood splatter on the floor on each side of her
3 face.

4 Q. And we see an item there that appears to be
5 around the neck. Could you identify that item?

6 A. This right here is a pair of pajama pants that
7 were tied in a ligature around her neck.

8 Q. Were her what appeared to be her eyeglasses also
9 found nearby?

10 A. Yes, they were. They were found on the floor.
11 Apparently, they had fallen from her head and impacted the
12 floor. They had already had blood on it. They actually
13 left a blood impression of the glasses on the floor.

14 Q. And I'm showing you what's previously been
15 entered as State's 24.

16 A. That's the glasses here, and the arm and part of
17 the lens stuck right there.

18 Q. And all those photos are accurate
19 representations of the scene as you found it when you
20 arrived?

21 A. Yes, sir.

22 Q. On your initial arrival, did you collect any
23 evidence from the scene?

24 A. Initially, no, sir. When we went into the
25 scene, like I said, Investigator Bunker and I assessed the

1 scene. We then backed out. Investigator Bunker started
2 taking photographs, and I notified other members of the
3 crime scene unit to respond to assist with the call.

4 Q. Did you take any swabs from the victim's body?

5 A. Yes. Once we went back in and actually started
6 processing the scene, I collected a swab from the blood
7 area on the floor near the victim's face, and another from
8 another area of blood splatter on the floor near the
9 victim.

10 Q. And when we refer to a swab, could you explain
11 to the jury what we're talking about there?

12 A. Yes, sir. The swabs that we use come
13 prepackaged. They're sterile swabs that are prepackaged,
14 for no contamination effect. We use the swabs in
15 accordance with our -- or in conjunction with distilled
16 water to moisten the swab. We collect the stain, and then
17 the swab is secured until it can be transported back to
18 our office where they're placed in a drying unit. The
19 swabs are then dried and they're packaged and secured and
20 sent to SLED for DNA analysis.

21 Q. At one occasion during your processing of this
22 crime scene, did you call additional crime scene officers
23 out to the scene?

24 A. Yes, I did. I called Sargent Ray Garrison and
25 Corporal Andy Coker.

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1 Q. And what was the purpose of calling additional
2 units to the scene?

3 A. The scene was extensive. It was going to
4 require a lot of processing, and we figured that we could
5 more thoroughly process the scene with other investigators
6 assisting us. I also needed Sargent Garrison on-scene
7 because we lifted some latent fingerprints inside the
8 residence, and I turned them over to Sargent Garrison and
9 sent him back to the station to see if he could identify
10 the fingerprints.

11 Q. So shortly after taking these swabs that you
12 referred to earlier, the work of processing the scene for
13 prints began?

14 A. Yes, sir. And after the scene was photographed
15 and videotaped, we began processing items inside the
16 residence for prints.

17 Q. And as this process began, I believe you stated,
18 you did, in fact, begin locating some latent prints?

19 A. Yes, sir. We recovered numerous latent prints
20 throughout the residence.

21 Q. And could you explain again, please, what
22 Sargent Garrison's role was when he arrived?

23 A. When we obtained -- when myself and Investigator
24 Bunker obtained several latent lifts, we -- I turned them
25 over to Sargent Garrison, who in turn transported them to

1 the North Charleston Police Department where he attempted
2 to effect an identification on the latent prints.

3 Q. Did you also have Sargent Garrison and Officer
4 Coker bring a certain chemical to the scene?

5 A. Yes, sir. We -- I -- actually, I requested them
6 to transfer a chemical called amido black. Amido black is
7 a chemical that responds and reacts to the amino acids
8 left in blood. And what it -- what we use it for is
9 simply if a blood impression or blood has been deposited
10 on a surface and then wiped away to where it's naked to
11 the eye, we use amido black which will react to the amino
12 acids left on that surface and it turns the impression a
13 dark purplish blue, making it visible for photograph
14 documentation and for examination.

15 Q. And did this process in this particular case
16 lead to anything of evidentiary value?

17 A. No, sir.

18 Q. Were any other special equipment used at this
19 crime scene?

20 A. We also used an alternate light source. An
21 alternate light source is basically a high-density light
22 source that with special glasses allows us to identify
23 hair fibers, body fluids, things of that nature, in a
24 crime scene.

25 Q. And was anything of evidentiary value located

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1 with the light unit that you provided?

2 A. No, sir.

3 Q. Sargent, did you return to the scene the
4 following day, June 5th of '07?

5 A. Yes, I did.

6 Q. And why did you return to the scene?

7 A. Detectives had secured a search warrant to go
8 back in the residence. And we went back into the
9 residence, and I recovered a V-Tech cell phone.

10 Q. And did you recover any additional latent lifts
11 from that visit?

12 A. Yes, sir. We processed -- actually, I processed
13 several items in the kitchen area for latent prints, and I
14 obtained four additional latent card lifts.

15 Q. And so taking the work done by your unit on both
16 days, what was the total number of latent lift cards taken
17 from the scene?

18 A. At that time it was twenty-four cards bearing
19 multiple latent prints.

20 Q. And later were four others --

21 A. Yes. Corporal Coker later recovered four
22 additional cards, bearing latent prints, from items found
23 in a trash can.

24 Q. Now, let's talk about the process of collecting
25 these lifts. When we refer to a latent lift card, what

1 are we talking about?

2 A. We're simply talking about a white backer card.
3 It's a piece of white photographic paper that's got a
4 shiny side on one side and a dull side on the back. We
5 use that when we process items and develop latent prints
6 on these items. The prints have been lifted with a clear
7 fingerprint tape and then they are affixed to this white
8 backer card so that they can be seen, examined, and
9 hopefully identified.

10 Q. And as these lifts are lifted and placed on a
11 card, are they then assigned numbers?

12 A. Yes. They're assigned a letter-number
13 identifier.

14 Q. And what letter?

15 A. The letters -- the letter L, which indicates
16 latent.

17 Q. And as latent lifts are taken from one item, are
18 those placed on the same card?

19 A. Yes.

20 Q. So we can have more than one lift from one
21 singular item?

22 A. You can have more than one lift on a single card
23 from one particular item, yes.

24 Q. And how are the lifts then numbered if you have
25 more than one lift on one item?

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1 A. The lifts themselves are not numbered
2 individually. What we do when we -- if we obtain three
3 lifts from a single item and all three lifts are affixed
4 to this one card, I'll then go through the lifts and
5 identify individual fingerprints, latent fingerprints,
6 within these lifts and each fingerprint itself is then
7 labeled with an additional number. Basically, if this was
8 card number one, it would be L-1 and then a decimal point,
9 and then any number after the decimal point represents
10 each individual print within those lifts on that card.

11 MR. SIMPSON: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 Q. [Mr. Simpson] Officer, I'm handing you what's
15 been marked, for ID purposes only, as State's Exhibit 32
16 through 55. If you would just take a moment to review
17 what I've handed you.

18 [Whereupon, the witness reviews documents]

19 Q. [Mr. Simpson] Could you identify those for the
20 jury?

21 A. Yes. These are the twenty-eight cards, the
22 twenty-eight white backer cards, bearing the latent lifts
23 that we lifted from the crime scene.

24 Q. So while we refer to them by our marked numbers
25 32 through 55, they would constitute in your numbers L-1

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1 through L-28?

2 A. That is correct.

3 Q. I would like to address where particularly a
4 handful of those lifts were taken from the crime scene.

5 A. Certainly.

6 Q. We're going to start with what would be your
7 number L-1. And if you could just inform us where in the
8 crime scene that lift was taken?

9 A. L-1 was obtained from a pack of Newport
10 cigarettes.

11 Q. And, Officer, I'm showing you what's previously
12 been moved into evidence as State's Exhibit 14.

13 A. Yes. And that would be the pack of cigarettes,
14 that was processed, right there.

15 Q. And is that a photograph of the victim's bed?

16 A. Yes, it is.

17 Q. Moving on now to what's been marked for ID only
18 as State's 34. That would be your number L-3.

19 A. L-3?

20 Q. And where in the crime scene was that lift
21 taken?

22 A. That's two lifts obtained from a Steel Reserve
23 can.

24 Q. If I could show you what's previously been moved
25 into evidence as State's Exhibit 12.

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1 A. That would be the can that the prints were
2 lifted from.

3 Q. And is that a photograph taken in the victim's
4 bedroom in this case?

5 A. Yes, it is.

6 Q. Moving on to card L-4. Marked for ID, it's
7 State's 35. And where were those prints lifted?

8 A. That lift was obtained from a CD on the dresser.

9 Q. Moving on to State's, for ID purposes, 37, your
10 number L-6?

11 A. That was lifted from a cigar box, that contained
12 a speaker inside the cigar box, in the victim's bedroom.

13 Q. So if you skip forward to State's 53 for ID
14 purposes, your number L-22.

15 A. That lift was obtained from the magnet on the
16 bottom of that car speaker, stereo speaker, in the cigar
17 box.

18 Q. And that's the same cigar box you just referred
19 to?

20 A. Yes, sir.

21 Q. We're going to go back to State's for ID
22 purposes -- I'm sorry -- 40, your number L-9.

23 A. L-9 was lifted from the large coffee cup in the
24 kitchen.

25 Q. I'm going to show you what's previously been

1 entered into evidence as State's Exhibit 21.

2 A. This coffee cup right here is the coffee cup in
3 question.

4 Q. And that's a -- what room in the apartment is
5 that photograph?

6 A. That's in the kitchen.

7 Q. Now, Sargent, once these lifts are taken,
8 they're then compared to make an identification; correct?

9 A. That is correct.

10 Q. And what are they compared to?

11 A. Known ink prints from individuals developed as
12 possible suspects or people that might have had
13 involvement within the scene.

14 Q. And are -- these known samples you referred to,
15 are they given a lettered numbering system, as well?

16 A. Yes, they are. They're lettered -- the letter
17 is identified as K, for known. And then, again, each set
18 of prints is labeled number 1 through whatever, how many
19 we have.

20 MR. SIMPSON: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 Q. [Mr. Simpson] Sargent, I'm handing you what's
24 been marked for ID only as State's 28 through 31. Take a
25 look at those items.

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1 [Whereupon, the witness reviews documents]

2 Q. [Mr. Simpson] Sargent, can you identify those
3 items for the jury?

4 A. Yes. State's 28 is labeled K-1 by my office,
5 and it is ink impressions from Oran Lamar Smith.

6 State's 29, which is labeled K-2 by my office,
7 is ink impressions from Leonard Herbert Gettis.

8 State's 30, labeled K-3 by my office, are inked
9 impressions from Cheryl Lynn Snow.

10 And State's 31 is a fingerprint identification
11 on a Leroy McKelvey.

12 Q. And, Sargent, you previously testified that it's
13 using these known samples that are then compared to the
14 lifts and that's how an identification is made?

15 A. Yes, sir.

16 Q. Could you explain to the jury a little bit about
17 how that process works, the comparrising -- comparing?

18 A. Certainly. What's normally done is the latent
19 print is taken and placed on the left side of your work
20 station, and the inked impressions that you're trying to
21 match them to are placed on the right, and we do what's
22 called a side-by-side comparison.

23 There are three different effects in these
24 examinations. The first is simply a pattern
25 interpretation. We'll look at the latent print, determine

1 the pattern of the print, whether it's a loop, whether
2 it's a whirl pattern, or whether it's an arching pattern,
3 and then we'll look at the known inked impressions to try
4 and identify if any patterns within those inked
5 depressions match the pattern in the latent. If they
6 don't, then there's no ID. Simple as that.

7 If we find a matching pattern within the inked
8 impressions, then we'll go back farther and start
9 examining and looking for points of identification within
10 the latent print. I personally look for what we refer to
11 as target areas, or areas with a latent print that just
12 stick out for some reason, identify that target area, go
13 back to the matching pattern inked impressions, and see if
14 we can find that target area within those inked
15 impressions. If we do, then we start matching points one
16 by one on a print.

17 If there are any dissimilarities within the
18 inked impressions, then the latent print is a non ID. If
19 all points that we identify within the latent are matched
20 within the inked -- in the inked impression, then it is
21 considered an identification.

22 Q. Sargent, based on your experience and training,
23 how many points of comparison matching up are necessary in
24 order for you to conclude a match?

25 A. There is no set number of points that must be

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1 identified to effect an identification. It's simply at
2 the examiner's discretion. I've made a positive
3 identified print with as few as four points. It's just
4 simply a -- it's determined by the number of points, where
5 the points are in correlation to each other, and that
6 target area that I referred to a minute ago. A lot of
7 areas within a latent print are made -- contain distortion
8 and you can identify points, a few points, within a
9 distorted area that matches it to an inked impression and
10 that's enough to effect an ID if the examiner is
11 comfortable calling it.

12 Q. But is it correct, as you stated earlier, that
13 any dissimilar points leads to you not concluding --

14 A. That's correct.

15 Q. Have you ever run across a situation in your
16 years of experience where two people have had identical
17 prints?

18 A. Absolutely not. In fact, a study was recently
19 done by Scotland Yard and they determined that the odds of
20 any two people on earth having the exact identical
21 fingerprints is one in ten to the forty-second power, or
22 ten and forty-two zeros behind it.

23 Q. Sargent, sometimes does a situation arise where
24 you get a latent print that's lifted from the scene and
25 you get back to perform further analysis on it and you

1 determine that for some reason you can't -- it's
2 impossible to make a match from that print?

3 A. That's correct.

4 Q. And why is that?

5 A. Distortion. The print may be a drag impression
6 where all you've got is a smear. It may just -- that part
7 of the latent print may contain no points of
8 identification. I've seen that several times. It's
9 simply if you cannot spot and identify enough points in
10 that latent print to positively identify it to an inked
11 print, then it's a non ID.

12 Q. And is that a normal and fairly frequent
13 occurrence?

14 A. Absolutely.

15 Q. And in your report what term of art, if you
16 would, do you use to identify latent prints that you
17 couldn't --

18 A. If they're identified, then they are placed in
19 our points -- in our reports as positive with the finger
20 of that individual that it was identified to. If the
21 latent prints contain identifiable characteristics within
22 that latent print, however, they do not match any of the
23 known impressions that I have, then it's labeled
24 insufficient for identification to these subjects;
25 however, identifiable ridge detail does exist.

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1 If there is simply not enough detail within that
2 latent print to effect an ID, it's simply labeled as
3 insufficient for identification.

4 Q. Who is Sargent Garrison?

5 A. Sargent Garrison was in the forensic, years,
6 along with me, and he recently within the last couple of
7 years I believe got transferred to uniform patrol. But at
8 the time of this incident, he was working side by side
9 with me in crime scene.

10 Q. And did you and Sargent Garrison in this
11 particular case kind of split up the comparison work as it
12 came to the fingerprints?

13 A. Yes, sir, we did.

14 Q. And did you, Sargent Hallman, compare latent
15 lift cards L-21 through L-28. For ID only, that's State's
16 51 through 59.

17 A. Yes, I did.

18 Q. And you compared those with what known samples?

19 A. The ones I previously testified to: Omar Smith
20 -- excuse me. Oran Smith, Leonard Gettis, Cheryl Snow,
21 and Leroy McKelvey.

22 Q. And you did not compare L-23?

23 A. No. That was compared by Sargent Garrison.

24 Q. Beginning with what's been marked as State's
25 Exhibit 52 for ID purposes and referred to in your report

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1 as evidence number L-21 --

2 A. Yes, sir.

3 Q. -- where were these lifts taken from the crime
4 scene?

5 A. They were lifted from a blue glass bowl in the
6 kitchen.

7 Q. I'm showing you what's previously been entered
8 as State's 21. Could you --

9 A. That's the blue bowl in the strainer there next
10 to the sink.

11 Q. And did you compare those prints with known
12 samples?

13 A. Yes, sir, I did.

14 Q. And what was the result?

15 A. L-21.1 was positive with the left thumb of
16 Leonard Gettis, and L-21.2 was positive with the left
17 index finger of Leonard Gettis.

18 Q. Sargent, moving on to what's been marked for ID
19 only as State's Exhibit 53 -- that's referred to by your
20 numbers as L-22.

21 A. Yes, sir.

22 Q. You already mentioned this, but just to
23 reiterate, where were these lifted from at the crime
24 scene?

25 A. This latent lift was obtained from the magnet on
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1 the car stereo inside the cigar box in the victim's
2 bedroom.

3 Q. And did you compare those lifts with your known
4 samples?

5 A. Yes, sir, I did.

6 Q. And what were the results of those comparisons?

7 A. L-22.1 was positive with the left middle finger
8 of Oran Lamar Smith.

9 Q. So your conclusion was that the defendant's
10 fingerprints were located on that item which was located
11 in the victim's bedroom?

12 A. That's correct.

13 MR. SIMPSON: Your Honor, at this time I move to
14 admit State's Exhibit 53, a latent lift card from the
15 car stereo magnet, into evidence.

16 MS. TAYLOR: No objection.

17 THE COURT: State's 53 into evidence without
18 objection.

19 [Whereupon, State's Exhibit Number 53,
20 fingerprint card, is admitted into evidence by the
21 Court]

22 Q. [Mr. Simpson] Sargent, you've already mentioned
23 that L-23 was handled by Sargent Garrison?

24 A. Yes, sir.

25 Q. So moving on to L-24, which is marked for ID

1 only as State's 55, what was your conclusion regarding
2 that print?

3 A. L-24.1, no identifications were effected with
4 items K-1 through K-4, which were the previously-testified
5 known impressions.

6 Q. On to what we've marked for ID only as State's
7 Exhibit 56 and 57 -- and that's referred to under your
8 numbers as L-25 and L-26. Where were these lifts taken
9 from the crime scene?

10 A. Those lifts were obtained from a Pepsi can found
11 in a trash can.

12 Q. And what were the results of your work on those
13 prints?

14 A. L-25.1 was positive with the right thumb of
15 Leroy McKelvey; and L-26.1 was positive with the right-
16 middle finger of Leroy McKelvey.

17 Q. And, Sargent, as to latent lift cards L-27 and
18 L-28 -- and that would be State's 58 and 59 -- did you
19 analyze those cards, as well?

20 A. Yes, sir. Both latent lifts on both of those
21 cards were insufficient for identification.

22 Q. Sir, you've already testified that you and
23 Sargent Garrison split up the work on this case. But did
24 you also perform some analysis on items L-1 through L-20?

25 A. Yes, sir. Sargent Garrison had initially

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1 compared them -- compared the latents from L-1 through
2 L-20 to the inked impressions of Oran Smith and the inked
3 impressions of Cheryl Snow. I then re-compared all the
4 lifts, L-1 through L-20, to the known impressions of
5 Leonard Gettis and Leroy McKelvey.

6 Q. And, now, some of those latent lifts -- and
7 we're referring to L-1 through L-20 -- were insufficient;
8 correct?

9 A. That's correct.

10 Q. But what your -- what were your results on the
11 ones you could match in your comparisons to Leonard Gettis
12 and Leroy McKelvey?

13 A. No identifications were effected.

14 Q. So in the analysis that you performed on these
15 latents -- and we'll hear from Garrison in a moment -- you
16 concluded that you had located the prints of the defendant
17 Oran Smith, an individual named Leonard Gettis, and an
18 individual named Leroy McKelvey?

19 A. Correct.

20 MR. SIMPSON: Court's indulgence.

21 THE COURT: Yes, sir.

22 [Whereupon, Mr. Simpson and Mr. Voight confer]

23 MR. SIMPSON: Sargent, please answer any
24 questions that Ms. Taylor might have for you.

25 THE WITNESS: Certainly.

1 THE COURT: Ms. Taylor?

2 MS. TAYLOR: Thank you, Your Honor.

3 Good afternoon.

4 THE WITNESS: Good morning -- afternoon.

5 CROSS-EXAMINATION

6 BY MS. TAYLOR:

7 Q. I want to go over a couple of those things with
8 you --

9 A. Sure, ma'am.

10 Q. -- and try not to be repetitive.

11 But I also want to ask you: you were at the
12 scene?

13 A. Yes, ma'am.

14 Q. What time did you arrive at the scene?

15 A. I don't recall what time it was. It was dark
16 when I got there. I believe Investigator Bunker had
17 gotten there just prior to dark, so it was sometime that
18 evening.

19 Q. Did you examine the door?

20 A. The door was processed for latent prints and I
21 believe there was a lift, one or two lifts, obtained from
22 the door. But no identifications were made on the door.

23 Q. Did you do that part of it, or was that someone
24 else?

25 A. No. I believe that was someone else.

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1 Q. Do you know who?

2 A. Probably Investigator Bunker. I'm not sure.
3 But she did most of the processing on the exterior area
4 and then -- well, she did some on the inside, as well. We
5 went on the inside as a team and just started taking
6 areas.

7 Q. And so Officer Bunker would have taken the lifts
8 that were obtained from the door?

9 A. If you'll give me a minute, I can tell you
10 who --

11 Q. Absolutely.

12 A. Yeah. Give me just a minute.

13 Q. And if you can also, while you're checking, just
14 tell us how many lifts were taken --

15 A. Certainly.

16 Q. -- from the door.

17 [Whereupon, the witness reviews documents]

18 [Whereupon, Ms. Taylor and Mr. Nixon confer]

19 A. There were a total of three lifts obtained, from
20 the interior side of the front door, by Investigator
21 Bunker.

22 Q. [Ms. Taylor] And none from the exterior?

23 A. No, ma'am.

24 Q. Did you do any physical examination of --
25 there's a mark on the door, a dent or a pry mark of

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1 some sort. Did you see that at all?

2 A. No, ma'am, I did not.

3 Q. And did you take any latent prints from the
4 thermostat?

5 A. I did not, no.

6 Q. Do you know whether anybody did?

7 A. No, ma'am. I have no lifts from that area. I
8 don't know if it was processed or not. But I have no
9 lifts from that area.

10 Q. And you would have any lifts that were taken
11 from this crime scene?

12 A. Yes, ma'am.

13 Q. And there were, in the den area or the living
14 area on the floor, by the bunny cage, some Quaker Oats
15 boxes?

16 A. Yes, ma'am. I believe I do have a lift from
17 the Quaker Oats can, lifted by myself, one lift, and I
18 believe it was insufficient for identification.

19 Q. And also a box of saltines?

20 A. I don't believe a lift was made on the saltines.
21 It was processed by me. I do remember processing that,
22 but I did not get any latent prints off the saltine box.

23 Q. Other than -- and I'm not sure if it was your
24 report or someone else. But other than the Quaker Oats
25 and the saltines, was there anything in the house that

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1 appeared out of place that attracted your attention?

2 A. The house was very cluttered. It was actually
3 hard to tell in the living room if something was out of
4 place because a lot of it was out of place, but not so as
5 to give the appearance of a struggle.

6 In the bedroom, things were scattered around
7 everywhere. That could have been from a struggle; it may
8 not have been from a struggle. It's hard to tell because
9 there was so much stuff in the bedroom.

10 Q. So there was clutter about?

11 A. Yes, ma'am.

12 Q. Did you see any overturned tables or chairs or
13 anything?

14 A. No. I don't recall seeing that, no.

15 Q. And you talked at one point about you went back
16 into the residence after that first night with a search
17 warrant to take I believe some lifts, but also the
18 telephone?

19 A. A V-Tech cell phone. Yes, ma'am.

20 Q. Is it a telephone or a cell phone? I'm not sure
21 if I'm hearing you right.

22 A. I believe it was a cell phone, but I may be
23 mistaken. I know I've got it labeled as a V-Tech phone.
24 If you'll give me just a second.

25 Q. Absolutely.

1 [Whereupon, the witness reviews documents]

2 A. Actually, it was a regular phone, and the reason
3 that it was collected was because there was part of an
4 answer machine and that there were messages on the
5 answering machine. I'm sorry.

6 Q. [Ms. Taylor] Okay. No problem.

7 And that was the only phone, that one phone?

8 A. Yes.

9 Q. And was that tested for latent prints?

10 A. Yes, it was.

11 Q. And were any recovered from that?

12 A. I do not believe so. If you'll give me a second
13 and let me check, just to make sure.

14 Q. Sure.

15 A. But I do not believe so.

16 [Whereupon, the witness reviews documents]

17 A. No, ma'am.

18 Q. [Ms. Taylor] None were recovered?

19 A. No, none were recovered.

20 Q. Anything unusual about that to you?

21 A. No. I've -- in my experience, I've processed a
22 lot of telephones. With the number of people that handle
23 phones, you get a lot of smudges. And, actually, it's
24 kind of difficult to get an identifiable print off of a
25 phone because of the movement of the hands when you're

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1 talking on it. I've not had real great luck getting
2 fingerprints off of cell phones or regular house phones.

3 Q. And this was a telephone that sat on a surface
4 and had a handle?

5 A. And had an answering machine. I believe it was
6 a wireless -- you know, a wireless phone without a cord to
7 it. I can't remember. I think it was. Like a headset,
8 so to speak, with an answering machine.

9 Q. But there was only one phone in the house?

10 A. To the best of my knowledge, yes, ma'am.

11 Q. That you know anything about.

12 So -- and there are some photographs that we
13 have in evidence of that phone. That would be the phone
14 we're talking about?

15 A. Yes, ma'am.

16 Q. Whatever the photograph reveals would obviously
17 explain that?

18 A. As long as they say it's a V-Tech phone. I
19 remember it was a V-Tech phone, yes.

20 Q. Okay. And when you tested for latents, did you
21 do -- assume for a moment that it is a sit-down phone with
22 a cord, with a headset that you hold, not a disconnected
23 one.

24 A. Okay.

25 Q. Did you test the handle, as well as the body of

1 the phone --

2 A. The whole phone was processed.

3 Q. -- would have been?

4 A. Yes, ma'am.

5 Q. Did you find -- did you find smudges? How does
6 that work?

7 A. Oh, yeah. You can find smudges all day long but
8 a lot of times if I'm processing it and I do not see
9 anything identifiable, I will not even obtain a lift, you
10 know. Because I'm the one that does the comparisons and I
11 know what I'm looking for as far as identifiable prints,
12 and if there are none on there that I can see enough ridge
13 detail to possibly effect an ID, then I won't even bother
14 lifting them.

15 Q. So you would have put the black powder over
16 it?

17 A. Uh-huh.

18 Q. Is that how it works?

19 A. Yes, ma'am.

20 Q. And then you would be able to see from that
21 whether there are physically what you believe are lifts
22 that you can work with, or smudges?

23 A. Yes, ma'am.

24 Q. Were there anything on this phone?

25 A. Not to my knowledge. No lifts were obtained;

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1 therefore, there was nothing identifiable.

2 Q. So it was clean? No smudges?

3 A. I wouldn't say clean but --

4 Q. Well, I'm just talking about latents.

5 A. Yes. There were no identifiable latents present
6 on that phone.

7 Q. And no smudges?

8 A. No. Well, smudges I can't say because I didn't
9 lift them.

10 Q. And you wouldn't have noted on any sort of
11 report that there was maybe some handling here but I can't
12 use it?

13 A. No.

14 Q. And you told us a little bit about this -- I'm
15 sorry --

16 In the bedroom there were photographs of
17 eyeglasses. Did you retrieve those, do any testing on
18 those?

19 A. I did not personally. I don't have -- well, I
20 do have the chain of custodies. I can check. I don't
21 know that they were collected. Give me a second.

22 Q. Sure. And all I'm interested in is if they were
23 intact or broken, the lens were broken, or any part of the
24 frame was cracked or broken.

25 A. I don't recall that.

1 [Whereupon, the witness reviews documents]

2 A. Those were collected by Investigator Bunker, and
3 she simply labeled them eyeglasses with blood present.

4 Q. [Ms. Taylor] Okay. And you had also talked
5 about -- and I'll mispronounce this -- amido black?

6 A. Amido black. A-M-I-D-O black.

7 Q. Okay. Where in the apartment did y'all apply
8 that?

9 A. Around where the victim's body was found on the
10 floor where we had evident blood splatter. We wanted to
11 make sure that if the victim -- or the defendant -- a
12 suspect -- excuse me -- if the suspect had actually gotten
13 blood on his hands. He may have put his hand down on the
14 floor for whatever purpose. We wanted to make sure that
15 that did not occur, so we treated the whole floor with
16 amido black. And of course nothing was developed.

17 Q. So that would have shown you, if there had been
18 anything like that, that someone's cleaned up --

19 A. Absolutely. It would -- it would have shown up
20 dark blue. Yes, ma'am.

21 Q. And the only area you did that was in the
22 bedroom?

23 A. Yes.

24 Q. Nowhere in the kitchen area?

25 A. There was no indication of any blood in the

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1 kitchen.

2 Q. Nowhere in the bathroom area?

3 A. No.

4 Q. And then the alternate light source for hair
5 fiber and other things, where was that done?

6 A. That was done in the bedroom, on the bed, and
7 around where the victim's body was found, looking for
8 possible body fluids or hair fibers and things of that
9 nature.

10 Q. And nothing was found?

11 A. Nothing.

12 Q. And I think I'm clear on this, but I just want
13 to be sure. These latent prints may have multiple prints
14 on one card but there are never going to be multiple
15 unless it's from the same object?

16 A. Sometimes they can be. Sometimes in the past --
17 it basically depends on the investigator that's doing the
18 lifts. But each individual lift will be labeled where
19 that lift was obtained from, on that card, and then it'll
20 be referred to and named. If identifications were
21 effected from those lifts, it'll be labeled in my report
22 as to exactly where that lift was lifted from.

23 Q. And in this case you didn't put anything
24 multiple unless it was from a single object?

25 A. To the best of my knowledge, yes, ma'am.

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1 Q. And then I just want to go through and make sure
2 again that I have everything correct here. On your
3 reports -- I'm not sure if these are reports or what they
4 are but let me show you one so you'll know what I'm
5 looking at, and it'll tell you the dates.

6 A. Okay. That was the first latent report that I
7 did prior to receiving the four additional lifts.

8 Q. Do you have a copy of that with you?

9 A. I do not have a copy of that one, no, ma'am.

10 Q. Let me see if I have another copy.

11 [Whereupon, Ms. Taylor reviews documents]

12 MS. TAYLOR: I apologize, but I do not have it
13 in my copies.

14 [Whereupon, Mr. Simpson proffers documents to
15 Ms. Taylor]

16 MS. TAYLOR: There you go.

17 [Whereupon, Ms. Taylor proffers documents to the
18 witness]

19 THE WITNESS: Thank you.

20 Q. [Ms. Taylor] And that obviously lists what you
21 found, who you could match it with if you could match.
22 You've already talked with Mr. Simpson about all the
23 numbers. Just as an example, L-21.1 you're talking about
24 the blue glass bowl was positive with Leonard Herbert
25 Gettis?

