

VOL. I OF II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Chesterfield County

Brooks P. Goldsmith, Circuit Court Judge

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S.C. Supreme Court

MICHAEL CHAD LAMBERT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000584

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INDEX

INDEX	i
TRIAL TRANSCRIPT (dated February 8-11, 2010)	1
APPLICATION FOR POST-CONVICTION RELIEF	500
RETURN	507
POST-CONVICTION RELIEF HEARING TRANSCRIPT (dated January 11, 2013)	512
ORDER OF DISMISSAL	579
CLERK OF COURT RECORDS	586

1

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF CHESTERFIELD) 2008-GS-13-00787
) 2009-GS-13-01118
) 2009-GS-13-01119

STATE OF SOUTH CAROLINA)
) PLAINTIFF
) vs.) TRANSCRIPT OF RECORD
) MICHAEL LAMBERT
) DEFENDANT

February 8-11, 2010
Chesterfield, South Carolina
VOLUME NO. 01 OF 04

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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GEORGE MCELVEEN,
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SAM PARKER, SHERIFF, CHESTERFIELD COUNTY

HATTIE O. GORDON
Circuit Court Reporter

MASTER INDEXVOLUME 01: MONDAY, FEBRUARY 08, 2010

Voir Dire of the Jury	11
Selection of the Jury	41
Colloquy	48
Certificate of Reporter	54

VOLUME 02: MONDAY, FEBRUARY 09, 2010

Colloquy	56
Opening Statement by Mr. Foard	80
Opening Statement by Mr. Cox	85

MICHELLE QUICK

Direct By Mr. Redmond	90
Cross By Mr. Cox	95

MARION STEPHENS

Direct By Mr. Redmond	96

REGINALD PARKER

Direct By Mr. Foard	104

JARED PURVIS

Direct By Mr. Redmond	110
Cross By Mr. Cox	113
Redirect By Mr. Redmond	115

Colloquy	115

CRAIG WALKER

1	Direct By Mr. Redmond	118
2	Cross By Mr. Cox	128
3	Redirect By Mr. Redmond	132
4	Recross By Mr. Cox	133
5	LESLIE DAVIS	
6	Direct By Mr. Redmond	134
7	Cross By Mr. Cox	156
8	Redirect By Mr. Redmond	164
9	Colloquy	165
10	Certificate of Reporter	168
11		
12	<u>VOLUME 03: WEDNESDAY, FEBRUARY 10, 2010</u>	
13	Colloquy	170
14	ANDRENA BELTON	
15	Direct By Mr. Redmond	170
16	Cross By Mr. Cox	182
17	Redirect By Mr. Redmond	186
18	ADRIENNE RILEY	
19	Direct By Mr. Redmond	187
20	Cross By Mr. Cox	198
21	TIMOTHY GRAMBOW	
22	Direct By Mr. Redmond	203
23	Cross By Mr. Cox	231
24	Redirect By Mr. Redmond	235
25	Colloquy	239

1	ROBERT O'DONNELL	
2	Direct By Mr. Foard	240
3	Cross By Mr. Cox	249
4	Redirect By Mr. Foard	251
5	STEVE BRELAND	
6	Direct By Mr. Foard	251
7	Colloquy	268
8	TIMOTHY PERRY	
9	Direct By Mr. Foard	270
10	Cross By Mr. Cox	343
11	Colloquy	344
12	Certificate of Reporter	346
13		
14	<u>VOLUME 04: THURSDAY, FEBRUARY 11, 2010</u>	
15	Colloquy	348
16	SHERRY LAWRENCE	
17	Direct By Mr. Cox	349
18	Cross By Mr. Redmond	353
19	GEORGE MCELVEEN	
20	Direct By Mr. Cox	356
21	Cross By Mr. Redmond	365
22	HOWARD WEATHERFORD	
23	Direct By Mr. Cox	367
24	Cross By Mr. Redmond	372
25	Colloquy	373

1	MICHAEL LAMBERT	
2	Direct By Mr. Cox	380
3	Cross By Mr. Redmond	420
4	Redirect By Mr. Cox	429
5	Colloquy	430
6	Closing Statement by Mr. Redmond	434
7	Closing Statement by Mr. Cox	440
8	Closing Statement by Mr. Redmond	451
9	Charge of the Court	459
10	Question No. 01 from the Jury	479
11	Question No. 02 from the Jury	481
12	Verdict of the Jury	483
13	Colloquy	485
14	Sentence of the Court	487
15	Certificate of Reporter	496
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

	STATE'S EXHIBITS			
	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1				
2				
3	1	DVD-Defendant Interviews	53	72
4	2	DVD-Animations	53	72
5	3	Memo Dated 07/25/2008	53	72
6	4	M.A.I.T. Book	53	72
7	5	Photo.	53	72
8	6	Photo.	53	72
9	7	Photo.	53	
10	8	Photo.	53	
11	9	Photo.	53	151
12	10	Photo.	53	72
13	11	Photo.	53	72
14	12	Photo.	53	72
15	13	Photo.	53	72
16	14	Photo.	53	72
17	15	Photo.	53	72
18	16	Photo.	53	72
19	17	Photo.	53	72
20	18	Photo.	53	72
21	19	Photo.	53	72
22	20	Photo.	53	72
23	21	Urine/Blood Collection Report	53	113
24	22	Implied Consent Form	53	155
25	23	Death Certificate	53	72

1	24	Body Diagram	53	72
2	25	Latent Print Blowup	53	72
3	26	DNA Report Blowup	53	72
4	27	Tox Report - Victim, Blowup	53	72
5	28	Tox Report - Defendant, Blowup	53	72
6	29	Impact Drawing Blowup	53	72
7	30	Evidence & Final Rest. Blowup	53	72
8	31	ACM Data-Speed/Brakes Blowup	53	72
9	32	Collision Location Blowup	53	72
10	33	Evidence Labels - Craig Walker	53	
11	34	Evidence Labels - Leslie Davis.	53	
12	35	DVD - Collision	53	
13	36	DVD - Photographs	102	102
14	37	Beer Cans	140	165
15	38	Swabs/Beer Cans	167	
16	39	Blood Standard - Lambert	167	
17	26B	Blowup of DNA Report	195	
18				
19				
20				
21				
22				
23				
24				
25				

DEFENDANT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	SC Driver's Manual	343	344
2	Photo	361	361
3	Phone Bill and List	389	389
4	24 Hour Timeline	393	393

	COURT'S EXHIBITS			
	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1				
2				
3	1	Jury Question No. 01	479	479
4	2	Answer to Jury Question No. 02	481	481
5	3	Jury Quesiton No. 02	483	483
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
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VOIR DIRE OF THE JURY

1
2 THE COURT: All right. I find the panel qualified
3 and we will move right on into our first business. And
4 I'll let the Solicitor call that case and we'll ask some
5 additional questions.

6 MR. REDMOND: Your Honor, the State calls the case of
7 Docket Number 08-GS-13-0787, State v. Michael Lambert,
8 charged with felony D.U.I. 09-GS-13-1118, reckless
9 homicide. And 09-GS-13-1119, involuntary manslaughter.

10 THE COURT: Ladies and gentlemen if you can have your
11 attention Y.o.u just heard the State call for trial the
12 case entitled the State v. Michael Lambert. Indicted by
13 the Grand Jury of Chesterfield County with the following
14 offenses: Involuntary manslaughter, reckless homicide and
15 felony D.U.I. Mr. Lambert is present in Court represented
16 by Mr. Jim Cox, and I need Mr. Lambert to stand and face
17 the jury at this time so I can pose the relationship
18 questions.

19 Mr. Cox is in the blue coat, and Mr. Lambert is in
20 the tan coat. Thank you very much. Do I have anybody on
21 the panel who is related by blood or marriage or have any
22 any business, social, religious or fraternal relationship
23 with Mr. Lambert? If so we need you to stand at this
24 time.

25 PROSPECTIVE JUROR: Just a relative, Your Honor.

1 THE COURT: All right. And your name or your number,
2 please.

3 PROSPECTIVE JUROR: I don't remember the number.
4 James Moss.

5 THE COURT: James Moss. And can you tell me the
6 degree of that relationship?

7 PROSPECTIVE JUROR: He is my brother in law's nephew.

8 THE COURT: Thank you, sir.

9 CLERK OF COURT: Number 152.

10 THE COURT: Yes.

11 PROSPECTIVE JUROR: 187. Mr. Lambert is involved
12 with my neighbor.

13 THE COURT: His father is your neighbor. Next door
14 neighbor?

15 PROSPECTIVE JUROR: He lives right behind us.

16 THE COURT: Thank you. Yes, sir.

17 PROSPECTIVE JUROR: Ricky Moore. Mr. Lambert and I
18 were high school classmates.

19 THE COURT: High school classmates?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Which school was that?

22 PROSPECTIVE JUROR: Chesterfield High.

23 CLERK OF COURT: Forty-nine.

24 THE COURT: Thank you, sir. Any others? I'm going
25 to call quite a few names here, potential witnesses. If

1 they are present in Court I would appreciate if you would
2 stand if your name is called for the jury can see you.
3 It's going to be the same question, ladies and gentlemen
4 of the jury, except as to these individuals. And was if
5 you are related by blood or by marriage or have any
6 business, social, religious, or fraternal relationship
7 with the particular individual we need you to respond to
8 it.

9 Michelle Quick, over to my left. Tameka Watson,
10 Marion Stephens, Reginald Parker, Dr. Reginald Parker,
11 Donnie Baker; that would be the former coroner that
12 retired. Donnie Baker from Cheraw, Craig Walker, Jarad
13 Purvis, Dr. Patel, Narendra Patel. That's spelled
14 N-A-R-E-N-D-R-A.

15 PROSPECTIVE JUROR: Sir, I work with Dr. Patel.

16 THE COURT: Okay, and your number again.

17 PROSPECTIVE JUROR: 230.

18 THE COURT: Ms. Ballard.

19 PROSPECTIVE JUROR: Yes, sir.

20 PROSPECTIVE JUROR: Judge.

21 THE COURT: Yes, sir.

22 PROSPECTIVE JUROR: I'm sorry I waited until the end.
23 I work with Dr. Parker also.

24 THE COURT: What do you do for him?

25 PROSPECTIVE JUROR: I'm a registered nurse at the

1 E.R.

2 THE COURT: Are you his direct employee or do you
3 work there with him.

4 PROSPECTIVE JUROR: I directly work with him.

5 THE COURT: He doesn't pay you?

6 PROSPECTIVE JUROR: Sir.

7 THE COURT: He does not pay you? You work for the
8 facility?

9 PROSPECTIVE JUROR: Right. I work for the hospital.

10 THE COURT: All right. Yeah, we need your number.

11 PROSPECTIVE JUROR: I'm not sure. Jeffery Jacobs.

12 THE COURT: Jeffery Jacobs.

13 CLERK OF COURT: 109.

14 THE COURT: 109, thank you. All right. The next
15 possible witness would be a record's custodian at Carolina
16 Carolina Pines Hospital. I don't have a name, but if
17 you've got anybody that's a close friend or relative that
18 you know works in the record's department over there
19 please stand at this time.

20 PROSPECTIVE JUROR: My aunt is over the record's
21 department. Her name is Jean Gainey.

22 THE COURT: Her name is what?

23 PROSPECTIVE JUROR: Jean Gainey.

24 THE COURT: And your number, please?

25 PROSPECTIVE JUROR: 182.

1 THE COURT: 182. That's Jean Gainey.

2 PROSPECTIVE JUROR: She's over medical records.

3 THE COURT: Yes, sir.

4 PROSPECTIVE JUROR: You said she works at the
5 hospital, sir?

6 THE COURT: Carolina Pines Hospital in records.

7 PROSPECTIVE JUROR: Yes, sir. My mom, she's an RN.

8 THE COURT: Okay. She doesn't work in records?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: What is her name?

11 PROSPECTIVE JUROR: Toni Brewer.

12 THE COURT: Where does she work in the hospital, do
13 you know?

14 PROSPECTIVE JUROR: She is in WCC. She's on the
15 third floor.

16 THE COURT: All right. And your number?

17 PROSPECTIVE JUROR: I don't know.

18 MR. FOARD: Number 27.

19 THE COURT: Twenty-seven. Ms. Ballard.

20 PROSPECTIVE JUROR: I worked in the E.R. at Tall
21 Pines, and we called medical records on a daily basis.

22 THE COURT: Thank you.

23 MR. REDMOND: And, Your Honor, just so that it is
24 noted I actually got a message that it is in fact going to
25 be Jean Gainey.

1 THE COURT: Jean Gainey. All right. Ballard is 230.
2 Trooper First Class L.N. Davis, Sergeant L. Plyler. I
3 assume that's Lonnie Plyler. And Sergeant M. Turner. All
4 three of those with the Highway Patrol. Tell me
5 different. I think all of them are with the patrol.

6 Andrena Belton. If I correct me if I'm wrong on
7 this. Is this Adrienne Riley.

8 MR. REDMOND: Adrienne Riley.

9 THE COURT: Adrienne Riley, Tim Grambow, Tyrone
10 Williams, Lance Corporal J.R. Shull, Jr, Lance Corporal
11 J.R. O'McDonald. No, correction. Corporal J.R.
12 O'Donnell.

13 THE BAILIFF: Juror Number 104.

14 PROSPECTIVE JUROR: My daughter is in emergency at
15 Carolina Pines Hospital. She's a registered nurse.

16 THE COURT: And what is her name, please?

17 PROSPECTIVE JUROR: Carla Allen.

18 THE COURT: That's your daughter?

19 PROSPECTIVE JUROR: My daughter.

20 THE COURT: Thank you. Sergeant S.R. Breland,
21 Corporal Johnny Rosado. Could be Rosado. That's spelled
22 R-O-S-A-D-O. Sergeant M.A. Dangerfield, Corporal J.T.
23 Perry, now retired, Darwin Cue. That's spelled C-U-E.
24 Ronnie Locklear, Larry Locklear, Henry Walker. The
25 trooper I called the name a few minutes ago, L.N. Davis,

1 his name is Leslie Davis, Trooper Leslie Davis. Sherry
2 Lawrence

3 PROSPECTIVE JUROR: I used to work out with Leslie
4 Davis.

5 THE COURT: Your number again, please.

6 PROSPECTIVE JUROR: 109.

7 THE COURT: 109, thank you. Fonzell McQueen, George
8 McElveen, Duncan Lett, Ralph Lambert, Eugene Wright,
9 William Hicks, and Linda Lewallen.

10 PROSPECTIVE JUROR: Again, I work with Linda
11 Lewallen.

12 THE COURT: And that was?

13 PROSPECTIVE JUROR: 109.

14 THE COURT: That was 109.

15 PROSPECTIVE JUROR: I work with Miss Linda at the
16 hospital.

17 THE COURT: And your number?

18 PROSPECTIVE JUROR: Fifty-two.

19 THE COURT: Number 52 works with Linda at the
20 hospital?

21 PROSPECTIVE JUROR: Right.

22 THE COURT: Yes, ma'am.

23 PROSPECTIVE JUROR: Lambert is my neighbor. Ralph
24 Lambert is my neighbor.

25 THE COURT: Okay, and your number again.

1 PROSPECTIVE JUROR: Number 187.

2 THE COURT: 187. Yes, ma'am.

3 PROSPECTIVE JUROR: I'm 29. I work with Lewallen and
4 I also know TPWHOU Marlboro Park by work with Linda
5 Lewallen and I know Reginald Parker, but not work with
6 him.

7 THE COURT: Okay. Tell us again who you work with.
8 We couldn't hear.

9 PROSPECTIVE JUROR: Yes, sir, I will. At Marlboro
10 Park, but I worked with Linda Lewallen.

11 THE COURT: Lewallen.

12 PROSPECTIVE JUROR: And I know Reginald Parker.

13 THE COURT: Reginald Parker.

14 PROSPECTIVE JUROR: But I did not work with him.

15 THE COURT: Yes, sir.

16 PROSPECTIVE JUROR: Number 53. I'm acquainted with
17 Duncan Lee.

18 THE COURT: You're Number 53, and you're acquainted
19 with?

20 PROSPECTIVE JUROR: Duncan Lee.

21 THE COURT: Duncan Lee. Okay, thank you. Yes, sir.

22 PROSPECTIVE JUROR: Number 160. I know Jared Purvis.
23 I'm a friend of his parents.

24 THE COURT: 160. Any additional potential witnesses
25 that I overlooked and that I need to add?

1 MR. REDMOND: No, sir.

2 MR. FOARD: No, Your Honor.

3 MR. COX: No, sir.

4 THE COURT: Have you or any member of your immediate
5 family or a close personal friend been the victim of or a
6 witness to any violent crime? If so we need you to stand
7 and give us your juror number and how that question
8 applies. Yes.

9 PROSPECTIVE JUROR: Robbery I saw.

10 THE COURT: On you?

11 PROSPECTIVE JUROR: Now, robbery three times. My
12 house has been broken into.

13 THE COURT: And your number again, please.

14 PROSPECTIVE JUROR: I think I'm 110.

15 THE COURT: Yes.

16 PROSPECTIVE JUROR: My Juror Number is 25. My
17 ex-brother in law was convicted of two same charges.

18 THE COURT: Thank you, sir. Yes, sir.

19 PROSPECTIVE JUROR: Number seven. My niece's husband
20 murdered someone.

21 THE COURT: I couldn't hear.

22 PROSPECTIVE JUROR: My niece's husband murdered
23 someone.

24 THE COURT: Okay. Yes, sir.

25 PROSPECTIVE JUROR: Reverend Rodger Broadway. We

1 were involved in an accident two years ago driving, and a
2 suit was involved.

3 THE COURT: Thank you, Reverend. Yes, ma'am.

4 PROSPECTIVE JUROR: My daughter's ex-husband was
5 tried and convicted of first degree manslaughter.

6 THE COURT: And your number again.

7 PROSPECTIVE JUROR: Eight.

8 THE COURT: Number Eight. Thank you. Yes, ma'am.

9 PROSPECTIVE JUROR: I'm Juror Number 105. I had a
10 good friend killed in a truck.

11 THE COURT: You had a good friend that was killed in
12 a truck?

13 PROSPECTIVE JUROR: Killed by a drunk driver in
14 Lancaster County.

15 THE COURT: 109. Yes, ma'am.

16 PROSPECTIVE JUROR: Shooting death.

17 THE COURT: You are 104? Her aunt shot -- same
18 question except add the word, 'convicted'. Let me expand
19 that. 'Accused and/or convicted. The same question. I
20 think most of you -- some of you have already responded to
21 that. Any additional?

22 Have you or an immediate family member or close a
23 friend personal friend ever been accused of and convicted
24 of D.U.I. or felony D.U.I?

25 PROSPECTIVE JUROR: Juror Number 26. I'm Lewis

1 Bragg. I had a D.U.I. in 1977.

2 PROSPECTIVE JUROR: D.U.I. 1992, I believe or in
3 1999.

4 PROSPECTIVE JUROR: Eighty-seven.

5 THE COURT: Wait a minute. Hold on. y'all are going
6 to have to speak up. Our officers cannot hear you. Yell
7 at us, please. Let's back up one. No, no, no, no. The
8 juror right before the gentlemen on the front row.

9 PROSPECTIVE JUROR: Marvin Smith. 1992, I believe it
10 was a D.U.I.

11 THE COURT: Thank you, Mr. Smith.

12 CLERK OF COURT: 191.

13 THE COURT: And once again.

14 PROSPECTIVE JUROR: Eighty-seven. I had a son
15 convicted of D.U.I. this year.

16 PROSPECTIVE JUROR: Juror 42. My husband was
17 convicted of D.U.I.

18 THE COURT: I couldn't hear the number.

19 PROSPECTIVE JUROR: Forty-two.

20 THE COURT: Forty-two.

21 PROSPECTIVE JUROR: Dillon Turner. I don't know my
22 number.

23 THE COURT: Mr. Turner.

24 PROSPECTIVE JUROR: I have a first cousin that was
25 convicted of D.U.I.

1 PROSPECTIVE JUROR: Sixty-one. My husband was
2 convicted of D.U.I.

3 PROSPECTIVE JUROR: Juror Number 103. My brother was
4 convicted of D.U.I.

5 PROSPECTIVE JUROR: Michael Jenkins. D.U.I. in 1991.
6 I don't remember my number.

7 THE COURT: Thank you, sir.

8 PROSPECTIVE JUROR: 135. D.U.I.

9 PROSPECTIVE JUROR: 110. My brother was convicted of
10 D.U.I. I don't know my number.

11 PROSPECTIVE JUROR: D.U.I. in 1992.

12 CLERK OF COURT: 198.

13 THE COURT: Your brother?

14 PROSPECTIVE JUROR: I was convicted of D.U.I. second
15 offense in 1985.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR: Homer Rollings. D.U.I. in 1991.

18 CLERK OF COURT: Number 83.

19 THE COURT: Homer Rollings. Have any of you been
20 charged or accused of being at fault in an automobile
21 accident? I'm not going to expand that out. We'll be
22 here until next year if I start expanding that to family
23 members, cousins, friends, close friends. I'll repeat
24 that. Any of you been charged or accuse of being at fault
25 in the automobile accident?

1 PROSPECTIVE JUROR: I had an accident.

2 THE COURT: And your number.

3 PROSPECTIVE JUROR: Sixty-six.

4 THE COURT: Yes, ma'am.

5 PROSPECTIVE JUROR: 157. Too fast for conditions.

6 THE COURT: Did you say 157?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Too fast for conditions?

9 PROSPECTIVE JUROR: Yes, sir.

10 PROSPECTIVE JUROR: 110. Ran a stop sign.

11 PROSPECTIVE JUROR: Twenty-six. I had a fender
12 bender last fall, and was charged with -- I believe it was
13 failure to yield.

14 THE COURT: All right.

15 PROSPECTIVE JUROR: Juror 53. Driving too fast for
16 conditions.

17 PROSPECTIVE JUROR: Juror 174. I've had two against
18 me. One was failure to yield about two years ago, and the
19 other last year, too fast for condition.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: 203. I was in an accident.

22 THE COURT: 203, thank you. Do any of those that
23 just responded, did that particular case involve fatality?
24 In other words where someone was killed? That was for the
25 ones that just responded.

1 Have any of you ever been a witness in a civil or a
2 criminal case? Reverend.

3 PROSPECTIVE JUROR: Well, a pastor in Marion, South
4 Carolina was a case involving a school child, and the
5 State situation.

6 THE COURT: Family Court?

7 PROSPECTIVE JUROR: No, it was civil court.

8 THE COURT: Civil court. And your number again,
9 please, Reverend.

10 PROSPECTIVE JUROR: Twenty-nine.

11 THE COURT: Yes, ma'am.

12 PROSPECTIVE JUROR: Breaking and entering, assault,
13 and domestic violence.

14 THE COURT: I cannot hear your. You're going to have
15 to yell at us.

16 PROSPECTIVE JUROR: I'm not sure of my number. My
17 name is Melody West. About 40 years ago I was a witness
18 in a murder trial.

19 CLERK OF COURT: 214.

20 THE COURT: Anyone else? Have any of your other
21 immediate family members presently being prosecuted by the
22 Solicitor's Office or have been prosecuted in the past by
23 the Solicitor's Office?

24 PROSPECTIVE JUROR: My brother.

25 THE BAILIFF: Juror Number 14.

1 THE COURT: I'm familiar with that one. There was no
2 criminal charge on that.

3 PROSPECTIVE JUROR: My number is 229. My nephew by
4 marriage, I think he were -- his name is Timothy Williams.

5 THE COURT: Timothy Williams.

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Anyone else? Have you or any immediate
8 family member ever been represented by Mr. Cox or Terry
9 Quinn or any of the attorneys at the Saleeby and Cox Law
10 Firm, which is over in Hartsville? Yes.

11 PROSPECTIVE JUROR: Bobby Stafford. Mr. Cox
12 represented me.

13 THE COURT: That's in the past?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Not present representation?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Anyone else?

18 MR. FOARD: What number was that, Your Honor?

19 THE COURT: What was your number, please.

20 PROSPECTIVE JUROR: I don't know.

21 THE COURT: Your name. Is your name Stafford.

22 PROSPECTIVE JUROR: Um hum.

23 THE COURT: 196. Any of you have any personal,
24 political, religious or moral convictions or you have
25 developed any prejudice or developed an opinion in this

1 matter that would make it difficult for you to sit on this
2 particular case or sit in judgment of another person?

3 PROSPECTIVE JUROR: My name is Rhonda Henderson. My
4 brother works at Mc McColl Police Department.

5 THE COURT: Thank you, ma'am.

6 MR. COX: What's her juror number again?

7 THE COURT: Your number again, please.

8 PROSPECTIVE JUROR: I don't know. Rhonda Henderson.

9 THE COURT: Rhonda Henderson.

10 CLERK OF COURT: Ninety-four.

11 PROSPECTIVE JUROR: Rodger Broadway, Number 29.

12 Having been on the receiving end of the damages caused by
13 a negligent driver, I'm a pastor and a Christian, my heart
14 is filled with a lot of bad memories. I'm not sure that
15 I'm might not be.

16 THE COURT: Thank you, sir. All right. Under our
17 particular system here in South Carolina, if you're
18 selected as a juror, it is the judge's responsibility
19 based on the evidence to determine a sentence or
20 punishment. These issues the jury are not permitted to
21 consider as factors in what your duty is.

22 In other words a juror's duty here is to accept and
23 listen and observe the evidence and follow the
24 instructions of the law from the Judge and determine guilt
25 or innocence based on the premises that in our State that

1 every defendant is indicted or charged is presumed
2 innocent until proven guilty. And that burden of proof is
3 beyond a reasonable doubt.

4 Does anybody, and I don't want you to respond to this
5 unless I have you come forward, but does anybody have an
6 opinion, believe or judgment that you cannot follow that
7 procedure if you were to be seated on this case?

8 Are you or your spouse or let me expand that.
9 Immediate family member related by blood or marriage to
10 any member of law enforcement? That is Police Department,
11 Sheriff's Department, Highway Patrol or S.L.E.D. commonly
12 called S.L.E.D. is the State Law Enforcement Division, or
13 any federal law enforcement agency. there are several of
14 those, F.B.I?

15 PROSPECTIVE JUROR: My son-in-law is.

16 THE COURT: And you're Miss Belk?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And your number?

19 THE BAILIFF: Fourteen.

20 THE COURT: And your son in law is the local trooper,
21 correct?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: What's his name?

24 PROSPECTIVE JUROR: Don D. Phillips.

25 THE COURT: Don D. Phillips.

1 PROSPECTIVE JUROR: My daughter works at the
2 Chesterfield Detention Center.

3 THE COURT: Which detention center?

4 PROSPECTIVE JUROR: Chesterfield.

5 THE COURT: Chesterfield. And your number.

6 PROSPECTIVE JUROR: I'm not sure.

7 CLERK OF COURT: 119.

8 THE COURT: 119. Okay. Yes, sir.

9 PROSPECTIVE JUROR: James Moss. Several members of
10 my family are in law enforcement.

11 CLERK OF COURT: 153.

12 THE COURT: Are any of them here in the County?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR: My son is a police officer. He
16 is now.

17 THE COURT: What's his name.

18 PROSPECTIVE JUROR: Jason Shoemake.

19 THE COURT: And your number?

20 PROSPECTIVE JUROR: 189.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: My son-in-law is employed with
23 Chesterfield County and also works for the Cheraw Rescue
24 Squad.

25 THE COURT: His name?

1 PROSPECTIVE JUROR: David Russell.

2 THE COURT: And your number?

3 PROSPECTIVE JUROR: Fifty-two, I believe. 53.

4 THE COURT: What is your name?

5 PROSPECTIVE JUROR: Craig.

6 THE BAILIFF: Fifty-one.

7 THE COURT: Fifty-one. Mr. Bragg.

8 PROSPECTIVE JUROR: My wife is related to the judge,
9 the circuit judge, and I don't know if that qualifies me
10 as law enforcement or not.

11 THE COURT: And her name?

12 PROSPECTIVE JUROR: Knealy Bragg.

13 THE COURT: Don't know her.

14 CLERK OF COURT: Twenty-six.

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: My daughter works at Evans
17 Correctional.

18 THE COURT: And her name.

19 PROSPECTIVE JUROR: Her name is Kim Norton.

20 THE COURT: And your number.

21 PROSPECTIVE JUROR: 187.

22 PROSPECTIVE JUROR: My brother in law work for Sam.

23 THE COURT: And what's his name?

24 PROSPECTIVE JUROR: Leland Lewis.

25 THE COURT: Wait. Hold up. Hold up. We need that

1 number.

2 PROSPECTIVE JUROR: 199.

3 THE COURT: 199. Yes, sir.

4 PROSPECTIVE JUROR: Juror Number 46. My brother in
5 law is a C.O. at the federal prison in Bennettsville.

6 THE COURT: What is his name.

7 PROSPECTIVE JUROR: Brad Chapman.

8 THE COURT: You say 146 or 46?

9 PROSPECTIVE JUROR: Forty-six.

10 THE COURT: Forty-six, okay. Any of you or your
11 spouse related to anybody working in the Attorney
12 General's Office or the Solicitor's Office? An expansion
13 on that previous question. Any of you ever been in law
14 enforcement, former law enforcement officer or retired?
15 Yes, sir.

16 PROSPECTIVE JUROR: I have a family member working in
17 the Solicitor's Office.

18 THE COURT: Her name?

19 PROSPECTIVE JUROR: Ruthie Evans.

20 THE COURT: Ms. Evans. And your number.

21 PROSPECTIVE JUROR: Sixty-six.

22 THE COURT: Number 66. An expansion on that last
23 question. You or any family member previously employed in
24 law enforcement? Have any of you or an immediate family
25 member ever been a member of or attended services at

1 Outreach for Christ Missionary Baptist Church?

2 Have any of you or immediate family member ever been
3 a member or attended services at Outreach for Christ
4 Missionary Baptist Church? Have any of you ever been a
5 member of the Masonic Lodge or the organization or the
6 Shriner's Fraternal Organization with Darrell Quick? In
7 other words that's limiting that down. If you were in any
8 lodge or Shriner's unit with Darrell Quick we need to know
9 that.

10 Have any of you or immediate family member ever
11 coached or played smallfry or Dixie Youth Basketball or
12 Baseball? Can we limit that to a particular area or would
13 that be countywide?

14 MR. COX: Countywide.

15 THE COURT: In Chesterfield County?

16 PROSPECTIVE JUROR: I coach Dixie Youth.

17 THE COURT: And your number again.

18 PROSPECTIVE JUROR: 109.

19 THE COURT: And, Reverend.

20 PROSPECTIVE JUROR: Twenty-nine. I'm umpire in
21 Jefferson and Cheraw, South Carolina. I umpire the games.

22 THE COURT: Thank you, sir. Mrs. Ballard.

23 PROSPECTIVE JUROR: Tommy helped coach smallfrye
24 basketball.

25 THE COURT: Her husband is Tommy Ballard our Tax

1. Assessor. Yes, sir.

2. PROSPECTIVE JUROR: I don't know my number. Sebren
3. Mason. I work with Basketball at South Carolina High
4. School.

5. THE COURT: And your name.

6. PROSPECTIVE JUROR: Mason.

7. THE COURT: Yes, sir.

8. PROSPECTIVE JUROR: Juror 159. I'm with the Cheraw
9. Recreation Department..

10. THE COURT: All right. Juror Number 159. And your
11. with the Cheraw Recreation Department? Yes.

12. PROSPECTIVE JUROR: I couldn't see Mrs. Quick when
13. you said Darrell's name. I work at the primary school. I
14. have contact with Miss Quick at the school.

15. THE COURT: And your number.

16. PROSPECTIVE JUROR: Sixty-two.

17. THE COURT: Have any of you or any family member ever
18. made a contribution to or participated in the raising of
19. funds for a scholarship in the name of Darrell Quick?
20. This would also include taking part in barbeque supper or
21. softball games.

22. Are any of you related by blood or by marriage or
23. have any social, business, religious or fraternal
24. relationship with Darrell Quick, now deceased, or his
25. wife, Michelle Quick, or any other of their family

1 members? Yes.

2 PROSPECTIVE JUROR: 119. Darrell Quick was the
3 resource officer at school where I teach?

4 THE COURT: I would have to defer to -- that's
5 correct.

6 PROSPECTIVE JUROR: My son, being in law enforcement,
7 he knew Darrell Quick. They were friends.

8 THE COURT: And your number again.

9 PROSPECTIVE JUROR: 189.

10 THE COURT: All right. Mr. Turner.

11 PROSPECTIVE JUROR: I'm a classmate of Miss Quick.

12 THE COURT: Have any of you been approached or had
13 anybody discuss this case with you?

14 PROSPECTIVE JUROR: Judge, 103. My daughter teaches
15 with Miss Quick.

16 THE COURT: Okay. Once again, the question is
17 anybody approached you or discussed this case with you?

18 PROSPECTIVE JUROR: Jason Moss. Certainly, I've
19 discussed it several times in the last year and a half
20 with different people.

21 THE COURT: Thank you. Do any of you have any
22 feelings or beliefs or opinions would be against a person
23 who drives a vehicle after consuming alcoholic beverages
24 whereby you couldn't be a fair and impartial juror if
25 seated? If so I want you to stand, but don't make any

1 comment, please, until I call you up.

2 Do any of you or have any of you already formed an
3 opinion as to the guilt or innocence of the defendant
4 or -- about the merits in this case. If so we need you to
5 stand or raise your right hand but don't make any comment.
6 If you have formed an opinion as to the guilt or the
7 innocence of the defendant or about the merits of this
8 case I need you to stand and give your number but don't
9 make any comment.

10 Have any of you read the newspapers or seen any press
11 coverage such as radio or heard the radio or seen any
12 television coverage about the accident that resulted in
13 the death of Darrell Quick? If you will just give us your
14 number.

15 PROSPECTIVE JUROR: Rhonda Henderson.

16 THE COURT: Hold on. Let me start in the front.
17 Your's please.

18 PROSPECTIVE JUROR: My name is Rhonda Henderson. I
19 don't know my number.

20 THE COURT: All right. Thank you, Miss Henderson.
21 Mr. Humphries.

22 PROSPECTIVE JUROR: 103.

23 THE COURT: Let's me back up. To Ms. Henderson.
24 What is it that you saw or heard?

25 PROSPECTIVE JUROR: I saw it on the television and

1 radio.

2 THE COURT: Okay. Thank you. Yes, ma'am.

3 PROSPECTIVE JUROR: My number is 49, and I know a lot
4 of police officers.

5 THE COURT: Okay. All right. That was just through
6 casual conversation?

7 PROSPECTIVE JUROR: Justin Polson. I was captain. I
8 actually worked, and it's been discussed several times.

9 THE COURT: Your number again.

10 PROSPECTIVE JUROR: I can't remember the number.

11 CLERK OF COURT: 165.

12 THE COURT: 165. Yes, ma'am.

13 PROSPECTIVE JUROR: 189. I saw it in the newspaper,
14 and discussed different things about the case.

15 PROSPECTIVE JUROR: Fifty-three. Read in the
16 newspaper.

17 THE COURT: Fifty-three. Read it in the newspaper.
18 Yes, sir.

19 PROSPECTIVE JUROR: 159. Newspaper, t.v. and several
20 members of work.

21 PROSPECTIVE JUROR: 187. I saw it in the newspaper
22 and discussed it.

23 PROSPECTIVE JUROR: 215. Read it in the newspaper.

24 THE COURT: 215, newspaper. Yes, ma'am.

25 PROSPECTIVE JUROR: I think I'm Number 54, and I read

1 it in the newspaper.

2 PROSPECTIVE JUROR: (inaudible).

3 THE COURT: Couldn't hear. Mr. Hendrix.

4 PROSPECTIVE JUROR: Read it in the newspaper.

5 THE COURT: Mr. Hendrix. Jack Hendrix.

6 CLERK OF COURT: Number 95.

7 THE COURT: Do I have any juror that cannot serve and
8 be a fair and impartial juror for any reason whatsoever I
9 want you to stand and give us your name or your number at
10 this time but don't make any further comment unless I ask
11 you? All right. Miss Henderson. Thank you. 187.

12 THE COURT: 187. Anyone else?

13 PROSPECTIVE JUROR: 104.

14 THE COURT: 104. Was it someone else? Was that all
15 of them? Once again, if you feel that you cannot be a
16 fair and impartial juror for both the State and the
17 Defendant in this case please give us your number or your
18 name at this time. All right. We'll do some further
19 questioning on those particular jurors.

20 Are there any other questions from the State or
21 Defense pose at this time?

22 MR. REDMOND: None from the State, Your Honor.

23 MR. COX: None from the Defense. Thank you, Your
24 Honor.

25 THE COURT: All right. At this time I'm going to ask

1 you not to discuss this case with each other. It's going
2 to be a little inconvenient. There will not be enough
3 seats, but I will probably need about five or ten minutes
4 to ask some further questions. I need all of you except
5 Juror Henderson, 187, and 104 to step back into the Jury
6 Assembly Room. Relax back there a few minutes, and then I
7 need -- I'm going to take those one at the time, but I
8 need them to be just within the door where we can
9 conveniently call them or should I say just outside the
10 door.

11 (WHEREUPON, the jury pool was excused from the
12 courtroom at 12:40 p.m.)

13 THE COURT: All right. Jurors clear of the courtroom
14 except for Mr. Ellison. Counsel, Mr. Ellison has got some
15 information for us. If you will tell me. You said you
16 were related to.

17 PROSPECTIVE JUROR: Miss Michelle Quick. Supposed to
18 be a cousin down the line. I went to school with her son.
19 I went to school with her son.

20 THE COURT: All right. Are you -- do you feel that
21 you could not be a fair and impartial juror seated on this
22 jury?

23 PROSPECTIVE JUROR: Could be.

24 THE COURT: You could be fair and impartial?

25 PROSPECTIVE JUROR: You said could I be fair and

1 impartial?

2 THE COURT: Right.

3 PROSPECTIVE JUROR: I don't know.

4 THE COURT: You don't think so?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: All right, sir. Now, okay, and you said
7 you were cousins?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Any questions counsel want me to pose to
10 him?

11 MR. COX: No, sir.

12 MR. REDMOND: No, sir.

13 THE COURT: You may return to your seat, Mr. Ellison.

14 PROSPECTIVE JUROR: Thank you.

15 THE COURT: In fact you can step out the door and
16 relax with the rest of them. Don't talk to anybody,
17 please.

18 PROSPECTIVE JUROR: I won't.

19 THE COURT: All right. We need Miss Henderson. Miss
20 Henderson.

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: We need to hear from you as a result of
23 your response. I think the question basically was could
24 you be fair and impartial if seated.

25 PROSPECTIVE JUROR: Well, Your Honor, my brother was

1 close with Mr. Quick. They were like best friends. They
2 were in the lodge together, and he took it hard. And I
3 don't think I could actually sit there and be truthful
4 about the situation.

5 THE COURT: Thank you. You may step back. and join
6 the others and relax there for a few minutes. Juror 187.
7 Your name, please.

8 PROSPECTIVE JUROR: Pamela Shaw.

9 THE COURT: Miss Shaw, question basically was like
10 this: Could you be a fair and impartial juror if you were
11 seated on this case, and we need to hear your response at
12 this time.

13 PROSPECTIVE JUROR: No. I think I would have
14 difficulty with that.

15 THE COURT: Tell us why.

16 PROSPECTIVE JUROR: Yes, sir. I've been knowing
17 the -- Chad for many, many years. We're close relations
18 with his family. We live on the same street, real close
19 with them. And also I have a brother that's been involved
20 in -- he's a habitual drinker and alcoholic, and I had
21 problems with his drinking and driving.

22 THE COURT: Thank you. You may rejoin the panel in
23 the back. 104. Your name, please.

24 PROSPECTIVE JUROR: Brenda Hutchinson.

25 THE COURT: Miss Hutchinson, the question was

1 basically this: Could, if you were seated on a jury,
2 could you be fair and impartial?

3 PROSPECTIVE JUROR: I don't think so.

4 THE COURT: Tell us why.

5 PROSPECTIVE JUROR: I was run off the River Hill in
6 Cheraw by a D.U.I.

7 THE COURT: Anything else?

8 MR. COX: No, Your Honor.

9 MR. REDMOND: None, Your Honor.

10 THE COURT: Thank you. You may return to the panel.
11 All right. Counsel, out of all these that we've covered
12 before this any special voir dire you want me to bring
13 them back in here?

14 MR. COX: I don't have none, Judge.

15 MR. REDMOND: None, Your Honor.

16 THE COURT: All right. What's the strikes on this.

17 MR. FOARD: Five and five.

18 THE COURT: Okay. Do y'all need a little recess?

19 MR. COX: I do. Do you plan on -- I just need a few
20 minutes to put my numbers together back.

21 THE COURT: I hate to work that far into the lunch
22 hour, but I guess for the good of everyone we would be
23 better off and go ahead and seat them and we can let the
24 rest of them go.

25 MR. COX: Okay. Let's draw them. I'm ready.

1 THE COURT: No take a few minutes. I need about two
2 or three myself.

3 MR. COX: Okay.

4 THE COURT: We'll stand at ease for about five
5 minutes.

6 (WHEREUPON, Court was in recess at 12:45 and
7 reconvenes at 12:52 p.m.)

8 SELECTION OF THE JURY

9 THE COURT: All right. I think we're ready. Okay.
10 Let's get the record clear, now. The last four, unless
11 y'all object, now, I would propose that they be excused
12 from this jury draw. And that was Ellison, Henderson,
13 Shaw and Hutchinson.

14 MR. COX: Yes, sir.

15 THE COURT: I didn't have all of their numbers, but I
16 know Shaw is 187 and Hutchinson was 104. Any objection?

17 MR. COX: None from the Defense.

18 MR. FOARD: None from the State, Your Honor.

19 THE COURT: Any other matters before we bring them
20 in?

21 MR. FOARD: No, Your Honor.

22 MR. COX: That didn't include Number 64.

23 THE COURT: Ellison.

24 MR. COX: Yes, sir.

25 THE COURT: Henderson. What is Miss Henderson's

1 number?

2 CLERK OF COURT: Ninety-four, Ms. Henderson.

3 (WHEREUPON, the jury panel enters the courtroom at
4 1:01 p.m.)

5 THE COURT: All right. Court will come to order,
6 please. Now, your name possibly could be draw out of the
7 box. If your name is called we need you to come forward.
8 Mrs. Seller's desk. Turn and face both tables where both
9 sides can get a good look at you and we're going to seat a
10 jury by useing that process.

11 Please bring your personal belongings with you in
12 case you are seated on the jury. Okay, Madam Clerk, you
13 may proceed.

14 CLERK OF COURT: Number 114, Dawn H. Johnson. What
15 says the State.

16 MR. FOARD: Please present Miss Johnson.

17 CLERK OF COURT: What says the Defense,

18 MR. COX: Seat Miss Johnson.

19 CLERK OF COURT: Have a seat in the jury box, please.
20 Number 170. Christopher Raley. What says the State.

21 MR. FOARD: Please present Mr. Raley.

22 MR. COX: Seat Mr. Raley.

23 CLERK OF COURT: Have a seat in the jury box, please.
24 Number 112, Michael S. Jenkins. What says the State.

25 MR. FOARD: Please present Mr. Jenkins.

1 CLERK OF COURT: Defense.

2 MR. COX: Excuse Mr. Jenkins from the trial of this
3 case.

4 CLERK OF COURT: You may return to your seat. Number
5 90, Tonya Leigh Sellers. What says the State.

6 MR. FOARD: Please present Miss Sellers.

7 MR. COX: Seat Ms. Sellers.

8 CLERK OF COURT: Have a seat in the jury box, please.
9 Number 183, Homer E. Rollings. What says the State.

10 MR. FOARD: Please present Mr. Rollings.

11 CLERK OF COURT: Defense.

12 MR. COX: Seat Mr. Rollings.

13 CLERK OF COURT: Have a seat in the jury box, please.
14 Number 106, William E. Hyler, Jr. What says the State.

15 MR. FOARD: Please excuse Mr. Hyler from this case.

16 CLERK OF COURT: You may return to your seat. Number
17 158, Sue J. Owens. What says the State.

18 MR. COX: Please present Mrs. Owens.

19 CLERK OF COURT: Defense.

20 MR. COX: Excuse Ms. Owens.

21 CLERK OF COURT: You may return to your seat. Number
22 101, Dorothy B. Huff. What says the State.

23 MR. FOARD: Please present Miss Huff.

24 CLERK OF COURT: Defense.

25 MR. COX: Seat Miss Huff.

1 CLERK OF COURT: Have a seat in the jury box, please.

2 Number 111, Elizabeth Jenkins. What says the State.

3 MR. FOARD: Please present Miss Jenkins.

4 CLERK OF COURT: Defense.

5 MR. COX: Seat Miss Jenkins.

6 CLERK OF COURT: Have a seat in the jury box, please.

7 Number 66, Burdette Evans. What says the State.

8 MR. FOARD: Please present Mr. Evans.

9 CLERK OF COURT: Defense.

10 MR. COX: Seat Mr. Evans.

11 CLERK OF COURT: Have a seat in the jury box, please.

12 Number 103, Steven W. Humphries. What says the State.

13 MR. FOARD: Please present Mr. Humphries.

14 CLERK OF COURT: Defense.

15 MR. COX: Excuse Mr. Humphries from the trial of this
16 case.

17 CLERK OF COURT: Return to your seat. Number 113 is
18 Ricky M. Jenkins. What says the State.

19 MR. FOARD: Please present Mr. Jenkins.

20 CLERK OF COURT: Defense.

21 MR. COX: Seat Mr. Jenkins.

22 CLERK OF COURT: Have a seat in the jury box, please.

23 Number 140, Will L. McCall. What says the State.

24 MR. FOARD: Please present Mr. McCall.

25 CLERK OF COURT: Defense.

1 MR. COX: Seat Mr. McCall.

2 CLERK OF COURT: Have a seat in the jury box, please.
3 Number 86, Sandra H. Gulledge. What says the State.

4 MR. FOARD: Please excuse Miss Gulledge from this
5 case.

6 CLERK OF COURT: You may return to your seat. Number
7 51, Eddie W. Craig. What says the State.

8 MR. FOARD: Please present Mr. Craig.

9 CLERK OF COURT: Defense.

10 MR. COX: Seat Mr. Craig.

11 CLERK OF COURT: Have a seat in the jury box, please.
12 Number 196, Robert L. Stafford. What says the State.

13 MR. FOARD: Please excuse Mr. Stafford from this
14 case.

15 CLERK OF COURT: Please return to your seat. Number
16 144, Bertha A. McInnis. What says the State.

17 MR. FOARD: Please present Miss McInnis.

18 CLERK OF COURT: Defense.

19 MR. COX: Seat the juror, please.

20 CLERK OF COURT: Have a seat in the jury box, please.
21 Number 95, Jack B. Hendrix. What says the State.

22 MR. FOARD: Please present Mr. Hendrix.

23 CLERK OF COURT: Defense.

24 MR. COX: Excuse Mr. Hendrix from the trial of this
25 case.

1 CLERK OF COURT: You may return to your seat. Number
2 110, Janet F. James.

3 THE COURT: Hold up. Hold up. Hold up. She was
4 excused?

5 CLERK OF COURT: I told him to return to his seat.

6 THE COURT: That was a strike, wasn't it?

7 CLERK OF COURT: What says the State.

8 MR. FOARD: Please excuse Miss James from this case.

9 CLERK OF COURT: You may return to your seat. Number
10 26, Lewis R. Bragg. What says the State.

11 MR. FOARD: Please present Mr. Bragg.

12 CLERK OF COURT: Defense.

13 MR. COX: Seat Mr. Bragg.

14 CLERK OF COURT: Have a seat in the jury box, please.

15 THE COURT: I do need to correct something on the
16 record. I jokingly said I never heard of his wife or
17 didn't know her. He is married to my cousin. He is
18 accurate on that. So if that makes any difference.

19 MR. COX: It doesn't make any difference. I just
20 have sympathy for the family.

21 THE COURT: Any objection?

22 MR. COX: No objection from the Defense.

23 THE COURT: Okay. We've got all 12. Let's seat
24 three, three alternates.

25 CLERK OF COURT: Number 80, Rebecca H. Gibson.

1 MR. COX: How many strikes?

2 THE COURT: You get two. They get one per alternate.

3 CLERK OF COURT: What says the State.

4 MR. FOARD: Please present Ms. Gibson.

5 CLERK OF COURT: Defense.

6 MR. COX: Seat Miss Gibson.

7 CLERK OF COURT: Have a seat in the jury box. Number
8 14, Sandra M. Belk. What says the State.

9 MR. FOARD: Please present Miss Belk.

10 CLERK OF COURT: Defense.

11 MR. COX: Excuse Miss Belk.

12 CLERK OF COURT: You may return to your seat. Number
13 157, Ashley M. Norris. What says the State.

14 MR. FOARD: Please present Miss Norris.

15 CLERK OF COURT: Defense.

16 MR. COX: Seat Ms. Norris.

17 CLERK OF COURT: Have a seat in the jury box. Number
18 190, Lisa G. Smith.

19 THE COURT: If I could get everybody on the front row
20 to just move down one, please.

21 CLERK OF COURT: What says the State.

22 MR. FOARD: Please present Ms. Smith.

23 CLERK OF COURT: Defense.

24 MR. COX: Seat Ms. Smith.

25 THE COURT: Have a seat in the jury box, please. All

1 right. Any matters concerning jury selection?

2 MR. FOARD: None from the State, Your Honor.

3 MR. COX: None from the Defense, Your Honor.

4 COLLOQUY

5 THE COURT: Thank y'all. Those of you that remain on
6 the venire thank you so much for coming in and reporting
7 and helping us in this process. What we're going to do,
8 these that would like to come back this afternoon you're
9 more than welcomed to. Otherwise, we are going to excuse
10 you for the afternoon and ask you to call in after 6:00
11 tonight for an update.

12 It may tell you to call in at another time, but we're
13 going to keep you abreast of what's going on by use of the
14 telephone call system that we have. Please make sure that
15 you have that number before you leave. And we would like
16 for you to call in between 6:00 and 7:30 if at all
17 possible. Anybody got any questions about the telephone?
18 Thank you very much.

19 (WHEREUPON, the jury pool was excused from the
20 courtroom at 1:19 p.m.)

21 THE COURT: Ladies and gentlemen now seated on the
22 jury, I've talked to counsel. We've got -- let me explain
23 this to you. You will be the finders of the facts in the
24 case. I'm the judge of the law. We've got matter of law
25 we've got to go through first. We've got to get things

1 lined up to save y'all time. In the long run give the
2 attorneys time to get all their ducks in a row so we can
3 present it.

4 Okay. With that said the good news based on that
5 we're going to excuse you for the afternoon. We need you
6 back at 10:00 in the morning. We need you to come in and
7 report -- this room going to be all right? You get to
8 witness the famous jury room that you've heard some much
9 about all these years in the press. You will report
10 there, and we'll try to get started as promptly as
11 possible.

12 If at all, please, be here by five till, okay, but no
13 later than 10:00. That may save some of you some time and
14 trouble. If you bring your cell phone before you go back
15 to deliberate, whenever that time comes, we're going to
16 have to collect them. We're under Supreme Court order
17 that we can't allow telephones in the jury room here
18 during deliberations. So if you bring them, you know,
19 you're welcomed to have them on you person, but make sure
20 they're turned off or they're on vibrate.

21 Of course, we don't want you taking calls while we're
22 trying this case cause you need to keep your attention on
23 what's going on in the courtroom. But you know if you
24 want to bring your phone just be aware that when we go
25 send you back to deliberate any issues we'll have to take

1 them. Got a lock box over there. All right. Anybody got
2 any questions? We'll try to proceed as we normally to in
3 Chesterfield County. Some counties we start at 9:00.
4 Some counties we start at 9:30. Other counties we start
5 at 10:00. It's really based on the size of the county.

6 We've got some folks that live in Wolf Pond way back
7 down towards Society Hill. Takes a while to get here. We
8 allow time for that. Plus, the attorneys have to check in
9 their offices in the morning. So traditionally, because
10 of the size of Chesterfield County we usually start at
11 10:00. Now, as we get into the week and the trial we may
12 pull that back to 9:30 or so. But we'll adjust
13 accordingly. We try to break for lunch from 12:30 to
14 1:00. Usually take an hour, hour and 15 minutes for lunch
15 and we're back.

16 We try to shut down for the evening at five o'clock.
17 It used to be years ago when I first started on the job
18 that sometimes you went to 8:30, nine o'clock at night.
19 We don't want to do that cause we've got over obligations
20 that have to be met by Court staff, and y'all have family
21 and possible social and religious obligations that you
22 have. So we've been trying to move away from that working
23 way into the night, and we try to get you out of here by
24 5:00 or 5:30 at the latest. That's how we'll operate
25 timewise.

1 Now, before you go I need to give you some
2 instructions. Do not discuss this case with anyone. Do
3 not even discuss it amongst yourselves until you are asked
4 to deliberate. When I say with anyone I mean with family,
5 too. Don't go home and discuss this case with any family
6 member. They could say something that could improperly
7 influence you.

8 Also if anybody tries to approach you in any form or
9 fashion, and there are many ways folks can attempt it now
10 days. In person, telephone, internet, all kinds of ways.
11 Do not communicate with anybody concerning this case, and
12 immediately notify law enforcement of any such attempt.
13 Should it happen during Court hours you can let me know
14 about it.

15 Okay, one last instruction I have. Avoid any press
16 coverage. Local press coverage. I don't care about
17 national news if you want to watch you know C B.S. or
18 N.B.C. or Fox News or C.N.N. The regular national hour,
19 but avoid any local television coverage and newspaper
20 coverage and radio coverage. So please don't set your
21 radio when you're going home on any local station where
22 something could be said. Once again might improperly
23 influence your in some way.

24 And as soon as the case is over then you may resume
25 your normal activities about press coverage. Counsel,

1 anything before we let them go for the day, Mr. Cox? Mr.
2 Foard?

3 MR. FOARD: No, Your Honor.

4 MR. COX: Not from the Defense, Your Honor.

5 THE COURT: All right. Y'all have a good evening,
6 and we'll see you at 10:00 in the morning. Hold on a
7 minute. Let me go ahead and take care of something that I
8 about forget about. When y'all first get here in the
9 morning get to know each other, talk with each other, and
10 I'm going to do this a little different than I normally
11 do. I usually appoint a foreperson from the list that I
12 have, but my list is a little limited at this time.

13 I'm going to let y'all get to know each other from
14 the first 12 jurors drawn. I want you to choose a
15 foreperson. Foreperson doesn't have any more authority or
16 power than any of the rest of the jurors. They just be
17 the one that communicates with the Court. And also lets
18 us know when the verdict is rendered. So if y'all will do
19 that, as soon as you get all of you together, if y'all
20 will accomplish that we'll be ready to go. Thank you very
21 much. Yes, sir.

22 JUROR: Do we have to sit in the same order we're in?

23 THE COURT: No, sir, you don't except the foreperson,
24 whoever that is, will be in this chair here and I would
25 suggest if any of you have hearing aids or hearing

1 problems let the others know so you can be seated either
2 second or third here where you can hear the witness stand
3 right here. Okay. Good question. See you in the
4 morning.

5 (WHEREUPON, the jury panel was excused from the
6 courtroom at 1:28 p.m.)

7 (WHEREUPON, State's Exhibit Nos. 1 THROUGH 35 were
8 marked for identification only.)

9 END OF TRANSCRIPT OF RECORD
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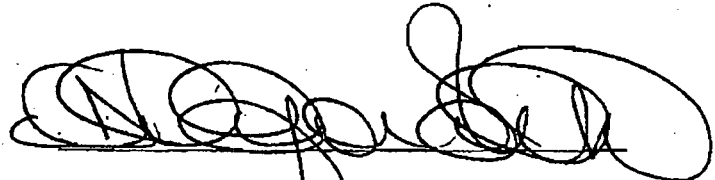
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Chesterfield County, South Carolina, on the 8th day of
February, 2010.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

July 26, 2011

A handwritten signature in black ink, appearing to read 'Hattie O. Gordon', written over a horizontal line.

HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
<u>COUNTY OF CHESTERFIELD</u>	)	2008-GS-13-00787
		2009-GS-13-01118
		2009-GS-13-01119

STATE OF SOUTH CAROLINA	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
MICHAEL LAMBERT	)	
DEFENDANT	)	

February 8-11, 2010
 Chesterfield, South Carolina
VOLUME NO. 02 OF 04

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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

KERNARD E. REDMOND, ASSISTANT SOLICITOR
 Attorney for the State

ADAM FOARD, ASSISTANT SOLICITOR
 Attorney for the State

JAMES C. COX, JR., ESQ.
 Attorney for the Defendant

Hattie O. Gordon
 Circuit Court Reporter

COLLOQUY

(WHEREUPON, a conference was held on the record in the Judge's chambers as follows:)

THE COURT: All right. Miss Faye, bring Tonya Sellers in here.

CLERK OF COURT: Juror Number 90.

THE COURT: We had a little concern that we wanted to run by you to -- just to hear from you about. Yesterday I asked a question, and I'm not sure. Did you respond or say anything about working at the same school with some of the family of the deceased?

JUROR: I talked to Miss Sellers. I thought yesterday I realized when I came down in front and got picked for the jury that this lady works at the same place that I do. I don't know anything about her or the case. I called Miss Sellers.

THE COURT: Okay. Now, tell us how that -- tell us the set up now how she works in the same facility.

JUROR: I think she's a teacher. I work in the cafeteria. I've only been working there since September of 2009. I got hired in November of 2009. So I don't really know her. I see her in the cafeteria. It's very seldom. I may say, "Hi" or "Bye," but I don't know anything about her.

THE COURT: Well, the fact that you realize that you

1 do work at a same facility does that give you any concern
2 now?

3 JUROR: Only if y'all have a concern with it. I was
4 kind of scared I'd be a conflict with y'all. It's not
5 with me cause I don't know anything that's going on as far
6 as her or anything in general with the case.

7 THE COURT: Okay. We appreciate that, but also our
8 concern back toward you is you've got to work with this
9 lady.

10 JUROR: Yeah. I don't -- like I said I only see her
11 on a daily basis in the cafeteria if she comes down. So
12 it's okay with me if it's okay with y'all. I don't know
13 what else to say. I'm nervous.

14 THE COURT: Okay. I'm going to ask you to step -- we
15 appreciate you letting Miss Faye know that, and I'm going
16 to ask you to step back. Don't discuss this with anyone.

17 JUROR: Yes, sir.

18 THE COURT: We're going to talk about it. We've got
19 to ask some other questions of some other jurors, too.

20 JUROR: Okay.

21 THE COURT: Thank you, ma'am.

22 MR. COX: I think she would be excused for the fact
23 that she knows that she's going to have to face that lady.
24 Maybe not every day. That maybe enough to sway her in
25 which way she goes on her decision.

1 MR. REDMOND: And I would just -- my retort to that
2 would be that she I mean made it clear as much as any
3 juror I've ever seen that she does not seem to exhibit any
4 concern from that standpoint, from Mr. Cox's standpoint,
5 and her response was if it's okay with her it's not going
6 to bother her -- if it's okay with us it's not won't
7 bother her at all. She was more worried about it being a
8 conflict for us rather than it was a conflict for herself.

9 MR. COX: I think she did the right thing.

10 MR. REDMOND: That being the case I think she's
11 qualified.

12 THE COURT: All right. Let's hear from Eddie Craig.

13 CLERK OF COURT: Juror Number 51.

14 THE COURT: Hey, Mr. Craig.

15 JUROR: Morning.

16 THE COURT: Have a seat. How are you doing this
17 morning?

18 JUROR: Doing good.

19 THE COURT: We needed to check with you about
20 something. Yesterday was noticed that a lady out in the
21 audience spoke with you that's possibly related to the
22 defendant.

23 MR. FOARD: I think it was this morning, Your Honor.

24 THE COURT: This morning. I'm sorry. Was anything
25 about this case discussed with you? Can you tell us about

1 what happened?

2 JUROR: No, sir. I go to church with them. I just
3 walked by and spoke with them, but she is Ralph Lambert's
4 wife, and I'm their Sunday school teacher. I didn't
5 realize that last night. I said, "Well, you know Ralph."
6 It didn't dawn on me that this is Ralph's son being tried.
7 And mine, I just -- I don't know how that would affect me
8 after trying to teach Sunday school after being on a case.
9 I don't know.

10 THE COURT: Okay.

11 JUROR: I will stay, but I want that to be known for
12 sure.

13 THE COURT: All right. I'm going to ask you if you
14 would to step back to the jury room, and we're going to
15 discuss this, and we appreciate your letting us know about
16 that. Thank you.

17 MR. REDMOND: Well, Judge.

18 THE COURT: No, I want to hear him.

19 MR. REDMOND: I was actually hoping for a couple
20 questions. The thing with him is, and the concern I've
21 got is that he was not quite as emphatic as the other lady
22 because he indicated that once he discovered that he knew
23 his father he didn't specifically say that it wouldn't be
24 a problem for him. And that was kind of left hanging. So
25 from that standpoint, Judge ---

1 MR. FOARD: And not only that, the nature of the
2 relationship between him and Mr. Lambert is different than
3 the nature of the relationship between Miss Quick and
4 Miss Sellers.

5 MR. REDMOND: And ---

6 THE COURT: All right. We're not going to sit here
7 and argue about this. Both of them are gone. So goes in
8 the box. Draw from the three alternates. Draw two, and
9 they will step up. Jim Cox taught me that.

10 CLERK OF COURT: Tell the other two they can go?

11 THE COURT: Yes. Tell them we appreciate it. The
12 rest of everybody is mine.

13 MR. COX: Wasn't there a third one that y'all had a
14 question about?

15 THE COURT: No. It was ---

16 CLERK OF COURT: She hadn't brought any concerns at
17 all. She just -- yesterday during questioning. Lisa
18 Smith, the third alternate, worked at the school where
19 Darrell Quick was a SR.

20 (WHEREUPON, conference held on the record in the
21 Judge's chambers ended and resumed in open Court.)

22 THE COURT: We've been back in chambers dealing with
23 some jury issues. We need to go on record at this time
24 that as a result of in camera interview with a couple of
25 the jurors that it appears inadvertently two jurors did

1 not respond to at least one of my questions yesterday
2 concerning business, social, religious or fraternal
3 relationship with various witnesses and parties.

4 Because of that Juror Number 90 and Juror Number 51
5 have been excused by the Court. The procedure will be to
6 take the three alternates, Madam Clerk. The first two
7 drawn out of the box will be brought up as regular jurors
8 and that will leave us one alternate. Anything for the
9 record concerning what we've done to this point; from the
10 State?

11 MR. FOARD: Nothing, Your Honor.

12 MR. COX: No, Your Honor. Thank you.

13 THE COURT: All right. Madam Clerk, if you will tell
14 us who the two are.

15 CLERK OF COURT: Okay. Will be Number 80, Rebecca H.
16 Gibson. Number 157, Ashley M. Norris.

17 THE COURT: All right. Madam Bailiff, if you will
18 retrieve Juror Number 80, Tonya Leigh Sellers, and Juror
19 Number 51, Mr. Craig. Okay, let the record reflect that
20 we've already taken care of that. Thank you, Madam Clerk.
21 All right. Anything before we?

22 MR. REDMOND: Your Honor, there are some stipulations
23 in order to save time. There are some exhibits that we've
24 been able to stipulate to. Some that we hadn't. So if
25 the Court would indulge me I'm going to actually position

1 myself so that I can let Mr. Cox look at them and confirm
2 that we have in fact agreed on these particular exhibits.

3 May it please the Court. First, State's Exhibit
4 Number One; that being the defendant's interview with both
5 Leslie Gild, that being a video, and also -- excuse me.
6 Not Leslie Gild. Rebecca Davis; that being a video
7 statement and also an audio statement conducted by Tim
8 Perry. It's on one C.D. but they're in separate files, so
9 we would be moving to introduce this at this time.

10 MR. COX: No objection.

11 THE COURT: State's Exhibit Number Two is the -- an
12 animated reconstruction. I'm sure that Mr. Cox is not
13 going to stipulate that it's accurate, but we have agreed
14 that will at least be able to get into evidence. And,
15 obviously, he is going to have an opportunity to cross
16 that. But for purposes of admitting it in the State's
17 case my understanding is that he's not to -- that was done
18 by Johnnie Rosato with the Highway Patrol based on the
19 information compiled by the rest of the M.A.I.T. Team.

20 MR. COX: We stipulate that this was the animation
21 done by Johnnie Russo -- Rosato, but we do not stipulate
22 as to the accuracy.

23 MR. REDMOND: State's Exhibit Number Three, and I
24 don't know if that's the weight letter that was submitted
25 by the transported police. We do have Mr. Williams and I

1 think we've discussed it, but we didn't ---

2 MR. COX: We do not object to it coming in evidence;
3 the weight of the two vehicles.

4 MR. REDMOND: Okay. State's Exhibit Number 4 is the
5 M.A.I.T. Team's report. I know you've had an opportunity
6 to see this. I'm sure he's going to spend quite a bit of
7 time dealing with that, but that would State's Exhibit
8 Number Four.

9 MR. COX: Defense stipulates to State's Exhibit Four
10 is the M.A.I.T. Team report, but we do not stipulate to
11 the accuracy or the conclusions reached.

12 MR. REDMOND: And State's Exhibit Number Five through
13 20 are photographs, and I try to position myself so
14 everybody doesn't see some of these photographs. State's
15 Exhibit Number Five, I think we had agreed on. That's
16 depicting the scene of the accident.

17 MR. COX: No objection to State's Exhibit Number
18 Five.

19 MR. REDMOND: Actually, I think I've covered near the
20 rail. State's Exhibit Number Six is also depicting the
21 scene of the accident.

