

VOLUME I OF III
STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Kershaw County
Clifton Newman, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

WILLIAM LARRY CHILDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213543

APPENDIX

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STATE OF SOUTH CAROLINA]
COUNTY OF KERSHAW]

IN THE
COURT OF GENERAL SESSIONS
CASE NO.: 00-GS-28-32806
00-GS-28-32805
00-GS-28-32804

STATE OF SOUTH CAROLINA,]
PLAINTIFF,]
VS.]
WILLIAM LARRY CHILDERS,]
JR.,]
DEFENDANT.]

TRANSCRIPT OF RECORD

SEPTEMBER 18-20, 2001
CAMDEN, SOUTH CAROLINA

B E F O R E:

HONORABLE J. ERNEST KINARD, JR., JUDGE.

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

R. KNOX McMAHON, ASSISTANT SOLICITOR
JOHN P. MEADORS, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

W. GLENN ROGERS, JR., PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

DEBORAH M. McCURDY
CIRCUIT COURT REPORTER

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1 SEPTEMBER 18, 2001

2 MR. McMAHON: 2000-GS-28-32804, 32805
3 AND 32806, THE STATE VERSUS WILLIAM LARRY
4 CHILDERS, JR., INDICTMENT FOR ASSAULT WITH
5 INTENT TO KILL, DISCHARGE OF A FIREARM INTO A
6 DWELLING, AND MURDER.

7 OF COURSE, THE STATE IS READY FOR TRIAL,
8 BUT ALSO AT THIS POINT, YOUR HONOR, WE WOULD
9 PRESENT TESTIMONY IN ACCORDANCE WITH A BLAIR
10 HEARING.

11 THE COURT: ALL RIGHT. YOU MAY
12 PROCEED.

13 MR. McMAHON: THE STATE CALLS DR.
14 JEFFREY MUSICK.

15 THE COURT: I NEED THE CLERK. IF YOU
16 WOULD JUST RAISE YOUR HAND.

17 (DR. MUSICK COMPLIES.)

18 THE COURT: DO YOU SWEAR OR AFFIRM THE
19 TESTIMONY YOU ARE ABOUT TO PRESENT WILL BE THE
20 TRUTH AND THE WHOLE TRUTH, DOCTOR?

21 DR. MUSICK: I DO.

22 THE COURT: IF YOU WOULD STATE YOUR
23 NAME FOR THE COURT REPORTER.

24 DR. MUSICK: MY NAME IS DR. JEFFREY
25 EARL MUSICK.

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1 THE COURT: SOMEBODY GET MS. McDONALD.

2 MR. McMAHON: DO YOU WANT TO WAIT ON
3 HER, YOUR HONOR?

4 THE COURT: NO, THAT IS ALL RIGHT.

5 DR. JEFFREY EARL MUSICK,
6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MR. McMAHON:

8 Q. DOCTOR, WHAT IS YOUR OCCUPATION?

9 A. I AM A PSYCHOLOGIST AT -- FOR THE SOUTH
10 CAROLINA DEPARTMENT OF MENTAL HEALTH. I AM
11 EMPLOYED AT WILLIAM S. HALL PSYCHIATRIC
12 INSTITUTE IN COLUMBIA.

13 Q. HOW LONG HAVE YOU BEEN IN THAT POSITION?

14 A. I HAVE BEEN IN THAT POSITION FOR ABOUT A
15 YEAR AND A HALF.

16 Q. PREVIOUS TO THAT, WHAT WAS YOUR OCCUPATION,
17 DOCTOR?

18 A. PRIOR TO THAT I WAS A PSYCHOLOGIST FOR THE
19 STATE OF FLORIDA AT A STATE FORENSIC HOSPITAL
20 THERE IN GAINESVILLE, FLORIDA, FOR ABOUT FIVE
21 AND A HALF YEARS.

22 Q. DOCTOR, JUST VERY GENERALLY AND BRIEFLY,
23 WOULD YOU RELATE YOUR EDUCATIONAL BACKGROUND,
24 YOUR TRAINING, YOUR EXPERIENCE IN YOUR
25 PARTICULAR FIELD OF EXPERTISE?

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1 A. CERTAINLY. I RECEIVED A DOCTORATE IN
2 CLINICAL PSYCHOLOGY IN 1994 FROM THE UNIVERSITY
3 OF FLORIDA. AS PART OF MY DOCTORAL TRAINING, I
4 WORKED TWO DAYS A WEEK FOR ABOUT TWO YEARS AT A
5 STATE FORENSIC HOSPITAL IN FLORIDA CONDUCTING,
6 AMONG OTHER THINGS, COMPETENCY EVALUATIONS.
7 ALSO AS PART OF MY DOCTORATE, MY DISSERTATION
8 FOCUSED ON FORENSIC POPULATION.

9 SUBSEQUENT TO THAT, MY PRE-DOCTORAL
10 INTERNSHIP, I RECEIVED FURTHER TRAINING IN
11 FORENSIC PSYCHOLOGY INCLUDING COMPETENCY
12 EVALUATIONS AND CRIMINAL RESPONSIBILITY
13 EVALUATIONS AT THE FLORIDA MENTAL HEALTH
14 INSTITUTE AT THE UNIVERSITY OF SOUTH FLORIDA IN
15 TAMPA.

16 AFTER COMPLETING MY DOCTORATE, I BECAME
17 LICENSED IN FLORIDA AND I'M CURRENTLY ALSO
18 LICENSED IN SOUTH CAROLINA.

19 IN MY ENTIRE PROFESSIONAL CAREER, BASICALLY
20 I'VE WORKED IN FORENSIC HOSPITALS WHERE I'VE
21 CONDUCTED, AMONG OTHER THINGS, CONDUCTED
22 FORENSIC EVALUATIONS.

23 Q. WOULD THOSE FORENSIC EVALUATIONS NUMBER IN
24 THE HUNDREDS?

25 A. YES.

DR. JEFFREY E. MUSICK--DIRECT BY MR. McMAHON (IN CAMERA) 7

1 Q. AND, DOCTOR, AS PART OF YOUR CONDUCTING THE
2 FORENSIC EVALUATIONS, WOULD THAT INCLUDE
3 EVALUATIONS FOR COMPETENCY TO STAND TRIAL AND
4 CRIMINAL RESPONSIBILITY AS FAR AS KNOWING THE
5 DIFFERENCE BETWEEN RIGHT AND WRONG AND CAPACITY
6 TO CONFORM ONE'S CONDUCT TO THE REQUIREMENTS OF
7 THE LAW?

8 A. YES, IT WOULD INCLUDE ALL THREE TYPES OF
9 EVALUATIONS.

10 Q. IN THE HUNDREDS?

11 A. NO, THE NUMBER OF COMPETENCY EVALUATIONS
12 I'VE DONE IS IN THE HUNDREDS. THAT'S -- THE
13 OTHERS ARE NOT IN THE HUNDREDS, THEY'RE LESS
14 THAN A HUNDRED, BUT PROBABLY IN -- FIFTY OR SO.

15 THE REASON FOR THAT IS THAT FLORIDA HAS A
16 DIFFERENT SYSTEM FOR DOING THAT, AND SO I
17 DIDN'T ROUTINELY DO CRIMINAL RESPONSIBILITY
18 EVALUATIONS WHEN I WAS EMPLOYED IN FLORIDA.

19 Q. NOW, DOCTOR, ADDITIONALLY HAVE YOU
20 TESTIFIED IN COURTS OF RECORD BOTH HERE AND IN
21 FLORIDA -- BOTH HERE IN SOUTH CAROLINA AND IN
22 FLORIDA AS TO THE RESULTS OF YOUR FORENSIC
23 EVALUATIONS CONCERNING COMPETENCY?

24 A. YES, I'VE TESTIFIED IN BOTH AND BEEN
25 QUALIFIED AS AN EXPERT WITNESS EACH TIME I'VE

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1 BEEN SUBMITTED AS ONE.

2 Q. AND THAT WOULD INCLUDE COMPETENCY AND
3 CRIMINAL RESPONSIBILITY?

4 A. ACTUALLY, AS FAR AS TESTIFYING, I'VE ONLY
5 TESTIFIED AS AN EXPERT WITNESS IN COMPETENCY
6 CASES.

7 Q. AND THAT'S ALL YOU'VE BEEN OFFERED FOR IN
8 THE PAST?

9 A. THAT'S ALL I'VE BEEN OFFERED FOR.

10 Q. BUT HAVE ALSO CONDUCTED EXAMINATIONS AS FAR
11 AS CRIMINAL RESPONSIBILITY?

12 A. YES.

13 Q. AND MADE REPORTS BACK TO COURTS OF RECORD
14 IN THAT REGARD?

15 A. YES.

16 Q. AND YOU HAVE BEEN OFFERED AND QUALIFIED AS
17 A FORENSIC PSYCHOLOGIST IN THAT FIELD?

18 A. THE STATE OF SOUTH CAROLINA DOESN'T
19 RECOGNIZE THE TYPE OF FORENSIC PSYCHOLOGIST. I
20 AM REGARDED AS A LICENSED CLINICAL PSYCHOLOGIST
21 WHOSE PRIMARY PRACTICE IS IN FORENSICS.

22 MR. McMAHON: YOUR HONOR, I WOULD OFFER
23 THE DOCTOR AS AN EXPERT AS A LICENSED CLINICAL
24 PSYCHOLOGIST SPECIFICALLY IN THE FIELD OF
25 FORENSIC PSYCHOLOGY.

1 MR. ROGERS: YOUR HONOR, I WOULD LIKE
2 TO QUESTION THE WITNESS A LITTLE FURTHER.

3 THE COURT: OKAY, YOU CAN DO THAT.

4 VOIR DIRE BY MR. ROGERS:

5 Q. YOU SAID YOU HAVE NEVER BEEN QUALIFIED AS
6 AN EXPERT IN THE STATE OF SOUTH CAROLINA
7 REGARDING CRIMINAL RESPONSIBILITY?

8 A. NO, I HAVE NOT.

9 Q. HAVE YOU EVER BEEN QUALIFIED IN THE STATE
10 OF SOUTH CAROLINA AS AN EXPERT WITNESS ON THE
11 ISSUE OF COMPETENCY?

12 A. YES, I HAVE.

13 Q. APPROXIMATELY HOW MANY TIMES?

14 A. THE ONLY TIME I WAS SUBMITTED AS ONE, SO
15 IT'S ONE TIME.

16 Q. HOW LONG HAVE YOU BEEN PRACTICING IN THE
17 STATE OF SOUTH CAROLINA?

18 A. ABOUT A YEAR AND A HALF.

19 Q. AND YOU'VE BEEN CALLED TO TESTIFY ONCE
20 PRIOR TO TODAY, IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND THAT WAS NOT ON THE ISSUE OF CRIMINAL
23 RESPONSIBILITY?

24 A. NO, IT WAS ON THE ISSUE OF COMPETENCY.

25 Q. AND IN THE STATE OF FLORIDA OR ANY OTHER

1 STATE, HAVE YOU EVER BEEN QUALIFIED AS AN
2 EXPERT WITNESS ON THE ISSUE OF CRIMINAL
3 RESPONSIBILITY?

4 A. NO, I HAVE NOT BEEN QUALIFIED AS SUCH.

5 Q. APPROXIMATELY HOW MANY TIMES HAVE YOU
6 TESTIFIED IN COURT?

7 A. OH, INCLUDING BOTH SOUTH CAROLINA AND
8 FLORIDA, FIVE OR SIX TIMES. BUT, AGAIN, I
9 WOULD POINT OUT THAT I'VE DONE HUNDREDS OF
10 EVALUATIONS FOR COMPETENCY, I JUST HAVE NOT
11 BEEN CALLED UPON TO TESTIFY.

12 Q. AND YOU'VE TESTIFIED ONCE IN SOUTH CAROLINA
13 COURTS, IS THAT CORRECT?

14 A. YES, THAT'S CORRECT.

15 Q. AND YOUR TESTIMONY IS FLORIDA'S SYSTEM OF
16 DETERMINING COMPETENCY AND CRIMINAL
17 RESPONSIBILITY IS DIFFERENT THAN THAT IN SOUTH
18 CAROLINA?

19 A. THAT'S RIGHT. IT'S -- IT'S WHAT IS CALLED
20 -- IT IS A COMMUNITY BASED SYSTEM IN FLORIDA,
21 SO EVALUATORS WHO WORK IN PRIVATE PRACTICE IN
22 THE COMMUNITIES DO THE CRIMINAL RESPONSIBILITY
23 EVALUATIONS. AND DEFENDANTS WHO ARE FOUND
24 INCOMPETENT ARE SENT TO THE STATE HOSPITAL,
25 WHICH IS WHERE I WORKED, WHERE WE THEN DO THE

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1 COMPETENCY EVALUATIONS AFTER WE HAVE ATTEMPTED
2 TO RESTORE THEM TO COMPETENCY. AND THEN THEY
3 ARE SENT BACK TO THEIR LOCAL COMMUNITIES.

4 SO IT WASN'T PART OF THE -- OF MY JOB
5 DESCRIPTION TO DO CRIMINAL RESPONSIBILITY
6 EVALUATIONS WHEN I WAS EMPLOYED IN FLORIDA.

7 Q. APPROXIMATELY HOW MANY CRIMINAL
8 RESPONSIBILITY EVALUATIONS HAVE YOU DONE IN
9 SOUTH CAROLINA OVER THE PAST YEAR AND A HALF?

10 A. I GUESS I SHOULD HAVE PROBABLY KEPT TRACK
11 OF THE SPECIFIC NUMBERS, BUT IN THE YEAR AND A
12 HALF I'VE BEEN EMPLOYED HERE I WOULD SAY A
13 CONSERVATIVE ESTIMATE WOULD BE THIRTY, A LOW
14 ESTIMATE.

15 Q. AND ONLY ONCE HAVE YOU BEEN QUALIFIED AS AN
16 EXPERT TO GIVE YOUR OPINIONS OF THOSE
17 EVALUATIONS, IS THAT CORRECT?

18 A. YES. AND I WAS -- I ONLY GAVE AN OPINION
19 AT THAT POINT ON COMPETENCY TO STAND TRIAL.
20 THAT WAS THE ONLY QUESTION THAT I WAS ASKED
21 ABOUT.

22 MR. ROGERS: I DON'T HAVE ANY FURTHER
23 QUESTIONS, YOUR HONOR.

24 THE COURT: ALL RIGHT. HE HAS ENOUGH
25 BACKGROUND TO BE ABLE TO TESTIFY. YOU CAN

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1 PROCEED.

2 MR. McMAHON: THANK YOU, YOUR HONOR.

3 MAY IT PLEASE THE COURT?

4 DIRECT EXAMINATION BY MR. McMAHON CONTINUES:

5 Q. NOW, DOCTOR, GOING BACK TO YOUR OCCUPATION,
6 DID YOU HAVE AN OCCASION TO MEET WITH THE
7 DEFENDANT IN THIS CASE, WILLIAM LARRY CHILDERS,
8 JR., ON THREE SEPARATE OCCASIONS FOR PURPOSES
9 OF CONDUCTING A COMPETENCY AND A CRIMINAL
10 RESPONSIBILITY EVALUATION?

11 A. YES, I DID. THOSE OCCASIONS WERE AUGUST
12 16TH, AUGUST 23RD AND AUGUST 29TH OF THIS YEAR.

13 Q. AND, DOCTOR, TO BEGIN WITH, ON AUGUST THE
14 16TH, WHERE DID YOU MEET WITH THE DEFENDANT AT
15 THAT TIME?

16 A. EACH TIME WE MET WITH HIM AT WILLIAM S.
17 HALL PSYCHIATRIC INSTITUTE IN COLUMBIA.

18 Q. SPECIFICALLY ON THE 16TH OF AUGUST, COULD
19 YOU ADVISE THE COURT WHO ALL WAS PRESENT ON
20 THAT DATE?

21 A. YES. ON THE 16TH -- LET ME REFER TO MY
22 NOTES SO I DON'T LEAVE ANYONE OUT.

23 ON THE 16TH, IT WAS MYSELF, MR. CHILDERS AND
24 DR. PAMELA CRAWFORD, WHO IS A PSYCHIATRIST WHO
25 IS EMPLOYED AT HALL INSTITUTE ALONG WITH

DR. JEFFREY E. MUSICK--DIRECT BY MR. McMAHON(IN CAMERA)13

1 MYSELF.

2 Q. AND WHAT IS DR. CRAWFORD'S CAPACITY AS FAR
3 AS HALL INSTITUTE IS CONCERNED?

4 A. DR. CRAWFORD IS DIRECTOR OF THE FORENSIC
5 DIVISION.

6 Q. AND SHE WAS PRESENT ON THE 16TH?

7 A. YES. YES, SHE WAS PRESENT ON EACH OF THE
8 THREE DAYS.

9 Q. AND, DOCTOR, ADDITIONALLY IS DR. CRAWFORD,
10 TO YOUR KNOWLEDGE, HAS SHE TESTIFIED IN THE
11 PAST IN COURTS OF RECORD IN SOUTH CAROLINA AS
12 AN EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY?

13 A. YES, MANY TIMES.

14 MR. ROGERS: YOUR HONOR, I WOULD
15 OBJECT. I DON'T BELIEVE HE CAN QUALIFY AN
16 EXPERT---

17 THE COURT: WELL, SHE HAS TESTIFIED IN
18 FRONT OF ME TEN TIMES, SO HE IS JUST MAKING A
19 RECORD. IT IS NOT RELEVANT ON HIS
20 QUALIFICATIONS. GO AHEAD.

21 Q. AND, DOCTOR, SHE IS GOING TO BE PRESENT ON
22 EACH AND EVERY TIME, THE 16TH, THE 23RD AND THE
23 29TH, IS THAT CORRECT?

24 A. YES, SHE WAS.

25 Q. NOW, COULD YOU ADVISE THE COURT OF WHAT

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DR. JEFFREY E. MUSICK--DIRECT BY MR. McMAHON (IN CAMERA) 14

1 OCCURRED ON THE 16TH AS FAR AS THE COMPETENCY
2 EVALUATION IS CONCERNED?

3 A. YES. AS A MATTER OF COURSE, WE BEGAN BY
4 INFORMING MR. CHILDERS OF HIS RIGHTS AND THE
5 LIMITS OF CONFIDENTIALITY OF THE EVALUATION.

6 AND AFTER WE HAD COMPLETED THAT, HE STATED
7 THAT HE DID NOT WANT TO PROCEED WITH THE
8 EVALUATION WITHOUT HIS LAWYER BEING PRESENT.

9 SO AT THAT POINT, WE TERMINATED THE
10 EVALUATION.

11 Q. NOW, DOCTOR, DO YOU RECALL WHETHER OR NOT
12 YOU SPOKE WITH ANY OF THE OFFICERS THAT HAD
13 BROUGHT HIM, THAT HAD TRANSPORTED HIM TO HALL
14 INSTITUTE ON THAT DAY?

15 A. YEAH. ALSO AS A MATTER OF COURSE, I
16 SPEAK WITH THE TRANSPORT OFFICERS WHO BRING THE
17 DEFENDANTS JUST TO DETERMINE IF THEY MIGHT POSE
18 ANY DANGER TO ANYONE INVOLVED IN THE EVALUATION
19 AND TO GET ANY INFORMATION THEY MAY HAVE ABOUT
20 HOW THEY'VE BEEN BEHAVING.

21 AND THE OFFICERS WHO I SPOKE TO ON THAT DAY
22 REPORTED THAT MR. CHILDERS HAD NOT BEEN A
23 BEHAVIORAL PROBLEM.

24 AND, IN ADDITION, THEY HADN'T OBSERVED
25 ANYTHING UNUSUAL ABOUT HIS SPEECH OR BEHAVIOR.

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1 Q. AND DID YOU OBSERVE ANYTHING UNUSUAL ABOUT
2 HIS SPEECH OR BEHAVIOR?

3 A. NO, NOT -- NO, I DID NOT.

4 Q. DID HE APPEAR TO BE ALERT AND AWARE AND
5 ORIENTED AS TO TIME AND PLACE AND SUCH?

6 A. HIS SPEECH WAS ORGANIZED, MEANING
7 EVERYTHING HE SAID WE COULD UNDERSTAND. AND IT
8 APPEARED THAT HE UNDERSTOOD EVERYTHING THAT WE
9 SAID. HE CERTAINLY UNDERSTOOD HIS RIGHTS AT
10 THAT POINT IN TIME.

11 Q. NOW, DOCTOR, ONCE HE REQUESTED NOT TO
12 CONTINUE ON WITH THE COMPETENCY EVALUATION
13 WITHOUT HIS ATTORNEY, WHAT ACTION DID Y'ALL
14 TAKE? WHAT DID Y'ALL DO?

15 A. WE INFORMED THE TRANSPORT OFFICERS THAT THE
16 EVALUATION WAS TERMINATED AND THAT THEY COULD
17 GO BACK TO THE JAIL.

18 AND THEN WE PHONED THE SOLICITOR OF RECORD
19 IN THE CASE TO LET HIM KNOW THAT MR. CHILDERS
20 DIDN'T WANT TO GO AHEAD WITH THE EVALUATION
21 WITHOUT HIS ATTORNEY BEING PRESENT.

22 Q. NOW, DOCTOR, WAS THAT EVALUATION
23 RESCHEDULED FOR AUGUST THE 23RD?

24 A. YES, IT WAS.

25 Q. AND WHO ALL WAS PRESENT ON THAT AUGUST 23RD

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1 DATE?

2 A. ON AUGUST THE 23RD, MR. CHILDERS OF COURSE;
3 MR. CHILDERS' ATTORNEY, MR. ROGERS; MYSELF; DR.
4 CRAWFORD AGAIN; AND, IN ADDITION, THERE WAS DR.
5 GREGORY LANDE WHO IS THE DEPUTY DIRECTOR -- WHO
6 IS A PSYCHIATRIST AND IS THE DEPUTY DIRECTOR OF
7 HALL PSYCHIATRIC INSTITUTE. AND DR. LISA
8 SLOPE, WHO IS A PSYCHIATRIC RESIDENT AT HALL
9 PSYCHIATRIC INSTITUTE.

10 Q. AND COULD YOU TELL US WHETHER OR NOT YOU
11 OBSERVED ANY UNUSUAL BEHAVIOR OR SPEECH
12 PATTERNS AS FAR AS THE EVALUATION ON THE 23RD
13 WAS?

14 A. NO, I DID NOT OBSERVE ANY UNUSUAL BEHAVIOR
15 OR SPEECH PATTERNS. OVER THE COURSE OF ALL OUR
16 CONTACTS WITH MR. CHILDERS HIS SPEECH WAS
17 CONSISTENTLY RELEVANT, ORGANIZED, COHERENT. NO
18 SPEECH PROBLEMS WERE MANIFESTED AT ANY POINT IN
19 TIME.

20 Q. AND, DOCTOR, WOULD YOU DESCRIBE FOR HIS
21 HONOR THE PROCESS AND HOW IT PROCEEDED ON THE
22 23RD AS FAR AS GETTING INTO THE ACTUAL
23 COMPETENCY EVALUATION?

24 A. YEAH. ON THE 23RD WE HAD TIME TO DO
25 BASICALLY TWO THINGS, ONE OF WHICH WAS CONDUCT

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1 THE FORMAL COMPETENCY EVALUATION; AND, THE
2 SECOND OF WHICH WAS TO TAKE A HISTORY, SO THAT
3 WE SPENT A TOTAL OF ABOUT, I THINK AN HOUR AND
4 THREE-QUARTERS DOING THOSE TWO THINGS.

5 Q. AND HOW DID IT PROCEED? I MEAN, WHAT STEPS
6 DID YOU ACTUALLY TAKE WITH MR. CHILDERS ON THIS
7 DATE?

8 A. WELL, I ASKED MR. CHILDERS A FAIRLY
9 STANDARD SET OF QUESTIONS REGARDING COMPETENCY
10 TO STAND TRIAL. THESE WOULD INCLUDE QUESTIONS
11 ABOUT WHAT HE IS CHARGED WITH, WHAT THOSE
12 CHARGES MEAN, WHAT HE ALLEGEDLY DID TO INCUR
13 THE CHARGES, WHERE AND WHEN THE ALLEGED CRIMES
14 TOOK PLACE, WHAT WERE THE POSSIBLE PENALTIES
15 FOR SOMEONE WHO WAS CONVICTED OF THOSE CRIMES.

16 I ALSO ASKED HIM ABOUT THE ROLES OF THE
17 PRINCIPAL PARTICIPANTS IN THE COURTROOM,
18 INCLUDING THE DEFENSE ATTORNEY, THE SOLICITOR,
19 THE JUDGE, THE JURY.

20 I ASKED HIM ABOUT PLEAS THAT WERE AVAILABLE
21 TO HIM. I ASKED HIM ABOUT THE ROLE OF
22 WITNESSES, THE ROLE OF EVIDENCE.

23 I ASKED HIM ABOUT HIS RELATIONSHIP WITH HIS
24 ATTORNEY. I ASKED HIM ABOUT HOW HE WAS
25 SUPPOSED TO BEHAVE IN COURT. I ASKED HIM ABOUT

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1 HIS WILLINGNESS TO TESTIFY, IF HE AND HIS
2 ATTORNEY THOUGHT IT WAS A GOOD IDEA.

3 THOSE WERE THE GENERAL CATEGORIES OF
4 QUESTIONS THAT I COVERED FOR THE COMPETENCY
5 EVALUATION.

6 Q. DOCTOR, PRIOR TO ACTUALLY GETTING INTO THE
7 COMPETENCY EVALUATION, DID YOU ADVISE THE
8 DEFENDANT OF HIS RIGHTS?

9 A. YES. WE DID THAT -- ACTUALLY WE DID THAT
10 PRIOR TO BEGINNING THAT EVALUATION. AT THAT
11 POINT IN THE EVALUATION MR. ROGERS, HIS DEFENSE
12 ATTORNEY, WAS THERE. AND, IN FACT, MR. ROGERS
13 WAS -- AFTER WE HAD GONE OVER HIS RIGHTS WITH
14 HIM, MR. CHILDERS SIGNED A STATEMENT THAT HE
15 UNDERSTOOD THE RIGHTS, HIS RIGHTS, AND WAS
16 WILLING TO PROCEED WITH THE EVALUATION. AND,
17 IN FACT, MR. ROGERS WITNESSED THAT STATEMENT
18 AND SIGNED THE FORM AS A WITNESS.

19 Q. AND DID I UNDERSTAND YOU TO SAY THAT DURING
20 THE ADVISEMENT OF THE RIGHTS, MR. ROGERS BEING
21 PRESENT, THAT THE DEFENDANT ACTUALLY ASKED HIS
22 ATTORNEY, MR. ROGERS, SOME QUESTIONS, A LEGAL
23 QUESTION, AS YOU RECALL?

24 A. AT SOME POINT ON THAT -- ON THE 23RD, MR.
25 CHILDERS ASKED MR. ROGERS A LEGAL QUESTION. I

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1 THINK IT WAS DURING THE RIGHTS PORTION OF IT,
2 BUT I CAN'T RECALL SPECIFICALLY.

3 Q. DID MR. ROGERS STAY IN THE COMPETENCY
4 EVALUATION DURING THAT ENTIRE PERIOD OF TIME, I
5 BELIEVE YOU SAID ABOUT AN HOUR AND THREE
6 QUARTERS?

7 A. NO. AFTER WE WENT OVER THE RIGHTS, MR.
8 ROGERS ELECTED TO WAIT OUTSIDE THE INTERVIEW
9 ROOM. HE STATED THAT IT WAS HIS PREFERENCE TO
10 DO SO.

11 Q. AND THAT WASN'T Y'ALL EXCLUDING HIM, THAT
12 WAS THE ATTORNEY'S PREFERENCE, IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND DID MR. CHILDERS OBJECT TO THAT?

15 A. NO. AND I MIGHT ADD THAT MR. ROGERS
16 REMAINED AVAILABLE OUTSIDE THE ROOM. IF MR.
17 CHILDERS WOULD HAVE HAD ANY QUESTIONS HE WANTED
18 TO ASK, HE WOULD HAVE, I BELIEVE, SUMMONED MR.
19 ROGERS BACK IN.

20 Q. AND AS THE COMPETENCY EVALUATION CONTINUED
21 AND ASKING MR. CHILDERS, THE DEFENDANT, VARIOUS
22 QUESTIONS, DID HE EVER REQUEST MR. ROGERS TO
23 RETURN INTO THE ROOM?

24 A. NO, HUH-UH.

25 Q. NOW, WAS THERE ANY CONVERSATION, BRIEF AS

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1 IT MAY HAVE BEEN, BETWEEN YOU AND THE DEFENDANT
2 CONCERNING MR. ROGERS OR MR. CHILDERS'
3 CONFIDENCE IN MR. ROGERS?

4 A. YES, THERE WAS.

5 Q. AND DID MR. CHILDERS, THE DEFENDANT,
6 INDICATE TO YOU THAT HE THOUGHT HIS LAWYER WAS
7 GIVING IT TO HIM STRAIGHT, TELLING HIM
8 STRAIGHT?

9 A. YEAH. WE ASKED A QUESTION -- LET ME BE
10 SPECIFIC ABOUT -- ABOUT THIS EXAMPLE, BECAUSE
11 IT IS IN THE REPORT AND I CAN EASILY REFER TO
12 IT HERE.

13 HE MENTIONED THAT -- MR. CHILDERS --
14 WHEN I WAS ASKING MR. CHILDERS ABOUT THE
15 POSSIBLE PENALTIES HE MIGHT FACE IF HE WAS
16 CONVICTED OF THESE CRIMES, HE WASN'T CERTAIN AS
17 TO THE -- SOME OF THE MAXIMUM POSSIBLE
18 PENALTIES.

19 AND SO WE ASKED HIM WHO WOULD HE ASK TO --
20 IF HE WANTED TO KNOW THIS INFORMATION, AND HE
21 REPLIED THAT HE COULD ASK HIS ATTORNEY.

22 AND HE ADDED THAT HE THOUGHT HIS ATTORNEY
23 WOULD GIVE HIM STRAIGHT ANSWERS ABOUT WHAT THE
24 POSSIBLE PENALTIES WERE.

25 Q. AND HE INDICATED A DEGREE OF TRUST -- THE

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1 DEFENDANT INDICATED A DEGREE OF TRUST IN MR.
2 ROGERS?

3 A. RIGHT. AND RELATED TO THAT QUESTION, HE AT
4 SOME POINT SAID THAT HE HAD NO REASON NOT TO
5 TRUST MR. ROGERS. APPARENTLY, THOUGH, HE
6 DIDN'T KNOW HIM VERY WELL AT THAT POINT IN
7 TIME.

8 Q. NOW, IF WE BREAK DOWN COMPETENCY, AS I
9 UNDERSTAND IT, YOU ASKED A SERIES OF QUESTIONS
10 CONCERNING THE DEFENDANT'S UNDERSTANDING OF THE
11 PROCEEDINGS, IS THAT CORRECT?

12 A. RIGHT. THE SOUTH CAROLINA STATUTE
13 IDENTIFIES TWO, I GUESS YOU'D SAY, TWO PRONGS
14 TO THE COMPETENCY STANDARD.

15 THE FIRST IS WHETHER THE DEFENDANT HAS AN
16 UNDERSTANDING OF THE PROCEEDINGS AGAINST HIM.
17 AND THE SECOND IS WHETHER THE DEFENDANT HAS THE
18 ABILITY TO ASSIST HIS ATTORNEY.

19 Q. NOW, AS WE GO TO THOSE TWO PRONGS, AS FAR
20 AS THE UNDERSTANDING, DID HE APPEAR TO OR DID
21 HE KNOW WHAT HE WAS CHARGED WITH?

22 A. YES, HE DID. HE CORRECTLY IDENTIFIED AND
23 DEFINED EACH OF THE THREE CHARGES.

24 Q. HE KNEW HE WAS CHARGED WITH THE CRIME OF
25 MURDER?

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- 1 A. YES, HE DID.
- 2 Q. AND DEFINED THAT AS TO KILL SOMEONE?
- 3 A. YES.
- 4 Q. FURTHER KNEW HE WAS CHARGED WITH ASSAULT
- 5 WITH INTENT TO KILL?
- 6 A. CORRECT.
- 7 Q. DEFINED AS TRYING TO KILL SOMEONE?
- 8 A. CORRECT.
- 9 Q. AND DISCHARGING A FIREARM INTO A DWELLING,
- 10 HE DEFINED AS SHOOTING INTO A HOUSE?
- 11 A. THAT'S CORRECT ALSO.
- 12 Q. AND HE UNDERSTOOD THOSE WERE THE CHARGES
- 13 AND COULD RELATE BACK TO YOU WHAT HIS
- 14 UNDERSTANDING OF THE CHARGES WAS?
- 15 A. RIGHT. WE BASICALLY ASKED HIM WHAT IS HE
- 16 CHARGED WITH, AND HE WOULD SAY MURDER. AND WE
- 17 WOULD SAY WHAT DOES MURDER MEAN, AND THEN HE
- 18 WOULD GIVE THE DEFINITIONS THAT YOU JUST
- 19 RECITED.
- 20 Q. DID HE FURTHER UNDERSTAND WHO THE ALLEGED
- 21 VICTIMS WERE IN THE CASE?
- 22 A. YES, HE IDENTIFIED EACH OF THE VICTIMS
- 23 BY NAME.
- 24 Q. AND THE LOCATION THAT IT OCCURRED?
- 25 A. YES, HE GAVE THE -- AN ANSWER THAT WAS

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1 CONSISTENT WITH WHAT WAS IN THE POLICE REPORTS
2 ABOUT WHERE IT OCCURRED.

3 Q. WAS HE ABLE TO TELL YOU BETWEEN THE THREE
4 CHARGES WHICH THE MOST SERIOUS WOULD BE?

5 A. YES, HE IDENTIFIED MURDER AS THE MOST
6 SERIOUS.

7 Q. AND WHAT DID HE SAY AS FAR AS THE MAXIMUM
8 PENALTIES OF THAT WAS?

9 A. HE SAID THAT HE HADN'T BEEN INFORMED OF
10 WHAT THE MAXIMUM POSSIBLE PENALTY MIGHT BE, BUT
11 HE KNEW FROM HIS OWN KNOWLEDGE BASE THAT
12 SOMEONE CONVICTED OF MURDER COULD BE SENTENCED
13 TO DEATH.

14 Q. AND HE WASN'T SURE IN THIS PARTICULAR CASE,
15 IN THIS PARTICULAR SETTING, CORRECT?

16 A. I'M SORRY, COULD YOU---

17 Q. HE WASN'T SURE IF IT WAS A DEATH PENALTY
18 CASE IN THIS PARTICULAR---

19 A. RIGHT.

20 Q. ---SETTING, IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. ADDITIONALLY, AS FAR AS THE PARTIES ARE
23 CONCERNED, DID HE RELATE TO YOU, DOCTOR, THE
24 ROLE OF THE SOLICITOR IN THE CASE?

25 A. YES, HE DID.

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1 Q. AND WHAT WAS THAT? WHAT DID HE INDICATE?

2 A. HE INDICATED THAT THE ROLE OF THE SOLICITOR
3 WAS TO TRY TO PROVE HIM GUILTY.

4 Q. AND THE JUDGE?

5 A. YEAH, HE NOTED THAT THE JUDGE WAS SUPPOSED
6 TO BE IMPARTIAL, TO KEEP ORDER, AND TO SENTENCE
7 OR TURN LOSE THE DEFENDANT, DEPENDING ON THE
8 VERDICT.

9 Q. DID HE INDICATE TO YOU THAT HE UNDERSTOOD
10 THAT THE JURY VERDICT MUST BE UNANIMOUS AND
11 BASED ON THE EVIDENCE?

12 A. YES, HE DID.

13 Q. DID HE FURTHER DEFINE CORRECTLY THE TERM
14 GUILTY AND NOT GUILTY?

15 A. YES, HE DID.

16 Q. DID HE FURTHER INDICATE THAT THERE MAY BE
17 ANOTHER POTENTIAL PLEA OF GUILTY BY INSANE?

18 A. YEAH. HE DID NOT HAVE AN ACCURATE
19 UNDERSTANDING OF THAT POSSIBLE PLEA. I MEAN,
20 IT ISN'T EVEN A -- AS HE STATED, IT'S NOT THE
21 CORRECT NAME FOR THE PLEA, AS YOU KNOW, BUT HE
22 LACKED A FULL UNDERSTANDING OF THAT.

23 Q. DOCTOR, DID HE GENERALLY UNDERSTAND PLEA
24 BARGAIN?

25 A. YES, HE DID.

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1 Q. AND HOW THAT WOULD WORK?

2 A. YES.

3 Q. FURTHER, AS FAR AS CONDUCT IN THE
4 COURTROOM, WHAT WAS YOUR EVALUATION OF HIS
5 UNDERSTANDING OF CONDUCT IN THE COURTROOM AND
6 ABILITY TO ASSIST IN HIS DEFENSE?

7 A. HE SAID -- HE EXPLAINED IN THE COURTROOM A
8 DEFENDANT MUST LISTEN AND BE QUIET AND FOLLOW
9 THE JUDGE'S INSTRUCTION.

10 AND BASED ON HIS BEHAVIOR DURING EACH OF
11 THE TIMES THAT I'VE MET WITH HIM, HE SEEMS TO
12 HAVE THE CAPACITY TO MANIFEST APPROPRIATE
13 COURTROOM BEHAVIOR.

14 Q. AND FURTHER, DOCTOR, DID HE INDICATE THAT
15 HE COULD NOT BE COMPELLED TO TESTIFY AGAINST
16 HIMSELF?

17 A. YES, HE WAS AWARE THAT THAT'S UP TO --
18 ULTIMATELY UP TO HIM AS TO WHETHER HE TESTIFIES
19 IN HIS CASE.

20 Q. BASED ON YOUR -- NOW, I BELIEVE YOU SAID
21 THIS WAS ON THE 23RD. ADDITIONALLY, YOU
22 EVALUATED HIM ON THE 29TH?

23 A. THAT'S CORRECT.

24 Q. DID YOU REVIEW OR GO BACK OVER THE ISSUE OF
25 COMPETENCY ON THE 29TH?

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1 A. NO, WE DID NOT DO THAT ON THE 29TH.

2 Q. DID YOU FEEL IT WAS NECESSARY TO DO THAT ON
3 THE 29TH, COMPETENCY?

4 A. NO.

5 Q. DID YOU HAVE AN OPPORTUNITY TO EXAMINE HIM
6 TODAY PRIOR TO THIS PROCEEDING?

7 A. YES, I DID.

8 Q. AND DID YOU DO THAT BASED ON THE ISSUE OF
9 COMPETENCY?

10 A. YES.

11 Q. NOW, DOCTOR, GOING BACK TO YOUR EVALUATION
12 OF THE DEFENDANT ON AUGUST 23RD OF THIS YEAR,
13 DID YOU FORM AN OPINION OF WHETHER HE HAD A
14 PRESENT ABILITY TO CONSULT WITH HIS LAWYER WITH
15 A REASONABLE DEGREE OF RATIONAL UNDERSTANDING
16 AND WHETHER HE HAD A RATIONAL AS WELL AS A
17 FACTUAL UNDERSTANDING OF THE PROCEEDINGS
18 AGAINST HIM?

19 A. YES, I DID FORM AN OPINION ON THOSE.

20 Q. AND WHAT WAS YOUR OPINION OF HIS COMPETENCY
21 ON AUGUST 23RD?

22 A. MY OPINION WAS THAT HE WAS COMPETENT TO
23 STAND TRIAL.

24 Q. AND, DOCTOR, ADDITIONALLY WOULD THAT HAVE
25 BEEN YOUR OPINION ON THE 29TH WHEN YOU OBSERVED

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1 HIM, OF AUGUST?

2 A. YES. THERE WAS NOTHING IN HIS SPEECH OR
3 BEHAVIOR OR HIS REPORT THAT INDICATED THERE HAD
4 BEEN ANY SIGNIFICANT CHANGE IN HIS MENTAL STATE
5 SINCE THEN.

6 Q. AND, DOCTOR, NOW BASED ON TODAY -- ABOUT
7 HOW LONG DID YOU HAVE THE OPPORTUNITY TO SPEND
8 WITH HIM TODAY?

9 A. I ONLY NEEDED ABOUT TWENTY MINUTES WITH HIM
10 TODAY.

11 Q. AND COULD YOU DESCRIBE IF YOU OBSERVED ANY
12 UNUSUAL BEHAVIOR OR SPEECH PATTERNS?

13 A. I DIDN'T OBSERVE EITHER OF THOSE IN MY TIME
14 WITH HIM TODAY, NOR DID HE COMPLAIN OF ANY
15 MENTAL HEALTH PROBLEMS THAT HAD BEGUN SINCE I
16 LAST SAW HIM ON THE 29TH OF AUGUST.

17 Q. DID HE APPEAR TO BE COMPETENT TO STAND
18 TRIAL AND ASSIST IN HIS OWN DEFENSE TODAY AS HE
19 DID ON AUGUST 23RD?

20 A. YES, HE DID.

21 Q. CAN YOU SEE ANYTHING THAT WOULD CHANGE YOUR
22 OPINION OF HIM?

23 A. NOTHING.

24 Q. HE'S ALERT AND AWARE, ORIENTED TODAY?

25 A. YES. I ACTUALLY DID A COGNITIVE SCREENING

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1 TO CHECK THINGS LIKE HIS ORIENTATION, HIS
2 AWARENESS OF HIS SITUATION, HIS ABILITY TO PAY
3 ATTENTION, HIS ABILITY TO CONCENTRATE. I
4 SCREENED ON THOSE SORTS OF ISSUES THAT ARE
5 IMPORTANT FOR COMPETENCE, AND HE DID FINE ON
6 EACH SCREENING TEST.

7 Q. NOW, DOCTOR, I BELIEVE, AS A MATTER OF
8 FACT, DURING THE COURSE OF Y'ALL'S EVALUATIONS
9 ON THE 23RD AND THE 29TH, I'M NOT SURE OF THE
10 DATE, Y'ALL ACTUALLY GAVE HIM AN I.Q. TEST?

11 A. THAT WAS ON THE 29TH OF AUGUST.

12 Q. ON THE 29TH. WHAT WAS HIS I.Q.?

13 A. HIS ESTIMATED I.Q. WAS 91, WHICH WOULD BE
14 IN THE AVERAGE RANGE.

15 Q. AND SO AS FAR AS HIS MENTAL CAPACITY TO
16 UNDERSTAND, HE CLEARLY HAS SUFFICIENT MENTAL
17 CAPACITY TO UNDERSTAND, IF YOU JUST LOOK AT THE
18 RESULTS OF THE I.Q. TEST?

19 A. RIGHT. HE HAS THE -- HE HAS THE
20 INTELLECTUAL CAPACITY TO BE COMPETENT TO STAND
21 TRIAL.

22 Q. NOW, DOCTOR, IF I COULD SHIFT FROM THERE TO
23 CRIMINAL RESPONSIBILITY. DID YOU AND WERE YOU
24 REQUESTED TO DO AN EVALUATION OF THE DEFENDANT
25 AS FAR AS CRIMINAL RESPONSIBILITY?

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1 A. YES, THAT WAS PART OF THE COURT ORDER AS
2 WELL.

3 Q. AND WHEN DID YOU CONDUCT YOUR EVALUATION
4 CONCERNING CRIMINAL RESPONSIBILITY?

5 A. THE CRIMINAL RESPONSIBILITY PART OF THE
6 EVALUATION OCCURRED ON AUGUST 29TH.

7 Q. AND WHY WOULD IT NOT HAVE BEEN CONDUCTED ON
8 THE 23RD ALSO?

9 A. JUST BECAUSE WE RAN OUT OF TIME.

10 Q. JUST THE TIME?

11 A. YES.

12 Q. AND HOW DO YOU PROCEED IN PERFORMING A
13 CRIMINAL RESPONSIBILITY EVALUATION, DOCTOR?

14 A. WELL, PRIOR TO INTERVIEWING THE DEFENDANT
15 WE REVIEW AVAILABLE RECORDS AND WE'RE
16 PARTICULARLY INTERESTED ON RECORDS FROM AROUND
17 THE TIME OF THE ALLEGED CRIMES, AND ALSO
18 PARTICULARLY INTERESTED IN ANY MENTAL HEALTH
19 RECORDS THAT THE DEFENDANT MIGHT HAVE.

20 Q. AND YOU REVIEWED VARIOUS RECORDS. AND I
21 WANT TO SHOW YOU A DOCUMENT AND ASK IF THIS IS
22 A COPY OF THE FINDINGS IN THIS CASE AND A COPY
23 OF YOUR REPORT ATTACHED THERETO?

24 A. YES, THIS IS THE REPORT THAT WAS COMPILED
25 AS A RESULT OF THIS EVALUATION.

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1 MR. McMAHON: YOUR HONOR, I WOULD OFFER
2 THIS AS A COURT'S EXHIBIT.

3 THE COURT: OKAY.

4 (WHEREUPON, FORENSIC REPORT OF
5 FINDINGS MARKED AS COURT'S
6 EXHIBIT ONE.)

7 Q. AND THAT COURT'S EXHIBIT, OF COURSE THE
8 FIRST PAGE IS THE FINDINGS OF YOU AND DR.
9 CRAWFORD, SIGNED BY DR. CRAWFORD. PAGE TWO,
10 AND THEN IF I GO TO PAGE THREE, THAT LAUNDRY
11 LIST, DOES IT NOT, THE SOURCES OF INFORMATION
12 THAT YOU MAY HAVE REVIEWED?

13 A. YEAH, ON PAGE TWO?

14 Q. YES, SIR.

15 A. YES.

16 Q. AND RATHER THAN GOING THROUGH ALL OF THOSE
17 NOW, EITHER THE TESTING THAT Y'ALL DID, FOR
18 EXAMPLE, IT HAS GOT THE CLINICAL FORENSIC
19 REVIEWS OF 8/23 AND SUCH LIKE THAT, BUT IT ALSO
20 RELATES TO AUTOPSY REPORTS AND WITNESS
21 STATEMENTS AND SUCH AS THAT?

22 A. UH-HUH.

23 Q. ADDITIONALLY, DOCTOR, DID YOU HAVE AN
24 OPPORTUNITY TODAY TO REVIEW THE WORK RECORDS ON
25 THE DEFENDANT FROM DUPONT -- IT LOOKS LIKE ONE,

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1 TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT,
2 NINE, TEN, ELEVEN, TWELVE PAGES?

3 A. YES. I SAW THOSE FOR THE FIRST TIME TODAY.

4 Q. NOW, DOCTOR, IN ADDITION TO REVIEWING THE
5 VARIOUS RECORDS THAT YOU DID, WHAT ELSE DID YOU
6 DO TO GO TO THE ISSUE OF CRIMINAL
7 RESPONSIBILITY?

8 A. WELL, WE INTERVIEW THE DEFENDANT ABOUT
9 HIS ACTIONS AND WHEREABOUTS ON THE DATES IN
10 QUESTION, WITH PARTICULAR ATTENTION TO HIS
11 ACCOUNT OF WHAT HE WAS THINKING, FEELING,
12 PERCEIVING, THOSE SORT OF MENTAL HEALTH KINDS
13 OF ISSUES.

14 Q. AND IN THAT INTERVIEW, NOT GOING TO THE
15 SUBSTANCE SO MUCH OF WHAT HE MAY HAVE SAID, BUT
16 IN CONDUCTING THAT INTERVIEW, WHAT WAS HIS
17 EVALUATION OF HIS MENTAL STATE BACK ON OCTOBER
18 THE 15TH OF 2000 WHEN THIS INCIDENT OCCURRED?

19 A. HE DESCRIBED IT AS SIMILAR TO HIS MENTAL
20 STATE ON AUGUST 29TH WHEN WE WERE CONDUCTING THE
21 EVALUATION.

22 Q. AND IF I LOOK AT THE LAST PARAGRAPH ON PAGE
23 FIVE, YOU ACTUALLY HAVE A QUOTE THERE, "THIS
24 DEFENDANT CLAIMED THAT AT THE TIME OF THE
25 INCIDENT HE WAS IN A 'NORMAL STATE OF MIND,'

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1 JUST LIKE RIGHT NOW."

2 A. YES, THOSE WERE HIS WORDS.

3 Q. END OF QUOTE. THOSE WERE ACTUALLY HIS
4 WORDS?

5 A. YES.

6 Q. WHEN HE SAID THOSE WORDS TO YOU, THAT HE
7 WAS IN A NORMAL STATE OF MIND, WAS HIS
8 APPEARANCE SUCH TO YOU ON AUGUST 29TH THAT HIS
9 STATE OF MIND WAS NORMAL?

10 A. YES. HIS -- AND THAT'S BASED ON
11 OBSERVATIONS OF HIS SPEECH AND BEHAVIOR, WHICH
12 AS I MENTIONED BEFORE WERE FREE FROM ANY
13 ABNORMALITY.

14 Q. DOCTOR, ADDITIONALLY DID YOU SEE ANYTHING
15 IN HIS HISTORY THAT GAVE YOU ANY CAUSE TO
16 BELIEVE HE HAD ANY MENTAL DISORDER ON OCTOBER
17 15TH OF 2000?

18 A. WELL, IN HIS HISTORY HE HAD BEEN DIAGNOSED
19 WITH DEPRESSION AND ALSO WITH ALCOHOL
20 DEPENDENCE. SO WE MADE SURE TO EVALUATE THE
21 POSSIBILITY THAT HE WAS, YOU KNOW, SUFFERING
22 FROM DEPRESSION AROUND THAT TIME, AS WELL AS
23 THE POSSIBILITY THAT HE WAS SUFFERING FROM
24 OTHER DISORDERS THAT COULD POTENTIALLY AFFECT
25 HIS MENTAL STATE, POTENTIALLY AFFECT HIS

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1 ABILITY TO UNDERSTAND THE DIFFERENCE BETWEEN
2 RIGHT AND WRONG. AND THAT'S JUST STANDARD
3 PRACTICE TO ASSESS FOR THOSE SORTS OF PROBLEMS.

4 Q. AND DID Y'ALL DIAGNOSE HIM AS HAVING ANY
5 MENTAL DISORDERS BACK ON OCTOBER THE 15TH THAT
6 WOULD INTERFERE WITH HIS ABILITY TO KNOW THE
7 DIFFERENCE BETWEEN RIGHT AND WRONG?

8 A. NO. BASED ON OUR INTERVIEW WITH HIM AND
9 OUR REVIEW OF RECORDS, THERE WAS NO INDICATION
10 THAT HE WAS SUFFERING FROM ANY SYMPTOMS THAT
11 COULD HAVE RENDERED HIM NOT CAPABLE OF KNOWING
12 THE DIFFERENCE BETWEEN RIGHT AND WRONG OR
13 UNDERSTANDING THE -- OR RECOGNIZING THE ACT
14 CHARGED WAS WRONG.

15 Q. AND SO BASED ON THE -- WOULD IT BE YOUR
16 OPINION, DOCTOR, THAT HE HAD THE -- THAT HE
17 KNEW THE DIFFERENCE BETWEEN RIGHT AND WRONG ON
18 OCTOBER THE 15TH OF 2000?

19 A. YES, THAT'S THE---

20 Q. AND HE KNEW IT WAS WRONG TO MURDER PEOPLE?

21 A. YES.

22 Q. AND APPRECIATE THE CRIMINALITY THAT THAT
23 IS WRONG?

24 A. YES.

25 Q. AND ADDITIONALLY, DOCTOR, DID YOU EVALUATE

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1 HIM AS FAR AS CAPACITY TO PERFORM HIS CONDUCT
2 TO THE REQUIREMENTS OF THE LAW?

3 A. YES. THAT WAS THE FINAL PART OF THE COURT
4 ORDER.

5 Q. AND DID YOU OBSERVE THE PRESENCE OF ANY
6 SYMPTOM OF MENTAL DISORDER THAT COULD HAVE
7 CAUSED HIM TO HAVE LACKED THAT CAPACITY TO
8 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE
9 LAW?

10 A. NO. BASED ON THE SAME SOURCES OF
11 INFORMATION WE USED FOR THE CRIMINAL
12 RESPONSIBILITY PART OF THE EVALUATION, WE
13 DIDN'T FIND ANY EVIDENCE THAT THAT STANDARD
14 COULD BE MET EITHER.

15 Q. DOCTOR, HE HAD -- FROM YOUR OBSERVATIONS OF
16 HIM, YOU SAW NO INDICATION OF ANY DELUSIONS OR
17 HALLUCINATIONS OR PSYCHOTIC BEHAVIOR?

18 A. NO, WE DID NOT.

19 Q. AND, DOCTOR, IN A LOOK BACK AT HIS HISTORY
20 AND SOME RECORDS YOU LOOKED AT, FOR EXAMPLE,
21 FROM RICHLAND SPRINGS HOSPITAL, WERE BACK I
22 BELIEVE IN 1995, HE ATTEMPTED TO COMMIT
23 SUICIDE, ALLEGEDLY COMMIT SUICIDE BY TAKING
24 ASPIRIN?

25 A. YES.

1 Q. IN YOUR REVIEW OF THAT TYPE OF
2 CIRCUMSTANCE, IS THAT ALSO -- DID THAT APPEAR
3 TO BE A SITUATIONAL TYPE OF---

4 A. WELL, WE OBVIOUSLY DIDN'T SEE HIM IN 1995,
5 BUT HE WAS DIAGNOSED WITH WHAT WAS CALLED A
6 DEPRESSIVE REACTION, AND THAT WOULD SUGGEST
7 THAT, YES, IT WAS SPECIFIC TO A PARTICULAR
8 EVENT OR EVENTS IN HIS LIFE.

9 Q. AND THAT WOULD NOT BE SOMETHING THAT WOULD
10 HAVE CARRIED FORWARD TO INTERFERE WITH HIS
11 MENTAL ABILITIES OR CAPACITY TO KNOW RIGHT FROM
12 WRONG OR TO CONFORM HIS CONDUCT TO THE
13 REQUIREMENTS OF THE LAW ON OCTOBER THE 15TH OF
14 2000?

15 A. WELL, DEPRESSION COULD CONTINUE ON
16 RELATIVELY INDEFINITELY, BUT BASED ON OUR
17 ASSESSMENT OF THAT DATE IN QUESTION, THERE WAS
18 NO EVIDENCE THAT DEPRESSION WAS AFFECTING HIS
19 ABILITY TO UNDERSTAND THE DIFFERENCE BETWEEN
20 RIGHT AND WRONG.

21 Q. THANK YOU, DOCTOR. I DON'T HAVE ANY
22 FURTHER QUESTIONS.

23 CROSS EXAMINATION BY MR. ROGERS:

24 Q. DOCTOR, THE -- THE DEPRESSIVE REACTION IS
25 NOT THE ONLY DIAGNOSIS IN HIS MENTAL HEALTH

1 HISTORY, IS IT?

2 A. NO, SIR. HE HAS ALSO BEEN DIAGNOSED WITH
3 AN ADJUSTMENT DISORDER WITH DEPRESSED MOOD,
4 WHICH LIKE DEPRESSIVE REACTION IS ALSO A
5 DISORDER THAT OCCURS IN RESPONSE TO SOME EVENT.

6 AND HE'S ALSO BEEN DIAGNOSED WITH ALCOHOL
7 DEPENDENCE.

8 Q. YOU MAKE REFERENCE TO THIS INCIDENT IN
9 1995, BUT ALSO THERE WAS SOME SIGNIFICANT
10 DEPRESSION IN 1997 AND 1998, IS THAT CORRECT?

11 A. YES. AND THAT IS THE POINT AT WHICH HE WAS
12 DIAGNOSED WITH THE ADJUSTMENT DISORDER.

13 NOW, LET ME -- LET ME CORRECT THAT. YEAH,
14 THAT WAS AROUND THE SAME TIME PERIOD, I'M
15 SORRY. I HAD IT RIGHT THE FIRST TIME.

16 Q. HE WAS ACTUALLY HOSPITALIZED IN 1998?

17 A. YES, HE WAS.

18 Q. WAS THAT HOSPITALIZATION FOR DEPRESSION OR
19 ALCOHOL ABUSE?

20 A. THE RECORD STATED THAT IT WAS ALCOHOL
21 DETOXIFICATION AND POTENTIAL DANGEROUSNESS.
22 AND IN THE COURSE OF THAT HOSPITALIZATION HE
23 WAS EVENTUALLY DIAGNOSED WITH ALCOHOL
24 DEPENDENCE AND ADJUSTMENT DISORDER WITH
25 DEPRESSED MOOD.

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1 Q. NOW, DOCTOR, THERE WAS A NUMBER OF
2 DOCUMENTS THAT YOU REVIEWED. IT IS ALSO
3 TYPICAL IN THESE TYPES OF EVALUATIONS TO
4 INTERVIEW FAMILY MEMBERS AND CO-WORKERS AND
5 ANYONE WHO MAY HAVE BEEN TREATING HIM AT THE
6 TIME, IS THAT CORRECT?

7 A. YES, IT IS.

8 Q. WHO WERE YOU ABLE TO SPEAK WITH?

9 A. WE ATTEMPTED TO CONTACT HIS FATHER AND WERE
10 UNSUCCESSFUL WITH THAT. AND DURING ONE OF THE
11 INTERVIEWS WITH MR. CHILDERS, AND I THINK IT
12 WAS THE ONE ON THE 29TH, HE MENTIONED THAT,
13 YEAH, HIS FATHER WAS AWARE THAT WE WERE TRYING
14 TO CONTACT HIM, BUT THAT HIS FATHER WASN'T
15 GOING TO SPEAK WITH US, AND MR. CHILDERS
16 VOLUNTARILY ADDED THAT HIS SISTERS WOULDN'T
17 SPEAK WITH US EITHER.

18 Q. ANYONE ELSE THAT YOU ATTEMPTED TO CONTACT?

19 A. WELL, WE ATTEMPTED TO GET RECORDS FROM
20 SEVERAL OTHER SOURCES THAT ARE LISTED THERE ON
21 PAGE TWO, AND AT THE TIME THAT WE SUBMITTED THE
22 REPORT WE HADN'T RECEIVED RECORDS FROM A DR.
23 RAWLISON, A DR. NOEKLER AND KLOHN PSYCHOLOGY
24 SERVICE.

25 I HAD A CHANCE TO REVIEW THE DUPONT RECORDS

1 EARLIER TODAY, SO THOSE -- I HAVE LOOKED AT
2 THOSE.

3 Q. AND THOSE ARE HIS WORK RECORDS, IS THAT
4 CORRECT?

5 A. YEAH. YEAH.

6 Q. AND THERE IS NO TYPE OF FORENSIC EVALUATION
7 REVIEWING HIS EMPLOYMENT RECORDS?

8 A. NO, SIR.

9 Q. SO, IN ACTUALITY, THE ONLY PERSON YOU WERE
10 ABLE TO INTERVIEW WAS MR. CHILDERS, IS THAT
11 CORRECT?

12 A. THAT'S CORRECT. BUT I WOULD ADD THAT WE
13 REVIEWED THE WITNESS STATEMENTS ABOUT HIS
14 BEHAVIOR AROUND THE TIME OF THE CRIME AS WELL.

15 Q. DID YOU SPEAK WITH ANY OF THE WITNESSES?

16 A. NO, WE DID NOT SPEAK DIRECTLY WITH ANY OF
17 THE WITNESSES.

18 Q. YOU ONLY REVIEWED THE STATEMENTS THAT WERE
19 GIVEN TO LAW ENFORCEMENT, IS THAT CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND THOSE STATEMENTS WERE NOT IN RESPONSE
22 TO ANY TYPE OF PSYCHOLOGICAL QUESTIONING, WERE
23 THEY?

24 A. NOT TO MY KNOWLEDGE, THOUGH THERE WAS SOME
25 INFORMATION ON HIS SPEECH AND BEHAVIOR RECORDED

1 IN THOSE STATEMENTS.

2 Q. AND BASED UPON THE REPORT OF FINDINGS TO
3 THE COURT HERE TODAY, THE EVALUATION TEAM HAS
4 MADE A DIAGNOSIS OF ALCOHOL DEPENDENCY AND
5 DEPRESSION, IS THAT CORRECT?

6 A. YES. AND THOSE WERE BY HISTORY. WE'RE NOT
7 SAYING THAT HE'S DEPRESSED AT THE TIME WE
8 EVALUATED HIM. AND BASED ON HIS SELF-REPORT OF
9 HIS ALCOHOL USE, HE DIDN'T MEET THE CRITERIA
10 FOR ALCOHOL DEPENDENCE AT THIS TIME.

11 Q. IS THERE ANY WAY TO DETERMINE WHETHER OR
12 NOT HE WAS DEPRESSED AT THE TIME OF THE
13 INCIDENT?

14 A. WELL, AS I SAID, WE ENDEAVORED TO DO THAT
15 BY TALKING TO HIM ABOUT HIS -- ABOUT POTENTIAL
16 SYMPTOMS OF DEPRESSION AND OTHER DISORDERS AS
17 WELL THAT COULD HAVE BEEN RELEVANT TO THE
18 QUESTIONS IN THE COURT ORDER.

19 Q. HOWEVER, HE WAS DIAGNOSED WITH DEPRESSION
20 TWO YEARS PRIOR TO THE INCIDENT DATE, IS THAT
21 CORRECT?

22 A. ACCORDING TO THE AVAILABLE RECORDS, YES.

23 Q. AND WAS HOSPITALIZED?

24 A. YES.

25 Q. AND TO YOUR KNOWLEDGE WAS HE UNDER ANY

1 MEDICAL TREATMENT OR TAKING ANY MEDICATION IN
2 OCTOBER OF 2000 TO TREAT THE DEPRESSION?

3 A. NOT TO MY KNOWLEDGE.

4 Q. AND HE DID HAVE A DIAGNOSIS AT THAT TIME OF
5 ALCOHOL DEPENDENCY, IS THAT CORRECT?

6 A. WELL, HE WAS ASSIGNED THAT DIAGNOSIS IN
7 1998. THAT PARTICULAR DIAGNOSIS CAN BE -- IT
8 CAN BE -- IT CAN BE CURRENT OR IT CAN GO INTO
9 REMISSIONS OF DIFFERENT PHASES. SO HE MAY
10 STILL HAVE HAD THE PROBLEM AND HE MAY NOT HAVE.

11 ACCORDING TO HIS DESCRIPTION TO US, HE
12 DIDN'T MEET THE CRITERIA. HE DIDN'T MEET THE
13 CRITERIA AT THIS POINT IN TIME.

14 Q. BUT HE CERTAINLY HAD A HISTORY, IS THAT
15 CORRECT?

16 A. ACCORDING TO THE RECORDS, YES.

17 Q. AND DID HE NOT REPORT TO YOU THAT HE HAD
18 BEEN DRINKING THE VERY DAY BEFORE THIS INCIDENT
19 UP UNTIL APPROXIMATELY MIDNIGHT?

20 A. YES. HE SAID THAT HE HAD CONSUMED FOUR TO
21 FIVE BEERS BETWEEN 7 P.M. AND 12 A.M. ON THE
22 14TH, I BELIEVE, OF OCTOBER OF 2000.

23 MR. ROGERS: I DON'T HAVE ANY FURTHER
24 QUESTIONS.

25 MR. MCMAHON: JUST A COUPLE OF THINGS.

1 REDIRECT EXAMINATION BY MR. McMAHON:

2 Q. DOCTOR, ADDITIONALLY YOU SAID THAT HE, THE
3 DEFENDANT, REPORTED CONSUMING FOUR OR FIVE
4 BEERS FROM APPROXIMATELY 7 P.M. UNTIL
5 APPROXIMATELY 12 P.M. ON 10/14.

6 ADDITIONALLY, WHAT DID HE REPORT TO YOU
7 CONCERNING HIS INTOXICATION ON THAT DAY?

8 A. WELL, HE DENIED THAT HE WAS INTOXICATED.

9 Q. AT THE TIME OF THE INCIDENT?

10 A. YES.

11 MR. McMAHON: THAT'S ALL I HAVE, YOUR
12 HONOR.

13 THE COURT: YOU CAN STEP DOWN.

14 (DR. MUSICK STEPS DOWN.)

15 MR. McMAHON: WE HAVE NOTHING ELSE ON
16 THIS ISSUE, YOUR HONOR.

17 THE COURT: OKAY. MR. ROGERS, DO YOU
18 HAVE ANYTHING ON THE ISSUE?

19 MR. ROGERS: NO, YOUR HONOR, I HAVE
20 NOTHING TO PRESENT AT THIS TIME.

21 THE COURT: OKAY. WELL, I HEARD THE
22 DOCTOR'S TESTIMONY AND I HAVE READ THE REPORT
23 THAT WAS CO-AUTHORED BY THIS TESTIFYING EXPERT
24 AND ALSO PAMELA CRAWFORD.

25 IT WOULD SEEM THAT HE IS COMPETENT TO

1 ASSIST COUNSEL AND COMPETENT TO PROCEED WITH
2 TRIAL. READY TO GO.

3 ANYTHING ELSE BEFORE THE JURY COMES
4 BACK?

5 MR. MCMAHON: NOTHING FROM THE STATE,
6 YOUR HONOR.

7 THE COURT: WELL, WHAT ALLEGEDLY
8 HAPPENED? I MEAN, I HAVE THREE INDICTMENTS. I
9 ASSUME IT IS ONE INSTANCE? I DON'T KNOW
10 ANYTHING ABOUT IT.

11 MR. MCMAHON: YES, SIR, IT IS ONE
12 INSTANCE. IT ALL OCCURRED 10/15/2000, THE DATE
13 IN THE INDICTMENT OF THE HOMICIDE OF TAMMY LYNN
14 MUNN AND---

15 THE COURT: WHAT RELATIONSHIP, IF ANY,
16 DID MR. CHILDERS HAVE WITH THE THREE VICTIMS?

17 MR. MCMAHON: HE HAD -- HE AND THE
18 VICTIM, TAMMY MUNN, HAD PREVIOUSLY LIVED
19 TOGETHER AT [REDACTED] STREET OR ROAD, I'M
20 NOT SURE, ACROSS THE KERSHAW COUNTY LINE.

21 THE COURT: I MEAN, WAS IT AN ALLEGED
22 DRIVE-BY SHOOTING OR WHAT HAPPENED?

23 MR. MCMAHON: NO, SIR. HE WAS -- SHE
24 HAD LEFT HIM. SHE HAD ASKED HIM TO LEAVE HER
25 RESIDENCE ON OCTOBER THE 7TH. HE REFUSED TO DO

1 SO, SO SHE LEFT AND WAS WAITING A PERIOD OF
2 TIME UNTIL SHE COULD HAVE HIM EVICTED THROUGH
3 THE MAGISTRATE'S OFFICE.

4 HE CAME OVER TO THE RESIDENCE WHERE SHE
5 WAS STAYING ON WATSON STREET IN ELGIN, THE
6 MORNING OF THE 15TH. ABOUT 2:30 THAT MORNING HE
7 WAS SEEN OUT IN THE AREA BASICALLY STALKING AND
8 SCULKING AROUND. AN OFFICER WAS CALLED. THE
9 OFFICER CHECKED THE AREA AND WAS UNABLE TO
10 LOCATE HIM.

11 AT ABOUT A FEW MINUTES BEFORE 4 O'CLOCK
12 THAT MORNING SHE, TAMMY, WAS STANDING OUT IN
13 THE DRIVEWAY AREA WHERE THE CARS PARKED AT HER
14 RESIDENCE, ALONG WITH HER SISTER MARY, AND
15 DARREL DOWEY. AND THEY WERE OUT TALKING.

16 THE DEFENDANT CAME UP WITH A GUN AND
17 DIDN'T SAY ANYTHING AND SHOT TAMMY TWICE IN THE
18 HEAD. MARY RAN. MR. DOWEY RAN. AND AS MARY
19 WAS RUNNING TO THE HOUSE, HE FIRED AT HER
20 TWICE, MISSING BOTH TIMES, ONE BULLET GOING
21 INTO THE HOUSE. IT WAS RECOVERED.

22 THE COURT: ALL RIGHT. I MEAN, I'M NOT
23 GOING TO TELL THE JURY. IT IS JUST ONE
24 INSTANCE?

25 MR. MCMAHON: YES, SIR.

1 THE COURT: A SERIES OF---

2 MR. MCMAHON: ONE INSTANCE.

3 THE COURT: BUT ONE DATE AND ONE TIME?

4 MR. MCMAHON: YES, SIR.

5 THE COURT: TWO VICTIMS. WAS THERE

6 ANYBODY ELSE IN THE HOUSE OTHER THAN MARY

7 WHITE, WHO WAS TRYING TO GET IN?

8 MR. MCMAHON: YES, SIR, THERE WAS A

9 NUMBER OF PEOPLE IN THE HOUSE,---

10 THE COURT: THERE WERE PEOPLE IN THE

11 HOUSE?

12 MR. MCMAHON: ---ADULTS AND CHILDREN.

13 YES, SIR.

14 THE COURT: OKAY. THAT'S ALL I REALLY

15 NEED TO KNOW.

16 MR. MCMAHON: ALL RIGHT.

17 THE COURT: OTHER THAN SOME NAMES TO

18 PRONOUNCE. DR. I-N-A-S, IS THAT INAS YACOUNB?

19 MR. MCMAHON: YACOUNB, THAT SUITS ME. I

20 THINK---

21 THE COURT: INAS YACOUNB. THAT'LL DO

22 IT?

23 MR. MCMAHON: YES, SIR.

24 THE COURT: OF COURSE, THE THOMLEYS

25 NEED TO CHANGE THEIR NAME SO THEY'D BE EASIER

1 TO PRONOUNCE.

2 THAT LOOKS LIKE EVERYBODY. STROPES, I
3 GUESS.

4 ANY OTHER POTENTIAL WITNESSES, MR.
5 ROGERS, NOT ON THIS LIST THAT I NEED TO QUERY
6 ABOUT?

7 MR. ROGERS: I DON'T BELIEVE SO AT THIS
8 TIME, YOUR HONOR. HOWEVER, IF THERE ARE I WILL
9 PROVIDE THOSE TO THE COURT AND TO THE
10 PROSECUTOR PRIOR TO THE JURY COMING BACK.

11 THE COURT: NOW, WHAT'S THE SITUATION
12 ON -- I'VE HAD NO MOTION TO SEQUESTER
13 WITNESSES. I DON'T KNOW WHO KNOWS WHAT OR
14 WHETHER THAT'S YOUR PLEASURE.

15 MR. ROGERS: YOUR HONOR, I AM GOING TO
16 DISCUSS THAT WITH MR. CHILDERS DURING LUNCH
17 AND, AGAIN, I---

18 THE COURT: WELL, DISCUSS IT WITH HIM,
19 BUT WE NEED TO GET IN HERE A LITTLE BEFORE 2
20 AND MAKE THOSE DECISIONS, OR YOU CAN DO IT IN
21 CHAMBERS WITH HIS PERMISSION, BUT IF ANYBODY IS
22 GOING TO BE SEQUESTERED, I NEED THEM
23 SEQUESTERED BEFORE OPENING STATEMENTS ARE MADE,
24 IS THE BOTTOM LINE.

25 MR. ROGERS: YES, YOUR HONOR.

1 THE COURT: THAT'S ALL.

2 MR. MCMAHON: WE'D LIKE TO BE HEARD
3 ABOUT THAT IF IT COMES DOWN TO THE VICTIM'S
4 FAMILY.

5 THE COURT: YEAH, THAT'S RIGHT. THE
6 VICTIM, THE VICTIM'S FAMILY, THAT'S WHY I NEED
7 TO KNOW BEFORE.

8 MR. MCMAHON: YES, SIR. YOUR HONOR,
9 WOULD IT BE ALL RIGHT, THE DOCTOR HAD TO RETURN
10 TO COLUMBIA, I ASSUME IT WAS APPROPRIATE TO
11 EXCUSE HIM?

12 MR. ROGERS: NO OBJECTION.

13 THE COURT: HE'S FREE TO GO BACK TO
14 COLUMBIA.

15 MR. MCMAHON: THANK YOU.

16 THE COURT: ALL RIGHT. SO WE'LL CRANK
17 IT UP AT 2:00.

18 (RECESS.)

19 THE COURT: IS THE DEFENSE READY?

20 MR. ROGERS: READY TO PROCEED WITH THE
21 SELECTION OF THE JURY, YOUR HONOR.

22 THE COURT: MR. ROGERS, YOU ARE WRITING
23 DOWN THE OTHER POTENTIAL WITNESSES?

24 MR. ROGERS: I HAVE THEM, YOUR HONOR.

25 THE COURT: OKAY.

1 (PAUSE.)

2 JURY QUALIFICATION

3 THE COURT: ALL RIGHT, JURORS, IF I
4 COULD HAVE YOUR ATTENTION. WE ARE ABOUT TO
5 SELECT A JURY IN THE TRIAL OF A CASE.

6 I'M HOLDING UP THREE DOCUMENTS. THEY
7 ALLEGE THE COMMISSION OF THREE SEPARATE CRIMES.
8 THEY ALLEGEDLY ALL OCCURRED ON OCTOBER THE 15TH
9 OF THE YEAR 2000. AND EACH INDICTMENT ALLEGES
10 THAT THE SPECIFIC CRIME WAS COMMITTED BY
11 WILLIAM LARRY CHILDERS, JR.

12 NOW, MR. CHILDERS IS PRESUMED INNOCENT
13 OF ALL CHARGES. THERE IS NO OBLIGATION ON HIS
14 PART TO PROVE THAT HE IS NOT GUILTY. THE STATE
15 HAS THE BURDEN OF PROOF ON EACH OF THE THREE
16 INDICTMENTS BEYOND A REASONABLE DOUBT.

17 NOW, THE FIRST INDICTMENT I'M LOOKING AT
18 ALLEGES THE CRIME OF MURDER. IT ALLEGES THAT
19 WILLIAM CHILDERS, ON OCTOBER THE 15TH OF THE
20 YEAR 2000, WILLFULLY, FELONIOUSLY AND WITH
21 MALICE AFORETHOUGHT KILLED TAMMY MUNN BY
22 SHOOTING HER.

23 THE SECOND INDICTMENT ALLEGES THAT ON
24 THAT SAME DATE, WILLIAM LARRY CHILDERS
25 COMMITTED AN ASSAULT WITH INTENT TO KILL UPON

1 ONE MARY WHITE.

2 AND THE FINAL INDICTMENT ALLEGES THAT ON
3 THAT PARTICULAR DATE, MR. CHILDERS DISCHARGED A
4 FIREARM INTO A DWELLING, THE DWELLING WAS
5 LOCATED ON WATSON STREET IN ELGIN, AND THAT
6 THERE WERE PEOPLE INSIDE THE DWELLING AT THE
7 TIME THE FIREARM WAS DISCHARGED.

8 AGAIN, MR. CHILDERS IS ASSUMED INNOCENT
9 OF ALL CHARGES. HE IS PRESENT. I WOULD ASK
10 THAT HE STAND.

11 (MR. CHILDERS STANDS.)

12 THE COURT: IF YOU WOULD JUST KIND OF
13 FACE THE PANEL.

14 (MR. CHILDERS COMPLIES.)

15 THE COURT: JURORS, IF ANY OF YOU ARE
16 RELATED TO MR. CHILDERS, IF YOU KNOW HIM, IF
17 YOU'VE WORKED WITH HIM, IF YOU'VE LIVED IN THE
18 NEIGHBORHOOD WITH HIM, IF YOU'VE BEEN TO SCHOOL
19 WITH HIM, IF YOU WOULD PLEASE STAND.

20 (FOUR JURORS COMPLY.)

21 THE COURT: ALL RIGHT. MR. CHILDERS,
22 YOU CAN HAVE A SEAT.

23 (MR. CHILDERS SEATED.)

24 THE COURT: THE ONLY WAY I CAN HANDLE
25 IT FROM HERE IS TO POINT. SO RIGHT THERE, IF

JURY QUALIFICATION

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1 YOU WOULD JUST TELL US YOUR NAME.

2 MS. BASS: PATRICIA BASS.

3 THE COURT: AND WHAT PART OF THAT
4 QUESTION APPLIED TO YOU?

5 MS. BASS: I WORKED WITH HIM FOR FOUR
6 YEARS AT DUPONT AND MY EX-HUSBAND USED TO PLAY
7 SOFTBALL WITH HIM FOR ABOUT FIVE OR SIX YEARS.

8 THE COURT: ALL RIGHT, NOW, OF COURSE
9 THE BOTTOM LINE, THE FACT THAT YOU KNOW HIM
10 DOES NOT DISQUALIFY YOU. IT IS INFORMATION FOR
11 THE ATTORNEYS TO CONSIDER WHEN THEY EXERCISE
12 THEIR STRIKES IF PER CHANCE YOUR NAME IS
13 CALLED.

14 THE BOTTOM LINE IS CAN YOU BE FAIR AND
15 IMPARTIAL?

16 MS. BASS: YES, SIR.

17 THE COURT: OKAY. PLEASE HAVE A SEAT.
18 YES, SIR.

19 MR. BRANHAM: HELLO. MY NAME IS DWAYNE
20 BRANHAM. I KNOW HIM THROUGH A FRIEND.

21 THE COURT: ALL RIGHT. AND HOW LONG
22 HAVE YOU KNOWN HIM?

23 MR. BRANHAM: PROBABLY A COUPLE OF
24 YEARS OR SO.

25 THE COURT: ALL RIGHT. DO YOU LIVE IN

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1 THE ELGIN AREA?

2 MR. BRANHAM: YES, SIR.

3 THE COURT: CAN YOU BE FAIR AND
4 IMPARTIAL?

5 MR. BRANHAM: HONESTLY?

6 THE COURT: IF YOU HESITATE ON IT, WE
7 JUST WON'T PUT YOU ON THIS JURY. I MEAN, YOU
8 HAVE TO -- BECAUSE WE CAN'T READ YOUR MIND, IS
9 THE BOTTOM LINE.

10 MR. BRANHAM: HONESTLY, I DON'T KNOW.

11 THE COURT: IF YOU FEEL LIKE THERE IS
12 PRESSURE ON YOU, THEN THERE IS PRESSURE ON YOU.

13 MR. BRANHAM: YES, SIR.

14 THE COURT: WE'LL EXCUSE YOU FROM THE
15 TRIAL OF THIS CASE. JUST HAVE A SEAT.

16 (JUROR 9, K. DWAYNE BRANHAM, IS
17 EXCUSED FROM THE JURY.)

18 THE COURT: YES, MA'AM.

19 MS. MCINTYRE: I'M LAVADA MCINTYRE.

20 I'VE KNOWN HIM SINCE HE WAS A CHILD, WAS IN
21 CHURCH WITH HIM, AND I'VE DONE BUSINESS WITH
22 HIM IN RECENT YEARS.

23 THE COURT: ALL RIGHT. NOW, IN YOUR
24 HEART OF HEARTS CAN YOU BE FAIR AND IMPARTIAL?
25 IS THIS GOING TO IMPACT YOU ONE WAY OR THE

JURY QUALIFICATION

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1 OTHER?

2 MS. MCINTYRE: I DON'T THINK I CAN.

3 THE COURT: ALL RIGHT, WE WILL NOT PUT
4 ON THIS PARTICULAR JURY.

5 MS. MCINTYRE: THANK YOU.

6 THE COURT: JUST HAVE A SEAT.

7 (JUROR 115, LAVADA MCINTYRE, IS
8 EXCUSED FROM THE JURY.)

9 THE COURT: YES, SIR.

10 MR. SPRINKLE: DREW SPRINKLE. I USED
11 TO HANG OUT WITH HIM.

12 THE COURT: USED TO HANG OUT WITH HIM?

13 MR. SPRINKLE: YES, SIR. I'VE KNOWN
14 HIM FOR ABOUT SEVEN YEARS.

15 THE COURT: CAN YOU BE FAIR AND
16 IMPARTIAL?

17 MR. SPRINKLE: I'D RATHER NOT.

18 THE COURT: WE WON'T PUT YOU ON THIS
19 PARTICULAR JURY.

20 THE CLERK: WHAT WAS HIS NAME, YOUR
21 HONOR?

22 THE COURT: COULD YOU TELL US YOUR NAME
23 AGAIN?

24 MR. SPRINKLE: DREW SPRINKLE.

25 THE COURT: OKAY, MR. SPRINKLE.

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1 (JUROR 86, ANDREW SPRINKLE, IS
2 EXCUSED FROM THE JURY.)

3 THE COURT: ALL RIGHT, NOW JURORS, THE
4 STATE IS REPRESENTED BY THE FIFTH CIRCUIT
5 SOLICITOR'S OFFICE. TWO OF THE SOLICITORS ARE
6 GOING TO PROSECUTE THE CASE. THAT JUST MEANS
7 THEY ARE GOING TO BE IN CHARGE OF PRESENTING
8 EVIDENCE AND ASKING QUESTIONS.

9 I WOULD ASK THAT THEY STAND AND IDENTIFY
10 THEMSELVES.

11 MR. MEADORS: MAY IT PLEASE THE COURT?
12 JOHN MEADORS, AND I'M HERE IN THE KERSHAW
13 COUNTY SOLICITOR'S OFFICE WITH BYRON ROBERTS.

14 MR. MCMAHON: KNOX MCMAHON. I'M ALSO
15 AN ASSISTANT FIFTH CIRCUIT SOLICITOR.

16 THE COURT: JURORS, ANY OF YOU HAVE ANY
17 RELATIONSHIP, DIRECTLY OR INDIRECTLY, WITH MR.
18 MEADORS OR MR. MCMAHON, OR WITH ANYBODY
19 EMPLOYED BY THE FIFTH CIRCUIT SOLICITOR'S
20 OFFICE?

21 (NO RESPONSE.)

22 THE COURT: DEFENSE COUNSEL, IF YOU
23 WOULD TELL US WHO YOU ARE.

24 MR. ROGERS: MY NAME IS GLENN ROGERS.
25 I PRACTICE LAW HERE IN CAMDEN.

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1 THE COURT: JURORS, ANY OF YOU HAVE ANY
2 CONNECTION WITH MR. ROGERS, OR DOES HE
3 CURRENTLY REPRESENT YOU ON ANY MATTER, OR HAS
4 HE IN THE PAST REPRESENTED YOU? IF SO, PLEASE
5 STAND.

6 MS. BASS: HE WAS REPRESENTING ME FOR A
7 CHILD SUPPORT CASE, BUT ME AND MY EX-BOYFRIEND
8 MENDED THINGS AND IT NEVER WENT ANY FARTHER.

9 THE COURT: ALL RIGHT. HE DOES NOT
10 CURRENTLY REPRESENT YOU?

11 MS. BASS: I'VE NEVER WENT BACK TO HIM
12 AND TOLD HIM THAT HE DIDN'T, BUT I JUST PAID A
13 DEPOSIT, THAT'S ALL. I'VE ONLY SEEN HIM ONCE.

14 THE COURT: YOU FEEL LIKE HE DOES NOT
15 NOW REPRESENT YOU? I MEAN, IF HE REPRESENTS
16 YOU -- LET ME EXPLAIN IT TO YOU. IF HE
17 REPRESENTS YOU, YOU CANNOT SERVE. IF HE DOES
18 NOT REPRESENT YOU---

19 MS. BASS: WELL, I NEVER WENT BACK AND
20 TOLD HIM THAT HE DIDN'T BECAUSE I STILL MAY
21 NEED HIM.

22 THE COURT: WELL, THEN YOU -- IF YOU'VE
23 PAID HIM A DEPOSIT, HE STILL REPRESENTS YOU
24 UNTIL YOU RELEASE HIM, SO WE WON'T PUT YOU ON
25 THIS CASE. BUT IF YOU CAN JUST TELL US YOUR

1 NAME AGAIN?

2 MS. BASS: PATRICIA BASS.

3 THE COURT: OKAY. JUST HAVE A SEAT.

4 (JUROR 4, PATRICIA BASS, IS
5 EXCUSED FROM THE JURY.)

6 THE COURT: JURORS, I HAVE A LIST OF
7 NAMES. NOW, THESE ARE POTENTIAL WITNESSES. IT
8 DOES NOT MEAN THAT EVERYBODY WHOSE NAME I'M
9 GOING TO CALL OUT WILL TESTIFY. I THINK NOT
10 ALL OF THEM WILL TESTIFY.

11 AND WHAT I HAVE, EXCEPT FOR SOME
12 NOTATIONS, ARE JUST THE BARE NAMES. SO IF THE
13 INDIVIDUAL WHO -- IF THE POTENTIAL WITNESS IS
14 PRESENT, I WILL ASK THEM TO STAND SO YOU JURORS
15 CAN SEE THEM. IF I JUST HAVE A NAME AND YOU
16 KNOW SOMEONE WITH A SIMILAR NAME, IF YOU WOULD
17 STAND, THE ATTORNEYS CAN PROBABLY TELL US IF
18 THAT'S THE SAME PERSON.

19 POTENTIAL WITNESSES: TIM STAPLES.

20 ALL RIGHT. WE'VE ALREADY EXCUSED YOU, I
21 BELIEVE.

22 MR. BRANHAM: OKAY. SORRY.

23 THE COURT: MARY WHITE.

24 (NO RESPONSE.)

25 THE COURT: JOHN DARREL DOWEY.

JURY QUALIFICATION

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1 JUST STAND.

2 MR. GASKINS: MY NAME IS MICHAEL
3 GASKINS. WE'RE COUSINS.

4 THE COURT: YOU'RE COUSINS WITH...

5 MR. GASKINS: WITH DARREL.

6 THE COURT: DARREL?

7 MR. GASKINS: YES, SIR.

8 THE COURT: OF COURSE, HE IS A
9 POTENTIAL WITNESS. I DON'T KNOW WHETHER HE
10 WILL TESTIFY OR NOT. BUT IF HE TESTIFIES, CAN
11 YOU FAIRLY EVALUATE HIS TESTIMONY OR WILL THAT
12 PUT PRESSURE ON YOU?

13 MR. GASKINS: YES, SIR. I WILL BE OKAY
14 WITH IT.

15 THE COURT: ALL RIGHT. HAVE A SEAT.
16 YES, MA'AM?

17 MS. HASTON: HE USED TO LIVE DOWN THE
18 STREET FROM ME.

19 THE COURT: YOUR NAME IS?

20 MS. HASTON: TRACEY HASTON.

21 THE COURT: CAN YOU BE FAIR AND
22 IMPARTIAL?

23 MS. HASTON: (NODS AFFIRMATIVELY.)

24 THE COURT: OKAY, FINE.

25 SUSAN JOHNSON.

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1 (NO RESPONSE.)

2 THE COURT: JUDY MOTLEY.

3 (NO RESPONSE.)

4 THE COURT: DR. INAS YACoub, SPELLED Y-
5 A-C-O-U-B.

6 (NO RESPONSE.)

7 THE COURT: INVESTIGATOR ERIC TISDALE,
8 OF THE KERSHAW COUNTY SHERIFF'S DEPARTMENT.

9 (INVESTIGATOR TISDALE STANDS.)

10 (NO RESPONSE.)

11 THE COURT: INVESTIGATOR PHIL CRAWFORD,
12 OF THE SHERIFF'S DEPARTMENT.

13 (INVESTIGATOR CRAWFORD STANDS.)

14 (NO RESPONSE.)

15 THE COURT: INVESTIGATOR KIRK CORLEY,
16 OF THE SHERIFF'S DEPARTMENT.

17 (INVESTIGATOR CORLEY STANDS.)

18 (NO RESPONSE.)

19 THE COURT: CAPTAIN DAVID THOMLEY,
20 KERSHAW COUNTY SHERIFF'S DEPARTMENT.

21 (INVESTIGATOR THOMLEY STANDS.)

22 (NO RESPONSE.)

23 THE COURT: CHIEF JAMES THOMLEY,
24 SHERIFF'S DEPARTMENT.

25 (CHIEF THOMLEY STANDS.)

JURY QUALIFICATION

57

1 (NO RESPONSE.)

2 THE COURT: DAN DEFREESE, WHO IS
3 EMPLOYED BY SLED, OR WAS EMPLOYED BY SLED.

4 (NO RESPONSE.)

5 THE COURT: CECIL BRADSTREET, A SLED
6 EMPLOYEE.

7 (NO RESPONSE.)

8 THE COURT: DAVID BLACK, SLED EMPLOYEE.

9 (NO RESPONSE.)

10 THE COURT: LIEUTENANT JOSEPH POWELL
11 FROM SLED, P-O-W-E-L-L.

12 YES, MA'AM?

13 MS. WHIDBY: INVESTIGATOR THOMLEY.

14 THE COURT: YOUR NAME IS?

15 MS. WHIDBY: DENISE WHIDBY.

16 THE COURT: YOU KNOW HIM OR ...

17 MS. WHIDBY: I KNOW HIM AND HIS FAMILY,
18 YES.

19 THE COURT: WILL IT IMPACT ON YOUR
20 IMPARTIALITY IF HE TESTIFIES, BECAUSE WE DON'T
21 EVEN KNOW IF HE'LL TESTIFY?

22 MS. WHIDBY: NO, SIR.

23 THE COURT: YOU CAN BE FAIR AND
24 IMPARTIAL?

25 MS. WHIDBY: (NODS AFFIRMATIVELY.)

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1 THE COURT: OKAY. PLEASE HAVE A SEAT.
2 BRENDA STAPLES.
3 (MS. STAPLES STANDS.)
4 (NO RESPONSE.)
5 THE COURT: GLEN HOPPLE.
6 (MR. HOPPLE STANDS.)
7 (NO RESPONSE.)
8 THE COURT: C. J. AIKEN.
9 (MR. AIKEN STANDS.)
10 (NO RESPONSE.)
11 THE COURT: JOHN CRANE.
12 (MR. CRANE STANDS.)
13 (NO RESPONSE.)
14 THE COURT: CHERYL STAPLES.
15 (MS. STAPLES STANDS.)
16 (NO RESPONSE.)
17 THE COURT: DR. PAMELA CRAWFORD.
18 (NO RESPONSE.)
19 THE COURT: LESTER MOORE.
20 (NO RESPONSE.)
21 THE COURT: DIANE LOCKLEAR.
22 (NO RESPONSE.)
23 THE COURT: MIKE CORBETT.
24 (NO RESPONSE.)
25 THE COURT: DR. JEFFREY MUSICK, M-U-S-

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JURY QUALIFICATION

59

1 I-C-K.
2 (NO RESPONSE.)
3 THE COURT: JOHNNY FELLERS, LOCAL
4 CORONER.
5 (MR. FELLERS STANDS.)
6 (NO RESPONSE.)
7 THE COURT: EMORY ATKINSON. SAME
8 THING?
9 MS. WHIDBY: YES, SAME THING.
10 THE COURT: YOU CAN BE FAIR AND
11 IMPARTIAL?
12 MS. WHIDBY: YES, SIR.
13 THE COURT: OKAY.
14 KIRK STROPES, 911 DIRECTOR.
15 (NO RESPONSE.)
16 THE COURT: MIKE CHRISTISON, KERSHAW
17 COUNTY SHERIFF'S DEPARTMENT.
18 (NO RESPONSE.)
19 THE COURT: JOEL GRIFFITH, SHERIFF'S
20 DEPARTMENT.
21 (NO RESPONSE.)
22 THE COURT: REGGIE ---
23 MR. HANCOCK: I USED TO WORK WITH JOEL
24 GRIFFITH, BUT IT WOULDN'T MATTER.
25 THE COURT: YOU NEED TO TELL US YOUR

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1 NAME.

2 MR. HANCOCK: KEITH HANCOCK -- STEVEN
3 HANCOCK.

4 THE COURT: OKAY, THANKS.

5 REGGIE RAY.

6 (NO RESPONSE.)

7 THE COURT: PAIGE BERTHELETTE.

8 (MS. BERTHELETTE STANDS.)

9 (NO RESPONSE.)

10 THE COURT: LARRY -- SHE'S BACK THERE.
11 STAND AGAIN, MS. BERTHELETTE.

12 (MS. BERTHELETTE STANDS.)

13 (NO RESPONSE.)

14 THE COURT: LARRY CHILDERS, SR.

15 (MR. CHILDERS STANDS.)

16 THE COURT: RIGHT THERE.

17 MS. KAMBEITZ: I WENT TO SCHOOL WITH
18 LARRY. JUDY KAMBEITZ.

19 THE COURT: FAIR AND IMPARTIAL, OR IS
20 THAT A PROBLEM?

21 MS. KAMBEITZ: NO PROBLEM.

22 THE COURT: OKAY.

23 MR. VINCENT: I KNEW HIM FROM JUST
24 WORKING AT DUPONT.

25 THE COURT: YOUR NAME IS?

JURY QUALIFICATION

61

1 MR. VINCENT: MICKEL VINCENT.

2 THE COURT: OKAY. JURORS, ON THIS
3 QUESTION I'M TALKING ABOUT UP AND DOWN AND
4 ACROSS, ALL RIGHT, UP AND DOWN AND ACROSS. IF
5 YOU ARE AN IMMEDIATE FAMILY MEMBER, THAT WOULD
6 BE THE PARENT OR BROTHERS AND SISTERS,
7 CHILDREN, ARE NOW OR IN THE PAST EMPLOYED BY
8 LAW ENFORCEMENT AT ANY LEVEL, THAT WOULD BE
9 ANYTHING FROM THE FBI TO SLED TO A TROOPER TO A
10 CITY POLICEMAN, TOWN OF BETHUNE OFFICER TO A
11 WILDLIFE OFFICER, ANYBODY EVER BEEN EMPLOYED BY
12 LAW ENFORCEMENT, YOU OR AN IMMEDIATE FAMILY
13 MEMBER? IF SO, PLEASE STAND.

14 MR. HORTON: I'M WILLIAM HORTON. MY
15 DAD WAS A POLICE OFFICER IN CHARLOTTE.

16 THE COURT: IF YOU CAN BE FAIR AND
17 IMPARTIAL, JUST HAVE A SEAT.

18 JURORS, IF YOU OR AN IMMEDIATE FAMILY
19 MEMBER CURRENTLY OR IN THE PAST HAVE BEEN
20 EMPLOYED BY ANY OFFICE THAT PROSECUTES CASES
21 FOR THE STATE, THAT WOULD BE A SOLICITOR'S
22 OFFICE, A DISTRICT ATTORNEY'S OFFICE, A JAG
23 CORPS IN SERVICE, PLEASE STAND.

24 (NO RESPONSE.)

25 THE COURT: JURORS, IF YOU OR AN

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1 IMMEDIATE FAMILY MEMBER NOW OR IN THE PAST HAVE
2 BEEN EMPLOYED BY AN ATTORNEY OR A PUBLIC
3 DEFENDER CORPORATION, SOMEONE WHO REPRESENTS
4 INDIVIDUALS ACCUSED OF A COMMISSION OF A CRIME,
5 IF YOU WOULD PLEASE STAND.

6 (NO RESPONSE.)

7 THE COURT: JURORS, IF YOU BELONG TO OR
8 CONTRIBUTE TO ANY ORGANIZATION THAT TAKES A
9 POSITION ON CRIME IN SOCIETY, THE LAWYERS WOULD
10 LIKE TO KNOW. THAT WOULD INCLUDE THINGS LIKE
11 MADD, MOTHERS AGAINST DRUNK DRIVING, CAVE,
12 CADRE, ANYTHING LIKE THAT.

13 (NO RESPONSE.)

14 THE COURT: JURORS, ON THE NEXT
15 QUESTION, I'M GOING TO ASK YOU TO COME UP RIGHT
16 BY THE COURT REPORTER IF YOU NEED TO TELL US
17 ABOUT IT.

18 IF YOU OR AN IMMEDIATE FAMILY MEMBER, TO
19 YOUR KNOWLEDGE, HAS EVER BEEN INVOLVED IN A
20 CRIME OF VIOLENCE AS YOU UNDERSTAND THE TERM,
21 NOT THE LEGAL DEFINITION, IF YOU THINK YOU'VE
22 BEEN INVOLVED IN A CRIME OF VIOLENCE OR IF YOU
23 THINK A FAMILY MEMBER HAS, I NEED FOR YOU TO
24 COME UP AND WE WILL TALK ABOUT THAT
25 CIRCUMSTANCE.

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JURY QUALIFICATION

63

1 ONE AT A TIME.

2 (PAUSE.)

3 (WHEREUPON, THE FOLLOWING TOOK
4 PLACE AT THE COURT REPORTER'S
5 STAION, WITH THE COURT AND
6 ATTORNEYS, OUT OF THE HEARING
7 OF THE REMAINING JURY PANEL.)

8 THE COURT: YOUR NAME IS?

9 MS. THOMPSON: VICTORIA THOMPSON. MY
10 BROTHER WAS ON TRIAL FOR HITTING ON MY MOTHER A
11 COUPLE OF YEARS AGO.

12 THE COURT: THAT WAS A COUPLE OF YEARS
13 AGO?

14 MS. THOMPSON: WELL, BACK ABOUT THREE,
15 BECAUSE SHE'S DEAD NOW.

16 THE COURT: CAN YOU BE FAIR AND
17 IMPARTIAL?

18 MS. THOMPSON: I'M NOT SURE I CAN.

19 THE COURT: IF YOU ARE NOT SURE, WE
20 JUST WON'T PUT YOU ON THIS CASE.

21 MS. THOMPSON: OKAY.

22 THE COURT: YOU ARE NOT EXCUSED FOR THE
23 WEEK YET. YOU HAVE TO GO BACK AND HAVE A SEAT,
24 OKAY?

25 (MS. THOMPSON SEATED TO BE EXCUSED.)

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1 MS. TINKER: I HAVE A NEPHEW. HIS CASE
2 IS PENDING FOR HUNTING ACCIDENTS.

3 THE COURT: YOUR NAME IS?

4 MS. TINKER: BONNIE TINKER.

5 THE COURT: YOU CAN BE FAIR AND
6 IMPARTIAL?

7 MS. TINKER: OH, YES.

8 (MS. TINKER SEATED.)

9 MS. FOWLER: MY BROTHER WAS CONVICTED
10 OF MURDER IN 1989.

11 THE COURT: YOUR NAME IS?

12 MS. FOWLER: ANNETTE FOWLER.

13 THE COURT: MS. FOWLER, THAT IS A CLOSE
14 AT HOME FAMILY SITUATION. CAN YOU BE FAIR AND
15 IMPARTIAL?

16 MS. FOWLER: I FEEL LIKE I CAN. I
17 MEAN, I FEEL LIKE I CAN BE FAIR TO BOTH SIDES.

18 THE COURT: OKAY. SHE SAID HER BROTHER
19 WAS CONVICTED IN 1989.

20 (MS. FOWLER SEATED.)

21 MR. TEASDALE: MY NEPHEW WAS HIT BY A
22 SECURITY GUARD WITH A 2 X 4 UP IN PENNSYLVANIA
23 BY A SECURITY GUARD.

24 THE COURT: WHAT HAPPENED TO HIM?

25 MR. TEASDALE: HE'S IN JAIL.

JURY QUALIFICATION

65

1 THE COURT: CAN YOU BE FAIR AND
2 IMPARTIAL?

3 MR. TEASDALE: I THINK I CAN.

4 THE COURT: OKAY.

5 (MR. TEASDALE SEATED.)

6 THE COURT: ALL RIGHT, JURORS, ANY OF
7 YOU HEARD ANYTHING ABOUT THIS CASE? YOU MIGHT
8 HAVE SEEN SOMETHING IN THE PAPER THAT WOULD
9 HAVE BEEN, YOU KNOW, OVER A YEAR AGO. IF YOU
10 HAVE ANY ACTUAL KNOWLEDGE ABOUT IT, IF YOU SAW
11 SOMETHING IN THE PAPER, YOU HAVE TO DECIDE THE
12 CASE BASED ON WHAT TRANSPIRES IN THE COURTROOM
13 IF YOU GET ON THE JURY, NOT WHAT YOU READ. I
14 THINK Y'ALL UNDERSTAND THAT.

15 (NO RESPONSE.)