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1 A. Correct.

2 Q. And then as we go down that list we've got on
3 that page another positive with Oran on a magnet on a car
4 stereo speaker --

5 A. Yes, ma'am.

6 Q. -- in a cigar box?

7 And then L-23.1 and L-24.1, no identification
8 effected. Those two, L-23.1 and L-24.1, would those be
9 what you would refer to as unknown latents?

10 A. Those would just simply be latents that were not
11 identified.

12 Q. Okay. So an unknown individual left that print?

13 A. Correct.

14 Q. Okay. Is there any way that when you have a
15 situation like that you could compare those two
16 fingerprints to each other to see if it's one unknown
17 person or if they're separate?

18 A. You can do that. As a rule of thumb we don't,
19 only because you can run into issues where -- fingerprints
20 can actually be transferred from surface to surface if
21 surfaces come in contact with each other. And just as a
22 rule, we'll do that if we're asked to but then we can only
23 tell you that, yes, there was a print on item A and print
24 on item E -- B that were placed by the same person;
25 however, they're not identified to any of the persons that

1 we have here. Does that make sense?

2 Q. Mostly.

3 But in this particular instance, these two
4 prints were prints that -- because you have the -- you
5 call some of them insufficient for comparison?

6 A. Correct.

7 Q. Sometimes you'll just get a part of something
8 and it's just not enough for you to look at?

9 A. Right.

10 Q. Sometimes you'll have a print that's plenty
11 identifiable, it just doesn't match anything you're
12 comparing it to?

13 A. Correct.

14 Q. Which is the case with these two, L-23.1 and
15 L-24.1?

16 A. 23.1 was previously compared by Sargent Garrison
17 and was identified. And then I looked at -- I believe
18 it's a misprint, actually, on my report because I was
19 referring to 23.2 on the same page as being no
20 identifications effected. I just could not identify 23.2
21 to anything.

22 Q. They just didn't match anything that you were
23 comparing?

24 A. Correct.

25 Q. Okay. And then I'm hoping that that stack you

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1 have has your -- that was the June 5th report?

2 A. Yes, ma'am.

3 Q. Let's see. And then there's also -- this is
4 actually a report that's signed by Detective -- or I'm
5 sorry -- Sargent Garrison, but you were talking about it
6 with Mr. Simpson. I'm not sure if he gave us that one or
7 not.

8 A. Yes. This is Sargent Garrison's report here.

9 Q. Okay. Is that something that you would be
10 familiar with if I talk to you about that, or should --

11 A. No.

12 Q. -- I wait until --

13 A. That, you would have to address with Sargent
14 Garrison. I'm sorry.

15 Q. Other than what we've just gone over, do you
16 have any other reports or anything that was --

17 A. Just the report that you handed me here of
18 basically what was done in the initial investigation.
19 That's the only reports that I've got.

20 Q. Let me take a look at that one. Just one
21 moment.

22 MS. TAYLOR: All right.

23 [Whereupon, Ms. Taylor and Mr. Nixon confer]

24 Q. [Ms. Taylor] I do want to ask you just one
25 other question on that report that you just held up, which

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1 is dated 6/4/07 --

2 A. Yes, ma'am.

3 Q. -- going back to this telephone issue. If
4 you'll look down at the very last paragraph. It starts
5 with on 6/5/07, talking about when you executed the search
6 warrant --

7 A. Yes, ma'am.

8 Q. -- telephone answering machine, and indicates --
9 what color was the telephone that you saw?

10 A. Black.

11 Q. And you are positive there was only one
12 telephone taken from the apartment?

13 A. By myself, yes.

14 Q. By you?

15 A. Yes.

16 Q. Do you have that telephone in evidence? Do you
17 know?

18 A. It should be in evidence. I released it to
19 detective Shawn Patrick, who then in turn placed it in
20 evidence I feel quite sure.

21 Q. If there was another telephone, would it have
22 come across your hands at some point for testing?

23 A. It may have, but it didn't, so I don't know. It
24 would depend on I guess who collected it.

25 Q. Do you have any independent recollection sitting

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1 here today whether this was a black phone or not?

2 A. No, I do not. I do not recall. I just labeled
3 it in my report as a black V-Tech phone.

4 MS. TAYLOR: Okay. Thank you very much.

5 THE WITNESS: Certainly.

6 MR. SIMPSON: Permission to approach the court
7 reporter?

8 THE COURT: You may.

9 [Off the record momentarily]

10 MR. SIMPSON: 60 and 61.

11 [Whereupon, State's Exhibit Number 60,
12 telephone, is marked by the court reporter]

13 [Whereupon, State's Exhibit Number 61,
14 eyeglasses, is marked by the court reporter]

15 MR. SIMPSON: Your Honor, may I approach the
16 witness?

17 THE COURT: You may.

18 REDIRECT EXAMINATION

19 BY MR. SIMPSON:

20 Q. Sargent, I've just handed you what's been marked
21 for ID only as State's 60 and 61. Can you take a moment
22 and have a look at State's 60.

23 A. 60? It is a black V-Tech phone and answering
24 machine with a cordless handset.

25 Q. Is that the phone you were referring to in

1 Ms. Taylor's questioning?

2 A. Yes, it is.

3 MR. SIMPSON: Your Honor, at this point we would
4 ask to move State's 60 into evidence.

5 MS. TAYLOR: No objection.

6 THE COURT: State's 60 into evidence without
7 objection.

8 [Whereupon, State's Exhibit Number 60,
9 telephone, is admitted into evidence by the Court]

10 Q. [Mr. Simpson] Sargent, could you take a look at
11 State's 61.

12 A. One pair of eyeglasses.

13 Q. Do those have a --

14 A. With blood stain on it.

15 Q. With blood stains?

16 A. Yeah. Blood's still on them.

17 MR. SIMPSON: Your Honor, at this time we would
18 move State's 61 into evidence.

19 MS. TAYLOR: No objection.

20 THE COURT: State's 61 into evidence without
21 objection.

22 [Whereupon, State's Exhibit Number 61,
23 eyeglasses, is admitted into evidence by the Court]

24 MR. SIMPSON: The Court's indulgence.

25 THE COURT: Yes, sir.

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1 [Whereupon, Mr. Simpson and Mr. Voight confer]

2 MR. SIMPSON: Your Honor, I have no further
3 questions of this witness.

4 THE COURT: Ms. Taylor?

5 [Whereupon, Ms. Taylor and Mr. Nixon confer]

6 RECROSS-EXAMINATION

7 BY MS. TAYLOR:

8 Q. I'm glad you left your gloves on. I just want
9 to see --

10 A. Not much good. The glasses?

11 Q. The glasses. Yes. Thank you.

12 A. How about if I hold them.

13 Q. No, I do not. Happy for you to hold them.

14 A. There you go.

15 Q. Just looking at them, do you see any broken part
16 anywhere?

17 A. No, I do not.

18 Q. And it looks like the blood that is on them
19 would be on the left --

20 A. On the left --

21 Q. -- corner lens?

22 A. -- side, yes, ma'am. There's actually some
23 minor blood splatter on the right lens but the majority of
24 the blood is on the left lens and on the left arm, I guess
25 you would call it.

1 Q. The ear part?

2 A. Yes, ma'am.

3 Q. All right. Thank you.

4 A. Uh-huh.

5 Q. And I'll let you handle this again, as well.

6 This would be the phone.

7 A. Okay. What part do you want to see?

8 Q. The whole thing.

9 A. Okay. Here's the plug.

10 Q. Okay. And, let's see. Which would be the plug
11 that would go into the wall?

12 A. This one right here.

13 Q. And it is intact?

14 A. Yes.

15 THE COURT: Ms. Taylor, I'm going to need you to
16 speak up or get closer to a microphone. Thank you.

17 Q. [Ms. Taylor] Again, looking at the -- I'm sorry
18 I don't know the correct term for it, but the small white
19 plastic or clear plastic plug that you would put into
20 the --

21 A. The jacks?

22 Q. Jack. Thank you.

23 -- is intact in that phone?

24 A. Yes. Both ends seem to be intact, yes, ma'am.

25 Q. And that is the only phone that you processed in

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1 this case?

2 A. To the best of my knowledge, yes, ma'am.

3 Q. And you did not pick that up the night of the
4 incident, or at least --

5 A. No.

6 Q. -- the night that you were called there?

7 A. No. This was done the next day via search
8 warrant.

9 Q. Okay. And that is the phone that had the
10 answering machine inside it?

11 A. Yes.

12 Q. And do you recall seeing it when you were there
13 the first night?

14 A. No, I do not.

15 Q. And who sent you back to get it?

16 A. Detectives. Lieutenant Melvin Cumby, and I
17 believe Detective Shawn Patrick was present.

18 Q. And did they tell you where the phone was, what
19 color it was, any of that? Or did they just say, go back
20 and get us the phone.

21 A. I don't recall. They may have said where it
22 was. I don't recall that. I just remember going and
23 getting a warrant and going and retrieving the phone, yes,
24 ma'am.

25 MS. TAYLOR: Thank you very much.

1 THE WITNESS: Certainly.

2 THE COURT: Any objection to this witness
3 stepping down and being excused?

4 MR. SIMPSON: None from the State, Your Honor.

5 MS. TAYLOR: None from the defense.

6 THE COURT: Sargent, you may step down. You're
7 free to remain in the courtroom, but you're also
8 excused. Thank you, sir.

9 THE WITNESS: Your Honor, you might want to
10 consider getting another bag for these biohazard
11 glasses, because this bag broke. I don't want this to
12 go to the jury box like it is.

13 THE COURT: Thank you, sir.

14 THE WITNESS: Certainly.

15 [Whereupon, the witness is excused and exits the
16 witness stand]

17 THE COURT: We're going to go ahead and take a
18 short recess. Please do not begin your deliberations.
19 Do not discuss this case amongst yourselves. We'll
20 receive you back in momentarily.

21 Please rise for the jury.

22 [Whereupon, the jury exits the courtroom at
23 1:28 p.m.]

24 THE COURT: Thank you. Be seated.

25 Could y'all take just a moment -- there was

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1 exposed blood from pajama bottoms and some other
2 issues. Can we take just a moment and make sure that
3 all the biohazards are taken care of at this time, and
4 we'll go ahead and clean off the witness stand with
5 some antiseptic spray. Y'all have taken everything out
6 of my supply now, so I cannot be of any further
7 assistance to any of the additional witnesses. And
8 we'll go ahead and take our break. We'll take --

9 How long do you think it will take you, Mr.
10 Simpson?

11 MR. SIMPSON: For the next witness? Or to take
12 care of all this?

13 THE COURT: To take care of all this.

14 MR. SIMPSON: Ten minutes.

15 THE COURT: All right. We'll take a ten-minute
16 break.

17 And I know there were blood -- there was blood
18 on the first witness' hands this afternoon, so just
19 make sure that you put on gloves, as well. And I do
20 not think there's a trash can up there, so there's
21 dirty gloves up on the witness stand, as well. So
22 please make sure that we handle the matter
23 appropriately. Thank you.

24 MR. SIMPSON: Thank you.

25 MS. TAYLOR: Thank you.

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1 [Whereupon, a recess is taken from 1:30 p.m. to
2 1:43 p.m.]

3 THE COURT: Thank you. Be seated.

4 Are you ready to call your next witness?

5 MR. VOIGHT: I am, Your Honor.

6 THE COURT: Ms. Taylor, are you ready to bring
7 in the jury?

8 MS. TAYLOR: Yes.

9 THE COURT: Please rise for the jury.

10 [Whereupon, the jury enters the courtroom at
11 1:44 p.m.]

12 THE BAILIFF: Jury is all present, Your Honor.

13 THE COURT: Thank you. Please be seated.

14 Mr. Voight, call your next witness.

15 MR. VOIGHT: The State calls Dr. Erin Presnell.

16 [Whereupon, Dr. Presnell comes forward]

17 THE COURT: Dr. Presnell, if you will place your
18 left hand on the Bible, and raise your right.

19 [Whereupon, Dr. Presnell is duly sworn by the
20 Court as follows: do you solemnly swear the testimony
21 you give shall be the truth, the whole truth, and
22 nothing but the truth]

23 THE WITNESS: Yes, ma'am.

24 THE COURT: And if you will please state your --
25 you may be seated.

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1 [Whereupon, Dr. Presnell takes the witness
2 stand]

3 THE COURT: If you will please state your name
4 and spell your last name for the record.

5 THE WITNESS: My name is Susan Erin Presnell.
6 It's P-R-E-S-N-E-L-L.

7 THE COURT: Mr. Voight?

8 MR. VOIGHT: Your Honor, before trial the
9 defense entered into a stipulation that Dr. Presnell is
10 qualified as an expert in the field of forensic
11 pathology, that she has reviewed the autopsy records in
12 this case, and will be testifying in place of Dr.
13 Michael Kaplan who is unavailable.

14 MS. TAYLOR: That's correct.

15 THE COURT: Ladies and gentlemen, the State and
16 the defense have agreed and stipulated to the fact that
17 Dr. Presnell will be qualified in the area of forensic
18 pathology.

19 Mr. Voight?

20 MR. VOIGHT: Thank you.

21

22

23

24

25

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1 SUSAN E. PRESNELL, M.D.

2 Having Been First Duly Sworn,

3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. VOIGHT:

6 Q. Just for the jury's benefit, Dr. Presnell, what
7 is forensic pathology?

8 A. Well, what can I say. Everyone is getting a
9 little more familiar with what forensic pathologists do
10 with CSI shows and all the -- you know, Dr. G and all the
11 stuff that's on Tv.

12 But kind of to put it as a more official
13 definition, forensic pathology is actually a subspecialty
14 of pathology. Pathology is the study of disease. And
15 most of the pathologists do regular surgical pathology
16 work where if you go to a doctor and if you have a skin
17 biopsy or if for the women a pap smear, or any kind of
18 tissue that's removed from your body or to a surgery -- if
19 you have surgery and let's say your gallbladder is taken
20 out, any of that tissue will go to the pathologist. They
21 examine it, look at it with a microscope and diagnose
22 disease. Does it have cancer, is it infectious, et
23 cetera.

24 Forensic pathologists go through that training,
25 but then they do an additional year of subspecialty

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1 training in forensic pathology where we're not looking
2 at just a piece of tissue or an organ, we're looking at
3 the whole person, the decedent, a person who's passed
4 away. And the process is called an autopsy. And we are
5 looking for disease but we are also ultimately looking for
6 the cause of death -- again, whether it be a disease
7 process -- but an alternative or an additional mechanism
8 we look at is trauma, the evaluation of trauma, and the
9 effect that that had on the person's life.

10 Like I said, we do do this through an autopsy
11 and ultimately with -- after all of our studies, come up
12 with an autopsy report and, ultimately, the cause and
13 manner of death.

14 Q. Doctor, how are you currently employed?

15 A. I'm a forensic pathologists at the Medical
16 University of South Carolina down the street.

17 Q. Are you, in fact, the director of the department
18 of pathology?

19 A. No. Forensic pathology is a section under the
20 whole entire department of pathology at MUSC, and I'm
21 director of the autopsy section.

22 Q. And as we mentioned in the stipulation, you're
23 not the person who did the autopsy? You're not the doctor
24 who did the autopsy in this case?

25 A. No. Dr. Kaplan performed this case.

1 Q. Have you had the ability to review all of
2 Dr. Kaplan's notes and all the pictures associated with
3 this file?

4 A. Yes, I have.

5 Q. And have you been able to look at Dr. Kaplan's
6 report critically and have you come to a conclusion based
7 on his conclusion, as well?

8 A. I reviewed all of his notes and his report, as
9 well as the photographs taken at the time of autopsy, and
10 agree with his conclusion which, well, I guess we'll
11 ultimately discuss in just a moment.

12 Q. And what is your conclusion, as well as Dr.
13 Kaplan's conclusion, as to the cause of death of Cheryl
14 Snow?

15 A. Cheryl Snow died from what we call ligature
16 strangulation, meaning that there's some object pressed
17 around her neck that caused a lack of oxygen to her brain
18 and caused her death.

19 Q. Can you tell the jury what the physical
20 mechanism is in a ligature strangulation?

21 A. Yes. What I can do is I'll just kind of go
22 through the autopsy findings that were present and how
23 that relates to our conclusion of ligature strangulation.

24 First of all, just a little bit of background in
25 strangulation. One might think that with strangulation or

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1 compression of the neck that it's actually the airway that
2 you're pressing down and you're stopping or occluding --
3 stopping a person from breathing. But, in fact, it takes
4 -- it's estimated that thirty-three pounds of pressure to
5 actually close your airway, your larynx and trachea in
6 your neck. What actually ends up happening is you
7 compress the vessels in your neck. Those only cause -- or
8 the veins in your neck only take four pounds of pressure
9 to press and occlude the jugular veins, and the carotid
10 arteries only take eleven pounds of pressure to press and
11 occlude. So although you're still able to breathe, what
12 you've then done is stop the blood which carries the
13 oxygen that you're breathing, stop the blood from going to
14 your heart to your brain. So you are excluding oxygen
15 just not through the airway, but you're stopping the blood
16 from carrying oxygen, again, to your brain. So in that
17 mechanism, that's called asphyxia, or lack of oxygen, and
18 that's ultimately what causes strangulation or causes the
19 death in a strangulation.

20 If you think about the anatomy, what you have is
21 the two types of vessels going from your heart to your
22 brain and from the brain back to your heart. The arteries
23 carry oxygenated blood from your heart to your brain.
24 Your brain uses oxygen, and then your veins bring the
25 deoxygenated blood back from your brain back to your

1 heart. Now, the arteries, the ones taking the blood
2 there, are very thick and elastic and harder to compress.
3 Again, I'm referring to the carotid arteries requiring
4 eleven pounds of pressure to cause them to collapse.

5 The veins operate under a lower-pressure system,
6 so they're a lot thinner and much more easier to collapse.
7 And that's returning the blood back to your heart. Those
8 are only about four pounds of pressure to collapse. So
9 when there's pressure on your neck, unless the victim is
10 unconscious or not struggling, there's usually -- there
11 usually is some type of struggle and there's intermittent
12 pressure so there's not just a complete utter occlusion
13 immediately and with no movement and -- well, so
14 ultimately you get movement and so there's, again,
15 intermittent closure of those vessels.

16 So what ends up happening is that you get blood
17 going up to your brain; however, because the veins are
18 easier to close, they stay occluded with the pressure and
19 the blood can't get back out of the brain. The pressure
20 in there starts to build, so your facial tissues and
21 everywhere above the ligature gets really congested, built
22 up with blood, and ultimately some of the smaller vessels
23 called capillaries and venules, because of that increased
24 pressure they'll actually start to burst and you get
25 little pinpoint or punctate hemorrhages on your skin, in

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1 your eyes, anywhere above that ligature.

2 In this case Ms. Snow, when she came to autopsy
3 she had -- actually had the ligature in place around her
4 neck. When that was removed, you could see a pale area, a
5 big pale strip. It was a soft ligature so it didn't leave
6 any real specific marks, just a pale -- a big pale band
7 all the way completely around the neck. And then above
8 that, the face was very congested and she had the punctate
9 hemorrhages across her face, in her eyes, again supporting
10 that diagnosis of a ligature strangulation.

11 One other finding that she did have is a
12 fractured hyoid bone. And the hyoid bone is this little
13 u-shaped bone that sits at the very base of the tongue.
14 So if you imagine -- your tongue doesn't just stop where
15 you can see it. It actually goes back a little farther.
16 And right at the base of the tongue, right up high up in
17 the neck, in that u-shaped bone. And pressure on that
18 either through a manual strangulation or a ligature
19 strangulation can cause fracture of that bone. And she
20 actually had that, a fracture in that bone, as well.

21 So those were her -- that was her major injury,
22 her fatal injury. She did have a number of scrapes or
23 what we call abrasions, a couple on her face and a couple
24 on her left knee and left-lower leg. And the one other
25 thing that she did have was a contusion or a bruise on the

1 left top of her scalp.

2 Q. I'm going to show you what's been -- I'm going
3 to show you what's been previously marked as State's
4 Exhibit 8. Doctor, is that an example of that pressure of
5 blood and the capillaries breaking that you were
6 describing?

7 A. Apparently it's a lot better visually out there
8 than it is up close, because that's difficult for me to
9 see.

10 Q. Okay.

11 A. But one of the things that you might be seeing
12 here, along with congestion, is what we call liver mortis
13 or liver mortis. When somebody passes on and their heart
14 stops beating, then blood starts to settle with gravity.
15 Because it's not being pumped around in the vessels
16 anymore, it settles down with gravity and it'll cause this
17 pink-purple coloration of the skin which, you know --
18 whatever is dependent, whatever is the direction of
19 gravity. So some of that might be that. But the
20 punctate, the little punctate red spots, would be
21 characteristic of those punctate hemorrhages, or petechia
22 we would also refer to them as.

23 Q. And that liver mortis that you described, that
24 would explain what looks like blood or bruising on some
25 extremities or where the blood may have settled in her

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1 body if she were there for a long period of time?

2 A. Right. Yes. That's a postmortem artifact. It
3 would happen to everyone.

4 Q. Assuming that the person doing the strangling
5 managed to get both of the veins in the neck occluded,
6 approximately how much time would the victim be -- would
7 she be awake or -- I'm sorry --

8 A. Consciousness?

9 Q. Consciousness.

10 A. They've done -- there has been -- there have
11 been some studies. Obviously, not full-fledged studies
12 till death, et cetera. But they have done studies that if
13 you occlude the carotid arteries -- and the arteries,
14 again, are what's taking oxygen to the head. But if you
15 completely occlude both carotid arteries, that you would
16 expect unconsciousness -- now, not necessarily death, but
17 unconsciousness, in ten to fifteen seconds. If somebody
18 passes out after ten to fifteen seconds and the pressure
19 is immediately released, you would expect them to revive
20 after that. However, if you maintain the pressure, then
21 after -- and this is where it becomes a gray area. After
22 a couple of minutes, then the person would not
23 spontaneously revive and if they were not resuscitated
24 then after four to five minutes, you would expect brain
25 death. You know, that's in a crystal-clear scenario.

1 But a complete occlusion of the carotids, again,
2 unless the person is incapacitated for whatever reason,
3 there's usually a struggle and so, you know, trying to
4 predict how long that interval would go on is pretty
5 impossible, anatomically, at the point of autopsy.

6 Q. So that if someone -- if the ligature was to
7 remain in place and the veins remain occluded, there may
8 be brain death as early as four to five minutes?

9 A. Yes. For the arteries.

10 Q. The arteries?

11 A. Uh-huh.

12 MR. VOIGHT: Okay. Please answer any questions
13 that Ms. Taylor may have.

14 THE COURT: Ms. Taylor?

15 MS. TAYLOR: Thank you.

16 Good afternoon, Dr. Presnell.

17 THE WITNESS: Good afternoon.

18 CROSS-EXAMINATION

19 BY MS. TAYLOR:

20 Q. You reviewed the autopsy report in this case in
21 its entirety?

22 A. Yes, ma'am.

23 Q. And do you have a copy of that with you?

24 A. I do.

25 Q. Is there any way that we know from the autopsy

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1 what time Ms. Snow died?

2 A. No. It's just an approximation, based on when
3 she was last seen versus when she's found and some of her
4 postmortem changes. They estimated it around June 4th.

5 Q. So at some point on June 4th, 2007, is the best
6 scientific estimation of when she died?

7 A. Yes, ma'am.

8 Q. And that would have been a Monday; is that
9 correct? Do you have any idea?

10 A. I would have to look at the calendar.

11 Q. And no time?

12 A. No.

13 Q. Is there any range of time as to how long they
14 believe that she would have been dead after she was found?
15 I think she was found sometime around 7:20 on that same
16 Monday night.

17 A. Right. There is -- there was not an estimated
18 time given. Frequently, some more estimates might be
19 made. There's a person that attends the scene. In
20 Charleston County we have a coroner system and the coroner
21 attends the scene and the coroner then decides who gets
22 autopsied, et cetera. The forensic pathologist acts as a
23 consultant, and frequently we see them the next day or
24 two. So, you know, our assessment is usually even farther
25 out than the time they're actually found, as to some of

1 the postmortem changes. And the farther out you get from
2 the time of death, the more difficult it is to narrow it
3 down.

4 I think that based on somebody having seen her
5 or saying see -- had seen her around the time of midnight
6 on the fourth, and her also have been found later that day
7 on the fourth, I would say -- if I had to make an
8 estimate, I would say sometime in the early a.m., early
9 morning hours, of the fourth. But, you know, however,
10 again, this is a review of the autopsy. That would be my
11 best estimate, not actually having examined the decedent.

12 Q. Thank you.

13 And did I understand from what you just told us
14 that perhaps if a forensic pathologist had been on the
15 site of a scene at 7:20 Monday, when the body was
16 discovered, you might be able to have some better
17 scientific idea of when the homicide actually occurred?

18 A. Well, the coroner did go and the coroner did
19 make an estimation of lividity and rigor mortis or liver
20 mortis. But each pathologist has their own degree of
21 certainty and kind of their range, so to try to base it on
22 somebody else's is a little more difficult. So, yes, it
23 would have probably been better if the person that
24 performed the exam, or you're asking these questions of,
25 had seen them, you know, earlier. The earlier, the

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1 better.

2 Q. And I want to go through the report with you
3 just a little bit and look at some stuff.

4 You had also told us there was -- did you tell
5 us contusion on the top left side of her head?

6 A. Yes.

7 Q. Was that a bruise contusion, or a bruise?

8 A. A bruise. A contusion is a bruise, and it
9 indicates some type of blunt trauma. So there's no
10 pattern. It's just kind of an oval area, a hemorrhage,
11 within the scalp. So some type of blunt trauma had struck
12 that area.

13 Q. And can we identify what would have been used to
14 hit her head, if that's what you're --

15 A. It shows no pattern. Sometimes a blunt trauma
16 might show a pattern like an outline of the object. But
17 more frequently than not, when you think of when you hit
18 your leg on the table or you hit a wall or something, you
19 know, you just have this kind of rounded contusion.
20 That's what this appears like.

21 And when I say blunt trauma, that's in
22 comparison to sharp trauma. That's not a knife or an ax
23 or a -- you know, some kind of pointed or sharpened
24 object, just a blunt thing. Could it have been a wall
25 perhaps that -- or a floor that the person hit their head

1 on? Yes. Could it have been some other blunt object?
2 Yes, as well. It does not show a pattern to indicate what
3 the object was.

4 Q. And if you would not mind, on your head can you
5 show us exactly where that contusion was?

6 A. It's approximately right here on the top left
7 area.

8 Q. On the top of the head?

9 A. Yes.

10 Q. And about how large would it have been?

11 A. There is a -- it's measured at five-and-a-half
12 times four centimeters. And, of course, there's
13 approximately two-and-a-half centimeters per inch. So,
14 you know, it was a couple of inches large.

15 Q. And is there any indication -- was there damage
16 internally as a result of whatever, in fact, that was to
17 the inside of the brain?

18 A. No, not that -- no visible injuries inside the
19 skull.

20 Q. And was Dr. Kaplan able to identify the age of
21 that contusion?

22 A. He sampled that and he -- it was an acute
23 injury, meaning it was consistent to around the time of
24 death. The decedent actually had a number of other
25 contusions, most on the legs and a couple on the buttocks,

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1 that were brown, that he had sampled. Some of that showed
2 that it had been a passage of time. There was already a
3 response, inflammation, and that happens after somebody
4 sustains a trauma. But the sampled contusion on the top
5 of the head was an acute injury without any response yet.
6 So around the time of death.

7 Q. And any other injury on her body? You told us
8 about the bruises and stuff, some of which we were able to
9 see on the photographs. Any other injury, other than the
10 strangulation or that contusion, that were acute or recent
11 that we think occurred at the same time as the murder?

12 A. Actually, I kind of referred to some of them.
13 There was two abrasions or scrapes on the left side of the
14 forehead; there were a couple of scrapes on the left knee
15 and the left-lower leg; and she actually had some
16 hemorrhage in her tongue, as well.

17 Q. Were the scrapes on the left eyebrow area, were
18 those bleeding?

19 A. Typically, they don't necessarily -- you don't
20 bleed after death because your heart -- now, you can weep,
21 and you can certainly -- gravity can pull blood. But
22 since your heart is not pumping, it's not really --
23 they're not bleeding into the injury.

24 They were described as reddened abrasions. That
25 would be consistent with the pre- or perimortem, meaning

1 around-the-time-of-death injury. What we're doing is
2 comparing that to a clearly postmortem injury. A
3 postmortem injury, like say for example the Y incision
4 that we made to look inside the body, is going to appear
5 yellow. It doesn't bleed, so there's no redness at all to
6 that, quote, postmortem injury.

7 These abrasions were described as reddened
8 abrasions and would suggest a perimortem injury.

9 Q. And does it indicate on the autopsy how tall
10 Ms. Snow was?

11 A. Yes. She is sixty-three -- about sixty-three-
12 and-a-half inches. Sixty-three point six. So five three
13 and a half.

14 Q. And I think you referred already -- there's a
15 section of the autopsy that is titled, on page one, case
16 history.

17 A. Yes.

18 Q. And you made reference. What is the point of
19 having a case history? What, if any, importance does that
20 provide to the forensic pathologist in making your
21 decisions?

22 A. Well, a case history -- and backing up a little
23 to where we get it. Again, South Carolina is a coroner
24 state. And most of our information comes from the coroner
25 who comes to the scene. Occasionally, we'll also come

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1 from -- it'll come from law enforcement. Sometimes you
2 can have findings that are unequivocal at autopsy that
3 really need case history information to be able to
4 interpret them. Sometimes it doesn't necessarily matter
5 what the case history is. You know, the finding's
6 unequivocal and you can say, for example, it's a gunshot
7 wound or not. But the interpretation of the manner of
8 infliction of the injury might make a difference.

