

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Spartanburg County
The Honorable Brooks P. Goldsmith, Circuit Court Judge

S.C. Supreme Court

Appellate Case No. 2013-001303

Circuit Court Case No. 2010-CP-42-4181

NATHANIEL TEAMER,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

**APPENDIX
VOLUME 2 of 4**

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ARGUMENT

The court erred by admitting a videotape of appellant avoiding a traffic stop in a very dangerous manner. This traffic stop was seemingly unrelated to the murder and ABIK which occurred the day before, and any probative value it had as to those offenses was substantially outweighed by its unduly prejudicial effect under Rule 403. SCRE because it invited a verdict on an improper basis.

Relevant Facts

David Proctor graduated from Dorman High School in 2003. On February 2, 2006 the twenty-two-year-old Proctor was living with his parents off of Reidville Road in Spartanburg. He was working as a line cook at the Bonefish Restaurant in Greenville, but his parents were concerned because they thought that he was using drugs. R. 104, ll. 1 – 19.

At approximately six o'clock that February afternoon Proctor went over to Tony Hunter's apartment. As stated, Hunter was the decedent in this case. The decedent was on the telephone "trying to set something up for the two of us." R. 105, ll. 2 – 22. Proctor acknowledged that he and the decedent were "using drugs and getting high. That was Tony's reason for calling this guy. We were trying to get more drugs. And that, that's why we were going over there." R. 106, ll. 13 – 18.

Proctor remembered that they were supposed to meet the man with the drugs "on the north side of town." The decedent guided Proctor to the house seemingly with the instructions of the drug dealer. R. 106, ll. 19 – 23. Proctor recalled: "The guy we picked up was standing out front waiting for us . . . I never knew the guy was going to get in the car. I thought that Tony was just going to be able to pick something up from the guy. I

had never seen the guy before and [1] didn't want the guy to get in the car." R. 108, l. 20 – 109, l. 9.

Proctor was driving his 4Runner at the time. The unknown man got in the back seat behind the decedent, who was in the front passenger seat. R. 109, ll. 10 – 18. Proctor testified he turned at one point and noticed "the guy in the back seat had on latex gloves . . . so that was kind of worrying me seeing that." R. 110, ll. 4 – 10.

Proctor recalled stopping at the intersection of Theodosia and Chester Streets. He was "waiting to hear whether to go left or right from both Tony or the guy in the back seat. And then the guy in the back seat opened fire. He, he shot Tony in the back of the head twice and shot me four times before I could get out of the vehicle." R. 110, ll. 4 – 17.

Proctor "took off running. I ran about a block, down the road." Proctor was able to get someone to call 911, "and I waited there on the screen porch for the paramedics and police officers to arrive." R. 110, l. 21 – 111, l. 11.

Proctor said he gave the police a statement "right away," and the police interviewed him while he stayed in the hospital recovering from his gunshot wounds. R. 112, ll. 10 – 15. Proctor also described the shooter to a police sketch artist. Proctor estimated he had only looked at the shooter "maybe a total of five to ten seconds, and he acknowledged he had never seen the man before." R. 112, l. 10 – 113, l. 22.

On cross-examination Proctor said he took investigators by the house where he and the decedent had picked up the shooter. However, Proctor admitted he was not sure of the name of the street where the house was located – only that that was indeed the house where they got the shooter. R. 119, ll. 14 – 23.

The sketch artist from Spartanburg was Investigator Richard Hawes, Jr. Hawes testified Proctor rated his sketch as about an eight on a scale of one to ten. It bore a close resemblance to the shooter according to Proctor. R. 122, l. 5 – 124, l. 25.

The state's case was largely circumstantial involving cell phone records which showed telephone call from the decedent, Amy Hunter, and appellant around the time of the shooting. Amy Hunter testified that her firearm, a nine millimeter Taurus, had been stolen out of her car shortly before the shooting. R. 132, ll. 10 – 25.

Spartanburg Investigator J.C. Steadman recalled that after investigating the cell phone records the police executed a search warrant on appellant's residence on Overbrook Drive. Inside that residence the police found "a box of white latex gloves." R. 128, l. 7 – 133, l. 20.

The videotape

The following day the state announced its intention to introduce a videotape of a police officer attempting to initiate a traffic stop on appellant during the early morning hours of February 3, 2006. As seen, the murder and ABIK occurred in the afternoon or early evening hours of February 2, 2006. R. 144, l. 4 – 145, l. 7.

The solicitor explained to the trial judge that the police officer was attempting to initiate a traffic stop following a BOLO, and that a county police officer later took over the chase. The solicitor said appellant wrecked his car, and was captured "at the scene." The solicitor stated he told the police officers not to mention anything about appellant's prior conviction in the felony DUI case. R. 144, l. 6 – 145, l. 18.

Defense counsel argued that the probative value of this car chase and wreck evidence was outweighed by its unduly prejudicial affect. Counsel said videotape did not

add anything to the jury's consideration of the crimes for which appellant was on trial. The judge overruled the objection. R. 145, ll., 19 – 24.

The jury watches the videotape

Spartanburg police officer Timothy St. Louis, Jr., testified that during the early morning hours of February 3, 2006 he was driving towards Westgate when "a blue Chevy Caprice with tag number 849 UPU pulled out of the parking lot towards Westgate and came all the way in front of me. I had to stop to keep from hitting the vehicle." R. 159, ll. 16 – 25.

The officer said the Chevy had no lights on, and he thought he saw the driver throw a beer can out of the window. The officer testified this vehicle refused to stop for his blue light. However, according to department policy "I had to terminate my pursuit." R. 159, l. 25 – 160, l. 17.

The officer offered that the tag number on this automobile came back registered to appellant's friend or relative. R. 162, ll. 1 – 7. When the state went to introduce the videotape defense counsel again objected noting the videotape did not display anything that "happened in close proximity to the crimes that the state alleged they are trying Mr. Teamer on." The objection was again overruled. R. 162, l. 18 – 163, l. 2.

The videotape was then played for the jury. The videotape, state's exhibit 79, is now before this Court for review. R. 162, l. 18 - 163, l. 13.

Officer David Evett testified that on the morning of February 3, 2006 he also received the BOLO pertaining to the Chevy. Evett said as he pulled in behind the automobile matching the BOLO. However, the driver turned off the lights and drove away at a high rate of speed. R. 165, l. 4 – 169, l. 13.

Evett testified the automobile eventually crashed and turned over. Evett arrested appellant as he attempted to climb out of the automobile. R. 169, l. 14 – 170, l. 25.

McKinney or appellant the shooter?

Kelvin McKinney testified that he was involved in a prior shooting incident with the decedent and appellant. R. 236, l. 9 – 238, l. 13. McKinney said he knew the police were investigating the shooting and he consequently fled to Michigan to live with his aunt. There was other evidence McKinney knew the decedent -- who knew McKinney by only a nickname -- and the decedent was trying to ascertain his real identity. This was another reason McKinney fled from South Carolina. This would bolster later testimony that McKinney shot the decedent "to eliminate a witness." R. 238, l. 14 – 239, l. 19.

Appellant's defense was that McKinney was actually the shooter in this case, and appellant also offered an alibi defense. McKinney conversely testified that while both men were in jail appellant confessed to him that he shot the decedent, "and he shot the white dude. The white dude jumped out of the car. The car kept going with him and Tony in the car. And he jumped out." R. 241, l. 17 – 242, l. 10.

McKinney admitted he was having a relationship with the decedent's sister, Dawn Hunter, at the time and that he fled the state because the decedent was inquiring about McKinney's real name. McKinney was worried this was going to lead to his arrest in the prior shooting. R. 243, l. 2 – 255, l. 25.

The state introduced evidence that appellant's DNA was found on a cigarette butt inside of the vehicle in which the decedent and Proctor were shot. The expert acknowledged that DNA could not be tested for age. R. 345, l. 17 – 348, l. 20; R. 364, ll. 11 - 15.

As stated, appellant presented an alibi defense. Osia Feaster was twenty-two years old and she was appellant's girlfriend on February 2, 2006. She testified appellant was at her house until 9:00 p.m. that evening, which covered the time of the shooting.¹ R. 396, l. 22 – 403, l. 8.

Keith Letmon testified that McKinney told him he killed the decedent because he “had too eliminate a witness to a prior robbery.” R. 404, l. 2 – 407, l. 2. Letmon said he was friends with both appellant and McKinney, and he told the jurors he was only testifying McKinney confessed to the murder and ABK because that was the truth. R. 407, l. 2 – 408, l. 19.

The judge refused the state's request for an instruction on accomplice liability. The judge said the jury had to decide whether appellant committed the crime “or [whether] somebody else did it.” R. 419, l. 12 – 420, l. 2. Defense counsel also said he was not sure if the judge had a third-party guilt jury instruction, and the judge confirmed that he did not have such a charge.² R. 420, ll. 5 – 12.

Discussion

Defense counsel objected on the basis that the automobile case videotape was not relevant to the charges for which appellant was on trial. Counsel also argued that even if the judge found the videotape was relevant it should be excluded under Rule 403, SCRE because its probative value was substantially outweighed by its danger of unfair prejudice.

¹ At sentencing it was estimated that the shooting occurred at 8:45 p.m., and the car chase at 1:00 the following morning. R. 481, ll. 13-19.

² While this was a case of third-party guilt there was not a request for a specific jury instruction, and the judge merely stated he did not have such a charge. See State v. Tindall, 379 S.C. 304, 665 S.E.2d 188 (Cl.App. 2008).

Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. See State v. Alexander, 303 S.C. 377, 401 S.E.2d 146 (1991), State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986); Rule 401, SCRE. Here, whether appellant killed the decedent and shot Proctor.

Even where evidence may have probative value it should be excluded when it becomes too remote to the event in question. See State v. Dubose, 288 S.C. 226, 341 S.E.2d 785 (1986); State v. Moultrie, 283 S.C. 342, 322 S.E.2d 663 (1984). Such was the case here, particularly since there was no evidence appellant was intoxicated the night before the running from the blue light incident early the next morning.

Rule 403, SCRE provides such evidence should be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or its tendency to mislead the jury. Unfair prejudice means an undue tendency to suggest a decision on an improper basis. State v. Brown, 306 S.C. 448, 412 S.E.2d 440 (Ct. App. 1991); State v. Alexander, *supra*.

The videotape in this case had the unfair tendency to suggest a verdict on an improper basis since the jury could easily -- and mistakenly -- have concluded that appellant was running from the police because he had earlier committed the murder and ABIK for which he was on trial. However, the first responding police officer acknowledged that appellant pulled out in front of him without his lights on and appellant almost hit his police vehicle. Appellant was also intoxicated at the time, and he apparently had at least one other charge against him at the time. To suggest appellant had only one reason to avoid the police was misleading.

This videotape of a high speed chase ending in a collision and appellant being arrested should have been excluded. See State v. Hiott, 276 S.C. 72, 276 S.E.2d 163 (1981); State v. Tate, 288 S.C. 104, 341 S.E.2d 380 (1986). Its tendency to cause a verdict on an improper basis was great.

This case was one in which the jury had to determine whether appellant or McKinney committed the crime. The trial judge acknowledged as much when he refused the state's request for an instruction on accomplice liability after he had heard all of the evidence. The videotape unfairly tipped the balance towards the jury concluding on an improper basis that appellant and not McKinney committed the crime because he ran from the police.

CONCLUSION

Appellant should be granted a new trial.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. M. Dudek', written over a horizontal line.

Robert M. Dudek
Deputy Chief Appellate Defender for Capital Appeals

ATTORNEY FOR APPELLANT

April 23, 2009

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NATHANIEL TEAMER,

APPELLANT

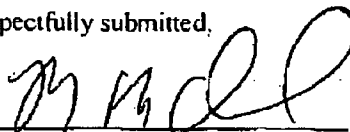
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Nathaniel Teamer states:

1. He is Deputy Chief Appellate Defender for Capital Appeals for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge J. Derham Cole, which was held from January 14-16, 2008, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Nathaniel Teamer.

Respectfully submitted,



Robert M. Dudek
Deputy Chief Appellate Defender for Capital Appeals

ATTORNEY FOR APPELLANT

April 23, 2009

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 23, 2009



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Attorney for Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

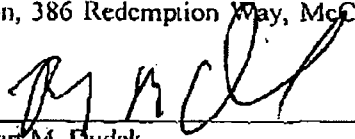
v.

NATHANIEL TEAMER,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, Assistant Deputy Attorney General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201; and the Final Anders Brief of Appellant and Record on Appeal have been served upon Nathaniel Teamer, #285309 at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 23rd day of April, 2009.


Robert M. Dudek

Deputy Chief Appellate Defender for Capital Appeals

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 23rd day of April, 2009.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2018

ANDERS RESPONSE BRIEF

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY

J. DERHAM COLE, CIRCUIT COURT JUDGE

THE STATE,..... RESPONDENT,

NATHANIEL C. TEAMER,..... APPELLANT,

PRO SE ANDERS BRIEF

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RE: State v. Nathaniel C. Teamer
Honorable J. Derham Cole

(January 16, 2008)

Dear Mr. Richstad,

Please find enclosed a pro se Anders Brief, please file the same and send me a clock stamp copy.

Also attached is a Supplement Appendix to show Date of Witness Statement 2/14/07 and Date of Warrant 2/23/07 and Date of Offense with Affidavit of Service.

Thank you,

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McCormick, S.C. 29899

cc:
Donald Zelenka
Attorney General Office
Robert M. Dudek
Appellate Defense

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STATEMENT OF ISSUES ON APPEAL

I.

Whether the trial court erred by admitting a videotape of Appellant avoiding a traffic stop in a dangerous manner since the tape was not relevant to either the murder on the ABwik charge for which Appellant was on trial, it was too remote and the probative value of this videotape was substantially outweighed by its undue prejudice, given its tendency to invite a verdict on a improper basis which denied Appellant his Due Process Right to a Fair Trial pursuant to United States Constitution Fourteenth Amendment.

II.

Trial court erred by failing to suppress cell phone that was siezed without a warrant in violation of Fourth Amendment U.S. Constitution.

III.

Trial court erred in overruling defense counsel motion to sequester key state witnesses pursuant to Rule 615 S.C.R.E.

P.S

denying Appellant a fair trial pursuant to Fourteenth Amendment U.S. Constitution.

IV.

Trial court erred in refusing to charge Jury after request on Law and Proof of Third Party Guilt pursuant to Holmes v. South Carolina 126 SCT 1727 (2006) denying right to a fair trial USCA 5,6,14.

V.

Trial court erred by allowing state to introduce a prior bad act involving brandishment of a pistol that was irrelevant to the offense of Murder/ABWIK denying Appellant his Due Process right to a fair trial pursuant to US Constitution Fourteenth Amendment.

VI.

Trial court failed to exclude Hearsay testimony of Dawn Hunter (victims ^{SISTER} ~~brother~~) over objection and provided alibi to third party guilt witness Kelvin McKinney in violation of his Sixth Amendment right to confront his accuser.

STATEMENT OF THE CASE

Appellant was indicted by the Spartanburg County Grand Jury for the offenses of Murder and Assault and Battery with Intent to Kill. Both of these charged arose out of a shooting inside the automobile to David Michael Proctor, who was wounded and the passenger Tony Hunter who was killed.

Appellants case was called to trial January 14th 2008 before the Honorable J. Denham Cole and a Jury. Joshuas Shultz represented Appellant. Barry Barnette and Alex Stalvey were the assistant solicitors.

At the conclusion of the case on January 16, 2008 the Jury found Appellant guilty on both counts. Judge Cole sentences Appellant to Life Imprisonment for Murder and Twenty years for ABWIK.

This pro se Anders Brief follows,

Issue I

Whether the trial court erred by admitting a videotape of appellant avoiding a traffic stop in a dangerous manner since the tape was not relevant to either the murder on the ABWIK charge for which appellant was on trial, it was remote and the probative value of this videotape was substantially outweighed by its undue prejudice given its tendency to invite a verdict on a improper basis, which denied the appellant his Due Process Right to a Fair Trial pursuant to the United States Constitution Fourteenth Amendment.

[Appellant's Direct Appeal counsel has accurately set forth the above issue arguing, however, Soley State Law; in the Anders brief.]

Appellant asserts that his Due Process Rights under Fourteenth Amendment United States Constitution were violated and he was denied a fair trial, USCA 14th.

The gist of the issue as cogently set forth by Appellate counsel, (Albeit only under state law, which this appellant hereby

supplements include Federal Law as set forth by U.S. Supreme

Court U.S.C.A. 14th) Is that while on trial for Murder and ABWiK that allegedly occurred at 8 pm other crimes evidence of a failure to stop for a blue light was introduced even though this second criminal offense was not relevant to the crimes to which appellant was on trial for.

For the purposes of this pro se Anders supplement brief appellant adopts the Anders brief filed by counsel on the statement of the case and argument set forth by appellant counsel, he amends his Federal claims hereto and appellant directs this Honorable court's attention to Old Chief v. United States 117 SCT 644 (1997) which held, "Due to the fact although propensity evidence is relevant, risk that a jury will convict for crimes other than those charged, or that uncertain of guilt it will convict anyway because a bad person deserves punishment creates a prejudicial effect that outweighs ordinary relevance. see State v. Lyle 118 SE 803 (1923) SCRE 403, 404(b).

The prejudicial effect of evidence of other crimes must be evaluated based on the entire record and will generally turn on the facts of each case. State v. Bell, 302 SC 18 (1990).

In this case the failure to stop for a blue light, throwing of a beer can out of the car window and the resulting head on collision with another vehicle were sufficiently prejudicial and non probative as to who committed the murder and ABWiK as to deny the appellant a fair trial under Fourteenth Amendment of the United States Constitution Old Chief v. U.S., supra and its progeny.

Even assuming arguendo that the admission of other crimes evidence was allowed due to the Nokia phone being found in the wrecked vehicle (Albeit a month later) no logical connection exists between that phone (which appellant argues at Issue II. should have been suppressed for being seized without a warrant by forensic investigation E. Guthro) and other crimes evidence. see: Greer v. US 38 S.Ct 209 (1938) evidence of other criminal conduct inadmissible as unduly prejudicial, evidence of bad character.

Issue II

The court erred by failing to suppress a cell phone that was siezed without a warrant violation of the Fourth Amendment U.S. Constitution.

Forensic technician Edgar Guthro, who was admittedly involved in the investigation on the Murder and ABWiK charges (Tr. p.8 175 L. 15) over the objection of defense counsel.

The court allowed the Nokia cell phone to be entered into evidence under the reasoning that the cell phone was siezed during a inventory rather ^{than} ~~than~~ investigative search, when clearly the facts do not in any way support such a conclusion.

In fact, the transcript shows that this same vehicle had been searched on four previous occasions:

- 1) February 3rd, 2006 (Tr. p8 49 L.15)
- 2) February 8th, 2006 (Tr. p8 49 L. 20)
- 3) February 10th, 2006 (Tr. p8 49, L. 23)
- 4) February 22nd 2006 (Tr. 45 L. 23-25)

Police had obtained search warrants of four separate occasion on 3rd, 8th, 10th, and 22nd of February of 2006 the cell phone was siezed. However, again on February 22nd Forensic Technician Guthro again searched the car and at this time, while he was admittedly investigative and wrote up a "investigative report" (Tr. p8 47 Line 3) (see p8 50 Line 14-25) Guthro was clearly

assigned to investigate his case. (At page 51 Line 1-5) As a forensic investigator:

Q. And as part of these duties you investigated this car correct?

A. I went to do, to see what was in that car. And if anything of value would have been in that car I'd have taken it and placed it in evidence.

It must be noted each of the prior search warrants were executed. However, this last search was violative of the fourth amendment as it was conducted without a warrant. Then post facto labeled as a "Inventory Search". This was nothing more than a investigate search that uncovered a key piece of evidence located under the seat , which was labeled after the fact as a inventory search.

Ed. Guthro was not a county employee doing a routine inventory but rather he was a Forensic Technician, a investigation in this case, who after he found the phone wrote up a investigative report and entered Nokia phone into evidence. No inventory forms were submitted into evidence. This phone was a critical piece of circumstantial evidence that purportedly was used to link defendant to the victims (and reason other crimes evidence was admitted to tie phone to wrecked vehicle when otherwise had phone been propensity suppressed the other crimes evidence would have been inadmissible and irrelevant Rule 401, 403 SCRE).

In Preston v. U.S. , 84 SCT 881 held whether a search and siezure is unreasonable under the fourth amendment depends on the facts

and circumstances of each case.

The facts of this case conclusively show that,

The search was not conducted by authorized and standardized procedures for a inventory search, as no showing was made that (a) Spartanburg County had standardized procedures for the inventory search or (b) on such procedures were followed by this case. see South Dakota v. Opperman, 96 SCT 3092 (1979) Inventory Search must meet standardized procedures

The police clearly did not comply with written and oral procedures and regulations incidental to the inventory search see US v Hernandez, 177 F.3rd 33 (CA 1 1999) (warrantless inventory searches must be conducted according to standardized procedures.) see: US v Bullock 71 F. 3rd. 171 cert denied 116 SCT 1365 (CA 5 1995) (warrantless searches are presumptively unreasonable except when officer conducts inventory of seized property if inventory is part of a Bona Fide routine administrative caretaking function of the police) Id

) No testimony or evidence was offered to even show what the standardized procedures were, if any, in effect In Re: to inventory search criteria (etc.) A U.S. Fourth Circuit case US. v Ford, 986 F2d 57. (4th cir 1993) held, police officer could conduct inventory search of defendants car before releasing car to tow truck operator where search was conducted according to standard department policy. And the record was devoid on any

indication that officer had used inventory search to verify suspicion of criminal activity Id

Again, the record before the court fails to establish that any standard procedures existed much less whether they were in fact complied with. CF US v. Ford supra.

More cogently, this was the forth search of this vehicle (three previous searches were with warrants). The Forensic Investigator, Ed Guthro, while investigating this offense, failed to establish any standardized procedures -- and used inventory search as a pretext for the inventory search.

In US v Bowhay 992 F2d. 229 (CA 9 1993) held inventory search is invalid under fourth amendment if inventory search was pretext for investigative search. Id.

"The importance of having such inventories conducted only pursuant to standardized police procedures has often been stressed" Colorado Bertine, 107 SCT 738 (1987). In this case the ~~lack~~ of standardized procedures or compliance with them and the unusual circumstances where three previous search warrants had been executed and fact that person doing search was Forensic Investigator, who submitted Investigative Report and entered Nokia phone into evidence creates a strong presumption this was a investigative search done on pretext of a inventory search, in totality of circumstances.

The government may not conduct search of arrestee property to

discover inculpatory evidence under guise of inventory search US v. Santos, 961 F. Supp. 71 (SDNY 1997)

And this pursuant to fourth amendment of U.S. Constitution the Nokia phone should have been suppressed, and the failure to do so requires a new trial as such error was not harmless beyond a reasonable doubt. Chapman v. California.

Issue III.

Trial court erred in overruling defense counsel motion to sequester key witnesses pur. to Rule 615 SCRE denying appellant a fair trial pur. to 14th Amendment United States Constitution

Trial counsel once again (as in the first trial) requested key witnesses Kelvin McKinney and Dawn Hunter, (Boyfriend and parents of two children together) and other police investigations Jay Steadman Chief Invest. Officer David Reeves Evidence Officer, to be sequestered pur. to Rule 615 SCRE and appellant asserts this was a error of law, and abuse of discretion, as 615 states [at the request of a party the court may ~~order~~ witnesses excluded so they cannot hear testimony of other witnesses, it may make the order of its own motion.

As set forth in attached supplement appendix -- first, Kelvin McKinney testimony / statement to police was immediate cause of arrest warrant to be issued upon appellant (see date of offense 2/14/07, 2/23/07, 2/2/06) His primary testimony of appellant allegedly admitting his role in the murder / ABWIK and that black 9mm was used and gloves, then allowing McKinney's baby's mother, Dawn Hunter, sister of the victim, Tony Hunter, to be present thru this testimony. And then allege she also at a time (several weeks) before gun was alleged stolen from Amy Hunter car she saw 9mm and latex gloves. (Rop 238-261).

(Note: EMS stated gloves at crime scene may have came from EMS worker) This ability to hear and coorborate this vital evidence

Footnote: Appellant Burglary/Felony DUI is also before the Court of Appeal
State v. Teamer S.C. Court of Appeals on see 615 sequestration of
 D. 116

is a manifest injustice a due process violation right to a fair trial pur. 14th amendment and a deliberate circumvention of letter and spirit Rule 615 SCRE. Cogently

In Geders v. US , 96 SCT 1330, 1335 (1970) The Supreme Court observed this practice, which goes back to our inheritance of Germanatic law serves two purposes, it exercises restraint on witnesses, and it aids in detective testimony that is less than candid see Holden v. US, 14 S.ct 10 (1893).

This is a strong presumption in favor of sequestration US v. Jackson, 60 F3d 128 (2nd cir 1995)

It can easily be seen the stories of these family witnesses were "dead on" on details of gun and gloves, and the entire episode. Including fact McKinney was allegedly in Michigan at time of murder (ROA 240) (alibi) motive for murder itself. (ROA 264-268_ At 262 L. 13 Dawn Hunter testifies --

Q. Was Kelvin McKinney living with you at the time right before your brother got killed.

A. Yeah.

Q. Did he leave Spartanburg?

A. Yes.

Q. And why did he leave Spartanburg?

A. Because of a shooting that happened with him and "Little C"? (Hearsay, speculation (etc))

ROA 265 (L. 3-4) A. McKinney left Spartanburg beginning Jan. 06.

The above testimony of Dawn Hunter was corroboration for the
Footnote: Third Party Guilt was sufficiently raised rule 103(B)(ROA
p. 404-414 to require charge basis of Keith Belmon testimony.
pg. 17

earlier testimony of her children's father Kelvin McKinney.

IN Re: to his alibi 239 L. 14 --

Q. Were you afraid you were going to get arrested (Re 1/14/06 shooting (ABWiK))

A. Yes.

Q. What did you do?

A. I left.

Q. Where did you go to Michigan?

At 240 L. 16 --

Q. And you were brought back to S.C.?

A. Yeah.... on November 2nd (2006)

Thus the alibi for the murder for Kelvin McKinney by Dawn Hunter later testimony, due In Fact, to her ability to tailor her testimony to that of her children's father Kelvin McKinney (ROA 265 L. 1-3)

Also, she was able to corroborate the motive (allegedly) for the murder In Re: Tony Hunter implication of McKinney and (allegedly) appellant. In the 1/14/06 ABWiK, and she was (In context as to the weight of her testimony) was able to do so thru pure hearsay and speculation as she had no independent knowledge of events of 1/14/06.

Thus, this is a classic case that the presumption in favor of the sequestration. And failure to do so amounted to a error of law as the prejudice is manifest unto itself in alibi to tailor alibi and motive evidence Geders v. US, pursuant to Chapman v California Error was not harmless beyond a reasonable doubt.

(Direct Appeal Review Standard) these witnesses not being sequestered was a error of law as the trial court issued no ruling on as to reason they were allowed to stay -- and it was clearly prejudicial. These were the prosecution primary two witnesses. (EE) for motive, weapons, and alibi (to the third party guilt) The DNA "mixture" supposedly ID appellant however defense had no DNA expert Ard v Catoe (cite) and pursuant Riddle v. State 665 SE2d 188. (2006) (7th circuit DNA test) this evidence is not:

A) Reliable subject to adversarial testing process Strickland v. Washington 104 SC1 2052 (1984)

B) More cogently, the cigarette was not placed in vehicle, at time of murder, and reasonable possibility exists it could have equally found it existence thru another means, CF: State v. Shrock, 322 SE2d 450 (SC 1984) So McKinney and Dawn Hunter testimony was by far most fact specific. And ability to tailor testimony was a Miscarriage of Justice USCA 14th denial right to fair trial 5th, 14th USCA Appellant asserts he was denied a fair trial.

Foot notes: In the rules and Attorney Fee there is a video showing Tony Hunter only implicated McKinney not Appellant in the 1-14-06 ABWIX that shows motive for McKinney to kill Hunter third Party Guilt theory

ISSUE IV

Trial court erred in refusing to charge jury on law regarding Third Party guilt pursuant to Holmes v. South Carolina, 126 S.Ct. 1727 (2006), denying right to a fair trial USCA 14th.

Trial counsel introduced testimony of third party guilt thru the testimony of Keith Letmon (ROA 404 - 416) who testified state primary witness Kelvin McKinney admitted to him he committed the murder. Also at (ROA 266) Dawn Hunter testifies McKinney was aware victim Tony Hunter was seeking his real name. (In relation to 1/14/06 ABWiK) (Motive)

At ROA 420 L.3 Trial Judge: Alright any other jury instruction request?

Mr. Shultz: Your Honor, the only other jury instruction request I would give would be -- I'm not sure if the court has any third party guilt instructions.

The Court: Third Party Guilt?

Mr. Shultz: Yes sir.

The Court: No sir.

Mr. Shultz: Yes sir, my only other motion is to renew my motion for a directed verdict. (ROA 466 L. 11)

Thus, it is clear counsel had requested a instruction on law of third party guilt. It is the belief of Appellant that the South Carolina courts have not clarified the appropriate jury instructions on third party guilt. And that this would be the opportunity to do so, based on Holmes v South Carolina, supra.

Based upon the testimony of Keith Letmon and circumstances that

McKinney had equal motive for the murder, the jury should have been charged on the law of third party guilt. In State v Larock 470 SE2d 316 1996 and US v Dove 916 F2d. 41, 47 (4th 1990) " A criminal defendant is entitled to an instruction on the theory of his defense if he has offered a basis in evidence that has support in law." Trial court erred in failure to charge jury on third party guilt upon request. While South Carolina appellate courts have not clarified what a proper jury instruction on third party guilt entails, it is clear from the trial court record involving the testimony of Keith Letmon (ROA 404 - 416). As well as the trial court expression at ROA 395 L. 19-24

Court: " Well, yeah, I think its clear I mean, you know, it might be a inconsistent statement but it's also third party guilt evidence. But clearly he's saying (Letmon) that the person who has testified that someone else committed the crime, admitted to committing it, so its relevant"

That a jury charge was warranted based on evidence presented at trial (of third party guilt) and the failure to charge was not harmless error.

As a initial matter appellants case can be easily distinguished from State v. Tindall, 379 S.C. 304,665 SE2d 188 (Ct. App. 2008) where "the trial court found it had not heard any testimony in particular blaming a third party". The evidence (In Tindall) that someone other than Tindall placed the drugs in the car raised merely a "conjectural inference" at best and we find no error.

Futhermore (In Tindall) the trial court charged jury on mere presence.

However, in Appellant case the evidence of third party guilt was Direct evidence of Keith Letmon there he testified McKinney told him he killed the decedent because "had to eliminate a witness to a prior robbery" (ROA 404 L. 1 407 L. 2) (MOTIVE) The judge refused the state instruction on accomplice liability, stating "the jury had to decide whether the Appellant committed the crime or "whether somebody else did it"

Thus a third party guilt instruction was required, based on evidence because jury. The trial court is required to charge the law as determined from the evidence presented at trial State v. Tindall, 665 SE2d 188 (Ct Appeals 2008) citing State v. Gates 238 SE2d 680, 681 (1997) If any evidence supports a charge it should be given. State v Burris 513 SE2d. 104, 108 (1999) The trial court commits reversible error if it fails to give a requested charge on a issue raised by the evidence State v Hill, 433 SE2d 848 (1993) State v Lee, 380 SE2d. 834 (1989) A trial court has the duty to give a requested jury instruction that correctly states the law applicable to the issues and which is supported by the evidence State v Condrey, 562 SE2d. 320 (SC App 2002) In U.S. v Unruh, 855 F2d. 1363 (CA9 1987) held we cannot affirm the conv^ection even if convicted beyond a reasonable doubt the error was harmless. In fact, the dispositive issue in this case is not whether the trial court erred in failing to give the requested instruction but rather whether request for the instruction was adequate in view of SCRE 103. First, pursuant to SCRE 103 the

grounds for jury charge are Apparent from the record from the totality of the circumstances. 420 L. 3 Court: Any other jury instruction request?

Mr. Shultz: Your Honor the only other jury instruction request that I would give would be -- I'm not sure if the court has any third party guilt instructions.

Court: Third party guilt?

Mr. Shultz: Yes sir.

Court: No sir.

Shultz: Yes sir, my only other motion is to renew my motion for a directed verdict at this time.

Thus, clearly it seems counsel inartfully did request a third party guilt instruction sufficiently to let the court know that based on the evidence, both thru the proffer at (ROA 382) and thru testimony of Keith Letmon a third party guilt instruction, and clearly counsel took that as a no. Quite possibly counsel could have been more forceful or more specific but the question before this court is "was the request adequate". The Appellant therefore did not waive the issue of having trial judge instruct jury on third party guilt. see State v. Lyles, 41 SE2d 625 (SC 1947) The right of a defendant to have all the law declared in the instruction to the jury may be waived and a omission acquiesced in by defendant. Thus, it cannot be said based on Lyle the third party guilt instruction was waived. SCRE 103. It was requested and court stated it did not have such a charge. This is not a waiver. Appellant asks court to thus rule on merits of his issue, that Appellant asserts that the failure to charge the jury

on requested third party guilt instruction denied him his Due Process right to have the jury instructed upon key element of his defense pursuant to United States Constitution 5th, 6th and 14th amendments and denied him a right to a fair trial USCA 14th.

ISSUE V

Trial court erred by allowing State to introduce a prior bad act involving brandishment of a pistol that was irrelevant to the offense of Murder/ABWiK denying Appellant his Due Process right to a fair trial pursuant to US Constitution Fourteenth Amendment.

State witness Dawn Hunter was allowed to testify that at some unknown time after Kelvin McKinney left Spartanburg (ROA 264-265) that Appellant had possession of a black pistol (and latex gloves). This was a prior bad act and evidence of Bad Character brought forth thru testimony that was totally irrelevant to the truth of the matter asserted, which was whether or not Appellant on February 2, 2006 committed murder and ABWiK.

First, there is no nexus between the allegation of Dawn Hunter that Appellant possessed a pistol (and latex gloves) and the murder/ABWiK and February 2, 2006 -- Any connection that this was murder weapon would be pure speculation. According to Amy Hunter at (ROA 292) she testified she did not know when her gun was stolen, only that it was reported stolen on Feb. 2, 2006 (ROA 292 L. 11) Amy Hunter testified that she only realized her gun was missing on Feb. 2, 2006, while Dawn Hunter testified the gun she saw was well prior to that date. Thus, it is unlikely this was the same gun, more cogently, she could not (and did not) testify this was the same gun, therefore it cannot be said the gun Dawn Hunter claimed she saw was the murder weapon. And since no nexus

was established between the gun Dawn Hunter claimed she saw and the murder/ABWIK thru this evidence was irrelevant and inadmissible and could not be the basis of this prior bad act (ie) brandishment of weapon State v. McConnell 350 SE2d (must be nexus between evidence and crime) And since it was not relevant it was not admissible State v Hamilton, 543 SE2d. 586 In U.S. v Privett, 68 F3d. 101 (trial court should be particularly wary of evidence of other similar bad acts when defendant was not convicted).

This was especially prejudicial as the jury could have made a spurious inference that black gun seen by Dawn Hunter was in fact the murder weapon placed in defendant hand by Dawn Hunter. When no connection was established and fact Kelvin McKinney claimed Appellant admitted to murders using a black 9mm cannot be disregarded on how jury viewed this evidence State v McConnell, supra

It must be noted: (A) the gloves recovered at crime scene could have been left by EMS workers (B) the fact that David Proctor testified shooter had latex gloves and gun. And Dawn Hunter also claiming she saw latex gloves and a gun totally unrelated or connected to this crime allows irrelevant evidence to be admitted to somehow corroborate David Proctor testimony, as to the gun and latex gloves the introduction of this irrelevant evidence was substantially prejudicial to the defense, "evidence is relevant if it tends to establish or to make more or less probable some matter in issue upon which it directly or indirectly bears State

v Schmidt, 342 SE2d 401, 403 (1986) SCRE 401. Furthermore, at ROA 269 trial counsel stated he was blindsided by this evidence; as the State had represented at ROA 64 no Lyle or Rule 404(b) evidence would be presented. Which is exactly what happened, as the brandishment of a pistol is a crime in South Carolina, and evidence of Bad Character. This was compounded by the evidence of prior Bad Acts involving failure to stop (etc) introduced by State (Issue I)

Connection between prior Bad Acts and crime must be more than a general similarity. In order for evidence of prior Bad Acts to be admissible as evidence of a common scheme or plan, there must be a close connection, similarity or a connection.

No similarity or connection had even been established between gun seen by Dawn Hunter and gun introduced at trial, and thus is inadmissible; the prejudice is jury could have perceived this as the murder weapon in hand of defendant this would be a spurious inference citing Old Chief v US, 117 Sct 644 (1997) this irrelevant prejudicial similar prior Bad Act denied defendant his Due Process right to a fair trial pursuant U.S.C.A 14th. see: US v Gray Bear 116 F 3d. 349 (8th cir 1997) Michelson v US 69 Sct 213 (1948) State v. Hamilton supra, (irrelevant evidence inadmissible)

It would be a miscarriage of justice to allow sister of victim Dawn Hunter to testify to a uncharged offense -- brandishment of a gun -- that was not shown in any way to be connected to the crime, and to then use that testimony to corroborate that of her children's father Kelvin McKinneyt that Defendant had admitted to

using a 9mm weapon. Especially when neither of these witnesses were sequestered at trial, and there is no connection or nexus to show this was same weapon alleged used State v McConnell supra. As Kelvin McKinney was subject of third party guilt testimony by Keith Letmon (ROA 404-417) This spurious inference was relied upon heavily in the Solicitor's closing arguments (ROA 450 (L. 21-25) also at (ROA 447 L. 8-10)

Placing a 9mm handgun in Defendants hand weeks prior to the murder/ABWIK when no nexus was even established that this was the same weapon was devastating to the defense and denied Defendant a fair trial pursuant USCA 14th.

ISSUE VI

Trial court failed to exclude the hearsay testimony of Dawn Hunter (victim's ^{Sister} ~~daughter~~) over objection of counsel that went to motive. And provided alibi to third party guilt witness Kelvin McKinney in violation of his sixth amendment right to confront his accuser.

Dawn Hunter at ROA 264 L. 7 was allowed to testify over objection that:

Q. And did you find out later that your brother Tony had talked to the Sheriff's Department?

A. Yes

Q. And did he tell what happened on 1/14/06?

A. The only thing I know is he called my house and I answered the phone and he asked me what Show (Kelvin McKinney) real name?

Q. And did Mr. McKinney find out you had this conversation with your brother?

A. Yeah, he was laying right beside me.

Q. And did he get upset?

A. No.

Q. Did he decide --- what was another reason he had to leave?

A. I guess he thought the police were coming to look for him.

This entire realm of testimony as to motive for murder (and alibi of her children's father third party guilt witness Kelvin McKinney) was based on pure hearsay and speculation. That was objected to (264 L. 4)

SCRE 801 defines hearsay, that this hearsay was product of leading questions and went to heart of State's case. And to the proof of the matter asserted. (motive) and also provided alibi for McKinney who was third party guilt. see State v Dennison 406 SE2d 383 (SC App 1991) Rule against hearsay prohibits admission of testimony or other evidence of a statement made out of court offered in court to prove truth of matter asserted.

And this constituted violation of Defendants Sixth Amendment right a confront his accuser. see: 17-23-60, Rule 801 SCRE, Crawford v Washington, U.S. Supreme Court (2006)

Footnote: again evidence of motive on behalf of Third party built witness Kelvin McKinney who had knowledge of Tony Hunter (slang) seeking his real name (To snitch on 1-14-06 ARWix)

CONCLUSION

Appellant should be granted a new trial.

Respectfully submitted,

Nathaniel Teamer

Nathaniel Teamer (pro se)

This 6 Day 5th 2009

AFFIDAVIT OF SERVICE

I Nathaniel Teamer do hereby attest and affirm I mailed a true copy of the enclosed to Donald J. Zelenka (esq.) Assistant Deputy Attorney General P.O. Box 11549 Columbia, SC 29201 and upon Robert M. Dudek Deputy Chief Appellate Defender for Capital Appeals PO Box 11589 Columbia, SC 29201

By US Mail, Postage paid, this 16 day 5th 2009.

RECEIVED

JUN 05 2009

SC Court of Appeals

Under oath pursuant

28 US C 1746 I affirm

under penalty of perjury

s/ Nathaniel Teamer

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG CO.

HONORABLE J. DERHAM COLE, CIRCUIT COURT JUDGE

STATE

RESPONDENT

VS

NATHANIEL C. TEAMER

APPELLANT

Supplemental Appendix

- 1) Arrest Warrant
- 2) Statement of Witness

ARREST WARRANT

K- 23718

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

THE STATE
against

TEAMER, NATHANIEL CHARLES

159 OVERBROOK CIRCLE

SPARTANBURG, SC 29306

SSN: - - -

Age: 18 Height: 5'11" Weight: 150

DL#: 12/22/1981

Agency ORI#: -

Issuing Agency: -

Issuing Officer: PORTER, R

Charge: MURDER / MURDER

Offense Code: 0316

Ordinance Sec: 16-03-0010, 0020

Warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused
be arrested and brought before me to be
with according to law.

Signature of Judge (L.S.)

RETURN

Copy of this arrest warrant was delivered to

Agent TEAMER, NATHANIEL CHARLES

Signature of Constable/Law Enforcement Officer

IN WARRANT TO:

JOHN POOLE

SPARTANBURG COUNTY JAIL

SPARTANBURG, SC 29303

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

Personally appeared before me the affiant
being duly sworn deposes and says that defendant

did within this county and state on 02/02/06

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SPARTANBURG)
in the following particulars:

DESCRIPTION OF OFFENSE: MURDER / MURDER

16-03-0010, 0020

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID FELONIOUSLY, INTENTIONALLY, AND WITH MALICE AFORETHOUGHT
CAUSE THE DEATH OF ONE JAMES ANTONIO HUNTER BY SHOOTING HIM IN THE HEAD
MULTIPLE TIMES.

AFFIANT'S BELIEF IS BASED UPON POLICE INVESTIGATION.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG

Alliant's Address 145 W BROAD ST.

SPARTANBURG, SC 29300

Alliant's Telephone 596-2055 000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 02/02/06 defendant TEAMER, NATHANIEL CHARLES
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: MURDER / MURDER

16-03-0010, 0020

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on FEBRUARY 23, 2007

Signature of Issuing Judge

Judge Code: 015

JOHN POOLE ORIGINAL

Judge's Address SPARTANBURG COUNTY JAIL

Judge's Telephone SPARTANBURG, SC 29303

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Form 501
SC
April 2, 2004
SCCA 618

COPY

105/03/07 000080

105/09/07) : 00082
 SPTBS SOLICITOR
 VOLUNTARY STATEMENT

PAGE 82/84
 PAGE 1 of 1

11/23/2007 16:07

8645962959

STATEMENT OF: Kelvin D. McKinney AGE: 26 DATE: 11/23/07
 ADDRESS: 304 Rosewood Ave. Charleston SC
 PHONE: DOR: 12/22/80 SSN: 250-45-5257

I went to jail around the first part of November. When I first went in it was in pod 6. Lil C was also in my pod. We had been friends since we were children. During rotation Lil C would come into my room & talk to me. I had got a visit from Dawn Watkins about a week after I had went to jail. She told me that the police had suspected Lil C of killing her brother Tony. The next day Lil C was out on rotation and I was at my door. I told her that the police was trying to stick him with Tony's murder. Lil C told me that he would talk to me when he was out on rotation. A few hours later he came to my room, asked me what they were talking about. I told him they were trying to stick him with that murder. I asked him how they knew that he did it. Lil C told me that he had dropped the pistol and the pistol was registered. I asked him how it had happened. Lil C told me that he & some white dude had picked him up. Lil C said they got in the back seat. While they was riding they took some back street. Lil C told me that he had

read this statement consisting of 3 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and

nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

Statement was completed at 12:45 P.M. on the 14 day of 2 20 07

SS: [Signature]

I to before me this 14

[Signature] 20 07
 (Seal)
 Notary of South Carolina

[Signature]
 Signature of person giving voluntary statement

02/23/2007 15:07
CASE#

8645962959

(05/09/07)

00083
SPTBS SOLICITOR

PAGE 03/04

VOLUNTARY STATEMENT

PAGE 2 of 3

STATEMENT OF: Kelvin McKinney AGE: 26 DATE: 2/14/07

ADDRESS:

PHONE #

DOB:

12/12/80

SSN:

256-45-5257

put on some latex gloves. He told me that he had then pulled out the pistol. Lil C told me he shot Tony 3 times in the back of the head. He said that he had shot the white guy next. He told me that the white dude jumped out of the car + let the car roll. He told me that when he got out of the car somebody had come outside so he had to end that is when the gun fell out. Lil C told me that he ran to Woodward homes + caught a ride. He told me that he went to Irene and got her car. He told me that he had got the blue Caprice. He told me that he had drove to Erisea Grays house. He told me that he knocked out the door + Donald Marshall shed who is it. Lil C told him that it was Murphy. Donald opened the door. Lil C told me that he told Donald to give it up. Lil C told me that he had in automatic shotgun. He told me that he got some weed and some money. He said he searched the house while searching Lil C said a little girl asked, "Charlie why are you doing this?" He told me that he grabbed her by the hair + told her to

I have read this statement consisting of 3 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 12:43 12 hr. on the 14 day of 2 2007

WITNESS:

SWORN to before me this 14

Signature of person giving voluntary statement

Notary Public of South Carolina

(Seal)

02/23/2007 16:07

8645962953

(05/09/07)

00084
SPTBG SOLICITOR

PAGE 04/04

CASE#

VOLUNTARY STATEMENT

PAGE 3 of 3

STATEMENT OF: Kelvin McKinneyAGE: 26DATE: 2/14/07

ADDRESS:

PHONE #

DOB: 12/12/80SSN: 250-45-5257

Shut up bitch. He told me I don't know how that little bitch seen my face I had on a mask. He said he left out the house and shot like two or three times in the air. He told me that he had strangled the girl but he did not say where. He told me he got back in the Caprice & went to the little cracker and ^{KA JSB} brought some beer. When he left the little cracker a city cop got behind him. He said he just kept on drinking and drinking beer. He told me that he had a butcher knife in the front seat with him. He was on his way to ^{KA JSB} ~~South~~ ^{South} and a country car was behind him. He told me that he so drunk that he thought he had hit a crowd vic but he it a truck. He told me that he was ^{KA JSB} ~~going to~~ ^{going to} see the and her man as a bit when he killed Tary. Statement dictated by J. Bryant at my request.

I have read this statement consisting of 3 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 12:45 P M. on the 14 day of 2 20 07

WITNESS: [Signature]

Signature of person giving voluntary statement

WORN to before me this 14, February, 2007

[Signature] (Seal)
Notary Public of South Carolina

Commission expires 11

ATTORNEY GENERAL'S OFFICE
RECEIVED 1-29-10

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD
NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY
PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

ADMINISTRATIVE INSTRUCTIONS
ORDER: _____
RECORDS: _____
OTHER: _____

The State,

Respondent,

v.

Nathaniel Teamer,

Appellant.

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2010-UP-062
Submitted January 4, 2010 – Filed January 28, 2010

APPEAL DISMISSED

Acting Chief Appellate Defender Robert M. Dudek,
of Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh, and
Assistant Deputy Attorney General Donald J.

Zelenka, all of Columbia; Solicitor Harold W. Gowdy, III, of Spartanburg, for Respondent.

PER CURIAM: Nathaniel Teamer appeals his consecutive sentences of life imprisonment and twenty years for murder and assault and battery with intent to kill, respectively. Teamer contends the trial court erred by admitting a videotape into evidence. After a thorough review of the record, and counsel's brief, pursuant to Anders v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.¹

APPEAL DISMISSED.

SHORT, THOMAS, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

08-737

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Spartanburg County General Sessions
Honorable J. Derham Cole

STATE OF SOUTH CAROLINA

Respondent

-VS-

Nathaniel Charles Teamer #2

Appellant

Petitioner for rehearing and
petition for rehearing En Bance

Appellant hereby respectfully submits his petition for rehearing and petition for rehearing En Banc from the Order of the S.C. Court of Appeals dated January 28, 2010 and received by appellant on January 29, 2010 which dismissed his Direct Appeal and relieved counsel pursuant to Anders v. California 286 U.S. 738 (1967) and State v. Williams 406 So. 2d. 357 (1991) after review of record and counsels brief, Petitioner asserts that the court of appeals has misapprehended both the procedural requirements of Anders v. California and the argument on the merits raised by this appellant.

In the order dismissing the case the court of appeals noted it had reviewed (A) the record and (B) Counsel brief. However, contrary to the mandates of Anders and Williams the court Failed to consider or acknowledge the issues raised by the ProSe Supplemental Brief received by court on December 5, 2008 and October 6, 2009 order by chief judge Kate E. Hearn Grantin appellants Motion to Amend Supplemental Citations in support of claim trial court erred in failing to charge Jury on third party guilt. (E.G., to show issue of "Instructions third party guilt. "was properly preserved for

ATTORNEY GENERAL'S OFFICE

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ADMINISTRATIVE INSTRUCTIONS

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appellate review).

Appellant contends the court of appeals is required by Anders and Williams to review the merits of the Pro Se brief as well as the amendment thereto of supplemental authorities in support of the issue of trial court failure to charge jury on third party guilt; and that the failure to adhere to the Procedural requirements of Anders and Williams in reviewing his Pro Se brief is in violation of his Due Process Rights under the Fourteenth Amendment U.S. constitution and article 1, section 3 and 14 of S.C. Constitution to receive appellate review of his criminal conviction under S.C. appellate court rules and State Statute.

Petitioner asserts that appellate counsel should have Not been relieved off his appeal as the issues raised by counsel and those raised by the appellant himself are of substantial arguable merit and are clearly Not frivolous. And to relive counsel would be in violation of his Sixth Amendment Right to effective assistance of appellate counsel U.S. Constitution Evitts V. Lucey 469 U.S. 387 (1985).

Appellant and counsel raised six issues in the Anders brief and the Pro Se supplemental brief,

(1) Whether the trial court erred by admitting a videotape of appellant avoiding a traffic stop in a dangerous manner since tape was not relevant to either the murder on the Abwik change for which appellant was on trial; and it was too remote and the probative value of this videotape was substantially outweighed by its undue prejudice, given its tendency to invite a verdict on a improper basis which denied appellant his due process right to a fair trial pursuant to the U.S. Constitution 14th Amendment.

Appellant and counsel both briefed this issue however appellant added that the admission of the videotape violated his U.S. Constitutional rights.

(1) All issues were raised under both State and Federal Constitutional Violations

Appellant asserts that the court of appeals misapprehended both the law and the facts in Re: to the admission of the irrelevant and extremely prejudicial videotape of a head on collision in which appellant was involved in which has absolutely No connection to the ^{Murder} ~~Murder~~ and Abwik offenses he was on trial for.

See Old Chief V. U.S. 117 Sct 644 (1997) Setting forth prejudicial effect

of other crimes evidence) Citing Green V. US 38 S. Ct. 209 (1938) see also State V. Lyle 118 Se. 803 (1938) scre 402, 403, 404 (B) The court of appeals fails to address either counsel on appellants Pro Se arguments and fails to even rule on this issue as required by Anders and Williams procedures.

Appellant asserts this court should rehear this issue, deny counsels motion to be relieved and order full briefing.

2) Appellant asserted that the trial court erred by failing to suppress cell phone that was seized without a warrant in violation of the Fourth Amendment U.S. Constitution.

Appellant asserts that the court of appeals mis-apprehended both the Law and the Facts of the issue, as well as failing to even consider this issue in its order dismissing this appeal despite the fact this issue arguably is of substantial merit and clearly is not frivolous in nature so as to warrant a summary dismissal without comment.

The trial court allowed a cell phone admitted into evidence that was seized from defendants vehicle, while in the impound lot, without a search warrant by forensic investigator edear guthro.

Under the reasoning it was seized during a inventory search rather than a investigative search. When clearly the facts of this case in no way support such a decision.

The transcripts reflect this same vehicle had been searched four times during investigative searches (Tr P. 45-50) while obtaining search warrants each of the four times February 3rd, 8th, 10th and 22nd 2006.

The Fifth time the car was searched again of February 22, 2006 without a warrant guthro who had been assigned to investigate this case (Tr. P 51 l. 1-5) Guthro admitted he went to investigate and had he found anything he would have placed it into evidence.

The Post Hoc rationalization to call this a inventory search is not supported by the record. See Preston V. US 84 Sct 841 likewise, the Post Hoc Rationalization in violative of South Dakota V. Opperman 96 Sct 3092 (1979)

that Inventory Search must meet standardized procedure. See also US V. Hernandez 177 F 3d. 171 (Cas 1995) (Warrantless Searches Presumptively Prejudicial) Clearly the facts of this case, that this court misapprehended show that this was a pretextual Search. See US V. Bowhay 992 F2d. 229 (CA 9 1993) (Fourth Amendment Violated in Pretextual Search under guise of inventory was actually a investigative search. The court should revisit this issue after formal briefing by counsel.

3) Likewise the refusal of the trial court to sequester key witnesses pur to Scrc 615 denied appellant a fair trial pur 14th Amendment U.S. CA.

It is clear that the court of appeals misapprehended both the Law and the Facts in regard to this very important issue and ignored both Geders V. US 96 Sct 1330, 1335 (1970) and US V. Jackson 60 F 3d 128 (2nd 1995) that sequestration serves dual purposes to exercise restraint upon witnesses and to aid in detecting testimony that is less than candid. Geders Id. and that there is a strong presumption in favor of sequestration.

It is clear from the transcript Dawn Hunter was able to tailor her testimony to that of her child's father Kelvin McKinney a key state witness (Roa 240). In fact while McKinney testified appellant admitted to murder (of Dawn Hunter's brother Tony Hunter) Keith Letmon testified later that McKinney admitted to him he killed Tony Hunter. Dawn Hunter was allowed to hear McKinney testimony and tailor her own testimony (And provide a key alibi for) McKinney. She was also allowed to corroborate motive.

Base on the same, this court should order this issue to be fully briefed by and then counsel. Hunter and McKinney testimony by far was the most fact specific and Hunter was allowed to corroborate numerous details by hearing McKinney testify. Scrc 615 should have been utilized to prevent the tailoring of her testimony. Geders V. US Supra.

(4) Trial Court erred in refusing to charge the jury on law regarding third party guilt pur, to Holmes V. SC 126 Sct 1727 (2006) denying his right to a fair trial.

Keith Letmon testified Kelvin McKinney admitted to him that he killed Tony Hunter (Roa 404-416). Based upon this testimony counsel request to charge

the jury on third party guilt should have been granted (P 8 420 L. 3-12) See Supplemental Citations filed October 6, 2009 pur to State V. Johnson 508 Se 2d. (SC 1998).

At page 395 L. 19 the trial court itself finds Keith Letmon testimony to be that of third party guilt .

Base on State V. Larock 470 Se 2d 316 (1996) "Criminal Defendant is entitled to a instruction on the theory of his defense. If he has offered a basis in evidence that has support in law.

The evidence of third party guilt is the testimony of Keith Letmon, the law is Holmes V. SC supra. (On third party guild).

This court failure to address the merits of this issue is nothing short of a injustice and a violation of letter and spirit of Anders.

(5) Trial Court erred by allowing State to introduce a Prior Bad Act involving the brandishment of a pistol that was irrelevant to the offense of murder/ Abwik denying appellatant his due process rights to a fair trial USCA 14th.

The appellatant asserts the court of appeals misapprehended both the law and the facts of the case ~~was~~^{when} Dawn Hunter was allowed, over objection, to testify appellatant had branded a 9 mm weapon and possessed latex gloves weeks prior to the offense.

As there was no connection between weapon Hunter testified about and the allegor murder weapon. There was absolutely no nexus between this testimony and the offense. None, in ~~Fact~~ this speculation was highly prejudicial. See State V. McConnell 350 Se 2d. "(1989) State V. Hamilton 543 Se 2d 586 (2003).

(Must establish nexus between evidence and crime).

This brandishment of similar weapon only served as propensity evidence Old Chief V. US 117 sct 644 (1997) This court should request this issue.

- (6) This court failed to exclude the hearsay testimony of Dawn Hunter (Victim's brother) over objection of counsel that went to motive and provided alibi to third party guilt witness Kelvin mckinney in violation of his sixth amendment right to confrontation.

The entire gist of Dawn Hunter Testimony of the hearsay testimony was to provide a motive for the murder (and a alibi for third party guilt witness).

In violation rule 801 this hearsay was allowed in violation of Cranford V. Washington (US Supreme Court).

This Court Should Grant Rehearing.

Respectfully Submitted

Nathaniel Teamer

(Pro Se)

MCI
386 Redemption Way
McCormick, SC 29899

Proof Of Service

I Nathaniel Teamer
Have serve a Petition for
Rehearing upon

Donald Z. Zelenka
P.O. Box 11549
Columbia, SC 29211

This 08 day February
2010

by US mail

s/ Nathaniel Teamer

Notary Public

SWorn before me this

08 day February 2010

J.C. Franklin

Notary Public

12-16-2019

My Comm Expire

Clerk of Court
SC Court of appeals
P.O. Box 11629
Columbia, SC 29211

State V. Nathaniel Teamer #2
Spartanburg, CO. Hon J. Derhamcole

Please find enclosed a pition in
the above case. W/ Proof of service attached.
Appellant argues against precedent of State V. Lyle (2008)

Nathaniel C. Teamer
MCI
386 Redemption Way
McCormick, SC 29899

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4-21-10

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3411 PRICE _____ END

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Respondent PER REC'D _____ OFFICE

OTHER: _____

The South Carolina Court of Appeals

The State,

Respondent

v.

Nathaniel Teamer,

Appellant.

The Honorable J. Derham Cole
 Spartanburg County
 Trial Court Case No. 2007-GS-42-01407
 2007-GS-42-01408

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court has decided to issue a substituted opinion. It is, therefore, ordered that the Petition for Rehearing be denied and the earlier opinion, 10-UP-062, be withdrawn and substituted with the attached opinion.

Paul E. Spitz J. Short

Paul R. Thomas J. Thomas

U. K. J. Konduros

Columbia, South Carolina

April 21, 2010

08-757

ATTORNEY GENERAL'S OFFICE

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IN THE SUPREME COURT
STATE OF SOUTH CAROLINA

ADMINISTRATIVE INSTRUCTIONS

FILE _____ AND

Respondent: _____

The State,

VS

Nathaniel Teamer

Petitioner

The Honorable J. Derham Cole,
Spartanburg County
Trial Court #2007 GS-42-1407
2007 GS-42-1408

Notice of Intent to Appeal

The petitioner hereby files his notice of Intent to Appeal from the April 21, 2010 order denying petition for Rehearing and Rehearing En Banc.

Petitioner asserts that he is arguing against precedent State v. Lyles 673 SE 2d. 811 (SC 2009) cited and assents a host of "Significant / Important" U.S. constitutional, SC constitutional statutory HP SCRC rim. procedures.

Violations of a Incredible magnitude ID Petition asserts it was a error of Law to relieve counsel from a case that has numerous arguable constitutional errors. State and Federal and has obvious arguable merit and petitioner alleges to do so would deny him of his sixth amendment right to effective assistance of counsel on direct appeal Pur. to Evitts v. Lucey.

(Right to effective assistance of counsel upon direct appeal) Petitioner incorporates His Rehearing Petition as well as counsels and the Pro Se briefs, supplemental citations (eg) how issue of third party guilt was preserved for appeal SC RE 103(b).

Petitioner seeks appointment of counsel and to have his direct appeal perfected by counsel.

Hon. Daniel Shearouse
SC Supreme Court
PO Box 11330
Columbia, SC 29201

STATE V. NATHANIEL C. TEAMER #2

Spartanburg County Hon. J. Derham Cole
#2007 GS 42-1407-1408

Dear Sir.,

Please find enclosed a notice of appeal that argued against the State V. Lyles precedent in Re: Ander's briefs appeals.

Proof of service upon opposite parties are attached.

Respectfully

s/ Nathaniel C. Teamer

MCI
386 Redemption Way
McCormick, SC 29899

CC: Donald Z. Zelenla

PROOF OF SERVICE

I Nathaniel Teamer hereby affirms under oath that I mailed a
True Copy of the notice of Intent to Appeal to:

Donald Z. Zelenka
Asst. Attorney General
PO Box 11549
Columbia, SC 29211

This 13 day MAY 2010

Notary Public

Sworn and Subscribed

This 13 day May 2010

s/ Joyce L Young
Notary Public

My Comm. Expires 8-28-2011

UNDER OATH

s/ Nathaniel C. Teamer

Nathaniel C. Teamer

(Pro SE)

08-757

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The Supreme Court of South Carolina

The State,

Respondent,

v.

Nathaniel Teamer,

Petitioner.

The Honorable J. Derham Cole

Spartanburg County

Trial Court Case No. 2007-GS-42-01407

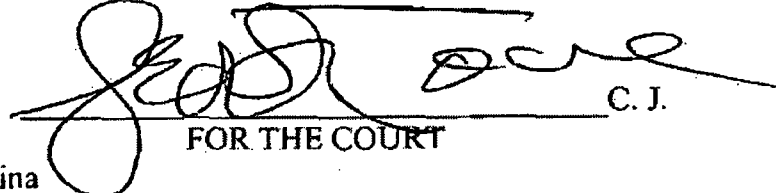
2007-GS-42-01408

ORDER

The South Carolina Court of Appeals dismissed the appeal in this matter after conducting a review pursuant to Anders v. California, 386 U.S. 738 (1967). State v. Teamer, Op. No. 2010-UP-062 (S.C. Ct. App. filed April 21, 2010). Petitioner now seeks review of that decision.

In State v. Lyles, 381 S.C. 442, 673 S.E.2d 811 (2009), this Court held that it "will no longer entertain petitions for writs of certiorari where the Court of Appeals has dismissed an appeal after conducting an Anders review." Accordingly, this matter is dismissed.

IT IS SO ORDERED.



C. J.
FOR THE COURT

Columbia, South Carolina

May 18, 2010

cc: Mr. Nathaniel Teamer
 ✓ Assistant Deputy Attorney General Donald J. Zelenka
 The Honorable Tanya Gee

08-757


 ATTORNEY GENERAL'S OFFICE
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The South Carolina Court of Appeals

 TANYA A. GEE
 CLERK

 V. CLAIRE ALLEN
 DEPUTY CLERK

ORDER TRANSCRIPT

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POST OFFICE BOX 11620

COLUMBIA, SOUTH CAROLINA 29211

1015 SUMMER STREET

COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1690

FAX: (803) 734-1830

WWW.SCCOURTS.ORG

May 19, 2010

REMITTITUR

 The Honorable Ponda A. Caldwell
 180 Magnolia Street
 Spartanburg, SC 29304

 Re: The State v. Teamer, Nathaniel #2
 2007-GS-42-01407 2007-GS-42-01408

Dear Ms. Caldwell:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

The exhibit being returned is: State's exhibit 79 (traffic videotape). Please sign attached copy of this letter and return to acknowledge receipt of this item.

Sincerely,

 V. Claire Allen
 Deputy Clerk of Court

VCA/lf

 cc: Chief Appellate Defender Robert M. Dudek
 Nathaniel Teamer #285309
 Assistant Deputy Attorney General Donald J. Zelenka

75W

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

NATHANIEL TEAMER, 285309)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2010-CP-42- 4181

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution, 386 Redemption Way,

McCormick, SC 29899

2. Name and location of Court which imposed sentence Spartanburg County Court of

General Sessions, 180 Magnolia Street, Spartanburg, SC 29306

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2007-GS-42-1407: Murder

(b) 2007-GS-42-1408: ABWIK

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

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CLERK OF COURT
SPARTANBURG COUNTY
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M. HOSE BLANCHLEY

Revised 3/2003

- (a) January 16, 2008: Life
- (b) January 16, 2008: 20 years (consecutive)
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. South Carolina Supreme Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed.
- ii. Dismissed.
- iii. _____
- (c) the date of each such result:
- i. January 28, 2010 and republished on April 21, 2010
- ii. May 18, 2010
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2010-UP-062
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of trial counsel.
 - (b) Ineffective assistance of appellate counsel.
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failure to prepare and investigate.
 - (b) Failure to make proper objections at trial.
 - (c) Failure to call witnesses and present evidence.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No.
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
 - (d) any other petitions, motions or applications in this or any other Court? No.
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. _____

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 SPARTANBURG COUNTY
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 M. HOPE BLANCHLEY

- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- No.
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Post Conviction Relief is the proper forum for such allegations.
- (b) _____

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SPARTANBURG COUNTY
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M. HOPE-AKLEY

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? _____
 - (b) your trial, if any? Yes.
 - (c) your sentencing? Yes.
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
Yes.
 - (e) preparation, presentation or consideration of any petitions, motions or applications
with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Joshua Schultz, 184 North Daniel Morgan Ave., Spartanburg, SC 29306
 - ii. Robert M. Dudek, Office of Appellate Defense, 1330 Lady Street, Suite 401,
Columbia, SC 29201
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial.
 - ii. Direct Appeal.
 - iii. _____
19. State clearly the relief you seek in filing this application:
A new trial.
20. Are you now under sentence from any other court that you have not challenged?
No.

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 SPARTANBURG COUNTY
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 M. HOPE BLACKLEY

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Nathaniel Teamer, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Nathaniel Teamer
Applicant

SWORN or affirmed to and subscribed before me this
26 day of July, 2010

Joyce L. Young
Notary Public

My Commission Expires: 8 28 2011

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CLERK OF COURT
SPARTANBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
Nathaniel Teamer, #285309,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-4181

RETURN

In response to the post-conviction relief application filed on August 2, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the April 2007 terms of General Sessions for murder (2007-GS-42-1407) and assault and battery with intent to kill (2007-GS-42-1408). E. Joshua Schultz, Esquire, represented the Applicant. On January 16, 2008, the Applicant was convicted of these charges by a jury. The Honorable J. Derham Cole sentenced the Applicant to confinement for life for murder and a consecutive sentence of twenty years for assault and battery with intent to kill.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. An Anders brief was filed on Applicant's behalf by the Office of Appellate Defense. Applicant filed a *pro se* brief in response. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Teamer, Un. Op. No. 2010-UP-062 (filed January 28, 2010). A Petition for Rehearing was filed by the Applicant and denied by the Court on April 21, 2010; however the Court

withdrew its earlier opinion (2010-UP-062) and substituted with the opinion dated April 21, 2010. Applicant then filed a Petition for Writ of Certiorari with the South Carolina Supreme Court, which was denied by that court on May 18, 2010. The Remittitur was sent on May 19, 2010.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to prepare and investigate,
 - b. Counsel failed to make proper objections at trial,
 - c. Counsel failed to call witnesses and present evidence; and
2. Ineffective assistance of appellate counsel.

For the purpose of this Return, the Respondent incorporates the trial transcript, the Clerk of Court records, Applicant's appellate records and the South Carolina Department of Corrections' records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within

the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Cherry, 300 S.C. at 117, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The allegation that appellate counsel was ineffective is without merit. Respondent contends that the Applicant's appellate counsel rendered adequate assistance and provided representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, the Applicant must show that appellate counsel's performance was (1) deficient; and (2) that there was prejudice from the appellate

counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. Id. Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. Id. Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

When a claim of ineffective assistance of appellate counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test with regard to the ineffectiveness claims against appellate counsel. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel and appellate counsel were ineffective.

Respectfully submitted,

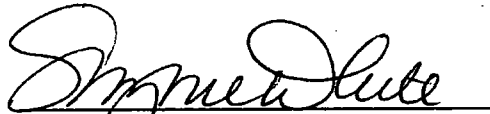
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By:


Attorneys for the Respondents
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

April 26, 2011.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	
Nathaniel Teamer, 285309,	)	2010-CP-42-4049
	)	
v.	)	MOTION FOR DISCOVERY
	)	IN POST CONVICTION RELIEF
State of South Carolina,	)	
Respondent.	)	
	)	

COMES NOW the Applicant, by and through his undersigned attorney, and requests that this Court enter an Order for Order for Production of Discovery pursuant to S.C. Code Ann. §17-27-150(a) (2008).

This matter comes before the Court by way of an Application for Post Conviction Relief filed on August 2, 2010. The State submitted a Return on or about February 16, 2010. After a thorough review of the case documents provided by the State, reviewing the Clerk of Court's file, reviewing the public defender's file, and the utilization of a private investigator, undersigned counsel submits that the requested documents and/or case materials are necessary to properly prepare and present the Applicant's claims.

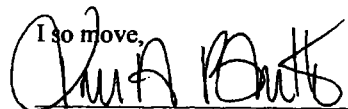
Therefore, the Applicant would move before this Court for the production of the following case documents pursuant to S.C. Code Ann. §17-27-150(a) (2008).

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.
2. A copy of any written reports or investigative files from the following arrest records of Erica Paulette Gray:
 - a. Agency: Spartanburg Police Department, Warrant No.: E138187, Arrest Charge: False Information to Police, Offense Date: June 10, 1994
 - b. Agency: Spartanburg Police Department, Arrest Charge: Assault and Battery, Offense Date: June 24, 2005. Information also may be available under the name of Donald Martin.