16 THE COURT: ANYBODY FORMED OR EXPRESSED
17 ANY OPINIONS AS TO HOW THESE CHARGES SHOULD
18 COME OUT?

19 (NO RESPONSE.)

20 THE COURT: NOW, JURORS, IS THERE
21 ANYTHING IN THE NATURE OF THE CHARGES, THE
22 CHARGES BEING SERIOUS CHARGES OBVIOUSLY,
23 MURDER, ASSAULT WITH INTENT TO KILL, AND
24 DISCHARGING OF A WEAPON INTO AN OCCUPIED HOUSE,
25 ANYTHING IN THE NATURE OF THE CHARGES THAT

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1 WOULD PREVENT ANYBODY FROM BEING FAIR AND
2 IMPARTIAL?

3 (NO RESPONSE.)

4 THE COURT: THE BOTTOM LINE IS THAT IF
5 YOU FEEL LIKE SOMEONE ACCUSED OF COMMITTING
6 THOSE TYPE CRIMES IS GUILTY, THEN YOU DON'T
7 NEED TO BE ON THE JURY. YOU HAVE TO FAIRLY
8 EVALUATE THE PRESENTED EVIDENCE. THE DEFENDANT
9 IS PRESUMED INNOCENT OF ALL CHARGES.

10 (NO RESPONSE.)

11 THE COURT: JURORS, I INQUIRED ABOUT
12 YOUR RELATIONSHIP TO ANY FAMILY MEMBER WHO WAS
13 EMPLOYED BY LAW ENFORCEMENT.

14 IF YOU OR ANY IMMEDIATE FAMILY MEMBER,
15 WHILE NOT DIRECTLY EMPLOYED BY LAW ENFORCEMENT,
16 HAVE BEEN IN QUASI LAW ENFORCEMENT POSITIONS,
17 SUCH AS A NIGHT WATCHMAN, A SECURITY GUARD, YOU
18 KNOW, SOMEBODY AT WALMART OR K-MART THAT LOOKS
19 FOR SHOPLIFTERS, ANYTHING LIKE THAT?

20 (NO RESPONSE.)

21 THE COURT: AND, OF COURSE, IN THE LAW
22 ENFORCEMENT WOULD INCLUDE, JURORS, LIKE A JAIL,
23 THE DEPARTMENT OF CORRECTIONS, PROBATION
24 OFFICERS, ANYTHING LIKE THAT.

25 YES, SIR?

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JURY QUALIFICATION

67

1 MR. TAYLOR: STEPHEN TAYLOR. I WAS
2 WITH JUVENILE CORRECTIONS IN THE EARLY 70'S.

3 THE COURT: CAN YOU BE FAIR AND
4 IMPARTIAL?

5 MR. TAYLOR: I THINK SO.

6 THE COURT: OKAY.

7 MR. ROBERTS: MY DAD WAS WITH THE
8 DEPARTMENT OF CORRECTIONS FOR A COUPLE OF
9 YEARS.

10 THE COURT: YOUR NAME?

11 MR. ROBERTS: DAVID ROBERTS.

12 THE COURT: OKAY.

13 MS. TRUESDALE: ADELLE TRUESDALE. MY
14 EX WAS A CAPTAIN AT THE DEPARTMENT OF
15 CORRECTIONS.

16 THE COURT: OKAY. FINE.

17 JURORS, ARE YOU AWARE OF ANY REASON WHY
18 YOU COULDN'T BE FAIR AND IMPARTIAL IF YOU WERE
19 SELECTED ON THIS CASE, WHETHER I'VE QUESTIONED
20 YOU ABOUT IT OR NOT?

21 (NO RESPONSE.)

22 THE COURT: DOES THE STATE NEED
23 ANYTHING ELSE?

24 MR. MEADORS: NOTHING.

25 THE COURT: THE DEFENSE?

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1 MR. ROGERS: NOTHING FROM THE DEFENSE,
2 YOUR HONOR.

3 THE COURT: OKAY, JURORS, THE CLERK IS
4 GOING TO READ OUT YOUR NAMES ONE AT A TIME AS
5 YOUR NAMES ARE DRAWN. THEY ARE JUST
6 ARBITRARILY DRAWN. THEY ARE IN LITTLE CAPSULES
7 UP HERE.

8 IF SHE READS OUT YOUR NAME, IF YOU WOULD
9 STAND, AND THE STATE AND THE DEFENSE GET TO
10 ACCEPT YOU OR EXCLUDE YOU. EITHER WAY, JUST
11 HAVE A SEAT.

12 WHEN WE GET 12 PLUS AN ALTERNATE WE'LL
13 CALL EVERYBODY UP AT ONE TIME.

14 NOW, IF THEY EXCUSE YOU, I MEAN, DON'T
15 TAKE IT PERSONAL, YOU KNOW. YOU GET TO GO HOME
16 EARLIER, THAT'S ALL.

17 JURY SELECTION

18 THE CLERK: NUMBER 11, ERNESTINE J.
19 BROWN.

20 WHAT SAYETH THE STATE?

21 MR. MEADORS: PLEASE PRESENT MS. BROWN.

22 THE CLERK: WHAT SAYETH DEFENSE?

23 MR. ROGERS: PLEASE SWEAR THE JUROR.

24 THE CLERK: THANK YOU.

25 (JUROR 11, ERNESTINE J. BROWN, A

JURY SELECTION

69

1 BLACK FEMALE, IS SEATED ON THE JURY.)

2 THE CLERK: NUMBER 45, WILLIAM J.

3 HORTON, JR.

4 WHAT SAYETH THE STATE?

5 MR. MEADORS: PLEASE PRESENT MR.

6 HORTON.

7 THE CLERK: WHAT SAYETH DEFENSE?

8 MR. ROGERS: SWEAR THE JUROR.

9 THE CLERK: THANK YOU.

10 (JUROR 45, WILLIAM J. HORTON,

11 JR., A BLACK MALE, IS SEATED

12 ON THE JURY.)

13 THE CLERK: NUMBER 16, MELBA F. DEESE.

14 WHAT SAYETH THE STATE?

15 MR. MEADORS: PLEASE PRESENT MS. DEESE.

16 THE CLERK: WHAT SAYETH DEFENSE?

17 MR. ROGERS: PLEASE EXCUSE MS. DEESE.

18 THE CLERK: THANK YOU.

19 (JUROR 16, MELBA F. DEESE, A WHITE

20 FEMALE, IS EXCUSED BY THE DEFENSE.)

21 THE CLERK: THANK YOU. NUMBER 77,

22 DAVID W. ROBERTS.

23 WHAT SAYETH THE STATE?

24 MR. MEADORS: PLEASE PRESENT MR.

25 ROBERTS.

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1 THE CLERK: WHAT SAYETH THE DEFENSE?
2 MR. ROGERS: SWEAR THE JUROR.
3 THE CLERK: THANK YOU.
4 (JUROR 77, DAVID W. ROBERTS, A WHITE
5 MALE, IS SEATED ON THE JURY.)
6 THE CLERK: NUMBER 88, JOHNNY O.
7 SULLIVAN.
8 WHAT SAYETH THE STATE?
9 MR. MEADORS: PLEASE PRESENT MR.
10 SULLIVAN.
11 THE CLERK: WHAT SAYETH THE DEFENSE?
12 MR. ROGERS: SWEAR THE JUROR.
13 THE CLERK: THANK YOU.
14 (JUROR 88, JOHNNY O. SULLIVAN, A
15 WHITE MALE, IS SEATED ON THE JURY.)
16 THE CLERK: NUMBER 65, MARY A. BELTON.
17 WHAT SAYETH THE STATE?
18 MR. MEADORS: PLEASE PRESENT MS.
19 BELTON.
20 THE CLERK: WHAT SAYETH THE DEFENSE?
21 MR. ROGERS: PLEASE SWEAR THE JUROR.
22 THE CLERK: THANK YOU.
23 (JUROR 65, MARY A. BELTON, A BLACK
24 FEMALE, IS SEATED ON THE JURY.)
25 THE CLERK: NUMBER 71, JUDITH P. PRICE.

JURY SELECTION

71

1 WHAT SAYETH THE STATE?
2 MR. MEADORS: PLEASE PRESENT MS. PRICE.
3 THE CLERK: WHAT SAYETH THE DEFENSE?
4 MR. ROGERS: PLEASE EXCUSE THIS JUROR.
5 THE CLERK: THANK YOU.
6 (JUROR 71, JUDITH P. PRICE, A WHITE
7 FEMALE, IS EXCUSED BY THE DEFENSE.)
8 THE CLERK: THANK YOU. NUMBER 31,
9 DIANNE V. GARDNER.
10 WHAT SAYETH THE STATE?
11 MR. MEADORS: PLEASE PRESENT MS.
12 GARDNER.
13 THE CLERK: WHAT SAYETH THE DEFENSE?
14 MR. ROGERS: PLEASE EXCUSE THE JUROR.
15 THE CLERK: THANK YOU.
16 (JUROR 31, DIANNE V. GARDNER, A
17 WHITE FEMALE, IS EXCUSED BY THE
18 DEFENSE.)
19 THE CLERK: NUMBER 89, STEPHEN E.
20 TAYLOR.
21 WHAT SAYETH THE STATE?
22 MR. MEADORS: PLEASE EXCUSE MR. TAYLOR.
23 THE CLERK: THANK YOU.
24 (JUROR 89, STEPHEN E. TAYLOR, A
25 WHITE MALE, IS EXCUSED BY THE STATE.)

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1 THE CLERK: NUMBER 80, DOROTHY B.

2 SAMUEL.

3 WHAT SAYETH THE STATE?

4 MR. MEADORS: PLEASE PRESENT MS.

5 SAMUEL.

6 THE CLERK: WHAT SAYETH THE DEFENSE?

7 MR. ROGERS: SWEAR THE JUROR.

8 THE CLERK: THANK YOU.

9 (JUROR 80, DOROTHY B. SAMUEL, A

10 BLACK FEMALE, IS SEATED ON THE JURY.)

11 THE CLERK: NUMBER 56, LONNIE J.

12 McCASKILL.

13 WHAT SAYETH THE STATE?

14 MR. MEADORS: PLEASE EXCUSE MR.

15 McCASKILL.

16 THE CLERK: THANK YOU.

17 (JUROR 56, LONNIE J. McCASKILL,

18 A BLACK MALE, IS EXCUSED BY THE

19 STATE.)

20 THE CLERK: NUMBER 97, DENISE B.

21 WHIDBY.

22 WHAT SAYETH THE STATE?

23 MR. ROGERS: WHAT WAS THE NUMBER OF THE

24 JUROR, MADAM CLERK?

25 THE CLERK: NUMBER 97.

JURY SELECTION

73

1 MR. MEADORS: PLEASE PRESENT MS.

2 WHIDBY.

3 THE CLERK: WHAT SAYETH THE DEFENSE?

4 MR. ROGERS: PLEASE EXCUSE THE JUROR.

5 THE CLERK: THANK YOU.

6 (JUROR 97, DENISE B. WHIDBY, A

7 WHITE FEMALE, WAS EXCUSED BY THE

8 DEFENSE.)

9 THE CLERK: NUMBER 67, LISA H. OWENS.

10 WHAT SAYETH THE STATE?

11 MR. MEADORS: PLEASE PRESENT MS. OWENS.

12 THE CLERK: WHAT SAYETH THE DEFENSE?

13 MR. ROGERS: PLEASE EXCUSE THE JUROR.

14 THE CLERK: THANK YOU.

15 (JUROR 67, LISA H. OWENS, A

16 WHITE FEMALE, IS EXCUSED BY THE

17 DEFENSE.)

18 THE CLERK: NUMBER 55, SANDY A. LLOYD.

19 WHAT SAYETH THE STATE?

20 MR. MEADORS: PLEASE EXCUSE MR. LLOYD.

21 THE CLERK: THANK YOU.

22 (JUROR 55, SANDY A. LLOYD, A

23 WHITE MALE, IS EXCUSED BY THE

24 STATE.)

25 THE CLERK: NUMBER 8, DONALD L.

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1 BRANHAM.

2 WHAT SAYETH THE STATE?

3 MR. MEADORS: PLEASE EXCUSE MR.

4 BRANHAM.

5 THE CLERK: THANK YOU.

6 (JUROR 8, DONALD L. BRANHAM, A

7 WHITE MALE, IS EXCUSED BY THE

8 STATE.)

9 THE CLERK: GENTLEMEN, THE STRIKES ARE

10 THE STATE HAS FOUR AND THE DEFENSE HAS FIVE.

11 NUMBER 10, PATSY H. BROGDON.

12 WHAT SAYETH THE STATE?

13 MR. MEADORS: PLEASE PRESENT MS.

14 BROGDON.

15 THE CLERK: WHAT SAYETH THE DEFENSE?

16 MR. ROGERS: PLEASE EXCUSE THE JUROR.

17 THE CLERK: THANK YOU.

18 (JUROR 10, PATSY H. BROGDON, A

19 WHITE FEMALE, IS EXCUSED BY THE

20 DEFENSE.)

21 THE CLERK: NUMBER 19, ROSEMARY DUCK.

22 WHAT SAYETH THE STATE?

23 MR. MEADORS: PLEASE PRESENT MS. DUCK.

24 MR. ROGERS: PLEASE EXCUSE THE JUROR.

25 THE CLERK: THANK YOU.

JURY SELECTION

75

1 (JUROR 19, ROSEMARY DUCK, A WHITE
2 FEMALE, IS SEATED ON THE JURY.)

3 THE CLERK: NUMBER 1, KEITH A.

4 ALBERSON.

5 WHAT SAYETH THE STATE?

6 MR. ROGERS: WHAT NUMBER WAS THE JUROR?

7 THE CLERK: NUMBER ONE.

8 MR. MEADORS: PLEASE PRESENT MR.

9 ALBERSON.

10 THE CLERK: WHAT SAYETH THE DEFENSE?

11 MR. ROGERS: SWEAR THE JUROR.

12 THE CLERK: THANK YOU.

13 (JUROR 1, KEITH A. ALBERSON, A

14 WHITE MALE, IS SEATED ON THE JURY.)

15 THE CLERK: NUMBER 50, JUDY B.

16 KAMBEITZ.

17 WHAT SAYETH THE STATE?

18 MR. MEADORS: PLEASE PRESENT MS.

19 KAMBEITZ.

20 MR. ROGERS: PLEASE EXCUSE THE JUROR.

21 THE CLERK: THANK YOU.

22 (JUROR 50, JUDY B. KAMBEITZ, A WHITE

23 FEMALE, IS EXCUSED BY THE DEFENSE.)

24 THE CLERK: NUMBER 6, TERENCE R.

25 BENNETT.

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1 WHAT SAYETH THE STATE?

2 MR. MEADORS: PLEASE PRESENT MR.

3 BENNETT.

4 THE CLERK: WHAT SAYETH THE DEFENSE?

5 MR. ROGERS: SWEAR THE JUROR.

6 THE CLERK: THANK YOU.

7 (JUROR 6, TERENCE R. BENNETT, A BLACK
8 MALE, IS SEATED ON THE JURY.)

9 THE CLERK: NUMBER 34, WILLIAM W.

10 GOODALE.

11 WHAT SAYETH THE STATE?

12 MR. MEADORS: PLEASE PRESENT MR.

13 GOODALE.

14 THE CLERK: WHAT SAYETH THE DEFENSE?

15 MR. ROGERS: SWEAR THE JUROR.

16 THE CLERK: THANK YOU.

17 (JUROR 34, WILLIAM W. GOODALE, A
18 WHITE MALE, IS SEATED ON THE JURY.)

19 THE CLERK: NUMBER 33, MICHAEL J.

20 GASKINS.

21 WHAT SAYETH THE STATE?

22 MR. MEADORS: PLEASE PRESENT MR.

23 GASKINS.

24 THE CLERK: WHAT SAYETH THE DEFENSE?

25 MR. ROGERS: PLEASE EXCUSE THE JUROR.

JURY SELECTION

77

1 THE CLERK: THANK YOU.
2 (JUROR 33, MICHAEL J. GASKINS,
3 A WHITE MALE, IS EXCUSED BY
4 THE DEFENSE.)
5 THE CLERK: GENTLEMEN, THE STRIKES ARE
6 FOUR AND NINE.
7 NUMBER 90, CARL TEASDALE.
8 WHAT SAYETH THE STATE?
9 MR. MEADORS: PLEASE PRESENT MR.
10 TEASDALE.
11 THE CLERK: WHAT SAYETH THE DEFENSE?
12 MR. ROGERS: SWEAR THE JUROR.
13 THE CLERK: THANK YOU.
14 (JUROR 90, CARL TEASDALE, A WHITE
15 MALE, IS SEATED ON THE JURY.)
16 THE CLERK: NUMBER 107, EMMIE A.
17 TRUESDALE.
18 WHAT SAYETH THE STATE?
19 MR. MEADORS: PLEASE PRESENT MS.
20 TRUESDALE.
21 THE CLERK: WHAT SAYETH THE DEFENSE?
22 MR. ROGERS: SWEAR THE JUROR.
23 THE CLERK: THANK YOU.
24 (JUROR 107, EMMIE A. TRUESDALE,
25 A WHITE FEMALE, IS SEATED ON THE

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1 JURY.)
2 THE CLERK: NUMBER 41, TRACEY R.
3 HASTON.
4 WHAT SAYETH THE STATE?
5 MR. MEADORS: PLEASE PRESENT MS.
6 HASTON.
7 THE CLERK: WHAT SAYETH THE DEFENSE?
8 MR. ROGERS: PLEASE EXCUSE THE JUROR.
9 THE CLERK: THANK YOU.
10 (JUROR 41, TRACEY R. HASTON, A
11 WHITE FEMALE, IS EXCUSED BY THE
12 DEFENSE.)
13 THE CLERK: NUMBER 20, TONY ELERBY.
14 WHAT SAYETH THE STATE?
15 MR. MEADORS: PLEASE PRESENT MR.
16 ELERBY.
17 THE CLERK: DOES THE DEFENSE CHALLENGE
18 THIS JUROR?
19 MR. ROGERS: SWEAR THE JUROR.
20 THE CLERK: THANK YOU.
21 (JUROR 20, TONY ELERBY, A BLACK
22 MALE, IS SEATED ON THE JURY.)
23 THE COURT: MS. McDONALD, HOW MANY DO
24 WE HAVE LEFT? OKAY. WE'LL GO WITH ONE
25 ALTERNATE SO FAR.

JURY SELECTION

79

1 THE CLERK: NUMBER 20, TONY ELERBY.
2 THE COURT: YOU JUST CALLED HIM.
3 THE CLERK: I APOLOGIZE. NUMBER 96,
4 MICKEL L. VINCENT.
5 WHAT SAYETH THE STATE?
6 MR. MEADORS: PLEASE PRESENT MR.
7 VINCENT.
8 THE CLERK: WHAT SAYETH THE DEFENSE?
9 MR. ROGERS: SWEAR THE JUROR.
10 THE CLERK: THANK YOU.
11 (JUROR 96, MICKEL L. VINCENT, A
12 WHITE MALE, IS SEATED AS ALTERNATE
13 NUMBER ONE.)
14 THE COURT: OKAY, ATTORNEYS, WE HAVE SO
15 FAR ONE ALTERNATE. HOW LONG DO Y'ALL
16 ANTICIPATE A TRIAL TO GO NOW RECOGNIZING WE
17 DIDN'T START THIS MORNING?
18 MR. MEADORS: THURSDAY MORNING.
19 THE COURT: THURSDAY MORNING. WELL,
20 LET'S SEE IF WE CAN GET ANOTHER ALTERNATE.
21 THE CLERK: NUMBER 93, BONNIE K.
22 TINKER.
23 WHAT SAYETH THE STATE?
24 MR. MEADORS: PLEASE EXCUSE MS. TINKER.
25 THE CLERK: THANK YOU.

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1 (JUROR 93, BONNIE K. TINKER, A
2 WHITE FEMALE, IS EXCUSED BY THE
3 STATE.)

4 THE COURT: WELL, JUST KEEP DRAWING.

5 THE CLERK: NUMBER 17, JEAN P. DIXON.

6 MR. MEADORS: PLEASE PRESENT MS. DIXON.

7 THE CLERK: WHAT SAYETH THE DEFENSE?

8 MR. ROGERS: PLEASE EXCUSE THE JUROR.

9 THE CLERK: THANK YOU.

10 (JUROR 17, JEAN P. DIXON, A WHITE
11 FEMALE, IS EXCUSED BY THE DEFENSE.)

12 THE CLERK: NUMBER 29, ANNETE S.

13 FOWLER.

14 MR. MEADORS: PLEASE PRESENT MS. FOWLER.

15 THE CLERK: WHAT SAYETH THE DEFENSE?

16 MR. ROGERS: SWEAR THE JUROR.

17 THE CLERK: THANK YOU.

18 (JUROR 29, ANNETTE S. FOWLER, A
19 WHITE FEMALE, IS SEATED AS ALTERNATE
20 NUMBER TWO.)

21 THE COURT: OKAY, ATTORNEYS, DO YOU
22 NEED TO TAKE UP ANYTHING CONCERNING THE STRIKES
23 BEFORE WE CALL THEM UP?

24 MR. McMAHON: YES, SIR.

25 THE COURT: ALL RIGHT.

JURY SELECTION

81

1 (WHEREUPON, THE FOLLOWING
2 BENCH CONFERENCE WAS HELD
3 ON THE RECORD OUTSIDE THE
4 HEARING OF THE JURY PANEL.)

5 MR. McMAHON: I WANT TO MAKE A BATSON
6 MOTION ON THE STRIKES.

7 THE COURT: HE HAD TEN, BUT THEY CALLED
8 EVERYONE THAT WAS OUT THERE, HE'S GOT TO GET
9 HIS STRIKES.

10 MR. McMAHON: ASK ME HOW IT LOOKS.

11 THE COURT: HE HAS GOT TEN STRIKES.
12 HOW HE USED THEM...

13 MR. McMAHON: I MEAN, HE STRIKES WHITE
14 FEMALES.

15 THE COURT: I UNDERSTAND, BUT THEY
16 STILL HAD STRIKES TO GO HERE.

17 MR. McMAHON: THAT IS THE LADY'S
18 BROTHER WHO GOT A MURDER CONVICTION, DID THAT
19 AT 29.

20 THE COURT: I WOULDN'T WANT HER WERE I
21 HE.

22 MR. McMAHON: I DON'T WANT HER.

23 THE COURT: YOU ARE SAYING GO THROUGH
24 IT AGAIN? IT IS GOING TO BE HARDER, I MEAN, WE
25 ONLY HAD 12 WE COULD CALL. IF YOU PUT THEM

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1 BACK IN, YOU END UP ABOUT THE SAME THING.

2 MR. McMAHON: I DON'T THINK I WOULD END
3 UP -- I'M NOT TRYING TO PREDICT. THERE WERE
4 NINE WHITE FEMALES STRUCK AND---

5 THE COURT: IF HE CAN JUSTIFY IT, IF
6 YOU WANT TO I'LL LISTEN TO HIM; HE CAN 'T
7 JUSTIFY IT.

8 MR. McMAHON: I THINK THERE MAY BE SOME
9 JUSTIFICATION ON ONE OR TWO OF THEM.

10 THE COURT: THERE AIN'T NO
11 JUSTIFICATION. IF YOU WANT TO GO THROUGH IT
12 AGAIN, WE'LL GO THROUGH IT AGAIN. IF HE TELLS
13 YOU HE DIDN'T HAVE JUSTIFICATION, WE JUST GO
14 THROUGH IT AGAIN. I'M NOT GOING TO PROLONG IT,
15 I'LL GRANT YOUR MOTION IF YOU WANT TO DO IT,
16 AND IRRITATE ALL THE JURORS OUT THERE. YOU'VE
17 GOT A PRETTY GOOD JURY.

18 MR. McMAHON: I DON'T WANT TO TRY.

19 THE COURT: WHATEVER YOU WANT. YOU ARE
20 ENTITLED. YOU KNOW, YOU ARE THE LAWYER, YOU
21 HAVE TO DECIDE. ALL WE CAN DO IS GO THROUGH IT
22 AND PULL THEM AGAIN.

23 MR. McMAHON: DO WE STILL HAVE A COUPLE
24 OF MINUTES?

25 THE COURT: YES, SIR.

JURY SELECTION

83

1 MR. McMAHON: I JUST NEED ABOUT FIVE
2 MINUTES.

3 THE COURT: THAT'S ALL RIGHT.

4 MR. McMAHON: OKAY.

5 (WHEREUPON, THE BENCH CONFERENCE
6 WAS ENDED.)

7 (PAUSE.)

8 THE COURT: LET'S CALL THEM UP.

9 THE CLERK: AS I CALL YOUR NAME, PLEASE
10 COME FORWARD AND BE SEATED IN THE JURY BOX TO
11 MY RIGHT.

12 NUMBER 11, ERNESTINE J. BROWN.

13 NUMBER 45, WILLIAM J. HORTON, JR.

14 NUMBER 77, DAVID W. ROBERTS.

15 NUMBER 88, JOHNNY O. SULLIVAN.

16 NUMBER 65, MARY A. BELTON.

17 NUMBER 80, DOROTHY B. SAMUEL.

18 NUMBER 1, KEITH A. ALBERSON.

19 NUMBER 6, TERENCE R. BENNETT.

20 NUMBER 34, WILLIAM W. GOODALE.

21 NUMBER 90, CARL TEASDALE.

22 NUMBER 107, EMMIE A. TRUESDALE.

23 NUMBER 30, TONY ELERBY.

24 FOR OUR ALTERNATES, NUMBER 96, MICKEL L.

25 VINCENT AND NUMBER 29, ANNETTE S. FOWLER.

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1 THE COURT: OKAY, JURORS, I HAVE TO
2 DISMISS THE OTHER JURORS AND THEN WE HAVE A
3 COUPLE OF MOTIONS AND THINGS. I WOULD
4 ANTICIPATE 30 MINUTES, MR. ROGERS?

5 MR. ROGERS: YES, YOUR HONOR.

6 THE COURT: THIRTY-FIVE? I'LL TELL YOU
7 YOU'RE NOT GOING TO BE BACK THERE A MINUTE OR
8 TWO.

9 WHILE YOU'RE BACK THERE, ELECT SOMEBODY
10 A FOREPERSON. IT CAN BE ANYBODY EXCEPT ONE OF
11 THE TWO ALTERNATES. YOU'RE NOT GOING TO GET
12 PAID ANY MORE THAN THAT, JUST SOMEBODY HAS TO
13 PRESIDE.

14 FOLLOW MR. WALTERS OUT.

15 (WHEREUPON, THE JURY
16 RETIRES TO THE JURY ROOM.)
17 (WHEREUPON, THE FOLLOWING
18 TAKES PLACE OUTSIDE THE
19 PRESENCE OF THE JURY.)

20 THE COURT: ALL RIGHT, MR. MEADORS, THE
21 REST OF THE JURORS, DO WE NEED THEM TO CALL
22 BACK?

23 (BENCH CONFERENCE.)

24 THE COURT: ALL RIGHT, JURORS, IF THIS
25 CASE GOES, WE WON'T NEED YOU THE REST OF THE

1 WEEK BECAUSE WE HAVE ENOUGH TO DO WITHOUT
2 TRYING ANOTHER CASE. BUT WE DON'T KNOW EXACTLY
3 HOW LONG IT WILL GO. SOMETIMES YOU THINK A
4 WITNESS WILL TAKE AN HOUR TO TESTIFY AND THEY
5 TAKE TWO MINUTES.

6 SO, JUST CALL BACK TOMORROW. Y'ALL ALL
7 HAVE THAT CARD. CALL BACK AFTER 6 TOMORROW.
8 DON'T CALL UNTIL THEN. AND THERE WILL BE A
9 MESSAGE ON THERE THAT WILL EITHER SAY COME IN
10 THURSDAY, WE'LL PICK ANOTHER JURY, OR Y'ALL ARE
11 THROUGH FOR THE WEEK, ONE OR THE OTHER.

12 NOW, WE ARE GOING TO START THE TRIAL IN
13 A MINUTE. Y'ALL DON'T HAVE TO GO. IF ANYBODY
14 WOULD LIKE TO GO, YOU'RE FREE TO GO NOW.

15 (WHEREUPON, THE REMAINDER
16 OF THE JURY PANEL WAS EXCUSED.)

17 THE COURT: OKAY. MR. ROGERS, YOU
18 MENTIONED THAT YOU HAD A MOTION OR TWO?

19 MR. ROGERS: YES, YOUR HONOR. THERE
20 ARE SEVERAL THINGS THAT WE NEED TO PUT ON THE
21 RECORD.

22 THE COURT: ALL RIGHT.

23 MR. ROGERS: FIRST OF ALL, IN REGARDS
24 TO MR. CHILDERS' COMPETENCY, YOUR HONOR, HIS
25 PREVIOUS ATTORNEY, MR. RANKIN, MADE A MOTION

1 AND DID IN FACT GET AN ORDER TO HAVE A PRIVATE
2 EVALUATION DONE.

3 YOUR HONOR, I'M NOT REALLY SURE WHAT THE
4 BASIS FOR THAT WAS OTHER THAN WHAT MR. RANKIN
5 HAS INDICATED TO ME WHEN WE TRANSFERRED THE
6 FILES AND DISCUSSED THE CASE.

7 I HAVE NEVER BEEN CONVINCED THAT MR.
8 CHILDERS NEEDED A SECOND EVALUATION OR
9 NECESSARILY THAT HE NEEDED THE FIRST
10 EVALUATION.

11 HOWEVER, IN LIGHT OF THAT, WE DID NOT --
12 IN SPITE OF THAT, WE DID NOT GET THE EVALUATION
13 DONE FOR OTHER REASONS. FIRST AND FOREMOST IS
14 THE STATE EVALUATION WAS NOT COMPLETED UNTIL
15 LAST WEEK.

16 UNLIKE MOST COMPETENCY AND CRIMINAL
17 RESPONSIBILITY EVALUATIONS, THIS ONE WASN'T A
18 ONE DAY TRIP. THIS ONE ACTUALLY ENDED UP TO BE
19 APPROXIMATELY SIX TRIPS TO COLUMBIA FOR US. WE
20 RECEIVED THE REPORT LAST WEEK, I BELIEVE IT WAS
21 ON THURSDAY. AND, YOUR HONOR, BASICALLY
22 THERE'S BEEN NO OPPORTUNITY IN REGARDS TO THAT.

23 SECONDLY, YOUR HONOR, UP TO THE DAYS
24 LEADING TODAY'S DATE OF TRIAL, I HAVE BEEN
25 PRETTY MUCH CONSUMED WITH OTHER MATTERS. I

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1 DON'T KNOW THAT MR. CHILDERS IS COMFORTABLE
2 THAT WE HAVE SPENT ENOUGH TIME TOGETHER.

3 I CAN TELL THE COURT AS AN OFFICER OF
4 THE COURT THAT I AM INTIMATELY FAMILIAR WITH
5 HIS FILE AND THE DISCOVERY PACKAGE THAT THE
6 SOLICITOR'S OFFICE HAS PROVIDED TO ME.

7 BUT FOR THOSE REASONS, MR. CHILDERS HAS
8 ASKED ME TODAY TO MAKE A MOTION TO HAVE THE
9 TRIAL POSTPONED. I WOULD DO THAT FORMALLY ON
10 THE RECORD AT THIS POINT.

11 THE SECOND THING I WOULD LIKE TO BRING
12 BEFORE THE COURT, YOUR HONOR, IS---

13 THE COURT: WELL, LET'S DEAL WITH FIRST
14 THINGS FIRST.

15 MR. ROGERS, OF COURSE, IS A FORMER
16 PROSECUTOR. HE IS WELL VERSED IN HANDLING
17 CASES. HE KNOWS HOW TO PREPARE DEFENSES AND IT
18 IS JUST LIKE SOMEBODY THAT DEFENDS WRECK CASES,
19 HE CAN TRY CASES. IF HE HAS EVALUATED THE FILE
20 AND HAD AN OPPORTUNITY TO DISCUSS IT WITH MR.
21 CHILDERS AND FEELS LIKE HE'S READY TO GO,
22 UNLESS MR. CHILDERS HAS TOLD HIM OF SOME
23 DEFENSE THAT HE HASN'T INVESTIGATED, HE'S --
24 MR. CHILDERS IS IN AS GOOD A HANDS AS HE CAN
25 GET IN. SO I SEE NO REASON TO CONTINUE IT ON

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1 THAT BASIS.

2 NOW, AS FAR THE EVALUATION GOES, I MEAN,
3 HE COULD HAVE MOVED BEFORE TODAY OR, MR.
4 ROGERS, YOU COULD HAVE MOVED TO HAVE THE
5 EVALUATION BEFORE WE WENT THROUGH WITH THE JURY
6 SELECTION PROCESS. YOU HAD CONTACT WITH MR.
7 CHILDERS AND AS AN OFFICER OF THE COURT, I FEEL
8 THAT YOU FELT IF HE NEEDED AN EVALUATION YOU
9 WOULD ADVISE US AND WE WOULD HAVE ALLOWED THAT
10 TO HAPPEN.

11 THAT IS JUST AN ATTORNEY DECISION ON
12 WHETHER TO HAVE HIM EVALUATED OR NOT. HE WAS,
13 I THINK, GAINFULLY EMPLOYED AT THE TIME, HAS
14 AMPLE I.Q. AND HE CAN COMMUNICATE WITH YOU.

15 APPARENTLY -- I DON'T HAVE ANYTHING FROM
16 MR. RANKIN AS TO WHY HE ASKED IT. PROBABLY
17 JUST TO COVER YOUR TRACKS, THAT'S WHAT NORMALLY
18 HAPPENS.

19 SO I WOULDN'T DO THAT. NOW, IF MR.
20 CHILDERS HAS GIVEN YOU INFORMATION CONCERNING A
21 POSSIBLE DEFENSE THAT HE HAS THAT YOU HAVEN'T
22 ADEQUATELY INVESTIGATED, THAT IS ANOTHER
23 MATTER. THAT WOULD BE GROUNDS FOR A
24 CONTINUANCE.

25 WHAT WAS YOUR OTHER GROUND? OR WHAT

1 ELSE DID YOU WANT TO CALL TO MY ATTENTION?

2 MR. ROGERS: AND, YOUR HONOR, I MAY --
3 MR. CHILDERS DID IN FACT DISCLOSE SOMETHING TO
4 ME DURING LUNCH TODAY THAT COULD BE A POSSIBLE
5 DEFENSE THAT HAD NOT PREVIOUSLY BEEN DISCLOSED
6 TO ME NOR MR. RANKIN.

7 THE QUESTION IS, HOW WOULD I INVESTIGATE
8 IT AND IF I COULD INVESTIGATE IT PRIOR TO THE
9 TIME FOR US PUTTING UP THE DEFENSE I WOULD
10 ASSUME SOMETIME TOMORROW.

11 THE COURT: WELL, I MEAN, I CAN'T GRANT
12 A CONTINUANCE ON THAT. I'M WILLING TO HAVE --
13 GIVE YOU AN IN CAMERA HEARING ON THAT IF YOU
14 WANT ONE. I MEAN, YOU CAN'T DISCUSS A POSSIBLE
15 DEFENSE OUT HERE IN OPEN COURT.

16 MR. ROGERS: I UNDERSTAND THAT, YOUR
17 HONOR.

18 TO ADEQUATELY PRESERVE THE RECORD, I
19 THINK WE PROBABLY SHOULD HAVE A HEARING.

20 THE COURT: ALL RIGHT. WELL, ANYTHING
21 ELSE?

22 MR. ROGERS: THE LAST THING, YOUR
23 HONOR, WOULD BE MR. CHILDERS HAS A PRIOR
24 GENERAL SESSIONS CONVICTION IN 1991. WHEN I
25 SAW THAT SHORTLY AFTER ASSUMING THIS FILE IN

1 JULY, I ADDRESSED THAT WITH MR. CHILDERS
2 BECAUSE I THOUGHT AT THE TIME THAT THERE WAS A
3 STRONG POSSIBILITY THAT I HAD PROSECUTED THE
4 CASE.

5 I HAD MR. MEADORS PULL THE SENTENCING
6 SHEET, I BELIEVE IT WAS, WHICH INDICATED THAT I
7 WAS IN FACT THE PROSECUTOR, THE SOLICITOR. HIS
8 DEFENSE ATTORNEY WAS MR. GEORGE SPEEDY AT THE
9 TIME. AND YOUR HONOR WAS THE SENTENCING JUDGE.

10 I INFORMED HIM ON PRIOR OCCASIONS THAT
11 SHOULD HE FEEL THIS IS A CONFLICT OF INTEREST,
12 IT IS SOMETHING THAT HE NEEDS TO RAISE. HE HAS
13 NOT DONE SO. I DON'T KNOW THAT HE INTENDS TO
14 DO SO. BUT I FEEL LIKE THAT THAT IS SOMETHING
15 THAT WE NEED TO ADDRESS BEFORE WE PROCEED WITH
16 THE TRIAL.

17 ADDITIONALLY, YOUR HONOR, AN ITEM -- I
18 SPOKE ABOUT THIS ONCE BEFORE WITH MR. CHILDERS.
19 THE VICTIM'S BROTHER, MR. TIM STAPLES, I HAVE
20 PREVIOUSLY DONE SOME WORK FOR THE STAPLES
21 FAMILY, THAT WOULD HAVE BEEN ABOUT SIX YEARS
22 AGO, PRIMARILY IN REGARDS TO TIM STAPLES.

23 THE COURT: ALL RIGHT. WELL, MR.
24 CHILDERS, APPARENTLY MR. ROGERS, WHO OCCUPIED
25 THE POSITION THAT MR. MEADORS NOW HAS, WAS THE

JURY OUT

91

1 PROSECUTING ATTORNEY BACK, WHAT, '91?

2 MR. ROGERS: '91, YOUR HONOR.

3 THE COURT: AND HE INDICATES, HE BEING
4 MR. ROGERS, THAT HE HAS MADE THAT DISCLOSURE TO
5 YOU AND THAT YOU DIDN'T FEEL THAT THAT WAS
6 GOING TO IMPACT HIS ABILITY TO REPRESENT YOU.
7 YOU NEED TO RAISE THAT, IF YOU ARE GOING TO
8 RAISE IT, PRIOR TO NOW REALLY SINCE YOU'VE
9 KNOWN IT, BUT IF YOU HAVE A PROBLEM WITH IT,
10 YOU NEED TO TELL US NOW.

11 (PAUSE.)

12 MR. ROGERS: YOUR HONOR, HE INDICATES
13 HE DOES NOT FEEL COMFORTABLE AT THIS POINT WITH
14 MY PREVIOUS RELATIONSHIP WITH THE STATE AND AS
15 A PROSECUTOR AGAINST HIM.

16 THE COURT: ALL RIGHT, MR. CHILDERS,
17 WHY IS THAT?

18 MR. CHILDERS: I JUST DON'T FEEL
19 COMFORTABLE. I -- THIS IS THE FIRST TIME I'VE
20 SEEN HIM SINCE HE TOOK OVER EXCEPT FOR TELLING
21 ME HE WAS GOING TO EVALUATE -- THAT I WAS GOING
22 TO EVALUATION. AND THE PREVIOUS ATTORNEY
23 DIDN'T SEE ME BUT THREE TIMES, AND THAT WAS
24 JUST TO TELL ME THAT WE WERE GOING FOR A BOND
25 HEARING.

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1 AND I DON'T FEEL LIKE THAT I'VE HAD
2 ADEQUATE COUNSEL, AND I WOULD LIKE TO FIRE MR.
3 ROGERS.

4 THE COURT: WELL, THE ISSUE THAT MR.
5 ROGERS RAISED, MR. CHILDERS, WAS NOT THAT HE
6 WAS NOT PREPARED. IT WAS THAT HE PREVIOUSLY
7 HAD PROSECUTED YOU AND HE HAD DISCLOSED THAT TO
8 YOU AND YOU HAD NO PROBLEM WITH THAT.

9 NOW YOU CAN -- YOU CAN MOVE TO HAVE HIM
10 RELIEVED AS COUNSEL FOR INADEQUATE PREPARATION,
11 BUT THAT'S -- IS THAT WHAT YOU'RE DOING NOW?

12 MR. CHILDERS: YES, SIR.

13 THE COURT: BUT YOU DON'T HAVE A
14 PROBLEM -- YOU DON'T WANT HIM REMOVED SIMPLY
15 BECAUSE HE FORMERLY PROSECUTED YOU, IS THAT---

16 MR. CHILDERS: I WANT HIM MOVED BECAUSE
17 HE PROSECUTED ME.

18 THE COURT: BUT HE TOLD YOU THAT
19 BEFORE?

20 MR. CHILDERS: HE TOLD ME THAT -- I
21 DIDN'T KNOW WHAT TO -- I'M NOT COMFORTABLE WITH
22 ANYTHING RIGHT NOW.

23 THE COURT: WELL, I UNDERSTAND BUT
24 WE'VE GOT A JURY SELECTED, AND YOU HAVE BEEN IN
25 JAIL HOW LONG, ABOUT A YEAR?

1 MR. CHILDERS: ELEVEN MONTHS AND THREE
2 DAYS.

3 THE COURT: IT IS JUST VERY DIFFICULT
4 TO COME INTO COURT, I UNDERSTAND THAT, BUT---

5 MR. CHILDERS: WELL, I SAID SOMETHING
6 ABOUT THIS BEFORE WE PICKED THE JURY.

7 THE COURT: WELL, I THINK IT IS NOT A
8 BUILT-IN CONFLICT. THAT HAPPENED TEN YEARS
9 AGO. AND MR. ROGERS HAS APPARENTLY NO
10 INDEPENDENT RECOLLECTION OF IT, I DON'T GUESS,
11 DO YOU, MR. ROGERS?

12 MR. ROGERS: I DO NOT, YOUR HONOR.

13 THE COURT: JUST ANOTHER CASE THAT YOU
14 PROSECUTED, NOT THAT IT IS NOT SERIOUS AS FAR
15 AS YOU'RE CONCERNED, MR. CHILDERS. BUT LIKE I
16 APPARENTLY WAS THE SENTENCING JUDGE, AND SINCE
17 '91 PROBABLY 20,000 SENTENCES, YOU KNOW. SO, I
18 HAVE NO INDEPENDENT RECOLLECTION OF SENTENCING
19 YOU. I OBVIOUSLY DIDN'T PUT YOU AWAY FOREVER
20 OR YOU WOULDN'T STILL BE HERE.

21 ALL RIGHT, I AM NOT GOING TO RELIEVE MR.
22 ROGERS. I THINK HE IS PREPARED AND READY. BUT
23 AS FAR AS ANOTHER DEFENSE, I DO NEED TO ADDRESS
24 THAT.

25 THIS IS THE ONLY WAY I CAN ADDRESS THAT.

1 I AM GOING TO HAVE TO CLEAR THE COURTROOM
2 EXCEPT FOR THE OFFICER BEHIND MR. CHILDERS, THE
3 CLERK OF COURT, THE COURT REPORTER. OFFICERS
4 CAN STAY OUTSIDE EACH OF THE FOUR DOORS AND WE
5 WILL BE -- HOW LONG WILL IT TAKE, MR. ROGERS?

6 MR. ROGERS: TEN MINUTES MAYBE.

7 MR. MEADORS: WE UNDERSTAND, SIR.

8 THE COURT: ALL RIGHT. EVERYBODY OUT
9 EXCEPT FOR THE PEOPLE I -- THE LAW CLERK CAN
10 STAY.

11 (WHEREUPON, ALL PARTIES EXCEPT
12 THOSE NOTED BY THE COURT LEAVE THE
13 COURTROOM AT THIS TIME.)

14 THE COURT: OKAY, NOW, THE OFFICER THAT
15 IS IN THE COURTROOM, WHAT IS YOUR NAME?

16 CORPORAL WILSON: CORPORAL TRACY WILSON.

17 THE COURT: ALL RIGHT. CORPORAL, I'M
18 GOING TO HAVE TO SWEAR YOU NOT TO REVEAL WHAT
19 TRANSPIRES. EVEN THOUGH YOU MIGHT HEAR
20 SOMETHING YOU WOULD LIKE TO TELL LAW
21 ENFORCEMENT, YOU CAN'T DO IT.

22 CORPORAL WILSON: YES, SIR.

23 THE COURT: BECAUSE THIS IS WHAT IS
24 CALLED AN IN CAMERA HEARING.

25 ALL RIGHT, YOU ARE NOT GOING TO TESTIFY

1 IN THE CASE, ARE YOU?

2 CORPORAL WILSON: I HAVEN'T BEEN AWARE
3 THAT I WAS.

4 THE COURT: ALL RIGHT.

5 (PAUSE.)

6 THE COURT: YEAH, TELL THEM THEY NEED
7 TO SEND ANOTHER WITNESS IN -- ANOTHER DEPUTY IN
8 IF HE'S GOING TO TESTIFY. IF HE'S NOT GOING TO
9 TESTIFY, HE CAN STAY.

10 LAW CLERK: OKAY.

11 (PAUSE.)

12 THE COURT: I JUST THINK HE WAS JUST
13 LISTED BECAUSE HE'S IN THE COURTROOM.

14 CORPORAL WILSON: YOU DIDN'T CALL MY
15 NAME ON THE LIST, SIR.

16 THE COURT: NO, I THINK YOU'RE JUST
17 LISTED AS BEING IN THE COURTROOM.

18 CORPORAL WILSON: I BELIEVE SO.

19 THE COURT: DO YOU HAVE ANY INDEPENDENT
20 KNOWLEDGE OF THE CASE OR ANYTHING?

21 CORPORAL WILSON: VERY LITTLE.

22 (WHEREUPON, CORPORAL WILSON EXITS
23 THE COURTROOM; AND OFFICER MILLER
24 ENTERS COURTROOM.)

25 THE COURT: OKAY. AND WHAT IS YOUR

1 NAME, OFFICER?

2 OFFICER MILLER: J. L. MILLER.

3 THE COURT: YES, SIR. I AM GOING TO
4 HAVE TO ASK YOU NOT TO REPEAT ANYTHING THAT
5 TRANSPIRES IN HERE BECAUSE I DON'T KNOW WHAT IT
6 MIGHT BE. IT MIGHT BE INFORMATION THAT MIGHT
7 BE HELPFUL TO THE STATE. AND I AM GOING TO
8 HAVE TO SWEAR YOU ON THAT. DO YOU UNDERSTAND?

9 OFFICER MILLER: I DO, YOUR HONOR.

10 THE COURT: OKAY. FINE. ALL RIGHT,
11 MR. ROGERS.

12 MR. ROGERS: THANK YOU, YOUR HONOR.

13 JUST TODAY MR. CHILDERS HAS DISCLOSED TO
14 ME THAT AT THE TIME OF THE INCIDENT AND AT THE
15 INCIDENT LOCATION, THAT THERE WAS MORE THAN ONE
16 WEAPON, PERHAPS AS MANY AS THREE WEAPONS.

17 AND HE HAS ALSO INDICATED TO ME THAT
18 PERHAPS HE WAS NOT -- IF IN FACT HE DID FIRE A
19 WEAPON, PERHAPS HE WAS NOT THE FIRST ONE TO
20 FIRE A WEAPON.

21 YOUR HONOR, THIS GIVES, OF COURSE, RISE
22 TO THE POSSIBILITY OF A SELF-DEFENSE THEORY IN
23 OUR DEFENSE.

24 QUITE FRANKLY, I'M NOT REALLY SURE AS TO
25 HOW TO INVESTIGATE THE MATTER, AND THEN AGAIN I

1 DON'T KNOW THAT -- I COULD -- THAT IS A
2 DECISION I COULD MAKE ON THE SPUR OF THE
3 MOMENT.

4 BUT IT CERTAINLY -- UP TO THIS POINT WE
5 HAVEN'T REALLY HAD A THEORY OF DEFENSE, YOUR
6 HONOR, BUT IT CERTAINLY GIVES ME SOMETHING TO
7 PURSUE.

8 THE COURT: DID MR. CHILDERS INDICATE
9 HE HAD KNOWLEDGE AS TO WHO POSSESSED THE OTHER
10 WEAPON OR ANYTHING?

11 MR. ROGERS: YES, YOUR HONOR. ONE OF
12 THE WITNESSES WILL TESTIFY TO THAT.

13 THE COURT: WELL, THEN YOU CAN QUERY
14 THEM ABOUT THAT.

15 MR. ROGERS: I COULD, YOUR HONOR.

16 THE COURT: PRIOR TO THE TRIAL.

17 MR. ROGERS: YES, YOUR HONOR.

18 THE COURT: SO THAT IS NOT A GROUND FOR
19 A CONTINUANCE, THAT IS A POSSIBLE DEFENSE. IF
20 YOU NEED TIME TO TALK TO THEM, YOU KNOW, AFTER
21 THE STATE HAS PRESENTED ITS CASE OR EVEN
22 BEFORE, YOU CAN CERTAINLY DO THAT.

23 MR. ROGERS: AND OTHER THAN THAT, YOUR
24 HONOR, I DON'T KNOW OF ANYTHING -- ANYTHING
25 ELSE. BUT AS I INDICATED, I BELIEVE THAT HE

1 HAS DISCLOSED SOMETHING TO ME THAT WOULD GIVE
2 US A THEORY OF SELF-DEFENSE WHICH, AT THIS
3 POINT, I OBVIOUSLY HAVE NOT PREPARED OR
4 DEVELOPED YET.

5 THE COURT: WELL, OF COURSE, IF
6 EVIDENCE IS PRESENTED THAT JUST RAISES THE
7 POSSIBILITY OF DEFENSE, YOU GET THAT CHARGE.

8 MR. ROGERS: I UNDERSTAND THAT.

9 THE COURT: SO YOU APPARENTLY HAVE
10 SUFFICIENT INFORMATION TO EXPLORE IT EVEN AS WE
11 PROCEED, AND YOU ARE QUITE VERSED ON HOW TO DO
12 THAT. I DON'T SEE ANY REASON TO CONTINUE IT.

13 ANYTHING ELSE?

14 MR. ROGERS: THAT'S IT.

15 THE COURT: JUST HOLD IT, OFFICER. YOU
16 CAN TELL EVERYBODY TO COME BACK IN. TELL
17 EVERYBODY TO COME BACK IN.

18 (WHEREUPON, THOSE WHO EXITED THE
19 COURTROOM ARE ALLOWED TO RE-ENTER.)

20 THE COURT: MR. ROGERS, HOW LONG HAS
21 MR. CHILDERS BEEN IN HERE?

22 MR. ROGERS: BEG YOUR PARDON?

23 THE COURT: HOW LONG HAS HE BEEN IN
24 HERE, TODAY?

25 MR. ROGERS: TODAY?

JURY OUT

99

1 THE COURT: YEAH, SINCE---

2 MR. ROGERS: HE HAS BEEN HERE ALL DAY.

3 THE COURT: WELL, I MEAN, WHEN WAS THE
4 LAST TIME HE WENT TO THE BATHROOM? DO YOU NEED
5 TO GO TO THE BATHROOM? ONCE WE CRANK IT UP, IT
6 WILL BE ANOTHER HOUR AND A HALF.

7 MR. CHILDERS: YEAH.

8 MR. ROGERS: YES, SIR.

9 THE COURT: WE BETTER DO THAT THEN.
10 GET AN OFFICER TO TAKE HIM TO THE BATHROOM AND
11 THEN WHEN HE'S READY, WE'RE READY.

12 (RECESS.)

13 THE COURT: WE DIDN'T GET STARTED UNTIL
14 10 OR 11. HOW FAR DO Y'ALL WANT TO GO TODAY?

15 MR. MEADORS: JUDGE, COULD WE AT LEAST
16 OPEN AND START WITH THE FIRST WITNESS AND THEN
17 JUST SEE WHERE WE ARE?

18 THE COURT: WELL---

19 MR. MEADORS: WELL, WHAT DOES YOUR
20 HONOR PREFER?

21 THE COURT: NO. THIS IS THE DEAL. THE
22 JURY IS GOOD FOR AN HOUR AND FORTY-FIVE
23 MINUTES. THAT'S ALL THE JURY IS GOOD FOR. WE
24 CAN GO LONGER THAN THAT, BUT WE HAVE TO GIVE
25 THEM A BREAK ABOUT AN HOUR AND HALF TO AN HOUR

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1 AND FORTY-FIVE MINUTES.

2 HOW LONG ARE Y'ALL GOING TO BE ON
3 OPENING STATEMENTS? PROBABLY WE CAN GET IN
4 OPENING STATEMENTS AND ONE WITNESS, PROBABLY.

5 MR. MEADORS: YES, SIR.

6 THE COURT: I WOULD LIKE TO TELL THE
7 JURY WE'D LET THEM GO BY 6 TODAY.

8 MR. MEADORS: THAT'S FINE, JUDGE.

9 THE COURT: WE HAVE TO MAKE CALLS, AND
10 ALL THAT.

11 I'VE LISTENED TO MR. ROGERS ON HIS NEW
12 UNDISCLOSED INFORMATION. I DID NOT HALT THE
13 TRIAL. I TOLD HIM THAT I MIGHT HAVE TO BREAK
14 THE TRIAL, THOUGH, IF HE NEEDED TIME DURING THE
15 TRIAL OR AFTER THE STATE HAD PRESENTED ITS CASE
16 TO INVESTIGATE FURTHER THE INFORMATION THAT HE
17 DISCLOSED, SO WE MAY HAVE A LITTLE DELAY AT
18 THAT POINT. IS THAT FAIR, MR. ROGERS?

19 MR. ROGERS: I THINK THAT IS A PRETTY
20 ACCURATE ASSESSMENT OF YOUR RULING, YOUR HONOR.

21 THE COURT: I HAVE DENIED, OF COURSE,
22 MR. CHILDERS' MOTION FOR A CONTINUANCE. I HAVE
23 NOT HEARD OF ANYTHING THAT WOULD FURTHER THE
24 PREPARATION ON THE PART OF MR. ROGERS TO ASSIST
25 IN PRESENTING THE DEFENSE. I FIND MR. ROGERS

JURY OUT

101

1 TO BE CERTAINLY A COMPETENT ATTORNEY. THE CASE
2 HAS BEEN SCHEDULED FOR SOME TIME.

3 BEYOND THAT, ARE WE READY TO BRING THEM
4 OUT?

5 MR. MEADORS: JUDGE, JUST ONE BRIEF
6 MATTER. ON THE ASSAULT WITH INTENT INDICTMENT,
7 OF COURSE THE CAPTION IS CORRECT, IT HAS
8 ASSAULT WITH INTENT. I BELIEVE THE FRONT OF
9 THAT DOCUMENT HAS ASSAULT WITH INTENT. IN THE
10 BODY OF IT, IT WAS JUST NEGLECTED, THE BATTERY
11 PART WAS NOT STRUCK OUT AS IT WAS IN THE TOP.

12 SO I GUESS WE WOULD MOVE TO AMEND BY
13 DELETION OF JUST THE "AND BATTERY" FROM THE
14 ASSAULT WITH INTENT, WHICH WAS JUST A
15 SCRIVENER'S ERROR. IT WAS CORRECT IN THE TOP
16 OF IT BUT NOT IN THE BOTTOM.

17 THE COURT: OKAY. ALL RIGHT. LET'S
18 BRING THE JURY IN. FIND OUT WHO THE FOREPERSON
19 IS.

20 (WHEREUPON, THE JURY RETURNS TO
21 OPEN COURT.)

22 (WHEREUPON, THE FOLLOWING TAKES
23 PLACE WITHIN THE PRESENCE OF
24 THE JURY.)

25 THE BAILIFF: WILLIAM HORTON, NUMBER

1 45.

2 THE COURT: OKAY. SWEAR THE JURY.

3 THE CLERK: THANK YOU, YOUR HONOR.

4 MR. FOREMAN AND LADIES AND GENTLEMEN OF
5 THE JURY, WOULD YOU PLEASE STAND AND RAISE YOUR
6 RIGHT HAND?

7 (THE JURY MEMBERS COMPLY.)

8 (WHEREUPON, AT 3:46 P.M., THE
9 JURY IS SWORN AS FOLLOWS:)

10 THE CLERK: YOU SHALL WELL AND TRULY
11 TRY AND TRUE DELIVERANCE MAKE BETWEEN THE STATE
12 OF SOUTH CAROLINA AND THE PRISONER AT THE BAR
13 WHOM YOU SHALL HAVE IN CHARGE AND A TRUE
14 VERDICT GIVE ACCORDING TO THE EVIDENCE AND THE
15 LAW, SO HELP YOU GOD?

16 PLEASE SIGNIFY BY SAYING, "I DO."

17 JURY: "I DO."

18 THE CLERK: THANK YOU. PLEASE BE
19 SEATED.

20 (THE JURY MEMBERS COMPLY.)

21 THE COURT: OKAY, JURORS. IT TAKES A
22 WHILE TO GET CRANKED UP. THE MORE SERIOUS THE
23 CASE, THE MORE PREPARATION TIME BEFORE WE GET
24 INTO THE TRIAL.

25 ONCE WE GET INTO THE TRIAL, UNLESS I

PRELIMINARY INSTRUCTIONS

103

1 TELL YOU DIFFERENTLY, WE'LL MOVE ALONG
2 RELATIVELY STRAIGHTFORWARD. THIS IS THE ONLY
3 CASE WE'RE TRYING RIGHT NOW. WE AREN'T DOING
4 ANYTHING BUT TRYING THIS CASE.

5 TRYING CASES IS JUST NOT LIKE, YOU KNOW,
6 GOING TO WORK 9 TO 5. CIRCUMSTANCES OUTSIDE
7 YOUR CONTROL OCCUR, LIKE A WITNESS GETS IN A
8 WRECK ON THE WAY HERE OR WHATEVER.

9 BUT NORMALLY ONCE WE START PROCEEDING
10 WITH THE TRIAL, WE WILL GO ABOUT AN HOUR AND A
11 HALF OR HOUR AND FORTY-FIVE MINUTES, NO MORE
12 THAN THAT BEFORE WE TAKE A BREAK.

13 TODAY WE ARE LATE STARTING. WE WILL TRY
14 TO GET YOU OUT OF HERE BY 6, GIVE OR TAKE FIVE
15 OR SIX MINUTES. WE AREN'T GOING TO KEEP YOU
16 HERE LATE AT NIGHT. IT IS NOT YOUR FAULT THAT
17 WE DIDN'T START EARLY THIS MORNING.

18 THESE THREE DOCUMENTS, OF COURSE, ARE
19 INDICTMENTS. THEY JUST CONTAIN ALLEGATIONS.
20 THEY ARE CHARGING PAPERS. THEY CHARGE WILLIAM
21 L. CHILDERS, JR., WITH THE COMMISSION OF THREE
22 SEPARATE CRIMES ON THE SAME DAY, REALLY AROUND
23 THE SAME LOCATION.

24 I DON'T KNOW ANYTHING ABOUT THE CASE
25 OTHER THAN WHAT THE ATTORNEYS HAVE TOLD ME AND

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1 WHAT I'VE READ IN THESE DOCUMENTS. SO DON'T
2 LOOK TO ME FOR ANY GUIDANCE ABOUT WHAT
3 TRANSPIRED.

4 AFTER TALKING TO THE ATTORNEYS, I CAN
5 TELL YOU THAT THERE WAS AN ALLEGED SHOOTING BY
6 MR. CHILDERS, WHICH HE IS PRESUMED INNOCENT OF,
7 OF TAMMY MUNN RESULTING IN HER DEATH ON OCTOBER
8 THE 15TH OF THE YEAR 2000. AND IT OCCURRED OUT
9 AT [REDACTED] [REDACTED] [REDACTED] AND BECAUSE SHE DIED,
10 THE STATE IS SEEKING A VERDICT FROM YOU JURORS
11 THAT MR. CHILDERS IS GUILTY OF MURDER OF TAMMY
12 MUNN.

13 ON THE SAME DATE, ANOTHER INDICTMENT
14 ALLEGES THAT MR. CHILDERS COMMITTED AN ASSAULT
15 WITH INTENT TO KILL ON MARY WHITE, WHO WAS AT
16 THE SCENE APPARENTLY AT THE TIME.

17 ASSAULT, JURORS, IS AN OFFER TO DO
18 VIOLENCE TO ANOTHER PERSON COUPLED WITH THE
19 PRESENT ABILITY TO CARRY IT OUT.

20 A BATTERY, WHICH IS NOT INCLUDED IN
21 THIS, IS THE CARRYING IT OUT, YOU KNOW. YOU
22 SAY, "I AM GOING TO HIT SOMEBODY THAT IS CLOSE
23 TO YOU," THAT IS AN ASSAULT. IF YOU ACTUALLY
24 HIT THEM, THAT IS BATTERY, CONSUMMATION OF THE
25 ASSAULT.

PRELIMINARY INSTRUCTIONS

105

1 ASSAULT WITH INTENT TO KILL MEANS THAT
2 IF AN ASSAULT WAS COMMITTED AND HAD IT BEEN
3 SUCCESSFUL THE PERSON ACTUALLY WOULD HAVE DIED.

4 THE THIRD INDICTMENT ALLEGES THAT A
5 FIREARM WAS DISCHARGED INTO THE DWELLING AT
6 [REDACTED] ELGIN, SOUTH CAROLINA.

7 AND Y'ALL UNDERSTAND A DWELLING IS A
8 PLACE WHERE PEOPLE LIVE. I DON'T HAVE TO
9 DEFINE THAT FOR YOU. I MEAN THE LAW GOES ON
10 AND ON.

11 AT THE CONCLUSION OF THE TRIAL I WILL
12 MAYBE READ SOME STATUTES TO YOU CONCERNING THAT
13 AND GIVE YOU A LITTLE MORE APPLICATION OF IT.
14 BUT THAT ALLEGED CRIME JUST MEANS YOU FIRED A
15 WEAPON INTO A DWELLING WHERE PEOPLE RESIDE.

16 MR. CHILDERS IS PRESUMED INNOCENT OF ALL
17 CHARGES. HE HAS ABSOLUTELY NO OBLIGATION TO
18 PROVE HE IS NOT GUILTY. THE STATE KEEPS THE
19 BURDEN OF PROOF WHICH UNDER EACH OF THESE
20 INDICTMENTS THE STATE MUST CONVINCE YOU 12
21 JURORS BEYOND A REASONABLE DOUBT THAT MR.
22 CHILDERS COMMITTED EACH ELEMENT THAT
23 CONSTITUTES THE CRIME TO WHICH HE IS CHARGED;
24 SPECIFICALLY MURDER, ASSAULT WITH INTENT TO
25 KILL, AND DISCHARGING A FIREARM INTO A

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1 DWELLING.

2 NOW, MR. FOREMAN, YOU WILL PRESIDE OVER
3 DELIBERATIONS ONCE DELIBERATIONS COMMENCE.
4 UNTIL THAT TIME, YOU ARE JUST ANOTHER JUROR
5 REALLY. YOUR VOTE COUNTS NO MORE THAN ANY
6 OTHER JUROR. IT TAKES A UNANIMOUS DECISION OF
7 YOU 12 JURORS TO DECIDE WHETHER THE STATE MEETS
8 ITS BURDEN ON ONE OR MORE OF THESE INDICTMENTS.

9 ALTERNATE JURORS, WE ARE NOT GOING TO
10 FINISH THE CASE TODAY OBVIOUSLY, WE ARE JUST
11 GOING TO BARELY GET INTO IT. WE PROBABLY WON'T
12 FINISH IT TOMORROW. WE'LL GO INTO THE NEXT
13 DAY, MAYBE EVEN THE DAY AFTER, BECAUSE WE'VE
14 GOT A GOOD MANY POTENTIAL WITNESSES. THINGS
15 HAPPEN. THAT'S WHY WE HAVE TWO ALTERNATES.
16 PEOPLE GET SICK, AND SO FORTH. SO YOU
17 ALTERNATES HAVE TO PAY ATTENTION.

18 THE GENTLEMAN WHO IS THE FIRST ALTERNATE
19 AND THEN THE SECOND ALTERNATE, IF ONE PERSON
20 HAS A COUGHING FIT OR SOMETHING AND HAS TO GO,
21 YOU CAN TAKE THEIR PLACE, AND SO FORTH, AND ON
22 DOWN. SO Y'ALL HAVE TO PAY ATTENTION
23 THROUGHOUT.

24 NOW, JURORS, YOU ARE GOING TO PASS UPON
25 THE BELIEVABILITY OF ALL THE ADMITTED EVIDENCE,

1 AND THAT INCLUDES TESTIMONY. AGAIN, I DON'T
2 KNOW WHAT MIGHT COME IN, I SIMPLY RULE UPON
3 WHAT EVIDENCE CAN COME IN.

4 AFTER THE EVIDENCE IS ADMITTED, THE
5 WEIGHT THAT YOU ATTRIBUTE TO ADMITTED EVIDENCE
6 IS ENTIRELY UP TO YOU JURORS.

7 BUT THIS IS HOW THE TRIAL PROGRESSES:
8 THE STATE WILL MAKE A BRIEF OPENING STATEMENT.
9 THAT WILL NOT BE EVIDENCE. IT JUST OUTLINES
10 WHAT THEY FEEL THEY WILL PRESENT. THEY MAY
11 SUGGEST CONCLUSIONS BE DRAWN FROM IT, BUT THAT
12 IS JUST SUGGESTIONS, THAT IS NOT EVIDENCE.
13 WHAT CONCLUSIONS YOU DRAW FROM ADMITTED
14 EVIDENCE IS UP TO YOU JURORS.

15 AFTER THE STATE HAS MADE ITS OPENING
16 STATEMENT, THE DEFENSE WILL BE ENTITLED TO MAKE
17 A STATEMENT, THEY MAY NOT. THE DEFENDANT,
18 REMEMBER, DOES NOT HAVE TO PROVE HE IS NOT
19 GUILTY AT ALL, HE DOESN'T HAVE TO PRESENT ANY
20 EVIDENCE AT ALL.

21 AFTER THE STATEMENT OR STATEMENTS HAVE
22 BEEN MADE, WE WILL START CALLING WITNESSES, AND
23 I THINK WE DECIDED WE WOULD GO WITH ONE WITNESS
24 TODAY, I DON'T KNOW WHO THAT IS AT THIS POINT,
25 BUT, ANYWAY, AFTER ONE WITNESS TESTIFIES,

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1 UNLESS THAT TESTIMONY IS REAL SHORT, WE'LL
2 PROBABLY BREAK FOR THE DAY. WE MAY RUN THROUGH
3 UNTIL THAT WITNESS IS THROUGH TESTIFYING. WE
4 MAY HAVE TO BREAK BECAUSE JURORS JUST CAN'T
5 HANDLE IT OVER AN HOUR AND FORTY-FIVE, THAT'S
6 ALL.

7 THE STATE MAY PROCEED.

8 MR. MEADORS: MAY IT PLEASE THE COURT?

9 THE COURT: SURE.

10 MR. MEADORS: MR. MCMAHON. MR. ROGERS.

11 (WHEREUPON, THE FOLLOWING OPENING
12 STATEMENT WAS MADE BY MR. MEADORS,
13 ON BEHALF OF THE STATE.)

14 MR. MEADORS: MR. FOREMAN AND LADIES
15 AND GENTLEMEN OF THE JURY, TAMMY LYNN MUNN, AGE
16 24, MOTHER OF THREE, WOULD LIVE AT [REDACTED]
17 [REDACTED] ROAD OR SHE WOULD NOT LIVE. TAMMY
18 LYNN MUNN WOULD LIVE AT [REDACTED] [REDACTED] ROAD OR
19 SHE WOULD NOT LIVE.

20 THIS CASE, THIS CASE, THIS TALE, IS
21 ABOUT THE DEATH -- THIS STORY IS ABOUT THE
22 MURDER OF TAMMY LYNN MUNN. IT'S A STORY OF
23 CONTROL, CHOICES AND VIOLENCE.

24 ON OCTOBER 7TH OF 2000, TAMMY LYNN MUNN
25 CHOSE TO LEAVE [REDACTED] [REDACTED] WHERE SHE WAS

1 STAYING WITH THE DEFENDANT, WILLIAM CHILDERS,
2 ALSO KNOWN AS "COTTON." SHE CHOSE TO LEAVE THAT
3 RESIDENCE. A LITTLE OVER A WEEK LATER SHE WAS
4 DEAD.

5 THE EVIDENCE WILL SHOW ON OCTOBER 14TH,
6 IN THE EARLY MORNING HOURS AROUND 7:30-ISH,
7 THAT THE DEFENDANT CAME TO [REDACTED]
8 THAT IS WHERE THE VICTIM, TAMMY LEE MUNN --
9 LYNN MUNN -- LEFT WHEN SHE LEFT WESTCHESTER, ON
10 OCTOBER 7TH.

11 SHE LEFT AND WENT TO [REDACTED]
12 SHE WAS THERE WITH HER SISTER MARY. SHE WAS
13 THERE WITH HER SISTER BRENDA, HER MOTHER
14 CHERYL, HER CHILDREN, MARY'S CHILDREN, AND
15 DARREL DOWEY, WHO WAS WITH MARY AT THE TIME,
16 MARY WHITE. SHE WENT TO [REDACTED], TO HOME, AWAY
17 FROM [REDACTED]

18 ON OCTOBER 14TH, SIX DAYS LATER, THERE
19 WAS A KNOCK AT THE DOOR THAT MORNING WHERE THE
20 DEFENDANT WANTED TO SEE -- WANTED TO SEE TAMMY
21 LYNN MUNN. HE WAS NOT ALLOWED IN.

22 YOU'RE GOING TO HEAR FROM WITNESSES WHO
23 HEARD, PERHAPS SAW, HIS DEMEANOR AND ACTIONS
24 THAT MORNING.

25 LATER ON THAT AFTERNOON, THAT EVENING IF

1 YOU WILL, TAMMY LYNN MUNN, MARY WHITE, DARREL
2 DOWEY, AND SOME OTHERS, WENT TO A TURKEY SHOOT
3 UP IN SOMEWHERE/NOWHERE, UP ON SPRINGVALE IN
4 THE COUNTY.

5 THE EVIDENCE WILL SHOW THAT WILLIAM
6 "COTTON" CHILDERS SHOWED UP AT THE TURKEY SHOOT.
7 AND YOU'LL HEAR FROM WITNESSES WHO DESCRIBE
8 WHAT HAPPENED, HIS DEMEANOR, HIS ACTION, AT THE
9 TURKEY SHOOT.

10 A WHILE LATER THAT EVENING, EARLY THE
11 NEXT MORNING INTO OCTOBER THE 15TH, MARY DOWEY
12 -- MARY WHITE GOES BACK TO [REDACTED]
13 IN THE ELGIN AREA. Y'ALL ALL KNOW WHERE IT IS.
14 YOU KNOW THE GENERAL AREA.

15 SHE GOES BACK HOME. GETS HOME ROUGHLY
16 2:30, 3 O'CLOCK. TAMMY LYNN MUNN COMES BACK
17 HOME, WENT TO THE TURKEY SHOOT, THEN WENT TO
18 SOME FRIENDS' HOUSE, THEN COMES BACK TO 2588
19 WATSON STREET WITH DARREL DOWEY LATER ON IN THE
20 EVENING.

21 WELL, FOLKS, WHEN MARY WHITE, WHO IS THE
22 SISTER OF TAMMY LYNN MUNN, ARRIVED AT 2588, SHE
23 SEES TIM STAPLES, THE BROTHER OF TAMMY LYNN
24 MUNN, RIGHT HERE, MARY'S BROTHER. AND TIM
25 STAPLES HAS CALLED 911. HE HAS CALLED 911.

OPENING STATEMENT BY MR. MEADORS

111

1 YOU ARE GOING TO HEAR THE TAPE. YOU ARE GOING
2 TO HEAR HIM TESTIFY AND SAY, "THERE IS A
3 PROWLER. THERE IS SOMEONE OUT BEHIND THE
4 SCHOOL BUS."

5 "WHO IS IT?"

6 "IT'S COTTON, WILLIAM CHILDERS, AROUND
7 THE SCHOOL BUS."

8 911 IS CALLED. GLEN HOPPLE, BACK HERE,
9 RESPONDS TO THE CALL FROM THE KERSHAW COUNTY
10 SHERIFF'S DEPARTMENT. HE IS GOING TO BE OUR
11 FIRST WITNESS MR. McMAHON IS GOING TO PUT UP.

12 GLEN HOPPLE GOES TO [REDACTED] [REDACTED] [REDACTED]
13 TALKS TO THE FOLKS THERE, LOOKS AROUND THE
14 SCHOOL BUS AREA. YOU ARE GOING TO HEAR ABOUT
15 ALL THAT. THERE IS A SCHOOL BUS PARKED NEAR
16 THE HOUSE THERE. LOOKS AROUND TO SEE IF HE
17 COULD FIND THE PERSON WHO WAS THERE, THE
18 DEFENDANT, MR. CHILDERS. GETS A DESCRIPTION OF
19 THE CAR THAT THE DEFENDANT WAS DRIVING.

20 AND THEN -- AND THEN DEPUTY HOPPLE
21 SEARCHES THE AREA, SEARCHES STREETS IN THE
22 AREA. ENDS UP GOING BY THE PANTRY IN ELGIN
23 JUST SEEING IF ANYBODY HAD SEEN THE DEFENDANT
24 IN THAT AREA.

25 EVIDENCE IS GOING TO BE PRESENTED TO YOU

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1 THAT AFTER, AFTER GLEN HOPPLE WENT AFTER
2 RESPONDING TO A PROWLER AT , MR. CHILDERS
3 LEFT [REDACTED] [REDACTED] [REDACTED] GOES TO THE PANTRY.
4 WE'RE GOING TO PRESENT EVIDENCE THERE BY WAY OF
5 VIDEO SHOWING MR. CHILDERS IN THE PANTRY.

6 DEPUTY HOPPLE, AFTER VERIFYING THAT MR.
7 CHILDERS WAS AT THE PANTRY, KEEPS LOOKING AND
8 THEN GETS CALLED TO ANOTHER CALL.

9 A SHORT WHILE LATER, ROUGHLY 4 O'CLOCK,
10 THERE'S ANOTHER 911 CALL, ANOTHER 911 CALL TO

11 [REDACTED]

12 MR. CHILDERS HAD GONE BACK TO

13 AND BY THIS TIME THE VICTIM
14 TAMMY MUNN, THE VICTIM TAMMY MUNN, DARREL
15 DOWEY, HER BROTHER-IN-LAW, HAD COME BACK FROM
16 THE TURKEY SHOOT. THEY'RE SITTING OUTSIDE WITH
17 MARY, MARY RIGHT HERE.

18 TIM STAPLES IS IN THE HOUSE ALONG WITH
19 C. J. AIKEN, JOHN CRANE, CHERYL STAPLES, BRENDA
20 STAPLES, MELISSA, MATTHEW, BRITTANY, THE
21 CHILDREN, ARTHUR, OTHER CHILDREN OF MARY'S
22 THERE, FIVE CHILDREN INSIDE THE HOUSE.

23 AND ROUGHLY BEFORE -- SHORTLY BEFORE 4
24 O'CLOCK ON THE MORNING OF OCTOBER THE 15TH,
25 2000, THE DEFENDANT, WILLIAM CHILDERS, ALSO

1 KNOWN AS "COTTON," COMES OUT, COMES OUT WHERE
2 HE'S BEEN LURKING BEHIND THE SCHOOL BUS,
3 WATCHING AND WITH A .38 SPECIAL, SHOOTS TWICE,
4 ONCE, TWICE AGAIN. ONE BULLET GOES THROUGH AND
5 THROUGH TAMMY LYNN MUNN'S HEAD. THE OTHER
6 BULLET STAYED IN HER HEAD.

7 HE TURNS AND SHOOTS AT MARY WHO'S
8 RUNNING BACK TOWARD THE RESIDENCE AT . HE
9 SHOOTS AGAIN AT MARY AND THE BULLET GOES IN
10 , THROUGH THE DOOR, THROUGH THE WALL, INTO
11 A BEDROOM WHERE BRENDA, CHERYL, MELISSA,
12 MATTHEW, AND THE OTHER THREE CHILDREN ARE.

13 AND THEN TAMMY LYNN MUNN IS DEAD. THE
14 DEFENDANT LEAVES . THE POLICE ARE CALLED.
15 HOPPLE GETS THERE, THE INVESTIGATORS GET ON THE
16 SCENE. THE CAPTAIN COMES. PHIL CRAWFORD
17 COMES. INVESTIGATOR CORLEY COMES WITH THE DOGS
18 SITTING OVER THERE. "FIND OUT WHAT'S GOING ON.
19 IDENTIFY THE SHOOTER."

20 "IT'S WILLIAM CHILDERS, 'COTTON'," AND
21 THEY BEGIN SEARCHING. THEY BEGIN SEARCHING THE
22 AREA.

23 SIX O'CLOCK THAT DAY, THAT AFTERNOON,
24 ROUGHLY 6 O'CLOCK, HIGHWAY 12, I CALL IT
25 PERCIVAL ROAD, RIGHT INSIDE THE LINE. PHIL

1 CRAWFORD IS THERE, ANOTHER DEPUTY, I BELIEVE
2 CHRISTISON. AND FROM THE SIDE OF THE ROAD,
3 THIS INDIVIDUAL COMES UP AND SAYS, "Y'ALL
4 LOOKING FOR ME?" THE DEFENDANT, WILLIAM
5 CHILDERS, ALSO KNOWN AS "COTTON."

6 "THE CAR IS OVER HERE." HE TELLS THEM
7 WHERE THE CAR IS. THEY GO TO THE CAR. GET THE
8 CAR, EXECUTE A SEARCH WARRANT, FIND A .38
9 SPECIAL IN THE GLOVE COMPARTMENT.

10 THE FOLKS FROM SLED ARE GOING TO COME
11 IN. THE TWO OF THE FOUR BULLETS WE FOUND, WE
12 DIDN'T FIND THEM ALL, AND THEY ARE GOING TO
13 TELL YOU THE TEST THEY RUN TO TELL YOU WHETHER
14 THOSE BULLETS MATCHED THAT .38 SPECIAL. THEY
15 DID. THEY DID.

16 YOU ARE GOING TO HEAR FROM THE
17 FORENSICS. YOU ARE GOING TO HEAR FROM DR. INAS
18 YACOB, KNOWN AS A FORENSIC -- FORENSIC
19 PATHOLOGIST WHO IS GOING TO COME IN HERE AND
20 TELL YOU THOSE TWO BULLETS TO THE HEAD FROM
21 THAT .38 SPECIAL IS WHAT KILLED TAMMY LYNN
22 MUNN. AND YOU ARE GOING TO HEAR FROM ALL THE
23 OFFICERS ON THE SCENE.

24 FOLKS, THAT IS WHAT THIS CASE IS ABOUT.
25 IT IS A STORY OF THE MURDER OF TAMMY LYNN MUNN

1 BECAUSE SHE CHOSE TO LEAVE [REDACTED]
2 AND IT IS A STORY OF CONTROL AND IT IS A STORY
3 OF A CHOICE, A CHOICE THAT WILLIAM CHILDERS,
4 THE DEFENDANT, KNOWN AS "COTTON," THE CHOICE HE
5 MADE AND THE DECISION HE MADE.

6 FOLKS, MY NAME IS JOHN MEADORS, AND KNOX
7 McMAHON, YOU'VE BEEN INTRODUCED TO US BEFORE,
8 WE'VE BEEN INTRODUCED TO YOU, WE WORK FOR
9 SOLICITOR BARNEY GIESE, WHO WAS HERE TODAY.

10 WE ARE HERE TODAY REPRESENTING THE
11 PEOPLE OF THE STATE OF SOUTH CAROLINA, THE
12 PEOPLE OF KERSHAW COUNTY, AGAINST THE
13 DEFENDANT, WILLIAM CHILDERS.

14 THE KERSHAW COUNTY GRAND JURY HAS HANDED
15 DOWN THREE INDICTMENTS. I'M NOT GOING TO GO IN
16 DETAIL. HIS HONOR HAS BRIEFLY GONE OVER THEM
17 WITH YOU. I'VE JUST GONE OVER THEM WITH YOU,
18 THE FACTS----MURDER.

19 AND, FOLKS, OUR BURDEN IS THE SAME
20 BURDEN IN THIS CASE AS IT IS IN EVERY OTHER
21 CASE. WE'VE GOT TO PROVE THE DEFENDANT GUILTY
22 BEYOND A REASONABLE DOUBT. THE EVIDENCE WILL,
23 WE RESPECTFULLY SUBMIT.

24 THE INDICTMENTS IN THIS CASE, MURDER,
25 THE UNLAWFUL KILLING OF ANOTHER LIVING

1 BREATHING HUMAN BEING WITH MALICE AFORETHOUGHT.

2 Y'ALL KNOW WHAT MALICE IS? EVERYBODY
3 KNOWS WHAT MALICE IS. MALICE IS A WICKEDNESS,
4 AN EVILNESS, A MEANNESS, A SPITEFULNESS ONE
5 PERSON SHOWS TO ANOTHER. MALICE AFORETHOUGHT.
6 IT DOESN'T HAVE TO EXIST FOR A LONG TIME. IT
7 CAN EXIST FOR A SPLIT SECOND. THE PULLING OF A
8 TRIGGER, THE PULLING OF TWO TRIGGERS, THE
9 PULLING OF THREE TRIGGERS, THE PULLING OF FOUR
10 TRIGGERS.

11 THE UNLAWFUL KILLING OF TAMMY MUNN BY
12 MEANS OF SHOOTING HER IN THE HEAD WITH A
13 FIREARM. UNLAWFUL KILLING, THAT'S A MURDER
14 INDICTMENT. AND SHE DIED AS A PROXIMATE RESULT
15 THEREOF. THAT IS WHAT WE'VE GOT TO PROVE TO
16 YOU BEYOND A REASONABLE DOUBT.

17 THE NEXT INDICTMENT, AS YOUR HONOR'S
18 TALKED TO YOU, IS ASSAULT WITH INTENT TO KILL.
19 THAT, AS I HAVE OUTLINED TO YOU, IS WHEN THE
20 DEFENDANT TURNED AND TRIED TO SHOOT AT MARY,
21 SHOOT AT MARY AGAIN.

22 ASSAULT, AN ATTEMPT TO DO VIOLENCE TO
23 THE PERSON OF ANOTHER. INTENT TO KILL, AGAIN
24 THE MALICE, THE MEANNESS, THE SPITEFULNESS.
25 AND MALICE CAN BE SHOWN EXPRESSLY, FOLKS: "I'M

1 GOING TO KILL YOU." OR IT'S PERMISSIBLE, HIS
2 HONOR WILL TELL YOU, TO INFER MALICE FROM THE
3 USE OF A DEADLY WEAPON, AS IN THIS CASE. THANK
4 GOODNESS SHE'S STILL HERE. ASSAULT WITH INTENT
5 TO KILL.

6 AND THE FINAL INDICTMENT IS DISCHARGING
7 A FIREARM INTO A DWELLING. THERE MUST BE A
8 DWELLING, THERE MUST BE A FIREARM THAT WAS
9 DISCHARGED INTO IT, A PLACE WHERE PEOPLE
10 RESIDE.

11 WELL YOU'VE HEARD THE NUMBER OF FOLKS
12 THAT WERE RESIDING THERE THAT NIGHT. THE ONLY
13 THING THAT WAS HIT WAS A WALL.

14 WE MUST PROVE TO YOU THESE ELEMENTS
15 BEYOND A REASONABLE DOUBT.

16 FOLKS, EVERYBODY HAS GOT ROLES. MR.
17 ROGERS HAS HIS ROLE. I'VE GOT MY ROLE, MR.
18 McMAHON HAS HIS ROLE. HIS HONOR IS THE JUDGE
19 OF THE LAW. WHATEVER HE SAYS THE LAW IS, THE
20 LAW IS.

21 BUT I RESPECTFULLY SUBMIT TO YOU 14 THAT
22 Y'ALL HAVE THE MOST IMPORTANT ROLE HERE TODAY.
23 YOU BRING IN YOUR GOD-GIVEN TALENTS, THE THINGS
24 YOU HAVE PERCEIVED OVER YOUR LIFETIME, YOUR
25 EXPERIENCES, EXPERIENCES YOU HAVE GATHERED FROM

1 A CHILD TO TODAY. YOU BRING THEM IN HERE AND
2 YOU USE THOSE TO LISTEN TO THE EVIDENCE, DECIDE
3 WHAT IS BELIEVABLE, DECIDE WHAT IS CREDIBLE.

4 AND THEN YOUR ROLE IS AFTER YOU HAVE
5 HEARD ALL THE EVIDENCE TO DECIDE WHAT THE TRUTH
6 IS, WHAT THE FACTS ARE.

7 IT IS WHY THOSE THUGS BOMBED US LAST
8 WEEK, BECAUSE WE HAVE THE BEST SYSTEM IN THE
9 WORLD, AND YOU ARE A PART OF IT.

10 AFTER YOU HAVE DECIDED WHAT THE TRUTH
11 IS, WHAT THE FACTS ARE, HIS HONOR, THE JUDGE,
12 WILL GIVE YOU ALL THE LAW, SAY, "JURY, HERE IS
13 THE LAW."

14 YOU TAKE THE FACTS, YOU DECIDE IT. YOU
15 TAKE THE FACTS, YOU DECIDE IT AND APPLY IT TO
16 THE LAW JUDGE KINARD GIVES YOU, AND YOU COME
17 BACK WITH A VERDICT. WELL, ACTUALLY YOU COME
18 BACK WITH YOUR CHOICE.

19 FOLKS, TAMMY LYNN MUNN DIDN'T WANT TO
20 LIVE AT WESTCHESTER. IT COST HER HER LIFE.
21 AND WE CAN ONLY ASK YOU WHEN YOU COME BACK WITH
22 YOUR VERDICT, YOUR CHOICE, THAT THE ONLY
23 VERDICT THAT WILL SPEAK JUSTICE, THAT WILL RING
24 TRUE, THAT DOES JUSTICE, IS THAT ON OCTOBER 15TH
25 OF LAST YEAR, WILLIAM LARRY CHILDERS, KNOWN AS

DEBORAH M. McCURDY
CIRCUIT COURT REPORTER

1 "COTTON," TOOK A .38 SPECIAL, WAITED, WAITED FOR
2 THE RIGHT TIME, CAME OUT AND KILLED TAMMY LYNN
3 MUNN, COLD-BLOODED, TWICE IN THE HEAD, TRIED TO
4 KILL MARY, AND THEN SHOT A SHOT OF INDIFFERENCE
5 INTO A -- INTO A DWELLING. AND THAT THE
6 VERDICT THAT DOES JUSTICE IS GUILTY.

7 THANK YOU.

8 THE COURT: MR. ROGERS?

9 MR. ROGERS: THANK YOU, YOUR HONOR.

10 (WHEREUPON, THE FOLLOWING OPENING
11 STATEMENT WAS MADE BY MR. ROGERS,
12 ON BEHALF OF THE DEFENDANT.)

13 MR. ROGERS: SOMETIMES THINGS LOOK JUST
14 WRAPPED UP TOO TIGHT, JUST SEEMS TOO PERFECT,
15 IT ADDS UP ALL SO WELL, AND IN THE END WE FIND
16 IT REALLY DOESN'T ADD UP AT ALL.

17 THE STATE COMES BEFORE YOU TODAY TO GIVE
18 YOU EYEWITNESSES TO THE SHOOTING. THEY ARE
19 GOING TO GIVE YOU A FORENSICS REPORT TO SHOW
20 MR. CHILDERS' GUN, IN THE OPINION OF THE
21 EXPERT, WAS THE GUN THAT FIRED THE FATAL
22 BULLET.

23 BUT WILL THEY HAVE AN EXPLANATION AS TO
24 WHY, MANY HOURS LATER, HE WAS STILL AROUND?
25 WILL THEY HAVE AN EXPLANATION AS TO WHY, MANY

1 HOURS LATER, THE GUN WAS IN HIS CAR?

2 I SUBMIT TO YOU AT THE END OF THE TRIAL
3 THAT THAT IS NOT INDICATIVE OF A GUILTY MAN WHO
4 HAS ACTED WITH MALICE AFORETHOUGHT.

5 FOLKS, I'M GOING TO BE BRIEF BECAUSE I'M
6 ANXIOUS FOR YOU TO HEAR THE EVIDENCE AND THE
7 LACK OF EVIDENCE.

8 THROUGHOUT THIS TRIAL, DON'T JUST LISTEN
9 TO THE EVIDENCE THAT COMES FROM THE WITNESS
10 STAND BUT THE EVIDENCE THAT DOESN'T COME FROM
11 THE WITNES STAND, THE QUESTIONS THAT CAN'T BE
12 ANSWERED.

13 PROOF BEYOND A REASONABLE DOUBT IS HARD
14 TO ATTAIN. SOMETIMES IT SEEMS WHEN YOU HAVE AN
15 EYEWITNESS AND YOU HAVE FORENSIC EVIDENCE THAT
16 IT IS AN OPEN AND SHUT CASE. FOLKS, IF THAT
17 WERE THE CASE, WE WOULDN'T NEED YOU, THE JURY.

18 THERE ARE ALWAYS TWO SIDES TO EVERY
19 STORY. THIS IS A DOMESTIC CASE. MR. CHILDERS
20 AND MS. MUNN HAD LIVED TOGETHER. WHETHER OR
21 NOT SHE CHOSE TO NO LONGER LIVE AT

22 WE DON'T KNOW. ALL WE KNOW IS SHE
23 WASN'T LIVING THERE AT THE TIME. THEY HAD AN
24 ON AGAIN/OFF AGAIN RELATIONSHIP.

25 YOU WILL SEE THE WITNESSES WHO CAN GIVE

DEBORAH M. McCURDY
CIRCUIT COURT REPORTER

1 YOU AN ACCOUNT OF THE EVENTS THAT OCCURRED THAT
2 EVENING ARE ALL RELATIVES OF MS. MUNN. ALL OF
3 THEM. THERE ARE NO INDEPENDENT WITNESSES.
4 THERE ARE NO OBJECTIVE WITNESSES TO THE EVENTS
5 OF THAT EVENING.

6 NOW, MR. HOPPLE CAN COME UP HERE AND
7 TESTIFY, AND MR. MEADORS INDICATES THAT HE IS
8 THE FIRST WITNESS. YOU MIGHT CONSIDER HIM AN
9 INDEPENDENT WITNESS. HE IS GOING TO TESTIFY
10 THAT HE DIDN'T FIND MR. CHILDERS OUT THERE ON
11 THAT PROPERTY WHEN HE GOT THAT CALL. HE DID
12 NOT FIND HIM.

13 FOLKS, EVERYTHING IS NOT ALWAYS AS IT
14 APPEARS. YOU ONLY KNOW WHAT PEOPLE TELL YOU.
15 IT IS WHAT PEOPLE DON'T TELL YOU THAT COULD GET
16 US IN TROUBLE OR CAN LEAD US DOWN THE WRONG
17 PATH.

18 BEFORE YOU GO HOME TODAY, JUDGE KINARD
19 IS GOING TO TELL YOU NOT TO DISCUSS ANYTHING
20 ABOUT TODAY WITH ANY FAMILY MEMBER OR ANY
21 FRIENDS OR ANYBODY YOU MIGHT TALK TO.

22 BUT IF IT WERE OKAY FOR YOU TO DO SO
23 WHEN YOU GET HOME, YOUR WIVES, YOUR HUSBANDS,
24 YOUR CHILDREN, FRIENDS, THEY ARE GOING TO ASK
25 YOU WHAT HAPPENED TODAY AT THE COURTHOUSE.

1 WELL, FOLKS, YOU ARE GOING TO TELL THEM
2 THAT YOU CAME FOR JURY QUALIFICATION THIS
3 MORNING, YOU WERE SENT HOME. YOU CAME BACK AT
4 2 O'CLOCK TODAY AND THAT YOU WERE SELECTED FOR
5 A MURDER TRIAL. AND THEN WE GOT STARTED. THE
6 JUDGE TALKED TO YOU. THE SOLICITOR HAD AN
7 OPENING STATEMENT. THE DEFENSE ATTORNEY HAD AN
8 OPENING STATEMENT. THEN YOU HEARD A WITNESS.
9 AND THAT IS AN ACCURATE ACCOUNT. THAT IS THE
10 ONLY THING THAT HAS HAPPENED IN THIS COURTHOUSE
11 TODAY. THAT IS THE ONLY THING THAT HAS
12 HAPPENED IN THIS COURTHOUSE TODAY. SOME THINGS
13 YOU WON'T -- YOU WILL LEAVE OUT, THERE ARE SOME
14 THINGS, THERE ARE SOME THINGS THAT YOU DIDN'T
15 SEE, BUT YOU WILL HEAR.

16 AGAIN, I JUST ASK YOU TO LISTEN
17 CAREFULLY AND THANK YOU FOR BEING HERE. MR.
18 CHILDERS IS ENTITLED TO HIS DAY IN COURT, AND
19 HE CAN'T HAVE THAT WITHOUT YOU.

20 WE APPRECIATE YOUR ATTENTION IN ADVANCE.
21 AND WE KNOW THAT YOU WILL DO THE RIGHT THING.

22 THANK YOU VERY MUCH.

23 MR. MCMAHON: MAY IT PLEASE THE COURT?

24 THE COURT: SURE.

25 MR. MCMAHON: THE STATE CALLS DEPUTY

1 GLEN HOPPLE.

2 THE CLERK: DO YOU SWEAR OR AFFIRM THE
3 EVIDENCE YOU GIVE WILL BE THE TRUTH, THE WHOLE
4 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU
5 GOD?

6 MR. HOPPLE: I DO.

7 THE CLERK: THANK YOU. PLEASE BE
8 SEATED IN THE WITNESS CHAIR AND STATE YOUR FULL
9 NAME FOR THE RECORD.

10 MR. HOPPLE: GLEN HOPPLE.

11 GLEN HOPPLE, BEING
12 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY MR. McMAHON:

14 Q. SIR, YOU ARE EMPLOYED WITH THE KERSHAW
15 COUNTY SHERIFF'S OFFICE?

16 A. YES, SIR.

17 Q. HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
18 KERSHAW COUNTY SHERIFF'S OFFICE?

19 A. TEN YEARS.

20 Q. AND WHAT IS YOUR CURRENT POSITION WITH THE
21 DEPARTMENT?

22 A. I AM A CORPORAL AND RESIDENT DEPUTY IN
23 ELGIN.

24 Q. HOW LONG HAVE YOU BEEN A CORPORAL?

25 A. TWO YEARS.

1 Q. HOW LONG HAVE YOU BEEN RESIDENT DEPUTY IN
2 ELGIN?

3 A. SINCE MARCH.

4 Q. AND WHAT ARE YOUR DUTIES GENERALLY AS A
5 RESIDENT DEPUTY IN THE ELGIN SECTION OF KERSHAW
6 COUNTY?

7 A. TO PATROL THE ELGIN AREA, TALK WITH THE
8 MERCHANTS IN THE ELGIN AREA AND TAKE ROUTINE
9 CALLS.

10 Q. PRIOR TO BEING ASSIGNED AS A RESIDENT
11 DEPUTY, AND I TAKE IT WHEN YOU SAY RESIDENT
12 DEPUTY YOU GENERALLY WORK AND STAY AND PERFORM
13 YOUR DUTIES IN THAT PARTICULAR AREA, CORRECT?

14 A. YES, SIR.

15 Q. PRIOR TO THAT, WHAT WERE YOUR DUTIES?

16 A. I WAS A SHIFT CORPORAL, BUT MY AREA WAS
17 ELGIN THEN TOO.

18 Q. NOW, SIR, I WANT TO DIRECT YOUR ATTENTION
19 BACK TO SATURDAY, OCTOBER THE 14TH AND SUNDAY,
20 OCTOBER THE 15TH. WERE YOU ON DUTY THAT
21 SATURDAY NIGHT AND SUNDAY MORNING?

22 A. YES, SIR.

23 Q. DO Y'ALL WORK SHIFT WORK?

24 A. YES, SIR.

25 Q. WHAT HOURS WOULD YOU HAVE BEEN WORKING BACK

1 THEN, DEPUTY HOPPLE?

2 A. ELEVEN AT NIGHT UNTIL 7 IN THE MORNING.

3 Q. SO YOU WOULD HAVE COME ON AT 11 P.M. ON
4 SATURDAY, THE 14TH?

5 A. RIGHT.

6 Q. AND GOTTEN OFF AT WHAT TIME?

7 A. SEVEN SUNDAY MORNING.

8 Q. SEVEN A.M. SUNDAY MORNING, THE 15TH?

9 A. YES, SIR.

10 Q. AND WHAT -- WHAT AREA OF THE COUNTY WERE
11 YOU ASSIGNED TO ON THAT SATURDAY NIGHT AND
12 SUNDAY MORNING?

13 A. THE ELGIN AREA.

14 Q. DID YOU, DURING THAT TOUR OF DUTY, RECEIVE
15 A CALL TO GO TO [REDACTED] [REDACTED] [REDACTED] IN ELGIN?

16 A. YES, SIR.

17 Q. HOW MANY DIFFERENT CALLS DID YOU RECEIVE
18 THAT NIGHT TO GO TO THAT LOCATION?

19 A. TWO.

20 Q. TWO?

21 A. YES, SIR.

22 Q. AND ALL THIS AREA WE ARE GOING TO BE
23 TALKING ABOUT OF WATSON STREET, 2588
24 SPECIFICALLY, ALL OF THAT IS GOING TO BE
25 LOCATED IN KERSHAW COUNTY?

1 A. YES, SIR.

2 MR. McMAHON: ANY OBJECTION TO USING
3 THIS?

4 Q. I AM GOING TO ASK YOU ABOUT BOTH OF THOSE
5 CALLS, BUT I WANT TO SHOW YOU SOME DIAGRAMS
6 FIRST. HAVE YOU SEEN THESE DIAGRAMS BEFORE,---

7 A. YES, SIR.

8 Q. ---DEPUTY HOPPLE? AND ARE THESE DIAGRAMS OF
9 THE GENERAL AREA OF THE ROADWAYS IN AND AROUND
10 ELGIN?

11 A. YES, SIR.

12 Q. OF THE 2500 BLOCK OF WATSON STREET AND
13 ALSO SPECIFICALLY OF [REDACTED] [REDACTED] [REDACTED]

14 A. YES, SIR.

15 Q. AND I ALSO WANT TO SHOW YOU A PHOTOGRAPH
16 AND ASK YOU IF YOU RECOGNIZE THAT PHOTOGRAPH?

17 A. YES, SIR.

18 Q. AND IS THAT A PHOTOGRAPH OF [REDACTED] [REDACTED]

19 [REDACTED]

20 A. YES, SIR, IT IS.

21 MR. McMAHON: YOUR HONOR, I WOULD OFFER
22 THESE THREE DIAGRAMS AND THIS PHOTOGRAPH, AS I
23 UNDERSTAND, WITHOUT OBJECTION.

24 MR. ROGERS: NO OBJECTION.

25 THE COURT: OKAY.

1 (DIAGRAM RECEIVED INTO EVIDENCE
2 AS STATE'S EXHIBIT 1.)

3 (DIAGRAM RECEIVED INTO EVIDENCE
4 AS STATE'S EXHIBIT 2.)

5 (DIAGRAM RECEIVED INTO EVIDENCE
6 AS STATE'S EXHIBIT 3.)

7 (PHOTOGRAPH RECEIVED INTO
8 EVIDENCE AS STATE'S EXHIBIT 4.)

9 MR. McMAHON: YOUR HONOR, MAY THE
10 WITNESS STEP DOWN?

11 THE COURT: SURE.

12 (WITNESS STEPS DOWN.)

13 Q. MR. HOPPLE, IF YOU'LL STAND ON THAT SIDE
14 FOR ME, PLEASE, AND KEEP YOUR VOICE UP.

15 NOW, WHAT HAS BEEN MARKED NOW AS STATE'S
16 EXHIBIT NUMBER ONE -- AND YOU HAVE SEEN THIS
17 DIAGRAM BEFORE, CORRECT?

18 A. YES, SIR.

19 Q. THIS ROADWAY RUNNING THROUGH HERE, WHAT
20 ROAD IS THAT, SIR?

21 A. U.S. 1, OR TWO NOTCH.

22 Q. AND IF I'M COMING TOWARDS THIS END OF THE
23 DIAGRAM, AM I COMING TOWARDS LUGOFF OR AWAY
24 FROM LUGOFF? I'M GOING IN THIS DIRECTION.