9 In this case Dr. Kaplan included a relatively
10 extensive case history, and stuff, of the information that
11 was known around that time. And it doesn't -- it doesn't
12 really have a bearing on the interpretation of the
13 findings in this case. It is supportive of those
14 findings, though.

15 Q. And that's the area that you were referring to
16 when you were talking about the time of death and you
17 mentioned that someone had seen her at twelve o'clock,
18 which would have been that June 3rd midnight --

19 A. Correct.

20 Q. -- or right before?

21 A. Yes. There was possibly somebody had seen her
22 again. That's just information, preliminary, known at the
23 time in 2007 around time of autopsy. So, you know, again,
24 just -- it's soft information.

25 Q. And there's reference to a history of mental

1 illness and drug addiction. Would that have anything to
2 do with any --

3 MR. VOIGHT: Objection.

4 THE COURT: Counsel approach.

5 [Whereupon, an off-the-record bench conference
6 is held]

7 THE COURT: Overruled.

8 MS. TAYLOR: Thank you.

9 Q. [Ms. Taylor] Dr. Presnell, I think what I was
10 asking you is there is a reference in this report to
11 mental illness and drug use.

12 A. Yes.

13 Q. Does that relate or have any relevance to either
14 Dr. Kaplan's conclusion in determining anything have to do
15 with this lady's death or your concurring conclusion?

16 A. It has nothing to do with it.

17 Q. There is also other information in that report
18 regarding her lifestyle. Do you read right where I am?

19 A. Right after the mental history, illness and --

20 Q. Yes.

21 A. Yes.

22 Q. Would -- any of that information contained in
23 this case history relevant to any of her lifestyle
24 choices, did that affect the pathologists' -- either Dr.
25 Kaplan's or yours?

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1 A. No, it didn't.

2 Q. Was there a toxicological report done?

3 A. Yes. In all of our cases we'll draw blood and
4 urine, and send them for a toxicologic analysis, looking
5 for drugs and alcohol. I mean, it was also -- it was done
6 in this case. And the blood analysis showed some
7 amphetamine drug in there, and also Temazepam, which is
8 also known as Restoril.

9 Q. Anything else?

10 A. In the blood-drug screening, that's -- well, the
11 blood-drug screen and quantization, how much there is of
12 the drug there, that's what there -- that's all there was.

13 They also screened urine for common drugs of
14 abuse. It was presumptively positive for, let's see --

15 [Whereupon, witness reviews documents]

16 A. -- presumptively positive for cocaine/cocaine
17 metabolite. However, they don't -- on the urine and the
18 drug screening they don't actually do confirmatory
19 testing, so it's still a presumptive positive. And what
20 they do then is use that information to help guide their
21 blood analysis.

22 If the drug were whatever -- well, if the drug
23 is in the urine, it's not actually in the body at that
24 point. It can be that you've been exposed to it; however,
25 if confirmatory testing is not done, you can't actually

1 make that conclusion.

2 They went on to test the blood for the
3 presumptive positives, as well as the other drugs and
4 alcohol. Alcohol was negative. They did not find
5 cocaine, and they did find the amphetamine and Temazepam
6 or the Restoril.

7 Q. [Ms. Taylor] Thank you. And the blood that was
8 present both in the photograph on the floor and on her
9 face, where would that have come from?

10 A. Well, again, trying to look back. And I guess
11 you guys have seen the pictures with the bloody fluid. We
12 do have a couple of scratches on the face, actually did
13 have some also on the lip, and they've described blood in
14 the nares. Now, there's no description of a nasal
15 fracture. When I say nares, I mean the nostrils of the
16 nose.

17 There's no description of fracture or
18 necessarily trauma to that area, but there is another
19 entity called purge fluid, which is a postmortem
20 development. And, basically, if you can kind of think of
21 it as the lungs can act like sponges after death and some
22 of the fluids gather in there and they purge. It can have
23 -- a bloody-purge fluid will purge out the oral cavity and
24 the nasal cavity. And so that might be some component of
25 what that was, maybe mixed with some blood from the

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1 scratches.

2 Q. No other injury to her face or head that would
3 have resulted in bleeding --

4 A. Right. There was no other injury documented,
5 no.

6 Q. Is there anything from the autopsy report that
7 you reviewed which would be beneficial or aid in any way
8 in identifying the individual who killed Ms. Snow?

9 A. No. There's no specific indication of who the
10 perpetrator was.

11 MS. TAYLOR: Just one second. I'm just
12 checking.

13 [Whereupon, Ms. Taylor reviews documents]

14 [Whereupon, Ms. Taylor and Mr. Nixon confer]

15 MS. TAYLOR: Thank you very much, Dr. Presnell.

16 THE COURT: Mr. Voight?

17 MR. VOIGHT: Doctor, just a couple of follow-up
18 questions.

19 REDIRECT EXAMINATION

20 BY MR. VOIGHT:

21 Q. Ms. Taylor asked you about the level -- about
22 the amphetamine that was found in the toxicology. Are
23 there any common prescription medications that would give
24 that sort of indication?

25 A. Well, amphetamine can -- amphetamine is a

MIA PERRON, CCR, CVR-CM

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1 stimulate and just -- somebody could take straight
2 amphetamine or it can -- amphetamine can be a breakdown
3 product of some of the other amphetamine-type drugs. They
4 do use it for ADD that -- I think ADHD in kids, treatment
5 in kids. In Europe it used to be used as weight-loss
6 drugs, but not necessarily in the United States anymore.

7 Her level -- looking at it, her amphetamine
8 level was 490, which is a little bit higher than the
9 treatment -- the toxicologist's report gets a range for.
10 For the treatment of actually narcolepsy and attention-
11 deficit disorders, it's usually between 20 and 100.
12 However, in those people that use amphetamine regularly,
13 intolerant users, their levels can go up to 3,000. Her
14 level, again, was 490.

15 Q. Now, another one of the things that Ms. Taylor
16 asked you about was time of death. And the best I could
17 tell from your answer was that time of death is an
18 approximation of some sort?

19 A. Yes. It's a -- there's a lot of -- there are a
20 lot of studies on specific scenarios and they have, you
21 know, particular ranges of what -- when postmortem changes
22 occur and when they start to develop. For instance -- and
23 these are mostly estimates in normal, healthy, adult
24 people that are deceased for whatever reason in ambient
25 temperatures like seventy-five degrees protected.

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1 For example, liver mortis develops in about --
2 or stiffness develops in about two hours. And that's --
3 and the reason it develops -- and maybe this helps explain
4 some of it -- is because your muscles actually need energy
5 to release, to let go of their position. So after about
6 two hours, the rest of the ATP or energy that's left in
7 your body is used up and therefore your muscle proteins
8 don't release, so the person becomes progressively stiff
9 in that -- fixed in that position. Okay. So it starts to
10 develop in about two hours. It becomes your maximum
11 stiffness in about twelve, stays around for another
12 twelve, and then slowly starts to disappear over another
13 twelve.

14 So that's -- over a thirty-six-hour period you
15 would expect it to come and go. It starts to go because
16 the muscle proteins are starting to decompose, starting to
17 break down, and then therefore are releasing each other.

18 So, you know, that's a real wide estimate
19 already. You know, it's most stiff for twelve hours, so
20 you're trying to judge where in the scheme of things that
21 is. In a particular situation like this, it becomes
22 difficult.

23 And actually what we tend to do more so than
24 say, this person died, you know, between this -- between
25 1:00 and 2:00 p.m. on this time is usually we describe our

1 findings, our postmortem findings -- you know, how stiff
2 is the person. If the liver mortis, the settling of the
3 blood, is that all the way complete and fixed in that
4 position or is it still moving around after you move the
5 body.

6 We'll describe what we find, and then ask what
7 scenario is somebody proposing. So do our autopsy
8 findings support a certain scenario? So do our autopsy
9 findings support that they died -- that she passed on
10 around midnight or the early-morning-hours of June 4th?
11 Yes, they do. Do they support that she died, you know,
12 three hours before we got her at autopsy? No, they don't.
13 I'm not saying that she didn't die at 5:00 a.m. on the
14 4th, or 4:30 a.m. or even 6:00 a.m. for that matter. They
15 would support that. But, again, you need a particular
16 scenario to help really the investigation.

17 Q. Does the ambient temperature in the room where
18 the body resides, where the body falls, does that change
19 the time for either rigor mortis or liver mortis to set
20 in?

21 A. Well, apparently the coroner estimated the
22 temperature around sixty-two degrees. Coolness is going
23 to slow down the rate of postmortem change. It'll slow it
24 down.

25 Remember we were talking about rigor mortis,

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1 too, and using up energy. If there's a struggle before
2 death, then you also expect some of the energy to already
3 be used from those muscles and the changes might happen --
4 rigor mortis might happen quickly.

5 So there's always individual variables that they
6 -- there is no -- there is no time estimations being for
7 62.5 degrees and one for 58.3 degrees in a 130-pound woman
8 that's 63 inches tall. Either there's a -- there's a
9 supplied general estimate and, again, because each
10 scenario is so individual, it's really more helpful to use
11 our findings to support a particular scenario than to
12 actually refute it.

13 Q. What you testified to was that at ambient
14 temperature, what we would consider normal temperature --
15 seventy-five is the number that you used -- that we would
16 have approximately a thirty-six-hour window to guess?

17 A. Right. Yes.

18 Q. And if the temperature was lower, say sixty-two,
19 would that expand the amount of time? Would that be more
20 than thirty-six hours to see those same changes?

21 A. Again, the coolness would slow down the
22 development of the postmortem changes. So, yes, we might
23 expect it to be longer. However, the number in this
24 particular scenario -- if there is a struggle, and I
25 imagine there might have been, prior to death then we're

1 again -- now we're reaccelerating the development of rigor
2 mortis because you've already used up a lot of the energy
3 that's required to cause the release of muscle protein.

4 So, again, there are just so many complex
5 variables. But, yes, coolness is going to slow it down,
6 but there are other variables that may also increase it.

7 Q. And in your findings you didn't find any
8 defensive wounds on the victim, did you?

9 A. Well, when we describe defensive wounds, a lot
10 of times we think about if somebody would start being
11 attacked by a sharp instrument and they get knives' cuts
12 and stuff from holding their arms up from defensive
13 movements. In this case she doesn't have any marks like
14 that on her arms. It's not actually unusual that somebody
15 that has been strangled does not have any. But she does
16 not have any.

17 Q. Given the fact that the coroner found the
18 temperature to be sixty-two degrees in the apartment when
19 the body was found at 7:20 on Sunday, would that give a
20 range of approximate death that would include not only
21 that those hours of June 4th before the body was found,
22 but also hours that include June 3rd?

23 A. Yes. It could have been June 3rd.

24 MR. VOIGHT: Thank you.

25 MS. TAYLOR: The Court's indulgence one moment.

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1 THE COURT: Yes, ma'am.

2 [Whereupon, Ms. Taylor and Mr. Nixon confer]

3 RECROSS-EXAMINATION

4 BY MS. TAYLOR:

5 Q. Do you see from your report when Ms. Snow's body
6 was found?

7 A. Excuse me? When what?

8 Q. When Ms. Snow's body was found by the police.
9 I'm not sure if that's in there.

10 A. Yeah. We have that she was found at
11 approximately 7:18 p.m.

12 Q. On what date?

13 A. On June 4th.

14 Q. You've already told me you don't know what day
15 of the week that is?

16 A. Not off the top of my head, no.

17 Q. And I think that you talked with Mr. Voight
18 about -- I'm sorry I didn't quite catch it before --
19 postmortem analysis?

20 A. Postmortem changes, things that happen to your
21 body -- that happens to everybody's body after they pass
22 on, like the development of rigor mortis and liver mortis,
23 the cooling of the body, et cetera.

24 Q. Can you tell me where in this report those items
25 are?

1 A. The most significant would have been found at
2 the scene. And the coroner did make a notation that rigor
3 mortis was present and that liver mortis was blanchable,
4 meaning that if you press on it, it could blanch. And we
5 can go into that, but that means -- if you would like. At
6 the time of autopsy, which is done on the 6th of June, if
7 you move to --

8 Q. Okay. Let me just stop you for a second. When
9 you were just referring to our coroner --

10 Who is Ms. Linsey, Dolly Linsey?

11 A. Dolly Linsey. Yes.

12 Q. -- is that the third paragraph in this case-
13 history section we were talking about?

14 A. Yes, ma'am.

15 Q. Okay. And now where are you directing me to?

16 A. Okay. And then the next page, page 3 of 14,
17 this is done at the time of autopsy, which was at nine
18 o'clock in the morning on June 6th. But skip over the 102
19 in that first body -- that first paragraph there: rigor
20 mortis is present but incomplete, and liver mortis is
21 distributed, et cetera.

22 I don't know if you want me to --

23 Q. No. I just wanted to know where we were there.

24 Is there anything inconsistent in Dr. Kaplan's
25 determinations and Ms. Lindsey's?

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1 A. No. No. Another complication of variable, if
2 you want to throw that in there, is when somebody develops
3 rigor mortis or stiffness, if somebody -- if after death
4 they develop it, and say the examiner comes and stretches
5 it out, actually breaks rigor mortis, if it hasn't already
6 come and gone the rigor mortis will no longer come back.
7 But, however, if it has started to develop but hasn't gone
8 to its peak process, the rigor mortis can re-form in that
9 new position.

10 So, you know, again, that -- I'm sure she was
11 moved and partially some of the rigor mortis was broken
12 prior to her coming to us, just to get her onto the
13 stretcher and move her, et cetera.

14 So taking that in the back of your head -- and I
15 guess I should have started off on another variable of why
16 it's difficult to interpret it. But his findings and his
17 descriptions are not incompatible with the coroner's at
18 the time of the scene.

19 Q. Their assessments are not incompatible with each
20 other?

21 A. Correct.

22 Q. Final question. Based on what you have reviewed
23 from this report -- whatever is contained in it that you
24 relied on -- can you today, with any degree of certainty
25 as a forensic pathologist expert, give us a best estimate

1 of when you think this lady was killed?

2 A. I refer back to Dr. Kaplan's estimate, which is
3 on or around the fourth; meaning that it had been on the
4 early-morning hours of the fourth or maybe even late hours
5 of the third. I would have to rely on that on his
6 assessment.

7 Q. And what do you define as late hours on the
8 third?

9 A. P.M.. Not a.m., not afternoon. That would be
10 early a.m. So, again -- and, again, you're asking me to
11 give a time, and it implies some degree of accuracy. Like
12 if I say I would think 8:00, 9:00, 10:00, 11:00, 12:00 are
13 the late p.m. hours of the third, well, could it have been
14 7:45? Well, yeah, it could have been.

15 So, again, you know, is it -- did the death
16 happen at 10:00 p.m on the third. Yes, it could have.
17 These findings would support that. Did it happen at 1:00
18 a.m. on the fourth. Yes, these findings support that. I
19 -- it didn't happen the day before, obviously, because we
20 know that she was found on the fourth -- excuse me --
21 didn't happen the day before the autopsy. We know that,
22 because she was found on the day of the fourth.

23 Our findings don't support her death on the day
24 before the autopsy, either. Do they support it around
25 that, you know, twenty-four-hour period before then? Yes,

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1 they do.

2 Q. And when was the autopsy performed?

3 A. This was done -- they did the autopsy on the 6th
4 of June at 9:00 in the morning.

5 MS. TAYLOR: Thank you very much.

6 MR. VOIGHT: May Dr. Presnell be excused?

7 THE COURT: Any objection?

8 MS. TAYLOR: No, ma'am.

9 THE COURT: Dr. Presnell, you may be excused but
10 you --

11 THE WITNESS: Thank you.

12 THE COURT: -- are free to remain in the
13 courtroom.

14 THE WITNESS: Thank you.

15 [Whereupon, the witness is excused and exits the
16 witness stand]

17 THE COURT: Call your next witness.

18 MR. SIMPSON: The State would call Sargent Ray
19 Garrison, North Charleston Police Department.

20 [Whereupon, Mr. Garrison comes forward]

21 THE CLERK OF COURT: Keep going up the ramp.
22 Stop at the bottom to be sworn.

23 Place your left hand on the Bible, raise your
24 right hand.

25 [Whereupon, Mr. Garrison is duly sworn by the

1 clerk of court as follows: do you swear or affirm that
2 the testimony that you shall give this Court and jury
3 in the trial of this case shall be the truth, the whole
4 truth, and nothing but the truth, so help you God]

5 THE WITNESS: I do.

6 THE CLERK OF COURT: Thank you, sir. Please be
7 seated.

8 [Whereupon, Mr. Garrison takes the witness
9 stand]

10 THE CLERK OF COURT: For the record, please
11 state your name and spell your last name.

12 THE WITNESS: Raymond Lee Garrison. G-A-R-R-I-
13 S-O-N.

14 MR. SIMPSON: Sargent Garrison, how are you
15 today?

16 THE WITNESS: I'm good, sir. How are you?

17 - - - - -

18 RAYMOND L. GARRISON,

19 Having Been First Duly Sworn,

20 was Examined and Testified as Follows:

21 DIRECT EXAMINATION

22 BY MR. SIMPSON:

23 Q. What is your occupation?

24 A. I'm a police officer with the city of North
25 Charleston.

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1 Q. And what unit in the police department are you
2 currently assigned?

3 A. I'm currently assigned to the south precinct as
4 a squad supervisor.

5 Q. And what -- do you know where you were assigned
6 to prior to that?

7 A. The sixteen years prior to this year I was
8 assigned to the forensic unit, crime scene investigation.

9 Q. And you worked in that capacity you said for
10 sixteen years?

11 A. Yes, sir.

12 Q. And were you working with that unit in April of
13 2007?

14 A. Yes, I was.

15 Q. And what educational background do you have that
16 prepared you for that forensic line of work?

17 A. I've had extensive training in crime scene
18 investigation, blood-stain pattern analysis, FBI basic and
19 FBI advanced fingerprint analysis, advanced palm print
20 identification.

21 And I also -- I've taught at Trident Tech. I've
22 taught at the Citadel. Lectured, not taught. I was an
23 adjunct professor for the State University of New York
24 Canton. And for the last ten years I've been teaching
25 forensics and fingerprint identification in Dorchester

1 High School.

2 Q. And as a member for sixteen years as a crime
3 scene unit, did you ever have the occasion to collect
4 fingerprints from a crime scene?

5 A. Yes, I did.

6 Q. And approximately how many times did you do
7 that?

8 A. Thousands, literally. Probably five figures.
9 Thousands.

10 Q. And did you also have occasion to take these
11 lifted prints and compare them to known samples and make
12 certain conclusions?

13 A. Yes, I do.

14 Q. Would that be thousands of times, as well?

15 A. Correct.

16 Q. Have you ever testified as an expert in this
17 area?

18 A. Yes, I have.

19 Q. How many times, roughly?

20 A. Between federal and circuit court, state circuit
21 court, approximately six times.

22 MR. SIMPSON: Your Honor, at this time I would
23 offer Sargent Garrison as an expert in latent print
24 collection and identification.

25 MS. TAYLOR: No objection.

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1 THE COURT: Sargent Garrison will be qualified
2 as an expert. Thank you.

3 Q. [Mr. Simpson] Sargent how did you become
4 involved in this investigation?

5 A. I responded to the initial scene. Upon my
6 arrival the body had been removed and the rest of the team
7 was processing the scene, taking photographs, video, and
8 processing various items of evidence. I had just come off
9 of four back surgeries in two years, so my job was
10 basically to stand around, wait for them to collect enough
11 latent prints. Once they had collected enough latent
12 prints, I took those back to the station and searched them
13 in a data base.

14 Q. And can you describe a little bit of -- the data
15 base you mentioned, this is a fingerprint data base?

16 A. Yes, sir.

17 Q. What is the purpose of searching these in this
18 data base?

19 A. At the time, the latent prints were unknown and
20 we try to identify the depositor, the person who left the
21 fingerprints behind.

22 Q. And following a match in the data base,
23 subsequent work is done; correct?

24 A. Correct. Further examinations are conducted.

25 Q. Did you prepare a chart today to show you

1 [phonetic] how those comparisons are done?

2 A. Yes, I did.

3 Q. Sargent, I'm handing you what's been marked for
4 identification as State's 27. Is that the chart you
5 prepared today?

6 A. Yes, sir, it is. This is the ink -- the latent-
7 to-inked comparison chart.

8 Q. And would that chart help you demonstrate your
9 testimony to the jury?

10 A. Yes, it would.

11 MR. SIMPSON: Your Honor, at this time I would
12 ask to move State's 27 into evidence.

13 MS. TAYLOR: Without objection.

14 THE COURT: State's 27 into evidence without
15 objection.

16 [Whereupon, State's Exhibit Number 27,
17 fingerprint chart, is admitted into evidence by the
18 Court]

19 Q. [Mr. Simpson] Sargent, we've already heard from
20 Sargent Hallman. But if you could --

21 MR. SIMPSON: May the witness step down?

22 THE COURT: He may.

23 [Whereupon, the witness complies]

24 Q. [Mr. Simpson] If you could just demonstrate to
25 the jury how a match, be it on the data base or a known

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1 sample, is made for the latent print.

2 A. With a latent fingerprint: you have ridge
3 detail on the palm or surfaces of your hands and the
4 plantar surfaces of your feet. You also secrete from
5 pores on those ridges. When you touch an object, you
6 leave an impression behind. That's how we are able to use
7 powder and chemicals to recover the fingerprints.

8 When we compare unknown fingerprints to a known
9 sample, we look for what's called the target group. In
10 this particular print, there's a very specific target
11 group which has a short ridge here, and then one, two,
12 three, four, five, six ridges down we have what looks like
13 a V-shaped ridge. That V-shaped ridge connects with
14 another ridge which shows up, and it also goes down to the
15 next.

16 So by establishing the target group, we can
17 get -- we can then lay aside the unknown print. And in a
18 lot of cases, we'll have thirty or forty known samples
19 that we'll go through. By keeping that target group in
20 mind, we can hit the known samples, looking specifically
21 for that target group: the short ridge, one, two, three,
22 four, five ridges down the V-shaped ridge which connects
23 to another ridge which goes up and then comes down in
24 mounds. Once we've done that, then further comparisons
25 are conducted. And we show on each ridge count with each

1 type of point. There are several what they call points of
2 identification. You have ending ridges, which are ridges
3 that simply come up and end in space; you have
4 bifurcations, which is one ridge which turns into two; you
5 have short ridges; and then you have what's known as a
6 dot. Okay?

7 When we compare the latent or the unknown to
8 the known, everything has to match up spatially, as far as
9 if -- say for instance I have a print that has a dot, and
10 then four ridges up there's a bifurcation, and one ridge
11 above that is an ending ridge, if I don't find that exact
12 ridge count in the exact spatial correlation with the
13 known print, then it's a nonidentity. If I do find that,
14 then there's an identification, and we continue on with
15 all the points available.

16 MR. SIMPSON: You can take your seat. Thank
17 you.

18 [Whereupon, the witness complies]

19 Q. [Mr. Simpson] Sargent, in the present case you
20 said that you took some of the initial inked prints and
21 you ran it through this data base in a comparative manner
22 you just demonstrated; correct?

23 A. Yes, sir. I believe I was provided with twenty
24 latent lifts at the scene, which I then took back to
25 headquarters.

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1 Q. And your preliminary search revealed what?

2 A. It revealed the name Oran Smith.

3 Q. And were some of the prints insufficient?

4 A. Yes. Some were insufficient and -- yes.

5 Q. And Oran Smith is, to your knowledge, the
6 defendant in this case; correct?

7 A. Yes.

8 Q. Did you later become aware that subsequent data-
9 base searches revealed two other individuals?

10 A. Yes. Sargent Hallman conducted those
11 examinations.

12 Q. And do you recall the names of those
13 individuals?

14 A. Not right offhand. Let's see. Herbert --
15 excuse me -- Leonard Herbert Gettis and Leroy McKelvey.

16 Q. And when you get this preliminary data-base
17 match, what's done with that information?

18 A. It's forwarded to the case detective or the team
19 that's investigating that particular case.

20 Q. And do you remember who was the lead detective
21 on this case?

22 A. Detective Shawn Patrick.

23 Q. And was this initial hit passed on to Shawn
24 Patrick?

25 A. Yes, it was.

1 Q. Now, you said that after a data base match, you
2 go on to do more comparisons; correct?

3 A. Correct.

4 Q. And are those comparisons done in the same
5 manner you just demonstrated to the jury?

6 A. Yes, they are.

7 Q. Are these done with more what are known as known
8 samples?

9 A. Yes.

10 MR. SIMPSON: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 Q. [Mr. Simpson] Sargent, I'm handing you what's
14 been marked for ID only as State 28 through 30. Take a
15 moment and review those.

16 [Whereupon, the witness reviews documents]

17 [Whereupon, Mr. Simpson and Ms. Taylor confer]

18 Q. [Mr. Simpson] Can you identify those items?

19 A. Yes, I can. State's Exhibit 28 are the known
20 samples, the known standards, of the fingers of Oran
21 Smith.

22 State's 29 is a card with the known standards
23 for Leonard Gettis.

24 State's 30 -- just to make sure. State's 30 are
25 the known major-case or complete friction-ridge exemplars

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1 of Cheryl Snow.

2 And you also gave me State's 31. Would you like
3 me to describe that?

4 Q. Yes.

5 A. State's 31 is a known impression, from the data
6 base, of Leroy McKelvey.

7 Q. And we've heard from Sargent Hallman previously.
8 You guys worked this case together; right?

9 A. Yes, sir.

10 Q. You did a lot of these comparisons split up
11 between you?

12 A. Any fingerprint comparison -- it's the policy of
13 the North Charleston Police Department that any
14 fingerprint comparison has to be verified by a second and
15 possibly third examiner.

16 Q. And is it a -- is it correct to say that you
17 didn't do any of the analyses of the McKelvey prints;
18 correct?

19 A. I may have verified his identifications. I'm
20 not sure. It may have been either me or Corporal Coker.

21 Q. But as to these initial comparison and
22 conclusions, you may have verified someone else's but you
23 didn't do the initial ones?

24 A. Correct.

25 MR. SIMPSON: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 Q. [Mr. Simpson] Sargent, I'm about to hand you
4 what's been marked for ID only as State's 32 through 54.
5 These are the -- I'll hand them to you, ask you to
6 identify them for me.

7 [Whereupon, the witness reviews documents]

8 A. State's 32 through 51 are the first twenty
9 latent lift cards that I responded back to headquarters
10 with.

11 And State's 52 through 59 are the rest of the
12 latent prints that were searched and compared by Sargent
13 Hallman, as indicated by his initials.

14 Q. [Mr. Simpson] And as we previously heard from
15 Sargent Hallman, these are also given numbers by your
16 unit; correct?

17 A. Yes, they are.

18 Q. These would be L-1 through L-28?

19 A. Right. With the L standing for latent.

20 Q. And that would encompass all the latent lifts
21 taken from the scene in this case?

22 A. Yes, sir.

23 Q. Now, using the known samples you've already
24 identified, did you compare those through -- going by your
25 evidence numbers -- what would be L-1 through L-20 in this

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1 case?

2 A. Yes.

3 Q. Excluding McKelvey, who you've already
4 addressed?

5 A. Correct.

6 Q. And so the knowns you would have compared them
7 were to the victim Cheryl Snow?

8 A. Yes.

9 Q. The defendant Oran Smith?

10 A. Yes.

11 Q. And Leonard Gettis?

12 A. Yes.

13 Q. Beginning with what's been marked as State's
14 Exhibit 32 for ID purposes only -- and this is referred to
15 by your number as L-1 -- where does that indicate that
16 that lift was taken from the crime scene?

17 A. L-1 was taken from, according to my report and
18 the back of the latent print card where they're required
19 to write as they lift it, Newport cigarette pack.

20 Q. And did you compare that print with your known
21 samples?

22 A. Yes, I did.

23 Q. And what was the result of that examination?

24 A. Positive with the number seven or left index
25 finger of Oran Smith.

1 Q. And so it was your unit's conclusion that the
2 defendant's fingerprints were located on the Newport
3 cigarette --

4 A. Yes, sir.

5 MR. SIMPSON: Your Honor, at this time I would
6 move State's Exhibit 32 into evidence.

7 MS. TAYLOR: No objection.

8 THE COURT: State's 32 into evidence without
9 objection.

10 [Whereupon, State's Exhibit Number 32,
11 fingerprint card, is admitted into evidence by the
12 Court]

13 Q. [Mr. Simpson] Regarding L-2 by your number,
14 State's Exhibit 33, what were the conclusions with
15 comparison to that lift?

16 A. L-2 indicates -- actually, I left the
17 description of it off my report, but the back says Steel
18 Reserve can; L-2.1, no identifications; L-2.2, positive
19 with the number-nine or left-ring finger of Cheryl Snow;
20 L-2.3, positive with the number-seven left-index finger of
21 Cheryl Snow; L-2.4 through L-2.5, no identifications
22 effected with item K-3, which would be Cheryl Snow, the
23 known impressions of Cheryl Snow; unable to eliminate with
24 items K-1 or K-2, meaning the known standards of Oran
25 Smith and Leonard Gettis.

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1 Q. This is a rather obvious question, Sargent, but
2 you would expect to find that just to Cheryl Snow in this
3 case --

4 A. Yes, sir.

5 Q. -- correct?

6 A. It was her apartment.

7 Q. Her apartment. Okay.

8 Regarding what's State's Exhibit 34, referred to
9 in your report as lift L-3: where in the crime scene was
10 that taken?

11 A. Lift L-3 is labeled on the card and in my report
12 as Steel Reserve can.

13 Q. And did you compare those prints with your known
14 samples?

15 A. Yes, I did.

16 Q. And what were your results?

17 A. L-3.1 was positive with the number-one right
18 thumb of Oran Smith; L-3.2, positive with the number-six
19 left thumb of Oran Smith; L-3.3, positive with the number-
20 one right thumb of Oran Smith; and L-3.1, no
21 identifications effects with either of the known
22 standards. And I requested complete friction ridge
23 exemplars for Smith and Gettis for further comparison.

24 Q. So it was your unit's conclusion that the
25 defendant's fingerprints were located on the Steel Reserve

1 can in the victim's bedroom?