22 MR. COX: No objection to State's Exhibit Number Six
23 and Defense has the exact photograph enlarged or one close
24 to it.

25 MR. REDMOND: State's Exhibit Number Seven, I

1 understand that we are not agreeing to. The State is
2 going to seek to have that introduced at the appropriate
3 time. That maybe something that the Court takes up during
4 the course of the testimony. As is with State's Exhibit
5 Number Eight, and State's Exhibit Number Nine, again, I
6 that's something that I don't think we can agree on, but
7 it will come up during testimony specifically with Trooper
8 Davis.

9 State's Exhibit Number Ten, I think we have been able
10 to agree on. That's depicting the accident scene with the
11 defendant's truck.

12 MR. COX: No objection to State's Exhibit Ten.

13 MR. REDMOND: State's Exhibit 11 is a close up shot
14 of a beer can near the truck of the defendant.

15 MR. COX: No objection to State's Exhibit Number 11.

16 MR. REDMOND: State's Exhibit 13 is another closer
17 shot of the same beer can?

18 MR. COX: With the wrench in there?

19 MR. REDMOND: With the wrench in there.

20 MR. COX: No objection to State's Exhibit -- what's
21 the number?

22 MR. REDMOND: I said 13. I think it's -- no, I'm
23 sorry.

24 THE COURT: What is that look like, railroad track?

25 MR. REDMOND: No, sir. This is actually a wrench I

1 believe it was. This one hadn't actually been marked yet.

2 MR. COX: Which one?

3 MR. REDMOND: It hadn't actually been marked yet.

4 State's Exhibit 13 is actually the photograph of a Natural
5 Light beer can. Again, in the -- near the truck. In the
6 vicinity of the truck.

7 MR. COX: No objection to State's Exhibit 13.

8 MR. REDMOND: State 14 is a further shot of the beer
9 can that we had discussed in the photograph that has not
10 been marked. That's the same depiction. That's actually
11 a further shot of the same -- of this same picture.

12 MR. COX: State's Exhibit 14 does not object to.

13 MR. REDMOND: State's is another shot of the Natural
14 Light bear can. Again, around the vicinity of the truck
15 that the defendant was driving.

16 MR. COX: No objection, State's Exhibit 15.

17 MR. REDMOND: State's 16 is a photograph that -- from
18 what I can see has two crushed Natural Light beer cans.

19 MR. COX: No objection to State's Exhibit 16.

20 MR. REDMOND: State's Exhibit 17 is a shot of the
21 back of the truck, bed of the truck that also shows one,
22 two, three, four advisable beer cans.

23 MR. COX: No objection, State's Exhibit 17.

24 MR. REDMOND: State's Exhibit 18 is a picture --
25 there is a wrench right there. That's the wrench right

1 there. That depicts a beer can, a crushed beer can.

2 MR. COX: No objection to State's Exhibit 18.

3 MR. REDMOND: State's 19 is a another picture of the
4 beer can inside the truck.

5 MR. COX: No objection to State's Exhibit 19.

6 MR. REDMOND: And State's Exhibit 20 is actually a
7 similar picture as I think the one three exhibits ago.
8 However, in that picture you can see one, two, three,
9 four, five -- what looks like six crushed beer cans in
10 that photo.

11 MR. COX: No objection to State's Exhibit 20.

12 MR. REDMOND: And the picture that we had indicated
13 was not marked has been covered so we would stand this one
14 down. Beg the Court's indulgence. State's Exhibit 21 is,
15 for the record, the urine collection report. We do have
16 Jared Davis -- Purvis, excuse me, here from Carolina
17 Pines, but I have not specifically discussed with the
18 Defense to see if we could agree to that one, but
19 Mr. Purvis is actually here to testify if necessary.

20 MR. COX: We do not stipulate to State's Exhibit 21.

21 MR. REDMOND: And we will be prepared to call him.
22 State's 22, I know the answer, but I'm going to ask
23 anyway; that's the Implied Consent Advisement Form.

24 MR. COX: Do not stipulate.

25 MR. REDMOND: State's 23 is the death certificate.

1 Now, I understand, and I've talked with Mr. Cox yesterday.
2 Obviously, he's not stipulating as to the cause of death
3 that is listed, however, as it relates to this being the
4 form. And it is a self-authenticating document. We would
5 submit that it is ---

6 MR. COX: No objection to State's Exhibit 23 which
7 purports to be the death certificate.

8 MR. REDMOND: And I'll sit this down with the ones
9 that are in. And then we come to State's Exhibit 24 which
10 is actually four -- we've enlarged it. It's actually four
11 poster size enlargements of the latent prints report from
12 S.L.E.D. And again the S.L.E.D. witnesses will be present
13 tomorrow. So these stipulations we hadn't specifically
14 discussed, and so if we can't stipulate, again, the
15 witnesses will be in tomorrow morning.

16 MR. COX: We stipulate to State's Exhibit 24 as far
17 as it represents ---

18 MR. REDMOND: And I misspoke.

19 MR. COX: --- the injuries to the deceased.

20 MR. REDMOND: State's Exhibit 24, and let me clarify
21 the record. State's Exhibit 24 is actually the sketch
22 done by Craig Walker who is actually here to testify
23 anyway. But my understanding was that the Defense would
24 not object to the it. I think they've got a similar one
25 enlarged themselves. Now, we get to State's Exhibit 25,

1 that being the latent prints report, and again, I'll have
2 the individuals from S.L.E.D. for the purpose of that
3 report. And it is a four page report that we have had
4 enlarged, but if we can't stipulate, again, I'll have
5 S.L.E.D. here in the morning.

6 MR. COX: As far as State's Exhibit ---

7 MR. REDMOND: Twenty-four.

8 MR. COX: Twenty-five.

9 MR. REDMOND: I said 24. Excuse me. It's 25.

10 MR. COX: It says 25-A, B, C, D. Defense does not
11 object to the latent prints reports.

12 MR. REDMOND: Thank you. And then we get to State's
13 Exhibit 26 which is actually the D.N.A. analysis; that
14 being conducted by Adrienne Riley.

15 MR. COX: Defense does not object to State's Exhibit
16 26 which is the D.N.A. Analysis Report.

17 MR. REDMOND: State's 27 I think to begin I know the
18 answer to this; that is the toxicology report on the test
19 taken -- I mean excuse me -- from the sample taken from
20 Darrell Quick, the victim.

21 MR. COX: Defense does not object to the toxicology
22 report of Mr. Quick.

23 MR. REDMOND: State's 28 is the toxicology report
24 from the defendant, Michael Lambert.

25 MR. COX: Defense does not object to State's Exhibit

1 28, which is the toxicology report for Chad Lambert.

2 MR. REDMOND: And, finally, the last group of these
3 enlargements would be State's 29; that -- and I can just
4 tell the Court State's 29, State's 30, State's 31, and
5 State's 32 are actually enlargements of the diagrams that
6 are contained in the M.A.I.T. report and we have discussed
7 these on yesterday as well.

8 MR. COX: The State has moved to introduce Exhibits
9 29, 30, 31, and 32. The Defense does not object to these
10 being admitted as being prepared by Pee Dee M.A.I.T. Team
11 but does not admit to the accuracy of them.

12 THE COURT: Understood.

13 MR. REDMOND: And State's Exhibit 35 is actually a --
14 it's a C.D. with several photographs that the State
15 intends to get into with several witnesses. That's why
16 we've get this set up here, and we have provided that to
17 the defense. We have narrowed it down, and there are
18 probably over 1,000 photographs. We've narrowed it down.
19 I think it's around 88 photograph that are contained on
20 this disk.

21 And at this point I haven't had a chance to ask this
22 to Mr. Cox. Again, we will be getting into this with
23 several of the witnesses.

24 MR. COX: Defense is not objecting to the fact this
25 is going -- this will be marked as an exhibit. You have a

1 number on it?

2 MR. REDMOND: It's 35.

3 MR. COX: Thirty-five, but we do not stipulate to the
4 admission of the individual photographs that's on there.

5 MR. REDMOND: And what we may have to do, Your Honor,
6 quite frankly, Your Honor, at an appropriate time I can
7 tell the court that the first three witnesses we will not
8 be getting into this with, but after that then we will
9 start getting into the pictures outlined on this
10 particular C.D.

11 THE COURT: When we have a little time y'all go
12 somewhere and clean up some of those up.

13 MR. REDMOND: And that's what we had actually
14 discussed doing that. Now, Your Honor, for the record
15 State's 33 and State's 34 are actually photocopies of the
16 Best Kit that the sealed bags, evidence bags submitted to
17 S.L.E.D, they are still at S.L.E.D. They will be brought
18 back with Mr. Grambow, Tim Grambow, tomorrow.

19 However, with the witnesses; that being the trooper,
20 Trooper Davis, and Craig Walker we are actually at least
21 going -- they will be able to verify that, yes, they did
22 do this particular form. This does look like an accurate
23 true copy of what they submitted, and again, we will have
24 the actual bags here tomorrow with Mr. Grambow.

25 With that, Judge, and quite frankly, with the

1 stipulations as they stand I don't know that these two
2 would be that important, but just for purposes of
3 outlining what occurred we are marking them for
4 identification only. I am not seeking to introduce those,
5 but I just wanted to make Mr. Cox aware of that. And the
6 ones that are I evidence and are not in evidence, so if
7 you need me to clean up the record I can.

8 THE COURT: Go ahead.

9 MR. REDMOND: The ones that are in evidence just for
10 recount are State's Exhibits One, Two, Three, Four, Five,
11 Six, and then we skip to 10, 11. And I see what happened.
12 11 and 12 actually got stuck on the same one. That would
13 be something that we ask the court reporter about. With
14 that just to make sure we keep them in order, Mr. Cox, we
15 actually found the sticker to Number 12. That actually
16 was number 12. Somebody put two stickers on the exhibit.

17 MR. COX: Defense does stipulate to Number 12.

18 MR. REDMOND: All right. So then we go to State's
19 Exhibits 13, 14, 15. Sticker got missing. We need
20 another sticker for 15. I don't know where that one went.
21 Sixteen, 17, 18, 19, and 20. Those are all stipulated in
22 evidence. State's Exhibit 23, and then we've got State's
23 Exhibits 24, 25, 26, 27, 28, 29, 30, 31, 32. And these
24 will be in evidence. I think I'm missing the weights
25 letter, never mind. I've got that. Let me just double

1 check.

2 Your Honor, I think that would complete it. It
3 would. With all those exhibits we would at this time move
4 those in evidence. The remaining exhibits we will get to
5 at the appropriate time. I'm going to leave those right
6 here.

7 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6,
8 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24,
9 25, 26, 27, 28, 29, 30, 31, 32 were admitted into
10 evidence.)

11 THE COURT: All right. Ready for the jury?

12 MR. REDMOND: Yes, sir, Your Honor.

13 (WHEREUPON, the jury panel enters the courtroom at
14 10:49 a.m.).

15 THE COURT: All right. Good morning, everybody.
16 Thank you for your patience this morning. We had several
17 matters that we had to take care of, issues of law. And I
18 will explain your duties in just a few minutes. What my
19 duties are and you will understand why I'm saying we had
20 to handle some matters of law which is done outside of
21 your presence. First matter I need to take care it's been
22 pointed out that a potential witness' name was left off
23 the questions yesterday.

24 So I need to inquire of you and then we will put you
25 under oath and get started with this trial. The potential

1 witness in this case is Howard Weatherford. Is anybody
2 related by blood or by marriage or have any business,
3 social, religious or fraternal relationship we Howard
4 Weatherford? Is he present.

5 MR. COX: No, sir, he's not.

6 THE COURT: Okay. He works with?

7 MR. COX: He also has a nickname, Shorty.

8 THE COURT: Shorty Weatherford.

9 MR. COX: Yes, sir. He works under contract I
10 believe with AL Smith. He's also a volunteer fireman and
11 drives an ambulance.

12 THE COURT: With the rescue squad and the fire
13 department?

14 MR. COX: Yes, sir.

15 THE COURT: That's in McBee?

16 MR. COX: Patrick.

17 THE COURT: Patrick. Anybody related by blood or
18 connected by marriage with him or have my business,
19 social, religious or fraternal relationship with him?
20 Would the fact that Howard Weatherford, better known as --
21 you said Shorty Weatherford?

22 MR. COX: Yes, sir.

23 THE COURT: Could be a potential witness in that
24 case. Will that prevent anybody from being a fair and
25 impartial juror? If so raise your right hand. Any

1 further inquiry from the State or Defense.

2 MR. FOARD: No, Your Honor.

3 MR. COX: No, Your Honor.

4 THE COURT: Second, Ricky Jenkins is foreperson of
5 the jury I'm advised. Is that connect, Mr. Jenkins.

6 JURY FOREPERSON: Yes, sir.

7 THE COURT: Keep that seat for the duration of the
8 trial. And Juror 80, Miss Gibson, and 157, Ashley Norris,
9 were moved up by draw. And then we're ready for the oath.

10 (WHEREUPON, the jury panel was sworn in at
11 10:52 a.m.)

12 THE COURT: Now, I have a few opening remarks to make
13 to you to let you know how we're going to proceed. First
14 thing will happen both sides will be given the opportunity
15 to make brief opening statements to you. It's not
16 mandatory that they do that, but they do have a right to
17 open.

18 Now, opening statement is basically to outline their
19 position in the case to you. After the opening statement
20 will come the evidentiary portion of the trial which is
21 you will receive the evidence. Evidence may take
22 different forms. It maybe testimony from this witness
23 stand. It maybe photographs. It maybe documents or other
24 type physical items. Whatever the evidence is it is
25 crucial that you listen and observe the evidence, ladies

1 and gentlemen, because you are the finders of the facts in
2 this case.

3 No one else in the courtroom including myself will be
4 allowed to find the facts. That is your exclusive and
5 sole duty. I am the judge of the law. From time to time
6 a matter of law may come up and I have to send you out to
7 resolve that matter of law. It's not meant to hide
8 anything from you or keep anything secret. It's quite
9 often that I have to check the rules of procedure and
10 evidence to make sure that whatever may be before the
11 Court is proper under those rules. So, therefore, we have
12 to send you out. So, please, bear with us from time to
13 time when we play musical chairs with you about that
14 issue.

15 But any way, I'm the judge of the law. But any --
16 the end result of any case in Court is what we call the
17 verdict. Verdict is a Latin derivative word which means
18 in effect a true saying. So it can be said that any trial
19 in our system is a search for the truth. Now, to reach a
20 verdict got basically two steps you have to go through.
21 You listen and observe the evidence. You decide what is
22 the truth evidence and apply to that evidence as you find
23 it the law of the case that I provide to you at the end of
24 this case in what we call the Judge's Charge of the Law.
25 And once you do that then you will be able to reach a

1 verdict.

2 Now, one thing I need to talk to you about is that
3 when you are at that stage of the case to reach a verdict
4 under our system it has to be a unanimous verdict. All 12
5 deliberating jurors have to be in agreement on it.

6 Now, as I said it is crucial that you listen and
7 observe the evidence, so please, do not fall asleep on me.
8 Pay attention to the evidence. Should you become drowsy,
9 attempting to fall off asleep do not do so. Let me know.
10 Where we can take a coffee break, okay. Cause that can
11 cause problems under the road if we have a juror that is
12 asleep and doesn't take part in listening to that
13 particular evidence. So I would appreciate if you would
14 forewarn me if you feel like you're getting drowsy and we
15 will take a break and try to take care of it.

16 All right. The evidence may take many different
17 forms so you need to be prepared for that. May come from
18 either side. Whatever it is if I have to rule on an
19 objection I will talk with you about that later, but
20 normally that's where an attorney is calling to my
21 attention that there maybe some violation of the rules of
22 procedure or something is not proper evidence and I have
23 to rule on it. Sometimes I take care of it immediately.
24 Sometimes I send you out.

25 When an attorney enters an objection or however I

1 rule on an objection do not hold that against a particular
2 side. That's just the way we have to go forward in a
3 trial. And I'll speak we you further about that when we
4 get to the closing argument. I mean to the Judge's charge
5 after the closing argument.

6 Now, the next thing that's after the evidentiary
7 portion of the trial will be the closing arguments and
8 that's where both sides through -- it's not a true
9 argument, but it's a statement to you that they try to
10 persuade you to see the evidence as they see it. They
11 will argue their position to you.

12 The State has the burden of proof in this case, and
13 therefore, will generally lead off first because of the
14 burden of proof. And let me speak with you about that at
15 this time. I mentioned it yesterday in some of my remarks
16 to you. In our system in South Carolina the State has the
17 burden of proof, and in a criminal case the defendant is
18 presumed innocent until proven guilty beyond a reasonable
19 doubt. That presumption will stay we the defendant right
20 through this trial until you go back and reach a verdict.

21 I will give you a full charge concerning the
22 reasonable doubt issue at the conclusion of the trial.
23 Once again, because of the way that we are set up to try
24 case, I instruct you do not discuss this case even amongst
25 yourselves until you are asked to deliberate. Of course,

1 after the closing argument will be the time that I give
2 you the charge of the law. When you are asked to
3 deliberate I will tell you now, all 12 need to be present
4 when you are deliberating. Should anybody need to take a
5 smoke break or a restroom break you will need to cease
6 your deliberations until all 12 are back together.

7 Basically, that's how we're going to proceed and we
8 will take a break every so often. If anybody needs to
9 take a break before we say get an hour and 15 minutes in
10 please let us know and we will recess for that purpose.
11 All right. That's basically how we're going to proceed.
12 Oh, yes, a lot of the judges don't allow note taking. I,
13 in over the 18 years that I've been on the bench, I really
14 haven't taken that position at any time.

15 I've always allowed not taking, but there's a rule
16 that you've got to go by if you do that. You've got to
17 keep it to yourself. You can't share it with other
18 jurors. Personally, from my experiences in college and
19 law school I would not keep notes. Now, the problem I
20 found with trying to write extensive notes is that when
21 you go to write that note down, and you've got someone on
22 the stand offering testimony or evidence while you're
23 writing that note down you may miss what they're saying
24 then.

25 Now, that's just my personal point of view. If I

1 were on the jury I wouldn't do it. If you so desire
2 you're welcomed to. All right. Now, as far as procedure
3 anybody got any questions at this time? All right. If
4 y'all will just relax and listen. It's what we're going
5 to ask you to do, and I apologize for the facilities.
6 We've got renovations hopefully coming in the future
7 especially if the economy lets up. We all know that
8 situation. If you will just bear with us and we'll try to
9 make it through.

10 Now, those chairs that you're sitting in I don't know
11 that they will throw you backwards but they will make you
12 think they will, and you could hurt your back. So be
13 careful how you adjust them. They will fool you. Okay.
14 All right. Yes, sir.

15 JUROR: What about breaks for the restroom?

16 THE COURT: All right. For if need to take a break
17 and you can't get my eye contact whoever you see that
18 might look at you at that time wave at them and just point
19 towards the jury room. And we will break immediately.
20 Okay. That's for everybody. All right. Everybody relax
21 just a minute. Okay. We've got everybody back.

22 CLERK OF COURT: No, sir.

23 THE COURT: You ready, Madam Court Reporter?

24 COURT REPORTER: Yes, sir.

25 THE COURT: All right. Okay, Solicitor.

OPENING STATEMENT BY MR. FOARD

MR. FOARD: Thank you. Your Honor, Mr. Cox, ladies and gentlemen of the jury, Darrell Quick had no idea that we would be standing here today and mentioning his name. Because on July the 23rd of 2008 Darrell Quick did not know that that would be the last time that he got up in the morning. He did not know that it would be the last time he went with his wife to run errands. He didn't know that it would be the last time that he would share a meal with her. Because on January the 23rd 2008 Darrell Quick would be tragically struck down in an accident on Highway One between McBee and Patrick here in Chesterfield County.

He did not know that on his way to go to Masonic Lodge that evening that he would be traveling down the highway; that he would meet an oncoming car. And Darrell Quick had no way of knowing that car would be driven by the Defendant, Michael Chad Lambert. Now, all throughout this day when Darrell Quick was running errands with his wife and eating lunch with her and taking a nap and getting ready to go to Mason Mr. Lambert was on his way back from Alabama.

Mr. Lambert had been traveling for an extended period of time, and Mr. Lambert had been drinking alcohol beverages along the way. Darrell Quick did not know that as he was traveling down Highway One he was going to meet

1 an oncoming car driven by an individual whose blood
2 alcohol content was twice the legal limit here in South
3 Carolina. Darrell Quick didn't know what was coming.
4 Darrell Quick had no idea that on that day his fate was
5 sealed.

6 Ladies and gentlemen, my name is Adam Foard, and I'm
7 the Assistant Solicitor for Chesterfield County. With me
8 is Kernard Redmond who is the Deputy Solicitor. He
9 services Chesterfield County as well as other counties
10 here in the Fourth Circuit. As the Solicitors in this
11 case it will be our duty to show you and prove to you
12 beyond a reasonable doubt that Michael Chad Lambert is
13 guilty of the crimes of felony D.U.I. with a death
14 resulting, reckless homicide and involuntary manslaughter.

15 You're going to hear a lot of things in this case.
16 You're going to see a lot of evidence. You're going to
17 hear a lot of witnesses testify from that stand. And I
18 want you to keep a few things in mind. The Judge has
19 already talked to you that the standard by which we must
20 prove our case is beyond a reasonable doubt. And at the
21 end of this trial he is going to give you extensive
22 instructions on what reasonable doubt is. And what the
23 Judge tells you reasonable doubt is is what you have to
24 follow.

25

1 But to just give you a little preview so you can have
2 it in your mind as you're listening to the evidence from
3 the stand and looking at the evidence we present.
4 Reasonable doubt or beyond a reasonable doubt is when the
5 evidence leaves you firmly convinced of someone's guilt.
6 Now, as you're going through this trial and as you pay
7 close attention to everyone keep that in the back of your
8 mind. Think, does this make me firmly convinced of
9 Michael Chad Lambert's guilt because at the end of the
10 trial we're going to ask you to find him guilty of those
11 three crimes.

12 Let's go into some of what you're going to see and
13 some of what you're not going to see. You're going to
14 hear testimony from people who knew Darrell Quick. People
15 who had spoken to him on the date of the accident. You're
16 also going to hear from people who came on to the accident
17 immediately afterwards. You're not going to hear from
18 anyone who saw the accident because there were no other
19 witnesses to the accident. The only people are Michael
20 Chad Lambert and Darrell Quick.

21 Let me tell you something else you're not going to
22 see. You're not going to see an autopsy in this case, but
23 you don't have to see an autopsy. At no point in time is
24 the Judge going to tell you that you have to have an
25 autopsy to be firmly convinced that this man caused the

1 death of Darrell Quick. But what you are going to hear
2 from is you're going to hear from trained medical
3 personnel and people who have had extensive experience in
4 situations like this who can give you evidence that
5 demonstrate to you that Mr. Lambert was the cause of
6 Mr. Quick's death.

7 As I said a few minutes ago the State is going to
8 prove that Mr. Lambert had a blood alcohol content of
9 twice the legal limit here in South Carolina. That's very
10 important, ladies and gentlemen. You really need to pay
11 attention to that, and the State's witness who are going
12 to present that testimony I believe will be very
13 insightful to you and will be able to give you an idea of
14 exactly what was transpiring that day and around the time
15 period that the accident was occurring.

16 You're also going to hear from members of the Highway
17 Patrol M.A.I.T. Team, that is the Multi-disciplinary
18 Accident Investigation Team. They are called out in
19 circumstances where a major traffic collision has occurred
20 in South Carolina, and part of what they do is they
21 collect evidence at the scene, and they take that evidence
22 and they reconstruct what happened. You're going to hear
23 testimony from them, and that testimony is going to be
24 critical to this case, ladies and gentlemen.

25 Those individuals are going to give you what you need

1 to be firmly convinced that Michael Lambert is guilty of
2 felony D.U.I, reckless homicide and involuntary
3 manslaughter.

4 And when you're hearing from the M.A.I.T. Team you're
5 going to hear a lot of different things. One of the
6 things you're going to hear is that the victim, Darrell
7 Quick, was actually left of center and in the other lane.
8 But I want you to pay close attention to what the M.A.I.T.
9 report -- to what the M.A.I.T. Team says and what their
10 report shows because I believe after you hear from these
11 individuals you will know why Darrell Quick was not in his
12 own lane and it will be clear to you.

13 And I believe that upon viewing the reconstruction of
14 this accident which is what the M.A.I.T. Team has done you
15 will be firmly convinced of what we are asking you to be
16 convinced of. Ladies and gentlemen, this is a hard case.
17 You're going to hear and see some very sad things. You're
18 going to have an emotional reaction to this, but we ask
19 that you look at the evidence and you make a determination
20 based on what is presented from that witness stand and the
21 other items that are put in evidence.

22 Darrell Quick did not know what was facing him that
23 day. He had not clue, but ladies and gentlemen, at the
24 end of this you will have a very clear picture of what
25 happened on that road that day. You will have the benefit

1 of the knowledge that Darrell Quick did not have, and with
2 that knowledge we're going to ask that you find Michael
3 Chad Lambert guilty. Thank you very much.

4 MR. COX: Please the Court.

5 THE COURT: Mr. Cox.

6 OPENING STATEMENT BY JAMES COX

7 MR. COX: Ladies and gentlemen of the jury, I'm Jim
8 Cox, and I have the distinct pleasure of representing
9 Michael Chad Lambert here in this courtroom today.
10 Sitting behind me is Danny Winburn, Mr. Lambert's cousin:
11 Linda Lewallen, Mr. Lambert's mother. And the other two
12 ladies are the reason I'm here cause without them I can't
13 be here. First, is Linda Stevens, my paralegal. Second
14 is Bethany Johnson, who works in the office. They will
15 keep notes and tell me from time to time if I'm doing bad.
16 So they work with me on getting this case here.

17 As I said it's a distinct pleasure representing
18 Michael Chad Lambert in this courtroom. But I tell you
19 you heard what Mr. Foreman has stated. He's the
20 Solicitor. You heard what he says the M.A.I.T. Team is
21 going to say. The State told you what they are going to
22 say. The agents of S.L.E.D. are going to say. But for
23 the constitution he would already be branded guilty. But
24 that's their side. And I feel just as strongly as the arm
25 of the government and law enforcement feels that Chad

1 Lambert is not guilty. I wanted to say that. Well, I'm
2 biassed. Key word, biassed. I believe what Chad Lambert
3 says and I believe him.

4 We all have biases. We all have biases. Those
5 biases come from our education, to whatever extent it is.
6 Our experiences in life, whatever that is. Our genetics.
7 The way we were raised that forms our thought process.
8 And so I've admitted that I have biases, and I'd like for
9 you to stop and think that maybe I do, too. And you can
10 take that bias out of you and put it on the rail. Once
11 you take the biases out of it who do you have in the jury.
12 Chad Lambert's peers.

13 No friends to reward. No enemies to punish and
14 you're ready to sit back and listen to the testimony and
15 the evidence presented taking it as it comes. Waiting
16 until His Honor gives you the final instructions and tells
17 you at that time for you to start your deliberations
18 before you start forming your opinion. If you do that you
19 have a better chance of hearing everything that's said and
20 understanding it and evaluating it and that's most
21 important.

22 Because I believe that this was an accident that
23 Darrell Quick did not want to happen, and I knew Darrell
24 Quick. Chad Lambert did not want to happen, but as we go
25 through life there is no vacuum where you're not exposed

1 to some danger. Every time we get up and go there is some
2 danger. There is some risk. Most accidents happen within
3 two or three miles of your home or in the home or
4 workplace. So I say this is an incident. It's not a
5 crime, but remember I'm biased. I also in this case Chad
6 Lambert is very fortunate being tried by his peers and not
7 by law enforcement, Solicitor's Office.

8 Very fortunate, too, that he had a cell phone. A
9 cell phone. Who would have ever thought that we would
10 stand up in Court and say, "He's on trial for a crime and
11 gives thanks for the cell phone," cause you're going to
12 hear from the testimony and from the photographs that this
13 was a tremendous impact. And it took several days even
14 weeks for Chad Lambert to really come back to what
15 happened. And I disagree with what Mr. Foard. There was
16 a witness to this accident, Chad Lambert. And at my
17 request Chad sat down, and while he was recovering from
18 his very serious injuries also, got out his cell phone
19 records and went back and put together the phone calls he
20 made to drive from Alabama to U.S. Highway One to
21 Chesterfield.

22 And I'll tell you he can talk on a telephone. I
23 think one phone call lasted maybe 20 something minutes.
24 It was all in the courtroom. It doesn't take any time to
25 do that, but with that it started with a time table of

1 everything he did in making this trip to come here. He
2 was able to reconstruct in his mind what happened. I said
3 the word, 'accident'. Remember, I'm biassed. What I say
4 is not evidence, but when stand up to speak to you, even
5 with the closing statement, it's not evidence.

6 Evidence comes from the witnesses that take the
7 witness stand and the documents presented to you. Each
8 witness will be placed under oath, but that oath doesn't
9 tell you the person's label. It's how the person responds
10 to that oath. So from the time a name is called in this
11 courtroom, the witness starts to rise, you will start,
12 making up your mind whether or not to believe what they
13 say.

14 His demeanor, the way he responds to questions and
15 his actual response. I think His Honor at one point will
16 tell you that you can believe part of what a witness says
17 and disbelieve the other part. You can believe one
18 witness as opposed to two or three witnesses. I ask you
19 keep an open mind. Wait until you've heard all of the
20 evidence, you've seen all of the documents before you
21 reach that decision.

22 You say, 'well, Mr. Cox, that's fanciful talk. What
23 can I do with that'. His Honor is going to give you
24 instructions on reasonable doubt. That's the test.
25 That's the length of the football field. That's the foul

1 line at the baseball diamond. Reasonable doubt. His
2 definition will be far better than mind, but if it in any
3 way disagrees or is different than what I said go by what
4 His Honor says. But to me it's very simple. Michael Chad
5 Lambert come in this courtroom presumed innocent. So the
6 scales are even. To prove him guilty the State has to
7 take the scales all the way down. Just like tipping.
8 It's like tipping. Won't do it. So I think after you've
9 heard all the evidence you go in that courtroom -- the
10 jury room, Mr. Foreman says it's time to vote. At that
11 time you can say without hesitation or reflection Michael
12 Chad Lambert is guilty. You vote him guilty.

13 On the other hand this time Mr. Foreman says it's
14 time to vote, and you say, 'well, he may have been.' It's
15 possible or even probable, then you follow the oath. You
16 follow the instructions to vote not guilty. Yes, he was
17 consuming alcohol. But drinking and driving is not
18 against the law in this State. Thank you.

19 MR. REDMOND: May it please the Court, Your Honor.

20 THE COURT: Yes, sir.

21 MR. REDMOND: State would first call Ms. Michelle
22 Quick to the stand.

23 THE COURT: Come around and be sworn, please.

24 MICHELLE QUICK, after being duly sworn,
25 testified as follows:

DIRECT EXAMINATION

2 BY MR. REDMOND:

3 Q. Mrs. Quick, were you married to Darrell Quick?

4 A. Yes, sir.

5 Q. How long were you married to Darrell?

6 A. 15 years.

7 Q. Did y'all have any children together?

8 A. Yes.

9 Q. How many?

10 A. We had one child together, Devonte Q.

11 Q. Where did Darrell work, Mrs. Quick?

12 A. He worked for the Sheriff's Office in Chesterfield
13 County.

14 Q. And how long did he work with them before his
15 untimely death?

16 A. I think nine, ten years. I'm not sure.

17 Q. Where were you employed at this time? Do you work?

18 A. At the Chesterfield County School District.

19 Q. Okay. And how long have you worked there in that
20 capacity?

21 A. Twelve years.

22 Q. And I know it's difficult being here today, but --
23 and I'm going to get into the day of this collision, this
24 incident, July 23rd 2008. Let me carry you into that
25 date. Could you tell the ladies and gentlemen of the jury

1 what occurred. Can you tell us about your day with
2 Darrell up until you last saw him?

3 A. He had worked third shift on that Tuesday. He came
4 home at six o'clock, and -- six o'clock in the morning,
5 and he went to bed. We got up -- he got up around
6 eleven o'clock, and we went to Lancaster. After going to
7 Lancaster to have our big screen t.v. fixed. We came back
8 and we went to J and K and we ate lunch there.

9 And after leaving J and K we went back to our house
10 and he went back to sleep. When he got up that's when he
11 started off to his Mason meeting.

12 Q. And I didn't ask you this, but where did y'all live?
13 What town did y'all live?

14 A. In Cheraw.

15 Q. Okay. Now, if you could proceed from there. And
16 about what time was it that he got up and went to his
17 Mason meeting to the best that you can estimate?

18 A. He left me probably around ten after 6:00.

19 Q. And where were you going after y'all -- you saw him
20 the last time? What did you do?

21 A. I was going to bible study at seven o'clock that
22 night.

23 Q. Were you ever able to make it into bible study?

24 A. I did. I got there about five minutes till, and
25 that's when I was told that he was in an accident.

1 Q. So about five minutes to 7:00 you find out he was in
2 an accident. And if you need to take a break, Ms. Quick,
3 please just let us know. We'll be more than happy to
4 accommodate you. So you find out that Darrell had been in
5 an -- in a wreck. Could you tell the ladies and gentlemen
6 of the jury what actions did you take upon hearing that
7 news?

8 A. I thought at that particular time that it was just a
9 bumper; that he was okay. And we left bible study and
10 went to the house. And after I couldn't get in contact
11 with anybody to tell me anything that was going on we
12 decided to ride to the scene.

13 Q. And I don't know if there is any tissue. And just
14 let me know when you're ready, Mrs. Quick.

15 A. I'm ready.

16 Q. So we left off you were heading to the scene?

17 A. Yes.

18 Q. And did you make it out to the scene?

19 A. Yes, we did.

20 Q. And?

21 A. Me and my son and my mom and my dad. And when we got
22 there that's when they told me that he was gone.

23 Q. Were you able to see him?

24 A. No.

25 Q. Now, could you describe the weather, as best as you

1 can remember. By the time you got out to the scene -- let
2 me back up. About how long was it after you found out
3 that he had been in a wreck about how long would you
4 estimate it took you to get to the scene of the accident?

5 A. I don't know. We stayed at my house for probably
6 around 20 minutes or so. That's when we decided to go and
7 it was almost in McBee, so I guess about maybe 50 minutes
8 or so.

9 Q. Afterwards?

10 A. Afterwards.

11 Q. Okay, so now you get to the scene. You're not able
12 to see him. What occurred? What did you do? What
13 occurred after you got to the scene?

14 A. I just cried. There was nothing I could do. That
15 was the last time I saw him.

16 Q. Did Darrell, the last time you saw him, did he seem
17 normal to you healthwise?

18 A. He was. There was nothing wrong with him.

19 Q. Okay, now, did you leave the scene of the accident at
20 some point?

21 A. Only when they took his body to the hospital.

22 Q. Okay, did you go to the hospital as well and were you
23 able to see him even at that time?

24 A. No.

25 Q. When you got to the scene of the accident,

1 obviously -- well, tell the jury, we didn't get into this,
2 what kind of car was Darrell driving?

3 A. He was driving a Cadillac. A 2001, I think,
4 Cadillac.

5 Q. Okay, and when you got out to the scene how would you
6 describe the weather to the best that you can remember?

7 A. It may have been drizzling a little bit. I'm not
8 sure, but I wasn't raining hard.

9 Q. Let me show you what's already been introduced and
10 admitted as State's Exhibit Number Five.

11 MR. REDMOND: With the Court's permission to approach
12 Mrs. Quick.

13 BY MR. REDMOND:

14 Q. And I'm just going to show the picture to you,
15 State's Exhibit Number Five. Were you able to get a good
16 enough look at this picture?

17 A. Yes, sir.

18 Q. Okay, and obviously under the circumstances, I know
19 this is hard, but is the white Cadillac in this picture is
20 that the vehicle that belonged to Darrell?

21 A. Yes.

22 MR. REDMOND: And beg the Court's indulgence other
23 than I would just ask if I could publish the picture at
24 this time to the jury.

25 MR. COX: That's State's Exhibit?

1 MR. REDMOND: That's State's Exhibit Number Five.

2 Beg the Court's indulgence.

3 BY MR. REDMOND:

4 Q. Again, just to make sure. It's clear cause I
5 understand that this is an emotional time for you. But,
6 Mrs. Quick, you said, and I think to quote you he was
7 fine?

8 A. He was fine.

9 Q. This was around 6:15 when you last saw him?

10 A. Yes, sir.

11 MR. REDMOND: I have nothing further at this time,
12 Your Honor.

13 CROSS-EXAMINATION

14 BY MR. COX:

15 Q. Mrs. Quick, I'm Jim Cox. I have a couple of
16 questions for you. After Darrell left the house, I
17 believe you said about 6:10, did he call you on the cell
18 phone?

19 A. No.

20 Q. Did he have a personal cell phone?

21 A. Not to my knowledge.

22 Q. He just had his one issued by the Department?

23 A. Yes.

24 Q. Nothing further. Thank you.

25 MR. REDMOND: Nothing further.

1 THE COURT: You may step down.

2 MR. REDMOND: State would next call Marion Stephens.

3 THE COURT: Everybody relax a few minutes.

4 MARION STEPHENS, after being duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. REDMOND:

8 Q. Mr. Stephens, by whom are you employed?

9 A. I was employed by the Chesterfield County Sheriff's
10 Office at the time of the accident.

11 Q. Exactly. And that's what I meant to ask you. On the
12 23rd of July 2008 you were employed with the Chesterfield
13 County Sheriff's Office?

14 A. Yes, sir.

15 Q. And did you know Darrell Quick?

16 A. Yes, sir, I did.

17 Q. How long did you know Darrell?

18 A. Ten years probably going on 11. He went to the
19 Academy. We were roommates in the Academy.

20 Q. Did y'all talk regularly?

21 A. Yes, sir.

22 Q. And let me just direct your attention to the 23rd of
23 July 2008. Could you tell us about any contact you
24 attempted to make with Darrell or him make with you on
25 that particular day?

1 A. Yes. I called Darrell earlier during the course of
2 that day. A little earlier we were working our shifts
3 together on that Monday night. Both of us worked on the
4 same shift, and we had an accident take place during the
5 course of the shift which I was injured and had to go to
6 the doctor. And I called him Wednesday morning; that
7 morning I think the 23rd. I think it was a Wednesday.
8 Anyway, I called that morning to tell him what the doctor
9 said when I came back from the doctor.

10 And so later when I rang for him later on he called
11 me back, and you know I was talking to him and telling him
12 what the doctor had diagnosed me with my shoulder injury
13 and my neck injury. And I thinking of what I need to do
14 in order to file a workman's compensation claim. At that
15 point we started talking about the accident. This took
16 place, and we laughed and joked a little bit. And he told
17 me he was headed to a lodge meeting in Camden, and I told
18 him to drive safely. We talked more, and he said, "All
19 right, man. Holler at you later." I hung up the phone.

20 Q. Now, let me ask you this. Was there anything that
21 was unusual -- excuse me. About Darrell's demeanor, and
22 did you talk to him? Did he seem fine to you?

23 A. He was just normal himself.

24 Q. No indication that he was having any kind of medical
25 crisis or anything?

1 A. None whatsoever.

2 MR. REDMOND: Beg the Court's indulgence.

3 BY MR. REDMOND:

4 Q. And let me go back. Do you recall, and if you're not
5 sure that's fine. But do you recall about what time that
6 was that you had talked to Darrell while he was on the way
7 to Camden? Was it after six o'clock that evening?

8 A. I don't recall exactly what time it was.

9 Q. But he was actually indicated to you he was on his
10 way to Camden?

11 A. He said he was actually on his way to Camden.

12 Q. When you hung up with him did you hang up with him
13 suddenly or was there a wreck that occurred and hung up
14 suddenly?

15 A. No, it was you know normal thing. You know, really,
16 I say, buy we talked to each other, holler at you later.

17 Q. And that was it?

18 A. That was it.

19 Q. Normal? Everyday normal?

20 A. Normal.

21 Q. Please answer any questions Mr. Cox may have.

22 MR. COX: I don't have any questions.

23 THE COURT: You may step down.

24 MR. REDMOND: May we approach just one minute as it
25 relates to the next witness that's we're going to call?

1 THE COURT: Sure.

2 (WHEREUPON, a bench conference was held off the
3 record in the presence of the jury, but out of the
4 hearing of the jury.)

5 THE COURT: Ladies and gentlemen of the jury, step
6 back. We've got to have a minute or two to prepare for
7 the next witness' testimony.

8 (WHEREUPON, the jury panel was excused from the
9 courtroom at 11:39 a.m.)

10 MR. REDMOND: May it please the Court. Your Honor,
11 and in light of the events that side bar conference just
12 from a strategic standpoint, it would, of course, affect
13 our presentation of the case. It's my understanding that
14 Mr. Cox is willing to stipulate that the accident caused
15 the death of Darrell Quick. As Court knows that's one of
16 the elements for felony D.U.I. that has been outlined both
17 by statute and by our State Supreme Court, and what I'm
18 understanding that if they're willing to stipulate to that
19 particular element then that would actually alter the
20 presentation of our cause. And, but, if he is willing to
21 make that stipulation we are more than happy to receive
22 it, quite frankly, Your Honor.

23 MR. COX: Please the Court. I discussed this with
24 Chad Lambert, my client, and we think that those
25 photographs of Darrell in the car; that they have some

1 prejudicial weight or value. And we think that -- we
2 stipulate that on July 23rd 2008 there was an
3 automobile/truck accident. Michael Chad Lambert was
4 driving the truck. Darrell Quick died as a result of
5 injuries from that accident, seated in his car. Seated in
6 his care.

7 There is no other explanation but that he died from
8 head trauma as a result from that accident. We think that
9 puts those photographs in of Mr. Quick in the car carries
10 a chance of prejudicial element and there is no need to
11 take that chance if we stipulate.

12 MR. REDMOND: And, Your Honor, obviously, this was
13 not an issue that was addressed in our earlier
14 stipulation. Obviously, the State is prepared to go
15 forward and proffer to the jury evidence as required by
16 statute and by law. With that stipulation, quite frankly,
17 and I would need to consult with Mr. Foard, but the
18 pictures were being put forth for that particular purpose.

19 Since my understanding is that it has been stipulated
20 to that the accident did cause the death then with that
21 that would alter what we decide to put in since that fact
22 has been stipulated to. There are still witnesses that
23 the State intends to call that are out there such as
24 Mr. Walker, and to describe what they saw that is
25 important on other aspects of the case. But for the

1 purpose of us trying to get the pictures in that would be
2 graphic.. That may change that strategy. If the Court
3 would allow me about five minutes to get with Mr. Foard
4 with the next witness coming up we are going to have to
5 adjust what pictures are on that C.D.

6 Again, don't do anything in the light of the
7 stipulation that would be prejudicial, but we are more
8 than happy to accept that as a stipulation.

9 THE COURT: That was my question. And how are you
10 going to safeguard one coming up?

11 MR. REDMOND: And that's what we're going to have to
12 actually tinker with. Fortunately, the way it's stored on
13 the C.D, and I notice that I accidentally did it last
14 night on my own computer, but basically, you can delete
15 each picture individually. You don't have to pull up each
16 picture. It just has the number of the picture, what not.
17 So you can actually, the ones that we know are no longer
18 in issue, we can just simply delete them.

19 So it shouldn't take too long, but we may need a few
20 minutes to do that because our next witness, Dr. Parker,
21 is a witness where there will be more pictures involved.

22 THE COURT: How long do you need?

23 MR. REDMOND: Ten minutes, Your Honor.

24 THE COURT: All right. Court will stand at ease for
25 ten minutes to allow that to be accomplished. I

1 appreciate y'all working that out.

2 MR. REDMOND: Thank you, Your Honor.

3 THE COURT: With that stipulation that takes that
4 matter of law right out of place as far as the Court is
5 concerned.

6 (WHEREUPON, Court was in recess at 11:56 a.m. and
7 reconvenes at 12:08 p.m.)

8 (WHEREUPON, State's Exhibit No. 36 was marked for
9 identification only.)

10 THE COURT: Got everything lined up?

11 MR. REDMOND: Your Honor, with -- I think that's
12 State's Exhibit 36. State's 36 is now agreeable to the
13 Defense so they don't have any objection to it. The State
14 would admit -- that we move to admit 36 into evidence at
15 this time.

16 MR. COX: State's Exhibit 36 without objection, Your
17 Honor.

18 (WHEREUPON, State's Exhibit No. 36 was admitted into
19 evidence.)

20 MR. REDMOND: And the only other thing, Your Honor,
21 is we would ask that the stipulation be published with the
22 jury.

23 THE COURT: Who wants to publish it?

24 MR. REDMOND: I'll be glad to.

25 THE COURT: Bring them in.

1 MR. COX: Your Honor.

2 THE COURT: Wait just a second.

3 MR. COX: Where should Mr. Lambert and I -- can we
4 stand over there in the corner so we can observe it?

5 THE COURT: That's okay. In fact I'll come over
6 there with you.

7 (WHEREUPON, the jury panel enters the courtroom at
8 12:08 p.m.)

9 THE COURT: All right, Solicitor.

10 MR. REDMOND: Thank you. May it please the Court.
11 Ladies and gentlemen of the jury, at this time sometimes
12 what happens is the parties get together and stipulate to
13 certain things, and what we've done while you were out
14 is -- one of the elements that we have to prove is the
15 cause of death; that the accident caused the death of
16 Darrell Quick; that the wreck caused the death of Darrell
17 Quick.

18 And in fact the Defense has stipulated to that.
19 Darrell Quick died as a result of this collision. So with
20 that that means that there are certain witnesses, certain
21 items of evidence that are not going to have to get into
22 because the Defense and the State have reached an
23 agreement that in fact the death of Darrell Quick was
24 caused by this collision and further stating that there
25 was no disagreement in the fact that the Defendant was

1 driving the red truck involved in this collision. So
2 those items are stipulated to as fact. Thank you.

3 THE COURT: And we appreciate your patience allowing
4 them time to do that. By taking a little time now we
5 saved a lot of time later on. So thank you for your
6 patience. All right. I'm going to step down to the
7 corner. Those that would like to see have to go behind
8 the box.

9 MR. FOARD: State calls Dr. Reginald Parker to the
10 stand.

11 REGINALD PARKER, after being duly sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. FOARD:

15 Q. Good morning.

16 A. Morning.

17 Q. And could you please state your full name for the
18 record?

19 A. Reginald L. Parker, MD.

20 Q. Where are you employed, Dr. Parker?

21 A. Chesterfield General Hospital.

22 Q. And what do you do there?

23 A. Emergency room physician.

24 Q. Okay. And can you just briefly give us some of your
25 training and background?

1 A. I finished medical school at Medical College, I've
2 had training at Cook County Hospital in Chicago. From
3 there I had a private practice in Louisiana. And then
4 reticulated to Columbia, South Carolina in May of 1990.

5 I was working in the emergency room there and in
6 several different emergency rooms throughout the State in
7 South Carolina as well as in North Carolina. I'd say
8 about 15 different hospitals. I'm also a board certified
9 family practice physician in Columbia, and also I am a
10 full time emergency medicine doctor.

11 Q. All right. How long have you been working at
12 Chesterfield General Hospital?

13 A. Off and on, initially, about eight years, but full
14 time within the past two to three years.

15 Q. Now, do you reside in Chesterfield County?

16 A. No, I do not.

17 Q. Where do you live?

18 A. I reside in Columbia, South Carolina.

19 Q. So you commute to work in Chesterfield?

20 A. That is correct.

21 Q. You've done that for the full eight years?

22 A. Yes, sir.

23 Q. All right. Do you recall coming up on an accident on
24 July 23rd 2008?

25 A. Yes, I do.

1 Q. If you could just tell the jury, beginning when you
2 first came to the accident, and give them an idea of
3 exactly what you saw that day?

4 A. Well, actually I was coming into a shift at
5 Chesterfield General, and I can remember that it was
6 somewhat overcast. There was a light mist, and when I was
7 approaching going north on Highway One towards Patrick I
8 saw a tractor trailer in front of me that had stopped.

9 And I noticed that the truck driver got out of the
10 vehicle, and I noticed in front of it there was an
11 accident that had occurred. And at that time I
12 immediately got out of my vehicle to try to assess and
13 evaluate the accident and I approached cautiously because,
14 Number One, I -- one of the things that I like to do is to
15 make sure that there was no particular harm that would
16 come to myself or the other person who has stopped. And
17 in doing so I looked at the scene and noticed that it was
18 a tremendous accident.

19 And I asked the truck driver if he would mind taking
20 a look at the truck and I was going to go to the vehicle
21 and try to determine exactly what had happened and what
22 was going on. The first thing that I wanted to do was to
23 try to determine if there is any extrications or any
24 person who have been ejected from the vehicles. And then
25 also try to determine if there is any sign of lividity

1 which is just an idea of determining if the person were
2 alive. And the cars try to determine how much damage
3 there was to the individual.

4 Q. Okay. Can you tell the jury how many persons you
5 found at the scene and what vehicle they were located in?

6 A. There were two persons at the scene. One was in the
7 truck and the other one was in the Cadillac.

8 Q. Okay, if you could step down from the stand,
9 Mr. Parker?

10 A. Okay.

11 (WHEREUPON, the witness steps down from the witness
12 stand.)

13 MR. FOARD: Court's indulgence.

14 BY MR. FOARD:

15 Q. Dr. Parker, I have a photograph displayed on the
16 television screen. Can you tell us is that an accurate
17 representation of the scene?

18 A. Yes, it is.

19 Q. Can you step this way for me one second, please. Can
20 everybody see that, okay. And if you could identify --
21 can you identify the people that are in which vehicle or
22 the condition of the persons in the vehicle?

23 A. Okay. The first person that I checked was the person
24 who was in this vehicle here. And the door was not open
25 at the time as I approached. And I sort of looked inside

1 cause I could see from the front because the windshield
2 was pretty much damaged. I really couldn't see too well
3 because this side, the front driver's side, was a little
4 bit hazy as well. So I appeared in from the rear driver's
5 side rear door window, and actually, I peered inside and
6 saw there was an individual slumped over.

7 And I saw some blood I think from the head up, and I
8 knew that person was then in some serious -- had some
9 serious trauma. And I tried to see if I could try to get
10 into the vehicle, first looking at the front door here. I
11 didn't think I could get in. So what I did was try to get
12 the rear door open. The truck driver, I noticed that he
13 had a hammer, and he asked if I needed to get it, and I
14 said I really didn't know. I would try to see if I could
15 get the door open.

16 So I approached the rear door, and I got it open,
17 fortunately, and I put my arm in to try to put my fingers
18 on the carotid pulse here cause he was slumped to the
19 right. And I noticed that there was a rear-view mirror
20 that was somewhat damaged and looking at the amount of
21 blood when I checked the pulse I felt no pulse at that
22 point.

23 Q. Okay. You've reference the amount of blood. Could
24 you describe was there just blood around or what was
25 happening?

1 A. That was a large amount of blood coming out of the
2 head. I knew that, and I knew that, first, probably
3 estrangulated at that point at the time of the accident.

4 Q. The person in the white car on the photograph, can
5 you tell us the race of that person?

6 A. He was an African American.

7 Q. Okay. Tell me about the condition of the roadway as
8 you were driving that day and as you approached the
9 accident scene?

10 A. It was slightly wet roadway, but there was no
11 standing water. It was light fog. I would say about 30
12 to 50 feet visibility.

13 Q. Understanding that, obviously, there is other medical
14 personnel in this vehicle -- I mean in this photograph so
15 It was taken after you were there originally. Do you feel
16 that the conditions that are reflected in this photograph
17 are an accurate representation of the weather when you
18 arrived?

19 A. Without the light fog, yes.

20 MR. FOARD: Court's indulgence just a minute. We
21 have no more questions of this witness, Your Honor.

22 (WHEREUPON, the witness returns to the witness
23 stand.)

24 MR. COX: Defense has no questions for Dr. Parker.

25 THE COURT: Thank you, Doctor. You may step down.

1 Solicitor, does he need to be excused?

2 MR. REDMOND: He does. Dr. Parker, we'd ask that he
3 be excused.

4 MR. COX: No objection. Thank you, Dr. Parker.

5 MR. REDMOND: While we're doing that the State next
6 calls Jared Purvis.

7 JARED PURVIS, after being duly sworn, testified
8 as follows:

9 MR. REDMOND: May it please the Court, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q. Mr. Purvis, by whom are you employed?

13 A. Carolina Pines.

14 Q. How long have you been so employed?

15 A. Six and a half years.

16 Q. And in what capacity are you employed?

17 A. I'm the Patient Care Supervisor of the Emergency
18 Department.

19 Q. Okay. And are you a registered nurse?

20 A. Yes, sir.

21 Q. And in part of being registered nurse is it an
22 uncommon occurrence for you to be asked to draw blood?

23 A. No, sir.

24 Q. Okay. Is that something you have done often over the
25 years?

1 A. Yes, sir.

2 Q. And let me, with the Court's permission, approach
3 with what's been marked as State's Exhibit 21. Could you
4 take a look at that and let me know when you're ready to
5 answer a couple of questions?

6 A. Okay.

7 Q. In regards to State's Exhibit 21, do you recognize
8 that document?

9 A. Yes, sir.

10 Q. And let me direct your attention to the 23rd of July
11 of 2008. Were you on duty at Carolina Pines at that time?

12 A. Yes, sir.

13 Q. And did you have an opportunity to encounter the
14 defendant?

15 A. Just during the blood alcohol ---

16 Q. Okay.

17 A. --- collection.

18 Q. And were you the person that collected the sample?

19 A. Yes, sir.

20 Q. And would you explain the protocol that is laid out
21 in this particular form?

22 A. It's a change of custody blood draw and it's done
23 with the law enforcement officer there. It's just done
24 without alcohol. It's done with Betadine, and it's
25 directly labeled and handed to the law enforcement

1 officer.

2 Q. And was it done within Betadine in this situation?

3 A. Yes, sir.

4 Q. And is that so it won't affect the accuracy of the
5 blood alcohol test at S.L.E.D.?

6 A. Yes, sir.

7 Q. Okay. And did you -- do you recall Trooper Davis,
8 Leslie Davis, being the officer that was present at the
9 time you draw the defendant's blood?

10 A. Yes, sir.

11 Q. And I believe on the document it shows that the blood
12 was actually drawn from the defendant sometime after nine
13 o'clock at Carolina Pines on the 23rd?

14 A. Yes, sir.

15 MR. REDMOND: Beg the Court's indulgence.

16 BY MR. REDMOND:

17 Q. And did Leslie Davis, Trooper Davis, take possession
18 of the blood that you had drawn from the defendant?

19 A. Yes, sir.

20 Q. Okay.

21 MR. REDMOND: That would be all the questions I have
22 at this time. Thank you.

23 MR. REDMOND: Oh, Your Honor. I forgot to move to
24 introduce State's Exhibit Number 21 in evidence.

25 THE COURT: Without objection?

1 MR. COX: Without objection, Your Honor.

2 (WHEREUPON, State's Exhibit No. 21 was admitted into
3 evidence.)

4 THE COURT: All right. Your witness, Mr. Cox.

5 MR. COX: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. COX:

8 Q. Do you know the approximate time you took that
9 sample?

10 A. 9:02.

11 Q. 9:02. And how long does it take you normally to draw
12 a blood sample?

13 A. Depending on the patient's veins. Anywhere from ten,
14 15, 30 seconds.

15 Q. Seconds?

16 A. Yes, sir.

17 Q. And do you recall how long it took to approximately
18 or was there a normal problem with it or?

19 A. I don't think there was a problem. I mean not that I
20 recall.

21 Q. Okay. And before you draw it what do you do to the
22 arm?

23 A. There's a tourniquet applies.

24 Q. Tunicate applied, okay. And do you swab the arm at
25 all?

1 A. Yes, sir.

2 Q. What do you swab it with?

3 A. Betadine..

4 Q. Betadine. When then you -- a needle.

5 A. A needle.

6 Q. A syringe you would call it.

7 A. Yes, sir.

8 Q. Do you know approximately how long Michael Chad
9 Lambert had been there with you when you drew it?

10 A. I don't recall, sir.

11 Q. Do you recall exactly where you were in the hospital
12 when you drew it?

13 A. In the Emergency Department.

14 Q. You were in the Emergency Department?

15 A. Yes, sir.

16 Q. Do you know whether or not Michael Chad Lambert was
17 getting transfusions or any other medications before you
18 drew it?

19 A. Not that I recall. I'm sure he was, but I don't
20 recall.

21 Q. You feel sure he was, but you don't have any
22 independent recollection of it?

23 A. No, sir.

24 Q. Okay?

25 MR. COX: Further nothing.

1 MR. REDMOND: Quick redirect.

2 REDIRECT EXAMINATION

3 BY MR. REDMOND:

4 Q. Earlier you had mentioned that, and I'll just ask
5 you. Were you Mr. Lambert's primary treating RN or on his
6 primary treating team?

7 A. No, sir.

8 Q. If fact I think you were joking. Were you asked by
9 someone else to come collect the sample from Mr. Lambert?

10 A. I collected the sample because the primary care nurse
11 was taking care of the patient.

12 Q. Exactly. And with that could you really address any
13 of the issues that Mr. Cox is raising specific to the
14 treatment of the defendant?

15 A. No, sir.

16 MR. REDMOND: Nothing further, Your Honor.

17 MR. COX: Nothing further, Your Honor.

18 THE COURT: Play this witness be excused?

19 MR. REDMOND: We ask that the witness be excused.

20 MR. COX: No objection.

21 THE COURT: Thank you, sir. You may step down and be
22 excused.

23 COLLOQUY

24 MR. REDMOND: Your Honor, our next witness is
25 actually also Carolina Pines. We anticipate being here

1 about 1:30ish. I'll probably need a little bit of time to
2 talk to that witness, and then we have a couple of other
3 witnesses this afternoon. But if the Court pleases I
4 think this would be an appropriate time for a lunch break.
5 And the State would propose possibly starting back at
6 about two o'clock since these witnesses are actually
7 arriving at about 1:30.

8 THE COURT: All right. Okay, what we're going to do
9 we're going to break for lunch. The County has arranged
10 lunch so I thank Ms. Faye for taking care of that for us.
11 And we've got transportation arranged. Counsel, y'all
12 waive oath for the bailiffs?

13 MR. REDMOND: State so waives.

14 MR. COX: We waive. So the jury is going out to
15 lunch, Your Honor. So I don't go where they're going
16 where are they going?

17 THE COURT: I'm going to have to defer to Ms.
18 Sellers. Carolina.

19 MR. COX: Going to Carolina. Thank you.

20 THE COURT: All right. Once again, don't discuss
21 this case with anyone. Don't allow anybody to approach
22 you. I will defer to Ms. Sellers to instruct you how to
23 get to the van, to the vehicles that are going to take for
24 lunch.

25 Now as far as this case concerned with what the

1 Solicitor has requested we will try to fire back up on the
2 case at two o'clock, but I'm going to come back earlier.
3 I'm going to be here ready to go at 15 till cause I
4 understand that we have another matter or two that we
5 might can work in. It has nothing to do with this case,
6 and I told them we would try do take care of that for some
7 folks that need to be freed up. I'll be back, and I ask
8 Madam Court Reporter to be back so we can take care of
9 those other issues. All right. We're in recess for
10 lunch.

11 (WHEREUPON, the jury panel was excused from the
12 courtroom at 12:28 p.m.)

13 (WHEREUPON, Court is in recess at 12:28 p.m. and
14 reconvenes at 2:00 p.m.)

15 THE COURT: Solicitor you ready are?

16 MR. REDMOND: The State is ready, Your Honor. Just
17 as a housekeeping matter to let you know we will have two
18 witnesses that we're presenting, and then like I said the
19 rest of the witnesses, S.L.E.D. and M.A.I.T. Team, will be
20 coming from Columbia in the morning.

21 THE COURT: Bring them in.

22 (WHEREUPON, the jury panel enters the courtroom at
23 2:01 p.m.)

24 MR. REDMOND: May it please the Court. State next
25 calls Craig Walker.

1 CRAIG WALKER, after being duly sworn, testified
2 as follows:

3 DIRECT EXAMINATION

4 BY MR. REDMOND:

5 Q. Okay, Mr. Walker, what is your current position?

6 A. I am a Deputy Coroner in Chesterfield County. I'm
7 also a paramedic here in the County with First Health
8 E.M.S.

9 Q. From now on I'll refer to you as Deputy Walker. How
10 long have you been operating employee in the capacity as
11 Deputy Coroner?

12 A. Since July of 2004.

13 Q. Okay. And you talk about your background in
14 paramedics. How far back does that go?

15 A. It originated back in 1985 when I completed the
16 Academy Health Sciences in the United States Military as a
17 Combat Medic NCO Course.

18 Q. Okay. And, of course, you live and work in
19 Chesterfield County?

20 A. Yes, sir.

21 Q. Let me direct your attention to July 23rd 2008. Were
22 you dispatched to the scene of a wreck on Highway One
23 between McBee and Patrick?

24 A. Initially no, sir. I was at home. I have an E.M.S.
25 radio and a police radio due to my employment, and I heard

1 the call come out for a motor vehicle accident. And I
2 knew that the truck in that area was on another call at
3 that time. So I responded from my home which is
4 approximately five miles from the incident site.

5 Q. When you responded once you got there could you tell
6 the jury what was you observed? What did you see once you
7 got to the scene of this collision?

8 A. Upon my arrival to the scene I noticed two vehicles.
9 One partially blocking the roadway. Light rain. Didn't
10 notice any water or anything on the road, any hazards. I
11 parked my vehicle back from the scene. Proceed up to see
12 if I could render emergency medical care until an
13 ambulance or -- an ambulance got there.

14 And at that time I came in contact with Dr. Parker,
15 and at that time he informed me that the driver,
16 Mr. Quick, in a white Cadillac is deceased. From that
17 point I assumed the role as a deputy coroner to secure the
18 scene. I reached in the vehicle. I checked the pulse on
19 Mr. Quick, and it was absent.

20 Q. Now, did you have any role in the care or treatment
21 with the defendant, Mr. Lambert?

22 A. No, sir, I did not.

23 Q. Okay, now, after that, after you get to the scene,
24 could you tell the jury, looking forward, what you did in
25 your role as deputy coroner. You talk about securing the

1 scene and things like that. What else did you do from
2 that point forward?

3 A. Upon arrival on the scene and again confirming there
4 was a fatality by that time rescue was providing care to
5 Mr. Lambert. And at that point a sheet was placed over
6 the vehicle to show respect for Mr. Quick since he was
7 deceased at that time.

8 Our role is to identify the deceased and secure and
9 make the scene safe. And knowing that he was a law
10 enforcement officer and maybe a service weapon involved
11 brief search of the vehicle. Opened the console, and his
12 service weapon was in the console, magazine in place. The
13 magazine was ejected. The round in the chamber was
14 ejected. It was placed in my vehicle until a law
15 enforcement representative from the County was there which
16 at which time it was turned over.

17 Q. Okay. And moving forward from that point in your
18 role with the -- with this particular incident did you
19 take photographs of the scene?

20 A. Yes, sir.

21 Q. Okay. And when you talk about taking photographs of
22 the scene did you take photographs of the cars as they
23 were positioned and the area around the scene of this
24 collision?

25 A. Yes, sir. One of the first things that I do as a

1 deputy coroner, if there is a motor vehicle accident and
2 there is a fatality, I go ahead and I photograph the
3 scene. Usually from behind, from the side, from the
4 front. I photograph the occupant inside the vehicle to
5 show safety devices were utilized. All for our
6 investigation to help determine cause and manner of death.

7 Q. Did you remain on the scene or at some point did you
8 accompany the body of Mr. Quick to the morgue?

9 A. I remained on the scene until the Highway Patrol, the
10 M.A.I.T. Team came on the scene. Once they completed
11 their investigation at that point the body was then
12 removed and transported to the hospital in which I
13 followed to the hospital to the morgue to where I further
14 completed my investigation.

15 Q. Okay, now, when you got there could you explain for
16 the jury again in your role as deputy coroner with your
17 experience as a paramedic all these many years what did
18 you do at that moment? What were your duties? What did
19 you perform at that time?

20 A. In the morgue we, again, we photograph the injuries
21 that were noted to the deceased. We do a toxicology
22 screen on every fatality victim which entails drawing
23 blood, and we use -- go by the S.L.E.D. standards which
24 pretty much states a non-alcohol skin disinfectant, soap
25 and water, is preferred. Betadine over iodine from the

1 site that we're planning on removing the sample. We start
2 from the center and we circle outwards. We draw
3 approximately 10 CCs of blood place.

4 It's placed in a container that has Hepburn in the
5 bottom as a preservative. It is shaken up and the
6 deceased's name is placed on the vile. The time and the
7 date it was drawn and who drew the blood and from there an
8 evidence seal is placed across the top of the tube which
9 would have my initials on it, the time and the date. And
10 from there that evidence tube is placed inside a container
11 that goes to S.L.E.D.

12 There is an evidence seal that is attached to that so
13 the box is sealed. On the outside of the box we put the
14 time, the date of the incident, the deceased's name, who
15 drew the blood and at what time. From there it is placed
16 in another box. I'm sorry. It was placed into a ziplock
17 back that has an absorbent material in the bottom in case
18 it breaks in transit. That's placed inside another box
19 which has a separate shipping seal on it.

20 Once that's sealed our initials are placed on that.
21 It's taken to the Post Office. If it's not going to be
22 mailed out immediately it's put in the refrigerator. From
23 there it's sent registered, return receipt to S.L.E.D. for
24 analysis.

25 Q. Okay. Let me walk --

1 MR. REDMOND: If I may approach with what's been
2 marked for I.D. purposes only as State's Exhibit 33.

3 BY MR. REDMOND:

4 Q. And could you look over that and let me know when
5 you're ready to answer a couple of questions?

6 A. Yes, sir.

7 Q. Is that -- of course, that's a photocopy -- is that a
8 photocopy of what you just described regarding the bag,
9 the sealed bag that's submitted to S.L.E.D.?