25 A. YOU'RE GOING AWAY FROM LUGOFF.

1 Q. IF I'M ON #1 GOING THIS WAY?

2 A. YOU'RE GOING TOWARDS LUGOFF.

3 Q. I'M GOING TOWARDS LUGOFF?

4 A. GOING TOWARDS CAMDEN.

5 Q. YOU'VE GOT ME TURNED AROUND NOW, I'M FROM
6 RICHLAND COUNTY, DON'T GET ME CONFUSED ABOUT
7 THAT.

8 SO IF I'M GOING IN THIS DIRECTION I'M GOING
9 TOWARDS PONTIAC?

10 A. YES, SIR.

11 Q. CORRECT? AND SPECIFICALLY WHERE IS THE
12 TOWN OF ELGIN LOCATED ON THIS DIAGRAM, STATE'S
13 1?

14 A. RIGHT HERE.

15 Q. NOW, IS I-20 OR ANY PART OF I-20 DEPICTED
16 ON HERE?

17 A. NO, SIR. (PAUSE.) YES, SIR, RIGHT HERE.

18 Q. ALL RIGHT. SO THIS WOULD BE AGAIN GOING
19 BACK TOWARDS COLUMBIA?

20 A. YES, SIR.

21 Q. AND THIS WOULD BE GOING TOWARDS---

22 A. FLORENCE.

23 Q. ---601 AND THE FLORENCE AREA RIGHT HERE?

24 A. YES, SIR.

25 Q. AND I BELIEVE I-20, THERE IS AN EXIT AT

1 WHITE POND ROAD IN KERSHAW COUNTY WOULD BE
2 HERE, CORRECT?

3 A. YES, SIR.

4 Q. NOW, YOU RECEIVED TWO CALLS THAT NIGHT TO
5 GO TO [REDACTED] [REDACTED] [REDACTED] COULD YOU TELL US
6 THE TIME YOU RESPONDED TO THE FIRST CALL ON
7

8 A. THE FIRST CALL WAS DISPATCHED TO ME AT 2:41
9 IN THE MORNING AND I ARRIVED AT 3:03.

10 Q. AND WHAT DOCUMENT ARE YOU REFERRING TO NOW,
11 DEPUTY HOPPLE?

12 A. DISPATCH LOG.

13 Q. AND THAT IS THE ACTUAL DISPATCH LOG FROM
14 THE 911 CALL THAT CAME IN?

15 A. YES, SIR.

16 Q. SO THE CALL COMES IN AT 2:39 AND YOU ARE
17 DISPATCHED AT 2:41?

18 A. RIGHT.

19 Q. SUNDAY MORNING?

20 A. YES, SIR.

21 Q. AND WHAT TIME DID YOU ARRIVE AT
22

23 A. 3:03.

24 Q. ABOUT A 22 MINUTE RESPONSE TIME, CORRECT?

25 A. YES, SIR.

1 Q. COULD YOU -- LOOKING AT THIS DIAGRAM, COULD
2 YOU TELL THE JURY, COULD YOU POINT OUT FOR US
3 WHAT YOUR APPROACH WAS TO WATSON STREET ON YOUR
4 FIRST CALL, IF YOU CAME IN FROM THIS DIRECTION
5 ON WATSON, FROM THE OTHER DIRECTION ON WATSON?

6 A. I CAME IN FROM THE BOWEN STREET THIS WAY,
7 UP TO WATSON STREET.

8 Q. ALL RIGHT. NOW, AND BOWEN STREET ACTUALLY
9 COMES RIGHT OUT OF ELGIN, CORRECT?

10 A. YES, SIR.

11 Q. AND THIS ROAD HERE WOULD BE BOOKMAN ROAD?

12 A. YES, SIR.

13 Q. AND THAT INTERSECTS ALSO WITH HIGHWAY #1?

14 A. YES, SIR.

15 Q. THERE AT ELGIN. NOW, WHAT WAS THE
16 NATURE OF THE CALL YOU WERE RESPONDING TO AT
17 THAT 2:41, 3 O'CLOCK IN THE MORNING CALL?

18 A. IT WAS A PROWLER CALL.

19 Q. AND WERE YOU THE ONLY OFFICER RESPONDING TO
20 THAT LOCATION?

21 A. YES, SIR.

22 Q. WHEN YOU ARRIVED, COULD YOU JUST DESCRIBE
23 FOR THE JURY, PLEASE, WHAT YOU OBSERVED, WHO
24 YOU TALKED WITH WHEN YOU FIRST ARRIVED AT
25 WATSON STREET?

1 A. WHEN I PULLED UP IN THE YARD THERE WAS SEVERAL
2 YOUNG BOYS OUT IN THE YARD AND CHERYL STAPLES.

3 Q. NOW, I WANT TO SHOW YOU ANOTHER DIAGRAM,
4 STATE'S EXHIBIT NUMBER 2, I BELIEVE, AND ASK YOU IF
5 YOU CAN ORIENTATE THE JURY TO THIS PARTICULAR
6 DIAGRAM. I BELIEVE IT IS MARKED, THIS BEING WATSON
7 STREET HERE.

8 A. YES, SIR.

9 Q. SO IF I AM ON WATSON STREET HERE AND I AM GOING
10 BACK IN THIS DIRECTION, I AM GOING BACK TOWARDS
11 ELGIN?

12 A. YES, SIR.

13 Q. AND IF I AM COMING IN THIS DIRECTION I WILL BE
14 GOING TOWARDS BOOKMAN ROAD, CORRECT?

15 A. YES, SIR.

16 Q. IN FACT, THIS INTERSECTION RIGHT HERE,---

17 A. RIGHT THERE.

18 Q. ---THAT WOULD BE WATSON AND BOOKMAN, CORRECT?

19 A. YES, SIR.

20 Q. NOW, AS YOU COME DOWN WATSON, THIS AREA RIGHT
21 HERE, WOULD THAT BE 2588 WATSON?

22 A. YES, SIR, IT IS.

23 Q. THAT IS THE LOCATION THAT YOU RESPONDED TO THAT
24 MORNING?

25 A. YES, SIR.

1 Q. THERE IS A ROAD THAT APPEARS TO BE BEFORE YOU
2 GET HERE TO THE RIGHT IF YOU ARE COMING IN THIS
3 DIRECTION, IT GOES BACK UP IN HERE?

4 A. YES, SIR.

5 Q. DO YOU KNOW THE NAME OF THAT ROAD?

6 A. SANDY LANE.

7 Q. SANDY LANE. AND AS YOU COME ON DOWN, THE NEXT
8 PAVED RIGHT WOULD BE BOOKMAN ROAD, IS THAT CORRECT?

9 A. YES, SIR.

10 Q. NOW, REFERRING YOU TO STATE'S EXHIBIT NUMBER 3,
11 DOES THIS DIAGRAM LAY OUT, NOT TO SCALE, BUT DOES
12 IT LAY OUT THE GENERAL AREA OF SPECIFICALLY 2588
13 WATSON STREET?

14 A. YES, SIR, IT DOES.

15 Q. SO IF I POINT HERE ON THIS DIAGRAM, HOW DOES
16 THIS RELATE TO THIS RIGHT HERE?

17 A. THAT IS THE HOUSE.

18 Q. ALL RIGHT, THAT IS THE RESIDENCE RIGHT THERE.
19 AND CAN YOU POINT OUT -- WELL, FOR EXAMPLE, RIGHT
20 HERE, WHAT WOULD THAT BE THE INTERSECTION OF?

21 A. SANDY LANE AND WATSON STREET.

22 Q. AND POINT OUT ON THE PHOTOGRAPH SANDY LANE AND
23 WATSON.

24 A. RIGHT HERE.

25 Q. NOW, IT ALMOST LOOKS LIKE IN THIS AERIAL

- 1 PHOTOGRAPH AN OBJECT RIGHT HERE.
- 2 A. YES, SIR.
- 3 Q. WHAT IS THAT?
- 4 A. A SCHOOL BUS.
- 5 Q. AND IS THAT IN THE SAME ORIENTATION HERE?
- 6 A. YES, SIR.
- 7 Q. THAT SCHOOL BUS? SO IT WOULD HAVE BEEN AS YOU
- 8 WENT INTO THE DRIVE I GUESS TO THE RIGHT?
- 9 A. YES, SIR.
- 10 Q. POINT IT OUT.
- 11 A. RIGHT.
- 12 Q. NOW, THE FIRST CALL, AGAIN, WE ARE STILL BACK
- 13 AT THE FIRST CALL, AT 2:41, ARRIVING I BELIEVE YOU
- 14 SAID AT 3:03?
- 15 A. YES, SIR.
- 16 Q. NOW, YOU SAID THERE WERE SOME YOUNG BOYS THERE?
- 17 A. YES, SIR.
- 18 Q. AND WHEN YOU SAY YOUNG, THAT HAS GOT DIFFERENT
- 19 CONNOTATIONS TO DIFFERENT PEOPLE, ABOUT WHAT AGE
- 20 ARE YOU TALKING ABOUT?
- 21 A. PROBABLY BETWEEN 17 AND 20.
- 22 Q. ALL RIGHT. SO LATE TEENAGE UP TO ABOUT 20
- 23 YEARS OLD?
- 24 A. YES, SIR.
- 25 Q. HOW MANY?

1 A. I BELIEVE THERE WAS THREE.

2 Q. AND TO YOUR KNOWLEDGE THEY LIVED THERE OR
3 EITHER WERE STAYING OR VISITING THERE THAT EVENING?

4 A. I KNEW ONE OF THE BOYS LIVED THERE.

5 Q. AND DO YOU RECALL HIS NAME?

6 A. TIM STAPLES.

7 Q. TIM STAPLES.

8 MR. McMAHON: AND STAND UP FOR ME.

9 (MR. STAPLES STANDS.)

10 Q. THIS IS TIM STAPLES HERE, IS THAT CORRECT?

11 A. YES, SIR.

12 Q. OKAY. AND IT WAS TIM AND TWO OTHER YOUNG BOYS,
13 IS THAT CORRECT?

14 A. AND HIS MOTHER. YES, SIR.

15 Q. AND HIS MOTHER?

16 A. YES, SIR.

17 Q. NOW, DO YOU RECALL ALSO HIS SISTER MARY?

18 MR. McMAHON: STAND UP FOR ME, MARY.

19 (MS. WHITE STANDS.)

20 Q. MARY ALSO BEING THERE?

21 A. I DON'T THINK SHE WAS THERE THE FIRST TIME I
22 WENT OUT.

23 Q. ALL RIGHT. WHEN YOU FIRST ARRIVED SHE WASN'T
24 THERE?

25 A. (NODS AFFIRMATIVELY.)

1 Q. WHEN YOU FIRST ARRIVED IT WAS THE YOUNG BOYS
2 AND CHERYL?

3 A. RIGHT.

4 Q. TIM'S MOTHER, CORRECT?

5 A. YES, SIR.

6 Q. AS YOU RECALL?

7 A. YES, SIR.

8 Q. NOW, DID YOU TALK WITH THESE FOLKS?

9 A. YES, SIR.

10 Q. AND, AGAIN, WHAT WAS THE NATURE OF THAT CALL
11 THAT YOU WERE RESPONDING TO?

12 A. THAT THEY SAID THAT THERE WAS A PROWLER, AND
13 THEY SAID THAT HE WAS OVER HERE BEHIND THE SCHOOL
14 BUS RIGHT AT THE CORNER WATCHING THE HOUSE.

15 Q. DID THEY SAY WHO THE PROWLER WAS?

16 A. YES, SIR, THEY SAID IT WAS--

17 MR. ROGERS: OBJECTION, YOUR HONOR.
18 HEARSAY.

19 Q. WELL, LET ME ASK YOU THIS. DID YOU--

20 MR. McMAHON: I WILL MOVE ON, YOUR HONOR.

21 THE COURT: YES, SIR.

22 Q. DID YOU CHECK THAT AREA OF THAT SCHOOL BUS?

23 A. YES, SIR.

24 Q. AROUND THAT SCHOOL BUS?

25 A. (NODS AFFIRMATIVELY.)

1 Q. WHO WERE YOU LOOKING FOR?

2 A. COTTON CHILDERS OR LARRY CHILDERS.

3 Q. DID YOU KNOW COTTON CHILDERS?

4 A. YES, SIR.

5 Q. DID YOU KNOW COTTON CHILDERS BEFORE EARLY
6 MORNING HOURS OF OCTOBER 15TH OF 2000?

7 A. YES, SIR.

8 Q. AND DID YOU CHECK -- WHEN YOU SAID YOU CHECKED
9 THAT AREA, POINT OUT FOR THE JURY THE AREA YOU ARE
10 REFERRING TO, DEPUTY HOPPLE.

11 A. WE WALKED OVER HERE, I LOOKED AROUND HERE. I
12 FOUND SOME FOOTPRINTS, A CIGARETTE BUTT. WE WALKED
13 AROUND THE BUS, LOOKED ON THE BUS. AND THEN, YOU
14 KNOW, JUST SEARCHED THIS AREA RIGHT HERE.

15 Q. AND BETWEEN THIS SIDE OF THE SCHOOL BUS WHERE I
16 AM POINTING AND BACK OVER TO SANDY LANE, IS THIS A
17 WOODED AREA IN THERE?

18 A. YES, SIR, IT IS WOODED.

19 Q. AND DO YOU RECALL, AND IT IS NOTED ON THESE
20 DIAGRAMS, I BELIEVE THERE WAS A LIGHT HERE, A LIGHT
21 HERE, AND A LIGHT BACK HERE, DO YOU RECALL THIS
22 BEING A FAIRLY WELL LIT AREA?

23 A. YES, SIR, THIS WAS LIT UP FROM THIS LIGHT AND
24 THAT LIGHT THERE. I DON'T REALLY RECALL THIS ONE
25 MUCH.

- 1 Q. NOW, AS A RESULT OF TALKING TO TIM AND THESE
2 OTHER YOUNG MEN, YOU WALKED OVER THERE AND CHECKED
3 THAT AREA OF THE SCHOOL BUS, CORRECT?
4 A. YES, SIR.
5 Q. AND DON'T GO INTO WHAT THEY SAY, BUT YOU WERE
6 LOOKING FOR A PARTICULAR INDIVIDUAL?
7 A. RIGHT.
8 Q. RIGHT?
9 A. YES, SIR.
10 Q. AND THAT WAS COTTON CHILDERS?
11 A. RIGHT.
12 Q. DIDN'T SEE HIM AROUND THE BUS?
13 A. NO, SIR.
14 Q. NOW, I BELIEVE YOU INDICATED YOU SAW SOME AREAS
15 AROUND THE BUS OF TRACKS?
16 A. YES, SIR, BOOT TRACKS.
17 Q. AND ABOUT WHERE WAS THAT AT, DEPUTY HOPPLE?
18 A. RIGHT ON THIS BACK CORNER OF THE BUS IN THIS
19 AREA RIGHT HERE.
20 Q. AND THERE WAS ANOTHER ITEM I BELIEVE YOU SAID
21 YOU OBSERVED BACK IN THERE.
22 A. A CIGARETTE BUTT.
23 Q. AND ABOUT WHERE WAS THAT?
24 A. RIGHT HERE.
25 Q. SO THAT IS WHERE IT LOOKS LIKE TWO, ON THE

1 DIAGRAM, TRACKS AND THE CIGARETTE BUTT BACK IN
2 THERE?

3 A. YES, SIR.

4 Q. DIDN'T SEE ANYBODY BACK IN THERE?

5 A. NO, SIR.

6 Q. DID YOU CHECK IN THE BUS?

7 A. YES, SIR, WE LOOKED ON THE BUS.

8 Q. AND DID YOU SEE ANYBODY ON THE BUS?

9 A. NO, SIR.

10 Q. DID YOU IDENTIFY WHO ACTUALLY, WHILE YOU WERE
11 AT THE SCENE, DID YOU IDENTIFY WHO CALLED THE
12 POLICE? ON THAT FIRST 911 CALL?

13 A. I THOUGHT IT WAS TIM STAPLES WHO CALLED.

14 Q. IS THAT INDICATED ON YOUR REPORT WHO HAD
15 CALLED?

16 A. YES, SIR, IT IS.

17 Q. AND WHAT DID THAT INDICATE?

18 A. TIM STAPLES.

19 Q. TIM STAPLES. HE IS THE ONE THAT MADE -- AND
20 WHEN I SAY 911 CALL, I AM REFERRING TO ACTUALLY
21 CALLING 911, CORRECT?

22 A. YES, SIR.

23 Q. NOW, YOU CHECKED THIS AREA AROUND HERE?

24 A. YES, SIR.

25 Q. DIDN'T SEE COTTON CHILDERS, DIDN'T SEE ANYONE

1 BACK HERE?

2 A. NO, SIR.

3 Q. WHAT OTHER STEPS -- TELL THE JURY WHAT OTHER
4 STEPS YOU TOOK THAT MORNING ON THAT PROWLER CALL.

5 A. WELL, THEY SAID THEY THOUGHT THEY SAW HIM WALK
6 OVER THROUGH THESE WOODS, SO WHEN I LEFT THE SCENE
7 HERE I CAME DOWN AND RODE THIS ROAD SHINING MY
8 LIGHT LOOKING FOR THE VEHICLE THEY DESCRIBED TO ME.

9 Q. AND THIS IS A DIRT ROAD BACK HERE?

10 A. YES, SIR, IT IS A DIRT ROAD.

11 Q. NOW, I TAKE IT YOU WERE WORKING IN UNIFORM THAT
12 NIGHT, YOU ARE A UNIFORMED OFFICER, AND WERE YOU IN
13 A MARKED PATROL VEHICLE?

14 A. YES, SIR, I WAS.

15 Q. KERSHAW COUNTY SHERIFF'S DEPUTY?

16 A. YES, SIR.

17 Q. AND WHEN YOU SAY -- AGAIN, IF I GO BACK HERE,
18 THIS APPEARS TO BE THE AREA WHERE THE BUS IS AT.
19 DOES THAT SHOW THAT TERRAIN THERE AND A WOODED
20 AREA?

21 A. YES, SIR.

22 Q. BACK IN HERE. THIS BEING SANDY LANE?

23 A. YES, SIR.

24 Q. POINT OUT FOR THE JURY HOW FAR DOWN SANDY LANE
25 YOU WENT, WHERE ALL YOU SEARCHED.

1 A. I RODE SANDY LANE. I WANT ALL THE WAY DOWN TO
2 THE END. IT IS LIKE A CUL-DE-SAC DOWN THERE. IT
3 JUST CIRCLES BACK AROUND. AND I CAME BACK OUT.
4 WHEN I CAME BACK OUT I WENT DOWN WATSON STREET DOWN
5 TO BOOKMAN. I CAME DOWN BOOKMAN TO #1 AND RODE
6 BACK UP INTO ELGIN, WHERE I WENT TO THE PANTRY.

7 Q. NOW, WERE YOU ABLE TO, AS PART OF YOUR RESPONSE
8 THAT MORNING, AS PART OF YOUR INVESTIGATION,
9 DETERMINE IF TAMMY MUNN, NOT WHETHER SHE WAS THAT
10 NIGHT, BUT WHETHER OR NOT SHE HAD BEEN STAYING
11 THERE?

12 A. YES, SIR.

13 Q. AND WAS SHE THERE?

14 A. NO, SIR.

15 Q. TAMMY, WHILE YOU WERE THERE?

16 A. NO, SIR, SHE WASN'T THERE.

17 Q. WAS MEMBERS OF HER FAMILY THERE?

18 A. YES, SIR.

19 Q. AND WERE YOU ABLE TO DETERMINE AS PART OF YOUR
20 INVESTIGATION ANY RELATIONSHIP THAT THERE WAS
21 BETWEEN TAMMY AND COTTON CHILDERS?

22 A. YES, SIR, THEY WERE BOYFRIEND/GIRLFRIEND.

23 Q. AND SHE WAS STAYING THERE?

24 A. RIGHT.

25 Q. BUT TO YOUR KNOWLEDGE HE WAS NOT?

1 A. RIGHT.

2 Q. NOW, DID YOU DETERMINE AS PART OF YOUR
3 INVESTIGATION WHERE SHE HAD MOVED THERE FROM?

4 A. YES, SIR, THEY TOLD ME IT WAS ON WEST -- IT WAS
5 A RICHLAND COUNTY ADDRESS.

6 Q. IF I SAID WESTCHESTER---

7 A. YES, SIR, WESTCHESTER.

8 Q. [REDACTED]

9 A. YES, SIR.

10 Q. WERE YOU FAMILIAR WITH WHERE WESTCHESTER, I
11 DON'T KNOW IF IT IS ROAD OR STREET, WERE YOU
12 FAMILIAR WITH WHERE WESTCHESTER WAS, APPROXIMATELY?

13 A. AFTER THEY TOLD ME WHERE IT WAS, YES, SIR.

14 Q. AND WHERE WAS IT APPROXIMATELY IN RELATIONSHIP
15 TO WATSON STREET? ABOUT HOW FAR AWAY WAS IT?

16 A. PROBABLY ABOUT THREE OR FOUR MILES.

17 Q. AND GOING BACK TOWARDS PONTIAC?

18 A. YES, SIR.

19 Q. JUST INSIDE RICHLAND COUNTY?

20 A. RIGHT.

21 Q. NOW, AFTER YOU CHECKED SANDY LANE ALL THE WAY
22 OUT TO HERE YOU SAY?

23 A. YES, SIR.

24 Q. CAN YOU GET OUT SANDY LANE ALL THE WAY BACK
25 OVER TO -- WHAT WOULD THAT BE, BOWEN STREET?

1 A. YES, SIR. BUT YOU CAN'T.

2 Q. YOU CANNOT?

3 A. NO, SIR.

4 Q. SO THIS WOULD BE SANDY LANE HERE, IF THIS IS

5 THE RESIDENCE RIGHT HERE, THIS WOULD BE SANDY LANE?

6 A. CORRECT.

7 Q. BUT IT STOPS UP IN HERE AND IT DOESN'T

8 INTERSECT WITH BOWEN STREET, IS THAT CORRECT?

9 A. RIGHT.

10 Q. WERE YOU GIVEN ANY DESCRIPTION OF ANY VEHICLE

11 THAT MR. CHILDERS MAY HAVE BEEN IN?

12 A. YES, SIR, BURGUNDY MONTERO.

13 Q. AND WERE YOU LOOKING FOR THAT ALSO?

14 A. YES, SIR.

15 Q. IN YOUR TRIP DOWN SANDY LANE, DID YOU SEE---

16 A. NO, SIR. I SHINED---

17 Q. ---MR. CHILDERS?

18 A. I SHINED ALL THE DIFFERENT DRIVEWAYS DOWN SANDY

19 LANE. I DIDN'T SEE THE VEHICLE ANYWHERE.

20 Q. DIDN'T SEE HIM, DIDN'T SEE THE VEHICLE?

21 A. NO, SIR, DIDN'T SEE ANYBODY.

22 Q. NOW, AS YOU CAME BACK OUT FROM SANDY LANE, I

23 BELIEVE YOU PREVIOUSLY TESTIFIED YOU WENT IN THIS

24 DIRECTION ON WATSON?

25 A. YES, SIR.

1 Q. AND WHAT ACTION DID YOU TAKE WHEN YOU GOT DOWN
2 TO WATSON AND BOOKMAN?

3 A. I TOOK A LEFT AND WENT DOWN BOOKMAN BACK
4 TOWARDS #1.

5 Q. AND IF I GO DOWN TOWARDS THE BOTTOM OF THIS
6 MAP, THIS RIGHT HERE LOOKS LIKE RAILROAD TRACKS TO
7 ME RIGHT HERE, IF I CONTINUE ON---

8 A. RIGHT.

9 Q. ACTUALLY, IT DOESN'T SHOW THE ACTUAL
10 INTERSECTION OF BOOKMAN AND #1 ON THIS MAP, BUT
11 THIS WOULD BE #1 HERE?

12 A. YES, SIR.

13 Q. CORRECT? IF YOU COME OUT HERE AND TURN LEFT
14 YOU ARE GOING BACK TOWARDS THE TOWN OF ELGIN?

15 A. YES, SIR.

16 Q. AND AGAIN ON THIS DIAGRAM, COME DOWN FROM
17 WATSON AND TURN ON BOOKMAN, THAT INTERSECTS WITH
18 #1?

19 A. YES, SIR.

20 Q. AND IF I TURN LEFT I AM GOING BACK TOWARDS THE
21 TOWN OF ELGIN?

22 A. RIGHT.

23 Q. HOW -- THIS HAS TO BE WELL AFTER 3 O'CLOCK IN
24 THE MORNING.

25 A. YES, SIR, BECAUSE I LEFT THE RESIDENCE ABOUT

1 3:23.

2 Q. SO, AND I BELIEVE YOU TESTIFIED YOU GOT TO THE
3 RESIDENCE ABOUT 3:03?

4 A. RIGHT.

5 Q. SO WHAT YOU JUST TESTIFIED TO IS IT IS TAKING
6 YOU ABOUT 20 MINUTES OF LOOKING AROUND THE BUS,
7 CHECKING SANDY LANE AND LEAVING, CORRECT?

8 A. YES, SIR.

9 Q. AND YOU CLEARED ABOUT 3:23 IN THE MORNING?

10 A. YES, SIR.

11 Q. WERE YOU STILL IN THE ELGIN AREA?

12 A. YES, SIR.

13 Q. ARE THERE ANY BUSINESSES OPEN IN ELGIN ON
14 SUNDAY MORNING AFTER 3 O'CLOCK IN THE MORNING?

15 A. JUST THE PANTRY STORE.

16 Q. AND WHERE IS THAT LOCATED IN RELATION TO THE
17 TOWN OF ELGIN?

18 A. PRETTY MUCH RIGHT IN THE MIDDLE.

19 Q. IF YOU CAN FIND ELGIN YOU CAN FIND THAT PANTRY?

20 A. OH, YES, SIR.

21 Q. OKAY. AND IT IS RIGHT ON #1, IS THAT CORRECT?

22 A. YES, SIR.

23 Q. DID YOU HAVE AN OCCASION TO GO BY THAT PANTRY
24 STORE AFTER YOU LEFT WATSON STREET THAT FIRST TIME?

25 A. YES, SIR, I DID.

1 Q. DID YOU STOP FOR ANY REASON? DID YOU SEE
2 ANYONE?

3 A. YES, SIR, I PULLED IN THERE. THE PAPER -- THE
4 LADY THAT DELIVERS THE PAPER THERE IN THE ELGIN
5 AREA WAS LOADING UP THE PAPERS, HER AND HER
6 HUSBAND.

7 Q. AND I WAS ABOUT TO ASK YOU, THAT LADY THAT
8 DELIVERS THE PAPERS, WHO ELSE DELIVERS THE PAPER
9 WITH HER?

10 A. HER HUSBAND.

11 Q. AND THAT IS MR. AND MRS. MOTLEY, IS THAT
12 CORRECT?

13 A. RIGHT.

14 Q. DID YOU KNOW THEM?

15 A. YES, SIR.

16 Q. AND WOULD IT BE FAIRLY COMMON TO SEE THEM OUT
17 AND ABOUT THAT TIME OF THE MORNING FOR PURPOSES OF
18 DELIVERING THE MORNING PAPER?

19 A. EVERY MORNING, YES, SIR.

20 Q. AS A RESULT OF SEEING THEM AT THE PANTRY, DID
21 YOU GO IN OR WERE THEY OUT IN THE LOT?

22 A. THEY WERE OUT IN THE LOT.

23 Q. DID YOU HAVE A CONVERSATION WITH EITHER ONE OF
24 THEM?

25 A. YES, SIR, I DID, BOTH OF THEM.

1 Q. AND I WANT TO ASK YOU, NOT WHAT THEY SAID, BUT
2 WHAT IF ANYTHING DID YOU ASK THEM, DEPUTY HOPPLE?

3 A. I ASKED THEM IF THEY HAD SEEN COTTON.

4 Q. AND YOU WERE INTERESTED IN LOCATING HIM?

5 A. YES, SIR.

6 Q. AS A RESULT OF ASKING THEM, DID YOU FOLLOW UP
7 ANY MORE ON TRYING TO LOCATE COTTON?

8 A. YES, SIR, I WENT UP TOWARDS BLANEY CHURCH,
9 WHICH IS GOING TO BE OVER THIS WAY, AND TO ELGIN
10 DRIVE AND I WAS SHINING MY LIGHT AROUND THERE TOO,
11 AND I DIDN'T SEE HIM ANYWHERE.

12 Q. ALL RIGHT. YOU DIDN'T AT THAT TIME GO IN AND
13 LOOK AT THE VIDEO---

14 A. NO, SIR.

15 Q. ---AT THE PANTRY? DO YOU KNOW WHETHER OR NOT
16 THERE WAS ACTUALLY A VIDEO IN PLACE IN THE PANTRY?

17 A. YES, SIR, THEY HAVE A CAMERA GOING.

18 Q. AND DO YOU KNOW WHETHER OR NOT THAT VIDEOTAPE
19 WAS LATER ON SEIZED AS PART OF THIS INVESTIGATION?

20 A. YES, SIR, IT WAS.

21 Q. NOW, I BELIEVE YOU SAID YOU CHECKED IN THIS
22 AREA. AND THIS IS A RESULT OF TALKING TO -- I
23 BELIEVE IT IS BUBBA AND JUDY MOTLEY?

24 A. YES.

25 Q. IS THAT RIGHT?

1 A. YES, SIR.

2 Q. AND AFTER YOU CHECKED UP THIS AREA AROUND
3 BLANEY CHURCH ROAD, DID YOU END UP IN THIS AREA OUT
4 TOWARDS HIGHWAY CHURCH ROAD?

5 A. YES, SIR, I WENT DOWN HIGHWAY CHURCH ROAD.

6 Q. AND WHERE DID YOU GO FROM THERE, DEPUTY HOPPLE?

7 A. I WENT DOWN HIGHWAY CHURCH TO HEATH POND ROAD,
8 WHICH IS RIGHT AT THE HIGHWAY CHURCH.

9 Q. AND IT DOESN'T APPEAR TO BE MARKED, BUT IS THAT
10 THE ROAD THAT TURNS HERE AT THE CHURCH?

11 A. YES, SIR.

12 Q. AND THERE IS A CEMETERY BACK IN HERE?

13 A. YES, SIR.

14 Q. AND THAT CUTS OVER TOWARDS WHITE POND ROAD?

15 A. YES, SIR, IT COMES RIGHT OUT AT WHITE POND.

16 Q. WERE YOU STILL LOOKING FOR MR. CHILDERS?

17 A. YES, SIR.

18 Q. DID YOU LOCATE HIM?

19 A. NO, SIR.

20 Q. OR FIND -- OR DID YOU SEE HIS VEHICLE?

21 A. NO, SIR.

22 Q. NOW, AT THIS TIME DID YOU RECEIVE A CALL TO GO
23 TO ANOTHER LOCATION, NON-RELATED TO THIS EVENT?

24 A. YES, SIR, I WAS DISPATCHED TO A FIRE CALL DOWN
25 IN LUGOFF.

1 Q. AND DID YOU RESPOND TO THAT LOCATION?

2 A. YES, SIR, I DID.

3 Q. NOW, DEPUTY HOPPLE, DID YOU HAVE AN OCCASION TO
4 RESPOND BACK TO [REDACTED] THAT MORNING?

5 A. YES, SIR.

6 Q. THE FIRST TIME I BELIEVE YOU SAID YOU GOT THERE
7 AT 3:03 AND CLEARED AT 3:23.

8 A. RIGHT.

9 Q. WHAT WAS THE TIME PRECISELY OF THE SECOND CALL
10 YOU RECEIVED TO WATSON STREET?

11 A. THE DISPATCH RECEIVED THE CALL AT 4:02 -- NO,
12 THEY RECEIVED THE CALL AT 3:59. THEY DISPATCHED ME
13 AT 4:02, AND I ARRIVED BACK AT WATSON STREET AT
14 4:08.

15 Q. SO ABOUT 36 MINUTES AFTER YOU CLEARED THE FIRST
16 CALL, THE SECOND CALL COMES IN TO DISPATCH?

17 A. YES, SIR.

18 Q. 3:59. AND THEN YOU ARE DISPATCHED AT 4:02, I
19 BELIEVE YOU SAID?

20 A. YES, SIR, 4:02.

21 Q. AND WHAT TIME DID YOU ARRIVE AT WATSON STREET
22 FROM THE SECOND CALL?

23 A. 4:08.

24 Q. WHAT IS THE NATURE OF THE SECOND CALL THAT YOU
25 RECEIVED?

1 A. A SHOOTING INCIDENT.

2 Q. SO LESS THAN AN HOUR LATER YOU ARE ALREADY BACK
3 AT THE SCENE?

4 A. YES, SIR.

5 Q. WELL, YES, LESS THAN AN HOUR LATER. AND YOU GO
6 BACK TO THE SAME LOCATION, CORRECT, 2588?

7 A. YES, SIR.

8 Q. AND WOULD YOU JUST TELL US WHEN YOU ARRIVED
9 THAT SECOND TIME WHERE YOU PARKED AND WHAT YOU
10 OBSERVED UPON YOUR INITIAL ARRIVAL THE SECOND TIME?

11 A. I PULLED IN. I PARKED APPROXIMATELY RIGHT HERE
12 IN THE DRIVEWAY. THERE WAS A BODY DOWN RIGHT HERE.
13 IT WAS TAMMY MUNN. AND HER MOTHER WAS HOLDING HER.

14 Q. NOW, YOU HAD NOT SEEN TAMMY ON THE EARLIER
15 VISIT?

16 A. NO, SIR.

17 Q. TO YOUR KNOWLEDGE TAMMY WAS NOT THERE ON THE
18 EARLIER CALL, IS THAT CORRECT?

19 A. NO, SIR.

20 Q. AND I WANT TO SHOW YOU WHAT HAS BEEN PREVIOUSLY
21 MARKED AS STATE'S EXHIBIT NUMBER 4. IS THAT A
22 PHOTOGRAPH TAKEN AFTER DAYLIGHT ON THE MORNING OF
23 THE 15TH---

24 A. YES, SIR.

25 Q. ---OF 2588 WATSON? SO THIS, AND SPECIFICALLY

1 THAT WOULD BE THE FRONT STEPS RIGHT THERE?

2 A. YES, SIR.

3 Q. OF 2588? POINT OUT FOR THE JURY WHERE THAT IS
4 LOCATED AT ON THAT STATE'S DIAGRAM 3.

5 A. RIGHT HERE.

6 Q. AND YOU CAN ALSO SEE IN STATE'S 4 THE SCHOOL
7 BUS?

8 A. YES, SIR.

9 Q. POINT OUT AGAIN ON THE DIAGRAM, STATE'S 3,
10 WHERE THE SCHOOL BUS IS.

11 A. (WITNESS COMPLIES.)

12 Q. AND THE PHOTOGRAPH THAT I AM LOOKING AT, I AM
13 SHOWING THE JURY NOW, IS THE SCHOOL BUS IN THE SAME
14 POSITION IN THIS PHOTOGRAPH AS IT WAS WHEN YOU WENT
15 THERE ON THE FIRST CALL AND THE SECOND CALL?

16 A. YES, SIR.

17 Q. NOW, IT APPEARS HERE, LOOKS LIKE RAILROAD TIES
18 HERE?

19 A. OH, YES, SIR.

20 Q. CAN YOU POINT THAT -- THAT IS THESE HERE?

21 A. YES, SIR. IT IS LIKE FOR YOU TO PARK IN.

22 Q. OKAY. AND THAT APPEARS TO BE RIGHT THERE,
23 CORRECT?

24 A. YES, SIR.

25 Q. AND THERE IS ALSO SOME RAILROAD TIES BACK

1 TOWARDS THE BACK OF THAT RESIDENCE, IS THAT
2 CORRECT?

3 A. YES, SIR, BACK HERE.

4 Q. NOW, AS FAR AS ON STATE'S EXHIBIT NUMBER 3, THE
5 FOOT TRACKS AND THE CIGARETTE BUTT, CAN YOU POINT
6 TO THE AREA ON STATE'S 4 APPROXIMATELY WHERE THAT
7 WOULD HAVE BEEN?

8 A. IT WOULD HAVE BEEN BACK HERE, BUT IT WOULD HAVE
9 BEEN ON THE OTHER SIDE OF THE SCHOOL BUS.

10 Q. OKAY. ON WHAT WOULD BE THE DRIVER'S SIDE OF
11 THE SCHOOL BUS?

12 A. YES, SIR.

13 Q. WOULD THAT BE THE SIDE CLOSEST TO THE WOODS?

14 A. YES, SIR.

15 Q. AND YOU HAD WALKED BACK THERE EARLIER?

16 A. YES, SIR.

17 Q. AND WERE YOU OUT THERE AFTER DAYLIGHT ON THE
18 15TH?

19 A. YES, SIR.

20 Q. IF YOU STAND BACK BY THIS SCHOOL BUS AND SMOKED
21 A CIGARETTE, CAN YOU SEE BACK OVER IN THIS AREA?

22 A. YES, SIR, YOU CAN SEE THIS WHOLE -- FROM RIGHT
23 THERE YOU CAN SEE ALL OF THIS RIGHT HERE.

24 Q. NOW, -AND AGAIN I REALIZE THIS IS NOT TO SCALE,
25 BUT APPROXIMATELY WHERE IN RELATIONSHIP LET'S SAY

1 TO THIS VEHICLE HERE, APPROXIMATELY WHERE WOULD
2 THIS VEHICLE BE ON THIS DIAGRAM?

3 A. PROBABLY RIGHT ABOUT HERE.

4 Q. AND COULD YOU POINT OUT ON THE DIAGRAM
5 APPROXIMATELY WHERE YOU OBSERVED THE BODY OF TAMMY?

6 A. PROBABLY RIGHT ABOUT HERE.

7 Q. RIGHT IN THIS AREA RIGHT IN HERE?

8 A. YES, SIR.

9 Q. AND WOULD THAT BE WITHIN THIS TAPE?

10 A. YES, SIR.

11 Q. NOW, AGAIN, DESCRIBE WHAT YOU OBSERVED WHEN YOU
12 RETURNED THAT SECOND TIME AT 4:08. YOU SAY TAMMY
13 WAS -- WHAT POSITION WAS TAMMY IN?

14 A. SHE WAS LAYING DOWN ON HER BACK. HER FACE WAS
15 FULL OF BLOOD. AND HER MOTHER WAS HOLDING ON TO
16 HER.

17 Q. AND THAT WAS HER MOTHER, CHERYL?

18 A. YES, SIR.

19 Q. CHERYL. AND THIS IS HER MOM HERE?

20 A. YES.

21 MR. McMAHON: IF YOU WOULD STAND UP FOR
22 ME.

23 (MS. STAPLES COMPLIES.)

24 Q. THIS IS TAMMY'S MOM THERE?

25 MR. McMAHON: THANK YOU.

1 (MS. STAPLES SEATED.)

2 Q. NOW, WHAT STEPS DO YOU THEN TAKE? ARE YOU THE
3 FIRST OFFICER ON THE SCENE?

4 A. YES, SIR. I -- WELL, I CALLED FOR THE
5 INVESTIGATION UNIT TO COME OUT. I ALSO CALLED FOR
6 THE SHERIFF, THE CHIEF DEPUTY AND THE CAPTAIN OF
7 PATROL, OR INVESTIGATIONS. AND THEN I HAD ANOTHER
8 OFFICER THAT WAS RIDING WITH ME. HE -- WE GOT ALL
9 THE PEOPLE AND TRIED TO GET THEM INTO THE HOUSE AND
10 CLEAR THE AREA.

11 Q. NOW, LET'S TALK JUST A MINUTE ABOUT THAT OTHER
12 OFFICER RIDING WITH YOU. WAS HE WITH YOU ON THE
13 EARLIER CALL?

14 A. NO, SIR.

15 Q. OKAY. AND EXPLAIN TO THE JURY HOW AN OFFICER
16 IS WITH YOU ON THE SECOND CALL AND NOT WITH YOU ON
17 THE FIRST CALL.

18 A. WE WERE DOWN AT THE FIRE CALL AND THE
19 DISPATCHER SAID THERE WAS A SHOOTING AND A SUBJECT
20 WAS DOWN.

21 THE OFFICER THAT WAS WITH ME'S CAR WAS BLOCKED
22 IN BY THE FIRE TRUCKS THAT WERE THERE, SO HE GOT IN
23 MY VEHICLE WITH ME AND WE BOTH WENT UP THERE.

24 Q. SO HE RODE WITH YOU AS A RESULT OF BEING
25 BLOCKED IN?

1 A. YES, SIR.

2 Q. I UNDERSTAND. COULD YOU TELL, DEPUTY HOPPLE, I
3 BELIEVE YOU DESCRIBED SOME INJURIES OR AREAS OF
4 INJURIES YOU OBSERVED TO TAMMY?

5 A. YES, SIR. SHE HAD -- HER FACE WAS COVERED WITH
6 BLOOD AND THERE WAS A PROTRUSION TO THE SIDE OF HER
7 HEAD.

8 Q. WAS EMS CALLED?

9 A. YES, SIR.

10 Q. AND THEY RESPOND ALSO?

11 A. YES, SIR. AFTER WE SECURED THE AREA, THEN EMS
12 CAME IN.

13 Q. NOW, I BELIEVE YOU TOLD THIS JURY YOU NOTIFIED
14 SEVERAL OTHER OFFICERS OR DIVISIONS WITHIN YOUR
15 DEPARTMENT, CORRECT?

16 A. YES, SIR.

17 Q. INVESTIGATIONS -- AND THE CHIEF OF
18 INVESTIGATIONS?

19 A. THE CAPTAIN OF INVESTIGATIONS, OUR CHIEF DEPUTY
20 AND THE SHERIFF.

21 Q. ALL RIGHT. SO WHO RESPONDS AFTER YOU?

22 A. I BELIEVE MY LIEUTENANT GOT THERE NEXT.

23 Q. AND THAT WOULD BE A UNIFORMED LIEUTENANT?

24 A. YES, SIR.

25 Q. AND DOES THE CAPTAIN OF INVESTIGATIONS, CAPTAIN

1 THOMLEY, RESPOND?

2 A. YES, SIR, I THINK HE GOT THERE NEXT.

3 Q. NOW, WHAT ARE YOUR DUTIES AND RESPONSIBILITIES
4 OF A CRIME SCENE SUCH AS THIS?

5 A. TO SECURE IT AND TRY TO KEEP ALL THE WITNESSES
6 THERE.

7 Q. AND WHAT IS THE PURPOSE OF SECURING THE AREA?

8 A. SO THAT ANY OF THE EVIDENCE THAT WE MIGHT HAVE
9 OF WHAT HAPPENED IS NOT CONTAMINATED.

10 Q. WHAT TYPE OF STEPS DO YOU TAKE, DOES A
11 UNIFORMED OFFICER TAKE, TO ATTEMPT TO SECURE THAT
12 AREA?

13 A. WELL, WE GET EVERYBODY OUT OF THAT AREA AND WE
14 TRY TO ROPE IT OFF WITH CRIME SCENE TAPE.

15 Q. AND, AGAIN, IF I REFER BACK TO STATE'S EXHIBIT
16 NUMBER 4---

17 A. YES, SIR, THAT'S IT.

18 Q. WHAT IS THAT THERE?

19 A. CRIME SCENE TAPE.

20 Q. AND WOULD THAT TAPE HAVE BEEN PLACED OR PUT IN
21 PLACE BY YOU AND/OR OTHER OFFICERS OF THE
22 DEPARTMENT?

23 A. YES, SIR, BUT I DIDN'T PLACE IT BECAUSE I
24 DIDN'T HAVE ANY WITH ME.

25 Q. HOW DID THAT TAPE COME TO BE PLACED?

1 A. I BELIEVE CAPTAIN THOMLEY HAD SOME AND WE WENT
2 IN AND CLOSED IT OFF.

3 Q. NOW, AS FAR AS THE WITNESSES WERE CONCERNED,
4 DID YOU IDENTIFY OTHER INDIVIDUALS THAT HAD BEEN AT
5 THE SCENE AT THE TIME OF THE SHOOTING?

6 A. YES, SIR.

7 Q. AND WHAT WAS DONE WITH THEM PRIOR TO THE
8 ARRIVAL OF CAPTAIN THOMLEY?

9 A. MR. DOWEY AND MARY WHITE I THINK WERE OVER HERE
10 WITH ME, AND THE REST OF THEM WE TRIED TO GET UP IN
11 THE HOUSE.

12 Q. THERE WAS A NUMBER OF INDIVIDUALS THERE?

13 A. YES, SIR.

14 Q. NOW, MR. DOWEY YOU REFERRED TO, THAT WOULD BE
15 DARREL DOWEY?

16 A. YES, SIR.

17 Q. HERE ON THE FRONT? AND OTHER INDIVIDUALS THERE
18 ALSO, MARY?

19 A. YES.

20 Q. MARY WAS ALSO THERE? NOW, DID THEY REMAIN
21 THERE AT THE SCENE AND HAVE THE OPPORTUNITY TO TALK
22 WITH EITHER CAPTAIN THOMLEY OR OTHER OFFICERS THAT
23 WOULD RESPOND AFTER YOU?

24 A. YES, SIR.

25 Q. AND DID THE SCENE REMAIN SECURE DURING THAT

1 PERIOD OF TIME?

2 A. YES, SIR.

3 Q. NOW, I BELIEVE YOU TOLD THE JURY AS A RESULT OF
4 RESPONDING TO THE FIRST CALL, YOU ARE LOOKING FOR
5 COTTON CHILDERS?

6 A. YES, SIR.

7 Q. AND YOU KNEW HIM?

8 A. YES, SIR.

9 Q. AS A RESULT OF RESPONDING TO THE SECOND CALL,
10 WHO WERE YOU LOOKING FOR?

11 A. COTTON CHILDERS.

12 Q. AND LATER ON THAT MORNING WAS A BOLO, I GUESS,
13 OR "BE ON THE LOOKOUT" FOR COTTON CHILDERS PUT OUT
14 TO THE LAW ENFORCEMENT AGENCIES IN THE AREA?

15 A. YES, SIR, IT SURE WAS.

16 Q. BESIDES SECURING THE SCENE AND SECURING THE
17 WITNESSES, WHAT FURTHER DUTIES OR FUNCTIONS WOULD
18 YOU HAVE IN A CASE SUCH AS THIS, DEPUTY HOPPLE?

19 A. I WROTE THE INCIDENT REPORT AND -- WELL, AFTER
20 THE INVESTIGATION UNIT GOT THERE, THEN WE STARTED
21 SEARCHING THE AREA FOR HIM.

22 Q. SO THE SCENE WOULD BE TURNED OVER TO
23 INVESTIGATION OR CRIME SCENE OFFICERS?

24 A. YES, SIR.

25 Q. AND YOU WOULD PATROL THE GENERAL AREA?

1 A. YES, SIR.

2 Q. AND DID YOU DO THAT?

3 A. YES, SIR.

4 Q. AND WERE YOU ABLE TO LOCATE MR. CHILDERS THAT
5 NIGHT?

6 A. NO, SIR.

7 Q. THANK YOU. I BELIEVE YOU CAN RETAKE THE STAND,
8 DEPUTY HOPPLE.

9 (WITNESS RETURNS TO WITNESS STAND.)

10 MR. McMAHON: YOUR HONOR, I HAVE NO
11 FURTHER QUESTIONS OF THIS OFFICER.

12 THE COURT: OKAY.

13 CROSS EXAMINATION BY MR. ROGERS:

14 Q. DEPUTY HOPPLE, YOU SAID YOUR DUTY BASICALLY WAS
15 TO SECURE THE AREA AND KEEP ALL THE WITNESSES AT
16 THE SCENE, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. DID YOU SEARCH THE AREA?

19 A. NO, SIR. I STAYED RIGHT THERE AROUND WHERE THE
20 BODY WAS.

21 Q. AND BASICALLY JUST WAITED UNTIL THE
22 INVESTIGATING TEAM ARRIVED?

23 A. YEAH, UNTIL SOME MORE OF THE OFFICERS GOT TO
24 ME.

25 Q. AND CAPTAIN THOMLEY YOU SAY RESPONDED?

1 A. YES, SIR.

2 Q. AND WHO CAME WITH HIM?

3 A. NO ONE CAME WITH HIM IN HIS CAR, BUT THE
4 SHERIFF CAME---

5 Q. WHO ARRIVED FIRST?

6 A. I THINK CAPTAIN THOMLEY.

7 Q. WHO ARRIVED SECOND?

8 A. I THINK IT WAS THE SHERIFF. IF IT WASN'T THE
9 SHERIFF, IT WAS MY LIEUTENANT, AND THEN THE
10 SHERIFF. I DON'T REMEMBER EXACTLY.

11 Q. AND WHO DID YOU SAY WAS THE DEPUTY WHO RODE
12 WITH YOU ON THE SECOND CALL TO THE HOUSE?

13 A. ELLOREE THORPE.

14 Q. WHAT WAS HIS DUTY AT THE SCENE?

15 A. SAME AS MINE, JUST TO SECURE THE SCENE, TRY TO
16 -- THE FAMILY WAS BEING HYSTERICAL. WE WERE TRYING
17 TO CALM THEM DOWN TOO.

18 Q. WHEN YOU SAID THAT MRS. STAPLES WAS HOLDING HER
19 DAUGHTER---

20 A. YES, SIR.

21 Q. IN YOUR OWN WORDS, DESCRIBE -- WAS SHE IN HER
22 ARMS OR WAS SHE KNELT BESIDE HER? COULD YOU
23 DESCRIBE THAT FOR US?

24 A. SHE WAS KNELT DOWN, BUT SHE HAD -- SHE WAS
25 HOLDING -- AND SHE HAD HER UP UNDER, LIKE IN HER

1 LAP.

2 Q. OKAY. COULD YOU TELL IF THE BODY HAD BEEN
3 MOVED?

4 A. NO, SIR, IT HADN'T -- I DON'T THINK IT HAD BEEN
5 MOVED.

6 Q. NOW, ON BOTH OF THESE OCCASIONS YOU WENT OUT TO
7 THE HOUSE, DID YOU FIND COTTON CHILDERS EITHER
8 TIME?

9 A. NO, SIR.

10 Q. DID YOU EVER SEE HIS VEHICLE?

11 A. NO, SIR.

12 Q. AT ANY POINT THAT EVENING DID YOU EVER SEE HIS
13 VEHICLE?

14 A. NO, SIR.

15 Q. DID YOU EVER SEE HIM AT ANY POINT?

16 A. NO, SIR.

17 Q. HOW UNCOMMON IS IT FOR SOMEONE IN ELGIN TO STOP
18 IN AT THE PANTRY TO GET SOMETHING TO DRINK AFTER
19 MIDNIGHT?

20 A. IT IS NOT UNCOMMON AT ALL.

21 Q. AS A MATTER OF FACT, IT IS THE ONLY PLACE OPEN
22 IN ELGIN, CONVENIENCE STORE OPEN?

23 A. RIGHT.

24 Q. WHEN YOU ARE WORKING 11 TO 7, HOW MANY TIMES DO
25 YOU GO BY THE PANTRY?

1 A. THREE OR FOUR TIMES A NIGHT.

2 Q. AND THERE IS ALWAYS PEOPLE COMING IN AND OUT,
3 IS THAT CORRECT?

4 A. YES, SIR, PRETTY MUCH.

5 Q. IF SOMEONE WAS UP THAT TIME OF NIGHT AND WANTED
6 SOMETHING TO DRINK, WHERE WOULD THEY GO?

7 A. PROBABLY THE PANTRY.

8 Q. DEPUTY HOPPLE, DID YOU COLLECT ANY EVIDENCE ON
9 WATSON STREET THE FIRST TIME YOU RESPONDED THAT
10 EVENING?

11 A. NO, SIR.

12 Q. CIGARETTE BUTT?

13 A. NO, SIR, I DIDN'T COLLECT IT, I JUST LEFT IT
14 WHERE IT WAS LAYING.

15 Q. DID YOU MAKE A MOLD OF A SHOE TRACK?

16 A. NO, SIR.

17 Q. LET ME ASK YOU A COUPLE OF OTHER THINGS. HOW
18 MANY PEOPLE WERE AT THE HOUSE?

19 A. OUTSIDE I THINK THERE WERE FOUR. I COULDN'T
20 TELL YOU HOW MANY WERE INSIDE.

21 Q. NOW, YOU WROTE AN INCIDENT REPORT THAT EVENING,
22 CORRECT?

23 A. YES, SIR.

24 Q. AND HOW MANY PEOPLE DID YOU FIND TO BE OUTSIDE
25 OR INSIDE THE RESIDENCE THE SECOND TIME THAT YOU

1 WENT?

2 A. THERE WAS MICHELLE STAPLES, MARY WHITE, AND THE
3 DOWEY MAN, AND I THINK TWO OTHER BOYS, TWO OTHER
4 YOUNG MEN. I THINK THERE WAS -- HER TWO SISTERS
5 WERE OUTSIDE TOO.

6 Q. WOULD IT SURPRISE YOU THAT THERE WERE A NUMBER
7 OF PEOPLE THERE AT THE TIME?

8 A. NO, SIR, THERE WAS A NUMBER THERE, I JUST DON'T
9 KNOW EXACTLY HOW MANY.

10 Q. AND THERE WERE PROBABLY SOME PEOPLE THERE WHO
11 SMOKED, IS THAT CORRECT?

12 A. I DIDN'T SEE ANYBODY ELSE SMOKING, BUT THERE
13 COULD HAVE BEEN.

14 Q. WAS THERE MORE THAN ONE VEHICLE?

15 A. YES, SIR.

16 Q. APPROXIMATELY HOW MANY?

17 A. PROBABLY FOUR OR FIVE.

18 Q. IN ADDITION TO THE SCHOOL BUS?

19 A. YES, SIR.

20 Q. NOW, THE FIRST TIME YOU WENT OUT THERE THAT
21 EVENING, HOW MANY VEHICLES DID YOU SEE?

22 A. PROBABLY THREE TRUCKS AND A SCHOOL BUS.

23 Q. SO APPROXIMATELY TWO MORE VEHICLES HAD ARRIVED
24 FROM THE TIME YOU LEFT THE FIRST TIME UNTIL THE
25 TIME YOU CAME BACK?

1 A. YES, SIR.

2 Q. AND YOU SAID YOU LEFT AT APPROXIMATELY 3:23 IN
3 THE MORNING?

4 A. UH-HUH, YES, SIR.

5 Q. SO IT WAS SOMETIME BETWEEN 3:23 AND THE TIME
6 YOU RESPONDED BACK OUT THERE, I BELIEVE IT WAS 8
7 MINUTES AFTER 4, IS THAT CORRECT?

8 A. LET ME LOOK AND SEE. 4:08, YES, SIR.

9 Q. TWO MORE VEHICLES ARRIVED?

10 A. YES, SIR.

11 Q. DEPUTY HOPPLE, DID YOU FIND ON EITHER ONE OF
12 YOUR VISITS ANY PHYSICAL EVIDENCE THAT WOULD LINK
13 LARRY CHILDERS TO THAT AREA? ANY PHYSICAL EVIDENCE
14 TO SHOW THAT HE HAD BEEN THERE?

15 A. NO, SIR, JUST FOOT TRACKS. I'M NOT POSITIVE
16 THEY WERE HIS.

17 MR. ROGERS: I DON'T HAVE ANY FURTHER
18 QUESTIONS, YOUR HONOR.

19 REDIRECT EXAMINATION BY MR. McMAHON:

20 Q. AND JUST TO MAKE SURE I UNDERSTAND, DEPUTY
21 HOPPLE, REFERRING TO STATE'S EXHIBIT NUMBER 3, WHEN
22 YOU SAY FOOT TRACKS, YOU ARE REFERRING TO THE FOOT
23 TRACKS HERE?

24 A. FOOT TRACKS AND THE CIGARETTE BUTT, YES, SIR.

25 Q. AND THE CIGARETTE BUTT HERE?

1 A. YES, SIR.

2 Q. AND THAT IS WHAT YOU OBSERVED THE FIRST TIME IN
3 THAT AREA?

4 A. RIGHT.

5 Q. CORRECT?

6 A. YES, SIR.

7 Q. WHEN YOU RESPONDED?

8 A. YES, SIR.

9 Q. THANK YOU.

10 MR. McMAHON: I DON'T HAVE ANY FURTHER
11 QUESTIONS.

12 THE COURT: YOU CAN STEP DOWN.

13 (MR. HOPPLE STEPS DOWN.)

14 (BENCH CONFERENCE.)

15 THE COURT: ALL RIGHT, JURORS, THEY
16 REPRESENT THE NEXT WITNESS WILL TAKE A LONG TIME.
17 LAWYERS DON'T LIKE TO GET TIED DOWN, YOU KNOW. I
18 GAVE THEM THE PARAMETER OF 6 O'CLOCK. THEY CAN'T
19 SAY THEY WILL FINISH BY 6. WE DON'T WANT TO STOP A
20 WITNESS IN MID-SENTENCE, SO WE JUST BREAK FOR THE
21 DAY.

22 DON'T TALK ABOUT THE CASE TONIGHT AT ALL.
23 BE IN IN THE MORNING AT 10 MINUTES AFTER 9. WE
24 WILL GET RIGHT INTO IT.

25 HAVE A GOOD NIGHT.

1 (WHEREUPON, THE JURY WAS EXCUSED.)

2 (WHEREUPON, THE FOLLOWING TAKES
3 PLACE OUTSIDE THE PRESENCE OF
4 THE JURY.)

5 THE COURT: MADAM CLERK, THE THREE
6 INDICTMENTS. DO NOT LOSE THEM.

7 THE CLERK: YES, YOUR HONOR.

8 THE COURT: OKAY, I GUESS WE QUIT FOR THE
9 DAY.

10 MR. MEADORS: YES, SIR, YOUR HONOR.

11 THE COURT: TEN MINUTES AFTER 9.

12 MR. MEADORS: WE WILL BE READY TO GO.

13 THANK YOU, SIR.

14 THE COURT: YOU NEED TO HAVE HIM OVER
15 HERE.

16 LET'S MAKE SURE ALL THE JURORS ARE GONE
17 BEFORE YOU TAKE HIM OUT.

18 DEPUTY: YES, SIR, WE WILL.

19 (WHEREUPON, AT 5 P.M. COURT
20 ADJOURNED FOR THE DAY.)

21 SEPTEMBER 19, 2001

22 (911 TAPE MARKED AS STATE'S EXHIBIT
23 5 FOR IDENTIFICATION.)

24 (WHEREUPON, THE FOLLOWING IS STILL
25 OUTSIDE THE PRESENCE OF THE JURY.)

1 THE COURT: OKAY, ATTORNEYS. MR.
2 CHILDERS? IS THAT HIS NAME?

3 THE CLERK: TEASDALE.

4 THE COURT: TEASDALE. TEASDALE. CHILDERS
5 IS THE DEFENDANT. MR. TEASDALE TOLD ONE OF THE
6 BAILIFFS THAT WHEN HE WENT HOME HE TOLD HIS WIFE
7 AND CHILDREN THAT HE WAS ON A MURDER TRIAL.

8 AND HIS DAUGHTER SAID, "I HOPE THAT IS NOT
9 THE CHILDERS CASE," BECAUSE SHE WAS CONNECTED
10 SOMEHOW WITH SOMEBODY.

11 THAT IS ALL THAT I KNOW. I THINK WE HAVE
12 TO CALL MR. TEASDALE IN AND INQUIRE. THAT IS ALL
13 WE CAN DO. BECAUSE WHAT I HAVE IS HEARSAY FROM HIM
14 TO A BAILIFF TO THE CLERK TO ME.

15 BRING MR. TEASDALE IN.

16 BAILIFF: ALL RIGHT.

17 (WHEREUPON, JUROR 90, CARL TEASDALE,
18 ENTERS THE COURTROOM.)

19 THE COURT: MR. TEASDALE?

20 MR. TEASDALE: YES, SIR.

21 THE COURT: HOW ARE THINGS GOING, ALL
22 RIGHT?

23 MR. TEASDALE: GOING FINE.

24 THE COURT: THE CLERK RELATED TO ME THAT
25 YOU HAD SPOKE TO THE BAILIFF ABOUT THE CONVERSATION

1 THAT YOU HAD WITH SOME FAMILY MEMBERS, SO I JUST
2 WANTED TO HEAR WHAT HAPPENED.

3 MR. TEASDALE: YES, SIR. I WENT HOME LAST
4 NIGHT AND I WAS TELLING MY WIFE THAT I GOT PICKED
5 FOR A JURY. AND SHE ASKED WHAT KIND OF TRIAL WAS
6 IT, AND I TOLD HER.

7 AND MY DAUGHTER WAS THERE AND JUST JOKING
8 AROUND MY DAUGHTER SAYS, "I HOPE IT AIN'T WILLIAM'S
9 TRIAL BECAUSE I USED TO DATE HIM." SHE SAID SHE
10 DATED HIM ABOUT TWICE ABOUT FIVE OR SIX YEARS AGO.

11 I HAVE NEVER MET THE GUY. I DON'T KNOW --
12 I DIDN'T KNOW NOTHING ABOUT IT.

13 THE COURT: ALL RIGHT, WELL, YOU COULD BE
14 FAIR AND IMPARTIAL?

15 MR. TEASDALE: YES, SIR.

16 THE COURT: YOUR DAUGHTER DIDN'T TALK ANY
17 MORE ABOUT IT?

18 MR. TEASDALE: RIGHT.

19 THE COURT: THAT IS ALL THAT HAPPENED?

20 MR. TEASDALE: THAT IS ALL THAT HAPPENED.

21 THE COURT: ALL RIGHT, WELL, YOU HAVEN'T
22 DISCUSSED IT WITH ANY OF THE OTHER JURORS?

23 MR. TEASDALE: NO, SIR.

24 THE COURT: WELL, DON'T DISCUSS IT WITH
25 THE JURORS. GO BACK. I WILL CONFER WITH THE

1 LAWYERS ABOUT IT. OKAY? IF YOU WOULD JUST STEP
2 BACK.

3 (MR. TEASDALE RETURNS TO THE
4 JURY ROOM.)

5 THE COURT: OKAY. Y'ALL KNOW AS MUCH AS I
6 KNOW. IS EVERYBODY COMFORTABLE WITH HIM? HAS
7 ANYBODY GOT A PROBLEM?

8 MR. ROGERS: I DON'T HAVE A PROBLEM.

9 MR. McMAHON: I WILL LEAVE IT UP TO YOUR
10 DISCRETION, YOUR HONOR. WE HAVE NO OBJECTION.

11 THE COURT: WELL, HE INDICATED THAT IS ALL
12 THAT TRANSPIRED, HE DIDN'T KNOW HIM. I WILL LEAVE
13 HIM ON THE JURY.

14 FAMILY MEMBERS OF MR. CHILDERS AND OF THE
15 VICTIMS, THIS IS JUST A SMALL TOWN, Y'ALL
16 UNDERSTAND THAT, EVERYBODY KIND OF KNOWS EVERYBODY
17 OR YOU KNOW SOME PEOPLE ON THE JURY. THE
18 COURTHOUSE IS SMALL, PEOPLE ARE COMING IN.

19 YOU HAVE TO SPEAK TO JURORS IF THEY SPEAK
20 TO YOU. THAT INCLUDES BAILIFFS, CLERKS OF COURT,
21 EVERYBODY. BUT DON'T GO ANY FURTHER THAN THAT
22 BECAUSE WHAT HAPPENS IS SOMEBODY WILL SAY, WELL,
23 THEY SAW YOU, I'M JUST POINTING AT YOU, NOT THAT
24 YOU SPOKE TO ANYBODY, TALKING TO A JUROR, AND YOU
25 MIGHT HAVE JUST SAID, "HOW IS IT GOING?" BECAUSE

1 THEY ARE THERE, YOU KNOW.

2 SO IF POSSIBLE JUST AVOID CONTACT WITH THE
3 JURORS. WE TRY, YOU KNOW, TO SEND THEM OUT AND
4 SEND THEM HOME BEFORE WE LET EVERYBODY ELSE GO SO
5 THERE WON'T BE ANY CONFLICT, BUT IN THE MORNING OR
6 AT LUNCH OR DURING BREAKS -- WELL, DURING BREAKS
7 THEY ARE KIND OF PROTECTED, BUT WHEN THEY GO TO
8 LUNCH AND COME BACK, IF YOU ARE IN THE COURTHOUSE
9 YOU ARE GOING TO SEE THEM.

10 SO JUST TRY TO JUST SAY, "HOW YOU DOING?"
11 DON'T GO ANY FURTHER THAN THAT, AND THEN WE WON'T
12 HAVE ANY PROBLEMS. BECAUSE IF SOMEBODY SEES
13 ANYBODY TALKING TO ANYBODY, SOMEBODY ELSE RAISES
14 THE ISSUE AND THEN WE HAVE TO QUESTION EVERYBODY,
15 AND THAT GETS EVERYBODY KIND OF BENT OUT OF SHAPE.

16 SO TRY NOT TO EVEN TALK TO JURORS. IF YOU
17 SEE ONE, TRY TO AVOID THEM.

18 IS EVERYBODY READY TO GO?

19 MR. MEADORS: THE STATE IS READY.

20 MR. ROGERS: YOUR HONOR, MAY WE APPROACH
21 FOR JUST ONE MOMENT?

22 THE COURT: SURE.

23 (BENCH CONFERENCE.)

24 (WHEREUPON, AT 9:30 A.M. THE
25 JURY RETURNED TO OPEN COURT.)

1 DIRECT EXAMINATION BY MR. MEADORS:

2 Q. DO YOU GO BY TIM?

3 A. YES, SIR.

4 Q. TIM, TELL THESE FOLKS A LITTLE BIT ABOUT
5 YOURSELF. TO START, HOW OLD ARE YOU?

6 A. I AM 18 YEARS OLD. I JUST GRADUATED HIGH
7 SCHOOL IN MAY. I GOT A FULL-TIME JOB, I ALWAYS
8 HAVE. I GOT FOUR SISTERS, AN OLDER BROTHER.

9 Q. WHERE DID YOU GRADUATE?

10 A. LUGOFF-ELGIN HIGH SCHOOL.

11 Q. THIS PAST MAY?

12 A. YES, SIR.

13 Q. AND YOU SAID YOU HAD A JOB. WHERE ARE YOU
14 WORKING, TIM?

15 A. SIGNS UNLIMITED.

16 Q. WHERE IS THAT?

17 A. RIGHT OFF THE FRONTAGE ROAD BESIDE THE
18 INTERSTATE.

19 Q. WHERE ARE YOU LIVING NOW?

20 A. [REDACTED]

21 Q. WHO ARE YOU LIVING THERE WITH, TIM?

22 A. MY OLDER SISTER, MARY WHITE.

23 Q. IS THIS MARY BACK HERE?

24 A. YES, SIR.

25 Q. WHO ELSE IS LIVING THERE?

1 A. MY GIRLFRIEND STAYS THERE, AND MARY'S TWO KIDS.

2 Q. NOW, TAMMY LYNN MUNN IS YOUR SISTER, RIGHT?

3 A. YES, SIR.

4 Q. THE DECEASED IN THIS CASE?

5 A. YES, SIR.

6 Q. I WANT TO TAKE YOU BACK TO WHAT WE ARE ALL HERE
7 ABOUT, TIM, BACK IN OCTOBER OF LAST YEAR, THAT DAY
8 BEFORE, THE 14TH, SATURDAY, OKAY? DO YOU REMEMBER
9 THAT EVENING WHAT YOU WERE DOING, WHO YOU WERE
10 WITH?

11 A. I WAS WITH I BELIEVE FOUR -- FOUR OF MY GOOD
12 FRIENDS.

13 Q. ALL RIGHT. THIS IS ON OCTOBER 14TH OF 2000,
14 RIGHT? THE DAY BEFORE THIS---

15 A. SATURDAY NIGHT.

16 Q. ---MORNING WHEN ALL THIS HAPPENED?

17 A. YES, SIR.

18 Q. OKAY. WHO WERE YOU WITH?

19 A. JOHN CRANE.

20 Q. IS JOHN IN THE COURTROOM?

21 A. YES, SIR.

22 MR. MEADORS: WOULD JOHN RAISE YOUR HAND?

23 (MR. CRANE COMPLIES.)

24 Q. OKAY.

25 A. C.J. AIKEN.

- 1 Q. IS THAT C.J.?
- 2 A. YES, SIR.
- 3 Q. OKAY.
- 4 A. AND ANOTHER FELLOW, BRITT HINSON.
- 5 Q. BRITT HINSON?
- 6 A. YES, SIR.
- 7 Q. WHERE WERE Y'ALL TOGETHER?
- 8 A. WE WERE ALL AT MEGAN CONDER'S HOUSE IN ELGIN.
- 9 Q. A FRIEND'S HOUSE?
- 10 A. YES, SIR.
- 11 Q. DID THERE COME A TIME WHEN Y'ALL CAME BACK TO
- 12 YOUR HOUSE, [REDACTED]
- 13 A. RIGHT.
- 14 Q. WHEN WAS THAT?
- 15 A. IT WAS APPROXIMATELY 2:50 -- IN BETWEEN 2:50, 3
- 16 O'CLOCK.
- 17 Q. IN THE MORNING?
- 18 A. YES, SIR, SUNDAY MORNING.
- 19 Q. WOULD THAT HAVE BEEN ON OCTOBER 15TH?
- 20 A. RIGHT.
- 21 Q. NOW, HAD Y'ALL PLANNED -- Y'ALL BEING THE FOLKS
- 22 YOU JUST NAMED -- HAD Y'ALL PLANNED TO SPEND THE
- 23 NIGHT AT YOUR HOUSE?
- 24 A. YES, SIR.
- 25 Q. AND WHAT HAD Y'ALL BEEN DOING AT THIS LADY'S --

1 THIS FRIEND OF YOURS HOUSE?

2 A. IT WAS A POOL -- IT WAS MORE LIKE A POOL PARTY.

3 I MEAN, WE WERE SWIMMING.

4 Q. AND WERE YOU ALL TOGETHER IN THE SAME CAR,
5 SEPARATE CARS? HOW DID YOU GET FROM -- I BELIEVE
6 YOU SAID MS. MEGAN CONDER'S HOUSE?

7 A. RIGHT.

8 Q. -- BACK TO YOUR HOUSE?

9 A. ME AND BRITT WERE IN MY TRUCK, C.J. DROVE HIS
10 MAMA'S CAR THAT NIGHT, AND JOHN DROVE HIS TRUCK.
11 IT WAS THREE VEHICLES.

12 Q. AND YOU SAID YOU GOT THERE SHORTLY BEFORE 3, I
13 BELIEVE.

14 WHAT IF ANYTHING HAPPENED WHEN YOU GOT BACK TO
15 YOUR HOUSE?

16 A. WELL, WE ALL GOT OUT. C.J. AIKEN WAS ALREADY
17 IN THE HOUSE. HE HAD LEFT A LITTLE EARLIER,
18 PROBABLY 20 MINUTES BEFORE US. AND THEN -- AND
19 THEN I GOT OUT MY TRUCK AND BRITT GOT OUT WITH ME
20 AND JOHN WAS BEHIND US, AND ON THE WAY IN THE BACK
21 DOOR I HEARD FOOTSTEPS IN THE WOODS ON THE OTHER
22 SIDE OF THE SCHOOL BUS, OR WHAT SOUNDED LIKE
23 FOOTSTEPS.

24 AND THEN I SAID, "Y'ALL STOP," YOU KNOW, "DID
25 Y'ALL HEAR THAT?"

1 AND THEY SAID, "NO."

2 I SAID, "WELL, LISTEN." AND WE HEARD THEM
3 AGAIN. AND I SAID, "THAT'S GOT TO BE LARRY
4 CHILDERS."

5 AND THEN HE POKED HIS -- I SEEN HIM. FIRST I
6 SQUATTED DOWN AND LOOKED UNDER THE BUS AND I SEEN
7 FEET. AND THEN OVER THE HOOD OF THE BUS I SEEN HIM
8 POKE HIS HEAD UP.

9 AND THEN THE SECOND TIME HE POKED HIS HEAD
10 AROUND THE FRONT MIRRORS OF THE BUS WHERE THE
11 STUDENTS GET ON.

12 AND THEN I HAD DONE WENT INSIDE AND GRABBED THE
13 PHONE, AND I CALLED 911, AND I WAS OUTSIDE. AND BY
14 THAT TIME MY MOM WAS OUTSIDE WITH ME, C.J. WAS
15 OUTSIDE WITH ME, JOHN WAS OUTSIDE. AND IN THE
16 PROCESS OF ME ON THE PHONE, MY SISTER PULLED UP,
17 MARY WHITE.

18 AND THEN I WAS ON THE PHONE WITH THE POLICE AND
19 I MADE THE CALL AND I WAS TALKING TO THEM. AND
20 THEN---

21 Q. LET ME STOP YOU RIGHT THERE, OKAY? HOW FAR
22 WERE YOU FROM THE BUS, YOU MENTIONED A SCHOOL BUS
23 ---

24 A. UM---

25 Q. ---WHEN YOU FIRST SPOTTED WHO YOU SAID WAS

- 1 LARRY CHILDERS?
- 2 A. MAYBE 20 FEET.
- 3 Q. DID YOU HAVE ANY PROBLEM SEEING?
- 4 A. NO, SIR.
- 5 Q. TIM, HOW LONG HAVE YOU KNOWN THE DEFENDANT,
- 6 LARRY CHILDERS?
- 7 A. MAYBE A YEAR.
- 8 Q. YOU KNOW HIM BY NAME AND SIGHT, YOU KNOW HIM
- 9 WHEN YOU SEE HIM?
- 10 A. YES, SIR.
- 11 Q. DID YOU HAVE ANY TROUBLE SEEING HIM THAT NIGHT?
- 12 A. NO, SIR.
- 13 Q. ANY DOUBT IN YOUR MIND WHO IT WAS BY THE SCHOOL
- 14 BUS?
- 15 A. NO, SIR.
- 16 Q. I WANT TO SHOW YOU WHAT HAS BEEN ENTERED AS
- 17 STATE'S EXHIBIT 4. DO YOU RECOGNIZE THAT, TIM?
- 18 A. YES, SIR.
- 19 Q. AND IS THIS YOUR HOUSE?
- 20 A. YES, SIR.
- 21 Q. AND IS THIS THE SCHOOL BUS YOU HAVE BEEN
- 22 REFERRING TO?
- 23 A. RIGHT.
- 24 Q. AND ROUGHLY WHERE WERE YOU IN RELATION TO THIS
- 25 HOUSE WHEN -- YOU SAY YOU CAME HOME, YOU HEARD SOME

1 NOISES, YOU TURNED AROUND AND LOOKED TOWARDS THE
2 SCHOOL BUS. WHERE WERE YOU?

3 A. I WAS PROBABLY STANDING ON THIS SIDE OF THE
4 HOUSE, ON THIS SIDE RIGHT HERE.

5 Q. OKAY. AND WHERE -- YOU SAW MR. CHILDERS NEAR
6 THE SCHOOL BUS?

7 A. RIGHT.

8 Q. I INTERRUPTED YOU, AND I APOLOGIZE. DID YOU
9 SAY YOU CALLED 911?

10 A. RIGHT.

11 Q. AND DID YOU SAY MARY, I'M SORRY, DID MARY COME
12 UP DURING THIS TIME OR WAS MARY THERE?

13 A. ON THE PHONE -- WHEN I WAS ON THE PHONE MARY --
14 I BELIEVE MARY PULLED UP.

15 Q. HAVE YOU LISTENED TO THIS 911 TAPE?

16 A. YES, SIR.

17 MR. MEADORS: YOUR HONOR, WE HAVE
18 PREVIOUSLY MARKED THIS AS STATE'S 5. MR. ROGERS
19 HAS A COPY OF THIS, AND I DON'T BELIEVE THERE IS AN
20 OBJECTION.

21 THE COURT: OKAY.

22 MR. MEADORS: WE WOULD OFFER THIS AS
23 STATE'S 5.

24 THE COURT: ALL RIGHT.

25 (911 TAPE RECEIVED INTO EVIDENCE

1 AS STATE'S EXHIBIT 5.)

2 MR. MEADORS: WITH THE COURT'S PERMISSION
3 TO PLAY IT FOR THE JURY?

4 THE COURT: SURE.

5 (WHEREUPON, STATE'S EXHIBIT 5,
6 THE 911 TAPE, WAS PLAYED FOR
7 THE JURY.)

8 Q. THAT WAS YOU, RIGHT?

9 A. YES, SIR.

10 Q. AND AFTER YOU MADE -- THERE IS NO DOUBT THAT
11 WAS COTTON OUT THERE, WAS IT?

12 A. NO, SIR.

13 Q. AND AFTER YOU CALLED 911, DID THE POLICE COME?

14 A. YES, SIR.

15 Q. AND DO YOU REMEMBER DEPUTY HOPPLE COMING?

16 A. YES, SIR.

17 Q. THE FELLOW WHO TESTIFIED YESTERDAY?

18 A. YES, SIR.

19 Q. AND YOU WERE THERE WHEN HE WAS THERE?

20 A. YES, SIR.

21 Q. DID YOU SEE HIM LOOK AROUND?

22 A. YES, SIR.

23 Q. AND CHECK THE SCHOOL BUS?

24 A. YES, SIR.

25 Q. AND WHAT DID YOU DO THEN?

1 A. BY THAT TIME I AM GOING INSIDE AND I AM GOING
2 TO BED.

3 Q. AND THE DEPUTY HAD ALREADY LEFT AT THAT POINT?

4 A. I'M NOT SURE. HE WAS STILL OUTSIDE WHEN I WENT
5 INSIDE.

6 Q. AND DID ANYBODY ELSE COME UP BEFORE YOU WENT TO
7 BED?

8 A. NO, SIR, I DON'T BELIEVE SO, JUST MARY, MY MOM,
9 C.J., AND JOHN AND BRITT.

10 Q. AND YOU HAVE YOUR OWN ROOM IN THE HOUSE?

11 A. YES, SIR.

12 Q. YOUR BEDROOM?

13 A. YES, SIR.

14 Q. AND IS THAT WHERE YOU WENT?

15 A. YES, SIR.

16 Q. AND I THINK YOU MENTIONED YOUR BUDDIES, C.J.
17 AND JOHN, I THINK YOU MENTIONED BRITT. DID THEY
18 ALL STAY THERE?

19 A. NO, SIR, JOHN TOOK BRITT HOME. C.J. STAYED THE
20 NIGHT WITH ME AND JOHN STAYED THE NIGHT WITH ME
21 THAT NIGHT.

22 Q. AND DID C.J. - C.J. AIKEN, I CALL HIM C.J., BUT
23 IT IS C.J. AIKEN?

24 A. C.J. AIKEN.

25 Q. AND JOHN CRANE?

1 A. RIGHT.

2 Q. AND DID THEY EVENTUALLY COME IN THE HOUSE AFTER
3 DEPUTY HOPPLE FIRST CAME?

4 A. AFTER HE FIRST CAME?

5 Q. YES, SIR? AFTER YOU MADE THE 911 CALL, DID
6 THEY END UP COMING IN---

7 A. OH, YES, SIR.

8 Q. ---TO THE BEDROOM?

9 A. RIGHT.

10 Q. AND DID Y'ALL GO TO SLEEP? WHAT HAPPENED?

11 A. YES, SIR. THEY COME INSIDE AND THEY WERE --
12 JOHN AND C.J. WERE TRYING TO GET ME TO SCOOT OVER
13 SO THEY HAD ROOM. AND THEN THEY WERE -- THEY WERE
14 TALKING, YOU KNOW. THEY STAYED UP, THEY STAYED
15 PROBABLY TEN MINUTES.

16 MR. ROGERS: OBJECTION, YOUR HONOR.
17 HEARSAY.

18 THE COURT: OKAY.

19 Q. NOTHING OF WHAT THEY SAID. BUT Y'ALL ALL WENT
20 IN THE BEDROOM?

21 A. RIGHT.

22 Q. AND YOU WERE GOING TO GO TO SLEEP?

23 A. RIGHT.

24 Q. GO TO BED, LET ME SAY THAT. WHAT HAPPENED
25 NEXT? WHAT IS THE NEXT THING YOU REMEMBER?

1 A. C.J. WAKING UP AND THEN HEARING GUN SHOTS.

2 Q. AND WHAT DID YOU DO THEN?

3 A. AS SOON AS I HEARD THE GUN SHOTS I JUMPED OUT
4 OF BED. I PUT PANTS ON AND RAN OUTSIDE. AS I WAS
5 RUNNING OUTSIDE, C.J. AIKEN AND JOHN CRANE WERE
6 BEHIND ME. I WAS RUNNING OUT THE DOOR. WHEN I WAS
7 RUNNING OUT, MY SISTER MARY WHITE WAS RUNNING IN
8 FROM BEING SHOT AT. AND WHEN I COME OUTSIDE I SEEN
9 LARRY CHILDERS GO ACROSS THE YARD.

10 Q. AND WHEN YOU SAY YOU SEEN LARRY CHILDERS GO
11 ACROSS THE YARD, HOW FAR WERE YOU FROM HIM THEN,
12 TIM?

13 A. MAYBE TEN FOOT. I WAS ON MY FRONT PORCH.

14 Q. DID YOU HAVE ANY PROBLEM SEEING HIM?

15 A. NO, SIR.

16 Q. REFERRING AGAIN TO STATE'S 4, TIM.

17 A. I WAS STANDING ON THE FRONT PORCH. HE PROBABLY
18 WALKED ABOUT RIGHT THERE INTO THE WOODS ON THE
19 SIDE.

20 Q. SO IF YOU ARE FACING OUT FROM YOUR HOUSE, YOUR
21 HOUSE IS BEHIND YOU, HE WENT TO THE RIGHT?

22 A. RIGHT.

23 Q. NOW, WAS HE WEARING THE SAME THING HE WAS--THAT
24 YOU HAD SEEN HIM IN EARLIER?

25 A. YES, SIR.

1 Q. CAN YOU DESCRIBE TO THE JURY WHAT HE WAS
2 WEARING?

3 A. A CARHARTT JACKET. IT IS THE TAN COLORED
4 JACKET, HUNTING JACKET. HE HAD A HAT ON BACKWARDS.
5 AND DARK COLORED PANTS.

6 MR. MEADORS: BEG THE COURT'S INDULGENCE.

7 (PAUSE.)

8 Q. I JUST WANT YOU TO LOOK AT THESE TWO ITEMS.
9 TELL ME IF YOU RECOGNIZE THESE AND DO THEY RELATE
10 TO THIS CASE?

11 A. YES, SIR.

12 (JACKET MARKED AS STATE'S EXHIBIT
13 6 FOR IDENTIFICATION.)

14 (HAT MARKED AS STATE'S EXHIBIT
15 7 FOR IDENTIFICATION.)

16 MR. McMAHON: YOUR HONOR, I'M---

17 Q. LET ME SHOW YOU STATE'S 6. DO YOU RECOGNIZE
18 THIS?

19 A. YES, SIR.

20 Q. WHAT DOES THAT APPEAR TO -- OR DOES THIS LOOK
21 LIKE THE JACKET THAT WILLIAM CHILDERS WAS WEARING
22 THAT NIGHT?

23 A. YES, SIR.

24 Q. DOES IT LOOK LIKE THE JACKET HE WAS WEARING THE
25 FIRST TIME YOU SAW HIM AROUND THE SCHOOL BUS?

1 A. YES, SIR.

2 Q. AND DOES IT LOOK LIKE THE JACKET THAT YOU SAW
3 AFTER YOU HEARD THE SHOTS FIRED WHEN HE WAS LEAVING
4 THE HOUSE?

5 A. YES, SIR.

6 Q. AND LOOK AT STATE'S 7, PLEASE, TIM. DO YOU
7 RECOGNIZE THAT?

8 A. I RECOGNIZE THE BACK OF IT, YES, SIR.

9 Q. AND WHAT DOES THAT APPEAR TO BE?

10 A. A TIMBERLAND HAT.

11 Q. AND WHO DID YOU SEE WEARING THIS HAT?

12 A. LARRY CHILDERS.

13 MR. MEADORS: YOUR HONOR, WE WOULD OFFER
14 STATE'S 6 AND 7, WITHOUT OBJECTION.

15 THE COURT: OKAY.

16 (JACKET RECEIVED INTO EVIDENCE
17 AS STATE'S EXHIBIT 6.)

18 (HAT RECEIVED INTO EVIDENCE
19 AS STATE'S EXHIBIT 7.)

20 Q. AFTER YOU HAD HEARD THE SHOTS, WENT OUTSIDE,
21 DID YOU HAVE AN OCCASION TO GET ON THE PHONE WITH
22 THE DISPATCH AGAIN, 911?

23 A. I DIDN'T CALL THEM, BUT I BELIEVE I WAS ON THE
24 PHONE.

25 Q. AND I THINK YOUR MOM WAS ON THE PHONE SOME TOO?

1 A. YES, SIR.

2 MR. MEADORS: YOUR HONOR, AGAIN ON THE
3 SAME TAPE, STATE'S EXHIBIT 5, I BELIEVE WITHOUT
4 OBJECTION, IS THE SECOND 911 CALL.

5 THE COURT: OKAY.

6 MR. ROGERS: YOUR HONOR,---

7 (ATTORNEYS CONFER.)

8 (BENCH CONFERENCE.)

9 THE COURT: ALL RIGHT, JURORS, YOU HAVE TO
10 STEP OUT FOR A MINUTE. WE HAVE GOT TO PLAY THE
11 TAPE.

12 (WHEREUPON, THE JURY RETIRES
13 TO THE JURY ROOM.)

14 (WHEREUPON, THE FOLLOWING TAKES
15 PLACE OUTSIDE THE PRESENCE OF
16 THE JURY.)

17 (WHEREUPON, THE SECOND 911 CALL
18 WAS PLAYED BEFORE THE COURT.)

19 MR. MEADORS: JUDGE, I THINK WE ARE IN
20 AGREEMENT WHAT WE SHOULD REDACT, IT IS JUST A
21 MATTER OF ME HAVING THE CAPABILITY TO DO IT. JUST
22 GIVE ME A SECOND.

23 THE COURT: ALL YOU WANT TO KNOCK OFF IS
24 WHAT HE SAID AFTER THAT, RIGHT?

25 MR. MEADORS: THERE IS A PORTION IN HERE

1 WHERE I THINK CHERYL STAPLES SAYS, "HE TOLD US HE
2 WOULD KILL HER," OR SOMETHING, "PREVIOUSLY." THAT
3 IS WHAT HE WANTED OUT, I THINK.

4 WE DO CONSENT TO IT, IF YOUR HONOR WILL
5 GIVE ME A SECOND JUST TO MAKE SURE WE GOT IT.

6 THE COURT: ALL RIGHT.

7 (PAUSE.)

8 MR. MEADORS: YOUR HONOR, IF YOU WOULD
9 GIVE ME JUST -- I THINK THAT WAS -- PERHAPS IF YOUR
10 HONOR WOULD JUST GIVE ME A SECOND TO GO IN THE
11 OFFICE WITH MR. ROGERS TO GET THIS RIGHT, IT WILL
12 BE A LOT QUICKER.

13 THE COURT: SURE. MR. McMAHON CAN OPERATE
14 IN YOUR ABSENCE?

15 MR. ROGERS, JUST STAY IN THERE ONE SECOND.
16 I MEAN, I NEED ALL THE FAMILY MEMBERS JUST TO STEP
17 OUT FOR FIVE MINUTES, BOTH SIDES. FIVE MINUTES.

18 MR. ROGERS, AS SOON AS THEY GET OUT I NEED
19 TO ADDRESS THE THING YOU MENTIONED TO ME.

20 (WHEREUPON, FAMILY MEMBERS
21 EXIT THE COURTROOM.)

22 THE COURT: ALL RIGHT, MR. CHILDERS,
23 APPARENTLY YOU HAVE ON BODY ARMOR AND YOU DON'T
24 LIKE IT?

25 MR. CHILDERS: RIGHT.

1 THE COURT: WELL, I DON'T KNOW ANYTHING
2 ABOUT WHY IT TRANSPIRED THAT YOU HAVE IT ON, BUT
3 LAW ENFORCEMENT APPARENTLY FEELS YOU ARE AT SOME
4 RISK.

5 I AM WILLING, WITHOUT HAVING A BIG HEARING
6 ON IT, TO MAKE THIS COMPROMISE: YOU CAN HAVE IT OFF
7 WHILE YOU ARE IN HERE BECAUSE EVERYBODY IS SCREENED
8 BEFORE THEY COME IN.

9 MR. CHILDERS: THAT'S WHAT I AM ASKING.

10 THE COURT: BUT THEN ANY TIME YOU LEAVE
11 THE COURTROOM YOU HAVE TO PUT IT BACK ON.

12 MR. CHILDERS: YES, SIR, THAT'S FINE.

13 THE COURT: SO WHEN WE BREAK WE WILL TELL
14 EVERYBODY TO VACATE AND YOU CAN PUT IT ON, OR YOU
15 CAN PUT IT ON BACK BEHIND THERE, OR WHATEVER,
16 BEFORE YOU GO OUT IN THE HALLS OR ANYWHERE.

17 MR. CHILDERS: ALL RIGHT, SIR.

18 THE COURT: OKAY? MR. ROGERS, YOU CAN GO
19 DEAL WITH THE TAPE.

20 MR. ROGERS: THANK YOU.

21 THE COURT: BUT Y'ALL CAN TAKE HIM RIGHT
22 BACK THERE AND TAKE THAT OFF NOW IF HE IS TOO HOT.

23 (MR. MEADORS AND MR. ROGERS EXIT
24 THE COURTROOM.)

25 (BREAK.)

1 THE COURT: LET'S BRING THE JURY IN.

2 (WHEREUPON, THE JURY RETURNS

3 TO OPEN COURT.)

4 (WHEREUPON, THE FOLLOWING TAKES

5 PLACE WITHIN THE PRESENCE OF

6 THE JURY.)

7 MR. MEADORS: THANK YOU, YOUR HONOR. MAY

8 IT PLEASE THE COURT?

9 THE COURT: OKAY.

10 DIRECT EXAMINATION BY MR. MEADORS CONTINUES:

11 Q. TIM, IF I COULD BRIEFLY, DO YOU REMEMBER HOW

12 MANY GUN SHOTS THERE WERE?

13 A. UH-HUH.

14 Q. HOW MANY?

15 A. FOUR.

16 Q. AND I BELIEVE YOU SAID AS YOU WERE COMING OUT

17 OF THE HOUSE MARY WAS COMING IN?

18 A. RIGHT.

19 Q. AND HAD BEEN SHOT AT?

20 A. RIGHT.

21 Q. AND WHERE WAS YOUR SISTER TAMMY?

22 A. ON THE GROUND.

23 Q. IN FRONT OF THE HOUSE?

24 A. YES, SIR.

25 Q. HAVE YOU LISTENED TO THIS TAPE BEFORE? YOU

1 HAVE HEARD THIS TAPE BEFORE? DID YOU HEAR IT A
2 LITTLE WHILE AGO?

3 A. YES, SIR.

4 Q. WAS THIS THE 911 TAPE FROM THE SECOND 911 CALL?

5 A. RIGHT.

6 MR. McMAHON: YOUR HONOR, I BELIEVE WE
7 HAVE GOT IT READY NOW.

8 THE COURT: ALL RIGHT.

9 (WHEREUPON, THE SECOND 911 CALL,
10 ON STATE'S EXHIBIT 5, WAS PLAYED
11 FOR THE JURY.)

12 Q. WOULD YOU DESCRIBE YOURSELF AS -- YOU WERE
13 UPSET, WEREN'T YOU?

14 A. YES, SIR.

15 Q. WERE THINGS KIND OF CHAOTIC?

16 A. YES, SIR.

17 Q. I'VE JUST GOT A FEW MORE QUESTIONS, TIM.

18 DID THE FELLOW THAT YOU SAW BEHIND THE SCHOOL
19 BUS AS YOU WERE MAKING OR BEFORE THE FIRST 911
20 PHONE CALL -- AND LET ME ASK YOU, WAS HE BEHIND THE
21 SCHOOL BUS, BESIDE IT? WHERE DID YOU SEE HIM?

22 A. I REMEMBER HIM POKING OUT FROM BEHIND ONE TIME,
23 BUT WHEN HE CAME OUT AND HE SHOWED HIS WHOLE BODY,
24 HE WAS IN FRONT OF THE SCHOOL BUS.

25 Q. "BUT WHEN HE CAME OUT FROM." SO HE WAS BEHIND

1 IT INITIALLY?

2 A. YES, SIR. HE POKED OVER THE HOOD, THEN HE
3 POKED AROUND THE MIRRORS, AND THEN I BELIEVE AS I
4 WAS GETTING OFF THE PHONE HE SHOWED HIS WHOLE BODY
5 AND STARED AT US.

6 Q. POINT THAT PERSON OUT IN THE COURTROOM.

7 A. RIGHT THERE.

8 Q. MR. CHILDERS, NEXT TO MR. ROGERS?

9 A. YES, SIR.

10 Q. IS THERE ANY -- ANY DOUBT IN YOUR MIND THAT
11 THAT WAS LARRY CHILDERS BEHIND THE SCHOOL BUS?

12 A. NO, SIR, NOT AT ALL. NO, SIR.

13 Q. I THINK YOU TOLD THEM WHAT KIND OF CAR HE HAD
14 ON THE FIRST 911, IS THAT CORRECT?

15 A. YES, SIR.

16 Q. YOU KNEW OF YOUR OWN KNOWLEDGE WHAT KIND OF CAR
17 HE DROVE?

18 A. YES, SIR.

19 Q. AND AFTER THE SHOTS WERE FIRED AND YOU CAME
20 OUT, IS THE PERSON IN THE COURTROOM THAT YOU SAW
21 WALK AWAY FROM YOUR HOUSE AFTER YOUR SISTER TAMMY
22 WAS SHOT IN THE HEAD LAYING ON THE GROUND, IS THAT
23 PERSON IN THE COURTROOM?

24 A. YES, SIR.

25 Q. SHOW THESE FOLKS WHO IT IS.

1 A. RIGHT THERE, BLUE SHIRT.

2 MR. MEADORS: I WOULD LIKE THE RECORD TO
3 REFLECT HE PICKED OUT MR. LARRY CHILDERS ON BOTH
4 ACCOUNTS, YOUR HONOR.

5 THE COURT: OKAY.

6 Q. ANY DOUBT IN YOUR MIND ABOUT THAT?

7 A. NO, SIR, NOT AT ALL.

8 Q. THANK YOU. THAT'S ALL.

9 CROSS EXAMINATION BY MR. ROGERS:

10 Q. GOOD MORNING. HOW MANY PEOPLE WERE IN THE YARD
11 WHEN YOU CAME OUT, AFTER YOU HEARD THE SHOT?

12 A. ROUGHLY EIGHT, NINE.

13 Q. ROUGHLY EIGHT OR NINE PEOPLE IN THE YARD?

14 A. IN THE YARD?

15 Q. IN THE YARD.

16 A. WHEN I COME OUTSIDE?

17 Q. YES, SIR.

18 Q. DARREL, TAMMY, MARY, AND THEN BEHIND ME WAS
19 JOHN AND C.J.

20 Q. DARREL, TAMMY AND LARRY?

21 A. AND LARRY.

22 Q. DID YOU HAVE A FLASHLIGHT?

23 A. SIR?

24 Q. DID YOU HAVE A FLASHLIGHT WITH YOU?

25 A. NO, SIR.

1 Q. AT ANY POINT THAT NIGHT DID YOU HAVE A
2 FLASHLIGHT WITH YOU?

3 A. YES, SIR.

4 Q. WHEN WAS THAT?

5 A. WHEN WE JUMPED IN THE TRUCK TO GO LOOK FOR HIM.

6 Q. WHEN YOU JUMPED IN THE TRUCK TO GO LOOK FOR
7 HIM. THAT WAS AFTER YOUR SISTER WAS SHOT?

8 A. RIGHT.

9 Q. WHO JUMPED IN THE TRUCK?

10 A. ME AND MY BROTHER-IN-LAW, DARREL DOWEY.

11 Q. WHICH TRUCK DID YOU GET INTO?

12 A. A RED FORD.

13 Q. MR. STAPLES, LOOKING AT THIS—

14 MR. ROGERS: MAY I APPROACH THE WITNESS,
15 YOUR HONOR?

16 THE COURT: SURE.

17 Q. THIS PHOTOGRAPH HERE, IS THAT A RED FORD
18 PICKUP?

19 A. YES, SIR.

20 Q. IS THAT THE TRUCK YOU ARE SPEAKING OF?

21 A. YES, SIR.

22 Q. SO THIS TRUCK ISN'T EXACTLY PARKED WHERE IT WAS
23 PARKED AT THE TIME OF THE SHOOTING, IS THAT
24 CORRECT?

25 A. YES, SIR.

1 Q. IT HAD BEEN MOVED?

2 A. YES, SIR.

3 Q. HAD ANY OF THE OTHER VEHICLES IN THE YARD BEEN
4 MOVED?

5 A. I DON'T REMEMBER.

6 Q. DID ANYONE ELSE LEAVE THE HOUSE?

7 A. AFTER THE SHOOTING?

8 Q. YES.

9 A. NO, SIR.

10 Q. JUST YOU AND DARREL?

11 A. NO -- OH, NO, SIR, SOMEBODY -- I BELIEVE C.J.

12 AND JOHN -- C.J. AND JOHN CRANE LEFT TO GO GET
13 HELP. THEY WENT TO THE FIRST FIRE STATION IN
14 ELGIN, AND THEY DIDN'T FIND NO ONE THERE, AND THEY
15 WERE ON THEIR WAY TO LUGOFF TO GO GET HELP FROM A
16 COP IN LUGOFF, AND THEY PASSED THE COPS SO THEY
17 COME BACK.

18 Q. AGAIN, TO MAKE REFERENCE TO THIS PHOTOGRAPH,
19 YOUR BACK DOOR, WE DON'T HAVE A PHOTOGRAPH OF THE
20 BACK SIDE OF THE HOUSE, BUT COULD YOU TELL US
21 ROUGHLY WHERE THE BACK DOOR IS LOCATED?