2 A. Yes, sir.

3 MR. SIMPSON: Your Honor, I would like to move
4 State's Exhibit 34 into evidence.

5 MS. TAYLOR: Without objection.

6 THE COURT: State's 34 into evidence without
7 objection.

8 [Whereupon, State's Exhibit Number 34,
9 fingerprint card, is admitted into evidence by the
10 Court]

11 Q. [Mr. Simpson] Moving on to State's Exhibit
12 40 -- 35, for ID only. And this would be under your
13 unit's numbers L-4. Where were those lifts taken from the
14 crime scene?

15 A. The back of the card and -- CD on dresser.

16 Q. And did you compare those prints to known
17 samples?

18 A. Yes, I did.

19 Q. And what were the results?

20 A. L-4.1 positive with the number-eight or the
21 left-middle finger of item Oran -- excuse me -- Oran
22 Smith; L-4.2 is a fingertip impression and I requested --
23 there were no identifications with any of the known
24 standards. Requested complete friction ridge exemplars
25 for further analysis.

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1 Q. So it was your unit's conclusion that the
2 defendant's fingerprints were located on a CD located in
3 the victim's bedroom?

4 A. Yes, they were.

5 MR. SIMPSON: Your Honor, at this point I would
6 move State's Exhibit 35 into evidence.

7 MS. TAYLOR: Without objection.

8 THE COURT: State's 35 into evidence without
9 objection.

10 [Whereupon, State's Exhibit Number 35,
11 fingerprint card, is admitted into evidence by the
12 Court]

13 Q. [Mr. Simpson] Regarding L-5: where was that
14 print lifted?

15 A. L-5, CD case on the dresser.

16 Q. And the results of that comparison?

17 A. L-5.1 positive with the number-six left thumb of
18 Cheryl Snow.

19 Q. L-6, State's Exhibit 37?

20 A. Yes, sir.

21 Q. From where from the crime scene was that card
22 lifted?

23 A. It was a cigar box, with a speaker in it, from
24 the bedroom.

25 Q. And the results of your comparisons regarding

1 that lift?

2 A. L-6.1 positive with the number-one right-thumb
3 finger of Oran Smith.

4 L-6.2 also positive with the number-one right
5 finger or right thumb of Oran Smith.

6 L-6.3, positive with the number-one finger,
7 right thumb, of Oran Smith.

8 L-6.4, positive with the number-nine or
9 left-ring finger of Cheryl Snow.

10 And L-6.5 positive with the left palm, the
11 interdigital area of the left palm, just under the fingers
12 of Cheryl Snow.

13 Q. So was it your unit's conclusion that the cigar
14 box in the victim's bedroom contained prints from both the
15 defendant and the victim?

16 A. Yes.

17 MR. SIMPSON: Your Honor, I would like to move
18 State's Exhibit Number 37 into evidence.

19 MS. TAYLOR: Without objection.

20 THE COURT: State's 37 into evidence without
21 objection.

22 [Whereupon, State's Exhibit Number 37,
23 fingerprint card, is admitted into evidence by the
24 Court]

25 Q. [Mr. Simpson] Sargent Garrison, what were your

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1 conclusions regarding the comparisons with L-7 and L-8?

2 A. L-7 and L-8 were insufficient for
3 identification. Those would be State's 38 and 39.

4 Q. And moving on to what's marked as State's
5 Exhibit 40, L-9 under your numbers, where were these lifts
6 taken from the crime scene?

7 A. Off of a large coffee cup in the kitchen.

8 Q. And did you compare those lifts with your known
9 samples?

10 A. Yes, I did.

11 Q. And your conclusions?

12 A. L-9.1 positive with the number-eight left-middle
13 finger of Oran Smith.

14 L-9.2 positive with the number-six, left thumb,
15 of Oran Smith.

16 MR. SIMPSON: Your Honor, at this time I would
17 like to move State's Exhibit Number 40 into evidence.

18 MS. TAYLOR: No objection.

19 THE COURT: State's 40 into evidence without
20 objection.

21 [Whereupon, State's Exhibit Number 40,
22 fingerprint card, is admitted into evidence by the
23 Court]

24 Q. [Mr. Simpson] Sargent, what was the result of
25 your examination on print card L-10?

1 A. That would be State's Exhibit 41. Insufficient
2 for identification.

3 Q. L-11?

4 A. L-11, from a Steel Reserve can.

5 L-11.1, no identification effected with either
6 standard.

7 L-11.2, no identifications effected with item
8 K-3, which was Cheryl Snow.

9 And the same for L.3.

10 Q. L-12?

11 A. L-12, State's 43, insufficient for
12 identification.

13 Q. L-13 and L-14?

14 A. L-13 is State's 44, Pedialyte bottle on table.
15 Yes. L-13 positive with the number-three, right index,
16 finger of Cheryl Snow.

17 L-14 would be State's 45. L-14.1 positive with
18 the number-nine, left-ring, finger of Cheryl Snow.

19 Q. L-15?

20 A. L-15, State's 46, positive with the number-
21 three, right index, finger of Cheryl Snow.

22 Q. And I believe the conclusions were the same on
23 L-16, 17, 18 and 19? If you could inform the jury what
24 those conclusions were.

25 A. L-16, which is State's 47 -- excuse me. I'm not

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1 as young as I once was -- insufficient for identification.

2 L-17 and L-18, which are State's 48 and 49, and
3 L-19, which is State's 50, insufficient for
4 identification.

5 Q. And, finally, Sargent, L-20?

6 A. L-20, State's 51, interior-side front door.
7 L-20.1 positive with the number-four, right-ring, finger
8 of Cheryl Snow.

9 L-20.2, insufficient for identification.

10 Q. And, Sargent, we've discussed that you and
11 Sargent Hallman did all this work together on this case?

12 A. Together, but separately, yeah.

13 Q. Together, but separately?

14 A. Yes.

15 Q. Are you familiar with the conclusions of his
16 work, as well?

17 A. Yes.

18 Q. And so is it correct that fingerprints that are
19 located in the victim's apartment that match four
20 individuals?

21 A. Correct.

22 Q. Cheryl Snow, the victim; correct?

23 A. Correct.

24 Q. Leonard Gettis?

25 A. Correct.

1 Q. Leroy McKelvey?

2 A. Correct.

3 Q. And the defendant, Oran Smith?

4 A. Correct.

5 Q. And how many fingerprints, individual
6 fingerprints, lifted from the crime scene match the
7 defendant Oran Smith?

8 A. I believe eleven.

9 Q. Does that include one from the Newport cigarette
10 pack found on the victim's bed?

11 A. Yes.

12 Q. Does it include three from the Steel Reserve
13 beer can?

14 A. Yes.

15 Q. One from the CD on the dresser in the victim's
16 bedroom?

17 A. Yes.

18 Q. Does that include three from the cigar box in
19 the victim's bedroom?

20 A. Cigar box with the speaker. Correct.

21 Q. Does that include one from the stereo magnet
22 that was found inside that cigar box?

23 A. Yes.

24 Q. And two from the coffee cup in the kitchen?

25 A. Yes.

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1 MR. SIMPSON: Sir, please offer any questions --
2 answer any questions Ms. Taylor has for you.

3 THE WITNESS: Yes, sir.

4 THE COURT: Ms. Taylor?

5 MS. TAYLOR: Thank you.

6 Good afternoon, Sargent Garrison. I want to
7 just review what you've just went over with Mr. Simpson
8 and make sure I got it right.

9 CROSS-EXAMINATION

10 BY MS. TAYLOR:

11 Q. There are -- how many beer cans were there in
12 the house?

13 A. I believe there were two or three, based on the
14 cards that were submitted.

15 Q. And I think I heard you that I didn't catch:
16 was it L-2 that is a Steel Reserve beer can that's not on
17 the report that -- you said you left one off the report.

18 A. L-2 is labeled Steel Reserve can.

19 Q. Okay. And so there were Oran's prints on some
20 beer cans?

21 A. Yes, ma'am.

22 Q. Were those prints on both of those beer cans? I
23 know we said there's one in the bedroom that it's on.

24 A. L-2 was a Steel Reserve can. Cheryl Snow's
25 fingerprints were on that. L-3 is a Steel Reserve can.

1 Oran Smith's fingerprints were on that.

2 Q. Were they both in the bedroom? Do you know?

3 A. I couldn't tell you that.

4 Q. So one beer can has Oran's prints, and one beer
5 can had Cheryl Snow's prints?

6 A. Yes, ma'am.

7 Q. What does that tell us scientifically?

8 A. Somebody was drinking beer.

9 Q. Holding those beer cans in their hands and
10 drinking them?

11 A. Yes, ma'am.

12 Q. And you've got an empty pack of cigarettes?
13 Newport pack of cigarettes?

14 A. I couldn't tell you if it was empty, but there
15 was a Newport pack.

16 Q. And that had a print that was Oran Smith's?

17 A. Yes, ma'am.

18 Q. What does that tell you?

19 A. Oran was smoking cigarettes.

20 Q. Do you know where they were found?

21 A. No, ma'am.

22 Q. He was -- at some point had been smoking
23 cigarettes from the pack?

24 A. Right.

25 Q. And then there was a cigar box?

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1 A. Yes, ma'am.

2 Q. I think also had some prints. Do you know what
3 was inside the cigar box?

4 A. I believe it was a speaker.

5 Q. Okay. What does that tell us?

6 A. Playing around with a cigar box, somebody
7 handling a cigar box, with a speaker in it.

8 Q. Was there anything else on that cigar box of any
9 forensic value?

10 A. I wouldn't be able to answer that. I didn't
11 spend much time in the crime scene, and my only
12 involvement was with the latent prints.

13 Q. Did you ever see the cigar box?

14 A. I believe I briefly saw it when they brought it
15 out and were dusting it. About that time, after that
16 lift, we were out of there. I was out of there.

17 Q. If there were any extrinsic items of physical
18 evidence like blood or hair, do you think that someone in
19 your unit would have seen it?

20 A. Yes.

21 Q. Do you think we would know about it today?

22 A. Yes.

23 Q. Is it safe to assume it wasn't on that cigar box
24 when y'all got it?

25 A. It would be safe to assume.

1 Q. And there was a CD and a CD case; is that right?
2 I think that would be L-4 and L-5.

3 A. L-4 was the CD on a dresser. L-5 was the CD
4 case, I believe.

5 Q. And the case had Ms. Snow's fingerprint on it;
6 is that right? L-5?

7 A. Yes, ma'am.

8 Q. And L-4, the actual CD, had Oran's fingerprint
9 on it?

10 A. Yes, ma'am.

11 Q. What does that tell us?

12 A. Oran handled the CD.

13 Q. And Cheryl handled the CD case?

14 A. Yes, ma'am.

15 Q. Somebody was listening to music a safe
16 assumption?

17 A. Safe assumption.

18 Q. And then the last thing I think was the cup of
19 coffee, which would be L-9.

20 A. Coffee cup.

21 Q. Coffee cup. Sorry. Yes. And that shows -- is
22 it L-9.1 and L-9.2 to be two prints, the left middle and
23 left thumb, of Oran?

24 A. Yes, ma'am.

25 Q. So do you know where on the coffee cup?

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1 A. No, ma'am.

2 Q. But somebody was holding that coffee cup --

3 A. Correct.

4 Q. -- Oran Smith was holding that cup?

5 A. Correct.

6 Q. And do you know where that was taken from?

7 A. Where it was found?

8 Q. Yes.

9 A. No, ma'am, I don't.

10 Q. If it indicates on this report that I'm looking
11 at kitchen, that would be accurate?

12 A. Which report?

13 Q. I'm sorry.

14 A. If it's somebody's report other than mine, yes,
15 ma'am, that may be -- oh. I see. Okay.

16 Q. It's got your name on it.

17 A. Let me just double check --

18 Q. It's on page 2 of a two-and-a-quarter-page
19 report.

20 A. Yes, ma'am. Large coffee cup, with kitchen in
21 parenthesis. Yes, ma'am. So I would assume it was found
22 in the kitchen.

23 Q. Okay. And then L-10 on that same report, what
24 was that? It says insufficient for identification, but
25 what was being looked at?

1 A. L-10 would have been a Coke bottle.

2 Q. A Coke bottle?

3 A. Yes, ma'am.

4 Q. And then there's L-11, which I believe you
5 indicated to Mr. Simpson was another Steel Reserve can?

6 A. Yes, ma'am.

7 Q. That would be a beer can?

8 A. Yes.

9 Q. And L-11.1, .2 and .3 -- sorry. L-11.1
10 indicates no identification effected. And this looks like
11 you requested complete friction-ridge exemplars?

12 A. Yes, ma'am.

13 Q. Is that just some better way to compare a
14 fingerprint?

15 A. Complete friction-ridge exemplars are basically
16 known standards from the entire hand: the entire palmar
17 surfaces of the hands, the fingers, we do the sides, we do
18 the tips, we do the blades, we do the phenar area, we do
19 the interdigital area separately, so that we have every
20 area of friction ridge detail encompassed and covered.

21 Q. And were those complete friction-ridge exemplars
22 done?

23 A. I never received them, no.

24 Q. As far as you know, that was not done?

25 A. Right.

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1 Q. So on that Steel Reserve can, no identification
2 effected with K-1, 2 and 3. So those would be Cheryl
3 Snow, Oran Smith, and Leonard Gettis; is that right?

4 A. Yes, ma'am.

5 Q. And when it shows no identification effected,
6 was there a latent print that you could have matched to
7 somebody, it just didn't match to those three people?

8 A. Yes, ma'am. Actually, we -- no identification
9 effected with K-1, K-2 or K-3, submit complete friction-
10 ridge exemplars for further identification -- further
11 comparison.

12 Q. And so does that indicate that some individual,
13 other than those three young individuals, held that Steel
14 Reserve beer can?

15 A. It could. It could also be one of those three
16 individuals indicating -- when we suggest complete
17 friction-ridge exemplars, it means that the area of ridge
18 detail we have on the latent was not represented on the
19 standard.

20 Q. So we don't know?

21 A. We don't know.

22 Q. And then the same thing for L-11.2? No
23 identification effected with item K-3?

24 A. Right.

25 Q. I'm sorry. Who is K-3?

1 A. K-3 would be Cheryl Snow.

2 Q. Okay. So we know that Cheryl didn't hold that
3 beer can, or at least that --

4 A. No.

5 Q. -- wasn't her fingerprint. We don't know who
6 else it may be?

7 A. Correct.

8 Q. And the same for 11.3; is that correct?

9 A. Correct. Yes, ma'am.

10 Q. And then what is L-12?

11 A. L-12? L-12 is a CD plastic case from the bed.

12 Q. And that just didn't -- you didn't have
13 something you could compare?

14 A. Nothing at all.

15 Q. And you told us that the next one is the
16 Pedialyte bottle. What was L-14?

17 A. L-14 would be a blue mug in the bedroom.

18 Q. And that has -- 14.1 is Ms. Snow's print?

19 A. Yes, ma'am.

20 Q. And then there is some other print, but it is
21 insufficient?

22 A. Insufficient ridge detail for identification.
23 Yes, ma'am.

24 Q. And what was L-15?

25 A. L-15, also a blue mug in the bedroom.

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1 Q. Presumably the same blue mug?

2 A. Yes, ma'am.

3 Q. And that had Cheryl's print on it?

4 A. L-15? Is that what we're talking about? Yes.

5 Q. It looks like a 15.

6 A. L-15 positive with the number-three, right
7 index, finger of Cheryl Snow.

8 Q. Okay. And what is L-16?

9 A. L-16 is a latent lift from a plastic -- excuse
10 me. Yes. Plastic CD case from the bed.

11 Q. And what about 17?

12 A. 17 is a latent lift, a -- excuse me -- a glass
13 blue bowl on living-room table.

14 Q. And 18 and 19?

15 A. 18, Quaker Oats can, living-room floor. And 19,
16 interior side of front door.

17 Q. Interior side?

18 A. Yes, ma'am.

19 Q. And those that we just reviewed, the bowl, the
20 oats and the door, and the TV [phonetic] case, had
21 something on them but nothing you could compare?

22 A. Correct.

23 Q. Insufficient?

24 A. Yes, ma'am.

25 Q. And then you told us L-20 was also the interior

1 front door and the only identified print on that was
2 Ms. Snow?

3 A. Yes, ma'am.

4 Q. And do you know whether there were any prints
5 able to be taken from the exterior door?

6 A. I do not know.

7 Q. Did you have anything to do with any part of the
8 forensic investigation at the apartment?

9 A. No, ma'am. Stood around, waited for latents.
10 That's about the extent of my participation.

11 MS. TAYLOR: Okay. The Court's indulgence for
12 one moment.

13 THE COURT: Yes, ma'am.

14 [Whereupon, Ms. Taylor and Mr. Nixon confer]

15 MS. TAYLOR: Thank you very much, Detective
16 Garrison.

17 THE WITNESS: Thank you, ma'am.

18 MR. SIMPSON: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. SIMPSON:

21 Q. Sargent Garrison, you were asked about these
22 examples where you request more ridge detail?

23 A. Yes.

24 Q. And I think just as an example, would you use an
25 L-3?

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1 A. Correct.

2 Q. That's a Steel Reserve beer can?

3 A. Uh-huh.

4 Q. And on that piece of evidence, for example on
5 3.1 and 3.2 and 3.3, you have positive matches with Oran
6 Smith; correct?

7 A. Yes, sir.

8 Q. And then on 3.4 you request further detail?

9 A. Yes.

10 Q. Further detail, which in the present case was
11 never provided?

12 A. Correct.

13 Q. But that 3.4 doesn't mean that that's a print of
14 some mystery person, necessarily, does it?

15 A. Not necessarily.

16 Q. It could very well be a print from, say,
17 opinions whose other prints are on there, just not of the
18 area provided to you in your known samples?

19 A. Correct.

20 MR. SIMPSON: I have nothing further, Your
21 Honor.

22 MS. TAYLOR: Court's indulgence.

23 [Whereupon, Ms. Taylor and Mr. Nixon confer]

24 MS. TAYLOR: Nothing. Thank you.

25 THE COURT: Sargent, you may step down.

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1 THE WITNESS: Thank you, ma'am.

2 THE COURT: May Sargent Garrison be excused from
3 the courthouse?

4 MR. SIMPSON: Yes.

5 THE COURT: Any objection?

6 MS. TAYLOR: No objection.

7 THE COURT: Sargent, you may be excused from the
8 courthouse. Thank you, Your Honor.

9 THE WITNESS: Thank you, Your Honor.

10 [Whereupon, the witness is excused and exits the
11 witness stand]

12 THE COURT: Call your next witness.

13 MR. VOIGHT: Lilly Gallman.

14 MS. TAYLOR: May we approach, Your Honor?

15 THE COURT: You may.

16 [Whereupon, an off-the-record bench conference
17 is held]

18 [Whereupon, Ms. Gallman comes forward]

19 THE CLERK OF COURT: Please, ma'am, place your
20 left hand on the Bible and raise your right, please.

21 [Whereupon, Ms. Gallman is duly sworn by the
22 clerk of court as follows: do you swear or affirm that
23 the testimony that you shall give this Court and jury
24 in the trial of this case shall be the truth, the whole
25 truth, and nothing but the truth, so help you God]

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1 THE WITNESS: I do.

2 THE CLERK OF COURT: Thank you, ma'am. Please
3 be seated.

4 [Whereupon, Ms. Gallman takes the witness stand]

5 THE CLERK OF COURT: For the record, please
6 state your name, and spell your last name.

7 THE WITNESS: My name is Lilly Smalls Gallman.
8 Gallman is spelled G-A-L-L-M-A-N.

9 MR. VOIGHT: Ms. Gallman, I'm just going to take
10 all this stuff off the top here so that it's not in
11 your way.

12 - - - - -

13 LILLY S. GALLMAN,

14 Having Been First Duly Sworn,
15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. VOIGHT:

18 Q. Ms. Gallman, where do you work?

19 A. I work with South Carolina Law Enforcement
20 Division.

21 Q. And where is that located?

22 A. In Columbia, South Carolina.

23 Q. And what's your job there?

24 A. I'm employed as a forensic DNA analyst.

25 Q. And how long have you been a forensic DNA

1 analyst?

2 A. Since January of 1990. So nineteen years.

3 Q. And what specialized training in DNA analysis
4 did you receive prior to working at SLED or during your
5 time at SLED?

6 A. I have a degree in Biology from the University
7 of South Carolina. Once I received my degree, I continued
8 working in the area of molecular genetics in an academia
9 setting where I did cloning and sequencing of DNA, and I
10 also trained graduate students in the area of laboratory
11 usage and the science.

12 Once I began working with the State Law
13 Enforcement Division, I was trained in the area of
14 serology so I would be able to process evidence, looking
15 for body fluids; also processing evidence of -- just for
16 forensic evidence, because I had -- I did not have any
17 prior training in that.

18 I also attended the FBI DNA typing school, both
19 the beginners and the advanced. And I have also taken
20 advanced genetics courses and statistics courses to aid me
21 in my job.

22 Q. Have you ever been qualified as an expert in the
23 field of DNA analysis in South Carolina?

24 A. Yes, I have.

25 Q. Approximately how many times?

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1 A. Approximately sixty.

2 Q. And of that sixty, has some portion been here in
3 Charleston County?

4 A. Yes.

5 MR. VOIGHT: At this time, Your Honor, we would
6 offer Ms. Gallman as an expert in the field of DNA
7 analysis.

8 MS. TAYLOR: No objection.

9 THE COURT: Ms. Gallman -- do you prefer Agent
10 Gallman, or is it Ms. Gallman?

11 THE WITNESS: it doesn't matter. Either one.

12 THE COURT: Agent Gallman will be qualified as
13 an expert in DNA analysis.

14 Q. [Mr. Voight] And, Agent, did you have the
15 occasion to test some samples related to the homicide of
16 Cheryl Snow in 2007?

17 A. Yes, I did.

18 Q. And did you prepare a report in connection with
19 your findings of that testing?

20 A. Yes, I did.

21 MR. VOIGHT: May I approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 Q. [Mr. Voight] Ms. Gallman, I ask you to --

25 MR. VOIGHT: What number are we at?

1 THE COURT REPORTER: 62.

2 MR. VOIGHT: 62?

3 [Whereupon, State's Exhibit Number 62, DNA
4 report, is marked by the court reporter]

5 Q. [Mr. Voight] As you to take a look at what I'm
6 marking as State's 62 and ask you if you can identify that
7 document.

8 A. Yes, I do. This is a copy of the report that I
9 issued.

10 Q. Okay. And approximately how many items did you
11 test for DNA?

12 A. I did quite a few. Between twenty and thirty
13 items.

14 Q. And could you describe to the jury, when we say
15 test for DNA, what exactly you are doing?

16 A. Well, in this particular case I received
17 cuttings and swabs and also -- from our evidence
18 processing department. And I also received some evidence
19 just submitted by the submitting agency.

20 Once I receive the evidence, I check for the
21 presence of body fluids. In this particular case I
22 checked for blood and for semen on different items. Once
23 I have a positive result when it comes to body fluids,
24 then I proceed to the next step: to develop a DNA
25 profile. And in order to do that, I have to extract the

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1 DNA from those items. Let's say it's a swab. And that
2 particular -- a cutting is taken from that swab and placed
3 in a solution to release the DNA from that swab. Once I
4 have extracted the DNA, the next step is to move into
5 develop the DNA profile from that extraction.

6 Q. Before we get any farther -- and I don't mean
7 to -- I don't want this to appear to be condescending to
8 anyone. But what exactly is DNA?

9 A. DNA stands for deoxyribonucleic acid. It's
10 considered to be the blueprint of the body. You get part
11 of your DNA from your mother and part from your father.
12 The only people who have the same DNA, exact DNA, is
13 identical twins because, as you know, they come from the
14 same egg. The fact that everyone's DNA is unique, it
15 enables us to determine whether an evidentiary sample
16 matches a known standard or it does not.

17 Q. And once you find the presence of -- as you were
18 saying, once you found the presence of fluids, your job
19 then was to separate out the DNA. How is that done?

20 A. My job then is to extract the DNA from whatever
21 type body cells it's in. It could be in blood, it could
22 be in the sperm that's found in semen, or it could even be
23 in someone's saliva.

24 Q. Now, the DNA found in your saliva, is that going
25 to have the same characteristics as the DNA found in some

1 other bodily fluid? blood, or sweat, or something else
2 like that?

3 A. Yes, it's the same. That's why we're able to
4 take a swab from the inside of somebody -- someone's
5 mouth, use as a standard to compare to semen that's found
6 on evidence.

7 Q. And in this case how many different -- what is a
8 standard?

9 A. A standard -- we use the term standard to refer
10 to a sample that's coming from either a subject or a
11 victim in a particular case. It's a known DNA profile.

12 Q. Did you have any standards in this particular
13 case to compare these items to?

14 A. Yes, I did.

15 Q. How many standards did you have?

16 A. I received a standard from the victim Cheryl
17 Snow, one from Mr. Smith, and one from Mr. Gettis.

18 Q. And so you had three standards to work with.
19 And were these standards supplied to you by law
20 enforcement?

21 A. That's correct.

22 Q. I guess you testified that you tested twenty-
23 three individual samples; is that correct?

24 A. There were twenty-three items submitted, I
25 believe. But cuttings were made from different ones to

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1 increase the number.

2 Q. Okay. And for those things -- were there some
3 samples for which no DNA analysis was performed?

4 A. Yes, there were some samples.

5 Q. And why would no DNA analysis be performed on
6 those samples?

7 A. Well, for example, I received a hair from a soup
8 can and that hair was not suitable for the testing that we
9 perform in our laboratory. Also, there was a hair clip
10 from the victim. There was no analysis done on that,
11 also.

12 Q. There needs to be a root ball on the hair where
13 you have enough genetic material to do a DNA test?

14 A. Yes. In our laboratory. We perform SDR/PCR DNA
15 testing and we're required to have a root, which has cells
16 in it, that would belong to whoever the hair belongs to.

17 Q. Okay. And none of those hair samples had the
18 requisite root in order to be performed by your
19 laboratory, nor were the tests to be performed by your
20 laboratory?

21 A. That's correct.

22 Q. Of all the things that you were able to test,
23 did any of the DNA that you extracted from any of those
24 items match the known samples of DNA of Leonard Gettis?
25 One of the known samples submitted to you by law

1 enforcement.

2 A. No. His DNA profile did not match any of the
3 evidence analyzed in this case.

4 Q. Now, did you find, on several items that you
5 tested for DNA, the presence of Cheryl Snow's DNA?

6 A. Yes, I did.

7 Q. And do you recall what you found Cheryl Snow's
8 DNA -- what samples you found Cheryl Snow's DNA on?

9 A. On item 3, which is the right and left
10 fingernail scrapings -- clippings from Ms. Snow. Also,
11 item number 4. SLED's case identification numbers: item
12 number 4, which is a vaginal swab; item number 5, which is
13 the swab from the victim's left hand; and item number 18,
14 which is the rectal swab from Cheryl Snow.

15 Q. So basically you found Cheryl Snow's DNA where
16 you would expect to find it, which is on her body?

17 A. That's correct.

18 Q. Now, let me direct you to item number 2 that was
19 submitted. Were there individual cuttings taken from item
20 number 2?

21 A. Yes, there were. There were swabs and cuttings
22 taken from item number 2.

23 Q. Did you bring any of those items with you today?

24 A. Yes.

25 Q. Can I see what you brought?

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1 THE WITNESS: It's okay?

2 THE COURT: You may step down, yes, ma'am.

3 THE WITNESS: Okay. I'm sorry. It's too late
4 to ask after I got up.

5 [Off the record momentarily]

6 MR. VOIGHT: May we approach, Your Honor?

7 THE COURT: You may.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 THE COURT: Ladies and gentlemen, there is a
11 matter of law that I must take up outside of your
12 presence. Please do not discuss this case amongst
13 yourselves. Please do not begin your deliberations.

14 Please rise for the jury.

15 Agent, if you'll just have a seat right there.
16 Thank you.

17 [Whereupon, the jury exits the courtroom at
18 3:22 p.m.]

19 THE COURT: Thank you. Be seated.

20 Mr. Voight, if you want to go ahead and have the
21 exhibits marked.

22 MR. VOIGHT: Thank you, Your Honor.

23 [Off the record momentarily]

24 THE COURT: We'll go ahead and take about a ten-
25 minute recess.

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1 MS. TAYLOR: Okay.

2 THE COURT: Thank you.

3 [Whereupon, a recess is taken from 3:24 p.m. to
4 3:36 p.m.]

5 [Whereupon, State's Exhibit Number 63, oral
6 swab, is marked by the court reporter]

7 [Whereupon, State's Exhibit Number 64, cuttings
8 from pajama bottoms, is marked by the court reporter]

9 THE COURT: Thank you. Be seated.

10 All right. Is there any objection, Ms. Taylor,
11 to any of the exhibits that Agent Gallman brought?

12 MS. TAYLOR: No, Your Honor. I think there were
13 only two that were marked that he intends to introduce,
14 and there are no objections to those.

15 THE COURT: Okay. Any matters before we bring
16 the jury back in?

17 MR. VOIGHT: No, Your Honor.

18 THE COURT: All right. Let's please bring in
19 the jury.

20 And please rise for the jury.

21 Agent, if you will just remain seated. Thank
22 you.

23 [Whereupon, the jury enters the courtroom at
24 3:38 p.m.]

25 THE BAILIFF: All present, Your Honor.

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1 THE COURT: Thank you. Please be seated.

2 Mr. Voight?

3 MR. VOIGHT: Thank you, Your Honor.

4 CONTINUED DIRECT EXAMINATION

5 BY MR. VOIGHT:

6 Q. Agent Gallman --

7 MR. VOIGHT: May I approach the witness, Your
8 Honor?

9 THE COURT: You may.

10 MR. VOIGHT: Thank you.

11 Q. [Mr. Voight] Agent Gallman, before we took a
12 break I believe we were talking about your report and
13 about what has been marked as State's Exhibits 63 and 64.
14 Could you identify State's Exhibit Number 63 for me?

15 A. State Exhibit Number 63 is a standard, from
16 Mr. Smith, that was submitted for DNA testing.

17 Q. And that is the sample that was sent to SLED.
18 From that you extracted a DNA profile on Mr. Smith?

19 A. That's correct.

20 Q. And State's Exhibit 64: what is State's Exhibit
21 64?

22 A. State Exhibit 64 are cuttings, and also hairs,
23 that were submitted to me for DNA testing from the
24 evidence processing area.