10 A. Yes, sir. What this is is a copy of the sealed -- it
11 goes over the container with my initials and the time and
12 the date that the sample was drawn and the box that it was
13 sent in along with the evidence in the box.

14 Q. Now, that was all submitted to S.L.E.D. Before you
15 forwarded that to S.L.E.D. in the ordinary course of your
16 standard operating procedures?

17 A. Yes, sir.

18 Q. All right. Now you talked about, and I didn't ask
19 you this yet, but also did you do an assessment just to
20 note some the injuries that you observed suffered by
21 Mr. Quick?

22 A. Yes, sir, I did. On every fatality that comes in or
23 everyone a natural death there is a diagram that we have
24 as part of our supplement report that outlines the body
25 and from there we mark any bruises, any types of injuries,

1 and we had to take such an incorporate it in the
2 investigation report.

3 Q. Now, let me go back a second because we talked about
4 standard operating procedures. You indicated you knew
5 that Mr. Quick was a law enforcement officer?

6 A. Yes, sir.

7 Q. However, even with that did you still follow standard
8 operating procedures in drawing blood from Mr. Quick to be
9 submitted for a toxicology test?

10 A. Yes, sir, every fatality, any questionable death, we
11 go through the -- what that's not sent for an autopsy with
12 an obvious cause of death everyone gets a toxicology
13 screen completed and sent.

14 Q. Now, back to your assessment. Did you -- I guess did
15 you do a chart of the injuries you noted at the morgue
16 suffered by Mr. Quick?

17 A. Yes, sir, I did.

18 MR. REDMOND: And with the Court's permission if I
19 can have the Deputy Coroner step down with what has
20 already been introduced as State's Exhibit 24.

21 (WHEREUPON, the witness steps down from the witness
22 stand.)

23 BY MR. REDMOND:

24 Q. If you could, Deputy Coroner, I'm going to actually
25 yield to you and ask you just simply to explain what this

1 chart represents regarding your findings?

2 A. What this chart represents, again, it is a picture of
3 the human body and upon our investigation we note any and
4 all injuries. And upon examining Mr. Quick in the morgue
5 it was noted that he had a bruise above his right eye
6 which is documented here as a hematoma. On the right side
7 above his ear he had an open skull fracture, and open
8 skull fracture, a penetrating wound. His abdomen was firm
9 and rigid which is indicative of internal bleeding. And
10 here on his chest his sternum, his breastbone, was
11 fractured, and we could tell that from the body as far as
12 palpating the injuries.

13 Q. Okay, now, also I'm also going to ask you while
14 you're standing there. Unfortunately, you might be here
15 for a minute, but not too long. I'm going to show you
16 what has been introduced already as State's Exhibit 23.
17 Do you recognize that document?

18 A. Yes, sir.

19 Q. And is that the death certificate that was issued
20 regarding the death of Darrell Quick.

21 A. Yes, sir.

22 Q. Okay. And is -- now, the coroner at that time,
23 Donnie Baker, did he actually prepare that document and
24 sign it?

25 A. Yes, sir.

1 Q. Okay.

2 A. He did.

3 Q. Okay. And but did he do so with the information that
4 you collected pursuant to the you work did on the case?

5 A. Yes, sir, all the evidence that I gathered through my
6 investigation was given to him along with pictures that
7 were taken, all of my findings and then he indicated the
8 cause and manner of death on this.

9 Q. Thank you. Now, indulge me just one moment. I think
10 we're ready to queue up the television. You talk about
11 pictures, and I want to get into that with you briefly.

12 MR. REDMOND: And for the record just to make sure
13 the record is clear this is State's Exhibit 35 which both
14 parties have agreed be admitted into evidence with what
15 we've discussed previously. I think for the court
16 reporter's purposes I just wanted to make sure that it was
17 clearly on the record that we had agreed, and it was
18 without the Defense objection that State's 36 was actually
19 in evidence.

20 THE COURT: Could I get y'all to switch sides. The
21 court reporter can see him as he testifies. That help?

22 BY MR. REDMOND:

23 Q. Deputy Coroner, as we go through the pictures I'm
24 just going to ask you if you could. First I'll ask you
25 whether or not this is a picture that you took?

1 A. Yes, sir, it is.

2 Q. And does it accurately depict the scene of this
3 collision as you saw it?

4 A. Yes, sir, it does.

5 Q. Okay. Now, is this another picture that accurately
6 depicts the scene as you saw it?

7 A. Yes, sir, it is.

8 Q. And is this a picture that you in fact took?

9 A. Yes, sir, it is.

10 Q. Okay, and you took it. How long would you say after
11 you got to the scene did you take these photographs?

12 A. It was approximately ten to 15 minutes after I
13 arrived on scene.

14 Q. So the roadway that is reflected in the -- in your
15 pictures are literally within ten to 15 minutes after your
16 arrival on the scene?

17 A. Yes, sir.

18 Q. Thank you. Now, is this another photo that was
19 reflects the scene as you saw it?

20 A. Yes, it does.

21 Q. And, again, does it accurately reflect and depict the
22 scene as you saw it at that time?

23 A. Yes, sir, it does.

24 Q. And was this another photograph that you took?

25 A. Yes, sir, it is.

1 Q. Okay. Thank you. And next photo?

2 A. Yes, sir. It is one that I took and represents the
3 same.

4 Q. Okay. Final set of pictures. Could you tell us if
5 that accurately depicts the scene as you saw it?

6 A. Yes, sir, it does.

7 Q. And just to be clear, the red pick up truck as we saw
8 it from your observation at the scene is that vehicle that
9 Mr. Lambert was driving?

10 A. Yes, sir.

11 Q. And this vehicle, the white Cadillac, is this the
12 vehicle in which you saw, found, Darrell Quick?

13 A. Yes, it is.

14 Q. Please have a seat back. Thank you, sir.

15 (WHEREUPON, the witness returns to the witness
16 stand.)

17 MR. REDMOND: Beg the Court's indulgence.

18 BY MR. REDMOND:

19 Q. That will be all I have at this particular time.
20 Please answer any questions that the Defense may have.

21 CROSS-EXAMINATION

22 BY MR. COX:

23 Q. Deputy Coroner Walker, I show you Chesterfield County
24 Coroner's Office. Is that document that you fill out in
25 the course of you doing your duties?

1 A. Yes, sir, it is.

2 Q. And did you in fact fill out that document?

3 A. Yes, sir, I did.

4 Q. And is that information on that document was that
5 what was used in what y'all, the coroner, used to fill out
6 State's Exhibit 23, the death certificate?

7 A. Yes, sir, it is.

8 Q. And whenever you arrived on the scene approximately
9 how many people were already there?

10 A. Might be five.

11 Q. Maybe five. So you were one of the first ones on the
12 scene?

13 A. Yes.

14 Q. Now, in your report I believe you said that you
15 estimated the time of the accident was at 6:30 p.m; is
16 that correct?

17 A. Yes, sir. And there is a typographical error on the
18 bottom that says early a.m. That was my mistake.

19 Q. Yeah, I understand, and those things happen. Okay,
20 and you -- I believe you said you arrived at about 6:50
21 p.m; is that right?

22 A. 1850, yes, sir.

23 Q. 6:50. 1850 the military time, isn't it?

24 A. Yes, sir.

25 Q. For layman that's 6:50 in the evening?

1 A. Yes, sir.

2 Q. And you said you did a bit of investigation a side
3 investigation of the body at the scene and then a physical
4 actual touching investigation back in the morgue; is that
5 correct?

6 A. Yes, sir, it is.

7 Q. And you stated that the probable cause of death was
8 blunt ---

9 A. Penetrating blunt force trauma to the head.

10 Q. To the right side?

11 A. Yes, sir.

12 Q. In most motor vehicle accidents where it's the driver
13 you find the injuries to the left side of the head, do you
14 not?

15 A. Yes, sir.

16 Q. Okay. And did you observe that this Cadillac was
17 well equipped, he had multiple air bags and the seat belt?

18 A. Yes, sir, I did.

19 Q. And all those units seem to be working? Air bag
20 deployed?

21 A. Yes, sir, they did.

22 Q. In the course of your investigation did you determine
23 anything that would have caused that force to the right
24 side of the head?

25 MR. REDMOND: Your Honor, I'm going to object. I

1 don't know that he's qualified as it relates -- sounds
2 like we're getting into accident reconstruction issues
3 which of course we will have witnesses tomorrow to deal
4 with. I don't know that the deputy coroner is qualified
5 based on the question as I'm hearing it.

6 MR. COX: My friend doesn't hear very well, Your
7 Honor. Did you understand the question?

8 THE WITNESS: I believe so. Yes, sir.

9 MR. COX: Your Honor, I'd ask that you allow him to
10 answer. I asked did he find anything in the car that
11 would cause that trauma.

12 THE COURT: I'm going to overrule the objection. I'm
13 going to give you some leeway on that. Go ahead.

14 BY MR. COX:

15 Q. Did you find anything?

16 A. Yes, sir. From the position of the body it appears
17 that the rear view mirror, the post that supports the rear
18 view mirror; that metal piece that comes off the glass, was
19 the instrument that protruded through Mr. Quick's head
20 upon impact.

21 Q. So something knocked the mirror off the post?

22 A. Yes, sir. That would account for the lacerations on
23 the side of his head and the post therefore entered.

24 Q. And, basically, your experience have you seen that
25 type of injury when a person is restrained and the air bag?

1 A. Yes, sir, I have.

2 Q. And you also on your report indicated that there had
3 been heavy rain before the accident?

4 A. Yes, sir.

5 Q. And that weather could be a contributing factor?

6 A. Yes, sir. It would be determined by the M.A.I.T.
7 Team as far as the nature and cause of the accident.

8 Q. But based on your investigation blunt trauma to the
9 right side of the head?

10 A. Yes, sir.

11 Q. Weather could be a contributing factor that was
12 significant enough that you put it in your report?

13 A. Yes, sir.

14 Q. And in your opinion that death was instantaneous?

15 A. Yes, sir.

16 Q. Which immediately?

17 A. Yes, sir.

18 Q. Blunt force trauma to the right side of the head and
19 multiple system trauma to the chest and head?

20 A. Yes, sir.

21 Q. Thank you, sir.

22 MR. COX: Nothing further.

23 MR. REDMOND: Just briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. REDMOND:

1 Q. And if I could, since Mr. Cox took this. I think
2 you've already testified to it. So in that report you
3 clearly state or do you clearly state the actual cause of
4 the accident to be determined by the M.A.I.T. Team?

5 A. Yes, sir, I do.

6 Q. And are you an accident reconstructionist?

7 A. No, sir, I am not.

8 Q. Do you have any experience as an accident
9 reconstructionist?

10 A. No, sir, I do not.

11 Q. And with that are you in fact qualified to make any
12 definitive determination in that regard?

13 A. As to the cause of the accident, no, sir.

14 Q. Okay. As a matter of fact you say M.A.I.T, but it
15 has to be determined by someone with more experience than
16 you?

17 A. Yes, sir.

18 MR. REDMOND: Thank you. I have nothing further.

19 RE CROSS-EXAMINATION

20 BY MR. COX:

21 Q. You're the deputy coroner?

22 A. Yes, sir.

23 Q. And I heard Mr. Redmond's questions, but you are the
24 individual who says if a death is accidental or at the
25 hand of others; are you not?

1 A. Yes, sir. But that all goes in part along with
2 additional investigations for various law enforcement
3 agencies that help support.

4 Q. I appreciate you want to be on the M.A.I.T. Team, but
5 that is your sworn duty to do that. The people of South
6 Carolina trust you to do that?

7 A. Yes, sir.

8 MR. COX: Nothing further.

9 MR. REDMOND: Nothing further, Your Honor.

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

11 MR. REDMOND: State would next call Leslie Davis,
12 Trooper Leslie Davis to the stand.

13 LESLIE DAVIS, after being duly sworn, testified
14 as follows:

15 MR. REDMOND: May it please the Court, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q. Trooper Davis, by whom are you employed as if it's
19 not obvious right now?

20 A. State of South Carolina Highway Patrol.

21 Q. How long have you been so employed?

22 A. Right over four years now?

23 Q. And were you so employed on the 23rd of July 2008?

24 A. I was.

25 Q. And were you on duty on that day?

1 A. I was.

2 Q. We'll get into that in a little while. Tell us about
3 your law enforcement experience if you would?

4 A. Briefly, previously before the Highway Patrol I had
5 no previous law enforcement experience. This is the first
6 law enforcement division I've ever been with.

7 Q. And as far as training could you give the jury a
8 little bit of an idea of what training you go through in
9 your role as a State Trooper?

10 A. You do go in an extensive training of accident
11 reconstruction at the Academy. You there for a previous
12 nine weeks after you finish the nine week basis police
13 department division part of it.

14 Q. Now, you just touched on the accident reconstruction.
15 If, when you come out or called to a scene and rainy
16 weather or what not, is one of the things you assess when
17 you got to the scene whether or not hydroplaning or water
18 being on the road is a possible cause of the accident?

19 MR. COX: Objection to the question. Object to the
20 form of it. You know, he needs to lay a foundation of
21 what he found at the scene before he asks a question like
22 that.

23 MR. REDMOND: Actually, Your Honor, I think -- well,
24 I can rephrase the question just to save a lot of trouble.

25 BY MR. REDMOND:

1 Q. When you're talking about your training you said you
2 go through training for accident reconstruction. How
3 often or let me ask you this. How many accidents, if you
4 can even estimate, have you worked in your time with
5 Highway Patrol?

6 A. Since I've been in there have been numerous accidents
7 that I've worked.

8 Q. Okay, and in fact is part of your role, part of your
9 job when you are called to a scene to assess what may have
10 caused an accident?

11 A. Well, at the time I come to the scene I couldn't
12 assess anything. All I could observe was two vehicles
13 involved with a lot of trauma done to each vehicle.

14 Q. Okay. And that's what I'm getting at. From the
15 standpoint of your role in this case are you familiar with
16 the M.A.I.T. Team?

17 A. Yes, sir.

18 Q. Multi-discipline Accident Investigative Team. You
19 familiar with that?

20 A. Yes, sir.

21 Q. Okay, are you a part of that?

22 A. No, sir.

23 Q. Okay. Are they called out for major accidents?

24 A. Major accidents and also the sheriff of each county
25 can ask on request for the M.A.I.T. Team to come out.

1 Q. And did the M.A.I.T. Team come out in this situation?

2 A. Yes, sir, they did.

3 Q. Now, let's go back to little bit. When you're called
4 out to the scene of the accident do you assess the
5 surroundings, the environment around a particular
6 accident?

7 A. I do.

8 Q. Did you do that in this situation?

9 A. I did.

10 Q. Did you observe anything that would have constituted
11 standing water?

12 A. At the time I come on the scene it was already
13 finished raining. It was a heavy downpour from the time I
14 headed to the scene. It had been raining shortly early
15 that day. I had to come from Pageland all the way to
16 Middendorf. There is no easy way to get there. It had
17 been raining by the time I got down there and ambulance,
18 E.M.S, fire department, and other parts of the Sheriff's
19 Office was already there. So you got all these big trucks
20 at the scene. That covered up most of the highway by the
21 time I got there.

22 Q. Okay. Now, when you got though were you able to make
23 any determinations of what -- were you able to make any
24 determinations as far as fatalities involved?

25 A. No, sir cause I hadn't spoke to the defendant, Mr.

1 Lambert, yet or in this case the deceased.

2 Q. Okay. What time do you recall that you arrived at
3 the scene to the best of your recollection?

4 A. About 1935 hours.

5 Q. And just for those of us -- those who have not been
6 in the military that's about 7:35?

7 A. 7:35.

8 Q. In the evening. When you got to the scene could you
9 tell the jury what you observed?

10 A. When I made it to the scene I come on the northbound
11 side from Patrick down U.S. One. When I topped the hill
12 come down the hill I saw ambulance, E.M.S, fire department
13 and other workers as well as the Sheriff's Office were on
14 the scene. When I come up on the scene the Sheriff, Sam
15 Parker, let me know that one of his deputies was involved.
16 He was not on duty at the time and was already passed
17 away.

18 Q. Okay?

19 A. At that time -- you want me to continue?

20 Q. Yes, please.

21 A. At that time I called my supervisor which was First
22 Sergeant Lonnie Plyler at the time. I told him what I
23 had, and he said for me to secure the scene, take as many
24 pictures as I could, and get whatever statements that I
25 could until he arrived on the scene.

1 Q. And is that what you did?

2 A. That's exactly what I done.

3 Q. And so your role wasn't so much from investigating
4 the accident? You were following directions of your first
5 sergeant taking pictures of the scene, collecting
6 evidence? At some point you leave the scene and go to
7 Carolina Pines in Hartsville?

8 A. Yes, sir. After my first sergeant came on scene to
9 let me know the M.A.I.T. Team would be called out he sent
10 me to Carolina Pines to talk to Mr. Chad Lambert.

11 Q. So with that did you actually have an opportunity to
12 talk with Michael Chad Lambert?

13 A. Yes, sir, I did.

14 Q. Okay, but let me go back real quick when we talk
15 about collecting evidence. Did you collect any evidence
16 at the scene?

17 A. Yes, sir. I took pictures of beer cans which were
18 all over the roadway. There were some inside the cab of
19 the pick up truck and some on the back...

20 Q. And did you actually collect certain items?

21 A. Yes, sir, I did.

22 Q. I'm going to show you, and it has not been marked.
23 I've already shown this, but I'm going to mark this as
24 State's -- I think this would be 37.

25

1 (WHEREUPON, State's Exhibit No. 37 was marked for
2 identification only.)

3 BY MR. REDMOND:

4 Q. And, actually, if you would step down.

5 (WHEREUPON, the witness steps down from the witness
6 stand.)

7 BY MR. REDMOND:

8 Q. I'm going to have you step down just a minute. And
9 you can just stand -- actually, I'm going to have you
10 stand closer to the court reporter. First of all would
11 you tell me if this, State's Exhibit 37, are those the
12 items -- some of the items that you collected or items
13 that you collected from the scene?

14 A. They are.

15 Q. And if you would I would ask you to remove those
16 items if you could one by one that are in State's Exhibit
17 37. What is it that you've got in there, sir?

18 A. I've got eight beer cans and one bottle.

19 Q. Eight beer cans, and where were those items found and
20 collected?

21 A. Most of these cans were found on the roadway. There
22 was a bottle found in the cab and a couple of cans were
23 found in the cab.

24 Q. All right. All around the defendant's truck?

25 A. The red pick up truck, yes, sir.

1 Q. Did you collect those and have those items sent to
2 the State Law Enforcement Division?

3 A. I did. I collected them and put them in one of our
4 evidence bags. Done a chain of custody on it. Next day I
5 was called to take everything to Columbia so nothing would
6 break the chain of command so everything would be in my
7 name so nobody else would have touched it.

8 Q. You personally collected them and you personally took
9 them to Columbia?

10 A. I did.

11 Q. Now, thank you. If you could just actually return to
12 your seat for just a little while.

13 (WHEREUPON, the witness returns to the witness
14 stand.)

15 BY MR. REDMOND:

16 Q. Once you left the scene when your first sergeant
17 arrived you said you went to Carolina Pines? Could you
18 tell jury what you did, what occurred, once you got to
19 Carolina Pines Hospital in Hartsville?

20 A. Once I arrived at Carolina Pines Hospital I had to
21 speak to the doctor to see if I could speak to the
22 individual. He told me, yes, he was awake and inside the
23 emergency room. I then went in and I read him his rights.
24 I cut on a Cool Pics Video Camera so that that issue that
25 has a video camera on it. I then read -- I got a video

1 statement from him. Mr. Michael, his name, his address,
2 his date of birth. He knew where he was going. He knew
3 where he was coming. He gave me circumstances along that
4 aspect. Also I read him his Miranda rights. I take that
5 back. I read him his Implied Consent Form due to it being
6 a D.U.I. concerning case.

7 Q. Now, did you videotape this particular encounter?

8 A. I did.

9 Q. And did the defendant admit that he had drank beer?

10 A. He did on video.

11 Q. Did the defendant tell you where he was coming from?

12 A. He did. He stated that he was traveling that --
13 early that morning coming from Alabama to his mother's
14 house in Patrick.

15 Q. Okay. Let me go back a minute. Now, we talked about
16 the hospital before. Did you just go straight into the
17 hospital and talk to the defendant? What did you do prior
18 to actually getting access to the defendant?

19 A. I had to go through the doctor because I had to ask
20 the doctor if there was any reason that this subject
21 couldn't be put on a breathalyzer test. He couldn't cause
22 he was all bandaged up and injuries sustained from the
23 vehicle accident or the collision. And I also asked the
24 doctor if there is anybody there that could draw blood for
25 me, and you already heard the same from the R.N. who was

1 up here earlier.

2 Q. Now, that after you went through that process were
3 you allowed to talk to the defendant?

4 A. Yes, sir.

5 Q. Okay. But that was after being cleared by the
6 doctor?

7 A. Yes, sir.

8 Q. So you get to talk to the defendant. Did you feel
9 that he understood what you were asking him?

10 A. I did. He even corrected me on his date of birth,
11 and when I asked him if he was going somewhere or coming
12 from somewhere he always relied, yes, sir. I said he also
13 corrected me on his date of birth and name. So I believe
14 that he was coherent at the time.

15 Q. How long did he tell you he was travelling?

16 A. Since early that morning.

17 Q. Okay, was he able to tell you how the accident
18 happened?

19 A. All he could say was that he thought he fell asleep
20 at the time of the collision.

21 Q. So he told you he thought he fell asleep?

22 A. Yes, sir.

23 Q. And, again, these things are reflected on the tape?

24 A. Yes, sir.

25 Q. Which we'll hear in just a minute. Let me go back

1 for a moment. You talked about the implied consent. I'm
2 going to show you what's been marked as State's Exhibit
3 22. If you could take a look at that, and I'm actually,
4 to save time, going to show you what's been marked as
5 State's Exhibit 34. Could you look at both of those
6 documents and let me know when you're ready to answer some
7 questions?

8 A. Yes, sir.

9 Q. All right. Is that Implied Consent Form that he was
10 read -- that was read to him at the hospital?

11 A. Yes, sir.

12 Q. Okay, and when you talk about the Miranda rights,
13 this is the form informing him -- what does that form do?
14 Why do you have to read that form to the defendant?

15 A. The Implied Consent Form or the Miranda?

16 Q. Both. I mean everything. Why is it that you have to
17 read that?

18 A. The Miranda -- I mean the Implied Consent Form, is
19 just to let me him know that there has to be blood taken
20 cause of the D.U.I. that was possibly involved.

21 Q. Okay.

22 A. And the fatality that was involved.

23 Q. Okay. And as it relates to the Miranda Warning why
24 do you read the Miranda Warning? What is that?

25 A. This is to let him know that he does have the right

1 to have an attorney while being questioned. If he likes
2 to have one he can have one.

3 Q. Okay, and after reading all of this was he willing to
4 go forward with having blood drawn?

5 A. Yes.

6 Q. And did you collect the blood that was drawn?

7 A. We did*.

8 Q. Okay. And that was from Mr. Purvis that we heard
9 from earlier?

10 A. Yes, sir.

11 Q. Did you personally retrieve that blood from
12 Mr. Purvis?

13 A. Yes, sir.

14 Q. And what did you do with it once you collected it?
15 What did you do with this particular piece of evidence?

16 A. As a deputy coroner, as I stated we each get a box
17 from S.L.E.D. we have to draw blood in. It's labeled.
18 It's got evidence stickers on it. Once you open it you
19 have to cut into the evidence sticker so everything is
20 stated. You have two vials and swabs to swab the skin
21 with if you need it. And once Mr. Purvis took the blood,
22 I took it. We both signed a ---

23 Q. Actually, I can show you ---

24 A. It's a Urine Blood Collection Form.

25 Q. Okay.

1 A. We both have to sign it saying that we were in the
2 room at the time of the collection. And that time we
3 collected it and placed it back in the box and placed the
4 evidence sticker back on it. That's when I transported it
5 back to S.L.E.D. the next day.

6 Q. Okay. Now, followed your standard operating
7 procedure in doing that?

8 A. Yes, sir.

9 Q. You said you took pictures at the scene as well?

10 A. Yes, sir.

11 Q. And, of course, you took the videotape. After you
12 left the hospital did you go back to the scene? Did you
13 participate in any way with the M.A.I.T. Team?

14 A. When I arrived back on the scene the M.A.I.T. Team
15 had already been involved. They started taking their
16 pictures and their assessments. I had to do an interview
17 with a Schull, Trooper Schull, in reference to the case.
18 He was just taking statements of what I interviewed
19 Mr. Lambert at the hospital.

20 Q. Okay.

21 MR. REDMOND: If I could beg the Court's indulgence.

22 BY MR. REDMOND:

23 Q. If I could, and this will be the last time that I ask
24 you to step down, but you might be down for a few minutes.

25

1 (WHEREUPON, the witness steps down from the witness
2 stand.)

3 BY MR. REDMOND:

4 Q. I'm going to show you what is already in evidence,
5 some photographs, and then we'll get into some more
6 photographs as well. Okay. And I'm making sure that
7 everybody can see them. Kind of spread them out. We'll
8 do the best we can. What I'll do is I'll explain what
9 they are, and I'm going to ask you to do this for me,
10 Leslie. If you will hold these pictures and just explain
11 as they are, and I'm going to get you to face this way so
12 you're facing the court reporter. Speak as loudly as you
13 can, and you can just hand them to me and I'll just walk
14 down and make sure each juror has an opportunity to see
15 them.

16 A. Okay. This first picture is just a offset picture of
17 the collision with the white Cadillac in the northbound
18 lane and the red Toyota in the southbound lane.

19 Q. It's Exhibit Number Five. Okay.

20 A. Exhibit Number Six is a more close up picture of the
21 red Toyota that was involved. When we go on the scene we
22 try to take pictures all the way around the scene starting
23 further back and working our way in.

24 Exhibit Number Ten is a more close up picture of the
25 Toyota with the final rest of the Toyota showing the paint

1 marks that we paint showing that the final rest, and also
2 there was one beer can left on the scene.

3 Exhibit Number 11 is just another close up picture of
4 another beer can.

5 Exhibit Number 12 is a close up picture of that last
6 beer can. Same beer can just a close up picture of it.

7 Exhibit Number 13 is a beer can that was on the back
8 of the truck.

9 Exhibit Number 14 is the same beer can as previous
10 it's just at a different angle.

11 Exhibit Number 15 is a picture of the beer can in the
12 red Toyota Pick Up truck tool box that sits on the back of
13 the truck.

14 Exhibit 16 is more beer cans in the exterior part of
15 the truck in the back of it.

16 Exhibit 17 is another picture of the back of the
17 truck, and you can see we got four more beer cans that we
18 took pictures of.

19 Exhibit 18 is another close up picture of a beer cans
20 that was in the bed of the truck with a lot of other
21 equipment that he had piled up in the truck.

22 Exhibit 19 is picture -- is a close up picture of the
23 beer can that was in the cab of the truck.

24 Exhibit 20 is another picture of the back of the
25 truck. You can see the beer can -- one, two, three, four,

1 five, six, seven hiding up under there in the truck. Just
2 another picture of it.

3 MR. REDMOND: Now, if you could, Trooper Davis, if we
4 can swap sides for just a moment. If we could, just a few
5 pictures. I'm sorry. While we're standing here waiting
6 for that to come up, I can ask you if again you collected
7 all these items. You went to the hospital. All of that
8 was pursuant to your role in this investigation?

9 A. Yes, sir.

10 Q. However, and just to clarify, were you involved in
11 the actual investigation to determine the cause of the
12 accident?

13 A. No, sir.

14 Q. Did you have any role whatsoever as it relates to
15 that aspect of this case?

16 A. No, sir.

17 Q. Is that common where the M.A.I.T. Team comes in and
18 they will be the one making those assessments?

19 A. Yes, sir.

20 Q. All right. And as we go through each picture to save
21 time I'll just ask you the same questions, is that
22 accurately depict what you saw when you arrived on the
23 scene? And we will just move on if you could just let us
24 know if this exhibit, what is it and does it accurately
25 depict what you saw?

1 A. It does, and this is a picture from the south side
2 facing north.

3 Q. All right. Next?

4 A. This is -- yes, sir, it's a picture I took, and it's
5 just offset of the Cadillac. This picture showing the
6 front end damage of the Toyota. The different angle of
7 the front end damage to the Toyota. Front end picture of
8 the Cadillac. Just a close up picture.

9 Q. And you can continue and just again same question for
10 each picture.

11 A. This is actually a M.A.I.T. picture. It was taken
12 over the top. They will take a couple of these pictures
13 just to get an overview of everything that's on the scene.
14 It's another overview. The first one was the Cadillac.
15 The second one was the Toyota. Another overview.

16 Q. Now, have you had a chance to view the tape,
17 videotape statement, that you took from the defendant?

18 A. Yes, sir.

19 Q. Okay. And it's already in evidence, so I hate to ask
20 you to do this, but if you wouldn't mind standing here
21 while we go ahead and queue that up at this time. I may
22 have some questions regarding it. That's why I'd like for
23 you to stand up here because of the angle of the t.v. I
24 apologize in advance. If it makes you feel better I'll
25 stand up here with you. And can everybody see? Can

1 everybody see? Okay.

2 There is one more picture I almost forget about, but
3 I wanted to show you what's been marked as State's Exhibit
4 Number Nine. It's not in evidence yet. So before we
5 publish it to the jury could you look at that exhibit and
6 could you tell us whether or not that truly reflects what
7 your saw and what you photographed?

8 A. It does.

9 Q. And what is it a picture of?

10 A. It's a can -- it's a picture of a beer bottle inside
11 the cab of the truck.

12 Q. And is that the beer bottle we see sitting on the
13 table right here?

14 A. Yes, sir.

15 MR. REDMOND: And, Your Honor, with that we would
16 move to admit State's Exhibit Number Nine; that being the
17 picture of the Bud Light bottle into evidence?

18 THE COURT: Any objection?

19 MR. COX: No objection of the picture. We do not
20 admit that was the beer bottle.

21 MR. REDMOND: And understood.

22 THE COURT: All right.

23 (WHEREUPON, State's Exhibit No. 9 was admitted into
24 evidence.)

25 BY MR. REDMOND:

1 Q. Can you tell us again what does this represent?

2 A. It represents a picture of a beer bottle, Bud Light,
3 in the cab of the truck.

4 Q. Now, with that can we queue up the tape, and again,
5 if you can watch along with us I may have some questions.

6 (WHEREUPON, State plays State's Exhibit Number One
7 for the jury.)

8 BY MR. REDMOND:

9 Q. Now, the reason I'm pausing it there is just to
10 clarify. Earlier in the tape in your testimony you
11 mentioned that he actually corrected you a couple of
12 times?

13 A. Yes, sir.

14 Q. Have both of those times been reflect here on this
15 tape up to this point?

16 A. Yes, sir.

17 Q. And is that what lead you to believe that he
18 understood what you were telling him?

19 A. Yes, sir.

20 Q. Because he was able to correct you if you said
21 something ---

22 MR. COX: Object to the form of the question.

23 MR. REDMOND: I'll rephrase.

24 THE COURT: All right. I will sustain and you better
25 rephrase it.

1 MR. REDMOND: I'll rephrase it.

2 BY MR. REDMOND:

3 Q. Why is it that you believe -- in part why is it that
4 you believe that he understood you?

5 A. Cause it was his date of birth, and if it was me and
6 somebody asked me my date of birth I can tell you tell you
7 if it was right or not if you repeat it back to me.

8 Q. And also is part of being coherent being able hear --
9 understand what you're being asked as well?

10 A. Yes, sir, that's why I also asked him if he
11 understood while I was reading the questions.

12 Q. Okay. Thank you. You can continue.

13 (WHEREUPON, State's Exhibit One continued being
14 played for the jury.)

15 BY MR. REDMOND:

16 Q. I think it's probably understood, but I need to ask
17 you to make sure the record is clear. Is the reason that
18 you went through -- what is the reason you went through
19 protocol of having the blood collected and to send to
20 S.L.E.D, giving him his Implied Consent rights? What was
21 his under suspicion of at that time?

22 A. Driving under the influence.

23 Q. Okay. And based on your experience is that why you
24 went through these steps because this was suspicious?

25 A. Yeah, cause there was alcohol involved.

1 Q. Did you, and I didn't ask you this. Were you able to
2 tell whether or not he was truthful when he indicated that
3 he had had alcoholic beverages? Were you able to smell or
4 detect anything?

5 A. Yeah, I could smell alcohol on his person when we
6 walked into his room.

7 Q. Okay. You can continue. Thanks.

8 (WHEREUPON, State's Exhibit One continued being
9 played for the jury.)

10 BY MR. REDMOND:

11 Q. Now, what did we observe at this point in time? You
12 asked him some questions, but what was taking place at
13 this time?

14 A. At that time I left the camera on just to show that
15 we did draw blood from Mr. Lambert, and it was given to me
16 by the R.N, Mr. Purvis.

17 Q. Okay.

18 (WHEREUPON, State's Exhibit One continued being
19 played for the jury.)

20 BY MR. REDMOND:

21 Q. Okay, Trooper Davis, if you can have a seat.

22 (WHEREUPON, the witness returns to the witness
23 stand.)

24 BY MR. REDMOND:

25 Q. One or two quick questions and then I will be

1 finished. I think I asked you to look at State's Exhibit
2 34, but I didn't get into that with you. Is that, when
3 you talked about how you collected it and sealed it and
4 took evidence to S.L.E.D, would that be what the blood was
5 taken into S.L.E.D.?

6 A. Yes, sir. It was the front of ---

7 Q. Well, it's a copy of the sheet?

8 A. It's a copy of the front cover of the collection box.
9 We have to fill out Mr. Lambert's name, my name, the case
10 number, the time, the place where it was drawn and then I
11 have to initial it.

12 Q. Okay. All right. And is that an accurate, true copy
13 of what you submitted to S.L.E.D.?

14 A. Yes, sir.

15 Q. In the container it was submitted to S.L.E.D.?

16 A. Yes, sir.

17 Q. And back to State's Exhibit Number --

18 MR. REDMOND: I believe that's State's Exhibit 22.

19 At this time we would move State's 22 into evidence?

20 MR. COX: No objection.

21 THE COURT: In without objection.

22 (WHEREUPON, State's Exhibit No. 22 was admitted into
23 evidence.)

24 MR. REDMOND: Beg the Court's indulgence.

25 BY MR. REDMOND:

1 Q. I didn't ask you this, but did you sign the warrants
2 charging the defendant?

3 A. Yes, sir.

4 Q. Okay. That was once you -- was that once you
5 received information from Columbia regarding the
6 toxicology results?

7 A. After the M.A.I.T. Team decided to charge him with.

8 Q. Exactly. After the M.A.I.T. Team?

9 A. Yes, sir.

10 Q. So let me make sure I'm clear. He was only charged
11 once the investigation was completed by the M.A.I.T. Team?

12 A. Yes, sir.

13 Q. Okay. And is that in the ordinary course of your
14 business?

15 A. Yes, sir.

16 Q. Okay. Nothing further at this time. Thank you,
17 Trooper Davis.

18 CROSS-EXAMINATION

19 BY MR. COX:

20 Q. Trooper Davis, you charged him with driving under the
21 influence, did you not?

22 A. Yes, sir.

23 Q. You wrote a ticket for that?

24 A. Yes, sir, and I did go back and get it.

25 Q. Okay. We appreciate that, but we going to answer,

1 question, answer. Please answer the question if you can
2 yes or no. Take all the time you need to explain it. I
3 want the jury to understand what's been asked and what
4 your response is. So you're the patrolman on the scene?

5 A. Yes, sir.

6 Q. Is that correct? And you wrote a ticket for driving
7 under the influence?

8 A. Yes.

9 Q. When did you write that ticket?

10 A. When I was at the hospital.

11 Q. At the hospital. And who did you give the ticket to?

12 A. I believe I gave it to his mother.

13 Q. His mother?

14 A. Yes, sir.

15 Q. And then at some point in time you came back and got
16 that ticket back?

17 A. Yes, sir.

18 Q. When did that occur?

19 A. When I initially first left I called my supervisor to
20 let him know what conspired at the hospital. He then told
21 me to go back and get that ticket cause we don't know.
22 The investigation is not clear. We don't know who is at
23 fault yet.

24 Q. So when did you go back and get it?

25 A. As soon as I got off the phone. I never left the

1 parking lot.

2 Q. What time was that?

3 A. Just a few minutes after I left the hospital. I
4 couldn't give you an accurate time.

5 Q. Now, based on your experience would you describe Mr.
6 Lambert's response to you as his cooperating with you? He
7 tried to answer your questions?

8 A. Yes, sir.

9 Q. Did he answer those to your satisfaction?

10 A. Yes, sir.

11 Q. At any time did he tell you anything that you found
12 out later not to be true?

13 A. You have to repeat that again.

14 Q. At any time did he give you false information?

15 A. No, sir.

16 Q. Now, how many beers can did you pick up at the scene?

17 A. On the scene, it should be eight cans and one bottle.

18 Q. And you picked them up yourself?

19 A. Yes, sir.

20 Q. Did all of them come from the area of the accident?

21 A. Yes, sir.

22 Q. Did any come from the shoulder of the accident?

23 A. Not that I picked up.

24 Q. Not that you picked up. Di anyone else pick up any
25 beer cans or bottles that are not here now?

1 A. The M.A.I.T. Team got into the vehicle and started
2 moving some stuff around after that got to a closed fenced
3 in area so they could do their investigation. They found
4 more beer cans inside the cab.

5 Q. And do you -- have you seen those?

6 A. I haven't seen those.

7 Q. You have not seen those yourself?

8 A. I've only seen the ones that I picked up.

9 Q. And the State Exhibits, which are the photographs of
10 the truck, how would you describe the truck from the
11 standpoint of was it neat and clean?

12 A. No, sir.

13 Q. Did it -- was there clothes in the truck?

14 A. Yes, sir.

15 Q. Clothes in the cab of the truck?

16 A. Yes, sir.

17 Q. And when you refer to the interior of the truck are
18 you talking about the car area?

19 A. All of the cab inside. The extended part. Wheels
20 and main cab.

21 Q. Now, on the back of the truck was there any type of
22 storage compartment?

23 A. Some tool box.

24 Q. Tool box, and was it a large tool box?

25 A. I guess for that pick up size I guess it would be

1 large.

2 Q. Did it go completely across the back of the truck?

3 A. It just went across -- it didn't cover the whole back
4 of the truck. Regular standard size tool box fitted on
5 the back of the truck.

6 Q. What color?

7 A. Stainless.

8 Q. Stainless. And did you find any beer cans in that
9 stainless box?

10 A. There were pictures taken of everything in that box.
11 I did not take these.

12 Q. But my question was did you find any beer cans in
13 that stainless tool box?

14 A. Yes, sir.

15 Q. So you found some?

16 A. Yes, sir.

17 Q. Do you know how many you found?

18 A. Inside the tool box, no, sir.

19 Q. Now, did you find any beer cans under that tool box?

20 A. I didn't move the tool box.

21 Q. You didn't move the tool box. In what I call the bed
22 of the truck, the bed of the truck, do you call it the bed
23 also?

24 A. Yes, sir.

25 Q. Did you find any beer cans in the bed of the truck?

1 A. There were beer can in the bed of the truck.

2 Q. Do you remember how many?

3 A. No, sir. Not off the top of my head.

4 Q. How many beer cans did you find outside of the truck?

5 A. The eight cans and one beer bottle.

6 Q. So the beer bottle was found outside the truck?

7 A. No, sir, it was inside the door cab on the driver's
8 side.

9 Q. Please help me. I asked outside of the truck?

10 A. Outside of the truck for the eight cans.

11 Q. On the ground? On the pavement?

12 A. Yes, sir.

13 Q. Did you find any on the pavement.

14 A. The eight cans that are sitting up there on the
15 table.

16 Q. All those eight can? All of those eight cans?

17 A. Yes, sir.

18 Q. So none of those cans you have there came from the
19 tool box of the truck?

20 A. No, sir.

21 Q. The bed of the truck?

22 A. No, sir.

23 Q. The interior of the truck?

24 A. No, sir.

25 Q. And there is no question that beer bottle was inside

1 the cab of the truck?

2 A. Yes, sir. It was as in that picture you can see it.
3 It was on the driver's side right behind the driver's
4 seat.

5 Q. Do you know when that picture was taken?

6 A. That same night of the accident.

7 Q. Was it taken when you first -- let me ask you this.
8 When did you first see the beer bottle?

9 A. When I started taking my pictures.

10 Q. And are the pictures in evidence, are those the
11 pictures you took?

12 A. Yes, sir.

13 Q. And no question that that beer bottle was in there?

14 A. Yes, sir.

15 Q. After the blood was drawn by Mr. Purvis ---

16 A. Yes, sir.

17 Q. --- okay, he gave the blood to you?

18 A. Yes, sir.

19 Q. What did you do with it?

20 A. I stuck it in out S.L.E.D. box that S.L.E.D. gives us
21 and I documented it. Me and him both signed it. He drew
22 it and I was a witness to it. We sealed it up.

23 Q. Is that box here today?

24 A. No, sir.

25 Q. Now, why after you put it in the box and secured it

1 what did you do with it?

2 A. It was in my possession. I put it in the truck of my
3 car.

4 Q. Put it in the truck of your car?

5 A. Yes, sir. Drove back out to the scene.

6 Q. And how long did it stay in the truck of your car?

7 A. Time wise, I'm not sure.

8 Q. An hour?

9 A. Well, it was probably about two hours by the time I
10 got to the office to put in the our locked refrigerator
11 box.

12 Q. So you got it to your office and put it in a
13 refrigerated box?

14 A. Locked.

15 Q. Locked and stayed there?

16 A. Yes, sir. Over night.

17 Q. Who took it out of the box?

18 A. I did. I put it in and I took it out.

19 Q. When did you take it out?

20 A. The next day.

21 Q. And what did you do with it?

22 A. Took it to S.L.E.D.

23 Q. Drove it to S.L.E.D?

24 A. Yes, sir.

25 Q. Now, when you drove it to S.L.E.D. where was that

1 box?

2 A. In the front driver -- passenger seat of my car.

3 Q. Front seat of the car?

4 A. Yes, sir.

5 Q. And when you got to S.L.E.D. what did you do with it?

6 A. I took it inside S.L.E.D. and filled out a chain of
7 custody showing that I gave it to S.L.E.D.

8 Q. Did someone sign for it?

9 A. Yes, sir.

10 Q. Nothing further. Thank you.

11 REDIRECT EXAMINATION

12 BY MR. REDMOND:

13 Q. Based on what you were asked on cross examination, so
14 these beer cans that we see here are not all of the beer
15 cans that were out there at the scene that night?

16 A. No, sir.

17 Q. Matter of fact based on what you said these beer cans
18 are in addition to the ones we saw in the photograph?

19 A. Yes, sir.

20 Q. Am I understanding that correct?

21 A. Yes, sir.

22 MR. REDMOND: Be all the questions I have at this
23 time. Your Honor, nothing further.

24 MR. COX: Nothing further.

25 COLLOQUY

1 THE COURT: You may step down. Thank you. Need a
2 recess everybody? All right. Okay.

3 MR. REDMOND: Your Honor, actually, this would be --
4 I need to double check. I want to make sure. I think one
5 of my other witnesses is going to be coming in the
6 morning, but I just want to make sure that they are not in
7 fact here so we can get them in. We can get it over with.
8 If we can take about a five minute recess?

9 THE COURT: Sure. Y'all step back. Take a brief
10 recess.

11 (WHEREUPON, the jury panel was excused from the
12 courtroom at at 3:11 p.m.)

13 MR. REDMOND: The only other thing is a housekeeping
14 matter to put on the record. State's Exhibit 37, we'd
15 like to move into evidence. I thought I had done it, but,
16 of course, I realized I had not. So just from a
17 housekeeping standpoint I'd like to move that into
18 evidence at this time?

19 MR. COX: No objection, Your Honor.

20 THE COURT: Okay. So be it.

21 (WHEREUPON, State's Exhibit No. 37 was admitted into
22 evidence.)

23 MR. REDMOND: With that, Your Honor, our other
24 witnesses will be coming in from Columbia, the M.A.I.T.
25 Team and S.L.E.D. witness in the morning. We had them set

1 up to come in the morning.

2 THE COURT: Okay. Stick to 10:00?

3 MR. REDMOND: That's fine, Your Honor.

4 MR. COX: Yes, sir.

5 THE COURT: Okay. Give everybody a little time to
6 get ready. All right. Bring them in.

7 (WHEREUPON, Court was in recess at 3:11 p.m. and
8 reconvened at 3:25 p.m.)

9 (WHEREUPON, the jury panel enters the courtroom at
10 3:25 p.m.)

11 THE COURT: Okay, ladies and gentlemen, we're running
12 ahead of schedule, and because of that we've got to wait
13 in the morning to get the next witness here because we
14 thought this case would take longer with other witnesses
15 that are not going to be called. So we will recess at
16 this time for the night, and we'll fire back up at ten
17 o'clock. Please remember all my instructions about local
18 press coverage, allowing anybody to approach you.

19 All right. If everybody else would remain seated the
20 jury will be departing, and we'll see you back here in the
21 morning.

22 (WHEREUPON, the jury panel was excused from the
23 courtroom at 3:26 p.m.)

24 THE COURT: Anything else?

25 MR. REDMOND: Nothing from the State, Your Honor.

1 MR. COX: Nothing from the Defense. Thank you, Your
2 Honor.

3 THE COURT: All right. We're in recess until 10:00
4 in the morning.

5 (WHEREUPON; State's Exhibit Nos. 38 AND 39 were
6 marked for identification only.)

7 END OF TRANSCRIPT OF RECORD
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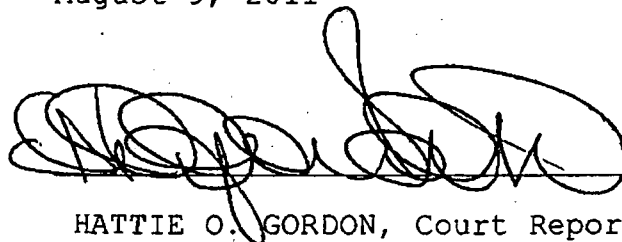
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Chesterfield County, South Carolina, on the 9th day of
February, 2010.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

August 9, 2011



HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF CHESTERFIELD) 2008-GS-13-00787
2009-GS-13-01118
2009-GS-13-01119

STATE OF SOUTH CAROLINA)
) PLAINTIFF
vs.) TRANSCRIPT OF RECORD
)
MICHAEL LAMBERT)
) DEFENDANT

February 8-11, 2010
Chesterfield, South Carolina
VOLUME NO. 03 OF 04

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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

KERNARD E. REDMOND, ASSISTANT SOLICITOR
Attorney for the State

ADAM FOARD, ASSISTANT SOLICITOR
Attorney for the State

JAMES C. COX, JR., ESQ.
Attorney for the Defendant

Hattie O. Gordon
Circuit Court Reporter

COLLOQUY

(WHEREUPON, the jury enters the courtroom at 10:18 a.m.)

THE COURT: Good morning. Counsel, you waive polling of the jury this morning?

MR. REDMOND: State so waives.

MR. COX: Defense waives, Your Honor. Thank you.

THE COURT: Well, back to you, Solicitor.

MR. REDMOND: Thank you, Your Honor. May it please the Court. State first calls Andrena Belton from S.L.E.D. to the stand.

ANDRENA BELTON, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. REDMOND:

Q. Miss Belton, by whom are you employed?

A. By the South Carolina Law Enforcement Division commonly known as S.L.E.D.

Q. And in what capacity are you employed?

A. I'm a criminalist.

Q. And what does that mean? Can you explain that to the jury?

A. I'm a forensic scientist. I work in the Latent Print Department.

Q. Let me stop you real quick. I know you've been

1 feeling under the weather, and I appreciate your being
2 here today, but if you could muster up the strength to
3 talk a little bit louder. The acoustics here are horrible
4 so that everybody can hear you.

5 A. Okay.

6 Q. All right. So go ahead if you can?

7 A. I'm a forensic scientist in the Latent Print
8 Department. I study ridgeology on your finger prints.

9 Q. Okay, and so in essence you do the fingerprint
10 analysis?

11 A. Exactly.

12 Q. And how long -- first, let's get your educational
13 background?

14 A. I have a bachelor degree in public awareness and i
15 have a master's degree in political science.

16 Q. And how long have you worked for S.L.E.D.?

17 A. I've been with S.L.E.D. since 2003.

18 Q. Okay. And how long have you worked in the Latent
19 Prints Department?

20 A. Since October 17 2007.

21 Q. And so with that do you also, in your role with
22 S.L.E.D, look for fingerprints and do you also check for
23 anything else?

24 A. Yes, I check -- sometimes check the swab for D.N.A.
25 and I sent that on to the D.N.A. Department. I also check

1 and look for blood as well as check for fingerprints.

2 Q. All right. Could you tell us how that process works?

3 We're not going to understand or know everything, but if

4 you could give us the elementary version of what you do.

5 A. Okay. We'll just take this microphone as something

6 you can see already. If I had this as a piece of evidence

7 and they wanted D.N.A. on it I would do what they call a

8 touch D.N.A. That's when you just touch the swab for skin

9 cells. Probably around the general area where you would

10 touch something, and I would try to leave something so

11 that when I do my fingerprint examination I can still

12 collect fingerprint information.

13 So I take a swab, and I use deionized water. I swab

14 it and I put it into a an envelope and mark where i

15 swabbed the location from. This will generally be called

16 Item One. My swab would become 1.1. I swab it. I put it

17 in an envelope for D.N.A. to do any fingerprint

18 examination of it.

19 Q. Okay. Did you do that in this particular case?

20 A. Yes.

21 Q. Let go back a moment. Did you receive evidence

22 regarding this particular case from -- to S.L.E.D.?

23 A. Yes.

24 Q. And were those -- well, were those items eight beer

25 cans and one beer bottle?

1 A. Yes.

2 Q. Okay. Now, let's talk briefly about your process for
3 receiving evidence. When evidence is sent to S.L.E.D.
4 could you explain to the jury the protocol that is
5 followed and the standard operating procedure?

6 A. Generally, when we received through S.L.E.D. it comes
7 through our door through our surrounding agencies. Once
8 it gets to our door it goes to what is called the Evidence
9 Log In where they actually log the evidence in with a
10 description of what the officer tells them is in there.

11 The evidence is generally sealed before it gets to
12 me. Once I receive the evidence, and in this case I
13 received this evidence directly from Denise, which is a
14 technician in our department. All right. Usually instead
15 of getting the evidence directly from her it goes to our
16 Latent Prints Incoming. It is our storage area that is
17 locked and sealed. Evidence is always locked, but in the
18 case I got it directly from her, and again, processed the
19 evidence.

20 Q. All right. Now, when you got the evidence and
21 examined it do you -- did you come up with a report or
22 issue a report based on your findings?

23 A. Yes.

24 Q. And let me ask you this, first off. Were you able to
25 find -- were you able to identify any prints?

1 A. No.

2 Q. And I asked you that way for a particular reason.

3 Could you explain how that process works?

4 A. Sure. Using the Item One again. On the items that I
5 have, Items Two through Ten, on some of my items I had no
6 value. Insufficient ridge detail. Let's go back to
7 fingerprints. If y'all would look at your fingerprints
8 you would see ridges and lines. We have arches, swirls,
9 loop. Those are our three basic print types. You can
10 touch it. As you can see I'm touching it, but you don't
11 see anything once I touch it. I have different processing
12 techniques to get evidence. That's not always going to
13 say that just cause I touched something that I left a
14 print.

15 There are certain reasons why you can't leave a print
16 or why a print won't show. Maybe the weather is too hot.
17 Maybe it's too cold. Maybe it is the surface of the
18 actual item. Maybe that's too hot. Maybe that's too
19 cold. Roofers and bricklayers, they actually use a hot
20 paper. They rub they're prints off with the bricks. So
21 it's hard to get a good print off of that. Those are
22 several factors on why you won't get a print.

23 In this instance some of the items were no value, but
24 some items had not value, insufficient ridge detail. I
25 use that to tell me that although there's not value I did

1 get some ridge detail. Meaning that I saw some
2 fingerprints on this item, which was a can, but it was of
3 no value for me to identified anyone.

4 Q. Now, let me approach with two exhibits. First
5 State's Exhibit 37 which is in evidence and then State's
6 Exhibit 38. Now, I want you with State's -- if you would
7 take a look at those exhibits, first of all. First, as to
8 State's Exhibit 38 are these the swabs that you took from
9 the beer cans in this case?

10 A. Yes.

11 Q. All right. Now, I'm going to ask you to look --
12 thank you. You can sit that one down. And State's
13 Exhibit 38 -- 37, excuse me, which is in evidence. Could
14 you look through that, and if you would pull those out
15 cause I want you to explain something regarding those cans
16 to the jury.

17 A. Would you like me to pull them all out?

18 Q. Yes, if you would. And as a matter of fact I'll just
19 move that out of the way for you.

20 A. In an instance if I was in the lab I would not touch
21 this without gloves. I'm going to go ahead and explain to
22 you what I'm doing. If I was in the lab I would have had
23 on a lab coat, protective eye wear as well as gloves for
24 my fingerprints won't be on the evidence. And, generally,
25 what I'm doing now is what I would be doing. As you can

1 see it's sealed here. It's sealed. I can break a seal.
2 That's what my notes say, 'the evidence was seal', and I
3 do an inventory of the evidence.

4 Q. Now, there is some -- on those cans there is some
5 black stuff. They're in evidence. I wanted to be able to
6 explain what the black stuff is on the cans. Could you
7 explain that to the jury, please.

8 A. Sure. Okay. Now, this would be Item One just like
9 this. What we did at first when I got this, of course, I
10 took it out of the inventory evidence. And you can see it
11 was smashed in. Some are cracked. I call Adrienne Riley.
12 She was there to witness. What I decided to do is I'm
13 doing touch D.N.A. I don't know where the D.N.A. is
14 located which is generally here if you're going to hold
15 the can.

16 But I also noted that it's a beer can that if it was
17 empty you had to have drunk the beer. So instead of doing
18 touch D.N.A. where my fingerprints could possibly be and
19 ruin the change of getting fingerprints I did touch D.N.A.
20 around the mouth area. You can also get D.N.A. from the
21 mouth area. So my first thing that I did was did touch
22 D.N.A. I swabbed there. I put it in the envelope you
23 saw, the first heat sealed package, and I did that on each
24 one of those items.

25 Once I was done with that I did what is called one of

1 our basic processes. I put it into -- it looks just like
2 a fish tank. It's just a basic fish tank, and I use a
3 process called cyanoacrylate, formally known as super
4 glue, is what I do. You put it in the tank, and you use
5 a -- hot water for the humidity. I cover it up and I put
6 some super glue in the tank as well. I cover it. I also
7 put my print on it. I use my print to make sure so that
8 when I see my print I know it's working.

9 After I've done that it becomes white. What super
10 glue does is it hardens the print. It hardens it and
11 enhance it from what I couldn't see with my normal eye.
12 Once I'm done what you see here is black fingerprint
13 powder. Now, you can see my prints. They're actually
14 black because of that black fingerprint powder on there.

15 Once I powder everything on there I start to look and
16 do just like there, a very slow up and down look. And I'm
17 checking for fingerprints, and that's when I issue my
18 results of no value. No value, insufficient ridge detail
19 which means, again, I can see fingerprints but they're
20 insufficient for me to identify.

21 Once I'm done with that I go ahead and put it back in
22 the container that it was in when I initialled the item of
23 evidence that you can see here.

24 Q. Now, and you indicated that the swabs were sent to
25 D.N.A. for analysis, Adrienne Riley?

1 A. It was sent to Adrienne Riley.

2 Q. All right. Now, let me ask you this. Let me go back
3 a little bit. What training did you go through? If you
4 could tell us what training you went through to attain the
5 knowledge that you shared with us today?

6 A. Sure. I was with S.L.E.D. since 2003 working in the
7 Records Department. Working in Records I was a
8 fingerprint examiner. First, I became a fingerprint
9 specialist, and what I did there was I compared and
10 identified prints as well. I rolled fingerprints for like
11 you having to get your fingerprints rolled to be a teacher
12 or adoption as well. Something like that.

13 So I had that kind of training. So I had a
14 background in prints and ridgeology. One I got to Latent
15 Prints I also got to do ridges. And just to state
16 ridgeology is the study of our ridges, and to better state
17 it the study of the lines in your hands is what a ridge
18 is. We call them lines, and you have lines, dots,
19 islands, and they actually look like a little island on
20 your fingertip.

21 There are also advanced palm prints. This would be
22 your palm area here. I've done advanced palm print
23 classes as well.

24 MR. REDMOND: With that, Your Honor, I would move to
25 have her qualified as an expert in the field of latent

1 prints?

2 MR. COX: No objection, Your Honor.

3 MR. REDMOND: Let's talk about cause I'm about to
4 talk about your report. If I could at this time have you
5 step down, and I want to briefly go over what's been
6 marked as State's Exhibit 25.

7 (WHEREUPON, the witness steps down from the witness
8 stand.)

9 BY MR. REDMOND:

10 Q. And if you would look through this and make sure that
11 this is actually an accurate copy of your report, okay.
12 I'll sit back here on the easel, and I want to make sure
13 if again you can speak loudly. I'm going to have you --
14 we're going to swap places so you will be facing the court
15 reporter and so she can hear you.

16 Let me try to move this up some. Can everybody see
17 this? Okay. Good. If you would, cause you've already
18 explained your finding, if you could just highlight for
19 the jury the nature of your report and how it reflects
20 your findings. Before you do that I'm going to ask you
21 one of the bottles, looking at the report, I noticed is
22 this one of the bottles that you examined, Bud light?

23 A. Yes.

24 Q. Okay. Now, and the reason I bring that up is
25 because -- and Item Ten it mentions a Natural Light Beer

1 Bottle. Is that a Scribner's error? Is that in fact a
2 Bud Light?

3 A. That would be an error. This is in fact a Bud Light.

4 Q. Okay. I just wanted to clarify any confusion
5 regarding that?

6 A. Okay.

7 Q. Now, if you could explain your report. I'll just get
8 out the way.

9 A. Okay. On this report as you will see it says, "Item
10 Two" which is One Natural Light beer can, and one of those
11 over there would be Item Two, and I can find that by the
12 item that I marked. From that do you remember I said I
13 took swabs from the mouth area for touch D.N.A. which
14 became my Item 2.1.

15 Just like I said with the microphone the swab would
16 become Item 2.1, and that was from the can. Now, my
17 results from that would be just collected and sent to
18 D.N.A. cause I don't know anything about D.N.A. I just
19 know try to try to collect some. That's why my results
20 are collected and sent to D.N.A. for further analysis
21 which in this case I collected it and gave it directly to
22 Adrienne.

23 My results for Item Two is no value cause I didn't
24 find anything of value as far as fingerprints on that
25 item. That goes for Item Three as well, same result.

1 Item 3.1 I did the same thing. Those are swabs that I
2 collected and sent to D.N.A. for further analysis, same
3 results. The same results happened for Item Four. Item
4 Five, Item Six and 6.1 is the same thing.

5 Item Seven which shows one smashed Natural Light beer
6 can. If you look over there you can see a smashed can
7 over there and I do this because I want to remember which
8 one is what. Even though I put my item numbers on it it's
9 easier for you to look and say, "Okay, one of those items
10 is Item Seven cause it's smashed." So I always indicate
11 somebody different about the can if I can.

12 The same results all the way down until I get to Item
13 9.2. And it says, "One latent impression as represented
14 on Item Nine." That's telling me that there is a
15 fingerprint there, but it's not of no value. So I saw it
16 but it's of no value for me to identify anyone. Or to
17 eliminate anyone as well.

18 Same for Item Ten, Bud Light beer can, but it's
19 showing here Natural Light Beer Bottle. Sorry about that.
20 And as well samples collected. I could see a latent
21 impression on there, and I can show it to you if you need
22 to, and it's no value as well.

23 Q. Okay, Miss Belton, you can return to your see. Thank
24 you.

25 A. Okay.

1 (WHEREUPON, the witness returns to the witness
2 stand.)

3 BY MR. REDMOND:

4 Q. I think you've already testified to this, and just to
5 make sure it's clear. The D.N.A. swabs were also done and
6 those were done with Adrienne Riley there and directly
7 given to her for her analysis for D.N.A.?

8 A. Yes.

9 Q. Okay.

10 MR. REDMOND: With that, Your Honor, with the Court's
11 indulgence, that would be all I have.

12 BY MR. REDMOND:

13 Q. Please answer any questions Mr. Cox may have.

14 CROSS-EXAMINATION

15 BY MR. COX:

16 Q. Morning, Ms. Belton.

17 A. Morning.

18 Q. This your first trip to Chesterfield?

19 A. Yes, sir.

20 Q. Some people have trouble finding the courthouse. Did
21 you have trouble getting here?

22 A. Yes.

23 Q. Don't let that bother you. It happens to many other
24 people, too. You say there is an error in the report.

25 Did you prepare that report?

1 A. Yes.

2 Q. You typed it yourself?

3 A. Yes.

4 Q. And how often does that happen when you do the report
5 that you make an error like that?

6 A. Well, we have 100 percent verification. At the time
7 I was doing this report I was actually under a cosigner
8 and peer review. And we usually catch all errors, but I
9 can't give an exact number of how often that happens.

10 Q. But that's something that does happen?

11 A. Yes.

12 Q. Okay. Now, how much time do you think that you
13 spent, clockwise, doing your latent print analysis that
14 you have described to the jury?

15 A. On this particular case?

16 Q. Yes, ma'am.

17 A. This case probably took me about two and a half
18 hours?

19 Q. Two and a half hours?

20 A. Yes.

21 Q. And your report starts off with Item Two. What was
22 Item One?

23 A. I don't know what Item One was. I can only tell you
24 what I received as evidence which would be Items Two
25 through Ten.

1 Q. Understand. so Item One, whatever that was, never
2 made it to you for your latent print examination?

3 A. No.

4 Q. Now, you marked -- did you mark -- let me ask you.
5 Did you put an identification mark on each and every item
6 you marked?

7 A. Yes. It should be an identification mark on each and
8 every item.

9 Q. And that is something that you do so you will know
10 that's the actual object that you examined, is that
11 correct?

12 A. Yes.

13 Q. Now, I watch C.S.I.

14 A. Okay.

15 Q. And you spent all that time doing your job as you're
16 trained to do it over that two and a half hours and you
17 didn't find any fingerprints or palm prints that you could
18 identify?

19 A. That is correct.

20 Q. How often does that happen in your job?

21 A. That happens quite often, and that goes back -- you
22 have to remember that C.S.I. is a television show and this
23 is real life. And you have to remember the factors that I
24 talked about which could be the temperature, the way that
25 you left your fingerprint. And although I did find ridge

1 details it just was not enough for me to identify you on.

2 So I can't give you a number on how often it happens

3 either.

4 Q. Thank you, ma'am. And when you received this packet,
5 beer cans, beer bottle, did you receive any history as to
6 where it came from?

7 A. There is an evidence log in sheet that is located
8 inside of our beast which is our evidence transmission,
9 electronic. I can read that, but other than where it came
10 from, no.

11 Q. Would that information have helped you in determining
12 what latent print examination you would do?

13 A. No, I typically don't like to read. I don't want to
14 be biased towards anything.

15 Q. So the report could make you biased?

16 A. It could, but I don't read it.

17 Q. But you spent two and a half hours, approximately two
18 and a half hours and did not find any new prints of any
19 type?

20 A. That's correct.

21 Q. Thank you, and thank you for coming.

22 MR. REDMOND: Briefly, Your Honor.

23 THE COURT: Okay. Everybody just stand at ease a
24 minute. All right.

25 MR. REDMOND: Thank you. May it please the Court.

REDIRECT EXAMINATION

BY MR. REDMOND:

Q. Briefly. When you say, 'biased' are you meaning from a personal standpoint or from an integrity of your investigation standpoint?

A. Probably more from a personal standpoint cause I hold my integrity to the fullest.

Q. And we're appreciate your being candid with us on that. But Mr. Cox has asked you, but let's say that you did find something that you could identify. Now, in this case you couldn't, but if you had what's the protocol there if you had found prints that could have been matched?

A. Okay. We will use this item, for instance. Say I found a thumb print here on this item, and say in like here on my report it has subsections listed here. What I would do is I would -- sometimes as you submit your fingerprint cards for me already, so if I found a thumbprint here I could do one of two options:

I can either put a scale tape on it and have it fingerprinted or I can go and lift it and put it on what we call a white backer and that's just a white background so I can easily see the print. If I decide to go ahead and lift it then I would go ahead and this would be what we call Item One. We'll call the latent impression that I

1 found Item 1.1. So I'm right back where we have Item 1.1,
2 the latent impression represented on Item 1.1.

3 Once I finish that I pack up everything, seal it back
4 together. Then I go do my office with the white backer,
5 my latent impressions. I pull the card, the suspect card,
6 and I do a visual comparison. I compare the latent print
7 that I found on that item with the fingerprint card in
8 front of me.

9 Q. And, of course, in this case you didn't find any
10 prints?

11 A. Correct.

12 Q. That would be all the questions I had. Thank you.

13 MR. COX: Nothing further. Thank you, Your Honor.

14 THE COURT: Can this witness be excused?

15 MR. REDMOND: Yes, Your Honor.

16 MR. COX: Yes, sir.

17 MR. REDMOND: And while she's departing the State
18 would next call Adrienne Riley from S.L.E.D.

19 ADRIENNE RILEY, after being duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. REDMOND:

23 Q. Ms. Riley, by whom are you employed?

24 A. With the South Carolina Law Enforcement Division more
25 commonly known as S.L.E.D.

1 Q. Okay. And how long have you been employed with
2 S.L.E.D.?

3 A. Since November of 1997, so I guess I'm in 13 years.

4 Q. Okay. And in what capacity do you work at S.L.E.D?

5 A. I'm a forensic scientist and D.N.A. analyst.

6 Q. And now, let's talk about your educational
7 background. Would you give us your educational background
8 along with any experience and training pursuant to all
9 that?