22 A. IT IS PROBABLY RIGHT THERE. IT IS PROBABLY
23 EVEN WITH THE---

24 Q. EVEN WITH THE FRONT DOOR?

25 A. JUST ABOUT.

1 Q. AND THAT -- AND YOU WERE GOING INTO THE BACK
2 DOOR WHEN YOU SAID YOU HEARD FOOTSTEPS?

3 A. RIGHT.

4 Q. OKAY. AND YOU HEARD FOOTSTEPS BEHIND THE
5 SCHOOL BUS? I'M SORRY?

6 A. YES, SIR, IN THAT AREA.

7 Q. I TELL YOU WHAT, YOU HOLD THE PHOTOGRAPH, IF
8 YOU DON'T MIND, AND YOU WERE BEHIND THE HOUSE,
9 CORRECT?

10 A. YES, SIR.

11 Q. YOU HEARD THE FOOTSTEPS?

12 A. YES, SIR.

13 Q. YOU TOLD EVERYBODY TO STOP AND LISTEN?

14 A. YES, SIR.

15 Q. ALL RIGHT. AT WHAT POINT DID YOU SEE AN
16 INDIVIDUAL, AND WHERE WAS THE INDIVIDUAL WHEN YOU
17 SAW HIM?

18 A. THE FIRST TIME HE POKED HIS HEAD OUT WAS AROUND
19 THE -- NO, THE FIRST TIME, THE FIRST TIME I SEEN
20 FEET.

21 Q. UNDERNEATH THE BUS?

22 A. RIGHT.

23 Q. DID YOU HAVE A FLASHLIGHT THEN?

24 A. NO, SIR.

25 Q. CAN YOU SHOW ME WHERE THERE IS ANY OUTSIDE

1 LIGHTS OR ANYTHING, AS FAR AS A FLOOD LIGHT OR A
2 UTILITY LIGHT?

3 A. THERE IS A POLE, RIGHT HERE BEHIND MY HOUSE
4 THERE IS A POLE.

5 Q. OKAY.

6 A. AND THERE IS A POLE RIGHT HERE, IN THE CORNER
7 OF THIS YARD THERE IS A POLE.

8 Q. ALL RIGHT. BECAUSE THIS WAS 3, 4 O'CLOCK IN
9 THE MORNING, CORRECT?

10 A. RIGHT.

11 Q. BUT YOU SAID THERE WAS SOME OUTSIDE LIGHT?

12 A. YES, SIR.

13 Q. ALL RIGHT. NOW, YOU CAN -- DID YOU EVER WALK
14 OVER TOWARDS THAT AREA?

15 A. NO, SIR, I DIDN'T.

16 Q. NOW, WHEN YOU MADE THE CALL, THE 911 CALL, DID
17 YOU MAKE THAT FROM INSIDE THE HOUSE OR OUTSIDE THE
18 HOUSE?

19 A. I WAS ON A CORDLESS PHONE. I WAS PROBABLY
20 DIALING ON MY WAY OUT THE HOUSE.

21 Q. WENT INSIDE AND GOT THE PHONE AND CAME BACK
22 OUT, IS THAT CORRECT?

23 A. RIGHT.

24 Q. NOW, MR. MEADORS HAS ASKED YOU, AND HE ASKED
25 YOU SEVERAL TIMES ON DIRECT, ASKED YOU IF THE

1 CLOTHES THAT YOU IDENTIFIED EARLIER WERE THE SAME
2 CLOTHES THAT YOU SAW ON MR. CHILDERS WHEN HE WAS
3 BEHIND THE BUS AND WHEN HE CAME BACK TO THE HOUSE
4 THE SECOND TIME. IS THAT CORRECT?

5 A. YES, SIR.

6 Q. YOU SAID HE WAS WEARING THE SAME THING BOTH
7 TIMES?

8 A. YES, SIR, I'M PRETTY SURE.

9 Q. NOW, MR. STAPLES, YOU HEARD THE 911 TAPE WHEN
10 YOU MADE THE CALL. DO YOU REMEMBER WHEN YOU WERE
11 ASKED WHAT WAS HE WEARING?

12 A. BY THAT TIME I HADN'T SEEN HIM. HE DIDN'T SHOW
13 HIS WHOLE BODY BY THAT TIME. ALL I SEEN WAS HIS
14 HEAD AND THE HAT BACKWARDS.

15 Q. BUT, MR. STAPLES, YOU WILL REMEMBER, BY THE
16 TIME THE 911 CALL WAS OVER, BY THE TIME THE TAPE
17 ENDED, HE HAD ALREADY LEFT. YOU TOLD THEM THAT HE
18 HAD ALREADY LEFT. AND YOU TOLD THEM WHICH
19 DIRECTION HE WAS GOING IN. BUT YET YOU COULDN'T
20 DESCRIBE WHAT HE WAS WEARING THEN.

21 A. I PROBABLY DIDN'T THINK ABOUT IT. IF YOU
22 LISTEN TO THE TAPE AGAIN IT SAYS, "I SEE HIM NOW.
23 HE IS SHOWING HIS WHOLE SELF."

24 I MIGHT HAVE JUST MESSED UP WHEN THEY SAID, "CAN
25 YOU TELL WHAT HE IS WEARING?" I DIDN'T--

1 Q. WHEN YOU AND MR. DOWEY LEFT TO GO LOOK FOR MR.
2 CHILDERS, Y'ALL HAD A WEAPON WITH YOU, DID YOU NOT?

3 A. YES, SIR.

4 Q. HOW MANY WEAPONS?

5 A. JUST ONE.

6 Q. IT WAS MR. DOWEY'S WEAPON, CORRECT?

7 A. YES, SIR.

8 Q. WAS THE WEAPON -- WHOSE TRUCK WAS THE RED
9 TRUCK?

10 A. DARREL'S.

11 Q. WAS THE GUN ALREADY IN THE TRUCK OR DID HE HAVE
12 TO GET IT FROM SOMEWHERE?

13 A. NO, IT WAS IN THE TRUCK FROM THE TURKEY SHOOT.

14 Q. PISTOL?

15 A. NO, SIR.

16 Q. WHAT TYPE OF GUN WAS IT?

17 A. SHOTGUN.

18 Q. WAS THERE A PISTOL IN THE TRUCK THAT YOU SAW?

19 A. NO, SIR, NOT THAT I REMEMBER.

20 Q. DID YOU SEE A PISTOL AT ANY POINT THAT NIGHT?

21 A. NO, SIR.

22 Q. NOW, YOU SAID YOU HEARD FOUR SHOTS? FOUR SHOTS
23 AFTER YOU AWOKE -- AWAKENED, I'M SORRY?

24 A. PRETTY SURE IT WAS FOUR SHOTS.

25 Q. AND WHEN YOU CAME OUT OF THE HOUSE MR. DOWEY

1 WAS IN THE YARD?

2 A. RIGHT -- NO -- WELL, YES.

3 Q. FULLY DRESSED?

4 A. YES.

5 Q. WAS HE AT HOME WHEN YOU WENT TO BED?

6 A. NO, SIR.

7 Q. SO YOU DON'T KNOW WHAT TIME HE CAME IN, IS THAT
8 CORRECT?

9 A. NO, SIR. I MEAN, YES, SIR, THAT'S CORRECT.

10 Q. WAS THERE ANY OTHER TIME THAT DAY THAT YOU MAY
11 HAVE SEEN MR. CHILDERS?

12 A. THAT SUNDAY?

13 Q. THE SATURDAY?

14 A. I DIDN'T SEE HIM, BUT I WAS IN THE HOUSE WHEN
15 HE CAME TO THE HOUSE AND WHATEVER HE DID.

16 Q. EARLY THAT MORNING?

17 A. YES, SIR.

18 Q. CAME AND TALKED TO YOUR SISTER, IS THAT
19 CORRECT?

20 A. YES, SIR.

21 Q. THERE WAS NO INCIDENT SURROUNDING THAT VISIT,
22 WAS THERE?

23 A. NO, SIR. SHE WOULDN'T OPEN THE DOOR ALL THE
24 WAY BECAUSE SHE WAS SCARED OF HIM.

25 Q. WHEN DEPUTY HOPPLE CAME OUT TO THE HOUSE THE

1 FIRST TIME, DID YOU TELL DEPUTY HOPPLE WHAT MR.
2 CHILDERS WAS WEARING -- WHAT THE MAN BEHIND THE
3 SCHOOL BUS WAS WEARING?

4 A. NO, SIR.

5 Q. HOW MANY DIFFERENT VEHICLES DID YOU KNOW COTTON
6 CHILDERS TO DRIVE?

7 A. JUST THAT ONE AND HIS GRANDDADDY'S RANGER.

8 Q. HOW OFTEN DID HE DRIVE THE RANGER?

9 A. I DON'T KNOW HOW MANY TIMES HE DROVE IT, I'M
10 NOT SURE.

11 Q. DID YOU EVER SEE THE MONTERO SPORT ON OCTOBER
12 14TH OR 15TH?

13 A. NO, SIR.

14 MR. ROGERS: I DON'T HAVE ANY FURTHER
15 QUESTIONS, YOUR HONOR.

16 MR. MEADORS: I HAVE GOT JUST A BRIEF
17 FOLLOW-UP, VERY BRIEF, IF YOUR HONOR PLEASE.

18 REDIRECT EXAMINATION BY MR. MEADORS:

19 Q. MR. ROGERS HAD ASKED YOU ABOUT THE PEOPLE THAT
20 WERE OUT THERE AFTER THE SHOOTING, AND I WAS A
21 LITTLE CONFUSED. WHO WAS IN THAT NIGHT? WHO
22 WAS STAYING THERE? WHO WAS INSIDE WHEN YOU WERE?

23 A. AFTER THE SHOT?

24 Q. NO, SIR, BEFORE.

25 A. THE FIRST 911 CALL?

1 Q. WHEN YOU WENT TO BED, WHO ELSE WAS STAYING AT
2 THAT NIGHT?

3 A. ME, C.J. AIKEN, JOHN CRANE, MY MOM.

4 Q. AND THAT IS CHERYL STAPLES?

5 A. CHERYL STAPLES. BRENDA STAPLES, MY OTHER
6 SISTER.

7 Q. THAT IS YOUR SISTER?

8 A. RIGHT. AND---

9 Q. WERE TAMMY'S CHILDREN THERE?

10 A. SIR?

11 Q. WERE THERE ANY CHILDREN THERE?

12 A. YES, SIR.

13 Q. WHO WERE THEY?

14 A. MARY'S TWO CHILDREN, BUBBA AND HEATHER, MY
15 NIECE AND NEPHEW.

16 Q. BUBBA AND HEATHER?

17 A. RIGHT.

18 Q. WERE ANY OF TAMMY'S CHILDREN THERE?

19 A. ALL THREE OF THEM.

20 Q. ALISSA?

21 A. ALISSA, MATTHEW AND BRITTANY.

22 Q. AND BRITTANY? AND DO YOU KNOW THEIR AGES?

23 A. I'M NOT GOOD WITH AGES. ALISSA IS 6, I BELIEVE
24 MATTHEW IS 4 OR 5, AND OUR OLDEST ONE I BELIEVE IS
25 8.

1 Q. SO ALL THOSE FOLKS WERE INSIDE WHEN THE
2 SHOT WAS FIRED, IS THAT CORRECT, INTO ?

3 A. YES, SIR.

4 Q. NOW, MR. ROGERS ASKED YOU ABOUT THE LIGHTING,
5 AND I THINK YOU SAID THERE IS TWO LIGHT POLES OUT
6 HERE?

7 A. THERE IS A POLE BEHIND MY HOUSE.

8 Q. YES, SIR.

9 A. THERE IS A POLE PROBABLY RIGHT HERE BEHIND MY
10 HOUSE, AND THERE IS A POLE ON THIS SIDE RIGHT HERE.

11 Q. DID YOU HAVE ANY TROUBLE SEEING COTTON
12 CHILDERS?

13 A. NO, SIR.

14 Q. I MEAN, WAS THERE ENOUGH LIGHT FOR YOU TO SEE?

15 A. YES, SIR, THERE IS ENOUGH LIGHT FOR ME TO
16 RECOGNIZE HIS FACE.

17 Q. AND MR. ROGERS ASKED YOU ABOUT DID YOU TELL
18 DEPUTY HOPPLE ABOUT WHAT HE WAS WEARING. DIDN'T
19 YOU TELL DEPUTY HOPPLE WHO IT WAS?

20 A. YES, SIR.

21 Q. THAT'S ALL. THANK YOU.

22 THE COURT: YOU CAN STEP DOWN.

23 (MR. STAPLES STEPS DOWN.)

24 MR. MEADORS: THE STATE WOULD CALL C.J.

25 CRANE, YOUR HONOR -- C.J. AIKEN, EXCUSE ME. JOHN

1 CRANE IS NEXT. C.J. AIKEN. I APOLOGIZE.

2 THE CLERK: PLACE YOUR LEFT HAND ON THE
3 BIBLE AND RAISE YOUR RIGHT HAND.

4 (MR. AIKEN COMPLIES.)

5 THE CLERK: DO YOU SWEAR OR AFFIRM THE
6 EVIDENCE YOU SHALL GIVE IN THIS CASE WILL BE THE
7 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
8 SO HELP YOU GOD?

9 MR. AIKEN: YES, MA'AM.

10 THE CLERK: PLEASE BE SEATED IN THE
11 WITNESS CHAIR AND STATE YOUR FULL NAME FOR THE
12 RECORD.

13 MR. AIKEN: MY NAME IS CALDWELL AUGUSTA
14 JAMES AIKEN.

15 C.J. AIKEN, BEING FIRST
16 DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MR. MEADORS:

18 Q. WHAT IS YOUR FULL NAME?

19 A. CALDWELL AUGUSTA JAMES AIKEN. I GO BY C.J.
20 AIKEN.

21 Q. C.J., TELL THESE FOLKS WHERE YOU ARE FROM.

22 A. I AM FROM COLUMBIA, SOUTH CAROLINA, AND I LIVE
23 AT THE LAKE IN LUGOFF.

24 Q. AND I AM GOING TO ASK YOU TO PLEASE SPEAK UP,
25 IF YOU WOULD, SO EVERYONE---

1 A. ALL RIGHT.

2 Q. IF YOU NEED TO---

3 A. (WITNESS PULLS CHAIR CLOSER TO MICROPHONE.)

4 Q. ARE YOU IN SCHOOL RIGHT NOW?

5 A. YES, SIR, I GO TO LUGOFF-ELGIN HIGH SCHOOL.

6 I'M IN 12TH GRADE. AND AFTER SCHOOL I GO TO WORK AT
7 PROTECTIVE PACKAGING ON STANLEY WAREHOUSE ROAD.

8 Q. SLOW DOWN, IF YOU WILL.

9 A. ALL RIGHT.

10 Q. AFTER SCHOOL YOU GO TO WORK WHERE?

11 A. PROTECTIVE PACKAGING ON STANLEY WAREHOUSE ROAD.

12 Q. DO YOU WORK EVERY DAY?

13 A. MONDAY THROUGH THURSDAY.

14 Q. WHERE DO YOU LIVE?

15 A. ON LAKE WATEREE.

16 Q. WHO DO YOU LIVE WITH THERE?

17 A. MY MOM, MY STEPDAD AND MY SISTER.

18 Q. IS YOUR MOM IN THE COURTROOM?

19 A. YES, MA'AM, LOU AIKEN -- YES, SIR, LOU AIKEN.

20 Q. IS THAT YOUR MAMA RIGHT THERE?

21 A. YES, SIR.

22 Q. YOU KNOW WHY WE ARE HERE.

23 A. YES, SIR.

24 Q. DID YOU HAVE AN OCCASION THE DAY BEFORE THIS
25 SHOOTING, THAT SATURDAY, OCTOBER 14TH OF 2000, TO BE

- 1 WITH JOHN AND TIM?
- 2 A. I WAS---
- 3 Q. DID YOU SEE THEM THAT DAY?
- 4 A. I DON'T REMEMBER IF I SEEN THEM THAT DAY. I
- 5 MET UP WITH THEM THAT NIGHT.
- 6 Q. OKAY. TECHNICALLY -- OR THAT NIGHT, THAT IS
- 7 WHAT I MEAN, C.J.
- 8 A. YES, SIR.
- 9 Q. AND WHERE DID YOU SEE THEM?
- 10 A. I MET THEM AT MEGAN CONDER'S HOUSE.
- 11 Q. AND FOR REFERENCE PURPOSES, IS MEGAN CONDER'S
- 12 HOUSE IN KERSHAW COUNTY?
- 13 A. YES, SIR.
- 14 Q. AND YOU DROVE -- WHOSE VEHICLE WERE YOU IN?
- 15 A. MY MAMA'S.
- 16 Q. YOUR MAMA'S CAR?
- 17 A. YES, SIR.
- 18 Q. Y'ALL MET AT THE PARTY?
- 19 A. YES.
- 20 Q. I BELIEVE IS THE TESTIMONY. AND DO YOU
- 21 REMEMBER IT WAS A POOL PARTY?
- 22 A. YES, SIR.
- 23 Q. AND WERE PLANS MADE TO GO BACK TO AND
- 24 SPEND THE NIGHT?
- 25 A. YES, SIR, ME, TIM STAPLES AND JOHN CRANE.

1 Q. AND DO YOU REMEMBER WHEN YOU GOT BACK THERE,
2 C.J.?

3 A. YES, SIR. I LEFT MEGAN'S HOUSE ABOUT 20
4 MINUTES BEFORE THEY DID. AND I PULLED UP LIKE -- I
5 MEAN, I REALLY DIDN'T THINK OF NOTHING. I PULLED
6 UP, GOT OUT THE CAR, AND, I MEAN, I'M NOT A DARK
7 PERSON EITHER, SO I WENT INSIDE REAL FAST AND GOT
8 IN THE BED.

9 AND THEN TIM -- I HEARD TIM AND THEM PULL UP,
10 AND TIM RUN IN THE HOUSE AND SAID, "C.J., WHERE IS
11 THE PHONE?"

12 AND I WAS LIKE, "I DON'T KNOW."

13 HE WAS LIKE, "COTTON'S OUTSIDE."

14 AND I WAS -- I WAS -- AND THEN I HELPED HIM, I
15 JUMPED UP AND HELPED HIM FIND THE PHONE, BUT THEN
16 HE ALREADY HAD THE PHONE, AND HE WAS WALKING
17 OUTSIDE DIALING A NUMBER, AND I WOKE HIS MOM UP,
18 CHERYL.

19 Q. CHERYL STAPLES OVER HERE, THIRD FROM THE END?

20 A. YES, SIR.

21 Q. YOU HAD BEEN THERE BEFORE, HADN'T YOU, ?

22 A. YES, SIR. YES, SIR.

23 Q. ALL RIGHT. AND THERE IS NO QUESTION YOU AND
24 TIM WERE FRIENDS?

25 A. OH, NO, SIR.

1 Q. HE GRABBED THE PHONE, CALLED 911. WE HAVE ALL
2 HEARD THE TAPE.

3 A. RIGHT.

4 Q. WHAT DID YOU DO NEXT?

5 A. I WOKE HIS MOM UP. ME AND HIS MOM WENT OUT THE
6 BACK DOOR TOGETHER. AND BY THE TIME -- THEY WERE
7 STANDING BY THE FENCE AT THE -- KIND OF THE BACK OF
8 THE HOUSE AT THE CORNER OF THE HOUSE RIGHT THERE
9 WHERE THE FENCE IS, AND HE WAS TALKING TO 911, AND
10 THEY WERE LOOKING AT THE SCHOOL BUS FOR COTTON.

11 Q. AND DID YOU SEE ANYTHING?

12 A. NO, SIR. I NEVER -- I NEVER REALLY -- I NEVER
13 REALLY LOOKED. I WAS KIND OF SCARED, BUT, YOU
14 KNOW, SO I DIDN'T---

15 Q. DID YOU KNOW COTTON?

16 A. I MET HIM LIKE ONE TIME. I MEAN, I DIDN'T KNOW
17 -- I DIDN'T KNOW HOW HE WAS, WHO HE WAS.

18 Q. SO THE FIRST 911 CALL, IF YOU WILL, YOU CAME
19 OUT AFTER TIM, IS THAT CORRECT?

20 A. RIGHT, ABOUT A MINUTE AFTER TIM.

21 Q. AND YOU SAID YOU HAD BEEN THERE ABOUT HOW LONG
22 BEFORE TIM AND JOHN GOT THERE?

23 A. APPROXIMATELY 30, 20 MINUTES.

24 Q. WERE YOU ALREADY GOING TO SLEEP?

25 A. WELL, I -- I WAS LAYING IN THE BED, BUT I

1 WASN'T GOING TO GO TO SLEEP UNTIL THEY GOT THERE.

2 I MEAN, I WAS JUST LAYING THERE.

3 Q. WHAT DID YOU DO -- WHAT DO YOU REMEMBER

4 HAPPENING AFTER THE FIRST 911 CALL?

5 A. AFTER, WE WERE ALL STANDING OUTSIDE AND THE
6 DEPUTY PULLED UP.

7 Q. DEPUTY HOPPLE?

8 A. YES, SIR. AND HE GOT OUT. AND WE TOLD HIM
9 WHAT -- I MEAN, WHO WAS BEHIND THE BUS. AND HE
10 SEARCHED AROUND THE BUS.

11 AND THEN TIM WENT INSIDE AND -- OR, EXCUSE ME,
12 TIM DIDN'T GO INSIDE YET. DEPUTY COBB GOT BACK --
13 OR -- ISN'T THAT HIS NAME, DEPUTY COBB?

14 Q. DEPUTY HOPPLE?

15 A. DEPUTY HOPPLE GOT BACK IN HIS CAR AND DROVE
16 AROUND. AND THEN I THINK TIM AND JOHN GOT IN HIS
17 TRUCK AND RODE DOWN TO SANDHILLS, THE DIRT ROAD
18 RIGHT BESIDE, AND THEN THEY COME BACK, AND THEN TIM
19 WENT INSIDE. AND THEN JOHN TOOK BRITT HOME. AND
20 THEN ME AND MARY WERE STANDING OUTSIDE. AND THEN
21 JOHN---

22 Q. YOU AND WHO WERE STANDING OUTSIDE?

23 A. ME AND MARY.

24 Q. MARY.

25 A. MARY. AND THEN---

1 Q. AND THAT IS MARY---

2 A. STAPLES.

3 Q. MARY WHITE?

4 A. YES -- YES, MA'AM -- YES, SIR. AND THEN WE
5 WERE STANDING THERE, AND THEN JOHN PULLED BACK UP.
6 I DON'T REMEMBER WHO WAS IN FRONT. DARREL AND
7 TAMMY PULLED UP.

8 Q. JOHN CRANE?

9 A. JOHN CRANE.

10 Q. OVER HERE? WITH THE BEARD?

11 A. YES, SIR.

12 Q. AND MOUSTACHE. OKAY.

13 A. YES, SIR. I DON'T REMEMBER WHICH ONE WAS IN
14 FRONT, BUT THEY PULLED UP TOGETHER. AND THEN WE
15 STOOD RIGHT THERE BESIDE DARREL'S TRUCK, THE RED
16 FORD, TALKING. AND THEY WERE TELLING HIM ABOUT
17 THEIR NIGHT AND HOW COTTON WAS STALKING THEM.

18 Q. DON'T GO INTO WHAT ANYBODY SAID.

19 A. OKAY.

20 Q. JUST TELL WHAT YOU OBSERVED AND---

21 A. WELL, THEN WE WERE SITTING THERE TALKING AND
22 THEN ABOUT -- AFTER THAT, ME AND JOHN CRANE WENT IN
23 TIM'S HOUSE AND WENT TO HIS BACK BEDROOM AND GOT IN
24 THE BED.

25 Q. ALL RIGHT. AND HAD TIM ALREADY GONE IN?

1 A. TIM HAD ALREADY GONE IN.
2 Q. EARLIER?
3 A. AND HE IS ASLEEP.
4 Q. AND ALL THREE OF Y'ALL ARE GOING TO STAY IN THE
5 SAME ROOM?
6 A. YES, SIR.
7 Q. WERE Y'ALL FIGHTING FOR SPACE?
8 A. YEAH, WE WAS TRYING TO KICK JOHN OVER, I MEAN,
9 TIM OVER TO GET -- SO WE COULD ALL GET IN THE BED
10 SO WE WOULD ALL HAVE ROOM. SO, AND THEN---
11 Q. BUT YOU ENDED UP GOING BACK IN THERE?
12 A. YEAH.
13 Q. AND LEAVING MARY AND DARREL OUTSIDE?
14 A. MARY, DARREL AND TAMMY OUTSIDE.
15 Q. AND TAMMY?
16 A. YES, SIR.
17 Q. DID YOU END UP GOING TO SLEEP?
18 A. NO, SIR.
19 Q. WHAT HAPPENED AFTER YOU WENT INSIDE, C.J.?
20 A. WELL, ME AND JOHN GOT IN THE BED AND WE WAS
21 SITTING THERE TELLING TIM TO MOVE OVER. AND THEN,
22 I DON'T REMEMBER IF HE MOVED OVER OR NOT, BUT THEN
23 ME AND JOHN STARTED TALKING ABOUT SOMETHING ELSE,
24 AND THEN ALL OF A SUDDEN I HEARD SHOTS. AND I KNEW
25 WHAT IT WAS. I MEAN, I JUST KNEW, FOR SOME REASON.

1 AND I JUMPED UP. AND TIM WAS KIND OF AWAKE, AND HE
2 JUMPED UP WHEN I TOLD HIM WHAT HAPPENED.

3 AND THEN TIM PUT HIS PANTS ON AND I PUT MY PANTS
4 ON AND HE RUN DOWN THE HALL. AND WHEN WE WAS
5 RUNNING I HEARD -- I MEAN, I HEARD SHOTS KEEP
6 GOING. IT WAS LIKE "BAM-BAM," YOU KNOW, "BAM-BAM."
7 AND THEN WE WERE RUNNING DOWN THE HALL.

8 TIM RUN OUTSIDE AND STOOD ON THE PORCH AND
9 LOOKED. AND -- I DIDN'T SEE HIM LOOK, BUT, I MEAN,
10 HE RUN ON THE PORCH AND THEN RUN OUT.

11 AND WHEN HE WAS TURNING TO COME BACK IN, I RUN
12 OUT. AND THEN I LOOKED AND SEEN LIKE A SHADOW
13 GOING IN THE WOODS LIKE SOMEBODY GOING IN THE
14 WOODS.

15 AND SO I JUMPED BACK INSIDE BECAUSE I AM - I
16 MEAN, I DIDN'T WANT TO GET SHOT. I DIDN'T KNOW IF
17 HE WAS GOING TO TURN AND SHOOT AGAIN OR WHAT, SO I
18 JUMPED BACK INSIDE.

19 AND THEN AFTER ABOUT FIVE SECONDS I RUN BACK
20 OUTSIDE TO TAMMY. AND I THINK BRENDA RUN OUTSIDE
21 WITH ME, AND SHE GRABBED HER, AND I LOOKED AT HER,
22 AND HER FACE WAS ALL BLOODY. AND SHE WAS JUST
23 LAYING THERE.

24 AND THEN JOHN COME OUT, AND I TOLD JOHN TO COME
25 ON, LET'S GO GET IN MY MAMA'S CAR AND GO GET HELP.

1 SO ME AND JOHN JUMPED IN MY MAMA'S CAR. WE WENT
2 TOWARDS ELGIN TO A FIRE DEPARTMENT RIGHT THERE IN
3 THE MIDDLE OF ELGIN, AND THERE WASN'T NOBODY THERE.
4 I THINK THEY WERE ON A FIRE CALL OR SOMETHING
5 BECAUSE THERE WASN'T NOTHING THERE. AND WE KNOCKED
6 ON THE DOOR, BANGED ON THE DOOR AND HOLLERED, AND
7 THERE WASN'T NOBODY COMING OUT.

8 SO THEN WE WAS GOING TO GO TOWARDS LUGOFF. AND
9 RIGHT AS THE TIME WE TURNED OUT THE FIRE DEPARTMENT
10 TO GO TOWARDS LUGOFF, A DEPUTY COME FLYING BY. SO,
11 I MEAN, I KNEW HE WAS GOING TO GO THERE.

12 SO WE TURNED AROUND AND WENT BACK TO THE HOUSE.
13 AND THEN DEPUTIES STARTED COMING UP, AND IT JUST
14 STARTED -- EVERYBODY STARTED COMING.

15 Q. YOU MENTIONED GOING OUT IN THE YARD AND SEEING
16 TAMMY.

17 A. YES, SIR.

18 Q. AND HER FACE BLOODY.

19 A. RIGHT. I MEAN LIKE, I MEAN, IT WAS JUST RIGHT
20 THERE.

21 Q. SHE WAS DEAD AT THAT POINT IN TIME?

22 A. OH, YEAH. I MEAN, I TOUCHED HER RIGHT HERE TO
23 SEE IF SHE WAS BREATHING, AND SHE WASN'T BREATHING.

24 Q. THAT'S ALL.

25 CROSS EXAMINATION BY MR. ROGERS:

1 Q. GOOD MORNING, MR. AIKEN.

2 A. GOOD MORNING.

3 Q. YOU SAID WHEN YOU GOT TO THE RESIDENCE ON
4 WATSON YOU WERE RIDING BY YOURSELF, IS THAT
5 CORRECT?

6 A. YES, SIR.

7 Q. DRIVING YOUR MOM'S CAR?

8 A. YES, SIR, A BLACK THUNDERBIRD.

9 Q. WAS THE VEHICLE YOU WERE DRIVING IN THIS
10 PHOTOGRAPH?

11 A. RIGHT THERE.

12 Q. IN THE BACK?

13 A. YES, SIR, BEHIND THAT GRAY CAR.

14 Q. ALL RIGHT. WHERE WAS IT PARKED EARLIER, BEFORE
15 YOU LEFT TO GO TO FIND HELP?

16 A. APPROXIMATELY IN THE SAME AREA.

17 Q. SAME AREA?

18 A. RIGHT AROUND IN THERE. RIGHT AROUND IN THERE.
19 I MEAN, I PULLED BACK UP IN THE SAME AREA.

20 Q. AND YOU SAID AFTER THE FIRST 911 CALL THAT TIM
21 AND JOHN LEFT?

22 A. YES, SIR, I BELIEVE IT WAS TIM AND JOHN, OR IT
23 WAS JOHN AND BRITT LEFT AND WENT DOWN SANDHILLS
24 LANE TO LOOK FOR HIM, OR GO DOWN SANDHILL LANE.

25 Q. THAT IS A DIRT ROAD, RIGHT?

1 A. YES, SIR, IT IS A DIRT ROAD RIGHT BESIDE THE
2 SCHOOL BUS.

3 Q. NOW, WHEN YOU FIRST ARRIVED AT THE HOUSE, YOU
4 DIDN'T---

5 A. I DIDN'T -- I MEAN, I KNEW STUFF -- I MEAN, I
6 KNEW TAMMY WAS THERE, YOU KNOW, AND STUFF LIKE THAT
7 WAS GOING ON, BUT I NEVER THOUGHT---

8 Q. WELL, MR. AIKEN, WHEN DID TAMMY ARRIVE AT THE
9 HOUSE? WAS SHE THERE WHEN YOU GOT THERE?

10 A. NO, SIR, SHE ARRIVED AFTER WE GOT OFF THE PHONE
11 WITH 911 AND TIM WENT TO BED AND ME AND MARY WAS
12 JUST SITTING THERE WHILE JOHN AND BRITT TOOK, I
13 MEAN, WHILE JOHN TOOK BRITT HOME, AND THEN THEY
14 ARRIVED TOGETHER, THEY COME BACK TOGETHER.

15 Q. WHO CAME BACK TOGETHER?

16 A. JOHN WAS DRIVING HIS TRUCK AND DARREL DOWEY AND
17 TAMMY WAS DRIVING -- DARREL WAS DRIVING HIS TRUCK
18 AND TAMMY WAS RIDING WITH HIM.

19 Q. NOW, WHEN YOU FIRST ARRIVED AT THE HOUSE FROM
20 THE PARTY YOU WERE BY YOURSELF?

21 A. YES, SIR.

22 Q. DID YOU SEE ANYONE AT THE HOUSE WHEN YOU FIRST
23 ARRIVED THERE?

24 A. I DIDN'T LOOK, BUT, NO, SIR, I DIDN'T SEE
25 ANYBODY.

1 Q. WAS ANYONE ELSE AWAKE?

2 A. AWAKE?

3 Q. YES.

4 A. NO, SIR.

5 Q. BUT THERE WERE PEOPLE IN THE HOUSE ASLEEP, IS
6 THAT CORRECT?

7 A. YES, SIR, THERE WAS ALL THE KIDS RIGHT THERE IN
8 THE LIVING ROOM ON A PALLET AND ONE OF THE SISTERS
9 ON THE COUCH AND HIS MAMA IN HER ROOM IN HER BED.

10 Q. THERE WERE A LOT OF PEOPLE IN THE HOUSE,
11 WEREN'T THERE?

12 A. YES, SIR.

13 Q. AND ABOUT 13 PEOPLE WERE GOING TO SPEND THE
14 NIGHT THERE THAT NIGHT, IS THAT CORRECT, KIDS
15 INCLUDED?

16 A. APPROXIMATELY. I'M NOT GOING TO -- I MEAN, I'M
17 NOT GOING TO -- APPROXIMATELY.

18 Q. BUT YOU TESTIFIED EARLIER THAT WHEN YOU ARRIVED
19 AT THE HOUSE YOU WERE THE FIRST FROM THE POOL PARTY
20 TO ARRIVE AT THE HOUSE, CORRECT?

21 A. YES, SIR.

22 Q. AND THAT YOU HURRIED INTO THE HOUSE TO GO TO
23 BED?

24 A. YES, SIR.

25 Q. AND WHEN YOU CAME OUT OF THE HOUSE AFTER THE

1 SHOOTING, MR. AIKEN, YOU SAW A SHADOW---

2 A. I SAW---

3 Q. ---OF SOMEONE GOING INTO THE WOODS?

4 A. I SAW A PERSON RUNNING. I SEEN THE BODY
5 RUNNING INTO THE WOODS.

6 Q. DID YOU SEE ANY WEAPONS THAT NIGHT?

7 A. NO, SIR. UNTIL -- I KNEW -- NO, I DIDN'T SEE
8 NO WEAPON, NO, SIR.

9 Q. I DON'T HAVE ANY FURTHER QUESTIONS.

10 MR. MEADORS: NOTHING FURTHER.

11 THE COURT: YOU MAY STEP DOWN.

12 (MR. AIKEN STEPS DOWN.)

13 MR. MEADORS: THE STATE WOULD CALL JOHN
14 CRANE.

15 THE CLERK: PLACE YOUR LEFT HAND ON THE
16 BIBLE AND RAISE YOUR RIGHT HAND.

17 (MR. CRANE COMPLIES.)

18 THE CLERK: DO YOU SWEAR THAT THE EVIDENCE
19 YOU GIVE IN THIS CASE WILL BE THE TRUTH, THE WHOLE
20 TRUTH, AND NOTHING BUT THE TRUTH?

21 MR. CRANE: I DO.

22 THE CLERK: THANK YOU. PLEASE BE SEATED
23 IN THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR
24 THE RECORD.

25 MR. CRANE: JONATHAN MICHAEL CRANE.

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JONATHAN MICHAEL CRANE,
BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
DIRECT EXAMINATION BY MR. MEADORS:
Q. IS IT OKAY IF I CALL YOU JOHN?
A. YES, SIR.
Q. WHERE ARE YOU FROM, JOHN?
A. I'M FROM RIDGEWAY.
Q. IF YOU WOULD, SPEAK UP, PLEASE, JOHN, SO---
A. I'M FROM AROUND RIDGEWAY.
Q. AND WHERE ARE YOU LIVING NOW?
A. I LIVE AT ELGIN ON BOWEN STREET.
Q. WHO DO YOU LIVE WITH?
A. MY MOM.
Q. AND IS YOUR MOM HERE TODAY?
A. RIGHT THERE.
Q. ARE YOU IN LUGOFF-ELGIN HIGH RIGHT NOW?
A. YES, SIR.
Q. TWELFTH GRADE?
A. YES, SENIOR.
Q. YOU'RE A SENIOR?
A. (NODS AFFIRMATIVELY.)
Q. AND DO YOU KNOW -- HOW LONG HAVE YOU KNOWN TIM?
A. A LONG TIME.
Q. AND C.J.?
A. YES.

1 Q. ARE Y'ALL FRIENDS?

2 A. YES, SIR.

3 Q. Y'ALL HANG OUT TOGETHER?

4 A. ALL THE TIME.

5 Q. IF YOU WOULD PLEASE SPEAK UP FOR ME, JOHN, IF
6 YOU DON'T MIND.

7 GO BACK TO THE DAY IN QUESTION, THE MORNING IN
8 QUESTION, IF YOU WILL. THE DAY BEFORE IS A
9 SATURDAY, IS THAT RIGHT?

10 A. THAT'S RIGHT.

11 Q. AND CAN YOU TELL THE JURY WHAT YOU DID THAT
12 EVENING?

13 A. WELL, WE WAS AT THE PARTY AND WE WAS COMING
14 BACK AND I WAS FOLLOWING TIM.

15 Q. YOU WERE AT THE MEGAN CONDER'S PARTY?

16 A. YEAH, WE WERE COMING BACK FROM MEGAN CONDER'S
17 HOUSE.

18 Q. WHAT CAR WERE YOU IN, JOHN?

19 A. I WAS DRIVING MY TRUCK AND I WAS FOLLOWING TIM
20 IN HIS TRUCK. AND WE GOT OUT AND I LEFT MY TRUCK
21 RUNNING SO I COULD TAKE BRITT HOME.

22 Q. WAIT A MINUTE. SLOW DOWN A LITTLE BIT, IF YOU
23 WOULD. WHERE DID YOU GO -- DID YOU GO -- WHERE DID
24 YOU GO FROM MEGAN CONDER'S HOUSE? WHERE DID YOU GO
25 TO?

1 A. TIM STAPLES' HOUSE.

2 Q. ?

3 A. UH-HUH.

4 Q. AND DO YOU REMEMBER WHAT TIME YOU GOT THERE?

5 A. IT WAS PROBABLY ABOUT 2:45, 2:50.

6 Q. WHAT HAPPENED WHEN YOU GOT THERE?

7 A. WELL, WE GOT OUT AND TIM SAID HE HEARD
8 SOMETHING, AND I DIDN'T HEAR ANYTHING.

9 AND HE SAID, "LISTEN AGAIN."

10 AND I WAS LISTENING, AND THEN I HEARD SOMETHING,
11 SO WE LOOKED AROUND AND WE SAW LOOKED LIKE FEET
12 UNDER THE BUS.

13 SO WE STOOD THERE FOR A COUPLE OF SECONDS, AND
14 THEN WE SAW SOMEBODY'S HEAD POKE AROUND.

15 AND TIM SAID, "THAT'S COTTON." HE WAS LIKE, "I'M
16 GOING IN TO GET THE PHONE." AND HE WENT IN AND GOT
17 THE PHONE.

18 MR. ROGERS: YOUR HONOR, I AM GOING TO
19 OBJECT TO WHAT TIM TOLD HIM.

20 THE COURT: YES. HEARSAY, CAN'T SAY IT.

21 Q. YOU ARE OUT THERE WITH TIM AT THIS POINT?

22 A. YEAH.

23 Q. AND YOU STARTED TO SAY TIM -- DON'T SAY WHAT
24 ANYBODY ELSE SAID, JUST WHAT YOU SAW AND HEARD,
25 OKAY?

1 A. ALL RIGHT.

2 Q. TIM WENT TO GET THE PHONE?

3 A. (NODS AFFIRMATIVELY.)

4 Q. DID YOU SEE SOMEBODY PEEP AROUND OR COME AROUND
5 THE SCHOOL BUS?

6 A. YEAH, I SAW HIM ABOUT FOUR OR FIVE TIMES PEEK
7 AROUND THE SCHOOL BUS.

8 Q. SO THIS PERSON WAS ACTUALLY BEHIND THE SCHOOL
9 BUS?

10 A. YES.

11 Q. AND WOULD PEEK OUT?

12 A. YEAH. AND THEN ONE TIME HE JUST STUCK HIS
13 WHOLE BODY OUT.

14 Q. DID YOU KNOW WHO IT WAS?

15 A. YEAH, I HAVE SEEN HIM LIKE MAYBE TWO TIMES.

16 Q. AND DID YOU RECOGNIZE THIS PERSON WHO CAME OUT
17 FROM THE SCHOOL BUS?

18 A. YEAH, I PRETTY MUCH RECOGNIZED HIM WHERE I SEEN
19 HIM FROM.

20 Q. YOU WILL HAVE TO SPEAK UP FOR ME, JOHN, I
21 APOLOGIZE.

22 A. FROM WHERE I COULD SEE HIM FROM, YEAH, I PRETTY
23 MUCH RECOGNIZED HIM.

24 Q. AND WHAT HAPPENED AFTER THAT? YOU SAID THIS
25 PERSON CAME OUT FROM BEHIND THE SCHOOL BUS, POKED

1 HIS HEAD OUT AND CAME OUT ONE TIME?

2 A. YES.

3 Q. WHAT DID YOU DO NEXT? WHAT HAPPENED?

4 A. WHILE TIM WENT IN TO GET THE PHONE, ME AND
5 BRITT WAS STANDING OUTSIDE MAKING SURE HE DIDN'T GO
6 ACROSS THE YARD OR ANYTHING.

7 AND THEN TIM COME BACK OUT. HE WAS TALKING TO
8 THE POLICE. AND---

9 Q. SO THE POLICE CAME AFTER 911 WAS CALLED?

10 A. YES.

11 Q. DO YOU REMEMBER DEPUTY HOPPLE WHO WAS HERE AND
12 TESTIFIED YESTERDAY? DO YOU REMEMBER DEPUTY
13 HOPPLE?

14 A. YEAH, I REMEMBER HIM.

15 Q. AND WHAT IF ANYTHING DID HE DO THAT YOU SAW?

16 A. HE WALKED AROUND THE SCHOOL BUS AND HE SAID HE
17 SAW SOME FOOTPRINTS.

18 Q. DON'T REPEAT WHAT HE SAID. JUST TELL ME WHAT
19 YOU SAW HIM DO, PLEASE.

20 A. HE JUST WALKED AROUND THE SCHOOL BUS AND HE
21 DROVE DOWN SANDY LANE AND HE COME BACK AND SAID HE
22 WAS -- HE DIDN'T FIND ANYTHING, HE WAS GOING TO
23 ELGIN.

24 SO AFTER HE LEFT, I GOT IN THE TRUCK, ME AND
25 BRITT, AND I TOOK BRITT BACK TO MEGAN'S HOUSE.

1 Q. ALL RIGHT, LET ME STOP YOU THERE. YOU SAID THE
2 DEPUTY HAD CHECKED BEHIND THE SCHOOL BUS. IS THAT
3 WHERE YOU HAD TOLD HIM YOU HAD SEEN THIS PERSON?

4 A. YES, SIR.

5 Q. IS THAT CORRECT? ALL RIGHT, NOW, BRITT YOU
6 SAID -- WAS IT AFTER THE DEPUTY LEFT OR WAS THE
7 DEPUTY -- WHEN DID YOU TAKE BRITT HOME?

8 A. RIGHT AFTER THE DEPUTY LEFT.

9 Q. ALL RIGHT. AND HOW DID YOU LEAVE -- TELL ME
10 WHICH WAY YOU WENT TO TAKE BRETT HOME?

11 A. I TOOK HIM, LEFT DOWN BOWEN STREET TOWARDS
12 BOWEN STREET.

13 Q. DID YOU COME IN CONTACT WITH ANYBODY ON YOUR
14 WAY TO TAKING BRETT HOME?

15 A. NOT ON THE WAY THERE. ON THE WAY BACK.

16 Q. OKAY.

17 A. I SAW DARREL AND TAMMY COME UP BEHIND ME IN HIS
18 TRUCK, AND I WAVED THEM AROUND. AND I SAID THAT WE
19 HAD SEEN COTTON IN THE YARD AND WE CALLED 911.

20 AND SO DARREL AND TAMMY TOOK OFF IN FRONT OF ME
21 AND I WAS BEHIND THEM. AND WE PULLED UP IN THE
22 YARD. AND C.J. AND MARY WHITE WAS OUTSIDE TALKING.
23 AND ME AND C.J. AND DARREL AND TAMMY AND MARY WAS
24 OUTSIDE TALKING FOR PROBABLY LIKE FIVE MINUTES
25 MAYBE, AND THEN WE WENT INSIDE.

1 ME AND C.J. WAS TRYING TO GET TIM OVER AND WE
2 LAID DOWN.

3 Q. NOW, TIM WAS ALREADY INSIDE?

4 A. YEAH.

5 Q. WHEN YOU CAME BACK?

6 A. (NODS AFFIRMATIVELY.)

7 Q. NOW, JUST BEFORE I FORGET IT, YOU MENTIONED
8 DARREL. IS THAT DARREL DOWEY?

9 A. YES, SIR, RIGHT THERE.

10 Q. AND YOU HAD SEEN DARREL AT THAT INTERSECTION OF
11 BOWEN AND WATSON?

12 A. YES, SIR.

13 Q. DARREL WAS WITH THE DECEASED, TAMMY?

14 A. YES, SIR.

15 Q. TAMMY MUNN? ALL RIGHT, I BELIEVE YOU ARE BACK
16 IN THE YARD AND YOU SAID YOU AND C.J. WENT INSIDE?

17 A. YES, SIR.

18 Q. WHAT HAPPENED NEXT?

19 A. WELL, WE WERE LAYING IN THE BED AND WE HEARD
20 GUN SHOTS. AND THEN TIM JUMPED UP AFTER WE HAD
21 TOLD HIM THAT THAT IS WHAT WE THOUGHT IT WAS. AND
22 HE WAS GOING DOWN THE HALL AND WE HEARD TWO MORE
23 GUN SHOTS, AND THEN ANOTHER ONE.

24 AND HE WENT OUTSIDE AND I WAS TRYING TO GET ALL
25 THE LITTLE KIDS INTO ONE ROOM DOWN THE HALLWAY.

1 AND THEN I COME DOWN THE HALLWAY.

2 AND C.J. WAS OUTSIDE AND HE SAID LET'S TAKE HIS
3 MAMA'S CAR TO GO FIND SOME HELP. SO WE WENT THEN
4 TO ELGIN BY THE FIRE DEPARTMENT AND WE DIDN'T SEE
5 ANY COPS OR FIREMEN THERE OR ANYTHING. SO WE WAS
6 GOING TOWARDS LUGOFF, AND WE PASSED A DEPUTY GOING
7 REAL FAST THAT WAY, SO WE FIGURED THAT WAS WHERE HE
8 WAS GOING.

9 Q. AND YOU SAID YOU GOT ALL THE KIDS INTO ONE
10 ROOM?

11 A. YES, SIR.

12 Q. WHY DID YOU DO THAT?

13 A. JUST SO I FIGURED THEY WOULDN'T ALL GET HURT,
14 SO I PUT THEM IN ONE ROOM, AND SO THEY WOULDN'T SEE
15 THE BODY.

16 Q. DO YOU KNOW HOW MANY SHOTS WERE FIRED, JOHN?

17 A. FOUR.

18 Q. AFTER YOU HAD THE KIDS IN THE ROOM, YOU CAME
19 OUTSIDE?

20 A. YES.

21 Q. WHAT DID YOU OBSERVE? DESCRIBE -- WE HAVE
22 HEARD THE TAPE, BUT DESCRIBE WHAT IS GOING ON, WHAT
23 YOU SAW WHEN YOU CAME OUT.

24 A. EVERYBODY WAS RUNNING AROUND, AND I SAW TIM AND
25 DARREL WAS GOING THROUGH THE WOODS TO FIND HIM.

1 AND I SAW C.J. AND BRENDA AROUND MARY. AND THEN
2 C.J. SAID LET'S GO GET HELP, SO WE JUMPED IN THE
3 CAR.

4 Q. AND THAT IS BRENDA STAPLES?

5 A. YES, SIR.

6 Q. AND YOU SAW THE BODY OF TAMMY MUNN?

7 A. UH-HUH.

8 Q. NOW, DID YOU SEE -- DID YOU SEE THE SHOOTER
9 LEAVE?

10 A. I DIDN'T SEE HIM LEAVE. I COULDN'T SEE AROUND
11 THROUGH THE DOOR TO SEE HIM LEAVE.

12 Q. AND LET ME TAKE YOU BACK. YOU HAD SAID
13 PREVIOUSLY THAT YOU HAD KNOWN MR. CHILDERS I
14 BELIEVE YOU SAID A COUPLE OF TIMES. YOU HAD SEEN
15 HIM BEFORE?

16 A. YEAH, I HAD SEEN HIM ABOUT TWICE BEFORE.

17 Q. ALL RIGHT. AND I THINK YOU STATED TO THIS JURY
18 EARLIER THAT THE PERSON YOU SAW BEHIND THE SCHOOL
19 BUS WHEN YOU FIRST GOT THERE THAT NIGHT YOU HAD
20 RECOGNIZED?

21 A. YEAH, I RECOGNIZED HIM WHEN I SEEN HIM.

22 Q. DID YOU HAVE ANY TROUBLE SEEING HIS FACE THEN,
23 JOHN?

24 A. NO, IT IS PRETTY WELL LIT AROUND THERE.

25 Q. CAN YOU TELL THIS JURY IS THE PERSON YOU SAW

1 BEHIND THE SCHOOL BUS IN THE COURTROOM?

2 A. YES, SIR.

3 Q. WHO IS IT?

4 A. COTTON, RIGHT OVER THERE.

5 Q. MR. CHILDERS, BY MR. ROGERS?

6 A. YES.

7 Q. ANY DOUBT IN YOUR MIND?

8 A. NO, SIR.

9 Q. AND AFTER THE DEPUTY CAME, MR. CHILDERS WASN'T

10 THERE, RIGHT?

11 A. NO, SIR, HE HAD GONE.

12 MR. MEADORS: BEG THE COURT'S INDULGENCE.

13 THE COURT: OKAY.

14 (PAUSE.)

15 MR. MEADORS: ONE MORE QUESTION, JUDGE.

16 THANK YOU.

17 Q. AFTER THE FIRST 911 CALL WHEN YOU FIRST GOT

18 THERE,---

19 A. (NODS AFFIRMATIVELY.)

20 Q. ---DID MARY ARRIVE THEN?

21 A. YEAH, MARY HAD PULLED UP IN THE DRIVEWAY WHILE

22 TIM WAS ON THE PHONE.

23 Q. AND I APOLOGIZE, I THOUGHT I HAD ASKED YOU.

24 AND THAT WOULD BE MARY...

25 A. MARY WHITE.

1 Q. MARY WHITE, IN THE BLUE?

2 A. YES, SIR.

3 Q. AND THEN SHE WOULD HAVE COME UP DURING THAT --
4 OR SOMETIME DURING THAT 911 CALL?

5 A. YEAH, SOMETIME DURING THE PHONE CALL SHE WAS
6 THERE.

7 Q. THANK YOU. THAT'S ALL.

8 CROSS EXAMINATION BY MR. ROGERS:

9 Q. GOOD MORNING, MR. CRANE. YOU SAID WHEN YOU
10 LOOKED UNDER THE BUS YOU SAW WHAT LOOKED LIKE FEET,
11 AND THEN YOU SAW A PERSON PEEK OUT THREE OR FOUR
12 TIMES.

13 AND EVEN THOUGH I OBJECTED TO IT AND THE JURY
14 ALREADY HEARD IT, TIM SAID, "THAT'S COTTON,"
15 CORRECT?

16 A. YES, SIR.

17 Q. HE IS THE ONE WHO IDENTIFIED HIM, CORRECT?

18 A. YEAH, BUT I PRETTY MUCH KNEW HIM AND SEEN HIM
19 MYSELF.

20 Q. AND THAT WAS MY NEXT QUESTION. YOU SAID YOU
21 "PRETTY MUCH RECOGNIZED HIM" WHEN YOU WERE FIRST
22 ASKED THE QUESTION. AND YOU JUST TOLD ME AGAIN YOU
23 "PRETTY MUCH KNEW WHO IT WAS."

24 THIS IS SOMEBODY YOU HAD ONLY SEEN TWO OR THREE
25 TIMES BEFORE, RIGHT?

1 A. YEAH, THAT'S RIGHT.

2 Q. AND IT WAS DARK, EVEN THOUGH IT WAS A WELL LIT
3 AREA IT WAS 3 O'CLOCK IN THE MORNING, CORRECT?

4 A. IT WAS 3 O'CLOCK IN THE MORNING, BUT IT IS
5 STILL PRETTY GOOD LIT OVER THERE.

6 Q. UNDER THE CIRCUMSTANCES, YOU ASSUMED IT WAS
7 COTTON, CORRECT?

8 A. WELL, YEAH, I PRETTY MUCH KNEW IT WAS HIM.

9 Q. YOU SAID TIM AND DARREL AFTER THE SHOOTING, TIM
10 AND DARREL WERE GOING TO THE WOODS TO FIND HIM?
11 WERE THEY ON FOOT?

12 A. NO, SIR, THEY WAS IN HIS RED FORD.

13 Q. THAT IS WHEN THEY LEFT IN THE TRUCK, IS THAT
14 CORRECT?

15 A. YEAH, THAT'S RIGHT.

16 Q. DID YOU SEE THE SHOTGUN?

17 A. NO, I NEVER SEEN IT.

18 Q. DID YOU SEE A PISTOL AT ANY POINT?

19 A. NO, I NEVER SEEN A PISTOL NEITHER.

20 MR. ROGERS: THAT'S ALL THE QUESTIONS I
21 HAVE, YOUR HONOR.

22 THE COURT: OKAY.

23 (MR. CRANE STEPS DOWN.)

24 MR. McMAHON: THE STATE CALLS MARY WHITE.

25 THE CLERK: PLACE YOUR LEFT HAND ON THE

1 BIBLE AND RAISE YOUR RIGHT HAND.

2 (MS. WHITE COMPLIES.)

3 THE CLERK: DO YOU SWEAR OR AFFIRM THE
4 EVIDENCE YOU GIVE IN THIS CASE WILL BE THE TRUTH,
5 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
6 YOU GOD?

7 MS. WHITE: I DO.

8 THE CLERK: THANK YOU. PLEASE BE SEATED
9 IN THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR
10 THE RECORD.

11 MS. WHITE: MARY STAPLES WHITE.

12 MARY STAPLES WHITE,
13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY MR. McMAHON:

15 Q. MARY, HOW OLD ARE YOU?

16 A. .

17 Q. I BELIEVE YOUR BIRTHDAY IS ?

18 A.

19 Q.

20 A. YES, SIR.

21 Q. AND WHERE DO YOU LIVE?

22 A. I LIVE AT [REDACTED] IN ELGIN.

23 Q. AND WHAT IS YOUR OCCUPATION? WHAT KIND OF WORK
24 DO YOU DO?

25 A. I'M A COMPTROLLER FOR CAPITOL IMPORTS IN

1 COLUMBIA, A DEALERSHIP.

2 Q. AND I WANT TO ASK YOU A LITTLE BACKGROUND ABOUT
3 YOU AND YOUR FAMILY. YOUR MOTHER, IS SHE IN THE
4 COURTROOM TODAY?

5 A. YES, SHE IS.

6 Q. AND WHAT IS HER NAME?

7 A. CHERYL STAPLES. SHE'S IN THE BLACK DRESS.

8 Q. AND THAT IS MRS. STAPLES, YOUR MOM, HOLDING HER
9 HAND UP NOW, RIGHT?

10 A. YES, SIR.

11 Q. HOW LONG HAVE Y'ALL LIVED IN KERSHAW COUNTY?

12 A. WE'VE LIVED IN KERSHAW COUNTY SINCE 1988.

13 Q. AND ARE YOU FROM KERSHAW COUNTY OR---

14 A. NO, SIR. MY FATHER WAS IN THE MILITARY, SO WE
15 ---

16 Q. IN THE MILITARY?

17 A. ---HAVE BEEN STATIONED AT SEVERAL PLACES.

18 Q. AND HE RETIRED MILITARY?

19 A. AND WE CHOSE TO RETIRE HERE.

20 Q. SO YOU WASN'T BORN HERE AND YOU CAME HERE OF
21 YOUR OWN CHOICE?

22 A. RIGHT, YES, SIR.

23 Q. AND YOUR DAD, IS YOUR DAD STILL LIVING?

24 A. NO, SIR, HE IS DECEASED. HE WAS KILLED TEN
25 YEARS AGO NEXT WEEK.

1 Q. NOW, HOW MANY BROTHERS AND SISTERS DO YOU HAVE,
2 MARY?

3 A. THERE WERE SIX OF US, NOW THERE IS FIVE. THERE
4 IS THREE GIRLS AND TWO BOYS.

5 Q. CAN YOU TELL US FROM OLDEST TO YOUNGEST?

6 A. TOM IS 33, HE'S IN CALIFORNIA. I'M THE NEXT TO
7 OLDEST, I'M 30. TAMMY WAS 24. MELISSA IS 21 AND
8 BRENDA IS 20.

9 Q. NOW, TOM IS NOT HERE?

10 A. NO, SIR.

11 Q. AND HOW ABOUT MELISSA?

12 A. MELISSA IS HERE AND BRENDA IS HERE.

13 Q. AND WHERE IS YOUR SISTER MELISSA?

14 A. MELISSA IS AT THE END IN THE WHITE PANTS.

15 Q. AND BRENDA?

16 A. RIGHT THERE, RED AND WHITE DRESS.

17 Q. AND THEN OF COURSE YOUR BROTHER TIM---

18 A. TIM.

19 Q. ---THAT TESTIFIED EARLIER?

20 A. YES, SIR.

21 Q. AND TIM WOULD BE THE YOUNGEST, THE BABY?

22 A. HE'S THE BABY.

23 Q. NOW, WHO ALL -- I WANT TO ASK YOU ABOUT A
24 COUPLE OF ADDRESSES TO START WITH. BACK IN 2000,
25 PRIOR TO OCTOBER OF 2000, WHERE WAS YOUR SISTER

1 TAMMY LIVING?

2 A. SHE LIVED AT [REDACTED] AVENUE. THE CITY
3 IS CONSIDERED ELGIN, BUT IT WAS RICHLAND.

4 Q. SO THAT IS ACROSS THE COUNTY LINE?

5 A. YES, SIR, JUST---

6 Q. GOING BACK TOWARDS PONTIAC?

7 A. JUST ACROSS THE LINE.

8 Q. HOW LONG HAD TAMMY LIVED THERE?

9 A. THREE OR FOUR YEARS.

10 Q. WAS THAT HER PLACE?

11 A. THAT WAS HER'S. SHE WAS PAYING FOR IT. SHE
12 WAS RENTING THE LOT AND SHE PAID FOR THE HOUSE.

13 Q. NOW, ANY TIME DURING THAT PERIOD OF TIME PRIOR
14 TO OCTOBER OF 2000, DO YOU KNOW WHO ELSE IF ANYONE
15 WAS LIVING AT THAT WESTCHESTER ADDRESS WITH TAMMY?

16 A. SHE WAS DATING COTTON, AND HE WAS LIVING WITH
17 HER AT THE TIME.

18 Q. AND DID SHE HAVE ANY CHILDREN STAYING THERE?

19 A. SHE DID. BRITTANY IS 8, ALISSA IS 6, AND MATT
20 IS 4.

21 Q. SIX, EIGHT AND FOUR?

22 A. YES, SIR.

23 Q. AND ABOUT HOW LONG, IF YOU KNOW, HAD TAMMY AND
24 COTTON BEEN DATING PRIOR TO THIS HAPPENING?

25 A. THEY DATED ABOUT A YEAR.

1 Q. ABOUT A YEAR?

2 A. YES, SIR.

3 Q. NOW, DID THERE COME A TIME IN OCTOBER OF 2000
4 THAT TAMMY COME TO STAY AT YOUR HOUSE?

5 A. YES, SIR. TOWARDS THE FIRST WEEK OF OCTOBER
6 SHE HAD TOLD ME SHE WENT -- SHE CALLED ME FROM--

7 MR. ROGERS: OBJECTION.

8 Q. DON'T GO INTO, MARY,---

9 A. OKAY.

10 Q. THAT IS PROBABLY MY IMPRECISE QUESTION. DON'T
11 GO IN SO MUCH INTO WHAT SHE SAID, BUT DID SHE LEAVE
12 [REDACTED] AND COME TO LIVE ON WATSON STREET?

13 A. RIGHT, SHE MOVED IN WITH ME, HER AND THE
14 CHILDREN.

15 Q. AND HER CHILDREN WERE THERE WITH Y'ALL ALSO?

16 A. YES, SIR.

17 Q. AND HER AND THE DEFENDANT WERE NEVER MARRIED?

18 A. NO, SIR.

19 Q. IS THAT CORRECT? BUT YOU COULD -- WOULD THAT
20 BE CALLED A SEPARATION, SO TO SPEAK?

21 A. YES, SIR.

22 Q. SHE HAD LEFT WESTCHESTER AND COME TO WATSON
23 STREET, IS THAT RIGHT?

24 A. YES, SIR.

25 Q. SO TELL THE JURY FROM ABOUT THE FIRST WEEK OF

1 OCTOBER, AND WE SAY THE FIRST WEEK OF OCTOBER, WE
2 ARE SPECIFICALLY TALKING ABOUT OCTOBER THE 7TH, SAY
3 A WEEK PRIOR TO THIS?

4 A. I BELIEVE IT WAS THE 7TH BECAUSE THERE WAS A
5 NINE DAY WAITING PERIOD IN RICHLAND COUNTY TO EVICT
6 SOMEBODY.

7 Q. AND WITHOUT GOING INTO ANY CONVERSATION SHE MAY
8 HAVE HAD WITH ANYBODY, DO YOU KNOW IF SHE HAD
9 CONTACTED SOME PEOPLE CONCERNING THE

10

11 A. YES, SHE DID.

12 Q. A MAGISTRATE, SUCH AS THAT?

13 A. THE RICHLAND COUNTY MAGISTRATE.

14 Q. AS FAR AS YOU KNEW?

15 A. YES, SIR.

16 Q. SO TELL THE JURY FROM ABOUT OCTOBER THE 7TH ON
17 IF WE CAN GO THROUGH AND IDENTIFY WHO ALL WAS
18 LIVING AT [REDACTED] CAN YOU DO THAT FOR
19 US?

20 A. SURE. WHEN TAMMY AND THE KIDS MOVED IN, SO IT
21 WAS TAMMY, HER THREE CHILDREN, MY TWO, HEATHER AND
22 ALEX, ME, BRENDA STAPLES, MY SISTER, MY MOM CHERYL,
23 AND DARREL DOWEY.

24 Q. NOW, DARREL, AND I BELIEVE MR. MEADORS POINTED
25 DARREL OUT EARLIER, SEE HIM HERE, I BELIEVE IT WAS

1 A WHITE SHIRT, HE HAD A WHITE SHIRT ON YESTERDAY,
2 BUT DARREL IS NOW -- YOU AND DARREL WERE FORMERLY
3 HUSBAND AND WIFE?

4 A. YES, SIR. WE ARE DIVORCED.

5 Q. AND BACK IN 2000 Y'ALL WERE DIVORCED BUT LIVING
6 TOGETHER?

7 A. RIGHT.

8 Q. IS THAT CORRECT?

9 A. RIGHT.

10 Q. AT [REDACTED]

11 A. RIGHT.

12 Q. AND THEN THE OTHER FOLKS THAT WERE THERE THAT
13 PARTICULAR NIGHT WERE VISITORS, IS THAT RIGHT,
14 C.J., A FRIEND OF TIM'S, AND JOHN?

15 A. RIGHT. AND THEY FREQUENTLY SPEND THE NIGHT
16 WITH US.

17 Q. DARREL, WHERE DOES DARREL WORK?

18 A. DARREL WORKS AT CAPITOL IMPORTS.

19 Q. THAT IS WHERE HE WORKS NOW?

20 A. YES, SIR, HE IS A CAR---

21 Q. AND THAT IS THE SAME PLACE HE WORKS NOW, THAT
22 IS THE SAME PLACE YOU WORK NOW?

23 A. CORRECT.

24 Q. NOW, I WANT TO GO BACK TO THAT SATURDAY
25 MORNING, OCTOBER THE 14TH OF 2000. DID YOU HAVE AN

1 OCCASION TO SEE THE DEFENDANT THAT MORNING?

2 A. YES, SIR, I DID.

3 Q. ABOUT WHAT TIME?

4 A. IT WAS AFTER 7, BUT IT WASN'T 7:30, BETWEEN
5 7:15 AND 7:30.

6 Q. AND YOU ARE TALKING ABOUT A.M., YOU ARE TALKING
7 ABOUT IN THE MORNING?

8 A. IN THE MORNING.

9 Q. ON SATURDAY?

10 A. YES, SIR.

11 Q. AND HOW DID YOU COME TO SEE HIM THAT MORNING
12 AND WHERE DID YOU SEE HIM AT?

13 A. I WAS SITTING ON THE LOVESEAT AND SOMEONE
14 KNOCKED ON THE DOOR AND TAMMY WENT TO THE DOOR.
15 SHE WAS GETTING READY FOR WORK AND SHE WOULDN'T
16 OPEN THE DOOR ALL THE WAY.

17 AND I HEARD HER SAY THAT SHE WASN'T COMING OUT.
18 SO I GOT UP AND WENT TO THE DOOR. AND IT WAS
19 COTTON. HE TOLD HER HE HAD SOME C.D.'S AND HE
20 WANTED HER TO WALK TO THE TRUCK WITH HER.

21 Q. ALL RIGHT. NOW, LET'S TALK ABOUT THIS NOW.
22 WOULD THAT HAVE BEEN AT THE FRONT DOOR OR THE BACK
23 DOOR?

24 A. AT THE FRONT DOOR.

25 Q. AT THE FRONT DOOR. AND WHERE WERE YOU AT IN

1 RELATION TO THE FRONT DOOR WHEN YOU HEARD THE KNOCK
2 ON THE DOOR?

3 A. I WAS IN THE LOVESEAT, NOT EVEN FIVE, SIX FOOT
4 FROM THE FRONT DOOR.

5 Q. GIVE US AN IDEA FROM WHERE YOU ARE SITTING AT
6 NOW---

7 A. WHERE THAT PLAINTIFF SIGN IS ON THAT TABLE,
8 FROM THE FRONT OF THE TABLE.

9 Q. OH, THE PLAINTIFF SIGN, THIS SIGN RIGHT HERE
10 YOU ARE REFERRING TO?

11 A. RIGHT. FROM THE FRONT OF THE TABLE.

12 Q. OKAY.

13 A. TO ME.

14 Q. OKAY. YOU WERE ABOUT THAT FAR FROM THE FRONT
15 DOOR WHEN YOU HEARD THE KNOCK?

16 A. YES, SIR.

17 Q. AND WHO ANSWERED THE DOOR?

18 A. TAMMY DID.

19 Q. AND YOU HEARD TAMMY SAY SOMETHING?

20 A. RIGHT. TIME I KNEW SHE DIDN'T OPEN THE DOOR
21 ALL THE WAY, THEN I GOT INVOLVED AND I JUST
22 LISTENED.

23 AND SHE SAID, "I'M NOT COMING OUTSIDE. I DON'T
24 HAVE ANYTHING TO SAY."

25 Q. DID YOU EVER SEE WHO WAS AT THE DOOR?

1 A. I DID.

2 Q. AND WHO WAS IT?

3 A. IT WAS COTTON CHILDERS.

4 Q. AND DID YOU HEAR MR. CHILDERS SAY ANYTHING?

5 A. YEAH, I HEARD HIM SAY THAT HE HAD SOME C.D.'S
6 OF HERS AND IF SHE WANTED THEM SHE NEEDED TO COME
7 TO THE TRUCK.

8 Q. HE DIDN'T HAND THEM TO HER?

9 A. NO.

10 Q. AT THE DOOR?

11 A. NO, HE DIDN'T. WHEN HE FOUND OUT TAMMY
12 WOULDN'T COME OUT, I STOOD AT THE DOOR AND WATCHED
13 HIM, AND HER WINDOW WASN'T ROLLED ALL THE WAY UP
14 AND HE THREW THE C.D.'S IN THE CRACK OF THE WINDOW.

15 Q. DID SHE EVER GO OUTSIDE THAT MORNING---

16 A. NO, SIR.

17 Q. ---WHEN MR. CHILDERS WAS THERE?

18 A. NO, SIR.

19 Q. NOW, DURING THE TIME MR. CHILDERS WAS THERE
20 THAT MORNING -- ABOUT HOW LONG ARE WE TALKING ABOUT
21 HE WAS THERE THAT MORNING, MARY?

22 A. I'D SAY MAYBE IT WAS 15 MINUTES, AND THEN WE
23 GOT DARREL BECAUSE WE FIGURED IF DARREL SHOWED
24 HISSELF ON THE PORCH THAT HE'D LEAVE.

25 Q. DARREL, WAS HE -- WHERE WAS HE AT THAT SATURDAY

- 1 MORNING WHEN MR. CHILDERS FIRST COME UP THERE?
- 2 A. HE WAS IN THE BEDROOM.
- 3 Q. HE WAS STILL SLEEPING?
- 4 A. HE WASN'T ASLEEP.
- 5 Q. AS FAR AS YOU KNEW?
- 6 A. HE WAS AWAKE.
- 7 Q. HE WASN'T ASLEEP,---
- 8 A. HE WAS AWAKE.
- 9 Q. ---BUT HE WAS IN THE BEDROOM?
- 10 A. YES, SIR.
- 11 Q. DID HE COME OUT DURING THE TIME MR. CHILDERS
- 12 WAS THERE?
- 13 A. NOT AT THE DOOR, WHEN HE WAS AT THE DOOR. WHEN
- 14 HE WAS AT HIS TRUCK AND THEN PUTTING THE C.D.'S IN
- 15 TAMMY'S CAR, THEN HE WENT OUT ON THE PORCH.
- 16 Q. AND WHEN YOU SAY WHEN HE WAS AT HIS TRUCK, DID
- 17 YOU SEE MR. CHILDERS' TRUCK?
- 18 A. YES.
- 19 Q. WHAT KIND OF VEHICLE WAS IT HE WAS DRIVING THAT
- 20 MORNING?
- 21 A. THAT MORNING THEY HAD HAD A FORD RANGER THAT
- 22 THEY HAD BOUGHT, AND IT WAS SOLD BEFORE THE -- I
- 23 MEAN, SOLD. TAMMY HAD SOLD IT.
- 24 Q. WAS HE DRIVING THE FORD RANGER---
- 25 A. YES, HE WAS.

1 Q. ---THAT MORNING?

2 A. YES, HE WAS.

3 Q. AND WHAT DID HE DO WITH THE C.D.'S THAT HE HAD
4 ASKED TAMMY TO COME OUT AND GET AND SHE DIDN'T GO
5 OUT AND GET?

6 A. I WATCHED HIM. SHE HAD LEFT HER WINDOW
7 CRACKED, AND HE JUST TOOK THE C.D.'S AND JUST THREW
8 THEM INSIDE THE TOP OF THE CAR WINDOW.

9 Q. COULD YOU DESCRIBE FOR THE JURY, PLEASE, MARY,
10 HIS TONE OF THE CONVERSATION HE WAS HAVING WITH
11 TAMMY?

12 A. HE WAS IRRITATED, AND THEN WHEN HE FOUND OUT
13 SHE WOULDN'T EVEN OPEN THE DOOR OR COME OUT HE
14 STARTED GETTING MAD. AND THAT IS WHEN I GOT SCARED
15 AND FIGURED WE'D GET DARREL TO COME OUT SO THAT --
16 HOPING HE'D LEAVE.

17 Q. AND DID HE LEAVE AFTER HE THREW---

18 A. AFTER HE FINISHED WITH THE C.D.'S---

19 Q. ---THE C.D.'S.

20 A. ---AND DARREL COME OUT ON THE PORCH, HE LEFT.

21 Q. COULD YOU DESCRIBE -- DID YOU SEE HIM DRIVE
22 OFF?

23 A. I WATCHED HIM DRIVE OFF. HE SPED AND SPUN A
24 TIRE OUT OF THE DRIVEWAY.

25 Q. NOW, DID YOU SEE HIM ANY MORE THAT SATURDAY

1 MORNING?

2 A. NO MORE THAT MORNING, NO, SIR.

3 Q. BY THE WAY, WAS MR. CHILDERS EMPLOYED BACK
4 THEN? DID HE WORK?

5 A. YES, HE DID.

6 Q. AND WHERE DID HE WORK?

7 A. AT DUPONT.

8 Q. AND DO YOU KNOW WHAT SHIFT HE WORKED?

9 A. HE WAS ON NIGHTS. HE WORKED 11 TO 7.

10 Q. ELEVEN P.M. TO SEVEN A.M.?

11 A. (NODS AFFIRMATIVELY.)

12 Q. IS THAT RIGHT?

13 A. RIGHT.

14 Q. IF HE HAD GOT OFF AT 7 O'CLOCK ON THAT SATURDAY
15 MORNING HE COULD HAVE HAD TIME TO BE AT YOUR HOUSE
16 BY ABOUT 7:20, 7:30 THAT SATURDAY MORNING?

17 A. THAT'S CORRECT.

18 Q. NOW, I BELIEVE YOU SAID YOU DIDN'T SEE HIM ANY
19 MORE THAT MORNING, CORRECT?

20 A. NO, SIR.

21 Q. THAT SATURDAY NIGHT DID YOU AND DARREL AND
22 TAMMY DECIDE TO GO ANYWHERE THAT EVENING?

23 A. TAMMY HAD SAID THAT SHE WANTED TO GET OUT, AND
24 SO WE SAID -- SHE SAID, "I WANT TO GO TO A TURKEY
25 SHOOT." SO WE ASKED DARREL IF HE WOULD TAKE US TO

1 THE TURKEY SHOOT.

2 AND HE HAD A FRIEND THAT -- MICHAEL CORBETT WAS
3 GOING TO GO WITH US, AND WE WERE GOING TO HAVE --
4 HE WENT WITH US TO THE TURKEY SHOOT. WE WENT AND
5 PICKED HIM UP AT HIS HOUSE.

6 Q. ABOUT WHAT TIME ARE WE TALKING ABOUT THAT Y'ALL
7 LEFT FROM WATSON STREET TO GO TO THE TURKEY SHOOT?

8 A. I WANT TO SAY IT WAS CLOSE TO 10 BECAUSE WE
9 WAITED TO MAKE SURE TAMMY PUT HER THREE KIDS TO BED
10 AND I PUT MINE TO BED, AND THEN WE DECIDED WE'D GO.

11 Q. SO THAT IS GETTING ON TO THAT SATURDAY NIGHT,
12 NOT LATE LATE, BUT---

13 A. NOT -- RIGHT. WE DIDN'T START OUT TILL ABOUT
14 10, AND THEN WE WENT AND PICKED UP MICHAEL AND WE
15 HUNG OUT THERE FOR A LITTLE WHILE.

16 Q. WHERE WAS THE TURKEY SHOOT APPROXIMATELY IN
17 RELATION TO WHERE Y'ALL'S HOUSE IS AT?

18 A. TO WHERE MY HOUSE IS?

19 Q. RIGHT.

20 A. I'D SAY IT WOULD TAKE PROBABLY 30 MINUTES.

21 Q. AND HOW DID Y'ALL TRAVEL FROM Y'ALL'S HOUSE TO
22 THE -- WHAT IS THE NAME OF THE TURKEY SHOOT AREA WE
23 ARE TALKING ABOUT?

24 A. THE NAME -- ONE IS A BAR, ONE IS A STORE, AND
25 IT IS SOMEWHERE & NOWHERE.

1 Q. SOMEWHERE/NOWHERE?

2 A. YES, SIR.

3 Q. AND ABOUT HOW LONG -- YOU SAID IT WOULD TAKE
4 ABOUT 30 MINUTES, BUT HOW WERE Y'ALL TRAVELING FROM
5 Y'ALL'S HOUSE TO NOWHERE'S?

6 A. WE WENT DOWN SMYRNA ROAD, DOWN WILD WOOD AND
7 CUT -- KIND OF THE BACK WAY. WE WENT DOWN WILD
8 WOOD, TOOK 34, AND THEN TOOK A LEFT ON, I'M NOT
9 SURE IF IT IS CEDAR, THE NAME OF THE CUT-THROUGH TO
10 PINE GROVE. WE TOOK A LEFT ON PINE GROVE, AND
11 MICHAEL LIVES RIGHT OFF OF PINE GROVE.

12 Q. HOW DID Y'ALL -- LET ME BACK UP FOR A MINUTE.
13 DID Y'ALL TAKE ONE VEHICLE OR TWO?

14 A. WE TOOK TWO. ME AND TAMMY RODE IN MY CAR AND
15 DARREL DROVE HIS TRUCK.

16 Q. SO YOU AND YOUR SISTER RODE TOGETHER IN YOUR
17 CAR?

18 A. WE DID.

19 Q. AND DARREL DROVE HIS TRUCK. IS THAT THAT RED
20 FORD PICKUP TRUCK WE---

21 A. YES, IT IS.

22 Q. ---TALKED ABOUT EARLIER?

23 A. YES, IT WAS.

24 Q. NOW, I BELIEVE YOU SAID Y'ALL WENT BY AND
25 PICKED SOMEONE UP. WHERE DID THIS PERSON LIVE AND

1 WHO IS HE THAT Y'ALL PICKED UP?

2 A. MICHAEL CORBETT. AND HE RENTS THE HOME OF
3 DARREL DOWEY. IT IS 1515-A DOWEY CIRCLE.

4 Q. AND MIKE LIVED AND RENTED FROM DARREL?

5 A. YES, SIR.

6 Q. AND WAS A BUDDY OF DARREL'S?

7 A. YES, SIR.

8 Q. AND SO DARREL PICKED HIM UP AND THEN THE FOUR
9 OF Y'ALL WENT ON TO THE TURKEY SHOOT?

10 A. WE ALL RODE IN MY CAR TO THE TURKEY SHOOT.

11 Q. NOW, Y'ALL WERE AT THE TURKEY SHOOT FOR -- GIVE
12 US A GENERAL IDEA OF WHAT PERIOD OF TIME.

13 A. I'D SAY TWO, TWO AND A HALF HOURS. THEY SHOT
14 SEVERAL ROUNDS, SO IT WAS ABOUT TWO AND A HALF
15 HOURS.

16 Q. AND WHEN YOU SAY THEY SHOT SEVERAL ROUNDS, ARE
17 YOU REFERRING TO DARREL AND MIKE?

18 A. AND MICHAEL. ME AND TAMMY JUST WATCHED.

19 Q. AND THAT IS WHERE YOU SHOOT FOR PATTERN,
20 WHOEVER HAS GOT THE BEST PATTERN, IS THAT CORRECT?

21 A. WHOEVER GETS THE CLOSEST GETS THEIR PICK OF THE
22 SLAB OF MEAT.

23 Q. AND THAT IS SHOTGUNS?

24 A. YES, SIR.

25 Q. IS THAT RIGHT?

1 A. YES.

2 Q. NOW, DURING THE COURSE OF THE EVENING AT THE
3 TURKEY SHOOT, DID YOU HAVE AN OCCASION TO SEE THE
4 DEFENDANT?

5 A. YEAH, I HAD COME BACK FROM THE BATHROOM AND I
6 WAS TALKING TO TAMMY AND I TURNED AROUND AND I SAW
7 COTTON AT THE BURN BARREL.

8 AND I SAID, "TAMMY," I SAID, "DON'T LOOK, BUT," I
9 SAID, "I THINK THAT'S COTTON STANDING AT THE BURN
10 BARREL."

11 SHE SAID, "NO, IT'S NOT."

12 I SAID, "LOOK."

13 AND SHE LOOKED, AND IT WAS HIM.

14 Q. IS THE BURN BARREL RIGHT THERE AT THE TURKEY
15 SHOOT?

16 A. IT IS RIGHT THERE. IT IS PROBABLY NOT SIX FOOT
17 FROM WHERE YOU STAND TO REST YOUR GUN ON THE FENCE.

18 Q. IF Y'ALL WERE THERE ABOUT TWO, TWO AND A HALF
19 HOURS, MARY, HOW LONG BEFORE Y'ALL LEFT WOULD YOU
20 ESTIMATE IT WAS WHEN YOU SEEN COTTON?

21 A. I'D SAY WE HAD BEEN THERE ABOUT ALMOST TWO
22 HOURS BECAUSE HE IS THE REASON WE LEFT.

23 Q. SO Y'ALL HAD BEEN THERE FOR A SUBSTANTIAL PART
24 OF THE TIME THAT Y'ALL WERE GOING TO REMAIN THERE
25 WHEN YOU SAW COTTON?

1 A. YES, SIR.

2 Q. THE FIRST HOUR THERE, THE FIRST TWO HOURS
3 THERE, YOU DIDN'T SEE HIM?

4 A. NO, SIR.

5 Q. NOW, WAS THERE ANY CONVERSATION OR DID YOU HEAR
6 COTTON SAY ANYTHING WHILE YOU WERE THERE AT THE
7 BURN BARREL AT THE TURKEY SHOOT?

8 A. TAMMY HAD SAID SOMETHING TO ME ABOUT SHE WAS
9 SICK OF BEING FOLLOWED.

10 MR. ROGERS: OBJECTION, YOUR HONOR.

11 A. I'M SORRY.

12 MR. ROGERS: HEARSAY.

13 Q. AND JUST GO INTO WHAT COTTON SAID.

14 A. OKAY.

15 Q. DID TAMMY -- LET ME ASK YOU LIKE THIS, MARY.
16 DID TAMMY MAKE A STATEMENT TO COTTON?

17 A. SHE MADE IT TO ME, BUT IT WAS OUT LOUD WHERE IT
18 COULD BE HEARD.

19 Q. AND COULD HE, FROM WHERE HE WAS AT, COULD HE
20 HEAR THAT?

21 A. YES, SIR.

22 Q. AND WHAT RESPONSE, IF ANY, DID COTTON HAVE TO
23 TAMMY'S STATEMENT?

24 A. HE SAID THAT HE COULD BE ANYWHERE HE WANTED AND
25 THAT HE HAD HAPPENED TO BE AT THE TURKEY SHOOT

1 EVERY NIGHT THAT WEEK.

2 AND HE SAID, "YOU CAN ASK MERLE IF I HAVE BEEN
3 HERE."

4 AND MERLE PUT HIS HANDS UP AND SAID, "ALL I CAN
5 TELL YOU IS HE HAS BEEN HERE ONE NIGHT..."

6 MR. ROGERS: OBJECTION.

7 Q. DON'T GO INTO WHAT MERLE SAID.

8 A. OH, OKAY.

9 Q. BUT MERLE WAS A PERSON THERE ALSO?

10 A. YES, SIR.

11 Q. AND THAT IS MERLE JONES?

12 A. YES, SIR.

13 Q. NOW, IF Y'ALL GOT TO THE TURKEY SHOOT AROUND 10
14 O'CLOCK OR LATER AND YOU HAD BEEN THERE A COUPLE OF
15 HOURS, THIS WOULD HAVE BEEN AFTER MIDNIGHT,
16 APPROXIMATELY?

17 A. YES, SIR.

18 Q. AND IF HE HAD TO HAVE BEEN TO WORK AT 11
19 O'CLOCK THAT SATURDAY NIGHT, HE WOULD HAVE BEEN
20 LATE?

21 A. CORRECT.

22 Q. AFTER THE STATEMENT BY COTTON AT THE TURKEY
23 SHOOT, WHAT DID COTTON DO?

24 A. HE GOT IN HIS TRUCK AND LEFT AND HE WAS DRIVING
25 FAST AND HE SPED OUT OF THE PARKING LOT.

1 Q. DO YOU RECALL WHAT VEHICLE?

2 A. HE WAS DRIVING HIS RED MITSUBISHI MONTERO.

3 Q. SO HE WASN'T DRIVING THE SAME VEHICLE THAT HE
4 WAS DRIVING THAT MORNING OF THE 14TH, THE RANGER?

5 A. NO, SIR.

6 Q. HE WAS DRIVING THE -- WHAT KIND OF VEHICLE IS
7 IT?

8 A. IT IS A MITSUBISHI MONTERO.

9 Q. AND WHAT COLOR IS IT?

10 A. IT'S RED.

11 Q. AND COULD YOU DESCRIBE FOR THE JURY, PLEASE --
12 DID YOU SEE HIM LEAVING DRIVING?

13 A. I WATCHED HIM LEAVE, YES, SIR.

14 Q. DESCRIBE FOR THE JURY HOW HE WAS DRIVING WHEN
15 HE LEFT.

16 A. HE BACKED UP REAL FAST AND SPUN OUT OF THE
17 PARKING LOT AND WENT TO THE LEFT.

18 Q. AND ABOUT HOW LONG ARE WE TALKING ABOUT THAT
19 THIS CONVERSATION OR THIS STATEMENT BY TAMMY AND
20 RESPONSE BY COTTON, HOW LONG ARE WE TALKING ABOUT
21 THERE AT THE TURKEY SHOOT?

22 A. ALL OF ABOUT THREE MINUTES MAX.

23 Q. NOW, MARY, I BELIEVE YOU SAID Y'ALL LEFT
24 SHORTLY AFTER THAT?

25 A. YES, WE DID.

1 Q. AND WHEN I SAY Y'ALL, WHO AM I REFERRING TO
2 LEAVING? WHO LEFT?

3 A. ME, MICHAEL, DARREL AND TAMMY.

4 Q. AND LET ME BACK UP A MINUTE. I MIGHT NOT HAVE
5 COVERED THIS. WHEN Y'ALL GOT TO -- WHEN Y'ALL HAD
6 GONE BY DOWEY CIRCLE AND GOTTEN MICHAEL BEFORE THE
7 TURKEY SHOOT, HOW DID Y'ALL TRAVEL, NOT THE ROUTE,
8 BUT HOW DID Y'ALL TRAVEL AS FAR AS VEHICLES FROM
9 MICHAEL'S TO THE TURKEY SHOOT?

10 A. ME AND TAMMY RODE UP FRONT, AND MICHAEL AND
11 DARREL RODE IN THE BACK OF MY CAR.

12 Q. SO FROM DOWEY CIRCLE TO THE TURKEY SHOOT, Y'ALL
13 JUST WENT IN ONE CAR?

14 A. WE DROVE ONE VEHICLE.

15 Q. YOUR VEHICLE?

16 A. YES, SIR.

17 Q. AND DARREL'S TRUCK WAS WHERE?

18 A. HE LEFT IT AT MICHAEL'S HOUSE.

19 Q. SO WHEN Y'ALL LEFT THE TURKEY SHOOT, IT WAS THE
20 FOUR OF Y'ALL TOGETHER?

21 A. YES, SIR.

22 Q. YOU AND YOUR SISTER TAMMY?

23 A. YES, SIR.

24 Q. AND DARREL AND MICHAEL---

25 A. MICHAEL.

1 Q. ---IN THE BACK?

2 A. YES, SIR.

3 Q. AND HOW OLD IS MICHAEL, DO YOU KNOW?

4 A. I BELIEVE HE IS EARLY 20'S.

5 Q. ALL RIGHT. NOW, FROM THERE Y'ALL GO BACK TO
6 DOWEY CIRCLE?

7 A. YES, SIR.

8 Q. AND DO Y'ALL IMMEDIATELY LEAVE DOWEY CIRCLE?

9 A. NO, WE SAT AROUND OUTSIDE.. TAMMY WAS UPSET, SO
10 WE JUST KIND OF SAT AROUND OUTSIDE AND TALKED.

11 AND THE OTHER GUY THAT RENTS THE HOUSE WITH
12 MICHAEL COME OUTSIDE AND WE JUST -- TALKED TO US,
13 AND WE WERE ALL JUST OUT THERE PROBABLY 30 OR 45
14 MINUTES.

15 AND THEN TAMMY WANTED TO GO IN THE HOUSE. WE
16 WENT IN THE HOUSE. AND TAMMY MADE A PHONE CALL.
17 AND SHE CALLED DUPONT.

18 Q. ALL RIGHT. AND DON'T GO INTO ANY---

19 A. OKAY.

20 Q. ---PHONE CALLS---

21 A. OKAY.

22 Q. ---OR ANY STATEMENTS SHE MADE. BUT SHE MADE A
23 PHONE CALL, AND THEN Y'ALL REMAINED THERE FOR A
24 PERIOD OF TIME?

25 A. CORRECT.

1 Q. NOW, WHEN Y'ALL LEFT, WHAT WERE THE
2 ARRANGEMENTS AS FAR AS LEAVING? WHO WAS GOING TO
3 RIDE WITH WHO FROM DOWEY CIRCLE BACK TO WATSON
4 STREET, MARY?

5 A. WHEN I HAD -- WHEN WE REALIZED THAT WE HAD BEEN
6 BEING FOLLOWED, OR WHATEVER, I ASKED DARREL IF HE
7 MINDED TAKING TAMMY HOME SO THAT I WOULD BE BY
8 MYSELF AND THAT SHE WOULD BE WITH HIM SO THAT WE
9 WEREN'T TOGETHER BY OURSELVES. SO I LEFT AHEAD OF
10 THEM AND THEY SAID THAT THEY WOULD FOLLOW A LITTLE
11 BIT LATER JUST IN CASE HE WAS WATCHING.

12 Q. SO OF THE THREE OF Y'ALL, YOU LEFT FIRST?

13 A. I DID.

14 Q. AND I SAY THE THREE OF Y'ALL, YOU AND DARREL
15 AND TAMMY?

16 A. RIGHT.

17 Q. AND WHEN YOU LEFT DOWEY CIRCLE, DID YOU GO
18 DIRECTLY BACK TO WATSON STREET?

19 A. [REDACTED] I WENT STRAIGHT HOME.

20 Q. NOW, WHEN YOU ARRIVED HOME, MARY, TELL THE JURY
21 WHAT HAPPENED, WHAT YOU OBSERVED WHEN YOU FIRST GOT
22 THERE.

23 A. WHEN I DROVE UP IN THE YARD I SAW TIMMY AND
24 C.J. AND JOHN IN THE BACK YARD. AND THE FIRST
25 THING I WENT TO -- I WAS BEING KIND OF LOUD. I

1 SAID, "WHAT ARE Y'ALL DOING UP THIS LATE?"

2 AND TIMMY MOTIONED FOR ME TO BE QUIET AND
3 MOTIONED FOR ME TO COME BACK TO THE BACK. SO I
4 WENT BACK THERE.

5 Q. AND, AGAIN, MARY, I AM GOING TO CUT YOU OFF
6 BEFORE YOU GET ANY FURTHER. DON'T GO INTO WHAT
7 SOMEBODY ELSE SAID---

8 A. OKAY.

9 Q. ---BUT WHAT YOU OBSERVED. I AM JUST REMINDING
10 YOU OF THAT, OKAY?

11 A. OKAY.

12 Q. ALL RIGHT. BUT YOU GO OVER THERE. AND THEN AS
13 A RESULT OF THAT, WHAT HAPPENS? WHAT DO YOU DO?
14 YOU WALK OVER TOWARDS---

15 A. I GO OVER TOWARDS THE BOYS. AND I HEARD -- I
16 MEAN, TIM WAS ON THE PHONE WITH 911 SAYING THAT
17 THEY HAD SEEN COTTON AT THE BUS.

18 Q. AND IS TIM INSIDE OR OUTSIDE?

19 A. HE IS OUTSIDE.

20 Q. AND THE PHONE IS A PORTABLE PHONE?

21 A. HE'S GOT A CORDLESS -- THE CORDLESS PHONE.

22 Q. AND YOU ACTUALLY HEAR HIM TALKING ON THE
23 TELEPHONE ON A 911 CALL AS FAR AS YOU KNOW?

24 A. YES, SIR.

25 Q. NOW, DO YOU HAVE A -- DOES TIM MAKE ANY

1 STATEMENT TO YOU? DOES TIM SAY ANYTHING TO YOU TO
2 DIRECT YOUR ATTENTION---

3 A. HE -- HE IS THE ONE THAT TOLD ME THAT COTTON---

4 MR. ROGERS: YOUR HONOR, OBJECTION.

5 THE COURT: I SUSTAIN IT.

6 Q. DOES HE DIRECT YOUR ATTENTION TO ANY PARTICULAR
7 AREA IN AND AROUND THE YARD?

8 A. BEHIND THE SCHOOL BUS.

9 Q. AND DO YOU LOOK OVER IN THAT DIRECTION?

10 A. I DO. AND I KNELT DOWN. AND I SAID, "THAT IS A
11 GOAT OR A DOG." AND---

12 Q. WHAT DO YOU SEE WHEN YOU KNEEL DOWN, MARY?

13 A. I SAW WHAT LOOKED LIKE LEGS -- JUST FEET, I
14 MEAN, LEGS. SO I THOUGHT IT WAS AN ANIMAL. I
15 HEARD THE NOISE, AND I THOUGHT IT WAS AN ANIMAL.

16 AND THEN PROBABLY BY THE TIME TIMMY HAD HUNG UP,
17 COTTON HAD ACTUALLY WALKED AROUND THE FRONT OF THE
18 BUS, STOOD AT THE PASSENGER MIRROR WHERE THE KIDS
19 GET ON THE BUS AND SHOWED HIS WHOLE SELF. AND HE
20 PROBABLY STOOD THERE A GOOD MINUTE, IF NOT TWO, AND
21 JUST LOOKED AT US.

22 Q. NOW, MARY, FROM WHERE YOU WERE STANDING --
23 WHERE WERE YOU STANDING WHEN YOU SAW COTTON?

24 A. RIGHT BESIDE TIMMY. WE WERE AT MY FENCE POST.

25 Q. AND LET'S LOOK AT THE STATE'S EXHIBIT NUMBER 3,

1 I THINK IT IS 3. WHEN YOU SAY IT IS YOUR FENCE
2 POST, THIS IS MARKED "POST FENCE"?

3 A. WE WERE RIGHT HERE.

4 Q. AND FROM WHERE Y'ALL WERE STANDING, WHAT
5 DIRECTION WERE YOU LOOKING IN?

6 A. TOWARDS THE BUS.

7 Q. BACK OVER IN THIS DIRECTION?

8 A. RIGHT, TOWARDS THE BUS.

9 Q. WAS THERE ANYTHING OBSTRUCTING YOUR VISION FROM
10 THE FENCE POST BACK OVER TO THE BUS?

11 A. NO, THERE IS NOTHING IN THE YARD.

12 Q. NOW, ON THIS PARTICULAR DIAGRAM THAT IS MARKED
13 DOWN HERE "POLE WITH LIGHT"?

14 A. RIGHT. AND WE HAVE ONE ON THE OTHER SIDE OF MY
15 HOME.

16 Q. "POLE WITH LIGHT." AND THEN BACK HERE, "POLE
17 WITH LIGHT"?

18 A. RIGHT.

19 Q. IS THIS AREA, WOULD YOU DESCRIBE IT AS A WELL
20 LIT AREA?

21 A. IT IS -- AT NIGHT YOU CAN SEE OUTSIDE MY HOUSE.

22 Q. HOW LONG HAVE YOU KNOWN MR. CHILDERS?

23 A. FOR A COUPLE OF YEARS.

24 Q. KNOW HIM BY NAME AND SIGHT?

25 A. CORRECT.

1 Q. AND I BELIEVE YOU SAID YOU KIND OF SQUATTED
2 DOWN TO LOOK UP UNDER THE BUS?

3 A. RIGHT.

4 Q. CORRECT? AND WHEN YOU DID, I BELIEVE YOU SAID
5 YOU SAW WHAT YOU THOUGHT WAS A GOAT OR A DOG?

6 A. A GOAT OR A DOG.

7 Q. SO YOU WERE ABLE TO SEE OVER THERE ON THE OTHER
8 SIDE OF THE BUS?

9 A. YES.

10 Q. AND SEE SOMETHING OVER THERE, CORRECT?

11 A. YES, SIR.

12 Q. AND YOU DIDN'T IDENTIFY ANYTHING THEN?

13 A. NO, I DID NOT.

14 Q. NOW, I BELIEVE YOU THEN SAID THAT SOMEONE
15 WALKED OUT?

16 A. WALKED OUT TO THE PASSENGER SIDE OF THE BUS
17 WHERE THE KIDS GET ON, STOOD RIGHT NEXT TO THE
18 MIRRORS THAT STICK OUT, AND IT WAS COTTON CHILDERS
19 AND HE SHOWED HIS WHOLE SELF.

20 Q. AND TO MAKE SURE ON MY DIAGRAM AND MAKE SURE ON
21 THE PHOTOGRAPH, MARY, THAT BUS IS POINTED OUT,
22 POINTED TOWARDS WATSON STREET, CORRECT?

23 A. IT IS, CORRECT.

24 Q. JUST LIKE IT IS ON THIS DIAGRAM, IT IS POINTED
25 OUT TOWARDS WATSON STREET?

1 A. YES, SIR.

2 Q. AND YOU ARE TALKING ABOUT THE SIDE THE KIDS GET
3 ON, WHICH WOULD BE THE SIDE CLOSEST TO YOU?

4 A. CORRECT.

5 Q. COULD YOU CLEARLY SEE THEN?

6 A. I SAW HIS -- I SAW A FACE, COLOR OF CLOTHING.

7 Q. AND WHOSE FACE WAS IT?

8 A. IT WAS COTTON CHILDERS.

9 Q. ANY DOUBT IN YOUR MIND?

10 A. NONE AT ALL.

11 Q. DESCRIBE THE CLOTHING.

12 A. HE HAD ON A BURGUNDY HAT TURNED BACKWARDS, HE
13 HAD ON A CARHARTT JACKET, BLUE SWEAT PANTS, AND THE
14 SHOES IS ONE THING I DON'T -- I DON'T KNOW WHAT HE
15 HAD ON HIS FEET, BUT I KNOW HE HAD BLUE SWEAT
16 PANTS, A CARHARTT JACKET AND HIS HAT TURNED
17 BACKWARDS, AND IT WAS BURGUNDY.

18 Q. NOW, HOW DOES THAT -- HOW DOES IT RELATE TO
19 THIS STATE'S EXHIBIT NUMBER 6?

20 A. THAT'S THE JACKET.

21 Q. AND STATE'S EXHIBIT NUMBER 7?

22 A. I ONLY SAW IT FROM THE BACK, SO -- AND I
23 COULDN'T SEE THE WORDS ON IT, BUT THAT'S -- IT WAS
24 A BURGUNDY HAT.

25 Q. NOW, DID YOU TELL TIM TO DO ANYTHING? OR WAS

1 TIM ALREADY DOING SOMETHING?

2 A. TIM HAD ALREADY CALLED THE POLICE.

3 Q. NOW, AS YOU REMAINED THERE, AS YOU STAYED
4 THERE, WHAT IF ANYTHING DID YOU OBSERVE COTTON DO
5 AT THIS TIME?

6 A. AFTER HE SHOWED HISSELF, HE DIDN'T REALLY DO --
7 I DIDN'T SEE HIM ANY MORE. BUT I DID HEAR DOGS
8 BARK LIKE SOMEBODY WAS RUNNING, BECAUSE THE DOGS
9 WOULD GET FAINTER AND FAINTER AS SOMEBODY, YOU
10 KNOW, AS -- YOU COULD TELL SOMEBODY WAS RUNNING OR
11 THAT THEY WERE BARKING AT SOMETHING. IT WOULD
12 START WITH THE FIRST HOUSE AND THEN ALL THE WAY
13 DOWN THE ROAD.

14 Q. KIND OF ROLLING BARKING, IS THAT WHAT YOU'RE
15 SAYING?

16 A. RIGHT. AND THEN EVENTUALLY THE DOGS QUIT
17 BARKING.

18 Q. I WILL REFER YOU NOW TO STATE'S EXHIBIT NUMBER
19 2, MARY. YOU HAVE SEEN THIS DIAGRAM BEFORE?

20 A. YES, SIR.

21 Q. AND THIS BEING [REDACTED] AND THAT
22 BEING THE AREA OF THE SCHOOL BUS. CAN YOU POINT
23 OUT FOR ME WITHOUT HAVING TO GET UP WHAT AREAS YOU
24 ARE REFERRING TO THAT YOU HEAR THE DOGS BARKING?

25 A. I CAN HEAR -- YOU CAN HEAR THE DOGS BARK FROM

1 THESE HOUSES HERE, THE DIRT ROAD NEXT TO MY
2 DRIVEWAY.

3 Q. DID YOU REMAIN THERE AT WATSON STREET?

4 A. I DID. I NEVER LEFT.

5 Q. BY THIS TIME WHEN YOU HAVE SEEN COTTON THERE BY
6 THE SCHOOL BUS, TIM HAS ALREADY CALLED THE POLICE,
7 DO THE POLICE ARRIVE?

8 A. YES.

9 Q. AND THAT IS DEPUTY HOPPLE?

10 A. DEPUTY HOPPLE.

11 Q. IS DARREL AND TAMMY HOME YET?

12 A. NO, THEY ARE NOT.

13 Q. AND TELL THE JURY WHAT HAPPENS WHEN THE POLICE
14 ARRIVE.

15 A. WHEN DEPUTY HOPPLE GOT THERE WE TOLD HIM WHAT
16 WE HAD SEEN AND TOLD HIM THAT WE KNEW THAT HE HAD
17 FIREARMS AND THAT WE WERE SCARED.