25 MR. VOIGHT: Your Honor, previous to trial, Ms.

1 Taylor and I had agreed to certain stipulations
2 regarding the internal chain at SLED. At this time I
3 would like to offer that stipulation to Ms. Taylor that
4 we agreed to that -- for purposes of the admissibility,
5 that we are agreeing that the chain has been maintained
6 properly from North Charleston through SLED. And at
7 this time I would also offer, file, and introduce
8 State's Exhibit 62, 63 and 64.

9 MS. TAYLOR: I do not object to the admission of
10 any of that. And we do not challenge the chain at all.
11 That is correct.

12 THE COURT: Okay. Thank you.

13 State's 63, 64 into evidence.

14 MR. VOIGHT: As well as 62, Your Honor.

15 THE COURT: And 62. Thank you. Without
16 objection.

17 [Whereupon, State's Exhibit Number 62, DNA
18 report, is admitted into evidence by the Court]

19 [State's Exhibit Number 63, oral swab, is
20 admitted into evidence by the Court]

21 [Whereupon, State's Exhibit Number 64, cuttings
22 from pajama bottoms, is admitted into evidence by the
23 Court]

24 THE COURT: Mr. Voight?

25 MR. VOIGHT: Thank you very much, Your Honor.

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1 Q. [Mr. Voight] Now, in your report, how are --
2 how is the DNA of the various known samples expressed?
3 Are there numerical values for this DNA?

4 A. Well, what we do -- they are referred to as
5 alleles that are given for each particular area of the DNA
6 that we are looking at. We look at sixteen areas of the
7 DNA to develop a DNA profile and once we are able to
8 develop a DNA profile and it matches a certain individual
9 or a piece of evidence, then we generate frequency of that
10 event.

11 Q. What specifically is an allele?

12 A. An allele is a segment of DNA that are a repeat
13 of a sequence of DNA. Say for instance the repeat is one,
14 two, three, four, and you see one, two, three, four, and
15 one, two, three, four, one, two, three, four, like that.
16 It depends on how many repeats are coming from your mother
17 and how many that's coming from your father that you would
18 have.

19 Q. Okay. And you have charts which are what I
20 showed you, which is State's 62, the copy of your report.
21 You have reduced these findings concerning alleles to a
22 set of charts found at six and seven of your report; is
23 that correct?

24 A. That's correct.

25 Q. If I could direct you to page 6 of 7. And I'm

1 going to put this on the wall behind you. Now, the chart
2 that you have at the top there in the -- in the upper
3 left-hand corner, that would be Cheryl Snow's DNA profile;
4 is that correct?

5 A. That's correct. In the first column that you
6 see are the items that were tested, and the first name
7 you -- the first column that you see and the first --

8 Q. On the far left.

9 A. -- and the first row is Cheryl Snow's DNA
10 profile.

11 Q. Okay. Now, across the top there, there's a
12 series of letters and numbers. I believe that first
13 column is -- is that DRS1179. What is that? What are you
14 testing for there?

15 A. That's D8S11779. The 8 stands for which
16 chromosome this particular -- which chromosome we're
17 looking at, and the S1179 is the position on that
18 chromosome.

19 Q. So in Cheryl Snow's DNA profile for that
20 particular chromosome, you would be looking for alleles at
21 the ninth and thirteenth position?

22 A. It means that she has -- she received nine
23 repeats for either her mother or father, and thirteen
24 repeats from either her mother or father.

25 Q. Okay.

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1 A. I can't tell you which without their standards.

2 Q. Okay. So that there are nine repeats on that
3 first chromosome and thirteen repeats for Cheryl Snow.
4 Would that be distinctive -- would -- as to each one of
5 these, would there be different numerical values for
6 different people, or could some people share numerical
7 values? Would --

8 A. Some --

9 Q. -- it be --

10 A. Some people can share numerical values. But
11 what we're able to do, since each one of these areas that
12 we look at are independent of each other, we're able to
13 look at them separately and to -- we use the information
14 separately for each one.

15 Q. Okay. And right below Cheryl Smith is -- or
16 Cheryl Snow is Oran Smith. And for that first chromosome
17 marker, his alleles would be fourteen repeats and sixteen
18 repeats?

19 A. That's correct.

20 Q. And then Leonard Gettis would be twelve repeats
21 and thirteen repeats. So the thirteen repeats would be
22 the same as Cheryl Snow?

23 A. That's correct.

24 Q. If you were to just -- from any given sample
25 just get a thirteen, would you be able to know if it

1 was -- and all you had was that one column, that one
2 chromosome, would you be able to tell which particular
3 known sample that came from?

4 A. Whether it was from Leonard Gettis or Cheryl
5 Snow?

6 Q. Right.

7 A. No, I would not.

8 Q. Just based on the -- just based on thirteen
9 repeats you wouldn't be able to?

10 A. No, I would not.

11 Q. But as you look across the broad spectrum, each
12 individual column, which is a separate and distinct
13 chromosome marker -- each of those?

14 A. Yes.

15 Q. And if you look at each of those values, would
16 you then be able to either include or exclude a particular
17 person, based on the alleles that they show in their DNA
18 profile?

19 A. That's correct.

20 Q. Now, and in that lefthand column on that chart
21 are various items that you tested -- swabs, cuttings --
22 and in none of those does Leonard Gettis match as a
23 profile?

24 A. He does not.

25 Q. Now, were you able to separate out any semen

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1 samples from item 2.5, which is State's Exhibit 63 or --
2 no -- State's Exhibit 64?

3 A. Yes. It would be on page 7.

4 Q. That would be on page 7?

5 All right. And were you able to make a DNA
6 comparison with the known samples that you have, and were
7 you able to make any conclusions about whose DNA -- or
8 rather whose semen that was?

9 A. Yes, I was.

10 Q. And whose semen was that sample?

11 A. The DNA profile developed on the semen on item
12 2.5 matched the DNA profile of Oran Smith.

13 Q. And if you could express it in terms of a
14 probability. What is the probability that someone other
15 than Oran Smith contributed to that DNA?

16 A. Well, once we develop a DNA profile, and based
17 on the information there was a match, we're required to
18 attach a frequency of that particular event in a given
19 population. And I'm reading from my report, and it states
20 that the probability of randomly selecting an unrelated
21 individual having a DNA profile matching this item -- and
22 I'm speaking of the semen found on 2.5 -- is approximately
23 1 in 5.1 quadrillion.

24 Q. The sample taken from 2.5, do you know where
25 that cutting came from?

1 A. From the crotch of one of the pajama bottoms.

2 Q. Now, there was another sample I'm going to ask
3 you about, which is 2.42. And that is a separate cutting
4 from the pajama bottoms?

5 A. That's correct.

6 Q. Were you able to find Cheryl Snow's DNA on that
7 particular cutting?

8 A. Yes, I was.

9 Q. And where is that particular cutting located on
10 your chart found down on page 6 of 7?

11 A. It's found on page 6, at the bottom.

12 Q. So this area behind you here, this very bottom,
13 that would be that particular cutting taken from the
14 pajama bottom?

15 A. That's correct.

16 Q. And compared to the semen that you just
17 testified to over in sample 2.5, was -- the sample in
18 2.42, was that semen?

19 A. No. It was not tested for semen. It was just
20 sent through the DNA process.

21 Q. Okay. So that was DNA that was not tested as
22 semen?

23 A. That's correct.

24 Q. And that could have been from either some other
25 bodily excretion or through some other sort of cell?

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1 A. That's correct.

2 Q. Would it -- could it have come from skin cells?

3 A. Yes.

4 Q. And were you able to develop Oran Smith as a
5 contributor to that -- to the DNA -- to the alleles that
6 you found in that particular sample?

7 A. Yes, I was. As you can see, there are more than
8 two alleles -- as you go across the chart, more than two
9 alleles in any given segment of those two samples, 2.4 and
10 2.4.1 and 2.4.2. That means that I have a mixture of two
11 people's DNA there. The major contributor to those two
12 samples is Cheryl Snow. The minor contributor is from a
13 male individual, and Oran Smith could not be excluded as
14 the minor contributor to those two samples based on his
15 DNA profile.

16 Q. Now, his DNA profile: in that first chromosomal
17 column, Oran Smith is a fourteen and a sixteen?

18 A. That's correct.

19 Q. Were you able to find either a fourteen or a
20 sixteen on that particular cutting?

21 A. Yes. If you look at item number 2.4.2 in that
22 first column, the last sample, Cheryl Snow is a nine-
23 thirteen and Oran Smith is a fourteen-sixteen.

24 Q. And how is that -- why is that expressed in
25 parentheses on your chart?

1 A. That means that there was a low quantity of DNA
2 there.

3 Q. Okay. And what is the threshold that SLED
4 uses -- so for example, Cheryl Snow's cutting -- or Cheryl
5 Snow's alleles, the nine and the thirteen, what was --
6 what is the threshold for saying that that's Cheryl Snow's
7 DNA on that sample?

8 A. Well, when the information is gathered for a DNA
9 profile, we are looking at peak heights. We have a cutoff
10 of 150 RFUs, which is relative fractive units. In this
11 particular case the fourteen and the sixteen fell below
12 the one-fifty.

13 Q. Okay. Now, that doesn't mean that they're not
14 there?

15 A. Oh. No. That happens quite often and it's --
16 the fact is that there's a small quantity of the
17 contributor's DNA there.

18 Q. Okay. So there's a much smaller quantity of the
19 contributor's DNA than Cheryl Snow's on that particular
20 cutting?

21 A. That's correct.

22 Q. Now, in the next column there's a 32.2 in
23 parentheses. Could Cheryl Snow have been the person who
24 contributed that DNA?

25 A. No, she could not.

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1 Q. And why is that?

2 A. She's a twenty-eight thirty at that particular
3 position on the chromosome.

4 Q. Does Oran Smith have a thirty-two two there?

5 A. Yes, he does.

6 Q. On the third chromosome, Cheryl Snow is a ten?

7 A. That's correct.

8 Q. And Oran Smith is a ten?

9 A. He's a ten eleven.

10 Q. And you find a ten, and you find a strong sample
11 of ten there?

12 A. That's correct.

13 Q. And you find a weak sample of eleven there?

14 A. Yes.

15 Q. And Oran Smith is an eleven?

16 A. Yes.

17 Q. On the fourth one, they both seem to have the
18 same markers.

19 A. That means that they both received eleven
20 repeats from either their mother or father, and twelve
21 repeats from either their mother and father, at that
22 particular segment of the chromosome.

23 Q. And at that particular segment, those numbers
24 don't tell you -- they just tell you that the contributor
25 would contribute both eleven repeats and twelve repeats at

1 that particular chromosome?

2 A. That's correct.

3 Q. Now, at the next chromosome there's a fourteen.
4 And that's above the threshold, so that's a hundred --
5 over 150 --

6 Was that RP?

7 A. RFUs.

8 Q. -- RFUs.

9 Could that have come from Cheryl Snow?

10 A. No. Not the fourteen.

11 Q. Could it have come from Oran Smith?

12 A. Yes.

13 Q. And why is that?

14 A. Because he's a fourteen-fifteen.

15 Q. Let me skip over here to D19S433. It's, again,
16 above the threshold. Could Cheryl Smith have -- could
17 Cheryl Snow have contributed the fourteen, the allele,
18 there?

19 A. No, she could not have. She's a thirteen,
20 thirteen point two.

21 Q. Could Leonard Gettis have contributed that
22 fourteen?

23 A. No. He's an eleven-thirteen.

24 Q. So of the known samples that you tested, only
25 Oran Smith could have contributed that particular allele

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1 sample?

2 A. That's correct.

3 Q. Again, in the next column there's a sixteen
4 there which is, again, above the threshold. Could Cheryl
5 Snow have contributed that?

6 A. No, she could not have.

7 Q. Could Leonard Gettis have contributed that?

8 A. Yes, because he's a sixteen-seventeen.

9 Q. Could Oran Smith have contributed that?

10 A. Yes.

11 Q. Now, what does it mean that you could not
12 exclude Oran Smith as the contributor on that particular
13 sample?

14 A. It means that once I review the data comparing
15 that sample to Mr. Smith's DNA profile, you check and see
16 if his DNA profile is within that sample. If at any area
17 I -- when I look at the DNA profile, there is a
18 possibility that there is someone else there, then I would
19 have to exclude him. But based on the information that I
20 have off the minor contributor to the sample, Mr. Smith
21 could not be excluded as a contributor to the sample.

22 Q. And in many of those columns, allele readings
23 that match Mr. Smith's DNA profile are found?

24 A. That's correct.

25 MR. VOIGHT: The State would tender Ms. Gallman.

1 THE COURT: Ms. Taylor?

2 MS. TAYLOR: Thank you. Good afternoon, Ms.
3 Gallman.

4 CROSS-EXAMINATION

5 BY MS. TAYLOR:

6 Q. You have done the work on this case by receiving
7 pieces of evidence from North Charleston police?

8 A. And also from our department, evidence
9 processing area. The cuttings and swabs were done in
10 evidence processing.

11 Q. Does SLED take cuttings and swabs from any
12 evidence not given to you by North Charleston Police
13 Department?

14 A. No, they did not. The pajama pants came intact,
15 and then that's what the cuttings were made from. And the
16 swabs.

17 Q. So, again, my question is all the evidence that
18 you have reviewed in this case came to you, to SLED, via
19 the North Charleston Police Department?

20 A. That's correct.

21 Q. Okay. Now, the report that you were just
22 reviewing with Mr. Voight, it's seven pages long?

23 A. Yes.

24 Q. Is that the entire report that you did as a
25 result of the work you did in this case?

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1 A. Yes, it is.

2 Q. And did you do this chart that we were looking
3 at? That's your work entirely?

4 A. Yes.

5 Q. Anybody else?

6 A. No.

7 Q. And the five pages preceding it, that's entirely
8 your work, as well?

9 A. Yes.

10 Q. Do you have a copy of that up there with you?

11 A. Yes, I do.

12 Q. Now, you've talked a good bit about science and
13 the application of what you can extract, and Mr. Voight
14 talked with you about different ways that we all produce
15 or shed our DNA.

16 A. Yes.

17 Q. Talked about blood, semen, and what was the
18 other one?

19 A. It could be saliva or epithelial cells, which
20 are skin cells.

21 Q. Okay. And so there's four? Saliva --

22 A. Yes, that we talked about. Yes.

23 Q. -- blood. Are there more?

24 A. Well, when you look at organs in the body, you
25 can get cutting from that. I've used brain and liver

1 before to develop a DNA profile from.

2 Q. So as we move through our days as regular
3 people, we normally -- the way that we would leave traces
4 of our DNA --

5 Because we all do; right?

6 A. That's correct.

7 Q. -- is that if we -- if our saliva gets on
8 something, if we chew on a pen and then lay it down, you
9 might be able to trace our DNA from that?

10 A. That's correct.

11 Q. If I walk across the room doing this, am I going
12 to shed skin cells?

13 A. Yes.

14 Q. If you can get those skin cells, can you get my
15 DNA from that?

16 A. If I have enough of them I could.

17 Q. And semen: we all understand how that might
18 happen.

19 A. Yes. Well, it's from the sperm within the
20 semen.

21 Q. Now, can you get, from women, any DNA out of any
22 of our vaginal fluids?

23 A. Yes.

24 Q. And then blood? If we bleed and you get enough
25 of that blood, you can then trace it to -- or determine

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1 DNA?

2 A. That's correct.

3 Q. If you don't know who an individual is to
4 compare the DNA, what does the DNA tell you from blood?
5 Can you identify gender?

6 A. We can.

7 Q. Can you identify race?

8 A. We do not.

9 Q. Anything else, other than gender?

10 A. Just a given profile that -- developed from the
11 evidence, and the gender.

12 Q. I didn't understand --

13 A. With all that information --

14 Q. -- that at all.

15 A. Okay. I'm sorry. With all that information
16 that we gathered, the DNA profile, along with the gender
17 of the person, you could check a data base for it to see
18 if you acquire a match with that sample.

19 Q. Well, I'm not talking about how you can match
20 somebody yet. I'm just talking about what will it tell
21 you if all that you have is some blood --

22 A. I have the DNA profile that I don't know who it
23 belongs to.

24 Q. But you could also tell gender?

25 A. Yes.

1 Q. Because DNA communicates to you that it's either
2 a male or a female?

3 A. Yes.

4 Q. Now, in this case -- I want you to look at your
5 report with me first, if you will. And I think the one
6 that we were talking about primarily here is 2.4, the
7 pajama bottoms?

8 A. Yes.

9 Q. And when you received them, how many pairs of
10 pajama bottoms did you get?

11 A. There were two that were submitted.

12 Q. Okay. Do you know which one was inside the
13 other one?

14 A. I do not.

15 Q. So when you received them, they had already been
16 taken apart?

17 A. The cuttings were already made. I received the
18 cuttings and the swabs.

19 Q. So you just got the little patches that some
20 other agent had gone through and cut out for you?

21 A. Yes.

22 Q. Did you ever look at the entire pajama bottoms?
23 Or just those little swatches?

24 A. I only looked at the actual swatches, but I saw
25 the photographs of the pajamas.

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1 Q. And do you know who made the decision as to what
2 to cut?

3 A. Once the evidence is submitted to the evidence
4 processing department, what happens is we look for body
5 fluids on those pieces of evidence. So there's a check
6 for blood, semen, and any other type body fluid, say
7 saliva, that fluoresces, because we use an alternative
8 light source to look at it.

9 Q. My question is do you know who did that.

10 A. Yes.

11 Q. Who?

12 A. Jan Bryson.

13 Q. So she would -- is it a woman or a man?

14 A. Janice Bryson.

15 Q. Oh, Janice. Okay. A woman.

16 She would have done whatever you just described
17 that needed to be done? As far as lights, or however you
18 would find any of these things that you're going to
19 ultimately look for in the cutouts, she would be the one
20 to talk to about that?

21 A. Yes.

22 Q. You did not do any of that?

23 A. No, I did not make any of the cuttings out of
24 swabs.

25 Q. You just tested what you got from her?

1 A. That's correct.

2 Q. And I think that you told Mr. Voight that as far
3 as -- the 2.4.2 was from a cutting from the pajamas and
4 that was -- was that the one which was semen?

5 A. No. Item 2.5, semen was detected on that item.

6 Q. Okay. And that we can determine, according to
7 your computations, was Oran Smith's semen?

8 A. That's correct.

9 Q. No question in your mind about that?

10 A. No.

11 Q. That's it? You can identify it as Oran's?

12 A. Based on the information I have, yes.

13 Q. Okay. And where was the semen found on those
14 pants?

15 A. Based on the information that was given to me,
16 it came from the crotch of the pajama bottoms.

17 Q. And what does that tell you, if anything,
18 scientifically? Are you able to compute that that would
19 have been -- and, again, I apologize because it's somewhat
20 indelicate, but we've got to figure out where the stuff
21 came from -- whether that semen would have been leaked, so
22 to speak, from Ms. Snow into that area of her pajamas, or
23 whether that semen would have been directly onto the
24 pajamas from Mr. Smith?

25 A. I don't know.

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1 Q. No idea?

2 A. No, because it's possible either way.

3 Q. Was the semen mixed with that part of the --
4 your report indicates there were mixed contributors. I'm
5 not sure if that was that or the other stuff.

6 A. When you're developing a DNA profile from semen,
7 we do what's termed a separation of the possible
8 epithelial cells, or any skin cells or whatever, from the
9 victim. And that's what's called a first fraction. And
10 the second fraction, we just call the male fraction,
11 supposedly houses most of the sperm DNA. In this
12 particular case, when you look at item number 2.5 and you
13 look at the second fraction, the major contributor there
14 is for Oran Smith.

15 Q. Okay. So that one was not a mixed sample?

16 A. No. It was not determined to be a mixed sample
17 in that respect.

18 Q. Which one was?

19 A. Item 2.4.2 and 2.4.1.

20 Q. And where were those -- because, again, we're
21 talking about the same pajama bottoms?

22 A. Yes..

23 Q. Okay. And where on the pajama bottoms did those
24 two come from, if you know?

25 A. Based on my information, it came from the leg

1 portion of one -- of the pajama bottoms.

2 Q. Same leg, same area, or are there two different
3 cuttings?

4 A. [No response]

5 Q. You would have those with you; right?

6 A. The cuttings themselves?

7 Q. Yes, ma'am.

8 A. Yes. One minute.

9 Q. I'm assuming since it's 2.4.1 and 2.4.2, that
10 there are two separate cuttings. I could be wrong.

11 A. Okay. One cutting was made in evidence
12 processing. When I received the evidence, it's a large
13 cutting so I split it in two.

14 Q. Okay. So essentially 2.1 -- 2.4.1 and 2.4.2
15 came to you initially as a single cut?

16 A. That's correct.

17 Q. And do you know how large it was? Did you take
18 any photographs of that or anything?

19 A. No, I did not.

20 Q. And why did you cut it in half?

21 A. Because of the size of the cutting. In order to
22 do DNA extraction, you have to put the cutting inside a
23 small tube, and to be able to do that I had to make two
24 cuttings.

25 Q. All right. Got you.

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1 And the results from that -- it says to see your
2 DNA results. Now, can you help guide me to where 2.4.1
3 was discussed?

4 A. In the body of the report?

5 Q. Yes. And I think I found it. On page 4?

6 A. Yes.

7 Q. And did you tell us what kind of DNA that was,
8 what it is you were testing there, whether it was semen,
9 blood, skin, or saliva?

10 A. It was skin cells.

11 Q. And how do you find those when you're -- when
12 you have the piece of cloth and -- I mean, are they
13 visible?

14 A. No, they're not. What I -- what -- when I
15 receive the samples, on the envelope it says any DNA.
16 So based on the information that was given to me by
17 Ms. Bryson, once she looked at the pictures that were
18 taken of the victim, she decided to make cuttings at that
19 area.

20 Q. How do you tell when you put the cloth in that
21 little tube and -- do you put liquid in the tube?

22 A. Yes.

23 Q. How do you tell, if you can't see what it is?
24 Can you see, for instance, semen on the pajamas? Were you
25 able to see that stain?

1 A. You can if you use an alternative light source.
2 But once the cutting is made and it's placed in the tube,
3 you don't see anything until you develop a DNA profile.

4 Q. So did you shine a light or something on this to
5 find the skin cells?

6 A. No. All of the cuttings and the swabs were done
7 by Ms. Bryson.

8 Q. So she would be the one who can identify how she
9 determined it was a skin cell?

10 A. The reason why she made a cutting from the area?
11 She would be.

12 Q. I'm trying to figure out how you know when you
13 do the test -- because you're the one that reached the
14 conclusions; right?

15 A. Yes.

16 Q. When you have a piece of that pajama bottom that
17 you don't see anything physically on --

18 Is that correct?

19 A. That's correct.

20 Q. -- and you put it in this tube and you fill it
21 with whatever liquid, how do you know what that DNA is
22 later? Does it tell you? your test?

23 A. What -- I don't understand your question. As to
24 what type of --

25 Q. The source of the DNA. In that test that you

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1 end up with where you're going to say that is Oran Smith
2 or that isn't Oran Smith, does it also tell you this is
3 semen, this is skin, this is saliva?

4 A. No, it does not. If that's not established up
5 front, then no matter what body fluid you're working with,
6 once the extraction is done you don't know where that DNA
7 is coming from because all of the DNA in a person's body
8 is the same.

9 Q. Okay. And whatever that was that Ms. Bryson,
10 which Ms. Bryson hopefully will be able to tell us, the --
11 I think it's your third from the bottom paragraph on page
12 4 references 2.4.1 and 2.4.2; is that correct?

13 A. That's correct.

14 Q. And what I'm reading, it says: [reading] the
15 DNA profiles that came from those items are mixtures of
16 at least two individuals.

17 So that's the mixed area?

18 A. Yes.

19 Q. The DNA profile of the major contributor to
20 these mixtures is consistent with the DNA profile of
21 Cheryl Snow?

22 A. Yes.

23 Q. Now, when you say it is consistent with, is that
24 the same thing as saying no question about it, that's
25 Cheryl's?

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1 A. Well, based on our protocol when you use the
2 terminology "match", our statistic would have to be
3 applied to it. And so since I was not quoting a statistic
4 there, I used the terminology "consistent with", which
5 means that it is hers.

6 Q. Okay. And then the next sentence says:
7 [reading] Oran Smith cannot be excluded as a possible
8 minor contributor to these mixtures.

9 And what does that mean to you?

10 A. That means that I could not exclude him as a
11 contributor to the samples.

12 Q. How many other people could not be excluded as a
13 possible contributor to that sample?

14 A. I did not quote stats on that particular item --
15 on those items, so I don't have the statistical value for
16 that, but I do know that Leonard Gettis could be excluded.

17 Q. Okay. And he was excluded.

18 But I guess my question is you're talking about
19 statistics and numbers and application to the general
20 population; right?

21 A. Yes.

22 Q. Did you run a profile on that which would have
23 told you that it was at least a male?

24 A. I didn't have to, because when you look at the
25 chart or when you develop a DNA profile and you look in

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1 the last column, there's an XY there. If it's just a
2 female, then it will only be an X. If there is a female
3 and male, or two males, it would be an XY.

4 Q. So it did tell you that it was at least a male?

5 A. Yes.

6 Q. Yes. Okay.

7 My question is how do we know, when you say it
8 cannot be excluded -- because to me, to identify is
9 understandable. The semen you tested, it matched your
10 scientific criteria; is that right?

11 A. That's correct.

12 Q. And you were able to, as an expert, swear under
13 oath that based on your --

14 Was it nineteen years you've been doing this?

15 A. That's correct.

16 Q. -- that your testing an application of
17 acknowledged scientific rules allowing you to say that
18 semen is Oran Smith's; is that right?

19 A. On item number 2.5, yes, that's --

20 Q. On the semen, yes.

21 A. Yes.

22 Q. Okay. Now, how is that different than what you
23 say about whatever this is on 2.4 taken from the pajama
24 bottoms where you say, I'm not saying it is Oran Smith
25 or -- or are you?

1 A. No. When you look at item number 2.5 -- and I
2 would distinguish that his profile is there --

3 Q. Right.

4 A. -- there is enough DNA there to give you a full
5 profile without any of the alleles falling below our
6 threshold. When you look at item 2.4.1 or 2.4.2, the
7 quantity of DNA from Mr. Smith is real low. It's also a
8 mixture. They also have shared alleles, meaning they have
9 the same repeat size. So you have different variables,
10 different things going on in that -- those particular
11 samples that are different than 2.5.

12 We always err on the conservative side. And all
13 of this information is based on the protocol that we
14 generated during the time that I've been a part of SLED
15 DNA department, that when you have a sample and you have a
16 low quantity of DNA from the minor contributor, this is
17 the statement that is used there.

18 I cannot exclude him. If there was on -- if
19 there was one area on the chromosome that he was not
20 there, or there was an indication that there was someone
21 else, I would then exclude him. But when you look at the
22 sample, there's nowhere on that -- in that particular
23 sample that he could be excluded.

24 Q. That's my question is what is the difference
25 between you saying, as you did on 2.5, that's his semen,

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1 no question about it, I'm clear on that, that fits my
2 protocol? When you say protocol, what are you talking
3 about? Why do you have a protocol that tells you what you
4 can and cannot exclude?

5 A. You have to have guidelines that you follow in a
6 laboratory.

7 Q. Why?

8 A. Because I could just report anything I wanted
9 to, if I did not have any guidelines.

10 Q. So it's to assure accuracy in your --

11 A. That's correct.

12 Q. And your conclusion is that he cannot be
13 excluded from whatever that is?

14 A. From that sample, he could not be excluded.

15 Q. My question is you're not telling us that it
16 is -- whatever it is -- definitely, completely, Oran
17 Smith?

18 A. Well, based on the information I have from that
19 particular sample, I could not exclude him as a
20 contributor to that sample. And that's the statement that
21 we use when you have this amount of information to work
22 with.

23 Q. Now, you were talking about consent to body
24 search where you get these samples from body searches sent
25 to you from North Charleston; is that right?

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1 A. [No response]

2 Q. I think you talked about three different sources
3 for standards. Do you know where the standards come from?

4 A. In this particular case the standard -- the
5 standard for Mr. Smith and Mr. Gettis were oral swabs,
6 meaning they were taken from the mouth, and the standard
7 from Ms. Snow was supplied standard.

8 Q. And do you know how you get those standards?
9 Generally speaking, how do you get them?

10 A. Normally you take a cotton swab, like a Q-tip,
11 and you swab the inside of the person's mouth.

12 Q. Do you do that, or do you get them from somebody
13 else who's already done it?

14 A. Normally, they are submitted to SLED.

15 Q. And that would, again, have been from somebody
16 from North Charleston Police Department --

17 A. That --

18 Q. -- who would have done what you just described,
19 and packaged it in some way and sent it up to you to do
20 what you do with it?

21 A. It could have been them, or they could have
22 gotten a nurse to do it. But it came from them.

23 Q. And do you have any knowledge -- and if you
24 don't, just tell me -- of how North Charleston Police
25 Department gets those samples, those standards?

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1 A. No, I do not.

2 Q. And other than what we've talked about --
3 because, essentially, I think we've gone over -- you told
4 us originally you had twenty-three items that you tested;
5 is that right?

6 A. There were twenty-three items submitted, but
7 then sub-items for me from some of the items.

8 Q. Okay. And looking again at your report, as far
9 as its results, these are your conclusions that, again, as
10 the expert scientific witness, you reached after going
11 through whatever -- how long does all this stuff take you
12 to do?

13 A. Quite a while.

14 Q. Okay. So however long you spent on all of this,
15 you boiled it down essentially to that little more than
16 half-a-page for us. Is that accurate?

17 A. Yes.

18 Q. And what you concluded as your results was that
19 Oran Smith's semen was on the pajama bottoms?

20 A. It was on one of -- a cutting from one of the
21 pajama pants.

22 Q. Okay. And the other items that we were talking
23 about was 2.4.1 and 2.4.2?

24 A. That's correct.

25 Q. And let me ask it this -- 2.1 and 2.2, 2.3,

1 you've got partial DNA profiles consistent with Cheryl
2 Snow. And what was -- that's the pajama pants, as well;
3 is that right?