3. Any materials used by the Spartanburg County Solicitor's Office and/or Spartanburg Public Safety Division to establish the authenticity and foundation for the recorded detention center call introduced as State's Exhibit #21-A. Transcript p. 124. Specifically, but not limited to, the detention center phone logs, the times detention center inmates located in Pod 5 were given access to the phone on February 5, 2006, and a listing of all Spartanburg County Detention Center employees assigned to Pod 5 and inmates calling areas on February 5, 2006.
4. Any materials and/or information used to establish a chain of custody for the letters introduced through the testimony of Erica Gray. Transcript p. 152-3.

The Applicant, through undersigned counsel, submits that the above listed documents and case materials are necessary to properly prepare and present his claims. Furthermore, the Applicant, through counsel, submits that this request is not being made as a fishing expedition, but it is only being submitted to the Court after a thorough review of all available case documents and materials.

THEREFORE, based upon the foregoing the Applicant respectfully requests that this Court hold a hearing and enter an Order for Discovery for the above listed case documents and materials that are necessary for the presentation of the Applicant's case.

I so move,


Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211

May 16, 2011
Columbia, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Nathaniel Teamer, #285309,	)	2010-CP-42-4181
	)	
Applicant,	)	
	)	RETURN TO MOTION
v.	)	FOR DISCOVERY
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court by way of the Applicant's Motion for Discovery. The Applicant requests an Order allowing Applicant access to the contents of files and other evidence that appears to be in the custody and control of the Spartanburg County Solicitor's Office and the Spartanburg County Sheriff's Department. The Respondent submits that the Applicant's Motion for Discovery lacks good cause and should be denied.

I.

Respondent objects to the Motion for Discovery, first, the offices named are not a party to the post-conviction relief action and the documents or files the Applicant seeks are in the possession, custody, and control of each office named and are not matters the Office of the Attorney General can produce. A post-conviction relief action takes the place of the relief available under the common law writ of habeas corpus in circuit court. See Simpson v. State, 329 S.C.43, 495 S.E.2d 429 (1998); see also S.C. Code Ann. section 17-27-20(b) (2003)(stating PCR "comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence.") Therefore, post-conviction relief is brought by an applicant against the State of South Carolina as the custodian

of an applicant asserting the detention or custody is unlawful. Post-conviction relief applicants are typically incarcerated at the South Carolina Department of Corrections and are seeking relief from confinement by showing the conviction and sentence supporting the confinement is unconstitutional or is otherwise subject to collateral attack. The offices named are not the custodians of a convicted defendant and are not parties to this civil action.

II.

Second, Respondent objects to Applicant's Motion because the Uniform Post-Conviction Procedure Act does not allow for discovery in a non-capital post-conviction relief case without good cause and order of the circuit court permitting discovery requests. S.C. Code Ann. § 17-27-150(A) states:

A party in a non-capital post-conviction relief proceeding shall be entitled to invoke the processes of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that, the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise. If necessary for the effective utilization of discovery procedures, counsel may be appointed by the judge for an applicant who qualifies for appointment pursuant to Section 17-27-60 or similar applicable provisions of law.

The conviction being challenged by the Applicant in this action arises from a non-capital offense. Furthermore, Respondent submits that discovery should not be permitted because the Applicant has not made the requisite showing of good cause. Applicant has been given access to the evidence introduced during Applicant's trial and information included in the Spartanburg County Solicitor's office file.

III.

The Respondent therefore objects to the Motion for Discovery and requests that the Court deny the Applicant's Motion.

WHEREFORE, the State requests that this Court deny the Motion for Discovery.

Respectfully submitted,

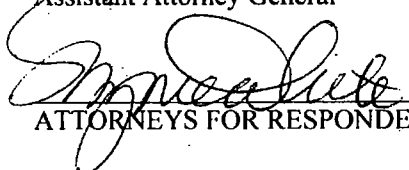
ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

BY:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

May 26, 2011.

5

P.O.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Nathaniel Teamer, #285309,	)	2010-CP-42-4049
	)	2010-CP-42-4081
Applicant,	)	
	)	
v.	)	ORDER
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

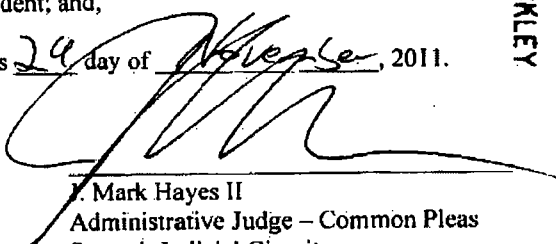
This matter comes before the Court by way of Applicant's Motion for Discovery. Applicant motioned the court to unseal a copy of the transcript from the guilty plea of Kelvin D. McKinney, (2007-GS-42-3910), dated March 27, 2008. This transcript has been sealed on my instructions. However, after consent of both the Solicitor and prior Counsel for Mr. McKinney, this Court grants the motion only for the limited purpose of review by Counsels for the Applicant, Ms. Tricia Blanchette, Esquire, and Mr. Jeremy Thompson, Esquire, and Counsel for the Respondent, Ms. Suzanne H. White, Esquire, for testimony regarding any negotiated deals between Mr. McKinney and the Seventh Judicial Circuit Solicitor's Office.

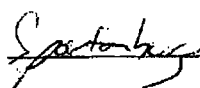
This Court instructs all attorneys involved to not provide the copies of the transcript to any other individuals and to ensure that the contents of the transcript remain confidential.

IT IS THEREFORE ORDERED:

- I. That a copy of the sealed transcript of the aforementioned guilty plea of Mr. Kelvin D. McKinney be provided to both Counsels for the Applicant and Counsel for the Respondent; and,

AND IT IS SO ORDERED this 29 day of November, 2011.


J. Mark Hayes II
Administrative Judge – Common Pleas
Seventh Judicial Circuit

 South Carolina.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 DEC -1 PM 4:04
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
Nathaniel Teamer, 285309,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-4181

AMENDMENT TO APPLICATION
IN POST CONVICTION RELIEF

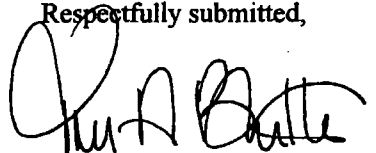
Applicant, by and through his Attorney, Tricia A. Blanchette, would amend his Application for Post Conviction Relief filed on August 2, 2010, by adding the following specific allegations to his original allegation of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to prepare with Applicant by going over the discovery materials and fully discussing trial strategy; failure to investigate the witnesses and evidence put forth by the State.
2. Ineffective assistance of trial counsel for making a motion to sever which allowed the State to stream line the case against Applicant, eliminated defenses and allowed evidence from charges related to the first trial to be used during the trial at issue. Ineffective assistance of counsel for failure to be prepared to proceed after motion to sever was granted in prior trial and to properly preserve the issue for appellate review.
3. Ineffective assistance of trial counsel for failure to utilize the prior trial testimony of James Young and Christina Hoggle or call them as a witness for the defense.
4. Ineffective assistance of trial counsel regarding the cell phone records, testimony and argument, specifically, but not limited to the following:
 - a. Failure to utilize the discovery materials, call all necessary witnesses, thoroughly cross-examine the State's witness and raise all viable arguments during the pre-trial motion to suppress the evidence located in the Chevy Caprice by law enforcement.
 - b. Failure to effectively utilize the phone records introduced by the State and present the jury with a timeline of the calls and events in question.

- c. Failure to effectively cross-examine the State's witnesses regarding the cell phone records and refute the State's arguments regarding the implications of such records.
 - d. Failure to make contemporaneous objections to the introduction and testimony regarding the cell phones and cell phone records.
- 5. Ineffective assistance of trial counsel for failure to present a pre-trial motion for suppression of the prior bad act testimony offered by Kelvin McKinney and Dawn Hunter. Ineffective assistance of counsel for making an untimely objection on the basis of prior bad act testimony during the testimony of Dawn Hunter.
 - 6. Ineffective assistance of trial counsel for failure to impeach Kelvin McKinney's testimony regarding Applicant's motive with the statement of the victim, which identifies "Snow" (Kelvin McKinney) not Applicant. Failure to effectively use the video of Kelvin McKinney's statement on cross-examination.
 - 7. Ineffective assistance of trial counsel for failure to utilize testimony and/or evidence to refute Kelvin McKinney's testimony that Applicant confessed to him while located in the detention center.
 - 8. Ineffective assistance of trial counsel for failure to advise Applicant that Dawn Hunter would be called as a witness by the State and discuss the substance of her testimony.
 - 9. Ineffective assistance of trial counsel for failure to thoroughly cross-examine David Procter regarding the identification of the house where the suspect was picked up from, the streets in question, the sketch of the suspect and the identifying information of the suspect.
 - 10. Ineffective assistance of counsel for failure to object to testimony regarding the drug evidence found in the Chevy Caprice on the grounds of illegal search and seizure, chain of custody or use of an uncharged "bad act."
 - 11. Ineffective assistance of counsel for failure to fully explore the access Carlos Fuller had to the murder weapon and calls made to Carlos Fuller on the phone records introduced at trial.

12. Ineffective assistance of counsel for failure to investigate the DNA evidence, utilize a DNA expert and effectively cross-examine Agent Fields regarding the DNA evidence.
13. Ineffective assistance of counsel for opening the door and/or eliciting testimony regarding Applicant's bad reputation during the testimony of Keith Letmon. Failure to properly review the criminal history of Keith Letmon and make necessary objections and/or arguments when the State utilized his criminal history on cross examination.
14. Ineffective assistance of counsel for failure to call Mrs. Feaster.
15. Ineffective assistance of counsel for failure to provide the court with a third party guilt instruction.
16. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal, including but not limited to pre-trial motions, trial objections, and request to charge the jury on third party guilt.
17. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

Respectfully submitted,



Tricia A. Blanchette
Attorney for Applicant
PO Box 12725
Columbia, SC 29211

October 8, 2012

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3 Nathaniel Teamer,)
4 Applicant,) TRANSCRIPT OF RECORD
5 -vs-) 2010-CP-42-4181
6 The State.) October 30, 2012
7 Spartanburg, South Carolina
8
9

10 B E F O R E :

11 HONORABLE BROOKS P. GOLDSMITH, JUDGE
12

13 A P P E A R A N C E S :
14

15 TRICIA BLANCHETTE, ESQUIRE
16 JEREMY ADAM THOMPSON, ESQUIRE
Attorneys for the Applicant

17 SUZANNE WHITE, ESQUIRE
18 ROBERT DANIEL CORNEY, ESQUIRE
Attorneys for the State
19

20
21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID. EV.</u>
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1		<u>EXHIBITS</u>		
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1 (Proceedings October 30, 2011)

2 MS. BLANCHETTE: Your Honor, if you don't mind if I
3 converse with the state real quickly about something.

4 (Pause.)

5 THE COURT: And, Ms. Blanchette, is the applicant
6 prepared to go forward?

7 MS. BLANCHETTE: We are, Your Honor.

8 THE COURT: And, Ms. White, the state?

9 MS. WHITE: Yes, Your Honor. Thank you, Your Honor.

10 Today we're here on CP -- 2010-CP-42-4181 in the case
11 of Nathaniel Charles Teamer vs. the State based upon
12 charges that Mr. Teamer had received. And at a prior trial
13 a motion to sever had been filed and granted.

14 He was tried on a murder charge and an ABWIK in
15 2008 -- January. He received a sentence of life for the
16 murder, which was consecutive to any previous sentence he
17 had received, and a sentence of 20 years on the ABWIK,
18 again, consecutive to any sentence.

19 He was represented by Josh Schultz at the time. And
20 an appeal was filed, an Anders brief, and it was dismissed
21 February 11th of 2010.

22 And then the P.C.R. was filed August 2nd of 2010.
23 And, again, you should have the amendments. I believe
24 there were about 18 that were in the packet yesterday that
25 go along with this case that Mr. Blanchette had filed on

1 behalf of the applicant.

2 THE COURT: All right.

3 MS. WHITE: And I will just leave those to represent
4 their allegations and then turn it over to Ms. Blanchette
5 at this time.

6 THE COURT: Ms. Blanchette.

7 MR. BRANNON: Thank you, Your Honor. May it please
8 the Court.

9 We do stand by the amendment that the state
10 referenced.

11 Additionally, I'd like to make a verbal amendment on
12 the record to include an allegation of ineffective
13 assistance of counsel for failure to object to the jury
14 charge which included the language fair and just, which we
15 are alleging was a burden-shifting instruction pursuant to
16 State vs. Daniel, and we would like to add that. Beyond
17 that we are prepared to go forward.

18 THE COURT: And that motion is granted without
19 objection.

20 MS. WHITE: Yes, Your Honor.

21 THE COURT: You may call your first witness.

22 MS. BLANCHETTE: Your Honor, I would call James
23 Humphries to the stand.

24

25

James Humphries
Direct examination by Ms. Blanchette

1 JAMES HUMPHRIES, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. BLANCHETTE

4 Q Could you please state your name for the record?

5 A James Humphries.

6 Q And, Mr. Humphries, where do you currently reside?
7 where do you currently reside -- in what city and state?

8 A Spartanburg County, Chesnee, South Carolina.

9 Q Okay. And are you here today under subpoena?

10 A Yes, ma'am.

11 Q Okay. And how is it that you know, or do you know,
12 Nathaniel Teamer, the applicant?

13 A Yes, ma'am. We was roommates for -- see, I knowed him
14 on the streets, and I knowed him. We was locked up
15 together.

16 Q Okay. And you were locked up together where?

17 A At Spartanburg County and Tyger River.

18 Q Okay. And were you in Spartanburg County with him in
19 November of 2006?

20 A Yes, ma'am.

21 Q Okay.

22 MS. BLANCHETTE: Your Honor, at this time I would like
23 to mark this as Applicant's No. 1 for Identification
24 purposes only.

25 (Inmate list marked Applicant's Exhibit No. 1 for

James Humphries
Direct examination by Ms. Blanchette

- 1 Identification.)
- 2 Q Mr. Humphries, if you could look at this, what does it
- 3 say it is at the top there?
- 4 A Inmate population list.
- 5 Q Okay. And when you look at that do you see your name
- 6 listed there?
- 7 A Yes, ma'am.
- 8 Q Okay. And where does it say that you were located?
- 9 Do you see where it says cell and bed?
- 10 A 34-B -- A.
- 11 Q Okay. And do you see somebody else's name right on
- 12 top of yours there, right above it?
- 13 A Yes.
- 14 Q Whose name is that?
- 15 A Nathaniel Teamer.
- 16 Q And where does it say he was located?
- 17 A 34-A.
- 18 Q Okay. I'll take that back from you.
- 19 Now, this -- this document reports that you were
- 20 actually cellmates with Mr. Teamer just as you told us,
- 21 correct?
- 22 A Yes, ma'am.
- 23 Q Okay. And during this time in November of '06 when
- 24 you were cellmates with Mr. Teamer did you know a Kelvin
- 25 McKinney that was also located in that pod six at the

James Humphries
Direct examination by Ms. Blanchette

1 county jail?

2 A Yes, ma'am.

3 Q Okay. And did you ever have a chance to see
4 Mr. McKinney? Did he ever come over to the cell and visit
5 or sit in the cell and talk with Mr. Teamer?

6 A No, ma'am. He might have came and got a cigarette and
7 throwed up under the door like that. You can't go to no
8 door and talk to nobody. You get locked down.

9 Q Okay. And when you mean you get locked down, what
10 does that mean?

11 A You lose your rotation on the next week.

12 Q Okay.

13 A You lose your canteen.

14 Q And at Mr. Teamer's trial Mr. McKinney came and said
15 that he talked with Mr. Teamer in his cell and Mr. Teamer
16 made an admission to him. You were his cellmate. Did you
17 ever see that occur?

18 A No, ma'am.

19 Q Okay. Now, do you remember anything about your
20 movement? Were you allowed to go visit other cells? Would
21 you -- Mr. Teamer have had the ability to go visit
22 Mr. McKinney's cell?

23 A No, ma'am.

24 Q Okay. Do you remember kind of how the rotation worked
25 and what movement you were allowed?

James Humphries
Direct examination by Ms. Blanchette

1 A You come out -- you might come out two hours in the
2 morning time. Then you going to come out two hours later
3 on. But when you come out you gotta clean your room and
4 take a shower. And then you use the phone and things and
5 go smoke a cigarette like that.

6 Q Okay. And during that time when you're out are you
7 allowed to go across to the other side and visit with
8 inmates in their cells?

9 A Oh, no, ma'am, no, ma'am.

10 Q Okay. And if you did something like that what would
11 happen?

12 A Lockdown immediately.

13 Q Okay. And let me just make sure so that I'm
14 absolutely certain.

15 You were Mr. Teamer's cellmate and you never saw him
16 have a conversation with Mr. McKinney in your cell.

17 A Oh, no, ma'am.

18 Q Okay.

19 MS. BLANCHETTE: Your Honor, if I could just beg the
20 Court's indulgence.

21 (Pause.)

22 MS. BLANCHETTE: Your Honor, I have no further
23 questions of this witness.

24 THE COURT: Cross-examination.

25 MS. WHITE: Thank you.

James Humphries
Cross-examination by Ms. White

1 CROSS-EXAMINATION

2 BY MS. WHITE

3 Q Mr. Humphries, a couple of questions.

4 How long were you in the prison that time, do you
5 recall?

6 A When we locked up together?

7 Q When you were Mr. Teamer's cellmate.

8 A October -- talking about the county?

9 Q Yes, sir.

10 A October, November, December.

11 Q October, November, December of what months, I mean,
12 what year?

13 A It was 2006.

14 Q Okay. So you were there, his roommate, three months
15 at the time.

16 A Yes, ma'am.

17 Q And were you his roommate the entire time those three
18 months, or did they move y'all at some point?

19 A I come off lockup first and moved to pod six. Then
20 later on he come off lockup. And that's when we became
21 roommates.

22 Q Okay. So he wasn't roommates with you that entire
23 three months that you were in there.

24 A In pod six, yeah. When we come off lockup I was there
25 first. And then about, what, about a week or two weeks

James Humphries
Cross-examination by Ms. White

- 1 later he came to my room, and we roommates for three
2 months. And I moved out.
- 3 Q Okay. So you were -- you were both in lockup before
4 October?
- 5 A Yes, ma'am.
- 6 Q And then you became roommates in October.
- 7 A Yes, ma'am.
- 8 Q All right. And I believe Ms. Blanchette said that --
9 that McKinney supposedly came to his room. Testimony --
10 you weren't at the trial, were you?
- 11 A No, ma'am.
- 12 Q Okay. So if testimony was presented --
13 MS. WHITE: Page 251, Your Honor.
- 14 Q -- of the testimony of Mr. McKinney that says Charlie
15 supposedly came to his room, you don't have any knowledge
16 as to what happened in Mr. McKinney's cell, do you?
- 17 A No, ma'am.
- 18 Q Okay.
- 19 A I know -- I know that Mr. Teamer ain't going in that
20 cell over there because you can't because we -- when we
21 coming out we together. Go out there, smoke, talk and be
22 like that.
- 23 Q And the pods got out together, is that right?
- 24 A On this side. Not everybody.
- 25 Q Okay.

James Humphries
Cross-examination by Ms. White

1 A The ones on this side, we come out together. Then the
2 ones on that side, they come out when -- when their time,
3 their rotation.

4 Q So your testimony is there's no possible way ever for
5 anybody in another cell from another area to ever
6 communicate or talk or visit.

7 A I mean, you might holler out the door or something
8 like that. But you get caught, you in trouble.

9 Q Okay. All right. I want to ask you just a couple of
10 questions.

11 Now, when you were in there at that time was that on
12 the conviction you received for assaulting a police officer
13 while resisting arrest from 2007?

14 A Yes, ma'am.

15 Q Or six?

16 A Yeah.

17 Q Okay. And you received six years for that charge.

18 A Yes, ma'am.

19 Q All right. And you also have received additional
20 charges since then, have you not?

21 A Yes, ma'am.

22 Q Okay. And you're not currently serving any time.
23 You're on probation right now.

24 A No, ma'am.

25 Q But you're -- you have pending charges, is that

James Humphries
Cross-examination by Ms. White

1 correct?

2 A Yes, ma'am.

3 Q All right. You also had another charge of resisting
4 arrest and assault and battery of a high and aggravated
5 nature in the past.

6 A In the past? Nah. Talking about when?

7 Q In the past. I'm sorry. That was going back too far
8 for you actually to ask about.

9 MS. BLANCHETTE: Your Honor, I was going to object,
10 but I assume she's withdrawing the question.

11 MS. WHITE: Yes. I'm withdrawing that question. Yes.

12 BY MS. WHITE

13 Q So the charges that you were in jail for at the time
14 were assaulting a police officer while resisting arrest,
15 and then you're currently facing charges that you have not
16 been convicted for, is that right?

17 A Yes, ma'am.

18 Q Okay. And how many times have you been in the -- the
19 prison? I mean, do you know what happened after you left
20 in December of 2006?

21 MS. BLANCHETTE: Your Honor, I would object as to
22 relevance. In the transcript it appears that the
23 conversation took place during November of 2006. And I
24 only asked him about November of 2006. This is outside of
25 the scope as far as my questioning also.

James Humphries
Cross-examination by Ms. White

1 MS. WHITE: I was just, Your Honor -- I can withdraw
2 part of the question. I was just trying to ask if he's
3 aware of the movements.

4 He -- she asked about movements in the pod and the
5 different times. I'm trying to figure out if he's aware if
6 there have been any changes, if he's been in the system or
7 the detention center since.

8 THE COURT: Okay. Overruled.

9 Go ahead.

10 BY MS. WHITE

11 Q Okay. Have you been in the detention center since
12 your release December of 2006?

13 A Yes, ma'am.

14 Q Okay. Have they made any changes to your knowledge as
15 to the movements in the pods?

16 A Same.

17 Q Okay. So to your knowledge they haven't computerized
18 the system or made it any more secure or made it any
19 more --

20 A Everything looked the same to me. Just the uniforms.

21 Q They haven't added another officer in the pods to
22 watch over them?

23 A I mean, I didn't stay that long. I don't know.

24 Q Okay.

25 A I mean, I went in pod six. Then I left and I got out.

James Humphries
Redirect examination by Ms. Blanchette

- 1 Q Okay. All right.
- 2 MS. WHITE: Thank you, Your Honor. That's all the
- 3 questions I have for him.
- 4 MS. BLANCHETTE: Very briefly, Your Honor.
- 5 REDIRECT EXAMINATION
- 6 BY MS. BLANCHETTE
- 7 Q Mr. Humphries, I'm going to hand you back this
- 8 Applicant's No. 1. And if you could, see what the date is
- 9 down there at the bottom of that first page.
- 10 A 11/3.
- 11 Q Okay. And could you turn to the second page? Does
- 12 that page also have your name and Mr. Teamer's name listed
- 13 in cell No. 34?
- 14 A Yes, ma'am.
- 15 Q Okay. And what's the date at the bottom of that page?
- 16 A 11/15.
- 17 Q Of what year?
- 18 A '06.
- 19 Q Okay. And if you could, turn to the next page.
- 20 Does that page also have your name and Mr. Teamer's
- 21 name listed as being in cell No. 34?
- 22 A Yes, ma'am.
- 23 Q And what's the date at the bottom of that page?
- 24 A 11/20/2006.
- 25 Q Okay. And if you could, turn to the last page,

James Humphries
Redirect examination by Ms. Blanchette

1 please. Does that have your name and Mr. Teamer's name
2 listed in cell No. 34?

3 A Yes, ma'am.

4 Q And what's the date at the bottom of that page?

5 A It's cut off down there, a little bit down there.

6 Q So you can't read that one. That's perfectly fine.

7 Mr. Humphries, the state asked you some questions
8 about your knowledge of the jail. My question to you is
9 have you ever spoken to a Joshua Schultz who represented
10 Mr. Teamer about your knowledge of the jail or your time as
11 Mr. Teamer's roommate.

12 A No, ma'am.

13 Q So Joshua Schultz or anyone working for him never
14 contacted you.

15 A No, ma'am.

16 Q If an attorney working for Mr. Teamer like -- much
17 like myself would have contacted you would you have been
18 willing to talk with him?

19 A Yes, ma'am.

20 Q And if you had been subpoenaed to testify at his
21 murder trial would you have been willing to testify?

22 A Yes, ma'am.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, I have no further
25 questions.

Lee Conley

Direct examination by Ms. Blanchette

1 MS. WHITE: Nothing further, Your Honor.

2 THE COURT: Thank you. You may step down.

3 MS. BLANCHETTE: Your Honor, I would call Lee Conley
4 to the stand.

5 LEE CONLEY, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MS. BLANCHETTE

8 Q Could you please state your name for the record?

9 A Lee Conley.

10 Q And, Ms. Conley, how are you involved in this current
11 P.C.R. case?

12 A I'm a private investigator.

13 Q Okay. And were you retained by Mr. Teamer to assist
14 with this case?

15 A Yes, ma'am.

16 Q Okay. And as part of your investigation in this case
17 did I request that you go out and take pictures of two
18 homes located here in Spartanburg, South Carolina?

19 A Yes, ma'am, you did.

20 Q Okay. And do you have the street and addresses where
21 those homes were located?

22 A They were both on Breeze Street.

23 Q Okay.

24 A One was 467 and I believe the other one was 441.

25 Q Okay. I'm going to hand you these if you could

Lee Conley

Direct examination by Ms. Blanchette

1 identify what they appear to be for the record.

2 A The white one is 467 and the blue one is 441 Breeze.

3 Q And when you say one, what are those? What are those
4 pictures of?

5 A Oh, pictures of houses.

6 Q Okay. And are those pictures that you, in fact, went
7 out and took?

8 A Yes.

9 Q Okay.

10 MS. BLANCHETTE: Your Honor, at this time I would move
11 these photographs in as Applicant's No. 2.

12 THE COURT: Without objection.

13 MS. WHITE: Well, Your Honor, the state does have an
14 objection actually.

15 THE COURT: Okay.

16 MS. WHITE: I understand, you know, their purpose in
17 trying to get the photos. However, this is a 5-year
18 period. They're trying to introduce photos as in
19 representing what the houses may or may not have looked
20 like at the time of Breeze Street. And I would just argue
21 that really it's kind of a tenuous connection with the
22 relevance at this point because we have no knowledge if the
23 houses have changed or something's been torn down or
24 anything in that area.

25 THE COURT: I'm not sure I know why. What is the

Lee Conley

Direct examination by Ms. Blanchette

1 purpose of --

2 MS. BLANCHETTE: Your Honor, I could call this witness
3 at the end of the day, but I was trying to get some
4 witnesses out of the way this morning before I call
5 Mr. Teamer and his lengthy testimony.

6 We will get into it later with Mr. Teamer, but in one
7 of the police reports the victim indicates that it may have
8 been the first or second house on the left on Breeze
9 Street.

10 As a result, my client is going to allege that he
11 asked Mr. Schultz to go out and get pictures of those
12 homes, because a picture of one home on another street was
13 shown to that victim when he testified. And he identified
14 that picture. And we'll be introducing that later into the
15 record.

16 But my client's alleging that these two homes should
17 have also been shown, and asked the victim could it have
18 been this home or this home on cross-examination.

19 Unfortunately, I can't go back to 2006 and take
20 pictures of the homes. All we could do is take pictures of
21 what they look like now.

22 I understand it's not a completely accurate
23 representation of what they may have looked like in 2006,
24 but we do have the burden. And my client's going to allege
25 that his attorney should have gone out and gotten pictures

Lee Conley

Direct examination by Ms. Blanchette

1 of these two homes and showed them to the victim on
2 cross-examination. So that's why I'm attempting to
3 introduce these pictures today.

4 THE COURT: So nobody's going to say that these
5 pictures represented the condition of the homes way back
6 when?

7 MS. BLANCHETTE: I'm in no way alleging that. I'm
8 just trying to provide a reference point to the Court as to
9 what these homes look like now to go along with the
10 allegation that Mr. Schultz should have taken pictures of
11 them at the time and shown them to the victim.

12 MS. WHITE: Your Honor, I would just -- you know, it
13 wasn't just testimony that the applicant testified as to
14 and identified the house.

15 He actually drove the police by and pointed the house
16 out himself as they drove around the neighborhood. You
17 know, so it wasn't just a random house they showed him and
18 said was this the house.

19 At this point, you know, counsel did cross-examine him
20 about Breeze Street. There were no pictures shown. But I
21 would still argue that it's irrelevant just simply because
22 of the fact that those homes may or may not have been in
23 the same condition.

24 It's not going to really affect if we're offering them
25 for the truth that he should have taken pictures. I think

Lee Conley

Direct examination by Ms. Blanchette

1 testimony is sufficient moreso than -- than trying to show
2 pictures of houses that have changed in six years.

3 THE COURT: So these -- these photographs would have
4 been taken how long ago?

5 THE WITNESS: They were taken --

6 MS. BLANCHETTE: They would have been taken prior to
7 trial, which was held in 2008.

8 The incident occurred in 2006.

9 These pictures were taken in the last week of the
10 homes. Unfortunately, you know, I can't go back to 2008.
11 And we have the burden here. So I thought that there was
12 some need to provide a picture to go along with this
13 allegation.

14 MS. WHITE: Our argument is just it's not a fair and
15 accurate representation of the houses.

16 MS. BLANCHETTE: And if that's the state's argument,
17 I'm in no way attempting to allege that this is what the
18 houses looked like in 2008.

19 We just have the burden here, and this goes along with
20 an allegation that I'm going to get to -- into with my
21 client.

22 I can wait and attempt to introduce them at this
23 time -- at that time to tie in relevance. But this is the
24 witness that took the pictures. So that's why I was trying
25 to introduce them through her.

Lee Conley

Direct examination by Ms. Blanchette

1 THE COURT: All right. At this point I'm going to
2 sustain the objection, but I guess we'll see if you get
3 them in a different way.

4 MS. BLANCHETTE: Your Honor, can I just ask for some
5 clarification? Will there be any need to recall this
6 witness --

7 THE COURT: No.

8 MS. BLANCHETTE: -- as long as I lay the foundation
9 with her?

10 THE COURT: No. She's identified them. She's
11 identified them sufficiently.

12 MS. BLANCHETTE: Okay.

13 MS. WHITE: Thank you, Your Honor.

14 (Photograph marked Applicant's Exhibit No. 2 for
15 Identification.)

16 BY MS. BLANCHETTE

17 Q Ms. Conley, as part of your investigation did you also
18 go to the Spartanburg County Jail yesterday?

19 A Yes, I did.

20 Q Okay. And what did you go there for?

21 A I served a subpoena for -- keep separate records
22 between Kelvin McKinney and Mr. Teamer.

23 Q Okay. And what was the response you received to that
24 request?

25 A I spoke with a Major Urch, Neal Urch. And he

Lee Conley

Direct examination by Ms. Blanchette

1 indicated that their records from 2006 are all kept off
2 site archived and that we would be not able to retrieve
3 those, that information, in time for this hearing.

4 Q And what was the time span that he gave you would be
5 needed to retrieve those records?

6 A In this letter here he said 48 hours.

7 Q Okay. Is it your understanding it could be up to
8 seven days to retrieve those records?

9 A Yes, yes, ma'am.

10 Q He was able to confirm for you that there was a
11 separation order between Mr. McKinney and Mr. Teamer in
12 2008, is that correct?

13 A Yes. And he said that there was a keep-separate
14 between these two individuals in February of 2008. I've
15 been unable to locate one for November of 2006, but our
16 computer software changed in 2007. So those records would
17 assumably be in archives.

18 Q And, Ms. Conley, was this an issue that you discovered
19 needed to be further investigated yesterday after talking
20 to a witness that we will be calling today?

21 A Yes.

22 Q Okay. And before that it had not -- been brought to
23 your attention, is that correct?

24 A Correct.

25 Q Okay. And who is that witness that you spoke to and

Lee Conley

Direct examination by Ms. Blanchette

1 then determined that you needed to further investigate this
2 issue? who was the officer that you spoke with about the
3 jail and found out that you might need to further
4 investigate this issue?

5 A Ms. Speller -- Teresa Speller.

6 Q Okay.

7 MS. BLANCHETTE: Your Honor, at this time I would ask
8 the Court if we could possibly leave the record open to
9 obtain those records that came to our attention yesterday,
10 that there would be a record and classification as to
11 whether or not there was a keep-separate order between
12 Mr. McKinney and Mr. Teamer during November of 2006.

13 It's my hope that we could have those as early as
14 tomorrow, but it could be as long as seven days. And I'd
15 ask that we be allowed to supplement the record just with
16 the response that comes from the jail.

17 MS. WHITE: Your Honor, the state's only concern is
18 that obviously they're alleging this as a main part of
19 their argument, is that he was not able to speak with this
20 prior codefendant because of there having been a separation
21 order or something at that point.

22 And if there -- if the evidence does come through the
23 state would argue that we would need a chance to be able to
24 potentially call Major Urch or whoever had control of the
25 records to discuss that -- and had the opportunity to

Lee Conley
Direct examination by Ms. Blanchette

1 cross-examine on that.

2 So, you know, our objection would be obviously we --
3 we would object to keeping the record open for that. I
4 think that -- that this has been an issue that's been
5 raised, although the particular order was not. You know,
6 this case has been open for two years.

7 So I think with the discovery motion that had
8 previously been granted that this evidence could have come
9 forward with the, you know, obtaining of the other records
10 from S.C.D.C. or the detention center.

11 THE COURT: Well, Ms. Blanchette.

12 MS. BLANCHETTE: Yes, Your Honor. Just to respond, we
13 did have a discovery order in this case. We did serve a
14 subpoena on the jail.

15 I was not aware a record of this nature existed as we
16 were told in a letter that I admitted yesterday that most
17 records aren't -- co -- kept for more than five years.

18 I was not aware that this record existed until we
19 talked to Officer Speller who we will be calling when she
20 gets here as our next witness.

21 I plan to ask her about what the implications of a
22 keep-separate order would be -- would or wouldn't be,
23 whether one existed or not.

24 The record from the jail would just serve as
25 confirmation as to whether or not one existed. I plan to

Lee Conley

Direct examination by Ms. Blanchette

1 fully explore that issue with Officer Speller. And the
2 state would have the ability to cross-examine her on that
3 issue. She's the only witness that I plan to call on that
4 issue.

5 MS. WHITE: Obviously, we would say, yes, we could,
6 you know, test or cross-examine her on it, but I don't
7 think she has a personal knowledge of it.

8 THE COURT: I tell you what. I'm going to take this
9 issue under advisement. But for you to preserve it you've
10 got to renew it before we complete the proceedings in this
11 case. Does that make any sense?

12 MS. BLANCHETTE: I need to remember at 5:30 this
13 evening.

14 THE COURT: Yes.

15 MS. BLANCHETTE: When we are all tired, then I need
16 to renew the objection.

17 THE COURT: I put a note here, and my law clerk has a
18 note.

19 MS. BLANCHETTE: I'll make a --

20 THE COURT: We'll -- we'll revisit it to see whether
21 the state still wishes to have the additional right to
22 present testimony on this.

23 MS. WHITE: Thank you, Your Honor.

24 MS. BLANCHETTE: Your Honor, I have no further
25 questions of this witness.

Teresa Speller
Direct examination by Ms. Blanchette

1 THE COURT: Ms. White.

2 MS. WHITE: The state has no questions of this
3 witness, Your Honor.

4 THE COURT: You may step down.

5 MS. BLANCHETTE: Your Honor, if I could possibly beg
6 the Court's indulgence to see if my next witness -- is
7 here.

8 THE COURT: Perfect timing.

9 MS. BLANCHETTE: Your Honor, I would call Officer
10 Speller to the stand.

11 TERESA SPELLER, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MS. BLANCHETTE

14 Q Could you please state your name for the record?

15 A Teresa Speller.

16 Q And, Ms. Speller, where are you currently employed?

17 A With the Spartanburg County Sheriff's Department. I
18 work here at the courthouse.

19 Q Okay. In 2006 were you employed somewhere else?

20 A With the Spartanburg County Detention Facility under
21 Director Larry Powers.

22 Q Okay. And what was your role there at the detention
23 center?

24 A Classification, disciplinary hearings, overseeing the
25 staff and the inmates, answering to problems.

Teresa Speller
Direct examination by Ms. Blanchette

1 Q Okay.

2 MS. BLANCHETTE: And, Your Honor, I just need to
3 clarify one thing on the exhibits here real quick.

4 Q I'm going to show you what's been previously marked as
5 Plaintiff's Exhibit 1. Are you familiar with this
6 document?

7 A Yes, ma'am.

8 Q Okay. And have you had a chance to review that
9 document?

10 A Yes, ma'am.

11 Q Okay. And if you could, just identify what this
12 appears to be there at the top there, what it states.

13 A Current inmate population list.

14 Q Okay. And what's the date on the bottom of that?

15 A November 3rd of 2006 at 5:39 a.m.

16 MS. BLANCHETTE: Your Honor, at this time I'd move
17 this as Applicant's No. 3 for identification purposes.

18 MS. WHITE: Is this the --

19 MS. BLANCHETTE: This is the second one.

20 THE COURT: This is something new. Marked for
21 identification.

22 (Inmate list marked State's Exhibit No. 3 for
23 Identification.)

24 Q Finally, I'll hand you this if you can identify what
25 that appears to be for the record.

Teresa Speller
Direct examination by Ms. Blanchette

1 A Subpoena.

2 Q Okay. And who was it served on? Who does it say to
3 there?

4 A To the Spartanburg County Detention Facility at 950
5 California Avenue, Spartanburg. Attention: Hope Byers.

6 Q Okay. And what's the date there?

7 A August 29th of 2007.

8 MS. BLANCHETTE: Your Honor, at this time I'd move
9 this as Applicant's No. 4 for identification purposes.

10 THE COURT: Certainly.

11 (Subpoena marked Applicant's Exhibit No. 4 for
12 Identification.)

13 BY MS. BLANCHETTE

14 Q If you could look at these documents here, you've had
15 a chance to review each of these documents prior to today?

16 A Yes, ma'am.

17 Q Okay. And if you could look at the subpoena, attached
18 to it are two pages that appear to be some type of layout
19 there. Are you familiar with what this layout represents?

20 A Yes, ma'am, the pods or housing areas for the inmates.

21 Q Okay. And as far as you're familiar with the pods, is
22 this an accurate reflection?

23 A Yes, ma'am.

24 Q Okay. And if you could look at the other two
25 documents there, on Applicant's No. 1, where does it list

Teresa Speller
Direct examination by Ms. Blanchette

1 that Nathaniel Teamer was located?

2 A This says pod six, cell 34, bed A.

3 Q Okay. And if you could look on Applicant's No. 3,
4 where does it indicate that a Kelvin McKinney was housed?

5 A I think it's best -- I think it's cell ten, but it's
6 cut off here.

7 Q Okay. And if you --

8 A Cell ten, bed A.

9 Q And if you could also look on the first page, does it
10 have a listing for Mr. McKinney?

11 A Oh, yes.

12 Q And what does that have him located at?

13 A It says cell four, bed C.

14 Q Okay. And as you indicated, there's also a listing
15 for him being in cell ten.

16 A Right.

17 Q Okay. Now, if you could look back at that layout, are
18 cells 34 and ten on the same side of this layout?

19 A No, ma'am.

20 Q Okay.

21 A Ten is on the left and 34 is on the right side of the
22 pod.

23 Q Okay. And you're familiar with how the movement is
24 conducted in this pod, is that correct?

25 A Yes, ma'am.

Teresa Speller
Direct examination by Ms. Blanchette

1 Q Okay. Now, are both sides released from movement at
2 the same time?

3 A No, ma'am.

4 Q Okay. How does the movement work? If you could, just
5 explain that to me.

6 A It was -- it was a general population where everybody
7 that was assigned there came out together. But because of
8 the overcrowding and the special needs we split it up into
9 separate areas so the left side of pod six would come out
10 for so many hours and then go back into their cell. The
11 middle part of pod six would come out for so many hours and
12 then go back into their cells. And then the right side of
13 pod six would come out for so many hours and then go back
14 into their cells.

15 Q And if one inmate was located on the left side and
16 another inmate was located on the right side, they would
17 not be released at the same time, is that correct?

18 A If they were coming out for rotation for their dayroom
19 privilege, no.

20 Q Okay. Now, are inmates on opposite sides of the
21 pod -- are they allowed to go to each other's cells and sit
22 down and have conversations inside those cells?

23 A No. They're not supposed to.

24 Q Okay. Is there any time the inmates from two separate
25 sides would be allowed to converse? And, if so, how

Teresa Speller
Direct examination by Ms. Blanchette

1 would that occur?

2 A If attorneys would ask for, you know, codefendants or
3 for whatever reason attorneys ask, sometimes if they go out
4 for medical appointments or if they have special counselors
5 are into the pod, they have to get permission from the
6 officer.

7 Q Now, if there is a keep-separate order in place for
8 two inmates, what does that imply? What is the procedure
9 that goes along with that?

10 A Usually during the -- the classification period you
11 try to find out from the inmates themselves if there's
12 anybody inside the jail they need to be separated from or
13 if they've gotten into arguments or fights with other
14 inmates. The classification officer would tag their name
15 on the -- in the computer system as keep-separate so that
16 they wouldn't come out during rotations together.

17 Q And if there was a computer record that said two
18 inmates were to be kept separate, there'd be no question
19 that's what was done at the facility, at the jail, at that
20 time. That would be followed.

21 A Right.

22 Q Okay. And typically -- you said you worked in
23 classification. If two inmates were codefendants on a case
24 would they be flagged for a keep-separate order?

25 A Yes, if we're aware of it.

Teresa Speller
Direct examination by Ms. Blanchette

- 1 Q Okay.
- 2 A Sometimes you don't find out until -- well, it could
3 be a day, could be a week, could be a month, could be a
4 year before attorneys or detectives in a case will tell
5 you -- ask you, you know, to separate them.
- 6 Q Are you familiar with attorney Joshua Schultz here in
7 Spartanburg?
- 8 A Yes, ma'am.
- 9 Q Okay. In November of 2006 or in that time leading up
10 to January of 2008 did he ever contact you to obtain
11 information or to discuss information about the location of
12 Mr. McKinney or Mr. Teamer during November of 2006?
- 13 A Without Mr. Teamer's booking file or the computer
14 access, I don't remember 2006 having a conversation.
- 15 Q Okay. Do you remember ever receiving a subpoena to
16 come to court to testify?
- 17 A For this hearing?
- 18 Q No, back in 2008, in January of 2008.
- 19 A I don't remember.
- 20 Q Okay. And did you ever testify in court at
21 Mr. Teamer's trial regarding this information?
- 22 A No. I don't think so.
- 23 Q If you'd received a subpoena or Mr. Schultz had
24 contacted you and told you that he needed you to testify
25 would you have been willing to testify much like you have

Teresa Speller
Cross-examination by Ms. White

1 here today?

2 A Yes, ma'am.

3 MS. BLANCHETTE: Your Honor, if I could just beg the
4 Court's indulgence one moment.

5 THE COURT: All right.

6 (Pause.)

7 MS. BLANCHETTE: Your Honor, I have no further
8 questions of this witness.

9 THE COURT: Ms. White.

10 MS. WHITE: Thank you.

11 CROSS-EXAMINATION

12 BY MS. WHITE

13 Q Officer Speller, tell me a little bit about back in
14 late 2006. The incident -- I guess the communication that
15 we're talking about -- supposedly occurred around November
16 of 2006. At that time how many officers monitored each
17 pod?

18 A One.

19 Q And within each pod what's an estimate of how many
20 inmates were in there?

21 A 130 to 150. Sometimes 170.

22 Q So anywhere from 130 to 170 inmates at a time
23 monitored by one officer?

24 A Yes, ma'am.

25 Q You said that because of the overcrowding they tried

Teresa Speller
Cross-examination by Ms. White

1 to have each of the separate areas go out at separate
2 times.

3 A Yes, ma'am.

4 Q And that was for what kind of event? You said it --
5 was it dayroom privileges?

6 A Dayroom privileges, yes, ma'am.

7 Q And that was including going out to smoke and things
8 like that?

9 A Well, they can go out on the rec yard. They could sit
10 at the table and play cards or read their books, watch
11 television.

12 Q Okay. And while the transfer of folks was happening
13 and the group was coming out was it still one officer
14 monitoring those that were coming out and going in?

15 A Yes, ma'am.

16 Q All right. Now, even though the inmates were not
17 supposed to communicate are you aware if -- you know, under
18 no fault of the detention center -- were they able to
19 sometimes communicate?

20 A Yes, ma'am.

21 Q And how did that happen sometimes? What were some of
22 the methods that they would use to be able to communicate
23 outside of their normal separate times?

24 A Well, there -- if there -- if there were a rotation
25 taking place where all the inmates were out of their cell,

Teresa Speller
Cross-examination by Ms. White

1 were allowed dayroom privilege, then you would also have
2 the booking officer sending inmates down to be assigned to
3 the cell.

4 And oftentimes because it's an intake and evaluation,
5 which is where a majority of the male inmates go the first
6 time to be housed before they're classified and medical
7 screening, that, you know, when they would walk in the
8 officers would try to pay attention to if, you know, they
9 would holler out for one another, you know, they would see
10 friends or family members in the pods, or gang members, and
11 throw up signs or whatever.

12 You know, and sometimes you'd find out even after they
13 told you that they had no separatees, sometimes you'd find
14 out that once the booking officer sent them down that they
15 had an inmate, because as soon as they walked in to be
16 assigned to a cell they'd run across the pod or whoever was
17 out in the day area would run to them, and sometimes they'd
18 get into a verbal argument or a physical argument.

19 There's also times when the inmates are supposed to go
20 back into their cells when their dayroom privilege is over
21 or if the officer has instructed them to for one reason or
22 another and they will slide things into their locking
23 device so that the door wouldn't secure, which would enable
24 them to come out whenever they wanted to to go out to the
25 rec yard or to meet up with someone or to get on the

Teresa Speller
Cross-examination by Ms. White

1 telephone or slide into somebody else's cell so they can
2 play cards or talk or, you know, whatever they want to do.

3 There's also what we called an inmate phone system,
4 which is they communicate through the air vents.

5 Q Okay. So obviously one officer there in charge of
6 that many people --

7 A It was difficult.

8 Q It was difficult to maintain contact and to maintain,
9 I guess, the rules that they were not supposed to have
10 communication with each other.

11 A Yes, ma'am.

12 Q Okay. In regards to a keep-separate order, you
13 mentioned that sometimes they come in with those based on
14 the facts, and sometimes you wouldn't find out until later.

15 A Yes, ma'am.

16 Q Now, if somebody was charged with a crime months later
17 would you go back and then put a keep-separate order if
18 people were in the jail together?

19 A Yes, ma'am. If we're aware of it.

20 Q Okay. All right. And so at the time you don't have
21 any personal knowledge of whether or not there was an order
22 instructing Mr. McKinney or Mr. Teamer to stay separate
23 around November of 2006, do you?

24 A No, ma'am.

25 Q Okay. And you don't have any knowledge as to whether

Teresa Speller
Redirect examination by Ms. Blanchette

1 or not they were currently codefendants on any charges at
2 that time.

3 A No, ma'am.

4 Q Okay. That is all I have. Thank you, Officer
5 Spelling.

6 MS. BLANCHETTE: Very briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. BLANCHETTE

9 Q At the trial in this case inmate Kelvin McKinney
10 stated that he walked into the room or the cell of
11 Mr. Teamer, the applicant, and that they talked, sat down
12 and talked, and it was somewhat of an extensive
13 conversation. Even though there's one officer would it be
14 typical --

15 MS. WHITE: If I can just stop.

16 I know counsel keeps saying that Mr. McKinney walked
17 into Mr. Teamer's. I need to point out a reference,
18 because the transcript where I'm reading is Charlie Teamer
19 went into Kelvin McKinney's cell.

20 MS. BLANCHETTE: Okay. There are two references, 241
21 and 251, but I can use the one that you're talking about.

22 MS. WHITE: Okay. I just wanted to make sure.

23 BY MS. BLANCHETTE

24 Q On 251 of the transcript it says that Mr. Teamer
25 walked into Mr. McKinney's cell and had an extensive

Teresa Speller
Redirect examination by Ms. Blanchette

1 conversation with him. Even though there's one officer,
2 would an officer typically not catch the fact that an
3 inmate was in the wrong cell sitting down and having an
4 extensive con -- or having an extensive conversation?

5 A Unfortunately, no, because the officer -- one officer
6 is in charge of distributing medications, meals, laundry,
7 sometimes inmates, because it's a special needs unit, also.

8 Sometimes there's somebody in distress. That officer
9 may be in that cell with that individual at that time.
10 Unfortunately, is when -- if inmates have their cell doors
11 rigged, is when they come sliding out, when that officer is
12 occupied.

13 Sometimes there's an argument and the officer is
14 trying to stop it from becoming a physical altercation.

15 If the inmate has special medications and he has to
16 escort him to the medical room, which is inside of the pod,
17 he'll step in, step out, step in, step out. But,
18 unfortunately, because there is other movement from the
19 other day area, people out with day area privilege, no.
20 He, unfortunately, does not catch everyone who slides into
21 someone else's cell they're not supposed to be in.

22 Q If one of those circumstances that you've just
23 explained happened so that an inmate that was not allowed
24 to be on that side of the pod snuck into another inmate's
25 cell, was having extensive conversation and he was caught,

Teresa Speller
Redirect examination by Ms. Blanchette

1 what would be the repercussions of that?

2 A The officer would document it on an incident report
3 and forward it for further like a disciplinary hearing.

4 He could also call the supervisor, which it's up to
5 the supervisor to determine whether or not that person
6 needs to be moved out of that unit or just simply escorted
7 back to his assigned cell until he had a disciplinary
8 hearing.

9 Q So there would be repercussions for such actions
10 because that was not allowed --

11 A Right.

12 Q -- according to the rules and procedures, is that
13 correct?

14 A Yes, ma'am.

15 Q Okay.

16 MS. BLANCHETTE: Your Honor, I have no further
17 questions.

18 Oh, just one second. I beg the Court's indulgence.

19 THE COURT: All right.

20 (Pause.)

21 BY MS. BLANCHETTE

22 Q Do you know, are the cell doors locked for the two
23 portions of the pod that are not on movement or not on
24 rotation?

25 A Yes, ma'am. They're supposed to be.

Teresa Speller

Redirect examination by Ms. Blanchette

1 Q So when one side is on rotation the opposite side
2 should be locked in their cells, is that correct?

3 A Yes, ma'am.

4 Q So how would an inmate be able to access a locked
5 door?

6 A The only thing we -- we -- we say that because they
7 have so many -- so much time on their hands that they're
8 able to undo whatever it is that we -- we have in place.

9 They peel the rubber from the windows of the cell and
10 stick it into the locking device which somehow shows on the
11 officer's panel that the door's secure, but it's not.

12 Some of them slide cards or the plastic combs into the
13 locking device to keep the door from locking. And so, you
14 know, they're just able to slide in and out on some of the
15 cells.

16 Some of the doors are harder for them to get out of
17 than others, but they're able to do it.

18 Q Based upon those records that I've showed you it
19 appears if you could look at each page of Mr. -- I'll tell
20 you which exhibit it is to help you out here. If you
21 could, look at each page of Plaintiff's Exhibit No. 1. And
22 if you could look at the listing for Mr. Teamer and the
23 date, and just look as those yourself briefly if you could
24 flip through each page, and just check his location on each
25 one of those pages, please.

Teresa Speller
Redirect examination by Ms. Blanchette

1 (Pause.)

2 Q Where does it appear that Mr. Teamer was housed on
3 every page there? What cell was he located in?

4 A Cell 34, Bed A.

5 Q Okay. And those are for multiple dates during the
6 move of November, is that correct?

7 A Yes, ma'am.

8 Q And so it appears that he was never moved out of his
9 cell.

10 A Correct.

11 Q Now, if you had an inmate that was -- had been
12 sneaking out of their cell and jamming the doors or moving
13 at a time they should not be would it be typical procedure
14 to move that inmate to another location?

15 A He was already in a disciplinary cell, and so I can't
16 really say yes.

17 I mean, if he were a model inmate he would have been
18 in general population. But the side that he was assigned
19 to were behavior problems. So he was already in a
20 disciplinary cell. And if he -- if we had had a place open
21 in like our maximum security unit -- saying, unfortunately,
22 same result, because although they're not able to actually
23 break out of the pod they are actually able to break out of
24 their cells, whether he's in disciplinary pod six or
25 disciplinary pod five.

Teresa Speller

Redirect examination by Ms. Blanchette

1 Q And one more question. If he had been known to be
2 breaking out of his pod on rotation to go visit someone in
3 that same pod --

4 A Uh-huh.

5 Q -- would you have all left the two of them in that
6 same pod together?

7 A Again, we were overcrowded, and, unfortunately, a lot
8 of these gentlemen come in with so many separatees there's
9 nowhere else to move them. And in normal cases if we had
10 enough room we would have separated them by the pod, one in
11 one pod and one in another pod. But because we have to
12 break the pods down into separate areas some of them have
13 three and four codefendants in -- in one area. Some of
14 them have people that they've been in fights with in one
15 pod. But we can only separate them by their rotation
16 schedule.

17 Q If Mr. Schultz had contacted you any time between 2006
18 and 2008 when you were still working at the jail would you
19 have had access to records to help verify some of these
20 questions we've been throwing at you today?

21 A Yes, ma'am.

22 Q Okay. And you do not have access to those records any
23 longer, is that correct?

24 A Yes, ma'am.

25 Q And it's my understanding based upon a discovery

Teresa Speller
Recross-examination by Ms. White

1 request that I did that a majority of the records at the
2 jail are only maintained for a period of five years. Are
3 you aware of that?

4 A Yes, ma'am.

5 Q And a number of these issues that we've gone into
6 today, do you even know if those records would still be
7 available to verify these questions that we've been asking?

8 A It should be.

9 Q With it being greater than five years?

10 A Well, I mean, it's five years like if it's -- if the
11 record's standing unused. If somebody returns, then we
12 just continue the file.

13 Q Okay.

14 MS. BLANCHETTE: Your Honor, I have no further
15 questions.

16 THE COURT: Recross?

17 MS. WHITE: Just one brief question.

18 RECROSS-EXAMINATION

19 BY MS. WHITE

20 Q Officer Speller, do you have any personal knowledge of
21 whether or not there was any disciplinary procedures or
22 anything put into place as to either Mr. McKinney or
23 Mr. Teamer being caught being out of their cell?

24 A I don't recall.

25 Q Okay. So you don't if they were in each other's cells

Lee Conley
Direct examination by Ms. Blanchette

1 or if they were caught in each other's cells --

2 A No, ma'am.

3 Q -- during that time.

4 Thank you.

5 MS. WHITE: That's all I have.

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

7 MS. BLANCHETTE: Your Honor, I need to briefly recall

8 Lee Conley to the stand.

9 THE COURT: Certainly.

10 LEE CONLEY, having been

11 previously duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MS. BLANCHETTE

13 THE COURT: You're still under oath.

14 Q Ms. Conley, I'm going to hand you what's previously
15 been marked as Applicant's No. 2 for identification
16 purposes only. And you've previously identified those as
17 the two pictures of the houses or pictures you took of
18 houses on Breeze Street here in Spartanburg, South
19 Carolina, is that correct?

20 A Yes, ma'am.

21 Q Okay. And just to clarify, which one was the second
22 house on the left?

23 A 467.

24 Q And what color is that house?

25 A White.

Lee Conley

Direct examination by Ms. Blanchette

1 Q Okay. And you went -- you went and found that house
2 and verified that address, is that correct?

3 A Yes. It's still on the house.

4 Q Okay.

5 MS. BLANCHETTE: Your Honor, I have no further
6 questions.

7 MS. WHITE: Nothing, Your Honor.

8 THE COURT: You may step down again.

9 MS. BLANCHETTE: Your Honor, if I could just beg the
10 Court's indulgence briefly, I need to verify something
11 before I call my next witness.

12 THE COURT: That's fine. We'll be at ease for a
13 moment.

14 (Pause.)

15 MS. WHITE: I don't know if you have the map from
16 yesterday.

17 THE COURT: I do.

18 MS. WHITE: I had made some additional copies to kind
19 of give you another copy, but I think at this point maybe
20 we can just have that again introduced as Court's Exhibit 1
21 or have that just given to you as a reference. I don't
22 know if it needs to be in the record.

23 MS. BLANCHETTE: I think for the record it needs to be
24 one again.

25 THE COURT: I tell you what. It would help me if you

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 could tell me. Is it Brief Street?

2 MS. WHITE: Do you want us to point kind of to --

3 THE COURT: What part of the map is that on?

4 MS. WHITE: Top kind of to the right.

5 THE COURT: All right.

6 MS. WHITE: And it might help. We can go up there and
7 kind of show you if you don't mind, Your Honor, the streets
8 that we're probably going to be --

9 THE COURT: I see Breeze Street now. Okay.

10 (Bench conference held off the record.)

11 (Map was not submitted to be marked.)

12 MS. BLANCHETTE: Your Honor, I would call Daisy Teamer
13 to the stand.

14 DAISY LANE FEASTER, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MS. BLANCHETTE

17 Q Could you please state your name for the record,
18 please?

19 A My name is Daisy Lane Feaster.

20 Q Okay. And where do you reside, Ms. Feaster?

21 A [REDACTED] Street, Spartanburg.

22 Q Okay. And how is it that you know Nathaniel Teamer?

23 A I met him through a family member.

24 Q Okay. And did you, in fact, testify at his burglary
25 trial?

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 A I wasn't able. I was sick.

2 Q At his first trial did you testify as one of his alibi
3 witnesses?

4 A I wasn't able. I was sick.

5 Q Okay. Let me show you the record to help refresh your
6 memory. We're here on two cases. So may have you just a
7 little confused.

8 For your reference, this is the record of the trial
9 held September 10th through 2nd [sic] of 2007. And I'm
10 going to direct your attention here to page 403. Does that
11 refresh your memory as to whether or not you testified at
12 the burglary trial?

13 A I didn't testify. I was sick.

14 Q Okay. Just take a moment to look at this,
15 Ms. Feaster. Here at the beginning it has the date. And
16 this is for the burglary trial, September 10th through
17 2nd [sic] of 2007. This was the first trial.

18 Do you recall here where you were called as a witness
19 and testified?

20 A I didn't testify. I was sick.

21 Q Okay. Do you understand there were two trials in this
22 case?

23 A Excuse me?

24 Q Do you understand that there were two trials of
25 Mr. Teamer?

Daisy Lane Feaster
Direct examination by Ms. Blanchette

- 1 A Yes.
- 2 Q Okay. Do you recall testifying at one of those
- 3 trials?
- 4 A No.
- 5 Q Okay. You don't recall testifying at all.
- 6 A I was sick.
- 7 Q Okay. Ms. Feaster, let me show you this right here.
- 8 This was State's Exhibit No. 69 at the murder trial.
- 9 A That's my house.
- 10 Q Okay. And could you identify what that appears to be?
- 11 A [REDACTED] Street.
- 12 Q And that's where you reside?
- 13 A Yes.
- 14 Q Okay. And who resided there with you?
- 15 A Me, my mother and my daughter and my cousin.
- 16 Q Okay. And what was your daughter's name again?
- 17 A Ieshia Feaster.
- 18 Q Okay.
- 19 MS. BLANCHETTE: Your Honor, at this time I would move
- 20 this in as Applicant's No. 4, I believe, or is it 5 -- 5.
- 21 MS. WHITE: With no objection, Your Honor.
- 22 THE COURT: Without objection.
- 23 (Photograph previously marked State's Exhibit No. 69
- 24 marked Applicant's Exhibit No. 5.)
- 25 Q And you said that house is located on what street?

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 A South Center.

2 Q okay. And let me show you a picture of a white house
3 that has previously been marked as Applicant's No. 2 for
4 identification purposes.

5 Do you recognize that white house in that picture?

6 A Yes. Both of them.

7 Q okay. And where are those houses located?

8 A On Breeze Street.

9 Q okay. And how is it that you're familiar with those
10 houses?

11 A Because actually Breeze Street set like behind where I
12 live.

13 Q okay.

14 A Like it's Arch Street, and then you cross over Arch
15 Street. There's another little street. And Breeze Street

16 be the next street on the right.

17 Q okay. And about how far is that if you're walking to
18 get to those houses from your house?

19 A It won't take five minutes.

20 Q okay. Okay. Were you familiar at all with what these
21 houses looked like back in 2006 -- 2006 to 2008?

22 A They basically looked the same.

23 Q I'm sorry. Could you answer that, as to how did they
24 look?

25 A I say they basically looked the same.

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 Q Okay. So you've seen these houses recently, correct?

2 A Uh-huh.

3 Q And that's an accurate picture of what they look like
4 today?

5 A Uh-huh.

6 Q And in 2008 you were regularly going by those houses,
7 is that correct?

8 A Yeah, not regularly, but I went by them.

9 Q Okay. And they looked substantially the same in 2008.

10 A Uh-huh.

11 Q Okay. Do you remember back as far as 2006?

12 A Yes.

13 Q Okay. Did they look substantially similar in 2006?

14 A Yes.

15 Q Okay.

16 MS. BLANCHETTE: Your Honor, at this time I'd renew my
17 attempt to introduce these pictures into evidence.

18 MS. WHITE: Your Honor, you know, I still think it's
19 her identification. Unfortunately, you know, she doesn't
20 recall testifying at a trial in 2007. So I don't know that
21 she can recall what houses looked like in '06 and '08
22 but --

23 THE COURT: She says she can.

24 MS. WHITE: You're correct, Your Honor.

25 THE COURT: Overrule the objection.

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 MS. WHITE: Thank you.

2 MS. BLANCHETTE: And, Your Honor, I have a couple of
3 more questions for this witness. And I'm assuming these
4 are introduced into evidence at this time.

5 THE COURT: They are.

6 MS. BLANCHETTE: If I could beg the Court's
7 indulgence.

8 (Photograph previously marked State's Exhibit No. 69
9 previously marked Applicant's Exhibit No. 5.)

10 BY MS. BLANCHETTE

11 Q MS. Feaster, were you aware of the fact that Nathaniel
12 went to -- Nathaniel Teamer went to trial on murder charges
13 in January of 2008?

14 A Yes. I was here every day up until the day I was
15 supposed to testify. I was sick.

16 Q Okay. And so you're talking about the murder trial
17 that you were sick, is that correct?

18 A I was supposed to testify for the -- the hearing with
19 the car part, whatever it was.

20 Q Okay.

21 A Not for the murder trial. But I didn't testify for no
22 trial. I was here every day up until the time I was
23 supposed to testify. I was sick.

24 Q Okay. Do you recall your daughter testifying at the
25 murder trial?

Daisy Lane Feaster
Direct examination by Ms. Blanchette

1 A Yes. My daughter testified.

2 Q Okay. And if Mr. Schultz would have needed you to
3 testify at the murder trial would you have been willing to
4 do that?

5 A Well, I couldn't that day because I was sick. I was
6 here every day up until that day.

7 Q Okay.

8 A I wasn't able.

9 Q But if you weren't sick you would have been ready,
10 willing and able to help.

11 A Yes.

12 Q To testify and to help Mr. Schultz in any way that he
13 needed.

14 A Yes.

15 Q Okay.

16 MS. BLANCHETTE: Your Honor, I'm sorry, but I need to
17 beg the Court's indulgence one more time.

18 THE COURT: That's fine.

19 (Pause.)

20 BY MS. BLANCHETTE

21 Q How long were you sick, do you remember?

22 A I was sick about three or four days.

23 Q Okay. So if the matter would have been postponed a
24 couple of days you may have been well and able to testify.

25 A Yes.

Daisy Lane Feaster
Cross-examination by Ms. White

1 MS. BLANCHETTE: Your Honor, at this point I have no
2 further questions.

3 THE COURT: Cross-examination.

4 MS. WHITE: Thank you, Your Honor. One moment,
5 please. I'm going to pull up the pages that I need here.

6 And, Your Honor, I believe we have incorporated the --
7 the burglary transcript as well in with this case.

8 THE COURT: Let's make sure for the record though that
9 we have it.

10 MS. BLANCHETTE: Yes, Your Honor. We would like both
11 transcripts incorporated into the record for both P.C.R.
12 applications.

13 THE COURT: I think that is by stipulation.

14 MS. WHITE: Okay. Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. WHITE

17 Q Now, Ms. Feaster, you testified that you would have
18 been willing to testify at the murder trial had you not
19 been sick.

20 A Yes.

21 Q And to your understanding -- had you met with Josh
22 Schultz, Mr. Teamer's attorney?

23 A Yes. He actually sent his paralegal or whoever out to
24 my house to see was I sick.

25 Q Okay. And what did you discuss was going to be your

Daisy Lane Feaster
Cross-examination by Ms. White

1 testimony? What were you offering, I guess, as testimony
2 from Mr. Teamer had you testified that time?

3 A What I was offering was that Charlie called into my
4 house about 8:30 or 9:00 o'clock and told me that he was
5 outside waiting on my daughter. He had talked to her and
6 she was on her way home. And he was there. That's what I
7 was going to testify to.

8 Q And he was at the house?

9 A Yes, he was at the house. And I left with my cousin
10 to go look for a T.V. And when I returned to the house
11 about 12:00 he was there.

12 Q Okay.

13 MS. WHITE: If you'll give me just one minute, Your
14 Honor.

15 (Pause.)

16 Q Now, I know you testified that you did not testify --

17 A I didn't testify.

18 Q -- at this burglary.

19 A I didn't.

20 Q So when the transcript reflects that you said that
21 Charlie called you about something after 8:00, called you
22 to tell you he was waiting outside on the daughter --

23 A Yes. And it wasn't unusual for him to do that. If he
24 come before my daughter get home, he'll let me know he's
25 outside.

Daisy Lane Feaster
Cross-examination by Ms. White

1 Q So when you -- when the transcript reflects that, you
2 are saying that you never said that in trial?

3 A I never testified at the trial. I said that in my
4 statement, but I never testified at the trial.

5 MS. BLANCHETTE: Your Honor, I'd object. This has
6 been asked and answered.

7 MS. WHITE: I'm asking specific facts, Your Honor, to
8 try to clarify.

9 THE COURT: Overruled -- overruled.

10 Go ahead.

11 BY MS. WHITE

12 Q Okay. And when you testified that you said you got
13 back from Wal-Mart after 11:00, it was more like 12:00, you
14 and your cousin had got back from Wal-Mart as you just
15 stated --

16 A Okay. But I didn't testify in the first trial.

17 Q Okay.

18 MS. BLANCHETTE: Your Honor, I would object and ask
19 that this be provided to refresh her memory if she's going
20 to be asked specific questions about what she did or did
21 not testify to so she can have a reference if she's
22 attempting --

23 A No. I didn't testify to anything because I didn't
24 even testify in the first trial.

25 Q I'm going to have you look if you would with me.

Daisy Lane Feaster
Cross-examination by Ms. White

- 1 A It doesn't matter. I didn't testify in the first
2 trial. You can't show me nothing in there that I said in
3 the first trial when I didn't testify in the first trial.
4 Q Okay. This is a transcript of the record
5 September 10th through 12th of 2007, State vs. Nathaniel
6 Charles Teamer.
7 A Okay.
8 Q Read for me the name it says right there.
9 A It says Daisy Lane Feaster, but that's a lie because I
10 didn't testify in the first trial. I gave a statement, but
11 I did not testify.
12 Q Okay. So the testimony that it shows in the
13 transcript that goes through page 407 you claim is all a
14 lie.
15 A I -- I didn't testify in the first trial. I gave a
16 statement, but I did not take the stand in the first trial.
17 Q So that does not refresh your memory as to the
18 testimony.
19 A I didn't testify in the first trial.
20 Q Okay. So had you testified at the murder trial --
21 A I didn't testify in nary trial.
22 Q Had you testified at the murder trial, Ms. Feaster,
23 you said your testimony was going to be that you had seen
24 Mr. Teamer at 8:00 something that night when he called, and
25 after 11:00, is that correct?

Daisy Lane Feaster
Cross-examination by Ms. White

1 A I wasn't a witness for the murder trial.

2 Q Ms. Feaster, a few minutes earlier I asked you --

3 A I wasn't a witness for the murder trial.

4 THE COURT: Ms. Feaster, let her finish her question.

5 Okay?

6 THE WITNESS: Okay. All right.

7 BY MS. WHITE

8 Q I asked you what you would have testified to had you
9 been called as a witness.

10 A Okay.

11 Q You said you were going to tell the Court if you had
12 testified that Mr. Teamer had called and said he was
13 waiting on your daughter, you went to look at a T.V. with
14 your cousin and got back after 11:00 sometime, is that
15 right?

16 A Yes, but I -- just --

17 Q That's --

18 A Okay. Yes, ma'am.

19 Q That's all I have.

20 MS. WHITE: Thank you, Your Honor.

21 A Yes, ma'am.

22 MS. BLANCHETTE: I have nothing further, Your Honor.

23 THE COURT: Thank you, Ms. Feaster. You may step
24 down.

25 THE WITNESS: All right. Thank you.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 MS. BLANCHETTE: Your Honor, I would call Nathaniel
2 Teamer to the stand.

3 Your Honor, if I may approach, I have a copy of the
4 remaining exhibits we plan to introduce today.

5 THE COURT: All right. Thank you.

6 NATHANIEL TEAMER, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MS. BLANCHETTE

9 Q Could you please state your name for the record?

10 A Nathaniel Teamer.

11 Q And, Mr. Teamer, we're here today because you filed a
12 P.C.R. application docketed at 2010-CP-42-4181, is that
13 correct?