18 SO HE WROTE EVERYTHING DOWN, CALLED IT IN, GOT
19 OUT OF HIS CAR. HE SHINED AROUND THE BUS, HE
20 SHINED IN THE BUS, SHINED IN THE TREES, AND SAID HE
21 DIDN'T SEE ANYTHING. SO HE WAS GOING TO GO DOWN
22 SANDY LANE AND SAID HE WOULD SHINE DOWN THERE.

23 AND I WATCHED HIS SPOTLIGHT. HE DROVE ALL THE
24 WAY DOWN AND SPOTTED DOWN SANDY LANE.

25 Q. AND SPECIFICALLY, MARY, AND I BELIEVE YOU

1 TESTIFIED TO IT, THE DEPUTY CHECKED THE AREA OVER
2 AND AROUND THE SCHOOL BUS, IS THAT RIGHT?

3 A. HE DID. HE DID. HE WALKED ALL AROUND IT.

4 Q. AND Y'ALL POINTED THAT AREA OUT TO THE DEPUTY,
5 CORRECT?

6 A. WE DID. WE TOLD HIM WHERE WE SAW HIM AND THAT
7 HE WAS BEHIND THE SCHOOL BUS ON THE DRIVER'S SIDE.

8 Q. AND I BELIEVE YOU ALSO SAID THAT YOU COULD SEE
9 THE DEPUTY'S VEHICLE GOING DOWN SANDY LANE?

10 A. RIGHT. HE USED THE BIG SPOTLIGHT.

11 Q. WAS DARREL AND TAMMY HOME WHILE DEPUTY HOPPLE
12 WAS THERE?

13 A. NO.

14 Q. THE FIRST TIME?

15 A. THEY WERE NOT.

16 Q. NOW, JOHN AND BRENT, I BELIEVE IT WAS, OR
17 BRITT?

18 A. BRITT.

19 Q. DID JOHN HAVE AN OCCASION TO LEAVE?

20 A. HE DID.

21 Q. AND WHERE WAS HE GOING?

22 A. HE WAS GOING TO TAKE BRITT HOME.

23 Q. AND JOHN LEFT ABOUT THE TIME THE DEPUTY WAS
24 THERE OR ABOUT THE TIME THE DEPUTY LEFT?

25 A. JOHN LEFT AFTER THE DEPUTY HAD ALREADY GONE

1 DOWN SANDY LANE.

2 Q. WHO ARRIVED NEXT?

3 A. UM---

4 Q. AFTER DEPUTY HOPPLE LEFT WATSON STREET THAT
5 FIRST TIME?

6 A. DARREL AND TAMMY DROVE UP.

7 Q. AND THEY WOULD HAVE BEEN IN DARREL'S---

8 A. RED FORD PICKUP.

9 Q. AND WHO ARRIVED DIRECTLY BEHIND DARREL AND
10 TAMMY?

11 A. JOHN DID.

12 Q. NOW, WHEN THEY FIRST GET BACK, DARREL AND
13 TAMMY, WHAT DO YOU DO? WHAT IS GOING ON? WHERE
14 ARE Y'ALL AT?

15 A. WE ARE IN THE YARD, AND TAMMY IS IN HYSTERICS.
16 AND WE TOLD HER WE HAD ALREADY CALLED THE POLICE
17 AND THAT THEY HAD GONE TO LOOK FOR HIM.

18 AND THEN WE STOOD OUT IN THE YARD.

19 Q. AND LET'S TALK ABOUT WHO THAT "WE" IS WHEN THEY
20 FIRST GET BACK. WHO ALL IS OUT IN THE YARD AFTER
21 DARREL AND TAMMY RETURN BACK, MARY?

22 A. C.J. AND JOHN WERE FOR A BRIEF MINUTE, THEN
23 THEY WENT IN THE HOUSE. THEY DIDN'T STAY LONG.

24 Q. HOW ABOUT YOUR BROTHER TIMMY?

25 A. NO.

1 Q. SO THAT IS NOW -- WHEN C.J. AND JOHN -- THEY GO
2 INTO THE HOUSE?

3 A. YES.

4 Q. WHO IS OUT IN THE YARD NOW?

5 A. ME, DARREL AND TAMMY.

6 Q. AND ABOUT WHERE IN THE YARD ARE Y'ALL AT?

7 A. WE HAVE A - I HAVE A SET OF RAILROAD TIES IN MY
8 FRONT YARD WHERE I PARK MY CAR, AND WE WERE
9 PROBABLY TWO FEET FROM THE RAILROAD TIES IN FRONT
10 OF THE HOUSE IN THE FRONT YARD.

11 Q. SO IF I SHOWED YOU AGAIN THIS DIAGRAM, CAN YOU
12 POINT ON HERE THE RAILROAD TIES YOU ARE REFERRING
13 TO?

14 A. RIGHT HERE. AND WE WERE PROBABLY STANDING
15 RIGHT HERE.

16 Q. AND I BELIEVE YOU TALKED ABOUT WHERE YOU PARKED
17 YOUR CAR. CAN YOU SEE ON THIS PHOTOGRAPH, STATE'S
18 EXHIBIT NUMBER 4, DO YOU SEE YOUR CAR?

19 A. THIS SILVER NISSAN IS MY CAR.

20 Q. THIS ONE HERE?

21 A. YES.

22 Q. OKAY. NOW, I WANT TO ASK YOU ALSO, THESE TWO
23 PHOTOGRAPHS, DO YOU RECOGNIZE THESE PHOTOGRAPHS?

24 A. YES, I DO.

25 Q. WHAT VEHICLE IS THAT?

1 A. THAT IS MY SISTER BRENDA'S CAR.

2 Q. AND THOSE ITEMS ON IT, WHOSE ITEMS ARE THOSE?

3 A. THOSE ARE TAMMY'S KEYS, HER MAKE-UP BAG AND HER
4 PURSE.

5 Q. AND WHEN WERE THOSE ITEMS PLACED ON BRENDA'S
6 CAR?

7 A. I BELIEVE ONE OF THE DEPUTIES PUT THEM UP
8 THERE.

9 Q. ALL RIGHT. WERE THEY STILL OUTSIDE?

10 A. YES.

11 Q. THESE ITEMS?

12 A. YES.

13 Q. WHEN THE DEPUTIES GOT THERE THE SECOND TIME?

14 A. BECAUSE TAMMY HAD HAD THEM ON THE GROUND. THEY
15 WERE ON THE GROUND.

16 Q. NOW, SHE HAD NOT EVEN TAKEN HER PURSE AND HER
17 MAKE-UP BAG INSIDE?

18 A. NO, SIR.

19 Q. HAD TAMMY, TO YOUR KNOWLEDGE, EVER GONE INSIDE?

20 A. YES, SHE WENT INSIDE.

21 Q. WHEN SHE GOT BACK FROM THE TURKEY SHOOT?

22 A. YES.

23 Q. BACK FROM DOWEY CIRCLE?

24 A. YES.

25 Q. DID SHE COME BACK OUTSIDE?

1 A. SHE CAME RIGHT BACK OUTSIDE.

2 Q. SO NOW WHO ALL IS OUTSIDE?

3 A. ME, TAMMY AND DARREL.

4 Q. AND WHAT ARE Y'ALL DOING, MARY?

5 A. JUST STANDING THERE TALKING, LETTING TAMMY
6 VENT. SHE WAS UPSET. SO WE WERE JUST STANDING
7 THERE TALKING.

8 Q. WHAT IS THE NEXT THING THAT OCCURRED?

9 A. I REMEMBER TAMMY AND I LAUGHING ABOUT
10 SOMETHING, OUR SHOULDERS WERE TOUCHING.

11 Q. YOU ARE CLOSE ENOUGH TO YOUR SISTER THAT YOUR
12 SHOULDER WAS ACTUALLY TOUCHING HERS?

13 A. OUR SHOULDERS WERE TOUCHING. AND---

14 Q. AND WHERE IS DARREL? HOW CLOSE IS DARREL?

15 A. HE IS -- TAMMY AND I ARE STANDING HERE FACING
16 THE ROAD, AND DARREL IS OVER HERE ON THE OTHER SIDE
17 OF TAMMY, BUT HE IS STANDING LIKE SIDEWAYS TO WHERE
18 HE COULD SEE THE BACK OR THE FRONT.

19 Q. GO AHEAD.

20 A. AND WE WERE LAUGHING. AND THE NEXT THING I
21 REMEMBER, DARREL SAID, "OH, MY GOD..."

22 MR. ROGERS: OBJECTION, YOUR HONOR.

23 A. OH.

24 MR. McMAHON: YOUR HONOR, I THINK THIS IS
25 803(1) AND (2).

1 THE COURT: ALL RIGHT, GO AHEAD.

2 Q. GO AHEAD, MARY.

3 A. DARREL SAID, "OH, MY GOD, IT'S COTTON. HE'S GOT
4 A GUN." AND DARREL DID NOT GET THAT OUT, AND I SAW
5 A CARHARTT JACKET AND I SAW THE GUN ABOUT THAT FAR
6 FROM THE BACK OF MY SISTER'S HEAD, AND HE HAD
7 ALREADY FIRED THE FIRST SHOT.

8 Q. HOW MUCH TIME -- TELL THE JURY ABOUT HOW MUCH
9 TIME PASSED FROM DARREL MAKING THAT STATEMENT, "OH,
10 MY GOD, THERE'S COTTON, HE'S GOT A GUN," UNTIL YOU
11 HEAR THAT FIRST SHOT?

12 A. NOT -- NOT -- IT WAS INSTANTANEOUS. IT
13 COULDN'T HAVE BEEN 20 SECONDS. HE -- HE---

14 Q. WHAT -- AND YOU SAW -- YOU SAW COTTON. WHERE
15 WAS COTTON WHEN YOU FIRST SAW HIM?

16 A. ABOUT THIS FAR FROM MY SISTER. I SAW HIS
17 JACKET. THE FIRST SHOT I DIDN'T LOOK AT HIS FACE.
18 HE FIRED AGAIN. HER BODY WEIGHT FELL ON ME. AND
19 THEN I LOOKED UP. I SAW HIS FACE AND I WATCHED HIM
20 SHOOT AGAIN AT THE BACK OF HER HEAD, JUST LOWER.

21 Q. AND THEN WHAT DID YOU DO?

22 A. I RAN. I KNEW -- I KNEW TAMMY WAS DEAD, SO I
23 RAN.

24 Q. WHAT DIRECTION DID YOU RUN, MARY?

25 A. TO THE HOUSE. I WAS GOING IN THE HOUSE.

1 Q. WHY -- WHAT WAS YOUR THOUGHTS ABOUT RUNNING TO
2 THE HOUSE?

3 A. THE KIDS.

4 Q. WHERE WERE THE KIDS IN THE HOUSE, MARY?

5 A. THEY WERE IN THE LIVING ROOM SLEEPING.

6 Q. BECAUSE THERE WERE THREE, FOUR, FIVE KIDS?

7 A. FIVE KIDS. HER THREE AND MY TWO.

8 Q. AND WHAT HAD Y'ALL DONE, MADE A PALLET THERE IN
9 THE LIVING ROOM?

10 A. RIGHT. AND THEY WERE SLEEPING.

11 Q. NOW, AS YOU RAN TOWARDS THE HOUSE, WHAT
12 HAPPENED?

13 A. I GOT ABOUT TO THE SECOND BLUE CIRCLE ON THERE,
14 AND I HEARD ANOTHER SHOT, AND I LOOKED DOWN AT MY
15 FEET AND I KNEW THE NEXT SHOTS WOULD BE AT ME. AND
16 I WATCHED A BULLET HIT RIGHT BESIDE MY TENNIS SHOE,
17 AND I WATCHED IT HIT THE DIRT AND COME BACK UP. SO
18 I RAN EVEN HARDER. THERE IS FOUR STEPS. I DIDN'T
19 HIT A STEP. I JUMPED TO THE TOP OF THE DECK,
20 OPENED THE SCREEN DOOR. AND I SAID, "NO, I GOT TO
21 GO BACK TO MY SISTER." SO I OPENED THE SCREEN DOOR
22 TO TURN AROUND TO GO BACK TO HER, AND HE LOOKED ME
23 DEAD IN THE FACE AND FIRED AT ME AGAIN.

24 Q. AND WHERE WERE YOU AT WHEN HE FIRED THIS SHOT?

25 A. I WAS HOLDING THE SCREEN DOOR OPEN ON THE FRONT

1 DECK.

2 Q. AND WHAT ABOUT -- IS THE SCREEN DOOR -- THERE
3 WAS A SOLID DOOR THERE ALSO?

4 A. RIGHT, THE BIG---

5 Q. WAS IT OPEN OR CLOSED?

6 A. THE SOLID DOOR WAS OPEN.

7 Q. IT WAS OPEN?

8 A. IT WAS OPEN. WE HAD JUST THE STORM DOOR.

9 Q. AND WHEN YOU SAY "HE" FIRED AT YOU WHEN YOU WERE
10 STANDING THERE, WHO IS "HE"?

11 A. COTTON CHILDERS.

12 Q. AND THEN WHAT HAPPENED?

13 A. I WENT IN THE HOUSE TO MAKE SURE THE KIDS WERE
14 OKAY. I WALKED -- WENT BACK OUTSIDE. BRENDA HAD
15 ALREADY WENT OUT THERE, MY SISTER. AND WE TRIED TO
16 GIVE HER CPR AND WE TRIED TO CLEAN HER UP. AND
17 WHEN WE REALIZED SHE WASN'T ALIVE, I FIXED HER
18 CLOTHES AND HER JEWELRY AND BUTTONED UP HER SHIRT.
19 SHE HAD A SHIRT OVER HER--A LONG BUTTON UP SHIRT
20 OVER HER OTHER SHIRT, AND I BUTTONED HER SHIRT UP
21 PRETTY AND JUST FIXED HER.

22 Q. WHAT INJURIES DID YOU OBSERVE TO HER, MARY?

23 A. HER EYES. I WANTED TO CLEAR HER EYES SO I
24 COULD SEE IF SHE HAD ANY FEAR IN HER EYES, BUT THEY
25 TOLD ME I COULDN'T TOUCH HER. BUT HER EYES WERE

1 PUDDLED WITH BLOOD. BLOOD WAS COMING FROM HER NOSE
2 AND HER MOUTH AND HER EARS. AND THERE WAS A
3 PORTION OF A PART OF HER--

4 MR. ROGERS: YOUR HONOR, MAY WE APPROACH
5 THE BENCH?

6 THE COURT: ALL RIGHT.

7 (BENCH CONFERENCE.)

8 Q. YOU TRIED TO HELP YOUR SISTER?

9 A. I DID.

10 Q. AND SHE WASN'T ALIVE?

11 A. (NODS NEGATIVELY.)

12 Q. I BELIEVE YOU SAID Y'ALL TRIED TO DO CPR ON
13 HER?

14 A. WE DID.

15 Q. MARY, DO YOU HAVE AN AWARENESS OF WHERE OR WHAT
16 DARREL DID IMMEDIATELY AFTER HE MADE THAT
17 STATEMENT, "OH, MY GOD"?

18 A. I DID NOT SEE HIM, I JUST HEARD HIM SAY, "I'M
19 GOING TO MY TRUCK TO GET MY GUN."

20 Q. AND WAS THAT, HIM MAKING THAT STATEMENT WAS
21 AFTER YOU HEARD THE FIRST SHOT?

22 A. RIGHT. THAT WAS -- NO, THAT WAS AFTER THE
23 SECOND SHOT.

24 Q. AFTER THE SECOND -- NOT ONLY AFTER THE FIRST,
25 BUT AFTER THE SECOND SHOT?

1 A. AFTER THE SECOND SHOT.

2 Q. AND DO YOU RECALL, MARY, SEEING TIM AFTER
3 COTTON SHOT YOUR SISTER? DO YOU RECALL SEEING TIM?

4 A. YEAH. WE HUGGED IN THE YARD AND CRIED AND THEN
5 HE GOT IN THE TRUCK WITH DARREL AND THEY DROVE
6 INTO, WHICH WAS NOT A DRIVEABLE AREA, TO THE SIDE
7 OF THE WOODS WHERE COTTON HAD WALKED INTO.

8 Q. WHAT DIRECTION DID YOU LAST SEE COTTON GOING?

9 A. WHILE I WAS STANDING AT THE FRONT DOOR STILL,
10 HE WALKED RIGHT BY THE FRONT PORCH TO THE OTHER
11 SIDE OF THE HOUSE AND WALKED INTO THE WOODS.

12 Q. AND IF I SHOW YOU THIS DIAGRAM AGAIN, MARY, CAN
13 YOU POINT OUT FOR ME FROM WATSON---

14 A. THERE IS MY FRONT PORCH, AND HE WALKED THIS WAY
15 INTO THIS SET OF WOODS.

16 Q. IN HERE?

17 A. YES, SIR.

18 Q. AND ARE THERE PARTS OF THOSE WOODS THAT YOU
19 COULD ACTUALLY DRIVE A VEHICLE INTO? NOT ALL OF
20 IT, PART OF IT?

21 A. NOT ALL OF IT, BUT THERE ARE PARTS THAT YOU
22 COULD GET A VEHICLE IN AND OUT OF THE TREES.

23 Q. AND DID DARREL AND TIM KIND OF GO DOWN TOWARDS
24 THAT AREA?

25 A. THEY DID.

- 1 Q. WERE THEY ABLE TO FIND COTTON?
- 2 A. NO. THEY WEREN'T GONE VERY LONG.
- 3 Q. NOW, MARY, IS IT FAIR TO SAY IT WAS PRETTY --
- 4 PRETTY CHAOTIC THERE AFTER THE SHOOTING?
- 5 A. IT WAS VERY CHAOTIC.
- 6 Q. AND YOU HEARD THESE 911 TAPES TODAY?
- 7 A. I HAVE.
- 8 Q. THE FIRST TAPE, THE FIRST CALL IS BY YOUR
- 9 BROTHER TIM, CORRECT?
- 10 A. CORRECT.
- 11 Q. AND THE SECOND TAPE, THE SECOND CALL, YOU HEAR
- 12 TWO MAIN VOICES. WHO IS THAT FEMALE VOICE?
- 13 A. CHERYL STAPLES, MY MOTHER.
- 14 Q. THAT IS YOUR MOTHER? TAMMY'S MOTHER?
- 15 A. RIGHT.
- 16 Q. AND THEN YOU HEAR A MALE VOICE THERE AT THE
- 17 END?
- 18 A. AND IT IS TIMMY STAPLES, MY LITTLE BROTHER.
- 19 Q. AND TIMMY IS PRETTY WELL UPSET THEN ALSO?
- 20 A. HE'S VERY UPSET.
- 21 Q. DO THE POLICE ARRIVE?
- 22 A. YES.
- 23 Q. DO THE POLICE ARRIVE?
- 24 A. DEPUTY HOPPLE WAS THE FIRST ONE BACK ON THE
- 25 SCENE.

1 Q. AND THEY BEGAN DOING WHATEVER IT IS LAW
2 ENFORCEMENT HAS TO DO, CORRECT?

3 A. CORRECT.

4 Q. TAKING PHOTOGRAPHS AND SUCH?

5 A. (NODS AFFIRMATIVELY.)

6 Q. LATER ON THAT MORNING, ARE YOU STILL THERE AT
7 THE RESIDENCE?

8 A. I AM.

9 Q. ARE THE POLICE STILL THERE?

10 A. YES, THEY ARE.

11 Q. AND DO THEY HAVE AN OPPORTUNITY AFTER DAYLIGHT
12 TO LOOK IN THAT AREA OF THAT FRONT DOOR THAT YOU
13 WERE TALKING ABOUT YOU WERE STANDING AT?

14 A. YES.

15 Q. WHEN YOU WERE SHOT AT?

16 A. YES, SIR.

17 Q. AND DO YOU RECOGNIZE THESE PHOTOGRAPHS HERE?

18 A. YES, I DO.

19 Q. WHAT ARE THESE PHOTOGRAPHS OF, GENERALLY?

20 A. JUST GENERALLY, THAT IS MY FRONT DOOR. THAT IS
21 A PICTURE THAT SITS BEHIND THE FRONT DOOR. THAT IS
22 MY MOTHER'S BEDROOM.

23 Q. ALL OF THESE ARE INTERIOR PICTURES OF YOUR
24 RESIDENCE?

25 A. YES, THEY ARE.

1 Q. WITH THE EXCEPTION OF THIS ONE? THAT IS THE---

2 A. THAT IS THE OUTSIDE OF MY DOOR.

3 MR. McMAHON: YOUR HONOR, I WOULD OFFER
4 THESE INTO EVIDENCE.

5 THE COURT: ALL RIGHT. HE DOESN'T OBJECT.

6 (SERIES OF PHOTOGRAPHS EXHIBITED
7 ON A BOARD RECEIVED INTO EVIDENCE
8 AS STATE'S EXHIBIT 8.)

9 Q. MARY, I AM GOING TO TRY TO DO THIS WITHOUT YOU
10 GETTING DOWN, IF I CAN. I'M NOT SURE--

11 MR. McMAHON: YOUR HONOR, MAY THE WITNESS
12 GET DOWN?

13 THE COURT: MR. McMAHON, IT IS THAT TIME,
14 AN HOUR AND FORTY-FIVE WITH THE JURY.

15 MR. McMAHON: YES, SIR.

16 THE COURT: IF YOU ARE GOING TO BE A
17 LITTLE BIT, WE WILL JUST TAKE A BREAK.

18 MR. McMAHON: ALL RIGHT, SIR.

19 THE COURT: JURORS, DON'T TALK ABOUT THE
20 CASE. IT WILL BE ABOUT 12, 15 MINUTES.

21 MS. WHITE: CAN I STEP DOWN?

22 THE COURT: WAIT UNTIL THE JURY LEAVES.

23 MS. WHITE: OH.

24 (WHEREUPON, THE JURY RETIRES
25 TO THE JURY ROOM.)

1 (WHEREUPON, THE FOLLOWING TAKES
2 PLACE OUTSIDE THE PRESENCE OF
3 THE JURY.)

4 (MS. WHITE STEPS DOWN.)

5 THE COURT: OKAY, WE ARE AT EASE ABOUT 12,
6 15 MINUTES.

7 MR. MEADORS: THANK YOU, YOUR HONOR.

8 (RECESS.)

9 (WHEREUPON, THE JURY RETURNS
10 TO OPEN COURT.)

11 (WHEREUPON, THE FOLLOWING TAKES
12 PLACE WITHIN THE PRESENCE OF
13 THE JURY.)

14 THE COURT: YOU MAY PROCEED.

15 MR. McMAHON: MAY IT PLEASE THE COURT?

16 THE COURT: SURE.

17 DIRECT EXAMINATION BY MR. McMAHON CONTINUES:

18 Q. MARY, I JUST HAVE A FEW MORE QUESTIONS. I NOW
19 HAVE MARKED STATE'S EXHIBIT NUMBER 8 WITHOUT
20 OBJECTION. AND YOU HAVE IDENTIFIED THESE AS
21 PHOTOGRAPHS EITHER AS THE EXTERIOR OR THE INTERIOR
22 OF YOUR RESIDENCE, IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND JUST TO BACK UP A MOMENT, WILL YOU TELL THE
25 JURY YOUR FRONT DOOR BACK AT THE TIME -- HOW MANY

1 DOORS WAS IT? WAS IT A SCREEN DOOR OR A SOLID
2 DOOR?

3 A. IT IS A STORM SCREEN DOOR, AND THEN THE MAIN
4 DOOR TO THE HOUSE, THE BIG DOOR THAT HAS THE DEAD-
5 BOLT ON IT.

6 Q. AND WERE YOU EVER STANDING ANYWHERE IN THAT
7 AREA OF THE DOORS TO YOUR HOUSE WHEN COTTON SHOT AT
8 YOU?

9 A. I WAS. I HAD -- I WAS STANDING WITH THE SCREEN
10 DOOR HOLDING IT OPEN AND MY BACK TO THE BIG DOOR.

11 Q. AND WHAT WAS THE CONDITION OF THE BIG DOOR AS
12 FAR AS BEING OPENED OR SHUT?

13 A. IT WAS OPENED.

14 Q. LATER ON THAT MORNING I BELIEVE YOU WAS AT THE
15 HOUSE, DID YOU HAVE AN OCCASION TO LOOK AT THAT
16 MAIN DOOR, THE BIG DOOR?

17 A. I DID.

18 Q. AND I WANT TO DIRECT YOUR ATTENTION RIGHT HERE,
19 THIS TOP LEFT PICTURE RIGHT HERE, MARY.

20 A. OKAY.

21 Q. YOU SEE HERE?

22 A. UH-HUH.

23 Q. WHAT IS THAT?

24 A. THAT IS A BULLET HOLE.

25 MR. McMAHON: AND I HAVE SHOWN THIS ALSO,

1 YOUR HONOR, THE SMALLER PHOTOGRAPHS, WHICH ARE THE
2 SAME AS WHAT IS ON STATE'S EXHIBIT NUMBER 8.

3 Q. IS THAT A SMALLER PHOTOGRAPH OF THIS PICTURE IN
4 THE UPPER LEFT-HAND CORNER?

5 A. IT IS.

6 MR. McMAHON: MAY I HAND THIS TO THE JURY,
7 YOUR HONOR?

8 THE COURT: SURE.

9 (MR. McMAHON HANDS PHOTO TO JURY.)

10 Q. SO THAT IS THE FRONT DOOR. JUST TO MAKE SURE
11 WE ARE STRAIGHT HERE, MARY, I GO BACK TO STATE'S
12 EXHIBIT NUMBER 3. ON STATE'S EXHIBIT NUMBER 3, THE
13 DOOR WE ARE REFERRING TO IS THIS DOOR HERE,
14 CORRECT?

15 A. CORRECT.

16 Q. AND THAT BULLET HOLE WOULD BE IN THAT DOOR
17 GENERALLY IN THAT AREA, RIGHT?

18 A. RIGHT. AND I WAS STANDING WHERE THAT SQUARE
19 DOT IS, I MEAN, THE CIRCLE, THE BLACK CIRCLE.

20 Q. OKAY. NOW, AS I GO DOWN THESE PHOTOGRAPHS, THE
21 TOP CENTER, WHAT IS THIS A PICTURE OF?

22 A. THAT IS THE INSIDE OF THE FRONT DOOR.

23 Q. AND SO RIGHT HERE?

24 A. IS A BULLET HOLE.

25 Q. SO THAT WOULD CORRESPOND -- THIS IS THE OUTSIDE

1 OF THAT DOOR, THAT IS THE INSIDE, CORRECT?

2 A. CORRECT.

3 Q. AND AS YOU GO ON THROUGH THE HOUSE, WERE YOU
4 ABLE TO SEE DAMAGE GOING ON INTO THAT HOUSE---

5 A. YOU COULD.

6 Q. ---OF WHERE A BULLET PENETRATED THE WALLS OR
7 DOORS IN THE HOUSE?

8 A. YOU COULD FOLLOW EVERY WALL IT HIT.

9 Q. NOW, WHEN YOU COME INTO THAT HOUSE, WHAT ROOM
10 WOULD YOU COME INTO THROUGH THIS DOOR?

11 A. IT IS MY DEN.

12 Q. AND WHERE WERE THE KIDS AT ORIGINALLY? WHERE
13 WERE THEY SLEEPING?

14 A. IN THE DEN.

15 Q. IN THAT ROOM?

16 A. ON THE FLOOR.

17 Q. NOW, FROM THERE, IF YOU TRACK THE BULLET OR THE
18 BULLET HOLES, YOU SEE THIS AREA OVER HERE?

19 A. YES, SIR.

20 Q. AND WHERE IS THAT PHOTOGRAPH IN RELATION?

21 A. THIS IS A TRI-FOLD 8 X 10, IT HAS GOT ALL 8 X
22 10'S OF THE FAMILY AND IT IS BEHIND THE -- IF YOU
23 WERE TO OPEN THE BIG DOOR, IT SITS BEHIND THE DOOR.

24 Q. AND, AGAIN, THAT IS A SMALL PHOTOGRAPH?

25 A. YES, SIR.

1 Q. AND WHO IS THAT A PICTURE OF?

2 A. THAT IS A PICTURE OF MELISSA, MY SECOND
3 YOUNGEST SISTER.

4 Q. OKAY. AND AS YOU CONTINUE ON THROUGH THE
5 HOUSE, DID YOU CONTINUE TO SEE THE DAMAGE FROM THAT
6 BULLET?

7 A. I DID.

8 Q. WHERE WOULD THIS WALL BE, MARY?

9 A. THIS WALL IS BEHIND THIS PICTURE, THROUGH THE
10 PICTURE, AND THEN THAT IS THE WALL BEHIND THE
11 PICTURE.

12 Q. SO WE ARE GOING IN ORDER OF ONE, TWO, THREE,
13 FOUR?

14 A. YES, SIR.

15 Q. AND, AGAIN, SHOWING YOU THIS, BEING THE SMALL
16 PHOTOGRAPH OF THAT WALL?

17 A. YES, SIR.

18 Q. AND YOU CAN SEE THE DAMAGE OF THE BULLET?

19 A. YES, SIR.

20 Q. INSIDE THE DWELLING HOUSE?

21 A. INSIDE.

22 Q. AND IF YOU CONTINUE ON, THIS CENTER PICTURE
23 HERE, WHOSE ROOM IS THAT?

24 A. THAT IS MY MOM'S ROOM.

25 Q. THAT IS WHERE CHERYL STAYS?

1 A. YES.

2 Q. AND THAT DAMAGE THERE, AGAIN, IS THE BULLET?

3 A. CORRECT.

4 Q. AND THEN SHOWING YOU ON THE SMALL PHOTOGRAPH,
5 IS THAT A SMALL PHOTOGRAPH OF THAT?

6 A. YES.

7 Q. AND IF YOU CONTINUE ON HERE, YOU SEE THIS
8 DAMAGE HERE?

9 A. THAT'S THE DOOR JAMB TO MY MOM'S BEDROOM.

10 Q. AND, AGAIN, THERE IS DAMAGE FROM THAT BULLET?

11 A. THE BULLET.

12 Q. AND JUST TO CONTINUE ON, WHERE WOULD THIS WALL
13 BE AND WHAT ARE THESE ITEMS HERE?

14 A. THOSE ARE MY DRESSES. THEY WERE HANGING ON THE
15 DOOR.

16 Q. ON THE DOOR?

17 A. MY MOM'S DOOR.

18 Q. OKAY. AND THEN WHEN YOU LOOK BEYOND THAT YOU
19 SEE THIS AREA HERE?

20 A. THIS IS MY HALL CLOSET. THE BATHROOM IS HERE,
21 AND THAT IS MY HALL CLOSET.

22 Q. AND, AGAIN, THESE ARE THOSE SMALLER
23 PHOTOGRAPHS, CORRECT?

24 A. THEY ARE.

25 Q. NOW, THE POLICE, WERE YOU THERE WHEN THE POLICE

1 LOOKED AT THAT AREA AND SEARCHED THAT AREA?

2 A. I FOLLOWED HIM.

3 Q. AND THAT WAS CAPTAIN THOMLEY?

4 A. NO, I BELIEVE MR. CRAWFORD.

5 Q. MR. CRAWFORD? OKAY. AND DID THEY, AT THE END
6 OF THAT SEARCH, THAT LAST WALL, DO YOU KNOW WHAT
7 WAS DONE AS FAR AS THAT WALL WAS CONCERNED?

8 A. YEAH, IT IS STILL THERE. UNDER THIS, DIRECTLY
9 PROBABLY DOWN AT THE BOTTOM IS MY BATHROOM, AND
10 THEY MADE A HOLE ABOUT THIS BIG INTO THE SHEETROCK
11 AND GOT A BULLET OUT OF IT.

12 Q. THANK YOU, MARY. I DON'T HAVE ANY FURTHER
13 QUESTIONS.

14 CROSS EXAMINATION BY MR. ROGERS:

15 Q. GOOD MORNING, MS. WHITE. WELL, I GUESS IT IS
16 AFTERNOON NOW.

17 DIRECTING YOUR ATTENTION BACK TO THE SATURDAY
18 MORNING OF THE 14TH WHEN MR. CHILDERS CAME TO THE
19 HOUSE, YOU SAID HE WAS THERE FOR APPROXIMATELY 15
20 MINUTES?

21 A. ABOUT, YES, SIR.

22 Q. AND YOU SAID HE LEFT IN A HURRY, HE SPED OUT
23 LEAVING THE DRIVEWAY, IS THAT CORRECT?

24 A. YES, SIR.

25 Q. DID YOU SEE HIM LEAVE?

- 1 A. YES, SIR, I---
- 2 Q. AND YOU SAID HE WAS IN THE FORD PICKUP TRUCK?
- 3 A. CORRECT.
- 4 Q. WHEN YOUR SISTER MOVED OUT OF THE WESTCHESTER
- 5 ADDRESS, DID SHE NOT TAKE THAT TRUCK WITH HER?
- 6 A. SHE WAS IN THE PROCESS OF SELLING IT.
- 7 Q. AS A MATTER OF FACT, SHE HAD ALREADY BOUGHT
- 8 ANOTHER CAR, ISN'T THAT CORRECT?
- 9 A. RIGHT, BUT SHE HADN'T CLEANED THE TRUCK OUT SO
- 10 THE EXCHANGE HADN'T BEEN MADE.
- 11 Q. BUT SHE WAS IN POSSESSION OF THE TRUCK AT THE
- 12 TIME, WAS SHE NOT?
- 13 A. NOT -- NOT AT MY HOUSE. SHE LEFT IT IN HER
- 14 DRIVEWAY.
- 15 Q. BUT YOU SAID LATER IN THE DAY YOU SAW HIM IN
- 16 THE RED MONTERO?
- 17 A. CORRECT.
- 18 Q. AND THAT WOULD HAVE BEEN AT THE BAR, IS THAT
- 19 CORRECT?
- 20 A. THE TURKEY SHOOT, YES.
- 21 Q. WELL, THE TURKEY SHOOT WAS AT THE BAR, IS THAT
- 22 NOT CORRECT?
- 23 A. IT WAS OUTSIDE NEXT TO THE BAR.
- 24 Q. WHO WAS SPONSORING THE TURKEY SHOOT?
- 25 A. THE AMERICAN LEGION.

1 Q. NOW, YOU SAID THAT THERE WAS NO OBSTRUCTION
2 FROM THE FENCE POST WHERE YOU WERE STANDING AS FAR
3 AS HAVING A VIEW OF THE BUS, IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. WERE THERE NO VEHICLES PARKED IN BETWEEN?

6 A. THERE WERE VEHICLES PARKED, BUT NOT BETWEEN
7 WHERE THE FENCE POST WAS AND THE BUS WAS.

8 Q. LET ME HAND YOU THIS PHOTOGRAPH. WERE THOSE
9 CARS AT 3 O'CLOCK IN THE MORNING PARKED IN SIMILAR
10 PLACES AS THEY ARE IN THAT PHOTOGRAPH?

11 A. EXCEPT -- YEAH. A COUPLE OF THEM WERE -- HAD
12 NOT BEEN THERE. C.J.'S WAS GONE, OR WASN'T SITTING
13 THERE.

14 Q. CAN YOU STAND UP AND SHOW THE JURY WHICH
15 VEHICLES WERE NOT THERE AT 3 O'CLOCK THAT MORNING?

16 A. AT WHICH TIME? AT WHAT POINT IN TIME DO YOU
17 WANT TO KNOW WHEN THE VEHICLES WERE NOT THERE?

18 Q. THREE O'CLOCK IN THE MORNING WHEN THE FIRST
19 CALL WAS MADE TO 911.

20 A. WHICH CARS WERE NOT THERE?

21 Q. BASICALLY WHEN YOU ARRIVED HOME.

22 A. THE RED FORD PICKUP AND THE BLACK CAR.

23 Q. AND THE OTHER VEHICLES WERE THERE?

24 A. THEY WERE.

25 Q. YOU SAID EARLIER THAT YOU KNEW THAT COTTON HAD

1 A FIREARM. HAD YOU SEEN FIREARMS EARLIER?

2 A. NOT THAT DAY, BUT I KNEW HE HAD THAT GUN.

3 Q. HE ALWAYS HAD THE GUN, DID HE NOT?

4 A. I DON'T KNOW IF ALWAYS. SINCE I -- WHEN I
5 FOUND OUT ONE DAY ABOUT THE GUN. SO I KNEW
6 PROBABLY SIX MONTHS THAT HE HAD ONE.

7 Q. WHEN HE AND YOUR SISTER WERE LIVING TOGETHER
8 YOU KNEW HE HAD THE GUN?

9 A. NO, I DID NOT.

10 Q. WELL, YOU SAID YOU HAD KNOWN FOR APPROXIMATELY
11 SIX MONTHS. THEY HAD ONLY BEEN SEPARATED FOR
12 APPROXIMATELY A WEEK OR TWO. WERE YOU AWARE OF THE
13 GUN BEFORE OR AFTER THEIR SEPARATION?

14 A. I GUESS IT WOULD BE BEFORE BECAUSE I KNEW
15 BECAUSE HE HAD ASKED MY OTHER SISTER TO HOLD IT FOR
16 HIM.

17 Q. WHICH SISTER WOULD THAT BE?

18 A. MELISSA. BECAUSE HE SAID HE WAS AFRAID HE
19 MIGHT DO SOMETHING WITH IT.

20 MR. ROGERS: OBJECTION, YOUR HONOR.

21 THE COURT: YOU KNOW, YOU GET ON SLIPPERY
22 SLOPES WHEN YOU ASK QUESTIONS THAT ELICIT ANSWERS.
23 I CAN'T HELP YOU WITH THAT.

24 MR. ROGERS: YOUR HONOR, THAT WASN'T IN
25 RESPONSE TO THE QUESTION.

1 THE COURT: THAT IS THE MIND OF THE
2 WITNESS, OF COURSE.

3 MR. ROGERS: MAY I APPROACH THE WITNESS,
4 YOUR HONOR?

5 THE COURT: SURE.

6 Q. MS. WHITE, CAN YOU IDENTIFY THIS?

7 A. THAT'S MY STATEMENT I WROTE ABOUT AN HOUR AFTER
8 MY SISTER WAS MURDERED.

9 Q. AND THAT IS YOUR SIGNATURE?

10 A. IT IS.

11 Q. NOW, WHEN YOU GAVE THE STATEMENT YOU DIDN'T
12 MAKE ANY MENTION OF DARREL SAYING ANYTHING
13 INSTANTANEOUSLY, I BELIEVE IS HOW YOU DESCRIBED IT,
14 TO THE FIRST SHOT.

15 A. WHEN I WROTE MY STATEMENT?

16 Q. CORRECT.

17 A. THAT WAS AN HOUR AFTER I HAD SEEN MY SISTER'S
18 BRAINS ON MY FRONT YARD. I DIDN'T -- I MISSED A
19 LOT IN THERE. I WASN'T THINKING STRAIGHT. ONE OF
20 THE OFFICERS HELD ME UP WHILE I WROTE MY STATEMENT.

21 Q. SO ARE YOU SAYING THE STATEMENT WAS NOT
22 ACCURATE?

23 A. OH, IT IS ACCURATE. IT IS ACCURATE AT THAT
24 TIME. THAT IS WHAT I RECOLLECTED AN HOUR AFTER MY
25 SISTER WAS KILLED.

1 Q. IS YOUR RECOLLECTION DIFFERENT NOW THAN IT WAS
2 THEN?

3 A. IT WAS THREE OR FOUR HOURS LATER WHEN I PULLED
4 MYSELF TOGETHER. PEOPLE GO INTO SHOCK.

5 Q. AND, MS. WHITE, DO YOU REMEMBER WRITING IN YOUR
6 STATEMENT, "I HEARD A LOUD SHOT, RAN AND THEN SAW
7 HIS FACE"?

8 A. RIGHT.

9 Q. THAT IS DIFFERENT THAN WHAT YOU HAVE TESTIFIED
10 TO TODAY?

11 A. WELL, I SAW HIS FACE WHEN HE FIRED THE SECOND
12 SHOT INTO HER HEAD.

13 Q. HOW MANY SHOTS DO YOU RECALL?

14 A. FOUR SHOTS.

15 Q. AND WHERE DID THE SHOT -- TO THE BEST OF YOUR
16 RECOLLECTION, WHERE DID THE BULLETS IMPACT?

17 A. AS TO WHAT ASPECT?

18 Q. THE FIRST BULLET.

19 A. THE FIRST BULLET?

20 Q. THE FIRST SHOT.

21 A. INTO THE BACK OF HER HEAD.

22 Q. THE SECOND SHOT?

23 A. INTO THE LOWER BACK OF HER HEAD BEHIND HER EAR.

24 Q. THE THIRD SHOT?

25 A. AT MY RIGHT FOOT.

1 Q. AND THE FOURTH SHOT?

2 A. UNDER MY LEFT ARMPIT.

3 Q. AND AT THE TIME YOU GAVE YOUR WRITTEN
4 STATEMENT, YOU INDICATED THAT TWO SHOTS WENT AT
5 YOUR FEET, IS THAT CORRECT? WOULD YOU LIKE TO SEE
6 YOUR STATEMENT?

7 A. NO, I DON'T NEED TO SEE IT.

8 Q. WHO WAS THE FIRST PERSON OUT OF THE HOUSE?

9 A. OUT OF MY HOUSE?

10 Q. AFTER THE SHOOTING?

11 A. BRENDA. AND THEN---

12 Q. HOW ABOUT THE SECOND PERSON?

13 A. TIMMY.

14 Q. AND YOU SAID Y'ALL WERE JUST STANDING AROUND
15 OUTSIDE TALKING?

16 A. YES, SIR.

17 Q. AND IT WAS YOU AND TAMMY AND DARREL? WAS
18 ANYONE ELSE OUT THERE?

19 A. NO.

20 Q. JUST THE THREE OF YOU?

21 A. JUST THE THREE OF US.

22 Q. HOW LONG HAD YOU BEEN OUTSIDE?

23 A. I'M NOT SURE OF THE TIME. I WOULD SAY MAYBE 30
24 MINUTES, 45 MINUTES.

25 Q. HAD YOU BEEN OUTSIDE SINCE DEPUTY HOPPLE LEFT

1 THE FIRST TIME?

2 A. YES. I NEVER WENT IN THE HOUSE UNTIL AFTER ALL
3 THIS.

4 Q. AND HOW MUCH LONGER AFTER DEPUTY HOPPLE LEFT
5 DID YOUR SISTER TAMMY AND DARREL ARRIVE?

6 A. PROBABLY TEN MINUTES, FIVE MINUTES, TEN TO
7 FIVE. FIVE OR TEN MINUTES DIDN'T GO BY BEFORE THEY
8 DROVE UP.

9 Q. SO IF DEPUTY HOPPLE LEFT AT 3:23, YOU THINK
10 THAT DARREL AND TAMMY ARRIVED SOMETIME AROUND 3:30?

11 A. AS SOON AS HE LEFT THEY DROVE UP. HE WENT ONE
12 WAY, THEY CAME IN ANOTHER.

13 Q. AT WHAT POINT DID DARREL SAY HE WAS GETTING HIS
14 SHOTGUN?

15 A. AFTER THE SECOND SHOT WAS FIRED.

16 Q. DID YOU SEE THE SHOTGUN?

17 A. NO, I DID NOT.

18 Q. TO YOUR KNOWLEDGE DID DARREL HAVE ANY OTHER
19 GUNS IN THE TRUCK?

20 A. WE HAD ONE GUN IN THE TRUCK FROM THE TURKEY
21 SHOOT.

22 Q. AND THAT WAS A SHOTGUN?

23 A. UH-HUH.

24 Q. TO YOUR KNOWLEDGE DID ANYONE ELSE HAVE ANY
25 WEAPONS?

1 A. NO, SIR.

2 Q. DO YOU OWN A FIREARM?

3 A. NO, I DO NOT.

4 Q. TO YOUR KNOWLEDGE, DID YOUR SISTER TAMMY OWN A
5 FIREARM?

6 A. NO, SHE DID NOT, NOT TO MY KNOWLEDGE SHE DID
7 NOT.

8 Q. HAD YOU EVER SEEN HER WITH A FIREARM?

9 A. NO.

10 MR. ROGERS: YOUR HONOR, I'D LIKE TO GET
11 THIS MARKED.

12 (STATEMENT OF MARY WHITE MARKED
13 AS DEFENDANT'S EXHIBIT 1 FOR
14 IDENTIFICATION.)

15 Q. MS. WHITE, SUBSEQUENT TO THIS INCIDENT DATE,
16 DID YOU AND MR. DOWEY APPLY FOR A RESTRAINING ORDER
17 AGAINST MEMBERS OF THE CHILDERS FAMILY?

18 A. YES, WE DID.

19 Q. AND DID YOU SIGN AN AFFIDAVIT---

20 MR. McMAHON: YOUR HONOR, MAY I APPROACH
21 THE BENCH?

22 THE COURT: YES, SURE.

23 (BENCH CONFERENCE.)

24 MR. ROGERS: YOUR HONOR, AT THIS TIME I
25 WOULD MOVE TO SUBMIT DEFENDANT'S EXHIBIT 1.

1 MR. McMAHON: NO OBJECTION.

2 THE COURT: OKAY.

3 MR. McMAHON: THAT IS MS. WHITE'S
4 STATEMENT?

5 MR. ROGERS: THAT IS CORRECT.

6 (STATEMENT OF MARY WHITE RECEIVED
7 INTO EVIDENCE AS DEFENDANT'S
8 EXHIBIT 1.)

9 MR. ROGERS: YOUR HONOR, I HAVE NO OTHER
10 QUESTIONS FOR THIS WITNESS AT THIS TIME.

11 THE COURT: ALL RIGHT, AT THIS TIME.
12 ANYTHING ON REDIRECT?

13 MR. McMAHON: JUST VERY BRIEFLY, YOUR
14 HONOR.

15 REDIRECT EXAMINATION BY MR. McMAHON:

16 Q. I WANT TO REFER YOU NOW TO WHAT HAS BEEN MARKED
17 AS DEFENDANT'S EXHIBIT NUMBER 2, MARY. AND I
18 BELIEVE MR. ROGERS SHOWED YOU THAT DOCUMENT WHILE
19 YOU WERE TESTIFYING, CORRECT?

20 A. CORRECT.

21 Q. AND WHAT IS THAT DOCUMENT, MARY?

22 A. IT IS THE STATEMENT THAT I WROTE AFTER MY
23 SISTER HAD BEEN KILLED OCTOBER 15TH.

24 Q. SO IT WAS WRITTEN THAT MORNING?

25 A. NOT EVEN AN HOUR, CLOSE TO AN HOUR AFTERWARDS.

1 Q. AND IT LOOKED LIKE IT HAS GOT THE WRONG DATE UP
2 HERE, 10/16/00, BUT YOU ARE FIRM THAT IT WAS
3 WRITTEN THE MORNING---

4 A. I WROTE IT THAT VERY MORNING.

5 Q. AND DOES IT NOTE ON THERE WHAT OFFICER
6 WITNESSED THIS STATEMENT?

7 A. IT DOES, BUT I CAN'T READ THE---

8 Q. IF I TOLD YOU THAT LOOKED LIKE---

9 A. IT LOOKS LIKE DAVID THOMLEY.

10 Q. ALL RIGHT, IT LOOKS LIKE CAPTAIN THOMLEY'S
11 SIGNATURE THERE?

12 A. YES, SIR.

13 Q. MARY, I WANT TO GO THROUGH THIS STATEMENT WITH
14 YOU, OR ALL OF IT, NOT JUST THE PARTS THAT MR.
15 ROGERS TALKED ABOUT, OKAY?

16 A. OKAY.

17 Q. DOES IT INDICATE IN THERE THAT YOU WENT TO THE
18 TURKEY SHOOT ON THE 15TH?

19 A. YES, SIR, IT DOES.

20 Q. AND WHERE DOES IT INDICATE THE TURKEY SHOOT WAS
21 AT?

22 A. NOWHERE/SOMEWHERE.

23 Q. AND DOES IT FURTHER INDICATE THAT YOU WERE WITH
24 YOUR HUSBAND, DARREL DOWEY, AND YOUR SISTER TAMMY?

25 A. CORRECT.

1 Q. TAMMY MUNN, CORRECT?

2 A. CORRECT.

3 Q. DOES IT FURTHER INDICATE WHETHER OR NOT MR.
4 CHILDERS WAS AT THE TURKEY SHOOT?

5 A. YES.

6 Q. AND WHAT DOES IT SAY?

7 A. IT SAYS THAT HE SHOWED UP AT -- THIS IS LARRY
8 CHILDERS -- SHOWED UP AND HAD A CONFRONTATION WITH
9 HER.

10 Q. AND HOW DOES IT DESCRIBE LARRY CHILDERS?

11 A. THAT IT WAS TAMMY'S EX-BOYFRIEND.

12 Q. SHOWED UP AND HAD A CONFRONTATION WITH HER?

13 A. WITH HER AND SPED OUT MAD AND LEFT THE PARKING
14 LOT.

15 Q. AND THAT IS IN YOUR STATEMENT?

16 A. YES, SIR.

17 Q. NOW, AFTER THE TURKEY SHOOT IT SAYS WE STAYED
18 UNTIL ABOUT 12:30 AND THEN WENT WHERE?

19 A. TO DOWEY CIRCLE.

20 Q. TO A FRIEND'S HOUSE?

21 A. RIGHT, WHICH WOULD BE MICHAEL CORBETT.

22 Q. AND FROM THERE DOES IT SAY WHO LEFT THE
23 FRIEND'S HOUSE FIRST?

24 A. I LEFT FIRST AND CAME BACK HOME.

25 Q. AND WHAT DOES IT SAY OCCURRED WHEN YOU GOT BACK

1 HOME?

2 A. MY BROTHER, TIM STAPLES, MET ME AT THE DOOR AND
3 SAID COTTON WAS IN THE WOODS. WE CALLED THE
4 POLICE. THEY THEN -- THEY LEFT AND TAMMY AND
5 DARREL CAME HOME SHORTLY AFTER.

6 Q. AND THE "THEY" YOU ARE REFERRING TO LEFT IS
7 DEPUTY HOPPLE?

8 A. THE OFFICER.

9 Q. THEN WHAT DOES IT SAY OCCURRED?

10 A. THE THREE OF US WERE STANDING IN THE YARD
11 TALKING AND I HEARD A LOUD SHOT, RAN, SAW HIS FACE,
12 AND THEN TWO SHOTS AT MY FEET AS I RAN AS FAST AS I
13 COULD TO PUT THE KIDS IN THE BACK ROOM. I WENT
14 BACK OUTSIDE AND REALIZED MY OTHER SISTER BRENDA--
15 WITH MY OTHER SISTER BRENDA, WE REALIZED SHE WAS
16 NOT BREATHING.

17 Q. AND THAT WAS THE STATEMENT THAT YOU GAVE WITHIN
18 ABOUT AN HOUR OR TWO OF WHEN THIS INCIDENT
19 OCCURRED?

20 A. THAT'S CORRECT, SHORTLY, VERY SHORTLY AFTER.

21 Q. WHAT WAS YOUR EMOTIONAL STATE AT THE TIME YOU
22 GAVE THIS STATEMENT, MARY?

23 A. BEFORE DETECTIVE THOMLEY GAVE ME THE PAPERS TO
24 WRITE IT, I JUST PACED THE HOUSE BACK AND FORTH,
25 FROM ONE END OF THE HALL TO THE OTHER. I JUST --

1 MY STOMACH HURT.

2 Q. ANY DOUBT IN YOUR MIND WHO YOU SAW SHOOT YOUR
3 SISTER?

4 A. ABSOLUTELY NOT.

5 Q. TWICE IN THE HEAD?

6 A. ABSOLUTELY NOT.

7 Q. AND WHO WAS THAT?

8 A. THAT WAS COTTON CHILDERS.

9 Q. THANK YOU, MARY. I DON'T HAVE ANYTHING
10 FURTHER.

11 THE COURT: YOU CAN STEP DOWN.

12 (MS. WHITE STEPS DOWN.)

13 MR. McMAHON: THE STATE CALLS DARREL
14 DOWEY.

15 THE CLERK: PLACE YOUR LEFT HAND ON THE
16 BIBLE AND RAISE YOUR RIGHT.

17 (MR. DOWEY COMPLIES.)

18 THE CLERK: DO YOU SWEAR OR AFFIRM THE
19 EVIDENCE THAT YOU WILL GIVE IN THE CASE WILL BE THE
20 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
21 SO HELP YOU GOD?

22 MR. DOWEY: I DO.

23 THE CLERK: THANK YOU. PLEASE BE SEATED
24 IN THE WITNESS CHAIR, AND STATE YOUR FULL NAME FOR
25 THE RECORD.

1 MR. DOWEY: JOHN DARREL DOWEY.

2 JOHN DARREL DOWEY,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. McMAHON:

5 Q. DARREL, HOW OLD ARE YOU?

6 A. THIRTY.

7 Q. AND WHERE ARE YOU FROM?

8 A. LUGOFF.

9 Q. RAISED IN LUGOFF?

10 A. YES, SIR.

11 Q. WHERE DID YOU GO TO SCHOOL?

12 A. LUGOFF-ELGIN HIGH SCHOOL.

13 Q. AND WHAT YEAR DID YOU GRADUATE?

14 A. 1989.

15 Q. AND WHERE YOU DO WORK? WHAT KIND OF WORK DO
16 YOU DO?

17 A. I'M A CAR SALESMAN.

18 Q. AND WHERE DO YOU WORK?

19 A. CAPITOL IMPORTS.

20 Q. AND I BELIEVE THAT IS ALSO WHERE MARY WORKS, IS
21 THAT RIGHT?

22 A. YES, SIR.

23 Q. NOW, AT ONE TIME YOU AND MARY WERE HUSBAND AND
24 WIFE?

25 A. YES, SIR.

- 1 Q. AND SUBSEQUENTLY DIVORCED?
- 2 A. YES, SIR.
- 3 Q. AND BACK IN 2000 WERE Y'ALL BACK -- WERE Y'ALL
- 4 LIVING TOGETHER?
- 5 A. YES, SIR.
- 6 Q. DURING THIS PERIOD OF TIME?
- 7 A. YES, SIR.
- 8 Q. AND WHERE WERE YOU LIVING AT?
- 9 A. [REDACTED]
- 10 Q. THE ADDRESS WE HAVE ALL BEEN TALKING ABOUT?
- 11 A. YES, SIR.
- 12 Q. WHO ALL WAS LIVING THERE BACK IN THE FIRST PART
- 13 OF OCTOBER OF 2000, DARREL?
- 14 A. MYSELF AND MARY, HER BROTHER TIM, HER SISTER
- 15 BRENDA, HER MOTHER CHERYL, OUR TWO KIDS, HEATHER
- 16 AND ALEX.
- 17 Q. DID YOU MENTION MELISSA?
- 18 A. NO. MELISSA WAS NOT LIVING THERE.
- 19 Q. NOW, DID YOU HAVE A HOUSE THAT YOU RENT?
- 20 A. YES, SIR, I OWN A HOUSE ON DOWEY CIRCLE IN
- 21 LUGOFF.
- 22 Q. AND YOU WERE RENTING THAT HOUSE?
- 23 A. YES, SIR.
- 24 Q. AND WERE YOU FRIENDS WITH THE FOLKS THAT LIVED
- 25 IN THAT HOUSE?

1 A. YES, SIR, BOTH FELLOWS I WORKED WITH AT MY
2 PREVIOUS JOB.

3 Q. NOW, I WANT TO DIRECT YOUR ATTENTION BACK TO
4 THE FIRST PART OF OCTOBER OF 2000. DID TAMMY COME
5 AND HER KIDS COME TO LIVE AT THE HOUSE?

6 A. YES, SIR.

7 Q. AND DO YOU KNOW WHERE SHE HAD BEEN LIVING AND
8 WHO SHE HAD BEEN LIVING WITH?

9 A. SHE WAS LIVING ON [REDACTED] AVENUE OR
10 ROAD, OR WHATEVER IT IS CALLED. SHE WAS LIVING
11 WITH LARRY CHILDERS.

12 Q. WERE HER KIDS -- WERE HER CHAPS -- EXCUSE ME.
13 WERE HER CHILDREN ALSO LIVING THERE?

14 A. YES, SIR.

15 Q. HOW MANY CHILDREN DID SHE HAVE?

16 A. THREE. BRITTANY, ALISSA AND MATT.

17 Q. WHEN SHE LEFT WESTCHESTER SHE CAME TO WATSON
18 STREET?

19 A. YES, SIR.

20 Q. DID HER CHILDREN COME WITH HER?

21 A. YES, SIR.

22 Q. NOW, I WANT TO MOVE ON FORWARD TO THE MORNING
23 OF OCTOBER THE 14TH, THAT SATURDAY MORNING. DO YOU
24 RECALL WHETHER OR NOT YOU SAW MR. CHILDERS, THE
25 DEFENDANT, THAT SATURDAY MORNING?

1 A. YES, SIR, I DID.

2 Q. AND APPROXIMATELY WHAT TIME AND TELL US THE
3 CIRCUMSTANCES UNDER WHICH YOU SAW HIM, DARREL.

4 A. IT WAS AROUND 7:15, BETWEEN 7:15 AND 7:30. I
5 WAS BACK IN MY BEDROOM, AND I HEARD SOMEBODY
6 TALKING AT THE FRONT DOOR, AND IT SOUNDED LIKE
7 TAMMY. SO I WALKED AROUND IN FRONT TO THE FRONT
8 ROOM.

9 AND BY THAT TIME I LOOKED OUT THE WINDOW AND THE
10 DOOR AND HE WAS GETTING IN HIS VEHICLE AND LEAVING.

11 Q. COULD YOU HEAR ANY CONVERSATION BY HIM OR WITH
12 HIM AND TAMMY?

13 A. NO. NO, SIR. BY THE TIME I WALKED OUT OF MY
14 BEDROOM, HE HAD ALREADY STEPPED OFF OF THE PORCH,
15 AND---

16 Q. AND COULD YOU OBSERVE HIM OUT IN THE FRONT, OUT
17 IN THE YARD AREA?

18 A. YES, SIR.

19 Q. WHAT IF ANYTHING DID YOU OBSERVE HIM DO,
20 DARREL?

21 A. I SAW HIM THROWING SOME C.D.'S THROUGH HER
22 GLASS INTO HER CAR.

23 Q. AND WHERE WERE YOU AT WHEN YOU OBSERVED THIS?

24 A. ON MY FRONT PORCH.

25 Q. COULD YOU SEE HIM?

1 A. YES, SIR.

2 Q. AND IN RETURN HE COULD SEE YOU?

3 A. OH, YEAH.

4 Q. AND DID HE SAY ANYTHING TO YOU, DARREL?

5 A. NO, SIR.

6 Q. AND AFTER HE -- DESCRIBE HOW HE PUT THE C.D.'S
7 IN TAMMY'S CAR.

8 A. JUST KIND OF THROWING THEM IN LIKE THAT.

9 Q. AFTER HE DID THAT, WHAT IF ANYTHING DID HE DO,
10 DARREL?

11 A. HE GOT IN HIS CAR AND LEFT.

12 Q. AND DID YOU SEE THE MANNER IN WHICH HE WAS
13 DRIVING WHEN HE LEFT---

14 A. YES, SIR.

15 Q. ---THE WATSON STREET RESIDENCE?

16 A. YES, SIR.

17 Q. HOW WAS HE DRIVING?

18 A. VERY FAST, LIKE HE WAS MAD.

19 Q. WAS HE, TO YOUR KNOWLEDGE, EMPLOYED BACK AT
20 THIS TIME?

21 A. YES, SIR.

22 Q. WHERE DID HE WORK?

23 A. DUPONT.

24 Q. DO YOU KNOW WHAT HOURS?

25 A. HE WORKED THE NIGHT -- HE WORKED SWING SHIFT,

1 AND THAT PARTICULAR WEEKEND HE WAS ON THE NIGHT
2 SHIFT.

3 Q. AND THAT WOULD HAVE BEEN 11 AT NIGHT TO 7 IN
4 THE MORNING?

5 A. I THINK IT IS ACTUALLY 7 AT NIGHT UNTIL 7 IN
6 THE MORNING. THEY WORK 12 HOUR SHIFTS OUT THERE.

7 Q. I SEE. SO AS FAR AS YOU KNEW HE WOULD HAVE
8 GOTTEN OFF OF WORK AT 7 O'CLOCK THAT SATURDAY
9 MORNING?

10 A. YES, SIR.

11 Q. AND WOULD HE HAVE TIME TO GET FROM DUPONT TO
12 Y'ALL'S HOUSE ON WATSON STREET BY 7:15, 7:30?

13 A. YES, SIR.

14 Q. NOW, DID YOU SEE HIM ANY MORE THAT MORNING?

15 A. NO, SIR, I DIDN'T.

16 Q. AND ABOUT HOW LONG HAD IT BEEN THAT TAMMY AND
17 HER CHAPS WERE STAYING ON WATSON STREET WHEN THIS
18 INCIDENT OCCURRED THAT SATURDAY MORNING?

19 A. THEY HAD BEEN THERE ABOUT A WEEK.

20 Q. NOW, EARLY SATURDAY AFTERNOON DID YOU SEE MR.
21 CHILDERS?

22 A. NO, SIR, I DID NOT.

23 Q. DID YOU AND MARY AND TAMMY DECIDE TO GO OUT
24 THAT EVENING?

25 A. YES, SIR, IT WAS LATER ON THAT NIGHT.

1 Q. AND WHERE WERE Y'ALL GOING?

2 A. WE WERE GOING TO THE TURKEY SHOOT UP AT
3 SOMEWHERE.

4 Q. HOW DID Y'ALL - WAS ANYBODY ELSE GOING WITH
5 Y'ALL?

6 A. WELL, WHEN WE LEFT THE HOUSE IT WAS JUST ME,
7 MARY AND TAMMY.

8 Q. AND HOW WERE Y'ALL TRAVELING? HOW WERE Y'ALL
9 RIDING WHEN Y'ALL LEFT WATSON STREET?

10 A. MARY AND TAMMY WAS IN MARY'S CAR AND I WAS IN
11 MY TRUCK.

12 Q. AND WERE Y'ALL GOING, OR YOU GOING BY TO PICK
13 UP ANYBODY?

14 A. YES, SIR, I TOLD THEM WE WERE GOING TO GO BY
15 AND PICK UP MICHAEL CORBETT BECAUSE HE HAD PHONED
16 ME EARLIER THAT DAY AND SAID IF I WAS GOING TO THE
17 TURKEY SHOOT HE WANTED TO GO.

18 Q. AND MICHAEL CORBETT IS ONE OF THE TWO MEN THAT
19 RENTED YOUR HOUSE --

20 A. YES.

21 Q. -- GUYS THAT RENTED YOUR HOUSE ON DOWEY CIRCLE?

22 A. YES, SIR.

23 Q. DID YOU GO BY AND PICK UP MICHAEL?

24 A. YES, SIR.

25 Q. HOW DID Y'ALL GO, THE FOUR OF Y'ALL GO FROM

1 MICHAEL'S FROM THE DOWEY STREET HOUSE TO SOMEWHERE?

2 A. WE RODE IN MARY'S CAR.

3 Q. AND WENT ON TO THE TURKEY SHOOT?

4 A. YES, SIR.

5 Q. CAN YOU TELL US -- GIVE US A GENERAL IDEA, YOU
6 SAID LATER ON THAT NIGHT -- ABOUT WHAT TIME Y'ALL
7 HAD GOTTEN TO THE TURKEY SHOOT?

8 A. WHAT TIME WE GOT THERE ORIGINALLY?

9 Q. YES, SIR?

10 A. TEN, TEN-THIRTY.

11 Q. AND TELL US ABOUT HOW LONG YOU STAYED.

12 A. A COUPLE OF HOURS.

13 Q. DID YOU PARTICIPATE IN THE TURKEY SHOOT?

14 A. YES, SIR, I DID.

15 Q. WELL, HOW DO YO DO THAT? WHAT DO YOU DO?

16 A. YOU -- EACH PERSON SHOOTS A SHOTGUN AT TARGETS.
17 WHOEVER GETS THE BEST PATTERN, THEY WIN SOME MEAT
18 AND ALL.

19 Q. AND DID Y'ALL - I SAY Y'ALL -- DID YOU
20 PARTICIPATE IN A NUMBER OF ROUNDS?

21 A. YES, SIR.

22 Q. NOW, WHEN Y'ALL FIRST GOT THERE, DID YOU SEE
23 MR. CHILDERS?

24 A. NO, SIR, I DIDN'T.

25 Q. DID YOU HAVE AN OCCASION TO SEE MR. CHILDERS

1 WHILE Y'ALL WERE AT THE TURKEY SHOOT THAT NIGHT?

2 A. YES, SIR, I DID.

3 Q. ABOUT HOW MUCH TIME WAS IT FROM -- IF I CAN ASK
4 THIS QUESTION RIGHT -- FROM THE TIME YOU SAW MR.
5 CHILDERS UNTIL Y'ALL LEFT THE TURKEY SHOOT, ABOUT
6 HOW MUCH TIME PASSED?

7 A. WE HAD BEEN THERE A COUPLE OF HOURS BEFORE WE
8 ACTUALLY SAW HIM.

9 Q. AND HOW LONG DID Y'ALL STAY AFTER YOU SAW HIM?

10 A. NOT VERY LONG.

11 Q. SO THE MAJORITY OF THE TIME Y'ALL WERE THERE
12 DID NOT SEE MR. CHILDERS, IS THAT CORRECT?

13 A. CORRECT.

14 Q. OKAY. TELL THE JURY UNDER WHAT CIRCUMSTANCES
15 YOU SAW MR. CHILDERS AT THE TURKEY SHOOT, DARREL.

16 A. I HAD WALKED INSIDE TO USE THE BATHROOM. WHEN
17 I CAME BACK OUT, I CAUGHT A GLIMPSE OF HIM STANDING
18 BY THE BURN BARREL. AND BY THAT TIME, TAMMY AND
19 MARY HAD ALREADY SPOTTED HIM.

20 WHEN I WALKED OVER TO TAMMY AND MARY, SHE SAID,
21 "YOU KNOW COTTON'S HERE."

22 AND I SAID, "YEAH, I SEEN HIM."

23 Q. WAS THERE A CONVERSATION, WAS THERE A STATEMENT
24 MADE BY TAMMY TO -- AND DON'T GO INTO WHAT IT WAS,
25 BUT A STATEMENT MADE BY TAMMY---

1 A. YES, SIR.

2 Q. ---TO MR. CHILDERS?

3 A. YES, SIR. NOT DIRECTLY TO HIM, JUST TO MARY IN
4 A LOUD VOICE.

5 Q. AND WAS IT IN SUCH A VOICE THAT MR. CHILDERS
6 COULD HEAR IT?

7 A. OH, I'M SURE.

8 Q. DO YOU RECALL WHAT STATEMENT AND A RESPONSE IF
9 ANY HE MADE?

10 A. YEAH, HE SAID THIS WAS A PUBLIC PLACE AND, YOU
11 KNOW, HE COULD DO WHAT HE WANTED TO DO.

12 Q. DID HE REMAIN THERE AT THE TURKEY SHOOT?

13 A. NO, SIR.

14 Q. WHAT HAPPENED AFTER THAT?

15 A. HE GOT IN HIS TRUCK AND LEFT.

16 Q. AGAIN, DID YOU SEE HOW HE WAS DRIVING WHEN HE
17 LEFT?

18 A. YES, SIR, I DID, BECAUSE I WATCHED HIM LEAVE.

19 Q. AND WHAT TYPE OF -- FIRST OFF, WHAT TYPE OF
20 VEHICLE WAS HE IN?

21 A. HE WAS IN A RED MITSUBISHI MONTERO.

22 Q. AND DID YOU KNOW THAT TO BE HIS VEHICLE?

23 A. YES, SIR.

24 Q. HAD YOU SEEN HIM IN THAT VEHICLE ON DATES OTHER
25 THAN THAT SUNDAY, OCTOBER THE 15TH?

1 A. OH, YEAH.

2 Q. I TAKE IT THIS WOULD BE SOMEWHERE AFTER
3 MIDNIGHT?

4 A. OH, YEAH.

5 Q. SATURDAY NIGHT, ON INTO SUNDAY MORNING. IS
6 THAT CORRECT?

7 A. YES, SIR.

8 Q. DESCRIBE FOR THE JURY, PLEASE, HOW MR. CHILDERS
9 WAS DRIVING THE VEHICLE WHEN HE LEFT THE TURKEY
10 SHOOT?

11 A. HE SPED OUT VERY FAST. HE WENT UP SPRINGVALE
12 ROAD TOWARDS HIGHWAY 34 VERY FAST, BACK TOWARD
13 ELGIN.

14 Q. NOW, I BELIEVE YOU SAID Y'ALL JUST STAYED A
15 BRIEF PERIOD OF TIME AFTER MR. CHILDERS LEFT?

16 A. YES, SIR.

17 Q. AND WHEN I SAY Y'ALL, WHO ALL LEFT TOGETHER?

18 A. ME AND MARY AND TAMMY AND MICHAEL.

19 Q. AND WHEN Y'ALL LEFT NOWHERE, WHERE DID YOU GO
20 TO?

21 A. WE WENT BACK TO DOWEY CIRCLE.

22 Q. AND Y'ALL WERE IN ONE VEHICLE NOW?

23 A. THAT'S CORRECT.

24 Q. WHERE WAS YOUR VEHICLE, THE TRUCK?

25 A. IT WAS AT DOWEY CIRCLE.

1 Q. WHEN THE FOUR OF Y'ALL ARRIVED AT DOWEY CIRCLE,
2 JUST TELL US WHAT OCCURRED... WHAT HAPPENED THERE?

3 A. WE JUST ALL STOOD AROUND OUTSIDE LIKE WE DO --
4 IT IS WHAT YOU DO IN LUGOFF ON A FRIDAY OR SATURDAY
5 NIGHT. WE WERE JUST STANDING AROUND OUTSIDE UNDER
6 A SHED TALKING. TAMMY WAS A LITTLE BIT UPSET.
7 AND, YOU KNOW, WE JUST HUNG OUT THERE FOR A WHILE.
8 AND THEN MARY DECIDED SHE WOULD GO ON HOME.

9 Q. SO BETWEEN THE THREE OF Y'ALL--THE THREE OF
10 Y'ALL I AM TALKING ABOUT DARREL, TAMMY AND MARY--
11 WHO LEFT FIRST?

12 A. MARY LEFT FIRST.

13 Q. AND WAS THERE ANY DECISION OF HOW TAMMY WAS
14 GOING TO LEAVE FROM DOWEY CIRCLE BACK TO WATSON?

15 A. YES, SIR.

16 Q. AND HOW WAS THAT?

17 A. SHE SHOULD RIDE WITH ME BECAUSE WE KNEW HE WAS
18 IN THE AREA.

19 Q. AND WHEN YOU SAY WE KNEW "HE" WAS IN THE AREA,
20 YOU ARE REFERRING TO?

21 A. COTTON.

22 Q. SO MARY LEFT FIRST?

23 A. THAT'S CORRECT.

24 Q. GOING TO WATSON STREET?

25 A. THAT'S CORRECT.

1 Q. AND AFTERWARDS THEN WHO LEFT? AFTER MARY LEFT?

2 A. ME AND TAMMY LEFT.

3 Q. DID YOU AND TAMMY LEAVE FROM DOWEY CIRCLE GOING
4 DIRECTLY BACK TO WATSON STREET?

5 A. YES, SIR.

6 Q. WOULD THAT GET Y'ALL ANYWHERE IN THE AREA OF
7 BOWEN--BOWEN STREET?

8 A. YES, SIR, THE WAY I GO, YOU GO THE BACK WAY,
9 YOU KNOW.

10 Q. AND WHO IF ANYONE OR WHAT OCCURRED WHEN Y'ALL
11 WERE IN THE AREA OF BOWEN AND WATSON?

12 A. REPEAT THAT.

13 Q. BOWEN AND WATSON STREET. DID Y'ALL SEE ANYONE
14 IN THAT GENERAL AREA?

15 A. YEAH, WE PASSED JOHN CRANE COMING -- WE GOT
16 KIND OF IN BEHIND HIM AT THE INTERSECTION. THAT IS
17 HIM SITTING RIGHT OVER THERE.

18 Q. AND THAT IS HIM.

19 MR. McMAHON: STAND UP.

20 (MR. CRANE STANDS.)

21 Q. AND THAT IS JOHN WHO HAS TESTIFIED EARLIER, IS
22 THAT CORRECT?

23 A. YES, SIR.

24 MR. McMAHON: THANK YOU.

25 (MR. CRANE SEATED.)

1 Q. AND ABOUT WHERE WAS IT THAT YOU SAW JOHN?

2 A. RIGHT AT THE INTERSECTION OF BOWEN AND WATSON.

3 Q. WHERE WAS HE HEADING?

4 A. HE HAD BEEN COMING BACK FROM TAKING SOMEBODY
5 HOME OR SOMETHING, I DON'T KNOW WHAT WAS GOING ON,
6 I JUST RAN INTO HIM.

7 Q. AND DID YOU HAVE A CONVERSATION WITH JOHN AT
8 THAT TIME?

9 A. YEAH, HE FLAGGED ME DOWN PRETTY MUCH, STUCK HIS
10 ARM OUT THE WINDOW. HE RECOGNIZED MY TRUCK AND HE
11 FLAGGED ME DOWN, TOLD ME WHAT WAS GOING ON AT THE
12 HOUSE.

13 Q. YOU ARE REFERRING BACK TO THE 911 CALL?

14 A. I DIDN'T KNOW ANYTHING ABOUT THE 911 CALL YET.
15 ALL I KNEW WAS HE TOLD ME THAT THERE WAS SOME STUFF
16 GOING ON AT THE HOUSE AND I NEEDED TO GET ON HOME.

17 Q. DID HE SAY ANYTHING ABOUT COTTON?

18 A. YEAH, HE SAID COTTON HAD BEEN IN THE AREA.

19 Q. NOW,---

20 A. AND I SAID, "YEAH, WE HAVE ALREADY SEEN HIM
21 EARLIER TONIGHT."

22 Q. ---AS A RESULT OF THAT, DESCRIBE FOR THE JURY,
23 DID TAMMY GET UPSET?

24 A. YES, SHE WAS VERY UPSET.

25 Q. NOW, Y'ALL WENT ON FROM THERE WHERE YOU HAD HAD

1 THE CONVERSATION WITH JOHN ON TO WATSON STREET? ON
2 TO THE HOUSE?

3 A. YEAH, WE WENT ON HOME, YEAH.

4 Q. AND DID JOHN FOLLOW BEHIND?

5 A. YES, SIR.

6 Q. WHEN YOU GOT TO WATSON STREET, DARREL, WHERE
7 DID YOU GO? WHO ALL WAS THERE OUTSIDE?

8 A. WE PULLED INTO THE YARD AND MARY AND C.J. WERE
9 STANDING THERE IN THE YARD. AND JOHN, LIKE I SAY,
10 HE PULLED IN RIGHT IN BEHIND ME. AND WE GOT OUT.
11 AND ME, TAMMY, MARY, JOHN AND C.J., WE STOOD AROUND
12 FOR A FEW MINUTES AND TALKED. C.J. AND JOHN WENT
13 ON IN THE HOUSE.

14 Q. SO NOW WHO IS OUTSIDE IN THE YARD?

15 A. ME, MARY AND TAMMY.

16 Q. YOU, MARY AND HER SISTER TAMMY?

17 A. THAT'S CORRECT.

18 Q. AND ABOUT WHERE OUT IN THE YARD ARE Y'ALL AT,
19 DARREL?

20 A. WELL, IF THE TRAILER IS SITTING HERE, WE ARE AT
21 LIKE THE FRONT CORNER, YOU KNOW, WHERE SOME
22 RAILROAD TIES AND STUFF ARE RIGHT THERE.

23 Q. AND IF I REFER YOU TO STATE'S EXHIBIT NUMBER 3,
24 YOU DON'T EVEN HAVE TO GET UP, YOU ARE REFERRING TO
25 RAILROAD TIES UP IN THIS AREA HERE?

1 A. YES, SIR.

2 Q. AND WHEN YOU SAY THE FRONT CORNER, YOU ARE
3 TALKING ABOUT THIS BEING THE FRONT?

4 A. WELL -- RIGHT.

5 Q. THIS CORNER BACK OVER HERE?

6 A. RIGHT, RIGHT IN THIS AREA RIGHT HERE.

7 Q. AND WHO IS IT THAT IS OUT THERE?

8 A. MYSELF, MARY AND TAMMY.

9 Q. WHAT IS THAT AREA LIKE AS FAR AS LIGHTING IS
10 CONCERNED?

11 A. IT IS WELL LIT.

12 Q. ARE YOU ABLE TO SEE?

13 A. OH, YEAH.

14 Q. WE HAVE TALKED ABOUT SOME LIGHTS THERE IN THE
15 BACK OF THE HOUSE AND OUT BY THE ROAD. IS THERE
16 ALSO A PORCH LIGHT ON THAT PORCH?

17 A. YES, SIR, THERE IS A PORCH LIGHT ON.

18 Q. LIKE A PORCH LIGHT THERE?

19 A. UH-HUH.

20 Q. REFERRING TO STATE'S EXHIBIT NUMBER 4?

21 A. YEAH, THAT'S RIGHT.

22 Q. WERE YOU ABLE TO SEE AND DISCERN FACES? YOU
23 WERE ABLE TO SEE AND IDENTIFY, RECOGNIZE FACES IF
24 YOU ARE OUT THERE?

25 A. YES, SIR.

1 Q. NOW, HOW ARE YOU AND MARY AND TAMMY POSITIONED
2 ONE TO THE OTHER?

3 A. YOU WANT ME TO SHOW YOU ON HERE?

4 Q. YOU ARE WELCOME TO. AND THERE IS A POINTER
5 RIGHT THERE, DARREL.

6 A. MARY AND TAMMY ARE STANDING PRETTY MUCH
7 SHOULDER TO SHOULDER FACING THE ROAD, AND I AM
8 STANDING KIND OF AT A 45 DEGREE ANGLE KIND OF
9 LOOKING OUT BACK TOWARDS THE HOUSE AND LOOKING BACK
10 TOWARDS THE ROAD.

11 Q. WHERE IS YOUR TRUCK PARKED?

12 A. IT IS RIGHT ALONG IN HERE.

13 Q. OKAY. AND YOUR TRUCK IS GOING TO BE MOVED FROM
14 THE POINT WE ARE TALKING AT NOW UNTIL LATER ON THAT
15 MORNING WHEN THE OFFICERS GET THERE, CORRECT?

16 A. CORRECT.

17 Q. OKAY. BUT IT IS BACK OVER TOWARDS WHAT WE
18 HAVE GOT BROWNE IN AS THE DRIVEWAY?

19 A. RIGHT. IT IS RIGHT OVER IN THIS AREA.

20 Q. NOW, IS ANYONE ELSE OUTSIDE BESIDES YOU AND
21 MARY AND TAMMY AT THIS TIME?

22 A. NO, SIR.

23 Q. WELL, WHAT HAPPENS NEXT? WHAT IS THE NEXT
24 THING YOU SEE, DARREL?

25 A. WE ARE STANDING THERE TALKING AND, YOU KNOW, IT

1 STARTED OUT TAMMY WAS UPSET, VENTING, YOU KNOW,
2 JUST, YOU KNOW, JUST BEING REAL ANGRY ABOUT THE
3 WHOLE SITUATION. AND THEN WE JUST STARTED JOKING.

4 AND THE NEXT THING I KNOW IS HE POPPED UP AND
5 SHOT HER IN THE BACK OF THE HEAD.

6 Q. NOW, I BELIEVE YOU SAID TAMMY AND MARY IS
7 FACING OUT TOWARDS THE ROAD?

8 A. YES, SIR.

9 Q. WHICH WAY ARE YOU FACING?

10 A. I AM FACING KIND OF LIKE, IF THAT IS THE
11 TRAILER, I AM, YOU KNOW, LOOKING TOWARD THE
12 TRAILER, TOWARD THEM, TOWARD THE BACK OF THE HOUSE.

13 Q. TO YOUR KNOWLEDGE, BETWEEN THE THREE OF YOU,
14 WHO SAW -- AND WE ARE TALKING ABOUT MR. CHILDERS,
15 RIGHT?

16 A. THAT'S CORRECT.

17 Q. WHO SAW HIM FIRST BETWEEN THE THREE OF YOU,
18 YOU, TAMMY AND MARY?

19 A. I SAW HIM FIRST.

20 Q. AND WHAT DIRECTION DID YOU SEE HIM COMING FROM?
21 WHAT AREA DID YOU SEE HIM AT?

22 A. HE CAME FROM THIS AREA RIGHT HERE.

23 Q. AND HE WOULD HAVE BEEN COMING FROM THE BACK OF
24 TAMMY AND MARY, CORRECT?

25 A. CORRECT.

1 Q. THEY ARE FACING THIS WAY?

2 A. THAT'S CORRECT.

3 Q. AND YOU ARE FACING TOWARDS THE SIDE KIND OF?

4 A. THAT'S CORRECT.

5 Q. NOW, AS HE CAME -- WAS HE COMING IN THE
6 DIRECTION TOWARDS Y'ALL?

7 A. TOWARDS -- TOWARDS TAMMY AND MARY.

8 Q. AND THAT WOULD HAVE BEEN TOWARDS THEIR FRONT OR
9 TOWARDS THEIR BACK?

10 A. THEY WERE -- HE WAS COMING TOWARDS THEIR BACK.

11 Q. TELL THE JURY WHAT OCCURRED, DARREL. WHAT
12 HAPPENED NEXT?

13 A. IT WAS JUST LIKE ONE STEADY MOTION. HE NEVER
14 STOPPED. HE SHOT AND SHOT AND KEPT JUST LIKE IN A
15 STEADY WALK TOWARDS -- AND THEN HE MADE THE TURN
16 TOWARDS THE HOUSE, AND THAT'S WHEN HE SHOT UP
17 THROUGH THE HOUSE AT MARY.

18 Q. HOW MANY SHOTS DO YOU THINK YOU HEARD, DARREL?

19 A. FOUR.

20 Q. FOUR? AND WHEN YOU HEARD THAT, DID YOU SAY
21 ANYTHING?

22 A. I TURNED AROUND, AND YOU KNOW HOW WHEN YOU FEEL
23 A PRESENCE OF SOMEBODY YOU TURN AROUND AND YOU
24 LOOK, AND THERE HE WAS. AND AS SOON AS I SAW HIM,
25 HE SHOT. I MEAN, AS SOON AS IT COME OUT OF MY

1 MOUTH, "THERE'S COTTON, HE'S GOT A GUN," HE SHOT.

2 Q. SIMULTANEOUS LIKE?

3 A. YES, SIR.

4 Q. AND WHAT ACTION DID YOU TAKE? WHAT DID YOU DO?

5 A. I TURNED AROUND TOWARDS MY TRUCK.

6 Q. AND WHY WERE YOU GOING TO RUN TO THE TRUCK?

7 A. BECAUSE I WAS TRYING TO GET IT UNLOCKED.

8 Q. AND WHY DID YOU WANT TO GET YOUR TRUCK
9 UNLOCKED?

10 A. BECAUSE I WAS GETTING MY GUN OUT.

11 Q. WAS THIS BEFORE OR AFTER HE HAD SHOT AT LEAST
12 ONCE, AT LEAST TWICE?

13 A. THIS WAS AFTER HE HAD SHOT.

14 Q. AFTER?

15 A. UH-HUH.

16 Q. DID YOU HEAR SHOTS FROM THE TIME -- I BELIEVE
17 YOU SAID, "THERE'S COTTON, HE'S GOT A GUN," YOU HEAR
18 A SHOT?

19 A. UH-HUH.

20 Q. THEN YOU GO TOWARDS YOUR TRUCK?

21 A. UH-HUH.

22 Q. DO YOU HEAR A SHOT BEFORE YOU GET TO THE TRUCK?

23 A. YEAH, I AM HEARING SHOTS THE WHOLE TIME, AND I
24 AM SITTING THERE WITH MY KEYS TRYING TO GET MY
25 TRUCK UNLOCKED.

1 Q. AND AFTER YOU HEAR THAT SECOND SHOT, DO YOU SEE
2 TAMMY?

3 A. NO, I DON'T SEE TAMMY ANY MORE. SHE'S FELL ON
4 THE GROUND BY THAT POINT.

5 Q. DO YOU SEE MARY?

6 A. I SEE HER RUNNING TOWARDS THE HOUSE.

7 Q. AND DO YOU HEAR OTHER SHOTS?

8 A. YES, SIR.

9 Q. HOW MANY OTHER SHOTS?

10 A. I HEAR TWO MORE SHOTS.

11 Q. AND WHERE IS COTTON? WHERE IS MR. CHILDERS?

12 A. HE IS WALKING TOWARD -- TOWARDS THE WOODS IN
13 FRONT OF THE HOUSE.

14 Q. YOU ARE TALKING ABOUT WHERE YOU ARE POINTING ON
15 STATE'S EXHIBIT NUMBER 3 WALKING IN THIS DIRECTION?

16 A. HE CAME AROUND THIS WAY AND WALKED TOWARDS THE
17 HOUSE -- WALKED IN FRONT OF THE HOUSE TOWARD THE
18 WOODS.

19 Q. AND IF I REFER TO STATE'S EXHIBIT NUMBER 2---

20 A. HE HAD HIS ROUTE PLANNED OUT.

21 Q. IF I SHOW YOU STATE'S EXHIBIT NUMBER 2, CAN YOU
22 POINT OUT ON HERE WHAT AREA HE CAME FROM AND WHAT
23 DIRECTION HE WALKED IN?

24 A. HE CAME OUT FROM THIS AREA RIGHT HERE AND
25 WALKED AROUND THE CORNER OF THE HOUSE AND WALKED IN

1 FRONT OF THE HOUSE TOWARDS THESE WOODS.

2 Q. DARREL, DO YOU REMEMBER HOW HE WAS DRESSED?

3 A. YES, SIR, I DO.

4 Q. HOW?

5 A. HE HAD ON A BROWN COAT AND A BURGUNDY HAT
6 TURNED AROUND BACKWARDS.

7 Q. AND I DON'T NEED TO WALK UP THERE AND PICK THAT
8 HAT AND COAT UP AGAIN, 6 AND 7, BUT YOU SEE IT
9 THERE ON THE RAIL?

10 A. THAT'S IT.

11 Q. DOES THAT LOOK LIKE THE HAT?

12 A. THAT'S IT.

13 Q. AND HE HAD TURNED ON BACKWARDS?

14 A. YES, SIR.

15 Q. AND THE JACKET?

16 A. YES, SIR.

17 Q. NOW, DID YOU GET IN YOUR TRUCK?

18 A. YES, SIR, I DID.

19 Q. AND BY THE TIME YOU GOT IN YOUR TRUCK, WHERE
20 WAS MR. CHILDERS AT?

21 A. HE HAD ALREADY GONE INTO THE WOODS. I LOST
22 SIGHT OF HIM BY THAT POINT.

23 Q. AND WHAT DID YOU DO ONCE YOU GOT IN YOUR TRUCK?

24 A. I GOT IN MY TRUCK AND I TURNED THE LIGHTS ON
25 AND I WENT TOWARDS THE WOODS.

1 Q. AND ARE YOU ABLE TO MANEUVER SOMEWHAT IN THAT
2 AREA OF PINES OR---

3 A. SOMEWHAT, YEAH. YOU KNOW, IF YOU TAKE A FEW
4 TREES OUT YOU CAN MANEUVER THROUGH THERE, BUT
5 SOMEWHAT YOU CAN MOVE THROUGH THERE.

6 Q. AND YOU SAY YOU ARE USING YOUR LIGHTS. ARE YOU
7 REFERRING TO YOUR HEADLIGHTS?

8 A. MY HEADLIGHTS, YES, SIR.

9 Q. ARE YOU BY YOURSELF THEN?

10 A. AT THAT POINT, YES, SIR.

11 Q. DID YOU SEE HIM?

12 A. NO, SIR, I DID NOT.

13 Q. NOT BEING ABLE TO DRIVE ENTIRELY THROUGH THAT
14 AREA, WHAT DID YOU DO?

15 A. I TURNED AROUND AND CAME BACK, AND THAT'S WHEN
16 TIM GOT IN THE TRUCK WITH ME.

17 Q. AND WHAT DID YOU AND TIMMY DO?

18 A. WE LEFT AND WENT OUT AND WENT TOWARD BOOKMAN
19 AND WENT DOWN TOWARD BOOKMAN ROAD.

20 Q. AND YOU ARE POINTING FOR ME NOW.

21 A. OKAY.

22 Q. I BELIEVE BOOKMAN IS THE FIRST PAVED---

23 A. YES, SIR, RIGHT HERE.

24 Q. RIGHT OR LEFT.

25 A. YES, SIR.

1 Q. WHEN Y'ALL GOT TO THIS INTERSECTION, WHICH WAY
2 DID YOU AND TIM GO?

3 A. WE WENT RIGHT AND WENT DOWN THIS WAY, BECAUSE I
4 KNEW HE HAD WENT IN THIS AREA RIGHT HERE, HE HAD
5 WALKED TOWARD THIS AREA, SO WE JUST MADE A LOOP
6 AROUND THAT WAY.

7 Q. DID YOU SPOT HIM?

8 A. NO, SIR, WE DID NOT.

9 Q. OR HIS VEHICLE?

10 A. NO, SIR.

11 Q. DID YOU EVER SPEAK TO HIM THAT NIGHT AT THE
12 TURKEY SHOOT?

13 A. (NODS NEGATIVELY.)

14 Q. DID YOU EVER SPEAK TO HIM WHEN HE COME OUT FROM
15 BESIDE THE HOUSE AND SHOT TAMMY?

16 A. NO, SIR.

17 Q. DID YOU SPEAK TO HIM THAT SATURDAY MORNING?

18 A. (NODS NEGATIVELY.)

19 Q. AFTER Y'ALL RODE THAT AREA, YOU AND TIM, WHERE
20 DID YOU GO TO?

21 A. WE RODE DOWN AROUND AND WENT AROUND THE BACK OF
22 THE, YOU KNOW, THERE IS A DIRT ROAD OFF OF BOOKMAN,
23 WE WENT DOWN THAT WAY.

24 Q. THAT IS THIS ROAD? THAT IS THIS ROAD UP IN
25 HERE?

1 A. YEAH, I GUESS THAT WOULD BE IT, YEAH.

2 Q. THAT RIGHT THERE?

3 A. YEAH.

4 Q. I MEAN, YOU DIDN'T SEE HIM UP IN THERE?

5 A. HUH-UH.

6 Q. THEN AFTER Y'ALL CHECKED THAT AREA GENERALLY,
7 WHERE DID YOU GO?

8 A. CAME BACK AND PULLED INTO THE--PULLED BACK IN
9 THE DRIVEWAY.

10 Q. WHEN Y'ALL GOT BACK TO WATSON STREET, WERE THE
11 POLICE THERE?

12 A. YES, SIR, THEY HAD ARRIVED BY THEN. WHAT'S HIS
13 NAME?

14 Q. DEPUTY HOPPLE?

15 A. YEAH.

16 Q. WAS HE THE ONLY OFFICER THERE OR---

17 A. NO, HE HAD ANOTHER ONE WITH HIM.

18 Q. WITH HIM?

19 A. YEAH.

20 Q. THE ONLY CAR THAT WAS THERE WAS HOPPLE'S THAT
21 YOU KNOW OF?

22 A. YES, SIR. YES, SIR.

23 Q. NOW, DARREL, YOU REMAINED THERE FOR A PERIOD OF
24 TIME OR LATER ON THAT MORNING, CORRECT?

25 A. YES, SIR, I DIDN'T LEAVE.

1 Q. WHEN YOU GOT BACK, YOU AND TIM GOT BACK, WHERE
2 WAS TAMMY? WHAT WAS HER CONDITION?

3 A. SHE WAS DEAD. SHE WAS LAYING IN THE FRONT
4 YARD.

5 Q. HAD YOU OBSERVED ANY INJURIES TO HER?

6 A. YES, SIR.

7 Q. WHERE WAS HER--MAINLY HER INJURIES, DARREL?

8 A. I DIDN'T WALK OVER TO HER. OF WHAT I COULD --
9 YOU KNOW, FROM WHAT I COULD TELL, SHE HAD BEEN SHOT
10 IN THE HEAD. HER FACE WAS BLOODY.

11 Q. FROM THE POSITION YOU WERE IN WHEN YOU SAW
12 COTTON CHILDERS AND THE POSITION TAMMY WAS IN, DO
13 YOU THINK SHE EVER SAW HIM? WAS SHE IN A POSITION
14 WHERE SHE COULD HAVE SEEN HIM?

15 A. NO.

16 Q. NOW, DARREL, YOU REMAINED THERE WHEN THE
17 OFFICERS CAME?

18 A. YES, SIR, I DID.

19 Q. AND AMONG THOSE, CAPTAIN THOMLEY?

20 A. YES, SIR.

21 Q. AND YOU KNOW CAPTAIN THOMLEY?

22 A. OH, YEAH.

23 Q. I BELIEVE HE MIGHT BE FROM---

24 A. HE'S FROM LUGOFF TOO, YEAH.

25 Q. ---LUGOFF. AND DETECTIVE CRAWFORD AND TISDALE

1 AND THE SHERIFF?

2 A. YES, SIR.

3 Q. AND YOU HAVE HEARD MARY'S TESTIMONY ABOUT THAT
4 BULLET HOLE IN THE DOOR?

5 A. YES, SIR.

6 Q. THAT WASN'T THERE THE DAY BEFORE, WAS IT?

7 A. NO, SIR, IT WAS NOT.

8 Q. IN FACT, THAT WASN'T DISCOVERED UNTIL LATER ON
9 THAT MORNING?

10 A. RIGHT.

11 Q. AND THEY PRETTY MUCH TRACED THAT BULLET PATH
12 THROUGH THE HOUSE?

13 A. YES, SIR.

14 Q. HOW DID THEY COME TO RECOVER THAT BULLET?

15 A. ME AND DETECTIVE THOMLEY WENT BACK THERE AND
16 LOOKED AT IT AND WE DISCOVERED THAT IT WASN'T -- IT
17 HADN'T PENETRATED THROUGH THE WALL ALL THE WAY IN
18 THE CLOSET, SO HE SAID, "WELL, IT IS PROBABLY IN THE
19 WALL."

20 I SAID, "WELL, I'LL GO GET A HAMMER AND WE'LL
21 FIND IT."

22 AND I KNOCKED THE SHEET -- I KNOCKED A HOLE IN
23 THE BOTTOM OF THE SHEETROCK, AND THE BULLET WAS IN
24 THE BOTTOM, HAD LODGED IN IT AND WENT DOWN IN THE
25 WALL.

1 Q. DARREL, YOU ANSWER ANY QUESTIONS THE DEFENSE
2 ATTORNEY MAY HAVE. THANK YOU.

3 CROSS EXAMINATION BY MR. ROGERS:

4 Q. GOOD AFTERNOON, MR. DOWEY. YOU SAY THE RED
5 PICKUP WAS PARKED NEXT TO THE FENCE, IS THAT
6 CORRECT?

7 A. WHICH TIME?

8 Q. AT THE TIME OF THE SHOOTING, WHEN THE THREE OF
9 YOU WERE STANDING OUTSIDE?

10 A. IT WASN'T PARKED NEXT TO -- WHERE IS THE OTHER
11 CHART AT? THE RED PICKUP WAS PARKED RIGHT ALONG IN
12 HERE.

13 Q. OKAY. AND THE THREE OF YOU WERE STANDING---

14 A. RIGHT THERE.

15 Q. CAN YOU POINT TO IT AGAIN? ALL RIGHT. NOW,
16 ONCE THE FIRST SHOT WAS FIRED, WHAT DO YOU REMEMBER
17 HAPPENING NEXT?

18 A. ANOTHER SHOT WAS FIRED, AND I WAS LISTENING, I
19 WAS RUNNING TOWARDS MY TRUCK AT THE SAME TIME.

20 Q. DID TAMMY GO ANYWHERE? DID SHE RUN?

21 A. NO. YOU CAN'T RUN WITH A BULLET IN YOUR HEAD.

22 Q. DID -- MARY RAN, IS THAT CORRECT?

23 A. YES, SIR.

24 Q. HOW FAR IS THAT FENCE FROM THE CORNER OF THE
25 HOUSE?

1 A. THIS RIGHT HERE?

2 Q. WHERE YOU WERE STANDING?

3 A. THERE IS NO FENCE THERE.

4 Q. OKAY.

5 A. THERE IS RAILROAD TIES RIGHT HERE.

6 Q. I'M SORRY, RAILROAD TIES.

7 A. YEAH.

8 Q. HOW FAR ARE THOSE TIES FROM THE CORNER OF THE
9 HOUSE?

10 A. FIVE, SIX FOOT.

11 Q. Y'ALL ARE STANDING APPROXIMATELY FIVE OR SIX
12 FEET FROM THE CORNER OF THE HOUSE, IS THAT CORRECT?

13 A. WE WERE STANDING IN FRONT OF THE RAILROAD TIES
14 RIGHT HERE.

15 MR. ROGERS: MAY I APPROACH THE WITNESS,
16 YOUR HONOR?

17 THE COURT: SURE.

18 MR. McMAHON: NO OBJECTION.

19 Q. CAN YOU IDENTIFY THIS, MR. DOWEY?

20 A. YEAH. THAT IS MY STATEMENT.

21 Q. AND THAT IS YOUR SIGNATURE, IS THAT CORRECT?

22 A. THAT'S CORRECT. UH-HUH.

23 MR. ROGERS: YOUR HONOR, I WOULD LIKE TO
24 HAVE THIS MARKED.

25 THE COURT: OKAY.

1 MR. ROGERS: I THINK IT IS EXHIBIT 2.

2 (STATEMENT OF DARREL DOWEY MARKED

3 AS DEFENDANT'S EXHIBIT 2 FOR

4 IDENTIFICATION.)

5 Q. HOW MANY SHOTS DO YOU RECALL?

6 A. HOW MANY DO I RECALL? FOUR.

7 Q. AND AT THE TIME YOU GAVE THE STATEMENT, HOW
8 MANY SHOTS DID YOU RECALL?

9 A. I THINK IN MY STATEMENT THERE I SAID THREE, BUT
10 THAT HAPPENED RECENTLY AND, YOU KNOW, I GAVE MY
11 STATEMENT JUST NOT TOO LONG AFTER I WATCHED HER
12 DIE. AND I WAS STILL IN A STATE OF SHOCK.

13 Q. AT THE TIME YOU GAVE YOUR STATEMENT, YOU
14 THOUGHT THE FIRST SHOT WAS AT MARY, IS THAT
15 CORRECT?

16 A. NO.

17 Q. MR. DOWEY, COULD YOU READ YOUR STATEMENT FOR
18 THE JURY?

19 A. "WE WERE STANDING IN THE YARD NEAR MY RED
20 PICKUP. LARRY WALKED UP FROM BEHIND THE BASKETBALL
21 GOAL. HE SHOT ONE TIME, AND TAMMY AND MARY RAN
22 TOWARD THE HOUSE. HE SHOT AT MARY AND THEN TURNED
23 AND SHOT TAMMY, AND THEN HE JUST WALKED OFF IN THE
24 WOODS. I KNOW HE WAS USING A PISTOL."

25 Q. AND THAT IS THE WAY YOU RECALLED IT AT THE

1 TIME, IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. ANY TIME DURING THE DAY -- YOU SAID THAT YOU
4 NEVER SPOKE TO COTTON ANY OF THE THREE TIMES THAT
5 YOU SAW HIM THAT DAY. DID HE EVER SPEAK TO YOU?

6 A. NOT TO MY KNOWLEDGE, NO, SIR.

7 Q. DID YOU KNOW THAT HE OWNED A PISTOL -- THAT HE
8 CARRIED A PISTOL?

9 A. NO, I SURE DIDN'T.

10 Q. DID YOU EVER GO INTO THE HOUSE FROM THE TIME
11 YOU ARRIVED BACK FROM YOUR FRIEND'S HOUSE UNTIL THE
12 TIME OF THE SHOOTING?