4 A. That's correct.

5 Q. And you may have already told us and if you did,
6 I'm sorry. Do you know the source of that DNA? Is that
7 either vaginal, or skin, or blood, or saliva?

8 A. 2.1, 2.2 and 2.3 are cuttings from the pajama
9 pants leg -- I'm sorry. I'm trying to read this. They
10 are swabs from the pajama pants. And the request was any
11 DNA, so I was not looking for any particular body fluid on
12 those three items.

13 Q. And we don't know what that source is --

14 A. No.

15 Q. -- whether it would be saliva, skin, whatever?

16 A. No, I do not know.

17 MS. TAYLOR: The Court's indulgence one moment.

18 THE COURT: Yes, ma'am.

19 [Whereupon, Ms. Taylor and Mr. Nixon confer]

20 Q. [Ms. Taylor] I've got to go back one more time,
21 Ms. Gallman, to your results. I think I asked you this
22 question. Again, we're talking about this 2.4.1 and
23 2.4.2, which in your result you wrote: [reading] Oran
24 Smith cannot be excluded as a possible minor contributor.

25 And I believe I asked you in a range of when you

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1 say that, how many other people cannot be excluded.

2 A. And my response was that I did not develop -- I
3 did not generate a statistical value for that, for those
4 items, so I cannot tell you how many people can be
5 excluded.

6 Q. Well, I don't want to be simplistic, but we know
7 it would have to be a man because you told us that at
8 least the gender was identified as a male; is that right?

9 A. That's correct.

10 Q. So if there are six million people in the world,
11 half of them are women, so that leaves three million men
12 that cannot be excluded?

13 A. The frequency --

14 MR. VOIGHT: Objection.

15 THE COURT: Counsel approach.

16 [Whereupon, an off-the-record bench conference
17 is held]

18 THE COURT: Overruled.

19 Q. [Ms. Taylor] Do you remember the question, Ms.
20 Gallman?

21 A. I was in the process of answering it for you.

22 Q. Okay.

23 A. First thing: frequency is not based on how many
24 people that are in the world at this time. You generate a
25 DNA profile, and that particular DNA profile is looked at

1 in our data base and it gives you a frequency of that
2 particular event happening.

3 For instance, when you put Mr. Smith's full
4 profile into a data base, the probability of seeing that
5 particular DNA profile is one in 5.5 quadrillion, which is
6 a lot more than between six and seven billion people. So
7 we don't look at it like -- in that manner.

8 And I would -- I cannot give you a statistical
9 value for that without looking at the profile and seeing
10 what the frequency would be for that.

11 Q. So what you are saying today is that you were
12 given -- and let me see if I got it right -- was it three
13 blood -- or, I'm sorry -- standards, DNA standards?
14 Three?

15 A. Yes.

16 Q. Cheryl Snow?

17 A. Yes.

18 Q. Oran Smith?

19 A. Yes.

20 Q. And Leonard Gettis?

21 A. That's correct.

22 Q. Did you receive a standard from a Leroy
23 McKelvey?

24 A. No, I did not.

25 Q. Did you receive a standard from a James Obie

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1 Creech?

2 A. No, I did not.

3 Q. Anybody else?

4 A. No.

5 Q. And you didn't compare them to anybody else?

6 A. No, I did not.

7 MS. TAYLOR: Court's indulgence one moment.

8 THE COURT: Yes, ma'am.

9 [Whereupon, Ms. Taylor and Mr. Nixon confer]

10 MS. TAYLOR: Nothing further, Your Honor.

11 THE COURT: Mr. Voight?

12 MR. VOIGHT: No redirect, Your Honor.

13 THE COURT: May this witness step down and be
14 excused?

15 MR. VOIGHT: Yes, Your Honor.

16 THE COURT: Any objection?

17 MS. TAYLOR: None at all.

18 THE COURT: Agent Gallman, you may step down.

19 Thank you.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22 THE COURT: Call your next witness.

23 MR. VOIGHT: The State calls Jan Bryson.

24 [Whereupon, Ms. Bryson comes forward]

25 THE CLERK OF COURT: Place your left hand on the

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1 Bible, raise your right.

2 [Whereupon, Ms. Bryson is duly sworn by the
3 clerk of court as follows: do you swear or affirm that
4 the testimony that you shall give this Court and jury
5 in the trial of this case shall be the truth, the whole
6 truth, and nothing but the truth, so help you God]

7 THE WITNESS: Yes.

8 THE CLERK OF COURT: Thank you, ma'am. Please
9 be seated.

10 [Whereupon, Ms. Bryson takes the witness stand]

11 THE CLERK OF COURT: For the record, please
12 state your name and spell your last name.

13 THE WITNESS: My name is Janice Bryson.

14 B-R-Y-S-O-N.

15 - - - - -

16 JANICE BRYSON,

17 Having Been First Duly Sworn,
18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. VOIGHT:

21 Q. Is it proper to call you Agent Bryson?

22 A. No, sir. I'm not an agent.

23 Q. You are a forensic technician?

24 A. That's correct.

25 Q. And how long have you been a forensic technician

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1 with SLED?

2 A. I've been employed by SLED for twenty years.

3 I've been evidence technician for fourteen years.

4 Q. And what does an evidence technician do at SLED?

5 A. Whenever items of evidence are submitted to the
6 lab with a request to look for hair, fiber, blood and
7 semen and touch DNA, it's my responsibility to process the
8 evidence, collect any evidence, and make sure that it's
9 sent to the appropriate department.

10 Q. And in this case did you process evidence that
11 ultimately was given to Lily Gallman?

12 A. Yes, sir.

13 Q. And did you process the pajama-bottoms ligature
14 that had been submitted to you by the North Charleston
15 Police Department?

16 A. Yes, sir.

17 Q. And did you take cuttings from that --

18 A. Yes.

19 Q. -- item?

20 A. Yes, sir, I did.

21 Q. And when taking cuttings, what were you looking
22 for?

23 A. The request was made by the submitting agency
24 that the pajama pants were used as a ligature on the
25 victim's neck, to examine the pants for possible

1 epithelial cells, then compare to known standards. And I
2 also checked for the presence of semen.

3 Q. And how did you check for the presence of semen?

4 A. Well, first, what I do is I lay a white piece of
5 butcher-block paper. And since the request was to look
6 for epithelial skin cells, I didn't want to move it around
7 too much so I put the -- we use an alternate light source.
8 The room is dark, and it will fluoresce body fluids such
9 as semen, vaginal secretion, saliva, perspiration, things
10 of that nature. And I circle the areas that fluoresced
11 and I made a cutting. The --

12 Q. And that -- that cutting that you made of the
13 area that fluoresced, that's the cutting that ultimately
14 came -- became 2.5 that Agent Gallman testified to?

15 A. 2.5 was a cutting for the presumptive test for
16 semen.

17 Q. And that was the semen that fluoresced in your
18 light test?

19 A. Right.

20 Q. And where did 2.4 come from?

21 A. 2.4 was the cutting from the back-left leg,
22 shorter piece of pants, and the request was for any DNA.
23 I had a picture of the possible ligature and that's what I
24 went by, like if you were using it. That's what I looked
25 for under the light was any possible perspiration stains,

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1 or things of that nature, for cutting 2.4.

2 Q. And that was the criteria that you used to make
3 cutting 2.4?

4 A. That's correct. And then I separated the pajama
5 pants.

6 MR. VOIGHT: Please answer any questions that
7 Ms. Taylor may have.

8 THE WITNESS: Okay.

9 THE COURT: Ms. Taylor?

10 MS. TAYLOR: Thank you, Your Honor.

11 Good afternoon, Ms. Bryson.

12 THE WITNESS: Good afternoon.

13 CROSS-EXAMINATION

14 BY MS. TAYLOR:

15 Q. So when you received the pajama pants, they were
16 one inside the other; is that correct?

17 A. Right. It was a pair of pajama pants with
18 another pair inside.

19 MS. TAYLOR: I need to open -- review those.

20 May I approach the witness?

21 THE COURT: You may.

22 MS. TAYLOR: You have these, if you wish to use
23 them.

24 I'll let you handle these. If you will just
25 take them right out of that bag for me --

1 [Whereupon, the witness compiles]

2 Q. [Ms. Taylor] And can you recall which was
3 which? Which would have been inside the other pair?

4 A. No, ma'am, I don't recall which side was --
5 well, the outside pair is white with blue-green floral
6 design, there's no name brand listed, and it was a size
7 extra large. The inside pair is white with blue-green
8 floral design but not the same design, no brand name
9 listed, and the size is large.

10 Q. So you can look on the waistbands of those two
11 and --

12 A. Right.

13 Q. -- you can determine size? Outside was --

14 A. Was extra large.

15 Q. -- extra large? And inside was large?

16 A. This is the extra large.

17 Q. Okay. So that would have been the one that was
18 outside?

19 A. Right.

20 Q. Which one did you get 2.5 cutting, which would
21 have been the semen, from?

22 A. This is where I took my cutting that was
23 positive for the presumptive test of semen, was 2.5. I
24 document where I take my cutting from.

25 Q. And that would have been clipped out and then

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1 sent to Ms. Gallman?

2 A. That's correct.

3 Q. Okay. And then the 2.4 I think .1 and 2 were
4 what we were talking about earlier. 2.4.1. Well, you
5 would have marked it I think as just 2.4?

6 A. That's correct. I took cutting 2.4.

7 Q. And is that the --

8 A. That was for any DNA.

9 Q. Is that that whole piece of pants, or the hole
10 you're showing?

11 A. The hole that I'm showing.

12 Q. That's where it was. Okay.

13 So that's where whatever 2.4 came from, which
14 would have been -- is that the back, or the front? Can
15 you tell?

16 A. I've got cutting from back-left leg, shorter
17 piece of pants. It is from the back.

18 Q. And that appears to me to be sort of on the back
19 side area, not so much the leg --

20 A. That's correct.

21 Q. -- it's where the hole is? Okay.

22 A. Yes, ma'am.

23 Q. And how did you find that? Is that something
24 that you found through use of the light?

25 A. That's correct. I used the alternate light

1 source before I unwrapped it.

2 Q. Okay. And what was that source of that DNA?

3 A. I couldn't tell you what the source was.

4 Q. So we don't know whether that was from semen,
5 blood, saliva, or skin?

6 A. No, ma'am. Just the request was to look for
7 possible epithelial cells. And I used the light to
8 fluoresce, and it could have been perspiration.

9 Q. So epi -- I can't say that, but that -- whatever
10 you just said, that is not skin, necessarily?

11 A. You would have to ask Ms. Gallman that DNA
12 question.

13 Q. And that's basically -- what you just told us
14 about was what you did in this case?

15 A. That's correct.

16 Q. And your review of the evidence with the lights
17 would have been -- the other materials that you would have
18 used on them showed nothing else?

19 A. Other than the cutting I made for semen.

20 Q. Right. So we have -- from the interior pajama-
21 crotch area you found semen?

22 A. My test was positive for the presumptive test of
23 semen.

24 Q. Okay. And that led to clipping that and sending
25 that on down the line for somebody else to test and

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1 compare?

2 A. That's correct.

3 Q. And the other one was up here on the rear. We
4 don't know what it is, but something?

5 A. That's correct.

6 MS. TAYLOR: Thank you. That's all the
7 questions I have.

8 THE COURT: Mr. Voight?

9 MR. VOIGHT: No further questions.

10 THE COURT: May this witness step down and --

11 MR. VOIGHT: Yes.

12 THE COURT: -- be excused?

13 MR. VOIGHT: Yes, Your Honor.

14 THE COURT: Any objection?

15 MS. TAYLOR: None, Your Honor.

16 THE COURT: Ms. Bryson, you may step down and be
17 excused. Thank you.

18 THE WITNESS: Do I need to put this --

19 THE COURT: Please. Thank you.

20 [Whereupon, the witness is excused and exits the
21 witness stand]

22 MR. VOIGHT: May we approach for a scheduling
23 matter, Your Honor?

24 THE COURT: You may.

25 [Whereupon, an off-the-record bench conference

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1 is held]

2 THE COURT: Call your next witness.

3 MR. VOIGHT: The State calls Detective Shawn
4 Patrick.

5 [Whereupon, Mr. Patrick comes forward]

6 THE CLERK OF COURT: Place your left hand on the
7 Bible, and raise your right hand.

8 [Whereupon, Mr. Patrick is duly sworn by the
9 clerk of court as follows: do you swear or affirm that
10 the testimony that you shall give this Court and jury
11 in the trial of this case shall be the truth, the whole
12 truth, and nothing but the truth, so help you God]

13 THE WITNESS: I do.

14 THE CLERK OF COURT: Thank you. Please be
15 seated.

16 [Whereupon, Mr. Patrick takes the witness stand]

17 THE CLERK OF COURT: For the record, please
18 state your name and spell your last name.

19 THE WITNESS: Shawn Patrick. P-A-T-R-I-C-K.
20
21
22
23
24
25

- - -

- - -

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SHAWN PATRICK,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. VOIGHT:

Q. Detective Patrick, how are you currently employed?

A. I'm currently employed as a police officer with North Charleston Police Department.

Q. And what division are you assigned to?

A. Detective division, persons crimes unit.

Q. And how long have you been assigned to the persons division?

A. Approximately six years.

Q. And is one of your responsibilities as a detective in the persons division to investigate homicides in North Charleston?

A. Yes, it is.

Q. And did you have the occasion to investigate a homicide in North Charleston beginning on the 4th of June, 2007?

A. Yes.

Q. And how did you get involved in that particular investigation?

A. I was called, advised of a homicide which

MIA PERRON, CCR, CVR-CM

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1 occurred on Sumner Avenue, and I responded.

2 Q. Were you the first detective on the scene?

3 A. I believe I was one of the first there, yes..

4 Q. And how -- was this ultimately assigned to you
5 to become the lead detective on?

6 A. Yes.

7 Q. And how is that done?

8 A. Usually a supervisor makes that decision.
9 Sometimes we have, you know, a list of detectives and
10 you're put on the list. Each homicide that takes place,
11 the next one gets the case.

12 Q. And this one was your turn?

13 A. Yes.

14 Q. What was the first thing that you did when you
15 got to the scene on the 4th?

16 A. Another patrol officer, Hille, he explained what
17 he observed when he observed when he first went into the
18 scene.

19 Q. Were you allowed into the crime scene at that
20 time?

21 A. No.

22 Q. What did you do during that time when you
23 weren't allowed into the crime scene?

24 A. I canvassed the surrounding neighborhood, talked
25 with people, see if they heard anything, see the last time

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1 they had seen the victim, that type of thing.

2 Q. Did you obtain any information that was helpful
3 to you at that time?

4 A. No. I spoke with Mr. Stender across the street
5 and he provided a little information, but not much.

6 Q. Was he the person who made the 911 call?

7 A. Yes.

8 Q. Were you ultimately allowed into the crime
9 scene?

10 A. Yes.

11 Q. And what did you do when you were allowed into
12 the crime scene?

13 A. I walked in with I believe it was Sargent
14 Hallman from my crime scene unit. I viewed his photos
15 which he had taken in the camera; viewed the internal
16 crime scene of positioning of the victim, where her head
17 was, where her feet were, that type of thing.

18 Q. While you were on the scene that night, did you
19 develop any leads?

20 A. Yes. While crime scene was processing the
21 scene, they developed three different -- I think it was
22 three different individuals for fingerprints located
23 inside, which we did eventually find out who they were.

24 Q. Who was the -- what was the first person who you
25 found out a fingerprint belonged to?

1 A. I'm not sure which was the first one, but I know
2 the defendant, Mr. Smith, is one of the three, as well as
3 Leonard Gettis and Leroy McVey [phonetic].

4 Q. What did you do with the information that a
5 fingerprint of Oran Smith's had been found?

6 A. I'm sorry? Say that again.

7 Q. What did you do with the information? Once you
8 knew that a fingerprint of Oran Smith's had been found,
9 what did you do with that information?

10 A. We then went looking for Mr. Smith to see --
11 just to talk to him to see if he knew the victim, or what
12 his business was at the house.

13 Q. Did you personally go look for him?

14 A. I did not.

15 Q. Did you direct others to look for him?

16 A. Yes..

17 Q. Did you -- who did you direct to look for him?

18 A. I believe it was Officer Mastantuno.

19 Q. And Officer Mastantuno was Detective Mastantuno
20 back then?

21 A. That's true, yes.

22 Q. All right. And he was another detective
23 assigned to the persons unit?

24 A. He was actually assigned to the property unit.

25 Q. And when did you attempt to make contact, with

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1 Oran Smith, as a unit?

2 A. That night.

3 Q. The next day did you personally try to look for
4 Oran Smith? That would have been June 5th.

5 A. Yes. I didn't personally but Officer Kruger,
6 Winston, and Detective Mastantuno.

7 Q. Did you meet with anybody on that day? On June
8 5th.

9 A. Yes. On the 5th, that day I canvassed the area,
10 the Remont Road area, looking for any prostitutes or
11 anybody that might have information, anybody walking the
12 street, that may have known the victim or any of the three
13 gentlemen that we had talked to that we had prints from.

14 MR. VOIGHT: I ask you, as best you can, to talk
15 into that microphone.

16 THE WITNESS: All right.

17 Q. [Mr. Voight] So you went to the Charleston
18 Farms neighborhood?

19 A. Yes.

20 Q. Trying to find just anybody who knew where Oran
21 Smith may be located?

22 A. Right.

23 Q. Did you meet with anybody else that day in your
24 search for information about who may have killed Cheryl
25 Snow?

1 A. Let me review my --

2 Q. Would it refresh your recollection to look at
3 your report?

4 A. Yes. Yes.

5 Q. Do you have your report with you up there?

6 A. Yes, sir, I do.

7 [Whereupon, the witness reviews documents]

8 A. I met with Richard Lester.

9 Q. [Mr. Voight] Who is Richard Lester?

10 A. He's an ex-boyfriend -- or a boyfriend of Snow,
11 Cheryl Snow's.

12 Q. Did you ultimately determine that Mr. Lester had
13 any information that was valuable to your investigation?

14 A. No.

15 Q. Approximately how long did you spend with
16 Mr. Lester?

17 A. Probably about ten, twenty minutes.

18 Q. On the 5th, if you know, did detectives make
19 contact with Mr. Smith?

20 A. I believe they did on the 5th. Let me look at
21 Mastantuno's --

22 [Whereupon, the witness reviews documents]

23 A. Yes. On the 5th he did.

24 Q. [Mr. Voight] Did you take part in any
25 conversations or discussions with Mr. Smith on June 5th?

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1 A. No, I did not.

2 Q. Did you take a statement of anybody on that day?

3 A. I don't believe, but let me see. I don't
4 believe I did. Hang on one second. I'm sorry.

5 [Whereupon, the witness reviews documents]

6 A. I spoke with Oran's mother, Janet Smith.

7 Q. [Mr. Voight] And you took a statement from
8 Janet Smith on that day?

9 A. Yes.

10 Q. That was the day after Cheryl Snow's body was
11 found?

12 A. Correct.

13 Q. On June 5th was Mr. Smith allowed to return
14 home?

15 A. Yes.

16 Q. Was he under arrest at that time?

17 A. No.

18 Q. On June 6th did your investigation continue?

19 A. Yes.

20 Q. Did you meet with anyone or talk with anybody
21 trying to find out information about Cheryl Snow's last
22 moments or anything having to do with -- anything
23 connected with her death on that day?

24 A. Yes, sir. I spoke with William Ackerman, who
25 was a neighbor of the victim's and he provided a name of

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1 Paula, who lived in Hanahan, and her phone number.

2 Q. Were you able to contact Paula?

3 A. Yes, I did.

4 Q. Was Paula ultimately somebody who could give you
5 information that aided or helped your investigation?

6 A. No. She provided a little background in
7 reference to the victim. But other than that, no.

8 Q. Did you ultimately learn that Leonard Gettis'
9 fingerprint had been found, as well?

10 A. Yes.

11 Q. And what did you do with that information that
12 you received in your forensic interview?

13 A. We went to the Gettis residence and tried to
14 located him, as well as his father.

15 Q. Were you ultimately able to interview Leonard
16 Gettis?

17 A. Yes.

18 Q. And was that an interview that you conducted
19 yourself, or did you have other detectives conduct that
20 interview?

21 A. I believe myself and Detective Elmore conducted
22 that interview with Gettis.

23 Q. At that time did you have -- at that time did
24 you have information that led to Leonard Gettis' arrest?

25 A. No.

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1 Q. At no time did you ever arrest Leonard Gettis?

2 A. No.

3 Q. Was Mr. Gettis completely cooperative with you?

4 A. Yes. Actually, yeah. He did lie initially. He
5 called me on the phone when he was on his way in, and we
6 met. And during the interview he did attempt to lie
7 briefly about his involvement with Cheryl Snow, being she
8 was a white woman. He was embarrassed to tell us that he
9 had been involved with her in a relationship.

10 Q. He ultimately did admit to having known Cheryl
11 and being --

12 A. Yes.

13 Q. -- in some sort of relationship with her?

14 A. Yes.

15 Q. Did there come a time when you attempted to
16 check out the story that Leonard Gettis had told you?

17 A. Yes.

18 Q. Did you --

19 A. I had gone -- yes. Go ahead.

20 Q. What did you do to check out his story?

21 A. We spoke with Mr. Gettis' minister, out in
22 Redtop, just to get a little background on Mr. Gettis;
23 also went to his place of work, employment, spoke with his
24 boss there to find out when he clocked in and clocked out,
25 to make sure his story was panning out correctly. Which

1 it did.

2 Q. Did you ever talk to a Sam Smith?

3 A. Sam Smith? Yes. Sam Smith is somebody that he
4 mentioned during the interview that he had stopped off at
5 Mr. Smith's work off of Meeting Street Road to talk to
6 briefly. We did go find Sam Smith at the Meeting Street
7 Road place of employment, spoke with him briefly, and,
8 again, his story panned out.

9 Q. Did you ever have any occasion to talk to a
10 Catherine Knox?

11 A. Catherine Knox? Yes, I did.

12 Q. When did you talk to Catherine Knox?

13 A. Catherine Knox: I spoke with her on the 7th
14 around 1:00 p.m. at her residence. She was responsive;
15 knew Cheryl Snow from Alcohol Anonymous meetings, that she
16 had gone to, that she attended.

17 Q. Was she ever able to provide you with any
18 information that assisted your investigation?

19 A. No. She only had a professional relationship
20 with Ms. Snow.

21 Q. Did you have -- or did you direct detectives to
22 seize any evidence from Leonard Gettis?

23 A. Yes. I believe a search warrant was conducted
24 on the Gettis residence where some items of clothing were
25 taken just for -- you know, for reasons of this

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1 investigation.

2 Q. Was any evidence that assisted your
3 investigation seized as a result of that search warrant
4 and the search warrant obtained for Mr. Gettis' car?

5 A. No. Nothing was taken from Gettis' car.

6 Q. And do you remember when that was done?

7 [Whereupon, the witness reviews documents]

8 A. It was the 12th, I believe.

9 Q. [Mr. Voight] So by June 12th, seven days after
10 -- eight days after the discovery of Cheryl Snow's body,
11 did you have a suspect?

12 A. No.

13 Q. Were you close to making an arrest?

14 A. No.

15 Q. Were you getting pressure from higher-ups in the
16 North Charleston Police Department to clear this case?

17 A. Your normal, average pressure; you know, asking
18 questions about where your case is at; what new
19 developments have you made -- developments have been made
20 in the case, in your investigation.

21 Q. Did you ever develop, again, on the 12th, the
22 name of a Nathaniel, who may have information that could
23 assist you in your investigation?

24 A. Yes. Nathaniel was mentioned by the local
25 prostitute from Remont Road that I spoke to in reference

1 to the case. She told me that a Nathaniel had mentioned
2 that he knew -- or had information in reference to the
3 case, so I attempted to find Nathaniel. He drove a dark-
4 green Honda, I believe it was.

5 Q. What attempts did you -- how did you attempt to
6 find this Nathaniel?

7 A. Went back to our RNF system and attempted to
8 find him from there, a Nathaniel. We come up with a Brian
9 Nathaniel Boules [phonetic].

10 Q. Was that person -- Brian Nathaniel Boules
11 [phonetic], was he also linked to Ms. Snow from telephone
12 records?

13 A. Yes.

14 Q. And was that pursuant to a search warrant of
15 Ms. Snow's telephone records --

16 A. Yes.

17 Q. -- that you obtained?

18 A. Yes.

19 Q. Did you ultimately meet with Mr. Boules
20 [phonetic]?

21 A. Yes.

22 Q. And did you meet with his parents, as well?

23 A. Yes.

24 Q. Did you determine if Mr. Boules [phonetic] ever
25 even knew Cheryl Snow?

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1 A. Yes. And he did not.

2 Q. Did you ever develop the name of a Kelly Ann as
3 someone who may assist you in obtaining information about
4 Cheryl Snow's death?

5 A. Kelly Ann? Yes, I did. A tip was -- a caller,
6 an anonymous caller, called Lieutenant Wally, who used to
7 be a sargent but now he's a lieutenant, that a guy named
8 Obie was dating a Kelly Ann. And Obie -- I arrested an
9 Obie, a James Obie Creech, back in 2000 when I was a
10 street officer. So I took his picture, showed it around,
11 and nobody recognized him.

12 The caller advised that Kelly Ann, who was
13 dating Obie now, lived in the Fairwynn-Oakfield
14 neighborhood and she had some colorful flowers on her
15 balcony. So I went to the Fairwynn-Oakfield neighborhood,
16 spoke with management and some maintenance workers, and
17 they directed me to her apartment.

18 Q. Were you ultimately able to find Kelly Ann?

19 A. Yes.

20 Q. Were you also ultimately able to find James Obie
21 Creech?

22 A. Yes. She called him for me while I was at the
23 residence.

24 Q. Were you ever able to determine whether either
25 of those individuals possessed information or evidence

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1 that would assist you in your investigation?

2 A. No, sir.

3 Q. Do you know when you ultimately got and met with
4 Obie Creech and Kelly Ann?

5 A. Kelly Ann, I spoke to her at the residence
6 whenever I found her apartment. Obie Creech met me after
7 work at the station. I spoke with him briefly there.

8 Q. And what date was that?

9 A. That was the -- let's see here.

10 [Whereupon, the witness reviews documents]

11 A. I spoke with Kelly Ann I believe on the 13th
12 and --

13 [Whereupon, the witness reviews documents]

14 A. No. The 27th is whenever I met with Kelly Ann,
15 or the management.

16 Q. [Mr. Voight] So you found out about Kelly Ann
17 on the 13th, and two weeks later you finally tracked her
18 down?

19 A. Right.

20 Q. And is that when you had a conversation with
21 James Obie Creech, as well?

22 A. Yes. Over the phone first, and then he arrived
23 shortly after at the station.

24 Q. Now, on the 27th of June, three weeks after the
25 discovery of Cheryl Snow's body, did you have a suspect?

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1 A. No.

2 Q. Did you have -- had you prepared an arrest
3 warrant for somebody's arrest?

4 A. No.

5 Q. Whose idea was it to submit the ligature, the
6 pajama bottoms, to SLED?

7 A. Mine.

8 Q. And do you recall when you did that?

9 A. I don't recall. It was probably that night,
10 that same night. Once I observed the crime scene and
11 observed the ligature, I requested it from Sargent
12 Garrison.

13 Q. So early on, on the first day of the
14 investigation, you asked --

15 A. Yes.

16 Q. -- that that be sent to SLED?

17 A. Right.

18 Q. Did there come a time when you learned the
19 results of SLED's analysis?

20 A. Yes.

21 Q. And when was that?

22 A. That was on the 17th of July.

23 Q. What did you do with that information?

24 A. We conference-called the SLED agent to try to
25 get some better information, to make sure it was confirmed

1 that there was something found there. They confirmed that
2 in that conference call, and on the 18th we returned to
3 Mr. Smith's residence to ask him to return to the station
4 and speak with us again.

5 Q. Now, Mr. Smith had already given a statement;
6 correct?

7 A. Yes.

8 Q. And that was earlier to Detective Elmore and
9 Detective Hill?

10 A. Correct.

11 Q. And you did -- did you play any part in that
12 conversation?

13 A. I did not.

14 Q. Had you had any conversations with Mr. Smith
15 before July 18th, 2007?

16 A. No.

17 Q. Had you ever seen him?

18 A. I may have seen him that night coming in and out
19 of the station when Hill and Elmore were talking to him,
20 but I -- I don't think I ever really sat down and spoke
21 with him.

22 Q. You talked to his mother?

23 A. Yes, I did.

24 Q. Where did Mr. Smith reside?

25 A. He lived in Moncks Corner.

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1 Q. Did he live there alone, or with someone else?

2 A. I believe he lived with his parents, or his
3 mother and sister.

4 Q. Did you go to the door and ask for him?

5 A. Yes.

6 Q. Who was with you?

7 A. Detective Elmore.

8 Q. Who answered the door? Do you recall?

9 A. I believe it was his sister. One of his
10 siblings.

11 Q. Where was Mr. Smith?

12 A. He had walked out the back door and around the
13 side of the residence where we met him.

14 Q. Did he seem surprised to see you?

15 A. No, not surprised.

16 Q. Did he seem upset that you were there?

17 A. No.

18 Q. What did you tell him the purpose of your visit
19 was?

20 A. That we wanted to take him back to the station,
21 if he would come back and talk about his first statement,
22 go over some things with us again.

23 Q. What was the difference between the time
24 Detective Elmore first talked with him and the 18th --
25 what was different in the investigation that led you to

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1 talk to him again?

2 A. The SLED report. The information we obtained
3 from SLED about the epithelials.

4 Q. And that included the DNA results that you've
5 heard testimony of here today?

6 A. Yes.

7 Q. Did he accompany you back to North Charleston?

8 A. Yes, he did.

9 Q. Who drove him?

10 A. I did.

11 Q. Where was Detective Elmore in the car?

12 A. In the back seat.

13 Q. Where was Mr. Smith?

14 A. In the passenger front seat.

15 Q. Did you place him in handcuffs?

16 A. No.

17 Q. When he was in the car with you driving back to
18 North Charleston, did you tell him anything about the SLED
19 results?