14 A Yes, ma'am.

15 Q Okay. And what charges were you convicted of that led
16 you to filing that application?

17 A Murder and assault and battery with intent to kill.

18 Q And what sentence are you currently serving for those
19 charges?

20 A A life sentence for the murder and 20 years for the
21 assault and battery.

22 Q Who represented you on those charges?

23 A Joshua Schultz.

24 Q Okay. And when did the trial occur in this case?

25 A January 14th of 2008.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And just to clarify because we've been already
2 talking about two trials this morning, and I don't want
3 anybody to be confused, you had previously been tried on
4 burglary charges and armed robbery charges in 2007, is that
5 correct?

6 A Yes, ma'am.

7 Q And did Mr. Schultz also represent you on those
8 charges?

9 A Yes, ma'am.

10 Q And the Court has agreed that we will include the
11 transcript from that previous trial as part of the record
12 in this case today. Do you agree with that?

13 A Yes, ma'am.

14 Q Okay. Now, after you were convicted at your first
15 trial did you remain in the county jail or were you

16 transferred to the South Carolina Department of
17 Corrections?

18 A I was transported to South Carolina Department of
19 Corrections.

20 Q Okay. And once you went to the South Carolina
21 Department of Corrections did you meet any more with
22 Mr. Schultz to prepare for your trial in 2008?

23 A Yes, ma'am. He brought me back up about December of
24 2007, but I requested to be sent back so I can go to the
25 law library, so one or two times or more.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. So he actually had you transferred here to
2 Spartanburg the month before your trial so you all could
3 prepare.

4 A Yes, ma'am.

5 Q Okay. Now, did you have the opportunity to go over
6 the discovery in this case with him?

7 A He gave me a couple of paperwork, but, like he said
8 yesterday, he was really preparing for the murder before
9 the September 7.

10 Q Okay. And do you know if he utilized a private
11 investigator in this case?

12 A He had a dude come and talk to me one time, but he
13 ain't never show up at trial. I don't think Wendy was a
14 part of the murder.

15 Q Okay. But you're not absolutely certain, is that
16 correct?

17 A Yes, ma'am.

18 Q Okay. And did you all talk about witnesses to be
19 utilized in this murder trial?

20 A Yes, ma'am.

21 Q Okay. And do you know if he spoke with those
22 witnesses and did the investigation you requested regarding
23 those witnesses?

24 A I think he talked to Iesha and Elaine, but the only
25 two that he used on my behalf, but he had -- I had

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 cellmates and McKinney had cellmates. As far as them
2 witnesses he ain't ever get back with me on them witness.
3 And I had a Rick Bartlett, and never talked to him either.
4 Q Okay. Let's go through each of those people that you
5 mentioned.

6 You said you had cellmates. Is that James Humphries
7 that we called today?

8 A Yes, ma'am.

9 Q And why did you want him to talk to James Humphries?

10 A Because he -- it was actually Joshua Schultz's idea
11 that he get my cellmates and McKinney's cellmate to see how
12 this conversation never occurred or was it possible for it
13 to occur.

14 Q And do you know if he ever spoke with Mr. Humphries?

15 A Not to my knowledge, no, ma'am.

16 Q Okay. And Mr. Humphries was your cellmate throughout
17 the entire month of November, is that correct?

18 A Yes, ma'am.

19 Q And that is when Mr. McKinney alleged this
20 conversation took place.

21 A Yes, ma'am.

22 Q Okay. Now, did you ask him to talk to somebody at the
23 jail and get records at the jail regarding the movements in
24 pod six wherever you and Mr. McKinney were located?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 Q Okay. And we'll get into that further, but do you
2 know if he did that on your behalf?
- 3 A He had the blueprint of pod six. He gave me the
4 records of that, and then he had the cell numbers we was
5 in. Then he say he would subpoena Captain Speller, but she
6 ain't never testify in my trial.
- 7 Q And that would be Ms. Speller that was here today, is
8 that correct?
- 9 A Yes, ma'am.
- 10 Q And you were familiar with her when she was working at
11 the jail?
- 12 A Yes, ma'am.
- 13 Q Okay. And then you also asked him to talk to and
14 utilize Iesha and Ms. Elaine Feaster, is that correct?
- 15 A Yes, ma'am.
- 16 Q And he didn't call Elaine Feaster as a witness at your
17 murder trial, correct?
- 18 A No, ma'am.
- 19 Q Okay. And do you have personal knowledge as to why
20 she was not used or why she wasn't available to testify?
- 21 A They said she got sick during the course of the trial.
- 22 Q Okay. Did your attorney ever bring that to the
23 Court's attention so that he could attempt to provide her
24 testimony in some other fashion or at another time?
- 25 A No, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And you also mentioned a Rick Bartlett. Who
2 was he and why did you want him spoken to?

3 A Rick Bartlett was one of the passengers earlier in the
4 car with Tony Hunter and Mr. Proctor. And I bumped into
5 him in Kirkland, and he actually told me a whole different
6 event of what was supposed to have happened. And I felt
7 like that was significant to my case.

8 Q And Mr. Bartlett was with the victims that night, is
9 that correct?

10 A Yes, ma'am.

11 Q And you had first-hand knowledge or you had a
12 conversation with him that you conveyed to your attorney,
13 is that correct?

14 A Yes, ma'am.

15 Q And so what did you ask him to do after you conveyed
16 that information to him?

17 A To get in touch with Rick Bartlett.

18 Q Okay. And as part of your P.C.R. did you actually ask
19 Ms. Conley to try to get in touch with Mr. Bartlett?

20 A Yes, ma'am.

21 Q Okay. And what was the result of that attempt, do you
22 know?

23 A I think he moved out of the state or something.

24 Q Okay. Okay. Were there any other witnesses that you
25 asked him to speak to, investigate or call on your behalf?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A No, ma'am, not that I can think of.
- 2 Q Did you all ever talk about using any experts?
- 3 A Oh, I asked him about a D.N.A. expert possibly test
- 4 the cigarette butt. That was the only D.A. -- D.N.A.
- 5 alleged in my case.
- 6 Q Okay. So you asked him questions about D.N.A. and
- 7 asked about an expert. What was his response?
- 8 A He said he was going to see, but he never got back
- 9 with me on it.
- 10 Q Okay. And was a D.N.A. expert utilized at your trial?
- 11 A No, ma'am.
- 12 Q Did you all talk about any exhibits or putting
- 13 together information? Because this case gets a little
- 14 complicated. Putting together exhibits to help the jury
- 15 better understand things like the timeline or the locations
- 16 or the cell phone records?
- 17 A Yes, ma'am. He supposed to have had some little stuff
- 18 set up with the cell phone records and the pods and
- 19 different diagrams like that.
- 20 Q Okay. Do you specifically remember talking about
- 21 getting a large-scale map so the jury could understand
- 22 where these events took place?
- 23 A I think him and the state -- he was using going off
- 24 the state maps, I guess.
- 25 Q Okay. But did you all ever talk about using your own

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 map?

2 A Yes, ma'am.

3 Q Okay.

4 MS. BLANCHETTE: Your Honor, I assume you don't want
5 me to ask to approach.

6 THE COURT: No. Please do.

7 BY MS. BLANCHETTE

8 Q Mr. Teamer, could you identify what this appears to be
9 for the record?

10 A It's a email from Josh Schultz to Wendy, private
11 investigator.

12 Q Okay. And what's the date on that?

13 A August the 28th of 2007.

14 Q And was this contained in the discovery materials or
15 the file materials you got from Mr. Schultz?

16 A Yes, ma'am.

17 Q Okay.

18 MS. BLANCHETTE: Your Honor, at this time we would
19 move to introduce this as Applicant's No. 6.

20 THE COURT: Without objection.

21 MS. WHITE: Without objection.

22 (Email marked Applicant's Exhibit No. 6.)

23 Q Mr. Teamer, you've reviewed this email, and there is
24 he indicating -- he's talking about getting a large map, is
25 that correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. Did he put together that large map and have one
3 ready for the jury?

4 A No, ma'am.

5 Q Okay. And it was your understanding that was
6 something he was going to do on your behalf, is that
7 correct?

8 A Yes, ma'am.

9 Q Okay. We don't have a jury here today, so we haven't
10 prepared a large map. But we have, in fact, given the
11 judge a map of these locations, is that correct?

12 A Yes, ma'am.

13 Q Okay. I'm going to try to be really clear here.
14 Let's look at the transcript from the burglary trial. And
15 if there's a better way to reference these two, please let
16 me know.

17 THE COURT: That's the way I have mine. I have mine
18 marked like that.

19 MS. BLANCHETTE: Okay. I have a marked burglary and
20 murder if that's okay.

21 BY MS. BLANCHETTE

22 A What page, Ms. Blanchette?

23 Q If you could, look at the beginning there on page 11,
24 I believe it is.

25 At the beginning of your burglary trial your attorney

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 made a motion to sever all of the charges that you were
2 facing at that time, is that correct?

3 A Yes, ma'am.

4 Q And what was your understanding as to what he was
5 requesting?

6 A He was requesting a separate jury trial for each
7 separate incident.

8 Q Okay. And each separate incident would mean what to
9 you?

10 A The murder, assault and battery, intent to kill, the
11 burglary, armed robbery and the felony D.U.I. and the
12 failure to stop. He had the three separate jury trials.

13 Q And on page 28 the judge grants his motion, but the
14 judge indicates that the murder and burglary cannot be
15 tried together but the D.U.I. can be tried with either
16 case.

17 A Yes, ma'am.

18 Q Then your attorney proceeded to ask for more time to
19 prepare. Had you talked about this severance with him and
20 were you thrown off when he needed additional time to
21 prepare when his motion was granted?

22 A I was throwed off. He told me his whole purpose for
23 the motion, that he wanted to get it severed. I couldn't
24 understand how he wasn't ready.

25 Q And once this severance was granted the state chose to

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 go forward on the burglary and armed robbery, felony D.U.I.

2 and failure to stop charges, is that correct?

3 A Yes, ma'am.

4 Q And then your trial for the murder and remaining

5 charges took place in January of 2008.

6 A Yes, ma'am.

7 Q Okay. Now, are there some specific reasons why you

8 were alleging that your attorney was ineffective for

9 actually getting your charges severed?

10 A Yes, ma'am.

11 Q Okay. And does one of those have to do with the

12 timing of the events?

13 A Yes, ma'am.

14 Q Could you please explain that to the Court?

15 A About the timing of events is what we -- they trying

16 to say I was at the Grays' house earlier that day. Then

17 they say I went to changes clothes, went and murdered

18 somebody, shot somebody, went back and changed clothes, as

19 well as weapons, because there's two different weapons in

20 the case, went and home-invaded them and robbed them and

21 went and changed clothes, discarded the gun and got

22 arrested later on that night in a car wreck.

23 Q All right. Now if you could turn to the murder

24 transcript, and look at page 432, please. Beginning on

25 line 14, if you could, just read 14 through 22,

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Mr. Schultz's closing argument there.

2 A You say 432?

3 Q Yes, 432, lines 14 through 22.

4 A "which leads me to another interesting point in this
5 case, considering the fact that you must believe that this
6 cold-blooded murderer, whoever he is, had the intelligence
7 not to put on gloves -- had intelligence not to put on
8 gloves before the shooting, you have to assume that this
9 wouldn't hold any gunpowder residue that would end up on
10 the suspect hands, pretty cold and calculating got, when
11 you say who was the -- where -- with the" -- I don't
12 understand what that say but --

13 Q Just to the best of your ability.

14 A "The shooting."

15 Q Okay. And I'm sorry. If you could, go on and read
16 lines 23 and 24.

17 A "The state would have you believe there was two
18 Charlie Teamers that night."

19 Q So here your attorney's arguing that there -- the
20 events that they presented in the murder weren't
21 believable.

22 A Yes, ma'am.

23 Q But would that argument not have been aided by trying
24 all the cases together?

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And, in fact, if they tried all of the cases
2 together there'd have to be more than two Charlie Teamers
3 that night, is that correct?

4 A Yes, ma'am.

5 Q Okay. Now, let's talk a little bit about the
6 specifics of each crime in that argument that Mr. Schultz
7 is making.

8 The first charge, the burglary charge -- I'm sorry.
9 The first charge, the murder charge, as Mr. Schultz
10 explained, would have to be a cold, calculated killer.

11 A Yes, ma'am.

12 Q Is that what he argues?

13 A Yes, ma'am.

14 Q Okay. And what was alleged that the person did later
15 at the burglary? what was -- what was kind of the actions
16 of the person -- had at the burglary as far as dress and
17 gun and those type of things?

18 A They said dude in all black with a ski mask knocked on
19 the door with a pump shotgun, represented himself to be
20 Murda. And when he opened the door he pulled the gun out
21 on Donald -- well, he must'a had the gun out and told
22 Donald Martin to get naked. And took his clothes and
23 money.

24 Q Okay. And then they alleged that you after that had
25 some mixture of marijuana and alcohol and you were arrested

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 for driving under the influence and failure to stop, great
2 bodily injury, sometime around 12:57 that evening, is that
3 correct?

4 A Yes, ma'am.

5 Q Okay. Now, looking at the two first crimes, the
6 murder and the burglary, what was the state alleging was
7 the motive for the murder?

8 A They trying to say that Tony Hunter told on me in
9 another shooting incident. That's what the state alleged.

10 Q Okay. So the motive was to eliminate a witness or to
11 get back at someone for giving information on you, is that
12 correct?

13 A Yes, ma'am.

14 Q But then at the burglary, the suspect that they allege
15 is you, leaves a number of live witnesses that all know you
16 by name and had eaten dinner with you earlier that night,
17 is that correct?

18 A Yes, ma'am.

19 Q Okay. Is there any other specific reason why you're
20 alleging today that your attorney was ineffective when he
21 moved for that severance?

22 A Yes, ma'am, because he got to break up the evidence
23 that could have been used in both trials. Like they keep
24 talking about the -- the time span, well, they saying my
25 mama-house is close pro -- well, however you say that word,

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 close in the area. Then they trying to say Iesha Feaster's
2 residence was close in the area.

3 So if they -- if they showed they would have did both
4 cases, they did search warrants on my mother's house and
5 Iesha's mother's house, they find no weapons, no clothes.
6 So that was the main part, the issue that could have helped
7 out.

8 Q You experienced both of these trials. You've had a
9 chance to read both of them.

10 Upon review of them does it any way appear that the
11 severance allowed the state to clean up their case or have
12 a better case at the murder trial?

13 A Yes, ma'am.

14 Q Okay. Could you explain what you mean by that?

15 A They got to clean it up, because basically they got to
16 use the driving in both of my cases. So they get to show
17 flight. The jury -- I guess the jury was wondering what I
18 was running from the whole time, but basically they just
19 got to clean it up to make it look like I didn't -- I
20 wouldn't have that long with the murder. And they had a
21 span from murder -- eight what it was -- 8:45 till 12:57.
22 So they got to clean it up, but they didn't have to explain
23 the rest of where my whereabouts was at and all of that in
24 that time limit by eliminating the burglary.

25 Q Do you feel it was more advantageous for yourself or

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 for the state that these cases were severed?

2 A I didn't understand your question.

3 Q Was it a better advantage for the state or for you
4 that these cases were done separately?

5 A Better for the state.

6 Q Okay.

7 MS. WHITE: Your Honor, I just want to -- I know
8 we're -- we're repeating some of the things, but in regards
9 to the objection for leading, I know that we're trying to
10 get some information in. But I just ask that counsel try
11 to refrain from leading the witnesses in a lot of
12 questions.

13 THE COURT: Okay. She heard you.

14 MS. WHITE: Thank you, Your Honor.

15 BY MS. BLANCHETTE

16 Q If you could, turn to page 71 of the murder
17 transcript, please. And I'm sorry. That might be the
18 wrong page number here. Or I have the wrong transcript.

19 Page 71 of the murder trial. There the state
20 indicates that they plan to present evidence regarding the
21 failure to stop charge. Do you recall that?

22 A Yes, ma'am.

23 Q Okay. Were you aware that the state had planned to
24 use evidence of the failure to stop and go as far as to
25 introduce the video from part of that traffic situation in

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 your second trial or in the murder trial?
- 2 A No, ma'am.
- 3 Q Is that something you discussed with Mr. Schultz ahead
4 of time?
- 5 A No, ma'am.
- 6 Q And if you could, turn to page 145, please. There
7 does the Court agree to allow in the video as long as the
8 state does not mention that you were previously convicted
9 for traffic charges -- the D.U.I.?
- 10 A Yes, ma'am.
- 11 Q Okay. Were you aware that the officers from that
12 incident were going to be called as witnesses in the murder
13 trial?
- 14 A No, ma'am.
- 15 Q And, in fact, if you could turn to page 159, officer
16 St. Louis is called to testify, is that correct?
- 17 A Yes, ma'am.
- 18 Q And on pages 159 through 160 he testifies that a blue
19 Chevy Caprice pulled out in front of him with no lights on.
20 It was weaving and it threw out a beer can. And the video
21 of the traffic stop was -- of the traffic incident was
22 introduced through him, is that correct?
- 23 A Yes, ma'am.
- 24 Q Now, if you could, turn to page 164, please. When
25 you're in the middle of the page, line 12, did Mr. Schultz

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 have any questions on cross-examination of Officer St.
2 Louis?

3 A No, ma'am.

4 Q Now, we have incorporated the transcript of the other
5 trial. And at your first trial, the burglary trial, did
6 Mr. Schultz actually ask him a number of questions on
7 cross-examination?

8 A Yes, ma'am.

9 Q And did he go into inconsistencies in his testimony?

10 A Yes, ma'am.

11 Q Okay. And do you have any knowledge as to why
12 Mr. Schultz didn't do that at the second trial?

13 A No, ma'am.

14 Q And let me hand you this. Can you identify this for
15 the record?

16 A Spartanburg Public Safety property report.

17 Q Okay. And what's the suspect's name on there?

18 A Nathaniel Teamer.

19 Q And what's the date?

20 A 2/3/06.

21 Q And what's the piece of property listed?

22 A Beer can -- Icehouse.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, at this time I'd move
25 this as Applicant's No. 7.

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Direct examination by Ms. Blanchette

1 THE COURT: Without objection.

2 MS. WHITE: No objection, Your Honor.

3 (Property report dated February 3, 2006, marked
4 Applicant's Exhibit No. 7.)

5 MS. BLANCHETTE

6 Q Now, during his direct testimony Officer St. Louis
7 indicated that you had thrown out a beer can out of the
8 Chevy Caprice, is that correct?

9 A Yes, ma'am.

10 Q Did your attorney ask him any questions about what he
11 did with that beer can?

12 A No, ma'am, not on this transcript.

13 Q But he did at the first trial, is that correct?

14 A Yes, ma'am.

15 Q Okay. And did he introduce that document that you
16 have there and ask him questions about it being marked into
17 evidence? And then on there it indicates it was destroyed.

18 A No, ma'am.

19 Q Do you have any knowledge as to why your attorney
20 failed then to go -- failed to go into those matters with
21 Officer St. Louis?

22 A No, ma'am.

23 Q Now, Officer Evett testified at this murder trial, and
24 he also testified at your previous trial.

25 If you could, look at page 167, line ten -- lines ten

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 through 13. Does he indicate that that your headlights
2 were on or off?

3 A Off.

4 Q And then if you could look at page 169, line 14 --
5 lines 14 through 20, he describes how he saw the accident
6 occur, is that correct?

7 A Yes, ma'am.

8 Q And he indicates that he couldn't see your vehicle but
9 he saw the impact or saw the accident.

10 A Yes, ma'am.

11 Q Now, if you could turn here to page 172, line 11, does
12 your attorney ask Officer Evett any questions on
13 cross-examination?

14 A No, ma'am.

15 Q Do you have any knowledge or did he discuss with you
16 the fact that he wasn't going to do that?

17 A No, ma'am.

18 Q And if we could look back at your burglary trial, he
19 actually asked him extensive questions on
20 cross-examination, is that correct?

21 A Yes, ma'am.

22 Q And on cross-examination, specifically on page 358 of
23 your burglary trial, he admitted that you never left the
24 roadway and you were following all of the rules of the
25 road. That's page 358, lines one through 14.

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A In the murder trial?
- 2 Q In the burglary trial. Top of the page there, page
3 358.
- 4 A Yeah.
- 5 Q He admits that you never left the roadway, there was
6 no swerving, no drifting.
- 7 A Yes, ma'am.
- 8 Q And he'd also previously mentioned it during
9 cross-examination that you were obeying all the rules of
10 the road.
- 11 A Yes, ma'am.
- 12 Q And what is your allegation as far as Mr. Schultz
13 failing to cross-examine these officers at your murder
14 trial?
- 15 A You say what's my allegations?
- 16 Q Yes. What are you alleging, or how was he ineffective
17 in regards to his failure to cross-examine these witnesses
18 at your murder trial?
- 19 A He was ineffective because he didn't get a jury. He
20 didn't show the jury inconsistencies in the officers, what
21 they said like he did in the first trial. And he just let
22 them basically believe what they wanted to believe, what
23 the state introduced.
- 24 Q And the state also didn't call Corporal Darity who
25 testified at the first trial, the burglary trial.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Correct.

2 Q And you had indicated previously that you didn't even
3 know these officers were going to be called at your second
4 trial, correct?

5 A No, ma'am.

6 Q And not only were they called. It appears that the
7 state provided a clear and much more distinct version of
8 their testimony at the second trial, at the second murder
9 trial, that your attorney did not even cross-examine, is
10 that correct?

11 A Yes, ma'am.

12 Q Okay. Now, at your burglary trial they also called
13 James Young. And who is James Young?

14 A He's the victim of the D.U.I. incident.

15 Q And at that trial he testified about seeing headlights
16 and blue lights approaching him, is that correct?

17 A Yes, ma'am.

18 Q And did that contradict the officer's testimony?

19 A Yes, ma'am.

20 Q How is it that you wanted your attorney or alleging
21 your attorney should have utilized James Young's testimony?

22 A To show that the officer lied about the blue lights.
23 The officer said blue lights was off, and James Young said
24 they was on. So inconsistencies in the officers'
25 testimony.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And, again, do you have any explanation why your
2 attorney did not utilize this testimony that had been made
3 available to him through the first trial?

4 A No, ma'am.

5 Q Mr. Teamer, is there anything else regarding the use
6 of the traffic charges at your murder trial that you would
7 like to address with the Court today?

8 A No, ma'am, but basically to show -- to show the
9 ineffective. He could have showed basically if the blue
10 lights was on through James Young that the camera should
11 have been operated on the car and they could have had the
12 whole vehicle accident on camera. But basically I just say
13 he was ineffective for not cross-examining him and letting
14 the state just put out what they wanted to put out to make
15 me a bad person.

16 Q And the video they introduced was just for a portion
17 of this, is that correct?

18 A Yes, ma'am. City video.

19 Q Now, in pretrial your attorney also made a motion
20 regarding the admissibility of a cell phone found by
21 Investigator Guthro. If you could, turn to page 44,
22 please, of the murder transcript.

23 Mr. Teamer, could you flip through this, what I just
24 handed to you, and describe what it appears to be for the
25 record?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Search warrant.

2 Q Okay. And is there more than one search warrant
3 there?

4 A Yes, ma'am.

5 Q Okay. And if you could, turn to the second page.
6 What is -- what are the search warrants for? What are they
7 searching?

8 A 1985 Chevy Caprice.

9 MS. BLANCHETTE: Your Honor, at this time I would move
10 this packet of search warrants in as Applicant's No. 8.

11 THE COURT: Without objection.

12 (Search warrants marked Applicant's Exhibit No. 8.)

13 BY MS. BLANCHETTE

14 Q And, Mr. Teamer, these search warrants that we've
15 introduced, those go along with Investigator Guthro's
16 testimony, is that correct?

17 A Yes, ma'am.

18 Q Okay. Let's look at his testimony on -- on page 44 if
19 you could look at line 20, in reference to the first search
20 warrant there what does he indicate, what was found?

21 A According to the return what was found, a silver
22 Verizon flip phone.

23 Q Okay. And on page 45 on lines three through five,
24 what does he indicate regarding his involvement in that
25 search?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A He wasn't involved in the search at all.

2 Q Okay. And if you could look at that first search
3 warrant, do you agree with his testimony?

4 A Yes, ma'am.

5 Q Okay. And let me keep going through his testimony
6 with you here if you could turn to page 45, lines 15
7 through 18.

8 what does he say was found in the second search
9 warrant?

10 A A green diamond jacket and a red rag.

11 Q Okay. And does he indicate if he was involved in that
12 search?

13 A He was saying he wasn't involved in none of the
14 searches.

15 Q Okay. And if you could review that second search
16 warrant there, do you agree with his testimony that he
17 wasn't involved in the first two searches?

18 A No, ma'am. He lied, because on the return he was
19 involved in the second search.

20 Q And what does the return state that makes you call
21 into question his testimony?

22 A This inventory made in the presence of Investigator
23 Porter, E. Guthro and Investigator Foster.

24 Q And his name is, in fact, Edgar Guthro, is that
25 correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Did Mr. Schultz ask him any questions about his name
3 being included in the inventory review of the second search
4 warrant?

5 A No, ma'am.

6 Q Now, if you could, look at his testimony on page 46.

7 MS. BLANCHETTE: And we will just ask that the Court
8 take judicial notice of that entire page unless you'd like
9 for me to have him read that into the record.

10 THE COURT: Judicial notice taken.

11 BY MS. BLANCHETTE

12 Q Okay. There on page 46 does he explain that he knew
13 that he didn't have a search warrant, Investigator Porter
14 had told him it had already been done but he decided to go
15 to do a search himself?

16 A Yes, ma'am.

17 Q And as a result of that search he found the phone that
18 your attorney was attempting to suppress, is that correct?

19 A Yes, ma'am.

20 Q If you could look at page 47, lines one through 17,
21 specifically lines 16 through 17, does he admit it was not
22 in plain view?

23 A Yes, ma'am.

24 Q If you could look at page 47 through page 48, there
25 your attorney asks him about an inventory policy and if

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 he's familiar with the inventory policy of his law
2 enforcement agency.
- 3 A Yes, ma'am.
- 4 Q And does he say that he knows the policy?
- 5 A No.
- 6 Q Okay. Mr. Teamer, could you identify this document
7 for the record, please?
- 8 A This is a letter to you from Barnette -- Barry
9 Barnette.
- 10 Q And for the record, who is you?
- 11 A Nathaniel Teamer.
- 12 Q No. Who is the letter written to?
- 13 A Oh, Tricia Blanchette.
- 14 Q And what's the date on it?
- 15 A September the 1st of 2011.
- 16 Q Okay. And was this received in response to the
17 discovery order we obtained from Judge Couch?
- 18 A Yes, ma'am.
- 19 Q And if you could just turn to the third page, what
20 does that appear to be?
- 21 A A Spartanburg Public Safety Department property
22 inventory policy.
- 23 Q Okay.
- 24 MS. BLANCHETTE: Your Honor, at this time we would
25 move this letter and inventory policy in as Applicant's No.

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1 9.

2 THE COURT: Without objection.

3 (Letter dated September 1, 2011, and inventory search
4 marked Applicant's Exhibit No. 9.)

5 BY MS. BLANCHETTE

6 Q Does it appear when you're looking at those pages
7 there where Mr. Schultz is cross-examining Investigator
8 Guthro -- does he have this policy and ask him specific
9 questions about whether or not he followed this policy?

10 A No, ma'am. He don't have the policy, but he trying to
11 basically get out of policy work.

12 Q Okay. Let's look at the policy. It says the purpose
13 of this policy is to ensure that all impounded vehicles are
14 inventoried and that the inventory is properly documented.

15 Then it says the policy. "It shall be the policy of the
16 Spartanburg Public Safety Department that every vehicle
17 impounded by an officer will have all items in the vehicle
18 inventoried and listed on the wrecker's owner's request
19 report form or on a property report. The inventory list or
20 property report shall be attached to the incident report
21 and shall become part of the case file."

22 In reviewing Investigator Guthro's testimony did he
23 testify that he inventoried all of the items in the
24 vehicle, listed those on the wrecker's owner's request
25 report and attached a copy of that to the incident report?

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1 A No, ma'am.

2 Q Did Mr. Schultz ever specifically ask him about
3 whether or not he followed that policy language?

4 A No, ma'am. He wasn't -- he wasn't familiar with the
5 policy itself.

6 Q And Investigator Guthro actually goes on to testify on
7 page 52 that he obtained a subsequent search warrant that's
8 in that packet because he found the phone. In his
9 explanation on page 53, lines five, was because the prior
10 searches were not properly done. Is that -- is that what
11 he testified to?

12 A Yes, ma'am.

13 Q And as a result of that third search on page 52, lines
14 11 through 18, will you read what he found on pages -- on
15 lines 11 through 18?

16 A Yes, ma'am. "One cold red Mountain Dew bottle, one
17 Newport cigarette butt, one bag of green leafy substance,
18 one Wal-Mart film receipt, one disposable camera box, one
19 pair of sunglasses, one knife, one Minute Maid orange
20 juice, four cigarette butts from driver's door, one
21 hand-rolled cigar, five pliers, six swabs, handprint from
22 interior from the vehicle, palm print from rear mirror.

23 Q So on his -- his second search that he admits to that
24 that he obtained a search warrant for he found all of those
25 items. Is that what he testifies to?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Could you look at page 62, lines ten -- line ten. I'm
3 sorry. What is the purpose that the judge lets this
4 evidence in? Lines ten and 11. Why does he let the cell
5 phone in?

6 A He said appears to be inventory search.

7 Q So the judge finds that that third search done by
8 Investigator Guthro where he obtains just the cell phone
9 was a proper inventory search.

10 A Yes, ma'am.

11 Q Mr. Teamer, you've done a good job of educating
12 yourself and doing the best to prepare your case. You've
13 also reviewed that inventory policy. Reading that
14 inventory policy, retrieving one cell phone, is that a
15 proper inventory search?

16 A No, ma'am.

17 Q Did your attorney ever make that argument on your
18 behalf?

19 A No, ma'am.

20 Q Is that something he ever discussed with you, that he
21 was going to make this pretrial motion, that he had
22 obtained the inventory policy and he was going to argue
23 that this was not a proper inventory search?

24 A He was just saying he was going to argue a search, but
25 he didn't have no policy or nothing on hand to prove it.

Nathaniel Teamer
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1 Q And the inventory policy clearly states that they are
2 to take all items and make an inventory of them
3 essentially, is that correct?

4 A Yes, ma'am.

5 Q And was that done by Investigator Guthro in what the
6 Court --

7 MS. WHITE: Your Honor --

8 Q -- deemed to be an inventory search?

9 MS. WHITE: Your Honor, I don't think he can testify
10 to what was done. I mean, I think the record speaks for
11 itself. But I don't think Mr. Teamer can testify as to
12 whether or not this was a proper inventory search done by
13 Officer Guthro.

14 MS. BLANCHETTE: Your Honor, I'm relying upon what's
15 in the transcript. I've provided him a copy of the policy
16 and the search warrants. I don't know what is needed more
17 than that with it being his case.

18 MS. WHITE: It's giving an opinion, Your Honor. The
19 judge has already ruled that it was a proper inventory
20 search. So I don't think he can --

21 THE COURT: Ms. Blanchette.

22 MS. BLANCHETTE: I'm just somewhat confused because
23 we're in post conviction relief and these are his
24 allegations. So I could say is this your allegation
25 instead of is it your opinion. But I think he's allowed to

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 say what his allegation is.

2 THE COURT: Well, isn't he allowed to say that it
3 doesn't appear to be consistent with the written policy?
4 Isn't that what you're trying to get at?

5 MS. BLANCHETTE: Correct. And that his attorney
6 didn't raise that issue.

7 MS. WHITE: And I'm objecting because I think the form
8 of the question was was it a proper search done by the
9 officer and did Officer Guthro do a proper search.

10 THE COURT: Okay. I sustain that objection.

11 MS. WHITE: That was my concern.

12 MS. BLANCHETTE: Okay.

13 THE COURT: But ask the question again.

14 MS. WHITE: Thank you, Your Honor.

15 BY MS. BLANCHETTE

16 Q Mr. Teamer, what are you alleging your attorney should
17 have argued here?

18 A He should have argued that that was a property -- that
19 wasn't a proper inventory search and that was just a
20 regular investigative search. And he should have had the
21 policy on hand to prove it.

22 Q Mr. Teamer, how were you prejudiced or how important
23 was it for the state that that cell phone came in?

24 A It was important to them because they said it was the
25 last one to talk to the victim. And it prejudiced me due

Nathaniel Teamer
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1 to the fact that, for one, my trial lawyer had a paperwork
2 that showed that Guthro perjured himself on the stand to
3 show that he'd been a part of the regular searches of the
4 vehicle, and then also prejudiced me because --

5 Q Mr. Teamer, make sure you're talking up into the
6 microphone.

7 A Due to the fact that if the judge would have had
8 knowed that Guthro perjured himself he probably would have
9 excluded the cell phone part of what we were trying to do
10 on our defense.

11 Q And the state relied heavily upon that cell phone and
12 those cell phone records. Specifically, on page 446 they
13 even introduced a chart for the jury regarding those
14 records, is that correct?

15 A Yes, ma'am.

16 Q Okay. On pages 448 through 449 in the state's closing
17 argument they argued that that cell phone was key to
18 discovering who was guilty in this case.

19 A Yes, ma'am.

20 Q And did you testify in this case?

21 A No, ma'am.

22 Q Okay. Now, if you could, turn to page 136, line 11.
23 There Investigator Steadman testifies about the fact that
24 they looked in the cell phone that the victim was using and
25 they found the last two numbers that were called. And

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 those numbers were 415- [REDACTED] and 921- [REDACTED] Is that what he
2 testified to?

3 A Yes, ma'am.

4 Q And what was the number for the phone that they found
5 in the Chevy Caprice during the search that was ruled an
6 inventory search?

7 A 921- [REDACTED]

8 Q And if you could turn and look at pages 137 through
9 138, who do they say the phone number, the 415- [REDACTED]
10 belonged to?

11 A Wayne from Wireless Dimensions.

12 Q Do they say if they ever talked to Wayne or got a
13 search warrant for his records?

14 A No, ma'am.

15 Q Is that something your attorney did on your behalf?

16 A No, ma'am.

17 Q Okay. Now, did they do a search warrant or obtain
18 records for the [REDACTED] number?

19 A Yes, ma'am.

20 Q Okay. Mr. Teamer, could you identify this for the
21 record, please?

22 A A search warrant.

23 Q And what's the date on that?

24 A February the 3rd of 2006.

25 Q And if you could look at the description of the

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 property sought, what phone number is that for?

2 A (864)921-██████

3 Q Okay. And if you could look at the back, is there a
4 state's exhibit also attached to this?

5 A Yes, ma'am.

6 Q And what's the sticker on that?

7 A Exhibit 32-A.

8 MS. BLANCHETTE: Your Honor, at this time I would move
9 this search warrant and phone records in as Applicant's No.
10 10.

11 MS. WHITE: Without objection.

12 THE COURT: Without objection.

13 (Search warrant and phone records marked Applicant's
14 Exhibit No. 10.)

15 BY MS. BLANCHETTE

16 Q If you could, turn to page 174. Investigator Guthro's
17 called in front of the jury, and he testifies about finding
18 the cell phone during an inventory search, is that -- is
19 that correct?

20 A Yes, ma'am.

21 Q Okay. And the state introduces those records that
22 they obtained through that search warrant.

23 A Yes, ma'am.

24 Q Now, if you could turn to page 298, please, there the
25 state calls David Hanks, is that correct?

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Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q And he actually is used from AT&T to introduce and
3 verify those records, correct?

4 A Yes, ma'am.

5 Q On page 305 the state calls a Jeff Ferguson, is that
6 correct?

7 A Yes, ma'am.

8 Q Okay. And he is from Sprint Telephone Company.

9 A Yes, ma'am.

10 Q Okay. And he on page 313 introduces two sets of
11 records, phone records, is that correct?

12 A Yes, ma'am.

13 Q Okay. And I'm going to hand you this and see if you
14 can identify it for the record, please.

15 A Search warrant, February the 7th of 2006.

16 Q And what is the property sought on this search
17 warrant?

18 A Any and all calls received and placed from cell No.
19 (864)357-██████

20 Q Okay. And then if you could turn to the back there,
21 there's some phone records attached also --

22 A Yes, ma'am.

23 Q -- with a state's exhibit number. It's a little hard
24 to read. Can you read that?

25 A I think it says State's Exhibit 38.

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1 Q Okay.

2 MS. BLANCHETTE: Your Honor, at this time I would move
3 this search warrant and phone records in as Applicant's No.
4 11.

5 THE COURT: Without objection.

6 (Search warrant and phone records marked Applicant's
7 Exhibit No. 11.)

8 BY MS. BLANCHETTE

9 Q Mr. Teamer, can you identify that for the record?

10 A Search warrant.

11 Q What's the date on that?

12 A February the 10th of 2006.

13 Q What's the phone number listed on the second page?

14 A (864)237- [REDACTED]

15 Q Okay. And if you could turn to the back there are
16 phone records attached to this also.

17 A Yes, ma'am.

18 MS. BLANCHETTE: Your Honor, at this time I would
19 introduce this search warrant and phone records as
20 Applicant's No. 12.

21 THE COURT: Without objection.

22 (Search warrant and phone records marked Applicant's
23 Exhibit No. 12.)

24 BY MS. BLANCHETTE

25 Q And both of those records were introduced by Jeff

Nathaniel Teamer
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1 Ferguson from Sprint at your trial, is that correct?

2 A Yes, ma'am.

3 Q Okay. Finally, if you could, turn to page 312. Do
4 you see where George Nicholson testified from AT&T?

5 A Yes, ma'am.

6 Q Okay. Could you identify what these appear to be for
7 the record?

8 A They are cell phone records, call detail, toll records
9 for targeted number. Do you want the number?

10 Q Yes. And just one second here. It appears these were
11 stapled incorrectly. If you could, just rip off that front
12 page.

13 If you could, identify what that appears to be for the
14 record.

15 A Search warrant, February the 10th of 2006.

16 MS. BLANCHETTE: And, Your Honor, this first page
17 shouldn't be on that exhibit. It appears like this.

18 THE COURT: Thirteen of 25?

19 MS. BLANCHETTE: Yes. That first page shouldn't be on
20 there. For some reason it got stapled to the front.

21 BY MS. BLANCHETTE

22 Q And then if you could flip to the back. Are there
23 cell phone records attached to this?

24 A Yes, ma'am.

25 Q Okay. And there's actually an exhibit sticker that is

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Direct examination by Ms. Blanchette

1 marked State's Exhibit 34-A. Do you see that on page one
2 of 25?

3 A Yes, ma'am.

4 MS. BLANCHETTE: Your Honor, at this time I'd move
5 this search warrant and cell phone records in as
6 Applicant's No. 13.

7 MS. WHITE: Without objection.

8 THE COURT: Admitted without objection.

9 (Search warrant and phone records marked Applicant's
10 Exhibit No. 13.)

11 BY MS. BLANCHETTE

12 Q One more, Mr. Teamer. Could you identify that,
13 please, for the record?

14 A This says BellSouth. I guess it's a subpoena for
15 BellSouth Communications, Inc.

16 Q Okay. Would you turn to the second page? What does
17 it actually say there?

18 A Search warrant.

19 Q Okay. And what's the cell-phone-listed number -- or
20 I'm sorry. What's the telephone phone number listed on the
21 third page?

22 A (864)597-1967.

23 Q Okay. And if you flip through, page three of nine, do
24 you actually see a state's exhibit number there?

25 A Yes, ma'am.

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Direct examination by Ms. Blanchette

1 Q What is that?

2 A 36-A.

3 Q Okay.

4 MS. BLANCHETTE: Your Honor, at this time I'd move
5 this search warrant and cell phone records in as
6 Applicant's No. 14.

7 THE COURT: Without objection.

8 (Search warrant and phone records marked Applicant's
9 Exhibit No. 14.)

10 Q Now, Mr. Teamer, all of these cell -- all of these
11 phone records -- telephone and cell phone records -- were
12 introduced by the state at your trial, is that correct?

13 A Yes, ma'am.

14 Q Had you had the opportunity to go over these records
15 with Mr. Schultz prior to trial and discuss how the state
16 had planned to utilize them as part of their case in chief?

17 A No, ma'am. He was just -- he gave me the records.

18 Q Okay. And Mr. Schultz provided you with what you know
19 to be a complete copy of his file, is that correct?

20 A Yes, ma'am.

21 Q Okay. Could you identify what this appears to be for
22 the record?

23 A Say phone records from 2/2/06 concerning phone call.

24 Q And does it list all of the phone numbers that we
25 actually just went through?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A Yes, ma'am.
- 2 Q Okay. And did you receive this as part of your file
- 3 from Joshua Schultz?
- 4 A No, ma'am.
- 5 Q Okay. How did you get this?
- 6 A I think this was in my discovery after.
- 7 Q Okay. It was something you had received from
- 8 Mr. Schultz.
- 9 A Yes, ma'am.
- 10 Q Okay.
- 11 MS. BLANCHETTE: Your Honor, at this time I would move
- 12 this in as Applicant's No. 15.
- 13 THE COURT: Without objection.
- 14 MS. WHITE: Yes, sir.
- 15 (Diagram marked Applicant's Exhibit No. 15.)
- 16 Q Now, in this document that we're looking at here, it
- 17 breaks the phone numbers out, and it indicates who the
- 18 phone number belonged to and the times that calls were
- 19 made.
- 20 A Yes, ma'am.
- 21 Q And the state actually utilized a chart for the jury
- 22 regarding these phone calls, is that correct?
- 23 A Yes, ma'am.
- 24 Q And was it your understanding that your attorney was
- 25 going to make a similar chart or break this down so the

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 jury could understand these phone calls that were being
2 made?

3 A Yes, ma'am.

4 Q Mr. Teamer, as your P.C.R. attorney did you make a
5 similar request that I prepare a chart breaking out these
6 phone calls?

7 A Yes, ma'am.

8 Q okay. And did I do that on your behalf?

9 A Yes, ma'am.

10 MS. BLANCHETTE: And, Your Honor, as demonstrative
11 evidence or just as a demonstration I have done that for my
12 client.

13 We're not asserting that this is the exact chart that
14 would have been provided to the jury or that this is what
15 Mr. Schultz would have created. We have simply created a
16 chart to show how this could be done with all the phone
17 calls listed. And I have provided a copy of this to the
18 state I had in today's case.

19 MS. WHITE: Without objection, Your Honor.

20 THE COURT: Without objection.

21 Q Mr. Teamer, this chart coincides with the cell phone
22 records and with the record. And we rely upon those for
23 complete accuracy. But let's just kinda go through this
24 chart and explain what it is that you'd asked Mr. Schultz
25 to do or how you are alleging that he should have addressed

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 these phone calls.

2 Okay. If you look at the first circle there who does
3 it list?

4 A Michael Proctor.

5 Q Okay. And what's the number for Michael Proctor?

6 A (864)3 -- it's [REDACTED]

7 Q could you restate that? I just might have misheard
8 you say it.

9 A 864. I think the number backwards or something. But
10 it's [REDACTED]

11 Q Okay. And like I said, it may not be completely
12 accurate. It is. It should be 357. Now you know your
13 attorney transposes numbers.

14 And as far as the calls, they are listed for that
15 number, which should be 357. It shows a call being made at
16 7:59 and underneath for 74 seconds to what they allege to
17 be the suspect's phone, is that correct?

18 A Yes, ma'am.

19 Q Okay. And in the second parenthesis it actually shows
20 there the amount of time reported that the suspect had on
21 the cell phone records. So the suspect's phone showed that
22 that phone call was 61 seconds. Do you agree?

23 A Yes, ma'am.

24 Q Okay. what does it say as far as the second circle
25 there? what time did the call take place between Michael

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 Proctor or the victim's phone in this case and the alleged
2 suspect?
- 3 A 7:59.
- 4 Q The second circle there, what does that say?
- 5 A Oh, 8:31.
- 6 Q And how long is that first number in seconds there
7 that that call was?
- 8 A Say 20 seconds.
- 9 Q And the second number there, how long was it reported
10 on the suspect's phone as being?
- 11 A Zero seconds.
- 12 Q Okay. And then if you look at that third circle
13 there, there's actually a voice mail retrieval by the
14 suspect, is that correct, at 8:31?
- 15 A Yes, ma'am.
- 16 Q Okay. And, again, relying completely on the record,
17 there was another call made between the phone being used by
18 the victim. And what time was that at?
- 19 A 8:31.
- 20 Q And that was made to the suspect's phone for how long,
21 how many seconds?
- 22 A Forty seconds.
- 23 Q And how long was that reported on the suspect's
24 records as being?
- 25 A Twenty-five seconds.

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- 1 Q Okay. And then finally there was a last call. And
2 what time was that made?
- 3 A 8:33.
- 4 Q Okay. And how long was that call?
- 5 A Twenty-seven seconds.
- 6 Q And how long was it reported as being made or how long
7 was it from the suspect's end?
- 8 A Eleven seconds.
- 9 Q Okay. And if you could look at page 109 of the murder
10 transcript, lines 15 through 18.
- 11 A Say what numbers is?
- 12 Q Page 109, lines 15 through 18. And there the victim,
13 Mr. David Michael Proctor, testifies that the deceased
14 victim had been talking to the suspect for approximately
15 how many minutes on the phone?
- 16 A Thirty minutes.
- 17 Q Okay. And there we have phone calls ranging from 7:59
18 to 8:33. But are any of those phone calls more than two
19 minutes?
- 20 A No, ma'am.
- 21 Q Okay. Now, is there anything regarding the amount of
22 time that was spent on the phone that you felt your
23 attorney should have -- been brought out at trial?
- 24 A Yes, ma'am, due that I wasn't on the phone. I'm
25 saying the suspect wasn't on the phone and the victims no

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1 more than a couple of seconds at a time.

2 Q And why would that have mattered that those phone
3 calls were only a couple of seconds?

4 A They saying the suspect was talking to the victim for
5 30 minutes.

6 Q Okay. And what -- what did they allege they were
7 talking about? Was there specific things they alleged they
8 were talking about that would have taken some time?

9 A The state said they were alleging that they was trying
10 to get a whereabouts of where to pick the suspect up at.

11 Q Okay. So, so let me just clarify. Are you saying
12 that directions were given during those phone calls?

13 A Yes, ma'am. That's what it's stated as.

14 Q Okay. In looking at the duration of those phone calls
15 there's an argument that you think Mr. Schultz should have
16 made.

17 A Yes, ma'am.

18 Q And specifically what is that argument?

19 A That it just don't add up, the timeline on trying to
20 give directions.

21 Q Okay. Now, this alleged suspect also makes some calls
22 himself. At 8:33 there do you see a call for how long to
23 Ieshia Feaster?

24 A Say seven.

25 Q Okay. And this is all reported in seconds just to

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 clarify because that's what's on the cell phone records.
2 Then is there another call? At what time and for how
3 long?
4 A 8:35 for 33 seconds.
5 Q Okay. And is there another call?
6 A 8:40 for zero seconds.
7 Q Okay. And the state in their opening argument
8 somewhat confusingly if you look at page 86, line 20, they
9 say that the jury's going to hear that the suspect was
10 picked up somewhere around 8:00 p.m. But actually the
11 state alleges that it happened somewhere around 8:30, is
12 that correct?
13 A Yes, ma'am.
14 Q Okay. But in their opening they said 8:00 p.m. And
15 your attorney made no objection, correct?
16 A Correct.
17 Q Okay. So the suspect is allegedly picked up somewhere
18 around 8:30. And what time did the murder allegedly occur
19 approximately?
20 A They say 8:45.
21 Q Okay. Now, all of these calls so far, made between
22 7:59 and 8:40, is that correct?
23 A Yes, ma'am.
24 Q And there's a final call between the suspect's phone
25 and a Plummie Feaster at 8:45, is that correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A Yes, ma'am.
- 2 Q And how long was that for?
- 3 A 2.8 seconds.
- 4 Q And that's right at the approximate time this murder
- 5 allegedly occurred, correct?
- 6 A Yes, ma'am.
- 7 Q Because the first officers were on the scene by
- 8 8:49 p.m., is what's reflected in the transcript.
- 9 A Yes, ma'am.
- 10 Q How is it that you wanted Mr. Schultz to use the
- 11 number of phone calls, the sequence of their being made, as
- 12 it relates to the timing of the event of the murder?
- 13 A They could have showed that basically that's -- if I
- 14 was the suspect going out off the state evidence that the
- 15 whole time, basically I was on the phone and doing the
- 16 shooting. They trying to say basically I was on the phone
- 17 doing the shooting. So basically whoever I was talking to
- 18 if I was -- if that was me allegedly on the phone at 8:45,
- 19 whoever answered the phone basically would have heard the
- 20 shots. But that's the time the suspect did the murder.
- 21 Q So is it consistent looking at this that you can be
- 22 making these phone calls and committing this crime at the
- 23 same time as far as your understanding of the records?
- 24 A No, ma'am.
- 25 Q And did Mr. Schultz make that argument on your behalf?

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Direct examination by Ms. Blanchette

- 1 A No, ma'am.
- 2 Q And, specifically, did he make that argument using a
3 chart to explain that and break it down for the jury
4 instead of looking through hundreds of pages of search
5 warrants and records like we just put into the record here
6 today?
- 7 A No, ma'am.
- 8 Q Okay. And then if you could look at just the kind of
9 separate circles here, what does the top one say?
- 10 A Carlos Fuller.
- 11 Q And what's the number?
- 12 A (864)706-6309.
- 13 Q Okay. And there Mr. Fuller makes two calls. And who
14 do those calls go to?
- 15 A Amy Hunter.
- 16 Q And what's her number?
- 17 A (864)597-1967.
- 18 Q How is Carlos Fuller -- how did the state allege that
19 Carlos Fuller is involved in all of this?
- 20 A They say he's my homeboy and he was going with Amy
21 Hunter.
- 22 Q Okay. And how is Amy Hunter implicated in any of
23 this?
- 24 A Well, McKinney tried to say that I told him the
25 conversation about the gun was Amy Hunter's gun and

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Direct examination by Ms. Blanchette

1 reported stolen.

2 Q Okay. And did the gun actually come back to Amy
3 Hunter the -- at the trial? Did they -- was there
4 testimony that the gun was, in fact, Amy Hunter's gun?

5 A Yes, ma'am.

6 Q And the state -- why did the state introduce these
7 phone calls? What were they alleging these phone calls
8 were made for?

9 A I guess to somebody call Amy and tell her to report
10 the gun stolen.

11 Q Okay. And if you are, in fact, supposedly the suspect
12 in this case making phone calls from (864)921- [REDACTED] did the
13 state prove any contact with Carlos Fuller or Amy Hunter?

14 A No, ma'am.

15 Q Did Mr. Schultz ever emphasize that or bring that out
16 to the jury?

17 A No, ma'am.

18 Q Okay. Mr. Teamer, is there anything else regarding
19 the use or misuse of the phone records by your attorney at
20 your trial that you'd like to bring to the Court's
21 attention?

22 A No, ma'am. Basically, he didn't have the charts for
23 it and didn't set up the right stage like you did to show
24 that the state was inconsistent with what they were saying.

25 Q And if you could look at page 113, lines 17 through

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1 19, how long does Mr. Proctor say they picked up the
2 suspect before the shooting occurred?

3 A Five seconds? Talking about that part?

4 Q If you could look at lines 18 and 19 where he says
5 they picked him up and that he was with him for about how
6 long?

7 A For five minutes.

8 Q Okay. So for five minutes before the shooting
9 occurred the suspect was in the vehicle. In looking at
10 these records wouldn't these calls be having to take place
11 during that five minutes?

12 A Yes, ma'am.

13 Q That makes him one busy suspect, doesn't it? Because
14 they go on to explain that the suspect was this cold,
15 calculated killer who put on latex gloves, got out a 9mm,

16 shot the victim and then also shot Mr. Proctor and would be
17 making these phone calls at the time if the records are
18 correct.

19 A Yes, ma'am.

20 Q Okay. And is that an argument that Mr. Schultz made
21 on your behalf?

22 A No, ma'am.

23 Q Now, if you could, turn to page 446. There the state
24 is arguing at the beginning of the page about the timing of
25 these phone calls. And there your attorney actually

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1 objects, doesn't he?

2 A Yes, ma'am.

3 Q Okay. Did you -- or was that the time when you
4 expected that he would raise an argument about these cell
5 phone records?

6 A Yes, ma'am.

7 Q Did you think he would do it at an earlier time also?

8 A Yes, ma'am.

9 Q Okay. And did he do that on your behalf?

10 A No, ma'am.

11 Q And as you've already testified, the state -- or
12 acknowledged -- the state argued in their closing arguments
13 that these cell phone records were the key to solving this
14 crime or showing he was guilty of this crime, is that
15 correct?

16 A Yes, ma'am.

17 Q Is there anything else regarding your attorney's
18 ineffective assistance as to these cell phone records or
19 the prejudice you suffered that you'd like to bring to the
20 court's attention?

21 A No, ma'am.

22 Q Okay. If you could, turn your attention to page 66,
23 line ten. And while you're doing that, could you explain
24 to the court how you know Kelvin D. McKinney?

25 A I been knowing him since we was little. We went to

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1 school together and we hung out together. We stayed in the
2 same neighborhood. Say what page?

3 Q Page 66. If you look at line ten, Mr. Barnette
4 indicates that Mr. McKinney has been charged with assault
5 and battery with intent to kill from an incident on
6 January the 14th of 2006. The defendant is also charged in
7 it. They were both codefendants in that situation.

8 Could you explain that to me, how you guys were
9 codefendants in another situation, what happened?

10 A Yeah. Basically, Kelvin McKinney was pointed out by a
11 brother-in-law, Tony Hunter, in the situation where he was
12 arrested. He left. He left the state, and he tried to --
13 got arrested and came back. And then he came back and
14 implicated me in the assault and battery with intent to
15 kill.

16 Q Okay. Let's break that down a little bit more. The
17 assault and battery with intent to kill happened in January
18 of 2006, is that correct?

19 A Yes, ma'am.

20 Q Okay. And Mr. McKinney was arrested for that
21 incident?

22 A Yes, ma'am.

23 Q And this comes out through the course of your murder
24 trial. But who was it that gave a statement about that
25 incident?

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1 A Kelvin McKinney. But Tony Hunter gave a statement
2 against Kelvin McKinney.

3 Q Regarding the January --

4 A January the 14th, yes, ma'am.

5 Q Okay. Just to clarify, that was regarding the
6 January 14th of 2006 assault and battery with intent to
7 kill.

8 A Yes, ma'am.

9 Q Okay. And who is the deceased victim in this case?

10 A Tony Hunter.

11 Q Okay. Was Tony Hunter also involved in that
12 January 14th of 2006 assault and battery with intent to
13 kill?

14 A Yes, ma'am. As far as his statements, he was.

15 Q Okay. And in his statement he implicated himself as
16 being involved in that, is that correct?

17 A Yes, ma'am.

18 Q Okay. Now, Mr. McKinney was given charges in that
19 case. But you weren't originally?

20 A No, ma'am.

21 Q Okay. When did you get your charges?

22 A I think it was a month after I was charged with
23 murder, like February of 2007.

24 Q Okay. And --

25 A March of 2007.

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- 1 Q On page 66 there they indicate that Mr. McKinney's
2 going to testify against you in the murder case regarding
3 Mr. Hunter, is that correct?
- 4 A Yes, ma'am.
- 5 Q And the state says that he has no deal on the table.
6 He is just testifying under subpoena.
- 7 A Yes, ma'am.
- 8 Q Okay. Do you know what was the outcome of
9 Mr. McKinney's assault and battery with intent to kill
10 charges?
- 11 A Basically, they sealed his transcript. But we tried
12 to obtain the transcript, and basically he got on the
13 street with nothing, no probation or nothing that I know
14 of.
- 15 Q But the state indicated there there was no deal.
- 16 A Yes, ma'am.
- 17 Q Okay. And your attorney didn't look into that or
18 object or ask any other questions otherwise.
- 19 A No, ma'am.
- 20 Q Okay. Now, if you turn to page 231, another
21 preliminary matter regarding the testimony of Mr. McKinney.
- 22 A Say 231?
- 23 Q Yeah. There your attorney is indicating he wants to
24 introduce a video that contains interviews of Mr. McKinney,
25 is that correct?

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1 A Yes, ma'am.

2 Q Okay. And he explains that he wants to introduce the
3 video for the jury to see.

4 A Yes, ma'am.

5 Q Okay. And what does the judge indicate to him, what
6 it is that he can do with that video?

7 A Contradict his testimony of Mr. McKinney.

8 Q Okay. And, in fact, does he attempt to do that during
9 his trial or during his testimony?

10 A Yes, ma'am.

11 Q Okay. And we're going to go into that a little bit
12 more later. But what did you talk to your attorney about
13 regarding that video? Did you review it? Did you discuss
14 how it was going to be used? What -- what was your
15 preparation as far as that video?

16 A We -- I reviewed the video with the attorney, and we
17 discussed the matter about Kelvin McKinney. He asked for
18 it after he's supposed to have gave a statement. He asked
19 for a deal. He asked him what the state was going to do
20 for him for providing this information.

21 Q Okay. And how did you want that video to be used at
22 your trial? How did you discuss it being used? Did you
23 want the jury to see the entire video, portions of the
24 video? What did you discuss with Mr. Schultz?

25 A I wanted him to see the whole video but they -- he

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1 could only show the portions where he denied like cell
2 phone. He didn't know the number at first, but all of a
3 sudden he tried. He knew the number. He asked the police
4 officer or the sketch that was showed of the suspect, he
5 asked was that him.

6 Q Okay. If you could, turn to page 247, please, and
7 let's look at what actually happened with this video.
8 There your attorney is asking Kelvin a number of questions
9 about his video statement, is that correct?

10 A Yes, ma'am.

11 Q Okay. And some of those questions are objected to by
12 the state, but they're overruled. So he goes through and
13 asks him several questions about his video statement.

14 A Yes, ma'am.

15 Q Okay. If you could, turn to page 257. Okay. And on
16 257 do they actually play that video for the jury?

17 A Yes, ma'am.

18 Q And do you see in the middle of the page there where
19 they talk about who's going to mark that video?

20 A Yes, ma'am.

21 Q Okay. And in preparation for your P.C.R. did you
22 actually ask me to obtain a copy of that video from the
23 clerk's office?

24 A Yes, ma'am.

25 Q And do you agree that we were unable to locate a copy

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1 of that video from the clerk's office?

2 A Yes, ma'am.

3 Q Okay. So it appears that it may not have actually
4 been introduced upon review of the transcript, is that
5 correct?

6 A Yes, ma'am.

7 Q But it is played for the jury.

8 A Yes, ma'am.

9 MS. BLANCHETTE: Your Honor, at this time I don't know
10 if we want to put it on the record or approach -- how we'd
11 like to handle the video situation.

12 I can put it on the record.

13 Your Honor, at this time I had intended on introducing
14 a C.D. copy of the video. Unfortunately, I had a copy of
15 that video. I shared it with the state, and Ms. White also
16 made a copy.

17 MS. WHITE: Yes.

18 MS. BLANCHETTE: We both had copies of the video.

19 I went to McCormick. I reviewed the 3-hour video with
20 my client, made lengthy notes on it. And just a couple of
21 weeks ago -- about two weeks ago -- when I went to go pull
22 my copy it could not be located.

23 I contacted Ms. White and unfortunately --

24 MS. WHITE: We could not locate ours as well.

25 MS. BLANCHETTE: Just this week I came across what I

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1 believe to be my copy of the video, but it is corrupted and
2 can no longer be opened.

3 There Ms. White jumped in and helped.

4 MS. WHITE: We contacted the solicitor's office about
5 getting another copy, and it's too large to be sent over
6 email. So they made a copy and mailed it. However, it did
7 not come in the mail prior to me coming to Columbia. So, I
8 mean, excuse me, coming from Columbia. So I'm not sure.

9 I know Barry's not in here now. I had emailed him
10 late last night to see if they were able to get another
11 copy potentially. So we'll just have to I think maybe at a
12 break check and see.

13 THE COURT: Maybe we need to take a break. We haven't
14 had -- we haven't had a break this morning.

15 MS. BLANCHETTE: ~~That would be fine. I just have an~~
16 exhibit I'd like to introduce. We don't have one yet.

17 THE COURT: All right. Court will be in recess for
18 ten minutes.

19 MS. WHITE: Okay. Thank you, Your Honor.

20 (Whereupon, a recess was taken.)

21 MS. BLANCHETTE: Your Honor, while Ms. White catches
22 her breath, the solicitor's office has informed us that
23 they do have a copy, but the investigator -- Tank -- that
24 can make our copy --

25 MS. WHITE: Will have to make another one, you know,

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1 since I -- since we requested another one, because
2 apparently I did just get the one that was sent to me by
3 them in the mail today according to my assistant, so.

4 MS. BLANCHETTE: So we have a copy in Columbia.

5 MS. WHITE: Right.

6 THE COURT: We've got to recess the Court to Columbia?

7 MS. BLANCHETTE: That would be more convenient for me,

8 Your Honor.

9 THE COURT: Well, tell me what your plan was.

10 MS. BLANCHETTE: I had planned to introduce it at this
11 point.

12 If the Court isn't opposed to it, I can go ahead and
13 attempt to introduce it. I understand the state has an
14 objection. The Court could rule.

15 ~~what we'd planned to do is if it is introduced provide~~
16 a copy to the Court to review on your own since I believe
17 it is two to three hours in length. I did not plan to show
18 it in court today.

19 THE COURT: I see.

20 MS. WHITE: Right.

21 MS. BLANCHETTE: So I -- we could sent a copy to the
22 Court possibly later this afternoon.

23 MS. WHITE: Depending on your ruling too.

24 MS. BLANCHETTE: Depending on your ruling.

25 THE COURT: Might as well go ahead and argue now on

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1 the admissibility.

2 MS. WHITE: Okay.

3 MS. BLANCHETTE: Well, Your Honor, at this time I
4 would move to admit the D.V.D. of the taped interviews of
5 Kelvin McKinney on the basis that according to the record
6 it appears it may have been introduced at the trial, even
7 though we have not been able to locate that in the clerk's
8 file.

9 There is extensive argument about wanting to introduce
10 it. And then on pages -- page 257 it's, in fact, played
11 for the jury, and they discuss who's going to mark it and
12 introduce it.

13 I'm going to go into some further allegations with
14 Mr. Teamer about the video and how he anticipated it would
15 be used. And we would like to introduce it at this time so
16 the Court can review the entire video in connection with
17 the allegations.

18 Also, when Mr. Schultz takes the stand we're going to
19 ask him a number of questions about whether or not he
20 proffered the full video and properly reserved -- preserved
21 the issue for appellate review.

22 THE COURT: Ms. White.

23 MS. WHITE: Thank you, Your Honor.

24 The state objects for -- on a hearsay basis.

25 Initially, you know, I would believe that they're offering

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1 it for the truth of the matter asserted as in the full
2 document or the full video.

3 They're trying to introduce that for purposes of --
4 that would be hearsay, and we would object on that basis.

5 Obviously, in this situation the Court had ruled that
6 only the portions could be used to actually impeach the --
7 or excuse me -- regarding a prior inconsistent statement of
8 Mr. McKinney as he testified.

9 The portion that was allowed was presented to the
10 jury. If that one portion was introduced I'd have no
11 problem with it. But if the entire video is introduced I
12 don't think it would have been able to be introduced at
13 trial. And I think that it's hearsay in this regard.

14 THE COURT: Let me see what the judge said.

15 MS. BLANCHETTE: And, Your Honor, I direct your
16 attention to page 257 through 258.

17 It actually marked as Defendant's Exhibit No. 1. But
18 if you look at the index of the transcript Defendant's
19 Exhibit 1 is a diagram. And so that's where the confusion
20 began for myself.

21 THE COURT: Is there -- is there another exhibit
22 referenced in the transcript to the -- to another exhibit
23 introduced -- a diagram?

24 MS. BLANCHETTE: Let me see the page number that's
25 given here. That's a very good question. No. It actually

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1 goes to the C.D.

2 MS. WHITE: To the C.D., yeah, to the D.V.D.

3 MS. BLANCHETTE: And they play several portions.

4 THE COURT: Say that again so I'll understand what
5 y'all are saying.

6 MS. BLANCHETTE: The page number that's referenced is
7 256, and that would be the C.D. or D.V.D.

8 And then through pages 257 through 258 there are
9 several portions played, but why we want the entire thing
10 provided to the Court is one of our arguments is going to
11 be that counsel was ineffective for not proffering the
12 entire video.

13 He's asking to play it, but beginning the entire
14 video. The judge rules that certain portions can come in.
15 And we're alleging that he should have proffered the entire
16 video before the judge made that ruling.

17 Furthermore, my client's going to allege through
18 additional testimony here -- and we've got into it just a
19 little bit -- that he thought his attorney was going to use
20 the entire video and why he wanted him to use the entire
21 video.

22 As far as hearsay, I do not plan to specifically play
23 this video and say Kelvin McKinney said this and this is
24 the truth in this case. It's just to go to those two
25 allegations that I've already mentioned.

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1 THE COURT: Hold on one minute. Let me look at this
2 so I'll put things in perspective.

3 (Pause.)

4 THE COURT: Had they had a previous discussion about
5 this?

6 MS. WHITE: Page 230, Your Honor, they -- Mr. Schultz
7 actually asked for a pretrial ruling asked -- kind of
8 expecting, I think, that Mr. McKinney was going to
9 contradict himself and his statement.

10 So they discussed it in regards to that, and the Court
11 said basically if he -- the extrinsic evidence is allowed
12 if he completely denies making that.

13 There were also two written statements. One of the
14 written statements was a summary I guess of the video
15 statement from my understanding I think from --

16 MS. BLANCHETTE: Your Honor, we do plan to introduce
17 those and go into those as well.

18 MS. WHITE: But the video statement, you know, and the
19 statement he said that he would not allow unless
20 Mr. McKinney denied making, you know, the statements that
21 he said either in the written or video-taped portion.

22 MS. BLANCHETTE: And, Your Honor, we are going to the
23 clerk's office one more time.

24 Right now the private investigator just went to verify
25 with the deputy clerk if there is, in fact, a D.V.D.

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1 setting in their box here at the clerk's office.

2 THE COURT: Well, I have a file here, 2010-CP-42-4049.

3 MS. WHITE: 4049 would be the burglary case, Your
4 Honor.

5 THE COURT: And I do not see a D.V.D. in there.

6 Give me one more second to finish looking at this 230
7 and 231 discussion.

8 (Pause.)

9 THE COURT: All right. Now, it appears to me from the
10 transcript -- I'm sorry -- that they did have that
11 discussion on page 230, 231, maybe 232.

12 And then the judge gave his -- I guess what he did was
13 he gave his opinion as to what might be admissible or not
14 be admissible based on what questions might be asked of the
15 witness.

16 So there must have been another conference somewhere.
17 At any rate, there must have been a conference between the
18 attorneys and the judge where they went through the D.V.D.
19 and decided what portions --

20 MS. WHITE: Do you mean like in a prior conference, a
21 bench conference or --

22 THE COURT: Bench conference.

23 MS. WHITE: Back in chambers.

24 THE COURT: That's right.

25 MS. BLANCHETTE: If you look at 256, Your Honor -- and

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1 I'm not saying you didn't properly review this -- it's
2 interesting as he's playing portions there's bench
3 conferences held throughout. And it says this is outside
4 the presence of the jury.

5 THE COURT: Right.

6 MS. BLANCHETTE: So I'm assuming what you're
7 describing took place during those periods.

8 THE COURT: Right, so.

9 MS. WHITE: Deciding which portions of the D.V.D.
10 could be played.

11 THE COURT: So portions apparently were played.

12 MS. WHITE: Yes, Your Honor.

13 THE COURT: All right. Now, do we now have a D.V.D.?

14 MS. WHITE: That is the copy from what I understand
15 that -- of the information that was requested by

16 Ms. Blanchette on the applicant's behalf and a copy of the
17 D.V.D. I think that was -- the original if you'll allow us
18 to have one moment.

19 (Pause.)

20 MS. WHITE: Your Honor, if we can just a minute, Mr.
21 Barnette was here with the packet that he's got.

22 MR. BARNETTE: May we approach one second, Your Honor,
23 just to explain before I break this up?

24 THE COURT: Sure.

25 (Bench conference held off the record.)

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1 THE COURT: Okay. I think we are back now on the
2 record after a lengthy bench conference.

3 As best I can tell, both sides agree that we have
4 finally located what was previously marked as Defendant's
5 Exhibit No. 1. It is actually in the clerk's office.

6 MS. WHITE: Yes, Your Honor.

7 THE COURT: The parties have agreed to copy that by
8 virtue of having the solicitor make four copies -- one for
9 the two attorneys, one for us to have as I'm sure we will
10 need in one form or another -- for our court reporter to
11 have -- and one for the judge to have.

12 Anybody disagree with that, speak up.

13 Okay. Now, let's continue with our arguments about
14 whether or not in this case the Court should consider that
15 D.V.D.

16 As best we can tell, portions of the D.V.D. were
17 actually played for the jury during a trial of the case.
18 The state objects though for that same document being
19 considered or introduced in this case. And the reason is?