10 A. Sure. I have a Bachelor of Science in Biology from
11 the University of South Carolina. I'm also currently a
12 master's degree candidate in the field of business
13 administration. I have worked in private clinical
14 laboratory prior to joining S.L.E.D. And since joining
15 S.L.E.D. I was trained by a Court certified analyst. I
16 have attended numerous symposium on humanification at
17 least once a year. And I am also a D.N.A. Advisory Board
18 auditor, and that where we audit other D.N.A. labs across
19 the State and across the Potomac region.

20 Q. In your 13 years in S.L.E.D. how long have you been
21 working as a D.N.A. analyst?

22 A. I joined S.L.E.D. in 1997 as a forensic technician in
23 the D.N.A. Department. I was promoted to D.N.A. analyst
24 March of 1999, so that's a lot about 11 years.

25 Q. So you've been doing it a while?

1 A. Yes.

2 Q. Now, how many times since being a D.N.A. analyst have
3 you been qualified as an expert in the field of D.N.A.
4 analysis?

5 A. I've been qualified 46 times.

6 Q. Okay.

7 MR. REDMOND: Your Honor, at this time the State
8 would move to have Ms. Riley qualified as an expert in the
9 field of D.N.A. analysis?

10 MR. COX: No objection, Your Honor.

11 THE COURT: So qualified.

12 MR. REDMOND: Thank you, Your Honor.

13 BY MR. REDMOND:

14 Q. Ms. Riley, could you again, in an elementary way,
15 give us an idea of what it is you do from a procedural
16 standpoint as a D.N.A. analyst? How do you go about doing
17 your job?

18 A. Sure. Let me explain D.N.A. which I'm sure all of
19 you know, but D.N.A. is genetic material that's contained
20 in each cell of our body. It's a genetic information that
21 we receive from each one of our parents. We get half from
22 our mother and half from our father. Our D.N.A. makes us
23 unique cause no two people have the same D.N.A.

24 Now, I say that 99 percent of our D.N.A. is the same
25 because our D.N.A. is what makes us human. Gives us two

1 eyes, two arms, two legs, but if we look around the
2 courtroom you notice that everybody looks different. So
3 D.N.A. is unique to each individual with the exception of
4 identical twins. How we use this knowledge in forensic
5 D.N.A. analysis is we make comparisons. We compare known
6 samples which are samples known as blood or a swab from
7 the inside of your cheek known as a buccal swab.

8 That's the known standard because we know where it
9 comes from. Then we make comparison to unknown. These
10 are items of evidence, and we develop a D.N.A. profile for
11 each. And we compare those two profiles. If they match
12 then we add a statistical analysis to it saying that if
13 you were to look at how many people you see this profile
14 one time.

15 So not only do we do a visual match but we do a
16 statistical match as well. This is in each case that we
17 do, and we work a number of different types of cases.

18 Q. Okay. Now, were you involved -- did you do a D.N.A.
19 test in this particular case?

20 A. I did.

21 Q. Okay. And did you generate a report based on your
22 testing?

23 A. I did.

24 Q. Okay. Now, before we get into that let me just ask
25 you a couple of questions, and I'm going to, with the

1 Court's permission, come up with what's been marked for I
2 D. as State's 38 and State's 39. Could you look over
3 those two items and let me know when you're ready to
4 proceed.

5 A. Okay.

6 Q. Do you recognize those items?

7 A. I do.

8 Q. Tell the jury what they are?

9 A. Okay. This is item was marked State's Exhibit 39.
10 This is a blood standard from Michael Lambert, and it's
11 known as our Item 1.1. And this which is marked as
12 State's Exhibit 38 are swabs taken from beer cans and beer
13 bottles. They're marked Items 2.1 through 10.1.

14 Q. Okay. Now, Item 1.1 is actually a blood standard?

15 A. Yes, sir, that's the known standard.

16 Q. Okay. Now, with that who did you receive Item 1.1
17 from?

18 A. Timothy Grambow.

19 Q. Who did you receive the swabs from?

20 A. Andrena Belton.

21 Q. Okay. Now, is that what you used to conduct your
22 tests?

23 A. Yes, sir, I did.

24 Q. And were you able to come up with any results based
25 on your tests?

1 A. Yes, sir, I was.

2 Q. Okay. With that if I would ask you to step down,
3 with the Court's permission.

4 (WHEREUPON, the witness steps down from the witness
5 stand.)

6 BY MR. REDMOND:

7 Q. I want you to look at what's been marked State's
8 Exhibit 26 if you would. And I just want to make sure,
9 and I'll ask you. It that an accurate copy of the report
10 you generated?

11 A. Well, is there another sheet?

12 Q. Well, actually, and what I say copy ---

13 A. Or another couple sheets?

14 Q. Yes, I want to show you this, actually.

15 A. Okay.

16 Q. The enlargements were these two also, but if you
17 could look over that. I'll have that marked as well,
18 cause I think you're referring to the charts and the
19 signature?

20 A. This is the first two page in my report. The
21 signature which is my signature is on Page Three of the
22 report.

23 Q. Okay. Does that chart represent your findings?

24 A. It does.

25 Q. Now, I'm just going to ask you like this. Explain

1 your findings if you would, please?

2 A. Right here we are -- we inventory the evidence we
3 receive. As you see Item 1.1 is a blood standard for
4 Michael Lambert and I list the item here and what the
5 results of that examination was and this is a serology
6 section where we just inventory the item as I said.

7 The next item is 2.1 which are swabs taken from the
8 mouth area of beer cans. See D.N.A. analysis. But you
9 will see for 3.1 ---

10 Q. Hold on. Let me just check. Can everybody see? Oh,
11 okay, we'll flip around?

12 A. But, okay, 3.1, 4.1, 5.1, 6.1, all of thee are items
13 that were taken from the beer cans.

14 Q. Let me just stop you right there. Did you actually
15 have the cans or you do your analysis based on the swabs
16 of those cans?

17 A. I do my analysis based on the swabs.

18 Q. Okay. On the cans. Okay, go ahead. I'm sorry.

19 A. And on this page same thing, item 7.1, 8.1, 9.1 and
20 10.1 were items that we received. And if I performed
21 D.N.A. analysis on it I would say, 'see D.N.A. analysis'
22 on the side over here and the results of the examination.

23 If I did not perform D.N.A. analysis on it it would
24 say, 'no D.N.A. analysis performed on it', and what it is
25 we don't do -- because you see we've got ten swabs from

1 the same set of beer cans we choose you know a relative
2 sample to test because D.N.A. is an expensive science and
3 it's a timely science.

4 Q. And let me stop you there because in read that. So
5 when it says, 'no analysis performed' does that mean that
6 there was or wasn't D.N.A. or you just, for the reasons
7 you stated, don't perform tests on those particular
8 exhibit?

9 A. We don't perform tests on those particular ones.

10 Q. Okay. I'm sorry. Proceed?

11 A. Okay. So in this case I chose to do a couple of
12 swabs from the beer cans, and since the bottle -- it was
13 like one bottle and a medley of beer cans, we did swabs on
14 the bottle as well.

15 Q. Okay.

16 A. And this is what D.N.A. analyzed. 1.1 was the blood
17 standard from Michael Lambert. 2.1 and 5.1 were swabs
18 taken from the mouth area of the beer can. And 10.1.
19 swabs taken from in mouth area of the beer bottle. Down
20 here you see my results. The D.N.A. profile developed
21 from Item 2.1, which is the swab from the mouth area of
22 beer can matches the D.N.A. profile of Michael Lambert.
23 That's the visual match. The probability of randomly
24 matching an unrelated individual from the population
25 matching this item is approximately one in 23 quadrillion.

1 A quadrillion is a one followed by 15 zeros. And that is
2 the statistical match I was telling you about.

3 From Item 5.1 we got a partial D.N.A. profile that
4 also matched Michael Lambert. Now, from 10.1, which was
5 from the bottle, I didn't get enough D.N.A. to get a
6 profile. So for that result I said, 'insufficient human
7 D.N.A. was obtained from Item 10.1 for S.T.R. P.C.R.
8 D.N.A. And what S.T.R. or P.C.R. analysis is just a type
9 of test that we do where we can use a small sample of
10 D.N.A. and develop a D.N.A. profile.

11 Q. Okay.

12 MR. REDMOND: And if the Court would indulge me. I
13 need this marked 26B if I could. I'm sorry. We've got
14 26B.

15 (WHEREUPON, State's Exhibit No. 26B was marked for
16 identification only.)

17 BY MR. REDMOND:

18 Q. I'm going to show you what's been marked as 26B.
19 Tell us what that is.

20 A. Okay. This is Page Four of my report, and can I set
21 this up here?

22 Q. Sure. Absolutely.

23 A. What this is is the chart that we do the visual
24 matches from, and let me explain the chart. Up here you
25 will see the items are listed down this -- on the right

1 hand and left hand side of the chart. And up here you
2 will see up here all these different numbers and letters.
3 What that is genetic markers. The same genetic markers
4 that we use at North Carolina; that are used among all
5 forensic laboratories in the nation to test for D.N.A.
6 And what a genetic marker is is your D.N.A. is packaged in
7 a chromosome. Each person has 23 pairs of chromosomes in
8 your body, and we look at each one of those chromosomes.
9 And there is a site on there, and that's what's known
10 as 28. 28 is Chromosome Number 8. S1179 is Site 1179 on
11 that chromosome.

12 Basically, that's too much to know. All of these are
13 genetic markers that we look at. So we develop a D.N.A.
14 profile. You see Items Number 13 and 15. Remember I said
15 you get half of your D.N.A. from you mother and half of it
16 from your father. So Michael would have gotten either a
17 13 from his mother or his father. Without having their
18 profile I wouldn't know which he got from which. But he
19 got 13 from either his mother or his father and a 15 from
20 either his mother and his father.

21 And the same goes for at D21, S211 on that.
22 Chromosome 21, Site 11 on that chromosome. He has 28,
23 32.2 he got one of each from his mother and father. Down
24 here at D19 you see he's got one number. That means he
25 got the same D.N.A. from both his mother and his father

1 for that one, and even here at D16. You just see a 12.

2 Well, we got through this. We develop a D.N.A.
3 profile for Michael. Then we develop the D.N.A. profile
4 from the beer can. We make a comparison. As you see 13,
5 15 under Michael. 13, 15 under the beer can.

6 Go to the next one. 28, 32.2 under Michael and 28,
7 32.2 from the beer can. And that's how we make a visual
8 match. And then we make the statistical match on this
9 page where I said one in 23 quadrillion.

10 Now, for 5.1, we said we had a partial D.N.A.
11 profile. If we've got a limited amount of D.N.A. we won't
12 get a whole complete profile like from 2.1. But as you
13 can see it also matches Michael Lambert. Says right here
14 we've got a 13, 15. Right here we've got a 28 but a 32
15 dropped out because it's low.

16 We didn't get anything from D7 and CSF. From 14 --
17 I'm sorry. D3 we have a 14, 17 which is matching these
18 two. 6.93 and so on and so forth. And so we say that was
19 a partial D.N.A. profile that also matched Michael
20 Lambert.

21 Q. All right. And so to a certain -- I guess to a
22 reasonable degree of scientific certainty were you able to
23 determine that Michael Lambert was the donor of the sample
24 your just eluded to?

25 A. That is correct.

1 Q. Please have a seat. Thank you?

2 (WHEREUPON, the witness returns to the witness
3 stand.)

4 MR. REDMOND: Beg the Court's indulgence just one
5 moment. That would be all the questions that I have.

6 BY MR. REDMOND:

7 Q. Thank you so much. Please answer any questions Mr.
8 Cox may have.

9 CROSS-EXAMINATION

10 BY MR. COX:

11 Q. Ms. Riley?

12 A. Um hum.

13 Q. How are you doing?

14 A. I'm good. How are you?

15 Q. You looked at all the samples that you had and then
16 you selected three to do an analysis on; is that correct?

17 A. That is correct.

18 Q. Okay. And the reason you chose three rather than
19 doing all is economics, the cost?

20 A. That is correct. And the time and it's over -- kind
21 of over when you have the same swab from the same set of
22 beer cans found in the same location as well.

23 Q. Could you point out the three beer -- correction.
24 Two beer cans that you collected to do your analysis on?

25 A. I did not -- well, I was with Andrena when she was

1 processing them, but I only did analysis on the swabs that
2 she took from the beer cans. So whatever beer cans she
3 had marked Item Two. Then I took 2.1 which was the swabs
4 from the beer can and did the D.N.A. analysis on.

5 Q. So the addition of the beer can was not a factor in
6 which one you chose?

7 A. No, sir.

8 Q. You -- say that I did an analysis what actually does
9 the analysis? Is it you and your eye doing it or is it a
10 computer?

11 A. I don't understand your question.

12 Q. You said if I did a D.N.A. analysis is you with your
13 eye and you training that's doing the analysis or the
14 computer helping you do it?

15 A. Well, actually, it's a number of things. It is a
16 chemical for someone because we have to go through
17 extraction of the D.N.A. because we've on that swab, and I
18 can get it off that swab and get D.N.A. actually from the
19 inside, the saliva cells, that's on the swab. That's part
20 of the analysis.

21 Q. What does that?

22 A. What does that?

23 Q. Yeah.

24 A. There are various chemicals that we use, agents that
25 we use will lice open the D.N.A. cells membranes and

1 release the D.N.A. into solution from there.

2 Q. Okay. All right. Thank you. Go ahead, please?

3 A. And then from that analysis then we'll do
4 quantization to see how much D.N.A. we have, and then
5 we'll do a genetic analysis on our instruments that give
6 us D.N.A. profile.

7 Q. Okay. Now, when you say, 'quantity' you mean how
8 many quantity of the D.N.A. you have?

9 A. Yes. From that swab after we have done extraction
10 and released the D.N.A. into solution we need quantity
11 which means that we put it on an instrument that tells us
12 exactly how much D.N.A. we have, what concentration of
13 D.N.A. that we have. And then that's what we use to run
14 on our genetic to give us our profile.

15 Q. What quantity do you need to reach?

16 A. We aim for about .1 nanogram D.N.A. which is a very
17 small amount, but adequate enough to give us a profile.

18 Q. All right. After that, that's your first step,
19 what's your second step? What was the next step?

20 A. The next step, after we run the D.N.A -- after we run
21 the genetic analyzer, we develop the D.N.A. profile. Then
22 we do the chart and make a visual comparison to see if we
23 have a match or not. After we determine whether we have a
24 match we apply statistics to it. That's where I got the
25 one in 23 quadrillion from, and that's going to be a

1 computer.

2 Q. Have you ever done an analysis and found out later
3 that it was done incorrectly or not accurate?

4 A. Well, done inaccurate, I would say no. Whether we've
5 done something like misspelled something on a report or we
6 had to send out an amended report, yes. There are
7 instances in the lab that something would happen, but we
8 have controls in place to prevent that. Like with every
9 case we have blanks that are run.

10 Reagents I think they put on the swabs to release the
11 D.N.A. into solution. We have a blank tube with nothing
12 in it just to make sure that there is no contamination or
13 anything that was introduced into that swab or into that
14 tube and run with no sample throughout.

15 Q. Two more questions?

16 A. Okay.

17 Q. The beer bottle, sample was not sufficient enough for
18 analysis; is that correct?

19 A. That's correct.

20 Q. Could you have gone back to the bottle and got
21 additional samples.

22 A. Yes, we probably could have, but we probably still
23 would not have had enough because whatever was swabbed off
24 of there the first time should have been on that swab.

25 Going back a second time and swabbing the same area

1 probably would have been futile because nothing would have
2 come off the first swab.

3 Q. That's assuming that the swab was done correctly?

4 A. Correct.

5 Q. Thank you. My last question. The beer cans that you
6 did not do an analysis on, could you today take them beer
7 cans or take those swabs that you have and do an analysis
8 on them?

9 A. We could if it was necessary.

10 Q. How long does the sample last?

11 A. Indefinitely. If it's kept under prime conditions
12 such as not exposed to extreme heat or moisture D.N.A. can
13 last you a number of years.

14 Q. And these swabs were kept under those condition?

15 A. Now, once they left S.L.E.D. I can't say how they
16 were kept.

17 Q. Nothing further. Thank you.

18 MR. REDMOND: Nothing further. We ask that
19 Miss Riley be excused with the Court's permission.

20 MR. COX: No objection, Your Honor.

21 THE COURT: Witness is excused.

22 MR. REDMOND: State next calls Tim Grambow from
23 S.L.E.D.

24 TIMOTHY GRAMBOW, after being duly sworn,
25 testified as follows:

DIRECT EXAMINATION

1
2 BY MR. REDMOND:

3 Q. Mr. Grambow, by whom are you employed, sir?

4 A. I'm employed with the South Carolina Law Enforcement
5 Division.

6 Q. And in what capacity are you employed with them?

7 A. I am forensic toxicologist.

8 Q. How long have you been doing forensic toxicologist?

9 A. Eight years this month.

10 Q. And let me ask you this. Could you tell the jury,
11 first, your educational background and then any training
12 that you have received pursuant to your work with forensic
13 toxicology?

14 A. Sure. First let me say as a forensic toxicologist,
15 maybe I should explain that as well. As a forensic
16 toxicologist I analyze biological samples such as blood,
17 urine, tissue sample such as brain or liver for the
18 presence or absence of drugs such as alcohol or other
19 illicit or prescription drugs. Analyze for the presence of
20 those and then interpret the results for a courts of law,
21 coroners, pathologist, so on and so forth.

22 Q. Okay and ---

23 A. As far as education goes?

24 Q. Your background, education, and training.

25 A. I have a Bachelor of Science degree in chemistry from

1 Lake Forest University. From there I began employment
2 with S.L.E.D. under a rigorous two year training period
3 through them which I analyzed numerous samples and
4 underwent written tests and attended lectures:

5 I have since then become a member of the Society of
6 Forensic Toxicologist. I attended several national
7 meetings. Gone through several workshops around the
8 country. I have become board certified in forensic
9 toxicology. I have recently attended the Board Scientific
10 School on Alcohol and Highway Safety up in Indiana
11 University along with numerous trainings.

12 Q. Okay. And how many times have you been qualified to
13 testify as an expert in Court?

14 A. Approximately 12 times and in courts ranging from
15 General Sessions, Magistrates, Municipal Courts and civil
16 hearings.

17 MR. REDMOND: At this time, Your Honor, we would move
18 that Mr. Grambow be qualified as an expert in the field of
19 forensic toxicology?

20 MR. COX: No objection, Your Honor.

21 THE COURT: So qualified.

22 BY MR. REDMOND:

23 Q. Now, let's talk a little bit more about what you do
24 as a forensic toxicologist, and you touched on that just a
25 minute ago. As part of what you do also regard

1 interpreting results that you get from the test that you
2 run?

3 A. Yes.

4 Q. And would you explain what that means to the jury?

5 A. Sure. The chemistry side of toxicology requires you
6 to be able to do the actual analytical testing to
7 determine if there are any drugs or alcohol present in a
8 sample. The flip said of that not only do we need to
9 determine what is there or how much is there we need to,
10 as part of our job, to understand the pharmacology behind
11 it.

12 That includes knowing the pharmacokinetics and
13 pharmacodynamics of a drug or compound. And what that
14 means is that we need to understand what your body does to
15 drugs or alcohols when you take it as far as how it gets
16 in your body, how it distributes in your body, how long it
17 takes your body to eliminate that sample. And then also
18 the pharmacodynamics understand what affect that drug or
19 poison have on a person because we deal with many types of
20 cases in the Toxicology Laboratory ranging from D.U.I.
21 cases, rape cases and post mortum cases, which would be
22 death cases in which case we need to know not only the
23 drugs or alcohol present, but was it at a therapeutic
24 level, was it at a toxic level or was lethal level. And
25 be able to interpret that for the various coroners,

1 pathologist, attorneys, so on and so forth so that we have
2 a proper interpretation of what was found.

3 Q. Now, let me ask you this. Did you bring a couple of
4 evidence bags that are issued by S.L.E.D. with you today?

5 A. I do have two.

6 Q. Okay. And could you tell the jury what these two
7 bags are. What's their purpose. What's the significance
8 of them?

9 A. These are plastic tamper evident bags. When a sample
10 is brought to S.L.E.D. from the agency needing some
11 forensic analysis done they bring any evidence into our
12 Log In Department. The Log In Department then generates a
13 distinct laboratory number for that particular case, and
14 they begin taking the evidence that was submitted and
15 making sure it's inventoried into our computer system so
16 that we can then electronically track it throughout out
17 lab to make sure the chain of custody is intact.

18 They then give this bag to the officer, in this case,
19 and where they put the evidence into the bag and it is
20 heat sealed across the top. The officer then initials and
21 dates that seal therefore showing that everything was
22 intact as they said it was when they submitted it before
23 S.L.E.D. actually takes custody of that sample. And once
24 S.L.E.D. takes custody of the sample it can then be passed
25 along to the various departments within forensics that

1 need to do various types of analysis and it can be tracked
2 electronically as far as who has custody of it, what types
3 and what tests are being done.

4 And the beauty of being tamper evident is that in
5 order for anybody to actually handle the piece of evidence
6 they need to cut into this bag, take out the sample and
7 for my analysis blood, do the test, put the test tube back
8 into the bag, heat seal it again, and where I then initial
9 and date after I'm done. So if anything was actually --
10 evidence was actually tampered with I would be able to see
11 marks on the bag indicating so.

12 Q. Okay. And in both of those bags did you follow your
13 standard procedure with being able to make the analysis
14 you just explained?

15 A. Yes, sir.

16 Q. Okay. And were they suitable for further testing?

17 A. Yes. As part of the process when the evidence, after
18 it is in the Log In Department, obtained by the Toxicology
19 Department, before I begin my analysis I inventory to make
20 sure that the evidence actually matches the paperwork that
21 came along with it, you know, as far as names go, make
22 sure the samples, actually, you know, if they said they
23 submitted blood that blood was submitted and not urine so
24 we can go ahead and do the error test and all of that.

25 Q. Could you please tell us who submitted each of those

1 bags that you have there?

2 A. The first bag that I'm looking at here was the sample
3 of Darrell Quick. And it was received in the mail
4 following protocols, and it was submitted by the
5 Chesterfield County Coroner's Office.

6 Q. Okay.

7 A. And I can't -- looks like Davis, L. Davis, on
8 July 24th 2008 submitted this one.

9 Q. Now, looking at Mr. Lambert's blood that you just
10 eluded to, once you tested that did you actually submit
11 anything to D.N.A. regarding Mr. Lambert's blood?

12 A. Yes, as samples are brought to the Department they're
13 not always enough test tubes of blood are taken to go to
14 various departments that need to do analysis. So in this
15 case blood sample was given to Toxicology. I did the
16 required analysis. Took out the sample that I needed to
17 do the analysis and then so itemed a sample and gave it to
18 D.N.A.

19 Q. And let me show you what's been marked as State's
20 Exhibit 39 for I.D. Could you look at that, and does that
21 represent the sample that you submitted to Adrienne Riley
22 in D.N.A.?

23 A. Yes, sir. There is a label on here with my
24 handwriting, the lab number and my initials on it.

25 Q. Okay. Thank you. Now, let's address the testing

1 that was done in this case? Were you the toxicologist
2 that both the blood of Darrell Quick and the blood of
3 Michael Lambert?

4 A. Yes, I -- blood was tested, and I tested it and I
5 wrote the report and issued the report.

6 Q. Okay.

7 MR. REDMOND: First, beg the Court's indulgence.

8 BY MR. REDMOND:

9 Q. You said you indicated that -- you indicated that you
10 generated reports. Let's talk about -- let's talk about
11 Darrell Quick's blood first. Could you tell us what you
12 did and then tell us what your findings were on your
13 testing of Darrell Quick's blood?

14 A. Bear with me while I look at a copy of the report,
15 please. For Darrell Quick a blood alcohol analysis was
16 performed which was negative for four different types of
17 alcohol or alcohol by-products that we looked for.
18 Following that a standard six panel drug screen was done
19 which includes several classes of drugs which may be
20 prescribed for elicit. And then another two panel drug
21 screens including cocaine and opiates. And that was in
22 the blood and then another alcohol screen in the urine was
23 performed. All was negative.

24 Q. Okay. Now, what did you find with Michael Chad
25 Lambert's blood?

1 A. My report for Michael Lambert was blood, labeled
2 Michael Lambert. Found ethanol which is the alcohol
3 commonly found in alcohol beverages. Report a value of
4 .163 percent.

5 Q. And the legal limit in South Carolina is?

6 A. 0.08.

7 Q. Twice the legal limit?

8 A. A little bit more than twice.

9 Q. More than twice the legal limit. Let me ask you to
10 step down briefly, if you could. And I'm going to stand
11 here, and if you could stand to my far right. I'm going
12 to ask you first to look at these exhibits and see if they
13 are correct enlargements of your report.

14 A. It appears to be the report for Darrell Quick.

15 Q. And the report for?

16 A. It appears to be correct representation to have
17 Michael Lambert.

18 Q. Okay. All right. Let's talk about Darrell Quick's.
19 Could you explain your report regarding Darrell -- your
20 finding regarding Darrell Quick?

21 A. Sure. This is pretty much any sample that comes into
22 the Toxicology Lab. We are going to do an alcohol screen
23 on it. And then if any alcohol is found above our lower
24 threshold we're going to then quantitate it. Here we
25 did -- we looked for these four types of alcohol.

1 Ethanol, as I said, is the alcohol found in most alcoholic
2 beverages. Methanol, acetone, and isopropanol, which is
3 rubbing alcohol and nothing was found above our threshold.
4 So all reported out as negative.

5 Q. And could you explain the second page of your report
6 regarding Darrell Quick?

7 A. Sure. These have presumptive drug screens that are
8 done. Essentially, we don't know what we're going to find
9 when we get a case sample. So when we do drug screens we
10 look for a particular class of drugs. If something the
11 sample indicates that that particular class is present we
12 go back and confirm within that class. There may be 15 to
13 20 drugs that make up a certain class of drugs.

14 So we will then go back and look specifically for
15 each drug that we can in that class and attempt to
16 quantitate anything that we find. And these are different
17 classes. Amphetamine which would be Zanax and Valium, so
18 on and so forth. Methamphetamine, Oxycodone. Cannabinoid
19 which would be marijuana. Cocaine and opiates which would
20 be a lot of your pain medication such as Percocet,
21 Hydrocodone.

22 And all of those, again, were below any sort of
23 threshold that we have so they were all reported as
24 negative.

25 Q. And there was another test done with Mr. Quick's

1 urine as well that indicated that was negative?

2 A. Right. Correct. Essentially the same as the blood
3 just a different biological fluid.

4 Q. Now, let's talk about the defendant's test. Would
5 you talk about your findings and explain your findings as
6 they relate to the defendant's test?

7 A. Sure. Let me go through it real quick and then I'll
8 come back there.

9 Q. And that will be fine.

10 A. Much of the same testing is done. We did the alcohol
11 screen here in this case. Ethanol was found above the
12 threshold, and it was quantitated and reported out at
13 0.163. We did the same panels of drug screens, and they
14 all again were below the threshold and reported negative.

15 And for the second sheet, again a continuation.
16 Being that this -- that was a traffic fatality case we
17 stopped right there at those particular drug screens.
18 This particular case came in as a felony D.U.I. in which
19 case additional testing was done; some more comprehensive
20 drug screens that would potentially catch any particular
21 drugs that would not fall into any of these classes. And
22 also it was negative. But that continued testing just
23 follows our standard protocol for working various cases.

24 Q. Now, with the results that you got. We talked about
25 0.163. We hear those numbers a lot. Could you explain to

1 the jury what the significance of those numbers are as it
2 relate to the .08 and, of course, the numbers we have?

3 A. Well, one of the very interesting things about
4 ethanol, which I'm not sure if everybody realizes, but
5 unlike other drugs it actually affects people generally
6 the same across the board.

7 MR. COX: Objection, Your Honor. I object to him
8 giving his opinion on how it affects people unless he's
9 qualified.

10 MR. REDMOND: And, Your Honor, that's why I asked him
11 the interpretation question earlier as it relates to what
12 he does as it relates to interpreting the results. I
13 specifically asked that question for this particular
14 reason. And he addressed that prior to being qualified as
15 an expert.

16 THE COURT: I'm going to overrule the objection. I
17 may step back in.

18 MR. REDMOND: Yes, sir.

19 THE COURT: If it's too far out field in my opinion.

20 MR. REDMOND: Yes, sir.

21 BY MR. REDMOND:

22 Q. Okay. You may continue, please, sir.

23 A. So alcohol as you ingest it, of course, as I said
24 before, there is the pharmacokinetics and the
25 pharmacodynamics. A person, in order to -- you ingest it.

1 Most people are going to drink alcohol. It goes into your
2 system and to your G.I. track and into your stomach. And
3 most of it then empties into the lower intestine where
4 about 90 percent of the ethanol is absorbed. From there
5 it goes to your liver and then on to your heart and is
6 circulated throughout your body.

7 As your heart pumps it keeps circulating through all
8 around your blood and body and pass through your liver
9 every time. Your liver is where most of the metabolism is
10 done or all the or -- most of the metabolizing is done.
11 And every time it passes through it is going to -- the
12 amount of alcohol in your body is going to decrease little
13 bit by little bit because every time it passes through the
14 liver it is slightly more metabolize.

15 However, not only does it pass through your liver the
16 blood is circulating the alcohol all around your body
17 which includes your brain. And alcohol ---

18 MR. COX: My objection, Your Honor. That's going to
19 the brain and how ---

20 MR. REDMOND: Your Honor, if I could, and I can
21 actually, if Mr. Cox would like to voir dire the witness,
22 Mr. Grambow, further. And I think once we do that then
23 you will have a clear understanding of his qualifications.

24 THE COURT: Go ahead.

25 MR. REDMOND: Okay. I will lay a foundation.

1 BY MR. REDMOND:

2 Q. Let's me ask you to have a seat if you would.

3 A. All right.

4 (WHEREUPON, the witness returns to the witness
5 stand.)

6 BY MR. REDMOND:

7 Q. You heard the basis for the objection so I'll just
8 ask you. When you talk about the trainings you've gone
9 through as it relates to interpreting the results could
10 you in great detail explain for the Court and for
11 everybody what training, what seminars, what things have
12 you done in regarding that particular aspect of
13 toxicology?

14 A. Sure. I'll do my best. As part of being a forensic
15 toxicologist, that is one of the actual job descriptions
16 is to understand the pharmacology that goes into the drugs
17 and the alcohol. And in fact toxicology is a subsection
18 of pharmacology. So they're very much intertwined.

19 Now, I have attended numerous workshops around the
20 country sponsored by the American Academy of Forensic
21 Science, the Society of Forensic Toxicologists, both of
22 which are national organizations that are pretty much the
23 premier toxicology and forensic national organizations out
24 there.

25 I've attended multi-day workshops in Raleigh, North

1 Carolina, West Palm Beach, Florida sponsored by us in
2 which they bring in a guest speaker, lecturers and
3 professors to teach this. I'm board certified in forensic
4 toxicology which means that I have had to take a board
5 examination test multiple hours long and had to be
6 approved along with that in order to become board
7 certified.

8 Not only do you have to be able to pass a test you
9 have to show a working knowledge of forensic toxicology
10 including the pharmacology of drugs and alcohol.

11 Q. And when you say, 'pharmacology' could you explain
12 what that mean? What is pharmacology?

13 A. More or less how your body reacts to the presence of
14 drugs and what those drugs affect have on people how --
15 what your body does to those drugs in order to break them
16 down and eliminate them from your system.

17 Q. And the trainings that you're referring to, the
18 definition of what you do as a forensic toxicologist does
19 it entail the pharmacological aspect of it?

20 A. Absolutely, and I also stated that I've attended the
21 Board of Science School on Alcohol and Impairment in
22 Highway Safety in Indiana at Indiana University. And some
23 of the speakers there were some of the leading experts in
24 the world on alcohol and alcohol impairment as it goes
25 with driving and how it affects you. Some of the speakers

1 included Wayne Jones who is probably the leading expert in
2 alcohol and pharmacology in the world. Herb Tobowski he
3 was there who started the school and was previously the --
4 he's started to do less field work so he's pretty much
5 given up the title of leading expert.

6 But Barry Logan, who sits on several accreditation
7 boards and is the executive leader of national -- or was
8 in charge of a private lab, and is -- I think he's a
9 sitting committee member on the Society of Forensic
10 Toxicology. There was even a guest lecturer from England
11 who was the toxicologist who did the analysis of Princess
12 Diana. I mean, so world renowned leaders teaching classes
13 and attending them and getting certified through them.

14 Q. And in the times that you've been asked to -- that
15 have been qualified as an expert have there been times
16 that you've utilized your background, your training, your
17 experience in order to render opinions in a
18 pharmacological aspect of cases such as this?

19 A. Absolutely.

20 MR. REDMOND: Your Honor, with that proffer we would
21 submit that the witness, Mr. Grambow, is indeed qualified
22 to address the issues that we have asked?

23 THE COURT: Any questions?

24 MR. COX: Just one.

25 BY MR. COX:

1 Q. Mr. Grambow, does each person metabolize at the same
2 rate?

3 A. No.

4 Q. So any testimony you give today would be on a general
5 nature?

6 A. Limited to the detail that I know of this particular
7 case. Yes.

8 Q. You have any knowledge or have you received any
9 information which would enable you to give an opinion as
10 to how Mr. Lambert's body would metabolize?

11 A. I did see the hospital alcohol test which then, by
12 looking at that result and knowing the time difference
13 from when the evidentiary sample was taken from S.L.E.D.
14 and what our results were, I could for that brief period
15 of time I could calculate out what that rate would be.
16 Basically, that snapshot would give me a general -- you
17 know, a more specific idea for Mr. Lambert versus the
18 general population.

19 Q. You can give that with a degree of certainty?

20 A. Well, essentially, all that calculation is looking at
21 two different levels and determining the times between the
22 two sample being taken and see what the difference is or
23 that time. So that would not necessarily say that that is
24 his all time metabolism rate. And in fact a person's rate
25 can change over time themselves. As the more you drink

1 and if you become what is considered a more chronic user
2 of alcohol such as an alcoholic you can actually develop
3 more liver enzymes and actually metabolize alcohol faster.

4 And as soon as you stop your chronic use of alcohol
5 those enzymes, as you replenish your cells, are no longer
6 in use and your body eliminates them. And so actually the
7 next time you start drinking your metabolism would be a
8 little bit slower. There is some actual inner-day
9 variation between people but, yeah, I can give a general
10 estimation as to it.

11 MR. COX: And, Your Honor, with that I would renew my
12 objection.

13 THE COURT: All right. I'm going to have to overrule
14 the objection. I don't see any problems.

15 MR. REDMOND: Thank you, Your Honor²⁶.

16 Q. And with that, and I'll just leave this here, if you
17 need to step down at some point just let me know. I think
18 I was at the point of asking you the significance of the
19 blood alcohol level. I had actually asked if .08 is the
20 legal limit. Would you discuss the levels in the context
21 from the pharmacological standpoint what your conclusions
22 are based to the tests that you did?

23 A. Sure. Alcohol as it circulates through your body and
24 hitting various receptors in your brain, affecting
25 different parts of your brain, is going to have a sliding

1 scale of affects. As the level of alcohol goes up the
2 affects are going to increase. Some initial affects
3 you're going to see after a drink or two is you may become
4 a little more talkative, a little more social, a little
5 more -- maybe taking a few more risks.

6 As levels go up you're going to start having some
7 affects to your reaction time. Eventually, your
8 peripheral vision is going to start to narrow. You, as
9 your level of around -- approach .15 you may develop some
10 double vision all the way up to the levels of .3, .4 may
11 end up passing out and going to a stupor and then have
12 coupled affects where you will have respiratory depression
13 to the point where you die.

14 Now, as it relates to driving a motor vehicle, when
15 you drive a motor vehicle the difficulty with that is that
16 there are many tasks going on at the same time. Imagine
17 just backing out of our driveway. When you back out of
18 the driveway you have to start the car. You look in the
19 rear view mirror. You're looking at your peripheral
20 vision to see if there are any other cars coming down that
21 side of the road. You have to know how to, you know, how
22 to put on the brake, ease off the brake, let on the gas
23 when you're going at a slow rate out of the driveway.

24 You don't want to just back out immediately into
25 traffic. You're going to stop. You're going to look both

1 ways and ease out. Know how far to cut the wheel in order
2 to make the right degree angle or turn. And that's just
3 backing out of the driveway. So something you do you know
4 thousands of times in your life sometimes you don't think
5 about it, but it is actually a series of very complex
6 tasks going on at the same time.

7 And that's where alcohol starts to affect people the
8 same. Some people may show that they have, you know,
9 someone who drinks a lot they may be able to say, you
10 know, "Oh, I hold my liquor well. You know, I can hold a
11 conversation with you or I can even walk down the side in
12 a straight line." That's what we call a learned
13 tolerance. You know a person could not experience it if
14 they never had a drink before. One or two drinks it may
15 seem like they're falling over and can't stand up, hold a
16 conversation, slurring their speech.

17 But that's not really what we're looking at here. We
18 are not really looking at these outward you know learned
19 tolerances of that. With alcohol as the level goes up
20 it's your ability to multi-task and process data is really
21 where the trouble is. And as I demonstrated driving, a
22 car. There are all sorts of data coming in that you have
23 to process. As you're driving down the road you have to
24 you know maintain your speed, stay within the lines, left
25 or right, be able to judge your distance from another car

1 and not follow too close. Then you have other things that
2 you're looking out to make sure cars aren't coming when
3 you change lanes.

4 If all of a sudden somebody runs out you need to be
5 able to see the risk, process that data and then actually,
6 physically react. Hit the breaks and slow down. One of
7 the things that happens when your alcohol level is above
8 .08 is your reaction time is going to slow up and your
9 ability to process and make those executive decisions --
10 you have to process the data, form an opinion, assess the
11 risk, and go and physically make the correct adjustments.
12 That's where alcohol really plays the role in people's
13 inability to drive above a certain level.

14 And in fact studies have -- numerous studies have
15 shown that as levels increase these tasks both, you know,
16 in driving simulators, and other studies actually doing
17 live crash data show that as you approach .08 your
18 probability of getting into a car accident increases, and
19 that you will fail at multi-tasking tests. That is why
20 they put a legal limit across the board. And that is why
21 we measure the concentration of the blood and then go
22 along those lines of impairment level and association with
23 that level and be able to say whether or not someone was
24 safely able to operate a motor vehicle.

25 Q. And in this case we got a .163 based on your test.

1 Could you explain for the jury the affects in your
2 opinion, being qualified as an expert, what affects does
3 that have on someone?

4 MR. COX: Your Honor, renew my objection.

5 THE COURT: All right. Let me hear the question.

6 MR. REDMOND: Yes. I asked if he, at a .163, could
7 state generally what the affects are as it relates to the
8 things he just described, the ability to operate a motor
9 vehicle, different tasks that must be dealt with?

10 THE COURT: I'm going to let you go forwards with
11 that. Mr. Cox can cross examine.

12 MR. REDMOND: We understand that, Judge.

13 THE COURT: Go ahead.

14 THE WITNESS: Sure. Well, in general as you approach
15 those high levels you're going to have your ability to --
16 you will have reduced reaction time. And your ability to
17 process multiple data and be able to process it and be
18 able to react and make decisions. Your judgment will
19 start to decline. You may start taking more risks. You
20 may have trouble staying within the lines of a road. And
21 your peripheral vision should start narrowing so you will
22 have less visual acuteness of what is going on around you.

23 BY MR. REDMOND:

24 Q. Okay. And, now, when you talk about the diminished
25 capacity, I think it was something they could be referred

1 to. Could you explain, when you talk about diminished
2 capacity, and you've touched on it, but in the realm of
3 operating a motor vehicle can you -- I just want to
4 clarify. What things could be affected in the operation
5 of a motor vehicle based on your experience and study?

6 A. Well, sure. Obviously, being able to -- really, the
7 two things any person -- my personal opinion as an expert,
8 it will affect your ability to operate a motor vehicle
9 being your ability to react to a given stimuli. Your
10 reaction time, and your ability to process multiple sets
11 of data and react. Then be able to identify what takes
12 precedence and react appropriately. And this ability to
13 do multiple tasks at a same time, and some of the multiple
14 tasks may be, you know, like I said maintain speed,
15 maintain vigilance within your traffic line.

16 Q. And let me stop you there. When you say, 'maintain
17 within a traffic lane, what are you referring to
18 specifically? Could you explain that a little bit further
19 when you say.

20 A. Most notably by you know crossing over the median
21 line which is one of the you know tell tale signs for an
22 officer to pull somebody over for potential D.U.I.

23 Q. Is that also why, because you're familiar with these
24 areas, when you're doing a field sobriety test, for
25 instance. Everybody has heard of walking the line. Is

1 that, what you're explaining, is that part of that
2 mechanism as far as being able to stay steady and walking
3 a straight line?

4 A. Well, I must say that I'm not certified to perform
5 field sobriety tests.

6 Q. Oh, I understand that.

7 A. But in my experience going actually attending some of
8 the classes just and going through -- actually I am I
9 guess a certified law enforcement officer. I went through
10 the basic nine week course at the Justice Academy.

11 Q.. Okay?

12 A. But one of the things that some of those tests are
13 set up to actually judge -- not just the simple things,
14 but actually multi-taskings to see how you function doing
15 multiple things at once.

16 Q. Okay, now, back to the road. You talked about going
17 across the center line. Picking up there could you go
18 forward and explaining that in the context of diminished
19 capacity at the .163 blood alcohol level?

20 A. Well, some of the -- also it, if you are crossing
21 over and there is some stimuli in the road, you may not be
22 able to react or you may not be able to properly judge how
23 far to make a corrective action. You may actually over
24 correct and cause a problem is one of the issues.

25 Q. Okay. How about if when we talk about staying left

1 of center. Let's say there is no stimuli and you're just
2 driving down the road. Driving down the road, could the
3 alcohol -- would the alcohol have an affect in your
4 ability to maintain your lane?

5 A. Yes. That's actually one of the fairly standard
6 tests done in various field studies and in laboratory
7 studies on impairment is one of the things that is
8 actually -- to see your lane vigilance test and see how
9 well you do maintaining your straight line.

10 Q. Okay. And at a .163, based on your experience, your
11 studies, your education, in your opinion how does a .163
12 factor into those abilities.

13 A. It would definitely increase the likelihood of
14 failing to maintain a straight line on the road lines.

15 Q. Okay.

16 MR. REDMOND: Beg the Court's indulgence.

17 BY MR. REDMOND:

18 Q. Mr. Grambow, thank you so much. Please answer any
19 questions -- oh, I did skip something. I'm sorry. With
20 the levels of alcohol, and I'm sure this is a question
21 that everybody tends to ask, with the levels of alcohol,
22 and could you -- I want to lay a foundation for you.
23 Could you explain how you could come about making an
24 estimate as to the number of beers it would take say for a
25 150 pound man to get to a .163 blood alcohol level?

1 A. Well, it is just that. It is just an estimate, but
2 studies have been done.

3 MR. COX: I object on an estimate.

4 Q. I want to -- that's why I asked him to lay a
5 foundation for it, Judge, so he can explain what the
6 studies and what he has done regarding those particular
7 issues. And then, of course, Mr. Cox is open to cross
8 examination. He is an expert.

9 THE COURT: Once again, it's generalization an
10 estimation. That's within his field.

11 MR. REDMOND: Thank you.

12 BY MR. REDMOND:

13 Q. Could you continue to answer the question?

14 A. Sure. In the equation you use to do this is referred
15 to a Widmark Equation. And it's been well established in
16 the toxicology and alcohol and impairment community as
17 pretty much the standard for estimating the amount of
18 drinks it would take to achieve a certain alcohol level.

19 Now, some of the estimation that goes into it because
20 there are variations between men and women. One of the
21 factors that I use is called the Row Factor which
22 basically just takes into account the volume of
23 distribution, the difference between men and women, the
24 amount of composition of adipose tissue which is more
25 fatty tissue between men and women. Lean muscle, mass and

1 some distribution of that.

2 It takes into account some of those, and it does use
3 averages across populations to come up with numbers. So
4 calculating for a 150-pound man to reach a .163, assuming
5 that it was a beer. Beers range in alcohol content. Just
6 for the sake of argument, let say a 4 percent beer which
7 is somewhere in the middle of the average beer sold in
8 America, three and a half to 5 percent, it would take
9 roughly seven beers for a 150-pound man to get to a level
10 of .163.

11 Q. Seven beers?

12 A. That, of course, would also be if there are consumed
13 at one time and pushed his beer -- pushed his alcohol
14 level to that.

15 Q. Okay. And if they weren't consumed at one time, but
16 over a period of time would that increase or decrease the
17 number of beers that it would ---

18 THE COURT: Hold your question, please. Everybody
19 stand at ease just a minute. Does anybody else need a
20 recess? Let's take five minutes and come back.

21 (WHEREUPON, the jury panel was excused from the
22 courtroom at 11:45 a.m.)

23 (WHEREUPON, Court was in recess at 11:45 a.m. and
24 reconvened at 12:03 p.m.)

25 (WHEREUPON, the jury enters the courtroom at 12:03

1 p.m.)

2 THE COURT: All right, Solicitor, if you will re-ask
3 that question again.

4 MR. REDMOND: Thank you, Your Honor. May it please
5 the Court.

6 BY MR. REDMOND:

7 Q. My question was, and I'm amending it a little bit.
8 You had just indicated that in your opinion that about
9 seven beers is what it take to get .163; is that correct?

10 A. For a 150 pound male.

11 Q. For a 150 pound male. That's fine. Now, could you
12 explain what those findings are related to literally
13 drinking over a certain interval of time? In other words,
14 is it possible that you drink more beers than 7 beers and
15 still end up with a .163 blood alcohol?

16 A. That calculation doesn't take into account
17 metabolism. That would be from just one large bouillis
18 dose taken. So there is, over a long course of time where
19 you, you know, over several hours you may have -- between
20 your first and last beer, you may have metabolized the
21 first beer by the time you finish the second or the last
22 beer.

23 So there is a potential for the number to actually be
24 higher over an amount of time.

25 Q. Okay. So say over ten, 11 hours that amount could be

1 higher over time with the number of beers consumed?

2 A. Sure. That first beer isn't going to stay in your
3 body that full ten hours. You will have metabolized it
4 and eliminated it but by the time you finish drinking.

5 Q. Such as on a drive between Alabama and South
6 Carolina?

7 A. I don't know. I've never made the drive.

8 Q. I know, but I'm saying if that was about at the
9 timeframe that you were talking about what you just
10 testified to would that apply in that particular timeframe
11 on a trip from Alabama to South Carolina?

12 A. If it was a ten hour drive and you were drinking the
13 entire time, yeah, that would apply.

14 Q. Okay. And, finally, let me with you this. Based on
15 all of your experience, all of the different seminars and
16 conferences that you have attended, based on your work at
17 a point .163 what is your opinion as an expert on the
18 ability of someone to be able to effectually operate a
19 motor vehicle?

20 MR. COX: I object. That's an issue left to the jury
21 to determine.

22 MR. REDMOND: Your Honor, as an expert he is entitled
23 to render his opinion. Obviously, Mr. Cox will be able to
24 cross examine.

25 THE COURT: Wait just a minute. I'm going to sustain

1 that objection.

2 MR. REDMOND: I'll rephrase the question.

3 BY MR. REDMOND:

4 Q. At point .163, based on your work, based on -- is it
5 such that a person's faculties, their judgment, their
6 ability to multi-task, as you stated earlier, are those
7 abilities affected?

8 A. Yes.

9 MR. REDMOND: Nothing further, Your Honor.

10 BY MR. REDMOND:

11 Q. Please answer any questions Mr. Cox may have.

12 A. Sure.

13 CROSS-EXAMINATION

14 BY MR. COX:

15 Q. Mr. Grambow, you have given opinions based upon the
16 weight of a 150-pound male?

17 A. Yes.

18 Q. Not female but a male?

19 A. Yes.

20 Q. What would your opinion be if it was based on an
21 135-pound male?

22 A. To which question? I've rendered receive opinions.

23 Q. Any of those opinions that you've rendered?

24 A. The only one that the weight of the subject is going
25 to matter would be the calculation of the amount of drinks

1 he took.

2 Q. The amount of drinks he took?

3 A. Yes, sir, the level of impairment associated with the
4 report. A weight, size, gender, it doesn't matter cause
5 that's a measurement of the concentration of ethanol per
6 amount of blood. So that's a concentration, and that
7 concentration would be the same for a man, woman, child,
8 large, small, blue, purple, whatever.

9 Q. So it would affect your opinion as to the amount of
10 beer that it would take to reach the .163?

11 A. Sure. Roughly, it would take, instead of seven beers
12 it would take roughly six beers or so.

13 Q. For a 130 pound man?

14 A. Yes.

15 Q. And for, let's say, take me here. For a 170-pound
16 man?

17 A. 170-pound, I believe that was eight beers.

18 Q. Eight beers?

19 A. It was roughly -- I did calculations for several
20 levels, but it was 150-pounds was about seven beers and it
21 was for every ten kilograms which is 22-pounds, for every
22 additional it was an extra beer it was less minus a beer.

23 Q. So for us laymen, the 150-pound is eight beers. Is
24 that what you said?

25 A. 150-pounds, seven beer.

1 Q. 150 pounds, seven beers. So up 20-pounds add a beer.

2 Drop 20 pounds subtract a beer?

3 A. Yes.

4 Q. For each 20 pounds? All right. Now ---

5 A. Again, those are rough estimations.

6 Q. And would it be fair to say that everything that you
7 said today was a rough estimation?

8 A. I wouldn't necessarily say a calculation wise. There
9 is some leeway given to everything that I said. Yes.

10 Q. Thank you. Now, is it not true that the affect that
11 alcohol may have on you is based, one, your experience
12 drinking?

13 A. Well, you have to define affects.

14 Q. Okay. Let me back up. The affects that you
15 described; that the affects that you testified to in this
16 courtroom?

17 A. As far as especially as it goes towards driving a
18 car, it is not going to be affected by whether you're an
19 experienced drinker or not.

20 Q. It's not?

21 A. Correct.

22 Q. And is it going to be affected by the person's
23 health? Whether they are healthy or not?

24 A. You have a specific health issue? Metabolism could
25 potentially be affected. As far as if you have a

1 preexisting brain condition potentially it could affect.

2 Q. A person who works out and is in good shape, someone
3 like me who does absolutely nothing, is that alcohol
4 consumption going to be affected by that? My ability to
5 perform a task, is that going to play a role in it?

6 A. Your ability to drive a car with all the complex
7 tasks and the way alcohol takes a higher route to your
8 brain, working its way to more primordial parts of the
9 brain, no, it would not.

10 Q. It would not?

11 A. It would not.

12 Q. So health is not a factor. All right, sir. And we
13 said experience is not a factor? Experience in drinking
14 is not a factor?

15 A. No.

16 Q. Not a factor. Okay. And the period of time that the
17 beer was consumed?

18 A. I'm sorry. I missed that. Could you please repeat
19 that.

20 Q. The duration of time that you drank the beers is that
21 going to have an affect?

22 A. No, as far as what we test is a snapshot. That
23 result is a snapshot of the time the alcohol level when
24 the sample was taken. So prior, you know, as with the
25 previous example, ten hours prior or whether the person

1 started drinking three hours prior, it doesn't really --
2 my opinion is I'm not going to put opinion on whether
3 somebody can drive the thing or when they started
4 drinking.

5 My opinion is based solely on the level that was
6 measured from the sample that was taken from when it was
7 taken.

8 Q. In fact that sample was taken and the test were
9 performed approximately 14 days later does that affect the
10 results?

11 A. No.

12 Q. Not at all?

13 A. Not under the storage conditions that the sample was
14 maintained at.

15 MR. COX: Nothing further.

16 REDIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q. Let me just clarify. He said the samples taken. The
19 sample, was the sample actually taken the date that you
20 tested it or was it taken previous to that. In other
21 words when I say, 'the sample', and just to clarify
22 because the question is confusing, but ---

23 MR. COX: I object. My question is not confusing. I
24 stated the fact that the test was taken 14 days after --
25 his analysis 14 days after he drew the blood. How is that

1 confusing?

2 MR. REDMOND: You didn't actually say it that way,
3 Jim.

4 MR. COX: That's the way I said it.

5 MR. REDMOND: That may be the way you meant it, but
6 that isn't the way it was said.

7 MR. COX: Thank you, Your Honor.

8 MR. REDMOND: Will all due respect may I continue,
9 Your Honor?

10 THE COURT: Go ahead.

11 BY MR. REDMOND:

12 Q. In other words, just to clarify for the jury, the
13 sample isn't taken from the defendant and you test it the
14 same day, is it?

15 A. I don't believe so in this case.

16 Q. And ---

17 A. Sample is taken at the hospital or approved medical
18 facility. It is transported via Highway Patrol, I think
19 in this case, and submitted to S.L.E.D. It goes -- is
20 taken to the Toxicology Department in which case testing,
21 the analytical tests may be done though the report may not
22 be generated for several days until after the testing is
23 performed.

24 Q. Exactly. However, with the way your testing is done
25 at that time it was sealed and collected, and you said on

1 questioning on cross it's just a snapshot? In essence you
2 testified that at that time the sample was taken that's
3 what your reading reflects; is that correct?

4 A. Correct. What the reading was when that particular
5 sample was taken at the hospital.

6 Q. Okay. So if, and you're an expert so I can ask you a
7 hypothetical. Accident happens at six o'clock, 6:30,
8 6:45, somewhere in that range, but the sample is taken
9 after nine o'clock. Could you tell us what the
10 significance of that is?

11 A. I would need more information.

12 Q. Okay. And when you say that would the -- when you
13 say you need more information, again, as a hypothetical.
14 At the time that the wreck occurred, from the time that
15 the wreck occurred until the time it's collected at a
16 hospital, you're reading is based on what was collected at
17 the hospital, correct?

18 A. Yes.

19 Q. So when you talk about metabolism does the metabolism
20 have the effect of reducing the alcohol level?

21 A. Yes.

22 Q. Okay. So if they had been metabolism taking place at
23 the time from the wreck until the time the blood was drawn
24 the levels would be coming down?

25 A. That would be assuming that -- cause as soon as you

1 take a drink, and it get absorbs. Your body absorbs from
2 the stomach and small intestine. Goes to the liver and
3 starts circulating. That first drink is going to be start
4 metabolize right away. Metabolism is constantly going.
5 It's a dynamic process, but you're still absorbing more as
6 it goes.

7 So as long as, if the absorption rate -- if you're
8 absorbing more than you can metabolize then your rate will
9 climb and your level will climb. And then if the
10 metabolism rate and you start and stop absorbing and
11 they're the same then you're going to peek. And then as
12 you have now nothing in your stomach or your small
13 intestine, you have absorbed everything, you're no longer
14 have increasing that level and you continue to metabolize
15 that level so going to do down.

16 Think about filling a bathtub. You know, you have
17 the drain out and you have more water coming out of the
18 faucet than going down the drain. The level is going to
19 go up, but once you cut the faucet off and now the drain
20 is going that level is going to go down. It's basically
21 the same thing, but no one is saying that it's not
22 draining the entire time. It's more coming in that it is
23 going out. The body works the same way.

24 Q. Beautiful analogy.

25 MR. REDMOND: And with that I have nothing further.

1 Thank you, Your Honor.

2 MR. COX: Nothing further. Thank you, Your Honor.

3 THE COURT: Witness may step down.

4 COLLOQUY

5 MR. REDMOND: Beg the Court's indulgence just a
6 moment, Your Honor. We have entered into a stipulation,
7 and I had forget to put it on the record previously.
8 Under the D.U.I. Statute, Implied Consent Statute, one of
9 the things that we have to show is that the Implied
10 Consent Form was given to the defendant or a
11 representative depending on his condition.

12 In that case I did not specifically ask Leslie Davis,
13 but in fact we have stipulated that at the hospital that
14 Trooper -- I said Deputy, Trooper Davis in fact gave the
15 defendant's mother a copy of that Implied Consent Form.
16 The reason that's important by stipulation that way we
17 satisfy the requirement of the Implied Consent Statute.

18 MR. COX: The Defense consents to that on the video
19 of Trooper Davis that he thoroughly read and gone over and
20 gave it to Chad Lambert's mother because he physically
21 could not receive it.

22 THE COURT: Okay.

23 MR. REDMOND: Thank you, Your Honor, and I'll yield
24 to Mr. Foard at this time.

25 MR. FOARD: Thank you, Mr. Redmond. State calls

1 Lance Corporal Robert O'Donnell to the stand.

2 ROBERT O'DONNELL, after being duly sworn,
3 testified as follows:

4 MR. FOARD: May it please the Court, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. FOARD:

7 Q. Good morning, Trooper O'Donnell?

8 A. Good morning.

9 Q. Could you please state your full name for the record,
10 please.

11 A. It's James R. O'Donnell, Jr.

12 Q. Okay. Where are you currently employed at this time?

13 A. South Carolina Department of Public Safety.

14 Q. How long have you been with the Highway Patrol?

15 A. Since January of '94.

16 Q. January of '94?

17 A. Yes, sir.

18 Q. Speak up?

19 A. Sixteen years.

20 Q. What positions have you held within the Highway
21 Patrol?

22 A. Well, I originally went to the Academy was January
23 through April of '94. Assigned to Richland County Troop
24 One. After that I got through six years and transferred
25 to Troop Four. I was in that position through 2008 where

1 I transferred to the M.A.I.T. Unit.

2 Q. All right. And you say the M.A.I.T. Unit. Explain
3 to us what that is?

4 A. It's basically it is our Multi-disciplinary Action
5 Investigation Team. It's a unit comprised of troopers
6 from across the State that possess unique skills and
7 training to handle more advanced accident reconstruction,
8 high profile collisions. We're called in to help the road
9 troopers out.

10 Q. And what is it that you do as part of the M.A.I.T.
11 Team?

12 A. My thing, at the time of this incident, I was assigned
13 to the Pee Dee Team which is out of Florence Troop Five.
14 I currently am assigned to the Troop Four Satellite
15 Office, and I have two people under me. So I'm currently
16 like a secondary tier team leader now, but at the time I
17 was like a grunt for lack of a better word doing
18 mechanical.

19 Q. You say you did mechanicals. Do you have any prior
20 experience in mechanical work?

21 A. I have. I've been involved in automotive repair,
22 repaired lawn mowers and other things that my dad did.
23 And it was like when I got older I was building cars,
24 thing of that nature. Kind of like to free mechanic, if
25 you will. I received some training through the Highway

1 Patrol in that same area. So I do mechanical work. Kind
2 of like a lobby.

3 Q. When you say, 'training through Highway Patrol' can
4 you elaborate on that a little bit?

5 A. We've done some mechanical classes put on actually
6 through Sergeant Breland and also some courses put on
7 through reconstruction course we take through the Academy.

8 Q. And so Highway Patrol, you've done the standard
9 Academy but there is more?

10 A. Correct. I went through 80 hours of that advanced
11 accident reconstruction which is accident and actual
12 reconstruction which has a separate two week course.

13 MR. FOARD: Your Honor, at this time the State would
14 ask that Lance Corporal O'Donnell be admitted as an expert
15 in accident reconstruction.

16 MR. COX: No objection, Your Honor.

17 THE COURT: So qualified.

18 MR. FOARD: Thank you.

19 BY MR. FOARD:

20 Q. Lance Corporal, were -- did you have the occasion to
21 be involved in the investigating of an accident on July
22 the 23rd of 2008?

23 A. I did. I was notified by Agent Dangerfield that
24 there was an accident scene in Darlington -- Chesterfield.
25 Sorry, and in Chesterfield County U.S. One north of McBee

1 through telephone. It was around 1952 hours and they
2 needed me to response and go to the scene around
3 nine o'clock that evening.

4 Q. Okay. And did you -- you went to the scene?

5 A. Correct.

6 Q. Okay. What did you do when you arrived at the scene
7 of this accident?

8 A. I was the last M.A.I.T. member to arrive. I was
9 coming from the Richburg, Chester area. We had some
10 weather move into the area at that time which traffic was
11 operating a little slower. Corporal Shull and Sergeant
12 Dangerfield were already on scene. We were processing the
13 scene. Shull was taking photographs and video forensic
14 mapping that we use to document evidence of the roadway
15 and the vehicle positions.

16 Q. Okay. When you say, 'evidence documenting forensic
17 mapping' could you tell us a little bit more about that?

18 A. Basically, at the time we try to document the exact
19 placement of evidence that encompasses the collision site.
20 Vehicle debris, gouges in the roadway. We use forensic
21 mapping for getting the proper conditions of the roadway,
22 point of rest of the vehicles, thing of that nature. It's
23 as I mentioned before like survey equipment that you use.
24 Similar to what people who are tracking of land, but this
25 is a measuring device, basically. So we know exactly

1 where this mark is and we can reconstruct that or actually
2 duplicate it is a better word to a C.A.D. system, Computer
3 Assisted Drawing program, so we can recreate on paper the
4 exact scene for reconstruction purposes.

5 Q. All right. And give us a little bit more information
6 about the exact kind of things that your document at the
7 scene. I mean is it environmental factors? Is it things
8 involving the accident? What?

9 A. Specifically, we -- well. For that night I was
10 handed photographs so I was responsible for taking
11 photographs of the scene and the collision. We
12 photographed the approach of both vehicles and the part.
13 And when I say the part the way they came and where they
14 came from. We also do a 360 degree view of the vehicles
15 at their final rest and any evidence in the roadway,
16 gouges, tire marks, lane lines.

17 There was some weather movement through -- there was
18 some water on the roadway pre and post collision, and this
19 was documented while I was there. And actually on the
20 photograph there are several times that we had heavy
21 downpours trying to operate the camera. So some of that
22 is shown in on some of our pictures. But, basically, we
23 want to be able to come back and say two years later that
24 this is what it was like. This is what I saw. I was
25 there, and something like that.

1 Q. Now, let's go back just a second. What time did you
2 approximately arrive at the scene?

3 A. 9:10.

4 Q. 9:10. Okay. So you arrived there sometime after the
5 accident?

6 A. Correct. I wasn't notified until 7:52 in the
7 evening.

8 Q. Okay, but you noted that you noted environmental
9 factors when you arrived?

10 A. Correct.

11 Q. Okay. But those aren't necessarily representative of
12 what the environmental factors were at that time of the
13 accident?

14 A. Correct.

15 Q. Okay. All right. You discussed evidence gathering,
16 but you also mentioned that at the time of this accident
17 you were also primarily responsible for mechanicals. Can
18 you explain what you mean by that?

19 A. While at the scene during the photographs I also was
20 tasked with doing general vehicle exams. What that is is
21 we just go and check air pressure in the tires, the tread
22 depth of the tires. Just how much tread is left. If
23 they're worn out. Check the breaks, steering system if
24 they're still intact that includes turning the steer
25 wheel, press on the brake, things of that nature.

1 Basically, just getting a general overview of the vehicle
2 to see if it's feasible to operate on the road and
3 document the condition that we found.

4 Q. Okay. And so let's talk about with regards to what
5 you found that evening. Can you tell us specifically what
6 kind of findings you made as far as the mechanical of the
7 vehicle involved in this collision?

8 A. I don't have my general vehicle exams in front of me,
9 but I have mechanical forms that I filled out the
10 following day. The mechanical forms represent what we
11 found that evening. The vehicles were towed I think by
12 Burch's Towing Service and taken to the impound lot and
13 was secured there and maintained there until we obtained
14 warrants..

15 The next day we did the mechanical exam which is more
16 in depth. We then watched put wheels on the car, checked
17 the brake components. Make sure there are pads there. We
18 looked at the drive train and like systems, steering
19 components. Basically to determine the vehicle the sound
20 and was operational pre-impact and operational in this
21 case post-impact in case we were at the tow yard.

22 Q. What determinations did you make specifically about
23 the Cadillac as far as operational ability?

24 A. The Cadillac was a 2009. It was a Deville. It was a
25 V8 Nor Star. We found the damage was severe impact, but

1 it had some tire wear on the rear. One tire wear had gone
2 through the primary tread layer into the ply section. If
3 you wear out a tire you've got the steel showing. It was
4 almost to that point on the left rear.

5 Other than that the vehicle was mechanically sound.
6 It was in good condition. The interior was in good
7 condition. Usually a vehicle that if the inside of the
8 car is taken care of, well kept, and the outside well kept
9 up normally the person who owns that vehicle takes care of
10 everything else which in this case is tires, breaks,
11 things like that nature.

12 The rear wheels in my opinion were at one time on the
13 front of the vehicle. The Cadillac is a front wheel
14 drive, and a lot of times will have a wear issue from
15 improper tire alignment. And the left front was wearing a
16 little more than the rear. Those tires were moved to the
17 rear of the vehicle. The tires were rotated or new tires
18 were placed in the front?

19 Q. Okay. Let me stop you just one second there. At the
20 very beginning of that I heard you say 2009 Cadillac?

21 A. I'm sorry. 2000, I'm sorry.

22 Q. It was a 2000 Cadillac?

23 A. Yes, sir.

24 Q. Okay.

25 MR. COX: We would stipulate to that, the make and

1 the year of the truck. And as far as we know, unless he
2 knows something out of the ordinary, they were both the
3 same operating the road.