13 A. NO, SIR.

14 Q. YOU REMAINED IN THE YARD FROM THE TIME YOU
15 ARRIVED, APPROXIMATELY 30 MINUTES OUTSIDE TALKING?

16 A. THAT'S CORRECT.

17 Q. I DON'T HAVE ANY FURTHER QUESTIONS.

18 MR. McMAHON: JUST ONE THING, YOUR HONOR.

19 REDIRECT EXAMINATION BY MR. McMAHON:

20 Q. THE STATEMENT THAT YOU READ, YOU REFERRED TO
21 THE BASKETBALL GOAL?

22 A. YES.

23 Q. THE BASKETBALL GOAL IS BACK IN THIS AREA?

24 A. YEAH, RIGHT IN THAT AREA RIGHT THERE.

25 Q. THAT'S ALL I HAVE.

1 MR. McMAHON: NO FURTHER QUESTIONS, YOUR
2 HONOR.

3 MR. ROGERS: YOUR HONOR, IN FAIRNESS TO
4 THE JURY, I THINK I WOULD LIKE TO SUBMIT THE
5 STATEMENT AS WELL.

6 MR. McMAHON: OH, I APOLOGIZE.

7 MR. ROGERS: IT IS MARKED AS AN EXHIBIT,
8 BUT I DIDN'T INTRODUCE IT INTO EVIDENCE.

9 THE COURT: ALL RIGHT.

10 MR. McMAHON: I APOLOGIZE.

11 THE COURT: THE STATEMENT COMES IN.

12 MR. McMAHON: I HAD NO OBJECTION. I
13 THOUGHT IT WAS IN EVIDENCE, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 (STATEMENT OF DARREL DOWEY NOW
16 RECEIVED INTO EVIDENCE AS
17 DEFENDANT'S EXHIBIT 2.)

18 MR. McMAHON: NO FURTHER QUESTIONS.

19 THE COURT: YOU CAN STEP DOWN.

20 (MR. DOWEY STEPS DOWN.)

21 THE COURT: DO YOU HAVE A SIX MINUTE
22 WITNESS?

23 MR. McMAHON: NO, SIR.

24 THE COURT: ALL RIGHT. BE BACK AT 2
25 O'CLOCK, JURORS. DON'T TALK ABOUT THE CASE.

1 (WHEREUPON, THE JURY WAS EXCUSED
2 FOR LUNCH.)

3 (WHEREUPON, THE FOLLOWING TAKES
4 PLACE OUTSIDE THE PRESENCE OF
5 THE JURY.)

6 THE COURT: ALL RIGHT, MR. ROGERS, YOU
7 WERE TALKING SOMETHING ABOUT A RESTRAINING ORDER
8 YOU WANTED TO--THAT OCCURRED AFTER THE INCIDENCE
9 THAT YOU WANTED TO QUERY THE WITNESS ABOUT?

10 MR. ROGERS: YES, YOUR HONOR.

11 THE COURT: WHAT WAS THAT ALL ABOUT?

12 MR. ROGERS: YOUR HONOR, I WANTED TO
13 SUBMIT THE AFFIDAVIT OR REPORT OF THE PEACE BOND.
14 APPLICATION WAS MADE BY MS. WHITE AND MR. DOWEY.

15 YOUR HONOR, IT ALLEGES FACTS THAT THE
16 DEFENDANT'S FATHER HAD PHYSICAL EVIDENCE THAT COULD
17 BE DISPUTED, AND IT IS MR. CHILDERS' CONTENTION
18 THAT THAT GOES TO THE VERACITY OF THE WITNESS, YOUR
19 HONOR. AND FOR THAT REASON, I ATTEMPTED TO
20 INTRODUCE SUCH AND IN AN EFFORT TO IMPEACH.

21 THE COURT: WELL, OF COURSE THAT OCCURRED
22 AFTER THE FACT, RIGHT?

23 MR. ROGERS: IT DID, YOUR HONOR.

24 THE COURT: WHAT IS THE STATE'S POSITION
25 ON IT?

1 MR. ROGERS: SOME TWO WEEKS AFTER. WELL,
2 LESS THAN A WEEK AFTERWARDS, YOUR HONOR.

3 THE COURT: IT SOUNDS COLLATERAL,
4 ACTUALLY.

5 MR. McMAHON: THAT IS MY POSITION. I
6 THINK IT IS A COLLATERAL MATTER AND IT DOESN'T GO
7 TO THE ISSUE OF CREDIBILITY ON THE 14TH OR THE 15TH,
8 NOR DOES IT GO TO THE DEFENDANT HIMSELF.

9 THE COURT: SHE DIDN'T TESTIFY ABOUT IT,
10 OF COURSE. IT WAS AFTER THE FACT. I AM NOT GOING
11 TO LET YOU GO INTO THAT.

12 MR. ROGERS: THANK YOU, YOUR HONOR.

13 THE COURT: ALL RIGHT, WE ARE AT EASE
14 UNTIL 2 O'CLOCK.

15 MR. MEADORS: THANK YOU.

16 (WHEREUPON, AT 12:50 P.M. COURT
17 ADJOURNED FOR LUNCH.)

18 (WHEREUPON, AT 2 P.M. COURT
19 RECONVENED.)

20 THE COURT: IS THE STATE READY?

21 MR. McMAHON: ONE REAL QUICK ISSUE. I
22 HAVE STATE'S EXHIBIT NUMBER 5, WHICH IS THE 911
23 TAPE THAT WE HAD AGREED PART WOULD BE REDACTED.
24 AND I HAVE SPOKEN WITH MR. ROGERS. I AM GOING TO
25 TURN IT OVER TO INVESTIGATOR NESLEY, WITH THE

1 SOLICITOR'S OFFICE, AND HAVE HIM GO MAKE TWO EXACT
2 COPIES OF THE TAPE SO THAT WE CAN REDACT ONE TO GO
3 TO THE JURY AT A LATER TIME.

4 THE COURT: ALL RIGHT.

5 MR. McMAHON: THANK YOU, YOUR HONOR.
6 THANK YOU, AND THAT'S ALL WE HAVE.

7 THE COURT: ALL RIGHT, I HAVE A NOTE FROM
8 ONE OF THE JURORS: "DID THE DEFENDANT PLEAD GUILTY
9 OR NOT GUILTY? DID I MISS THIS OR WILL IT COME
10 LATER?"

11 I WILL JUST TELL THEM WHEN THEY COME IN HE
12 PLED NOT GUILTY, THE STATE HAS THE BURDEN OF PROOF,
13 HE IS PRESUMED INNOCENT. I DON'T KNOW ANYTHING
14 ELSE TO DO. I'M OPEN TO SUGGESTIONS.

15 MR. ROGERS: YOUR HONOR, THAT IS A NEW
16 ONE. I HAVE NEVER SEEN THAT.

17 THE COURT: IF I TELL THEM HE IS PRESUMED
18 INNOCENT AND THE STATE HAS THE BURDEN OF PROOF AND
19 THE FORMS OF VERDICT ARE NOT GUILTY AND GUILTY, I
20 DON'T KNOW WHAT ELSE YOU COULD DO, BUT, YOU KNOW,
21 IF THEY HAVE GOT A QUESTION, I FEEL LIKE YOU NEED
22 TO ANSWER IT, OR A HAND MIGHT GO UP WHILE YOU ARE
23 OVER THERE.

24 MR. ROGERS: I AGREE.

25 MR. MEADORS: I THINK THE ONLY THING TO

1 SAY IS JUST WHEN WE HAVE A TRIAL HE HAS ENTERED A
2 PLEA OF NOT GUILTY, I MEAN, HE SAYS HE IS NOT
3 GUILTY.

4 THE COURT: THAT'S RIGHT. THAT IS NO
5 PROBLEM.

6 BRING THE JURY IN.

7 (WHEREUPON, THE JURY RETURNS TO
8 OPEN COURT.)

9 (WHEREUPON, THE FOLLOWING TAKES
10 PLACE WITHIN THE PRESENCE OF
11 THE JURY.)

12 THE COURT: OKAY, JURORS, WE ARE ABOUT TO
13 RECOMMENCE THE TRIAL. WE WON'T FINISH TODAY. WE
14 SHOULD FINISH TOMORROW, THOUGH, I WOULD THINK,
15 CHANCES ARE.

16 JURORS, TO EACH OF THE THREE INDICTMENTS,
17 THE DEFENDANT IS PRESUMED INNOCENT. HE PLED NOT
18 GUILTY. THAT PLACES THE BURDEN OF PROOF ON THE
19 STATE BEYOND A REASONABLE DOUBT ON EACH INDICTMENT.

20 YOU MAY PROCEED.

21 MR. MEADORS: THANK YOU. INVESTIGATOR
22 KIRK CORLEY.

23 THE CLERK: PLACE YOUR LEFT HAND ON THE
24 BIBLE AND RAISE YOUR RIGHT HAND.

25 (MR. CORLEY COMPLIES.)

1 THE CLERK: DO YOU SWEAR OR AFFIRM THE
2 EVIDENCE YOU WILL GIVE IN THIS CASE WILL BE THE
3 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
4 SO HELP YOU GOD?

5 MR. CORLEY: I DO.

6 THE CLERK: THANK YOU. PLEASE BE SEATED
7 IN THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR
8 THE RECORD.

9 MR. CORLEY: KIRK CORLEY.

10 KIRK CORLEY, BEING
11 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MR. MEADORS:

13 Q. INVESTIGATOR CORLEY, YOU ARE EMPLOYED WITH THE
14 KERSHAW COUNTY SHERIFF'S DEPARTMENT?

15 A. YES, SIR.

16 Q. HOW LONG HAVE YOU BEEN WITH SHERIFF MCCASKILL?

17 A. I HAVE BEEN WITH SHERIFF MCCASKILL SINCE HE HAS
18 BEEN IN OFFICE, I BELIEVE IN '95; AND PRIOR TO THAT
19 I SERVED SEVERAL YEARS UNDER SHERIFF HORTON; AND
20 PRIOR TO THAT I WORKED FOR THE COUNTY AS A
21 CONSTABLE.

22 Q. SO YOUR YEARS IN LAW ENFORCEMENT WOULD NUMBER
23 HOW MANY?

24 A. ABOUT TEN YEARS.

25 Q. AND YOU ARE CURRENTLY AN INVESTIGATOR?

1 A. YES, SIR.

2 Q. WHAT DOES THAT MEAN? WHAT IS YOUR JOB WITH THE
3 SHERIFF'S DEPARTMENT?

4 A. I'VE GOT SEVERAL SMALL JOBS, BUT THE MAIN JOB
5 BEING A CRIMINAL INVESTIGATOR. WE INVESTIGATE ALL
6 CRIMINAL ACTIVITY THAT OCCURS IN THE COUNTY,
7 WHETHER IT IS RAPE, ROBBERY, MURDER, AND EVERYTHING
8 EXCEPT FOR NARCOTICS. WE HAVE A NARCOTICS UNIT
9 THAT DOES THAT. BUT I HAVE SEVERAL JOBS ON THE
10 SIDE, AND ONE OF THOSE IS I'M THE LEAD HANDLER ON
11 THE BLOODHOUND TEAM.

12 Q. YOU MENTIONED -- PRIOR TO GETTING INTO LAW
13 ENFORCEMENT YOU RECEIVED SOME TRAINING, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. AT THE CRIMINAL JUSTICE ACADEMY?

17 A. THAT'S CORRECT.

18 Q. COULD YOU TELL THESE FOLKS WHAT THAT CONSISTED
19 OF?

20 A. I ORIGINALLY WENT THROUGH A SPECIAL BASIC CLASS
21 IN '92, WHICH WAS A SHORTENED VERSION OF THE
22 REGULAR DUTY, EXCUSE ME, LAW ENFORCEMENT CLASS.

23 AFTER COMPLETION OF THAT I WORKED AT THE JAIL AS
24 A CORRECTIONAL OFFICER FOR SEVERAL MONTHS, AND I
25 WENT THROUGH THEIR CORRECTIONAL TRAINING THAT THEY

1 HAD AT THE ACADEMY, AND THEN I WENT BACK AGAIN FOR
2 THE FULL LAW ENFORCEMENT CREDENTIALS AT THE
3 ACADEMY, WHICH WAS I BELIEVE AN EIGHT WEEK AT THE
4 TIME COURSE.

5 AND SINCE THEN I HAVE BEEN TO SEVERAL
6 SPECIALIZED CLASSES THAT THE ACADEMY HAS PUT ON,
7 AND OTHER LAW ENFORCEMENT AGENCIES ALSO.

8 Q. AND OTHER THAN THE REGULAR TRAINING, LET ME ASK
9 YOU ABOUT SOME OF THESE SPECIFIC OR SPECIAL
10 TRAINING. HAVE YOU DONE ANY TRAINING IN THE
11 HANDLING OF DOGS?

12 A. YES, SIR, I HAVE.

13 Q. COULD YOU TELL THE FOLKS WHAT THAT TRAINING
14 WAS, WHAT IT CONSISTED OF?

15 A. SOME HAS BEEN FORMAL TRAINING, SOME IS
16 INFORMAL. KIND OF HOW I GOT STARTED, IF I CAN KIND
17 OF TELL YOU THE STORY IT MIGHT BE THE EASIEST WAY,
18 WE USED TO USE THE DEPARTMENT OF CORRECTIONS
19 BLOODHOUNDS, AND AFTER THEY CHANGED THEIR POLICY
20 WHERE THEY COULDN'T COME OUT, SHERIFF MCCASKILL
21 ASKED ME TO TRY TO START UP A TRACKING TEAM.

22 AND BACK IN EARLY '98, LATE '97, WE ACQUIRED OUR
23 OWN DOGS, BUT PRIOR TO THAT I RAN WITH THE
24 BLOODHOUNDS WHENEVER THEY WERE CALLED OUT TO THE
25 COUNTY, I WAS WITH THEM. I HAD HOUNDS ALL MY LIFE.

1 AND WE STARTED UP A PROGRAM AND WE TRAINED UNDER
2 ROGER HOOD OUT AT THE DEPARTMENT OF CORRECTIONS WHO
3 HAS RUN HOUNDS FOR ABOUT 18 YEARS TRACKING MEN.

4 Q. AND ROGER HOOD HAD RUN SOME HOUNDS FOR US FOR A
5 GOOD WHILE?

6 A. YES, FOR A LONG TIME.

7 Q. PRIOR---

8 A. THAT'S CORRECT.

9 Q. PRIOR TO OUR ACQUIRING THE DOGS?

10 A. YES, SIR.

11 Q. AND YOU ALSO HAVE ATTENDED SOME CLASSES, IS
12 THAT CORRECT?

13 A. THAT'S CORRECT. I HAVE ATTENDED -- GREENVILLE
14 COUNTY PUTS ON A SEMINAR ONCE A YEAR, IT IS A WEEK
15 LONG COURSE, IN FUGITIVE MAN TRACK, AND YOU LEARN
16 TO TRACK WITH A DOG, WITHOUT A DOG, HIGH RISK
17 APPREHENSIONS OF SUSPECTS.

18 I HAVE ALSO BEEN TO TRAINING WITH SOME FELLOWS
19 FROM YORK COUNTY, BASICALLY THE SAME TYPE OF
20 CLASSES.

21 Q. WHAT ARE YOUR DOGS NAMES?

22 A. RIGHT NOW WE'VE GOT THREE DOGS. WE'VE GOT ONE
23 THAT IS DOLLY, WHO IS A FEMALE, SHE IS ASSIGNED TO
24 ME. WE HAVE A MALE REDBONE NAMED JAKE, WHO IS
25 ASSIGNED TO ANOTHER HANDLER. AND ANOTHER MIXED

1 BREED THAT IS NAMED SARGE, AND HE IS ASSIGNED TO A
2 FELLOW UP IN THE BETHUNE AREA.

3 Q. AND DOLLY WAS INVOLVED IN THIS CASE, IS THAT
4 CORRECT?

5 A. THAT'S CORRECT.

6 Q. AND DO YOU KIND OF WORK DOLLY OUT? DO YOU HAVE
7 A SCHEDULE WHEN YOU WILL GO OUT AND WORK WITH HER?

8 A. WE DO. ORIGINALLY WHEN IT STARTED, WE WOULD
9 TRAIN TWO DAYS A WEEK. AND AFTER THE FIRST YEAR OR
10 SO, WE BROKE THAT DOWN TO TRAINING ONE DAY A WEEK.
11 AND SOMETIMES WE DON'T TRAIN EVERY WEEK, DUE TO
12 COURT APPEARANCES LIKE THIS OR DIFFERENT
13 INVESTIGATIONS WE MAY BE WORKING, BUT GENERALLY WE
14 RUN ONE DAY A WEEK IN TRAINING, AND THAT IS WITH
15 ALL THE DOGS. OF COURSE, THE YOUNGER DOG WE STILL
16 TRY TO GO TWO DAYS A WEEK WITH HIM.

17 Q. CAN YOU TELL THESE FOLKS GENERALLY, OR AS
18 GENERAL AS YOU CAN, HOW IT WORKS?

19 A. THESE DOGS ARE LIKE ANY HOUSE DOG OR ANY -- IF
20 Y'ALL HAVE EVER HAD ANY HUNTING DOGS OR EVEN HOUSE
21 DOGS ARE THE SAME. THEIR SENSE OF SMELL IS
22 APPROXIMATELY A MILLION TIMES STRONGER THAN OURS.
23 DIFFERENT BREEDS OF DOGS SMELL DIFFERENT WAYS
24 BECAUSE OF OLFACTORS. BLOODHOUNDS -- I'M TRYING TO
25 THINK OF AN EASIER WAY THAN OLFACTORS, BUT THAT IS

1 THE ONLY TERMINOLOGY I KNOW, BUT IT IS BASICALLY
2 FOLDS OF SKIN WITHIN THE NOSE THAT TRAP HUMAN SKIN
3 CELLS. AS YOU ARE SITTING HERE, SKIN CELLS ARE
4 FALLING OFF OUR BODY. EACH PERSON HAS AN
5 INDIVIDUAL SCENT.

6 MR. ROGERS: YOUR HONOR, AT THIS POINT I
7 DON'T BELIEVE HE HAS LAID A PROPER FOUNDATION TO
8 GET IN THIS TESTIMONY.

9 MR. MEADORS: THAT'S WHAT I'M DOING.

10 THE COURT: WELL, THAT IS WHAT HE IS DOING
11 NOW.

12 MR. MEADORS: THAT'S WHAT I'M DOING NOW,
13 YOUR HONOR.

14 Q. SO IN ESSENCE YOUR TESTIMONY IS THAT THEY CAN
15 DISTINGUISH BETWEEN HUMAN SCENTS---

16 A. THAT'S CORRECT.

17 Q. ---AND OTHER SCENTS?

18 A. AND THEY ARE TRAINED SPECIFICALLY FOR HUMAN
19 SCENT.

20 THE COURT: NO CELL PHONES. THE CHIEF
21 JUSTICE SAYS IF A CELL PHONE GOES OFF IT GETS
22 CONFISCATED. IF YOU CAN FIND OUT WHO HAD IT, TAKE
23 IT.

24 GO AHEAD.

25 Q. HOW MANY TIMES HAVE YOU TAKEN DOLLY OUT?

1 A. HUNDREDS.

2 Q. HOW MANY -- THAT WOULD INCLUDE WHAT I CALL
3 PRACTICE ROUNDS AND THE REAL THING?

4 A. TRAINING AND CALL OUTS, YES, SIR.

5 Q. AND HAVE YOU FOUND DURING YOUR TRAINING AND/OR
6 ACTUAL CALL OUTS DOLLY TO BE RELIABLE?

7 A. I HAVE.

8 MR. MEADORS: YOUR HONOR, AT THIS TIME WE
9 WOULD OFFER HIM AS AN EXPERT IN DOG HANDLING.

10 MR. ROGERS: I HAVE NO QUESTIONS FOR THE
11 WITNESS ON QUALIFICATION.

12 THE COURT: OKAY. YOU MAY PROCEED.

13 Q. DID YOU GET INVOLVED IN THIS CASE?

14 A. YES, SIR, I DID.

15 Q. AND DO YOU REMEMBER ABOUT WHAT TIME YOU GOT TO
16 WATSON STREET?

17 A. JUST BEFORE 4:30, I BELIEVE, AROUND 4:25, 4:22
18 IN THE MORNING.

19 Q. LET'S GO IN YOUR ROLE AS WITH DOLLY, A
20 BLOODHOUND DOG HANDLER. ARE YOU ALWAYS ON CALL FOR
21 THAT?

22 A. YES, SIR, I'M ON CALL 24 HOURS A DAY.

23 Q. AND THAT WAS THE PURPOSE OF YOU COMING TO
24 WATSON STREET THIS TIME?

25 A. THAT'S CORRECT.

1 Q. TELL THE FOLKS WHAT YOU DID WHEN YOU FIRST GOT
2 THERE? DO YOU GATHER ANY INFORMATION TO HELP YOU
3 WITH THE DOG, OR WHAT DO YOU DO WHEN YOU FIRST GO
4 TO THE SCENE?

5 A. WHEN WE FIRST GET THE CALL FROM DISPATCH, THEY
6 HAVE VERY LITTLE INFORMATION. THEY MAY TELL US
7 WHAT TYPE OF CALL AND WHERE. OF COURSE IT TAKES A
8 FEW MINUTES TO GATHER THE GEAR AND LOAD THE DOG UP.
9 THE DOG STAYS AT MY HOUSE. I LIVE THERE IN LUGOFF,
10 SO I WAS FAIRLY CLOSE TO IT.

11 AND I ARRIVED ON THE SCENE AND GOT A QUICK
12 BRIEFING BY CAPTAIN THOMLEY AND BY GLEN HOPPLE, WHO
13 WAS ALREADY ON THE SCENE, OF BASICALLY WHAT HAD
14 HAPPENED.

15 Q. AND THAT INFORMATION IS NEEDED, OR YOU TELL ME
16 IF THIS IS CORRECT, SO YOU WILL KNOW WHERE TO START
17 DOLLY OR WHAT TO DO WITH DOLLY?

18 A. THAT'S CORRECT. WHAT GEAR WE WILL NEED AND
19 ACTUALLY WHERE TO START, THE LAST KNOWN LOCATION
20 AND DIRECTION AND TRAVEL OF THE SUSPECT.

21 Q. AND BASED ON INFORMATION FROM FOLKS THAT MAY
22 HAVE BEEN THERE OR SEEN SOMETHING, THAT IS WHAT YOU
23 HAVE TO DO, IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. SO WHAT DID YOU DO WHEN YOU GOT TO WATSON

1 STREET, AFTER YOU GATHERED THAT INFORMATION?

2 A. I WAS TOLD THAT THE SUSPECT WAS SEEN BEHIND THE
3 SCHOOL BUS THAT WAS PARKED IN THE DRIVEWAY. SO I
4 IMMEDIATELY WENT THERE TO SEE IF I COULD FIND ANY
5 FOOT TRACKS. THAT IS ONE OF THE MAIN THINGS THAT
6 WE LOOK FOR TO CONFIRM WHETHER THE DOG IS TRACKING
7 OR NOT IS A VISUAL CONFIRMATION, WHETHER IT WOULD
8 BE A BROKEN LIMB OR GRASS PUSHED DOWN, AND MAINLY A
9 FOOT TRACK, BECAUSE A LOT OF THOSE ARE DIFFERENT.

10 Q. DID YOU SEE THEM WITH YOUR OWN EYES?

11 A. I DID.

12 Q. LOOK AT THESE TWO PICTURES AND SEE IF YOU
13 RECOGNIZE THEM AND WHETHER THEY RELATE TO WHAT WE
14 ARE TALKING ABOUT, KIRK.

15 A. YES, SIR.

16 MR. MEADORS: YOUR HONOR, WE WOULD OFFER
17 STATE'S 9 AND 10, WITHOUT OBJECTION.

18 THE COURT: OKAY.

19 (PHOTOGRAPHS OF FOOTPRINTS RECEIVED
20 INTO EVIDENCE AS STATE'S EXHIBITS
21 9 AND 10.)

22 Q. INVESTIGATOR CORLEY, IF YOU COULD FIRST START
23 LOOKING AT 9 AND 10, AND IF YOU REFERENCE THEM JUST
24 SAY WHAT NUMBER YOU ARE LOOKING AT.

25 A. YES, SIR.

1 Q. TELL ME WHAT THOSE ARE.

2 A. THESE ARE FOOT TRACKS THAT I FOUND BACK BEHIND
3 THE BUS OF WHERE THEY TOLD ME THE SUSPECT WAS LAST
4 SEEN AT.

5 Q. NOW, YOU HAD GATHERED THAT INFORMATION. WHAT
6 DID YOU DO WITH DOLLY?

7 A. I PUT HER HARNESS ON. WE USE A HARNESS ON THE
8 HOUNDS BECAUSE THEY PULL SO HARD, IF YOU USE A
9 COLLAR IT WOULD CHOKE THEM, SO WE HAVE TO PUT A
10 HARNESS ON, A SPECIAL HARNESS. AND I WAS TOLD HE
11 WENT ACROSS THE YARD TOWARD THE WOODS. AND I
12 PICKED A SPOT HALFWAY IN BETWEEN THE YARD, IT WAS
13 PAST THE BODY, WHEN I ARRIVED THE BODY WAS STILL ON
14 THE SCENE, I DIDN'T WANT TO GO THROUGH THAT AREA,
15 SO I PICKED A SPOT IN BETWEEN THE SCHOOL BUS AND IN
16 BETWEEN THE WOODS, BETWEEN THE BODY AND THE WOODS
17 TO RUN HER ACROSS AND SEE IF SHE STRUCK ON A TRAIL.

18 Q. WOULD IT AID YOU IN YOUR TESTIMONY TO LOOK AT
19 STATE'S 2, INVESTIGATOR?

20 A. YES, SIR, IT WOULD. I USE MY HANDS TOO MUCH,
21 SO—

22 MR. MEADORS: WITH THE COURT'S PERMISSION?

23 THE COURT: OKAY.

24 Q. IF YOU WOULD, STEP DOWN IN FRONT OF THE JURY,
25 INVESTIGATOR.

1 (WITNESS STEPS DOWN.)

2 Q. I AM GOING TO HAND YOU MR. McMAHON'S POINTER.
3 IF YOU WOULD USE THAT AS YOU ARE TALKING. AND
4 PLEASE SPEAK UP, INVESTIGATOR.

5 A. OKAY.

6 Q. WOULD YOU SHOW US AGAIN, WHERE IS THE LOCATION,
7 I THINK IT HAS BEEN POINTED OUT, ON WATSON STREET?

8 A. THIS IS THE RESIDENCE ON WATSON STREET THAT I
9 WAS CALLED TO.

10 Q. AND YOU INQUIRED TO GET DOLLY GOING, YOU HAD
11 GOTTEN INFORMATION WHERE THERE WERE FOOTPRINTS, AND
12 YOU SAID A CERTAIN DIRECTION. WHAT DID YOU DO WITH
13 DOLLY? WHAT DID DOLLY DO?

14 A. I PARKED AT THE BEGINNING OF THE DRIVEWAY JUST
15 SO THAT I WOULDN'T CONTAMINATE ANYTHING AS FAR AS
16 VEHICLE TRACKS BECAUSE THE LESS CONTAMINATION THE
17 BETTER. I PARKED AT THE HEAD OF THE DRIVEWAY. I
18 BROUGHT HER OUT.

19 THE BODY WAS IN FRONT OF THE HOUSE, AND THE
20 SCHOOL BUS IS -- THAT MAY HAVE EVEN BEEN THE SCHOOL
21 BUS ON THIS PICTURE, I'M NOT SURE, BUT IT IS IN
22 THAT GENERAL LOCATION. I PICKED A SPOT BETWEEN THE
23 BODY, WHICH IS BY THE HOUSE HERE, AND THE WOODS AND
24 RAN HER ACROSS IT. WE TRIED TO START A CROSSING
25 TRAIL.

1 AND AS SOON AS SHE GOT ABOUT THE MIDDLE OF THE
2 YARD, SHE IMMEDIATELY GAVE A POSITIVE RESPONSE AND
3 MADE A LEFT TURN TOWARD THE WOODS.

4 Q. AND YOUR ARE HOLDING -- YOU ARE LETTING HER GO?
5 TELL US HOW THIS WORKS. OH, I APOLOGIZE. I DIDN'T
6 MEAN TO STAND IN FRONT OF YOU. WHAT DID DOLLY DO?

7 A. A BIG PART OF HANDLING A DOG IS LEARNING HOW TO
8 READ THE DOG. IF Y'ALL HAVE DOGS AT HOME, YOU KNOW
9 WHEN YOUR DOG HAS TO GO OUT TO GO THE BATHROOM, YOU
10 KNOW WHEN YOUR DOG IS HAPPY, YOU KNOW WHEN YOUR DOG
11 IS SAD. THIS IS BASICALLY THE SAME THING. YOU
12 HAVE TO LEARN THE DOG. AND THAT IS WHY WE DO SO
13 MUCH TRAINING, CONTINUED TRAINING, SO THAT YOU CAN
14 TELL WHEN THE DOG IS ACTUALLY WORKING, WHEN THE DOG
15 IS TRACKING, WHEN THE DOG IS SEARCHING FOR THE
16 TRAIL.

17 AND WHEN SHE GAVE THIS POSITIVE RESPONSE, HER
18 NOSE STAYED ON THE GROUND, SHE ACTUALLY HUNKERED
19 DOWN A LITTLE LOWER TO THE GROUND, WHICH SHE DOES
20 EVERY TIME WHEN SHE GETS ON A POSITIVE TRAIL, AND
21 SHE BEGAN TO PULL IN THAT DIRECTION. SHE KEPT A
22 CONSTANT PATTERN. HER TAIL -- EVERY DOG IS
23 DIFFERENT, BUT HER TAIL STAYS PRETTY MUCH LEVEL, IT
24 DOESN'T GO UP OR DOWN, AND SHE BEGINS TO PULL IN A
25 STEADY PULL. SHE IS ABOUT 90 POUNDS AND SHE GIVES

1 A PRETTY GOOD PULL.

2 Q. OKAY. CAN YOU SHOW US ON THE MAP WHERE SHE
3 WENT?

4 A. SURE. SHE WENT INTO THIS SMALL HEAD OF PINE
5 TREES, IT IS KIND OF SPARSE BUT THE LIMBS STICK
6 OUT. I COULD SEE VEHICLE TRACKS. I BELIEVE I GOT
7 ON THE RADIO AND SAID, "SOMEBODY HAS BEEN THROUGH
8 HERE."

9 AND THEY SAID, "YES, THEY HAVE," BECAUSE THERE
10 WERE PINE LIMBS BROKEN FOUR OR FIVE FEET OFF THE
11 GROUND. I COULD SEE TIRE TRACKS THROUGH THE TALL
12 GRASS.

13 AND ONCE WE CAME THROUGH, SHE MADE A SWING TO
14 THE LEFT, AND SHE IS A LEFT-HANDED DOG, I'LL TRY TO
15 EXPLAIN THAT IN JUST A MINUTE, SHE MADE A SWING TO
16 THE LEFT AND WE CAME TOWARD THIS INTERSECTION OF
17 THE DRIVEWAY AND SHE IMMEDIATELY TURNED AND CIRCLED
18 AND CAME BACK DOWN THIS FENCE LINE. THERE IS A
19 FENCE LINE THAT RUNS ALONG THIS OPEN AREA, AND SHE
20 IMMEDIATELY TURNED AND WENT DOWN THAT WAY.

21 WHAT I MEAN BY A LEFT-HAND DOG, DOGS ARE KIND OF
22 LIKE HUMANS AND GENERALLY YOU CAN TELL AFTER A FEW
23 TRAILS, WHEN SOMEBODY MAKES A CUT TO THE LEFT OR
24 THE RIGHT, IF THE DOG DOESN'T HIT IT IMMEDIATELY,
25 THE WIND MAY BE BLOWING AND HAVE THE SCENT PUSHED

1 SLIGHTLY, WHEN SHE GOES AND SHE OVERSHOTS IT AND
2 SHE REALIZES IT, HER HEAD WILL COME UP, AND IF A
3 DOG IS RIGHT-HANDED THEY WILL GENERALLY START
4 LOOKING TO THE RIGHT TO SEE IF THEY CAN PICK IT
5 BACK UP, OR EITHER THEY WILL GO THE LEFT. SHE GOES
6 LEFT. OUR MALE DOG IS A RIGHT-HANDED DOG.

7 BUT SHE SWUNG LEFT. SHE JUST MADE A CIRCLE AND
8 CAME BACK IN, AND THAT WAS FOR ME TO FIGURE OUT SHE
9 MISSED THAT CUT.

10 Q. WHAT HAPPENED NEXT?

11 A. WE TRACKED DOWN THE -- TRAILED DOWN THE FENCE
12 LINE AND WE CAME OUT INTO THIS OPENING, WHICH IS
13 ALL GRASS AREA.

14 WE WENT DIAGONALLY ACROSS TOWARD, I BELIEVE THE
15 NAME OF THIS ROAD IS DEERFIELD, I'M NOT POSITIVE,
16 BUT IT IS A DIRT ROAD. AND WE CUT IN BETWEEN THESE
17 TWO HOUSES AND WE CAME OUT ONTO DEERFIELD. LIKE I
18 SAY, I BELIEVE IT IS DEERFIELD ROAD. IT IS A DIRT
19 ROAD.

20 AS SOON AS WE CAME OUT, SHE MADE A RIGHT-HAND
21 TURN ON THE ROAD. ON THE LEFT-HAND SIDE OF THE
22 ROAD WE PICKED UP SOME MORE FOOT TRACKS THAT LOOKED
23 THE SAME AS I HAD BACK BEHIND THE BUS WHEN WE
24 ORIGINALLY STARTED.

25 Q. AND WHAT HAPPENED AFTER THAT?

1 A. WE TRAILED ON FURTHER DOWN, AND ONCE WE GOT TO
2 THIS INTERSECTION, HER HEAD CAME UP AGAIN, SHE
3 CIRCLED TO THE LEFT AGAIN, AND IT KIND OF HAD ME
4 LOST THERE FOR A MINUTE.

5 WHAT WE DO WHEN A DOG KIND OF LOSES FOCUS, IF
6 YOU WANT TO CALL IT THAT, OR KIND OF SAYS, "WELL,
7 I'M NOT SURE WHERE IT WENT," SHE WILL KIND OF LOOK
8 BACK AT YOU.

9 AND JUST KIND OF LIKE I SAID WHEN YOU KNOW YOUR
10 DOG HAS GOT TO GO TO THE BATHROOM, SHE KIND OF
11 LOOKS BACK LIKE, "HEY, WAIT A MINUTE." WE MAY HAVE
12 TO TAKE CONTROL AND CUT WHAT WE CALL A SQUARE. AND
13 WE WILL CUT A SQUARE. WE KNOW WE HAD THE TRAIL
14 RIGHT HERE. WE WILL TAKE A SQUARE PATTERN AND CUT
15 IT, AND THAT BASICALLY JUST MEANS WORK HER AROUND
16 TO SEE IF SHE GIVES US A POSITIVE RESPONSE.

17 AS SOON AS WE CUT HERE ACROSS THIS YARD, SHE
18 GAVE A POSITIVE RESPONSE AND TRACKED IN WHAT I CALL
19 A HALF MOON PATTERN AND CAME RIGHT BACK OUT TO THE
20 ROAD RIGHT ON TOP OF THE SAME TRACK THAT I HAD HERE
21 AND ALSO ON A DIRT ROAD SHE CAME BACK OUT ON TOP
22 OVER HERE.

23 Q. OKAY. YOU ARE AT THIS POINT HERE. WHAT
24 HAPPENS AFTER THAT?

25 A. WE CONTINUE TO TRACK DOWN THE ROAD, AND ONCE WE

1 GET TO THIS CUL-DE-SAC HERE, THERE IS A GATE HERE
2 THAT I'M NOT SURE IF THERE IS A HOUSE BACK THERE,
3 BUT I KNOW THERE IS A GATE IN THE DRIVEWAY. HERE
4 IS AN OPEN AREA. THERE IS NOT A GATE THERE. THERE
5 WERE FRESH TIRE TRACKS LEAVING OUT. THE FOOT
6 TRACKS ENDED, AND DOLLY WOULDN'T TAKE THE TRAIL
7 ANYWHERE ELSE, EVEN AFTER WE SQUARED, JUMPED FENCES
8 AND GOT HER ON THE OTHER SIDE. WE CUT ANOTHER
9 SQUARE.

10 GENERALLY BEFORE WE END A TRAIL WE WILL TRY
11 MAYBE THREE OF FOUR SQUARES AT THAT SAME LOCATION.
12 WE WILL MAKE THEM BIGGER AND BIGGER AND BIGGER. WE
13 CUT ABOUT FOUR SQUARES HERE. I FELT VERY GOOD
14 SEEING HER POSITIVE REACTION AND SEEING THE TRACKS
15 THAT WE HAD TO THIS POINT.

16 LIKE I SAID, THERE WAS FRESH VEHICLE TRACKS IN
17 THIS AREA. BUT WE SQUARED THIS AREA AND SHE DIDN'T
18 PICK UP ANY TRAIL GOING ANYWHERE ELSE.

19 Q. WHAT DID YOU DO AFTER THAT?

20 A. AFTER THAT I BROUGHT HER BACK JUST TO MAKE
21 SURE, TO VERIFY, IT IS KIND OF WHAT WE CALL CLOSING
22 THE BACK DOOR TO MAKE SURE WE ARE ON THE RIGHT
23 THING.

24 AND I CAME BACK TO THIS AREA AND I SQUARED AGAIN
25 AT THIS INTERSECTION BECAUSE SHE HAD MADE THAT

1 LEFT-HAND TURN, I FELT VERY POSITIVE THAT SHE RE-
2 ENGAGED THE TRAIL HERE, BUT I WANTED TO CHECK AND
3 JUST MAKE SURE.

4 WE SQUARED THIS AREA WITH NOTHING. WE CAME -- I
5 CAME BACK AROUND THE BUS AND I CUT A HALF MOON
6 AROUND THE BUS ON THIS SIDE. SHE GAVE ME NO
7 POSITIVE RESPONSES THERE AS FAR AS WANTING TO LEAD
8 ME OUT.

9 AND AFTER THAT, THERE WASN'T MUCH ELSE THAT I
10 COULD DO WITH HER UNTIL WE HAD ANOTHER SIGHTING.

11 Q. OKAY. YOU CAN TAKE A SEAT BACK, PLEASE.

12 (WITNESS RETURNS TO WITNESS STAND.)

13 Q. HOW MANY -- YOU MIGHT HAVE SAID EARLIER. HOW
14 MANY TRACKS HAVE YOU FOLLOWED IN YOUR CAREER?

15 A. I HAVE RUN HUNDREDS, MAYBE EVEN THOUSANDS,
16 INCLUDING TRAINING TRAILS, OUR DOGS AS WELL AS THE
17 DEPARTMENT OF CORRECTIONS, GREENVILLE COUNTY. I
18 VENTURE TO SAY THOUSANDS.

19 Q. AND THAT WOULD INCLUDE CASES LIKE THIS WHERE
20 YOU HAD FOOTPRINTS?

21 A. THAT'S CORRECT.

22 Q. AS WELL AS OTHER TYPE PRINTS?

23 A. THAT'S CORRECT.

24 Q. JUST LOOK AT THESE RIGHT HERE AND JUST TELL ME
25 IF YOU RECOGNIZE IT AND DOES IT RELATE TO WHAT WE

1 ARE TALKING ABOUT.

2 A. YES, SIR.

3 MR. MEADORS: BEG THE COURT'S INDULGENCE.

4 (SHOES MARKED AS STATE'S EXHIBIT

5 11 FOR IDENTIFICATION.)

6 Q. WHEN DID YOU SEE WHAT WAS JUST MARKED AS
7 STATE'S EXHIBIT 11 FOR I.D. RIGHT NOW, WHEN DID YOU
8 SEE THESE?

9 A. I SAW THOSE AFTER THE DEFENDANT'S ARREST.

10 Q. WHERE DID YOU SEE THEM?

11 A. AT THE SHERIFF'S OFFICE.

12 Q. AND DO YOU KNOW THAT THESE CAME FROM THE
13 DEFENDANT?

14 A. YES, SIR.

15 Q. DO YOU KNOW THAT BY YOUR OWN KNOWLEDGE?

16 A. YES, SIR.

17 MR. MEADORS: YOUR HONOR, WE WOULD OFFER
18 THESE AS STATE'S 11 AT THIS TIME, SHOES OF THE
19 DEFENDANT.

20 MR. ROGERS: I'M SORRY, I DIDN'T HEAR HIS
21 RESPONSE TO HIS LAST QUESTION.

22 Q. DO YOU KNOW OF YOUR OWN KNOWLEDGE THAT THESE
23 CAME FROM THE DEFENDANT?

24 A. YES, SIR.

25 MR. ROGERS: YOUR HONOR, I WOULD INQUIRE

1 AS TO HOW HE KNOWS THAT.

2 THE COURT: OKAY.

3 Q. HOW DO YOU KNOW THAT?

4 A. THE SHOES WERE PROVIDED TO ME BY CAPTAIN
5 THOMLEY AT THE SHERIFF'S OFFICE SHORTLY AFTER THE
6 DEFENDANT'S ARREST.

7 Q. AND CAPTAIN THOMLEY GOT THEM FROM WHERE, THAT
8 YOU KNOW OF?

9 A. THE DEFENDANT.

10 MR. ROGERS: OBJECT TO THAT, YOUR HONOR.

11 THE COURT: WELL, HE CAN MAKE HIM TIE IT
12 UP.

13 MR. MEADORS: YOUR HONOR, WE WOULD OFFER
14 THIS AS STATE'S 11.

15 MR. ROGERS: YOUR HONOR, I DON'T BELIEVE
16 THE PROPER FOUNDATION HAS BEEN LAID.

17 THE COURT: YOU DON'T HAVE YOUR CHAIN OF
18 CUSTODY TIED DOWN YET.

19 MR. MEADORS: YOUR HONOR, CAPTAIN THOMLEY
20 WILL BE TESTIFYING.

21 THE COURT: I UNDERSTAND.

22 MR. MEADORS: SO WE WOULD OFFER IT AS
23 STATE'S 11 FOR I.D. AT THIS POINT.

24 THE COURT: ALL RIGHT, FOR I.D. AT THIS
25 POINT.

1 Q. WHEN YOU SAW THESE SHOES, WHAT WAS YOUR
2 REACTION?

3 A. THAT THIS WAS THE SAME TYPE SHOE THAT WE HAD
4 BEEN TRACKING. WE HAD THIS TRACK BEHIND THE SCHOOL
5 BUS, ALSO ON THE DIRT ROAD.

6 Q. THE SAME TYPE AS HAS BEEN ENTERED BEFORE, IS
7 THAT WHAT YOU ARE SAYING, WHAT HAS BEEN ENTERED AS
8 STATE'S 9 AND 10?

9 A. YES, SIR.

10 Q. AND LET ME JUST ASK YOU, THIS STATE'S 9 AND 10
11 IS A PICTURE OF THOSE FOOTPRINTS, IS THAT RIGHT?

12 A. THAT'S CORRECT, FROM BEHIND THE BUS, YES, SIR.

13 Q. BUT WHEN YOU FIRST SAW THIS SHOE, DID YOU HAVE
14 THESE PICTURES?

15 A. NO, SIR, THEY WEREN'T DEVELOPED YET.

16 Q. SO THAT LOOKED -- I THINK YOU SAID IT LOOKED
17 SIMILAR?

18 A. YES, SIR.

19 Q. AND THAT WAS BASED ON WHAT?

20 A. THAT WAS BASED ON MY RECOLLECTION. ONE OF THE
21 MAIN THINGS THAT YOU PICK UP ON WITH TRAINING THE
22 DOGS IS ONE OF YOUR BEST CONFIRMATIONS THAT YOUR
23 DOG IS DOING WHAT THE DOG IS SUPPOSED TO IS VISUAL
24 SIGNS, THE MAIN ONE BEING FOOT TRACKS.

25 OF COURSE, WHEN SHE LEADS YOU TO THE SUSPECT,

1 THAT IS EVEN BETTER, BUT YOU LOOK AT THESE FOOT
2 TRACKS AND IF YOU ARE TRACKING THE SAME FOOT TRACK
3 THROUGH A WOODED AREA OR A SWAMP AREA, THAT IS
4 GIVING YOU CONFIRMATION THAT SHE IS ON WHAT SHE IS
5 SUPPOSED TO BE.

6 AND ONE OF THE BIG THINGS THAT WE DRILL OUR NEW
7 HANDLERS ON IS LOOKING AT FOOT TRACKS, REMEMBER IT,
8 AND BEING ABLE TO RECALL.

9 A LOT OF TIMES WE TEACH THEM TO LOOK AT IT
10 SIDEWAYS INSTEAD OF JUST LOOKING AT IT UP OR DOWN,
11 LOOK AT IT SIDEWAYS AND PICK OUT SPECIFIC DETAILS
12 ON IT. AND ONE OF THESE IS LIKE THE LITTLE PRIVATE
13 STRIPE THAT IS ON HERE.

14 I HAVE TRACKED MANY OF THEM THAT, I HAVE MADE
15 LITTLE STAR TREK SYMBOLS BECAUSE THAT IS KIND OF
16 WHAT THEY REMIND ME OF, JUST SOMETHING THAT WOULD
17 LOCK INTO YOUR MEMORY.

18 BUT, NO, WE DID NOT HAVE THOSE PICTURES AT THE
19 TIME.

20 Q. SO WHEN YOU SAW THIS, THIS LOOKED SIMILAR TO
21 WHAT YOU SAW AT THE SCENE, IS THAT CORRECT?

22 A. TRACKING, YES, SIR.

23 Q. AND DID THEY ALSO LOOK SIMILAR, IN YOUR
24 OPINION, IN YOUR TRAINING, TO THOSE PICTURES,
25 STATE'S---

1 A. TEN AND NINE.

2 Q. STATE'S 10 AND 9.

3 A. YES, THEY DO.

4 MR. MEADORS: THAT'S ALL, JUDGE. THANK
5 YOU.

6 CROSS EXAMINATION BY MR. ROGERS:

7 Q. GOOD AFTERNOON.

8 A. GOOD AFTERNOON.

9 Q. DID YOU FIND ANY -- OTHER THAN THE FOOTPRINTS
10 YOU OBSERVED, DID YOU FIND ANY PHYSICAL EVIDENCE
11 ANYWHERE ALONG THE TRAIL? AN ARTICLE OF CLOTHING?

12 A. NO, SIR.

13 Q. A GUN CASING?

14 A. NO, SIR.

15 Q. A WEAPON?

16 A. NO, SIR.

17 Q. NOW, ANY PARTICULAR REASON -- YOU WEREN'T
18 RESPONDING TO THE FIRST 911 CALL, YOU WERE
19 RESPONDING AFTER THE SHOOTING INCIDENT?

20 A. THAT'S CORRECT.

21 Q. ANY PARTICULAR REASON -- AND THE TESTIMONY WE
22 HAVE HEARD THUS FAR IS THE SUSPECT AT THE SHOOTING
23 INCIDENT CAME FROM TOWARDS THE BACK OF THE HOUSE
24 FROM THE BASKETBALL GOAL AREA AND WAS AROUND THE
25 RAILROAD CROSS TIES.

1 DID YOU GET ANY TRACKS FROM THAT AREA?

2 A. NO, SIR, I DIDN'T INSPECT THAT AREA. MY MAIN
3 POINT OF INTEREST WAS WHERE HE EXITED TO SEE IF WE
4 COULD LOCATE AND APPREHEND HIM.

5 Q. WELL, YOU INITIALLY TOOK DOLLY BEHIND THE BUS,
6 CORRECT?

7 A. NO, SIR.

8 Q. WHERE DID YOU TAKE HER FIRST?

9 A. IT WAS IN BETWEEN THE BODY AND THE SMALL HEAD
10 OF PINES. IT WAS TOWARD BOWEN STREET.

11 Q. WHERE THE SUSPECT WOULD HAVE EXITED THE SCENE?

12 A. WHERE HE WAS LAST SEEN LEAVING, YES, SIR.

13 Q. AT ANY POINT DID YOU TAKE HER BEHIND THE BUS?

14 A. NO, SIR. EXCEPT FOR WHEN I CUT A HALF MOON,
15 BUT I DIDN'T GO DIRECTLY BEHIND THE BUS, BUT I CUT
16 A HALF MOON, AS I TOLD THEM EARLIER, BEHIND THE BUS
17 BASICALLY TO CLOSE THE BACK DOOR TO MAKE SURE THAT
18 SHE HADN'T MADE A WRONG JUDGMENT OR MADE A WRONG
19 CALL.

20 MR. ROGERS: I DON'T HAVE ANY FURTHER
21 QUESTIONS.

22 THE COURT: YOU CAN STEP DOWN.

23 MR. MEADORS: THANK YOU VERY MUCH.

24 MR. CORLEY: THANK YOU, SIR.

25 MR. MEADORS: INVESTIGATOR PHIL CRAWFORD.

1 THE CLERK: PLACE YOUR LEFT HAND ON THE
2 BIBLE AND RAISE YOUR RIGHT HAND.

3 (MR. CRAWFORD COMPLIES.)

4 THE CLERK: DO YOU SWEAR OR AFFIRM THE
5 EVIDENCE YOU GIVE IN THIS CASE WILL BE THE TRUTH,
6 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
7 YOU GOD?

8 MR. CRAWFORD: YES, MA'AM.

9 THE CLERK: THANK YOU. PLEASE BE SEATED
10 IN THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR
11 THE RECORD.

12 MR. CRAWFORD: PHILLIP RAY CRAWFORD.

13 PHILLIP RAY
14 CRAWFORD, BEING FIRST DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION BY MR. MEADORS:

17 Q. INVESTIGATOR CRAWFORD, TELL THESE FOLKS A
18 LITTLE BIT ABOUT YOURSELF. WHERE ARE YOU FROM?

19 A. I AM ORIGINALLY FROM NORTH CAROLINA. I WAS IN
20 THE AIR FORCE FOR A NUMBER OF YEARS. TWO AND A
21 HALF OF THOSE YEARS I WAS IN LAW ENFORCEMENT. I
22 GOT OUT OF THE AIR FORCE IN LEE COUNTY. FROM THERE
23 I WAS A DEPUTY FOR ABOUT FIVE YEARS, AND THEN I
24 CAME OVER HERE AFTER THAT. I HAVE BEEN IN KERSHAW
25 COUNTY FOR ABOUT THREE AND A HALF YEARS.

1 Q. AND TELL THESE FOLKS WHAT DIFFERENT POSITIONS
2 HAVE YOU HELD HERE WITH SHERIFF MCCASKILL.

3 A. SINCE I HAVE BEEN HERE WITH SHERIFF MCCASKILL,
4 I STARTED OUT AS A ROAD DEPUTY. A YEAR AND A HALF
5 LATER I BECAME A RESIDENT DEPUTY, SAME THING AS
6 DEPUTY HOPPLE WAS YESTERDAY, I WAS JUST IN A
7 DIFFERENT AREA OF THE COUNTY. AND A LITTLE OVER A
8 YEAR AGO I WAS PROMOTED TO INVESTIGATOR.

9 Q. AND DO Y'ALL TAKE TURNS BEING ON CALL WHEN YOU
10 ARE AN INVESTIGATOR?

11 A. YES, SIR, WE DO.

12 Q. AND ALSO YOU HAD BEEN TO THE CRIMINAL JUSTICE
13 ACADEMY?

14 A. I GRADUATED THE CRIMINAL JUSTICE ACADEMY, A
15 NUMBER OF INVESTIGATIVE SCHOOLS SINCE THEN, I WAS
16 AN INVESTIGATOR IN LEE COUNTY FOR THREE YEARS OUT
17 OF THE FIVE THAT I WAS OVER THERE AS WELL, SO I HAD
18 A NUMBER OF CLASSES OVER THERE.

19 Q. Y'ALL PERIODICALLY GO BACK FOR TRAINING?

20 A. YES, SIR, WE DO.

21 Q. AS A MATTER OF FACT, SOMETIMES YOU RECEIVE
22 TRAINING THROUGH---

23 A. WE ACTUALLY RECEIVE SOME TRAINING VIA T.V. HERE
24 AT THE SHERIFF'S OFFICE.

25 Q. NOW, INVESTIGATOR, YOU WERE ON CALL?

1 A. YES, SIR.

2 Q. THIS WEEKEND, I GUESS?

3 A. YES, SIR, I WAS.

4 Q. OF THIS INCIDENT. AND DO YOU REMEMBER WHEN YOU
5 GOT THE CALL TO COME OUT THERE?

6 A. THE BEST I CAN RECALL IS GETTING WOKEN UP EARLY
7 IN THE MORNING LIKE THAT, IT WAS AROUND 4:05, 4:10,
8 SOMETHING LIKE THAT, I GOT A PHONE CALL FROM
9 DISPATCH.

10 Q. AND YOU IMMEDIATELY WENT TO [REDACTED]

11 A. YES, SIR, I GOT UP AND GOT DRESSED AND HEADED
12 TO WATSON STREET.

13 Q. WHAT DID YOU DO? WHAT DO YOU GENERALLY DO WHEN
14 YOU FIRST GET TO THE SCENE, AND SPECIFICALLY WHAT
15 DID YOU DO IN THIS CASE?

16 A. THE FIRST THING YOU NORMALLY DO IS, IF YOU
17 HAPPEN TO BE THE FIRST INVESTIGATOR THERE, YOU
18 CHECK WITH THE FIRST RESPONDING OFFICER. IN THIS
19 CASE CAPTAIN THOMLEY WAS ALREADY THERE. I WENT
20 DIRECTLY TO CAPTAIN THOMLEY, HE IS MY SUPERVISOR,
21 AND BEGAN DISCUSSING WHAT WE NEEDED TO DO AS FAR AS
22 ZONING AND LOOKING FOR EVIDENCE, THAT KIND OF
23 THING.

24 Q. WHAT DOES "ZONING" MEAN?

25 A. BASICALLY WE BREAK DOWN THE CRIME SCENE INTO

1 ZONES SO THAT WE DON'T SPEND A LOT OF TIME
2 BACKTRACKING OVER OURSELVES. YOU BREAK IT DOWN
3 INTO LITTLE BLOCKS AND JUST WORK A BLOCK AT THE
4 TIME.

5 Q. AND IS SOMEONE ASSIGNED TO TAKE PICTURES,
6 COLLECT EVIDENCE, DO THAT KIND OF STUFF?

7 A. YES, SIR. IN THIS CASE, NORMALLY OUR ON-CALL
8 INVESTIGATOR IS THE ONE THAT TAKES THE PHOTOGRAPHS,
9 AND THAT KIND OF THING.

10 Q. AND YOU IN FACT DID THAT?

11 A. YES, SIR, I DID.

12 Q. AND Y'ALL CONDUCTED A ZONE SEARCH, IF YOU WILL?

13 A. YES, SIR.

14 Q. DESCRIBE FOR THE JURY HOW THAT WENT.

15 A. WE STARTED OUT BY THE ROAD. I DIDN'T DRIVE
16 INTO THE DRIVEWAY. WE TRY, AS INVESTIGATOR CORLEY
17 SAID, WE TRY TO PRESERVE AS MUCH AS WE CAN WITHOUT
18 ANY OUTSIDE INTERFERENCE.

19 I WALKED ACROSS TO CAPTAIN THOMLEY. HE WAS
20 STANDING OVER IN FRONT OF THE HOUSE NEAR THE
21 VICTIM'S BODY. I SPOKE WITH HIM. WE STARTED BACK
22 AT THE ROAD AND WORKED OUR WAY DOWN BY THE BUS
23 AREA, TURNED AND CAME BACK UP THROUGH THE CAR AREA.

24 THAT IS KIND OF THE WAY IT WORKS. YOU JUST TAKE
25 A BLOCK AT THE TIME. AS YOU GO, IF YOU FIND ANY

1 EVIDENCE, YOU PHOTOGRAPH IT AND YOU COLLECT IT AT
2 THAT TIME.

3 (PHOTOGRAPHS MARKED AS STATE'S
4 EXHIBITS 12, 13 AND 14 FOR
5 IDENTIFICATION.)

6 Q. DO YOU RECOGNIZE 12, 13 AND 14? DO THEY RELATE
7 TO WHAT WE ARE TALKING ABOUT HERE?

8 A. YES, SIR, I DO.

9 MR. MEADORS: YOUR HONOR, WE WOULD OFFER
10 12, 13 AND 14 INTO EVIDENCE, WITHOUT OBJECTION.

11 THE COURT: OKAY.

12 (PHOTOGRAPHS RECEIVED INTO
13 EVIDENCE AS STATE'S EXHIBITS
14 12, 13 AND 14.)

15 Q. LET'S START WITH STATE'S EXHIBIT 12,
16 INVESTIGATOR.

17 A. THIS IS A CIGARETTE BUTT THAT WE RECOVERED. IT
18 WAS LAYING NEAR THE VICTIM'S BODY. IT IS
19 APPROXIMATELY 8 TO 10 INCHES FROM HER BODY.

20 Q. I'M REFERRING TO STATE'S EXHIBIT 3. AND CAN
21 YOU TELL ME -- FIRST OF ALL, YOU JUST MENTIONED THE
22 VICTIM'S BODY. CAN YOU SHOW US ON STATE'S EXHIBIT
23 3 WHERE VICTIM'S BODY IS?

24 A. WOULD YOU LIKE ME TO PLACE IT?

25 Q. IF YOU WOULD.

1 A. IT MIGHT BE OFF THIS CHART. THAT IS THE
2 APPROXIMATE LOCATION. OF COURSE IT IS NOT TO
3 SCALE.

4 Q. AND YOU SAY APPROXIMATELY. DID YOU HAVE THE
5 OCCASION TO ACTUALLY TAKE MEASUREMENTS OUT THERE?

6 A. YES, SIR, I DID.

7 Q. COULD YOU EXPLAIN THAT PROCESS TO THE JURY?

8 A. WHAT WE NORMALLY DO IS A TRIANGULATION METHOD.
9 YOU TRY TO PICK ONE POINT ON THE VICTIM'S BODY. I
10 ALWAYS DO THE HEAD. IT IS THE ONE PART OF THE BODY
11 THAT YOU ARE ALWAYS GOING TO BE DEALING WITH. YOU
12 START FROM THE HEAD AT THE SAME POINT AND YOU TRY
13 TO MAKE A TRIANGLE SO THAT YOU CAN PUT THE BODY
14 BACK IN THE EXACT LOCATION SHOULD YOU HAVE TO
15 RECOMPOSE THE SCENE.

16 IN THIS CASE, I DID THE VICTIM'S BODY FROM --
17 PUT THE HEAD HERE TO THE CORNER OF THE HOUSE. AS
18 BEST I CAN RECALL, THE MEASUREMENTS WERE 22 FEET 10
19 INCHES.

20 I ALSO MEASURED FROM THAT SAME POINT ON THE HEAD
21 TO THIS TELEPHONE POLE, WHICH IF YOU NOTICE IT
22 MAKES A TRIANGLE.

23 Q. WOULD YOU SHOW THAT TELEPHONE POLE. I WAS
24 TRYING TO GIVE YOU A LONGER POINTER. IF YOU CAN'T,
25 STAND UP.

1 A. IT IS ACTUALLY A LIGHT POLE. IT IS A POLE THAT
2 HAS A LIGHT ON IT, STREET LIGHT. AND I MEASURED
3 FROM THE SAME POINT OF THE HEAD DIRECTLY TO THE
4 STREET LIGHT.

5 AS BEST I CAN RECALL, IT IS 124 FEET 3 INCHES.

6 Q. AND YOU DO THAT, I BELIEVE YOU STATED A MINUTE
7 AGO, BECAUSE IT AIDS YOU WHEN YOU COME BACK AND DO
8 WHAT YOU ARE DOING RIGHT NOW, RIGHT?

9 A. YES, SIR. WHEN YOU HAVE TO REPRODUCE THE
10 SCENE, IF YOU HAD TO DO IT BACK TO SCALE YOU WOULD
11 KNOW WHERE TO PUT THE BODY.

12 Q. NOW, STATE'S 12 YOU SAID WAS A CIGARETTE. CAN
13 YOU SHOW US ON HERE, IF YOU ARE ABLE TO,
14 APPROXIMATELY WHERE STATE'S 12 SHOULD BE LOCATED?

15 A. YES, SIR. THE WAY SHE WAS LAYING WAS HER HEAD
16 WAS UP THIS WAY. THE CIGARETTE BUTT WAS LAYING
17 RIGHT NEAR HER HEAD. PROBABLY EIGHT INCHES OR SO.
18 HER ARM WAS NOT THAT FAR OFF, OBVIOUSLY IT WAS
19 LAYING A LITTLE BIT CLOSER TO IT. IT WAS JUST ON
20 THE OUTSIDE EDGE OF HER ARM.

21 Q. WE'VE GOT ANOTHER CIGARETTE BUTT YOU CAN PUT UP
22 THERE TO DEPICT THAT.

23 A. YES, SIR. (WITNESS COMPLIES.)

24 Q. NOW, WHILE YOU ARE STILL UP HERE, INVESTIGATOR,
25 STATE'S 13 I BELIEVE IS ANOTHER CIGARETTE BUTT, IS

1 THAT CORRECT?

2 A. YES, SIR, IT IS.

3 Q. NOW, IS THAT -- CAN YOU SHOW US WHERE THAT IS
4 ON STATE'S 3?

5 A. YES, SIR, IT IS RIGHT HERE. WELL, WE RECOVERED
6 IT OFF THIS RAILROAD TIE.

7 Q. AND STATE'S 14.

8 A. YES, SIR, THIS IS THE ONE THAT WE RECOVERED
9 BEHIND THE BUS OVER IN THIS AREA. YOU HAVE HEARD
10 SEVERAL TIMES BEING MENTIONED THE CIGARETTE BUTT.
11 THIS IS WHERE IT CAME FROM.

12 Q. WHILE I'VE STILL GOT YOU UP HERE, IF YOU DON'T
13 MIND, STATE'S, ALREADY BEEN ENTERED STATE'S 9 AND
14 10, YOU RECOGNIZE THESE, RIGHT?

15 A. YES, SIR.

16 Q. AND IN FACT YOU TOOK THE PICTURES, IS THAT
17 RIGHT?

18 A. YES, SIR, I DID.

19 Q. AND ARE THESE PICTURES OF THE FOOTPRINTS?

20 A. YES, SIR, THOSE ARE THE FOOTPRINTS.

21 Q. AND IT MAY ALREADY BE MARKED ON HERE, BUT SHOW
22 US ON STATE'S 3 WHERE THESE WERE THAT YOU TOOK THE
23 PICTURE OF.

24 A. THOSE FOOTPRINTS WERE IN THIS POSITION BEHIND
25 THE BUS.

1 MR. MEADORS: BEG THE COURT'S INDULGENCE.

2 THE COURT: ALL RIGHT.

3 (CIGARETTE BUTT MARKED AS
4 STATE'S EXHIBIT 15 FOR
5 IDENTIFICATION.)

6 (CIGARETTE BUTT MARKED AS
7 STATE'S EXHIBIT 16 FOR
8 IDENTIFICATION.)

9 (AUTOPSY BULLET MARKED AS
10 STATE'S EXHIBIT 17 FOR
11 IDENTIFICATION.)

12 MR. MEADORS: STATE'S EXHIBITS 15 AND 16
13 ARE BEING OFFERED, YOUR HONOR, WITHOUT OBJECTION.

14 THE COURT: OKAY.

15 (CIGARETTE BUTT ENTERED INTO
16 EVIDENCE AS STATE'S EXHIBIT 15.)

17 (CIGARETTE BUTT ENTERED INTO
18 EVIDENCE AS STATE'S EXHIBIT 16.)

19 Q. INVESTIGATOR, WILL YOU TELL US WHAT THEY ARE?

20 A. YES, SIR, THESE ARE CIGARETTE BUTTS THAT MYSELF
21 AND CAPTAIN THOMLEY RECOVERED. THEY ARE THE ONES
22 THAT WE REFERRED TO HERE.

23 WOULD YOU LIKE FOR ME TO TAKE THEM OUT?

24 Q. SURE, YES.

25 (WITNESS COMPLIES.)

1 Q. THOSE ARE THE CIGARETTES YOU HAVE ALREADY
2 DESCRIBED?

3 A. YES, SIR, THEY ARE.

4 Q. INVESTIGATOR, YOU SHOWED US THE BODY. DESCRIBE
5 TAMMY LYNN MUNN'S BODY AS YOU SAW IT.

6 A. AS I SAW IT, WHEN I CAME SHE WAS LAYING IN THIS
7 POSITION ON HER BACK. THERE WAS AN EXTENSIVE
8 AMOUNT OF BLOOD ON HER FACE AND AROUND THE SIDE OF
9 HER HEAD, A PROTRUSION OUT OF ONE SIDE OF HER HEAD.

10 THERE WASN'T MUCH BLOOD ANYWHERE ELSE OTHER THAN
11 RIGHT AROUND HER HEAD.

12 Q. YOU HAD I GUESS SEVERAL PEOPLE THERE, FAMILY
13 MEMBERS THERE, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. DO Y'ALL TRY TO KEEP -- I MEAN, THIS IS PART OF
16 A CRIME SCENE NOW.

17 A. YES, SIR.

18 Q. DO YOU TRY TO KEEP FOLKS AWAY?

19 A. YES, SIR. AT THE TIME THAT THIS IS GOING ON,
20 THE FAMILY MEMBERS HAD ALREADY BEEN TAKEN INTO THE
21 RESIDENCE AND THEY WERE INSIDE.

22 IT IS DONE FOR TWO REASONS. ONE, TO PROTECT THE
23 CRIME SCENE TO KEEP FROM ANY FURTHER CONTAMINATION.
24 THE OTHER IS TO PROTECT THE FAMILY. YOU DON'T WANT
25 THE FAMILY OUT VIEWING SOMETHING LIKE THIS.

1 Q. DO YOU ACTUALLY TRY TO COVER THE BODY WITH
2 SOMETHING?

3 A. YES, SIR, YOU DO. NORMALLY WHEN THE RESCUE
4 SQUAD IS ALLOWED TO COME IN, WE CAN TAKE A SHEET AT
5 THAT TIME AND COVER THEM.

6 Q. CAN YOU TELL THE JURY THE PROCESS OF JUST THE
7 BODY REMOVAL, IF YOU WILL? HOW DID HER BODY LEAVE
8 THAT RESIDENCE?

9 A. WE DON'T -- THE SHERIFF'S OFFICE DOESN'T DO MUCH
10 EXAMINATION OF THE BODY. WE ARE NOT EXPERTS ON
11 THAT. WE LEAVE THAT UP TO THE EXPERT.

12 ONCE THE PHOTOGRAPHS WERE TAKEN, THE RESCUE
13 SQUAD COMES IN AT THAT POINT. IF WE FEEL LIKE THEY
14 NEED TO BAG THE HANDS OR SOMETHING LIKE THAT TO
15 PRESERVE ANY EVIDENCE ON THE HANDS, THAT'S DONE.
16 IT WAS DONE IN THIS CASE.

17 SHE WAS THEN PLACED IN A BODY BAG AND WAS TAKEN
18 BY THE RESCUE SQUAD BACK TO THE MORGUE AT THE
19 HOSPITAL.

20 Q. AND YOU SAID SOMETHING WAS DONE WITH THE HANDS?

21 A. YES, SIR, WE BAG THE HANDS, IT IS WHAT WE CALL
22 BAGS, WE PUT PAPER BAGS OVER THE HANDS.

23 Q. NOW, CAPTAIN THOMLEY IS THERE WITH YOU, IS THAT
24 CORRECT?

25 A. YES, SIR.

1 Q. SO YOU HAVE NOW DONE THE ZONE SEARCH, TAKEN
2 PICTURES?

3 A. YES, SIR.

4 Q. TAKEN CARE OF THE BODY?

5 A. YES, SIR.

6 Q. WHAT DO YOU DO NEXT?

7 A. THE NEXT THING I DID WAS, IT WAS STILL A LITTLE
8 BIT TOO DARK TO TAKE ANY OUTSIDE PHOTOGRAPHS OF THE
9 RESIDENCE. SOME OF THE DISTANCES WOULD NOT ALLOW A
10 FLASH TO DO IT. THE LIGHTING WAS FAIRLY GOOD OUT
11 THERE, BUT OBVIOUSLY AT 4 OR 5 O'CLOCK IN THE
12 MORNING WITH 125, 126 FOOT PHOTOGRAPHS, YOU ARE
13 GOING TO NEED A LITTLE BIT OF EXTRA LIGHT.

14 SO WHAT I DID WAS TOOK A STATEMENT FROM MR.
15 DOWEY IN THE PROCESS OF WAITING FOR IT TO GET A
16 LITTLE LIGHTER.

17 Q. DESCRIBE HOW THAT IS GOING ON TO THESE FOLKS.

18 A. ONCE THE BODY WAS REMOVED, A COUPLE OF THE
19 FAMILY MEMBERS WERE BROUGHT OUTSIDE, IT WAS A
20 LITTLE BIT EASIER TO TAKE STATEMENTS.

21 THE MAIN THING WE WERE INTERESTED IN, IT WAS
22 CHAOTIC, THE FAMILY WAS TOTAL PANIC, AS YOU CAN
23 IMAGINE, CRYING AND JUST ALL KINDS OF THINGS GOING
24 ON, SO WE WERE BASICALLY TRYING TO GET JUST BASIC
25 INFORMATION, FIND OUT WHO IT WAS, WHERE HE MIGHT BE

1 HEADED, THAT KIND OF THING.

2 AND THAT IS REALLY THE INFORMATION THAT WE WERE
3 TRYING TO GET ON THE INITIAL STATEMENTS.

4 Q. YOU DIDN'T HAVE TIME, OR DID YOU, TO SIT DOWN,
5 RELAX, TAKE YOUR TIME, GIVE -- IT WASN'T---

6 A. NO, SIR, YOU DON'T HAVE THAT KIND OF TIME. I
7 MEAN, YOU ARE TRYING TO DO EVERYTHING AS RAPIDLY AS
8 YOU CAN WITHOUT DESTROYING ANYTHING THAT MIGHT BE
9 OF VALUE. AND YOU JUST DON'T HAVE TIME TO SIT DOWN
10 AND KICK BACK IN A SITUATION LIKE THIS. YOU
11 WOULDN'T ANYWAY. AND TRY TO GATHER EVERY SINGLE
12 THING THAT YOU POSSIBLY CAN.

13 Q. AND AS A RESULT OF THAT, I MEAN, YOU HAVE A
14 SUSPECT, IS THAT CORRECT?

15 A. YES, SIR, WE HAD A SUSPECT BASED ON WHAT WE WERE
16 TOLD BY THE WITNESSES.

17 Q. NOW, I WANT TO ASK YOU TO LOOK AT WHAT HAS
18 ALREADY BEEN ENTERED AS STATE'S 8 AND ASK YOU IF
19 YOU RECOGNIZE IT. DID YOU ACTUALLY TAKE THESE
20 PICTURES, DID YOU?

21 A. YES, SIR, I DID.

22 Q. CAN YOU TELL THE JURY ABOUT THIS?

23 A. YES, SIR.

24 Q. STAND HERE IF YOU WOULD.

25 (WITNESS COMPLIES.)

1 A. THIS FIRST PICTURE IS THE DOOR OUTSIDE OF THE
2 RESIDENCE ON WATSON STREET. AN ENTRY POINT OF A
3 BULLET IS RIGHT HERE. ONCE IT WAS LIGHT OUTSIDE,
4 THE SUN WAS UP, THAT KIND OF THING, WE NOTICED THIS
5 BULLET HOLE. WE BEGAN TRACKING IT THROUGH THE
6 HOUSE. THIS IS THE ENTRY POINT ON THE INSIDE OF
7 THE DOOR ACTUALLY WHERE IT EXITED THE DOOR. IT
8 WENT INTO A WALL.

9 THESE PICTURES WERE HERE, AND OBVIOUSLY IT WENT
10 RIGHT THROUGH THESE PICTURES.

11 THIS IS THE WALL BEHIND THE PICTURES WHERE IT
12 ENTERED INTO THAT WALL.

13 IT CAME OUT INTO THIS BEDROOM, WENT THROUGH THE
14 CORNER PANEL ON THE DOOR RIGHT HERE. THESE CLOTHES
15 WERE HANGING THERE. THOSE WERE TAKEN FROM THE
16 SPLINTERS WHERE IT HAD ACTUALLY SPLINTERED OFF.

17 AND THIS WAS THE HALL WHERE THE BULLET ENTERED
18 INTO THE HALLWAY.

19 Q. YOU ACTUALLY WENT IN THE HOUSE WITH CAPTAIN
20 THOMLEY?

21 A. YES, SIR, I DID.

22 Q. AND MAYBE SOME OF THE FAMILY MEMBERS WERE THERE?

23 A. YES, SIR.

24 Q. AND WERE Y'ALL ABLE TO LOCATE WHAT MADE THAT,
25 THE BULLET?

1 A. YES, SIR. AFTER WE FOLLOWED THE TRACK OF THE
2 BULLET, WE LOOKED ON THE INSIDE OF THE CLOSET ON
3 THE OTHER SIDE OF THAT WALL. THERE WAS ANOTHER
4 EXIT POINT ON THAT WALL, SO WE KNEW THAT THE BULLET
5 WAS INSIDE OF THAT WALL.

6 CAPTAIN THOMLEY AND I SPOKE WITH MR. DOWEY AND
7 HE WENT AND GOT A HAMMER AND KNOCKED A HOLE IN THE
8 BOTTOM DOWN NEAR THE FLOORBOARD UNDERNEATH THE
9 BULLET HOLE. CAPTAIN THOMLEY RECOVERED THE BULLET
10 OUT OF THE WALL.

11 Q. CAPTAIN THOMLEY WILL TALK ABOUT THAT IN A LITTLE
12 BIT. HE RECOVERED THE BULLET, IS THAT CORRECT?

13 A. YES.

14 Q. YOU ALSO TOOK THESE OTHER PICTURES, IS THAT
15 CORRECT?

16 A. YES, SIR.

17 Q. THIS WOULD BE THAT MORNING, STATE'S 4, CORRECT?

18 A. YES, SIR.

19 Q. SHOWING THE SCHOOL BUS, AND THAT IS 2588?

20 A. YES, SIR. THAT PHOTOGRAPH WAS ACTUALLY TAKEN
21 FROM THE LIGHT POLE. I WAS STANDING AT THE LIGHT
22 POLE THAT I MEASURED TO BACK TOWARDS THE HOUSE.

23 Q. WHERE YOUR TRIANGULAR---

24 A. YES, SIR, WHERE I DID THE TRIANGULATION.

25 Q. I BELIEVE WE WILL HEAR SOME OTHER OFFICERS

1 TESTIFY TO OTHER EVIDENCE THAT WAS GATHERED.

2 WHAT IS THE NEXT THING YOU DID? WE ARE ON
3 OCTOBER 15TH, CORRECT?

4 A. YES, SIR. I LEFT AND MET OUR CORONER, JOHNNY
5 FELLERS, AT THE SHERIFF'S OFFICE, AND WE WENT TO
6 THE AUTOPSY.

7 Q. AND DO WE IN KERSHAW COUNTY USE THE NEWBERRY
8 PATHOLOGISTS?

9 A. YES, SIR, WE DO.

10 Q. OFFICES OF DR. SEXTON I BELIEVE?

11 A. YES, WE DO.

12 Q. AND DID YOU ACTUALLY GO WITH CORONER FELLERS?

13 A. YES, SIR.

14 Q. AND THE BODY OF TAMMY MUNN?

15 A. YES, SIR.

16 Q. AND WHERE DO Y'ALL GO? WHERE IS THAT LOCATED?

17 A. IT IS IN NEWBERRY. IT IS THE BACK PART OF THE
18 HOSPITAL IN NEWBERRY.

19 Q. IN THE BACK OF THE NEWBERRY HOSPITAL?

20 A. YES, SIR.

21 Q. AND WHAT IF ANYTHING HAPPENED WHEN YOU GOT
22 THERE?

23 A. THE BODY WAS TAKEN INSIDE AND DR. YACOB
24 PERFORMED AN AUTOPSY ON THE VICTIM IN THIS CASE. I
25 REMAINED IN THERE THE WHOLE TIME. AND THERE WAS A

1 BULLET THAT WAS RECOVERED FROM THE VICTIM'S HEAD AS
2 A RESULT OF THAT AUTOPSY.

3 Q. WERE YOU PRESENT THERE DURING THE WHOLE AUTOPSY?

4 A. YES, SIR, I WAS.

5 Q. AND YOU WERE PRESENT WHEN THE BULLET WAS REMOVED
6 FROM TAMMY MUNN'S HEAD?

7 A. YES, SIR, I WAS.

8 Q. JUST LOOK AT WHAT IS MARKED STATE'S 17 FOR I.D.
9 AT THIS POINT. I JUST ASK YOU IF YOU KNOW IF THAT
10 IS THE BULLET?

11 A. CAN I OPEN THIS?

12 Q. SURE.

13 A. YES, SIR, THIS APPEARS TO BE THAT ITEM.

14 Q. AND THAT IS TAKEN FROM DR. YACOB'S TO SLED, IS
15 THAT RIGHT?

16 A. YES, SIR, IT IS.

17 Q. AND DR. YACOB WORKS WITH DR. SEXTON?

18 A. YES, SIR, SHE DOES.

19 Q. AND HOW WAS THAT TAKEN TO SLED FROM DR.--FROM
20 NEWBERRY PATHOLOGISTS?

21 A. IT WAS TAKEN BY MYSELF AND JOHNNY FELLERS.

22 Q. Y'ALL BOTH TOOK IT TO SLED?

23 A. YES, SIR.

24 Q. AND IT IS CHECKED IN THERE WITH SLED UNTIL
25 EXAMINATION IS DONE ON IT BY SOME SLED AGENT, IS

1 THAT CORRECT?

2 A. YES, SIR.

3 MR. MEADORS: JUDGE, I'M SORRY. YOUR
4 HONOR, THAT IS STATE'S I.D., STATE'S FOR
5 IDENTIFICATION AT THIS POINT. WE WILL TIE IT IN
6 THROUGH DR. YACOB.

7 THE COURT: OKAY.

8 MR. MEADORS: SHE WILL BE COMING THIS
9 AFTERNOON.

10 Q. WHAT TIME OF DAY IS IT AT THIS POINT,
11 INVESTIGATOR?

12 A. I GOT BACK INTO THE COUNTY AT ABOUT 3 P.M.

13 Q. AND TO YOUR KNOWLEDGE HAD ANYBODY BEEN ARRESTED
14 IN THIS MATTER INVOLVING TAMMY MUNN?

15 A. NO, SIR. ALL THE DEPUTIES WERE STILL OUT
16 LOOKING FOR HIM.

17 Q. NOW, WHAT DID YOU DO AFTER YOU LEFT SLED, COMING
18 BACK TO THE COUNTY, I MEAN, WHAT IS GOING THROUGH
19 YOUR MIND AND WHAT DID YOU DO?

20 A. WELL, WE WERE LISTENING ON THE RADIO. THE
21 CORONER STILL HAD -- HE HAS A RADIO THAT GOES
22 THROUGH THE COUNTY. WE WERE LISTENING ON THE
23 RADIO, SO I KNEW AT THAT POINT THAT HE HAD NOT BEEN
24 APPREHENDED AT THAT TIME.

25 CORONER FELLERS TOOK ME BACK TO THE SHERIFF'S

1 OFFICE. I GOT BACK IN MY VEHICLE AND BEGAN
2 SEARCHING LIKE THE REST OF THE DEPUTIES.

3 Q. AND WHERE DID YOU GO?

4 A. I TOOK VARIOUS ROUTES OVER ON THE ELGIN SIDE, UP
5 AND DOWN SEVERAL ROADS ON THAT AREA, THROUGHOUT THE
6 AFTERNOON AND EVENING, UP INTO THE EARLY EVENING,
7 JUST DIFFERENT ROADS, JUST RIDING, YOU KNOW, THE
8 ENTIRE AREA OVER THERE TO SEE IF THE VEHICLE WE
9 WERE LOOKING FOR WOULD BE FOUND.

10 Q. DID YOU HAVE AN OCCASION TO GO ON PERCIVAL ROAD,
11 AS I CALL IT, HIGHWAY 12?

12 A. YES, SIR, I DID. WE GOT A CALL FROM A COLUMBIA
13 UNIT THAT SAID THAT HE HAD SPOTTED A VEHICLE THAT
14 MATCHED THE DESCRIPTION OF THE ONE WE WERE LOOKING
15 FOR, THE RED MITSUBISHI, ON THE CLEMSON ROAD AREA.

16 FROM CLEMSON ROAD THERE ARE BASICALLY ONLY TWO
17 ROUTES BACK INTO KERSHAW COUNTY. ONE IS OVER IN
18 BLYTHEWOOD AND THE OTHER ONE IS ON PERCIVAL ROAD,
19 OR HIGHWAY 12, IS WHAT WE CALL IT IN KERSHAW
20 COUNTY.

21 Q. AND YOU WENT WHERE?

22 A. I WENT TO HIGHWAY 12.

23 Q. LOOK AT STATE'S 1, INVESTIGATOR. WHERE ON
24 HIGHWAY 12, PERCIVAL, DID YOU GO? HOW FAR FROM THE
25 COUNTY LINE?

1 A. I WAS ACTUALLY SITTING AT THE COUNTY LINE. I
2 WAS NO MORE THAN 15 FEET FROM THE COUNTY LINE ON
3 THAT EVENING IS WHERE WE STOPPED.

4 Q. AND ABOUT WHAT TIME WAS THIS?

5 A. PROBABLY IN THE NEIGHBORHOOD OF 5:15, 5:20,
6 SOMETHING LIKE THAT.

7 Q. AFTER 5 O'CLOCK, NO QUESTION ABOUT IT?

8 A. YES, SIR, THERE IS NO QUESTION ABOUT THAT.

9 Q. WAS SOMEBODY OUT THERE WITH YOU?

10 A. YES, SIR, DEPUTY MIKE CHRISTISON HAD COME OFF OF
11 HIGHWAY CHURCH ROAD AND GOTTEN IN BEHIND ME, AND WE
12 WENT DOWN TOGETHER TO THE COUNTY LINE. HE FOLLOWED
13 ME DOWN THERE.

14 Q. DOES IT SHOW THE COUNTY LINE ON STATE'S 1?

15 A. NO, SIR, I DON'T BELIEVE IT DOES.

16 Q. ALL RIGHT. BUT YOU WERE AT THE LINE?

17 A. YES, SIR.

18 Q. WHAT IF ANYTHING DID YOU OBSERVE? WHAT
19 HAPPENED?

20 A. DEPUTY CHRISTISON AND I WERE STANDING THERE
21 TALKING. WE WERE OBVIOUSLY LOOKING FOR THE VEHICLE
22 TO COME BACK INTO THE COUNTY ON THE ROADWAY. I
23 LOOKED UP AND DOWN -- BRAZELL ROAD RUNS NEAR THAT,
24 IT IS A LITTLE SMALL ROAD THAT YOU CAN ACTUALLY SEE
25 WHERE IT INTERSECTS FROM WHERE I WAS SITTING. A

1 PERSON CAME OUT OF THE EDGE OF THE WOODS, STARTED
2 WALKING UP THE ROADWAY TOWARDS MY VEHICLE. I WAS
3 STANDING IN FRONT OF IT, SO I JUST STOOD THERE AND
4 WATCHED HIM COME UP.

5 HE WALKED UP TO ME AND SAID, "I UNDERSTAND YOU
6 ARE LOOKING FOR ME."

7 MY RESPONSE WAS, "THAT DEPENDS ON WHO YOU ARE."
8 I DID NOT KNOW THE DEFENDANT, MR. CHILDERS.

9 HE INTRODUCED HIMSELF AS LARRY CHILDERS. I TOLD
10 HIM WHO WE WERE, AND THAT WE HAD A WARRANT FOR HIS
11 ARREST.

12 HE THEN STATED, "THE TRUCK IS OVER IN THE
13 WOODS," POINTING TO HIS LEFT, WHICH WOULD HAVE BEEN
14 TO MY RIGHT, AND SAID, "THE GUN IS IN IT."

15 HE WAS HANDCUFFED, PLACED IN THE BACK OF MIKE
16 CHRISTISON'S PATROL CAR, AND THAT IS WHERE HE
17 REMAINED UNTIL WE GOT HIM OUT AT THE SHERIFF'S
18 OFFICE.

19 Q. AND YOU WERE ON PERCIVAL ROAD?

20 A. YES, SIR.

21 Q. HIGHWAY 12?

22 A. YES, SIR, I WAS.

23 Q. AND WHEN HE SAID -- USING THAT MAP AS A
24 REFERENCE, IF YOU CAN, BECAUSE IT DOES SHOW HIGHWAY
25 12, PERCIVAL ROAD, DOESN'T IT?

1. A. YES, SIR, IT DOES.

2. Q. WHICH WAY WOULD HE HAVE BEEN SAYING, "THE CAR IS
3. OVER THERE"?

4. A. WELL, AS HE WAS WALKING UP THE SIDE OF THE ROAD,
5. IT WOULD ACTUALLY HAVE BEEN TO HIS RIGHT. ONCE HE
6. SAID, "THE TRUCK IS OVER THERE," HE WAS ACTUALLY
7. POINTING TO THE LEFT. OF COURSE HE WAS TURNED AT
8. THAT TIME, SO HE ACTUALLY POINTED BACK IN---

9. Q. AND ARE YOU AWARE WHERE THE TRUCK WAS ACTUALLY
10. FOUND?

11. A. I NEVER WENT TO THE SITE WHERE THE TRUCK WAS
12. FOUND UNTIL SOME TIME LATER ON.

13. Q. THIS WOULD BE HIGHWAY 12?

14. A. YES, SIR.

15. Q. THIS WOULD BE PONTIAC, RIGHT?

16. A. WELL, THAT IS TOWARDS PONTIAC.

17. Q. WHAT DID YOU DO AFTER HE SAID, "ARE Y'ALL
18. LOOKING FOR ME?" AND SAID, "THE TRUCK IS OVER THERE
19. AND THE GUN IS IN IT"? WHAT DID YOU DO NEXT?

20. A. WE JUST HANDCUFFED HIM AND PUT HIM IN THE BACK
21. OF THE CAR.

22. MR. ROGERS: YOUR HONOR, MAY WE APPROACH
23. THE BENCH FOR A MOMENT?

24. THE COURT: ALL RIGHT.

25. (BENCH CONFERENCE.)

1 Q. IS THIS BRAZELL ROAD?

2 A. YES, SIR, IT IS.

3 Q. DO YOU KNOW HOW CLOSE THAT IS TO THE COUNTY
4 LINE?

5 A. IT IS -- I'M NOT TOO GOOD AT DISTANCES.
6 PROBABLY NO MORE THAN 100 YARDS.

7 Q. SO CAN YOU SHOW ME ON PERCIVAL ROAD WHERE YOU
8 WERE PARKED?

9 A. FORT JACKSON ROAD ACTUALLY COMES OUT RIGHT THERE
10 AND GOES THIS WAY. PONTIAC IS UP THIS WAY UP HERE.
11 I WAS PARKED ON FORT JACKSON ROAD JUST INSIDE
12 KERSHAW COUNTY.

13 Q. OKAY. AND LET'S JUST SAY HERE, WHAT SIDE OF THE
14 ROAD WERE YOU ON?

15 A. I WAS ACTUALLY FACING PONTIAC.

16 Q. AND WHERE DID YOU SEE THE PERSON WHO HAS
17 IDENTIFIED HIMSELF AS LARRY CHILDERS COME FROM?

18 A. HE CAME OUT OF THE WOODS.

19 Q. ON WHICH SIDE OF PERCIVAL?

20 A. ON THIS SIDE, WALKED OUT ONTO FORT JACKSON ROAD
21 ON THE EDGE OF THE ROAD AND JUST STARTED WALKING UP
22 TOWARDS THE JEEP.

23 Q. AND WHEN YOU SAY HE POINTED, IT WOULD HAVE BEEN
24 TO HIS RIGHT INITIALLY WHERE THE CAR IS, AND THAT
25 WOULD HAVE BEEN ON THIS SIDE?

1 A. RIGHT.

2 Q. AND YOU SAID LATER HE WAS TURNED AROUND WHEN HE
3 SAID THE LEFT?

4 A. HE WAS ACTUALLY TURNED AROUND, WE HAD HIM TURNED
5 AROUND, HE HAD HAS HANDS UP ON THE TRUCK.

6 Q. THAT'S IT. THANK YOU. NO QUESTIONS.

7 CROSS EXAMINATION BY MR. ROGERS:

8 Q. INVESTIGATOR BAILEY, THE CIGARETTES THAT YOU
9 RETRIEVED ON THE SCENE, AGAIN, YOU SAID THEY WERE
10 RIGHT BESIDE THE HOUSE? ONE WAS BESIDE THE HOUSE,
11 ONE WAS BEHIND THE---

12 A. ONE WAS ON THE RAILROAD TIE. IF I MAY?

13 Q. SURE.

14 A. ONE WAS ON THIS RAILROAD TIE RIGHT HERE, AND ONE
15 WAS LAYING NEXT TO THE BODY HERE, AND THEN THERE
16 WAS ONE BEHIND THE BUS.

17 Q. WERE THESE SUBMITTED FOR ANY TYPE OF FORENSIC
18 STUDIES OR ANYTHING?

19 A. NO, SIR, THEY WERE NOT.

20 Q. DO THEY HAVE ANY SIGNIFICANCE AS FAR AS -- IS
21 THERE ANY WAY YOU CAN DETERMINE WHO SMOKED THOSE
22 CIGARETTES?

23 A. AT THIS POINT, NO, SIR.

24 Q. ANY DNA SAMPLES DONE ON THE CIGARETTE BUTTS?

25 A. NO, SIR, WE COLLECTED THEM TOO LONG AFTER THAT.

1 IT WOULD HAVE TO BE DONE IN A CERTAIN AMOUNT OF
2 TIME.

3 Q. WHEN YOU FIRST ARRIVED ON THE SCENE,
4 INVESTIGATOR BAILEY---

5 A. THAT IS CRAWFORD.

6 Q. I'M SORRY, I APOLOGIZE. INVESTIGATOR CRAWFORD.
7 HOW MANY PEOPLE DID YOU TALK TO?

8 A. I SPOKE WITH CAPTAIN THOMLEY IS THE ONLY ONE I
9 TALKED TO WHEN I FIRST GOT THERE.

10 Q. DID YOU ACTUALLY DO ANY OF THE INTERVIEWS OF THE
11 WITNESSES, OR WAS THAT HANDLED BY SOMEBODY ELSE?

12 A. THE ONLY INTERVIEW THAT I DID WAS A BRIEF
13 INTERVIEW WITH MR. DOWEY.

14 Q. MR. DOWEY?

15 A. YES, SIR.

16 Q. AND IN ZONING THE AREA, YOU INVESTIGATE
17 DIFFERENT ZONES, IS THAT CORRECT, DIFFERENT AREAS
18 OF THE YARD, THE HOUSE, OR WHATEVER IT WOULD BE?

19 A. YES, SIR, JUST BREAK IT DOWN BASICALLY INTO
20 SQUARES SO THAT YOU---

21 Q. JUST TO KEEP FROM BACKTRACKING?

22 A. BACKTRACKING, YES, SIR.

23 Q. NOW, DID ANY OF THOSE ZONES INCLUDE THE VEHICLES
24 THAT WERE ON THE PROPERTY?

25 A. YES, SIR, ZONE NUMBER 2 WAS WHERE WE WORKED BACK

1 FROM THE BASKETBALL AREA IN THE BACK BACK TO THE
2 VEHICLES.

3 Q. WERE THE VEHICLES SEARCHED?

4 A. NO, SIR, WE DIDN'T SEARCH INSIDE OF THE
5 VEHICLES.

6 Q. WERE ANY OF THE INDIVIDUALS AT THE CRIME SCENE
7 SEARCHED?

8 A. WELL, WHEN I GOT THERE MOST OF THEM WERE IN THE
9 HOUSE, WITH THE EXCEPTION OF CAPTAIN THOMLEY AND
10 THE SHERIFF AND SOME OTHER OFFICERS.

11 Q. NOW, THERE IS A SPECIAL TEST, A PROCEDURE YOU GO
12 THROUGH, TO SEE IF SOMEONE HAS FIRED A GUN, IS THAT
13 CORRECT?

14 A. YES, SIR, THERE IS.

15 Q. WAS THAT DONE ON ANY OF THE PEOPLE WHO WERE
16 FOUND AT THE INCIDENT LOCATION?

17 A. NOT TO MY KNOWLEDGE.

18 Q. WAS ANYTHING FOUND AT THE INCIDENT LOCATION BY
19 YOURSELF OR ANYONE ELSE, OTHER THAN SHELL CASINGS
20 AND CIGARETTE BUTTS?

21 A. WE DIDN'T FIND ANY SHELL CASINGS.

22 Q. NO SHELL CASINGS?

23 A. NO, SIR.

24 Q. NONE AT THE INCIDENT LOCATION WHATSOEVER?

25 A. NO, SIR. YOU NORMALLY DON'T WHEN IT IS A

1 REVOLVER.

2 Q. YOU ACTUALLY MADE THE ARREST OF MR. CHILDERS?

3 A. YES, SIR, I DID.

4 Q. AND WHAT WAS HE WEARING AT THE TIME?

5 A. A PAIR OF BLUE JEANS WITH THE SEAT RIPPED OUT,
6 AS I CAN REMEMBER, A WHITE T-SHIRT, I DON'T
7 REMEMBER WHAT KIND OF SHOES, AND I DIDN'T SEE A
8 BALL CAP.

9 Q. THANK YOU. I DON'T HAVE ANYTHING FURTHER.

10 THE COURT: YOU CAN STEP DOWN,
11 INVESTIGATOR.

12 (MR. CRAWFORD STEPS DOWN.)

13 MR. McMAHON: THE STATE CALLS DAVID
14 THOMLEY.

15 THE COURT: ALL RIGHT.

16 CLERK: PLACE YOUR LEFT HAND ON THE BIBLE
17 AND RAISE YOUR RIGHT HAND.

18 (MR. THOMLEY COMPLIES.)

19 CLERK: DO YOU SWEAR OR AFFIRM THE
20 EVIDENCE YOU GIVE IN THIS CASE WILL BE THE TRUTH,
21 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP
22 YOU GOD?

23 MR. THOMLEY: YES, MA'AM, I DO.

24 CLERK: THANK YOU. PLEASE BE SEATED IN
25 THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR THE

1 RECORD.

2 MR. THOMLEY: DAVID THOMLEY, T-H-O-M-L-E-
3 Y.

4 DAVID THOMLEY, BEING
5 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MR. McMAHON:

7 Q. SIR, BY WHOM ARE YOU EMPLOYED?

8 A. I'M EMPLOYED BY THE KERSHAW COUNTY SHERIFF'S
9 DEPARTMENT.

10 Q. AND HOW LONG HAVE YOU BEEN---

11 MR. ROGERS: YOUR HONOR, MAY WE APPROACH
12 ONE MORE TIME?

13 THE COURT: SURE.

14 (BENCH CONFERENCE.)

15 THE COURT: ALL RIGHT, JURORS, DON'T TALK
16 ABOUT THE CASE. EASE OUT.

17 (WHEREUPON, THE JURY RETIRED
18 TO THE JURY ROOM.)

19 (WHEREUPON, THE FOLLOWING TAKES
20 PLACE OUTSIDE THE PRESENCE OF
21 THE JURY.)

22 MR. McMAHON: DO YOU WANT THE CAPTAIN TO
23 STEP DOWN?

24 THE COURT: IT DEPENDS ON HOW LONG IT IS
25 GOING TO BE. HE CAN STEP DOWN. HE IS ALREADY

1 SWORN.

2 (MR. THOMLEY STEPS DOWN.)

3 THE COURT: OKAY, MR. ROGERS.

4 MR. ROGERS: THANK YOU, YOUR HONOR.

5 DURING THE DIRECT EXAMINATION OF THE LAST WITNESS,
6 THERE WAS TESTIMONY PRESENTED THAT MR. CHILDERS
7 MADE A STATEMENT TO LAW ENFORCEMENT AFTER HAVING
8 BEEN ARRESTED, AFTER HAVING BEEN INFORMED THAT
9 THERE WAS A WARRANT FOR HIS ARREST.

10 THIS STATEMENT WAS NOT PROVIDED IN ANY OF
11 THE DISCOVERY MATERIAL. YOUR HONOR, WE WERE NOT
12 AWARE OF IT. WE THINK IT IS A VERY PREJUDICIAL
13 STATEMENT, ESPECIALLY ONE TO BE SURPRISED WITH AT
14 TRIAL.

15 YOUR HONOR, IF WE HAD BEEN AWARE OF THE
16 STATEMENT WE COULD HAVE POSSIBLY ADDRESSED SUCH
17 TESTIMONY PRIOR TO TRIAL.

18 I DON'T BELIEVE IT WOULD DO ANY GOOD FOR ME
19 TO MOVE TO HAVE THE STATEMENT STRICKEN FROM THE
20 RECORD. THE JURY HAS HEARD IT, AND IT HAS HEARD IT
21 TWICE NOW. IT WAS REPEATED BY MR. MEADORS LATER IN
22 THE DIRECT EXAMINATION.

23 YOUR HONOR, BASED UPON THAT, I WOULD MOVE
24 FOR A MISTRIAL. I DON'T BELIEVE THE STATEMENT CAN
25 BE ADMISSIBLE UNDER ANY CIRCUMSTANCES BECAUSE IT

JURY OUT

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1 WASN'T PROVIDED TO US, AND PROPERLY MR. CHILDERS,
2 THROUGH HIS PREVIOUS ATTORNEY, HE PROPERLY FILED
3 ALL THE MOTIONS TO RECEIVE ANY KIND OF STATEMENTS
4 MADE BY MR. CHILDERS.

5 WE WERE INFORMED THAT THE ONLY STATEMENT
6 MADE WAS THAT HE CAME OUT OF THE WOODS AND TURNED
7 HIMSELF IN AND TOLD THEM WHERE THE TRUCK WAS.

8 AND THERE WAS AN ADVICE OF RIGHTS FORM IN
9 HERE, A MIRANDA WARNING SIGNED BY MR. CHILDERS, AND
10 NO SUBSEQUENT STATEMENT, AND THERE WAS NO
11 INVESTIGATIVE REPORT INDICATING SUCH A STATEMENT
12 WAS MADE.

13 THE COURT: ALL RIGHT. YOU ARE TALKING
14 ABOUT THE STATEMENT, "THE GUN IS IN THE CAR"? SEE,
15 I DON'T KNOW ANYTHING ABOUT THE CASE. IT IS NOVEL
16 TO ME AS IT UNFOLDS, JUST LIKE IT IS TO THE JURY.

17 MR. ROGERS: YES, YOUR HONOR.

18 THE COURT: NOBODY HAS TALKED TO ME ABOUT
19 WHAT EVIDENCE THEY ARE GOING TO PUT IN AND WHAT
20 STATEMENTS ARE THERE.

21 MR. ROGERS: THAT IS THE STATEMENT.

22 THE COURT: ALL RIGHT.

23 MR. MEADORS: JUDGE, I DIDN'T KNOW ABOUT
24 THAT STATEMENT. THE STATEMENT WAS, "ARE Y'ALL
25 LOOKING FOR ME?" WHICH I DON'T BELIEVE THERE WAS

1 OBJECTION TO, AND I DON'T THINK THAT WAS AN ISSUE.

2 THE COURT: HE IS ONLY TALKING ABOUT THE
3 STATEMENT, "THE CAR IS IN THE WOODS AND THE GUN IS
4 IN IT," OR SOMETHING LIKE THAT, WHATEVER HE SAID.