20 MS. WHITE: Your Honor, we would object because at
21 this point the document or the D.V.D. is actually hearsay.

22 I think -- you know, I know Ms. Blanchette argued
23 they're not asserting it for the truth of the matter
24 asserted or not providing it for that reason. But I think
25 that's exactly the purpose in providing you with a video,

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1 is because the argument is, well, counsel should have shown
2 the entire video or gotten the entire video in.

3 clearly, they wanted that because their argument is
4 there's something on the video that the applicant believes
5 is pertinent more than was shown to the jury in regards to
6 the inconsistent statements.

7 In this situation I think it's hearsay, but I also
8 think the relevance as to whether or not -- what the
9 factual parts of the entire video are are lacking because
10 at this point it could have been only been introduced if
11 Mr. McKinney in it -- in its entirety denied ever making a
12 statement to the police.

13 I think Judge Cole had ruled that extrinsic evidence
14 of a prior inconsistent statement can only be introduced
15 once the person has actually denied making that statement.

16 And so I think in this situation for the entire video
17 to have been introduced Mr. McKinney would have had to have
18 essentially denied speaking to the police at that time.
19 And as he did not, and clearly testified, then I think the
20 only relevant parts are the parts that were shown to the
21 jury.

22 THE COURT: which parts were they?

23 MS. WHITE: well, and I think we can -- I can proffer
24 Mr. Schultz to talk about it, because he's the one that
25 cross-examined Mr. McKinney to discuss the areas that he

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1 felt were inconsistent.

2 THE COURT: Okay.

3 MS. WHITE: I'll be happy to have Mr. Schultz, you
4 know, get on the record and talk a little bit about what he
5 recalls the inconsistent statements being that he wanted
6 the jury to see on the video.

7 THE COURT: All right. And -- okay.

8 MS. WHITE: Is that what you would like for me to do
9 or --

10 THE COURT: Well --

11 MS. WHITE: -- do you want to turn it over --

12 THE COURT: I'm going to hear from the applicant and
13 see.

14 MS. BLANCHETTE: Your Honor, as the applicant has the
15 burden in this case, I would object to Mr. Schultz being
16 allowed to be proffered to clarify the transcript as to
17 which portions were played when the entire basis of our
18 case was Mr. Schultz was ineffective.

19 I -- we'll be asking Mr. Schultz questions today about
20 why the transcript isn't clear as to which portions were
21 played, why the entire video was not proffered.

22 And what's really strange is with the state's argument
23 that it's not relevant we have just agreed that the entire
24 video was introduced into evidence, and we've agreed to
25 made a copy of the entire video. If the entire video was

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1 introduced into evidence I think it's a common-sense
2 argument that it is relevant to this action, and not just
3 the portions.

4 There's no place in here where it says six different
5 C.D.'s were introduced, one with each portion that was
6 shown.

7 What it appears from the transcript and what we've all
8 just agreed to is that the entire video was introduced into
9 evidence. Therefore, it's our position that it's relevant
10 for this Court to review the entire video.

11 It's not an issue of hearsay. It's an issue to us
12 meeting our burden and being able to properly make our
13 allegations in this case.

14 THE COURT: Tell me one more time. Your allegation as
15 to the video -- let's just suppose, for instance, that I
16 had already reviewed it, the entire document.

17 MS. BLANCHETTE: Uh-huh.

18 THE COURT: And, see, your allegations as to
19 Mr. Schultz's failure as to the video is what?

20 MS. BLANCHETTE: We have it listed as No. 6, a portion
21 of that. It says failure to effectively use the video of
22 Kelvin McKinney's statement on cross-examination.

23 Unfortunately, this was written, you know, before we
24 take testimony and the issue actually develops. So to
25 clarify that what I was going into with my client is his

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1 understanding prior to court that the entire video was
2 going to be used and that he wanted the entire video to be
3 used.

4 Then Mr. Schultz brings that up to the Court, and he
5 fails to ever proffer the entire video and get a specific
6 ruling so the issue would be properly preserved for
7 appellate review.

8 So we'd be alleging he was ineffective in how he
9 discussed it with the applicant prior to trial, in his
10 mid-trial attempt to have it admitted in its entirety, then
11 with his handling of it during cross-examination where
12 portions are played with no clarification as to what
13 portions, and then as to the introduction of it. It
14 appears that the entire video was introduced but never
15 played for the jury.

16 So to be honest, it would be his entire handling of
17 this video evidence. If I need to provide more clarity, I
18 can.

19 THE COURT: well, let me ask you this.

20 Are you saying that he would have -- he should -- he
21 was entitled as a matter of law to have the entire video
22 played to the jury?

23 MS. BLANCHETTE: well, that issue was not addressed by
24 the appellate courts that would have made that proper
25 ruling because it was not proffered.

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1 So I think for that issue to be considered by this
2 Court you do need to review the entire video starting
3 there.

4 Did I properly answer your question, or did that go in
5 the wrong direction?

6 THE COURT: I don't know.

7 I guess at this point for all we know the jury heard
8 all but 30 seconds of the tape or five seconds of the tape,
9 isn't that right? We don't -- we don't know what they
10 didn't hear, or I guess we don't know what they did hear.

11 MS. BLANCHETTE: The only thing we know for certain as
12 of recently is the entire D.V.D. was introduced into
13 evidence as Defendant's Exhibit No. 1.

14 MS. WHITE: Your Honor, I would just note that it was
15 an Anders brief, and if we're, you know, arguing as to
16 preserved for appellate review -- when Mr. Schultz asked to
17 put the whole video in, the Court said, well, you could put
18 it in as prior inconsistent statement only, there were
19 objections that were overruled and sustained, and that if
20 she's arguing the entire video is in, then it's very
21 possible that the entire video was available to the jury
22 and available to the appellate courts as well.

23 MS. BLANCHETTE: And, Your Honor, something that's
24 just kind of glaring to me is if portions were played there
25 should be a redacted video that was provided to the jury.

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1 What I'm asking to introduce is what was introduced at
2 the trial, and common sense would say provided to the jury.
3 So I don't see how the state can argue that it's
4 objectionable now.

5 THE COURT: As a practical matter I'm not sure I've
6 ever personally seen in a criminal trial the state or the
7 defense being able to put together a redacted D.V.D. to
8 show to the jury. It happens all of the time. It drives
9 me nuts. It just seems as though they ought to be able to
10 do it, but I'm not -- I'm not an expert.

11 MS. BLANCHETTE: Well, I believe for Mr. Corney --
12 I've seen them in Richland County. He handles Richland
13 County. But I'm not an expert either. For the record, I
14 have received them.

15 THE COURT: Okay. I'm going to admit it into evidence.
16 once we obtain it, and we'll review the entire two or three
17 hours or whatever it is y'all have told me about.

18 MS. WHITE: Okay. Thank you, Your Honor.

19 THE COURT: You may continue.

20 MS. BLANCHETTE: Thank you, Your Honor.

21 BY MS. BLANCHETTE

22 Q Before we broke we were speaking about the video that
23 was introduced of Kelvin McKinney's interviews with law
24 enforcement.

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. And just to touch base on that a little bit
2 more, is there anything else you wanted to tell the Court
3 regarding your attorney's entire handling of that piece of
4 evidence?

5 A Yes, ma'am.

6 Q Okay. And what is that, Mr. Teamer?

7 A Basically, he was careless with the whole video. He
8 was just going back and forth like a winding. Then he'd
9 have to pause it, then go back and rewind and fastforward.

10 He's really supposed to show the video to show that on
11 258 about the 621 number that Kelvin McKinney claimed he
12 knew but on video he didn't know it by heart.

13 And then on page 247, lines 16 through 18, he said a
14 white boy shot Tony.

15 Then on line [sic] 247, again, line 23 to 25, through
16 248, line one to ten, he asked McKinney about that con --
17 what they call the sketch rather. And Kelvin McKinney
18 asked the investigator what, to sketch him. So Josh went
19 back and did that with him.

20 And he supposed to been impeaching him on the 921, not
21 the 621. So this perjury was in front of the jury. Didn't
22 know the purpose of showing the video. This prejudiced me,
23 because basically the jury ain't knowing the whole purpose
24 of the video. But he just was winding and fastforwarding
25 instead of going back as he's doing and asking McKinney

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 didn't you say this. He just did like four portions and
2 kept on moving.

3 Q And so you were there at the trial. As confused as
4 we've been today about this video, was it confusing then
5 too, why the video was being used and how it was being used
6 by Mr. Schultz?

7 A Very confused.

8 Q Okay. And to you was this video an important part of
9 your defense?

10 A Yes, ma'am.

11 Q Okay. And the way that you understood your attorney
12 was going to utilize it, that is not the way he utilized it
13 at trial?

14 A No, ma'am.

15 Q Okay.

16 A But basically he didn't even have his own video. He
17 had to use the state video. So he didn't know which
18 portions he was going to show or nothing until right then.
19 He just went at the spur of the moment.

20 Q Okay. And Kelvin McKinney also gave written
21 statements in this case, is that correct?

22 A Yes, ma'am.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, I may be taking these
25 exhibits out of order. This is the --

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 THE COURT: It --

2 Q Could you identify this packet for the record, please?

3 A Yes, ma'am. These written statements by Kelvin
4 McKinney, two different ones.

5 Q And is this information you received as part of the
6 discovery in your case?

7 A Yes, ma'am.

8 Q Okay.

9 MS. BLANCHETTE: Your Honor, at this time we would
10 move these statements in as Applicant's No. 17. I believe
11 the D.V.D. would be Applicant's No. 16.

12 MS. WHITE: And, Your Honor, with the state's same
13 objection that I think this is hearsay. These weren't
14 introduced at trial. This is Mr. McKinney's statements.
15 Mr. McKinney's not here to refute or testify as to what he
16 said, or deny or anything like that. Then I would argue
17 that it's hearsay.

18 THE COURT: And the purpose then of this document
19 being introduced is?

20 MS. BLANCHETTE: Not for hearsay, Your Honor. I don't
21 plan to go into it for the truth of the matter asserted to
22 show that this information was available via discovery.

23 It was available to prepare, to cross-examine and to
24 impeach Mr. McKinney. And my client's going to explain how
25 he anticipated that his attorney would have used these at

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 trial or how he should have used these at trial.

2 THE COURT: Tell me. I told you a minute ago. I had
3 that. Is this it?

4 MS. BLANCHETTE: It is, Your Honor.

5 THE COURT: I'll admit it for that purpose.

6 MS. WHITE: All right. Thank you, Your Honor.

7 THE COURT: Overrule the objection.

8 (D.V.D. marked Applicant's Exhibit No. 16; voluntary
9 statement marked Applicant's Exhibit No. 17.)

10 Q And, Mr. Teamer, you had these statements to review
11 with Mr. Schultz prior to your trial.

12 A Yes, ma'am.

13 Q And did you all discuss them?

14 A Yes, ma'am.

15 Q And how did you anticipate they were going to be used
16 at your trial?

17 A Basically, I knew. But from the severance motion that
18 we wasn't going to be able to use both of them to impeach
19 him about his testimony on one statement he alleged some --
20 that I told him about some crimes.

21 And then the other statement he said I didn't tell him
22 about the crimes. So I knew it couldn't be used in that
23 matter. But basically to show different inconsistent
24 statements of what he's saying then and what he said now.

25 Q And did your attorney do that on your behalf at trial?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A He didn't do a good job at it.

2 Q And was he -- did he attempt to, or did he introduce
3 those statements at trial?

4 A No, ma'am.

5 Q Okay. Let's talk a little about Kelvin McKinney's
6 actual testimony. If you could, turn to page 237 through
7 238. There Mr. McKinney goes into detail about this prior
8 shooting incident. That's pages 237 through 238 of the
9 murder transcript.

10 A Yes, ma'am.

11 Q And he describes that you and Tony Hunter went to a
12 house. You met with an individual in a truck. Tony
13 approached the truck. Then you did. And then he alleges
14 that you fired shots.

15 A Yes, ma'am.

16 Q Okay. At any time at the beginning of the trial --
17 what we call pretrial -- or during this testimony did your
18 attorney make any objection about this being a prior bad
19 act?

20 A No, ma'am.

21 Q And this was not the act that you were on trial for,
22 is that correct?

23 A Correct.

24 Q Okay. If you could, turn to page 239, and look at
25 lines six through nine.

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A Yes, ma'am.
- 2 Q Does he actually admit that Tony had called the house
3 to find out what his real name was?
- 4 A Yes, ma'am.
- 5 Q And does he convey that he told you that, that Tony
6 had called to the house?
- 7 A Yes, ma'am.
- 8 Q And he explains on 242 how it is that he knows Tony.
9 But do you know what his relationship with Tony was or how
10 he knew Tony?
- 11 A Yes, ma'am. That's Tony -- Kelvin McKinney baby-mama
12 is Tony's sister.
- 13 Q Okay. Let's break that down. Tony Hunter was the
14 victim in this case, is that correct?
- 15 A Yes, ma'am.
- 16 Q One of the victims in this case.
- 17 A Yes, ma'am.
- 18 Q Okay. And who is his sister?
- 19 A Dawn Hunter.
- 20 Q Okay. And how is Dawn Hunter connected to Kelvin
21 McKinney?
- 22 A That's his baby-mother.
- 23 Q Okay. So they have children together, is that
24 correct?
- 25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Okay. Now, if you could, look at page 246. He admits
2 there that he knew that Mr. Hunter had actually given a
3 statement on him regarding that prior charge. Is that what
4 he testifies to?

5 A Yes, ma'am.

6 Q Okay. Mr. Teamer, could you identify this document
7 for the record, please?

8 A A preinterrogation waiver form for James Tony O.
9 Hunter.

10 Q And what's the date on that?

11 A 1/19/2006.

12 Q And what's the second page titled?

13 A Voluntary statement.

14 MS. BLANCHETTE: Your Honor, at this time I'd move
15 this statement in as Applicant's No. 18.

16 MS. WHITE: Without objection, Your Honor.

17 (Preinterrogation waiver form marked Applicant's
18 Exhibit No. 18.)

19 Q Mr. Teamer, could you review this statement? Is the
20 name Snow mentioned in this statement?

21 A Yes, ma'am.

22 Q And whose nickname was Snow?

23 A Kelvin McKinney.

24 Q Do you see the name Charlie Teamer, Little C, any --
25 any names that may refer to you listed in that statement?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A No, ma'am.
- 2 Q So at no place your name is listed in that statement.
- 3 A No, ma'am.
- 4 Q And is it true that the state alleged that the motive
- 5 for the murder in this case was because Tony Hunter gave a
- 6 statement on you?
- 7 A Yes, ma'am.
- 8 Q Is your name in that statement?
- 9 A No, ma'am.
- 10 Q Whose name is in that statement?
- 11 A Kelvin McKinney's.
- 12 Q Now, if you could, turn to page 279, please. Officer
- 13 Sutton admits that that statement only says Snow, is that
- 14 correct?
- 15 A Yes, ma'am.
- 16 Q Despite Officer Sutton testifying to that, did your
- 17 attorney ever get into that fact with Kelvin McKinney while
- 18 he was on the stand?
- 19 A No, ma'am.
- 20 Q Was that a primary part of your defense, Mr. Teamer?
- 21 A Yes, ma'am.
- 22 Q And in this case you actually allege third-party
- 23 guilt, is that correct?
- 24 A Yes, ma'am.
- 25 Q And who was that third party?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A Kelvin McKinney.
- 2 Q How did it affect your case when your attorney failed
3 to get into that statement with Mr. McKinney and the fact
4 that his name was in it and yours was not?
- 5 A Because he didn't properly impeach him on it, and he
6 didn't ask him about the fact that my name wasn't in Tony's
7 statement and it was in his.
- 8 Q He does on page 246 admit he knew about the statement.
9 But are you alleging that your attorney should have gone
10 further and explored that issue with Mr. McKinney while he
11 was on the stand?
- 12 A Yes, ma'am.
- 13 Q Okay. Now, Mr. McKinney testified -- and we've
14 already gone over this today -- on page 241 that you had
15 told him about shooting Tony when you were in pod six. If
16 you could, look at page 241.
- 17 A Yes, ma'am.
- 18 Q And your attorney makes an objection in the middle of
19 that page. What was the basis for his objection?
- 20 A Said hearsay.
- 21 Q And what was the result of that?
- 22 A Overruled.
- 23 Q And then Mr. McKinney was allowed to go into what you
24 allegedly told him while you were located in pod six.
- 25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And on page 242 if you look at lines four through six
2 he says we were just in the room talking. So he explains
3 that you guys were just sitting in a room talking, is that
4 correct?

5 A Yes, ma'am.

6 Q Okay. Mr. Teamer, could you identify this for the
7 record, please?

8 A This is a subpoena from Joshua Schultz to Willie -- to
9 Wendy -- to Allen Wendy.

10 Q Okay. Does it actually appear to be an email?

11 A Yes, ma'am.

12 Q Okay. And what's the date on that?

13 A August the 28th of 2007.

14 MS. BLANCHETTE: Your Honor, at this time I would
15 introduce this email as Applicant's No. 19.

16 MS. WHITE: Without objection.

17 THE COURT: Without objection.

18 (Email marked Applicant's Exhibit No. 19.)

19 BY MS. BLANCHETTE

20 Q Now, in this email there's a question being asked
21 about who's the best person at the jail to testify to the
22 rotations in pod six.

23 A Yes, ma'am.

24 Q And then it indicates S.U.B. Captain Speller, is that
25 correct?

Nathaniel Teamer
Direct examination by Ms. Blanchette

- 1 A Yes, ma'am.
- 2 Q Okay. As far as you know was Ms. Speller who
3 testified today here -- do you know if she was subpoenaed
4 or not?
- 5 A I know she was subpoenaed.
- 6 Q Okay.
- 7 A She was sequestered outside the courtroom.
- 8 Q Okay. Was she ever utilized as a witnesses on your
9 behalf?
- 10 A No, ma'am.
- 11 Q Okay. Do you have any idea why she wasn't used?
- 12 A No, ma'am.
- 13 Q Okay. Let me show you some records here that have
14 already been introduced. I'm showing you Applicant's No.
15 4, Applicant's No. 1 and Applicant's No. 3. _____
- 16 Now, Applicant's No. 4 is a subpoena with a layout of
17 pod six attached to it.
- 18 A Yes, ma'am.
- 19 Q Applicant's No. 1 is records that indicate where you
20 were located during the month of November.
- 21 A Yes, ma'am.
- 22 Q And Applicant's No. 4 is -- are records -- I'm sorry.
23 Applicant's No. 3 are records indicating where Mr. McKinney
24 was housed during the month of November.
- 25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And you received these records from Mr. Schultz, is
2 that correct?

3 A Yes, ma'am.

4 Q Did you go over them with him?

5 A Yes, ma'am.

6 Q Okay. And in reviewing them what was your
7 anticipation as to how they were going to be used as part
8 of your defense?

9 A That we were going to bring in officers to come and
10 testify to our room numbers, the sides they got us on.
11 They got this pod six like blocked up. Like it's intake --
12 intake or the bottom come out together. Then you got P.C.,
13 the back row. P.C. top and bottom, they come out separate,
14 but they come out like one row at a time.

15 Then you got the administrative set side, which I was
16 on, the top and bottom. We come out together. But the
17 intake, P.C. and administrative set side can't mingle for
18 no reason at all.

19 Q Once you heard that Mr. McKinney was going to say that
20 you had a conversation with him in a cell, with your
21 understanding of the layout and the restrictions in pod six
22 did you think that was possible?

23 A No, ma'am.

24 Q And is that why you asked your attorney to look into
25 the issue?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay.

3 A I explained to him there was no way possible from his
4 statements and what he was saying. There was no way
5 possible for me and him to have had this conversation,
6 especially without nobody else overhearing it.

7 Q Did you also ask him to talk to your cellmate?

8 A Yes, ma'am.

9 Q And who was that?

10 A James Hunter.

11 Q Okay. And we called him here today to establish what
12 you would have wanted him to testify to, is that correct?

13 A Yes, ma'am.

14 Q Okay.

15 MS. BLANCHETTE: Your Honor, if I could beg the

16 Court's indulgence one moment.

17 THE COURT: Certainly.

18 (Pause.)

19 Q Mr. Teamer, is there anything else regarding the
20 information that Mr. Schultz obtained from the jail and his
21 failure to use Officer Speller in the capacity that we did
22 today and his failure to use James Humphries that you would
23 like to bring to the Court's attention?

24 A Let me see. Basically, perjured me because -- and
25 prejudiced me because McKinney got to tell the jury like we

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 was in the open cell, like Joshua Schultz was
2 cross-examining him. He was basically saying like we could
3 just actually go in and out of each other's cell and we
4 could be in private to talk when there's no way possible we
5 could've been private for me to tell him.

6 So if he would've showed the records he would've been
7 able to impeach him on the -- the fact that me and him
8 could never talk in private. We can't never just walk in
9 and out of each other's cell. Basically, he just let him
10 go on with the perjured testimony that he had records to
11 impeach him on.

12 Q Okay. Let's turn to Dawn Hunter's testimony.

13 Did you know prior to trial that she was going to
14 testify and did you discuss her potential testimony with
15 your attorney?

16 A No, ma'am. I -- I'd accepted that she wasn't going to
17 testify.

18 Q If you could, turn to pages 256 to -- I'm sorry -- 265
19 to 266, beginning at line 20 on 265 over to line six on 266
20 if you could review that.

21 (Pause.)

22 A Yes, ma'am.

23 Q And does she admit there that Mr. McKinney was laying
24 right next to her when her brother called to find out his
25 real name?

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. Now, if you could turn to pages 263 to 264 --
3 go back a couple of pages. And I'm just summarizing. But
4 there she recounts an event where you had come to her home
5 with a 9mm and latex gloves. And you asked where her
6 brother, Mr. Hunter, was.

7 A Yes, ma'am.

8 Q Was that her testimony?

9 A Yes, ma'am.

10 Q And if you could, turn to page 269. Your attorney
11 actually makes an objection at that point saying that her
12 prior testimony involved prior bad acts. Is that what he
13 argues?

14 A Yes, ma'am.

15 Q Okay. And he makes that objection throughout the
16 courses of page 269 and 270.

17 In response at the bottom of page 270 the state begins
18 their argument. And do you agree that Mr. Barnette
19 actually goes into whether or not they can use the prior
20 bad act of the ABWIK or the shooting from January to prove
21 motive in this case?

22 A Yes, ma'am.

23 Q Now, Mr. Schultz had objected well after Dawn Hunter
24 made or gave her testimony about you coming to her house
25 with latex gloves and a 9mm saying that was a prior bad

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 act.

2 A Yes, ma'am.

3 Q But the state actually goes into whether or not the
4 ABWIK is admissible as a prior bad act, is that correct?

5 A Yes, ma'am.

6 Q Okay. Could you explain if you see what the
7 deficiency or what you think the problem is here with your
8 attorney's argument on your behalf?

9 A He basically supposed to have objected to the
10 January 14th whole bad act.

11 I mean, it was my understanding from the beginning
12 that we were going to go into pretrial motion about the
13 whole bad act.

14 My name wasn't nowhere in Tony Hunter's statement that
15 Kelvin McKinney was implicating me, somebody wanted

16 something in return. He implicated me in the murder. He
17 implicated me in the assault and battery with intent to
18 kill. He had something that he wanted in return, but I was
19 asking him to show the judge and have a ruling on the
20 testing balance of the bad act to show that I had no reason
21 to kill Tony Hunter.

22 Q And is --

23 A My name wasn't nowhere in Tony Hunter's statement at
24 all. Nobody concerning this January the 14th incident
25 implicated Charlie Teamer. They just implicated Kelvin

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 McKinney.

2 Q And actually if you look at the bottom of page 272 the
3 judge says, "Now, what other bad acts are we referring to?"
4 And Mr. Schultz responds, "That's the only bad act that I
5 can see from that testimony."

6 And the judge questions again, "Is the possession of
7 the pistol, possession of a pistol and possession of latex
8 gloves?" And Mr. Schultz agrees.

9 So he never makes the motion regarding the assault and
10 battery with intent to kill or the prior shooting that the
11 state was alleging is the motive in this case.

12 A No, ma'am.

13 Q Even when asked by the judge if that was the only
14 prior bad act he saw was this incident with alleged latex
15 gloves and a 9mm.

16 A Yes, ma'am. Actually, he withdrew the latex glove and
17 just said the pistol on page 273, line five.

18 Q And eventually the judge rules it's relevant and
19 admissible, is that correct?

20 A Yes, ma'am.

21 Q Okay. Now, if you could, look at the testimony of the
22 victim, Mr. Proctor.

23 MS. BLANCHETTE: And, Your Honor, this is going to be
24 a lengthy issue. I didn't know if you wanted to break for
25 lunch or if I should keep going at this time.

Lee Conley
Direct examination by Ms. Blanchette

1 THE COURT: This might be a good time -- work with the
2 state.

3 MS. WHITE: Yes, sir, Your Honor.

4 MS. BLANCHETTE: And before we break for lunch I do
5 need to recall my investigator for about five minutes of
6 testimony. I didn't know if that would be appropriate to
7 do at this time.

8 THE COURT: Any objection?

9 MS. WHITE: No, Your Honor.

10 THE COURT: All right. Why don't you go ahead and
11 step down.

12 MS. BLANCHETTE: Your Honor, I would recall Lee Conley
13 to the stand.

14 LEE CONLEY, having been first
15 duly sworn, testified as follows:

16 THE COURT: You are still under oath.

17 DIRECT EXAMINATION BY MS. BLANCHETTE

18 Q Ms. Conley, there's two matters that Mr. Teamer
19 brought up during his testimony that I'd like to ask you
20 about as far as what you did as your investigation in this
21 case. Did you look into trying to locate a Rick Bartlett?

22 A Yes, ma'am.

23 Q Okay. And did you ever have the opportunity to have a
24 conversation with him?

25 A Yes, ma'am, I sure did. I spoke with him

Lee Conley
Direct examination by Ms. Blanchette

1 December 3rd of 2010.

2 Q Okay. And how -- was that conversation in person,
3 over the phone? How did that occur?

4 A It was on the phone. He informed me at that time that
5 he lived in New York.

6 Q Okay. And did I ask you as part of preparation for
7 today to attempt to subpoena Mr. Bartlet to be here
8 testify?

9 A Yes, ma'am. It's my understanding he's still in New
10 York.

11 Q Okay. And what did you do to confirm that he is still
12 in New York?

13 A We subpoenaed his telephone records -- we have not
14 received the subscriber information from that -- from the
15 number that I spoke with him. And I actually called and
16 left him a message, and I have not heard back.

17 Q Did you also attempt to check into records at the
18 clerk of court's office to see if there was any information
19 there available?

20 A Yes, ma'am.

21 Q Okay. And you were not able to locate him for today's
22 hearing, is that correct?

23 A Right.

24 Q Okay. And also during Mr. Teamer's testimony we
25 addressed the fact the other number located in the victim's

Lee Conley

Direct examination by Ms. Blanchette

1 phone was traced to a Wayne from Wireless Dimensions. Did
2 you have the opportunity to try to locate Wayne from
3 Wireless Dimensions?

4 A Yes, ma'am. His name is actually Phillip Wayne Wells.
5 And I spoke with him July 26th of 2010.

6 Q Okay. And during that conversation were you able to
7 discuss with him whether or not he was ever contacted by
8 law enforcement?

9 A He actually said that he had --

10 MS. WHITE: Your Honor, I would object to hearsay.

11 MS. BLANCHETTE: I don't have an argument.

12 THE COURT: Sustained.

13 MS. WHITE: Thank you, Your Honor.

14 BY MS. BLANCHETTE

15 Q Ms. Conley, what was your understanding as to whether
16 or not he was ever contacted by law enforcement as a result
17 of your conversation?

18 A That he was.

19 Q And did you also have the opportunity to discuss with
20 him whether or not he knew the victims? And when you
21 discussed that with him what was your understanding?

22 A That he had seen one of the victims before.

23 Q And what was your understanding as to how it was that
24 he had seen one of the victims in this case before?

25 A That he might have done yard work for him.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q And were you able to discuss with him whether or not
2 Mr. Schultz ever contacted him?

3 A I do not recall asking him that.

4 Q Okay.

5 MS. BLANCHETTE: Your Honor, I have no further
6 questions.

7 THE COURT: Any cross-examination?

8 MS. WHITE: Nothing, Your Honor.

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

10 MS. BLANCHETTE: I would just recall my client. And I
11 understand we're going to take a break before I do that.

12 THE COURT: I think so. Why don't we -- why don't we
13 take a lunch break until ten minutes till 2:00.

14 MS. BLANCHETTE: Thank you, Your Honor.

15 MS. WHITE: Thank you, Your Honor.

16 THE COURT: Recess until 1:50.

17 (Whereupon, a recess was taken.)

18 THE COURT: Are you ready to resume
19 cross-examination -- excuse me -- examination of the
20 witness?

21 MS. BLANCHETTE: I would be happy to, Your Honor.

22 NATHANIEL TEAMER, having been
23 previously duly sworn, testified as follows:

24 CONTINUED DIRECT EXAMINATION BY MS. BLANCHETTE

25 Q Mr. Teamer, if you could, turn to page 261 of the

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 transcript. And at the conclusion of Mr. Kelvin McKinney's
2 testimony do you take issue with one of the questions and
3 answers? And is there an allegation as to something you
4 think your attorney should have done?

5 A Yes, ma'am.

6 Q Could you please explain?

7 A 261, line one through ten? I feel like he should have
8 used the video for that, also to -- to impeach the
9 non-perjury testimony of Kelvin McKinney. But Barry
10 Barnette led him to the testimony he asked him.

11 Q And let's make sure you're looking at page 261, lines
12 one through ten. Review that real quickly.

13 A Yes, ma'am. That's what I'm looking at.

14 Q Okay.

15 A Read it out loud?

16 Q No. I just wanted to make sure we were on the same
17 page.

18 THE COURT: 251?

19 MS. BLANCHETTE: 261.

20 THE WITNESS: 261.

21 THE COURT: 261.

22 BY MS. BLANCHETTE

23 Q And there he asked him questions about being concerned
24 if he would wind up like Tony.

25 A Yes, ma'am.

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Are you alleging there's something your attorney
2 should have done? And, if so, what is that?

3 A He should have showed the video or either impeached
4 Mr. McKinney on his statement. He never mentioned ending
5 up like Tony nowhere --

6 Q Okay.

7 A -- in the trial testimony, video or no read statement.

8 Q And then as the solicitor goes into that being a fear
9 of Mr. McKinney, is there an objection that you're alleging
10 your attorney should have made?

11 A Yes, ma'am. He never objected.

12 Q Okay. Let's turn to the testimony of Mr. Proctor if
13 you could look at pages 104 through 105. And I'll
14 summarize, but rely upon pages 104 and 105, please.

15 He says that on the incident date, February 2nd of
16 2006, around 1:00 or 2:00 p.m. he had been at his friend,
17 Rick Bartlett's, home.

18 At 6:00 he went to Tony Hunter's.

19 They took Rick home around 7:00 p.m., and then this
20 incident unfolded after that.

21 And you had indicated before that Rick Bartlett was
22 one of the people that you wanted spoken to by counsel.

23 A Yes, ma'am.

24 Q Okay. And do you know if your attorney did that?

25 A He didn't.

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- 1 Q Okay. And why did you want him to contact Rick
2 Bartlett?
- 3 A Rick Bartlett had some valuable information due to
4 what was going on with them that night and what was said by
5 Mr. Proctor that night.
- 6 Q Okay. If you could, look at pages 105 at the bottom
7 where he starts being asked about the phone number
8 (864)357-██████████ And he indicates that that was his phone
9 that the victim, Tony Hunter, was using that night. And
10 then the state introduces the telephone records. Does your
11 attorney object at that point?
- 12 A No, ma'am.
- 13 Q Let's look at page 107 beginning -- actually the
14 entire page, lines one through 25 there. And then pages
15 108 through 109. And I'll say that much more simpler.
16 Page 107 through 109.
- 17 He explains how they met the suspect at a home and
18 they picked him up at that home. Is that what his
19 testimony was about?
- 20 A Yes, ma'am.
- 21 Q And during the course of that testimony he identifies
22 a picture of that home, is that correct?
- 23 A Yes, ma'am.
- 24 Q Okay. And let me show you what has already been
25 marked as State's Exhibit -- or I'm sorry. In this case it

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1 is Plaintiff's Exhibit No. 5, and it was State's Exhibit
2 No. 69 at trial.

3 Is this a picture that was shown to Mr. Hunter?

4 A That was shown to Mr. Proctor.

5 Q I mean -- I'm sorry. It's Mr. Proctor.

6 A Yes, ma'am.

7 Q Okay. And what is this a picture of?

8 A Feaster's home.

9 Q Okay. And what was the address?

10 A [REDACTED] Street.

11 Q And how are you connected to the Feasters?

12 A Me and Osia -- Osia was my girlfriend at the time, and
13 they were my alibi for my defense.

14 Q And according to your alibi you were at that location
15 at the time this murder would have occurred, is that

16 correct?

17 A Yes, ma'am.

18 Q Okay. So Mr. Proctor was shown this picture, and he
19 identifies that that's the house in question, is that
20 correct?

21 A Yes, ma'am.

22 Q Now, are you alleging that there's something further
23 your attorney should have done regarding the identity of
24 the home where the suspect was picked up?

25 A Yes, ma'am. First off, he supposed to have objected

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1 to it in the pretrial motion because David Proctor gave
2 various addresses and various streets.

3 But then all of a sudden he just -- at trial he just
4 showed them the picture. The prosecutor actually led him
5 to it like isn't this the home and gave him the picture.
6 He said yeah, but in the police report he did say that
7 South Center felt familiar. But he never actually pointed
8 out a house. And I feel like Joshua Schultz should have
9 got the pictures of different houses to impeach him on.
10 And he might would've pointed out another house instead of
11 the house that I was supposed to -- allegedly at.

12 Q And, again, I hand you this document. Could you
13 identify what it appears to be for the record?

14 A A incident report.

15 Q Okay. And what's the date on it?

16 A 2/3/06.

17 Q Do you see where it says incident date there? What is
18 it?

19 A 2/2/06.

20 Q Okay. And who's listed as the suspect on this
21 incident report?

22 A David Michael Proctor, talking about.

23 Q As the suspect? Where it says suspect No. 1, whose
24 name is listed there?

25 A Teamer.

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1 Q Okay.

2 MS. BLANCHETTE: Your Honor, at this time I'd move
3 this in as Applicant's No. 19.

4 MS. WHITE: Without objection, Your Honor.

5 THE COURT: All right.

6 (Email previously marked Applicant's Exhibit No. 19.)

7 Q Mr. Teamer, this is the first thing here, is the
8 incident report that goes through all of the information
9 law enforcement officers received when they arrived at the
10 scene.

11 A Yes, ma'am.

12 Q And it gives the description that they're providing of
13 the suspect and all the information they obtained from
14 Mr. Proctor, is that correct?

15 A Yes, ma'am.

16 Q Okay. And specifically if you look at the last
17 page -- well, let me just let you flip through that for a
18 minute.

19 (Pause.)

20 Q How is the suspect described as you're looking through
21 this, specifically on narrative page four?

22 MS. WHITE: Your Honor, if I can just -- we had a
23 different number for that exhibit, and I just wanted to
24 make sure for clarification purposes. I think we had
25 already identified a prior No. 19 perhaps -- email from

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1 Josh about --

2 MS. BLANCHETTE: If I could just beg the Court's
3 indulgence one moment. I'm sorry.

4 (Incident report marked Applicant's Exhibit No. 20.)

5 BY MS. BLANCHETTE

6 Q This is marked properly then as Applicant's No. 20,
7 and that's the incident report. In looking through that,
8 Mr. Teamer, specifically on narrative page four, how is the
9 suspect described?

10 A Suspect 6'2", 180 pounds. That's what that say.

11 Q There in the middle of the page, that paragraph right
12 in the middle of the page.

13 A Say 200 -- he was 6'2', 200-pound, muscular type, dark
14 clothing, known only to deceased Tony.

15 Q Okay. And if you could continue to look through this,
16 and on what says page 11 at the top -- it's the second to
17 last page -- in the second to last line how is the suspect
18 described?

19 A He's a black male about 6-foot, 210-pound.

20 Q Okay. And then in these reports if you could look on
21 the last page, second paragraph, there the officers
22 reporting the directions that Mr. Proctor said the
23 suspect -- they took to pick up the suspect -- and if you
24 could start reading where it's line one, two, three, four,
25 five, where it says it is believed.

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1 A "It is believed that they left Whispering Pines to
2 take Rick home in Moore and Duncan area. They returned to
3 Highway 29, turned left on Baltimore Street, drove to
4 Wofford Street, then turned left on Arch Street. They
5 turned on right to Tweed and turned right on Breeze Street.
6 The subject was standing out front near the sidewalk.
7 Second and third house on the left, 467 or 441 Breeze
8 Street."

9 Q Okay. And as a result of this report you asked that
10 we get an investigator to go out and take pictures of those
11 homes, is that correct?

12 A Yes, ma'am.

13 Q Okay. And we have previously introduced today
14 Applicant's No. 2 which is a picture of both of those
15 homes.

16 A Yes, ma'am.

17 Q Okay. Is this something you'd asked Mr. Schultz to do
18 prior to your trial?

19 A Yes, ma'am.

20 Q And why is that?

21 A Because he gave different addresses and different
22 streets, and I wanted to see that the house was the house
23 familiar to what the Feasters' house was.

24 Q Okay. And was there something you anticipated
25 Mr. Schultz would do as far as showing pictures or asking

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1 questions of Mr. Proctor as to the home that he was picked
2 up at?

3 A Yes, ma'am.

4 Q Okay. What did you ask him to do or anticipate that
5 he was going to do at your trial in that regard?

6 A Showed, at least go get the pictures and investigate
7 to see if the houses is any kind of similarity, because the
8 state just got to believe that David Proctor -- the picture
9 and asked him was that the house. I feel like if we had
10 other pictures and was able to ask about the house he
11 might'a would'a pointed out another house.

12 Q Okay. And are you familiar with the area, Breeze
13 Street, in relation to the house on South Center Street?

14 A I'm familiar with South Center.

15 Q Okay. And Mr. Proctor actually met with a sketch
16 artist, didn't he?

17 A Yes, ma'am.

18 Q Okay. And on page 113 he admits that he only saw the
19 suspect for about five to ten seconds, is that correct?

20 A Yes, ma'am.

21 Q Mr. Teamer, can you identify this for the record,
22 please?

23 A Yes, ma'am. It's a sketch that David Proctor gave
24 to -- a description of the fatal [sic] suspect?

25 Q Okay. And this was marked as an exhibit and

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1 introduced at your trial, is that correct?

2 A Yes, ma'am.

3 MS. BLANCHETTE: Your Honor, at this time I'd move
4 this as Applicant's No. 21.

5 MS. WHITE: Without objection, Your Honor.

6 (Sketch marked Applicant's Exhibit No. 21.)

7 BY MS. BLANCHETTE

8 Q Was Mr. Proctor able to provide an in-court
9 identification of you, Mr. Teamer?

10 A No, ma'am.

11 Q Now, we talked about the fact that this sketch was
12 introduced. Did your attorney ever go into the description
13 given of the suspect versus your description or go into the
14 sketch at all with Mr. Proctor on cross-examination?

15 A No, ma'am. Let me reflect on it. No, ma'am. I don't
16 see nothing.

17 Q Okay. Let me show you this document here to see if
18 you can identify this for the record.

19 A Witness interview form by David Michael Proctor.

20 Q And what's the date on that?

21 A 2/2/2006.

22 Q Okay. And is this a document you had prior to your
23 trial?

24 A Yes, ma'am.

25 MS. BLANCHETTE: Your Honor, at this time we would

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1 move this as Applicant's No. 22.

2 MS. WHITE: Without objection, Your Honor.

3 THE COURT: Without objection.

4 (Witness interview form marked Applicant's Exhibit No.
5 22.)

6 BY MS. BLANCHETTE

7 Q Now, this statement also gives a description of the
8 suspect, is that correct?

9 A Yes, ma'am.

10 Q Okay. So we have police reports; we have the
11 statement; and then we have a sketch. And did your
12 attorney use those in the way that you had requested that
13 he would at your trial?

14 A No, ma'am.

15 Q Okay. And what did he fail to do on your behalf?

16 A Really, he failed the whole point in I.D.ing at the
17 house. I asked him to do the -- in the pretrial to make
18 sense -- the suspect couldn't point me out. I was -- it
19 was one of my worries that he was going to be able to pick
20 out the Feasters' house in the lineup. So I asked him to
21 explain to the judge the different inconsistencies that he
22 had and he shouldn't be able to point out this house either
23 since he ain't never positively identified the house.

24 Q And at your first trial on the burglary charge on
25 pages 408 and 409 your attorney called a Christina Hoggie

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1 that booked you in at the county jail.

2 A Yes, ma'am.

3 Q Do you have an allegation as your -- regarding your
4 attorney's failure to utilize her at the second trial?

5 A Yes, ma'am.

6 Q Okay. And why are you saying that he should have used
7 Christina Hoggle?

8 A To show my clothing, what I had on that night, and the
9 difference with what the suspect -- I mean, what the victim
10 said I had on that night.

11 Q So there was a number of pieces of material that was
12 available to you and a witness that you wanted your
13 attorney to use for impeachment value of Mr. Proctor.

14 A Yes, ma'am.

15 Q Okay. If you could look at pages 154 through 155 of
16 the murder trial, there Investigator Guthro admits that the
17 victim, Mr. Proctor, told him about a late model Honda
18 Civic that was seen that night. And he admits that was
19 never investigated. Is that something your attorney looked
20 into on your behalf?

21 A No, ma'am.

22 Q Okay. Now, continuing with Investigator Guthro's
23 testimony, if you could, look at page 222. And he explains
24 that there were a number of items found in the 4Runner,
25 lines 15 through 22. If you just want to read what he

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- 1 located in the 4Runner which was the victim's vehicle --
- 2 A Four swabs, ten print cards, a diet can, a diet Coke
- 3 can which apparently been made into a crack pipe because I
- 4 have it written, one syringe, four 9mm shell casings, two
- 5 fragment bullets, fragments or other styrofoam, a piece of
- 6 styrofoam cup, eight cuttings from the seat, one black
- 7 wallet with no money, one wal-Mart receipt from the
- 8 syringe, a syringe, and one pack of open New Port
- 9 cigarettes. And that's it.
- 10 Q And the drugs mentioned in there are heroine and
- 11 crack, is that correct?
- 12 A Yes, ma'am.
- 13 Q Okay. Then the state actually -- if you look at page
- 14 224, lines seven through ten, the state goes into the
- 15 marijuana evidence that was found in your vehicle by
- 16 Investigator Guthro, is that correct?
- 17 A Say 224?
- 18 Q 224, lines seven through ten.
- 19 A Yes, ma'am.
- 20 Q Did you know that the state was going to introduce
- 21 evidence of the fact that there was a green leafy substance
- 22 found in the Chevy Caprice as part of your murder trial?
- 23 A No, ma'am.
- 24 Q And there was no green leafy substance found in the
- 25 victim's vehicle, is that correct?

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1 A No, ma'am.

2 Q Okay. And on page 322 the state submits evidence or
3 testimony that that green leafy substance actually tested
4 positive for marijuana, is that correct?

5 A Yes, ma'am.

6 Q Did your attorney make any pretrial motions regarding
7 the admissibility of that green leafy substance?

8 A No, ma'am.

9 Q Now, let's talk about the weapon that was retrieved in
10 this case.

11 If you look back at Investigator Guthro's testimony on
12 page 201 and 202, this incident occurred on January 2nd --
13 I'm sorry -- February 2nd of 2006. And Investigator Guthro
14 testified that on September 21st of 2007 they went back to
15 the crime scene and found the alleged weapon that still had

16 a chamber in the round, is that correct?

17 A Yes, ma'am.

18 Q And if you flip over to page 280 to 281, who provided
19 the information to go locate that weapon at the scene?

20 A Kelvin McKinney.

21 Q Did your attorney do any investigation or even attempt
22 to suppress this weapon that was found a year and a half
23 later at the crime scene?

24 A No, ma'am.

25 Q If you could look at Amy Hunter's testimony on pages

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- 1 285 through 287, she testified that she had purchased that
2 9mm gun and she kept it in her glove box and Carlos had
3 access to her car. And who again is Carlos?
- 4 A My homeboy.
- 5 Q And when you say homeboy, does that mean friend?
- 6 A Yes, ma'am.
- 7 Q Okay. Was he also friends with Mr. McKinney?
- 8 A Yes, ma'am.
- 9 Q And Mr. McKinney actually admitted that in the course
10 of his testimony, didn't he?
- 11 A Yes, ma'am.
- 12 Q And then on page 287 she explains that on the incident
13 date she discovered that her 9mm was missing, is that
14 correct?
- 15 A Yes, ma'am.
- 16 Q She also explains on page 290 that the bullets had
17 been stolen from her apartment.
- 18 A Yes, ma'am.
- 19 Q Now, on cross-examination on pages 291 through 295
20 Mr. Schultz is able to elicit information that Carlos
21 Fuller had borrowed her car on a number of days including
22 the incident date.
- 23 A Yes, ma'am.
- 24 Q That she never locked her car and that Kelvin McKinney
25 had been to her house before.

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1 A Yes, ma'am.

2 Q What was your strategy discussed before trial
3 regarding Amy Hunter and going into these matters regarding
4 Carlos Fuller and Kelvin McKinney?

5 A I guess he was trying to make it like the third-party
6 guilt, go with that too to show that Kelvin McKinney or
7 Keith Letmon's statement, testimony, that Kelvin McKinney
8 also had access and was friends with Carlos so he had
9 access to the gun, and well as the car, is the idea.

10 Q And speaking of third-party guilt, your attorney
11 actually made a proffer on page 382 of a witness, Keith
12 Letmon, on the issue of third-party guilt, is that correct?

13 A Yes, ma'am.

14 Q Okay. And the judge ruled on page 395 if you can flip
15 there at the bottom of the page --

16 A Nineteen through 25 -- four?

17 Q Yeah. That he was going to let that testimony in.

18 A Yes, ma'am.

19 Q Okay. And so you were able to call Keith Letmon. Who
20 was Keith Letmon?

21 A He was another friend of mine.

22 Q Okay. And --

23 A A friend of ours.

24 Q I'm sorry. What was that?

25 A He was friends with me and Kelvin McKinney.

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1 Q Okay. And he actually testified on page 405 that he
2 was a cellmate with Mr. McKinney, is that correct?

3 A Yes, ma'am.

4 Q Okay. And on page 405 he explains -- and I'm just
5 summarizing -- that Mr. McKinney told him he had to
6 eliminate a witness from a prior shooting and he had a
7 warrant so he had to help himself in that instance.

8 A Yes, ma'am.

9 Q Okay. And he admits on page 407 that he was friends
10 with both you and Mr. McKinney.

11 A Yes, ma'am.

12 Q Now, if you could, turn to page 416, please. Now,
13 Mr. Letmon was called as a defense witness to help
14 establish the third-party guilt of Kelvin McKinney, is that
15 correct?

16 A Yes, ma'am.

17 Q Okay. If you could, read the lines one through seven,
18 the answer that was elicited by your attorney on redirect.

19 A "So to be able to know you actually" -- you talking
20 about 416, one through seven?

21 Q Yes. I'm sorry. Did I say that wrong?

22 A "So to be able to know who actually killed, killed
23 that dude, something they don't know yet. I would not like
24 for another man to go to jail for something he didn't do
25 just because he, quote, unquote, reputation. You know,

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1 reputation sometimes supersedes us by the way individuals
2 look at us. Do you understand what I'm saying?"

3 Q And right there did Mr. Schultz elicit information or
4 elicit testimony from your own witness about your bad
5 reputation?

6 A Yes, ma'am.

7 Q And that was not objectionable because it was elicited
8 by your attorney, is that correct?

9 A Yes, ma'am.

10 Q And if you could, turn to page -- back to page 414.

11 A Yes, ma'am.

12 Q There the state goes through the extensive criminal
13 history of Mr. Letmon, and they go into a number of charges
14 that are rather old in age.

15 Did Mr. Schultz make any objection when the state went
16 through Mr. Letmon's criminal history?

17 A No, ma'am. Actually, Barry Barnette asked him was
18 they going to go through the criminal history of Keith
19 Letmon. And Mr. Schultz failed to do so.

20 Q Is there anything else regarding Keith Letmon that you
21 would like to tell the Court today?

22 A Hold on one second.

23 (Pause.)

24 A Yes, ma'am.

25 Q There's something else regarding Mr. Letmon you'd like

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1 to raise today during your P.C.R. application?

2 A Yes, ma'am.

3 Q Okay. And what is that?

4 A First of all, how he got to get into my reputation on
5 411, 14 through 21.

6 Q Okay. There's one other place.

7 A It's like Barn -- he was letting Barry Barnette -- he
8 actually objected to this, but he was letting Barry
9 Barnette just basically get into it like Keith Letmon was a
10 suspect. But right here he says as a matter of fact isn't
11 it a code with you and people like him that you don't tell
12 on each other.

13 So basically he's just getting into both of our
14 reputation. Then he go back to Keith Letmon, 407, page
15 407, of the murder. Is that the right page?

16 Actually, how Joshua Schultz was questioning him like
17 have he been paid for his testimony. Basically, he was
18 setting it up like he asking Keith Letmon like he got doubt
19 in hisself about his own defense testimony though.

20 And then you got 415 -- 414 and 415 just what the
21 solicitor do and his failure to object. "But you wasn't
22 there that day," lines 17 through 25 on 414. "So you
23 wasn't there that day. No, sir. I'm assuming you wasn't
24 there that day. No, sir. Where was you back on February
25 2nd of 2006? Woodruff, South Carolina. Where at?

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1 Woodruff, South Carolina."

2 Then he goes on to 415, and he just say, yeah, but
3 basically he get -- I think he opened the door for Barry
4 Barnette to treat Keith Letmon actually like a suspect.

5 Q Okay. And let's look -- is that all regarding
6 Mr. Letmon? I don't mean to cut you off.

7 A Yes, ma'am.

8 Q Okay. And you also called Osia Feaster on page 396 as
9 an alibi witness, is that correct?

10 A Yes, ma'am.

11 Q And she was able to testify that you were with her
12 from 8:15 until at least 9:00 o'clock. And the murder
13 allegedly occurred around 8:45 p.m., is that correct?

14 A Yes, ma'am.

15 Q Okay. Was there another witness that you wanted Mr.
16 Schultz to call regarding alibi?

17 A Elaine Feaster.

18 Q Okay. And why did you want him to call her?

19 A Basically, because I was there with her before Isaac
20 even arrive home. So I say a little bit after 8:00 I had
21 called her and told her I was outside waiting on Isaac to
22 come. She had the door -- she unlocked the door for me, so
23 I was standing outside. But basically the whole thing, my
24 thing, with this murder that the police was doing a lot of
25 crooked investigation, and they were going to question the

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1 Feasters. Ms. Elaine Feaster kept telling the police
2 officer that there was no way that I could have committed
3 the murder. But they never -- they failed to take her
4 police report.

5 They actually used -- we didn't really get to get into
6 that with Elaine, but they actually used Isaac Carter to
7 get her away from her mama down to the station, basically
8 kidnapped. They tell her they know her car was at -- then
9 she got in the car with them and they took her to question
10 her without her mama present.

11 So they just did a lot of crooked things that should
12 have come out in my trial through Elaine Feaster by not
13 getting her statement and they questioned her like two or
14 three times.

15 Q And she attended your trial, but she wasn't able to
16 testify. And do you know why that was?

17 A They say she was sick.

18 Q Okay. Did you bring that to Mr. Schultz's attention?

19 A I was asking -- I was telling him we might need to ask
20 for a continuance due to the fact that Elaine Feaster is
21 Osia's mother and they feel like Osia might have had a
22 reason to lie due to the fact that I supposed to been her
23 boyfriend. But Ms. Elaine Feaster had no reason to lie,
24 and she was a real good witness for the defense, I would
25 have thought.

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1 Q And she, in fact, testified as the transcript reflects
2 at your first trial, the burglary trial, is that correct?

3 A Yes, ma'am.

4 Q Okay. And you had asked the Court to review that
5 testimony in the assessment of, you know, what she could
6 have testified to at the second trial, is that correct?

7 A Yes, ma'am.

8 Q Okay. And I won't go through that line by line with
9 you for that reason.

10 If you could, turn back to page 346 of the transcript,
11 the murder transcript, please.

12 A Three what?

13 Q 346. And there Agent Rhonda Fields is testifying
14 regarding D.N.A. evidence that was developed off an item
15 25, a cigarette butt.

16 A Yes, ma'am.

17 Q Okay. And let me hand you this to identify.

18 MS. BLANCHETTE: Your Honor, I'm not absolutely
19 certain this is in your packet. SLED D.N.A. report.

20 THE COURT: I do not believe I do. No. Do you have
21 an extra copy?

22 MS. BLANCHETTE: I do.

23 BY MS. BLANCHETTE

24 Q Mr. Teamer, can you identify this document for the
25 record, please?

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- 1 A It's a forensic service laboratory report.
- 2 Q Okay. And what's the date on it?
- 3 A July the 5th of 2007.
- 4 Q Okay.
- 5 MS. BLANCHETTE: Your Honor, and this has a sticker
- 6 from the trial, but it's hard to read, isn't it?
- 7 A I can't see that.
- 8 MS. BLANCHETTE: Your Honor, at this time I would
- 9 introduce this D.N.A. report as Applicant's Exhibit No. 23.
- 10 MS. WHITE: No objection, Your Honor.
- 11 THE COURT: Without objection.
- 12 (Forensic Services Lab Report marked Applicant's
- 13 Exhibit No. 23.)
- 14 BY MS. BLANCHETTE
- 15 Q And this report was testified to and admitted through
- 16 Ms. Rhonda Fields at your trial, is that correct?
- 17 A Yes, ma'am.
- 18 Q And she was qualified as a D.N.A. expert at your
- 19 trial.
- 20 A Yes, ma'am.
- 21 Q And on page 358, if you could turn there, your
- 22 attorney attempted to ask her questions about the fact that
- 23 the findings involved a mixture of D.N.A.
- 24 A Yes, ma'am.
- 25 Q Is that correct?

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1 A Yes, ma'am.

2 Q And, Mr. Teamer, you're not a D.N.A. expert, correct?

3 A No, ma'am.

4 Q Okay. Did you talk to Mr. Schultz about the need once
5 you all had this report for a D.N.A. expert?

6 A Yes, ma'am.

7 Q Okay. And what did you request of him in that regard?

8 A Basically, the testing for the D.N.A. all together,
9 because we said really my D.N.A., we didn't argue, and he
10 really just basically just let the state introduce what
11 they wanted to introduce. But my whole thing was the
12 mixture of the cigarette.

13 Q And do you understand what a mixture of D.N.A. is?

14 A Basically, I don't, but I had a clue.

15 Q Well, then you don't need to explain. And is that
16 something that you felt you needed an expert's assistance
17 with?

18 A Yes, ma'am.

19 Q Okay. And are you alleging today that your attorney
20 was ineffective for not utilizing an expert to prepare for
21 trial to properly cross-examine Ms. Rhonda Fields and
22 potentially to call at trial as a witness?

23 A Yes, ma'am.

24 Q Okay. Now, if you could, turn to page 351 of her
25 testimony. She indicates that a Leon Franklin is listed as

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1 a suspect on that report there.

2 A Yes, ma'am.

3 Q Were you ever able to determine who Leon Franklin was?

4 A No, ma'am.

5 Q Okay. And let me hand you an exhibit we've already
6 introduced here today.

7 As part of the discovery order we received in this
8 case we were allowed to ask the solicitor's office for any
9 and all information regarding a suspect, Leon Franklin,
10 listed on the SLED report and reflected on transcript page
11 351. And if you could, just read. This is Plaintiff's
12 Exhibit or Applicant's Exhibit No. 9. What was the written
13 response that we received from the solicitor's office
14 regarding Leon Franklin?

15 A After speaking with investigator he has no information
16 on Leon Franklin and does not recall any information on the
17 person.

18 Q Okay. And is that a matter that Mr. Schultz
19 investigated on your behalf?

20 A No, ma'am.

21 Q Okay. Is that something that you asked him to look
22 into for you?

23 A Yes, ma'am.

24 Q Okay. And as we talk about Leon Franklin and we talk
25 about Kelvin McKinney, one of your primary defenses was

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 third-party guilt, correct?

2 A Yes, ma'am.

3 Q Okay. And on page 420 your attorney requests that the
4 Court give a third-party-guilt instruction, is that
5 correct?

6 A Yes, ma'am.

7 Q And when he makes that request does he provide the
8 judge with a specific third-party-guilt instruction?

9 A No, ma'am.

10 Q Okay. And the Court does not give a third-party-guilt
11 instruction, is that correct?

12 A You're right. They didn't give nern.

13 Q And at the close of the charge does your attorney make
14 what we call an exception or an objection to the charge for
15 the judge not giving a third-party-guilt instruction?

16 A No, ma'am.

17 Q Okay. And if we could go back, talking about Leon
18 Franklin, look back at page 367.

19 The state made an objection because your attorney is
20 trying to go into this Leon Franklin issue. And what does
21 the judge rule on page 367, lines seven and eight, about
22 your attorney's attempt to talk about Leon Franklin?

23 A "If you're not going to connect any dot, then it's not
24 admissible. It's not relevant."

25 Q So he was not able to successfully go into the issue

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 of Leon Franklin, is that correct?

2 A Right.

3 Q Okay.

4 MS. BLANCHETTE: Your Honor, if I could just beg the
5 Court's indulgence for one moment.

6 (Pause.)

7 Q Mr. Teamer, at the beginning we made a verbal
8 amendment to include an allegation that your attorney
9 failed to object on page 454 where the judge uses the
10 language fair and just. And are you alleging today that
11 that was burden shifting and your attorney should have
12 objected?

13 A Yes, ma'am.

14 Q Okay. Mr. Teamer, I just have a couple of questions
15 left for you regarding your appellate counsel.

16 Is there anything that I have failed to ask you about
17 that you'd like to bring to the Court's attention regarding
18 your pretrial preparation with Mr. Schultz and the trial
19 itself?

20 A Yes, ma'am.

21 Q Okay. Please go ahead.

22 A Basically, going back to what we talked about in the
23 beginning about the two bites at the apple, he cleaned up
24 the state's case with the seven [sic]. We needed
25 evidence -- could have been helpful to our defense, both of

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1 them, searches done on my house and the Feaster house,
2 witnesses James Humphries and Speller would'a been a --
3 been good at the impeach the fact I could never told him
4 this, both incident, both his statements would have came in
5 and impeached the other one. He didn't mention burglary,
6 robbery --

7 MS. WHITE: Your Honor, I just want to stop for a
8 minute.

9 It appears he's reading off a document that's not
10 going to be maybe introduced into evidence.

11 A I can come off the head with it too though. It's just
12 something I had.

13 MS. BLANCHETTE: I can rephrase. I'm not sure if he's
14 reading -- what he is reading from or what it is. But I
15 can be more clear with my question to him.

16 THE COURT: All right. Go ahead.

17 BY MS. BLANCHETTE

18 Q Mr. Teamer, we're not needing you to list all the
19 issues we've gone through today or do a rundown of maybe
20 something that you've prepared in all of this time that
21 you've been waiting for this P.C.R. application.

22 But just going over in your mind your testimony today
23 are there any of your allegations that there's anything
24 additionally you'd like to say, anything specifically in
25 the transcript we failed to point out?

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Direct examination by Ms. Blanchette

1 A Yes, ma'am.

2 Q Okay. And what is that?

3 A Going back to Dawn Hunter, when he say she gave a bad
4 act about the gun and the glove, basically, he didn't
5 testify to her hearsay testimony about the
6 January 14th either. She had a hearsay testimony with it.

7 Q Is there a specific page where you're saying your
8 attorney should have objected to hearsay testimony?

9 A Yes, ma'am. Page 266, line 14.

10 Q Okay.

11 A And she got to object to the I.D. of the Osia Feaster
12 house 266, 267. She said she would drop me off. That was
13 hearsay.

14 Then she got to I. D. the number, the 921 number, that
15 I allegedly had, which I feel like he didn't object that
16 she had reason to try to put me with the phone, that she
17 got to hear Kelvin McKinney whole testimony.

18 She was right -- a witness right after him, so she got
19 to tailor her testimony to be like his. And I felt like
20 that hurt me also because we used third-party guilt the
21 whole time, and she got to give him the alibi for his
22 third-party guilt. So I felt like sequestration should
23 have been a issue that appellate counsel brought up. But
24 Josh Schultz could'a went into more pretrial and we would'a
25 had a better ruling on the whole bad-act issues together.

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Direct examination by Ms. Blanchette

1 Q Okay. And you brought up your appeal. Who
2 represented you on your appeal?

3 A Robert Dudek -- Dudek.

4 Q Okay. And did you make a request to me as far as
5 having Mr. Dudek present at this hearing today?

6 A Yes, ma'am.

7 Q Okay. And did we have a discussion about me
8 contacting Mr. Dudek on your behalf?

9 A Yes, ma'am.

10 Q And as a result of that did he prepare an affidavit
11 regarding what he would be capable of testifying to today?

12 A Yes, ma'am.

13 Q Okay. And was there a letter you'd received from him
14 that caused you to want to have him at this hearing today?

15 A Yes, ma'am.

16 Q Okay. Let me hand you this. And can you identify
17 that for the record?

18 A Yes.

19 Q What does it say at the top?

20 A Affidavit of Robert Dudek.

21 Q Okay. And then there's an Exhibit A attached to it.
22 And what is that?

23 A A letter that he wrote me about my appeal.

24 Q Okay.

25 A Anders brief.

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Direct examination by Ms. Blanchette

1 Q And what's the date on that letter?

2 A March the 5th of 2009.

3 Q Okay.

4 MS. BLANCHETTE: Your Honor, at this time I'd move
5 this as Applicant's No. 23.

6 MS. WHITE: Without objection, Your Honor.

7 THE COURT: Without objection.

8 MS. BLANCHETTE: I'm sorry -- 24.

9 (Affidavit marked Applicant's Exhibit 24.)

10 BY MS. BLANCHETTE

11 Q And, Mr. Teamer, I'm just going to read to you what's
12 contained in this affidavit for the record.

13 It says, "I am the" -- I'm sorry. "Personally
14 appeared before me Robert M. Dudek who being duly deposes
15 and says that I am the chief appellate defender with the
16 South Carolina Office of Appellate Defense, and I
17 represented Mr. Teamer on his direct appeal to the Court of
18 Appeals. On March 5th of 2009 I filed the initial Anders
19 brief of appellant in Mr. Teamer's case with the Court of
20 Appeals. A letter addressed to Mr. Teamer bearing my
21 signature was included with a copy of the initial Anders
22 brief that was sent to Mr. Teamer. In this letter to Mr.
23 Teamer I stated you may have a viable P.C.R. issue or
24 issues on the third-party-guilt jury instruction and
25 evidence matters. A copy of that letter is attached to

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1 this affidavit as Exhibit A. I am unaware of who
2 subsequently underlined a portion of my letter. On
3 January 28th of 2010 the Court of Appeals filed an
4 unpublished opinion No. 2010-UP-062 dismissing Mr. Teamer's
5 appeal. Further, affiant saith not." And that is signed
6 by Mr. Dudek on the 11th day of October of 2012.

7 And do you know who did the subsequent underlining on
8 that letter?

9 A I probably did when I sent it to you.

10 Q Okay. And can you just explain why you wanted that
11 information elicited from Mr. Dudek?

12 A To see if we had another P.C.R. issue with the
13 third-party guilt, because I think I was raising it the
14 wrong way on direct appeal.

15 Q Okay.

16 A And he was telling me that was basically a P.C.R.
17 issue because my client -- I mean, my lawyer basically
18 ain't put up a third-party guilt. He didn't put up no kind
19 of instruction. He didn't put up nothing concerning
20 third-party guilt. Basically, the state and the judge had
21 to tell him it was third-party guilt.

22 Q And did he file any pretrial motions or make any
23 pretrial written motions or make a motion at the beginning
24 to be given permission to go into third-party guilt in this
25 case?

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Direct examination by Ms. Blanchette

1 A No, ma'am.

2 Q Okay. And you're also alleging ineffective assistance
3 of appellate counsel regarding Mr. Dudek, is that correct?

4 A Yes, ma'am.

5 Q Okay. And are there specific issues that you're
6 alleging he should have addressed?

7 A Yes, ma'am.

8 Q Okay. And would you like to give those to the Court,
9 please?

10 A He didn't address the cell phone issue, which was 39
11 through 64. He didn't object to the Lyles, not raising the
12 Lyles. But Josh did ask for a Lyles bad act, but some kind
13 of way it still came in. The sequestration. I feel that
14 that hurt us too because Don got to hear Kevin McKinney's
15 testimony. And basically that's --

16 Q And those are issues that you raised in your pro se
17 Anders brief, is that correct?

18 A Yes, ma'am.

19 Q All right.

20 MS. BLANCHETTE: Your Honor, if I could beg the
21 Court's indulgence one moment.

22 (Pause.)

23 MS. BLANCHETTE: I have no further questions of this
24 witness. Your Honor, actually I do. I'm so sorry.

25 BY MS. BLANCHETTE

Nathaniel Teamer
Direct examination by Ms. Blanchette

1 Q Mr. Teamer, at the very beginning I forgot to ask you
2 probably the most important question.

3 You filed this P.C.R. application, and we've discussed
4 the facts, the relief that you can receive. And what is
5 the relief you're asking the Court for?

6 A A new trial.

7 Q Okay. In asking the Court for that you understand
8 that if you're granted a new trial your convictions will be
9 set aside. You'll be put back in the position you were
10 when you were originally indicted and face your charges all
11 over again with no guarantee of less time.

12 A Yes, ma'am.

13 Q And you have a full understanding of that.

14 A Yes, ma'am.

15 Q And knowing that, you are still asking the Court to
16 give you a new trial today.

17 A Yes, ma'am.

18 Q Okay.

19 MS. BLANCHETTE: I have no further questions.

20 THE COURT: Ms. White.

21 CROSS-EXAMINATION

22 BY MS. WHITE

23 Q I'm going to try to go through the same -- same order,
24 although it's pretty lengthy, lengthy testimony.

25 So, Mr. Teamer, in regards to the people to get to

Nathaniel Teamer
Cross-examination by Ms. White

1 testify, you testified that you wanted James Humphrey
2 called to testify, right?

3 A Yes, ma'am.

4 Q Okay. He testified today that he never saw
5 Mr. McKinney coming into your cell, is that right?

6 A Yes, ma'am.

7 Q And didn't Mr. McKinney testify that you came to his
8 cell?

9 A Yes, ma'am.

10 Q Okay. And you testified that you wanted counsel to
11 actually talk with somebody from the jail and get records.
12 And then we had into evidence a subpoena that Mr. Schultz
13 had filed for records from the jail. And attached were the
14 layout of the pods and so on, is that correct?

15 A Yes, ma'am.

16 Q So he apparently had issued a subpoena and gotten
17 records, and also subpoenaed Captain Speller to be there to
18 testify, is that right?

19 A He didn't use it though.

20 Q Right. And he subpoenaed them and had the records but
21 never used them at trial.

22 A Yes, ma'am.

23 Q Okay. And you testified that you asked counsel about
24 getting a D.N.A. expert to test the cigarette butt and that
25 he would look into it but he never had anyone at trial.

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Cross-examination by Ms. White

1 A Yes, ma'am.

2 Q Did -- other than just talking with him about saying
3 you wanted a D.N.A. expert, did you ever have any
4 discussion with him about what that could probably --
5 possibly show or how that could hurt or help your case?

6 A No, ma'am.

7 Q Okay. Just to briefly touch on the motion to sever,
8 we kind of talked about that some in our previous hearing,
9 and then also today you said that you thought that counsel
10 was going to request three trials.

11 Didn't counsel originally in the motion request three
12 separate trials but the judge only granted two?

13 A Yes, ma'am.

14 Q Okay. And you thought he was going to request three
15 trials, but now your testimony is you think that was a
16 mistake because you think it helped the state?

17 A Yes, ma'am, helped clean up the state case.

18 Q All right. And in regards to different things, you
19 said that during the closing the state talked or Josh
20 actually talked about -- Mr. Schultz talked about, you
21 know, this would have had to be a cold, calculated person
22 who put on gloves and shot Mr. Hunter and shot Mr. Proctor,
23 and then that that didn't really match up with somebody who
24 left all the witnesses at the Grays' home, is that right?

25 A Yes, ma'am.

Nathaniel Teamer
Cross-examination by Ms. White

1 Q Didn't the testimony of the Graves -- didn't that
2 include the person that broke in their home holding a gun
3 to an 8-year-old's head?

4 A Yes, ma'am.

5 Q Okay. And in regards to the clothing that was found,
6 counsel did ask about the clothing that they took from your
7 home in the search warrant, didn't he, at the trial?

8 A At the murder trial.

9 Q At the murder trial.

10 A Was it the murder trial?

11 Q And I can get into that. Hold on one second and I'll
12 give you a line to look at.

13 It's going to take just a minute if you'll give me
14 just a moment, Your Honor.

15 MS. BLANCHETTE: Your Honor, while she's doing that do
16 you mind if I retrieve an exhibit I had left up on the
17 witness stand?