4 BY MR. FOARD:

5 Q. And so in your opinion were these vehicles
6 mechanically sound as Mr. Cox has stated?

7 A. They were. I noted on the mechanical form that the
8 percentage of the rear tires were approaching the end of
9 their service life and might need to be replaced in the
10 next couple of months. And on the pick up the right rear
11 tire was over pressurized and worn excessively. Other
12 than that it was mechanically sound.

13 Q. Okay. In your investigation of this vehicle, the
14 Cadillac in particular, did you remove anything from this
15 vehicle?

16 A. The two rear wheels were removed for inspection of
17 the breaks. The front wheels were not removed. The right
18 front is like -- plus we've got three of the four, and we
19 also handled a that entail it to the air bag control
20 module which is a sensing device that connected to the
21 impact that you put on the front of the bumper. We went
22 and secured that for imaging at a later date.

23 Q. In your investigation of these vehicles what kind of
24 breaking system did you determine that each of them had?

25 A. The 2000 Cadillac had a four wheel disk. It was a

1 four wheel disk, and you have a four wheel ABS, Antilock
2 Breaking System and it keeps your tires from locking up
3 when you apply the breaks, whatever. Before prior to ABS
4 breaking you're going to slide and smoke comes out, ABS
5 prevents that from happening.

6 Q. So that sounds like a good thing to have?

7 A. It is good. It allows you to steer and brake at the
8 same time versus a vehicle skidding and the wheels locked
9 up. You can't here without releasing the brake.

10 Q. How about the Toyota?

11 A. The Toyota had disk breaks on the front, drum breaks
12 on the rear. The ABS for the front breaks was listed as
13 an option. It was my determination that it did not have
14 ABS on at the time. Also during the brake exam for the
15 Toyota the impact the floorboard had buckled up into the
16 occupant section where the driver sat and wedged the brake
17 peddle in place depressed. And so the brake system was
18 still active and all four wheels were locked at -- during
19 the inspection. So it had a functional brake system, not
20 ABS.

21 MR. FOARD: Beg the Court's indulgence. That's all
22 from the State right now. Please answer Mr. Cox's
23 questions.

24 CROSS-EXAMINATION

25 BY MR. COX:

1 Q. You said that from the impact the brake was
2 depressed?

3 A. From the floor it's wedged but not to the center line
4 where your gear shift would normally be. So main
5 transmission got close the breaks and gas. So the breaks
6 wedged up to the side and hung up by the car belts. And
7 the reason I know this is cause when I tried to remove the
8 brake drums from the rear of the wheel the shoes were on
9 there.

10 Q. And could you tell from your physical inspection
11 whether or not prior to impact the breaks had ever been
12 depressed, activated?

13 A. In my opinion they would be depressed. There is no
14 way -- your clutch sits way up behind you. You push down,
15 okay. There is no way for it to come halfway down and get
16 wedged up without having some force on it.

17 Q. So is it your opinion that the breaks were not
18 activated before impact?

19 A. I would have to so incorrect. You don't know for
20 that particular second. So there is no way you can say,
21 "Oh, no, I'm going to brake now." You don't have that
22 kind of time.

23 Q. Thank you. So they were activated?

24 A. Yes, they were activated.

25 MR. COX: Nothing further.

1 MR. REDMOND: Beg the Court's indulgence.

2 REDIRECT EXAMINATION

3 BY MR. FOARD:

4 Q. Briefly. So it's your opinion that his breaks -- you
5 can only verify that his breaks were activated at that
6 tenth of a second of the moment of impact?

7 A. It's my opinion the brakes at the wrecker yard were
8 locked in place, depressed, and when you're talking about
9 a short amount of time that you have to let off the gas
10 and apply the brake and the time before the impact you
11 wouldn't have the time to apply.

12 Q. But that's only indicative of the moment of impact
13 not before?

14 A. I couldn't state whether they were activated before.
15 They were activated when I found them.

16 MR. FOARD: Nothing further, Your Honor.

17 THE COURT: Mr. Cox?

18 MR. COX: I don't a further thing.

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

20 MR. FOARD: State calls Sergeant Steve Breland.

21 STEVE BRELAND, after being duly sworn, testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. FOARD:

25 Q. Good morning. May it please the Court. If you could

1 please state your full name for the record?

2 A. Steve Breland. B-R-E-L-A-N-D.

3 Q. And what is it that you do for a living?

4 A. I'm a sergeant with the South Carolina Highway
5 Patrol.

6 Q. All right. And how long have you been with the
7 Highway Patrol?

8 A. Twenty years.

9 Q. And during that 20 years in the Highway Patrol what
10 positions have you held?

11 A. I started out as a regular road patroller. Then I
12 transferred to the M.A.I.T. Unit, and I've been with the
13 M.A.I.T. Unit since its inception. And actually made
14 associate from 1996 through 1999. And then in 1999 I was
15 transferred to the M.A.I.T. Team permanently and I've been
16 on the M.A.I.T. Team permanently for ten years.
17 Basically, that's my function.

18 I'm currently the Regional Commander for the Midland
19 and the Foothill regions of the State so I supervise 12
20 investigators. And we cover 22 counties across the State
21 to include Chesterfield and the surrounding counties
22 around there.

23 Q. And in 2008 what kind of functions were you
24 performing with the M.A.I.T. Team?

25 A. In 2008 I was the Assistant Regional Commander,

1 assistant team leader in the same area that I'm at now.
2 At that time also I was doing mechanical exams. Same
3 thing that Corporal O'Donnell explained earlier. At one
4 time I was the only person in the State to do mechanical
5 exams and luckily Corporal O'Donnell now works for me.

6 And he can do them instead of me. I'm also the
7 C.D.R. where I'm trained to analyze the data that we
8 obtain from air bag control nodules obtained from Sergeant
9 Quick's Cadillac and analyzed the data from that nodules.

10 Q. All right. Before we get there did you have training
11 in accident reconstruction?

12 A. I do. I actually started my collision reconstruction
13 career prior to Highway Patrol when I was in the United
14 States Marine Corps where I was a military police officer
15 working in the Traffic Division where I did traffic
16 accident investigations and reconstruction there.

17 So my training started prior to me going on Highway
18 Patrol. Also in Highway Patrol I received specific
19 training in advanced collision investigation, collision
20 reconstruction, advanced collision reconstruction. I
21 receive training on motorcycle collision, bicycle
22 collision, pedestrian collisions, commercial vehicle
23 collisions, biomechanics, physics, and 15 slow speed
24 collisions, photography, D.N.A, fingerprints, crack data
25 retrieval system like I explained earlier.

1 So I've got over 3,000 hours with collision
2 reconstruction training. I also am an instructor. I've
3 instructed most -- actually some of the people I have
4 instructed at some time. All the people in the M.A.I.T.
5 Unit currently, and I have instructed through the Criminal
6 Justice Academy. I was formally an adjunct instructor for
7 the Texas AMU on the diversity system including collision
8 reconstruction.

9 I have presented on collision reconstruction at
10 several conferences to include the South Carolina
11 Association of Reconstruction Specialists Conference.
12 I've presented on topics at the South Carolina Coroners
13 Association as well as the Solicitor's Conference. So I
14 have presented at several conferences and I teach you know
15 Highway Patrol and local law enforcement and others
16 agencies in collision reconstruction and investigation..

17 As well as I'm one of two of the only two CDR
18 analysts in the State. Myself and Captain Rob Lee are the
19 only two analysts. So I received specific training on
20 that as well as I am -- Captain Lee and I are also the
21 only two certified instructors on that technique. I also
22 instruct our own guys and other agencies on that.

23 Q. Is there an accrediting body for people who do what
24 you do?

25 A. Yes, sir, there is. Actually, ours is an

1 accreditation commission. It's an international
2 accreditation commission so it accredits collision
3 reconstructionist from all over the world. There is only
4 a couple thousand guys that are actually accredited across
5 to world; and I am accredited. I have been accredited --
6 ACTAR accredited I think since 1998.

7 Q. What do you have to do to become ACTAR accredited?

8 A. In order to become ACTAR accredited first you have to
9 apply to be accredited. So you have to meet some minimum
10 training requirements. And you have to submit an
11 application with verification of any training. And a
12 board actually reviews your application to even apply.

13 So you have to apply to take a test and once you're
14 approved to take the test then there is an eight hour
15 sitting examination that you do have to pass in order to
16 be accredited. So I applied. My application was
17 accepted. So I was able to take that test and I did you
18 know pass that examination on the first time that I took
19 that. And I have been reaccruited twice since then.

20 To be able to retain your accreditation you must be
21 able to meet some minimum continuing education units over
22 a period of time, and I have done that and been
23 reaccruited a couple of times.

24 MR. FOARD: All right. At this time the State would
25 move that Sergeant Breland be admitted as an expert in

1 collision reconstruction.

2 MR. COX: No objection.

3 THE COURT: So qualified.

4 MR. FOARD: Thank you, Your Honor.

5 BY MR. FOARD:

6 Q. You've thrown out a couple of acronyms; C.D.R., and
7 A.C.M., Airbag Control Module. Could you explain those to
8 the jury?

9 A. Sure. Airbag Control Modules or A.C.M. refers to --
10 it is basically like it says. It's the control module for
11 the vehicle's air bag system. All vehicles equipped with
12 any kind of -- and actually, it's not just an air bag.
13 It's the whole restraining system. The air bag comes out
14 of the steering wheel or passenger side curtain bag that
15 comes down. On some of the newer vehicles there are side
16 impact bags.

17 It also controls the seat belt controls which are
18 little things that fire off and tighten your seat belt up
19 really tight right before any kind of collision. So
20 basically, the air bag control module controls any
21 supplemental restraint devices in your vehicle. Now, and
22 in every vehicle that has those supplemental restraint
23 devices which, basically, is in every new cars now days,
24 has some sort of control on it.

25 Now, the C.D.R. is an acronym for Crash Data

1 Retrieval, and that's a tool that we use to be able to
2 obtain recorded data on those air bag control modules.
3 Not all vehicles on the road are accessible with this
4 tool, but C.D.R. is actually the equipment that we use to
5 download data, stored, recorded and stored on those air
6 bag control modules when there is some sort of crash
7 event.

8 Q. And when you say C.D.R. as a tool what do you mean by
9 the word, 'tool'?

10 A. There are so many vehicles that are out there now
11 days that are supported by this, one of our bread and
12 butter tools, that we use. Basically, what it is it's an
13 equipment that's sold by Bach. Bach is a company that
14 sells diagnostic equipment for your vehicle.

15 So if your check engine light comes on and you go to
16 the garage and you have your automotive technician check
17 your car and put your car on the computer and tell you why
18 your car's check engine light is on. More than likely
19 that tool that they use, that little computer module that
20 they use is going to be made by Bach.

21 Bach is also the maker of the C.D.R. or Crash Data
22 Retrieval System. What it is, what it consists of is some
23 cables that allow us to plug into either the module itself
24 which allows us to go in the same port under your dash
25 board that your technician is going to check your engine

1 light. That allows us to plug in there, and we have
2 interface that we use along with a desktop or laptop
3 computer that we use. And with that data in the field we
4 take the laptop and pull that module out, and bring it
5 back to the office and you can just use a desktop.

6 Basically, you just need a computer along with the
7 Crash Data Retrieval tool, and you know the cables and be
8 able to read or take an image of the data that is stored
9 on there. That data that's stored on there is the data
10 that is needed to control your air bags. So some things
11 that the module needs to know in order to be able to
12 determine whether your air bag comes out or not or how
13 fast you're going. So if you're going two miles an hour
14 and you get in a wreck you may need air bags.

15 So your car's module needs to know how fast you're
16 going at the time the event happens so it records and
17 captures how fast you're going. We need to know whether
18 you're on the brakes or not. We need to know whether the
19 seat belts are on or not. Data that needs to know and be
20 able to make that determination of whether your air bags
21 come out or not in a particular crash.

22 So that -- since that module is collecting that data
23 to be able to determine whether or not your air bag comes
24 out they start storing, and when they start storing it
25 somebody, obviously, want to read that. So they created

1 this equipment, Bach did, to be able to read the data
2 being stored on those modules.

3 Q. As an expert in your field is Bach, is this the
4 leading manufacturer of this kind of software?

5 A. Currently, Bach is the only leading and only
6 manufacturer of this software. Any other -- it's not just
7 the software. It's the whole equipment. Bach is the only
8 one that makes public available equipment to be able to
9 obtain the information from the air bag control module.

10 Any other company would be on a proprietary basis
11 like Ford. They have their own equipment. Or just Fords
12 or G.M, they have their own equipment. But currently Bach
13 is the only company that manufacturers any equipment that
14 will obtain data from the air bag module.

15 Q. So it's the standard in accident reconstruction?

16 A. It is the standard meaning it's the only one out.

17 Q. Now, let's talk specifically about the incident at
18 hand. Did you have the opportunity to review the data
19 from an air bag control module in this collision?

20 A. Yes, I did.

21 Q. And what vehicle did that air bag control module come
22 from?

23 A. The air bag control module had been obtained by
24 Corporal O'Donnell and it was inside a 2000 Cadillac. One
25 that was driven by Sergeant Quick.

1 Q. Okay. And when he removes the air bag control module
2 what is it that you do?

3 A. In this particular case they had not only got the
4 module from the vehicle. They also downloaded the module.
5 Like I stated earlier I'm an instructor. In that I teach
6 technicians. All the guys on the M.A.I.T. Team are C.D.R.
7 technicians. That allows them to go out there and know
8 what to look for.

9 First of all it allows them to know how to remove the
10 air bag module and also allows them to know how to obtain
11 the data off of it. So in this particular case Corporal
12 O'Donnell and Corporal Perry at that time Tim Perry,
13 they -- Corporal O'Donnell got the module and Corporal
14 Perry actually did the imaging of the data. And
15 basically, all he did was plug up the C.D.R. equipment up
16 to the module and went through the software you know.

17 Basically, it takes a scientific images, but all it's
18 doing. There is data on the module. It takes a little
19 snapshot of it. The data is still on the module. You go
20 there today and do the same thing and get the same data.
21 That's all they did. And then they sent me the data, and
22 then I just interpreted what the data says.

23 Q. Okay.

24 MR. FOARD: If I can approach the witness. Your
25 Honor?

1 THE COURT: Sure.

2 BY MR. FOARD:

3 Q. Sergeant Breland, I'm handing you what's previously
4 been submitted as State's Exhibit Four. And I'm going to
5 draw your attention to Page 19 if you could review that
6 and tell me when you're ready to answer a question -- a
7 couple of questions.

8 A. Okay.

9 Q. What is that exhibit that you actually have?

10 A. That's a screen capture or a segment of the C.D.R.
11 Report.

12 Q. Okay. That -- is that the whole thing or is that
13 Page 19?

14 A. Page 19. The report is actually a -- like I said
15 it's just a portion of the C.D.R. Report. I think in this
16 C.D.R. Report it's on a different page number. I think
17 it's page -- that little -- those charts that you've got
18 are likely Page Three on the actual C.D.R. Report.
19 They're just taken from the report.

20 Q. Okay. Then you -- what is what you have in front of
21 you, Exhibit Four, that entire exhibit?

22 A. That is the M.A.I.T. Report in this particular case.

23 Q. Okay, then. And what is the M.A.I.T. Report? I mean
24 explain what that is?

25 A. The M.A.I.T. Report, you know, basically, what the

1 M.A.I.T. Team does, we go out like Corporal O'Donnell
2 said. Go out and do advanced investigation on collisions.
3 We do collision reconstructions, and we as experts do have
4 an analytical look at any collision that we look at and
5 then provide a report or publish a report. And what this
6 report is the findings of the M.A.I.T. Unit. Anybody that
7 was involved in the investigation of this particular case
8 or any case.

9 We, you know, all have our little part to play in it,
10 and we get back together and say what our opinions are on
11 whatever our particular expertise was on that
12 investigation. And then we compile a report that we
13 publish so that others can know as well what we believe to
14 be the facts in any given case.

15 Q. I previously dated that I was going to draw your
16 attention to Page 19 of that exhibit. Tell us again
17 exactly what is contained on Page 19?

18 A. Page 19 is like I said. We took just a little screen
19 capture of the portion of the C.D.R. Report that was done
20 on this particular case on the 2000 Cadillac. It was copy
21 pasted on this Word document page. So portions of the
22 C.D.R. Report which is precrash data is on this particular
23 exhibit.

24 Q. All right. If I could have you step down for just a
25 few minutes.

1 (WHEREUPON, the witness steps down from the witness
2 stand.)

3 BY MR. FOARD:

4 Q. Just bring that report with you. I'm going to have
5 you review what's been previously marked and entered as
6 State's Exhibit 31. Is that consistent with the report
7 that are you have in your hand?

8 A. Yes, it is.

9 Q. All right. If -- now, if you could just explain to
10 the jury what these various graphs are and what they
11 represent?

12 A. Okay. This chart here is what we call precrash data.
13 Basically, the way the system operates is continuously as
14 your car is on your air bag monitor is obtaining data.
15 And it's on a continuous loop. So in this particular case
16 this air bag module is obtaining vehicle speed, engine
17 speed, your throttle position. Basically, it a percentage
18 of how much your throttle, not your peddle in the
19 particular case, but your throttle controls the level of
20 gas.

21 It's also doing the brake switch, and every -- about
22 every second it's obtaining that data from your car's
23 sensors. That is stored on there when it's just
24 recording. It's just actually obtaining this data about
25 every second. If there is an event like an air bag

1 deployment or crash requiring an airbag deployment, that
2 basically two doors kind of capture that data. You know
3 the door at the front and the door at that back, and what
4 it does is capture five seconds of that looping
5 information that's going through there.

6 So what we have here is the actual five seconds of
7 collected data that happened just five seconds prior to
8 this air bag being deployed.

9 Q. All right. The bottom graph, you could explain what
10 that is?

11 A. On the -- and I said five second, but actually on the
12 brake switch it gives you eight seconds. That's what it's
13 done on this. It captured eight seconds for the brake
14 switch. But, basically, that's what's going on prior to
15 an air bag deployment. In this particular case you can
16 say that about eight seconds, and I say about because it's
17 not -- it doesn't have this little super high-tech
18 computer in there by the millisecond recording data.

19 It's roughly a second intervals. But this brake
20 switch circuit data. That's basically the amount of
21 pressure it takes your brake lights to come on. There is
22 a switch inside your -- from the peddle to activate your
23 braking switch. But that brake switch circuit status is
24 basically saying it was off, off. And then about three
25 seconds prior to the air bag being deployed the brake

1 switch was activated which means that there was pressure
2 being put on the brake peddle about three seconds prior to
3 the air bag going off.

4 Q. And so three seconds before the air bag goes off
5 there is activation of the brake switch?

6 A. Yes.

7 Q. Is that correct?

8 A. That is correct.

9 Q. Does that correlate with the speed information that
10 we see in the first paragraph?

11 A. Sure. If you will go down here to where it says,
12 'minus five' that is basically five seconds prior to air
13 bag going off. And then this minus five data on down on
14 the brake switch correlates to the data here. So if you
15 go to minus five seconds -- minus five seconds you see
16 that the vehicle is doing 66 miles per hour and 66 miles
17 per hour.

18 And on the bottom four you see there is no brake. So
19 it's a constant speed. He's not on the brake at four and
20 five. You can see that the throttle is a constant
21 11 percent, 11 percent. So he's basically going 66 miles
22 per hour with 11 percent throttle and he's not on the
23 brake.

24 At the three second point, though, you see where the
25 brake switch is activated here and it says, 'brake switch

1 is on' you can see a corresponding drop in speed of 63.
2 You can see a corresponding drop in RPM where it goes
3 down. But you can also see he is no longer on the
4 throttle. He's off the throttle. He's off the gas, and
5 he's on the brakes. So these three values you can
6 basically see that he's on the brakes the last three
7 seconds. And you can see from 63 to 51 to 39 in the drop
8 in speed.

9 You can also see a corresponding drop in the RPM, and
10 you can see over here on the throttle there is no throttle
11 so there is no gas being applied to the motor. So he's
12 completely off the gas peddle and on the brake peddle.

13 Q. So when you said a few minutes ago that you review
14 the data what do you mean by reviewing? What are you
15 looking for in this data?

16 A. What I'm looking for, first of all, is that all of
17 the data is there because the way the system works is you
18 could have nothing there. I mean you could have say
19 invalid or there could be nothing there or there could be
20 a default value and you would have to look at a particular
21 module and say, you know, the default value for some
22 modules is 164. So if you were to look at the speed just
23 say 164, 164, 164. Looking at that data you would say,
24 "well, the guy was going a little fast." Well, that's why
25 you analyze the report and that's a default value for that

1 module. So you wouldn't -- you know that's not related to
2 the speed.

3 So that's the first thing I'm looking for. Do I have
4 any default value? Do I have any in value hits? Do I
5 have any that doesn't look right in the report? I mean do
6 I have something that's like, in this case, 66, 66 and
7 then it said five and back up to 51 and 39. The five
8 would stick out like a sore thumb. It wouldn't fit.
9 That's the kind of stuff I'm looking for.

10 Does the data look correct. Once I make a
11 determination as to the report itself and any kind of
12 anomalies or any kind of default values or any invalid
13 hits or any not report -- sometimes it will say, 'not
14 reported' and there are any numerous reasons why you might
15 get one of those readings.

16 Once we look and see none of that then I take that,
17 the data, in conjunction with what I know about collision,
18 what I know about speed/time collisions that were done.
19 You know, I may I call the investigator that -- you know,
20 if I'm looking at somebody's report that I didn't actually
21 go to the wreck I'll call the investigator and say, "Hey,
22 tell me about the wreck."

23 I look at their photos cause I also need to make sure
24 that the report is right in itself in the face value, but
25 I need to make sure that the data that's on there fits

1 with the actual dynamics of the collision.

2 Q. Does the data that you have viewed from Darrell
3 Quick's ACM reflect the dynamics of this collision?

4 A. Yes. There are absolutely no anomalies in the data.
5 I think the data on the face value is correct, and all the
6 data that was on this air bag module is consistent with
7 the dynamics of the collision.

8 Q. Okay. You can take the stand now.

9 (WHEREUPON, the witness returns to the witness
10 stand.)

11 BY MR. FOARD:

12 Q. So just to be clear about what we viewed in this
13 exhibit this data is indicating that Darrell Quick is
14 braking three seconds before this collision?

15 A. That's correct.

16 Q. Okay.

17 MR. FOARD: No further questions.

18 MR. COX: I don't have any questions.

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

20 COLLOQUY

21 MR. REDMOND: Your Honor, our next witness is going
22 to be -- our next witness, looking at the lunch hour, may
23 or may not be lengthy. We've got two more witnesses I
24 believe after lunch, and so now would be an appropriate
25 time to take a lunch break if Your Honor, please -- the

1 Court pleases.

2 THE COURT: All right. We're going to break for
3 lunch. Madam Clerk, once again, we provide lunch today.
4 Thank you, Madam Clerk, for arranging that. Let's, on
5 this particular case, we will try to start back at 2:15.
6 I'm going to be back here at 2:00 in case these other
7 matters we have might can work in. We will be back --
8 Madam Court Reporter, if you will work with me on that.
9 Maybe we can get those other cases taken care of. And we
10 will try to resume this one at 2:15.

11 Once again, once the jury is departed for lunch we
12 will clear the courtroom as soon as possible so we can
13 secure it. Okay. One more thing. We waive the bailiff
14 staff again?

15 MR. COX: Defense waives.

16 THE COURT: What says the State?

17 MR. REDMOND: State waives.

18 THE COURT: All right. Thank you very much. All
19 right. Ladies and gentlemen, if y'all will follow the
20 directions of the bailiff staff.

21 (WHEREUPON, the jury panel was excused from the
22 courtroom at 1:03 p.m.)

23 (WHEREUPON, Court is in recess at 1:03 p.m. and
24 reconvenes at 2:40 p.m.)

25 THE COURT: Solicitor, y'all ready.

1 MR. COX: Yes, Your Honor. Defense is ready, Your
2 Honor.

3 (WHEREUPON, the jury enters the courtroom at
4 2:40 p.m.)

5 THE COURT: Thank you for your patience. We had
6 another matter to take care of that took a little extra
7 time. Solicitor.

8 MR. FOARD: Thank you, Your Honor. State calls
9 Retired Corporal James T Perry.

10 TIMOTHY PERRY, after being duly sworn, testified as
11 follows:

12 MR. FOARD: Please the Court.

13 DIRECT EXAMINATION

14 BY MR. FOARD:

15 Q. Corporal Perry, if you could state your full name for
16 the record?

17 A. Yes, sir. My full name is James Timothy Perry.

18 Q. And you could tell the jury with whom you are
19 currently employed?

20 A. I am currently employed with the Fourth Judicial
21 Circuit Solicitor's Office.

22 Q. What do you do with the Solicitor's Office?

23 A. I'm an investigator.

24 Q. All right. With whom were you employed in the year
25 2008?

1 A. South Carolina Highway Patrol.

2 Q. Okay. What -- how long have you been with the
3 Highway Patrol?

4 A. Up until that time?

5 Q. Well, how long is your career with the Highway
6 Patrol?

7 A. Twenty-five years.

8 Q. And why did you leave the Highway Patrol?

9 A. Well, they had a nice little incentive there so I
10 took it.

11 Q. You're retired?

12 A. Yes, sir, I did.

13 Q. If you could explain to us or explain to the jury the
14 various positions you held during your career with the
15 Highway Patrol?

16 A. Yes, sir. I began my career with the Patrol February
17 of 1984. Upon that acceptance and appointment I attended
18 the South Carolina Criminal Justice Academy there for --
19 at that time we went up to 12 weeks. You're put on the
20 road. You're assigned a county, and my primary county for
21 21 years was York County. During that episode with that
22 and through the encouragement with the Patrol I was able
23 to get into an advanced training of accident
24 reconstruction and some classes that were offered. And
25 that all began back in 1988. I also obtained

1 accreditation in our department as an accident
2 reconstructionist in 1989.

3 And through that process -- our agency was attempting
4 to initiate a specialized accident reconstruction team,
5 but due to funding our agency was not able to funds that
6 particular team at that time. Not until 1994 come around
7 that the agent, once again, attempted that, but under the
8 different administration, a different director, we were
9 able to proceed and get special grant money to assist us
10 in form what is now known as our M.A.I.T. Team,
11 Multi-disciplinary Accident Investigation Team.

12 I became a part of that, not as a full time member,
13 but I did attend multiple classes. In fact up to about
14 2006 I had documented over 860 classroom hours in related
15 to the accident reconstruction field. That dealt with
16 anything from tire analysis, lamp analysis, occupant
17 chematics, physics, low speed, crush energy collisions.
18 It was a very wide range of things that deal mostly in the
19 criteria of that particular field.

20 Q. And if you could -- if you could explain what other
21 various types of training you have had in accident
22 reconstruction?

23 A. Well, I was afforded the opportunity with specialized
24 classes that deal with commercial vehicles, pedestrians,
25 motorcycles. These types of things are uniques. Not

1 always something that happens, but to the particular team
2 that I was involved in it was our job and our duty to be
3 able to investigate the more complex, difficult of those
4 and high profile nature. We were able to spend more time,
5 get more in depth, and certainly be able to find out more
6 facts than some of your average troopers. So, therefore,
7 our information was very, valuable.

8 Q. Corporal Perry, previously Sergeant Breland discussed
9 ACTAR?

10 A. Yes, sir.

11 Q. Are you a member of this organization?

12 A. Yes, I am.

13 Q. Okay. And how long have you held accreditation with
14 ACTAR?

15 A. Actually, I earned accreditation in 1999. It's
16 basically good for five years as long as you're able to
17 obtain you classroom education units. But I was not able
18 to meet that criteria, and therefore, I lost my
19 accreditation -- credentials for I think it was like ten
20 months or something. But, anyway, I had to go back,
21 physically go back and request to take the eight hour test
22 all over again. But I was successful and able to obtain
23 it again, once again, in 2005.

24 Q. So you successfully obtained ACTAR certification
25 twice now?

1 A. Yes, I have.

2 Q. Okay. Corporal Perry, if you could discuss your
3 previous instances where you have testified as an expert
4 witness?

5 A. Well, I had been in federal court a few times and
6 been classified as an expert status with accident
7 reconstruction. There have been time in the civil process
8 through the State of South Carolina and some courts that I
9 have been able to deal with in multiple counties. Also in
10 some of our criminal investigations with some of the
11 different counties throughout the State. In fact I was
12 able to furnish a list of those from 2007.

13 Q. All right.

14 MR. FOARD: At this time, Your Honor, the State would
15 move to have Corporal Perry admitted as an expert witness?
16 No objection, Your Honor.

17 THE COURT: So qualified.

18 BY MR. FOARD:

19 Q. If you could, going back to 2008, what was your role
20 in the M.A.I.T. Team?

21 A. I was actually a corporal, but that position -- we
22 had a team leader which we actually had was Sergeant Mike
23 Dangerfield. He was the team leader, and then, of course,
24 the duties fell down the line. My sole duties with the
25 M.A.I.T. Team is I actually went out and helped, if we had

1 calls out, I would go to the scene and physically go to
2 the scenes and help document them as far as whether,
3 through the process of forensic mapping methods,
4 photography, video or actually collection of either the
5 fingerprints or D.N.A. materials and doing that type of
6 work as well.

7 Q. Okay. And did you have the occasion to be involved
8 in the investigation of the collision on July the 23rd of
9 2008?

10 A. Well, actually I was out of town on that particular
11 day at a seminar, and this was in reference to accident
12 reconstruction seminar held in Atlanta. I did not return
13 into South Carolina until that following day which was a
14 Thursday, the 24th. Would you like me to continue?

15 Q. Sure.

16 A. On that particular day I had already been addressed
17 of the issues, location. In fact in my travel I actually
18 travelled back through that particular area where this
19 collision I was told occurred. I was not able at that
20 time to document or do anything, but I did stop. Did get
21 out and kind of look around. Familiarized, looked at some
22 things, but I was not able to do anything on that
23 particular day. Not until the following day, that Friday,
24 which would have been the 25th. I came out. I proceeded
25 to over -- I was given information that both vehicles were

1 taken to Tim Burch's Wrecker Service located just outside
2 Chesterfield County. Excuse me. I went to that location
3 to go ahead and you view and examine the vehicles that
4 were involved. I needed to see how these vehicles come
5 together and understand their interactions.

6 Several things I wanted to look at and view. Also
7 while doing this I did not know or have any idea what the
8 other team members may have already done. So I went ahead
9 and developed -- did my own photography of these vehicles
10 to document them for my purposes cause I knew I would
11 probably later need them.

12 In that part I also had the S.T.P. because I do deal
13 in relationship of determining speed values and working
14 these issues up with some of our crash and collisions that
15 we deal with. So in doing so I knew that would certainly
16 be relevant in this. So I had an S.T.P. officer, State
17 Transport Police, name was Tyrone Williams. Went through
18 dispatch to see if he could meet me. He was able to meet
19 me a little after two o'clock that day.

20 At that time I had him to perform the -- actually, we
21 had these vehicles placed on the scales and give us a
22 weight value for each one of these vehicles involved.

23 MR. FOARD: If I can approach the witness, Your
24 Honor.

25 BY MR. FOARD:

1 Q. I'm hand you what's been previously marked and
2 entered into evidence as State's Exhibit Three. If you
3 can review that and tell the jury what this is?

4 A. Oh, yes. This is actually a letter that I had him,
5 based on what he did, please put together some type of
6 report or something to document of what he did, and he
7 did. This is actually, for what he's done, indicating to
8 me, Corporal Perry, from Tyrone Williams, and he's
9 referenced the size and weights of the vehicles involved
10 in the traffic collision for which he noticed the date of
11 July 25th. Do you wish me to read this material or give
12 you the weight values?

13 Q. No, we're done. That's fine.

14 A. All right, sir.

15 Q. If you could give us or give the jury a brief run
16 down of what happens in a M.A.I.T. investigation from
17 start to finish?

18 A. Well, the first thing when M.A.I.T. is notified we
19 have two classifications. Whether they need an immediate
20 response; that is go right then and there and go to the
21 scene to do our jobs. Or we have what we call a delayed.
22 That means instead of maybe coming out immediately we may
23 come out the following day or the next day to do our job
24 at the scene.

25 Now, being that once we're on the scene we

1 immediately will go ahead and we'll look at the
2 environment as far as to roadway, its condition, how and
3 what's done out there. We're looking for scratch marks,
4 gouge marks, anything in relationship to skid marks.
5 Anything that we feel might be a factor in reference to
6 this particular collision between these vehicles.

7 Then we looked at the vehicles. We investigated the
8 vehicles. We looked and reviewed them. We'll check their
9 mechanical condition. Unfortunately, some of the ones
10 that we deal with the people involved are not always able
11 to speak to us. So because of that we're a little more in
12 depth with certain things and information, specially the
13 mechanical things we want to know.

14 We collect all this data. Sometimes all this data is
15 not always needed, but we hope to have it if we do need
16 it. So once we compile this information it's kind of like
17 starting to develop a picture and reference to exactly
18 like in this particular collision. Once you process all
19 this information, all this input data, we begin to develop
20 and see certain things of what's going on. Give you a
21 good example. The Cadillac, we were very fortunate that
22 that particular model had a A.C.M, air bag control module.
23 We were actually able to capture and be able to see what
24 the event or what that particular driver was doing prior
25 to the actual impact or that deployment of those air bags.

1 We were able to get that. That was very pertinent.

2 Once we were able to see this we know there is a
3 response... We know that something was taking place. The
4 other thing, now, my duty is where I looked at on the
5 scene. Yes, there were certain -- there were some
6 specific gouge marks. Gouge marks and scratches are very
7 much evidence. It allows me as one individual to be able
8 to understand the interactions and what's happened between
9 these vehicles during this engagement. And by engagement
10 I mean these vehicles meet with each other.

11 Q. Okay. If you could just hold on one second. You're
12 getting gouge marks. If you could give us more of a run
13 down on that. Where did you find gouge marks? What did
14 you do in your investigation?

15 A. All right. This will go back to the part where I
16 said we went out to the scene. I was able to, after I
17 left the Burch's Wrecker, I went out to document the
18 scene. And by use of documentation was digitally
19 photograph. Also in doing that I used a unique tape
20 measure devise that I would lay out to help me pose or
21 give me some type of graph or some kind of instrument or
22 scale in regards to my photographs in reference to those,
23 marks upon the roadway surface.

24 In doing that it allows me -- gives me that scale
25 that when I go to those particular vehicles I'm able to

1 relate with this to help identify the significance and
2 placement of what these objects or what may have
3 identified or caused these gouges and scratches that you
4 see in the surface.

5 Q. So the point where you're talking about right now
6 you're still very much in the data collection phase of the
7 investigation?

8 A. That is correct.

9 Q. Okay. What else do you do related to data
10 collection? What else do you look at?

11 A. Well, now, once all of our data is brought in there
12 is what we call the analysis. The analysis process is
13 that the development of being able to -- the relationship
14 of what this is. Where did it come. What caused it. Why
15 did it do or why is it in this certain formation.

16 Q. But prior to when you get into analysis in this
17 particular case you mentioned the roadway that you found
18 gouges. You mentioned Burch's Wrecker Service. Did you
19 have the occasion to interview the defendant?

20 A. Yes, I did. Yes, I did. Because at first he was
21 hospitalized and I did some checking and found out he had
22 been released. I was able to tracked down the address and
23 apparently I learned that he was apparently living with
24 his mother. And I was able to physically locate the
25 address and meet with them.

1 Q. And when you were interviewing him had you -- were
2 you aware of his prior interview that had occurred?

3 A. I was prior. We were actually identified. We were
4 give materials through the Patrol that was given to us,
5 and we were able to identify that there was a short video
6 which was actually captured by Trooper Leslie Davis of his
7 interview at the hospital. And I was able to actually
8 view it.

9 Q. And in viewing that and afterwards conducting an
10 interview with the defendant did you notice any
11 inconsistencies?

12 A. There were.

13 Q. And what kinds of inconsistencies were there?

14 A. Example, he had told Leslie Davis that he left about
15 2:00 a.m. He indicated to me that he left at around 8:00
16 that morning. I think he indicated to Leslie Davis that
17 he only had three beers. He indicated to me that he had
18 three or four that he knew of. He also indicated to me
19 that he had made a couple of stops. If you like I can
20 give you those locations if you like.

21 Q. That would be great.

22 A. Okay. He identified that he had actually had been
23 stopped while in his travels; that he had stopped at the
24 Georgia Welcome Center just inside from the
25 Alabama/Georgia line. He stopped there. He also

1 identified that he had stopped at another area between
2 Augusta and Atlanta. Then he advised that he stopped at
3 the South Carolina Welcome Center that was in proximity of
4 the Georgia/South Carolina line.

5 I even asked him about did you ever stop and maybe
6 get some food cause I understand coming out of Alabama. I
7 believe he came out of Orville, Alabama. I am not
8 familiar with that. I've never been there. I do not know
9 the exact milage and distance of that location. He had
10 indicated that he did stop. I asked him, I said, "Well,
11 during your travels did you every stop to get something to
12 eat?" He indicated that he did stop at an Arby's and he
13 ate an order of curly fries and two roast beefs.

14 But I asked him, "Did you eat those there or did you
15 continue travelling?" He did indicate that he continued
16 travelling. And I did ask him, because of the indication
17 of the alcoholic beverages, I asked him, "Well, these
18 alcoholic beverage, I mean, do you -- did you stop to get
19 these along the route or did you already have them?" He
20 indicated that he had packed a cooler. When I asked him,
21 I said, "Well, where is this cooler?" And he indicated
22 that he had placed the cooler in the right floorboard
23 underneath where he had all of his other stuff. And he
24 indicated that once he would stop periodically in his
25 travel that he would stop and drink him a beverage from

1 his cooler, an alcoholic beverage.

2 And then he would continue on. But there again, he
3 only indicated to me that he had three or four.

4 MR. FOARD: And, Your Honor, at this time the State
5 would show what was previously labeled as State's Exhibit
6 One and entered into evidence; that being an audio
7 interview conducted by Corporal Tim Perry of the
8 defendant.

9 (WHEREUPON, State's Exhibit Number One was played for
10 the jury.)

11 BY MR. FOARD:

12 Q. Corporal Perry, at the time that you conducted this
13 interview had the previously entered exhibit, State's
14 Exhibit 4, the M.A.I.T. Team report, had this been
15 completed at that time?

16 A. No, sir.

17 Q. Okay? So you were still in the investigatory stage?

18 A. Yes, sir.

19 Q. Okay. Why did the -- why did you conduct and come
20 back on the recording and develop a second interview?

21 A. After actually closed that session and while I said I
22 was there with him and his mother, the question was posed.
23 So at that time it caught my off on that other aspect of
24 it, and I said, "Well, he had the question about the
25 contributing or who was at fault." So at that time I

1 decided to go question him then in reference to material
2 that I've already seen and for what I already knew then
3 why was his vehicle left of center.

4 And I wanted to see if he was able to give me some
5 response or some reason for that being there.

6 Q. He mentioned in the video that he cannot account for
7 being over the line unless there might be some groove in
8 the road that pushed him over?

9 A. Yes, sir.

10 Q. In your investigation leading up to this or your
11 subsequent investigation was any groove of that nature
12 located?

13 A. There is no type of groove there, sir. There is
14 nothing obvious there that would create or cause a vehicle
15 to be able to go left of center. I can tell you that.

16 Q. Thank you.

17 MR. FOARD: Your Honor, we've been going for a little
18 bit now. The questioning of this witness will be rather
19 lengthy. If the Court wishes or if anyone needs a break
20 it might be an opportune time to do that at this point in
21 the questioning.

22 THE COURT: Anybody need a recess? Any Court staff
23 need a recess? Let's take a recess. We may need some
24 Coca Cola or coffee. Try to hold it to ten minutes.

25 (WHEREUPON, the jury panel was excused from the

1 courtroom at 3:33 p.m.)

2 (WHEREUPON, Court was in recess at 3:33 p.m. and

3 reconvenes at 3:50 p.m.)

4 (WHEREUPON, the jury panel enters the courtroom at
5 3:51 p.m.)

6 THE COURT: All right.

7 MR. FOARD: May it please the Court, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. FOARD:

10 Q. Corporal Perry, before we got into the video you had
11 mentioned that upon data collection the next phase of the
12 investigation would be analysis. Oh, excuse me. The
13 audios. I'm sorry. I misspoke. Can you explain to the
14 jury what you meant by analyzing the data?

15 A. Well, in part of the analysis that we're doing is
16 taking what has been collected. We're looking at that can
17 be either photographed. I can be any physical evidence
18 that can be collected from the scene. Now, that part
19 where these photographs and the other parts related to
20 this I'm just going to tell you. It's gouges and
21 scratches that I saw and were able to document there.

22 Also the undercarriage. I surveyed both vehicle's
23 undercarriages and were able to determine which vehicle
24 made them and from where it came from. So that was a part
25 of it. Also part of the, when we do our interviews, for

1 example when I met with Mr. Lambert the purpose of that
2 was to either gain the information or for perhaps him to
3 share with me something that he knew in relationship to
4 this particular collision.

5 And I knew sometimes in my process over the years
6 when I spoke with people some people are more forthcoming
7 with information, and I would said very open. Then again
8 some people I spoke to that will talk, but yet I can see
9 that they may not tell me exactly everything. So in that
10 being able to understand or look at I just -- along with
11 the physical evidence and things, I'm able to relate to
12 versus the conversations or interviews of what may have
13 been said or anything related with that.

14 So everything is just like a filter or funnel.
15 Sometimes everything begins to now work down and things
16 work through. And so we can develop a single picture to
17 help us really, clearly understand what really did happen.

18 Q. And with the Court's permission at this time I'm
19 going to ask you to step down from the witness stand and
20 come down here so that you presentation of the photographs
21 and other diagrams you can better explain to the jury the
22 kind of things that you're talking about?

23 A. All right.

24 (WHEREUPON, the witness steps down from the witness
25 stand.)

1 Q. And if everybody can bear with me. My esteemed
2 co-counsel can't run the equipment. I'm going to attempt
3 to do this at the same time. If you could let's just
4 start with some of the on scene photographs. And give us
5 an idea of what it is that in the analysis portion of this
6 you're looking at and what leads you towards making an
7 expert conclusion?

8 THE COURT: I need you to switch sides so she can
9 see.

10 THE WITNESS: Now, this first photograph that I'm
11 looking at here was actually taken by the Coroner's Office
12 individually. This particular thing, I want to look at
13 this. This was taken shortly within -- probably within
14 less than the hour of when this actual event occurred.
15 Through this particular photograph we're able to see the
16 position of the vehicles where they are at rest.

17 Nobody has been able to hook to them or move or
18 change where after this collision took place where they
19 actually came to rest other than, perhaps, from my
20 understanding that somebody did open the driver's door of
21 the Cadillac. That was the only thing that was identified
22 to me later.

23 The roadway, because I had also heard information
24 about the roadway, the weather, other stuff, issues. So
25 looking at this I'm able to see this is not bad condition.

1 I mean it's wet. It's obvious, but ---

2 MR. COX: Your Honor, objection. Objection to the
3 statement.

4 MR. FOARD: Your Honor.

5 MR. COX: He cannot characterize what he's seen.

6 MR. FOARD: Your Honor, he is an expert in the field
7 of accident reconstruction. Part of that, integral to
8 that is looking at all of the outlying conditions, be it
9 weather, roadway and what not, he is stating what he sees
10 to be the conditions at nearly the time of the accident.
11 He's very much in a position to testify to that.

12 THE COURT: Okay. Well, just try to reel it in as to
13 what you saw without elaborating about what somebody else
14 might have done or whatever.

15 MR. FOARD: Yes, Your Honor.

16 THE WITNESS: All right. In regards to this we are
17 very close proximity to the impact area. And also I'm go
18 ahead to show you, use my finger to indicate, you will see
19 the front right tire of the truck. The proximity of that
20 versus where there were some gouges and material. This is
21 very much in proximity of where the actual impact took
22 place between these two vehicles. If you will go to the
23 next one for me.

24 This particular picture you mostly see and focus to
25 the Cadillac off to its right side. In the particular

1 photograph you're actually able to see the intrusion, the
2 crush of what actually occurred with the Cadillac. Now,
3 of course, on the truck, however, the only thing that we
4 see right now is that the driver's door is open. There is
5 a cover, but you can also see partially that the driver's
6 window is about midway down.

7 Also you're able to take notice that the air bag has
8 obviously been deployed in the pick up truck. Also just
9 to other little things that I'm able to view. You can see
10 where the seat belt strap is outside, and also there
11 again, the relationship with the pavement.

12 If the you will continue. All right, ladies and
13 gentlemen, this picture on this particular one is of the
14 Cadillac looking into from the driver's door side. This
15 particular one as you can see the floorboard area, the
16 driver's seat, the steering wheel, the air bag, you can
17 actually see over to the passenger side and actually see
18 the passenger side air bag. And you can actually see upon
19 it some discoloration which is actually blood.

20 You can also see on the driver's steering wheel air
21 bag in the top portion area you can actually see
22 discoloration which again is some blood. You can also see
23 through this photograph the deprivation of the actual
24 dash; how it's actually collapsed. Been, I would say it's
25 been pretty well destroyed due to the physical contact

1 with this vehicle.

2 You will also -- I'd like you to take notice if you
3 may see the foot peddle in the floorboard area. See the
4 accelerator peddle and to the left of it you will see the
5 brake peddle. And then off further to the left, of
6 course, you see the park brake peddle. I did not see or
7 observe anything to be deformed in the park brake, but I
8 did immediately discover and see that there was an issue
9 with the brake peddle.

10 The brake peddle is nowhere in its original -- what
11 would have been it's normal alignment to where it should
12 have been. Looking upon that I was able to see there is a
13 steel bar for where this thing is attached where it comes
14 down from it's assembly and comes down and is actually
15 position almost level from where the accelerator would be.
16 That way if you've ever been driving a vehicle you take
17 notice that you're using your foot. The accelerator is
18 slightly to your right. And then usually you can pull and
19 slide your foot immediately to the left an engage your
20 brake peddle.

21 But these are no longer in close proximity. Upon
22 further investigation of this particular vehicle I was
23 able to see that that bar that I made mention of was
24 actually bent out of place. Then that part where that
25 brake peddle, I knew that there was tremendous amount of

1 pressure obviously been involved with this. I'm talking
2 about pressure you can't take while you're sitting in that
3 driver's seat and bend that brake peddle. You cannot do
4 it.

5 I knew that, obviously, then at the moment of this
6 collision that brake peddle had pressure on it due to the
7 driver's exertion of and due to the impact; that
8 additional force and weight that this applied created
9 that.

10 Q. Okay. Just so we're clear on that the brake peddle
11 is telling you that there is both force from the accident,
12 but there is extreme force being applied from the driver
13 compartment; is that how my -- am I understanding that
14 correctly?

15 A. I would have to say that the driver is probably
16 extreme in his force and intensity, and then added with
17 the force of the impact at that moment as well impact is
18 made, induces that addition damage. And there was a very
19 much -- it's actually pushed back and actually pushed back
20 up into the piece back up behind in the floorboard area.

21 Q. Next one. Anything else on this one?

22 A. We can continue to the next one. This again, now,
23 this is a close up picture for what I have just made
24 admissions of. In this particular photograph you can
25 see -- normally, your brake peddle is flat and level and

1 flush, but you can look at this one and you can see it's
2 not flat, level and flush. You can see how it's tilted
3 and been pushed out of the way and is not in the proximity
4 of the accelerator peddle.

5 Q. And what does this type of damage to the vehicle
6 indicate to you as an accident reconstructionist?

7 A. Well, looking at this let's me know -- it gave me the
8 opinion that this driver, and there was before I was able
9 and afforded the opportunity to see the ACM information.
10 That did not occur yet. Cause we're only looking at this.
11 This is probably two days after this event when I come in,
12 but looking at this I knew there was some obvious braking
13 going on from the vehicle's relationship.

14 But I also at that time, as you take mention, you can
15 see on this brake peddle, 'Anti-lock Brake System, A.B.S.
16 Well, I knew right there the association with this. I
17 probably won't be able to see and to find skid marks.
18 Most commonly when people hit and apply the brakes this,
19 especially when that peddle is done like, you're talking
20 about some severe braking issues. You've loaded this
21 thing probably beyond it's maximum.

22 In doing so it's not going to lock up. It's not
23 going to afford you to be able to lock your brakes up.
24 The best part of the A.B.S. system, fortunately, which
25 this vehicle has an all wheel A.B.S, it actually allows

1 this vehicle to where when you go to a maximum driving
2 situation, whether it's dry, wet roadway, you're still
3 able to engage in and negotiate your vehicle while you are
4 under maximum braking. You can still navigate your
5 vehicle. You can still control your vehicle. You can
6 still negotiate to the left. You can negotiate to the
7 right. You still have that capacity to do that.

8 Now, this particular picture that you're viewing,
9 this picture is a more frontal view of the Cadillac. Now,
10 I want you to understand that the driver's door was not
11 open until later. But, now, the passenger's door area
12 that was -- and, actually, what you're seeing here this is
13 the door skin. Not the door itself, but the door skin.
14 The outer panel of that door. Due to the impact and the
15 stress that's been applied to this particular vehicle in
16 that area the door skin pops out. It wasn't able to stay
17 intact with the door and it pops out. That's why it comes
18 out like a wing.

19 Now, you probably see this dirt on that door panel.
20 You're probably thinking where did that dirt come from.
21 Well, when you look at that and also in some other parts
22 that I was ability able later to identify apparently
23 Mr. Lambert's truck, the burgundy pick up truck, I was
24 able to see that there was a lot of dirt. Not so much
25 mud, but a sandy mixture base. And, obviously, during

1 this collision there was a great amount of force that
2 actually takes place between these two vehicles because
3 one wants to go in one direction. The other is trying to
4 go in the opposite.

5 And this at that moment is, obviously, the
6 displacement from this impact. This stuff becomes loose
7 or dislodged from the truck, and it's allowed to continue
8 forward motion. But during that process it actually
9 catches and meets with the door. Because we can actually
10 see, once it hits, it's not the normal dirt that falls
11 while it's in motion. You end up with the tracks. You
12 see the vertical lines that come back. You can see the
13 feathering of it. You don't see that. It's actually as
14 if somebody took a little bit of a bucket or a handful of
15 something and just went, poom. Threw it at the door and
16 it sticks.

17 And then during that process I understand that there
18 were some rain issues or some other stuff. So, obviously,
19 the vehicles were wet. You had some damage on them. It
20 will afford that dirt mixture to stick and hold to the
21 door until additional -- something is put on it to kind of
22 rinse it off.

23 But I want you to look at the windshield. Let's go
24 across this windshield. I did not see anything in this
25 windshield to show me where something physically goes

1 through this windshield. There are no opening marks.
2 Anything here that's actually exposed to where something
3 probably went through here. Now, Deputy Quick had a
4 sufficient injury up here to his right temple area. Now,
5 in looking at that, in trying to assess where that had
6 been received, well, here is the thing I want you to look,
7 too.

8 Look at the way the front of the Cadillac is bent
9 look at how the taper of the impact. Now, you've heard us
10 talk about head on collision. Head on collision doesn't
11 mean their matching up so much with head lamp to head
12 lamp. You can have what is identified as an offset. This
13 is actually what we have. This is an offset head on.
14 Sometimes in offset head ons you can have somewhat of an
15 angular offset where the vehicles do not meet truly. One
16 coming in on zero, and one coming in at 180 and hit head
17 on.

18 You can have -- one can be deviated to or three
19 degrees. The other may be as much as ten. There can be
20 some change in there actually. But in doing so we can see
21 that the passenger side of the Cadillac got a lot of
22 intrusion. We know that a lot of energy was expended on
23 that then what you can see to the driver's side. But
24 there is some other pictures that I will let you view on
25 this. Let's continue. This is another -- this is an off

1 side view of that kind of -- give you the idea and look at
2 the defamation of this windshield.

3 We still see it's still solely in one piece. Yes,
4 it's messed up, but the skin area that actually covers the
5 hood of the Cadillac, and you will see some pictures --
6 well, I'll tell you what. Can you go back to the previous
7 picture? Well, this is actually the hood of the Cadillac
8 in this picture to the lower left that you can see. This
9 is the hood of the Cadillac but it's upside down. It's
10 laying upside down. This is actually the part that would
11 be covering over the motor area. All right. Let's go
12 back to the next picture.

13 As you can see in this picture you can see that drive
14 side fender. You don't really see any defamation with it.
15 So we know it didn't suffer anything with that side of
16 that vehicle, but yet, points over you get to be able to
17 see something is going on. Something is loaded on this
18 car. You see the windshield how it's pushed back? Well,
19 this is actually due to the way that the vehicles meet.
20 It's what we call -- it's an override. The Cadillac as it
21 sits flat and level prior to this collision, the average
22 Cadillac, and this vehicle being a 2002 series, it sits at
23 a certain height and level with its bumper line.

24 Now, that particular truck that you saw that '99
25 Toyota Truck. It's a four wheel drive model. They're

1 bumper line sits a little higher, so automatically if no
2 braking is going on, if you pull the two fronts together
3 there is a difference. The truck sits slightly higher
4 than the Cadillac. The other part with this, we know that
5 braking is going on with the Cadillac. What's the normal
6 thing that you see with a car when somebody is hitting the
7 brakes? The vehicle would nose down. It goes further
8 down.

9 Same thing now for example with the truck. That
10 particular type of truck with the suspension and stuff it
11 will not probably get the nose dip as severe because of
12 its suspension system. They ride a little bit different
13 because of the suspension. So automatically when these
14 vehicles come together you have an outset. They don't hit
15 bumper to bumper. Most of our vehicles as they're made
16 the front and rear of the vehicle, especially to the front
17 the way they're designed, that's the most strongest area
18 of your vehicle if you have to impact something.

19 But if something should come in above your bumper the
20 only thing you've got there is the grill. It's just
21 plastic. Then you come back. You've got a radiator and
22 you don't have any substantial until you get to the engine
23 and the block. But the way Cadillac, this particular
24 Cadillac, it doesn't have a frame. It doesn't have the
25 I-beam style. It's doesn't have those metal beams going

1 all the way from the front to the rear. It doesn't have
2 that.

3 This has a system where the motor is actually mounted
4 in. You have like a cubed area, and the way General
5 Motors has designed. But when it suffers with a front
6 impact it actually will shear and allow the motor to drop
7 down. And creates that part where it drops down and
8 absorbs energy in the hopes of reducing the amount of
9 energy as it goes through it's -- as it's crushed is the
10 way they describe it. And I'm going to go ahead and tell
11 you. You heard me talk about the gouge and the scratch
12 marks. That was another way for me to help and signify
13 cause I'm going to go ahead and tell you that the Cadillac
14 did what it was designed to do. I'll show you those
15 pictures later.

16 This is just a side view of the right said of the
17 Cadillac, and of course, you can pretty well see here now
18 that right front passenger door. You're looking at this
19 picture. You're almost -- now you're thinking that's a
20 two door Cadillac. Ladies and gentlemen, that was a four
21 door Cadillac that you can see the crush on that right
22 front. Continue to the next one, please.

23 What we're going to get ready to look at now is the
24 undercarriage. The things that I just identified with.
25 What I actually did here, had an individual take his

1 forklift and actually go and -- this picture is
2 Mr. Darrell Quick's Cadillac that you just saw. This is
3 his Cadillac. I'm actually under it taking there
4 pictures. This as you can see this is the front of Mr.
5 Quick's Cadillac.

6 You can actually see that little cube; that block
7 area that I'm talking about. That is really the only hard
8 metallics that is close to any type of frame that's on
9 that Cadillac is right there. And this is what actually
10 holds where that engine compartment and transmission
11 because it's front wheel drive. It has an engine and
12 transmission. Everything is bolted and tied down into
13 this. All right. Continue.

14 All right. Hold it just a moment. Just looking at
15 this picture, now, we know and you can see the reference
16 here. Can you go back for me? We can see what's
17 happening here on this frame area you see how things are
18 starting to change the alignment? Go ahead and continue.
19 Now, you can see this kind of gives you -- now, we're
20 looking at three fourths of the vehicle's bottom. In this
21 picture I'm trying to show and to indicate to you the
22 alignment of the normal vehicle. But as you come up what
23 do you notice? You're looking at this picture and the
24 first thing you notice is, man, look at the way that
25 things is bent. Look at the shape it's in. That's

1 actually supposed to continue in the alignment in a
2 straight, but it's not.

3 It's like the picture frame on the wall; that one
4 side is now been cocked down. Well, that's before of the
5 impact it suffered.

6 Q. And so you spoke of gouges in the roadway?

7 A. Yes, sir, gouges and scratch.

8 Q. Gouges and scratches. So what in this photo -- does
9 this photo depict the area that's causing gouges and
10 scratches in the roadway?

11 A. Yes, I did.

12 Q. Could you point that out to us?

13 A. Yes, sir. In fact I'm going to go ahead and
14 highlight or point to these areas. Y'all see these two
15 little bolts here? Are y'all able to identify with those?
16 Keep those in mind. You see this exhaust? You see this
17 exhaust system come up? There is the muffler and come up.
18 There is the catalytic converter. There is this big,
19 heavy steel plate where this thing is bolted up. There
20 are four bolts on this thing. And then you have a little
21 curvature piece of pipe that goes up.

22 Now, let's keep that in mind. You see this location?
23 You see these two? And also you heard me talk about
24 scratches. Now, this scratches. Scratches are pretty
25 well -- you super -- they're out there. You can see them.

1 You're able to tell -- they don't run as deep. Gouges are
2 a little bit more if I took a knife blade and probably
3 really dug into something then, whoa, man, that thing is
4 obvious.

5 There is an area right over here that I was able to
6 identify and it actually had -- there is a close up of
7 this. There was some discoloration there. I was able to
8 take notice of, and I'm going to go ahead and tell you it
9 was yellow. and the only thing out there that I knew that
10 was yellow on the roadway surface was that yellow line.
11 So let's go ahead and continue.

12 This is a picture, a little bit closer, but I want
13 again to reiterate with this picture those two bolts,
14 these two patterns, these two -- I'll just call them the
15 little bolt heads, those two along with this area right
16 here, this stell, this plate here and there are -- in this
17 plate area on that bottom end -- there is actually four of
18 each to each corner of it. But those bottom ones, those
19 were significant. And then again once again to reiterate
20 this area over here.

21 Now, I do take a measurement. There is a tape
22 measure that you will see being used across here to
23 increment these areas as they come across and their
24 relationship and it did match up with what was on the
25 roadway. But I want you to look here, too, at the tire.

1 You've got this tire is deflated. It's busted. That rim
2 for which it's attached it's busted. It's cracked.
3 You're not ever going to be able to put air back in that
4 puppy. All right, sir. Let go ahead and continue.

5 Here we go. Hold that one. Now, this is a little
6 bit closer and I want to identify again, and hopefully,
7 you can still see now those two bolts. You can see that
8 there is obviously something is obviously wrong with
9 these. You can see that one of them pretty well has a lot
10 more polishing on it than the other one. There again,
11 these bolt areas -- in fact, Adam, are you able to crop?
12 If you can crop that area in front of -- that steel plate
13 area?

14 Q. We can't do that.

15 A. Okay. All right. But these little bolt areas down
16 here I want to say it's like a ten, 12-millimeter bolt
17 that goes down here. The screwheads kind of extend out
18 beyond the little bolt. It's what's actually still here,
19 but one of them, one of them is actually -- you ever took
20 the pencil eraser off a pencil? You know when you rub it
21 real hard on something it wears it out really just wears
22 it out? Well, that's that that one looks like. Okay.
23 Continue, please.

24 Q. I've got a couple of questions?

25 A. Oh, okay.

1 Q. Before we move on, and obviously, I know where you're
2 going, but maybe not everyone else does. What is the
3 significance of the scratches and gouges in the roadway.

4 A. Well, I'm going to be moving on to that, and I'll go
5 ahead and tell you. These were very significant to me to
6 help me identify with which vehicle left these on the
7 roadway. Now, knowing which vehicle did them also helps
8 me place and position that vehicle. Once I know where the
9 placement of this vehicle is at, and due to the collision
10 damage and certain things about the way these vehicles
11 interacted I'm able to place the other vehicle with it.
12 So once I do that the picture really starts to come
13 together.

14 All right. Hold that picture just a second. That
15 one there. That's good. That's good right there. This
16 picture I'm trying to do this way. I'm trying to bring
17 out enough to let you be able to see and identify here the
18 yellowing. This is the area with the little bit. It's a
19 yellow there where something rubbed on it. The only thing
20 I can say in relationship to the roadway out there because
21 it did -- it was August. I was able to see this. Also
22 I'm going to show you right here underneath from down
23 below the tire area the little -- it's a corner area on
24 that front right tire fender area on that bottom portion.
25 You can see a lot of scratching here and they're all in a

1 certain direction, abrasion. And that was a painted area
2 of the vehicle, kind of white in color.

3 And of course here this is not so much painted. It
4 kind of had a coating to it. It's kind of like a gray or
5 off gray color, but there again once it's signified,
6 identified the coloration there was some yellow in this
7 area there that identified that particular area of yellow.
8 The only thing on the scene that was yellow was the yellow
9 line. Continue, please.

10 This is a close up of the area I just identified. As
11 you can see the striations that are going through it
12 pretty well knows at that moment when that contact was
13 made. It wasn't being rubbed around in different
14 directions. It's going in a direction. All right.

15 This is a close up. Little bit better of those two
16 bolts I just identified, and actually, now making use of
17 the tape measure to -- in this particular photograph to
18 give me some scale. The relationship of those patterns.
19 And as you will see -- just keep in mind with me because
20 I'm trying to hold this thing and take a photograph at the
21 same time. And in doing so trying to keep it in a
22 constant area, but just kind of you working with me to
23 utilize the increment of measurement here from where this
24 is at. You're basically looking if you were this part of
25 around five and a half inches.

1 If you were to look maybe center to center being able
2 to utilize that because that's pretty close to that. So
3 it comes down. So that's one, two, three, four, five and
4 that was still right there. So that's about five and a
5 half inches if you were to go center to center on those.
6 All right, sir. Next, please.

7 The same. What I've done is this is a picture that
8 was taken back just out a little bit. I wanted to signify
9 same area where and that relationship of where those
10 patterns are. And I'm coming out here. Over here you
11 remember me talking about the yellow line area? Talking
12 about that little contact there? Well, from out here and
13 coming back in there are 2-foot and comes out there.
14 Looks like 2-foot 5-inches is there. But I know I'm
15 probably sticking out a good half inch over there.

16 The significance of that was to show the relationship
17 of where that area is and how it ties in with these
18 patterns. Let me go forward, please.

19 This is just another close up of those specific two
20 bolts, and as you can see, once again, you can see a
21 certain direction of how these scratches and what's taking
22 place. You can clearly see that one of them has a lot
23 more scuffing, smearing on it than the other one. All
24 right. Continue, please.

25 Now, the catalytic converter, this particular one,

1 the one I'm going to show here, remember me talking about
2 the steel plate? This is actually where these things are
3 put together and bolted up. As you can see the bolts
4 what's normally, what it should be versus down to the
5 bottom. And this is the one I'm identifying where that
6 bolt comes through. It's gone. It's been rubbed down.
7 Filed down, and the only other abrasion that could
8 probably do that is going to be something with the
9 asphalt.

10 . Regular dirt or soil is not going to do it, but
11 asphalt will. See the curvature piece? That's supposed
12 to be nice and smooth. You don't have that. It's
13 actually be impacted, and what's caused it -- it can't
14 expand outwards or bend out so it goes inward. And that's
15 what's been created there. All right. Forward, please.

16 That's just another close up of that particular bolt
17 once again, to identify how severe. Now, this, what I'm
18 doing the tape measure has been put into play here and
19 I've kind of stuck it to the middle area. And you see
20 where I'm pulling off the tape. I'm trying to identify a
21 measurement between where this beam area where those two
22 other large bolt heads are versus where this pattern.

23 And the reason being that I'm doing that it was a
24 pattern that I was able to identify in another trooper's
25 photograph that's with the M.A.I.T. Team. It documented

1 the scene the day after. The roadway was dry, and I was
2 able to see something which in the photographs that I had
3 you could see it. But once I was able to do this I knew
4 right then what's causing was, but I wanted to be able to
5 document it. That way they relationship we're looking at,
6 when that center area coming up here, we're looking at
7 roughly about nine inches from where that piece is at to
8 where that center area is. All right.

9 Before also with the wideness of this plate that's
10 attached there in reference to the catalytic converter
11 you're actually looking at about five and a half inches.
12 Now, take notice that the ends are kind of tapered off,
13 but that's, roughly, the way that's on there almost six,
14 even five and three quarter inches from the inside edge to
15 out. Oh, go back to that again. The thing with that one,
16 too, those bolts. You can see where the bolt is about at
17 the one inch mark. Let's see. One, two, three, that's
18 four and it's almost half. Right about four and a half
19 inches where those two bolts are.

20 This particular picture, now, let me -- with this one
21 I want to identify. This is also taken during that
22 mechanical process by the other trooper. This one you
23 might be able to see a little better here, the yellow.
24 That was in the same area that you saw in the previous
25 picture, but this was taken before. This vehicle picture

1 was taken at the tow yard. Actually, this vehicle had
2 been released, and I had to go to the other person's
3 place. The vehicle had been moved when I got back to it.
4 But that's a little bit better view. You can see more of
5 the yellow there. All right. That concludes all of those
6 pictures.

7 Q. Let's go to the gouges and scratching section?

8 A. Okay. Ladies and gentlemen, on these particular
9 pictures I'm showing you -- these were taken by me. This
10 was actually taken -- which would have been that Friday.
11 All right. Wait a minute. That Saturday. That following
12 Saturday. I want to say it was the 26th. I go out to the
13 scene. This particular picture we're able to see. This
14 is the yellow line I'm referring to earlier. These are
15 the gouge marks that I'm actually eluding to from the
16 other pictures previously viewed. All right. Go ahead
17 and go forward.