20 A. No.

21 Q. Did you tell him that he was going to be
22 arrested for murder?

23 A. No.

24 Q. Did you know if he was going to be arrested for
25 murder?

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1 A. No, not at the time. I wanted to get, you know,
2 a statement from him again and talk to him a little more.
3 Based on the information that we had, I felt that we had
4 enough, but --

5 Q. Did you tell him any details about how Cheryl
6 Snow's body was found?

7 A. No.

8 Q. Did you tell him any details about how Cheryl
9 Snow was killed?

10 A. No.

11 Q. Did you ever mention the word strangulation or
12 ligature in any way?

13 A. No.

14 Q. What did y'all talk about in the car ride from
15 Moncks Corner to North Charleston?

16 A. We spoke about -- it was pretty much small-talk.
17 Detective Elmore had family in the area that Mr. Smith
18 knew, as well as Detective Phason [phonetic]. Somehow
19 they were related through cousins, distant cousins, things
20 of that nature.

21 Q. What was the tone of the conversation?

22 A. It was cordial.

23 Q. Was it a light conversation --

24 A. Very light --

25 Q. -- a heavy conversation?

1 A. No. It was light.

2 Q. Did Mr. Smith appear nervous?

3 A. No.

4 Q. Did he appear to understand the ebb and flow of
5 the conversation? Was he able to follow along?

6 A. Yes.

7 Q. There was nothing in his conversation at the
8 time that indicated recent alcohol use, for example?

9 A. No.

10 Q. Was there anything in his conversational tone,
11 or the way he spoke, that indicated that he was slow or
12 learning disabled in any way?

13 A. No.

14 Q. Now, were you aware when you were talking to him
15 that he had previously suffered an injury?

16 A. I believe he had mentioned that he had been
17 shot, that's how he lost his eye.

18 Q. And one of the signs of that was he had lost an
19 eye?

20 A. Correct.

21 Q. Were you aware of any other cogitative deficits
22 that he may have suffered as a result of that injury?

23 A. No.

24 Q. Did he seem to be suffering from any deficits at
25 all in that conversation?

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1 A. No.

2 Q. What happened when you brought him down to North
3 Charleston?

4 A. We took him upstairs, and we all went to the
5 interview room with him.

6 Q. Now, describe what the interview -- how big is
7 the interview room?

8 A. The interview room is probably a ten by ten, I'm
9 guessing. Ten foot by ten foot.

10 Q. How many chairs were in this particular
11 interview room?

12 A. Three.

13 Q. Were you all seated?

14 A. Yes.

15 Q. Was there a table in the room?

16 A. Yes.

17 Q. Was Mr. Smith handcuffed at that time?

18 A. No.

19 Q. Was Mr. Smith read his constitutional rights?

20 A. Yes, he was.

21 Q. And who did that?

22 A. Detective Elmore.

23 Q. Were you a witness to that?

24 A. Yes.

25 Q. Did he appear to understand what his rights

1 were?

2 A. Yes.

3 Q. And just for the jury's benefit: when we're
4 talking about his constitutional rights, what rights does
5 North Charleston read to people in the interview-room
6 situation such as you found yourself?

7 A. Do you want me to read it out --

8 Q. Yes.

9 A. -- out loud? Okay.

10 [Reading] I have the absolute right to remain
11 silent, do not have to answer any questions or give a
12 statement, and this cannot be used against me. If I do
13 answer questions or give a statement, anything I say can
14 and will be used against me in a court of law. I have the
15 absolute right to consult with a lawyer of my choice
16 before I answer questions or give a statement and also
17 have him present while I'm being questioned. If I wish to
18 talk to a lawyer or have him present but am unable to
19 afford to hire a lawyer, one will be appointed to
20 represent me free of charge. If I decide to answer any
21 questions or give a statement without having a lawyer
22 present representing me, I have the absolute right during
23 this interview to stop answering questions and to remain
24 silent.

25 Q. Now, did Mr. Smith appear to understand those

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1 rights?

2 A. Yes.

3 Q. Did he -- do you-all have a procedure for noting
4 that in any way?

5 A. Yes.

6 Q. And what is that procedure?

7 A. Normally, what you do is you read the first
8 right aloud to the person you're interviewing. You ask
9 them do you understand your right, yes or no, and they'll
10 say yes or no. And then after that, you get them to
11 initial next to that right read.

12 Q. And is that, in fact, what happened in this
13 case?

14 A. Yes.

15 Q. At any time did Mr. Smith ask for an attorney?

16 A. No.

17 Q. Who conducted the interview with Mr. Smith?

18 A. Detective Elmore.

19 Q. What was your role?

20 A. I just kind of sat back and listened to the
21 interview and when Detective Elmore would say certain
22 things or ask certain questions and an answer would come
23 back that wasn't clear to me, I would say wait, hang on a
24 second, what do you mean by -- what do you mean by that,
25 explain it a little more for me.

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1 Q. Did y'all begin at the beginning with how
2 Mr. Smith knew Ms. Snow?

3 A. Yes, because we already obtained one statement
4 and we went back through that statement with him and he
5 pretty much gave us that same first statement.

6 Q. When was the last time that he told you he had
7 seen Ms. Snow?

8 A. Was that weekend, the same -- the same weekend,
9 a Saturday.

10 Q. And how much time did he say he had spent with
11 her?

12 A. The weekend.

13 Q. Did you promise Mr. Smith -- or Detective Elmore
14 in your presence -- promise anything to Mr. Smith to get
15 him to make this statement?

16 A. No.

17 Q. Did you ever threaten him in any way physically,
18 or with some sort of legal proceeding, if he didn't give a
19 statement?

20 A. No.

21 Q. Did he appear to know what he was saying and
22 what was going on?

23 A. Yes.

24 Q. Did he appear to be suffering from any auditory
25 hallucinations? Did he appear to be hearing voices or

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1 anything --

2 A. No.

3 Q. -- during this entire time?

4 A. No.

5 Q. Did he appear to be suffering from any kind of
6 deficits in any way in either understanding your questions
7 or in giving his answer?

8 A. No.

9 Q. Did you promise Mr. Smith that if he admitted to
10 killing Cheryl Snow, he would be out in six months?

11 A. No.

12 Q. Was that promise made in your presence?

13 A. I'm sorry?

14 Q. Was that promise made by anyone in your
15 presence?

16 A. No.

17 Q. Did there come a time when Mr. Smith was
18 confronted with the SLED results?

19 A. Yes.

20 Q. And who did that?

21 A. Detective Elmore.

22 Q. And was there a time when Mr. Smith was
23 confronted with the fact that you believed he was not
24 being entirely truthful in his statement?

25 A. Yes.

1 Q. And how did that happen?

2 A. Detective Elmore, you know, told him to -- you
3 know, you're lying to us, what are you lying for, just get
4 this off your chest and tell us the truth. You could see
5 it. You could -- you could tell he was tensed.

6 Q. Had he been growing more tense, or was he just
7 tense at that moment?

8 A. He was tense at that moment. Once we went back
9 through his first statement and told them, said, listen,
10 here's what we've got so far, it's not -- it's not panning
11 out for you, it's not working, and that's -- you know,
12 that's when you could tell it the most.

13 Q. What did Mr. Smith say?

14 A. There was a brief moment of silence and he said,
15 I flipped. And it was subtle, and I didn't catch it at
16 first. I was still, you know, jotting something down on a
17 piece of paper. And I said, what? And he said, I just
18 flipped.

19 Q. What did he tell you that he did?

20 A. He said that -- he told us that everything in
21 his first statement about being -- about the house and
22 helping her out around the house was truthful. He said he
23 had gone to the store and bought some Black & Milds, come
24 back, and on his way back from the store he said a voice
25 in his head told him to kill Cheryl. He said he went back

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1 into the apartment, sat on the bed for a brief minute.
2 Cheryl was doing something in the bedroom. He stands up,
3 wraps his arm around her neck and they fall to the floor.
4 Once on the floor, he -- the voice tells him to get off
5 her, let her live. He gets up off her and she's -- he
6 sees her moving, her arms moving next to her side. He
7 thinks to himself, well, if I let her live they're going
8 to call -- she's going to call the police and report me.
9 So he grabs her pajama bottoms off the night stand, ties
10 them around her neck, and walks off.

11 Q. He admitted to strangling Cheryl Snow?

12 A. Yes.

13 Q. Did he appear relieved by getting it off his
14 chest?

15 A. Yes.

16 Q. Did he become emotional at all?

17 A. Yes.

18 Q. Did he cry?

19 A. Briefly, yes.

20 Q. Did he say that he was sorry?

21 A. I don't recall if he said he was sorry.

22 MR. VOIGHT: May I approach the court reporter,
23 Your Honor?

24 THE COURT: You may.

25 MR. VOIGHT: Do you have 3 --

1 [Off the record momentarily]

2 MR. VOIGHT: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 Q. [Mr. Voight] Detective, I'm going to show you
6 what's been previously marked as State's Exhibit 1 and
7 State's Exhibit 2. What is State's Exhibit 1?

8 A. It's a North Charleston Police Department advice
9 of constitutional rights form.

10 Q. Is that the form that was used on July 18th,
11 2007, in the interview with Mr. Smith?

12 A. Yes.

13 Q. Does that bear your signature?

14 A. Yes, it does.

15 Q. Does it bear the signature of Detective Elmore?

16 A. Yes, it does.

17 Q. And, most importantly, does it bear the
18 signature of Oran Smith?

19 A. Yes, it does.

20 Q. Does it have the notations that he understood
21 his constitutional rights?

22 A. Yes.

23 Q. What is State's Exhibit 2?

24 A. This is the defendant's statement Oran Smith
25 provided.

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1 Q. And in whose handwriting is that statement?

2 A. It's my handwriting.

3 Q. And for what purpose did you write the statement
4 out? Why did you write it, as opposed to --

5 A. I normally write it. Everybody's handwriting
6 isn't good, everybody's spelling isn't good, but I can
7 read mine. It's legible.

8 Q. When that statement was -- when you were
9 finished writing the statement, did you read it back to
10 Mr. Smith?

11 A. Yes.

12 Q. Did Mr. Smith have the opportunity to correct
13 any errors or mistakes that would have appeared on there?

14 A. Yes.

15 Q. Did you have the ability to correct any mistakes
16 or errors that would have --

17 A. Yes.

18 Q. -- appeared on there?

19 Did you, in fact, do so on that statement?

20 A. Yes, I did, on the second page. When you're
21 reading it back to them, sometimes you find your own
22 grammatical errors and your own misspelled words, or words
23 that shouldn't be there in the first place, so you would
24 scratch them out in front of the defendant and you have
25 them initial it. It shows that it wasn't altered after

1 the fact. He also received a copy of his statement.

2 Q. Was there anything in that statement that
3 Mr. Smith disagreed with?

4 A. No.

5 Q. Was there anything in that statement that you
6 changed? You noted two areas?

7 A. Yes. It's actually one sentence on two
8 different lines, so he initialed twice.

9 Q. And that indicates that that was done
10 contemporaneously with the statement being given?

11 A. Right.

12 Q. And Mr. Smith received a copy of that statement?

13 A. Yes.

14 Q. At what point was Mr. Smith placed under arrest?

15 A. After he provided his statement. Just actually
16 before he was transported to the jail.

17 Q. Was he placed in handcuffs immediately after
18 giving that statement?

19 A. No.

20 Q. Did you allow him to make any telephone calls?

21 A. Yes.

22 Q. Were you able to hear any of the content of the
23 telephone calls that he made?

24 A. Yes.

25 Q. Who did he call; do you know?

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1 A. I was -- I let him call his mother. He wanted
2 to talk to his mother. I let him talk to her in the
3 interview room. Then he come out to my desk and spoke
4 with his girlfriend, or a friend who lived in Louisiana.
5 And in the initial -- in the initial conversation, as soon
6 as she picked up the phone he said, they got me.

7 Q. And he didn't deny --

8 A. And it's a --

9 Q. -- where he --

10 A. No, he didn't go into detail. He just -- he
11 said something to the effect, just call my mama, she'll
12 have a way to contact me, or vice versa.

13 MR. VOIGHT: At this time the State would offer
14 State's 1 and 2.

15 MS. TAYLOR: That is the rights form and the
16 statement?

17 MR. VOIGHT: Yes.

18 MS. TAYLOR: Only subject to prior --

19 THE COURT: I'll note your previous objection.
20 Thank you.

21 1 and 2 into evidence.

22 [Whereupon, State's Exhibit Number 1, Advice of
23 rights form, is admitted into evidence by the Court]

24 [Whereupon, State's Exhibit Number 2, statement,
25 is admitted into evidence by the Court]

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1 THE COURT: Mr. Voight?

2 MR. VOIGHT: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 [Whereupon, Mr. Voight and Mr. Simpson confer]

5 Q. [Mr. Voight] Now, you testified that in the car
6 ride down to the station you didn't tell Mr. Smith any of
7 the details of the homicide.

8 A. I did not.

9 Q. Did you tell him how the body was -- how Ms.
10 Snow was located --

11 A. No. We never --

12 Q. -- positioned? The body.

13 A. We never did.

14 Q. Did you tell him that she was strangled in any
15 way?

16 A. No.

17 Q. In his statement to you when he was talking to
18 you in the interview room, did he tell you how Ms. Snow's
19 body came to rest?

20 A. Yes.

21 Q. And how did he -- what did he say?

22 A. He said her head was near the closet door and
23 her feet were near the entrance to the bedroom door.

24 Q. As the lead investigator, did you or anybody
25 else from the North Charleston Police Department supply

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1 Mr. Smith with that information?

2 A. No.

3 Q. Was that information released to any news source
4 at all?

5 A. No.

6 Q. Mr. Smith, in his statement, testified that he
7 tied the -- said that he tied the pajama bottom around her
8 neck. Was that information that you or anybody else from
9 the North Charleston provided to Mr. Smith?

10 A. No.

11 Q. Was any information concerning pajama bottoms
12 given to a newspaper or any other news source?

13 A. I do not know. I don't believe so. But I do
14 have the article there.

15 MR. VOIGHT: No further questions, Your Honor.

16 THE COURT: Ms. Taylor?

17 MS. TAYLOR: Do you want me to start now?

18 THE COURT: Yes, ma'am.

19 MS. TAYLOR: Good afternoon, Detective Patrick.

20 THE WITNESS: Good afternoon.

21 CROSS-EXAMINATION

22 BY MS. TAYLOR:

23 Q. You were the chief agent investigating this
24 case?

25 A. That's what they call us, yes, ma'am, although

1 we are supervised by lieutenants and sargents.

2 Q. So that means part of what you do is you --
3 obviously, you live the case --

4 A. Yes.

5 Q. -- for quite a while?

6 A. I'm a paper collector.

7 Q. Mr. Voight just asked you about newspaper
8 coverage.

9 A. Yes.

10 Q. I just want to hand you what I think is a Post
11 and Courier dated June 7, 2007.

12 A. Uh-huh.

13 Q. Can you read what that headline says?

14 A. [Reading] Police say woman was strangled.

15 Q. And that was in the newspaper; right?

16 A. Yes. It appears so. This is a copy.

17 Q. What other information? Do you have a copy, you
18 said?

19 A. I believe so. Let me --

20 Q. Get your copy, and I'll take this one back, so
21 you can read the whole thing. Have you got it?

22 A. Yes, ma'am.

23 Q. Sorry.

24 And all I really want to do is review any
25 information as it relates to the crime or investigation.

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1 A. Okay.

2 Q. And if you will look at that I guess second
3 little paragraph --

4 A. Yes, ma'am.

5 Q. -- with, he found his neighbor. Could you read
6 what it tells us there, as far as the crime scene.

7 A. Sure. [Reading] He found his neighbor, fifty-
8 four-year-old Cheryl Snow, lying dead with her face in a
9 puddle of blood Monday night. Her death was caused by
10 asphyxiation or strangulation, Charleston County Deputy
11 Coroner Dottie Lindsey said Wednesday.

12 Q. Okay. And then on that next column, one, two,
13 three, four, five lines down, what's the first word in
14 that paragraph?

15 A. Strangled. But -- that covers that in the
16 headline, but --

17 Q. Okay. And then it also quotes Mr. Stender.
18 What else does he say there?

19 A. [Reading] Stender repeatedly asked, shaking his
20 head in disbelief, I thought maybe she just fell and hit
21 her head. Stender --

22 Is that it?

23 Q. Yeah.

24 A. Okay? All right.

25 Q. And then when you go to the third column, the

1 third line down.

2 A. [Reading] He found her body in the bedroom floor
3 near the closet, he said.

4 Q. Okay.

5 A. [Reading] She was wearing only underwear and a
6 blouse, and her hair was mussed and blood pooled under her
7 head, he said.

8 Q. Okay. And then at the end of the next little
9 paragraph, that last sentence. And, I'm sorry. Read
10 that -- did you tell us you spoke with Mr. Johnston --

11 A. Yes.

12 Q. So you took a statement from him?

13 A. Yes.

14 Q. Okay. What does it indicate there, if any
15 information, from Mr. Stender about who he saw Cheryl Snow
16 with?

17 A. In the paper here?

18 Q. Yes. It says, they saw her frequently. It's --

19 A. Oh. [Reading] They saw her come -- they saw her
20 coming and going most -- or coming and going frequently,
21 mostly with her boyfriend.

22 Q. And were you able to identify who the boyfriend
23 was?

24 A. Richard Lester.

25 Q. And that's the gentleman that you spoke to for

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1 about ten or twenty minutes?

2 A. Yes, it is.

3 Q. And what about that next paragraph?

4 A. [Reading] There was trouble at Snow's apartment
5 two or three days before her slaying, Stender said. He
6 and other neighbors watched as police took a man away in
7 handcuffs and heard Snow say that the man was not her
8 boyfriend, wouldn't leave her alone, Stender said.

9 Q. Were you ever able to identify who that man was?

10 A. I was not.

11 Q. But we know it wasn't -- was it Lester --

12 A. Yeah. He's an elderly gentleman on oxygen, so
13 he's not.

14 Q. Did you get any description of that man at all,
15 Stender -- I mean, I'm sorry --

16 A. You know, I don't know, but let me look and see
17 if there's any -- because we did pull a bunch of reports
18 from -- during the investigation. Let me see if I've got
19 them here.

20 [Whereupon, the witness reviews documents]

21 A. Every police report made is put in our RMS
22 system, so if there was a report done that day --

23 Q. [Ms. Taylor] Right.

24 A. -- I would have it hopefully here in my binder,
25 if there was a report written.

1 [Whereupon, the witness reviews documents]

2 A. No. There wasn't a report written, to my
3 knowledge.

4 MS. TAYLOR: Court's indulgence, Your Honor.

5 THE COURT: Yes, ma'am.

6 [Whereupon, Ms. Taylor reviews documents]

7 Q. [Ms. Taylor] Did you, as part of your
8 investigation, at some point in time run what you just
9 sort of was starting to tell us about the reports that
10 came from Cheryl's apartment?

11 A. Yes.

12 Q. And is that what you just looked through?

13 A. Yes.

14 Q. And so there wasn't any report from two or three
15 days prior?

16 A. Not to my knowledge. Not that I have here in my
17 folder, and not that I --

18 Q. Do you know --

19 A. -- and not that I would have found that would
20 have been key to look into had I had that.

21 Q. I'm sorry?

22 A. That would have been actually key to look into
23 how I found that during the initial investigation. Once
24 we run those reports two or three days prior to this
25 incident, we would have definitely been on that had there

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1 been a report done through North Charleston Police
2 Department, which I do not have and I did not find that
3 night.

4 Q. I'm sorry. Does the paper not say that the
5 police led a man away in handcuffs?

6 A. That's what it says, yes.

7 Q. So wouldn't there be a report coming from that?

8 A. No. If it even happened. It may not have
9 happened.

10 Q. Oh, I see.

11 A. I mean, you're in a community of people who are
12 mentally challenged -- you know, assisted-living-type
13 community -- and Mr. Stender was, whenever I spoke with
14 him, all over the board. So it may or may not have
15 happened. But when we did go back and check the RMS
16 system, we found no recent reports -- other than a natural
17 death, I think was the most recent -- with Ms. Snow's
18 name. A neighbor passed.

19 Q. And so this apartment complex where Ms. Snow
20 lived -- and you referred there's like eighteen different
21 apartments in there?

22 A. Yes.

23 Q. And that is for mentally-challenged --

24 A. Yes.

25 Q. -- folks?

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1 A. Right.

2 Q. So is that safe to assume that all of her
3 neighbors, whatever people you may have spoken with that
4 night --

5 A. Uh-huh.

6 Q. -- would have fit that category?

7 A. In some way, shape or form, yes, due to drug
8 abuse or -- it's kind of like a halfway-house type deal.

9 Q. Okay. Now, one thing I also wanted to ask you
10 about. Mr. Voight said -- hold on. Let me get your
11 reports.

12 [Whereupon, Ms. Taylor reviews documents]

13 Q. [Ms. Taylor] It's going to be a little out of
14 order, but I wanted to just ask you about this --

15 A. Yes.

16 Q. -- while I'm thinking about it.

17 He asked you about what information had been
18 imparted to Oran on the 18th when y'all were in the
19 interview room.

20 A. I'm sorry. Say that one more time.

21 Q. When y'all -- when you and Detective Elmore are
22 in the interview room --

23 A. Uh-huh.

24 Q. -- with Oran on July 18th --

25 A. Right.

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1 Q. -- and obviously you were aware of, although you
2 did not participate in back on June 5th or 6th, Detective
3 Elmore and I think Detective Hill conducted a fairly
4 lengthy interview --

5 A. Yes.

6 Q. -- with Oran.

7 And a written statement was taken at that time?

8 A. Yes, ma'am.

9 Q. And have you had an opportunity to see that
10 written statement?

11 A. Have I? Yes.

12 Q. Had you seen it prior to July 18th?

13 A. I may have, yes. I'm sure I did.

14 Q. And what was the essential synopsis of that
15 statement?

16 A. That he had -- that he had known her, stayed
17 with her, had sex with her, and left. I believe Sunday he
18 called his mother from a payphone and went back to Moncks
19 Corner, in a nutshell.

20 Q. And Mr. Voight had asked you what had happened
21 between that statement --

22 A. Uh-huh.

23 Q. -- and July 18th when y'all decided -- whatever
24 day you decided --

25 A. Right.

1 Q. -- that you wanted to speak with him again?

2 A. Yes.

3 Q. And you had told us what happened was this SLED
4 result?

5 A. Yes.

6 Q. Okay. And I'm looking -- and I'm sorry. You
7 took a lot of notes through a lot of this investigation;
8 is that fair to say?

9 A. Yeah. I've got a binder with some notes in it.

10 Q. Okay. And in addition to your binder with notes
11 that are --

12 A. Yes, ma'am.

13 Q. -- handwritten --

14 A. Yes.

15 Q. -- you also have pages of -- I don't know
16 whether these were done on a computer. These were the
17 notes?

18 A. Yes, ma'am.

19 Q. And you've got dates and sort of a little
20 synopsis of what you did --

21 A. Yes, ma'am.

22 Q. -- who you talked to, and that kind of thing?

23 A. Uh-huh.

24 Q. And in talking with Mr. Voight, y'all discussed
25 that on July 17th, which would have been the day before

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1 you went back to talk to Oran --

2 A. Uh-huh.

3 Q. -- you spoke with SLED?

4 A. Yes. It was a conference call with Lieutenant
5 Cumby, a member of crime scene; I believe Detective
6 Elmore; and a couple of others were in there.

7 Q. When you spoke with whoever you spoke with at
8 SLED --

9 A. Uh-huh.

10 Q. -- what was your understanding, as far as what
11 the evidence that they were going to be able to give you
12 ultimately in the prosecution of this case was?

13 A. My understanding was that there was evidence
14 recovered from the clippings from the back of the
15 ligature. Because when I saw the photo of the ligature,
16 it appeared to me as you could tell where somebody had
17 held it in their hands, let it go, and walked out. So I
18 asked that those clippings be sent to SLED for DNA
19 testing; "have do to" is touch DNA skin cells. Whatever
20 happened after that -- I don't know how they tested until
21 I found a little bit out today. I don't know anything
22 about DNA.

23 But I was under the impression at the time that
24 there were either DNA, or cells of some sort, which linked
25 Mr. Smith to those pajama bottoms in the areas that I

1 requested be cut out. On that, with that information --
2 we didn't go get a warrant based on that information. He
3 wasn't under arrest. Based on that information is when we
4 went back to Moncks Corner to speak with him again.

5 Q. Now, I want to go back to you talking about the
6 pajama bottoms.

7 A. Yes, ma'am.

8 Q. You say that they were wrapped around her neck?

9 A. Yes, ma'am.

10 Q. And there is an area that trailed out, I guess?

11 A. Yeah. I mean, you've got the back of the pajama
12 bottoms and you've got a -- the rest of it coming out past
13 the knot or the tie where it's actually cinched. That
14 area is where I requested -- I said, look at it the best
15 you can; find out if there's a spot where you could tell
16 somebody had it in their hands, pulled on it, ripped it,
17 tore it, whatever; cut that out if you have to cut it out,
18 or send the whole thing to SLED and let them cut it out
19 once they find the DNA that we requested.

20 Q. Did you have an opportunity to examine the
21 ligature?

22 A. I did not.

23 Q. So you just were looking at photographs?

24 A. Exactly.

25 MS. TAYLOR: The Court's indulgence, Your Honor.

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1 THE COURT: Yes, ma'am.

2 [Whereupon, Ms. Taylor reviews documents]

3 Q. [Ms. Taylor] I'm going to ask you to look,
4 Detective, at what are State's Exhibits 8, 9, and 23. I
5 believe these are the only three photographs we have of
6 the ligature in place.

7 A. Okay.

8 Q. And I'm just going to ask you to look at those
9 and if you can show me where it is you're talking about
10 that you wanted tested on the pajama bottoms.

11 A. Wow. Gees. What I requested was once it was
12 taken from autopsy --

13 Q. Uh-huh.

14 A. -- you're not going to grab around the front to
15 cinch it. You're going to grab it like you would be tying
16 a shoelace. You grab on the ends, you grab it right there
17 next to the knot, and you pull.

18 Q. And do you --

19 A. And that's the area that I was requesting that
20 they processed. If they needed to process the whole
21 thing, that was fine. But I felt that there was something
22 left on them that could possibly lead me to a suspect.
23 That's why I requested that. But I can't point out, not
24 on these -- definitely not on these pictures, a specific
25 spot, because I was under the impression -- like I said, I

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1 don't know anything about DNA but I do know that you can
2 process something this big or something that little, but
3 it takes forever to do it. And so I said send the whole
4 thing and let them process it and see what they find.

5 Q. And you don't know how that ligature was
6 actually wrapped and tied?

7 A. Not -- no. I mean, in a sense -- in a sense,
8 looking from the pictures I can kind of see it. But, no,
9 not generally I don't know. I didn't get a chance to
10 actually look at it and move it and touch it and anything
11 like that, so I just wanted it preserved and sent.

12 Q. And from the test that we've heard earlier, to
13 the degree that we've heard from anybody who dealt with
14 that, it was wrapped around her neck and then tied. Is
15 that your understanding, as well?

16 A. Yeah.

17 Q. Now, Mr. Voight asked you whether you ever told
18 any information about this homicide to Oran Smith --

19 A. Right.

20 Q. -- and any of the circumstances of it.

21 A. Right.

22 Q. And you told him no.

23 A. Right. At one point I believe Detective Elmore
24 did tell him that she was deceased.

25 Q. Talking about on the 18th?

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1 A. It may have been the 18th or it may have been --
2 Detective Elmore may have told me that after the first.
3 But I believe it was on the 18th because he had asked, is
4 there something wrong with Cheryl; is there something
5 wrong with Cheryl; yeah.

6 Q. On the 18th?

7 A. It may have been. I don't recollect. I don't
8 know if it was the 18th or if it was the first initial
9 statement --

10 Q. Right.

11 A. -- is what I'm getting at. I don't know which
12 date it was, but --

13 Q. Right. And Detective Elmore was the
14 interviewing detective on that first statement?

15 A. Yes, he was. And Detective Hill.

16 Q. And we'll talk to him about that.

17 A. Right.

18 Q. You just remember Detective Elmore saying to you
19 at some point --

20 A. At some point --

21 Q. -- along the line --

22 A. -- I don't know if it was in the interview room
23 or in speaking with Detective Hill -- or with Detective
24 Elmore about the first interview, is when he told him.
25 I'm not sure. You would have to ask him that, when that

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1 was.

2 Q. But, again, your recollection is that at some
3 point in time, Detective Elmore told you that he told
4 opinions, because Oran asked, if there was something wrong
5 with Cheryl and he told him --

6 A. Yes. She's --

7 Q. -- that she's dead?

8 A. That she's deceased. Yes.

9 MS. TAYLOR: Court's indulgence just one second.

10 THE COURT: Yes, ma'am.

11 [Whereupon, Ms. Taylor reviews documents]

12 Q. [Ms. Taylor] Now, Mr. Voight also asked you --
13 and I think you told us when you and Detective Elmore were
14 talking to Oran on the 18th and he is maintaining the same
15 information he told you to start with?

16 A. Right.

17 Q. Yes, I was with her; yes, we've had sex --

18 A. Uh-huh.

19 Q. Yes; yes; yes.

20 A. Yeah.

21 Q. And I left sometime Sunday afternoon?

22 A. Yes. If I remember correctly, he said that. He
23 said, I left Sunday afternoon.

24 Q. While we're on the dates of the week, can you
25 confirm through your notes that Sunday is June 3rd and

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1 Monday would be June 4th, the day that she was found?

2 A. Yes, I believe that was a Monday.

3 Q. And is it correct that she was found -- and this
4 is through Thomas Stender -- on Monday about seven o'clock
5 in the evening --

6 A. Yes.

7 Q. -- June 4th?

8 A. Yeah.

9 Q. Now, and you indicated earlier that at some
10 point in time you were sort of just watching but Detective
11 Elmore said to Oran, we know you're lying?