18 THE COURT: The applicant still has the exhibit?

19 MS. BLANCHETTE: Yeah. Just a document I needed back.

20 MS. WHITE: It's taking me just a moment, Your Honor.
21 I had the notes written down.

22 BY MS. WHITE

23 Q Well, Mr. Teamer, I will apologize. I'm going to have
24 to find that in a minute and come back to that.

25 In regards to the failure to stop, you said that

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Cross-examination by Ms. White

1 counsel -- the state was able to use that. Counsel
2 actually made an argument asking them to -- asking the
3 judge to not allow any of the prior convictions from
4 September of 2007, didn't he?

5 A Yes, ma'am.

6 Q Okay. And he objected to the failure to stop and the
7 burglary, and the Court overruled his objection, is that
8 right?

9 A Yes, ma'am.

10 Q Didn't counsel also object to when they tried to --
11 when they did show the dash cam video again?

12 A Yes, ma'am.

13 Q And he also objected to Officer St. Louis testifying
14 again during this trial, didn't he?

15 A Yes, ma'am.

16 Q Okay. And he was overruled each of those times.

17 A Yes, ma'am.

18 Q In regards to -- we talked about the phone that was
19 discovered and how important that was with the phone
20 records, the 921 phone. Counsel objected and argued
21 pretrial to the introduction of that phone based on it
22 being an improper search, didn't he?

23 A Yes, ma'am.

24 Q And, in fact, he argued some case law, argued that
25 they hadn't followed proper protocol and didn't have a

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Cross-examination by Ms. White

1 warrant, is that right?

2 A Yes, ma'am.

3 Q Okay. And the Court actually denied that and allowed
4 it in as a proper search.

5 A They did. But he had to -- also had inventory form in
6 his hand too where he could've impeached the witness on it
7 to show that he was under perjured testimony because he
8 hadn't ever been a part of a previous search.

9 Q Okay. And --

10 A And also he could've got the inventory policy to show.
11 It would would've been more stronger issue if he had
12 more -- know w'at I'm saying -- impeached the witness more
13 better.

14 Q Okay. And you're arguing about the inventory policy
15 that y'all received over with the discovery, is that right?

16 A Yes, ma'am, and a -- and a report, the return with
17 Guthro-name on the return from February the 10th.

18 Q Okay.

19 A On the 14th return.

20 Q And it says that he was present when the search was
21 done.

22 A Yes, ma'am.

23 Q Okay. Didn't the testimony include the fact that the
24 county -- the highway department actually kind of impounded
25 the vehicle after the Caprice -- after the accident, isn't

Nathaniel Teamer
Cross-examination by Ms. White

1 that correct?

2 A Yes, ma'am.

3 Q And the testimony was that it had been at the county
4 and the county impound lock -- lot -- excuse me -- and then
5 transferred to the city. And that's where Officer Guthro
6 worked, is that right?

7 A Yes, ma'am. But he was at -- he got to be a part of
8 the impound when they -- a part of the search when it was
9 still at the county. That's where the February the
10 10th search --

11 Q Okay. In regards to records, you argued that counsel
12 didn't get the records about Wayne from Wireless Dimensions
13 who was mentioned.

14 He actually brought that up to the officer, didn't he,
15 about their failure to actually pursue that as any other
16 suspect or any other connection?

17 A He cross-examined him on it, but he couldn't get into
18 it. But he failed to investigate him also.

19 Q Right. But -- but counsel crossed the officer over
20 the fact that they never even pursued that or looked into
21 it.

22 A Well, it didn't go nowhere because he didn't have
23 nothing to go with.

24 Q Okay. You testified that you wanted counsel to, and
25 you thought he was going to, prepare a chart of phone

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Cross-examination by Ms. White

1 numbers to kind of clarify everything.

2 A Yes, ma'am.

3 Q Okay. You argued that -- the argument was that the
4 testimony had been -- page 109 -- "It was the guy that Tony
5 had been talking to for the past 30 minutes." And that was
6 during Mr. Proctor's direct.

7 And I think earlier the way it was referenced sounded
8 like you are arguing that this person had talked to him for
9 a consistent 30 minutes all together. Is that your
10 testimony?

11 A I'm saying based off what they had in the transcripts
12 and they was saying he talked for 30 minutes, I don't
13 really know how it went.

14 Q Okay. And isn't it true that the phone numbers
15 between Proctor's cell phone and the 921 number go from --
16 the phone calls go from 7:59 to 8:33, which is essentially
17 34 minutes of the total time, I guess?

18 A I guess so, yes, ma'am.

19 Q Okay. You also testified that the timeframe would
20 have had to have been extremely or would have been almost
21 an impossible -- is what I think y'all were arguing -- that
22 you would have -- that the person would have been shooting
23 the gun and talking on the phone at the same time.

24 According to even the demonstrative evidence and the
25 phone records we have there was a gap of about ten or 12

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Cross-examination by Ms. White

1 minutes from about 8:33 to 8:45 when the phone was not
2 referencing any phone calls back and forth, is that right?

3 A Yeah. But they say the shooting happened at 8:45.

4 Q Right.

5 A And the phone call going out at 8:45. So that's like
6 pulling the trigger and answering the phone at the same
7 time.

8 Q Okay. Now, you talked a little bit about Carlos
9 Fuller and Amy Hunter and the gun and the connection.

10 Counsel was able to ask Ms. Hunter about the fact that
11 Carlos Fuller had access and had, in fact, driven her car a
12 couple of days prior to this event, as well as perhaps even
13 a day prior.

14 A Yes, ma'am.

15 Q Okay. And she admitted that Carlos had access to the
16 gun, as well as she said you, is that right?

17 A Yes, ma'am.

18 Q Okay. And although she denied knowing Kelvin
19 McKinney, ultimately she said she knew Snow and Snow had
20 been in her home, is that right?

21 A Yes, ma'am.

22 Q So counsel was able to get that testimony presented to
23 the jury about these other people having access to the gun
24 that night?

25 A Yes, ma'am.

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Cross-examination by Ms. White

1 Q The testimony of Mr. McKinney. Counsel asked him
2 about the fact of whether or not he knew that Tony Hunter
3 had given a statement implicating him in the January ABWIK,
4 is that right?

5 A Yes, ma'am.

6 Q And he got him -- Mr. McKinney's testimony ultimately
7 was that he didn't know about that until the preliminary
8 hearing, is that right?

9 A Yes, ma'am.

10 Q But he also acknowledged he knew that Tony had been
11 asking what his real name was.

12 A He didn't show on the statement though, probably
13 cross-examined with the statement.

14 Q Okay. But he asked him about that and was trying
15 to -- to get whether or not he would admit or deny that he
16 had said that, isn't that right?

17 A Yes, ma'am.

18 Q Okay. And, ultimately, the state said that he didn't
19 receive any deal. But you're testifying as you thought he
20 got most likely a really good deal if he got any time.

21 A It seemed --

22 Q But you don't know that for sure?

23 A It seemed like.

24 Q Okay. You did talk about reviewing the video with
25 counsel. So you had had a chance to see Mr. McKinney's

Nathaniel Teamer
Cross-examination by Ms. White

1 video?

2 A Yes, ma'am.

3 Q Okay. So do you recall counsel talking with you
4 about -- and maybe you didn't. But did y'all talk about
5 the rules of evidence and what could be allowed, whether or
6 not he'd be able to get the whole video in or if he was
7 just going to try?

8 A No. He was telling me he was going to try.

9 Basically, it was going to be all impeachment or what -- if
10 Kelvin McKinney deny -- denied something that he said, then
11 he'd be able to get it in as far as like that.

12 Q Okay. Because he thought that Mr. McKinney would
13 probably deny some of the things he had said in the
14 statement possibly.

15 A Yes, ma'am, but he had two different statements
16 though.

17 Q Okay.

18 A It was already lies within itself.

19 Q All right. In regards to the January of 2006 ABWIK, I
20 want to touch base on that again.

21 Counsel originally kind of -- he had made a motion
22 pretrial, or essentially said to his understanding there
23 was not going to be any Lyle evidence or no prior bad-act
24 testimony coming in, is that right?

25 A Yes, ma'am. But I think he knew that January 14th was

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Cross-examination by Ms. White

1 coming in as far as it was done -- Hunter was going to say.
2 He never made objection to the January the 14th. That was
3 my main issue.

4 Q Okay. And that's what Kelvin McKinney testified as to
5 that. That came in. And then once Dawn Hunter testified
6 about supposedly seeing you and talking with you and you
7 having a gun and the latex gloves, that's when he objected.

8 A Too late objection really at the time.

9 Q Okay. And he objected to the prior bad act because at
10 that point she essentially -- and you were in possession of
11 a weapon, and you had had previous charges, is that right?

12 A Yes, ma'am. But he let -- he let Kelvin McKinney go
13 into a whole nother incident that I didn't have nothing to
14 do with it. In the statements he could have showed that I
15 had nothing to do with it.

16 Q Okay. And the state argued that they were using that
17 to prove your motive, isn't that right?

18 A Yes, ma'am. But if he would've had the pretrial
19 hearing they wouldn't have had no motive because only
20 motive they had is what Kelvin McKinney gave them.

21 Q Okay. Just a second. Let me flip around some.

22 Okay. You said counsel should have objected pretrial
23 to the identification of the house, the Feasters' home.

24 A Yes, ma'am.

25 Q And what was the basis that you thought he should have

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Cross-examination by Ms. White

1 argued against allowing that in?

2 A Basically, the same thing with the description of the
3 suspect.

4 He just kept saying different stuff. His story
5 changed every time he talked to the police. And he never
6 actually pointed out a house out there. It's a white-green
7 house or white-purple house. He just said felt familiar
8 with the police report. He say South Center felt familiar
9 even with the second -- the first or second house -- know
10 w'at I'm saying -- but at the same time he had done gave
11 another report saying it was the first or second house on
12 Breeze Street.

13 Q Okay. And didn't counsel cross-examine him about that
14 and ask him about not really knowing where he was that
15 night and the fact that he mentioned Breeze Street a couple
16 of times?

17 A Cross-examining and if the jury hear is totally
18 different thing. I felt like the jury shouldn't've never
19 heard that.

20 Q Okay. So although counsel cross-examined, your
21 argument is that there shouldn't have been any
22 identification of the house allowed.

23 A Should have been a ruling before.

24 Q Okay. And in regards to the house, was it your
25 understanding that the police had taken Mr. Proctor around

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Cross-examination by Ms. White

1 to get him to show them supposedly where he had gone that
2 night?

3 A That's the -- that's the police report I'm talking
4 about where he said it felt familiar.

5 Q Right.

6 A He still ain't give no description of the house.

7 Q Okay. And at the time he talked about Breeze Street
8 he mentioned Wofford Street, going around some different
9 things.

10 Counsel asked him about the fact that he was on
11 morphine from the pain when he talked about that, that
12 there were drugs in the car, had he been on drugs earlier
13 would his memory still be sufficient, didn't he?

14 A Yes, ma'am.

15 Q Okay. You argued too that counsel should have made a
16 motion to suppress the gun. Was that simply on the basis
17 that it was discovered a year later?

18 A Yes, ma'am.

19 Q Okay. And the testimony about the gun was that it
20 was -- they matched it with a serial number, but it was
21 rusted shut and there was not much -- they couldn't get
22 fingerprints off it or anything.

23 A I think the serial number was hard to read too. But,
24 at the same time, you've got Kelvin McKinney. He's been
25 out the whole time. So he was third-party guilt. He had

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Cross-examination by Ms. White

1 somebody testify that he did the murder. But who not to
2 say he planted the gun.

3 Q Okay. And so --

4 A And they searched. The night I went to jail they
5 searched the crime scene that night, the next morning, then
6 I think again. Then all a sudden 18 months latter they can
7 just go back and it's laying right there.

8 Q Okay. So that was something that you had an issue
9 with. And counsel questioned them about the fact that it
10 took so long to go back and find it, didn't he?

11 A Yes, ma'am.

12 Q And he talked to even Mr. -- I think it was
13 Mr. Letmon. Or he talked to Ms. Hunter about the access to
14 the gun that they had that Mr. McKinney had.

15 A Yes, ma'am.

16 Q Okay. Now, Keith Letmon's testimony. There was a
17 motion for third-party guilt made prior to his testimony by
18 the state, is that right?

19 A Yes, ma'am.

20 Q So they were trying to keep out the statement that he
21 was going to give that Kelvin McKinney had confessed to
22 him.

23 A Yes, ma'am.

24 Q And counsel argued against that and proffered his
25 testimony. And it ultimately was allowed, was it not?

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Cross-examination by Ms. White

1 A Yes, ma'am.

2 Q And that testimony was essentially contradicting
3 Kelvin's testimony that you had confessed to him by saying,
4 no, Kelvin confessed to me.

5 A Yes, ma'am. Basically, the trial lawyer was trying to
6 use it for inconsistent statement. The state was telling
7 him, as well as the judge, that it was third-party-guilt
8 evidence not -- so he wasn't even arguing the issue right
9 from the beginning.

10 Q Right. And at the time the testimony came in, so,
11 ultimately, the jury heard that supposedly Mr. McKinney had
12 confessed to the same crime.

13 A Yes, ma'am.

14 Q Okay. Your counsel asked Mr. Letmon if he had been
15 paid for his testimony, and you had a problem with that.

16 Is that not -- was that not a way for him to actually
17 approach that issue originally because he knew the state
18 would be asking what his motives were?

19 A No, ma'am.

20 Q Okay.

21 A I think it showed that the state do their part.

22 Q Okay. Now, you said you wanted Ms. Feaster to be
23 called -- Elaine Feaster -- as an alibi witness.

24 Isn't it true that at the testimony at your burglary
25 trial she actually said she was gone from the house for a

Nathaniel Teamer
Cross-examination by Ms. White

1 large portion of that night?

2 A Yes, ma'am.

3 Q Okay. And ultimately she testified today other than
4 the fact she said she didn't testify, she testified that
5 she was gone that night but that she was here for the
6 murder trial but got sick before she could be called, is
7 that right?

8 A Yes, ma'am.

9 Q All right. We touched on the D.N.A. and the
10 third-party guilt.

11 Your argument on that is that counsel should have
12 requested or should have had a third-party-guilt jury
13 instruction.

14 A Yes, ma'am.

15 Q Okay. And that when he asked for it the judge said no
16 and he didn't have one.

17 A Yes, ma'am.

18 Q Okay.

19 A Should have -- he requested for to put on the record
20 about the third-party guilt. He didn't even look into it
21 after they told him it was third-party guilt.

22 Q Now, looking at -- back quickly at Dawn Hunter's
23 testimony, you said that there were a couple of times,
24 there were several times, that counsel should have objected
25 to hearsay.

Nathaniel Teamer
Cross-examination by Ms. White

1 A Yes, ma'am.

2 Q Okay. Isn't it true that page 263 -- excuse me --
3 Mr. Schultz asked for the ability to approach the bench at
4 one point.

5 And then if you look at 264 he says, "Your Honor,
6 again, I want to object to this. I don't understand the
7 relevancy. This is all hearsay." Is that right?

8 A Yes, ma'am.

9 Q Okay. So he was trying to keep out the testimony
10 where Ms. Hunter said that she had talked to you, and you
11 had asked about Mr. Hunter and asked about Mr. McKinney, is
12 that right?

13 A Yes, ma'am.

14 Q And that was overruled by the judge?

15 A Yes, ma'am.

16 Q He also talked to them about the fact that Tony and
17 you were actually friends -- Mr. Hunter -- is that right?

18 A Yes, ma'am.

19 Q Okay. And she denied that, said, no, they'd never
20 gotten together except for that, that one time in January.

21 A Yes, ma'am. That was hearsay that I felt like he
22 should have objected to.

23 Q Okay. And she -- that's when Mr. Schultz after she
24 stopped -- they did the arguments about the prior bad act,
25 is that right?

Nathaniel Teamer
Redirect examination by Ms. Blanchette

1 A But not that one though.

2 Q Right. About only the possession of a weapon.

3 A Yes, ma'am.

4 Q Okay.

5 MS. WHITE: If I could have one moment, please, Your
6 Honor.

7 THE COURT: Certainly.

8 (Pause.)

9 MS. WHITE: Your Honor, I think that's all the
10 questions I have for this witness.

11 THE COURT: Thank you.

12 MS. BLANCHETTE: Very briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. BLANCHETTE

15 Q The state asked you about the phone calls that were
16 made and that those went over the course of a long period
17 of time, approximately 30 minutes.

18 A Yes, ma'am.

19 Q And, in fact, when you look at those phone calls and
20 add them up, each phone call is merely a minute or less, is
21 that correct?

22 A Yes, ma'am.

23 Q Okay. And then also if you could look at -- and I'll
24 let you know what exhibit number this is. It's Plaintiff's
25 Exhibit No. 20, the incident report.

Dr. Robert Bennett
Direct examination by Ms. Blanchette

- 1 A Yes, ma'am.
- 2 Q If you could turn, to what's been marked as narrative
3 page three. In there does it indicate that they searched
4 the scene for over an hour and 15 minutes that night and
5 were not able to locate the weapon?
- 6 A Yes, ma'am.
- 7 Q Okay. And does that lead to what your concerns were
8 about why they didn't locate the weapon that night and it
9 took so long to find that weapon?
- 10 A Yes, ma'am.
- 11 Q Okay. And did Mr. Schultz properly go into that at
12 trial on your behalf?
- 13 A No, ma'am.
- 14 Q Okay.
- 15 MS. BLANCHETTE: Your Honor, I have no further
16 questions.
- 17 THE COURT: MS. White.
- 18 MS. WHITE: Nothing, Your Honor.
- 19 THE COURT: Thank you. You may step down.
- 20 MS. BLANCHETTE: Your Honor, I would call Robert
21 Bennett to the stand.
- 22 DR. ROBERT BENNETT, having
23 been first duly sworn, testified as follows:
24 DIRECT EXAMINATION BY MS. BLANCHETTE
- 25 Q Could you please state your full name for the record?

Dr. Robert Bennett
Direct examination by Ms. Blanchette

1 A Robert M. Bennett.

2 Q Okay. And what is your current occupation?

3 A I am a forensic scientist practicing full time out of
4 Charleston.

5 Q Okay. And at my request did you compile a curriculum
6 vitae for our purposes here today in court?

7 A Yes.

8 Q Okay. And could you identify that for the record,
9 please?

10 A Yes, that's it.

11 MS. BLANCHETTE: Your Honor, at this time I would move
12 the curriculum vitae of Robert Bennett as Applicant's No.
13 25.

14 MS. WHITE: I guess, Your Honor -- yes. I think
15 we're -- I think we're going to have some -- I guess she's
16 going to move him in as an expert, and I'm going to object.
17 But I guess at this time if that needs to go in now or if
18 that needs to go in when she's moving him in as an
19 expert -- I don't know.

20 MS. BLANCHETTE: Your Honor, I was going to ask him
21 questions pertaining to this and provide a copy to the
22 Court.

23 MS. WHITE: That's fine. We withdraw any objection.

24 THE COURT: No objection.

25 (Curriculum vitae marked Applicant's Exhibit No. 25.)

Dr. Robert Bennett
Direct examination by Ms. Blanchette

1 BY MS. BLANCHETTE

2 Q Mr. Bennett, could you just briefly explain your
3 educational background for me?

4 A I have a pharmacy degree and went back to school and
5 obtained a Ph.D. degree at the medical -- both degrees from
6 the Medical University of South Carolina.

7 With that education I took numerous scientific courses
8 in genetics and pharmacology and microbiology, many basic
9 science courses that are critical in understanding D.N.A.
10 and how it works and what it means.

11 Q And once you completed your educational experience,
12 what have you done as far as work experience?

13 A As soon as I graduated I've been practicing forensic
14 scientist -- science since 1991 when I graduated with my
15 Ph.D. degree.

16 I'm performing various types of forensic services in a
17 variety of aspects, the majority of which are in drug and
18 alcohol testing and D.N.A. testing.

19 Q Okay. And have you had the opportunity to partake in
20 any continuing education?

21 A Well, as a pharmacist continuing education is required
22 if you're going to fill prescriptions.

23 After I received my Ph.D. degree I no longer practiced
24 in the field of filling prescriptions and therefore did not
25 continue any continuing education in that field as a

Dr. Robert Bennett
Direct examination by Ms. Blanchette

1 pharmacist.

2 As a forensic scientist there are no requirements for
3 continuing education.

4 Q Have you had the opportunity to teach any courses
5 yourself or to provide education to other individuals in
6 the area of forensic science and specifically in the area
7 of D.N.A.?

8 A I provided numerous seminars and lectures to a variety
9 of groups ranging from departments of social services, to
10 guardian ad litem, to attorneys providing C.L.E. courses
11 that have been approved by the South Carolina Bar in the
12 work that I do.

13 I've also given national talks on the work that I do.

14 Q And let's talk a little bit about the work that you
15 do.

16 Here today we're here regarding D.N.A. Have you had
17 the opportunity in your line of work and in your business
18 to review D.N.A. evidence and to conduct D.N.A. testing?

19 A Yes, I have.

20 Q Do you know approximately how many times you have done
21 that?

22 A I have performed through my office several thousand
23 D.N.A. tests.

24 Q Okay. And those D.N.A. tests, are those for private
25 and for judicial purposes?

Dr. Robert Bennett
Direct examination by Ms. Blanchette

1 A Correct, yes.

2 Q Okay. And how many of those would you say are for
3 private purposes?

4 A The vast majority are. They're mainly in the area of
5 paternity determination. So the vast majority are for
6 private cases.

7 Q Now, have you had the opportunity to testify in the
8 circuit court in the state of South Carolina regarding
9 D.N.A. evidence?

10 A Yes, I have.

11 Q Okay. And do you know approximately how many times?

12 A Probably half a dozen times.

13 Q Okay. And have you had the opportunity to testify in
14 the family court in South Carolina regarding D.N.A.
15 evidence?

16 A Yes. Deemed that the testing that I did was for
17 paternity evaluations, I've performed numerous tests for
18 family court for paternity.

19 Q Okay. And you said numerous. Do you have an
20 approximate number of times you've conducted those tests
21 and testified?

22 A It's -- well, I've conducted several thousand tests.
23 As far as testifying on the test results, the test result
24 itself speaks for itself. So as far as actually
25 testifying, it's only been a few times, a dozen times, in

Dr. Robert Bennett
Cross-examination by Ms. White

1 family court when specific questions regarding the
2 paternity was -- was brought up to which I had to be there
3 to answer.

4 Q Have you been admitted as an expert in the area of
5 D.N.A. in the state of South Carolina in the courts?

6 A Yes.

7 Q Okay. And do you know approximately how many times?

8 A At least three or four times, a couple of which were
9 murder cases.

10 Q Okay. And you've explained that a number of the tests
11 that you do, your reports stand alone and there's
12 requirement for your testimony, is that correct?

13 A For the majority of the time, yes.

14 Q All right.

15 MS. BLANCHETTE: If I could just beg the Court's
16 indulgence.

17 (Pause.)

18 MS. BLANCHETTE: Your Honor, I at this time would like
19 to offer Mr. Bennett as an expert in the area of D.N.A.
20 It's my understanding the state would probably like to ask
21 questions.

22 THE COURT: Ms. White.

23 MS. WHITE: Thank you, Your Honor.
24
25

Dr. Robert Bennett
Cross-examination by Ms. White

1 CROSS-EXAMINATION

2 BY MS. WHITE

3 Q Dr. Bennett, I know we've talked a little bit about
4 your background. I wanted to ask you a little more
5 clarification.

6 You testified that your degrees are in pharmacy and a
7 Ph.D. in pharmacy.

8 A In pharmaceutical sciences and toxicology, yes.

9 Q Okay. And according to your C.V. you actually worked
10 until about it looks like '96 primarily with laboratory
11 testing and pharmaceuticals.

12 A I believe that's correct, yes.

13 Q Okay. And, in fact, you've got a company, American
14 Drug Testing, which is drug testing laboratory services.

15 But the first time actually the forensic scientist is
16 mentioned is with a medical-legal services company.

17 A That's when I first focused strictly and solely on
18 forensic services, which is what I do now.

19 Q And you testified there's no continuing legal ed
20 required for that. So is there any certification that you
21 can get saying you're certified to be a forensic science
22 expert?

23 A Well, there are many voluntary organizations that are
24 available. As with any field that exists, there are groups
25 of various sizes that allow for some sort of certification.

Dr. Robert Bennett
Cross-examination by Ms. White

1 But it's all strictly voluntary.

2 Q And forensic sciences is a pretty broad area --
3 forensic accounting, forensic D.N.A. testing. Isn't that
4 right or --

5 A Correct, yes.

6 Q So you don't say anything more specific. You just
7 consider yourself a forensic scientist?

8 A Correct.

9 Q Okay. Now, your C.V. actually indicates several
10 areas. In addition to D.N.A. and toxicology is it true
11 that you've testified regarding forensic skeletal analysis?

12 A I've performed forensic skeletal analysis, but the
13 accessory murder trial in that situation has not gone to
14 trial yet.

15 Q Okay. So the sample case listing does not necessarily
16 reflect cases that you've testified in.

17 A That is correct.

18 Q It's cases that you've done work in.

19 A Correct.

20 Q So you've worked and done forensic skeletal analysis?

21 A Yes.

22 Q Handwriting analysis?

23 A For court cases, yes.

24 Q Fingerprint identification?

25 A Yes.

Dr. Robert Bennett
Cross-examination by Ms. White

1 Q And crime scene reconstruction and bullet trajectory?

2 A That was for a murder case, yes.

3 Q All right. But that's a pretty broad range of
4 expertise. Would -- how do you gain expertise in these
5 areas if you don't go to continuing legal ed classes?

6 MS. BLANCHETTE: Your Honor, I would object as to
7 relevance at this point. I'm offering him strictly as a
8 D.N.A. expert, and the state seems to be going into a
9 number of areas where I'm not trying to get him qualified
10 in this case.

11 THE COURT: I think it goes to the overall
12 qualification. Overruled.

13 Go ahead.

14 MS. WHITE: Thank you, Your Honor.

15 BY MS. WHITE

16 Q How do you determine to be an expert in various areas
17 if you don't continue or take continuing legal ed classes?

18 A Because I can educate myself on my own. The
19 continuing education class basically is a book or a written
20 material that a professor will lecture about.

21 I can go to a continuing education class and listen to
22 the lecture talk about what's in the textbook, or I can
23 read the textbook myself.

24 Q Now --

25 A You know that the same as I do.

Dr. Robert Bennett
Cross-examination by Ms. White

1 Q And continuing legal ed, isn't there sometimes
2 question-and-answer sessions? There's ability to talk to
3 the people that are giving presentations.

4 A That's true.

5 Q So the ability to interact and actually have some
6 conversation with the people who are teaching those is
7 something you would miss if you only simply read books?

8 A No, because I routinely have discussions with
9 colleagues in the field on a regular basis.

10 Q Okay. But not with the people that teach any
11 continuing legal ed at those classes?

12 A Some of those people I do, yes.

13 Q You mean they've taught them in the past. But you
14 haven't been at a class to communicate with them.

15 A Correct.

16 Q Okay. In regards to certification, are there
17 certifications for your lab? When you say you've reviewed
18 and conducted thousands of D.N.A. tests, did you do those
19 personally?

20 A No. I under the director overseeing the operation in
21 my facility and the laboratory that I hire to perform the
22 test does the testing under my instruction and direction.

23 I work very closely with the laboratory that
24 specifically does D.N.A. testing. I've worked in that
25 laboratory and done some work specifically on D.N.A.

Dr. Robert Bennett
Cross-examination by Ms. White

- 1 testing within that laboratory myself. But I don't do that
2 on a regular basis. I'm more or less in the director
3 position.
- 4 Q And is this laboratory that you mentioned you work
5 with in South Carolina?
- 6 A No. It's Arizona.
- 7 Q Okay. So you're not present at the time that
8 generally these thousands of D.N.A. samples are actually
9 analyzed.
- 10 A Sometimes I am, but usually not.
- 11 Q And you don't -- someone actually in the laboratory
12 does the testing --
- 13 A A technician does.
- 14 Q -- you oversee.
- 15 A A technician does.
- 16 Q Right.
- 17 A I've advanced beyond being a technician at this point
18 in my career.
- 19 Q Okay. Were you ever employed and did technician work
20 prior?
- 21 A No.
- 22 Q Okay. But you've advanced past that at this point?
- 23 A Correct.
- 24 Q You said that you've conducted and done several
25 thousand D.N.A. samples. The majority of the samples that

Dr. Robert Bennett
Cross-examination by Ms. White

1 you work with, are those mixtures or generally standards?

2 A Both.

3 Q Okay. Percentage?

4 A Well, the majority of the D.N.A. that we analyze is
5 from buccal swabs, so they are not mixtures. But I have
6 been involved in a number of cases in which there are
7 mixtures. As far as the percentage between the two, maybe
8 20 percent mixtures, 80 percent single donor.

9 Q Okay. And the majority of your work in D.N.A. has
10 dealt with either paternity testing or maternity testing a
11 lot of times, is that right?

12 A Well, a majority of it, but I've done a fair number of
13 D.N.A. testing for a variety of reasons to determine the
14 identity of a person from items we've removed from the
15 garbage can, from automobile items, for infidelity testing.

16 There's been a wide variety of D.N.A. testing I've
17 performed that is not paternity related.

18 Q Okay. And I think on your C.V. the majority of
19 information, the most recent work that you have regarding
20 D.N.A. was in 2010, and then 2008 and 2009, is that
21 correct?

22 A I believe so, yes.

23 Q Okay. In regards to experience, we've talked a little
24 about what you've done. But have you ever particularly
25 worked in -- obviously you reviewed this case. The D.N.A.

Dr. Robert Bennett
Cross-examination by Ms. White

- 1 was from a cigarette butt.
- 2 A Correct.
- 3 Q Have you yourself ever tested D.N.A. from a cigarette
- 4 paper or filter?
- 5 A Yes, I have.
- 6 Q You yourself have done that and not the lab?
- 7 A Well, I prepared the sample and provided it to the
- 8 technician for running it through the machine.
- 9 Q Okay. So you did not work as the technician in the
- 10 case, but you prepared the sample and submitted it?
- 11 A Collected, prepared the sample, established chain of
- 12 custody, reviewed the results after the technician
- 13 performed the analysis and prepared the report, which is
- 14 typically what the directorship position would do.
- 15 Q Okay. And this lab that you're working with that's
- 16 out in Arizona, does that qualify as an ISO qualified lab?
- 17 A Yes. It's also certified by the A.A.B.D. which is the
- 18 accrediting body for D.N.A. testing laboratories.
- 19 Q So the lab was qualified, but you yourself don't abide
- 20 necessarily by the standards that the F.B.I. requires and
- 21 ISO labs requires for their technicians or anything to
- 22 complete continuing ed or further education?
- 23 A Well, being that I'm not the technician performing the
- 24 analysis, I don't specifically have certifications as a
- 25 D.N.A. technician.

Dr. Robert Bennett
Cross-examination by Ms. White

1 MS. WHITE: Your Honor, the state would just object to
2 the qualifications.

3 If I can, just one more second, Your Honor.

4 BY MS. WHITE

5 Q I want to touch base real quick on the pharmacy still.
6 You were not a registered pharmacist at that time, correct?

7 A Yes, I'm a registered pharmacist. I'm registered with
8 the state of South Carolina, license No. 5497.

9 Q But your license is not current to be able to
10 prescribe pharmacy -- pharmaceuticals?

11 A Well, my license is not active to the point where I
12 could fill prescriptions. I haven't done that in over 25
13 years.

14 Q Okay. And are you a certified pharmacologist? Any
15 certifications in that particular area that you got your
16 degrees in?

17 A There is no certification for those fields of study.

18 Q Okay.

19 A If there are, they're strictly voluntary through
20 conferences.

21 Q Okay. So you in the realm of managing the D.N.A. or
22 the lab are the administrator of a lab from Arizona?

23 A And other labs as well. I've worked with other D.N.A.
24 labs around the country.

25 Going to a specific lab based on their specific skill

Dr. Robert Bennett
Cross-examination by Ms. White

1 and expertise for a specific purpose, I would qualify those
2 labs. I would come to know those labs, the personnel that
3 work in those labs, and actually would visit those labs to
4 make sure that they are who they say they are and can do
5 what they say they can do.

6 Q Do you manage a lab in South Carolina at all?

7 A Yes, I do.

8 Q Okay. Why doesn't that lab test the -- the items you
9 get?

10 A For D.N.A.?

11 Q Yes.

12 A Because it takes millions of dollars.

13 Q Okay. But you do manage a lab in South Carolina. You
14 just don't have one large enough or is that --

15 A I don't have one large enough for D.N.A. analysis
16 because it does take millions of dollars to operate a
17 D.N.A. -- an accredited D.N.A. testing laboratory.

18 Q So the lab that you work with on a day-to-day basis in
19 Charleston focuses on what area?

20 A Drug and alcohol testing, infidelity testing, some of
21 the other services that you listed -- microscopic
22 examination.

23 And, for example, I can -- you mentioned handwriting
24 analysis. I can do that in my lab. That doesn't require
25 extensive equipment other than microscope work, which I

Dr. Robert Bennett
Cross-examination by Ms. White

1 have four or five of.

2 Q And --

3 A Some -- so the laboratory that I have in Charleston
4 that I actually have in my facility is limited in scope
5 based on funds.

6 Q Okay. And just to clarify for the handwriting
7 analysis, as you testified earlier, your training is that
8 you've read books about that?

9 A I've studied it my entire career, yes.

10 Q Okay.

11 MS. WHITE: Your Honor, the state just objects to the
12 fact that he would be qualified as a D.N.A. expert and the
13 fact that he doesn't actually perform the services as a
14 technician, has not performed those, has never performed
15 them and continues to not perform them at this point,
16 particularly not on a day-to-day basis.

17 And in a case like this I would argue that working on
18 a 20 percent of those cases revolving -- involving mixtures
19 to even not prepare those other than submitting them, it
20 doesn't give him the knowledge to be able to testify as to
21 what an expert should have done in this case or should
22 have -- should have been asked.

23 MS. BLANCHETTE: Your Honor, if I may.

24 THE COURT: I'm not sure what his -- what his --

25 MS. BLANCHETTE: I have some additional questions I'd

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 I like to ask in response to the state's questioning of the
2 witness.

3 THE COURT: Go ahead.

4 MS. BLANCHETTE: I didn't understand that we were
5 going to get into his actual work in this case.

6 REDIRECT EXAMINATION

7 BY MS. BLANCHETTE

8 Q Dr. Bennett, as a result of a discovery order in this
9 case I received a complete copy of the SLED file. And that
10 was provided to you, is that correct?

11 A Correct.

12 Q And you also had the opportunity to review both
13 transcripts in this case, is that correct?

14 A Correct.

15 Q And in your role that you said is a director and
16 involving all of these other D.N.A. cases, do you commonly
17 review similar files?

18 A Yes, I do.

19 Q Okay. And do you commonly review trial transcripts?

20 A Yes.

21 Q Okay. And in this case I asked that you go through
22 that and review and give me your expert opinions regarding
23 the analysis that was done and the results that were
24 reached, is that correct?

25 A Correct.

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 Q We did not ask that you do any work as a technician
2 and retesting in this case, is that correct?

3 A That is correct.

4 Q Okay. And you are here today to merely offer your
5 opinion testimony based upon the review of the
6 documentation provided by SLED, is that correct?

7 A Correct.

8 Q And are those -- is that documentation substantially
9 similar to the type of documentation you review in the
10 other cases that you handle?

11 A Virtually identical.

12 Q Okay. And since the state got into your other areas
13 of qualification, is it true that in January of this year
14 you were, in fact, qualified as a [sic] expert in forensic
15 science by the Honorable James R. Barber in a post

16 conviction case involving a murder?

17 A Correct.

18 MS. BLANCHETTE: Your Honor, if I could just beg the
19 Court's indulgence one moment.

20 (Pause.)

21 MS. BLANCHETTE: Your Honor, unless I can provide
22 further clarification for the Court, I don't have any
23 further questions at this time.

24 MS. WHITE: I just have one brief follow-up question.

25

Dr. Robert Bennett
Recross-examination by Ms. White

1 RECROSS-EXAMINATION

2 BY MS. WHITE

3 Q The case that Ms. Blanchette referred to, and Judge
4 Barber, was that a case that focused on toxicology and the
5 affect of drugs on a young -- a child?

6 A I believe so, yes.

7 Q Okay.

8 A But I have been qualified as an expert in D.N.A. in
9 murder cases other than what has been mentioned here.

10 Q And you said three or four times possibly as a D.N.A.
11 expert in South Carolina court.

12 A Correct.

13 Q Over a period of how many years of work?

14 A Over the past four or five years I believe.

15 Q Okay. So you've only been working on D.N.A. expertise
16 for the last four or five years.

17 A No, no. I've been doing that my whole career, but
18 specifically qualified as a D.N.A. expert in a murder case,
19 I recall a few over the past four or five years.

20 Q Okay.

21 A It's delineated in my C.V.

22 Q Thank you.

23 THE COURT: Now, you want the witness qualified as an
24 expert to do what?

25 MS. BLANCHETTE: We are alleging that Mr. Schultz

1 should have hired an expert pretrial to help him review the
2 D.N.A. documentation provided by SLED, which was rather
3 voluminous, to prepare for cross-examination of SLED Agent
4 Rhonda Fields and then to be called at trial to testify
5 regarding the results, specifically the D.N.A. report that
6 I have already admitted into evidence, to be called as an
7 expert to offer opinion testimony as to the findings in
8 that report. And that is why I've had Dr. Bennett review
9 the entire SLED file and review those findings and prepared
10 to have him testify today regarding his findings.

11 Not knowing what Mr. Schultz is going to say, those
12 could either have been used for trial preparation in
13 cross-examination or actually as a witness at the trial
14 itself.

15 MS. WHITE: Your Honor, I think without getting
16 necessarily into the details, from my understanding of
17 their -- their planned testimony, they're essentially from
18 what I can tell disagreeing with the results that the
19 D.N.A. expert who is qualified in this case gave.

20 And I think if she's got someone here as an expert to
21 testify to something like that, then he needs to be
22 qualified as an expert based on his experience and
23 knowledge and not just about reviewing transcripts and
24 reports.

25 MS. BLANCHETTE: Your Honor, I would just -- looking

1 at Rule 702 it says, "If scientific, technical, or
2 otherwise specialized knowledge will assist the trier of
3 fact to understand the evidence or to determine a fact in
4 issue, a witness qualified as an expert by knowledge,
5 skill, experience, training, or education, may testify
6 thereto in the form of an opinion or otherwise."

7 I haven't heard the state make any objections. He has
8 been qualified in this state as a D.N.A. expert. I'm not
9 attempting to do that for the first time.

10 But regardless of that, we would rely on all of these
11 other factors that the Court is supposed to look at.

12 I would also disagree with what the state said, and we
13 can proffer his testimony if you'd like, but I'm simply
14 going to have him review in specifically the area of a
15 mixture and break that down.

16 I'm not disagreeing with what the state has reported,
17 nor are we asking to retest this evidence to prove that
18 what SLED found was incorrect, just merely that SLED was
19 able to put up an expert who provided very complicated
20 testimony to a jury and that Mr. Schultz could have either
21 used Dr. Bennett to help him cross-examine Ms. Fields or
22 then to testify to provide clarification to the jury.

23 In no way are we here today to say that SLED's testing
24 was incorrect in this case or that their findings were
25 invalid for some reason. So that -- that is not our

1 purpose.

2 MS. WHITE: Your Honor, I would just -- obviously, I
3 believe although that may not specifically be stated as the
4 purpose, I think that that is the ultimate goal here in
5 saying that counsel should have called someone to
6 contradict, you know, SLED, the state's expert in this
7 case.

8 And I think if he's going to be qualified to discuss
9 concerns, issues with how the report was or issues with the
10 mixture and so on that he needs to -- to have sufficient
11 knowledge in that.

12 He doesn't actually deal with mixtures. He interprets
13 reports apparently done by other people with evidence
14 examined by other people. And I just don't know that, you
15 know, in our estimation that that qualifies him over the
16 last couple of years to be able to offer any kind of
17 testimony.

18 THE COURT: All right. I understand your objection.

19 In this proceeding though we're going to have to hear
20 his testimony one way or the other, aren't we?

21 MS. BLANCHETTE: I would ask that we proffer it, yes.

22 THE COURT: You would want to proffer it regardless.

23 MS. WHITE: Yes, Your Honor.

24 THE COURT: Therefore, I will overrule the objection
25 and permit you to find the witness qualified to testify as

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 a forensic scientist in the area of D.N.A. analysis under
2 the terms and conditions you've stated with the limitations
3 you've stated on it, on his qualifications -- not on his
4 qualifications -- on the area that he's going to testify
5 in.

6 MS. BLANCHETTE: That is correct, Your Honor. I can
7 be limited my own words.

8 MS. WHITE: Thank you, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. BLANCHETTE

11 Q Dr. Bennett, you've already testified that you've
12 reviewed the entire SLED file in this case, is that
13 correct?

14 A Correct.

15 Q Okay. And let me hand what has been previously
16 admitted as Applicant's No. 23. And this is the report
17 prepared by Agent Fields. And you had the opportunity to
18 review that report, is that correct?

19 A Correct.

20 Q Okay. And in the voluminous SLED file that was turned
21 over as part of discovery there was also another document
22 that you focused in on in your review, is that correct?

23 A Correct.

24 Q Okay. And let me hand this to you. Can you identify
25 that for the record, please?

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1 A This is a page four of four of a SLED report of SLED
2 No. L0602276 dated August 30th of 2007, and which typically
3 it provides the D.N.A. profile of Nathaniel Teamer.

4 Q Okay.

5 MS. BLANCHETTE: Your Honor, at this time we would
6 move this SLED lab report in as Applicant's No. 26.

7 MS. WHITE: One moment, Your Honor.

8 (Pause.)

9 MS. WHITE: One moment, please, Your Honor.

10 (Pause.)

11 MS. BLANCHETTE: Your Honor, I withdraw this exhibit.
12 We'll just rely upon the SLED -- the SLED report that's
13 admitted to keep things as clean as possible.

14 THE COURT: All right. Good.

15 BY MS. BLANCHETTE

16 Q Now, Dr. Bennett, if you could look at this SLED
17 report, and specifically at page three of five, and what is
18 it that you specifically focused in on on page three of
19 this report?

20 A The results in the third paragraph. It states that
21 the D.N.A. profile developed from item 25 is a mixture.
22 And then it states in bold, "The D.N.A. profile developed
23 from the major contributor mixture matches Nathaniel
24 Teamer."

25 Q And if you could look at the transcript, I believe

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Redirect examination by Ms. Blanchette

1 specifically you're on page 358, there Mr. Schultz is
2 attempting to cross-examine Agent Fields about her results.
3 And you've had an opportunity to review her entire
4 testimony, is that correct?

5 A Yes.

6 Q And specifically what from her testimony was a major
7 factor to you in your review, or what kind of jumped off
8 the page to you?

9 A Well, she states that there is a graphical printout,
10 and she states that the major contributor exists and a
11 minor contributor exists. And the graphical printout she
12 refers to is the printout from the instrumentation that is
13 used by SLED to create a D.N.A. profile.

14 Specifically, I believe from my other cases that I've
15 worked on in which SLED performed D.N.A. analysis that
16 particular instrumentation was an instrument provided by a
17 company called Applied Biosystems.

18 And the way that the D.N.A. is analyzed is a sample of
19 D.N.A. is introduced into the instruments and some
20 chemicals are added to cause the D.N.A. to fluoresce. What
21 that means is it gives off light.

22 MS. WHITE: Your Honor, I'm sorry. I -- he hasn't
23 testified earlier or been qualified as to the fact that he
24 knows this system at all.

25 I think this is -- he's testifying as to how the

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 system at SLED works, and I don't know that there's been
2 any foundation laid for that.

3 MS. BLANCHETTE: Your Honor, I was just trying to go
4 through his review of this case and the information he
5 looked at in this case, which is what I did indicate that I
6 would be going into in his testimony.

7 If there's an issue with him talking about the
8 specific instrumentation used I'll just have him refer to
9 the report.

10 THE COURT: I think that was the objection, is that
11 he --

12 MS. WHITE: Yes, sir. I think --

13 THE COURT: -- was talking about some other lab.

14 MS. WHITE: Right. The SLED lab and the equipment and
15 the instrumentation that they use to test it, whereas I

16 think counsel had said earlier we were just going to be
17 talking about his review of it, of what a mixture was
18 essentially.

19 MS. BLANCHETTE: And I indicated the SLED report. So
20 I'll be happy to go into that with him.

21 THE COURT: And I sustain the objection.

22 BY MS. BLANCHETTE

23 Q If you could, look at page four and five of this
24 report. Did you have the opportunity to review the line
25 indicating, 27, Nathaniel Teamer, and then the line

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 indicating, 25, cigarette butts?

2 A Yes.

3 Q Okay. And why did you focus in on those two specific
4 lines in this report?

5 A Because it's my understanding from reviewing the files
6 that this particular evidence item was critical in
7 convicting Mr. Teamer.

8 Q Okay. And if you could, just go through what
9 information you were able to ascertain by reviewing those
10 two lines on this report.

11 A Sure. If we actually look at the results of item 25,
12 the cigarette butt, which I believe is on page five of
13 five, it -- in the first column which is labeled D.A.S.
14 1179, this designation is the scientific label of the area
15 on the D.N.A. that was measured by SLED.

16 It indicates that the allele length was 11 and 14,
17 being that the loci or the location of this D.N.A. segment
18 has two alleles.

19 Alleles are on every D.N.A. segment, and allele links
20 vary from person to person. In fact, that's why D.N.A. is
21 used as a unique identifier of an individual, because the
22 D.N.A. of individuals are different, and they're uniquely
23 different that they can be used to identify an individual
24 person with the caveat of monozygotic twins or identical
25 twins who share the same D.N.A., which there are about

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1 12 million in the population. But other than that the
2 allele links allow different differentiation of the
3 individual providing identity to that individual.

4 Now, that first column, the cigarette butt, contains
5 human D.N.A. The allele links of that first column is 11
6 and 14. That's unique to an individual.

7 Every allele has -- every loci has two alleles, one
8 from the father and one from the mother. We have two
9 numbers there -- 11 from the father and 14 from the mother,
10 or vice versa.

11 Now, one identical allele links between the cigarette
12 butt and another person -- in this case Mr. Teamer -- would
13 allow for what we call a match, meaning that the allele
14 links are the same. And that would indicate that the
15 D.N.A. on the cigarette butt is that of Mr. Teamer's.

16 But we continue with a number of other markers to
17 further the connection between the D.N.A. found on the
18 cigarette butt with that of Mr. Teamer.

19 Now, if we look at the second column we see under the
20 heading D21 S11 that the allele length has the number 29.
21 Now, being that D.N.A. loci or D.N.A. locations have two
22 allele links that's a little misleading being only one
23 number there.

24 What that actually means is that the other allele
25 links was also 29. So in that particular segment of D.N.A.

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1 the -- Mr. -- the contributor of the D.N.A. to the
2 cigarette butt -- if it's one person, the mother would
3 provide 29 and the father would provide 29.

4 So for each of these segments where only one number
5 exists it simply means that the other allele link is the
6 same.

7 Now, going back to the first column where the
8 cigarette butt has an allele link of size 11 and 14th --
9 and 14 -- we notice that the 11 is in parentheses.

10 Now, if you look below that it actually designates
11 what those parentheses mean, and it states that the alleles
12 are between 75 and 149 R.F.U.

13 Now, I think it's important to explain what that
14 means. R.F.U. stands for relative florescent units, being
15 that the instrumentation that measures D.N.A. measures the
16 intensity of the light that is illuminated from the D.N.A.
17 based on the quantity that is there.

18 In all D.N.A. analysis -- not just what's performed at
19 SLED but just in general -- the D.N.A. is chemically tagged
20 with an agent that allows the D.N.A. to give off light.

21 That light is measured. And another word for light is
22 florescence, and the units that are measured, it's called
23 florescent units.

24 Now, it's -- the amount of light that is given off by
25 D.N.A. allele is relative to the baseline. So therefore

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1 the term relative florescent units is the amount of light
2 given off by that D.N.A. segment relative to the baseline,
3 and the intensity of that light is directly based on the
4 amount of D.N.A. present.

5 In other words, the more D.N.A. that's present, the
6 more light it gives off, the more it can be measured, and
7 you'll get a higher peak on the chromatograph, on the graph
8 that the machine provides.

9 Now, the manufacturers of D.N.A. equipment,
10 specifically that of Applied Biosystems -- and I'm not
11 saying whether or not SLED uses Applied Biosystems -- but
12 the manufacturer of Applied Biosystems D.N.A.
13 instrumentation clearly states that R.F.U.s of less than
14 150 should -- is below the minimum acceptable level.

15 MS. WHITE: Your Honor, I'll just -- I know we're
16 going to proffer it, but I just want to state for the
17 record my objection to him making any conclusions or
18 statements.

19 THE COURT: I sustain that objection.

20 MS. WHITE: Thank you.

21 BY MS. BLANCHETTE

22 A When -- when the amount of florescence units is below
23 the minimum acceptable level you get into a -- an ambiguous
24 area that is questionable. It's a fuzzy zone, if you will.
25 And the report designates by parenthesis that the amount of

Dr. Robert Bennett
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1 florescence units or light given off is below the minimum
2 level accepted by the manufacturers of D.N.A.
3 instrumentation therefore --

4 MS. WHITE: Just renew my objection again.

5 MS. BLANCHETTE: And, Your Honor, on that objection,
6 the state said I know that we're proffering, but I believe
7 you said he could be admitted as an expert based upon the
8 limitations, is that correct?

9 MS. WHITE: Okay. Then I'll rephrase it if you --
10 I'll object based on him going outside the limitations that
11 were offered.

12 THE COURT: And I sustain it.

13 BY MS. BLANCHETTE

14 Q Dr. Bennett, let me just -- there are a number of
15 columns here. What are these -- what are these columns
16 representing?

17 A Each column has a specific segment on the D.N.A.

18 Q Okay.

19 A And these are uniform segments that all D.N.A.
20 analysts use in the United States to be able to compare one
21 analyst's work with another.

22 Q Okay. And upon your review of the SLED file and the
23 transcript, what information could you have provided to
24 counsel and/or testified to regarding these 16 columns
25 here?

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 A Well, of the 16 we see that the first one has one
2 allele link that's in parenthesis, meaning that it is below
3 the 150 threshold that I previously discussed.

4 Now, column two is not below that. There are no
5 parenthesis there, so there's enough D.N.A. there to
6 clearly measure the allele length.

7 In column three we have parenthesis again; column
8 four, parenthesis; column five, no parenthesis, which means
9 that we have a significant amount of D.N.A. present to do
10 the clear measurement.

11 Column six we have parenthesis on one; seven,
12 parenthesis on one; column eight, no parenthesis; column
13 nine, parenthesis; column ten, parenthesis on one of the
14 allele links; as well as on column 11; column 12, which is
15 nine and nine, one of which is -- has parenthesis; column
16 13 has parenthesis; column 12 does not; and column 24 does.

17 So in looking at this across the board only column
18 five, column eight, and column 14 do not have parenthesis,
19 meaning that those are clearly measurable D.N.A. peaks that
20 you can have a high degree of confidence that those allele
21 links are what is reported here.

22 I'd also like to point out that in column two we have
23 a 29, which is actually 29 and 29. And if you look at
24 column two on Nathaniel Teamer his allele link is 29 and
25 33.2 indicating that this is where we see one of the

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Redirect examination by Ms. Blanchette

1 mixtures.

2 If you also look at column six we have a seven and an
3 eight allele length. And on Mr. Teamer his allele links
4 are eight and eight. So on column six we have a mixture.

5 Column seven, Mr. Teamer's allele links are 12 and 12.
6 However, the cigarette butt contains an 11 and 12
7 indicating a mixture.

8 If we move to column 12, Mr. Teamer has a D.N.A.
9 length of nine and 11. However, the cigarette butt has
10 nine and nine, which is another mixture.

11 And, finally, in column 15 Mr. Teamer has 22 and 24 as
12 the allele links, but the allele links on the cigarette
13 butt is 24 and 24, which is another mixture.

14 So we're -- I'm agreeing with the fact that the
15 cigarette butt has a mixture. In fact, one, two, three,
16 four, five of the segments on the D.N.A. profile is where
17 the mixture occurs. And on the remaining segments it does
18 match Nathaniel Teamer's. However, it's below the
19 diacaustic thresholds indicated by the parenthesis, all
20 except for three of the D.N.A. segments.

21 So as far as what I would provide to the counsel
22 representing Mr. Teamer at the time, would just be to
23 describe what the readings are on this table and to provide
24 him with enough information to be knowledgeable and
25 educated on what this report says.

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 Q Okay. And also here this -- the D.N.A. findings were
2 that Mr. Teamer was the major contributor --

3 A Yes.

4 Q -- which common sense leads to the conclusion that
5 there was also a minor contributor. Where is that shown in
6 these tables?

7 A Well, if you look at item 25, cigarette butt, on page
8 five of five you see in the descriptor below the table. It
9 says bold equal major contributor. And from what I can
10 tell that only column six, which is T.H.O. line
11 designation, and column seven, D13 S17, only those two
12 D.N.A. segments have a major contributor delineated in the
13 -- below the table.

14 So when SLED makes the statement that Mr. Teamer is a
15 major contributor, it's only on two segments on a -- out of
16 the entire loci that's been examined.

17 Q And could you explain what a minor contributor -- how
18 a minor contributor appears on here and what that means?
19 Does that mean somebody's less than 50 percent, or what
20 does that mean in the world of D.N.A.?

21 A Well, it actually has nothing to do with whether it's
22 below 50 percent or not. It's -- a minor contributor means
23 that the amount of D.N.A. present is relatively low
24 compared to the D.N.A. provided by the other contributor.

25 In other words, any time you have D.N.A. of two

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1 people -- and we'll keep it simplified to just two
2 people -- then the likelihood of having equal contribution
3 is relatively low.

4 There's always going to be somebody that's going to
5 have more of their D.N.A. than the other person on that
6 particular item just by random chance. So the person that
7 has more D.N.A. on that item is deemed the major
8 contributor. And it has nothing to do with whether it's 50
9 percent or more.

10 A person could be a minor contributor and have D.N.A.
11 all the way across on all the columns. They could have
12 D.N.A. present, but it's in a lower amount than the other
13 person for the majority of the time.

14 Now, there may be one or two columns where the minor
15 contributor is actually the major contributor, but if you
16 tally up all the way across the table, then the major
17 contributor has provided more D.N.A. than the minor
18 contributor. But, now, that doesn't minimize the effect of
19 the minor contributor.

20 In other words, the minor contributor is a valid
21 D.N.A. profile. It is a person. That person exists. That
22 person has provided D.N.A. on the item.

23 The minor contributor means that the amount of D.N.A.
24 is simply less than the other person there. The minor
25 contributor can be very important. In many cases the minor

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1 contributor is the only information you have. In many
2 cases the minor contributor is a suspect or maybe even the
3 perpetrator.

4 The point I want to make is that the minor contributor
5 is just as important as the major contributor as far as
6 identifying a person.

7 To sum it all up, if Mr. Teamer's D.N.A. was removed
8 from this item 25, cigarette butt, and the only thing left
9 was the five D.N.A. allele links of the minor contributor,
10 then that person would be a suspect. And it's my opinion
11 that SLED would name that person as a suspect based on the
12 fact that a partial D.N.A. profile was obtained and that
13 partial D.N.A. profile could be matched to the buccal swab
14 of a suspect.

15 Q And you've reviewed the entire SLED file that was
16 turned over by SLED.

17 A Yes.

18 Q And you've reviewed the entire transcript. Did you
19 see anywhere in there where that minor contributor was
20 identified in this case?

21 A I did not.

22 Q Okay.

23 MS. BLANCHETTE: Your Honor, if I could just beg the
24 Court's indulgence one moment.

25 THE COURT: Okay.

Dr. Robert Bennett
Recross-examination by Ms. White

1 (Pause.)

2 MS. BLANCHETTE: I have no further questions of this
3 witness, Your Honor.

4 MS. WHITE: Just briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. WHITE

7 Q You said that on the chart the indications are that
8 five of the columns contain a mixture. And that's five of
9 how many total?

10 A Sixteen.

11 Q Sixteen.

12 A Right -- 15. It's actually 15, because the
13 16th column is amelogenin, which is just determining the
14 sex of the D.N.A. So it's not a really -- an identifying
15 marker.

16 Q Okay.

17 A So five out of 15.

18 Q Five out of 15 contained a mixture.

19 And you reviewed the transcript and saw that the
20 person that examined the D.N.A. and tested it from SLED
21 testified that there was a mixture and a major and a minor
22 contributor, is that right?

23 A Correct.

24 Q Okay. And in regards to your description of major and
25 minor contributor, you said that it has nothing to do with

Dr. Robert Bennett
Recross-examination by Ms. White

- 1 the percentage.
- 2 A Correct.
- 3 Q But yet you described it as one person's amount is
- 4 relatively low compared to another person's amount.
- 5 A Correct.
- 6 Q Could that not be explained or described in a
- 7 percentage?
- 8 A Well, it could be, but it wouldn't have any affect as
- 9 far as identifying the person.
- 10 Q Right. And the question -- and not necessarily that
- 11 someone touched it 80 percent of the time versus 20 percent
- 12 of the time. But referencing someone having much lower or
- 13 a lower concentration of D.N.A. on an item than someone
- 14 that has a higher, that is essentially what percentage it
- 15 could be, is it not?
- 16 A It could be, yes.
- 17 Q Okay. And the testimony from SLED, there was
- 18 testimony that there was a minor contributor. But it was
- 19 so, so small or so minor that no D.N.A. could probably be
- 20 extracted. Is that what you recall?
- 21 A I read that, yes.
- 22 Q Okay. And if you're going to test for someone to even
- 23 determine a minor contributor don't you have to have a
- 24 standard to test that against?
- 25 A Absolutely.

Dr. Robert Bennett
Recross-examination by Ms. White

- 1 Q Okay. And in this case from your understanding what
2 were the standards that were provided to SLED?
- 3 A I'm not sure of the nature of your question.
- 4 Q What were the blood standards that were provided to
5 SLED to compare against all of the items? Was it the
6 victim and Mr. Teamer's?
- 7 A So it's my understanding that there was a
8 preponderance of forensic specimens that were analyzed for
9 D.N.A. including blood from the victim, as well as the
10 driver of the car, and all compared against the D.N.A. of
11 the cigarette butt.
- 12 Q Okay. And maybe I'll refer to the report that we're
13 specifically discussing. The standards, the swabs that
14 were taken or that were provided in this case and were
15 examined, can you tell me who those were? Looking at page
16 405.
- 17 A James Hunter, and, again, Nathaniel Teamer.
- 18 Q And so to be able to compare or identify a minor
19 contributor if it were not one of those two people, there
20 would need to be some kind of standard to test against, is
21 that right?
- 22 A Yeah. That suspect would have to be identified and
23 the standard or the swab from that person be obtained for
24 comparison to the cigarette butt.
- 25 Q Okay. Thank you.

Dr. Robert Bennett
Redirect examination by Ms. Blanchette

1 MS. WHITE: That's all I have, Your Honor.

2 MS. BLANCHETTE: Very briefly.

3 REDIRECT EXAMINATION

4 BY MS. BLANCHETTE

5 Q If you could, look at page 358, line five, please.

6 There Mr. Schultz asked Agent Fields, "All right. In this
7 mixture, can you break that down as far as percentage-wise
8 what Mr. Teamer contributed to this?"

9 And what does Ms. Fields say?

10 A What line are you on?

11 Q Lines eight and nine.

12 A I'm sorry. What line?

13 Q Lines eight and nine. What's her response as far as
14 breaking it down in Mr. Schultz's question about a
15 percentage?

16 A Ms. Fields says, "It's difficult to do that really, to
17 say how much more he contributed than the other."

18 Q And you don't disagree with that, do you?

19 A That sounds like the same thing I just said, yes.

20 Q Okay. And you would have been able to assist
21 Mr. Schultz and give him your professional and expert
22 advice to the fact that regarding the quality of that
23 question or that line of questioning.

24 A Absolutely, yes.

25 Q Okay.

Rhonda Fields
Direct examination by Ms. White

1 MS. BLANCHETTE: I have no further questions.

2 MS. WHITE: The state has nothing further, Your Honor.

3 THE COURT: Thank you, Doctor. You may step down.

4 Let's take a 10-minute recess.

5 (Whereupon, a recess was taken.)

6 MS. WHITE: And, Your Honor, if we are going to -- I
7 spoke with opposing counsel, and we agreed that perhaps we
8 have the SLED D.N.A. technician expert here that we were
9 going to maybe try to call out of order so that she could
10 not have to sit here.

11 MS. BLANCHETTE: I have no objection to that, Your
12 Honor.

13 THE COURT: All right.

14 MS. WHITE: So at this time the state would call
15 Rhonda Fields to the stand.

16 RHONDA FIELDS, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MS. WHITE

19 Q Rhonda, if you could, you testified at trial and --
20 I'm sorry.

21 THE COURT: Get her to state her name for the record.

22 MS. WHITE: Yes.

23 Q State your name for the record.

24 A Rhonda Fields.

25 Q And, Ms. Fields, you were qualified as a D.N.A. expert

Rhonda Fields
Direct examination by Ms. White

1 at this trial, were you not?

2 A I was, yes.

3 Q Okay. If you can, just briefly give us a background
4 as to your educational background.

5 A I received my bachelor of science degree in
6 biochemistry from Clemson University.

7 I have completed the extensive in-house training at
8 the South Carolina Law Enforcement Division.

9 I attend yearly workshops and conferences to keep
10 abreast of current updates in the technology. And actually
11 this year I attended a forensic mixture workshop that
12 lasted approximately eight hours.

13 Q Okay. So you have a biochemistry degree. You've done
14 some graduate studies, and you do in-house and continuing
15 education training?

16 A That's correct, yes.

17 Q And in regards to practicing and doing D.N.A.
18 analysis, how long have you been doing that in your current
19 capacity?

20 A In my current capacity approximately -- well, I guess
21 I was -- I began training in 2001. I probably completed
22 training around 2003. So almost ten years.

23 Q And in that have you -- can you tell us who you're
24 employed by?

25 A South Carolina Law Enforcement Division.

Rhonda Fields
Direct examination by Ms. White

- 1 Q Have you been there that whole time?
- 2 A I have, yes.
- 3 Q Okay. And in regards to being qualified as an expert
- 4 have you been -- other than this case have you been
- 5 qualified as an expert in D.N.A. analysis --
- 6 A Yes, I have.
- 7 Q -- previously? And approximately how many times?
- 8 A I would guess 20 to 25.
- 9 Q Okay.
- 10 MS. WHITE: And, Your Honor, at this time I would ask
- 11 that Rhonda Fields be qualified as an expert in D.N.A.
- 12 analysis.
- 13 MS. BLANCHETTE: I have no questions and no
- 14 objections, Your Honor.
- 15 THE COURT: So qualified.
- 16 MS. WHITE: Thank you.
- 17 BY MS. WHITE
- 18 Q Ms. Fields, you have -- and I'm going to approach if I
- 19 can and just show you. And let me see if I can get it
- 20 right to know what exhibit number we have it in here. This
- 21 is the SLED report. If you'll give me one second, I'm
- 22 doing to dig through here just a little bit. Here it is.
- 23 It's been marked as Plaintiff's Exhibit 23. Do you
- 24 recognize that?
- 25 A I do.

Rhonda Fields
Direct examination by Ms. White

1 Q Can you tell us what that is?

2 A It's -- it's my laboratory report reporting the
3 results of my analysis.

4 Q And is that something that you do when you do a D.N.A.
5 analysis for a trial or in any situation?

6 A It is.

7 Q Okay. And just briefly, the analysis -- can you tell
8 us the date of the analysis?

9 A I took the date of the report.

10 Q The date of the report. Excuse me.

11 A The date of the report is July 5th of 2007.

12 Q And in that case there's a lab number, an incident
13 date. And then there's several names underneath that.

14 A That's correct.

15 Q And can you tell us what the V and the S stood for
16 according to your report?

17 A It's -- the V is for victim and S is for suspect or
18 subject, just depending on who it is.

19 Q And you -- where do you gather that information to put
20 that in your report?

21 A The submitting agencies that submit the evidence to
22 us. They also submit log-in sheets as well as incident
23 report or any sort of -- any sort of other material they
24 may have on the case. And normally this information is
25 obtained from the log-in sheets.

Rhonda Fields
Direct examination by Ms. White

1 Q Okay. And if we can go to your testimony and to the
2 report, you've heard the testimony from Dr. Bennett
3 earlier.

4 A Yes.

5 Q In regards to item No. 25, the cigarette butt --

6 A Yes.

7 Q -- obviously the testimony you presented at trial and
8 as we discussed was that it was -- it involved a mixture.

9 A Right.

10 Q And Dr. Bennett has testified that according to his
11 review of the document he would estimate five of the 15
12 columns involved a mixture. Do you agree with that
13 assessment?

14 A I do not. I would -- I would say only two locations
15 indicates --

16 Q And can you --

17 A -- a mixture.

18 Q I'm sorry.

19 A That's okay.

20 Q Can you explain why you disagree with that report or
21 with his analysis?

22 A It's my understanding that he was considering D21 a
23 mixture, or which is column two, and as well as column --
24 the 01 column. I'm sure -- I'm sorry. I didn't number the
25 columns so I'm --

Rhonda Fields
Direct examination by Ms. White

1 Q I can repeat those for you. I think he testified
2 earlier that columns two, six, seven, 12 and 15 were
3 mixtures.

4 A Okay. As you can see, mixtures are normally -- they
5 are -- there's two ways to determine a mixture, basically.
6 It's either the presence of three or more alleles at a
7 location, which as you can see none of these have.

8 And he went into the explanation as to what an R.F.U.
9 is and petight. Sometimes when there are two alleles
10 present you're expecting them to be within a certain
11 percentage of each other. And if they're not, if they're
12 significantly lower, then it's usually indicative of a
13 mixture as well.

14 And that's the case with six and seven, I believe.
15 The seven and the 11 were significantly less than the other
16 alleles present. So this is what indicated to me that I
17 was looking at a mixture.

18 Q And are those the two that in your mind according to
19 your analysis referred to a mixture?

20 A That is.

21 Q Now, column 229 was the reported number.

22 A Right.

23 Q And Dr. Bennett testified that he believed that to be
24 a mixture representing essentially double 29s for alleles.

25 A Right.

Rhonda Fields
Direct examination by Ms. White

1 Q Is that your belief or your understanding from -- this
2 is your report, correct?

3 A That is, yes.

4 Q Is that how that is reported?

5 A Twenty-nine, normally that is an indication that that
6 -- sometimes it can -- it can be that it's what we call a
7 29-29, or it could be a 29 and something may have happened
8 to another allele. We could have allele that dropped out.
9 And usually that happens with low level D.N.A.

10 The other -- there's what we call preferential
11 amplification where all of the reagents goes towards
12 amplifying the one allele over the other so the other one
13 does -- is not represented in the graph. And that's what
14 possibly could have happened in this case, is allele
15 dropped out and -- and as well as the other locations as
16 well. The other allele could have dropped out. And it's
17 just, like I said, such a low level sample that that could
18 explain.

19 Q So it's not necessarily the fact that there were
20 double 29s.

21 A Right, not necessarily.

22 Q Okay. In regards to the testimony earlier and in
23 regards to a mixture, I think Dr. Bennett testified a
24 little bit that it really had nothing to do with the
25 percentage, but yet it was one person's D.N.A. was

Rhonda Fields
Direct examination by Ms. White

1 relatively low compared to that of another person.

2 Can you explain your interpretation of major-minor
3 contributor in that realm?

4 A Sure. Normally you can have -- if it's a 50-50
5 mixture you kind of sort of expect to see a jumbling of the
6 profile where you can't really pull it apart and determine
7 a major profile over a minor profile. But when one person
8 contributes more D.N.A. to an item you -- you sort of do
9 see the division and you can -- and then at that point you
10 can address a major-minor. And according to our protocol
11 if you can -- if it's a discernable mixture like that, we
12 can report out a major contributor like a single source
13 profile. And then the minor contributor addresses
14 separately as well.

15 Q And in this case you testified that Mr. Teamer was
16 marked as a major contributor and that there was also a
17 minor contributor.

18 A That's correct, yes.

19 Q Did you have another standard to compare to attempt to
20 identify a minor contributor?

21 A That -- the -- since it's only -- the system minor
22 contributor is only apparent at two loci, there's not
23 enough there for me to make any sort of conclusive
24 statement regarding any other standard. So I wouldn't have
25 done any sort of comparison to the minor contributor.

Rhonda Fields
Direct examination by Ms. White

1 Q So the minor part of the -- the minor and major or the
2 mixture --

3 A Uh-huh.

4 Q -- you're saying is so low you readily couldn't have
5 determined or made a profile from that?

6 A Right. I wouldn't have felt comfortable making a call
7 either way.

8 Q In regards to the cross-examination just real quick,
9 Mr. Schultz cross-examined you for a pretty decent amount
10 of time. Is that your understanding or is that your
11 feeling, or did you feel like he did an adequate job?

12 A I did. Typically in -- I've asked colleagues before
13 approximately how long their testimony normally lasts in a
14 case, and it's about 20 minutes is --

15 MS. BLANCHETTE: Your Honor, I would object on hearsay
16 basis if she's telling us what other colleagues said.

17 THE COURT: Overruled.

18 Go ahead.

19 BY MS. WHITE

20 A And this one is about a 45-minute. I was pretty
21 impressed with the questions he asked. It's -- he did a
22 exemplary job, I thought, so.