18 Q. You said these are gouge marks here; is that right?

19 A. Those I've identified as scratching, however, there
20 is a gouge mark located across there. There is a gouge
21 mark.

22 Q. All right.

23 A. This particular picture here is in the opposite
24 direction of the previous picture, but I'm actually
25 looking I a southward direction. Where in the previous

1 picture I was looking in a northward direction. Same
2 thing here. You can actually see the yellow line.
3 Basically, identifying the same thing just a reverse. All
4 right.

5 Now, there I'm actually standing very close proximity
6 almost directly over, but this one I wanted to use it to
7 show the gouge marks because they're dug into its. This
8 is just not a surface area scratch. No, this thing
9 actually removed the asphalt so it's pulled out of its
10 place. All right. You see the yellow line area? You see
11 the discoloration in this area? All right. I'm going to
12 ask you at this point, discoloration. That's what we're
13 able to see with this.

14 But there is some close up. But with this particular
15 picture we're able to see there is a flat line, a
16 compressed area that's pushing right across this area.
17 And then to that left corner you're able to see a single,
18 small little mark but then it begins to become thick or
19 wider, deeper. Now, the mark above it, of course, you can
20 see its pattern. It seems to be consistent. It seems to
21 have its start. It seems to have some semi-crest or
22 circle formation to its outside. And you see the
23 direction it's going, but there is another one slightly
24 just a little bit to its right. There is another one, but
25 it doesn't leave the depression that you see obviously in

1 this photograph. Let you continue to the next one.

2 This particular picture gives you a different angle.
3 We're actually at 90 degrees of this yellow line looking
4 at these same marks. Same thing again. Give you, if you
5 can look at it, be able to look and see the pattern and be
6 able to see, maybe, understand the depth of it. But in
7 this particular one we can see how it's coming in. You
8 can see how it is shaped, and you can see the ridge and
9 what's formed.

10 Well, I knew right then where that's coming from.
11 That piece is going to be what I related to what part of
12 the catalytic convert that I just showed you earlier where
13 that one bolt looked like it was filed off. The other
14 part, the obvious one here, will be left due to that
15 larger bolt up on that steel frame or that steel tube.
16 All right. Continue.

17 This is an overhead of that same area, but actually,
18 this would be to the north. This is to the south. This
19 is the same thing just kind of giving you that aspect of
20 being able to look and interpret. If you can see where I
21 was talking about earlier where there is another mark.
22 It's not as defined as this one, but it is here and it's
23 going in that direction. We come back, of course. You're
24 able to see -- well, I tell you what. Let's continue and
25 see if we could find a better one.

1 Here we go. This particular photograph trying to
2 define the little straight piece that I'm identifying with
3 before the scratch identifying for the gouging goes out.
4 That was the piece there from the catalytic converter.
5 You can see somewhat see a little bit of some scuffing
6 scraping the surface area through the middle of them. All
7 right. And you can also identify the faint area of the
8 other half bolt. All right. Go ahead.

9 Now, what I've done with this picture I've now put a
10 scale down. I used a measuring tape to help to give me
11 some scale to this photograph. Now, at the time in doing
12 this, and that relationship of these, I just laid this out
13 across in general. So it's kind of like what I'm going to
14 have to do is work in a graph, but what I'm looking at is
15 to identify where these areas are at.

16 For example, I know that one of those bolts was here.
17 The other bolt was here. And we know if I know come off
18 from that area, if I were to draw straight down. Excuse
19 me for a minute. If I were to draw straight down I'm
20 pretty close. It's going to be pretty close to that
21 2-foot increment there. So if I use that 2-foot increment
22 and I being to move in the direction toward that yellow
23 line I can began to see how these other areas where their
24 at. I'm coming out here. Now, remember when I pulled out
25 on the car I was looking at 2 feet 5 inches. Well, as I

1 come out, if I'm using where that and I come out I'm a
2 little bit off.

3 See it's two foot -- 2-foot three. 2-foot four. You
4 can see the relationship where, obviously, they were at a
5 meeting a come across. You can see these areas.

6 Q. Speak up?

7 A. You can't hear me? All right. But what I'm trying
8 to do is use this as a reference measurement to identify
9 where a yellowing was coming from in the vicinity where
10 the patterning was left on the road. All right.

11 All right. This is just a little bit better view. I
12 was trying to get an understanding of the alignment. In
13 this picture you can perhaps maybe see better defined, see
14 the scratching that was caused by the catalytic converter.
15 And also you can see now the other -- like I said you have
16 two bolts. One is obviously broke. The other one didn't
17 have near the surface damage on it. You can see where it
18 was at where it's coming across. All right.

19 Same thing. Tape hasn't been moved. I just tried to
20 move over a little bit to -- more specifically to the
21 yellow line area, and what I'm looking at is what's taking
22 place here. You've got to imagine that when these
23 vehicles are meeting and things are beginning to collapse,
24 of course, gravity takes over. And in doing so these
25 things are compressed downwards. But that never fully --

1 they don't exactly stop. They're continuously moving
2 because of what's the interaction between these two
3 vehicles.

4 Once vehicle's bumpers and systems begin to meet you
5 as the engagement. Then they go to what we call up to
6 maximum engagement; that would be up to the moment where
7 they introduce between them are now equal and they're just
8 at the point of now starting to separate. Where now the
9 energies are becoming less and they're starting to go in
10 their direction due to the collision.

11 Q. And just to clarify that. You're talking about
12 something that happens in an extremely short period of
13 time, correct?

14 A. Oh, yes. We're talking about something that probably
15 took place here within less than -- a normal air bag will
16 pop up and deploy and is already starting to retract or
17 release within three tenths of a second. Either two and a
18 half to three tenths of a second. It's about the time --
19 like I said, this thing is over. It's just like, about
20 like the snap of your finger. Boom. That's it. That's
21 all it is. Very short period of time. It's over. It's
22 done.

23 This particular photograph, this one I wanted to do
24 the relationship and I was trying to identify these marks
25 where we had the one bolt. The other one to signify and

1 the same thing. If you draw an imaginary line upwards,
2 too, and look where this one was positioned your right
3 close to the six inch area. I was telling you, what, it
4 was five and a half inches? That's a heck of a
5 coincidence.

6 The other part with this one I did not actually get
7 to pull, put the tape on it. But you can already see that
8 if that was at six inches right there and come down you
9 know it's not six inches, but you can already see it's
10 going to be fairly close to what that other dimension was.
11 If you're ability to identify that flat piece which that
12 was from the catalytic steel piece and screwed -- it's
13 attached as it rubs in the contact area. Asphalt is very
14 abrasive, and that's what actually starting to rub and
15 file that thing down. All right.

16 This is just another photograph of that view. I just
17 looked at a little bit different direction of the same
18 thing with that relationship to see where this is at, and
19 that part of where these areas are with that scratching.
20 Actually, that initiates out here then it starts to coming
21 across, and that's my relationship as you begin to see
22 what's going on. All right, sir.

23 This is just a -- I actually took the tape measure,
24 repositioned it cause at the time when this was going on I
25 did not know what the significance of these were going to

1 be until I got back to the car. The measurements with the
2 car were not done until after I completed this, but in
3 doing so, remember me talking about one thing was nine
4 inch difference, but if you were to look at where they're
5 starting to separate cause now the impact is already --
6 cause during the impact you get a compression and then
7 after that that moment of release things will come out.

8 You ever take a can, a soda can. You crush it. You
9 can bend it. You let off of it and it can come back out.
10 I won't ever stay at the depth that you crush it in. It
11 comes out some. Same thing with a car. They do the same
12 thing. But here is the thing cause now the vehicles are
13 going to start to separate. They're going out. They're
14 starting to -- things are starting to pull back apart. We
15 look at this we can see where this piece is coming out.
16 Looking at about -- what would that be? About eight and a
17 half. That would be it. One, two, three, four, five,
18 six, seven, eight, nine, almost ten inches and you can see
19 where that one bolt held is coming out. So there again
20 you've got such a close relationship of those patterns.
21 All right.

22 What I did we this is just set a tape measure
23 parallel to the yellow line area to give reference to
24 these. You can see the coloration to these areas for
25 what's going on and for what I was able to see and

1 identify with that give me. Obviously, that yellowing
2 that was on the bottom of the undercarriage area, the only
3 thing out there yellow in color on this scene was the
4 asphalt.

5 This is another picture of that same area. This was
6 during when the pavement had dried. This particular
7 picture you can now identify me talking about that other
8 surfaced area, that other mark where it's scratched the
9 surface you can see it now. Also, the other area where
10 the indentation was left by the plate with the catalytic
11 converter is you can see it a little bit better. Also you
12 can see the coloration in the yellow line. You can
13 actually see a dark color.

14 Well, because of the impact between the vehicles and
15 that tire, it was deflated, collapsed, it's actually --
16 it's drug across the area. So you do see that darkened
17 surface area. Those pictures were taken the next day
18 after the wreck scene.

19 There is just a close up for a more direct overhead.
20 Once again you can still see where that plate that I'm
21 talking about you can -- now you can see that scratching
22 which that little cone piece; that circular piece that was
23 coming down the catalytic converter, that's actually where
24 it's compressed and scratched through. And, of course,
25 there is to identify with that other two bolt pattern off

1 that other piece of the engine.

2 Q. Okay. So I think we're at a good spot where we can
3 stop to kind of do a brief recap. You testified that the
4 Cadillac made gouges in the roadway?

5 A. Yes, sir.

6 Q. And those gouges give you the location of the
7 Cadillac at the moment of impact?

8 A. Yes.

9 Q. Okay. How does that then take us to forming
10 conclusions about Mr. Lambert's truck?

11 A. All right. If you go to the file that shows -- I
12 think it's vehicle alignment. For the vehicle alignment,
13 these were some pictures that I go through what I had
14 looked at. There once again the picture you see from the
15 front of Mr. Darrell Quick's vehicle. We can see certain
16 indentation. I want to identify this tubular silver piece.
17 That's actually where the bumper of this particular
18 vehicle. There is another piece that actually comes
19 around. Is actually would have been a portion of his
20 bumper line area short of that part out in the front.

21 This is actually for what you see here, this is
22 actually a cover. It's a cosmetic cover to give you that
23 nice appearance cause you don't really want to see that
24 piece. All right, but that is actually what is utilized
25 to give you that firmness. Okay. What's happening in

1 this picture you can see that condensor, radiator stuff.
2 You see what's happening here. I want you to identify in
3 this one right there. Right front tire of this Cadillac
4 right back up over to the top, the top right. You see at
5 cavity area. You see a circular area there, okay. Go
6 ahead and continue to the next picture for me. Excuse me.
7 Just a moment here.

8 This is picture is a little close overview. What I
9 want to do on the other previous picture, you remember
10 there was this little indention you took notice in that
11 bumper line engaged piece. Right up behind the bid you
12 will notice another cavity. It's a hole. I'm thinking
13 what caused that. Well, I want you to also take notice of
14 this shape area over here. A little bit of a coloration
15 material that's level.

16 Also what I've done this is actually -- I placed the
17 hood of the Cadillac back in position because I was able
18 to observe something that was captured in the hood of this
19 Cadillac. If you will notice as well this is actually
20 your center portion of that radiator of the vehicle. As
21 it comes up most of your Cadillacs have a blue arm. All
22 right. Adam, if you will continue. It should be a
23 picture to identify the material.

24 All right. This is just a close up to define that
25 this was actually a piece I've commonly associated and

1 found to be a reflector or something from the turn signal
2 marker or reflective materials utilized on some vehicle.

3 Q. All right. Let's go to the next one?

4 A. All right. What I did was I had the owner, Tim
5 Burch, had a guy who works for him come out and was
6 able -- I was fortunate enough to have him use a forklift
7 to help me try to put these vehicles so I can actually
8 identify and be able to show how those vehicles come
9 together. This particular pick up truck you will notice
10 that there is an extension piece here. You see there.
11 That's actually the frame of this truck. This particular
12 truck has a frame, and that is one of the frame arms
13 coming out.

14 There is another one but it is other here in this
15 location, but yet, it's not as in shape as the one that
16 you see over here. This particular area you can see
17 Mr. Quick's Cadillac you see that the bumper line area and
18 see its deformity. I'm going to let you --- and this
19 particular picture what I'm trying to show the
20 relationship of how those vehicles engaged with each
21 other.

22 Now, this particular picture showing the other arm
23 they were to bring it out and identify them. If you will
24 take notice it's not out as straight. It's kind of bent
25 and it's pulled down. Well, due to the interaction of

1 these vehicles when they meet they begin to -- because
2 they're like they're fighting over territory. When
3 something is in it's path they try to continue or go
4 through it. Well, this is pretty well about what the
5 truck was trying to do. Trying to go through the
6 Cadillac.

7 But due to once it starts to meet the deceleration as
8 between the vehicles as their loading with each other
9 things are starting to take place; contact, compression
10 areas. So finally these two vehicles come to a point that
11 they just dug into each other so much. They can't go any
12 further. Now, they're starting to change out, and they're
13 going in different directions that they were originally
14 wanting to go in. But in doing so this particular piece
15 protrudes up into the engine area of that vehicle; that
16 hole that you saw in that radiator. That's the piece that
17 caused that.

18 Q. All right. I want to go back just one second to the
19 overhead view of the vehicles.

20 A. Okay.

21 Q. All right. So you placed the vehicles back together?

22 A. Yes.

23 Q. And that -- is it my understanding that you're
24 stating that that is the position they were in at the
25 moment of impact?

1 A. This is actually in the position of what I would call
2 in the maximum engagement. The vehicle's alignment, when
3 they probably actually met each other, is probably because
4 the front end of the Cadillac has been altered. It's been
5 changed. Actually, probably close to 15 to 20-degrees to
6 its right now. So that's what I'm having to set the truck
7 up with trying to relationship with this.

8 We can see how these parts, trying to match them up
9 with what's going on due to the maximum engagement of
10 those vehicles.

11 Q. Okay, you have an off center collision; is that
12 correct?

13 A. Yes, sir, we do.

14 Q. If you can bear with me for one moment, please. I'm
15 going to show you what's been marked and entered as
16 State's Exhibit 30. If you can review that?

17 A. Yes.

18 Q. All right. Can you please tell us what it is that
19 this represents?

20 A. This particular picture he just placed up is
21 actually -- and, actually, it's Exhibit 30. That's a copy
22 of the actual C.A.D. -- the computer assisted diagram, that
23 was actually composed by the M.A.I.T. Team. And what has
24 happened -- you remember the pictures you saw that showed
25 the vehicles at rest. I use that word, 'at rest'. The

1 place where they no longer moved. This is actually,
2 through our forensic plan, put them right back in the same
3 position. And that's what we've done here. That would be
4 a 2D overhead if you were standing up over this collision
5 scene looking down. That's what you actually would have
6 been able to see.

7 Q. All right. And you testified that the Cadillac made
8 gouges in the roadway?

9 A. Yes.

10 Q. All right. But the Cadillac was found straddling the
11 shoulder?

12 A. It was.

13 Q. It was. Okay. So can we interpret that those gouges
14 in the roadway can show us where the Cadillac was at the
15 moment of -- you called it maximum?

16 A. Maximum engagement.

17 Q. Maximum engagement. All right. Have you prepared or
18 have M.A.I.T., the M.A.I.T. Team prepared a diagram that
19 would indicate that?

20 A. Maximum impact?

21 Q. Yes.

22 A. Yes, sir. There was a diagram with maximum
23 engagement.

24 Q. All right. I'm going to show you what's been marked
25 as State's Exhibit 29 and it's previously been entered?

1 A. Okay.

2 Q. Do you recognize that?

3 A. Yes, sir. That's actually another copy of another
4 layer which that was actually the impact. The initial
5 impact.

6 Q. All right. Could you please use that illustration
7 and demonstrate to the jury what exactly that's showing
8 and what it's telling us?

9 A. Actually, due to what I just went over with the
10 gouges, the signify and identify, what the cause, its
11 location, knowing where these features were at, and now
12 with that being the undercarriage and the positioning of
13 that vehicle, it helps me assign a value of placement with
14 the Cadillac.

15 Also looking at those things it help me understand
16 the direction of what that Cadillac was originally wanting
17 to go in, and through that process is how we were able to
18 determine its placement. Now, going back in reference to
19 the impact alignment pictures that we looked at putting
20 these things back together and these parts that I'm
21 looking at. Also I want to signify in that other picture
22 I thought there was a close up. It should be there. It
23 actually captured the base of the right front head lamp of
24 the Toyota truck which is trapped and embedded in the
25 Cadillac hood right there where the Cadillac emblem hood

1 ornament is.

2 Q. Okay so for the non-accident reconstructionist in the
3 room are you saying that when you combine the position of
4 the vehicles with the gouges in the roadway you can tell
5 us where each vehicle was at the moment of impact?

6 A. During that transition when that was transpiring with
7 them, yes, I can.

8 Q. Okay. Drawing your attention back to State's 29,
9 this looks to me like both of these vehicles are in the
10 center of the road?

11 A. Yes, sir. Both of them would be left of center.

12 Q. Okay. If both of them are left of center explain to
13 the jury how it is that you come to the conclusion that
14 Michael Chad Lambert is at fault in this collision?

15 A. There is a thing that we heard in accident
16 reconstruction. Its been referred to. It's called, 'fake
17 shift symptom'. Now, I'm going to relay it to this
18 because most of us in driver's Ed, the stuff that you deal
19 with, you always hear instructions. You always want to go
20 right. Always steer to the right. Go off the road. But
21 the phenomenon being there occasionally there are drivers
22 that will go to the left.

23 Q. Let's me stop you right there. Why would you ever go
24 to the left?

25 A. Well, that's why I guess it would be that part of the

1 phenomenon because I wasn't there. I'm not able to really
2 be able to say what Mr. Quick may have been thinking at
3 that moment, but I can say this. I know that he's driving
4 a vehicle that has an A.B.S. system. It affords him the
5 ability to negotiate his vehicle. We know he's under
6 heavy stress. Typically, for that stress if he didn't
7 have A.B.S. I know his wheels would have been locked.

8 He would have actually going in that last direction
9 that he was going in and sliding in. But he's able to
10 negotiate. He had control. Mr. Lambert's vehicle,
11 however, he didn't have the A.B.S. system on his vehicle.
12 He's actually running other sized tires. His vehicle,
13 under his manufacturer place, shows that he should have
14 been running a P225, 70R15 tire. He's actually running
15 30-inch tires on this truck. 30 by nine and a half is
16 what he's running. So, yes, over sized tires.

17 Now, without an A.B.S. system, and I can tell you
18 based on what you've already heard, the brake peddle of
19 the pick up truck, it was trapped in the floorboard area.
20 It does show in its position where it's at. Also from
21 what was indicated by the interview of Officer O'Donnell,
22 the brakes apparently were applied. The pressure, it was
23 there but it was trapped by the crush in this collision.
24 In doing so I'm looking at where his vehicle is at. And
25 do understand now I know how the vehicles come together.

1 You're not going to be able to change that relationship.

2 And when you put them in that area I know where the
3 Cadillac is based on what physical evidence was left there
4 in the road. I discovered that Mr. Quick's vehicle is
5 left of center, but at the same time I discovered that Mr.
6 Lambert's vehicle was left of center. But I also
7 understand that Mr. Quick's vehicle, he's able to
8 negotiate his vehicle with his brakes.

9 I also realize that Mr. Lambert's vehicle under his
10 peddle, for what's being done and what was identified by
11 the mechanic, that these brakes obviously pressure.
12 They're locked up. They're not able to turn. He's more
13 likely -- his vehicle is probably just sliding along the
14 surface. But I'm looking at the direction where he's at
15 and where he would have been to have come from. I'm going
16 to ask you do you have the one that shows the final rest?

17 The final rest here where it depicts, we see where
18 they're at. If you actually just superimpose and put the
19 one layer over the other you're going to see that the
20 Cadillac no longer continued in a forward motion. It's
21 actually knocked backwards. So it doesn't go forward any
22 more. It goes backwards, and when it does it goes from
23 its impact back in this direction.

24 Now, the truck, we see where its at in the initial
25 impact. We see it's alignment, and now at the final rest

1 we see its proximity. There is the impact area right
2 there. You remember the photograph where I identified
3 that right front tire where he's still right at it? This
4 is where he's at. He hasn't moved a whole lot, but what's
5 happening you think, 'why did the Cadillac go backwards
6 and why did it go in that direction'. Because, ladies and
7 gentlemen, the truck is displacement is in that direction.
8 That's where it's wanting to go.

9 So, obviously, in doing that the truck has to be
10 coming from what would be the southbound lane trying to go
11 back to the northbound because that's the way its
12 principal direction of force is going. Your not going to
13 get that direction if you're over in the northbound lane
14 moving to the southbound lane. You're not going to get
15 that and if that had been the case the damage of these
16 particular areas and their interaction would have been
17 different than what we see here.

18 Q. All right. Let me make sure we understand. You're
19 saying that Mr. Lambert's vehicle was across the line, but
20 at an angel indicating that he was heading back into its
21 lane?

22 A. Yes.

23 Q. Okay. Now, back to the question that I had a few
24 minutes ago. I asked why would anyone go left? Is there
25 anything at the scene, any physical, anything that's

1 present at the seen that would make someone go left if
2 someone was in their lane?

3 A. Some of the studies and some of the things that I
4 have read over would imply, I guess, a person may wish to
5 go in the path of least resistance or most available.
6 And, therefore, being if you're coming and going in that
7 direction going south as Mr. Quick would have been going
8 as he's beginning to close, and I'm referring hear to
9 Exhibit Number 30, as he's beginning to close in towards
10 to impact area there is a guardrail. There is a
11 substantial guardrail. It's very obvious. It's just off
12 the shoulder area.

13 And it tapers up to where the bridge line and edge
14 butts at. You can see -- it's like he's coming into a
15 funnel. I'm sure that's probably most prevalent. He sees
16 and he's probably weighing this because we looked on the
17 A.C.M. He had three seconds. We noticed for three
18 seconds that he's going on his brakes. He went on his
19 brake for a reason. But yet he doesn't go to the right
20 because he probably knows that if he went to the right the
21 imminent ability of being involved in a collision is going
22 to be because he know he's going to probably go into the
23 guardrail.

24 But at the same time the situation with Mr. Lambert's
25 vehicle. Obviously, Mr. Lambert's vehicle was there.

1 Obviously, because of the direction of force from their
2 impact where they come to rest, because that's what I did
3 to Mr. Quick's vehicle, and doing that it's probably why
4 he chose to go there. It was probably an open path. He
5 saw it and decided to take it. At the same time
6 Mr. Lambert probably realizes what -- where he's at, tries
7 to go back to his proper alignment. Unfortunately, both
8 of these individuals tried to do it at the same time and
9 they met each other.

10 Q. You spoke of angles a few moment ago, and you were
11 speaking I believe about Mr. Lambert's vehicle?

12 A. Well, I did. Actually, if you were to take, and I'm
13 go and identify them. The roadway, and let's just use the
14 center of the roadway, on this particular C.A.D. when you
15 shoot this roadway, if I were to start at that yellow line
16 area and go down, you're looking at a -- going I think One
17 South, it's like 190-degrees. And then if you're reversed
18 it and went north it's 110-degrees.

19 Well, if you ever do a compass you've got 360
20 degrees. If you're out here going in that direction
21 you're going zero. But if you want to go in the opposite
22 direction you're going 180 degrees. So there is 180
23 degree difference here. So if 110 add 180 to it you get
24 190. One is going south. One is going north. If I were
25 to take and put a line and allow it to run dead center up

1 through Mr. Lambert's vehicle he was on a heading of
2 108-degrees. I understand if he was would have been going
3 in a true direction with the road he should have been
4 about 110. Showing he's about 2-degrees off.

5 The Cadillac, when I do the same thing with it and
6 run a line through its center and center of mass areas,
7 I'm looking at 294 degrees. 4-degrees different than what
8 his true path should have been. Now, after they hit,
9 after the collision takes place, their angles change.
10 Mr. Lambert's vehicle now comes out and going from where he
11 was actually at in his direction, headed to where his
12 vehicle is at rest, I used -- and this is the same thing.
13 The center of mass.

14 Every object has a center of mass. Your vehicles
15 have this. And that particular alignment of that, and now
16 knowing from where it's at with its contact, knowing to
17 where it comes out, the Cadillac, understand, was going at
18 290-degrees originally when it came out, if you put your
19 hand at 290 and you sit here and you now have to real it
20 all the way back around where he goes out at, he goes out
21 at 66-degrees to his final rest. A change of 132-degrees.

22 Now, Mr. Lambert's vehicle, he's on a heading of 108.
23 He comes out from his departure angle to where is at rest.
24 He is now 111 degrees to this center mass. He has a
25 change of which was that? Eight? Nine? Ten? 3-degrees.

1 He changed 3-degrees. Mr. Quick changed 132 degrees. We
2 also see that Mr. Quick's vehicle is still in close
3 proximity of the collision point. Mr. Quick's vehicle,
4 however, is further out of the way.

5 The reason being is because of the mass between these
6 two vehicles. When they hit there is interaction.
7 Unfortunately, the one with the larger, greater mass
8 usually wins. And guess what? Mr. Lambert's vehicle
9 obviously won. Because you see where he's at. He didn't
10 lose but 3-degrees, but Mr. Quick lost. He lost 132
11 degrees, and I want to say it was I think 16 -- 15, 16
12 feet backwards.

13 Q. Okay. So for those of us who don't do math cause
14 that's why I went to law school, you're saying that based
15 on the angles that you have just discussed if you take it
16 backwards from the point of impact is Mr. Lambert coming
17 from his own lane?

18 A. No, he couldn't have been because if he had his
19 heading would have been different than what we see. And
20 the output, the final rest positions, would have been
21 different than what we see also.

22 Q. So Mr. Lambert has already left his lane, crossed the
23 center line and is heading back into his lane at the time
24 of impact?

25 A. Yes, sir. And the reason on that is because of the

1 interaction, the loading of this Cadillac and where it
2 goes after the impact.

3 Q. Now, Mr. Quick. Is Mr. Quick heading out of his
4 lane?

5 A. He was.

6 Q. So Mr. Quick has not crossed the center line and come
7 back?

8 A. No, sir.

9 Q. And what does that tell you?

10 A. That Mr. Quick was obviously attempting to avoid the
11 situation or a collision.

12 Q. All right?

13 A. And that would go back to what we call the Fake Left
14 Syndrome.

15 Q. All right. If you can take the stand back for me
16 I'll appreciate it.

17 (WHEREUPON, the witness returns to the witness
18 stand.)

19 MR. FOARD: Judge, beg the Court's indulgence. Just
20 another moment, Your Honor.

21 BY MR. FOARD:

22 Q. Corporal Perry, you discussed a lot. And you've
23 shown us a lot of pictures and you've talked about a lot
24 of data. Does the M.A.I.T. Team develop something that
25 outlines all of this?

1 A. We have a report, but the report that covered -- that
2 you've got is actually -- it's truly an outline. It is
3 not an in depth report.

4 Q. Okay.

5 A. But we do have -- for instance, my material for
6 contact information, I do take notes as I work and develop
7 into a case. The things that I do I try to outline the
8 times, the dates that deal with what I do even right down
9 to the analysis of working with speeds and formula that
10 relate to these collisions to document all of that. This
11 is not something that takes two or three hours. This is
12 something that takes multiple hours. This is not just
13 something you look at and, oh. It's not that. This is
14 something that takes a little time to look at and to
15 study.

16 Q. Beyond this M.A.I.T. report has the M.A.I.T. Team
17 prepared a visual representation of what, in their expert
18 opinion, is the manner of this accident?

19 A. Yes, there is an animation that we were able to,
20 based on the analysis and also through our C.A.D. material
21 that I was able to develop, Corporal Johnny Rosato was
22 able to compile an animation.

23 Q. All right.

24 MR. FOARD: At this time Your Honor the State would
25 show that animation that's previously been marked as

1 State's Exhibit and entered as State's Exhibit -- I don't
2 know what it is. State's Exhibit Number Two, Your Honor.

3 BY MR. FOARD:

4 Q. Before I get into this have you reviewed this
5 animation?

6 A. I have, sir, but not here in the last day or two, I
7 have not.

8 Q. Okay. But in your review of this animation do you
9 believe that it accurately reflects the nature of the
10 accident as well as the findings of M.A.I.T.?

11 A. Yes, sir.

12 MR. FOARD: Beg the Court's indulgence.

13 BY MR. FOARD:

14 Q. I'm going to play this once through and then I'll get
15 you to come back down and make some comments on it?

16 A. Okay.

17 (WHEREUPON, State's Exhibit Number Two was played for
18 the jury.)

19 BY MR. FOARD:

20 Q. All right. If you would step down for me.

21

22 (WHEREUPON, the witness steps down from the witness
23 stand.)

24 BY MR. FOARD:

25 Q. Now, first how is it that that M.A.I.T. Team makes

1 something of this nature?

2 A. The animation?

3 Q. Yes.

4 A. It's actually a collection of still photographs, but
5 actually, there is an actual C.A.D. program series that --
6 where Corporal Rosato, he was our primary individual that
7 worked and did our animations for us. And what he does
8 through -- when he develops our C.A.D. and works this is
9 actually a scale diagram. Deficiency and being able to
10 measure. Everything is to scale and carry over into the
11 animation. So in doing this what he's utilizing is that
12 material is brought over into his animation.

13 He's able to manipulate camera setting as you saw the
14 overhead behind to the side. He's able to set it up and
15 manipulate it. One he runs his program, he sets it up.
16 He runs -- it runs in true -- to true real time.
17 Increments of time. Everything is to scale, but this is
18 to the best that we're able to put. I know the car's a
19 little rough in their appearance. I guess you saw the
20 one. You can actually see the front of it from the
21 interior. But that was because -- but it is to scale. It
22 is based on the information that we compiled on that car.
23 Our best reflection of what actually happened.

24 Q. Okay. And the things that we see in this animation,
25 the roadway, the waterway, the guard rail, the trees,

1 how -- I mean is that arbitrary or is that something based
2 on data?

3 A. The background is actually -- it's what we call
4 field. He's able to -- he could not because we did not
5 map every tree along the edge of the road there. We
6 didn't do that, but other aspects are brought in. He's
7 just trying to give that value or that scheme or that view
8 of this location going through this particular time.
9 Familiar area, but we did not have every tree mapped,
10 telephone pole, things like that. But the actual roadway
11 and thing like that, now that's there. That's it.

12 Q. So this is a ---

13 A. Right down to the yellow lines, those dash lines.
14 All of that.

15 Q. So in this animation we have a scale representation
16 of the roadway and the vehicles and M.A.I.T's
17 determination of the manner of the accident?

18 A. And it is running in real time.

19 Q. All right. I'm going to run this again individually
20 and let you comment on them.

21 A. Now, that one was realtime. That next one ---

22 Q. I've got to do a loop so you can continue to make ...

23 A. This is running in real time, and then after that you
24 will see the one that runs -- it's almost at half speed
25 scenario.

1 Q. Okay. Half speed.

2 A. I think this is the one that relates to. The
3 numerical section of numbers that is showing here is
4 actually showing our closing of each vehicle as they get
5 closer to the impact.

6 Q. All right. Let me go back.

7 A. Reason being, back to the A.C.M. of the Cadillac. It
8 was able to document a three seconds braking situation.
9 Through that process we were able to calculate its average
10 of deceleration rate between those intervals. In doing
11 that we were able to -- that was also related in this
12 particular animation also.

13 Q. All right. Let's do the interior review from the
14 representation of Mr. Lambert's vehicle. You can just?

15 A. He's going in his lane, and you can see that he's
16 already going left of center. We knew that also he had to
17 have been somewhere to the left of that in order for any
18 vehicle to come back in the direction it was.

19 Q. So, basically, what you've done is you've worked
20 backwards?

21 A. Well, yes, sir. That's kind of the art of the
22 reconstruction. We have to take what we're given and we
23 work backwards through it.

24 Q. So you go from final rest?

25 A. Collision.

1 Q. Collision point, and then work back in time?

2 A. Yes, sir.

3 Q. Okay. All right.

4 MR. FOARD: Beg the Court's indulgence.

5 BY MR. FOARD:

6 Q. Just a couple quick questions, and really just one.

7 Can you succinctly state what the conclusionary findings
8 of the M.A.I.T. Team are with regards to the accident?

9 A. Well, at the time the M.A.I.T. Team developed and
10 closed our case with this we were fully on that part of
11 the fake left symptom. Obviously, the driver, Darrell
12 Quick, was attempting to avoid. There was another part,
13 too, pictures that show these -- of the steering wheels of
14 those vehicles that were involved.

15 You were able to see where Mr. Quick's steering wheel
16 actually had been manipulated, turned to the left. Also,
17 the contact area there is another thing, point in
18 direction where impact comes from. You heard me refer to
19 it: I'm going to use this animation for a moment.
20 Principle direction of force. You look as these things
21 come in and also taking your mind to those picture that I
22 showed you a while ago how Mr -- are how it's coming in.

23 Now, imagine if you were in that driver's seat. You
24 go towards that direction of force. Mr. Quick was not
25 afforded the opportunity to pull the vehicle and utilize

1 his air bags because he's going about 20, 22-degrees off
2 to his right. Well, guess what's over there? That
3 rear-view mirror. You heard all Dr. Parker in his
4 comments that he felt, obviously, that that would have
5 been a contributing factor for that injury on that head
6 area compression.

7 Mr. Lambert when I viewed vehicle his interior he
8 doesn't have -- there is no depravation with his rear view
9 mirror. There is none, but I'm able to see a lot of
10 impact up into his lower dash. The steering wheel is
11 actually bowed at the bottom of it. It's upward, and it's
12 actually changed the shape of that steering wheel which
13 shows that he's primarily going in a forward -- he's kind
14 of truly staying within the straight.

15 So that was also another confirmation of what we were
16 talking about where he's coming in, even though the
17 impact, his angle, they don't really change a whole lot.
18 But, yet, Mr. Quick's angles did change. Therefore, going
19 back do reiterate again because of the direction
20 Mr. Lambert is going is why the Cadillac is doing what it
21 did. Why Mr. Quick suffered the injuries that he did. He
22 didn't get to absorb the air bag.

23 Mr. Lambert was able to absorb the air bag. The
24 other factor was, too, that Mr. Lambert didn't have a seat
25 belt on. Mr. Quick did have a seat belt on, but the

1 intrusion and the loss of survival space from where that
2 compression. You saw what happened to that passenger, all
3 that coming in. And he's actually compressed into that,
4 and that moment flails over and strikes in that area
5 because of the damage up in that area.

6 Plus, the rear view mirror is messed up, so there
7 were other things taken into consideration. Knowing from
8 the direction of force coming into this vehicle plays
9 apart knowing where Mr. Lambert's vehicle is coming from
10 to create that direction of force. You don't get that
11 from going from northbound to the southbound. But you
12 will get going from southbound to northbound as Mr.
13 Lambert was.

14 Q. So all of the data that you looked at, all of the
15 analysis that you did, it points to Mr. Lambert crossing
16 the center line first and being the at fault driver in
17 this accident?

18 A. It was our opinion that Mr. Lambert set the scenario
19 up, and then obviously realizes that he's across the
20 center line and attempts to go back to his natural lane.
21 But at the same time the driver of the other vehicle
22 attempted to change lanes to avoid the situation which
23 actually both of them simultaneously had the same thought
24 and both tried to go back and they actually meet.

25 Q. Now, given all of that I've got one final thing to

1 ask you. If I could draw your attention to State's
2 Exhibit Four which has been previously entered?

3 A. Yes, sir.

4 Q. Page Two.

5 A. Yeah.

6 Q. Who is identified as Unit One in this report and who
7 is identified as Unit Two?

8 A. When the reports are actually wrote up now Sergeant
9 Dangerfield of our Team was the one that actually goes
10 through our reports. In this part here was done Unit One
11 was a 2000 Cadillac, white in color. And the owner
12 identifies -- where he received his fatal injury.

13 Q. Speak up. Speak up?

14 A. Oh, I'm sorry. Where he received his fatal injury.
15 Unit One is the Cadillac. Unit Two is the truck.

16 Q. So Unit One is the Cadillac and Unit Two is the
17 truck?

18 A. This is the truck.

19 Q. I will now turn your attention to Page 23, Section
20 Ten. I'd ask you to review that and tell me ...

21 A. This was actually part of the findings of the report.
22 There is a typo there for what it's doing. Signifies the
23 wrong vehicle.

24 Q. All right.

25 A. Is that what you're eluding to?

1 Q. On Number Ten, yes. If you could just -- what does
2 it say? What should it say?

3 A. Actually, Number Ten, it reads, "As the primary
4 investigating officer suspected that the driver of Unit
5 One was under the influence of alcohol and/or drugs at the
6 time of the collision. As it refers to a blood sample was
7 taken and sent to the South Carolina Law Enforcement
8 Division for the analysis of .1600 percent blood alcohol
9 content."

10 Well, that is the typo because it should have been
11 Unit Number Two. Because there blood analysis was done.
12 It wasn't done on Darrell Quick because we all know the
13 sample of Darrell Quick did not have any type of blood
14 alcohol or any other. However, Mr. Lambert's did.

15 Q. So this is just a typographical error?

16 A. Yes, sir, it is.

17 Q. All right.

18 MR. FOARD: With that, Your Honor, I have no more
19 questions of this witness.

20 THE COURT: We're going to have to take a brief
21 recess and come back and continue the testimony. Can't
22 talk to anyone while we have a recess. I'm going to step
23 back. Try to hold it to about five minutes.

24 (WHEREUPON, Court was in recess at 5:24 p.m.)

25 (WHEREUPON, the jury panel was excused from the

1 courtroom at 5:24 p.m.)

2 (WHEREUPON, Court reconvenes at 5:29 p.m.)

3 MR. REDMOND: Your Honor, just a housekeeping matter
4 before the jury comes in. This is the State's last
5 witness, but just to make sure that we've covered
6 everything since I would anticipate this being the end of
7 the day. We prefer to wait to rest until in the morning.

8 THE COURT: All right.

9 (WHEREUPON, the jury panel enters the courtroom at
10 5:32 p.m.)

11 THE COURT: Your witness, Mr. Cox.

12 MR. COX: Thank you, Your Honor.

13 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
14 identification only.)

15 CROSS-EXAMINATION

16 BY MR. COX:

17 Q. Corporal Perry, in your direct examination you made a
18 reference to what you're supposed to do when approaching
19 oncoming vehicles. I show you the South Carolina Driver's
20 Manual?

21 A. Yes, sir.

22 Q. And show you I think I have Page 37, Oncoming Vehicle
23 In Your Lane, was that what you were talking about?

24 A. You talking about responsive drivers?

25 Q. Yes, sir.

1 A. Yeah. You want me to read that?

2 Q. If you don't mind.

3 A. "An oncoming vehicle in your lane. A vehicle
4 approaching your lane presents an especially critical
5 emergency on freeways."

6 Q. Go ahead?

7 A. "Where speeds are faster and less time is available
8 for decision making you should sound your horn and pull as
9 far to the right as possible. The traffic safety experts
10 agree that even driving into a ditch would be less
11 hazardous than a head on collision."

12 Q. Thank you?

13 MR. COX: Your Honor, move now to introduce this. I
14 have an enlargement I'll use later. Defense Exhibit One.

15 MR. FOARD: No objection, Your Honor.

16 THE COURT: In without objection.

17 (WHEREUPON, Defendant's Exhibit No. 1 was admitted
18 into evidence.)

19 MR. COX: Nothing further, Your Honor.

20 MR. FOARD: Nothing further, Your Honor.

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

22 COLLOQUY

23 MR. REDMOND: Your Honor, I would say that given the
24 lateness of the hour I think the jury and all of us are a
25 little tired. If we could reconvene in the morning. I

1 think the State is prepared to conclude its case. We just
2 want to look over everything and make sure.

3 THE COURT: I reiterate all of my instructions about
4 no contact. Don't discuss the case with anyone. See
5 y'all at 10:00 in the morning. Everybody else remain
6 seated while the jury departs for the evening.

7 (WHEREUPON, the jury panel was excused from the
8 courtroom at 5:35 p.m.)

9 THE COURT: Court is in recess until 10:00 in the
10 morning.

11 MR. REDMOND: Thank you, Your Honor.

12 MR. COX: Thank you, Your Honor.

13 END OF TRANSCRIPT OF RECORD

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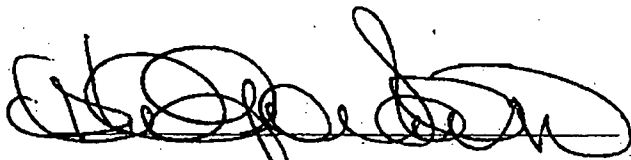
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Chesterfield County, South Carolina, on the 10th day of
February, 2010.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

August 25, 2011



HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF CHESTERFIELD) 2008-GS-13-00787
) 2009-GS-13-01118
) 2009-GS-13-01119

STATE OF SOUTH CAROLINA)
 PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
MICHAEL LAMBERT)
 DEFENDANT)

February 8-11, 2010
Chesterfield, South Carolina
VOLUME NO. 04 OF 04

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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

KERNARD E. REDMOND, ASSISTANT SOLICITOR
Attorney for the State

ADAM FOARD, ASSISTANT SOLICITOR
Attorney for the State

JAMES C. COX, JR., ESQ.
Attorney for the Defendant

Hattie O. Gordon
Circuit Court Reporter

COLLOQUY

1
2 MR. REDMOND: Your Honor, the State is prepared to
3 rest. Your Honor, if the Court pleases we can rest in
4 front of the jury. We have gone over everything and we've
5 admitted and stipulate what we need. So we're prepared to
6 go ahead and rest.

7 THE COURT: Unless y'all want me to bring them out
8 and send them right back in I would say that, unless y'all
9 got an objection to it?

10 MR. COX: That will be fine. No objection from the
11 Defense, Your Honor. Your Honor, in the State's case I
12 would move on behalf of the Defendant, Michael Chad
13 Lambert, for a verdict of acquittal on the grounds that
14 the elements necessary to prove the charge of felony
15 D.U.I, manslaughter and involuntary manslaughter has not
16 been met.

17 THE COURT: All right. Based on what I have before
18 the Court I'm going to have to deny that motion at this
19 time. Mr. Cox, I think you said you said voluntary and
20 involuntary. You meant to say reckless homicide, didn't
21 you?

22 MR. COX: Excuse me. What did I say?

23 THE COURT: You said, "Voluntary and involuntary."

24 MR. COX: What I meant to say -- Thank you, Your
25 Honor. Felony D.U.I, manslaughter, reckless homicide and

1 voluntary manslaughter. Yes, sir.

2 THE COURT: Okay. Are you ready, Mr. Cox?

3 MR. COX: Defense is ready, Your Honor.

4 THE COURT: Okay.

5 (WHEREUPON, the jury panel enters the courtroom at
6 10:17 a.m.)

7 THE COURT: Good morning.

8 MR. FOARD: Your Honor, the State rests.

9 THE COURT: Motions have already been noted, Mr. Cox.

10 MR. COX: Thank you, Your Honor. Please the Court.

11 Defense calls Sherry Lawrence.

12 SHERRY LAWRENCE, after being duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. COX:

16 Q. Sherry, watch your step as you go over to the witness
17 stand. Sherry, state your full name for the Court?

18 A. Sherry Marie Lawrence.

19 Q. How do you spell Lawrence?

20 A. L-A-W-R-E-N-C-E.

21 Q. And where do you live?

22 A. In Pearl, Mississippi.

23 Q. Where?

24 A. Pearl, Mississippi.

25 Q. Pearl, Mississippi?

- 1 A. Yes, sir.
- 2 Q. And you're here by subpoena?
- 3 A. Yes, sir.
- 4 Q. And do you know Michael Chad Lambert?
- 5 A. Yes, sir I do.
- 6 Q. How long have you known him?
- 7 A. Going on 14 years.
- 8 Q. Fourteen years. And during that 14 years did you
- 9 have a relationship with Michael Chad Lambert?
- 10 A. Five and a half years, sir.
- 11 Q. Five and a half years. And during that five and a
- 12 half years did you actually live with him?
- 13 A. Yes, sir, I did.
- 14 Q. And in that relationship did you and he have
- 15 children?
- 16 A. Yes, sir.
- 17 Q. What children did you have?
- 18 A. We have two twin boys. They're -- will be 13 at the
- 19 end of March.
- 20 Q. Two twin boys.
- 21 A. Um hum.
- 22 Q. And when did that relationship end? Approximately
- 23 when?
- 24 A. July of '07.
- 25 Q. July of 2007?

1 A. Yes, sir.

2 Q. Okay. And how did you learn that he had been
3 involved in an accident?

4 A. Actually, a friend of my from Hartsville called me
5 and said they saw him ---

6 Q. Okay. Here we can't say what was said until the
7 person is in the courtroom.

8 A. Okay.

9 Q. But so you got a telephone call?

10 A. Yes, sir.

11 Q. And on the day of the accident -- on the day he was
12 in the accident did you have a conversation with him?

13 A. Yes, I did.

14 Q. You had a conversation with Michael Chad Lambert?

15 A. Yes, sir.

16 Q. And how did you have that conversation?

17 A. On the phone.

18 Q. On the phone. And in that conversation did you learn
19 what he was doing?

20 A. Yes, sir.

21 Q. Okay. What was he doing?

22 A. He was headed to his mother's house.

23 Q. So he was driving?

24 A. Um hum.

25 Q. Do you know approximately what time of the day the

1 phone call was?

2 A. Between 5:00 and 5:30. Somewhere in that area.

3 Q. In the evening?

4 A. Yes, sir...

5 Q. In the evening, okay. And do you know approximately
6 how long that phone call -- conversation lasted?

7 A. Almost 30 minutes.

8 Q. Almost 30 minutes. So you were talking to Michael
9 Chad Lambert almost 30 minutes?

10 A. Yes, sir.

11 Q. That's a long conversation.

12 A. Yes, sir.

13 Q. Would that be normal for you and Chad Lambert to talk
14 a long time?

15 A. Normally, yes.

16 Q. So that conversation would -- the fact you talked
17 that long was not unusual?

18 A. No.

19 Q. During the course of that conversation did you detect
20 anything they would lead you to believe that he was -- he
21 could not properly operate a vehicle?

22 A. No, sir.

23 Q. Was there anything in that conversation that lead you
24 to believe that he had been drinking?

25 A. No, sir.

1 Q. Now, in that five and a half year relationship had
2 you in fact been with Chad when he would be drinking?

3 A. Yes, sir.

4 Q. Do you think that because of the five and a half year
5 relationship that you could tell in fact if he was under
6 the influence?

7 A. Most definitely.

8 Q. Most definitely. There any question in your mind
9 that in that almost 30 minute phone conversation there was
10 nothing about him, the way he talked, the manner of
11 speaking ---

12 A. No, sir.

13 Q. --- that led you to believe that he would be under
14 the influence?

15 A. No, sir.

16 Q. Answer any questions the State would have.

17 MR. REDMOND: Thank you, Your Honor. May it please
18 the Court.

19 CROSS-EXAMINATION

20 BY MR. REDMOND:

21 Q. Where were you at when this phone call was made the
22 23rd of July?

23 A. I was at my home.

24 Q. In Pearl, Mississippi?

25 A. Yes, sir.

1 Q. How far is Pearl, Mississippi from here? Long way?

2 A. Yes, sir.

3 Q. Okay. And you were asked about whether he was under
4 the influence. You weren't in the car with him?

5 A. No, sir.

6 Q. So you can't really say what he was doing? You can
7 talk about what y'all had discussed on the phone, but you
8 can't say what he was doing, can you? You cannot say what
9 he was doing?

10 A. No.

11 Q. Exactly. And also, Ms. Lawrence, you said that, and
12 I was real careful in listening. It's your testimony
13 today that the defendant didn't have anything to drink?
14 You couldn't detect that he had been drinking at all?

15 A. That's not what I said.

16 Q. Okay. Well, you clarify. What did you say?

17 A. What I said was I did not detect in his manner of
18 speaking anything that would lead me to believe that he
19 had been drinking.

20 Q. In his manner or in his speech, but you cannot
21 address his actions, can you? You cannot say what he was
22 physically doing because you didn't see him, can you?

23 A. Right.

24 Q. Because you were in Pearl, Mississippi?

25 A. Yes, sir.

1 Q. And you said y'all had a five and a half year
2 relationship, but obviously, y'all are still on good terms
3 because y'all had a 30 minute conversation, right?

4 A. Yes, sir.

5 Q. Please --

6 MR. REDMOND: Beg the Court's indulgence. Your
7 Honor, that would be our --

8 BY MR. REDMOND:

9 Q. Oh, last question. Bottom line is you didn't see
10 this, correct, did you?

11 A. No, sir.

12 Q. You didn't see this wreck?

13 A. No.

14 Q. Because you were in Mississippi?

15 A. No.

16 Q. You have no idea how this wreck happened, do you?

17 A. Right.

18 Q. Have no idea who caused it?

19 A. Right.

20 MR. REDMOND: Nothing further, Your Honor.

21 MR. COX: Nothing further. We ask that she be
22 excused to leave.

23 MR. REDMOND: No objection.

24 THE COURT: Without objection. Witness is excused.

25 MR. COX: Call George McElveen.

1 GEORGE MCELVEEN, after being duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MR. COX:

5 Q. Mr. McElveen, state your full name for the Court?

6 A. George Robert McElveen.

7 Q. And spell your last name, please?

8 A. E-L-V-E-E-N.

9 Q. Where do you live, Mr. McElveen?

10 A. McBee, South Carolina.

11 Q. How long have you lived in Chesterfield County?

12 A. All my life.

13 Q. And what is your occupation?

14 A. I'm a Wal-Mart Associate at the Hartsville Super
15 Center.

16 Q. And exactly what do you do there?

17 A. I work out in the bay of the shop changing tires,
18 change oil, things like that.

19 Q. How long have you been doing this job?

20 A. Twelve months.

21 Q. Eleven months. And are you a member of any of the
22 voluntary services here in Chesterfield?

23 A. I can't answer that.

24 Q. You can't answer?

25 A. No, sir.

1 Q. Why can't you answer that?

2 A. I was advised by a certain person of the
3 organization.

4 MR. REDMOND: I could not hear that, Your Honor.

5 MR. COX: I think what he's saying is that he is a
6 volunteer fireman.

7 MR. REDMOND: Your Honor, actually, I think, and
8 again, I think since this is his witness I don't
9 necessarily think it's appropriate for Mr. Cox to
10 interpret what the witness is saying. I prefer to hear
11 from the witness.

12 MR. COX: Your Honor, I'll go again.

13 THE COURT: What?

14 MR. COX: The fire chief told him he can't speak for
15 the entire department. He's not here in that capacity.

16 THE COURT: Okay. What did you say a few seconds
17 ago?

18 THE WITNESS: I said that I was advised not to answer
19 on their behalf.

20 MR. REDMOND: I can't make out what he's saying
21 again, Judge.

22 THE COURT: He says he was advised not to answer
23 that. Is that what you said?

24 THE WITNESS: Right. It's not by Mr. Cox.

25 THE COURT: Well, I am going to advise you to answer

1 the question that's posed unless.

2 THE WITNESS: I'll answer.

3 THE COURT: Until you feel like there is a Fifth
4 Amendment right involved to protect yourself from
5 prosecution or anything which I don't know of anything
6 that could possibly be. May have to get the fire chief in
7 here in a minute. Go ahead.

8 BY MR. COX:

9 Q. Go ahead?

10 A. I'm a member of the Allergany Fire District.

11 Q. Now, do you recall to day of the accident this trial
12 is about?

13 A. Yes, sir.

14 Q. Okay. And how did you learn there had been an
15 accident?

16 A. The tone had dropped where the accident.

17 Q. The tone had dropped?

18 A. Yes, sir.

19 Q. What is that?

20 A. It's a tone that -- through our walkie talkies the
21 tone drops and it tells us where the call is at and we
22 respond to that location.

23 Q. Okay. Tone, T-O-N-E. Tone dropped?

24 A. Yes, sir.

25 Q. Okay. So you got an alert being a member of the

1 Voluntary Fire Department that an accident happened or
2 something happened?

3 A. Yes, sir.

4 Q. Where were you when you got this?

5 A. I was at church.

6 Q. Where was that church?

7 A. Lighthouse Ministries.

8 Q. Light House Ministries. And how far was that from
9 where you actually ended up going?

10 A. Approximately three miles.

11 Q. Three miles. Okay. And you recall about what time
12 that tone dropped?

13 A. To me it seemed like 20 minutes to 7:00.

14 Q. Twenty minutes to 7:00?

15 A. Yes, sir.

16 Q. All right. And what did you do when you received
17 that call?

18 A. I stepped outside, listened to the tone where the
19 call was at. Church had just started. Once I looked at
20 where the call was at I got in my vehicle and I proceeded
21 to the scene.

22 Q. Tell us about going on the scene. Was any problems
23 getting there?

24 A. Yes, sir. It was raining real hard. It was a real
25 bad thunder storm in the area at that time.

1 Q. And about how long did it take you get to the scene?

2 A. About five minutes.

3 Q. Did you have to go a special route?

4 A. No, sir. It was a straight shot from the church.

5 Q. And so, approximately, what time would your church
6 service -- what time does it start?

7 A. It starts at 6:30.

8 Q. 6:30. You're already there when you say the tone
9 dropped?

10 A. Yes, sir.

11 Q. And you stepped outside, check your location and
12 takes you about how long to get to the wreck scene?

13 A. About five minutes.

14 Q. Okay. Can you describe what you saw when you arrived
15 at the wreck scene?

16 A. I, cause I saw two vehicles. One in the center of
17 the roadway. One to the side of the roadway. A lot of
18 water on the roadway. Two occupants. One in each
19 vehicle. Both were trapped.

20 Q. Okay. Showing you a photograph and ask you if this
21 depicts what you saw when you arrived as to the vehicles?

22 A. Yes, sir.

23 Q. Okay?

24 MR. COX: Your Honor, move to mark this as
25 Defendant's Exhibit Two?

1 THE COURT: Any objection?

2 MR. REDMOND: No objection.

3 THE COURT: In without objection.

4 (WHEREUPON, Defense Exhibit No. 2 was marked for
5 identification and received into evidence.)

6 MR. COX: Your Honor, I have for demonstrative
7 purposes an enlargement of Defendant's Exhibit Two.

8 BY MR. COX:

9 Q. Whenever you arrived, Defense Exhibit Two depicts the
10 two vehicles that you saw there; is that correct?

11 A. Yes, sir.

12 Q. And who was already at the scene if you recall?

13 A. There was a doctor there and a truck driver.

14 Q. A doctor and a truck driver?

15 A. Yes, sir.

16 Q. So you were the third person to arrive?

17 A. Yes, sir.

18 Q. All right. What if anything did you do at the scene?

19 A. When I first arrived to the scene I seen the doctor
20 and I can't remember his name and a truck driver standing
21 at that truck, Mr. Lambert. I first observed Mr. Quick,
22 and then I proceeded from Mr. Quick's vehicle over to the
23 doctor.

24 Q. Yes, sir.

25 A. The doctor advised me then that Mr. Quick had passed.

1 Q. Okay.

2 A. Mr. Lambert, he and I made contact. Seems like I
3 knew him at that time, but I hasn't seen him in quite some
4 time.

5 Q. Yes, sir.

6 A. He recognized me and called me by my name. I asked
7 him who he was. Whenever, he told me who he was I believe
8 I knew then who he was. Doctor had told me to speak to
9 Mr. Lambert and he and I knew each other. Seems like he
10 was going in shock.

11 Q. So the doctor asked you to talk to Mr. Lambert?

12 A. Yes, sir.

13 Q. And the purpose of talking to him was to keep him
14 from going into shock?

15 A. Yes, sir.

16 Q. Go ahead, please?

17 A. I proceeded to talk to Chad. I asked him some
18 personal questions to kind of keep him alert because I
19 didn't know what to say to him. I say those things. I
20 asked him some personal questions. His marriage, his
21 children, things like that.

22 Q. At any time did you open the door and get in the cab
23 with him?

24 A. We could not open the door.

25 Q. Could not open the door. Do you know whether or not

1 he was wearing a seat belt?

2 A. He was wearing a seat belt.

3 Q. And how do you know that?

4 A. I saw it strapped around him.

5 Q. You saw it strapped around him?

6 A. Yes, sir.

7 Q. Now, going back whenever you first arrived, was it
8 dark?

9 A. No, sir.

10 Q. Still light?

11 A. It was still daylight.

12 Q. Still daylight. And are you familiar with this road
13 that the accident happened on?

14 A. Yes.

15 Q. How many times would you think you've been up and
16 down that road?

17 A. Just about every day.

18 Q. Just about every day?

19 A. Yes, sir.

20 Q. And at that area where that road is, with the rain
21 storm that you described, what would you expect to be the
22 road condition at that location?

23 A. It was very flooded. It was very wet. It was
24 flooded out.

25 Q. And you expected it to be flooded?

1 A. Yes, sir.

2 Q. Now, you said it took you five minutes to go from the
3 church to the actual scene, approximately?

4 A. Yes, sir.

5 Q. During that five minutes how long did the rain
6 continue?

7 A. Probably about another five minutes after I got out
8 of my truck.

9 Q. Five minutes after you got out of your truck. So it
10 was raining?

11 A. Yes, sir.

12 Q. Now, the truck driver was there. Did you know the
13 truck driver?

14 A. No, sir, I did not.

15 Q. When you say, 'a truck driver' was he driving a long
16 distant truck, an 18 wheeler?

17 A. Yes, sir.

18 Q. An 18 wheeler. At any time did you have a
19 conversation with the 18 wheeler driver about what he may
20 or may not have seen?

21 A. He said when he come around the ---

22 MR. REDMOND: Your Honor, I would object.

23 BY MR. COX:

24 Q. Don't tell me what he said. Did you, yes or no?

25 A. Yes, sir.

1 Q. And in that conversation did you learn anything that
2 would tell you how to find in driver or locate him?

3 A. No, sir.

4 Q. Did not. I'm going to show you a photograph, and ask
5 you if this photograph is in the area of the scene where
6 the accident occurred?

7 A. Yes, sir, it is.

8 Q. Does this photograph depict in any way the condition
9 of the road that you saw it?

10 A. No, sir.

11 Q. Okay. What's different?

12 A. There is more water on the roadway that day than what
13 water is there in that photo.

14 Q. Got more water?

15 A. Yes, sir.

16 Q. But other than the fact that it's more water when you
17 actually have in this picture, does this -- could this
18 picture be used to describe what you saw?

19 A. No, sir.

20 Q. Could not be?

21 A. No, sir.

22 Q. Answer any questions the Solicitor may have.

23 CROSS-EXAMINATION

24 BY MR. REDMOND:

25 Q. Mr. McElveen, interested in the fact that you -- you

1 said you hadn't seen Chad in a long time. Let's clarify
2 cause Chad said he had known -- you've known -- he has
3 known you since he was little?

4 A. Right.

5 Q. Because I think -- are you from Patrick or had you
6 lived in Patrick?

7 A. I lived in Patrick.

8 Q. Okay. How long did you live in Patrick?

9 A. Up until '95.

10 Q. Okay. But suffice it to say you've known Chad, as
11 you call him, you've known Chad for a long time?

12 A. Yes.

13 Q. Matter of fact you said at the scene you referred to
14 him as Chad. So you obviously know Chad as family from
15 having grown up in that area; is that correct?

16 A. Yes, sir.

17 Q. Now, you do not actually see this wreck, did you?

18 A. No, sir, I did not.

19 Q. And you talked about the fact that you talked about
20 what you observed when you got there as far as water and
21 what not, but you don't work with South Carolina Highway
22 Patrol, do you?

23 A. No, sir.

24 Q. You don't reconstruct accidents?

25 A. No, sir.

1 Q. In fact you can't tell us who did what and how this
2 accident happened?

3 A. No, sir, I can't.

4 Q. But I guess the main thing I can glean out of what
5 you're saying is you do know Chad and you have known him
6 for a long time?

7 A. Yes, sir.

8 MR. REDMOND: Nothing further, Your Honor.

9 MR. COX: Nothing further. We ask that Mr. McElveen
10 be excused from further attendance.

11 THE COURT: Any objection?

12 MR. REDMOND: No objection, Your Honor.

13 THE COURT: The witness is excused. Thank you, sir.

14 MR. COX: Please the Court. We next call Howard
15 Weatherford.

16 HOWARD WEATHERFORD, after being duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. COX:

20 Q. Please state your full name for the record?

21 A. Howard Junior Weatherford.

22 Q. Spell your last name?

23 A. W-E-A-T-H-E-R-F-O-R-D.

24 Q. Where do you live?

25 A. McBee, South Carolina.

1 Q. How long have you lived any McBee?

2 A. Going on ten years now.

3 Q. What type of work do you do?

4 A. Contractor at AO Smith.

5 Q. And when you say that you're a contractor at AO Smith
6 tell us exactly what you do there?

7 A. Well, the cardboard that comes in; that parts and
8 stuff comes in we have to compact. Belt the cardboard up
9 and ship it out.

10 Q. Okay. So you work for a company that has a contract
11 with AO Smith on cardboard, stuff like that?

12 A. Yes, sir.

13 Q. Y'all recycle. Y'all bale it up and ship it out?

14 A. Yes, sir.

15 Q. You know Michael Chad Lambert?

16 A. I know of him.

17 Q. Did you have occasion to see him on the day of this
18 accident?

19 A. Yes, sir.

20 Q. How did you know there was an accident?

21 A. The tone come over our radio.

22 Q. And why do you have a tone radio?

23 A. Cause I'm doing -- I'm with the Fire District.

24 Q. All right. Go ahead, please?

25 A. When the tone come out they said, "Attention

1 Allergany Firearm Department and Mcbee Rescue, you have a
2 105." That's a wreck on Highway Number One. So I set
3 there and try to get the general area where it could be
4 at. I left. I was at my friend's house that's on the
5 fire department.

6 Q. Okay. Where were you when you received that call?

7 A. I was at my friend's house. Me and him worked on his
8 truck.

9 Q. Where is that house?

10 A. It's almost on

11 Q. , that's the ?

12 A. Yes.

13 Q. All right. Now, about what time was it that you
14 received that tone?

15 A. It was about 20 minutes to 7:00 when the tone come
16 out for us to respond.

17 Q. Okay. And what did you do after you got that tone?

18 A. Me and the guy that I was helping work on his truck
19 we set there and listened to get the general area where
20 the wreck had occurred. He got in his vehicle. I got in
21 mine. Both of us left. On the way to the scene it was
22 rain so hard you couldn't hardly see the road in front of
23 you.

24 Q. All right, sir.

25 A. So it was like ten to 15 miles an hour that we could

1 drive. As I turn out onto Number One Highway the rain was
2 like lifting. It wasn't a downpour then. It was like
3 mostly like a -- like middle rain. When I pulled up on
4 the scene of the wreck it was still raining pretty decent.
5 I wouldn't say a downpour, but it was still raining pretty
6 good. And I got out of my car.

7 I walked up to where the two vehicles were at. I
8 went by Mr. Quick's car first. I observed him sitting in
9 the car. Then I walked on over to where George McElveen
10 and the doctor was at with Mr. Lambert. When I got there
11 I said, "What do we need." Mr. McElveen said.

12 MR. REDMOND: Your Honor, I would object to what
13 anybody else said other than the defendant.

14 BY MR. COX:

15 Q. Go ahead, please?

16 A. Mr. McElveen asked me did I have any gloves with me,
17 and I told him that I had some latex gloves; that I had to
18 go back to the car and get my gloves. So I went back to
19 the car come, come back. By the time I got back to the
20 truck where Mr. Lambert was at the other personnel for the
21 rescue and fire pulls up, and they asked me how we going
22 to get everything other here to gone on and get in the
23 vehicles.

24 So we made and -- set and made the decision of
25 getting extrication equipment out the car so we could get

1 the door open so we could get Mr. Lambert out of the
2 truck.

3 Q. Did you help do that?

4 A. I was getting more equipment from the ambulance up to
5 the truck. So when we finally got the door open that with
6 we could get him out, get him on the stretcher and get to
7 the hospital.

8 Q. At any time did you touch or do anything to Chad
9 Lambert while he was sitting in the truck?

10 A. No.

11 Q. Do you know whether or not he was wearing seat belt?

12 A. No.

13 Q. You don't know?

14 A. I don't know.

15 Q. Okay. Now, whenever you arrived Mr. George McElveen
16 was already there?

17 A. Yes, sir.

18 Q. Are you familiar with the area where the accident
19 happened?

20 A. Yes.

21 Q. And how often do you go through it?

22 A. Every day.

23 Q. Every day. And with the rain that you were driving
24 in how would expect conditions, the road conditions, to be
25 where that accident scene was?

1 A. The day of the accident when I got there there was
2 more water on the road than usually be on the road.

3 Q. It was standing water?

4 A. Yes.

5 Q. Answer any questions the State may have?

6 CROSS-EXAMINATION

7 BY MR. REDMOND:

8 Q. All right. You talk about standing water, I guess,
9 that you saw. So since you obviously were there. You
10 were at the truck. Did you see any beer cans around
11 there?

12 A. No, sir.

13 Q. All right. Let me make sure I'm clear on this with
14 you. Mr. Cox has called you to establish there was stand
15 water and what not. You said and placed yourself at that
16 truck some -- trying to help extricate him, but yet you
17 didn't see any beer cans?