12 A. Yeah.

13 Q. Okay. Now, Mr. Voight asked you about demeanor
14 and --

15 A. Uh-huh.

16 Q. -- about Oran and was he upset or was he
17 whatever, and you answered. What was Detective Elmore's
18 demeanor in this --

19 A. It was fine. Calm, was sitting back in his
20 chair like he normally does, talking. He's a very good
21 interviewer. He's not -- he doesn't get hot and heavy
22 unless, of course, the person you're talking to gets
23 heavy, you know, with him, he'll get back at them. But
24 other than that -- this interview didn't go that long. It
25 didn't have to. His demeanor was fine.

1 Q. And so Detective Elmore just, very casually and
2 politely said, regular tone of voice, you know you're
3 lying?

4 A. Yeah. It's probably something to the effect of,
5 listen, man, this ain't working out right; your story's
6 not panning out right; we know you're lying; we've got
7 this from SLED. He presented that to him.

8 Q. What did he present?

9 A. I don't know. It was probably a piece of paper
10 with some number on it, I think. Stuff that they send.
11 Same thing we were looking at earlier is what we normally
12 get.

13 Q. And what did he say he had from SLED?

14 A. What's that?

15 Q. What did he say he had from SLED?

16 A. He said, we have results from SLED that show
17 that your DNA was on the pant legs.

18 Q. The pant legs?

19 A. Yes.

20 Q. So --

21 A. And that's when he -- that's it. I mean --

22 Q. So Detective Elmore, prior to any information
23 from Oran Smith --

24 A. Uh-huh.

25 Q. -- told him this thing about DNA, whether it was

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1 right or wrong --

2 A. Right.

3 Q. -- we got your DNA on the pant legs, pajama
4 legs, whatever?

5 A. Well, he said on the -- probably on the ligature
6 around her neck. I don't know if he said pajama pants, or
7 pant legs, or anything like that. I don't know if that
8 was the case, what he said, but --

9 Q. But, again, he told Oran Smith, before Oran ever
10 gave any of this admission stuff--

11 A. Right.

12 Q. -- we got scientific proof, we've got your DNA,
13 however he said it, on the thing that was tied around her
14 neck you used to strangle her?

15 A. That's the best possibility, yes, if I remember
16 correctly. But, again, you'll have to speak to Detective
17 Elmore about that.

18 Q. We will.

19 A. Okay.

20 Q. All right. Let's go back. Now I'm just going
21 to go back to the very beginning.

22 A. All right.

23 MS. TAYLOR: Do you want me to continue, Judge?

24 THE COURT: Yes, ma'am.

25 Q. [Ms. Taylor] You took a series of statements,

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1 did you not?

2 A. Yes.

3 Q. And you also got Ms. Snow's phone records?

4 A. Yes.

5 Q. Okay. Do you have with you the results of the
6 phone records that you -- well, tell us first: why did
7 you get the phone records?

8 A. It's just -- just so we could find out who she
9 talked to last, who she spoke to, who may have called her
10 in the past, or her -- the last person that called her
11 prior to her death.

12 Q. Okay. And as a result of that request on your
13 part, did you get from AT&T a record of her phone calls on
14 the early part of June?

15 A. Yes. Hang on one second. Let me find it.

16 [Whereupon, the witness reviews documents]

17 Q. [Ms. Taylor] What I'm looking at says, call
18 details, toll records, AT&T, beginning on June 1st and
19 going through June 4th.

20 A. Can I see --

21 Q. A couple of pages, but that's -- looks like you
22 started back in May --

23 A. Yeah. I believe one was done, and then another
24 one was done in an extended time frame between the two.

25 Q. Okay. Do you have a copy of that one I just

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1 handed you?

2 A. Let me see.

3 [Whereupon, the witness reviews documents]

4 Q. [Ms. Taylor] And if not, feel free to use that
5 one. I'll just --

6 A. Okay.

7 Q. -- look over your shoulder.

8 A. Right.

9 Q. That is a copy of what you got from AT&T?

10 A. Okay.

11 Q. And -- I know I'm asking you --

12 A. That's fine. Go ahead.

13 Q. Is that what you got from AT&T?

14 A. Yes.

15 Q. Okay. And the phone number at the top indicates
16 whose phone you're checking; is that right?

17 A. Yes.

18 Q. And that was Cheryl Snow's home phone number?

19 A. Correct.

20 Q. Not her cell phone, but a regular phone hooked
21 up in her apartment?

22 A. Correct.

23 Q. Okay. And what -- if you would look down on
24 June -- what's the last date that shows a phone call?

25 A. The last date is June 3rd, '07.

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1 Q. Oh. You do. Can I have my copy back?

2 A. Sure.

3 Q. Okay. I'm sorry. What is the last date of a --

4 A. Phone call?

5 Q. -- of a call that is received?

6 A. [No response]

7 Q. Where someone is actually talking. If you'll
8 look at 6/3/07.

9 A. 1818. There's no call duration, but the call
10 was answered. It's a --

11 Q. That's right. It's number -- yeah, 108.

12 A. 108.

13 Q. I'll ask you to look at the numbers down the
14 side.

15 A. Yes.

16 Q. And what time was that received?

17 A. 1745.

18 Q. What time is that in civilian time?

19 A. 5:45.

20 Q. And what's the duration of the call?

21 A. Two minutes eighteen seconds.

22 Q. Does that indicate that someone was speaking on
23 the phone at that time?

24 A. It appears so, yes, ma'am.

25 Q. Okay. And then right above that, what time is

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1 that phone call?

2 A. 5:03.

3 Q. And what was the duration of that?

4 A. Twenty-eight twenty-five. Twenty-eight minutes
5 and twenty-five seconds, I'm guessing.

6 Q. And do you know who the two individuals making
7 or -- well, do we know whether Ms. Snow dialed the numbers
8 to make those calls? or someone called her in?

9 A. Do not know.

10 Q. But we know the number that is either the caller
11 or the receiver?

12 A. Right.

13 Q. Did you check on who those folks were?

14 A. I'm sure I did. I just don't know where I've
15 put that information. 270-7108. It'll take me a minute
16 to find it, but I can.

17 Q. No. That's okay.

18 A. Okay.

19 Q. Today you don't know who it was?

20 A. No, I don't.

21 Q. And then -- now, if we could go back to -- in
22 addition to getting phone records, you took statements
23 from a series of folks?

24 A. Yes.

25 Q. And one of those was Thomas Stender?

1 A. William Ackerman: I took William Ackerman's
2 statement. Thomas Stender: Detective Hill took his
3 statement.

4 Q. Okay. Sorry. All right. You did not. You
5 spoke with him at some point, but you didn't take the
6 written statement?

7 A. Correct. I took William Ackerman's statement.

8 Q. Okay. And William Ackerman is a neighbor?

9 A. Yes.

10 Q. Okay. And in his statement he indicates that --
11 and you're talking about Sunday, June 3rd; is that right?

12 A. Yes.

13 Q. Just looking at this. Says: [reading] I talked
14 to Cheryl on the phone. Called her from my home phone.
15 And it was around 2:30 p.m. --

16 A. Right.

17 Q. -- [reading] in the afternoon.

18 A. Yes.

19 Q. And I'm having a little trouble. Did you write
20 this?

21 A. Yes.

22 Q. What does it say about 6:00 or 6:30: [reading]
23 I walked over to her house to see her and her rabbit.

24 A. Yeah.

25 Q. And what does it say about the door? [Reading]

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1 I saw through the door.

2 A. [Reading] I got the door --

3 And it's supposed to be to, I got to the door.

4 Q. And so he's indicating essentially, in this
5 statement, that what -- because what happened was Monday
6 you get a call from 911?

7 A. Uh-huh.

8 Q. And that's Thomas Stender; is that right?

9 A. Yes.

10 Q. And Thomas Stender got sent over there because
11 William Ackerman came to get him; is that right?

12 A. Right.

13 Q. Okay. And what you're talking to William
14 Ackerman now about is that?

15 A. Yes.

16 Q. Okay. Did that happen on Sunday, June 3rd, or
17 Monday, June 4th?

18 A. Monday, June 4th, because that's when the body
19 was found and he called the police.

20 Q. Okay. So Mr. Ackerman is a resident of --

21 A. Yes.

22 Q. -- this place?

23 A. Yes.

24 Q. So the mistake here where he says he did it on
25 Sunday --

1 A. Yes.

2 Q. -- is just a mistake?

3 A. Yes.

4 Q. And he also talks in there about what he saw,
5 that he saw Cheryl's body? On the end, if you'll look on
6 page 2.

7 A. Yeah. Hang on one second.

8 [Whereupon, the witness reviews documents]

9 A. Yes.

10 Q. [Ms. Taylor] And that's basically all that you
11 have from him?

12 A. Yes, ma'am.

13 Q. Okay. Now, you also talked with Leonard Gettis?

14 A. Yes.

15 Q. And you talked to Leonard Gettis' father?

16 A. Yes.

17 Q. And I want to look at -- if I can find it.

18 [Whereupon, Ms. Taylor reviews documents]

19 Q. [Ms. Taylor] When you were talking with
20 Mr. Voight he asked you about your dealings with Leonard
21 Gettis.

22 A. Uh-huh.

23 Q. I don't have -- I'm referring now to your typed
24 notes.

25 A. Okay.

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1 Q. And I don't have a -- mine are not numbered by
2 page numbers, but it's the second paragraph, it starts
3 with [reading] Leonard Gettis' fingerprint.

4 Do your pages have -- the copies you have have
5 the State's Bates stamps on them?

6 A. Yes.

7 Q. It's page 67 --

8 A. Oh, no. I don't have that.

9 Q. -- of --

10 A. I've got -- now, what date? There should be a
11 Detective Patrick and a date.

12 Q. 6/6, it must be.

13 A. 6/6. Okay.

14 Q. Yeah. Because it's got -- looks like it starts
15 on the page before, which now I don't have in front of me.

16 A. And it's the third paragraph? Okay. I've got
17 you. Right here. I've got it.

18 Q. Leonard Gettis' fingerprint?

19 A. Okay.

20 Q. Okay. So you contacted Leonard Gettis --

21 A. Yes.

22 Q. -- and Mr. Voight had said was he completely
23 cooperative with you.

24 A. Yes.

25 Q. And when you first talked to Leonard Gettis, he

1 told you that he didn't know Cheryl Snow, didn't he?

2 A. Right. And that's what I told Mr. Voight, too,
3 that he initially was not cooperative during the interview
4 but initially he was cooperative by calling me back and
5 coming in. That's what I meant by that.

6 Q. So he told you he didn't know Cheryl Snow?

7 A. Initially, yes.

8 Q. He didn't know anybody on Sumner Avenue?

9 A. Right.

10 Q. And then you asked to look at his phone?

11 A. Yes.

12 Q. And what did you find in his phone?

13 A. Her number.

14 Q. And was he then more forthcoming with you?

15 A. Yes.

16 Q. Did you tell him that his fingerprint had been
17 found in her home?

18 A. Yes.

19 Q. And you told us, as well, that he -- the reason
20 he says he was dishonest at first was because he was
21 embarrassed?

22 A. Yes. His parents would have disagreed with him
23 having a relationship with his mother -- or with a white
24 female. I believe that's one of the reasons he provided.

25 Q. Do you know how old Mr. Gettis is? Leonard?

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1 A. Thirty-five.

2 Q. And how old was Ms. Snow?

3 A. Ms. Snow I don't recall. Hang on one second.

4 [Whereupon, the witness reviews documents]

5 A. Was born in 1952.

6 Q. [Ms. Taylor] Okay. So it wasn't that she was
7 older than him that he was embarrassed about, it was just
8 the race thing?

9 A. Yeah. I suppose so, yes.

10 Q. And did he tell you that?

11 A. Yes.

12 Q. But that's not in these notes?

13 A. No.

14 Q. Just says he was embarrassed?

15 A. Yeah.

16 Q. Why do you make these notes?

17 A. Just to refresh my memory for times like this.

18 Q. Keep as accurate a record as possible of what
19 transpired?

20 A. Yes.

21 Q. Does he also, according to your notes, indicated
22 that he --

23 A. Well, it is in my notes, actually, in that third
24 paragraph.

25 Q. Where is that?

1 A. After he's told of the fingerprint and the phone
2 number, he advised he did know Snow and lied because he
3 was embarrassed to have slept with her.

4 Q. Right. No. I'm saying he didn't say that he
5 was embarrassed because she was a white woman.

6 A. Got you. Okay.

7 Q. Because he was embarrassed to have slept with
8 her --

9 A. Right. Right.

10 Q. -- for some reason.

11 A. Okay.

12 Q. I'm asking you.

13 A. What? Oh. I'm sorry. Ask again.

14 Q. Did he tell you that --

15 A. Yes, that was mentioned -- that was mentioned as
16 one of the --

17 Q. Okay.

18 A. -- as one of the reasons. I'm sorry.

19 Q. And you just left it out of the notes?

20 A. Yes.

21 Q. Okay. He also told you that he had been at her
22 residence early Saturday morning; is that right?

23 A. Yes.

24 Q. And the next line says: [reading] he had sex
25 with her and she asked him to leave.

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1 A. Yes.

2 Q. [Reading] He left and went to work.

3 A. Yes.

4 Q. [Reading] Called her around twelve o'clock but
5 did not get an answer.

6 A. Right.

7 Q. Is that right?

8 A. Yes.

9 Q. Okay. And then that was, according to him, the
10 last time that he spoke with her?

11 A. Yes.

12 Q. Okay. Now, if you could look at the statement
13 that you got from Leonard Gettis.

14 A. Okay.

15 Q. Let me ask you: did you take a statement from
16 his dad?

17 A. I did not. James Hill and Detective Elmore took
18 that statement.

19 Q. Did you have an opportunity to review that
20 statement?

21 A. I probably did. Yes, I'm sure.

22 Q. Do you have it there with you?

23 A. Yes, I do. Hubert Gettis?

24 Q. Or Herbert Gettis, whichever.

25 A. Right.

1 Q. What does he say in that statement about his son
2 when you're asking? What you're trying to do at that
3 point, I'm assuming, is trying to figure out where Leonard
4 Gettis was on was it Sunday at that point?

5 A. Yes.

6 Q. What does his dad tell you?

7 A. He said he didn't know what time his -- or what
8 time Leonard got home.

9 MS. TAYLOR: I'm sorry. You're going to have
10 to -- you're as bad as me with the low talk. Here we
11 go.

12 A. He said he really didn't know where his son was
13 on Sunday, other than at home. He said he was -- he said
14 -- hang on a second. Let me find it.

15 [Whereupon, the witness reviews documents]

16 A. [Reading] What did you do on Sunday. I cooked
17 for my wife. Did anyone come see you and your wife on
18 Sunday. Yes. The preacher, Namie Perkins, came by to see
19 me and my wife around 3:00 p.m. Was Leonard home. Yes.
20 Did Leonard leave the house on Sunday. No. What time did
21 you go to bed. After twelve midnight.

22 Q. [Ms. Taylor] And then if you'll skip down
23 through -- you talk about Saturday some, and then you come
24 back --

25 A. On Leonard's statement, or Hubert's?

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1 Q. On Herbert --

2 A. Okay.

3 Q. You're talking about him singing songs. He said
4 no. Then you asked the question: [reading] do you
5 remember what time Leonard got home Sunday.

6 Now, this is after you already asked dad was he
7 home and dad said yes; right?

8 A. I didn't ask him. This was Detective Hill and
9 Detective Elmore.

10 Q. Okay. I'm sorry. Whoever he was talking to
11 then --

12 A. Right.

13 Q. -- said was he home. And dad says yes.

14 A. Yes.

15 Q. And they asked: [reading] did he leave the
16 house at all on Sunday.

17 A. Right.

18 Q. And he says no.

19 A. Right.

20 Q. And then you get over to the second half and
21 whomever is asking the question says: [reading] do you
22 remember what time Leonard got home Sunday. And he says:
23 [reading] I really don't know. I know it was before
24 midnight.

25 Is that right?

1. A. Yes.

2 Q. And then the next question is: [reading]
3 Leonard told me he worked on Sunday. Are you sure you saw
4 him on Sunday.

5 A. Correct.

6 Q. And what does he answer?

7 A. [Reading] I really can't say, because I focus on
8 talking -- taking care of my wife, so I really don't
9 remember if he was home on Sunday.

10 Q. Okay. So his father first says, yeah, he was
11 here all day, never left. And then a little further
12 questioning, because somebody talked to Leonard and
13 Leonard actually said, well, yeah, I was home and an
14 assortment of other places.

15 A. Uh-huh.

16 Q. And then dad admits I don't know where he was.

17 A. Right.

18 Q. Now, if you'll look at Leonard's statement.

19 A. Okay.

20 Q. And this one you took?

21 A. Yes.

22 Q. Because what you have here -- and correct me
23 if I got this wrong. You have another individual who,
24 when you first approached him, lied about knowing Cheryl
25 Snow --

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1 A. Uh-huh.

2 Q. -- lied about being in her apartment at all --

3 A. Right.

4 Q. -- this weekend.

5 A. Right.

6 Q. But then when confronted again with some
7 forensic evidence says, okay, let me tell you what
8 happened?

9 A. Right.

10 Q. And this is then the statement that you get?

11 A. Yes.

12 Q. Okay. Can you just read it to us?

13 A. Sure. [Reading] I met Cheryl Snow on March of
14 2007. I met her over the phone. She called asking for
15 someone else. She called my cell number, 843-330-9147.
16 She asked for someone named Sue. We started talking. We
17 kept in contact after that. She called me back in a
18 couple of weeks ago -- called me back a couple of weeks
19 ago and wanted me to go to a block party in her
20 neighborhood. I didn't go because I had to work. She
21 called me on Friday morning at around 12:30 a.m. and left
22 a message. I called her back at about 2:30 a.m. and
23 talked to her. She asked me to come over. I was staying
24 at the Catalina Hotel on Rivers Avenue. I went to her
25 house with McDonald's and a double quarter-pounder with

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1 fries. I wore black jeans, silver Adidas shirt, a skully
2 cap, and black Dickies work boots. She had on blue jeans
3 -- blue Lee jeans and a button-up blouse. Her hair was up
4 in a pony tail. I ate my food, then helped her move her
5 folded clothes from her bed to the couch in her living
6 room. I helped her fold some of the clothes. She took
7 the comforter off the bed and put it in her closet, in her
8 bedroom closet. The closet -- the clothes in the closet
9 were piled up high. She said, I need to do some laundry.
10 She put a new comforter on her bed, and I helped her make
11 up her bed. The comforter was teal or turquoise, the
12 sheet was white. I sat on the black chair in her room.
13 She got me some water and asked if I wanted some soup. I
14 made the soup. It was Progresso soup. The soup was
15 green. I heated it up -- I heated the soup up -- soup,
16 and didn't want -- didn't want it, so she ate some of it,
17 then went into the shower. I finished all the dishes up
18 in the drainer. I emptied the bowl and let it soak in the
19 sink. She asked me if I wanted to take a shower and I
20 said no. She said -- she said, well, let's take a bath.
21 I said, well, I hadn't sat in a bath in about fifteen
22 years. And she said, I've got a big bathtub. So we got
23 naked and got into the bathtub. And she had turned on her
24 alarm clock radio and lit some candles. We sat in the
25 bathtub -- or sat in the tub and she read a book. About

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1 one hour later we got out of the tub. It was about 5:00
2 a.m. I asked her if I could lay down on the bed and she
3 said yes. I got in bed with my underwear on. She started
4 trying on G-string panties and I told her that she might
5 as well take them off. She took them off -- she took off
6 her G-strings and got into bed. The G-string was white
7 with -- was white with a design on them. We had sex, and
8 then she got up on the -- got up off the bed. She asked
9 if I felt better, and I said no. I had an upset stomach.
10 It was about 5:30 a.m. or 5:45 a.m. She told me that she
11 had an inspection that morning and you can't stay all
12 morning. I told her that I understood, and I left the
13 apartment. She had on a white pair of jeans and a blue
14 blouse when I left. She gave me a hug, then told me she
15 would call me later -- she called me just to see how I was
16 doing. I left in the dark -- in a dark -- in my dark-
17 green Toyota Camry. As I was leaving, she introduced me
18 to her neighbor, Thomas. We spoke for a minute, then I
19 left. She called me on Saturday at about 12:00 p.m. but I
20 didn't answer it. She left me a message. I haven't heard
21 from Cheryl since she left the message. I worked Saturday
22 -- Saturday, Sunday from 7:00 a.m. to 3:00 p.m. Sunday,
23 when I got off work, went home and went to my room. I
24 read the sports -- I read the sports and watched car
25 racing, the Indianapolis 500. I heard the Reverend .

MIA PERRON, CCR, CVR-CM

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1 Perkins, Reverend Louis Brown, and Bobby Dunmire come up
2 the handicap ramp at my house. My mother is ill, and they
3 came by to have a small service at the house. I turned my
4 TV off, then went to bed and fell asleep. I got up around
5 1:30 a.m. to watch Sports Center. I fell back to sleep at
6 around 3:30 a.m, then got back up at 5:30 a.m., then left
7 my house for work at around 6:30 a.m. I clocked into work
8 at 6:58 a.m. on Monday morning. I got off at 3:00 p.m.
9 and went to visit a friend at First Quality Glass Shop on
10 Meeting Street. My friend is Sam Scott. I stayed until
11 about 6:00 p.m., then went to the China House Chinese
12 restaurant, Rivers Avenue and Helm Avenue, and I got a
13 takeout, then went home. Question: did you see a radio
14 or CD player or CDs at Cheryl's house. No. All she had
15 for radio was an alarm-clock radio which sat on a white
16 stand that held her bedroom door open. Did Cheryl ever
17 receive or make any phone calls from her house phone or
18 your phone or your cell phone. No. Did anyone come to
19 the house while you were there. No, only Thomas.

20 Q. Okay. So he would have admitted to having been
21 with her Friday?

22 A. Let me see.

23 [Whereupon, the witness reviews documents]

24 Q. [Ms. Taylor] [Reading] She called me on Friday
25 morning at around 12:30 a.m.

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1 A. Yeah. And left a message.

2 Q. Uh-huh. Called her back about 2:30 a.m.

3 A. Uh-huh.

4 Q. And, again, I'm reading that correctly? It was
5 2:30 in the morning?

6 A. Yes.

7 Q. Okay. And he went over sometime after that?

8 A. Yes.

9 Q. And would have -- I know you just read it, but
10 do you recall what time he left her? It looks like he --

11 A. 5:30 -- yes, roughly around 5:45 a.m.

12 Q. And that would have been Friday in the morning?

13 A. I'm guessing early Saturday morning or early --
14 hang on a second.

15 [Whereupon, the witness reviews documents]

16 A. [Reading] She called me on Friday morning at
17 around 12:30 a.m.

18 So that would have been early Friday morning.

19 Q. [Ms. Taylor] So it's a late-night Friday,
20 early --

21 A. Late-night Thursday --

22 Q. Late-night Thursday --

23 A. -- early Friday morning.

24 Q. -- early Friday morning, and then leaves before
25 6:00 a.m. that same day?

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1 A. Yes.

2 Q. Okay. And then Sunday is the day that you are
3 asking him about his whereabouts?

4 A. Yes.

5 Q. And we're not really sure, or are we, where he
6 was?

7 A. Well, of course we talked to his supervisor. He
8 showed time-stamp cards and stuff of when he had clocked
9 in and he clocked out of work.

10 Q. And when was that on Sunday again? I see the
11 part where you talk about on Monday. Clocked out at 7:00
12 a.m. to 3:00 pm. Is that right?

13 A. Yes.

14 Q. Okay. And you did confirm that he was at work?

15 A. Yes.

16 Q. And where did he work?

17 A. Let me refer to my statement.

18 [Whereupon, the witness reviews documents]

19 A. It's at -- it's a glove company off of Domino
20 Avenue.

21 Q. [Ms. Taylor] And where is that?

22 A. It's off of Azalea Avenue.

23 Q. Is that in North Charleston?

24 A. Yes. Off of Leeds, closer to -- near West
25 Ashley or the Cosgrove bridge.

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1 Q. Okay. Now, you also --

2 MS. TAYLOR: Do you want me to keep going?

3 THE COURT: No, ma'am. We're going to break for
4 the evening.

5 Ladies and gentlemen, please do not begin your
6 deliberations. Do not discuss this case amongst
7 yourselves or with friends, family members. Please do
8 not do any independent research. Do not read, watch,
9 listen to, any news accounts, if any, on the
10 television, internet, or newspapers.

11 Please be back in your jury room at 9:30 in the
12 morning.

13 Please rise for the jury.

14 [Whereupon, the jury exits the courtroom at 6:03
15 p.m.]

16 THE COURT: Thank you. Be seated.

17 Detective, you may not discuss your testimony
18 with either the State or the defense over the evening
19 hours. Now, you may have conversations regarding
20 scheduling only. Do you understand the Court's
21 instruction?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: All right. Anything before this
24 witness steps down for the evening? From the State?

25 MR. VOIGHT: Nothing for the witness, Your

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1 Honor.

2 MS. TAYLOR: Nothing from the defense.

3 THE COURT: All right. Detective, you may step
4 down. Thank you.

5 [Whereupon, the witness is excused and exits the
6 witness stand]

7 THE COURT: Anything before we break for the
8 evening?

9 MR. VOIGHT: Can we approach briefly?

10 THE COURT: You may.

11 [Whereupon, an off-the-record bench conference
12 is held]

13 THE COURT: We'll be in recess until 9:30 in the
14 morning. Thank you.

15 [JURY TRIAL ADJOURNS AT 6:07 P.M.]

16

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State vs. Oran Smith
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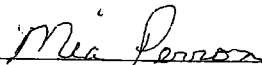
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Tuesday, June 16, 2009.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 5th day of June, 2010.


Mia Perron, CCR, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CCR, CVR-CM

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) INDICTMENT NO.: 2007-GS-10-13172

STATE OF SOUTH CAROLINA)
)
 VS.)
)
 ORAN SMITH,)
)
 DEFENDANT.)
 _____)

JURY TRIAL

VOLUME 3 OF 4

held before the Honorable Kristi L. Harrington
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
 in the Charleston County Courthouse
 Charleston, South Carolina
 on Wednesday, June 17, 2009, Commencing at 9:52 a.m.

SUSAN "MIA" PERRON, CCR, CVR-CM
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[Exhibits marked prior to proceedings unless otherwise noted
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MARKED/ADMITTED

State's Exhibit Number 3	/ 75
[Advice of rights - 6/5/07]	
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[Statement - 6/6/07]	

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PROCEEDINGS

THE COURT: We now have all the jurors.

Anything before we bring in the jury?

MR. VOIGHT: No, Your Honor.

MS. TAYLOR: No, ma'am.

THE COURT: Detective Patrick, if you would like to go ahead and resume your place on the stand.

[Whereupon, Detective Patrick re-takes the witness stand]

THE COURT: And, sir, I'll remind you you are still under oath.

Please bring in the jury. Please rise for the jury.

[Whereupon, the jury enters the courtroom at 9:53 a.m.]

THE BAILIFF: The jurors are all present, Your Honor.

THE COURT: Thank you. Please be seated.

Ms. Taylor, your witness.

MS. TAYLOR: Thank you. Good morning.

THE WITNESS: Good morning.

MS. TAYLOR: I'm not sure where we left off last night, so I'm going to try and look quickly at these.

THE BAILIFF: Your Honor, pass out --

THE COURT: One moment, Ms. Taylor. They're

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1 getting their notebooks.

2 [Off the record momentarily]

3 THE COURT: You may proceed, Ms. Taylor.

4 MS. TAYLOR: Thank you. May I approach the
5 witness, Your Honor?

6 THE COURT: You may.

7 . - - - -

8 SHAWN PATRICK,

9 Having Been Previously Sworn,
10 was Examined and Testified as Follows:

11 CONTINUED CROSS-EXAMINATION

12 BY MS. TAYLOR:

13 Q. Detective Patrick, I just wanted to ask you
14 about three pieces of paper labeled consent to -- I'm
15 sorry.

16 A. Consent to body search.

17 Q. -- body search. Yes. Can you tell us what
18 those are?

19 A. These are forms filled out when we take samples
20 of DNA from each individual that we speak to.

21 Q. And would those have been requested from you?

22 A. It depends on whose speaking. Usually, it's
23 with everybody. But detective -- whoever is the detective
24 handling the case. And we try to get the crime-scene
25 officer to --

MIA PERRON, CCR, CVR-CM

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1 MS. TAYLOR: Pull the --

2 A. We try to get the crime-scene officer to assist
3 us with this, as well, since they take custody of the
4 scene.

5 Q. [Ms. Taylor] And who are the three individuals
6 that you have signed a consent to a body search?

7 A. Got Oran Smith, Leonard Gettis, and James Obie
8 Creech.

9 Q. And we know already that Oran Smith and Leonard
10 Gettis were, in fact, sent to SLED for a comparison; is
11 that correct?

12 A. That's correct.

13 Q. What about Mr. James Obie Creech?

14 A. He was not, that I am aware of at this time. I
15 don't know. Usually -- I believe Bunker took custody of
16 that sample and she handles that for --

17 Q. Were you in the courtroom yesterday when
18 Ms. Gallman was testifying?

19 A. Yes.

20 Q. The one who did the comparisons? Do you recall
21 her saying that the only people that she got, as to
22 comparisons, were Leonard Gettis, Leroy McKelvey -- or
23 prints, I think --

24 A. Yes.

25 Q. -- and Oran Smith?



HENRY McMASTER
ATTORNEY GENERAL

December 9, 2010

Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. Oran Smith
Charleston County Murder Appeal

RECEIVED
DEC 9 8 2010
SC Court of Appeals

Dear Ms. Gee:

I am in receipt of the Initial Anders Brief of Appellant received on December 8, 2010 in the above-captioned case which has been filed pursuant to the procedure set forth in Anders v California, 386 U.S. 738 (1967). Please accept this letter in lieu of a formal brief. Upon review of the Initial Brief and petition to be relieved as counsel, the Respondent has no objection to the Petition to be relieved as counsel.

If a formal brief is required, the Respondent requests an opportunity to brief the issues as requested by the Court.

If there are any questions or comments, please feel free to contact me.

Sincerely,

Donald J. Zelenka
Assistant Deputy Attorney General

cc: Joseph L. Savitz, III, Esquire