23 Q And in comparison to other times that you've testified
24 to the number of questions that are generally asked of you
25 compared, was it similar, less or more?

Rhonda Fields
Cross-examination by Ms. Blanchette

1 A It usually goes more than usual.

2 Q Okay.

3 MS. WHITE: One moment, please, Your Honor.

4 (Pause.)

5 MS. WHITE: Your Honor, that's all the questions I
6 have for Ms. Fields at this time.

7 MS. BLANCHETTE: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. BLANCHETTE

10 Q Now, let me start by asking you. Do you know what you
11 tested in this case as far as the cigarette butt? What
12 portion of the cigarette butt was tested where you found
13 these markings or the markers?

14 A I tested the paper, the paper surrounding the filter
15 where the -- the area of the cigarette that would have made
16 contact with an individual.

17 Q Okay. And the paper, that would be the exterior part
18 of the cigarette, is that correct?

19 A That's correct, yes.

20 Q Okay. And was there any testing done on the interior
21 part of the filter of this cigarette butt?

22 A It was not.

23 Q Okay. And do you recall Mr. Schultz asked you about
24 that at trial during his extensive cross-examination?

25 A Honestly, I don't. I don't remember.

Rhonda Fields

Cross-examination by Ms. Blanchette

1 Q Okay. But you'd rely upon the record, is that
2 correct?

3 A Right.

4 Q Okay. And do you know -- and, once again, I'm not
5 going to have you review the entire transcript portion of
6 the cross-examination, but do you know if he asked you any
7 specific questions regarding the alleles that were found in
8 this case?

9 A Not really, no. I don't really remember.

10 Q Okay. Does SLED use the Applied Biosystems D.N.A.
11 instrumentation, and did you use it in this case?

12 A Yes, they do, and, yes, I did.

13 Q Okay. Now, if you could, look at the report there.
14 And on page five of five where at the bottom it has the
15 parenthesis and says that equals alleles between 75 and 149
16 R.F.U. --

17 A Uh-huh.

18 Q -- is there kind of like an industry name for what
19 that is? Is that called like a gray area or a fuzzy area?

20 A It's a stochastic range.

21 Q Okay.

22 A And then --

23 Q And how accurate are readings that are in that area
24 between 75 and 149 R.F.U.

25 A Our -- our laboratory does validation on the

Rhonda Fields
Cross-examination by Ms. Blanchette

1 instrumentation and sensitivity levels of it. And we've --
2 based on the validation studies we are able -- if as I told
3 her if there is a -- if you can separate out the
4 major-minor contributors you can treat the major
5 contributor like a single source profile.

6 And if there are two alleles represented in the
7 stochastic range, then we can include that in our
8 statistics which gives sort of weight to the match. And
9 the areas that were in parenthesis that are only
10 represented by one number, those would not have been
11 included in -- in -- in my sta -- statistic. That was page
12 three of the report. This was a partial profile and
13 it's -- the major -- even the major contributor was.

14 Normally we -- we see whenever we report statistics,
15 we see numbers like one in 15 quadrillion. This was only
16 one in 62 billion, which kinda puts weight to it. To the
17 areas in this stochastic range that were only represented
18 by one number would not have been included in -- in this
19 statistic or given the weight in the match.

20 Q And clarify me if I'm incorrect in what I heard in
21 your testimony. But are you saying that columns two, 12
22 and 15 are not mixtures?

23 A That's correct, yes.

24 Q And is there any way that --

25 A Well --

Rhonda Fields
Redirect examination by Ms. white

- 1 Q I'm sorry.
- 2 A Well, I mean, I can't tell base -- based on, you know,
3 there's not three alleles present. And there's no pekite
4 [sic] difference in -- you know, to be able to tell from.
5 So it's kind of difficult for me to tell. If there is a
6 mixture, it would below our calling threshold.
- 7 Q But you can't absolutely -- you can't conclude
8 absolutely that a mixture would not exist in this.
- 9 A Right, right. It's not -- it was not called. It was
10 not above our calling threshold.
- 11 Q Okay. Now, as far as the minor contributor, in these
12 results a minor contributor does have allele links, is that
13 correct?
- 14 A Yes.
- 15 Q Okay. So it is something that could be measured and
16 determined as far as that minor contributor?
- 17 A If -- if it called above our threshold. We have a
18 certain threshold based on validation studies, and if it
19 doesn't go above that threshold, then it's not called. I
20 don't know if I understand your question. I'm sorry.
- 21 Q No. I think you answered it appropriately.
- 22 MS. BLANCHETTE: I have no further questions.
- 23 REDIRECT EXAMINATION
- 24 BY MS. WHITE
- 25 Q Just briefly, clarification.

Rhonda Fields
Redirect examination by Ms. White

1 You said that you couldn't tell for sure if this was
2 not a mixture or you could not tell if it actually was, as
3 Dr. Bennett said, some kind of repeat of the number, is
4 that correct?

5 A Right. Anything -- anything in parenthesis if --
6 well, there's indication of a mixture at those two loci
7 that showed above our calling threshold. And some of the
8 other locations if there other -- are other alleles
9 present, they're at such a low level that they did not
10 register above our calling threshold. And so they wouldn't
11 have shown up on the chart.

12 Q And in reviewing that and making the determination of
13 what you put that in you use -- we're having you look at
14 the report you did, obviously.

15 A Right.

16 Q You used a significant number of graphs and charts
17 from that, is that correct?

18 A That's correct.

19 Q Okay. So in making that decision this is not just
20 something that comes out of a report and you do, that you
21 actually review charts and graphs based on the D.N.A.
22 analysis.

23 A Right. And it's peer -- it's also -- the report goes
24 through a peer review by another qualified D.N.A. analyst,
25 and it's also -- undergoes an administrative review as

Rhonda Fields
Redirect examination by Ms. White

1 well.

2 Q Okay.

3 A So there are two other people, also review the report.

4 Q All right.

5 MS. WHITE: Thank you, Your Honor. That's all the
6 questions I have for Ms. Fields.

7 MS. BLANCHETTE: If I could beg the Court's indulgence
8 just one moment.

9 THE COURT: All right.

10 (Pause.)

11 MS. BLANCHETTE: I have no further questions.

12 THE COURT: Thank, ma'am. You may step down.

13 MS. WHITE: And I assume, Your Honor, if it's okay we
14 can release her from her subpoena at this point.

15 MS. BLANCHETTE: She is not under my subpoena, Your
16 Honor.

17 THE COURT: Yes, ma'am. You may be released from your
18 subpoena. Thank you for coming.

19 (Whereupon, the witness was excused.)

20 MS. BLANCHETTE: Your Honor, I assume we are going
21 back to the applicant's case at this point.

22 THE COURT: We are.

23 MS. BLANCHETTE: And I believe my cocounsel will be
24 calling the next witness.

25 MR. THOMPSON: The applicant would call Joshua

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Schultz.

2 THE COURT: You are still under oath.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: He hasn't been called in this case. Has
5 he not?

6 MR. THOMPSON: Not in this case, not today.

7 THE COURT: I'm sorry. You're not under oath. Would
8 you please stand and raise your right hand?

9 E. JOSHUA SCHULTZ, having been
10 first duly sworn, testified as follows:

11 MR. THOMPSON: May it please the Court, Your Honor.

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION BY MR. THOMPSON

14 Q I apologize, Mr. Schultz. It's getting kind of late
15 in the day. I'll try and go as quickly as I can. All
16 right?

17 A Yes, sir.

18 Q And we went over a good bit of this testimony
19 yesterday, but for the purposes of this record I'll do it
20 again.

21 Could you -- could you please tell us, how long have
22 you been practicing law?

23 A 2005.

24 Q Is that when you were sworn in?

25 A I was.

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 Q And have you practiced exclusively in South Carolina?
- 2 A Yes.
- 3 Q And where are you employed now?
- 4 A I'm -- I work for myself. I'm a private practitioner
- 5 across the street.
- 6 Q And how much of that private practice is devoted to
- 7 criminal law?
- 8 A About 95 percent.
- 9 Q And where were you employed at the time of this trial?
- 10 A Public defender's office.
- 11 Q And by this trial I mean the murder trial. There was
- 12 also a burglary trial that -- that occurred before this.
- 13 And were you representing Mr. Teamer on both of those
- 14 cases?
- 15 A I was.
- 16 Q And were you with the public defender's office at
- 17 both -- for both of the cases?
- 18 A Yes, with the Spartanburg County Public Defender's
- 19 Office, yes, sir.
- 20 Q And yesterday I believe I asked you how many trials
- 21 you had handled prior to the burglary trial, and you said
- 22 you'd handled a number of magistrate's court cases and some
- 23 general sessions cases, is that right?
- 24 A That's right.
- 25 Q There was about -- about four months that took place

E. Joshua Schultz
Direct examination by Mr. Thompson

1 between the first -- between the burglary trial, which was
2 September of 2007, and the murder trial of January of 2008.

3 A That's right.

4 Q Do you recall if you tried any cases in between those
5 two?

6 A Yes. I did in this very courtroom. I tried a murder
7 case right after Thanksgivings of 2007.

8 Q Okay. Was that the only other case you had in between
9 those two that went to trial?

10 A Oh, that went to trial?

11 Q Yeah. Between the -- between the first trial and the
12 second trial that you can recall.

13 A I probably had some magistrate court stuff, several
14 guilty pleas. I really can't remember.

15 Q Okay. Now, when did you start representing the
16 applicant in this case?

17 A It was early 2007.

18 Q So by the time of the trial you'd been representing
19 him about a year.

20 A The murder trial, yes.

21 Q The murder trial, yes. I apologize. I'll try and be
22 specific.

23 By the time of the murder trial you had represented
24 him for about a year.

25 A Yes, sir.

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 Q And, again, were you assigned to handle all of the
2 charges that he had pending?
3 A I was, I was appointed on.
4 Q In Spartanburg County at least?
5 A Yes, sir.
6 Q And I believe you testified yesterday that with the
7 burglary trial you at least had two attorneys on the case
8 and that a second chair was appointed.
9 A Uh-huh.
10 Q Did you have a second chair appointed for the murder
11 trial?
12 A I don't -- no, no, I did not.
13 Q So did you handle the murder trial by yourself?
14 A Yes, I believe so.
15 Q And did you have an opportunity to communicate with
16 the applicant prior to the second trial? Because he had
17 been convicted and gone to the Department of Corrections.
18 A Yeah. He wrote me letters.
19 Q And I believe --
20 A It was tough because he was in the Department of
21 Corrections, so.
22 Q I believe you testified earlier that you had him
23 actually brought back to the Spartanburg County Detention
24 Center for at least some period of time prior to the trial.
25 A Yeah.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q Is that accurate?

2 A That's accurate.

3 Q And while you were there you had an opportunity to
4 meet with him as well.

5 A Yes, uh-huh.

6 Q And even though he had been convicted at the first
7 trial did you still have a good working relationship with
8 the applicant at that point in time?

9 A I did.

10 Q Still got along well with him and communicated well?

11 A Yeah, yeah. He's an intelligent guy. I mean, and I
12 always liked working with him and talking with him.

13 Q And I believe that you testified yesterday that the
14 applicant would bring up good points that you used in the
15 burglary trial. Did that also hold true for the murder
16 trial?

17 A Absolutely.

18 Q Now, at the time of the second trial had you requested
19 and/or received a copy of the first-trial transcript?

20 A I don't think I did.

21 Q But, nevertheless, at least with regard to this trial,
22 as your testified yesterday, you were anticipating the
23 state was going to call the murder case back in September,
24 is that right?

25 A Yes.

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 Q So you would have essentially prepared for this trial
2 once before.
- 3 A Yes.
- 4 Q And you -- at that point in time in September even
5 when you moved to sever, you thought when the motion to
6 sever was granted they were going to go forward with the
7 murder trial, right?
- 8 A I thought the probability was great that they were
9 going to go with the murder case, but I was prepared for
10 both.
- 11 Q Okay. Did you receive any new evidence in between the
12 first and second trials, anything that had a major bearing
13 on your trial strategy?
- 14 A Yes.
- 15 Q What did you receive?
- 16 A I believe they found the murder weapon.
- 17 Q They found the murder weapon.
- 18 A Right after the burglary trial, meaning they --
- 19 Q The police.
- 20 A -- the investigator working for the city found it.
- 21 Q And was your defense still going to be defense of
22 alibi --
- 23 A Yes.
- 24 Q -- at the second trial?
- 25 A Yes.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q Did you have an investigator still working on the
2 case?

3 A Yes. In fact, I had two as I remember.

4 Q I believe you testified yesterday that you had Wendy
5 Allen for the burglary trial.

6 A Wendy Alley.

7 Q Wendy Alley.

8 A Yeah.

9 Q That's right, I apologize. And did you still use
10 Wendy's services for the second trial?

11 A To my recollection I think Wendy had left by then.
12 I'm not sure. But I did work with Kevin Riddle at the
13 P.D.'s office. He was another investigator. He was the
14 same. He had the same investigatory job that Wendy Alley
15 had.

16 Q Okay. Basically, staff investigator for the public
17 defender's office?

18 A Exactly.

19 Q And so once -- once Ms. Alley left the office you
20 basically switched to working with Mr. Riddle?

21 A Yes.

22 Q Okay. I'm going to kind of jump into your preparation
23 for the trial and kind of jump into what has just been
24 testified to here recently.

25 were you provided with evidence that your client's

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 D.N.A. was on a cigarette found in the victim's vehicle?
- 2 A Yes.
- 3 Q Did you consult or talk to any expert about that
- 4 information?
- 5 A I can't remember.
- 6 Q Just specifically, did you have any phone calls? I
- 7 mean, not even going to the level of retaining anybody.
- 8 But do you recall talking to -- to anybody that could help
- 9 you out with I guess expert testimony about the mixture
- 10 found on -- on the cigarette?
- 11 A I don't believe so.
- 12 Q Okay. And did you believe -- let me rephrase that.
- 13 Was there a particular office policy in place regarding
- 14 retaining experts, D.N.A. experts, and things of that
- 15 nature for -- for cases like this?
- 16 A Yes.
- 17 Q And what was that policy?
- 18 A Are you talking about the public defender's policy?
- 19 Q Public defender's office, yes.
- 20 A Okay. I think what usually happened is, you know, if
- 21 I had a client with like a mental health problem or
- 22 something like that and I needed to -- like a second
- 23 opinion from D.M.H. or department of mental health, I had
- 24 to fill out an ex parte order from the chief administrative
- 25 judge for general sessions in this circuit.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 I would request the funds, and then they would either
2 be released from Office of Indigent Defense --

3 Q Uh-huh.

4 A -- that discretionary fund, and I would -- I guess
5 they would pay the expert.

6 Q Was it the office's policy, at least in your general
7 experience, to consult with outside independent experts
8 whenever, let's say, SLED provided D.N.A. evidence to you
9 in a case?

10 A I don't think there was an office policy. It was --
11 it was more like, you know, I think the chief public
12 defender at that time -- and I'm not sure what the policy
13 is now -- left it up to the individual attorney.

14 Q So basically a case-by-case basis.

15 A Yes, yeah.

16 Q Okay. And did you see any need to consult with an
17 expert in this case?

18 A No.

19 Q Were you also provided with records, search warrants
20 and things of that nature, pertaining to the search of your
21 client's vehicle?

22 A Yes.

23 Q And I believe a number of those have been admitted
24 prior to today.

25 In particular, did you -- were you provided a copy of

E. Joshua Schultz
Direct examination by Mr. Thompson

1 the department of -- Spartanburg Department of Public
2 Safety's inventory policy?

3 A No. And I don't believe -- I did not even request it.

4 Q And that was my next question. Had you requested a
5 copy of it?

6 A No.

7 Q Have you ever seen a copy of it?

8 A Today I have.

9 Q Today.

10 A I believe I have.

11 MR. THOMPSON: I'm going to ask to -- to approach the
12 witness and just continue doing it. Thank you, Your Honor.

13 BY MR. THOMPSON

14 Q That's what's been marked as Applicant's 9, and that
15 is the inventory policy for the Department of Public
16 Safety. Did you have a copy of that document in your hands
17 at the time of the trial?

18 A No.

19 Q Okay. Thank you.

20 Did you speak to -- well, let me rephrase that.

21 Were you also provided with information that your
22 client had I guess given a confession while inside the jail
23 to Kelvin McKinney?

24 A Yes.

25 Q And were you provided with statements and a video of

E. Joshua Schultz
Direct examination by Mr. Thompson

1 kelvin McKinney talking about that?

2 A Yes.

3 Q Did you speak to anyone at the jail pertaining to the
4 movements within the pod themselves, the pod itself, as to
5 what the inmates could do within the pod when they were
6 released and things of that nature?

7 A Yes.

8 Q Who did you speak to?

9 A I can't remember specifically, but I think I talked to
10 Captain Speller. I know -- I think I subpoenaed her. But
11 then I talked to some people in pod four and pod five and
12 pod six about the rotation. And so I did talk to a couple
13 of people about it. But, nevertheless, I do not remember
14 presenting Captain Speller in my case in chief.

15 Q Okay. And you believe you spoke to Captain Speller.

16 Were you -- were you in the courtroom earlier today for
17 Captain Speller's testimony?

18 A Yes.

19 Q And is the testimony she gave today consistent with
20 what you had spoken to her about?

21 A Yes, from what I remember.

22 Q And did you request and obtain records from the jail
23 pertaining to the locations and rooms of your client and
24 Mr. McKinney while in pod six?

25 A I think I have.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q And are those documents that were admitted earlier
2 today as well?

3 A Yes.

4 Q And, finally, were you given information pertaining to
5 an individual that you presented at trial by the name of
6 Keith Letmon?

7 A Yes.

8 Q And what was Keith Letmon -- what was he -- what did
9 he testify to at trial?

10 A Keith Letmon testified that Kelvin McKinney told him
11 that he did the murder. And I remember specifically doing
12 this, going down with -- have to mention Kevin Riddle --
13 down to Woodruff to see -- I think it was Keith Letmon at
14 his house, so somebody's house, there and talked to him
15 about his testimony.

16 Q And how did you get that information? Who came
17 forward with that? Who told you about that?

18 A I don't remember, but I got it somehow, whether it was
19 Keith Letmon himself, or I really can't remember.

20 Q And you said you talked to Mr. Letmon, you believe, in
21 person in Woodruff with your investigator?

22 A Yes.

23 Q Did he -- did he tell you what his reasons were for
24 coming forward and providing this information?

25 A I think just to get it off his conscience.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q Just to get it off his conscience.

2 A Uh-huh.

3 Q Did he say anything at that point in time about how --
4 about anything pertaining to your client's reputation that
5 he felt that your client was getting a bad rap?

6 A I think he did.

7 Q He did. He did speak to that.

8 Now, moving to the trial -- and I'm going to start
9 with I guess pretrial motions -- and to some degree some of
10 this relates back obviously to the burglary. At the
11 burglary trial, which I'll refer to as a burglary and a
12 murder trial as we've been doing throughout here today and
13 yesterday -- at the burglary trial you made a motion to
14 sever the cases, right?

15 A Yes, sir.

16 Q And you argued that the murder, the burglary and the
17 felony D.U.I. charges should be tried separately, is that
18 right?

19 A Yes. I asked for three separate trials.

20 Q Three separate trials.

21 A Yes.

22 Q And you believed that was -- I believe you testified
23 yesterday that you believed that that motion was a proper
24 motion to make because you were afraid of the prejudice to
25 your client if all three trials were -- all three cases

E. Joshua Schultz
Direct examination by Mr. Thompson

1 were tried all at the same time.

2 A Yeah. That was a strategic decision that I made as
3 trial counsel. I thought that if the jury would have
4 heard, one, that incident, okay, they would have thought,
5 well, this guy's a bad guy, he probably did the other
6 thing, and you know what, we'll -- we'll convict him of the
7 other thing too because we just don't like him.

8 So I thought that it was way too prejudicial to bring
9 everything on the table for that, so as opposed to, as you
10 said, bringing in everything and then making that defense
11 that one person couldn't do this and be that quick.

12 Q Uh-huh. Yes. And just -- just so the record's clear
13 again -- we went over it yesterday, but just to put it on
14 the record -- you believe it was better to sever the cases
15 than to go to trial where the state was going to have to
16 allege that your client was at the Grays for dinner, then
17 committed a murder at 8:45, then committed the burglary at
18 11:00 o'clock and then committed the felony D.U.I. a couple
19 of hours after that, is that right?

20 A That's correct.

21 Q And that that individual would have had to change
22 clothes, get different weapons, hide weapons and -- and at
23 some point in time have marijuana and alcohol in order to
24 test positive for it later on for the felony D.U.I.

25 A Yes.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q And you believe that it was a better decision to split
2 those up instead of having the jury hear all of those all
3 at once.

4 A Yes.

5 Q And one other thing that struck me here today is
6 Kelvin McKinney. And we'll -- we'll get back into McKinney
7 a little bit later. But Kelvin McKinney actually -- his
8 trial testimony just refers to your client confessing to
9 the murder. But Kelvin McKinney's statement, his written
10 statement, actually goes into his -- I guess to phrase it
11 poorly -- his statement that -- that your client confessed
12 to not only the murder but to the burglary and to the
13 felony D.U.I., is that right?

14 A I don't remember.

15 Q You don't remember that. I'm going to show you
16 Applicant's 17. And I'm just going to have you read to
17 yourself about here all the way down.

18 A Okay.

19 Q See if that refreshes your recollection.

20 A Just the first page?

21 Q That's the second page.

22 A Oh, well. This page.

23 Q Yes, that page.

24 A Okay.

25 (Pause.)

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 A Okay.
- 2 Q Does that refresh your recollection?
- 3 A It does.
- 4 Q And in that statement does Mr. McKinney actually state
- 5 that your client had confessed to all of the crimes, not
- 6 just the murder?
- 7 A Well, it doesn't say the felony D.U.I. I think it
- 8 says on that page -- on the other page.
- 9 Q Okay.
- 10 A It says Kelvin McKinney says that Mr. Teamer confessed
- 11 to the burglary as well to him.
- 12 Q I apologize. The third page. Yes, sir.
- 13 A All right. Thank you. Well, it doesn't really say
- 14 felony D.U.I.
- 15 Q Yes. But -- but in terms of -- in terms of the
- 16 actions that led up to -- to the felony D.U.I. does he talk
- 17 about that?
- 18 A Yeah. He talks about driving a car and drinking beer,
- 19 but that -- as we talked about yesterday, it doesn't
- 20 necessarily mean that he was materially and appreciably
- 21 impaired.
- 22 Q Correct. But it does at least say that he had
- 23 drinking -- and that he collided with the Mr. Young.
- 24 A That's right, that's right.
- 25 Q Now, that is quite the lengthy confession that your

E. Joshua Schultz
Direct examination by Mr. Thompson

1 client apparently made to Mr. McKinney, at least according
2 to Mr. McKinney, is that right?

3 A That's right.

4 Q Now, in -- was it your expectation going into the
5 September trial prior to severing the cases that the state
6 was doing to use Kelvin McKinney to testify at that trial?

7 A The burglary trial?

8 Q Yes. If they were going -- they -- they had noticed
9 you for all three cases, right?

10 A Uh-huh.

11 Q Was it your understanding -- had you been provided
12 with that statement prior to the burglary trial beginning,
13 prior to the trial beginning in September?

14 A I believe so.

15 Q So was it your understanding that the state was going
16 to use all of that -- was going to present Kelvin McKinney
17 to testify regarding your client's confession to him
18 regarding all of those details?

19 A Yes.

20 Q Okay.

21 A Yes. I would assume that they would have used the
22 best evidence that they have.

23 Q And so that would be in your opinion Mr. McKinney
24 coming forward and saying your client had confessed
25 everything to him about --

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 A Yeah. But -- but then -- but then they -- then it
2 would run into the fact that they were wanting to admit
3 part of the statement and not the whole thing because of
4 the sever issue.
- 5 Q I understand. But I'm just asking prior to the motion
6 to severance being made --
- 7 A Uh-huh.
- 8 Q -- was it your understanding that they would try to
9 use that entire statement at the trial. Let's assume for
10 the moment your motion to sever had been denied.
- 11 A Okay.
- 12 Q Would they have then used Kelvin McKinney to testify
13 to all of that?
- 14 A Yes.
- 15 Q The confessions to the murder, the burglary and not
16 necessarily confessing to being impaired but at least to
17 the events leading up to the felony D.U.I.
- 18 A I would assume the state would have done that.
- 19 Q Now, based on the evidence that you had from Captain
20 Speller and just common sense, I guess -- not really --
21 I'll go back to Captain Speller. But using common sense
22 how long do you think at minimum it would have taken that
23 conversation to occur?
- 24 A A long time.
- 25 Q A long time, right? And indeed at the -- and again

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1 we'll get into it -- but indeed at the murder trial you got
2 Mr. McKinney to admit that his door was wide open. It was
3 just setting open, and Mr. -- Mr. Teamer walked right in
4 and told him all of this, right?

5 A That's right.

6 Q Given what you knew from Captain Speller that the
7 doors locked and different sides were let out and that
8 maybe they might have had seconds to talk to one another
9 but certainly not doors being wide open and people being
10 able to walk in, don't you think it would have been
11 beneficial to your case to have Mr. McKinney come to
12 testify about those facts and then nail him on the fact
13 that it couldn't have happened?

14 A Mr. McKinney?

15 Q Yes. In lieu of granting -- in lieu of moving for a
16 severance.

17 MS. WHITE: Your Honor, I guess -- I was going to say
18 I was -- I'm going to object to speculation as to what the
19 result would have been had he done that.

20 If he's asking about, you know, strategy I understand,
21 but if he's asking if it would have -- you know, if it
22 would have resulted in a different outcome had he done
23 that, I think that's requiring speculation.

24 MR. THOMPSON: I'm not asking for an opinion on an
25 ultimate issue. I'm just --

E. Joshua Schultz
Direct examination by Mr. Thompson

1 THE COURT: I thought he was asking strategy.

2 MR. THOMPSON: Yes.

3 MS. WHITE: Okay. All right. Thank you, Your Honor.

4 BY MR. THOMPSON

5 Q Do you think you would have been strategically
6 benefited by impeaching Mr. McKinney on the entire
7 statement if the trial had gone forward all together, all
8 the cases all together?

9 A Impeaching him using what?

10 Q The evidence from the jail that the conversation could
11 not have occurred the way he said it did.

12 A Possibly, if I can elaborate on that.

13 Q Yes.

14 A Okay. The problem with Captain Speller's testimony --
15 and I think we saw that problem here today -- is that
16 the -- the jail and the pods have -- well, I probably
17 shouldn't say this -- have very lax security.

18 And it is very easy for someone to prop open a door.
19 And they don't know anything down at controls, because I
20 think recently -- and I go there a lot as my job is a
21 criminal defense attorney. I go to the jail a lot. It's
22 computerized now. Okay. So I think they have a little
23 bit -- a little bit better system. But I think it's easy
24 for people to walk in and out of pods very, very quickly or
25 maybe for longer conversations.

E. Joshua Schultz
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1 Okay. That was the main reason I didn't call her,
2 because that would have opened the door to a lot of other
3 things, and it would -- it would -- I understand the point.
4 And Mr. Teamer and I talked about that. And I made a
5 judgment call, and maybe it was wrong, the wrong call to
6 make, of not calling her to the stand, because I know that
7 Mr. Barnette would certainly have elicited on
8 cross-examination about people sticking stuff into doors
9 and they wouldn't know at control what had happened. So --

10 Q But --

11 A -- it's a problem.

12 Q Your job is not to prove that Mr. McKinney could not
13 have made that statement. It's to create reasonable doubt
14 that your client had made the statement, correct?

15 A That's true.

16 Q And we'll get back. We'll get -- we'll go back to --
17 to Captain Speller's testimony in a minute.

18 A But, at the same time, if I could just elaborate, my
19 job is to create reasonable doubt. But at the same time I
20 don't want to open the door to anything else.

21 Q Right. I understand.

22 A So that was -- that was my position.

23 Q Now, after the first trial, after the burglary trial
24 where the burglary -- where you had moved to sever the
25 cases and the D.U.I., the felony D.U.I. and the burglary

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 charges were tried together, was it your understanding
2 and/or belief that the state was going to basically
3 introduce the D.U.I. evidence again at the murder trial?
- 4 A I think I had an understanding of that.
- 5 Q You thought they would do that.
- 6 A I thought they would do that, and I think it was part
7 of the res gestae of the crime.
- 8 Q Was that -- was that going to be their argument? Do
9 you agree that it's part of the res gestae of the crime?
- 10 A The flight?
- 11 Q Right.
- 12 A Yes.
- 13 Q You believe that it was.
- 14 A Yes. I mean, if you're asking me an academic
15 question, I believe evidence of flight from an alleged
16 crime could be considered under the rules of evidence part
17 of the res gestae of the crime, and thus admissible later
18 on.
- 19 Q Okay. Now, despite the academic position there, you
20 did, in fact, raise objections to admitting the felony
21 D.U.I. evidence at the second trial.
- 22 A Yes, I did.
- 23 Q The murder trial, correct?
- 24 A Yes.
- 25 Q And we talked about this a little bit yesterday, but

E. Joshua Schultz
Direct examination by Mr. Thompson

1 you are aware that in order to preserve a motion that you
2 make in limine to exclude certain evidence for appeal you
3 have to object to it every time it comes in, is that
4 correct?

5 A Absolutely.

6 Q And I believe Ms. White addressed this with Mr. Teamer
7 earlier, but on page 158 of the murder transcript, lines 14
8 through 16, you say -- this is right before Timothy St.
9 Louis, the Officer St. Louis, testifies, you say, "Your
10 Honor, before we begin I object to this witness' testimony,
11 or proposed witness' testimony. Again, I would like to
12 renew my objection."

13 Are you at that point in time trying to renew your
14 objection to prevent this evidence from coming in?

15 A Yes.

16 Q If you will flip to page 165 where David Evett
17 testifies --

18 A What page is that, sir?

19 Q 165, lines 13 through 15.

20 You say, "Your Honor, before this witness testifies
21 further I have a matter of law that I would like for the
22 Court to take up." And then a bench conference is held.

23 Do you recall that portion of the tran -- of the
24 trial? Do you have an independent recollection of that
25 portion of the trial?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A I don't remember the -- specifically, but I probably
2 told the judge that I -- I would object and that -- that I
3 would object to Officer Evett's testimony. But nowhere on
4 the record did I object like I did with St. Louis.

5 Q Okay. And the -- again, on one -- page 168, lines two
6 through three, you say, "Your Honor, again, I would object.
7 I'm not sure. May we approach?" And then another bench
8 conference is held.

9 You do not at that point in time put your objection to
10 Officer Evett testifying on the record, is that correct?

11 A That's correct.

12 Q Now, are you familiar with the -- with the principle
13 for, I guess, appellate law that if you fail, again, to
14 renew your objection each and every time the evidence comes
15 in you waive your objection for appellate review?

16 A That's right.

17 Q And that even on some occasions, even when you have
18 objected, properly objected, to some testimony that if you
19 fail to object to other testimony that basically provides
20 the same information that your objection's harmless? Do
21 you understand that, familiar with that?

22 A Yes.

23 Q Okay. So do you have any strategic reason why you
24 failed to renew your objection to the felony D.U.I.
25 evidence coming in during Officer St. Louis' testimony?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A No.

2 Q Going into the cell phone that was recovered as part
3 of the -- and I'm going to say, quote, unquote, inventory
4 search, you did make a motion to suppress that search,
5 right, the inventory search?

6 A Yes, I did pretrial.

7 Q Why did you make that motion? What was your basis for
8 making that motion?

9 A To try and get the cell phone out.

10 Q What was the legal principle behind that? What did
11 you think Investigator Guthro had done wrong?

12 A That was violating the Fourth Amendment.

13 Q And did you believe it was not a proper inventory
14 search?

15 A Yes.

16 Q Now, you made this motion -- you testified earlier you
17 did not have a copy of the inventory policy. You made this
18 motion pursuant -- without the inventory policy in your
19 hand, right?

20 A That's correct.

21 Q And on page 47, lines 20 through 25, and then
22 following 48, lines one through three, again, this is the
23 murder transcript, Investigator Guthro basically testifies
24 that he doesn't know what the inventory policy was, is that
25 correct?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A He says they have one, but he's not sure what the
2 policy is.

3 Q Right. Do you think it would have been helpful at
4 that point in time to have a copy of the inventory policy
5 to hand up to him?

6 A Yes.

7 Q In retrospect do you believe you should have gotten a
8 copy of that policy?

9 A Yes.

10 Q And do you believe that would have bolstered your
11 argument that this was not a valid inventory search?

12 A Could have.

13 Q And let me pull that one up again. Again, referring
14 to Applicant's Exhibit No. 9, would you just read the
15 policy portion of that aloud?

16 A "It shall be the policy of the Spartanburg Public
17 Safety Department every vehicle impounded by an officer
18 will have all items of the vehicle inventoried and listed
19 on the wrecker owner's request form or on a proper report.
20 The inventory lists or property report should be attached
21 to the incident report and shall become a part of the case
22 file."

23 Q Did you get a copy of the incident report in this
24 case?

25 A Yes.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q Did you get an inventory?

2 A Are you talking about the -- what incident report are
3 you referring to?

4 Q Just the incident report of the -- of -- I guess the
5 at this point that would be the felony D.U.I.

6 A Oh, yeah, yeah.

7 Q You did. Was there an inventory search document
8 attached to that incident report to the best of your
9 recollection?

10 A I can't remember.

11 Q Do you think that would have been helpful to have to
12 show that that policy was not complied with?

13 A Yes.

14 Q And, again, going to preserving the issue for appeal,
15 you, in fact -- the motion was denied.

16 A Yes.

17 Q Right. Your inventory-policy motion was denied. And
18 when the physical cell phone itself was introduced at trial
19 you objected to its introduction in an attempt to renew
20 your -- an attempt to renew your motion, is that correct?

21 A Yes.

22 Q Did you then renew your objection? And I'll refer you
23 to page 299 and 298, which is the testimony of David Hanks
24 where -- again, the murder trial -- where the records as a
25 part -- the records from the cell phone were introduced,

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 and in particular lines one through three on page 299.
- 2 A Exhibit 32-A?
- 3 Q Yes.
- 4 A No. I did not object to those.
- 5 Q And are those the records -- those are the phone
- 6 records concerning phone No. 929- [REDACTED] [sic], which is the
- 7 phone that was seized from the vehicle during the inventory
- 8 search, is that right?
- 9 A I don't know. It doesn't -- yeah. I refer to it --
- 10 to the previous page, 292, yes.
- 11 Q Yes.
- 12 A It was 921- [REDACTED] yeah.
- 13 Q Okay. So do you in retrospect believe that you should
- 14 have renewed your objection at that point in time to those
- 15 records coming in --
- 16 A Yes.
- 17 Q -- as a part of the inventory-search motion from
- 18 previously?
- 19 A Inventory search?
- 20 Q As a part of your Fourth Amendment motion, in
- 21 preserving your Fourth Amendment motion, for review do you
- 22 believe you should have renewed your objection at that
- 23 point in time?
- 24 A Well, this -- this is for the phone records, not --
- 25 not the actual physical phone.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q But aren't the records -- let me rephrase that. Do --
2 in Fourth Amendment cases if something is seized improperly
3 are the -- are the later fruits of that search also
4 suppressed?

5 A Yes, the fruit of the poisonous tree.

6 Q Right. Do you believe that the phone records for this
7 phone which they seized as a part of the inventory search
8 is the fruit of the poisonous tree?

9 A Yes.

10 Q Yes. Okay. So, again, do you believe that you should
11 have renewed your objection at this point in time to those
12 records because they are the fruit of the poisonous tree
13 from the initial improper inventory search?

14 A Yes, but I -- I think the state laid -- laid a
15 foundation for these records. But looking back, I probably
16 should have objected.

17 Q Okay.

18 A Under the fruit of the poisonous tree, not necessarily
19 foundational.

20 Q Right, right. Not -- not a physical foundational.
21 They didn't have the appropriate person to authenticate the
22 records come forward, but more as a, again,
23 fruit-of-the-poisonous-tree objection.

24 A Yeah. None are authentication.

25 Q Okay. Excuse me one second.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 (Pause.)

2 Q I'm sorry. Before I turn away from this issue, do you
3 recall the testimony earlier today that Investigator Guthro
4 testified that he was not a part of any search prior to the
5 inventory search?

6 A Yes.

7 Q And were you familiar with the search warrants that
8 had been conducted --

9 A Yes.

10 Q -- on the car? Let me see if I can find it. I will
11 show you what's marked Applicant's Exhibit No. 8. This is
12 the return to the search warrant conducted on
13 February 10th of 2006 where they recovered the down jacket
14 and a red wrapper.

15 A Uh-huh.

16 Q And is Investigator Guthro's name down there --

17 A Yes.

18 Q -- as being present when the search was conducted?

19 A Let me see that.

20 (Pause.)

21 A I believe that's what it says, yeah.

22 Q Do you have any explanation or strategic reason why
23 you did not ask Investigator Guthro about his name
24 appearing on that return when he testified that he hadn't
25 been a part of the prior searches?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A No.

2 Q Moving now towards -- or not towards -- the prior bad
3 acts in this case, I believe it's in the record that you
4 had filed a motion in limine to limit the testimony of any
5 prior bad acts in this case, is that right?

6 A Yes.

7 Q And what was the state going to argue, I guess, the
8 act that precipitated this crime, the murder? What was the
9 reason for the crime?

10 A I think the state was going to allege that the
11 defendant had motive to silence a witness.

12 Q And that's from the prior assault and battery with
13 intent to kill where the victim and Mr. McKinney and
14 Mr. Teamer were all allegedly present --

15 A Allegedly, yes.

16 Q -- on January 14th of 2006.

17 A If that's what the indictment says.

18 Q And when Dawn Hunter testified --

19 A What page is that?

20 Q Her testimony begins on page 261. And you actually
21 begin by -- you begin on page 269 with your objection.
22 You -- particularly lines 20 through 22. I think that
23 Ms. Hunter testified to the fact that she saw Charlie
24 around the 9mm, is way too prejudicial, and you were
25 talking about objecting based on prior bad acts, is that

E. Joshua Schultz
Direct examination by Mr. Thompson

1 right?

2 A If you're referring to 269, page, lines 15 through 25,
3 I think I objected to the fact that -- well, I'll just read
4 what I said if you don't mind.

5 Q That's fine.

6 A "I think Ms. Hunter testified to the fact that she saw
7 Charlie around with a 9mm is way too prejudicial. And I
8 think that the gloves coming in too is prejudicial too."

9 Q Right. You objected at that point in time to the
10 prior testimony that she saw him with latex gloves and a
11 9mm crime -- a 9mm gun as being a prior bad act, right? At
12 that point in time you did.

13 MS. WHITE: Your Honor, I just want -- I think he read
14 the testimony. It was that it was prejudicial. He -- I
15 don't think at the time he mentioned prior bad act until

16 later if he's -- if we're going to identify his -- his
17 argument.

18 MR. THOMPSON: On three lines earlier, lines 17
19 through 19, what Dawn Hunter testified to I think revolves
20 around prior bad acts, Your Honor. I said I think the
21 defense has been blindsided by it.

22 I think you're testifying about -- you're arguing
23 about prior bad acts.

24 MS. WHITE: I just wanted to clarify for the record
25 since he had asked him, and he said prejudicial.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 BY MR. THOMPSON

2 Q Okay. Yeah.

3 A So, they argued prior bad acts and that it was too
4 prejudicial, I believe under 609.

5 Q Correct. Okay. And is it Rule 609 or 404?

6 A What? Prior bad acts?

7 Q Yes. Is 404(b) prior bad acts and 609 impeachment of
8 a prior crime?

9 A I think --

10 Q Conviction?

11 A The 609, impeachment of a prior crime, yeah.

12 Q Now, if you'll flip to page 272, lines one through
13 five, can you read that?

14 A 272?

15 Q 272. And can you read that into the record?

16 A "Flagrantly, I believe would arise to a prior bad
17 act." Oh, well, could I begin at one?

18 Q Line one.

19 A All right. "I believe carrying around a pistol and
20 displaying it flagrantly, I believe would rise to a prior
21 bad act. And I don't believe that between the murder and
22 the ABWIK this is a closely situated series of events. I
23 just don't see the connection between this. I think" --
24 would you like for me to stop?

25 Q Sure.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A okay.

2 Q At that point in time were you also trying to argue
3 that the ABWIK, the January 14th of 2006 ABWIK, was also a
4 prior bad act?

5 A Yes.

6 Q okay.

7 A I think so.

8 Q Later as you go down that line -- down that page --
9 I'm sorry -- line 25, the Court asks you, "Now, what other
10 bad acts are we referring to?"

11 You say going to the next page, "That's the only bad
12 act that I can see from that testimony."

13 A From Ms. Hunter's testimony.

14 Q Right.

15 A Yeah.

16 Q Court: "Is possession of the pistol."

17 And you -- and you are clarifying that the only bad
18 act that you see from her testimony is the possession of
19 the pistol, is that correct?

20 A That's what the record says, yeah.

21 Q Is there any reason why prior to Kelvin McKinney's
22 testimony you did not make a motion to exclude the evidence
23 of the January 14th of 2006 ABWIK if you thought at that
24 point in time that it was also prejudicial and a prior bad
25 act? Is there any reason why you didn't do it earlier or

E. Joshua Schultz
Direct examination by Mr. Thompson

1 make a motion in limine prior to the trial to limit that,
2 the admissibility of that incident?

3 A I just have to go with what the record says. I can't
4 remember specifically, but I did make the objection.

5 Q I think -- I think clearly from your statements at the
6 trial you thought that that prior incident was prejudicial
7 and a bad act and should be excluded.

8 A Yes.

9 Q But you -- if the record reflects it, you never at any
10 other point in time during the trial attempted to exclude
11 the evidence of that prior incident. Would you disagree
12 with that?

13 A If the record reflects that I will not disagree with
14 that.

15 Q Okay. And if the record reflects that you did not,
16 you don't have any strategic reason why you failed to make
17 that motion.

18 A I don't believe so.

19 Q Okay.

20 MR. THOMPSON: And I apologize, Judge. I'm going to
21 try and hurry up.

22 Q And in the -- again, going back to the -- the search
23 of the vehicle, marijuana was also found, or at least a
24 green leafy substance was found in your client's vehicle,
25 is that correct?

E. Joshua Schultz
Direct examination by Mr. Thompson

1 A Yes.

2 Q Did you consider objecting to the evidence of the
3 marijuana on the basis of relevancy when it was admitted,
4 when evidence of it was admitted, or it being unduly
5 prejudicial? Because at this point in time the felony
6 D.U.I. was over. So what would the relevancy of the
7 marijuana being found in the car be?

8 A Not much.

9 Q Not much. And do you have any explanation for why you
10 didn't ask at that point in time? I know you testified
11 yesterday you didn't think it was all that relevant and all
12 that harmful, but other than that is there any reason why
13 you did not move to -- move to limit the admissibility of
14 the marijuana?

15 A Other than that I thought that was the least of our
16 concerns there at trial.

17 Q Going into the state's witnesses. Mr. Proctor who is
18 one of the victims in the case -- did you ask Mr. Proctor
19 any questions regarding the clothing that the suspect was
20 wearing that night? And if the record reflects that you
21 did not, would you disagree with the record?

22 A I would not disagree with the record.

23 Q Did you ask Mr. Proctor about the location where he
24 said he picked the suspect up? I believe on page 119.

25 A Yes, 119, lines seven through ten.

E. Joshua Schultz
Direct examination by Mr. Thompson

1 Q Did you have at your disposal or did you have your
2 investigator go get any, say, pictures of the houses on
3 Breeze Street?

4 A I don't believe so.

5 Q Is -- and I believe it's the incident report, says
6 that he picked up either the first -- he picked him up at
7 either the first or second house on Breeze Street, is that
8 right?

9 A I -- I believe that's what it says, yes.

10 Q And you did not have at your disposal pictures of
11 either one of those two houses to show him to see if that
12 was the house he identified as the house that he picked up
13 the suspect at.

14 A No, no. I didn't have pictures. I rode by there
15 myself personally, but I didn't have pictures.

16 Q And there's an allegation regarding getting, I guess,
17 the phone calls condensed into a more easy-to-view form.

18 Had you -- had you prepared any kind of chart prior to
19 trial that would show -- that would show the phone calls
20 that were made right around the time of this incident?

21 A No.

22 Q And were you aware or cognizant of the fact that
23 Mr. Proctor alleged that they had talked to the suspect for
24 about half an hour prior to the incident, prior to picking
25 him up?

E. Joshua Schultz
Direct examination by Mr. Thompson

- 1 A Because that's what the record says.
- 2 Q That's what the record reflects?
- 3 A Yeah.
- 4 Q And that they'd been talking to him for half an hour.
- 5 But did you realize that between all of those phone calls
- 6 there was maybe two to three minutes of phone calls that
- 7 occurred between the suspect and Mr. Proctor's phone?
- 8 A Did I?
- 9 Q Did you realize that?
- 10 A Could you say -- say that again?
- 11 Q Did you realize prior to the trial that there -- or at
- 12 least during Mr. Proctor's testimony that there had only
- 13 been a couple of minutes worth of phone calls made between
- 14 the victim -- Mr. Proctor's phone and the alleged suspect's
- 15 phone?
- 16 A Well, yeah. I was provided discovery, yeah.
- 17 Q Okay.
- 18 A But if you're asking me did I clarify that to the
- 19 jury, I don't believe I did.
- 20 Q Okay. And, in fact, the phone that they allege that
- 21 the suspect had in the back of the vehicle also gets -- if
- 22 you're looking, I'm referring to Applicant's No. -- I
- 23 believe that's -- 15.
- 24 The applicant the -- not the applicant, but the
- 25 alleged suspect makes phone calls at 8:33, 8:35 and

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1 receives a phone call at 8:45, is that correct?

2 A Well, yes, according to this exhibit.

3 Q And -- and if the exhibit's drawn, pulled, from the
4 actual phone records, you don't disagree with it.

5 A Yeah, if --

6 MS. WHITE: If that's the chart, I think that was
7 introduced as a demonstrative evidence only, as to what
8 that would have been had he done a chart.

9 THE COURT: And?

10 MS. WHITE: So I would object to him basing his -- and
11 maybe he's going to clarify that with actually using the
12 phone records. I'm not sure.

13 MR. THOMPSON: I think what we're looking for is
14 the -- is a different document, Your Honor.

15 MS. WHITE: Your Honor, this is the chart that they
16 had introduced that had the notes I think that Mr. Schultz
17 had done about the phone calls and the timing of those.

18 THE COURT: Does everybody agree that we -- that there
19 is such a document that was -- was that document introduced
20 into evidence?

21 MS. WHITE: I thought it was, Your Honor.

22 We have -- both of us had marked as No. 15 in our
23 records, our notes.

24 MS. BLANCHETTE: I'll be happy to provide another
25 copy. This is actually listed as 15.

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1 BY MR. THOMPSON

2 Q Can you identify this document?

3 A It appears to be phone -- some kind of phone records.

4 Q Did you prepare that?

5 A I can't remember. I believe that's something I did
6 prepare. I think this writing -- this doesn't look like my
7 handwriting.

8 Q But do you believe you prepared that document and that
9 there might have been handwriting added later on to that?

10 A I believe I did. Where is the front?

11 Q Your file.

12 A Okay. Then I -- then I probably did. That could be
13 my investigator's handwriting.

14 MR. THOMPSON: Your Honor, I'd like to admit this as
15 Applicant's 26.

16 MS. WHITE: No objection, Your Honor.

17 THE COURT: Admitted without objection.

18 (Phone records dated February 2, 2006, marked
19 Applicant's Exhibit No. 26.)

20 Q Okay. Now, then would you read right there, those two
21 phone calls right there?

22 A Could I read it into the record?

23 Q Just read it.

24 A Read it to myself?

25 Q Read it to yourself.

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1 A Read it. Okay.

2 (Pause.)

3 Q And that one as well.

4 A Every one?

5 Q Just that one.

6 A Called 237?

7 Q Yes.

8 A Okay.

9 Q Do those three phone calls -- and I'm referring to
10 one, two, three, four, five -- the sixth one down from
11 921-████ and the two references to 237-████ show that the
12 921-████ phone number made three phone calls at 8:33, 8:35,
13 8:40 to Oshia Feaster's phone?

14 A 8:33, 8:35 and 8:40.

15 Q This demonstrative aid might aid you as well. Those
16 three phone calls are the same ones.

17 A Yes.

18 Q Okay. Did you consider asking Mr. Proctor if the
19 suspect was making phone calls in the back of the car using
20 these phone records?

21 A Yes.

22 Q Did you? You did. Did you ask him any questions in
23 that regard?

24 A No.

25 Q Do you have a strategic reason why you didn't?

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1 A As far as asking Mr. Proctor on the stand I -- my --
2 my thinking with Mr. Proctor was I wanted him off the stand
3 as quickly as possible because I did not want him to do any
4 in-court identifications.

5 Q But asking him about phone records and phone calls
6 that were -- and asking him simply if the -- if the
7 suspects had been making phone calls in the back of the
8 car --

9 MS. WHITE: Your Honor, I think he's asked and
10 answered that he didn't and -- and gave a valid reason as
11 to why.

12 MR. THOMPSON: I'm just further developing a strategic
13 reason behind it, Your Honor.

14 THE COURT: Go ahead.

15 MR. THOMPSON: I apologize.

16 THE COURT: Overruled.

17 BY MR. THOMPSON

18 Q Asking the -- asking Mr. -- I understand your
19 strategic reason for not wanting to ask many questions of
20 Mr. Proctor, but you did ask questions of Mr. Proctor,
21 correct?

22 A Absolutely.

23 Q And asking him questions about whether or not the
24 suspect made phone calls from the back of the vehicle was
25 -- would not cause an identification, would it? Asking

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1 that one simple question wouldn't lead him to say, oh,
2 there's Mr. Teamer, would it?

3 A I -- I hope it would not.

4 Q Okay. The -- so asking him that question wouldn't
5 have really run the risk that you were concerned about that
6 he would identify your client.

7 MS. WHITE: Your Honor, I hate to object again, but I
8 think it calls for speculation on this. He doesn't know
9 what Mr. Proctor would have answered had he asked a
10 question.

11 THE COURT: I sustain the objection.

12 MS. WHITE: Thank you, Your Honor.

13 MR. THOMPSON: I'll move on, Your Honor.

14 BY MR. THOMPSON

15 Q Did you use -- going to the cross-examination of
16 Mr. McKinney, did you use portions of the video to impeach
17 Mr. McKinney?

18 A Yes.

19 Q Do you recall how much of that video you used?

20 A No.

21 Q And if the record reflects that you didn't would you
22 disagree with that?

23 A I would not.

24 Q Do you have any reason why you did not designate while
25 you were cross-examining him which portions of the video

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- 1 you were using?
- 2 A I wish I would have.
- 3 Q Timestamps, things of that nature. You don't disagree
- 4 that you didn't do that.
- 5 A I don't disagree with that.
- 6 Q And you wish you had done it.
- 7 A Yes.
- 8 Q Okay.
- 9 A I think it would -- would have been a more effective
- 10 cross-examination of Mr. McKinney.
- 11 Q And did you consider arguing that the entire video
- 12 should have been played for the jury? Did you want the
- 13 entire video to come in?
- 14 A Yes.
- 15 Q And did you consider proffering the entire video for
- 16 the court to be used on appeal in connection with that
- 17 objection saying here's the entire video, I want you to
- 18 view it, if you turn me down, I want it there for appellate
- 19 review? Did you consider doing that?
- 20 A No, I did not consider proffering it.
- 21 Q And I believe you had -- you asked Mr. McKinney about
- 22 the statement that Mr. Hunter, the victim, had given about
- 23 him, correct?
- 24 A Yes.
- 25 Q Did you consider showing him the actual physical

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1 statement and impeaching him with evidence that the
2 statement only mentions him and does not mention your
3 client?

4 A Yes. I must have considered that.

5 Q And if the record reflects that you didn't actually do
6 that do you have any strategic explanation for why you
7 didn't do that?

8 A No.

9 Q On -- on page 254 and page 255 you start asking
10 Mr. McKinney about what crimes that he is charged with, and
11 he responds that he is charged with one count of ABWIK, is
12 that right?

13 A Yeah.

14 Q And you starting on line one on page 255, you start
15 asking him about how much time that carries. And you asked
16 him that it carries 30 years, doesn't it?

17 A Yes.

18 Q Is that how much time ABWIK carries?

19 A It actually does not.

20 Q How much time does it carry?

21 A Then or now?

22 Q Then.

23 A Then it carried 20.

24 Q And actually Mr. McKinney corrected you and told you
25 that it was 20 years, did he not?

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- 1 A Yes.
- 2 Q And then Mr. Barnette objected to it and argued that
3 you were trying to mislead Mr. McKinney about that, didn't
4 he?
- 5 A Yes.
- 6 Q And then the Court actually says the witness got it
7 right.
- 8 A Yes.
- 9 Q In retrospect before you had delved into that area do
10 you believe you should have I guess researched how much
11 time ABWIK actually carries before you start asking ask him
12 that question?
- 13 A Well, I -- I said 30 years. I think that was just a
14 mistake in the heat of the trial. I meant to say 20. I
15 represented when I was public defender and I still do --
16 now, the old ABWIK is gone now.
- 17 Q Yes.
- 18 A But assault -- attempted murder now carries zero to
19 30. And the new ABHAN carries certain 20.
- 20 Q Right.
- 21 A But that was obviously -- I couldn't anticipate that.
- 22 Q Sorry. And your client was actually charged with
23 ABWIK as well, wasn't he?
- 24 A Yes.
- 25 Q And finally on page 249 you actually asked Mr.

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1 McKinney a lot of -- and we covered this a little bit
2 earlier -- but you actually asked Mr. McKinney about a lot
3 of information about the pods and the door being opened and
4 all of that kind of stuff, is that correct?

5 A Yes.

6 Q I apologize. That stuff is not a very technical term.
7 Were you at that point in time intending to follow up
8 with that by presenting the testimony of Captain Speller?

9 A No.

10 Q So you just decided to get that -- that information
11 in, but you weren't going to follow up with that. You
12 weren't calling Captain Speller at that point in time.

13 A No.

14 Q All right. Going to the -- going back for -- jumping
15 back for one minute about the felony D.U.I. officers, we
16 talked about this yesterday. Did you make a motion to
17 exclude the beer can that was thrown out of the vehicle
18 allegedly?

19 A If the record reflects I did not, I did not.

20 Q And -- and the records reflect that that beer can was
21 actually destroyed.

22 A Yes.

23 Q And do you have any strategic reason why you didn't
24 move to exclude the beer-can evidence being thrown -- the
25 evidence of the beer can?

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1 MS. WHITE: Your Honor, I'm just going to object to
2 relevance. I don't think that the felony D.U.I. was
3 brought in at all in this case. And the beer can wasn't
4 mentioned as far as I'm aware.

5 THE COURT: It wasn't mentioned in the murder case?

6 MS. WHITE: Not that I was aware of. Maybe -- if they
7 can point me to a location I --

8 THE COURT: I don't recall it.

9 MS. WHITE: There had been a previous ruling on the --
10 pretrial ruling on not allowing any information about the
11 felony D.U.I. and prior charges. I think they had the
12 failure to stop -- information came in some but I didn't --

13 MR. THOMPSON: Your Honor, on page 160, lines eight
14 through 10, "We made a right onto Overbrook Circle."
15 This is Officer St. Louis. "At that time I observed him
16 toss what looked like a beer can out the window."

17 MS. WHITE: I withdraw my objection, Your Honor.

18 THE COURT: That will be fine.

19 BY MR. THOMPSON

20 Q So did you consider making the objection to the beer
21 can at that point in time?

22 A No.

23 Q Okay. Is there any strategic reason why you didn't
24 cross-examine any of the officers? Either -- that's a
25 poorly-phrased question. Either Officer St. Louis or

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1 Officer Evett.

2 A I was thinking about that, and I didn't want to open
3 the door. The only strategic reason, which I realize is
4 probably something that I -- you know, I would have done
5 differently now -- is I thought that would have opened the
6 door to them testifying to some other stuff.

7 Q About the fact that he had been actually convicted --

8 A Yes.

9 Q -- or things of that nature?

10 A Yeah. And then that -- that was my principal concern
11 there. If -- if that conviction, the felony D.U.I. would
12 come in -- and I don't think it did come in.

13 Q No. The evidence of the conviction did not come in.

14 A Yeah.

15 Q But they'd been instructed not to bring that in.

16 A Yeah. And I just -- I just worried that if I would
17 have asked the question maybe that officer would have -- or
18 up and said, well, back in the December he was convicted of
19 felony D.U.I. So, but you're right. I mean, they were
20 instructed. So I guess the point is I guess it's moot.
21 That was my thinking.

22 Q And do you believe now that you should have asked them
23 questions along the lines of what you asked them at the
24 burglary trial about how he was following traffic laws and
25 things of that nature while they were following him?

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1 A Yes. I would've -- I would have asked those questions
2 about following traffic laws, but I don't think I would
3 have asked any other questions as far as maybe materially
4 and appreciably impaired. That was the standard of
5 evidence in a D.U.I.

6 Q Yes. And I'm going to ask you to turn to page 263,
7 and this is Dawn Hunter's testimony. And just read to
8 yourself beginning about, I guess, line ten through the
9 rest of that page, and then onto page 264 and line seven.

10 (Pause.)

11 A Okay.

12 Q And you object to the testimony regarding your client
13 talking to Ms. Hunter about Mr. McKinney's whereabouts both
14 on the basis of relevancy and on hearsay, is that right?

15 A Yes.

16 Q Is -- is a defendant's -- is -- is the statement of a
17 party opponent hearsay under our rules?

18 A Under our rules, no, it is not.

19 Q No. So you were objecting on the basis of hearsay to
20 something that your client was testify -- would allegedly
21 say.

22 A It would be the admission against interest, I believe.

23 Q But also a statement by a party opponent that
24 everything -- everything your client says is not hearsay by
25 rule.

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- 1 A Yes.
- 2 Q Okay.
- 3 A Yes. But, nevertheless, I had to -- I think I had to
- 4 preserve the objection.
- 5 Q Okay.
- 6 A But I argued relevancy too.
- 7 Q Yes. And just again very briefly, look on page 265,
- 8 and lines 20 through 25, and page 266, line one.
- 9 Is Ms. Hunter at that point in time -- I'm sorry.
- 10 Have you finished? Have you finished reading?
- 11 A Yeah.
- 12 Q Okay. So is Ms. Hunter at that point in time
- 13 testifying about hearsay information that she had been told
- 14 by her brother, the victim in this case?
- 15 A Yes.
- 16 Q And did you consider objecting to hearsay on that
- 17 basis?
- 18 A Yes, I did. I did not -- but I did not object.
- 19 Q Okay.
- 20 MR. THOMPSON: Beg the Court's indulgence one moment.
- 21 (Pause.)
- 22 Q On page 265 and I believe page 243 -- and I'm just
- 23 going to --
- 24 A 243?
- 25 Q 243 -- 243, lines 22 through 24, and 265, lines 17

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1 through 19, where both Mr. McKinney and Ms. Hunter are
2 testifying to the number that they talked to your client at
3 being 921-██████

4 Did you consider objecting at that point in time to
5 the evidence of that phone number being admitted, I guess,
6 as a further -- to further preserve your objection for the
7 Fourth Amendment issue?

8 A Well, the record reflects I didn't object.

9 Q Okay. Turning to the defense case -- and I promise,
10 Judge, I'm almost finished -- did you consider calling
11 Mr. Young, the victim from the felony D.U.I., to testify to
12 exploit the inconsistencies between his account of what
13 happened that night versus the police officer's
14 inconsistent -- what they said happened that night?

15 A No. I don't think the record reflects I called
16 Mr. Young.

17 Q Did you consider calling him?

18 A No.

19 Q And at the burglary trial you -- one of the officers
20 who I don't believe is here today -- corrected me on my
21 pronunciation. Christina Hoggle?

22 A Hoggle.

23 Q Hoggle. He told me it was Hoggle. I don't -- I don't
24 know.

25 Did you consider calling her? You called her at the

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1 burglary trial. Did you consider calling her at the second
2 trial to testify about what your client had on his person
3 when he was arrested?

4 A The record reflects I didn't call her in the murder --
5 in the murder case.

6 Q And obviously if you didn't call her in the murder
7 case you didn't ask her the questions. You didn't ask her
8 in the burglary trial about what clothes Mr. Teamer was
9 wearing and that sort of thing.

10 A That's right.

11 Q And you had a -- you -- you testified earlier you had
12 not consulted with a D.N.A. expert --

13 A That's right.

14 Q -- prior to this trial.

15 A Yes.

16 Q Based on the testimony here today would you have
17 considered using a D.N.A. expert at the trial? Do you
18 believe that would have been beneficial at all?

19 A Maybe.

20 Q In what way would that have been beneficial in your
21 mind?

22 A Maybe it could have given me some more
23 cross-examination material for Ms. Fields -- Agent Fields.
24 But she -- she was an expert, and she would have testified
25 that Mr. Teamer's D.N.A. was found on the cigarette, he was

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1 a major contributor.

2 So I -- I think it would have maybe have elucidated my
3 understanding of D.N.A. a little bit more. And I've read a
4 lot of books about genetics and D.N.A., and I like that
5 stuff. And I tried to examine Ms. Fields as much as I
6 could about the mixture and the major contributors and
7 things -- things of that.

8 So I did everything I could. And I thought I brought
9 out some pretty good things there in my cross of her. And
10 I think she said that on testimony here today.

11 But as far as having an expert witness, I guess it
12 could have been beneficial, but I don't think it would
13 either have harmed or hurt our case, so.

14 Q Now, were you present this morning for the testimony
15 of Elaine Feaster?

16 A No.

17 Q You were not here for that?

18 A I was not here.

19 Q Did you call her at the burglary trial?

20 A Are you okay?

21 Q Yes. Sorry. Did you call her at the burglary trial?

22 A Yes.

23 Q Yes. You called her as a witness, and she -- I'm
24 sorry I have to ask this -- but she actually appeared in
25 court and testified.

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1 A Yes.

2 Q Yes. Okay.

3 A Now, now, as to your first question there, I've heard
4 what happened in today's testimony.

5 Q And you actually called Osia Feaster at the second
6 trial, but you did not call her mother at the second trial,
7 is that right?

8 A I believe she was sick.

9 Q Did you upon finding out that she was sick attempt to
10 postpone the trial or at least hold -- at least move for a
11 recess for a couple -- you know, at least until she could
12 get better so she could testify considering she was one of
13 your alibi witnesses?

14 A If the record doesn't reflect that I asked for a
15 continuance I don't think I did.

16 Q With regard to Keith Letmon, you did testify earlier
17 that you had gone to meet with Mr. Letmon down in Woodruff
18 with your investigator --

19 A Yes.

20 Q -- and that he did tell you that he did not want
21 Mr. Teamer to be convicted basically because of his bad
22 reputation, is that right?

23 A That's right.

24 Q Do you believe that that testimony is harmful when it
25 came out at trial that he didn't want your client to be

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- 1 convicted because of his bad reputation -- that his
2 reputation preceded him?
- 3 A Yeah. That could -- that could be harmful.
- 4 Q Is there any reason why you didn't talk to him
5 beforehand and -- and, you know, you obviously can't
6 instruct a witness what to say, but, you know, talk to him
7 about not emphasizing that part of your client's character?
- 8 A Well, I didn't to coach a witness.
- 9 Q I understand.
- 10 A So, and I just instructed him to tell the truth. I
11 don't know what motivates people to do -- do things, so.
- 12 Q And on page 396 of the murder trial -- and this is
13 right after Mr. Letmon has testified in-camera, lines one
14 through ten essentially, the solicitor --
- 15 A 396?
- 16 Q 396, yes, sir. The solicitor stated -- states that
17 there are some impeachment issues with regard to Mr. Letmon
18 regarding his prior convictions.
- 19 A 396?
- 20 Q Yes.
- 21 A Okay. At the top there. Okay. I was confused
22 because of the Osia Feaster.
- 23 Q Yes.
- 24 A Okay.
- 25 Q And on lines nine and ten, in particular, Mr. Barnette

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1 says there are a couple of convictions that appear --
2 that -- that he can use for impeachment. He says, "And I
3 don't know whether the time limit applies or not."

4 A Uh-huh.

5 Q And later he objects or he cross-examines Mr. Letmon
6 on page 412, in particular lines eight through 12. He
7 impeaches him with evidence that he was convicted of
8 P.W.I.D. in 1994 and escape in 1995.

9 A Yes.

10 Q Did you consider objecting on the basis that those
11 crimes were outside the 10-year time limit and couldn't
12 have been used?

13 A I should have, yes.

14 Q And if the record reflects you didn't make any such
15 objection, you have no strategic reason for failing to do
16 so?

17 A No. But I believe the -- the common-law robbery --
18 the assault -- the ABHAN in 2002 and the common-law robbery
19 in 2002 would have been --

20 Q Within the ten years.

21 A Yeah, within the years, and obviously would carry more
22 than a year.

23 Q But at least the 1994 and 1995 convictions would not
24 have been -- would have been over -- ten years too old.

25 A That's correct.

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1 Q And --

2 A If they were considered a crime of moral turpitude,
3 which can somewhat get past that on a case-by-case basis.

4 Q And finally regarding your case in chief, you
5 testified earlier you had Captain Speller under subpoena
6 but that you chose not to call her.

7 A Yes.

8 Q Because you didn't want to get the evidence in. I
9 guess that possibly they could have talked to one another,
10 that possibly Mr. McKinney and your client could have
11 actually talked to one another.

12 A Yes.

13 Q But didn't Mr. McKinney testify that they had talked
14 to one another?

15 A Yes.

16 Q So that evidence was in, that they had -- they had
17 actually talked to one another.

18 A Yes.

19 Q And don't you think it was -- or do you think it would
20 have been relevant to show the pod setup and how difficult
21 it would have been according to the officers for this
22 conversation to have occurred the way Mr. McKinney said it
23 did with the cell door open and Mr. Teamer walking right in
24 with both -- them being on different sides of the pod?

25 MS. WHITE: Your Honor, I'm going to object. I think

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1 we've asked and answered. We've gone over the Captain
2 Speller's and his reasons to why he didn't call her or use
3 the evidence that he had regarding the jail layout and
4 pods.

5 MR. THOMPSON: I don't -- I don't know that it's been
6 asked and answered, Your Honor.

7 MS. WHITE: I would say I've got pretty good notes on
8 the fact that he testified. And I can go back and find
9 that if we need to.

10 THE COURT: In this trial, said the only person
11 that's -- I guess the only person that makes a difference
12 is whether asked and answered before or not is us who are
13 being -- having the trial prolonged by asking questions
14 repetitive -- repeatedly. But I'll overrule the objection.

15 Go ahead.

16 MR. THOMPSON: I apologize, Your Honor.

17 BY MR. THOMPSON

18 Q Don't you think it would have been helpful to have
19 that testimony at the trial?

20 A I -- I think some parts would have been harmful,
21 because it clearly could have got out there that -- that
22 Mr. Teamer and Mr. McKinney had at least some kind of
23 extended contact if -- if they were to -- if
24 cross-examine -- cross-examination was able to elicit that
25 the security there was pretty lax, that that was -- it was

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- 1 a -- it's a double-edged sword just like anything else.
- 2 Q But without that testimony all you have is McKinney's
- 3 testimony that it actually occurred. You don't have
- 4 anything going to show that it could not have occurred.
- 5 A Other than Mr. McKinney's bias to get out of a charge.
- 6 Q But -- but that goes toward your further defense,
- 7 doesn't it? It furthers your defense --
- 8 A Yes.
- 9 Q -- to show that he's making this statement up.
- 10 A Yes.
- 11 Q Did you talk to Mr. Teamer's roommate who testified
- 12 earlier today --
- 13 A I don't believe so.
- 14 Q -- at the jail? And so you didn't consider calling
- 15 him to testify about how Mr. Teamer couldn't've -- didn't
- 16 go over to Mr. McKinney's cell, and Mr. McKinney didn't
- 17 come over to their cell, things of that nature.
- 18 A I think he was Mr. Teamer's roommate for a limited
- 19 time.
- 20 Q But at least while this statement had -- had
- 21 apparently occurred.
- 22 A Yeah, yeah. But to answer your question, I did not
- 23 speak to him prior to trial.
- 24 Q And -- and one last thing regarding this. Mr. Letmon
- 25 was Mr. McKinney's roommate, wasn't he? And that's how Mr.

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- 1 McKinney told him about his confession, is that right?
- 2 A I can't remember.
- 3 Q If you're asking the jury to believe Letmon over
- 4 your -- over McKinney essentially --
- 5 A Uh-huh.
- 6 Q -- would it not have been more beneficial to have
- 7 testimony regarding the placement of the pods, which would
- 8 have made it more difficult for your client's alleged
- 9 conversation to have -- to have occurred with Mr. McKinney
- 10 versus Mr. Letmon's conversation occurred with Mr. McKinney
- 11 which occurred in their cell because they were roommates?
- 12 A It could have been.
- 13 Q And lastly --
- 14 A Of course the problem is that that establishes -- the
- 15 other thing it's a double-edged sword. Do you see my
- 16 point? It's -- it's difficult to do that without bringing
- 17 in -- well, without opening the door to some other stuff.
- 18 Q That the conversation could have occurred --
- 19 A Yes.
- 20 Q -- in the way that Mr. McKinney testified it occurred.
- 21 But there's no evidence in the record whatsoever that it
- 22 could not have occurred in the way that Mr. McKinney
- 23 testified that it occurred.
- 24 A Yeah, that clearly in the record there's no --
- 25 there -- there is not that evidence.