18 A. When I first got to the scene until we popped the
19 door I didn't see nothing around truck at that time.

20 Q. Okay?

21 A. When we ---

22 Q. What about when you popped the door.

23 A. When we finally got the door open up there was one
24 beer can that I seen.

25 Q. Just one?

1 A. Yep.

2 Q. Just one?

3 MR. REDMOND: Nothing further, Your Honor.

4 MR. COX: Nothing further. We ask that he be excused
5 from further attendance.

6 MR. REDMOND: No objection, Your Honor.

7 THE COURT: Witness is excused. Thank you, sir.

8 MR. COX: Your Honor, we call Michael Chad Lambert.

9 THE COURT: Ladies and gentlemen, if you will step
10 back. We have to take up a matter of law.

11 (WHEREUPON, the jury panel was excused from the
12 courtroom at 10:45 a.m.)

13 COLLOQUY

14 THE COURT: I need to protect his Fifth Amendment
15 rights. Have you thoroughly discussed with him, Mr. Cox,
16 his right to testify?

17 MR. COX: I have, Your Honor. I have discussed with
18 Chad that he has a right not the tale the stand. If he
19 elects not to take the stand Your Honor will instruct the
20 jury that they will not hold that in any way against him.
21 But I tell the Court that I have discussed with him the
22 practicalities of that and that in my experience with
23 juries of defendants not taking the stand. I fully
24 discussed that with him.

25 He has always, from day one, said he wanted to

1 testify. He is not time said that he did not want to
2 testify. He at no time said that he did not want to
3 testify and take the stand.

4 THE COURT: Mr. Lambert, you understand under the
5 United States Constitution Fifth Amendment you do not have
6 to take the stand. In other words you have the complete
7 right to elect not to testify.

8 MR. LAMBERT: Yes, sir.

9 THE COURT: If you do testify then you subject
10 yourself to cross-examination and impeachment by the
11 State?

12 MR. LAMBERT: Yes, sir.

13 THE COURT: If you don't take the stand I will
14 instruct the jury that it cannot be held against you in
15 any way. Can't mitigate against you in any way. You have
16 a constitutional right to remain silent. Any waiver of --
17 well, any way you go here, it needs to be your personal
18 decision. In other words it needs to be freely and
19 voluntarily and intelligently and understood by you that
20 you have a right not to testify under the Constitution.
21 You've thoroughly discussed that with counsel?

22 MR. LAMBERT: Yes, sir.

23 THE COURT: You got any questions about it?

24 MR. LAMBERT: No, sir.

25 THE COURT: Would you like to discuss it further with

1 counsel?

2 MR. LAMBERT: No, sir.

3 THE COURT: You understand everything that he told
4 you?

5 MR. LAMBERT: Yes, sir.

6 THE COURT: You understand everything that I've gone
7 over with you?

8 MR. LAMBERT: Yes, sir.

9 THE COURT: And do you wish to testify?

10 MR. LAMBERT: Yes, sir.

11 THE COURT: And that is your decision?

12 MR. LAMBERT: Yes, sir.

13 THE COURT: Your's alone?

14 MR. LAMBERT: My own.

15 THE COURT: All right. You may be seated. Bring
16 them back in.

17 MR. REDMOND: I've just been informed that Mr. Cox is
18 intending on presenting as evidence a list, I guess,
19 prepared by his client of some cell phone records. My
20 concern is that it states that the exact minute and second
21 of these calls. This is not constitute a cell phone
22 record. As Mr. Cox knows I'm sure that it has to be
23 certified. He doesn't have the person that's actually
24 here from the company.

25 Then, of course, he can get a certified certificate

1 relates to introduction of any records or, again, what I'm
2 looking at this if he's going to use this to assist him in
3 his testimony or to admit to the jury then I would have
4 again my strong objection in that this foundation, again,
5 has not been properly laid.

6 Regardless of who actually pulled it, again, this is
7 being certified as a record and to be utilized to assist
8 him in his testimony. And I don't think the foundation is
9 proper, and I don't think that Mr. Cox's intentions that
10 he has for this are properly laid -- a foundation for
11 which not properly been laid up.

12 THE COURT: This is his personal -- I mine -- all
13 right. You're going to have to lay the foundation ---

14 MR. COX: All right, sir.

15 THE COURT: --- to get that in. That's his personal
16 record. I don't think that comes go business records and
17 the type unless it's personal. That's his personal -- his
18 phone. Now, as far as the list y'all hadn't agreed to
19 that?

20 MR. REDMOND: No, we haven't.

21 THE COURT: You say y'all haven't agreed to that.
22 Unless y'all agree to it that last list, forget about it.
23 But as far as that phone record that's his, he lays the
24 foundation I don't see anything wrong with it.

25 MR. REDMOND: And as long as there is a foundation.

1 And that's the only thing I ask that there be a foundation
2 to this. If I can get a copy of this, I don't know? This
3 is your only copy? I got that list, but I don't have a
4 copy of that. That would be the further basis of it, even
5 though I do have that I have not received this until
6 today.

7 Again, and I can put on the record there had been
8 requests for the reciprocal Rule Five made. I'm just
9 getting this today, and this is being proposed -- this is
10 being proper by the Defense as being exculpatory which
11 clearly falls within Rule Five.

12 THE COURT: Well.

13 MR. COX: I also made a list of -- I had him write
14 out exactly where he was and what he was doing, and I
15 presented this to the State.

16 MR. REDMOND: We do have that. If he lays a
17 foundation, obviously, he can do that. I'm not -- that's
18 not ---

19 MR. COX: And I have that enlarged. I intended to
20 introduce that as an exhibit. I have that enlarged also.

21 THE COURT: Okay, if he lays the proper foundation to
22 assist him in the defense. This is some very serious
23 charges against him. I'm going to let it in, but on the
24 other hand, Mr. Cox, you need to talk with him about the
25 implications of anything's been fabricated here and later

1 on it comes up that something has been fabricated on this
2 computer printout, the Brant Case could be a warning to
3 you about what could happen.

4 MR. COX: What his -- what the Judge is saying is
5 we -- if there is evidence that's not true then that would
6 subject us to criminal sanctions and jail time. You
7 understand that?

8 MR. LAMBERT: Yes, sir.

9 THE COURT: Just like if we're under oath and lie
10 about any information that we testify to that's called
11 perjury. That subjects you to criminal sanctions and jail
12 time. You understand that?

13 MR. LAMBERT: Yes, sir.

14 MR. COX: He says he does, Your Honor.

15 THE COURT: All right. Bring them in.

16 (WHEREUPON, the jury panel enters the courtroom at
17 10:58 a.m.)

18 THE COURT: Okay.

19 MR. COX: May it please the Court. Call Michael Chad
20 Lambert. Michael, please come around a be sworn.

21 MICHAEL LAMBERT, after being duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. COX:

25 Q. Please state your full name for the Court?

- 1 A. Michael Chad Lambert.
- 2 Q. Spell your last name?
- 3 A. L-A-M-B-E-R-T.
- 4 Q. What does the family and friends call you?
- 5 A. Chad.
- 6 Q. Chad. And, Chad, how old are you?
- 7 A. Thirty-five.
- 8 Q. How far did you go in school?
- 9 A. Eleventh grade.
- 10 Q. And what type of work do you do?
- 11 A. Construction.
- 12 Q. You say construction. What do you do?
- 13 A. I'm a welder.
- 14 Q. Pardon me?
- 15 A. Welder.
- 16 Q. You're a welder. How long have you worked as a
- 17 welder?
- 18 A. About 15 years.
- 19 Q. And how did you choose welding as a profession?
- 20 A. I inherited it.
- 21 Q. When you say 'inherit it' how did you inherit it?
- 22 A. My father.
- 23 Q. Your father was also a welder?
- 24 A. Yes.
- 25 Q. Who is your father?

- 1 A. Ralph Lambert.
- 2 Q. Who is your mother?
- 3 A. Linda Louallen.
- 4 Q. And Sherry Lawrence testified. You heard her when
- 5 she testified?
- 6 A. Yes.
- 7 Q. She said that you and she had a five and a half year
- 8 relationship?
- 9 A. Yes.
- 10 Q. And there were twins born as a result of this
- 11 relationship?
- 12 A. Yes, sir.
- 13 Q. Is that correct?
- 14 A. Correct.
- 15 Q. Boys?
- 16 A. Boys.
- 17 Q. Have you ever been married?
- 18 A. Yes, twice.
- 19 Q. Twice. Who were you married to the first time?
- 20 A. Rayma Morris.
- 21 Q. Morris?
- 22 A. Yes, sir.
- 23 Q. M-O-R-R-I-S. How long was that marriage?
- 24 A. Probably about six months.
- 25 Q. Six months. Was there any children born as a result

1 of that relationship?

2 A. No.

3 Q. And your second marriage?

4 A. It was to Amy Wilkins.

5 Q. A-M-Y?

6 A. A-M-I-E.

7 Q. A-M-I-E, Amy.

8 A. Wilkins.

9 Q. Wilkins?

10 A. Yes, sir.

11 Q. And how long did that marriage last?

12 A. It last until October 29th of '08.

13 Q. '08. And so when the accident happened you were,
14 married?

15 A. Yes.

16 Q. How did you learn you were divorced?

17 A. I found out through records through you.

18 Q. So after the accident your wife divorced you?

19 A. Yes.

20 Q. And where does she live?

21 A. In Alabama.

22 Q. Where in Alabama?

23 A. Orville.

24 Q. Orville?

25 A. Yes.

- 1 Q. Orville, Alabama?
- 2 A. Yes, sir.
- 3 Q. And were you living there with her?
- 4 A. Yes.
- 5 Q. And do you and she have children?
- 6 A. Yes.
- 7 Q. How many children do you have?
- 8 A. We have two.
- 9 Q. Two children?
- 10 A. Yes.
- 11 Q. How old is the youngest?
- 12 A. The youngest is about 14 months old?
- 13 Q. Fourteen months old.
- 14 A. Yes.
- 15 Q. And how old was the youngest one when you left their
- 16 home to come to South Carolina?
- 17 A. He was three.
- 18 Q. Three months?
- 19 A. Three years.
- 20 Q. Three years old, and he is how old now?
- 21 A. He is four.
- 22 Q. Four?
- 23 A. Yes.
- 24 Q. Okay. That's the youngest or the oldest?
- 25 A. That's the oldest. The youngest, she was pregnant

1 with.

2 Q. She was pregnant with?

3 A. Yes.

4 Q. So have you seen that youngest child?

5 A. No, I have not.

6 Q. Have not. And so you were living in Orville, Alabama
7 and what brought you back to South Carolina?

8 A. I was going to work the shut down. It got delayed a
9 little bit. I decided to come help my mother out and do
10 some building us some deer stands, and just you know
11 associating with friends before I went back to a job.

12 Q. What do you call a shut down? What is that?

13 A. It's where they go in and redo the machines and stuff
14 inside the plants.

15 Q. So it's when a plant goes and shut down and you come
16 in and rebuild all the equipment?

17 A. Yes, sir.

18 Q. Is this something you've done before?

19 A. Yes.

20 Q. Now, did you at my request go back and try to
21 reconstruct everything you did the day of the accident?

22 A. Yes, sir, I did.

23 Q. And tell us if you will in your own words, without
24 looking at the list you did for us, tell us in your own
25 words what you did leading up to the accident?

1 A. I got my tools and all ready to go. I had worked in
2 the garden and eat supper with my family before getting
3 all my tools together. I went and packed my clothes. I
4 got all my tools loaded and my truck packed. I left out
5 from the house somewhere around three o'clock.

6 Q. In the morning?

7 A. In the morning.

8 Q. Okay?

9 A. I got to Montgomery, Alabama and stopped and spent
10 the night and got up and left Montgomery about 9:30.

11 Q. Okay?

12 A. The next morning. I proceeded down the interstate.
13 Stopped various places. Stopped and got something to eat.
14 And actually changed interstates in Atlanta, Georgia from
15 85 to 20. And I stopped a couple different places off of
16 I-20 until I got to Camden, and I got off of I-20 in
17 Camden and proceeded down U.S. One.

18 Q. U.S. One, was that a highway you were familiar with?

19 A. Yes, sir, I'm familiar with it.

20 Q. You had driven it many times?

21 A. I had actually driven it quite a few -- I had
22 actually driven it the two months prior to it about four
23 times, five times maybe with my stepfather being sick.

24 Q. Now, when you left Atlanta traveling to South
25 Carolina did you have a cell phone with you?

1 A. Yes, I did.

2 Q. Tell us what type of phone it was?

3 A. It was just a pre-paid A.T.T. phone.

4 Q. And when you say, 'pre-paid A.T.T. phone' what does
5 that mean?

6 A. It's the company, the A.T.T., and you have to pay for
7 your services ahead of time.

8 Q. So the pre-paid, and you had in fact done that?

9 A. Yes, sir.

10 Q. Now, after this accident and my talking with you did
11 I ask you if you in fact had used that telephone?

12 A. Yes. Yes, you did.

13 Q. Where you using that telephone when the accident
14 happened?

15 A. No, sir, I was not.

16 Q. Okay. And at my request did you obtain a copy of
17 that bill?

18 A. Yes, sir, I did.

19 Q. Pre-paid A.T.T. Telephone Call. How did you get a
20 copy of your bill?

21 A. I went online and I had to enter in my password.

22 Q. A password?

23 A. Yes, sir.

24 Q. And did you know how to do that?

25 A. Yes, sir, I did.

- 1 Q. And did you in fact do that?
- 2 A. Yes, sir.
- 3 Q. And only you know your password?
- 4 A. Yes, sir.
- 5 Q. And did you get a printout of your phone bill?
- 6 A. Yes, sir, I did.
- 7 Q. And in reviewing that did that bill show the phone
- 8 calls you made on the date of the accident?
- 9 A. It did.
- 10 Q. And it shows the times?
- 11 A. It shows the times, how many minutes I talked.
- 12 Q. And does it also show the party being called?
- 13 A. Yes, sir.
- 14 Q. And with that did you then sit down and make a
- 15 chronological list of the phone calls in order?
- 16 A. Yes, sir, I did.
- 17 Q. Was a list made using the information from your
- 18 pre-paid phone bill?
- 19 A. It was.
- 20 Q. Was there anything about the pre-paid phone bill that
- 21 would make you think that the information was not correct?
- 22 A. No, sir.
- 23 Q. Did anyone else's number show up that you -- that was
- 24 not your number or was not a number that you did not call?
- 25 A. No, sir.

1 Q. All there. And do you have that here today?

2 A. Yes, sir, I do.

3 Q. Do you have that list today?

4 A. Yes, sir, I do.

5 MR. COX: Your Honor, I move to admit it?

6 MR. REDMOND: No objection.

7 MR. COX: Your Honor, with that I move to admit the
8 actual copy, internet copy of the phone bill, and the
9 telephone call list that he made from it.

10 THE COURT: All right.

11 MR. REDMOND: No objection, Your Honor.

12 THE COURT: It's in.

13 MR. COX: Does the State want me to mark it as one or
14 separate?

15 MR. REDMOND: It doesn't matter.

16 MR. COX: Then I'll mark it as Defendant's Exhibit
17 Three.

18 (WHEREUPON, Defendant's Exhibit No. 3 was marked for
19 identification and received into evidence.)

20 BY MR. COX:

21 Q. Chad, with the phone records and then were you able
22 to go back and then reconstruct exactly what you did and
23 after leaving your home in Alabama?

24 A. Yes.

25 Q. And why was it necessary to get the phone bills to go

1 back and reconstruct?

2 A. So I could see pretty much the times and who I had
3 called.

4 Q. And after the accident, the accident happened, do you
5 recall what was going on after that accident?

6 A. No, I do not.

7 Q. So you didn't remember?

8 A. No, sir.

9 Q. Okay, the accident happened. What's the next thing
10 you remember?

11 A. I remember waking up in the hospital.

12 Q. Waking up in the hospital?

13 A. Yes, sir.

14 Q. And do you know where you were in the hospital when
15 you woke up?

16 A. No, I do not.

17 Q. Were you in the emergency room or in a regular room?

18 A. I was in a room.

19 Q. You were in a room?

20 A. Yes.

21 Q. And how long were you in that hospital?

22 A. I finally learned that I had stayed in a week.

23 Q. Okay, but if you will tell us what your injuries were
24 in the accident?

25 A. I had a laceration to the left ear, laceration to the

1 back of the head. I had a what looked like to be a
2 fractured disk in my back. I had a fractured rib on the
3 left side. I had a collapsed lung. I had a broke femur
4 and two compound fractures and I had a crushed ankle.

5 Q. And where is the femur?

6 A. It's the long bone from your hip down to your knee.

7 Q. So that broke in two places?

8 A. It was broke in two.

9 Q. Broke in two.

10 A. Yes, sir.

11 Q. Okay. Now, when you say lacerations did those
12 require staples?

13 A. Staples and stitches.

14 Q. Staples and stitches.

15 A. Yes, sir.

16 Q. Have you fully recovered from those injuries?

17 A. No, sir. I still have a steel rod to my hip down to
18 my knee, and i have pins in my ankle.

19 Q. Pins. Could you physically go back and do your job?

20 A. No, sir.

21 Q. Could not do it?

22 A. Could not do it.

23 Q. But in this courtroom you heard testimony of people
24 talking to you at the wreck scene?

25 A. Yes, sir.

1 Q. And do you recall any of that?

2 A. I do remember hearing George McElveen's voice. I was
3 a familiar voice. I was in and out. I don't remember any
4 conversations. I just remember him calling my name, and I
5 responded to him. And he would talk to me to keep me
6 awake.

7 Q. You remember the voice?

8 A. I remember the voice.

9 Q. Now, did you -- you saw in this courtroom the video
10 that the trooper made in the emergency room?

11 A. Yes, sir.

12 Q. You remember seeing that?

13 A. I remember seeing that.

14 Q. Do you remember anything in that emergency room?

15 A. No, sir.

16 Q. But in that video he was asking you questions and you
17 were responding?

18 A. Yes, sir.

19 Q. You have no recollection of that?

20 A. I have no recall of it.

21 Q. Do you normally wear a seat belt?

22 A. Yes, sir.

23 Q. Did you have your seat belt on the day the accident
24 happened?

25 A. Yes, I did.

1 Q. Is what -- the 24 hour timeline, is that the timeline
2 that was prepared after you went through your telephone
3 records?

4 A. Yes, sir.

5 Q. And your memory?

6 A. Yes, sir.

7 Q. And have you had a chance to review this timeline?

8 A. Yes, sir.

9 Q. On more than one occasion?

10 A. On more than one occasion.

11 Q. You think that it accurately sets forth what you did
12 in preparing to come to South Carolina?

13 A. It is accurate. All but one thing. It was put that
14 I stopped at a McDonalds in Atlanta. It was actually an
15 Arby's.

16 Q. Instead of McDonalds it was an Arby's?

17 A. Yes, sir.

18 MR. COX: Move to introduce, Your Honor.

19 MR. REDMOND: No objection.

20 (WHEREUPON, Defendant's Exhibit No. 4 was marked for
21 identification and received into evidence.)

22 MR. COX: Your Honor, I have an enlargement of
23 Defendant's Exhibit Four.

24 BY MR. COX:

25 Q. Chad, I'd like for you to step down here, please.

1 (WHEREUPON, the witness steps down from the witness
2 stand.)

3 THE COURT: If you can have him go to that side so
4 the court reporter can see him.

5 BY MR. COX:

6 Q. Chad, you moved away from your microphone, okay?

7 A. Yes.

8 Q. That court reporter has to take down everything that
9 you say.

10 A. Yes, sir.

11 Q. And your mother will tell you, and I'll tell you.

12 We've got a little heritage in us. We have a tendency to
13 mumble. Sometimes we quit talking before we actually say
14 the word out, and sometimes right is right, but let's see
15 if we can't speak distinctly so she can take down what we
16 say. And more important the ladies and gentlemen of the
17 jury can hear you, okay?

18 A. Yes, sir.

19 Q. Now, I'm going to give you this pointer. Had this
20 professor one time. He was so smart. I'd say, "Can you
21 point to the chart?" And he would go, yep, right here.
22 So hold it in your left hand. That way you won't block.
23 If you point you point so the jury can see you.

24 A. Yes, sir.

25 Q. Look at this 24 hour timeline which you made. Tell

1 us step by step everything that you did?

2 A. I went first -- what I've done is I worked with the
3 family with a garden. I had different types of vegetables
4 and stuff we worked and I prepared before I left. I went
5 in and eat dinner with my family and relaxed a little
6 while. Then I come back out. I worked in the shop to get
7 my tools and all to get my truck loaded.

8 Q. Now, Chad, you have some times there. Is that the
9 approximate time you did that?

10 A. That's the approximate time.

11 Q. Okay. Six o'clock in the garden with the family?

12 A. Yes.

13 Q. Then go in for supper?

14 A. Yes, sir.

15 Q. And eight o'clock where are you?

16 A. At eight o'clock I'm out working in the shop getting
17 my tools ready to load up.

18 Q. Okay. What would you use the tools for?

19 A. At work.

20 Q. At work. So when you actually got to your job and
21 use those tools.

22 A. Yes.

23 Q. Go ahead, please?

24 A. At eleven o'clock I loaded my truck with my tools.

25 Q. Okay?

1 A. I do have quite a bit of tools in that tool box.
2 Different tool boxes on the truck that I had to prepare.
3 I went in and got my clothes ready and packed them which
4 with the help of my wife at that time she did pull some of
5 my clothes out.

6 Q. What did you pack them in?

7 A. I had a duffle bag that I use.

8 Q. Duffle bag?

9 A. Yes.

10 Q. Go ahead?

11 A. I spent time with my wife before I left to, you know,
12 knowing that I was going to be gone. Usually it takes us
13 about seven days to do a job.

14 Q. Okay.

15 A. I left the home in Alabama about four o'clock like I
16 said.

17 Q. Okay?

18 A. And -- excuse me. About three o'clock and stopped at
19 Extended Stay in America in Montgomery, Alabama.

20 Q. Okay. About what time did you stop?

21 A. It was somewhere about 4:30.

22 Q. Okay. And when did you leave the Extended Stay?

23 A. I left that next morning about 8:30 to go to
24 McDonalds to get me some breakfast and to pick up some
25 money from Western Union.

1 Q. Okay. And who was sending you money through Western
2 Union?

3 A. My mother sent me some so I would have some extra
4 money.

5 Q. Okay. Go ahead, please?

6 A. I took and -- actually, the one I went to was closed.
7 The machine was down. So I had to go to another one
8 across town.

9 Q. Okay.

10 A. So that did take me a little longer. I left. Got on
11 85 around 9:45. That is central time. I stopped in
12 Auburn, Alabama, stretched my legs, got me a Mountain Dew.
13 And then I proceeded on down the road.

14 Q. Okay?

15 A. About 11:30 is when I made it to the Alabama/Georgia
16 line. I stopped most of the time at the rest stops at the
17 line because I usually do not stop unless I actually have
18 to.

19 Q. Okay?

20 A. At one o'clock I was stopping in Atlanta to get me
21 something to eat. And ---

22 Q. That says McDonalds?

23 A. That says McDonalds, but it was an Arby's.

24 Q. What did you order at Arby's?

25 A. I ordered some roast beef and some fries.

1 Q. Okay.

2 A. I did order a Mountain Dew with it.

3 Q. Okay. Now, did you eat the food there or did you get
4 the food at the drive through and keep going?

5 A. I got it at the drive through and kept going.

6 Q. Okay.

7 A. I stopped in Madison, Georgia to fill my truck up
8 with gas and I drank a beer.

9 Q. Did you drink a beer at the station or did you drink
10 it driving?

11 A. I drank it at the station.

12 Q. What did you do with the can?

13 A. I throwed it on the back of the truck. I save cans.

14 Q. You threw it on the back of the truck. That was at
15 two o'clock?

16 A. That was at two o'clock.

17 Q. Okay.

18 A. I stopped at the rest area about 3:30 at the
19 Georgia/South Carolina line. I got out. Used the
20 bathroom. Stretched my legs and I drank two more beers.

21 Q. You drank two beers?

22 A. Yes, sir.

23 Q. And when you drank those beers did you drink them
24 there or did you drink while you were driving? I mean did
25 you drink any of them while you were driving?

1 A. I drank them while I was there.

2 Q. What you do with those cans?

3 A. I threw them on the back of the truck.

4 Q. Okay.

5 A. At 5:30 I was in Camden. I forgot I had to put some
6 gas in the gas can. I went ahead and put it in because I
7 wanted to fill up closer to when I got to the house
8 instead of running all my gas out.

9 Q. Okay?

10 A. I drank a beer. After I done that I throw the can on
11 the back of the truck and proceeded down U.S. One.

12 Q. Okay. So you stopped in Camden about 5:30 you say?

13 A. About 5:30. It was -- yeah, about 5:30.

14 Q. Now, you also on our trip you were using your cell
15 phone?

16 A. Yes, sir.

17 Q. Okay. This is an enlargement of Defense Exhibit Two.
18 And this is what you made from review of your pre-paid
19 phone records?

20 A. Yes, sir.

21 Q. Okay. Will you tell us about those phone calls?

22 A. This is where my wife calls and gets the voice mail
23 where I actually had my phone off. It kind of goes
24 backwards. It says here, "Amy calls Chad. Amy gets voice
25 mail. It should have been reversed, but that is the way

1 the bill puts it.

2 Q. Okay?

3 A. I talked to my wife at 11:46 that morning.

4 Q. That's in the morning?

5 A. Yes.

6 Q. Okay. Talked 17 minutes?

7 A. We talked for 17 minutes.

8 Q. And 20 seconds? Okay.

9 A. And I told Michael Savage that my phone was acting up
10 going in and out of service going down the road. I did
11 leave him a voice mail. He ended up calling me back and
12 got my voice mail, but I did not answer.

13 Q. So there was four calls to Michael Savage?

14 A. Yes.

15 Q. The first one at 12:05 and the last one at 12:08?

16 A. Yes.

17 Q. And who was Michael Savage?

18 A. A friend of mine.

19 Q. He's a friend of yours?

20 A. Yes.

21 Q. Okay. Go ahead, please?

22 A. Then I called my wife, and I did not get her. I left
23 a voice mail. I called and left her -- she -- yeah, I
24 called and left her voice messages on her phone, but she
25 was out of area.

1 Q. She didn't answer. Okay?

2 A. I called her grandmother's house to try to get ahold
3 of her. I said; "Naw, I could not. That's ...

4 Q. Did you talk to her grandmother?

5 A. I talked to her just a minute.

6 Q. All right?

7 A. I called and I got her voice mail. I called two more
8 times and got her voice mail. Then here is where I called
9 and left her a voice mail.

10 Q. That's 2:09?

11 A. At 209.

12 Q. All right?

13 A. I called her and left her a voice message at 2:12.
14 It was just, basically, I called where had messages on
15 there and checked my voice messages off my phone.

16 Q. So she tried to call you and left you voice mail
17 also?

18 A. She had tried to call and left voice messages. I
19 called and talked to her for about five minutes.

20 Q. Okay?

21 A. I called her grandmother's again and talked to her a
22 few minutes because there was something that she needed.

23 Q. Okay?

24 A. Then I called my wife again and talked to her a few
25 minutes.

1 Q. So seven minutes?

2 A. Yes.

3 Q. Okay?

4 A. I called my father because I had forget one of the
5 tools I needed on that job, and asked him if he had one I
6 could borrow?

7 Q. All right.

8 A. I called Amy and talked to her again for eight
9 minutes. I turned around and called Sherry Lawrence and
10 talked to her for 27 minutes.

11 Q. That says 27 minutes and 52 seconds?

12 A. Yes.

13 Q. At 5:25 p.m.?

14 A. Yes, sir.

15 Q. You say you left Camden about 5:30?

16 A. Yes.

17 Q. Were you talking to her on the phone at Camden while
18 you remember resting or did you call while you were
19 riding?

20 A. I called while I was driving.

21 Q. Called her while you were driving?

22 A. Yes.

23 Q. And you talked to her for 27 minutes and 52 seconds?

24 A. Yes, sir.

25 Q. At 6:08?

1 A. At 6:08 I called a friend of mine, Dennis. He
2 answered the phone. It went out. I'd lost service.

3 Q. So last phone call was at 6:08?

4 A. Yes, sir.

5 Q. What time did the accident happen?

6 A. 6:30.

7 Q. 6:30. You were not on the phone then?

8 A. No, sir.

9 Q. You can go back and take your seat.

10 (WHEREUPON; the witness returns to the witness
11 stand.)

12 BY MR. COX:

13 Q. When you were using the phone did have Amy's, your
14 wife's, phone number on speed dial?

15 A. Yes.

16 Q. Okay. And was Michael Savage's number on speed dial?

17 A. Yes.

18 Q. Was the grandmother's number on speed dial?

19 A. Yes.

20 Q. And was your father's number on speed dial?

21 A. No.

22 Q. And was Sherry Lawrence's number on speed dial?

23 A. No.

24 Q. And so your father's number and Sherry Lawrence's
25 number you have to punch in all the numbers?

- 1 A. Yes.
- 2 Q. And could you do that?
- 3 A. Yes.
- 4 Q. Did you have any problems doing that?
- 5 A. No, sir.
- 6 Q. Did you have any problems communicating with or
- 7 talking to the people you're talking to?
- 8 A. No.
- 9 Q. Did you understand what they were saying?
- 10 A. Yes.
- 11 Q. At any time did you think that your speech was
- 12 slurred?
- 13 A. No.
- 14 Q. At any time while driving your vehicle did you have
- 15 any problem keeping it under control?
- 16 A. No, sir.
- 17 Q. Have any problem weaving?
- 18 A. No, sir.
- 19 Q. Nothing like that?
- 20 A. No.
- 21 Q. Now, on the video in the emergency room the State
- 22 trooper is talking to you. You made a reference to
- 23 falling asleep. Do you recall saying that?
- 24 A. No, sir, I do not.
- 25 Q. Do you think you fell asleep?

1 A. No, sir, I do not.

2 Q. Do you think you fell asleep?

3 A. No, sir.

4 Q. Now, when Corporal Perry came and talked to you and
5 he recorded that? Do you remember that? You remember him
6 coming to your house?

7 A. Yes, sir.

8 Q. Pardon?

9 A. A little bit of it.

10 Q. When he came to your house and talked to you had you
11 fully gotten your mental faculties back?

12 A. No, I could -- still could not recall the wreck. I
13 was still wanting to learn. Nobody could tell me anything
14 about the wreck at that time.

15 Q. When did you first learn that Sergeant Darrell Quick
16 had lost his life?

17 A. It was ...

18 Q. You know where you were?

19 A. I was in the hospital.

20 Q. In the hospital?

21 A. In the hospital, and I believe it was on that Sunday
22 afternoon.

23 Q. Okay?

24 A. I did not know who it was. I just know that somebody
25 had died as a result of this accident.

1 Q. Now, do you recall being on U.S. Highway One?

2 A. Yes.

3 Q. You remember approaching that bridge?

4 A. I remember approaching.

5 Q. What was the weather like at that time?

6 A. It was raining, and I was -- all of a sudden it just
7 become a downpour.

8 Q. This is while you are on U.S. Number One?

9 A. Yes, sir.

10 Q. And did you have difficulty seeing where you were
11 going?

12 A. Yes.

13 Q. How fast were you traveling?

14 A. I was running, before the rain, somewhere between 55
15 and 57. When it started raining I slowed down to
16 somewhere between 40 and 45.

17 Q. Forty and 45?

18 A. Yes, sir.

19 Q. Had you approached the bridge cause they got the
20 metal guardrails was it still raining?

21 A. Yes, sir, it was raining hard.

22 Q. And had you increased your speeding any or decreased
23 it?

24 A. Decreased it.

25 Q. You decreased it?

1 A. Yes, sir.

2 Q. Do you remember -- do you have an independent
3 recollection of seeing Sergeant Darrell Quick's white
4 Cadillac.

5 A. I remember seeing a white car.

6 Q. Where was that white car when you saw it?

7 A. It was in my lane.

8 Q. In your lane?

9 A. Yes, sir.

10 Q. In your right hand lane?

11 A. In my right hand lane.

12 Q. What did you do, if you remember, when you saw the
13 white car?

14 A. I snatched my wheel to the right. I hit the brakes.
15 Mashed the button and hit the brakes.

16 Q. You remember anything after that?

17 A. No, sir.

18 Q. You remember the impact?

19 A. No, sir.

20 Q. Do you think that you were under the influence of
21 alcohol?

22 A. No, sir.

23 Q. Do you remember the audio and Corporal Perry's
24 testimony was that you said you may have had three or four
25 beers to drink?

- 1 A. Yes.
- 2 Q. How many beers you think you drank?
- 3 A. I drank four beers.
- 4 Q. You drank four beers?
- 5 A. Four beers.
- 6 Q. Where was the fourth beer?
- 7 A. I drank one, two and then one.
- 8 Q. And that's the four beers?
- 9 A. That's the four beers.
- 10 Q. The other cans that were put in evidence you think
- 11 all these cans were on your truck?
- 12 A. They could have been.
- 13 Q. Could have been?
- 14 A. Yes.
- 15 Q. How long would they have been on your truck?
- 16 A. A while.
- 17 Q. A while. How about the beer bottle?
- 18 A. I do not drink beer in bottles.
- 19 Q. Did you know there was a beer bottle on your truck?
- 20 A. No.
- 21 Q. Have you ever seen that beer bottle before?
- 22 A. No, sir.
- 23 Q. Now, you heard the testimony of the forensic
- 24 specialists who were here from S.L.E.D. You heard the
- 25 lady say -- she told us how she swabbed them and how she

1 looked for fingerprints. And had you in fact handled four
2 of those beer cans?

3 A. Yes, sir.

4 Q. Your fingerprints should have been on four of them?

5 A. Yes.

6 Q. Some of the cans appear to me to be crushed and some
7 age.

8 A. We crush them and throw them on the back of the truck
9 cause I save cans.

10 Q. Would you say you throw them in the back and you just
11 toss them in there?

12 A. We just toss them in there under the toolbox.

13 Q. How many beer cans would have been in the cab with
14 you?

15 A. Should be none.

16 Q. Should have been none. But you heard testimony that
17 there was at least one?

18 A. Yes.

19 Q. But you don't know where in the truck that beer can
20 would be?

21 A. No, sir.

22 Q. Again, I'm going to ask you to step down here,
23 please.

24 (WHEREUPON, the witness steps down from the witness
25 stand.)

1 BY MR. COX:

2 Q. And remember what we said about speaking. We'll look
3 at State's Exhibit Number Five. Is that your truck, the
4 red truck?

5 A. Yes, sir.

6 Q. And you see your seat belt?

7 A. Yes, sir.

8 Q. Where is it?

9 A. It's right there.

10 Q. I'm going to ask you to use the ruler to point.

11 A. Right there.

12 Q. That's your seat belt?

13 A. Yes.

14 Q. Okay. You were wearing your seat belt at the time of
15 that accident?

16 A. Yes, I was.

17 Q. Next, we're looking at State's Exhibit 20. What is
18 this a picture of?

19 A. The back of my truck.

20 Q. Back of your truck?

21 A. Yes.

22 Q. And can we see any of your tool boxes?

23 A. Yes.

24 Q. Where are they?

25 A. That's one of them.

1 Q. You pointed to the red box?

2 A. And that's the top of one of them there.

3 Q. Okay. What is that aluminum thing back there?

4 A. That's my big tool box on the back of my truck.

5 Q. Does it go all the way across the truck?

6 A. It runs all the way across.

7 Q. Now, was there any beer cans in the aluminum tool
8 box?

9 A. It could have been.

10 Q. It could have been?

11 A. Yes

12 Q. Were there any beer cans under it?

13 A. Yes.

14 Q. There were?

15 A. Yes.

16 Q. And were there any beer cans in the red tool box?

17 A. There shouldn't have been.

18 Q. Should not have been?

19 A. No.

20 Q. In that photograph how many beer cans can you see?

21 A. One, two, three, four, five, six.

22 Q. Okay, now, one of the beer cans looks like it's
23 smashed all the way down?

24 A. Yes, sir.

25 Q. Okay. Is that something you normally do with a beer

1 can?

2 A. Yes, sir. We throw them in the back of the truck.

3 Q. When you say, 'we', who is we?

4 A. Me and Michael Savage. There is a few more friends.

5 Q. Okay, now, what is that black and blue thing that's
6 sitting on top of your red tool box?

7 A. That's a duffle bag that some of my clothes were in.

8 Q. Is that a saw I'm looking at?

9 A. Yes, a skill saw.

10 Q. Is anything else on that truck? There is also a
11 chain saw?

12 A. There is also a chain saw right there. It's some of
13 my tools out of my tool box.

14 Q. Okay. Now, we're looking at State's Exhibit 19. Do
15 you recognize what this is?

16 A. Yes.

17 Q. What is that?

18 A. This appears to be the backseat of my truck.

19 Q. The backseat of your truck?

20 A. And the cab.

21 Q. Not the driver's seat. Not the passenger seat, but
22 the rear seat?

23 A. Yes.

24 Q. And there is a beer can there?

25 A. Yes.

1 Q. Do you know how that beer can got there?

2 A. No, sir.

3 Q. Did you know that there was a beer can back there
4 when you were going down the road?

5 A. No, sir. Not in the back.

6 Q. What else we're for -- look at in that picture?

7 A. That's the box of shotgun shells that I had.

8 Q. What gauge was it?

9 A. Twelve gauge.

10 Q. Twenty gauge -- twelve gauge? Okay.

11 A. They were in a tool box in a case. I had a whole
12 case of them.

13 Q. And so when you last -- you had a whole case of
14 shells?

15 A. Yes.

16 Q. So whenever you last saw these they were in a box?

17 A. They were in a box.

18 Q. A case. A box?

19 A. Yes, sir.

20 Q. Was that case in anything else?

21 A. It was in a tool box.

22 Q. In a tool box?

23 A. Yes, sir.

24 Q. Do you know how that box of shells got out of the
25 tool box?

- 1 A. No, I don't.
- 2 Q. What is that next to the tool box?
- 3 A. That looks like a -- something that comes off the
- 4 pair of shoes or one of my shirts or something.
- 5 Q. Next, I show you State's Exhibit 15. Can you tell us
- 6 where this is on your truck?
- 7 A. That's my tool box.
- 8 Q. Is this inside the tool box?
- 9 A. That's the inside.
- 10 Q. And this tool box goes across the back of the truck?
- 11 A. The entire back of the truck.
- 12 Q. And there are beer cans in there?
- 13 A. Yes, sir.
- 14 Q. How many cans can you see?
- 15 A. I see four.
- 16 Q. Okay. All right. Now, what else is in that picture?
- 17 A. That's a pair of hunting pant that I had. That's a
- 18 ground fly that I hunt with.
- 19 Q. What would you use a ground fly for?
- 20 A. Deer hunting.
- 21 Q. To conceal you while deer hunting?
- 22 A. Yes.
- 23 Q. Anything else you see?
- 24 A. Not that I can -- that would stand out.
- 25 Q. Okay. Next, I show you State's Exhibit 16. Can you

1 identify what we're looking at here?

2 A. Yeah, it's a picture of my tool box, and that's some
3 of my clothes.

4 Q. The tool box, this again the aluminum tool box that
5 goes across the entire back of the truck?

6 A. Yes.

7 Q. And when you last saw your clothing were that like
8 this or what were your clothes in?

9 A. They were in that duffle bag.

10 Q. They were in these duffle bags?

11 A. Yes, those beer cans.

12 Q. You said those beer cans were in the back of your
13 truck?

14 A. They could have been.

15 Q. Could have been. Next, I show you State's Exhibit

16 17. And again what does this show?

17 A. The back of my truck.

18 Q. And can you see an adjustable wrench in that picture?

19 A. Yes, sir, it's right there.

20 Q. When you last saw that wrench where was it?

21 A. It was in my tool box.

22 Q. In there, any of the other stuff that you see, was
23 that in that tool box?

24 A. There is a wrench here that was in it. It was some
25 more small tools here that was in it.

- 1 Q. And I also see -- is that an arrow I see?
- 2 A. Yes.
- 3 Q. What was the arrow used for?
- 4 A. I made my bows with me.
- 5 Q. For bow hunting?
- 6 A. Yes.
- 7 Q. There are also some apples there, are there not?
- 8 A. Yes.
- 9 Q. Is that from a deer that you had killed?
- 10 A. Deer that I killed.
- 11 Q. I show you State's Exhibit 18. I ask you -- do you
- 12 see a box of shells there?
- 13 A. Yes.
- 14 Q. Where is it?
- 15 A. It's right there.
- 16 Q. When you last saw these shells where were they?
- 17 A. That were in the tool box.
- 18 Q. With the other boxes you saw?
- 19 A. With the other boxes.
- 20 Q. After the accident a photograph of one of those boxes
- 21 of shells that was in a case in a tool box in the back of
- 22 your truck. One is inside the truck and one is outside of
- 23 the body?
- 24 A. Yes.
- 25 Q. Sure?

1 A. Yes.

2 Q. Show you State's Exhibit 14. What are we looking at
3 there?

4 A. It's my air tank. That's the tool box that the
5 shells was in actually.

6 Q. And in this photograph it appears this is on the
7 ground?

8 A. Yes.

9 Q. And so we're now looking at the box that the shells
10 were in?

11 A. Yes.

12 Q. Which is away from your truck. And what was the air
13 tank used for?

14 A. I had a nail gun that it was -- that I was going to
15 use.

16 Q. Okay. State's Exhibit 13. What are we looking at
17 there?

18 A. That is my tool box.

19 Q. Those were in the back of your truck?

20 A. Yes.

21 Q. There is an ice bag there?

22 A. Yes.

23 Q. Did you have any ice in the back of the truck?

24 A. No.

25 Q. Do you know -- before the accident did you remember

1 that bag was there?

2 A. No.

3 Q. There are some beer cans, too, aren't they?

4 A. Yes.

5 Q. Showing you State's Exhibit Nine. And what is this
6 we're looking at?

7 A. That is the back of my truck inside at the ...

8 Q. Can you see that beer bottle?

9 A. Yes.

10 Q. Do you know where that beer bottle came from?

11 A. No.

12 Q. Did you know that beer bottle was in your truck?

13 A. No, sir, I did not.

14 Q. There is other stuff around it. What is that?

15 A. That's where I bought some clothes. Let's see. That
16 was a magazine I had. That is a bullet pouch that I have
17 for one of my guns.

18 Q. To put bullets in?

19 A. Put shells in.

20 Q. Okay.

21 A. That looks like a box of shells there.

22 Q. Box of shells?

23 A. Yes.

24 Q. Again, the last time you saw those shells they were
25 in the tool box?

1 A. Yes.

2 Q. What's that brown thing? What is that?

3 A. That is a bag.

4 Q. What was in that bag?

5 A. Where I bought a Mountain Dew.

6 Q. To your knowledge at any time had that beer bottle
7 been in that bag?

8 A. No, sir.

9 Q. Had not been?

10 A. No, sir.

11 Q. Okay. If you please go back and take your seat
12 (WHEREUPON, the witness returns to the witness
13 stand.)

14 BY MR. COX:

15 Q. Today is February the 11th 2010. Have you fully
16 recovered from your injuries?

17 A. No, sir.

18 Q. Have you fully recovered your memory?

19 A. No, sir.

20 Q. And what is it that tells you that you haven't fully
21 recovered from your injuries or fully recovered your
22 memory?

23 A. I still can't remember everything that went on.

24 Q. Is it stuff from the accident, years ago or current
25 stuff? What is it that you can't remember?

1 A. I can't remember the whole accident. There is short
2 term memory loss now.

3 Q. And you never made a chance to attend the divorce
4 hearing if there was one when you got divorced?

5 A. No, sir.

6 Q. Didn't you get to attend the birth of your child?

7 A. No, sir.

8 Q. And you still have not seen that child?

9 A. Still have not seen it.

10 Q. Do you think that you cooperated to the best of your
11 ability with law enforcement investigating this accident?

12 A. Yes, I do.

13 Q. At any time did you ever intentionally mislead them
14 on anything you said or anything that you did?

15 A. No, sir.

16 Q. Did you try to be truthful?

17 A. I did.

18 Q. Answer any question the State may have.

19 MR. REDMOND: Thank you, Your Honor. May it please
20 the Court.

21 CROSS-EXAMINATION

22 BY MR. REDMOND:

23 Q. And you realize, Mr. Defendant, that Darrell Quick's
24 son will never see his dad begin?

25 A. I do, and I want to say that I'm sorry.

1 Q. I'm sure you are. We'll talk about why you should be
2 sorry. Now, let's deal with this first of all. Please
3 tell me, because there has been a lot of discussion about
4 cell phones. Please, sir, tell me you are not trying to
5 equate operating a cell phone to operating a motor
6 vehicle? We can agree they're quite different operations,
7 isn't that true? In fact a car is a lot more complicated
8 than a cell phone, isn't that true?

9 A. Yes.

10 Q. And in fact all but two people that were called you
11 had on speed dial? You testified to that, isn't that
12 true?

13 A. Yes.

14 Q. Okay. That's the first thing I wanted to cover with
15 you. Then you get into some interesting things. Let's
16 talk about your cue cards here. With these cue cards that
17 y'all had prepared, if I recall your testimony correctly,
18 you prepared these cue cards based on your cell phone
19 records, right? You get your cell phone records and
20 that's what helps you to remember what was going on?

21 A. Yes, sir. Okay.

22 Q. You explain one thing to me. The cell phone records
23 that you say that you went online and got, this accident
24 happened on the -- it happened in July. September you
25 pull these cell phone records, September '08. Now, when

1 exactly did you prepare cause your attorney never asked
2 you this. When was this prepared? When did you and he
3 get together and prepare these cue cards?

4 A. I couldn't tell you an exactly the date I give it to
5 him.

6 Q. But it was some period of time after the accident,
7 after the collision; is that not correct?

8 A. Yes.

9 Q. Now, here is another thing that I wanted to ask you
10 about your cue cards. Now, interestingly, when you came
11 up and you were testifying you were pretty much going
12 based on what you had put in here? I mean this is what
13 y'all had gotten together, and he asked you, y'all have
14 reviewed you cue cards many times?

15 A. Yeah.

16 Q. But, interestingly, after you heard Tim Perry's tape
17 yesterday that said clearly that you had gone to Arby's
18 and you ordered a couple of roast beefs and all you had to
19 correct that because here what you and your attorney
20 prepare and you've reviewed many times then all of a
21 sudden it becomes Arby's. So, yeah, you hear that on the
22 tape. That had to be changed, right?

23 A. No. Actually what it was I got something to eat.
24 You know my mother is actually the one that typed it up
25 for me.

1 Q. Oh, so your mother typed it up for you. Okay, let's
2 go a little further. So now you've got other people
3 helping you put your cue cards together?

4 A. I sat there and I told her because I'm not that great
5 of a typer.

6 Q. Okay, well ---

7 A. I'm not that good of a speller.

8 Q. In other words your mother had some input into this
9 process?

10 A. Sure.

11 Q. Of course, cause she's your mother. Now, when Tim
12 was asking you, and I'm refer to Tim Perry when I say Tim,
13 when Tim was asking you about why you were coming to South
14 Carolina I remember this on the tape, you never really
15 answered that question and I think he said something to
16 the effect of, you're just coming up here to spend some
17 time. You never mentioned anything about coming up here
18 for some kind of shut down, did you, on the tape when you
19 talked to Tim Perry?

20 A. No, not after I got in the wreck. I was not going to
21 the shut down.

22 Q. Okay, he asked you why ---

23 A. Actually, he asked me why I was coming to South
24 Carolina.

25 Q. Exactly?

1 A. Okay.

2 Q. Same thing your lawyer asked you.

3 A. I was coming to South Carolina to see my mother.

4 Q. But ---

5 A. I was going to ---

6 Q. That ain't what you just testified ---

7 A. --- Forsyth ---

8 MR. COX: Judge, I think the Solicitor should let him
9 answer.

10 BY MR. REDMOND:

11 Q. Are you finished with your answer?

12 A. I was coming to South Carolina to see my mother. I
13 was going down Forsyth, Georgia to work a shut down.

14 Q. My question to you, sir, is did you tell Tim Perry
15 what you testified to today?

16 A. Yes.

17 Q. So you said it on the tape that you were coming down
18 for a shut down? That's on the tape when you talked to
19 Tim Perry?

20 A. No.

21 Q. Okay?

22 A. I said ---

23 Q. That was my question?

24 A. I said I was coming to South Carolina to see my
25 mother. Is it not on the tape.

1 Q. That's on the tape, but, sir ---

2 A. Okay.

3 Q. --- this isn't rocket science. It's a simple
4 question. I asked you did you tell Tim Perry on this tape
5 that you came to South Carolina for a shut down?

6 A. No.

7 Q. Yes or no?

8 A. No.

9 Q. No. Thank you. That's simple.

10 A. Shut down was not in South Carolina.

11 Q. Where was the shut down?

12 A. Forsyth, Georgia.

13 Q. In Forsyth. Okay, I'm even more confused. Forsyth,

14 Georgia is north of Atlanta. So you were coming to

15 Forsyth by way of South Carolina? Well, okay. Whatever.

16 Let me ask you this. In your statement with Tim Perry,

17 and this is where it gets real interesting, because we've

18 got to admit that you've been all over the map with what

19 happened, haven't you?

20 A. Yes.

21 Q. Exactly. One thing you're saying here. Then

22 something else. Then finally today you're saying

23 something else. Isn't it true that this is in fact the

24 first day that you ever mentioned having seen this white

25 car?

1 A. No, it's not.

2 Q. Okay? Lets go back.

3 A. But to anybody else, yes.

4 Q. Let's go back. For anybody else, yes, it is the
5 first time that you told them that, right?

6 A. I have sit down and told Jim.

7 Q. Your lawyer. Okay, but anybody other than that?

8 A. No. Because I did not remember at the time.

9 Q. So just after you talked with your lawyer now you
10 remember stuff? Is that what I'm trying to understand?

11 A. No, I can actually go back and it took me a little
12 while and I see I in my dreams.

13 Q. Oh ---

14 A. I relived this accident.

15 Q. Okay. You see it in your dreams. You relive the
16 accident, but yet again you've been all over the map cause
17 in your first statement at the hospital when you corrected
18 Officer Davis regarding your date of birth and what not
19 you said you were drowsy; that you -- no, you said, "I
20 think I dozed off," were your exact words.

21 But then you don't remember that. So then in your
22 second statement to Tim Perry which was taken by the way
23 about two weeks after the accident because you were
24 already home, right, at your momma's house?

25 A. I was at my mother's house.

1 Q. Exactly. You're out of the hospital. You give your
2 statement to Tim Perry, and at that time you say you don't
3 remember. You don't remember the accident, right? Never
4 mentioned seeing the white car, did you?

5 A. No.

6 Q. Don't mention anything about it?

7 A. No, sir.

8 Q. In fact something else you said because you presented
9 witnesses, and you yourself now said used the term,
10 'downpour'. But clearly on the tape, my hearing ain't
11 great but it ain't bad either, you said it was a light
12 rain. He asked you about the condition of the road. You
13 tell him it's wet, but not unusual. Is that not what you
14 said on the tape?

15 A. Yes.

16 Q. In the interview with Tim Perry on August the 5th
17 2008, that's what you told him?

18 A. Yes.

19 Q. But, low today, you have these dreams. This
20 revelation. You saw this white car, and then you snatched
21 hard right. Is that not what you just testified to?

22 A. Yeah.

23 Q. There were guardrails coming -- when you were coming
24 down on Highway One where this accident occurred, where
25 this collision occurred, there were guardrails there,

1 weren't there?

2 A. Yes.

3 Q. The pictures that you've seen and that your lawyer
4 and I have presented can you pick out which one of those
5 pictures show you having ever hit the guardrail?

6 A. No.

7 Q. Cause you didn't hit the guardrail, did you?

8 A. No.

9 Q. But yet you yanked hard right?

10 A. Yes, sir.

11 Q. And you were in your lane?

12 A. Yes, sir.

13 Q. But you didn't hit the guardrail?

14 A. No.

15 Q. The answer to that didn't show up in your dreams, did
16 it either?

17 A. That's cause I didn't hit the guardrail.

18 Q. Exactly?

19 A. It takes a picture to see.

20 Q. But you say -- yeah, it does take a picture. It
21 tells a lot. In fact you testified -- let me finish my
22 question. You testified that you were in your lane; the
23 white car was coming in your lane, and you snatched hard
24 right. Is that not what you say?

25 A. That is right.

1 Q. Pictures are worth a thousand words. Like I said
2 pick one that shows the guardrail damage. Can't pick one,
3 can you? You can't pick -- you can't pick the picture
4 showing the damaged guardrail, can you?

5 A. No, sir.

6 MR. REDMOND: Nothing further, ladies and gentlemen.

7 REDIRECT EXAMINATION

8 BY MR. COX:

9 Q. At any time do you recall hitting the guardrail?

10 A. No.

11 Q. When you left Alabama what was your destination?

12 A. My destination was -- I was going to Forsyth, Georgia
13 and I got a call that the shut down been cancelled for a
14 little while. I decided to come to my mother's and see
15 her.

16 Q. And after you visited your mother what did you intend
17 to do?

18 A. I was going down Forsyth, Georgia.

19 Q. Going to Forsyth, Georgia?

20 A. Yes, sir.

21 Q. And when you were asked why you were coming to South
22 Carolina it was to see your mother?

23 A. Yes.

24 Q. At any time were you asked why you left Alabama?

25 A. No.

1 MR. COX: Nothing further. Thank you.

2 MR. REDMOND: I'm done, Judge.

3 THE COURT: Thank you, sir.

4 COLLOQUY

5 MR. COX: Please the Court. Defense rests.

6 THE COURT: All right, ladies and gentlemen, if you
7 would step back to the jury room and relax just a few
8 minutes. Get our timing planned here, gentleman.

9 (WHEREUPON, the jury panel was excused from the
10 courtroom at 11:54 a.m.)

11 THE COURT: First of all any matters of law for the
12 record?

13 MR. REDMOND: None from the State, Your Honor.

14 MR. COX: We would renew the motions made at the end
15 of the State's case. Now, that the Defense rests all the
16 evidence that the Court should direct a verdict of
17 acquittal because the elements necessary to prove felony
18 D.U.I. reckless homicide and involuntary manslaughter has
19 not been met.

20 THE COURT: Okay. I'll have to deny that motion.
21 Okay, next. Closing arguments. How long do you think
22 it's going to take?

23 MR. REDMOND: In light of cross-examination, Judge,
24 it kind of changes some things. I don't think that it
25 will be as long. I'd say 20 minutes at the most. Twenty

1 minutes.

2 MR. COX: I'm not as smart as the State. Probably
3 take me 45 or 40 minutes.

4 MR. REDMOND: Of course, that would depend on what
5 Mr. Cox gets up there and says. I'll leave that to
6 chance.

7 MR. COX: State is going to take about two hours.

8 MR. REDMOND: No, not quite. I can assure you.
9 Judge, two hours is not in the picture. I can assure the
10 Court of that.

11 THE COURT: Any way, you look at it we're going to
12 have to split arguments and the charge to do lunch.

13 MR. COX: Or if we -- it's twelve o'clock. Maybe for
14 the jury's safety maybe we'd rather go to lunch now and
15 then do arguments and charge when we come back.

16 THE COURT: Might be the best plan. Y'all have
17 proposed -- didn't y'all have some proposed charges?

18 MR. REDMOND: I did, Your Honor, regarding State v.
19 Dantonio with the South Carolina Highway Manual that Mr.
20 Cox introduced to show that -- to ask for an instruction
21 that the sole -- the defendant -- we don't have to prove
22 that the defendant was the sole cause of the accident.
23 Just as long as we can show that he was a contributor to
24 the accident, and we would ask for that particular
25 instruction.

1 THE COURT: You're going to hand me something up?

2 MR. COX: I do.

3 THE COURT: Have you got the latest proposed charges
4 on the felony D.U.I?

5 MR. REDMOND: We do, Judge. I don't know if we've
6 given a copy of this or made a copy for Mr. Cox, but we
7 got the latest regarding felony D.U.I, voluntary and
8 reckless homicide. And I've got the Dantonio case on top.

9 THE COURT: Mr. Cox, any verbal requests?

10 MR. COX: No, Your Honor, no. I feel sure Your
11 Honor's in that charge you've done before you will cover
12 criminal negligence.

13 THE COURT: Okay. Counsel, go ahead and let them eat
14 lunch now cause otherwise if y'all take an hour it's going
15 to be after 1:00. And if I charge probably going to take
16 35, 40 minutes minimum. It's going to be way over in the
17 afternoon. Let's just do that. Okay. Bring the jury in,
18 please. Counsel, waive any oaths?

19 MR. COX: Defense waives.

20 MR. REDMOND: State waives.

21 (WHEREUPON, the jury panel enters the courtroom at
22 12:01 p.m.)

23 THE COURT: Mr. Foreman, ladies and gentlemen, we are
24 right at 12:00 noon, and we are -- the next phase of the
25 case will be closing arguments and the charge. We do

1 not -- the Court system, we do not like splitting the
2 arguments and the charges as far as time. So if we go
3 forward now it's going to be close to two o'clock before
4 we get any lunch. We talked about it and we've decided
5 we're going to break now for lunch and then come back and
6 we can go through both without interruption and then put
7 you to work. Okay.

8 All right. Same procedure. Don't discuss the case
9 with anyone, but we've got to allow -- with this catching
10 everybody off guard with this we're going to need about
11 five minutes. If y'all will step back to your room, just
12 relax and the bailiff staff will notify you when we can
13 go. We've got to have a few minutes.

14 (WHEREUPON, the jury panel was excused from the
15 courtroom at 12:03 p.m.)

16 THE COURT: All right. Anything else before we
17 break?

18 MR. REDMOND: Nothing from the State.

19 MR. COX: Nothing from the Defense.

20 THE COURT: Let's try to be back here at 1:15.

21 MR. COX: Thank you, Your Honor.

22 (WHEREUPON, the jury panel was excused for lunch at
23 at 12:05 p.m.)

24 (WHEREUPON, Court was in recess at 12:05 p.m. and
25 reconvenes at 1:18 p.m.)

1 THE COURT: Is the State ready?

2 MR. REDMOND: The State is ready, Your Honor.

3 (WHEREUPON, the jury panel enters the courtroom at
4 1:20 p.m.)

5 THE COURT: All right. We're ready to move forward
6 with closing arguments.

7 MR. REDMOND: State is ready, Your Honor.

8 MR. COX: Defense is ready.

9 THE COURT: Okay.

10 MR. COX: I require it. I think it would be proper
11 for the State to open.

12 CLOSING STATEMENT BY MR. REDMOND

13 MR. REDMOND: May it please the Court, Mr. Cox,
14 ladies and gentlemen. Mr. Cox said, referring to his
15 client in opening, that it was a pleasure or an honor I
16 think he said for him to be representing him. So I stand
17 here today, I can tell you that I also have an honor.
18 That being the honor of prosecuting this defendant
19 regarding this unfortunate collision, to which he brought
20 about. But before I get into that let me just explain to
21 you procedurally how it's going to go. I'm going to have
22 an opportunity to briefly open on the law.

23 In other words explain to you what it is that the
24 State has to prove beyond a reasonable doubt to convict
25 this defendant. Then Mr. Cox will have an opportunity to

1 present his closing argument. And then I will come around
2 and close on the facts of the case. So let me address the
3 law. But before I do that let me give you my sincerest
4 thanks, because I think it's Winston Churchill that said
5 that other than times of war, which of course we find
6 ourselves at as a Nation, jury service, that service that
7 you're rendering today, is the highest duty that a citizen
8 can perform. So I thank you.

9 Mrs. Quick thanks you. May I also thank Adam Foard,
10 the Assistant Solicitor here in Chesterfield County. Now,
11 one of the Assistant Solicitors here who obviously, as
12 you've seen through the course of this trial, has rendered
13 great assistance to me; and more importantly to the people
14 of Chesterfield County in helping to bring about the
15 prosecution of this case. So, Adam, I want to thank you
16 for that.

17 And, finally, I want to thank, among others I'm sure
18 that I've missed, I want to thank members of the South
19 Carolina Highway Patrol. Of course, including members of
20 the M.A.I.T Team, because I think as you saw, there was a
21 full investigation done that uses the results that we have
22 presented to you during this trial. So I would like to
23 thank all of the members of the Highway Patrol. Not all
24 of them are in my presence.

25 Mrs. Quick, she testified and her husband about their

1 life, but I would be remiss if I didn't thank her for her
2 courage in sitting through, and I'm sure in what was a
3 very, very difficult experience, and I will discuss that
4 later in my closing.

5 The law, the defendant is charged with felony D.U.I.,
6 reckless homicide, and involuntary manslaughter. Let's
7 talk about felony D.U.I. Let me clear up the
8 misconception before I start that His Honor will instruct
9 you. I do not have to prove that the defendant was drunk.
10 We hear it called drunk driving. That's a misnomer. I
11 have to show that the defendant was impaired, and that
12 impairment obviously caused difficulty in him being able
13 to maintain control of a motor vehicle.

14 In other words it impairs his ability to drive a
15 motor vehicle. So I want to clear that up from the
16 beginning. Some people have in their minds that we have
17 to prove, oh, he's sloppy drunk. No, that is not what we
18 have to prove. That is not what you're going to be
19 instructed. As long as I'm able to show that his ability
20 to operate a motor vehicle is impaired due to alcohol.

21 Felony D.U.I., in addition to showing that
22 impairment, showing that he cannot or it was impairing his
23 ability to operate a motor vehicle. I also have to show
24 that it was a proximate cause of accident. Now, let me
25 clarify something. A proximate cause. You've heard, and

1 I think through Defense questioning, and even through some
2 testimony, which we will definitely discuss later,
3 possibly thrown out, the possibility that Darrell Quick
4 was at fault somehow in this accident. We don't have to
5 prove a sole cause of the actual accident. As long as we
6 are able to prove that this defendant contributed to this
7 accident because of that impairment due to alcohol we have
8 satisfied our burden of proof.

9 There is another thing, and it's extremely important.
10 You heard from Tim Grambow, and I'll talk about his
11 testimony later. Heard him testify, and you will be
12 instructed at .08 percent blood alcohol you are inferred
13 to be under the influence of alcohol. An inference which
14 you can draw. You can draw an inference means a
15 conclusion. In other words at .08 this defendant can be
16 inferred to be under the influence of alcohol. But we're
17 not at .08. We're at .163. More than twice the legal
18 limit to be deemed or inferred to be under the influence
19 of alcohol.

20 Got him charged with reckless homicide. Reckless
21 homicide means that while operating a motor vehicle, he
22 did so in a reckless manner causing the death of Darrell
23 Quick. There is a natural progression there. We've met
24 the elements of felony D.U.I. with that because in, as
25 you've seen through testimony in the trial, he was

1 operating that vehicle in a reckless manner. Then that
2 naturally leads to a conviction of reckless homicide.

3 Then we get to involuntary manslaughter. Involuntary
4 manslaughter is again causing someone's death due to doing
5 and act which is criminally negligent. Well, felony,
6 D.U.I is a crime in South Carolina. That caused the death
7 of Darrell Quick. Therefore, in addition to being guilty
8 of the felony D.U.I. he's also guilty of reckless homicide
9 and as a result he's guilty of involuntary manslaughter.

10 He's been charged with three things that apply to him
11 in this case, and we would submit to you, ladies and
12 gentlemen, and again, I'll have an opportunity in my final
13 closing to explain and lay out exactly why he is in fact
14 guilty as charged. Let me talk about something else on
15 the law. Law also allows you, as you are listening to
16 witnesses, determining what are their motives. What are
17 their biases. And I will submit to you today was a very
18 interesting day in regards to motives and biases when it
19 comes to self-serving testimony; that coming from the
20 defendant.

21 Again, I will address that in much more detail but
22 you will be instructed that the witness' demeanor, the
23 witness' motives, the witness' biases are things that you
24 can take into consideration when determining whether or
25 not to believe them. And I will submit to you that the

1 defendant, as much as I've ever encountered by anybody in
2 my almost 17 years, has done as much to show motive, bias,
3 and self-serving in presenting his testimony to you.

4 And, again, that will be addressed in much more
5 detail in my closing statement. That's my opening on the
6 law. At this point I get to yield to Mr. Cox. Of course,
7 since the State has the burden of proof I'm allowed to go
8 last. And so at that time I will begin to present to you
9 in much more detail the reasons that in fact the defendant
10 is guilty of the offenses charged. But as I told you, let
11 me just -- I'd be remiss if I didn't mention this one
12 point because I've said beyond a reasonable doubt.

13 Beyond a reasonable doubt doesn't mean beyond all
14 doubt because there are few things which you can alleviate
15 all doubt from. It's beyond a reasonable doubt which is
16 as long I've presented evidence, as long as Adam Foard has
17 presented evidence in the State's case that leaves you
18 firmly convinced of the defendant's guilt then your
19 verdict must be guilty on each charge. So, again, I'll
20 leave you with that thought.

21 I'll yield to Mr. Cox and again I look forward to
22 addressing you in my closing. Thank you.

23 MR. COX: May it please the Court?

24 THE COURT: Yes, sir.

25 CLOSING STATEMENT BY MR. COX

1 MR. COX: Mr. Solicitor, Mr. Foard. If I say
2 anything, if I say anything any at all that is different
3 from what the 12 of you collectively heard you go by what
4 the 12 of you collectively heard. I say that because
5 sometimes, and you may have already observed, sometimes
6 you're looking at an exhibit, something is said and you
7 think back and say, "Well, what was said," and you're
8 concentrating on the exhibit or chart or picture up here.
9 Sometimes I could be writing or sometimes I could be
10 thinking about something else. So if I say anything
11 different from what the 12 of you think you might have
12 heard don't hold that against my client.

13 You go by what you heard because you know when I
14 started off I told you I was bias. I told y'all I had
15 bias. I believe my client 100 percent. I believe my
16 client just as much as Kernard and Adam, my friends from
17 the State, this I believe in my biases. Remember we
18 talked about that bias? We said take it out. Put it on
19 the rail. Who sits up here? 12 jurors, peers. Now, you
20 heard all the testimony. All the evidence you're going to
21 hear.