5 MR. MEADORS: I DON'T THINK IT IS A
6 DISCOVERY VIOLATION AT ALL. WE DIDN'T KNOW ABOUT
7 IT. IT IS NOT IN ANY OF THE WRITTEN MATERIALS. IT
8 IS ONE OF THOSE THINGS -- IT SURPRISED ME. I DON'T
9 KNOW HOW ELSE TO ANSWER IT, YOUR HONOR. THERE ARE
10 CASES ON POINT ABOUT A NON-DISCOVERY VIOLATION, WE
11 HAVE THOSE. IT CAME OUT.

12 I WANT TO ADDRESS THE OTHER ISSUE. I GUESS
13 THAT IS THE ONLY -- HE IS ARGUING DISCOVERY
14 VIOLATION. BECAUSE I THINK IT WOULD BE KIND OF A
15 SPONTANEOUS UTTERANCE. IT WASN'T IN RESPONSE TO A
16 QUESTION FROM INVESTIGATOR CRAWFORD, HE JUST
17 VOLUNTEERED. WHETHER IT WAS BEFORE OR AFTER THE
18 ARREST, HE SAID, "LOOK, THE CAR IS OVER THERE AND
19 THE GUN IS IN THE CAR."

20 THE COURT: WELL, THE STATEMENT WOULD HAVE
21 COME IN AS BEING AN UNSOLICITED STATEMENT UNDER
22 NORMAL CIRCUMSTANCES. THE PROBLEM THAT MR. ROGERS
23 HAS IS THAT FORMAL DISCOVERY REQUESTS WERE MADE AND
24 HE WAS NOT FURNISHED THAT. THERE IS NO WAY I CAN
25 CURE IT BY INSTRUCTION, BUT I AM ASSUMING THAT THE

JURY OUT

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1 GUN WAS FOUND IN THE CAR LATER.

2 MR. MEADORS: IT WAS.

3 THE COURT: IT WOULD HAVE BEEN FOUND IN
4 THE CAR ANYWAY.

5 MR. MEADORS: AND THAT IS GOING TO BE TIED
6 UP, WE WILL HAVE DAN DEFREESE COMING FROM SLED TO
7 TIE UP THE BULLET WITH THE GUN, JUDGE.

8 IN PREPARATION, I HAVE BEEN DOING THIS FOR
9 YEARS, THERE ARE A LOT OF SURPRISES. I MEAN, I
10 DIDN'T KNOW TO TURN IT OVER. WE TURNED OVER
11 EVERYTHING TO MR. ROGERS. GLENN AND I HAVE BEEN
12 TALKING AND SCOTT AND I HAVE BEEN TALKING. I DON'T
13 KNOW HOW ELSE TO ANSWER IT.

14 THE COURT: WELL, INVESTIGATOR CRAWFORD
15 OBVIOUSLY SHOULD HAVE TOLD YOU THAT HE HAD THE
16 STATEMENT BEFORE HE TOOK THE STAND, THE ENTIRETY OF
17 ANYTHING THAT THE DEFENDANT SAID.

18 MR. MEADORS: I WANT TO MAKE THE RECORD
19 CRYSTAL CLEAR ON THIS TOO, YOUR HONOR.
20 INVESTIGATOR CRAWFORD HAD MET -- I'M IN HERE LAST
21 WEEK WITH YOUR HONOR TRYING A CDV CASE, AND HE HAD
22 MET WITH MR. McMAHON. MR. McMAHON WANTS TO,
23 BECAUSE WE DON'T WANT, LIKE I SAY, I DON'T WANT TO
24 SPEAK FOR THE INVESTIGATOR, INVESTIGATOR CRAWFORD
25 HAD TALKED GENERALLY ABOUT HIS TESTIMONY.

1 THE COURT: WELL, I MEAN, INVESTIGATOR
2 CRAWFORD IS NOT GOING TO JAIL OR ANYTHING.

3 MR. MEADORS: OH, I KNOW THAT. I AM JUST
4 TRYING TO TAKE UP FOR HIM. MR. McMAHON, THAT
5 STATEMENT WAS, YOUR HONOR, HE KNEW ABOUT THAT
6 STATEMENT TOWARDS THE END OF LAST WEEK; I DID NOT.
7 I DON'T KNOW HOW I CAN BE MORE STRAIGHTFORWARD ON
8 THE RECORD.

9 THE COURT: ALL RIGHT, MR. McMAHON KNEW
10 ABOUT THE STATEMENT?

11 MR. McMAHON: YES, SIR.

12 THE COURT: YOU SHOULD HAVE TOLD HIM. I
13 DON'T SEE THAT THE PREJUDICIAL EFFECT WARRANTS A
14 MISTRIAL.

15 MR. MEADORS: AND, JUDGE, I SHOULD HAVE
16 BEEN THE ONE THAT TOLD HIM, JUST FOLLOWING UP WITH
17 THAT. IT IS MY FAULT, NOT MR. McMAHON'S OR MR.
18 CRAWFORD'S, YOU KNOW---

19 THE COURT: I MEAN, EVEN IF HE KNOWS ABOUT
20 THE STATEMENT, I MEAN HE IS SHOCKED BY IT AND HE IS
21 SURPRISED BY IT, BUT, I MEAN, THE STATEMENT WOULD
22 HAVE COME IN UNDER -- HE COMES UP AND HE SAYS "X."
23 IT JUST WOULD HAVE BEEN ADMITTED HAD HE KNOWN ABOUT
24 IT.

25 MR. MEADORS: ALL I CAN SAY IS IT WASN'T

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1 INTENTIONAL, JUDGE. I THINK THERE WAS JUST SO MUCH
2 GOING ON. I TOLD GLENN EVERYTHING ELSE INVOLVED IN
3 THIS THAT I'M AWARE OF. IN FACT, I'M SORRY WE
4 DIDN'T TELL HIM. I STILL THINK, YOUR HONOR, THAT
5 IT WOULD HAVE COME IN. I DON'T THINK IT WOULD HAVE
6 CHANGED---

7 THE COURT: WELL, I'M NOT GOING TO DECLARE
8 A MISTRIAL, BUT IF IT TURNS OUT SOMETHING ELSE
9 COMES UP, I MEAN, TOUGH LUCK, WE JUST TRY IT OVER.

10 MR. MEADORS: I UNDERSTAND.

11 MR. ROGERS: YOUR HONOR, I DON'T MAKE THIS
12 MOTION WITH ANY MALICE TOWARDS THE SOLICITOR'S
13 OFFICE OR THE SHERIFF'S DEPARTMENT.

14 THE COURT: I UNDERSTAND.

15 MR. ROGERS: IT IS JUST THIS IS A VERY
16 SERIOUS MATTER. I FEEL IT IS A VERY PREJUDICIAL
17 STATEMENT, AND I BELIEVE WE SHOULD HAVE HAD THE
18 OPPORTUNITY TO EXAMINE THAT PRIOR TO TRIAL AND
19 PERHAPS HAVE A HEARING ON THE MATTER IF WE NEEDED
20 TO.

21 THE COURT: CERTAINLY. YOU WOULD HAVE
22 BEEN ENTITLED TO ALL OF THAT.

23 MR. ROGERS: AND I BELIEVE IT IS A HIGHLY
24 PREJUDICIAL STATEMENT, YOUR HONOR.

25 THE COURT: NOW, OF COURSE I AM WILLING TO

JURY OUT

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1 GIVE A CURATIVE INSTRUCTION, WHICH AS YOU KNOW,
2 HAVING BEEN AROUND, JUST RE-EMPHASIZES---

3 MR. ROGERS: IT MAKES IT WORSE.

4 THE COURT: ---THE FACT THAT HE MADE IT.
5 BUT I AM WILLING TO DO ANYTHING YOU WOULD WRITE OUT
6 AND SUBMIT TO ME THAT WOULD ADDRESS THE ISSUE, BUT
7 I'M NOT INTERESTED IN DECLARING A MISTRIAL RIGHT
8 NOW. I DON'T FEEL HE HAS BEEN SEVERELY PREJUDICED
9 BY IT, BASED UPON OTHER EVIDENCE IN THE CASE,
10 INCLUDING TWO EYEWITNESSES SO FAR, AS TO THE
11 SHOOTING. I DON'T KNOW WHY THE SHOOTING OCCURRED,
12 IF IT OCCURRED.

13 ALL RIGHT, WE SENT THE JURY OUT. YOU KNOW,
14 ANY TIME YOU SEND THEM OUT, IT IS 14 OF THEM, SO IT
15 TAKES 15 MINUTES BEFORE THEY COME BACK IN.

16 WHAT DO YOU HAVE LEFT ON TAP?

17 MR. McMAHON: TWO OFFICERS AND THE
18 PATHOLOGIST AND BALLISTICS.

19 THE COURT: CAPTAIN THOMLEY WILL TESTIFY
20 10 MINUTES, 15 MINUTES?

21 MR. McMAHON: APPROXIMATELY, I THINK.
22 WE'VE GOT THE PATHOLOGIST AND BALLISTICS COMING AT
23 4 O'CLOCK, BUT THEY ARE HERE FOR THE DURATION. I
24 MEAN---

25 THE COURT: WELL, WE MIGHT AS WELL TAKE 12

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1 MORE MINUTES, BECAUSE IF WE PUT THE CAPTAIN BACK
2 UP, THE JURY CAN GO ANOTHER HOUR AND A HALF, BUT
3 EVERYBODY IN HERE CAN'T.

4 WE'LL BE AT EASE ABOUT 12 MINUTES.

5 (BREAK.)

6 THE COURT: ALL RIGHT, BRING THEM IN.

7 (CAPTAIN THOMLEY RETURNS TO THE
8 WITNESS STAND.)

9 (WHEREUPON, THE JURY RETURNS TO
10 OPEN COURT.)

11 (WHEREUPON, THE FOLLOWING TAKES
12 PLACE WITHIN THE PRESENCE OF
13 THE JURY.)

14 THE COURT: OKAY. YOU MAY PROCEED.

15 MR. McMAHON: MAY IT PLEASE THE COURT?

16 THE COURT: SURE.

17 DIRECT EXAMINATION BY MR. McMAHON CONTINUES:

18 Q. AGAIN, WOULD YOU INTRODUCE YOURSELF TO THE JURY,
19 PLEASE?

20 A. YES, MY NAME IS DAVID THOMLEY. I AM A CAPTAIN
21 WITH THE KERSHAW COUNTY SHERIFF'S DEPARTMENT.

22 Q. HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
23 OFFICE?

24 A. APPROXIMATELY 12 YEARS.

25 Q. WHAT VARIOUS POSITIONS HAVE YOU HELD DURING THAT

1 12 YEAR PERIOD OF TIME?

2 A. I STARTED OUT AS A PATROL OFFICER. I WAS
3 PROMOTED TO DETECTIVE. FROM DETECTIVE I WENT TO
4 SERGEANT OF DETECTIVES. I WAS THERE ABOUT TWO
5 YEARS. PROMOTED TO HEAD OF NARCOTICS FOR ABOUT TWO
6 YEARS. AND MY CURRENT POSITION NOW IS CHIEF
7 INVESTIGATOR. I HAVE BEEN IN THAT POSITION FOR
8 ABOUT FIVE YEARS.

9 Q. WHAT TOTAL NUMBER OF YEARS DO YOU HAVE IN LAW
10 ENFORCEMENT, CAPTAIN THOMLEY?

11 A. TOTAL WOULD BE ABOUT 15 OR 16.

12 Q. NOW, WERE YOU CALLED TO GO TO A PARTICULAR
13 LOCATION IN KERSHAW COUNTY ON THE EARLY MORNING
14 HOURS OF OCTOBER THE 15TH OF 2000?

15 A. YES, I WAS.

16 Q. AND HOW WERE YOU NOTIFIED?

17 A. I WAS NOTIFIED THROUGH CENTRAL COMMUNICATION,
18 OUR 911 DISPATCH SERVICE HERE IN KERSHAW COUNTY.

19 Q. AND WHERE DID YOU RESPOND FROM, AND ABOUT WHAT
20 TIME DID YOU ARRIVE?

21 A. I ARRIVED SHORTLY BEFORE 4:30 A.M. I RESPONDED
22 FROM MY RESIDENCE, WHICH IS PROBABLY FIVE MILES
23 FROM THE INCIDENT LOCATION.

24 Q. SO YOU LIVE GENERALLY IN THAT SAME AREA OF
25 KERSHAW COUNTY?

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1 A. THAT'S CORRECT.

2 Q. WOULD YOU JUST VERY GENERALLY AND BRIEFLY
3 DESCRIBE THE SCENE ON WATSON STREET UPON YOUR
4 ARRIVAL?

5 A. YES, SIR. UPON MY ARRIVAL I WAS MET BY DEPUTY
6 HOPPLE, WHO BRIEFED ME AT THAT POINT. ACTUALLY
7 WHEN I ARRIVE ON A LOCATION I DO NOT LIKE TO LEAVE
8 MY VEHICLE VERY FAR UNTIL I ESTABLISH BOUNDARIES.
9 WHAT I MEAN BY THAT IS I LIKE TO KNOW WHERE I CAN
10 WALK AND WHERE I AM ALLOWED TO GO AS TO NOT DISTURB
11 THE EVIDENCE. THIS WAS DONE.

12 AND ALSO HE HAD BRIEFED ME ABOUT BEING OUT TO
13 THIS LOCATION EARLIER THIS SAME DATE.

14 Q. NOW, THE BRIEFING YOU RECEIVED BY LAW
15 ENFORCEMENT WAS FROM DEPUTY HOPPLE?

16 A. THAT'S CORRECT.

17 Q. WAS THE SCENE SECURED AS FAR AS DEPUTY HOPPLE,
18 AND I BELIEVE THERE WAS ANOTHER DEPUTY WITH HIM AT
19 THE TIME, OF CITIZENS BEING IN AND AROUND THE
20 ACTUAL BODY OF THE VICTIM, TAMMY?

21 A. YES, IT WAS SECURED AS MUCH AS IT COULD BE AT
22 THAT POINT, YES, SIR.

23 Q. DID EMS RESPOND?

24 A. EMS WAS ACTUALLY ON THE SCENE UPON MY ARRIVAL.

25 Q. AND DID THEY CHECK TAMMY TO SEE IF ANY TYPE OF

1 EMERGENCY PROCEDURES COULD BE DONE TO ASSIST HER?

2 A. I WASN'T PRESENT WHEN THEY DID, BUT I WAS
3 ADVISED THAT THEY HAD DONE THAT.

4 Q. THAT HAD BEEN COMPLETED PRIOR TO YOUR ARRIVAL?

5 A. THAT'S CORRECT.

6 Q. NOW, CAPTAIN, ON A SCENE SUCH AS THIS, WHAT IS
7 THE NEXT STEPS THAT YOU TOOK TO EITHER PRESERVE THE
8 SCENE OR FOLLOW UP ON THE INVESTIGATION?

9 A. AFTER ESTABLISHING BOUNDARIES, I DETERMINED THAT
10 I NEEDED TO ACTUALLY STRETCH THE SCENE WHICH I
11 WANTED SECURED, SO WE DID THIS BY PLACING TAPE
12 AROUND THE PERIMETER.

13 Q. WE HAVE ALREADY SEEN STATE'S EXHIBIT NUMBER 4.
14 AND THAT IS THE YELLOW TAPE THAT YOU ARE REFERRING
15 TO THERE?

16 A. YES, SIR, THAT'S CORRECT.

17 Q. AND GENERALLY WHAT AREA OF THE SCENE DID THAT
18 YELLOW TAPE ENCOMPASS, CAPTAIN?

19 A. THAT GENERAL VICINITY WAS THE LOCATION OF WHERE
20 THE BODY WAS DISCOVERED, OR THE BODY LAYING.

21 Q. NOW, ADDITIONALLY, WHAT IS THE FIRST OFFICER,
22 THE UNIFORMED OFFICER'S DUTIES AND RESPONSIBILITIES
23 AS FAR AS ANY WITNESSES THAT MAY HAVE BEEN AT THE
24 SCENE?

25 A. HE SHOULD DETAIN THE WITNESSES THERE UNTIL

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1 INVESTIGATORS CAN ARRIVE TO TAKE STATEMENTS.

2 Q. AND WOULD YOU NOTIFY ANY OTHER INDIVIDUALS IN
3 YOUR DEPARTMENT TO RESPOND TO THE SCENE?

4 A. YES, I WAS ADVISED THAT THE ON-CALL INVESTIGATOR
5 WAS ALREADY IN ROUTE, BUT I REQUESTED THAT THE
6 INVESTIGATOR ASSIGNED TO THE ELGIN AREA ALSO
7 RESPOND TO ASSIST US WITH THE INVESTIGATION.

8 Q. AND THAT WOULD HAVE BEEN?

9 A. THAT WOULD HAVE BEEN LIEUTENANT ERIC TISDALE.

10 Q. SO YOU HAVE DETECTIVE CRAWFORD, THE ON-CALL
11 INVESTIGATOR, IN ROUTE?

12 A. THAT'S CORRECT.

13 Q. ADDITIONALLY, LIEUTENANT TISDALE IN ROUTE?

14 A. THAT'S CORRECT.

15 Q. AND ALSO THE SHERIFF RESPONDED?

16 A. THE SHERIFF RESPONDED, AND THE CHIEF DEPUTY ALSO
17 RESPONDED.

18 Q. THEN WHAT STEPS DO YOU TAKE IN FOLLOWING UP ON
19 THE INVESTIGATION TO THE EVENT?

20 A. I BEGIN INTERVIEWING WITNESSES AT THE LOCATION.
21 I ASSISTED -- WE CONDUCTED WHAT WE CALL A ZONE
22 SEARCH. IT IS A SEARCH WHERE YOU BREAK THE -- IN A
23 WIDE AREA YOU BREAK THE SEARCH DOWN INTO ZONES AND
24 YOU SEARCH A SQUARE AT A TIME. I DONE THIS WITH
25 INVESTIGATOR CRAWFORD. ALSO PHOTOGRAPHS WERE

1 TAKEN, EVIDENCE WAS COLLECTED AND PRESERVED,
2 MEASUREMENTS WAS TAKEN FOR A TRIANGULATION OF THE
3 VICTIM'S BODY, AND A NOT-TO-SCALE BUT ROUGH DRAFT
4 WAS DRAWN BY MYSELF.

5 Q. BASED ON THE ZONE SEARCH, DID YOU OBSERVE ANY
6 AREAS OUTSIDE OF THE RESIDENCE THAT BECAME
7 IMPORTANT TO PART OF THE INVESTIGATION?

8 A. SEVERAL. AS DEPUTY HOPPLE HAD PROVIDED
9 INFORMATION ABOUT BEING OUT EARLIER AND GETTING THE
10 CALL OUT EARLIER ABOUT SOMEONE BEING AROUND THE
11 BUS, AND THIS WAS ACTUALLY ONE OF THE FIRST PLACES
12 WE ACTUALLY WENT TO AFTER I DID THE PRELIMINARY
13 EXAMINATION OF THE BODY, AND WE ACTUALLY SEARCHED
14 THAT AREA FIRST.

15 Q. NOW, ARE YOU REFERRING TO THE FIRST 911 CALL WE
16 HEARD EARLIER?

17 A. YES, SIR.

18 Q. AND LET ME ASK YOU MAYBE SOME POLICE DEPARTMENT
19 OR SHERIFF'S OFFICE VOCABULARY. ON THAT TAPE WE
20 HEAR A 10-79 CALL ON THE FIRST 911 TAPE. WHAT DOES
21 10-79 MEAN?

22 A. 10-79 IS A PROWLER CALL.

23 Q. AND THEN WE HEAR A NUMBER USED, 41. WHAT IS
24 THAT REFERRING TO?

25 A. FORTY-ONE WOULD HAVE BEEN GLENN HOPPLE'S CALL

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1 SIGNAL.

2 Q. SO ON THAT FIRST, THAT 911 TAPE, 41 RESPONDING
3 TO A 10-79, DEPUTY HOPPLE IS RESPONDING TO A
4 PROWLER CALL?

5 A. THAT'S CORRECT.

6 Q. THAT LOCATION?

7 A. THAT'S CORRECT.

8 Q. NOW, I BELIEVE YOU SAID YOU WERE BRIEFED BY
9 DEPUTY HOPPLE AND HE DIRECTED YOU TO THAT AREA
10 AROUND THE SCHOOL BUS?

11 A. HE HAD -- HE DIRECTED US IN THAT AREA, YES, SIR,
12 THAT HE HAD ACTUALLY -- THAT WAS ONE OF THE AREAS
13 HE SEARCHED WHEN HE WAS OUT EARLIER.

14 Q. AND HAD HE SEEN, FROM YOUR BRIEFING, CERTAIN
15 ITEMS OVER IN THAT AREA PREVIOUSLY?

16 A. YES, SIR, AND HE HAD POINTED THOSE OUT TO US.

17 Q. AND DID YOU ACTUALLY GO OVER THERE, CAPTAIN, AND
18 LOOK AT THAT AREA YOURSELF?

19 A. YES, SIR, MYSELF AND INVESTIGATOR CRAWFORD WENT
20 THROUGH THIS AREA.

21 Q. AND INVESTIGATOR CRAWFORD AND DEPUTY HOPPLE AND
22 ALL HAVE KIND OF POINTED THIS AREA OUT. THAT IS
23 THIS AREA UP IN HERE, IS THAT CORRECT, CAPTAIN?

24 A. THAT'S CORRECT.

25 Q. AND WHAT DID YOU SEE UP IN THIS AREA?

1 A. WE SEEN THESE FOOT TRACKS HERE AND HERE, AND
2 ALSO A CIGARETTE BUTT WHICH JUST SEEMED TO BE OUT
3 OF PLACE FOR THAT PARTICULAR AREA WHERE THE BUS WAS
4 PARKED.

5 Q. CAPTAIN, YOU SAW THOSE ON THE GROUND THAT
6 MORNING, CORRECT?

7 A. THAT'S CORRECT.

8 Q. AND AT A LATER TIME THAT MORNING, DID DEPUTY
9 CRAWFORD TAKE PHOTOGRAPHS OF THOSE TRACKS?

10 A. HE DID.

11 Q. AND IS THAT WHAT HAS BEEN PREVIOUSLY INTRODUCED
12 AS STATE'S 9 AND 10?

13 A. YES, SIR.

14 Q. ADDITIONALLY, THAT CIGARETTE BUTT, YOU SAW THAT
15 ON THE GROUND?

16 A. YES, SIR.

17 Q. AND DID DEPUTY CRAWFORD BOTH TAKE A PHOTOGRAPH
18 OF THAT CIGARETTE BUTT DEPICTED IN STATE'S 14?

19 A. YES, SIR.

20 Q. AND FURTHER DID HE COLLECT THAT CIGARETTE BUTT
21 INTO EVIDENCE AND PLACE IT IN THIS BAG?

22 A. YES, SIR.

23 Q. AND HOW DOES HE INDICATE "PLACE EVIDENCE FOUND"?
24 HOW IS THAT INDICATED ON THAT BAG?

25 A. "BEHIND BUS NEAR SUSPECT'S SHOE PRINT."

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 Q. AND THAT IS WHERE IT WAS AT?

2 A. YES, SIR.

3 Q. THAT IS WHERE YOU SAW IT?

4 A. YES, SIR.

5 Q. AND THAT IS WHAT THESE PHOTOGRAPHS ARE?

6 A. THAT'S CORRECT.

7 Q. AND THAT'S WHAT THIS ITEM HERE IS?

8 A. YES, SIR.

9 Q. NOW, CAPTAIN, I KNOW YOU MAY BE ABLE TO READ IT,
10 YOU ARE MUCH YOUNGER THAN I AM, BUT CAN YOU LOOK ON
11 THERE AND CAN YOU SEE WHAT BRAND OF CIGARETTE THAT
12 IS?

13 A. YES.

14 Q. WHAT BRAND IS IT?

15 A. IT IS A BASIC.

16 Q. BASIC?

17 A. YES, SIR.

18 Q. AND THAT IS ACTUALLY -- YOU CAN READ THAT ON
19 THERE?

20 A. YES, SIR, IT IS PRINTED ON THERE.

21 Q. NOW, DID YOU NOTICE OR DO YOU RECALL IN YOUR
22 EXTERIOR SEARCH, I'M NOT TALKING ABOUT TAMMY'S
23 BODY, DID YOU NOTICE ANY OTHER AREAS OR ANYTHING
24 ELSE COME TO YOUR ATTENTION OUTSIDE THE RESIDENCE
25 ON WATSON STREET?

1 A. YES, SIR, WE ALSO RECOVERED ANOTHER CIGARETTE
2 BUTT ON A CROSS TIE ADJACENT TO THE RESIDENCE.

3 Q. AND IF I SHOW YOU BOTH THIS PHOTOGRAPH, STATE'S
4 13,---

5 A. YES, SIR.

6 Q. AND ACTUALLY WHAT IS THAT -- POINT OUT THE
7 CIGARETTE BUTT FOR US.

8 A. THIS IS IT RIGHT HERE.

9 Q. AND WHAT IS IT SITTING ON?

10 A. IT IS ON A CROSS TIE, WHAT I WOULD REFER TO AS A
11 RAILROAD CROSS TIE.

12 Q. CAN YOU POINT UP THERE ON STATE'S EXHIBIT NUMBER
13 3 WHERE THAT CIGARETTE BUTT IS, ON WHAT CROSS TIE?

14 A. RIGHT HERE.

15 Q. RIGHT THERE?

16 A. YES, SIR.

17 Q. AND THAT WAS GATHERED INTO EVIDENCE, CORRECT?

18 A. THAT'S CORRECT.

19 Q. NOW, THERE WAS ANOTHER CIGARETTE BUTT NEAR THAT
20 ONE?

21 A. YES, SIR.

22 Q. AND REFERRING YOU NOW TO STATE'S EXHIBIT NUMBER
23 12?

24 A. YES, SIR.

25 Q. AND POINT OUT AGAIN ON DIAGRAM 3 WHERE THIS

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 CIGARETTE BUTT IS DEPICTED ON 12 IS LOCATED?

2 A. THIS ONE WAS LAYING ACTUALLY CLOSER TO THE
3 VICTIM'S BODY.

4 Q. SO YOU OBSERVED THEM, SAW THEM ON THE GROUND?

5 A. YES, SIR.

6 Q. DEPUTY CRAWFORD TOOK PHOTOGRAPHS OF THEM?

7 A. YES, SIR.

8 Q. THEY WERE GATHERED IN EVIDENCE?

9 A. THAT'S CORRECT.

10 Q. "PLACE EVIDENCE FOUND." WHAT DOES THAT INDICATE
11 ON STATE'S EXHIBIT NUMBER 16, "PLACE EVIDENCE
12 FOUND"?

13 A. "NEXT TO VICTIM'S BODY AND WOOD RAILROAD TIE
14 NEAR SIDE OF RESIDENCE."

15 Q. AND SO THERE IS TWO CIGARETTE BUTTS IN THIS BAG?

16 A. THAT'S CORRECT.

17 Q. AND I'M GOING TO ASK YOU CAN YOU SEE A BRAND
18 NAME ON THIS, CAPTAIN?

19 A. NO, SIR.

20 Q. AND, CAPTAIN, HOW ABOUT THIS OTHER ONE, CAN YOU
21 SEE A BRAND NAME ON THIS?

22 A. YES, SIR, IT IS BASIC.

23 Q. BASIC. THE SAME BRAND NAME THAT WAS ON THIS
24 CIGARETTE BUTT HERE?

25 A. BEHIND THE BUS, CORRECT.

1 Q. THOSE TWO ARE THE SAME?

2 A. YES, SIR.

3 Q. NOW, CAPTAIN, TAMMY'S BODY.

4 A. YES, SIR.

5 Q. YOU OBSERVED THE POSITION OR LOCATION OF HER
6 BODY?

7 A. I DID.

8 Q. IS IT CONSISTENT WITH WHERE IT IS PLACED ON
9 STATE'S EXHIBIT NUMBER 3?

10 A. IT IS NOT TO SCALE, BUT IT IS CONSISTENT, YES,
11 SIR.

12 Q. AND COULD YOU TELL THE JURY IN WHAT MANNER SHE
13 WAS ON THE GROUND?

14 A. SHE WAS LAYING ON HER BACK.

15 Q. AND AS INDICATED ON STATE'S 3, HER HEAD WOULD
16 HAVE BEEN TOWARDS---

17 A. RIGHT.

18 Q. CLOSER TO THE FRONT PORCH OF THE RESIDENCE?

19 A. RIGHT. THAT'S CORRECT.

20 Q. FEET TOWARDS THE DRIVEWAY?

21 A. THAT'S CORRECT.

22 Q. AND YOU SAW THE AREAS OF INJURY TO HER HEAD?

23 A. YES, SIR.

24 Q. AND AS DEPUTY CRAWFORD SAID, MOST OF THE BLOODY
25 AREA OF TAMMY WAS TO HER HEAD AREA?

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 MR. ROGERS: YOUR HONOR, I WOULD OBJECT.
2 I THINK THIS IS REDUNDANT. WE HAVE HEARD THIS TWO
3 OR THREE TIMES.

4 THE COURT: IT IS. AND HE IS ALSO
5 TESTIFYING. HE CAN ASK HIM WHAT HE SAW AND MOVE
6 ON.

7 MR. McMAHON: YES, SIR, AND THAT IS WHY I
8 WAS DOING IT LIKE THAT SO I COULD MOVE ON.

9 Q. CAPTAIN, WOULD YOU DESCRIBE WHAT YOU OBSERVED AS
10 FAR AS THE CONDITION OF THE VICTIM'S BODY?

11 A. YES, SIR, SHE WAS LAYING ON HER BACK, A LOT OF
12 BLOOD. HER EYE POCKETS WERE FULL OF BLOOD, BLOOD
13 COMING FROM HER MOUTH AND HER EAR.

14 Q. NOW, CAPTAIN, WHAT STEPS DO Y'ALL TAKE
15 SPECIFICALLY AS FAR AS THE VICTIM'S BODY BEFORE SHE
16 WAS TRANSPORTED FOR PURPOSES OF PERFORMING AN
17 AUTOPSY?

18 A. WE PRESERVE THE BODY, BUT WE ALSO, FOR LACK OF A
19 BETTER TERM, SIMPLY WE BAG THE HANDS TO LATER DO
20 WHAT WE CALL A PARAFFIN TEST, WHICH IS MERELY A
21 GUNSHOT RESIDUE TEST.

22 Q. AND WHEN YOU SAY "BAG THE HANDS," EXPLAIN TO THE
23 JURY SPECIFICALLY WHAT IS DONE.

24 A. WE JUST TAKE -- WE TAKE BROWN PAPER BAGS, PLACE
25 THEM OVER THE VICTIM'S HAND AND TAKE TAPE AND GO

1 AROUND THE WRIST AND TAPE THE BAG ON THE HAND.

2 Q. AND THAT IS DONE AT THE SCENE?

3 A. THAT'S CORRECT.

4 Q. FOR LATER FORENSIC TESTING?

5 A. YES, SIR.

6 Q. NOW, CAPTAIN, DID Y`ALL HAVE A SUSPECT, SOMEBODY
7 YOU WERE LOOKING FOR?

8 A. YES, SIR.

9 Q. AS A RESULT OF HAVING THAT SUSPECT, DID YOU PUT
10 OUT A BOLO?

11 A. YES, SIR, BOLO BEING "BE ON THE LOOK-OUT."

12 Q. AND WHO WAS YOUR SUSPECT?

13 A. OUR SUSPECT WAS LARRY "COTTON" CHILDERS.

14 Q. DID YOU HAVE THAT PERSON, LARRY "COTTON"
15 CHILDERS, AS A SUSPECT PRIOR TO EVEN LEAVING THE
16 SCENE THAT MORNING?

17 A. OH, YES, SIR.

18 Q. NOW, YOU TALKED PREVIOUSLY ABOUT TAKING SOME
19 STATEMENTS, I BELIEVE, AND I BELIEVE THAT DEFENSE
20 EXHIBIT NUMBER 1 -- YES, SIR. DO YOU RECOGNIZE
21 THIS ITEM?

22 A. YES, I DO.

23 Q. WHAT IS THAT ITEM?

24 A. THIS IS THE STATEMENT I RECEIVED FROM MS. MARY
25 WHITE ON THE MORNING OF THE INCIDENT.

1 Q. AND WHEN AND WHERE DID YOU TAKE THAT STATEMENT
2 FROM MARY?

3 A. THE TIME ON HERE IS 5:45 A.M. IT WAS TAKEN
4 INSIDE THE RESIDENCE AT THE INCIDENT LOCATION.

5 Q. COULD YOU DESCRIBE FOR THE JURY, PLEASE, THE
6 MANNER AND THE PURPOSE IN TAKING THAT STATEMENT AND
7 WHAT MARY'S EMOTIONAL STATE WAS AT THE TIME?

8 A. TO SAY SHE WAS VERY EMOTIONAL IS A GROSS
9 UNDERSTATEMENT. SHE WAS AT TIMES HYSTERICAL, AS
10 YOU COULD IMAGINE. AND THIS STATEMENT PRIMARILY IS
11 TAKEN AS WHAT I WOULD CALL A PRELIMINARY STATEMENT
12 TO ESTABLISH A SUSPECT, IT IS NOT A DETAILED
13 STATEMENT, I DIDN'T ASK A LOT OF QUESTIONS, IT IS
14 JUST HER INITIAL STATEMENT AS BEST SHE COULD GIVE
15 IT.

16 Q. NOW, CAPTAIN, AS PART OF YOUR SEARCH, AFTER
17 DAYLIGHT THAT MORNING I BELIEVE THERE WAS SOME
18 EXTERIOR SCENE PHOTOGRAPHS TAKEN, IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. DID Y'ALL NOTICE ANYTHING ELSE WHILE STILL THERE
21 ON THE SCENE AFTER DAYLIGHT?

22 A. YES, SIR, WE NOTICED THE BULLET HOLE IN THE
23 FRONT DOOR OF THE RESIDENCE.

24 Q. AND THAT IS WHAT IS DEPICTED IN THE VARIOUS
25 PHOTOGRAPHS TAPED TO STATE'S EXHIBIT NUMBER 8?

1 A. YES, SIR.

2 Q. DID YOU FOLLOW THE PATH OF THAT BULLET?

3 A. AS BEST I COULD, YES, SIR.

4 Q. AND DID YOU RECOVER A PARTICULAR ITEM?

5 A. WE DID. WE RECOVERED A FIRED BULLET TAKEN OUT
6 OF THIS WALL, ACTUALLY AT THE BOTTOM, THE BOTTOM OF
7 THE WALL.

8 Q. AND I WANT TO SHOW YOU AN ITEM AND ASK YOU IF
9 YOU CAN IDENTIFY IT FOR US, PLEASE.

10 A. YES, SIR.

11 Q. WHAT IS THAT ITEM, SIR?

12 A. THIS PLASTIC BAG IS THE BAG THAT I USED TO PLACE
13 -- THE BIGGER PLASTIC BAG IS THE BAG THAT I USED TO
14 PLACE THE BULLET IN ONCE I REMOVED IT FROM THE
15 WALL, WITH THE ASSISTANCE OF MR. DOWEY.

16 MR. McMAHON: YOUR HONOR, I WOULD OFFER
17 THIS ITEM INTO EVIDENCE AT THIS TIME.

18 THE COURT: MR. ROGERS, IT LOOKS LIKE IT
19 WILL CONNECT UP.

20 MR. ROGERS: I HAVE NO OBJECTION.

21 THE COURT: OKAY, IT COMES IN.

22 (BULLET FOUND IN WALL RECEIVED
23 INTO EVIDENCE AS STATE'S EXHIBIT 18.)

24 Q. NOW, THIS WOULD HAVE BEEN RECOVERED THE MORNING
25 OF THE 10TH?

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 A. THAT'S CORRECT, YES, SIR.

2 Q. AND THEN AT A LATER TIME FORWARDED TO SLED FOR
3 BALLISTICS TESTING?

4 A. YES, SIR.

5 Q. I WANT TO TALK A COUPLE OF MINUTES, CAPTAIN, AND
6 ASK YOU IF THAT MORNING, I BELIEVE YOU SAID YOU
7 NOTIFIED LIEUTENANT TISDALE, DID HE RESPOND TO THE
8 SCENE ON WATSON STREET?

9 A. YES, HE DID.

10 Q. AND WHAT IF ANYTHING DID YOU ADVISE LIEUTENANT
11 TISDALE TO DO?

12 A. AFTER A BRIEF I GUESS OUTLINE OF WHAT I KNEW AT
13 THAT POINT, I TOLD HIM THAT I NEEDED HIM TO GO AND
14 RESPOND TO THE PANTRY IN ELGIN TO INTERVIEW THE
15 CLERK AND ALSO TO TRY TO OBTAIN A VIDEO TAPE IF
16 THEY HAD ONE.

17 Q. HOW FAR IS THE PANTRY IN ELGIN FROM WATSON
18 STREET?

19 A. FROM THE INCIDENT LOCATION IT IS PROBABLY I
20 GUESS TWO MILES.

21 Q. ARE YOU FAMILIAR WITH THAT PANTRY?

22 A. YES, SIR.

23 Q. BOTH EXTERIOR AND INTERIOR OF THAT PANTRY?

24 A. YES, SIR.

25 Q. DO YOU KNOW WHETHER OR NOT THAT PANTRY HAS ANY

1 VIDEO TAPE IN THERE?

2 A. I KNEW THEY HAD VIDEO TAPE, YES, SIR. I DIDN'T
3 KNOW IF THEY HAD ONE THIS PARTICULAR NIGHT OR NOT,
4 BUT I LATER DISCOVERED THEY DID.

5 Q. WHAT IF ANYTHING DID YOU ADVISE LIEUTENANT
6 TISDALE TO DO IF THE PANTRY HAD VIDEO TAPE?

7 A. THAT WE NEEDED IT IN OUR POSSESSION, WE NEEDED
8 THIS VIDEO TAPE.

9 Q. WAS THAT PART OF YOUR INVESTIGATION, FOLLOW-UP
10 INVESTIGATION?

11 A. YES, SIR.

12 Q. SINCE THAT DATE, DO YOU KNOW WHETHER OR NOT
13 LIEUTENANT TISDALE SEIZED A VIDEO TAPE FROM THAT
14 PANTRY IN ELGIN?

15 A. HE DID.

16 Q. HAVE YOU SEEN THAT VIDEO TAPE?

17 A. I VIEWED IT THE SAME DAY, YES, SIR.

18 Q. AND, CAPTAIN, TELL THE JURY, PRIOR TO OCTOBER
19 THE 15TH OF 2000, DID YOU KNOW THE DEFENDANT, LARRY
20 CHILDERS?

21 A. YES, SIR.

22 Q. DID YOU KNOW HIM BY NAME AND SIGHT?

23 A. YES, SIR.

24 Q. COULD YOU RECOGNIZE HIM?

25 A. YES, SIR.

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 Q. WAS HE FROM THE SAME GENERAL AREA OF KERSHAW
2 COUNTY THAT YOU ARE FROM?

3 A. WE GREW UP ABOUT A MILE APART.

4 Q. AND YOU WOULD BE ABLE TO RECOGNIZE HIM?

5 A. YES, SIR.

6 Q. PRIOR TO TESTIFYING TODAY, HAVE YOU SEEN THAT
7 VIDEO TAPE AND IN FACT SEEN IT ON THIS SET HERE
8 TODAY?

9 A. YES, SIR.

10 MR. McMAHON: YOUR HONOR, I HAVE ALREADY
11 GOT IT KEYED UP, AND I WOULD OFFER THE VIDEO AT
12 THIS TIME.

13 MR. ROGERS: YOUR HONOR, I DON'T KNOW THAT
14 THE PROPER FOUNDATION HAS BEEN LAID, BUT I'M SURE
15 THAT THEY COULD DO SO, IT WOULD JUST TAKE A LITTLE
16 MORE TIME.

17 THE COURT: YOU CAN PROCEED.

18 MR. McMAHON: MAY I USE MY ASSISTANT TO
19 OPERATE THE MACHINERY?

20 THE COURT: ALL RIGHT.

21 Q. CAPTAIN, COULD YOU STEP DOWN HERE FOR ME A
22 MOMENT?

23 (WITNESS COMPLIES.)

24 Q. IF YOU WOULD STEP ON THIS SIDE.

25 (WHEREUPON, THE VIDEO TAPE WAS

1 PLAYED FOR THE JURY.)

2 Q. STOP IT FOR A MOMENT THERE. NOW, CAPTAIN, WHAT
3 WE SEE ON THE SCREEN NOW, WHAT IS THIS LOCATION
4 THAT WE ARE SEEING?

5 A. THIS IS THE INTERIOR, THE CASH REGISTER AREA,
6 THE INSIDE OF THE PANTRY IN ELGIN.

7 Q. AND, CAPTAIN, YOU RECOGNIZE THAT IF YOU HAVE
8 BEEN THERE IN LIFE MANY TIMES, YOU RECOGNIZE THAT
9 AS THE INTERIOR OF THAT PANTRY?

10 A. PRETTY MUCH ON A DAILY BASIS.

11 Q. IS THERE ANY DATE SHOWN ON THIS VIDEO?

12 A. THE DATE RIGHT HERE IS 10/15 OF 2000.

13 Q. RIGHT HERE?

14 A. YES, SIR.

15 Q. IS THERE A DATE THAT CORRESPONDS TO THAT DATE?

16 A. SUNDAY, YES, SIR.

17 Q. THAT WOULD BE HERE?

18 A. YES, SIR.

19 Q. NOW, DOES THE TIME -- IS THE TIME REFLECTED ON
20 THIS VIDEO?

21 A. THE TIME IS RIGHT HERE, 3:12.

22 Q. AND THEN 0312 IS A.M. AND DOT-DOT 59, THAT WOULD
23 BE THE SECONDS?

24 A. SECONDS.

25 Q. SO THIS WOULD BE 3:12 59 SECONDS A.M., SUNDAY,

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 OCTOBER 15TH?

2 A. THAT'S CORRECT, YES, SIR.

3 MR. McMAHON: GO AHEAD.

4 (VIDEO CONTINUES.)

5 Q. NOW, LET ME BACK IT UP A MINUTE. LET ME ASK YOU
6 IF YOU COULD POINT OUT ON HERE WHERE THE DOOR WOULD
7 BE THAT THE CUSTOMER WOULD ENTER.

8 A. OKAY. YOU HAVE TWO DOORS HERE, ONE ON THE LEFT,
9 ONE ON THE RIGHT.

10 MR. McMAHON: AND CAN YOU GO FRAME BY
11 FRAME?

12 Q. NOW, DO YOU SEE ANYONE THAT HAS COME INTO THAT
13 DOOR?

14 A. YES, RIGHT HERE.

15 Q. RIGHT HERE?

16 A. YES, SIR.

17 Q. AND HE WOULD HAVE COME FROM OUTSIDE INSIDE THE
18 DOOR?

19 A. YES, SIR.

20 MR. McMAHON: GO AHEAD.

21 (VIDEO CONTINUES.)

22 Q. NOW, DOES THAT APPEAR TO BE THE SAME INDIVIDUAL
23 THAT JUST ENTERED THE DOOR?

24 A. YES, IT DOES.

25 Q. AND CAN YOU CLEARLY SEE THAT INDIVIDUAL THERE?

1 A. ABSOLUTELY.

2 Q. HAVE YOU LOOKED AT THIS TAPE MORE THAN ONCE?

3 A. YES, SIR.

4 Q. CAPTAIN, DO YOU RECOGNIZE THAT INDIVIDUAL?

5 A. YES, I DO.

6 Q. AND WHO IS IT?

7 A. THAT IS LARRY "COTTON" CHILDERS.

8 Q. NO DOUBT IN YOUR MIND?

9 A. NO DOUBT IN MY MIND.

10 Q. AND DOES THIS APPEAR TO BE LONG SLEEVES?

11 A. NO, SIR, IT APPEARS TO BE THIS JACKET RIGHT
12 HERE, BROWN COLLAR.

13 MR. McMAHON: GO AHEAD.

14 (VIDEO CONTINUES.)

15 MR. McMAHON: STOP IT FOR A MINUTE.

16 (VIDEO PAUSED.)

17 Q. ARE YOU ABLE -- DID YOU SEE ANYONE ELSE THAT YOU
18 RECOGNIZED DURING THE COURSE OF THIS VIDEO?

19 A. YES. I DON'T KNOW THE CLERK PERSONALLY, BUT I
20 KNOW THIS LADY RIGHT HERE.

21 Q. AND WHO IS THAT?

22 A. THAT IS JUDY MOTLEY. SHE WORKS FOR THE STATE
23 NEWSPAPER.

24 Q. AND WHO DELIVERS THE PAPERS WITH JUDY?

25 A. HER HUSBAND.

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 Q. AND THAT'S BUBBA?

2 A. BUBBA.

3 Q. IS THAT WHAT THEY CALL HIM? AND ARE YOU ABLE TO
4 DETERMINE IN WATCHING THE VIDEO IF MR. CHILDERS
5 MAKES ANY PURCHASE?

6 A. YES.

7 MR. McMAHON: ALL RIGHT, GO AHEAD, BYRON.

8 (VIDEO CONTINUES.)

9 Q. SO FROM ABOUT THE END OF 3:12:59 UP TO 3:14:21?

10 A. YES, SIR.

11 Q. ABOUT THE PERIOD OF TIME---

12 A. THAT'S CORRECT.

13 Q. ---THAT MR. CHILDERS APPEARS TO BE IN THERE?

14 A. YES, SIR.

15 Q. AND WHEN HE LEAVES GOING OUT THIS DOOR, THAT
16 WOULD BE BACK TO THE DOOR IN THE PARKING LOT?

17 A. YES, SIR.

18 MR. McMAHON: THAT'S GOOD.

19 Q. YOU CAN RETAKE THE STAND, CAPTAIN.

20 (WITNESS COMPLIES.)

21 Q. NOW, CAPTAIN, WHO DID YOU SEND DOWN THERE TO
22 CHECK ON THAT VIDEO?

23 A. LIEUTENANT ERIC TISDALE.

24 Q. TO YOUR KNOWLEDGE, HE TOOK IT INTO HIS CUSTODY?

25 A. YES, SIR.

1 Q. DID YOU REMAIN INVOLVED IN THE INVESTIGATION
2 THROUGHOUT THE LATE MORNING HOURS, AFTERNOON HOURS,
3 EVENING HOURS OF OCTOBER THE 15TH?

4 A. YES, I DID.

5 Q. AND DO YOU KNOW WHETHER OR NOT THE DEFENDANT WAS
6 ARRESTED ANY TIME ON THE 15TH?

7 A. YES, HE WAS ARRESTED.

8 Q. AND DO YOU KNOW ABOUT WHAT TIME AND BY WHO?

9 A. HE WAS ARRESTED BY INVESTIGATOR CRAWFORD I
10 BELIEVE AROUND 5:30, QUARTER TO 6 P.M.

11 Q. AND AFTER HIS ARREST, WHERE WAS HE BROUGHT TO,
12 CAPTAIN?

13 A. HE WAS BROUGHT TO THE KERSHAW COUNTY SHERIFF'S
14 DEPARTMENT.

15 Q. NOW, I JUST WANT TO ASK YOU ABOUT SOME
16 PROCEDURES THAT YOU PERFORMED ON HIM.

17 DID Y'ALL DO A GUN PRIMER RESIDUE TEST ON HIM?

18 A. YES, I DID.

19 Q. AND ABOUT WHAT TIME WOULD THAT HAVE BEEN DONE ON
20 THE 15TH?

21 A. I DON'T RECALL. IT WAS AROUND 6:30 P.M. OR SO.

22 Q. AFTER HIS ARREST?

23 A. YES, SIR.

24 Q. WELL AFTER 6 O'CLOCK THAT EVENING?

25 A. YES, SIR.

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 Q. AND WAS BOTH THAT AND THE GUN PRIMER RESIDUE
2 TEST FORWARDED TO SLED FOR FORENSIC TESTING?

3 A. YES.

4 Q. THE GUN PRIMER RESIDUE FROM TAMMY?

5 A. RIGHT, YES, SIR.

6 Q. AND ALSO FROM THE DEFENDANT?

7 A. THAT'S CORRECT.

8 Q. AND DID YOU RECEIVE BACK THE RESULTS OF THAT
9 TEST?

10 A. I DID.

11 Q. COULD YOU TELL US WHAT THE RESULTS OF THE TESTS
12 WERE ON TAMMY?

13 A. HER TESTS WERE NEGATIVE FOR GUNSHOT RESIDUE.

14 Q. MEANING SHE DID NOT FIRE A GUN?

15 A. THAT'S CORRECT.

16 Q. AND WHAT ABOUT ON THE DEFENDANT?

17 A. HIS -- WE RECEIVED THE ANALYSIS BACK FROM SLED
18 THAT INDICATED THAT THE TIME PERIOD THAT HAD
19 ELAPSED WAS TOO GREAT TO ACTUALLY PERFORM THE TEST
20 WITH ANY KIND OF ACCURACY.

21 Q. SO IT WASN'T ABLE TO TEST ON HIS BECAUSE OF THE
22 TIME THAT HAD PASSED?

23 A. THAT'S CORRECT. I BELIEVE THEIR TIME FRAME IS
24 ABOUT FOUR HOURS.

25 Q. BUT Y'ALL WENT ON AND DID IT ANYWAY IN AN

1 ABUNDANCE OF PRECAUTION?

2 A. THAT'S CORRECT.

3 Q. NOW, CAPTAIN, I JUST HAVE A COUPLE OF MORE
4 QUESTIONS.

5 ON THE 911 TAPE, THE SECOND 911 TAPE, THERE IS A
6 REFERENCE TO A 10-75. WHAT IS A 10-75?

7 A. 10-75 IS A SHOOTING INCIDENT.

8 Q. AND ALSO AS FAR AS THE DEFENDANT WAS CONCERNED,
9 WHAT STEPS IF ANY DID YOU TAKE CONCERNING WHAT HAS
10 BEEN MARKED FOR IDENTIFICATION STATE'S 11?

11 A. WHAT I WOULD REFER TO AS A HIKING BOOT OF THE
12 DEFENDANT, WE SEIZED AND SENT TO SLED FOR SEROLOGY
13 ANALYSIS.

14 Q. AND WHO WAS WEARING THOSE?

15 A. THE DEFENDANT, MR. CHILDERS.

16 Q. AND THOSE WERE ON HIS FEET ON THE 15TH?

17 A. YES, SIR.

18 Q. AND YOU MADE -- TOOK STEPS TO HAVE THEM REMOVED
19 FROM HIS FEET?

20 A. YES, SIR.

21 Q. AND AT A LATER TIME THEY WERE PROCESSED AND
22 OBSERVED?

23 A. THAT'S CORRECT.

24 Q. CAPTAIN, AS PART OF YOUR INVESTIGATION, DID YOU
25 FOLLOW UP ON WHETHER OR NOT THE DEFENDANT WAS

DAVID THOMLEY--DIRECT BY MR. McMAHON

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1 EMPLOYED?

2 A. YES, I DID.

3 Q. AND WHERE WAS HE EMPLOYED AT?

4 A. HE WAS EMPLOYED WITH DUPONT IN LUGOFF.

5 Q. AND DID YOU CHECK AS PART OF YOUR INVESTIGATION
6 WHETHER OR NOT HE WAS ON DUTY ON THE NIGHT OF THE
7 14TH THROUGH THE MORNING HOURS OF THE 15TH?

8 A. HE WAS SCHEDULED TO BE ON DUTY, YES, SIR.

9 Q. SCHEDULED TO WORK?

10 A. YES, SIR.

11 Q. WAS HE AT WORK?

12 A. NO, SIR.

13 MR. McMAHON: YOUR HONOR, IF I HAVEN'T
14 DONE IT, I MOVE THE TAPE INTO EVIDENCE. I THINK I
15 OFFERED IT, BUT I'M NOT SURE I HAD IT MARKED.

16 THE COURT: YOU DIDN'T.

17 MR. McMAHON: CAN I TAKE IT OUT LATER ON?
18 I DON'T KNOW HOW TO TAKE IT OUT. I BELIEVE THAT IS
19 NUMBER 19.

20 (VIDEO RECEIVED INTO EVIDENCE

21 AS STATE'S EXHIBIT 19.)

22 Q. CAPTAIN, DID YOU HAVE AN OCCASION TO ASSIST IN
23 AN EXECUTION OF A SEARCH WARRANT ON THE VEHICLE?

24 A. I DIDN'T ACTUALLY ASSIST WITH THE ACTUAL SEARCH
25 OF THE VEHICLE. I DID TAKE AN ITEM INTO CUSTODY

1 WHILE THE OTHER OFFICERS CONTINUED TO SEARCH.

2 Q. AND WHAT ITEM IS THAT?

3 A. I TOOK A .38 REVOLVER.

4 MR. ROGERS: YOUR HONOR, AT THIS POINT I
5 WOULD---

6 THE COURT: ALL RIGHT.

7 MR. ROGERS: ---OBJECT TO ANYTHING AS FAR
8 AS BEING REMOVED FROM THE VEHICLE. WE HAVEN'T GONE
9 INTO THE SEARCH ISSUE.

10 THE COURT: HE TESTIFIES HE TOOK IT INTO
11 CUSTODY. THAT IS AS FAR AS HE CAN GO.

12 MR. McMAHON: ALL RIGHT.

13 Q. THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS.

14 CROSS EXAMINATION BY MR. ROGERS:

15 Q. CHIEF THOMLEY, IN THE COURSE OF YOUR
16 INVESTIGATION, DID YOU EVER GO TO THE HOME OF A
17 DAVID REYNOLDS?

18 A. I DID NOT.

19 Q. YOU DID NOT?

20 A. NO, SIR.

21 Q. DID YOU EVER GO TO THE HOME OF COTTON CHILDERS?

22 A. AT [REDACTED]

23 Q. YES, SIR.

24 A. YES, SIR.

25 Q. WAS THERE A SEARCH WARRANT OBTAINED FOR THAT

DAVID THOMLEY--CROSS BY MR. ROGERS

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1 RESIDENCE?

2 A. I DIDN'T OBTAIN ONE, NO, SIR.

3 Q. WAS ANYTHING REMOVED FROM THAT RESIDENCE?

4 A. THERE WERE SOME ITEMS REMOVED, YES, SIR.

5 Q. BUT THERE WAS NO SEARCH WARRANT?

6 A. NO, SIR.

7 Q. NOW, THE SHOES YOU SAID MR. CHILDERS WAS
8 WEARING, I BELIEVE IT IS STATE'S 11, IF I'M NOT
9 MISTAKEN?

10 A. YES.

11 Q. YOU SAID THOSE SHOES WERE ON HIS FEET AT THE
12 TIME HE WAS ARRESTED?

13 A. OF HIS ARREST.

14 Q. NOW, ONCE THOSE SHOES WERE TAKEN FROM HIM, WAS
15 HE GIVEN A REPLACEMENT PAIR OF SHOES?

16 A. WELL, HE WAS INCARCERATED, SO HE WOULD HAVE HAD
17 DETENTION CENTER SHOES, YES, SIR.

18 Q. WHAT ELSE WAS HE WEARING AT THE TIME?

19 A. I BELIEVE HE HAD ON A PAIR OF BLUE JEANS AND
20 SOME SORT OF T-SHIRT THAT MAY HAVE BEEN WHITE, A
21 WHITE T-SHIRT, I'M NOT POSITIVE.

22 Q. ARE YOU SURE THAT HE WASN'T WEARING ANOTHER PAIR
23 OF SHOES?

24 A. I'M SURE THESE SHOES THAT WE HAVE IN OUR CUSTODY
25 CAME FROM THE DETENTION CENTER.

1 Q. AT THE CRIME SCENE HOW MANY PEOPLE DID YOU
2 INTERVIEW?

3 A. TWO.

4 Q. AND WHO WOULD THOSE TWO INDIVIDUALS BE?

5 A. MS. WHITE AND MR. DOWEY.

6 Q. DID YOU DO PARAFFIN TESTS ON ANY OF THE
7 WITNESSES WHO WERE PRESENT AT THE INCIDENT
8 LOCATION?

9 A. THE WITNESSES?

10 Q. YES, SIR.

11 A. ABSOLUTELY NOT, NO.

12 Q. DID YOU SEARCH ANY OF THE VEHICLES THAT WERE
13 THERE?

14 A. NO.

15 Q. HOW ABOUT THE INTERIOR OF THE HOME?

16 A. ONLY UPON THE REMOVAL OF THE BULLET.

17 Q. DID YOU SEE ANY OTHER WEAPONS IN THE HOME OR IN
18 THE VEHICLES THAT WERE IN THE YARD?

19 A. NO, SIR.

20 Q. DID YOU SEE ANY WEAPONS AT THE INCIDENT
21 LOCATION?

22 A. AT THE INCIDENT LOCATION?

23 Q. YES, SIR.

24 A. NO, SIR.

25 Q. CHIEF THOMLEY, WERE YOU PRESENT AT THE TIME THE

DAVID THOMLEY--CROSS BY MR. ROGERS

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1 AUTOMOBILE WAS SEARCHED OF MR. CHILDERS?

2 A. I WAS NOT ACTUALLY AT THE VEHICLE THE ENTIRE
3 TIME IT WAS SEARCHED, I WAS ACTUALLY LOCATED INSIDE
4 THE SHERIFF'S DEPARTMENT, BUT THROUGH PART OF THE
5 SEARCH, YES, SIR.

6 MR. ROGERS: I DON'T HAVE ANY OTHER
7 QUESTIONS FOR THIS WITNESS AT THIS TIME, YOUR
8 HONOR.

9 MR. McMAHON: YOUR HONOR, IF I DIDN'T, I
10 MOVE STATE'S 11 INTO EVIDENCE. I'M NOT SURE IF I
11 DID.

12 THE COURT: ELEVEN IS WHAT?

13 MR. McMAHON: SIR?

14 THE COURT: WHAT IS 11?

15 MR. McMAHON: STATE'S 11 WAS THE BOOTS.

16 THE COURT: IF HE DOESN'T OBJECT, THEY CAN
17 COME IN.

18 MR. ROGERS: I'M SORRY, YOUR HONOR, I WAS
19 CONFERRING WITH MY CLIENT.

20 THE COURT: HE IS MOVING THE BOOTS IN.

21 MR. ROGERS: YOUR HONOR, I WOULD OBJECT TO
22 IT.

23 THE COURT: ALL RIGHT. I DON'T THINK IT
24 HAS BEEN TIED UP ALL THE WAY. JUST FOR
25 IDENTIFICATION SO FAR.

1 MR. McMAHON: THE STATE CALLS -- THANK
2 YOU. I DON'T HAVE ANY OTHER QUESTIONS FOR THE
3 CAPTAIN. THE STATE CALLS LIEUTENANT TISDALE.

4 CLERK: PLACE YOUR LEFT HAND ON THE BIBLE
5 AND RAISE YOUR RIGHT HAND.

6 (MR. TISDALE COMPLIES.)

7 CLERK: DO YOU SWEAR OR AFFIRM THE
8 EVIDENCE YOU GIVE WILL BE THE TRUTH, THE WHOLE
9 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

10 MR. TISDALE: I DO.

11 CLERK: THANK YOU. PLEASE HAVE A SEAT IN
12 THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR THE
13 RECORD.

14 MR. TISDALE: ERIC TISDALE.

15 ERIC TISDALE, BEING
16 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MR. McMAHON:

18 Q. SIR, BY WHOM ARE YOU EMPLOYED?

19 A. KERSHAW COUNTY SHERIFF'S OFFICE.

20 Q. HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
21 OFFICE?

22 A. SEVEN AND A HALF YEARS.

23 Q. WHAT IS YOUR CURRENT POSITION WITH THE SHERIFF'S
24 OFFICE?

25 A. LIEUTENANT OF INVESTIGATIONS.

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 Q. HOW LONG HAVE YOU BEEN IN THAT POSITION?

2 A. SINCE JANUARY OF 1995.

3 Q. NOW, LIEUTENANT, DID YOU RESPOND ON THE MORNING
4 OF THE 15TH TO A WATSON STREET RESIDENCE?

5 A. YES, SIR, I DID.

6 Q. AND AS A RESULT OF THAT, WERE YOU ADVISED TO --
7 BRIEFED BY CAPTAIN THOMLEY TO GO TO ANOTHER
8 LOCATION?

9 A. YES, I WAS.

10 Q. AND WHAT LOCATION AND WHAT DID YOU DO THERE?

11 A. HE INSTRUCTED ME TO GO TO THE PANTRY IN ELGIN.
12 AND OBTAIN THE VIDEO TAPE FROM THE CAMERA SYSTEM
13 THEY HAVE AT THE PANTRY AND ALSO OBTAIN A STATEMENT
14 FROM THE CLERK.

15 Q. AND DID YOU DO BOTH, OBTAIN THE VIDEO TAPE, THEY
16 HAD ONE, AND OBTAIN A STATEMENT FROM THE CLERK AT
17 THE PANTRY?

18 A. YES, SIR, I DID.

19 Q. AND THAT IS THE TAPE, YOU HAVE SEEN IT PREVIOUS
20 TO TODAY, THAT WE HAVE INTRODUCED INTO EVIDENCE
21 THROUGH CAPTAIN THOMLEY?

22 A. YES, SIR, I HAVE.

23 Q. AND WITHOUT GOING BACK THROUGH THE TAPE, DID YOU
24 REVIEW THAT SECTION OF THE TAPE OF 3:12, 3:13, 3:14
25 AND IDENTIFY A PARTICULAR INDIVIDUAL ON THAT TAPE?

1 A. YES, SIR, I HAVE.

2 Q. AND WHO WAS THAT INDIVIDUAL?

3 A. LARRY "COTTON" CHILDERS.

4 Q. NOW, LIEUTENANT TISDALE, THROUGHOUT THE DAY OF
5 THE 15TH, LATER MORNING, EARLY AFTERNOON HOURS,
6 WERE YOU INVOLVED IN PATROLLING THE COUNTY LOOKING
7 FOR MR. CHILDERS?

8 A. YES, I WAS.

9 Q. AND DID YOU LOCATE HIM?

10 A. NO, SIR, I DID NOT.

11 Q. WAS HE LOCATED LATE IN THE AFTERNOON OF THE
12 15TH?

13 A. YES, HE WAS.

14 Q. AND DID, AS A RESULT OF HIM BEING LOCATED AND
15 PLACED UNDER ARREST, DID THE OFFICERS BEGIN
16 SEARCHING AN AREA IN AND AROUND PERCIVAL ROAD AND I
17 BELIEVE BRAZELL STREET?

18 A. YES, SIR, THEY DID.

19 Q. AND WHAT IF ANYTHING WAS FOUND THERE OFF OF
20 BRAZELL STREET, OR BRAZELL ROAD, I BELIEVE IT IS?

21 A. A RED MITSUBISHI MONTERO.

22 Q. NOW, I WANT TO SHOW YOU STATE'S 1. AND YOU ARE
23 FAMILIAR WITH THIS MAP, CORRECT?

24 A. YES, SIR, I AM.

25 Q. AND IT APPEARS THIS WOULD BE PERCIVAL ROAD?

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 A. THAT'S CORRECT.

2 Q. IF I'M GOING BACK IN THIS DIRECTION, AM I COMING
3 BACK TOWARDS CAMDEN?

4 A. YES, SIR.

5 Q. AND IN THIS DIRECTION I'M GOING TOWARDS
6 COLUMBIA?

7 A. THAT'S CORRECT.

8 Q. NOW, IT APPEARS IF YOU COME HERE, BRAZELL ROAD,
9 YOU WOULD GO TO YOUR RIGHT AND THEN ANGLE OR YOU
10 TURN TO THE RIGHT AT AN ANGLE IN HERE, CORRECT?

11 A. THAT IS CORRECT.

12 Q. DOES THE COUNTY LINE RUN RIGHT IN THAT AREA, THE
13 RICHLAND/KERSHAW COUNTY LINE?

14 A. YES, IT DOES.

15 Q. AND IS THERE ANY WOODS BETWEEN -- IF I'M GOING
16 DOWN BRAZELL ROAD IN THIS DIRECTION, IS THERE A
17 WOODED AREA BETWEEN BRAZELL ROAD AND BACK TOWARDS
18 I-20?

19 A. YES, SIR, THERE IS SOME YOUNG PINE TREES.

20 Q. AND DID YOU GO TO THAT AREA IN RESPONSE TO AN
21 OFFICER LOCATING AN ITEM BACK THERE?

22 A. YES, SIR, I DID.

23 Q. AND DID YOU HAVE AN OCCASION TO TAKE CERTAIN
24 PHOTOGRAPHS IN THAT AREA?

25 A. YES, SIR, I DID.

1 Q. DO YOU RECOGNIZE THESE PHOTOGRAPHS, LIEUTENANT?

2 A. YES, SIR.

3 Q. WHAT ARE THOSE PHOTOGRAPHS OF?

4 A. RED MITSUBISHI MONTERO.

5 Q. AND WHO TOOK THESE PHOTOGRAPHS?

6 A. I DID.

7 Q. WHEN WERE THEY TAKEN?

8 A. THAT SAME EVENING ON THE 15TH.

9 Q. ON BRAZELL ROAD?

10 A. THAT'S CORRECT.

11 MR. McMAHON: YOUR HONOR, I WOULD OFFER
12 THESE INTO EVIDENCE.

13 (PAUSE.)

14 MR. McMAHON: YOUR HONOR, WITHOUT
15 OBJECTION, I AM GOING TO INTRODUCE FOUR
16 PHOTOGRAPHS.

17 (PHOTOGRAPHS RECEIVED INTO EVIDENCE

18 AS STATE'S EXHIBITS 20 THROUGH 23.)

19 Q. NOW, I WANT TO SHOW YOU WHAT HAS NOW BEEN MARKED
20 AS 20, 21,---

21 MR. ROGERS: YOUR HONOR, CAN WE APPROACH
22 FOR JUST A MOMENT?

23 THE COURT: ALL RIGHT, SURE.

24 (BENCH CONFERENCE.)

25 MR. McMAHON: MAY IT PLEASE THE COURT?

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 THE COURT: OKAY.

2 Q. I WANT TO SHOW YOU SEVERAL PHOTOGRAPHS, ALL OF
3 THEM BEING PHOTOGRAPHS OF THE RED MITSUBISHI.

4 A. YES, SIR.

5 Q. IS THAT THE CONDITION IN WHICH YOU OBSERVED THE
6 VEHICLE THAT WAS LOCATED OFF OF BRAZELL ROAD?

7 A. YES, IT WAS.

8 Q. ON THE 15TH. AND YOU TOOK THESE PHOTOGRAPHS. I
9 BELIEVE THAT IS THE PASSENGER'S SIDE. AND IF I
10 SHOW YOU 21, THAT SEEMS TO BE THE DRIVER'S SIDE OF
11 THE VEHICLE, CORRECT?

12 A. YES, SIR, IT IS.

13 Q. WAS IT IN A PARKING LOT?

14 A. NO, SIR.

15 Q. WELL, HOW FAR OFF OF BRAZELL ROAD WAS IT?

16 A. I'M NOT VERY GOOD WITH DISTANCES, BUT IT WAS A
17 GOOD PIECE OFF THE ROAD. HE HAD TO DRIVE DOWN A
18 GOOD LITTLE WAYS TO GET TO IT.

19 Q. AND THAT BEING THE REAR OF THE VEHICLE SHOWING,
20 STATE'S 23, SHOWING THE LICENSE TAG?

21 A. YES, SIR, IT IS.

22 Q. AND THEN STATE'S 22.

23 A. THAT'S THE FRONT OF IT.

24 Q. AND THAT IS THE CONDITION Y'ALL FOUND IT IN?

25 A. YES, SIR.

- 1 Q. NOW, THERE AT THE SCENE, LIEUTENANT, -- AND
2 Y'ALL SEARCHED IN THAT AREA AS A RESULT OF TALKING
3 TO DETECTIVE CRAWFORD?
4 A. YES, SIR.
5 Q. THE DEFENDANT WAS ALREADY IN CUSTODY AT THIS
6 TIME?
7 A. YES, SIR, HE WAS.
8 Q. NOW, DID Y'ALL SEARCH THE VEHICLE AT THAT
9 LOCATION?
10 A. NO, SIR, WE DID AN INVENTORY WHEN WE CALLED THE
11 WRECKER SERVICE TO COME TOW IT TO THE SHERIFF'S
12 OFFICE.
13 Q. SO IT WASN'T DRIVEN BACK TO THE SHERIFF'S
14 DEPARTMENT?
15 A. NO, SIR, IT WAS NOT.
16 Q. IT WAS TOWED FROM THERE OFF OF BRAZELL ROAD
17 RIGHT OVER HERE TO THE SHERIFF'S DEPARTMENT?
18 A. YES, SIR, IT WAS.
19 Q. AND WAS IT ESCORTED BACK?
20 A. YES, SIR, IT WAS.
21 Q. HOW?
22 A. I ESCORTED IT BACK.
23 Q. YOU FOLLOWED THE WRECKER?
24 A. THAT'S CORRECT.
25 Q. BACK FROM BRAZELL ROAD BACK TO THE SHERIFF'S

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 OFFICE?

2 A. THAT IS CORRECT.

3 Q. NOW, WHEN YOU GOT BACK, WHAT IF ANYTHING DID YOU
4 DO TO AUTHORIZE YOU TO SEARCH THAT VEHICLE?

5 A. I GOT ME A BLANK SEARCH WARRANT TO GO AHEAD AND
6 FILL OUT THE INFORMATION ON IT TO GET ENOUGH
7 PROBABLE CAUSE TO GET A MAGISTRATE TO SIGN --
8 OBTAIN A SEARCH WARRANT.

9 Q. AND I WANT TO SHOW YOU A COPY OF A DOCUMENT AND
10 ASK YOU, A THREE PAGE DOCUMENT, AND ASK YOU IF YOU
11 CAN IDENTIFY THAT DOCUMENT FOR US, PLEASE?

12 A. YES, SIR, THIS IS PART OF THE SEARCH WARRANT.

13 Q. AND WAS THAT SEARCH WARRANT ISSUED BY THE JUDGE
14 PRIOR TO YOU SEARCHING THE VEHICLE?

15 A. YES, SIR, IT WAS.

16 Q. AND WHAT JUDGE WAS THAT?

17 A. JUDGE EUGENE HARTIS.

18 Q. AND DID JUDGE HARTIS AUTHORIZE YOU AND OTHER
19 OFFICERS TO SEARCH THAT MONTERO?

20 A. YES, SIR, HE DID.

21 Q. AND IF I NOTE ON HERE, IT HAS GOT THE SAME TAG
22 NUMBER, 819EMW--ENW--THAT IS ON THE VEHICLE IS ON
23 THE SEARCH WARRANT?

24 A. YES, SIR, THAT IS CORRECT.

25 Q. AND DOES IT INDICATE WHO THE VEHICLE IS

1 REGISTERED TO?

2 A. YES, SIR.

3 Q. AND WHO IS THAT?

4 A. WILLIAM T. CHILDERS, JR.

5 Q. AND THAT IS THE DEFENDANT?

6 A. YES, SIR, IT IS.

7 Q. AFTER THE SEARCH WARRANT WAS ISSUED, DID Y'ALL
8 CONDUCT A FULL AND COMPLETE SEARCH OF THE VEHICLE?

9 A. YES, SIR, WE DID.

10 Q. AND AS PART OF THE SEARCH, DID YOU TAKE
11 PHOTOGRAPHS DURING THE COURSE OF THE SEARCH?

12 A. YES, SIR, WE DID.

13 (PAUSE.)

14 MR. McMAHON: WITHOUT OBJECTION.

15 Q. PERHAPS I WILL LET YOU LOOK AT THEM, LIEUTENANT,
16 BEFORE I INTRODUCE THEM, BUT THESE ARE PHOTOGRAPHS
17 THAT YOU TOOK DURING THE COURSE OF THE SEARCH
18 WARRANT?

19 A. YES, SIR, THEY ARE.

20 Q. ON THE DEFENDANT'S VEHICLE?

21 A. YES, SIR.

22 MR. McMAHON: YOUR HONOR, I AM GOING TO
23 OFFER THESE PHOTOGRAPHS, I UNDERSTAND WITHOUT
24 OBJECTION.

25 THE COURT: OKAY.

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 (PHOTOGRAPHS RECEIVED INTO EVIDENCE
2 AS STATE'S EXHIBITS 24 THROUGH 29.)

3 Q. NOW, LIEUTENANT, AS YOU SEARCHED THE VEHICLE, TO
4 BEGIN WITH I WANT TO ASK YOU IF YOU HAD THE
5 OPPORTUNITY TO LOOK COMPLETELY INSIDE THE INTERIOR
6 OF THAT VEHICLE?

7 A. I'M SORRY, WOULD YOU REPEAT?

8 Q. DID YOU HAVE THE OPPORTUNITY TO LOOK COMPLETELY
9 INSIDE THE INTERIOR OF THE VEHICLE?

10 A. YES, SIR.

11 Q. AND DID YOU LOOK IN THE AREA OF THE, I GUESS IT
12 WOULD BE THE PASSENGER'S SIDE FLOORBOARD?

13 A. YES, SIR, I DID.

14 Q. AND LET ME SHOW YOU AND ASK IF YOU CAN IDENTIFY
15 THIS ITEM FOR US, PLEASE, IN STATE'S 24 AND WHERE
16 IT WAS LOCATED.

17 A. YES, SIR, THAT IS THE SAME BROWN JACKET AS WE
18 HAVE HERE. ALSO THERE WAS NINE BULLETS IN ONE OF
19 THE COAT POCKETS. AND IT WAS ALSO IN THE PASSENGER
20 FRONT FLOORBOARD.

21 Q. ALL RIGHT. SO THIS ITEM HERE---

22 A. YES, SIR.

23 Q. ---THAT I AM POINTING TO ON STATE'S 24 IS THIS
24 JACKET, STATE'S 6--7--6, I THINK IT IS?

25 A. YES, SIR, IT IS.

1 Q. YEAH, STATE'S 6.

2 A. YES, SIR, IT IS.

3 Q. THAT WAS DOWN IN THE FLOORBOARD?

4 A. YES, IT WAS.

5 Q. AND YOU SEARCHED THE POCKET OF THIS JACKET?

6 A. YES, I DID.

7 Q. AND CAN YOU SEE PART OF THE POCKET OF THIS
8 JACKET IN THIS PHOTOGRAPH?

9 A. YES, SIR, YOU CAN.

10 Q. POINT TO IT FOR ME, PLEASE.

11 A. RIGHT HERE.

12 Q. RIGHT HERE?

13 A. YES, SIR.

14 Q. AS A MATTER OF FACT, IF I GO TO THE NEXT,
15 STATE'S EXHIBIT 25, IS THAT A CLOSE-UP?

16 A. YES, SIR, IT IS.

17 Q. AND WHAT DID YOU FIND IN THE POCKET OF THAT
18 JACKET?

19 A. NINE BULLETS.

20 Q. WHAT CALIBER?

21 A. .38, I BELIEVE.

22 Q. .38 CALIBER BULLETS?

23 A. YES, SIR.

24 Q. WAS BOTH THE JACKET AND THE BULLETS TAKEN INTO
25 YOUR CUSTODY?

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 A. YES, SIR, IT WAS.

2 Q. THOSE BULLETS, THOSE NINE BULLETS, WERE THEY
3 FIRED OR UNFIRED?

4 A. UNFIRED.

5 Q. I'M GOING TO SHOW YOU SOME BULLETS IN A FEW
6 MINUTES, BUT DID YOU SEARCH EVEN GREATER DETAIL
7 DOWN IN THAT AREA OF THE PASSENGER SIDE FLOORBOARD
8 OF THAT VEHICLE?

9 A. YES, SIR, I DID.

10 Q. I WILL SHOW YOU ANOTHER ITEM, STATE'S 26. CAN
11 YOU IDENTIFY THAT AREA FOR US, PLEASE?

12 A. THAT IS IN THE SAME FLOORBOARD, RIGHT SIDE
13 PASSENGER'S SIDE. IT IS KIND OF RIGHT IN THE APEX
14 ON THE INSIDE OF THE DOOR RIGHT BESIDE THE FLOOR
15 MAT.

16 Q. WHAT IS THAT ITEM THERE I'M POINTING TO?

17 A. IT IS ANOTHER BULLET.

18 Q. AND YOU REMEMBER WHAT CALIBER?

19 A. WITHOUT SEEING THE SCRIBER'S INFORMATION, I WANT
20 TO SAY A .38.

21 Q. DO YOU STILL HAVE THE SEARCH WARRANT UP THERE?

22 A. NO, SIR, I DON'T.

23 Q. WHEN YOU SAY THE SUBSCRIBER'S INFORMATION, DID
24 YOU HAVE SOMEBODY WRITING WHAT YOU WERE
25 PHOTOGRAPHING AND RECOVERING?

- 1 A. YES, SIR.
- 2 Q. SO WHAT CALIBER BULLET IS THAT?
- 3 A. IT IS A .38 RP SPECIAL ROUND.
- 4 Q. NOW, DID YOU HAVE THE OPPORTUNITY AS PART OF
- 5 YOUR SEARCH TO LOOK INSIDE THE GLOVE COMPARTMENT OF
- 6 THE VEHICLE?
- 7 A. YES, SIR, I DID.
- 8 Q. AND THAT WAS AUTHORIZED BY YOUR SEARCH?
- 9 A. YES, SIR, IT WAS.
- 10 Q. SHOWING YOU NOW STATE'S 27 AND 28, WHAT AREAS
- 11 ARE WE LOOKING AT HERE?
- 12 A. THAT IS STILL IN THE FRONT PASSENGER AREA AND
- 13 THE GLOVE COMPARTMENT.
- 14 Q. AND WHAT ITEM IS THAT THAT YOU OBSERVED IN THE
- 15 GLOVE COMPARTMENT OF THAT VEHICLE?
- 16 A. IT IS A .38 ROSSI HANDGUN.
- 17 Q. YOU PHOTOGRAPHED IT?
- 18 A. YES, SIR, I DID.
- 19 Q. TOOK IT INTO YOUR CUSTODY?
- 20 A. YES, SIR, I DID.
- 21 Q. TELL THE JURY THE CONDITION OF THIS WEAPON,
- 22 WHETHER IT WAS LOADED OR UNLOADED.
- 23 A. IT WAS LOADED.
- 24 Q. FULLY LOADED?
- 25 A. YES, SIR, FULLY LOADED.

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 Q. LIVE ROUNDS?

2 A. YES, SIR, IT WAS.

3 Q. DID YOU ALSO HAVE THE OPPORTUNITY TO LOOK UP
4 THERE ON THE SEAT, THE PASSENGER'S SEAT OF THE
5 VEHICLE?

6 A. YES, SIR, I DID.

7 Q. AND I WANT TO SHOW YOU STATE'S 29. WHERE IS
8 THAT?

9 A. THAT IS THE FRONT PASSENGER'S SEAT.

10 Q. AND WHAT ITEMS WERE UP ON THAT FRONT PASSENGER
11 SEAT?

12 A. A BLUE TYPE SWEATSHIRT, A COCA-COLA BOTTLE AND A
13 MOUNTAIN DEW BOTTLE, A PHOTOGRAPH OF AN AUTOMOBILE
14 ACCIDENT, CARS BEEN INVOLVED IN AN ACCIDENT, SOME
15 MISCELLANEOUS PAPERS.

16 Q. AND THESE BOTTLES, THAT IS WHERE YOU OBSERVED
17 THEM WHEN YOU TOOK THOSE PHOTOGRAPHS UP THERE?

18 A. YES, SIR.

19 Q. NOW, ADDITIONALLY IN YOUR SEARCH DID YOU FIND A
20 BALL CAP?

21 A. YES, SIR, WE DID.

22 Q. AND IS THAT SUBSCRIBED ON YOUR SEARCH WARRANT?

23 A. YES, SIR, IT IS.

24 Q. AND THAT IS STATE'S EXHIBIT NUMBER 7?

25 A. YES, SIR.

1 Q. NOW, DETECTIVE TISDALE, I BELIEVE YOU OBSERVED
2 THESE ITEMS, PHOTOGRAPHED THESE ITEMS. DID YOU
3 TAKE THEM INTO YOUR CUSTODY?

4 A. YES, SIR. THE ONLY THING EXCEPT THE HANDGUN
5 THAT WAS IN THE GLOVE COMPARTMENT. WE WENT INSIDE
6 AND ADVISED CAPTAIN THOMLEY THAT WE DID FIND A .38
7 ROSSI HANDGUN FULLY LOADED, AND HE CAME OUT TO THE
8 OUTSIDE AND WENT AHEAD AND TOOK IT FROM OUR
9 POSSESSION AND SAID, "GO AHEAD AND PACKAGE IT UP AND
10 GET IT READY TO SEND TO SLED."

11 Q. SO CAPTAIN THOMLEY PHYSICALLY TOOK IT OUT OF THE
12 GLOVE COMPARTMENT?

13 A. THAT'S CORRECT.

14 Q. AND GAVE IT TO YOU TO PACKAGE UP AND TAKE TO
15 SLED?

16 A. THAT'S CORRECT.

17 Q. DID YOU TAKE, ON OCTOBER 17TH, CERTAIN ITEMS TO
18 SLED?

19 A. YES, SIR, I DID.

20 Q. AND WHEN YOU TAKE ITEMS TO SLED -- WELL, FIRST
21 OFF, WHAT IS THE PURPOSE OF TAKING THEM OVER THERE?

22 A. TO CONDUCT EXAMINATIONS ON THE EVIDENCE THAT WE
23 COLLECTED.

24 Q. AND WHEN YOU TAKE THESE ITEMS OVER THERE, DO YOU
25 FILL OUT ANY PAPER WORK?

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 A. YES, SIR, WE HAVE TO FILL OUT PAPER WORK ON WHAT
2 WE ARE SENDING AND WHAT WE ARE REQUESTING DONE TO
3 THE ITEMS SENT.

4 Q. AND WHAT ITEMS DID YOU TAKE TO SLED ON OCTOBER
5 17TH?

6 A. ONE .38 ROSSI REVOLVER, LOADED; NINE FEDERAL .38
7 SPECIAL ROUNDS; ONE FIRED ROUND RECOVERED ON THE
8 SCENE; GSR KIT, WHICH IS A GUN RESIDUE KIT; AND ONE
9 PAIR OF NIKE MEN'S BOOTS.

10 Q. I'M GOING TO GO THROUGH THOSE ITEMS THAT YOU
11 TOOK TO SLED.

12 BEFORE I DO THAT, I WANT TO ASK YOU ABOUT TWO
13 OTHER ITEMS ON YOUR SEARCH WARRANT.

14 ONE, YOU TESTIFIED IN THAT PHOTOGRAPH ABOUT THE
15 .38 BULLET, SINGULAR .38 BULLET?

16 A. YES, SIR.

17 Q. CAN YOU IDENTIFY THIS ITEM FOR US, PLEASE?

18 A. THAT IS THE BULLET THAT I TOOK THAT WAS BY
19 ITSELF IN THE FLOORBOARD.

20 Q. THAT IS THE SINGULAR BULLET YOU TOOK BY ITSELF
21 IN THE FLOORBOARD?

22 A. YES, SIR.

23 Q. DID YOU TAKE THIS ITEM TO SLED?

24 A. NO, SIR, WE DID NOT.

25 Q. AND ADDITIONALLY, DID YOU TAKE ANY CIGARETTES

1 FROM THE VEHICLE?

2 A. YES, SIR, WE DID.

3 Q. WHAT ARE THOSE LISTED AS?

4 A. IT'S GOT 24 AND A HALF PACKS, BUT IT IS NOT
5 CORRECT.

6 Q. IS THAT 4 MAYBE AN "&" SIGN?

7 A. THAT'S IT. TWO AND A HALF PACKS.

8 Q. TWO AND A HALF PACKS?

9 A. OF BASIC LIGHT CIGARETTE 100'S.

10 Q. LET ME SHOW YOU ANOTHER ITEM AND ASK IF YOU CAN
11 IDENTIFY IT FOR US, PLEASE, SIR.

12 A. YES, SIR, THAT IS THE ONES WHICH WE RECOVERED.

13 Q. THESE ARE THE TWO AND A HALF PACKS, TWO FULL AND
14 APPEARS TO BE A PARTIAL PACK, OF BASIC CIGARETTES?

15 A. YES, SIR, THAT'S---

16 Q. BASIC LIGHT 100'S?

17 A. THOSE ARE IT.

18 Q. THESE DIDN'T GO TO SLED?

19 A. NO, SIR, THEY DID NOT.

20 Q. NOW, THE ITEMS THAT WENT---

21 MR. McMAHON: YOUR HONOR, I WOULD OFFER
22 IT, I DIDN'T GET THEM MARKED, THE BULLET AND THE
23 CIGARETTES.

24 THE COURT: OKAY.

25 MR. ROGERS: NO OBJECTION.

ERIC TISDALE--DIRECT BY MR. McMAHON

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1 (SINGLE BULLET FROM VEHICLE
2 FLOORBOARD RECEIVED INTO EVIDENCE
3 AS STATE'S EXHIBIT 30.)

4 (BASIC CIGARETTES FROM VEHICLE
5 RECEIVED INTO EVIDENCE AS
6 STATE'S EXHIBIT 31.)

7 Q. YOU TALKED ABOUT THESE ITEMS THAT WENT TO SLED.
8 WHAT IS THE FIRST ITEM YOU SAID YOU TOOK TO SLED?

9 A. ONE .38 ROSSI REVOLVER HANDGUN.

10 Q. LET ME SHOW YOU AN ITEM AND ASK IF YOU CAN
11 IDENTIFY IT FOR US, PLEASE.

12 A. YES, SIR, THAT'S IT.

13 Q. AND THIS IS THE WEAPON THAT WAS REMOVED LOADED
14 FROM THE GLOVE COMPARTMENT OF THE DEFENDANT'S
15 VEHICLE?

16 A. YES, IT WAS.

17 Q. IT APPEARS NOW THERE IS LIVE ROUNDS IN A
18 SEPARATE PACKAGE THERE?

19 A. YES, IT IS.

20 Q. AND YOU TOOK THIS TO SLED FOR FORENSIC TESTING?

21 A. YES, SIR, I DID.

22 MR. McMAHON: YOUR HONOR, I WOULD OFFER
23 THE .38 ROSSI AND THE FIVE LIVE ROUNDS REMOVED FROM
24 THE ROSSI.

25 MR. ROGERS: NO OBJECTION.

1 THE COURT: OKAY.

2 (.38 ROSSI HANDGUN AND FIVE LIVE
3 ROUNDS RECEIVED INTO EVIDENCE AS
4 STATE'S EXHIBIT 32.)

5 Q. ADDITIONALLY, DID YOU TAKE OTHER AMMO TO SLED?

6 A. I TOOK NINE FEDERAL .38 SPECIAL ROUNDS TO SLED
7 AND ONE FIRED ROUND THAT WAS RECOVERED FROM THE
8 SCENE.

9 Q. ONE FIRED ROUND RECOVERED FROM THE SCENE,
10 STATE'S EXHIBIT NUMBER 18, ONE FIRED ROUND FROM

11

12 A. THAT IS CORRECT.

13 Q. AND THEN NINE LIVE ROUNDS. WOULD THOSE BE THE
14 ROUNDS REMOVED FROM THE JACKET, REMOVED FROM MR.
15 CHILDERS' JACKET?

16 A. YES, SIR.

17 Q. I WANT TO SHOW YOU THIS ITEM AND ASK YOU IF YOU
18 CAN READ ON THERE WHAT THIS ITEM REPRESENTS.

19 A. THAT'S IT, NINE FEDERAL .38 SPECIAL ROUNDS.

20 Q. THOSE WERE NINE FEDERAL .38 SPECIAL ROUNDS THAT
21 WERE REMOVED FROM THE JACKET POCKET?

22 A. YES, SIR, IT WAS.

23 Q. THAT YOU TOOK TO SLED?

24 A. YES, SIR.

25 Q. AND THAT IS ACTUALLY INDICATED ON THERE, "JACKET

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1 POCKET BULLETS"?

2 A. YES, SIR, THOSE ARE THEM.

3 Q. AND IF I READ THIS HERE, IT APPEARS THAT THESE
4 .38 SPECIAL RECEIVED UNFIRED WERE TEST FIRED BY
5 EXAMINATION, IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. YOU DIDN'T TEST FIRE THEM, BUT FORENSIC EXPERTS
8 AT SLED TEST FIRED THEM?

9 A. THAT'S CORRECT.

10 MR. McMAHON: YOUR HONOR, I WOULD OFFER
11 THESE ITEMS INTO EVIDENCE.

12 THE COURT: OKAY.

13 (NINE FEDERAL .38 SPECIAL ROUNDS
14 RECEIVED INTO EVIDENCE AS STATE'S
15 EXHIBIT 33.)

16 Q. WERE THERE OTHER ITEMS THAT YOU TOOK TO SLED,
17 LIEUTENANT?

18 A. YES, SIR, THERE IS A GSR KIT, GUN RESIDUE KIT.

19 Q. THAT IS THE GSR KIT ON THE VICTIM, ON TAMMY, IS
20 THAT CORRECT? YOU DIDN'T GO TO THE AUTOPSY --
21 WELL, NO, THAT WOULD BE THE GSR KIT ON THE
22 DEFENDANT?

23 A. ON MR. CHILDERS, THAT'S CORRECT.

24 Q. YOU DIDN'T GO TO THE AUTOPSY?

25 A. NO, SIR, I DID NOT.

1 Q. YOU TOOK THAT TO SLED FOR FORENSIC TESTING, DID
2 YOU NOT?

3 A. THAT'S CORRECT.

4 Q. AND WERE THERE ANY OTHER ITEMS LISTED?

5 A. YES, SIR. ONE PAIR OF NIKE MEN'S BOOTS.

6 Q. AND THAT IS THESE BOOTS HERE, STATE'S EXHIBIT
7 NUMBER 11 FOR IDENTIFICATION?

8 A. YES, SIR.

9 Q. DID YOU CHANGE OR ALTER ANY OF THIS EQUIPMENT,
10 ANY OF THESE ITEMS DURING THE PERIOD OF TIME IT WAS
11 IN YOUR CUSTODY?

12 A. NO, SIR.

13 Q. INCLUDING THESE BOOTS?

14 A. THAT'S CORRECT, I DID NOT TOUCH ANYTHING, OR
15 ALTER.

16 MR. McMAHON: YOUR HONOR, THE ONLY OTHER
17 THING I HAVE IS AGAIN I WOULD REOFFER STATE'S
18 EXHIBIT NUMBER 11. I HAVE NO FURTHER QUESTIONS.

19 THE COURT: NUMBER 11 IS?

20 MR. McMAHON: THE BOOTS.

21 THE COURT: THE BOOTS?

22 MR. McMAHON: YES, SIR.

23 MR. ROGERS: YOUR HONOR, I DON'T THINK WE
24 GOT ANYWHERE WITH THIS WITNESS THAT WE WEREN'T
25 BEFORE AS FAR AS THE BOOTS ARE CONCERNED.

ERIC TISDALE--CROSS BY MR. ROGERS

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1 THE COURT: NO, YOU HAVEN'T TIED IT UP
2 YET.

3 MR. McMAHON: I HAVE NO FURTHER QUESTIONS.

4 THE COURT: OKAY.

5 CROSS EXAMINATION BY MR. ROGERS:

6 Q. INVESTIGATOR TISDALE, WHEN YOU EXECUTED THE
7 SEARCH WARRANT ON THE VEHICLE, WE HAVE SEEN THE
8 PHOTOGRAPHS, THERE WAS A VARIETY OF THINGS IN THE
9 CAR.

10 MR. ROGERS: MAY I APPROACH, YOUR HONOR?

11 THE COURT: SURE.

12 Q. THIS ITEM HERE IS SHOWN IN THIS PHOTOGRAPH?

13 A. YES, SIR.

14 Q. AND THAT WAS ONE OF THE BULLETS THAT YOU TOOK
15 INTO EVIDENCE, IS THAT CORRECT?

16 A. THAT IS CORRECT.

17 Q. WERE THERE OTHER BULLETS IN THE SEAT OR IN THE
18 VEHICLE THAT YOU DID NOT TAKE INTO EVIDENCE?

19 A. NO, SIR, NONE THAT I CAN RECALL. THE ONLY ONES
20 THAT WERE THE NINE IN THE COAT POCKET AND ONE ON
21 THE FLOOR.

22 Q. THOSE WERE THE ONLY BULLETS THAT YOU FOUND WAS
23 IN THE COAT POCKET AND ONE ON THE FLOOR?

24 A. THAT'S CORRECT.

25 Q. AND YOU SEARCHED THE VEHICLE PRETTY THOROUGHLY,

1 IS THAT CORRECT?

2 A. YES, SIR, WE DID.

3 Q. DID YOU INVENTORY ANYTHING THAT WAS NOT LISTED
4 ON YOUR SEARCH WARRANT?

5 A. NO, SIR.

6 Q. DID YOU RESPOND TO THE INCIDENT LOCATION?

7 A. YES, SIR, I DID.

8 Q. DID YOU INTERVIEW ANY OF THE WITNESSES?

9 A. NO, I DID NOT.

10 Q. DID YOU---

11 A. BESIDES, I'M SORRY, BESIDES THE CLERK.

12 Q. THE CLERK?

13 A. THE CLERK AT THE PANTRY.

14 Q. DID YOU TAG ANY EVIDENCE OR TAKE ANYTHING--
15 INVENTORY ANYTHING AT THE SCENE?

16 A. NO, SIR, I DID NOT.

17 Q. DID YOU EVER GO TO THE HOME OF LARRY CHILDERS ON
18 WESTCHESTER?

19 A. YES, SIR, I DID.

20 Q. DID YOU HAVE A SEARCH WARRANT FOR THAT
21 RESIDENCE?

22 A. NO, WE DID NOT.

23 Q. DID YOU HAVE THE CONSENT FROM MR. CHILDERS TO
24 SEARCH?

25 A. NO, WE DID NOT.

ERIC TISDALE--REDIRECT BY MR. McMAHON

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1 Q. AND ITEMS WERE REMOVED FROM THE HOME?

2 A. YES, SIR.

3 Q. DID YOU SEARCH FOR A SECOND VEHICLE, A FORD
4 RANGER PICKUP?

5 A. NO, SIR, I DID NOT.

6 Q. WAS THAT VEHICLE EVER LOCATED?

7 A. NOT TO MY KNOWLEDGE.

8 Q. WAS IT AT THE ADDRESS AT WESTCHESTER?

9 A. I DON'T RECALL.

10 Q. DID YOU FIND ANY OTHER TYPE OF NAME BRAND OF
11 CIGARETTES EITHER IN THE ASHTRAY OR LOOSE IN THE
12 CAR?

13 A. I DON'T REMEMBER. I DON'T REMEMBER, SIR.

14 Q. DID YOU FIND ANY ALCOHOL IN THE VEHICLE?

15 A. I DON'T REMEMBER THAT EITHER.

16 MR. ROGERS: I DON'T HAVE ANY FURTHER
17 QUESTIONS, YOUR HONOR.

18 REDIRECT EXAMINATION BY MR. McMAHON:

19 Q. JUST ONE THING, LIEUTENANT. YOU TALKED ABOUT
20 THE AMMO YOU RECEIVED, THE NINE ROUNDS IN THE
21 POCKET AND ONE ON THE FLOORBOARD?

22 A. THAT'S CORRECT.

23 Q. DOES THAT COUNT THE FIVE THAT WERE IN THE
24 WEAPON?

25 A. NO, SIR, THAT IS NOT COUNTING THE FIVE IN THE

1 WEAPON.

2 Q. THERE IS AN ADDITIONAL FIVE THAT WAS LOADED IN
3 THE WEAPON?

4 A. THAT'S CORRECT.

5 MR. McMAHON: THAT'S ALL I HAVE. NOTHING
6 FURTHER, YOUR HONOR.

7 MR. ROGERS: VERY BRIEFLY.

8 RECROSS EXAMINATION BY MR. ROGERS:

9 Q. YOUR TESTIMONY THERE WERE 15, EXACTLY 15 ROUNDS
10 IN THE VEHICLE, IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 MR. ROGERS: THAT'S ALL I HAVE, YOUR
13 HONOR.

14 THE COURT: YOU CAN STEP DOWN, LIEUTENANT.
15 (MR. TISDALE STEPS DOWN.)

16 MR. McMAHON: THE STATE CALLS DAN
17 DEFREESE.

18 CLERK: PLEASE RAISE YOUR RIGHT HAND AND
19 PLACE YOUR LEFT HAND ON THE BIBLE.

20 (MR. DEFREESE COMPLIES.)

21 CLERK: DO YOU SWEAR OR AFFIRM THE
22 EVIDENCE YOU WILL GIVE WILL BE THE TRUTH, THE WHOLE
23 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

24 MR. DEFREESE: I DO.

25 CLERK: THANK YOU. PLEASE HAVE A SEAT IN

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1 THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR THE
2 RECORD.

3 MR. DEFREESE: MY NAME IS FRANK DAN
4 DEFREESE.

5 FRANK DAN DEFREESE,
6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MR. McMAHON:

8 Q. SIR, BY WHOM ARE YOU EMPLOYED?

9 A. BY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

10 Q. HOW LONG HAVE YOU BEEN EMPLOYED WITH SLED?

11 A. FOR 34 YEARS.

12 Q. THIRTY-FOUR YEARS. YOU ARE PROBABLY CLOSE TO
13 RETIREMENT, AGENT DEFREESE.

14 A. VERY CLOSE.

15 Q. HOW CLOSE?

16 A. NEXT WEEK.

17 Q. NEXT WEEK. WHAT IS YOUR CURRENT POSITION WITH
18 SLED?

19 A. I'M AN EXAMINER OF FIREARM AND TOOL MARK
20 EVIDENCE IN THE SLED LABORATORY IN COLUMBIA.

21 Q. AND WOULD YOU RELATE FOR THE JURY, PLEASE, YOUR
22 TRAINING, BACKGROUND, EXPERIENCE IN YOUR PARTICULAR
23 FIELD OF EXPERTISE, AGENT?

24 A. YES, SIR. AFTER I WAS EMPLOYED WITH SLED IN
25 1967, I WAS ASSIGNED DIRECTLY TO THE SLED FIREARMS

1 LABORATORY WHERE WE DO THE ANALYSIS OF EVIDENCE
2 RELATED TO FIREARMS AND TO LOCKS AND SAFES AND
3 PHYSICAL SECURITY DEVICES.

4 ABOUT THE FIRST TWO AND A HALF YEARS OF MY
5 ASSIGNMENT THERE WAS FOR THE PURPOSE OF STUDYING
6 THE TECHNIQUES INVOLVED IN FIREARM AND TOOL MARK
7 ANALYSIS, AND I WORKED CASES UNDER THE SUPERVISION
8 OF LIEUTENANT M. M. CATE, WHO ESTABLISHED THE
9 LABORATORY WHEN SLED ITSELF WAS ESTABLISHED IN
10 1947.

11 I BEGAN ACCEPTING CASES ON MY OWN AND TESTIFYING
12 AS TO MY RESULTS, WHICH I HAVE BEEN DOING SINCE
13 1979, AND I HAVE TESTIFIED AS AN EXPERT WITNESS IN
14 COURTS THROUGHOUT THIS STATE.

15 Q. HUNDREDS OF TIMES, IS THAT A FAIR---

16 A. YES, SIR.

17 MR. ROGERS: YOUR HONOR, I AM FAMILIAR
18 WITH AGENT DEFREESE.

19 THE COURT: OKAY.

20 MR. ROGERS: I HAVE BEEN IN COURT WITH HIM
21 ON PREVIOUS OCCASIONS, AND I WOULD STIPULATE TO HIS
22 QUALIFICATIONS.

23 THE COURT: ALL RIGHT.

24 MR. McMAHON: THANK YOU, YOUR HONOR. WE
25 WOULD CERTAINLY ACCEPT THE STIPULATION OF

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1 LIEUTENANT DEFREESE AS AN EXPERT IN THE FIELD OF
2 FIREARMS IDENTIFICATION?