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1 Q Did -- turning to -- turning to the jury instructions,
2 did you prepare a proposed third-party-guilt instruction?

3 A I don't believe so.

4 Q And do you understand it's your burden to provide a
5 proposed charge to the Court if you want that charged in
6 order to preserve that issue for appeal?

7 A Yes.

8 Q And you just simply didn't have a proposed charge to
9 hand up to the Court.

10 A I did not have.

11 Q And, finally, we asked about this yesterday. Did you
12 consider objecting to the portion of the charge -- and it's
13 in particular page 454, lines 19 through 22, where the
14 judge instructs the jury that it is their role to give the
15 state and the defendant a fair and impartial trial? Did
16 you consider objecting to that as being burden shifting?

17 A I did not, but I believe the case came out subsequent
18 to that, didn't it?

19 Q Says that it is.

20 A No. If there was no case on point as to that, then I
21 did not make an objection.

22 Q Thank you.

23 MR. THOMPSON: Beg the Court's indulgence.

24 (Pause.)

25 MR. THOMPSON: No further questions of this witness,

1 Your Honor.

2 THE COURT: Let's talk a moment.

3 MS. WHITE: Yes, Your Honor.

4 THE COURT: Before cross-examination let's talk a
5 minute. What's your guess on cross?

6 MS. WHITE: I can be a pretty quick talker. I'd say
7 30 minutes, Your Honor, but --

8 THE COURT: Where does that leave us in the
9 presentation?

10 MS. BLANCHETTE: We have nothing further except to
11 renew my motion regarding the jail records at the
12 conclusion of the day.

13 MR. THOMPSON: And hand up some cases.

14 MS. BLANCHETTE: And to hand up -- I will reference
15 some cases I handed up yesterday, and then I think I have
16 two additional cases for the Court.

17 MS. WHITE: We have the D.V.D.

18 MS. BLANCHETTE: So I need approximately five minutes.

19 THE COURT: And what about the attorney general?

20 MS. WHITE: I mean, I would say 30 minutes at the max,
21 Your Honor.

22 THE COURT: You don't anticipate calling any
23 witnesses?

24 MS. WHITE: Oh, no, Your Honor. We have no other --
25 we have no witnesses.

E. Joshua Schultz
Cross-examination by Ms. White

1 (Bench conference held off the record.)

2 THE COURT: Let's take five. Let's take a 5-minute
3 recess.

4 MS. WHITE: Thank you, Your Honor.

5 THE COURT: Thirty minutes.

6 MS. WHITE: I can do it.

7 THE COURT: Pull the plug in 30 minutes.

8 MS. WHITE: Thank you, Your Honor. If you're ready I
9 will go ahead and proceed.

10 CROSS-EXAMINATION

11 BY MS. WHITE

12 Q Mr. Schultz, we've obviously talked about a lot of
13 things.

14 You heard the testimony earlier today of James
15 Humphries.

16 A Yes.

17 Q After hearing that does that change your mind as to
18 whether or not you think that would have been helpful to
19 call him at trial?

20 A No.

21 Q To your knowledge did he have a record? I mean as an
22 impeachable record.

23 A Yes.

24 Q Okay.

25 A Today I realize that, yeah.

E. Joshua Schultz
Cross-examination by Ms. White

1 Q Okay. In regards to Officer Speller, you heard her
2 testimony. We talked significantly about that.

3 Did anything you hear today change your mind, confirm,
4 support or anything your decision to not call her or anyone
5 from the jail in regards to pod movement?

6 A No.

7 Q In regards to Elaine Feaster, obviously we know that
8 you had not heard her testimony, but you've been informed
9 that she denied testifying at the burglary hearing.

10 From your recollection of the burglary testimony was
11 it helpful to Mr. Teamer in regards to alibi?

12 A Yes.

13 Q Ms. Feaster was?

14 A Both were.

15 Q Now, was Elaine Feaster not the one that said she was
16 gone actually during 8:40 -- about 8:00 something to
17 midnight? And maybe I'm incorrect but --

18 A I believe it was.

19 Q Okay. So would it have been helpful to call her at
20 the murder trial if she couldn't identify where Mr. Teamer
21 was during that time?

22 A No. I did not believe so.

23 Q Okay. So do you -- from knowing that and from knowing
24 what she said today is there anything you think you could
25 have gotten had she testified?

E. Joshua Schultz
Cross-examination by Ms. White

- 1 A No.
- 2 Q You had prepared already the murder trial before the
3 September of 2007 burglary trial, is that correct?
- 4 A That's correct.
- 5 Q And you testified that the only evidence you felt that
6 significantly impacted the case was the gun, is that right?
- 7 A Yes.
- 8 Q That you received -- excuse me -- in between the two.
- 9 A Yes.
- 10 Q So at that time you had the knowledge of the alleged
11 confession; you had the witnesses; you had the things from
12 the felony D.U.I., is that right?
- 13 A I had -- it's difficult to quantify, but I tried to.
14 I had -- had about 90 percent of the evidence.
- 15 Q Okay. So at that point you had already talked to
16 Mr. Teamer somewhat about the case, obviously in
17 preparation for the original trial in September.
- 18 A Yes.
- 19 Q Did you feel like you were able to discuss a little
20 more or have a little more time to prepare and focus on the
21 murder having the 4-month timeframe in between the two?
- 22 A Yes. Now that I knew that they were going to try the
23 murder, that was it.
- 24 Q Okay. In regards to the D.N.A. expert, I'm just going
25 to kinda touch base on that a little bit.

E. Joshua Schultz
Cross-examination by Ms. White

1 You heard the testimony today. From your
2 cross-examination and from your review of the transcript
3 and the testimony presented today you said it may have been
4 helpful to have a D.N.A. expert?

5 A Yes.

6 Q Is that something you think would have helped the case
7 contradict the D.N.A. or just help clarify?

8 A To help clarify.

9 Q And I think we've gone through this, again, but I just
10 want to clarify that you did request three trials and make
11 an original motion for a continuance to try to reassess the
12 opening and the -- the evidence you had to present at the
13 burglary trial?

14 A That is correct.

15 Q Okay.

16 A That was back in September of 2007.

17 Q Back in the first trial, yes, sir.

18 From your experience because of the facts of the case
19 and because of the charges, had you not made a motion to
20 sever do you think the judge would have allowed all of the
21 charges to proceed in one trial?

22 A I don't think he would have.

23 Q Now, in regards to searching of the house, you didn't
24 call, we said, Christina Hoggle or Hoggle.

25 A What house?

E. Joshua Schultz
Cross-examination by Ms. White

1 Q I'm sorry?

2 A What house?

3 Q Mr. Teamer's house. I'm sorry.

4 If you can look, page 228 of the murder transcript,
5 it's a cross-examination, on recross of
6 Investigator-Officer Guthro, lines 16 through 21. Do you
7 see where you actually asked him if he found any bloody
8 clothes at Mr. Teamer's home and he said not to my
9 knowledge?

10 A That's correct.

11 Q Okay. So you were able to ask one of the officers as
12 to whether or not there was any bloody clothes that were
13 found at the applicant's actual home.

14 A Yes.

15 Q The James Thomas Young who was the victim of the
16 felony D.U.I., you said you didn't really consider calling
17 him to address inconsistencies.

18 Isn't it true the only real inconsistency with his and
19 the officer's testimony is whether or not Mr. Teamer's
20 headlights were on or off as he went over the hill?

21 A Yes.

22 Q You crossed the officers about the phone. Obviously,
23 we've gone through the fact that you objected to the 921
24 phone coming in, renewed that objection.

25 You also went through and talked with them about the

E. Joshua Schultz
Cross-examination by Ms. White

1 fact that they failed to investigate the other phone number
2 that was found from the victim's phone, is that right, the
3 Wayne from Wireless Dimensions?

4 A Yes.

5 Q Did you feel like you a chance to cross-examine them
6 effectively about the work they did in regards to
7 investigating anyone other than Mr. Teamer?

8 A Yes.

9 Q And, in fact, you actually mentioned the Leon Franklin
10 suspect that was on the SLED documents and asked as to
11 whether or not there was any information that Rhonda Fields
12 received or anyone else about Leon Franklin, is that right?

13 A That's right.

14 Q In regards to charts of the phone number -- I just for
15 clarification purposes -- we've talked a little bit about,

16 and several times it's been mentioned, that Mr. Proctor
17 testified, page 109, that that was the guy Tony had been
18 talking to for about the past 30 minutes.

19 Is it possible instead of a phone call for 30 minutes
20 that he meant a timeframe of 30 minutes, several calls had
21 been made over 30 minutes?

22 A Anything's possible.

23 Q Okay. And, in fact, because there were about four --
24 three or four phone calls of several seconds in duration
25 made between 8:33 -- or excuse me -- 7:59 and 8:33, would

E. Joshua Schultz
Cross-examination by Ms. White

1 that not be logical to interpret that he meant that he had
2 talked to over the time span of the 30 minutes?

3 A I can't get into a witness' head. I don't know what
4 he was saying, but it's possible.

5 Q That's one possible explanation.

6 A That's one possible outcome.

7 Q Okay. In regards to the third-party guilt, you
8 presented testimony -- cross-examined Kelvin McKinney about
9 his access, knowledge of Tony Hunter's statement, did you
10 not? And I can point you to a page here. Mr. McKinney's
11 statement -- one second -- 245 and 246.

12 A Yes.

13 Q Mention was made of the actual written statement, but
14 did you not ask him on cross-examination if he knew that
15 Tony had given a statement about him and if it made him

16 mad --

17 A Yes.

18 Q -- and whether or not he knew anything about the
19 statement -- that Mr. McKinney had testified that he didn't
20 know about it until his preliminary hearing on the ABWIK?

21 A Yes.

22 Q And, again, you repeated that and also got him to
23 testify that he knew Tony Hunter had called asking for his
24 real name to Ms. Hunter, is that right, farther on that
25 same page, 246, at the bottom?

E. Joshua Schultz
Cross-examination by Ms. White

1 A Yeah, yes.

2 Q So the information about the fact that the only person
3 named in Tony Hunter's statement was Mr. McKinney came out
4 in front of the jury, did it not?

5 A Yes.

6 Q And Mr. McKinney -- you were able to get Amy Hunter
7 to -- excuse me -- Amy -- I'm getting the name wrong --
8 Amy -- Amy Ruth Hunter. It was Amy Hunter -- to testify as
9 the gun that Mr. McKinney or as she referred to him as Snow
10 had had -- had been in her home before and knew where she
11 lived and had access to her home, is that right? Page 294
12 and 295 if you need a reference.

13 A Thank you.

14 (Pause.)

15 A Yes.

16 Q And you also presented -- and the testimony was
17 presented to the jury that Carlos Fuller had not only
18 called Amy Hunter that night right before she called the
19 gun in stolen, and she called him after, but that also he
20 had had access to both her car and possibly the gun within
21 the days prior to this.

22 A Yes. If the record reflects that, I asked that.

23 Q Okay. Finally in regards to the third-party guilt,
24 you also had Keith Letmon's testimony that Kelvin McKinney
25 had testified, is that right?

E. Joshua Schultz
Cross-examination by Ms. White

- 1 A Yes.
- 2 Q Okay. Now, the state had made a motion to keep that
3 out, and y'all argued that before you presented
4 Mr. Letmon's testimony in-camera.
- 5 A We proffered that.
- 6 Q Proffered that -- excuse me -- and made the motion.
7 And the Court denied that and allowed you to present that
8 evidence, didn't he?
- 9 A Yes.
- 10 Q Okay. You also asked Kelvin McKinney about the fact
11 that on his video he asked the state what they could do for
12 him.
- 13 A Yes.
- 14 Q And he admitted that he had said that, didn't he?
- 15 A Yes.
- 16 Q Okay. Now, did you recall talking with your client
17 about whether or not you'd be able to get the entire video
18 into evidence or whether or not -- how you would use it at
19 trial?
- 20 A We probably talked about it.
- 21 Q Okay. To your recollection or based on your
22 experience would you have told him that you thought you
23 could get the whole video in, or would you have talked with
24 him about the possibility?
- 25 A I think I would talk to him about the possibility of

E. Joshua Schultz
Cross-examination by Ms. White

1 getting it in. Judge Cole I don't think would have let the
2 whole video in either way.

3 Q Okay. And the same goes with the written statements
4 of Mr. McKinney. Did you feel that there was a chance if
5 he -- that you could have gotten them in I guess other than
6 using them to impeach him?

7 A Yes, I suppose such, yes.

8 Q Let me clarify. So did you think you could get the
9 statements in of Kelvin McKinney outside of -- if he had
10 denied making some of those statements and you used them to
11 impeach?

12 A Yes, yes.

13 Q You did think you could have gotten the statements in?

14 A Yeah, if we would --

15 Q Maybe I'm not asking a very clear question. I was
16 just trying to -- did you think other than an impeachment
17 purpose that the judge would have allowed you to just enter
18 in Kelvin's McKinney's statements into evidence?

19 A No.

20 Q Okay. And did you want his statements entered into
21 evidence where he identified Charlie as the person that
22 confessed?

23 A No, I didn't. No, I did not. I thought you were
24 talking about --

25 Q Another statement?

E. Joshua Schultz
Cross-examination by Ms. White

1 A Hopefully I answered your question.

2 Q Okay. Thank you. Sorry.

3 Now, there was some testimony about the
4 January 14th of 2006 ABWIK as being perhaps a prior bad
5 act. The state -- was it your understanding they were
6 arguing that that was motive?

7 A That was my understanding.

8 Q And although you might not have -- you didn't make a
9 motion -- I think with Kelvin McKinney you made a motion
10 and mention that being a prior bad act and had made a Lyle
11 statement in pretrial, is that correct?

12 A I believe so.

13 Q Overall, this is just kind of a general question. In
14 regards to the evidence that the state had we have a
15 sketch. They had someone that identified the home -- David
16 Proctor -- to a certain extent. I know there's some
17 question about that.

18 They had the phone records. Is the phone records --
19 would you have -- did you consider making a chart to show
20 all the phone calls to the jury? Did you think that was
21 something that was going to be helpful to your case?

22 A Looking back at it I wish we would have clarified that
23 issue to the jury.

24 Q Okay. would you have made a motion to suppress the
25 gun? was there anything you thought you could have made a

E. Joshua Schultz
Cross-examination by Ms. White

1 motion on in regards to suppressing that gun?

2 A Looking back in it now I wish I would have moved to
3 suppress the gun, but I think it would have came in anyway.

4 Q On what basis would you have?

5 A I'm not sure what grounds.

6 Q Did you feel that Mr. Letmon's testimony where he says
7 he didn't want Teamer to be convicted on, quote, unquote,
8 reputation -- I don't believe he ever says the word bad
9 reputation, but he says, quote, unquote, reputation. Did
10 you think that was bringing in a bad reputation? Did you
11 think you elicited that testimony from him?

12 A He answered truthfully.

13 Q Let me skip ahead.

14 MS. WHITE: One moment, Your Honor.

15 (Pause.)

16 Q In regards to the prior bad acts, the felony D.U.I.
17 and the failure to stop, you objected to those prior
18 convictions coming in, is that right?

19 A If the record says that, yes.

20 Q Okay. Pretrial and renewed -- and I'm going to find
21 it -- a page for you real quickly here. Page 158, you had
22 made a pretrial motion -- excuse me -- I'm sorry -- 145.
23 And if you'll look, before the jury came in they're talking
24 about the video dash cam and Officer St. Louis.

25 A Yes.

E. Joshua Schultz
Cross-examination by Ms. White

1 Q Page 145, lines five through seven, do you see where
2 you actually made an argument that at the past
3 conviction -- more prejudicial than probative --

4 A Yes.

5 Q -- for that coming in? And you argued that, and the
6 Court overruled that before any of the testimony began, is
7 that right?

8 A That's right.

9 Q And, in fact, page 146, you also renewed a motion for
10 sequestration of all of the witnesses.

11 A That's right.

12 Q And then you renewed an objection to Officer St.
13 Louis' testimony as well on page 158.

14 A That's correct.

15 Q Okay. You made the pretrial motion to suppress the
16 actual cell phone.

17 The question was whether or not the fruit of the
18 poisonous tree -- the actual cell phone records -- you
19 failed to object to that.

20 Could the state have gotten those in independently
21 from doing a search warrant for that based on the fact that
22 the victim's cell phone had called that number?

23 A Possibly.

24 Q So it's possible they could have come in even if the
25 actual physical cell phone had been not allowed?

E. Joshua Schultz
Cross-examination by Ms. White

1 A That's a possibility.

2 Q David Proctor. Just to clarify, you said that -- or
3 Mr. Proctor -- you didn't want him on the stand that much.
4 Can you give me a little more information as to what
5 concerns you a little bit about his testimony or possible
6 testimony?

7 A I did not want him to make an in-court identification
8 of my client, and I thought that the longer I had him on
9 the stand the probability of him doing an in-court
10 identification would have been greater.

11 Q And you asked --

12 A So that was a strategic decision that I made.

13 Q Okay. You asked him about the fact that he was
14 confused at some point over Breeze Street or Wofford
15 Street, didn't you?

16 A That's correct.

17 Q And you -- the record will reflect you noted that as
18 well and brought that back up during your closing as well.

19 A Yes.

20 Q The fact that he couldn't correctly necessarily
21 describe the way. Was it your understanding that he had
22 taken police the route he had gone and been able to point
23 out that house and describe it to them on Center Street?

24 A Yes.

25 Q And in regards to a third-party-guilt instruction,

E. Joshua Schultz
Cross-examination by Ms. White

1 have you ever heard a third-party-guilt instruction at a
2 trial before?

3 A No.

4 Q Is it -- are you aware if there's one in the judge's
5 bench book or in a charge book?

6 A No, I'm not.

7 Q Okay. And, in fact, you were able to get the
8 third-party-guilt testimony and evidence in before the
9 jury, were you not?

10 A That's correct. I proffered it first, and then the
11 jury heard it.

12 Q Okay. And then Judge Cole offered a reasonable doubt
13 instruction to the jury, did he not?

14 A Yeah.

15 Q Okay.

16 MS. WHITE: Your Honor, one brief moment.

17 (Pause.)

18 Q Two quick questions.

19 The applicant said he was not aware that Dawn Hunter
20 was going to testify at the murder trial. Were you aware
21 that she was a possible witness? Had you discussed that
22 with him, or do you recall?

23 A The state must have let me have notice that Dawn
24 Hunter was -- whether I discussed that with my client is
25 another thing. I don't remember.

E. Joshua Schultz
Cross-examination by Ms. White

1 Q Okay. And, finally, after the burglary trial when you
2 represented Mr. Teamer was there any mention to you or any
3 motion for you to be relieved between that and the murder
4 trial? Did he file any motion or ask you to take yourself
5 off the case for the bad job you did in the burglary case?

6 A I don't believe so.

7 Q Okay. And the final question. In reviewing this
8 case -- obviously, this was five and six years ago at this
9 point. In reviewing the case now -- at the time you said
10 there's some things in hindsight that you would have done
11 differently. Overall at the time did you feel like you
12 were -- were doing the things that you should have based on
13 the defense and the strategy that you had developed for the
14 case?

15 A I -- I tried to do the best job I could under the
16 circumstances.

17 At the public defender's office we have a ton of
18 clients, and I try and give all my clients -- I try to give
19 all my clients personal attention. And especially I spent
20 a lot of time on this case with Charlie. And I spent a lot
21 of time with it by myself just with those new trials there.
22 So I tried to do the best job I could. I think there's a
23 lot of things I could have done better though.

24 Q Okay. Thank you very much.

25 MS. WHITE: Your Honor, that's all the questions I

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 have of this witness.

2 MR. THOMPSON: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. THOMPSON

5 Q The first question MS. White asked you about was that
6 Mr. Humphries had an impeachable record. But so did Mr.
7 Letmon. I mean, that's not something that's going to stop
8 you if you think the testimony's going to be relevant, is
9 it?

10 A Correct.

11 Q I believe if I heard correctly that she asked you if
12 you believed Judge Cole would have allowed the cases to be
13 tried together even if you hadn't made a motion, is that
14 correct? Do you believe he would have stopped it even if
15 you hadn't made a motion?

16 A Yes.

17 Q Okay. She asked you if Investigator Guthro testified
18 that no bloody clothes were found. But that's not exactly
19 the same evidence that you would have been seeking to admit
20 through Ms. Hoggle, would it?

21 A No.

22 Q She asked you that the only difference between James
23 Young and the officer was the headlights of Mr. Teamer's
24 vehicle. But didn't Mr. Young also testify that there
25 were -- that he saw blue lights right before the impact?

E. Joshua Schultz
Redirect examination by Mr. Thompson

1 A That's right.

2 Q And that is inconsistent with what Mr. -- with what
3 officer Evett testified to. He didn't have his blue lights
4 on. He's way back in the back, right?

5 A I don't know. I would have to check the record again.
6 It was very confusing.

7 Q The -- she asked you that the state argued that the --
8 or the state would have argued that the January 14th of
9 2006 charge went to murder, and you had objected to that
10 testimony with --

11 (Loud coughing in the courtroom.)

12 A I couldn't hear you. I'm sorry.

13 Q I'm sorry. I'm -- she -- she -- she asked you that
14 the state was going to argue that the January 14th ABWIK
15 went to motive and that you did object to such testimony

16 for Dawn Hunter. But even assuming you had, you didn't
17 object to that testimony when it came in through
18 Mr. McKinney, did you, about the prior incident?

19 A If the record reflects that, I did not.

20 Q And, finally, you testified that you don't know of any
21 third-party-guilt instruction; you haven't seen one in a
22 bench book or anything like that, is that right?

23 A Yes.

24 Q But just because you haven't ever seen one doesn't
25 mean that you can't craft one, does it, that you can't make

1 one?

2 A Yeah. That's right, yeah. I could have made one.

3 MR. THOMPSON: Beg the Court's indulgence.

4 (Pause.)

5 MR. THOMPSON: No further questions.

6 MS. WHITE: Your Honor, no further questions.

7 THE COURT: Thank you. You may step down.

8 MS. BLANCHETTE: Your Honor, it's my understanding we
9 need to briefly introduce the copies of the D.V.D. that
10 were made.

11 THE COURT: Just for the record though, the applicant
12 rests?

13 MS. BLANCHETTE: For the record the applicant rests
14 besides two procedural issues, yes.

15 THE COURT: Okay. These the same D.V.D.s we talked
16 about earlier?

17 MS. BLANCHETTE: These are the D.V.D.s we talked about
18 extensively earlier.

19 THE COURT: Extensively earlier. And the state has
20 nothing else?

21 MS. WHITE: Your Honor, the state has no witnesses.

22 THE COURT: Applicant wishes to submit some cases?

23 MS. BLANCHETTE: The applicant also wishes to abandon
24 their prior request to leave the record open to obtain
25 further jail records.

1 And then the applicant would like to submit some
2 cases. Yesterday I handed the court a copy of State vs.
3 Brown, Ingle vs. State, State vs. Daniels and Bennett vs.
4 State. And I just ask that the Court review those, and in
5 consideration of our claims. And then I'll be providing
6 the Court a copy of Roberts vs. State, McKnight vs. State
7 and State vs. Santee -- I'm sorry -- the State vs.
8 Alexander Johnson.

9 MS. WHITE: Do you have the cites?

10 MS. BLANCHETTE: And, Your Honor, the reason why I'm
11 handing these up -- the Roberts case is factually similar
12 regarding this pod issue that we have discussed in detail
13 today regarding calling a witness about a jail layout.

14 The McKnight case deals with expert witnesses, and the
15 Johnson case deals with preservation of jury-charge issues
16 for appeal.

17 Unless the Court would like to hear anything further
18 from me, I will be happy to sit down at this time.

19 THE COURT: You may.

20 Ms. White.

21 MS. WHITE: Your Honor, the state has nothing further.

22 THE COURT: All right. I need to ask y'all something.

23 I -- someone brought to me a P.C.R. file in

24 2010-CP-42-4049.

25 MS. WHITE: That -- that is yesterday's case, Your

1 Honor.

2 THE COURT: All right. I did not have the Court's
3 file on today's case.

4 What I do have -- and I hate to admit I can't recall
5 who gave them to me -- the record on appeal in both cases.

6 MS. WHITE: Those were given to you in our judge's
7 packet with the application, the general sessions records,
8 the amended allegation. It should be S.C.D.C. records and
9 the appellate records.

10 THE COURT: All right.

11 MS. WHITE: They were in a Manila envelope.

12 THE COURT: Okay. So I'm hoping -- and I'm
13 assuming -- that none of this actually belonged in the --
14 and it shouldn't in the court file.

15 MS. WHITE: I don't believe so, Your Honor.

16 THE COURT: All right. I'm going to take it under
17 advisement, but I'm going to reserve -- I'm going to
18 reserve the right to hereafter ask each of you for comments
19 on the case instead -- if you want to submit anything,
20 that's fine. But I may ask you to give me responses. I
21 may ask you for comments in writing when I'm trying to
22 piece the two together. I'm not going to -- I hope I'm not
23 going to ask you to send me a brief, but I reserve the
24 right to do that.

25 Anything else?

1 MS. BLANCHETTE: No, Your Honor. And just in response
2 to that, I'd be more than happy to ask -- answer specific
3 questions and provide you information that you may not be
4 interested in reviewing.

5 MS. WHITE: We understand we've had this for two years
6 and you've had it for two days, so.

7 THE COURT: All right. Court's adjourned.

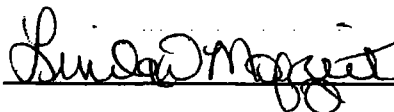
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CERTIFICATE

I, the undersigned Linda D. Moffitt, official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 30th day of October 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 24, 2013



Linda D. Moffitt
Circuit Court Reporter

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10/18/2012 11:43



Alley, Wendy

From: Schultz, Josh
Sent: Tuesday, August 28, 2007 4:48 PM
To: Alley, Wendy
Subject: Nathaniel Teamer

Wendy,

I need to get a big map of Spartanburg and blow it up for the trial. We'll do that tomorrow. I will also get the information on Tiffany Otero tomorrow. Thanks for your help with this.

Josh

SPARTANBURG PUBLIC SAFETY DEPARTMENT

PROPERTY REPORT		1. Status - Check One ☒ Evidence ☐ Recovered Property ☐ Return to Owner ☐ Destroy		2. Case No. 02.0068.06					
3. Date and Time Impounded 02.03.06 0057		4. SLED Lab No.		5. For Prop - Room Use Only					
6. Found or Recovered From Name: OVERBROOK CR		☐ Person ☒ Place 7. Where property was impounded (Give exact location - address) 145 W. BROAD ST		Property Sec. # E77					
8. Owner/Victim's		9. Owner/Victim's Address		10. Owner/Victim's Telephone No.					
11. Suspect's Name NATHANIEL C. TEAMER		12. Suspect's Address 159 OVERBROOK CR.		13. Charges FAILURE TO STOP					
Additional Suspect's Name		Suspect's Address		Warrant No. 708710					
Charges		Warrant No.							
14. Item	15. Quantity	16. Description							
-1	1	BEER CAN "ICE HOUSE" 12 oz							
		DISPOSITION OF PROPERTY AUTHORITY: JUDGE _____ DATE _____ TIME _____ OFFICER _____ DATE _____ TIME _____ RELEASE TO COURT _____ DATE _____ TIME _____ RETURNED TO OWNER _____ DATE _____ TIME _____ SOLO TO PUBLIC AUCTION _____ DATE _____ TIME _____ DISPOSITION _____ DATE _____ TIME _____ DESTROYED _____ DATE _____ TIME _____ DESTROYED BY <i>MSB</i> DATE 2-27-07 TIME 121 WITNESS _____ DATE _____ TIME _____ DATE TIME							
17. I hereby acknowledge that the above list represent all property taken from my possession and that I have received a copy of this report.		18. Impounding Officer (Print Full Name) <i>St Louis</i>		19. Badge No. 0199					
Signature X		20. Signature <i>[Signature]</i>							
21. Received By <i>[Signature]</i>		22. Reason E3		23. Date and Time Received 2-6-06 1500					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					
Received By		Reason		Date and Time Received					

TEAMER
FELONY DUI.

Kuster

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 3, 2006

OFFICER INV RUSSELL PORTER

000030

2006 JUL 36 P 12:45

STATE OF SOUTH CAROLINA

000032

2006 JUL 31 P 12:45
AFFIDAVITCOUNTY OF SPARTANBURG, SCPersonally appeared before me, one Inv. Russell Porter

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death/s of known victim/s or unknown victim/s to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victim/s, clothing, blood stained clothing, hair, fabric fibers. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over or resides at the premises to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

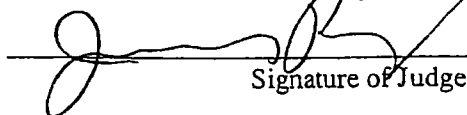
1985 Chevrolet Caprice, 4 door blue in color bearing South Carolina tag 849UPU and VIN #1G1BN69H5FY120384 registered to Osia Tansha Feaster of 533 S. Center Street, Spartanburg, S.C. 29301

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/2006 Officers with the Spartanburg Public Safety Department responded to the intersection of Theodosia Drive and Chester Street after a call was made to 911 stating that he was shot and the passenger in the car was dead. Officers responded to the scene. Officers discovered a 1997 Toyota 4-Runner, silver in color bearing South Carolina tag 276KYV and VIN #JT3GM84R9V0011648 with an unidentified b/m in the front passenger seat that appeared to have been shot in the head. This vehicle was found off the roadway of Theodosia Drive. This warrant is needed to process this vehicle for any and all evidence to help identify the victim and any suspect or suspects that might be responsible for this crime

Sworn to and Subscribed before me

This 3rd day of Feb; 2006


Signature of Judge

Russell P. Porter
Affiant
Address 1415 W. Broad St.
Spartanburg 29304
Phone 586-2845

TY OF SPARTANBURG, SC)

000033

2006 JUL 36 P 12:45

TY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
CIPALITY OF SPARTANBURG COUNTY, SC

aring from the attached affidavit that there are reasonable grounds to believe that certain property subject to
under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the
ing premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Chevrolet Caprice, 4 door blue in color bearing South Carolina tag 849UPU and VIN #1G1BN69H5FY120384
red to Osia Tansha Feaster of 533 S. Center Street, Spartanburg, S.C. 29301

therefore, you are hereby authorized to search premises for the property described below, and to seize such
ty if found:

DESCRIPTION OF PROPERTY SOUGHT

nd all evidence pertaining to the death/s of known victim/s or unknown victim/s to include, but not limited to
, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets,
casings, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may
been used to cause injury or death to the victim/s, clothing, blood stained clothing, hair, fabric fibers. Also the
ty of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or
es that tend to show who has control over or resides at the premises to be searched.

Search Warrant shall not be valid for more than ten days from the date of issuance.

itten inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

in ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a
of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

py of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such
h if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such
on in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the
on, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
Feb 3, 2006, 20

[Signature] (L.S.)
Signature of Jddge

000031

2006 JUL 31 P 12:45

RETURN

I received the attached Search Warrant Feb 8, 2006, and have executed it as

Follows: On Feb 8, 2006 at 210 o'clock 7 M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with the vehicle

Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: (1) silver Verizon

cell phone (flip phone) taken from the front drivers seat of the
vehicle. Nothing else taken.

Search stopped at 2:28 pm.

This inventory was made in the presence of Inv. Heather Forrester & Inv. Russell

AND Porter

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____

Day of _____

Heather G. Forrester
(Signature of Executing Office)

(L.S.)

Signature of Judge

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

COPY

SEARCH WARRANT

DATE February 10, 2006

OFFICER INV Heather Forrester

(05/09/07) : 00051

CA Price

2/10/06

(05/09/07) : 00052

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG, SC

SEARCH WARRANT

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door blue in color bearing South Carolina tag of 849-UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of 533 South Center Street, Spartanburg, SC 29301.

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death/s of known victim/s to include, but not limited to blood, shell casings, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stained clothing, hair, fabric fibers. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over the premise to be searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
Feb 10, 2006

James P. [Signature] (L.S.)
Signature of Judge

(05/09/07) : 00053

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC) •

Personally appeared before me, one Heather Forrester

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death/s or assault of known victim/s or unknown victim/s to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victim/s, clothing, blood stained clothing, hair, fabric fibers and cellular phones. Also the identity of any unknown victims, how they died and who or what is responsible for their deaths. Any paperwork or articles that tend to show who has control over or resides at the premises to be searched.

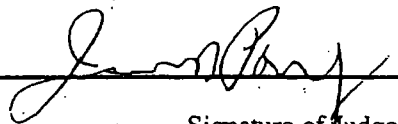
DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of 533 South Center Street, Spartanburg SC 29301.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

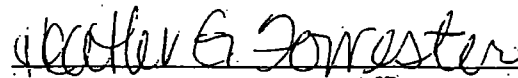
On 02-02-06 Officers of the Public Safety Dept responded to an reported call of two victims shot on eodasia Dr and Chester St. Evidence collected from the vehicle suggest that the suspect placed several telephone calls to a home phone and a cell phone that was found to belong to Osia Feaster. Through a victim interview, the victim identified the above listed vehicle as being parked at the residence where the suspect was picked up. Also the victim identified a jacket, which was lying in the front seat of this vehicle as the jacket the suspect was wearing during the crime. Speaking with the registered owner of the vehicle, she stated that she had given her keys to the above vehicle to Charles Teamer. Due to the fact that there is evidence of this crime left in the vehicle your affiant request a search warrant for the above listed property.

Sworn to before me



Signature of Judge

Feb 10, 2006



Affiant

Address 145 W Broadway St
SP+BG SC 29306
 Phone 516-9035

(05/09/07) : 00054

RETURN

Received the attached Search Warrant _____, 20____, and have executed it as

Follows; On Feb 10, 2006 at 11 00 Am o'clock 11 M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Osia Feather

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

Green Down Jacket

Red Rug

This inventory was made in the presence of Inv. R. Porter

AND E. Guthrie Inv. H. Forrester

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 14th

of Feb 2006) Russell Rob
(Signature of Executing Office)

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE FEBRUARY 22, 2006

OFFICER INV RUSSELL PORTER

(05/09/07) : 000039

(05/09/07) : 00040

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 Door, blue in color bearing South Carolina tag 849 UPN and VIN
1G1BN69H5FY120384 registered to Osia Feaster of 533 South Center St. Spartanburg SC 29310

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victim to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, used to cause injury or death to the victim, clothing, blood stained clothing, hair, fabric fibers, cellular telephone, telephone bills or other papers that show ownership or who resides at this property and any other items of evidentiary value.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg SC
20 07

Signature of Judge (L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

Personally appeared before me, one INV RUSSELL PORTER
 Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victim to include, but not limited to blood, body fluids, or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, shell casings, projectiles, bullet fragments, used to cause injury or death to the victim, clothing, blood stained clothing, hair, fabric fibers, cellular telephone, telephone bills or other papers that show ownership or who resides at this property and any other items of evidentiary value.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

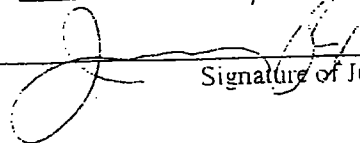
1985 Chevrolet Caprice, 4 Door, blue in color bearing South Carolina tag 849 UPN and VIN
 1G1BN69H5FY120384 registered to Osia Feaster of 533 South Center St. Spartanburg SC 29310

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/06 Spartanburg Public Safety Department officers responded to a shooting at Theodosia Drive and Chester Street. Upon arrival officers discovered that a black male had been murdered in a 1997 Toyota Four Runner, registered to David Proctor. Officers located David Michael Proctor at 286 Fairforest Rd. with multiple gun shot wounds. Mr. Proctor stated that the deceased victim had used his cellular telephone to call the person they picked up and told him that they were on the way to pick him up. Mr. Proctor gave recounts of what happened and relayed to police that he and the deceased victim had picked up a black male in front of 533 South Center Street minutes before the shooting and that the person that they picked up was the one shooting. The victim recalls seeing a vehicle parked in the drive of the residence that matched the 1985 Chevrolet Caprice registered to Osia Feaster (533 South Center St). The subject Nathaniel Charles Teamer was found with the vehicle, the items sought may connect or provide evidence to link him to this crime.

Sworn to and Subscribed before me

This 1st day of March 2006


 Signature of Judge

Russell D. Porter
 Affiant
 Address 1415 W. Broad St.
Spartanburg, S.C. 29306
 Phone 866-2845

RETURN

I received the attached Search Warrant 03-01-06, 20 06, and have executed it as

Follows: On 03-01- 2006 at 0930 o'clock A M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with TO Vehicle

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 1 Color Photo of person in car

Bottle, 1 Unopened Cigarette Butt, 1 Box of Green Beans, 1 Unopened Film

Receipt, 1 Disposable Camera Box, 1 Pair of Sunglasses, 1 Kn. Fo, 1 minute hand

Orange Slice Bottle, 4 Cigarette Butts From Driver's Floor, 1 Hand Rolled Cigar,

5 - Flares, 6 Sigs, 35 Hand Print From Interior of Vehicle, Paper Print

From Rear View Mirror, Nothing Else Taken

This inventory was made in the presence of Forensic S.W. Anthony Westfall, Forensic Inv

AND E.U. Gethin

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this

Day of

6th
March 2006

Signature of Judge

(L.S.)

Signature of Executing Office

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 10, 2006

OFFICER INV RUSSELL PORTER

RECORDED 10/20/06

(05/09/07) : 00060

STATE OF SOUTH CAROLINA

SEARCH WARRANT

UNTY OF Spartanburg, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF Spartanburg, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN
1G1BN69H5FY120384 registered to Osia Feaster of 533 S Center St Spartanburg SC 29301

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victims to include, but not limited to blood, shell casings, body fluid or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stain clothing, hair, fibers and cell phones. Also the identity of any unknown victims, how they died and who or what caused the death. Any paperwork or articles that tend to show who has control over the premise to be searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Spartanburg County Magistrate Court

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, S.C.
Feb 14, 2006

Jamie Cochran (L.S.)
Signature of Judge

(05/09/07) : 00061

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Spartanburg, SC

Personally appeared before me, one Russell Porter
 Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all evidence pertaining to the death of known victims to include, but not limited to blood, shell casings, body fluid or other items/evidence that would yield DNA, fingerprints, weapons, guns, ammunition, bullets, projectiles, bullet fragments, knives, sharp edged instruments, blount instruments, or other objects that may have been used to cause injury or death to the victims, clothing, blood stain clothing, hair, fibers and cell phones. Also the identity of any unknown victims, how they died and who or what caused the death. Any paperwork or articles that tend to show who has control over the premise to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

1985 Chevrolet Caprice, 4 door, blue in color bearing South Carolina tag 849 UPU and VIN 1G1BN69H5FY120384 registered to Osia Feaster of 533 S Center St Spartanburg SC 29301

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

On 02-02-06 Officers with the Spartanburg Public Safety Department responded to a call of two shooting victims at the intersection of Theodosia and Chester Streets. Evidence collected from the vehicle suggests that the suspect placed several phone calls to a home and a cell phone that was found to be listed to Osia Feaster, whom the above listed vehicle is registered. Through a victim interview, the victim identified the above listed vehicle as being similar to a vehicle parked in the driveway of the residence where the suspect was picked up. Also the victim identified a green jacket in the front seat of this vehicle as being similar to the jacket worn by the suspect during the commission of this crime. Ms Feaster stated that she did give the keys to the above listed vehicle to Charles Teamer who was arrested by the SCDF within hours after this crime. Due to the fact that evidence may exist in this vehicle, your affiant request a search warrant for the vehicle.

Sworn to and Subscribed before me

This 14 day of Feb, 2006

[Signature]
 Signature of Judge

(L. S.)

11:03 AM

Affiant

Address _____

Phone _____

State of South Carolina



Spartanburg County Court House
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386

Cherokee County Court House
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

BARRY J. BARNETTE

Solicitor, Seventh Judicial Circuit

September 1, 2011

Tricia A. Blanchette, Esquire
Post Office Box 12725
Columbia, South Carolina 29211

RE: Nathaniel Teamer

Dear Ms. Blanchette:

Below, please find our response to your Order Authorizing Discovery and Subpoena on case number 2010-CP-42-4181:

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.

A copy of the Spartanburg Public Safety Department - General Orders is attached denoted #1.

2. The name of the attorney assigned to represent Kelvin McKinney after his apprehension in the Detroit area. A copy of the video from both statements, which are attached herein, given by Kelvin McKinney to Spartanburg Public Safety Department. The Spartanburg Solicitor's Office has provided counsel with a copy of the video statement introduced at trial as Defendant's Exhibit #1, but it is the Applicant's belief that there is a video that corresponds with both of the attached statements of Kelvin McKinney. See Transcript p. 257

It is unknown to officers of the Public Safety Department nor Solicitor's Office the name of the attorney assigned to represent Kelvin McKinney in the Detroit area. The video statement presented as Exhibit #1 is the only video statement made. The statement of 02/14/2007 was not videotaped per Investigator Jason Bryant.

3. The video and written report of the statement obtained from Antonio Hunter in January 2006 by the Spartanburg Public Safety Department, which was argued as the motive for the charges at issue. See Transcript p. 277.

Per Investigator Jason Bryant there was no video made at the time of the statement.

4. Any written or video recorded statements obtained from Rick Bartlett. See Transcript p. 104

After speaking with Investigators from Spartanburg Public Safety, there are no written or video recorded statements from this subject.

5. Any and all information on the suspect "Leon Franklin" listed on the SLED report regarding DNA analysis. Transcript p. 351.

After speaking with Investigator Porter, he has no information on Leon Franklin and does not recall any information on this person.

In response to your Order Authorizing Discovery and Subpoena on case number 2010-CP-42-4049:

1. A complete copy of the Spartanburg Public Safety Department policy that was in place in 2006 for vehicle inventory searches.

See attached copy from Item number 1 in case number 2010-CP-42-4181.

2. Any materials used by the Spartanburg County Solicitor's Office and/or Spartanburg Public Safety Division to establish the authenticity and foundation for the recorded detention center call introduced as State's Exhibit #21-A. Transcript p. 124. Specifically, but not limited to, the detention center phone logs, the times detention center inmates located in Pod 5 were given access to the phone on February 5, 2006, and a listing of all Spartanburg County Detention Center employees assigned to Pod 5 and inmates calling areas on February 5, 2006.

Jail calls are subpoenaed from the Spartanburg County Detention Facility. The Detention Facility can verify their recording procedures, as well as the procedure for inmate access for phone use, and their employment rosters and schedules.

3. Any materials and/or information used to establish a chain of custody for the letters introduced through the testimony of Erica Gray. Transcript p. 152-3.

Spartanburg Public Safety Department Evidence Sheets (copy enclosed) denotes letters recovered from Erica Gray by Heather Forrester. These were turned into the Spartanburg Public Safety Evidence Room (Reeves) before being delivered to SLED by Investigator Todd Wilson.

If you should have any questions or need any additional information, please feel free to contact me.

Sincerely,



Sharon O. Peeler
7th Judicial Circuit

sop
Enclosures:

#1

SPARTANBURG PUBLIC SAFETY DEPARTMENT - GENERAL ORDERS



TITLE: IMPOUNDED VEHICLE INVENTORY		NUMBER: 720.3
EFFECTIVE DATE: 07/09/98		REVIEW DATE: September
☐ New ☐ Amends ☒ Rescinds		
AUTHORITY: Director A. Tony Fisher	DISTRIBUTION: A	TOTAL PAGES: 1

PURPOSE

The purpose of this policy is to ensure that all impounded vehicles are inventoried and that the inventory is properly documented.

DEFINITION

Impounded vehicle - is a vehicle that is held in legal custody.

POLICY

It shall be the policy of the Spartanburg Public Safety Department that every vehicle impounded by an officer will have all items in the vehicle inventoried and listed on the wrecker/owners request report form or on a property report. The inventory list or property report shall be attached to the incident report and shall become a part of the case file.

Rescinds Policy 210-409 dated April 28, 1995

(05/09/07) : 00111
SPARTANBURG PUBLIC SAFETY DEPARTMENT

PROPERTY REPORT		1. Status - Check One ☒ Evidence ☐ Recovered Property ☐ Return to Owner ☐ Destroy		2. Case No. 02-0063-66	
3. Date and Time Impounded 1 20-06 0900		4. SLED Lab No.		5. For Prop - Room Use Only	
6. Owner/Victim's Name Susan Pector		8. Owner/Victim's Address [REDACTED]		7. Where property was impounded (Give exact location - address) [REDACTED]	
11. Suspect's Name		12. Suspect's Address		13. Charges	
14. Item		15. Quantity		16. Description	
17. I hereby acknowledge that the above described property taken from my possession and that I have signed a copy of this report.		18. Impounding Officer (Print Full Name) R. Pector		19. Receipt No. 0201	
20. Signature Russell D. Pector		21. Reason		22. Date and Time Received	
23. Received By		24. Reason		25. Date and Time Received	
26. Received By		27. Reason		28. Date and Time Received	
29. Received By		30. Reason		31. Date and Time Received	
32. Received By		33. Reason		34. Date and Time Received	
35. Received By		36. Reason		37. Date and Time Received	
38. Received By		39. Reason		40. Date and Time Received	
41. Received By		42. Reason		43. Date and Time Received	
44. Received By		45. Reason		46. Date and Time Received	
47. Received By		48. Reason		49. Date and Time Received	
50. Received By		51. Reason		52. Date and Time Received	
53. Received By		54. Reason		55. Date and Time Received	
56. Received By		57. Reason		58. Date and Time Received	
59. Received By		60. Reason		61. Date and Time Received	
62. Received By		63. Reason		64. Date and Time Received	
65. Received By		66. Reason		67. Date and Time Received	
68. Received By		69. Reason		70. Date and Time Received	
71. Received By		72. Reason		73. Date and Time Received	
74. Received By		75. Reason		76. Date and Time Received	
77. Received By		78. Reason		79. Date and Time Received	
80. Received By		81. Reason		82. Date and Time Received	
83. Received By		84. Reason		85. Date and Time Received	
86. Received By		87. Reason		88. Date and Time Received	
89. Received By		90. Reason		91. Date and Time Received	
92. Received By		93. Reason		94. Date and Time Received	
95. Received By		96. Reason		97. Date and Time Received	
98. Received By		99. Reason		100. Date and Time Received	

STATE OF SOUTH CAROLINA.

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 03, 2006

OFFICER Jay C. Steadman

(05/24/07) : 00040

(05/24/07) : 00041

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SCANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Cingular Wireless Compliance Center
11760 U. S. Highway 1
North Palm Beach, FL 33408

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all originating and terminating calls for cellular telephone number 864-921- [REDACTED] between the dates and times of 02/01/06 and 02/04/06 to include any text messages or voice messages available. Also subscriber information for this number needed.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
Feb. 3, 2006

Nancy C. [Signature] (S.S.)
Signature of Judge

(05/24/07) : 00042

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

Personally appeared before me, one Inv. Jay C. Steadman
 Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all originating and terminating calls for cellular telephone number 864-921- [REDACTED] between the dates and times of 02/01/06 and 02/04/06 to include any text messages or voice messages available. Also subscriber information for this number needed.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Cingular Wireless Compliance Center
 11760 U. S. Highway 1
 North Palm Beach, FL 33408

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/06 Spartanburg Public Safety Department Officers responded to the scene of a shooting. Upon arrival officers discovered that one subject was deceased and another shot multiple times. Officers learned during the course of the investigation that the deceased had contacted an individual by cellular telephone that they later picked up. This individual was not at the scene when Police arrived and the number in the victims telephone that was called is 864-921- [REDACTED]. The subscriber for this cellular telephone number is needed to identify for possible connection to this crime. The service provider for this Cellular telephone number is Cingular Wireless.

Sworn to and Subscribed before me

This 3 day of Feb., 2006

Mary C. Atkins
 Signature of Judge

Jay C. Steadman
 Affiant
 Address 145 W. Broad St.
Spartanburg SC 29306
 Phone 864-596-2065

(05/24/07) : 00042

RETURN

I received the attached Search Warrant Feb 7, 2006, and have executed it as:

Follows: On Feb 7, 2006 at 6:18 o'clock P M.

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Cingular Compliance Center
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

[illegible]

This inventory was made in the presence of Inv. R. Porter

AND J. C. Steadman

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 10th

Day of February 2006 | Russell Potts

Signature of Judge (L.S.)

(Signature of Executing Office)

File Number: 167080

Subscriber Activity
(CDR)

cingular®

Call Type	Service Type	Call Date/Time	Cell Location	City Called	State	Calling Number	Number Called	Call Duration
CF	VM_RET	2/4/2006 22:18	GREENVILLE, SC, USA	-	NC	18645901790	17044518989	3
MT	LOCAL	2/4/2006 22:18	SC, USA	GREENVILLE	SC	18645901790	18649210826	0
CF	VM_RET	2/4/2006 19:53	GREENVILLE, SC, USA	-	NC	18643572184	17044518989	301
MT	LOCAL	2/4/2006 19:53	SC, USA	GREENVILLE	SC	18643572184	18649210826	0
MT	LOCAL	2/4/2006 19:53	SC, USA	GREENVILLE	SC	18643572184	18649210826	0
CF	VM_RET	2/4/2006 19:53	GREENVILLE, SC, USA	-	NC	18643572184	17044518989	6
CF	VM_RET	2/4/2006 18:43	GREENVILLE, SC, USA	-	NC	18644760959	17044518989	6
MT	LOCAL	2/4/2006 18:43	SC, USA	GREENVILLE	SC	18644760959	18649210826	0
CF	VM_RET	2/4/2006 14:39	GREENVILLE, SC, USA	-	NC	18643572744	17044518989	4
MT	LOCAL	2/4/2006 14:39	SC, USA	GREENVILLE	SC	18643572744	18649210826	0
CF	VM_RET	2/4/2006 7:09	GREENVILLE, SC, USA	-	NC	18645294724	17044518989	5
MT	LOCAL	2/4/2006 7:09	SC, USA	GREENVILLE	SC	18645294724	18649210826	0
CF	VM_RET	2/4/2006 6:53	GREENVILLE, SC, USA	-	NC	18645748231	17044518989	177
MT	LOCAL	2/4/2006 6:53	SC, USA	GREENVILLE	SC	18645748231	18649210826	0
CF	VM_RET	2/4/2006 2:04	GREENVILLE, SC, USA	-	NC	18645826134	17044518989	148
MT	LOCAL	2/4/2006 2:04	SC, USA	GREENVILLE	SC	18645826134	18649210826	0
CF	VM_RET	2/3/2006 20:52	GREENVILLE, SC, USA	-	NC	18645294724	17044518989	3
MT	LOCAL	2/3/2006 20:52	SC, USA	GREENVILLE	SC	18645294724	18649210826	0
MO	LD	2/2/2006 21:06	USA	-	SC	18649210826	18645851362	60
MO	LD	2/2/2006 20:55	USA	-	MI	18649210826	13136144815	9
MO	LD	2/2/2006 20:48	USA	-	SC	18649210826	18645851362	16
MO	LD	2/2/2006 20:47	USA	-	SC	18649210826	18645426150	12
MT	LD	2/2/2006 20:45	USA	GREENVILLE	SC	18645426150	18649210826	5
MT	LD	2/2/2006 20:45	USA	GREENVILLE	SC	18645426150	18649210826	11
MO	LD	2/2/2006 20:43	USA	-	SC	18649210826	18645426150	27
MO	LD	2/2/2006 20:35	USA	-	SC	18649210826	18642379833	33
MT	LD	2/2/2006 20:34	USA	GREENVILLE	SC	1864376312	18649210826	11
MT	LD	2/2/2006 20:32	USA	GREENVILLE	SC	1864376312	18649210826	25
CF	VM_RET	2/2/2006 20:31	GREENVILLE, SC, USA	-	NC	18643676312	17044518989	9
MT	LD	2/2/2006 20:31	USA	GREENVILLE	SC	1864376312	18649210826	0
MT	LD	2/2/2006 20:18	USA	GREENVILLE	SC	18645851362	18649210826	59
MT	LD	2/2/2006 19:59	USA	GREENVILLE	SC	1864376312	18649210826	61
MT	LD	2/2/2006 19:48	USA	GREENVILLE	SC	18648211798	18649210826	13
MT	LD	2/2/2006 19:35	USA	GREENVILLE	SC	18645826134	18649210826	4
CF	VM_RET	2/2/2006 19:32	GREENVILLE, SC, USA	-	NC	18648211815	17044518989	66
MT	LD	2/2/2006 19:32	USA	GREENVILLE	SC	18648211815	18649210826	0
CF	VM_RET	2/2/2006 18:59	GREENVILLE, SC, USA	-	NC	18649211093	17044518989	4
MT	LD M2M	2/2/2006 18:59	USA	GREENVILLE	SC	18649211093	18649210826	0
MO	LD M2M	2/2/2006 18:57	USA	GREENVILLE	SC	18649210826	18644944888	37
CF	VM_RET	2/2/2006 18:48	GREENVILLE, SC, USA	-	NC	18644944888	17044518989	4
MT	LD M2M	2/2/2006 18:47	USA	GREENVILLE	SC	18644944888	18649210826	0
MT	LD	2/2/2006 18:01	USA	GREENVILLE	SC	18646806024	18649210826	10
MT	LD	2/2/2006 17:53	USA	GREENVILLE	SC	18646806024	18649210826	41
MT	LD M2M	2/2/2006 17:28	USA	GREENVILLE	SC	18644944888	18649210826	20
MO	LD	2/2/2006 17:03	USA	-	NC	18649210826	19102467043	81
MO	LD	2/2/2006 16:49	USA	-	SC	18649210826	18643840478	23
CF	VM_RET	2/2/2006 16:08	GREENVILLE, SC, USA	-	NC	18644979644	17044518989	4
MT	LD M2M	2/2/2006 16:06	USA	GREENVILLE	SC	18644979644	18649210826	0
MT	LD	2/2/2006 15:52	USA	GREENVILLE	SC	18647238101	18649210826	17
MO	LD	2/2/2006 15:50	USA	-	SC	18649210826	18647238101	26
MT	LD	2/2/2006 15:26	USA	GREENVILLE	SC	18645426792	18649210826	13
MT	LD	2/2/2006 15:05	USA	GREENVILLE	SC	18648211798	18649210826	62
CF	VM_RET	2/2/2006 15:03	GREENVILLE, SC, USA	-	NC	18642377096	17044518989	3
MT	LD	2/2/2006 15:03	USA	GREENVILLE	SC	18642377096	18649210826	0
MO	LD M2M	2/2/2006 15:00	USA	GREENVILLE	SC	18649210826	18643847710	30
MT	LD	2/2/2006 14:34	USA	GREENVILLE	SC	18645426792	18649210826	0
MT	LD	2/2/2006 14:29	USA	GREENVILLE	SC	18642051205	18649210826	53
MT	LD	2/2/2006 14:09	USA	GREENVILLE	SC	18646217161	18649210826	12

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2/2/2006

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File Number: 167080

Subscriber Activity
(CDR)

X cingular®

CF	VM_RET	2/2/2006 14:07	GREENVILLE,SC,USA	-	NC	18646217161	17044518989	10
MT	LD	2/2/2006 14:07	USA	GREENVILLE	SC	18646217161	18649210826	0
CF	VM_RET	2/2/2006 13:48	GREENVILLE,SC,USA	-	NC	18642062791	17044518989	20
MT	LD	2/2/2006 13:48	USA	GREENVILLE	SC	18642062791	18649210826	0
SMS-MT	SMS	2/2/2006 13:09	None	GREENVILLE	SC	18643840478	18649210826	1
MT	LD	2/2/2006 12:22	USA	GREENVILLE	SC	18646211798	18649210826	78
CF	VM_RET	2/2/2006 12:22	GREENVILLE,SC,USA	-	NC	18646211798	17044518989	4
MT	LD	2/2/2006 12:22	USA	GREENVILLE	SC	18646211798	18649210826	0
MO	LD	2/2/2006 12:22	USA	-	SC	18649210826	18645426150	36
MO	LD	2/2/2006 12:10	USA	-	SC	18649210826	18642051205	30
MT	LD	2/2/2006 11:56	USA	GREENVILLE	SC	18642055339	18649210826	32
MO	LOCAL	2/2/2006 11:50	SC,USA	-	SC	18649210826	18642051205	36
MT	LOCAL	2/2/2006 11:48	SC,USA	GREENVILLE	SC	18642051205	18649210826	18
MO	LD	2/2/2006 11:45	USA	-	SC	18649210826	18642051205	72
MO	LD	2/2/2006 11:41	USA	-	SC	18649210826	18645426150	41
MT	LD	2/2/2006 11:38	USA	GREENVILLE	SC	18642062791	18649210826	4
MO	LD	2/2/2006 11:21	USA	-	SC	18649210826	18642062791	21
MT	LD	2/2/2006 11:04	USA	GREENVILLE	SC	18645426150	18649210826	58
MT	LD	2/2/2006 10:48	USA	GREENVILLE	SC	18642062791	18649210826	82
MO	LD	2/2/2006 10:28	USA	-	SC	18649210826	18646211798	29
MO	LD M2M	2/2/2006 10:23	USA	GREENVILLE	SC	18649210826	18644945731	38
MT	LD	2/2/2006 9:55	USA	GREENVILLE	SC	18642053895	18649210826	18
MT	LD	2/2/2006 9:50	USA	GREENVILLE	SC	18645854361	18649210826	67
CF	VM_RET	2/2/2006 9:47	GREENVILLE,SC,USA	-	NC	18644945731	17044518989	3
MT	LD M2M	2/2/2006 9:47	USA	GREENVILLE	SC	18644945731	18649210826	0
CF	VM_RET	2/2/2006 9:21	GREENVILLE,SC,USA	-	NC	18642377713	17044518989	2
MT	LD	2/2/2006 9:21	USA	GREENVILLE	SC	18642377713	18649210826	0
CF	VM_RET	2/2/2006 9:07	GREENVILLE,SC,USA	-	NC	18646211798	17044518989	0
CF	VM_RET	2/2/2006 8:14	GREENVILLE,SC,USA	-	NC	18645749106	17044518989	4
MT	LD	2/2/2006 8:14	USA	GREENVILLE	SC	18645749106	18649210826	0
CF	VM_RET	2/2/2006 8:50	GREENVILLE,SC,USA	-	NC	18643572044	17044518989	4
MT	LD	2/2/2006 2:49	USA	GREENVILLE	SC	18643572044	18649210826	0
CF	VM_RET	2/2/2006 2:36	GREENVILLE,SC,USA	-	NC	1234567890	17044518989	171
MT	LD	2/2/2006 2:35	USA	GREENVILLE	SC	1234567890	18649210826	0
CF	VM_RET	2/2/2006 2:35	GREENVILLE,SC,USA	-	NC	1234567890	17044518989	11
MT	LD	2/2/2006 2:34	USA	GREENVILLE	SC	1234567890	18649210826	0
CF	VM_RET	2/2/2006 2:08	GREENVILLE,SC,USA	-	NC	18645423838	17044518989	2
MT	LD	2/2/2006 2:05	USA	GREENVILLE	SC	18645423838	18649210826	0
MT	LD	2/2/2006 1:42	USA	GREENVILLE	SC	18645423838	18649210826	2
CF	VM_RET	2/2/2006 0:21	GREENVILLE,SC,USA	-	NC	18645423838	17044518989	5
MT	LD	2/2/2006 0:21	USA	GREENVILLE	SC	18645423838	18649210826	0
CF	VM_RET	2/1/2006 23:35	GREENVILLE,SC,USA	-	NC	18643572044	17044518989	5
MT	LD	2/1/2006 23:35	USA	GREENVILLE	SC	18643572044	18649210826	0
CF	VM_RET	2/1/2006 23:35	GREENVILLE,SC,USA	-	NC	18643572044	17044518989	5
MT	LD	2/1/2006 23:35	USA	GREENVILLE	SC	18643572044	18649210826	0
CF	VM_RET	2/1/2006 23:28	GREENVILLE,SC,USA	-	NC	18645426150	18649210826	38
MT	LD	2/1/2006 23:28	USA	GREENVILLE	SC	18645426150	18649210826	4
CF	VM_RET	2/1/2006 23:28	GREENVILLE,SC,USA	-	NC	18645426150	17044518989	4
MT	LD	2/1/2006 23:28	USA	GREENVILLE	SC	18645426150	18649210826	0
CF	VM_RET	2/1/2006 23:23	GREENVILLE,SC,USA	-	NC	18646218310	17044518989	4
MT	LD	2/1/2006 23:23	USA	GREENVILLE	SC	18646218310	18649210826	0
MT	LD	2/1/2006 23:07	USA	GREENVILLE	SC	18642053201	18649210826	40
MT	LOCAL	2/1/2006 22:38	SC,USA	GREENVILLE	SC	18645428782	18649210826	18
MT	LOCAL	2/1/2006 21:47	SC,USA	GREENVILLE	SC	18645426150	18649210826	8
MO	LOCAL	2/1/2006 21:48	SC,USA	-	SC	18649210826	18645426150	45
MO	LD	2/1/2006 21:43	SC,USA	-	GA	18649210826	14044680141	66
CF	VM_RET	2/1/2006 21:41	GREENVILLE,SC,USA	-	NC	14044680141	17044518989	39
MT	LD	2/1/2006 21:40	SC,USA	GREENVILLE	SC	14044680141	18649210826	0
MO	LOCAL	2/1/2006 21:31	SC,USA	-	SC	18649210826	18642051205	43
CF	VM_RET	2/1/2006 21:09	GREENVILLE,SC,USA	-	NC	14044680141	17044518989	5
MT	LD	2/1/2006 21:09	USA	GREENVILLE	SC	14044680141	18649210826	0
CF	VM_RET	2/1/2006 21:08	GREENVILLE,SC,USA	-	NC	14044680141	17044518989	22
MT	LD	2/1/2006 21:08	USA	GREENVILLE	SC	14044680141	18649210826	0
CF	VM_RET	2/1/2006 21:03	GREENVILLE,SC,USA	-	NC	14044680141	17044518989	20

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2/7/2006

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File Number: 167080

Subscriber Activity
(CDR)

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MT	LD	2/1/2006 21:04	USA	GREENVILLE	SC	14044680141	18649210826	0
MO	LD	2/1/2006 21:02	USA	-	GA	18649210826	14044680141	68
MO	LD	2/1/2006 20:40	USA	-	SC	18649210826	18642051205	23
MO	LD	2/1/2006 20:35	USA	-	SC	18649210826	18645426150	29
CF	VM_RET	2/1/2006 20:26	GREENVILLE, SC, USA	-	NC	14044680141	17044518989	5
MT	LD	2/1/2006 20:26	USA	GREENVILLE	SC	14044680141	18649210826	0
CF	VM_RET	2/1/2006 20:02	GREENVILLE, SC, USA	-	NC	18642051892	17044518989	3
MT	LD	2/1/2006 20:02	USA	GREENVILLE	SC	18642051892	18649210826	0
MT	LD	2/1/2006 19:57	USA	GREENVILLE	SC	13132058535	18649210826	60
MO	LD	2/1/2006 19:50	USA	-	SC	18649210826	18647066309	30
MT	LD	2/1/2006 19:45	USA	GREENVILLE	SC	18648211798	18649210826	21
CF	VM_RET	2/1/2006 19:06	GREENVILLE, SC, USA	-	NC	18642377096	17044518989	3
MT	LD	2/1/2006 18:05	USA	GREENVILLE	SC	18642377098	18649210826	0
MT	LOCAL	2/1/2006 18:16	SC, USA	GREENVILLE	SC	18645426150	18649210826	9
CF	VM_RET	2/1/2006 18:03	GREENVILLE, SC, USA	-	NC	18647066309	17044518989	3
MT	LOCAL	2/1/2006 18:03	SC, USA	GREENVILLE	SC	18647066309	18649210826	0
CF	VM_RET	2/1/2006 18:31	GREENVILLE, SC, USA	-	NC	18642054552	17044518989	7
MT	LOCAL	2/1/2006 18:30	SC, USA	GREENVILLE	SC	18642054552	18649210826	0
CF	VM_RET	2/1/2006 18:22	GREENVILLE, SC, USA	-	NC	18642052791	17044518989	0
MT	LD	2/1/2006 18:17	USA	GREENVILLE	SC	18642051205	18649210826	16
MO	LOCAL	2/1/2006 18:12	SC, USA	-	SC	18649210826	18642051205	32
MO	LOCAL	2/1/2006 18:04	SC, USA	-	SC	18649210826	18642051205	36
CF	VM_RET	2/1/2006 18:04	GREENVILLE, SC, USA	-	NC	18645822338	17044518989	24
MT	LOCAL	2/1/2006 18:03	SC, USA	GREENVILLE	SC	18645822338	18649210826	0
MT	LOCAL	2/1/2006 18:02	SC, USA	GREENVILLE	SC	18645822338	18649210826	14
MT	LOCAL	2/1/2006 15:55	SC, USA	GREENVILLE	SC	18642052791	18649210826	54
MO	LOCAL	2/1/2006 15:54	SC, USA	-	SC	18649210826	18642056822	36
MO	LOCAL	2/1/2006 15:49	SC, USA	-	SC	18649210826	18645854361	32
MT	LOCAL	2/1/2006 15:26	SC, USA	GREENVILLE	SC	18643465027	18649210826	14
MT	LOCAL	2/1/2006 15:22	SC, USA	GREENVILLE	SC	18642379833	18649210826	156
MO	LOCAL	2/1/2006 15:15	SC, USA	-	SC	18649210826	18646211798	26
MO	LOCAL	2/1/2006 15:14	SC, USA	-	SC	18649210826	18642055339	65
MO	LOCAL	2/1/2006 15:07	SC, USA	-	SC	18649210826	18642056931	66
MT	LOCAL	2/1/2006 14:59	SC, USA	GREENVILLE	SC	18642051205	18649210826	25
MO	LOCAL	2/1/2006 14:52	SC, USA	-	SC	18649210826	18645822338	57
MO	LOCAL	2/1/2006 14:26	SC, USA	-	SC	18649210826	18645854361	36
MO	LOCAL	2/1/2006 14:21	SC, USA	-	SC	18649210826	18642377446	86
MT	LOCAL	2/1/2006 14:03	SC, USA	GREENVILLE	SC	18642052791	18649210826	7
CF	VM_RET	2/1/2006 12:21	GREENVILLE, SC, USA	-	NC	18645851362	17044518989	1
MT	LD	2/1/2006 12:21	USA	GREENVILLE	SC	18645851362	18649210826	0
MO	LD	2/1/2006 11:51	USA	-	SC	18649210826	18642051205	33
CF	VM_RET	2/1/2006 11:51	GREENVILLE, SC, USA	-	NC	18642051205	17044518989	3
MT	LD	2/1/2006 11:50	USA	GREENVILLE	SC	18642051205	18649210826	0
MT	LOCAL	2/1/2006 11:50	SC, USA	GREENVILLE	SC	18642377446	18649210826	0
MT	LD	2/1/2006 11:48	USA	GREENVILLE	SC	18645426150	18649210826	5
CF	VM_RET	2/1/2006 11:45	GREENVILLE, SC, USA	-	NC	18645426150	17044518989	3
MT	LD	2/1/2006 11:45	USA	GREENVILLE	SC	18645426150	18649210826	0
MO	LD	2/1/2006 11:43	USA	-	SC	18649210826	18645426150	32
MO	LD	2/1/2006 11:42	USA	-	SC	18649210826	18642051205	59
MT	LD	2/1/2006 11:35	USA	GREENVILLE	SC	18648211798	18649210826	13
MT	LD	2/1/2006 11:26	USA	GREENVILLE	SC	18646217181	18649210826	46

All "Calls to Destination" and "Subscriber Activity" reports are recorded in Local Switch Time.
 PROPRIETARY AND CONFIDENTIAL
 Not for use or disclosure outside Cingular Wireless and its Affiliates except under written agreement

2/7/2006

3 of 3

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

✓
SEARCH WARRANT

DATE FEBRUARY 07, 2006

OFFICER INV RUSSELL PORTER

(05/09/07)

000000

(05/09/07) 00071
STATE OF SOUTH CAROLINA
SEARCH WARRANT
 COUNTY OF SPARTANBURG, SC

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
 MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Subpoena Complicance
 Att: Melanie
 Sprint Specprum
 6480 Sprint Parkway Oakland Park, KS 66251

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

Any and all phone call received or placed from cell number 864-357- to include: cell tower information and subscriber information. Call records from dates and times: 02-02-06 to 02-03-06 during the hours of 12:00 noon to 12:00 midnight.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

SPARTANBURG
7 FEB, 2006 SC

[Signature] (L.S.)
 Signature of Judge

STATE OF SOUTH CAROLINA

(05/09/07)

00072

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

sonally appeared before me, one Inv Russell Porter Who
being duly sworn, says that there is probable cause to believe that certain property subject to seizure under
provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following
premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

Any and all phone call received or placed from cell number 864-357- to include: cell tower information
and subscriber information. Call records from dates and times: 02-02-06 to 02-03-06 during the hours of 12:00
noon to 12:00 midnight.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Subpoena Complicance

Att: Melanie

Sprint Spectrum

6480 Sprint Parkway Oakland Park, KS 66251

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02-02-02006 Officers with the Spartanburg Public Safety Department responded to the intersection of
Theodosia Dr. / Chester St. after a call was made to 911 stating that a car was in the street with a black male in
passenger's seat with a gun shot to the head. The caller stated that there was a subject at their door that was
the driver of the vehicle and he also had been shot. Officers discovered a 1997 Toyota 4-Runner off the
roadway in vacant lot with an unidentified body in it that appeared to have been shot in the head. Officers
secured the area and notified investigators. During the investigation of the incident it was discovered that the
victim's cell phone was used to place several calls to a potential suspect. This warrant is needed to access the
telephone records and retrieve any telephone numbers or call information that might be found in the telephone
records to help identify who the victim may have been in contact with prior to his demise and any suspect or
suspects that might be responsible for this crime.