22 What I say is not evidence. Its not evidence. So
23 now it is time to take that bias and put it on the rail.
24 So who sits in the jury box now? Peers selected to be
25 fair, unbiased, and you are now going to use whatever

1 experience you have in life, whatever education you have
2 in life, and whatever reasoning power you have in life to
3 reach your decision. If I say anything about the law
4 that's different than what His Honor says you go by what
5 His Honor says.

6 You go -- I think you will find that his instructions
7 at the end, which we'll lay out the yard stick, the
8 measuring tools, scales, of which you are gonna weigh and
9 evaluate the evidence, which is the doctors that came into
10 evidence, testimony to reach your decision. And it has to
11 be unanimous. Each one of you has to agree. It has to
12 agree.

13 But what is that borderline? What is that basic?
14 Thing that you use? It's reasonable doubt. Reasonable
15 doubt, and I've heard many definitions for it, and His
16 Honor will give you one. And if his is any different than
17 mine you go by his. I've heard it said it's not a
18 fanciful doubt or a physical doubt. It is a doubt. A
19 doubt for which you can point to. That you can point to.
20 One of the best ways I've heard to do it was a Magistrate
21 in Chesterfield County.

22 One of the older magistrates, he said, "Ladies and
23 gentlemen of the jury, I tell you that reasonable doubt,
24 there's nothing magic about it." He said, "Think about
25 this. That when it's time to vote -- when Mr. Foreman

1 says it's time to vote if at that time you say without
2 hesitation or reservation that the defendant, in this case
3 the defendant is Chad Lambert, was driving his vehicle
4 under the influence of alcohol to the point he couldn't
5 properly drive" then your vote should be guilty. Nothing
6 more, nothing less.

7 On the other hand, Mr. Foreman says, "It's time to
8 vote," you say, 'Well, he probably was -- he probably was
9 under the influence. Probably is not enough. Your vote
10 has to be not guilty. He may have been. He could have
11 been. Not guilty because the reasonable doubt test is not
12 complete. Well, he was drinking and driving. That's not
13 against the law. That's my explanation. I give that for
14 whatever you may want to use it for.

15 I also talk about self-serving bias. Self-serving
16 bias, Chad's self-serve bias. I tell you, yeah, he's
17 bias. He doesn't think he's guilty. No question about
18 it. Self-serving, think about that. There's no one in
19 this courtroom, no one that in this courtroom that if they
20 had a chance to back up five or ten seconds before this
21 wreck happened, if they had a chance to do that, certainly
22 the outcome would be different. Think about that.

23 Darrell Quick was a good officer. Sergeant,
24 supervisor, husband, good family man, active in the
25 community, basketball, baseball, masonic. Excellent

1 person. Would not -- I would say there was not one mean
2 bone in his body. I'd say that Chad Lambert, who you do
3 not know as well, hard working guy. Bad luck with his
4 relationships with women. One marriage lasted six month.
5 Lived with a lady five and a half month. Had twins, don't
6 matter. Then the other lady he's married. He's locked
7 up. She gets a divorce. He doesn't know about it. Maybe
8 he's going down to see her, but a good guy. Work -- works
9 with his hands.

10 Law enforcement are all trained. They all do well.
11 But they've got -- that's like the mule plowing. And why
12 do they put the blinders on the mule. So the mule will
13 only see the road it's going down. He won't be looking
14 over at the whole field and wandering. I think like the
15 people in law enforcement, sometimes like that mule with
16 blinders on. They have an accident that killed one of
17 their own. He's dead. They got the other party in it.
18 Whether he remembers how much or how much he can talk, not
19 sure.

20 But what do they have? They've got ten beer cans and
21 a beer bottle. They've got a blood alcohol, .16. They've
22 got a case. Then everything they do thereafter, if you
23 think about it, everything they did thereafter will
24 support -- what's the support? Ten beer cans, a beer
25 bottle, and a reading of .16. Go into elaborate detail

1 right down the line. And to make that work, though, they
2 had a problem. That impact was at the center of the road.
3 Both vehicles was left of center.

4 So they come in with their reconstruction. Go back
5 and build it up and do a -- not a cartoon but a picture,
6 reconstruction drawings, to tell you how this accident
7 happened. But you know its the little things in life that
8 tells you things. When you ask your child or your
9 grandchild, 'you been in the cookie jar?' But you see
10 that jar is kind of tilted and that mouth is full of
11 something and the crumbs.

12 It's not the answer that made you decide whether or
13 not the child was telling the truth. It's what you've
14 observed. It's those little things. Child tries to
15 distract you, but they had an accident. As Chad Lambert
16 was exiting this bridge, he's coming off of it, Sergeant
17 Quick was getting ready to come on it and its raining.

18 So the weather cannot be a part of what caused this
19 accident. It can't be for the State position to hold some
20 truth in it. Road's dry. Rain before. Road's dry. See
21 you can see from the pictures, road's dry. No. No.
22 Road's dry. Oh, there were thunderstorms in the area.
23 Road's dry.

24 And we called two witnesses, volunteer fireman, who
25 drive the road everyday. They know it. They are the

1 third and fourth persons to arrive on the scene following
2 the doctor and the truck driver. Never could identify
3 him. We would all love to hear what he had to say since
4 he was the first one there. Who was this guy? Tractor
5 trailer truck sitting up high. Could see everything. Two
6 local firemen say that's standing water.

7 Remember I showed you the photograph? Y'all didn't
8 see it? It was like this. No. No. More water than
9 that. No. No. They were standing in water. Standing in
10 water. State says, "Yeah, they're bias. One of them had
11 known Chad since he was a child. Hadn't seen him in a
12 while." The other one said he didn't know him. Same
13 story, raining.

14 .16. He also told you -- we asked that guy in
15 Columbia three or four times. He's surely agitated. You
16 mean that .16, everybody that drinks .16 is under the
17 influence to the point they can't drive? Oh, yeah. Oh,
18 yeah. Everybody? Well, one hundred fifty pounds.

19 Well, how about if he's more or less? He said,
20 "Well, if it's 20 pounds more or less you subtract or
21 add." Remember he said that? Well, common sense tells
22 you that there is times that you may have drank one beer.
23 That beer kind of hits you. Maybe you're tired, don't
24 feel good, stomach's not right. Other times you may drink
25 two or three beers and not even feel -- didn't even feel

1 like that one beer had. We're all different.

2 Some people -- some people who have never drank one
3 will think they're getting high by smelling the beer. So
4 common sense tells you that it can't affect everybody
5 every way. But the law says that you the jury can draw an
6 inference from a reading of .08 or higher. And you can
7 find Chad guilty of driving under the influence on that
8 alone.. On that alone. But the law also says but its
9 required. You're allowed to hear evidence for you to
10 either believe or disbelieve that Chad was impaired by
11 that reading alone.

12 Remember, I'm biased, now. I'm bias. I think the
13 evidence rebuts that. I do. You take that a step
14 farther, and if you decide that that wreck was because
15 Chad was operating that truck while under the influence of
16 alcohol then find him guilty. As for the manslaughter
17 involved in -- excuse me. The reckless homicide and
18 involuntary manslaughter the Court is going to charge you
19 about criminal negligence. And criminal negligence is
20 more than just simple negligence. It's criminal. Doing
21 an act that's unlawful, and a heedless disregard. I'd say
22 a conscious disregard for the consequences. And I don't
23 think anyone will say that Chad Lambert acted in a
24 heedless, conscious disregard.

25 You say, "Well, Mr. Lawyer, all that's fine. All

1 that I understand what you're saying, but where are you
2 going with it." I don't know how much Chad remembers
3 totally from the accident. I only know what he's told me
4 and told you. I don't know when that memory started, but
5 we all been doing this. When your body suffers trauma,
6 real trauma, one of your defense mechanisms is that your
7 brain shuts down, shuts down your senses. And so many
8 times people say, "I don't remember a thing." That's part
9 of the body's mechanism particularly.

10 Chad says, "I remember -- I remember George's voice.
11 I remember hearing that. I remember being -- being --
12 being in the hospital. I remember that." He got to see
13 himself on the video. A video in the emergency room
14 answering questions. The State says that shows he was
15 conscious. He knew what he was doing. He knew what he
16 was saying. But you know what it also shows? He was not
17 drunk. His speech was not slurred. He was not
18 stuttering. Obviously, he was in pain. They were giving
19 him something. It was hanging up there. They were giving
20 him something -- some something for pain. And it did not
21 appear to me -- now, to me -- now, remember I'm biased,
22 but it did not appear to me that he was trying to be
23 evasive. He was trying -- he was trying to answer the
24 questions. He was trying to do it.

25 Then Corporal Perry goes to see him at home. Again,

1 he could say anything but listen to that tape. There was
2 no hesitation or evasion. He tried to answer the
3 questions. He asked him why he came to South Carolina.
4 He told him. He didn't ask him why he left Alabama.
5 State says, "Well, he was trying to be evasive. He didn't
6 tell him that he was coming to go to work." He was coming
7 to see his mother. On this very best day we would not say
8 that Chad was super intelligent.

9 We would not say he's manipulative. He's cunning and
10 a hard working guy. Eleventh grade education. Grew up in
11 Chesterfield County. He said he inherited his ability to
12 do construction work. First time I had ever heard that.
13 He inherited it. When we asked where he inherited it. My
14 father. My father did it. He works with his hands. He
15 does an honest day's work with his hands.

16 So we have an accident. You saw that reconstruction,
17 but one thing we did learn. If we were driving a vehicle
18 today we want it to have one of them black boxes on it.
19 That tells how fast you're going, whether your brakes are
20 locked or not. But what if Chad's truck had had one of
21 those? What would it have shown? He may have fell
22 asleep. But we know he didn't fall asleep. Why do we
23 know that? He's driving a truck, heavy rainstorm. Has
24 anybody ever fell asleep in a heavy rainstorm? Don't
25 think so.

1 Secondly, he's coming across that bridge with
2 railings on each side. Go to sleep on a bridge with
3 railings, don't think so. Don't think so. Straight road,
4 not raining, nothing going on; sure, drift off to sleep.
5 Sergeant Quick, he's coming down a hill, coming down to a
6 level stretch, coming down, water standing in the road. I
7 believe I want to say there was water standing in the
8 road.

9 I think -- I think that Cadillac, with those air
10 locking brakes, for whatever happened he's hydroplaning
11 for whatever reason. Now, they'll say, no, it was a false
12 sense of threat if he goes left. But you know before you
13 get to that bridge, remember, is -- I think is five
14 seconds away, three seconds away, two seconds away, one
15 second away. On the right hand shoulder before he reaches
16 that bridges, right hand shoulder, you can pull way off.

17 I think His Honor may tell you were told that if you
18 are presented with a danger in front of you, you go to the
19 right. No, he didn't have time. Maybe he didn't. But
20 that was there, which tells me that if my client had been
21 in the left lane as long as the State says he was,
22 Sergeant Quick, being the fine trained officer that he
23 was, he would have recognized that danger. And he would
24 have pulled over. Pulled off that big shoulder before he
25 ever reached that point cause the accident happened within

1 a car's length of entering the railings. He would have
2 pulled over. So that tells me that danger was not there.
3 And if it did happen as sudden as a -- Corporal Perry said
4 then no one had a chance to react.

5 Remember that test. Mr. Foreman says it's time to
6 vote. Think this, well, if it did happen that quick it
7 was an accident.

8 Two, that if my client had been in the left hand lane
9 all that time and going back to the right, Sergeant Quick
10 would have seen him before he ever hit the bridge. And he
11 would have pulled over to the right. He would not have
12 gone to the left.

13 Three, his car was hydroplaning and he did not
14 straighten up. It's possible that he was the first to go
15 left.

16 Remember all those things. Point Two, and if you
17 find those are true, and if you do say, well, if you talk
18 on the telephone all the time, the mother of his two twins
19 came on. Said she talked to him 20 something minutes,
20 within 20 to 25 minutes after, she could not particularly
21 tell he was drinking. That's reasonable doubt and your
22 vote should be not guilty. Remember, I'm biased. My vote
23 doesn't count. Your vote counts.

24 Now, I'm going to sit down. My friend, Kernard
25 Redmond, is going to talk with you, and he's going to some

1 points. He'll make some funny points, and he'll make some
2 jaggings points. That's okay. No one else will speak for
3 Chad Lambert until you return that verdict. So I ask you
4 to do this while my friend, Kernard Redmond, is doing all
5 that. Think this. You think back through all the
6 evidence, what you heard collectively. Say, 'well, but
7 how about this. What would Jim Cox say if he had a chance
8 to respond to that'? Well, I think he would say, 'he
9 talked intelligently on the telephone. He went back to
10 the best he could to work out that schedule where he's
11 been and what he was doing. I think your verdict will be
12 not guilty'. Thank you.

13 THE COURT: Everybody else stand at ease, please.

14 CLOSING STATEMENT BY MR. REDMOND

15 MR. REDMOND: May it please the Court. Your Honor,
16 ladies and gentlemen, again, it's my pleasure to be before
17 you. And I'm just gone get straight to the point.
18 Because I do have an advantage in the sense that I get to
19 listen to see what reasonable doubts the defendant is
20 trying to create. And Mr. Cox was giving you the scenario
21 about the cars and what Darrell Quick could have done.

22 He forgot to mention one important fact in his
23 equation, and I've known Jim for a long time and I respect
24 him. But if what he's saying is true why in the heck did
25 the accident happen in the middle of the highway in the

1 center line.

2 If his client was in his lane and turned hard right
3 why is it that the point of impact is square in the middle
4 of the road? Again, ladies and gentlemen, we picked you
5 because of your common sense. I don't think that you're
6 going to fall for attempts, in some regards, to create
7 reasonable doubt. That would be one example of an attempt
8 to create reasonable doubt.

9 Mr. Cox talks about believing his client, but it's
10 still not clear which version of what happened he can
11 believe because as his client admitted right here on the
12 stand he's been all over the map with what supposedly
13 happened. The bottom line is, ladies and gentlemen, the
14 defendant was under the influence of alcohol. That is what
15 caused this impact.

16 Here is something else, Defense Strategy 101, always
17 put the police on trial. Oh, they've got tunnel vision.
18 They got tunnel vision. They see this and they gone go
19 for Chad Lambert. Chad Lambert was interviewed at the
20 hospital on the 23rd of July. And at that time he was
21 specifically told on tape he's not under arrest. It just
22 had to be read, okay.

23 The 5th of August Tim Perry talked with him. Not at
24 the jail. Not in an interview room at the Detention
25 Center, but he talks with him at his mother's house. The

1 defendant's not under arrest. What's my point? Kernard,
2 what's your point to all of that? Bottom line is there
3 was no rush to judgment. Tim talked to him two weeks
4 later. This was a thorough investigation that was done to
5 maintain the integrity of that investigation. And as you
6 have seen through the State's presentation through the
7 M.A.I.T Team analysis that it leads to one conclusion.

8 Because, again, the defendant even testified, "Oh, I
9 turned hard right." Again, it's common sense, ladies and
10 gentlemen. If that's the case how did the accident end up
11 in the middle. Why is the guardrail not taken out? Be
12 very careful. Be very wary of attempts to blind you.
13 This is what we call putting mud in the water. Trying to
14 kick mud in the water. Trying to blind you. Trying to
15 make you lose sight what's going on. Do not fall for
16 that, ladies and gentlemen, because bluntly, there's too
17 much at stake here.

18 Laws of the State of South Carolina have been
19 designed to protect us. I can think of few if any other
20 laws that will protect us from such collisions. And let
21 me back up for a minute cause you hear accident. You know
22 an accident. This isn't an accident. When you are
23 driving down the road for at least nine hours from the
24 State of Alabama, but it is important enough for you at
25 times for you to get a drink rather than to get food;

1 that's not an accident. That's a temptation of fate which
2 failed and resulted in the death of Michelle's husband.
3 It's not an accident.

4 But back to my point as far as the defendant. When
5 we talk about self-serving statements, things that are
6 done to muddy the waters as we say, that's exactly what
7 took place here. Did you not notice, and I'm sure you
8 did, that he patterned his testimony by what he needed to
9 say to create that reasonable doubt.

10 Couldn't do it on his own, but he had to create cue
11 cards with the help of his attorney and his lawyer to help
12 him remember between cell phone records and dreams.
13 That's what helped him remember what happened, ladies and
14 gentlemen. Again, be wary of the snake oil salesman
15 because that's exactly what the Defense is trying to do
16 today.

17 Let's talk about the facts briefly of the case and
18 what the State did in fact prove. First of all, I'm going
19 to talk about the accident and how it happened and the
20 investigation that went into that. Tim Perry went to
21 great lengths and was extremely thorough in explaining his
22 findings. How he was able to determine the point of
23 impact. Showed you the gouge marks in the middle of the
24 highway. Compared those with the marks underneath the
25 vehicle.

1 He further went on to tell you, and this is
2 important, ladies and gentlemen, that Darrell made a hard
3 left turn. He was trying to turn left because he was
4 boxed in.

5 I listened to Mr. Cox, and a few weeks ago I was up
6 at the mountains of North Carolina. And I'll use this
7 story for two purposes. Talks about the fact that you
8 know, oh, Darrell should have gone off to the right.
9 Well, there's a guardrail there, and you'll see the
10 pictures of the terrain at that location. There are parts
11 in the mountain that had somebody been coming at me, and
12 in my lane, I couldn't go right. And that is exactly the
13 situation that Darrell found himself in cause if I had
14 gone right I'd a ended up off of a cliff and I would not
15 be standing here today talking to you.

16 So that's one misconception that the Defense is
17 trying to throw up. Another reason for that, ladies and
18 gentlemen, when I talk about that and this making a hard
19 left turn, and the fake left syndrome I believe it is. Is
20 sometimes that syndrome -- at that moment you're talking
21 split seconds -- he is breaking. He is trying to save his
22 life. At that point, him making a hard left, just think
23 of common sense. If he can't go right, somebody's in your
24 lane, where else is there to go to try to save your life?
25 To try to get back home to see your family? To try to get

1 back to your job and serve the people of Chesterfield
2 County? The only, the only, the only choice he had was to
3 try to go left but the defendant, as impaired as he was at
4 his .63 blood alcohol level, didn't give him that
5 opportunity. The defendant sealed Darrell Quick's fate
6 and caused his collision which resulted in Darrell's
7 death.

8 We heard the defendant talk about not being able to
9 see. You remember they went into this thing, oh, he
10 hasn't seen his son that was born? Michelle cannot ever,
11 ever, ever, see her husband again. So pardon me, sir, if
12 I'm not quite moved. Michelle's son will never get to see
13 his father. So, again, so pardon me if I'm not quite
14 moved. Again, be wary of the attempts of the snake oil
15 salesman because that's exactly what's happening in this
16 courtroom today.

17 Ladies and gentlemen, you've heard this case and I've
18 watched you. You've paid very close attention. Let me
19 talk about the impairment issue. And remember I said you
20 can infer that at .163, twice the legal limit, twice the
21 legal limit that the State of South Carolina has said is
22 allowed to operate a motor vehicle, this defendant could
23 be under the influence. These are just what we got
24 outside the truck. The pictures you saw were what were in
25 the truck. Common sense, ladies and gentlemen.

1 At .163 just by itself with a person that had slept
2 normally, hadn't driven nine hours, that will impair you.
3 But use your common sense, too. When the defendant said
4 he dozed off, when you've got that much alcohol in your
5 system, you've been driving for nine hours, and if you
6 look at his timeline it's kind of interesting. Look and
7 see how much time he actually had to sleep. And where'd
8 he sleep, in his truck?

9 When you factor all of these things in it was a
10 recipe for disaster. But, no, defendant didn't care. To
11 know what was more important, even more important than
12 eating sometimes. He had his cooler with him. It was
13 right there riding shotgun with him. That was more
14 important at that time, and he succeeded. He got his buzz
15 on. He got inebriated. He got under the influence, and
16 as a result caused a collision that took the life of
17 Darrell Quick.

18 Ladies and gentlemen, through your verdict and, again,
19 you heard all of the evidence. You heard it and I've
20 watched you pay close attention. And it comes down to
21 your common sense because, as I had stated earlier, felony
22 D.U.I. laws. D.U.I. laws are here to protect us more than
23 possibly any other laws because imagine driving home from
24 work. Darrell was just going to a lodge meeting. Had
25 full expectations of seeing his family. He wasn't at some

1 night club where there are plenty of shootings and drugs.

2 You know I handle a lot of murder cases and cases
3 involving violence where people are where they probably
4 don't need to be. He was just driving to a lodge meeting.
5 Something he's done plenty of times. But, yet, the scary
6 thing is that our fate often rests in the hands of the
7 other people on the road. That's why these laws are so
8 important. That's why through your verdict, a message
9 must be sent that it ends today. The defendant, being
10 able to get in a car and drive, and drink, and kill
11 anybody that ends today, ladies and gentlemen.

12 The defendant being able to get on the stand and
13 blatantly lie to try to save his own hide while Michelle
14 has to continue to mourn the loss of her husband that ends
15 today. Ladies and gentlemen, let me just say this in
16 closing. Again, I want to thank Michelle for her patience
17 in being able to endure this difficult process. No, it
18 has not been hard -- easy for her to listen to this. But
19 I do commend her for her courage and her bravery in being
20 here, and I want to thank you again for it.

21 This case, ladies and gentlemen, is not just about
22 justice for the loss of Darrell's life. Like I said the
23 Sheriff, Sheriff Parker, has lost a long serving deputy.
24 People of Chesterfield County have lost a public servant.
25 But more importantly Michelle has lost her husband and her

1 son has lost a father as a result of this collision caused
2 by the defendant. Through your verdict it is not just
3 about justice for the loss of Darrell's life. Your
4 verdict, ladies and gentlemen, is about continuing to save
5 lives. I thank you and I wish you God's speed during the
6 course of your deliberations. Thank you.

7 CHARGE OF THE COURT

8 THE COURT: Thank you, counsel. Everybody okay?
9 Anybody need a recess? It now becomes my duty to charge
10 you the applicable law of this case. I want to thank
11 counsel for their able presentation in this case, also
12 their arguments. It is your duty as jurors to accept and
13 apply the law as the Court will now state it to you. As
14 jurors it is your exclusive duty to decide all the issues
15 of fact in this case, and for that purpose to determine
16 the effect, the value, the weight and the truth of the
17 evidence.

18 Both the State and the Defendant have a right to
19 expect that you will conscientiously consider and evaluate
20 the evidence and apply the law the case, thereto, to the
21 end that both the State of South Carolina and the
22 Defendant will receive and obtain a fair and impartial
23 trial in this case. The State, by the bills of
24 indictments in this case, has charged the Defendant with
25 the offenses known as felony driving under the influence

1 death involved, reckless homicide, and involuntary
2 manslaughter. To these charges and to the indictments the
3 Defendant has entered a plea of not guilty.

4 A plea of not guilty by the Defendant places the
5 burden of proof on the State to prove by evidence the
6 guilt of the defendant beyond a reasonable doubt before
7 you the jury can find the defendant guilty. A defendant
8 is presumed in law innocent of the charges contained in an
9 indictment. It is a cardinal and a fundamental rule in
10 the law of evidence that a defendant, irrespective of the
11 enormity of the charge against him, will always be
12 presumed innocent of the crime for which he's indicted
13 unless and until the defendant has been proved by evidence
14 that satisfies you the jury of his guilt beyond a
15 reasonable doubt.

16 The presumption of innocence is not a mere legal
17 theory and it is not just a legal phrase. The presumption
18 of innocence is a substantial right to which every accused
19 is entitled. Our Supreme Court has declared the
20 presumption of innocence is like a robe of righteousness
21 placed about the shoulders of the defendant, and it
22 remains with him and assigns him to that class, the
23 innocent, until that presumptive robe of innocence has
24 been stripped from his person by evidence satisfying you
25 the jury of the guilt beyond a reasonable doubt.

1 The presumption of innocence accompanies a defendant
2 from the time of his arraignment and appearance in the
3 Court and continues with the defendant throughout every
4 stage of the trial and continues with the defendant after
5 you retire to the jury room to deliberate your verdict.

6 The presumption of innocence continues in existence
7 to the benefit of the defendant until you the jury reach
8 the conclusion that the State has proven the guilt of the
9 defendant beyond a reasonable doubt. The State is not
10 required to prove the guilt of the defendant beyond all
11 doubt or beyond every doubt but beyond a reasonable doubt.
12 Some of you may have served as jurors in civil cases where
13 you were told that it was only necessary to prove that a
14 fact is more likely true than untrue.

15 In criminal cases the government's proof must be more
16 powerful than that. It must be beyond a reasonable doubt.
17 Proof beyond a reasonable doubt is a proof that leaves you
18 firmly convinced of the defendant's guilt. There are very
19 few things in this world that we know with absolute
20 certainty and in criminal cases the law does not require
21 proof that overcomes every possible doubt. If based on
22 your consideration of the evidence you are firmly
23 convinced that the defendant is guilty of the crime
24 charged you must find him guilty.

25 If on the other hand you think there's a real

1 possibility that he is not guilty you must give him the
2 benefit of the doubt and find him not guilty. If any --
3 upon any issue of fact essential to the conviction of the
4 verdict guilty you have a reasonable doubt as to how that
5 issue should be resolved it will be your duty to resolve
6 that reasonable doubt in favor of the defendant. A
7 defendant is not required to prove his innocence, but the
8 State is required under our law to prove every essential
9 element of the offense charged against the defendant by
10 evidence which satisfies you the jury of the guilt of the
11 defendant beyond reasonable doubt before you can convict
12 the defendant and find him guilty.

13 If then upon the whole case you have a reasonable
14 doubt as to the guilt or innocence of the defendant he is
15 entitled to that reasonable doubt and would be entitled to
16 an acquittal and a verdict of not guilty. But on the
17 other hand if upon the whole case you find that the State
18 has proved by evidence which satisfies you the jury of the
19 guilt of the defendant beyond a reasonable doubt then in
20 such circumstance it would be equally your duty to convict
21 the defendant and find him guilty.

22 Now, you will have to apply these principles of law
23 to each indictment. You have three separate indictments
24 that verdicts will have to be rendered on, and I will
25 speak further with you about that later. Now, an

1 indictment is not evidence and cannot be considered by the
2 jury as evidence in a case. An indictment is simply the
3 formal written instrument which contains the charge
4 against the defendant, and it serve as the formal document
5 by which the case is processed into the Court.

6 During the trial each of us you and I have certain
7 duties to perform. As the trial judge it's my
8 responsibility to preside over the trial of this case, and
9 I also have the duty to rule upon or pass upon the
10 admissibility of the evidence offered during the progress
11 of the trial. You are to consider only the competent
12 evidence before you and you are to disregard and disabuse
13 from your mind any testimony ordered stricken from the
14 record of the case during the progress of the trial if
15 there be any.

16 And you are to consider only the testimony which has
17 been presented from the witness stand together with any
18 exhibits admitted into the record of this case with any
19 stipulation of counsel made into the record if there be
20 any. I have the additional duty to charge you the
21 applicable law of the case. As the presiding judge I am
22 the sole judge of the law of the case, and it is your duty
23 to accept and apply the law as I state it to you. If you
24 have a preconceived idea as to what the law is or what law
25 ought to be in the case and it should not agree with what

1 I tell you the law is, you are obligated under your oath
2 to abandon this preconception on your part because you are
3 sworn to accept the law precisely as I state it to you.

4 Now, in every case in this Court before a jury the
5 jury becomes the sole and exclusive judge of the facts of
6 the case. You the jury are the judge in facts of this
7 case. The Court is the judge of the law in the case. The
8 Constitution of this State has declared that a trial judge
9 cannot intimate, state, comment upon or make any statement
10 to a trial jury about the facts of the case. Since you
11 are the sole judge of the facts you are not to infer from
12 anything I have said during the progress of this trial in
13 ruling upon the admissibility of evidence otherwise or
14 anything that I now say to you during the course of this
15 charge to you that I have an opinion about the facts of
16 the case.

17 The law does not permit me to have an opinion about
18 the facts in the case. That is a matter solely for you
19 the jury to determine. As jurors then it is your duty to
20 determine as I have stated to you the effect, the value,
21 the weight, and the truth of the evidence presented during
22 the course of this trial. Necessarily then you must
23 assess the credibility of the witnesses who have testified
24 in the case. Credibility is simply a legalistic term
25 which means believability. It becomes your duty then to

1 analyze and evaluate the evidence and determine that
2 evidence which convinces you of its truth.

3 I charge you that in determining the question of the
4 credibility or believability of the witnesses you may
5 believe one witness as against several witnesses or
6 several witnesses as against one witness. You may believe
7 a part of the testimony of a witness and reject the
8 remaining part of the testimony of that same witness. You
9 may believe the testimony of a witness in its entirety or
10 reject the testimony of a witness in its entirety.

11 You may consider whether any witness has exhibited
12 any interest, any bias, or any prejudice in the case. You
13 may consider the demeanor of a witness and the appearance
14 of a witness from the witness stand. And you may consider
15 the opportunity for knowledge concerning those things
16 about which a witness testified. In doing all this and
17 exercising your mental processes in determining what you
18 consider to be true the law simply requires that you
19 exercise your good judgment, your common sense, your sense
20 of logic and reason, and your experiences in life.

21 You then apply these attributes of ability to the
22 evidence and determine what you consider the truthful
23 evidence. And to these true state of facts as determined
24 by you the jury you take and apply the law as I state it
25 to you thus arrive at a true verdict in this case. In

1 other words, once again, use your common sense. It's
2 often said you don't leave your common sense at the
3 courthouse door. You decide this case based on the proper
4 evidence of testimony that's before you, not on anything
5 that you may have heard outside of Court that you have
6 seen extraneously. This has nothing to do with anything
7 else expect the case before the Court and the proper
8 evidence before you.

9 Let me speak with you just a minute about some
10 general instructions. You must never speculate on any
11 insinuation suggested by a question asked of a witness. A
12 question is not evidence and may be considered only as it
13 supplies meaning to the answer. Stipulations, you've
14 heard that term used. A stipulation is an agreement,
15 admission or concession made in judicial proceedings by
16 the parties thereto or their attorneys.

17 Stipulations are binding upon those that make them.
18 A stipulation is an agreement and understanding. The
19 Court and jury must accept the stipulation as binding upon
20 the parties. If counsel for the parties has stipulated to
21 any fact or any fact that is admitted by counsel you will
22 regard that fact as being conclusively proved as to the
23 party or parties making the stipulation or admission.

24 Now, we're going to talk about the actual charges --
25 specific charges in these indictments. First indictment

1 we're going to take up will be the felony D.U.I.
2 indictment. I charge you from Section 56-5-2945(A) of the
3 South Carolina Code of Laws that supplemented in 2006,
4 establishes the elements of felony driving under the
5 influence. A person who while under the influence of
6 alcohol, drugs, or the combination of alcohol and drugs
7 drives a vehicle, and when driving does any act forbidden
8 by law or neglects any duty imposed by law in the driving
9 of the vehicle which act or negligent proximately or
10 negligent -- excuse me. Which act or neglect proximately
11 causes great bodily injury or death to a person other than
12 himself is guilty of a crime.

13 I charge you in addition Section 56-5-2950(B)3 of our
14 South Carolina Code, 1976 and supplemented 2006, provides
15 in the criminal prosecution of a violation under Section
16 56-5-2945, which I just quoted to you, an alcohol
17 concentration of eight one hundredths of one percent or
18 more as shown be chemical analysis of the persons breath
19 or other bodily fluids gives rise to the inference the
20 person was under the influence of alcohol.

21 The definition of proximate cause. Proximate cause
22 is the direct cause, the immediate cause, the efficient
23 cause, the cause without which death would not have
24 resulted. Now, there may be more than one proximate
25 cause. The acts of two or more persons may combine

1 together to be a proximate cause of the death of a person.
2 The defendant's act may be regarded as a proximate cause
3 if it is the direct cause to the death of the victim. The
4 fact that other causes contribute to the death of the
5 victim does not relieve the defendant from responsibility.

6 The defendant's act need not be the sole cause of
7 death but it has to be the direct cause without which the
8 death of the victim would not have resulted, and this has
9 to be proved by the State of South Carolina beyond a
10 reasonable doubt. One who inflicts an injury on another
11 is deemed by law to be guilty of homicide where the injury
12 contributes immediately to the death of the other. The
13 fact that other causes also contribute to the death does
14 not relieve the actor from responsibility.

15 The next indictment we come to is reckless homicide.
16 Section 56-5-2910(A) of the South Carolina Code of Laws
17 provides when the death of a person ensues within three
18 years as a proximate result of injury received by the
19 driving of a vehicle in reckless disregard in the safety
20 of others the person operating the vehicle is guilty of
21 reckless homicide. The State must prove beyond a
22 reasonable doubt the five elements of reckless homicide.

23 One, there must be a driving of a vehicle by the
24 defendant.

25 Two, the driving must be such as to show a reckless

1 disregard for the safety of others.

2 Three, an injury received by the deceased as a result
3 or proximate cause of such driving.

4 Four, the deceased died as a result of such injury.

5 And, Five, the death occurred within three years from
6 date of the injury.

7 A reckless disregard to the safety of others
8 signifies an indifference to the consequences of one's
9 act. It means something more than mere negligence or
10 carelessness, which indicates inadvertence or a failure to
11 exercise due care. Sometimes called ordinary care meaning
12 such care as a person of ordinary reason and prudence
13 would exercise in the same circumstances. Recklessness,
14 willfulness, and wantonness, which convey the same general
15 idea, mean a conscious failure to exercise due care or
16 ordinary care.

17 Let me distinguish recklessness from negligence.
18 Recklessness exists where one aware of ordinary care or
19 prudence require him to use certain precautions for the
20 safety of others with uncommon or indifference fails to
21 use that or aware that a course of conduct or act is
22 negligent with unconcern or indifference follows such
23 course or does such act such conduct signifies an
24 indifference to the consequences of one acts.
25 Recklessness is more than mere negligence.

1 Negligence is the failure to use that care which a
2 person of ordinary reason or prudence would use under the
3 same or similar circumstances. One can be negligent in
4 either one of two ways: One, it may be negligence because
5 he does something that a person of ordinary reason and
6 prudence would not do under similar circumstances. Or,
7 Two, negligence may arise as a matter of omission because
8 one fails to do something that a person of ordinary reason
9 and prudence would do under the same and similar
10 circumstances.

11 It is a relative term. In determining whether a
12 person is negligent, you would have to take into
13 consideration all of the surrounding circumstances. For
14 example, if a person drives at a given speed on a flat,
15 open, rural highway, and the weather is clear and there is
16 little traffic, you might say a man driving out there in
17 the country at that speed is not negligence. However, if
18 he drove exactly the same speed in the same automobile
19 downtown on a Saturday afternoon in a congested area you
20 would say he was negligent.

21 The person in the automobile and the speed were the
22 same in each case. Negligence is a relative term in
23 determining whether one uses due care. You take into
24 consideration all of the surrounding circumstances.
25 Willfulness is the intentional doing or admitting to do

1 something in disregard to the rights of others after
2 notice of those rights. Wantonness, or wanton negligence,
3 is reckless in difference to the consequences of an act or
4 omission.

5 Willful is further defined to mean intending the
6 result which actually comes to pass. Not accidental or
7 involuntary. The words, 'willful' and 'willfully' imply
8 such elements as design, intent and purposeful
9 deliberation, determination, and premeditation. They are
10 commonly employed to denote an act which is wrongful or
11 prohibited by law and to indicate the intentional and
12 deliberate doing of a wrongful act; the doing of a
13 forbidden act purposely in violation of the law.

14 Proximate cause means the immediate cause, the direct
15 cause, the efficient cause, the real cause that brought
16 about this death and without it which it would not have
17 occurred. It doesn't make a difference how reckless a
18 person might be. Unless it is a proximate cause of the
19 death a person cannot be convicted of reckless homicide.
20 Proximate cause literally means the cause nearest in point
21 of time, but under the law of South Carolina it is not
22 necessarily the cause nearest in the point of time.

23 Third indictment we come to is involuntary
24 manslaughter. By this indictment the State of South
25 Carolina charges the defendant with involuntary

1 manslaughter. Involuntary manslaughter is, One, the
2 unintentional killing of another without malice while
3 engaged in an unlawful activity that is not a felony, and
4 does not naturally tend to cause death or great bodily
5 harm. Or, Two, the unintentional killing of another
6 without malice, while engaged in a lawful activity with
7 reckless disregard for the safety of others.

8 Unintentional means the defendant did not intend for
9 anyone to be killed or seriously injured. The law defines
10 involuntary manslaughter as the unintentional killing of
11 another without malice, express or implied, by some act or
12 omission constituting criminal negligence. Section 163-60
13 of the South Carolina Code of Laws provides with regard to
14 the crime of involuntary manslaughter criminal negligence
15 is defined as the reckless disregard of the safety of
16 others.

17 A person charged with the crime of involuntary
18 manslaughter may be convicted only upon a showing of
19 criminal negligence as defined in this section. A
20 reckless disregard for the safety of others signifies an
21 indifference to the consequences of one's act. It means
22 something more than mere negligence or carelessness which
23 indicates inadvertence; that is the failure to exercise
24 due care. Sometimes called ordinary care meaning such
25 care as a person of ordinary reason and prudence would

1 exercise in the same circumstances.

2 Recklessness, willfulness, and wantonness which
3 convey the same general idea, meaning conscious failure to
4 exercise due care or ordinary care. Willfulness is the
5 fact or quality of acting purposely or by design.
6 Recklessness exists where one who is aware that ordinary
7 care or prudence requires him or her to use certain
8 precautions for the safety of others, with unconcern or
9 indifference, fails to use it. Or who aware that a course
10 of conduct or act is negligent with unconcern or
11 indifference follows such course or does such act.

12 This signifies indifference to the consequences of
13 one's acts. Criminal negligence is defined within the law
14 as the reckless disregard of the safety of others. Mere
15 negligence will not suffice to support the conviction of
16 involuntary manslaughter. The burden is upon the State to
17 prove heedlessness, or willfulness. Recklessness implies
18 the doing of a negligent act knowingly. When a person
19 acts negligently and realizes that he or she is acting
20 negligently the law says that he or she is reckless,
21 heedless, or willful and wanton.

22 Involuntary manslaughter involves an unintentional
23 killing that is accomplished by means of some intentional
24 act. The State must prove beyond a reasonable doubt that
25 the defendant's act was the proximate cause of death.

1 Criminal negligence of the defendant must be the proximate
2 cause of the death. What constitutes criminal negligence
3 depends on the facts and circumstances of each case.

4 Proximate cause is the direct cause; that is the
5 efficient cause. It is that cause without which the death
6 of the victim would not have resulted. There must be a
7 chain of causation from the time of injury inflicted by
8 the defendant, until the time of the victim's death.
9 Proximate cause does not necessarily mean that it occurred
10 immediately prior to death. There may be more than one
11 proximate cause.

12 The acts of two or more persons may combine together
13 to be a cause of the death of a person. The defendant's
14 act may be regarded as the proximate cause if it is a
15 contributing cause of the death of the victim. The fact
16 that other causes also contribute to the cause of the
17 death of the victim does not relieve the defendant from
18 responsibility. The defendant's act need not be the sole
19 cause of death but must be a proximate cause contributing
20 to the death of the victim.

21 Let me speak with you about some defenses. The issue
22 of the defense acts -- the burden is on the State to prove
23 beyond a reasonable doubt that the killing was not
24 accidental. Harm caused to another including death cannot
25 entail criminal responsibility for the defendant if the

1 harm was accidentally inflicted, without intent to harm
2 and without recklessness or negligence. Where the death
3 of a human being is the result of accident or misadventure
4 in the true meaning of the term no criminal responsibility
5 attaches to the act of the slayer.

6 A homicide will be excusable on the grounds of
7 accident when, One, the killing was unintentional. Two,
8 the defendant was acting lawfully. And, Three, due care
9 was exercised in the handling of the weapon. Now, weapon
10 can mean various things. Weapon could be a pistol, knife,
11 dagger. A homicide is not excusable on the grounds of
12 accident unless it appears that the defendant was acting
13 lawfully.

14 Let me speak with you about voluntary intoxication.
15 Voluntary intoxication is not an excuse for a defense to a
16 crime regardless if whether the crime is one involving
17 general specific intent. The rule also extends to the
18 voluntary ingestion of drugs. A person, who voluntarily
19 ingests alcohol or drugs and thereby becomes intoxicated,
20 is no less responsible for the acts involving such
21 conditions. If one voluntarily drinks intoxicating
22 liquors, or wines, or beers, or ingests drugs and becomes
23 intoxicated to whatever degree, and if while in that
24 condition commits an act which would be a crime if it had
25 not -- excuse me. Would be a crime if it had been

1 committed by a sober person the fact of intoxication would
2 not relieve the intoxicated person from responsibility.

3 Ladies and gentlemen, you're not partisans or
4 advocates for the State of South Carolina or the
5 defendant. You do not serve as jurors to reward friends,
6 or punish enemies. Obviously, such a perverted system of
7 justice would be intolerable. You have been selected by
8 the both State and the defense as fair and impartial
9 jurors.

10 It is your duty then by your joint deliberations to
11 determine the truth in the case giving to this defendant
12 the benefit of every reasonable doubt on each and every
13 issue. Till then to the facts which you determine to be
14 true, you will then take and apply the law which has been
15 given to you by the Court and thus arrive at a verdict
16 which does speak the truth of the case. For the word
17 verdict, is a Latin derivative, which means a true saying.

18 When you have accomplished these responsibilities,
19 you will have satisfied your oath as jurors, and you will
20 have discharged your duty to the Court.

21 Forms of the verdict in this case. On each of the
22 three indictments there are two possible forms of verdict.
23 Do not give any weight to how I site them to you or how
24 the order I give them to you. If the State has failed to
25 prove the guilt of the defendant beyond a reasonable doubt

1 your verdict will be two words, 'not guilty'. If the
2 State has proved the guilt of this defendant beyond a
3 reasonable doubt your verdict would be one word, 'guilty'.

4 The verdicts that you render in this case must be the
5 verdict of each and every juror. It must be your
6 unanimous verdict. All 12 jurors must agree on the
7 verdict which you authorize the foreman to write for the
8 jury. Remember, once again, there's three separate
9 indictments and you're going to have to apply the
10 principles of law that I have given to you in reaching a
11 verdict on each of those three.

12 Mr. Foreman, while you're in the jury room, should
13 any issue come up that you need further guidance on, the
14 bailiff will be posted near the door. You can merely
15 knock on the door. We will try to address whatever need
16 that will be. Once you have reached a verdict, also if
17 you will knock on the door we will receive the verdicts.
18 It will be your duty on the back of each these indictments
19 there is a little section that says, 'verdict'. It will
20 be your duty to write in the verdict of the jury. Date,
21 put the date in and sign your name, Mr. Foreman.

22 Should anybody need a restroom break, smoke break,
23 whatever it might interrupt your deliberations cease the
24 deliberations until you have all 12 jurors back in place.
25 Should anyone refuse to deliberate immediately notify the

1 Court of that, and I will remedy that situation. I think
2 I've covered everything that I intended to cover with you,
3 however, before I turn you loose to deliberate we've got
4 to check off on the exhibits we have. And also if I
5 overlooked anything in this charge I will have to hear
6 counsel out on that.

7 So what I'm going to do, I'm going to ask you to step
8 back and relax a few minutes until we can get all of these
9 exhibits accounted for. When we send the exhibits along
10 with the indictments back to you is when you may begin
11 your deliberations. I need the first 12 jurors to step
12 back, and I need the alternate juror, if the bailiff staff
13 will arrange to find a private, secluded place that we can
14 ask her to stay for a few minutes to make sure everything
15 begins as we hope it should as far as getting
16 deliberations started; making sure everyone is in place.

17 Thank you so much for listening to me. Thank you so
18 much for your attention to the trial. We're gonna ask you
19 to step back, and we are gonna get this to you as soon as
20 possible.

21 (WHEREUPON, the jury panel was excused from the
22 courtroom at 2:39 p.m.)

23 THE COURT: Anything for the record?

24 MR. FOARD: None from the State, Your Honor.

25 MR. COX: Nothing from the Defense. Thank you, Your

1 Honor.

2 THE COURT: Thank y'all. I appreciate y'all working
3 together to get this case presented. I want to thank the
4 audience and everyone in the courtroom for your
5 cooperation seeing this trial carried forward properly.

6 (WHEREUPON, the jury panel starts deliberations at
7 2:47 p.m.)

8 (WHEREUPON, Court was in recess at 2:47 p.m. and
9 reconvened at 4:09 p.m.)

10 QUESTION NO. 01 FROM THE JURY

11 (WHEREUPON, Court's Exhibit No. 1 was marked for
12 identification and received into evidence.)

13 THE COURT: Jury has got a question.

14 (WHEREUPON, the jury panel enters the courtroom at
15 4:09 p.m.)

16 THE COURT: Mr. Foreman, I'm in receipt of your
17 request. I cannot provide written copies of the charge to
18 the jury. I'm not allowed to do so under our present
19 procedure. However, if the jury would like to rehear
20 parts of the charge or a specific part of the charge; if
21 you will go back and review with the jury and write down
22 on the pad exactly what you want to hear again, then I can
23 repeat it to you. But it has to be done out here in open
24 Court.

25 JURY FOREPERSON: Okay.

1 THE COURT: Okay. If y'all will step back.

2 (WHEREUPON, the jury panel was excused from the
3 courtroom at 4:11 p.m.)

4 THE COURT: Okay. I have just released the alternate
5 juror. She wants to come back in and stay and watch.

6 MR. COX: No objection.

7 THE COURT: I can't -- well, I can, too. Don't
8 anybody be talking to her, okay. Bring them in.

9 (WHEREUPON, the jury panel enters the courtroom at
10 4:26 p.m)

11 THE COURT: All right. Your request, I'm going to
12 recharge you Section 56-5-2945(A) in the Code of Laws of
13 South Carolina. Establishes the elements of felony
14 driving under the influence. A person while under the
15 influence of alcohol, drugs, or the combination of alcohol
16 and drugs drives a vehicle and when driving does any
17 forbidden by law or neglects any duty imposed by law in
18 the driving of the vehicle, which act or neglect
19 approximately causes great bodily injury or death to a
20 person other than himself is guilty of a felony.

21 Now. The first time around I will -- under the same
22 section, I went into proximate cause and other
23 contributing causes. I will not repeat that ---

24 JURY FOREPERSON: That's good, Your Honor.

25 THE COURT: --- Mr. Foreman, unless you request me to

Question No. 02 from the Jury

481

1 do so because I covered proximate cause several times.

2 Okay.

3 JURY FOREPERSON: That's good. That's all.

4 THE COURT: Thank you very much.

5 (WHEREUPON, the jury panel returns to jury room to
6 continue deliberating at 4:29 p.m.)

7 THE COURT: All right. Anything for the record?

8 MR. COX: Nothing from the Defense, Your Honor. Thank
9 you.

10 MR. REDMOND: Nothing from the State, Your Honor.

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

12 (WHEREUPON, Court's Exhibit No. 2 was marked for
13 identification and received into evidence.)

14 (WHEREUPON, Court was in recess at 4:30 p.m. and
15 reconvenes at 4:53 p.m.)

16 QUESTION NO. 02 FROM THE JURY

17 THE COURT: We are in receipt of another question.
18 It will be a further recharge.

19 (WHEREUPON, the jury panel enters the courtroom at
20 4:54 p.m.)

21 THE COURT: Mr. Foreman, I am in receipt of your
22 request. I will recharge you on that law.

23 JURY FOREPERSON: Yes sir.

24 THE COURT: Involuntary manslaughter is, One, the
25 unintentional killing of another without malice while

1 engaged in an unlawful activity that is not a felony and
2 does not naturally tend to cause great bodily harm.

3 Or, Two, the unintentional killing of another without
4 malice while engaged in a lawful activity with reckless
5 disregard for the safety of others. Unintentional means
6 the defendant did not intend for anyone to be killed or
7 seriously injured.

8 The law defines involuntary manslaughter as the
9 unintentional killing of another without malice, express
10 or implied, by some act or omission constituting criminal
11 negligence. With regards to the crime of involuntary
12 manslaughter criminal negligence is defined as the
13 reckless disregard of the safety of others. A person
14 charged with involuntary manslaughter may be convicted
15 only upon a showing of criminal negligence as defined in
16 this section.

17 Criminal negligence is defined in the law as the
18 reckless disregard for the safety of others. Is there any
19 additional part of that charge you would like to hear, Mr.
20 Foreman?

21 JURY FOREPERSON: No, sir. I think that's good right
22 there.

23 THE COURT: Thank you. You may return to your
24 deliberations.

25 (WHEREUPON, the jury panel was excused from the

Verdict of the Jury

483

1 courtroom to continue deliberations at 4:56 p.m.)

2 THE COURT: Anything for the record, gentlemen?

3 MR. REDMOND: None from the State.

4 MR. COX: None from the Defense, Your Honor.

5 THE COURT: Stand at ease again.

6 (WHEREUPON, Court's Exhibit No. 3 was marked for
7 identification and received into evidence.)

8 (WHEREUPON, Court was in recess at 4:57 p.m. and
9 reconvenes at 5:23 p.m.)

10 VERDICT OF THE JURY

11 THE COURT: All right. They say that they have a
12 verdict. I know that this is an emotional time for both
13 sides in this issue. Try to control yourself as best you
14 can no matter what the verdict is cause we don't need any
15 further trouble. There's been enough pain and suffering
16 already in this case. So don't anybody do anything rash.
17 All right. Bring them in. We'll wait a minute. They've
18 got to reduce what they have to writing. Madam Bailiff,
19 bring those back, please. They need to check them.

20 (WHEREUPON, the jury panel enters the courtroom at
21 5:28 p.m.)

22 THE COURT: Madam Clerk.

23 CLERK OF COURT: Mr. Foreman, have you reached a
24 verdict?

25 JURY FOREPERSON: Ma'am?

1 CLERK OF COURT: Have you reached a verdict?

2 JURY FOREPERSON: Yes, ma'am, we have.

3 CLERK OF COURT: If you will publish to the bailiff.

4 THE COURT: All right. They're all signed and dated.

5 Madam Clerk, you may publish it. Thank you.

6 CLERK OF COURT: State of South Carolina, County of
7 Chesterfield. The State v. Michael Lambert. Indictment
8 Number -395, felony D.U.I. We the jury find the defendant
9 guilty. Foreman, Ricky Jenkins.

10 State of South Carolina, County of Chesterfield v.
11 Michael Lambert. Case number 2009-GS-13-1118 indictment
12 for homicide, reckless homicide death results within one
13 year. We the jury find the defendant, Michael Lambert,
14 guilty.

15 Docket Number 2009-GS-13-1119, the State v. Michael
16 Lambert. Indictment for manslaughter and involuntary
17 manslaughter. We the jury find the defendant guilty.
18 Foreman, Ricky Jenkins. Dated, February the 11th 2010.
19 The Honorable Paul M. Burch, the presiding judge. Mr.
20 Foreman, is this your verdict? Was this your verdict, and
21 is it still your verdict?

22 JURY FOREPERSON: Yes ma'am.

23 CLERK OF COURT: Is this still the verdict of all 12
24 please raise your right hand.

25 (WHEREUPON, all jurors raised their right hand.)

1 THE COURT: Counsel, do we need anything further from
2 the jury?

3 MR. REDMOND: None from the State, Your Honor.

4 MR. COX: None from the Defense, Your Honor.

5 COLLOQUY

6 THE COURT: Thank you so much for your help with this
7 case. Thank you so much for your patience in working with
8 the Court cause I know it's been a long week for all of
9 you. Jury service can be a very difficult thing to deal
10 with, and we all know that. And the Court staff
11 appreciates the attention that you gave to this case and
12 the kind of patience that you have shown the Court.

13 This time your duties are over. You our present
14 rules you do not have to speak with anyone about this case
15 or your jury service unless you want to. Should anybody
16 try to approach you in any way please let me know and I
17 will try to assist you. But if you desire and somebody
18 asks you a question and you don't mind, that's fine for
19 you to do that cause I do not tolerate anybody harassing
20 you in any way.

21 Now, you are free to leave at this time if you desire
22 to do so, and I will ask security to assist you to your
23 car for those of you who would like to leave at this time.
24 But on the other hand if you would like to stay for the
25 rest of the proceeding you are more than welcomed to do

1 so. If you want to keep the seat you're in that's fine.
2 If you'd be more comfortable, if you'd like to stay, step
3 back to the left side of the courtroom and be seated back
4 there, that will be fine, too. I just leave that up to
5 you all. Bottom line is if anybody wants to depart at
6 this time you certainly may do so. If not you're welcomed
7 to stay. As far as your pay for the week I'll defer to
8 Madam Clerk to explain how that works.

9 CLERK OF COURT: Pay is not very good, but we do
10 appreciate you being here this week and we could not do it
11 without you. Your pay will be -- it's only \$12 a day and
12 \$.30 a mile, so and we do appreciate you're being today.
13 And our bailiff, Ms. Lear, has a note for your employer
14 tomorrow cause I know you won't get your check in time for
15 payroll. Thank you.

16 THE COURT: So if you desire to leave when you do
17 leave just check with Miss Lear for that note. Do not be
18 upset with Mrs. Sellers and do not be upset with me
19 because of your pay. Your County Council sets that pay.
20 So speak to them later because it is a shame just the way
21 it is. All right.

22 MR. REDMOND: Your Honor, we are printing out the
23 sentence sheet.

24 THE COURT: Mitigation and sentencing.

25 MR. COX: For the record, Your Honor, I would renew

1 the motions I made at the end of the State's case in the
2 Defense and ask to renew the same motion again.

3 THE COURT: Noted. I have to deny those motions
4 based on the evidence before the Court and the jury's
5 decision.

6 SENTENCE OF THE COURT

7 MR. REDMOND: Your Honor, the State is ready to
8 proceed. May it please the Court, Your Honor. First let
9 me thank the ladies and gentlemen of the jury. I know its
10 been a long process. You -- I appreciate your patience
11 with us as we were presenting the case and obviously we
12 appreciate your verdict. On behalf of our office and the
13 people of Chesterfield County we thank you. And with
14 that, Your Honor, at this particular time of course, the
15 Court has heard the facts of the case.

16 I do want to put on the record, briefly, the
17 defendant's criminal history. In 1998 he's got a
18 conviction. Looks like Magistrate Court for failure to
19 return a rented object. Then in 2002 he's got a simple
20 assault and battery conviction. However, he also has a
21 conviction for driving under the influence. A previous
22 conviction from back in 2000. It looks like in August --
23 excuse me. In October of 2000 he pled to -- was convicted
24 of driving under the influence first offense. That is it
25 and that's the extent. So he does have a prior D.U.I. on

1 his record.

2 We would obviously ask the Court to take that into
3 account at sentencing. With that, Your Honor, I think
4 I've said enough. At the appropriate time I'm sure Mrs.
5 Quick would want to address the Court or Mr. Foard as
6 well. Again, ot reiterate my appreciation to Mr. Foard.
7 As the Court will note during the presentation of the
8 mechanical data the accident reconstruction quite frankly
9 Adam is a lot better at that than I am, and once he got
10 with the M.A.I.T. Team they sync on how to present the
11 case, and I want to thank him because I would not have
12 been able to present this case without that aspect of it,
13 obviously.

14 So he was most helpful and I'm not saying that
15 because he happens to be standing here. With that I'd
16 yield to anybody else who wants to speak.

17 MRS. QUICK: Your Honor, I have forgive Mr. Lambert
18 for taking my husband's life, but he has left some pain in
19 my life. My son will never be able to look into the
20 stands and see his daddy cheering him on. My
21 stepdaughter, Darrell's daughter, is getting married in
22 March. She will not have the honor and privilege of
23 walking down the isle with him. My grandbaby will never
24 say, "Where is Pop Pop" again.

25 He has been charged with all of these charges, and I

1 know that Mr. Cox said it was an accident. He did not
2 accidentally go into that store and buy beer. He did it
3 because me wanted do. He did not get up under the wheel
4 and start driving again by accident. He did it because he
5 wanted to. And with that said, Your Honor, I hope, I pray
6 that he will get the sentence that he deserves to get.

7 THE COURT: Thank you.

8 MR. FOARD: Nothing, Your Honor, from me.

9 MR. REDMOND: Only thing I would just briefly add,
10 Your Honor, is that, and as Mrs. Quick, Michelle, has said
11 the fact that he's got a prior D.U.I. on his record within
12 the last ten years and yet still to undertake a trip from
13 Alabama. And we measured it out, and it didn't come up
14 out, but we measured it out at right about 500-miles.
15 From there to here and to still engage in the conduct.

16 Had a prior during D.U.I. and you heard the testimony
17 about all the beer cans there. You saw the beer cans
18 there. This defendant, obviously, didn't learn his
19 lesson. Ten years some people might say is a long time
20 between D.U.I.s, but one D.U.I. is one too many. But then
21 to have a second one that cost the life of Mrs. Quick's
22 husband, her son's father, and of course, Sheriff Parker.
23 I don't know if he might want to address the Court. I
24 didn't -- I apologize for not giving him the opportunity
25 and thanking them as well because the Sheriff has been

1 real supportive during those whole process.

2 And I can tell you, literally, we were in pins and
3 needles waiting for this verdict and the Sheriff, I'm
4 sure, I could just tell the stress on his face through
5 this whole process. So I don't know if he wants to
6 address the Court or not. I can tell you that from that
7 standpoint that we would ask the Court to take all that
8 into consideration.

9 THE COURT: Thank you, Solicitor. Sheriff, anything
10 you'd like to add.

11 MR. PARKER: Your Honor, I just feel that it's a good
12 day, but also a sad day. We've lost a good officer, and
13 standing here today and, again, I can thank so many
14 people. It's just a wonderful day. We can bring closure
15 to Sergeant Quick. And I know both sides, and they fought
16 a good battle and thank every one for what they've done
17 for the Sheriff's Office. You can tell it's kind of
18 traumatic for me, the County. That was a good officer.

19 We have this every day in the County, but again, I
20 respect this jury and thank them for what they did,
21 Solicitor's Office and troopers and everyone involved and
22 the family. We held together, but it needs to stop. It's
23 time to stop. I want to applaud the jury for bringing an
24 end to a part of my life being Sheriff. It's time to
25 stop. Can't get any better than this and it needs to stop.

1 and hopefully this will send a lesson or send a message to
2 the people of Chesterfield County that this needs to stop.
3 We don't need to lose another soul.

4 MR. REDMOND: And, Your Honor, I promise I'm going to
5 shut up, but when the Sheriff was talking it just made me
6 think about the fact that, of course, the Court knows I'm
7 new to Chesterfield County. Having just moved into the
8 area. Every day since I started work here a couple months
9 ago I've been working with this case.

10 And when I'm driving to Pageland on Number Nine,
11 because it's two lanes, since I've been working on this
12 case as an officer of the Court I think about this
13 incident and worry about who might be coming around the
14 curve or in the other lane coming over a hill. It is an
15 opportunity, as the Sheriff says, to send a message to
16 people that it will not be tolerated.

17 Especially when he's already had one and should know
18 better, quite frankly, Your Honor, and thank you. I'm
19 done.

20 THE COURT: What was the date on the first one?

21 MR. REDMOND: The first one was October 5th of 2000.
22 That's when he was convicted.

23 THE COURT: Trooper Davis still here?

24 MR. REDMOND: He is not. He, I think, had been here
25 earlier in plain clothes. He had to leave. He had

1 already text messaged me to find out how it's going. But
2 he's not here at this time, but I think Captain Lee might
3 be here.

4 THE COURT: Captain -- Trooper Davis had to leave.
5 He was here most of the day. We're here in the mitigation
6 phase of the trial. As far as mitigation and sentencing.
7 Heard from the Sheriff. Anything that you would like to
8 add at this time on behalf of Highway Patrol?

9 TROOPER LEE: We would like to thank the Solicitor's
10 Office for their outstanding support and drove to
11 Columbia, Florence, Cheraw and has met my unit all over
12 the State to meet with all the guys that work for the
13 M.A.I.T. Team. And we appreciate them and we thank the
14 jury for their due diligence in this case.

15 And thank you, Your Honor, for hearing the case and
16 we appreciate it. Thank you.

17 THE COURT: Thank you. Counsel.

18 MR. COX: As Your Honor stated this is an emotional
19 case, and when I was approached about representing
20 Mr. Lambert I know that it would be an emotional case. I
21 knew the general feelings with the local bar that they did
22 not feel comfortable handling the case. But I will say
23 this, and I thank the people of Chesterfield County cause
24 from the first time I came aboard they're reaction and
25 relationship with me never changed.

1 The people in jail were always courteous respectful
2 to my client. The M.A.I.T. Team guys, Highway Patrol,
3 could not be better people to work with. The Sheriff's
4 Office is always one of the best Sheriff's Office's in
5 Chesterfield County. So it was a pleasure to represent
6 Mr. Lambert. Mr. Lambert wanted a trial by his peers. He
7 had a jury by his peers, and the peers have spoken that
8 he's guilty. And he accepts that.

9 You know his age. You know he has four children, and
10 you know his work record. And ask you as you take all the
11 information provided by the State and law enforcement and
12 consider that also. Thank you, Your Honor. Anything you
13 like to say.

14 MR. LAMBERT: I'm sorry, and I'll leave it to you.

15 THE COURT: All right. So much has changed in the
16 law goes on now. Let's make sure we're all clear on the
17 possible penalties. On involuntary.

18 MR. REDMOND: That's up to five years.

19 THE COURT: Zero to five.

20 MR. REDMOND: That is correct, Your Honor.

21 THE COURT: And reckless now?

22 MR. REDMOND: Ten now.

23 THE COURT: And felony D.U.I is a maximum of?

24 MR. REDMOND: Twenty-five.

25 MR. COX: Twenty-five.

1 MR. REDMOND: And it's no parole.

2 THE COURT: !/^"/ ///@/□@//

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5 The way traffic conditions are this day mixing
6 alcohol on a road, and especially a rain slickened road
7 and the conditions of that evening, it's just a
8 description for tragedy. And, unfortunately, it happened
9 to you. I don't think anybody in hear, including
10 Mrs. Quick, could have too much sympathy for you. And if
11 they're like me the vast majority of the sympathy goes to
12 Mrs. Quick and her family.

13 And a lot of sympathy for your family, especially
14 your children. I don't think anybody in the courtroom
15 wants me to lock the door and throw away the key. You
16 probably deserve some hope to be with your children some
17 day, but unfortunately, it won't be any time too soon.

18 Before I pass sentence I need to advise you, counsel
19 will reinforce this, that you have ten days to file a
20 Motion to Appeal or what we call a Notice of Appeal. You
21 need to file Notice of Appeal through the proper channels
22 within ten days of sentencing to preserve your right to
23 perfect an appeal or within the prescribe limits
24 therefore.

25 All right. On the involuntary manslaughter, sentence

MR. REDMOND: And it's no parole.

THE COURT: The way traffic conditions are this day mixing alcohol on a road, and especially a rain slickened road and the conditions of that evening, it's just a description for tragedy. And, unfortunately, it happened to you. I don't think anybody in hear, including Mrs. Quick, could have too much sympathy for you. And if they're like me the vast majority of the sympathy goes to Mrs. Quick and her family.

And a lot of sympathy for your family, especially your children. I don't think anybody in the courtroom wants me to lock the door and throw away the key. You probably deserve some hope to be with your children some day, but unfortunately, it won't be any time too soon.

Before I pass sentence I need to advise you, counsel will reinforce this, that you have ten days to file a Motion to Appeal or what we call a Notice of Appeal. You need to file Notice of Appeal through the proper channels within ten days of sentencing to preserve your right to perfect an appeal or within the prescribe limits therefore.

All right. On the involuntary manslaughter, sentence of the Court is that the Defendant, Michael

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1 of the Court is that the Defendant, Michael Lambert, be
2 confined to the State Department of Correction for a
3 period of five years.

4 On the reckless homicide, Indictment 2009-1118,
5 sentence is Michael Lambert be confined in the State
6 Department of Corrections for ten years. Concurrent.

7 On felony D.U.I, based on your family situation, your
8 children and the forgiveness that has been shown to you,
9 that's a critical part here, sentence is going to be 22
10 years.

11 Good luck to you.

12 MR. COX: Is that concurrent, Your Honor?

13 THE COURT: Concurrent.

14 MR. REDMOND: Thank you, Your Honor.

15 MR. COX: Thank you, Your Honor.

16 END OF TRANSCRIPT OF RECORD
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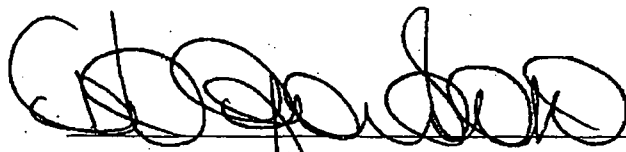
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Chesterfield County, South Carolina, on the 11th day of
February, 2011.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

August 29, 2011



HATTIE O. GORDON, Court Reporter

Lambert, be confined to the State Department of Correction for a period of five years.

On the reckless homicide, Indictment 2009-1118, sentence is Michael Lambert be confined in the State Department of Corrections for ten years. Concurrent.

On felony D.U.I, based on your family situation, your children and the forgiveness that has been shown to you, that's a critical part here, sentence is going to be 22 years.

Good luck to you.

MR. COX: Is that concurrent, Your Honor?

THE COURT: Concurrent.

MR. REDMOND: Thank you, Your Honor.

MR. COX: Thank you, Your Honor.

END OF TRANSCRIPT OF RECORD

2011 CP13-049

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Chesterfield)Michael Chad Lambert 339270)

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

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

A True Copy Attest

Faye J. Sellers

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SCFAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, SC

2011 FEB 4 PM 2 03

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Inst.
2. Name and location of Court which imposed sentence General Sessions of Chesterfield County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 08G513-0787