3 A. YES, SIR.

4 Q. AND BALLISTICS TESTING OR---

5 A. FIREARMS IDENTIFICATION, PROPERLY.

6 Q. LIEUTENANT, HOW DO YOU BECOME INVOLVED, HOW DOES
7 THE SLED LAB BECOME INVOLVED IN A LOCAL CASE SUCH
8 AS THIS?

9 A. WELL, SLED ITSELF OFFERS MANPOWER SUPPORT TO
10 AGENCIES, LAW ENFORCEMENT AGENCIES, THROUGHOUT THE
11 STATE, AND THE SLED LABORATORY OFFERS SCIENTIFIC
12 SUPPORT TO LAW ENFORCEMENT AGENCIES THROUGHOUT THE
13 STATE, EITHER SOMETIMES WE GO DIRECTLY TO CRIME
14 SCENES AND OTHER TIMES THE LAW ENFORCEMENT AGENCY
15 WILL BRING US EVIDENCE WHICH THEY HAVE COLLECTED AT
16 A CRIME SCENE THAT THEY NEED TO HAVE ANALYZED.

17 Q. DID YOU RECEIVE CERTAIN ITEMS OF EVIDENCE IN
18 REGARDS TO THIS PARTICULAR CASE?

19 A. YES, SIR, I DID.

20 Q. AND COULD YOU JUST LAUNDRY LIST THE ITEMS OF
21 EVIDENCE THAT YOU RECEIVED FROM -- THAT YOU
22 RECEIVED IN REGARDS TO THIS PARTICULAR CASE?

23 A. YES, SIR, I CAN. I RECEIVED ONE BULLET WHICH
24 WAS IDENTIFIED AS BEING REMOVED FROM THE BODY OF
25 THE VICTIM. I RECEIVED ONE BULLET IDENTIFIED TO ME

1 AS BEING FOUND AT THE CRIME SCENE. I RECEIVED A
2 REVOLVER THAT HAD WITH IT FIVE UNFIRED CARTRIDGES.
3 AND THEN I HAD NINE OTHER UNFIRED CARTRIDGES THAT
4 WERE RECOVERED SOMEWHERE AT THE SCENE.

5 Q. NOW, I WANT TO START BY ASKING YOU ABOUT THE
6 BULLET THAT YOU IDENTIFIED WAS FORWARDED TO YOU AS
7 COMING FROM THE BODY OF THE VICTIM.

8 I WANT TO SHOW YOU AN ITEM MARKED STATE'S
9 EXHIBIT NUMBER 17 AND ASK IF YOU CAN IDENTIFY THIS
10 ITEM FOR US, PLEASE, LIEUTENANT.

11 A. YES, SIR, I CAN.

12 Q. AND WHAT IS THAT ITEM, SIR?

13 A. STATE'S EXHIBIT 17 IS A FIRED .38 SPECIAL
14 CALIBER COPPER ALLOY JACKETED HOLLOW POINT BULLET.

15 Q. AND HOW DO YOU DETERMINE ALL THOSE
16 CHARACTERISTICS BY LOOKING AT IT? WHAT DO YOU DO
17 IN YOUR FIELD OF EXPERTISE TO DETERMINE IT IS A .38
18 CALIBER COPPER ALLOY JACKETED HOLLOW POINT BULLET?

19 A. WELL, THAT REPRESENTS THE PHYSICAL DESCRIPTIONS,
20 THE REMAINING OBSERVABLE PHYSICAL CHARACTERISTICS
21 OF THIS ITEM.

22 Q. AND THAT BULLET IS INDICATED AS COMING FROM
23 WHERE?

24 A. IT SAYS, "BULLET, TAMMY LYNN MUNN."

25 Q. NOW, ARE YOU ABLE TO, THROUGH YOUR EXPERTISE,

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1 THROUGH YOUR SCIENTIFIC ABILITIES, TO IDENTIFY THAT
2 BULLET WITH ANOTHER, SAY, BULLET IF IT WAS FIRED BY
3 THE SAME GUN? I DON'T EVEN WANT TO GET TO THE GUN
4 YET.

5 A. YES, SIR. YOU CAN COMPARE THE MARKINGS PRESENT
6 ON TWO DIFFERENT FIRED BULLETS. AND IN FACT THAT
7 IS HOW WE DO IT IF A GUN IS INVOLVED. WE CAN'T
8 DIRECTLY COMPARE A BULLET WITH THE GUN, BUT WE CAN
9 COMPARE A BULLET WITH TEST BULLETS THAT WE FIRE
10 FROM A SUSPECT FIREARM. BUT THAT IS HOW IT IS
11 DONE. IT IS A DIRECT -- IT IS LITERALLY SIDE-BY-
12 SIDE AS WE VIEW IT IN OUR MICROSCOPE SO WE CAN LOOK
13 AT THE MARKINGS PRESENT ON TWO BULLETS AT THE SAME
14 TIME.

15 Q. AND I BELIEVE THAT WAS MARKED STATE'S EXHIBIT
16 NUMBER?

17 A. SEVENTEEN.

18 Q. SEVENTEEN. I WANT TO SHOW YOU ADDITIONALLY WHAT
19 HAS BEEN MARKED STATE'S EXHIBIT NUMBER 18 AND ASK
20 YOU IF YOU CAN IDENTIFY THIS ITEM FOR US, PLEASE.

21 A. YES, SIR, I CAN.

22 Q. AND WHAT IS STATE'S 18?

23 A. STATE'S 18 IS ALSO A FIRED COPPER ALLOY JACKETED
24 HOLLOW POINT BULLET, AND ITS DIAMETER IS CONSISTENT
25 WITH THAT OF A .38 SPECIAL CALIBER BULLET.

1 Q. AT THAT POINT, ALL OF THE CHARACTERISTICS OF 17
2 ARE THE SAME AS ALL THE CHARACTERISTICS OF 18?

3 A. THEY ARE, EXCEPT OF COURSE 17 IS SOMEWHAT
4 EXPANDED AT ITS NOSE AND 18 IS NOT.

5 Q. AND HOW DO YOU ACCOUNT FOR THAT?

6 A. WELL, THESE ARE JACKETED HOLLOW POINT BULLETS.
7 THE PURPOSE FOR HAVING THE HOLLOW POINT CAVITY IN
8 THE NOSE OF THE BULLET IS TO MAKE THE BULLET MORE
9 SUSCEPTIBLE TO DAMAGE WHEN IT ENCOUNTERS SOMETHING.
10 THE NOSE IS INTENDED TO EXPAND.

11 AND IN THIS CASE, STATE'S EXHIBIT 17 DIDN'T
12 EXPAND BUT IT SORT OF COLLAPSED UPON ITSELF, SO IT
13 LOOKS MORE MUSHROOM SHAPED THAN STATE'S EXHIBIT 18
14 DOES.

15 Q. AND, ADDITIONALLY, DID YOU HAVE AN OPPORTUNITY
16 TO EXAMINE STATE'S EXHIBIT NUMBER 32?

17 A. YES, SIR, I DID.

18 Q. AND WHAT IS STATE'S EXHIBIT 32, LIEUTENANT?

19 A. STATE'S EXHIBIT 32 IS A ROSSI .38 SPECIAL
20 CALIBER DOUBLE ACTION REVOLVER AND FIVE UNFIRED .38
21 SPECIAL CALIBER CARTRIDGES.

22 Q. COULD YOU TELL US THE CONDITION THAT THE WEAPON
23 WAS RECEIVED BY YOUR LABORATORY, WHETHER LOADED OR
24 UNLOADED?

25 A. AT THE TIME I RECEIVED IT, IT WAS UNLOADED. I

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1 DID ALSO NOTE THAT AT THE TIME I RECEIVED IT IT
2 APPEARED TO HAVE BEEN PROCESSED FOR LATENT
3 FINGERPRINTS, THAT IS, IT HAD LATENT FINGERPRINT
4 POWDER ON IT.

5 Q. SO IT WOULD HAVE GONE TO THE FINGERPRINT LAB
6 PRIOR TO COMING TO YOU?

7 A. YES, SIR.

8 Q. ALL RIGHT, SIR. AND, LIEUTENANT, DID YOU
9 EXAMINE THAT ITEM AND PERFORM CERTAIN TESTS ON THAT
10 ITEM?

11 A. I DID.

12 MR. McMAHON: YOUR HONOR, MAY THE WITNESS
13 STEP DOWN?

14 THE COURT: OKAY.

15 Q. STEP DOWN FOR ME A MINUTE, LIEUTENANT. AND
16 BRING THOSE WITH YOU.

17 (WITNESS COMPLIES.)

18 Q. CAN YOU TAKE THE WEAPON ITSELF AND SHOW THE JURY
19 HOW THAT WEAPON FUNCTIONS AND WHETHER OR NOT THAT
20 PARTICULAR WEAPON WAS FUNCTIONING PROPERLY WHEN IT
21 CAME INTO YOUR POSSESSION?

22 A. YES, SIR. IF I MAY, I NEED TO CUT THE PACKAGE
23 OPEN.

24 (PAUSE.)

25 A. AS I SAID, STATE'S EXHIBIT 32 IS A DOUBLE ACTION

1 REVOLVER. IT IS OPEN AND IT IS UNLOADED.

2 ITS CENTRAL MOST MEMBER IS WHAT IS CALLED A
3 CYLINDER. THE CYLINDER HAS FIVE OPENINGS OR
4 CHAMBERS IN IT. ONE CARTRIDGE EACH CAN BE PLACED
5 FOR UP TO A MAXIMUM OF FIVE CARTRIDGES IN THE GUN
6 AT ANY ONE TIME WITHOUT RELOADING.

7 ONCE THE CARTRIDGE IS PLACED IN THE CYLINDER,
8 THE CYLINDER IS SWUNG INTO ALIGNMENT WITH THE
9 BARREL.

10 AT THAT POINT, THERE ARE TWO METHODS BY WHICH
11 THE REVOLVER CAN BE FIRED. ONE OF THEM IS CALLED A
12 SINGLE ACTION MODE, AND THE OTHER IS A DOUBLE
13 ACTION MODE.

14 IN DOUBLE ACTION FIRING, A SINGLE LONG PULL OF
15 THE TRIGGER DOES TWO THINGS. IT COCKS THE HAMMER
16 AND WHEN THE TRIGGER REACHES ITS REAR MOST POINT IT
17 FIRES THE HAMMER. THAT IS CALLED DOUBLE ACTION
18 FIRING.

19 SINGLE ACTION FIRE IS WHEN THE HAMMER IS
20 MANUALLY COCKED AND THE TRIGGER DOES ONLY ONE
21 THING, WHICH IS TO FIRE THE FIREARM.

22 AS I SAID, IT IS EITHER AS FAST AS YOU CAN PULL
23 IN DOUBLE ACTION, OR COCK AND PULL IN SINGLE
24 ACTION. AND FIVE ROUNDS CAN BE FIRED.

25 THIS IS NOT THE TYPE OF HANDGUN THAT WILL

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1 AUTOMATICALLY EJECT A CARTRIDGE CASE LIKE A SEMI-
2 AUTOMATIC PISTOL WILL. IT IS NECESSARY FOR THE
3 CYLINDER TO BE OPENED ONCE AGAIN AND THE
4 CARTRIDGES, OR ALL FIVE OF THEM ARE EJECTED --
5 EXTRACTED AND EJECTED SIMULTANEOUSLY.

6 Q. LIEUTENANT, TO FIRE THAT WEAPON ONE TIME, I HAVE
7 TO EITHER COCK AND PULL THE TRIGGER OR PULL THE
8 TRIGGER ONE TIME?

9 A. YES, SIR.

10 Q. AND TO FIRE IT TWO TIMES?

11 A. YOU HAVE TO DO THAT TWICE.

12 Q. AND ON UP TILL FIVE?

13 A. CORRECT.

14 Q. IF IT IS FULLY LOADED?

15 A. CORRECT.

16 Q. YOU HAVE TO PULL THE TRIGGER FOR EACH TIME YOU
17 WANT TO FIRE THE WEAPON, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. WAS THAT WEAPON WORKING PROPERLY?

20 A. IT WAS IN WORKING ORDER. IT IS NOT IN PERFECT
21 MECHANICAL CONDITION, BUT IT FIRED -- IT FUNCTIONED
22 AND FIRED PROPERLY DURING TEST FIRING.

23 Q. NOW, WHAT HAPPENS TO THE BULLET WHEN THE WEAPON
24 IS FIRED? I MEAN, WHAT MARKINGS, IF ANYTHING, WHAT
25 DOES THE WEAPON MARK ON THE BULLET WHEN IT IS

1 FIRED?

2 A. WELL, WHEN THE BULLET IS FIRED OR WHEN THE
3 FIRING PIN STRIKES THE CARTRIDGE, IT SETS UPON A
4 CHAIN OF EVENTS THAT RESULTS IN THE BULLET BEING
5 EXPELLED FROM THE FIREARM.

6 THE FIRST THING THAT IS STRUCK IS THE PRIMER,
7 WHICH IS THE LITTLE CENTRAL CAPLIKE STRUCTURE IN
8 THE MIDDLE OF THE BACK OF THE CARTRIDGE. THAT IS
9 PERCUSSION SENSITIVE, THAT IS, IT IS SENSITIVE TO
10 BEING STRUCK. IT PRODUCES A FLAME THAT CAUSES THE
11 POWDER WITHIN THE CARTRIDGE CASE TO START TO BURN.
12 THAT IN TURN CREATES A PRESSURE WHICH CAUSES THE
13 BULLET TO BE EXPELLED FROM THE FIREARM.

14 WHILE IT IS DOING THAT, THE BULLET PASSES
15 THROUGH THE BORE, THROUGH THE INSIDE OF THE GUN
16 BARREL OR THE TUBE STRUCTURE IN THE FRONT OF THE
17 GUN.

18 AND WITHIN THAT, THERE ARE A SERIES OF SPIRALING
19 FLUTES THAT WE CALL RIFLING. THE RIFLING GRIPS THE
20 BULLET. THE RIFLING CAUSES THE BULLET TO BE SPUN
21 IN ONE DIRECTION OR ANOTHER FOR STABILITY, MUCH IN
22 THE SAME WAY THAT A QUARTERBACK PUTS A SPIN ON A
23 FOOTBALL TO KEEP IT FROM TUMBLING END OVER END IN
24 FLIGHT.

25 THE MARKINGS WHICH ARE LEFT ON THE BULLET AS A

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1 RESULT OF IT PASSING THROUGH THE BARREL REPRESENTS
2 THE SIGNATURE OF THIS FIREARM ON THE BULLETS THAT
3 ARE FIRED IN IT.

4 AND WHEN BULLETS ARE RECOVERED IN SUFFICIENTLY
5 UNDAMAGED CONDITION, IT IS POSSIBLE TO LOOK AT THE
6 MICROSCOPIC MARKINGS THAT ARE PLACED ON IT BY THE
7 GUN IN WHICH IT WAS FIRED.

8 AND WHEN THE GUN IS REPEATABLE AND RELIABLE IN
9 ITS MARKINGS, WHICH THIS GUN WAS, IT IS POSSIBLE TO
10 IDENTIFY A PARTICULAR BULLET AS BEING FIRED BY A
11 PARTICULAR FIREARM.

12 Q. SO THE GUN LEAVES ITS MARK, ITS SIGNATURE, IF
13 YOU WILL, ON A BULLET?

14 A. YES, SIR.

15 Q. THAT GUN DID?

16 A. THIS ONE DOES.

17 Q. AND I BELIEVE YOU USED THE TERM "RELIABLE" AND
18 "REPEATABLE"?

19 A. YES, SIR.

20 Q. HOW DO YOU DETERMINE THAT?

21 A. YOU DETERMINE THAT BY TEST FIRING THE GUN AND
22 BY GETTING BULLETS WHICH YOU KNOW THIS GUN HAS
23 FIRED. AND YOU FIRST COMPARE THE TEST BULLETS WITH
24 EACH OTHER TO SEE IF IT LEAVES SUFFICIENT MARKINGS,
25 TO SEE IF THE MARKINGS ARE REPEATABLE, THAT IS, IF

1 BULLET AFTER BULLET WE HAVE THE SAME MARKINGS.

2 Q. AND, LIEUTENANT, I BELIEVE YOU RECEIVED WHAT IS
3 MARKED AS STATE'S EXHIBIT NUMBER 33 ALSO, IS THAT
4 CORRECT?

5 A. YES, I DID.

6 Q. AND WHAT WAS IN 33 AND WHAT CONDITION WERE THEY
7 IN WHEN YOU RECEIVED THEM?

8 A. WHEN I RECEIVED STATE'S EXHIBIT 33, IT CONSISTED
9 OF NINE UNFIRED CARTRIDGES. THE UNFIRED CARTRIDGES
10 LOOK THE SAME AS THE FIVE UNFIRED CARTRIDGES IN
11 STATE'S EXHIBIT 32.

12 Q. THAT WERE ACTUALLY INDICATED AT ONE POINT
13 LOADED IN 32?

14 A. YES, SIR.

15 Q. OKAY. ALL RIGHT, SIR. AND THOSE ARE .38, WHAT
16 DID YOU SAY, COPPER ALLOY HOLLOW POINT?

17 A. THESE ARE FEDERAL BRAND .38 SPECIAL CALIBER
18 CARTRIDGES, AND THEY ARE LOADED WITH A TYPE OF
19 BULLET KNOWN AS A HYDRASHOK BULLET THAT IS
20 FEDERAL'S TRADE NAME, H-Y-D-R-A-S-H-O-K.

21 Q. HYDRASHOK?

22 A. HYDRASHOK.

23 Q. AND WHAT DOES THAT MEAN?

24 A. IT IS A BRAND NAME OF THE PRODUCT MADE BY THE
25 FEDERAL COMPANY. IT IS A TYPE OF HOLLOW POINT

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1 BULLET THAT HAS A TAPERED LEAD POST IN THE HOLLOW
2 POINT CAVITY, AND IT HAS CERTAIN PRODUCT CLAIMS
3 ABOUT ITS EFFECTIVENESS AS A RESULT OF HAVING THAT
4 POST IN THERE.

5 Q. THAT IT IS MORE EFFECTIVE?

6 A. THEY CLAIM SO, BUT I DON'T KNOW THAT THAT IS
7 TRUE.

8 Q. AND MORE ACCURATE?

9 A. I DON'T KNOW THAT IT IS ANY MORE ACCURATE THAN
10 ANYTHING ELSE.

11 Q. ALL RIGHT, NOW, YOU VIEWED SOME OF THESE, OR ALL
12 OF THESE NINE?

13 A. I FIRED ALL OF THESE.

14 Q. YOU FIRED ALL OF THE NINE UNFIRED .38 ROUNDS
15 THAT ARE MARKED IN THIS BAG "JACKET POCKET BULLETS,"
16 CORRECT?

17 A. THAT'S CORRECT.

18 Q. DID THAT WEAPON, STATE'S 32, RELIABLY MARK EACH
19 AND EVERY ONE OF THESE TEST FIRED BULLETS?

20 A. WELL, I ONLY FIRED TWO OF THEM FOR THE PURPOSE
21 OF RECOVERING TEST BULLETS. I FIRED SEVEN OF THEM
22 FOR OTHER PURPOSES.

23 Q. EXPLAIN THAT TO US.

24 A. WELL, SEVEN OF THEM I FIRED AGAINST BLOTTER
25 PAPER AT VARIOUS DIFFERENT KNOWN RANGES TO SEE WHAT

1 THE POWDER PATTERN DISTRIBUTION AROUND THE BULLET
2 HOLE WAS.

3 Q. AND WE WILL TALK ABOUT THAT A LITTLE MORE IN A
4 FEW MINUTES. BUT THE TWO YOU FIRED FOR RELIABILITY
5 AND RECOVERY PURPOSES, HOW DO YOU FIRE THOSE AND
6 HOW DO YOU RECOVER THEM, LIEUTENANT?

7 A. WE HAVE A TANK, IT IS A VERTICAL WATER TANK, AND
8 WE LOAD THE FIREARM IDEALLY WITH THE SAME TYPE OF
9 AMMUNITION THAT WAS USED IN THE SHOOTING, AND WE
10 FIRE IT INTO THE WATER TANK. WATER SLOWS THE
11 BULLET DOWN WITHOUT DAMAGING IT BADLY. AND THEN
12 THERE IS A LITTLE CUP IN THE BOTTOM OF THE WATER
13 TANK AND YOU CAN JUST HAUL UP THE BULLETS, AND WE
14 HAVE THEM IN SUBSTANTIALLY UNDAMAGED CONDITION.

15 Q. AND YOU KNOW THOSE BULLETS WERE FIRED BY THAT
16 WEAPON?

17 A. YES, SIR.

18 Q. AND HAVE CERTAIN MARKINGS?

19 A. YES, SIR.

20 Q. THEN WHAT DO YOU DO WITH THOSE BULLETS AS YOU
21 CONTINUE ON IN YOUR TESTING?

22 A. WELL, THE NEXT PHASE OF THE TEST WOULD BE FIRST
23 TO COMPARE THE TEST BULLETS WITH EACH OTHER. AND
24 WHERE WE FIND THE TEST BULLETS ARE SUFFICIENTLY
25 WELL MARKED AND ARE REPEATABLE AND RELIABLE IN

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1 THEIR MARKINGS, THEN WE WILL PROCEED TO COMPARE ONE
2 OF THE TEST BULLETS WE FIRED WITH ONE OF THE
3 SUBMITTED EVIDENCE BULLETS TO SEE IF THE SAME
4 MARKINGS ARE PRESENT ON BOTH OF THEM.

5 Q. WERE THE TEST BULLETS CONSISTENT WITH EACH
6 OTHER, MATCH EACH OTHER?

7 A. THEY WERE.

8 Q. THEN DID YOU COMPARE A TEST BULLET TO THE, I
9 WILL CALL THEM THE CRIME SCENE BULLETS THAT WERE
10 SUBMITTED?

11 A. WELL, I COMPARED THEM SPECIFICALLY WITH ITEM 17
12 AND ITEM 18.

13 Q. LET ME ASK YOU ABOUT 18 FIRST. I BELIEVE THAT
14 IS THE ONE IN YOUR HAND.

15 A. YES, SIR.

16 Q. THE ONE MARKED FROM [REDACTED] WHAT
17 WAS THE RESULT OF YOUR COMPARISON OF THE TEST
18 BULLET, LET ME SEE IF I CAN GET THIS STRAIGHT NOW,
19 FIRED BY STATE'S 32, WITH THE BULLET MARKED
20 "RECOVERED FROM [REDACTED]

21 A. I FOUND SUFFICIENT MATCHING INDIVIDUAL MARKINGS
22 TO CONCLUDE THAT THIS BULLET, STATE'S EXHIBIT 18,
23 WAS FIRED BY STATE'S EXHIBIT 32.

24 Q. WITHOUT DOUBT?

25 A. THAT'S CORRECT.

1 Q. NOW, ADDITIONALLY, DID YOU COMPARE STATE'S 17,
2 THE BULLET MARKED "FROM AUTOPSY OF TAMMY LYNN MANN,"
3 WITH A TEST BULLET FIRED BY STATE'S 32?

4 A. I DID.

5 Q. AND WHAT WAS THE RESULTS OF THAT COMPARISON?

6 A. I ALSO FOUND SUFFICIENT MARKINGS TO CONCLUDE
7 THAT STATE'S EXHIBIT 17 WAS ALSO FIRED BY THE
8 REVOLVER, BY STATE'S EXHIBIT 32.

9 Q. WITHOUT A DOUBT THIS BULLET FROM THE AUTOPSY,
10 MARKED "AUTOPSY, TAMMY LYNN MUNN," WAS FIRED BY THIS
11 WEAPON, STATE'S EXHIBIT 32?

12 A. YES, SIR, THAT'S CORRECT.

13 Q. THANK YOU, LIEUTENANT. YOU CAN RETAKE THE
14 STAND.

15 (WITNESS RETURNS TO WITNESS STAND.)

16 Q. I HAVE JUST A FEW MORE QUESTIONS. I BELIEVE YOU
17 SAID OF THE NINE BULLETS, TWO YOU TEST FIRED FOR
18 COMPARISON PURPOSES, SEVEN YOU FIRED FOR PATTERN OR
19 DISTANCE PURPOSES? IS THAT -- THAT IS NOT EXACTLY
20 HOW YOU PUT IT?

21 A. WELL, TO PRODUCE TEST PATTERNS.

22 Q. WHAT IS THE PURPOSE OF THAT?

23 A. WHEN THERE IS A PATTERN OF GUN POWDER OR GUNSHOT
24 RESIDUE AROUND A WOUND, IT IS SOMETIMES POSSIBLE TO
25 DETERMINE THE DISTANCE THAT THE FIREARM WAS AWAY

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1 FROM THAT OBJECT, WHETHER THAT IS CLOTHING OR SKIN
2 OR WHAT HAVE YOU, AND IT IS DONE BY TAKING
3 AMMUNITION THAT IS JUST LIKE THE AMMUNITION THAT IS
4 INVOLVED AND TEST FIRING IT AT VARIOUS KNOWN
5 DISTANCES TO GET AN APPROXIMATION OF THE TYPE OF
6 POWDER DEPOSIT THE FIREARM WILL LEAVE AT A GIVEN
7 DISTANCE.

8 Q. AND YOU DID THAT IN THIS CASE?

9 A. I DID.

10 Q. IS IT A CORRECT STATEMENT WITHIN YOUR FIELD OF
11 BALLISTICS THAT THERE ARE DIFFERENT CHARACTERISTICS
12 OF AN OBJECT STRUCK BY THE BULLET DEPENDING ON THE
13 DISTANCE THE WEAPON IS FROM THAT OBJECT?

14 A. WELL, THERE ARE DIFFERENT TYPES OF DEPOSITION ON
15 THE TARGET. FOR INSTANCE, OF COURSE THE TARGET
16 WOULD HAVE BEEN STRUCK BY THE BULLET, THE BULLET
17 ITSELF MAY INDUCE A LITTLE RING AROUND THE BULLET
18 HOLE CALLED ABRASION COLLAR, BUT THERE IS A
19 COMPONENT WHEN THE GUN IS VERY, VERY CLOSE OF
20 ACTUAL FLAME, YOU KNOW, THIS ONLY OCCURS IN
21 COMPARATIVELY CLOSE SKIN INSTANCES, WHERE YOU
22 ACTUALLY GET A SORT OF CHARRING.

23 AS THE GUN GETS FARTHER AND FARTHER AWAY, IT
24 REACHES A POINT WHERE YOU GET PARTIALLY BURNED AND
25 UNBURNED POWDER PARTICLES THAT ACTUALLY CAN BE

1 FORCED INTO THE MATERIAL OR THE SKIN. THEY ARE
2 LITERALLY PUSHED INTO.

3 YOU GET FARTHER AND FARTHER AWAY FROM THAT, AND
4 THEN YOU GET THOSE PARTICLES WHICH AS YOU GO
5 FARTHER AND FARTHER AWAY THESE ARE DISTRIBUTED
6 NORMALLY IN SORT OF LIKE A CONE SHAPE, AND THE
7 FARTHER AWAY YOU GET, THE BIGGER THE CONE BECOMES,
8 THE LESS DENSE THE RESIDUE BECOMES.

9 YOU WILL REACH A POINT WHERE THE PARTICLES WILL
10 STRIKE AND SOMETIMES CAUSE DEFORMATION TO THE
11 SURFACE OR AN INJURY TO THE SURFACE, BUT THEY MAY
12 NOT ACTUALLY PENETRATE THE SURFACE.

13 AND THEN AS YOU GO FARTHER AND FARTHER AWAY, YOU
14 REACH A POINT WHERE THE DEPOSIT GETS MORE AND MORE
15 SPARSE, FARTHER AND FARTHER APART, UNTIL ONLY JUST
16 A RANDOM PARTICLE OR TWO IS EVEN ON THE TARGET.

17 AND FINALLY YOU GO FAR ENOUGH AWAY AND THERE IS
18 JUST NOTHING.

19 Q. AND ALL THIS DEPENDS ON THE DISTANCE THAT THE
20 TARGET IS FROM THE BARREL OF THE WEAPON?

21 A. IT DEPENDS ON THE DISTANCE, IT DEPENDS ON THE
22 FIREARM ITSELF, AND IT DEPENDS ON THE AMMUNITION
23 THAT IS USED IN THE FIREARM.

24 Q. AND IF YOU ARE CLOSE ENOUGH TO THAT EXPLOSION,
25 THE EXPLOSION OF THE BULLET, I CALL IT THAT FOR

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1 LACK OF A BETTER TERM, WITHIN MY KNOWLEDGE, YOU MAY
2 GET THIS DIFFERENT CHARACTERISTICS, DEPENDING ON --
3 YOU OBVIOUSLY DIDN'T PERFORM THE AUTOPSY?

4 A. NO, I DIDN'T.

5 Q. -- DEPENDING ON WHATEVER THE PATHOLOGIST MAY
6 HAVE SEEN AT THE AUTOPSY?

7 A. RIGHT. THERE WOULD BE -- THERE MAY BE SOME
8 OBSERVABLE CHARACTERISTICS THAT THE PATHOLOGIST
9 COULD SEE OF GUNSHOT RESIDUE, AND THERE MAY NOT.
10 IT DEPENDS.

11 Q. THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS.

12 CROSS EXAMINATION BY MR. ROGERS:

13 Q. GOOD AFTERNOON.

14 A. HEY.

15 Q. NOW, TO ESTABLISH A PATTERN, YOU ONLY TEST FIRED
16 TWO BULLETS, IS THAT CORRECT?

17 A. NO, FOR PATTERN PURPOSES, BECAUSE OF THE AMOUNT
18 OF AMMUNITION THAT WE HAD AVAILABLE THAT WAS
19 EXACTLY THE AMMUNITION SUBMITTED, WAS A LITTLE
20 RESTRICTED. I TRIED TO USE SOME ECONOMY IN
21 EXPENDING THESE CARTRIDGES. AND TWO OF THEM WERE
22 TEST FIRED JUST FOR THE PURPOSE OF GETTING TEST
23 BULLETS THAT WERE EXACTLY THE SAME TYPE OF BULLETS
24 AS INVOLVED. AND SEVEN WERE USED TO PRODUCE THE
25 TEST PATTERNS AT VARIOUS DIFFERENT DISTANCES, FROM

1 LIKE CONTACT OUT TO ABOUT TWO FEET.

2 Q. TO GET THE TEST BULLETS, THAT IS FOR THE
3 COMPARISON AGAINST THE---

4 A. ITEM 17 AND 18 AGAINST THE BULLETS.

5 Q. YOU WOULD LIKED TO HAVE HAD MORE CARTRIDGES THAN
6 THAT TO GET SOME TEST BULLETS, WOULD YOU NOT?

7 A. WELL, I ACTUALLY DID -- I SHOT TWO OF THE
8 BULLETS IN ITEMS 33 FOR TEST BULLETS, AND I SHOT
9 SOME OF MY OWN AMMUNITION IN ADDITION TO THAT. I
10 DIDN'T SHOOT JUST TWO BULLETS FOR TEST COMPARISON
11 PURPOSES UNDER MICROSCOPE, BUT I ONLY USED THE
12 SUBMITTED AMMUNITION FOR PURPOSES OF MAKING THE
13 POWDER PATTERNS.

14 Q. AGENT DEFREESE, THIS IS A SCIENTIFIC PROCEDURE,
15 IS IT NOT?

16 A. IT IS.

17 Q. BUT IT IS NOT AN EXACT SCIENCE, IS IT?

18 A. THERE ARE SOME VARIABLES ASSOCIATED WITH IT,
19 YES, SIR. IT IS NOT A HUNDRED PERCENT REPRODUCIBLE
20 AS TO THE POWDER PATTERNS. NOW, AS TO THE
21 IDENTIFICATION OF BULLETS THEMSELVES WITH OTHER
22 BULLETS, THAT IS FAIRLY EXACT.

23 Q. THANK YOU, AGENT DEFREESE. I DON'T HAVE ANY
24 FURTHER QUESTIONS.

25 A. THANK YOU.

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1 MR. McMAHON: NOTHING ON REDIRECT.

2 THE COURT: YOU CAN STEP DOWN.

3 (MR. DEFREESE STEPS DOWN.)

4 MR. McMAHON: OH, MAY LIEUTENANT DEFREESE
5 BE EXCUSED?

6 THE COURT: HE CAN START HIS RETIREMENT
7 PARTY, I GUESS.

8 MR. McMAHON: THANK YOU, YOUR HONOR.

9 (MR. DEFREESE EXCUSED.)

10 MR. MEADORS: THE STATE WOULD CALL DR.
11 INAS YACoub.

12 CLERK: PLEASE RAISE YOUR RIGHT HAND AND
13 PLACE YOUR LEFT HAND ON THE BIBLE.

14 (DR. YACoub COMPLIES.)

15 CLERK: DO YOU SWEAR OR AFFIRM THE
16 EVIDENCE YOU WILL GIVE WILL BE THE TRUTH, THE WHOLE
17 TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

18 DR. YACoub: I DO.

19 CLERK: THANK YOU. PLEASE HAVE A SEAT IN
20 THE WITNESS CHAIR AND STATE YOUR FULL NAME FOR THE
21 RECORD.

22 DR. YACoub: INAS YACoub.

23 MR. MEADORS: MAY IT PLEASE THE COURT,
24 YOUR HONOR?

25 THE COURT: SURE.

1 DR. INAS Z. YACoub,
2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. MEADORS:

4 Q. WOULD YOU STATE YOUR NAME?

5 A. INAS Z. YACoub.

6 Q. DR. YACoub, WHERE DO YOU PRACTICE MEDICINE?

7 A. NEWBERRY PATHOLOGY ASSOCIATES.

8 Q. AND HOW LONG HAVE YOU BEEN THERE?

9 A. ABOUT SIX YEARS.

10 Q. WOULD YOU TELL THE JURY ABOUT YOUR BACKGROUND
11 AND YOUR TRAINING AND YOUR SPECIFIC FIELD OF
12 EXPERTISE HERE TODAY?

13 A. I'M A MEDICAL DOCTOR. I GRADUATED FROM MEDICAL
14 SCHOOL IN 1980.

15 FOLLOWING THAT I HAD PATHOLOGY TRAINING FOR
16 THREE YEARS IN ANATOMICAL AND CLINICAL PATHOLOGY AT
17 THE UNIVERSITY OF ALABAMA AT BIRMINGHAM.

18 FOLLOWING THAT I HAD A FULL YEAR OF FORENSIC
19 PATHOLOGY FELLOWSHIP ALSO AT THE UNIVERSITY OF
20 ALABAMA AT BIRMINGHAM.

21 AND I HAVE BEEN PRACTICING PATHOLOGY AND
22 FORENSIC PATHOLOGY FOR THE PAST FIVE, SIX YEARS.

23 Q. CAN YOU BRIEFLY GENERALLY EXPLAIN TO US THE
24 FIELD OF PATHOLOGY AND SPECIFICALLY FORENSIC
25 PATHOLOGY?

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1 DR. INAS Z. YACOB,
2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. MEADORS:

4 Q. WOULD YOU STATE YOUR NAME?

5 A. INAS Z. YACOB.

6 Q. DR. YACOB, WHERE DO YOU PRACTICE MEDICINE?

7 A. NEWBERRY PATHOLOGY ASSOCIATES.

8 Q. AND HOW LONG HAVE YOU BEEN THERE?

9 A. ABOUT SIX YEARS.

10 Q. WOULD YOU TELL THE JURY ABOUT YOUR BACKGROUND
11 AND YOUR TRAINING AND YOUR SPECIFIC FIELD OF
12 EXPERTISE HERE TODAY?

13 A. I'M A MEDICAL DOCTOR. I GRADUATED FROM MEDICAL
14 SCHOOL IN 1980.

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16 THREE YEARS IN ANATOMICAL AND CLINICAL PATHOLOGY AT
17 THE UNIVERSITY OF ALABAMA AT BIRMINGHAM.

18 FOLLOWING THAT I HAD A FULL YEAR OF FORENSIC
19 PATHOLOGY FELLOWSHIP ALSO AT THE UNIVERSITY OF
20 ALABAMA AT BIRMINGHAM.

21 AND I HAVE BEEN PRACTICING PATHOLOGY AND
22 FORENSIC PATHOLOGY FOR THE PAST FIVE, SIX YEARS.

23 Q. CAN YOU BRIEFLY GENERALLY EXPLAIN TO US THE
24 FIELD OF PATHOLOGY AND SPECIFICALLY FORENSIC
25 PATHOLOGY?

1 A. PATHOLOGY IS THE STUDY OF DISEASE, WHY A PERSON
2 IS SICK, WHAT ARE THE CHANGES IN THE BODY AND THE
3 TISSUES AND THE CELLS THAT WOULD MAKE A PERSON
4 SICK.

5 IN CLINICAL AND ANATOMICAL PATHOLOGY -- IN
6 CLINICAL PATHOLOGY WE EXAMINE VARIOUS BODY FLUIDS,
7 BLOOD, URINE, SEMEN, ANY FLUID TO DETERMINE IF
8 THOSE FLUIDS ARE NORMAL OR NOT, AND IF THEY ARE
9 ABNORMAL, WHY ARE THEY ABNORMAL, AND IF THOSE
10 ABNORMALITIES WOULD HELP US DETERMINE WHAT TYPE OF
11 SICKNESS THIS PERSON HAS AND HOW A PHYSICIAN CAN
12 DETERMINE WHAT KIND OF TREATMENT THIS PERSON WOULD
13 BENEFIT FROM.

14 AND IN SURGICAL PATHOLOGY WE LOOK AT TISSUES.
15 ANY TISSUE THAT IS REMOVED FROM THE PERSON, OR
16 OTHER ORGAN, IS EXAMINED TO DETERMINE IF THAT
17 TISSUE OR ORGAN IS SUPPOSED TO BE TAKEN OUT IN THE
18 FIRST PLACE. TOO, IF THAT ORGAN IS SICK AND WHAT
19 TYPE OF SICKNESS. IF IT IS INFLAMMATION OR IF IT
20 IS A TUMOR, IF IT IS A BENIGN TUMOR, WHAT TYPE, IF
21 THE TUMOR HAS TO BE COMPLETELY REMOVED OR THERE IS
22 SOME RESIDUAL TUMOR IN THE PATIENT THAT NEEDS TO BE
23 REMOVED LATER ON OR IF THIS IS A TUMOR THAT COULD
24 NOT BE REMOVED. IF THIS PERSON WOULD BENEFIT FROM
25 FURTHER THERAPY LIKE RADIATION OR CHEMOTHERAPY.

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1 IN FORENSIC PATHOLOGY WE IN OUR PRACTICE, WE
2 EXAMINE NOT DISEASED TISSUES OR BODY FLUIDS, WE
3 EXAMINE DECEASED PERSONS, A PERSON WHO HAS PASSED
4 AWAY. WE DO EXAMINATIONS TO DETERMINE WHAT WAS THE
5 CAUSE OF THIS PERSON'S DEATH, IS IT FROM NATURAL
6 CAUSES OR OTHERWISE; TRAUMA, FOR EXAMPLE.

7 A GROUP OF OUR CASES INVOLVE JUST SUDDEN
8 UNEXPECTED DEATHS OR SUDDEN UNEXPLAINED DEATHS. A
9 GROUP OF OUR CASES INVOLVE TRAUMATIC DEATHS. IF A
10 PERSON HAS BEEN INJURED, FOR EXAMPLE, BY A MOTOR-
11 CYCLE COLLISION, IF IT WAS HIT ON THE ROAD OR IF
12 THEY HAD BEEN INJURED BY A SHARP FORCE JUST LIKE A
13 KNIFE, FOR EXAMPLE, OR CUT, IF HE HAD BEEN STABBED,
14 IF HE HAD BEEN SHOT OR IF THERE ARE OTHER TYPES OF
15 INJURIES LIKE BLUNT FORCE TRAUMA, FOR EXAMPLE, OR
16 STRANGULATION. SO THERE ARE DIFFERENT TYPES OF
17 TRAUMA.

18 AND THE GOAL OF OUR EXAMINATION IS TO DETERMINE
19 IF THERE IS DISEASE, IF THIS PERSON HAD BEEN SICK
20 WITH INFECTIOUS DISEASE, FOR EXAMPLE, AND OTHER
21 PEOPLE NEED TO BE AWARE OF THAT, OR IF IT IS
22 TRAUMATIC DEATH AND THIS CASE IS GOING TO GO TO
23 TRIAL OR HAVE LEGAL COMPLICATIONS.

24 SO IN FORENSIC PATHOLOGY WE EXAMINE DECEASED
25 PERSONS TO DETERMINE CAUSE OF DEATH AND DOCUMENT

1 ALL THE FINDINGS THAT THIS PERSON HAD HAD IN CASE
2 THOSE FINDINGS MIGHT BE NEEDED LATER ON.

3 WE ALSO COLLECT EVIDENCE FROM THE BODY OR FROM
4 THE CLOTHING OF THE BODY. WE COLLECT EVIDENCE FROM
5 INSIDE THE BODY TO SUBMIT ALSO TO BE LOOKED AT.

6 WE DOCUMENT OUR FINDINGS BY PHOTOGRAPHS, WE
7 DOCUMENT THEM BY REPORT, AND WE DOCUMENT THEM BY
8 DIAGRAMS. AND WE PROVIDE A REPORT FOR ANY PARTY
9 THAT MIGHT BE INTERESTED IN LOOKING AT OUR
10 FINDINGS.

11 Q. AND YOU ARE CERTIFIED?

12 A. I AM BOARD CERTIFIED IN ANATOMIC AND CLINICAL
13 PATHOLOGY.

14 Q. AND HAVE YOU EVER BEEN OFFERED AS AN EXPERT IN
15 COURTS OF RECORD OF THIS STATE IN THE FIELD OF
16 FORENSIC PATHOLOGY?

17 A. YES, SIR.

18 Q. AND HAVE YOU EVER BEEN OFFERED AND NOT ACCEPTED?

19 A. NO, SIR.

20 Q. HOW MANY AUTOPSIES HAVE YOU PERFORMED?

21 A. OUR OFFICE THIS YEAR IS UP TO 500 AND SOMETHING.
22 I HAVE BEEN PRACTICING FOR SIX YEARS, AND ROUGHLY
23 WE HAVE DONE ANYWHERE FROM 300 TO 600 CASES A YEAR,
24 I WOULD SAY AT LEAST 500 CASES. I AM NOT KEEPING
25 UP WITH MY NUMBERS, I'M SORRY.

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1 MR. MEADORS: YOUR HONOR, AT THIS TIME WE
2 WOULD OFFER DR. INAS YACOUB AS AN EXPERT IN THE
3 FIELD OF FORENSIC PATHOLOGY.

4 MR. ROGERS: I DO NOT WISH TO QUESTION THE
5 WITNESS ON QUALIFICATIONS, YOUR HONOR.

6 THE COURT: OKAY.

7 Q. DID YOU HAVE AN OCCASION, DR. YACOUB, TO EXAMINE
8 THE BODY OF TAMMY LYNN MUNN ON OCTOBER 15TH OF
9 2000?

10 A. I HAVE.

11 Q. YOU SAID YOU HAVE? I'M SORRY.

12 A. YES, SIR, I HAVE.

13 Q. CAN YOU DESCRIBE FOR THE JURY -- AND YOU MAKE A
14 REPORT, DON'T YOU?

15 A. YES, I DO.

16 Q. THAT YOU PROVIDE TO US THAT WE PROVIDE THE
17 DEFENSE. AND YOU GENERATE A REPORT, THE RESULTS OF
18 YOUR AUTOPSY, CORRECT?

19 A. RIGHT.

20 Q. DO YOU HAVE THAT WITH YOU?

21 A. YES, I DO.

22 Q. AND CAN YOU DESCRIBE, BASICALLY GOING THROUGH
23 YOUR REPORT, THE DESCRIPTION OF THE DECEASED'S BODY
24 WHEN IT CAME IN, STARTING WITH THE CLOTHING?

25 A. MS. TAMMY MUNN HAD -- WHEN WE RECEIVED THE BODY,

1 SHE WAS FULLY CLOTHED. SHE HAD LONG SLEEVED SHIRT
2 THAT WAS BUTTONED WITH ONE BUTTON IN FRONT AND MANY
3 BUTTONS WERE UNBUTTONED. THAT SHIRT WAS STAINED
4 WITH BLOOD.

5 SHE HAD A BROWN SHIRT. SHE HAD A LIGHT TAN PAIR
6 OF PANTS. SHE HAD A PAIR OF PANTIES. SHE HAD A
7 WHITE PAIR OF SOCKS AND A WHITE PAIR OF ZIP
8 SNEAKERS.

9 SHE DID HAVE A GRAY NECKLACE ON WITH A HEART
10 MEDALLION AROUND HER NECK. SHE HAD A WATCH ON HER
11 LEFT WRIST. SHE HAD A SILVER COLORED RING ON THE
12 LEFT FINGER. AND SHE HAD A YELLOW ANKLET ON HER
13 RIGHT ANKLE.

14 SO THAT IS BASICALLY HOW WE RECEIVED THE BODY.

15 Q. IN YOUR FIELD OF EXPERTISE, YOU LIKE TO, I
16 BELIEVE YOU STATED EARLIER, TO SEE THE BODY IN AS
17 CLOSE CONDITION AS IT WAS WHEN IT WAS FOUND, IS
18 THAT CORRECT? YOU LIKE LAW ENFORCEMENT TO BRING IT
19 IN AS BEST THEY CAN LIKE THE BODY WAS, CORRECT?

20 A. THAT'S CORRECT.

21 Q. AFTER YOU -- YOU SAID YOU TAKE PICTURES, IS THAT
22 CORRECT?

23 A. THAT'S CORRECT.

24 Q. HER CLOTHING WAS REMOVED, AND I BELIEVE YOU
25 STARTED TO PERFORM THE AUTOPSY, IS THAT CORRECT?

1 A. RIGHT. WE DOCUMENTED THE APPEARANCE OF THE BODY
2 JUST AS WE RECEIVED IT, AND THEN WE DID AN EXTERNAL
3 EXAMINATION.

4 THERE WERE NO GUNSHOT HOLES OR CUTS ON THE
5 CLOTHING. THE INJURIES WERE AT THE HEAD. SO WE
6 REMOVED THE CLOTHING AND DID AN EXTERNAL
7 EXAMINATION TO DOCUMENT OTHER FINDINGS.

8 Q. CAN YOU GO THROUGH WITH THE JURY WHAT YOU DID IN
9 YOUR EXAMINATION?

10 A. YES. I DID AN EXTERNAL EXAMINATION AND EXAMINED
11 THE BODY FROM TOP TO TOE IN ORDERLY FASHION,
12 EXAMINED THE HEAD, AND I OBSERVED THAT THERE WERE
13 TWO GUNSHOT WOUNDS ON THE HEAD. THOSE GUNSHOT
14 WOUNDS WERE ON THE RIGHT SIDE OF THE HEAD.

15 WHEN WE FIND GUNSHOT WOUNDS, WE AUTOMATICALLY DO
16 X-RAYS. WE DID X-RAYS OF THE HEAD, DOCUMENT IF
17 THERE ARE ANY BULLETS OR BULLET FRAGMENTS INSIDE
18 THE HEAD AND WHERE THEY WERE TO BE ABLE TO RETRIEVE
19 THOSE.

20 WHEN WE FINALLY GOT THE WOUNDS TO THE HEAD,
21 THOSE WERE DOCUMENTED. THE WOUNDS WERE ONE ON THE
22 RIGHT SIDE HEAD OF THE HEAD AND ONE WAS ABOVE THE
23 RIGHT EAR. THE ONE ON THE RIGHT SIDE OF THE HEAD
24 ENTERED AND CAME OUT ON THE LEFT SIDE OF THE HEAD
25 ABOVE THE LEFT EAR. THE WOUND ABOVE THE RIGHT EAR

1 ENTERED AND THE BULLET STAYED INSIDE THE HEAD.

2 WE DOCUMENTED THOSE WOUNDS JUST AS THEY WERE AND
3 THEN WE WASHED AROUND THE WOUND AND LOOKED CLOSELY.
4 IF THERE WERE ANY SOOT OR GUN POWDER PARTICLES IN
5 -- I DID NOT OBSERVE SOOT. I DID OBSERVE GUN
6 POWDER PARTICLES AROUND BOTH WOUNDS.

7 THE GUN POWDER PARTICLES AROUND THE WOUND, THAT
8 I ARBITRARILY DESIGNATED AS NUMBER 1 JUST TO
9 DESCRIBE IT, INVOLVED AN AREA OF ABOUT AN INCH BY
10 EIGHT-TENTHS OF AN INCH.

11 THE WOUND ABOVE THE RIGHT EAR DID HAVE SOME GUN
12 POWDER PARTICLES, GUN POWDER TATTOOS, BUT THEY WERE
13 FEWER THAN THE WOUND THAT WE DESIGNATED AS NUMBER
14 1.

15 AGAIN, I DID NOT OBSERVE SOOT AROUND EITHER OF
16 THOSE.

17 BY DEFINITION, IF WE SEE GUN POWDER PARTICLES OR
18 GUN POWDER TATTOOS, WE DESCRIBE THAT TYPE OF WOUND
19 AS BEING INTERMEDIATE RANGE GUNSHOT WOUND.

20 THERE ARE THREE RANGES THAT WE CAN LOOK AT THE
21 WOUND AND SAY THIS IS A WOUND THAT CAN BE
22 CLASSIFIED AS SUCH, AND GIVE THE DESCRIPTION.

23 IF THE GUN IS ON THE SKIN, BY THE WAY, OR ON THE
24 CLOTHES, WHEN IT FIRED, NOT ONLY DOES IT LET THE
25 BULLET GO OUT, BUT IT GETS THE BULLET, AND IT GETS

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1 GASES, AND IT GETS GUN POWDER PARTICLES. BECAUSE
2 IT IS TIGHT ON THE SKIN, THE HEAT CHARS THE EDGES
3 OF THE WOUND AND WE CAN SEE CHARRING AND WE CAN
4 CLASSIFY THIS AS A CONTACT GUNSHOT WOUND. WE ALSO
5 SEE SOOT AROUND THAT WOUND. WE WILL NOT SEE GUN
6 POWDER PARTICLES BECAUSE THE PARTICLES HAVE BEEN
7 PUSHED FROM THE GUN DIRECTLY INSIDE THE BODY.

8 IF THE GUN WAS A LITTLE FURTHER AWAY WHEN IT IS
9 FIRED, IT RELEASES NOT ONLY THE BULLET, IT RELEASES
10 SOME SMOKE AND SOME GUN POWDER PARTICLES AND
11 TATTOOS--AND GUN POWDER PARTICLES. AND THOSE GUN
12 POWDER PARTICLES ARE ABLE TO BE DEPOSITED AROUND
13 THE GUNSHOT ENTRANCE WOUND.

14 IF THE GUN IS CLOSE, THEN THAT CONDENSATION
15 WOULD BE MORE PROMINENT THAN IF THAT GUN WAS
16 FURTHER A LITTLE BIT AWAY. THE FURTHER THE GUN
17 GOES THE LESS OF THE CONDENSATION OF THOSE GUN
18 POWDER PARTICLES ARE AROUND THE GUNSHOT ENTRANCE
19 WOUND.

20 NOW, THERE WOULD BE A CASE WHERE IF THE GUN IS
21 FAR AWAY AND ALL THE GUN POWDER PARTICLES ARE
22 DISBURSED IN THE AIR AND THEY ARE ALL UNABLE TO BE
23 DEPOSITED AROUND THE GUNSHOT ENTRANCE WOUND.

24 IF THAT IS THE CASE, THEN WE JUST SEE A GUNSHOT
25 ENTRANCE WOUND AND WE DON'T SEE ANY GUN POWDER

1 PARTICLES OR TATTOOS AROUND IT, AND WE CLASSIFY IT
2 AS A DISTANT GUNSHOT WOUND, UNLESS THERE WAS SOME
3 INTERMEDIATE TARGET THAT IS TAKING AWAY ALL THE GUN
4 POWDER PARTICLES. AND IF THAT IS THE CASE, THEN
5 SOMETIMES YOU SEE FRAGMENTS OF THAT INTERMEDIATE
6 TARGET OR SOME IRREGULARITY FOR THE WOUND THAT IT
7 WOULDN'T BE A REGULAR GROUND WOUND, AND THAT WAY WE
8 CAN TELL IF IT WAS AN INTERMEDIATE TARGET AND THAT
9 IS WHY WE ARE NOT SEEING ANY GUN POWDER PARTICLES.

10 SO TO SUMMARIZE, TWO GUNSHOT WOUNDS, BOTH OF
11 THEM WERE MEDIUM CALIBER. WE MEASURED THE DIAMETER
12 AND BOTH OF THEM MEASURED .35 INCHES IN DIAMETER.
13 BOTH OF THEM WERE INTERMEDIATE GUNSHOT WOUNDS. ONE
14 OF THEM WAS A PERFORATING WOUND, MEANING THAT THE
15 BULLET ENTERED AND EXITED, AND ONE OF THEM WAS A
16 PENETRATING WOUND, WHICH WAS THE ONE ABOVE THE
17 RIGHT EAR, WHICH MEANS THAT THE BULLET ENTERED BUT
18 DID NOT EXIT, AND WE WERE ABLE TO RETRIEVE THAT.

19 Q. I'M GOING TO ASK YOU, WITH THE COURT'S
20 PERMISSION, TO STEP DOWN RIGHT HERE.

21 (WITNESS COMPLIES.)

22 Q. IF YOU WOULD STAND UP, DOCTOR. IF YOU HAVE YOUR
23 NOTES.

24 (WITNESS COMPLIES.)

25 Q. FIRST I WANT TO ASK YOU, OUTSIDE IN THE HALL

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1 THERE ON PAGE 3 OF YOUR REPORT DID YOU SAY THERE
2 WAS A CORRECTION WHEN YOU WERE DESCRIBING THE FIRST
3 GUNSHOT WOUND?

4 A. THAT'S CORRECT. ON PAGE 3 THERE IS A CORRECTION
5 ON THE SEVENTH LINE. I DESCRIBED THE PATH OF THE
6 BULLET PASSING THROUGH THE LEFT SLIGHTLY UPWARD AND
7 BACKWARD. IT SHOULD BE PASSING THROUGH THE LEFT
8 SLIGHTLY DOWNWARD AND BACKWARD.

9 Q. THAT SHOULD BE DOWNWARD INSTEAD OF UPWARD?

10 A. THAT'S CORRECT.

11 Q. THAT IS JUST TYPO ON THAT?

12 A. THAT'S CORRECT.

13 Q. DOCTOR, IF YOU WOULD, IF YOU WOULD KEEP SPEAKING
14 UP, I AM GOING TO SIT HERE IF YOU DON'T MIND, AND
15 WOULD YOU START WITH WHAT YOU DESIGNATE AS GUNSHOT
16 WOUND NUMBER 1 AND USING MY HEAD SHOW THE JURY
17 WHERE -- WHAT YOUR FINDINGS WERE, WHERE THE BULLETS
18 WENT, AND WHAT IT DID TO TAMMY MUNN'S HEAD AS IT
19 WENT THROUGH?

20 A. OKAY. WE MEASURED THE WOUNDS. WE HAVE A PLANE
21 MARK. SO WE MEASURED THE WOUND FROM THE TOP OF THE
22 HEAD, WHERE IT IS BELOW THE TOP OF THE HEAD AND
23 WHERE IT IS FROM THE MIDLINE, EITHER ANTERIOR
24 MIDLINE OR POSTERIOR MIDLINE.

25 SO FROM THE TOP OF THE HEAD, WOUND NUMBER 1 WAS

1 TWO AND THREE-FOURTHS OF AN INCH BELOW THE TOP OF
2 THE HEAD, AND IT WAS THREE AND A HALF INCHES TO THE
3 RIGHT OF THE ANTERIOR MIDLINE PLANE. YOU CAN MAKE
4 AN IMAGINARY MIDLINE PLANE, MEASURE THREE AND A
5 HALF INCHES. IT WOULD BE IN THAT LOCATION ROUGHLY.

6 THAT BULLET WENT INSIDE THE HEAD ACROSS THE
7 MIDLINE AND CLEAN OUT FROM THE LEFT SIDE OF THE
8 HEAD ABOVE THE LEFT EAR THROUGH A SLIT SHAPED EXIT
9 WOUND THAT WAS LOCATED THREE AND A HALF INCHES
10 BELOW THE TOP OF THE HEAD AND SIX AND A HALF INCHES
11 TO THE LEFT OF THE ANTERIOR MIDLINE PLANE. SO---

12 Q. SO YOU HAD AN ENTRANCE AND AN EXIT ON THAT?

13 A. THAT'S CORRECT.

14 Q. THAT GUNSHOT WOUND.

15 A. THAT IS HOW IT IS A PERFORATING GUNSHOT WOUND.
16 AND IN DOING THAT, IT PASSED THROUGH THE CEREBRAL
17 HEMISPHERES, IT PASSED THROUGH BOTH FRONTAL LOBES
18 IN THE BRAIN AND THEN IT CAME OUT. THAT BULLET WAS
19 NOT RETRIEVED, BUT SOMETIMES THE BULLET COMES OUT
20 AND IT IS BESIDE THE BODY OR CLOSE TO THE BODY OR
21 IN THE CLOTHES. THIS WAS NOT RETRIEVED AT THE TIME
22 OF THE AUTOPSY.

23 THE GUNSHOT WOUND NUMBER 2 WAS ALSO ON THE RIGHT
24 SIDE OF THE HEAD. IT WAS LOCATED THREE AND THREE-
25 FOURTHS INCHES BELOW THE TOP OF THE HEAD AND SEVEN

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1 AND THREE-FOURTHS OF AN INCH TO THE RIGHT OF THE
2 ANTERIOR MIDLINE PLANE.

3 BOTH WOUNDS MEASURED .35 INCHES IN DIAMETER.
4 BOTH WOUNDS APPEARED ROUND, WHICH IN MY OPINION
5 DOES NOT MAKE ME THINK THAT THERE WAS AN
6 INTERMEDIATE TARGET BETWEEN THE GUN AND THE HEAD.
7 THEY WERE NICE AND ROUND WOUNDS. IF THERE WAS AN
8 INTERMEDIATE TARGET, THEN THE WOUND WOULD LOOK
9 IRREGULAR.

10 THAT BULLET ENTERED THE HEAD. IT PASSED FROM
11 THE RIGHT SIDE TO THE LEFT SIDE. IT HIT THE RIGHT
12 SIDE OF THE BRAIN, THE OCCIPITAL AND TEMPORAL
13 REGION, PASSED THE BRAIN STEM AND LODGED IN THE
14 LEFT SIDE OF THE BRAIN STEM. THE BRAIN STEM IS A
15 CRITICAL AREA BECAUSE IT HAS THE CENTERS OF
16 HEARTBEAT AND VITAL FUNCTIONS OF THE BODY. AND A
17 WOUND AT THAT LOCATION TENDS TO BE RAPIDLY FATAL.

18 THAT BULLET OF NUMBER 2 WAS RETRIEVED. AND,
19 AGAIN, BOTH BULLETS HAD -- BOTH GUNSHOT ENTRANCE
20 WOUNDS HAD POWDER PARTICLES, TATTOOING AROUND THEM
21 THAT WOULD CLASSIFY THIS WOUND AS BEING AN
22 INTERMEDIATE RANGE GUNSHOT WOUND.

23 Q. THAT IS MY NEXT QUESTION, WHILE YOU ARE HERE.
24 YOU COULD OBSERVE THAT POWDER TATTOOING ON THE HEAD
25 ON TAMMY MUNN, IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND, DOCTOR, THAT MEANS IT IS CLOSE, DOESN'T IT?

3 A. WE CLASSIFY THAT AS AN INTERMEDIATE RANGE.

4 CONTACT IS WHEN THE GUN IS ON THE SKIN, CLOSE WHEN

5 WE SEE SOME SOOT IN ADDITION TO THE GUN POWDER

6 PARTICLES. I DID NOT OBSERVE SOOT. I OBSERVED THE

7 GUN POWDER PARTICLES AND TATTOOING. AND, AGAIN, IN

8 THAT LOCATION THERE WAS HAIR IN THE WOUND, THERE

9 WAS BLOOD, SO MAYBE THERE WAS SOOT AND IT WAS NOT

10 OBSERVED BECAUSE OF THE BLOOD KIND OF WASHING THE

11 EFFECTS OFF.

12 Q. BUT YOUR TESTIMONY -- AND YOU CAN HAVE A SEAT

13 BACK, DOCTOR, THANK YOU -- IT DEFINITELY WASN'T A

14 DISTANT SHOT?

15 (WITNESS RETURNS TO WITNESS STAND.)

16 A. THAT'S CORRECT.

17 Q. YOU MENTIONED -- I MEAN, HOW LONG WOULD TAMMY

18 HAVE LIVED, IN YOUR OPINION, AFTER ONE OR BOTH OF

19 THESE? HOW LONG DID IT TAKE HER TO DIE?

20 A. I WAS NOT AN EYEWITNESS TO THIS SHOOTING TO SAY

21 SHE HAD SURVIVED FOR SO MUCH TIME, BUT BASED ON MY

22 EDUCATION, TRAINING AND EXPERIENCE, IT IS MY

23 OPINION THAT SHE LIVED A FEW MINUTES MAXIMUM.

24 Q. AND THE CAUSE OF -- I WANT TO ASK YOU ONE OTHER

25 THING. ON YOUR REPORT ON PAGE 3, I BELIEVE IT

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1 WOULD BE THE THIRD PARAGRAPH, IT SAYS, "WOUND NUMBER
2 1 IS ASSOCIATED WITH SOMEWHAT MORE," WHATEVER THAT
3 WORD IS, "BLEEDING THAN GUNSHOT WOUND DESIGNATED 2."

4 EXPLAIN THAT TO ME. AND DOES THAT MEAN
5 ANYTHING?

6 A. I SAID THAT GUNSHOT WOUND NUMBER 1 IS ASSOCIATED
7 WITH SOMEWHAT MORE SUBARACHNOID BLEEDING THAN
8 GUNSHOT WOUND DESIGNATED NUMBER 2.

9 THIS IS AN OBSERVATION THAT I NOTICED AND I
10 DOCUMENTED. I, AGAIN AS I SAID, I WAS NOT AN
11 EYEWITNESS TO THIS SHOOTING, I JUST DID THE POST-
12 MORTEM EXAMINATION. IT IS POSSIBLE THAT ALSO
13 GUNSHOT WOUND NUMBER 2 SHE DID NOT LIVE LONG ENOUGH
14 TO HAVE MORE BLEEDING, IT WAS JUST A SHOT AND THEN
15 SHE DIED QUICKLY. IT IS POSSIBLE THAT SOME OF THE
16 MORE SUBARACHNOID BLEEDING THAT WAS ASSOCIATED WITH
17 GUNSHOT WOUND NUMBER 1 WAS BECAUSE OF HITTING
18 LARGER VESSELS OR LYING IN A POSITION TO MAKE THE
19 BLEEDING MORE PROMINENT POST-MORTEM.

20 Q. DOCTOR, I AM GOING TO ASK YOU TO LOOK AT WHAT
21 HAS BEEN MARKED STATE'S 17 I BELIEVE RIGHT NOW FOR
22 IDENTIFICATION.

23 TELL ME IF YOU CAN -- YOU CAN TAKE THAT OUT OF
24 THERE IF YOU NEED TO.

25 A. STATE'S EXHIBIT NUMBER 17 IS A SOUTH CAROLINA

1 LAW ENFORCEMENT DIVISION EVIDENCE BAG. IT HAS
2 TAMMY LYNN MUNN'S NAME, IT HAS THE CASE NUMBER
3 FA00479, IT HAS THE COUNTY, KERSHAW COUNTY, IT HAS
4 THE DATE OF OCTOBER 15TH. MARKED ON THIS BAG IS
5 FOR THE BULLET THAT WAS RETRIEVED AT AUTOPSY. IT
6 HAS A VIAL THAT IS LABELED WITH THE CASE NUMBER AND
7 THE DATE AND THE TAMMY LYNN MUNN NUMBER AND THE
8 COUNTY, AND IT CONTAINS A BULLET THAT I NEED TO
9 COMPARE WITH THE PICTURES I HAVE OF THE BULLET THAT
10 I TOOK OF THEM.

11 MR. MEADORS: BEG THE COURT'S INDULGENCE.

12 (PAUSE.)

13 A. THAT BAG HAS THE BULLET THAT I EXTRACTED FROM
14 INSIDE THE HEAD OF MS. TAMMY LYNN MUNN COMPARING IT
15 TO THE PICTURES THAT I TOOK OF THE BULLET THAT WAS
16 TAKEN OUT AT THE TIME OF THE AUTOPSY.

17 Q. THAT IS THE BULLET YOU GOT OUT OF TAMMY'S HEAD,
18 RIGHT, DOCTOR?

19 A. THAT'S CORRECT.

20 Q. AND THAT WENT WITH CORONER FELLERS AND
21 INVESTIGATOR CRAWFORD AWAY FROM YOU BACK TO SLED AS
22 FAR AS YOU KNOW, IS THAT CORRECT?

23 A. MR. JOHNNY FELLERS SIGNED FOR THE EVIDENCE THAT
24 WAS RETRIEVED AND HE SUBMITTED IT TO SLED.

25 Q. AND THAT IS COMMON PRACTICE? I MEAN, YOU DON'T

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1 KEEP THIS EVIDENCE AROUND, CORRECT?

2 A. NO. NO.

3 MR. MEADORS: WE WOULD OFFER STATE'S 17,
4 YOUR HONOR.

5 MR. ROGERS: NO OBJECTION.

6 THE COURT: OKAY.

7 (AUTOPSY BULLET RECEIVED INTO
8 EVIDENCE AS STATE'S EXHIBIT 17.)

9 Q. DOCTOR, JUST A COUPLE MORE QUESTIONS. LOOK AT
10 PAGE 1 OF YOUR REPORT FOR THE RECORD, CAUSE OF
11 DEATH. I GUESS THE GUNSHOT WOUND NUMBER 1, FATAL
12 PERFORATING INTERMEDIATE RANGE, MEDIUM CALIBER
13 GUNSHOT WOUND TO THE RIGHT SIDE OF THE HEAD WITH
14 THE RESULTS OF BRAIN PERFORATION, SKULL FRACTURES
15 AND BLEEDING; IS THAT CORRECT?

16 A. I'M SORRY, YOU SAID WHICH PAGE NOW?

17 Q. THE FRONT PAGE WHERE YOU GIVE YOUR CONCLUSIONS,
18 DOCTOR?

19 A. OH, OKAY.

20 Q. THE FINAL DIAGNOSIS, CAUSE OF DEATH?

21 A. YES.

22 Q. AND THAT WOULD BE THE SAME FOR GUNSHOT NUMBER 2?

23 A. RIGHT. THOSE GUNSHOT WOUNDS RESULTED IN BRAIN
24 LACERATIONS, SKULL FRACTURES AND BLEEDING, AND BOTH
25 OF THOSE WOUNDS CAUSED THE DEATH.

1 Q. OF TAMMY LYNN MUNN?

2 A. THAT'S CORRECT.

3 Q. AS A RESULT OF THESE GUNSHOT WOUNDS?

4 A. THAT'S CORRECT.

5 Q. DOCTOR, THAT BULLET, THE BULLET FRACTURED THE
6 SKULL, IS THAT WHAT YOUR FINDINGS WERE?

7 A. YES.

8 Q. AS WELL AS THE OTHER INJURIES?

9 A. YES. BOTH BULLETS ENTERED THE HEAD. THE FIRST
10 GUNSHOT WOUND, THE WOUND THAT WE DESIGNATED AS
11 NUMBER 1, PERFORATED THE HEAD, MEANING THAT IT
12 FRACTURED THE SKULL WHERE IT ENTERED THE SKULL AND
13 FRACTURED THE SKULL WHERE IT CAME OUT. AND THE
14 SECOND ONE JUST FRACTURED THE SKULL WHERE IT CAME
15 IN. AND WITH THE BLAST OF THE BULLETS THERE ARE
16 SKULL FRACTURES THAT RADIATE FROM THE ENTRANCE
17 WOUND. SO IT IS NOT JUST WHERE IT ENTERED, THERE
18 ARE MEDIAL FRACTURES ALSO.

19 Q. THIS IS JUST FOR THE COURT'S RECORD, COURT'S
20 EXHIBIT ONLY. DO YOU RECOGNIZE THIS?

21 A. YES, SIR.

22 Q. AND IT RELATES TO THIS? IS THIS THE BODY OF
23 TAMMY MUNN THAT YOU EXAMINED?

24 A. YES, SIR.

25 MR. MEADORS: YOUR HONOR, FOR COURT

DR. INAS Z. YACOUB--DIRECT BY MR. MEADORS

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1 PURPOSES ONLY.

2 THE COURT: ALL RIGHT.

3 MR. MEADORS: AN IDENTIFICATION OF THE
4 DECEASED'S BODY.

5 (PHOTOGRAPH OF DECEASED MARKED
6 AS COURT'S EXHIBIT 3.)

7 MR. MEADORS: THANK YOU VERY MUCH, JUDGE.
8 THAT'S ALL.

9 MR. ROGERS: YOUR HONOR, I HAVE NO
10 QUESTIONS.

11 THE COURT: YOU CAN STEP DOWN.

12 MR. MEADORS: WE WOULD ASK THAT DR. YACOUB
13 BE EXCUSED, PLEASE.

14 THE COURT: SURE.

15 MR. MEADORS: WE THANK YOU.

16 (DR. YACOUB EXCUSED.)

17 MR. MEADORS: MAY WE APPROACH?

18 THE COURT: ALL RIGHT.

19 (BENCH CONFERENCE.)

20 THE COURT: ALL RIGHT, JURORS, WE ARE JUST
21 GOING TO STOP FOR THE DAY.

22 NOW, I WILL GIVE YOU A FEW MORE MINUTES IN
23 THE MORNING, 9:30. IF I SAY 9:10, EVERYBODY
24 DOESN'T GET HERE, I DON'T KNOW WHY.

25 SO DON'T TALK ABOUT THE CASE TONIGHT, DON'T

JURY OUT

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1 TALK TO ANYBODY ABOUT ANYTHING THAT HAS HAPPENED.
2 Y'ALL ARE GOING TO HAVE TO DECIDE IT BASED ON WHAT
3 TRANSPIRES IN HERE.

4 HAVE A GOOD NIGHT. SEE Y'ALL IN THE
5 MORNING.

6 (WHEREUPON, THE JURY WAS EXCUSED
7 FOR THE DAY.)

8 (WHEREUPON, THE FOLLOWING TAKES
9 PLACE OUTSIDE THE PRESENCE OF
10 THE JURY.)

11 THE COURT: MR. McMAHON, YOU WANTED TO SAY
12 SOMETHING ABOUT WHAT HAPPENED WHEN INVESTIGATOR
13 PHIL CRAWFORD WAS INTERVIEWED BY YOU, AND SO FORTH?

14 MR. McMAHON: YES, SIR. ACTUALLY ALL I
15 WANTED TO DO IS PUT ON THE RECORD THAT, AS I
16 UNDERSTOOD IT, AND I WANT TO MAKE SURE I UNDERSTOOD
17 THE RECORD CORRECTLY, THAT MR. ROGERS AND, BY
18 VIRTUE OF HIS STATEMENT, MR. RANKIN WERE AWARE OF
19 THE CIRCUMSTANCES OF THE DEFENDANT WALKING OUT OF
20 THE WOODS, COMING UP TO INVESTIGATOR CRAWFORD,
21 ASKING INVESTIGATOR CRAWFORD, "ARE YOU LOOKING FOR
22 ME?"; INVESTIGATOR CRAWFORD RESPONDING, "I DON'T
23 KNOW, WHO ARE YOU?"; HIM TELLING HIM, "I'M LARRY
24 CHILDERS"; "YES, I AM"; AND THAT THE TRUCK WAS IN
25 THE WOODS.

JURY OUT

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1 AS I UNDERSTAND IT, THERE IS NO OBJECTION
2 TO ANY OF THAT, THAT THE ONLY OBJECTION WAS HE
3 DIDN'T -- WAS NOT AWARE OF THE FURTHER STATEMENT
4 THAT THE GUN WAS IN THE GLOVE COMPARTMENT.

5 SO AS I UNDERSTAND IT, HIS ONLY OBJECTION
6 ON THE DISCOVERY ISSUE WAS THAT THE GUN WAS IN THE
7 GLOVE COMPARTMENT.

8 THE COURT: HIS OBJECTION WAS THAT HIS
9 PREDECESSOR IN REPRESENTATION, MR. RANKIN,
10 SPECIFICALLY ASKED, WHICH I DON'T KNOW, FOR ALL
11 WRITTEN AND ORAL STATEMENTS MADE BY THE DEFENDANT,
12 AND THAT THE STATEMENT, "THE GUN IS IN THE TRUCK,"
13 OR WHATEVER, WAS NOT DISCLOSED TO DEFENSE COUNSEL.
14 THAT IS HIS OBJECTION.

15 HE REPRESENTS THAT HE WOULD HAVE REQUESTED
16 A HEARING ON ITS ADMISSIBILITY HAD HE KNOWN THAT,
17 WHICH HE WOULD HAVE.

18 I INDICATED TO HIM AS IT WAS RELATED, EVEN
19 HAD HE ASKED FOR A HEARING THAT STATEMENT COMES IN
20 BECAUSE IT IS NOT INQUISITORIAL FROM LAW
21 ENFORCEMENT, IT IS JUST PART OF WHAT HE SAID.

22 MR. McMAHON: AND I JUST WANTED TO
23 CLEARLY---

24 THE COURT: THAT'S ALL.

25 MR. McMAHON: I JUST WANTED TO CLEARLY

1 REFLECT, I THINK RULE 5(A), 1(A), THAT IT NOT BEING
2 IN RESPONSE TO THE CUSTODIAL INTERROGATION, THAT IT
3 WOULD NOT BE, AND THIS IS ONLY FOR PURPOSES OF THE
4 RECORD, YOUR HONOR, THAT IT WOULD NOT BE A
5 DISCOVERY VIOLATION, ALTHOUGH HAD I KNOWN HE WAS
6 NOT AWARE OF THAT I WOULD HAVE DISCLOSED IT TO HIM
7 BECAUSE THAT IS MY NORMAL PRACTICE TO DISCLOSE ALL
8 STATEMENTS TO A DEFENSE LAWYER, ORAL STATEMENTS
9 THAT A DEFENDANT HAS MADE. I WAS NOT AWARE THAT HE
10 WAS NOT AWARE OF THAT SMALL PHRASE WITHIN THAT
11 STATEMENT, BUT I STILL DON'T THINK IT IS A
12 DISCOVERY VIOLATION, YOUR HONOR.

13 THE COURT: WELL, THAT IS YOUR POSITION
14 FOR RECORD PURPOSES. I HAVE ALREADY RULED.

15 MR. McMAHON: I UNDERSTAND.

16 THE COURT: AND YOU ARE STUCK WITH THAT.

17 MR. McMAHON: I UNDERSTAND. THANK YOU,
18 YOUR HONOR.

19 THE COURT: OKAY.

20 MR. ROGERS: AND, YOUR HONOR, IF I COULD
21 JUST RESPOND ONE MORE TIME, OUR POSITION IS VERY
22 SIMPLE, WE FEEL LIKE IT WAS A VERY PREJUDICIAL
23 STATEMENT, PROPER DISCOVERY MOTIONS HAD BEEN FILED,
24 WE DON'T ALLEGE ANY MALICE OR ANYTHING ON BEHALF OF
25 THE---

JURY OUT

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1 THE COURT: SURE.

2 MR. ROGERS: ---SHERIFF'S DEPARTMENT OR
3 THE SOLICITOR'S OFFICE. HOWEVER, THIS IS A VERY
4 IMPORTANT MATTER. WE WOULD HAVE TAKEN THE POSITION
5 AFTER CONFERRING WITH MY CLIENT TODAY AND WE WOULD
6 HAVE TAKEN A POSITION IN A HEARING THAT MR.
7 CHILDERS WAS IN CUFFS AT THE TIME AND THAT ANY
8 INFORMATION HE GAVE WAS IN RESPONSE TO A QUESTION
9 ASKING HIM WHERE THE TRUCK WAS LOCATED.

10 THE COURT: OKAY.

11 MR. McMAHON: SEE THERE, JUDGE, NOW HE
12 CHANGED, BECAUSE HE WAS AWARE OF THAT. THAT IS THE
13 POINT I WAS TRYING TO MAKE FOR THE RECORD. HE HAD
14 ALREADY AGREED---

15 THE COURT: I UNDERSTAND THAT.

16 MR. McMAHON: AND THAT IS WHY I DIDN'T
17 WANT THE RECORD CONFUSED ON THAT ISSUE, THAT HE
18 NEVER OBJECTED AND HAD KNOWLEDGE OF THE FACT THAT
19 HE MADE THE STATEMENT, "THE TRUCK WAS IN THE WOODS,"
20 NOT IN RESPONSE TO CUSTODIAL INTERROGATION.

21 THE COURT: HE WAS AWARE OF THAT. MR.
22 MEADORS---

23 MR. McMAHON: YES, SIR.

24 THE COURT: ---EVEN MADE THAT STATEMENT IN
25 HIS OPENING STATEMENT.

DEFENDANT'S RIGHT TO TESTIFY

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1 MR. McMAHON: THAT IS WHAT I WANTED THE
2 RECORD TO BE CLEAR ON.

3 MR. ROGERS: OF COURSE, IN REGARDS TO THE
4 STATEMENT THAT CAME IN EVIDENCE TODAY, I HAD TO
5 OBJECT BASED UPON HAVING VERY LITTLE CONVERSATION
6 WITH MY CLIENT.

7 THE COURT: I UNDERSTAND. EVERYBODY HAS
8 TO DO WHAT THEY CAN TO REPRESENT THEIR RESPECTIVE
9 INTEREST.

10 MR. MEADORS: NINE-THIRTY?

11 THE COURT: WE NEED EVERYBODY HERE AND
12 READY ROLL AT 9:30. IF Y'ALL NEED TO TAKE UP
13 ANYTHING BEFORE THAT, I AM HERE ABOUT 8 O'CLOCK,
14 YOU KNOW.

15 MR. MEADORS: THANK YOU, JUDGE.

16 THE COURT: MR. McMAHON?

17 MR. McMAHON: YES, SIR?

18 THE COURT: IN THE EVENT THAT Y'ALL REST
19 IN THE MORNING, WHICH I DON'T KNOW, I DON'T KNOW
20 WHETHER Y'ALL ARE GOING TO REST OR NOT, I AM NOT
21 TYING YOU TO THAT, BUT IF YOU COME IN HERE AT 9:30
22 AND REST, THEN I'VE GOT TO TELL THE DEFENDANT THAT
23 HE HAS A RIGHT TO TESTIFY, AND SO FORTH.

24 SINCE HE IS HERE NOW, AND I WILL REITERATE
25 THAT TO HIM, BUT HE'S GOT ALL NIGHT TO THINK ABOUT

DEFENDANT'S RIGHT TO TESTIFY

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1 IT.

2 WHENEVER THEY REST, THEY MAY PUT UP ANOTHER
3 WITNESS, MR. CHILDERS, THEY MAY NOT, OR THEY MAY
4 PUT IN SOME OTHER EVIDENCE, IF THEY SAY "WE REST,"
5 THEN IT IS INCUMBENT UPON YOU TO GO FORWARD OR NOT.
6 THAT IS YOUR CHOICE.

7 IF YOU ELECT NOT TO TESTIFY, CERTAINLY I
8 WOULD INSTRUCT THE JURY NOT TO CONSIDER THAT ON
9 WHETHER YOU COMMITTED THE CRIME OR NOT. GOOD
10 REASONS FOR TESTIFYING, GOOD REASONS FOR NOT
11 TESTIFYING. THE SAME FOR PUTTING UP OTHER
12 WITNESSES, AND SO FORTH.

13 MR. ROGERS WILL DISCUSS THAT WITH YOU, BUT
14 I JUST DIDN'T WANT TO HIT YOU WITH THAT BLIND IN
15 THE MORNING. JUST TALK TO HIM TONIGHT, YOU KNOW,
16 AND THINK ABOUT WHAT DEFENSES, IF ANY, YOU ARE
17 GOING TO PRESENT. AND IF YOU ELECT NOT TO PUT ANY
18 DEFENSE UP, I WOULD TELL THE JURY THEY COULDN'T
19 CONSIDER THAT ON WHETHER THE STATE HAD MET ITS
20 BURDEN OF PROOF.

21 AND WHENEVER THEY REST I WILL TELL YOU THAT
22 AGAIN IN THE MORNING, BUT, YOU KNOW, SINCE YOU ARE
23 ---

24 MR. CHILDERS: HERE.

25 THE COURT: ---HERE, AND YOU ARE GOING TO

1 HAVE ALL NIGHT TO THINK ABOUT ONLY THIS CASE, THAT
2 IS ANOTHER THING TO THINK ABOUT, WHETHER YOU ARE
3 GOING TO TESTIFY OR NOT.

4 OKAY, WE ARE THROUGH FOR THE DAY.

5 MR. McMAHON: JUDGE, I AM RETURNING
6 STATE'S EXHIBIT 5 TO THE COURT REPORTER.

7 THE COURT: ALL RIGHT.

8 MR. McMAHON: THANK YOU.

9 (WHEREUPON, AT 5:50 P.M. COURT
10 ADJOURNED FOR THE DAY.)

11 (WHEREUPON, AT 9:30 A.M. ON 4/20/01
12 THE TRIAL RESUMED.)

13 APRIL 20, 2001

14 THE COURT: I UNDERSTAND THE JURY IS
15 PRESENT. WE ARE WAITING ON MS. McDONALD.

16 (MS. McDONALD ENTERS COURTROOM.)

17 MR. ROGERS?

18 MR. ROGERS: YES, YOUR HONOR.

19 THE COURT: HOW ARE THINGS GOING, PRETTY
20 GOOD?

21 MR. ROGERS: PRETTY GOOD, YOUR HONOR.

22 THE COURT: MS. McDONALD ADVISED ME THAT
23 SHE HAS MADE A MISTAKE, I THINK. YOU GAVE HER THAT
24 BAG, AND APPARENTLY SOME DEPUTIES ASKED HER IF THEY
25 COULD SEARCH THE BAG, PROBABLY FOR WEAPONS, OR

JURY OUT

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1 WHATEVER, I DON'T HAVE THE DETAILS. SHE PERMITTED
2 THEM TO DO THAT WITHOUT ANY AUTHORIZATION. I OF
3 COURSE DON'T KNOW WHAT WAS IN THE BAG OR WHATEVER.
4 YOU I ASSUME KNOW WHAT WAS IN THE BAG. IF THERE
5 WAS ANYTHING IN THE BAG THAT COULD BE USED FOR THE
6 PROSECUTION, I WOULD CERTAINLY BAR THAT, OR YOU
7 MIGHT WANT TO QUESTION MS. McDONALD AS TO THE
8 CIRCUMSTANCES. I JUST TOLD HER TO HOLD IT, WE
9 WOULD HAVE TO CLEAR IT IN THE COURTROOM, BECAUSE
10 YOU SHOULD HAVE BEEN PRESENT AT LEAST OR
11 AUTHORIZATION SHOULD BE OBTAINED. I DON'T KNOW
12 WHICH DEPUTIES IT WAS OR WHAT THEY SAW OR WHAT WAS
13 IN THERE.

14 MR. ROGERS: YOUR HONOR, I BELIEVE I WOULD
15 NEED TO TALK TO MS. McDONALD ABOUT THAT. THAT IS
16 THE FIRST I KNEW ABOUT IT.

17 THE COURT: THAT'S WHAT I'M SAYING. THERE
18 SHE IS. DO YOU NEED TO CALL HER, SWEAR HER?

19 MR. ROGERS: I DON'T BELIEVE SO, YOUR
20 HONOR.

21 JOYCE?

22 MS. McDONALD: YES, SIR.

23 MR. ROGERS: WHO WENT THROUGH THE BAG?

24 MS. McDONALD: KIRK CORLEY AND ERIC
25 TISDALE.

1 MR. ROGERS: AND WHEN WAS THIS?

2 MS. McDONALD: THIS WAS RIGHT AFTER 5
3 O'CLOCK. IT WAS IN MY OFFICE.

4 MR. ROGERS: AND DID THEY TELL YOU WHAT
5 THE PURPOSE OF THE SEARCH WAS?

6 MS. McDONALD: NO, SIR.

7 MR. ROGERS: WAS THE SEARCH IN YOUR
8 PRESENCE?

9 MS. McDONALD: YES, SIR.

10 MR. ROGERS: WAS ANYTHING REMOVED FROM THE
11 BAG?

12 MS. McDONALD: A TENNIS SHOE WAS TAKEN OUT
13 AND LOOKED AT AND A PIECE OF PAPER.

14 MR. ROGERS: WERE THEY RETURNED IN THE
15 BAG?

16 MS. McDONALD: YES, SIR, THEY PUT IT BACK
17 IN THE BAG.

18 MR. ROGERS: WAS ANYTHING ELSE TAKEN OUT
19 OF THE BAG?

20 MS. McDONALD: NO, SIR.

21 MR. ROGERS: WAS THE BAG SEARCHED FOR
22 WEAPONS?

23 MS. McDONALD: THEY DIDN'T GO ANY FURTHER
24 IN THE BAG, JUST TOOK OUT THE TENNIS SHOE AND PIECE
25 OF PAPER, THAT'S ALL.

JURY OUT

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1 MR. ROGERS: WHAT WAS SAID?

2 MS. McDONALD: THE ONLY THING THAT WAS
3 SAID WAS ON THE BOTTOM OF THE SHOE THEY LOOKED FOR
4 A SIZE, SAW THE SIZE WAS 10. THAT IS ALL I
5 REMEMBERED. IF I'M NOT MISTAKEN, IT WAS SIZE 10.

6 MR. ROGERS: AND THEY DID NOT GIVE ANY
7 EXPLANATION AS TO THE PURPOSE OF THE SEARCH, IS
8 THAT CORRECT?

9 MS. McDONALD: NO, SIR, THEY JUST ASKED IF
10 THEY COULD SEE THE BAG.

11 MR. ROGERS: THANK YOU.

12 THE COURT: ONE OTHER THING. MS. McDONALD
13 MENTIONED TO ME THERE WAS A PAPER IN THERE. I
14 DON'T KNOW WHAT IT WAS OR ANYTHING, THAT THEY MAY
15 HAVE LOOKED AT A PAPER OR A SHEET OF PAPER, OR
16 WHATEVER. I MEAN, FOR ALL I KNOW IT SAYS "LARRY
17 CHILDERS' CLOTHES," YOU KNOW, BUT YOU WOULD KNOW
18 WHAT PAPER WAS IN THERE, AND IT WOULD STILL BE IN
19 THERE, WHATEVER IT WAS.

20 MR. ROGERS: MS. McDONALD, MAY I INSPECT
21 THE BAG?

22 MS. McDONALD: YES, SIR.

23 (MR. ROGERS INSPECTS THE BAG.)

24 MR. ROGERS: YOUR HONOR, HONESTLY I DON'T
25 KNOW HOW TO ADDRESS THAT. OBVIOUSLY IT IS PROPERTY

1 OF THE DEFENDANT GIVEN TO THE CLERK OF COURT FOR
2 SAFEKEEPING. IT WAS PROPERTY THAT HAD BEEN
3 RETURNED TO THE DEFENDANT. IT WAS NO LONGER IN THE
4 CUSTODY OF THE STATE OR THE DETENTION CENTER OR THE
5 SHERIFF'S DEPARTMENT.

6 I BELIEVE IN ORDER FOR IT TO BE SEARCHED
7 THERE SHOULD HAVE BEEN A CONSENT OR A SEARCH
8 WARRANT.

9 THE COURT: THAT'S RIGHT, THERE IS NO
10 QUESTION ABOUT IT.

11 MR. ROGERS: AND---

12 THE COURT: OR AT LEAST I DON'T HAVE ANY
13 QUESTION ABOUT IT, AND I AM THE ONLY JUDGE I SEE
14 AROUND HERE.

15 MR. ROGERS: I WOULD OBJECT TO ANY
16 TESTIMONY OR EVIDENCE BEING PRESENTED AT THIS
17 POINT. THE STATE HAS NOT RESTED. I WOULD OBJECT
18 TO ANY TESTIMONY OR EVIDENCE BEING PRESENTED BASED
19 UPON THE STATE'S KNOWLEDGE OF WHAT IS IN THAT BAG.

20 THE COURT: RIGHT. I SO ORDER THAT. OF
21 COURSE, I DON'T KNOW WHAT IS IN THE BAG, BUT SINCE
22 YOU DO YOU CAN OBJECT.

23 IS THE STATE READY TO PROCEED?

24 MR. McMAHON: THE STATE'S READY, YES, SIR.
25 I WANT TO MAKE SURE, YOUR HONOR, I AM GOING TO

JURY OUT

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1 RECALL A WITNESS THIS MORNING, LIEUTENANT TISDALE.
2 AND LOOKING AT RULE 611(D), I THINK I AM CALLING
3 HIM ABOUT NEW MATTER. HOWEVER, IF I'M NOT, PERHAPS
4 I HAVE TO HAVE THE -- NOT PERHAPS, I HAVE TO HAVE
5 THE AUTHORITY OF THE COURT TO RECALL THAT WITNESS,
6 AND I WANT TO MAKE SURE I AM COMPLYING WITH THIS
7 RULE.

8 THE COURT: WELL, YOU CAN RECALL HIM. I
9 MEAN, YOU JUST DIDN'T TIE IT ALL UP ABOUT THE
10 SHOES.

11 MR. McMAHON: YES, SIR. THAT IS THE ONLY
12 ISSUE I'M GOING TO SPEAK TO IS STATE'S EXHIBIT
13 NUMBER 11 FOR IDENTIFICATION.

14 THE COURT: IT IS REALLY NOT CONTESTED IT
15 WAS HIS SHOE, I DON'T THINK. THE CHAIN OF CUSTODY
16 HASN'T BEEN ESTABLISHED.

17 MR. ROGERS: WELL, YOUR HONOR, I OBJECT,
18 AND I OBJECT TO RECALLING OF A WITNESS. NUMBER
19 ONE, IT DOES HAVE SOMETHING TO DO WITH THE SHOE,
20 BUT WHAT IT HAS TO DO WITH THE SHOE THAT THE COURT
21 MAY NOT BE AWARE OF AT THIS POINT IS THE TESTIMONY
22 HAS BEEN THAT THE SHOES WERE REMOVED FROM MY
23 CLIENT'S FEET.

24 THE FACT OF THE MATTER IS, AND THE REASON
25 DEPUTY--INVESTIGATOR CORLEY AND INVESTIGATOR

1 TISDALE WANTED TO LOOK IN THE BAG IS THE SHOES THAT
2 HE WAS ARRESTED IN WERE AT THE DETENTION CENTER AND
3 RETURNED TO HIM IN THIS BAG YESTERDAY.

4 AND, YOUR HONOR, I DON'T BELIEVE IT IS A
5 NEW MATTER. IF IT IS A NEW MATTER, IT IS A MATTER
6 THAT HAS BEEN DISCOVERED BASED---

7 THE COURT: THE IMPRESSION THAT THE JURY
8 HAS, MR. McMAHON, IS THAT THE SHOES WERE TAKEN FROM
9 THE DEFENDANT WHEN HE WAS ARRESTED.

10 MR. McMAHON: THAT IS FROM ONE WITNESS,
11 YES, SIR.

12 THE COURT: THAT'S ALL THAT WE'VE HEARD.

13 MR. McMAHON: YES, SIR.

14 THE COURT: NOW, I KNOW NOTHING OF THE
15 CASE OTHER THAN WHAT HAS BEEN TESTIFIED TO. THERE
16 IS TESTIMONY THAT HIS HOUSE WAS ENTERED WITHOUT A
17 SEARCH WARRANT AND ITEMS WERE TAKEN FROM THERE.

18 MR. McMAHON: NOT THOSE.

19 THE COURT: I DON'T KNOW THAT. I'M JUST
20 SAYING---

21 MR. McMAHON: I UNDERSTAND.

22 THE COURT: ---THE POSITION. SO WHEN MR.
23 ROGERS MAKES THAT IT SEEMS TO ME THAT YOU SHOULD
24 HAVE COVERED THAT WHEN YOU HAD HIM IN THERE. IF
25 THE SHOES WEREN'T ON HIM, THEN THAT IS A DIFFERENT

JURY OUT

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1 SITUATION.

2 MR. McMAHON: YES, SIR, AND I'M SAYING I
3 CAN CALL THIS WITNESS TO CLEAR THAT MATTER UP AS TO
4 WHERE THOSE SHOES CAME FROM AND HOW THOSE SHOES TIE
5 IN TO THIS WITNESS.

6 AND I WILL SAY THIS: THIS HAS NOTHING TO
7 DO WITH WHATEVER IS IN THAT BAG. NOTHING
8 WHATSOEVER TO DO WITH WHATEVER IS IN THAT BAG. I
9 DIDN'T KNOW ANYTHING ABOUT A BAG OR WHAT WAS OR WAS
10 NOT IN A BAG.

11 THE COURT: WELL, THAT---

12 MR. McMAHON: I---

13 THE COURT: WHOA. THAT IS A POSITION.
14 MR. ROGERS' POSITION IS WHAT IS IN THAT BAG IS WHAT
15 HE HAD ON HIS FEET, AS I---

16 MR. McMAHON: I DON'T HAVE ANY OBJECTION.
17 I'M SAYING THAT ME OFFERING THIS WITNESS HAS
18 NOTHING TO DO WITH MY KNOWLEDGE OF WHAT IS IN THE
19 BAG BECAUSE I DON'T KNOW WHAT IS IN THE BAG. I
20 INFORMED THE COURT BEFORE WE BROKE YESTERDAY THAT I
21 WOULD ATTEMPT TO RECALL A WITNESS TO CLARIFY THE
22 BOOTS, AND I DIDN'T KNOW ANYTHING ABOUT A BAG UNTIL
23 THIS MORNING, AS FAR AS THAT IS CONCERNED.

24 THE COURT: I UNDERSTAND ALL OF THE ABOVE.

25 MR. McMAHON: YES, SIR.

1 THE COURT: WHAT IS INVESTIGATOR TISDALE
2 GOING TO SAY ABOUT WHERE THE SHOES CAME FROM THAT
3 HE DIDN'T SAY BEFORE?

4 MR. McMAHON: HE IS GOING TO SAY THAT ON
5 NOVEMBER 16TH THAT HE AND DETECTIVE CRAWFORD MET
6 WITH DAVID REYNOLDS AND WILLIAM REYNOLDS IN
7 FOLLOWING UP ON THIS INVESTIGATION. AS A RESULT OF
8 MEETING WITH DAVID WILLIAMS[REYNOLDS] AND WILLIAM
9 REYNOLDS, THEY THEN WENT TO A LOCATION AT 307
10 COOPER STREET LOCATED IN BLYTHEWOOD. THAT WAS THE
11 RESIDENCE OF DAVID REYNOLDS. THEY HAD BEEN
12 INFORMED THAT THE DEFENDANT HAD BEEN STAYING AND
13 HAD SOME ITEMS IN A BEDROOM AT DAVID REYNOLDS'
14 RESIDENCE.

15 TISDALE AND CRAWFORD THEN GO TO 307 COOPER
16 STREET WITH CONSENT OF MR. REYNOLDS. THEY SEARCH
17 THE BEDROOM. IN THE SEARCH OF THAT BEDROOM THEY
18 SEE THOSE BOOTS AND THEY TAKE THOSE BOOTS BECAUSE
19 THE TRACK OF THOSE BOOTS IS SIMILAR TO THE TRACK
20 THAT WAS AT THE CRIME SCENE.

21 AND WHEN YOU LOOK AT STATE'S EXHIBIT NUMBER
22 11---

23 THE COURT: I'VE SEEN ALL THAT.

24 MR. McMAHON: AND, JUDGE, I WASN'T GOING
25 TO THE TRACK RIGHT NOW, I WAS GOING TO THE LABEL ON

JURY OUT

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1 THE BAG, WHICH I FAILED TO LOOK AT BECAUSE I DIDN'T
2 SEE THE BAG. IT HAS A CASE NUMBER, THE OFFENSE,
3 ONE PAIR OF NIKE MEN'S BOOTS, THE SUSPECT'S NAME,
4 THE VICTIM'S NAME, THE DATE, 10/16/00, THE
5 LOCATION, 307 COOPER STREET, BLYTHEWOOD, SOUTH
6 CAROLINA, BEDROOM FLOOR, RIGHT SIDE, CRAWFORD AND
7 TISDALE.

8 THAT THEREAFTER -- DETECTIVE TISDALE DID
9 NOT SAY THESE CAME OFF HIS FEET, THAT WAS A
10 DIFFERENT WITNESS -- THEREAFTER DETECTIVE TISDALE
11 WAS DIRECTED BY THE CAPTAIN TO TAKE THE BOOTS THAT
12 WAS ON HIS FEET TO SLED.

13 NOW, DETECTIVE TISDALE HAS ALREADY
14 TESTIFIED THAT ON THE 17TH HE TOOK THE NIKE BOOTS
15 TO SLED, BUT HE INTERPRETED THE DIRECTIONS BY THE
16 CAPTAIN THE BOOTS THAT WERE ON HIS FEET AT THE
17 CRIME SCENE.

18 THESE ARE THE BOOTS THAT CAME FROM COOPER
19 STREET THAT HE TOOK TO SLED THAT LIEUTENANT TISDALE
20 INTERPRETED AS THE ONES BEING ON HIS FEET AT THE
21 CRIME SCENE, THAT HE WAS FOLLOWING THE CAPTAIN'S
22 DIRECTIONS. THE CAPTAIN NEVER SAW THE BOOTS.

23 AND I SUBMIT THAT GOES TO THE WEIGHT AND
24 NOT THE ADMISSIBILITY AS FAR AS ANY INCONSISTENCY
25 BETWEEN LIEUTENANT TISDALE'S TESTIMONY AND CAPTAIN

1 THOMLEY'S TESTIMONY.

2 AND THAT'S THE SUM TOTAL. I DON'T KNOW
3 ANYTHING ABOUT THE BAG OR WHAT'S IN THE BAG, WHERE
4 THE BAG CAME FROM, OR THAT ANYBODY LOOKED IN THE
5 BAG.

6 MR. ROGERS: WELL, YOUR HONOR, I THINK IT
7 IS WELL ESTABLISHED SOMEBODY LOOKED IN THE BAG.
8 MS. McDONALD HAS INFORMED US OF SUCH.

9 MR. McMAHON: THAT IS NOT RELEVANT TO THIS
10 ISSUE, IS ALL I'M SAYING.

11 THE COURT: THAT IS A POSITION, MR.
12 McMAHON.

13 MR. ROGERS: YOUR HONOR, I STILL MAINTAIN
14 MY OBJECTION. AND IN REGARDS TO THE BOOTS, TWO OF
15 THE INVESTIGATORS ON THE CASE HAVE BOTH TESTIFIED
16 THAT HE WENT TO THE HOME OF DAVID REYNOLDS AND
17 REMOVED ITEMS BELONGING TO THE DEFENDANT THAT THEY
18 NEITHER HAD A CONSENT TO SEARCH OR A SEARCH
19 WARRANT. THAT IS ON THE RECORD. TWO WITNESSES
20 HAVE TESTIFIED AS TO THAT.

21 AND IT WOULD BE OUR POSITION THAT THAT
22 WOULD BE THE HOME OF, AT THAT TIME THE RENTED ROOM
23 OF THE DEFENDANT.

24 MR. McMAHON: WE CAN HAVE A HEARING ON
25 THAT, NOW.