Sworn to and Subscribed before me

This 7 day of FEB; 2004
Br. IX
Signature of Judge

Russell D. Porter
Affiant
Address 145 W. Broad St.
Spartanburg, S.C. 29304
Phone 864-596-2845

(05/09/07) 00073

RETURN

I received the attached Search Warrant February 07, 20 06, and have executed it as

Follows: On February 07, 20 06 at 02:45 o'clock P M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Sprint Spectrum

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 13 Pages of Telephone

Records and Subscriber Information for Telephone Number 864-357-

This inventory was made in the presence of Ind. Patten

AND Ind. Steadman

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 7th

Day of February 2006

D. T. [Signature]
Signature of Judge

(L.S.)

[Signature]
(Signature of Executing Office)

2/6/2006 4:02 PM

CALL REPORT FOR .csv\portalTemp1139259353943(1)

1 OF 2

P.04

973

CALLING_NBR	CALLED_NBR	DIALED_DIGITS	M_R_#	START_DATE	END_DATE	DURATION	REPOLL_#	1ST_CELL	LAST_CELL
(864) 587-0976	(864) 357-6312	(864) 357-6312	1	2/2/06 12:14:57	2/2/06 12:15:47	50	607	3064	3064
(864) 587-0976	(864) 357-6312	(864) 357-6312	1	2/2/06 12:49:05	2/2/06 12:52:27	202	607	3064	3064
(864) 587-0976	(11864) 357-6312	(864) 357-6312	2	2/2/06 13:19:13	2/2/06 13:19:17	4	607	4297	2003
(864) 357-6312	(864) 587-0976	(864) 587-0976	0	2/2/06 13:19:49	2/2/06 13:20:17	28	607	3064	3064
(864) 587-0976	(864) 357-6312	(864) 357-6312	1	2/2/06 13:37:02	2/2/06 13:38:31	89	607	4040	4040
(864) 357-6312	(864) 587-0976	(864) 587-0976	0	2/2/06 13:48:31	2/2/06 13:49:33	62	607	2029	2029
(864) 357-6312		542-6823	0	2/2/06 14:04:57	2/2/06 14:05:02	5	607	3040	3040
(864) 357-6312		542-6823	0	2/2/06 14:05:10	2/2/06 14:05:15	5	607	3003	3003
(864) 357-6312		515-9247	0	2/2/06 14:05:30	2/2/06 14:05:36	6	607	3040	3040
(864) 357-6312		497-4450	0	2/2/06 14:06:22	2/2/06 14:06:28	6	607	3003	3003
(864) 357-6312	(864) 515-9247	515-9247	0	2/2/06 14:06:48	2/2/06 14:07:22	34	607	2028	2028
(864) 357-6312		515-9247	0	2/2/06 14:07:21	2/2/06 14:07:56	35	607	4005	4005
(864) 357-6312	(864) 515-9247	515-9247	0	2/2/06 14:10:42	2/2/06 14:12:16	94	607	3049	3049
(864) 357-6312		542-6823	0	2/2/06 14:12:37	2/2/06 14:12:41	4	607	3049	3049
(864) 357-6312		(864) 583-5877	0	2/2/06 14:13:26	2/2/06 14:13:34	8	607	2214	2214
(864) 357-6312		597-9543	0	2/2/06 14:16:36	2/2/06 14:16:46	10	607	3001	3001
(864) 357-6312	(864) 574-8231	(864) 574-8231	0	2/2/06 14:16:55	2/2/06 14:17:58	63	607	3001	3001
(864) 515-9247	(864) 357-6312	(864) 357-6312	1	2/2/06 14:24:23	2/2/06 14:24:56	33	607	3001	3001
(864) 357-6312		444-4244	0	2/2/06 15:15:55	2/2/06 15:16:09	14	607	4297	2001
(864) 357-6312		(1864) 337-0238	0	2/2/06 15:27:17	2/2/06 15:27:26	9	607	3299	3299
(864) 357-6312		337-0238	0	2/2/06 15:27:33	2/2/06 15:27:38	5	607	3064	3064
(864) 357-6312		(864) 337-0238	0	2/2/06 15:27:46	2/2/06 15:27:51	5	607	3064	3064
(864) 357-6312		(1864) 680-9500	0	2/2/06 15:28:01	2/2/06 15:28:32	31	607	3064	3064
(864) 357-6312	(864) 377-0238	(1864) 377-0238	0	2/2/06 15:28:38	2/2/06 15:29:23	45	607	3064	3064
(864) 357-6308	(11864) 357-6312	(864) 357-6312	2	2/2/06 16:59:43	2/2/06 17:00:29	46	607	0	0
(864) 357-6312	(864) 574-8231	574-8231	0	2/2/06 17:01:57	2/2/06 17:02:59	62	607	2029	2029
	(11864) 357-6312	(864) 357-6312	2	2/2/06 17:05:15	2/2/06 17:05:20	5	607	2029	3028
(864) 357-6312	(864) 357-6312	357-6312	0	2/2/06 17:05:37	2/2/06 17:07:26	109	607	3028	3028
(864) 357-6312	(11864) 357-6312	(864) 357-6312	2	2/2/06 17:05:38	2/2/06 17:07:27	109	607	0	0
(864) 377-0238	(864) 357-6312	(864) 357-6312	1	2/2/06 17:08:03	2/2/06 17:08:15	12	607	2028	2028
(864) 357-6312	(864) 433-6358	433-6358	0	2/2/06 17:23:58	2/2/06 17:24:19	21	607	2003	2003
(864) 357-6312	(864) 357-6316	357-6316	0	2/2/06 17:24:26	2/2/06 17:26:53	147	607	2003	2003
(864) 377-0238	(11864) 357-6312	(864) 357-6312	2	2/2/06 17:48:00	2/2/06 17:49:26	86	607	2064	2064
(864) 357-6312	(864) 377-0238	(864) 377-0238	0	2/2/06 17:48:03	2/2/06 17:49:28	85	607	2064	2064
(864) 357-6312	(864) 357-6312	357-6312	0	2/2/06 17:51:34	2/2/06 17:52:12	38	607	2064	2064
(864) 357-6312	(11864) 357-6312	(864) 357-6312	2	2/2/06 17:51:35	2/2/06 17:52:12	37	607	0	0

M_R_# = { 0 = Outgoing Call; 1 = Incoming Call; 2 = Routed Call; 3 = Call From Voice Mail }

(05/24/07) : 00023

25:41 9002-90-B3F

2/6/2006 4:02 PM

CALL REPORT FOR .csv\portalTemp1139259353943[1]

2 OF 2

05 P

CALLING NBR	CALLED NBR	DIALED DIGITS	M_R #	START DATE	END DATE	DURATION	REPOLL #	1ST CELL	LAST CELL
(864) 574-3344	(864) 357-6312	(864) 357-6312	1	2/2/06 18:06:00	2/2/06 18:07:56	116	607	3064	2047
(864) 573-9951	(864) 357-6312	(864) 357-6312	1	2/2/06 18:10:31	2/2/06 18:11:32	61	607	2003	2003
(864) 357-6312	(864) 574-8231	574-8231	0	2/2/06 18:18:04	2/2/06 18:18:35	31	607	3064	3064
(864) 357-6312		384-8160	0	2/2/06 18:50:46	2/2/06 18:50:51	5	607	3064	3064
(864) 357-6312		384-8160	0	2/2/06 18:51:24	2/2/06 18:51:29	5	607	3064	3064
(864) 357-6312		431-1319	0	2/2/06 18:51:43	2/2/06 18:51:55	12	607	3064	3064
(864) 357-6312	(864) 384-8160	384-8160	0	2/2/06 18:52:56	2/2/06 18:53:06	10	607	3064	3064
(864) 357-6312	(864) 384-8160	384-8160	0	2/2/06 18:53:54	2/2/06 18:54:11	17	607	3064	3064
(864) 357-6312	(864) 384-8160	384-8160	0	2/2/06 18:56:27	2/2/06 18:56:56	29	607	3064	3064
(864) 357-6312	(864) 384-8160	384-8160	0	2/2/06 19:00:15	2/2/06 19:00:55	40	607	3064	3064
(864) 357-6312		384-8160	0	2/2/06 19:01:29	2/2/06 19:01:47	18	607	3299	4299
(864) 357-6312	(864) 587-0976	587-0976	0	2/2/06 19:02:45	2/2/06 19:04:45	120	607	3064	3064
(864) 357-6312	(864) 439-0085	439-0085	0	2/2/06 19:06:28	2/2/06 19:12:27	359	607	3064	3064
(864) 583-1621	(11864) 357-6312	(864) 357-6312	2	2/2/06 19:06:56	2/2/06 19:07:03	7	607	0	0
(864) 357-6312	(864) 587-0976	587-0976	0	2/2/06 19:12:45	2/2/06 19:14:09	84	607	3064	3064
(864) 357-6312	(864) 439-0085	439-0085	0	2/2/06 19:14:15	2/2/06 19:15:15	60	607	3064	3064
(864) 587-0976	(864) 357-6312	(864) 357-6312	1	2/2/06 19:22:38	2/2/06 19:24:24	106	607	4064	3064
(864) 357-6312	(864) 574-8231	574-8231	0	2/2/06 19:56:57	2/2/06 19:59:03	126	607	2298	2298
(864) 357-6312	(864) 921-0826	921-0826	0	2/2/06 19:59:13	2/2/06 20:00:27	74	607	2298	2298
(864) 357-6312	(864) 415-4700	415-4700	0	2/2/06 20:03:20	2/2/06 20:03:52	32	607	3064	3064
(864) 439-0085	(864) 357-6312	(864) 357-6312	1	2/2/06 20:13:24	2/2/06 20:14:05	41	607	3047	3047
(864) 357-6312	(864) 921-0826	921-0826	0	2/2/06 20:31:09	2/2/06 20:31:29	20	607	3299	3299
(864) 357-6312	(864) 921-0826	921-0826	0	2/2/06 20:31:49	2/2/06 20:32:29	40	607	4064	4064
(864) 357-6312	(864) 921-0826	921-0826	0	2/2/06 20:33:48	2/2/06 20:34:15	27	607	4064	4064
(864) 574-8231	(11864) 357-6312	(864) 357-6312	2	2/2/06 20:37:49	2/2/06 20:38:33	44	607	4064	4064
(864) 357-6312	(864) 574-8231	(864) 574-8231	0	2/2/06 20:37:55	2/2/06 20:38:18	23	607	4064	4064
(864) 357-6312	(864) 357-6312	357-6312	0	2/2/06 20:39:24	2/2/06 20:39:52	28	607	2064	2064
(864) 357-6312	(11864) 357-6312	(864) 357-6312	2	2/2/06 20:39:26	2/2/06 20:39:53	27	607	0	0
(864) 574-8231	(11864) 357-6312	(864) 357-6312	2	2/2/06 21:12:08	2/2/06 21:12:14	6	607	2064	2064
(864) 316-2553	(11864) 357-6312	(864) 357-6312	2	2/2/06 21:55:02	2/2/06 21:55:11	9	607	2064	2064
(864) 439-0085	(11864) 357-6312	(864) 357-6312	2	2/2/06 22:15:26	2/2/06 22:16:02	36	607	2064	2064
(864) 574-8231	(11864) 357-6312	(864) 357-6312	2	2/2/06 22:36:20	2/2/06 22:36:24	4	607	2064	2064
(864) 574-8231	(11864) 357-6312	(864) 357-6312	2	2/2/06 23:27:17	2/2/06 23:27:23	6	607	3001	3001
(864) 574-8231	(11864) 357-6312	(864) 357-6312	2	2/2/06 23:31:48	2/2/06 23:31:53	5	607	3001	3001

(05/24/07)

00024

3:41 9002-90-B34

M_R_# = { 0 = Outgoing Call; 1 = Incoming Call; 2 = Routed Call; 3 = Call From Voice Mail }

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

SEARCH WARRANT

DATE February 10, 2006

OFFICER Jay C. Steadman

COPY

NEXT

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SCTO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE
MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Nextel
Attn: Subpoena Compliance
2000 Edmund Halley Dr.
Mail Stop VA Resro 301 Reston, VA. 20191

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

All originating and terminating telephone calls to telephone number 864-237- to include all text messages, voice messages and subscriber information between the dates of January 31, 2006 and February 10, 2006.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
February 10, 2006

[Signature] (L.S.)
Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SC

Personally appeared before me, one Inv. Jay C. Steadman
 Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

All originating and terminating telephone calls to telephone number 864-237- to include all text messages, voice messages and subscriber information between the dates of January 31, 2006 and February 10, 2006.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Nextel
 Attn: Subpoena Compliance
 2000 Edmund Halley Dr.
 Mail Stop VA Resro 301 Reston, VA. 20191

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/06 Spartanburg Public Safety Department officers responded to a shooting at Theodosia Drive and Chester Street. Upon arrival officers discovered that a black male had been murdered in a 1997 Toyota Four Runner, registered to David Proctor. Officers located David Michael Proctor at [REDACTED] with multiple gun shot wounds. Mr. Proctor said that the deceased victim had used his cellular telephone to call the person they picked up and told him that they were on the way to pick him up. Mr. Proctor gave recounts of what happened and relayed to police that he and the deceased victim had picked up a black male in front of [REDACTED] minutes before the shooting and that the person that they picked up was the one shooting. Telephone records showed that the cellular telephone number called was also calling the house telephone for [REDACTED]. The resident of [REDACTED] is Osia Feaster, the girlfriend of Charlie Teamer. Osia Feasters cellular telephone number is 864-237- [REDACTED] and these records are needed to match times and dates of calls between Osia Feaster and Charlie Teamer. Nextel is the service provider for these records.

Sworn to and Subscribed before me

This 10th day of February, 2006

Signature of Judge

Affiant

Address 145 W. Broad St.
Spartanburg, South Carolina 29306
 Phone 864-596-2065

RETURN

I received the attached Search Warrant March 23, 2006, and have executed it as

Follows: On March 23, 2006 at 0900 o'clock A M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Sprint Corporate Security
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: 7 pages of
telephone records.

This inventory was made in the presence of H. Forrester

AND _____

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 23

Day of March, 2006

William J. Forrester
(Signature of Executing Office)

Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	31-Jan-06	11:27:29 AM	0	Outbound	511	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:35:20 AM	56	Outbound	18882667848	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:36:28 AM	122	Outbound	18882667848	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:38:55 AM	48	Outbound	233	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	31-Jan-06	11:39:50 AM	34	Outbound	233	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:44:13 AM	5	Inbound	8645961997	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207
8642379833	31-Jan-06	11:45:07 AM	6	Inbound	8645961997	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207
8642379833	31-Jan-06	11:56:15 AM	5	Inbound	8645961997	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	12:59:49 PM	24	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	7:10:10 PM	6	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	7:30:35 PM	22	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	8:18:55 PM	18	Inbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	8:19:37 PM	22	Inbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	8:38:08 PM	43	Inbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	9:36:49 PM	41	Inbound	8642056741	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	9:39:01 PM	0	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	31-Jan-06	9:39:28 PM	0	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	9:39:51 PM	0	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	9:40:12 PM	0	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	31-Jan-06	9:45:10 PM	29	Outbound	8642056741	NSC1194R_IUESPARTA, (CARO-2) 3522 34222	NSC1194R_IUESPARTA, (CARO-2) 3522 34222
8642379833	31-Jan-06	9:54:06 PM	0	Outbound	8644313300	NSC1194R_IUESPARTA, (CARO-2) 3522 34222	NSC1194R_IUESPARTA, (CARO-2) 3522 34222
8642379833	31-Jan-06	9:54:45 PM	0	Outbound	8642667716	NSC1194R_IUESPARTA, (CARO-2) 3522 34222	NSC1194R_IUESPARTA, (CARO-2) 3522 34222
8642379833	31-Jan-06	10:34:18 PM	45	Inbound	8645854361	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	10:55:04 PM	0	Inbound	8645854361	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	10:59:28 PM	16	Outbound	8645421425	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:01:30 PM	2	Inbound	8645856454	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	31-Jan-06	11:01:40 PM	0	Outbound	8645856454	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:02:12 PM	13	Outbound	8645854361	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:02:46 PM	8	Outbound	8645856454	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	31-Jan-06	11:49:44 PM	39	Inbound	8642052608	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	1-Feb-06	12:08:54 AM	0	Outbound	8645856454	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	1-Feb-06	12:39:40 AM	0	Inbound	8645854361	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	1-Feb-06	9:32:01 AM	0	Outbound	4290	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	9:34:38 AM	35	Outbound	8644290300	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	9:36:57 AM	0	Outbound	8645421425	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	9:40:18 AM	7	Outbound	8644310003	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	9:40:59 AM	21	Outbound	8644290300	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	9:42:35 AM	62	Inbound	8645421425	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	9:49:45 AM	0	Outbound	8645421425	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	9:51:50 AM	27	Outbound	8645421425	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	10:13:53 AM	22	Inbound	8644296763	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	10:23:41 AM	0	Outbound	8644290300	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	10:24:13 AM	0	Outbound	8644290300	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	10:24:38 AM	0	Outbound	8644290300	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	10:25:08 AM	57	Outbound	8643429200	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	10:27:34 AM	26	Outbound	8642053982	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	1-Feb-06	10:32:58 AM	20	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	1-Feb-06	10:37:51 AM	0	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	1-Feb-06	10:38:16 AM	3	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	10:51:44 AM	11	Inbound	8642053982	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	12:13:45 PM	4	Inbound	8642052608	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	1:41:44 PM	29	Inbound	8645837548	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	1:42:05 PM	24	Inbound	8645835123	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	2:48:37 PM	0	Inbound	8649210826	NSC1180R_IULONEOAK, (CARO-2) 3522 52070	NSC1180R_IULONEOAK, (CARO-2) 3522 52070
8642379833	1-Feb-06	3:20:19 PM	156	Outbound	8649210826	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	3:37:18 PM	29	Inbound	8645837548	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205
8642379833	1-Feb-06	3:41:18 PM	26	Outbound	8645428792	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205
8642379833	1-Feb-06	3:42:00 PM	112	Outbound	8645837548	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34207
8642379833	1-Feb-06	4:53:46 PM	38	Inbound	8646212012	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
8642379833	1-Feb-06	5:56:59 PM	15	Inbound	8642051205	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	6:16:14 PM	5	Inbound	8642052608	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	1-Feb-06	8:08:38 PM	0	Outbound	8645833031	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205
8642379833	1-Feb-06	8:10:45 PM	0	Outbound	8645833031	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34205
8642379833	1-Feb-06	9:04:59 PM	37	Inbound	8645421242	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	1-Feb-06	11:07:35 PM	15	Inbound	8645426150	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	12:55:45 PM	0	Outbound	7238101	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	3:56:55 PM	27	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	2-Feb-06	3:59:44 PM	9	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	2-Feb-06	4:01:56 PM	5	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	2-Feb-06	4:01:58 PM	47	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	2-Feb-06	6:18:28 PM	2	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	7:20:11 PM	6	Inbound	8643572020	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216
8642379833	2-Feb-06	7:41:42 PM	16	Inbound	8645426150	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34216
~~REDACTED~~						NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
~~REDACTED~~						NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	9:12:44 PM	8	Inbound	8644318269	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	9:31:54 PM	42	Inbound	8644318269	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	11:11:17 PM	25	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	2-Feb-06	11:42:03 PM	37	Outbound	8645854361	NSC1194R_IUSESPARTA, (CARO-2) 3522 34222	NSC1194R_IUSESPARTA, (CARO-2) 3522 34222
8642379833	3-Feb-06	3:21:09 AM	49	Inbound	8646219815	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	3-Feb-06	12:55:54 PM	3	Inbound	8646219815	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	3-Feb-06	7:07:28 PM	4	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	3-Feb-06	7:15:28 PM	73	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	3-Feb-06	9:00:35 PM	4	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	3-Feb-06	11:37:52 PM	4	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	1:21:31 PM	33	Inbound	8645903387	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	1:24:14 PM	18	Inbound	8645903387	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	1:35:05 PM	161	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	4:30:43 PM	2	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	7:00:51 PM	3	Inbound	8644318061	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	4-Feb-06	10:51:48 PM	13	Inbound	8644974880	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	5-Feb-06	1:28:59 AM	9	Inbound	8644944268	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	6-Feb-06	8:59:52 PM	35	Outbound	233	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	8-Feb-06	1:50:54 AM	23	Inbound	8646219815	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	8-Feb-06	4:22:02 PM	5	Inbound	8645837548	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	8-Feb-06	4:27:38 PM	36	Inbound	8645837548	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214

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Customer Ptn	Date	Call Initiation Time	Duration(sec)	Type	Caller / Called PTN	Originating Cell Site	Terminating Cell Site
8642379833	9-Feb-06	3:16:06 AM	2	Inbound	8646219815	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	10:35:02 AM	66	Outbound	8645428792	NSC1180R_IULONEOAK, (CARO-2) 3522 52070	NSC1180R_IULONEOAK, (CARO-2) 3522 52070
8642379833	9-Feb-06	11:37:56 AM	4	Inbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	12:51:11 PM	4	Inbound	8646219815	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	9-Feb-06	1:05:09 PM	1	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	1:05:19 PM	0	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	1:05:42 PM	0	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	1:06:36 PM	20	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	9-Feb-06	1:21:51 PM	420	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34215
8642379833	9-Feb-06	1:42:46 PM	8	Outbound	8645428792	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214	NSC1195R_IUSPARTAIR, (CARO-2) 3522 34214
8642379833	10-Feb-06	11:14:01 PM	12	Inbound	8645835123	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206	NSC1004R_IUSPARTBRG, (CARO-2) 3522 34206
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105/24/01 105/24/01

STATE OF SOUTH CAROLINA

County of SPARTANBURG, SC

COPY

SEARCH WARRANT

DATE February 10, 2006

OFFICER Jay C. Steadman

(05/09/07) : 00043

PHONE
RECORDS

(05/09/07) : 00044

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF SPARTANBURG, SCpersonally appeared before me, one Inv. Jay C. Steadman

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

DESCRIPTION OF PROPERTY SOUGHT

All originating and terminating telephone calls for telephone number 864-542- [REDACTED] and subscriber information between the dates of January 31, 2006 and February 10, 2006.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Bell South telecommunication, Inc.
Subpoena Compliance Center
P.O. Box 54407 Atlanta, GA 30308

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY
SOUGHT IS ON THE SUBJECT PREMISES

On 02/02/06 Spartanburg Public Safety Department officers responded to a shooting at Theodosia Drive and Easter Street. Upon arrival officers discovered that a black male had been murdered in a 1997 Toyota Four runner, registered to David Proctor. Officers located David Michael Proctor at [REDACTED] with multiple gun shot wounds. Mr. Proctor said that the deceased victim had used his cellular telephone to call the person they picked up and told him that they were on the way to pick him up. Mr. Proctor gave recounts of what happened and relayed to police that he and the deceased victim had picked up a black male in front of [REDACTED] minutes before the shooting and that the person that they picked up was the one shooting. Telephone records showed that the cellular telephone number used by Charlie Teamer was also calling the house telephone for [REDACTED] and the telephone number is 864-542- [REDACTED]. The resident of [REDACTED] is Osia Feaster, the girlfriend of Charlie Teamer. These records are needed to match times and dates of calls between Osia Feaster and Charlie Teamer. Bell South Telecommunications, Inc is the service provider for these records.

Sworn to and Subscribed before me

This 10th day of February, 2006

[Signature]
Signature of Judge

Affiant

[Signature]
Address 145 W. Broad St.
Spartanburg, South Carolina 29306
Phone 864-596-2065

(05/09/07) : 00045

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Bell South telecommunication, Inc.
Subpoena Compliance Center
P.O. Box 54407 Atlanta, GA 30308

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY SOUGHT

All originating and terminating telephone calls for telephone number 864-542- [REDACTED] and subscriber information between the dates of January 31, 2006 and February 10, 2006.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC
February 10, 2006

[Signature] (L.S.)
Signature of Judge

(05/09/07) : 00046

RETURN

I received the attached Search Warrant Feb 22, 2006, and have executed it as

Follows: On Feb 22, 2006 at 5:30 o'clock P M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Bell south

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

415 pages Records & Subscriber information

This inventory was made in the presence of Inv. R. Porter

AND Inv. J. Steadman

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 23rd

Day of Feb } Business Date

(Signature of Executing Office)

D-T (L.S.)
Signature of Judge

[illegible]

WORKING
COPY

© BELL SOUTH

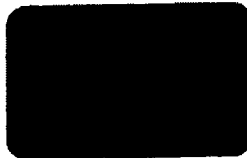
Results for Subpoena BST06022358

Standard Results

Request 1

Type	Number	Result
List Name	864542 [REDACTED] 416	Feaster, Plummie
List Address	864542 [REDACTED] 416	[REDACTED] Spartanburg 29301
Billing Name	864542 [REDACTED] 416	PLUMMIE FEASTER
Billing Address	864542 [REDACTED] 416	[REDACTED] SPARTANBG SC 29301
Service Type	864542 [REDACTED] 416	RESIDENCE

----- End Request -----



© BELL SOUTH

Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#1	01/31/06	00:31:32e	864-542-8792	863-232-2881	0:12.0	Yes	BSL	06e		
#2	01/31/06	01:07:37e	864-583-5123	864-542-8792	0:06.0	Yes		001		
#3	01/31/06	02:11:50e	864-542-1425	864-542-8792	0:06.0	Yes		001		
#4	01/31/06	08:44:26e	864-542-8792	864-583-3538	0:16.2	Yes		001		
#5	01/31/06	08:45:33e	864-542-8792	864-583-5409	0:05.8	Yes		001		
#6	01/31/06	10:55:50e	864-542-8792	864-587-9285	0:06.4	Yes		001		
#7	01/31/06	10:56:27e	864-542-8792	864-583-5409	0:06.1	Yes		001		
#8	01/31/06	11:19:06e	864-542-8792	864-621-2012	0:29.6	Yes		001		
#9	01/31/06	11:28:38e	864-201-9999	864-542-8792	0:29.9	Yes		042		023
#10	01/31/06	11:29:35e	864-595-0098	864-542-8792	7:17.1	Yes		001		
#11	01/31/06	11:44:07e	864-595-0098	864-542-8792	6:29.3	Yes		001		
#12	01/31/06	11:46:14e	864-596-1997	864-542-8792	0:24.4	Yes		001		
#13	01/31/06	11:49:37e	864-583-3656	864-542-8792	0:48.6	Yes		001		
#14	01/31/06	11:51:44e	864-201-9999	864-542-8792	0:11.4	Yes		042		023
#15	01/31/06	11:55:53e	863-232-2881	864-542-8792	0:16.2	Yes	LGT	077		
#16	01/31/06	12:07:43e	864-595-0098	864-542-8792	4:51.3	Yes		001		
#17	01/31/06	12:12:56e	864-595-0098	864-542-8792	2:31.1	Yes		001		
#18	01/31/06	12:15:54e	864-595-0098	864-542-8792	5:35.9	Yes		001		
#19	01/31/06	12:39:44e	864-542-8792	864-621-4937	0:01.2	Yes		001		
#20	01/31/06	13:02:40e	864-542-8792	864-237-9833	0:20.7	Yes		001		
#21	01/31/06	13:03:20e	864-542-8792	863-232-2881	0:07.5	Yes	BSL	06e		
#22	01/31/06	13:03:46e	863-232-2881	864-542-8792	4:50.6	Yes	LGT	077		
#23	01/31/06	13:08:44e	864-583-5123	864-542-8792	0:08.0	Yes		001		
#24	01/31/06	13:16:42e	864-585-8656	864-542-8792	0:12.6	Yes		001		
#25	01/31/06	13:52:01e	864-560-6000	864-542-8792	0:19.4	Yes	KMm	077		
#26	01/31/06	14:00:05e	864-253-0060	864-542-8792	0:21.9	Yes		001		
#27	01/31/06	14:01:36e	864-582-9492	864-542-8792	0:10.7	Yes		001		
#28	01/31/06	14:04:31e	864-542-8792	864-582-9492	1:48.7	Yes		001		
#29	01/31/06	14:06:51e	864-542-8792	863-232-2881	0:23.6	Yes	BSL	06e		
#30	01/31/06	14:09:59e	864-585-8500	864-542-8792	0:07.8	Yes		001		
#31	01/31/06	14:47:34e	864-363-9603	864-542-8792	0:00.0	No		042		023
#32	01/31/06	14:50:23e	864-582-8695	864-542-8792	0:13.1	Yes		001		
#33	01/31/06	14:51:14e	864-363-9603	864-542-8792	0:19.0	Yes		042		023
#34	01/31/06	15:01:57e	864-583-4289	864-542-8792	0:16.3	Yes		001		
#35	01/31/06	15:04:02e	864-597-1452	864-542-8792	0:11.5	Yes		001		
#36	01/31/06	15:18:42e	864-201-9999	864-542-8792	0:25.2	Yes		042		023
#37	01/31/06	15:21:54e	864-542-8792	864-205-6957	0:03.3	Yes		001		
#38	01/31/06	15:22:26e	864-542-8792	864-205-6957	0:01.3	Yes		001		
#39	01/31/06	15:25:01e	864-542-8792	864-205-9224	9:06.9	Yes		001		
#40	01/31/06	15:36:21e	864-201-9999	864-542-8792	0:19.9	Yes		042		023
#41	01/31/06	15:37:08e		864-542-8792	0:14.3	Yes	MCI	077		
#42	01/31/06	15:46:51e	864-585-8656	864-542-8792	3:20.9	Yes		001		
#43	01/31/06	15:54:36e	864-560-6000	864-542-8792	0:20.5	Yes	KMm	077		
#44	01/31/06	15:56:12e	864-560-6000	864-542-8792	1:01.0	Yes	KMm	077		
#45	01/31/06	15:58:50e	864-542-8792	863-232-2881	0:08.8	Yes	BSL	06e		



Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#46	01/31/06	16:00:12e	863-232-2881	864-542-8792	3:28.5	Yes	LGT	077		
#47	01/31/06	16:19:10e	864-542-8792	864-621-4937	0:20.0	Yes		001		
#48	01/31/06	16:20:07e	864-542-8792	864-585-8054	0:22.1	Yes		001		
#49	01/31/06	16:24:07e	864-585-3101	864-542-8792	1:40.8	Yes		001		
#50	01/31/06	16:52:21e	864-238-0999	864-542-8792	0:06.8	Yes		042		023
#51	01/31/06	16:53:03e	864-238-0999	864-542-8792	0:14.2	Yes		042		023
#52	01/31/06	16:57:43e		864-542-8792	0:03.7	Yes	MCI	077		
#53	01/31/06	16:59:34e	864-585-8500	864-542-8792	0:06.4	Yes		001		
#54	01/31/06	17:03:14e	864-230-0001	864-542-8792	0:11.6	Yes		042		023
#55	01/31/06	17:12:08e	864-542-8792	864-579-0407	3:09.3	Yes		001		
#56	01/31/06	17:21:13e	864-542-8792	864-582-4243	0:14.1	Yes		001		
#57	01/31/06	17:34:35e	864-238-0999	864-542-8792	2:56.8	Yes		042		023
#58	01/31/06	17:45:12e	864-585-8656	864-542-8792	0:20.6	Yes		001		
#59	01/31/06	17:48:58e	864-542-8792	864-597-0325	1:22.5	Yes		001		
#60	01/31/06	17:50:57e	864-585-8705	864-542-8792	1:54.2	Yes		001		
#61	01/31/06	17:53:00e	864-585-8656	864-542-8792	0:17.6	Yes		001		
#62	01/31/06	17:58:50e	864-542-8792	864-415-0497	0:24.1	Yes		001		
#63	01/31/06	17:59:46e	864-542-8792	864-415-0497	0:13.7	Yes		001		
#64	01/31/06	18:02:53e	864-582-4243	864-542-8792	11:25.4	Yes		001		
#65	01/31/06	18:40:25e	864-576-2127	864-542-8792	0:24.4	Yes		001		
#66	01/31/06	18:51:50e	864-201-9999	864-542-8792	0:34.9	Yes		042		023
#67	01/31/06	19:07:01e	864-585-8656	864-542-8792	27:14.1	Yes		001		
#68	01/31/06	19:18:40e	864-201-9999	864-542-8792	0:08.8	Yes		042		023
#69	01/31/06	19:22:20e	864-814-1073	864-542-8792	0:19.8	Yes		001		
#70	01/31/06	19:33:43e	864-304-9999	864-542-8792	0:22.3	Yes		042		023
#71	01/31/06	19:38:02e	864-542-8792	864-621-2012	2:21.6	Yes		001		
#72	01/31/06	20:55:57e	713-423-1020	864-542-8792	0:22.7	Yes	WTL	077		
#73	01/31/06	21:14:22e	864-201-9999	864-542-8792	0:19.1	Yes		042		023
#74	01/31/06	21:39:22e	864-201-9999	864-542-8792	0:15.0	Yes		042		023
#75	01/31/06	22:13:46e	864-238-0999	864-542-8792	0:42.4	Yes		042		023
#76	01/31/06	22:29:24e	864-814-1073	864-542-8792	1:22.3	Yes		001		
#77	01/31/06	22:36:24e	864-585-4361	864-542-8792	0:07.2	Yes		001		
#78	01/31/06	22:38:12e	864-814-1073	864-542-8792	0:12.7	Yes		001		
#79	01/31/06	22:48:18e	864-542-1425	864-542-8792	0:11.9	Yes		001		
#80	01/31/06	22:51:32e	864-542-1425	864-542-8792	0:20.9	Yes		001		
#81	01/31/06	23:30:28e	864-814-1073	864-542-8792	2:34.7	Yes		001		
#82	01/31/06	23:42:44e	864-814-1073	864-542-8792	0:20.9	Yes		001		
#83	01/31/06	23:52:14e	864-201-9999	864-542-8792	0:11.8	Yes		042		023
#84	01/31/06	23:58:51e	410-947-6634	864-542-8792	12:54.8	Yes	BAX	077		
#85	02/01/06	00:41:08e	864-542-8792	864-583-9633	0:05.7	Yes		001		
#86	02/01/06	00:44:16e	864-814-1073	864-542-8792	0:13.5	Yes		001		
#87	02/01/06	08:58:24e	864-201-9999	864-542-8792	0:00.0	No		042		023
#88	02/01/06	09:34:58e	864-542-8792	863-232-2551	0:00.0	No	BSL	06e		
#89	02/01/06	09:36:17e	864-542-8792	863-232-2551	0:14.6	Yes	BSL	06e		
#90	02/01/06	09:36:56e	864-542-8792	863-232-2881	0:06.3	Yes	BSL	06e		



Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answn	Carrier	Call Type	Billed Number	Srvr Feat
#91	02/01/06	09:44:18e	864-585-8500	864-542-8792	0:07.7	Yes		001		
#92	02/01/06	09:46:54e	864-585-8656	864-542-8792	0:14.9	Yes		001		
#93	02/01/06	10:00:35e	864-542-8792	864-583-5409	0:04.4	Yes		001		
#94	02/01/06	10:11:14e	864-585-8656	864-542-8792	25:05.3	Yes		001		
#95	02/01/06	10:16:38e	864-238-0999	864-542-8792	0:08.3	Yes		042		023
#96	02/01/06	10:36:06e	864-304-9999	864-542-8792	0:19.9	Yes		042		023
#97	02/01/06	10:40:54e	214-754-0000	864-542-8792	0:08.6	Yes	ALN	077		
#98	02/01/06	10:41:06e	864-304-9999	864-542-8792	0:00.0	No		042		023
#99	02/01/06	10:41:24e	864-444-9999	864-542-8792	0:03.2	Yes		042		023
#100	02/01/06	10:41:58e	864-542-8792	864-583-5409	0:07.3	Yes		001		
#101	02/01/06	11:13:41e	864-542-8792	864-585-8656	0:14.0	Yes		001		
#102	02/01/06	11:22:13e	864-238-0999	864-542-8792	0:00.0	No		042		023
#103	02/01/06	11:30:52e	864-542-8792	864-595-0098	0:11.3	Yes		001		
#104	02/01/06	11:39:37e	864-201-9999	864-542-8792	0:00.0	No		042		023
#105	02/01/06	12:16:02e	864-201-9999	864-542-8792	0:12.0	Yes		042		023
#106	02/01/06	12:18:04e	864-542-8792	864-582-9492	0:30.9	Yes		001		
#107	02/01/06	12:19:28e	864-596-2129	864-542-8792	11:15.2	Yes		001		
#108	02/01/06	12:46:33e	864-542-8792	864-582-9492	4:47.4	Yes		001		
#109	02/01/06	12:51:30e	864-582-9492	864-542-8792	0:10.9	Yes		001		
#110	02/01/06	12:53:57e	864-201-9999	864-542-8792	1:34.0	Yes		042		023
#111	02/01/06	12:57:13e	864-253-0060	864-542-8792	0:23.5	Yes		001		
#112	02/01/06	13:05:43e	864-542-8792	864-621-4937	0:13.7	Yes		001		010
#113	02/01/06	13:31:23e	864-582-9492	864-542-8792	1:27.6	Yes		001		
#114	02/01/06	13:46:57e	864-583-5123	864-542-8792	0:06.9	Yes		001		
#115	02/01/06	13:50:25e	864-327-0050	864-542-8792	0:03.1	Yes	SAU	077		
#116	02/01/06	13:51:11e	864-583-7548	864-542-8792	0:22.3	Yes		001		
#117	02/01/06	13:54:44e	864-542-8792	864-585-6300	3:09.5	Yes		001		
#118	02/01/06	13:58:41e	864-542-8792	864-583-5123	5:51.8	Yes		001		
#119	02/01/06	14:04:05e	864-585-3101	864-542-8792	5:22.7	Yes		001		
#120	02/01/06	14:17:31e	864-542-8792	864-583-7548	0:02.3	Yes		001		
#121	02/01/06	14:21:58e	864-542-8792	864-596-3690	0:59.7	Yes		001		
#122	02/01/06	14:24:59e	864-542-8792	864-877-7325	3:28.5	Yes	BSL	077		
#123	02/01/06	14:27:31e	864-238-0999	864-542-8792	0:15.0	Yes		042		023
#124	02/01/06	14:34:40e	864-578-8750	864-542-8792	1:26.8	Yes		001		
#125	02/01/06	15:19:00e	864-542-8792	863-232-2881	0:00.0	No	BSL	06e		
#126	02/01/06	15:19:34e	864-542-8792	863-232-2881	0:05.5	Yes	BSL	06e		
#127	02/01/06	15:19:56e	863-232-2881	864-542-8792	7:55.5	Yes	LGT	077		
#128	02/01/06	15:27:53e	864-201-9999	864-542-8792	0:00.7	Yes		042		023
#129	02/01/06	15:35:58e	646-372-0000	864-542-8792	0:11.0	Yes	ALN	077		
#130	02/01/06	15:39:02e	864-201-9999	864-542-8792	0:34.6	Yes		042		023
#131	02/01/06	15:41:01e	864-583-7548	864-542-8792	0:23.6	Yes		001		
#132	02/01/06	15:41:59e	864-542-8792	800-700-8744	2:14.7	Yes	UTC	08d	8007008744	
#133	02/01/06	15:44:26e	864-304-9999	864-542-8792	0:25.5	Yes		042		023
#134	02/01/06	15:51:06e	864-542-8792	863-232-2881	0:00.0	No	BSL	06e		
#135	02/01/06	15:51:54e	863-232-2881	864-542-8792	1:42.8	Yes	LGT	077		



Call Detail/Toll Records: **BST06022358**

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd Carrier	Call Type	Billed Number	Srvc Feat
#136	02/01/06	16:24:45e	864-201-9999	864-542-8792	0:07.8	Yes	042		023
#137	02/01/06	16:25:22e	864-597-0349	864-542-8792	0:31.5	Yes	001		
#138	02/01/06	16:41:58e	864-583-9386	864-542-8792	0:10.5	Yes	001		
#139	02/01/06	16:45:46e		864-542-8792	0:27.2	Yes	LGT 077		
#140	02/01/06	16:47:25e	864-542-8792	866-587-8839	6:44.3	Yes	AT&T 08d	8665878839	
#141	02/01/06	16:56:00e	864-597-1452	864-542-8792	0:52.0	Yes	001		
#142	02/01/06	17:18:30e	864-253-0060	864-542-8792	0:33.7	Yes	001		
#143	02/01/06	17:45:44e	864-583-4540	864-542-8792	0:13.7	Yes	001		
#144	02/01/06	17:53:58e		864-542-8792	0:16.3	Yes	MCI 077		
#145	02/01/06	17:55:31e	864-542-8792	864-415-0497	0:19.4	Yes	001		
#146	02/01/06	17:58:28e	864-542-8792	864-621-4937	0:32.6	Yes	001		
#147	02/01/06	17:59:37e	864-542-8792	864-542-1425	0:03.6	Yes	001		
#148	02/01/06	18:02:06e	863-232-2881	864-542-8792	4:31.3	Yes	LGT 077		
#149	02/01/06	18:09:36e	863-232-2881	864-542-8792	0:22.1	Yes	LGT 077		
#150	02/01/06	18:15:24e	864-542-8792	863-232-2881	0:00.0	No	BSL 06e		
#151	02/01/06	18:15:57e	863-232-2881	864-542-8792	1:27.3	Yes	LGT 077		
#152	02/01/06	18:18:14e	864-201-9999	864-542-8792	0:00.0	No	042		023
#153	02/01/06	18:29:24e	864-585-8656	864-542-8792	4:24.3	Yes	001		
#154	02/01/06	18:35:33e	864-201-9999	864-542-8792	0:13.5	Yes	042		023
#155	02/01/06	18:47:53e	864-542-8792	863-232-2881	0:00.0	No	BSL 06e		
#156	02/01/06	18:50:34e	864-576-2127	864-542-8792	0:20.0	Yes	001		
#157	02/01/06	18:50:52e	864-583-3031	864-542-8792	0:36.9	Yes	001		
#158	02/01/06	19:30:03e	864-253-0060	864-542-8792	10:19.6	Yes	001		
#159	02/01/06	19:45:08e	905-958-0000	864-542-8792	0:12.9	Yes	ALN 077		
#160	02/01/06	20:28:14e	864-594-6358	864-542-8792	0:12.8	Yes	001		010
#161	02/01/06	20:35:58e	864-542-8792	864-583-3031	0:33.6	Yes	001		
#162	02/01/06	20:43:56e	864-542-8792	864-357-2020	4:02.3	Yes	005		
#163	02/01/06	21:07:42e	864-542-8792	864-582-4246	0:12.6	Yes	001		
#164	02/01/06	21:08:40e	864-542-8792	864-582-4243	1:25.3	Yes	001		
#165	02/01/06	21:26:45e	864-596-1230	864-542-8792	0:40.8	Yes	001		
#166	02/01/06	21:36:12e	864-201-9999	864-542-8792	35:10.0	Yes	042		023
#167	02/01/06	22:23:17e	864-363-9603	864-542-8792	0:40.8	Yes	042		023
#168	02/01/06	22:37:11e	864-363-9603	864-542-8792	0:20.7	Yes	042		023
#169	02/01/06	22:39:08e	864-542-8792	864-921-0826	0:16.5	Yes	001		
#170	02/01/06	22:40:03e	863-232-2881	864-542-8792	7:23.8	Yes	LGT 077		
#171	02/01/06	23:07:02e	864-238-0999	864-542-8792	0:00.0	No	042		023
#172	02/01/06	23:44:07e	864-597-0349	864-542-8792	0:27.2	Yes	001		
#173	02/02/06	00:35:55e	864-583-5123	864-542-8792	0:06.7	Yes	001		
#174	02/02/06	08:12:24e	864-542-8792	864-587-9285	0:07.3	Yes	001		
#175	02/02/06	09:29:52e	864-585-8500	864-542-8792	0:10.0	Yes	001		
#176	02/02/06	09:33:22e		864-542-8792	0:17.9	Yes	MCI 077		
#177	02/02/06	10:12:18e	864-596-9906	864-542-8792	26:36.6	Yes	001		
#178	02/02/06	10:32:08e	864-595-0098	864-542-8792	0:09.1	Yes	001		
#179	02/02/06	10:44:22e	864-542-8792	864-542-1425	0:15.2	Yes	001		
#180	02/02/06	10:44:55e	864-542-1425	864-542-8792	3:50.2	Yes	001		010

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Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answe	Carrier	Call Type	Billed Number	Srvc Feat
#181	02/02/06	10:49:14e	864-542-1425	864-542-8792	55:10.9	Yes		001		
#182	02/02/06	11:08:43e	863-232-2881	864-542-8792	0:11.0	Yes	LGT	077		
#183	02/02/06	11:32:01e	863-232-2881	864-542-8792	0:20.2	Yes	LGT	077		
#184	02/02/06	11:48:34e	803-227-4488	864-542-8792	0:18.8	Yes	HTJ	077		
#185	02/02/06	11:53:03e	864-595-0098	864-542-8792	3:06.3	Yes		001		
#186	02/02/06	12:06:48e	864-595-0098	864-542-8792	5:41.0	Yes		001		
#187	02/02/06	13:09:55e	864-201-9999	864-542-8792	4:16.4	Yes		042		023
#188	02/02/06	14:17:14e	864-327-0046	864-542-8792	0:03.5	Yes	SAU	077		
#189	02/02/06	14:36:05e	864-585-1362	864-542-8792	1:44.5	Yes		001		
#190	02/02/06	14:44:08e	864-585-8656	864-542-8792	0:02.9	Yes		001		
#191	02/02/06	14:46:44e	864-542-8792	864-585-8656	10:58.9	Yes		001		
#192	02/02/06	14:53:26e	864-585-3101	864-542-8792	1:21.7	Yes		001		
#193	02/02/06	14:58:02e	864-542-8792	864-582-9090	6:41.0	Yes		001		
#194	02/02/06	15:05:23e	864-542-8792	864-573-5731	1:41.1	Yes		001		
#195	02/02/06	15:13:15e	864-542-8792	864-573-5731	0:27.4	Yes		001		
#196	02/02/06	15:14:05e	864-573-5731	864-542-8792	0:11.9	Yes		001		
#197	02/02/06	15:20:37e	864-542-8792	864-461-2231	0:13.2	Yes		001		
#198	02/02/06	15:21:11e	864-542-8792	864-461-2237	4:04.5	Yes		001		
#199	02/02/06	15:25:57e	864-542-8792	864-461-2237	0:52.9	Yes		001		
#200	02/02/06	15:27:15e	864-542-8792	864-921-0826	0:11.1	Yes		001		
#201	02/02/06	15:29:23e	864-542-8792	864-578-5684	0:04.7	Yes		001		
#202	02/02/06	15:33:07e		864-542-8792	0:18.5	Yes	MCI	077		
#203	02/02/06	15:42:36e	864-542-8792	864-461-2237	0:36.3	Yes		001		
#204	02/02/06	15:52:55e	864-542-8792	864-542-1425	5:16.2	Yes		001		
#205	02/02/06	16:00:03e	864-304-9999	864-542-8792	0:26.8	Yes		042		023
#206	02/02/06	16:01:43e	864-542-8792	864-574-2828	0:18.1	Yes		001		
#207	02/02/06	16:02:35e	864-542-8792	864-237-9833	0:06.5	Yes		001		
#208	02/02/06	16:04:02e	864-201-9999	864-542-8792	0:06.0	Yes		042		023
#209	02/02/06	16:04:47e	864-542-8792	864-237-9833	0:01.6	Yes		001		
#210	02/02/06	16:05:33e	864-304-9999	864-542-8792	0:18.8	Yes		042		023
#211	02/02/06	16:07:44e	864-542-8792	864-573-5731	0:05.9	Yes		001		
#212	02/02/06	16:08:20e	864-583-4540	864-542-8792	0:09.4	Yes		001		
#213	02/02/06	16:18:27e	864-238-0999	864-542-8792	0:14.6	Yes		042		023
#214	02/02/06	16:30:47e	864-573-6645	864-542-8792	0:06.4	Yes		001		
#215	02/02/06	16:35:05e	864-585-8500	864-542-8792	0:07.2	Yes		001		
#216	02/02/06	16:37:02e	864-585-3101	864-542-8792	0:13.6	Yes		001		
#217	02/02/06	16:49:40e	864-201-9999	864-542-8792	0:59.6	Yes		042		023
#218	02/02/06	16:57:17e	864-597-0757	864-542-8792	0:31.0	Yes		001		
#219	02/02/06	17:02:30e	864-597-0757	864-542-8792	0:07.1	Yes		001		
#220	02/02/06	17:13:46e	864-542-8792	864-585-8705	0:14.6	Yes		001		
#221	02/02/06	17:20:35e	864-542-1425	864-542-8792	0:43.4	Yes		001		
#222	02/02/06	17:20:57e	864-595-0098	864-542-8792	3:58.6	Yes		001		
#223	02/02/06	17:22:11e	864-201-9999	864-542-8792	0:00.0	No		042		023
#224	02/02/06	17:46:50e	864-542-8792	864-579-0407	1:16.0	Yes		001		
#225	02/02/06	17:50:00e	864-201-9999	864-542-8792	1:37.7	Yes		042		023



Call Detail/Toll Records: **BST06022358**

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#226	02/02/06	17:52:01e	864-585-3101	864-542-8792	2:04.4	Yes		001		
#227	02/02/06	17:56:25e	864-542-8792	864-415-0497	0:17.1	Yes		001		
#228	02/02/06	17:57:44e	864-576-2127	864-542-8792	5:21.7	Yes		001		
#229	02/02/06	18:03:57e	864-542-8792	864-621-4937	0:26.8	Yes		001		
#230	02/02/06	18:05:34e	864-201-9999	864-542-8792	0:12.0	Yes		042		023
#231	02/02/06	18:08:28e	864-542-8792	864-597-0349	0:13.1	Yes		001		
#232	02/02/06	18:13:54e	864-585-8054	864-542-8792	1:01.3	Yes		001		
#233	02/02/06	18:15:08e	864-542-8792	864-621-4937	0:05.8	Yes		001		
#234	02/02/06	18:15:42e	864-542-8792	864-621-2012	0:20.3	Yes		001		
#235	02/02/06	18:19:09e	864-201-9999	864-542-8792	0:44.5	Yes		042		023
#236	02/02/06	18:20:16e	864-542-8792	864-621-4937	0:12.8	Yes		001		
#237	02/02/06	18:21:32e	864-542-8792	864-621-4937	0:01.9	Yes		001		
#238	02/02/06	18:22:21e	864-201-9999	864-542-8792	0:00.0	No		042		023
#239	02/02/06	18:23:27e	864-542-8792	864-585-8054	0:40.5	Yes		001		
#240	02/02/06	18:24:27e	864-201-9999	864-542-8792	0:40.7	Yes		042		023
#241	02/02/06	18:28:39e	864-201-9999	864-542-8792	0:38.9	Yes		042		023
#242	02/02/06	18:58:33e	864-583-4540	864-542-8792	4:18.4	Yes		001		
#243	02/02/06	19:09:37e	864-472-0000	864-542-8792	18:04.2	Yes		2d0		
#244	02/02/06	19:44:08e	864-363-9603	864-542-8792	0:20.9	Yes		042		023
#245	02/02/06	19:45:41e	864-201-9999	864-542-8792	0:10.5	Yes		042		023
#246	02/02/06	20:07:04e	864-574-0500	864-542-8792	0:56.8	Yes		001		
#247	02/02/06	20:10:14e	864-238-0999	864-542-8792	0:44.1	Yes		042		023
#248	02/02/06	20:18:02e	864-238-0999	864-542-8792	1:49.0	Yes		042		023
#249	02/02/06	20:23:48e	863-232-2881	864-542-8792	9:57.7	Yes	LGT	077		
#250	02/02/06	20:39:01e	864-201-9999	864-542-8792	0:00.0	No		042		023
#251	02/02/06	20:42:18e		864-542-8792	0:17.6	Yes	MCI	077		
#252	02/02/06	20:45:21e	864-542-8792	864-921-0826	0:02.8	Yes		001		
#253	02/02/06	20:59:12e	864-542-8792	864-357-2020	3:33.1	Yes		005		
#254	02/02/06	21:19:27e	864-573-5596	864-542-8792	0:14.0	Yes		001		
#255	02/02/06	21:34:04e	864-542-8792	864-978-2413	0:58.9	Yes		001		
#256	02/02/06	21:35:24e	864-542-8792	864-357-7592	1:44.9	Yes		005		
#257	02/02/06	21:37:23e	864-542-8792	864-573-5596	7:52.4	Yes		001		
#258	02/02/06	21:46:48e	864-201-9999	864-542-8792	0:40.2	Yes		042		023
#259	02/02/06	21:47:41e	864-542-8792	864-285-0039	7:36.4	Yes		001		
#260	02/02/06	22:00:42e	864-238-0999	864-542-8792	0:26.4	Yes		042		023
#261	02/02/06	22:12:30e	864-542-8792	864-585-9985	0:06.7	Yes		001		
#262	02/02/06	22:14:20e	864-542-8792	864-357-2020	2:06.5	Yes		005		
#263	02/02/06	22:33:42e	864-275-4514	864-542-8792	0:21.4	Yes		042		023
#264	02/02/06	22:42:59e	864-363-9603	864-542-8792	0:53.7	Yes		042		023
#265	02/02/06	22:43:54e	864-542-8792	864-357-7592	5:15.8	Yes		005		
#266	02/02/06	22:49:03e	864-238-0999	864-542-8792	0:08.6	Yes		042		023
#267	02/02/06	22:50:38e	864-585-1362	864-542-8792	0:14.7	Yes		001		
#268	02/02/06	22:59:23e	864-542-8792	864-585-9985	0:58.7	Yes		001		
#269	02/02/06	23:14:39e	864-304-9999	864-542-8792	0:00.0	No		042		023
#270	02/03/06	00:00:41e	864-542-8792	864-357-7592	1:03.9	Yes		005		



Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answe	Carrier	Call Type	Billed Number	Srvr Feat
#271	02/03/06	00:07:33e	864-585-8705	864-542-8792	16:50.2	Yes		001		
#272	02/03/06	00:25:07e	864-542-8792	864-357-7592	31:07.8	Yes		005		
#273	02/03/06	00:40:50e	864-238-0999	864-542-8792	0:00.0	No		042		023
#274	02/03/06	00:49:02e	864-363-9603	864-542-8792	0:00.0	No		042		023
#275	02/03/06	00:57:15e	864-542-8792	864-357-7592	57:07.3	Yes		005		
#276	02/03/06	02:14:42e	864-585-5568	864-542-8792	6:15.7	Yes		001		
#277	02/03/06	02:54:34e	864-542-8792	864-542-6150	0:00.3	Yes		001		
#278	02/03/06	03:13:09e	864-238-0999	864-542-8792	2:51.9	Yes		042		023
#279	02/03/06	03:25:10e	864-542-8792	864-621-9815	1:24.4	Yes		001		
#280	02/03/06	05:04:57e	864-596-2610	864-542-8792	0:15.0	Yes		001		
#281	02/03/06	05:12:34e	864-542-1242	864-542-8792	4:35.0	Yes		001		010
#282	02/03/06	05:14:54e	864-238-0999	864-542-8792	0:00.0	No		042		023
#283	02/03/06	05:15:41e	863-232-2881	864-542-8792	0:30.6	Yes	LGT	077		
#284	02/03/06	05:16:44e	864-238-0999	864-542-8792	0:00.0	No		042		023
#285	02/03/06	05:17:31e	864-238-0999	864-542-8792	1:04.8	Yes		042		023
#286	02/03/06	06:03:53e	864-591-3484	864-542-8792	0:31.8	Yes		001		
#287	02/03/06	08:36:40e	864-542-8792	864-579-0407	0:43.0	Yes		001		
#288	02/03/06	08:38:06e	864-327-0045	864-542-8792	14:44.9	Yes	SAU	077		
#289	02/03/06	08:43:16e	864-542-8792	864-706-1846	0:13.9	Yes		001		010
#290	02/03/06	08:43:37e	864-542-1242	864-542-8792	0:12.6	Yes		001		
#291	02/03/06	08:44:08e	864-542-8792	864-542-1242	3:07.9	Yes		001		010
#292	02/03/06	08:47:49e	864-542-8792	864-585-4361	0:11.2	Yes		001		010
#293	02/03/06	08:49:16e	864-542-8792	864-585-4361	2:04.1	Yes		001		010
#294	02/03/06	08:59:56e	864-596-9906	864-542-8792	1:11.2	Yes		001		
#295	02/03/06	09:04:16e	864-542-8792	864-587-9285	0:13.8	Yes		001		
#296	02/03/06	09:04:47e	864-542-8792	864-583-5409	0:04.1	Yes		001		
#297	02/03/06	09:06:34e	864-327-1104	864-542-8792	0:09.4	Yes		001		
#298	02/03/06	09:10:49e	864-597-0376	864-542-8792	0:09.2	Yes		001		
#299	02/03/06	09:17:01e	864-585-9100	864-542-8792	1:04.5	Yes		001		
#300	02/03/06	09:20:08e	864-327-0043	864-542-8792	0:13.6	Yes	SAU	077		
#301	02/03/06	09:20:49e	864-327-0043	864-542-8792	14:55.4	Yes	SAU	077		
#302	02/03/06	09:21:51e	864-542-8792	864-205-1205	3:22.4	Yes		001		010
#303	02/03/06	09:35:52e	864-201-9999	864-542-8792	0:05.8	Yes		042		023
#304	02/03/06	11:17:47e	864-579-0407	864-542-8792	0:28.6	Yes		001		
#305	02/03/06	11:38:45e	864-596-2129	864-542-8792	1:31.0	Yes		001		
#306	02/03/06	11:43:00e	864-542-8792	863-232-2881	0:07.5	Yes	BSL	06e		
#307	02/03/06	11:43:35e		864-542-8792	0:00.0	Yes	LGT	077		
#308	02/03/06	12:34:24e	864-542-8792	864-573-5493	1:38.5	Yes		001		
#309	02/03/06	12:36:15e	864-542-8792	864-573-5493	1:08.5	Yes		001		
#310	02/03/06	12:39:19e	864-542-8792	864-596-2000	1:07.0	Yes		001		
#311	02/03/06	12:46:40e	864-573-5494	864-542-8792	0:33.5	Yes		001		
#312	02/03/06	12:50:07e	864-542-8792	864-585-8183	0:45.6	Yes		001		
#313	02/03/06	12:59:00e	864-542-8792	864-621-9815	0:50.6	Yes		001		
#314	02/03/06	13:03:36e	864-542-8792	864-621-9815	0:05.7	Yes		001		
#315	02/03/06	13:04:06e	864-542-8792	864-583-6362	0:36.1	Yes		001		

© BELL SOUTH

Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answe	Carrier	Call Type	Billed Number	Srvc Feat
#316	02/03/06	13:05:07e	864-542-8792	864-579-2290	0:13.6	Yes		001		
#317	02/03/06	13:06:37e	864-542-8792	864-596-2009	2:02.1	Yes		001		
#318	02/03/06	13:09:03e	864-327-0045	864-542-8792	14:44.4	Yes	SAU	077		
#319	02/03/06	13:15:35e	864-238-0999	864-542-8792	0:00.0	No		042		023
#320	02/03/06	13:17:23e	864-238-0999	864-542-8792	0:00.0	No		042		023
#321	02/03/06	13:42:36e	864-542-8792	864-384-2366	0:26.0	Yes		001		
#322	02/03/06	13:44:37e	864-542-8792	864-384-2366	0:16.0	Yes		001		
#323	02/03/06	13:51:03e	864-238-0999	864-542-8792	1:10.3	Yes		042		023
#324	02/03/06	14:03:47e	864-587-2070	864-542-8792	3:27.1	Yes		001		
#325	02/03/06	14:14:15e	864-542-8792	864-582-7211	0:02.9	Yes		001		
#326	02/03/06	14:14:46e	864-542-8792	864-583-7211	0:13.0	Yes		001		
#327	02/03/06	14:18:47e	864-542-8792	864-585-8656	0:23.4	Yes		001		
#328	02/03/06	14:19:27e	864-583-7211	864-542-8792	0:08.7	Yes		001		
#329	02/03/06	14:30:34e	864-542-8792	864-596-2009	2:13.2	Yes		001		
#330	02/03/06	14:33:41e	864-542-8792	864-596-2009	1:37.8	Yes		001		
#331	02/03/06	14:47:42e	864-542-8792	803-898-2526	1:13.0	Yes	SNZ	077		
#332	02/03/06	14:48:23e	864-587-8731	864-542-8792	0:09.0	Yes		001		
#333	02/03/06	14:59:11e	864-542-8792	864-585-8656	0:11.1	Yes		001		
#334	02/03/06	15:01:38e	864-201-9999	864-542-8792	1:10.4	Yes		042		023
#335	02/03/06	15:09:10e	864-201-9999	864-542-8792	0:22.6	Yes		042		023
#336	02/03/06	15:14:05e	864-542-8792	864-542-1425	0:08.7	Yes		001		
#337	02/03/06	15:21:00e	864-542-1425	864-542-8792	0:59.5	Yes		001		
#338	02/03/06	15:31:01e	864-238-0999	864-542-8792	1:15.3	Yes		042		023
#339	02/03/06	15:46:36e	864-542-8792	864-596-2500	0:57.9	Yes		001		
#340	02/03/06	15:48:17e	864-542-8792	864-503-4668	0:11.2	Yes		001		
#341	02/03/06	16:32:20e	864-542-8792	864-503-4668	0:02.8	Yes		001		
#342	02/03/06	16:37:05e	864-542-8792	864-621-8748	0:46.8	Yes		001		
#343	02/03/06	16:40:31e	864-585-3101	864-542-8792	6:51.3	Yes		001		
#344	02/03/06	16:59:37e	864-542-8792	864-503-4668	0:32.0	Yes		001		
#345	02/03/06	17:00:11e	864-363-9603	864-542-8792	0:10.5	Yes		042		023
#346	02/03/06	17:02:01e	864-327-0046	864-542-8792	0:03.1	Yes	SAU	077		
#347	02/03/06	17:04:51e	864-542-8792	864-621-4937	0:42.2	Yes		001		
#348	02/03/06	17:08:25e	864-542-8792	864-596-2607	0:15.6	Yes		001		
#349	02/03/06	17:10:17e	864-542-8792	864-596-2607	0:20.2	Yes		001		
#350	02/03/06	17:11:26e	864-542-8792	864-596-2607	0:43.1	Yes		001		
#351	02/03/06	17:13:04e	864-583-4540	864-542-8792	0:09.2	Yes		001		
#352	02/03/06	17:20:29e	864-560-6000	864-542-8792	1:40.8	Yes	KMT	077		
#353	02/03/06	17:27:33e	717-238-7124	864-542-8792	0:10.1	Yes	ALN	077		
#354	02/03/06	17:31:38e	864-542-8792	864-503-4668	0:47.2	Yes		001		
#355	02/03/06	17:39:38e	864-583-3031	864-542-8792	1:13.8	Yes		001		
#356	02/03/06	17:41:28e	864-542-8792	864-621-2012	2:11.2	Yes		001		
#357	02/03/06	17:45:39e	864-585-8656	864-542-8792	2:22.0	Yes		001		
#358	02/03/06	18:27:16e	864-346-9999	864-542-8792	2:36.6	Yes		042		023
#359	02/03/06	18:51:05e	864-363-9603	864-542-8792	3:24.4	Yes		042		023
#360	02/03/06	18:59:17e	864-472-0000	864-542-8792	0:12.5	Yes		2d0		

© BELL SOUTH

Call Detail/Toll Records:

BST06022358

CALL DETAILS FOR TARGET NUMBER: 8645428792

#	Call Date	Call Time	Calling Number	Called Number	Call Duration	Answd	Carrier	Call Type	Billed Number	Srvc Feat
#361	02/03/06	19:01:49e	864-576-2127	864-542-8792	5:17.7	Yes		001		
#362	02/03/06	19:10:09e	864-542-8792	864-357-7592	4:10.1	Yes		005		
#363	02/03/06	19:12:08e	864-201-9999	864-542-8792	0:13.8	Yes		042		023
#364	02/03/06	19:14:35e	864-542-8792	864-357-7592	21:38.8	Yes		005		
#365	02/03/06	19:37:10e	864-542-8792	864-978-2413	0:12.2	Yes		001		
#366	02/03/06	19:40:07e	864-542-8792	864-582-6327	0:07.8	Yes		001		
#367	02/03/06	19:40:15e	864-230-0001	864-542-8792	0:00.0	No		042		023
#368	02/03/06	19:41:11e	864-230-0001	864-542-8792	0:40.0	Yes		042		023
#369	02/03/06	19:45:22e	513-542-1434	864-542-8792	0:14.7	Yes	LGT	077		
#370	02/03/06	19:46:07e	513-542-1434	864-542-8792	3:18.3	Yes	LGT	077		
#371	02/03/06	19:49:45e	864-542-8792	864-621-4937	0:17.8	Yes		001		
#372	02/03/06	19:55:57e	864-327-0045	864-542-8792	0:04.2	Yes	SAU	077		
#373	02/03/06	19:57:49e	864-542-8792	864-585-8656	5:29.4	Yes		001		
#374	02/03/06	20:06:05e	864-230-0001	864-542-8792	2:42.1	Yes		042		023
#375	02/03/06	20:07:27e	864-542-1425	864-542-8792	6:31.9	Yes		001		
#376	02/03/06	20:19:38e	864-542-8792	864-357-2020	1:52.4	Yes		005		
#377	02/03/06	20:20:57e	864-542-8792	864-978-2413	1:11.9	Yes		001		010
#378	02/03/06	20:25:16e	864-542-8792	864-285-0039	19:27.6	Yes		001		
#379	02/03/06	20:30:35e	864-542-1425	864-542-8792	0:36.0	Yes		001		
#380	02/03/06	21:04:12e	864-542-8792	864-582-8695	0:07.0	Yes		001		
#381	02/03/06	21:04:33e	864-542-8792	864-582-8695	0:31.4	Yes		001		
#382	02/03/06	21:05:29e	864-542-8792	864-494-4268	1:01.7	Yes		001		
#383	02/03/06	21:09:35e	864-542-8792	864-585-8656	0:03.4	Yes		001		
#384	02/03/06	21:10:05e	864-542-8792	864-585-8656	0:55.1	Yes		001		
#385	02/03/06	21:11:19e	864-542-8792	864-585-8656	1:29.7	Yes		001		
#386	02/03/06	21:50:57e	864-582-9492	864-542-8792	0:14.3	Yes		001		
#387	02/03/06	21:55:00e	864-585-8656	864-542-8792	0:09.3	Yes		001		
#388	02/03/06	22:28:46e	864-574-0500	864-542-8792	0:36.0	Yes		001		
#389	02/03/06	23:28:48e	864-542-8792	864-978-2413	0:54.1	Yes		001		
#390	02/03/06	23:40:39e	864-327-0045	864-542-8792	13:36.1	Yes	SAU	077		
#391	02/03/06	23:45:25e	864-542-8792	864-542-1242	2:16.8	Yes		001		010
#392	02/04/06	00:01:19e	864-542-8792	864-542-1425	0:43.5	Yes		001		
#393	02/04/06	00:02:51e	864-542-8792	864-357-2020	1:38.5	Yes		005		
#394	02/04/06	00:11:51e	864-542-8792	864-357-7592	36:06.7	Yes		005		
#395	02/04/06	00:55:49e	864-542-8792	864-542-1425	0:05.6	Yes		001		
#396	02/04/06	00:56:14e	864-542-8792	864-384-2366	2:55.9	Yes		001		
#397	02/04/06	01:00:40e	864-542-8792	864-357-7592	3:33.9	Yes		005		
#398	02/04/06	01:03:54e	864-363-9603	864-542-8792	0:16.8	Yes		042		023
#399	02/04/06	01:04:59e	864-542-8792	864-266-8234	0:20.2	Yes		001		
#400	02/04/06	01:07:23e	864-542-8792	864-357-7592	0:15.9	Yes		005		
#401	02/04/06	01:08:00e	864-542-8792	864-357-7592	16:17.9	Yes		005		
#402	02/04/06	01:34:42e	864-542-8792	864-357-7592	43:20.0	Yes		005		
#403	02/04/06	02:06:25e	864-201-9999	864-542-8792	0:07.0	Yes		042		023
#404	02/04/06	02:18:21e	864-542-8792	864-357-7592	8:10.3	Yes		005		
#405	02/04/06	02:27:05e	864-542-8792	864-357-7592	7:39.5	Yes		005		